UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE *103*^{d} CONGRESS

FIRST SESSION

VOLUME 139—PART 2

JANUARY 28, 1993 TO FEBRUARY 17, 1993

(PAGES 1521 TO 2964)

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UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1993

69-059 O—97 Vol. 139 (Pt. 2) 1

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PROCEEDINGS AND DEBATES OF THE 103d CONGRESS, FIRST SESSION

SENATE—*Thursday, January 28, 1993*

(Legislative day of Tuesday, January 5, 1993)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be led by the Reverend Richard C. Halverson, Jr., of Falls Church, VA.

Mr. Halverson, please.

PRAYER

The Reverend Richard C. Halverson, Jr., of Falls Church, VA, offered the following prayer:

Let us pray:

Almighty God, we do not always know how to pray, especially when confronted with difficult judgments, such as those which confront us these days, Teach us to pray the prayer of Solomon who, when invited to ask anything of You, prayed thus: "Give * * * thy servant an understanding heart to judge thy people, that I may discern between good and bad: for who is able to judge this thy so great a people?"—I Kings 3:9.

We make this humble request in the hope that it will please You as when Solomon first uttered it. And we give thanks for Your answer which promised that because Solomon had "asked this thing, and * * * not asked for * * * long life;" * * * that You also gave that which Solomon did not ask, "both riches and honor; so that there should not be any among the kings like unto Solomon all his days."—I Kings 3:11-13. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of proceedings has been approved to date and the time for the leaders reserved for their use later in the day?

The PRESIDENT pro tempore. The Journal has been approved by the previous order but leader time has not been reserved.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time for the two leaders be reserved for their use later in the day.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, under the previous order there will be a period for morning business today under which time Senators will be permitted to speak.

With respect to the legislative business, the Labor Committee has reported to the Senate two bills which are on the Senate Calendar: S. 1, which is the reauthorization bill for the National Institutes of Health; and the Family and Medical Leave Act. I have previously, on several occasions here on the floor publicly and in private discussions with Senators, expressed my intention to proceed to those two bills as soon as possible and I have requested of the distinguished Republican leader that he advise me as to whether consent can be obtained to proceed to those two measures or whether we will have to proceed by way of obtaining cloture on the motions to proceed to those bills.

Senator DOLE has indicated to me that he will consult with his colleagues—I believe he is in the process of doing so—and will advise me, I expect sometime during the day today, on the response. Therefore, I hope to have an announcement during the day today.

I expect that whatever the response we will be on one of those bills on Tuesday. That is to say if we cannot gain consent to do so, under the rules we will proceed in a manner that will set up a cloture vote on a motion to proceed to one of those two bills on Tuesday. So Senators can anticipate that rollcall votes will begin on Tuesday, possibly Tuesday morning if it is a cloture vote on a motion to proceed. If it is consent it could be later in the day. So I will have an announcement as soon as the Republican leader has the opportunity to complete his consultation with his colleagues and advises me of the results of those consultations.

Mr. President, I yield the floor.

MORNING BUSINESS

The PRESIDENT pro tempore. The senior Senator from Louisiana [Mr. JOHNSTON] is recognized for not to exceed 10 minutes in morning business.

Mr. JOHNSTON. I thank the Chair.

(The remarks of Mr. JOHNSTON pertaining to the introduction of S. 254 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HELMS addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from North Carolina [Mr. HELMS] is recognized not to exceed 10 minutes.

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt runup by the U.S. Congress stood at $4,171,137,611,859.33 as of the close of business on Tuesday, January 26, the latest available figures.

Anybody remotely familiar with the U.S. Constitution is bound to know that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States. Therefore, no Member of Congress, House or Senate, can pass the buck as to the responsibility for this shameful display of irresponsibility. The dead cat lies on the doorstep of the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 merely to pay the interest on deficit

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

Federal spending, approved by Congress, over and above what the Federal Government has collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman, and child owes $16,239.02—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averages out to be $1,127.85 per year for each man, woman, and child in America. Or, looking at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

What would America's economic stability be today if there had been a Congress with the courage and the integrity to operate on a balanced budget? The arithmetic speaks for itself.

I yield the floor.

Mr. KRUEGER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Texas [Mr. KRUEGER] is recognized for not to exceed 10 minutes.

Mr. KRUEGER. I thank the Chair.

(The remarks of Mr. KRUEGER pertaining to the introduction of S. 254 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. The Senator from Colorado [Mr. CAMPBELL] is recognized for not to exceed 10 minutes.

Mr. CAMPBELL. I thank the Chair.

(The remarks of Mr. CAMPBELL pertaining to the introduction of S. 255 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CAMPBELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Connecticut is recognized.

Mr. DODD. I thank the Chair.

(The remarks of Mr. DODD pertaining to the introduction of Senate Joint Resolution 32 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DODD. Mr. President, I yield the floor.

The PRESIDENT pro tempore. The senior Senator from Arkansas [Mr. BUMPERS] is recognized for not to exceed 10 minutes in morning business.

Mr. BUMPERS. I thank the Chair.

(The remarks of Mr. BUMPERS pertaining to the introduction of S. 257 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. The junior Senator from Alaska [Mr. MURKOWSKI] is recognized for not to exceed 10 minutes.

THE IMPLICATIONS OF HOMOSEXUALS IN THE MILITARY ON THE VA BUDGET AND PRIORITIES

Mr. MURKOWSKI. I thank the Chair and wish the Chair a good day.

Mr. President, I rise to speak on an issue that is before the American people today, and that is the debate taking place on the issue of gays in our armed services. And I think it is important to recognize that the issue before our Nation is not the narrow issue of gays rights but rather the reality that service in the military is not a right but a privilege, a privilege for a very special group of Americans as evidenced by the process in which our military men and women come into our services.

The issue of sanctioning the presence of homosexuals in the military is not simple by any means. There are numerous implications to consider, both for the active duty military and for the veterans of our Nation who have yet to be heard on this issue directly. The long range implications to the Veterans' Administration need to be thoroughly examined and understood.

I would agree, as I think would most of my colleagues, that behavior in the bedroom is not Government's business as long as it is a private matter. But once it starts affecting the taxpayers, then it becomes a matter of appropriate concern for this body and of public concern as well. Unfortunately, this potential edict has already made this very private matter a very public one in a very short time.

In terms of lifting the ban on gays on active duty, I think three points need to be made.

First, until last night our President proposed to make this change by a stroke of the pen, with little or no input from Congress. I think it was a very heavyhanded approach.

Second, the people spoke very clearly in the last election. They want us to address the urgent areas, real issues: Jobs, the economy, health care. I think we have had enough divisiveness on social issues and the question comes to mind, Can we not defer this until much later, until we can understand the full implications?

And third, a well-run Armed Forces that this country has been blessed with is a vital national asset. The strength and cohesion of the military is what won the cold war. It was a strength and cohesion that won a hot war in the Persian Gulf. To risk that by unilaterally taking on this issue without careful consideration, in my opinion, is senseless and could very well affect our Nation's state of readiness within the military.

I am mystified to know why our new President would choose this issue when there are so many other issues, so much to be done, including, as I mentioned, health care.

We have seen in this week the announcement from Sears and Roebuck proposing to cut 50,000 jobs; IBM reeling under large losses; Boeing proposing huge layoffs; General Motors starting to implement the latest round of job cuts.

There is bipartisan agreement to act on the economy, health care, and reducing the deficit, but there is no consensus on the issue of gays in the military. The only consensus is not to act hastily. There are a number of implications to think through carefully, before action is taken.

The Armed Services Committee, under the leadership of Senators NUNN and THURMOND, announced they intend to hold hearings to consider the implications for the active military. They will consider:

How this would affect recruitment and retention, particularly when we are dealing with young 17- and 18-year-old men and women who may not have been exposed previously to a homosexual lifestyle in a cramped environment, as is often the case in the military.

How would it change military esprit and morale?

How would it affect relations in barracks and in the tight quarters aboard a ship or submarine when bunkmates may be less than 3 feet apart for 6 months or more?

How would it affect the privacy concerns of heterosexuals?

How would it affect everything from base housing to active duty benefits?

And how would it affect the readiness of the military?

But as the ranking Republican on the Senate Veterans' Affairs Committee, my concern is for the host of complicated and costly issues that will arise should this action be taken.

Since the armed services hearings likely will not address all the veterans issues, I am asking the chairman of the panel, my good friend Senator JAY ROCKEFELLER, to hold a hearing to focus specifically on issues relating to veterans and our ability to afford and underwrite our obligations to provide benefits.

These hearings will give the veterans of this Nation an opportunity to be heard, since this change could well affect them and the level of benefits they might receive in future years.

Would an influx of gays into the military—and later into the ranks of the Nation's veterans population—affect AIDS ratios in the military and thus future VA health care costs? We simply do not know.

How would VA's life insurance system be affected by premature HIV-related deaths of an increasing number? We do not know.

Would the VA become mired in controversy and litigation to determine if gay soldiers' partners are dependents or survivors for purposes of VA benefit programs? Government housing? We simply do not know.

HIV infections contracted in the military are now considered service-connected conditions for which compensation is paid. Gladly, there have been relatively few cases. Will a lifting of the ban add significantly to the VA's overtaxed health-care budget? We do not know.

We are sailing into unchartered waters. It will be hard enough to tackle the complexities of crafting a new national health-care system if the basic rules governing the largest element of the Nation's health-care system are cut adrift at the same time.

Prestigious organizations such as the American Legion oppose a change in current policy. The VFW and Amvets similarly are opposed. Virtually all service organizations have spoken out objecting to this.

Perhaps Amvets says it best when it says "we should not be trying to fix something that is not broken." As the National Commander of Amvets has said:

> We have the finest forces in the world—diverse operations such as Desert Storm and in Somalia have shown that. To create division among them now literally puts the world at risk.

Clearly Alaskans have expressed their viewpoint. My phone and fax machines have been ringing off the hook. By the latest tally, responses are running 10 to 1 against gays being condoned in the military and that does not even take into account the mail.

We are only now beginning to identify the permanent questions. We must know the answers to them before we act.

I think prudence is the reasonable course. We are talking about a military policy of more than 50 year's duration. Surely, we can take the time to understand all the implications of casting it aside before we do so.

Mr. President, in summary, I join the ranks of Senators of both parties who urge that we exercise caution here, that we hold hearings and know what the implications will be, not because we are homophobic, but because we are concerned about possibly breaking a perfectly functioning military—the world's finest. This is a quagmire that we should not be stepping into, too quickly.

I yield the floor.

Ms. MURRAY addressed the Chair.

The PRESIDENT pro tempore. The Senator from Washington [Ms. MURRAY] is recognized for not to exceed 10 minutes in morning business.

BOEING'S ANNOUNCEMENT AFFECTS WASHINGTONIANS

Ms. MURRAY. Mr. President, thank you for the opportunity to speak today. Mr. President, when the people of Washington went to the polls last November, they voted overwhelmingly for change. Change in the economy. Change in health care. Change in education. And change in the way our Government treats people.

I am here to be an agent for that change. I was elected to speak for my neighbors and friends in Shoreline, Seattle, and Spokane. I want to say what they would say if they were here in the U.S. Senate. Their agenda is my agenda. Their concerns are my concerns.

I had hoped that my first statement in the Senate would be about our common agenda. I wanted to talk about job creation, economic renewal, health care reform, and better schools for our kids. Instead, today I must speak about recent economic news that will have serious consequences for my State.

On Tuesday, Boeing announced plans to cut production of commercial aircraft by one-third. This decision may affect as many as 20,000 of the 80,000 Washingtonians employed by Boeing in commercial aircraft manufacturing. It will certainly affect their families, children, and their neighbors. The thousands of businesses in Washington that depend on a healthy aircraft industry will also be affected.

The Boeing Co. is an integral part of Washington's economy. As Boeing has grown and expanded over the years, our State's economy also has prospered. This is why the people of Washington State are concerned about Boeing's recent announcement.

I fear what this announcement will mean for my neighbors and my friends, for our communities and our schools. And I fear what this will mean for the national economy as a whole.

Boeing is the United States' largest exporter. Overseas sales pump some $17 billion into our national economy and support 70,000 Boeing jobs. Every $1 in Boeing aircraft exports multiplies into $2.70 for the U.S. economy.

This announcement raises serious concerns among Washingtonians and numerous questions. As we try to find answers to the questions, I pledge myself to helping the affected families and the workers.

To start with, I will ask Boeing management to preserve as many jobs as possible through absorption into other production lines, such as the 777, or through part-time work. I will press Boeing immediately to offer counseling for all affected employees.

Over the long term, the best way to keep these workers employed is to restore the health of the American airline industry. Airlines are a vital component of our Nation's transportation sector. We must promote the replacement of aging fleets with more fuel efficient, environmentally sound aircraft. If a loan program will help the airlines replace their fleets more quickly, then we have to explore that as well.

I will work with the Clinton administration on including an airline/aircraft component in the infrastructure revitalization package.

Finally, no sector is more representative of an integrated global economy than American aircraft manufacturing. Boeing buys parts from around the globe and sells its planes throughout the world. The company is engaged in several codesign, development, and production agreements with foreign partners. But Boeing cannot compete against foreign government subsidies. Only through further restraint on such subsidies can Boeing hope to compete into the 21st century.

The corporate layoffs announced Tuesday reaffirm for me the need for us as a Nation to develop an economic vision for our future. We must work together, business and Government, to define better where our jobs are going to be in the future.

This will help us decide today what skills we need and how to teach them to our children so they can compete in the international job market of tomorrow. We need short-term relief, but the long-term challenge remains the need to create a vision for our Nation's economic future.

Today, tomorrow, and in the coming months, the layoffs will be in the mind of every Washington citizen. Every plane that Boeing makes depends on the skills of thousands of individual workers. These people, my friends and neighbors, are uppermost in my mind at this moment.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Vermont [Mr. LEAHY] is recognized for not to exceed 10 minutes in morning business.

A STRATEGY FOR FOREIGN AID REFORM

Mr. LEAHY. Mr. President, 3 years ago, by the end of my first year as chairman of the Foreign Operations Subcommittee, it became clear to me that foreign aid is in need of fundamental reform. We need to change the way we make decisions about programs and funding and the goals and priorities we pursue.

In a speech on this floor in 1990 I urged the Bush administration to look ahead to the 21st century. I asked that the President send to the Congress a foreign aid budget that would respond to the momentous changes that were sweeping the world since the fall of the Berlin Wall. I called for new directions in foreign aid. I stressed the need to modernize the Agency for International Development and to confront the enormous global problems that have replaced communism as the greatest threat to our security.

Needless to say, the Bush administration did not heed my voice. However, I have continued to push that same message year after year. In the Foreign Operations Subcommittee, in the face of administration opposition we managed to begin shifting funds to new priorities. I am pleased that finally a consensus has emerged—accepted by the Clinton administration according to Deputy Secretary of State-designate Wharton—that real reform of foreign aid can no longer be delayed.

Today I will make the first of several statements during the next 100 days explaining why I believe foreign aid reform is so urgently needed. I will address what I see as the major obstacles to reform, and what I believe we must do. I will offer my views on a strategy for pursuing reform, and I will propose specific changes I believe are necessary.

In this first statement, I would like to concentrate on the context for reform. Before we can begin to change, we must understand how we got where we are, why reform is necessary, and why change must begin now.

The U.S. foreign aid program began after World War II with a farsighted decision to help the Western European countries to rebuild. Certainly one of the motivations for the Marshall Plan was generosity, but the fundamental reason was alarm over the rising tide of communism in Europe. The belief that poverty and hopelessness bred communism, and that economic prosperity and political freedom were the best antidotes, was formed in those early days. The linkage between economic development and political liberty, the driving force for our foreign aid policies for the next four decades, was forged right at the start.

The Marshall plan, which involved huge infusions of American aid, was a great success. It is often cited as the model for other major assistance efforts, such as the Alliance for Progress in the 1960's.

But what many people failed to understand is that the Marshall plan was so successful because it was carried out in countries that had already developed the traditions, institutions, and human resources necessary to produce sustained economic growth and politically open societies. What the devastated nations of Europe lacked was the means to rebuild. The Marshall plan, very simply, provided those means, and quickly produced an explosion of economic growth.

After the Marshall plan, the focus of United States aid shifted primarily to Asia, first to protect Korea, and then Taiwan, Vietnam, and other countries against Communist expansion. While it nearly always had an economic development component, again our assistance was driven fundamentally by a national security goal of containing the spread of communism.

As United States foreign assistance efforts expanded into new areas, principally Latin America and the emerging new nations of Africa, the same basic national security considerations continued to apply. We maintained a linkage between economic development and the modernization of political institutions, with the idea that creating economic growth was an essential first stage on the way toward functioning democracies.

Through the Vietnam war, United States foreign assistance was primarily oriented toward bolstering governments which were—or claimed to be—anti-Communist. That such governments were often themselves authoritarian or even dictatorships was considered a lamentable but unavoidable cost in a larger strategy of containing communism. One these nations achieved economic growth, we thought, political pluralism and accountability to the people would surely follow.

Two features of this period in our foreign aid program's history are worth recalling. They do much to explain many of the failures and difficulties our foreign assistance efforts have encountered.

First, most of the Third World countries we sought to help did not possess the infrastructure and traditions necessary for economic growth and open political systems to flourish. Our aid programs lacked the fertile institutional ground upon which to work the economic and political miracles which occurred in Europe in the late 1940's and early 1950's

Second, the threats to these countries were perceived to be principally military, as communism was seen to be expanding through guerrilla insurgences. While assistance was often aimed at economic development, the underlying rationale was that stronger economies meant greater ability to resist Communist attacks.

Because we are a generous people, for the most part we really did intend and expect that our assistance, while given primarily for security reasons, would also benefit the recipients by stimulating economic development. Or, to put it another way, we saw no inconsistency, and in fact a direct connection, between deterring communism and economic betterment. Looking at our own historical experience, as well as the Marshall plan in Europe, we thought economic growth naturally led to democracy and political stability. Traditional cultures would, we believed, give way to rapid political and economic modernization in the context of industrialization, urbanization, and economic growth.

As many more nations joined the international community, our aid programs expanded vastly in scope, though, in comparison with the Marshall plan, not in the level of resources. We spread our limited assistance ever more thinly, trying to support non-Communist regimes in inherently unstable countries with very weak political and economic institutions. We continued to give priority to our goals of political stability and anticommunism in the face of a revolution in mass communications and related political and economic awakening of billions of impoverished peoples in the developing world.

And measured in terms of what we sought to do, our foreign aid programs were successful. Communism was deterred and finally defeated without global war. In defense of freedom and to contain communism, the American people have been generous. Since the Marshall plan, we have spent many hundreds of billions of dollars to support economic, development, and military programs in more than a hundred countries.

Yet throughout those years, and particularly since Vietnam where massive infusions of aid were unable to achieve our other goals of economic development and the spread of democracy, disillusionment about foreign aid has steadily grown.

With the waning of the national security justification for foreign aid, and I am sure the distinguished Presiding Officer hears, as I do, people increasingly asking how those hundreds of billions of dollars helped poor people abroad? Where, they ask, is the sustained economic development? Where are the Democratic institutions? Where are the open, pluralistic societies where basic human rights are respected? Why is degrading poverty still so pervasive?

There are many reasons why the complex process of political and economic development in the Third World is moving so slowly. But it is now clear that some of our basic assumptions about the stages of economic and political development in many new nations were wrong.

We expected foreign aid to work in poor, Third World countries the way it had worked in Western Europe. We are still discovering just how wrong our assumptions were in applying Marshall plan thinking to the developing world. Only in the last few years have we come to recognize how enormously difficult it is to create—where none exist—the basic institutions necessary to sustain economic growth and political pluralism.

So what lessons have we learned?

First, by placing such a high priority on political stability and anti-Communist credentials, we failed to insist on the establishment of Democratic forms and institutions. Too much aid went to support corrupt and repressive governments and not enough to fostering the basic machinery of Democratic societies. These are the very things that make democracy so strong in the face of political, economic, or military challenge.

Second, by paying too little attention to how Third World governments themselves functioned, we wasted hundreds of millions of dollars of American taxpayers' money. We did not demand that our development aid be used wisely, nor did we penalize recipient governments that did not produce better lives for their own people. Political stability came far ahead of demands for improved government efficiency and accountability.

As just one example, in Africa the four largest recipients of United States aid during the 1970's and 1980's were Somalia, Sudan, Zaire, and Liberia. Every one of those nations has lain under the boot of dictators who pillaged the treasuries and murdered their own people. As U.S. aid dollars flowed in, political oppositions were crushed, corruption flourished, military and political elites bled the economies white. Today those countries are devastated by civil war, anarchy, and famine.

Third, while our aid to Europe was received with appreciation and a realistic sharing of our national security interests, in the Third World it has often been met with suspicion about our motives and criticism of our country. Third World peoples are not fools. They knew what our priorities were. There was—and still is—much resentment that with our mouths we preached Democracy and political pluralism while with our dollars and weapons we supported dictators and authoritarian regimes. Too often our deeds did not match our words.

What we have is now a twofold disillusionment. At home, the American people are fed up with an outdated foreign aid program that no longer serves what most would agree are indisputable American national interests. Even our national generosity seems to have been perverted, since we see so little improvement in the lives of the poor we sought—or claimed we sought—to help. In fact, in many ways, particularly in the area of health, real advances were made. But across the board, progress was very uneven.

Abroad, there is anger that so much money and so much time has been wasted with so little result in the development of functioning economies, political pluralism, and social justice. Decades of assistance have made little difference to most people in Africa, or to many millions of the poor in Latin America and parts of Asia. Recipient governments have mishandled hundreds of billions of dollars of foreign aid which should have improved the lives of their peoples.

The consequences of this disillusionment on the political consensus here at home in support of foreign aid have been profound. As the national security rationale for foreign aid has grown ever more strained and unconvincing, Congress has been groping to find a new approach that would reestablish a relationship between foreign assistance and tangible American national interests.

To be blunt, we in Congress must be given an explanation we can believe why continued foreign aid is in the national interest. And we must be able to persuade the American people that this national interest is real and will be advanced by foreign aid.

Since the height of the Marshall plan when in a single year we gave $43 billion to Western Europe, the foreign aid budget has decreased. The recent high point was $20 billion in 1985. Since then, the trend in foreign aid is downward. Today, the total stands at $14 billion and accounts for less than 1 percent of the total Federal budget.

In fiscal years 1992 and 1993, Congress slashed the foreign aid appropriation deeply. In these 2 years, actual appropriations fell by about $1.5 billion, and far more steeply from President Bush's requests.

Confronted by a growing gap between expectations and reality, appalled by lack of leadership, angered by accumulating evidence of substantial mismanagement and waste, and shaken by profound foreign policy disagreements, Congress increasingly has tried to push the foreign aid program into more positive directions. Cooperation with the executive branch has become a casualty of the loss of trust engendered by the Vietnam war and accentuated by continuing scandals, such as Iran/Contra, and widening disputes over policy, such as the war in El Salvador.

Reform efforts have abounded in recent years, but with inadequate political, bureaucratic, or intellectual preparation, all have failed. An ever growing list of theories has sprung up about what foreign aid should be used for and how to make it more effective. All this reflects the disintegration of the postwar consensus about what interests foreign aid is supposed to now serve. We now confront an absence of agreement about why the United States should have a foreign aid program at all, and if we are to continue to provide foreign aid, what specific national interests it is to serve.

Mr. President, as chairman of the Foreign Operations Subcommittee responsible for drafting and moving the annual foreign aid appropriation through the Senate, I do not believe it will be possible to enact another business-as-usual foreign aid bill. The last foreign aid bill was carried through the Congress only by the Israeli loan guarantee program. It was impossible to pass a fiscal 1992 foreign aid appropriation at all; the entire program was funded through a year long continuing resolution.

That stark reality explains why a top to bottom reexamination of our entire foreign aid program is essential. It cannot be delayed. I know the Clinton administration wants to focus on domestic issues, a focus I agree with and support. But I also know there must be major changes in foreign aid funding priorities and in the rationale for the foreign aid program if we are to enact new foreign operations appropriations bills without their being gutted on the Senate floor.

I am pleased by Deputy Secretary-Designate Wharton's statement in his confirmation hearings that he will be in charge of developing a plan to reform foreign aid within 90 days. If the Clinton administration had decided to postpone the foreign aid reform issue, Congress would have to take reform up itself. We can afford no further delay in the complex task of redefining foreign aid goals and restructuring AID ourselves.

Even with full scale executive branch leadership, redefining the fundamental purposes of foreign assistance in the post-cold-war world will be difficult. There are many competing points of view. Many interests will be affected by change. Some argue that our assistance should focus mainly on promoting American commercial interests overseas in the way that some of our competitors, such as the Japanese, do. Others say foreign aid should be targeted at solving global problems which threaten our national well-being and the future of the planet, such as overpopulation and environmental degradation, the international drug trade, and AIDS.

Still others insist that ending poverty should be the goal of all foreign aid, and that sustainable economic development, political stability, reduced population growth, and preservation of the environment will follow naturally. And there are those who believe the only valid reason for providing large scale foreign aid is to advance concrete U.S. national security interests in specific areas of the world.

Complicating the task, Congress, and most of the executive branch, has lost confidence in the Agency for International Development. It is a rudderless agency in search of a mission. Torn in every direction by competing forces within the executive branch, under unrelenting pressure from special interest groups, and besieged by Congress, AID has become a bureaucratic stepchild.

Once AID shaped U.S. foreign assistance policy and its key programs. Today AID has been reduced to little more than an implementer of decisions made by others. The State Department micromanages AID's Eastern Europe and New Independent States programs. With proposed the new Under Secretary of State position for global issues, State is evidently going to take full control of environment, health and population policy and programs. After years of resisting pressures from Congress to take leadership roles in all these areas, AID missed the boat on what are sure to be the driving forces of foreign aid in the future.

In my mind, so low has AID fallen that it is an open question whether the Agency should continue to exist, at least in its present form. The new Administrator will have a huge and difficult challenge to redefine and reshape that Agency in ways that will justify its future existence. I intend to address this question in detail in a future statement.

Any serious reform of AID must begin with the question: With the cold war over, do we even need a bilateral foreign aid program any longer?

I am struck by President John F. Kennedy's response to that question in 1961:

> The answer is that there is no escaping our obligations: our moral obligations as a wise leader and good neighbor in the interdependent community of free nations—our economic obligations as the wealthiest people in the world of largely poor people, as a nation no longer dependent upon the loans from abroad that once helped us develop our own economy—and our political obligations as the single largest counter to the adversaries of freedom.
>
> To fail to meet those obligations now would be disastrous; and, in the long run, more expensive. For widespread poverty and chaos lead to a collapse of existing political and social structures which would inevitably invite the advance of totalitarianism into every weak and unstable area. Thus our own security would be endangered and our prosperity imperiled. A program of assistance to the underdeveloped nations must continue because the Nation's interest and the cause of political freedom require it.

But the definition of how foreign aid was to serve the national interest in 1961 is no longer valid. Congress and the administration must find a broadly acceptable redefinition of the purposes of foreign assistance that will meet President Kennedy's basic tests of foreign assistance: A renewed foreign aid program must meet the national interest and further the cause of freedom and justice in the world.

What are our foremost national interests today, what goals should we set to further those interests, and how can we use foreign aid to achieve those goals?

I will address those critical questions in other statements on the future of foreign aid during the next 100 days. Today, I want to close by emphasizing that unless there are screams from the special interests and the multitude of lobbyists who have sprung up to protect virtual entitlements in the present foreign aid program, we will have failed to define a new direction for foreign aid. Unless we can make serious changes in funding allocations and in the goals of our programs, we will only be going through the motions. It will continue to be business-as-usual—for a little while longer. And then the patience of the American people with this noble experiment will be gone.

The PRESIDENT pro tempore. The Senator from Washington [Mr. GORTON] is recognized for not to exceed 10 minutes.

THE ECONOMY

Mr. GORTON. Mr. President, both Washington State and the Nation received wake-up calls this week. Boeing, a manufacturing company closely associated with the State of Washington, the United States' largest exporter and perhaps its leading manufacturer of high-technology, high-value products announced a massive round of production cutbacks. The same wake-up call has been heard all across the United States in community after community by actions of a diverse group of companies. IBM announced a corporate restructuring which will affect thousands of its employees. Sears' corporate restructuring will cause 50,000 people, their families and communities, to go through a wrenching period of readjustment.

The message being delivered from Washington State and from across the country, Mr. President, is loud and clear. That message: "It's the economy, stupid."

This is what the campaign was about. This is what the people of the United States wish the new administration and the Congress to be about. They want us to focus not on secondary issues, as titillating or as controversial as they may be. They want us to focus on the jobs and careers and communities and families of this country.

People in Washington State as well as those in many other States are reeling from a weak economy. People are worried about their jobs, about their families, about their communities, and about their futures. In my own State, adding Boeing's employment reductions to those the State has experienced in the forest products industry, it is clear that no issue is of greater need or more immediate attention than the economy itself.

I have listened to what the people of my State have said about the economy. The demand that it be the first order of business here in Washington, DC, from its elected leadership, both in the executive branch and in the Congress. I am convinced that every decision Congress makes should be judged by one standard: How does it help people with jobs and how does it restore people to jobs and opportunities lost during the recession?

What America needs is simple: Strong and consistent leadership. The political leaders of this Nation need to provide clear direction, specific policies, and hard work. We cannot afford to spend our time pandering to beltway interest groups when it is crystal clear to ordinary people what needs to be done.

There are three issues which almost everyone in the country believes should be top priorities here in Washington, DC: the budget, taxes, and Government regulation.

Perhaps the biggest and toughest job we face here is getting our financial house in order.

The electorate was quite clear about this in November. Talking with people from my State, I had the sense that there is very little patience with the fact that the Federal Government cannot even come close to balancing its budget while on each and every day these same people must live within their means. We will obviously be held accountable if we fail.

Within the next 60 days, I am convinced that the new President must submit to Congress a serious deficit reduction plan. In fact, I am convinced that the success of his administration depends almost entirely on the way in which he reacts to that issue. If the President sends to Congress a plan which honestly, fairly, and equitably addresses the budget deficit, I am convinced that his will be a successful Presidency.

If, on the other hand, it is his third or fourth priority this year or even his first priority next year after the normal return to political divisions here in this body and in the House of Representatives, I greatly fear that we will never get to that job. And, that 4 years hence, we will find ourselves $1 trillion in debt, another $4,000 for each and every man, woman, and child in the country.

The success of this Presidency, Mr. President, does depend on how clearly, cogently, and forcefully the President leads in this connection.

Second, I believe that it is important for this President to move boldly with respect to tax policies. I am convinced that for this year, at least, he must disavow all significant tax increases. Clearly, with the kind of economic restructuring going on in corporate and business America, increasing the Government's take from the very people and companies on whom we rely to create new jobs is counterproductive.

I remind this body of the effects of the luxury tax increase in the 1990 budget bill. It affected very few of the millionaires at whom it was aimed but affected hundreds, perhaps thousands, of citizens in Washington State alone who work or used to work in the boatbuilding industry. These taxes devastated their lives and their communities and produced little, if anything, for the Federal Treasury.

There is no such thing as a painless tax increase. The bottom line is that increased taxes result in fewer jobs. The truth is the private sector can create more jobs with a given amount of capital than the Federal Government can. Tax increases affect real people, their jobs, and their communities. If you take money from the private sector for the Federal Government, the result will be fewer people employed in the private sector, less food on tables, and more difficult mortgage payments.

Government actions in my own State have already cost thousands of jobs and victimized thousands of families in timber country in the Pacific Northwest. We do not need more Government policies which will inevitably cause more of the same. What every sector in this economy needs is a Federal Government that promises to live within its means and not to take an increasing share from the private sector.

Tax burdens have not decreased during the course of the last decade. Mr. President. The percentage of the gross national product going to Federal Government spending has increased. That is the cause of the deficit.

A final, clear signal Congress can send to America is that it understands the punishing effect of Federal regulations and how those regulations can adversely affect the Nation's ability to create and to retain good, high-paying jobs.

So through executive actions where possible, and legislative actions where necessary, this country's leadership should spend the next 6 months removing unfortunate and prohibitive Federal regulations from the backs of the business enterprises and the individuals on whom we count to create and maintain fine jobs.

We need sweeping changes. We need attention paid to our people at home. We need new leadership here in Congress just as we have one in the Presidency.

This Senator wishes the new President well because if he does well, this Nation will do well. He would do well, however, in the view of this Senator to spend less of his political capital on secondary issues, to remember his own campaign slogan, and to concentrate on creating a situation in this country in which job creation in the private sector is his number one goal.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

CONGRATULATION'S TO SENATOR MURRAY

Mr. GORTON. Mr. President, about 30 minutes ago on the floor of the Senate this Senator's colleague from the State of Washington, Senator MURRAY, made her first speech to the Members of the U.S. Senate.

I should like to congratulate her on that speech. It covered many of the subjects which this Senator has just discussed—the adverse impact of the Boeing layoffs and production cutbacks in the State of Washington—and included her pledge to opt for a growing and a booming economy in her State and across the country. I think it was a particularly fine example of an initial speech on the floor of the U.S. Senate, and gives great promise for the success of her first term in the Senate.

I should like to take this opportunity through the President of the Senate to congratulate her on a job well done.

Mrs. BOXER addressed the Chair.

The PRESIDENT pro tempore. The Senator from California [Mrs. BOXER] is recognized for not to exceed 10 minutes in morning business.

Mrs. BOXER. Thank you, Mr. President.

CHALLENGES FACING THE NATION

Mrs. BOXER. Mr. President, today is a special day for me as I come to the floor of the U.S. Senate to speak for the first time. I am honored to be here representing more than 30 million people in California, and I am equally honored to be serving in this enduring institution, in which so many historical debates have taken place.

I recall well my first speech in the House of Representatives—10 years ago this month—in which I talked of the terror of the nuclear arms race. I am heartened that today we have moved away from the nuclear abyss.

But now there are new challenges facing our Nation. In my campaign for the Senate, I heard about those challenges first hand. I traveled up and down the State, and everywhere I heard the same message. The people of California, like Americans everywhere, want change.

If we have been elected to do anything, it is to fight for new priorities in Government, to attend to the real, everyday problems faced by Americans.

Californians know firsthand the price that is paid when the economy falters and social needs go unmet. In my State, nearly 1.4 million people are out of work. Since June 1990, 836,000 jobs have been lost. Think of it—836,000 jobs and all the people that depended on those jobs. According to the California Department of Finance, the current unemployment rate is 9.7 percent, the second highest in the Nation.

I know that there are no simple solutions to our problems. But I believe in the essential goodness and courage of the American people. They want to do the right thing for their families, their children, their communities and their Nation. All they ask is for their leaders to lead.

Within days, Congress will take the first steps to address some pressing needs, by sending to the President three bills which I have long supported—and so many in this body have supported—the Family and Medical Leave Act, the National Institutes of Health reauthorization, and the motor-voter legislation.

A responsible family and medical leave policy is long overdue. The United States has lagged behind all other industrialized nations in providing assurance to employees that they will be able to care for themselves and their families in an emergency without fear of losing their job. Businesses, too, will benefit from this policy, in improved worker productivity and morale. There should be no more choosing between a sick child and a job.

The NIH bill will reauthorize funding for critical medical research programs, including cancer, Alzheimer's disease, and AIDS.

And it raises women's health issues to a new high level of importance in areas of research and clinical trials. It confirms President Clinton's wise decision to lift the ban on fetal tissue research.

The motor-voter bill will encourage full citizen participation in Government by clearing up a confusing array of State voter registration requirements and encouraging millions of Americans to vote. We must live up to our promise of a government of, by, and for the people, and for that, we must get broad voter participation. It is at a very anemic percentage even in this very exciting Presidential election year.

So these changes in public policy are important steps toward restoring the faith of the American people in their Government. We will address other changes, however, that will not be as easy to achieve. Sometime in the next few days, the Senate may well be voting on the question of the service of gays and lesbians in the Armed Forces.

Mr. President, I recognize the high level of emotion surrounding this issue. But, for me, it is a very simple principle: Military service to one's country is about patriotism and loyalty to one's country, and to the rules that govern the military. We all know that there are many gays and lesbians serving in the military with distinction and with dignity. Many have given their lives for their country, and they have earned the highest awards for heroism.

I know it often is not easy to understand that other people are different. But if America stands for anything at all, it is that we are a tolerant nation. I had the privilege—the privilege—of going to a funeral today for the great Thurgood Marshall. As I sat there and listened to the brilliant words being spoken by people far more eloquent than I, Mr. President, I realized that this issue speaks to human rights and dignity and fairness and tolerance. That is what our democracy is about. If we love freedom and democracy and equality, then all of us should be accepted as a member of our American "family." We are all God's children, and we reach our moral heights as a nation, in my opinion, when that is the foundation of our rules.

In a few weeks, President Clinton will send his economic proposals to the Congress. As a member of three committees that will review many of his ideas, I really look forward to working with the President to enact an aggressive plan to restore growth and vitality to our Nation. We will be considering the President's plan for health care reform, and as a member of the Health Care Reform Task Force, I will be working with many in this body to ensure that the plan provides adequate coverage to meet all of our needs, including women and children.

Within the next few weeks, I will be proud to introduce several bills to carry out a legislative agenda that comes from the people of California. The first is the California Ocean Protection Act, which will provide for permanent protection to California's beautiful and fragile coastline by prohibiting offshore oil drilling in the waters of the Outer Continental Shelf. This legislation represents a continuation of my efforts in the House of Representatives. A pristine coast is essential to California's economic well-being as well as to its environmental well-being.

Second, I will introduce legislation to provide new remedies for victims of stalking. In communities throughout the country, people are reacting with alarm to incidents where innocent people are stalked by jilted lovers or estranged spouses. Stalkers sometimes turn to violence, even murder, and we must move vigorously to stop these tragedies.

I also intend to introduce economic diversification legislation that will help the California economy adjust to the post-cold-war downsizing of the defense industry; and on the Banking, Housing, and Urban Affairs Committee, I will work with my colleagues to end redlining, the despicable practice of discriminating against creditworthy, inner-city borrowers. I will fight to ensure that vacant housing units in the possession of HUD are rehabilitated and put back on the market to help our families.

I will work to help our Nation's veterans, who gave so much to this country, and yet, who constitute a disproportionate share of the homeless. In some cases, we find that up to 50 percent of the homeless are veterans.

I will work actively to ensure that our financial institutions are sound, yet meeting the lending needs of the Nation.

As a member of the Committee on Environment and Public Works, I will push for economic development proposals that will help California and our Nation repair its infrastructure, which is so critical to economic growth. I will continue to fight the good fight for clean air and clean water and the preservation of our disappearing wetlands.

So, Mr. President, with these legislative tasks in mind, I am very eager to work as a Member of this great body, work that I hope will help restore faith in Californians that their Government can indeed function effectively for the good of all Americans.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. A point of no quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak for 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME FOR BUDGET DISCIPLINE

Mr. DOMENICI. Mr. President, this morning I was informed of the latest economic reports. The good news is the gross domestic product rose at a 3.8-percent rate in the fourth quarter following a 3.4-percent increase in the third quarter.

The economy is growing, but job creation lags behind. Once again, we are witnessing conflicting signs as our economy lurches toward full recovery. It begs the question. What is going on here? Even the so-called experts are baffled by the lack of job creation in a period of strengthening recovery. If we could have the kind of job growth that went along with the recovery following the 1982 recession, jobs would have been up 2.5 percent over the last 2 years. Instead, jobs hardly rose at all.

The answer, I believe, is fairly simple. Unlike past recoveries, our economy is straining against the weight of $4 trillion in accumulated debt.

Today the chairman of the Federal Reserve Board, before the Budget Committee, precisely, deliberately and with great care and concern for detail, indicated that we have to get the long-term deficit under control, that we have to deliver a package indicating it will happen. It cannot only be anticipated, but will happen. That ought to be the first step in trying to find out why things are different. This fiscal milestone is a drag on our economic recovery as our annual deficits devour resources needed to spur additional growth.

Contributing to our sluggish performance is the nearly $3.6 trillion in accumulated private corporate debt. Add to this a decision by many businesses to focus on increasing productivity rather than incurring the escalating expense of new hires and you begin to see why job growth is down.

On Tuesday, CBO Director Reischauer, told us that unless government reduces its borrowing, growing deficits over the rest of the decade will continue to dampen available capital for investment and growth. Left unchecked, he predicted our annual deficit will soar to $650 billion in 10 years. And he made it clear—and Dr. Alan Greenspan today made it clear—that we need comprehensive, long-term enforceable deficit reduction in order to sustain economic growth and raise our standard of living into the next century.

The CBO finds that economy is growing slowly and is projected to continue to grow slowly, in part, because of the decline in the national saving rate over the last decade. And the Federal budget deficit has been a major contributor to that drop in saving. For this, I believe all of us are to blame—both Democrats and Republicans. Only a concerted, collective, bipartisan effort by all of us will turn this around.

But if debt is the illness and deficit reduction the cure, then a token short-term stimulus package simply compounds our woes. CBO has said, in effect, the responsible policy is to apply a fiscal tourniquet to halt the hemorrhaging in our economy. Those who advocate a short-tern stimulus package suggest the cure is more bleeding.

Due to our tremendous debt burden, this recovery is unlike those of the past. The old methods—such as a Government-sponsored jobs programs—will not work. As we have heard so often lately, we are in a new era of change, and we must abandon the failed policies of the past. That includes fiscal stimulus. There are things we probably should do, but adding to the deficit is not one of them.

After all, our $300 billion Federal budget deficit represents the largest fiscal stimulus package in our history.

CBO says that reducing the deficit is the most direct and reliable way to increase national saving and long-run growth. But, as we all know, there are no silver bullets, no quick fixes. Deficit reduction won't come without sacrifice.

Promoting long-term growth will require some short-term pain. A political stimulus package that just adds more to the deficit or a shot of monetary stimulus to replace fiscal responsibility won't solve the problem. These are diversions. And that's also true for tax increases that create even greater barriers to small businesses—our Nation's job machines—or that hurt our international competitiveness. Real, enforceable, and reliable spending restraint needs to be a key ingredient in a deficit reduction package. I will not support any short-term spending stimulus package unless it is tied and bound to real spending restraint and deficit reduction.

Indeed, part of any plan must require controlling entitlement spending. CBO projects a deficit of $650 billion in 2003 mainly because entitlements are growing faster than economic growth can produce revenues. Between 1993 and 1998, total spending will increase by $386 billion, while revenues will grow by only $339 billion. Excluding interest on the debt which we cannot directly control, mandatory spending increases account for 96 percent of spending growth. And 93 percent of the growth in mandatories comes from three programs—Social Security, Medicare, and Medicaid. Clearly, we don't have a revenue problem we have a spending problem.

Such times also require creative thinking and bold new solutions. Senator SAM NUNN and I have suggested just such an idea—tax restraint on savings and investment—a plan to provide incentives for the savings and investment needed to spur future growth.

I cochair a CSIS Commission on Strengthening America with Senator NUNN. The Commission's first report last fall presented a plan to balance the budget by the turn of the century. That was a balanced plan of real spending cuts and limited revenue increases. In that plan, revenues would be part of the plan but in a ratio of only $1 for every $2.70 of spending cuts, and only after the spending cuts are locked into law. Deficit reduction can be done without laying all the burden on taxpayers.

The CSIS budget blueprint demonstrates that a plan can be crafted that is credible by being enforceable, and focuses on controlling entitlement spending. We can accept that responsibility. We accept the responsibility in that report. I trust we will begin to look realistically at our Nation's future and our children's future by not looking back, by not making excuses, by not side-stepping the problem—the one we really know about. That is not innovative and not new. It is fiscal sanity to get out from under this devastating spend and spend and spend approach.

I am not sure what we are going to do but I stand ready to work—bipartisan. But I do believe unless there are some real suggestions on changing this appetite for spending we will have no success. We will not bring back jobs in large numbers. And we will just harm the future for our children.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, we are in morning business and I ask for an opportunity to address the Senate in morning business.

The PRESIDING OFFICER. The Chair advises the Senator that under the previous order, time was set aside for morning business. So the Senator has 10 minutes.

AN IMPORTANT JUDICIAL OPINION

Mr. GRASSLEY. Mr President, I want to take this opportunity to briefly discuss what I think is a very important judicial opinion that was recently handed down in what might be considered a little known case. However, I think it has significant impact upon an important provision of law that I have been involved in and was passed by this Congress about 6 years ago and has become very important in ferreting out fraud of taxpayers' money.

The fact is that last Friday, the U.S. Court of Appeals for the Second Circuit upheld the constitutionality of what are called qui tam provisions of the False Claims Act. This is the first circuit court decision that has addressed the constitutionality of qui tam provisions. Although this might sound like a rather obscure point of law to many of my colleagues, I think it is very significant for our taxpayers and for the Congress. It is significant for the taxpayers because under this law we have had almost half a billion dollars of reclaimed money that has come back that would not have otherwise come back to the Treasury.

The qui tam provisions of the False Claims Act, and this idea was first created in 1863 by Abraham Lincoln, allows a citizen with knowledge of fraud on the Government to sue on behalf of the United States as private attorneys general in return for a share of the Government's recovery. Since we amended the law in 1986 to reestablish some provisions which had been repealed in 1942 that hurt its applicability and use, as I have said, nearly $0.5 billion in taxpayers' money has been recovered through qui tam suits, and the recoveries continue to increase almost exponentially. Qui tam is a very important tool for Congress because it allows us to supplement the limited resources of the executive branch to promote the interests of the taxpayers. There is a limit to the number of cases the Justice Department can pursue; by deputizing private citizens to act as prosecutors, based on information they already have about fraud, we allow many other prosecutors to help our Justice Department do its work. We then ensure that more fraud will be brought to light by whistleblowers, and that a larger proportion of meritorious cases will be brought.

Qui tam is not limited to fraud in public contracting. It can be used in whatever circumstances Congress deems appropriate. For example, qui tam provisions were included in the financial institutions fraud reform legislation of 1990. The only boundary to its use is congressional imagination.

Given the success of qui tam, it is very good news that the second circuit had the good judgment to uphold its constitutionality. Judge Mahoney correctly rejected United Technologies' argument that qui tam impermissibly infringes on the executive branch's responsibility to prosecute in the interests of the United States. He properly ruled that the Supreme Court's complex standing requirements do not hinder qui tam relators, who stand—in this case, under qui tam—in the shoes of the United States and act as prosecutors, as if they were a U.S. attorney.

Hopefully, where there is another case like this in the ninth circuit, the ninth circuit will also uphold its constitutionality. Unfortunately, there are other aspects of the case in the second circuit that were not right from the perspective of those of us who, 6 years ago, sponsored this legislation and got it through that Congress. The Court last week incorrectly held that the plaintiff in the case should be jurisdictionally barred under a section of the act which prohibits suits based solely on information which is already in the general public domain. The purpose of that section, as we wrote it, is to limit suits where the Government is already prosecuting the defendant, not to bar suits that would never be brought without a whistleblower coming forward.

Fortunately, this incorrectly read portion of the act can be corrected through clarifying legislation similar to Representative BERMAN'S false claims bill of last year. I am confident and hopeful that we can pass such a bill this year.

The notion that the qui tam should be struck down as unconstitutional seems preposterous to me given its historical precedent. Its English roots reach back to the 14th century, and Congress has employed it in various pieces of legislation since the 1820's.

But there is a problem out there, and that is that defense contractors are vigilant and aggressive in their efforts to escape liability for ripping off the taxpayers. They lobby very heavily in both the administrative branch and in the Congress to make changes or not to have it fully enforced. So it is going to take accord among the circuit courts, or perhaps even a ruling by the Supreme Court, to truly settle an issue that seems to be under constant attack, even though it has brought hundreds of millions of dollars back into the Treasury. There still are hundreds of cases out there filed and unsettled.

Therefore, full vindication of the constitutionality of the False Claims

Act may require the support of the Justice Department. To date, the Justice Department has been hostile to the idea of qui tam. As recently as last October, Attorney General Barr publicly complained that qui tam suits without Justice Department control, in his words, "constitute a burden—and a severe burden, we believe—on the contractors who are defending them." Now, you see, that statement speaks more about protecting contractors than it does about protecting the taxpayers. And in the process, he voiced his concerns about the constitutionality of qui tam.

While I have so far successfully prevailed upon the Department of Justice to remain neutral on the constitutional question, what is really needed is a Department that takes an affirmative stance in support of the constitutionality of the act.

In other words, as a practical matter for us Senators, we pass a law, presumed constitutional. If the President signed it and the Justice Department recommended the signing and raised no questions of constitutionality, then the Justice Department should be defending the constitutionality of that act. We should not have to have the Senate legal counsel go to those circuits to argue for the constitutionality of the act, and we have had to do that.

So I want to call upon this new administration to recognize the usefulness of qui tam and, hopefully, stand up for its constitutionality. The President's last nominee, Zoe Baird, opted to recuse herself. Of course, she did not get confirmed. But she opted to recuse herself from the issue based upon her past advocacy against the constitutionality of the act, and that was in her capacity of working for some defense contractors. Hopefully, whoever President Clinton sends up here as the next nominee for Attorney General will be able to openly support qui tam. The sad fact is that you cannot always count on the Federal bureaucracy to protect the taxpayers, and that is why qui tam has been used by Congress since the early 19th century to help protect the public fiscal position.

The executive branch should help guarantee that we will be able to use it in the future, and make sure that everything connected with it is carried out and fully used. I think even in the bowels of the bureaucracy of the Justice Department, even in the professional service there, there are people who do not like this because, as a practical matter, every time an individual citizen—even in the recently filed case that was decided in December that brought $100 million back to the Federal Treasury from medical fraud, even something as obvious as that—when a whistleblower brings it to the Justice Department or takes it to the courts, it is a clear signal that the Justice Department is not doing its job.

Now, why should the Justice Department get defensive under that environment? Why not just welcome all the help that can be garnered from the individual citizen out there who knows about fraudulent use of the taxpayers' money and encourage whistleblowing, encourage the filing of these qui tam suits, and encourage the awarding of the percentage that the whistleblower can get as an incentive to do that.

COMMITMENT TO PUBLIC SERVICE

Mr. GRASSLEY. Mr. President, I had an opportunity this week to hold a reception honoring two of my employees, not for their service to CHUCK GRASSLEY or their service to previous employers, but for their service to the taxpayers and citizens of this country as employees of the U.S. Congress—in one instance, 44 years; in the other instance, 25 years.

This was not a retirement ceremony. These employees are working this very minute as far as I know, and I hope they will continue to serve the taxpayers for a long period of time.

But I had an opportunity to honor Yvonne Goodman for 44 years of service and Betty Burger for 25 years of service. That is a combined total of 69 years working in the shadows of the Capitol dome, laboring all but 12 for our beloved State of Iowa. One of my employees had worked for a Chicago Congressman for a 2-year period of time.

Yvonne Goodman came to Washington in 1949 from Osage, IA, with then new Congressman H.R. Gross. She served the district that he represented, Iowa's then Third District, for 26 years.

Upon his retirement and my election to succeed him, I was fortunate to have Yvonne join my staff immediately, and she still continues since I have come to the Senate. She has been a most valuable staff member ever since. There is no doubt that all Iowans have benefited from her loyalty, her standard of excellence, and steadfast commitment to service. As I stated before, I believe that she will be working on my staff for several years to come. I think she truly has made a difference, and I salute her.

In turn, I also applaud the fine work of Betty Burger, a native of Fairfield, IA, a 25-year veteran of Capitol Hill, serving 7 years for Iowa Congressman Fred Schwengel, who we all know as the head of the Capitol Historical Society, and she has worked 18 years with me and, as I said, 2 years for another Congressman.

Betty is a most outstanding caseworker. She, too, has helped me since my first day in Washington, DC. Reaching out to hundreds of thousands of Iowans challenged by our own bureaucracy and in dealing with other governments, Betty has untangled many knots and charted many successful courses. Her determination and spirit have earned her praise in our State from the Missouri River to the Mississippi River, and I thank her for her tremendous service.

Along with the distinguished majority and minority leaders, I hosted a reception honoring Yvonne Goodman and Betty Burger on Monday of this week. Joining the special group gathered to recognize them was my good friend, Senator STROM THURMOND. I extend my appreciation to him for his presence and his kind words. As he said that day, Yvonne and Betty personify the best of representative government and public service with their integrity, with their hard work, and with their commitment to our democratic government. We are all better for them.

At a time when only Senators or top staff people get the most recognition through the news media or any of the media in this town or anyplace else in the country, I think that it is important that we recognize people who have served a long period of time at other levels of service in the Congress of the United States. That was my purpose in honoring Betty and Yvonne.

Thank you. I yield the floor.

SENATE OBSERVER GROUP FOR THE GATT NEGOTIATIONS

Mr. PRESSLER. Mr. President, the current Uruguay round negotiations on a new General Agreement on Tariffs and Trade [GATT] are reaching a critical stage. A new GATT agreement that ensures free and fair trade could bring tremendous benefits to American agriculture by opening more world markets to U.S. farmers and ranchers. Sound agreements must be reached in other key sectors, such as telecommunications, banking, insurance, intellectual property rights, and Government procurement markets. The most important decisions to date, involving 108 nations, are soon to be reached.

Without an extension of fast-track authority, the President must notify the Congress of his intent to sign a new GATT agreement by March 1, 1993, if the agreement is to be considered under current fast-track procedures. That deadline is approaching rapidly. Now is the most sensitive time for the negotiations.

Estimates of the worldwide economic benefits from a Uruguay round trade agreement have ranged from $200 billion to $1 trillion. Selecting a bipartisan Senate observer group to attend the GATT negotiations would send a meaningful message to the other GATT countries that the United States is intent on achieving a balanced revision of the GATT. Given the positive roles previous observer groups have played in arms control negotiations and other areas, a Senate observer group could be a valuable asset to our U.S. negotiators.

Mr. President, today I am asking the distinguished majority leader and the distinguished Republican leader to establish a U.S. Senate observer group to the Uruguay round GATT negotiations. I hope that such a group can be formed and I ask unanimous consent that my letters to the Senate leadership be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, January 26, 1993.
Hon. GEORGE MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

DEAR GEORGE: I am writing to you and the Republican Leader to request that a select number of U.S. Senators be appointed to observe the continuing negotiations of the General Agreement on Tariffs and Trade (GATT).

As you well know, observer groups, such as the one for arms control, have been appointed in the past and have proven to be very useful. The establishment of a Senate observer group would demonstrate the determination of the United States to conclude the negotiations successfully. Since the Uruguay Round began in 1986, several of our colleagues have observed the negotiations, though not in any long-term formal capacity. Regular, first-hand observation by the U.S. Senate would prove helpful when this body considers implementing legislation for a revised GATT.

Current negotiations are at a critical juncture. A Senate Observer Group, in addition to the Advisory Group from the Senate Finance Committee, would provide the Senate an indispensable opportunity to assess the crucial final stages of negotiation on the Uruguay Round. Though it is impossible to predict the length of time required to complete these negotiations, it should take several months at the least.

A bipartisan Senate observer group would send a meaningful message to the other GATT countries that the United States is intent on achieving fair revisions of the GATT. Our representation could prove to be a valuable asset to our own negotiators.

I look forward to your response.

Sincerely,

LARRY PRESSLER
U.S. Senator.

U.S. SENATE,
Washington, DC, January 26, 1993.
Hon. ROBERT DOLE,
Minority Leader, U.S. Senate, Washington, DC.

DEAR BOB: I am writing to you and to the Majority Leader to request that a select number of U.S. Senators be appointed to observe the continuing negotiations of the General Agreement on Tariffs and Trade (GATT).

As you well know, observer groups, such as the one for arms control, have been appointed in the past and have proven to be very useful. The establishment of a Senate observer group would demonstrate the determination of the United States to conclude the negotiations successfully. Since the Uruguay Round began in 1986, several of our colleagues have observed the negotiations, though not in any long-term formal capacity. Regular, first-hand observation by the U.S. Senate would prove helpful when this body considers implementing legislation for a revised GATT.

Current negotiations are at a critical juncture. A Senate Observer Group, in addition to the Advisory Group from the Senate Finance Committee, would provide the Senate an indispensable opportunity to assess the crucial final stages of negotiation on the Uruguay Round. Though it is impossible to predict the length of time required to complete these negotiations, it should take several months at the least.

A bipartisan Senate observer group would send a meaningful message to the other GATT countries that the United States is intent on achieving fair revisions of the GATT. Our representation could prove to be a valuable asset to our own negotiators.

I look forward to your response.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

REYNOLDS THANKS FOR SERVICE TO EDUCATION

Mr. PRESSLER. Mr. President, I am pleased today to pay tribute and thank an outstanding South Dakota educator and my good friend, Mr. John Reynolds, for his tremendous contributions to South Dakota's higher education system.

John served as president of National College in Rapid City from 1982 to 1984. In 1984, he was named president of Huron University in Huron, SD. He took over the reins of a 110-year-old university that was on the brink of closing its doors because of low student enrollment and financial difficulties.

Under John's leadership, the turnaround of Huron University was almost instantaneous. After a decade of budget deficits, John engineered a university budget that began having a positive cash-flow. Through John's careful planning and foresight, Huron University is now in good fiscal health.

During John's tenure, Huron University more than rebounded. Indeed, its stamp of excellence was felt in all corners of the globe. Huron University now operates campuses in Tokyo and London, the only American university with campuses on three different continents. In addition, the university expanded to Sioux Falls, SD. This expansion, coupled with a streamlining of the curriculum, has caused enrollment to grow from 280 students in 1984 to more than 1,200 this year—a 400-percent increase in enrollment in 8 years. In that time the university has made the transition from near extinction to world-renowned excellence. It is a vibrant, thriving center for learning. Much of the credit for this extraordinary transformation goes to John Reynolds.

Recently, John announced his resignation from Huron University to accept a similar position at Tri-State University in northeast Indiana. South Dakota's loss surely is Indiana's gain. John is a remarkable person whose friendship I have appreciated over the years. His advice on Federal financial aid programs has been invaluable to me. He will be missed by all Huron students and all South Dakotans who had the opportunity to know him. His presence will be missed, but his contributions to the university will be felt in the years to come. We all wish him the best in his new position.

TRIBUTE TO DR. RICHARD CHASE

Mr. COATS. Mr. President, true leadership is a rare thing—but it is essential to the institutions we care about. When we find it, it ought to be celebrated. When we lose it, it ought to be missed.

Dr. J. Richard Chase has been that kind of exceptional leader as president of my alma mater, Wheaton College in Illinois. His retirement is an occasion for regret, and an opportunity for many of us to express our thanks.

Wheaton College exists to fulfill a Christian mission—to stand "for Christ and His Kingdom." It defines that purpose through its passion for intellectual excellence and individual character. Dr. Chase has been a faithful steward of that vision, bringing unique talents to a high calling.

He leaves Wheaton College more financially secure. He oversaw an aggressive program of campus building and renovation. He undertook long-range planning to guide Wheaton into the next century. He expanded academic programs. He won a number of professional awards. He has been an educator of influence, and a respected Christian leader.

This legacy has earned the appreciation of parents, alumni, and teachers. Most of all, it has better prepared Wheaton students to serve a world in pain.

TRIBUTE TO PETE SHIELDS

Mr. METZENBAUM. Mr. President, our Nation has lost a tireless fighter in the battle against handgun violence. Pete Shields—a founder of Handgun Control, Inc.—died of cancer earlier this week.

A personal tragedy prompted Pete to lead his public war against handgun violence.

The horrible death of his eldest son changed Pete's life. Nick Shields was senselessly murdered in San Francisco in 1975—a victim of a random shooting.

Pete did not allow the anger and grief over the loss of his son to defeat him. Instead, he set out on a journey to save other lives by fighting to reduce the kind of violence that had claimed his son.

Starting out with little money and a small staff, Pete Shields launched Handgun Control, Inc. He knocked on doors, visited State legislatures, and pounded the pavement in Washington.

And he watched his organization grow to 1 million members.

He claimed his share of legislative triumphs as well.

Pete and I worked together in the fight to outlaw cop-killer bullets and undetectable, plastic handguns.

He was also instrumental in getting a ban on the import of Saturday night special parts and a ban on the sale of Saturday night specials in the State of Maryland.

One item on Pete's agenda remains unfinished. He was a strong advocate of a national waiting period for handgun purchases. In the last Congress I sponsored the legislation which is known as the Brady bill. It was stalled at the end of the session, but things have changed since then.

We have a new President who favors the waiting period. I intend to introduce the bill again this Congress.

We will pass the Brady bill. And we'll do it during this Congress.

Even though he won't be with us to fight for the bill this time, Pete Shields will deserve a lot of the credit when it passes.

Mr. President, I yield the floor.

TRIBUTE TO NELL SANDERS ASPERO

Mr. SASSER. Mr. President, I rise today to pay tribute to a pioneer within the legal profession, Nell Sanders Aspero. Nell Aspero has practiced law in Tennessee longer than any other woman—50 years.

Nell Aspero was among the first women to practice law in my State. Through her long and effective work in the legal profession, Mrs. Aspero has played a major role in establishing women as equal partners in the bar.

In recognition of her fine work and outstanding contribution to her profession and her community, the House of Representatives of the State of Tennessee approved a resolution that I wish to present to the Senate today for inclusion in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

STATE OF TENNESSEE—HOUSE JOINT RESOLUTION NO. 77

Whereas, it is fitting that the elected Representatives of the State of Tennessee should pay tribute to those dedicated professionals who have been pioneers and innovators within their chosen fields; and

Whereas, a trail blazer within the legal profession, a pioneer woman lawyer, an exceptional role model for young people and a singular lady of courage and purpose: Nell Aspero can be aptly described by each of these platitudes; and

Whereas, during an exemplary legal career which has spanned five decades, Mrs. Aspero has battled and overcome the forces of prejudice and chauvinism to prove her mettle as an attorney of brilliant talents and uncommon diligence; and

Whereas, Mrs. Aspero abandoned a lucrative career as a piano instructor in 1936 to begin her studies in the law at the University of Tennessee where she was the only female student; and

Whereas, when she passed the bar in 1938 only two women were practicing law in Memphis; she became the first female attorney from Memphis licensed to practice before the U.S. Supreme Court; and

Whereas, in 1942, Mr. Aspero organized the Women's Section of the Bar Association of Tennessee—the first organization of female lawyers in Tennessee; and

Whereas, the Alexander McCullar chapter of the Daughters of the American Revolution recently honored Nell Aspero on the occasion of her fiftieth remarkable year as an eminent member of the bar; and

Whereas, a native Memphian, Mrs. Aspero holds degrees from Southwestern College, Memphis State University and a law degree from the University of Memphis, which later merged with Memphis State University; and

Whereas, every female attorney practicing law today owes a great debt to Nell Aspero, for in many different ways she fought battles against prejudice, chauvinism and arrogance to gain social and professional equality for women; and

Whereas, because of her herculean and unremitting efforts female attorneys have earned acceptance as competent and contributing members of the bar and Mrs. Aspero has forged a permanent place of honor for herself in the annals of legal history in Tennessee; Now, therefore,

Be it Resolved by the House of Representatives of the Ninety-Sixth General Assembly of the State of Tennessee, the Senate concurring, That this Assembly hereby pauses to honor and commend Nell Aspero on her exemplary fifty-year career as an attorney of the first order, reflecting fondly upon her many indelible contributions towards professional equality for women in the practice of law, and extend to her our best wishes for continued success in her future endeavors.

Adopted: February 16, 1989.

COMMEMORATING THE LIFE OF THURGOOD MARSHALL

Mr. JOHNSTON. Mr. President, I rise today to mourn the death and commemorate the life of Supreme Court Justice Thurgood Marshall, who may have been the greatest lawyer of the 20th century, and who was certainly one of the truly crucial figures in the long civil rights struggle. Every American should be appreciative for the contributions he made as an advocate and as a Justice on the U.S. Supreme Court.

We know great attorneys by their records and great judges by the eloquence and passion they bring to their position. By both of these measures and in both of these professions Thurgood Marshall was without peer. As an attorney he led the fight against segregation which culminated in the Brown decision, one of the landmark legal decisions in our history. He also won 29 of 32 cases he argued before the Supreme Court, a remarkable record that bespeaks his brilliance as a jurist. As a Justice, he was a powerful voice for the disadvantaged, and invested all of his opinions with the moral force and rhetorical acuity for which he was famous.

However, if Thurgood Marshall's accomplishments and significance were limited to the rarefield air of legal discourse, he would not now occupy the critical position on the landscape of American history that he does. Great American leaders have always challenged and persuaded the American public with a vision that went beyond the vagaries of public opinion to paint a picture of America more consonant with the lofty ideals upon which this country was founded.

Lincoln did this in his Gettysburg Address when he changed the purpose of the Union Army and altered forever the self-perception of a nation by insisting that the phrase "All men are created equal" means what it says. In accord, Thurgood Marshall dedicated most of his life to working and largely succeeding in delivering on the promise of Lincoln's words.

While Marshall would be the first to recognize that the war for the equality of all before the law is far from over, the tremendous positive changes that have transformed this country as a result of the battles he won, and the many lives that he touched in fighting them, are themselves the most eloquent testimonial to the courage and lasting impact of this great man.

Justice Marshall once said that he would like to be remembered as a man who did the best he could with what he had, and I stand before you today to state with unbridled emphasis that Thurgood Marshall was just that man.

RULES OF PROCEDURE OF SENATE COMMITTEES

Mr. FORD. Mr. President, I wish to remind each committee chairman that pursuant to paragraph 2 of rule XXVI of the Standing Rules of the Senate, the rules governing the procedure of the committee must be published in the CONGRESSIONAL RECORD no later than March 1, 1993.

COMMITTEE ON RULES AND ADMINISTRATION RULES OF PROCEDURE

Mr. FORD. Mr. President, I ask unanimous consent that pursuant to paragraph 2 of rule XXVI of the Standing Rules of the Senate, the Rules of Procedure of the Committee on Rules and Administration adopted on January 28, 1993, be printed in the RECORD at this point:

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES OF PROCEDURE OF THE SENATE COMMITTEE ON RULES AND ADMINISTRATION

(Adopted January 28, 1993)

TITLE I—MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the committee shall be the second and fourth Wednesdays of each month, at 9:30 a.m., in room SR-301, Russell Senate Office Building. Additional meetings may be called by the chairman as he may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the committee, including meetings to conduct hearings, shall be open

to the public, except that a meeting or series of meetings by the committee on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed followed immediately by a recorded vote in open session by a majority of the members of the committee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under other provisions of law or Government regulations. (Paragraph 5(b) of rule XXVI of the Standing Rules.)

3. Written notices of committee meetings will normally be sent by the committee's staff director to all members of the committee at least 3 days in advance. In addition, the committee staff will telephone reminders of committee meetings to all members of the committee or to the appropriate staff assistants in their offices.

4. A copy of the committee's intended agenda enumerating separate items of legislative business and committee business will normally be sent to all members of the committee by the staff director at least 1 day in advance of all meetings. This does not preclude any member of the committee from raising appropriate non-agenda topics.

5. Any witness who is to appear before the committee in any hearing shall file with the clerk of the committee at least 3 business days before the date of his or her appearance, a written statement of his or her proposed testimony and an executive summary thereof, in such form as the chairman may direct, unless the chairman and the ranking minority member waive such requirement for good cause.

TITLE II—QUORUMS

1. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 9 members of the committee shall constitute a quorum for the reporting of legislative measures.

2. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 6 members shall constitute a quorum for the transaction of business, including action on amendments to measures prior to voting to report the measure to the Senate.

3. Pursuant to paragraph 7(a)(2) of rule XXVI of the Standing Rules, 4 members of the committee shall constitute a quorum for the purpose of taking testimony under oath and 2 members of the committee shall constitute a quorum for the purpose of taking testimony not under oath; provided, however, that in either instance, once a quorum is established, any one member can continue to take such testimony.

4. Under no circumstances may proxies be considered for the establishment of a quorum.

TITLE III—VOTING

1. Voting in the committee on any issue will normally be by voice vote.

2. If a third of the members present so demand, a record vote will be taken on any question by rollcall.

3. The results of rollcall votes taken in any meeting upon any measure, or any amendment thereto, shall be stated in the committee report on that measure unless previously announced by the committee, and such report of announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment by each member of the committee. (Paragraph 7(b) and (c) of rule XXVI of the Standing Rules.)

4. Proxy voting shall be allowed on all measures and matters before the committee. However, the vote of the committee to report a measure or matter shall require the concurrence of a majority of the members of the committee who are physically present at the time of the vote. Proxies will be allowed in such cases solely for the purpose of recording a member's position on the question and then only in those instances when the absentee committee member has been informed of the question and has affirmatively requested that he be recorded. (Paragraph 7(a)(3) or rule XXVI of the Standing Rules.)

TITLE IV—DELEGATION OF AUTHORITY TO COMMITTEE CHAIRMAN

1. The chairman is authorized to sign himself or by delegation all necessary vouchers and routine papers for which the committee's approval is required and to decide in the committee's behalf all routine business.

2. The chairman is authorized to engage commercial reporters for the preparation of transcripts of committee meetings and hearings.

3. The chairman is authorized to issue, in behalf of the committee, regulations normally promulgated by the committee at the beginning of each session.

THE UNIVERSITY OF ALABAMA'S NATIONAL CHAMPIONSHIP IN FOOTBALL

Mr. HEFLIN. Mr. President, it is a grand understatement to say that I am proud to stand before the Senate today to warmly and heartily congratulate the University of Alabama's football team for winning the 1992 National Championship. By defeating the defending champions of the University of Miami in the New Year's Day Sugar Bowl in New Orleans, the Alabama Crimson Tide laid claim to its 12th national title in the program's glorious 100-year history. And the men from Tuscaloosa did it in a game that will long be remembered by fans and alumni as one of the most memorable ever.

It strikes me that in talking about the tradition, spirit, and legacy that are Alabama football, much of what I will say will, by necessity, be an understatement: There is simply no way that mere words can capture the feeling and intensity with which Alabama partisans approach and enjoy their favorite sport. It really must be experienced. I am reminded of the quote attributed to Bill Shankly some years back, who said,

> Some people think football is a matter of life and death. I don't like that attitude. I can assure them it is much more serious than that.

In Alabama, with its beloved Crimson Tide, it is indeed more serious than that.

Sports Illustrated is fond of pointing out that Alabama fans have been known to pray for the late, great coach Bear Bryant's resurrection, and that maybe, just maybe, with a national championship to call their own, these legions of devoted followers will finally let him lie in peace. But current championship coach Gene Stallings, at the helm for only 3 short years, says that he is happy to have the Bear's legacy as a spiritual guide and inspiration, and appears to relish the challenge of laboring in the shadow of major college football's winningest coach ever.

If Bear Bryant defines Alabama's storied past, then Gene Stallings and his men define its glowing present and promising future. It is not uncommon to hear Alabamians today saying that all is right with the world again, not because Bill Clinton is now President, but because the Alabama Crimson Tide is once again the undisputed champion of college football.

What makes Alabama's victory in New Orleans and the unanimous championship vote the team received especially sweet is that few people gave the Tuscaloosa boys much of a chance of topping the fearsome Hurricanes of Miami. Alabama had clearly been the team of the sixties and seventies, with national championships in 1961, 1964, 1965, 1973, 1978, and 1979, along with several finishes in the top 10 and Southeastern Conference championships. Miami had just as convincingly dominated the 1980's, with four national titles. They boasted the Nation's longest consecutive winning streak and 1992's Heisman Trophy-winning quarterback. The stakes were never higher. It was the kind of dream matchup that doesn't happen often, one that bowl officials relish. Both teams were undefeated in 1992, but Miami was ranked first, Alabama second, and the sports prognosticators, ESPN media types, and perhaps most vocally, the Miami players themselves, saw no way for underdog Alabama to stop the team of the eighties from quickly establishing itself as the team of the nineties.

The men in crimson had other ideas, however, and so did the thousands of fans who rolled into New Orleans to paint the place red. They dominated the game from beginning to end. Alabama's defense, made up of players as much fun to watch as an explosive pro-style offense, ranked first in the Nation, held the Hurricanes to just 48 yards rushing, 42 of which came on a final possession that netted no points. Alabama also forced four turnovers, including one of the best forced fumbles—actually a steal—I have ever seen. His team trailing 27-6, quarterback Gino Torreta finally completed a long pass. Wide receiver Lamar Thomas hauled it in and began running toward what apparently was going to be an 89-yard touchdown. But it was not to be. In one of the best displays of pickpocketing this side of Bourbon Street, as one sports writer put it, Alabama defensive back George Teague ran down the receiver, and at Alabama's five-yard line, took the ball from behind for himself. The whole thing, including what would have been the longest completion in Sugar Bowl history, was nullified by a penalty. The fat lady had sung. The final outcome was Alabama 34, Miami 13. "Dixie's Football Pride," as Alabama's team came to be known in the 1920's, had won its first national championship in 13 years. Yes, to Alabama fans, things were once again right with the world.

Not to bore my colleagues with a lot of mind-numbing statistics, but to even begin to understand how Alabama's football program came to be "Dixie's Pride," one has to look back at some of the incredible history involved. Alabama's is a program of superlatives. It boasts a national record 45 bowl appearances; national record 25 bowl wins; national record 23 seasons with 10 or more wins; national record 37 seasons with 1 or no losses; 12 national championships, second only to the Fighting Irish of Notre Dame; the best winning percentage during the past 75 years; a Sugar Bowl win which was the school's eighth consecutive; and has appeared on live network television 143 times, again, second only to Notre Dame. Such football legends as Joe Willie Namath, Bart Starr, Ken Stabler, and Lee Roy Jordon are among those who have worn the simple crimson and white uniform. But Alabama has never been known for its individual standouts, though there have been many. Rather, it is usually the great teams that we remember, or great moments and plays, such as the goal line stand against Penn State that won the 1978 national championship.

Alabama is the only team to have played in all four of the big four bowl games—the Rose, Cotton, Sugar, and Orange—and win all of them at least twice. In finishing 13-0 in 1992 and claiming the national title, Alabama joined the 1971 Nebraska and 1984 Brigham Young teams to win 13 games and be ranked No. 1 at the end of the season. Since the Associated Press poll started in 1936, Alabama has finished in the top 10 29 times and in the final 5 17 times, and has enjoyed a national record 14 undefeated, untied regular seasons. It is no wonder that Alabama fans and alumni demand so much from their beloved football teams: I cannot deny that we are a bit spoiled by success. I sometimes think that as difficult as my job is as U.S. Senator, it can be no worse than the demands placed on anyone who dares to accept the call as head football coach at the University of Alabama. At least we are guaranteed 6 years work upon our selections by the voters. Alabama's coach usually serves a probationary period of 3 to 5 years, shortened only by winning championships.

For decades, people outside Alabama have thought of Crimson Tide football and Coach Bear Bryant when the State would come to mind. I trust that people will now add Coach Gene Stallings to that realm of thought, for he has done a magnificent job at the Capstone since arriving there in 1990. He is committed to winning, to educating your minds, and to developing the gentleman-athlete. I salute and congratulate Coach Stallings, his excellent coaching staff, and his multitalented players for capping off Alabama football's first 100 years—its century of champions—with a national championship. The entire State is grateful for your hard work, determination, discipline, grit, class, and spirit. In every way, you bear the marks of true champions. And maybe Coach Bryant is now resting a little easier.

Finally, Mr. President, the folks back home would find me derelict in praising my alma mater's sports prowess if I left without saying to my colleagues simply, very simply, with pride, and with no understatement, "roll, Tide, roll."

I thank the chair.

TRIBUTE TO JUSTICE THURGOOD MARSHALL

Mrs. KASSEBAUM. Mr. President, today our Nation honors the life and work of Justice Thurgood Marshall, a man who left an indelible mark not only on the laws of our Nation but in the lives of millions of Americans—indeed, in the lives of us all.

Justice Marshall's lifetime of service was marked by both courage and controversy. As my colleague from Kansas noted yesterday, he is often remembered for his successful argument to the Supreme Court in the landmark case of Brown versus the Board of Education. That case in my hometown of Topeka, KS, ended the separate but equal doctrine in public education.

Like all who stand up for their beliefs and fight for what they believe is right, Justice Marshall created both enemies and friends but he kept his focus on the law and on justice. He had an unshakable belief in the principle that all men are created equal and an enduring faith in the idea that right would ultimately prevail.

But "the right" is not always accepted, and progress is not self-executing. Thurgood Marshall's life showed us time and again that one person's conviction and dedication can make all the difference. Justice Marshall wanted to be remembered with these 10 words: "That he did what he could with what he had." We know that what he had was the strength of character and conscience common to the greatest reformers in American history.

You do not have to agree with all he said and wrote to come to the conclusion that this was a man who deserved the title of Justice. He loved the law, despite its tedium, and he loved America, despite its flaws. His faith in both is a rich legacy for all Americans.

ELEVATION OF EPA TO CABINET LEVEL

Mr. COHEN. Mr. President, I am pleased to join Senator GLENN in reintroducing legislation that elevates the Environmental Protection Agency to a Cabinet position.

I have been a strong supporter of this legislation for several years, as a cosponsor of Senator DURENBERGER's original bill in the 101st Congress and of Senator GLENN's subsequent legislation in the 102d Congress. I regret that although the Senate passed this legislation in 1991, the Congress was unable to complete action on it before adjournment last year. I support the bill's reintroduction today because I believe the arguments for its passage are as compelling as they have ever been.

As greater environmental difficulties confront us, it is important that environmental considerations and background information be available at the highest levels. The inclusion of the Federal agency responsible for environmental protection during high-level Cabinet discussions sends an important signal to the American people that the pervasive environmental problems we face will be fought under the authority of the President of the United States and not just by a lower level administrator.

This legislation is more than symbolic, however. There are a number of issues involving environmental protection that will be discussed by the President's Cabinet, and I believe our policies will be more sound if the agency head responsible for that protection is present when important decisions are made.

Very difficult problems await our President's attention, including the depletion of the upper ozone level of the atmosphere, global warming impacts, the cleanup of hazardous wastes at Federal facilities, the solid waste crisis, and the elimination of serious air and water pollution throughout the country. The current Environmental Protection Agency has important responsibilities in developing the means to address these problems, but they are also issues in which other Cabinet-level departments play crucial roles. As the Secretary of State discusses international negotiations on global environment and development issues, should not the Department of Environmental Protection be at the table to participate in the discussion? As the Secretary of Energy raises the issue of hazardous waste cleanup at our Federal defense facilities, should not the Secretary of Environmental Protection play an integral part in developing a plan to facilitate that cleanup? I firmly believe that the answer to those questions is "Yes."

The environment is crying out for help, as is evidenced by the significant problems we face—solid waste disposal, hazardous waste cleanup, air and water pollution, the degradation of our oceans, the loss of ground water resources and wetlands, the depletion of the ozone layer, and the greenhouse effect. The many challenges are complex and require attention at the highest levels, or the world we leave our children and grandchildren will be a sorry one.

As we talk about the need to focus increased attention on the significant environmental problems that confront us, let us remember to think about ways of putting those words into action. This legislation is one way of doing so, and I look forward to its enactment.

TRIBUTE TO JOHN BILL TRIVETTE

Mr. McCONNELL. Mr. President, I rise today to pay tribute to John Bill Trivette, the father of basketball's full-court zone press and dedicated community leader who died in January at age 75.

Mr. Trivette coached at Pikeville High School during the 1940's and 1950's, a time often referred to as the golden era of high school basketball in eastern Kentucky.

Trivette's power on the court was known throughout Kentucky. During the 17 seasons he coached, he led his teams to 7 region championships and won 427 games. However, it was his diamond press, the forerunner of the famous 1–2–1–1 press, which brought him great admiration and respect from basketball enthusiasts.

Trivette's love for basketball was second only to his dedication to the students he coached. In each of his players he instilled the importance of sportsmanship, even when the score favored the opposing team. To many former Pikeville High School basketball players, Trivette is a hero.

Today I honor John Bill Trivette and the many things he did for Kentucky basketball, his community, and the young people he influenced. He truly was one of Kentucky's finest citizens.

Mr. President, I ask that this tribute and a recent article from Louisville's Courier-Journal be submitted in today's CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Louisville (KY) Courier-Journal, Jan. 7, 1992]

PIKEVILLE SAYS MOUNTAINOUS GOODBY TO TRIVETTE

(By Pat Forde)

PIKEVILLE, KY.—The low roar of coal machinery emanating from the adjacent hill did not drown out the preacher's words at the burial site of John Bill Trivette.

No. The sound was more of a backdrop, an apt mechanical melody accompanying the human voice's harmony, as they laid this product of the mountains to rest. It was a final communion of man and environment, a mournful flashback to when both were vibrant icons to the people of this town.

Forty years ago, coal was king in these mountains. So was high school basketball. And so, therefore, was Trivette.

The father of the full-court zone press, winner of 427 games and seven region championships in 17 seasons at Pikeville High School, he was a larger-than-life character during the 1940s and '50s—the golden era of mountain basketball in Kentucky. Back then there always would be a thriving coal industry, and there always would be a "King" Kelly Coleman, Carr Creek High School, a John Bill Trivette to galvanize the mountains' basketball fans.

Now the coal jobs continue to disappear, and the low roar from the adjacent hill sounds a bit hollow. And now they bury legends such as Trivette, dead at age 75, on the side of a mountain, under skies as gray and cold as a tombstone. The golden era seems far away.

"It was the heyday of Kentucky basketball, no question," said Ken Trivette, John Bill's son and the current head coach at Clark County High School. "It was before TV became so powerful in people's lives, and the community and the school were one. It was like God, family and basketball."

Trivette's extended basketball family gathered for his interment yesterday after cancer claimed him on Sunday. No fewer than 37 former players, managers and assistant coaches joined other friends and relatives at the pretty mountainside cemetery called Johnson Memorial Park to bid him farewell.

They are a graying, balding bunch now, far different from how they looked when they formed teenage bonds as Trivette's players. But they remember those times—and their coach—with piercing clarity.

They recalled a rigid disciplinarian "with steel gray eyes that could bore right through you," as one ex-player said. Yet they also recalled a man who would let the town's youngsters into the locker room to hear his pep talks to the team.

"It was like a religious revival," Ken Trivette said. "I realize now he was getting the young ones ready."

He got the young ones ready in other ways as well. John Bill would buy basketballs for the kids too poor to afford their own—then make the rounds to verify that they played with them in the summer.

"I made sure every one of my kids had a goal at home," Trivette told Dave Kindred in his book, "Basketball: The Dream Game in Kentucky." "He had a ball, and I checked on him every day to see that he throwed that ball at that goal. We couldn't win on just three months' practice. I sold them on the idea that it's just as easy to be a winner as a loser."

The men gathered to honor him yesterday were winners from all walks of life: a judge, a doctor, a lawyer, a retired principal among many others.

"Only two coaches I had knew more about basketball than I did: John Bill and Adolph Rupp," said Dickie Prater, perhaps Trivette's best player. Prater was a 1950 Pikeville graduate who played a year for Rupp at the University of Kentucky before joining the army, then finishing his career at South Carolina.

"One of the things I think young people today are missing is a hero," Prater added. "I always felt John Bill was my hero and my friend."

Said Bill Duty: "I couldn't play, wasn't good enough, but he took me everywhere they went. Everything I ever learned about coaching I learned from John Bill Trivette."

Duty went on to become a state-champion football coach at Elkhorn City.

Wayne T. Rutherford, Class of '56: "He learned you how to be a winner, and how to take a loss and keep your chin up. He didn't want any sportsmanship trophies, but he didn't allow any fighting."

Of course, the old players also remember when Trivette devised his "diamond press," the forerunner of the 1–2–1–1 press made famous by UCLA coach John Wooden. It came after an untalented Johns Creek team had used non-stop pressure on the ball to disrupt Pikeville's offense in a game in 1955.

"They couldn't play a lick, but they wouldn't let anybody else play a lick," Buddy Elkins, Pikeville Class of '57, said of Johns Creek.

"He went back home and started doodling, and he came up with the full-court press," Duty said. "A lot of people don't believe that, but we were in Louisville one year at the Brown Hotel for the NCAA championships, and John Wooden himself told us that when he coached in Dayton, Ky., and up in Indiana, John Bill Trivette gave him the idea of the press."

The 1957 Pikeville team, a short quick group, employed that press to its fullest. And it overcame a severe flood that forced it out of its home gym almost all season.

Pikeville became a band of gypsies, traveling to Paintsville or Virgie or anywhere it could find a gym for practices and games.

And the travel was not exactly first-class. "We had three cars and 20 people," Elkins said.

Nevertheless Pikeville rolled into the State Tournament ranked No. 1 and the co-favorite with Lexington Lafayette to win the Sweet Sixteen. The Panthers arrived in Louisville full of a mixture of confidence and amazement.

"I remember going into Freedom Hall and one of our players said, 'You could sure plant a lot of corn in here,'" Ken Trivette recalled. "We were sort of in awe of that arena."

Pikeville overcame it to reach the semifinals. The exhausting season caught up with them there, however, and the Panthers lost to eventual champion Lafayette.

They rallied to win the consolation game, but the memory of that semifinal loss still burns in the minds of the players on that team.

"When you go down there No. 1, you're supposed to win it," said Howard Lockhart, who went on to play for the University of Pittsburgh.

Ken Trivette has his chin in his hand, and his vacant eyes show that he is far from the wake in the basement of Pikeville Presbyterian Church.

He's 8 years old again, holding his dad's hand and walking onto the Freedom Hall court to watch this famous man accept the third-place trophy from the 1957 Sweet Sixteen. It will be the closest John Bill Trivette ever gets to a state title.

Ken Trivette blinks and comes back.

"I wouldn't trade my childhood for any in the world," he said. "It was like Coney Island every day. High school basketball then was exciting beyond . . . well, people who lived it know. It's something you just don't forget.

"From Western Kentucky and Cuba to Eastern Kentucky and Maytown, they were all part of a golden era."

SPEECH BY MARK HELPRIN

Mr. GORTON. Mr. President, on October 15 of last year at the U.S. Military Academy, Mark Helprin, an award winning novelist, a columnist, and a close personal friend, gave a speech to the cadets entitled "At Rest Between the Wars." It is one of the most remarkable testimonies with respect to the role of the military in our lives as a nation and his as an individual I have ever read.

I ask unanimous consent that at this point Mr. Helprin's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

AT REST BETWEEN THE WARS

(Speech by Mark Helprin)

When I was a boy, a period that, according to my wife and daughters, extends to this very day, I used to play on the rows of cannon near the parade ground. I lived on the opposite bank of the Hudson, Croton, and Cold Spring.

And I can tell you on my authority as a local boy that you are sometimes misinterpreted. For example, not too far from here is an emery mine that used to be run by two ancients who loved dynamite and were afraid of shovels. As a result of their loves and fear, our days were punctuated by huge explosions, for which the most common explanation was, "It's the cadets at West Point, in artillery class . . . wasting the taxpayer's money." Well, as you will find out, there are far better ways to waste the taxpayer's money, some less noisy, some even noisier.

This valley itself has seen many battles, beginning almost four hundred years ago, and when the battles were elsewhere its people sent its sons in great number. There are many old soldiers outside these walls, and always have been.

Once, in the Eisenhower years, when I was, as usual, a boy, I was sitting across from two veterans of the Great War, in a railroad car at Harmon, waiting for the connecting train from upriver. When finally it pulled in, a hundred tiny military school cadets surged across the platform and poured into our car like an invasion of extras from *The World of Oz*. They were absolutely mesmerizing. They hopped from seat to seat, squealing like pink-cheeked organ grinder's monkeys. Although only in the first, second, and third grades, these midgets, ladies and gentlemen, were wearing your uniforms. Each and every one of them was guilty of impersonating . . . a cadet.

Seized with the impression that West Point was facing one of the major crises of its history, one of the old men looked at the other, and said, "Oooooooooooh! I sure hope we don't have another war!"

His friend was slightly more sanguine. Perhaps he thought that height has no bearing on military prowess. After all, think of Napoleon. Still, he asked, "Do you think General MacArthur knows?" to which he received the reply, "Who would have the heart to tell him?"

If only you were misunderstood more often with such good will and affection, but that is not the case, and this I know because I often speak in defence of military virtue, something now seldom understood and almost always maligned.

For someone in my walk of life to take this position, especially now, when it is widely believed that you are no longer needed, when generals and admirals are falling by the wayside, is not the epitome of discretion. But, quite frankly, I don't give a damn.

For even whole nations can be wrong in their sureties. Even whole nations, in a craze of fashion, can squander their carefully nurtured strengths. The American military is now everything to anyone except the one thing that it should be to everyone. It is a well from which to draw money for new social initiatives. It is an adjunct of the DEA. It is a teacher corps. It is a hurricane fighter. It is a battleground of feminism. It is an agency for the environment. In its reduction it is a symbol of the New World Order. It is a peace monitor. It is the solution to the problem of the deficit. It is the first refuge of a budget cutter. It is an electoral scapegoat. It is part of an industrial policy.

Anyone is free to make use of it in any way. The only view of it that raises eyebrows is that it should be none of these things, that its purposes, plain and simple, are to defend the interests of the United States, to be prepared for war, to deter it, and to win it. And this is something you cannot do if you are under strength, under armed, poorly funded, and rearranged to suit the notions and perform the tasks of every special interest group from Bar Harbor to Honolulu.

The forces that would dilute your purpose have been present since the creation. But now they are ascendant: they have risen like rockets. And the reason for this is the collapse and disintegration of the Soviet Union. Even before the echoes of the fall were silenced came the consensus, the certainty, the piety . . . that real war is a thing of the past.

Is it? Not two years ago, the United States led its traditional allies, its former enemies, and then some, almost a million strong, into what was in many respects the greatest single battle in the history of the world. I don't know many of you who have been in the presence of a main battle tank, or, if you have, what you felt. I have an infantryman's view of tanks, that is to say that I've never been exactly comfortable with them. If you're on one side of a village and a tank arrives on the other side, you feel it before you hear it. You feel it in your solar plexus and in the soles of your feet. You would never think that something so massive could be so agile as it smashes through walls and pulverizes brick, the things you thought you could hide behind. And when it slews its gun, the sound of the turret turning is like the sound of death itself.

That's one tank. In the Gulf War, columns of armor rolled across the desert for days and days, so vast and long that the dust they raised could have been seen from the moon.

Twenty years ago, as an overage infantryman in the Israeli army, I got my first taste of tanks, half-tracks, AFV's, and F–4's that passed so low over my head I was afraid my clothes might catch fire. These things always make me snap to attention. I can't put them out of my mind. And I could not put out of my mind the fact that, a few years ago, much of the Soviet harvest went to waste because the rolling stock that would have taken it to market was engaged in moving 70,000 tanks, AFV's, and artillery pieces east of the Urals, where, under the terms of the MBFR Talks, everyone would treat them as if they did not exist. But they're still there.

I cannot put out of my mind the hardships and demoralization of the former Soviet peoples, the hyper-inflation, the dying economy that will go nowhere but down, the half-dozen little hot wars that, like the wars in Spain and Abyssinia, inoculate against the rejection of violence. I cannot put out of my mind the Russian army, still possessed of a vast array of nuclear and conventional weapons, and strategic stores of food and war materiel.

Though it is true that it has been temporarily crippled by the loss of its strategic depth and the rot of its echelons, it is still intact. Many Americans imagine that it has ceased to exist, but it has 50,000 main battle tanks to America's 16,000, 43,000 artillery pieces to our 7,000, and it still produces modern equipment faster than we do. According to the 1992-1993 *Military Balance*, 4,200 main battle tanks have been added to the existing inventories of Russia, Byelarus, and the Ukraine since the demise of the Soviet Union.

If the United States produced this many tanks in a similar period, critics from many quarters would say that this was provocative, dangerous, and insane. They don't know the facts, and they don't want to know them. That is, I believe, because the facts are unpleasant, and the mass hallucination of a permanent peace is, to the contrary, very comfortable.

The Russian army alone is still formidable, and it is built around its memory of compressing into a tight spring that then, shedding its rage, decompressed and threw back Napoleon, Deniken, Kolchak, Hitler. That memory, that capacity, of an army with its back to the wall in the midst of a suffering nation, is, I submit to you, the most dangerous thing in the world today.

What do we see if we look for a counterweight to balance the instability of the shattered East Bloc? We see Europe breaking into smaller and smaller pieces while chasing the illusion that it can achieve political unity by means of an economic program that virtually no one wants. We see chronic unemployment in many countries, alarming debt, monetary chaos, and rapidly expanding fascist parties that may soon claim one voter in ten in the heart of the continent. Underlying all of this is a remarkable institutional instability not seen in so many countries at once since the immediate postwar period.

Deeply absorbed in dismantling its security apparatus, the West responds to the war in Yugoslavia by sending the world's two most deadly ineffective diplomats, Lord Carrington and Cyrus Vance, to hold meetings and have discussions. Cyrus Vance would call a meeting if his pants were on fire. He should have resigned long ago if only because of the atrocities against which he has pitted nothing but self-important impotence.

Positioning himself falsely to the right of President Bush, Governor Clinton recommends air strikes on the Serbs. One has to be very careful in such a place and in a context that can lead to far wider war, but the governor's view of Europe does not admit of this danger, which is why he can blithely ignore it. Even if greater risks did not exist, intervention would be, to paraphrase T.E. Lawrence, like cutting soup with a knife, and, quite simply, we've done enough of that in Vietnam and in Lebanon.

In its unrequited love affair with public opinion, NATO is begging for more responsibility in Central Europe, in the former U.S.S.R., and in the Middle East, while simultaneously and rapidly sloughing off its military capacity. A better initiation to disaster has never been invented.

Taking U.S. forces from Europe—Governor Clinton's plan is to leave less than 25%, and the administration's not much better—is like lifting the control rods from a nuclear reactor. This false economy removes the customary constraints from forces that can rapidly assume a life of their own. Ethnic troubles are the least of them. The real danger is when countries with unstable politics and weak governments find themselves in a clash of irreconcilable national interests. What makes this prospect merely a thing of the past? Nothing. Clearly, nothing.

I ask you this: Had the United States left behind 10% of its World War One expeditionary forces (that is, about 200,000 men) to garrison Europe during the Twenties and Thirties, would the allies have found it impossible to enforce the disarmament provisions of the Treaty of Versailles? Would Hitler have marched into the Rhineland?

After the Second World War, we made up for this mistake, and our simple resolve worked to keep the peace in Europe for nearly half a century and to contain Soviet expansionism, thus binding the Soviet Union to the logic that brought it down. It could not produce, so to survive it had to conquer. When it could not conquer, it could not survive.

Some people will tell you that it collapsed entirely of its own weight. 'All your efforts were wasted,' they will say, 'your preparations alarmism, your diligence obsession, your expenditures unnecessary, your sacrifices for naught. There was never any danger. You were just snapping your fingers to keep the elephants away.'

You have to give these people credit. Long before the disintegration of the East Bloc they did insist that the threat was fiction, or that, to the extent that a threat did exist, it was purely defensive and of your own creation. They told you that the gentle and bewildered Red Army could not have invaded Europe because it was too busy as it, to quote the journal International Security, "repaired barracks, built dining halls, set up military posts, camps, and sports field."

They told you that the Warsaw Pact's 68,000 tanks, twice the number of NATO's, actually were a disadvantage, being so diminutive that their operators had to be less than 5'3" tall, and that, because of a satanic lack of ventilation, these midgets, to quote the same journal, "were asphyxiated or went into shock."

But there are even worse ways to die, and I quote: "The automatic loader on the T-72 'grabs' crew members and rams them into the gun's breach." Those of you who might want to go into armor can forget it. Even at the height of the Cold War there was nothing for you to do, because every time a Soviet tanker entered his vehicle it was like stepping into a Cuisinart.

Apart from the fanciful view of no threat was another line of thought that managed somehow to co-exist with what appeared to have been perfect confidence in our safety, and that was that we were doomed. "Why fight the tide of history?" we were asked. For if we did, we were told, there would be no history. There was nothing to worry about, and yet the situation was hopeless. We were just paranoids, but we were facing the inevitability of history. Though the strange luxury and inconsistency of these positions ran together for decades, never for a moment was the threat not real, and never for a moment was it invincible.

Rule of thumb: When generals become colonels, colonels majors, and air force bases industrial parks, the fighting cannot be too far ahead.

Am I saying that war comes after swords are beaten into ploughshares? Yes, I am. I am saying that we are at rest between the wars. I am saying that, God help you, you have a future.

What it will be will depend in large part on the extent to which you are neglected, and I assure you that you will be neglected. I assure that the United States will enter a future war with insufficient weaponry, numbers, materiel, and training—it has happened before—and that because of this some of you in this room may give up your lines.

You will have done so in consequence of the mistaken belief that to hold power is to abuse it. Those who subscribe to such a tenet read history without making distinctions. They think they can abolish war solely by abdication, and are never sufficiently wary of others who see in transcendent acts only opportunities to exploit.

Truly moral but less showy is the impulse not to abolish war but to contain, avoid, and minimize it. This requires, among other things, the willingness and ability to fight, which may seem like a contradiction but isn't. It does illustrate, however, why a uniformly pacific view often creates conditions that lead to war: if you refuse power, as the British and Americans did in the interwar period and as some would have us do now, you will not be able to contain or suppress the anarchic or sometimes purposeful acts that lead to the great wars. In this, as in so many other things, perfection is the enemy of the good.

Once, in Rome, I had a conversation with an American who feared a coup from within your ranks. I thought, how odd. Following the dictates of civilian authority, the military took ten years in Vietnam to lose a war that, risking Chinese intervention, could have been fought to its conclusion in six months. (If you think that's optimistic, I refer you to the Gulf War and remind you that Hanoi is 60 miles from the sea.) For a decade the armed forces accepted failure and death in service of the principles of civilian rule, and then in restaurants in Rome and at dinner parties in Manhattan you are told that you are the main threat to it.

But before you overthrow that principle you will accept virtually anything. You will accept redefinition. You will accept marginalization. You will accept failure. You will even die. For a long time now, popular culture has ridiculed this kind of belief and devotion, and though you risk disillusion and disappointment, do not envy the glib and the uncommitted. Even simple, tongue-tied, anonymous men live better lives than they do, for those who believe in nothing, are nothing.

Having decided that you are not very necessary anymore, the country will now punish you, acting, among other reasons, on its contempt for what it perceives as interservice rivalry. Had this been done at the start, the navy would not have aircraft carriers, because flying was the domain of the army. After the air force split from the army, the army would not have gone into helicopters because it was no longer in the flying business, and the air force would not have because it was not in the business of vertical envelopment. Why should the navy have ballistic missiles, as that's the job of the air force, or is it the job of the army, as the air force is not in the artillery business?

And the marines! What an outrage! They use boats, planes, and armor. They just can't let the rivalry rest. Obviously, they've got to be the first to go.

The same impulse has spawned proposals for consolidating the service academies and civilianizing their faculties, ostensibly because of a lack of Ph.D.'s on the current rosters. It would seem to me that the best way to solve this problem, absent a desire to punish the army, would be to send out even more officers to get doctorates.

I went to college and graduate school in a place that was to Ph.D.'s what the Everglades are to alligators. One of the faculty members, David Riesman, was the Arnold Schwarzenegger of doctorates, having earned four of them. But I found that the professors to whom I gravitated and from whom I learned the most were those whose learning had been annealed in the fire of war—the refugees who had seen their families perish, the field surgeons, the bomber pilots, the resistance fighters, the professor who made his way to class on one leg that was real and one that was of wood.

I sought them out not just because of their calm and their humility, their great wisdom, and all that they had seen and done. I sought them out because they had the light of survival in their eyes.

Your facility is rich in such men. Not all of them may have Ph.D.'s, but my reading of history tells me that the army has done pretty well up to now without indexing itself to the values of the academic world, especially as those values are currently expressed in the merciless rhythm of political correctitude. Critics may say that army teaching army is just another instance of the legacy of war being passed from one generation to another that once again will know war and know in its bones what to do when war comes, and I will say to them, you're goddamned right.

Though some who may not fathom the moral imperative of this may find it embarrassing, the purpose of the military academies is to train officers to lead the armed forces, and the purpose of the armed forces is to win wars and, with that unambiguous capability nothing like a bluff, to deter them.

Let me tell you a little story. I was in a field security group in the Israeli Air Force. I had been in the army, but was transferred into the Air Force, where they made me wear an army uniform. If you think that's confusing, consider that in Hebrew the word for "he" is "who," the word for "who' is "me," and the word for "she" is "he."

I was assigned to a base in the northern part of the country, in a forest that was a major terrorist infiltration route. These terrorists, whom cowardly American newspapers call "fighters" even though they massacre civilians and kill five-year-olds by bashing their heads against rocks, used the forest to good advantage, as the Israelis relied on motorized patrols.

So, on my own initiative and, shall we say, "parallel" to orders, I extended the area of my responsibility, and used to go into the forest at night and in the day, alone, with my Uzi, extra magazines, and two grenades that I was not supposed to have. I had night vision equipment, too: It was called the moon. I worked only periodically and never when the sky was cloudy, but it didn't weigh me down, it was free, and it was beautiful. I remember standing on a mountaintop in the full moonlight, listening to the sound of wild boar moving through the forest below. In the distance I could see the lights of Haifa, and Tyre, and towns in Syria and Jordan. The land was dark, the folds of the mountains black, and the moonlight covered the Mediterranean and the Sea of Galilee with a silent and ghostly sheen.

Once, a few miles from base, near an Arab village called Jish (and when I got past it I'd say, "Jish!"), I ran into one of our armored patrols at about two in the morning. They trained their mounted machine-guns on me, and their arc light, and they said, "What the hell are you doing here?" I said I was doing exactly what they were doing, only I couldn't be heard and seen from two miles away. The commander wanted to know where the others were, and when I told him I was alone he said, "I thought you were an American, and you are. Americans are nuts!" I've never received a finer compliment.

By the way, the one time I took a daylight walk without a weapon, I was five minutes out of the perimeter when I heard the brush move and saw a wild boar emerge onto the road not three feet from me. These things are famous for wiping out whole groups of medieval pikemen and their packs of dogs, and there I was, in my commando sweater, remembering that it took an entire magazine to bring one down and another to kill it.

It had horrible, curly tusks, and it was as big as a Mercedes Benz. I prayed for an air strike, but nothing happened, so I said, "Hi boy! How are you? Jews don't eat bacon." You know what he said? He didn't say anything: he couldn't talk. But I was ashamed, and I decided to give only name, rank, and serial number. The problem was that I could never remember my serial number, I had no rank, and I just wasn't going to tell my name to a pig, so I remembered where I'm from, which is New York, and I said, "Hey! Drop dead!" And, you know what? He did. He had a heart attack, right then. . . . That may be a bit of an exaggeration. He did go away.

One cool blue day, I was walking in the forest, where, as far as I knew, no one from the army ever set foot, when I saw, although they did not see me, an Israeli Arab in full regalia, with a pistol on a Sam Browne belt, and a blonde woman in a bedouin checkered scarf. They were crouching in the brush, sketching the defenses of the base. He was describing to her things that he pointed out and that she then marked down on the paper.

The next thing they knew, I was standing ten feet away, pointing my Uzi at them and commanding them, in Arabic, to raise their hands into the air. But the old man, who had probably lived half a century before the day I as born, was not of the opinion that the game was over. He put his hand on the grip of his pistol, and he held fast.

Now, what was I to do? Every time I turned around I was reprimanded for one thing or another, and there I was, patrolling entirely parallel to orders. I knew what I would do in coming across a team of infiltrators, but this was a lot different, and I had not foreseen anything like it. The woman was undoubtedly a "tourist," and the old man was undoubtedly a citizen who lived nearby. Still, they had come miles through the forest and were sketching the defenses of what was called a "secret base," and what, after all, was my purpose? If he were to fight, I would have to fire a burst, to stop him from putting a bullet in me. She was actually holding on to him, standing slightly behind. Was I going to shoot—and possibly kill—two civilians? Certainly the enemy had satellite reconnaissance of our installation, but these people may have been watching the shift changes and the habits of the sentries. She was scared and she was beautiful. He, although he was threatening to shoot me, resembled my father.

I won't say what I did except to tell you that though I didn't harm them, the ending was not pretty, It was shrouded in uncertainty, and I have never come to terms with it. In no way, however, did any of this resemble the hypothetical discussions, occasioned by the war in Vietnam, that I had had with plenty of Ph.D.'s I had had the best training in hypotheticals that you can get, but when the question ceased to be hypothetical and was real, that training proved useless.

Before Congress civilianizes your faculty, it would do well to take a long look at the kinds of problems you will encounter, the difference between what is hypothetical and what is real, and the priceless value of learning from those who have been through the ordeals for which you are destined.

What I know of such things, compared to what they have seen, is nothing, and therein lies a tale that I would like to tell. I am frequently asked how it is that I, an American, served in the Israeli army and Air Force, and not in the military of my own country. The first part of the question is easy to answer. I point out the long tradition of Americans serving in the armed forces of allies—the Lafayette Escadrille; Faulkner in the Canadian Royal Air Force; E.E Cummings and John Dos Passos in the Norton-Harjes Ambulance Corps; the Eagle Squadron; the Flying Tigers. I mention that before I served under another flag I reported to the department of State and formally swore an oath of loyalty to the United States, and to defend the Constitution. And I remind my questioners that Israel fought not only armies trained and equipped by the Soviet Union, but, sometimes, Soviet soldiers themselves. In that period, the United States and Israel worked very closely together; how closely I think is not yet fully a matter of public record.

To the second part of the question, I reply that though the men in my family have served, since our arrival there, with Pershing in Mexico, in the First World War, so many in the Second World War that the welcome home had to be held in a hotel, and that though one cousin, Richard, was a Navy ace in the Pacific, and another, Robert, died in his B-25 in August of 1942, and another, Hank, was wounded twice in Korea, and half a dozen of my uncles served in all the branches in World War Two, and my father came out of the war a major, that despite this tradition in which I was certain I would have a place, I did not serve.

If you think that it is easy to stand here in front of thousands of officers and future officers of the United States Army and explain this, think again. But just as the heart of your profession is your willingness to give your lives in defense of your country, even, as the case has been, as you are mocked, reviled, and dismissed by those for whom you will die, the heart of my profession is to convey the truth, and what good is a profession without its heart?

Let me try to convey, then, what I have come to believe is the truth—or at least part of the truth—of a time that was over before many of you were born. I do so not to gain approval or to attain an end, but in service of illumination and memory, and I hope, as you will see, that you may be able to use the knowledge of my failure to clarify and strengthen your own resolve.

"Everyone" at the Republican Convention this summer was reading a book about Harry Truman. Yes, most of them knew Truman was a Democrat. I'm a Republican, and though I was not old enough to have voted in the election of 1948 except perhaps in Chicago—I was one—I would be proud to have voted for Harry Truman had he been running against anyone other than Abraham Lincoln or Theodore Roosevelt.

My conduct in the Vietnam era can be expressed by stating that although in the Israeli army I had, but for corrective lenses, a perfect physical rating for combat, here I was officially, legally, and properly 4-F. If I were Bill Clinton I would take 10,000 words to explain this and say nothing, but I'm not Bill Clinton, and I can get to the heart of it in eight: What I did was called dodging the draft.

I thought Vietnam was so much the wrong place to fight and that the conduct of the war was so destructive in human terms and of American power, prestige, and purpose that I was justified in staying out. What the existence of the re-education camps and the boat people, and the triumph of containment have taught me is that my political assessment was not all that I thought it was, and I have also come to believe that, even if it had been, I still would not have been released from honoring the compact under which I had lived until that moment, and which I then broke. I did not want to participate in a war the conduct of which was often morally ambiguous. Now I understand that this was precisely my obligation.

So you may imagine what I felt when I came to a passage on page 102 of David McCullough's *Truman*, explaining how Truman had volunteered in the First World War: "He turned thirty-three the spring of 1917, which was two years beyond the age limit set by the new Selective Service Act. He had been out of the National Guard for nearly six years. His eyes were far below the standard requirements for any of the armed services. And he was the sole supporter of his mother and sister. As a farmer, furthermore, he was supposed to remain on the farm. . . .

"So Harry might have stayed where he was for any of several reasons. That he chose to go . . . was his own doing entirely."

Truman had five unimpeachable reasons not to serve, and he tossed them to the wind. Had he tossed them at my class at Harvard, I assure you, they would have been fought over like five flawless versions of the Hope Diamond.

His actions were all the more impressive when it is remembered that the First World War was far more brutal than the war in Vietnam, far more costly, and far more senseless. At least the war in Vietnam was fought in the context of a policy of containment that, later, was to triumph. Even were Vietnam not the best place to make a stand, it was the fact that a stand was made that mattered. In contrast, the First World War was fought almost entirely for nothing. Though it is true that the country was more enthusiastic about it, that just drives home the fact, as did Vietnam, that you simply cannot know how things will turn out, and that a war may be right or wrong, opportune or inopportune, the proper time and place to make a stand, or it may not be, but that this is something to be determined in national debate and not in the private legislatures of each person with a draft card.

The United States might easily have overwhelmed North Vietnam but for the threat of Chinese intervention. Therein lay the checkmate, the nettle that never was grasped, that then became the source of the indecision, the moral ambiguity, and, eventually, our defeat.

We neither made quick work of the North nor extricated ourselves with grace, choosing instead a war of attrition for which we had not the heart. It was not just a tangle of good intentions and bad judgments that put us there in the first place. History put us there. It is understandable, even commendable, that we tried to stay, and also understandable and at times, I think, commendable, that we left. The truth is that the truth is divided.

Vietnam was the most difficult war we have ever experienced, because it required us to justify a continuing horror with an abstract vision of what our perseverance would yield, and we are neither an abstract nor a patient people. In the context of history as we now know it, it seems that, had we persevered, decades of struggle and suffering might have been obviated. But, still, that we were ambivalent did not alter the final outcome. Perhaps the world saw in our ambivalence that we are a nation that seeks not power, but the truth.

Of one thing in this regard, and one thing only, am I absolutely certain, which is that, in not serving, I was wrong. I began to realize this in 1967, when I served briefly in the British Merchant Navy. In the Atlantic we saw a lot of American warships, and every time we did I felt both affection and pride. One of the other sailors, a seaman named Roberts, was a partisan of the Royal Navy, and maintained that it was more powerful than our own. As I was a regular reader of the *Proceedings of the United States Naval Institute*, and had almost memorized *Jane's Fighting Ships*, I quickly, let us say, blew his arguments out of the water.

And then, in riposte, he asked why I was not in uniform. I answered with the full force of the rationalizations so painstakingly developed by the American intellectual elite. Still, he kept coming at me. Although he was not an educated man, and although I thought I had him in a lock, the last thing he said broke the lock. I remember his words exactly. He said: "But they're your mates."

That was the essence of it. Although I did not modify my position until it was too late, I began to know then that I was wrong. I thought, mistakenly, perhaps just for the sake of holding my own in an argument, that he was saying, 'My country, right or wrong,' but it was not what he was saying at all. Only my sophistry converted the many virtues of his simple words from something I would not fully understand until much later.

Neither a man nor his country can always pick the ideal quarrel, and not every war can be fought with moral surety or immediacy of effect. It would be nice if that were so, but it isn't. Any great struggle, while it remains undecided and sometimes even afterward, unfolds not in certainties but in doubts. It cannot be any other way. It never has been.

In the Cambridge Cemetery are several rows of graves in which rest the remains of those who were killed in Vietnam. On one of the many days of that long war, I was passing by as a family was burying their son. I stopped, in respect. I could not move. And they looked at me, not in anger, as I might have expected, but with love. You see, they had had a son.

Soon thereafter, not understanding fully why, I was on my way to the Middle East, in a fury to put myself on the line. And though I did, it can never make up for what I did not do. For the truth is that each and every one of the Vietnam memorials in that cemetery and in every other—those that are full, those that are empty, and those that are still waiting—belongs to a man who may have died in my place. And that is something I can never put behind me.

I want you to know this so that perhaps you may use it. For someday you may find yourself in a terrible place, about to die from a wound that is too big for a pressure bandage, or you may find yourself in an enemy prison, facing years of torture, or you may find yourself, more likely, as I did, in a freezing rain-soaked trench, at four o'clock in the morning, listening to your heart beat like thunder as you stare into the hallucinatory darkness of a field sown with mines. You may speak to yourself out loud, asking, why am I here? I could have been someplace else. I could have done it another way. I could have been home.

If that should happen to you, your first comfort will be your God, and then you will have—believe me—the undying image of your family, and then duty, honor, country. These will carry you through.

But if, after you have run through them again and again, you have time and thought left, then perhaps you will think of me, and this day at the beginning of your careers. I hope it will be encouragement. For that I was not with you, in my time, at Khe Sanh, and Danang, and Hue, and all the other places, is for me now, looking back, a great surprise, an even greater disappointment, and a regret that I will carry to my grave.

CONFIRMATION OF DONNA SHALALA AS SECRETARY OF HEALTH AND HUMAN SERVICES

Mr. PELL. Mr. President, yesterday the Senate confirmed the nomination of Dr. Donna Shalala as Secretary of Health and Human Services. The vote occurred without fanfare, following two Senate hearings—first by the Senate Finance Committee and then by the Senate Labor and Human Resources Committee, on which I serve. But I would not want the ease and swiftness of her confirmation to leave the impression that this was an ordinary nomination. It was not.

It was a nomination that demonstrates, in the most lucid terms, the priorities that President Clinton has determined will mark his Presidency. Improving the lives of both children and families, and individuals and groups in our society, is what the new administration is all about. And no one is better equipped to tackle these enormous challenges than Dr. Shalala, who has devoted her professional life to educating and bettering the lives of children and young people, and to taking on challenges where others fear to tread.

Whether the issue is health care reform or welfare reform, Dr. Shalala will undoubtedly put forth the President's agenda forcefully, persuasively, competently, and with great enthusiasm. She impressed me as an extraordinarily capable person whose intelligence, forthrightness, and determination to be the very best will serve this Nation extremely well. I look forward to working with her toward our mutual goals in the years to come.

SPEAKING TO OUR BETTER ANGELS: THE VOICE OF THURGOOD MARSHALL

Mr. BIDEN. Mr. President, yesterday I walked over to the Supreme Court building to pay my respects to Thurgood Marshall. How fitting that this great lawyer and jurist should lie in state within that hallowed temple of law.

The law, it might be said, is the articulated conscience of a nation, and the greatest of lawyers are those able to speak not only to the institutions of the law, but able also to speak through them to the deepest convictions of a whole people.

Associate Supreme Court Justice Thurgood Marshall, who died last Sunday, was just such a lawyer, just such a leader, just such a man—a man, a leader, a lawyer who understood that the law is essentially a moral instrument dedicated, ultimately, to fundamentally moral purposes.

He understood that the local magistrate's court adjudicating neighborhood disputes and traffic violations; he understood that the criminal court struggling to achieve the ends of the law amid the cries of victims, the protests of the accused, the plea bargains, and the contests over life and liberty that crowd its docket; he understood that the civil court seeking to uphold the integrity of the contracts and agreements upon which the functioning of our social and economic lives depend; he understood that the appellate court assessing the allegiance to the law and the fairness of procedure in the lower courts; and he understood, finally, that the Supreme Court of the United States, measuring the application of the law against the simple but majestic standards of the Constitution—he understood that each in its own realm and all as a body, strive day by day—succeeding as a rule, failing on occasion, but always striving—to maintain, to enlarge and to enrich our national life within the moral framework of the law.

No lawyer in our history has built upon that understanding more effectively or more significantly than Thurgood Marshall—indeed, I believe none has done as much to expand the moral range of our law and the moral life of our Nation, other than the great lawyer who preserved our Union and emancipated our entire Nation from the shackles of slavery. And it is entirely appropriate, as I see it, to link Thurgood Marshall with Abraham Lincoln—because I believe the historians of the future will view the 1954 Supreme Court decision desegregating our schools not only as the great monument to Thurgood Marshall's life, but also as our century's historic recommitment to the emancipation proclamation; as our century's rededication to the proposition that all men, all persons, are created equal, in the eyes of God and within the framework of our law; as our century's restatement of the basic American premise, of the historic American promise, that opportunity shall remain the common inheritance of all Americans.

Mr. President, Thurgood Marshall played a large roll in the history of my own State. He was educated at nearby Lincoln University, PA, and his family roots still extend into Delaware—but more significantly, Delaware was one of the States involved in the historic 1954 school decision. Delaware's history of segregated schools is not, of course, a matter of pride to Delawareans today; but Thurgood Marshall's victory over the artifact of slavery, and Delaware's racial progress over the following four decades, have made him today a hero among all Delawareans.

For me—as a Delawarean, as a lawyer and as a U.S. Senator—his life has had an even more personal meaning, because he served as an inspiration to me, as to an entire generation, by demonstrating that the law can be a positive force for change. He reminded us that equality and justice must be our highest aspirations as a people, and his life was a reflection of the long struggle to secure these aspirations as the guiding principles of our Nation and our Government.

His appointment as the first African-American to serve on the Supreme Court of the United States reaffirmed the American principle that justice must truly mean justice for all, and during his distinguished tenure on the court, he brought his great intellect and strong passion to decisions which extended these principles to every facet of our society. Every American alive today and our posterity must be numbered among his heirs.

Mr. President, Thurgood Marshall has been called the greatest American lawyer of the 20th century, and that is a judgment I am confident history will confirm. He was not an orator in the customary sense of the word; he had neither the taste nor the time for oratorical elaboration. He spoke the language of the practicing lawyer and the careful jurist, but he spoke with the powerful, irresistible eloquence of the confident, fully committed, profoundly moral man who believed that American law and the American people would comprehend and act upon convictions they shared with him.

It was his great achievement, not only to speak to what Abraham Lincoln called "the better angels of our nation," but even more, to make us believe in that mystic dimension of our selves and to acknowledge the justice of its commands. In doing that, Thurgood Marshall made his achievement our achievement, and there can be no more definitive testimony to his greatness. We will miss him, but we will never forget, never forsake, his counsel.

ORDER OF BUSINESS

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, let me inquire: Is it appropriate for me to make a brief statement less than 5 minutes in length?

The PRESIDING OFFICER. Yes, it is.

Mr. RIEGLE. Then I ask permission to proceed and will proceed.

FACES OF THE HEALTH CARE CRISIS IN MICHIGAN

Mr. RIEGLE. Mr. President, last July I began coming to the Senate floor each week when we were in session to talk about the problems people in my home State of Michigan are facing because of the health care crisis that is afflicting us here in this country. Each of these stories that I have been presenting are about real people and real families who either lost their health insurance or cases where their health insurance is just not adequate to protect them from the skyrocketing cost of health care.

I want to continue to do this in the case of Michigan people. I want to put a real face on this health care crisis to help us stay focused on the human need to reform our health care system. I will continue to tell these individual stories in this way until we finally enact health care reform legislation.

So I want to start this year by telling the story of a woman named Maria Pianello. Maria is a 23-year-old woman from Saint Clair Shores, MI. She told me in a letter that she sent to me what her problems are. And I ask unanimous consent that her letter be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RIEGLE. Mr. President, for the past 3½ years Maria worked for a local physician in Saint Clair Shores. And although her employer provided health insurance to his employees, she has been denied coverage for her illness through this insurance company due to what is called a preexisting health condition. That condition is this: 5 years ago Maria was diagnosed with endometriosis, which is a condition that affects the lining of the uterus and can spread to other parts of the body. So she had that condition prior to her employment with this employer and this insurance company where she works.

Last summer, Maria's condition became more serious and the pain became unbearable for her. She knew she needed to have this problem treated and her physician recommended she have surgery in August of last year. Because of the preexisting clause, however, the insurer denied coverage for the surgery or for any other treatments or doctor visits that were related to this endometriosis condition that she has.

Without insurance for this particular health problem, Maria could not afford the surgery which was estimated to cost between $8,000 and $10,000. As a result, she was forced to delay seeking medical care for this very serious illness.

Maria contacted the Michigan Department of Social Services for assistance, but she was unable to receive benefits because she had an income from her work and that made her ineligible for assistance. Fortunately, Maria has been able to obtain individual coverage with Blue Cross/Blue Shield in Michigan after fulfilling a 6-month waiting period. So, she will finally have coverage for her surgery. It is scheduled now to take place in March of this year, but that is 8 months after her doctor said it was necessary for her to have this procedure, way back in August of last year.

Maria plans on getting married and she is very fearful that this delay that she had to undergo may result in permanent damage and might well prevent her from being able to have children.

The new insurance that she has after the 6-month waiting period through Blue Cross/Blue Shield is costing her almost $300 a month. She is fortunate that her employer is willing to pay to cover the premium, because most employers simply cannot afford to pay the high cost of individual policies to cover just a single employee that has a problem like this and that does not fall under the umbrella of the insurance plan that is there for all the rest of the employees.

So, in this case, if it were not for the important help and consideration form Maria's employer, she would not be able to afford the cost of these premiums, and she would not be able to afford this operation in March, let alone when she should have had it in August of last year.

I want to emphasize again that the health care crisis in America is affecting millions of people every day across this country—those that have no coverage, those that have problems of this kind that are not being treated properly, those that are underinsured, or where someone in a family may have coverage for themselves through the workplace but it does not cover their family members.

Maria, in her letter to me, said:

> There has to be a different system for people like me that need coverage for a condition that we don't ask for. I want to make a suggestion that we should all be equal and have the same insurance with the same benefits.

I was struck when I read that line. I remember reading a recently published book about Abraham Lincoln giving the Gettysburg Address and how the quest to really achieve fully the promise of the constitutional guarantees of this country is something that is a journey, and that we have not yet managed to accomplish many things with respect to equality for our people that we need to achieve. And certainly recognizing and responding to the human needs of every citizen in this country in terms of their basic health care requirements, I think, is as fundamental as our founding documents.

We talk about life, liberty, and the pursuit of happiness. But if you are plagued with a very serious illness, maybe a life-threatening illness, and you cannot get the medical help or you cannot get the operation that you need or you cannot get it for your child, then guarantees about life, liberty, and the pursuit of happiness can ring hollow.

Reforming our Nation's health care system was a critical issue during the Presidential campaign and the accompanying congressional elections. I know that this new administration, the Clinton administration, is absolutely committed to finding a solution to the health care crisis. It is a top priority of the President and we know now also of Mrs. Clinton, because of her important assignment to spearhead the task force effort to develop a health care plan. And that is very good news for the country.

So I want to pledge again to continue to do all I can, as chairman of the Subcommittee on Health Care for Families and the Uninsured, to push ahead with national health care reform and to ask my colleagues in the Senate to work with the new President to get health care reform enacted this year so that we can bring affordable health care coverage to every citizen in our country.

I thank the Chair, and I yield the floor.

EXHIBIT 1

> DEAR SENATOR REGAL: I am writing this letter to explain a painful position that I have been forced to face.
>
> I am a 23-year-old female, actively employed with a company three years.
>
> I have a pre-existing condition called Endometriosis. The health insurance I am currently with, not only put a pre-existing clause on my policy, but would give me no coverage for my condition ever. (Permanent Exclusion Rider). Now that I've had this insurance for 15 months, I now need surgery to take care of my condition.
>
> I feel that I've been discriminated against. I didn't ask for this condition.
>
> I've done some research and found that no insurance company will accept this problem. I cannot ever get help from social services.
>
> There has to be a different system for people like me that need coverage for a condition we didn't ask for. I want to make a suggestion that we should all be equal and have the same insurance with the same benefits.
>
> I hope you take what I have suggested into consideration. Also if you have any solutions to my problem, will you please contact me. I am desperate and scared.
>
> Thank you for taking the time to read my letter.
>
> Sincerely,
>
> MARIA PIANELLO.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as amended, appoints the Senator from Connecticut [Mr. DODD] as chairman of the Senate Delegation to the Mexico-United States Interparliamentary Group during the 103d Congress.

The Chair, on behalf of the Vice President, pursuant to the provisions of 20 U.S.C. 42–43, appoints the Senator from Virginia [Mr. WARNER] as a member of the Board of Regents of the Smithsonian Institution, vice the Senator from Utah [Mr. GARN], resigned.

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the following nominations: John Gibbons to be Director of the Office of Science and Technology Policy, reported today by the Committee on Commerce, Science, and Transportation, and all nominations on the Secretary's desk in the Public Health Service and Coast Guard.

I further ask unanimous consent that the nominations be considered en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed, en bloc, are as follows:

EXECUTIVE OFFICE OF THE PRESIDENT

John Howard Gibbons, of Virginia, to be Director of the Office of Science and Technology Policy.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE COAST GUARD

Coast Guard nominations beginning Thomas M. Kulik, and ending Oliver P. Zimmermann, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 5, 1993.

PUBLIC HEALTH SERVICE

Public Health Service nominations beginning Lawrence Y. Agodoa, and ending Janet M. Ruck, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 5, 1993.

Public Health Service nominations beginning Alfred L. Brassel, Jr., and ending Maruta Zitans, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 5, 1993.

Public Health Service nominations beginning Thomas C. Bonin, and ending Brent B. Warren, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 6, 1993.

STATEMENT ON THE NOMINATION OF JOHN H. GIBBONS

Mr. HOLLINGS. Mr. President, today I am pleased that the Senate is considering the nomination of Dr. John H. Gibbons to serve as Director of the White House Office of Science and Technology Policy [OSTP]. As with other OSTP directors, Dr. Gibbons, if confirmed, also will be Assistant to the President for Science and Technology and hence the President's personal science advisor.

Dr. Gibbons is well-known in Congress, having served since 1979 as the Director of the Office of Technology Assessment [OTA]. Those of us who have been on the Technology Assessment Board over the years have come to admire him a great deal.

The OSTP Director's position has always been a challenging job, but never more so than today. Three years after the fall of the Berlin Wall, our Government has barely begun the huge task of converting its $76 billion annual research budget from cold war priorities to today's most urgent needs, particularly economic needs. President Clinton is right: The economy is the issue. As OSTP Director and Science Adviser, Dr. Gibbons will be in a position to help the President to remold the Federal science and technology establishment to promote long-term economic growth in an increasingly competitive world economy. It is a daunting task—one that will require new priorities, major budget shifts, and new methods of working with industry. The future of our country depends on how well the new administration meets this challenge.

I am convinced that Dr. Gibbons is the right person at the right time. He is a highly regarded scientist, with a doctorate in physics from Duke University. His work at Oak Ridge made him an expert in energy and environmental issues, among the most important topics for the country in the years ahead. He also has learned much about Federal laboratories and Federal research programs in general. From 1973–74, he headed energy conservation programs at what was then the Federal Energy Administration, and later the Department of Energy, and thus he is an experienced Federal manager. During his years at OTA, he has become familiar with nearly every major policy issue involving science and technology, including the critical issue of economic competitiveness. I also will add that he knows Congress well and, equally important, he has the confidence of the Members. Finally, Dr. Gibbons clearly has won the confidence of both President Clinton and Vice President GORE and will have an important role in shaping our country's future in science and technology.

Mr. President, earlier this week I was pleased to chair Dr. Gibbons' confirmation hearing, where he received strong bipartisan support. The Commerce Committee has voted without objection to recommend the nomination to the full Senate. I strongly support this nominee, and join my Commerce Committee colleagues in recommending that the Senate now confirm Dr. Gibbons as OSTP Director.

STATEMENT ON THE CONFIRMATION VOTE ON DR. JOHN H. GIBBONS

Mr. ROCKEFELLER. Mr. President, as the new chairman of the Senate's Subcommittee on Science, Technology, and Space, I could not let this occasion go by without a short statement about how pleased, and excited, I am about the nomination of Dr. John H. Gibbons to be Director of the Office of Science and Technology in the White House. The combination of the end of the cold war and the beginning of a new Presidency presents to our Nation great opportunities in many policy areas. One of the most critical of these is our national science and technology policy. That is why the nomination of Jack Gibbons is so important.

The end of the cold war makes us realize more than ever that our national strength has been and will continue to be determined by our international economic competitiveness. The beginning of the Clinton Presidency ends the long debate over the wisdom of Government action to improve our international competitiveness. The American people ended the debate with a decision. They asked their government to become a partner with American workers and American businesses to chart a course of economic recovery and long-term growth.

With that decision, the question we must now ask is how Government's role will be implemented. Given the fact that competitiveness is so closely tied to advances we make in science and technology, much of this question will be how Government's role in science and technology should be executed.

The commitments President Clinton made during the campaign and the programs he outlined, especially his September manifesto, "Technology: The Engine of Economic Growth," and its companion, "Manufacturing for the 21st Century," demonstrated his recognition of the importance of science and technology to our national well-being. That recognition is also demonstrated by his decision to make the Director of the Office of Science and Technology Policy one of the earliest appointments in his administration and by his decision to give that appointment to someone with Dr. Gibbons' exceptional expertise and experience. And I don't mean only his distinguished science and technology background. The fact that he is also an expert in congressional relations is a special bonus.

When President Clinton called on all Americans to be prepared to sacrifice for the good of the Nation, he could have been thinking about how Congress would feel about giving up Jack Gibbons. I know that I am but one of many Senators who have counted on Dr. Gibbons over the years for lucid, insightful advice on science, technology, and a whole host of related issues. Congress' Office of Technology Assessment has thrived under his management, and he will be missed sorely. But I look at this change as a windfall for Congress and the Nation. I congratulate President Clinton on his selection and I urge my fellow Senators to give their consent to the nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the appropriate committee.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate, on January 27, 1993, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

S. 202. An act to designate the Federal Judiciary Building in Washington, DC, as the "Thurgood Marshall Federal Judiciary Building."

Under the authority of the order of the Senate of January 5, 1993, the enrolled bill was signed on January 27, 1993, during the recess of the Senate by the President pro tempore [Mr. BYRD].

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 47. An original resolution authorizing expenditures by the Committee on Agriculture, Nutrition, and Forestry (Rept. No. 103–4).

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. Res. 40. An original resolution authorizing expenditures by the Committee on Foreign Relations.

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 41. An original resolution authorizing expenditures by the Committee on Rules and Administration.

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 42. An original resolution providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library.

S. Con. Res. 8. An original concurrent resolution to allow another member of the Committee on Rules and Administration of the Senate to serve on the Joint Committee on the Library in place of the Chairman of the Committee.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

John Howard Gibbons, of Virginia, to be Director of the Office of Science and Technology Policy.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably a nomination list in the Coast Guard, which was printed in full in the CONGRESSIONAL RECORD of January 5, 1993, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LAUTENBERG:

S. 249. A bill to promote job creation and economic recovery through investment in transportation infrastructure, and for other purposes; to the Committee on Appropriations.

By Mr. MCCONNELL:

S. 250. A bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Red River in Kentucky as components of the national wild and scenic rivers system, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PELL:

S. 251. A bill to amend the Job Training Partnership Act to improve the Defense Conversion Adjustment Program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 252. A bill to provide for certain land exchanges in the State of Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself, Mr. PRYOR, and Mr. ROTH):

S. 253. A bill to authorize the garnishment of Federal employees' pay, and for other purposes; to the Committee on Governmental Affairs.

By Mr. JOHNSTON (for himself and Mr. KRUEGER):

S. 254. A bill to amend the Internal Revenue Code of 1986 to impose a fee on the importation of crude oil or refined petroleum products; to the Committee on Finance.

By Mr. CAMPBELL:

S. 255. A bill to establish the Commission on Executive Organization; to the Committee on Governmental Affairs.

By Mr. HARKIN:

S. 256. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to allow medicare administrative funding to combat waste, fraud, and abuse, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. BUMPERS (for himself, Mr. PRYOR, Mr. WELLSTONE, Mr. LEVIN, Mr. LEAHY, Mr. HARKIN, Ms. MIKULSKI, Mr. RIEGLE, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. KOHL, Mr. PELL, and Mr. JEFFORDS):

S. 257. A bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BROWN:

S. 258. A bill to amend the Internal Revenue Code of 1986 to provide a mechanism for taxpayers to designate $1 of any overpayment of income tax, and to contribute other amounts, for the use by the United States Olympic Committee; to the Committee on Finance.

By Mr. LEVIN:

S. 259. A bill to require that stock option compensation paid to corporate executives be recorded as a compensation expense in corporate financial statements; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MCCAIN:

S. 260. A bill to provide Indian education assistance to carry out the purposes of title IV of the Arizona-Idaho Conservation Act of 1988, Public Law 100-696, to provide for reimbursement to the Treasury by certain private parties, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. LAUTENBERG (for himself and Mr. HARKIN):

S. 261. A bill to protect children from exposure to environmental tobacco smoke in the provision of children's services, and for other purposes; to the Committee on Labor and Human Resources.

S. 262. A bill to require the Administrator of the Environmental Protection Agency to promulgate guidelines for instituting a nonsmoking policy in buildings owned or leased by Federal agencies, and for other purposes; to the Committee on Environment and Public Works.

By Mr. PRESSLER:

S. 263. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a health care professional as interest on student loans if the professional agrees to practice medicine for at least 2 years in a rural community; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. COCHRAN):

S. 264. A bill to establish a Classrooms for the Future program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SHELBY (for himself, Mr. INOUYE, Mr. WALLOP, Mr. MACK, and Mr. HEFLIN):

S. 265. A bill to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SIMON (for himself and Mr. SARBANES):

S. 266. A bill to provide for elementary and secondary school library media resources, technology enhancement, training and improvement; to the Committee on Labor and Human Resources.

By Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. SARBANES, Mr. BUMPERS, Mr. PELL, Mr. DECONCINI, Mr. STEVENS, Mr. WELLSTONE, Mr. COVERDELL, and Mr. GRAMM):

S.J. Res. 30. A joint resolution to designate the weeks of April 25 through May 2, 1993, and April 10 through 17, 1994, as "Jewish Heritage Week"; to the Committee on the Judiciary.

By Mr. HEFLIN:

S.J. Res. 31. A joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the United States Government; to the Committee on the Judiciary.

By Mr. DODD:

S.J. Res. 32. A joint resolution calling for the United States to support efforts of the United Nations to conclude an international agreement to establish an international criminal court; to the Committee on Foreign Relations.

By Mr. MACK:

S.J. Res. 33. A joint resolution proposing an amendment to the Constitution of the United States to limit the terms of office for Representatives and Senators in Congress; to the Committee on the Judiciary.

By Mr. BROWN:

S.J. Res. 34. A joint resolution proposing a constitutional amendment to limit congressional terms; to the Committee on the Judiciary.

By Mr. PRESSLER:

S.J. Res. 35. A joint resolution to designate the month of November 1993, and the month of November 1994, each as "National Alzheimer's Disease Month"; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. LUGAR, Mr. PRYOR, Mr. DOLE, Mr. HELMS, Mr. HEFLIN, Mr. COCHRAN, Mr. CONRAD, Mr. MCCONNELL, Mr. DASCHLE, Mr. CRAIG, Mr. BAUCUS, Mr. GRASSLEY, and Mr. FEINGOLD):

S.J. Res. 36. A joint resolution to proclaim March 20, 1993, as "National Agriculture Day"; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mr. SPECTER, Mrs. KASSEBAUM, Mr. SHELBY, Mr. DECONCINI, Mr. DODD, Mr. DASCHLE, Mr. CAMPBELL, Mr. BRYAN, and Mr. REID):

S.J. Res. 37. A joint resolution proposing an amendment to the Constitution relative to contributions and expenditures intended to affect congressional and Presidential elections; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PELL:

S. Res. 40. An original resolution authorizing expenditures by the Committee on Foreign Relations; from the Committee on Foreign Relations; to the Committee on Rules and Administration.

By Mr. FORD:

S. Res. 41. An original resolution authorizing expenditures by the Committee on Rules and Administration; from the Committee on Agriculture, Nutrition, and Forestry; placed on the calendar.

S. Res. 42. An original resolution providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library; from the Committee on Rules and Administration; considered and agreed to.

By Mr. DECONCINI:

S. Res. 43. An original resolution authorizing expenditures by the Select Committee on Intelligence; to the Committee on Rules and Administration.

By Mr. PRYOR:

S. Res. 44. A resolution authorizing expenditures by the Special Committee on Aging; to the Committee on Rules and Administration.

By Mr. HOLLINGS:

S. Res. 45. An original resolution authorizing expenditures by the Committee on Commerce, Science and Transportation; to the Committee on Rules and Administration.

By Mr. BOREN:

S. Res. 46. A resolution authorizing expenditures by the Joint Committee on the

Organization of Congress; to the Committee on Rules and Administration.

By Mr. LEAHY:

S. Res. 47. An original resolution authorizing expenditures by the Committee on Agriculture, Nutrition, and Forestry; from the Committee on Agriculture, Nutrition, and Forestry; to the Committee on Rules and Administration.

By Mr. FORD:

S. Con. Res. 8. An original concurrent resolution to allow another member of the Committee on Rules and Administration of the Senate to serve on the Joint Committee on the Library in place of the Chairman of the Committee; from the Committee on Rules and Administration; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG:

S. 249. A bill to promote job creation and economic recovery through investment in transportation infrastructure, and for other purposes; to the Committee on Appropriations.

START UP ACT OF 1993

• Mr. LAUTENBERG. Mr. President, during the recent Presidential campaign, there was a phrase that simply and clearly underscored the major concerns of millions of Americans. It became a watchword for the Clinton campaign, and Bill Clinton's focus on the message was a major reason for his victory in November. The message was this: "It's the economy, stupid!"

As we begin the 103d Congress, we cannot forget that message. The American people want an end to the political gridlock that has kept Government from acting to meet critical needs. As part of that change, President Clinton has focused badly needed attention on this Nation's need to increase investment in order to get our economy moving again.

Today, I am introducing legislation to get that process underway—right away—and to begin to deliver on that promise to invest in America. It is called START UP—the Supplemental Transportation Appropriations Reinvestment to Upgrade Productivity Act.

This legislation has three goals: To provide a boost to the economy; to create jobs; and to improve our infrastructure. Accordingly, the bill would target funds on three areas, where there are unmet needs, and where we did see an immediate benefit.

First, it would fully fund the Intermodal Surface Transportation Efficiency Act, providing $2.9 billion for highways and $1.4 billion for transit programs authorized by ISTEA.

Second, it would provide $1.9 billion for the Airport Improvement Program, with $400 million of that reserved for economic development at smaller airports. Currently, there are over $7 billion in unfunded AIP applications pending at the FAA.

Third, the bill would expand and accelerate the funding of passenger rail service in this country, providing $540 million for the Northeast corridor improvement project and Amtrak's capital program.

In total, this is $6.7 billion, which, as today's witnesses will attest, could be obligated within the current fiscal year, resulting in the creation of over 300,000 jobs.

To help ensure that our goals can be achieved, my bill would waive the non-Federal matching requirements for these funds, and require that they be obligated by the end of fiscal year 1993.

We have heard from some that an economic boost is not needed; that the economy is recovering without it. But, when I see 8 percent unemployment in a State like New Jersey, I do not see a recovery.

I see over 70,000 jobs that have been lost in the construction industry alone since 1988. I see us continuing a downward spiral toward being unable to compete in a global economy because we do not have a solid base for economic growth. I see us missing out on opportunities to open up new markets through investment in transportation.

I do not want to see the United States lose its competitive edge, and miss out on those opportunities.

Transportation investment is highly productive. It generates about a 2-for-1 gain in gross domestic product, and could create as many as 50,000 jobs per billion dollars of investment.

Last year, I offered similar legislation. Unfortunately, it ran right into the gridlock that prevented us from taking decisive economic action. It also ran into naysayers who claimed that it was unnecessary to help a recovery that was already underway.

We are here today because, in spite of some major changes in the last year, two things remain the same: First, our economy still needs a boost; second, our infrastructure is still suffering from two decades of disinvestment.

In the last few days, we have heard encouraging words from the Clinton administration, including that he likely will propose an economic investment package that will put needed additional funding into job-creating transportation programs.

I am encouraged by these announcements, and offer this bill today as guidance for carefully targeted investments in transportation can provide significant benefits, through job creation in the short term and by helping provide a base for continued economic growth in the future.

This morning, my Transportation Appropriations Subcommittee held a hearing to discuss the short- and long-term benefits of transportation investments. We heard from Tom Downs, commissioner of the New Jersey Department of Transportation, that my State has $200 million in highway and transit projects, on the shelf and ready-to-go, awaiting additional funding. According to a recent survey by the American Association of State Highway and Transportation Officials, there are some $8.5 billion worth of such projects across the country. Robert Georgine, president of the Building and Construction Trades of the AFL-CIO, told us that, throughout the country, there are thousands of skilled workers, waiting for a chance to work. And, Peter Wert of the Associated General Contractors explained that 50 percent of the construction resources in his association are now idle, and could be put to work.

Mr. President, it is time to move an economic investment package. This bill represents a sound means to start up our economy through productive investment in our transportation infrastructure.

But, we cannot be content with just this package. It should represent a down payment on a long-term commitment to meet the pressing infrastructure needs of this country. At a time when 65 percent of our roads and 39 percent of our bridges are in need of repair, we have to make the necessary investments in our basic systems. And, we need to expand our efforts in efficient and innovative programs, such as high-speed rail, and the intelligent vehicle-highway systems programs. As we also showed at today's hearing, investing in these programs provides not only the benefits of better transportation, but also can spur the development of new technologies and industries by enterprising American companies. Those new industries create jobs here at home, and open up export opportunities abroad.

To be competitive, and to promote growth in our economy, we need to invest more in our infrastructure. My proposal offers a sound means of beginning the job. I look forward to working with Secretary Pena and others in the coming days to promote more investment in our infrastructure, both long and short term.

I ask unanimous consent that the text of the START-UP Act of 1993 be printed in the RECORD.

S. 249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1993, and for other purposes, namely:

DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

To expedite the maintenance and repair of the Nation's highways and bridges, and to stimulate economic activity, $2,900,000,000, to remain available until expended, from the Highway Trust Fund: *Provided,* That such funds shall be distributed in accordance with the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240): *Provided further,* That such funds shall be exempt from any deduction under subsection (a) or (f) of section 104 of title 23, United States Code, and from any limitation on obligations for Federal-aid highways and highway safety construction projects: *Provided further*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $18,303,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1993: *Provided further*, That such funds shall be exempt from requirements for any non-Federal share otherwise required under title 23, United States Code: *Provided further*, That such funds shall be obligated by the States by not later than September 30, 1993.

FEDERAL TRANSIT ADMINISTRATION

To expand the capacity and efficiency of public transportation systems, expedite compliance with requirements under the Americans with Disabilities Act of 1990, the Clean Air Act Amendments of 1990, $1,400,000,000, to remain available until expended from the Mass Transit Account of the Highway Trust Fund: *Provided*, That such funds shall be distributed in accordance with the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240): *Provided further*, That such funds shall be exempt from requirements for non-Federal matching funds otherwise required under the Federal Transit Act: *Provided further*, That such funds shall be obligated by the States by not later than September 30, 1993.

FEDERAL AVIATION ADMINISTRATION

To expand capacity, improve safety and the efficiency of the national aviation system, $1,900,000,000, to remain available until expended from the Airport and Airway Trust Fund, for additional Airport Improvement Program grants-in-aid as authorized under section 14 of Public Law 91-258, as amended: *Provided*, That of the amount provided, $500,000,000 shall be obligated for projects at the discretion of the Administrator of the Federal Aviation Administration: *Provided further*, That of the amount provided, $400,000,000 shall be obligated for projects at the discretion of the Administrator of the Federal Aviation Administration for projects that enhance economic development at small hub and non-hub airports: *Provided further*, That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of $3,700,000,000 in fiscal year 1993 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982, as amended, of which not to exceed $198,173,199 shall be available for letters of intent issued prior to June 30, 1992: *Provided further*, That such funds shall be exempt from requirements for non-Federal matching funds otherwise required under section 14 of Public Law 91-258, as amended: *Provided further*, That such funds shall be obligated by not later than September 30, 1993.

FEDERAL RAILROAD ADMINISTRATION

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. et seq.) and the Rail Safety Improvement Act of 1988, an additional $220,000,000, to remain available until expended: *Provided*, That such funds shall be obligated by not later than September 30, 1993.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for capital improvements, an additional $320,000,000, to remain available until expended: *Provided*, That such funds shall be obligated by not later than September 30, 1993.

SEC. 2. SHORT TITLE.—This Act may be cited as the "Supplemental Transportation Appropriations Reinvestment to Upgrade Productivity (Start-Up) Act of 1993".•

By Mr. McCONNELL:

S. 250. A bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Red River in Kentucky as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

RED RIVER DESIGNATION ACT

• Mr. McCONNELL. Mr. President, I rise today to introduce legislation that will protect one of America's most unique and unspoiled rivers. Anyone who has ever visited eastern Kentucky can testify to its rich natural beauty. But the residents of Powell, Wolfe, and Menifee Counties have long known about a special river that could be called the crown jewel of Kentucky's Daniel Boone National Forest.

While it's not well known outside of my State, the Red River Gorge has been a source of pride for Kentuckians for generations. The gorge has rugged towering cliffs ascending from the edge of the Red River. Small streams rush down these steep cliffs to the river below. Taking millions of years to form, its cavernous overhangs make visitors take stock of the awesome hand of God, and the temporal nature of humans on this planet. The numerous natural bridges and the surrounding Clifty Wilderness have attracted outdoor enthusiasts from all over the Commonwealth.

The Red River provides recreational opportunities unique to the Eastern United States. Portions of the river have crashing white waters that would cause even the experienced canoeist to take pause. Stretches of softly flowing water roll through enormous rock formations that dwarf passing canoeists.

In addition to the gorge's irreplaceable geological value, the Red River is replete with a wide array of flora and fauna. The gorge has many ecological niches that provide ideal habitat for various species of birds, trees, shrubs, and flowers. Wildflowers are rampant throughout the area including blue violets, asters, foxgloves, and wild roses.

Native Americans discovered the gorge long before European settlers arrived in the New World. Rock shelters protected them from the elements and offered defense from hostile forces. During the Civil War, local residents mined nitrate from the gorge's jagged dens. The area was heavily logged near the turn of the century, but, slowly, it has grown back to its past rich mixture of trees. It wasn't until 1934 that the U.S. Forest Service began purchasing land around the gorge in what is now a part of the Daniel Boone National Forest.

Today, the river links cohesive rural communities comprised of small family farms that exist tranquilly with the spectacular natural beauty of the waterway. The area harkens back to a simpler time before the bustle and noise of sprawling urbanization drowned out the quiet simplicity of rural America.

But it was not always so tranquil. Back in 1954, when a dam was proposed to create a Red River Lake, many local residents rose up in strong opposition, and in favor of protecting the gorge.

Since then, plans to build the dam were delayed and have continued to spark controversy and grassroots opposition. By 1978, Congress called for a study of the river to be included in the National Wild and Scenic Rivers System, buying precious time for those who took up the cause of protecting the gorge. Finally, on January 7 of this year, after extensive study by the U.S. Forest Service, President Bush recommended that 19.4 miles of the Red River be designated as a national wild and scenic river to protect forever its unimpeded flow.

My bill will put to an end plans to flood the irreplaceable gorge, and will ensure the free-flowing condition of this unbridled waterway. By adding the Red River to the National Wild and Scenic Rivers System, hikers, campers, canoeists, and other outdoor enthusiasts will always be able to enjoy its rugged and awesome beauty.

Initially, I had reservations about adding the Red River to the National Wild and Scenic Rivers System. I was troubled that overzealous efforts to protect the river could preclude public enjoyment of this wonderful resource. I feared the local agricultural economy could be adversely affected if the river was indiscriminately locked up forever. I was also concerned that this Federal designation would violate the constitutional rights of private landowners by preventing use of land without full and fair compensation. Since these concerns have been allayed, I have decided to move ahead quickly for designation of the Red River as a national wild and scenic river.

Small family farms dot the landscape around the river. For years, the rural farming communities of Powell, Menifee, and Wolfe Counties have played a critical role in protecting the gorge. They must continue to be actively involved so that the intricate balance that has been achieved between protecting the river and maintaining a healthy rural economy will continue undisturbed.

The national wild and scenic designation for the Red River allows for the development of recreational facilities as a part of the environmentally responsible management of the overall river ecosystem. Ecotourism, as it is now called, is big business. Long-term protection of the Red River Gorge will provide a promising and sustainable economic future for the residents of the tricounty area. The potential for canoe excursions, guided tours, and interpretive centers will help support the local economy.

Under my legislation, affected landowners will be fully compensated for their holdings if they choose to sell to the Federal Government. Even though 64 percent of the land designated under my bill is already owned by the Federal Government, I felt the need to take extra precautions to protect the rights of private property owners.

While land along protected river corridors has been known to increase in value, the Wild and Scenic Rivers Act limits Federal acquisition of protected lands that could potentially leave private holdings unmarketable. My legislation specifically removes the limitations on Federal acquisitions under the act so that landowners may sell all of their holdings in the protected area to the Federal Government if they so desire.

It comes down to a question of balance. Balance is so often lacking in the debate on the important environmental and conservation issues facing our Nation. I believe my legislation achieves this balance, and will be in the best long-term interest of the gorge, the river, and the citizens of Wolfe, Menifee, and Powell Counties.

Mr. President, a diverse array of citizens and grassroots organizations support the designation of the Red River as a national wild and scenic river. This proposal has been endlessly studied and debated. With the President's enthusiastic recommendation in mind, I believe now is the time to protect the gorge and the river forever.•

By Mr. PELL:

S. 251. A bill to amend the Job Training Partnership Act to improve the Defense Conversion Adjustment Program, and for other purposes; to the Committee on Labor and Human Resources.

DEFENSE WORKER DISLOCATION ACT

Mr. PELL. Mr. President, today I am reintroducing a bill that I originally introduced in the 2d session of the 102d Congress aimed at helping dislocated defense workers.

I recently had the opportunity to discuss this issue with President Clinton's choice for Secretary of Labor, Robert Reich. I made it clear to Secretary Reich that in my view, the Clinton administration Department of Labor should place a high priority on meeting the unique needs of dislocated defense workers.

The end of the cold war is an event that all peaceful nations welcome, but this new era for America brings growing pains for a group of highly skilled workers employed by the U.S. defense industry.

My home State of Rhode Island is on the bowwave of easing the adjustment problems of dislocated defense workers. Rhode Island is one of two small States, the other being Connecticut, to absorb one of the first major post-cold-war defense procurement terminations—namely the cancellation of the *Seawolf* submarine program. The Electric Boat Division of General Dynamics, builder of the *Seawolf*, is the largest private sector employer of Rhode Island workers, who comprise about one-third the company's work force. Total Electric Boat employment, which stood until fairly recently at about 23,000, will drop to under 20,000 by the end of this year and continue to drop steadily to under 10,000 by 1996.

The workers who lose their jobs at Electric Boat are high-skill, high-wage workers who are faced with the almost impossible task of finding work that will pay a similar wage for similar skills. Secretary of Labor Reich demonstrated a keen grasp of this fundamental problem when I spoke to him about the bleak future of many Rhode Island Electric Boat workers. Secretary Reich also has been an advocate of the need to retrain the American work force so that working men and women can qualify for the high-wage, high-skill jobs of the future and it is through retraining that the Federal Government can best help dislocated defense workers.

The legislation I am reintroducing today will provide greater access to Federal job training resources for Federal workers. Specifically, my bill provides that dislocated defense workers not be held to the prevailing standards of eligibility of the Job Training Partnership Act [JTPA], which is basically geared toward serving structurally unemployed persons with low skills. As a nation, we need to expand or redirect the skills of dislocated workers. But I have been informed by officials in Rhode Island that as they interpret JTPA, they cannot provide training as authorized under the Defense Economic, Diversification, Conversion and Stabilization Act of 1990 without revision of the JTPA rules. This bill simply modifies the relevant statutes, at no cost, to let States use Federal resources in a manner which best serves the growing population of dislocated defense workers.

Mr. President, as I have suggested, the experience of the State of Rhode Island may have relevance far beyond its borders and I am hoping that this legislation could be helpful to all sections of the country and therefore acceptable to a majority of Congress.

I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 251

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Defense Worker Dislocation Act".

SEC. 2. RETRAINING.

(a) IN GENERAL.—Section 325(a) of the Job Training Partnership Act (29 U.S.C. 1662d(a)) is amended—

(1) in the first sentence, by striking "From the" and inserting "(1) From the";

(2) by inserting after the first sentence the following: "The Secretary may make the grants in any State in which the Governor has received a notification regarding a closure, cancellation, or reduction under section 4201(b) of the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990, and in which eligible employees have received a notification of warning from their employer regarding the closure, cancellation, or reduction."; and

(3) by striking the last sentence and inserting the following:

"(2) To be eligible to receive a grant, an entity referred to in paragraph (1) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including the date on which the entity anticipates that the eligible employees affected will lose employment, and information relating to the notifications described in paragraph (1).

"(3) The Secretary shall approve or deny the application not later than the later of—

"(A) 15 days after the date described in paragraph (2); or

"(b) 30 days after submission of the application.".

(b) USE OF FUNDS.—Section 325 of such Act is amended by striking subsection (c) and inserting the following new subsection:

"(c)(1) Grants under subsection (a) may be used—

"(A) to provide retraining, as described in section 314(d) or to update existing skills, with respect to an eligible employee described in subsection (f)(3)(A); and

"(B) notwithstanding any other provision of this Act, to pay for the Federal share of providing such retraining with respect to an employee of eligible defense contractors or eligible defense subcontractors if—

"(i) the employee is currently involved in defense work;

"(ii) the retraining is designed to enable the employee achieve placement and retention in unsubsidized employment that involves nondefense work and in which the employee has not previously been substantially engaged; and

"(iii) the employer certifies that the employee would have become an eligible employee described in subsection (f)(3)(A), without the retraining.

"(2) The Federal share of providing the retraining described in paragraph (1)(B) shall be 75 percent.".

(c) ADMINISTRATION.—Section 325 of such Act is amended by—

(1) redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1)(A) Not later than 15 days after the approval of an application of an entity under subsection (a)(3), the Secretary shall make available to the entity 50 percent of the amount of the grant.

"(B) On submission of the report described in subparagraph (C), the Secretary shall make available to the entity the remainder of the grant.

"(C) Each recipient of a grant under this section shall prepare and submit to the Secretary a report containing such information as the Secretary may require regarding eligible employees participating in the program, and the current education skill levels and occupational abilities of the employees.

"(D) Grants made under this section may be used to reimburse an entity for funds expended under another provision of this title for the purposes described in subsection (c).

"(E) Grants made under this section to an entity shall be in addition to assistance under any other provision of this title, and shall be made without regard to whether the entity has expended funds available under such provision.

"(2)(A) For purposes of the requirements of title I, and in particular of section 141(a), an eligible employee shall be deemed to be a person who can benefit from, and is most in need of, services provided under this section.

"(B) Notwithstanding any other provision of this Act, in prescribing performance standards under section 106 of this section, the Secretary shall prescribe standards solely based on placement and retention in unsubsidized employment. Services provided to eligible employees under this section consistent with individual readjustment plans shall be presumed to be in compliance with such standards unless any person demonstrates that the services are not in compliance.".

(d) DEFINITIONS.—Section 325 of such Act is amended by adding at the end the following new subsection:

"(f) For purposes of this section:

"(1) The term 'eligible defense contractor' means a person that is—

"(A) awarded a contract by the Department of Defense; and

"(B) affected by a notification issued under section 4201(b) of the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990.

"(2) The term 'eligible defense subcontractor' means a subcontractor—

"(A) for a person awarded a contract by the Department of Defense;

"(B) that is affected by such a notification; and

"(C) that is certified by a State agency described in section 3306(e) of the Internal Revenue Code of 1986.

"(3) The term 'eligible employee' means—

"(A) an eligible dislocated worker, including such a worker of an eligible defense contractor or eligible defense subcontractor, who has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of reductions in expenditures by the United States for defense or by closures of United States military facilities, as determined in accordance with regulations of the Secretary; and

"(B) an employee described in subsection (c)(1)(B).

"(4) The term 'employer' includes an eligible defense contractor and an eligible defense subcontractor.".

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 252. A bill to provide for certain land exchanges in the State of Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

IDAHO LAND EXCHANGE ACT OF 1993

Mr. CRAIG. Mr. President, during the 102d Congress I introduced S. 1893, the Idaho Land Exchange Act of 1991. This bill had many supporters. Unfortunately, the 102d Congress adjourned before this bill could be passed by Congress. I am very pleased to introduce this legislation again today with my colleague from Idaho, Senator DIRK KEMPTHORNE.

The Idaho Land Exchange Act of 1993 will facilitate the exchange of lands between the Forest Service—USDA and the University of Idaho in Bonner County, and the Forest Service—USDA and the State of Idaho in Freemont County.

In Bonner County, the University of Idaho will gain ownership of the 35.27-acre Clark Fork Field Campus from the Kaniksu National Forest in exchange for 40 acres of university-owned property.

The Clark Fork Field Campus is the site of an old ranger station abandoned by the Forest Service in 1974. The buildings deteriorated into a state of disrepair. In 1980 the Forest Service was at a point of razing the buildings and reverting the site to forest. The University came forward with a proposal to rehabilitate the buildings and grounds, and to use them as a research and continuing education facility. The Forest Service granted this use under a Granger-Thye permit which is still in effect. Since 1980, the University has invested more than $200,000 in maintenance and capital investment to bring the site back to a condition superior to its condition when abandoned in 1974. The University's programs at this campus have proven popular and have been quite successful. There has been strong support from the local community.

This legislation enables the exchange by requiring that only land value be considered when equalizing the value of the exchanged tracts. The value of the buildings and improvements, which accrue to the Forest Service under the conditions of the permit, will not be considered in the appraisal. In other words, this bill recognizes that the current value of the buildings and improvements is the direct result of expenditures by the University, which should not be required to pay for them a second time. An exchange is desirable because the University wishes to make further improvements and expand its programs at Clark Fork, but is unwilling to do so if title remains with the Forest Service. That is understandable. Years of discussion between the Forest Service and the University have failed to find a method to effect the exchange which does not unduly penalize the University. Consequently, I have decided to again offer this.

All other procedures normally required by law or regulation to implement a land exchange will be carried out as usual. This legislation will expand the national forest proclamation boundary to include the 40 acre tract to be exchanged by the University.

The bill also facilitates exchanges between the Targhee National Forest and the State of Idaho in Freemont County by expanding the proclamation boundary of the national forest. No private lands are included in the expansion—only lands of the Idaho Department of Parks and Recreation.

By Mr. CRAIG (for himself, Mr. PRYOR, and Mr. ROTH):

S. 253. A bill to authorize the garnishment of Federal employees' pay, and for other purposes; to the Committee on Governmental Affairs.

GARNISHMENT EQUALIZATION ACT

Mr. CRAIG. Mr. President, last year the Senate passed the Garnishment Equalization Act—a bill allowing garnishment of Federal employees' wages to pay their just debts. Unfortunately, the House did not complete its work on the bill before the 102d Congress adjourned in October.

Today, I am reintroducing that legislation on behalf of myself and Senators PRYOR and ROTH—each of whom played an important role last year in moving the bill through the Senate. I am confident that we will indeed see this bill enacted during the 103d Congress.

Why am I so confident? Because this legislation makes good sense, it is fair, it is workable, and it will help both Federal employees and American business.

People should pay their bills. This is an ethic most Americans accept and live by, and the premise that underlies our credit system. It is also the commonsense understanding behind legal remedies, including garnishment, that creditors can use against those who do not pay their bills.

The Garnishment Equalization Act simply ensures that the remedy of garnishment applies equally to all debtors, regardless of who employs them. It would plug the current hole that allows Federal employment to be used as a shield against garnishment.

We know this reform is workable, because it's already working in a couple of sectors of the Federal Government for some debts, and across the Federal workforce for child support payments and alimony. You might say we've had a pilot program working for years—and since the limited program has proven to be effective, it's appropriate for Congress to move to the next logical step and pass this more extensive reform measure.

I would like to add that the potential effectiveness of this bill was significantly improved in the last Congress by the work of the Senate Committee on Governmental Affairs, and especially its Subcommittee on Federal Services, Post Office and Civil Service. Chairman PRYOR, Senator STEVENS, Senator ROTH, and their staffs are to be commended for their meticulous attention to detail, and also for working in a constructive, bipartisan fashion with the Office of Personnel Management in crafting positive revisions to the bill. As a result of their efforts, the bill passed by the Senate last year—the bill I am reintroducing today—is a truly workable, comprehensive reform.

Surely no one would question the fairness of this reform. It cannot be seriously argued that a particular group of workers should be insulated from paying debts that were freely incurred. Federal workers themselves do not make that argument; indeed, they are strong proponents of applying equal treatment to private and public sector employees.

Furthermore, the Garnishment Equalization Act will help the large proportion of the Federal workforce who are honest and conscientious and do pay their bills. Because of the current law, anyone who does business with a Federal employee has to worry about taking a loss if the Federal employee defaults and fails to make payments. Knowing garnishment is unavailable against a defaulting Federal employee could influence a lender to withhold approval of loans for such employees. By extending the remedy of garnishment, this legislation may help prevent a credit crunch for creditworthy Federal employees.

Although there are relatively few Federal workers who have taken advantage of their employment status to avoid paying their debts, those few have amassed a surprisingly large amount of debt. Estimates vary, but one well-supported economic study concluded that American business writes off more than $1.2 billion annually in Federal employee bad debts—which translates to a loss of some $300 million in Federal tax revenue.

President Clinton made economic revitalization a centerpiece of his campaign and his Presidency. There's a lot of talk around Washington and across the country about how we can give our economy a quick shot in the arm. Well, according to the small businesspeople who have been calling my office regularly to check on this legislation, one of the best things we can do is to give them this ability to collect outstanding moneys owed to them.

That's probably why this reform effort has won the support of thousands of local, State, and national organizations and businesses, including the Coalition of Higher Education Assistance Organizations, the National Federation of Independent Businesses [NFIB], and the U.S. Chamber of Commerce.

In sum, Mr. President, this is a needed change that will eliminate discriminatory treatment of an entire class of Americans. The legislation is just, it is workable, and it will be effective. I hope my colleagues will join me in cosponsoring this bill, and I look forward to its consideration and passage by the Senate.

By Mr. JOHNSTON (for himself and Mr. KRUEGER):

S. 254. A bill to amend the Internal Revenue Code of 1986 to impose a fee on the importation of crude oil or refined petroleum products; to the Committee on Finance.

ENERGY SECURITY TAX ACT

Mr. JOHNSTON. Mr. President, today I join with my colleague on the Energy Committee, Senator BOB KRUEGER, in introducing the Energy Security Tax Act to establish a variable fee on crude oil imports. The fee would be phased in whenever the price of internationally traded oil drops below $25 per barrel and would equal the difference between $25 and the existing world market price.

The bill provides an additional differential of $2.50 per barrel for product imports and petrochemical feedstock which would, in effect, create a floor price of $27.50 for those refined products and feedstock.

We have heard much discussion this week about the subject of energy taxes. Some argue that any such tax should be structured to raise revenue and reduce the deficit. Others say the primary objective of an energy tax should be to encourage conservation. Still others maintain that our goal should be to promote domestic energy production, reduce our growing reliance on imported crude oil, and stem the enormous transfer of our wealth and jobs from the United States on foreign countries.

The legislation we propose would accomplish all of those objectives. Based on the price path projected by the Energy Information Administration, that is, crude oil prices increasing to $23 per barrel by the year 2000, the fee we are proposing would raise an estimated $35 billion in new revenue for the Federal Treasury over the next 3 years.

By the year 2000, it would reduce domestic oil consumption by roughly 200,000 barrels per day. It would increase domestic oil production on the order of 300,000 barrels per day. And it would reduce oil imports by an estimated 500,000 barrels per day.

Mr. President, our domestic oil industry is in serious trouble. Hundreds of thousands of jobs have been lost, more jobs than in any other sector of the economy including the automobile industry. Exploration budgets have been slashed. Local economies have been devastated.

Last year was the worst year on record for oil and gas drilling in the United States in modern times. According to Baker Hughes, Inc., in 1992 there was an average of 721 active rigs, down almost 140 rigs from the 1991 average. The rig count in the Outer Continental Shelf in the Gulf of Mexico hit its modern low point last year, and it is still on the way down.

Most recently, the Gulf of Mexico has experienced the two worst Federal OCS lease sales in history.

This translates into lost jobs. Petroleum industry jobs have dropped by over 450,000—that's nearly 22 percent—in the past decade. The recession that has plagued our economy has perhaps hit the oil patch as we call it, hardest of all.

This situation has grave implications for our national energy security as well as our national security. We are still overly dependent on oil imports from the Middle East.

Last year, total imports as a percent of domestic deliveries amounted to 46.2 percent, up from the 1991 level of 45.6 percent.

While enactment last year by the Congress of the Energy Policy Act makes significant strides in addressing this problem, such as providing relief for independent producers from the alternative minimum tax, we can and we must do more.

Last year, domestic production continued its long decline. According to the American Petroleum Institute, domestic production fell to 7.132 million barrels per day in 1992, down 3.8 percent from 1991 levels. At the same time, our consumption of oil increased by 1.6 percent, to 16.985 million barrels per day.

The legislation that I am introducing today will help to address this situation. An oil import fee designed to maintain a reasonable floor price for oil would give assurance to those who would drill for oil, and those who would lend them money to drill, that there will be some downside protection against lower oil prices.

Price instability has created a difficult environment for the domestic industry. For example, oil prices hit a low of $10 in 1986, and soared to over $40 on October 9, 1990. There is a widely perceived fear in the oil patch that prices will gyrate back down to very low levels, perhaps as low as single digit. Our domestic oil industry needs certainty and predictability in order to be viable.

Unfortunately, Saddam Hussein has made tragically clear the importance of oil to our national security. However, we have the means to preserve the domestic oil industry and to assure that our vital industry and to assure that our vital interests are not again endangered by reliance on oil from the Middle East.

We must act, and we must act now. I believe one of the most effective remedies is an oil import fee, such as that which Senator KRUEGER and I provide for by the bill we are introducing today. The legislation would yield secure domestic supplies of oil, jobs for our workers here at home, and much needed revenues to reduce the Federal deficit.

Mr. President, I urge my colleagues to join in cosponsoring this legislation. I ask unanimous consent that the text of the bill appear at this point in the RECORD. I send this bill to the desk on behalf of myself and Senator KRUEGER at this time.

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

Mr. JOHNSTON. I thank the Chair.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Energy Security Tax Act".

SEC. 2. FEE ON IMPORTED CRUDE OIL OR REFINED PETROLEUM PRODUCTS.

(a) IN GENERAL.—Subtitle E of the Internal Revenue Code of 1986 (relating to alcohol, tobacco, and certain other excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 55—IMPORTED CRUDE OIL, REFINED PETROLEUM PRODUCTS, AND PETROCHEMICAL FEEDSTOCKS OR DERIVATIVES

"Sec. 5886. Imposition of tax.
"Sec. 5887. Definitions.
"Sec. 5888. Registration.
"Sec. 5889. Procedures; returns; penalties.
"Sec. 5889. Adjustment for inflation.

"SEC. 5886. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—In addition to any other tax imposed under this title, an excise tax is hereby imposed on—

"(1) the first sale within the United States of—

"(A) any crude oil,

"(B) any refined petroleum product, or

"(C) any petrochemical feedstock or petrochemical derivative,

that has been imported into the United States, and

"(2) the use within the United States of—

"(A) any crude oil,

"(B) any refined petroleum product, or

"(C) any petrochemical feedstock or petrochemical derivative, that has been imported into the United States if no tax has been imposed with respect to such crude oil or refined petroleum product prior to such use.

"(b) RATE OF TAX.—

"(1) CRUDE OIL.—For purposes of paragraphs (1)(A) and (2)(A) of subsection (a) the rate of tax shall be the excess, if any, of—

"(A) $25 per barrel, over

"(B) the most recently published average price of a barrel of internationally traded oil.

"(2) REFINED PETROLEUM PRODUCT.—For purposes of paragraphs (1)(B) and (2)(B) of subsection (a), the rate of tax shall be the excess, if any, of—

"(A) $27.50 per barrel, over

"(B) the most recently published average price of a barrel of internationally traded oil.

"(3) PETROCHEMICAL FEEDSTOCK OR PETROCHEMICAL DERIVATIVE.—For purposes of paragraphs (1)(C) and (2)(C) of subsection (a), the rate of tax shall be equal to the rate of tax determined under paragraph (2) of this subsection, except that 'barrel equivalent of crude oil feedstocks used in the manufacture of such petrochemical feedstocks or petrochemical derivative' shall be substituted for 'barrel' in paragraph (2)(A) of this subsection.

"(4) FRACTIONAL PARTS OF BARRELS.—In the case of a fraction of a barrel, the tax imposed by subsection (a) shall be the same fraction of the amount of such tax imposed on the whole barrel.

"(c) DETERMINATION OF AVERAGE PRICE.—

"(1) IN GENERAL.—For purposes of this section, the average price of internationally traded oil with respect to any week during which the tax under subsection (a) is imposed shall be determined by the Secretary and published in the Federal Register on the first day of such week.

"(2) BASIS OF DETERMINATION.—For purposes of paragraph (1), the Secretary, after consultation with the Administrator of the Energy Information Administration of the Department of Energy, shall determine the average price of internationally traded oil for the preceding 4 weeks, pursuant to the formula for determining such international price as is used in publishing the Weekly Petroleum Status Report and as is in effect on the date of enactment of this section.

"(d) LIABILITY FOR PAYMENT OF TAX.—

"(1) SALES.—The taxes imposed by subsection (a)(1) shall be paid by the first person who sells the crude oil, refined petroleum product, petrochemical feedstock, or petrochemical derivative within the United States.

"(2) USE.—The taxes imposed by subsection (a)(2) shall be paid by the person who uses the crude oil, refined petroleum product, petrochemical feedstock, or petrochemical derivative.

"SEC. 5887. DEFINITIONS.

"For purposes of this chapter—

"(1) CRUDE OIL.—The term 'crude oil' means crude oil other than crude oil produced from a well located in the United States or a possession of the United States.

"(2) BARREL.—The term 'barrel' means 42 United States gallons.

"(3) REFINED PETROLEUM PRODUCT.—The term 'refined petroleum product' shall have the same meaning given to such term by section 3(5) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 752(5)).

"(4) EXPORT.—The terms 'export' and 'exported' include shipment to a possession of the United States.

"SEC. 5888. REGISTRATION.

"Every person subject to tax under section 5886 shall, before incurring any liability for tax under such section, register with the Secretary.

"SEC. 5889. PROCEDURES; RETURNS; PENALTIES.

"For purposes of this title, any reference to the tax imposed by section 5886 shall be treated, except to the extent provided by the Secretary by regulation where such treatment would be inappropriate, in the same manner as the tax imposed by section 4986 was treated immediately before its repeal by the Omnibus Trade and Competitiveness Act of 1988.

"SEC. 5890. ADJUSTMENT FOR INFLATION.

The $25.000 per barrel price referred to in section 5886(b)(1) and the $27.50 per barrel price referred to in section 5886(b)(2) shall be changed during any calendar year after 1993 by the percentage if any by which the Consumer Price Index changed during the preceding calendar year, as defined in section (1)(f)(4) of title 26 of the United States Code."

(b) CONFORMING AMENDMENT.—The table of chapters for subtitle E is amended by adding at the end thereof the following new item:

"CHAPTER 55. Imported crude oil, refined petroleum products, and petrochemical feedstocks or derivatives.".

(c) DEDUCTIBILITY OF IMPORTED OIL TAX.—The first sentence of section 164(a) (relating to deductions for taxes) is amended by inserting after paragraph (5) the following new paragraph:

"(6) The imported oil taxes imposed by section 5886.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to sales and uses of imported crude oil, imported refined petroleum products, petrochemical feedstocks, or petrochemical derivatives on or after the date of enactment of this Act.

Mr. KRUEGER. Mr. President, I am very pleased to be able to join my distinguished chairman of the Senate Energy Committee in offering this legislation to establish a floor price for oil. This is legislation that is not designed from parochial interests. It is designed to address national concerns. Everyday we are sending overseas $150 million to buy foreign oil. In any city in this country, if a new business was begun that brought $150 million worth of investment, it would be front-page news anywhere, and that is the amount of money we are sending overseas everyday. But it is not for investment. It is simply for daily oil consumption.

This dependence on foreign oil comes from a variety of causes. A principal cause is the uncertainty in oil prices. Within a year's time, we have seen oil prices on one occasion go from $36 or $37 a barrel to $10 a barrel. Imagine the impact on the auto industry if automobiles were to go from $36,000 to $10,000 within the same year. Obviously, that kind of extraordinary variation would simply decimate and devastate the industries that are providing this product.

If we establish a floor price for oil, what we are doing is establishing energy security, energy security that in turn contributes immediately to our military security.

We are all well aware why we have troops in the Middle East. It is not because the nations there are committed to the notion of government of, by, and for the people. The Emir of Kuwait is not a notable proponent of democracy. We have troops there because our dependence on foreign oil has made it in our strategic national interest to see to it that the world continue to receive a flow of oil from the Middle East. That obviously has its immediate impact on us as well.

As the distinguished chairman of the Energy Committee has indicated, the job loss in the energy industry over the past decade has been extraordinary. In excess of 400,000 jobs have been lost in the oil and gas industry over a decade, a number exceeding the number of jobs lost in textiles, coal and steel combined. Many of those are jobs that could come back to this country if we had a floor price for oil, because then we would have the stability that would encourage domestic exploration and drilling. It is that search for the recovery of our own resources rather than to search for them overseas that will keep our jobs and our capital at home.

As is probably fairly well known, currently we import almost 50 percent of our oil from foreign sources. If we are able to search for oil here, we will at the same time find natural gas in the process; and that, in turn, will contribute to the additional supplies which we require for the expanding use of natural gas which our clean air legislation is going to encourage.

So from a whole variety of standpoints, it simply makes sense for the Nation to establish a floor price for oil. Any taxes imposed will provide funds for deficit reduction, will lessen our dependence on foreign oil. A floor price undoubtedly will create U.S. jobs, will increase investment in America, will encourage the use of clean burning alternatives to oil, and will help America restore its competitive edge.

It may seem simplistic economics, but it seems to me that if we put a piece of steel down in the ground and draw up mineral reserves that were not there before, we are creating new wealth in a way that wealth is not created if we simply pass from one place to another pieces of paper as exists in the stock market and exists in purely financial transactions. When we can begin by building jobs at the very base of our economic pyramid, then those jobs are, in turn, created all the way through our economy.

In short, the creation of jobs in our principal industries, whether they be related to coal, oil or gas, has an immediate effect on job creation in the remainder of our society. It enhances our military security. It enhances our economic security. It is a win-win situation for this country, and I am extremely pleased to be able to introduce this legislation with my distinguished chairman.

Mr. President, if we will allow stability in the oil patch, we will be encouraging domestic exploration and drilling in a way that nothing else will.

I will draw to a conclusion promptly, but let me simply mention that with stable oil prices, the independent oil producers can go to their bankers. And if they have oil in the ground which they wish to put up as collateral, the bankers will know the value of that oil in the ground because the U.S. Government has defined the value of that oil as collateral. That will give the necessary funds for expansion of exploration and drilling.

Over a decade ago, there were some 4,500 rigs in this country. We dropped to a low of 650. We are now in the 700's. That is a tremendous loss not only in jobs but it is also a loss in an area where the United States still has technological leadership. The United States has lost technological leadership in many areas of our society. Here is an area where we still have it. But if we decimate our domestic drilling industry, we really are depriving ourselves of a technological lead which we currently enjoy.

The number of students studying petroleum and geology at the University of Texas in Austin and Texas A&M is only one-fifth today of what it was a decade ago. We are depriving this Nation of the very scientific community that will be necessary to develop our oil reserves in the future.

I join my distinguished chairman in encouraging other Members of this body to support this legislation, and I thank the Chair.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. KRUEGER. Certainly.

Mr. JOHNSTON. Mr. President, I believe this is the Senator's maiden speech on the floor of the Senate; am I correct?

Mr. KRUEGER. The Senator is absolutely correct.

Mr. JOHNSTON. Mr. President, I want to commend the Senator for what I think was a very thoughtful and incisive and articulate statement of the problem.

We are very lucky on the Energy Committee to have Senator KRUEGER from Texas joining us.

I also see Senator BEN NIGHTHORSE CAMPBELL from Colorado on the floor. We are also very pleased to have his services. Our committee has been greatly enhanced by the presence of both of these Senators, but I particularly want to congratulate Senator KRUEGER for his statement and I look forward to many, many years of distinguished service from Senator KRUEGER. We served together on a conference committee some years ago when he was in the House and I in the Senate. He represented his State very well, and he represented the House very well at that time. We are very glad to have him on the Energy Committee and in this body. He will add immensely to it because of his background and because of the incisiveness of his mental faculties; because of his education. I do not know whether my colleagues know but in his previous incarnation he was a Shakespearean scholar at Duke University, and we can use some people in this body who can help correct our syntax and join the distinguished occupant of the Chair in his knowledge of history and Shakespeare. I look forward to the conversations between the distinguished President pro tempore and the Senator from Texas in enlightening Members of the Senate on some very interesting matters which I am sure, as the days unfold, we will hear.

So my hat is off to the distinguished Senator from Texas for his maiden speech, and we welcome him to the Senate and to the Energy Committee.

Mr. KRUEGER. I thank my chairman very much. I had not planned to quote any Shakespeare, but now that he has mentioned this hidden aspect of my past, I will say the words that come to me, and they are probably not quite accurate but something like "if it be now, 'tis not to come; if it be not to come, it will be now; if it be not now, yet it will come: the readiness is all." I would like to think the Nation is ready for this legislation.

I thank the Chair.

By Mr. CAMPBELL:

S. 255. A bill to establish the Commission on Executive Organization; to the Committee on Governmental Affairs.

COMMISSION ON EXECUTIVE ORGANIZATION ACT

Mr. CAMPBELL. Mr. President, I am introducing legislation today that would aid in constructively tackling the problem of Government spending by restructuring the executive branch. This bill was introduced in the last Congress by then-Representative Leon Panetta as an attempt to review and reform our Government processes.

We have all heard the loud calls for change this past year, and one of the loudest calls by the public has been to reform our Federal bureaucracy. According to the latest GAO report, Federal agencies waste billions of American tax dollars every year as a result of financial mismanagement. Duplication of services offered by Federal agencies, for example, is a problem that many citizens encounter, and this frequently results in confusion, inefficiency, and, at times, inaction.

This bill would establish a commission that would examine and then propose the most effective and least disruptive way to decrease the executive branch to not more than eight departments. The Departments of State, Treasury, Justice, and Defense would all remain intact. The seven-member commission would be made up of the Secretary of State, Secretary of the Treasury, Attorney General, Secretary of Defense, OMB Director, and two members appointed by the President.

This commission would also recommend to the President reforms aimed at reorganizing and streamlining independent agencies, Government corporations and Government-sponsored enterprises for those that do not meet a standard set of criteria determined by the commission. In addition, the commission would look at Federal processes that can be more efficiently performed at the State or local level or by the private sector, as well as aim to improve the effectiveness of Presidential oversight of executive agencies. Finally, the commission would be directed to come up with a proposal on how to reduce the number of Federal employees by 5 percent within 5 years after the act becomes law.

All of the commission's recommendations would be outlined in a report to the President within 6 months after the group is formed. The President would then issue an Executive order implementing the recommendations under his control and then issue a report to Congress containing the recommendations that require legislative action. The commission would cease to exist within 30 days after its final report is issued.

The time to change the way Government operates is long overdue. This act is one step in restoring the public's faith in our system by streamlining and restructuring our Federal bureaucracy. I urge my colleagues to join me in this effort by cosponsoring this bill.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 255

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commission on Executive Organization Act".

SEC. 2. ESTABLISHMENT.

There is established a commission to be know as the "Commission on Executive Organization" (hereinafter in this Act referred to as the "Commission").

SEC. 3. FUNCTIONS OF COMMISSION; REPORT; IMPLEMENTATION OF RECOMMENDATIONS.

(a) FUNCTIONS.—The Commission shall examine and make recommendations with respect to an effective and practicable organization of the executive branch of the Federal Government, including recommendations regarding—

(1) criteria for use by the President and the Congress in evaluating proposals for changes in the structure of the executive branch of the Federal Government, including criteria for use by the President and the Congress in evaluating and overseeing Government-sponsored enterprises, Government corporations, and independent agencies;

(2) the organization of the executive branch into not more than 8 departments, which shall include the Department of State, the Department of the Treasury, the Department of Justice, and the Department of Defense;

(3) the reorganization of independent agencies and Government corporations;

(4) the most effective and practicable structure of the Executive Office of the President for conducting oversight of the executive branch, and criteria for use by such Office in evaluating and overseeing the performance of the executive branch; and

(5) functions being performed by Federal Government agencies as of the effective date of this Act that should be performed by State or local agencies or by the private sector.

The Commission shall seek to reduce the total number of individuals employed by the Federal Government by 5 percent within 5 years after the effective date of this Act.

(b) REPORT.—The Commission, by not later than 6 months after the completion of appointment of the members of the Commission, shall submit a report to the President which contains a detailed statement of—

(1) its recommendations under subsection (a); and

(2) legislative changes necessary to implement such recommendations.

(c) IMPLEMENTATION OF RECOMMENDATIONS.—

(1) EXECUTIVE ORDER.—The President, by as soon as practicable after the date of the receipt by the President of the Commission report under subsection (b), shall issue an Executive order which implements the recommendations made in the report.

(2) REPORT TO CONGRESS..—The President, by not later than the date the President issues an Executive order under paragraph (1), shall transmit to the Congress a report containing the recommendations for legislation submitted by the Commission under subsection (b)(2).

SEC. 4. MEMBERSHIP OF COMMISSION.

(a) IN GENERAL.—The Commission shall consist of 7 members, as follows:

(1) The Secretary of State.

(2) The Secretary of the Treasury.

(3) The Attorney General of the United States.

(4) The Secretary of Defense.

(5) The Director of the Office of Management and Budget.

(6) 2 members appointed by the President from among other officials in the executive branch of the Federal Government.

(b) COMPLETION OF APPOINTMENTS.—The President, by not later than 30 days after the effective date of this Act, shall complete appointment of members of the Commission pursuant to subsection (a)(6) and identify those appointees to the Congress.

(c) CHAIRMAN.—The President shall designate a member of the Commission to be its Chairman.

SEC. 5. RESTRICTION ON PAY, ALLOWANCES, AND BENEFITS.

A member of the Commission shall receive no pay, allowances, or benefits by reason of his or her service on the Commission.

SEC. 6. POWERS OF COMMISSION.

(a) MEETINGS.—The Commission may, for the purpose of carrying out this section, hold such hearings and sit and act at such times and places, as the Commission considers appropriate.

(b) RULES.—The Commission may adopt such rules as may be necessary to establish procedures and to govern the manner of the operation, organization, and personnel of the Commission.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) INFORMATION.—The Commission may request from the head of any department, agency, or other instrumentality of the Federal Government such information as the Commission may require for the purpose of carrying out this Act. The head of such department, agency, or instrumentality shall, to the extent otherwise permitted by law, furnish such information to the Commission upon request made by the Chairman.

(2) FACILITIES, SERVICES, AND PERSONNEL.—Upon request of the Chairman of the Commission, the head of any department, agency, or other instrumentality of the Federal Government shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such department, agency, or instrumentality available to the Commission; and

(B) detail any of the personnel of such department, agency, or instrumentality to the Commission, on a non reimbursable basis, to assist the Commission in carrying out the duties of the Commission under this Act.

(d) MAILS.— The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government.

(e) CONTRACTS FOR RESEARCH AND SURVEYS.—The Commission may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge the duties of the Commission under this Act.

(f) EXECUTIVE DIRECTOR AND STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission may appoint, terminate, and fix the pay of an Executive Director and of such additional staff as the Chairman considers appropriate to assist the Commission. The Chairman may fix the pay of personnel appointed under this subsection without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code (relating to the number or classification of employees and to rates of pay), the provisions of such title governing appointments in the competitive service, and any other similar provision of law; except that no rate of pay fixed under this subsection may exceed a rate equal to the maximum rate of pay payable for a position above GS-15 of the General Schedule under section 5108 of such title.

SEC. 7. APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.

The Commission shall be an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 8. TERMINATION OF COMMISSION.

The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits the report required under section 3(b).

SEC. 9. PREPARATION FOR THE COMMISSION.

Not later than 90 days after the effective date of this Act, the Comptroller General of the United States, the Director of the Congressional Research Service, the Director of the Congressional Budget Office, and the Director of the Office of Technology Assessment shall each submit to the Commission an index to, and synopses of, materials on executive organization that such official considers useful to the Commission. Subject to laws governing the disclosure of classified or otherwise restricted information, such materials may include reports, analyses, recommendations, and results of research of such organizations.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission not more than $1,500,000 for carrying out this Act.

SEC. 11. EFFECTIVE DATE.

This Act shall take effect on February 1, 1994.

By Mr. HARKIN:

S. 256. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to allow Medicare administrative funding to combat waste, fraud, and abuse, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has 30 days to report or be discharged.

MEDICARE PROGRAM PROTECTION ACT OF 1993

• Mr. HARKIN. Mr. President, today I am reintroducing the Medicare Program Protection Act of 1993. The legislation, if enacted, would protect the Medicare Program from billions of dollars now lost to overpayment, fraud, and abuse. This legislation, if adopted, would save an estimated $2 billion in its first full year of operation.

Mr. President, this is an issue that I have been following for some time in my capacity as chairman of the Labor, Health and Human Services, and Education Appropriations Subcommittee. The very first hearing I held as chairman of the subcommittee in February 1989 was on this issue.

This is now the second time that I have introduced this proposal. Last year, these provisions were approved by Congress as part of a larger bill, H.R. 11, which President Bush pocket-vetoed within days after the 1992 elections. In my view, this was a particularly shortsighted and unfortunate veto and one which has set back the effort to rid Medicare of wasteful and improper spending. That is why I am reintroducing my proposal again today. I want to send a clear message that this new Congress will work with our new President and we will get a grip on soaring health costs and we will start where we should, by putting a lid on overpayments and waste.

Mr. President, we need to make sure that every Medicare dollar is spent prudently and properly. At a time when the Federal budget deficit is setting new records in red ink, it has never been more important to American taxpayers that health care spending be brought under control.

Just this month, the General Accounting Office sounded another warning about widespread and persistent problems in the management of the Medicare Program. The GAO reported that Medicare is losing billions of dollars in improper spending largely because of loose management practices and because firm oversight of the Nation's largest health care program has not been a high enough priority.

My proposal is based on the remedies recommended to Congress by GAO and would recognize that Medicare's management resources need to keep pace with the rapid rate of growth in Medicare spending.

As the Members know, the Medicare Program is managed by over 60 different contractors, which are responsible for paying Medicare's 700 million claims on time and accurately. These contracts are funded by an appropriation which in 1993 totaled $1.6 billion, less than 1.5 percent of the total Medicare budget. Included within this line item for Medicare contractors is an amount of $395 million which supports the efforts to ensure that Medicare claims are audited and that improper payments are prevented.

Even though these payments enforcement activities save $13 for every $1 spent, the Bush administration never allocated sufficient resources to these programs. This is because the need to process claims quickly and make payments on time always has taken priority over the more difficult and important job of making sure that claims were paid accurately and that abusive practices are prevented.

During the 4-year period of the Bush administration, total Medicare spending increased by nearly $50 billion while funding for enforcement increased less than $25 million. That is the root of the problem. Medicare payments are soaring while the front end of the problem which ensures payment integrity has remained nearly static.

In the spring of 1989, I had discussions with Senator SASSER, chairman of the Senate Budget Committee and with Richard Darman, Director of the Office of Management and Budget. In these discussions, I tried to reach agreement on excusing funds spent on audit activities in the Medicare Program from budget ceilings. The precedent for doing that was included in previous omnibus budget reconciliation bills when the Finance Committee was given credit for directing increased appropriations for this audit activity. So, in other words, the Finance Committee received spending relief by directing discretionary spending to be made by transfers from the trust fund to the audit activities of Medicare. This relief had been given to the Finance Committee. Chairman SASSER and OMB Director Dick Darman, while sympathetic to my arguments, were unable to provide my Appropriations Subcommittee with similar relief.

Mr. President, in the Budget Enforcement Act of 1990, another precedent for what I am now proposing was adopted into law. Included in that act was authority for the IRS to spend up to specified amounts in each of 5 years on audit activities without these additional appropriations being scored against budget ceilings. The logic of this provision is that these additional expenditures will produce collections or revenues for the Government well in excess of the actual amount spent. The logic of this provision is that to unnecessarily inhibit spending on these audit activities is counterproductive to our efforts to reduce the deficit.

Mr. President, the bill I am introducing today is based on exactly the same logic that supports increased funding for IRS audit activity.

The Medicare Protection Act of 1993 will encourage, for each year, starting with fiscal year 1993, through fiscal year 1995, audit activities of the Medicare contractors appropriation to be set at a level of 11.6 percent over the previous year's level. This increased amount over the freeze level would not count against the budget ceilings. These increases in audit activity will permit substantial savings each year.

It is my view that these audit activities should at least keep up with the increased growth rate in claims if we are to have adequate protection for taxpayer dollars. The 11.6-percent allowable growth is included in the legislation as it represents the 10-year historical average of growth in Medicare claims workload.

Mr. President, the Medicare Program Protection Act of 1993, if enacted, would save approximately $2 billion in the first full year of implementation and additional billions for each year through fiscal year 1995. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 256

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Program Protection Act of 1993".

SEC. 2. ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.

(a) ADJUSTMENTS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

"(E) MEDICARE ADMINISTRATIVE COSTS.—To the extent that appropriations are enacted that provide additional new budget authority (as compared with a base level of $1,526,000,000 for new budget authority) for the administration of the medicare program by fiscal intermediaries and carriers pursuant to sections 1816 and 1842(a) of title XVIII of the Social Security Act, the adjustment for that year shall be that amount, but shall not exceed—

"(i) for fiscal year 1993, $177,000,000 in new budget authority and $177,000,000 in outlays;

"(ii) for fiscal year 1994, $198,000,000 in new budget authority and $198,000,000 in outlays; and

"(iii) for fiscal year 1995, $220,000,000 in new budget authority and $220,000,000 in outlays; and

the prior-year outlays resulting from these appropriations of budget authority and additional adjustments equal to the sum of the maximum adjustments that could have been made in preceding fiscal years under this subparagraph.".

(b) CONFORMING AMENDMENTS.—

(1) Section 603(a) of the Congressional Budget Act of 1974 is amended by striking "section 251(b)(2)(E)(i)" and inserting "section 251(b)(2)(F)(i)".

(2) Section 606(d) of the Congressional Budget Act of 1974 is amended—

(A) in paragraph (1)(A) by striking "section 251(b)(2)(E)(i)" and inserting "section 251(b)(2)(F)(i)"; and

(B) in paragraph (2), by inserting "251(b)(2)(E)," after "251(b)(2)(D),".●

By Mr. BUMPERS (for himself, Mr. PRYOR, Mr. WELLSTONE, Mr. LEVIN, Mr. LEAHY, Mr. HARKIN, Ms. MIKULSKI, Mr. RIEGLE, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. KOHL, Mr. PELL, and Mr. JEFFORDS):

S. 257. A bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes; to the Committee on Energy and Natural Resources.

MINERAL EXPLORATION AND DEVELOPMENT ACT OF 1993

Mr. BUMPERS. Mr. President, I am reluctant to make this speech today, because of the presence of the Presiding Officer, the distinguished Senator from West Virginia and chairman of the Appropriations Committee. According to my calculations, he has heard this speech 12 times. He gets to hear it in the Subcommittee on Appropriations for the Interior Department. He gets to hear it in the full Committee on Appropriations, and then he gets to hear it on the floor. And this is now the fourth or fifth year that I have pursued the issue of trying to reform the 1872 mining law.

I have just been reelected for 6 years, Mr. President, and if we do not reform the mining law this year we will be back next year; if we do not do it next year, we will be back for at least 4 more years.

REFORMATION OF THE 1872 MINING LAW

Mr. President, as you know, in 1872 Ulysses Grant signed the mining bill into law. The authors of this bill said: Come west and file claims for mining on our public lands. File as many claims as you want: 10 claims, 200 acres; 20 claims, 400 acres and so on. And furthermore, if you find any hard-rock minerals such as gold, silver, palladium, platinum, whatever, and you can convince us that there are commercially producible minerals on any one of those claims, we will give you a deed to the land for $2.50 an acre. And since that time, Mr. President, we have deeded away 3½ million acres, an area equivalent to the size of the State of Connecticut.

In addition to that, there are right now 1,200,000 claims on file, covering 45 million acres. Now, that borders on about 10 percent of all Federal lands open to mining.

Mr. President, think about this: In 1990, I offered an amendment to the Interior appropriations bill on the floor of the Senate to declare a moratorium on this outrageous scam, by prohibiting the BLM, the Bureau of Land Management, from issuing patents or deeds to the land for $2.50 an acre. I came within two votes of prevailing that year.

Four days later, the Stillwater Mining Co. in Montana filed for patents or deeds to 2,000 acres of land, for which they will pay the U.S. Government the princely sum of $10,000. They may very well get deeds to this 2,000 acres for $10,000. And, according to their own estimates, underneath that 2,000 acres of land lies $32 billion worth of palladium and platinum. The real kicker is the U.S. Government will not receive 1 red cent in royalties—nothing.

When this first came to my attention about 8 years ago, I thought I was reading something out of the National Enquirer; that, surely, such a practice could not exist in the 20th century. But, it exists in spades.

I was speaking with a Republican Senator when I first introduced this bill. I told him the story, and I said I needed Republican cosponsors. I told him about all the egregious cases, where people use these claims to build summer homes and sell them for ski resorts. For instance, one man paid $500,000 for oil shale patents in Colorado and sold the land for $47 million.

In Oregon, we gave the deed to about 760 acres in the Oregon National Seashore for $1,900. People raised a clamor and said: You have to get it back. The Government is trying to get it back—and may pay up to $12 million for the land. We got $1,900 for it; now we are buying it back. And the people who bought it from the Federal Government, without ever touching it, want $12 million for it.

I could go on. All you have to do is read the GAO reports, one after another, after another.

Mr. President, the time has come to stop this nonsense. Last year, when the people of this country voted for change, they did not known much about the horrors of the mining law. The people from the West know all about it. The other roughly 35 States, they do not have Federal lands; they do not have Federal mining. And so they do not really know that much about it. But believe me Mr. President, when they find out they are going to be made.

I have made this speech many times. Most people here are fairly familiar with it. But if you think about it, somewhere between $1 and $4 billion worth of hard-rock minerals a year are being taken off Federal lands, and we do not get a dime for it.

Mr. President, there are more than 70 mining sites on the Superfund national priority list that have been abandoned, and estimates range as high as $50 billion for cleaning those sites up.

As for the Republican Senator, I previously mentioned I gave him a litany of all those abuses. I said, How about cosponsoring my bill?

He said, Shoot, no. I'm going to Nevada and start filing claims. At least, that is honest.

Mr. President, today the Bureau of Land Management requires bonding to ensure reclamation in about only 20 percent of the cases. The mining companies are still abandoning sites for the taxpayers of this country to clean up.

The Nevmont Mining Co. in Nevada, which produces about, I would guess, 80 to 90 percent of all the gold in America, pays on private land in Nevada an 18-percent royalty, and it is going up to 24 percent. And a few miles away, they mine on Federal lands and they do not pay 1 penny in royalties, and they will swear to you they are going broke. And to cap it off, it is a British company. Fifteen out of top 25 mining companies in the United States are either foreign-owned or controlled; 4 of the top 10 are British-controlled.

Now, I ask you, Mr. President, how far do you think you would get if you went to Canada or England, and said, We would like to remove $4 billion worth of gold off your land this year, file no reclamation plan, and not pay you a nickel for it? It is such an absurdity, I cannot believe I am standing on the floor making an argument about it. Here we are, with a $300 billion deficit, scratching and clawing in the Presiding Officer's Committee on Appropriations, trying to get a little $500,000 project for Arkansas that is important to them.

No, we cannot do it unless you can rake up the money someplace else. And I do not argue with that rule. I think the budget agreement in 1990 was just fine, Mr. President.

But I am telling you, in a time of $300 billion deficits, for us to allow this to continue is the height of irresponsibility.

Now, the reason I am optimistic this year, Mr. President, is because we do not have the same Secretary of the Interior; we have a Governor from the State of Arizona, who understands the issue. And I think, based on what I know of him, he certainly will not defend a practice such as this.

I am talking today not only to my colleagues who live in States that are not affected by the mining law. I have seen poll after poll in Western States where the people, when they understand the issue, overwhelmingly—2 and 3 to 1—say: It is time to change this law.

Mr. President, one final point. There is probably not a single State in the Nation that allows its lands to be mined under any such arrangement. Every State in the Nation that owns State lands and leases it for mining gets a royalty or severance tax, or both.

So all these people who make these chamber of commerce speeches about how I will treat your taxpayer money the way I would if it were my own; I will manage these Federal lands in an environmentally sensitive way, for them to come back up here and vote for a piece of trash like the 1872 mining law is indefensible. And I must say, I consider it the most outrageous scam, legal scam, going on in America today.

But, Mr. President, it took me 8 years to stop the Bureau of Land Management from leasing oil and gas lands by lottery which, incidentally, violated the Criminal Code of the United States. It took 8 years to stop it, giving away lands for $1 an acre on a first-come, first-serve basis, or pay $10 and get your name in the hopper. And on bingo night, if they pull out your name and you are the lucky winner, you get this lease for $1 an acre.

Can you imagine that practice going on since 1920? It took 8 years to stop it. This is the fifth year on mining law.

Mr. President, I divinely hope it will be the last.

To reiterate, Mr. President, I rise today to introduce the Mineral Exploration and Development Act of 1993. I am pleased to have Senators PRYOR, WELLSTONE, LEVIN, HARKIN, MIKULSKI, RIEGLE, LAUTENBERG, FEINGOLD, KOHL, JEFFORDS, PELL, and LEAHY, join me as original cosponsors of this legislation.

The 1872 mining law was signed into law by President Ulysses S. Grant during a time when our national policy was to encourage the settlement of the West with the enticement of free land and minerals. However, 121 years have now passed and the mining law has become a relic. Rather than serve the interests of the public, the mining law gives away billions of dollars worth of land and minerals to mining companies for practically nothing. I fear that Ulysses Grant would turn over in his grave if he knew what had become of the mining law.

While there are many flaws with the 1872 law, some of the most outrageous include:

Allowing the sale of public lands and minerals for $2.50 to $5 per acre;

Allowing the mining of valuable minerals without a dime in royalty payments to the Government for those minerals;

Not requiring diligent development and production of minerals on land subject to mining claims;

Allowing speculation and unauthorized uses of public land;

Allowing patented land bought for $2.50 an acre to be resold at market prices—sometimes thousands of dollars per acre; and

Not adequately protecting the environment or providing for the consideration of other resource values on public lands.

Our attitudes toward public resources have changed since the 19th century and so have most of our public policies. While the mining law has been amended indirectly over the years, its basic provisions remain unchanged and are in dire need of reform. Over the years numerous private, Government, and congressional studies have recommended either revising the mining law or repealing it completely. One of the most thorough modern studies of the mining law was conducted by the Public Land Law Review Commission during the 1960's. The commission's work formed the basis for the Federal Land Policy and Management Act of 1976 [FLPMA]. In "One-third of the Nation's Land—A Report to Congress and the President" the commission stated:

> The general mining law of 1872 has been abused, but even without that abuse, it has many deficiencies. Individuals whose primary interest is not in mineral development and production have attempted, under the guise of that law, to obtain use of public lands for various other purposes. The 1872 law offers no means by which the Government can effectively control environmental impacts.

While the Public Land Review Commission and many others have called for comprehensive mining law reform for some time now, Congress has yet to respond. Well Mr. President, the American people sent out a clear message last year and I hope everyone was listening: They do not want to see business as usual in Washington. The American people want to experience a responsible Government for a change, rather than a Government which condones the giveaway of public lands and valuable minerals for practically nothing, and which permits long-term environmental degradation of our public lands.

I introduced legislation in both the 101st and 102d Congresses which would have comprehensively reformed the mining law by prohibiting the sale of land for $2.50 and $5 an acre, requiring the payment of a royalty on minerals produced, reclamation and bonding requirements for mineral activities, that mining be treated in the same manner as other competing uses on our public lands, and that a fund be created to help reclaim abandoned hardrock mines. On both occasions the mining industry went to great lengths to ensure that the 1872 Mining Law would not be comprehensively reformed.

On the House side, Congressman RAHALL introduced mining law reform legislation on several occasions as well. Last year the House Interior Committee favorably reported the Rahall bill and all indications were that the full House would have passed the bill had time not run out of the session in October. Congressman RAHALL recently introduced a new version of this bill on January 5.

The legislation I am introducing today is a bipartisan effort. It mirrors, in many respects, the provisions of the House bill. While I am not wedded to each and every word in this bill, I believe that the provisions of this legislation warrant serious consideration by the Senate. As always, I am willing to work with people on all sides of this issue in an attempt to develop a solution amendable to all. However, now is the time for action, rather than words; 121 years after Ulysses Grant signed the mining law, the time has come to bring our Nation's mineral policy into the present.

The problems of the mining law and the proposed solutions contained in my legislation are described more fully below.

PROBLEMS WITH THE 1872 MINING LAW AND PROPOSED SOLUTIONS

SALE OF FEDERAL LANDS

Under the existing mining law, a patent-fee simple title to a mining claim on Federal lands may be obtained for the purchase price of $2.50 an acre for a placer claim or $5 an acre for a lode claim—a price which has not changed since 1872. During the last 120 years, the Government has sold more than 3.2 million acres of land under the patent provision of the 1872 mining law, an area similar to the size of the State of Connecticut. This is a giveaway—pure and simple—and is directly contrary to the national policy enunciated in the Federal Land Policy and Management Act—that, in most cases, the public lands should be retained in public ownership.

It does not take a rocket scientist to figure out that $5 an acre is far less than the fair market value of the patented land and the minerals thereon. The General Accounting Office studied 41 patents issued in 1974 and found that the Government received $12,000 for land that had an estimated fair market value of more than $1 million. Moreover, in what is perhaps the biggest scam in the history of the mining law, the Stillwater Mining Co., which is jointly owned by Chevron and Manville, has applied for patents on approximately 2,000 acres of forest service land in Montana. In exchange for $10,000, the company will receive fee title to land containing, according to Stillwater's own reserve estimates, $32 billion worth of platinum and palladium.

Ironically, while a miner does not need to patent his claim in order to mine it, there is no requirement that a patented claim be mined. Patented claims have become sites for vacation homes, junkyards, tourist facilities, and casinos. While many landowners in western towns trace their chain of title back to mining patents, this historically interesting phenomenon can be a serious resource protection problem when the patented mining claim is an inholding in a national park or wilderness area. There are over 700 patented mining claims in units of the National Park System and almost 1,500 unpatented claims.

A recent example of the abuse of the patent process occurred in the Oregon Dunes National Recreational Area. The area is located on the beautiful southwestern coast of Oregon and is a popular tourist destination. Recently, the BLM issued patents on more than 700 acres of land in the heart of the national recreation area. Although the Material Disposal Act of 1947 and the Common Varieties Act of 1955 had effectively precluded the location and patent of claims for sand and gravel, the claimants relied on an exception in the law for uncommon varieties. While the claimants paid approximately $2,000 for the patents under the 1872 mining law, they have sought more than $10 million from the Government for the return of the land—it is no wonder this incident has become known as sandscam.

Under the bill I am introducing today, mining claim holders would no longer be able to patent their claims. The sale of Federal lands for $2.50 or $5 an acre would be permanently halted.

FREE MINERALS

In addition to allowing the sale of lands for far less than fair market value, the mining law also allows individuals and corporations to mine valuable minerals from public domain lands without a dime being paid. While oil, gas, and coal producers all pay royalties to the U.S. Treasury for production on Federal lands, the Government does not receive a single cent for hardrock minerals produced on Federal lands subject to the 1872 mining law.

The hardrock mining companies contend that they would be forced to shut down operations if they were required to pay royalties to the Federal Government. However, these same companies find themselves able to pay royalties for mining operations on State and private lands. In fact, the Newmont Mining Co. pays an 18-percent royalty on land acquired from private interests on a portion of its gold quarry mine in Nevada's Carlin trend. Ironically, a hardrock miner operating on acquired Federal lands pays a royalty to the Federal Government while his counterpart on lands subject to the mining law pays nothing. There is no justifiable reason for this difference.

Mr. President, not only are we giving away valuable minerals, but we are giving them away to foreign corporations. In 1991, 15 out of the 25 largest mining companies were owned, in whole or in part, by foreign interests.

Some estimate that $4 billion worth of hardrock minerals are extracted from the public lands each year. The bill I am introducing today would require the payment to the Secretary of the Interior of not less than an 8-percent royalty on gross income from mineral production. A royalty rate of 8 percent on mineral production of $4 billion per year would return more than $300 million to the treasury annually.

LACK OF DILIGENT DEVELOPMENT REQUIREMENTS

The third major deficiency of the 1872 mining law is the fact that its annual work requirement no longer promotes the diligent development of mining claims. The 1872 law requires mining claimants to perform $100 worth of diligent development work on each claim annually. While $100 was worth something in 1872, in 1993 an annual work requirement of $100 is meaningless. It is a requirement often observed in the breach because the Bureau of Land Management has no incentive to enforce the requirement. Even when this requirement is complied with, a claimant may merely bulldoze a trench across his claim, causing unnecessary environmental damage.

Last year, Congress established a $100 holding fee per claim to be applied in fiscal years 1993 and 1994 only. However, so-called small miners—those miners holding 10 claims or less—were given the choice of paying the fee or performing diligent development work. While this provision is certainly an improvement, the issue remains unresolved beyond 1994 and creates a huge gap by permitting miners holding up to 10 claims—200 acres—to avoid the holding fee altogether and also poses the potential for fraud because it is impossible to police.

My bill would require the payment of a holding fee of $5 an acre per year for the first 5 years after a claim is located. The fee would double every 5 years up to a maximum of $25 an acre, reflecting the increased use of Federal land as the mineral deposit is explored and developed.

SPECULATION AND AUTHORIZED USES

The laissez faire qualities of the 1872 mining law have attracted speculators and nuisance claims throughout the act's history. In 1916, a Senator from Colorado stated that the mining law has:

> * * * created a veritable paradise for the blackmailer and scoundrel. The law has * * * offered and occasionally paid premiums to every disreputable individual who takes advantage of [ITS] possibilities, and there are many unscrupulous people, even in the west. It is easy money, as any miner will tell you to make spurious locations over valuable claims and compel compromises by the uncertainty and expense of litigation.—Senator Charles S. Thomas, quoted in leshy, "The Mining Law, A Study In Perpetual Motion," Resources for the Future, 1987.

Under the 1872 mining law a claim is not valid unless there is discovery of a valuable mineral deposit. Just what constitutes a discovery has been and continues to be thrashed out in courts of law. Therefore, someone can file claims with no intention of developing those claims, comply with the meaningless $100 work requirement, and extort money from legitimate mining companies for the right to develop the claims. A speculator can create a corporation and sell shares of stock in a mythical gold deposit to grandmothers in Iowa. Or how about selling some worthless claims to Uncle Sam?

The Reno Gazette Journal had a interesting story several years ago. "Miner Strikes it Rich With Yucca Mountain Claims; Tonopah Man Settles With DOE for $249,500," June 4, 1989. The miner had staked some claims on Yucca Mountain, an area the Department of Energy is studying for a possible nuclear waste repository. Although DOE geologists thought the mineral potential of the claims was probably nil, they couldn't afford the time and expense of the litigation and testing required to approve it. So for an investment of $500 in filing fees and $20,000 in assessment work on the claims, the miner received $249,500 from the Federal Government. That's a pretty high nuisance value.

My bill would eliminate the discovery test for claims, substituting the simple and easily verifiable holding fee requirement described above.

INADEQUATE PROTECTION OF THE ENVIRONMENT

The 1872 mining law does not reflect modern land use and environmental protection policies. Past mining activities have left a legacy of unreclaimed lands, acid mine drainage, and hazardous waste. More than 70 abandoned hardrock mining sites are currently on the Superfund national priority list. Some estimate that it could cost taxpayers upward of $50 billion to clean these sites—"a pickaxe too far", the Economist, April 25, 1992.

Mining operations on public lands are generally subject to environmental laws of general application such as the Clean Air Act, the Clean Water Act, and the Endangered Species Act, as well as State and local environmental laws. Mining claimants are also subject to the surface management regulations promulgated by the agency with jurisdiction over the lands subject to claims, primarily the regulations of the Bureau of Land Management, adopted in 1981, and the Forest Service, adopted in 1974. The goal of these regulations is to "minimize the adverse impacts of mining on other resources," says the Forest Service, or, even worse, to "prevent unnecessary or undue degradation" of the lands, says the BLM.

However, the 1872 mining law does not contain any bonding or reclamation requirements or any requirements for protecting the environment. While the absence of such requirements may have been justifiable 120 years ago, it certainly is no longer acceptable today. While BLM and Forest Service regulations address these issues, their regulations, particularly BLM's are full of loopholes and weak. While approximately 85 percent of all mining plans of operations on Forest Service lands are bonded, bonds are not required for over 80 percent of the mining activities on BLM lands.

The extent to which the environment is protected, however, depends largely upon the attitude of the mining company. The comments of the BLM employees who are responsible for implementing the regulations are instructive.

> "Our regulations really are not strong enough for us to enforce compliance in a timely fashion—and sometimes not at all," said Tim Carroll, a BLM geologist in California. "The fact is our regulations do not permit individuals to be held accountable," Seickard of the BLM Folsom office said. "We're a very tolerant agency. Why should the public have to pay to repair their lands that are damaged by identifiable individuals?—Quoted in "Government Proves to be a Lax Landlord", Sacramento Bee, March 18, 1990.

Some have argued that Federal reclamation requirements are lacking because, as they contend, the States now ensure that adequate reclamation occurs. They claim that crazy environmentalists are focused on damage caused by mining operations conducted long ago, before the States implemented reclamation laws. However, the fact is that reclamation of mining sites on Federal lands remains a problem. For instance, a recent article in the

Denver Post reported that the Summitville Consolidated Mining Co. recently abandoned operations at its gold mine near Wolf Creek Pass in Colorado even though significant questions remain about whether the company's $3.8-million bond filed under State law is adequate to complete reclamation activities at the site, where "cyanide-laced water has killed almost all aquatic life along 17 miles of the nearby Alamosa River."—"Mining Company Goes Bust," the Denver Post, December 8, 1992.

The mineral Exploration and Development Act of 1993 would provide BLM and the Forest Service with sufficient authority to regulate mining to minimize adverse impacts to the environment. It would mandate reclamation and bonding and would direct the agencies to promulgate specific reclamation standards.

In addition, this legislation would create an abandoned mine reclamation fund to help reclaim the many hardrock mining sites which have been abandoned. Money for the fund would come from a percentage of the royalties collected as well as the rentals and other fees collected under the act. I anticipate that many good-paying jobs associated with abandoned mine reclamation will be created as a result.

LAND USE PLANNING

The 1872 mining law contains an implicit presumption that mineral development is the highest and best use of the public land. This presumption, if it was ever valid, is certainly no longer shared by the American people. In contrast to other activities on Federal lands, such as logging, grazing, oil and gas leasing, off-road vehicle use, which are explicitly dealt with in land use plans, the mining law operates independently. When mining activity is initiated on a valid claim, it becomes the dominant land use. Since mining cannot be weighed against other resource values in the land use planning process, the land manager must seek a formal withdrawal of the lands when mining would be incompatible with other land uses.

My bill would provide BLM and the Forest Service with the authority to condition, restrict, or prohibit mineral activities in specific areas where such activities are deemed to conflict with more important resource values. This determination would be made both through a suitability determination process and the land use planning process, which affords the general public as well as the mining industry an opportunity to participate in the agency's decisions. Plans of operation for mining activities would be required to comply with the stipulations and conditions made applicable to the area of operation by a land use plan.

BEWARE OF SHAM REFORM

Mr. President, the mining industry knows that the public is slowly learning about the 1872 Mining Law and the associated atrocities and believe me, the industry is worried. In response, the industry has decided to raise a smokescreen by proposing so-called reforms. For instance, the mining industry has proposed that instead of paying $2.50 or $5 an acre for patents, that instead they pay the fair market value of the surface, regardless of the value of the minerals located on the land. While the concept of fair market value is certainly a good one, it is absurd to argue that the Stillwater Mining Co. would really be paying fair market value if they paid for the surface—probably worth less than $100 an acre—and ignored the value of the platinum and palladium—estimated to be $32 billion. Mr. President, if you or I ran a company which sold land for such fair market value, we would be fired in a New York minute.

In addition, the mining industry has proposed that rather than impose Federal reclamation standards, State reclamation laws would continue to apply in those States with reclamation requirements and for those States without reclamation laws, the Federal reclamation laws would apply. However, Mr. President, there are no Federal reclamation laws, as pointed out earlier. Moreover, we should not be relying on requirements which vary in effect from State to State to protect the Federal lands. We cannot afford to lay the cost of cleaning up these sites upon the American taxpayers because some State decided it did not want to impose sufficient reclamation requirements.

In short, Mr. President, I urge my colleagues to beware of sham reform. While I have no illusions that the Senate will pass my bill intact, and remain willing to work closely with my opponents, mining law reform must have some teeth.

In conclusion, Mr. President, let me assure my colleagues from the public lands States, my bill, the Mineral Exploration and Development Act of 1993, will retain the features of the 1872 law which the mining industry has indicated are most important: Self initiation, or the right to go out on the public lands to prospect; the exclusive right to develop a claim; security of tenure, or the right to mine the claim to completion; and the right to use as much of the surface as necessary.

President Clinton campaigned last year on the notion of change; that we were not going to continue business as usual in Washington. My legislation is intended to end business as usual and bring the 1872 Mining Law into the 20th century.

I ask unanimous consent that the text of the bill and a summary of its major provisions be printed in the RECORD at the conclusion of my remarks.

Mr. President, I urge support of the long overdue reform of the 1872 Mining Law.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 257

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—That this Act may be referred to as the "Mineral Exploration and Development Act of 1993".

(b) TABLE OF CONTENTS.—

TITLE I—MINERAL EXPLORATION AND DEVELOPMENT
Sec. 101. Definitions, references and coverage
Sec. 102. Lands open to location; rights under this Act.
Sec. 103. Location of mining claims.
Sec. 104. Claim maintenance requirements.
Sec. 105. Penalties.
Sec. 106. Preemption.
Sec. 107. Limitation on patent issuance.
Sec. 108. Multiple mineral development and surface resources.
Sec. 109. Mineral materials.
TITLE II—ENVIRONMENTAL CONSIDERATIONS OF MINERAL EXPLORATION AND DEVELOPMENT
Sec. 201. Surface management.
Sec. 202. Inspection and enforcement.
Sec. 203. State law and regulation.
Sec. 204. Unsuitability review.
Sec. 205. Lands not open to location.
TITLE III—ABANDONED MINERALS MINE RECLAMATION FUND
Sec. 301. Abandoned Minerals Mine Reclamation Fund.
Sec. 302. Use and Objectives of the Fund.
Sec. 303. Eligible Areas.
Sec. 304. Fund Allocation and Expenditures.
Sec. 305. State Reclamation Programs.
Sec. 306. Authorization of Appropriations.
TITLE IV—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS
Sec. 401. Policy functions.
Sec. 402. User fees.
Sec. 403. Regulations; effective dates.
Sec. 404. Transitional rules; mining claims and mill sites.
Sec. 405. Transitional rules; surface management requirements.
Sec. 406. Basis for contest.
Sec. 407. Savings clause claims.
Sec. 408. Severability.
Sec. 409. Purchasing power adjustment.
Sec. 410. Royalty.
Sec. 411. Savings clause.
Sec. 412. Public records.

TITLE I—MINERAL EXPLORATION AND DEVELOPMENT

SEC. 101. DEFINITIONS, REFERENCES, AND COVERAGE.

(a) DEFINITIONS.—As used in this Act:

(1) The term "applicant" means any person applying for a plan of operations under this Act or a modification to or a renewal of a plan of operations under this Act.

(2) The term "claim holder" means the holder of a mining claim located or converted under this Act. Such term may include an agent of a claim holder.

(3) The term "land use plans" means those plans required under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) or the land management plans for National Forest System units required under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604), whichever is applicable.

(4) The term "legal subdivisions" means an aliquot quarter quarter section of land as es-

tablished by the official records of the public land survey system, or a single lot as established by the official records of the public land survey system if the pertinent section is irregular and contains fractional lots, as the case may be.

(5) The term "locatable mineral" means any mineral not subject to disposition under any of the following:

(A) the Mineral Leasing Act (30 U.S.C. 181 and following);

(B) the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following);

(C) the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following); or

(D) the Mineral Leasing for Acquired Lands Act (30 U.S.C. 351 and following).

(6) The term "mineral activities" means any activity for, related to or incidental to mineral exploration, mining, beneficiation and processing activities for any locatable mineral, including access. When used with respect to this term—

(A) the term "exploration" means those techniques employed to locate the presence of a locatable mineral deposit and to establish its nature, position, size, shape, grade and value;

(B) the term "mining" means the processes employed for the extraction of a locatable mineral from the earth;

(C) the term "beneficiation" means the crushing and grinding of locatable mineral ore and such processes which are employed to free the mineral from other constituents, including but not necessarily limited to, physical and chemical separation techniques; and

(D) the term "processing" means processes downstream of beneficiation employed to prepare locatable mineral ore into the final marketable product, including but not limited to, smelting and electrolytic refining.

(7) The term "mining claim" means a claim for the purposes of mineral activities.

(8) The term "National Conservation System unit" means any unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, or a National Conservation Area, National Recreation Area or a National Forest Monument.

(9) The term "operator" means any person, partnership or corporation with a plan of operations approved under this Act.

(10) The term "Secretary" means, unless otherwise provided in this Act—

(A) the Secretary of the Interior for the purposes of title I and title III;

(B) the Secretary of the Interior with respect to land under the jurisdiction of such Secretary and all other lands subject to this Act (except for lands under the jurisdiction of the Secretary of Agriculture) for the purposes of title II; and

(C) the Secretary of Agriculture with respect to lands under the jurisdiction of the Secretary of Agriculture for the purposes of title II.

(11) The term "substantial legal and financial commitments" means significant investments that have been made to develop mining claims under the general mining laws such as: long-term contracts for minerals produced; processing, beneficiation, or extraction facilities and transportation infrastructure; or other capital-intensive activities. Costs of acquiring the mining claim or claims, or the right to mine alone without other significant investments as detailed above, are not sufficient to constitute substantial legal and financial commitments.

(12) The term "surface management requirements" means the requirements and standards of section 201, section 203 and section 204 of this Act, and such other standards as are established by the Secretary governing mineral activities and reclamation.

(b) REFERENCES.—(1) Any reference in this Act to the term "general mining laws" is a reference to those Acts which generally comprise 30 U.S.C. chapters 2, 12A, and 16, and sections 161 and 162.

(2) Any reference in this Act to the "Act of July 23, 1955", is a reference to the Act of July 23, 1955, entitled "An Act to amend the Act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes." (30 U.S.C. 601 and following).

(c) COVERAGE.—This Act shall apply only to mineral activities and reclamation on lands and interests in land which are open to location as provided in this Act.

SEC. 102. LANDS OPEN TO LOCATION; RIGHTS UNDER THIS ACT.

(a) OPEN LANDS.—Mining claims may be located under this Act on lands and interests in lands owned by the United States to the extent that—

(1) such lands and interests were open to the location of mining claims under the general mining laws on the date of enactment of this Act;

(2) such lands and interests are open to the location of mining claims by reason of section 204(f) or section 205 of this Act; and

(3) such lands and interests are opened to the location of mining claims after the date of enactment of this Act by reason of any administrative action or statute.

(b) RIGHTS.—The holder of a mining claim located or converted under this Act and maintained in compliance with this Act shall have the exclusive right of possession and use of the claimed land for mineral activities, including the right of ingress and egress to such claimed lands for such activities, subject to the rights of the United States under section 108 and title II.

SEC. 103. LOCATION OF MINING CLAIMS.

(a) GENERAL RULE.—A person may locate a mining claim covering lands open to the location of mining claims by posting a notice of location, containing the person's name and address, the time of location (which shall be the date and hour of location and posting), and a legal description of the claim. The notice of location shall be posted on a conspicuous, durable monument erected as near as practicable to the northeast corner of the mining claim. No person who is not a citizen, or a corporation organized under the laws of the United States or of any State or the District of Columbia, may locate or hold a claim under this Act.

(b) USE OF PUBLIC LAND SURVEY.—Except as provided in subsection (c), each mining claim located under this Act shall—

(1) be located in accordance with the public land survey system, and

(2) conform to the legal subdivisions thereof. Except as provided in subsection (c), the legal description of the mining claim shall be based on the public land survey system and its legal subdivisions.

(c) EXCEPTIONS.—(1) If only a protracted survey exists for the public lands concerned, each of the following shall apply in lieu of subsection (b):

(A) The legal description of the mining claim shall be based on the protracted survey and the mining claim shall be located as near as practicable in conformance with a protracted legal subdivision.

(B) The mining claim shall be monumented on the ground by the erection of a conspicuous durable monument at each corner of the claim.

(C) The legal description of the mining claim shall include a reference to any existing survey monument, or where no such monument can be found within a reasonable distance, to a permanent natural object.

(2) If no survey exists for the public lands concerned, each of the following shall apply in lieu of subsection (b):

(A) The mining claim shall be a regular square, with each side laid out in cardinal directions, 40 acres in size.

(B) The claim shall be monumented on the ground by the erection of a conspicuous durable monument at each corner of the claim.

(C) The legal description of the mining claim shall be expressed in metes and bounds and shall include a reference to any existing survey monument, or where no such monument can be found within a reasonable distance, to a permanent natural object. Such description shall be of sufficient accuracy and completeness to permit recording of the claim upon the public land records and to permit the Secretary and other parties to find the claim upon the ground.

(3) In the case of a conflict between the boundaries of a mining claim as monumented on the ground and the description of such claim in the notice of location referred to in subsection (a), the notice of location shall be determinative.

(d) FILING WITH SECRETARY.—(1) Within 30 days after the location of a mining claim pursuant to this section, a copy of the notice of location referred to in subsection (a) shall be filed with the Secretary in an office designated by the Secretary.

(2) Whenever the Secretary receives a copy of a notice of location of a mining claim under this Act, the Secretary shall assign a serial number to the mining claim, and immediately return a copy of the notice of location to the locator of the claim, together with a certificate setting forth the serial number, a description of the claim, and the claim maintenance requirements of section 104. The Secretary shall enter the claim on the public land records.

(e) LANDS COVERED BY CLAIM.—A mining claim located under this Act shall include all lands and interests in lands open to location within the boundaries of the claim, subject to any prior mining claim referenced under subsections (c) and (d) of section 404.

(f) DATE OF LOCATION.—A mining claim located under this Act shall be effective based upon the time of location.

(g) CONFLICTING LOCATIONS.—Any conflicts between the holders of mining claims located or converted under this Act relating to relative superiority under the provisions of this Act may be resolved in adjudication proceedings before the Secretary. Such adjudication shall be determined on the record after opportunity for hearing. It shall be incumbent upon the holder of a mining claim asserting superior rights in such proceedings to demonstrate to the Secretary that such person was the senior locator, or if such person is the junior locator, that prior to the location of the claim by such locator—

(1) the senior locator failed to file a copy of the notice of location within the time provided under subsection (d); or

(2) the amount of rental paid by the senior locator was less than the amount required to be paid by such locator pursuant to section 104.

(h) EXTENT OF MINERAL DEPOSIT.—The boundaries of a mining claim located under this Act shall extend vertically downward.

SEC. 104. CLAIM MAINTENANCE REQUIREMENTS.

(a) IN GENERAL.—(1) In order to maintain a mining claim under this Act a claim holder shall pay to the Secretary an annual rental fee. The rental fee shall be paid on the basis of all land within the boundaries of a mining claim at a rate established by the Secretary of not less than—

(A) $5 per acre in each of the first through fifth years following location of the claim;

(B) $10 per acre in each of the sixth through tenth years following location of the claim;

(C) $15 per acre in each of the eleventh through fifteenth years following location of the claim;

(D) $20 per acre in each of the sixteenth through twentieth years following location of the claim; and

(E) $25 per acre in the twenty-first diligence year following location of the claim, and each year thereafter.

(2) The rental fee shall be due and payable at a time and in a manner as prescribed by the Secretary.

(b) FAILURE TO COMPLY.—(1) If a claim holder fails to pay the rental fee as required by this section, the Secretary shall immediately provide notice thereof to the claim holder and after 30 days from the date of such notice the claim shall be deemed forfeited and such claim shall be null and void by operation of the law, except as provided under paragraphs (2) and (3). Such notice shall be sent to the claim holder by registered or certified mail to the address provided by such claim holder in the notice of location referred to in section 103(a) or in the most recent instrument filed by the claim holder pursuant to this section. In the event such notice is returned as undelivered, the Secretary shall be deemed to have fulfilled the notice requirements of this paragraph.

(2) No claim may be deemed forfeited and null and void due to a failure to comply with the requirements of this section if the claim holder corrects such failure to the satisfaction of the Secretary within 10 days after the date such claim holder was required to pay the rental fee.

(3) No claim may be deemed forfeited and null and void due to a failure to comply with the requirements of this section if, within 10 days after date of the notice referred to in paragraph (1), the claim holder corrects such failure to the satisfaction of the Secretary, and if the Secretary determines that such failure was justifiable.

(c) PROHIBITION.—The claim holder shall be prohibited from locating a new claim on the lands included in a forfeited claim for one year from the date such claim is deemed forfeited and null and void, except as provided in subsection (d).

(d) RELINQUISHMENT.—A claim holder deciding not to pursue mineral activity on a claim may relinquish such claim by notifying the Secretary. A claim holder relinquishing a claim is responsible for reclamation as required by section 201 of this Act and all other applicable requirements. A claim holder who relinquishes a claim shall not be subject to the prohibition of subsection (c) of this section; however, if the Secretary determines that a claim is being relinquished and relocated for the purpose of avoiding compliance with any provision of this Act, including payment of the applicable annual rental fee, the claim holder shall be subject to the prohibition in subsection (c) of this section.

(e) SUSPENSION.—Payment of the annual rental fee required by this section shall be suspended upon the payment of the royalty required by section 410 of this Act in an amount equal to or greater than the applicable annual rental fee. During any subsequent period of non-production, or period when the royalty required by section 410 of this Act is an amount less than the applicable annual rental fee, the claimant shall pay to the Secretary a total amount equal to the applicable annual rental fee.

(f) FEE DISPOSITION.—The Secretary shall deposit all moneys received from rental fees collected under this subsection into the Fund referred to in title III.

SEC. 105. PENALTIES.

(a) VIOLATION.—Any claim holder who knowingly or willfully posts on a mining claim or files a notice of location with the Secretary under section 103 that contains false, inaccurate or misleading statements shall be liable for a penalty of not more than $5,000 per violation. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments.

(b) REVIEW.—No civil penalty under this section shall be assessed until the claim holder charged with the violation has been given the opportunity for a hearing on the record under section 202(f).

SEC. 106. PREEMPTION.

The requirements of this title shall preempt any conflicting requirements of any State, or political subdivision thereof relating to the location and maintenance of mining claims as provided for by this Act. The filing requirements of section 314 of the Federal Land Policy and Management Act (43 U.S.C. 1744) shall not apply with respect to any mining claim located or converted under this Act.

SEC. 107. LIMITATION ON PATENT ISSUANCE.

(a) MINING CLAIMS.—After January 28, 1993, no patent shall be issued by the United States for any mining claim located under the general mining laws unless the Secretary of the Interior determines that, for the claim concerned—

(1) a patent application was filed with the Secretary on or before January 5, 1993; and

(2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims were fully complied with by that date. If the Secretary makes the determinations referred to in paragraphs (1) and (2) for any mining claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

(b) MILL SITES.—After January 28, 1993, no patent shall be issued by the United States for any mill site claim located under the general mining laws unless the Secretary of the Interior determines that for the mill site concerned—

(1) a patent application for such land was filed with the Secretary on or before January 28, 1993; and

(2) all requirements applicable to such patent application were fully complied with by that date. If the Secretary makes the determinations referred to in paragraphs (1) and (2) for any mill site claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

SEC. 108. MULTIPLE MINERAL DEVELOPMENT AND SURFACE RESOURCES.

(a) IN GENERAL.—The provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), commonly known as the Multiple Minerals Development Act, and the provisions of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), shall apply to all mining claims located or converted under this Act.

(b) ENFORCEMENT.—The Secretary of the Interior, or the Secretary of Agriculture, as the case may be, shall take such actions as may be necessary to ensure the compliance by claim holders with section 4 of the Act of July 23, 1955 (30 U.S.C. 612).

SEC. 109. MINERAL MATERIALS.

(a) DETERMINATIONS.—Section 3 of the Act of July 23, 1955 (30 U.S.C. 611), is amended as follows:

(1) Insert "(a)" before the first sentence.

(2) Strike "or cinders" and insert in lieu thereof "cinders, or clay".

(3) Add the following new subsection at the end thereof:

"(b)(1) Subject to valid existing rights, after the date of enactment of the Mineral Exploration and Development Act of 1993, all deposits of mineral materials referred to in subsection (a), including the block pumice referred to in such subsection, shall only be subject to disposal under the terms and conditions of the Materials Act of 1947.

"(2) For purposes of paragraph (1), the term 'valid existing rights' means that a mining claim located for any such mineral material had some property giving it the distinct and special value referred to in subsection (a), or as the case may be, met the definition of block pumice referred to in such subsection, was properly located and maintained under the general mining laws prior to the date of enactment of the Mineral Exploration and Development Act of 1993, and was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of the Mineral Exploration and Development Act of 1993 and that such claim continues to be valid.".

(b) MINERAL MATERIALS DISPOSAL CLARIFICATION.—Section 4 of the Act of July 23, 1955 (30 U.S.C. 612), is amended as follows:

(1) In subsection (b) insert "and mineral material" after "vegetative".

(2) In subsection (c) insert "and mineral material" after "vegetative".

(c) CONFORMING AMENDMENT.—Section 1 of the Act of July 31, 1947, entitled "An Act to provide for the disposal of materials on the public lands of the United States" (30 U.S.C. 601 and following) is amended by striking "common varieties of" in the first sentence.

(d) SHORT TITLES.—(1) SURFACE RESOURCES.—The Act of July 23, 1955, is amended by inserting after section 7 the following new section:

"Sec. 8. This Act may be cited as the 'Surface Resources Act of 1955'.".

(2) MINERAL MATERIALS.—The Act of July 31, 1947, entitled "An Act to provide for the disposal of materials on the public lands of the United States" (30 U.S.C. 601 and following) is amended by inserting after section 4 the following new section:

"Sec. 5. This Act may be cited as the 'Materials Act of 1947'.".

(e) REPEAL.—(1) The Act of August 4, 1892 (27 Stat. 348) commonly known as the Building Stone Act is hereby repealed.

(2) The Act of January 31, 1901 (30 U.S.C. 162) commonly known as the Saline Placer Act is hereby repealed.

TITLE II—ENVIRONMENTAL CONSIDERATIONS OF MINERAL EXPLORATION AND DEVELOPMENT

SEC. 201. SURFACE MANAGEMENT.

(a) IN GENERAL.—Notwithstanding the last sentence of section 302(b) of the Federal

Land Policy and Management Act of 1976, and in accordance with this title and other applicable law, the Secretary shall require that mineral activities and reclamation be conducted so as to minimize adverse impacts to the environment.

(b) PLANS OF OPERATION.—(1) Except as provided under paragraph (2), no person may engage in mineral activities that may cause a disturbance of surface resources unless such person has filed a plan of operations with, and received approval of such plan of operations, from the Secretary.

(2)(A) A plan of operations may not be required for mineral activities related to exploration that cause a negligible disturbance of surface resources not involving the use of mechanized earth moving equipment, suction dredging, explosives, the use of motor vehicles in areas closed to off-road vehicles, the construction of roads, drill pads, or the use of toxic or hazardous materials.

(B) A plan of operations may not be required for mineral activities related to exploration that, after notice to the Secretary, involve only a minimal and readily reclaimable disturbance of surface resources related to and including initial test drilling not involving the construction of access roads, except activities under notice shall not commence until an adequate financial guarantee is established for such activities pursuant to subsection (l).

(c) CONTENTS OF PLANS.—Each proposed plan of operations shall include a mining permit application and a reclamation plan together with such documentation as necessary to ensure compliance with applicable Federal and State environmental laws and regulations.

(d) MINING PERMIT APPLICATION REQUIREMENTS.—The mining permit referred to in subsection (c) shall include such terms and conditions as prescribed by the Secretary, and each of the following: (1) The name and mailing address of—

(A) the applicant for the mining permit;

(B) the operator if different than the applicant;

(C) each claim holder of the lands subject to the plan of operations if different than the applicant;

(D) any subsidiary, affiliate or person controlled by or under common control with the applicant, or the operator or each claim holder, if different than the applicant; and

(E) the owner or owners of any land, or interests in any such land, not subject to this Act, within or adjacent to the proposed mineral activities.

(2) A statement of any plans of operation held by the applicant, operator or each claim holder if different than the applicant, or any subsidiary, affiliate, or person controlled by or under common control with the applicant, operator or each claim holder if different than the applicant.

(3) A statement of whether the applicant, operator or each claim holder if different than the applicant, and any subsidiary, affiliate, or person controlled by or under common control with the applicant, operator or each claim holder if different than the applicant has an outstanding violation of this Act, any surface management requirements, or applicable air and water quality laws and regulations and if so, a brief explanation of the facts involved, including identification of the site and the nature of the violation.

(4) A description of the type and method of mineral activities proposed, the engineering techniques proposed to be used and the equipment proposed to be used.

(5) The anticipated starting and termination dates of each phase of the mineral activities proposed.

(6) A map, to an appropriate scale, clearly showing the land to be affected by the proposed mineral activities.

(7) A description of the quantity and quality of surface and ground water resources within and along the boundaries of, and adjacent to, the area subject to mineral activities based on 12 months of pre-disturbance monitoring.

(8) A description of the biological resources found in or adjacent to the area subject to mineral activities, including vegetation, fish and wildlife, riparian and wetland habitats.

(9) A description of the monitoring systems to be used to detect and determine whether compliance has and is occurring consistent with the surface management requirements and to regulate the effects of mineral activities and reclamation on the site and surrounding environment, including but not limited to, groundwater, surface water, air and soils.

(10) Accident contingency plans that include, but are not limited to, immediate response strategies, corrective measures to mitigate impacts to fish and wildlife, ground and surface waters, notification procedures and waste handling and toxic material neutralization.

(11) Any measures to comply with any conditions on minerals activities and reclamation that may be required in the applicable land use plan, including any condition stipulated pursuant to section 204(d)(1)(B).

(12) A description of measures planned to exclude fish and wildlife resources from the area subject to mineral activities by covering, containment, or fencing of open waters, beneficiation, and processing materials; or maintenance of all facilities in a condition that is not harmful to fish and wildlife.

(13) Such environmental baseline data as the Secretary, by rule, shall require sufficient to validate the determinations required for plan approval under this Act.

(e) RECLAMATION PLAN APPLICATION REQUIREMENTS.—The reclamation plan referred to in subsection (c) shall include such terms and conditions as prescribed by the Secretary, and each of the following:

(1) A description of the condition of the land subject to the mining permit prior to the commencement of any mineral activities.

(2) A description of reclamation measures proposed pursuant to the requirements of subsections (m) and (n).

(3) The engineering techniques to be used in reclamation and the equipment proposed to be used.

(4) The anticipated starting and termination dates of each phase of the reclamation proposed.

(5) A description of the proposed condition of the land following the completion of reclamation.

(6) A description of the maintenance measures that will be necessary to meet the surface management requirements of this Act, such as, but not limited to, drainage water treatment facilities, or liner maintenance and control.

(7) The consideration which has been given to making the condition of the land after the completion of mineral activities and final reclamation consistent with the applicable land use plan.

(f) PUBLIC PARTICIPATION.—(1) Concurrent with submittal of a plan of operations, or a renewal application for a plan of operations, the applicant shall publish a notice in a newspaper of local circulation for 4 consecutive weeks that shall include: the name of the applicant, the location of the proposed mineral activities, the type and expected duration of the proposed mineral activities, and the intended use of the land after the completion of mineral activities and reclamation. The Secretary shall also notify in writing other Federal, State and local government agencies that regulate mineral activities or land planning decisions in the area subject to mineral activities.

(2) Copies of the complete proposed plan of operations shall be made available for public review for 30 days at the office of the responsible Federal surface management agency located nearest to the location of the proposed mineral activities, and at the county courthouse of the county in which the mineral activities are proposed to be located, prior to final decision by the Secretary. During this period, any person and the authorized representative of a Federal, State or local governmental agency shall have the right to file written comments relating to the approval or disapproval of the plan of operations. The Secretary shall immediately make such comments available to the applicant.

(3) Any person that is or may be adversely affected by the proposed mineral activities may request, after filing written comments pursuant to paragraph (2), a public hearing to be held in the county in which the mineral activities are proposed. If a hearing is requested, the Secretary shall conduct a hearing. When a hearing is to be held, notice of such hearing shall be published in a newspaper of local circulation for 2 weeks prior to the hearing date.

(g) PLAN APPROVAL.—(1) After providing notice and opportunity for public comment and hearing, the Secretary may approve, require modifications to, or deny a proposed plan of operations, except as provided in section 405. To approve a plan of operations, the Secretary shall make each of the following determinations:

(A) The mining permit application and reclamation plan are complete and accurate.

(B) The applicant has demonstrated that reclamation as required by this Act can be accomplished under the reclamation plan and would have a high probability of success based on an analysis of such reclamation measures in areas of similar geochemistry, topography and hydrology.

(C) The proposed mineral activities, reclamation and condition of the land after the completion of mineral activities and final reclamation would be consistent with the land use plan applicable to the area subject to mineral activities.

(D) The area subject to the proposed plan of operations is not included within an area designated unsuitable under section 204 for the types of mineral activities proposed.

(E) The applicant has demonstrated that the plan of operations will be in compliance with the requirements of all other applicable Federal requirements, and any State requirements agreed to by the Secretary pursuant to subsection 203(c).

(2) Final approval of a plan of operations under this subsection shall be conditioned upon compliance with subsection (1) and, based on information supplied by the applicant, a determination of the probable hydrologic consequences of the proposed mineral activities and reclamation.

(3)(A) A plan of operations under this section shall not be approved if the applicant, operator, or any claim holder if different than the applicant, or any subsidiary, affiliate, or person controlled by or under common control with the applicant, operator or each claim holder if different than the applicant, is currently in violation of this Act, any surface management requirement or of any applicable air and water quality laws and regulations at any site where mineral activities have occurred or are occurring.

(B) The Secretary shall suspend an approved plan of operations if the Secretary determines that any of the entities described in section 201(d)(1) were in violation of the surface management requirement at the time the plan of operations was approved.

(C) A plan of operations referred to in this subsection shall not be approved or reinstated, as the case may be, until the applicant submits proof that the violation has been corrected or is in the process of being corrected to the satisfaction of the Secretary; except that no proposed plan of operations, after opportunity for a hearing, shall be approved for any applicant, operator or each claim holder if different than the applicant with a demonstrated pattern of willful violations of the surface management requirements of such nature and duration and with such resulting irreparable damage to the environment as to clearly indicate an intent not to comply with the surface management requirements.

(h) TERM OF PERMIT; RENEWAL.—(1) The approval of a plan of operations shall be for a stated term. The term shall be no greater than that necessary to accomplish the proposed operations, and in no case for more than 10 years, unless the applicant demonstrates that a specified longer term is reasonably needed to obtain financing for equipment and the opening of the operation.

(2) Failure by the operator to commerce mineral activities within one year of the date scheduled in an approved plan of operations shall be deemed to require a modification of the plan.

(3) A plan of operations shall carry with it the right of successive renewal upon expiration only with respect to operations on areas within the boundaries of the existing plan of operations, as approved. An application for renewal of such plan of operations shall be approved unless the Secretary determines, in writing, any of the following:

(A) The terms and conditions of the existing plan of operations are not being met.

(B) Mineral activities and reclamation activities as approved under the plan of operations are not in compliance with the surface management requirements of this Act.

(C) The operator has not demonstrated that the financial guarantee would continue to apply in full force and effect for the renewal term.

(D) Any additional revised or updated information required by the Secretary has not been provided.

(E) The applicant has not demonstrated that the plan of operations will be in compliance with the requirements of all other applicable Federal requirements, and any State requirements agreed to by the Secretary pursuant to subsection 203(c).

(4) A renewal of a plan of operations shall be for a term not to exceed the period of the original plan as provided in paragraph (1). Application for plan renewal shall be made at least 120 days prior to the expiration of an approved plan.

(5) Any person that is, or may be, adversely affected by the proposed mineral activities may request a public hearing to be held in the county in which the mineral activities are proposed. If a hearing is requested, the Secretary shall conduct a hearing. When a hearing is held, notice of such hearing shall be published in a newspaper of local circulation for 2 weeks prior to the hearing date.

(i) PLAN MODIFICATION.—(1) Except as provided under section 405, during the term of a plan of operations the operator may submit an application to modify the plan. To approve a proposed modification to a plan of operations the Secretary shall make the determinations set forth under subsection (g)(1). The Secretary shall establish guidelines regarding the extent to which requirements for plans of operations under this section shall apply to applications to modify a plan of operations based on whether such modifications are deemed significant or minor; except that:

(A) any significant modifications shall at a minimum be subject to subsection (f), and

(B) any modification proposing to extend the area covered by the plan of operations (except for incidental boundary revisions) must be made by application for a new plan of operations.

(2) The Secretary may, upon a review of a plan of operations or a renewal application, require reasonable modification to such plan upon a determination that the requirements of this Act cannot be met if the plan is followed as approved. Such determination shall be based on a written finding and subject to notice and hearing requirements established by the Secretary.

(j) TEMPORARY CESSATION OF OPERATIONS.—(1) Before temporarily ceasing mineral activities or reclamation for a period of 180 days or more under an approved plan of operations or portions thereof, an operator shall first submit a complete application for temporary cessation of operations to the Secretary for approval.

(2) The application for approval of temporary cessation of operations shall include such terms and conditions as prescribed by the Secretary, including but not limited to the steps that shall be taken during the cessation of operations period to minimize impacts on the environment. After receipt of a complete application for temporary cessation of operations the Secretary shall conduct an inspection of the area for which temporary cessation of operations has been requested.

(3) To approve an application for temporary cessation of operations, the Secretary shall make each of the following determinations:

(A) The methods for securing surface facilities and restricting access to the permit area, or relevant portions thereof, shall effectively ensure against hazards to the health and safety of the public and fish and wildlife.

(B) Reclamation is contemporaneous with mineral activities as required under the approved reclamation plan, except in those areas specifically designated in the application for temporary cessation of operations for which a delay in meeting such standards is necessary to facilitate the resumption of operations.

(C) The amount of financial assurance filed with the plan of operations is sufficient to assure completion of the reclamation plan in the event of forfeiture.

(D) Any outstanding notices of violation and cessation orders incurred in connection with the plan of operations for which temporary cessation is being requested are either stayed pursuant to an administrative or judicial appeal proceeding or are in the process of being abated to the satisfaction of the Secretary.

(k) REVIEW.—Any decision made by the Secretary under subsections (g), (h), (i), (j) or (1) shall be subject to review under section 202(f).

(10) BONDS.—(1) Before any plan of operations is approved pursuant to this Act, or any mineral activities are conducted pursuant to subsection (b)(2), the operator shall file with the Secretary financial assurance payable to the United States and conditional upon faithful performance of all requirements of this Act. The financial assurance shall be provided in the form of a surety bond, trust fund, cash or equivalent. The amount of the financial assurance shall be sufficient to assure the completion of reclamation satisfying the requirements of this Act if the work had to be performed by the Secretary in the event of forfeiture, and the calculation shall take into account the maximum level of financial exposure which shall arise during the mineral activity including, but not limited to, provision for accident contingencies.

(2) The financial assurance shall be held for the duration of the mineral activities and for an additional period to cover the operator's responsibility for revegetation under subsection (n)(6)(B).

(3) The amount of the financial assurance and the terms of the acceptance of the assurance shall be adjusted by the Secretary from time to time as the area requiring coverage is increased or decreased, or where the costs of reclamation or treatment change, but the financial assurance must otherwise be in compliance with this section. The Secretary shall specify periodic times, or set a schedule, for reevaluating or adjusting the amount of financial assurance.

(4) Upon request, and after notice and opportunity for public comment, the Secretary may release in whole or in part the financial assurance if the Secretary determines each of the following:

(A) Reclamation covered by the financial assurance has been accomplished as required by this Act.

(B) The operator has declared that the terms and conditions of any other applicable Federal requirements, and State requirements pursuant to subsection 203(b), have been fulfilled.

(5) The release referred to in paragraph (4) shall be according to the following schedule:

(A) After the operator has completed the backfilling, regrading and drainage control of an area subject to mineral activities and covered by the financial assurance, and has commenced revegetation on the regraded areas subject to mineral activities in accordance with the approved plan of operations, 50 percent of the total financial assurance secured for the area subject to mineral activities may be released.

(B) After the operator has completed successfully all mineral activities and reclamation activities and all requirements of the plan of operations and the reclamation plan and all the requirements of this Act have in fact been fully met, the remaining portion of the financial assurance may be released.

(6) During the period following release of the financial assurance as specified in paragraph (5)(A), until the remaining portion of the financial assurance is released as provided in paragraph (5)(B), the operator shall be required to meet all applicable standards for this Act and the plan of operations and the reclamation plan.

(7) Where any discharge from the area subject to mineral activities requires treatment in order to meet the applicable effluent limitations, the treatment shall be monitored during the conduct of mineral activities and reclamation and shall be fully covered by financial assurance and no financial assurance or portion thereof for the plan of operations shall be released until the operator has met all applicable effluent limitations and water

qualify standards for one full year without treatment.

(8) Jurisdiction under this Act shall terminate upon release of the final bond. If the Secretary determines, after final bond release, that an environmental hazard resulting from the mineral activities exists, or the terms and conditions of the plan of operations or the surface management requirements of this Act were not fulfilled in fact at the time of release, the Secretary shall reassert jurisdiction and all applicable surface management and enforcement provisions shall apply for correction of the condition.

(m) RECLAMATION.—(1) Except as provided under paragraphs (5) and (7) of subsection (n), lands subject to mineral activities shall be restored to a condition capable of supporting the uses to which such lands were capable of supporting prior to surface disturbance, or other beneficial uses, provided such other uses are not inconsistent with applicable land use plans.

(2) All required reclamation shall proceed as contemporaneously as practicable with the conduct of mineral activities and shall use the best technology currently available.

(n) RECLAMATION STANDARDS.—The Secretary shall establish reclamation standards which shall include, but not necessarily be limited to, provisions to require each of the following:

(1) SOILS.—(A) Topsoil removed from lands subject to mineral activities shall be segregated from other spoil material and protected for later use in reclamation. If such topsoil is not replaced on a backfill area within a timeframe short enough to avoid deterioration of the topsoil, vegetative cover or other means shall be used so that the topsoil is preserved from wind and water erosion, remains free of any contamination by acid or other toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation.

(B) In the event the topsoil from lands subject to mineral activities is of insufficient quantity or of inferior quality for sustaining vegetation, and other suitable growth media removed from the lands subject to the mineral activities are available that shall support vegetation, the best available growth medium shall be removed, segregated and preserved in alike manner as under subparagraph (A) for sustaining vegetation when restored during reclamation.

(C) Mineral activities shall be conducted to prevent any contamination or toxification of soils. If any contamination or toxification occurs in violation of this subparagraph, the operator shall neutralize the toxic material, decontaminate the soil, and dispose of any toxic or acid materials in a manner which complies with this section and any other applicable Federal or State law.

(2) STABILIZATION.—All surface areas subject to mineral activities, including spoil material piles, waste material piles, ore piles, subgrade ore piles, and open or partially backfilled mine pits which meet the requirements of paragraph (5) shall be stabilized and protected during mineral activities and reclamation so as to effectively control erosion and minimize attendant air and water pollution.

(3) EROSION.—Facilities such as but not limited to basins, ditches, streambank stabilization, diversions or other measures, shall be designed, constructed and maintained where necessary to control erosion and drainage of the area subject to mineral activities, including spoil material piles and waste material piles prior to the use of such material to comply with the requirements of paragraph (5) and for the purposes of paragraph (7), and including ore piles and subgrade ore piles.

(4) HYDROLOGIC BALANCE.—(A) Mineral activities shall be conducted to minimize disturbances to the prevailing hydrologic balance of the area subject to mineral activities and adjacent areas and to the quality and quantity of water in surface and ground water systems, including stream flow, in the area subject to mineral activities and adjacent areas, and in all cases the operator shall comply with applicable Federal or State effluent limitations and water quality standards.

(B) Mineral activities shall prevent the generation of acid or toxic drainage during the mineral activities and reclamation, to the extent possible using the best available demonstrated control technology; and the operator shall prevent any contamination of surface and ground water with acid or other toxic mine drainage and shall prevent or remove water from contact with acid or toxic producing deposits.

(C) Reclamation shall, to the extent possible, also include restoration of the recharge capacity of the area subject to mineral activities to approximate premining condition.

(D) Where surface or underground water sources used for domestic or agricultural use have been diminished, contaminated or interrupted as a proximate result of mineral activities, such water resource shall be restored or replaced.

(5) GRADING.—(A) Except as provided under this paragraph (7), the surface area disturbed by mineral activities shall be backfilled, graded and contoured to its natural topography.

(B) The requirement of subparagraph (A) shall not apply with respect to an open mine pit if the Secretary finds that such open pit or partially backfilled pit would not pose a threat to the public health or safety or have an adverse effect on the environment in terms of surface or groundwater pollution.

(C) In instances where complete backfilling of an open pit is not required, the pit shall be graded to blend with the surrounding topography as much as practicable and revegetated in accordance with paragraph (6).

(6) REVEGETATION.—(A) Except in such instances where the complete backfill of an open mine pit is not required under paragraph (5), the area subject to mineral activities, including any excess spoil material pile and excess waste pile, shall be revegetated in order to establish a diverse, effective and permanent vegetative cover of the same seasonal variety native to the area subject to mineral activities, capable of self-regeneration and plant succession and at least equal in extent of cover to the natural revegetation of the surrounding area.

(B) In order to insure compliance with subparagraph (A), the period for determining successful revegetation shall be for a period of 5 full years after the last year of augmented seeding, fertilizing, irrigation or other work, except that such period shall be 10 full years where the annual average precipitation is 26 inches or less.

(7) EXCESS SPOIL AND WASTE.—(A) Spoil material and waste material in excess of that required to comply with paragraph (5) shall be transported and placed in approved areas, in a controlled manner in such a way so as to assure long-term mass stability and to prevent mass movement. In addition to the measures described under paragraph (3), internal drainage systems shall be employed, as may be required, to control erosion and drainage. The design of such excess spoil material piles and excess waste material piles shall be certified by a qualified professional engineer.

(B) Excess spoil material piles and excess waste material piles shall be graded and contoured to blend with the surrounding topography as much as practicable and revegetated in accordance with paragraph (6).

(8) SEALING.—All drill holes, and openings on the surface associated with underground mineral activities, shall be sealed when no longer needed for the conduct of mineral activities to ensure protection of the public, fish and wildlife and the environment.

(9) STRUCTURES.—All buildings, structures or equipment constructed, used or improved during mineral activities shall be removed, unless the Secretary determines that the buildings, structures or equipment shall be of beneficial use in accomplishing the postmining uses or for environmental monitoring.

(10) FISH AND WILDLIFE.—All fish and wildlife habitat in areas subject to mineral activities shall be restored in a manner commensurate with or superior to habitat conditions which existed prior to the mineral activities, including such conditions as may be prescribed by the Director, Fish and Wildlife Service.

(o) ADDITIONAL STANDARDS.—The Secretary may, by regulation, establish additional standards to address the specific environmental impacts of selected methods of mineral activities, such as, but not limited to, cyanide leach mining.

(p) DEFINITIONS.—As used in subsections (m) and (n): (1) The term "best technology currently available" means equipment, devices, systems, methods, or techniques which are currently available anywhere even if not in routine use in mineral activities. The term includes, but is not limited to, construction practices, siting requirements, vegetative selection and planting requirements, scheduling of activities and design of sedimentation ponds. Within the constraints of the surface management requirements of this Act, the Secretary shall have the discretion to determine the best technology currently available on a case-by-case basis.

(2) The term "best available demonstrated control technology" means equipment, devices, systems, methods, or techniques which have demonstrated engineering and economic feasibility and practicality in preventing disturbances to hydrologic balance during mineral activities and reclamation. Such techniques will have shown to be effective and practical methods of acid and other mine water pollution elimination or control, and other pollution affecting water quality. The "best available demonstrated control technology" will not generally be in routine use in mineral activities. Within the constraints of the surface management requirements of this Act, the Secretary shall have the discretion to determine the best available demonstrated control technology on a case-by-case basis.

(3) The term "spoil material" means the overburden, or non-mineralized material of any nature, consolidated or unconsolidated, that overlies a deposit of any locatable mineral that is removed in gaining access to, and extracting, any locatable mineral, or any such material disturbed during the conduct of mineral activities.

(4) The term "waste material" means the material resulting from mineral activities involving beneficiation, including but not limited to tailings, and such material resulting from mineral activities involving proc-

essing, to the extent such material is not subject to subtitle C of the Resource Conservation and Recovery Act of 1976 or the Uranium Mill Tailings Radiation Control Act.

(5) The term "ore piles" means ore stockpiled for beneficiation prior to the completion of mineral activities and reclamation.

(6) The term "subgrade ore" means ore that is too low in grade to be of economic value at the time of extraction but which could reasonably be economical in the foreseeable future.

(7) The term "excess spoil" means spoil material that may be excess of the amount necessary to comply with the requirements of subsection (m)(3).

(8) The term "excess waste" means waste material that may be excess of the amount necessary to comply with the requirements of subsection (m)(3).

SEC. 202. INSPECTION AND ENFORCEMENT.

(a) INSPECTIONS AND MONITORING.—(1) The Secretary shall make such inspections of mineral activities so as to ensure compliance with the surface management requirements. The Secretary shall establish a frequency of inspections for mineral activities conducted under an approved plan of operations, but in no event shall such inspection frequency be less than one complete inspection per calendar quarter or two complete inspections annually for a plan of operations for which the Secretary approves an application under section 201(j).

(2)(A) Any person who has reason to believe they are or may be adversely affected by mineral activities due to any violation of the surface management requirements may request an inspection. The Secretary shall determine within 10 days of receipt of the request whether the request states a reason to believe that a violation exists, except in the event the person alleges and provides reason to believe that an imminent danger as provided by subsection (b)(2) exists the 10 day period shall be waived and the inspection conducted immediately. When an inspection is conducted under this paragraph, the Secretary shall notify the person filing the complaint and such person shall be allowed to accompany the inspector during the inspection. The identity of the person supplying information to the Secretary relating to a possible violation or imminent danger or harm shall remain confidential with the Secretary if so requested by that person, unless that person elects to accompany an inspector on the inspection.

(B) The Secretary shall, by regulation, establish procedures for the review of any decision by his authorized representative not to inspect or by a refusal by such representative to ensure remedial actions are taken with respect to any alleged violation. The Secretary shall furnish such persons requesting the review a written statement of the reasons for the Secretary's final disposition of the case.

(3)(A) The Secretary shall require all operators to develop and maintain a monitoring and evaluation system which shall be capable of identifying compliance with all surface management requirements.

(B) Monitoring shall be conducted as close as technically feasible to the mineral activity or reclamation involved, and in all cases the monitoring shall be conducted within the area affected by mineral activities and reclamation.

(C) The point of compliance shall be as close to the mineral activity involved as is technically feasible, but in any event shall be located to comply with applicable State and Federal standards. In no event shall the point of compliance be outside the area affected by mineral activities and reclamation.

(D) The operator shall file reports with the Secretary on a quarterly basis on the results of the monitoring and evaluation process except that if the monitoring and evaluation show a violation of the surface management requirements, it shall be reported immediately to the Secretary.

(E) The Secretary shall determine what information must be reported by the operator pursuant to subparagraph (B). A failure to report as required by the Secretary shall constitute a violation of this Act and subject the operator to enforcement action pursuant to this section.

(F) The Secretary shall evaluate the reports submitted pursuant to this paragraph, and based on those reports and any necessary inspection shall take enforcement action pursuant to this section.

(b) ENFORCEMENT.—(1) If the Secretary or authorized representative determines, on the basis of an inspection that an operator, or any person conducting mineral activities under section 201(b)(2), is in violation of any surface management requirement, the Secretary or authorized representative shall issue a notice of violation to the operator or person describing the violation and the corrective measures to be taken. The Secretary or authorized representative shall provide such operator or person with a reasonable period of time to abate the violation. If, upon the expiration of time provided for such abatement, the Secretary or authorized representative finds that the violation has not been abated he shall immediately order a cessation of all mineral activities or the portion thereof relevant to the violation.

(2) If the Secretary or authorized representative determines, on the basis of an inspection, that any condition or practice exists, or that an operator, or any person conducting mineral activities under section 201(b)(2), is in violation of the surface management requirements, and such condition, practice or violation is causing, or can reasonably be expected to cause—

(A) an imminent danger to the health or safety of the public; or

(B) significant, imminent environmental harm to land, air or water resources;

the Secretary or authorized representative shall immediately order a cessation of mineral activities or the portion thereof relevant to the condition, practice or violation.

(3)(A) A cessation order by the Secretary or authorized representative pursuant to paragraphs (1) or (2) shall remain in effect until the Secretary or authorized representative determines that the condition, practice or violation has been abated, or until modified, vacated or terminated by the Secretary or authorized representative. In any such order, the Secretary or authorized representative shall determine the steps necessary to abate the violation in the most expeditious manner possible, and shall include the necessary measures in the order. The Secretary shall require appropriate financial assurances to insure that the abatement obligations are met.

(B) Any notice or order issued pursuant to paragraphs (1) or (2) may be modified, vacated or terminated by the Secretary or authorized representative. An operator, or person conducting mineral activities under section 201(b)(2), issued any such notice or order shall be entitled to a hearing on the record pursuant to subsection (f).

(4) If, after 30 days of the date of the order referred to in paragraph (3)(A), the required abatement has not occurred the Secretary shall take such alternative enforcement action against the responsible parties as will most likely being about abatement in the most expeditious manner possible. Such alternative enforcement action shall include, but is not necessarily limited to, seeking appropriate injunctive relief to bring about abatement.

(5) In the event an operator, or person conducting mineral activities under section 201(b)(2), is unable to abate a violation or defaults on the terms of the plan of operation the Secretary shall forfeit the financial assurance for the plan of operations if necessary to ensure abatement and reclamation under this Act.

(6) The Secretary shall not forfeit the financial assurance while a review is pending pursuant to subsections (f) and (g).

(c) COMPLIANCE.—(1) The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction or restraining order, in the district court of the United States for the district in which the mineral activities are located whenever an operator, or person conducting mineral activities under section 201(b)(2):

(A) violates, fails or refused to comply with any order issued by the Secretary under subsection (b); or

(B) interferes with, hinders or delays the Secretary in carrying out an inspection under subsection (a). Such court shall have jurisdiction to provide such relief as may be appropriate. Any relief granted by the court to enforce an order under clause (A) shall continue in effect until the completion or final termination of all proceedings for review of such order under subsections (f) and (g), unless the district court granting such relief sets it aside or modifies it.

(2) Notwithstanding any other provisions of law, the Secretary shall utilize enforcement personnel from the Office of Surface mining Reclamation and Enforcement to augment personnel of the Bureau of Land Management and the Forest Service to ensure compliance with the surface management requirements, and inspection requirements of subsection (a). The Bureau of Land Management and the Forest Service shall each enter into a memorandum of understanding with the Office of Surface Mining Reclamation and Enforcement for this purpose.

(d) PENALTIES.—(1) Any operator, or person conducting mineral activities under section 201(b)(2), who fails to comply with the surface management requirements shall be liable for a penalty of not more than $5,000 per violation. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments. No civil penalty under this subsection shall be assessed until the operator charged with the violation has been given the opportunity for a hearing under subsection (f).

(2) An operator, or person conducting mineral activities under section 201(b)(2), who fail to correct a violation for which a cessation order has been issued under subsection (b) within the period permitted for its correction shall be assessed a civil penalty of not less than $1,000 per violation for each day during which such failure continues, but in no event shall such assessment exceed a 30-day period.

(3) Whenever a corporation is in violation of the surface management requirements of fails or refuses to comply with an order issued under subsection (b), any director, officer or agent of such corporation who know-

ingly authorized, ordered, or carried out such violation, failure or refusal shall be subject to the same penalties that may be imposed upon an operator under paragraph (1).

(e) Citizen Suits.—(1) Except as provided under paragraph (2), any person having an interest which is or may be adversely affected may commence a civil action on his or her own behalf to compel compliance—

(A) against the Secretary where there is alleged a violation of any of the provisions of this Act or any regulation promulgated pursuant to this Act or terms and conditions of any plan of operations approved pursuant to this Act;

(B) against any other person alleged to be in violation of any of the provisions of this Act or any regulation promulgated pursuant to this Act or terms and conditions of any plan of operations approved pursuant to this Act;

(C) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this Act or any regulation promulgated pursuant to this Act which is not within the discretion of the Secretary; or

(D) against the Secretary where it is alleged that the Secretary acts arbitrarily or capriciously or in a manner inconsistent with this Act or any regulation promulgated pursuant to this Act. The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties.

(2) No action may be commenced except as follows: (A) Under paragraph (1)(A) prior to 60 days after the plaintiff has given notice in writing of such alleged violation to the Secretary, or to the person alleged to be in violation; except no action may be commenced against any person alleged to be in violation if the Secretary has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the provisions of this title (but in any such action in a court of the United States the person making the allegation may intervene as a matter of right).

(B) Under paragraph (1)(B) prior to 60 days after the plaintiff has given notice in writing of such action to the Secretary, in such manner as the Secretary shall by regulation prescribe, except that such action may be brought immediately after such notification in the case where the violation or order complained of constitutes an imminent threat to the environment or to the health or safety of the public or would immediately affect a legal interest of the plaintiff.

(3) Venue of all actions brought under this subsection shall be determined in accordance with title 28 U.S.C. 1391(a).

(4) The court, in issuing any final order in any action brought pursuant to paragraph (1) may award costs of litigation (including attorney and expert witness fees) to any party whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(5) Nothing in this subsection shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any of the provisions of this Act and the regulations thereunder, or to seek any other relief, including relief against the Secretary.

(f) Review by Secretary.—(1) (A) Any operator, or person conducting mineral activities under section 201(b)(2), issued a notice of violation or cessation order under subsection (b), or any person having an interest which is or may be adversely affected by such decisions, notice or order, may apply to the Secretary for review of the notice or order within 30 days of receipt thereof, or as the case may be, within 30 days of such notice or order being modified, vacated or terminated.

(B) Any operator, or person conducting mineral activities under section 201(b)(2), who is subject to a penalty under subsection (d) or section 105 may apply to the Secretary for review of the assessment within 30 days of notification of such penalty.

(C) Any person having an interest which is or may be adversely affected by a decision made by the Secretary under subsections (g), (h), (i), (j) and (l) of section 201, or subsection 202(a)(2), or subsection 204(g), may apply to the Secretary for review of the decision within 30 days after it is made.

(2) The Secretary shall provide an opportunity for a public hearing at the request of any party. Any hearing conducted pursuant to this subsection shall be on record and shall be subject to section 554 of title 5 of the United States Code. The filing of an application for review under this subsection shall not operate as a stay of any order or notice issued under subsection (b).

(3) Following the hearing referred to in paragraph (2), if requested, but in any event the Secretary shall make findings of fact and shall issue a written decision incorporating therein an order vacating, affirming, modifying or terminating the notice, order or decision, or with respect to an assessment, the amount of penalty that is warranted. Where the application for review concerns a cessation order issued under subsection (b), the Secretary shall issue the written decision within 30 days of the receipt of the application for review, unless temporary relief has been granted by the Secretary under paragraph (4).

(4) Pending completion of any proceedings under this subsection, the applicant may file with the Secretary a written request that the Secretary grant temporary relief from any order issued under subsection (b) together with a detailed statement giving reasons for such relief. The Secretary shall expeditiously issue an order or decision granting or denying such relief. The Secretary may grant such relief under such conditions as he may prescribe only if such relief shall not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air or water resources.

(5) The availability of review under this subsection shall not be construed to limit the operation of rights established under subsection (e).

(g) Judicial Review.—(1) Any action by the Secretary in promulgating regulations to implement this Act, or any other actions constituting rulemaking by the Secretary to implement this Act, shall be subject to judicial review in the United States District Court for the District of Columbia. Any action subject to judicial review under this subsection shall be affirmed unless the court concludes that such action is arbitrary, capricious, or otherwise inconsistent with law. A petition for review of any action subject to judicial review under this subsection shall be filed in the United States District Court for the District of Columbia within 60 days from the date of such action, or after such date if the petition is based solely on grounds arising after the sixtieth day. Any such petition may be made by any person who commented or otherwise participated in the rulemaking or who may be adversely affected by the action of the Secretary.

(2) Final agency action under this Act, including such final action on those matters described under subsection (f), shall be subject to judicial review in accordance with paragraph (4) and pursuant to 28 U.S.C. 1391(a) of the United States code on or before 60 days from the date of such final action.

(3) The availability of judicial review established in this subsection shall not be construed to limit the operations of rights established under subsection (e).

(4) The court shall hear any petition or complaint filed under this subsection solely on the record made before the Secretary. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

(5) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the action, order or decision of the Secretary.

(h) Proceedings.—Whenever a proceeding occurs under subsection (a), (f), or (g), or under section 201, or under section 204(g), at the request of any person, a sum equal to the aggregate amount of all costs and expenses (including attorney fees) as determined by the Secretary or the court to have been reasonably incurred by such person for or in connection with participation in such proceedings, including any judicial review of the proceeding, may be assessed against either party as the court, resulting from judicial review or the Secretary, resulting from administrative proceedings, deems proper.

SEC. 203. STATE LAW AND REGULATION.

(a) State Law.—(1) Any reclamation standard or requirement in State law or regulation that meets or exceeds the requirements of subsections (m) and (n) of section 201 shall not be construed to be inconsistent with any such standard.

(2) Any bonding standard or requirement in State law or regulation that meets or exceeds the requirements of section 201(l) shall not be construed to be inconsistent with such requirements.

(3) Any inspection standard or requirement in State law or regulation that meets or exceeds the requirements of section 202 shall not be construed to be inconsistent with such requirements.

(b) Applicability of Other State Requirements.—(1) Nothing in this Act shall be construed as affecting any air or water quality standard or requirement of any State law or regulation which may be applicable to mineral activities on lands subject to this Act.

(2) Nothing in this Act shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, such person's interest in water resources affected by mineral activities on lands subject to this Act.

(c) Cooperative Agreements.—(1) Any state may enter into a cooperative agreement with the Secretary for the purposes of the Secretary applying such standards and requirements referred to in subsection (a) and subsection (b) to mineral activities or reclamation on lands subject to this Act.

(2) In such instances where the proposed mineral activities would affect lands not subject to this Act in addition to lands subject to this Act, in order to approve a plan of operations the Secretary shall enter into a cooperative agreement with the State that sets forth a common regulatory framework consistent with the surface management re-

quirements of this Act for the purposes of such plan of operations.

(3) The Secretary shall not enter into a cooperative agreement with any State under this section until after notice in the Federal Register and opportunity for public comment.

(d) Prior Agreements.—Any cooperative agreement or such other understanding between the Secretary and any State, or political subdivision thereof, relating to the surface management of mineral activities on lands subject to this Act that was in existence on the date of enactment of this Act may only continue in force until the effective date of this Act, after which time the terms and conditions of any such agreement or understanding shall only be applicable to plans of operations approved by the Secretary prior to the effective date of this Act except as provided under section 405.

(e) Delegation.—The Secretary shall not delegate to any State, or political subdivision thereof, the Secretary authorities, duties and obligations under this Act, including with respect to any cooperative agreements entered into under this section.

SEC. 204. UNSUITABILITY REVIEW.

(a) In General.—The Secretary of the Interior in preparing land use plans under the Federal Land Policy and Management Act of 1976, and the Secretary of Agriculture in preparing land use plans under the forest and rangeland Renewable Resources Planning Act of 1974, shall each conduct a review of lands that are subject to this Act in order to determine whether there are any areas which are suitable for all or certain types of mineral activities pursuant to the standards set forth under subsection (e). In the event such a determination is made, the review shall be included in the applicable land use plan.

(b) Specific Areas.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture, on the basis of any information available, shall each publish a notice in the Federal Register identifying and listing the lands subject to this Act which are or may be determined to be unsuitable for all or certain types of mineral activities according to the standards set forth in subsection (e). After opportunity for public comment and proposals for modifications to such listing, but not later than the effective date of this Act, each Secretary shall begin to review the lands identified pursuant to this subsection to determine whether such lands are unsuitable for all or certain types of mineral activities according to the standards set forth in subsection (e).

(c) Land Use Plans.—(1) At such time as the Secretary revises or amends a land use plan pursuant to provisions of law other than this Act, the Secretary shall identify lands determined to be unsuitable for all or certain types of mineral activities according to the standards set forth in subsection (e). The Secretary shall incorporate such determinations in the applicable land use plans.

(2) If lands covered by a proposed plan of operations have not been reviewed pursuant to this section at the time of submission of a plan of operations, the Secretary shall, prior to the consideration of the proposed plan of operations, review the areas that would be affected by the proposed mineral activities to determine whether the area is unsuitable for all or certain types of mineral activities according to the standards set forth in subsection (e). The Secretary shall use such review in the next revision or amendment to the applicable land use plan to the extent necessary to reflect the unsuitability of such lands for all or certain types of mineral activities according to the standards set forth in subsection (e).

(3) This section does not require land use plans to be amended until such plans are adopted, revised, or amended pursuant to provisions of law other than this Act.

(d) Effect of Determination.—(1) If the Secretary determines an area to be unsuitable under this section for all or certain types of mineral activities, he shall do one of the following:

(A) In any instance where a determination is made that an area is unsuitable for all types of mineral activities, the Secretary of the Interior, with the consent of the Secretary of Agriculture for lands under the jurisdiction of the Secretary of Agriculture, shall withdraw such area pursuant to section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714).

(B) In any instance where a determination is made that an area is unsuitable for certain types of mineral activities, the Secretary shall take appropriate steps to limit or prohibit such types of mineral activities.

(2) Nothing in this section may be construed as affecting lands where mineral activities under approved plans of operations or under notice (as provided for in the regulations of the Secretary of the Interior in effect prior to the effective date of this Act relating to operations that cause a cumulative disturbance of 5 acres or less) were being conducted on the effective date of this Act, except as provided under subsection (g).

(3) Nothing in this section may be construed as prohibiting mineral activities not subject to paragraph (2) where substantial legal and financial commitments in such mineral activities were in existence on the effective date of this Act, but nothing in this section may be construed as limiting any existing authority of the Secretary to regulate such activities.

(4) An unsuitability determination under this section shall not prevent the types of mineral activities referred to in section 201(b)(2)(A), but nothing in this section shall be construed as authorizing such activities in areas withdrawn pursuant to section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714).

(e) Review Standards.—(1) An area containing lands that are subject to this Act shall be determined to be unsuitable for all or certain types of mineral activities if the Secretary determines, after notice and opportunity for public comment, that reclamation pursuant to the standards set forth in subsections (m) and (n) of section 201 would not be technologically and economically feasible for any such mineral activities in such area and where—

(A) such mineral activities would substantially impair water quality or supplies within the area subject to the mining plan or adjacent lands, such as impacts on aquifers and aquifer recharge areas;

(B) such mineral activities would occur in areas of unstable geology that could if undertaken substantially endanger life and property;

(C) such mineral activities would adversely affect publicly-owned places which are listed on or are eligible for listing on the National Register of Historic Places, unless the Secretary and the State approve all or certain mineral activities, in which case the area shall not be determined to be unsuitable for such approved mineral activities;

(D) such mineral activities would cause loss of or damage to riparian areas;

(E) such mineral activities would impair the productivity of the land subject to such mineral activities;

(F) such mineral activities would adversely affect candidate species for threatened and endangered species status; or (G) such mineral activities would adversely affect lands designated as National Wildlife Refuges.

(2) An area may be determined to be unsuitable for all or certain mineral activities if the Secretary, after notice and opportunity for public comment, determines that reclamation pursuant to the standards set forth in subsections (m) and (n) of section 201 would not be technologically and economically feasible for any such mineral activities in such area and where—

(A) such mineral activities could result in significant damage to important historic, cultural, scientific and aesthetic values or to natural systems;

(B) such mineral activities could adversely affect lands of outstanding aesthetic qualities and scenic Federal lands designated as Class I under section 162 of the Clean Air Act (42 U.S.C. 7401 and following);

(C) such mineral activities could adversely affect lands which are high priority habitat for migratory bird species or other important fish and wildlife species as determined by the Secretary in consultation with the Director of the Fish and Wildlife Service and the appropriate agency head for the State in which the lands are located;

(D) such mineral activities could adversely affect lands which include wetlands if mineral activities would result in loss of wetland values;

(E) such mineral activities could adversely affect National Conservation System units; or

(F) such mineral activities could adversely affect lands containing other resource values as the Secretary may consider.

(f) Withdrawal Review.—In conjunction with conducting an unsuitability review under this section, the Secretary shall review all administrative withdrawals of land from the location of mining claims to determine whether the revocation or modification of such withdrawal for the purpose of allowing such lands to be opened to the location of mining claims under this Act would be appropriate as a result of any of the following:

(1) The imposition of any conditions referred to in subsection (d)(1)(B).

(2) The surface management requirements of section 201.

(3) The limitation of section 107.

(g) Citizen Petition.—(1) In any instance where a land use plan has not been amended or completed to reflect the review referred to in subsection (a), any person having an interest that may be adversely affected by potential mineral activities on lands subject to this Act covered by such plan shall have the right to petition the Secretary to determine such lands to be unsuitable for all or certain types of mineral activities. Such petition shall contain allegations of fact with respect to potential mineral activities and with respect to the unsuitability of such lands for all or certain mineral activities according to the standards set forth in subsection (e) with supporting evidence that would tend to establish the allegations.

(2) Petitions received prior to the date of the submission of a proposed plan of operations under this Act, shall stay consideration of the proposed plan of operations pending review of the petition.

(3) Within 4 months after receipt of a petition to determine lands to be unsuitable for all or certain types of mining in areas where a land use plan has not been amended or completed to reflect the review referred to in subsection (a), the Secretary shall hold a

public hearing on the petition in the locality of the area in question. After a petition has been filed and prior to the public hearing, any person may support or oppose the determination sought by the petition by filing written allegations of facts and supporting evidence.

(4) Within 60 days after a public hearing held pursuant to paragraph (3), the Secretary shall issue a written decision regarding the petition which shall state the reasons for granting or denying the requested determination.

(5) Reviews conducted pursuant to this subsection shall be consistent with paragraphs (3) and (4) of subsection (d) and with subsection (e).

SEC. 205. LANDS NOT OPEN TO LOCATION.

(a) LANDS.—Subject to valid existing rights, each of the following shall not be open to the location of mining claims under this Act on the date of enactment of this Act:

(1) Lands recommended for wilderness designated by the agency managing the surface, pending a final determination by the Congress of the status of such lands.

(2) Lands being managed by the Bureau of Land Management as wilderness study areas on the date of enactment of this Act except where the location of mining claims is specifically allowed to continue by the statute designating the study area, pending a final determination by the Congress of the status of such lands.

(3) Lands within Wild and Scenic River System and lands under study for inclusion in such system, pending a final determination by the Congress of the status of such lands.

(4) Lands identified by the Bureau of Land Management as Areas of Critical Environmental Concern.

(5) Lands identified by the Secretary of Agriculture as Research Natural Areas.

(6) Lands designated by the Fish and Wildlife Service as critical habitat for threatened or endangered species.

(7) Lands administered by the Fish and Wildlife Service.

(8) Lands which the Secretary shall designate for withdrawal under authority of other law, including lands which the Secretary of Agriculture may propose for withdrawal by the Secretary of the Interior under authority of other law.

(b) DEFINITION.—As used in this section, the term "valid existing rights" means that a mining claim located on lands referred to in subsection (a) was properly located and maintained under the general mining laws prior to the date of enactment of this Act, and was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of this Act, and that such claim continues to be valid.

TITLE III—ABANDONED MINERALS MINE RECLAMATION FUND

SEC. 301. ABANDONED MINERALS MINE RECLAMATION FUND.

(a) ESTABLISHMENT.—(1) There is established on the books of the Treasury of the United States a trust fund to be known as the Abandoned Minerals Mine Reclamation Fund (hereinafter in this title referred to as the 'Fund'). The Fund shall be administered by the Secretary of the Interior acting through the Director, Bureau of Land Management.

(2) The Secretary of the Interior shall notify the Secretary of the Treasury as to what portion of the Fund is not, in his judgment, required to meet current withdrawals. The Secretary of the Treasury shall invest such portion of the Fund in public debt securities with maturities suitable for the needs for such Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketplace obligations of the United States of comparable maturities. The income on such investments shall be credited to, and form a part of, the Fund.

(b) AMOUNTS.—The following amounts shall be credited to the Fund for the purposes of this Act:

(1) All moneys received from the collection of rental fees under section 104 of this Act.

(2) Amounts collected pursuant to sections 105 and 202(d) of this Act.

(3) All moneys received from the disposal of mineral materials pursuant to section 3 of the Materials Act of 1947 (30 U.S.C. 603) to the extent such moneys are not specifically dedicated to other purposes under other authority of law.

(4) Donations by persons, corporations, associations, and foundations for the purposes of this title.

(5) Amounts referred to in section 410(e)(1) of this Act.

SEC. 302. USE AND OBJECTIVES OF THE FUND.

(A) IN GENERAL.—The Secretary is authorized to use moneys in the Fund for the reclamation and restoration of land and water resources adversely affected by past mineral (other than coal and fluid minerals) and mineral material mining, including but not limited to, any of the following:

(1) Reclamation and restoration of abandoned surface mined areas.

(2) Reclamation and restoration of abandoned milling and processing areas.

(3) Sealing, filling, and grading abandoned deep mine entries.

(4) Planting of land adversely affected by past mining to prevent erosion and sedimentation.

(5) Prevention, abatement, treatment and control of water pollution created by abandoned mine drainage.

(6) Control of surface subsidence due to abandoned deep mines.

(7) Such expenses as may be necessary to accomplish the purposes of this title.

(b) PRIORITIES.—Expenditure of moneys from the Fund shall reflect the following priorities in the order stated:

(1) The protection of public health, safety, general welfare and property from extreme danger from the adverse effects of past minerals and mineral materials mining practices.

(2) The protection of public health, safety, and general welfare from the adverse effects of past minerals and mineral materials mining practices.

(3) The restoration of land and water resources previously degraded by the adverse effects of past minerals and mineral materials mining practices.

SEC. 303. ELIGIBLE AREAS.

(a) ELIGIBILITY.—Lands and waters eligible for reclamation expenditures under this Act shall be those within the boundaries of States that have lands subject to this Act and the Materials Act of 1947—

(1) which were mined or processed for minerals and mineral materials or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to the date of enactment of this title; and

(2) for which the Secretary makes a determination that there is no continuing reclamation responsibility under State or Federal laws; and

(3) for which it can be established that such lands do not contain minerals which could economically be extracted through the reprocessing or remaining of such lands, unless such consideration are in conflict with the priorities set forth under paragraphs (1) and (2) of section 302(b).

In determining the eligibility under this subsection of Federal lands and waters under the jurisdiction of the Forest Service or Bureau of Land Management in lieu of the date referred to in paragraph (1), the applicable date shall be August 28, 1974, and November 26, 1980, respectively.

(b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—Sites and areas designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 and following) or which have been listed for remedial action pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 and following) shall not be eligible for expenditures from the Fund under this title.

SEC. 304. FUND ALLOCATION AND EXPENDITURES.

(a) ALLOCATIONS.—(1) Moneys available for expenditure from the Fund shall be allocated on an annual basis by the Secretary in the form of grants to eligible States, or in the form of expenditures under subsection (b), to accomplish the purposes of this title.

(2) The Secretary shall distribute moneys from the Fund based on the greatest need for such moneys pursuant to the priorities stated in section 302(b).

(b) DIRECT FEDERAL EXPENDITURES.—Where a State is not eligible, or in instances where the Secretary determines that the purposes of this title may best be accomplished otherwise, moneys available from the Fund may be expended directly by the Director, Bureau of Land Management. The Director may also make such money available through grants made to the Chief of the United States Forest Service, the Director of the National Park Service, and any public entity that volunteers to develop and implement, and that has the ability to carry out, all or a significant portion of a reclamation program, or through cooperative agreements between eligible States and the entities referred to in this subsection

SEC. 305. STATE RECLAMATION PROGRAMS.

(a) ELIGIBLE STATES.—For the purpose of section 304(a), "eligible States" are those States for which the Secretary determines meets each of the following requirements:

(1) Within the State there are mined lands, waters, and facilities eligible for reclamation pursuant to section 303.

(2) The State has developed an inventory of such areas following the priorities established under section 302(b).

(3) The State has established, and the Secretary has approved, a State abandoned minerals and mineral materials mine reclamation program for the purpose of receiving and administering grants under this subtitle.

(b) MONITORING.—The Secretary shall monitor the expenditure of State grants to ensure they are being utilized to accomplish the purposes of this title.

(c) STATE PROGRAMS.—(1) The Secretary shall approve any State abandoned minerals mine reclamation program submitted to the Secretary by a State under this title if the Secretary finds that the State has the ability and necessary State legislation to implement such program and that the program complies with the provisions of this title and the regulations of the Secretary under this title.

(2) No State, or a contractor for such State engaged in approved reclamation work under this title, or a public entity referred to in section 304(b), shall be liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out an approved State abandoned minerals mine reclamation program under this section. This paragraph shall not preclude liability for cost or damages as a result of gross negligence or intentional misconduct by a State. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

Amounts credited to the Fund are authorized to be appropriated for the purpose of this title without fiscal year limitation.

TITLE IV—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 401. POLICY FUNCTIONS.

(a) MINERALS POLICY.—The Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) is amended by adding at the end thereof the following: "It shall also be the responsibility of the Secretary of Agriculture to carry out the policy provisions of paragraphs (1) and (2) of this Act.".

(b) MINERAL DATA.—Section 5(e)(3) of the National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1604) is amended by inserting before the period the following: ", except that for National Forest System lands the Secretary of Agriculture shall promptly initiate actions to improve the availability and analysis of mineral data in Federal land use decisionmaking".

SEC. 402. USER FEES.

The Secretaries of Interior and Agriculture are authorized to establish and collect from persons subject to the requirements of this Act such user fees as may be necessary to reimburse the United States for a portion of the expenses incurred in administering such requirements. Fees may be assessed and collected under this section only in such manner as may reasonably be expected to result in an aggregate amount of the fees collected during any fiscal year which does not exceed the aggregate amount of administrative expenses referred to in this section.

SEC. 403. REGULATIONS; EFFECTIVE DATES.

(a) EFFECTIVE DATE.—This Act takes effect 1 year after the date of enactment of this Act, except as otherwise provided in this Act.

(b) REGULATIONS.—(1) The Secretary of the Interior shall issue final regulations to implement title I, such requirements of section 402 and 409 as may be applicable to such title, title III and sections 404, 406 and 407 not later than the effective date of this Act specified in subsection (a).

(2) The Secretary of the Interior and the Secretary of Agriculture shall each issue final regulations to implement their respective responsibilities under title II, such requirements of section 402 as may be applicable to such title, and sections 405 and 409 not later than the effective date of this Act referred to in subsection (a). The Secretary of the Interior and the Secretary of Agriculture shall coordinate the promulgation of such regulations.

(3) Failure to promulgate the regulations specified in this subsection by the effective date of this Act by reason of any appeal or judicial review shall not delay the effective date of this Act as specified in subsection (a).

(c) NOTICE.—Within 60 days after the publication of regulations referred to in subsection (b)(1), the Secretary of the Interior shall give notice to holders of mining claims and mill sites maintained under the general mining laws as to the requirements of section 404. Procedures for providing such notice shall be established as part of the regulations.

(d) NEW MINING CLAIMS.—Notwithstanding any other provision of law, after the effective date of this Act, a mining claim for a locatable mineral on lands subject to this Act—

(1) may be located only in accordance with this Act,

(2) may be maintained only as provided in this Act, and

(3) shall be subject to the requirements of this Act.

SEC. 404. TRANSITIONAL RULES; MINING CLAIMS AND MILL SITES.

(a) CLAIMS UNDER THE GENERAL MINING LAWS.—(1) CONVERTED MINING CLAIMS.—Notwithstnding any other provision of law, within the 3-year period after the effective date of this Act, the holder of any unpatented mining claim which was located under the general mining laws before the effective date of this Act may elect to convert the claim under this paragraph by filing an election to do so with the Secretary of the Interior that references the Bureau of Land Management serial number of that claim in the office designated by such Secretary. The provisions of title I (other than subsections (a), (b), (c), (d)(1), (f), and (h) of section 103) shall apply to any such claim, effective upon the making of such election, and the filing of such election shall constitute notice to the Secretary for purposes of section 103(d)(2). Once a mining claim has been converted, there shall be no distinction made as to whether such claim was originally located as a lode or placer claim.

(2) UNCONVERTED MINING CLAIMS.—Notwithstanding any other provision of law, any claim referred to in paragraph (1) that has not converted within the 3-year period referred to in such paragraph shall be deemed forfeited and declared null and void.

(3) CONVERTED MILL SITE CLAIMS.—Notwithstanding any other provision of law, within the 3-year period after the effective date of this Act, the holder of any unpatented mill site which was located under the general mining laws before the effective date of this Act may elect to convert the site under this paragraph by filing an election to do so with the Secretary of the Interior that references the Bureau of Land Management serial number of that mill site in the office designated by such Secretary. The provisions of title I (other than subsections (a), (b), (c), (d)(1), and (f) of section 103) shall apply to any such claim, effective upon the making of such election, and the filing of such election shall constitute notice to the Secretary for purposes of section 103(d)(2). A mill site converted under this paragraph shall be deemed a mining claim under this Act.

(4) UNCONVERTED MILL SITE CLAIMS.—Notwithstanding any other provision of law, any mill site referred to in paragraph (3) that has not converted within the 3-year period referred to in such paragraph shall be deemed forfeited and declared null and void.

(5) TUNNEL SITES.—Any tunnel site located under the general mining laws on or before the effective date of this Act shall not be recognized as valid unless converted pursuant to paragraph (1). No tunnel sites may be located under the general mining laws after the effective date of this Act.

(b) SPECIAL APPLICATION OF REQUIREMENTS.—For mining claims and mill sites converted under this section each of the following shall apply:

(1) For the purposes of complying with the requirements of section 103(d)(2), whenever the Secretary receives an election under paragraphs (1) or (3) of subsection (a), as the case may be, he shall provide the certificate referenced in section 103(d)(2) to the holder of the mining claim or mill site.

(2) The first diligence year applicable to mining claims and mill sites converted under this section shall commence on the first day of the first month following the date the holder of such claim or mill site files an election to convert with the Secretary under paragraph (1) or (3) subsection (a), as the case may be, and subsequent diligence years shall commence on the first day of that month each year thereafter.

(3) For the purposes of determining the boundaries of a mining claim to which the rental requirements of section 104 apply for a mining claim or mill site converted under this section, the rental fee shall be paid on the basis of land within the boundaries of the converted mining claim or mill site as described in the notice of location or certificate of location filed under section 314 of the Federal Land Policy and Management Act of 1976.

(c) PRECONVERSION.—Any unpatented mining claim or mill site located under the general mining laws shall be deemed to be a prior claim for the purposes of section 103(e) during the 3-year period referred to in subsections (a)(1) or (a)(3).

(d) POSTCONVERSION.—Any unpatented mining claim or mill site located under the general mining laws shall be deemed to be a prior claim for the purposes of section 103(e) if converted pursuant to subsections (a)(1) or (a)(3).

(e) DISPOSITION OF LAND.—In the event a mining claim is located under this Act for lands encumbered by a prior mining claim or mill site located under the general mining laws, such lands shall become part of the claim located under this Act if the claim or mill site located under the general mining laws is declared null and void under this section or otherwise becomes null and void thereafter.

(f) PREACT CONFLICTS.—(1) Any conflicts in existence on or before the date of enactment of this Act between holders of mining claims located under the general mining laws may be resolved in accordance with applicable laws governing such conflicts in effect on the date of enactment of this Act in a court with proper jurisdiction.

(2) Any conflicts not relating to matters provided for under section 103(g) between the holders of a mining claim located under this Act and a mining claim or mill located under the general mining laws arising either before or after the conversion of any such claim or site under this section shall be resolved in a court with proper jurisdiction.

SEC. 405. TRANSITIONAL RULES; SURFACE MANAGEMENT REQUIREMENTS.

(A) NEW CLAIMS.—Notwithstanding any other provision of law, any mining claim for a locatable mineral on lands subject to this Act located after the date of enactment of this Act, but prior to the effective date of this Act, shall be subject to such surface management requirements as may be applicable to the mining claim in effect prior to the date of enactment of this Act until the effective date of this Act, at which time such claim shall be subject to the requirements of title II.

(b) PREEXISTING CLAIMS.—Notwithstanding any other provision of law, any unpatented mining claim or mill site located under the general mining laws shall be subject to the requirements of title II as follows:

(1) In the event a plan of operations had not been approved for mineral activities on any such claim or site prior to the effective date of this Act, the claim or site shall be subject to the requirements of title II upon the effective date of this Act.

(2) In the event a plan of operations had been approved for mineral activities on any such claim or site prior to the effective date of this Act, such plan of operations shall continue in force for a period of 5 years after the effective date of this Act, after which time the requirements of title II shall apply, except as provided under subsection (c), subject to the limitations of section 204(d)(2). In order to meet the requirements of section 201, the person conducting mineral activities under such plan of operations shall apply for a modification under section 201(i). During such 5-year period the provisions of section 202 shall apply on the basis of the surface management requirements applicable to such plans of operations prior to the effective date of this Act.

(3) In the event a notice had been filed with the authorized officer in the applicable district office of the Bureau of Land Management (as provided for in the regulations of the Secretary of the Interior in effect prior to the date of enactment of this Act relating to operations that cause a cumulative disturbance of 5 acres or less) prior to the date of enactment of this Act, mineral activities may continue under such notice for a period of 2 years after the effective date of this Act, after which time the requirements of title II shall apply, except as provided under subsection (c), subject to the limitations of section 204(d)(2). In order to meet the requirements of section 201, the person conducting mineral activities under such notice must apply for a modification under section 201(i) unless such mineral activities are conducted pursuant to section 201(b)(2). During such 2-year period the provisions of section 202 shall apply on the basis of the surface management requirements applicable to such notices prior to the effective date of this Act.

(4) In the event a notice (as described in paragraph (3)) had not been filed with the authorized officer in the applicable district office of the Bureau of Land Management prior to the date of enactment of this Act, the claim or site shall be subject to the surface management requirements in effect prior to the effective date of this Act at which time such claims shall be subject to the requirements of title II.

SEC. 406. BASIS FOR CONTEST.

(a) DISCOVERY.—After the effective date of this Act, a mining claim may not be contested or challenged on the basis of discovery under the general mining laws, except as follows:

(1) Any claim located on or before the effective date of this Act may be contested by the United States on the basis of discovery under the general mining laws as in effect prior to the effective date of this Act if such claim is located within units of the National Park System, National Wildlife Refuge System, National Wilderness Preservation System, Wild and Scenic Rivers System, National Trails System, or National Recreation Areas designated by an Act of Congress, or within an area referred to in section 205 pending a final determination referenced in such section.

(2) Any mining claim located on or before the effective date of this Act may be contested by the United States on the basis of discovery under the general mining laws as in effect prior to the effective date of this Act if such claim was located for a mineral material that purportedly has a property giving it distinct and special value within the meaning of section 3(a) of the Act of July 23, 1955, or if such claim was located for a mineral that was not locatable under the general mining laws on or before the effective date of this Act.

(b) The Secretary of the Interior or the Secretary of Agriculture, as the case may be, may initiate contest proceedings against those mining claims referred to in subsection (a) at any time, except that nothing in this section may be construed as requiring the Secretary to inquire into or contest the validity of a mining claim for the purpose of the conversion referred to in section 404.

(c) Nothing in this section may be construed as limiting any contest proceedings initiated by the United States under this section on issues other than discovery.

SEC. 407. SAVINGS CLAUSE CLAIMS.

(a) Notwithstanding any other provision of law, except as provided under subsection (b), an unpatented mining claim referred to in section 37 of the Mineral Leasing Act (30 U.S.C. 193) may not be converted under section 404 until the Secretary of the Interior determines the claim was valid on the date of enactment of the Mineral Leasing Act and has been maintained in compliance with the general mining laws.

(b) Immediately after the date of enactment of this Act, the Secretary of the Interior shall initiate contest proceedings challenging the validity of all unpatented claims referred to in subsection (a), including those claims for which a patent application has not been filed. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void.

(c) No claim referred to in subsection (a) shall be declared null and void under section 404 during the period such claim is subject to a proceeding under subsection (b). If, as a result of such proceeding, a claim is determined valid, the holder of such claim may comply with the requirements of section 404(a)(1), except that the 3-year period referred to in such section shall commence with the date of the completion of the contest proceeding.

SEC. 408. SEVERABILITY.

If any provision of this Act or the applicability thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 409. PURCHASING POWER ADJUSTMENT.

The Secretary shall adjust all rental rates, penalty amounts, and other dollar amounts established in this Act for changes in the purchasing power of the dollar every 10 years following the date of enactment of this Act, employing the Consumer Price Index for all urban consumers published by the Department of Labor as the basis for adjustment, and rounding according to the adjustment process of conditions of the Federal Civil Penalties Inflation Adjustment Act of 1990 (104 Stat. 890).

SEC. 410. ROYALTY.

(a) RESERVATION OF ROYALTY.—Production of locatable minerals (including associated minerals) from any mining claim located or converted under this Act, or mineral concentrates derived from locatable minerals produced from any mining claim located or converted under this Act, as the case may be, shall be subject to a royalty of not less than 8 percent of the gross income from the production of such locatable minerals or concentrates, as the case may be.

(b) ROYALTY PAYMENTS.—Royalty payments shall be made to the United States not later than 30 days after the end of the month in which the product is produced and placed in its first marketable condition, consistent with prevailing practices in the industry.

(c) REPORTING REQUIREMENTS.—All persons holding claims under this Act shall be required to provide such information as determined necessary by the Secretary to ensure compliance with this section, including, but not limited to, quarterly reports, records, documents, and other data. Such reports may also include, but not be limited to, pertinent technical and financial data relating to the quantity, quality, and amount of all minerals extracted from the mining claim.

(d) AUDITS.—The Secretary is authorized to conduct such audits of all persons holding claims under this Act as he deems necessary for the purpose of ensuring compliance with the requirements of this section.

(e) DISPOSITION OF RECEIPTS.—All receipts from royalties collected pursuant to this section shall be distributed as follows—

(1) 50 percent shall be deposited into the Fund referred to in title III;

(2) 25 percent collected in any State shall be paid to the State in the same manner as are payments to States under section 35 of the Mineral Leasing Act; and

(3) 25 percent shall be deposited into the Treasury of the United States.

(f) COMPLIANCE.—Any person holding claims under this Act who knowingly or willfully prepares, maintains, or submits false, inaccurate, or misleading information required by this section, or fails or refuses to submit such information, shall be subject to the enforcement provisions of section 202 of this Act and forfeiture of the claim.

(g) REGULATIONS.—The Secretary shall promulgate regulations to establish gross income for royalty purposes under subsection (a) and to ensure compliance with this section.

(h) REPORT.—The Secretary shall submit to the Congress an annual report on the implementation of this section. The information to be included in the report shall include, but not be limited to, aggregate and State-by-State production data, and projections of mid-term and long-term hard rock mineral production and trends on public lands.

SEC. 411. SAVINGS CLAUSE.

(a) SPECIAL APPLICATION OF MINING LAWS.—Nothing in this Act shall be construed as repealing or modifying any Federal law, regulation, order or land use plan, in effect prior to the effective date of this Act that prohibits or restricts the application of the general mining laws, including such laws that provide for special management criteria for operations under the general mining laws as in effect prior to the effective date of this Act, to the extent such laws provide environmental protection greater than required under this title.

(b) OTHER FEDERAL LAWS.—Nothing in this Act shall be construed as superseding, modifying, amending or repealing any provision of Federal law not expressly superseded, modified, amended or repealed by this Act, including but not necessarily limited to, all of the following laws—

(1) the Clean Water Act (33 U.S.C. 1251 and following);

(2) the Clean Air Act (42 U.S.C. 7401 and following);

(3) title IX of the Public Health Service Act (the Safe Drinking Water Act (42 U.S.C. 300f and following));

(4) the Endangered Species Act of 1973 (16 U.S.C. 1531 and following);

(5) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 and following);

(6) the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following);

(7) the Uranium Mill Tailings Radiation Control Act (42 U.S.C. 7901 to 7942);

(8) the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 and following);

(9) the Solid Waste Disposal Act (42 U.S.C. 6901 and following);

(10) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 and following);

(11) the Act commonly known as the False Claims Act (31 U.S.C. 3729 to 3731);

(12) the National Historic Preservation Act (16 U.S.C. 470 and following);

(13) the Migratory Bird Treaty Act (16 U.S.C. 706 and following); and

(14) the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976.(c)

(c) PROTECTION OF CONSERVATION AREAS.—In order to protect the resources and values of Denali National Park and Preserve, and all other National Conservation System units, the Secretary of the Interior or other appropriate Secretary shall utilize authority under this Act and other applicable law to the fullest extent necessary to prevent mineral activities within the boundaries of such units that could have an adverse impact on the resources or values of such units.

SEC. 412. AVAILABILITY OF PUBLIC RECORDS.

Copies of records, reports, inspection materials or information obtained by the Secretary under this Act shall be made immediately available to the public, consistent with section 552 of title 5 of the United States Code, in central and sufficient locations in the county, multicounty, and State area of mineral activity or reclamation so that such items are conveniently available to residents in the area proposed or approved for mineral activities or reclamation.

MINERAL EXPLORATION AND DEVELOPMENT ACT OF 1993—SUMMARY OF MAJOR PROVISIONS

TITLE I—MINING EXPLORATION AND DEVELOPMENT

Mining Claims

Provides that claims are to be located in accordance with the public land survey.

Provides that claim holder files a notice of location with the Secretary, who returns a certificate to the locator with a serial number assigned to the claim, a description of the claim, and claim maintenance requirements.

Provides for civil penalties of up to $5,000 (per violation) for certain violations of claim location or maintenance requirements.

Annual Rental

Provides that a claimant pay an annual rental fee of not less than $5 per acre for the first five years, escalating in $5 increments each five years to $25 per acre for the twenty-first year, and each year thereafter.

Limitation on Patent Issuance

Prohibits issuing a patent for any mining claim unless a patent application was filed and all requirements were met by the date of introduction.

Royalty

Establishes a royalty of not less than 8 percent of the gross income from production.

Mineral Materials

Makes all deposits of mineral materials (i.e. sand, stone, gravel, pumice) saleable pursuant to the Materials Act of 1947, subject to valid existing rights.

TITLE II—ENVIRONMENTAL CONSIDERATIONS

Surface Management—General

Requires that all mineral activities and reclamation be conducted so as to minimize adverse impacts to the environment.

Requires approval of a plan of operation for most activities. The plan shall include a mining permit and a reclamation plan.

Provides public notice, comment and hearing procedures for submittal, renewal, or modification of a plan of operation, and for any temporary cessation of operations.

To approve a plan, the Secretary shall determine, among other things: That reclamation would have a high probability of success; that activities, reclamation, and post-mining land condition are consistent with the land use plan; that plan is in compliance with all applicable laws; that adequate bond is furnished; and what are the probable hydrologic consequences of mining.

Bonding

Financial assurance required prior to conducting any mineral activities in an amount sufficient to assure complete reclamation.

Reclamation

Requires lands be restored to a condition capable of supporting the uses to which lands were capable of supporting prior to mining or other beneficial uses not inconsistent with the lands use plan.

Requires surface to be backfilled, graded and contoured to its natural topography. Provides a variance for open pit mines if the Secretary finds a pit would not pose a threat to public health or safety or have adverse effect on surface or groundwater pollution.

Requires the Secretary to establish reclamation standards, including specified requirements regarding: Topsoil replacement; stabilization of surface areas to effectively control erosion and minimize air and water pollution; minimization of disturbance of hydrologic balance and the quality and quantity of surface and ground water systems; prevention of generation of acid or toxic drainage to the extent possible using the best available demonstrated control technology; prevention of disruption to streamflows and restoration of recharge capacity to premining conditions, to the extent possible; requires water resources used for domestic or agricultural use that have been diminished, contaminated or interrupted to be restored or replaced; revegetation; sealing of surface openings; removal of structures; and restoration of fish and wildlife habitat commensurate to pre-mining conditions.

Inspection and Enforcement

Provides for inspections, notices of violation, cessation orders, and injunctive relief under certain conditions for violations of surface management requirements.

Provides procedural requirements for review of the Secretary's actions, including the award of attorney's fees.

Provides penalties for violations of the surface management requirements.

Provides for citizen suits.

State Law

Provides that reclamation, bonding or inspection requirements of state law or regulation that meet or exceed the requirements of the Act shall not be inconsistent with the Act.

Provides for cooperative agreements between the Secretary and a state to apply surface management requirements.

Land Use Planning

Requires the Secretaries of Interior and Agriculture, in preparing land use plans, to review lands subject to the Act to determine areas that are unsuitable for all or certain types of mining.

If an area is determined to be unsuitable for all mining, the Secretary shall withdraw the lands pursuant to the Federal Land Policy and Management Act (FLPMA). If an area is determined to be unsuitable for certain types of mining, the Secretary shall take steps to limit or prohibit such types of mining.

Provides that the Secretary shall determine, or under certain conditions, may determine, that an area is unsuitable if reclamation would not be technologically and economically feasible and specified conditions are met.

Requires the Secretary to review all administrative withdrawals from mining to determine if the withdrawal should be revoked or modified.

Provides for citizens to petition the Secretary for unsuitability determinations where land use plans have not been amended or completed to reflect unsuitability reviews.

Lists land that, subject to valid existing rights, shall not be open to location.

TITLE III—ABANDONED MINE RECLAMATION FUND

Establishes an Abandoned Minerals Mine Reclamation Fund, to be administered by the Bureau of Land Management.

Fund is to be comprised of monies from: hardrock mining rentals and royalties; penalties collected under the bill; monies from disposal of mineral materials pursuant to the Materials Act of 1947, to the extent such monies are not specifically dedicated to other purposes; and donations.

Fund is to be used to reclaim land and water resources in the West adversely affected by past mining of minerals other than coal and fluid minerals.

Lands and waters eligible for reclamation generally include those abandoned prior to date or enactment of the Act (or for lands subject to the surface management regulation of the Forest Service or the BLM, the date on which those regulations became effective) and for which there is no continuing reclamation responsibility.

TITLE IV—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Provides authority to establish and collect user fees as may be necessary.

Provides transition rules for existing claims and operations.

Mr. KOHL. Mr. President, today I am pleased to join my good friend DALE BUMPERS in introducing legislation to reform the mining law of 1872. I believe that, if enacted, this bill will have positive benefits environmentally and fiscally.

Since the beginning of its history, this Nation has been blessed with an abundance of land and resources. When the mining law of 1872 was enacted, scarcity had more to do with a shortage of people to populate the frontier and exploit its resources, than it did a shortage of resources to meet demands of an expanding population. Times have changed.

No longer is there a rationale for allowing established mining interests to pay 1872 prices to buy public land

worth billions of dollars. No longer can the environmental treasures of our public lands be sacrificed to short-term economic gains. Our Federal budget cannot support that, our environment cannot sustain that, and the citizens of this country will no longer tolerate that.

The hardrock mining companies of this Nation are critical to this Nation's economic livelihood. Of that there is no doubt. As a businessman, I can understand why they would want to resist mining law reform. They know a good deal when they see it. But there is another partner in this deal, and that is the American taxpayer. After 121 years, I believe its time to renegotiate the contract.

By Mr. BROWN:

S. 258. A bill to amend the Internal Revenue Code of 1986 to provide a mechanism for taxpayers to designate $1 of any overpayment of income tax, and to contribute other amounts, for the use by the U.S. Olympic Committee; to the Committee on Finance.

UNITED STATES OLYMPIC CHECKOFF ACT OF 1993

● Mr. BROWN. Mr. President, today we would like to introduce the United States Olympic Checkoff Act of 1993. This legislation would authorize a checkoff box on the Federal income tax forms for support of our Olympic athletes. This measure would in no way increase a person's taxes.

Taxpayers could designate $1 or more of their tax refund to a U.S. Olympic Committee [USOC] trust fund. There would be no contribution whatsoever by taxpayers if the box were not checked off.

The United States is the only Olympic-participating country that doesn't provide direct Government support for the training and facilities of its athletes. The Federal Government shouldn't provide subsidies, but could provide individual Americans with an opportunity to help support our future Olympians.

The U.S. Olympic effort is entirely dependent on private contributions. The enormous cost of maintaining those facilities which train our athletes falls on corporate sponsors and private donors.

Recent USOC financial statements show that 88 percent of its revenues have gone directly for the training of our athletes.

Nine States, including Colorado, have had success with similar checkoffs on their State tax forms. The nine States have contributed almost $1 million to the USOC.

The 1996 summer Olympic games in Atlanta are fast approaching. With the passage of this tax checkoff, individuals would have a special opportunity to make sure that our athletes are ready to compete with the rest of the world. I urge my colleagues to support this effort.

Mr. President, I ask unanimous consent that the text of the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 258

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as "United States Olympic Checkoff Act".

SEC. 2. DESIGNATION FOR UNITED STATES OLYMPIC TRUST FUND.

(a) GENERAL RULE.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new part:

"PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR UNITED STATES OLYMPIC TRUST FUND

"Sec. 6097. Amounts for United States Olympic Trust Fund.

"SEC. 6097. AMOUNTS FOR UNITED STATES OLYMPIC TRUST FUND.

"(a) IN GENERAL.—With respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that—

"(1) $1 of any overpayment of such tax for such taxable year, and

"(2) any cash contribution which the taxpayer includes with such return,

be paid over to the United States Olympic Trust Fund.

"(b) JOINT RETURNS.—In the case of a joint return showing an overpayment of $2 or more, each spouse may designate $1 of such overpayment under subsection (a)(1).

"(c) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of the tax imposed by chapter 1 for such taxable year. Such designation shall be made on the first page of the return.

"(d) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last date prescribed for filing the return of tax imposed by chapter 1 (determined without regard to extensions) or, if later, the date the return is filed."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 61 of such Code is amended by adding at the end thereof the following new item.

"Part IX. Designation of overpayments and contributions for United States Olympic Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act.

SEC. 3. ESTABLISHMENT OF UNITED STATES OLYMPIC TRUST FUND.

(A) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end thereof the following new section:

SEC. 9512. UNITED STATES OLYMPIC TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'United States Olympic Trust Fund', consisting of such amounts as may be appropriated or credited to the United States Olympic Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFER TO UNITED STATES OLYMPIC TRUST FUND OF AMOUNTS DESIGNATED.—There is hereby appropriated to the United States Olympic Trust Fund amounts equivalent to the amounts designated under section 6097 and received in the Treasury.

"(c) EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—The Secretary shall pay, not less often than quarterly, to the United States Olympic Committee from the United States Olympic Trust Fund an amount equal to the amount in such Fund as the time of such payment less any administrative expenses of the Secretary which may be paid under paragraph (2).

"(2) ADMINISTRATIVE EXPENSES.—Amounts in the United States Olympic Trust Fund shall be available to pay the administrative expenses of the Department of the Treasury directly allocable to—

"(A) modifying the individual income tax return forms to carry out section 6097,

"(B) carrying out this chapter with respect to such Fund, and

"(C) processing amounts received under section 6097 and transferring such amounts to such Fund."

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"Sec. 9512. United States Olympic Trust Fund."●

By Mr. LEVIN:

S. 259. A bill to require that stock option compensation paid to corporate executives be recorded as a compensation expense in corporate financial statements; to the Committee on Banking, Housing, and Urban Affairs.

CORPORATE EXECUTIVES' STOCK OPTION ACCOUNTABILITY ACT

● Mr. LEVIN. Mr. President, I am introducing today the Corporate Executives' Stock Option Accountability Act, a bill to require companies to account for the payment of stock option compensation granted to their executives.

In recent years, the business press has emitted a series of collective gasps at the size of some executive pay packages and the frequent disconnect between executive pay and corporate performance. In 1990, while corporate profits fell 7 percent, the pay of chief executive officers or CEO's of American corporations rose 7 percent. In 1991, while a recession deepened and corporate profits plunged twice as far—by 15 percent—CEO pay climbed another 4 percent.

A 1991 hearing before the Subcommittee on Oversight of Government Management, which I chair, found that CEO pay was outpacing not only corporate performance, but also the pay of other American workers and pay of CEO's in the rest of the world. Witnesses testified that, in the United States, average CEO pay at large corporations in 1990 was approaching $3 million; that the increase in CEO pay—which, during the 1960's and 1970's, had been roughly proportional to pay increases of other American workers such as engineers, teachers, and factory workers—had, during the 1980's, skyrocketed disproportionately; and that American CEO's are now receiving twice the pay of CEO's at comparably sized companies in such countries as Japan.

In January 1992, my subcommittee held a second hearing which focused on a key element of CEO pay which has contributed to these trends—stock options.

Stock options provide the holder with the right to buy company stock at a set price for a set period of time, usually 10 years. Although companies in other countries like Japan rarely use them, over 90 percent of publicly traded United States companies grant options to their executives. And stock option compensation provides a significant portion of CEO pay, typically 30 or 50 percent and sometimes more.

In April 1992, Business Week ran a story entitled, "If CEO Pay Makes You Sick, Don't Look at the Stock Options." It featured the CEO of a medical equipment company who received a 1991 stock option grant valued at $120 million, on top of previous grants valued at $225 million, for a 4-year total of $345 million. The magazine estimated that these options meant every time the company's stock rose $1, the CEO stood to gain $6 million. That's not exactly the pay-for-performance link that stock options are supposed to create.

Last month, in December, the business press took note of the $185 million that the CEO and president of a major entertainment company received after exercising options on over 6.5 million shares of company stock and immediately selling about 5 million of them. The Wall Street Journal commented that, "It was one of the single most lucrative transactions in the annals of executive compensation."

While stock options are supposed to reward executives only when company stock prices rise, abuses like megagrants and option swaps have undermined the link between pay and performance and contributed to excessive pay. Stock options also no longer lead to increased stock ownership. Instead, research has shown that executive stock ownership in U.S. corporations has fallen in the last 50 years by a factor of 10, as American CEO's increasingly use stock options to make quick cash profits instead of building a stake in their companies' future.

The legislation I am introducing today, the Corporate Executives' Stock Option Accountability Act, is designed to address one of the core reasons for growing stock option abuses: special accounting rules, backed by the Federal Government, which allow companies to hide an option's true value and cost.

Right now, stock options are the only type of executive pay which companies can deduct as an expense on their tax returns, but don't have to include as an expense in the company books. Keeping stock options off the books as an expense means even huge option grants leave corporate earnings untouched.

For example, a company that pays its CEO $10 million in cash must lower its earnings to reflect that expense. But a company that provides options valued at $10 million doesn't. Its earnings never drop—even though the company may eventually claim a tax deduction for millions of dollars.

Charles Munger, vice chairman of Berkshire Hathaway, has described the current accounting rules as "contemptible." Benjamin Bailar, dean of Rice University's graduate school of administration, has stated that, "Common sense dictates that items of executive compensation, including options, do have a very real cost and should be shown in any balanced view of results." A Barron's commentator criticizes the current system for creating a "tax subsidy."

The current stock option accounting rules were promulgated by the Financial Accounting Standards Board [FASB], a private body of accountants which issues generally accepted accounting principles for the accounting profession. FASB has voted unanimously and repeatedly since 1984 in favor of reforming the stock option rules. They have admitted, in my subcommittee hearing and elsewhere, that these rules are broken and need to be fixed. Despite their unanimous analysis, FASB has yet to revise them.

The Securities and Exchange Commission [SEC], requires all publicly traded companies to comply with the generally accepted accounting principles promulgated by FASB. The chief accountant of the SEC testified before my subcommittee that he, too, was troubled by current stock option accounting rules and that the SEC has authority, if FASB fails to act, to revise the rules that apply to publicly traded companies. Yet the SEC also has failed to take concrete steps toward reform. The SEC's chief accountant has not even issued a report on the subject, work on which was announced in February 1992, with the final version promised for June 1992. That report has yet to be issued.

Due to FASB and SEC promises to act on this issue, I delayed taking action on legislation I introduced in the last Congress, the Corporate Pay Responsibility Act, S. 1198, to address this and other executive pay issues. To its credit, FASB began detailed consideration of the accounting problem and held a series of meetings throughout 1992 to resolve the complex issues associated with stock option accounting. But FASB missed its self-imposed deadline for issuing new draft rules by the end of the year.

Meanwhile, the SEC took action on several other provisions in my bill, including issuing in October 1992, new regulations revamping executive pay disclosure rules. These new rules include requiring companies to provide in their proxy statements to stockholders more complete and comprehensive information about stock option compensation granted to company executives.

This is a significant reform which will greatly improve disclosure of stock option compensation, and the SEC deserves recognition and praise for this accomplishment. Yet the accounting loophole remains uncorrected, many stock option beneficiaries are devoting themselves to keeping it intact, and neither FASB nor the SEC have taken the concrete steps needed to change the status quo.

I believe it's time for the special treatment to end and for stock option compensation to be brought under the rules of ordinary compensation, with an accounting for their costs.

To accomplish this purpose, my bill would direct the SEC to issue regulations requiring publicly traded companies to recognize as an expense in their financial statements the fair value of stock options granted to their employees. These regulations would include instructions on how companies are to calculate their options' fair value, to ensure that all companies use the same methodology and none manipulates the valuation process.

By requiring that there be a specific valuation method, the bill is not intended to preclude the SEC from developing specific procedures or exceptions to address special circumstances such as stock options issued by new companies or broad-based stock option plans which offer de minimus compensation to all employees. The development of such provisions are a normal part of the regulatory process, and the bill is in no way intended to prevent the SEC from devising distinctions or exceptions, if it deems them appropriate.

Finally, the bill would require the SEC to issue the new regulations within 120 days of enactment, unless it certifies that FASB has already promulgated accounting rules that accomplish the purposes of the bill. This language is intended to provide the accounting profession with one last opportunity to resolve the problem itself, without government action.

Some have asked who is harmed by the current system that keeps stock option compensation off company books as an expense. The answer is American competitiveness.

In too many instances, American companies have been providing their executives with lavish compensation unrelated to company profits, employee layoffs, and the leaner, meaner operations of foreign competitors. That hurts the country's economy, jobs, and our future prosperity. Stock options have contributed to the problem.

Executive stock options, when properly used, can link pay to performance. But stockholders, the investing public, and the companies themselves ought to know the value of the options being provided and their impact on company finances. Accurate accounting of stock options will not destroy corporate profitability nor halt this type of compensation. All other types of executive pay are already disclosed and included as expenses in the company books, without harming handsome pay levels.

It is not the ideal course for Federal legislation to require the promulgation of specific accounting rules. My preference, as I have stated many times, is for FASB or the SEC to take the action needed on their own. But FASB, while conceding that the issue must be addressed, has left it unaddressed for a decade, and 1 year after they were asked to take action in the absence of Federal legislation, neither FASB nor the SEC has made concrete progress toward issuing revised rules. That is why I am introducing this bill today.

FASB has indicated that it now intends to issue draft stock option accounting rules by April 1, 1993. The date for issuing this draft has been postponed more than once, but I am told that this deadline is one that really will be met. For that reason, I am again delaying action on my legislation, in hope that the accountants themselves will fix the stock option problem. But if FASB again fails to act, and the SEC again fails to step in, I will be back—asking my colleagues to support this bill as the only option left to us.

Runaway executive pay continues to hobble American competitiveness, and stock options continue to contribute to the disconnect between executive pay and corporate performance. The health of the economy is a key challenge facing this Congress, and the people want action now.

I ask unanimous consent that the text of the bill be printed in full following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Corporate Executives' Stock Option Accountability Act".

SEC. 2. STOCK OPTION COMPENSATION.

Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) STOCK OPTION COMPENSATION.—

"(1) IN GENERAL.—The Commission shall require an issuer to recognize as an expense in financial statements provided to its security holders the fair value of any stock options granted by such issuer to its directors, officers, senior executives, or other persons in exchange for services.

"(2) FAIR VALUE.—For purposes of paragraph (1), the Commission shall specify, by rule or regulation, the method for determining the fair value of such stock options.

SEC. 3. EFFECTIVE DATE.

Not later than 120 days after the date of enactment of this Act, the Commission shall promulgate final rules and regulations necessary to carry out this Act, unless the Securities and Exchange Commission certifies that the Financial Accounting Standards Board has, prior to the expiration of 120 days after the date of enactment of this Act, promulgated generally accepted accounting principles which accomplish the purposes of this Act.•

By Mr. MCCAIN:

S. 260. A bill to provide Indian education assistance to carry out the purposes of title IV of the Arizona-Idaho Conservation Act of 1988, Public Law 100-696, to provide for reimbursement to the Treasury by certain private parties, and for other purposes; to the Select Committee on Indian Affairs.

INDIAN EDUCATION ASSISTANCE ACT OF 1993

• Mr. MCCAIN. Mr. President, Public Law 100-696 authorized the exchange of federally owned property, known as the Phoenix Indian School, located in downtown Phoenix, AZ, for 108,000 acres of privately owned wetlands in Florida, and other vital considerations.

Upon the exchange of title to the lands, the receiver of the Indian school property, the Barron Collier Co.—Collier—is required by law to begin payment of a $34.9 million Indian education trust fund. The fund is intended to compensate native Americans in Arizona for the closure of the school located on the property which served native Americans for many years.

The implementing legislation required the Department of the Interior to fully secure the trust fund payments. Last year, the Department of the interior and Collier agreed to achieve that goal by delaying the transfer of title and the commencement of payments for up to 4 years. I had certainly hoped and anticipated that the Secretary and Collier would be able to secure the trust fund moneys in a manner which would provide for the timely exchange of lands and for trust fund payments to begin immediately. Unfortunately, Secretary Lujan reported that no alternative plan could be implemented without threatening the entire agreement.

Despite my reservations, the good news is that the agreement in principle, including a potential delay in title transfer, will enable the transaction to move forward, thereby preserving the benefits of the exchange for all parties, including native Americans.

But the good news is not good enough. I believe it is incumbent upon the Congress and the Federal Government as trustee to do everything it can to ensure that the Indian education trust fund is fully funded without delay. I think it's important to note that administrative steps have already been taken to permit the city of Phoenix and the Veterans' Administration to have the immediate benefit of the lands which will ultimately be transferred to them at a later date. Consequently, I believe any Federal funds that are appropriated to implement the act must first go toward establishing the Indian education trust fund. Accordingly, today I'm introducing legislation to authorize the Congress to appropriate the full $34.9 million for the Indian education trust fund.

Under this legislation, if Congress appropriates either all or a portion of the full $34.9 million, Collier would be required to reimburse the Federal Treasury under the same terms, and utilizing the same security, as the company would otherwise be required to pay directly into the trust fund.

Under this scenario, payments by Collier to the trust fund and the Treasury would be made under identical terms—those established by the Secretary of the Interior. The underlying premise is that if the trust fund payment schedule negotiated by the Secretary of the Interior is good enough for Arizona's native Americans, then it's good enough for the Federal Government.

Collier is provided no debt relief by this bill. It's my intent, and the effect of this bill, that the company be required to pay the same amount under this legislation as it would under the terms of existing law. Furthermore, the bill includes a provision requiring the Inter-Tribal Council of Arizona and the Navajo Tribe to consent before any alternative form of payment authorized by this bill is implemented in lieu of the form established by the Secretary of the Interior under existing law. This will ensure that native Americans have the final say in the matter.

This legislation seeks to ensure that the native Americans are taken care of first. The Federal Government has a trust responsibility to native Americans. Capitalizing the trust fund without delay fulfills that responsibility by ensuring that Arizona's native Americans do not have to wait for the educational opportunities they need and deserve.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 260

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INDIAN EDUCATION ASSISTANCE TRUST FUNDS.

(a) ESTABLISHMENT.—

(1) ARIZONA FUND.—

(A) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Interim Arizona InterTribal Education Assistance Trust Fund subject to the same conditions as described for the Arizona InterTribal Trust Fund in subsections (c) and (d) of section 405 of the Arizona-Idaho Conservation Act of 1988, Public Law 100-696 (here in after "the Act").

(B) AMOUNTS IN FUND.—The fund established in subparagraph (A) shall consist of such amounts as are appropriated and allocated to the fund pursuant to subsection (b).

(2) NAVAJO FUND.—

(A) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Interim Navajo Education Assistance Trust Fund subject to the same conditions as described for the Navajo Trust Fund in subsections (c) and (d) of section 405 of the Act.

(B) AMOUNTS IN FUND.—The fund established in subparagraph (A) shall consist of such amounts as are appropriated and allocated to the fund pursuant to subsection (b).

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated an aggregate of $34,900,000 to the funds established in subsection (a) to be allocated in accordance with paragraph (2). In no case shall moneys appropriated pursuant to this authorization diminish or otherwise reduce any Indian amount.

(2) ALLOCATION.—

(A) ARIZONA FUND.—Sums appropriated pursuant to paragraph (1) shall be allocated to the fund established in subsection (a)(1) in the same manner as sums are allocated to the Arizona InterTribal Trust Fund pursuant to section 405 of the Act.

(B) NAVAJO FUND.—Sums appropriated pursuant to paragraph (1) shall be allocated to the fund established in subsection (a)(2) in the same manner as sums are allocated to the Navajo Trust Fund pursuant to section 405 of such Act.

(c) REIMBURSEMENT.—

(1) IN GENERAL.—

(A) FULL APPROPRIATION.—Notwithstanding title IV of such Act, if the full amount specified in subsection (b)(1) is appropriated and allocated in accordance with subsection (b) prior to the date on which the first annual payment is required to be made by Collier to the Arizona InterTribal Trust Fund and the Navajo Trust Fund under title IV of such Act, and the Trust Fund payment Agreement required under section 403 of such Act, the Secretary of the Interior shall direct Collier to pay to the Secretary of the Treasury for deposit into the general fund of the Treasury any amounts otherwise due and payable to the United States under the Trust Fund Payment Agreement, in lieu of and in full satisfaction of payment to the United States by Collier for deposit into the Arizona InterTribal Trust Fund and the Navajo Trust Fund pursuant to title IV of such Act and such Trust Fund Payment Agreement.

(B) PARTIAL APPROPRIATION.—Notwithstanding title IV of such Act, if less than the amount specified in subsection (b)(1) is appropriated and allocated in accordance with subsection (b) prior to the date described in subparagraph (A), at such time as Collier is required to make any payment under the Trust Fund Payment Agreement described under subparagraph (A), the Secretary of the Interior shall direct Collier to pay, in full satisfaction and in lieu of such payment: (i) to the Secretary of the Treasury for deposit into the general fund of the Treasury, an amount which bears the same proportion to the total amount of such payment as the total of the sums appropriated pursuant to subsection (b) bears to $34,900,000, and (ii) to the Secretary of the Interior for deposit into the Arizona InterTribal Trust Fund and Navajo Trust Fund, in accordance with section 405 of the Act, the remainder of each such payment.

(2) DEFINITION.—As used in this subsection, the term "Collier" has the meaning provided under section 401(5) of such Act.

(d) TERMINATION.—

(1) IN GENERAL.—The funds established in subsection (a) shall terminate on the date of the first Collier payment described in subsection (c)(1)(A).

(2) TRANSFER OF REMAINING SUMS.—Upon termination under paragraph (1)—

(A) The Secretary of the Treasury shall transfer any sums remaining in the fund established in subsection (a)(1) to the Arizona InterTribal Trust Fund established under section 405(a) of such Act; and

(B) The Secretary of the Treasury shall transfer any sums remaining in the fund established in subsection (a)(2) to the Navajo Trust Fund established under section 405(a) of such Act.

(e) No funds appropriated under this Act shall be available to the InterTribal Council of Arizona (ITCA) and Navajo Tribe (as defined in section 401 of the Act) or be deposited into the Interim Trust Funds established by section 1 of this Act unless the ITCA and Navajo Tribe provide written consent to the method of payment established in this Act in lieu of the method of payment provided in the Act and the Trust Fund Payment Agreement authorized by the Act.•

By Mr. LAUTENBERG (for himself and Mr. HARKIN):

S. 261. A bill to protect children from exposure to environmental tobacco smoke in the provision of children's services, and for other purposes; to the Committee on Labor and Human Resources.

S. 262. A bill to require the Administrator of the Environmental Protection Agency to promulgate guidelines for instituting a nonsmoking policy in buildings owned or leased by Federal agencies, and for other purposes; to the Committee on Environmental and Public Works.

SECONDHAND SMOKE

• Mr. LAUTENBERG. Mr. President, I rise today to introduce two bills to protect Americans against environmental tobacco smoke or secondhand smoke. I am introducing these bills for one simple irrefutable reason; secondhand smoke kills.

An EPA report released on January 7, 1993, undeniably confirmed what public health officials have reported for several years, smoking kills those who smoke and those who breathe secondhand smoke. This scientifically peer reviewed report concluded that secondhand smoke was indeed a group A carcinogen, a group that includes toxins such as asbestos, benzene, and arsenic. The evidence is clear that secondhand smoke is taking an enormous toll on the health of Americans, particularly our children. According to the EPA report, 3,000 lung cancer deaths per year among nonsmokers result from exposure to secondhand smoke. Secondhand smoke also causes more than 200,000 lower respiratory tract infections in young children annually, including bronchitis and pneumonia, resulting in 7,500 to 15,000 hospitalizations. Furthermore, secondhand smoke exacerbates asthmatic symptoms in children and is associated with 8,000 to 26,000 new asthma cases in children. In a separate study, the American Heart Association concluded that exposure to secondhand smoke increases the risk of lung cancer, heart disease, and emphysema. They reported that approximately 50 percent of all children are exposed to secondhand smoke.

Now that the evidence is in, it is time for the Congress to take action and protect Americans from this deadly substance. In 1990, the Congress passed the Clean Air Act to regulate 189 hazardous air pollutants which were estimated to cause 1,500 deaths per year. Now we must act to regulate an air pollutant which causes at least 3,000 deaths per year.

The first step we must take is to protect our children, because they are most threatened by secondhand smoke. That is why I am introducing the Preventing Our Kids from Inhaling Deadly Smoke [PRO-KIDS] Act of 1993. PRO-KIDS will protect children from secondhand smoke while they are participating in federally funded children's programs such as Head Start, WIC, Chapter 1, health care, and day care programs. It will require participants in federally funded programs to establish a nonsmoking policy if they provide health services to children under the age of 18 or provide other social services primarily to children under the age of 18, including elementary and secondary education.

The legislation I am introducing today to address this threat would require nonsmoking policies that would limit indoor smoking in facilities associated with these federally funded programs to those areas which are not normally used to serve children and which are ventilated separately from these areas. Evidence accumulated by the EPA and other organizations shows that separate ventilation is necessary to prevent secondhand smoke from recirculating through the ventilation system right into the rooms used by the children. In cases where unusual extenuating circumstances prevent total compliance, programs could apply for a partial waiver from this provision if they protect children from exposure to secondhand smoke to the extent possible. This legislation also allows the adoption of the nonsmoking policy to be done through collective bargaining if such an agreement exists.

The second piece of legislation that I am introducing today is called PRotecting Our FEderal workers and visitors from Deadly Smoke or PRO-FEDS. This legislation takes an important first step to protect adults from unwanted exposure to secondhand smoke. This legislation expands the nonsmoking policy, that already is in place at the U.S. Department of Health and Human Services and the Environmental Protection Agency, to all buildings owned or leased by agencies of the executive, legislative, and judicial branches of the Federal Government. This would include the White House offices and the Congress, but not cover Federal buildings which serve primarily as living quarters. This bill also includes a provision that would also allow unions to adopt this requirement through collective bargaining.

This legislation also provides an expanded role for the Environmental Protection Agency [EPA] with regard to environmental tobacco smoke. Under this legislation, the EPA will establish guidelines for compliance under this act.

This bill also directs the EPA to provide technical assistance to entities which must comply with this act. Under the bill the EPA will conduct an outreach campaign to inform the public about the dangers of environmental tobacco smoke. It also establishes an Environmental Tobacco Smoke Advisory Office within the Office of Radiation and Indoor Air at EPA. With a telephone inquiry hotline, this office will answer inquiries about how to protect people from environmental tobacco smoke.

Now that the studies are completed, it is time to take action to protect people from the dangers of secondhand smoke. The Department of Health and Human Services initially banned smoking in all of its buildings because our top health officials understand the danger of environmental tobacco smoke. We've banned smoking on all domestic airplane flights. Children are the most vulnerable members of our society. They depend upon us to protect them and safeguard their health. They are the future of this country. Isn't it time to give our children, especially those who depend on the Federal Government for valuable services like health care and preschool training, the same protection we already afford to airplane travelers and some Federal workers?

As a Department of Health and Human Services report notes, "25 years ago, smoking in the workplace and public places was considered a virtual birthright. Today, acceptance of smoking in public places has largely disappeared, replaced by an increasing recognition of the right to breathe air free from the harmful effects of tobacco smoke." We've come a long way, baby. But we still have a way to go. We should prohibit smoking in federally funded institutions which serve children under the age of 18 immediately, so that our children can breath healthy air. We must also expand the smoking ban that already exists at the Department of Health and Human Services and the Environmental Protection Agency to all agencies in the Federal Government.

This legislation has been endorsed by the American Heart Association, the American Lung Association, the American Cancer Society, the Association for Respiratory Care, the Association of Maternal and Child Health Programs, the Asthma and Allergy Foundation of America, and the National Coalition for Cancer Research.

I ask unanimous consent to have a press release from former EPA Administrator Reilly and a New York Times article entitled "U.S. Ties Secondhand Smoke to Cancer" included in the RECORD following this statement. I also ask unanimous consent that these bills be printed in full in the RECORD following this statement.

I urge my colleagues to support and cosponsor this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 261

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Preventing Our Kids From Inhaling Deadly Smoke (PRO-KIDS) Act of 1993".

SEC. 2. FINDINGS.

Congress finds that—

(1) environmental tobacco smoke comes from secondhand smoke exhaled by smokers and sidestream smoke emitted from the burning of cigarettes, cigars, and pipes;

(2) since citizens of the United States spend up to 90 percent of a day indoors, there is a significant potential for exposure to environmental tobacco smoke from indoor air;

(3) exposure to environmental tobacco smoke occurs in schools, public buildings, and other indoor facilities;

(4) recent scientific studies have concluded that exposure to environmental tobacco smoke is a cause of lung cancer in healthy nonsmokers and is responsible for acute and chronic respiratory problems and other health impacts in sensitive populations (including children);

(5) the health risks posed by environmental tobacco smoke exceed the risks posed by many environmental pollutants regulated by the Environmental Protection Agency; and

(6) according to information released by the Environmental Protection Agency, environmental tobacco smoke results in a loss to the economy of over $3,000,000,000 per year.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) CHILDREN.—The term "children" means individuals who have not attained the age of 18.

(3) CHILDREN'S SERVICES.—The term "children's services" means—

(A)(i) direct health services routinely provided to children; or

(ii) any other direct services routinely provided primarily to children, including educational services; and

(B) that are funded (in whole or in part) by Federal funds.

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 4. NONSMOKING POLICY FOR CHILDREN'S SERVICES.

(a) ISSUANCE OF GUIDELINES.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue guidelines for instituting and enforcing a nonsmoking policy at each indoor facility where children's services are provided.

(b) CONTENTS OF GUIDELINES.—A nonsmoking policy that meets the requirements of the guidelines shall, at a minimum, prohibit smoking in each portion of an indoor facility where children's services are provided that is not ventilated separately (as defined by the Administrator) from other portions of the facility.

SEC. 5. TECHNICAL ASSISTANCE AND OUTREACH ACTIVITIES.

(a) TECHNICAL ASSISTANCE.—The Administrator and the Secretary shall provide technical assistance to persons who provide children's services and other persons who request technical assistance. The technical assistance shall include information—

(1) on smoking cessation programs for employees; and

(2) to assist in compliance with the requirements of this Act.

SEC. 6. FEDERALLY FUNDED PROGRAMS.

(a) IN GENERAL.—Notwithstanding any other provision of law, each person who provides children's services shall establish and make a good-faith effort to enforce a nonsmoking policy that meets or exceeds the requirements of subsection (b).

(b) NONSMOKING POLICY.—

(1) GENERAL REQUIREMENTS.—A nonsmoking policy meets the requirements of this subsection if the policy—

(A) is consistent with the guidelines issued under section 4(a);

(B) prohibits smoking in each portion of an indoor facility used in connection with the provision of services directly to children; and

(C) where appropriate, requires that signs stating that smoking is not permitted be posted in each indoor facility to communicate the policy.

(2) PERMISSIBLE FEATURES.—A nonsmoking policy that meets the requirements of this subsection may allow smoking in those portions of the facility—

(A) in which services are not normally provided directly to children; and

(B) that are ventilated separately from those portions of the facility in which services are normally provided directly to children.

(c) WAIVER.—

(1) IN GENERAL.—A person described in subsection (a) may publicly petition the head of the Federal agency from which the person receives Federal funds (including financial assistance) for a waiver from any or all of the requirements of subsection (b).

(2) CONDITIONS FOR GRANTING A WAIVER.—Except as provided in paragraph (3), the head of the Federal agency may grant a waiver only—

(A) after consulting with the Administrator, and receiving the concurrence of the Administrator;

(B) after giving an opportunity for public hearing (at the main office of the Federal agency or at any regional office of the agency) and comment; and

(C) if the person requesting the waiver provides assurances that are satisfactory to the head of the Federal agency (with the concurrence of the Administrator) that—

(i) unusual extenuating circumstances prevent the person from establishing or enforcing the nonsmoking policy (or a requirement under the policy) referred to in subsection (b) (including a case in which the person shares space in an indoor facility with another entity and cannot obtain an agreement with the other entity to abide by the nonsmoking policy requirement) and the person will establish and make a good-faith effort to enforce an alternative nonsmoking policy (or alternative requirement under the policy) that will protect children from exposure to environmental tobacco smoke to the maximum extent possible; or

(ii) the person requesting the waiver will establish and make a good-faith effort to enforce an alternative nonsmoking policy (or alternative requirement under the policy) that will protect children from exposure to environmental tobacco smoke to the same degree as the policy (or requirement) under subsection (b).

(3) SPECIAL WAIVER.—

(A) IN GENERAL.—On receipt of an application, the head of the Federal agency may grant a special waiver to a person described in subsection (a) who employs individuals who are members of a labor organization and provide children's services pursuant to a collective bargaining agreement that—

(i) took effect before the date of enactment of this Act; and

(ii) includes provisions relating to smoking privileges that are in violation of the requirements of this section.

(B) TERMINATION OF WAIVER.—A special waiver granted under this paragraph shall terminate on the earlier of—

(i) the first expiration date (after the date of enactment of this Act) of the collective bargaining agreement containing the provisions relating to smoking privileges; or

(ii) the date that is 1 year after the date specified in subsection (f).

(d) CIVIL PENALTIES.—

(1) IN GENERAL.—(A) Any person subject to the requirements of this section who fails to comply with the requirements shall be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each violation, but in no case shall the amount be in excess of the amount of Federal funds received by the person for the fiscal year in which the violation occurred for the provision of children's services.

(B) Each day a violation continues shall constitute a separate violation.

(2) ASSESSMENT.—A civil penalty for a violation of this section shall be assessed by the head of the Federal agency that provided Federal funds (including financial assistance) to the person (or if the head of the Federal agency does not have the authority to issue an order, the appropriate official) by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. Before issuing the order, the head of the Federal agency (or the appropriate official) shall—

(A) give written notice to the person to be assessed a civil penalty under the order of the proposal to issue the order; and

(B) provide the person an opportunity to request, not later than 15 days after the date of receipt of the notice, a hearing on the order.

(3) AMOUNT OF CIVIL PENALTY.—In determining the amount of a civil penalty under this subsection, the head of the Federal agency (or the appropriate official) shall take into account—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the ability to pay, the effect of the penalty on the ability to continue operation, any prior history of the same kind of violation, the degree of culpability, and a demonstration of willingness to comply with the requirements of this Act; and

(C) such other matters as justice may require.

(4) MODIFICATION.—The head of the Federal agency (or the appropriate official) may compromise, modify, or remit, with or without conditions, any civil penalty that may be imposed under this subsection. The amount of the penalty as finally determined or agreed upon in compromise may be deducted from any sums that the United States owes to the person against whom the penalty is assessed.

(5) PETITION FOR REVIEW.—A person who has requested a hearing concerning the assessment of a penalty pursuant to paragraph (2) and is aggrieved by an order assessing a civil penalty may file a petition for judicial review of the order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business. The petition may only be filed during the 30-day period beginning on the date of issuance of the order making the assessment.

(6) FAILURE TO PAY.—If a person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and without filing a petition for judicial review in accordance with paragraph (5); or

(B) after a court has entered a final judgment in favor of the head of the Federal agency (or appropriate official),

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the last day of the 30-day period referred to in paragraph (5) or the date of the final judgment, as the case may be) in an action brought in an appropriate district court of the United States. In the action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

(e) EXEMPTION.—This section shall not apply to a person who provides children's services who—

(1) has attained the age of 18;

(2) provides children's services—

(A) in a private residence; and

(B) only to children who are, by affinity or consanguinity, or by court decree, a grandchild, niece, or nephew of the provider; and

(3) is registered and complies with any State requirements that govern the children's services provided.

(f) EFFECTIVE DATE.—This section shall take effect on the first day of the first fiscal year beginning after the date of enactment of this Act.

SEC. 7. REPORT BY THE ADMINISTRATOR.

Not later than 2 years after the date of enactment of this Act, the Administrator shall submit a report to Congress that includes—

(1) information concerning the degree of compliance with this Act; and

(2) an assessment of the legal status of smoking in public places.

SEC. 8. PREEMPTION.

Nothing in this Act is intended to preempt any provision of law of a State or political subdivision of a State that is more restrictive than a provision of this Act.

S. 262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Preventing Our Federal Building Workers and Visitors From Exposure to Deadly Smoke (PRO-FEDS) Act of 1993".

SEC. 2. FINDINGS.

Congress finds that—

(1) environmental tobacco smoke comes from secondhand smoke exhaled by smokers and sidestream smoke emitted from the burning of cigarettes, cigars, and pipes;

(2) since citizens of the United States spend up to 90 percent of a day indoors, there is a significant potential for exposure to environmental tobacco smoke from indoor air;

(3) exposure to environmental tobacco smoke occurs in schools, public buildings, and other indoor facilities;

(4) recent scientific studies have concluded that exposure to environmental tobacco smoke is a cause of lung cancer in healthy nonsmokers and is responsible for acute and chronic respiratory problems and other health impacts in sensitive populations (including children);

(5) the health risks posed by environmental tobacco smoke exceed the risks posed by many environmental pollutants regulated by the Environmental Protection Agency; and

(6) according to information released by the Environmental Protection Agency, environmental tobacco smoke results in a loss to the economy of over $3,000,000,000 per year.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) EXECUTIVE AGENCY.—The term "Executive agency" has the meaning provided in section 105 of title 5, United States Code.

(3) FEDERAL AGENCY.—The term "Federal agency" includes any Executive agency, the Executive Office of the President, any military department, any court of the United States, the Administrative Office of the United States Courts, the Library of Congress, the Botanic Garden, the Government Printing Office, the Congressional Budget Office, the United States Postal Service, the Postal Rate Commission, the Office of the Architect of the Capitol, the Office of Technology Assessment, and any other agency of the executive, legislative, and judicial branches.

(4) FEDERAL BUILDING.—The term "Federal building" means any building or other structure owned or leased for use by a Federal agency, except that the term shall not include any area of a building that is used primarily as living quarters.

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 4. NONSMOKING POLICY FOR FEDERAL BUILDINGS.

(a) IN GENERAL.—

(1) ISSUANCE OF GUIDELINES.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue guidelines for instituting and enforcing a nonsmoking policy at each Federal agency.

(2) CONTENTS OF GUIDELINES.—A nonsmoking policy that meets the requirements of the guidelines shall, at a minimum, prohibit smoking in each indoor portion of a Federal building that is not ventilated separately (as defined by the Administrator) from other portions of the facility.

(b) ADOPTION OF GUIDELINES.—

(1) IN GENERAL.—As soon as is practicable after the date of issuance of the guidelines referred to in subsection (a), the head of each Executive agency, and the Director of the

Administrative Office of the United States Courts shall adopt a nonsmoking policy applicable to the Federal agency under the jurisdiction of the individual that meets the requirements of the guidelines referred to in subsection (a), and take such action as is necessary to ensure that the policy is carried out in the manner specified in the guidelines.

(2) LEGISLATIVE BRANCH.—As soon as is practicable after the date of issuance of the guidelines referred to in subsection (a), the following entities and individuals shall adopt a nonsmoking policy that meets the requirements of the guidelines referred to in subsection (a), and take such action as is necessary to ensure that the policy is carried out in the manner specified in the guidelines:

(A) With respect to the House of Representatives (including any office space or buildings of the House of Representatives), the House Office Building Commission.

(B) With respect to the Senate (including any office space or buildings of the Senate), the Committee on Rules and Administration of the Senate.

(C) With respect to any other area occupied or used by a Federal agency of the legislative branch, the Architect of the Capitol.

(3) CERTIFICATION FOR EXECUTIVE AGENCIES.—The Administrator of General Services, in consultation with the Administrator, shall review each nonsmoking policy adopted by the head of an Executive agency and shall certify those policies that meet the requirements of the guidelines referred to in subsection (a). In carrying out the certification, the Administrator of General Services shall use a procedure and apply criteria that the Administrator shall establish. Except as provided in subsection (c), if a policy does not meet the requirements of the guidelines, the Administrator of General Services shall—

(A) in a written communication, advise the head of the Executive agency concerning modifications of the policy to meet the requirements; and

(B) publish the communication in the Federal Register.

(c) WAIVERS.—

(1) EXECUTIVE AGENCIES.—The head of an Executive agency may publicly petition the Administrator of General Services for a waiver from instituting or enforcing a nonsmoking policy (or policy requirement) under the guidelines issued pursuant to subsection (a). The Administrator of General Services may waive the requirement if, after consultation with the Administrator, the Administrator of General Services determines that—

(A) unusual extenuating circumstances prevent the head of the Federal agency from enforcing the policy (or a requirement under the policy) (including a case in which the Federal agency shares space in an indoor facility with a non-Federal entity and cannot obtain an agreement with the other entity to abide by the nonsmoking policy requirement) and the head of the Executive agency will establish and make a good-faith effort to enforce an alternative nonsmoking policy (or alternative requirement under the policy) that will protect individuals from exposure to environmental tobacco smoke to the maximum extent possible; or

(B) the head of the Executive agency will enforce an alternative nonsmoking policy (or alternative requirement under the policy) that will protect individuals from exposure to environmental tobacco smoke to the same degree as the requirement under the guidelines issued pursuant to subsection (a).

(2) AGENCIES OF THE JUDICIAL BRANCH.—After consultation with the Administrator, and after providing public notice and reasonable opportunity for public review and comment, the Director of the Administrative Office of the United States Courts may, on the basis of the criteria for a waiver referred to in paragraph (1), make such modifications to the nonsmoking policy required to be carried out pursuant to subsection (b) as the Director determines to be necessary. The Director may not make any modification that violates the criteria for a waiver under paragraph (1).

(3) AGENCIES OF THE LEGISLATIVE BRANCH.—After consultation with the Administrator, and after providing public notice and reasonable opportunity for public review and comment, the appropriate entity or individual referred to in subparagraphs (A) through (C) of subsection (b)(2) may, on the basis of the criteria for a waiver referred to in paragraph (1), make such modifications to the nonsmoking policy required to be carried out pursuant to subsection (b) as the entity or individual determines to be necessary. The entity or individual may not make any modification that violates the criteria for a waiver under paragraph (1).

(d) COLLECTIVE BARGAINING AGREEMENTS.—

(1) IN GENERAL.—In a Federal agency in which a labor organization has been accorded recognition as a bargaining unit pursuant to chapter 71 of title 5, United States Code, the Federal agency shall engage in collective bargaining pursuant to section 7114 of title 5, United States Code, to ensure the implementation of the requirements of this section that affect work areas predominately occupied by the employees represented by the labor organization by the date of the adoption, pursuant to this section, of a nonsmoking policy applicable to the Federal agency.

(2) EXEMPTION.—

(A) IN GENERAL.—If, on the date of enactment of this Act—

(i) a bargaining unit referred to in paragraph (1) has in effect a collective bargaining agreement with respect to which a Federal agency is a party; and

(ii) the collective bargaining agreement referred to in clause (i) includes provisions relating to smoking privileges that are in violation of the requirements of this section,

the head of the Federal agency may exempt work areas predominately occupied by the employees subject to the collective bargaining agreement from the nonsmoking policy that the Federal agency is required to be carried out under subsection (b) .

(B) TERMINATION OF EXEMPTION.—

(i) IN GENERAL.—An exemption referred to in subparagraph (A) shall terminate on the earlier of—

(I) the first expiration date (after the date of enactment of this Act) of the collecting bargaining agreement containing the provisions relating to smoking privileges; or

(II) the date that is 1 year after the date of issuance of the guidelines.

(ii) IMPLEMENTATION OF NONSMOKING POLICY AFTER TERMINATION DATE.— By the applicable date specified in clause (i)(II), the head of each Federal agency shall be required to enforce a nonsmoking policy that meets the requirements of the guidelines issued under subsection (a) in each work area under the jurisdiction of the head of the Federal agency, notwithstanding any collective bargaining agreement that contains provisions that are less restrictive than the nonsmoking policy.

SEC. 5. TECHNICAL ASSISTANCE AND OUTREACH ACTIVITIES.

(a) TECHNICAL ASSISTANCE.—The Administrator and the Secretary shall provide technical assistance to the heads of Federal agencies and other persons who request technical assistance. The technical assistance shall include information—

(1) on smoking cessation programs for employees; and

(2) to assist in compliance with the requirements of this Act.

(b) OUTREACH ACTIVITIES.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary, shall establish an outreach program to inform the public concerning the dangers of environmental tobacco smoke. As part of the outreach program, the Administrator and the Secretary shall make available to the general public brochures and other educational materials. In establishing the programs under this paragraph, the Administrator and the Secretary shall cooperate to maximize the sharing of information and resources.

(2) ENVIRONMENTAL TOBACCO SMOKE ADVISORY OFFICE.—

(A) IN GENERAL.—The Administrator shall establish within the Office of Radiation and Indoor Air of the Environmental Protection Agency an office, to be known as the "Environmental Tobacco Smoke Advisory Office". The Administrator shall appoint a Director to carry out the functions of the office.

(B) DUTIES OF THE DIRECTOR.—The Director shall—

(i) provide information on smoking cessation;

(ii) provide information to assist in compliance with the requirements of this Act;

(iii) provide information on the dangers of environmental tobacco smoke to any person who requests the information;

(iv) establish a telephone hotline to provide information on the dangers of environmental tobacco smoke; and

(v) carry out any other function of the Office that the Administrator determines to be appropriate.

SEC. 6. REPORT BY THE ADMINISTRATOR.

Not later than 2 years after the date of enactment of this Act, the Administrator shall submit a report to Congress that includes—

(1) information concerning the degree of compliance with this Act; and

(2) an assessment of the legal status of smoking in public places.

SEC. 7. PREEMPTION.

Nothing in this Act is intended to preempt any provision of law of a State or political subdivision of a State that is more restrictive than a provision of this Act.

[From the New York Times, Jan. 8, 1993]

U.S. TIES SECONDHAND SMOKE TO CANCER

(By Warren E. Leary)

WASHINGTON, January 7.—Secondhand tobacco smoke causes lung cancer that kills an estimated 3,000 nonsmokers a year and subjects hundreds of thousands of children to respiratory disease, the Environmental Protection Agency said today in a long-anticipated report.

The E.P.A. study, issued after four years and several revisions, should serve as a rallying point for government and private efforts to reduce exposure to environmental tobacco smoke, Federal health officials said.

Soon after the report was released, smoking opponents announced several legislative initiatives to place stronger restrictions on smoking in Federal office buildings and other public places. Dr. Louis W. Sullivan, the Health and Human Services Secretary, said the study would be the basis for public health campaigns encouraging nonsmokers to assert their rights to clean air.

The tobacco industry continued an attack on the report begun earlier in the week, saying the report was based on inadequate scientific data that was "adjusted to fit policy." The Tobacco Institute called the study "another step in a long process characterized by a preference for political correctness over sound science."

"EVIDENCE IS CONCLUSIVE"

William K. Reilly, the E.P.A. Administrator, told a news briefing that the report supported a growing scientific consensus that smoking is not just a health risk to smokers but also a significant risk to nonsmokers, particularly spouses and children.

"Environmental tobacco smoke, secondhand smoke, involuntary smoking, passive smoking—whatever you want to call it—has now been shown conclusively to increase the risk of lung cancer in healthy nonsmokers," Mr. Reilly said. "Taken together, the total weight of evidence is conclusive that environmental tobacco smoke increases the risk of lung cancer in nonsmokers."

Mr. Reilly said 434,000 people die annually in the United States from diseases caused or aggravated by cigarette smoking, including 140,000 who die from lung cancer. This puts a smoker's risk of developing lung cancer at between 1 in 10 and 1 in 20, compared with a 20-fold lower lung cancer risk for those who have never smoked, he said.

The E.P.A. study—which was not based on new research but on previously published studies—concluded that 20 percent of all lung cancers caused by factors other than direct inhalation of cigarette smoke were due to indirect, environmental tobacco smoke. This is a risk of about 1 in 1,000, Mr. Reilly said, higher than that of almost any chemical the agency regulates.

INFANTS ESPECIALLY VULNERABLE

Higher exposures to secondhand smoke, like that in enclosed homes, small rooms or automobiles, cause higher risks. The spouses of people who smoke at home face a high lung cancer risk of about 2 in 1,000, Mr. Reilly said.

Health officials said the danger to infants and children were particularly alarming. These were among the report's findings on the effects of secondhand smoke on children:

It increases the frequency and severity of symptoms in 200,000 to 1 million children with asthma and also increases the risk of developing asthma.

It causes 150,000 to 300,000 cases of respiratory infections like bronchitis and pneumonia each year in children up to 18 months of age.

It also causes fluid buildup in the middle ear, a condition that can lead to ear infections common in children.

"It is time for Americans who smoke to make the choice to stop," said Dr. Sullivan, who attended the E.P.A news briefing. "And, in particular, it is irresponsible for smokers to expose young children to the health consequences of the addiction.

MORE SMOKING BANS

Dr. Sullivan, noting that 26 percent of American adults still smoke, said his department's Center for Disease Control and Prevention would use the report's findings to begin a public information campaign on the dangers of environmental smoke. The "Secondhand Smoke: We're All At Risk" campaign of television and radio commercials and print advertisements will focus on informing about hazards and "stirring people to action," he said.

Citing the E.P.A. report, Senator Frank R. Lautenberg of New Jersey and Representative Richard J. Durbin of Illinois announced that they would introduce legislation in both chambers of Congress to ban smoking in all Federal office buildings and in almost all indoor places providing federally financed children's services.

The two Democratic legislators, who wrote the bill imposing the 1989 smoking ban on domestic airline flights, said in a statement that the new measure would "protect children from the harmful but invisible threat of environment tobacco smoke."

The New York State Health Commissioner, Dr. Mark Chassin, noting that the E.P.A. report now formally classifies environmental smoke as a Group A carcinogen like benzene and asbestos, said Gov. Mario M. Cuomo would submit legislation to ban smoking from all school grounds. He said the proposal would also seek to toughen smoking restrictions in public places and restrict tobacco advertising.

"This report should also help convince parents to stop exposing their children to harmful effects of tobacco smoke," Dr. Chassin said.

IMPACT ON LIABILITY SUITS

The Coalition on Smoking or Health, representing the American Lung Association, the American Heart Association and the American Cancer Society, called on President Bush to heed the E.P.A. report's conclusions and issue an executive order prohibiting smoking in all Federal buildings. Currently, agencies can set their own smoking policies.

Richard A. Daynard, a law professor at Northeastern University in Boston who directs the Tobacco Products Liability Project, said the report is "extremely important" for legal action against the tobacco industry. "This basically marks the end of any debate about whether environmental tobacco smoke causes serious, fatal disease among nonsmokers," Mr. Daynard said in a telephone interview.

But Brennan Dawson of the Tobacco Institute, an industry trade group that strongly criticized the report, said the majority of studies cited by the E.P.A. do not establish that environmental smoke directly causes any diseases. "And to prove liability, you have to prove causation," she said.

A DYING SMOKER'S TALE

BELLEVILLE, IL, January 7.—A dying lung-cancer patient who is suing a tobacco company testified today that he began smoking in the fifth grade and continued for most of his life despite health warnings.

The 51-year-old plaintiff, Charles Kueper, recalled that he had understood the dangers of smoking "to the point it stunted your growth, was harder to breathe."

Mr. Kueper, a retired Army master sergeant and truck driver, is suing the R. J. Reynolds Tobacco Company and the Tobacco Institute, which represents the industry, for unspecified damages in St. Clair County Circuit Court here. He claims the defendants concealed the dangers of smoking through misleading advertising.

Mr. Kueper testified that he was already smoking as much as two packs of Winston cigarettes a day when, at the age of 18, he joined the Army in 1959. He did not quit, he said, until late 1990, when doctors told him not to smoke around his wife, who was recovering from surgery. A few months later, in March 1991, he was found to have cancer.

Under questioning by his lawyer, Bruce Cook, Mr. Kueper said cigarettes had been an integral part of his life. In 1981, a doctor told him to quit smoking, he said, adding, 'I guess he didn't like what he was hearing" through a stethoscope. Still, the witness testified, he kept smoking.

Mr. Kueper, who has said that his doctor does not expect him to live past spring, told the court he had been aware of warning labels on cigarette packs as early as the 1960's but had paid little heed.

He said that he had tried to quit smoking several times but that "it's not that easy to quit." The longer he went without a cigarette, he said, "the worse it got."

EPA DESIGNATES PASSIVE SMOKING A "CLASS A" OR KNOWN HUMAN CARCINOGEN

EPA Administrator William K. Reilly today announced the final conclusions of EPA's assessment on the respiratory health effects of passive smoking. The assessment concludes that Environmental Tobacco Smoke [ETS], also known as secondhand smoke, is a human lung carcinogen, responsible for approximately 3,000 lung cancer deaths annually among U.S. non-smokers. It also concludes that passive smoking results in serious respiratory problems for infants and young children.

Announcing the release of the study today in a joint Washington press conference with Dr. Louis Sullivan, Secretary of the U.S. Department of Health and Human Services, Reilly said, "Today's risk assessment adds new peer-reviewed evidence to the growing scientific consensus that smoking is not just a health danger for smokers, but a significant risk for non-smokers, particularly children who are exposed to secondhand smoke. this report will be an invaluable scientific tool for policymakers and health professionals who are wrestling with the problem of exposure to passive smoke. EPA will work closely with the Department of Health and Human Services and other organizations to ensure that officials around the world are made aware of the findings of this important study."

Tobacco smoke has long been recognized as a major cause of death and disease, especially lung cancer and chronic respiratory disease in smokers. In recent years there has been concern that non-smokers may also be at increased risk as a result of their exposure to the smoke exhaled by smokers and given off by the burning end of cigarettes, pipes or cigars. This smoke contains more than 4,000 substances, at least 43 of which cause cancer in humans or animals and many of which are strong eye or respiratory irritants.

The lung cancer findings in EPA's assessment are based on several important analytical findings: first, the chemical and physical similarity of ETS to that inhaled by smokers; second, the known lung carcinogenicity of tobacco smoke to smokers; third, the known exposure of ETS and uptake by the human body; and fourth, a thorough and comprehensive review of more than 30 studies in both the United States and abroad that examined the relationship between lung cancer and exposure to secondhand smoke in people who never smoked, usually the spouses of smokers. EPA concluded from the total "weight of evidence" of all the studies that ETS increases the risk of lung cancer in non-smokers.

The report also cites some of the specific effects of passive smoking on children. The report's conclusions on childhood respiratory health are based on more than 100 studies in children documenting the fact that secondhand smoke is a problem for young children and infants. Some of the effects cited:

ETS exposure causes additional episodes and increased severity of symptoms in asthmatic children. The report estimates that 200,000 to 1 million asthmatics have their condition worsened by exposure to ETS.

ETS exposure is a risk factor for new cases of asthma in children who have not previously displayed symptoms.

ETS exposure causes an increased risk of lower respiratory tract infections such as bronchitis and pneumonia in infants and young children. The report estimates that exposure to parents' secondhand smoke will lead to 150,000 to 300,000 cases annually in children up to 18 months old.

ETS exposure causes an increased prevalence of fluid in the middle ear, symptoms of upper respiratory tract irritation and a small yet significant reduction in lung function.

Following a second review in the summer of 1992, EPA's Science Advisory Board (SAB), fully endorsed the risk assessment, including the conclusions that ETS should be classified as a known human carcinogen (officially called an EPA Group A carcinogen, the Agency's category of greatest scientific certainty for known or suspected carcinogens). The SAB also endorsed findings on other respiratory effects. The SAB suggested relatively minor revisions in its November 1992 letter to the Agency. Those revisions have been made. The SAB is EPA's independent panel of outside scientific advisors that routinely reviews draft EPA reports.

EPA also received and reviewed more than 100 comments from the public and integrated appropriate ones into the final risk assessment.

EPA has no authority to regulate any type of smoking, nor is EPA's report binding on the policy or regulatory program of any other federal, state or local government agency or any private organization. In cooperation with other government agencies, EPA will carry out an education and outreach program over the next two years to inform the public and policymakers about what they can do to reduce the health risks of ETS as well as other indoor air pollutants.

This 530-page report, which has been in development since 1988, has been through extensive review and revisions. It was prepared under authority of Title IV of Superfund (The Radon Gas and Indoor Air Quality Research Act of 1986), which directs EPA to conduct a research and information dissemination program on all aspects of indoor air quality.

Today's final report, prepared by the Office of Health and Environmental Assessment in EPA's Office of Research and Development, with major support from the Indoor Air Division of EPA's Office of Air and Radiation, was released in draft to the general public for review and comment in June 1990 and subsequently reviewed by EPA's SAB in December 1990.

Copies of the final report "Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders", (EPA/600/6-90/006F) will be available in about three weeks by writing CERI, U.S. EPA, 26 W. Martin Luther King Drive, Cincinnati, Ohio 45268; or phoning 513-569-7562 or faxing requests to 513-569-7566. The report will also be available through the EPA Indoor Air Quality Information Clearinghouse (IAQ INFO) at 1-800-438-4318. Copies will be available for inspection at EPA Headquarters and EPA Regional Office libraries and the Federal Depository Libraries.●

By Mr. PRESSLER:

S. 263. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a health care professional as interest on student loans if the professional agrees to practice medicine for at least 2 years in a rural community; to the Committee on Finance.

RURAL MEDICAL PROFESSIONALS INCENTIVES

Mr. PRESSLER. Mr. President, today I am reintroducing legislation that would provide incentives for physicians, physician assistants, nurses, and nurse practitioners who agree to practice in a rural community.

It deeply concerns me that health care professionals in rural areas such as South Dakota must struggle so hard to keep their doors open. We must find ways to encourage them to locate in rural areas. That is the purpose behind the legislation I am introducing today.

My legislation would amend the Internal Revenue Code to allow an annual deduction of $5,000 for principal and interest paid on student loans. In return, physicians would agree to practice for a minimum of 2 consecutive years in a community of 5,000 or fewer individuals, and with a per capita income of $15,000 or less.

As we all know, much of the health care debate continues to focus on the subject of access to quality care. One crucial question that must be answered is, How can we keep medical professionals in small towns and cities? Answering this question will not solve all the problems. However, it is one tool that can be used to ensure that all Americans living in smaller populated areas have access to health care.

The cost of medical education is excessive for physicians who begin their practices in rural communities with a poor economic base. Statistics indicate there is just 1 physician per 1,465 South Dakotans. Roughly 24 percent of the State's population resides in a health manpower shortage area. There are nearly 40 health manpower shortage areas in South Dakota.

I hope that may colleagues will offer their support for this bill. If enacted, it will help alleviate the extreme health manpower shortages in my State and many other rural areas of the Nation. By increasing the number of physicians in small, rural areas and assisting them in building stable medical practices, this legislation could play a part in helping to resolve the health care crisis in rural America.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 263

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEDUCTION FOR STUDENT LOAN PAYMENTS BY MEDICAL PROFESSIONALS PRACTICING IN RURAL AREAS.

(a) INTEREST ON STUDENT LOANS NOT TREATED AS PERSONAL INTEREST.—Section 163(h)(2) of the Internal Revenue Code of 1986 (defining personal interest) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(F) any qualified medical education interest (within the meaning of subsection (k))."

(b) QUALIFIED MEDICAL EDUCATION INTEREST DEFINED.—Section 163 of the Internal Revenue Code of 1986 (relating to interest expenses) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) QUALIFIED MEDICAL EDUCATION INTEREST OF MEDICAL PROFESSIONALS PRACTICING IN RURAL AREAS.—

"(1) IN GENERAL.—For purposes of subsection (h)(2)(F), the term 'qualified medical education interest' means an amount which bears the same ratio to the interest paid on qualified educational loans during the taxable year by an individual performing services under a qualified rural medical practice agreement as—

"(A) the number of months during the taxable year during which such services were performed, bears to

"(B) the number of months in the taxable year.

"(2) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified medical education interest for any taxable year with respect to any individual shall not exceed $5,000.

"(3) QUALIFIED RURAL MEDICAL PRACTICE AGREEMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified rural medical practice agreement' means a written agreement between an individual and an applicable rural community under which the individual agrees—

"(i) in the case of a medical doctor, upon completion of the individual's residency (or internship if no residency is required), or

"(ii) in the case of a registered nurse, nurse practitioner, or physician's assistant, upon completion of the education to which the qualified education loan relates,

to perform full-time services as such a medical professional in the applicable rural community for a period of 24 consecutive months. An individual and an applicable rural community may elect to have the agreement apply for 36 consecutive months rather than 24 months.

"(B) SPECIAL RULE FOR COMPUTING PERIODS.—An individual shall be treated as meeting the 24 or 36 consecutive month requirement under subparagraph (A) if, during each 12-consecutive month period within either such period, the individual performs full-time services as a medical doctor, registered nurse, nurse practitioner, or physician's assistant, whichever applies, in the applicable rural community during 9 of the months in such 12-consecutive month period. For purposes of this subsection, an individual meeting the requirements of the preceding sentence shall be treated as performing services during the entire 12-month period.

"(C) APPLICABLE RURAL COMMUNITY.—THE TERM 'APPLICABLE RURAL COMMUNITY' MEANS—

"(i) any political subdivision of a State which—

"(I) has a population of 5,000 or less, and

"(II) has a per capita income of $15,000 or less, or

"(ii) an Indian reservation which has a per capita income of $15,000 or less.

"(4) QUALIFIED EDUCATIONAL LOAN.—The term 'qualified educational loan' means any indebtedness to pay qualified tuition and related expanses (within the meaning of section 117(b)) and reasonable living expenses—

"(A) which are paid or incurred—

"(i) as a candidate for a degree as a medical doctor at an educational institution described in section 170(b)(1)(A)(ii), or

"(ii) in connection with courses of instruction at such an institution necessary for certification as a registered nurse, nurse practitioner, or physician's assistant, and

"(B) which are paid or incurred within a reasonable time before or after such indebtedness is incurred.

"(5) RECAPTURE.—If an individual fails to carry out a qualified rural medical practice agreement during any taxable year, then—

"(A) no deduction with respect to such agreement shall be allowable by reason of subsection (h)(2)(F) for such taxable year and any subsequent taxable year, and

"(B) there shall be included in gross income for such taxable year the aggregate amount of the deductions allowable under this section (by reason of subsection (h)(2)(F)) for all preceding taxable years.

"(6) DEFINITIONS.—For purposes of this subsection, the terms 'registered nurse', 'nurse practitioner' and 'physician's assistant' have the meaning given such terms by section 1861 of the Social Security Act."

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) of the Internal Revenue Code of 1986 is amended by inserting after paragraph (14) the following new paragraph:

"(15) INTEREST ON STUDENT LOAN OR RURAL HEALTH PROFESSIONAL.—The deduction allowable by reason of section 163(h)(2)(F) (relating to student loan payments of medical professionals practicable in rural areas)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

By Mr. BINGAMAN (for himself and Mr. COCHRAN):

S. 264. A bill to establish a classrooms for the future program, and for other purposes; to the Committee on Labor and Human Resources.

TECHNOLOGY FOR THE CLASSROOM ACT OF 1993

• Mr. COCHRAN. Mr. President, I am pleased to join the distinguished Senator from New Mexico [Mr. BINGAMAN] in introducing the Technology for the Classroom Act of 1993.

This legislation has two primary objectives. First, it authorizes Federal funding for the development of high-quality curriculum-based software and other supporting materials for use in the Nation's elementary and secondary classrooms. In addition, it will authorize grants to be distributed to States on a formula basis to help improve access to technology, particularly in those schools where lack of resources creates an impediment to the integration of technology into the curriculum.

On January 5, 1993, the Federal Coordinating Council for Science, Engineering, and Technology, chaired by Secretary of Energy James D. Watkins, released "Pathways to Excellence: A Federal Strategy for Science, Mathematics, Engineering, and Technology Education," which provides a plan for improving the Nation's educational system. This plan is the result of 3 years of coordinated effort by 16 Federal agencies holding membership in the Council's Committee on Education and Human Resources. This report stands as an important landmark, because it lays out clearly identified measurable milestones and objectives for reaching the national education goals by the year 2000.

This strategic plan also provides a framework to link education reform with efforts to establish a national technology initiative to stimulate technology growth and innovation in the private sector. In his introductory letter, Admiral Watkins says:

> Without success on both fronts, this nation cannot retain its competitive edge and will not be able to produce the quantity of high quality jobs needed to sustain the economic well being of our people.

Mr. President, this is a strong statement and should be carefully considered as we continue to work toward improving the quality of education in our schools. The strategic plan put forth by this Commission acknowledges the urgency and innovation required to reach the national goals. One method of transforming our schools is through integration of technology in the classroom.

Educational technologies have improved teaching and learning in those schools where resources have been available to incorporate it into the curriculum. The problem is that not many schools and few students have an opportunity to enhance their ability to learn through the use of technology. The disparity between the haves and have nots in the area of technology is one of the most pronounced inequities in education, and it is growing wider. The availability of technology for all students is not just a matter of educational enrichment, but economic survival.

I believe the core of education reform must be the adoption, without exception, of a vigorously held notion that all American children must have equal opportunity to participate in rich, intellectually challenging courses. The use of computers, video discs, top-quality software, and supporting materials will not only increase achievement levels, but will make learning and teaching more fun.

There is already an abundance of educational software on the commercial market. Unfortunately, the quality of this software varies greatly and is not designed to meet the rigorous national standards in core subject areas currently being developed. In order to upgrade the quality of software available to schools and to involve States and local school districts in the development of technology-based instructional materials that meet the curriculum needs of schools in the State, this bill authorizes the Secretary of Education to award grants of up to $3 million each to consortia consisting of State and local education agencies in partnership with business and institutions of higher education or private nonprofit organizations. Successful grantees will provide a 25-percent match in private funds and will:

Develop innovative course materials using a broad array of technology-based instructional approaches to help students, particularly disadvantaged students, learn mathematics, science, geography, history, English, and other subjects;

Emphasize teacher training as part of an overall strategy to integrate technology into the classroom; and

Demonstrate the effectiveness of technology-based instruction in achievement levels of students and cost savings to the school.

The bill also establishes grants to States to improve access to technology. Each State must submit a plan detailing a strategy for integrating technology into classrooms with high numbers of disadvantaged students who currently have little or no access to technology-based instructional materials. States with approved plans will receive a grant based on their chapter 1 allotment—with no State receiving less than $100,000—to improve access to technology-based learning resources.

To facilitate Federal interagency coordination, the Secretary will share curriculum-based educational technological developments with the various Federal agencies. The Secretary will also disseminate information to State education agencies, local education agencies, and others on educational products developed pursuant to this act.

This is important legislation which I hope will serve as a cornerstone to an overall educational technology policy for our Nation's elementary and secondary schools. The United States is regarded as the world leader in higher education. This legislation will help ensure our place at the top in elementary and secondary education. I urge other Senators to join me in support of this bill.•

By Mr. SHELBY (for himself, Mr. INOUYE, Mr. WALLOP, Mr. MACK, and Mr. HEFLIN):

S. 265. A bill to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

ECONOMIC GROWTH AND REGULATORY PAPERWORK REDUCTION ACT

• Mr. SHELBY. Mr. President, I rise today to introduce the Economic

Growth and Regulatory Paperwork Reduction Act of 1993. This legislation will help alleviate the credit crunch without any negative impact on the budget deficit.

Banks play a vital role in our economy. It is no coincidence that this country is experiencing a credit crunch at the same time that banks are struggling to keep up with the regulatory burden. In the current environment, bank lending is discouraged. The current credit crunch is a result of the cumulative effects of compliance paperwork that has been heaped on banks for the last decade. In the past 5 years alone, more than 40 major provisions affecting bank operations have been passed, resulting in hundreds and hundreds of pages of new regulations.

All this redtape comes at a cost. A study released on December 19, 1992, by the Federal Financial Institutions Examination Council included an estimate of regulatory compliance that was as high as $17.5 billion per year. If this cost were reduced by just 25 percent, that is approximately $4.4 billion that could be added to bank capital, to support tens of billions in additional lending.

The costs associated with the regulatory burden are gaining recognition. The Clinton administration recognizes the impact of the regulatory burden. At his economic summit in Little Rock, President Clinton said, "They're [banks] still the main source of small business credit. And if you don't do anything about that, you can run the deficit up another $50 to $60 billion." Treasury Secretary Lloyd Bentsen followed up on that statement on "Meet the Press" when he responded to a question by David Broder about the credit crunch with, "We'll be looking forward to working with the appropriate committees in the Congress on legislation to assist in that regard."

The bank regulators, including Federal Reserve Chairman Greenspan, have also spoken about the negative effects of the regulatory onslaught on credit availability and economic growth.

To respond to this problem, I have worked with banking and small business experts to put together legislation that will remove the impediments to lending and get the economy moving again. The bill I introduce is comprehensive legislation that attempts to ease some of the unnecessary costs to consumers, eliminates micromanagement of financial institutions, and eliminates those regulations that do nothing more than create paperwork and increase costs to our financial institutions.

However, while this bill is broad, it maintains strict safeguards to protect the safety and soundness of our financial institutions. This bill would leave in place, with little or no modification, the strong supervisory provisions enacted in recent years. These include risk-based premiums, strong capital rules, enhanced authority to restrict and close troubled financial institutions, annual audits, more frequent supervisory exams, strong supervisory sanctions, strong criminal sanctions, FDIC back-up authority, and limits on brokered deposits.

We must act now to ease the credit crunch in this country. Small businesses are the engine of this country's economy. Small businesses produce about 40 percent of GNP and 50 percent of the total output of the private sector.

A recent study by Arthur Anderson for National Small Business United found that the largest source of both short-term and long-term capital for all sizes of small businesses is the banking industry. This same survey found that the single most often cited reason why small business owners had difficulties obtaining loans was tighter bank regulations.

It is time to swing the pendulum back in the other direction. It is time to start removing these superfluous layers of regulatory burden. I introduce this bill to call attention to the problem of the regulatory burden and to start a discussion among my colleagues.

I would ask unanimous consent to include with these remarks a copy of an editorial from the Dallas Morning News of December 19, 1992. This editorial sums up perfectly the role that the regulatory burden plays in hindering an economic expansion. I hope my colleagues will read this editorial and then cosponsor my bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Dallas Morning News, Dec. 19, 1992]

BANKING—CLINTON SHOULD PURSUE SENSIBLE REGULATORY CLIMATE

During his Little Rock economic summit, President-elect Bill Clinton seized upon using banks as a means to spur economic growth. If banks increased their lending by 4 percent, the incoming president was told, then $86 billion in economic expansion would result. That figure clearly turned on a light in the next president's mind; he continued to discuss it throughout the summit.

Now, yes, there is some debate about the exactness of that figure, which was supplied by the president of the American Bankers Association. Some say an increase in lending would lead to much less than $86 billion, while John Reed of Citicorp estimates the expansion figure could be more like $100 billion.

Whatever. The fact is, banks do play an important role in expanding the economy. That much is simple, although getting there is difficult.

As the president-elect was told, banks operate under a heavy burden of regulation. Those regulations not only soak up time and money, they also deter more aggressive banking. If you must comply with stringent regulations regarding, say, small business loans, why get involved?

The banking regulatory burden is about to increase. This weekend, the industry begins operating under a new wave of regulations that were passed last year. Among other items, the new regulations allow regulators to close a bank that has less than 2 percent of its assets (i.e., loans), covered by capital (i.e., money put up by a bank and its owners).

Of course, no one should make light of the need for banking supervision, of high capital standards. Banks, after all, should not be allowed to go the way of the savings-and-loan industry. The 1991 banking bill also made important improvements in shoring up the deposit insurance system.

But as Mr. Clinton takes office, it's his job to make sure that misplaced fears not lead to inordinate responses. Consider the new truth-in-savings requirement. Banks now are required by Congress to provide so much information about a savings account that the old days of a putting a sign in a bank lobby to advertise a savings rate is almost antiquated.

Mr. Clinton is right, of course: Banks can indeed play a role in economic expansion. To encourage that role, Mr. Clinton must build upon the Bush administration's record of creating a more sensible regulatory environment. No one wants banks running amok, but neither is it desirable to force them to live under a smothering regulatory shell.●

By Mr. SIMON (for himself and Mr. SARBANES):

S. 266. A bill to provide for elementary and secondary school library media resources, technology enhancement, training and improvement; to the Committee on Labor and Human Resources.

ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA SERVICES ACT OF 1993

● Mr. SIMON. Mr. President, I am pleased to be joined by my colleague, Senator SARBANES from Maryland in introducing the Elementary and Secondary School Library Media Services Act.

Access to adequate library facilities is essential to the effective education of our Nation's young people. Library and media spending affects student achievement more than any other school expenditure. Yet in recent years, our school libraries have not received the funding they need to effectively serve students and teachers.

The Elementary and Secondary Education Act of 1965 provided separate funding for school library programs. During the 1970's and 1980's, however, Congress merged funding for all school programs into block grants. As a result of the merger, funding for school libraries declined dramatically. The lack of funding has taken a heavy toll on the state of our school libraries. In California, for example, more than half of all school libraries have closed during the last 10 years. In that State, a young person in a correctional institution has better access to library facilities than does the average student. In those school libraries which remain in operation, collections are hopelessly outdated. The average publication date of a school library book is the late

1960's. Our school library collections are so obsolete that over half of the books on space exploration were written even before *Apollo XI*. An example of this can be found in one of my home State's more affluent school districts where 60 percent of all the high school's science books—particularly those about space exploration—are significantly older than the students using them. As an Illinois librarian said to me, "This means that a student wanting to do research, or even wanting to read about our Nation's advanced space program, will read about how some day we could put man on the Moon."

Mr. President, in this rapidly changing world, access to current, comprehensive information is essential to an effective educational system. If we are to prepare our Nation's children for the challenges of the future, every school in the United States must be equipped with the best and most up-to-date library resources available. The legislation I am introducing today would provide the necessary funding and direction to develop first-rate library facilities in our Nation's schools.

The Elementary and Secondary School Library Media Act would do two things. First, the act would establish the Elementary and Secondary Library Media Services Division, a new Division within the Department of Education's Office of Education, Research and Improvement. The Library Media Services Division would provide information and leadership to schools and library personnel nationwide. Second, the act would create three new grant programs. One program would award grants directly to the States for the acquisition of library resources. The other two programs would provide competitive grants, awarded to schools proposing innovative instructional programs and expanded uses of technology.

The American Library Association [ALA] has been very active in trying to restore support for elementary and secondary school libraries. The ALA has published a factsheet on school library media programs. I ask unanimous consent to have the ALA's factsheet included in the RECORD after my remarks.

Mr. President, I urge my colleagues to review this important legislation. I also encourage them to talk to their local school librarians and students. I look forward to working with them during the coming year in acting on this legislation.

I ask unanimous consent that the text of the bill follow my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 266

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Elementary and Secondary School Library Media Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) in order to prepare our Nation's children for the challenges of the future, as well as keeping our Nation competitive in a global economy, every elementary and secondary school in the United States should be equipped with the best and most up-to-date library resources, certified library media specialists, access to advanced technology, and instruction on the use of library and information resources;

(2) our Nation's elementary and secondary school libraries are primarily dependent on a core of deteriorating and out-of-date library materials purchased with original funding from the Elementary and Secondary Education Act of 1965;

(3) school library media center expenditures, when adjusted for inflation, have declined 16 percent in public schools since 1979; and

(4) small and rural school libraries are further disadvantaged because of small budgets based on low student enrollments, and limited access to resources, services, and personnel.

(b) STATEMENT OF PURPOSE.—It is the purpose of this Act to—

(1) establish within the Department of Education Office of Educational Research and Improvement a Division of Elementary and Secondary School Library Media Services to provide information and leadership to school library media programs and personnel nationwide;

(2) provide continued funding for elementary and secondary school library media program improvement, equity, innovation, and technological advancement;

(3) establish a partnership program for elementary and secondary school teachers and school library media specialists to jointly design resource and curriculum-based instructional activities that provide opportunities for students to access a broad diversity of resources and information, and other languages and cultures, including materials that will encourage understanding; and

(4) establish a partnership program for encouraging uses of technology and the sharing of information and access to resources by elementary and secondary school students, school library media specialists, and teachers.

SEC. 3. ESTABLISHMENT AND FUNCTIONS OF THE DIVISION OF ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA SERVICES.

(a) DIVISION ESTABLISHED.—Section 209 of the Department of Education Organization Act (20 U.S.C. 3419) is amended—

(1) by inserting "(a) OFFICE.—" before "There"; and

(2) by adding at the end the following new subsection:

"(b) DIVISION.—There is established within the Office of Educational Research and Improvement a Division of Elementary and Secondary School Library Media Services, to be administered by a Director of such Division.".

(b) FUNCTIONS OF THE DIVISION.—Part A of title IV of the General Education Provisions Act (20 U.S.C. 1221c) is amended by inserting after section 405 the following new section:

"SEC. 405A. DIVISION OF LIBRARY MEDIA SERVICES.

"(a) FUNCTIONS.—The Division of Elementary and Secondary School Library Media Services established in section 209(b) of the Department of Education Organization Act shall—

"(1) provide information and leadership to elementary and secondary school library media specialists, teachers, and school administrators in order to encourage improvement of educational programs, train library personnel, use advanced technology, and develop library resources, including resources that will encourage students to acquire skills in other languages; and

"(2) monitor and administer—

"(A) the grant programs for elementary and secondary school library media center resource development;

"(B) elementary and secondary school library media specialist and teacher partnership grants for innovative education; and

"(C) grants for uses of technology in the classroom that are linked to the library media center.

"(b) ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA PROGRAM.—

"(1) ESTABLISHMENT OF THE ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA RESOURCE DEVELOPMENT PROGRAM.—The Director shall award grants from allocations under paragraph (2) to States for the acquisition of school library media resources for the use of students, library media specialists, and teachers in public elementary and secondary schools.

"(2) ALLOCATION TO STATES.—From the amount appropriated pursuant to the authority of paragraph (5) in each fiscal year, the Director shall allocate to each State having an approved plan under paragraph (3) an amount which bears the same relationship to such funds as the amount such State received under chapter 2 of title I of the Elementary and Secondary Education Act of 1965 in such year bears to the amount all States received under such chapter in such year.

"(3) STATE PLANS.—In order for a State to receive an allocation of funds under paragraph (2) for any fiscal year such State shall have in effect for such fiscal year a State plan. Such plan shall—

"(A) designate the State educational agency as the State agency responsible for the administration and supervision of the program described in this section;

"(B) set forth a program under which funds paid to the State from its allocation under paragraph (2) will be expended solely for—

"(i) acquisition of school library media resources, including foreign language resources, for the use of students, school library media specialists, and teachers in elementary and secondary schools in the United States; and

"(ii) administration of the State plan, including development and revision of standards relating to school library media resources, except that the amount used for administration of the State plan in any fiscal year shall not exceed 5 percent of the amount allocated to such State under paragraph (2) for such fiscal year; and

"(C) set forth the criteria to be used in allotting funds for school library media resources among the local educational agencies of the State, which allotment shall take into consideration the relative need of the students, school media specialists, and teachers to be served.

"(4) DISTRIBUTION OF ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.—

"(A) DISTRIBUTION RULE.—From the funds allocated to a State under paragraph (2) in each fiscal year, such State shall distribute not less than 95 percent of such funds in such year to local educational agencies within such State according to the relative enrollment of students in public elementary and secondary schools within the school districts of such State, adjusted to provide higher per-pupil allotments to local educational agencies that have the greatest number or percentages of students whose education imposes a higher than average cost per child, such as those students—

"(i) living in areas with high concentrations of low-income families;

"(ii) from low-income families; and

"(iii) living in sparsely populated areas.

"(B) CALCULATION OF ENROLLMENT.—The calculation of relative enrollments under subparagraph (A) shall be made on the basis of the total number of students enrolled in public schools in the State.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000,000 for fiscal year 1994 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subsection.

"(c) ESTABLISHMENT OF THE SCHOOL LIBRARY MEDIA SPECIALIST AND TEACHER PARTNERSHIPS FOR INSTRUCTIONAL INNOVATION PROGRAM.—

"(1) PROGRAM ESTABLISHED.—The Director shall award grants for projects that—

"(A) encourage collaboration between public elementary and secondary school library media specialists and teachers in order to develop units of instruction that enable elementary and secondary school students to use a variety of information resources; and

"(B) expand students' information-gathering abilities and cognitive skills of selection, analysis, evaluation, and application.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 for fiscal year 1994 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subsection.

"(d) ESTABLISHMENT OF THE USES OF TECHNOLOGY IN THE CLASSROOM PROGRAM.—

"(1) PROGRAM ESTABLISHED.—

"(A) IN GENERAL.—The Director shall award grants to encourage collaborative elementary and secondary school library media specialist and teacher programs designed to—

"(i) expand the use of computers and computer networks in the curriculum; and

"(ii) enable elementary and secondary school library media centers to access information from computerized databases.

"(B) COOPERATIVE AGREEMENTS.—The Director may enter into cooperative agreements with the National Science Foundation and other appropriate nonprofit agencies and organizations in carrying out this section.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $40,000,000 for fiscal year 1994 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subsection.

"(e) CONSTRUCTION.—Nothing in this section shall be construed to interfere with State and local initiative and responsibility in the conduct and support of school library media services, the administration of school library media centers, or the selection of personnel or library books and materials.

"(f) SUPPLEMENTATION.—Funds provided under this section shall be used so as to supplement and not supplant other Federal, State, or local funds available to carry out the activities and services assisted under this section.

"(g) DEFINITIONS.—For the purpose of this section—

"(1) the term 'Director' means the Director of the Division of Elementary and Secondary School Library Media Services established pursuant to section 209(b) of the Department of Education Organization Act;

"(2) the term 'elementary school' has the same meaning given to such term by section 1471(8) of the Elementary and Secondary Education Act of 1965;

"(3) the term 'local educational agency' has the same meaning given to such term by section 1471(12) of the Elementary and Secondary Education Act of 1965;

"(4) the term 'secondary school' has the same meaning given to such term by section 1471(21) of the Elementary and Secondary Education Act of 1965;

"(5) the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marianna Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau; and

"(6) the term 'State educational agency' has the same meaning given to such term by section 1471(23) of the Elementary and Secondary Education Act of 1965.".

AASL FACT SHEET—SCHOOL LIBRARY MEDIA PROGRAMS

BACKGROUND INFORMATION

Most U.S. Schools have been built from 1948–1985.

A vast majority of the approximately 51,000,000 students in public schools come from urban environments. New York City alone has nearly 1,000,000 students.

51 million students attend public schools and 8 million attend private schools.

The average age of most books is in the late 1960's when large amounts of federal, state and local funds were expended on school libraries.

Most schools are wired for television, but not for computer networks.

Most micro-computers in schools are older and only used for student instructional purposes or administrative purposes, but not both.

GENERAL EDUCATION STATISTICS FROM DIGEST OF EDUCATION STATISTICS 1991 (NOVEMBER 1991)

Enrollment (K–12), 51,041,000—Public, 8,298,000—Private.

Teachers (K–12) 2,890,000—Public 598,000—Private.

Volunteers (K–12) 38,042,000.

Principals (K–12) 77,890—Public, 25,401—Private.

Largest school districts (K–12):

1. New York City	930,440
2. Los Angeles Unified	609,746
3. Chicago City	408,442
4. Dade County (FL)	279,420
5. Philadelphia City	189,451
6. Houston City	185,566
7. Detroit City	175,436
8. Hawaii	169,493
9. Broward County (FL)	148,803
10. Fairfax County (VA)	126,790
11. Dallas City	125,897
12. Hillsborough County (FL)	119,811
13. San Diego City	119,314
14. Clark County (NV)	111,460
15. Baltimore City	107,782
16. Prince Georges County (MD)	106,974
17. Duval County (FL)	106,593
18. Memphis City	104,410
19. Montgomery County (MD)	100,261
20. Palm Beach County (FL)	98,705
Total	4,324,794

Note.—Nearly 10 percent of the U.S. students.

LEARNING RESOURCES AND TECHNOLOGY STATISTICS FROM DIGEST OF EDUCATION STATISTICS 1991 (NOVEMBER 1991)

Access to information has been widely cited as the key to success in a growing number of endeavors. Thus, how information in made available and to whom become matters of concern.

In fall 1985, almost 94 percent of all public schools and 75 percent of all private schools had libraries or media centers.

During the 1984–85 school year, public school libraries held an average of 7,668 book titles, 34 periodical subscriptions, 353 audio materials, and 540 films and filmstrips.

The number of public schools using microcomputers has risen rapidly in recent years. Between fall 1981 and fall 1986, the proportion of public schools with computers rose 18 percent to 96 percent.

About 36 percent of all American workers used computers on their jobs in October 1989. The percentages ranged from 7 percent for workers who did not complete high school to 58 percent for those with 4 or more years of college. Women who have not completed college were more likely to use computers than men who have not completed college. For men and women who have completed 4 years of college, the percentage using computers were about the same. Computer users with higher levels of education were more likely to use their computers for more diverse applications than those with lower levels of education.

The total computer usage rate of students at school increased from 27.3 percent in October 1984 to 42.7 percent in October 1989. The rate at the pre-kindergarten and kindergarten level increase more than twofold. The rate at the first-though eighth-grade level increase by about two-thirds.

More than half (52 percent) of all elementary school children used computers at school in October 1989. The computer usage rate was 39 percent for students in high school and college. Sizeable percentages of students used them for schoolwork. About 18 percent of elementary school children used computers at home and about 6 percent used them for schoolwork. Students at the high school and undergraduate level were about twice as likely as the elementary school children to use home computers for schoolwork. In general, students in higher income families were more likely to use computers at home and use them for schoolwork than were students from lower income families.

ESEA CHAPTER II BACKGROUND

Because of the merger of programs in Chapter 2 of ESEA, there is now competition for resources among educational programs which should be partners. During the 1960's, Title II of ESEA provided the impetus for establishing libraries in most elementary schools and strengthening secondary school libraries. By the early 70's, many states even had full-time professional librarians managing most of their elementary and secondary libraries. Statistical evaluation indicated that the disparity of library materials and A-V equipment between schools was narrowing. With the advent of ESEA Chapter 2 during the late 70's and 80's, the disparity in library media collections and equipment between schools widened to a near chasm.

DISPARITY OF COLLECTIONS

A good example is: Broward County Schools (Ft. Lauderdale, Florida), where their local paper reported library spending ranging from $1.59 per student in one elementary school to $57.00 per student in another. Middle school and high school disparities are similar. These same reports are echoed nationwide.

EFFECTS ON STUDENT PERFORMANCES AND ACHIEVEMENT

Analyses of schools that have been successful in promoting independent reading suggest that one of the keys is ready access to books. However, fully 15% of the nation's schools do not have libraries. In most of the remaining schools, the collections are small, averaging just over 13 volumes per student.—"Becoming a Nation of Readers," 1985.

Schools should maintain well-stocked and managed libraries. Access to interesting and informative books is one of the keys to a successful reading program. As important as an adequate collection of books is a librarian who encourages wide reading and helps match books to children.—"Becoming a Nation of Readers."

SchoolMatch (800-992-5323), in Westerville, Ohio, will send you information on school districts in the area to which you're moving. You fill out a questionnaire listing your priorities and SchoolMatch searches its data base for 15 school systems that come closest to meeting your needs (there are separate questionnaires for private schools). The service, which costs $97.50, sometimes yields surprising results, says company president William Bainbridge, a former superintendent schools [sic]. For instance, SchoolMatch research indicates that the most important measures of a school district's success are not its tax base or property values but the education level of parents and the amount of money spent on library and media service.—"Changing Times," August 1990.

SchoolMatch, a company in Ohio which is in the business of providing budget information to school districts, so they can determine where priorities should be placed on spending, or how they compare with other similar or competitive school districts, released the following findings.

Comparative financial information for 15,892 public school systems in the U.S.; 14,856 private schools in the U.S.; and accredited American Schools throughout the world.

Multiple regression and discriminate function analysis was used to analyze the various spending categories in all school system budgets.

There is a stronger correlation between library and media expenditures and student achievement and student performance on scholarship exams than any other expenditure in the school. Of all expenditures that influence a school's effectiveness—including those for facilities, teachers, guidance services, and others—the level of expenditures for library and media services has the highest correlation with student achievement and performance on scholarship exams. The correlation is beyond the traditionally held view that school systems with bright students and parents will spend more money for libraries and media.

In a personal interview, Dr. William L. Bainbridge, the head of the company and a former school superintendent from a conservative state, related that:

"A school System can get 'more bang for the buck' by putting a priority on expenditure for the library media program". He further stated that:

I was personally surprised by the result and would not have believed the findings until I double checked the calculations.—"SchoolMatch Report," 1987.

A small amount of Chapter 2 funding can make a significant difference in increasing student achievement and success.

Chapter 2 funding improves student's opportunities for learning.

The Chapter 2 program acts as a catalyst for school improvements and creative risk taking.

School districts praise chapter 2 for enabling local schools to have control to meet local educational needs—"Indiana Chapter 2 Evaluation Report" by Dr. Teresa L. Jump, independent educational consultant, 1992.

Access to the library media collection is the single best school predictor of student achievement.

The instructional role of the library media specialist affects the library media collection and, in turn, student achievement.

The degree of collaboration between library media specialist and teachers is affected by the ratio of teachers to pupils.—Colorado Study of 221 public schools, 1992.

Library media expenditures affect access to the library media program and, in turn, student achievement.—Colorado Study of 221 public schools, 1992.

COSTS FOR LIBRARY MEDIA RESOURCES

We need a basic expenditure of at least $20.00 per student, with the federal government sharing 50%, state 25%, and local 25%. Most of our school districts in the U.S. are strapped to the point that 90% of their budgets go for salaries and building operations (heat, cooling, lights, etc.). At $10.00 per student, we are talking about $400,000,000 plus for public schools and $20,000,000 for private schools. In other words, the total Chapter 2 allocation or a new chapter (In 1966–67, $2.00 per student was allocated for Title II).

The Florida Department of Education analyzed the cost factors for purchasing state rights to copy video programs versus individual school districts:

Sample Video Series	A	B	C
Three year State income	$20,904	$9,373	$8,614
Lease by 6.7 school districts	174,814	128,520	122,094
Individual copy with no rights	844	1,495	444
67 school districts with no rights	56,601	100,165	29,748

Thus, it would be very cost effective to arrange state leases with copy privileges and let individual districts copy for their own use, those videos they want.—Florida Department of Education, 1991.

Nearly half of the notification books on the shelves of most Indiana school libraries are over twenty years old, out-of-date and have misleading information.—"Indiana Legislative Report" by Daniel Callison, 1990.

In the area of space exploration, over half of the books on the shelves were written prior to the United States landing a man on the moon.

In the area of civil rights, most of the materials on the shelves were written during the dramatic changes initiated in the 1960's and few reflect the progress in human rights for minorities, the handicapped, and women over the past decade.

In the areas of geography and travel, most of the books on the shelves present a world as it existed twenty to forty years ago showing out-of-date maps and out-of-date political relationships.

In the area of biological science, few books on the shelves of our school libraries discuss the dramatic advances in discoveries related to modern knowledge of genetic structures.

In the area of career education, most of the materials available to our children through school libraries describe career opportunities as they existed over two decades ago. For example, women are often not included as part of the professional arena beyond the careers of teaching and nursing.—Report by Roger Whayle, Director of Media Services at New Albany-Floyd County Consolidated Schools and Lauralee Forester, Coordinator of Media Services for the Lafayette School Corporation.

School library media center expenditures, when adjusted for inflation, have declined 16 percent in the public schools and 14 percent in private schools since 1978–79.

The median per-pupil expenditure by school libraries in 1989–90 was $5.48—less than half the average cost of a children's book.

The average price of a hardcover book more than doubled from $19 to $40 between 1977 and 1990.

The average price of U.S. periodicals increased about 400 percent over the same period.—"ALA Fact Sheet," by ALA Public Information Office, 1991.

EXAMPLE OF A MODEL LIBRARY MEDIA FACILITY AND RESOURCES

Bonifay High School (500 students) (30 teachers), opened a new building in February 1992. Each classroom has a color monitor computer and a television monitor, connected to the library media center using a local area network (LAN). There are 8 VHS video recorders connected to each classroom, so on any given day, teachers and students can have access to 8 programs directly from the library media center. There will be other recorders on carts, which can be loaned to classrooms, when needed. The card catalog also is available on-line. This school dates back to the 1920's, so they have discarded most of their collection and have purchased 2,500 new books. Teachers can request a videotape using their school-wide intercom/telephone system and can access the school's on-line library media catalog through their classroom computer network.

A complete television studio is operational, producing a weekly news show and specials. Four students are assigned each period, so 28 students are enrolled in the television production course. Eventually, 4 video laserdisk players and 4 (25") video monitors will be placed on carts, so they can be connected to the classroom computers for interactive video activities. Teachers at that right teaching moment can type into their computer, isosceles triangle, mule deer, etc. and the proper illustration, action segment or picture instantly becomes available.

In June 1992, three interactive CD–ROM's were added to the LAN. An electronic encyclopedia, almanac and SIRS can be accessed simultaneously by up to 40 terminals.

Approximate investment:

36 Television Monitors $400	$14,400
45 Color Monitor Micros $2,500	112,500
8 VHS Video Recorders $400	3,200
3 CD–ROM Players $800	2,400
8-Channel video System, Computer system, CD–ROM System, wiring and outlets in classrooms	46,000
2,500 Books $20	50,000
Total	228,500

Note.—An expenditure of $457 per student.●

● Mr. SARBANES. Mr. President, I am very pleased to join again with Senator SIMON in introducing the Elementary and Secondary School Library Media Services Act, to establish within the Department of Education a division of Elementary and Secondary School Library Media Services to provide information and leadership to school library media programs and personnel nationwide. As you know, I joined my colleague from Illinois in introducing this

proposal at the end of the 102d Congress in an effort to draw attention to the critical need to ensure that school libraries are able to bring their collections up to date and to stimulate related discussions prior to the 103d Congress.

It is imperative that when we consider the future of our Nation, the need to compete in an international economy, and the importance of moving our country forward, we remember the importance of educating our future work force. In so doing, we must pay close attention to the information center of the classroom—the library, or school library media center, as it is often called today. While my memories, and those of many of my colleagues, may revolve around a favorite book, young people of today may have, in addition to books, videotapes, recordings, computer software, CD-ROM's, magazines, newspapers, government documents, and films. The legislation we are reintroducing today is designed to ensure that this variety of information is available in an equitable manner in school library media centers across the Nation.

Prior to the merger of many education programs into block grants, as put forward by the Reagan/Bush administration in the 1980's, a separate categorical program, title II of the Elementary and Secondary Education Act, existed for school libraries. Because of this program, many school libraries were able to build up core collections, many of which are still in use today. In fact, many libraries have been unable to make any significant changes in their collections since the merger of programs into block grants. A few preliminary surveys have established that in some States the ages of book collections date back as far as 1965, with one junior-senior high school reporting that 55 percent of its school library collection was printed before the school's senior class was born.

Mr. President, the need to ensure that school libraries are able to bring their collections up to date has been highlighted dramatically by our rapidly changing world. A good example of this change is the implosion of the former Soviet Union which rendered obsolete a vast array of world atlases, almanacs, encyclopedias, maps, and history books. Our young people are our Nation's greatest resource, and it is clear that serious and immediate attention is needed to ensure that school library media centers are able to provide our students with accurate and timely resource materials. I urge all of my colleagues to join us in ensuring prompt enactment of this legislation and related efforts to address the critical needs of our school library media centers.•

By Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. SARBANES, Mr. BUMPERS, and Mr. PELL):

S.J. Res. 30. A joint resolution to designate the weeks of April 25 through May 2, 1993, and April 10 through 17, 1994, as "Jewish Heritage Week"; to the Committee on the Judiciary.

JEWISH HERITAGE WEEK

• Mr. D'AMATO. Mr. President, I rise today along with my colleague Senator MOYNIHAN, to introduce a resolution designating April 25 through May 2, 1993, and April 10 through 17, 1994, as "Jewish Heritage Week."

American culture comprises many ethnic groups. Each has contributed to the American way of life in its own way, through language, art, music, religion, and in many other fields. More specifically, the vast influx of Jews from Europe and the Arab world brought the rich heritage of the Jewish people to America. From its contribution in the fields of art, literature, medicine, law, finance, education, and in other varied areas, Jewish culture has enriched American culture.

By celebrating Jewish Heritage Week, we honor not only the contribution of American Jews, but the sacred holidays of Judaism, the memory of the tragedies that have befallen the Jews of Europe during the Holocaust and the history of Judaism itself—a history in which America has played such a great part.

I am pleased to join with my friend Senator MOYNIHAN in introducing this resolution. I urge my colleagues to join us in this effort to honor the rich and varied heritage of the Jewish people.

I ask unanimous consent that the text of the joint resolution be printed in the CONGRESSIONAL RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 30

Whereas April 26, 1993, and April 14, 1994 mark the forty-fifth and forty-sixth anniversaries of the founding of the State of Israel;

Whereas the months of April and May contain events of major significance in the Jewish calendar, including Passover, in 1993, the fiftieth anniversary of the Warsaw Ghetto Uprising and the opening of the Holocaust Memorial Museum in Washington, DC., Holocaust Memorial Day, and Jerusalem Day;

Whereas the Congress recognizes that an understanding of the heritage of all ethnic groups in the Nation contributes to the unity of this Nation and,

Whereas understanding among ethnic groups in this Nation may be advanced further through and appreciation of the culture, history, and traditions of the Jewish community and the contributions of the Jewish people to this Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, the weeks of April 25 through May 2, 1993, and April 10 through 17, 1994, are designated as "Jewish Heritage Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States, departments and agencies of State and local governments, and interested organizations to observe such a week with appropriate ceremonies, activities, and programs.•

By Mr. HEFLIN.

S.J. Res. 31. A joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government; to the Committee on the Judiciary.

BALANCED BUDGET AMENDMENT

Mr. HEFLIN. Mr. President, I rise today to introduce legislation requiring the Federal Government to achieve and maintain a balanced budget.

Since I first came to the Senate in 1979, every Congress I have introduced legislation proposing a constitutional amendment to balance the Federal budget, and I have dedicated myself to many years of work with my colleagues to adopt a resolution which would authorize the submission to the States for ratification of a constitutional amendment to require a balanced budget.

For much of our Nation's history, a balanced Federal budget was the status quo and part of our unwritten constitution. For our first 100 years, this country carried a surplus budget, but in recent years this Nation's spending has gone out of control. Indeed, the fiscal irresponsibility demonstrated over the years has convinced me that constitutional discipline is the only way we can achieve the goal of reducing deficits.

As you know, in 1982, the Senate did pass, by more than the required two-thirds vote, a constitutional amendment calling for a balanced budget. There were 69 votes in favor of it at that time. It was sent to the House of Representatives, where, in the House Judiciary Committee it was bottled up. The chairman would not allow it to come up for a committee vote, in order that it might be reported to the floor of the House of Representatives.

In order to bring the measure up for a vote in the House of Representatives, it was necessary to file a discharge petition. This is a petition that has to be signed by more than a majority of the whole number of the House of Representatives, and then it is brought up and voted on without amendment. The Senate-passed amendment failed to obtain the necessary two-thirds vote that was required in the House of Representatives at that time.

In the 99th Congress, after extensive debate, passage of a balanced budget amendment by the Senate failed by 1 vote—but got 66 votes. During the 101st Congress, I supported a measure which passed the Judiciary Committee, but it was never considered by the full Senate. In the 102d Congress, the Judiciary Committee favorably reported a bill, but the amendment failed to pass the House of Representatives by the necessary two-thirds vote and was therefore dead in the 102d Congress.

All the while, there has been considerable debate, various articles have been written in numerous publications, and editorials have appeared in countless newspapers. Many speeches have been made on the floor of the Senate, and I have made numerous speeches advocating the adoption of a constitutional amendment requiring a balanced budget.

Mr. President, I hope the time has come to finally adopt this long-overdue amendment and begin to move toward our goal of a balanced Federal budget.

Section 1 of the amendment requires a three-fifths vote of each House of Congress before the Federal Government can engage in deficit spending. A 60-percent vote in the Senate is a very difficult one to obtain. This requirement should establish the norm that spending will not exceed receipts in any fiscal year. If the Government is going to spend money, it should have the money on hand to pay its bills.

Section 2 of the amendment requires a three-fifths vote by both Houses of Congress to raise the national debt. In addition to the three-fifths vote, Congress must provide by law for an increase in public debt. As I understand it, this means presentment to the President, where the President has the right to veto or sign. If the President chose to veto the bill, it would be returned to Congress for action to possibly override the veto. It is also important to note that section 1, regarding the specific excess of outlays over receipts, contains this same requirement that Congress act by law.

Section 2 is important because it functions as an enforcement mechanism for the balanced budget amendment. While section 1 states outright that "total outlays * * * shall not exceed total receipts" without the three-fifths authorization by Congress, the judicial branch would lack the ability to order the legislative and executive branches to meet this obligation. Therefore, section 2 will require a three-fifths vote to increase the national debt. This provision will increase the pressure to comply with the directive of this proposed constitutional amendment.

Other than just being directory, the amendment, by way of section 2, has some teeth and that is what is so important if we are going to do away with deficit spending and operate so that we do not spend any more money than the amount coming into the Government. That is what we are trying to achieve here.

Section 3 provides for the submission by the President of a balanced budget to Congress. This section reflects the belief that sound fiscal planning should be a shared governmental responsibility by the President as well as the Congress.

Section 4 of the amendment requires a majority vote of the whole number of each House of Congress any time Congress votes to increase revenues. This holds public officials responsible, and puts elected officials on record for any tax increase which may be necessary to support Federal spending.

Section 5 of the amendment permits a waiver of the provisions for any fiscal year in which a declaration of war is in effect. This section also contains a provision long-supported by myself—that of allowing a waiver in cases of less than an outright declaration of war—where the United States is engaged in military conflict which causes an imminent and serious threat to national security, and is so declared by a joint resolution, which becomes law. Under this scenario, a majority of the whole number of each House of Congress may waive the requirements of a balanced budget amendment.

I firmly believe that Congress should have the option to waive the requirement for a balanced budget in cases of less than an outright declaration of war. Looking back over the history of our Nation, we find that we have had only five declared wars: The War of 1812, the Mexican War, the Spanish-American War, the First World War, and the Second World War.

The most recent encounters of the United States in armed conflict with enemies have been, of course, undeclared wars. We fought the Gulf War without a declaration of war. In addition, we fought both the Vietnam and Korean actions without declarations of war.

This country can be faced with military emergencies which threaten our national security without a formal declaration of war being in effect. Circumstances may arise in which Congress may need to spend significant amounts of national defense without a declaration of war. Congress and the President must be given the necessary flexibility to respond rapidly when a military emergency arises.

The United States has engaged in only five declared wars, yet the United States has engaged in hostilities abroad which required no less commitment of human lives or American resources than declared wars. In fact, our Nation has been involved in approximately 200 instances in which the United States has used military forces abroad in situations of conflict. Not all of these would move Congress to seek a waiver of the requirement of a balanced budget, but Congress should have the constitutional flexibility to provide for our Nation's security.

Section 6 of the amendment permits Congress to rely on estimates of outlays and receipts in the implementation and enforcement of the amendment by appropriate legislation.

Section 7 of the amendment provides that total receipts shall include all receipts of the United States except those derived from borrowing. In addition, total outlays shall include all outlays of the United States except those for repayment of debt principal. This section is intended to better define the relevant amounts that must be balanced.

Mr. President, the future of our Nation's economy is not a partisan issue. Furthermore, the problem of deficit spending cannot be blamed on one branch of Government or one political party. Similarly, just as everyone must share part of the blame for our economic ills, everyone must be united in acting to attack the growing problem of deficit spending. I recognize that a balanced budget amendment will not cure our economic problems overnight, but it will act to change the course of our future and lead to responsible fiscal management by our national Government. Thank you.

Mr. President, I ask unanimous consent that the joint resolution on the line-item veto be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 31

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

"SECTION 8. This article shall take effect beginning with fiscal year 2000 or with the second fiscal year beginning after its ratification, whichever is later.".

Mr. HEFLIN. Mr. President, I rise today to express my strong support for the Hollings legislative line-item veto. I am an original cosponsor of S. 92, The Legislative Line-Item Veto Separate Enrollment Authority Act, sponsored by Senator HOLLINGS. In my judgment, the line-item veto, if enacted into law, would provide the President with an effective weapon to fight wasteful spending. It will help to shift the budget and appropriations process, which is currently biased structurally toward deficit spending, back toward a balance between taxpayers' costs and taxpayers' benefits so that we can restore fiscal responsibility to the Federal budget.

The largest obstacle that we face as a nation to sustainable, long-term economic growth is our huge Federal debt. The public debt now stands at $3 trillion; it has quadrupled just since 1981. To measure the Federal debt in a meaningful way, we have to take into account economic growth over the years as well as inflation. Therefore, it is necessary to compare the size of the Federal debt to the size of the economy which carries it. The public debt as a percentage of GDP is now at 51 percent, the highest ratio of debt to GDP in nearly 40 years.

To put this in historical perspective, the gross Federal debt as a percentage of GDP reached a peak in 1946 because of debt incurred to finance our efforts in World War II. Since 1946, the size of the debt relative to GDP declined steadily over the years, due to economic growth, even during the Vietnam war and the Great Society years, to a low in fiscal year 1981. This downward trend in the relative size of the Federal debt reversed itself in 1981 and has headed upward ever since. Over the past 12 years, the Federal debt has doubled relative to the economy, despite the economic growth of the 1980's.

In 1992, we paid $200 billion in interest to serve this debt. Interest on the Federal debt is now the third largest item on the budget and consumes 3.4 percent of our GDP. Because of this enormous debt burden, we are now paying more out of each year's Federal budget in interest to finance past Government borrowing than we are investing in future economic growth through public investment in infrastructure, human capital, and research and development.

The longer we fail to address our twin budget and investment deficits, the more the economy will suffer as a result. These two deficits are related and feed on each other. The larger our budget deficits, the less resources we have available for investment. Lower levels of investment, in turn, lead to lower levels of productivity and economic growth, and this results in further increases in budget deficits due to lower Government revenues and higher expenditures. To quote the General Accounting Office: "Federal budget deficits have absorbed increasing proportions of national saving that would otherwise have been available to finance investment, either public or private." Investment is the primary engine that drives growth in productivity and living standards.

This enormous Federal debt that burdens our economy is, of course, the legacy of years of excessive deficit spending. The deficit spending of the last 12 years alone accounts for three-fourths of our current national debt. For example, President Bush's fiscal year 1993 budget required a $464 billion increase in the gross Federal debt. A debt increase of this amount is in 1 year larger than the total combined debt increases of Presidents Truman, Eisenhower, Kennedy, Johnson, Nixon, and Ford. President Bush's 1-year debt increase is nearly twice as much as President Carter's 4-year debt increase.

The Congressional Budget Office expects this year's deficit to reach $310 billion, setting a new record for the fourth year in a row for that part of the deficit which increases our public debt, which is different from the gross deficit which contributes to the gross Federal debt, which is even larger. Two-thirds of this year's deficit will go toward interest on the national debt to finance past deficit spending. In addition, because of weak economic growth, the yearly deficits are expected to hover around $300 billion through mid-decade and then grow even larger, reaching $357 billion in 1998 under current policies.

A continuation of this reckless and irresponsible pattern of deficit spending is clearly unacceptable. This kind of budgetary policy is endangering the possibility that our children and grandchildren will enjoy a decent standard of living. Unless we change our ways, our descendants will judge us as the most shortsighted and irresponsible generation in American history.

The first bill I introduced in the U.S. Senate, and the first bill I have introduced in each subsequent Congress, is a constitutional amendment mandating a balanced budget. In my judgment, this legislation is necessary in order to get our economic and budgetary houses in order.

In addition, I support the line-item veto as another necessary weapon in the taxpayers' arsenal in the battle against the enemy of deficit spending. Insofar as our economic strength is as important to our national security as is our military strength, our taxpayers' arsenal is as important to maintain as our military arsenal.

Constitutions in 43 States provide for a line-item veto whereby the Governors have the ability to eliminate individual provisions or reduce amounts in legislation presented for their signature. The line-item veto has a proven track record on the State level at discouraging and preventing unnecessary and wasteful spending. Because it has been a proven, effective tool against excessive spending on the State level, it would be an effective tool on the national level as well.

In a study released just last month by the CATO Institute, a Washington-based think tank, 188 Governors and former Governors, including Presidents Carter, Reagan, Clinton, and 1988 Democratic Presidential nominee Michael Dukakis were surveyed with regard to the line-item veto. Nearly 70 percent of those who responded said that, as Governors, they had found the line-item veto useful; 92 percent of the past and present Governors surveyed support a Presidential line-item veto in order to restrain Federal spending.

If implemented on the Federal level, the President could effectively cut wasteful programs and expenditures from appropriations bills. This would have the effect of cutting Government spending, thus reducing budget deficits.

One year ago this month, the General Accounting Office of the U.S. Congress released a study entitled: "Line-Item Veto, Estimating Potential Savings" in which the agency evaluated the potential effectiveness of the line-item veto on the Federal level. The GAO report stated, and I quote at length:

> If the President had had line-item veto authority from fiscal years 1984 through 1989 and used that authority to reduce or eliminate each item to which an objection was raised in the Statements of Administration Policy, we estimate that the savings would have ranged from $7 billion to $17 billion per year, for a cumulative 6-year total of about $70 billion * * *. This would have reduced Federal deficits and borrowing by 6.7 percent, from the $1,059 billion that actually occurred during that period to $989 billion * * *. In addition, the reduced Federal borrowing associated with the program savings explicitly shown would have resulted in interest cost savings.

The line-item veto has bipartisan support in both Houses of Congress. In addition, Presidents Reagan, Bush, and now President Clinton, who know firsthand the effectiveness of the line-item veto on the State level, are advocates of the line-item veto at the Federal level. More importantly, according to Gallup surveys, large majorities spanning more than four decades have consistently favored the line-item veto. In the most current Gallup survey conducted in 1989, support for the line-item veto outnumbers opposition by almost a 3-to-1 ratio, 70 to 24 percent.

The bill which I have cosponsored is a particularly appealing one in that it would grant the President line-item veto authority while eliminating two stumbling blocks that have produced opposition to its enactment in the past. The first is that this bill would enact the line-item veto statutorily rather than constitutionally, by requiring that each line in every appropriations bill be enrolled as a separate bill. The President could then single out individual items to either sign or veto. This separate enrollment mechanism eliminates the necessity of amending the Constitution.

In addition, the bill would allow the line-item veto to be in effect for a 2-year trial period. It has a sunset provision whereby an evaluation of its success would be required after a 2-year test. It would become a permanent statute only if it passed this 2-year trial period.

I urge my colleagues to vote for this bill. It is a clear opportunity to seriously address our biggest problem—excessive deficit spending—with a realistic, proven solution. The voters have spoken, it is time to end gridlock. Let's give the President the line-item veto.

By Mr. DODD:

S.J. Res. 32. A joint resolution calling for the United States to support efforts of the United Nations to conclude an international agreement to establish an international criminal court; to the Committee on Foreign Relations.

INTERNATIONAL CRIMINAL COURT ACT OF 1993

Mr. DODD. Mr. President, it is often said that of all the weapons we have in the fight against international crime, none is more effective than the rule of law. Today, I am introducing legislation that honors and fortifies that age-old principle. This resolution calls on the United States to support efforts at the United Nations to promote the establishment of an international criminal court.

Mr. President, on January 13, 1942, at the height of World War II, leaders from nine Allied nations met at St. James Palace in London. On that day, 51 years ago this month, they made a vow to the world: that the Nazis would one day stand trial for their unspeakable crimes. At the Nuremberg trials, as history has recorded, that solemn promise was faithfully kept.

Six weeks ago, at a conference in Geneva, Secretary of State Lawrence Eagleburger spoke of events in another time and another place. He vowed that those who practiced ethnic cleansing in the former Yugoslavia would be swiftly brought to justice, their crimes exposed for all the world to see. For them there would be, in his words, a "second Nuremberg." And so for the second time in recent years, Mr. President, the memory of the Nuremberg trials had been invoked.

But, Mr. President, there has been a hollow ring to these words. Two years ago, the world promised to try Saddam Hussein for war crimes and crimes against humanity. But no tribunal has been assembled, no indictment has been prepared. The promise of justice was only that—a promise.

Mr. President, the Nuremberg trials taught the world a remarkable lesson, a lesson in the sanctity of law and the enduring power of ideals. It was that brazen spirit of mutual cooperation that led to the formation of the United Nations, devoted above all to the international rule of law.

But those who followed the events at Nuremberg knew that the moment was fleeting. They knew that without a vigilant commitment to the prosecution of international crimes, Nuremberg and all of its lessons would be quickly forgotten. And to this end they dared to dream of a global system of justice—the creation of a permanent international criminal court.

Today, Mr. President, the need for such a court is readily apparent. International criminals are making their mark across the globe, whether it be ethnic cleansing in Bosnia, drug trafficking in Colombia, or terrorism in the Middle East. And yet, almost 50 years after Nuremberg, the world still has no mechanism, no systemic approach, to deal with these crimes.

Mr. President, in this uncertain and rapidly changing world, it is said that we seek to build a new world order. We are casting out the assumptions of the cold war establishment and laying the foundations for a bold new era. And to guide us in this task we look to one set of principles: the sanctity of justice and the international rule of law.

Mr. President, there can be no doubt that an international criminal court would help to uphold these lofty ideals. But is also most certainly true that without the leadership of the United States, such a court will never come to pass. The purpose of the resolution I am introducing today is to call on the United States to provide that leadership at this critical moment in history.

Mr. President, since the dawn of civilization, man has acknowledged the existence of international obligations. As early as the fourth century B.C., the Chinese writer Sun Tzu wrote a treatise on the laws of war. The earlier Egyptians, Mr. President, entered into agreements that regulated warfare and the manner in which it would be initiated. The ancient Greeks and Romans had rules that governed the care of the wounded and the treatment of prisoners, even in that early time.

In the modern era, Mr. President, the basis for international law could be found in multilateral treaties. For example, the slave trade was outlawed by the Brussels Convention in 1890. Drug trafficking was addressed by the International Opium Convention in 1912. War crimes were defined by the Geneva Conventions in 1949. And the practice of ethnic cleansing was banned by the Genocide Convention in 1948.

In all, hundreds of multilateral treaties and conventions have shaped the rules of the international community. One scholar, Cherif Bassiouni of the DePaul University College of Law, has compiled 22 distinct categories of international crimes—covering everything from "war crimes" to "the taking of hostages," to "crimes against the environment."

Throughout history, Mr. President, man has also attempted to hold others accountable when the rules of international law have been broken. Unfortunately, it has proven easier to define the crime than to punish the criminal.

In 1474, Gov. Peter von Hagenbach was tried in Breisach, Germany, before a tribunal of 28 judges from the Holy Roman Empire. He was found guilty of murder, rape, perjury, and other crimes against the law of God and man, following his reign of terror over the citizens of Breisach. Scholars believe this was the first successful international tribunal.

In the aftermath of World War I, the victorious allies sought to try Kaiser Wilhelm II for crimes against the peace. But the Kaiser fled to the Netherlands, and the Allies soon lost interest in the case.

In 1920, the Allies signed a treaty with Turkey calling for the trial of those responsible for the Armenian massacre. But the treaty was never ratified.

Finally, Mr. President, after the horrors of World War II were revealed to the world, 22 leaders of the Nazi movement were brought to trial in the town of Nuremberg, Germany. All but 3 were convicted; 12 were sentenced to death, and the rest were given lengthy sentences.

But the Nuremberg trials were not just about retribution. They were also about healing. They helped an entire generation come to terms with an event that defied our every notion of the limits of humanity.

Mr. President, my experience with the Nuremberg trials is in some respects a personal one. My father served as Executive Trial Counsel for the American prosecution team at Nuremberg, working alongside Supreme Court Justice Robert Jackson.

I grew up in a home where the words Treblinka, Auschwitz, Buchenwald, and Bormann, and Mengele, and Eichmann, and Goering, and Goebbels were as common as any names that I ever heard night after night at the dining room table. My childhood friends knew nothing of the Holocaust. I knew of it from as long as I can remember.

Mr. President, the Nuremberg trials were not without their flaws. While the Nazis were the ones who stood on trial, and rightfully so, the Allies were shielded from potential war crimes of their own. The bombing of Dresden, the Soviet massacre in the Katyn Forest—all these went undiscussed, and unjudged. Years later a bitter German population would call it victor's vengeance.

But Nuremberg taught the world an important lesson: that an international tribunal could, in the end, render justice. In an effort to build on this remarkable accomplishment, the United Nations set out to create a permanent international criminal court.

The theory behind the court, as outlined four decades ago, was visionary and bold. Just as the International Court of Justice mediates disputes between nations, an international criminal court would judge the actions of individuals. It would sit at a neutral site with a panel of judges from around the world, its ultimate goal to dispense equal justice.

This early optimism, unfortunately, was short-lived. The cold war soon intervened, and by 1954 the work of the United Nations was set aside. For the next several decades, a dedicated assortment of legal scholars kept the issue alive. This included groups like the International Law Association, the American Bar Association, and a committee of international scholars led by Professor Bassiouni.

Finally, in 1989, acting on a request from Trinidad and Tobago, the General Assembly called on the U.N. International Law Commission to take up the matter once again. By 1991 the Commission had adopted a draft code of international crimes.

Then, last summer, the Commission made a formal determination: an international criminal court could indeed be done. It asked permission to take the next step—to begin work on the statute for the court itself.

Many nations agreed. But the United States, at first, did not. On October 27, State Department Legal Advisor Edwin Williamson appeared at the United Nations to argue in favor of further delay.

Fortunately, Mr. President, thanks to the urging of the European Community and others, the U.S. position was eventually softened. And on November 25, with the support of the American delegation, the General Assembly granted the Commission's request.

In the course of this debate, Mr. President, our position became clear. The United States would half heartedly support the United Nations effort. Leadership would be left to others.

Mr. President, there are many legitimate concerns about the concept of an international criminal court. Some observers are troubled by the constitutional implications of trying a U.S. citizen in an international forum. Others worry about the autonomy of the court, and the extent to which it would be shielded from political demands. Still others believe that to recognize the jurisdiction of such a court would be an unacceptable loss of national sovereignty.

These matters must be resolved and will be resolved. And we must do it with due diligence. But we cannot afford to waste valuable time. There is a sense of urgency today with the events in the former Yugoslavia, with the events in the Middle East, with the increasing threat of drug traffickers. There is a sense that there is a need for such a tribunal.

And to call on one merely to deal with the problems of Saddam Hussein or to set up a very special court exclusively to deal with the events in the former Yugoslavia would be to miss an opportunity in falling to establish a permanent court. It is my unfortunate belief that the Milosevics and Saddam Husseins are going to be recurring events in the remainder of this century, and certainly in the next.

Mr. President, an international criminal court would have three important advantages.

First, an international criminal court would serve as an appropriate forum to try those suspected of major war crimes or crimes against humanity. Already the United States has taken the initial steps to try those responsible for war crimes in the Balkans. But the lack of an existing criminal structure has noticeably slowed our efforts.

Second, an international criminal court would provide a uniform mechanism to try individuals suspected of other international crimes, such as terrorism, drug trafficking, or money laundering.

For example, many nations are unable to try drug traffickers at home because of the threat of violence. At the same time they are unable to extradite because of domestic political pressures. An international tribunal would provide a third option.

Finally, an international criminal court would offer legal recourse for any nation that has adopted its charter. Mr. President, this is a critical point. We cannot push for the establishment of an international tribunal and pretend at the same time that we are exempt from its reach. Our support for an international criminal court would help assure the world community that the law among nations applies equally to all.

Mr. President, over the past few weeks, at confirmation hearings in the Foreign Relations Committee, I have raised this proposal with Secretary of State Warren Christopher and U.N. Ambassador Madeleine Albright. Their reactions left me highly encouraged.

In fact, according to a story in yesterday's New York Times, the State Department is preparing a study on how best to create a mechanism to pursue war crimes in the Balkans and elsewhere. It is my very strong hope that the Clinton administration will take the led on this issue in the weeks and months ahead.

Mr. President, there is nothing simple about the idea of an international criminal court. The length of time this proposal has been on the international agenda should be proof enough of that. Indeed, the debate over this issue is a reflection of the age-old struggle between the rights of individuals, the sovereignty of nations, and the relentless demands of the global community.

But as we shape a new agenda for this everchanging world, I believe we must be guided above all else by the sanctity of law. And if we will not uphold the rule of law whenever and wherever it is under challenge, then our commitment to justice is hollow indeed.

Mr. President, in his closing remarks at the Nuremberg trials, Robert Jackson recited the long list of crimes the Nazis were accused of, and the evidence against them. He then pointed out the weighty responsibility that rested on the judges of the tribunal.

Their decision, he said, was not just a judgment on the guilt or innocence of the men involved. In truth, it was a judgment on the Holocaust itself.

Justice Jackson closed his argument with these words:

> It is against this background that these defendants now ask this Tribunal to say that they are not guilty of planning, executing, or conspiring to commit this long list of crimes and wrongs. They stand before the record of this trial as blood-stained Gloucester stood by the body of his slain king. He begged of the widow, as they beg of you: "Say I slew them not." And the Queen replied, "Then say they were not slain. But dead they are * * *.
>
> If you were to say of these men that they are not guilty, it would be as true to say that there has been no war, there are no slain, there has been no crime.

Mr. President, I ask unanimous consent the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 32

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL FINDINGS.

Congress finds that—

(1) the freedom and security of the international community rests on the sanctity of the rule of law;

(2) the international community is increasingly threatened by unlawful acts such as war crimes, genocide, aggression, terrorism, drug trafficking, money laundering, and other crimes of an international character;

(3) the prosecution of individuals suspected of carrying out such acts is often impeded by political and legal obstacles such as disputes over extradition, differences in the structure and capabilities of national courts, and the lack of uniform guidelines under which to try such individuals;

(4) the war crimes trials held in the aftermath of World War II at Nuremberg, Germany, and Tokyo, Japan, demonstrated that fair and effective prosecution of war criminals could be carried out in an international forum;

(5) since its inception in 1945 the United Nations has sought to build on the precedent established at the Nuremberg and Tokyo trials by establishing a permanent international criminal court with jurisdiction over crimes of an international character;

(6) United Nations General Assembly Resolution 44/39, adopted on December 4, 1989, called on the International Law Commission to study the feasibility of an international criminal court;

(7) in the years after passage of that resolution the International Law Commission has made great strides in establishing a framework for such a court, including—

(A) the adoption of a draft Code of Crimes Against the Peace and Security of Mankind;

(B) the creation of a Working Group on an International Criminal Jurisdiction and the formulation by that Working Group of several concrete proposals for the establishment and operation of an international criminal court; and

(C) the determination that an international criminal court along the lines of that suggested by the Working Group is feasible and that the logical next step would be to proceed with the formal drafting of a statute for such a court;

(8) United Nations General Assembly Resolution 47/33, adopted on November 25, 1992, called on the International Law Commission to begin the process of drafting a statute for an international criminal court at its next session; and

(9) given the developments of recent years, the time is propitious for the United States to lend its support to this effort.

SEC. 2. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) the establishment of an international criminal court with jurisdiction over crimes of an international character would greatly strengthen the international rule of law;

(2) such a court would thereby serve the interests of the United States and the world community; and

(3) the United States delegation should make every effort to advance this proposal at the United Nations.

SEC. 3. REQUIRED REPORT.

Not later than October 1, 1993, the President shall submit to Congress a detailed report on developments relating to, and United States efforts in support of, the establishment of an international criminal court with jurisdiction over crimes of an international character.

By Mr. BROWN:

S.J. Res. 34. Joint resolution proposing a constitutional amendment to limit congressional terms; to the Committee on the Judiciary.

TERM LIMITS CONSTITUTIONAL AMENDMENT

• Mr. BROWN. Mr. President, today, I rise to offer joint resolution calling for the adoption of a constitutional amendment limiting congressional terms.

Before I describe the joint resolution I wish to first offer my observations about the term limit movement that has swept this country.

Almost every candidate running for office this year tried to tap into the anti-incumbent mood of the voters. Change literally became the watchword of both long-time incumbents and their challengers. In the first Presidential debate, the three candidates used the word "change" more than 34 times, as if repeating a word often enough makes it more than a word, perhaps even a reality.

But real change just may start this year, Mr. President, as the voters of 14 States passed ballot initiatives to put term limits on their elected officials. The wave that started 2 years ago in my home State of Colorado, and which moved on to Oklahoma and California, has grown to the point where November 3 may well be remembered as a national referendum on term limits.

This feat has been achieved by an enormous effort of tens of thousands of volunteers. Term limits are a direct assault on the ivory tower of incumbency. The people have had to take matters in their own hands and use the initiative process to put term limits on the ballot.

In the process, they gathered 3.4 million petition signatures, with term limits earning an average of 66 percent of the vote. In fact, 21 million citizens voted for term limits this past election, approving them by a margin of over 2 to 1.

But the political establishment hasn't rolled over and played dead in the face of this massive citizens' movement.

Term limits are a direct threat to the culture that rules Congress. Term limits strip away the means of making congressional service a lifetime occupation by ensuring competitive elections, wider electoral choice, and regular rotation in office.

Special interest groups, without a track record of campaign donations and favoritism built up over a long period, will lose their leverage over the policymaking process. Members of Congress who serve under term limits are less likely to be beholden to any one or group of interests than will long-term incumbents because they serve under a system that rewards ability rather than one that emphasizes incumbency.

Politics and partisanship will not disappear under term limits. And term limits won't change everything, but they will put a premium on results.

Term limits are born out of the deeply rooted political traditions of this Nation. The Framers of the Constitution believed that government was necessary to conduct the affairs of our people in an orderly and efficient manner. They held no illusions about the wisdom of government or of human nature.

They placed intricate checks and balances on the branches of government, ensuring that no one branch, nor the Government as a whole, should fall prey to tyranny. Limiting the power of government in favor of the citizens is the essence of the philosophy of the Founding Fathers.

Term limits will change the way most Members of Congress feel about their jobs. Instead of a lifetime position, it will be viewed as a limited period of public service. Term limits will not cure all of Congress' problems. But they are the first fundamental step of making Congress put the welfare and interests of the people above their own.

Now, let me turn to the joint resolution which I am offering today. Simply put, the joint resolution proposes an amendment to the Constitution, to be ratified by the States through conventions, which imposes a 12-year-term limit on Members of Congress. The amendment applies only to terms of office beginning on or after the date of ratification.

The amendment will not prevent States from passing additional restrictions and regulations, and will not invalidate more restrictive measures that passed by various State initiatives last year.

Finally, the amendment will be inoperative if it does not become ratified within 7 years from its submission to the States by Congress.

In my view, there are 10 reasons why this body should pass a constitutional amendment limiting congressional terms. They are as follows:

First, term limits will end careerism in Congress and encourage citizens from all walks of life to become candidates. This will bring wider expertise to Congress and will give Congress greater legitimacy.

Second, a Congress with term limits will be less beholden to special interests and the campaign funds they offer. Congress will include individuals who are not seeking reelection and who will return to private life. Their influence will broaden the perspective of Congress and discourage narrow parochialism.

Third, term limits will reduce incumbency advantages. Campaigns will become more competitive, and Congress will be more willing to legislate against excessive franking, staff growth, and unfair campaign practices.

Fourth, term limits will reduce corruption in Congress. Those in office for decades sometimes lose touch with normal ethnical standards, surrounded as we all are by the pomp, privilege, and power of office.

Fifth, term limits will strengthen Congress by weakening the iron triangle of political power that the current seniority system conveys on staff, lobbyists, and the executive branch bureaucracy.

Sixth, term limits will reduce the current demands for nonstop campaigning, allowing us to concentrate on the job of legislating and deliberating.

Seventh, term limits will encourage more political participation by underrepresented groups—those in society who are less likely to be career politicians.

Eighth, term limits will discourage pork barrel politics. If we aren't driven by a career imperative, we are more apt to recognize national and long-term priorities, rather than short-term or local goals.

Ninth, with term limits, we can have less staff. As we become less driven by reelection, there will be a corresponding decline in make-work projects driven by excessive staff.

Tenth, finally, term limits will increase the stature of Congress. As we in Congress more closely reflect the careers and concerns of ordinary citizens, our deliberations and decisions are more likely to receive support.

Mr. President, in conclusion, the American people voted in favor of term limits at the grassroots level because they cannot get action from Congress. My legislation will offer Congress an opportunity to remove any doubts about the legality of State-passed term limits and pass a constitutional amendment Americans clearly support.•

By Mr. PRESSLER:

S.J. Res. 35. Joint resolution to designate the month of November 1993, and the month of November 1994, each as "National Alzheimer's Disease Month"; to the Committee on the Judiciary.

NATIONAL ALZHEIMER'S DISEASE MONTH

Mr. PRESSLER. Mr. President, today I have the privilege of introducing a joint resolution designating the month of November in 1993 and 1994 as "National Alzheimer's Disease Month." I had the honor of authoring similar legislation in the 102d Congress.

Alzheimer's disease is becoming more and more common. Four million Americans and nearly half of all nursing home residents suffer from Alzheimer's. Estimates indicate that, by the next century, approximately 14 million Americans will have Alzheimer's disease—unless we find a cure. This means that one in every three families may be affected by Alzheimer's disease.

Encouraging progress has been made in the fight against Alzheimer's disease. Funding for research has increased and more Americans are aware of this dreadful disease. Additional support groups are being formed to help family members of Alzheimer's victims. In fact, I recently was selected to serve on the board of directors for the Siouxland Chapter of the Alzheimer's Association. These are all positive steps. However, more work still must be done.

Providing long-term care of Alzheimer's victims costs our Nation an estimated $90 billion every year. Unfortunately, public programs such as Medicare and private insurance do not provide adequate coverage for most of the afflicted individuals. Thousands in my State of South Dakota and across the country must cope with caring for a loved one who has Alzheimer's disease.

Our only hope is to find a treatment or cure through research. Fortunately, substantial increases in research funding have occurred in recent years. This growing commitment should help make significant progress, and eventually decrease the cost of treating this disease.

National Alzheimer's Disease Month is intended to foster national awareness of the extent to which Alzheimer's disease affects our society. Alzheimer's disease is a brain disorder that is not a normal part of the aging process. It affects more and more people in our society and costs billions of dollars.

Many of my colleagues joined me in sponsoring this resolution in previous years. I hope we find a cure soon and that similar legislation will not be needed in the future.

Mr. President, I ask unanimous consent that the text of the resolution appear in the RECORD following my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 35

Whereas over 4 million United States citizens are affected by Alzheimer's disease, a surprisingly common degenerative disease which attacks the brain, impairs memory and thinking, alters behavior, and renders its victims incapable of self care;

Whereas it is estimated that by the middle of the 21st century, Alzheimer's disease will strike 14 million United States citizens, affecting 1 in every 3 families;

Whereas Alzheimer's disease is not a normal consequence of aging, but a disorder of the brain for which no cause has been determined and no treatment or cure has been found;

Whereas Alzheimer's disease is the quintessential long-term care problem, requiring constant full-time care for its victims, who can suffer from the disease for 3 to 20 years, at a total annual cost to the Nation of at least $90 billion;

Whereas families of Alzheimer's patients bear the overwhelming physical, emotional, and financial burden of care, and neither public programs, including medicare, nor private insurance provide protection for most of these families;

Whereas 80 percent of all Alzheimer's patients receive care in their own homes;

Whereas nearly half of all residents of nursing homes suffer from Alzheimer's disease or some other form of dementia; and

Whereas increased national awareness of Alzheimer's disease and recognition of national organizations such as the Alzheimer's Association may stimulate increased commitment to long-term care services to support Alzheimer's patients and their families and a greater investment in research to discover methods to prevent the disease, delay its onset, and eventually to find a cure for the disease: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the months of November 1993, and November 1994, are each designated as "National Alzheimer's Disease Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such months with appropriate ceremonies and activities.

By Mr. HOLLINGS (for himself, Mr. SPECTER, Mrs. KASSEBAUM, Mr. SHELBY, Mr. DECONCINI, and Mr. DODD):

S.J. Res. 37. Joint resolution proposing an amendment to the Constitution relative to contributions and expenditures intended to affect congressional and Presidential elections; to the Committee on the Judiciary.

FEDERAL CAMPAIGNS CONSTITUTIONAL AMENDMENT

• Mr. HOLLINGS. Mr. President, in his inaugural speech yesterday, President Clinton issued a historic challenge to Congress. He said, "Let us resolve to reform our politics, so that power and privilege no longer shuts down the voice of the people." To take up that challenge, the first order of business of the 103d Congress must be fundamental reform of our campaign finance laws.

Let us also resolve not to repeat the mistakes of past efforts at campaign finance reform, which bogged down in partisanship as Democrats and Republicans each tried to gore the others' sacred cows. Let us cut directly to the root of the problem with a simple, straightforward, nonpartisan solution: a constitutional amendment empowering Congress and the States to set simply limits on the amount of money spent in campaigns for public office.

As Prof. Gerald G. Ashdown has written in the New England Law Review, amending the Constitution to allow Congress to regulate campaign expenditures is "the most theoretically attractive of the approaches—to reform—since, from a broad free speech perspective, the decision in Buckley is misguided and has worsened the campaign finance atmosphere." Adds Professor Ashdown: "If Congress could constitutionally limit the campaign expenditures of individuals, candidates, and committees, along with contributions, most of the troubles * * * would be eliminated."

Right to the point, in its landmark 1976 ruling in Buckley versus Valeo, the Supreme Court mistakenly equated a candidate's right to spend unlimited sums of money with his right to free speech. In the face of spirited dissents, the Court drew a bizarre distinction between campaign spending and campaign giving. For first amendment reasons, the Court struck down limits on campaign spending. But it upheld limits on campaign contributions on the grounds that "the governmental interest in preventing corruption and the appearance of corruption" outweighs considerations of free speech.

I have never been able to fathom why that same test—the governmental interest in preventing corruption and the appearance of corruption—does not overwhelmingly justify limits on campaign spending. However, it seems to me that the Court committed a far graver error by striking down spending limits as a threat to free speech. The fact is, spending limits in Federal campaigns would act to restore the free speech that has been eroded by Buckley versus Valeo.

After all, as a practical reality, what Buckley says is: Yes, if you have personal wealth, then you have access to television, you have freedom of speech. But if you do not have personal wealth, then you are denied access to television. Instead of freedom of speech, you have only the freedom to shut up.

So let us be done with this phony charge that spending limits are somehow an attack on freedom of speech. As

Justice Byron White points out, clear as a bell, in his dissent, both contribution limits and spending limits are neutral as to the content of speech and are not motivated by fear of the consequences of the political speech in general.

Mr. President, every Senator realizes that television advertising is the name of the game in modern American politics. In warfare, if you control the air, you control the battlefield. In politics, if you control the airwaves, you control the tenor and focus of a campaign.

Probably 80 percent of campaign communications take place through the medium of television. And most of that TV airtime comes at a dear price. In South Carolina, you're talking some $2,400 for 30 seconds of primetime advertising. In New York City, you're talking more than $30,000 for the same 30 seconds.

The hard fact of life for a candidate is that if you're not on TV, you're not truly in the race. Wealthy challengers as well as incumbents flush with money go directly to the TV studio. Those without personal wealth are sidetracked to the time-consuming pursuit of cash.

Buckley versus Valeo created a double bind. It upheld restrictions on campaign contributions, but struck down restrictions on how much candidates with deep pockets can spend. The Court ignored the practical reality that if my opponent has only $50,000 to spend in a race and I have $1 million, then I can effectively deprive him of freedom of speech. By failing to respond to my advertising, my cash-poor opponent will appear unwilling to speak up in his own defense.

Justice Thurgood Marshall zeroed in on this disparity in his dissent to Buckley versus Valeo. By striking down the limit on what a candidate can spend, Justice Marshall said,

> It would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant head start.

Indeed, Justice Marshall went further: He argued that by upholding the limitations on contributions but striking down limits on overall spending, the Court put an additional premium on a candidate's personal wealth.

Justice Marshall was dead right. Our urgent task is to right the injustice of Buckley versus Valeo by empowering Congress to place caps on Federal campaign spending. We are all painfully aware of the uncontrolled escalation of campaign spending. The average cost of a winning Senate race was $1.2 million in 1980, rising to $2.1 million in 1984, and skyrocketing to $3.1 million in 1986, $3.7 million in 1988, and up, up, and away. To raise that kind of money, the average Senator must raise money at a rate of nearly $12,000 a week, every week of his or her 6-year term. Overall spending in congressional races increased from $403 million in 1990 to $504 million in 1992—nearly a 20 percent increase in 2 years' time.

This obsession with money distracts us from the people's business. At worst, it corrupts and degrades the entire political process. Fundraisers used to be arranged so they didn't conflict with the Senate schedule; nowadays, the Senate schedule is regularly shifted to accommodate fundraisers.

I have run for statewide office 16 times in South Carolina. You establish a certain campaign routine, say, shaking hands at a mill shift in Greer, visiting the big country store outside of Belton, and so on. Over the years, they look for you and expect you to come around. They say, "Here he comes again. It must be election time." But in recent years, those mill visits and dropping by the country store have become a casualty of the system. There is very little time for them. I'm out chasing dollars.

During my 1986 reelection campaign, I found myself raising money to get on TV to raise money to get on TV to raise money to get on TV. It's a vicious cycle. The rule was, if you had money, I had the time to meet with you.

After the election, I held a series of town meetings across the State. Friends asked, "Why are you doing these town meetings? You just got elected. You've got 6 years." To which I answered, "I'm doing it because it's my first chance to really get out and meet with the people who elected me. I didn't get much of a chance during the campaign. I was too busy raising bucks." I had a similar experience in 1992.

I remember Senator Richard Russell saying:

> They give you a 6-year term in this U.S. Senate: two years to be a statesman, the next 2 years to be a politician, and the last 2 years to be a demagogue.

Regrettably, we are no longer afforded even 2 years as statesmen. We proceed straight to demagoguery right after the election because of the imperatives of raising money.

My proposed constitutional amendment would change all this. It would empower Congress to impose reasonable spending limits on Federal campaigns. For instance, we could impose a limit of, say, $700,000 per Senate candidate in a small State like South Carolina—a far cry from the millions spent by my opponent and me in 1992. And bear in mind that direct expenditures account for only a portion of total spending. For instance, my 1992 opponent's direct expenditures were supplemented by hundreds of thousands of dollars in expenditures by independent organizations and by the State and local Republican Party. When you total up spending from all sources, my challenger and I spent roughly the same amount in 1992.

And incidentally, Mr. President, let's be done with the canard that spending limits would be a boon to incumbents, who supposedly already have name recognition and standing with the public and therefore begin with a built-in advantage over any challengers. Nonsense. I hardly need to remind my Senate colleagues of the high rate of electoral mortality in the upper Chamber. And as to the alleged invulnerability of incumbents in the House, I would simply note that more than 25 percent of the House membership was replaced in the 1992 election alone.

I can tell you from experience that any advantages of incumbency are more than counterbalanced by the obvious disadvantages of incumbency, specifically the disadvantage of defending hundreds of controversial votes in Congress.

I also agree with University of Virginia political scientist Larry Sabato, who has suggested a doctrine of sufficiency with regard to campaign spending. Professor Sabato puts it this way:

> While challengers tend to be underfunded, they can compete effectively if they are capable and have sufficient money to present themselves and their messages.

Moreover, Mr. President, I submit that once we have overall spending limits, it will matter little whether a candidate gets money from industry groups, or from PAC's, or from individuals. It is still a reasonable—sufficient to use Professor Sabato's term—amount any way you cut it. Spending will be under control, and we will be able to account for every dollar coming in and every dollar going out.

On the issue of PAC's, Mr. President, let me say that I have never believed that PAC's per se are an evil in the current system. On the contrary, PAC's are a very healthy instrumentality of politics. PAC's have brought people into the political process: nurses, educators, small business people, senior citizens, unionists, you name it. They permit people of modest means and zero individual influence to band together with others of mutual interest knowing that their contribution is heard and known.

For years we have encouraged these people to get involved, to participate. Yet now that they are participating, we turn around and say, "Oh, no, your influence is corrupting, your money is tainted." This is wrong. The evil to be corrected is not the abundance of participation but the superabundance of money. The culprit is runaway campaign spending.

To a distressing degree, elections are determined not in the political marketplace but in the financial marketplace. Our elections are supposed to be contests of ideas, but too often they degenerate into megadollar derbies, paper chases through the board rooms of corporations and special interests.

I have been amused by the junior Senator from Kentucky's contention that we spend too little in our Federal campaigns. He has edified the Senate and elevated the debate by propounding his eloquent "Kibbles 'n' Bits" defense, that is, the point that America spends more on cat food than it does on Federal campaigns. I submit that this fact speaks more to the number of overfed cats in our Nation than to the number of underfunded candidates. Moreover, to raise the "Kibbles 'n' Bits" banner is, in my opinion, one more unfortunate example of vulgar, marketplace values run amok. Federal offices are not like cat food; they should not be up for sale.

Mr. President, I repeat, campaign spending must be brought under control. The constitutional amendment I have proposed would permit Congress to impose fair, responsible, workable limits on Federal campaign expenditures.

Such a reform would have four important impacts. First, it would end the mindless pursuit of ever-fatter campaign war chests. Second, it would free candidates from their current obsession with fundraising and allow them to focus more on issues and ideas; once elected to office, we wouldn't have to spend 20 percent of our time raising money to keep our seats. Third, it would curb the influence of special interests. And fourth, it would create a more level playing field for our Federal campaigns—a competitive environment where personal wealth does not give candidates an insurmountable advantage.

Finally, Mr. President, a word about the advantages of the amend-the-Constitution approach that I propose. Recent history amply demonstrates the practicality and viability of this constitutional route. Certainly, it is no coincidence that all five of the most recent amendments to the Constitution have dealt with Federal election issues. In elections, the process drives and shapes the end result. Election laws can skew election results, whether you're talking about a poll tax depriving minorities of their right to vote, or the absence of campaign spending limits giving an unfair advantage to wealthy candidates. These are profound issues which go to the heart of our democracy, and it is entirely appropriate that they be addressed through amendment of the Constitution.

And let's not be distracted by the argument that the amend-the-Constitution approach will take too long. Take too long? We have been dithering on this campaign finance issue since early 1970, and we haven't advanced the ball a single yard. It has been 20 years now, and no legislative solution has done the job.

The last five constitutional amendments took an average of 17 months to be adopted. There is no reason why we cannot pass this joint resolution, submit it to the States for a vote, and ratify the amendment in time for it to govern the 1994 election. Indeed, the amend-the-Constitution approach could prove more expeditious than the alternative legislative approach. Bear in mind that the various public financing bills that have been proposed would all be vulnerable to a Presidential veto. In contrast, this joint resolution, once passed by the Congress, goes directly to the States for ratification. Once ratified, it becomes the law of the land, and is not subject to veto.

And, by the way, I reject the argument that—if we were to pass and ratify this amendment—Democrats and Republicans would be unable to hammer out a mutually acceptable formula of campaign expenditure limits. A Democratic Congress and Republican President did exactly that in 1974: we set reasonable, bipartisan limits, by law. We did it in 1974, and we can certainly do it again.

Mr. President, this joint resolution will address the campaign finance mess directly, decisively, and with finality. The Supreme Court has chosen to ignore the overwhelming importance of media advertising in today's campaigns. In Buckley versus Valeo, it prescribed a bogus if-you-have-the-money-you-can-talk version of free speech. In its place, I urge passage of this joint resolution, the freedom of speech in political campaigns amendment. Let us ensure equal freedom of expression for all who seek Federal office.●

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. FORD, the names of the Senator from Nevada [Mr. REID], the Senator from New Mexico [Mr. BINGAMAN], the Senator from North Dakota [Mr. DORGAN], the Senator from Texas [Mr. KRUEGER], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 2, a bill to establish national voter registration procedures for Federal elections, and for other purposes.

S. 7

At the request of Mr. MCCONNELL, the names of the Senator from Utah [Mr. HATCH] and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 7, a bill to amend the Federal Election Campaign Act of 1971 to reduce special interest influence on elections, to increase competition in politics, to reduce campaign costs, and for other purposes.

S. 15

At the request of Mr. ROTH, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 15, a bill to establish a Commission on Government Reform.

S. 17

At the request of Mr. KENNEDY, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Massachusetts [Mr. KERRY], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 17, a bill to amend section 1977A of the Revised Statutes to equalize the remedies available to all victims of intentional employment discrimination, and for other purposes.

S. 27

At the request of Mr. SARBANES, the names of the Senator from Delaware [Mr. BIDEN], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 27, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 36

At the request of Mr. BOREN, the names of the Senator from Colorado [Mr. CAMPBELL], the Senator from Nevada [Mr. BRYAN], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 36, a bill to amend section 207 of title 18, United States Code, to tighten the restrictions on former executive and legislative branch officials and employees.

S. 55

At the request of Mr. METZENBAUM, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 55, a bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

S. 56

At the request of Mr. THURMOND, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 56, a bill to redefine extortion for purposes of the Hobbs Act.

S. 71

At the request of Mr. METZENBAUM, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 71, a bill to prohibit discrimination by the Armed Forces on the basis of sexual orientation.

S. 92

At the request of Mr. HOLLINGS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 92, a bill to create a legislative line item veto by requiring separate enrollment of items in appropriations bills.

S. 171

At the request of Mr. GLENN, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 171, a bill to establish the Department of the Environment, provide for a Bureau of Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes.

S. 173

At the request of Mr. DECONCINI, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 173, a bill to amend title II of the Social Security Act to provide for a more gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in the years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such worker's benefits accordingly, and for other purposes.

S. 175

At the request of Mr. DECONCINI, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 175, a bill to amend the Child Nutrition Act of 1966 to make the special supplemental food program for women, infants, and children (WIC) an entitlement program, and for other purposes.

S. 185

At the request of Mr. GLENN, the names of the Senator from Iowa [Mr. HARKIN], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 185, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the nation, to protect such employees from improper political solicitations, and for other purposes.

S. 187

At the request of Mr. BURNS, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 187, a bill to protect individuals engaged in lawful hunt on Federal lands, to establish an administrative civil penalty for persons who intentionally obstruct, impede, or interfere with the conduct of a lawful hunt, and for other purposes.

S. 222

At the request of Mr. WELLSTONE, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 222, a bill to require the Commissioner of Food and Drugs to collect information regarding the drug RU-486 and review the information to determine whether to approve RU-486 for marketing as a new drug, and for other purposes.

S. 241

At the request of Mr. PRYOR, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 241, a bill to provide incentives to health care providers serving rural areas, to provide grants to county health departments providing preventative health services within rural areas, to establish State health service corps demonstration projects, and for other purposes.

S. 242

At the request of Mr. PRYOR, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 242, a bill to amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services to consult with State medical societies in revising the geographic adjustments factors used to determine the amount of payment for physicians' services under part B of the medicare program, to require the Secretary to base geographic-cost-of-practice indices under the program upon the most recent available data, and for other purposes.

SENATE JOINT RESOLUTION 9

At the request of Mr. THURMOND, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of Senate Joint Resolution 9, a joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer.

SENATE JOINT RESOLUTION 15

At the request of Mr. THURMOND, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Joint Resolution 15, a joint resolution proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation.

SENATE JOINT RESOLUTION 20

At the request of Mr. BRYAN, the names of the Senator from Montana [Mr. BURNS], the Senator from North Dakota [Mr. DORGAN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Arizona [Mr. DECONCINI], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Tennessee [Mr. SASSER], the Senator from Alaska [Mr. STEVENS], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Arkansas [Mr. BUMPERS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], the Senator from Arizona [Mr. MCCAIN], the Senator from Oklahoma [Mr. NICKLES], the Senator from Vermont [Mr. JEFFORDS], the Senator from Maryland [Ms. MIKULSKI], the Senator from Colorado [Mr. BROWN], the Senator from California [Mrs. FEINSTEIN], the Senator from Louisiana [Mr. BREAUX], the Senator from Michigan [Mr. RIEGLE], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of Senate Joint Resolution 20, a joint resolution to designate February 7, 1993, through February 13, 1993, and February 6, 1994, through February 13, 1994, as "National Burn Awareness Week".

SENATE RESOLUTION 35

At the request of Mr. LAUTENBERG, the names of the Senator from New Mexico [Mr. DOMENICI], the Senator from Vermont [Mr. JEFFORDS], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Texas [Mr. KRUEGER], the Senator from California [Mrs. FEINSTEIN], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of Senate Resolution 35, a resolution expressing the sense of the Senate concerning systematic rape in the conflict in the former Socialist Federal Republic of Yugoslavia.

SENATE CONCURRENT RESOLUTION 8—ORIGINAL CONCURRENT RESOLUTION REPORTED TO ALLOW MEMBERS TO SERVE ON THE JOINT COMMITTEE OF CONGRESS ON THE LIBRARY

Mr. FORD, from the Committee on Rules and Administration, reported the following original concurrent resolution; which was considered and agreed to:

S. CON. RES. 8

Resolved by the Senate (the House of Representatives concurring), That effective for the One Hundred Third Congress, the Chairman of the Committee on Rules and Administration of the Senate may designate another member of the Committee to serve on the Joint Committee of the Congress on the Library in place of the Chairman.

SENATE RESOLUTION 40—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON FOREIGN RELATIONS

Mr. PELL, from the Committee on Foreign Relations, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 40

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations, is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $3,085,530, of which amount (1) not to exceed $45,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $3,152,524, of which amount (1) not to exceed $45,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 41—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 41

Resolved, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $1,478,578, of which amount (1) not to exceed $4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $3,500 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $1,511,163, of which amount (1) not to exceed $4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $3,500 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SENATE RESOLUTION 42—ORIGINAL RESOLUTION REPORTED PROVIDING FOR MEMBERS ON JOINT COMMITTEES

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was considered and agreed to:

S. RES. 42

Resolved, That the following-named Members be, and they are hereby, elected members of the following joint committees of Congress:

Joint Committee on Printing: Mr. Ford of Kentucky, Mr. DeConcini of Arizona, Mr. Mathews of Tennessee, Mr. Stevens of Alaska, and Mr. Hatfield of Oregon.

Joint Committee of Congress on the Library: Mr. Pell of Rhode Island, Mr. DeConcini of Arizona, Mr. Moynihan of New York, Mr. Hatfield of Oregon, and Mr. Stevens of Alaska.

SENATE CONCURRENT RESOLUTION 8—ORIGINAL CONCURRENT RESOLUTION REPORTED PROVIDING FOR ANOTHER MEMBER ON JOINT COMMITTEE

Mr. FORD, from the Committee on Rules and Administration, reported the following original concurrent resolution, which was considered and agreed to:

S. CON. RES. 8

Resolved by the Senate (the House of Representatives concurring), That effective for the One Hundred Third Congress, the Chairman of the Committee on Rules and Administration of the Senate may designate another member of the Committee to serve on the Joint Committee of the Congress on the Library in place of the Chairman.

SENATE RESOLUTION 43—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE SELECT COMMITTEE ON INTELLIGENCE

Mr. DECONCINI, from the Select Committee on Intelligence, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 43

Resolved, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of Rule XXVI of the Standing Rules of the Senate, the Select Committee on Intelligence is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $2,938,578 of which amount (1) not to exceed $30,000 may be expended for the procurement of the service of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $3,003,123 of which amount (1) not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its finding together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United State Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994 through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 44—AUTHORIZING EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

Mr. PRYOR submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 44

Resolved, That, in carrying out its powers, duties, and functions under the Standing

Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraph 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Special Committee on Aging is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $1,184,439, of which amount (1) not to exceed $0 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $0 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $1,209,141, of which amount (1) not to exceed $0 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $0 may be expended for the training of the professional staff of such committee (under procedures as specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 45—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 45

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $3,809,967, of which amount (1) not to exceed $14,572 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946), and (2) not to exceed $15,600 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $3,890,947, of which amount (1) not to exceed $14,572 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946), and (2) not to exceed $15,600 may be expended for the training of the professional staff of such committee (under procedures specified in section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations".

SENATE RESOLUTION 46—AUTHORIZING EXPENDITURES BY THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

Mr. BOREN submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 46

Resolved, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Joint Committee on the Organization of Congress in authorized $475,000 from March 1, 1993, to December 31, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through December 31, 1993, under the resolution shall not exceed $475,000, of which not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than December 31, 1993.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for (1) the disbursement of salaries of employees paid at an annual rate, or (2) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of Stationery, United States Senate, or (4) for payments to the Postmaster, United states Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through December 31, 1993, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 47—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 47

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing rules of the Senate, the Committee on Agriculture, Nutrition, and forestry is authorized from March 1, 1993, through February 29, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 29, 1994, under this resolution shall not exceed $2,027,632 of which amount (1) not to exceed $4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $4,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $1,973,136 of which amount (1) not to exceed $4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $4,000 may be expended for the training of the professional staff or such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of Stationery, U.S. Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

AMENDMENTS SUBMITTED

ETHICS IN GOVERNMENT REFORM ACT OF 1973

BOREN AMENDMENT NOS. 1 AND 2

(Ordered to lie on the table.)

Mr. BOREN submitted two amendments intended to be proposed by him to the bill (S. 5) to grant family and temporary medical leave under certain circumstances, as follows:

AMENDMENT NO. 1

In section 101(2)(B)(ii) of the bill, strike "less than 50 employees" and insert "fewer than 100 employees".

In section 101(2)(B)(ii) of the bill, strike "less than 50." and insert "fewer than 100.".

In section 101(4)(A)(i) of the bill, strike "50" and insert "100".

AMENDMENT NO. 2

At the end of the bill, add the following new title:

TITLE VI—ETHICS IN GOVERNMENT REFORM ACT OF 1973

SEC. 601. SHORT TITLE.

This title may be cited as the "Ethics in Government Reform Act of 1993".

SEC. 602. SPECIAL RULES FOR HIGHLY PAID EXECUTIVE APPOINTEES AND MEMBERS OF CONGRESS AND HIGHLY PAID CONGRESSIONAL EMPLOYEES.

(a) IN GENERAL.—

(1) APPEARANCES BEFORE AGENCY.—Section 207(d) of title 18, United States Code, is amended by adding at the end thereof the following:

"(3) RESTRICTIONS ON POLITICAL APPOINTEES.—(A) In addition to the restrictions set forth in subsections (a), (b), and (c) and paragraph (1) of this subsection, any person who—

"(i) serves in the position of Vice President of the United States; or

"(ii) is employed in a position subject to Presidential appointment in the executive branch of the United States (including any independent agency) at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule,

and who, after the termination of his or her service or employment as such officer or employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of a department or agency in which such person served within 5 years before such termination, during a period beginning on the termination of service or employment as such officer or employee and ending 5 years after the termination of service in the department or agency, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency, shall be punished as provided in section 216 of this title.

"(B) In addition to the restrictions set forth in subsections (a), (b), and (c) and paragraph (1) of this subsection, any person who is employed in a position in the Executive Office of the President at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule, and who—

"(i) after the termination of his or her service or employment as such employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of a department or agency with respect to which the person had substantial personal responsibility within 5 years before such termination, during a period beginning on the termination of service or employment as such employee and ending 5 years after the termination of substantial personal responsibility with respect to the department or agency, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency; or

"(ii) within 2 years after the termination of his or her service or employment as such employee, knowingly makes, with the intent to influence, any communication to or appearance before any person described in paragraph (2)(B) on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by the person described in paragraph (2)(B),

shall be punished as provided in section 216 of this title.".

(2) FOREIGN AGENTS.—Section 207(f) of title 18, United States Code, is amended by—

(A) redesignating paragraph (2) as paragraph (3);

(B) adding after paragraph (1) the following:

"(2) SPECIAL RESTRICTIONS.—Any person who—

"(A) serves in the position of Vice President of the United States;

"(B) is employed in a position subject to Presidential appointment in the executive branch of the United States (including any independent agency) at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule;

"(C) is employed in a position in the Executive Office of the President at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule; or

"(D) is a Member of Congress or employed in a position by the Congress at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule,

and who after such service or employment acts as an agent of a foreign government or foreign political party shall be punished as provided in section 216 of this title.".

(3) TRADE NEGOTIATORS.—Section 207(b)(1) of title 18, United States Code, is amended by—

(A) inserting "(A)" after "IN GENERAL.—"; and

(B) adding at the end thereof the following:

"(B) For any person who—

"(i) is employed in a position subject to Presidential appointment in the executive branch of the United States (including any independent agency) at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule;

"(ii) is employed in a position in the Executive Office of the President at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule; or "(iii) is a Member of Congress or employed in a position by the Congress at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule,

the restricted period after service referred to in subparagraph (A) shall be permanent.".

(4) CONGRESS.—Section 207(e) of title 18, United States Code, is amended—

(A) in paragraph (1)(A) by striking "within 1 year" and inserting "within 2 years";

(B) in paragraph (1) by adding at the end thereof the following:

"(D) Any person who is a Member of Congress and who, within 5 years after leaving the position, knowingly makes, with intent to influence, any communication to or appearance before any committee member or a staff member of any committee over which the Member had jurisdiction, on behalf of any other person (except the United States) in connection with any matter on which such former Member seeks action by the committee member or a staff member of the committee in his or her official capacity, shall be punished as provided in section 216 of this title.";

(C) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(D) by inserting after paragraph (5) the following new paragraph:

"(6) HIGHLY PAID STAFFERS.—For any person described in paragraph (2), (3), (4), or (5), employed in a position at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule—

"(A) the restriction provided in paragraph (1)(A) shall apply; and

"(B) the restricted period after termination in paragraph (2), (3), (4), or (5), applicable to such person shall be 5 years.".

(b) PENALTIES.—

(1) FUTURE LOBBYING.—Section 216 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) In addition to the penalties provided in subsections (a), (b), and (c), the punishment for violations of section 207 may include a prohibition on lobbying the United States for a period of not to exceed 5 years for each violation.".

(2) USE OF PROFITS.—Section 216(b) of title 18, United States Code, is amended by adding after the first sentence the following: "Any amount of compensation recovered pursuant to the preceding sentence for a violation of section 207 shall be deposited in the general fund of the Treasury to reduce the deficit.".

SEC. 603. EFFECTIVE DATE.

The restrictions contained in section 207 of title 18 United States Code, as added by section 602 of this title—

(1) shall apply only to persons whose service as officers or employees of the Government, or as Members of Congress terminates on or after the date of the enactment of this Act; and

(2) in the case of officers, employees, and Members of Congress described in section 207(b)(1)(B) of title 18, United States Code (as added by section 602 of this title), shall apply only with respect to participation in trade negotiations or treaty negotiations, and with respect to access to information, occurring on or after such date of enactment.

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Thursday, February 18, 1993, at 9:30 a.m., to markup Senate committees' funding resolutions for 1993 and 1994. The committee will also consider S. 2, the National Voter Registration Act of 1993, and other legislative and administrative business pending on its agenda.

For further information concerning this business meeting, please contact Carole Blessington of the Rules Committee staff on extension 40278.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. FORD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, January 28, beginning at 2:30 p.m., to conduct a business meeting to address organizational matters pertaining to the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, January 28, 1993, at 2 p.m., in closed session, to receive an intelligence community briefing on former Yugoslavia.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, January 28, 1993 at 3:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, January 28, 1993, to hold a hearing on Oversight of the Insurance Industry: Blue Cross/Blue Shield—National Capital Area.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on January 28, 1993, at 2 p.m. on pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

REPORT ON GOVERNMENT MISMANAGEMENT

• Mr. FEINGOLD. Mr. President, earlier this week, a report prepared by the staff of the House Government Operations Committee was released which detailed more than $300 billion in waste, fraud, and mismanagement in federally funded programs.

The report concluded that the public perception that waste and abuse are rampant throughout the Federal Government is generally accurate. The investigators found waste and abuse pervades every Federal agency and hundreds of important programs.

Here are some of the most outrageous examples of Government waste:

Billions of taxpayer dollars squandered on health care costs that should have been paid by private insurers;

Billions of dollars worth of unneeded and excess materials gathering dust in Pentagon warehouses;

A faulty computer system in the Department of Education that approves $800,000 per day in federally guaranteed student loans to ineligible students;

The loss of about $150 million every year because the Government charges only about 20 percent of the going rate for grazing fees to the 2 percent of the ranchers that use public lands; and,

The payment of $100 million to a private group in El Salvador that actively woos United States companies to build plants there—in one case resulting in the loss of over 300 United States jobs.

Mr. President, this report vividly demonstrates the pervasive problems that lie at the heart of our Federal deficit. The causes identified in the report for these enormous problems vary, but the key factor contributing to the mismanagement plaguing the Federal Government is a lack of leadership. In recent years, the report concludes, Government agencies have been run by individuals who either do not understand or do not care about the effective management of Government services. Sloppy financial management, wasteful procurement practices, poor management of cash and credit programs, and lack of accountability for proper financial and program operations are all factors identified as contributing to the atmosphere of mismanagement, but at the heart of the problem is a fundamental lack of concern about the necessity of effective management of Government resources.

Mr. President, the taxpayers in the State of Wisconsin and across America are fed up. They have been paying for the wasteful and mismanaged programs outlined in this report for far too long. Now, in part because so many billions of dollars have been squandered away, we are forced to consider reducing funds for worthy programs in order to bring down the Federal deficit.

Mr. President, we must address the deficit in a meaningful way. The first thing that must be done is to clean up the fiscal mess that is described in the House report.

Some, including myself, have proposed deficit reduction packages. Alternatives abound. My own plan includes over 90 specific program cuts and management reforms. Many of these proposals are taken from the 1992 Congressional Budget Office publication on spending and revenue options to reduce the deficit. Others are from a document written by the task force on Government waste called the Challenge of Sound Management. The task force was chaired by my good friend from North Dakota [Mr. DORGAN], and it details waste and mismanagement that is all too similar to the report released by the House Government Operations Committee staff.

Mr. President, we do not lack the information on where waste and mismanagement in federally funded programs exists.

What is missing, Mr. President, is the will to proceed.

It is a task that we must begin. Some programs are mismanaged; others have outlived their usefulness. Still others, although worthy, we simply can no longer afford until we get our deficit spending under control. We must clean up this fiscal mess by rooting out waste and mismanagement, eliminating programs that no longer serve essential purposes, and cutting back on programs that can be reduced without eliminating vital services.

The task of reducing the Federal deficit is enormous and it will require hard decisions and shared sacrifices by all Americans. But we cannot expect our people to shoulder willingly their fair share of the sacrifice when billions of dollars are lost through Government waste and mismanagement.

Mr. President, I recognize that eliminating waste and mismanagement will not be enough alone to bring the Federal budget into balance. We are going to have to do more, including cutting back on Government spending for some popular programs. In the next few weeks, I intend to describe the principles that I will be applying in evaluating which programs must be reduced while we are working to eliminate the Federal deficit.

In the meantime, this report and those which have preceded it highlight some of the most critical places to begin the work of reducing the Federal deficit. If we fail, this Nation may never recover its economic strength and we will leave our children and grandchildren with a shameful legacy of debt.

I ask that an article which appeared in the Washington Post on January 25, 1993, summarizing the report of the House Government Operations Committee staff be reprinted in the RECORD at this point.

The article follows:

[From the Washington Post, Jan. 25, 1993]

HOUSE PANEL'S REPORT DETAILS WASTED BILLIONS

(By Stephen Barr)

There has never been any doubt that waste, fraud and abuse keep the government on the defensive, with regular alerts issued by the General Accounting Office, inspectors general and special panels, such as the Reagan-era Grace Commission.

In a report scheduled for release today, the Democratic staff of the House Government Operations Committee has calculated that the federal government lost more than $300 billion because of waste, fraud and mismanagement in recent years, with most of the losses occurring since 1988.

"Government waste has not only bilked the taxpayer of hundreds of billions of dollars, but it has created a public cynicism about government at a time when effective government is needed the most," the staff report said.

While the Democratic report may be read as partisan in nature—President George Bush is accused of "fed bashing," for example—its listing of troubled programs and agencies points up the responsibility that the Clinton administration and congressional Democrats have assumed as they attempt to "reinvent government" after 12 years of divided rule in Washington.

Congress "deserves some blame," the staff report acknowledged. "Congress has been a partner to budget cuts to agency programs that have resulted in less audit coverage and evaluation of those very programs, as well as to cuts that have hollowed out the ability of agencies to carry out their missions."

Examples abound that portray a government using unreliable systems and ineffective controls. According to the staff report:

In the mid-1980s, the Energy Department's inspector general set up a plan to audit the department's largest contractors every five years. Three years into the five-year plan, only 348 of an estimated 2,500 audits had been completed.

The Energy Department was not aware that one of its contractors lost 10,000 secret government documents.

The Interior Department spent $66 million subsidizing the cost of irrigating farmlands to produce corn, barley, rice and cotton. The Agriculture Department, meanwhile, paid the same farmers $379 million to limit surplus crop production.

The Education Department is approving $800,000 per day in student loans to ineligible recipients because of faulty computer systems.

Tribal and Indian accounts in the Bureau of Indian Affairs' $2.1 billion trust fund are so poorly maintained that they have never been reconciled.

The staff report provides numerous, lengthy examples of procurement problems and mismanagement at the Defense, State, Health and Human Services and other departments. Some of the programs, such as the Superfund cleanup and the savings and loan bailout, have been the subject of congressional hearings and investigations.

In addition to $310.7 billion lost to the Treasury because of mismanagement, the report estimated that the government will lose an additional $59.5 billion in the next few years without corrective measures.

The staff said it also identified $14.9 billion in annual potential savings, available in the near term, if administrative or legislative changes were made. Areas where savings could be achieved included loan programs, timber sales, fishery programs, weapons procurement and health care benefit programs.

The report, based on figures from federal audits and reviews, said the actual losses and expected future losses may be understated because figures are not available in all areas or auditing has not been done.

The staff report, "Managing the Federal Government: A Decade of Decline," calls for a bipartisan effort to find ways to make "the proper investments in the right programs."

The Democratic staff, which reports to committee Chairman John Conyers Jr. (D-Mich.), offered a series of recommendations. They begin by urging the president to "give personal attention" to major management initiatives and for the Office of Management and Budget to establish a group of 50 management experts "to police agency operations" and help develop long-term solutions.

In the area of procurement, the staff recommends an overhaul of the regulations and paperwork requirements "that keep many competitors out of the federal market." Agencies also should be allowed to buy off-shelf, commercial products that meet their needs, the report said.

The government's slipshod financial management practices should receive priority attention, the staff said, beginning with a continued commitment to appointing "highly qualified" chief financial officers.

All agencies should be required, the staff said, to use appropriate and cost-effective debt collection methods. The staff recommended that agencies should examine the feasibility of eliminating guaranteed loans and returning to direct loan programs.

In keeping with past reports on public service, the staff also urged that the president and Cabinet members lead efforts to attract top quality applicants for civil service careers.

The staff suggested that the quality of political appointees could be improved by requiring the same standards and review boards that judge career Senior Executive Service employees. In addition, the staff said, the number of political appointees should be cut and more career SES members named to mid-and upper-level federal jobs.

"Without increasing the capacity of federal agencies to oversee their operations, maintain their facilities, and embark on innovative research and programs, the cost to the taxpayers will continue to be scandals of massive proportions," the Democratic staff said.

COSTS OF MISMANAGEMENT

(Selected examples from Federal and congressional reviews)

$150 billion to $300 billion: The 30-year price tag for careless handling of hazardous wastes at federal nuclear weapons plants.

$94 billion: Value since 1987 of land patents handed out by the government to mining companies. Taxpayers will get no compensation for the value of the minerals mined under these federal lands.

$30 billion: Value of unneeded and excess materials in Pentagon warehouses, including about $21 billion in spare parts, clothing and other supplies, and $9.4 billion in excess materials.

$21 billion: Total amount of estimated federal health care fraud and abuse. For example, Medicare and Medicaid annually pay $2 billion to $3 billion in health costs that private insurers are liable for. Laboratories charge the government at least $400 million a year more than they charge hospitals for the same tests.

$13 billion: Amount of civil and criminal fines due the U.S. Treasury that the Office of Management and Budget estimates the Justice Department should be going after.

Source: "Managing the Federal Government: A Decade of Decline," a majority staff report to the House Committee on Government Operations.●

THE C–17

● **Mr. D'AMATO. Mr. President, things just go from bad to worse with the C–17. Having adjusted the minimum acceptable performance thresholds for the C–17 several times, the Air Force has determined that the C–17 still will not meet the contractual specifications for range/payload. In typical fashion, the latest shortcomings are minimized by those responsible for this debacle. One wonders why the Air Force continues to pretend to have contract specifications. Why not just buy whatever defense contractors decide to sell, and end the charade that we are actually holding suppliers to some measure of performance?**

I ask that an article that appeared in the Defense Week on January 25, 1993, entitled "USAF: C–17 Falls Short of Payload Specs, Needs Diet" be entered into the RECORD at this point as if read in entirety.

The article follows:

USAF: C–17 FALLS SHORT OF PAYLOAD SPECS, NEEDS DIET

Already reeling from new charges of Air Force malfeasance on behalf of the nation's No. 1 defense contractor, the $35 billion C–17 program is failing to meet cargo-ferrying contract specifications, according to Air Force documents.

Air Force computer runs using material provided by the McDonnell Douglas Corp. project that the aircraft will fail to meet its so-called "range/payload" goals for four primary missions.

"Analysis of initial missions and test points indicate the aircraft will not meet performance requirements unless modified," said an Air Force analysis presented Jan. 8 to outgoing Undersecretary for Acquisition Donald Yockey.

Scrambling to meet the performance requirements, the Air Force and McDonnell Douglas are reviewing how to cut over 43,000 pounds from the 268,000 pound aircraft.

Among the weight reduction issues is development of composite sections such as the nacelle, vertical tail and horizontal stabilizer, which could save 5,000 pounds, 920 pounds and 750 pounds, respectively. But the new parts would take between 24 and 48 months to develop and cost McDonnell Douglas roughly $130 million.

These contract issues are separate from the charges contained in a still-unreleased report by the Pentagon Inspector General which detailed potentially improper actions by several past and current Air Force officials to accelerate payments to McDonnell Douglas in late 1990. A company spokesman said last week the report was being reviewed to see whether it contained proprietary business information.

Air Force and Pentagon officials stressed last week that although the company may be out of compliance with the contract, failing to meet the range/payload requirements would not hamper operations. For example, less than one percent of the transport flights flown during the gulf war hauled their full, maximum load, said an Air Force official.

"There's no one-to-one relationship operationally between the numbers you are losing and fleet operations but its' contractual obligation," said one Pentagon official. "If they don't meet the spec, they'll have to pay something.

McDonnell Douglas spokesman James Ramsey said the company was working with the Air Force to reduce drag and excess fuel consumption, two factors that theoretically reduce payload.

"We feel that this is a very aggressive program and we will have some impact to solve shortfalls down the line," Ramsey said.

"At this point, we are confident that we can make our major commitment—the 160,000 pounds over 2,400 nautical miles unrefueled. That's what we feel is the most stringent of the requirements. We are fairly confident that we can make that," Ramsey said.

Another solution to solving the payload shortfall might involve modifying how the plane is flown. "We are talking about how the user flies the airplane and not necessarily how 10 years ago the specs were drawn up," Ramsey said.

The C–17 program office at press time had not yet completed a statement to *Defense Week* about the potential payload shortfall.

In the first of four mission scenarios with projected payload shortfalls, the C–17 must be able to haul 160,000 pounds of cargo 2,400 miles without refueling. The Air Force now concludes that unless the aircraft is modified, it will fall 9,775 pounds and 224 miles short of that goal.

The second scenario requires the aircraft to haul 150,000 pounds of cargo 2,700 miles. The current projection indicates a shortfall of 12,572 pounds and 295 miles. The third scenario calls for carrying 130,000 pounds of cargo 3,200 miles; this goal is projected to be 36,655 pounds and 322 miles off the specs.

A fourth scenario calls for carrying 120,000 pounds of cargo 2,800 nautical miles. This goal is projected to be off by 12,627 pounds and 319 miles.

"The aircraft weighs more than they thought it was going to be, the fuel consumption is more than they thought it would be and the drag was more than they thought it would be," said a Pentagon official familiar with the issue.

The current range/payload specifications were hashed out between the Air Force and the McDonnell Douglas Corp. in March 1991 as part of contract negotiations on the third production lot of C–17s. McDonnell Douglas' winning 1981 C–17 contract promised a maximum payload of 172,000 pounds flown 2,400 miles.

Then-U.S. Transportation Command commander Gen. Hansford Johnson told the Senate Armed Services Committee during May 1991 testimony that the revised performance criteria were thresholds representing the "minimum acceptance capability."

The incremental reduction in the C–17s range/payload specifications drew the ire of the committee two months later in its version of the fiscal 1992 defense authorization act. "The continual downgrading of the C–17 performance requirements is worrisome in that the case for developing a new airliner rather than extending production of existing aircraft rested on the assertion of improved performance and greater capability."

Pentagon Deputy Inspector General Derek Vander Schaaf made the same point in May 1992 testimony before the House Government Operations Committee. "You are paying this very high premium, $308 million per aircraft, for basically a vehicle that serves, in a sense, like a truck . . . It isn't the high tech stuff to do actual combat."

While not dismissing the contractual aspects of the situation, a senior Pentagon official said the payload shortfall should not impact operations.

"The airplane runs out of square feet long before it runs out of pounds," said an official.

This official said the C–17 in most cases will operate in tandem with other transports, such as the monster C–5B and C–141, so that cargoes can be shifted around.

"Most cargos are made up of bits and pieces and can be moved to a different aircraft. The only time you'd have problems is if you carried a single piece of equipment weighing 160,000 pounds such as a tank, which doesn't weigh that much. There's practically nothing else that would give you some problems."

Meanwhile, despite the projected payload shortfall, a top level civilian review of the embattled transport has concluded that the program should not be canceled because of poor contractor performance.

The conclusion was rendered to Yockey during a series of briefings Jan. 12. Yockey wanted a quick assessment of the program's overall health before he left office.

"We saw no reason not to continue the program or bail-out the McDonnell Douglas Corp. or do anything dramatic," said a senior Pentagon official familiar with the review.

The Yockey review concluded that the aircraft was cost effective, and that McDonnell Douglas had the financial wherewithal to do it, the official said. "But it's going to take time."

"There is no reason to change the course we are on," the senior official said. "The airplane is still cost effective. MDC can solve the problems efficiently and they are not going to go bankrupt because of this program."●

BUDGET SCOREKEEPING REPORT

● **Mr. SASSER. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.**

This report, which is the first for fiscal year 1993, shows the effects of congressional action on the budget through January 21, 1993. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget—House Concurrent Resolution 287—show that current level spending is below the budget resolution by $2.1 billion in budget authority and $0.5 billion in outlays. Current level is $0.5 billion above the revenue floor in 1993 and above by $1.4 billion over the 5 years, 1993–97. The current estimate of

the deficit for purposes of calculating the maximum deficit amount is $392.4 billion. $28.4 billion below the maximum deficit amount for 1993 of $420.8 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 26, 1993.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report, my first for fiscal year 1993, shows the effects of Congressional action on the budget for fiscal year 1993 and is current through January 21, 1993. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 287). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Sincerely,
ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONG., 1ST SESS., AS OF JAN. 21, 1993

[In billions of dollars]

	Budget resolution (H. Con. Res. 287)	Current level [1]	Current level +/− resolution
On-budget:			
Budget authority	1,250.0	1,247.9	−2.1
Outlays	1,242.3	1.241.8	−.5
Revenues			
1993	848.9	849.4	+.5
1993–97	4,818.6	4,820.0	+1.4
Maximum deficit amount	420.8	392.4	−28.4
Debt subject to limit	4,461.2	4,056.6	−404.6
Off-budget			
Social Security outlays:			
1993	260.0	260.0	—
1993–97	1,415.0	1,415.0	—
Social Security revenues:			
1993	328.1	328.1	([2])
1993–97	1,865.0	1,865.0	([2])

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] Less than $50,000,000.

Note.—Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONG., 1ST SESS., SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1993 AS OF CLOSE OF BUSINESS JAN. 21, 1993

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			844,800
Permanents and other spending legislation	757,985	733,143	
Appropriation legislation		241,891	
Offsetting receipts	(187,433)	(187,433)	
Total previously enacted	570,552	787,601	844,800
ENACTED 2D SESS., 102D CONG.			
Appropriation legislation:			
1992 rescissions (Public Law 102–298)		(1,829)	
Disaster assistance for Los Angeles and Chicago (Public Law 102–302)		44	
1992 Supplementals (Public Law 102–368)	500	1,451	
Agriculture (Public Law 102–341)	60,170	40,228	
Commerce-Justice-State (Public Law 102–395)	22,835	16,781	
Offsetting receipts	(128)	(128)	
Defense (Public Law 102–396)	253,786	165,979	
District of Columbia (Public Law 102–382)	688	688	
Energy and water (Public Law 102–377)	22,080	12,386	
Foreign operations (Public Law 102–391)	14,114	5,693	
Offsetting receipts	(43)	(43)	
Interior (Public Law 102–381)	12,037	8,328	
Labor-HHS-Education (Public Law 102–394)	213,761	171,439	
Offsetting receipts	(46,250)	(46,250)	
Legislative branch (Public Law 102–392)	2,275	1,952	
Military construction (Public Law 102–380)	8,389	2,948	
Transportation (Public Law 102–388)	13,197	12,099	
Treasury-Postal Service (Public Law 102–393)	22,384	19,386	1
Offsetting receipts	(6,471)	(6,471)	
Veterans-HUD (Public Law 102–389)	85,794	46,286	
Other spending legislation:			
Emergency unemployment compensation extension (Public Law 102–244)	600	600	500
Food Stamp Family Welfare Reform Act (Public Law 102–281)	(26)	(26)	
Extend certain expiring veterans' programs (Public Law 102–291)	(1)	(1)	
Unemployment compensation (Public Law 102–318)	3,372	3,372	3,526
Transfer certain naval vessels (Public Law 102–322)			5
Higher education amendments (Public Law 102–325)	(103)	(123)	
Partial restoration of highway obligational authority (Public Law 102–334)		28	
Pacific Yew Act (Public Law 102–335)	1	1	
Prevent annual food stamp price adjustment (Public Law 102–351)	330	330	
Health professions education extension amendments (Public Law 102–408)	(49)	(49)	
WW II, 50th Anniversary Commemorative Coins Act (Public Law 102–414)	(8)	(8)	
National Defense Authorization Act, fiscal year 1993 (Public Law 102–484)	26	(41)	([1])
Energy Policy Act of 1992 (Public Law 102–486)	68	68	590
Intelligence Authorization Act, fiscal year 1993 (Public Law 102–496)			1
Preventive health amendments (Public Law 102–531)	30	30	
Telecommunications Authorization Act (Public Law 102–538)	(2)	(2)	([1])
Veterans' Home Loan Program Revitalization Act (Public Law 102–547)	1	1	
Housing and Community Development Act (Public Law 102–550)	(26)	(26)	
Audio Home Recording Act (Public Law 102–563)	(50)	(50)	
Veterans' Benefits Act (Public Law 102–568)	(40)	(14)	
Federal Courts Administration (Public Law 102–572)	10	10	2
Reclamation Projects Authorization and Adjustment Act (Public Law 102–575)	(38)	(38)	
Veterans' radiation exposure amendments (Public Law 102–578)	2	2	
Airport and Airway Safety, Capacity and Noise Improvement Act (Public Law 102–581)	2,050		
High Seas Driftnet Fisheries Enforcement Act (Public Law 102–582)	4	4	
Veterans' Health Care Act (Public Law 102–585)	1	1	
Cash Management Improvement Act (Public Law 102–589)	(8)	37	
Homeless Veterans Comprehensive Service Programs Act (Public Law 102–590)	4	4	
Private relief acts (PV.L. 8,11,13,15,18,19)	([1])	([1])	
Discretionary estimating adjustment (House Concurrent Resolution 287)		(1,848)	
Total enacted 2d sess., 102d Cong	685,268	453,232	4,625
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	(7,928)	962	
Total current level [2]	1,247,892	1,241,794	849,425
Total budget resolution [3]	1,249,990	1,242,290	848,890
Amount remaining:			
Under budget resolution	2,098	496	
Over budget resolution			535

[1] Less than $500,000.

[2] In accordance with the Budget Enforcement Act, the total does not include $1,135 million in budget authority and $6,983 million in outlays in emergency funding.

[3] Includes revision under section 9 of the concurrent resolution on the budget.

Note.—Amounts in parentheses are negative.•

TRIBUTE TO GREENSBURG

• Mr. MCCONNELL. Mr. President, I rise today to pay tribute to Greensburg in Green County.

Greensburg is a small town located in the hills straddling the Green River, about 80 miles south of Louisville. It is a town rich in history with a tremendous amount of economic development potential. The town is full of historic buildings, and efforts are underway to restore many of them. The local courthouse, billed as the oldest courthouse west of the Alleghenies, has been restored to its 19th century condition. An old general store was recently renovated and reopened as a two-story antique mall. Greensburg has so much history that many believe that the way to achieve economic growth is by focusing on this historical theme.

Greensburg is taking great strides toward the future as well. Though a large part of its economy is based on farming, there is an industrial park outside of town with a few factories. A new $4 million middle school, complete with current educational technology, opened in 1990 and has won national awards for its design. There have been recent major improvements to the country's infrastructure, specifically to the road system.

On top of all this, there are the people of Greensburg. The close-knit community is based on religious and family traditions, yet residents welcome visitors as if one of their own. Life in Greensburg is relaxed, mixing the past with the present, inviting progress but not at the expense of its deep-rooted history.

I applaud Greensburg's efforts to maintain its historical charm, but at the same time its move forward, making it one of Kentucky's finest towns.

Mr. President, I ask that this tribute and a recent article from Louisville's Courier-Journal be submitted in today's CONGRESSIONAL RECORD.

The article follows:

GREENSBURG: IF YOU KNOW TOO MUCH ABOUT IT, YOU'LL ADOPT IT

(By Cynthia Crossley)

First-time visitors to Greensburg should know that if they lock their cars on the Public Square, folks will immediately peg them as being "from off"—strangers.

So, if you're new in town, the only decent thing to do is to head straight to The Corner Drug Store, get a cup of coffee and take a seat. The questions are sure to follow.

Greensburg folks will want to know where you're from, what brought you to town and, perhaps, what you think of the weather.

Expect some other questions too: "Have you seen our footbridge?" "Did you know that our courthouse is the oldest west of the Alleghenies?"

And quickly you will hear about a small town that seems to have so much charm per capita that Mayor Bill Edwards calls it "a contagious city. . . . If you know too much about it, you'll adopt it."

Nadine Brewer, writing for National Geographic magazine in 1982, had this to say about the people in Green and surrounding counties:

"Though steeped in religious and family traditions, they welcome newcomers. A simple, relaxed people, they are an unexpected meshing of past and present, inviting progress but not at the cost of old-time pleasures and values."

Ten years later, that description still rings true. Greensburg, the seat of a farming county, is dominated by a large feed mill, a farm equipment dealership and two large tobacco warehouses. Central Greensburg also seems to have a church on every corner.

But in another part of town known as "Hospital Hill" there is an industrial park with a few factories as well as the hospital. A $4 million middle school—complete with broadcasting and computer classrooms, a landscaped courtyard, an amphitheater and wireless microphones for the stage—sits on another hillside.

Completed in 1990, the school has won national design awards and prompts school officials from other countries to tell principal Mike Mills: "I don't think we can afford your architect."

Edwards likes to point out the road improvements under way around Greensburg—widening roads, straightening curves, building a bypass. Part of the 10-mile road to Campbellsville is being improved, easing the chore of reaching the region's shopping centers.

(A Greensburg resident recently groused: "If you want to see someone from Greensburg, all you have to do is go to the Wal-Mart in Campbellsville.")

But while some residents look forward to the improved roads, others are looking to Greensburg's past as a way develop the town's future. Greensburg has a lot of nifty old buildings, and efforts are under way to find new uses for them.

Some experts think small towns should specialize and develop economically along a certain theme, said Walt Gorin, publisher and managing editor of the Greensburg Record-Herald. He said economic growth may come to Greensburg if the town focuses on a historic theme.

"Greensburg has such a rich history; that might be one way Greensburg could go. The potential is here."

Among Greensburg's historical structures are several that date to the era when Greensburg was the end of the line for the railroad that ran into south-central Kentucky. There's the old L&N Railroad depot, now unused, which was built in 1913.

And there's the footbridge, built to help railroad passengers conquer Greensburg's hills. Before the footbridge, people leaving the station had to go down one set of hillside steps, cross tiny Goose Creek, and trudge up another flight to get to the center of town. One can imagine the thoughts of weary passengers faced with lugging suitcases up a flight of more than 70 steps to Greensburg's main hotel.

In 1928 Greensburg built the steel footbridge to connect the station with the Public Square. The bridge stands today, 38 feet in the air and 445 feet long. It seems to get used a lot. Even when the bridge was being painted recently, people strolled across it after workers had knocked off for the day.

The footbridge provides many visitors with an interesting view of town. A favorite sight for city clerk Wilma DeSpain used to be the jumble of vegetables and flowers grown by local artist Pansy Phillips on a balancy at the back of her Public Square apartment. Phillips has since died, and her garden is no more, but the balcony is still there.

The footbridge ends beside another colorful building, the old Greensburg City Hall and Water Plant, Built by the Works Progress Administration in 1936, it is a tiny example of the typical WPA style. It includes a louvered rooftop tower that hides a 7,500-gallon water tank. Another concrete water storage tank tunnels into the hillside in the back.

Like the station, this building also sits empty. A 1983 guide to "Historical Architecture of Green County, Kentucky" noted that both the depot and the water-works plant might be used in new commercial ventures. But so far that hasn't panned out.

What has started is a commercial venture in another historic building on the square. An old general store, the Woodson Lewis building, which sat empty for several years, recently reopened as a two-story antique mall. A top priority for the eight investors—including some local dentists and pharmacists, County Attorney Sam Moore II and Jim Frank, finance officer for the Green County Board of Education— was preserving the building. Their investment seems to be off to a good start. By the time the mall opened in early November, they had leased more than half of the building.

Recently Frank paused in describing the renovation of the general store and looked out a window at the 1830s Green River Hotel building across the street. It ceased operating in the 1950s and now houses Perk's Barber Shop and Betty's Country Kitchen. The restaurant has a large old neon sign that says, "EAT".

"We'd love to get ahold of the old hotel building and restore it too," Frank said a bit wistfully.

When state officials evaluated Greensburg recently on its economic development potential, they encouraged the idea of renovation. But the big stumbling block is money. Greensburg has plans and ideas, but no way to carry them out.

Greensburg has managed some preservation—the old courthouse, for example. Finished in 1804 and billed as the oldest courthouse west of the Alleghenies, the two-story limestone building survived 135 years, of use and a major controversy over whether it should be torn down. A federal grant financed the restoration right down to the brick flooring and wooden judge's bench.

Today it serves as a focal point for social functions. At least two weddings a year are held in the courtroom. In exchange for the charming setting, brides must contend with limited seating and the difficulty of making a graceful entrance in a wedding gown and train while negotiating a steep, narrow staircase. At Christmas the courthouse is decorated with candles and a big tree, and Santa Claus visits. Sometimes, after a community service at a nearby church, the congregation walks to the courthouse to sing carols, drink spiced tea and enjoy a fire in the courtroom's stone fireplace.

Greensburg also has "preserved" a building with a different kind of "historical" value. Adolphus Ennis's Lunchroom, home of the original "Slawburger, Fry and a Bottle of Ski," now called the "Kentucky Headhunters Lunchroom." The Headhunters immortalized that meal in their hit song "Dumas Walker," and that prompted a lot of fans to track down the lunchroom.

"For a while, they were coming in here in carloads. I met a whole lot of people and I enjoyed it," said one of the cooks, a fellow who calls himself "Judd" and will not acknowledge another name.

After the Headhunters regrouped and the song faded, the demand for slawburgers has slowed some.

Over at Greensburg Bottling Co., where Ski, the citrus soft drink, is produced locally, co-owner James DeSpain says he can't see any Headhunter impact on sales these days. Additional demand is more likely to come from natives now living in places like California and Japan. When those expatriates get thirsty for their hometown drink, they ask their Greensburg relatives to ship them cases of Ski.

And then there's a preservation of another sort; Greensburg still holds Cow Days. In the old days, they raffled off a cow. No one gets a cow anymore, because the Greensburg Rotary Club, the festival sponsor, uses a fiberglass Holstein for the job. "Annie the Cow" has a working udder, and the festival invites politicians to compete in "milkoffs." But like politicians, that can be misleading; Annie actually gives only Kool-Aid. The original specifications called for milk, but the health department halted that flow when it discovered that the udder wasn't refrigerated.

While no one expects Cow Days to be a big draw to outsiders—those folks "from off"—they hope more people will consider coming to Greensburg in search of history, if not for antiques, then perhaps for genealogical research, since other counties were formed out of Green County back in the 1700s.

"Greensburg is such a well-kept secret," said Nancy Stearman, a certified public accountant originally from Jefferson County. "If we do have all kinds of folks come here, I hope it doesn't spoil the charm. Greensburg is a neat little town."

Education: Green County Schools, 1,730 students. Campailsville College is 11 miles northeast of Greensburg; Lindsey Wilson College is 20 miles south, and Elizabethtown Community College is 40 miles northwest.

Transportation: Taylor County Airport, with one 6,000-foot paved runway, is 12 miles northeast of Greensburg. Nearest passenger service is 80 miles north of Greensburg at Louisville's Standford Field. Twelve truck lines serve Greensburg.

Topography: Greensburg sits on a series of small hills, and straddles the Green River. Green River Lake is about 10 miles east of Greensburg.

Population (1990): Greensburg, 1,990; Green County, 10,371.

Per capita income (1989): $11,233, or $2,590 below state average.

Jobs (1990): Manufacturing, 930; wholesale/retail, 355; services, 242; state, local government, 461; contract construction, 42.

Big employers (1992): Fruit of the Loom, 500 employees; Green County Board of Education, 254; Jane Todd Crawford Memorial Hospital, 170; Greensburg Manufacturing Co., 155; Clark Casual Furniture, 75.

Media: Newspapers—The Record-Herald, weekly. Radio—WAKY-AM, oldies; WGRK-FM, country. Television—Cable available.

FAMOUS FACTS AND FIGURES

Created in 1792, Green County was named for Revolutionary War Gen. Nathaniel Greene, its old limestone courthouse, built on Public Square between 1802 and 1804, is billed locally as "the oldest courthouse west of the Alleghenies," but a state marker calls it "one of the oldest public buildings still standing in Kentucky."

The chain that links the stone columns that line the courthouse lawn is said to be from a Confederate chain that was stretched across the Mississippi River to block traffic during the Civil War.

On Christmas Day in 1809, 46-year-old Green County resident Jane Todd Crawford survived some history-making surgery. Dr. Ephraim McDowell removed a 23-pound ovarian tumor at his home in Danville. Crawford had ridden a horse 80 miles and underwent the operation without anesthesia. Five days after the operation, Dr. McDowell found her up and making her bed. She returned home, later moved to Indiana, and died 32 years later. Green County still honors Crawford; its hospital is named for her.

Abraham Lincoln's law partner, William H. Herndon, was born in Greensburg in 1818. Herndon's family moved to Illinois two years later.

Greenburg provided the Union with two generals during the Civil War. Brig. Gen. E.H. Hobson, 1825–1901, led the 13th Kentucky Infantry at Shiloh, Corinth and Ferryville, and chased and caught Confederate raider John Hunt Morgan in Ohio. Maj. Gen. William T. Ward, 1808–1878, accepted Atlanta's surrender in 1864.

The former A. Ennis & Son lunch room on Public Square is where the Kentucky HeadHunters liked to stop for "a slawburger, fries and a bottle of Ski." The lunchroom is still open, though under new management.•

REINTRODUCTION OF THE CIVILIAN COMMUNITY CORPS LEGISLATION

• Mr. WOFFORD. Mr. President, I am proud to join Senators BOREN and SIMON in reintroducing the Civilian Community Corps legislation in the 103d Congress.

Since passing this legislation along with two other civil-military youth service initiatives as part of last year's Department of Defense authorization and appropriation bills, the idea of national service has, with the election of President Clinton, taken a quantum leap forward. And as his initiative powerfully demonstrates, service is an issue that transcends ideology, region, and party.

Building on and enhancing the work of the Commission on National and Community Service, the Civilian Community Corps offers a unique, residential, federally run service and conservation model that complements the work of other programs currently funded by the Commission.

Little social inventions have emerged in response to community needs all across the country, the very best of which are youth-led, youth-driven, and diverse by design. To this we now add a Federal pilot, a Federal invention coupling defense conversion with youth service, to be tested and developed. This program now offers another Federal option that with Peace Corps and VISTA should expand the number of opportunities young people have to serve. With strong bipartisan congressional support and dynamic Presidential leadership, it is now time that these pilots, Federal and grassroot alike, ignite the furnace.

Finally, Mr. President, let me underscore the point that Federal efforts should neither replace nor duplicate non-Federal efforts. Grassroots efforts should always be preferred over Federal ones as we develop a diverse, voluntary, universal system of national and community service.

Our youth—in all their diversity and with all their creative energies and talents—are ready to lead. It is time we enable them to do so.

I warmly salute Senators BOREN, SIMON, NUNN, DOLE, MCCAIN, REID, MIKULSKI, KENNEDY, and others for their leadership in this endeavor. I offer special thanks in particular to a former member of my staff, David Balducchi, as well as Brian Kennedy of Senator SIMON's staff, Beth Garrett of Senator BOREN'S staff, and Chris Murphy formerly of Senator KENNEDY's staff and now with the Commission on National and Community Service for their tireless work crafting this initiative.

The "dance of the legislation" as my friend, Eric Redman, calls it was arduous and continues, but it has paid off in a program that will empower youth to transform this Nation, and in the process themselves, through service.•

RULES OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

• Mr. JOHNSTON. Mr. President, in accordance with rule XXVI, section 2, of the Standing Rules of the Senate, I hereby submit for publication in the CONGRESSIONAL RECORD, the Rules of the Committee on Energy and Natural Resources.

The rules of the committee follow:

RULES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

GENERAL RULES

Rule 1. The Standing Rules of the Senate as supplemented by these rules, are adopted as the rules of the Committee and its Subcommittees.

MEETINGS OF THE COMMITTEE

Rule 2. (a) The Committee shall meet on the third Wednesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

(b) Business meetings of any Subcommittee may be called by the Chairman of such Subcommittee, Provided, That no Subcommittee meeting or hearing other than a field hearing, shall be scheduled or held concurrently with a full Committee meeting or hearing, unless a majority of the Committee concurs in such concurrent meeting or hearing.

OPEN HEARINGS AND MEETINGS

Rule 3. (a) Hearings and business meetings of the Committee or any Subcommittee shall be open to the public except when the Committee or such Subcommittee by majority vote orders a closed hearing or meeting.

(b) A transcript shall be kept of each hearing of the Committee or any Subcommittee.

(c) A transcript shall be kept of each business meeting of the Committee or any Subcommittee unless a majority of the Committee or the Subcommittee involved agrees that some other form of permanent record is preferable.

HEARING PROCEDURE

Rule 4. (a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee or any Subcommittee at least one week in advance of such hearing unless the Chairman of the full Committee or the Subcommittee involved determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the Committee or the Subcommittee involved concurs. In no case shall a hearing be conducted with less than twenty-four hours notice.

(b) Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee or Subcommittee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

(c) Each member shall be limited to five minutes in the questioning of any witness until such time as all Members who so desire have had an opportunity to question the witness.

(d) The Chairman and ranking Minority Member or the ranking Majority and Minority Members present at the hearing may each appoint one Committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman and the ranking Majority and Minority Members present may agree.

BUSINESS MEETING AGENDA

Rule 5. (a) A legislative measure or subject shall be included on the agenda of the next following business meeting of the full Committee or any Subcommittee if a written request for such inclusion has been filed with the Chairman of the Committee or Subcommittee at least one week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the Committee or Subcommittee to include legislative measures or subjects on the Committee or Subcommittee agenda in the absence of such request.

(b) The agenda for any business meeting of the Committee or any Subcommittee shall be provided to each Member and made available to the public at least three days prior to such meeting, and no new items may be added after the agenda is so published except by the approval of a majority of the Members of the Committee or Subcommittee. The Staff Director shall promptly notify absent Members of any action taken by the Committee or any Subcommittee on matters not included on the published agenda.

QUORUMS

Rule 6. (a) Except as provided in subsections (b), (c), and (d), seven Members shall constitute a quorum for the conduct of business of the Committee.

(b) No measure or matter shall be ordered reported from the Committee unless eleven Members of the Committee are actually present at the time such action is taken.

(c) Except as provided in subsection (d), one-third of the Subcommittee Members shall constitute a quorum for the conduct of business of any Subcommittee.

(d) One Member shall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure or matter before the Committee or any Subcommittee.

VOTING

Rule 7. (a) A rollcall of the Members shall be taken upon the request on any Member. Any Member who does not vote on any rollcall at the time the roll is called, may vote (in person or by proxy) on that rollcall at any later time during the same business meeting.

(b) Proxy voting shall be permitted on all matters, except that proxies may not be counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only upon the date for which it is given and upon the items published in the agenda for that date.

(c) Each Committee report shall set forth the vote on the motion to report the measure or matter involved. Unless the Committee directs otherwise, the report will not set out any votes on amendments offered during Committee consideration. Any Member who did not vote on any rollcall shall have the opportunity to have his position recorded in the appropriate Committee record or Committee report.

(d) The Committee vote to report a measure to the Senate shall also authorize the staff of the Committee to make necessary technical and clerical corrections in the measure.

SUBCOMMITTEES

Rule 8. (a) The number of Members assigned to each Subcommittee and the division between Majority and Minority Members shall be fixed by the Chairman in consultation with the ranking Minority Member.

(b) Assignment of Members to Subcommittees shall, insofar as possible, reflect the preferences of the Members. No Member will receive assignment to a second Subcommittee until, in order of seniority, all Members of the Committee have chosen assignments to one Subcommittee, and no Member shall receive assignment to a third Subcommittee until, in order of seniority, all Members have chosen assignments to two Subcommittees.

(c) Any Member of the Committee may sit with any Subcommittee during its hearings and business meetings but shall not have the authority to vote on any matters before the Subcommittee unless he is a Member of such Subcommittee.

SWORN TESTIMONY AND FINANCIAL STATEMENTS

Rule 9. Witnesses in Committee or Subcommittee hearings may be required to give testimony under oath whenever the Chairman or ranking Minority Member of the Committee or Subcommittee deems such to be necessary. At any hearing to confirm a Presidential nomination, the testimony of the nominee and at the request of any Member, any other witness shall be under oath. Every nominee shall submit a statement of his financial interests, including those of his spouse, his minor children, and other members of his immediate household, on a form approved by the Committee, which shall be sworn to by the nominee as to its completeness and accuracy. A statement of every nominee's financial interest shall be made public on a form approved by the Committee, unless the Committee in executive session determines that special circumstances require a full or partial exception to this rule. Members of the Committee are urged to make public a statement of their financial interests in the form required in the case of Presidential nominees under this rule.

CONFIDENTIAL TESTIMONY

Rule 10. No confidential testimony taken by or confidential material presented to the Committee or any Subcommittee, or any report of the proceedings of a closed Committee or Subcommittee hearing or business meeting, shall be made public, in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee at a business meeting called for the purpose of making such a determination.

DEFAMATORY STATEMENTS

Rule 11. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open Committee or Subcommittee hearing tends to defame him or otherwise adversely affect his reputation may file with the Committee for its consideration and action a sworn statement of facts relevant to such testimony or evidence.

BROADCASTING OF HEARINGS OR MEETINGS

Rule 12. Any meeting or hearing by the Committee or any Subcommittee which is open to the public may be covered in whole or in part by television broadcast, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to interfere with the seating, vision, and hearing of Members and staff on the dais or with the orderly process of the meeting or hearing.

AMENDING THE RULES

Rule 13. These rules may be amended only by vote of a majority of all the Members of the Committee in a business meeting of the Committee: Provided, That no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the Committee agenda for such meeting at least three days in advance of such meeting.•

REPORT OF MNCARE COMMISSION

• Mr. DURENBERGER. Mr. President, Minnesota is a national leader among the States in health care reform, as it is in so many areas. As we search for ways here in Washington to improve the health of Americans, I want to inform my colleagues about a significant step taken by Minnesota this week.

Over a year ago, a bipartisan coalition in this legislature, working with Gov. Arne Carlson, enacted a comprehensive State health reform, which has come to be called MNCare. The first step in MNCare is the report from a broad-based group of representatives of various health care actors, which was released this week.

The report starts Minnesota's progress toward universal access on the right foot: cost control. Our access problem in Minnesota, and across the country, is based on the medical cost spiral in the first place—people being priced out of the market for insurance coverage—so that is the place to begin.

The report identifies three forms of cost control which Minnesota will implement:

First, use of integrated service networks [ISN's].—By establishing systems which provide the full array of medical services for a fixed price per purchaser, ISN's create powerful incentives for efficiency.

For my colleagues familiar with the terminology of managed competition in health care, the ISN is another name for the accountable health plans, through which we hope to provide efficient, high quality coverage for all Americans. Price and quality will both improve when consumers can compare various products in the market place.

Second, global price growth limits.—The State Commission of Health will set overall price increase limits for all public and private health spending. The target will be reduce the projected rate of growth by 10 percent per year, without micromanaging health care decisions.

Third, consumer behavior changes.—Too many preventable illnesses and accidents are ruining lives and adding to the cost of our health system. We need to redouble our public health efforts to encourage people to take responsibility for staying healthy by buckling up, reducing intake of tobacco and alcohol, and eating a healthier diet.

While I have some reservations with what Minnesota is doing, especially in the area of global budgets, and many of the specifics are unclear, I prefer the way Minnesota is doing health reform to the way the Federal Government isn't.

Minnesota has adopted a very useful system approach. It looks at the behavior of each of the five actors in the health system, consumers, providers, employers, insurers, and government as part of the problem and part of the solution. The composition of the MNCare Commission, which wrote this report, shows that everybody who matters is on board. They know, to paraphrase Ben Franklin's words, that as members of the health system they will either hang together, or hang separately.

On the Government side, if we can somehow develop, here in Washington, the same spirit of bipartisanship and the ability of the legislative branch to work with the executive that they have in St. Paul, we'll be in business. Health reform is too expensive and controversial to proceed through confrontation; consensus is fundamental to the progress of health reform.

Try as it might, Mr. President, there is only so much Minnesota can do as an island of health reform. Cross-border issues with nearby Wisconsin, Iowa, and the Dakotas will certainly create problems. The Federal ERISA law constrains certain kinds of activities on the part of the States. And the part of the puzzle most people leave out, Federal tax laws, play a huge role on how all the actors in the system make decisions.

I am encouraged by the priority the new administration has placed on health reform. I look forward to action, and state that I am ready, to participate in the national effort to build the consensus behind reform.

Mr. President, I ask that part of the MNCare report, and a good editorial from the Minneapolis Star Tribune on this subpart appear at this point in the RECORD.

The material follows:

CONTAINING COSTS IN MINNESOTA'S HEALTH CARE SYSTEM

(A Report to Gov. Arne H. Carlson and the Minnesota Legislature)

MINNESOTA HEALTH CARE COMMISSION MEMBERS

Health Care Provider Representatives: Gerald Brost, Provider Representative; Jasper Daube, Minnesota Medical Association Representative; Gayle Hallin, Provider Representative; Robert Kelly, Rural Physician Representative; Gretchen Musicant, Minnesota Nurses Association Representative; and Douglas Robinson, Minnesota Hospital Association Representative.

Consumer Representatives: Delores D'Aquila, Consumer Representative; Virginia Greenman, Consumer Representative; Jacquline Smith, Consumer Representative; Tom Swain,* Over 65 Consumer Representative; and Diane Wray-Williams, Consumer Representative.

Health Plan Company Representatives: James Ehlen, MEDICA; George Halvorson, Minnesota Council of HMO's Representative; Richard Niemiec, Blue Cross Blue Shield of Minnesota Representative; and Mary Miller, Insurance Federation of Minnesota Representative.

Employer Representatives: Catherine Anderson, Employer Representative; Joy Barbre, Minnesota Chamber of Commerce Representative; Wayne Holtmeier, Minnesota Chamber of Commerce Representative; and Bernard Reisberg, Employer Representative.

Labor Union Representatives: Peter Benner, AFSCME Representative; Judy Schaubach, Labor Union Representative; and William Peterson, AFL-CIO Representative.

Commissioners: Linda Barton, Commissioner of Employee Relations; Bert McKasy, Commissioner of Commerce; and Natalie Steffen, Commissioner of Human Services.

COMMITTEES OF THE COMMISSION

Cost Trends and Measurement: Richard Niemiec,* Blue Cross Blue Shield of Minnesota Representative; Gerald Brost, Provider Representative; Jasper Daube, Minnesota Medical Association Representative; James Ehlen, Health Plan Representative; Virginia Greenman, Consumer Representative; George Halvorson, Minnesota Council of HMO's Representative; Mary Miller, Insurance Federation of Minnesota Representative; and Douglas Robinson, Minnesota Hospital Association Representative.

Consumer Incentives, Prevention, and Public Health: Gayle Hallin,* Provider Representative; Catherine Anderson, Employer Representative; Wayne Holtmeier, Minnesota Chamber of Commerce Representative; Robert Kelly, Rural Physician Representative; Jacquline Smith, Consumer Representative; Natalie Steffen, Commissioner of Human Services; William Peterson, AFL-CIO Representative; and Diane Wray-Williams, Consumer Representative.

Service Delivery: James Ehlen,* Health Plan Representative; Linda Barton, Commissioner of Employee Relations; Gerald Brost, Provider Representative; Delores D'Aquila, Consumer Representative; Jasper Daube, Minnesota Medical Association Representative; Gretchen Musicant, Minnesota Nurses Association Representative; Bernard Reisberg, Employer Representative; and Judy Schaubach, Labor Union Representative.

Payment Systems: Peter Benner,* AFL-CIO Representative; Joy Barbre, Minnesota Chamber of Commerce Representative; Viriginia Greenman, Consumer Representative; George Halvorson, Minnesota Council of HMO's Representative; Bert McKasy, Commissioner of Commerce; Mary Miller, Insurance Federation of Minnesota Representative; Richard Niemiec, Blue Cross Blue Shield of Minnesota Representative; and Douglas Robinson, Minnesota Hospital Association Representative.

PREFACE

The Minnesota Health Care Commission was established in the 1992 legislation known as "Health Right." The Minnesota Legislature charged the Commission with the responsibility to develop a cost containment plan that will slow the rate of growth in health care spending by at least ten percent a year for the next five years. This report contains a summary of the Minnesota Health Care Commission's cost containment plan. The plan was developed by consensus and this report was approved by the Commission without a dissenting vote.

The plan that is summarized in this report is not a detailed blueprint but a strategy and a series of first steps toward achieving cost containment goals. Many details remain to be worked out. If the plan is approved by the Legislature and the Governor, the Commission will resume its progress toward resolving the implementation details. The plan will also require continuous refinement as Minnesota accumulates better information and gains more experience. The plan is not the final answer but the beginning of a continuous process of improving the efficiency and quality of our health care system.

Early in its proceedings, the Commission adopted a policy that it would foster a spirit of openness to community involvement and participation. In the process of developing this report, the Commission welcomed proposals from the greater community and developed a process for routing proposals to appropriate committees for consideration. The report contains numerous strategies and concepts that were suggested by persons and organizations other than Commission members. However, the publication of this report does not signal the end of opportunities for the greater community to participate. In the spirit of continuous improvement of the cost containment plan, the Commission welcomes comments and suggestions on this report, and will be holding a series of public hearings throughout the state. The Commission also encourages interested persons and organizations to submit written comments. The Commission will continue to improve its cost containment plan in response to comments and suggestions from the community.

INTRODUCTION

The Minnesota Health Care Commission

The Minnesota Health Care Commission was created by the 1992 Health Right Act. The Commission consists of 25 members representing health care providers, health plans, employers, unions, consumers and state agencies. Thirteen of the members are appointed by the Governor, two consumer representatives are appointed by the Legislature, and ten members are appointed by trade associations and other organizations.

Cost containment plan

The 1992 Health Right Act requires the Minnesota Health Care Commission to submit to the Legislature and the Governor a plan for slowing the growth in health care spending by at least ten percent a year for each of the next five years. During its first six months of existence, the Commission has devoted most of its time and effort responding to the statutory mandate to submit a cost containment plan to the Legislature and the Governor in January 1993. The Commission's statutory charge also includes broader issues relating to the access, quality, and affordability of health care in Minnesota. The Commission will turn to these broader issues during 1993 after the cost containment plan has been submitted and approved through legislation.

The cost containment plan was developed collaboratively by the stakeholders in the health care system through their representatives on the Commission and through openness to community involvement and participation. The plan includes both major, long-term structural change to the health care delivery and financing system and short-term targeted strategies.

The Commission took very seriously the statutory charge that the plan reduce the rate of growth in health care spending by at least ten percent a year for each of the next five years, and believes its plan moves as quickly as possible toward achieving this goal. The Commission estimates that Minnesotans will spend about $150 to $200 million less on health care in 1994 as a result of the cost containment plan. By the end of five years, the Commission estimates that Minnesotans will have saved a cumulative total of about $6.9 billion. These estimates will be further refined in the coming months as more data is collected.

The Commission is committed to closely monitoring and evaluating the success of the plan in achieving cost containment goals. If at any time it appears that cost containment goals will not be realized, the Commission is committed to taking corrective action to keep Minnesota on target.

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*Chair.

Minnesota's health care system: a tradition of excellence

The Commission recognizes that Minnesota is a leading state in terms of the quality and efficiency of its health care system and the proportion of Minnesotans who have access to health coverage. The Commission is committed to ensuring that Minnesota continues to show leadership through continuous improvements in the health care system.

ERISA

The Commission recognizes the relevance of the federal ERISA (Employee Retirement Income Security Act) law to Minnesota's health care reform efforts. ERISA limits the ability of states to regulate the health benefits plans of employers, particularly large employers and group purchasers that "self-insure" their health benefit plans (they cover the entire cost of health coverage for their employees or enrolled members rather than purchasing insurance to cover these costs). The cost containment plan is designed to be attractive to self-insured purchasers and promote voluntary participation, thereby reducing the significance of the ERISA issue. Even though the Commission and its committees spent a great deal of time analyzing and discussing ERISA issues, they are not discussed in this report. Various state laws have been challenged on the basis that the laws were preempted by ERISA. The State of Minnesota has already faced one lawsuit and more challenges are likely. Because of the risk that public statements from a state entity assessing the ERISA impact of a particular proposal might ultimately be offered as evidence in a future legal challenge to the proposal, ERISA issues are not analyzed or discussed further in this report.

Long-term care

Long-term care costs are not presently included in the Commission's statutory charge. The Commission is aware of the substantial and growing expenditures associated with long-term care. Although long-term care is not a part of the overall cost containment plan, the Commission intends to monitor the costs and trends of long-term care along with other components of the system.

The definition of "price"

The word "price" is used throughout this report to mean the actual amount paid (after discounts or other adjustments) by the ultimate purchaser to buy health coverage and health care services. The word "price" is used in this manner in differentiate between health plans' costs of paying for health care services for insured individuals and the cost to the purchaser of buying coverage from a health plan.

The definition of "health plan"

The term "health plan" is used throughout this report to mean a company that sells health insurance or another form of health coverage. "Health plan" includes health insurance companies, health maintenance organizations (HMOs), nonprofit health service plans such as Blue Cross-Blue Shield, health carriers, and other organizations that are licensed by the state to offer health coverage.

KEY FEATURES

Under the cost containment plan, the Commissioner of Health will set an annual limit on the rate of growth in health care spending and will implement programs to achieve compliance with the limits. The plan includes health care reforms that will reduce costs and enhance quality through a more effective competitive marketplace. However, the entire health care system will be subject to overall limits and regulatory controls that will prevent excessive increases in costs. The major features of the plan are:

Integrated Service Networks: The plan uses incentives to encourage the development of competing Integrated Service Networks (ISNs) that are accountable for the cost and quality of their services. ISNs will be responsible for providing the full array of health care services (from routine primary and preventive care to acute, inpatient hospital care) for a fixed price for the purchaser, thus creating incentives for the participating providers and health plans to become more efficient. The development of ISNs will also facilitate competition because the quality and price of the ISN "product" can be more easily compared than services provided in fragmented nonsystems of independent providers.

Limits on growth: The plan uses global limits to protect consumers from excessive growth in health care costs without micromanaging provider and health plan budgets. The Commissioner of Health will establish an annual limit on the rate of growth of all public and private health care spending for Minnesota residents that will ensure that the projected rate of growth will be reduced by at least ten percent a year for each of the next five years.

Payment systems: The global limits on growth will be enforced by the Commissioner of Health through payment system reforms. The limits will be enforced differently for ISN and non-ISN health care services. Each ISN will be subject only to an overall limit on growth. Non-ISN services will be regulated through an all-payer system (in which multiple payers and health plans use a single payment system) that will ensure that overall growth in expenditures for non-ISN services does not exceed the growth limits established by the state.

A balance of competition and collaboration: The plan uses incentives to prompt changes in the marketplace so that ISNs will begin competing with each other to provide better quality service at reduced prices to purchasers and consumers. Competition will be facilitated by the collection and distribution of comparative data on the price and quality of each ISN. In circumstances where competition is likely to produce inefficiency or excess capacity, the plan facilitates managed collaboration of providers and networks. Competition and collaboration are balanced to produce the best possible environment for Minnesota consumers.

Purchasing reform: Opportunities for small groups to join together through public and private pooling mechanisms will be enhanced and facilitated.

Technology: The Health Planning Advisory Committee will evaluate selected technologies for safety, efficacy, health outcomes, and cost effectiveness. The technology assessment will be used by providers, health plans, employers and other purchasers, consumers, and ISNs to make decisions about coverage and appropriate use of technology. Because ISNs are accountable for controlling their costs and are subject to limits on growth, they bear the risk if they do not make appropriate, cost-effective decisions about technology. It is anticipated that regulatory controls will be necessary to control the diffusion and use of technology in the regulated system for non-ISN services.

Health care data systems: Comprehensive, coordinated health care data systems will be established to collect, analyze, and disseminate data on quality, price, revenues and expenditures. Information on health care spending will be used to establish growth limits and evaluate the success of cost containment strategies. Comparative data on ISN prices and quality will be widely distributed to inform consumers and purchases and encourage competition. Data on quality will also be used to evaluate and improve the quality of health care throughout the state. A resource center will be established through a collaborative public-private partnership to compile and disseminate information on health care costs and quality and provide related technical assistance to consumers, providers, employers, health plans, and other persons and organizations. The center will offer information and assistance relating to practice parameters, outcomes data and research, technology assessments, the prices and quality of ISNs, purchasing pools for small groups, consumer education, prevention strategies, and other initiatives.

Practice parameters: Practice parameters will be developed and approved to provide guidance to providers regarding the most effective methods of care and treatment. Providers who adhere to approved practice parameters will be protected from malpractice liability.

Prevention: Public and private prevention activities will be enhanced and expanded.

Consumer education: Consumer education programs will be established to empower and encourage consumers to make informed, wise choices about buying and using health care services and to encourage and motivate consumers to adopt healthy lifestyles that will reduce health care costs.

Regional Coordinating Boards: Regional Coordinating Boards will provide local input to the Commissioner of Health and the Commission regarding statewide cost containment programs and will serve as a local connection for statewide activities and a forum for local efforts to improve health care in each region.

Public commitments of health plans and providers to voluntarily reduce growth in costs: Health plans and providers will be challenged to make a public commitment to reduce the rate of growth of their costs and prices by at least ten percent. Health plans and providers who make the public commitment will submit trend projections and data that will be used to monitor and evaluate their success in meeting the targets. The names of participating providers and plans will be published and general information on their success in fulfilling the commitment will be distributed to employers, purchasers and other interested groups.

Special projects with short-term cost savings: In addition to the structural health care system reforms and major cost containment initiatives that will be implemented under the Commission's cost containment plan, a number of specific, targeted strategies that have the potential for short-term cost savings will be undertaken in areas such as reducing provider fraud, reducing health care advertising, improving immunization programs, reducing tobacco use and improving birth outcomes.

COST CONTAINMENT PLAN

Overview of the cost containment plan

The Commission's cost containment plan includes both long-term major restructuring of the health care system and initiatives to achieve short-term cost containment goals. The plan combines many different strategies into a comprehensive package. Under the plan, limits on growth in health care spending will be established and enforced by the Commissioner of Health to ensure that the rate of growth is reduced by at least ten percent a year for each of the next five years. The plan encourages the formation of Integrated Service Networks which are integrated networks of providers and/or health plans that are fully accountable for providing the full continuum of health care services to their enrollees for a fixed dollar amount. Integrated Service Networks will compete on the basis of both cost and quality. Competition and Collaboration will be balanced to produce the best possible environment for health care consumers. Technology will be evaluated for effectiveness and value. Practice parameters will be developed and approved. Prevention and public health activities will be promoted and enhanced. Consumer education programs will be conducted. Health care data collection systems will be developed and implemented. Short-term cost containment strategies will be implemented. Health plans and providers will be challenged to make a public commitment to voluntarily reduce their own rates of growth.

Each component of the cost containment plan is summarized later in this report.

Limits on growth

The 1992 Health Right Act requires the Commissioner of Health to establish an annual limit on the rate of growth of total public and private health care spending in Minnesota. The limit must reduce the current rate of growth by at least ten percent a year for each of the next five years. Under the legislation and the Commission's plan, health care costs may continue to grow, but at slower rates than those now being forecast.

To set the limit on growth, the Commissioner must first forecast the rate of growth that would occur without any cost containment initiatives. Then the Commissioner will set a growth limit that will ensure that the actual rate of growth will be at least ten percent less than the forecasted increases that Minnesotans would otherwise experience. For example, if the Commissioner estimates that the amount Minnesotans spend on health care will increase by 10 percent from 1993 to 1994, the Commissioner must limit the actual rate of increase to 9 percent or less. This process is repeated each year for the next five years. Using the example of a 10 percent annual rate of increase, the annual rate of growth in costs would be reduced from 10 percent to 5.9 percent by 1998.

Based on preliminary estimates of total spending and assuming a hypothetical rate of increase of 10 percent a year, the implementation of the spending limits and the cost containment plan will mean Minnesotans will spend from $150 to $200 million less on health care in 1994 and by 1998 will have saved a cumulative total of $6.9 million dollars. Estimates of total spending and growth rates will be refined in the coming months.

The 1992 Health Right Act requires the Commissioner of Health to use 1991 as the base year for estimating total spending and rates of spending growth. Using 1991 as the base year helps to ensure that the base level of total health care spending is not artificially inflated by individual providers or health plans who increase their rates during 1992 and 1993 in order to anticipate or offset limits that will be established for 1994. Artificial inflation or padding of costs or prices will be monitored and addressed through adjustments to the base year spending totals or future spending limits or through other methods to be developed by the Commission in the coming months.

Data collection strategy

A data collection strategy was adopted by the Commission early in its deliberations to collect the best figures possible in 1991 health care spending to meet the January 1993 deadline for submitting a report to the Legislature. The strategy involves working directly with the major payer groups (health insurance companies, HMOs, Blue Cross-Blue Shield, large employers, and government programs) to determine the growth rate in health spending between 1990 and 1991. This strategy will capture spending on personal health care services for approximately 60–70 percent of covered individuals in the state.

More detailed information will be needed from both the provider and payer groups. As more data becomes available, the state will be able to more closely monitor Minnesota health care spending and adherence to the spending limits. The Commission will collect data from providers beginning in July 1, 1993. This data will be used along with the data from payers to track total health expenditures in the State of Minnesota. The two levels of data will be used to document revenues and expenditures and to cross check the data provided by each method.

The data collection strategy is described in more detail in the section on Spending Data and Trend Projections.

1994: The first year of spending limits

The inadequacy of existing data on health care spending handicaps the short-term implementation of the cost containment plan. The Commissioner of Health and the Commission are implementing a comprehensive, statewide data collection initiative that will allow Minnesota to begin collecting detailed data on spending in January 1994. For the time period before this, the Commission must rely upon aggregate figures and estimates which cannot serve as the basis for enforcement or regulatory action against individual providers or health plans. For this reason, the Commission's plan contemplates that calendar year 1994 will be the first full year that is subject to a limit on the rate of spending growth.

Responsibility for implementing the plan

Most components of the cost containment plan will be implemented by the Commissioner of Health. As envisioned by the 1992 Health Right Act, the Commission will provide extensive and detailed recommendations to the Commissioner and closely monitor implementation by the Commissioner. The 1992 Health Right Act requires the Commissioner of Health to submit a report and explanation to the Legislature any time the Commissioner departs from a recommendation of the Commission.

CONCLUSION

The Commission's cost containment plan is an important step in a continuous process of improving the Minnesota health care system. A great deal of work lies ahead, including adding more detail to the plan, the drafting and enactment of legislation, state agency rulemaking, implementation of the various components of the plan, and ongoing monitoring, evaluation, and refinement of the plan's initiatives. These activities will be undertaken collaboratively in an open process that maximizes opportunities for input from all interested persons and organizations.

While the focus of this report is on cost containment, the Commission soon will be expanding its activities to encompass broader issues such as health care quality, access to health care services, rural health care, and long-term care. Because of the commitment and enthusiasm that has been shown by Commission members and because of the success of the Commission in achieving a consensus on significant, comprehensive health care reform, the Commission is highly optimistic about the future of Minnesota's excellent health care system. The coming years will bring continuous improvements and enhancements in the quality, accessibility and affordability of health care in Minnesota.

THE PERSONAL RESPONSIBILITY FOR HEALTH COSTS

With amazing speed and harmony, the Minnesota Health Care Commission has produced for legislative consumption a comprehensive strategy for saving a whopping $6.9 billion in health-care costs in the state over the next five years. It contains many commendable features.

Less commendable are early signals from legislators about which parts of the Commission's work they find problematic.

Controversy might be expected to surround the proposal's call for a large-scale experiment in paying for health services through "integrated service networks" that will both collaborate and compete with one another. Promising as that approach sounds, it's still a march into uncertain territory. A full airing is warranted of critics' claims that such "managed competition" concentrates too much on cost savings in patient care, while not doing enough to force more efficiency from insurers and health-care administrators.

But that's not what has legislators stirred up. Rather, it's the commission's endorsement of measures whose ability to improve the health and longevity of Minnesotans is much less in doubt—measures aimed at getting people to quit smoking, drink less alcohol, buckle seat belts, and wear a helmet when they ride a motorcycle or snowmobile. Legislators are dusting off all the old arguments about the state trampling on personal freedom, about government's heavy hand reaching too far into private behavior.

The commission's report should put those tired lines to permanent rest. Excessive smoking or drinking, driving without a seat belt or motorcycling without a helmet isn't just private behavior. Those things are significant contributors to a major societal problem, runaway health-care costs.

Like many of the ills facing America, the crisis in health-care financing doesn't lend itself to resolution by one knight on a white horse, or in a White House. Many individuals must make changes if health-care costs are to come down, and Americans are to live healthier, longer lives. At a time when a new president is calling Americans to greater individual responsibility for the common good, it would be fitting for the Legislature to call Minnesotans to greater personal responsibility for their own health.●

ROBERT SAMUELSON ON FEDERALISM

●Mr. DURENBERGER. Mr. President, I would also like to draw the attention of my colleagues to an important article published in the Washington Post op-ed page by Robert Samuelson. I ask that the article be included in the RECORD at the conclusion of my remarks.

At a time when the President, Mrs. Clinton, the U.S. Congress, and numerous private citizens are tackling a fundamental overhaul of U.S. health care, nothing could be more important than

establishing a clarity of national purpose.

If we want to succeed in health care reform—just as in any other field of endeavor—we have to start with a clear idea of what we are trying to accomplish, and which actor is best suited to which task.

Today's article by Robert Samuelson reminds us that the trend of the last 50 years has been from a positive aversion to any Federal role in solving problems to an absolute overreliance on Federal intervention.

We need to be much more attentive to the question of which level of government, and which private actors, are best suited to play which particular roles in health care. For much too long, this debate has been sidetracked into cliched partisan talking points—"Democrats want more government, Republicans want less."

It is much more complicated than that. We need to decide who does what best. I would argue that providing income security for low-income Americans in health care is a legitimate national purpose—and also that this is a properly Federal task. The Federal Government ought to subsidize coverage for the uninsured.

But to ask the Federal Government to run the complex and massive U.S. health care system would once again trap the Federal Government in a role for which it is unsuited. This would court disaster—and lead to certain disappointment for the hopes we all share about health care reform.

Let us divide up the task of health care so that each actor—the Federal Government, the States, doctors and consumers—does what it does best, and is held accountable for the results.

This ought to be the goal of any successful health care reform package.

The material follows:

[From the Washington Post, Jan. 27, 1993]

OUR LOVE-HATE RELATIONSHIP WITH GOVERNMENT

(By Robert J. Samuelson)

Broadly speaking, President Clinton's nemesis is the modern welfare state. By welfare state, I mean something beyond the usual narrow concept: government as helper of the poor. The modern welfare state differs radically from that. It touches all of us, providing us with benefits of various types and claiming a huge part of our incomes. It creates a vast web of dependency on government that is the ultimate source of huge budget deficits and, quite perversely, distrust of government.

The generational change of which Clinton spoke in his inaugural address could well be this transformation of government. In 1955, when Clinton was 9, defense spending accounted for 62 percent of federal outlays and "human resource" spending for only 22 percent. Of that, veterans' benefits were a third and Social Security an additional third. By 1992, the proportions had almost reversed: 56 percent for human resources, 22 percent for defense. In the intervening years, we created Medicare, Medicaid, food stamps, federal college loans and much more.

No president has successfully grappled with the political consequences of this upheaval. Becoming responsible for the welfare of the many, government also incurs the wrath of the many. Consider how government has become central to our lives. In 1990, 34 million of us qualified for Medicare, 1.7 million got farm subsidies and 22 million received food stamps. Millions benefit from tax breaks: interest deductions on home mortgages, the tax-exempt status of health insurance and other fringe benefits.

But while government earns our gratitude, it also stirs our resentment. Dependency creates a backlash. We detest the limitations, the conditions, the paperwork, the hassles and the occasional humiliations that accompany our benefits. We fear that benefits may be cut or modified. Even when they seem safe, we resist higher taxes to pay for other people's "unworthy" benefits. Paradoxically, government's very generosity helps make it unpopular. Government does so much for so many that anyone can find something that seems wrong or unneeded. My benefit is a public-spirited necessity; yours is ill-conceived waste.

What makes these conflicts so unmanageable is that we have no public philosophy by which to judge government. By public philosophy, I mean widely shared beliefs about what government should—and should not—do. This crippling deficiency dates to the Great Depression, when economic collapse gave rise to a new concept of government. The general idea was (and is) that government should act to protect people against the defects, instabilities and hardships of private markets. The trouble was that this new concept of government is utterly open-ended.

To justify government support only requires a showing—strong enough to convince Congress—that a "problem" exists that government might ameliorate. We gradually moved from an era when people were loath to use government for almost anything to an era (today) when people use government for almost everything. In 1929, federal spending was only 2.8 percent of the economy's output. Now, it is 24 percent. Our welfare state aids the old, supports scientific research, subsidizes art and runs a railroad. We undertook these commitments in part, because we assumed, in the 1960s and 1970s, that they could be easily financed with the taxes generated by rapid economic growth.

In an arithmetic sense, the budget deficits result from our over-optimistic economic assumptions and a loose concept of government. We simply borrowed to pay for bigger government, because the tax burden has actually remained stable. (In 1968, federal taxes equaled 18.1 percent of the economy's output; in 1992, the ratio was 18.6 percent.) But in a larger sense, the deficits stem from an inadequate public philosophy. We lack the popular consensus that would enable the political process to cut some spending programs—because they're not deemed worthy of government support—and raise taxes to cover the rest.

There is a huge dilemma here. To close the deficits risks public anger and cynicism, because the president and Congress would break past commitments. But to let the deficits languish also arouses public cynicism, because government seems incapable of governing. We do not want the status quo disturbed, even though we find the status quo disturbing. Whether Clinton can overcome this dilemma will measure his political skills. By words or deeds, he needs to create clearer boundaries between governmental and private responsibilities. The problems of the health care system, incidentally, involve the same basic questions.

As yet, Clinton has no workable public philosophy. He talks of "change," "sacrifice" and "responsibility," but the details that would give these words meaning are missing. Inconsistencies abound. He pledges to cut budget deficits but plugs new programs that seem unrelated to critical national needs. His plan for "national service" (allowing students to repay college loans with two years of community service) could cost, if fully funded, at least $13 billion annually, Bruce Chapman, former Census Bureau director, recently wrote in The Washington Post.

If Clinton persists, he will perpetuate a tradition of bipartisan timidity. Ronald Reagan attacked Big Government in the abstract without actively campaigning to curb programs he thought unneeded. George Bush believed the issues so sensitive that they could be handled only in quiet bargaining between the White House and Congress—which meant that not much got done. The deadlock is not between Democrats and Republicans so much as between politicians and the public. Easy escapes don't exist. In fiscal 1993, the projected deficit ($327 billion) exceeds all defense spending ($289 billion). Any tax increase that raises major money must hit the broad middle class.

Sooner or later, we need to come to terms with the welfare state. We need more rigorous standards for judging whose welfare is being advanced, and why. As it is now, the welfare state is too big and intertwined in our social fabric for conservatives to dismantle. But is too expensive and unpopular for liberals to expand endlessly. The irony is that the welfare state arose in the 1930s as an antidote to the insecurities of free markets. More than 50 years later, it has itself become a wellspring of anxiety and contention.

DESIGNING AN INFRASTRUCTURE FOR HEALTH REFORM

(By Dave Durenberger, U.S. Senator for Minnesota)

INTRODUCTION

Health care reform is now clearly on the national agenda. There has been a great deal of debate about health care among politicians, policy analysts, interest groups and the general public. As a result, reform plans have proliferated, offering a wide variety of proposed solutions. The discussion and analysis these plans have generated helped educate all of us on the complexities of the health care system in the United States.

A consensus appears to be emerging out of the debate; a consensus that crosses lines of ideology and party. There is agreement that we must provide universal access to superior quality, cost-effective care through universal coverage of financial risk. Despite disputes about details, there is also a growing consensus that both the public sector and the private sector will play important roles in any reform plan.

The term "managed competition" is gaining currency as a way to describe the new consensus. Coined by the Jackson Hole group in which I have had the opportunity to participate, managed competition embodies the notion that the marketplace should provide the competition and the government the management—a true public-private partnership.

As the health care reform consensus evolves and solidifies, we will have to resolve critical details of financing, budgets, and so forth. We have plans aplenty that are full of options. I recognize that we will have to make difficult trade-offs in order to hammer out an agreement on a reform plan.

In my view, however, there is a crucial missing element in the present plans that must be addressed. All of the plans ignore or minimize basic issues of infrastructure. Regardless of how we ultimately resolve the details, it is essential that issues of infrastructure be recognized.

Infrastructure refers to the institutional foundations that are critical to maintain an organization, system or community, and support its evolution and change. Infrastructure is critical to health care at several levels—in the public sector, in the private sector, and where the two intersect. Structural change cannot simply be mandated; we need to institutionalize a process to facilitate and promote change.

Infrastructure reform would not be pivotal if we were simply going to replace the market with regulation. But, building a capable infrastructure is essential if we are to have a truly competitive market and a government able to manage that market.

If we are to reach our stated goal—universal access to superior quality, cost-effective care through universal coverage of financial risk—our health care system must become more productive. Productivity simply means that we get better access to quality care for fewer health care dollars.

Productivity is an enormous challenge and requires behavioral changes by all the actors in the private sector—consumers, providers, insurers, employers. It also requires that governments, federal, local and state, become more productive as well.

Making government more productive requires bold action. We need a strong commitment to question fundamental relationships between levels of government and with the private sector. This paper lays the foundation for infrastructure reform so that we can meet this challenge.

I want to stress that this report is not another health plan. This paper articulates why a change in the public and private infrastructure is essential to accomplishing enduring health reform. It sets forth the principles that will guide our infrastructure reform, provides a context for understanding the present problems, and points the way toward building better institutions for meaningful and long-lasting change.

CHAPTER I. PRINCIPLES FOR REFORM

In order to reform our infrastructure, we must return to basic principles of government.

First, we must begin with a new definition of health. Without this we will never sort out the responsibilities of all the participants in the health care system. Health includes three components: public health, medicine and long term care.

Redefining Health

By public health, I mean disease prevention, health promotion, the elimination of social problems that reduce physical well-being. These include personal safety, adequate food and housing, a clean environment, occupational health and safety. Viewed from this perspective, we confront issues of health in the headlines of our newspapers every day. We will not be able to grapple with our medical care system until and unless we address our public health problems.

Medicine applies to acute care services. Our public health failures have overburdened our medical care system. For example, lack of prenatal care and substance abuse produces low-birth weight, premature infants. Smoking is the single most preventable cause of death and disease in our country. Too many reform plans try to expand access medicine without confronting the underlying public health problems.

Long term care deals with chronic conditions, the aging process, and gradual loss of function. It is the successes of our acute care services that have presented us with the challenge of an expanding aging population. Many of the needs of the elderly do not require medicine, but do require nurturing, housing and living assistance. Our current financing and medical care systems either ignore these needs or price them beyond the capacity of most individuals in need.

Government has become deeply involved in all three components of health. But we have no clear delineation of the health and medical care responsibilities among levels of government, the private sector and individuals. Without clear-cut responsibilities, we lose the ability to hold decision makers accountable for results.

Returning to Principles of Federalism

Intergovernmental relations are key to rationalizing our system of health care financing and delivery. The existing public infrastructure is dysfunctional. We have overlapping, duplicative, and inconsistent policies emanating from the states and the federal government. It has taken years for this ad hoc, complicated, interrelated system to develop.

It is essential that we untangle these relationships. A new house cannot be built without careful attention to the foundation. The foundation begins with the fundamental principles of federalism.

The United States is a nation of dual sovereignty, shared between the national government and the states. Although the Supreme Court has broadly interpreted federal power under the Constitution, it is the responsibility of Congress to use federal power sparingly but effectively. I have written and spoken widely about the principles of federalism which can help us determine when federal intervention is appropriate, and when authority should be left to the states.

The federal government can secure individual rights, promote economic growth, intervene where states cannot be effective or efficient acting alone, or when costs among states must be equalized. The federal government also can provide for the income security of all Americans.

I have a preference for state and local government unless there are clear reasons why the federal government is the appropriate level to undertake any given task.

Role of the Federal Government

In relation to health care, there are several key roles for the federal government to play. Its principal role must be the guarantor of income security for all citizens. Only the federal government has the resources to ensure that every American has protection when catastrophic illness strikes. The states do not have the resources to guarantee equitable access for all. Unfortunately, the federal government has not undertaken this responsibility to date. Many states are laboring mightily to fill an economic void without adequate resources to do so.

The federal government must also play a role in other areas where national policy is needed. We need a national manpower policy to equalize resources among states and redeploy them in underserved areas, both rural and urban. We need to continue our strong federal biomedical research activities and greatly expand our capacity to evaluate medical procedures and products at the national level.

Role of State Government

There are institutional reasons why states must play very different roles. States are unique. Every state has an individual set of circumstances, populations, geography, and infrastructure. States understand these differences and will be more responsive to them than will the federal government.

The primary role of state governments in health care should be to provide for the public health of their citizens. If states were freed from the burdens of acute care financing for low-income populations, they could develop programs for health care delivery systems and public health services. States can also design incentives for strengthening the family, neighborhood, community, and the workplace. States can also support local governments which are the constitutional creatures of the state, to help them foster and reward good health in every community.

Understanding the Market

Once we untangle the intergovernmental inefficiencies, we will be ready to address the appropriate role of government in relationship to the private sector. Again, we must return to basic principles to help guide our understanding of the private marketplace and of private-public interaction.

The private sector refers to the action of individual people as well as the groupings that individuals form, including families, workplaces and institutions, that provide for and pay for their health care.

I have a preference for private sector decision making that is based on the fundamentals of our political economy—competitiveness, capitalism and pluralism. Functioning markets lead to productivity, innovation, and efficiency.

I have identified five key factors in the health care marketplace—four of which are private sector, and the fifth is government. The private sector actors include providers, insurers, employers, and consumers. We must involve all the actors in system redesign without allowing them the power to obstruct the flow of change.

The core of any functioning marketplace in health care is consumer choice. Consumer choice, appropriately informed and financed, guarantees producer competition.

However, not all markets work perfectly. Where market failures exist, there is a role for government intervention in some form. Examples include antitrust laws, consumer protection, and environmental regulations, to name a few. The nature of the intervention must depend upon the unique characteristics of the marketplace and the social goals we seek to obtain.

Perverse incentives have created serious infrastructure problems. We have significant problems of overcapacity and misallocations of resources. We have too many hospital beds, too much high tech equipment, and too many specialists. Amidst this oversupply, we have many areas and populations that are seriously underserved.

We cannot build a reformed system without addressing overcapacity. Supply-induced demand will overwhelm efforts to control costs and manage utilization. The marketplace cannot do it alone. Unsupervised, the market will win every time.

Designing Public-Private Partnerships

Despite these failures, I believe that the marketplace can be managed and should not be replaced by regulation. In relation to health reform, the goal of access to superior quality services can best be achieved by a healthy public/private sector cooperation. Competition produces productivity, which is essential to cost-efficient, innovative care. Government should design incentives to manage competition to prevent market failure. In short, government must act as a facilitator of the marketplace.

Pluralists recognize that interest groups provide value in the effective functioning of government. Any sustainable reform plan must allow the major interest groups to survive and thrive. Any paradigm that benefits some stakeholders at the expense of others cannot be accepted as part of the long-term design.

Creating true public-private partnership will be a real challenge. We will need to build successful entities that combine the accountability and stability of government with the flexibility, efficiency, and creativity that characterize the private sector. These new institutions will provide the process for behavioral changes in how we deliver and in how we utilize health care. These institutions must embody new thinking about the role of government, guided by principles of federalism and the need for public-private cooperation.

There appears to be a fair degree of skepticism about whether the government can address market failures successfully. That skepticism is well-founded. Government bureaucracy can be slow, inefficient, unresponsive, and frustrating to deal with. Unless we redesign government institutions, we cannot improve government's capability to manage the competitive environment.

Redesigning the Federal Bureaucracy

The redesign of government institutions must clearly delineate between the federal government and the states as well as relations with the private sector. In our new system, the federal government will become the arbiter of federal-state relations, a facilitator of market reform and competitive activities, and a central repository of biomedical research and evaluation activities.

In short, the federal government must facilitate, not regulate. If we are going to have successful managed competition, we must focus on the institutions in government that will provide that management. Government must help restructure the private market without destroying it.

These new roles require new characteristics in the institutions of government:

Partnership with the private sector means we must abandon adversarial relationships and work toward models that enhance cooperation.

Government institutions must be both stable and responsive. Health care in America is dynamic and constantly evolving. We need a federal bureaucracy in place that can respond, flexibly and creatively to changing demographics, innovations, resources, and values.

Branches and divisions within the federal bureaucracy must communicate across functional lines. We have finally learned that health care is not a single enterprise, it requires policy coordination to work effectively.

State and local governments must also foster productivity and cooperate with relevant and related federal agencies.

These new institutions must embody the best of both worlds. From the public sector—accountability and stability; and from the private sector—efficiency, flexibility, and responsiveness. Only then will the new bureaucracy accurately reflect a revitalized federalism, promote a public/private partnership, and respond to the needs of states, communities, and individuals.

Chapter II presents additional details on my swap proposal that would realign federal and state infrastructure and income support for medical assistance.

Chapter III lays out a new federal infrastructure that will promote health care reform and enhance federal leadership in those areas which can be uniquely supported through new federal institutions.

CHAPTER II. STATE FUNCTIONS

Health care reform is likely to put increased responsibility on states, no matter what plan ultimately emerges. States are in a unique position to understand their populations, the nature and demands of their private sector, and the need for enhanced delivery systems.

States are currently reeling from a legacy of federal mandates, reductions in financial assistance, and declining state revenues. If states are to assume an enhanced role in promoting access to health care, they must be given clear authority and financial stability to accomplish these responsibilities.

The first step in state health care reform is a fundamental shift in responsibility between the federal and state governments. Based upon the principles of federalism, we will better define and delineate state responsibilities and will provide states adequate financial and administrative flexibility to accomplish its goals.

There are four critical state functions. States will: 1) support the public health infrastructure and delivery systems, 2) design health care systems for low income individuals, 3) coordinate health insurance buying programs to create managed competition for the business sector, and 4) become laboratories for experimentation in productivity and evaluation.

Medicaid Restructuring

Although certain reforms in the insurance market will likely reduce the number of persons who are currently uninsured, there will continue to be a group of low income individuals who will require financial assistance to procure health care services. A significant portion of this low income population is currently covered by Medicaid, a program which is fundamentally flawed in several ways:

Medicaid covers only certain low-income individuals because it is linked to other cash assistance programs.

Medicaid varies in eligibility, scope and duration of services from state to state.

Medicaid does not insure access to private providers and contains disincentives which result in the use of more costly emergency room and hospital care.

Medicaid bears a disproportionate share of spending on long term care and nursing home care.

Medicaid costs are rising rapidly, representing the single largest item in state budgets.

In order to overcome these fundamental problems, the Medicaid program should be redesigned to become a national income-based eligibility program that is consistent across states and provides a flexible system that allows low income individuals to have access to medical care.

The new health access program for low income individuals will shift financial responsibility to the federal government and give administrative flexibility to the states. It will also break the categorical linkage between public assistance and Medicaid eligibility by making income the sole criteria for eligibility.

I am proposing that states receive an annual capitation grant based on the number of low income individuals in the state, as defined by national income eligibility standards. The federal government will establish a uniform national eligibility level based on a given percentage of the national poverty level. This level can be phased up as resources become available.

The federal government will also establish a health care benefit package including basic medical care services and preventive and primary care. Benefits will be equitable across states and could be phased beyond a standard minimum benefit package over time. States will have the option to either enroll eligible individuals into health insurance plans or to provide vouchers directly to individuals to purchase health insurance.

The new program will make the public provision of health care benefits more uniform nationally, in eligibility and the range of available benefits, and will emphasize the provision of primary and preventive care. The use of capitation will promote more efficient delivery of medical care through case management and capitated financing arrangements and should serve to reduce inappropriate use of emergency rooms, hospitalizations, and high technology medicine.

Long Term Care

The need for long term care is a growing part of the health care continuum. Although Medicaid is the single largest supporter of long term care services, the current system suffers from many of the problems that exist in the acute care portion of Medicaid. Many of the services provided under Medicaid are for personal care and social services, benefits that may be provided more effectively outside of the medical care system. State flexibility to serve this population is restricted, however, by a myriad of government mandates and regulations.

As with acute care, states must be given financial and administrative flexibility to create a continuum of care for the long term care populations. The federal government must create incentives for states to develop cost-effective programs that are tailored to their population needs, and that build upon social as well as medical systems of care.

One way to achieve this goal is to capitate the federal contribution for long term care to states based on the number of eligible individuals in each state. Under this approach, states will retain responsibility for the remaining long term care costs using their current contribution to Medicaid long term care and their increased flexibility to use other public and private programs.

I believe a capitated approach has several advantages. Prospectively determined federal funding will control total program costs. States will have the flexibility to develop a program of continuing care services within a known amount of resources.

This approach will also create stronger incentives for states to provide cost-effective systems of care for their eligible population. It will allow states to tap existing programs that now separately serve the continuing care population, such as Title XX and the Older Americans Act.

State Public Health Infrastructure

While the federal government has been establishing mandates on states for low income medical care, they have been creating a multitude of federal categorical programs to address specific health and social service needs. These programs are categorized by different distribution formulas, application processes, and program requirements.

In addition, the federal government has been segmenting the financing stream by sending some funds to states, some to counties and cities, and some to individual grantees. The result is a patchwork infrastructure that consists of costly programs that are not always comprehensive and are often unresponsive to individual needs.

To resolve this myriad of program requirements and bureaucratic detail, I believe it is critical to shift responsibility for the public health infrastructure to states. By swapping financial responsibility for income security to the federal government, states are in a stronger position to assume responsibility for selected health and social service programs.

The goal of this "swap" is to turn over the support of the public health infrastructure to the states. States, freed from the burdens of Medicaid financing, will have the resources to build this structure. The swap will increase the flexibility of state government, allowing funds to be targeted more efficiently and effectively to vulnerable populations. The restructuring will also eliminate detailed program rules and regulations to allow better targeting to meet the rapidly changing needs of various populations.

Under this approach, states will assume responsibility for establishing and maintaining the public health and social service infrastructure for their state, counties, and localities. States will assume responsibility for identifying underserved areas and for assuring access to medical care through community and migrant health centers, drug treatment, mental health services, family planning clinics, etc. States will have the flexibility to combine streams of funding and to locate or collocate services in appropriate settings to meet the needs of each state.

A set of criteria will be developed to select programs for the swap. For example, programs that currently support state activities will receive the highest priority. Programs that address problems that affect every state, and that are cost-effective, community-based prevention interventions such as childhood immunization, lead poisoning prevention, and breast and cervical cancer screening, will also be included. Programs that target underserved areas such as community health centers and the National Health Service Corps loan repayment program could also be turned over to states because they are better able to identify underserved areas and distribute resources within the state.

Programs that are not evenly distributed across states such as demonstrations, or programs that address national goals such as health professions training, will be retained as a federal responsibility.

To assure that states meet their obligations to support public health and social service programs, states will be measured against a series of outcome measures, such as the Year 2000 objectives for the nation. An incentive system will serve to reward or discipline states that were successful or unable to meet their goals.

This proposal is based on a series of assumptions about the willingness and ability of states to respond to increased flexibility and responsibility. States must be able to identify appropriate priorities and to address the needs of both rural and urban areas of their state. Different components of states, including the health department, financing, and maternal and child health departments must be able to work together and be willing to designate to local areas the authority to design and administer local programs.

Health Insurance Market Reform

The insurance market for small groups presents the biggest failure of the private insurance market. Small business pays the highest premiums, and is subject to the most aggressive underwriting of any segment of the private employer marketplace.

In the Jackson Hole model, the federal government will take charge of certain market reforms, including a federally determined basic benefit package with a commission to update the package, tax subsidies set at the level of the lowest cost plan in the region, national underwriting reforms to restore equity, and administrative support for data analysis for the states.

States will continue to oversee insurance markets, as they have traditionally done. A significant new role for states will be the coordination of Health Insurance Purchasing Cooperatives (HIPC). States will be responsible for establishing and facilitating cooperatives that will purchase and manage large blocks of insurance for small businesses. By creating managed competition among insurance providers, states will assist small businesses and their employees to obtain lower premiums. States will act as facilitators to ensure that the marketplace serves all clients, not just large businesses.

CHAPTER III. FEDERAL FUNCTIONS

In order to lead the way in facilitating health care reform, we must restructure the federal bureaucracy. It must reflect the appropriate role of government and be adaptable to an emerging new health care system.

The first step is to raise the visibility and streamline the functions of government by creating a new Department of Health. The Department of Health will be a cabinet level Department within the Executive Branch, administered by the Secretary of Health. The Department will consolidate all components of health and medical care that contribute to the implementation of health care reform.

The structure of the Department will be based on an academic "campus" model with five centers which are policy hubs for critical aspects of the health care system. This model will require interaction across centers, each of which will be responsible for research, evaluation, and policy development. It will also be designed to enhance public-private collaboration.

In order to facilitate decision making and effective reform, the Department will be advised by an independent Health Reform Board. This Board will also advise the President and the Congress on all aspects of health reform.

Health Reform Board

Cost containment strategies can be expected to become an integral part of any health care reform proposal. However, cost containment efforts to date have fallen far short of establishing and meeting specific goals.

In order to provide an independent group of experts to establish policies on cost containment strategies, a Health Reform Board will be established as an independent advisor to the Secretary of Health, the President and the Congress.

Although what I am proposing appears radical, I believe it is necessary to break the deadlock on health care reform and move forward. Cost containment will be a critical part of any reform plan, but the strategy must be based on consensus development and sound information. We cannot afford to spin our wheels arguing around the margins. We know what we have to do and we must move ahead. I believe the model proposed here will be an effective vehicle for defining our cost containment goals and designing an effective strategy that all sectors of the health care marketplace can embrace.

I believe that we should establish a group based on the successful model of the Commission on Base Realignment and Closure created by Congress in 1988 and modified in 1990. Congress created the Commission after several legislative efforts failed to close major military bases. The Commission was directed to make recommendations to Congress and the Secretary of Defense on base closures and realignments.

The federal government will face the same types of political and policy opposition to critical cost containment strategies as we faced in base closures. In order to create a dynamic, effective mechanism for establishing cost control principles, a Health Reform Board will be necessary to provide the Secretary, the President and Congress with innovative, effective cost control strategies independent of politics.

Similar to the Base Closure model, the Health Reform Board will be composed of members appointed by the President, with the advice and consent of the Senate. Based upon the successful models of the Physician Payment and the Prospective Payment Commissions, the membership of the Board will include individuals with national recognition for their expertise in health economics, hospital reimbursement, hospital financial management, medical effectiveness, and other related fields. They will be appointed on the basis of their talents, not solely by affiliation with an interest group.

The Board will develop an annual agenda of cost containment issues and will make this agenda available to the Secretary of Health, the President and the Congress. The Department of Health will be responsible for generating information to address the cost containment agenda, but it will be up to the Board to develop annual recommendations to meet health care cost containment goals.

The Board will hold hearings on the findings and conclusions of the Department and will prepare a report to the President on them. The President will transmit to the Congress a report containing the President's approval or disapproval of the Board's recommendations. The Secretary of Health will be obligated to implement the final recommendations unless Congress disapproves them within 45 days of receipt of the report from the President.

I believe this approach will allow us to receive sound advice on effective cost containment strategies that reflect the views of the public and private sector. It will allow the Department of Health, the President, and the Congress to review annually the proposals for cost containment, but it will expedite decision making so we can stop spinning our wheels. There will be some bitter pills to swallow, but at least we can help the medicine go down smoothly through this type of approach.

Centers

The new Department will be based on those functions that government does best, and be structured to promote information generation and policy formulation. The new Department of Health will consist of five centers: Biomedical Research, Medical Evaluation, Health Resources, Income Security, and Market Reform.

Each center will be administered by a Director, appointed by the President, and confirmed by the Senate. Each center will include an Office of Policy to advise the Director and to provide internal oversight, and will act as the principal liaison with the other centers.

Center for Biomedical Research: The federal government has a proven record in biomedical research and this function should continue to be supported in the new Department of Health. Under this new structure, we will create a continuum of information generation through basic and applied research, and link this to information dissemination.

To accomplish these goals, the Center for Biomedical Research (CBR) will support biomedical research and training, health information, and other programs with respect to the prevention, diagnosis, and treatment of diseases that affect human health.

The Center will assume the responsibilities of the National Institutes of Health, as well as the research programs of CDC. The Center will be responsible for basic, applied and developmental research and training through intramural and extramural activities. The Center will also retain responsibility for information dissemination about research findings.

In order to form a continuum leading from research to effective medical practice, the Center will forge a close linkage with the Center for Medical Evaluation (CME). An annual agenda for medical effectiveness information will be developed jointly by CBR and CME to effectively link new biomedical research information with medical practice. Large scale clinical trials, for example, could be supported on new or existing technologies jointly by CBR and CME.

Center for Medical Evaluation: I believe we must make an investment in medical evaluation commensurate with our investment in biomedical research and medical care delivery. We must also break down the artificial barriers between research, development, regulation and evaluation. We must also get better at using medical evaluation to support our health care reform and cost containment strategies.

The Center for Medical Evaluation (CME) will support research and evaluation on medical effectiveness through technology assessment, consensus development, outcomes research, practice guidelines and other appropriate activities. The Center will also support research and evaluation and will develop policy guidance on coverage for medical care services, long term care and chronic care, medical liability and on cost containment strategies.

The Center will assume the responsibilities of the Agency for Health Care Policy and Research (AHCPR), the Drug, Device, and Biotechnology Regulation (formally FDA, with food regulation consolidated in the Department of Agriculture), the National Center for Health Statistics (NCHS), the Office of Medical Applications of Research (OMAR), and the HCFA Office of Research and Demonstrations (ORD).

The goal of this center is to help develop a health care system that is based upon the best knowledge available on the effectiveness of health care services. This information will be critical to defining and updating a minimum benefit package, for example. It will also be important for developing effective cost containment strategies based on knowledge about appropriate utilization of medical services.

Center for Health Resources: Although my swap proposal would transfer public health infrastructure functions to the states, there will continue to be a federal role in manpower development and disease surveillance. There will also be a critical need to establish a strong liaison with states to facilitate their capabilities in public health.

The Center for Health Resources (CHR) will implement the new public health swap in partnership with the states. Functions previously supported by HRSA, CDC, and ADAMHA will be included in the Center. Although the majority of the health service delivery system will be managed by the states, the Center will be responsible for conducting demonstrations of innovative delivery systems, or demonstrations of services to special populations. CHR will also coordinate with state governments to help set public health goals and insure that the goals are met.

The Center will also assume responsibility for health manpower development through grants, stipends, and payment policies. The Center will work closely with health professions schools and health care providers to reduce disincentives to primary care through school curricula, payment policy and financial assistance. The Center will maintain a data base on health professions to assure an appropriate supply and distribution of providers and will develop targets for primary care and specialty training.

Center for Income Security: Any form of health care reform will have to tackle our entitlement programs, including Medicare and Medicaid. Although the final form of these programs is still to evolve, it is clear that the federal government should no longer be in the business of micromanaging the delivery of care to low income and elderly persons. The federal government will pay the premiums to the qualified health plans, either directly or through states.

Clearly the first step is the reform of Medicaid to a capitated national system run by states. We must also begin the transition to restructuring Medicare to create a program that allows elderly individuals to buy the same medical care insurance at 65 as they did at 64. We must also create stronger incentives to support cost-effective managed care.

To set the stage for entitlement reform, the Center for Income Security (CIS) will have the responsibility for providing financial assistance to eligible individuals including those with low income, the eldery, and American Indians. The Center will be responsible for determining the appropriate levels of financial assistance and will make periodic payments to eligible individuals.

The Center for Income Security will assume the responsibility for HCFA activities including payment to eligible beneficiaries. The Center will be responsible for making appropriate payments to states for low income health benefits, and will continue to process Medicare claims until that program is modified to a vouchered or capitated system.

Center for Market Reform: As I have tried to emphasize throughout this paper, the government must concentrate on what it does best, and then serve as a facilitator to allow the market to do what it does best. Small market reform is the best example, to date, of moving in this direction.

The Center for Market Reform (CMR) will provide guidance to and oversight of State Health Insurance Purchasing Cooperative governing boards. The Center will establish a uniform data system that will assist in designating qualified Health Insurance Purchasing Cooperatives and will implement a system for the collection of relevant health outcomes data that will be used by the Center for Medical Evaluation.

The Center will also act as the principal liaison with the private market, so that policies can be developed that facilitate market reform. The Center will coordinate the broad range of issues that impact the marketplace, including tax policies, ERISA, and competition.

The Center will be the focal point for federal-state relations and managed competition. It will provide policy direction to guide both state interactions and private market changes. CMR will analyze productivity data from other countries as well.

CONCLUSION

I have laid out an ambitious agenda for change. But the complexities presented here support the notion that no single expert, no single piece of legislation, nor any single public or private entity can "solve" the health care crisis with one big bang.

As I emphasized earlier, this is not a health reform plan in the traditional sense. I am aware that there are additional problems relating to financing access and changing the practice of medicine that require serious consideration. For example, Lloyd Bentsen and I introduced small group market reform. Our bill, S. 1872, passed the Senate twice, but was not enacted by the 102nd Congress. The Bingaman-Durenberger bill, S. 3165, establishes Health Insurance Purchasing Cooperatives and includes some of the structural reforms discussed in this paper.

No single piece of legislation can accomplish all the necessary reforms. The presidential campaign featured a variety of plans. The legislative process produced a number of bills, including bills characterized as incremental and others somewhat more comprehensive.

Reforms that I plan to introduce include restructuring the Medicare system to allow Medicare patients to purchase private insurance, particularly HMO coverage. Federal tax reform to ease the inequities in tax benefits for insured individuals will be necessary as well. I am also working with my colleagues on broader managed competition plans.

This paper emphasizes the infrastructure problems that will exist regardless of the final form of any health plan. What I conclude is that we must move concurrently to reform the infrastructure as we change the rules for the health care system. The biggest mistake we could make would be to place innovative new ways of financing and delivering health care on top of our existing infrastructure.

Dramatic structural and institutional changes will not happen overnight. We must admit that we don't yet have all the answers for the perfect design of a health care system for all Americans. We must leave room for experimentation, and we must be able to take some risks. After all, if there were a perfect plan out there, we would all be supporters of it and we wouldn't have any further debate. We must put organizations and individuals in places where they can facilitate implementation and promote thoughtful modifications. It cannot be done without designing an infrastructure for the process of health care reform.

SENATOR DAVE DURENBERGER

Since arriving as a senator in 1978, Senator Durenberger has been one of a select few members of Congress who have been involved in shaping the major health decisions in Washington, D.C.

He has served first as the chairman, and now as the ranking member of the Senate Finance Committee's Medicare Subcommittee. In that capacity he presided over the sweeping changes in the Medicare system during the early 1980's. The Finance Committee also deals with Medicaid, Social Security and the myriad of tax issues involving health care.

He also is a member of the Senate's two other prominent health committees, the Labor and Human Resources Committee—which has jurisdiction over the Public Health Service, FDA and the National Institutes of Health—and the Environment and Public Works Committee, which is very involved in environmental health matters.

The Senator was recently the Vice-Chair of the Pepper Commission on Comprehensive Health Care Reform. He is a member of the National Commission on Infant Mortality, which he helped establish with former Senator and now Governor Lawton Chiles of Florida. For thirteen years he has been a member of the Advisory Commission on Intergovernmental Relations and he has chaired the Senate Subcommittee on Intergovernmental Relations.

Some of Senator Durenberger's recent legislative accomplishments in health care are his co-authorship of the following major health bills: the Physician Payment Reform Act of 1989, the Catastrophic Care Act of 1988, Small Group Insurance Reform, and the creation and reauthorization of the Agency for Health Care Policy Research.

Senator Durenberger is an outspoken and vigorous proponent of bi-partisan efforts to understand and reform our health care system.

The Senator acknowledges the contributions of Susan Foote, Senior Legislative Assistant for Health, and Cheryl Austein, Legislative Fellow.

Dave Durenberger's committee and subcommittee assignments are:

Labor and Human Resources:
Disability Policy (Ranking Republican);
Aging;
Employment and Productivity; and
Children, Family, Drugs and Alcoholism.
Environment and Public Works:
Superfund, Ocean and Water Protection (Ranking Republican); and
Water Resources, Transportation, and Infrastructure
Finance:
Medicare and Long Term Care (Ranking Republican); and
Social Security and Family Policy.

ADDRESS BY SENATOR DAVE DURENBERGER TO THE NATIONAL ASSOCIATION OF TOWNS AND TOWNSHIPS CONVENTION

Thank you, ladies and gentlemen. It is a privilege to be your guest once again. I have been looking forward to this opportunity to share with you my perspective on nine months of New Federalism negotiations, and to make a few specific legislative proposals for next year.

On February 1, just after the State of the Union message, a group of governors and senators gathered at the White House to discuss the President's federalism initiative. At that meeting, Governor Snelling of Vermont suggested that we tackle the New Federalism negotiations in two stages. He asked that in the first stage, we agree on a set of general principles to guide our efforts. Only in stage two would we address the specific program elements that would be the mechanical nuts and bolts of a legislative proposal.

It hasn't actually been a two-stage process, but some of us took up the Governor's challenge and tried to write a set of general principles. With very mixed results. It turns out that we approached the problem of principles at many different levels. Now in September, as we return to the drawing board, still fumbling with nuts and bolts, I believe the most important lessons are actually learned by examining the work that was done on general principles.

At one level, some wrote principles that are transition rules: How do we get from here to there—from old to New Federalism—in an orderly way? On June 22nd the White House published a paper that included many good transition rules: no winners, no losers; New Federalism will not be a vehicle for budgetary savings; state and local government will control the pace of transition; federalism reform will be at the top of the national agenda.

These are good transition rules. But they are only helpful after you have decided who is going to do what. Which programs ought to be returned to state and local government cannot be determined from that set of principles.

At a second level we could write a new charter for intergovernmental relations. Whatever else we do, we ought to do that. Many principles come to mind: categorical programs should be replaced by block grants and revenue sharing; mandates and regulations should be eliminated or paid for by that level of government which imposes them; federal assistance should be controlled by elected officials of general purpose government; local government should be consulted when the states are spending federal dollars.

Of course, these are sound principles. But again, they don't tell us who does what—what level of government is responsible for bridges . . . for school lunches . . . for waste water treatment . . . for migrant health clinics.

So I tried to approach the problem of principles at a third level. What we need, it seems to me, is a set of principles that describe the responsibilities of the national government.

We began our republic in just that way. Article I, Section 8 of the Constitution says that the Congress shall have the power to regulate commerce with foreign nations and among the several states, to establish a uniform rule of naturalization, to coin money, to punish counterfeiting, to establish post offices, to secure patents and copyrights, to establish standard weights and measures, to punish piracies, to raise armies and declare war, and to govern the District of Columbia.

A very limited charter. And for some time it was thought that the authority of Congress did not reach beyond these expressly stated powers. In 1854 President Pierce vetoed the first grant program passed by the Congress, arguing that its purpose, assistance to support the insane, was not included in those powers expressly delegated by Article I, Section 8.

That view didn't last. By 1862 President Lincoln was signing the Morrill Act, a grant program to assist state universities for agricultural education.

That program and hundreds of others since enacted by the Congress have been sustained by one other clause of Section 8 not yet mentioned: the power of the Congress to raise and spend money for the general welfare. With few exceptions, the whole of our national government is now launched by that single phrase. As a result, our charter is now unlimited. We are, in a sense, without principles for any kind of federalism.

So, I ask, can we begin the New Federalism where the Old Federalism began—with a set of general statements that define and limit the responsibilities of the national government? I think we should try.

Early in the first session of the next Congress, I will introduce legislation that I am calling a "Resolution of National Purposes." It will be a concurrent resolution of the House and Senate, intended to define and limit the spending clause of Section 8. It will be a yard-stick against which we can measure the current activities of the national government. Those programs which don't fit are programs which should be returned to state and local government. Where the national government is not now meeting its whole responsibility, the resolution would call for a measuring up.

The resolution would also be a touchstone for future proposals. The active clause of the resolution would require committees of the Congress proposing new spending programs to justify those expenditures according to the national purposes defined in the resolution.

Writing such a resolution is not an easy task. I suppose that anyone could produce a long list of favored programs they want continued. But as our experience with Section 8 of the Constitution makes clear, narrowly drafted powers will not stand the test of time. The challenge is to write general principles that are also limiting principles.

I've given it some thought, and I've come up with 10 national purposes for your consideration. The first three are clearly constitutional. They reflect the concerns that brought the Founding Fathers to Philadelphia in 1787 and are reflected in those specific powers of Section 8.

The first purpose: The national government has the responsibility to secure the individual rights and liberties guaranteed by the Constitution to All Americans. "Secure" is a stronger word than "guarantee." It implies positive intervention by the national government to assure that the result, as well as the intent, is equal opportunity for all Americans. Voting rights, compensatory education, equal employment opportunity, handicapped access and legal services—all spring from the responsibility to secure individual rights.

Second, the national government has the responsibility to defend American interests and conduct foreign relations in the community of nations. In the context of our discussion today, further comment on that purpose is not necessary—except to say that we cannot pursue a defense policy so costly that we fail to have the resources necessary for other purposes.

Third, the national government has the responsibility to promote economic growth and regulate interstate commerce. This is a very large purpose, difficult to define in abstract terms. It clearly includes general economic policies to stabilize the currency, increase employment and expand output. It also includes some grant-in-aid programs—interstate highways and hub airports come to mind—where federal expenditures are a necessary step in fulfilling the interstate commerce responsibility. And, as the Constitution says, it includes regulation of "commerce among the several states."

I think commercial regulation may well become the intergovernmental background for the 1980s. Congress is considering a host of preemptions—proposals to override traditional authorities of state and local government. Product liability, coal slurry pipelines, cable TV, transportation of hazardous and nuclear wastes, pesticides—it is almost a certainty that Congress has the authority to regulate these activities. The question is whether or not we should.

But today, we have no good answer. There is no respectable theory of commercial regulation that defines roles for all levels of government in our federal system. The preemptions are decided case-by-case according to the political muscle of the interests involved. Hopefully, a debate on national purposes would give us a new intergovernmental perspective on commercial regulation.

My next five national purposes I would describe as public administration principles. They focus on efficiency and effectiveness in the conduct of government. Defined tightly, they are intended to counter the notion that whatever is a problem everywhere is thus a problem for the national government. They are premised on the belief that the national government should not be assigned responsibility for a problem simply because that problem is widespread. That two of every five bridges in this country are deficient does not make bridges a responsibility of the national government. In that sense, bridges are no different from potholes or snow removal.

But there are domestic purposes—widely experienced problems not easily resolved by state and local officials—that the national government ought to take on. These administration principles are designed to identify those problems.

Purpose number four: The national government has a responsibility where significant savings can be realized by operating a central program. Research and development is the typical case. For example, toxicity: You don't need 50 state labs doing research on what is toxic. You don't need 50 state cancer research programs. Or highway safety: finding new technologies to improve highway safety is most efficiently done through one national program; using that technology by building it into highways is a job for state and local government.

Fifth, the national government has a responsibility where effective intervention cannot be achieved by the states acting alone. The classic example is the FBI, established to combat organized crime. Weather prediction and air traffic control are other cases where individual state programs would not be effective. Our toughest case today is the interstate transport of air pollutants—acid rain. The lakes of Minnesota or New England cannot be protected by the States of Minnesota or New England acting alone.

Sixth, the national government has a responsibility where significant benefits spill over to citizens in several states. Wilderness protection and the preservation of our cultural heritage are the best examples. Individual states do these things already. But left to themselves they won't do enough wilderness protection, for example, because the benefits are spread beyond their taxpayers to citizens across the nation and to future generations. There is a federal role—although certainly not exclusively federal.

Seventh, the national government has a responsibility when national policies impose extraordinary costs on some states or regions of the country. I think of refugee assistance. When the national government uses its immigration authority to admit tens of thousands of refugees who settle in a few states, the national government has a responsibility to provide extraordinary assistance to those states.

Eighth, the national government has a responsibility when competition among the states keeps them from implementing programs that would make all better off. I think of unemployment compensation. Before the Great Depression only one state, Wisconsin, had an unemployment compensation program. All the rest had the impression—a correct impression—that taxing employers in the good times to take care of the unemployed in the bad times would force jobs and new business investment off into neighboring states. I think all of us would agree that the national government took a needed step when it imposed a uniform payroll tax across the entire nation to support unemployment programs.

This principle doesn't say that interstate competition is bad. It only says that when such competition makes everyone worse off by preventing necessary action by state and local government, then the national government has a role.

My final two national purposes have been at the heart of the New Federalism debate over the past nine months. They are income security and fiscal disparities.

Purpose number nine: The national government has a responsibility to provide for the income security of all Americans.

Americans realize income security in one of three ways. For most of us, income security is achieved through earnings and savings, that is, wages and salaries, savings accounts, insurance policies and various private pension plans.

For many Americans the national government supplements earnings and savings with social insurance benefits. Social security, medicare and unemployment compensation are the most important forms of social insurance.

The third part of our income security system is public assistance. AFDC, SSI, medicaid, food stamps, housing, foster care and low income energy assistance are the major welfare programs.

Our goal as a nation should be to achieve as much income security as possible—for as many Americans as possible—through earnings and savings. But social insurance and public assistance are also important national purposes. Just as we would not seek full employment through uncoordinated state programs, just as no one would propose turning social security back to the states, for the very same reasons financing public assistance—welfare—is part of the national responsibility for income security, although there are important shared roles for state and local government.

My tenth and final purpose: The national government has a responsibility to ease disparities in fiscal capacity among the states.

By now you understand the fiscal disparities problem. As a simple illustration, if Texas and Mississippi had the same tax systems—the same income tax, the same sales tax, the same property and excise taxes—Texas would raise twice as much revenue per citizen as Mississippi. Said another way, Texas needs only half the taxes to provide the same services as Mississippi.

That the national government has a role in easing fiscal disparities is a principle already well established. Many of the existing grant-in-aid programs, and most of the big ones, include some measure of fiscal capacity in the formula used to allocate assistance dollars.

One program addressed to fiscal disparities, and one important to all of us in this room, expires next year. The authorization for general revenue sharing runs out on September 30, 1983. Extending general revenue sharing must be our first priority in the next Congress. No federalism initiative of any kind should go anywhere without revenue sharing as a fundamental element.

Those are the 10 principles that I would include in a Resolution of National Purposes. They are general principles. But defined carefully, they are also limiting principles. Using them as a yardstick for the sorting out process leaves scores of federal government programs as prime candidates for the turnback list, many more than the 160 on the list issued by the White House this past spring.

If the national government limits itself to the purposes I have suggested, then the big challenge for state and local government—for you and your colleagues—is public service delivery. Education, transportation, job training and rehabilitation, child nutrition, corrections and criminal justice, institutional care, public health and sanitation, environmental protection and resource management, social services. Meeting human needs by providing for the delivery of public services will be the focus of state and local government in the new federal partnership.

And a successful partnership will require that we reach out beyond government. Those of you who work at the most local level know that there are more institutions in our society than government. In fact, government is not even our most important institution. I'll bet you get more done for your community just being neighbors or church members or good citizens than we could ever accomplish with a federal partnership directed from Washington. Being neighbors reaching out to neighbors to strengthen the role of the family, the business firm and our churches and voluntary associations in solving public problems and meeting human needs—that's the special contribution of town boards to American life.

I'd like to close by calling attention to one of the principles on the White House list of June 22. It says, "State and local officials are every bit as compassionate and competent and caring as officials in Washington, D.C." For many of the special interest lobbyists in this town, that is the central question raised by the President's initiative. Whenever I read that statement it calls to mind the value of New Federalism.

The President is asking that we return powers and responsibilities to the state and local governments of our nation, governments which are more readily available and responsive to the needs of individual Americans. It is a citizen-building initiative.

We Americans are unique in our understanding of citizenship. The community belongs to us. We see a problem and we make it our problem. We don't wait for an aristocracy or the bureaucracy or the Congress to invent a solution. We go out and invent one for ourselves.

It is that kind of citizenship which is the source of caring in our society. It is by participating as citizens in the life of the community that we come to understand the needs of others and see our role in the well-being of the whole community.

Now and then we should quit fumbling with the nuts and bolts of government—the turnbacks and formulas and swaps—and recall the fundamental reasons for seeking a new federal partnership. This initiative is simply a reflection of what for 200 years has been the great strength of our nation: the opportunity for the individual citizen to play an active part in the life of the community.

That is an appreciation of New Federalism that you understand better than Ronald Reagan or Dave Durenberger, because you—the towns and townships of America—are the nation's neighborhoods.

Thank you.•

GUNS AND DEATH AT CABRINI-GREEN AND PALATINE

• Mr. SIMON. Mr. President, on October 13, 7-year-old Dantrell Davis was shot and killed by a sniper who fired from the window of apartment 1001 of a building in the Cabrini-Green highrise housing project in Chicago. Dantrell was caught in gang crossfire as he and his mother walked to Jenner Elementary School, less than 40 yards away from their home in Cabrini-Green. Dantrell was the third child from his elementary school to be shot to death since last March.

On January 9, the bodies of seven people who were shot to death were found in a fast food restaurant in Palatine, IL, a suburb of Chicago. The victims included Richard Ehlenfeldt and his wife Lynn, who owned the restaurant; Guadalupe Maldonado, a restaurant cook; Thomas Mennes and Marcus Nellsen who were restaurant patrons; and Michael Castro and Rico Solis, both students at Palatine High School.

Mr. President, these two incidents, remind us that while the Congress was in recess, the gun-related violence that washes across all of society was not. Both of these tragedies were widely reported, of course, and the Nation reacted with horror and revulsion.

Amid the clatter of public comment about the carnage, it was the children who had the most poignant things to say. A young friend of Dantrell Davis remarked, "I hope that next time it won't be somebody that I know." A 9-year-old in Dantrell's housing complex was moved to remember the death of a friend's mother. She said:

> They couldn't find my friend's mother. They looked and looked but they couldn't find her. Finally one day they found her body stuck in the sewer. It was all mushy and it stinked real bad. I'm glad Danny wasn't like that.

Mr. President, the common thread in the Cabrini-Green and Palatine tragedies is, of course, gun-related violence. We must find a way to muster the national will to bring an end to the terrible devastation that gun violence brings, not just in our great cities, but in communities everywhere.

There are 22,000 deaths caused by handguns annually in the United States, and the number increases every year. The increase in the number of handguns in our country has been almost unbelievable. In 1968 there were 2.4 million in circulation. By 1989, the number had increased to 66.7 million. And handguns are increasingly available to teenagers. The Centers for Disease Control recently surveyed 11,000 teenagers in 10 State and found that 41 percent of the boys and 21 percent of the girls said they could obtain a handgun whenever they wished.

Mr. President, I do not suggest that I have the answer to this terrible and complex problem. I do believe, however, that if we are ever to find an answer we must begin by realizing that gun-related violence is a disease in society, that like so many other diseases it attacks the young, the poor, and the vulnerable disproportionately. And it strikes down more than its share of minorities.

I think we cannot look at this problem any longer as only a law enforcement matter. We must bring to bear the best minds from all disciplines including public health, which helps us understand and control the other diseases that jeopardize our well-being.

Mr. President, I ask that two press accounts of the tragedies at Cabrini-Green and Palatine be included in the RECORD: A column by George F. Will entitled, "Child of Chicago's Battle Zone," and an article from the Washington Post entitled "Illinois Town Attempts To Cope With Slayings."

The articles follow:

[From the Washington Post, Nov. 19, 1992]

CHILD OF CHICAGO'S BATTLE ZONE

(By George F. Will)

CHICAGO.—The day Dantrell Davis died, Karen McCune wrote: "I thought my life will better than what it turned to be." That summing-up of a life was made a month ago, by a 9-year-old.

Today Karen is a 47-pound miracle of resilience. She is more than a match—so far—for the pounding that cities give childhood in this era of urban regression.

The shooting of Dantrell might have elicited a "so what?" shrug of this city's broad shoulders. After all, Chicago averages a shooting every 34 minutes and a murder every eight hours, and the more than 13,000 shootings so far this year have killed 17 children under 14. Dantrell was the third pupil at Jenner Elementary School shot dead this year. One of Dantrell's schoolmates said: "I hope that next time it won't be somebody that I know." He assumes there will be a next time, a fourth time.

Dantrell was killed by a sniper firing from a nearby high-rise as Dantrell and his mother began the 40-yard walk to Jenner from their high-rise, through the killing zone of the Cabrini-Green housing project. Today, beneath the lead-gray sky of a Chicago November, the hard wind off the lake is gusting razor-like rain horizontally and Karen is chatting in a classroom overlooking a growing puddle on the spot where Dantrell fell.

Cabrini-Green is 70 acres of appalling public policy less than a mile from Michigan Avenue's Magnificent Mile. About 7,000 people live in the 31 high rises and 60 other buildings in this public housing project. More than half the residents are under age 20. Nine percent of the residents have paying jobs.

Karen, her hair neatly braided, her white blouse and blue jumper (the voluntary school uniform that most pupils wear) immaculate, her eyes bright and her smile dazzling, patiently tells a columnist that life's not so bad if you stay indoors. "My mommy won't allow me to go outside. I stay up in the house and read books."

She usually stays away from windows. "I be scared because my bed is by the window." But the apartment where she and some siblings live with her mother is on the seventh floor, safe from most gunfire. However, "When the Bulls won [the NBA championship] a car ran into the store [across the street from her apartment] and they were shooting up and my mommy had to duck down."

Jenner School shows its 90 years but is a wonderfully clean haven for children from a neighborhood run by armed children. For now there is a truce between the gangs, a result of a heavy police presence since Dantrell's death. The truce is a respite from the recurring need to move children into inner hallways on whichever side of the school shooting has erupted.

Karen, who even in repose has the happy can't-stop-wiggling-my-shiny-black-leather-shoes fidgets of the normal 9-year-old, nevertheless practices the prudence of the streetwise urban child: "I don't wear any Starter [a brand name] jackets because they're bad for us." Six days after Dantrell was killed, a 15-year-old from another school was killed evidently because he was slow to give robbers his Miami Hurricanes jacket.

Twenty years ago Jenner had 2,500 students. Today it has 630. Some of them have symptoms—short attention spans, difficulty sustaining relationships, a tendency to think only in stark opposites—often associated with survivors of a battle area. Small wonder. Shortly after Dantrell's death, Karen shared with a local newspaper reporter the sort of memory that marks childhood in this other America:

"They couldn't find my friend's mother. They looked and looked but they couldn't find her. Finally one day they found her body stuck in the sewer. It was all mushy and it stinked real bad. I'm glad Danny wasn't like that."

Her prescription for neighborhood improvement is common sense and contrary to public policy: "Take the gangbangers [gang members] out and take away all the guns." With an imperious sweep of a spindly arm in the direction of the high-rises, she decrees: "Mow down those buildings. Don't need to be high-rise. Five floors enough."

Social scientists debate the concept of a "culture of poverty," the intergenerational transmission of passivity and fatalism. There is such a culture but it has not claimed Karen. Her small face wreathed in a huge smile of serene certainty, she announces that she's going to college: "I'm not going to have no boyfriend or no husband or child when I'm 15 or 14 or 13. I'm going to wait until I get real, real big, until I'm"—she plucks a number from her imagination—"27."

One of her best friends is a boy who wants to be a lawyer: "He uses big words, like 'interject.'" Karen says she is going to be a teacher. She already is.

[From the Washington Post, Jan. 11, 1993]

ILLINOIS TOWN ATTEMPTS TO COPE WITH SLAYINGS

(By Edward Walsh)

PALATINE, IL., January 10.—Catherine Ernst said it was "a definite reality check" for suburban teenagers like herself. Violent crime, she knows, is an everyday fact of life in nearby Chicago and other big cities.

But today Ernst, 17, and other residents of this suburban community were coming to grips with what an assistant principal of the local high school described as the awful truth that violent death "can happen to any of us, anywhere, anytime."

It happened here sometime Friday night to seven people who were shot to death inside a fast-food restaurant along a busy, four-lane road that cuts through this town about 25 miles northwest of downtown Chicago. Their bodies, face down and piled inside a cooler and walk-in freezer in the restaurant, were discovered early Saturday morning. Since then, there have been the usual questions that follow such grisly incidents—who did it and why and could it have been prevented—but very few answers.

Palatine police reportedly have detained Martin Blake of Elgin, who employees said had been fired recently from the restaurant, for questioning in connection with the case. But Deputy Police Chief Walt Gasior would not confirm this today or provide any details except to say that no arrests had been made and that the investigation was being expanded beyond former and current employees of the Brown's Chicken & Pasta restaurant.

"The community has rallied together," declared Rita Mullins, president of this village of 40,000 people. But she also said that the local chamber of commerce was planning a meeting between business owners and police officials to discuss security measures that have become an urgent concern, particularly for the parents of the many teenagers who work in fast-food restaurants and other shops that line the town's main roads.

The restaurant where the massacre took place is along one of the roads, in the front of a small, outdoor shopping center that includes a supermarket, a hair dresser, pet shop, dry cleaner, travel agency and an armed forces recruiting center. This morning, with snow falling steadily, the shopping center parking lot was nearly empty and two police squad cars were parked near a rear door of the restaurant that employees say often was left unlocked.

The victims were a cross-section of modern, mobile suburbia, which is not immune to economic downturns. They included the owners, Richard E. Ehlenfeldt, 50, and his wife, Lynn, 49, the parents of three daughters who were said to have plunged enthusiastically into the restaurant business several months ago, seeing the business as a way out of the hard times they suffered after Ehlenfeldt lost his job with a cable television firm in 1989.

"They were excited, my brother more so than Lynn," Ann Teichow, Ehlenfeldt's sister, said today. "He really thought this was going to be a fantastic thing for them. He saw growth down the years; he wanted to have three or four stores."

The victims also included the cook, Guadalupe Maldonado, 46, who recently returned from Mexico to the Chicago suburbs, where he had lived in the early 1980s.

Little was known about two other victims, Thomas Mennes, 32, and Marcus N. Nellsen, 31. Meanwhile, much of the attention and shock about the crime was centered on the two youngest victims, Michael C. Castro, 16, and Rico L. Solis, 17, students at Palatine High School.

The school made its counseling staff available to students and their families. Among the few students who showed up were Ernst and her sister, Jessica, 14. "I read about it happening in these big cities and I just never thought of it happening in this little community," Catherine Ernst said.

Her parents and those of her friends, Ernst said, "try to protect us and then something like this happens and they realize that because of the world they can't protect us forever. It's their own reality check."•

RULES OF THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

• Mr. LEAHY. Mr. President, in compliance with rule XXVI of the Standing Rules of the Senate, I submit for the RECORD the rules of the Committee on Agriculture, Nutrition, and Forestry which were adopted by the committee on January 27, 1993.

The rules of the committee follow:

RULES OF THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

RULE 1—MEETINGS

1.1 Regular Meetings. Regular meetings shall be held on the first and third Wednesday's of each month when Congress is in session.

1.2 Additional Meetings. The Chairman, in consultation with the Ranking Minority Member, may call such additional meetings as he deems necessary.

1.3 Notification. In the case of any meeting of the Committee, other than a regularly scheduled meeting, the Clerk of the Committee shall notify every member of the Committee of the time and place of the meeting and shall give reasonable notice which, except in extraordinary circumstances, shall be at least 24 hours in advance of any meeting held in Washington, DC and at least 48 hours in the case of any meeting held outside Washington, DC.

1.4 Called Meeting. If three members of the Committee have made a request in writing to the Chairman to call a meeting of the Committee, and the Chairman fails to call such a meeting within seven calendar days thereafter, including the day on which the written notice is submitted, a majority of the members may call a meeting by filing a written notice with the Clerk of the Committee who shall promptly notify each member of the committee in writing of the date and time of the meeting.

1.5 Adjournment of Meetings. The Chairman of the Committee or a subcommittee shall be empowered to adjourn any meeting of the Committee or a subcommittee if a quorum is not present within fifteen minutes of the time scheduled for such meeting.

RULE 2—MEETINGS AND HEARINGS IN GENERAL

2.1 Open Sessions. Business meetings and hearings held by the Committee or any subcommittee shall be open to the public except as otherwise provided for in Senate Rule XXVI, paragraph 5.

2.2 Transcripts. A transcript shall be kept of each business meeting and hearing of the Committee or any subcommittee unless a majority of the Committee or the subcommittee agrees that some other form of permanent record is preferable.

2.3 Reports. An appropriate opportunity shall be given the Minority to examine the proposed text of Committee reports prior to their filing or publication. In the event there are supplemental, minority, or additional views, an appropriate opportunity shall be given the Majority to examine the proposed text prior to filing or publication.

2.4 Attendance. (a) Meetings. Official attendance of all markups and executive sessions of the Committee shall be kept by the Committee Clerk. Official attendance of all subcommittee markups and executive sessions shall be kept by the subcommittee Clerk.

(b) Hearings. Official attendance of all hearings shall be kept, provided that, Senators are notified by the Committee Chairman and Ranking Minority Member, in the case of Committee hearings, and by the subcommittee Chairman and Ranking Minority Member, in the case of subcommittee hearings, 48 hours in advance of the hearing that attendance will be taken. Otherwise, no attendance will be taken. Attendance at all hearings is encouraged.

RULE 3—HEARING PROCEDURES

3.1 Notice. Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee or any subcommittee at least one week in advance of such hearing unless the Chairman of the full Committee or the subcommittee determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the Committee or the subcommittee involved concurs. In no case shall a hearing be conducted with less than 24 hours notice.

3.2 Witness Statements. Each witness who is to appear before the Committee or any subcommittee shall file with the Committee or subcommittee, at least 24 hours in advance of the hearing, a written statement of his or her testimony and as many copies as the Chairman of the Committee or subcommittee prescribes.

3.3 Minority Witnesses. In any hearing conducted by the Committee, or any subcommittee thereof, the minority members of the Committee or subcommittee shall be entitled, upon request to the Chairman by the Ranking Minority Member of the Committee or subcommittee to call witnesses of their selection during at least one day of such hearing pertaining to the matter or matters heard by the Committee or subcommittee.

3.4 Swearing in of Witnesses. Witnesses in Committee or subcommittee hearings may be required to give testimony under oath whenever the Chairman or ranking Minority Member of the Committee or subcommittee deems such to be necessary.

3.5 Limitation. Each member shall be limited to five minutes in the questioning of any witness until such time as all members who so desire have had an opportunity to question a witness. Questions from members shall rotate from majority to minority members in order of seniority or in order of arrival at the hearing.

RULE 4—NOMINATIONS

4.1 Assignment. All nominations shall be considered by the full Committee.

4.2 Standards. In considering a nomination, the Committee shall inquire into the nominee's experience, qualifications, suitability, and integrity to serve in the position to which he or she has been nominated.

4.3 Information. Each nominee shall submit in response to questions prepared by the Committee the following information:

(1) A detailed biographical resume which contains information relating to education, employment, and achievements;

(2) Financial information, including a financial statement which lists assets and liabilities of the nominee; and

(3) Copies of other relevant documents requested by the Committee.

Information received pursuant to this subsection shall be available for public inspection except as specifically designated confidential by the Committee.

4.4 Hearings. The Committee shall conduct a public hearing during which the nominee shall be called to testify under oath on all matters relating to his or her suitability for office. No hearing shall be held until at least 48 hours after the nominee has responded to a pre-hearing questionnaire submitted by the Committee.

4.5 Action on confirmation. A business meeting to consider a nomination shall not occur on the same day that the hearing on the nominee is held. The Chairman, with the agreement of the Ranking Minority Member, may waive this requirement.

RULE 5—QUORUMS

5.1 Testimony. For the purpose of receiving evidence, the swearing of witnesses, and the taking of sworn or unsworn testimony at any duly scheduled hearing, a quorum of the

Committee and each subcommittee thereof shall consist of one member.

5.2 Business. A quorum for the transaction of Committee or subcommittee business, other than for reporting a measure or recommendation to the Senate or the taking of testimony, shall consist of one-third of the members of the Committee or subcommittee, including at least one member from each party.

5.3 Reporting. A majority of the membership of the Committee shall constitute a quorum for reporting bills, nominations, matters, or recommendations to the Senate. No measure or recommendation shall be ordered reported from the Committee unless a majority of the Committee members are physically present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of those members who are physically present at the time the vote is taken.

RULE 6—VOTING

6.1 Roll calls. A roll call vote of the members shall be taken upon the request of any member.

6.2 Proxies. Voting by proxy as authorized by the Senate Rules for specific bills or subjects shall be allowed whenever a quorum of the Committee is actually present.

6.3 Polling. The Committee may poll any matters of Committee business, other than a vote on reporting to the Senate any measures, matters or recommendations or a vote on closing a meeting or hearing to the public, provided that every member is polled and every poll consists of the following two questions:

(1) Do you agree or disagree to poll the proposal; and

(2) Do you favor or oppose the proposal.

If any member requests, any matter to be polled shall be held for meeting rather than being polled. The chief clerk of the Committee shall keep a record of all polls.

RULE 7—SUBCOMMITTEES

7.1 Assignments. To assure the equitable assignment of members to subcommittees, no member of the Committee will receive assignment to a second subcommittee until, in order of seniority, all members of the Committee have chosen assignments to one subcommittee, and no member shall receive assignment to a third subcommittee until, in order of seniority, all members have chosen assignments to two subcommittees.

7.2 Attendance. Any member of the Committee may sit with any subcommittee during a hearing or meeting but shall not have the authority to vote on any matter before the subcommittee unless he or she is a member of such subcommittee.

7.3 Ex Officio Members. The Chairman and Ranking Minority Member shall serve as nonvoting *ex officio* members of the subcommittees on which they do not serve as voting members. The Chairman and Ranking Minority Member may not be counted toward a quorum.

7.4 Scheduling. No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full Committee. No more than one subcommittee business meeting may be held at the same time.

7.5 Discharge. Should a subcommittee fail to report back to the full Committee on any measure within a reasonable time, the Chairman may withdraw the measure from such subcommittee and report that fact to the full Committee for further disposition. The full Committee may at any time, by majority vote of those members present, discharge a subcommittee from further consideration of a specific piece of legislation.

7.6 Application of Committee Rules to Subcommittees. The proceedings of each subcommittee shall be governed by the rules of the full Committee, subject to such authorizations or limitations as the Committee may from time to time prescribe.

RULE 8—INVESTIGATIONS, SUBPOENAS AND DEPOSITIONS

8.1 Investigations. Any investigation undertaken by the Committee or a subcommittee in which depositions are taken or subpoenas issued, must be authorized by a majority of the members of the Committee voting for approval to conduct such investigation at a business meeting of the Committee convened in accordance with Rule 1.

8.2 Subpoenas. The Chairman, with the approval of the Ranking Minority Member of the Committee, is delegated the authority to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials at a hearing of the Committee or a subcommittee or in connection with the conduct of an investigation authorized in accordance with paragraph 8.1. The Chairman may subpoena attendance or production without the approval of the Ranking Minority Member when the Chairman has not received notification from the Ranking Minority Member of disapproval of the subpoena within 72 hours, excluding Saturdays and Sundays, of being notified of the subpoena. If a subpoena is disapproved by the Ranking Minority Member as provided in this paragraph the subpoena may be authorized by vote of the members of the Committee. When the Committee or Chairman authorizes subpoenas, subpoenas may be issued upon the signature of the Chairman or any other member of the Committee designated by the Chairman.

8.3 Notice for taking depositions. Notices for the taking of depositions, in an investigation authorized by the Committee, shall be authorized and be issued by the Chairman or by a staff officer designated by him. Such notices shall specify a time and place for examination, and the name of the Senator, staff officer or officers who will take the deposition. Unless otherwise specified, the deposition shall be in private. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear unless the deposition notice was accompanied by a Committee subpoena.

8.4 Procedure for taking depositions. Witnesses shall be examined upon oath administered by an individual authorized by local law to administer oaths. The Chairman will rule, by telephone or otherwise, on any objection by a witness. The transcript of a deposition shall be filed with the Committee Clerk.

RULE 9—AMENDING THE RULES

These rules shall become effective upon publication in the Congressional Record. These rules may be modified, amended, or repealed by the committee, provided that all members are present or provide proxies or if a notice in writing of the proposed changes has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken. The changes shall become effective immediately upon publication of the changed rule or rules in the Congressional Record, or immediately upon approval of the changes if so resolved by the Committee as long as any witnesses who may be affected by the change in rules are provided with them.•

TRIBUTE TO ATTORNEY GENERAL WILLIAM BARR

• Mr. DURENBERGER. Mr. President, while the dust is finally settling from last week's inaugural events, I thought it would be fitting to pay tribute to the outgoing Cabinet members who have served the American people and their President so well during the last administration.

Attorney General William Barr was an excellent choice to head the Department of Justice, responsible for enforcing the laws of our land. He was trusted and respected throughout the law enforcement community. Since the time he was asked to fill Dick Thornburgh's shoes, another excellent Attorney General, William Barr accomplished much in the administration of justice.

William Barr recognized how important the roles of State and local law enforcement are in fighting crime, and he knew that they needed Federal support to do their job. Federal and local cooperation in law enforcement was a hallmark of William Barr's tenure.

William Barr knew that a strong community is the best weapon against local crime. While he was in office, the Justice Department expanded the weed and seed initiative for America's troubled inner cities. This dual strategy weeds out violent crime and illegal activity and seeds the targeted community with comprehensive social and economic revitalization programs.

Attorney General Barr vigorously prosecuted civil rights violations. He also oversaw the implementation of new legislation such as the Americans with Disabilities Act, the Hate Crime Statistics Act of 1990, and the Civil Rights Act of 1991.

In the area of white collar crime, William Barr put a major focus on combating health care fraud, a phenomenon that may rob as much as 15 percent of our $800 billion in national health care costs.

Listing all of William Barr's accomplishments in office could fill volumes. In the relatively short time he headed the Department of Justice, William Barr vigorously and earnestly enforced the law, and he deserves our thanks for a job well done.•

JURISDICTION AND RULES OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

• Mr. INOUYE. Mr. President, I submit for printing in the CONGRESSIONAL RECORD a copy of the rules of the Select Committee on Indian Affairs.

The rules are as follows:

JURISDICTION AND RULES OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

(Excerpts from S. Res. 4, the Committee System Reorganization Amendment of 1977, As Amended and Revised To Reflect Membership in the 103d Congress)

Select Committee on Indian Affairs, to which select committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to Indian affairs:

SEC. 105(a)(1). There is established a Select Committee on Indian Affairs (hereafter in this section referred to as the "select committee") which shall consist of eighteen members, ten to be appointed by the President of the Senate, upon recommendation of the majority leader, from among members of the majority party and eight to be appointed by the President of the Senate, upon recommendation of the minority leader, from among the members of the minority party. The select committee shall select a chairman and vice chairman from among its members.

(2) A majority of the members of the committee shall constitute a quorum thereof for the transaction of business, except that the select committee may fix a lesser number as a quorum for the purpose of taking testimony. The select committee shall adopt rules of procedure not inconsistent with this section and the rules of the Senate governing standing committees of the Senate.

(3) Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee.

(4) For purposes of para. 6 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member or chairman of the select committee shall not be taken into account.

(b)(1) All proposed legislation, messages, petitions, memorials, and other matters relating to Native American affairs shall be referred to the select committee.

(2) It shall be the duty of the select committee to conduct a study of any and all matters pertaining to problems and opportunities of Native Americans, including but not limited to Indian land management and trust responsibilities, education, health, special services, and loan programs, and claims against the United States.

(3) The select committee shall from time to time report to the Senate, by bill or otherwise, on matters within its jurisdiction.

(c)(1) For the purposes of this resolution, the select committee is authorized, in its discretion, (A) to make investigations into any matter within its jurisdiction, (B) to make expenditures from the contingent fund of the Senate, (C) to employ personnel, (D) to hold hearings, (E) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (F) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (G) to take depositions and other testimony, (H) to procure the services of individual consultants or organizations thereof, in accordance with the provisions of sec. 202(i) of the Legislative Reorganization Act of 1946, and (I) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(2) The chairman of the select committee or any member thereof may administer oaths to witnesses.

(3) Subpoenas authorized by the select committee may be issued over the signature of the chairman, or any member of the select committee designated by the chairman, and may be served by any person designated by the chairman or any member signing the subpoena.

(Note: On June 4, 1984, in the 98th Congress, the Senate adopted S. Res. 127 to establish the Select Committee on Indian Affairs as a permanent committee of the Senate.)

RULES OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

COMMITTEE RULES

Rule 1. The Standing Rules of the Senate, Senate Resolution 4, and the provisions of the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act of 1970, to the extent the provisions of such Acts are applicable to the Select Committee on Indian Affairs and supplemented by these rules, are adopted as the rules of the committee.

MEETINGS OF THE COMMITTEE

Rule 2. The committee shall meet on the first Tuesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

OPEN HEARINGS AND MEETINGS

Rule 3. Hearings and business meetings of the committee shall be open to the public except when the committee by majority vote orders a closed hearing or meeting.

HEARING PROCEDURE

Rule 4(a). Public notice shall be given of the date, place, and subject matter of any hearing to be held by the committee at least one week in advance of such hearing unless the Chairman of the committee determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the committee involved concurs. In no case shall a hearing be conducted with less than 24 hours notice.

(b) Each witness who is to appear before the committee shall file with the committee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the committee prescribes.

(c) Each Member shall be limited to five (5) minutes in the questioning of any witness until such time as all members who so desire have had an opportunity to question the witness unless the committee shall decide otherwise.

(d) The Chairman and Vice Chairman or the ranking Majority and Minority Members present at the hearing may each appoint one committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman and Vice Chairman or the ranking Majority and Minority Members present may agree.

BUSINESS MEETING AGENDA

Rule 5(a). A legislative measure or subject shall be included in the agenda of the next following business meeting of the committee if a written request for such inclusion has been filed with the Chairman of the committee at least one week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the committee to include legislative measures or subjects on the committee agenda in the absence of such request.

(b) The agenda for any business meeting of the committee shall be provided to each Member and made available to the public at least two days prior to such meeting, and no new items may be added after the agenda is published except by the approval of a majority of the Members of the committee. The Clerk shall promptly notify absent Members of any action taken by the committee on matters not included in the published agenda.

QUORUMS

Rule 6(a). Except as provided in subsections (b) and (c), ten Members shall constitute a quorum for the conduct of business of the committee. Consistent with Senate rules, a quorum is presumed to be present, unless the absence of a quorum is noted.

(b) A measure may be ordered reported from the committee unless by a motion made in proper order by a Member followed by the polling of the Members in the absence of a quorum at a regular or special meeting.

(c) One Member shall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure before the committee.

VOTING

Rule 7(a). A rollcall of the Members shall be taken upon the request of any Member.

(b) Proxy voting shall be permitted on all matters, except that proxies may not be counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only on the date for which it is given and upon the items published in the agenda for that date.

SWORN TESTIMONY AND FINANCIAL STATEMENTS

Rule 8. Witnesses in committee hearings may be required to give testimony under oath whenever the Chairman or Vice Chairman of the committee deems such to necessary. At any hearing to confirm a Presidential nomination, the testimony of the nominee, and at the request of any Members, any other witness shall be under oath. Every nominee shall submit a financial statement, on forms to be perfected by the committee, which shall be sworn to by the nominee as to its completeness and accuracy. All such statements shall be made public by the committee unless the committee, in executive session, determines that special circumstances require a full or partial exception to this rule. Members of the committee are urged to make public a complete disclosure of their financial interests on forms to be perfected by the committee in the manner required in the case of Presidential nominees.

CONFIDENTIAL TESTIMONY

Rule 9. No confidential testimony taken by or confidential material presented to the committee or any report of the proceedings of a closed committee hearing or business meeting shall be made public in whole or in part by way of summary, unless authorized by a majority of the Members of the committee at a business meeting called for the purpose of making such a determination.

DEFAMATORY STATEMENTS

Rule 10. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open committee hearing tends to defame him or otherwise adversely affect his reputation may file with the committee for its consideration and action a sworn statement of facts relevant to such testimony or evidence.

BROADCASTING OF HEARINGS OR MEETINGS

Rule 11. Any meeting or hearing by the committee which is open to the public may be covered in whole or in part by television broadcast, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to interfere with the sight vision, and hearing of Members and staff on the dais or with the orderly process of meeting or hearing.

AMENDING THE RULES

Rule 12. These rules may be amended only by a vote of a majority of all the Members of the committee in a business meeting of the committee: *Provided*, that no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the committee agenda for such meeting at least two days in advance of such meeting.•

TAKE PRIDE IN AMERICA AWARD WINNERS

• Mr. SIMON. Mr. President, today it is my pleasure to recognize the 18 Illinois winners of the seventh annual "Take Pride in America" awards program for achievement in promoting conservation and environmental awareness.

Administered nationally by the U.S. Department of Conservation, "Take Pride in America" recognizes individuals and groups for their outstanding stewardship projects and awareness efforts. These initiatives focus on protecting and preserving land, water, historical and cultural resources under the jurisdiction of every level of government.

This year's winners from my State of Illinois were selected from projects implemented during 1991 or 1992. They are:

Friends of the Fox River Inc.;

Inspired Partnerships;

Hanson Engineers;

Arch of Illinois, Inc.;

Boy Scout Woapink Lodge Order of the Arrow 167;

Illinois River Project;

East Peoria Community High School;

Astoria Schools;

Elizabeth Trummel (Husmann Elementary School);

Project P.E.O.P.L.E.;

Mayor Daley's Green Streets;

Citizens Committee to Save the Cache River;

Chicago Park District;

Cook County Forest Preserve District;

Ohio River Valley Water Sanitation Commission;

U.S. Army Corps of Engineers/Rend Lake;

Lake Shelbyville Management Office; and

U.S. Army Corps of Engineers/Carlyle.

As we all know, Mr. President, a concerted effort to improve the environment is of critical importance to our well-being, as well as to the survival of future generations. Elected officials are not the only ones who can effect change in this important area, so I am proud to recognize the achievements of these Illinoisans who are so committed to a better future.•

MEMBERS TO SERVE ON JOINT COMMITTEES

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of Senate Resolution 42 and Senate Concurrent Resolution 8, resolutions reported from the Rules Committee earlier today relating to the naming of Members to serve on joint committees; that the resolutions be agreed to en bloc; that the motions to reconsider be laid upon the table en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolutions considered and agreed to, en bloc, are as follows:

S. RES. 42

Resolved, That the following-named Members be, and they are hereby, elected members of the following joint committees of Congress:

Joint Committee on Printing: Mr. Ford of Kentucky, Mr. DeConcini of Arizona, Mr. Mathews of Tennessee, Mr. Stevens of Alaska, and Mr. Hatfield of Oregon.

Joint Committee of Congress on the Library: Mr. Pell of Rhode Island, Mr. DeConcini of Arizona, Mr. Moynihan of New York, Mr. Hatfield of Oregon, and Mr. Stevens of Alaska.

S. CON. RES. 8

Resolved by the Senate (the House of Representatives concurring), That effective for the One Hundred Third Congress, the Chairman of the Committee on Rules and Administration of the Senate may designate another member of the Committee to serve on the Joint Committee of the Congress on the Library in place of the Chairman.

BILL DISCHARGED AND REFERENCED—S. 54

Mr. FORD. Mr. President, I ask unanimous consent that S. 54, a bill relating to the communications act, be discharged from the Foreign Relations Committee and rereferred to the Commerce, Science, and Transportation Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAMILY AND MEDICAL LEAVE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 3, S. 5, the family and medical leave bill, on Tuesday, February 2, at 11 a.m., and that the majority leader may at any time, after consultation with the Republican leader, turn to the consideration of S. 1, the National Institutes of Health authorization bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. It is my understanding in conversation with the distinguished majority leader that it is not his intention to go to S. 1 until we complete action on the family leave bill?

Mr. MITCHELL. Mr. President, that is correct. It is my intention that we complete action on the family and medical leave bill, a bill which I have stated often is a high priority, and that upon the disposition of the bill to turn to the NIH authorization bill.

Mr. DOLE. It is also my understanding the majority leader hopes to finish both of those bills next week?

Mr. MITCHELL. Mr. President, if that is possible, yes, it is my intention.

Mr. President, I thank my colleague for his cooperation.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I now ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Friday, January 29; that on Friday, the Senate meet in pro forma session only; that at the close of the pro forma session, the Senate stand in recess until 10 a.m. on Tuesday, February 2; that on Tuesday, following the prayer, the Journal of proceedings be deemed approved to date, and following the time reserved for the two leaders, there then be a period for morning business, not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 5 minutes each; further, that on Tuesday, the Senate stand in recess from 12:30 p.m. until 2:15 p.m., in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, for the information of Senators, it is my intention that the period between 11 a.m. and 12:30 p.m. on Tuesday be for the purposes of opening statements and debate only.

I do not expect that there will be any votes during that period. It may be that the managers will want to have an amendment offered that they can discuss or lay down and discuss. But I do not expect that there will be any rollcall votes. Senators should be prepared for rollcall votes when the Senate resumes session on the legislation at 2:15 p.m. on Tuesday.

RECESS UNTIL 10 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 6:01 p.m., recessed until tomorrow, Friday, January 29, 1993, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate January 28, 1993:

INTERNATIONAL BANKS

LLOYD BENTSEN, OF TEXAS, TO BE U.S. GOVERNOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF 5 YEARS; U.S. GOVERNOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF 5 YEARS; U.S. GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF 5 YEARS; U.S. GOVERNOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF 5 YEARS; U.S. GOVERNOR OF THE ASIAN DEVELOPMENT BANK; U.S. GOVERNOR OF THE AFRICAN DEVELOPMENT FUND; AND U.S. GOVERNOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 28, 1993:

EXECUTIVE OFFICE OF THE PRESIDENT

JOHN HOWARD GIBBONS, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING THOMAS M. KULIK, AND ENDING OLIVER P. ZIMMERMANN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 5, 1993.

PUBLIC HEALTH SERVICE

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING LAWRENCE Y. AGODOA, AND ENDING JANET M. RUCK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 5, 1993.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING ALFRED L. BRASSEL, JR., AND ENDING MARUTA ZITANS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 5, 1993.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING THOMAS C. BONIN, AND ENDING BRENT B. WARREN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 6, 1993.

SENATE—*Friday, January 29, 1993*

(Legislative day of Tuesday, January 5, 1993)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable BOB GRAHAM, a Senator from the State of Florida.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 29, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BOB GRAHAM, a Senator from the State of Florida, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. GRAHAM thereupon assumed the chair as Acting President pro tempore.

RECESS UNTIL 10 A.M., TUESDAY, FEBRUARY 2, 1993

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until the hour of 10 a.m. on Tuesday, February 2, 1993.

Thereupon, at 10 o'clock and 39 seconds a.m., the Senate recessed, under the order of Thursday, January 28, 1993, until Tuesday, February 2, 1993, at 10 a.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

HOUSE OF REPRESENTATIVES—*Tuesday, February 2, 1993*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

February 2, 1993.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

Rev. Gordon S. Nelson, former pastor, First Lutheran Church, West Barnstable, MA, offered the following prayer:

Lord God, we expect so much of our legislative leaders. What great pressures they must feel.

We pray that You grant that these Representatives never need feel alone in the difficult and critical decisions they must make. May they know full measures of Your guiding spirit. Give them foresight, wisdom, and courage as they provide for our Nation and its people, and as they work for peace through justice for all the peoples of this fragile world.

Give, too, to all the citizenry the will to work with them, providing constructive criticism when necessary, but also lending support to that which is good and right and just.

Where we prosper, fill our hearts with thankfulness. Where we know failure, suffer our trust in You never to fail. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Texas [Mr. FROST] please come forward and lead the House in the Pledge of Allegiance.

Mr. FROST led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

HOUR OF MEETING ON WEDNESDAY, FEBRUARY 3, 1993

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 8. Concurrent resolution to allow another member of the Committee on Rules and Administration of the Senate to serve on the Joint Committee of Congress on the Library in place of the Chairman of the Committee.

The message also announced that pursuant to sections 42 and 43, of title 20, United States Code, the Chair, on behalf of the Vice President, appoints Mr. WARNER as a member of the Board of Regents of the Smithsonian Institution, vice, Mr. GARN, resigned.

The message also announced that pursuant to sections 276(h) to 276(k), of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mr. DODD, as chairman of the Senate delegation to the Mexico-United States Interparliamentary Group during the 103d Congress.

The message also announced that pursuant to Public Law 94-304, as amended by Public Law 99-7, the Chair, on behalf of the Vice President, appoints Mr. DECONCINI chairman, Mr. LAUTENBERG, Mr. REID, Mr. GRAHAM, and Ms. MIKULSKI, to the Commission on Security and Cooperation in Europe.

HOW 'BOUT THEM COWBOYS

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, how 'bout them Cowboys. The Dallas Cowboys, the only team to make six trips to the Super Bowl, returned to their rightful place in fine fashion Sunday by beating the Buffalo Bills 52–17 in Super Bowl XXVII.

I had the distinct pleasure of observing the Cowboys' return to glory first hand in Pasadena and what a glorious sight it was. After 14 years of frustration, and a dismal 1–15 record only four short seasons ago, Dallas is once again the home of America's team. I think that all would agree that owner Jerry Jones and Coach Jimmy Johnson have done an excellent job in constructing a Dallas Cowboys team that will be winning championships for some time to come.

Most preseason sages reasoned that this youthful team was still at least 1 year away from the Super Bowl. However, the Cowboys, led by a poised Troy Aikman and a stifling No. 1 defense, proved that they were ready now. While the offense piled up over 400 yards en route to five touchdowns and a field goal, the defense forced a Super Bowl record nine turnovers and scored two touchdowns of its own. Without a doubt, the Dallas Cowboys, 16–3 for the season, gave notice to the country that the youngest team in the NFL is also the best team in the NFL.

I am sure that all of Texas rejoices with me as I salute the 1992–93 World Champion Dallas Cowboys. To the rest of America, whether you lov'em or hate'em—the boys are back.

CAMPAIGN FINANCE REFORM

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, last week the Federal Election Commission sent Congress its annual report of recommendations to reform the financing of campaigns for Federal office. Their primary stated objectives are to improve public disclosure and strengthen enforcement. They are also giving the key objectives in a bill which this Member is introducing today. While this bill does not represent comprehensive campaign finance reform, it certainly represents an effort to advance numerous important changes that must be included in any comprehensive campaign reform bill that Congress passes during the 103d Congress.

This Member has long been a supporter of campaign finance reform and believes that it is a crucial reform of our political system which is long overdue. The voters have nationally called rather loudly for change; therefore, Congress must act on this issue.

This Member's campaign finance reform legislation would, among other initiative items:

First, reduce the PAC contribution limit to $1,000 per PAC;

Second, prohibit bundling of contributions through connected PAC's;

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Third, prohibit transfers among PAC's and candidate committees;

Fourth, prohibit leadership PAC's;

Fifth, prohibit soft money used to benefit Federal candidates in joint Federal-State activities;

Sixth, require a majority of funds raised by House candidates to come from local residents;

Seventh, prohibit corporations and unions from using their own money to indirectly influence Federal elections;

Eighth, require a clearer disclaimer on independent expenditure communications; and

Ninth, require unions to both get written approval of any members whose dues or agency fees are used for political purposes, and to require annual notice to such members if such funds are used for political purposes.

This Member urges his colleagues to take very seriously the need for campaign finance reform. During the 102d Congress, a campaign finance reform bill was once again constructed to generate partisan advantages. There clearly was a need for a strong and legitimate effort by the House and Senate majority leadership to work in a bipartisan way to achieve real and very necessary reform. In the current 103d Congress, we must pass workable reform legislation and take the partisanship out of this issue. Again, this Member urges his colleagues to carefully review and consider the reforms offered in the bill this Member is introducing today.

REQUEST TO APPOINT MEMBERS OF PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER pro tempore. Without objection, pursuant to the provisions of clause 1 of rule XLVIII and clause 6(f) of rule X, the Chair announces the Speaker's appointments as majority members of the Permanent Select Committee on Intelligence the following Members of the House:

Mr. GLICKMAN of Kansas, chairman; Mr. RICHARDSON of New Mexico; Mr. DICKS of Washington; Mr. DIXON of California; Mr. TORRICELLI of New Jersey; Mr. COLEMAN of Texas; Mr. SKAGGS of Colorado; Mr. BILBRAY of Nevada; Ms. PELOSI of California; Mr. LAUGHLIN of Texas; Mr. CRAMER of Alabama; Mr. REED of Rhode Island; and the following minority members: Mr. COMBEST of Texas; Mr. BEREUTER of Nebraska; Mr. DORNAN of California; Mr. YOUNG of Florida; Mr. GEKAS of Pennsylvania; Mr. HANSEN of Utah; and Mr. LEWIS of California.

Mr. WALKER. Mr. Speaker, reserving the right to object, it is my understanding these are Members who are being appointed to the Permanent Select Committee on Intelligence; is that correct?

The SPEAKER pro tempore. The Speaker's appointments.

Mr. WALKER. Mr. Speaker, are these Members who can be removed then under the new rules of the House by the Speaker as well, without consultation with the House?

The SPEAKER pro tempore. That is the new rule, and the Speaker does have that authority.

Mr. WALKER. Mr. Speaker, further reserving the right to object, so my understanding is that these Members are being appointed so even Republicans who were appointed at the behest of the minority leader can now, under the rules of the House, be removed from the committee by the Speaker without any consultation with the minority leader and without any approval of the House; is that correct, all of these Members that were just appointed?

The SPEAKER pro tempore. The Chair has stated his understanding of the rule and would suggest that when the Speaker is in the chair, he could comment on that question or observation by the gentleman from Pennsylvania.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, my concern is here that we have no assurance at this point, given the rules, that this Speaker will not exercise his right at some point to remove virtually all the Republicans from that committee who are just being appointed. Before the House gives its approval to this action, it seems to me that at least on the minority side we deserve some assurance that Republican members are not going to be removed from the committee simply because, for instance, they might oppose something that the Speaker wants done in the Permanent Select Committee on Intelligence.

The SPEAKER pro tempore. The Chair suggests, as stated earlier, that the gentleman should address that question to the Speaker, ask the Speaker directly. The reason why the gentleman who is in the chair now asked unanimous consent was because he is the acting Speaker, and this is the Speaker's privilege.

To clear the matter up, the gentleman should take it up with the Speaker when he is in the chair.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, would it not be appropriate for the Speaker to do this when he is in the chair, when the House has the ability to take action? And if we give approval right now, we will not have a chance to register this kind of a concern.

□ 1210

Therefore, it seems to me that the appropriate action would be for the Speaker to be in the chair so that these questions could be answered at the time when the House is able to take action.

My preference would be at this point for the Chair to withdraw this unanimous-consent request until the Speaker of the House can be in the chair to answer, I think, a very serious question about the new rules.

The SPEAKER pro tempore (Mr. MONTGOMERY). Does the gentleman object to the request?

Mr. WALKER. Mr. Speaker, my preference would be for the Chair to simply withdraw the unanimous-consent request so that it could be acted on in a time appropriate, because it is apparent that the gentleman in the chair today is legitimately saying that he cannot answer these questions.

The SPEAKER pro tempore. The Chair, at the request of the gentleman from Pennsylvania, will withdraw the request.

Mr. WALKER. Mr. Speaker, I thank the Chair.

COMMUNICATION FROM HON. ROBERT MICHEL, REPUBLICAN LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable ROBERT MICHEL, Republican leader:

WASHINGTON, DC,
February 1, 1993.

Hon. THOMAS S. FOLEY,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 1, H. Con. Res. 192, 102nd Congress, as enacted by Section 317 of Public Law 102–392, I hereby designate the gentleman from California, Mr. Dreier, to serve as Vice Chairman of the Joint Committee on the Organization of the Congress and appoint the gentlewoman from Washington, Ms. Dunn, to fill an existing vacancy.

Sincerely yours,

BOB MICHEL,
Republican Leader.

APPOINTMENT AS MEMBERS OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

The SPEAKER pro tempore. Pursuant to the provisions of sections 5580 and 5581 of the revised statutes, 20 U.S.C. 42–43, and the order of the House of Wednesday, January 27, 1993, authorizing the Speaker and the minority leader to accept resignations and to make appointments authorized by law or by the House, the Speaker on January 27, 1993, did appoint as members of the Board of Regents of the Smithsonian Institution the following Members on the part of the House: Mr. NATCHER of Kentucky; Mr. MINETA of California; and Mr. MCDADE of Pennsylvania.

URGING SUPPORT OF THE FAMILY AND MEDICAL LEAVE ACT

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, this week we have the chance to make history. By passing the Family and Medical Leave Act, we can finally end years of government gridlock and enact legislation that represents real progress for working families.

The Family and Medical Leave Act was first introduced in the other body in 1987. But for the past 6 years, this critical measure has been passed over by administrations that did not view the plight of working families as a priority. Fortunately, we now have a President of vision who has pledged to sign this bill into law and break gridlock.

The Family and Medical Leave Act will ensure that working parents are not forced to choose between the demands of their jobs and the needs of their families.

In Connecticut we have family and medical leave protections. We know that they work. We know that family and medical leave does not hurt businesses; it helps them by improving worker productivity and morale, and by reducing turnover.

The House, by passing this legislation on an urgent basis, sends a signal to all those who would benefit by gridlock, that indeed, times have changed. Passage will send a signal that middle America can find champions in Washington who will act for the public interest. I urge my colleagues to support the Family and Medical Leave Act.

GOOD FAITH REFORM FOR THE HOUSE OF REPRESENTATIVES

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, yesterday, we learned that the House will not consider legislation to provide funding for the select committees—because the votes are not there to continue these committees. Mr. Speaker, you can hold the vote now or 2 weeks from now, but the issue will not change. If this body is ever going to reform the way it operates, the first small step will be to eliminate the select committees.

We have all read the headlines announcing layoffs at Sears, IBM, and Boeing. For the past 10 years corporate America has been going through a very serious restructuring in order to remain competitive in the global marketplace. The House of Representatives now has the same opportunity to become more efficient and save the taxpayers money—only if the Democrat leadership would allow the House to work it's will.

Abolishing the select committees would eliminate 91 staff positions and save taxpayers $3.65 million. More importantly, it would demonstrate to the public that we are serious about making reforms to this institution. I urge all my colleagues to vote to end funding for the select committees. It would be a demonstration of good faith to the public that we are serious about taking this first small step toward reform of our institution.

THE SOUND OF PROGRESS: PASSAGE OF THE FAMILY AND MEDICAL LEAVE ACT

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, does America need the Family and Medical Leave Act? When elected officials from Washington get out and meet with the real people in America and hear real family struggles, it is clear to me that the Bush veto of the Family and Medical Leave Act twice, the effort by the Republican Party to put an end to this progressive legislation, has itself reached the end of the line.

Yesterday I went to the Eden Child Care Center in my district, in Edwardsville, IL. Let me tell one little story about a single parent, a mother with three small children struggling to make ends meet with children in a day care center.

The kids came down with chicken pox, as kids will, and they did not come down with it all at once. They spread it over a period of 3 weeks, and this mother stayed home, as she had to, to be with her children. She was fired. She lost her job. Her employer said, "Too much absenteeism," so there she sat with three kids, no job, and no opportunity. Is that what America is all about? I think not.

This week the sound we will hear in Washington is not of the Capitol dome crashing or the ice breaking on the Potomac, we will hear the sound of the end of gridlock. We are going to pass the Family and Medical Leave Act and send it to a President who has the compassion and good sense to sign it. It is long overdue.

INTRODUCTION OF THE CRIMINAL ALIEN DEPORTATION AND EXCLUSION AMENDMENTS OF 1993

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, today I am introducing the Criminal Alien Deportation and Exclusion Amendments of 1993.

This legislation allows INS to deport criminal aliens when they're convicted at the trial court level, instead of waiting until the alien has served their entire sentence.

The bill costs nothing, streamlines the system, protects against the release of hardened criminals, and preserves the aliens' due process rights under the law.

This bill also saves State and Federal governments the millions of dollars it costs to feed, clothe, and house deportable criminal aliens, most of which are convicted on drug charges.

Since 1 of every 4 inmates in the Federal prison system is an alien, this bill will also dramatically reduce overcrowding in our Nation's prisons and jails.

I urge all my colleagues to join me in taking this logical, no-nonsense step to deport criminal aliens, reduce prison overcrowding, and save millions of State and Federal dollars.

THE FAIR WAY TO MOVE TOWARD A BALANCED BUDGET

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, this Nation has a $300 billion deficit, and a $4 trillion national debt—all of which constitutes a major crisis, and requires us to move toward a balanced budget.

But, Mr. Speaker, justice and decency demand that we do not balance the budget on the backs of the elderly, the poor, and the working people—those people who have already sacrificed and suffered over the last decade. Those people who are already the most vulnerable members of our society, the people most in pain.

Mr. Speaker, it is unconscionable, as some have suggested, to ask the elderly, 25 percent of whom live in poverty or near poverty—many of whom in my own State of Vermont cannot afford their prescription drugs or afford to adequately heat their homes—to suffer a cutback in their meager Social Security benefits. That approach is wrong, wrong, wrong—and Congress should drop that idea immediately.

Mr. Speaker, the richest 1 percent of our population now own 36 percent of the wealth of this Nation, and the wealthiest 1 percent now own more wealth than the bottom 90 percent combined. Meanwhile, the gap between the rich and the poor is, today, wider than it has been in 60 years. During the last decade, while the standard of living of the average American declined, the wealthiest people have been given hundreds of billions of dollars in tax breaks.

Mr. Speaker, let us not cut Social Security payments for senior citizens and the poor. Let us ask those who have the money to start paying their fair share of taxes.

DOES REFORM EQUAL DOOM?

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, in Roll Call we see the headline: "Doom Awaits Selects." In the paper—admittedly an apologist publication of the Hill—we read about staff scrambling to save jobs and Members grasping for ways to perpetuate their committees. But does reform equal doom in the minds of the Members of this body? I hope not—we were sent here this year to implement reform—not just by eliminating redundant and costly committees—but by adopting sweeping changes in the way Congress functions and by getting the Nation's financial house in order. This past week my phones have been ringing off the hook. Southwest Floridians are outraged that the new administration appears more interested in social engineering than healing our economy, more interested in appeasing special interests than keeping its promises to create jobs for Americans. Our constitutents are demanding that all Government shape up—and the only doom that lies ahead is to the political careerists who fail to hear the clarion call for real reform around here.

□ 1220

SUPPORT FAMILY AND MEDICAL LEAVE ACT OF 1993

(Ms. BYRNE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BYRNE. Mr. Speaker, I rise today to support H.R. 1, the Family and Medical Leave Act of 1993.

This is a principle on which many Members on both sides of the aisle agree. In fact, new women Members gave it their early, unanimous, bipartisan support.

Unpaid leave for established workers when family, personal or medical circumstances obligate them to miss up to 12 weeks of work should be a fundamental right and an investment in our future.

Family leave will apply to firms with at least 50 employees—that exempts 95 percent of businesses but covers more than half of American workers.

Our laws do not approach the needs of working parents.

Should a country that cares about family values not protect these jobs? I think so.

For the good of the American family, I hope that H.R. 1 is not held hostage to shortsightedness and intolerance. It will reduce costs associated with employee turnover, hiring, and job training.

The Family and Medical Leave Act is common sense. It is time to make it law.

SUPER BOWL GOOD FOR PASADENA

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. DREIER. Mr. Speaker, I am proud to have been a long-time fan of the American Football Conference Kansas City Chiefs and the National Football Conference Washington Redskins. And it is in that spirit that I would like to say that I am also a fan of my good friends from Texas, Mr. SARPALIUS, my friend from Dallas, Mr. SAM JOHNSON, and my friends from Buffalo, Mr. SOLOMON, Mr. PAXON, and Mr. QUINN, and others. And it is in that spirit that I would like to say that as I sat Sunday in the Rose Bowl that it was a great honor for my friend CARLOS MOORHEAD and me to have the privilege of representing Pasadena, CA, here in the U.S. Congress.

California has been undergoing some very difficult times recently. In Los Angeles County we have a 12-percent unemployment rate.

I hope very much as I extended congratulations to the Dallas Cowboys that it was the beginning of a great victory for our entire community.

Mr. Speaker, I include for the RECORD an editorial from the Los Angeles Times, as follows:

A GREAT EVENT, IN A GREAT PLACE

The final score was irrelevant. When an event unfolds as regally as Super Bowl XXVII, everyone is a winner—especially Southern California. Not that there wasn't a lot of tension built into the event.

After all, it might have rained.

It didn't of course. This is Southern California.

A place with its ups and downs—like everywhere else in the world—Southern California, sure, has its tensions, disparities, share of stupidities.

But we also have a great many people who love their country and love living here. For the past week, the wave of visitors to Southern California came to appreciate what we are all about.

We're not that difficult to understand. We bounce back. We are not easily discouraged. This past week of parties and events—culminating in Sunday's extravaganza—may not have shown Southern California at its most typical. Nothing is typical, anywhere, about Super Bowl week.

But the attitude here this past week was not at all atypical either: Yes, this is a place that is scarcely unmindful of having endured the worst riots in American history. Yes, it is a place that's still struggling with the worst economic downturn in anyone's memory. And it is a place that has a whole lot yet to do if it is to proceed apace as perhaps (we like to think) the best place to live, work and raise children in America.

But few here doubt that we shall overcome. That's our optimism. And a lot of people saw that sunny optimism on display this past week.

JUSTICE DEPARTMENT PERSISTING IN PROSECUTION OF DEMJANJUK AS IVAN THE TERRIBLE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, since the late 1970's the Justice Department told the world that a retired autoworker from Cleveland was Ivan the Terrible. And they had produced an awful lot of so-called evidence, much of it now having been shot down. And after investigating this case, starting in 1989, we have 80 different people who have identified Ivan the Terrible as Ivan Marchenko, dark hair, taller, long scar on the neck, older.

But the truth is our Justice Department still stonewalls, and instead of defending the Constitution and the American people they are defending what I consider to be a bunch of criminals in the Justice Department themselves.

Mr. Speaker, Ivan Marchenko is Ivan the Terrible, and I have reason to believe now he may still be living in Eastern Europe, having married a Yugoslav woman after Trieste, and while our Government kept pushing Demjanjuk, the real Ivan was growing old.

The headlines now show the Justice Department has headaches, and someone should go to jail for this. Our country has turned its back on the Constitution, and they have turned their back so many times that Demjanjuk is a classic example of a rights case, not a criminal.

PASSING A WAR CRIMES RESOLUTION

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, there is lots of talk about gridlock. I call on the other side of this body to pass by the end of this month the resolution putting the United States Congress on record with regard to the war crimes that are taking place in Serbia and the former Yugoslavia.

Over 20,000 women have been raped, ethnic cleansing has taken place, killings have taken place, mass graves have been found in Vukovar, but yet this body will do nothing. And last week the House Post Office and Civil Service Committee reported out, and not even on a rollcall vote, the resolution with regard to repealing the Hatch Act.

If this Congress does not act on this issue, then I think every Member who is a Member of this Congress should be embarrassed because the Congress has failed.

JOURNALISTIC JACKALS

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, the journalistic jackals are at it again. Bill Clinton has been in office but 2 weeks, and the perpetrators of the poison pen are dripping blood. They make Joseph Goebbels look good.

Let me say this: I do not agree with my wife all of the time. We have our disagreements, but I am not going to divorce her, and I am not going to kick her out of the house. We try to work out our differences.

But listen to the talk show hosts, the TV experts, the Sunday morning experts, the columnists and the editors, and here is what they have to say. They are more interested in self-gratification, and money in their pockets than they are in solving the country's problems.

Give the President a chance. Let him work his will. Bill Clinton is the only one we got, and he will be there for 4 years, and if we turn on him and pounce on him we are not going to get anything done for the people of this country.

DON'T MESS WITH SOCIAL SECURITY

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, in my home State we have a saying. Don't Mess With Texas.

Here in Congress we need a similar slogan—Don't Mess with Social Security.

President Clinton says he wants to balance the Federal budget on the backs of America's senior citizens. He is just plain wrong.

Older Americans built this country. They worked hard and raised families. They fought and won World War II and then sent their children to Vietnam. They built an economy second to none and made America great.

We owe them their full Social Security benefits. Social Security is one of the only solvent accounts our Government has. If it's not broke, don't fix it.

We should not rob the Social Security trust fund and push some of our seniors into poverty to pay for deficit spending.

Mr. Speaker, I urge President Clinton and my colleagues to keep the word "trust" in the Social Security trust fund and don't mess with Social Security.

OPPOSITION TO AN OIL IMPORT FEE

(Mr. MARKEY asked and was given permission to address the House for 1 minute.)

Mr. MARKEY. Mr. Speaker, it has been freezing in New England this week. The temperature has hovered near zero, the winds have been whipping, and the snow keeps on falling. But, sadly, this blast of winter's wrath is not the worst chill New Englanders have gotten this week. Recent calls for an oil import fee will have a far more lasting impact on New Englanders than even the chill of winter. Members of Congress—from JOE MOAKLEY to GEORGE MITCHELL—remain strenuously opposed to an oil import fee. We insist that the sacrifice associated with any deficit reduction plan must be borne by the entire Nation—but an oil import fee would impose a completely unfair burden on New England, which is more than twice as dependent on foreign oil as is the rest of the country. Many other regions are in the same predicament.

And to add insult to injury, less than half of the higher cost to oil consumers would go to the Federal Government for deficit reduction—the rest would line the pockets of domestic oil producers.

I am ready to work with the administration to find a fair and effective course of action to tackle our national budget deficit. However we cannot and will not allow a deficit reduction package that promises windfall profits for oil companies and an unfair burden on New England and the other oil-dependent regions of America.

□ 1230

THE HOUSE SELECT COMMITTEES

(Mr. CAMP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMP. Mr. Speaker, older Americans, drugs, children, youth, and families, hunger: They involve important issues, affecting people young and old. The politically safe route would be to continue the select committees even though they have no legislative authority in and of themselves.

None of them were ever intended to become permanent parts of the legislative bureaucracy.

The message sent by voters in 1992 was not that they want bigger government, but that they want better government. They said "We are tired of business as usual. If you can't do it, then we will find someone else who can." Well we are the ones who must do it. Do we stand for reform and sound policy, or rhetoric and nearly $4 million a year which is directed at committees that don't have the legislative power to do a thing?

Other committees do have the authority and the ability to act on these important issues. We do not need additional committees that increase the size and cost of government every time we have an issue to address. Why do we not listen to the message heard loud and clear last year, and make a change?

Mr. Speaker, the choice is ours. Let us vote now on the select committees.

THE TREND TODAY IS TOWARD SMOKE-FREE FACILITIES

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, smoke-free facilities are the coming trend. In my home State of Kentucky, a tobacco State, local officials are trying to fashion methods by which smoking can be prohibited in workplaces and in public areas.

We have seen many buildings in the country declared smoke free, and just yesterday, Mrs. Clinton announced that smoking would no longer be permitted in the White House.

For various reasons, esthetic and personal-comfort reasons, health care concerns and liability reasons stemming from the EPA's announcement of a couple of weeks ago that secondhand smoke could be classified as a carcinogen, smoke-free places are coming. I think we, the Congress, could assist that trend.

Today the gentleman from Illinois [Mr. DURBIN] and I have introduced a bill that would prohibit smoking in Federal facilities and in facilities in which young people receive federally funded services except in areas that are separately ventilated.

I would encourage my colleagues to look seriously at this bill and to support it. We need to move America to a smoke-free environment.

THE NATIONAL DOMESTIC VIOLENCE HOTLINE ACT

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, domestic violence is a national disgrace and a public health emergency that has reached epidemic proportions. More American women are injured in domestic violence episodes than in auto accidents, muggings, and rapes combined.

Without intervention by families, friends, and society, domestic violence escalates and leads ultimately to tragedy. Without a way out, many more women and their children will die.

Until last summer, the national domestic violence hotline provided a lifeline to battered women by offering emergency counseling, shelter referrals, and other help. Then, in July the privately funded hotline was disconnected when its funding was cut. Today, thousands of battered women and their children are without a vital link to information about shelters, safe homes, and counseling services.

I have introduced the National Domestic Violence Hotline Act, H.R. 522, which will provide $1 million to reestablish and operate the tollfree, 24-hour-a-day hotline. The hotline will be available to non-English speakers and to the hearing impaired. This legislation will provide a lifeline to thousands of American women. Without such a hotline, many women will stay in abusive relationships with tragic consequences. The domestic violence hotline is frontline prevention.

I urge Members to join me cosponsoring this important legislation.

WELFARE: A SECOND CHANCE, NOT A WAY OF LIFE

(Mr. SARPALIUS asked and was given permission to address the House for 1 minute.)

Mr. SARPALIUS. Mr. Speaker, welfare should be a second chance, not a way of life. We heard the President again say those words just a few hours ago when he outlined his welfare program for this country.

As somebody who has been there, let me tell you he is right on target. He talked about limiting the time when a person can be on welfare. He talked about expansion of the earned-income tax credit. He talked about giving States the freedom to experiment with new programs within their States. He talked about tougher child-support laws where, for once, parents will be responsible for raising their children and not leaving that responsibility to the taxpayers. He talked about education and training, and probably the most important part of his program, in my opinion, was when he talked about providing child care and health care.

Imagine a single mother with children trying to survive in this economy today in the fear of losing health care for her children.

His program does give people a second chance, and I hope that my colleagues will look at his program strongly.

IS THIS WHAT PEOPLE VOTED FOR?

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, our Democrat friends have a clarion call. They say it is an end to gridlock, and so it is.

The Democrats now control the White House, the House, the Senate, all the bureaucracies, all the agencies. In fact, today we have 258 Democrats in this House, and only 175 Republicans.

In 1994, 2 years from now, it will be 40 years that the Democrats have run this House, every single Speaker, every single chairman, every single subcommittee chairman.

But wait a minute, lest we forget, in 1982 the Democrats had a little bumper sticker. It said, "Protect Social Security. Vote Democrat." I remember that, because we Republicans were beat to a pulp. We lost 26 seats that year.

But we have to have some intellectual integrity, do we not? Who is the President who said, "Let us tax Social Security"? Why, it was President Clinton, with the Democrat Congress who is approving.

Yes, it is an end to gridlock. But according to the independent press, President Clinton has now broken every single promise except the promise to raise taxes.

I do not think that is what those people voted for on November 3.

FAST FOOD SHOULD NOT MEAN A FAST TRIP TO THE HOSPITAL

(Mr. KREIDLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KREIDLER. Mr. Speaker, more than 300 people in Washington State have become ill, and 2 children have died because a fast food chain served hamburgers that contained toxic bacteria.

The only sure way to prevent this kind of poisoning is to cook meat thoroughly. Jack-in-the-Box violated Federal and State laws in not doing so.

But the Department of Agriculture spends millions of dollars on an inspection system that should prevent tainted meat from getting to restaurants in the first place. We need to know why this system failed.

Secretary Espy is in Washington State today, and I appreciate his concern. I urge him to review the inspection system and take steps to prevent such a tragedy from happening again.

USDA needs to restore the cuts, the last administration, made in its inspection staff. USDA needs to do more lab sampling in processing plants. And we need more research on ways to keep bacteria out of the meat supply.

Mr. Speaker, America's families deserve a safer food supply for their tax dollars. People who buy carry-out food should not be put at risk for carryout illness.

UNFUNDED MANDATES

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, the economy, or better yet, the economy, stupid, that is the cry we hear, and properly so.

But what is the first act of Congress with regard to the economy? To add more and more unfunded mandates on a weaker economy.

I hear more from business people about unfunded mandates and overregulation as an obstacle to helping the economy than any other issue.

Mr. Speaker, we have a very activist Congress wanting to desperately micromanage social programs through unfunded mandates and causing businesses to pick up the bill. The question is not the value of family leave. The question is how you accomplish that. Unfunded mandates on a weakened economy are not the best approach.

SUPPORT THE FAMILY AND MEDICAL LEAVE ACT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, they asked us how do we deal with unfunded mandates. Let me tell you, as the person who introduced family leave in 1985, we are still waiting.

The children who were born that year are now in third grade. Everyone kept saying, "Oh, SCHROEDER, we do not need this bill. We are sure that the private sector will do this." Well, they did not, and we keep having more children born, and we remain the industrial nation with the least family-friendly work policies.

We are going to move forward this year and this week on a very compromised bill that has been worked on for 8 years in both bodies, that has passed over and over again in both bodies, and I plead with my colleagues who are thinking about playing all sorts of games with it not to do this.

America's families have waited long enough, and there is no other industrialized nation on the planet that does not have family leave in a much stronger form than even the one we are going to be considering this week.

But let us do it. Let us not keep talking family issues and voting down every single thing that really would strengthen America's families.

That opportunity this week is going to be offered. Who is for families and who is just faking? I think we are going to find out real soon.

□ 1240

NO TAX ON SOCIAL SECURITY, NO FREEZE ON SOCIAL SECURITY, AND TAKE SOCIAL SECURITY OFF BUDGET—LEAVE IT ALONE

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, there is no excuse for the Democratic administration to propose raising taxes on Social Security or to propose freezing the cost-of-living allowance for Social Security recipients. Social Security is financially sound and is the most widely supported social insurance program we have.

To tax Social Security or freeze Social Security is to transfer the money to subsidize the welfare state and the bureaucracy. It is just plain wrong.

Social Security should be taken off budget, the deficit would be solved by shrinking the bureaucracy and transforming welfare into workfare, and cutting out lower priority programs.

Maybe a Democratic Cabinet with nine millionaires, more than either Reagan or Bush administration, is simply insensitive to concerns of senior citizens who average less than $650 a month in Social Security payments. However, we have an obligation to our parents and grandparents to protect them from the welfare state's desperation.

No taxes on Social Security, no freeze on Social Security; take Social Security off budget and leave it alone.

FAMILY AND MEDICAL LEAVE ACT

(Mr. PASTOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PASTOR. Mr. Speaker, tomorrow this body will usher in a new era. When we pass H.R. 2, the Family and Medical Leave Act, we will signal the beginning of a government committed to working together. Gridlock will be over.

It is significant that the Family Medical and Leave Act will be the first major piece of legislation that President Clinton will sign into law. We will be sending a clear message to the American people that this Congress and its leadership are the true protectors of family values, and that we consider the welfare of our families and children as our No. 1 priority.

Mr. Speaker, the most important things to Americans are their families and their jobs, and H.R. 2 will preserve both. No longer will workers be forced to choose between their families and their jobs, and no longer will an estimated 150,000 workers lose their jobs every year because of the lack of work-guaranteed medical leave.

I urge all of my colleagues to vote for our Nation's families and end the gridlock.

MESSING WITH SOCIAL SECURITY—THERE IS SOMETHING REALLY STUPID

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, mythology, and maybe reality, holds that a sign in the Clinton campaign headquarters read, "The Economy, Stupid." What we did not know was that the small print on that sign evidently read, "Cut Social Security, freeze Social Security, tax Social Security, make Social Security just another welfare program."

Messing with Social Security, now that is something really stupid.

LET US PASS THE FAMILY AND MEDICAL LEAVE ACT

(Mr. FIELDS of Louisiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FIELDS of Louisiana. Mr. Speaker, the time has come for us to take a stand for the families of this country.

We need to expand our view of the American work force from faceless employees to mothers, fathers, and people who are part of that close knit nuclear unit of our society called families.

The Family Leave Act would allow unpaid, job-protected leave for employees of firms with 50 or more workers. People will be able to take care of their family's basic needs without losing their means of economic survival. Child development experts have repeatedly emphasized the importance of parents taking the time to develop early bonding with newborns or adopted children. And anyone suffering from a serious illness needs, first of all quality medical care, but just as important, they need the constant presence of a loved one to help them get through that difficult time. Remember, employees can choose to exempt key salaried workers from this legislation if they feel the absence of that worker will pose serious harm to the company. However, preserving families should be a priority within this body. We can set the tone for the rest of society if we adopt this family sensitive legislation.

TRUE REFORM MEANS ELIMINATING SELECT COMMITTEES

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, the schedule today originally provided for our consideration of the reauthorization of the select committees. That has been pulled, obviously, because there are not—the majority feels—sufficient number of votes to pass that particular resolution.

Just by way of a little reminder, when the issue was first enjoined here in the House a week or so ago, we were under the impression on our side of the aisle that we did not, probably, have the votes to defeat any one of the select committees; we did not know whether they would come out en bloc, four at a time or individually.

The majority, the Democrat majority, obviously felt it was to their advantage to bring up the select committees individually: Narcotics, Aging, Children and Youth, the Hunger Committees. The first one went down to defeat, whereupon I reminded the majority that earlier in the day we had proposed, on our side, a compromise for simply a 1-year extension. They refused our compromise.

We will accept that because obviously they have the votes to do what they want to do. But I just wanted to remind Members of the House, from the standpoint of the record, that I proposed eliminating all these selects, in the Republican administrative reform bill last year when we were talking about a finance officer for the House of Representatives. This was my alternative to the Democratic plan to reform the House by just creating a House administrator.

Again, at the beginning of this 103d Congress, my rules package, as an alternative to the rules package alternative, would have eliminated all select committees.

So I think our position has been very clear on that point. And quite frankly we are prepared to vote against all four of those select committees when the issue is brought back to the House in whatever form. I simply want to remind folks that when we talk about reform, actions do speak louder than words, but let us get those words straight.

INTRODUCTION OF THE STRICT LIABILITY FOR SAFER STREETS ACT OF 1993

(Mr. REYNOLDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REYNOLDS. Mr. Speaker, I rise today to call upon the Congress to stop the flow of blood in our streets and neighborhoods caused by gun violence. It is time to hold those responsible for the flood of weapons, in our communities, for the toll they inflict.

Today, I, joined by Congressman TUCKER, have introduced the Strict Liability for Safer Streets Act of 1993. In short, the legislation will hold manufacturers and importers of handguns and semiautomatic assault weapons strictly liable for injuries and deaths caused by their weapons.

In addition, this legislation doubles the excise tax on firearms and channels the revenue collected into a trust fund to help alleviate the burdensome costs associated with the treatment of uninsured gun shot victims.

If we are truly serious about addressing the senseless slaughter taking place in our streets, we must hold people and corporations responsible for their actions, as well as provide relief to those impacted so heavily by the destructive cost of gun violence.

I ask my colleagues' support for this legislation.

THE HAMAS MILITANTS IN THE UNITED STATES AND THE MIDEAST

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, I rise today to call the attention of our colleagues to the alarming and threatening reports of Hamas militants in the United States who may be funding and directing terrorist activities in the Mideast.

An avowedly terrorist organization, an odious group committed to murder and mayhem to advance its nefarious purposes, cannot be permitted to get a toehold in America.

Mr. Speaker, I have just written a letter to the Justice Department asking them to launch a full-scale investigation into these reports.

I have also called for a review of the Justice Department's efforts to determine whether Hamas leaders have entered this country illegally and I am asking the State Department to add Hamas to its official list of terrorist organizations.

Our efforts to stand up to Hamas terror are critical to peace in the Mideast. Hamas opposes the Mideast peace conference and has vowed to oppose, by any means, any successful peaceful results of the peace conference. Hamas has also launched efforts to destabilize governments in Egypt and Algeria and is considered by many Arab governments to be the most serious threat to their security. And finally, let us also be aware of the danger to the safety of Americans posed by the launching of this Hamas jihad from American soil.

□ 1250

MATRIX-CHURCHILL, SPIES AND LIES

The SPEAKER pro tempore (Mr. BECERRA). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, the primary reason the Banking Committee has been, and continues to, investigate BNL of Atlanta, among others, and the funding of Iraq's procurement network is to illustrate clearly and concisely how foreign governments can, and sometimes do and continue to do so even as I speak today, abuse the United States banking system.

From the beginning, the consideration has been whether the first two years when there was no interest in these developments and then the advent of the BCCI scandal which was the first thing that came over and agitated the public mind and related to the BNL, incidentally, was from the standpoint of banking.

What I have been pushing since 1975 when I caused to have the first hearings in my home town of San Antonio—I certainly was not the chairman then—of what was obviously a very disturbing trend, and no existing laws in our books to govern these heavy cash flows of money across international lines, with nobody either on this side or any side much knowing what it was about.

The 2-day hearings we held in April 1975 revealed very disturbing information, which locally led to the indictment and conviction of two individuals. It was the first harbinger or forerunner of what we later, just 3 years ago, were wallowing in the S&L crisis, because it was the cause for one of our S&L's of my hometown to go under at the time.

It also surfaced some individuals from other States that later were prominently involved in the national scandals that were so much agitating us just 3 years ago, and in the meanwhile have been convicted and jailed.

But in 1975, who cared?

So it took 3 years before we finally had the first so-called International Banking Act of 1978. I had been pushing for the enactment of a fairly strong one, and in fact anything would be better than nothing, which we had in 1975; but by 1978 we finally persuaded the then-chairman to do something. Then it was a very watered-down version which essentially has continued through until we were able to draft some amendments in the 1991 act, and then again last year in the 1992 act, but they are still minimal and far from what this Nation must have if it is going to protect its vital interests in a most important way.

The fact is that one of the things that is very difficult to even bring about and penetrate the level of consciousness of our own Members, as well as the business leadership and as well as the leadership in the executive branch and in the regulatory bodies, that there is a vast difference between our system, which is totally different from the European or the other banking systems where you have government ownership of the banks.

The BNL, for instance, was an institution owned by the Italian Government. Most of these institutions are foreign government-owned.

So from the beginning, I have pointed out the danger to the national interest and have been unsuccessful to this day in bringing even the minimal defensive regulatory environment that this country must have as a minimum to protect its true national interest.

We are the only industrialized nation that does not have any screening boards or any protection of any kind; but then also we had the abandonment of the American scene by not only the megacorporations in the sixties began to lead the United States, and that was when we heard about transnationals and the big departure of our corporations, and also in so doing, in effect, sold out American labor, but that is another story.

The banks did it, too; that is the biggest of the big, and when they did, in the words of the old Latin saying to the effect that, "Where my money goes is where my nationality is." "Ubi pecunia patria."

In other words, "My loyalty is where my money is".

□ 1300

Therefore, today, with the advent of another collateral development, such as the offshore facilities that are hand and glove with these activities I speak about and that we brought out in the case of the BNL and BCCI; so, that gives my colleagues the main reasons for my interests.

Now there are those who think that I have single-shot this issue. But they simply have not followed the record of what has happened. When we did, last year, come across the policy matters involving the Committee on Foreign Affairs, and the Department of Agriculture commodity credit program, and the Department of Commerce export licensing business, we then referred to the proper committees those aspects, and we brought in the very preeminent colleague, the gentleman from North Carolina [Mr. ROSE], from the Committee on Agriculture, chairman of the subcommittee that has jurisdiction. We brought in the equally distinguished chairman of the subcommittee, the gentleman from Connecticut [Mr. GEJDENSON] who has jurisdiction of the Committee on Foreign Affairs, State Department, and also those that had jurisdiction over the Commerce Department and the issuance of the export license, and in many cases not even bothering to provide export licensing for such things as material and equipment necessary to the composition of nuclear type of weaponry.

So, I have been restricted single-mindedly to the need to obtain the necessary banking legislation. After all, that is where we are coming from in the Committee on Banking, Finance and Urban Affairs, and we are only too happy—and certainly I would have been delighted to have some colleagues, even on the Banking Committee—then come to the first hearings we had in 1990, and in the very beginning of the glimmering of this issue in 1989, because it will be 4 years this coming summer that I initiated what has turned out to be this investigation.

Now, the legislation that I have introduced in the past two Congresses changed the way foreign banks are regulated to a certain extent and has resulted in greater oversight of foreign bank activities in the United States in some ways. But that resulted only after the BCCI scandals kind of embarrassed some of our regulators, like the Fed, and then, when they joined us in accepting the minimal changes, well, we were able to get the amendments.

However, I repeat, a lot more has to be done.

Branches and agencies of foreign banks currently hold over, very conservatively, $700 billion in the United States, and too often this money is dedicated to activities that are harmful to our national security or are in actual violation of U.S. law. Activities like drug money laundering, which is huge, continues unabated and with the collateral activities of the offshore facilities that enable our corporations, from banks to everything else, to escape taxes and also to set up activities in lax or nonexistent regulated atmospheres and which have one purpose in mind, and that is to take advantage of the U.S. system and to continue this nefarious drug money laundering operation which circulates through the arterial system of our financial setup in the United States. It takes just a little tranche or a little amount of this money, like the BNL's, to multiply huge activities.

BNL's illicit loans to Iraq are a prime example of the dangers confronting our financial system. BNL Atlanta not only funded Iraqi weapons purchases; the loans were also used to fund acquisitions of technology used in Iraq's clandestine missile, nuclear, and chemical weapons building programs. In fact, BNL Atlanta loans were the single largest outside source of funds for Saddam Hussein's ambitious military industrialization program.

I was astounded to learn that the Federal Reserve and State bank regulators had no clue that BNL was funding Iraq's weapons building effort. Given the bank regulator's historically poor record of supervising foreign banks, I have no doubt that other nations and criminals from around the globe are currently taking advantage of our banking system. The BNL scandal should serve as a continuous reminder that we must be vigilant in protecting our banking system from bad actors. We must learn from our mistakes. Up to now we have been like the old Bourbon kings, I keep repeating: Learn nothing and forget nothing. This is the primary reason I am continuing the BNL probe and investigating the funding of Iraq's procurement network.

And contrary to all of the agitation last year, an election year, I never have immersed this issue in any ersatz political activity. When we started in 1989, 1990, 1991, those were not Presidential election years, and, had we had the cooperation of the very administration that was up in arms last year, up to November 3, why it would not have been a political issue at all. But that is so much history now.

But I just want to remind my colleagues that at no time did anybody show where I have immersed this into any kind of a partisan type of approach or attack. The primary reason continues to be the need to obtain the necessary statutes.

Now the stakes are extremely high. The integrity of our banking system and the safety and soundness of our banking system is at risk.

In previous reports I revealed that BNL was the major outside source of funds for Iraq's ambitious military industrialization program. The militarization program was under the direction of Saddam Hussein's son-in-law, Hussein Kamil. Mr. Kamil headed the Ministry of Industry and Military Industrialization, better known as MIMI. In all, BNL provided MIMI with over $2 billion in funding, much of which was dedicated to building Iraq's weapons manufacturing infrastructure.

Mr. Kamil also directed an intelligence organization called the Special Security Organization [SSO]. Using covert techniques, SSO agents helped to establish a complex, worldwide web of front companies that were used to procure technology for many of Iraq's highest priority weapons programs. The front companies were of course often staffed with Iraqi intelligence agents.

One of the largest of the procurement networks, called the Al-Arabi Trading Co. Network, was established in 1987. It was headquartered in Baghdad, but its tentacles spread throughout Europe and the United States. The Al-Arabi Network had affiliates in the United States, United Kingdom, Germany, Italy, Switzerland, and France, all of which enabled Iraq in less than an 8-year period—from 1981 to just 1988, not counting what happened after 1988—to obtain from these countries, including the United States, over 47.6 billion dollars' worth of armament.

The prime responsibility of network firms was to obtain Western technology for Iraqi factories involved in building conventional and nonconventional weapons.

□ 1310

These factories include establishments known as Nassr, Bader, Hutteen, and Saddam. Western governments supported Iraq's weapons building programs throughout the 1980's and early 1990's despite their public pronouncements that they would not sell equipment that could be used to enhance Iraq's military capability.

In 1987, Al-Arabi established a holding company in London called the Technology Development Group [TDG]. In the same year TDG gained control of several British and American firms, most notably the venerable British machine toolmaker Matrix-Churchill Ltd. and its Cleveland, OH, affiliate Matrix-Churchill Corp. [MCC].

Matrix-Churchill Ltd. was the United Kingdom's premier toolmaker and a major supplier of machine tools to arsenals around the world. It has been in existence since 1923 and its two plants in the United Kingdom employed over 700 people. Matrix-Churchill Corp. in Cleveland was its North American sales and service affiliate and it was established in 1967.

Prior to being purchasing by the Iraqis, Matrix-Churchill had contracts to provide machines for several armaments factories. One of the contracts, known as the ABC contract, was to supply machine tools to Hutteen, one of these entities in Iraq which was engaged in producing the 155- and the 122-millimeter artillery shells.

A second contract, referred to as the ABA contract, obligated Matrix Churchill to supply machines to Nassr for the production of a rocket called the Ababel. Matrix-Churchill had a great many contracts to supply Iraq. For example, Matrix had a contract to ship machines to an artillery fuse factory at Nassr that had been conceived by the famed ballistic genius Gerald Bull.

I have talked about him in the past and will in the future bring out further facts about him because of his ability to obtain, together with Matrix-Churchill, BNL financing. This was the big gun, as they called it. He was the inventive genius from Canada, and interestingly enough, he worked very closely with United States Army ballistics, and the United States now has that gun. Very little is known about that, but the United States now has the big gun, which we so much reviled Bull and others for. Incidentally, Gerald Bull was assassinated mysteriously in Brussels, Belgium, where he had set up his corporation through which he had obtained the funding from BNL in the United States.

Matrix also had contracts to supply machine tools to the Chilean arms dealer Carlos Cardoen who had several large weapons contracts with Iraq. As it happened, many of Matrix-Churchill's contracts with Iraq were financed by the Atlanta branch of BNL.

Matrix-Churchill records show that as early as 1988 the majority of its machine tool deliveries were destined for Iraqi weapons factories. That could not have been a surprise to the British Government, as indeed has been brought out, because starting in May 1987, a director of Matrix-Churchill began providing British intelligence with detailed accounts of Iraq's procurement activities.

Our brilliant staff, under the direction of Dennis Kane, has made contact here. I am speaking as a result of the accumulation of massive evidentiary material and interviews.

In fact, though it was little noted in the United States press, several dozen British Government documents detailing the spy relationship were made public late last year during an aborted attempt to prosecute several Matrix-Churchill directors for violating United Kingdom export control laws.

The rest of today's report will discuss the implications of some of the documents released during the trial in Great Britain. Last week I placed in the RECORD these documents from British intelligence, and they are interesting.

In addition, I will discuss whether or not British intelligence informed the CIA and BNL's funding of Matrix-Churchill and Iraq's procurement network prior to the BNL raid in August 1989. Well, we know definitely that that was the case.

In past reports I showed how the Bush administration, in its pursuit of closer relations with Saddam Hussein, a policy inherited from his predecessor administration knowingly authorized United States firms to sell sophisticated technology for use in Iraqi conventional and nonconventional weapons programs. Not surprisingly, United States intelligence was well aware of Iraq's military industrialization program. We brought that out ad infinitum.

I also showed that BNL Atlanta loans fueled Iraq's weapons building effort by funding a series of front companies in Europe and the United States that were used to purchase Western technology. What I could not report last year was that the CIA had contemporaneous knowledge of BNL's illicit activities or that the CIA was aware of BNL's funding of Iraq's procurement activities prior to the raid on BNL in August 1989.

However, the evidence recently gathered by the committee and its capable staff contradict the CIA's assertion that it was unaware of BNL's funding of Iraq's procurement activities.

The foreign policies of the United States and United Kingdom Governments are hardly distinguishable. Margaret Thatcher and John Major worked hand in glove with the administration.

Of course, that was a Tory government, and we have had Tory governments. We do not call them that. They like to call themselves, euphemistically, conservatives, but I would not dare abuse that word. We live in such a day of abuse of words. They are reactionaries. They are what President Franklin Roosevelt in his day and time called reactionaries, and he explained that that meant somnambulists, sleepwalkers walking backward.

That is what we have had. We have not had conservatives. If that is the case, I call myself a conservator in the sense that I believe as a matter of principle and to the marrow of my bones, I am charged with the responsibility of conserving the traditional American liberal spirit. That makes me a conservator, not a conservative as defined nowadays. Horrors. Perish the thought.

This collaboration was complete in the Middle East and Iraq, although England has had for years a much longer history of engagement and entanglement with the peoples of Mesopotamia and surrounding areas.

That is why I have tempered my judgments when with great indignation it was brought out that Saddam Hussein, in his war against Iran, when that community had been penetrated by the Iranian forces, used poison gas. Well, the British were the first ones to use it, in 1919, and later against those forces. Winston Churchill, being the head of that war office, whatever they called it, and the Royal Air Force, gave permission to use poison gas. Well, of course, who ever thought of not using whatever means you had to take care of these recalcitrant Arabs? The recalcitrant Arabs are the Iraqis of today, and poison gas was used against them. That was our so-called Western civilization use, going back to 1919, after World War I, when we had the big battle to take over the remains of the German interests in that area, along with the remnants of the Turkish Ottoman Empire.

So that is why I have tempered my judgments, because we are the last ones who should cast judgments. As a matter of fact, I have repeated what I first read from what I consider to be an outstanding American thinker, Noam Chomsky, that the greatest need of our country was not dissent but de-Nazification. We have used no different tactics than Hitler and the Nazis. I would point to our shameless bombing and incineration of thousands of human beings in Panama by Stealth bombers. Can you imagine? It is still true that the American people do not know what has been done in their name.

□ 1320

The more recent shelling of Baghdad, where we had men, women, children killed, why? I mean, it just seems to me that we have gone from our moorings.

Let me say something to my colleagues along that line. We may indulge in the thought that we are self-righteous and doing the right thing, but the outside of the United States world does not agree with that. Just read their journals and their thinkers, and you will see where we are in the estimate of world opinion, which the signers of the Declaration of Independence said they were obedient to.

The intimacy of our relationship with Great Britain is illustrated by our intelligence sharing arrangement, which is far more extensive with the United Kingdom than with any other country, including Israel, where there is an intense connection.

A British intelligence memo released during the aborted Matrix-Churchill trial illustrates the closeness of the United Kingdom-United States intelligence relationship. The memo, from an intelligence agent to his superiors, states:

> * * * It would be useful if you could eventually get details from the Americans of other British and European companies involved in procurement.

In addition, one of the sources used by British intelligence told the committee that his handler made it clear to him that information gathered about the U.S. activities of Matrix-Churchill and other firms was shared with the United States.

While it is apparent that the United States and United Kingdom shared information on Iraq's procurement activities, the committee is still attempting to learn when the CIA received information from the United Kingdom and the content of those communications.

BRITISH INTELLIGENCE KNEW ABOUT BNL FUNDING

The committee recently interviewed one of the Matrix-Churchill directors, a man named Paul Henderson. British intelligence met with Mr. Henderson on a regular basis beginning in 1988. His handler asked detailed questions about Iraq's procurement activities including information on weapons factories in Iraq, details on other Iraqi procurement fronts, and financing arrangements for the procurement network. Mr. Henderson even provided his government with blueprints on several Iraqi military projects being worked on by Matrix-Churchill. Mr. Henderson told the committee:

In April 1989, 4 months before the BNL raid in Atlanta, Mr. Henderson remembers providing British intelligence with information on the Atlanta branch of BNL's role in funding of Iraq's purchase of Matrix-Churchill machines. He told his British intelligence handler that BNL Atlanta was funding several Matrix-Churchill contracts in Iraq.

Mr. Henderson's handler often asked for any information he had on other United States companies that had dealings with Iraq. His handler also made it clear that information gathered on U.S. firms was passed to U.S. intelligence;

Mr. Henderson's handler at MI6 often asked for information on the activities of Matrix-Churchill's Cleveland, OH, affiliate.

In 1989, the Iraqis used BNL money to form a joint venture with Gerald Bull in order to purchase an advanced composite carbon fiber factory in Belfast. Mr. Henderson also believes the Iraqis used BNL funds to purchase shares in a Swiss industrial firm. The Iraqis were also trying to purchase a firm in Yugoslavia that was to be part of Iraq's procurement network;

In late 1989, Mr. Henderson provided British intelligence with detailed plans for an artillery fuse factory being constructed at Nassr by Gerald Bull's company, SRC. He also provided data on a project run by Chilean armsmaker Carlos Cardoen.

On several occasions the Robert Gates-led CIA has told the Banking Committee that it had no contemporaneous information on BNL's illicit loans to Iraq or BNL's funding of Iraq's procurement network. Specifically, the CIA told the Banking Committee that it was not aware of BNL's illicit loans until after the raid in August 1989. Mr. Henderson's evidence strongly suggests that these claims are untrue.

If the BNL information was shared with the CIA in a timely manner, a myriad of additional questions need to be answered. For instance:

First, why did the CIA allow our banking system to be abused by knowingly withholding information about BNL's activities from bank regulators?

Second, why did the CIA mislead the Banking Committee about its knowledge of BNL and Iraq's procurement network?

Third, did the CIA keep the BNL loans a secret because it did not want to interrupt the United Kingdom's intelligence gathering operation?

Fourth, did the CIA keep the BNL loans a secret because it did not want to interrupt its own intelligence gathering operation on Matrix-Churchill Corp. in Cleveland, OH?

While the jury is still out on whether or not the CIA misled the Banking Committee about BNL, at a minimum, the CIA is guilty of misleading the Banking Committee about its knowledge of Matrix-Churchill. "British Knew of Iraqi Procurement Activities Starting in 1987." When was information passed to U.S. intelligence?

On August 20, 1991, I wrote the CIA asking for any foreign intelligence information, if available, on Matrix-Churchill and other members of Iraq's technology procurement network. In their reply of November 12, 1991, the CIA stated that it "conducted an extensive search of its files and indices of the appropriate CIA offices." Regarding Matrix-Churchill Ltd., the letter states:

> * * * Matrix-Churchill Limited (MCL) Coventry, England; This organization is mentioned in Tab A document. There is additional information on MCL in a top secret compartmented document.

The committee received a similar response on other members of Iraq's procurement network including Al Arabi Trading Co., TMG Engineering, Technology Development Group [TDG], Tigris Trading Co., and Meed International.

The CIA and DIA provided the committee access to several secret reports that mention Matrix-Churchill and Iraq's procurement activities. Some of the highlights of the U.S. intelligence reports are as follows:

A June 1989 secret DIA report entitled "Iraq's European Procurement Network" clearly identifies Matrix-Churchill USA as part of Iraq's procurement network and indicates the network was established in 1987;

A September 4, 1989 secret CIA report entitled, "Iraq's Nuclear Weapons Related Procurement Activities" identifies TDG and other members of the Al Arabi network as part of an effort to acquire technology for Iraq's clandestine nuclear program. It also identifies Safa Al Habobi as a key player in Iraq's procurement activities. Al Habobi was the chairman of TDG, Matrix-Churchill Ltd., and Matrix-Churchill Corp. in Cleveland.

A November 6, 1989 secret CIA report entitled, "Iraq-Italy: Repercussions of the BNL-Atlanta Scandal" identifies the Al Arabi Trading Co. procurement network including Matrix-Churchill. It also mentions Gerald Bull's Space Research Corp. [SRC] as part of the network.

A July 1990 secret CIA report entitled, Iraqi Ballistic Missile Developments" states that Iraq's procurement network was established in 1987 with arms in the United States, Western Europe, the Middle East.

□ 1330

This report states that several members of the network had applied for United States export licenses for machines destined for an Iraqi missile program, but that the applications were denied. This report also states that a foreign intelligence service passed along information that the Swiss firm Schmiedemeccanica was partly purchased by the Iraqis. Mr. Henderson told us he believes it was BNL money that allowed the Iraqis to purchase an interest in that firm.

The CIA's November 12, 1991 reply also stated that information on Matrix-Churchill and Iraq's procurement network is contained in a single top secret document. I cannot understand why the CIA wanted the committee to believe that it had only one top secret document that mentioned Matrix-Churchill and the other Iraqi procurement fronts.

By way of parenthesis, it also shows the abominable attempt to try to scare me when the CIA was alleging that I had violated national security, but never had access to these very same top secret documents. They knew that, and we were not pushing. We do not have to have them. All of this stuff has already been disclosed offshore. The only people that do not know about CIA secrecy are the Americans. Everybody around the world knows.

The CIA failed to mention that the British had an extensive intelligence gathering operation on Matrix-Churchill and Iraq's procurement activities. The CIA knew the committee was investigating Matrix-Churchill, yet the intelligence sharing arrangement was never mentioned. The CIA also never bothered to mention that it had received information from the United Kingdom on Matrix-Churchill Corp. in Cleveland, OH, or other United States firms that were engaged in procurement with Iraq. Without the Matrix-Churchill trial in the United Kingdom we probably would never have known about the British intelligence operation.

Let me say also that I have introduced documents from the German intelligence agency that were refused us by the Americans when we started, and there was no attention paid to this. The Italian Senate had created the first investigating committee with a very distinguished member of the Senate, Senator Tarka, as chairman, who asked to meet, and I met with him not once but several times. When the Federal Reserve Board refused to give us the information the committee had subpoenaed because of Attorney General Thornburgh and then later Barr's refusal, we got it from that source, the European source. So it is absolutely abominable that our country would have reached this terrible state of national security anxiety in which everything familiar to our own constitutional setup has been jeopardized, and the freedom and liberty of our citizens, incidentally, as never before in our history, I might say to our colleagues. It sounds kind of far-reaching, but let me assure the Members, it is very, very conservative in my utterance.

The CIA never bothered to mention that it had received information from the United Kingdom on Matrix-Churchill in Cleveland or the other United States firms, but then we went out and our great able investigators went over and talked to employees there, and we found out how the Iraqis handled it and how, when they did not want the American companies to know, they would slip into Arabic or all the documents would be in Arabic; how they got, for instance, the blueprints, because remember that these corporations, great private enterprise in the United States, have contracts with our defense setups. Matrix had the contract with the U.S. Defense Department, the Army, on the 155 millimeter artillery casing, so what they did was simply, as having taken over the corporation they had access to the blueprints, all they had to do was put them in the mail pouch, the so-called diplomatic mail pouch, which is supposed to be accessible for inspection, and ship to Baghdad. We brought that out before, brought that out as early as 1990.

What is clear is the CIA wanted the Banking Committee to go away without knowing the depth of its information on Iraq's procurement activities. That information, while embarrassing to the Bush administration, could have been useful in helping me to illustrate the dangers of banking fiascos like the BNL and the BCCI scandal.

The information the CIA shared with the committee only goes back to mid-1989. Some of the British Government documents released during the trial demonstrate a detailed knowledge of Matrix-Churchill's relationship with Iraq as early as May 1987. Two directors of Matrix-Churchill, Mr. Mark Guthredge and Mr. Henderson, were sources used by British intelligence. What was learned in some of their meetings with British intelligence is summarized below.

A May 6, 1987 interview with Mr. Guthredge states that Matrix-Churchill is supplying machine tools for Iraq's armaments industry;

An August 6, 1987 interview with Guthredge names Iraqi factories, Hutteen and Nassr, as heavily engaged in weapons production;

A November 30, 1987 interview with Guthredge states that the Nassr weapons complex obtained drawings of U.S.-designed aerial bombs.

A January 18, 1988 interview with Guthredge states that the owners of Matrix-Churchill signed a multimillion dollar contract with a U.S. firm for the supply of a forging line for the Nassr weapons factory. The write-up states that it appears TEG, an Iraqi firm used to purchase Matrix-Churchill, has an inexhaustible supply of funds.

In a March 14, 1988 meeting, Guthredge talks about financing arrangements for Matrix-Churchill sales to Iraq. The document unfortunately is heavily redacted so it is impossible to tell if BNL is listed as a source of financing.

In July 1988, Paul Henderson's name appears as potential source to replace Guthredge who is moving to a new firm;

A December 12, 1988 interview with Henderson mentions a Nassr contract to build Matrix-Churchill machines in Iraq. This contract was later funded by BNL. The memo also mentions that TDG/Matrix-Churchill will establish a branch in Baghdad. The Cleveland office of Matrix-Churchill actually established the branch in 1989.

A January 6, 1989 intelligence memo states that Iraqi procurement activities have expanded to the nuclear field. This memo also states that United Kingdom authorities had concern about United States operations of Matrix-Churchill and it appears that Henderson is asked if he minds whether the United States receives his reporting. This document also appears to discuss sharing with the United States, although extensive redactions make it unclear.

An August 18, 1989 interview with Henderson discusses the BNL raid. Henderson was unaware of the raid until he was told by his British intelligence handler.

An October 30, 1989 intelligence memo identifies Gerald Bull's Space Research Corp. as working on the supergun project in Iraq.

If the United States intelligence received all or even some of this information, it raises new questions about why United States firms were permitted to ship equipment to Nassr, Hutteen, and other Iraqi weapons factories. It also raises questions about how thorough and honest the CIA was in replying to the committee's request for information on Iraq's procurement activities.

CONCLUSION

Given our close relationship with the United Kingdom, it is reasonable to assume that they shared intelligence on Iraq's procurement network with the CIA. While the Bush administration has repeatedly denied it had knowledge of the BNL loans to Iraq, the White House and Justice Department refused to allow the committee to have access to classified information that would have either exonerated the Bush administration or proven that they were aware of the BNL loans.

Now we have Paul Henderson telling us that he informed British intelligence of BNL's role in funding Matrix-Churchill's Iraq-related activities in April 1989—a full 4 months before the raid on BNL's office.

The Bush administration would like us to believe that it did not know about the BNL loans to Iraq. That claim seems less likely as time passes. If they did know about the BNL loans to Iraq, at a minimum they would be culpable of allowing a massive abuse of the United States banking system.

□ 1340

Another question that needs to be answered is why the past administration permitted Iraq's procurement network to continue operating unabated. They even gave Iraqi front company Matrix-Churchill an export license in June 1990. That is just a little more than 2 months before the invasion of Kuwait by Iraq.

How can this be explained when only months after approving the export license, one of the main reasons given for the gulf war was to destroy Iraq's ability to make weapons of mass destruction, an effort that continues to this day?

Could it be that there was a complete and total breakdown in communications between the CIA, the State Department, Commerce Department, and law enforcement agencies? Now I know that the State Department intervened, for instance, in the issuance of the export licenses, in the Export-Import Bank loan guarantees. But further than that, I have documentation to show that back when the Federal attorneys in Miami were trying to do something about the drug money laundering from the Caribbean and particularly the Bahamas, and they were before the grand jury, and the State Department intervened to prevent that. So it goes back a long time under these past administrations where the State Department could come in as it did in the National Advisory Council, and not only the Export-Import Bank, but the Department of Commerce and all where the two members, and the Defense intelligence representative were all saying no, do not do this because it is involving military technology from our country.

They were commandeered as a minority by the administration, State Department, Secretary, the White House, the National Security Council. So how can this be explained in view of what is now history? And why should there be obstructions to an honest effort to supply our country the minimal environment of regulatory protection for a system?

To do that we have to know where we are coming from, which is what we have been trying to do in order to know where we want to go. We know where we want to go. A lot of these people who do not know where they want to go, I will tell them any road will take you there. Anybody who does not know where he wants to go, any road will take them there. But we know where we want to go. We know precisely. I have individually known since 1975 when it was absolutely unbelievable to me that our country did not have one statute governing international money transactions, or banking if you want to call it that. So we have to identify the breakdown.

Now could it be that profits, and I think this had a lot to do with it, from the sales of Uinted States technology was the motive, like the sale of the agricultural products that BNL through the agriculture guarantee program caused the taxpayers to pick up the tab for when Iraq defaulted. And right now, as I brought out in the special order a week ago, the BNL is suing the U.S. Government for over $370 million. That is the taxpayers, and we have been trying to protect that. I just cannot believe that we would have to fight the whole array of the administrative setup that is supposed to be protecting the national interests and trying to protect the taxpayers' money.

It could also be the case that the administration purposely allowed Matrix-Churchill to continue operation in order to appease their general policy, which was to do that. Ever since 1983 when President Reagan removed Iraq from the list of terrorist nations, that opened the gates wide. We had over 85 of the principal corporations in our country immediately go in in the name of trade balances and so forth.

But whatever that reason, the risk was and continues to be enormous. And to me unthinkable to be allowed.

Not getting tough with Iraq certainly emboldened Saddam Hussein, and in fact there is very much evidence to show that until the very moment that he went across, even though for 100 years Iraq has been claiming that which we call Kuwait, but there is no question that the record shows that ever since 1980 the policy was, you know these geopoliticians that we get up there now and then, and the idea was what do you do to counterbalance Iran. And we have learned nothing since our experience with Iran and the Shah. Same thing. But did anybody say anything when our CIA interfered, and the first popular election held in Iran, Mossadegh, we overturned, did in through entry and intervention, which was possible then. Who is going to say that because of that type of ignorance and action we had the payoff of 1979 in the hostage taking in Tehran? And of course, the ignorance that was allowed to envelop the banking regulators kept alive a vital link to the whole scheme, a large, ready supply of bank credit.

And that is what we are about. So I have my supporting documentation following these remarks, which I include for the RECORD, as follows:

COMMITTEE ON BANKING, FINANCE
AND URBAN AFFAIRS,
Washington, DC, August 20, 1991.

Hon. WILLIAM H. WEBSTER,
Director of Central Intelligence, Washington, DC.

DEAR JUDGE WEBSTER: The Banking Committee is conducting an investigation into the operations of the Banca Nazionale del Lavoro (BNL). I ask for your cooperation with the Committee's investigation.

Between 1985 and 1990, BNL provided Iraq with over $4 billion in unauthorized loans that were used to purchase agricultural products and industrial goods. Many of the individuals and beneficiaries of the BNL loans to Iraq are based in foreign countries. The committee would like to learn more about the foreign beneficiaries of BNL loans to Iraq, and respectfully asks the CIA to provide, if available, foreign intelligence information on the following:

1. Wafia Dajani (Jordanian Citizen) and his related companies: Amman Resources, Amman, Jordan; Amman Resources International, Georgetown, Grand Cayman, Araba Holdings, Inc. Panama; Aqaba Packing, Co., Amman, Jordan.
2. Technology and Development Group (TDG) London, England.
3. TMG Engineering Limited, London, England.
4. Matrix-Churchill Limited (MCL) Coventry, England.
5. Tigris Trading Company, Baghdad, Iraq.
6. Al-Arabi Trading Company, Ltd.
7. Meed International, Ltd, England.
8. Kintex, Sophia, Bulgaria (aka "Globus" or "Korekom").
9. TechnoExport Foreign Trade Company, Ltd., Czechoslovakia.
10. Bank for Foreign Economic Affairs of the USSR, Moscow, USSR.
11. Exportkhleb, Moscow, USSR.

The Following Iraqi Government entities and Iraqi Individuals:

12. Ministry of Industry and Military Manufacturing, An Agency of the Republic of Iraq;
13. Nassar State Establishment for Mechanical Industries, An Agency of Republic of Iraq;
14. Central Bank of Iraq, Baghdad, Iraq;—Sadik Taha.
15. Rafidain Bank, Baghdad, Iraq;
16. Ali Mutalib Ali, former commercial attache at Iraq's German Embassy.

Thank you for your time and cooperation. With best wishes.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

CENTRAL INTELLIGENCE AGENCY,
Washington, DC, November 5, 1992.

Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request of July 30, 1992 for us to review two documents to determine whether they can be declassified.

On 11 September 1992, we provided the Committee with a declassified copy of the seven page memorandum entitled "Iraq: No End in Sight to Debt Burden." However, we determined that Annexes I and II to this memorandum must remain classified. Enclosed please find a declassified version of my letter dated 12 November 1991 to you. I apologize for the delay in providing this version.

Please also note both documents may be responsive to your letter of October 16, 1992. As I stated in my letter of 26 October 1992, we will continue to provide unclassified documents responsive to that request as they become available.

STANLEY M. MOSKOWITZ,
Director of Congressional Affairs.

Enclosure:

CENTRAL INTELLIGENCE AGENCY,
Washington, DC, November 12, 1991.

Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, Washington, DC.

DEAR MR. CHAIRMAN: In a letter dated 20 August 1991, the Banking Committee informed us of its investigation into the operations of Banca Nazionale del Lavoro (BNL). As a part of this investigation, the Banking Committee requested any foreign intelligence information this Agency may have on foreign beneficiaries of BNL loans to Iraq. As you are aware, we also are responding to a separate request from your Committee to review summaries of several raw, unevaluated reports on Iraq and BNL. Some of these summaries contain specific information on the Rafidain Bank (item 15 in your 20 August letter).

In addition to the information we are providing at this time, there are other documents, with the security classification TOP SECRET compartmented information, on the Iraq/BNL connection that we are prepared to provide directly to you and the other Committee members. The TOP SECRET compartmented documents also can be made available to staff members when they have obtained the appropriate clearances.

In response to your request, an extensive search of the files and indices of the appropriate CIA offices produced the following results that are keyed to your letter.

A. Wafia Dajani (Jordanian Citizen):———

(1) Amman Resources, Amman, Jordan:———

(2) Amman Resources International, Georgetown, Grand Cayman:———

(3) Araba Holdings, Inc, Panama:———

(4) Aqaba Packing Co., Amman, Jordan:———

B. Technology and Development Group (TDG) London, England: This corporation is identified as being part of Iraq's procurement network in the 6 November 1989 document entitled "Iraq-Italy: Repercussions of the BNL-Atlanta Scandal" (See TAB A)———

C. TMG Engineering Limited, London, England: Tab A also contains information on TMG.———

D. Matrix-Churchill Limited (MCL) Coventry, England: This organization is mentioned in TAB A document.———

E. Tigris Trading Company, Baghdad, Iraq:———

N. Central Bank of Iraq, Baghdad, Iraq and Sadik Taha: Please see paragraph L above for information on the Central Bank. Some of the unclassified material (TAB B) contains information on Sadik Taha.

O. Rafidain Bank, Baghdad, Iraq:———

There is information on this bank in some of the unclassified material. (TAB B).

P. Ali Mutalib Ali, former Commercial Attache at Iraq's German Embassy:———

In addition to providing information from our classified files, we also have included some unclassified material from other open source publications (TAB B), and from the Foreign Broadcast Information Service (FBIS) that may assist you in this investigation. (TAB C)

In the course of searching our records, we identified documents relating to this matter that were originated by the Defense Intelligence Agency, the National Security Agency, United States Information Agency, Department of Justice, and the Department of State. We are prepared to provide these agencies with specific document citations to facilitate their response to the Committee if you wish to obtain these documents from them.

Sincerely,

STANLEY M. MOSKOWITZ,
Director of Congressional Affairs.

[Directorate of Intelligence, 6 November 1989]

IRAQ-ITALY: REPERCUSSIONS OF THE BNL-ATLANTA SCANDAL

SUMMARY

The revelation that a US branch of an Italian bank, Banca Nazionale del Lavoro (BNL), granted more than $3 billion unauthorized letters of credit to Iraq has had wide-ranging repercussions for Iraq and Italy. For Iraq, public disclosure that it used some of the credits to acquire military-related technology has impeded procurement efforts, and the suspension of BNL credits has slowed civilian reconstruction and development projects. For Italy, the BNL scandal has cast at least a temporary shadow on Prime Minister Andreotti's new government, raised questions about public-sector enterprises, and reopened the issue of privatization.

The affair is unlikely to have a major impact on Iraqi military procurement efforts, but cash-short Baghdad probably will have to postpone plans for some civilian projects. The loss of BNL financing and, more important, any reduction in US agricultural credit guarantees because of negative publicity about the scandal probably would damage US-Iraqi commercial ties. For Iraq's part, however, the strain in political relations is likely to be short-lived, particularly if Baghdad believes US credit guarantees will be forthcoming. Iraq is eager to maintain good ties to the United States, an attitude intensified by improved relations between Iran and the USSR.

BNL-ATLANTA FINANCING FOR IRAQ

The Atlanta, Georgia branch of the state-owned Banca Nazionale del Lavoro (BNL)—Italy's largest bank—extended $3.2 billion in 2,500 unauthorized letters of credit for Iraq between February 1988 and July 1989. US and Italian authorities have been investigating the scandal since July for violations of banking regulations and tax and customs laws.

Fragmentary reporting indicates BNL-Atlanta disbursed $1.85 billion of the $3.2 billion, including at least $800 million in letters of credit guaranteed by the US Commodity Credit Corporation (CCC). BNL headquarters agreed to release another $550 million in early October ——— after Iraq threatened to suspend payment to Italian firms if the bank failed to honor its commitments.

BNL-Atlanta's unusual activities included:

Exceeding the branch's allowable debt of $500,000 per customer.

Charging Baghdad an average 0.2-percent commission instead of the usual 15 percent for a poor credit risk.

Financing the letters of credit by borrowing from other banks for 90 to 180 days but allowing Iraq up to five years to repay.

BNL's North American headquarters in New York and the bank's directors in Rome publicly denied knowing about the letters of credit, although a BNL official in Chicago claims he notified New York and Rome several times about the unusual activity in Atlanta, according to press reports. Press reports also indicate a BNL branch in Udine, Italy referred customers exporting to Iraq to the Atlanta branch. Iraqi officials have generally denied knowledge of any wrongdoing, arguing that Baghdad is a victim in the scandal.

Iraq used some BNL credits—at least $600 million, according to British press—to buy military and dual-use technology through various front companies and legitimate firms in Western Europe ——. British press says that BNL-Atlanta also financed Iraqi military purchases from Kintex, the Bulgarian armament company.

IMPACT ON IRAQ

The suspension of credits from BNL—by far Baghdad's largest source of credits—and disclosure in the British press that Iraq used the credits to acquire military-related technology has almost certainly complicated Baghdad's procurement efforts. We believe that increased Western scrutiny of these activities has at least temporarily impaired Baghdad's ability to acquire such technology. Press coverage and London's opposition to Iraq's control of a company possessing sensitive technology, for example, led SRC Composites to divest its advanced composites factory, according to press reports. Some other firms in the networks have gone out of business.

The loss of BNL financing has almost certainly slowed civilian reconstruction and development in Iraq. Many US and West European firms supplying goods and services to projects in Iraq were being paid through BNL —— Many of these firms have probably suspended business with Iraq until alternate methods of payment—cash, other loans, or barter—are arranged. Financially strapped Baghdad, however, is unable to meet demands by some of these firms for payment in cash, especially for expensive purchases —— reporting indicates Iraq has nearly exhausted available credit lines and barter opportunities.

IRAQI PROCUREMENT NETWORKS

Baghdad has created complex procurement networks of holding companies in Western Europe to acquire technology for its chemical, biological, nuclear, and ballistic missile development programs. According to British press —— one such network begins in Baghdad with the Al-Arabi Trading Company, which controls the London-based Technology and Development Group, Ltd. (TDG) and another UK firm, TMG Engineering. TDG and its Brussels-based partner, Space Research Corporation, own the Ulster-registered firm Canira Technical Corporation, Ltd. Canira in March established SRC Composites, which acquired access to advanced composite and carbon fiber technology used in aircraft and missile production. In 1987 TMG gained control of Matrix-Churchill, Ltd., the United Kingdom's leading producer of computer-controlled machine tools that can be used in the production of sophisticated armaments.

We believe Iraqi intelligence is directly involved in the activities of many holding companies funnelling technology to Iraq. ——.

EFFECT ON US-IRAQI RELATIONS

For Iraq, any reduction in bilateral commercial ties because of the BNL scandal takes on political significance, which Baghdad—ever paranoid—tends to exaggerate. The fallout from the scandal has strained US-Iraqi relations. Baghdad is seriously concerned that the affair is adversely affecting its economic ties to the United States—the backbone of the bilateral relationship. Iraq is particularly upset that the CCC offered significantly less credit guarantees for FY 1990 than Baghdad requested because of negative publicity about the scandal. Iraq fears that any large reduction in CCC credit guarantees would make it more costly and difficult to import agricultural goods and damage its international credit rating.

Several US firms have already been affected by the scandal. —— press reporting indicate BNL was financing at least $1 billion in sales to Iraq by US firms, including agricultural goods, an automobile plant, and ethylene plant, industrial machinery, construction materials, and irrigation equipment. Some US suppliers are worried that they will not receive payment on letters of credit that they have not yet submitted to BNL-Atlanta. Many US firms are trying to arrange other means of payment to avoid losing lucrative contracts.

The scandal has contributed to Iraq's perception that the United States is trying to hamstring Baghdad's efforts to promote better political ties. A senior Iraqi official told his US counterpart in early October that Baghdad was unhappy that Washington's decision on CCC credits is linked to the scandal, with which he maintained Iraq had no part. The official indicated this was not a sign that the United States wants to improve relations.

Baghdad is eager to resolve the BNL crisis because harmonious bilateral relations are important to its strategic planning. Iraq believes that the Iranians have not abandoned plans to oust the regime in Baghdad and wants to assure that the superpowers would back Iraq or at least remain neutral during any future hostilities. The Iraqis seek to prevent Washington from favoring Iran so much that Baghdad's interests are threatened. In Iraq's view, the superpowers regard Iran to be of greater importance in the region, and Baghdad is therefore trying to enhance Iraq's political and economic importance to the United States.

IMPACT ON ITALY

The BNL affair—in combination with other scandals—has cast a shadow on prime Minister Andreotti's three-month-old government. Partly to divert attention from the BNL affair, the Socialists and some Christian Democrats are playing up other scandals, including renewed allegations that the Italian military covered up evidence concerning the 1980 crash of an Italian airliner north of Sicily. None of the governing political parties or their factions, however, appears now to believe it can strengthen its relative positions by exploiting the issue.

The scandal has also spotlighted the cost of Italy's longstanding and entrenched spoils system in the state-owned enterprises. Traditionally, appointments to key positions in public-sector companies have been allocated as a message of party and even factional influence. Under this system, the president and several directors of BNL are members of the Italian Socialist Party, while the executive director usually comes from the Christian Democratic Party. Several backbenchers in parliament quickly denounced the spoils system for not allowing the most competent people to fill public-sector jobs. The attacks, however, have been discounted as political sour grapes, and the system shows no signs of collapse.

In light of the BNL affair, Treasury Minister Carli has renewed his efforts—against admittedly long odds—to enlist support for privatizing state-owned banks and other public-sector corporations. Carli believes the breakdown in supervision at BNL is all too typical of the quality of Italian public-sector banking. In his opinion, privatization would force Italian banks to narrow the current 6-percentage-point spread between interest paid to depositors and that charged to borrowers—a prerequisite if Italian banks are to do well after the EC dismantles capital controls next year.

——

LINKS WITH IRAQI GOVERNMENT

1. Source was able to help in a number of further areas.

2. Source has never been under an illusion that TMG's daughter company, TDG, is a buying mission for Iraq. WADI's company, TEG (Technology Engineering Group) is supposed to be separate from TDG (the owner of Churchill-Matrix). However, until recently both TDG and TEG shared the same office building in DUKE HOUSE. TDG have now moved out to Stratford Place.

3. Four other aspects Link TEG and TDG to the Iraqi Government.——.

c. The DRESDNER Bank has been involved in the purchase of machine tools——.

4. Most of the business by TDG and TEG is conducted directly with agencies in Baghdad. Other than ALI ALI in Bonn, source has not met other embassy officials. WADI is on the phone constantly to his contacts in Iraq and does not appear to work through the embassy in London.

5. Recently there has been a change in the way machine purchases are funded.—— TDG are trying for Midland Bank credit lines. There is pressure on the UK companies to open credit lines with the Iraqi Central Bank or RAFFIDIAN. However, the UK companies are resisting because of the risk of Iraq calling in the money. TDG has one existing line with some money left with the Midland Bank but are seeking a new credit line with up to 50 million for capital equipment.

EFFECT ON UK COMPANIES

6. Many of the UK companies were hoping that the Iraqi business would last 3-5 years. The companies will be affected to different degrees if licenses are not granted next year. In addition to the original order, Churchill-Matrix has signed two others of £4½ million each. However, unlike WIKMAN-BENNETT, the next largest producer for Iraq, Churchill-Matrix has yet to ship much of its order. Thus WICKMAN-BENNETT might escape without much damage (the order book for next year is unknown) while Churchill-Matrix could be ruined.——.

8. Source believes the Iraqi's may have over-ordered on machine tolls. The UK product compares very favorably with anything on offer in Europe. However, the Iraqi's may be finding it difficult to train up the machine operators. In early March 1988, 16 senior Iraqi machine operators were undergoing training in Coventry. This training is provided as part of the purchase agreement.

——.

11. WADI may well have other areas of business interests. Source is sure he saw papers in WADI's office concerned with the Ensign Defense Group. However, no details are known.

FUTURE IRAQI POLICY

12. As long as 12 months ago, WADI discussed possible difficulties over export licenses. There was and still is talk of moving

the whole operation to Switzerland. WADI said that they would like to purchase UK machine tools because of the level of technology and sales experience. WADI has already set up a company to place the contracts through Jordan.

13. In source's opinion, the Iraqi's would have little difficulty in placing their orders for machine tools elsewhere. Japan is presently an uncertain supplier because of new export restrictions. However, West Germany, Italy and Switzerland are all possible alternative suppliers. Perhaps the leading new supplier would be Austria.

——

1. At the Restricted Enforcement Unit (REU) meeting on Friday 23 December 1988, we discussed control of exports of machine tools to Iraq and release of our reporting on the subject———.

2. DESS reported that, at a meeting a few days earlier, which was chaired by Lord TREFGARNE, a decision on whether to relax export controls on machine tools for Iraq had been deferred pending our advice on how this would effect ——— and the future of MATRIX-CHURCHILL. We told the REU that the security of our source was now best guaranteed if reasonable exports of machine tools by MATRIX-CHURCHILL were allowed to continue. We also drew attention to the recent expansion of activities of the procurement network into the nuclear proliferation field and the importance this placed on maintaining access, through ——— to the general activities of the network. We suggested that the criteria for denying exports of machine tools to Iraq should be the same as for other proliferating countries ———. These are set out clearly in EG(C)O's (to which you could reasonably draw ——— attention) and apply only to sophisticated CNC, multi-axis tools well above the specification of those presently supplied by Matrix-Churchill. Our advice accorded with the line which DTI, DESS and FCO wished to take and we expect it will now be implemented without delay.

3. We reminded the REU that, at a previous meeting we had sought agreement on issuing the ——— series of reports on Iraq to ——— There had been concern expressed at the time that machine tools manufactured by the Matrix-Churchill Corporation in Cleveland Ohio could have been exported to Matrix-Churchill here for re-export to Iraq. This would have caused embarrassment to DTI if US authorities found out. We reported that we had taken up this point with our source who was able to confirm that no such diversion had taken place. ——— had also confirmed that it would not embarrass him if ——— were to receive our reporting, indeed he was keen for this to happen. The REU has therefore withdrawn its objection and we will now go ahead and release the previous reporting to ———. Our plan is to include this in one package together with the new report which is now being prepared which will contain the procurement network 'organisation'.

——

——— four hour session with ——— on 18 August 1989 was dominated initially by the PT news that Banco Lavoro (BL) in Atlanta were under investigation. Neither ——— nor any of his staff had noticed this and he was grateful for the tip-off. He got his senior directors to investigate the matter and faxed the article to TDG. After consulting his bankers ——— decided that Matrix-Churchill (MC) had no exposure. Although a recent forging plant contract, (like most Iraqi contracts) had been organised. Using a seven million Deutschmark BL letter of credit (LC), MC have not done any work on this project and so do not stand to lose. As far as ——— could work out, BL were taking confirmed LCs and absolutely guaranteeing them. In effect, BL Atlanta were upgrading LCs and taking on exposure to Iraqi risk without, presumably, telling their Headquarters or the US authorities. ——— had always been mystified as to why the Iraqis channeled their business through BL Atlanta. They always undercut terms that MC could get from other banks and paid promptly. Three BL staff visited ——— in Coventry to finalize details on a deal. There was nothing note-worthy about them, they just seem like normal American bankers. We do not think there is any mileage in us getting involved in the details of these problems, which are not integral to illegal Iraqi high technology procurement. However, it would be useful if you could eventually get details from the Americans of other British and European Companies involved in procurement. The interesting implication is that this scandal will damage TDG and the position of ———.

c. We think that your idea of a long session with ——— in London ——— is a good one. We have provisionally arranged this with ——— for the first week in September (after the visit of the Director Generals). We would get much more ——— information out of him if we had at this meeting a map of where we suspect sensitive research establishments are and an organogram of the establishments, so that he can fill in the gaps from his own personal knowledge.

HAITI WATCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CONYERS], is recognized for 15 minutes.

Mr. CONYERS. Mr. Speaker, the following communication was sent to the White House and it reads as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 29, 1993.

President BILL CLINTON,
The White House,
1600 Pennsylvania Avenue, NW.,
Washington, DC.

DEAR MR. PRESIDENT: We write to applaud your bold decision to schedule a meeting directly with Haitian President Jean-Bertrand Aristide. That gesture indicates to the nation and the world your deep commitment to protecting human rights and democracy in our hemisphere. Given the recent intransigence on the part of the Haitian military and continuing human rights abuses, we hope that this meeting will occur as soon as possible.

Millions of people in America and across the globe supported your campaign for change and hope. In contrast to the failures of the previous policy to restore democracy and a respect for human rights to Haiti, we believe your new and imaginative policy signals a worthy beginning that has persuaded the literally thousands of Haitians attempting to leave the embattled island to postpone their departure.

Press accounts indicate that the military leadership in Haiti is, at best, divided about accepting President Aristide's eventual return. They should not doubt the commitment and resolve of the United States in this matter. We urge you to send clear and unmistakable signals to Haiti's despots that President Aristide, as the only democratically elected leader in Haiti in over 200 years, is a friend and that the military junta are despots who will be treated as such.

We hope that a negotiated resolution of this situation will be possible. Should talks fail to begin within a short time, however, we hope that the United States will lead an international effort that will make clear the world community's intention not to tolerate this tyranny in our midst. Appropriate action should include consideration of targeted and graduated sanctions imposed by the U.N. Security Council as early as mid-February, in accord with Resolution 22 which the United States supported and the U.N. General Assembly adopted on November 22, 1992.

In addition, we hope that the refugee policy of the previous administration of saying to political refugees "not in my backyard," which is inconsistent with U.S. refugee law and with the symbol of the Statue of Liberty, will be reversed. Respect for our heritage and the Refugee Act of 1980 require as much.

We believe that the right course on Haitian policy is also a difficult one, but one on which the United States should embark. We support your fundamental belief that change here, too, must be realized.

In this respect, we would also like to request that, as representatives of key constituencies, we have the opportunity to meet with you to further express our beliefs and suggestions on this most important and timely matter.

Thank you for your attention to, and courage on, this matter.

Sincerely,

John Conyers, Jr., Barbara Rose Collins, Kweisi Mfume, Bob Carr, Benjamin A. Gilman, Edolphus Towns, Thomas M. Foglietta, Donald M. Payne, Carrie P. Meek, Charles B. Rangel, Louis Stokes, Ronald Dellums.

Matthew G. Martinez, Paul E. Kanjorski, Neil Abercrombie, Walter R. Tucker III, José E. Serrano, Major R. Owens, Dale E. Kildee, Ron de Lugo, Patricia Schroeder, Corrine Brown, Nydia Velazquez, Eva M. Clayton.

Tim Penny, Albert Russell Wynn, Carolyn B. Maloney, Alan Wheat, Harold Ford, William D. Ford, Edward J. Markey, Henry B. Gonzalez, Andrew Jacobs, Jr., Lincoln Diaz-Balart, Eleanor Holmes Norton.

Cynthia McKinney, Mike Kopetski, Bernard Sanders, Lucien E. Blackwell, Bobby Scott, Mel Reynolds, Nita Lowey, Bill Richardson, David E. Bonior.

□ 1350

A NEW DIRECTION FOR THE CITIZENS OF PUERTO RICO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Puerto Rico [Mr. ROMERO-BARCELÓ] is recognized for 30 minutes.

Mr. ROMERO-BARCELÓ. Mr. Speaker, and distinguished colleagues, as the 103d Congress gets underway with the hope and promise of a new beginning for our Nation and a domestic agenda being formulated by the administration of President Bill Clinton, I would like to bring to the attention of my colleagues from both sides of the aisle a new direction being taken by your fellow citizens in Puerto Rico.

Last Thursday, January 28, 1993, our Governor, Pedro Rosselló—with the votes of nearly a million Puerto Ricans behind him—and the faces of hundreds of Puerto Rican schoolchildren before him in a ceremony which pointed to our future instead of our past—signed into law the restoration of English, side-by-side with Spanish, as the official languages of Puerto Rico.

This, the first major action of our new Governor and our territorial legislature, signals the intent of the people of Puerto Rico to reaffirm a principle stated in the preamble of our territorial Constitution—and that is our special commitment as American citizens to the coexistence in our island of the two great cultures of the American hemisphere.

During last fall's election campaign in Puerto Rico, I campaigned with Governor Rosselló—along with fellow party leaders—on a pledge to restore English to official status. Our pro-statehood New Progressive Party, propelled by a strong desire to reverse a highly unpopular decision by our island's previous Governor, delivered to the advocates of territorial status, the Popular Democratic Party, its most decisive defeat in the history of Puerto Rico.

The action of our Governor and legislature on January 28, 1993, reflects the spirit of the 1952 territorial Constitution, and reverses an April 1991 law in which the previous administration had abolished an 89-year-old bilingual policy in the government of Puerto Rico.

Nineteen months after the so-called Spanish-only law was adopted in April 1991, our party—the New Progressive Party, which is a coalition of both Democrats and Republicans in Puerto Rico working together with the common goal of achieving statehood—won the island elections.

The repeal of the Spanish-only law was a key plank in our party's platform. This contrasts with the action taken by the previous administration, which moved to eliminate the official standing of English without indicating its intention to do so in its 1988 party platform.

Never in its 21-month-old existence did the Spanish-only law enjoy a popular mandate from the people. Polls throughout 1991 and 1992 consistently showed that 78 to 81 percent of our people wanted both Spanish and English recognized as the island's official languages.

It may well be asked that if this was the case, why was English ever removed? Well, the Popular Democratic Party, Mr. Speaker, wanted to make the road to achieving equality—the road to achieving statehood—more difficult. The Spanish-only law was imposed as an obstacle to equality and our achievement of full political rights in our Nation.

But language is never meant to be an obstacle to a better understanding among people. Language is made for communication. We Puerto Ricans are blessed with a unique opportunity to stand squarely for more understanding and better communication between Spanish-speaking and English-speaking people in the American hemisphere.

As the United States and Mexico move to implement a mutually beneficial free-trade agreement, what better time than now for Puerto Ricans to affirm our desire to distinguish ourselves as a people with a special capacity not only for commercial exchanges, but cultural exchanges as well.

Let no one misunderstand us on this. This is the linguistic reality that reflects the will of the people which I have been elected to represent in this Congress. The Spanish language is our vernacular, by which we express a particular identity as Puerto Ricans in an island which was a Spanish colony for four centuries. Our Spanish language will always identify and unite us as Puerto Ricans.

At the same time, we are an island whose population of 3.6 million not only forms part of this Nation through the bonds of citizenship, but through the bonds of blood as well. Some 2.7 million of our island's sons and daughters—along with their children and the grandchildren of new generations—live on the mainland.

It would be difficult to find a family in the island that doesn't have family—close family—living on the mainland. Virtually all Puerto Ricans on the mainland speak English. In fact, I might confidently assert that many of them speak English better than Spanish. Some cannot even speak Spanish.

On the island or on the mainland, English is the primary language which unites us to all our fellow American citizens and, indeed, it is the language which we use to claim our right to participate on equal terms as citizens of this Nation.

The people of Puerto Rico gave us their votes last November—today those of us who favor statehood constitute a more than two-thirds majority in Puerto Rico's House, Senate, and mayoralities. It was that two-thirds legislative majority that restored English to equal footing with Spanish as the first official measure of the new administration.

The law which restores English to official status together with Spanish was amended to clarify that Spanish would continue to be the language of instruction in the island's public school system. English will also continue to be a required subject from first grade on. The new law also reaffirms that Spanish will be the principal language used in island courts.

If the adage that the journey of 1,000 miles begins with a single step is true, I want my colleagues to know that the law signed last week is a step—a major step—toward putting the 3.6 million U.S. citizens of Puerto Rico on the road toward equality.

Citizens since 1917, we are still disenfranchised and denied our full rights as U.S. citizens. We have languished in the twilight zone of a never-never status where confusion by our mainland counterparts is continually clouded by misunderstanding of who we Puerto Ricans are, what our culture is, and what is it that we really want in our continuing relationship with the 50 States of the Union.

It is true, as a Washington Post story of January 30 noted, that the issue of status is one which has sharply divided the citizens of Puerto Rico along the lines of statehood, independence, or continuation of the territorial status called commonwealth in effect since 1952.

I am—and always have been—one who believes that the island-initiated referendum that we will be holding toward the end of this year will result in a decision reflecting the fact that the majority of Puerto Ricans support statehood.

Mr. Speaker, the issue of Puerto Rico's political status has been put before Congress on many previous occasions. For the benefit of new Members, I would like to point out that extensive hearings were held in the first session of the 101st Congress, and that year—1989—the issue of status was dominant in the island.

But detailed hearings on S. 712 in the U.S. Senate Committee on Energy and Natural Resources—as well as other Senate committees—failed to put the issue squarely before the people of Puerto Rico. No final bill ever emerged from that committee. This was the case despite the exhaustive and detailed work by Senators BENNETT JOHNSTON, DANIEL PATRICK MOYNIHAN, and LLOYD BENTSEN, as well as literally dozens of Senators who involved themselves in hearings of a multijurisdictional nature.

In the House of Representatives, Chairman Morris K. Udall involved the House Interior and Insular Affairs Committee—where the Subcommittee on Insular and International Affairs, chaired by Virgin Island Delegate RON DE LUGO—did succeed in moving a bill to the House floor for a successful vote.

Despite hundreds of hours of work by many legislators—both here and in Puerto Rico—and despite rising expectations in Puerto Rico—the historic process ultimately leading to Puerto Rico's entrance into the Union as the 51st State was not realized.

Now, it is time once again to reopen and revisit the issue of the status of Puerto Rico.

A steady progression in favor of statehood has been reflected in island polls over the years, beginning with the founding of the New Progressive Party in 1967.

For most of the past 23 years, I have held public office in Puerto Rico: first

as mayor of San Juan, the capital and largest city, as a member of the senate, and as Governor.

The time is ripe for change in Puerto Rico and, following a referendum to be initiated by the territorial legislature later this year, I want to signal to my congressional colleagues that we will, once again, be knocking at the doors of this historic Chamber for admission as equal partners in the Union.

Across the United States, more than 2.7 million Puerto Ricans live, work, and vote with full citizenship rights. Puerto Ricans who move to the mainland can vote in Presidential elections, as well as for their representatives in the U.S. Senate and House of Representatives—a right denied those who live in Puerto Rico.

Nearly 200,000 Puerto Ricans have served the United States in this century's major wars. Returning to Puerto Rico to raise their families, they see the benefits of Federal social and economic programs, in many cases, applied in an unequal manner and, in still other cases, nonexistent. Federal laws applying to Puerto Rico, both regulatory and those providing benefits, exist in a patchwork and unequal manner.

Mr. Speaker, the issue of resolving Puerto Rico's status is complex—it is often controversial and it is one which will require the careful and serious attention of Congress if it is to be resolved.

I am certain that my fellow colleagues will make available their patience, understanding, and attention when this issue is put on the table, following the outcome of the referendum.

Your fellow U.S. citizens deserve no less.

LEGISLATIVE ASSEMBLY OF PUERTO RICO

A law to establish that Spanish and English shall be the official languages of the Government of Puerto Rico, and that both may be used interchangeably; and to repeal Law Number 4 of April 5, 1991

STATEMENT OF PURPOSE

In 1898 it was established, under General Order Number 192 of the Chief of Staff of the Army, Office of the Adjutant General, in Washington, D.C., that the official language to be utilized in the Government of Puerto Rico would be English. On February 21, 1902, a law was enacted that authorized the interchangeable use of the Spanish and English languages in the Government of Puerto Rico. Eighty-nine years later, Law Number 4 of April 5, 1991 declared Spanish to be the official language of Puerto Rico for use in transacting the official business of all departments, municipalities and other political subdivisions, agencies, public corporations, offices and governmental dependencies of the Executive, Legislative and Judicial Branches of the Commonwealth of Puerto Rico. According to the preamble to that law, its purpose is to reaffirm our historical status as a Spanish-speaking people, while simultaneously manifesting a commitment to acquire a full mastery of English as a second language, without surrendering either our native tongue nor our culture.

The preamble to the Constitution of the Commonwealth of Puerto Rico declares, among other things, that "We consider to be determining factors in our lives, United States citizenship * * * [and] the coexistence in Puerto Rico of the two great cultures of the American Hemisphere * * *" In addition, the People of Puerto Rico have repeatedly manifested, throughout the entire 20th century, their desire to maintain and to strengthen their ties with the United States of America. The political, economic and social progress of the People of Puerto Rico are intimately linked to the proposition that both Spanish and English be official languages within this jurisdiction.

Law Number 4 of April 5, 1991, has not fulfilled the expectations of today's Puerto Rico, which aspires to active participation in the development initiatives of the Caribbean Basin, Latin America, North America, and the international community. Practical means are required to facilitate the Government of Puerto Rico's continued effective communication with its own constituents and with the world at large. Today, English constitutes the language most frequently utilized to conduct international communications. For historical reasons, our people have been utilizing Spanish and English interchangeably for more than nine decades, without this signifying that we have suppressed or abandoned our vernacular, the Spanish language, or surrendered either our language or our culture. On the contrary, our citizens find themselves in a privileged position, for having been exposed to, and having had the opportunity to learn and to speak, two important languages. As they have in the past, Spanish and English can coexist in harmony and in conformity with the needs of the Puerto Rican people, without one diminishing the value of the other.

Nothing contained in this law signifies any linguistic retrogression or a cultural imposition upon the People of Puerto Rico. Any reference to a cultural assimilation motive is obsolete. The purpose of this measure is to remedy the adverse effects and the practical inconveniences resulting from Law Number 4 of April 5, 1991, by declaring and establishing that Spanish and English shall be the official languages for use interchangeably in all of the departments, municipalities and other political subdivisions, agencies, offices and governmental dependencies of the Executive, Legislative and Judicial Branches of the Commonwealth of Puerto Rico. In this manner, justice is served and an approximately century-old reality existent in our society is validated.

In order to dispel all doubt about the legislative intention of this measure, we reiterate the following:

1. This measure permits English to be utilized anew within the Government of Puerto Rico. For most purposes, the use of English to effect government business was prohibited here in 1991, when legislation was enacted to establish Spanish as the sole official language. Until then, English had also been an official language in Puerto Rico. In summary, with the approval of this measure, we restore—without eliminating or adding anything—the legal situation that existed in Puerto Rico prior to the adoption of the 1991 statute.

2. Through this measure, the Legislative Assembly in no way endeavors to establish by legislative fiat any sort of generalized bilingualism, contrary to the reality of Puerto Rican daily life. We go no further than to recognize another reality: that Puerto Rico's relationship with the United States, ever-closer from a political and economic standpoint, along with the aspiration to perpetuate that relationship expressed at the ballot box by the voters of the two principal parties—which together account for more than 90 percent of the electorate, multiplies the instances in which it is necessary that our government receive and reply to communications in English and conduct official affairs in that language. To prohibit the use of English, by pure legislative fiat, as was done in 1991, unnecessarily and unjustifiably hampers and renders more costly the functioning of our government.

3. No aspect of this measure lends credence to or confirms the unfounded speculation that, by approving it, the Legislative Assembly would open the doors to the possible utilization of any language other than Spanish as a medium for instruction in the public schools of Puerto Rico. This bill neither repeals, or alters, nor amend Article 1.02 of the Education Department Organic Act—Law Number 68 of August 28, 1991—which, in its pertinent passage, establishes "that education will be imparted in the vernacular language, Spanish. English will be taught as a second language." We reaffirm here the public policy to that effect.

4. No aspect of this bill lends credence to the unfounded speculation that, by approving it, the Legislative Assembly would be authorizing or validating the use of any language other than Spanish in the judicial proceedings of the courts of the Commonwealth of Puerto Rico. The judicial language question was resolved by our Supreme Court in the case of People vs Superior Court (1965) and what was therein established undergoes no change whatsoever with the approval of this measure. Neither does it alter Civil Procedure Rule 8.5 to the effect that "allegations, petitions and motions must be formulated in Spanish" in the Courts of Puerto Rico.

Be it decreed by the Legislative Assembly of Puerto Rico:

Article 1.—It is established that Spanish and English shall be the official languages of Puerto Rico. Both may be utilized, interchangeably, in all departments, municipalities and other political subdivisions, agencies, public corporations, offices and governmental dependencies of the Executive, Legislative and Judicial Branches of the Commonwealth of Puerto Rico, subject to the provisions of this law, or the dispositions of special legislation.

Article 2.—When necessary, oral or written translations and interpretations shall be made, from one language to the other, to permit interested parties to comprehend proceedings or communications in both languages.

Article 3.—The departments, municipalities and other political subdivisions, agencies, public corporations, offices and governmental dependencies of the Executive, Legislative and Judicial Branches of the Commonwealth of Puerto Rico shall, when necessary, employ competent interpreters and translators in order to implement the dispositions of this law.

Article 4.—It shall be impermissible to nullify any public or private document on the grounds that it is drafted in either one or the other of the official languages of Puerto Rico, subject to the provisions of this law, or the dispositions of special legislation.

Article 5.—The departments, instrumentalities and public corporations, municipalities or other political subdivisions, agencies, offices and dependencies of the Government of Puerto Rico may utilize in their transactions languages other than the official languages when that becomes convenient or necessary.

Article 6.—The Legislative Assembly and the Judicial Branch will adopt, if necessary, the regulatory dispositions that each deems appropriate and convenient, to implement in their respective internal operations the public policy established in this law.

Article 7.—The dispositions of this law in no way limits any of the constitutional rights of any person due to the language that may be such person's vernacular or medium of expression.

Article 8.—Law Number 4 of April 5, 1991 is hereby repealed in its entirety.

Article 9.—If any part, section, paragraph or clause of this law is declared unconstitutional by a court competent to exercise jurisdiction over the matter, the sentence issued to that effect will neither affect nor invalidate the remainder of this law, but rather will be limited to the part, section, paragraph or clause declared unconstitutional.

Article 10.—This law shall take effect immediately upon its enactment.

[From the Christian Science Monitor, Jan. 13, 1993]

PUERTO RICO'S STATUS

Puerto Rico's new governor, Pedro Rosselló, who was sworn in Jan. 2, hopes to make the commonwealth the 51st member of the United States of America. He plans to hold a Puerto Rican plebiscite on statehood this year.

Dr. Rosselló, a physician who was educated at Notre Dame and Yale Universities, has chosen a significant moment in the history of the Americas to revive the statehood issue.

In the final days of George Bush's presidency, Washington, besides being preoccupied with the inauguration of a new president and with events in Africa and Europe, saw the signing last month of a new North American Free Trade Agreement (NAFTA) with Canada and Mexico. The Bush administration has touted it as an economic boon for the continent.

But NAFTA promises no boon for Puerto Rico. Quite the contrary, the new pact seems certain to undercut trade advantages enjoyed by the commonwealth, such as not having to pay US taxes and having the freedom to offer special incentives to industries.

Mexico's wage standards are much lower than Puerto Rico's, and economic planners in San Juan feel that businesses will be lured away from the commonwealth.

Governor Rosselló says the changes indicated by NAFTA demand that Puerto Rico seriously consider statehood.

Aside from NAFTA's impact, Statehood would likely cost Puerto Rico most of its present economic advantages. But if those advantages are to be lost to NAFTA anyway, Puerto Ricans might well want to give the possible advantages of statehood another look.

More than half of Puerto Rico's 3 million-plus citizens have spent part of their lives in the United States or have relatives there.

Republicans in the US have tended to believe that welcoming Puerto Rico aboard would mean adding three new Democrats in Congress: two senators and a House member.

This is not the issue on which statehood for Puerto Rico should stand or fall. Even if it were assumed that the "State of Puerto Rico" would be heavily Democratic, much more than partisan political advantage is at stake. The people of Puerto Rico are, de facto, American citizens: Puerto Rico was ceded to the US in 1898, a prize of the Spanish American War.

Rosselló and his New Progressive Party swept the elections for governor and won strong majorities in both houses of the legislature as well as control of most cities and towns. Their candidate for the nonvoting seat in the US Congress won, too.

Circumstances make 1993 a plausible time for serious consideration of statehood for Puerto Rico. Should statehood be approved by a majority of Puerto Ricans, members of the US Congress—after consulting their own constituents—would decide the outcome.

If Puerto Ricans want statehood, they should have it.

□ 1410

MONEY LAUNDERING IN THE UNITED STATES IS A FACT OF LIFE

The SPEAKER pro tempore (Mr. BECERRA). Under a previous order of the House the gentleman from Texas [Mr. PICKLE] is recognized for 30 minutes.

Mr. PICKLE. Mr. Speaker, I rise this afternoon to talk to my colleagues and to others about a very serious problem facing their Government in the field of money laundering. Money laundering is not an item just for the movies or the television; it is a fact of life that money laundering is going on in our society, particularly with businesses. Proper accounting by businesses to the Government is not being made. Money laundering has been attempted to be outlawed as best we can by the Committee on Ways and Means and my subcommittee, the Subcommittee on Oversight, as well as the Committee on Banking, Finance and Urban Affairs in enforcing the Bank Secrecy Act.

We have been diligent; we have made progress; much more needs to be done.

This afternoon I want to talk about two particular instances which have just occurred which will serve as a reminder to you of what is taking place in the field of money laundering, primarily by drug dealers or people who one way or another come into possession of large sums of money. The question arises, then, when they gain possession of this money, how do they use it?

They must have some outlet. We started out several years ago to combat money laundering by saying to banks and other financial institutions that, "If you receive a deposit in excess of $10,000 in cash, a report has to be made to the Internal Revenue Service." A similar law was enacted under the Internal Revenue Code requiring businesses to file cash transactions reports with the Internal Revenue.

That is the law. The merchant or person who receives this money does not have to ask a lot of questions; he is simply required to report that to the Internal Revenue Service. This is purely and simply just a reporting matter.

The question is: Is it being enforced? I will say to you: Not nearly as much as it should be.

I want to talk about two instances that give you some idea of what is actually taking place.

First, I will say as a matter of background, for those of you who may be listening, that we have two rules pertaining to money laundering reporting. One rule would say that under the Internal Revenue Code, section 6050(I), a particular type of report must be made by businesses. This would affect people who are engaged in large cash transactions such as automobile dealers, antique dealers, real estate agents, and oriental rug merchants. I give you these examples because they are the items that can cost considerable amounts of money, where a money launderer can roll over a lot of large cash and hopefully no reporting will be made.

This is one rule that is supposed to be followed. When a business transaction takes place, where a business receives cash in excess of $10,000, that business is supposed to report the transaction to the Internal Revenue Service on a form 8300, merely reporting that they received this much in cash.

Similarly, under the Bank Secrecy Act, this would affect casinos, check cashers, wire transmitters, banks, or other financial institutions.

Under the Bank Secrecy Act, they are supposed to fill out a CTR, or currency transaction report form, simply reporting that large cash transaction to the Internal Revenue Service. That is supposed to be the law, very simple, very easy. It probably is not being enforced.

Mr. Speaker, 8 years ago the business community was asked to help their Government crack down on those with large cash incomes who were laundering their money through the purchase of luxury items such as automobiles, antiques, jewelry, rugs, and the sort.

Under the law, businesses are required to report transactions that involve more than $10,000 in cash, as I just outlined, in one of those rules. Three years ago, my Subcommittee on Oversight of the Committee on Ways and Means conducted an investigation which exposed the business community's willingness to violate the law. They were a willing participant in violating the law.

Ninety-six percent of the merchants investigated agreed to take large sums of cash from staff investigators and not report the transactions. Ninety-six percent of the merchants who were probed said, "We will take the cash, turn our head, and make no report."

They agreed to do that without question and they agreed not to report it to the Internal Revenue Service.

Ninety-five percent of the merchants were willing to take false names and more than 25 percent suggested ways to avoid the reporting rules.

So, not only were they willing to use false names, but they just would jimmy up the report enough so that it would not be a valid report and, therefore, it could not be examined that closely.

Well, that would hurt the Internal Revenue Service's ability to identify taxpayers with sizable cash incomes which might otherwise go unreported for tax evasion.

Now, on January 14, 1993, 2 weeks ago, 19 managers and salesmen and 10 automobile dealerships in the Washington, DC, metropolitan area were indicted by a Federal grand jury on money laundering and conspiracy charges. These charges involved a series of financial transactions in which the defendants allegedly sought to enrich themselves by knowingly accepting large amounts of cash they believed to be drug money, in payment for automobiles. And they sold these automobiles to undercover officers posing as drug traffickers.

□ 1410

They knew clearly what to suspect, but knowing all this, that they were connected to drugs, they still sold the automobiles.

Now, I am going to submit for the RECORD the press release issued by the U.S. attorney's office in Washington outlining the operation in more detail so that any of you who are interested can read the press release and know that this is happening in your own communities.

Now, with this major bust, the business community has again been put on notice that their continued flagrant violation of the law will not be tolerated. The time has come for those who knowingly accept large sums of cash and deliberately conceal the transaction from the IRS will face the consequences. Their actions aid and abet tax evasion, and they seriously undermine the Nation's war on drugs.

In making these revelations, I am not passing judgment on whether the individual was correct in making the sale, but I am saying that by not filling out the forms they are a partner in covering up what happened and they are encouraging the increased violence that comes from drugs and drug practices.

I hope that this latest bust, whatever the facts prove to be after the case is tried, force businesses across the country to understand that the Internal Revenue Service will be enforcing the law and will be looking over their shoulders in different parts of the country.

So I am going to put this in the RECORD so the public can see what is taking place.

Now, Mr. Speaker, I want to mention one other case that happened recently. This is in January, also of this year. Last year, the Subcommittee on Oversight of the Committee on Ways and Means exposed serious operational and management problems within the Department of Treasury's Office of Financial Enforcement. They call themselves the OFE. They were created to watch these kinds of cash transactions closely. Now, I want to relate to you how they have not done that.

OFE was created to coordinate Treasury's responsibility in the fight against domestic and international money laundering; yet our subcommittee found the Treasury's OFE has been asleep at the wheel, failing to aggressively pursue cases involving clear violations of the Bank Secrecy Act. Many cases have been sitting in OFE file cabinets for extended periods of time without action. Other cases were lost because the OFE allowed the statute of limitations to lapse.

Until last week, OFE had not assessed a single civil penalty against any casino, despite the fact that casinos have been subject to the law since 1984, and investigators at the Internal Revenue Service had identified and referred cases involving serious BSA violations to OFE several years ago.

Can you imagine, my colleagues, that not a single penalty against casino operators has been assessed in the last several years? That is shocking and you have to ask yourselves, "why was that happening?"

Well, on January 21 of this year, the Treasury Department announced it has assessed a total of $2.5 million against 10 Atlantic City casinos for willfully failing to report large cash transactions to the Internal Revenue as required under the Bank Secrecy Act. Six of the casinos have settled their cases and they have paid over a million dollars in penalties. Four casinos have not settled and they face possible additional penalties.

I am also going to submit for the RECORD the press release outlining the Treasury's action in more detail so that you can see what actually happened and which casinos are involved and the related penalty amounts. To date, OFE has collected $1.1 million.

Casinos are predominantly cash-based businesses and prime candidates for those seeking to launder their cash and avoid paying taxes. If you have a big bundle of money, a sack full of it, you go to casinos because that is an ideal place to be able to launder your money. This is all the more reason why casinos must be extremely viligant to be certain that if they engage in a transaction over $10,000, that it is reported. We know now that transactions were not being reported in the past.

At long last, the IRS and the Treasury have moved in and did fine them.

The law was so flagrantly violated, that some casino patrons did not even bother to roll the dice as they laundered their ill-gotten gains. With the announcement of these BSA penalty assessments, the Government has finally put casinos on notice that their dealings with crooks will not be tolerated.

Our subcommittee intends to follow-up on this matter and has asked the Internal Revenue Service and the Office of Financial Enforcement for information on the nature of violations penalized, the types of schemes uncovered so far, and information on the four casinos who decided not to cooperate with the Federal Government.

Our Oversight Subcommittee and the Banking Committee will be looking closely to see if the law continues to be violated.

Now, Mr. Speaker, let me summarize this problem. Money laundering, a lot of times in people's minds, is related to a group of people who somehow go down to Florida, or to the coast of Texas or Mexico, and they take their money and launder it by dealing under the table and you do not know about it. The fact is, money laundering is openly being transacted now in dealerships and businesses throughout the country. Let me give you the history of it.

When we first enacted the law saying that you have got to report $10,000 in cash, the law was not being obeyed by the banks. They were just not making reports to the Government as they should. We warned them that this was the law and they should obey it. As I recall it, the Justice Department later filed suit on some bankers in Massachusetts and possibly put a few of them in jail. I want you to know that immediately afterward the banks all over the country got the message that this might be serious business and we began to get CTRs in pretty easily. But it took the threat of putting a few of those people in jail before the law was going to be obeyed.

We applied the same standard rigidly to the savings and loans. So, by and large, we like to believe that banks, savings and loans are complying with the law and they are making these reports.

But what happened to the money laundering at that point? Well, the money launderers said, "We'll spend that money, we'll transact our business out in public. We will go out in the business arena," like I said, to the automobile dealers, the antique dealers, the rug dealers, and so forth, and buy expensive consumer items.

Mr. Speaker, I want to make a report to the House later that we have found out that, in many instances, where these merchants were not making reports and suits were filed on those businesses, we found out that in a large number of cases, many of those purchasers involved in the under the table transaction were not paying Federal income taxes and had not paid them for the last year or two.

Now, if there ever was a clearer signal that there is a crook, and we ought not to say that always, but probably, that is when it ought to be investigated.

Well, then, what have they done now? They have gone to the banks, the savings and loans, to the businesses, and as we tightened up in those fields they have gone to a new field. That new field is in wire transfers. Wire transmitters used to be centered on the borders of the United States, California, Arizona, Texas, down to Florida. But now wire transfers are being made all over the country.

Now we have found out that as money comes over the border, it was convenient to have a few wire transmitters stretching along the border. Now there are literally, not a few; there are hundreds of them all up and down the border.

I have a feeling personally that many of them are not engaged in just trying to have wire transfers for their own little help, they selected the border because of the heavy flow of money coming across the border. So that is the history of it, and we have got to be vigilant about it.

We must also say to the individual, "You must help us enforce the law. We have passed these laws, not to inconvenience businesses and individuals, but simply saying to you, report the facts of the transmission and once we know the source of the money, maybe we can trace it back and see if it is drug money."

It is the best way in the world to combat drugs and tax evasion, if people would help us. I appeal to the people of the United States, do not, as individuals, go out and buy something for over $10,000 in cash and try to slip it under the table so that you will not have to report it. That is not helping your government; you are not helping yourself, and you are violating the law when you do.

□ 1420

Third, there is a tax gap. There is underground shuffling of money in the money laundering field. It is caused largely by these money launderers who are dealing under the table. This causes a lot of people who are paying their taxes to say to themselves, "Hey, why should I pay taxes when all I have to do is go down and launder some funds under the table and I get by with it?"

It is going to destroy our voluntary tax system if we do not enforce the law. I hope that this administration will be vigorous in enforcing these two aspects of the money laundering law. It is a matter of enforcement, and my colleagues, I think, and I would agree that that is something that must be done. The Internal Revenue Service must be diligent in enforcing these reporting requirements, and we must see that they do it currently.

In two of these cases that I have just mentioned, they occurred in January 1993. Now I ask myself the question: "Isn't it strange that after 2 or 3 years that we now find more reports being filed and some penalties being assessed just as this last administration goes out of business?" Admittedly, Mr. Speaker, maybe this was a normal, orderly process and these things just came to light.

I also ask myself: Why did it take so long? Why all of a sudden did they report there are some violations going on?"

I simply say to this present administration that we are going to be watching the enforcement agencies down the street to see that they are enforcing the law, and we are going to ask they do it currently, and they do it with dispatch, and without hesitation. This business of stretching things out over a period of months and months, or even years, does the tax system a great disservice because it causes people to have doubts about their own Government.

So, Mr. Speaker, I am going to be making other reports to you about what is happening in this field. This is a subject that I think ought to be brought to the public's attention, and we invite you to help us in ferreting out money laundering. Most of the tax evasion is occurring in money laundering operations, and I say, "Don't you be a part of it, and you help your Government enforce the law."

[From Treasury News, Jan. 21, 1993]

TREASURY ANNOUNCES CIVIL PENALTIES AGAINST 10 ATLANTIC CITY CASINOS

The Treasury Department announced today it has assessed a total of $2,482,500 in civil penalties against 10 casinos in Atlantic City, New Jersey, for willfully failing to report to the Internal Revenue Service (IRS) currency transactions as required by the Bank Secrecy Act (BSA).

Six of the casinos, Bally's Grand Hotel and Casino, Bally's Park Place Casino, Showboat Hotel and Casino, Tropworld Hotel and Casino, Trump Castle Hotel and Casino, and Trump Plaza Hotel and Casino, have entered into settlement agreements with Treasury and have paid over a million dollar in penalties.

Four of the casinos, Caesars Atlantic City Hotel Casino, Claridge Casino Hotel, Harrah's Atlantic City Casino Hotel, and Sands Hotel and Casino were formally assessed the maximum amount of civil money penalties authorized under the BSA. Some of these casinos face possible additional penalties for other violations concerning the non-filing of reports.

John P. Simpson, acting assistant secretary for enforcement, said "Compliance weaknesses and reporting failures, whatever their cause, are extremely serious. They potentially deprive Treasury of financial information which is a vital weapon in the battle against organized crime, drug trafficking and tax evasion."

Simpson commended the efforts of the Examination Division of the IRS for the thoroughness of their BSA compliance examinations. "Today's action could not have been undertaken without the dedication and skill of the agents of the IRS Examination Division in Mays Landing, New Jersey."

Since 1974, banks and other financial institutions have been required to maintain certain records and to file reports of currency transactions in excess of $10,000 with the government to assist in money laundering and tax investigations. In 1985, Treasury imposed similar requirements upon casinos in recognition that casinos are a predominantly cash-based business which have been used for money laundering in the past.

The BSA regulations require that whenever a person conducts a transaction in currency in excess of $10,000, whether at the cashier's window or on the gaming floor of a casino, a report must be filed with the IRS.

In 1986, the IRS began an extensive series of audits to determine the level of BSA compliance by Atlantic City casinos. Among other things, the IRS found that every casino examined had failed to file reports on required currency transactions and had not employed sufficient resources and training to comply fully with the BSA requirements. The IRS examinations covered the period of 1985 to 1988. The results were referred to Treasury's Office of Financial Enforcement (OFE) which shared them with the New Jersey Division of Gaming Enforcement and, together with IRS, conducted a comprehensive review. Since 1988, most Atlantic City casinos have invested substantial time and resources to improve BSA compliance and cooperate with the government in its effort to crack down against money launderers and tax evaders.

The civil penalties assessed by Treasury were based on the casinos' failure to comply with the requirements of the BSA. Treasury has no evidence the casinos engaged in criminal activities in connection with these reporting violations.

BACKGROUND MATERIAL ON TREASURY ANNOUNCEMENT OF CIVIL PENALTIES AGAINST 10 ATLANTIC CITY CASINOS: BANK SECRECY ACT CIVIL PENALTIES NEGOTIATED AGREEMENTS

Casino	No. of violations	Penalty amount
Bally's Grand: Hotel and Casino	28	$126,000
Bally's Park Place: Casino	2	9,000
Showboat: Hotel and Casino	13	58,500
Tropworld: Hotel and Casino	92	414,000
Trump Castle: Hotel and Casino	39	175,500
Trump Plaza: Hotel and Casino	65	292,500
Caesars: Atlantic City Hotel Casino	13	145,000
Claridge: Hotel and Casino	23	402,000
Harrah's: Marina Hotel Casino	47	730,000
Sands: Hotel Casino and Country Club	13	130,000

BEFORE WE RAISE TAXES

The SPEAKER pro tempore (Mr. BECERRA). Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, this afternoon the topic of my special order will be: Before We Raise Taxes. I want to emphasize the point that, before we raise taxes, we need to examine carefully every aspect of government.

As my colleagues know, this is a city, Washington, where the objective need to raise taxes is almost overwhelming, and every time we turn around somebody has a new reason why we need to raise taxes, and they always talk in sort of casual terms: "We need $10 billion here, $15 billion there. A little consumer tax wouldn't hurt anybody; $20 billion, $30 billion there."

Mr. Speaker, I want to suggest that we are all forgetting, because of the nature of government language, that this is about real money involving real families and that it is a question, to go back to President Clinton's inaugural address, of who sacrifices first. And it is fine to talk about sacrifice, but somehow it always turns out to be the working American, the tax-paying American, the retired American who sacrifices, and the Government bureaucracy, and the Government employee unions and the trial lawyers who do better and better.

I would suggest that this is a real test of the family budget versus the Government budget and which one is more important to those of us who have been elected.

Now, we talk about a billion dollars; that dulls the senses because the truth is no family budget in America is at the billion-dollar level. Even billionaires are only down in the $50 or $100 million a year level, and for normal Americans $100 is a lot of money, a $1,000 is an enormous amount of money. As my colleagues know, at $1,000 we are talking about helping our child go through college. At $1,000 we are saving up for a down payment on a house or a car. At $1,000 we are talking about a lot of money for most Americans, and at $1 million we are talking about a thousand families talking about $1,000, and, when we get to $1 billion, we are talking about a million families with $1,000 each.

So, it is very important to get these discussions down to real amounts. For most people $5 is real, $50 is real, $100 is real. But $1 billion is just Government, and so we sort of get numb. It is almost like an anesthetic. When we start talking about billions of dollars, we sort of forget what is really involved.

The decisions we will make this spring on who sacrifices, on whether we decide to change the Government or to change the family budget, on whether the real choices need to be made back home by working Americans in their homes and their businesses, or whether the real changes need to be made in Washington by the bureaucracies and the welfare state; these go to the core of where we are at.

I believe there are three very large, very tough questions that need to be answered before we raise taxes. We need to ask first: Are we using the money we already have wisely enough to morally justify asking our American families for more money? We need to ask second: Even if the system is efficient, are we, in fact, doing what the American people want us to do with their money? And third we have to ask: If we want to cut the deficit, is raising taxes the right answer, or will a tax increase so weaken the economy that it will kill jobs, cripple revenues and increase the deficit? All three of these questions, I think, need to be answered before we raise taxes.

Now, let me start with the question: Are we using the money we already have wisely enough to morally justify asking other Americans to take money out of their families?

I just want to suggest that anybody who comes to Washington and watches the Federal bureaucracy for a couple of days will understand that we do not have the moral right to ask American families to tighten their belts to send the money to Washington. Anybody who has watched the frugality of a small business that carefully monitors everything it is doing in order to stay in business or who watches the family that carefully saves pennies and decides whether or not they can afford to go to a movie, and whether it has to be the twilight movie that is $3.50 rather than the evening movie at $7, understands that for most Americans in tight times there are real decisions about saving even a few dollars, and, when you come to Washington, or any aspect of the Federal Government, you can see that we are nowhere near the kind of frugality we need.

I recently, last Monday, did a speech entitled: "Renewing American Civilization." I talked about applying five pillars of freedom: Quality, technological advance, entrepreneurial free enterprise, the principles of American civilization, and psychological strength. Let me say that three of those, quality, as defined by Edward Demming, the concept of profound knowledge, technological advance, using technology to do things better, faster, for less, and entrepreneurial free enterprise, using the basic principles of the free enterprise system; those three pillars could dramatically lower the cost of the Federal Government.

Imagine, for example, if President Clinton were to invite 5, or 6, or 8, or 10 of the top corporate downsizers to the White House, people who had downsized Ford, downsized IBM, downsized Xerox, people who are in the process of downsizing Sears Roebuck, and said to them, "If the key is to save money in bureaucracy, and if modern computers and modern information systems allow us to save money in bureaucracy, what have you learned by doing it to a bureaucracy of a hundred thousand that I can now apply to a bureaucracy of 2½ million?" What would the Department of Agriculture or the Department of Labor look like, or the Department of Health and Human Services look like, if we applied the same downsizing principles? For that matter, what will the Pentagon look like if we require it to go through the same quality transformation that, say, the Ford Motor Co. or Xerox has gone through?

What we know is we would have a lot fewer bureaucrats and a lot fewer offices shuffling a lot fewer papers. What we know is we would be dramatically less expensive, and we would be in a position to talk seriously about how much less the Federal Government would cost.

□ 1430

Let me also suggest that when you look at what we are subsidizing in waste, waste in education in places like the New York City school bureaucracy or the Washington, DC, school bureaucracy, waste in the unionized work rules of Philadelphia and Detroit and New York, the kind of institutionalized waste of money, it makes no sense.

There was one report last year that in Philadelphia the union work rules literally required three people at the Philadelphia airport to change a lightbulb, because one person had to come and take the various lighting fixtures off, a second person had to come to change the bulb, and a third person had to come to sweep around the area after the first person put the light fixtures back on.

Now, we cannot afford that kind of waste in Government. I recently talked here about the problem of the New York City custodians, who are given a brand-new Jeep every 5 years by the school board, and if they do not use the Jeep, at the end of 5 years they get to take it home as a personal vehicle and then they get a new Jeep. So all the alternatives in the New York City system are for nonuse of the Jeep so it can become a personal vehicle with minimum miles on it and minimum waste. And there was the recent custodian for the public schools in New York City who was indicted because he was sitting on his yacht when he was collecting money for supposedly cleaning up the school.

My point is that there is a tremendous amount of reform in local, State, and Federal Government that is needed before we raise a penny in taxes.

Let me go a step further and suggest that precisely what made America's biggest corporations inefficient and ultimately economically insecure was their unwillingness to go through dramatic change. General Motors would be a healthier company today if over the last 10 or 15 years it had gone through change, and Sears and Roebuck would be a more competitive company today if over the last 10 to 15 years it had gone through dramatic change. Now we see the private market forcing change at that level. We see what is happening to these corporations. In order to stay alive, they have got to become leaner, more competitive, and more customer oriented.

Yet what do we hear from the Government? Not any talk about dramatic, bold change, not any talk about dramatic management reforms, not any talk about downsizing the bureaucracy. Instead, what the Government says is that we really cannot change anything except in your pocketbook; we cannot threaten any of the public employee unions; we cannot talk about changing any of the bureaucracies; we cannot think about changing the civil service laws or the personnel laws or the procurement laws. All we can think about is getting more money out of working Americans.

But before we raise taxes, I think we owe it to the American people to apply the same management toughness to Government that we are seeing applied throughout the private sector.

There is a second question we need to ask before we raise taxes. Even if the system is efficient—and I do not believe it is—or even if we went through that process of making it efficient, are we in fact doing what the American people want us to do? There is a very simple test of this which Congressman BOB WALKER of Pennsylvania has put in the RECORD. It is a bill that would allow all taxpayers to set 10 percent of their tax aside to go directly to the debt. They could set aside anything from 0 up to 10 percent. Let us say you paid $3,000 in Federal taxes. Under the Walker proposal, you could designate anything from 0 up to $300 to go to the Federal debt, and the Congress would receive an instruction to lower Federal spending by the same number of dollars. The Congressional Budget Office suggested that Congressman WALKER'S bill would probably balance the budget within 5 years, based on public opinion polls of how many people would be using the 10 percent deficit-cutting mechanism.

But notice what it says. It says that you do not have to pay for any more Government that you think is wasteful or that you think is not useful. It says that you could make decisions to force the Congress to cut the size of the aggregate Federal Government. I think that is a very useful idea and a better idea than raising taxes. So one of the things we ought to look at is, before we get around to tax increases, before we raise taxes, passing Congressman WALKER'S 10-percent deficit set-aside to allow the American people to vote by their pocketbooks on how much of their taxes up to 10 percent could go to reducing the deficit and forcing the Government to set priorities.

Let me carry it a step further. What if we were to set priorities? What if we were to say to the American people, here are the 30 least important bureaucracies in Washington; could we close them down? What if we were to say, here are the 20 least important programs? Not that they are not good programs. If you have a million-dollar-a-year income, it is amazing what you can do that you would not do if you have a $20,000-a-year income. You do not need as many priorities and you would not have to make nearly as many tough decisions at a million dollars a year.

What we have in Washington is a Congress and a Government which has an open-ended idea about how much they want to spend but has a fairly limited actual amount of revenue coming in, and the deficit is the gap between our unwillingness to set priorities and the size of the real revenue. If we were to actually test the system, here is what we would find out: Eighty-one percent of the American people want us to replace welfare with workfare. It is an astonishing number. Eighty-one percent of the people agree that we need to require people to work if they get money. That, by the way, would dramatically change the cost of welfare. Yet we are hearing talk that we ought to raise taxes on working Americans to subsidize the welfare system and take care of people who are not working. That is something 81 percent of the people object to.

Seventy-five percent of the American people believe we ought to have malpractice reform and tort reform so we would have fewer lawsuits and fewer gigantic settlements and so we would have less litigation. That would save more than $5 billion, and the estimates go on up to $30 billion or $40 billion a year. It would save money on defensive medicine, it would save money in lawsuit costs, it would save money in court costs, and it would save money across the board in terms of not having to pay professionals to do extra things just to be prepared to defend ourselves. We ought to pass malpractice and tort reform before we talk about raising taxes.

Then we come to an area where people do not want change, and yet it is one of the areas that the Democratic administration is talking about changing. I am fascinated by this. This is a wire story which was brought to my attention just a few minutes ago. It talks about President Clinton's economic aides, and I want to share this with my colleagues. This is an Associated Press story.

> In the first word of what Clinton's long-discussed proposal will look like, Clinton's aides said the president's package would consist of $16 billion in immediate spending increases for fiscal 1993, which runs through Sept. 30.
>
> In addition, the package will contain $15 billion worth of investment tax credits, a tax break given businesses that invest in equipment.

There is no word in that story about any offsets. This is a $31 billion increase in the deficit. We remember that Ross Perot ran promising to cut the deficit, and Bill Clinton ran promising to cut the deficit. He was going to cut the deficit in half in his first 4 years. The first proposal we are now hearing is a $31 billion increase in the deficit. If my memory serves me, that is around a 9-percent increase on the current total deficit projection. So we are going to actually increase the deficit on the way to decreasing the deficit. Does that not sound like something we have all lived through before, where the politicians promise anything to get elected and then rapidly begin to figure how they are not going to do any of the things they promised?

We notice also that the new term in Washington is investment. Investment has replaced pork barrel. It is a good Washington word, and people who love big Government and love the welfare state believe if they run around chanting investment long enough, people will not notice that investment is just a new word for spending.

The article goes on to say this—and I am quoting from the Associated Press story that came over the wire a few minutes ago—

> The administration officials spoke of "a raft of upper-income taxes" that are under consideration, the official said.
>
> In addition, Panetta spoke of the need for a shared burden in deficit reduction, the official said. Although he did not specify what he meant, the former House Budget Committee chairman has been an advocate of finding savings in the Social Security program.
>
> Panetta has been a supporter of one proposal under consideration: the elimination of next year's cost-of-living increase for the nation's 41 million Social Security recipients.

The article goes on to say this:

> Also under consideration is a plan to increase the amount of taxes Social Security recipients would have to pay on their benefits. Many Senate Democrats prefer that alternative since only the 1/4 best-off retirees pay any taxes at all.

Now, notice this: What are they talking about here when they talk about the concept of shared burden in deficit reduction?

□ 1440

Now, this is the Democratic Office of Management and Budget, the Director of the Budget. Shared burden does not mean cutting the size of Government. Notice this is an article saying they are going to increase the size of Government by $16 billion. So the bureaucracy, the politicians, the pork barrel recipients, they are not going to suffer any shared burden. Shared burden, according to this article, is going to mean people on Social Security paying more taxes, or, alternatively, people on Social Security having to give up part of their cost-of-living increase, or even the elimination, according to this, consideration of, the elimination of next year's cost-of-living increase.

Now, let me point out, the one Government program people actually seem to like is Social Security. It is the one program where grandchildren seem to think it is reasonable to pay to help their grandparents. Grandparents are grateful they are getting money. Parents are glad that they are in a situation to help their own parents who are now retired. And there is a social contract which is very deeply held.

This is the one program also, by the way, which has a very tiny bureaucracy. We send out more Social Security checks with fewer civil servants than almost any other program in the Government. So which program do our friends in the Democratic administration want to hit? Social Security.

Notice also, to receive Social Security you actually were working. You were actually putting money away. You were actually paying the Social Security tax.

So once again, who is going to get it in the wallet? It is the working American. In this case, it is the retired version of working Americans.

Meanwhile, is Government going to get smaller? No; according to this article the very first step that the Clinton administration wants to take is to increase the size of Government by $16 billion. Exactly the wrong step.

Here we have not even the usual fig leaf, let us vote for a tax increase and we will have smaller Government because we will cut spending. By the way, that fig leaf is never kept. The average over the last 20 years is that for every dollar of tax increase, there is a $1.58 increase in spending.

But that is not the key here. The key here is that you have an administration which is saying let us raise spending and raise taxes.

Now, what does that mean? That means less money for retirees, it means less money in Social Security, it means less money in the private sector, it means less money for families. But it means a lot more money for bureaucrats, a lot more money for politicians to give away as pork barrel, and a lot more money for the public employee unions to be able to organize people.

Now, I think that it is very important for the American people to understand up front exactly what is at stake here. This is the first shot in what is going to be a 4-year process of the Democrats attempting to raise taxes on working Americans and retired Americans, to transfer the money to politicians and bureaucrats, to have a larger welfare state and a bigger welfare system.

It is explicitly wrong. And as long as the welfare state keeps growing, I think we have an absolute obligation to fight any tax increase. So before we raise taxes, let us overhaul the entire welfare state.

Let me go to the third question. Even if we were doing the right things and we were doing them efficiently, would we want to cut the deficit by raising taxes, or will tax increases so weaken the economy that in fact a recession will come on, jobs will be killed, revenues will go down, and the deficit, instead of decreasing, will increase?

Now, notice, everywhere around the world we are telling people who are trying to make a transition from big centralized governments that they ought to decentralize. We are telling Boris Yeltsin in Russia, we are telling Menem in Argentina, Salinas in Mexico, privatize parts of your government, shrink your bureaucracy, go back to the free market, go back to private property. And yet here, in Washington, we have all too many people in the Democratic administration who are talking about bigger Government, bigger bureaucracy, more programs, and higher taxes.

I believe that that will in fact kill the current recovery and put us back in a recession. It might take 1½ or 2 years, but it will happen. It will happen first, because as they increase the size of Government, you are going to see interest rates go back up and you are going to see the inflation rate go back up.

I am now prepared to predict, having watched for a couple of weeks, we are now very, very close to the low point for both inflation and interest rates. We are at a 20-year low. It has taken us 12 years to recover from Carter's inflation. It took a tremendous amount of pain, both in the recession of 1981–82 and in the recession of 1990–91. But finally we are at the lowest interest rates for home mortgages, the lowest long-term U.S. bond rates, and the lowest inflation rate we have seen in 20 years.

The result, we now have liberal Democrats promptly promising bigger spending, bigger Government, higher taxes, which will lead to more inflation and higher interest rates. And I will be very prepared a year from now, or 2 years from now, to come back here to the House floor and defend that projection and look at what inflation and interest rates look like at that point.

I feel some confidence in talking about the economy, because on August 22, 1990, I spoke at the Heritage Foundation on a speech entitled, "The Washington Establishment Versus the American People, a Report from the Budget."

I want to take page 9 of that particular speech and share with people what I said in 1990, because I think we are right back in the same situation.

> Economic dangers: I believe that we have to then take this analysis and look at a very real danger which can cause all of us enormous pain, and that is a recession. The world that existed at the beginning of the budget summit is over.

I went on to talk about the seizure of Kuwait and what is happening in Iraq.

> We have the fact, absolute fact in my judgment, that the economy is clearly weaker today than it was a year ago.
>
> And I want to make a point that is not made often enough in this city: a recession is the worst enemy of a balanced budget. If we have a recession and we have millions of Americans put out of work, the net effect of not paying taxes (because you don't have a job) and increasing unemployment and welfare (because you need it), will be to dramatically widen the budget deficit.
>
> But there is a second hidden whammy now. And that is the cost of the savings and loan bailout. The government is now the largest seller of property in America. Therefore, it has a greater interest than any other person or group in keeping property values up. Because if property values crash, the cost of liquidating the properties goes up astronomically.
>
> Avoiding A Recession. Now, given those two objective realities and combining with them a caring humanitarian view that argues that a job is the best welfare program, the number one goal on September 5th when the Congress returns should be to adopt a proposal which will avoid a recession.
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> And for the life of me, I cannot see how any member of Congress or any member of the government could argue for anything else in terms of domestic policy.
>
> We must be strong in the Middle East and we must be strong in the American economy. I believe we should have a tax cut package, because we know what doesn't work and we know what does work.
>
> In the 1970s we tried raising taxes going into a recession—this was the famous Hoover-Carter policy, and it didn't work in the early Thirties, didn't work in the Seventies. Turns out when you raise taxes going into a recession, you get a depression if you're unlucky, and you get a very deep recession if you're lucky.
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> We also tried a different technique in the Eighties called lowering taxes. Lowering taxes seemed to have a better effect than raising taxes.
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> Now I am not an economist or a political scientist, so I don't have any kind of linear projection here. But as a historian, I am willing to suggest that we would rather be like the Eighties than the Seventies.
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> Now this is in Washington, by the way, a very radical statement. I'm serious. Large parts of Washington want to raise taxes precisely to repudiate the Eighties. This is an act of purification. And liberal Democrats want to be able to go home and say, "You see? We have finally done away with all the wicked things that Ronald Reagan did and now you'll be safe."
>
> And they'll say this to very long unemployment lines.

Let me make the point that I said this on August 22, 1990, and we were discussing at that time a situation in which we were in a budget summit, and all the establishment figures of Washington were saying raise taxes, raise taxes.

As we all know, President Bush tragically gave in, we raised taxes, and what was the result? It was exactly what I said in August 1990. Recession was deeper, the unemployment was longer, the deficit grew bigger, Government revenues declined, fewer people were at work, they paid fewer taxes. The result was the Government had less money and the net result was a bigger debt and a worse economic situation. Sadly, the final result was the defeat of President Bush, who finally looked back in August 1992 and said in Houston at the Republican Convention that in fact it had been a great mistake to raise taxes in 1990.

Well, let me just suggest to you that this is still a great mistake. This economy is much weaker than its macro numbers.

When you see General Motors talking about laying off thousands of people, when you see Sears talking about laying off thousands of people, when you see IBM talking about laying off thousands of people, when you see additional burdens being put on small business, the fact is, objectively we are a very fragile economy.

The German economy is in trouble, the Japanese economy is in trouble. If we have one or two unexpected shocks, we are going to go back into a recession.

Now, we have a very painful, very hard bought, gradual slow recovery under way.

□ 1450

And any effort to increase the deficit with bigger Government spending is going to raise interest rates, and that is going to weaken the economy. And any effort to raise taxes is going to weaken the private sector, and that is going to weaken the economy. And the result is going to be more people out of work. Yet the fact is that in Washington those obvious common sense historic lessons do not seem to get through to people.

I made that point on page 12 in the 1990 Heritage speech when I said.

> Washington Against America. And we need to look at this city as a city which is almost totally out of touch with the American people today, a city which has rejected every presidential election since 1968—in both parties. They rejected the Republicans and they rejected Jimmy Carter, and then they rejected more Republicans. This is a city which is proud that it has withstood all the screams of the American people for lower taxes, less government, and a replacement for the welfare state.

I think I could say that paragraph today and include Bill Clinton as well as Jimmy Carter. What did we have last fall? We had a Presidential campaign in which a third-party candidate, one of the most powerful of the 20th century, campaigned against the deficit, said we had to cut spending in Washington, we had to cut the deficit. And what do we see? We see the very first Clinton so-called stimulus package giving the politicians and the bureaucrats $16 billion in bigger deficit because they are going to spend $16 billion more in Washington.

We have, as I said in 1990, a rejection of lower taxes by the Washington power structure, which wants higher taxes, a rejection of less government by the Washington power structure, which wants more government, and a rejection of the concept of replacing the welfare state, where workfare is supported by 81 percent of the American people, by liberal Democrats who, in fact, favor the welfare state.

Now, in that framework, let me suggest that there is a book which has been a best seller, which is worth looking at by folks, by Harry Figgie, Jr., with Gerald Swanson called "Bankruptcy 1995, the Coming Collapse of America and How to Stop it." This is a very powerful book which talks about deficits. It is a book which talks about the need to cut spending and the need to cut the deficit.

I want to share with you a couple of key points that Mr. Figgie and Dr. Swanson make in their book. This is a current best seller.

He talks about the Budget Reconciliation Act of 1990. This is the act which was passed, against my opposition, after the speech I made at Heritage in August. It was a deal made in October by the power structure of the city of Washington to prop up the welfare state by raising taxes on the American people.

This, from pages 59 to 61, is what Mr. Figgie says:

> THE BUDGET RECONCILIATION ACT OF 1990
>
> The idea behind the Omnibus Budget Reconciliation Act of 1990, known as the 1990 budget accord, was sound enough: The federal government would reduce spending by $2 for every $1 it collected in new taxes. But this sound idea was soundly defeated by lawmakers and a president who would reach new heights of chicanery and doublespeak. The actual effects of the accord: Taxes soared and spending soared right along with them, to the point where the 1992 deficit reaches nearly $400 billion. Here's what happened:
>
> Early in 1990, President Bush called an emergency meeting with Congress to address the hemorrhaging federal budget. No one, unsurprisingly, could agree on spending cuts. Finally, the president said he would break his "read-my-lips, no-new-taxes" pledge in return for deficit-busting legislation.
>
> Congress, accordingly, passed the second largest tax *increase* in our nation's history. It authorized new or higher excise taxes—a 10 percent tax on boats and "luxury" cars, for example, which priced American products right out of the market; increased the top marginal tax rate from 28 percent to 31 percent; phased out a host of exemptions and deductions for higher-income taxpayers, and raised the maximum wage subject to a 1.45 percent payroll tax for Medicare from $53,000 to $125,000.
>
> And the budget?
>
> Our lawmakers relied on inaccurate estimates, twisted logic, and two enormous loopholes in order to continue running huge deficits.
>
> For example, they came up with this clever idea: They would base any cuts made in the budget on reductions in projected *further* growth of government programs, not on actual spending for these programs in previous years. It worked like this: Say, in 1991, a program cost the government $100 billion. "In 1992," said our leaders, "with increases in the population, this same program will cost at least $150 billion. Now, we'll cut it." And they did. They sliced $10 billion from the $50 billion *increase* and announced that they'd saved the American taxpayer $10 billion. Of course, what they really succeeded in doing was increasing spending by $40 billion.
>
> And those loopholes? The first states that the budget agreement can be violated as long as a spending program is classified as an emergency. That's how unemployment benefits got extended, and that's how the federal government benefits got extended, and that's how the federal government in 1992 has been able to send emergency aid to post-riot Los Angeles. The second says that spending estimates can be altered in reflect changing economic conditions or technical errors in calculating the costs of programs. You can imagine the effect of the recession on spending estimates. The loopholes, in other words, give Congress a free hand to violate the budget agreement at just about any time for nearly any reason.
>
> It shouldn't come as a shock that estimated revenues for 1992 come to $1.075 trillion, while estimated expenditures will reach a whopping $1.475 trillion, or 37.2 percent more than revenues.

Let me translate that into more normal numbers. The Federal Government this year is going to spend $1.475 trillion. It is going to receive $1.075 trillion.

The point I would make is that before we raise taxes, we need to have a family council of the American people, Governor Cuomo's sense of the national family. We need to say, is not $1.075 trillion a lot of money? Should we not be able to run a pretty good-sized Government on $1.075 trillion? If we set priorities, should we not come pretty close to reaching what we need to get done in America for $1.075 trillion?

And the answer in Washington will be "no." You do not understand how frugal we are being. We can barely get by on $1.475 trillion, and so what we need to do is raise taxes.

Yet note what Mr. Figgie points out, and that is that taxes, even though they were raised dramatically, the net result was not to cut spending, not to cut the deficit, it was to give the liberals the security of knowing that they could spend even more, that they could continue to raise the deficit because their power had not been affected.

From page 111 to 113 in Mr. Figgie's book, "Bankruptcy 1995," he says the following, in a section entitled "Higher Taxes."

> Read my lips. If Congress and the president don't get the deficit under control now, we *will* get higher taxes in the United States. Sooner or later, to cope with mounting deficits and expanding entitlement programs, this government, like every other spendthrift government, will try to bail itself out of its dilemma with tax hikes.
>
> They might call a spade a spade and raise tax rates, which anyone can see is a tax hike. But they don't have to. They can raise the tax burden by expanding the tax base, sneaking in hidden taxes on goods and services, or by reducing and eliminating deductions and exemptions. The American people have already been hit with a huge tax increase, thanks to the Budget Reconciliation Act of 1990, which included a smattering of all these elements. (You'll find the details in Chapter 3.)
>
> Higher taxes have an obvious cost—which is that people have less money in their pockets. But there are other, not-so-obvious costs as well.
>
> Noncompliance, for one. High tax rates encourage tax avoidance and tax evasion. People go to elaborate lengths to avoid, legally or illegally, paying their fair share. In Hungary, for example, where employers pay a 43 percent social insurance tax (the equivalent of our Social Security tax), and employees pay progressive social insurance taxes of up to 10 percent and progressive income taxes as high as 50 percent, some pretty big companies have no employees at all. That's strange, since a lot of people seem to be working in these businesses. Those workers are "independent contractors," explained the manager of one professional services firm. That way, the firm doesn't have to pay payroll taxes and what the employees—oops, independent contractors—report as earnings is up to them. Many Hungarian employers

> reduce their tax bite by paying a portion of wages under the table. That means billions of dollars in revenues are lost to the so-called underground economy, a phenomenon that's not unfamiliar in this country.
>
> The Polish government, in an attempt to lure foreign capital into the country despite its high tax rates, rescinded some taxes for corporations with foreign ownership. Suddenly, thousands of Polish businesses acquired foreign "partners," most of whom are lawyers in Berlin or someplace else, who act as partners for a fee.
>
> In Italy, the only major industrialized country in the world whose debt is more than 100 percent of its GDP, taxes, especially indirect taxes, have risen steadily in recent years. The fuel tax, for example, now accounts for more than 75 percent of the pump price of gasoline. Not surprisingly, Italian compliance with tax laws is among Europe's worst. Estimates of personal income tax receipts lost to evasion range from 37 to 68 percent, and revenue collected from the country's value added tax, or VAT, is only half of what it should be.
>
> Besides encouraging noncompliance with and disrespect for the law, higher taxes reduce incentives for people to work, invest, and save. Especially work. One reason Ronald Reagan embraced supply-side economics was his belief that high taxes were discouraging productive work. In that, he was probably on the mark.
>
> In the late 1970s, before Reagan entered the Oval Office, a lot of people were beginning to notice that while they were taking home a fatter paycheck, the extra cash wasn't doing them any good. The reason, they discovered, was "bracket creep," otherwise known as "taxflation." Every time they got a raise, they would get thrown into a higher tax bracket, despite the fact that their raise was only keeping their purchasing power even with inflation. The more taxes the government takes out of the next dollar a person earns, the less inclined that person is to go to the trouble of earning the next dollar. As taxflation pushed Americans into higher and higher tax brackets, they became less interested in productive work and more interested in looking for ways to beat the tax system.
>
> Businesses and tradespeople who ask for cash payments aren't doing it because they don't trust your check. They're doing it to avoid paying taxes on that revenue, just as people who work "off-the-books" are willing to accept employment with no fringe benefits or legal protections so that they can avoid paying their share of the public's expenses. No one really knows how much income isn't reported to the Internal Revenue Service, but estimates are that the country loses as much as $127 billion in revenues annually. That's one of the prices you already pay for high tax rates, and if tax rates go higher, honest taxpayers will suffer even more from the cheats.

□ 1500

Now, two points out of Mr. Figgie's book. First, in Italy, which already has an extraordinarily high gasoline tax and an extraordinarily high income tax and a very high consumption tax, the liberals in America want us to become more like Italy. They are already talking about a 50-cent-a-gallon gasoline tax, so we will be more like the Europeans, and they cite Europe proudly as an example of a higher tax system, even though the fact is America is a continent-wide big country and you can fit Belgium into one-third of South Carolina.

The comparison between Japan and European gasoline taxes and American gasoline taxes is irrational because no European and no Japanese drive the distance Americans normally drive.

We are a huge country with people who drive tremendous distances to work, tremendous distances for recreation, tremendous distances to visit each other, and for us to raise the gasoline taxes as though we were a European country is simply to misunderstand the nature of America. However, notice how many liberal Democrats cite the European examples, and yet, as Mr. Figgie suggests, in Hungary and in Poland and in Italy very high taxes lead to very high cheating.

Second, because we have not asked the questions before we raised taxes, because people are convinced that their Government is wasting their money, because people are convinced that the Government spends money on unwise programs, we already have as much as $127 billion a year in lost revenue because people are not paying their current taxes, and any offer to raise taxes without making sure that we answer the tough questions first is simply going to guarantee an even higher level of tax evasion and tax avoidance and will mean that normal, honest, everyday hard-working people are going to pay a bigger share of the tax burden and cheats and crooks and people in the underground economy are going to get out of an even higher share of the tax burden.

Finally, Mr. Figgie says on page 145-146, in a section entitled "Don't Raise Taxes,"

> Frequently, governments opt for tax hikes over spending cuts, thereby failing to attack the root cause of their deficits. Not only do higher taxes retard economic growth, but as tax receipts grew during the 1980s, our government contrived to find ways to spend those increases and more. Politicians always will. Raising taxes does not eliminate deficit spending. We saw that demonstrated when Congress gave us our largest tax increase package in history in 1990, and then in 1991 and 1992 set all-time records for budget deficits.

So my point is simple. Before we raise taxes we have to ask tough questions. We have to make sure we have eliminated waste in Government. We have to make sure we are only spending money on things the American people want us to spend money on, and that we have begun to replaced the welfare state with an opportunity state. We have to recognize that it should be our goal to dramatically strengthen small business, to dramatically encourage entrepreneurship, to dramatically help people go out and invest in creating new jobs.

If General Motors and IBM and Sears and other giant corporations are shrinking the size of their work force, then we have a desperate need to dramatically increase the opportunities for small business. That requires tax cuts, not tax increases. We have a dramatic need to increase the investment and the entrepreneurship that creates jobs. That requires tax cuts, not tax increases.

In order to have the tax cuts necessary to create real permanent jobs in the private sector, we need to be cutting spending and cutting bureaucracy and cutting redtape, not increasing spending and increasing bureaucracy and increasing redtape.

The objective fact is that the only time we have really had a major effort at reducing the deficit in the last 12 years was in 1981, when we passed, in one summer, both a tax cut and a spending cut, the Gramm-Latta spending cut bill, the only true spending cut bill that has been passed in the time I have been here in Congress.

Since 1981, tax increases have had spending increases tied with them. Tax increases do not help cut the deficit, they simply slow the economy, kill jobs, and reduce revenue, and that increases the deficit.

So let me come back and remind people, taxes are not an abstraction. Taxes are real money taken out of real pocketbooks in real families. Taxes limit the choices the American people can make. Taxes make it harder for the American people to send their children to school. Taxes make it harder for the American people to buy health insurance. Taxing senior citizens makes their retirement years more difficult, and when we hear politicians talk in terms of $20 billion in terms of tax increases, remember, that is $100 or $200 or $300 for an American family. That is not a small thing.

A $26 billion tax increase is $100 less for every American to spend. It is $400 less in a family of four, and in real money for a real family, that is a lot.

The challenge to us, and I will be talking about this in the future, is to look at the lessons of Walpole and Gladstone, of Churchill when he was the Chancellor of the Exchequer in the 1920's, to look at Jefferson and Coolidge in the United States, to see those coalitions that genuinely were dedicated to disciplining government, to shifting resources back into the private sector, to downsizing the bureaucracy, and to having Washington as a smaller and less important city.

The challenge President Clinton faces on February 17 is to come up and suggest a package of long-term economic growth, to suggest a package which creates a smaller Washington, a package which has a smaller bureaucracy, and a package which says that sacrifices has to start with the welfare state, sacrifice has to start with Government; that we are not going to attack our grandparents, we are not going to attack working families, we are not going to attack small business. Instead, we are going to ask the tough questions of Government and we are going to begin the long process of saving money in Washington, rather than forcing the American family to save money in their family budget to they can send the money to the National Capital.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares a recess subject to the call of the Chair.

Accordingly (at 3 o'clock and 7 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 1602

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. BECERRA] at 4 o'clock and 2 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1, FAMILY AND MEDICAL LEAVE ACT OF 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–10) on the resolution (H. Res. 58) providing for the consideration of the bill (H.R. 1) to grant family and temporary medical leave under certain circumstances, which was referred to the House Calendar and ordered to be printed.

RULES OF PROCEDURE FOR THE COMMITTEE ON THE BUDGET FOR THE 103D CONGRESS

(Mr. SABO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SABO. Mr. Speaker, in accordance with clause 2(a) of rule XI of the Rules of the House of Representatives, I hereby submit for publication in the CONGRESSIONAL RECORD the rules of the Committee on the Budget for the 103d Congress, which were adopted by the committee in open meeting on February 2, 1993.

Resolved, That the Rules of Procedure of the Committee on the Budget of the 102nd Congress shall be, and are hereby, adopted as the Rules of Procedure of the Committee on the Budget of the 103rd Congress; except that Rule 4 shall be amended by striking the period at the end and inserting ", which shall be deemed the case if the records of the committee establish that a majority of the committee responded on a roll call vote on that question.", and Rule 8 shall be amended by adding at the end: "In the apparent absence of a quorum, a rollcall may be had on the request of any member."

RULES OF PROCEDURE FOR THE COMMITTEE ON THE BUDGET FOR THE 103D CONGRESS

MEETINGS

Rule 1—Regular Meetings[1]

The regular meeting day of the Committee shall be the 2nd Wednesday of each month at 11:00 a.m., while the House is in session.

The Chairman is authorized to dispense with a regular meeting when he determines there is no business to be considered by the Committee, provided that he gives written notice to that effect to each member of the Committee as far in advance of the regular meeting day as the circumstances permit.

Regular meetings shall be canceled when they conflict with meetings of either party's caucus or conference.

Rule 2—Additional and Special Meetings

The Chairman may call and convene additional meetings of the Committee as he considers necessary, or special meetings at the request of a majority of the members of the Committee in accordance with House Rule XI, clause 2(c).

In the absence of exceptional circumstances, the Chairman shall provide written or verbal notice of additional meetings to the office of each member at least 24 hours in advance while Congress is in session, and at least 3 days in advance when Congress is not in session.

Rule 3—Open Business Meetings

Each meeting for the transaction of Committee business, including the markup of measures, shall be open to the public except when the Committee, in open session and with a quorum present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public in accordance with House Rule XI, clause 2(g)(1). No person other than members of the Committee and such congressional staff and departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This rule shall not apply to any meeting that relates solely to matters concerning the internal administration of the Committee.

Rule 4—Quorums

A majority of the Committee shall constitute a quorum. No business shall be transacted and no measure or recommendation shall be reported unless a quorum is actually present, which shall be deemed the case if the records of the committee establish that a majority of the committee responded on a roll call vote on that question."

Rule 5—Recognition

Any member, when recognized by the Chairman, may address the Committee on any bill, motion, or other matter under consideration before the Committee. The time of such member shall be limited to 5 minutes until all members present have been afforded an opportunity to comment.

Rule 6—Consideration of Business

Measures or matters may be placed before the Committee, for its consideration, by the Chairman or by a majority vote of the members of the Committee, a quorum being present.

Rule 7—Procedure for Consideration of Budget Resolutions

In developing a concurrent resolution on the budget, the Committee shall first proceed, unless otherwise determined by the Committee, to consider budget aggregates, functional categories, and other appropriate matters on a tentative basis, with the document before the Committee open to amendment; subsequent amendments may be offered to aggregates, functional categories, or other appropriate matters which have already been amended in their entirety.

Following adoption of the aggregates, functional categories, and other matters, the text of a concurrent resolution on the budget incorporating such aggregates, functional categories, and other appropriate matters shall be considered for amendment and a final vote.

Rule 8—Rollcall Votes

A rollcall of the members may be had upon the request of at least one-fifth of those present. In the apparent absence of a quorum, a rollcall may be had on the request of any member.

Rule 9—Proxies[2]

Any member of the Committee may vote by special proxy if the proxy authorization is in writing, asserts that the member is absent on official business or is otherwise unable to be present at the meeting of the Committee, designates the person who is to execute the proxy authorization, and is limited to a specific measure or matter and any amendments or motions pertaining thereto; except that a member may authorize a general proxy only for motions to recess, adjourn or other procedural matters. Each proxy to be effective shall be signed by the member assigning his or her vote and shall contain the date and time of day that the proxy is signed. Proxies may not be counted for a quorum.

Rule 10—Parliamentarian's Status Report and Section 302 Status Report

(a) In order to carry out its duty under section 311 of the Congressional Budget Act to advise the House of Representatives as to the current level of spending and revenues as compared to the levels set forth in the latest agreed-upon concurrent resolution on the budget, the Committee shall advise the Speaker on at least a monthly basis when the House is in session as to its estimate of the current level of spending and revenue. Such estimates shall be prepared by the staff of the Committee, transmitted to the Speaker in the form of a Parliamentarian's Status Report, and printed in the Congressional Record.

The Committee authorizes the Chairman, in consultation with the ranking minority member, to transmit to the Speaker the Parliamentarian's Status Report described above.

(b) In order to carry out its duty under section 302 of the Congressional Budget Act to advise the House of Representatives as to the current level of spending within the jurisdiction of committees as compared to the appropriate allocations made pursuant to the Budget Act in conformity with the latest agreed-upon concurrent resolution on the budget, the Committee shall, as necessary, advise the Speaker as to its estimate of the current level of spending within the jurisdiction of appropriate committees. Such estimates shall be prepared by the staff of the Committee and transmitted to the Speaker in the form of a Section 302 Status Report.

The Committee authorizes the Chairman, in consultation with the ranking minority member, to transmit to the Speaker the Section 302 Status Report described above.

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[1] Written rule required by House Rules.

[2] Written rule required by House Rules.

HEARINGS

Rule 11—Announcement of Hearings

The Chairman shall publicly announce the date, place, and subject matter of any Committee hearing at least one week before the commencement of that hearing, unless he determines there is good cause to begin such hearing at an earlier date, in which case public announcement shall be made at the earliest possible date.

Rule 12—Open Hearings

Each hearing conducted by the Committee or any of its Task Forces shall be open to the public except when the Committee or Task Force, in open session and with a quorum present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate any law or rule of the House of Representatives. The Committee or Task Forces may by the same procedure vote to close 1 subsequent day of hearing.

For the purposes of House Rule XI, clause 2(g) (2) the Task Forces of the Committee are considered to be subcommittees.

Rule 13—Quorums[3]

For the purpose of hearing testimony, not less than two members of the Committee shall constitute a quorum.

Rule 14—Time for Questioning Witnesses

Committee members shall have not to exceed 5 minutes to interrogate each witness until such time as each member who so desires has had an opportunity to interrogate such witness.

After all members have had an opportunity to ask questions, the round shall begin again under the 5-minute rule.

In questioning witnesses under the 5-minute rule, the Chairman and the ranking minority member may be recognized first after which members may be recognized in the order of their arrival at the hearing. Among the members present at the time the hearing is called to order, seniority shall be recognized. In recognizing members to question witnesses, the Chairman may take into consideration the ratio of majority members to minority members and the number of majority and minority members present and shall apportion the recognition for questioning in such a manner as not to disadvantage the members of the majority.

Rule 15—Subpoenas and Oaths

In accordance with House Rule XI, clause 2(m), subpoenas authorized by a majority of the Committee may be issued over the signature of the Chairman or of any member of the Committee designated by him, and may be served by any person designated by the Chairman or such member.

The Chairman, or any member of the Committee designated by the Chairman, may administer oaths to witnesses.

Rule 16—Witnesses' Statements

So far as practicable, any prepared statement to be presented by a witness shall be submitted to the Committee at least 24 hours in advance of presentation, and shall be distributed to all members of the Committee in advance of delivery.

Rule 17—Committee Prints

All Committee prints and other materials prepared for public distribution shall be approved by the Committee prior to any distribution, unless such print or other material shows clearly on its face that it has not been approved by the Committee.

BROADCASTING

Rule 18—Broadcasting of Meetings and Hearings

It shall be the policy of the Committee to give all news media access to open hearings of the Committee, subject to the requirements and limitations set forth in House Rule XI, clause 3. Whenever any Committee business meeting is open to the public, that meeting may be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, in accordance with House Rule XI, clause 3. However, radio, television, and still camera equipment may be excluded from the Committee room by a majority vote of the Committee, a quorum being present.

STAFF

Rule 19—Committee Staff

(a) Subject to approval by the Committee, and to the provisions of the following paragraphs, the professional and clerical staff of the Committee shall be appointed, and may be removed, by the Chairman.

Committee staff shall not be assigned any duties other than those pertaining to Committee business, and shall be selected without regard to race, creed, sex, or age, and solely on the basis of fitness to perform the duties of their respective positions.

All Committee staff shall be entitled to equitable treatment, including comparable salaries, facilities, access to official Committee records, leave, and hours of work.

(b) In addition to the staff provided in paragraph (a) each member of the Committee may select and designate an associate staff member who shall serve at the pleasure of that member. Such staff member shall be compensated at a rate, determined by the member, not to exceed 75 per centum of the maximum established in Clause 6(c) of Rule XI of the Rules of the House of Representatives; *provided*. That no member shall appoint more than one person pursuant to these provisions; *provided further*, that members designating a staff member under this subsection must certify by letter to the Chairman that the employee is needed and will be utilized for Committee work.

(c) In addition to the staff provided in the above paragraphs, the Chairman shall appoint no fewer than five staff, recommended by the minority members, who shall provide staff assistance to the minority members.

Rule 20—Staff Supervision

Staff shall be under the general supervision and direction of the Chairman, who shall establish and assign their duties and responsibilities, delegate such authority as he deems appropriate, fix and adjust staff salaries (in accordance with House Rule XI, clause 6(c)) and job titles, and, in his discretion, arrange for their specialized training.

Staff assigned to the minority shall be under the general supervision and direction of the minority members of the Committee, who may delegate such authority as they deem appropriate.

COMMITTEE RECORDS

Rule 21—Preparation and Maintenance of Committee Records

An accurate stenographic record shall be made of all hearings.

The proceedings of the Committee shall be recorded in a journal which shall, among other things, include a record of the votes on any question on which a record vote is demanded.

Members of the Committee shall correct and return transcripts of hearings as soon as practicable after receipt thereof.

Any witness may examine the transcript of his own testimony and make grammatical or technical changes that do not substantially alter the record of testimony.

The Chairman may order the printing of a hearing record without the corrections of any member or witness if he determines that such member or witness has been afforded a reasonable time for corrections, and that further delay would seriously impede the Committee's responsibility for meeting its deadlines under the Congressional Budget Act of 1974.

Transcripts of hearings and meetings may be printed if the Chairman decides it is appropriate, or if a majority of the members so request.

Rule 22—Access to Committee Records

(a) The Chairman shall promulgate regulations to provide for public inspection of rollcall votes and to provide access by members to Committee records (in accordance with House Rule XI, clause 2(e)).

Access to classified testimony and information shall be limited to Members of Congress and to House Budget Committee staff and stenographic reporters who have appropriate security clearance.

Notice of the receipt of such information shall be sent to the Committee members. Such information shall be kept in the Committee safe, and shall be available to members in the Committee office.

(b) The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule XXXVI of the Rules of the House of Representatives. The Chairman shall notify the ranking minority member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any member of the Committee.[4]

APPLICABILITY OF HOUSE RULES

Rule 23—Applicability of House Rules

Except as otherwise specified herein, the Rules of the House are the rules of the Committee so far as applicable, except that a motion to recess from day to day is a motion of high privilege.

CONFEREES

Rule 24—Appointment of Conferees

Majority party members recommended to the Speaker as conferees shall be recommended by the Chairman subject to the approval of the majority party members of the Committee. The Chairman shall recommend such minority party members as conferees as shall be determined by the minority party, provided that the recommended party representation shall be in approximately the same proportion as that in the Committee.

RULES OF PROCEDURE FOR THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE FOR THE 103D CONGRESS

(Mr. CLAY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLAY. Mr. Speaker, pursuant to clause 2(a) of House Rule XI, I submit for printing in the CONGRESSIONAL RECORD the rules of the Committee on Post Office and Civil Service for the 103d Congress, which were adopted by the committee in open session on January 27, 1993.

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[3] Written rule required by House Rules.

[4] Written rule required by House.

RULES OF THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

(Adopted January 27, 1993)

RULE 1. RULES OF THE HOUSE

The Rules of the House are the rules of the committee and the subcommittees so far as applicable, except that a motion to recess from day to day and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege.

RULE 2. CHAIRMAN; VICE CHAIRMAN

(a) The majority member of the committee or of a subcommittee, as appropriate, ranking immediately after the chairman, is designated as vice chairman of the committee or subcommittee, as the case may be.

(b) The chairman of the committee or of a subcommittee, as appropriate, shall preside at meetings or hearings, or, in the absence of the chairman, the vice chairman shall preside. If the chairman and vice chairman of the committee or subcommittee are not present at any meeting or hearing, the next ranking majority member present shall preside.

(c) In the temporary absence of the chairman of the committee or of a subcommittee, as appropriate, the next ranking majority member of the committee or subcommittee, as appropriate, and so on, as often as the case shall happen, shall act as chairman.

RULE 3. COMMITTEE MEETINGS

(a) A regular meeting of the committee shall be held on the second and fourth Wednesdays of each month. The usual time of a regular meeting shall be 9:45 a.m. A regular meeting may be canceled by the chairman of the committee after consultation with the vice chairman and the ranking minority member.

(b) Additional meetings of the committee may be called by the chairman as he considers necessary.

(c) A special meeting of the committee shall be held in accordance with the provisions of House Rule XI, Clause 2(c)(2).

(d) Regular, additional, and special meetings of the committee for the transaction of business shall be open to the public, except when the committee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public in accordance with House Rule XI, Clause 2(g)(1).

RULE 4. RECORD OF ACTION

(a) A complete record of all committee or subcommittee action shall be kept which shall include a record of the votes on any question on which a record vote is demanded.

(b) There shall be made available for inspection by the public, at reasonable times in the offices of the committee, a record of the votes on any question on which a record vote is demanded, a description of the amendment, motion, order or other proposition on which a record vote is demanded, and the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and whether by proxy or in person, and the names of those members present but not voting.

(c) A committee or subcommittee report on a bill or resolution of a public character ordered reported by a record vote shall include the number of votes cast for, and the number of votes cast against, the motion to report.

(d) The records of the committee at the National Archives and Records Administration shall be made available in accordance with rule XXXVI of the Rules of the House, except that the committee authorizes the use of any record to which clause 3(b)(4) of House Rule XXXVI would otherwise apply after such record has been in existence for 20 years. The chairman shall notify the ranking minority member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of House Rule XXXVI, to withhold a record otherwise available, and the matter shall be presented to the committee for a determination on the written request of any member of the committee.

RULE 5. COMMITTEE QUORUM

(a) Except as provided under paragraphs (b) and (c) of this rule, or under House Rule XI, Clause 2(g)(2), one-third of the total membership of the committee shall constitute a quorum for the purpose of transacting committee business.

(b) A majority of the total membership of the committee shall constitute a quorum for the purpose of—

(1) reporting a measure or recommendation in accordance with rule 13(a);

(2) voting to close a meeting under rule 3(d);

(3) authorizing the issuance of a subpoena under rule 12(c); and

(4) recalling a bill, resolution, or other matter under rule 9(c).

(c) Not less than two members of the committee shall constitute a quorum for the purpose of taking testimony and receiving evidence.

(d) The presence of a quorum shall be determined and announced by the chairman before the committee shall proceed to the transaction of business and shall be recorded in the records of committee action.

RULE 6. ROLLCALL VOTE

A rollcall vote on any question may be demanded by any member of the committee or of a subcommittee, as appropriate.

RULE 7. PROXIES

A member may vote on any matter before the committee or a subcommittee by proxy. A proxy shall (1) be in writing, signed by the member authorizing the proxy, and show the date and time of day that the proxy is signed; (2) assert that the member is absent on official business or is otherwise unable to be present at the meeting; (3) designate the member who is to execute the proxy authorization and (4) be limited to a specific measure or matter and any amendments or motions pertaining thereto. A member may authorize a general proxy for motions to recess, adjourn, or other procedural matters. A proxy may not be used unless a quorum is present, cannot be used to make a quorum, and shall be presented to the chairman at the time the proxy is voted.

RULE 8. ADDRESSING COMMITTEE OR SUBCOMMITTEES

(a) Recognition by the chairman shall first be obtained by any member addressing the committee or subcommittee, as appropriate, proposing a motion, or interrogating a witness.

(b) The 5-minute rule shall apply in the markup of a bill. The 5-minute rule shall apply in the interrogation of witnesses until such time as each member who so desires has had an opportunity to question the witness.

(c) The regular order shall be observed in all proceedings, and all questions and statements in the interrogation of witnesses shall be germane to the legislation or other matters then being considered.

RULE 9. REFERENCE OF LEGISLATION

(a) Each bill, resolution, or other matter referred to the committee, subject to the provisions of this rule, shall be re-referred to the subcommittee having jurisdiction over its principal subject within 2 weeks from the date of its referral to the committee unless the chairman of the committee orders that it be held for the committee's direct consideration. If the chairman so orders, he shall inform the members of the committee of his decision and it shall not become final until 1 week after he has so informed them and then only if a majority of the members of the committee have not, in the meantime, advised him in writing of their disagreement therewith.

(b) A bill, resolution, or other matter referred by the chairman of the committee to a subcommittee may be recalled by him for the committee's direct consideration or for referral to another subcommittee. If recalled, the chairman shall inform the members of the committee of his decision and it shall not become final until 1 week after he has so informed them and then only if a majority of the members of the committee have not, in the meantime, advised him in writing of their disagreement with this decision.

(c) A bill, resolution, or other matter referred to a subcommittee may be recalled by a majority vote of the committee, a majority being present, for its direct consideration or for reference to another subcommittee.

(d) A bill, resolution, or other matter referred to the committee may be referred simultaneously by the chairman of the committee to two or more subcommittees for concurrent consideration, for consideration in sequence, or for consideration of particular parts, or the matter may be referred by the chairman to a special ad hoc subcommittee or task force established under rule 21.

(e) Any bill or resolution providing for the designation of a commemorative day or other period shall be held for the committee's direct consideration.

RULE 10. STATEMENTS; DEPOSITIONS

Statements, depositions, letters, and such other pertinent matter in appropriate form as may be timely submitted may be accepted for inclusion in printed hearings, records, or documents, or in the permanent files of the committee, by the chairman of the committee or subcommittee, as appropriate, without objection or upon motion duly adopted.

RULE 11. HEARINGS; WITNESSES

(a) Public announcement of the date, place, and subject matter of each hearing to be conducted by the committee, or by a subcommittee, shall be made at least 1 week before the commencement of a hearing, unless the chairman of the committee or subcommittee, as appropriate, determines that there is good cause to begin a hearing at an earlier date in which event such public announcement shall be made at the earliest possible date.

(b) Hearings shall be open to the public except when the committee, or subcommittee, as appropriate, votes to close a hearing in accordance with House Rule XI, Clause 2(g)(2).

(c) Except as otherwise provided in these rules, the scheduling of witnesses and the time allowed for the presentation of testimony and interrogation shall be at the sole discretion of the chairman, unless otherwise ordered by a majority vote of the committee or subcommittee, as appropriate, a quorum being present.

(d) When any hearing is conducted upon any measure or matter, the minority party members of the committee, or subcommittee, as appropriate, upon request to the chairman by a majority of the minority party members before completion of the hearings, shall be entitled to call witnesses to testify on at least 1 day of such hearings.

(e) Each witness who is to appear before the committee, or subcommittee, as appropriate, and who has had appropriate and timely notice of such appearance shall file with the committee, or subcommittee, as appropriate, at least 48 hours in advance of his appearance, at least 100 copies of the statement of his proposed testimony and limit his oral presentation at his appearance to a brief summary of his argument. The requirement of this rule may be waived, in whole or in part, by the chairman, without objection, or pursuant to a motion duly adopted.

(f) A witness may obtain a transcript of his testimony given at a public session or, if given at an executive session, when authorized by the committee or subcommittee, as appropriate.

RULE 12. POWER TO SIT AND ACT; SUBPOENA POWER; OATHS

(a) The committee and each subcommittee is authorized—

(1) to sit and act at such times and places, whether the House is in session, has recessed, or has adjourned, and to hold hearings; and

(2) subject to paragraph (c), to require by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it deems necessary.

(b) The chairman of the committee or of a subcommittee, as appropriate, or any member designated by the chairman, may administer oaths to witnesses.

(c) A subpoena may be authorized and issued by the committee or by a subcommittee in the conduct of its functions and duties under House Rules X and XI or under the committee rules when authorized by a majority vote of the committee or subcommittee, as appropriate, a majority being present, or when authorized by the chairman of the committee.

(d) Authorized subpoenas shall be signed by the chairman of the committee or, in his absence, by a member designated by the chairman.

RULE 13. FILING REPORTS; SUPPLEMENTAL, MINORITY, OR ADDITIONAL VIEWS

(a) No measure or recommendations, including any report or submission is required to be made to the House or to the Committee on the budget by the committee under paragraphs (g), (h), and (i) of Clause 4 of Rule X of the Rules of the House, shall be reported unless a majority of the committee or subcommittee, as appropriate, was actually present, which shall be deemed the case if the records of the committee or subcommittee establish that a majority of the committee or subcommittee responded on a roll call vote on that question.

(b) It shall be the duty of the chairman of the committee to report or cause to be reported promptly to the House any measure approved by the committee and to take or cause to be taken necessary steps to bring the matter to a vote.

(c) It shall be the duty of the chairman of a subcommittee to promptly request consideration in the committee of any measure approved by the subcommittee, and it shall be the duty of the chairman of the committee to schedule such measures for consideration by the committee as promptly as possible.

(d) In the event the report of the committee on a measure which has been approved by the committee has not been filed as prescribed by paragraph (b) of this rule, such report shall be filed within 7 calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the general counsel of the committee request, signed by a majority of the committee, for reporting of that measure.

(e) If, at the time of approval of any measure or matter by the committee, any member of the committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than 3 calendar days (excluding Saturdays, Sundays, and legal holidays) in which to file such views with the general counsel of the committee. Such views shall be in writing and signed by the member.

(f) All committee, subcommittee, or staff reports printed pursuant to legislative or oversight investigations and not approved by a majority of the members of the committee or subcommittee, as appropriate, shall contain the following disclaimer on the cover of such report: (This report has not been officially approved by the (subcommittee/committee) and, therefore, may not necessarily reflect the views of all of its members.)

RULE 14. LEGISLATIVE OVERSIGHT

The committee, together with its subcommittees, shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of the committee.

RULE 15. INVESTIGATIVE STAFF

Except as provided in Rule XI, clause 5(b) of the Rules of the House of Representatives, the investigative staff of the Committee on Post Office and Civil Service shall be appointed as follows:

(1) The subcommittee staff shall be appointed, and may be removed, and their remuneration determined by the subcommittee chairman within the budget approved for the subcommittee by the committee;

(2) The staff assigned to the minority shall be appointed and their remuneration determined in such manner as the minority party members of the committee shall determine within the budget approved for such purposes by the committee; and

(3) The staff of the committee not assigned to a standing subcommittee or to the minority under the above provisions shall be appointed, and may be removed, and their remuneration determined by the chairman within the budget approved for such purposes by the committee.

RULE 16. SPECIAL FUNDS, BUDGET, EXPENSES, AND ACCOUNTS

(a) The chairman of each standing subcommittee shall propose and present to the chairman of the committee, for each session of the Congress, a subcommittee budget of the estimated amount of special funds necessary to carry out the anticipated activities and programs of the subcommittee for that particular session of the Congress.

(b) The chairman of the committee shall review each proposed subcommittee budget and, after consultation with the ranking minority member, shall propose and present to the committee, for each session of the Congress, a committee budget of the estimated total amount of special funds to be requested under a primary expense resolution required under house Rule XI, Clause 5, for use by the committee, both the majority and the minority, for such session of the Congress for all anticipated activities and programs of the committee and of the standing subcommittees.

(c) The staff director shall establish and maintain records and accounts, consistent with sound accounting practices, of committee and subcommittee special funds and of expenses incurred and paid as obligations of such funds. The staff director shall prepare and submit to each member of the committee, not later than 18 days after the end of each quarter of the calendar year, an itemized report of the amounts of such funds expended and on hand at the end of the quarter. Such quarterly reports shall be made a part of the permanent official records of the committee.

(d) Vouchers for payment of obligations of special funds shall be prepared by the staff director for signature by the chairman of the committee, except as otherwise authorized by the House, and shall be supported by receipts or other documentation consistent with the requirements of the Committee on House Administration. Signed vouchers shall be returned to the staff director for entry in the committee accounts and final processing.

RULE 17. BROADCASTING HEARINGS

A hearing conducted by the committee, upon approval by a majority vote of the committee, a quorum being present, or a hearing conducted by a subcommittee, upon approval by a majority vote of the subcommittee, a quorum being present, may be covered in whole, or in part, by television broadcast, radio broadcast, and still photography, in accordance with House Rule XI, Clause 3, subject to the following:

(1) live coverage is to be broadcast without commercial sponsorship;

(2) no subpoenaed witness may be photographed, televised, or broadcast against his will;

(3) television cameras shall operate from fixed positions which shall not obstruct committee or subcommittee proceedings or other media;

(4) equipment must be installed prior to the hearing;

(5) lighting shall be at the lowest adequate level;

(6) still photographers shall not come between the witnesses and committee members or obstruct the other media during the hearing; and

(7) broadcast and photography personnel shall be orderly and unobtrusive and shall be currently accredited to the Radio, Television Correspondents', or the Press Photographers' Galleries, as appropriate.

RULE 18. AVAILABILITY OF SUBCOMMITTEE REPORTS

A summary and explanation of each measure or matter approved by a subcommittee shall be furnished to each member of the committee in advance of the committee meeting at which such measure or matter is to be considered.

RULE 19. TRAVEL

(a) All members of the committee shall have adequate notice prior to the date or dates fixed for investigations or hearings at locations other than Washington, D.C.

(b) Travel of members and staff of the committee or of a subcommittee to hearings, meetings, conferences, and investigations must be authorized by the chairman of the committee prior to any public notice thereof or the actual travel. Before such authorization is given, there shall be submitted to the chairman of the committee a statement in writing which includes the following:

(1) the purpose of the travel;

(2) the dates during which the travel is to be made and the date or dates of the event for which the travel is being made;

(3) the location of the event for which the travel is to be made; and

(4) the names of members and staff seeking authorization.

(c) A report on the travel (except travel in connection with hearings) of each member or staff member shall be submitted to the chairman of the committee as soon as possible after the trip is completed.

(d) Not later than 60 days after the completion of foreign travel, each member or staff member shall submit to the chairman of the committee an itemized report showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, any funds expended for any other official purpose, and shall summarize in these categories the total foreign currencies and/or appropriated funds expended. Such reports shall be made available for inspection by the public, as required by House Rule XI, Clause 2(n).

(e) To facilitate the oversight and other legislative and investigative activities of the committee, the chairman of the committee may, at the request of a subcommittee chairman, make a temporary assignment of any member of the committee to such subcommittee for the purpose of enabling such member to participate in any public hearing, investigation, or study by such subcommittee to be held outside of Washington, D.C.

RULE 20. CLASSIFIED MATERIAL

(a) All classified material received by the committee or by a subcommittee shall be deemed to have been received in executive session and shall be given appropriate safekeeping.

(b) The chairman of the committee shall establish such procedures as in his judgment may be necessary to prevent the unauthorized disclosure of any such classified material. Such procedures shall, however, insure access to this information at the committee offices by any member of the committee or any other Member of the House of Representatives who has requested the opportunity to review such material.

RULE 21. STANDING AND SPECIAL SUBCOMMITTEES

There shall be five standing subcommittees of the committee. The Subcommittee on Oversight and Investigations shall have oversight and investigative jurisdiction over all matters within the jurisdiction of the committee, and the other four subcommittees shall have legislative and investigative jurisdiction as provided under paragraphs (2) through (5) of rule 22. In addition to the standing subcommittees, the chairman of the committee may establish such special ad hoc subcommittees and task forces and assign to them such jurisdiction as the chairman deems necessary.

RULE 22. JURISDICTION OF SUBCOMMITTEES

The titles and jurisdiction of the standing subcommittees shall be as follows:

(1) SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS. The oversight, investigation, review and study, on a continuing basis, of (a) the application, administration, execution and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of the committee, and (b) the organization and operation of the agencies and programs within the jurisdiction of the committee.

(2) SUBCOMMITTEE ON COMPENSATION AND EMPLOYEE BENEFITS. Compensation, including pay rates and pay systems; the merit pay system; Executive Schedule and senior level pay rates; dual compensation; garnishment of employees' pay; classification of positions; leave; allowances; retirement; insurance; health benefits; and other benefits of Federal officers and employees.

(3) SUBCOMMITTEE ON THE CIVIL SERVICE. Federal civil service matters, generally, except those matters specifically within the jurisdiction of other subcommittees; Federal labor-management relations (excluding the Postal Service); the Senior Executive Service; employee political activities; reductions in force; contracting out; rights of privacy; code of ethics, including financial disclosure and conflicts of interest; White House personnel authorization; intergovernmental personnel programs; and the agencies responsible for carrying out the laws within the jurisdiction of the subcommittee.

(4) SUBCOMMITTEE ON POSTAL OPERATIONS AND SERVICES. The United States Postal Service and the Postal Rate Commission, generally, including operation and administration thereof; postal finances and expenditures (except those relating to matters within the jurisdiction of the Subcommittee on Census, Statistics and Postal Personnel); public service aspects, requirements, and reimbursements; the United States mails; postal facilities and mechanization, including modernization and research and development (except those matters specifically within the jurisdiction of the Subcommittee on Census, Statistics and Postal Personnel); mailability of matter; mail transportation; and military mail.

(5) SUBCOMMITTEE ON CENSUS, STATISTICS AND POSTAL PERSONNEL. The Bureau of the Census, generally, including operation and administration thereof; population and demography; statistic collection; reporting and data processing activities of the Government, generally; the establishment and oversight of commemorative commissions; Federal holidays; postal officers and employees, generally, including their status and appointment; postal management and other personnel requirements and practices; employee utilization; postal labor-management relations; procurement; and contracting out and modernization as it relates to postal personnel.

RULE 23. MEMBERSHIP OF SUBCOMMITTEES

(a) Each subcommittee shall have five members, divided between the majority and minority members in the ratio of three to two.

(b) The chairman and ranking minority member of the committee shall be ex officio voting members of each subcommittee on which they do not serve.

(c) Each member of the committee may sit with any subcommittee during its hearings, but no member who is not a member of a subcommittee shall vote on any matter before that subcommittee.

RULE 24. POWERS AND DUTIES OF SUBCOMMITTEES

Each subcommittee is authorized to meet, hold hearings, conduct investigations, receive evidence, and report to the committee on all matters referred to it. Subcommittee chairmen shall set meeting and hearing dates after consultation with the chairman of the committee and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of committee and subcommittee meetings or hearings whenever possible. A subcommittee may exercise none of the powers or authorities hereinbefore provided with respect to any investigation or other activity which is not within the jurisdiction of the subcommittee or which requires the expenditure of funds in excess of the subcommittee's budget as approved by the committee, except upon authorization by a majority vote of the committee, a quorum being present.

RULE 25. REQUIRED MEETING

Each standing subcommittee, as referred to in rule 22, shall meet for the transaction of subcommittee business from time to time while Congress is in session, at a time and on a day determined by the subcommittee with due regard to the time and dates of the regular meetings of the committee and other subcommittees. All meetings of each subcommittee shall be open to the public except when the subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public in accordance with House Rule XI, Clause 2(g)(1).

RULE 26. SUBCOMMITTEE QUORUM

(a) Except as provided under paragraphs (b) and (c) of this rule, or under House Rule XI, Clause 2(g)(2), one-third of the total membership of a subcommittee shall constitute a quorum of the purpose of transacting subcommittee business.

(b) A majority of the total membership of a subcommittee shall constitute a quorum for the purpose of—

(1) reporting a measure or recommendation to the committee;

(2) voting to close a meeting under rule 25; and

(3) authorizing the issuance of a subpoena under rule 12(c).

(c) Not less than two members of a subcommittee shall constitute a quorum for the purpose of taking testimony and receiving evidence.

(d) The ex officio members of the subcommittee shall not be counted for the purpose of establishing a subcommittee quorum.

RULE 27. AMENDMENTS

Any amendment offered to any pending legislation before the committee must be made available in written form when requested by any member of the committee. If such amendment is not available in written form when requested, the chairman shall allow an appropriate period of time for the provision thereof.

RULE 28. OTHER ACTIONS; STAFF SUPERVISION

The chairman of the committee may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the committee, including the general supervision of the statutory and investigative staffs of the committee.

RULE 29. RECORDING OF COMMITTEE PROCEEDINGS

(a) Tape recordings (including video recordings) of any full committee or subcommittee hearing or meeting (or any portion thereof) may be permitted only when approved by the chairman and ranking minority member of the committee or subcommittee, as appropriate. Individuals seeking permission to record committee or subcommittee proceedings shall be advised that the transcript of the proceedings as produced by the committee or subcommittee reporter constitutes the sole "official" transcript of such proceedings.

(b) Paragraph (a) does not apply to television or radio broadcasts of committee or subcommittee hearings referred to in rule 17.

RULES OF PROCEDURE FOR THE COMMITTEE ON FOREIGN AFFAIRS FOR THE 103D CONGRESS

(Mr. HAMILTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HAMILTON. Mr. Speaker, pursuant to clause 2(a) of House Rule XI, I am submitting for publication in the CONGRESSIONAL RECORD the rules of the Committee on Foreign Affairs for the 103d Congress.

The rules of the committee were adopted in open session at the committee's January 6 organizational meeting.

RULES OF THE COMMITTEE ON FOREIGN AFFAIRS, 103D CONGRESS

(Adopted January 6, 1993)

1. GENERAL PROVISIONS

The Rules of the House, and in particular, the committee rules enumerated in Clause 2 of Rule XI, are the rules of the Committee on Foreign Affairs, to the extent applicable. The Chairman shall consult the Ranking Minority Member to the extent possible with respect to the business of the Committee. Each subcommittee of the Committee on Foreign Affairs (hereinafter referred to as the "Committee") is a part of the Committee and is subject to the authority and direction of the Committee, and to its rules to the extent applicable.

2. DATE OF MEETING

The regular meeting date of the Committee shall be the first Tuesday of every month when the House is in session pursuant to Clause 2(b) of Rule XI of the House. Additional meetings may be called by the Chairman as he may deem necessary or at the request of a majority of the Members of the Committee in accordance with Clause 2(c) of Rule XI of the House of Representatives.

The determination of the business to be considered at each meeting shall be made by the Chairman subject to Clause 2(c) of Rule XI of the House of Representatives.

A regularly scheduled meeting need not be held if there is no business to be considered.

3. QUORUM

For purposes of taking testimony and receiving evidence, two Members shall constitute a quorum.

One-third of the Members of the Committee shall constitute a quorum for taking any action, with the following exceptions: (1) Reporting a measure or recommendation, (2) closing Committee meetings and hearings to the public, and (3) authorizing the issuance of subpoenas.

No measure or recommendation shall be reported to the House unless a majority of the Committee is actually present, which shall be deemed the case if the records of the Committee establish that a majority of the Committee responded on a rollcall vote on that question.

4. MEETINGS AND HEARINGS OPEN TO THE PUBLIC

(a) Each meeting for the transaction of business, including the markup of legislation, of the Committee or a subcommittee shall be open to the public except when the Committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public. No person other than Members of the Committee and such congressional staff and such departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This subsection does not apply to open Committee hearings which are provided for by subsection (b) of this rule or any meeting that relates solely to internal budget or personnel matters.

(b)(1) Each hearing conducted by the Committee or a subcommittee shall be open to the public except when the Committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate any law or rule of the House of Representatives. Notwithstanding the preceding sentence, a majority of those present, there being in attendance the requisite number required under the rules of the Committee to be present for the purpose of taking testimony—

(A) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security or violate paragraph (2) of this subsection; or

(B) may vote to close the hearing, as provided in paragraph (2) of this subsection.

(2) Whenever it is asserted that the evidence or testimony at an investigatory hearing may tend to defame, degrade, or incriminate any person—

(A) such testimony or evidence shall be presented in executive session, notwithstanding the provisions of paragraph (1) of this subsection, if by a majority of those present, there being in attendance the requisite number required under the rules of the Committee to be present for the purpose of taking testimony, the Committee or subcommittee determines that such evidence or testimony may tend to defame, degrade, or incriminate any person; and the Committee or subcommittee shall proceed to receive such testimony in open session only if a majority of the Members, a majority being present, determines that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

(3) No Member of the House may be excluded from nonparticipatory attendance at any hearing of the Committee or a subcommittee unless the House of Representatives has by majority vote authorized the Committee or subcommittee, for purposes of a particular series of hearings, on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this subsection for closing hearings to the public.

(4) The Committee or a subcommittee may by the procedure designated in this subsection vote to close 1 subsequent day of hearing.

(c) No congressional staff person shall be present at any meeting or hearing of the Committee or a subcommittee which has been closed to the public, and at which classified information will be involved, unless such person is authorized access to such classified information in accordance with Rule 20.

5. ANNOUNCEMENT OF HEARINGS AND MARKUPS

Public announcement shall be made of the date, place, and subject matter of any hearing or markup to be conducted by the Committee or a subcommittee at least 1 week before the commencement of that hearing or markup unless the Committee or subcommittee determines that there is good cause to begin that meeting at an earlier date. Such determination may be made with respect to any hearing or markup by the Chairman or subcommittee chairman, as appropriate.

Public announcement of all hearings and markups shall be made at the earliest possible date and shall be published in the Daily Digest portion of the Congressional Record, and promptly entered into the committee scheduling service of the House Information Systems.

Members shall be notified by the Chief of Staff, whenever it is practicable, 1 week in advance of all meetings (including markups and hearings) and briefings of subcommittees and of the full Committee.

The agenda for each Committee and subcommittee meeting, setting out all items of business to be considered, including a copy of any bill or other document scheduled for markup, shall be furnished to each Committee or subcommittee Member by delivery to the Member's office at least 2 full calendar days (excluding Saturdays, Sundays, and legal holidays) before the meeting whenever possible.

6. WITNESSES

A. Interrogation of Witnesses

Insofar as practicable, witnesses shall be permitted to present their oral statements without interruption, questioning by the Committee Members taking place afterward. In recognizing Members, the Chairman may give preference to the Members on the basis of their arrival at the hearing, taking into consideration the majority and minority ratio of the Members actually present. A Member desiring to speak or ask a question shall address the Chairman and not the witness in order to ensure orderly procedure.

Each Member may interrogate the witness for 5 minutes, the reply of the witness being included in the 5-minute period. After all Members have had an opportunity to ask questions, the round shall begin again under the 5-minute rule.

The Chairman shall take note of Members who are in their chairs when each day's hearing begins and, insofar as practicable, when the time occurs for interrogation, shall recognize each such Member ahead of all others.

B. Statements of Witnesses

So far as practicable, each witness shall file with the Committee, 48 hours in advance of his or her appearance, a written statement of his or her proposed testimony and shall make a brief oral summary of his or her views.

7. PREPARATION AND MAINTENANCE OF COMMITTEE RECORDS

An accurate stenographic record shall be made of all hearings and markup sessions. Members of the Committee and any witness may examine the transcript of his or her own remarks and may make any grammatical or technical changes that do not substantially alter the record. Any such Member or witness shall return the transcript to the Committee offices within 5 calendar days (not including Saturdays, Sundays, and legal holidays) after receipt of the transcript, or as soon thereafter as is practicable.

Any information supplied for the record at the request of a Member of the Committee shall be provided to the Member when received by the Committee.

Transcripts of hearings and markup sessions (except for the record of a meeting or hearing which is closed to the public) shall be printed as soon as is practicable after receipt of the corrected versions, except that the Chairman may order the transcript of a hearing to be printed without the corrections of a Member or witness if the Chairman determines that such Member or witness has been afforded a reasonable time to correct such transcript and such transcript has not been returned within such time.

The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with rule XXXVI of the Rules of the House of Representatives. The chairman shall notify the Ranking Minority Member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any member of the Committee.

8. EXTRANEOUS MATERIAL IN COMMITTEE HEARINGS

No extraneous material shall be printed in either the body or appendixes of any Committee or subcommittee hearing, except matter which has been accepted for inclusion in the record during the hearing. Copies of bills and other legislation under consideration and responses to written questions submitted by Members shall not be considered extraneous material.

Extraneous material in either the body or appendixes of any hearing to be printed which would be in excess of eight printed pages (for any one submission) shall be accompanied by a written request to the Chairman, such written request to contain an estimate in writing from the Public Printer of the probable cost of publishing such material.

9. PUBLIC ANNOUNCEMENT OF COMMITTEE VOTES

The result of each roll call vote in any meeting of the Committee shall be made available for inspection by the public at reasonable times at the Committee offices—including a description of the amendment, motion, order, or other proposition; the name of each Member voting for and against and whether by proxy or in person; and the Members present but not voting.

A roll call vote may be demanded by one-fifth of the members present or, in the apparent absence of quorum, by any one member.

10. PROXIES

Proxy voting is permitted in the Committee and in subcommittees only under the following conditions:

The proxy authorization—

(a) Shall be in writing;

(b) Shall assert that the Member is absent on official business or is otherwise unable to be present at the meeting; and

(c) Shall be limited to a motion to report a bill or a resolution.

Each proxy to be effective shall be signed by the Member assigning his or her vote and shall contain the date and time of day that the proxy is signed. Proxies are not counted for a quorum.

11. REPORTS

A. Reports on Bills and Resolutions

To the extent practicable, not later than 24 hours before a report is to be filed with the Clerk of the House on a measure that has been ordered reported by the Committee, the Chairman shall make available for inspection by all Members of the Committee a copy of the draft committee report in order to afford Members adequate information and the opportunity to draft and file any supplemental, minority or additional views which they may deem appropriate.

B. Prior Approval of Certain Reports

No Committee, subcommittee, or staff report, study, or other document which purports to express publicly the views, findings, conclusions, or recommendations of the Committee or the subcommittee may be released to the public or filed with the Clerk of the House unless approved by a majority of the Members of the Committee or subcommittee, as appropriate. In any case in which Clause 2(l)(5) of House Rule XI does not apply, each Member of the Committee or subcommittee shall be given an opportunity to have views or a disclaimer included as part of the material filed or released, as the case may be.

C. Foreign Travel Reports

At the same time that the report required by clause 2(n)(B) of House Rule XI, regarding foreign travel reports, is submitted to the Chairman, Members and employees of the committee shall provide a report to the Chairman listing all official meetings, interviews, inspection tours and other official functions in which the individual participated, by country and data. Under extraordinary circumstances, the Chairman may waive the listing of such report of an official meeting, interview, inspection tour, or other official function. The report shall be maintained in the full committee offices and shall be available for public inspection during normal business hours.

12. REPORTING BILLS AND RESOLUTIONS

Except in unusual circumstances, bills and resolutions will not be considered by the Committee unless and until the appropriate subcommittee has recommended the bill or resolution for Committee action, and will not be taken to the House for action unless and until the Committee has ordered reported such bill or resolution, a quorum being present. Unusual circumstances will be determined by the Chairman, after consultation with such Members of the Committee as the Chairman deems appropriate.

13. STAFF SERVICES

The Committee staff shall be selected and organized so that it can provide a comprehensive range of professional services in the field of foreign affairs to the Committee, the subcommittees, and all its Members.

The staff shall include persons with training and experience in foreign affairs who have a variety of backgrounds and skills so as to make available to the Committee services of individuals who have a first-hand acquaintance with major countries and areas and with major aspects of U.S. overseas programs and operations.

It is intended that the skills and experience of all members of the Committee staff shall be available to all Members of the Committee.

(a) The professional and clerical employees of the Committee, except those assigned to the minority or to a subcommittee as provided below, shall be appointed, and may be removed, by the Chairman with the approval of the majority of the Members of the Committee. Their remuneration shall be fixed by the Chairman within the ceilings set in Clause 6(c) of Rule XI, and they shall be under the general supervision and direction of the Chairman. Staff assignments are to be authorized by the Chairman or by the Chief of Staff under the direction of the Chairman.

(b) The professional and clerical staff assigned to the minority shall be appointed and their remuneration determined as the minority Members of the Committee shall determine within the general ceiling in Clause 6(c) of Rule XI: *Provided, however*, That no minority staff person shall be compensated at a rate which exceeds that paid his or her majority staff counterpart. Such staff shall be under the general supervision and direction of the Ranking Minority Member with the approval or consultation of the minority Members of the Committee.

(c) In the matter of subcommittee staffing:

(1) The Chairman of each standing subcommittee of the Committee is authorized to appoint one staff member who shall serve at the pleasure of the subcommittee chairman.

(2) The Ranking Minority Member of each of six standing subcommittees on the Committee is authorized to appoint one staff person who shall serve at the pleasure of said Ranking Minority Member.

(3) The staff members appointed pursuant to the provisions of subparagraphs (1) and (2) shall be compensated at a rate determined by the subcommittee Chairman not to exceed (A) 75 per centum of the maximum established in Paragraph (c) of Clause 6 of Rule XI of the Rules of the House or (B) the rate paid the staff member appointed pursuant to subparagraph (1) of this paragraph.

(4) No Member shall appoint more than one person pursuant to the above provisions.

(5) The staff positions made available to the Ranking Minority Members pursuant to subparagraph (2) of this paragraph shall be made available from the staff positions provided under Clause 6 of Rule XI of the Rules of the House.

14. NUMBER AND JURISDICTION OF SUBCOMMITTEE

(a) The full Committee will handle the markup and reporting of general legislation relating to foreign assistance (including development assistance, security assistance, and Public Law 480 programs abroad) or relating to the Peace Corps. Regional subcommittees will have responsibility with respect to foreign assistance as follows:

(1) The annual legislative programs of foreign assistance for each region shall be referred to the appropriate subcommittee for review and legislative recommendations, within a timeframe to be set by the Committee.

(2) Those subcommittees shall be responsible for ongoing oversight of all foreign assistance activities affecting their region.

(3) Those subcommittees shall have the responsibility of annually reporting to the full Committee, on a timely basis, the findings and conclusions of their oversight, including specific recommendations for legislation relating to foreign assistance.

There shall be seven standing subcommittees. The names and jurisdiction of those subcommittees shall be as follows:

A. Functional Subcommittees

There shall be three subcommittees with functional jurisdiction:

SUBCOMMITTEE ON ECONOMIC POLICY, TRADE AND ENVIRONMENT.—To deal with measures relating to international economic and trade policy; measures to foster commercial intercourse with foreign countries; export administration; international investment policy; trade and economic aspects of nuclear technology and materials and of international communication and information policy; licenses and licensing policy for the export to dual use equipment and technology; legislation pertaining to and oversight of the Overseas Private Investment Corporation; commodity agreements; international environmental policy and oversight of international fishing agreements; and special oversight of international financial and monetary institutions, and the Export-Import Bank, and customs.

SUBCOMMITTEE ON INTERNATIONAL SECURITY, INTERNATIONAL ORGANIZATIONS AND HUMAN RIGHTS.—To deal with national security and scientific developments affecting foreign policy; strategic planning and agreements; war powers and executive agreements legislation; programs and activities of the Arms Control and Disarmament Agency and all aspects of arms control, disarmament and proliferation issues; oversight of State and Defense Department activities involving arms transfers and sales, arms export licenses, administration of security assistance, and foreign military training and advisory programs; oversight of, and legislation pertaining to, the United Nations, its related agencies, and other international organizations and the American Red Cross; implementation of the Universal Declaration of Human Rights and other matters relating to internationally recognized human rights generally, international law; promotion of democracy; and international law enforcement issues to include terrorism and narcotics control programs and activities.

SUBCOMMITTEE ON INTERNATIONAL OPERATIONS.—To deal with Department of State and U.S. Information Agency operations and legislation, the diplomatic service; international education and cultural affairs; foreign buildings; the operating budgets of the Arms Control and Disarmament Agency and the Agency for International Development; the assessed and voluntary contributions to the United Nations, its affiliated agencies, and other international organizations; parliamentary conferences and exchanges; protection of American citizens abroad; international broadcasting; and international communication and information policy.

B. Regional Subcommittees

There shall be four subcommittees with regional jurisdiction: the Subcommittee on Europe and the Middle East; the Subcommittee on the Western Hemisphere; the Subcommittee on Africa; and the Subcommittee on Asia and the Pacific.

In addition to the responsibilities provided by subsection (a) of this rule, the regional subcommittees shall have jurisdiction over the following:

(1) Matters affecting the political relations between the United States and other countries and regions, including resolutions or other legislative measures directed to such relations.

(2) Legislation with respect to disaster assistance outside the Foreign Assistance Act, boundary issues, and international claims.

(3) Legislation with respect to region-or country-specific loans or other financial relations outside the Foreign Assistance Act.

(4) Resolutions of disapproval under section 36(b) of the Arms Export Control Act, with respect to foreign military sales.

(5) Oversight of regional lending institutions.

(6) Identification and development of options for meeting future problems and issues relating to U.S. interests in the region.

(7) Environmental, population, and energy affairs affecting the region.

(8) Base rights and other facilities access agreements and regional security pacts.

(9) Oversight of matters, relating to parliamentary conferences and exchanges involving the region.

(10) Concurrent oversight jurisdiction with respect to matters assigned to the functional subcommittees insofar as they may affect the region.

15. POWERS AND DUTIES OF SUBCOMMITTEES

Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all matters referred to it. Subcommittee chairmen shall set meeting dates after consultation with the Chairman of the full Committee and other subcommittee chairmen, with a view toward avoiding simultaneous scheduling of Committee or subcommittee meetings or hearings whenever possible. It shall be the practice of the Committee that meetings of subcommittees not be scheduled to occur simultaneously with meetings of the full Committee.

In order to ensure orderly and fair assignment of hearing and meeting rooms, hearings and meetings should be arranged in advance with the Chairman through the Chief of Staff of the Committee.

The Chairman and the Ranking Minority Member of the full Committee may attend the meetings and participate in the activities of all subcommittees, except for voting and being counted for a quorum.

16. REFERRAL OF BILLS BY CHAIRMAN

All legislation and other matters referred to the Committee shall be referred by the Chairman to all subcommittees of appropriate jurisdiction within 2 weeks, unless by majority vote of the majority party Members of the full Committee, consideration is to be otherwise effected. Any subcommittee chairman who believes that the subcommittee has jurisdiction over the legislation or other matter may so notify the Chairman within the 2-week period.

The Chairman may designate a subcommittee chairman or other Member to take responsibility as "floor manager" of a bill during its consideration in the House.

17. PARTY RATIOS ON SUBCOMMITTEES AND CONFERENCE COMMITTEES

The majority party caucus of the Committee shall determine an appropriate ratio of majority to minority party Members for each subcommittee: *Provided, however,* That party representation on each subcommittee or conference committee shall be no less favorable to the majority party than the ratio for the full Committee. The Chairman of the full Committee and the Ranking Minority Member are authorized to negotiate matters affecting such ratios including the size of subcommittees and conference committees.

18. SUBCOMMITTEE BUDGETS AND RECORDS

(a) Each subcommittee shall have an adequate budget to discharge its responsibility for legislation and oversight.

(b) In order to facilitate Committee compliance with Paragraph (e)(1) of Clause 2, Rule XI, each subcommittee shall keep a complete record of all subcommittee actions which shall include a record of the votes on any question on which a roll call vote is demanded. The result of each roll call vote shall be promptly made available to the full Committee for inspection by the public at reasonable times in the offices of the Committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and whether by proxy or in person, and the names of those Members present but not voting.

All subcommittee hearings, records, data, charts, and files shall be kept distinct from the congressional office records of the Member serving as chairman of the subcommittee. Such records shall be coordinated with the records of the full Committee, shall be the property of the House, and all Members of the House shall have access thereto.

19. MEETINGS OF SUBCOMMITTEE CHAIRMEN

The Chairman shall call a meeting of the subcommittee chairmen on a regular basis not less frequently than once a month. Such a meeting need not be held if there is no business to conduct. It shall be the practice at such meetings to review the current agenda and activities of each of the subcommittees. Each majority Member of the Committee shall have the right to attend such meetings.

20. ACCESS TO CLASSIFIED INFORMATION

It shall be the policy of the Committee to afford access to classified information under its control for its own Members and other Members of the House of Representatives.

AUTHORIZED PERSONS.—In accordance with the stipulations of the House Rules, all Members of the House shall be construed to be persons authorized to have access to classified information within the possession of the Committee.

Members of the Committee staff shall be construed to be authorized access to classified information within the possession of the Committee (1) when they have the proper clearances, and (2) when they have a demonstrable "need to know". The decision on whether a given staff member has a "need to know" will be made on the following basis:

(a) In the case of the full Committee majority staff, by the Chairman, acting through the Chief of Staff;

(b) In the case of the full Committee minority staff, by the Ranking Minority Member of the Committee, acting through the Minority Chief of Staff;

(c) In the case of subcommittee majority staff, by the Chairman of the subcommittee;

(d) In the case of the subcommittee minority staff, by the Ranking Minority Member of the subcommittee.

No other individuals shall be considered authorized persons, unless so designated by the Committee Chairman.

DESIGNATED PERSONS.—Each Committee Member is permitted to designate one member of his or her staff as having the right of access to classified information in the "confidential" category. Such designated persons must have the proper security clearance and a "need to know" as determined by his or her principal. Upon request of a Committee Member in specific instances, a designated person also shall be permitted access to information classified "secret" which has been furnished to the Committee pursuant to section 36(b) of the Arms Export Control Act, as amended. Designation of a staff person shall be by letter from the Committee Member to the Committee Chairman.

LOCATION.—Classified information will be kept in secure safes in the Committee rooms. All materials bearing the designation "top secret" must be kept in secured safes located in the main Committee offices, 2170 Rayburn House Office Building. "Top secret" materials may not be taken from that location for any purpose.

Materials bearing designations "confidential" or "secret" may be taken from Committee offices to other Committee offices and hearing rooms by Members of the Committee and authorized Committee staff in connection with hearings and briefings of the Committee or its subunits for which such information is deemed to be essential. Removal of such information from the Committee offices shall be only with the permission of the Chairman of the full Committee, under procedures designed to ensure the safe handling and storage of such information at all times.

Notice.—Notice of the receipt of classified documents received by the Committee from the executive branch will be sent promptly to Committee Members. The notice will contain information on the level of classification.

Access.—Except as provided for above, access to classified materials held by the Committee will be in the main Committee office in a designated "reading room". The following procedures will be observed:

(a) Authorized or designated persons will be admitted to the reading room after inquiring of the Chief of Staff or an assigned staff member. The reading room will be open during regular Committee hours.

(b) Authorized or designated persons will be required to identify themselves, to identify the documents or information they wish to view, and to sign the Classified Materials Log, which is kept with the classified information.

(c) No photocopying or other exact reproduction, oral recording, or reading by telephone, of such classified information is permitted.

(d) The assigned staff member will be present in the reading room at the option of the authorized person. Such staff member will be responsible for maintaining a log which identifies (1) authorized and designated persons seeking access, (2) the classified information requested, and (3) the time of arrival and departure of such persons. The assigned staff member will also assure that the classified materials are returned to the proper location.

(e) The Classified Materials log will contain a statement acknowledged by the signature of the authorized or designated person that he or she has read the Committee rules and will abide by them.

Divulgence.—Any classified information to which access has been gained through the Committee may not be divulged to any unauthorized person in any way, shape, form, or manner. Apparent violations of this rule should be reported to the Chairman of the full Committee at once, and by him to the full Committee as promptly as possible.

Technical Security Countermeasures.—Committee rooms and equipment shall be maintained in accordance with such technical security standards as the Chairman deems necessary to safeguard classified information from unauthorized disclosure. Such standards may include requirements for technical security monitoring during closed sessions involving classified information, conducted under the direction and control of the Chairman by personnel responsible to the Sergeant at Arms of the House of Representatives.

Other Regulations.—So long as they do not conflict with any of the rules herein set down, the Chairman of the full Committee may establish other regulations and procedures as in his judgment may be necessary to safeguard classified information under the control of the Committee. Members of the Committee will be given notice of any such regulations and procedures promptly. They may be modified or waived in any or all particulars by a majority vote of the full Committee. Furthermore, any additional regulations and procedures should be incorporated into the written rules of the Committee at the earliest opportunity.

21. BROADCASTING OF COMMITTEE HEARINGS AND MEETINGS

When requested by the Superintendent of the House Radio and Television Gallery and upon approval by the committee or its subcommittees, all Committee and subcommittee hearings which are open to the public may be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, or by any such methods of coverage. *Provided*, That such request is submitted to the Committee or its subcommittees not later than 4 p.m. of the day preceding such hearings.

The Chairman of the full committee or the chairmen of the subcommittees are authorized to determine on behalf of the full Committee or its subcommittees respectively whether hearings which are open may be broadcast, unless the Committee or its subcommittees respectively by majority vote determine otherwise. The Committee or subcommittee chairman shall determine, in his discretion, the number of television and still cameras permitted in a hearing or meeting room.

Such coverage shall be in accordance with the following requirements (Section 116(b) of the Legislative Reorganization Act of 1970; Clause 3(f) of Rule XI of the Rules of the House of Representatives):

(a) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(b) No witness served with a subpoena by the Committee shall be required against his will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any such witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off. this subparagraph is supplementary to Clause 2(k)(5) of Rule XI of the Rules of the House of Representatives relating to the protection of the rights of witnesses.

(c) The allocation among cameras permitted by the Committee or subcommittee chairman in a hearing room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(d) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any Member of the Committee or its subcommittees or the visibility of that witness and that Member to each other.

(e) Television cameras shall operate from fixed positions but shall not be placed in positions which obstruct unnecessarily the coverage of the hearing by the other media.

(f) Equipment necessary for coverage by the television and radio media shall not be installed in, or removed from, the hearing or meeting room while the Committee or subcommittee is in session.

(g) Floodlights, spotlights, strobelights, and flashguns shall not be used in providing any method of coverage of the hearing or meeting, except that the television media may install additional lighting in the hearing room, without cost to the Government, in order to raise the ambient lighting level in the hearing room to the lowest level necessary to provide adequate television coverage of the hearing or meeting at the then current state of the art of television coverage.

(h) In the allocation of the number of still photographers permitted by the Committee or subcommittee chairman in a hearing or meeting room, preference shall be given to photographers from Associated Press Photos, United Press International Newspictures, and Reuters. If requests are made by more of the media than will be permitted by Committee or subcommittee chairman for coverage of the hearing or meeting by still photography, that coverage shall be made on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(i) Photographers shall not position themselves, at any time during the course of the hearing or meeting, between the witness table and the Members of the Committee or its subcommittees.

(j) Photographers shall not place themselves in positions which obstruct unnecessarily the coverage of the hearing by the other media.

(k) Personnel providing coverage by the television and radio media shall be then currently accredited to the Radio and Television Correspondents' Galleries.

(l) Personnel providing coverage by still photography shall be then currently accredited to the Press Photographers' Gallery Committee of Press Photographers.

(m) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

22. SUBPOENA POWERS

A subpoena may be authorized and issued by the Committee or its subcommittees, in accord with House Rule XI, Clause 2(m), in the conduct of any investigation or series of investigations, only when authorized by a majority of the Members voting, a majority of the Committee or subcommittee being present. Pursuant to House Rules and under such limitations as the Committee may prescribe, the Chairman may be delegated the power to authorize and issue subpoenas in the conduct of any investigation or series of investigations. Authorized subpoenas shall be signed by the Chairman of the Committee or by any Member designated by the Committee.

23. RECOMMENDATION FOR APPOINTMENT OF CONFEREES

Whenever the Speaker is to appoint a conference committee, the Chairman shall recommend to the Speaker as conferees those Members of the Committee who are primarily responsible for the legislation (including to the fullest extent feasible the principal proponents of the major provisions of the bill as it passed the House), who have actively participated in the Committee or subcommittee consideration of the legislation, and who agree to attend the meetings of the conference. With regard to the appointment of minority Members, the Chairman shall consult with the Ranking Minority Member.

24. OTHER PROCEDURES AND REGULATIONS

The Chairman of the full Committee may establish such other procedures and take such action as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the Committee. Any additional procedures or regulations may be modified or rescinded in any or all particulars by a majority vote of the full Committee.

RULES OF PROCEDURE FOR THE COMMITTEE ON ARMED SERVICES FOR THE 103D CONGRESS

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, in accordance with clause 2(a) of rule XI of the Rules of the House of Representatives, I submit herewith for publication in the CONGRESSIONAL RECORD the rules of the Committee on Armed Services that were adopted by the committee on Wednesday, January 27, 1993.

COMMITTEE RULES GOVERNING PROCEDURE

RULE 1. GENERAL

The rules of the House are the rules of its committees and subcommittees so far as applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege in committees and subcommittees. (House rule XI, clause 1(a)(1).)

RULE 2. FULL COMMITTEE MEETING DATE

(a) The Committee on Armed Services will meet every Tuesday at 10 a.m., and at such other times as may be fixed by the chairman, or by written request of members of the committee pursuant to House rule XI, clause 2(b).

(b) A Tuesday meeting of the committee may be dispensed with by the chairman, but such action may be reversed by a written request of a majority of the members.

RULE 3. SUBCOMMITTEE MEETING DATES

Each subcommittee is authorized to meet, hold hearings, receive evidence and report to the committee on all matters referred to it. Insofar as possible, meetings of the committee and its subcommittees shall not conflict. Subcommittee chairmen shall set meeting dates after consultation with the chairman and subcommittee chairmen with a view toward avoiding simultaneous scheduling of committee and subcommittee meetings or hearings wherever possible.

RULE 4. SUBCOMMITTEES

The Committee on Armed Services of the House of Representatives shall be organized to consist of the following standing subcommittees. In instances of overlapping jurisdiction subcommittee actions should be considered jointly

There shall be six standing subcommittees with the following jurisdictions:

Military Acquisition Subcommittee: the annual authorization for procurement of military weapon systems and components thereof, including full scale development and systems transition; military application of nuclear energy, including research and development related thereto; intelligence matters related to national security; acquisition policy; the industrial base; foreign military sales and the proliferation of weapon technology; strategic lift; disposal of vessels; and related legislative oversight. The subcommittee shall also have oversight responsibilities with regard to international arms control and disarmament.

Reserach and Technology Subcommittee: the annual authorization for research and technology; basic research and exploratory and advanced development; manufacturing technology; technology base; reinvestment and conversion; environmental prevention and remediation technologies; and related legislative oversight.

Readiness Subcommittee: the annual authorization for operation and maintenance; the current readiness and preparedness requirements of the defense establishment; ship repairs and maintenance; strategic and critical materials; naval petroleum reserves; leasing capital equipment; special operations forces oversight; commissaries and exchanges, clubs and related nonappropriated funds activities of the Armed Forces; and related legislative oversight.

Military Installations and Facilities Subcommittee: military construction; real estate acquisitions and disposals; housing and support oversight; base closure oversight; real estate generally; defense burdensharing and overseas bases; base maintenance and repair funding; environmental restoration; and related legislative oversight.

Military Forces and Personnel Subcommittee: military forces and authorized strengths; military quality of life matters; integration of active and reserve components; Officer and enlisted recruiting and training; professional military education; Reserve Officers' Training Corps; Selective Service System; military justice; enlistments and separations; awards; academies; human relations; medical care delivery and funding; pay and allowances; promotion; retirement; and related legislative oversight.

Oversight and Investigations Subcommittee: organization of the Department of Defense, including proposed reorganizations; humanitarian relief; peacekeeping missions; domestic relief; drug interdiction; military operations; civil defense; compliance with acquisition regulations; and investigative authority in relation to the committee's general oversight responsibilities.

RULE 5. PRECEDENCE

Chairman of standing subcommittees who sit on a second subcommittee shall rank, in order of their seniority, behind all other members serving on that subcommittee.

RULE 6. PANELS OF THE FULL COMMITTEE AND SUBCOMMITTEES

(a) The chairman may designate a panel of the committee drawn from members of more than one subcommittee to inquire into and take testimony on a matter or matters that fall within the jurisdiction of more than one subcommittee and to report to the full committee. Any such panel shall not continue in existence for more than six months.

(b) The chairman of a standing subcommittee may designate a panel of such subcommittee to inquire into and take testimony on a specific matter within the jurisdiction of that subcommittee and to report to the subcommittee for further reference to the full committee as may be appropriate.

(c) No panels so appointed shall have legislative jurisdiction.

(d) No panel, task force, special subcommittee, or any other subunit of a standing committee may be created without the knowledge of the full committee chairman and concurrence of the caucus of that committee.

(e) The Committee Chairman shall notify the Chairman of the Democratic Caucus within seven days of the creation of any panel, task force, special subcommittee or any other subunit of a standing committee.

RULE 7. REFERENCE OF LEGISLATION AND SUBCOMMITTEE REPORTS

(a) The chairman shall refer legislation and other matters to all subcommittees of appropriate jurisdiction within 2 weeks unless, by a majority vote of the members of the full committee, consideration is to be by the full committee.

(b) Bills shall be taken up for hearing only when called by the chairman of the full committee or subcommittee, or by a majority vote of a quorum of the full committee or a subcommittee.

(c) The chairman of the full committee, with approval of a majority of the members voting, a majority of the committee being present, shall have authority to discharge a subcommittee from consideration of any bill, resolution, or other matter referred thereto and have such measure or matter considered by the full committee.

(d) Reports and recommendations of a subcommittee shall not be considered by the full committee until after the intervention of 3 calendar days from the time the report is approved by the subcommittee and printed hearings thereon are available to the members, except that this rule may be waived by a majority vote of a quorum of the committee.

RULE 8. PUBLIC ANNOUNCEMENT OF HEARINGS AND MEETINGS

The full committee and subcommittees shall make public announcement of the date, place and subject matter of the full committee or subcommittee hearing at least one week before the commencement of the hearing. However, if the full committee or subcommittee determines that there is good cause to begin the hearing sooner, it shall make the announcement at the earliest possible date. Any announcement made under this rule shall be promptly published in the Daily Digest and promptly entered into the committee scheduling service of the House Information Systems. (House rule XI, clause 2(g)(3).)

RULE 9. MEETINGS AND HEARINGS OPEN TO THE PUBLIC

(a) Each committee or subcommittee meeting for the transaction of business, including the markup of legislation, shall be open to the public except when the committee or subcommittee, in open session and with a majority being present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public: Provided, however, That no person other than members of the committee and/or subcommittee and such congressional staff and such departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This paragraph does not apply to open committee hearings which are provided for by paragraph (b) of this rule, or any meeting that relates solely to internal budget or personnel matters. (House rule XI, clause 2(g)(1).)

(b) Each hearing conducted by the full committee or a subcommittee shall be open to the public except when the full committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate any law or rule of the House of Representatives. Notwithstanding the requirements of the preceding sentence, a majority of those present, there being in attendance no less than two members of the committee or subcommittee, may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security, or would tend to defame, degrade, or incriminate any person. If the decision is to close for national security reasons, the vote must be by rollcall vote and in open session, there being a majority of the committee or subcommittee present. Otherwise, if the decision is to close because the testimony may tend to defame, degrade, or incriminate any person, the vote may be by a majority of those present, there being in attendance no less than two members of the committee or subcommittee. However, if the committee or subcommittee elects to receive such testimony in open session, it may do so only if a majority of the members of the committee or subcommittee, a majority being present, determine that such evidence or testimony will not tend to defame, degrade, or incriminate any person. No member may be excluded from nonparticipatory attendance at any hearing of the full committee or a subcommittee, unless the House of Representatives shall by majority vote authorize the full committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to members by the same procedures designated in this rule for closing hearings to the public: Provided, however, That the full committee or the subcommittee may by the same procedure vote to close up to 5 additional consecutive days of hearings. (House rule XI, clause 2(g)(2).)

(c) Notwithstanding the foregoing, and with the approval of the committee chairman, each member of the committee may designate by letter to the Chairman, a member of his or her personal staff with Top Secret security clearance to attend hearings of the committee, or that member's subcommittee(s) which have been closed under the provisions of rule 9(b) above for national security purposes for the taking of testimony: Provided, That such staff member's attendance at such hearings is subject to the approval of the committee or subcommittee as dictated by national security requirements at the time: Provided further, That this paragraph addresses hearings only and not briefings or meetings held under the provisions of paragraph (a) of this rule; and Provided further, That the attainment of any security clearances involved is the responsibility of individual members.

RULE 10. BROADCASTING OF COMMITTEE HEARINGS AND MEETINGS

(a) In accordance with the provision of rule XI, clause 3, Rules of the House of Representatives, it is the purpose of this rule to provide a means, in conformity with acceptable standards of dignity, propriety, and decorum, by which committee or subcommittee hearings or meetings, which are open to the public, may be covered by television broadcast, radio broadcast, and still photography, or by any such methods of coverage. In that regard, the provisions of rule XI, clause 3(a)–(d) are specifically incorporated herein by reference.

(b) The chairman of the full committee or the chairmen of the subcommittees are authorized to determine on behalf of the full committee or its subcommittees, respectively, whether hearings or meetings which are open may be broadcast, unless the committee or its subcommittees, respectively, by majority vote determine otherwise: Provided, however, Each committee or subcommittee chairman shall determine, in his discretion, the number of television and still cameras permitted in a hearing or meeting room.

(c) In accordance with rule XI, clause 3(f), the following provisions shall apply to the broadcasting of committee or subcommittee hearings or meetings which are open to the public:

(1) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(2) No witness served with a subpoena by the committee shall be required against his or her will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any such witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off. This subparagraph is supplementary to clause 2(k)(5) of rule XI of the Rules of the House of Representatives, relating to the protection of the rights of witnesses.

(3) The allocation among the television media of the positions of the number of television cameras permitted by a committee or subcommittee chairman in a hearing room shall be in accordance with fair and equitable procedures devised by the executive committee of the Radio and Television Correspondents' Galleries.

(4) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the committee or its subcommittees or the visibility of that witness and that member to each other.

(5) Television cameras shall operate from fixed positions but shall not be placed in positions which obstruct unnecessarily the coverage of the hearing by the other media.

(6) Equipment necessary for coverage by the television and radio media shall not be installed in, or removed from, the hearing or meeting room while the committee or subcommittee is in session.

(7) Floodlights, spotlights, and flashguns shall not be used in providing any method of coverage of the hearing or meeting, except that the television media may install additional lighting in the hearing room, without cost to the Government, in order to raise the ambient lighting level in the hearing or meeting room to the lowest level necessary to provide adequate television coverage of the hearing or meeting at the then current state of the art of television coverage.

(8) In the allocation of the number of still photographers permitted by a committee or subcommittee chairman in a hearing or meeting room, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If requests are made by more of the media than will be permitted by a committee or subcommittee chairman for coverage of the hearing or meeting by still photography, that coverage shall be made on the basis of a fair and equitable pool arrangement devised by the Standing Committee on Press Photographers.

(9) Photographers shall not position themselves, at any time during the course of the hearing or meetings, between the witness table and the members of the committee or its subcommittees.

(10) Photographers shall not place themselves in positions which obstruct unnecessarily the coverage of the hearing by the other media.

(11) Personnel providing coverage by the television and radio media shall be then currently accredited to the Radio and Television Correspondents' Galleries.

(12) Personnel providing coverage by still photography shall be then currently accredited to the Photographers' Gallery.

(13) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobstructive manner.

(14) With the exception of devices properly used by official reporters and by accredited media and broadcast personnel as covered in these rules, no recording or camera type devices may be operated or otherwise used during committee or subcommittee hearings.

RULE 11. QUORUM

A majority of the full committee or a subcommittee shall constitute a quorum for reporting or tabling a measure or recommendation by the full committee or a subcommittee. A quorum for the purpose of taking testimony and receiving evidence by either the full committee or any subcommittee shall be not less than two. A quorum for taking any other action shall be not less than one-third of the members of the full committee or subcommittee, unless otherwise indicated in the committee rules.

RULE 12. THE FIVE-MINUTE RULE

(a) The time any one member may address the committee or subcommittee on any bill, motion or other matter under consideration shall not exceed 5 minutes and then only when the member has been recognized by the chairman, except that this time limit may be exceeded by unanimous consent. Any member, upon request, shall be recognized for not to exceed 5 minutes to address the committee or subcommittee on behalf of an amendment which the member has offered to any pending bill or resolution.

(b) Members present at a meeting of the committee or subcommittee when a meeting is originally convened will be recognized by the chairman in order of seniority. Those members arriving subsequently will be recognized in order of their arrival. Notwithstanding the foregoing, the chairman and the ranking minority member will take precedence upon their arrival. In recognizing members to question witnesses in this fashion, the chairman shall take into consideration the ratio of the majority to minority members present and shall establish the order of recognition for questioning in such a manner as not to disadvantage the members of the majority.

RULE 13. SUBPOENA AUTHORITY

1. For the purpose of carrying out any of its functions and duties under House rules X and XI, the full committee and any subcommittee is authorized (subject to subparagraph 2.A. of this paragraph):

(A) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold hearings, and

(B) to require by subpoena, or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers and documents as it deems necessary. The chairman of the committee, or any member designated by the chairman, may administer oaths to any witness.

2.(A) A subpoena may be authorized and issued by the full committee or any subcommittee under subparagraph 1.B. in the conduct of any investigation, or series of investigations or activities, only when authorized by a majority of the members voting, a majority of the full committee or subcommittee being present. Authorized subpoenas shall be signed only by the chairman of the full committee, or by any member designated by the full committee.

(B) Compliance with any subpoena issued by the full committee or any subcommittee under subparagraph 1.B. may be enforced only as authorized or directed by the House. (House rule XI, clause 2(m).)

RULE 14. WITNESS STATEMENTS

(a) Any prepared statement to be presented by a witness to the committee or a subcommittee shall be submitted to the committee or subcommittee at least 48 hours in advance of presentation and shall be distributed to all members of the committee or subcommittee at least 24 hours in advance of delivery. If a prepared statement contains security information bearing a classification of secret or higher, the statement shall be made available to the committee rooms to all members of the committee or subcommittee at least 24 hours in advance of delivery; however, no such statement shall be removed from the committee offices. The requirement of this rule may be waived by a majority vote of the full committee or any subcommittee, a quorum being present.

(b) The full committee and each subcommittee shall, insofar as is practicable, require each witness who is to appear before it to file with the committee (in advance of his or her appearance) a written statement of the proposed testimony and to limit the oral presentation at such appearance to a brief summary of his or her argument. (House rule XI, clause 2(g)(4).)

RULE 15. ADMINISTERING OATHS TO WITNESSES

(a) The chairman of the committee, or any member designated by the chairman, may administer oaths to any witness.

(b) Witnesses, when sworn, shall subscribe to the following oath:

You do solemnly swear (or affirm) that the testimony you will give before this committee (or subcommittee) in the matters now under consideration will be the truth, the whole truth, and nothing but the truth, so help you God?

RULE 16. QUESTIONING OF WITNESSES

(a) When a witness is before the committee or a subcommittee, members of the committee or subcommittee may put questions to the witness only when they have been recognized by the chairman for that purpose.

(b) Members of the committee or subcommittee who so desire shall have not to exceed 5 minutes to interrogate each witness until such time as each member has had an opportunity to interrogate such witness; thereafter, additional time for questioning witnesses by members is discretionary with the chairman.

(c) Questions put to witnesses before the committee or subcommittee shall be pertinent to the bill or other subject matter that may be before the committee or subcommittee for consideration.

RULE 17. VOTING AND ROLLCALLS

(a) Except as otherwise provided in these rules voting on a measure or matter may be by rollcall vote, division vote, voice vote, or unanimous consent.

(b) A rollcall of the members may be had upon the request of five or more members present, or in the case of subcommittees, on the request of one-fifth of a majority.

RULE 18. PROXY VOTE

A member may vote by special proxy, which must be in writing, shall assert that the member is absent on official business or is otherwise unable to be present at the meeting of the committee, shall designate the person who is to execute the proxy authorization, and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto. A member may authorize a general proxy only for motions to recess, adjourn or other procedural matters. Each proxy to be effective shall be signed by the member assigning his or her vote and shall contain the date and time of day that the proxy is signed. Proxies may not be counted for a quorum. A proxy may be used in full committee or subcommittee. All proxies must be filed with the staff director and be available for inspection at any time.

RULE 19. PRIVATE BILLS

No private bill will be reported by the committee if there are two or more dissenting votes. Private bills so rejected by the committee will not be reconsidered during the same Congress unless new evidence sufficient to justify a new hearing has been presented to the Congress.

RULE 20. SUPPLEMENTAL, MINORITY, ADDITIONAL OR DISSENTING VIEWS

If, at the time of approval of any measure or matter by the committee, any member of the committee gives timely notice of intention to file supplemental, minority, additional or dissenting views, that members shall be entitled to not less than 3 calendar days (excluding Saturdays, Sundays, and legal holidays) in which to file such views, in writing and signed by that member, with the staff director of the committee. All such views so filed by one or more members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that measure or matter.

RULE 21. POINTS OF ORDER

No point of order shall lie with respect to any measure reported by the full committee or any subcommittee on the ground that hearings on such measure were not conducted in accordance with the provisions of the committee rules; except that a point of order on that ground may be made by any member of the full committee or subcommittee which reported the measure if, in the full committee or subcommittee, such point of order was (a) timely made and (b) improperly overruled or not properly considered.

RULE 22. PUBLIC INSPECTION OF COMMITTEE ROLLCALLS

(a) The result of each rollcall in any meeting of the committee shall be made available by the committee for inspection by the public at reasonable times in the offices of the committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and whether by proxy or in person, and the names of those members present but not voting. With respect to each record vote by the committee on each motion to report any bill or resolution of public character, the total number of votes cast for, and the total number of votes cast against, the reporting of such bill or resolution shall be included in the committee report.

(b) In the event of such a rollcall vote or votes, when a member is in attendance at any other committee, subcommittee, or conference committee meeting during that time, that circumstance shall be so recorded in the rollcall record, upon timely notification to the chairman from that member.

RULE 23. PROTECTION OF NATIONAL SECURITY INFORMATION

(a) All national security information bearing a classification of secret or higher which has been received by the committee or a subcommittee shall be deemed to have been received in executive session and shall be given appropriate safekeeping.

(b) The chairman of the full committee shall, with the approval of the full committee, establish such procedures as in his judgment may be necessary to prevent the unauthorized disclosure of any national security information received classified as secret or higher. Such procedures shall, however, ensure access to this information by any member of the committee or any other Member of the House of Representatives who has requested the opportunity to review such material.

RULE 24. COMMITTEE STAFFING

The staffing of the full committee and the standing subcommittees shall be subject to the appropriate rules of the House of Representatives, including, among other things, the provisions of rule XI, clause 5(d).

RULE 25. COMMITTEE RECORDS

The records of the committee at the National Archives and Records Administration shall be made available for public use in accordance with rule XXXVI of the Rules of the House of Representatives. The chairman shall notify the ranking minority member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the committee for a determination on the written request of any member of the committee.

ADDITIONAL RULES FOR INVESTIGATIVE HEARINGS—HOUSE RULE XI, CLAUSE 2(k)

OPENING STATEMENT

(1) The chairman at an investigative hearing shall announce in an opening statement the subject of the investigation (House rule XI, clause 2(k)(1).)

INFORMATION FOR WITNESSES

(2) A copy of the committee rules and of clause 2(k) of House rule XI shall be made available to each witness. (House rule XI, clause 2(k)(2).)

RIGHT TO COUNSEL

(3) Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights. (House rule XI, clause 2(k)(3).)

BREACHES OF ORDER

(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt. (House rule XI, clause 2(k)(4).)

DEFAMATORY TESTIMONY OR EVIDENCE

(5) Whenever it is asserted that the evidence or testimony at an investigatory hearing may tend to defame, degrade, or incriminate any person,

(a) such testimony or evidence shall be presented in executive session, notwithstanding the provisions of committee rule 9(b), if by a majority of those present, there being in attendance no less than two members of the committee or subcommittee, the committee or subcommittee determines that such evidence or testimony may tend to defame, degrade, or incriminate any person; and

(b) the committee or subcommittee shall proceed to receive such testimony in open session only if a majority of the members of the committee or subcommittee, a majority being present, determine that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

In either case the committee or subcommittee shall afford such person an opportunity voluntarily to appear as a witness; and receive and dispose of requests from such person to subpoena additional witnesses. (House rule XI, clause 2(k)(5).)

SUBPOENA OF ADDITIONAL WITNESSES

(6) Except as provided in investigative hearing rule XI above, the chairman shall re-

ceive and the committee or subcommittee shall dispose of requests to subpoena additional witnesses. (House rule XI, clause 2(k)(6).)

TESTIMONY TAKEN IN EXECUTIVE SESSION

(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee or subcommittee. (House rule XI, clause 2(k)(7).)

SWORN STATEMENTS

(8) In the discretion of the committee or subcommittee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee or subcommittee is the sole judge of the pertinency of testimony and evidence adduced at its hearings. (House rule XI, clause 2(k)(8).)

TRANSCRIPT OF TESTIMONY

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee or subcommittee. (House rule XI, clause 2(k)(9).)

RULES OF PROCEDURE FOR THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS FOR THE 103D CONGRESS

(Mr. GONZALEZ asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GONZALEZ. Mr. Speaker, the Committee on Banking, Finance and Urban Affairs met on January 26, 1993, and adopted rules for the committee in the 103d Congress.

The enclosed copy of the rules of the committee are provided herewith for the purpose of having them printed in the CONGRESSIONAL RECORD as required under the rules of the House.

RULES OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

One Hundred Third Congress

RULE I

General Provisions

1. (a) The Rules of the House are the rules of the Committee and subcommittees so far as applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege in the Committee and subcommittees.

(b) Each subcommittee of the Committee is a part of the Committee, and is subject to the authority and direction of the Committee and to its rules so far as applicable.

2. The Committee shall submit to the House, not later than January 2 of each odd-numbered year, a report on the activities of the Committee under Rules X and XI of the Rules of the House during the Congress ending at noon on January 3 of such year.

3. The Committee's rules shall be published in the Congressional Record not later than 30 day after the Congress convenes in each odd-numbered year.

RULE II

Powers and Duties

1. The powers and duties of the Committee are all those such as are enumerated or contained in the Rules of the House and the rulings and precedents of the House or the Committee.

2. For the purpose of carrying out any of its functions and duties under Rules X and XI of the Rules of the House, the Committee, or any subcommittee thereof, is authorized—

(a) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold hearings;

(b) to conduct such investigations and studies as it may consider necessary or appropriate, and (subject to the adoption of expense resolutions are required by clause 5 of Rule XI of the Rules of the House) to incur expenses (including travel expenses) in connection herewith. The ranking minority Member of the full Committee or the relevant subcommittee shall be notified in advance at such times as any Committee funds are expended for investigations and studies involving international travel; and

(c) to require, by subpoena or otherwise (subject to clause 3(a)), the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, in whatever form, as it deems necessary. The Chairperson of the Committee, or any Member designated by the Chairperson, may administer oaths to any witness.

Subpoenas

3. (a) A subpoena may be authorized and issued by the Committee or a subcommittee under clause 2(c) in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the Members voting, a majority being present. The power to authorize and issue subpoenas under clause 2(c) may be delegated to the Chairperson of the Committee pursuant to such limitations as the Committee may prescribe. Authorized subpoenas shall be signed by the Chairperson of the Committee or by any member designated by the Committee.

(b) Compliance with any subpoena issued by the Committee under clause 2(c) may be enforced only as authorized or directed by the House.

Review of Continuing Programs

4. The Committee shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, insure that appropriations for continuing programs and activities of the Federal government and the District of Columbia government will be made annually to the maximum extent feasible and consistent with the nature, requirements, and objectives of the programs and activities involved. For the purposes of this paragraph, a government agency includes the organizational units of government listed in clause 7(c) of Rule XIII of the Rules of the House.

5. The Committee shall review, from time to time, each continuing program within its jurisdiction for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefore would be made annually.

Budget Act Reports

6. The Committee shall, on or before February 25 of each year, submit to the Committee on the Budget—

(a) the Committee's views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year which are within its jurisdiction or functions; and

(b) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within the Committee's jurisdiction which it intends to be effective during that fiscal year.

7. As soon as practicable after a concurrent resolution on the budget for any fiscal year is agreed to, the Committee (after consulting with the appropriate Committee or Committees of the Senate) shall subdivide any allocations made to it in the joint explanatory statement accompanying the conference report on such resolution, and promptly report such subdivisions to the House, in the manner provided by section 302 or section 602 (in the case of fiscal years 1991 through 1995) of the Congressional Budget Act of 1974.

8. Whenever the Committee is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process it shall promptly make such determination and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget in accordance with the Congressional Budget Act of 1974.

RULE III

Meetings

Regular Meetings

1. Regular meetings of the Committee shall be held on the first Tuesday of each month while the Congress is in session, and the Chairperson shall provide to each Member of the Committee, as far in advance of the day of the regular meeting as the circumstances make practicable, a written notice to that effect. Notwithstanding the preceding sentence, when the Chairperson believes that the Committee will not be considering any bill or resolution before the full Committee and that there is no other timely business to be transacted at a regular meeting, then no Committee meeting shall be held on that day. In such instances, the Chairperson shall not issue the notice of the regular meeting to the Members and the failure to receive such notice shall be treated by the Members as a cancellation of the regular meeting.

Additional and Special Meetings

2. The Chairperson may call and convene, as the Chairperson considers necessary, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business. The Committee shall meet for such purpose pursuant to that call of the chair.

3. If at least three Members of the Committee desire that a special meeting of the Committee be called by the Chairperson, those Members may file in the offices of the Committee their written request to the Chairperson for that special meeting. Such request shall specify the measure or matter to be considered. Immediately upon the filing of the request, the Clerk of the Committee shall notify the Chairperson of the filing of the request. If, within 3 calendar days after the filing of the request, the Chairperson does not call the requested special meeting, to be held within 7 calendar days after the filing of the request, a majority of the Members of the Committee may file in the offices of the Committee their written notice that a special meeting of the Committee will be held specifying the date and hour thereof, and the measure or matter to be considered at that special meeting. The Committee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk of the Committee shall notify all Members of the Committee that such special meeting will be held and inform them of its date and hour and the measure or matter to

be considered; and only the measure or matter specified in that notice may be considered at that special meeting.

Open Meetings

4. (a) Each meeting for the transaction of business, including the markup of legislation, of the Committee or each subcommittee thereof, shall be open to the public except when the Committee or subcommittee, in open session and with a majority present, determines by roll call vote that all or part of the remainder of the meeting on that day shall be closed to the public; provided, however, that no person other than Members of the Committee and such congressional staff and such departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This paragraph does not apply to Committee hearings which are provided for by paragraph (b) of this clause, or to any meeting that relates solely to internal budget or personnel matters.

(b) Each hearing conducted by the Committee or each subcommittee thereof shall be open to the public except when the Committee or subcommittee, in open session and with a majority present, determines by roll call vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate any law or rule of the House of Representatives. Notwithstanding the requirements of the preceding sentence, a majority of those present (there being in attendance the requisite number required under the Rules of the Committee to be present for the purpose of taking testimony)—

(1) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security or violate clause 6 of Rule IV; or

(2) may vote to close the hearing, as provided in clause 6 of Rule IV.

No Member may be excluded from nonparticipatory attendance at any hearing of the Committee or a subcommittee, unless the House of Representatives shall be a majority vote authorize the Committee or a particular subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this paragraph for closing hearings to the public: provided, however, That the Committee or subcommittee may by the same procedure vote to close one subsequent day of hearing.

Broadcasting of Committee Meetings

5. Any meeting of the Committee or a subcommittee that is open to the public may be covered in whole or in part by radio or television or still photography, subject to the requirements and limitations of clause 3 of Rule XI of the Rules of the House. At all such meetings or proceedings, coverage by radio, television or still photography will be allowed unless specifically forbidden by a record vote of the Committee or subcommittee. The Chairperson of the Committee or of a subcommittee shall determine, in the Chairperson's discretion, the number of television and still cameras permitted in a meeting room. The coverage of any meeting of the Committee or any subcommittee thereof by television, radio, or still photography shall be under the direct supervision of the Chairperson of the Committee, the subcommittee Chairperson, or other Member of the Committee presiding at such meeting, and, for good cause, may be terminated by that Member.

Additional Provisions

6. If the Chairperson of the Committee or subcommittee, as the case may be, is not present at any meeting of the Committee or subcommittee the ranking Member of the majority party on the Committee or subcommittee who is present shall preside at that meeting.

7. No person other than a Member of Congress, Committee staff, or a person from a Member's staff when that Member has an amendment under consideration, may stand in or be stored at the rostrum area of the Committee unless the Chairperson determines otherwise.

RULE IV

Hearing Procedures

1. The Chairperson, in the case of hearings to be conducted by the Committee, and the appropriate subcommittee Chairperson, in the case of hearings to be conducted by a subcommittee, shall make public announcement of the date, place, and subject matter at least one week before the commencement of that hearing unless the Chairperson determines that there is good cause to begin such hearing at an earlier date. In the latter event the Chairperson or the subcommittee Chairperson, whichever the case may be, shall make such public announcement at the earliest possible date. The Clerk of the Committee shall promptly notify all Members of the Committee; the Daily Digest; Chief Clerk, Official Reporters to House Committee and the Committee scheduling service of the House Information System as soon as possible after such public announcement is made.

2. (a) Each witness who is to appear before the Committee or a subcommittee shall file with the Clerk of the Committee, at least 24 hours in advance of his appearance, 200 copies of the proposed testimony if the appearance is before the Committee, or 100 copies of the proposed testimony if the appearance is before a subcommittee: provided, however, that this requirement may be modified or waived by the Chairperson of the Committee or appropriate subcommittee, after consultation with the ranking minority Member, when the said Chairperson determines it to be in the best interest of the Committee or subcommittee, and furthermore, that this requirement shall not be mandatory if a witness is given less than seven days notice of appearance prior to a hearing.

(b) The Chairperson may require a witness to limit the oral presentation to a summary of the statement.

3. Upon announcement of a hearing, the Clerk and Staff Director shall cause to be prepared a concise summary of the subject matter (including legislative reports and other materials) under consideration which shall be made available immediately to all Members of the Committee. In addition, upon announcement of a hearing and subsequently as they are received, the Chairperson shall make available to the Members of the Committee any official reports from departments and agencies on such matter.

Calling and Interrogation of Witnesses

4. When any hearing is conducted by the Committee or any subcommittee upon any measure or matter, the minority party Members on the Committee shall be entitled, upon request to the Chairperson by a majority of those minority Members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.

5. Committee Members may question witnesses only when they have been recognized by the Chairperson for that purpose, and only for a 5-minute period until all Members present have had an opportunity to question a witness. The 5-minute period for questioning a witness by any one Member can be extended only with the unanimous consent of all Members present. The questioning of witnesses in both the full and subcommittee hearings shall be initiated by the Chairperson, followed by the ranking minority party Member and all other Members alternating between the majority and minority. In recognizing Members to question witnesses in this fashion, the Chairperson shall take into consideration the ratio of the majority to minority Members present and shall establish the order of recognition for questioning in such a manner as not to disadvantage the Members of the Committee.

Investigative Hearing Procedures

6. The following additional rules shall apply to investigative hearings:

(a) The Chairperson, at any investigative hearing, shall announce in an opening statement the subject of the investigation.

(b) A copy of the Committee rules and rule XI, clause 2 of the Rules of the House shall be made available to each witness.

(c) Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(d) The Chairperson may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the Committee may cite the offender to the House for contempt.

(e) Whenever it is asserted that the evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person,

(1) such testimony or evidence shall be presented in executive session, notwithstanding the provisions of clause 4(b) of Rule III, if by a majority of those present, there being in attendance the requisite number required under the rules of the Committee to be present for the purpose of taking testimony, the Committee determines that such evidence or testimony may tend to defame, degrade, or incriminate any person; and

(2) the Committee shall proceed to receive such testimony in open session only if a majority of the Members of the Committee, a majority being present, determine that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

In either case the Committee shall afford such person an opportunity voluntarily to appear as a witness; and receive and dispose of requests from such person to subpoena additional witnesses.

(f) Except as provided in paragraph (e), the Chairperson shall receive and the Committee shall dispose of requests to subpoena additional witnesses.

(g) No evidence or testimony taken in executive session may be released or used in public session without the consent of the Committee.

(h) In the discretion of the Committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(i) A witness may review and photostat a copy of his or her testimony given at a public session, or if given at an executive session, when authorized by the Committee.

RULE V

Reporting of Bills and Resolutions

1. (a) It shall be the duty of the Chairperson of the Committee to report or cause to be reported promptly to the House any measure approved by the Committee and to take or cause to be taken necessary steps to bring the matter to a vote.

(b) In any event, the report of the Committee on a measure which has been approved by the Committee shall be filed within 7 calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the Committee a written request, signed by a majority of the Members of the Committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the Committee shall transmit immediately to the Chairperson of the Committee notice of the filing of that request.

2. No measure or recommendation shall be reported from the Committee unless the quorum requirement of clause 1(a) of Rule VI is satisfied.

Committee Reports

3. The report of the Committee on a measure which has been approved by the Committee shall include—

(a) a cover page, which must show that supplemental, minority and additional views (if any), the estimate and comparison prepared by the Director of the Congressional Budget Office, and the recommendations of the Committee on Government Operations (whenever submitted), are included in the report;

(b) the amendments adopted by the Committee;

(c) a section by section analysis of the bill as reported, whenever possible;

(d) an explanation of the legislation, if the Chairperson decides one is necessary;

(e) a statement of the total number of votes cast for, and the total number of votes cast against, the reporting of the bill or resolution, including the name of each Member voting for and voting against the motion to report, and whether by proxy or in person, and the names of those Members absent;

(f) the oversight findings and recommendation required pursuant to clause 2(b)(1) of Rule X of the Rules of the House separately set out and clearly identified;

(g) the statement required by section 308(a)(1) of the Congressional Budget Act of 1974, separately set out and clearly identified, if the measure provides new budget authority, new spending authority described in section 401(c)(2) of such Act, new credit authority, or an increase or decrease in revenues or tax expenditures;

(h) the estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of such Act, separately set out and clearly identified, whenever the Director (if timely submitted prior to the filing of the report) has submitted such estimate and comparison to the Committee;

(i) a summary of the oversight findings and recommendations made by the Committee on Government Operations under clause 4(c)(2) of Rule X of the Rules of the House separately set out and clearly identified whenever such findings and recommendations have been submitted to the Committee in a timely fashion to allow an opportunity to consider such findings and recommendations during the Committee's deliberations on the measure;

(j) for a bill or joint resolution of a public character reported by the Committee, a detailed analytical statement as to whether the enactment of such bill or joint resolution into law may have an inflationary impact on prices and costs in the operation of the national economy;

(k) a statement in accordance with section 5(b) of the Federal Advisory Committee Act;

(l) any supplemental, minority, or additional views, if submitted in accordance with clause 5;

(m) the Ramseyer document required under clause 3 of Rule XIII of the Rules of the House; and

(n) the estimate and comparison of costs incurred in carrying out the bill or resolution, as may be required by clause 7 of Rule XIII of the Rules of the House.

4. The report of Committee, when filed with the House, shall be accompanied by three copies of the bill or resolution as introduced and one copy of the bill or resolution as amended.

5. (a) If, at the time of approval of any measure or matter by the Committee, any Member of the Committee gives notice of intention to file supplemental, minority, or additional views, that Member shall be entitled to not less than 3 calendar days (excluding Saturdays, Sundays, and legal holidays) in which to file such views, in writing and signed by that Member, with the Clerk of the Committee. All such views so filed by one or more Members of the Committee shall be included within, and shall be part of, the report filed by the Committee with respect to that measure or matter. No report shall be filed until the Chairperson has notified and discussed it with the ranking minority Member of the Committee and the Chairperson of the subcommittee from which the legislation emanated or would have emanated. The report of the Committee upon that measure or matter shall be printed in a single volume which—

(1) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

(2) shall bear upon its cover a recital that any such supplemental, minority, or additional views and any material submitted under paragraphs (h) and (i) of clause 3 are included as part of the report.

(b) This clause does not preclude—

(1) the immediate filing or printing of a Committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by this subparagraph; or

(2) the filing by the Committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error or omission in a previous report made by that Committee upon that measure or matter.

Hearing Prints

6. If hearings have been held on any such measure or matter so reported, the Committee shall make every reasonable effort to have such hearings printed and available for distribution to the Members of the House prior to the consideration of such measure or matter in the House. This subparagraph shall not apply to—

(a) any measure for the declaration of war, or the declaration of a national emergency, by the Congress; or

(b) any decision, determination, or action by a government agency which would become, or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress.

For the purposes of the preceding sentence, a government agency includes any department, agency, establishment, wholly owned government corporation, or instrumentality of the Federal government or the government of the District of Columbia.

RULE VI

Quorums

1. (a) A quorum, for the purpose of reporting any bill or resolution, shall consist of a majority of the Committee actually present, which shall be deemed the case if the records of the Committee establish that a majority of the Committee responded on a roll call vote on that question. No point of order shall lie with the respect to any measure or recommendation on the ground that it was reported without a majority of the Committee actually present unless such point of order was timely made in Committee.

(b) A quorum, for the purpose of taking any action other than the reporting of a bill or resolution, shall consist of one-third of the Members of the Committee.

(c) A quorum, for the purpose of taking testimony and receiving evidence, shall consist of any two Members of the Committee.

RULE VII

Proxies

1. No vote by any Member of the Committee or any of its subcommittees with respect to any measure may be cast by proxy unless a proxy authorization is given in writing by the Member desiring to vote by proxy, which authorization shall assert that the member is absent on official business or is otherwise unable to be present at the meeting of the Committee or subcommittee, shall designate the person who is to execute the proxy authorization, and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto. Each proxy to be effective shall be signed by the Member assigning the vote and shall contain the date and time of the day that the proxy is signed. No proxy shall be voted on a motion to adjourn or shall be counted to make a quorum.

2. Proxies shall have the following form:

Hon. ———
House of Representatives
Washington, DC.

Dear ———:

I will be absent on official business or otherwise unable to be present at the meeting of the Committee or subcommittee. I hereby authorize you to vote in my place and stead in the consideration of ——— and any amendments or motions pertaining thereto. The official business that necessitates my absence is ———.

———,
Member of Congress.

Executed this the ——— day of ———, 19— at the time of ——— p.m./a.m.

RULE VIII

Subcommittees—Jurisdiction

1. There shall be in the Committee on Banking, Finance and Urban Affairs the following standing subcommittees:

Subcommittee on Housing and Community Development;

Subcommittee on Financial Institutions Supervision, Regulation and Insurance;

Subcommittee on International Development, Finance, Trade, and Monetary Policy;

Subcommittee on Consumer Credit and Insurance;

Subcommittee on Economic Growth and Credit Formation; and

Subcommittee on General Oversight, Investigations and the Resolution of Failed Financial Institutions;

each of which shall have the jurisdiction and related functions assigned to it by this clause; and all bills, resolutions, and other matters relating to subjects within the jurisdiction of this Committee shall be referred to such subcommittees as follows:

Subcommittee on Housing and Community Development

(a) The jurisdiction of the Subcommittee on Housing and Community Development extends to and includes—

(1) all matters relating to housing (except programs administered by the Veterans' Administration), including mortgage and loan insurance pursuant to the National Housing Act; FHA mortgage interest rates; rural housing; housing assistance programs; secondary mortgage market programs and all other activities of FNMA, GNMA, and FHLMC; private mortgage insurance; housing construction and design standards; housing-related energy conservation; housing research and demonstration programs; financial and technical assistance for nonprofit housing sponsors; counseling and technical assistance; regulation of the housing industry (including landlord-tenant relations); real estate lending powers of financial institutions (including regulation of settlement costs);

(2) matters relating to community development and community planning, training and research, including community development block grants; urban renewal; rehabilitation loans and grants; neighborhood facilities grants; open space land and urban beautification grants; water and sewer facilities grants; public facilities loans; advance acquisition of land programs; new communities assistance programs; national urban growth policies; comprehensive planning (including land use and areawide programs); community development training and fellowships; urban research and technologies; and regulation of interstate land sales; and

(3) FHA property improvement loans under title I of the National Housing Act which can be used to finance the preservation of historic structures; community development block grant funds authorized under title I of the 1974 Housing Act which can be used to finance the acquisition and preservation of historic properties; and section 701 comprehensive planning grants to public bodies which can be used to finance surveys of historic sites and structures.

Subcommittee on Financial Institutions Supervision, Regulation and Deposit Insurance

(b) The jurisdiction of the Subcommittee on Financial Institutions Supervision, Regulation and Deposit Insurance extends to and includes—

(1) all agencies which directly or indirectly exercise supervisory or regulatory authority in connection with, or provide deposit insurance for, financial institutions, and the establishment of interest rate ceilings on deposits;

(2) all auxiliary matters affecting or arising in connection with the supervisory and regulatory activities of the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System and the Federal Reserve System, the Office of Thrift Supervision, and the National Credit Union Administration, together with those activities and operations of any other agency or department which relate to both domestic or foreign financial institutions, including the Federal Home Loan Banks and the Federal Housing Financial Board;

(3) With respect to financial institutions and the department and agencies which regulate or supervise them, all activities relating to and arising in connection with the matters of chartering, branching, mergers and acquisitions, consolidations, and conversions;

(4) with respect to financial institutions and the agencies which regulate them, all activities relating to and arising in connection with the sale of insurance, securities and other noninsured instruments by financial institutions and their affiliates;

(5) all activities of the Resolution Trust Corporation.

Subcommittee on International Development, Finance, Trade and Monetary Policy

(c) The jurisdiction of the Subcommittee on International Development, Finance, Trade and Monetary Policy extends to and includes—

(1) all matters relating to all multilateral development lending institutions, including activities of the National Advisory Council on International Monetary and Financial Policies as related thereto, and monetary and financial developments as they relate to the activities and objectives of such institutions;

(2) all matters within the jurisdiction of the Committee relating to international trade, including but not limited to the activities of the Export-Import Bank;

(3) the International Monetary Fund, its permanent and temporary agencies, and all matters related thereto; and

(4) international investment policies, both as they relate to United States investments for trade purposes by citizens of the United States and investments made by all foreign entities in the United States.

Subcommittee on Consumer Credit and Insurance

(d) The jurisdiction of the Subcommittee on Consumer Credit and Insurance extends to and includes—

(1) all matters relating to consumer credit, including the provision of consumer credit by insurance companies, and further including those matters in the Consumer Credit Protection Act dealing with truth in lending, extortionate credit transactions, restrictions on garnishments, fair credit reporting and the use of credit information by credit bureaus and credit providers, equal credit opportunity, debt collection practices, and electronic funds transfers;

(2) creditor remedies and debtor defense, Federal aspects of the Uniform Consumer Credit Code, credit and debit cards and the preemption of State usury laws;

(3) all matters relating to consumer access to financial services, including the Home Mortgage Disclosure Act and the Community Reinvestment Act;

(4) the terms and rules of disclosure of financial services, including the advertisement, promotion and pricing of financial services, and availability of government check cashing services;

(5) issues relating to consumer access to savings accounts and checking accounts in financial institutions, including lifeline banking and other consumer accounts;

(6) matters relating to the price of consumer goods, services and commodities, the rationing of consumer products, and hoarding;

(7) all matters relating to the business of insurance not specifically within the jurisdiction of another subcommittee, and includes, but is not limited to, the protection against all risks, perils, hazards and liabilities by private insurance providers, including the chartering, licensing and supervision of private insurance companies, the regulation of insurance policies and rates, the protection of policyholders, the payment of benefits, and the operation of liquidity facilities for insurance providers;

(8) all matters relating to all government sponsored insurance programs, including those offering protection against crime, fire, flood (and related land use controls), and earthquake hazards; and

(9) shall further extend, but is not limited to, those activities of community credit institutions which provide consumer credit; and

(10) to all matters relating to coins, coinage, currency and medals, including commemorative coins and medals, proof and mint sets and other special coins, the Coinage Act of 1965, gold and silver, including coinage thereof (but not the par value of gold), gold medals, counterfeiting, currency denominations and design, the distribution of coins, and the operations and activities of the Bureau of the Mint and the Bureau of Engraving and Printing; provided, however, that the Subcommittee shall not schedule a hearing on any commemorative medal or commemorative coin legislation unless the legislation is cosponsored by at least 218 Members of the House.

(11) In considering legislation authorizing Congressional gold medals, and subcommittee shall apply the following standards:

(A) The recipient shall be a natural person;

(B) The recipient shall have performed an achievement that has an impact on American history and culture that is likely to be recognized as a major achievement in the recipient's field long after the achievement;

(C) The recipient shall not have received a medal previously for the same or substantially the same achievement;

(D) The recipient shall be living or, if deceased, shall have been deceased for not less than 5 years and not more than 25 years; and

(E) The achievements were performed in the recipient's field to endeavor, and represent either a lifetime of continuous superior achievements or a single achievement so significant that the recipient is recognized and acclaimed by others in the same field, as evidenced by the recipient having received the highest honors in the field.

Subcommittee on Economic Growth and Credit Formation

(e) The jurisdiction of the Subcommittee on Economic Growth and Credit Formation extends to and includes—

(1) all matters relating to financial aid to all sectors and elements within the economy, all matters relating to economic growth and stabilization, and all defense production matters as contained in the Defense Production Act of 1950, as amended, and all related matters thereto;

(2) all matters relating to domestic monetary policy and agencies which directly or indirectly affect domestic monetary policy, including the effect of such policy and other financial actions on interest rates, the allocation of credit, and the structure and functioning of domestic and foreign financial institutions;

(3) all private foundations and charitable trusts;

(4) the role of private insurance providers as financial intermediaries in the domestic and global economy, including effect of their activities as credit providers, and their investment policies, but excludes Federal deposit insurance, mortgage and loan insurance, title insurance and the authority insti-

tutions and companies that are affiliated with federally insured depository institutions in insurance activities;

(5) all matters relating to secondary markets organizations (including the Federal Agricultural Mortgage Corporation), with the exception of secondary markets for home mortgages (including, but not limited to, the operations of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Government National Mortgage Association); and

(6) shall further extend, but is not limited to, the establishment and operation of Enterprise Zones and those activities of community credit institutions which provide credit for economic growth purposes.

Subcommittee on General Oversight, Investigations and the resolution of Failed Financial Institutions

(f) Pursuant to Rule X of the Rules of the House of Representatives, the Subcommittee on General Oversight, Investigations and the Resolution of Failed Financial Institutions shall have the responsibility of reviewing and studying, on a continuing basis—

(1) the application, administration, execution, and effectiveness of the laws within the jurisdiction of the Committee, and the organization and operation of the Federal agencies and entities which have responsibility for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress and whether such programs should be continued, curtailed, or eliminated;

(2) any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of the Committee (whether or not any bill or resolution has been introduced with respect thereto), and present any such recommendations as deemed necessary to the appropriate subcommittee(s) of the Committee;

(3) forecasting and future oriented research on matters within the jurisdiction of the committee, and shall study all pertinent reports, documents and data pertinent to the jurisdiction of the Committee and make the necessary recommendations or reports thereon to the appropriate subcommittee(s) of the Committee;

(4) the resolution of failed insured depository institutions, including the management and disposition of assets of such institutions; and

(5) the impact or probable impact of tax policies affecting subjects within the jurisdiction of the Committee; provided, however, that

(6) the operations of the Subcommittee on General Oversight, Investigations and the Resolution of Failed Financial Institutions shall in no way limit the responsibility of the other subcommittees of the Committee on Banking, Finance and Urban Affairs from carrying out their oversight duties, including the authority of the Financial Institutions Subcommittee to conduct oversight hearings into the activities of the Resolution Trust Corporation.

2. A Member serving as Chairperson of any subcommittee on this Committee shall not also serve as the Chairperson of a subcommittee on any other full Committee or select Committee with legislative jurisdiction; Provided, however, that this provision shall not apply to a Member serving as subcommittee Chairperson on the Budget Committee; House Administration Committee; Joint Committees; Standards of Official Conduct Committee; or House Recording Committee.

RULE IX

Subcommittees—Powers and Duties

1. Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all matters referred to it or under its jurisdiction. Subcommittee chairmen shall set dates for hearings and meetings of their respective subcommittees after consultation with the Chairperson and other subcommittee Chairpersons and with a view toward avoiding simultaneous scheduling of full Committee and subcommittee meetings or hearings whenever possible.

2. Whenever a subcommittee has ordered a bill, resolution, or other matter to be reported to the Committee, the Chairperson of the subcommittee reporting the bill, resolution, or matter to the full Committee, or any Member authorized by the subcommittee to do so, may report such bill, resolution, or matter to the Committee. It shall be the duty of the Chairperson of the subcommittee to report or cause to be reported promptly such bill, resolution, or matter, and to take steps or cause to be taken the necessary steps to bring such bill, resolution, or matter to a vote.

3. No bill or joint resolution approved by a subcommittee shall be considered by the Committee unless such measure, as approved, has been made available to all Members at least two calendar days prior to the meeting, accompanied by a section-by-section analysis of such measure. The provisions of this paragraph may be suspended by the Committee by a two-thirds vote or by the Chairperson, with the concurrence of the ranking minority Member of the full Committee.

4. All Committee or subcommittee reports printed pursuant to legislative study or investigation and not approved by a majority vote of the Committee or subcommittee, as appropriate shall contain the following disclaimer on the cover of such report:

"This report has not been officially adopted by the Committee on Banking, Finance and Urban Affairs (or pertinent subcommittee thereof) and may not therefore necessarily reflect the views of its Members."

5. Bills, resolutions, or other matters favorably reported by a subcommittee shall automatically be placed on the agenda of the Committee as of the time they are reported and shall be considered by the full Committee in the order in which they were reported unless the Chairperson after consultation with the ranking minority Member and appropriate subcommittee Chairperson, otherwise directs; Provided, that no bill reported by a subcommittee shall be considered by the full Committee unless each Member has been provided with reasonable time prior to the meeting to analyze such bill, together with a comparison with present law and a section-by-section analysis of the proposed change, and a section-by-section justification.

6. No bill or joint resolution may be considered by a subcommittee unless such measure has been made available to all Members at least two calendar days prior to the meeting, accompanied by a section-by-section analysis of such measure. The provisions of this paragraph may be waived following consultation with the appropriate ranking minority Member.

7. All Members of the Committee may have the privilege of sitting with any subcommittee of which they are not a Member, during the subcommittee's hearings or deliberations and may participate in such hearings or deliberations after Members of the subcommittee have been given an opportunity to participate, but no such Member who is not a Member of the subcommittee shall vote on any matter before such subcommittee.

RULE X

Subcommittees—Referral of Legislation

1. Each bill, resolution, investigation, or other matter which relates to a subject listed under the jurisdiction of any subcommittee named in Rule VIII referred to or initiated by the full Committee shall be referred to all subcommittees of appropriate jurisdiction within 2 weeks unless, by majority vote of the majority Members of the full Committee, consideration is to be by the full Committee.

2. Referral to a subcommittee shall not be made until 3 days shall have elapsed after written notification of such proposed referral to all subcommittee chairmen, at which time such proposed referral shall be made unless one or more subcommittee chairmen shall have given written notice to the Chairperson of the full Committee and to the Chairperson of each subcommittee that the Chairperson intends to question such proposed referral at the next regularly scheduled meeting of the Committee, or at a special meeting of the Committee called for that purpose at which time referral shall be made by the majority Members of the Committee. All bills shall be referred under this rule to the subcommittees of proper jurisdiction without regard to whether the author is or is not a Member of the subcommittees. A bill, resolution, or other matter referred to a subcommittee in accordance with this rule may be recalled therefrom at any time by a vote of the majority Members of the Committee for the Committee's direct consideration or for reference to another subcommittee.

3. In carrying out this Rule with respect to any matter, the Chairperson may refer the matter simultaneously to two or more subcommittees, consistent with Rule VIII, for concurrent consideration or for consideration in sequence (subject to appropriate time limitations in the case of any subcommittee after the first), or divide the matter into two or more parts (reflecting different subjects and jurisdictions) and refer each such part to a different subcommittee, or refer the matter to a special ad hoc Committee appointed by the Chairperson (from the Members of the subcommittees having legislative jurisdiction) for the specific purpose of considering that matter and reporting to the full Committee thereon, or make such other provisions as may be considered appropriate.

RULE XI

Subcommittees—Size and Party Ratio

1. To the extent that the number of subcommittees and their party ratios permit, the size of all subcommittees shall be established so that the majority party Members of the Committee have an equal number of subcommittee assignments; Provided, however, that a Member may waive his or her right to an equal number of subcommittee assignments on the Committee.

2. Following shall be the sizes and party ratios for subcommittees:

(a) Subcommittee on Housing and Community Development: Total 31—Democrat 18, Republican 12, Other 1.

(b) Subcommittee on Financial Institutions Supervision, Regulation and Deposit Insurance: Total 30—Democrat 18, Republican 12.

(c) Subcommittee on International Development, Finance, Trade, and Monetary Policy: Total 26—Democrat 15, Republican 10, Other 1.

(d) Subcommittee on Consumer Credit and Insurance: Total 31—Democrat 18, Republican 12, Other 1.

(e) Subcommittee on Economic Growth and Credit Formation: Total 15—Democrat 9, Republican 6.

(f) Subcommittee on General Oversight, Investigations and the Resolution of Failed Financial Institutions: Total 6—Democrat 4, Republican 2.

RULE XII

Budgets

1. The Chairperson, in consultation with the majority Members of the Committee, shall, for each session of the Congress, prepare a preliminary budget. Such budget shall include necessary amounts for staff personnel for necessary travel, investigation, and other expenses of the full Committee, and after consultation with the minority membership, the Chairperson shall include amounts budgeted to the minority Members for staff personnel to be under the direction and supervision of the minority, travel expenses of minority Members and staff, and minority office expenses. All travel expenses of minority Members and staff shall be paid for out of the amounts so set aside and budgeted.

2. (a) The Chairperson of each subcommittee, in consultation with the majority Members thereof, shall prepare a budget to include funds for staff, travel, investigations, and miscellaneous expenses as may be required for the work of the subcommittee.

(b) The Chairperson of each subcommittee shall control the funds provided for in the subcommittee budget.

3. The Chairperson shall combine the proposals of each subcommittee with the preliminary budget of the full Committee into a consolidated Committee budget, and shall present the same to the Committee for its approval. The Chairperson shall then take all action necessary to bring about its approval by the Committee on House Administration and by the House.

4. Authorization for the payment of additional or unforseen Committee and subcommittee expenses may be procured by one or more additional expense resolutions processed in the same manner as set out herein.

5. The Chairperson, the ranking minority Member of the full Committee, or any Chairperson of the subcommittee may initiate necessary travel requests as provided in Rule XIV within the limits of their portion of the consolidated budget as approved by the House, and the Chairperson may execute necessary vouchers therefor.

RULE XIII

Staff

1. The professional and clerical staff of the Committee not assigned to a subcommittee or to the minority shall be under the general supervision and direction of the Chairperson, who shall establish and assign the duties and responsibilities of such staff Members and delegate such authority as the Chairperson determines appropriate.

2. The professional and clerical employees of the Committee not assigned to a subcommittee or to the minority shall be appointed, removed, and their remuneration determined, by the Chairperson, within the budget approved for such purposes by the Committee.

3. The professional and clerical staff assigned to the minority shall be under the general supervision and direction of the minority Members of the Committee who may delegate such authority as they determine appropriate.

4. The professional and clerical staff assigned to the minority shall be appointed and their remuneration determined in such manner as the minority Members of the Committee shall determine within the budget approved for such purposes by the Committee; provided, however, that no minority staff person shall be compensated at a rate which exceeds that paid his or her majority staff counterpart.

5. It is intended that the skills and experience of all Members of the Committee staff be available to all Members of the Committee.

6. (a) The Chairperson of each standing subcommittee of this Committee is authorized to appoint one staff Member who shall serve at the pleasure of the subcommittee Chairperson.

(b) The ranking minority Member of each standing subcommittee on this Committee is authorized to appoint one staff person who shall serve at the pleasure of the ranking minority Member.

(c) The staff Members appointed pursuant to the provisions of paragraphs (a) and (b) shall be compensated at a rate determined by the subcommittee Chairperson not to exceed 75 per centum of the maximum established in clause 6(c) of Rule XI of the Rules of the House, provided, however, a staff person appointed by a ranking minority Member shall be compensated at a rate not to exceed that paid his or her majority staff counterpart.

(d) Paragraphs (a), (b) and (c) shall apply to the subcommittees only, and no Member shall appoint more than one person pursuant to the above provisions.

(e) The staff positions made available to the subcommittee chairmen and ranking minority party Members pursuant to paragraphs (a) and (b) shall be made available from the staff positions provided under clause 6 of Rule XI of the Rules of the House, unless such staff positions are made available pursuant to a primary or additional expense resolution.

(f) Except as provided by the above provisions, the professional and clerical Members of the subcommittee staffs shall be appointed, and may be removed, and their remuneration determined by the subcommittee Chairperson in consultation with and with the approval of a majority of the majority Members of the subcommittee, and with the approval of a majority of the majority Members of the full Committee, within the budget approved for the subcommittee.

(g) The professional and clerical staff of a subcommittee shall be under the supervision and direction of the Chairperson of that subcommittee.

RULE XIV

Travel

1. Consistent with the primary expense resolution and such additional expense resolution as may have been approved, the provisions of this rule shall govern travel of the Committee Members and staff. Travel to be reimbursed from funds set aside for the full Committee for any Member or any staff Member shall be paid only upon the prior authorization of the Chairperson. Travel may be authorized by the Chairperson for any Member and any staff Member in connection with the attendance at hearings conducted by the Committee or any subcommittee thereof and meeting, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the Committee. Before such authorization is given there shall be submitted to the Chairperson in writing the following:

(a) the purpose of the travel;

(b) the dates during which the travel is to be made and the date or dates of the event for which the travel is being made;

(c) the location of the event for which the travel is being made; and

(d) the names of Members and staff seeking authorization.

2. In the case of travel of Members and staff of a subcommittee to hearings, meetings, conferences, and investigations involving activities or subject matters under the legislative assignment of such subcommittee to be paid for out of funds allocated to such subcommittee, prior authorization must be obtained from the subcommittee Chairperson, the ranking minority Member of the full Committee whenever minority staff is involved, and the Chairperson of the full Committee. Such prior authorization shall be given by the Chairperson only upon the representation by the applicable Chairperson of the subcommittee in writing setting forth those items enumerated in paragraphs (a), (b), (c) and (d) of clause 1, and in addition thereto setting forth that subcommittee funds are available to cover the expenses of the person or persons being authorized by the subcommittee Chairperson to undertake the travel and that there has been compliance where applicable with Rule XII.

3. (a) In the case of travel outside the United States of Members and staff of the Committee or of a subcommittee for the purpose of conducting hearings, investigations, studies, or attending meetings and conferences involving activities or subject matter under the legislative assignment of the Committee or pertinent subcommittee, prior authorization must be obtained from the Chairperson, or, in the case of a subcommittee, from the subcommittee Chairperson and the Chairperson. Before such authorization is given, there shall be submitted to the Chairperson in writing, a request for such authorization. Each request, which shall be filed in a manner that allows for a reasonable period of time for review before such travel is scheduled to begin, shall include the following:

(1) the purpose of the travel;

(2) the dates during which the travel will occur;

(3) the names of the countries to be visited and the length of time to be spent in each;

(4) an agenda of anticipated activities for each country for which travel is authorized together with a description of the purpose to be served and the areas of Committee jurisdiction involved; and

(5) the names of Members and staff for whom authorization is sought.

(b) Requests for travel outside the United States may be initiated by the Chairperson of the full Committee, the ranking minority Member of the full Committee, or the Chairperson of a subcommittee (except that individuals may submit a request to the Chairperson for the purpose of attending a conference or meeting).

(c) At the conclusion of any hearing, investigation, study, meeting or conference for which travel outside the United States has been authorized pursuant to this rule, each subcommittee (specifically, the traveling Members and staff) shall submit a written report to the Chairperson covering the activities and other pertinent observations or information gained as a result of such travel.

4. Members and staff of the Committee performing authorized travel on official busi-

ness shall be governed by applicable laws, resolutions, or regulations of the House and the Committee on House Administration pertaining to such travel.

RULE XV

Records

1. There shall be kept in writing a record of the proceedings of the Committee and of each subcommittee, including a record of the votes on any question on which a roll call is demanded. The result of each such roll call vote shall be made available by the Committee for inspection by the public at reasonable times in the offices of the Committee. Information so available for public inspection shall include a description of the amendment, motion, order or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and whether by proxy or in person, and the names of those Members present but not voting. A record vote may be demanded by any three of the Members present or, in the absence of a quorum, by any one Member.

2. All Committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as Chairperson of the Committee; and such records shall be the property of the House and all Members of the House shall have access thereto.

3. The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with rule XXXVI of the Rules of the House of Representatives. The Chairperson shall notify the ranking minority Member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of that rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any Member of the Committee.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FORD of Tennessee (at the request of Mr. GEPHARDT), for February 2 and the balance of the week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BUYER) to revise and extend their remarks and include extraneous material:)

Mr. HYDE, for 60 minutes, on February 3.

Mr. GOSS, for 60 minutes, each day on February 23 and 24.

Mr. KIM, for 5 minutes, on February 3.

Mr. GINGRICH, for 60 minutes, each day on February 22, 23, 24, 25, and 26.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mrs. KENNELLY, for 5 minutes, on February 4.

Mr. CONYERS, for 15 minutes, today.

Mr. PICKLE, for 30 minutes, today.

Mr. ROMERO-BARCELO, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BUYER) and to include extraneous matter:)

Mr. BURTON of Indiana.

Mr. CLINGER.

Mr. HUNTER.

Mr. PORTER.

Mr. LEWIS of California.

Mr. GILMAN.

Mrs. MORELLA.

Mr. ROTH.

Mr. WOLF.

Mr. CASTLE.

Mr. BATEMAN.

Mr. MICHEL.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. SYNAR in two instances.

Mr. NEAL of Massachusetts in two instances.

Mr. SANDERS.

Mr. MILLER of California.

Mr. JOHNSON of South Dakota.

Mr. CLAY.

Mr. LLOYD.

Mr. MURTHA.

Mr. MONTGOMERY.

Mr. BONIOR.

Mr. DURBIN.

Mr. TOWNS.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 8. Concurrent resolution to allow another member of the Committee on Rules and Administration of the Senate to serve on the Joint Committee of Congress on the Library in place of the Chairman of the Committee; to the Committee on House Administration.

ADJOURNMENT

Mr. MOAKLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 3 minutes p.m.) under its previous order, the House adjourned until tomorrow, Wednesday, February 3, 1993, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

567. A letter from the Secretary of Defense, transmitting a copy of the Department of Defense budget for fiscal year 1994 and the outyears through 1999, pursuant to 10 U.S.C. 114(e); to the Committee on Armed Services.

568. A letter from the Secretary of Defense, transmitting the Department's annual report of the Reserve Forces Policy Board for fiscal year 1992, pursuant to 10 U.S.C. 113 (c) and (e); to the Committee on Armed Services.

569. A letter from the Assistant Secretary, Department of the Army, transmitting the Army's first report of involuntary reductions of civilian positions required by section 371, National Defense Authorization Act of 1993; to the Committee on Armed Services.

570. A letter from the Secretary of House and Urban Development, transmitting a report on worst case needs in the late 1980's, examining the number and characteristics of very low-income renters with worst case needs for rental assistance; to the Committee on Banking, Finance and Urban Affairs.

571. A letter from the Secretary of Housing and Urban Development, transmitting a report entitled "Escrow Management for Single-Family Residential Property, Phase 2; Report on Servicer Survey"; to the Committee on Banking, Finance and Urban Affairs.

572. A letter from the Secretary of Housing and Urban Development, transmitting a report identifying States and units of local government which use unfit transient facilities as housing for homeless families with children, pursuant to Public Law 101–625, section 825; to the Committee on Banking, Finance and Urban Affairs.

573. A letter from the Assistant Attorney General for Civil Rights Division, transmitting a report on the activities of the Interagency Coordinating Council, pursuant to 29 U.S.C. 794c; to the Committee on Education and Labor.

574. A letter from the Advisory Committee on Student Financial Assistance, Chairman, transmitting the annual report of the Advisory Committee on Student Financial Assistance, pursuant to 30 U.S.C. 1085; to the Committee on Education and Labor.

575. A letter from the Chairman, Fund for the Improvement and Reform of Schools and Teaching Board, transmitting the annual report of the Office of Educational Research and Improvement, and the Fund for the Improvement and Reform of Schools and Teaching, pursuant to 20 U.S.C. 1233b(a)(2), to the Committee on Education and Labor.

576. A letter from the Chairman, National Advisory Council on Educational Research and Improvement, transmitting the annual report of the National Advisory Council on Educational Research and Improvement, pursuant to 20 U.S.C. 2642; to the Committee on Education and Labor.

577. A letter from the Chairman, National Advisory Council on Accreditation and Institutional Eligibility, transmitting the annual report of the National Advisory Committee on Accreditation and Institutional Eligibility, pursuant to 20 U.S.C. 2642, to the Committee on Education and Labor.

578. A letter from the Chairman, National Advisory Council on Indian Education, transmitting the 18th Annual Report of the National Advisory Council on Indian Education, pursuant to 20 U.S.C. 2642; to the Committee on Education and Labor.

579. A letter from the Chairman, National Board Fund for the Improvement of Postsecondary Education, transmitting the annual report of the National Board of the Fund for the Improvement of Postsecondary Education, pursuant to 20 U.S.C. 2642; to the Committee on Education and Labor.

580. A letter from the Secretary of Education, transmitting final regulations—Fam-

ily educational rights and privacy, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

581. A letter from the Secretary of Education, transmitting final regulations—Territories and Freely Associated States Educational Grant Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

582. A letter from the Presiding Officer, Advisory Council on Education Statistics, transmitting the 17th annual report of the Advisory Council on Education Statistics, pursuant to 20 U.S.C. 1221e–1(d)(1); to the Committee on Education and Labor.

583. A letter from the Secretary, Department of Health and Human Services, transmitting the annual report regarding the types of projects and activities funded under the Drug Abuse Prevention Program for Runaway and Homeless Youth, pursuant to 42 U.S.C. 11822; to the Committee on Education and Labor.

584. A letter from the Chairman, National Commission for Employment Policy, transmitting two reports: their 17th annual report and a study on the employment effects of the North American Free Trade Agreement, pursuant to 29 U.S.C. 1775; to the Committee on Education and Labor.

585. A letter from the President, James Madison Memorial Fellowship Foundation, transmitting the 1992 annual report of the Foundation, pursuant to Public Law 99–591, section 814(b) (100 Stat. 3341–81); to the Committee on Education and Labor.

586. A letter from the National Council on Education Standards and Testing, transmitting the Council's final report covering the period from June 27, 1991 to January 15, 1991, pursuant to Public Law 102–62; section 405 (a) and (b) (105 Stat. 315); to the Committee on Education and Labor.

587. A letter from the Assistant Secretary for Environment, Safety and Health, Department of Energy, transmitting notification of expanding the public comment period relative to the expansion of the Strategic Petroleum Reserve; to the Committee on Energy and Commerce.

588. A letter from the Chairman, National Commission on Acquired Immune Deficiency Syndrome, transmitting a report entitled "The Challenge of HIV/AIDS in Communities of Color"; to the Committee on Energy and Commerce.

589. A letter from the Secretary of Energy, transmitting the Department's report on definitions required by subsection 2307(b) of the Energy Policy Act of 1992; to the Committee on Energy and Commerce.

590. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed license for the export of major defense equipment and services sold commercially to Taiwan (Transmittal No. DTC–10–93), pursuant to 22 U.S.C. 2776 (c) and (d); to the Committee on Foreign Affairs.

591. A letter from the Secretary of Commerce, transmitting his notification that, pursuant to Executive Order 12730, that he is extending for the period January 21, 1993, through January 20, 1994, export controls maintained for foreign policy purposes under the Export Administration Regulations, pursuant to 50 U.S.C. app. 2405(o)(1); to the Committee on Foreign Affairs.

592. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of his determination that Israel is not being denied its right to participate in the activities of the International Atomic Energy Agency, to Public Law 99–88, chapter V (99 Stat. 323); Public Law 100–461, title I (102 State. 2268–3); to the Committee on Foreign Affairs.

593. A letter from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 93–6, designating refugees, displaced persons, and victims of conflict from the farmer Yugoslavia as qualifying for assistance under section 2(b)(2) of the Migration and Refugee Assistance Act, pursuant to 22 U.S.C. to 22 U.S.C. 2601(c)(3); the Committee on Foreign Affairs.

594. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 93–3, with respect to assistance to and trade with Afghanistan; to the Committee on Foreign Affairs.

595. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report detailing the current disposition of previous U.S. exports of highly enriched uranium, pursuant to section 903(b) of the Energy Policy Act; to the Committee on Foreign Affairs.

596. A letter from the Secretary of State, transmitting the administration's report on United States assistance and economic cooperation strategy for the New Independent States of the former Soviet Union, pursuant to section 103 of the Freedom Support Act; to the Committee on Foreign Affairs.

597. A letter from the Secretary, Department of Health and Human Services, transmitting a report of surplus real property transferred or leased for public health purposes in fiscal year 1992, pursuant to 40 U.S.C. 484(o); to the Committee on Government Operations.

598. A letter from the Co-Chairman, Appalachian Regional Commission, transmitting an annual report on activities pursuant to the Inspector General Act, pursuant to Public Law 100–504; to the Committee on Government Operations.

599. A letter from the Archivist of the United States, transmitting a report concerning the preservation of certain electronic Federal records; to the Committee on Government Operations.

600. A letter from the Chairman, Equal Employment Opportunity Commission, transmitting a report on activities of the Commission for the fiscal year ended September 30, 1992, including the required management report, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

601. A letter from the Secretary of the Treasury, transmitting the semiannual report of activities of the Inspector General for the period through September 30, 1992, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

602. A letter from the Secretary of Energy, transmitting notification of the intent to contract for management and operation of the Department of Energy child development centers using other than competitive procedures, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

603. A letter from the Secretary of State, transmitting the annual report under the Federal Managers' Financial Integrity Act for FY 1992, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

604. A letter from the Chairman, Securities and Exchange Commission, transmitting the semiannual report on activities pursuant to the Inspector General Act, pursuant to Public Law 100–504; to the Committee on Government Operations.

605. A letter from the Chairman, Thrift Depositor Protection Oversight Board, transmitting a semiannual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

606. A letter from the Executive Director, United States National Commission on Libraries and Information Science, transmitting an annual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

607. A letter from the Secretary of Interior, transmitting a copy of the Onshore Oil and Gas Leasing Report, Fiscal year 1991, pursuant to 30 U.S.C. 226 note; to the Committee on Natural Resources.

608. A letter from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting a proposed plan for the use of the Oglala Sioux Tribe of the Pine Ridge Indian Reservation for judgment funds in Docket 117, before the United States Claims Court; to the Committee on Natural Resources.

609. A letter from the Assistant Secretary for Territorial and International Affairs, Department of the Interior, transmitting a draft of proposed legislation to authorize financial assistance for the Northern Mariana Islands, and for other purposes; to the Committee on Natural Resources.

610. A letter from the Acting Assistant Secretary for Indian Affairs, Department of the Interior, transmitting a proposed plan for the use of the Soboba Band of Mission Indians of the Soboba Indian Reservation for judgment funds awarded in Docket 80–A–1; to the Committee on Natural Resources.

611. A letter from the Attorney General, transmitting a report on the amounts deposited in the U.S. Trustee System Fund, and a description of expenditures for the period of October 1, 1990, to September 30, 1992, pursuant to Public Law 99–554, section 115(a) (100 Stat. 3094); to the Committee on the Judiciary.

612. A letter from the Acting Assistant Attorney General, Department of Justice, transmitting a copy of a report entitled, "Report on the Security of State-Issued Documents"; to the Committee on the Judiciary.

613. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a draft of proposed legislation to provide for the adjudication of certain claims against Iraq and for other purposes; to the Committee on the Judiciary.

614. A letter from the Chairman, Little League Baseball, transmitting the organization's annual report for the fiscal year ending September 30, 1992, pursuant to 36 U.S.C. 1084(b); to the Committee on the Judiciary.

615. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report of the United States Pacific Salmon Commission; to the Committee on Merchant Marine and Fisheries.

616. A letter from the Postmaster General, transmitting a report on the recent developments involving the Postal Service's Board of Governors and the White House; to the Committee on Post Office and Civil Service.

617. A letter from the Assistant Secretary of the Army for Civil Works, transmitting a report on a list of projects or separable elements of projects which have been authorized, but for which no funds have been obli-

gated during the preceding ten full fiscal years, pursuant to 33 U.S.C. 579a; to the Committee on Public Works and Transportation.

618. A letter from the Secretary of Transportation, transmitting a copy of Status of the Nation's Highways, Bridges, and Transit Systems: Conditions and Performance, pursuant to 23 U.S.C. 307(f); to the Committee on Public Works and Transportation.

619. A letter from the Assistant Secretary of the Army for Civil Works, transmitting views and recommendations of the Secretary of the Army on a study done by the Army Corps of Engineers of possible flood control, water and recreation development, and other allied purposes at Black Hawk County, IA; to the Committee on Public Works and Transportation.

620. A letter from the Secretary, Department of Energy, transmitting a report on Steel Initiative Management Plan Research and Development Activities, pursuant to 15 U.S.C. 5107; to the Committee on Science, Space, and Technology.

621. A letter from the Administrator, Environmental Protection Agency, transmitting the Geographic index of Environmental Articles, 1991; to the Committee on Science, Space, and Technology.

622. A letter from the Secretary of Commerce, transmitting the second biennial report on Federal agency use of the technology transfer authorities contained in the Stevenson-Wydler Act; to the Committee on Science, Space, and Technology.

623. A letter from the Department of Commerce, transmitting the annual report on the activities of the Foreign Trade Zones Board for fiscal year 1991, pursuant to 19 U.S.C. 81p(c); to the Committee on Ways and Means.

624. A letter from the Secretary of the Treasury, transmitting a report on the taxation of Social Security and Railroad Retirement Benefits in calendar years 1990, pursuant to 42 U.S.C. 401 note; to the Committee on Ways and Means.

625. A letter from the Secretary of Energy, transmitting the Department's activities relating to the Defense Nuclear Facilities Safety Board for Calendar Year 1992, pursuant to 42 U.S.C. 2286e(b); jointly, to the Committee on Armed Services and Energy and Commerce.

626. A letter from the Director, Office of Management and Budget, transmitting a report on accounts containing unvouchered expenditures that are potentially subject to audit by the General Accounting Office, pursuant to 31 U.S.C. 3524(b); jointly, to the Committee on Government Operations, Appropriations, and the Budget.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. A report on 1992 Comprehensive Oversight Initiative of the Committee on Ways and Means (Rept. 103–7). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 1. A bill to grant family and temporary medical leave under certain circumstances; with an amendment (Rept. 103–8, Pt. 1). Ordered to be printed.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 1. A bill to grant family and temporary medical leave under certain circumstances; with an amendment (Rept. 103–8, Pt. 2). Ordered to be printed.

Mr. SWIFT: Committee on House Administration. H.R. 2. A bill to establish national voter registration procedures for Federal elections, and for other purposes; with an amendment (Rept. 103–9). Referred to the Committee of the Whole House on the State of the Union.

Mr. GORDON: Committee on Rules. House Resolution 58. Resolution providing for the consideration of the bill (H.R. 1) to grant family and temporary medical leave under certain circumstances (Rept. 103–10). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DINGELL (for himself and Mr. MARKEY):

H.R. 707. A bill to establish procedures to improve the allocation and assignment of the electromagnetic spectrum, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BEREUTER:

H.R. 708. A bill to amend the Federal Election Campaign Act of 1971 and the Internal Revenue Code of 1986 to make Federal elections more competitive, open, and honest; jointly, to the Committees on House Administration and Ways and Means.

By Mr. CUNNINGHAM (for himself, Mr. HUNTER, Mr. GALLEGLY, Mr. ROYCE, and Mr. DOOLITTLE):

H.R. 709. A bill entitled, the "California-Mexico Border Drug Trafficking Reduction Act"; to the Committee on the Judiciary.

By Mr. DURBIN (for himself, Mr. HANSEN, Mr. MAZZOLI, Mrs. SCHROEDER, Mr. SYNAR, Mr. ANDREWS of Texas, Mr. MCDERMOTT, Mr. PORTER, Mr. MILLER of California, Mr. FAWELL, Mr. LAFALCE, Mr. LIPINSKI, Mr. ACKERMAN, Mr. FRANK of Massachusetts, Ms. PELOSI, and Mr. YATES):

H.R. 710. A bill to protect children from exposure to environmental tobacco smoke in the provision of children's services, to require the Administrator of the Environmental Protection Agency to promulgate guidelines for instituting nonsmoking policy in buildings owned or leased by Federal agencies, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GONZALEZ:

H.R. 711. A bill to amend title 18, United States Code, to ensure that handguns are available only to persons with demonstrated knowledge and skill in their safe use, maintenance, and storage; to the Committee on the Judiciary.

By Mr. ENGEL:

H.R. 712. A bill to require certain entities receiving United States funds from the International Fund for Ireland to comply with the MacBride principles; to the Committee on Foreign Affairs.

H.R. 713. A bill concerning paramilitary groups and British security forces in Northern Ireland; to the Committee on Foreign Affairs.

H.R. 714. A bill to increase the number of weeks for which emergency unemployment compensation is payable, and for other purposes; to the Committee on Ways and Means.

By Mr. FIELDS of Texas:

H.R. 715. A bill to amend title 18, United States Code, to extend the prohibitions against assaulting certain Federal officers and employees to State or local officials assisting in the enforcement of Federal criminal law at the request of a Federal agency; to the Committee on the Judiciary.

By Mr. FRANK of Massachusetts:

H.R. 716. A bill to amend title 31, United States Code, to establish an interest penalty for failure to make prompt payments under service contracts with small business concerns; to the Committee on Government Operations.

H.R. 717. A bill to reauthorize special immigrant provisions for certain retirees; to the Committee on the Judiciary.

By Mr. GILMAN:

H.R. 718. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit for the purchase of domestically manufactured automobiles; to the Committee on Ways and Means.

By Mr. GRANDY (for himself, Mr. ORTON, Mr. GOODLING, Ms. DUNN, Ms. PRYCE of Ohio, Mr. ROGERS, and Mr. KOLBE):

H.R. 719. A bill to amend the Internal Revenue Code of 1986 to allow individuals an exclusion for contributions made pursuant to a salary reduction arrangement to accounts established pursuant to employer-provided family and medical leave plan; to the Committee on Ways and Means.

By Mr. JOHNSON of South Dakota:

H.R. 720. A bill to authorize the adjustment of the boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest, and for other purposes; to the Committee on Natural Resources.

By Mr. KASICH (for himself and Mr. SANTORUM):

H.R. 721. A bill to amend the Social Security Act to extend the ban on physician self-referrals to all payors and to radiology and diagnostic imaging services, radiation therapy services, physical therapy services, and durable medical equipment; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. KYL (for himself and Ms. ENGLISH of Arizona):

H.R. 722. A bill to provide Indian education assistance to carry out the purposes of title IV of the Arizona-Idaho Conservation Act of 1988, Public Law 100–696, to provide for reimbursement to the Treasury by certain private parties, and for other purposes; to the Committee on Education and Labor.

By Mr. LEWIS of Florida (for himself, Mr. MCCOLLUM, Mr. LEHMAN, Mr. GINGRICH, Mr. HYDE, Mr. SOLOMON, Mr. LIVINGSTON, Mr. SHAW, Mr. BILIRAKIS, Mr. OXLEY, Mr. SENSENBRENNER, Mr. GOSS, Mr. MCMILLAN, Mr. GREENWOOD, Mr. PACKARD, Mr. STUMP, Mr. WELDON, Mr. WALSH, Mr. BARTLETT of Maryland, Mr. BAKER of California, Mr. MICA, Mr. SAM JOHNSON, and Mr. MILLER of Florida):

H.R. 723. A bill to amend the Immigration and Nationality Act to expedite the deportation and exclusion of criminal aliens; to the Committee on the Judiciary.

By Mr. LIPINSKI:

H.R. 724. A bill to amend the Harmonized Tariff Schedule of the United States to restore the duty rate that prevailed under the Tariff Schedules of the United States for certain twine, cordage, ropes, and cables; to the Committee on Ways and Means.

By Mr. MACHTLEY (for himself, Mr. MCCLOSKEY, and Mr. UPTON):

H.R. 725. A bill to amend title XIX of the Social Security Act to create a new part under such title to provide access to services for medically underserved populations not currently served by federally qualified health centers, by providing funds for a new program to allow federally qualified health centers and other qualifying entities to expand such centers' and entities' capacity and to develop additional centers; to the Committee on Energy and Commerce.

By Mr. MACHTLEY (for himself, Mr. KOPETSKI, and Mr. WISE):

H.R. 726. A bill to amend title XVIII of the Social Security Act to exempt mental health services furnished to an individual who is a resident of a nursing facility from the limitation on the amount of incurred expenses for mental health services that may be taken into account in determining the amount of payment for such services under part B of the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. MATSUI:

H.R. 727. A bill to amend the Internal Revenue Code of 1986 and the Social Security Act to provide for health insurance coverage for pregnant women and children through employment-based insurance and through a State-based health plan; jointly, to the Committees on Ways and Means, Energy and Commerce, and Education and Labor.

By Mr. MATSUI (for himself and Mr. JACOBS):

H.R. 728. A bill to provide for the inclusion of specific items in any listing of impairments for the evaluation of human immunodeficiency virus [HIV] infection prescribed in regulations of the Secretary for use in making determinations of disability under titles II and XVI of the Social Security Act; to the Committee on Ways and Means.

By Mr. MCNULTY:

H.R. 729. A bill to prohibit discrimination by the States on the basis of nonresidency in the licensing of dental health care professionals, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. MORELLA:

H.R. 730. A bill to establish a National Center for Biological Resources—Research and Development—to facilitate the collection, synthesis, and dissemination of information relating to the sustainable use, research, development, and conservation of biological resources; jointly, to the Committees on Merchant Marine and Fisheries and Science, Space, and Technology.

By Mr. OWENS:

H.R. 731. A bill to reduce the cost of operating the military service academies, to establish a program of college scholarships to assist the education of students in exchange for service in the Federal Government, and to increase Montgomery GI bill benefits; jointly, to the Committees on Armed Services and Veterans' Affairs.

H.R. 732. A bill to provide for fair and nonpartisan administration of Federal elections; to the Committee on House Administration.

H.R. 733. A bill to amend title 39, United States Code, to require the disclosure of certain information in connection with the solicitation of charitable contributions by mail, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. PASTOR (for himself, Mr. KOLBE, and Ms. ENGLISH of Arizona):

H.R. 734. A bill to amend the act entitled "An act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes"; to the Committee on Natural Resources.

By Mr. PAYNE of New Jersey:

H.R. 735. A bill to amend the U.S. Housing Act of 1937 to exclude from consideration as family income for purposes of Federal housing assistance programs certain rebates and refunds for the cost of State property taxes paid through rent; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RAHALL (for himself, Mr. MONTGOMERY, Mr. GINGRICH, Mr. SOLOMON, Mr. PARKER, Mr. SCHIFF, Mr. LEWIS of Florida, and Mr. PICKETT):

H.R. 736. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the qualified military benefits received by retired military personnel serving as administrators or instructors in the Junior Reserve Officers' Training Corps; to the Committee on Ways and Means.

By Mr. REYNOLDS (for himself and Mr. TUCKER):

H.R. 737. A bill to provide for the manufacturer or importer of a handgun or an assault weapon to be held strictly liable for damages that result from the use of the handguns or assault weapon, and to amend the Internal Revenue Code of 1986 to increase the excise tax on firearms and use a portion of the revenues from such tax to assist hospitals in urban areas to provide medical care to gunshot victims who are not covered under any health plan; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. ROTH:

H.R. 738. A bill to repeal the minimum adjustments to prices of fluid milk under Federal marketing orders and to establish basing points in various geographical areas of the United States for purposes of determining prices to be paid to milk producers under such orders; to the Committee on Agriculture.

By Mr. ROTH (for himself, Mr. SAXTON, Mr. PACKARD, Mr. BAKER of Louisiana, Mr. SISISKY, Mr. CRANE, Mr. ARMEY, Mr. OXLEY, Mr. ROHRABACHER, Mr. HYDE, and Mr. HERGER):

H.R. 739. A bill to amend title 4, United State Code, to declare English as the official language of the Government of the United States; to the Committee on Education and Labor.

By Mr. ROYCE:

H.R. 740. A bill to amend title 18, United States Code, to provide Federal penalties for stalking; to the Committee on the Judiciary.

By Mr. SHAW (for himself, Mrs. JOHNSON of Connecticut, Mr. GRANDY, Mr. SANTORUM, Mr. MICHEL, and Mr. GINGRICH):

H.R. 741. A bill to amend title IV of the Social Security Act to provide welfare families with the education, training, job search, and work experience needed to prepare them to leave welfare within 2 years, to authorize States to conduct demonstration projects to test the effectiveness of policies designed to help people leave welfare and increase their financial security, and for other purposes; jointly, to the Committees on Ways and Means, Agriculture, Education and Labor, Energy and Commerce, Banking, Finance and Urban Affairs, and the Judiciary.

By Mr. SYNAR (for himself and Mr. MILLER of California):

H.R. 742. A bill to amend chapter 11, of title 31, United States Code, to require that the annual budget submitted by the President includes a statement of revenues obtained from the sale, lease, and transfer of Government assets, and for other purposes; to the Committee on Government Operations.

By Mr. SYNAR:

H.R. 743. A bill to amend the National Park Service Concession Policy Act to foster competition among concessions, to improve management of concessions consistent with the preservation of resources and the purposes of the National Park System, and for other purposes; to the Committee on Natural Resources.

By Mr. THOMAS of Wyoming:

H.R. 744. A bill to provide for a water purchase contract by Kirby Ditch Irrigation District and by Bluff Irrigation District in the State of Wyoming; to the Committee on Natural Resources.

H.R. 745. A bill to authorize the Secretary of the Interior to transfer to the Goshen Irrigation District, WY, certain lands and irrigation structures relating to the Fort Laramie Division of the North Platte Project; to the Committee on Natural Resources.

By Mr. WOLF:

H.R. 746. A bill to establish the Shenandoah Valley National Battlefields and Commission in the Commonwealth of Virginia, and for other purposes; to the Committee on Natural Resources.

By Mr. ZELIFF (for himself and Mr. SWETT):

H.R. 747. A bill to require the Secretary of Defense to modify the criteria used for the selection of military installations for closure and realignment under the Defense Base Closure and Realignment Act of 1990; to the Committee on Armed Services.

By Mr. DE LA GARZA (for himself and Mr. ROBERTS):

H.J. Res. 84. Joint resolution to proclaim March 20, 1993, as "National Agriculture Day"; to the Committee on Post Office and Civil Service.

By Mrs. JOHNSON of Connecticut:

H.J. Res. 85. Joint resolution designating March 1, 1993, through March 5, 1993, as "National Saleswomen Week"; to the Committee on Post Office and Civil Service.

By Mr. MCDADE:

H.J. Res. 86. Joint resolution to designate the weeks of September 19, 1993, through September 25, 1993, and of September 18, 1994, through September 24, 1994, as "National Rehabilitation Week"; to the Committee on Post Office and Civil Service.

By Mr. MCNULTY:

H.J. Res. 87. Joint resolution designating October 1993 as "National School Attendance Month"; to the Committee on Post Office and Civil Service.

By Mr. MURTHA (for himself and Mr. SAXTON):

H.J. Res. 88. Joint resolution to provide for the issuance of a commemorative postage stamp in honor of Dr. Alice Stokes Paul; to the Committee on Post Office and Civil Service.

By Mr. RAHALL:

H.J. Res. 89. Joint resolution proposing an amendment to the Constitution of the United States relating to voluntary prayer in public schools; to the Committee on the Judiciary.

By Ms. SNOWE:

H.J. Res. 90. Joint resolution to designate the week beginning November 21, 1993, and the week beginning November 20, 1994, each as "National Family Caregivers Week"; to the Committee on Post Office and Civil Service.

By Mr. ENGEL:

H. Con. Res. 31. Concurrent resolution concerning human rights in the north of Ireland; to the Committee on Foreign Affairs.

H. Con. Res. 32. Concurrent resolution expressing the sense of the Congress that the Vatican should recognize the State of Israel and should establish diplomatic relations with that country; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

37. By the SPEAKER: Memorial of the General Assembly of the State of New Jersey, relative to the 513th Military Intelligence Brigade being moved from Fort Monmouth to Fort Gordon, GA; to the Committee on Armed Services.

38. Also, memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to permitting full concurrent receipt of military longevity retired pay and service-connected disability compensation benefits; to the Committee on Armed Services.

39. Also, memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to maintaining and increasing funding for weatherization programs; to the Committee on Science, Space, and Technology.

40. Also, memorial of the Legislature of the State of California, relative to an energy strategy; to the Committee on Science, Space, and Technology.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. CALVERT introduced a bill (H.R. 748) for the relief of John M. Ragsdale; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1: Mr. BISHOP, Mr. BOEHLERT, Mr. BROWN of Ohio, Mr. CLEMENT, Miss COLLINS of Michigan, Mr. COYNE, Mr. DEUTSCH, Mr. FINGERHUT, Ms. FURSE, Mr. GEJDENSON, Mr. GILMAN, Mr. GUTIERREZ, Mr. HAMBURG, Mr. HOCHBRUECKNER, Mr. HUGHES, Ms. E.B. JOHNSON, Mr. KANJORSKI, Ms. LAMBERT, Mr. LEWIS of Georgia, Ms. LOWEY, Ms. MARGOLIES-MEZVINSKY, Mr. MCHALE, Ms. MCKINNEY, Ms. MEEK, Mr. MENENDEZ, Mr. MINGE, Mr. NADLER, Mr. OBEY, Mr. RICHARDSON, Ms. ROYBAL-ALLARD, Mr. RUSH, Ms. SHEPHERD, Mr. SKAGGS, Mr. STOKES, Mr. TORRICELLI, Mr. TUCKER, Mr. WATT, and Mr. YATES.

H.R. 2: Mr. ANDREWS of New Jersey, Mr. BECERRA, Mr. BROWN of California, Ms. DELAURO, Mr. DELLUMS, Mr. FIELDS of Louisiana, Mr. GUTIERREZ, Mr. HALL of Ohio, Ms. HARMAN, Ms. E.B. JOHNSON, Mr. MORAN, Mr. NEAL of Massachusetts, Mr. OBEY, Mr. OLVER, Mr. PETERSON of Minnesota, Ms. VELAZQUEZ, and Mr. WYNN.

H.R. 4: Ms. BYRNE.

H.R. 5: Mr. BONIOR, Mr. FORD of Michigan, Mr. GEPHARDT, Mr. MINETA, Mr. ANDREWS of New Jersey, Mr. ANDREWS of Maine, Mr. APPLEGATE, Mr. BACCHUS of Florida, Mr. BARRETT of Wisconsin, Mr. BERMAN, Mr. BORSKI, Mr. CARDIN, Mr. CLYBURN, Mr. COSTELLO, Mr. COYNE, Mr. DE LUGO, Ms. DELAURO, Mr. DEFAZIO, Mr. DELLUMS, Mr. DICKS, Mr. DURBIN, Mr. EDWARDS of California, Mr. ENGEL, Mr. FILNER, Mr. FOGLIETTA, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GLICKMAN, Mr. GONZALEZ, Mr. GENE GREEN, Mr. HAMILTON, Mr. HINCHEY, Mr. HOCHBRUECKNER, Mr. HOLDEN, Mr. HUGHES, Mr. KANJORSKI, Ms. KAPTUR, Mrs. KENNELLY, Mr. KILDEE, Mr. KLINK, Mr. LAFALCE, Mr. LEHMAN, Ms. MALONEY, Mr. MCCLOSKEY, Mr. MCHALE, Mr. MCHUGH, Ms. MEEK, Mr. MILLER of California, Mrs. MINK, Mr. MOAKLEY, Mr. MORAN, Mr. MURTHA, Mr. NADLER, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OBEY, Mr. OLVER, Mr. OWENS, Mr. PALLONE, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. PENNY, Mr. POMEROY, Mr. RAHALL, Mr. REYNOLDS, Mr. ROEMER, Mr. RUSH, Mr. SANDERS, Mr. SCHUMER, Mr. SERRANO, Mr. SKAGGS, Mr. SMITH of New Jersey, Mr. STARK, Mr. STOKES, Mr. TORRICELLI, Mrs. UNSOELD, Ms. VELAZQUEZ, Mr. VENTO, Mr. VISCLOSKY, Mr. WASHINGTON, Mr. WAXMAN, Mr. WILLIAMS, Mr. WISE, Ms. WOOLSEY, Mr. STRICKLAND, Miss COLLINS of Michigan, Mr. MARTINEZ, Mr. OBERSTAR, Mr. MURPHY, Mr. SCOTT, Ms. ESHOO, Mr. KOPETSKI, Mr. WYNN, Mr. GUTIERREZ, Ms. ENGLISH of Arizona, Mr. DIXON, Mr. WILSON, Mr. STUPAK, Mr. RANGEL, Mr. LANTOS, Mr. HASTINGS, Mr. EVANS, and Ms. BYRNE.

H.R. 7: Mr. GUTIERREZ and Ms. NORTON.

H.R. 18: Mr. ACKERMAN, Mr. BREWSTER, Ms. SHEPHERD, Mr. FRANK of Massachusetts, Mr. ROHRABACHER, Ms. MALONEY, Ms. MOLINARI, Mr. BAESLER, Ms. LAMBERT, Mr. MFUME, Mr. RAHALL, Mrs. UNSOELD, Mr. ANDREWS of New Jersey, Mr. HOCHBRUECKNER, Mr. FLAKE, Mr. BACCHUS of Florida, Mr. CHAPMAN, Mr. ROMERO-BARCELÓ, Mr. CRAMER, Mr. MCNULTY, Mr. GRANDY, Mr. OBERSTAR, Mr. DICKS, Mr. TANNER, Mr. OXLEY, Mr. FOGLIETTA, Mr. REED, Mr. SHAYS, Mr. MARTINEZ, Mr. HUTCHINSON, Ms. NORTON, Mr. ORTON, Mr. DE LUGO, Mr. SPRATT, Mrs. LLOYD, Mr. MCCLOSKEY, Mr. MACHTLEY, Mr. GUTIERREZ, Mr. HASTINGS, Mr. CLAY, Mr. ABERCROMBIE, and Mr. WATT.

H.R. 23: Mr. MOORHEAD.

H.R. 24: Mr. ARMEY, Mr. EVERETT, Mr. GOSS, Mr. HERGER, Mrs. MEYERS of Kansas, and Mr. SPENCE.

H.R. 25: Mr. BLACKWELL, Mr. COLEMAN of Texas, Mr. DELLUMS, Mr. EVANS, Mr. GREENWOOD, Mr. HAMBURG, Mr. JOHNSTON of Florida, Mr. LEVIN, Mr. MARTINEZ, Ms. NORTON, Mr. PAYNE of New Jersey, Mr. PRICE of North Carolina, Ms. ROYBAL-ALLARD, Mr. SCOTT, Mr. SHEPHERD, Mr. SKAGGS, Mr. SMITH, of Oregon, Mr. STARK, and Mr. VELAZQUEZ.

H.R. 26: Mr. DELLUMS, Mr. FORD of Michigan, Mr. JOHNSTON of Florida, Mr. OLVER, Mr. SABO, Mr. SKAGGS, Mr. SWIFT, Ms. WOOLSEY, and Mr. WYNN.

H.R. 34: Mr. QUILLEN, Mr. PARKER, Miss COLLINS of Michigan, and Mr. EMERSON.

H.R. 37: Mr. MCCANDLESS, Mr. SCHIFF, Mr. FROST, and Mr. LEVY.

H.R. 93: Mr. MCCRERY, Mr. TAUZIN, Mr. PACKARD, Mr. SAM JOHNSON, Mr. MCMILLAN, Mr. BEVILL, Mr. WALKER, Mr. LEWIS of Florida, Mr. HYDE, Mr. CLINGER, Mr. DORNAN, Mr. PETE GEREN, Mr. DUNCAN, Mr. GOSS, Mr. PORTER, Mr. COX, Ms. DUNN, Mr. WALSH, Mr. SOLOMON, and Mr. GINGRICH.

H.R. 94: Mr. BALLENGER, Mr. GOODLING, Mr. WALSH, Mr. MOORHEAD, Mr. SKEEN, and Mr. BEREUTER.

H.R. 118: Mr. PASTOR, Mr. TEJEDA, Mr. CHAPMAN, Mr. ROMERO-BARCELO, Mr. ANDREWS of Texas, Mr. EDWARDS of Texas, and Mr. WYNN.

H.R. 159: Mr. WALSH, Mr. TUCKER, Mr. MCHUGH, and Mr. DIAZ-BALART.

H.R. 163: Mr. SOLOMON and Mr. WALSH.

H.R. 166: Mr. KLUG.

H.R. 299: Mr. GILCHREST, Mr. MORAN, and Mr. TORRES.

H.R. 301: Mr. GALLEGLY, Mr. BLUTE, Mr. PACKARD, Mr. GOODLING, Mr. LEWIS of Florida, Mr. SOLOMON, and Mr. MCCANDLESS.

H.R. 302: Mr. GREENWOOD, Mr. HAYES of Louisiana, Mr. INHOFE, Mr. KIM, Mrs. MEYERS of Kansas, Mr. REGULA, and Ms. SHEPHERD.

H.R. 304: Mr. DORNAN, Mr. HANCOCK, Mr. HERGER, Ms. LONG, Mr. MACHTLEY, Mr. RAMSTAD, and Mrs. ROUKEMA.

H.R. 306: Mr. FAWELL, Mr. DORNAN, Mr. PACKARD, Mr. WALSH, Mr. ARMEY, Mr. HERGER, and Mr. DOOLITTLE.

H.R. 324: Mr. PETERSON of Florida, Mr. ROYCE, Mr. GREENWOOD, Mr. WALSH, Mr. SOLOMON, Mr. FISH, Mr. BAKER of California, Mr. RANGEL, Mr. ZELIFF, and Mr. PETE GEREN.

H.R. 349: Mr. CLEMENT, Mr. STARK, and Ms. DELAURO.

H.R. 419: Mr. LAFALCE, Ms. KAPTUR, Mr. GUNDERSON, Mr. MANN, and Mr. SCOTT.

H.R. 441: Mr. ANDREWS of Maine.

H.R. 454: Ms. WOOLSEY.

H.R. 465: Mr. HALL of Ohio.

H.R. 494: Miss COLLINS of Michigan, Mr. SCOTT, Mr. FROST, Ms. MEEK, Mr. MANZULLO, Mr. EVANS, Mr. MCKEON, and Mr. BLACKWELL.

H.R. 499: Mr. HINCHEY, Mr. UNDERWOOD, Mr. WYNN, Mr. PETERSON of Florida, Miss COLLINS of Michigan, Ms. MEEK, Mr. RUSH, Mr. WATT, Mr. HUGHES, Mr. STOKES, Mr. CLAY, Ms. ROYBAL-ALLARD, Mr. BECERRA, and Mr. SARPALIUS.

H.R. 526: Mr. DIXON, Mr. GUTIERREZ, Mr. MACHTLEY, Mr. MCCLOSKEY, Mr. WATT, Mr. HASTINGS, and Mr. GENE GREEN.

H.R. 538: Mr. ACKERMAN, Miss COLLINS of Michigan, Mr. DE LUGO, Mr. FALEOMAVAEGA, Mr. MARTINEZ, Mr. MILLER of California, Mrs. MORELLA, Ms. NORTON, Mr. OWENS, Mr. PAYNE of New Jersey, Ms. SLAUGHTER, Mr. TOWNS, and Mrs. UNSOELD.

H.R. 543: Mr. YOUNG of Alaska.

H.R. 546: Mr. CLEMENT, Mr. FROST, Mr. MARTINEZ, Mr. LIVINGSTON, Mr. HOCHBRUECKNER, and Mr. HERGER.

H.R. 556: Mr. FRANKS of New Jersey.

H.R. 557: Mr. FRANKS of New Jersey.

H.R. 562: Mr. BURTON of Indiana, Mr. SMITH of New Jersey, Mr. INGLIS, and Mr. BARTLETT.

H.R. 563: Mr. COX, Mr. BURTON of Indiana, Mr. SMITH of New Jersey, and Mr. BARTLETT.

H.R. 567: Mr. SAXTON, Mr. BARTLETT, and Mr. MACHTLEY.

H.R. 570: Mr. DORNAN, Mrs. VUCANOVICH, Mr. SISISKY, and Mrs. JOHNSON of Connecticut.

H.R. 571: Mr. FROST, Mrs. MEYERS of Kansas, Mrs. VUCANOVICH, Mr. BALLENGER, Mrs. JOHNSON of Connecticut, Mr. RAVENEL, and Mr. HUGHES.

H.R. 583: Ms. FOWLER and Mr. HASTINGS.

H.R. 584: Ms. FOWLER, Mr. DIAZ-BALART, and Mr. HASTINGS.

H.R. 585: Mr. WELDON.

H.R. 667: Mr. STUMP, Mr. BACCHUS of Florida, Mr. MICA, Mr. INHOFE, Mr. FIELDS of Texas, Mr. DOOLITTLE, Mr. HANCOCK, Mr. RAMSTAD, Mr. COBLE, Mr. DUNCAN, Mr. STEARNS, Mr. INGLIS, Mr. SMITH of Texas, Mrs. BENTLEY, Mr. DELAY, Mr. BAKER of Louisiana, Mr. BUNNING, Mr. ROHRABACHER, Mr. QUILLEN, Mr. ARCHER, Mr. GRAMS, Mr. MCCOLLUM, Mr. SKEEN, Mr. GALLEGLY, Mr. EMERSON, Mr. HUTCHINSON, Mr. COMBEST, Mr. BATEMAN, Mr. SOLOMON, Miss COLLINS of Georgia, Mr. HANSEN, Mr. BARTLETT, Mr. EVERETT, Mr. SUNDQUIST, Mr. CRANE, Mr. GOSS, Mr. HERGER, Mr. SPENCE, and Mr. ROGERS.

H.J. Res. 1: Mr. RANGEL, Mr. SCOTT, Ms. WOOLSEY, and Mr. SCHUMER.

H.J. Res. 46: Mr. FIELDS of Texas.

H.J. Res. 61: Mr. ALLARD, Mr. ARMEY, Mr. BAKER of California, Mr. BALLENGER, Mr. BEREUTER, Mr. BLUTE, Mr. EWING, Mr. GALLEGLY, Mr. GINGRICH, Mr. GRAMS, Mr. GOSS, Mr. HANCOCK, Mr. HERGER, Mr. KNOLLENBERG, Mr. LEVY, Mr. MCCOLLUM, Ms. MOLINARI, Mr. OXLEY, Mr. PETRI, Mr. POMBO, Mr. PORTER, Mr. RAMSTAD, Mr. ROHRABACHER, Mr. SAXTON, Mr. SENSENBRENNER, Mr. SMITH of Oregon, Mr. SOLOMON, Mr. STEARNS, Mr. STUMP, and Mr. ZELIFF.

H.J. Res. 68: Mr. TEJEDA, Mr. HOCHBRUECKNER, Mr. WAXMAN, Mr. HUGHES, Mr. COBLE, Mr. LIPINSKI, Ms. WOOLSEY, Mr. ACKERMAN, Mr. DINGELL, Miss COLLINS of Michigan, Ms. MEEK, Mr. WYNN, Mr. RANGEL, and Mr. LANCASTER.

H. Con. Res. 6: Mr. CRAMER, Mr. GREENWOOD, Mr. FRANK of Massachusetts, Mr. CRANE, Mr. PETRI, Mr. HOEKSTRA, Mr. CASTLE, Mr. SPRATT, Mr. INHOFE, and Mr. HASTINGS.

H. Con. Res. 15: Mr. ANDREWS of New Jersey, Mr. TOWNS, Mr. PETERSON of Florida, Mr. PASTOR, Mr. KOPETSKI, Mr. HUGHES, Mr. MINETA, Mr. TORRES, and Mr. HAMBURG.

H. Con. Res. 24: Mr. BONIOR, Mr. SENSENBRENNER, Mr. BOUCHER, Mr. RICHARDSON, Mrs. KENNELLY, and Mr. KING.

H. Res. 16: Mr. ROTH, Mr. BEVILL, Mr. FAWELL, Mr. SKEEN, Mr. FIELDS of Texas, Mr. HANCOCK, Mr. BARRETT of Nebraska, Mr. SOLOMON, Mr. BATEMAN, Mr. MYERS of Indiana, Mr. PETRI, and Mr. EMERSON.

H. Res. 32: Ms. LOWEY, Mr. LEVY, Mr. SKAGGS, Ms. WOOLSEY, Mr. EVANS, Mr. ENGEL, and Mr. KING.

H. Res. 40: Mr. SANDERS, Mr. FRANK of Massachusetts, Ms. WOOLSEY, Mr. EVANS, Mrs. SCHROEDER, and Mrs. MORELLA.

H. Res. 41: Mr. MAZZOLI, Mr. JACOBS, and Mr. FRANK of Massachusetts.

H. Res. 45: Mr. GREENWOOD, Mr. SOLOMON, Mr. SENSENBRENNER, Mr. BAKER of California, and Mr. LIVINGSTON.

PETITIONS, ETC.

Under clause 1 of rule XXII, follows:

11. The SPEAKER presented a petition of Office of the County Legislature, Suffolk County, NY, relative to reinstating funding for Peconic Bay Estuary; which was referred to the Committee on Merchant Marine and Fisheries.

SENATE—TUESDAY, *February 2, 1993*.

(Legislative day of Tuesday, January 5, 1993)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The Senate will come to order.

The prayer will be led by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Before the prayer, a moment of silence. Dr. Allan George Thurmond, Senator THURMOND'S brother just died. Let us remember the Thurmonds in silence.

Almighty God, Lord of history, Ruler of the nations, thank Thee for our new Government and prosper its efforts. May Thy blessings be upon the new Senators as they labor. Help all Your servants to be aware of the mandate that transcends that of the people.

You have said "* * * there is no power but of God: the powers that be are ordained of God." (Romans 13:1) They are to be "ministers of God for good."

Grant to Your servants the ability to be leaders rather than followers, to lead the people to what is needed—what is right—rather than what the people demand.

Give them courage, gracious Lord, to make hard decisions that are unpopular, to submit to conscience rather than expediency, enable Your servants to fulfill their mandate.

Before I finish, thank You, Lord, for the love and prayers I have received from the Senators in these days of being laid aside.

In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The Senate will be in order.

Under the standing order, the majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning following the time reserved for the two leaders, there will be a period for morning business until 11 a.m., during which time Senators may speak for up to 5 minutes each. At 11 a.m. this morning, the Senate will begin consideration of S. 5, the family and medical leave bill. It is my intention that the period between 11 a.m. and 12:30 p.m. today be for the purposes of opening statements and debate only on that bill. I hope shortly to obtain unanimous consent to that effect.

Once the Senate reconvenes at 2:15 p.m. today, the Senators should be aware that amendments will be offered and rollcall votes could occur any time this afternoon and into the evening. It is my hope and my expectation that the Senate will expeditiously complete action on this bill so we can then proceed to consider S. 1, the National Institutes of Health authorization bill.

Under a previous order, I have the authority to call up that bill following consultation with the Republican leader. I have assured the Republican leader that it is not my intention to go to that measure until the Senate has completed action on the family and medical leave bill.

Therefore, Mr. President, cooperation on the part of all Senators would expedite Senate consideration of these bills, thereby eliminating the need for late night sessions this week, or especially on Friday, February 5.

I hope, also, that we will be able to take up this week, following the NIH authorization bill, a resolution to be jointly sponsored by Senator DOLE and myself regarding the situation in Somalia.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and all of the time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the time of the two leaders will be reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period for the transaction of morning business until the hour of 11 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Michigan [Mr. RIEGLE] is recognized.

COST-OF-LIVING ADJUSTMENTS ON SOCIAL SECURITY

Mr. RIEGLE. Mr. President, I thank the Chair. Mr. President, I rise today to talk about the facts relating to any suggestion—and I think mistaken suggestion—about reducing or eliminating cost-of-living adjustments on Social Security. I want to just cite some basic facts here so that we get a frame of reference so that nobody misunderstands this problem.

First of all, the retirement fund under Social Security is in very solid financial condition, and it is not contributing in any way to the Federal deficit. At the end of last year, we had about $300 billion in surplus—extra money that had been accumulated in the Social Security retirement fund—and this year we will add to that surplus another $53 billion. So this fund is in very strong financial condition, as it properly should be. It is an insurance trust fund.

Workers today, and in the past, have been paying into that fund, as have their employers, and that money has been building up. What is happening here is that some people in the past, and some in the present time, say that we ought to eliminate the cost-of-living adjustment under Social Security in order to try to reduce the Federal deficit.

That is absolute nonsense. It has nothing to do with the Federal deficit. In fact, we have already passed a law to take the Social Security trust funds out of the Federal budget so that kind of a game cannot go on.

The cold fact of the matter is that some people want to cut Social Security cost-of-living increases because they do not want to have to make other difficult decisions in the Federal budget, such as spending cuts, and other areas that actually are causing the deficit to go up, or to face honestly and directly the question of revenues, what tax items might have to be adjusted, particularly taxes on high-income individuals, that can bring the money into the Government that it needs, so that we can reduce the deficit in that fashion. Obviously, we need a jobs program, an economic growth strategy that can make the economy accelerate to a higher level so that we will have more business activity, more income coming in, and that will also help close the deficit.

An aggressive jobs strategy is the single most important way to bring down the Federal deficit over a period of time. So this is not a deficit reduction issue; it only is in a phony sense.

Let me tell you the damage that would happen if the cost-of-living adjustment in Social Security were to be done away with or in some way re-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

duced. If the Social Security adjustment for cost-of-living increases were taken away for a year, it would push at least a half million seniors down into poverty. Push them below the poverty line. And more than that, it would reduce the standard of living of over 40 million people now receiving Social Security benefits.

In my home State of Michigan, I have 1,500,000 individuals today who are receiving Social Security benefits. Every single one would be harmed if they did not get that inflation adjustment, which is already built into the law and built into the financial balances that have accumulated and are continuing to accumulate in the trust fund. Moreover, if that COLA, that cost-of-living adjustment, were to be done away with for a year, the senior citizens that are affected do not just lose it for 1 year, they lose it for every year thereafter. So they would lose it this year, and it would also be gone for the next year, and the year after, and the year after, and the year after that, as long as that person lives.

That is part of the accounting trick in this whole thing, is to try to wring a false savings out that can be applied against a Federal deficit that has absolutely nothing to do with the solvency of the retirement insurance trust fund. So it is dishonest, it is disingenuous, it is wrong, and it ought not to be allowed to happen.

The average person on Social Security today gets a benefit of about $650 a month; that is $7,800 a year. Some people do not get that much, some only get $400 a month. Some get less than that. And if this cost-of-living adjustment is to be done away with or reduced to just keep people even with inflation, we are going to be taking food and medicine right out of the mouths of senior citizens, many of them in very, very tough financial circumstances.

I visited many of them in their homes in Michigan. A lot of them have anywhere from $100 or $200 a month just in medical bills for medicines, for prescription medicines that they need to sustain themselves so they do not have to go into an extended care facility or into the hospital and otherwise have to face even worse circumstances. So seniors need that protection against the rising costs in inflation, and it has been built in for that purpose.

So you have a situation where so many of the seniors, now, are getting by just on their Social Security income. In many cases it is a very low figure anyway. If you do not allow that annual inflation adjustment, what happens is you are reducing their standard of living, because their utility bills are going up, their food bills are going up, their prescription drug bills are going up, their doctor bills are going up—everything is going up. And so that is why we have built in this annual adjustment in Social Security, so they do not fall behind and they do not fall into poverty.

As I say, we have over $300 billion collected in that fund right now, precisely to protect our seniors, both for their basic retirement benefits and to see to it that those COLA benefits, those cost-of-living adjustments each year, can take place.

I want to say a couple of other things with respect to what is going on here in terms of the budget game that is underway. And I resent it deeply, as a member of the Senate Budget Committee. I have a chart here that shows the buildup in Federal deficits, as we report them now, since 1985 and stretching out to the year 1998. As they have been going up here—it is the red zone that you see here—they have been climbing up through the current year. We see that in 1992, the Federal budget deficit was approximately $300 billion.

But if you see this sort of orange-colored area at the top, this represents additional Government spending all across the spectrum of Government that in fact has been financed by going into the Social Security fund and borrowing the money and taking it out—not to spend on Social Security but to spend on other things. So we are assigning that much money in the balance of the Social Security trust fund to actually finance the rest of Government that has nothing to do with Social Security.

So, in fact the real deficit is not at this level, which is where we say it is; it is up at this higher level, which is about $350 billion.

Why do I take the time to make that point? Because by using the Social Security surpluses, tapping those surpluses to pay for things that have nothing to do with Social Security, we have had the effect of making the deficit seem lower than it really is. So now somebody has figured out if you come in here and you chisel seniors a little bit and you take away the cost-of-living adjustment, you can actually reduce the outlays in that area. You will have even a bigger surplus and therefore you will have, in effect, more budget money to spend somewhere else on other things and that is what is going on here. That is what has been going on for years and that is what is behind the notion of those who argue that the cost-of-living adjustment ought to be reduced or eliminated.

I have not heard the President say that and I do not believe that he feels that way. He is too smart for that and his campaign was not about that. And I expect the cost-of-living adjustment under Social Security will be protected because there will be those of us on this floor who will fight to protect it as we have before over the decade of the 1980's. We had a major fight on this floor in an effort to eliminate the minimum benefit under Social Security. I remember it well because I led the fight against it on this floor and we finally were successful, despite President Reagan's desire to try to do it. What is happening here, in order to forestall a tax increase on high-income people, those people earning over $200,000 a year, there is an effort to try to come in here and effect a false budget saving and false deficit reduction number by chiseling down and squeezing down the cost-of-living adjustment for people on Social Security.

It is not right. It is not justified. And I think if that issue is brought forward by anybody it will be defeated.

Finally, we need an economic growth strategy if we are going to solve this deficit problem. We need 8 million jobs in the private sector of our economy over the next 4 years. That is 2 million jobs a year, 165,000 jobs a month. And we need them now. The economic plan has to be aimed at every single dimension to driving job growth in this country. We see Sears getting rid of 50,000 employees. We see IBM getting rid of employees. There is a story in the Wall Street Journal today: Small business is not hiring employees the way they should. We need a strategy that will drive job growth in this country. Job growth will lift the level of economic activity, the revenues going to families and government, and that is the way to bring the deficit down. There is not any other way to do it for a practical matter.

For the President to have said, as he properly did, that he is going to try to reduce this deficit $145 billion annually over the next 4 years—that is a reasonable goal to strike. But we have to do that with respect to an aggressive job growth strategy, and that means we have to have all the components. We have to be tough on the trade area. We have to change our tax laws to drive private investment that creates jobs. There is a whole list of other things I might mention if there were more time here today. But to take it out of the hides of low-income seniors makes no sense. It is wrong. And it has to be prevented.

I thank the Chair.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Family and Medical Leave Act, S. 5, comes before the Senate, that the period from that time, which is now expected to be at 11 a.m. this morning, until the Senate reconvenes at 2:15 p.m., be for purposes of debate only and that no amendments be in order during that time.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I state for the record this has previously been cleared with the Republican leader prior to my making the request.

Mr. RIEGLE. Mr. President, I make a point of order a quorum is not present.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Washington is recognized for not to exceed 5 minutes in morning business.

SOCIAL SECURITY

Mr. GORTON. Mr. President, last week reports began to surface that the Clinton administration is considering cuts in Social Security as a way to help reduce the budget deficit. By the end of the week, those reports had been confirmed by several members of the new administration.

This proposal is extremely troubling. It seems to this Senator outrageous that the first thing this administration looks at to solve the budget deficit is Social Security. First, and perhaps foremost, Social Security is not responsible for the deficit. During the current year, the Social Security system will run a $53 billion surplus while the rest of the Federal Government comes up with a $310 billion deficit.

Cutting Social Security is the absolute wrong approach to solving our current deficit problems, and this Senator will oppose any attempts by the new administration to tamper with it. Neither this nor any other administration should balance the budget on the backs of our senior citizens who have paid into the Social Security system for their entire lives.

Social Security recipients have a sacred contract with their Government which I believe should be irrevocable and nonnegotiable. Many of our senior citizens rely on Social Security as their main, if not their sole, means of support. We should not renege on a promise to these people with respect to a program so vital to their lives.

During my first term in this body, Mr. President, I made a mistake similar to the one the Clinton administration is making now. I looked at the numbers and not at the people affected. I learned a valuable but expensive lesson in 1986 when the voters of my State chose not to reelect me. But I learned more than a simple political lesson in that year. I learned the importance of listening. I learned that the concerns of my constituents were my concerns and that I was their voice in Washington, DC. I listened to thousands of Washington seniors from across my State, and I have come to view the Social Security system as more than numbers on a balance sheet. What the people back home taught me was that the Social Security system was different, that it was special and that is was not to be used for anything other than what it was intended for: The retirement of our senior citizens.

When I ran for the Senate again in 1988, I made a solemn vow to the people of Washington State that I would not vote to cut Social Security, and I will not do so now. And the reason I will not do so is that Social Security is unlike any other program in the Federal Government. We have asked our citizens to pay into this program over the course of their working lives. In exchange for that, we have promised them a fair and reliable return on their money.

Our seniors trusted their Government, they invested in the system and now when they have reached retirement age and can no longer work, they have no other option than to rely on the word of their Government. It is a sacred bond in which they have invested their entire lives.

I am afraid that what the Clinton administration sees is a large surplus in the Social Security system and an easy solution to budget woes, but this surplus is there by design. It is being built up to provide for benefits in the future and it should not be tampered with because those benefits will be needed in the future. We cannot allow Social Security to be milked like some cash cow in order to pay for bloated and inefficient Government programs.

There is no question, of course, that budget cuts need to be made and that many of these cuts will be politically unpopular. I understand that, but those cuts will not come from Social Security today, tomorrow or in the future.

Social Security is not just another Government program. It is a contract between our seniors and their Government. It is vital to America's seniors, and I will oppose any and all attempts to cut it.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDENT pro tempore. The Chair, pursuant to the provisions of Public Law 92-484, appoints the Senator from Minnesota [Mr. DURENBERGER] as a member of the Technology Assessment Board, vice the Senator from Alaska [Mr. STEVENS].

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Washington [Mr. GORTON], is recognized for not to exceed 5 minutes.

THE FAST FLUX TEST FACILITY

Mr. GORTON. Mr. President, for a number of years I have worked with the rest of the Washington State congessional delegation and many of my Senate colleagues to preserve the Fast Flux Test Facility, or FFTF, at the Hanford site. I was thus extremely pleased to learn yesterday that Secretary of Energy O'Leary has put on hold the cold standby order for FFTF that was issued by former Secretary Watkins only weeks ago. This decision demonstrates that Secretary O'Leary is keeping an open mind about DOE programs, and gives FFTF employees and the Hanford community hope that their magnificent facility may once be used to its full potential.

The FFTF was originally constructed as part of the U.S. breeder reactor program. It is the Nation's safest and most modern test reactor, and by virtue of its size and design is among the most versatile in the world. FFTF meets all Nuclear Regulatory Commission licensing standards, and is the only DOE reactor to have ever undergone an NRC technical safety review. It has also won both the National Endowment for the Arts' Design Achievement Award and the National Energy Research Organization's Award for research and development achievements. All who have been involved in the FFTF Program have a great deal of which to be proud.

Unfortunately, cancellation of the U.S. Breeder Reactor Program left FFTF without a primary mission. Secretary Watkins therefore announced in 1990 his intention to shut down the reactor, stating that the department could no longer justify the expense of its operation.

Since that time, the Westinghouse Hanford Co.; former Governor Gardner and the Washington congressional delegation have worked together to develop a plan to operate FFTF as a multipurpose, international user facility. Public and private entities with an interest in the reactor's scientific and commercial capabilities were approached, and commitments of financial and in-kind support were secured. This marketing effort has been tremendously successful, as evidenced by the $8 million which the Japanese Science and Technology Agency budgeted for FFTF in its fiscal year 1992 budget, and the 50 million dollars' worth of components and fuel promised by European nations. The marketing team further concluded that "* * * if DOE were to commit to longer term operation of FFTF, over the next 4- to 6-years [the] level of non-DOE funding could be brought up to a level of about half the FFTF operating costs."

To be frank, these considerable commitments were secured with less than the full support of the Department of Energy. DOE set unrealistic and shifting targets for non-Federal participation, and never put its departmental heart into the marketing effort. As such, the marketing study should not be viewed as an exhaustive review of cost-sharing potential.

DOE nevertheless decided in March 1992 that it would place the reactor in hot standby status, citing failure of the marketing team to secure significant outside financial support. Secretary Watkins did, however, agree to continue to evaluate potential Federal missions for the facility. Congress responded by again appropriating enough money to run the reactor in fiscal year 1993, and by including language in the Energy Policy Act that directs DOE to maintain the reactor's operational status.

Despite this clear signal from Congress, Secretary Watkins announced on January 11 that FFTF would be placed in cold standby. He stated that no Federal mission justified continued operation of the reactor, as the facility could not compete with Russian sources in the production of plutonium 238 for space missions and had insufficient capacity to be used for nuclear weapons destruction.

This announcement was a great disappointment, but no surprise. It has been apparent for some time that Secretary Watkins and certain members of this staff did not share my vision for the future of FFTF, and were unlikely to change their minds. It is for this reason that I and the rest of the Washington delegation asked incoming Secretary O'Leary to place the cold standby order on hold and reexamine the FFTF Program for a broader perspective.

Mr. President, Secretary Watkins was probably correct in stating that no single Federal mission would in the near future justify the continued operation of FFTF. But to view the issue from this angle is to underestimate the reactor's versatility. FFTF is capable of conducting several missions simultaneously or in sequence, allowing significant cost sharing by both Federal and non-Federal users. I am convinced that if pursued vigorously the multimission concept would enable the United States to produce its own plutonium 238 at a competitive cost, as well as perform weapons destruction tests and other Federal missions. I have already noted that the interest and support we can expect from foreign governments and utilities, and am pleased to say that there is strong interest among private firms in producing medical isotopes at FFTF.

Clearly a cooperative use agreement involving so many players will not be arranged overnight. In fact, it will not be arranged at all if the Department of Energy does not commit itself wholeheartedly to the process. But the potential is there, Mr. President, and I am heartened that Secretary O'Leary has taken a step in the right direction by placing the cold standby order on hold.

Mr. President, the FFTF employs nearly 1,000 people at Hanford, and could be the technological cornerstone upon which the Hanford community builds its future as a science and technology center. But I do not support FFTF solely as a jobs project. I truly believe that the reactor, its appurtenant facilities and the people who work there comprise a national asset that is too precious to throw away. I am optimistic that Secretary O'Leary will reach the same conclusion, and will welcome the opportunity to discuss the matter with her.

The PRESIDENT pro tempore. The senior Senator from Nevada [Mr. REID] is recognized for not to exceed 5 minutes.

Mr. REID. Mr. President, I note that there are no other Senators present and wishing to speak. I ask unanimous consent, therefore, that I be allowed to speak for up to 10 minutes.

The PRESIDENT pro tempore. There being no objection, the Senator from Nevada [Mr. REID] will be recognized for not to exceed 10 minutes.

HYDROGEN AS A RENEWABLE, SUSTAINABLE ENERGY SOURCE

Mr. REID. Mr. President, about 3 weeks ago, on a fierce night with raging seas and devastating winds ripping the coastline of Scotland, the oil tanker *Braer* ran around off the coast of the Shetland Islands. The cargo of the *Braer* contained 25 million gallons of crude oil. This, Mr. President, is twice the amount involved in the devastating *Exxon Valdez* spill in 1989, a spill that cost more than $3 billion already, and it is still not complete.

High seas and blustery weather prevented assistance from anyone reaching the *Braer*, and it subsequently broke up, depositing its cargo of crude oil on the Shetlands coastline. The winds and seas churned must of this oil into a fine mist, allowing it to blow over and settle on the rich grazing lands of the Shetland Islands.

The Shetlands, home to some 23,000 people are quickly learning what the legacy of modern technology can mean. With the construction of a large oil terminal in the 1970's in the northern area of the islands, the threat of an oilspill disaster has often been on the minds of the once pastoral-oriented Shetland Island residents. The supreme irony is that the accident did not occur at or as a result of any activity associated with the terminal. It was just a ship passing in the night; a ship that has left a legacy local residents may never recover from.

Mr. President, the Shetlands are home to a bird population of tens of thousands, more than 8,000 seals, and 1,000 otters. And the entire area is an extremely important North Sea fishery. The islands are a major stop for migratory birds and waterfowl, and it is impossible to assess the long-term effects the recent spill will have on the breeding habits of many animal species.

On January 22 of this year, less than 2 weeks ago, a predawn collision of two supertankers occurred from the coast of the Indonesian island of Sumatra. This involved the Danish-owned *Maersk Navigator*, carrying 78 million gallons of crude oil, nearly 8 times the amount of oil involved in the *Exxon Valdez* spill. This was the fourth such spill since December 2 of last year, four spills within a span of approximately 7 weeks. But, Mr. President, this is unique because during a 24-hour period in 1989, three spills occurred within a span of 24 hours.

The history of oilspills throughout the world is a startling account of environmental degradation and economic ruin. And yet I suggest that most of us are not aware of all the spills that have taken place throughout the world and the severity and extent of the damage that has been inflicted on thousands of miles of coastline and countless—I repeat, countless—oceanic resources.

Much of this damage could have been avoided if we had been looking at alternative solutions to our energy problems. This country's policy of pursuing an energy strategy that embraces the importation of oil is flawed for many reasons. Among them is the role that oil plays in balancing our national security interests, which many argue forced us into the Persian Gulf war.

Additionally, the environmental and economic consequences of our addiction to oil are simply too extensive and severe to justify such a policy. But most important, we have the capability of developing the technology to rely on alternate and renewable sources of energy right here in this country, removing the threat of more tragic events such as I have just described.

Golob's Oil Pollution Bulletin, which has kept records since 1976 on oilspills, has a list that they refer to as the top 10 spills. Although it is the Who's Who of oilspill lists, the amount of oil on this list is small compared to a few of those that did not make the top 10. The top 10 spills account for a total of approximately 50 million gallons of oil.

It is interesting to note how that figure compares with 3 spills that did not make the top 10, Mr. President. For example, the 1979 rig blowout in the Gulf of Campeche in Mexico, resulting in a spill of approximately 140 million gallons—remember, the *Exxon Valdez* was 11 million—the 1977 *Amoco Cadiz* spill in Brittany, France, which spilled 68 million gallons; and the champion of them all, Mr. President, the 1991 spill of over 250 million gallons in the Persian Gulf, the result of the work of Saddam Hussein.

Environmental damage is hard to describe as a result of these spills. Shore birds have died by the tens of thousands; oyster kills; fish species destroyed. The damage to people we cannot calculate—flora, fauna, jobs, scenery.

As an exmaple, the *Valdez* spill, one of the smaller spills, Mr. President, which took place in March 1989, within 3 days, the spill had spread 35 miles, and by the end of the first week it covered 1,000 square miles. By the winter of 1989 and 1990, the spill had caused the death of tens of thousands of sea birds, over 1,000 otters, and over 100 birds of prey.

The nearly 11-million-gallon slick spread over 17,000 square miles of Alaska's coastal ocean and oiled some 1,200 miles of shoreline that included three national parks, three national wildlife refuges, and a national forest; more sea birds and mammals were killed than in any other recorded spill in history; over $100 million has been spent just to study the damage of the *Valdez* spill.

The economic consequences of this spill are staggering. As I have said a total of over $3 billion has been spent in cleanup efforts resulting from this disaster and much more needs to be done. The costs do not consider the external costs relating to litigation, cost of studies, and subsequent legislation.

Ultimately, Mr. President, this country has to ask the question: How much is enough? Is 250 million gallons in the Persian Gulf enough? Is 11 million gallons on the coast of Alaska enough? Do we need more? Do we need more than the spill of the *Amoco Cadiz* or do we need more than the *Boehlen* spill of 1976 and the *Olympic Bravery* spill? And on and on.

When will we say to ourselves that we have been pursuing an energy policy, an energy objective that is beset by hugh financial investment costs and fraught and environmental consequences of staggering proportions? I say now is the time to pursue alternate energy sources of the renewable variety. And today, Mr. President, I want to talk specifically about hydrogen.

Hydrogen is the same source of energy that has taken a man to the Moon and has taken numerous people into outer space. It is available in abundant quantities. Where? It is available right here at home. Should we choose to protect the environment, stabilize our national security, save billions and billions of dollars, and take the lead on research and development in the world energy arena, we can enjoy an energy future that relies on hydrogen, a clean, a renewable source of energy.

I am not the first to speak about hydrogen in the Senate. My colleague, Senator TOM HARKIN of Iowa, has been a champion of alternate sources of energy including hydrogen for a number of years. Well, Senator HARKIN has an ally.

Hydrogen is a clean burning fuel that virtually eliminates any threat from the environment. Hydrogen is the simplest, lightest, and most abundant element in the universe. Because of the incidence with which it occurs and the fact that its source is sustainable, it makes common sense to develop the technology to rely on hydrogen as the major energy source—not an energy source, but the energy source.

Hydrogen can reduce our current energy costs by 50, 60, 70 percent through a number of technical applications and characteristics. First of all it generates no pollution when it burns. So the cost of pollution control equipment is basically eliminated.

Other renewable energy sources, solar, wind, and geothermal, for example, only occur in given times or under certain circumstances, placing some restraint on their availability. Hydrogen is not subject to these restraints. Hydrogen can be produced from any of those naturally occurring energy sources and stored and/or transported as needed making it much more available and a more attractive option. Hydrogen production can be accomplished by different means though the most common methods are reformulation of gasoline, or the electrolysis process, both of which are relatively simple.

In addition, hydrogen exists in paper, human waste, DNA, and virtually anything that exists, and hydrogen can be generated from solar plants, ocean thermal plants or green plants. Hydrogen is already used in a wide range of energy, industrial, and chemical activities throughout the country such as fuel production, plastics, electronics, and fertilizers.

Mr. President, I mentioned all of these massive spills. If in fact one of these ships had been carrying hydrogen fuel, the product that leaked from those vessels would be water vapor. That, in effect, is the pollution from hydrogen—water, water vapor.

Right now there are engineering teams from Germany, Japan, France, Netherlands, Brazil, and even the new Russian Republics, already engaged in research and development of hydrogen as a source of fuel for vehicles and as a major source of energy in broader commercial applications.

Japan and Germany are way ahead of the rest, way ahead of the United States. We must not allow this country, our country, to be forced to buy hydrogen powered vehicles from Japan or Germany because we refused to make the effort to develop our own hydrogen fuel program. The program as it presently exists within the Department of Energy is not adequate either in terms of its composition or in terms of its funding.

We are currently using hydrogen for fuel in NASA space programs. Lockheed has a plane on the drawing board that will burn hydrogen, and prototype hydrogen homes and cars are already available in this country. Hydrogen research has made giant strides in recent years, and the future is bright if we make a further commitment to R&D.

America has taken the lead in the merging technologies, in the fields of energy, communications, or aerospace. There is no reason why cutting edge technology in the renewable energy sector should not be done here in the United State rather than in Germany and Japan, or Brazil.

I was encouraged to note that our new Secretary of Energy, Hazel O'Leary, in response to questions submitted by the Energy and Natural Resources Committee during her confirmation hearings, spoke favorably about hydrogen. She said,

> Hydrogen has great promise as a renewable source of energy for the 21st century. I intend to conduct a thorough review of the Department's research and development portfolio. I expect this review will demonstrate the need for increased research in this area.

I look forward to working with the new Energy Secretary on this issue because program is so underfunded that a program at DOE really does not exist. Four million dollars is what we had last year to study hydrogen. We spend that much in importing oil in a matter of seconds in this country. We sent a man to the Moon with hydrogen fuel. Should we not be able to send American automobiles along our earthly streets and highways with hydrogen fuel? Of course we should.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Mississippi [Mr. COCHRAN] is recognized.

THE SENATE SCHEDULE

Mr. COCHRAN. Mr. President, on the schedule, we are taking up the family and medical leave bill and following that the reauthorization of the National Institutes of Health.

I know there is also a resolution that has been scheduled, or discussed as a possible agenda item, dealing with the deployment of our forces in Somalia.

I do not know when the leader intends to bring that resolution up. But, it occurs to me that the Senate should express to, not only our administration, but to the U.N. leadership, that the United States military forces in Somalia, while they have done an outstanding job, while we support the fact that they have been deployed and commend them for exercising the kind of military control that is required to get food assistance to the people who need it—there must be a time for terminating the unilateral responsibility for this military operation.

It was intended that as soon as the situation was stabilized from a military standpoint that the United Nations would assume the responsibility for keeping the peace, for making sure that foodstuffs were not stolen, that warloads did not intimidate relief workers, and that those who were suffering were given relief. But this cannot be just a responsibility of the U.S. Marine Corps or U.S. military forces.

I am hoping that the resolution we bring to the floor will contain language which will urge the U.N. Security Council to make a decision to organize an international effort that would do what the U.S. Marine Corps is now doing virtually by itself.

There is a limit to what we should spend in this effort, and I am hoping that the Secretary General of the United Nations, Mr. Boutros Boutros-Ghali, will move quickly to reach an agreement with the U.S. negotiators.

I understand our Secretary of State has met this week in New York with the Secretary General. It seems that they are doing some talking, and they are discussing the options. It is now time to reach an agreement, arrive at a timetable for the orderly withdrawal of U.S. military forces, and a takeover of the responsibility by a U.N. peacekeeping force.

I am sure the United States would support and participate in a multinational force, but time is running out on our willingness to do this job by ourselves.

BUSH RETROSPECTIVE

Mr. COCHRAN. Mr. President, I would like to bring to the attention of the Senate a recent column written by Philip Terzian, associate editor of the Providence, RI, Journal which was printed in the January 27, 1993, editions of the Memphis, TN, Commercial Appeal.

Mr. Terzian made some very thoughtful and well-stated observations about the half-century of public service rendered by former President George Bush, from the time he entered the Armed Forces in 1942 and became the U.S. Navy's youngest aviator until his recent retirement.

President Bush has earned our deepest appreciation and most sincere thanks and congratulations for his distinguished record of service to our country.

The column speaks for many Americans, and I ask that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Memphis Commercial Appeal, Jan. 27, 1993]

BUSH RETROSPECTIVE

(By Philip Terzian)

When I wrote something about him a few years ago, George Bush was kind enough to send me one of his famous thank-you notes. I was taught not to send thank-you notes for thank-you notes, and so the President's letter was gratefully received but not acknowledged. Now, perhaps, the time has come to do so.

Last week was a week of what must be called Democratic kitsch in Washington: From Maya Angelou's stentorian doggerel to Al and Tipper Gore Boogalooing at the Armory, we were reminded more than once that "the torch has been passed" to a new generation, and that "yesterday's gone," in the words of Fleetwood Mac. Indeed, it is. And George Bush, after a half-century of public service, is back home in Houston, neglected for the moment.

As a member of the generation now coming into its own, I am supposed to be sharing in the pleasure of transition. Yet I am not so sure that the best is yet to come. There is something about the Boomers—the sanctimony, self-regard, pursuit into adulthood of instant gratification—that makes this changing of the guard disconcerting rather than joyful. Zoe Baird, with her seven-figure assets, undocumented servants and disinclination to pay her fair share, seems to symbolize it all. Power is nice, and its exercise is fun; but responsibility is important, and makes the world go 'round.

George Herbert Walker Bush has been much criticized, and vigorously lampooned, for his triple-barreled name, elite education and gentlemanly demeanor. But all Americans are born into some inheritance or another—poverty, wealth, opportunity, squalor—and the point is what we do with it in a democratic society.

For George Bush, at least, the benefit of privilege was paid out in service. At 19 he was the youngest aviator in the Navy: His "political viability" wasn't weighed in the decision. With a Yale degree in hand, he skirted past Wall Street and struck out for the hinterlands. No one who has ever set foot in Midland, Texas, can imagine that comfort was the object: He was, even then, devoted to his neighbors, fair to his competitors, loyal to his allies, doing well by doing good. From Midland to the White House, the pattern would hold.

It is, of course, much too early to say what history will make of the Bush presidency. Journalism, for the moment, is notably uncharitable. Politics is an unforgiving trade, and no one forced George Bush to make it his vocation. But in his last year in office, the extent to which Bush was mistreated by the media, and subject to all manner of invective and abuse, was a needless degradation, and disgraced his tormentors, not the object of their rage.

It is the conventional wisdom that George Bush's strengths were in foreign policy, and that is true enough. In retrospect, he was the ideal president when the Berlin Wall came down, when the Soviet empire vanished, when China shook and stumbled, and democracy, at long last, took root in Latin America. It is difficult to imagine President Dukakis—or President Clinton, for that matter—restoring peace to El Salvador, freedom to Nicaragua, or lancing the boil of Manuel Noriega. Who else might have built the global coalition that drove Hussein from Kuwait, put the United Nations in Cambodia, or brought the Syrians, Israelis and Palestinians together?

The most that Warren Christopher can say, for the moment, is that things will continue exactly as before.

Still, it should be said, that "the vision thing" meant more to Bush than is acknowledged. Few presidents are doctrinaire in practice; most tend to govern through instinct and experience. In Bush's case, his embrace of such measures as school choice, tort reform, environmental "wise use" and legislative limits for abortion-on-demand were the habits of the moderate conservative he is. Unlike his predecessor, he never enjoyed a majority in the Senate, and so his economic measures—to stimulate growth, to activate enterprise, to reduce federal spending—were habitually subverted by the partisan Left. And the recovery he predicted, it would seem, is now upon us.

If the end of the Bush presidency was the end of an era, it's an era for which we have much to be grateful. George Bush was a politician of loyalty and honor, an aristocrat in office, a leader whose awkward gallantry matched the moment. His dignity and grace were models of comportment—not least as he handed the reigns to his successor.

He has earned the restless leisure he will now enjoy, and may take some satisfaction in posterity's judgment. That is probably more than he thinks he deserves, but his country did well by Bush's devotion—and the thanks offered here will scarcely suffice.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. I thank the Chair.

(The remarks of Mr. COCHRAN pertaining to the introduction of S. 267 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. COCHRAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WOFFORD). Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the time for morning business be extended by 5 minutes and that I be permitted to speak therein.

The PRESIDING OFFICER. Without objection it is so ordered.

FOCUSING ON THE ECONOMY

Mr. LIEBERMAN. Mr. President, I rise today to express my own satisfaction and pleasure at the indications that President Clinton and his administrative team are focusing, as he promised, like a laser beam on our economy, on an economic stimulus package, and to express my particular hope that that package targets its aid to some of the regions of our Nation that are still in the deepest throes of the recession, including my own State of Connecticut; and that part of the package, the economic stimulus package be targeted with tax cuts that will give immediate incentives to the business community, particularly the manufacturing sector, to create the jobs that our people so desperately need.

Mr. President, in his recent testimony before the Senate Budget Committee, Federal Reserve Board Chairman Alan Greenspan had some pretty upbeat remarks about our Nation's economy. And overall, the data gives some basis for that optimistic view. But you have to look under the national data to appreciate the reality that we have now, a string of regional economies; and that some of those regions such as my own, New England, are still really hurting, no matter what the economic data say. The unemployment rate in Connecticut at the end of 1992, once among the lowest in the Nation, was 7.4 percent, now higher than the national average, and that figure does not count the terribly damaging layoffs that were announced by major industries in our State during the last month.

Altogether, Connecticut has lost more than 200,000 jobs since this recession began in February 1989. That is more than 12 percent of our work force. Mr. President, we unfortunately understand that a lot of those jobs are never going to come back.

Natural unemployment growth may have been on the rise, but you could not prove it in Connecticut. The layoffs at Pratt & Whitney and Hamilton Standard announced last week, over 7,000 jobs statewide, are having a devastating effect on the State's economy and psychology. What makes the cutbacks even more serious is that the job losses are in manufacturing, which is the sector that has been particularly hard hit over the last decade and the service sector is simply not poised to pick up the slack, certainly not with jobs that pay comparable salaries.

So we clearly need an economic stimulus program. I know there is an academic debate, indeed here in the Halls of Congress, about whether we ought to put deficit reduction first and forget the economic stimulus program.

Mr. President, I think if you look at the facts in Connecticut and so many other States and regions of our country, it is clear that while we have to do something about the deficit—and we should over the longer term—our No. 1 priority must be to get this economy moving again and to create new jobs for our people and protect the old jobs that people have.

A two-track economic program—a combination of targeted spending public works programs and tax cuts to spur investment in business activity is what is needed. I can tell you that in my own State the State department of transportation is ready to take high-quality, high-return projects off the shelf and get them moving out into the economy right away, as soon as we appropriate some funding. I think we also need, as part of our economic recovery program, to take a specific look at the aerospace and defense industries.

Last week, the Connecticut congressional delegation—my senior colleague who is on the floor now, Senator DODD, Members of Congress, and I—met with some of the representatives of the unions that work in aerospace. We understand that part of the reason for those layoffs in aerospace has to do not just with defense cutbacks, but with the overall economic recession and particularly with the decline in the American airline industry.

It is time that we convened a commission on an emergency basis to look at the American airline industries to see what we can do to rescue and protect our economy and our jobs and that we ought to specifically look at targeting emergency assistance to workers that are laid off as part of the recession that we are going through.

One way, I think, to do this would be to revive programs already in existence at the Economic Development Administration that are designed to help regions that have suffered an economic disaster.

Mr. President, if a natural disaster hits a State, FEMA steps right in. I think we have to be prepared to respond as rapidly when an economic disaster hits a State like the recent layoffs at Pratt & Whitney in Connecticut.

Finally, on the tax side, we have heard a lot of talk lately about economic stimulus, about deficit reduction. I think it is very important to remember that probably the most cost-effective way we can get this economy moving again is by giving tax incentives to the private sector, to business, to invest and create new jobs. We multiply our investment in tax incentives and raise Federal tax revenue by the private investment in job creation that that causes.

Mr. President, I am confident that President Clinton and his economic team are going to continue to focus on these problems and produce a program that will get America moving again when he addresses this Congress on February 17.

I ask this morning, finally, that they pay particular attention, when developing this economic stimulus package, to those sections of the country like New England and Connecticut that still are in the depths of the recession, and that they look closely also, and be sure to utilize to the fullest extent, at tax incentives to business to create growth and jobs.

Mr. President, in New England and Connecticut, we have suffered most from the recession. I hope the President's program will help us most to benefit from the antirecession and long-term growth problems and bring us back to where we were at an earlier, happy, more secure time of our economic history.

I thank the Chair and I yield the floor.

TRIBUTE TO DOUGLAS C. YEARLEY

Mr. DECONCINI. Mr. President, it is with great pleasure that I rise today to congratulate a man whose accomplishments in the copper industry have earned him the industry's highest honor. On February 18, Douglas C. Yearley will receive the Copper Club's Ankh Award as the 1993 Copper Man of the Year.

Doug is the chairman, president, and chief executive officer of the Phelps Dodge Corp., a leader in the copper industry. The State of Arizona is proud to be the home of Phelps Dodge. In 1984, Doug was one of five senior executives who developed a business plan that brought Phelps Dodge from the brink of bankruptcy to become one of the world's largest copper producers. Since then, he has transformed the company, expanding the scope of the company to the international arena. Phelps Dodge now employs more than 14,000 workers in 24 countries. Doug's personal efforts have bolstered the economy of Arizona and the Nation.

Doug has also founded and led several organizations to increase demand for copper products both at home and abroad. He has spearheaded efforts to educate the international community on the many uses of copper. As chairman of both the International Copper Association and the Copper Development Association, he continues to push for the development of new copper products, using this vital element to increase the quality of life everywhere.

Perhaps the most important achievements of Doug's distinguished career have been his efforts on behalf of the International Council of Metals and the Environment. Doug sits on the board of directors of the council, working to insure that increased demand for copper products does not come at the expense of our planet. Phelps Dodge is a founding member of the council, and Doug's efforts have placed the company at the forefront of the copper industry in the area of environmental protection.

Mr. President, the Ankh Award honors all this and more. Doug Yearley personifies the qualities that make our Nation great. His determination, commitment, and sheer hard work stand as testimony against those who would say that we are no longer capable of being a world industrial leader. I have known and worked with Doug for many years, and I know of no other person who is more deserving of the title "Copper Man of the Year." I am honored to ask my colleagues to join me in congratulating Doug on this award.

THE RELEASE OF FOUR INDIVIDUALS IN CHINA

Mr. BOREN. Mr. President, I would like to speak briefly on a news item which appeared on January 30. I was pleased to learn that the Chinese Government has decided to release on parole two prominent political dissidents, Wang Xizhe and Gao Shan. The Chinese Government has also granted passports to two other individuals, Li Jinjin and Zhang Weiguo.

I particularly welcome this news because three of these four individuals—Gao, Li, and Zhang—were listed in a letter which my good friends Senators PELL and LEVIN and I presented to the Chinese Foreign Minister and Minister of Public Security when we were in Beijing last December.

For the record, Mr. President, I would like to say a few words about each of these individuals.

Wang Xizhe was arrested in 1979 in connection with the Democracy Wall movement, in which he hung a wallposter in Guangzhou on "Democracy and the Legal System." Subsequently, he edited a prodemocracy forum entitled "April 5 Forum." He was sentenced in 1982 to 14 years imprisonment.

Gao Shan was detained in June 1989 for having convoked a meeting of students to contest the imposition of martial law in Beijing. At the time, he was a deputy director of the Institute for Reform of the Political System.

Zhang Weiguo was on the list of blocked passport cases submitted to the Chinese by then-Secretary of State James Baker in November 1991.

Li Jinjin, a doctoral student in constitutional law at Beijing University, was a legal consultant to the Beijing Workers Autonomous Federation during the spring 1989. He was arrested in Wuhan in June 1989.

Hopefully, Mr. President, these actions are preliminary steps which foreshadow a broader effort by the Chinese Government to improve relations between China and the United States.

HUD SECRETARY HENRY CISNEROS

Mr. SIMPSON. Mr. President, I applaud President Clinton for selecting Henry Cisneros to be Secretary of Housing and Urban Development. Truly, no appointment is more critical to the future of our Nation's inner cities than this one.

I met Henry Cisneros many years ago when I was working to craft an illegal immigration bill. He was a fine leader of a major American city that had reconciled many deep problems with regard to illegal immigration. I chaired several panels and seminars with him. He is a very impressive gentleman.

The challenges of urban decay, poverty, and homelessness are daunting, indeed. But thanks to the remarkable progress that has been made by Jack Kemp in the past 4 years, Cisneros is inheriting a revitalized and rejuvenated Department of Housing and Urban Development, and he can begin on day one to address these problems with strong leadership and bold actions.

I am pleased to support a nominee who has demonstrated—as mayor of San Antonio and in every other aspect of his life—such a strong and total commitment to empowering the poor and making a difference in our inner cities. Henry Cisneros is uniquely qualified to take on this post. His energy, zeal, enthusiasm, sensitivity, and creativity will serve him well. I have every confidence that Secretary Cisneros will be a bright star in the Clinton administration and I shall look forward to working with him.

SUSTAINABILITY IN MAINE

Mr. MITCHELL. Mr. President, recently, Maine Audubon Society published a series of articles on sustainable development in Maine. The Maine Audubon Society selected a group of enterprises to demonstrate the variety of sustainable options available in Maine.

In the society's journal entitled "Habitat," there are brief articles on moulded fibre technology, sustainable architecture, energy conservation, and others. This is an interesting portfolio of options that may be of interest to others. I recommend the articles and hope that more options will be developed to create a sustainable future.

I ask unanimous consent that this series of profiles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Habitat, October 1992]

DOING BUSINESS BY EXAMPLE

(By Michele Charon)

It had all the makings of a riveting disaster scene from an environmental docudrama. A vast pool of toxic industrial solvents had collected in the groundwater near a missile manufacturing plant and was headed straight for the drinking-water supply of a large California city. A state legislator and his young chief of staff began investigating, tentatively at first, by asking innocent questions about dumping practices, water-testing requirements, and the geological character of the region. Then, as they realized the magnitude of the problem, the two public-policy makers championed the nation's first law to require testing of drinking water for a range of toxic chemicals. It not only helped avert a calamity in their own area, it alerted public officials of similar potential crises all over the state.

The legislative aide was Peter Troast, and he recalls the experience as a high point in his career of environmental activism, one that solidified his commitment to working to protect the environment. It also planted an idea that would eventually blossom into a new career. "The environmental testing industry that sprung up after the passage of that law got me thinking that I could do well in business and do something good for the environment too."

What Troast did, along with partners Roger Baker and David Friedman, was to start Moulded Fibre Technology, a Westbrook firm that produces a recyclable alternative to protective polystyrene packaging. According to Joseph Grygny, a Milwaukee-based packaging consultant and regional vice president of the Institute of Packaging Professionals, it is a product that could have an enormous impact on the packaging industry. "They took some very enterprising steps in establishing this business and were very innovative in their approach," says Grygny. "They saw a definite market for environmentally proper, molded-pulp packaging products for medium-sized orders. . . they were filling a niche that was vacant."

Moulded Fibre Technology produces "interior packaging" that is used to cushion delicate products such as stereo and computer components, cosmetics, cameras, and toys for shipping. Unlike the shiny, white, bulky polystyrene packaging that's usually used for such purposes, the Moulded Fibre product is grayish with the cardboardlike texture of an egg carton and is far more compact. Also unlike polystyrene, which is a petroleum-based plastic material that is very difficult to recycle, the Moulded Fibre packaging material is easily recycled since it's made from a mixture of ground-up newspapers and water. It is produced with a "clean" production process in which the mixture is molded to very precise specifications then vacuum dried.

"No one had ever really thought of the idea of using molded fibers as a cushion packaging material," says Troast, who has gotten his packaging-industry education on the job in the eighteen months since he co-founded the company. "At this point we're the only player in the field in this country."

Troast has shaped much of his adult life around an interest in and concern for the environment. As a student at St. Lawrence University he became involved in the battle over Hydro-Quebec's proposed powerline route across the upstate New York landscape. Although the effort was ultimately unsuccessful, it did fuel Troast's zeal to be involved in environmental protection.

During Troast's sophomore year he landed an internship with Friends of the Earth in Washington, D.C., and helped lobby on national forest wilderness issues. "It was heady work, and I can say there are a couple of wilderness areas out there that I had a hand in making happen," says Troast.

After a year and a half in Washington, Troast transferred to the University of California at Berkeley, where he studied the political economics of natural resources. After completing his degree, he worked as campaign manager for a California legislative candidate named Lloyd Connelly, a politician with a strong environmental record. When Connelly won the election, he hired Troast as his chief of staff, a position Troast held for almost six years. During that time he was thrust into the thick of heated environmental conflicts over such issues as control of toxic waste dumping and prevention of pesticide contamination. Finally burned out with legislative politics, Troast accepted an offer to come to Maine in the fall of 1987 to manage the Land for Maine's Future Bond Act.

Troast's stay in Maine extended beyond that fall, however, partly due to a meeting with David Friedman of the Sandy River Group, a health-care and environmental business development company in Portland. Friedman was impressed with Troast. "He had very little business experience, but he had a tremendous drive for learning and to contribute to something," said Friedman. "His commitment to the environment is part of his fiber."

After considering more than 140 other business proposals on everything from tire recycling to fish waste composting, Troast and Friedman decided to launch Moulded Fibre Technology. Since last April, the company has been producing packaging materials for several companies, including the American branch of Honda, Harlequin Books, Milton Bradley, Benetton Cosmetics, and Shiva Corp., a producer of computer equipment.

The performance of the Moulded Fibre product has not been tested as thoroughly as that of polystyrene, because the molded pulp technology is so new. But the product has performed as well as plastic foams in United Parcel Service drop tests, and according to Joseph Grygny, another test indicated that the recyclable packaging can be more effective than plastics for damping vibration.

In the United States molded pulp currently is used to manufacture two types of products: precision molders use the newspaper-and-water mixture to create such objects as egg cartons and fruit trays, and "slush" molders use the same material to make imprecise products such as nursery pots or furniture pads. Moulded Fibre is unique in the field because it employs a sophisticated, computer-based design process to create molds that shape the material to the precise contours of various products, from lightbulbs to computer modems. Once the mold has been created and checked, the wet mixture of ground newspaper is vacuumed onto the mold. To solidify this liquid material in the desired shape, the water is then vacuumed off and the product is dropped onto a conveyor belt and run through a heater.

Moulded Fibre has grown from eight employees to its current 32, which is one measure of its early success, says Troast. The company's dual emphasis on profitability and environmental protection earned it a visit from Democratic vice-presidential candidate Al Gore in early August. Troast hoped the high-profile visit would further his aim to bring environmental values into the business world.

"The thing I feel somewhat missionary about is the notion that business can be a force for social change," says Troast, "In part I think Moulded Fibre Technology is an example that it is possible to be profitable, create economic growth and jobs, and at the same time be environmentally clean."

Troast has been active in Maine politics, serving as president of the Campaign for Sensible Transportation, the citizens group that successfully challenged the plan to widen the Maine Turnpike, and working on Tom Andrews Congressional campaign. He hasn't ruled out a run for public office himself, though not in the foreseeable future. For now Troast says he wants to focus on making his company an example of environmentally responsible economic growth.

"To bring about the kind of change that I think is necessary, it's going to take more than Moulded Fibre Technology," he says. "It's going to take companies and individuals all over the place that are willing to innovate and to see that there is great value and potential profit in seeking out products that are solutions to environmental problems."

ALL BETS ON CLEAN WATER

(By Melissa Waterman)

Outwardly, at least, there isn't much to suggest that anything particularly noteworthy occurs at the end of this narrow dirt road in Walpole: a large Quonset-shaped building with a plexiglass roof resembling the overturned hull of a very sheer dory, some piles of old fishing gear and shellfish trays, a few trucks, and a thin wooden dock on the Damariscotta River. In fact, however, as Mook Sea Farms this is the birthplace of hundreds of millions of shellfish that now grow on both the Atlantic and Pacific coasts.

From this inconspicuous site Bill Mook pursues his living. Sitting in his small office beside a Rolodex almost the diameter of a basketball, Mook talks about the growth of his business and the potential for sustainable aquaculture development in Maine. "We started in 1985 with a half-acre lease on the river and a little equipment," he says, his eyebrows moving rapidly up and down, animating his speech. "And in the first year we raised 40 million animals and made a profit with just two people."

Mook makes his accomplishment sound matter of fact, but he is actually an example of a new breed of marine entrepreneur who combines a fisherman's traditional dedication to individualism with a high level of education. A 1975 graduate of Wesleyan University with a degree in earth sciences, he went to graduate school at the University of Maine's Darling Center for a Master's degree in marine sciences. At the time the Darling Center was conducting innovative research on shellfish aquaculture techniques, an emphasis that has spawned a number of businesses operated by former students such as Mook. After graduating, Mook managed a now-defunct shellfish hatchery in Round Pond for several years before purchasing his own site.

The Quonset-like building is actually a 6,000-square-foot hatchery that Mook designed. Here Mook and his four full-time and three part-time employees raise brood stock of six shellfish species—American and European oysters, quahog, soft-shell and surf clams, and bay scallops. The building hums with the gurgle of moving water passing through a maze of pipes connecting the tanks of various shellfish. Bubbling cylinders of cultivated algae in graduated hues of sea green provide for food for this stock, whose spawn are incubated in warmed seawater from the river. The juvenile animals are then set out in screened tanks with constantly circulating seawater. When the shellfish reach one to three millimeters in size they are set out in nurseries before being sold to private growers and municipalities throughout the U.S. The hatchery now produces as many as 120 or 130 million animals in a six-month period.

Mook maintains that the key to long-term success in aquaculture is diversity. Besides cultivating six species, he deliberately promotes genetic variability within a generation and uses three different nursery sites to grow out the juveniles. Although he primarily sells seed stock to private growers and municipalities, he is also expanding his operations to include growing market-sized surf clams and oysters for sale to wholesalers. By staying relatively small and diversifying his activities, Mook believes he is better able to deal with the problems that are inevitable in this still-young industry.

Working in Mook's favor is the rising demand for seafood, a trend that shows no sign of ebbing. In the past decade U.S. per capita consumption of seafood increased nearly 25 percent, to approximately 15 pounds annually. Aquaculture accounted for 11 percent of the edible fish and shellfish harvested in the country, and worldwide the United Nations predicts that aquaculture will provide 25 percent of the world's total fisheries landings by the year 2000.

Although aquaculture got its start in Maine over a century ago with the establishment of private freshwater trout operations to stock public waters, marine aquaculture is a relative newcomer to the state's fishing industry. In the early 1970s a few small businesses began to grow oysters, mussels, and salmon. An abundance of venture capital in the 1980s helped the industry boom, particularly for salmon, but even in these recessionary times aquaculture continues to be a growth industry in Maine. In fact, with its extensive coastal habitat, high tides that circulate large volumes of water, and proximity to major metropolitan markets, Maine is well positioned to become a major aquaculture center.

Unlike capital-intensive and driven finfish operations, shellfish aquaculture businesses tend to be small, individually operated ventures. The shellfish sector of the industry in Maine currently consists of 22 active leases encompassing 416 acres of submerged land. Valued at $175 million, the industry brings in an additional $5 million in economic benefits to the state each year. But, says Michael Hastings, director of the Aquaculture Innovation Center (an office created by the Maine Aquaculture Association and the University of Maine to help facilitate the industry's development) public aquaculture of soft-shell clams could significantly increase this total. One hundred acres of submerged lands seeded with soft-shell clams can produce a harvest worth $22 million. "The demand for soft-shell clams is very constant and very solid, but the supply has been declining as productive beds have been closed to harvesting due to pollution." Sewage overflows, malfunctioning septic systems, and runoff all contribute to the high levels of bacteria that filter-feeding shellfish absorb.

Declining water quality along the coast is a particular concern to Mook and others in the industry. Given public wariness of contaminated shellfish, Maine's reputation for clean water is invaluable as a marketing tool for shellfish aquaculturists. "But how much sewage can these thin rocky soils filter?" wonders Mook. "At the local level people need to identify and think about those characteristics of the environment they value and then act to protect them."

Mook points to the Damariscotta River Tidewater Watch, a citizens' group he is involved with that monitors the water quality of the river, as an encouraging example of how people are beginning to take responsibility for the natural assets they hold in common. "We can't assume the state or federal government is protecting the environment. It's all of us who have to be responsible. This river is still clean," he says, gesturing toward the Damariscotta. "Our challenge is to make sure it stays clean." Bill Mook has several hundred million shellfish wagered that it will.

HOW GREEN IS THE AMERICAN DREAM?

(By Edgar Allen Beem)

Steven Moore is concerned. One of Maine's most verbal and visible architects, he has watched as the downturn in the economy has devastated the ranks of the state's architectural community. Taking advantage of the economic slowdown, however, Moore spent part of 1990 and 1991 as a Loeb Fellow at Harvard University's graduate school of design rethinking the theory and practice of architecture.

"On the one hand," says Moore, "I was frustrated with the agenda of [architects'] traditional client base. On the other, I had a growing fascination with how architects can be more operative in solving environmental problems."

One of the key questions Moore asked himself was, "What does it mean to design an environmentally responsible building?" And like a growing number of architects and builders, Moore found himself looking for ways to apply the principle of sustainability—long applied to energy use and agriculture, mariculture, and silviculture—to the design and construction of housing. Out of this inquiry came much of the thinking embodied in "The Complete House," a CD-ROM program Moore is publishing this fall with Deep River Publications of Portland.

"The Complete House" is a computer guide to the design and construction of a single-family house. And although it does not dictate any particular form or style of building, it does articulate some of the basic principles of sustainable housing. "Build for reuse," says Moore. "The notion of planned obsolescence is a myth. You build better if you build for greater permanence."

Sustainable architecture also means conserving material resources, avoiding the use of scarce materials such as exotic hardwoods, using recycled materials, and requiring contractors to recycle construction and demolition debris. An emphasis on renovation and repair over new construction is also a central tenet of green design.

Ecologically sensitive design aims for material efficiency. And this entails everything from the good old Yankee thrift of not wasting anything (building on four-foot modules, for example, to take full advantage of the standard size of building materials) to preferring locally produced materials that save the energy consumed in transport and shipment.

Naturally, the environmentally responsible home seeks energy efficiency itself. This means not only installing efficient heating and lighting systems, it also means avoiding the use of such energy-intensive building materials as aluminum and plywood. Sustainable housing is also healthy housing. A growing body of research suggests that responsible architects and builders should specify nontoxic paints, stains, sealants, and adhesives.

While Moore does not believe this partial list of environmental design principles prescribes any one type of house, he does find in it an affirmation of traditional regional design. "Regionalism," says Moore, "is always environmentally based if it is practiced not at the superficial level of style-making but at the level of making forms."

The segmented but connected house-barn design of traditional New England farmhouses is, for example, an environmentally appropriate way to build. And the climate and geography of the Northeast would also suggest the south-facing, pitched roof wooden homes that are so prevalent in Maine. Ironically, however, Moore does not believe that the wood-heated, passive solar, shed roof houses that were so popular during the 1970s are good models of sustainable housing. Moore believes the green housing of the future must be more densely clustered, leaving more open land, cutting down on travel, and promoting opportunities for citizens to share facilities. From this perspective, living in a duplex in the city where you share a wall for warmth with a neighbor and where you can walk to work and school is far more environmentally defensible than living on 20 acres 20 miles out in the countryside. "Urbanism is profoundly more ecologically sound than everyone living in their pastoral bliss," insists Moore. "You should go to the wilderness and enjoy it rather than consume it. That is the issue."

Still, Maine is a profoundly rural state and when he went searching for examples of successful design for "The Complete House," Moore, whose own work consists mostly of public buildings (among them Augusta's city hall, Lewiston's police department, and the Doris Twitchell Allen residential complex at the University of Maine), found himself repeatedly citing the little country home of Lincolnville architect John Silverio.

John Silverio, who does business as Chimney House Design, is a proponent of hearth-centered homes and country living. His own house is a small wooden cottage inspired, like many of his designs, by the hand-crafted architecture of Norwegian stave churches and Russian log churches. Since the house was built in 1972, Silverio has added to the property a barn, a studio, and a lovely little building to house his wife's Waldorf nursery school. Enlivened by birds and beasts and children, this landscape of collages, gardens, woods, and ponds is as harmonious a human habitat as one is likely to find in Maine.

Jack Silverio says he understands that his vision of the good life would not be sustainable if vast numbers of people aspired to it, but he believes it is appropriate for those willing to work to achieve it precisely because it is not for everyone. And he is particularly insistent about the environmental value of wood heat.

"I think wood heat is viable, healthy, and sustainable," says Silverio. "It used to be that people would use 15 cords a year and have smoke belching out in clouds, but now we can heat a house on a cord and half in very clean-burning furnaces.

Energy efficiency is fundamental to sustainable design, and one way to reduce the amount energy you consume is to reduce the amount of space you heat. Jack Silverio subscribes to the "Small is Beautiful" philosophy, his own house enclosing just 1000 square feet.

Beyond matters of simple utility, however, Silverio's templelike Lincolnville cottage also embodies the spiritual elements he espouses in a little self-published book entitled *Radiance Indwelling*, and in its use of all natural materials, it satisfies many of the criteria of the healthy home articulated by the German "baubiology" (architectural biology) movement. Silverio thinks of his home as a nest rather than a castle and he believes the American dream of owning bigger and bigger homes is untenable.

"One of the things that destroys the whole image of what housing should be," says Silverio, "is the speculative real estate market that treats land as a commodity and people as transients." Silverio sees the sustainable housing of the future in terms of co-housing, a Danish model based on notions of community rather than private property. Co-housing involves groups of people acquiring land in common and together planning its best, shared use. A typical co-housing development consists of small single family houses with some shared playspaces, workrooms guestrooms, utilities, gardens, and parking. There are currently co-housing projects in the planning stages in Portland and Brunswick.

The goal of sustainable housing is shared by many, but as yet there is no clear consensus about what sustainable housing is or ought to be. Jack Silverio, however, is a member of a design consciousness-raising group actively exploring the issues and alternatives. Builders and Architects for Sustainable Environments (BASE), a Maine group founded in August 1991 and inspired by the pioneering environmental work of the Boston-based Architects for Social Responsibility, meets monthly at the University of Maine in Augusta to discuss issues and exchange information and ideas. As yet, however, BASE is not ready to become a public advocacy group. "We are mainly trying to educate ourselves rather than be experts to educate the public," explains Camden architect Sarah Jones Holland.

For Holland, sustainable housing means minimizing environmental impact, promoting human health, encouraging spiritual balance, and designing in ways that build a sense of community. Achieving these desirable ends may very well require architects and builders to challenge the established social order in profound ways. "How many empty office buildings are there in Boston while people live in cardboard boxes. I think that's outrageous," says Holland, indicating just one area of potential conflict and controversy.

Both Jack Silverio and Sarah Holland believe we can no longer afford—not just economically, but environmentally and socially—to design, construct, light, and heat big office buildings that stand empty half the time. Sustainable architecture, then, might mean both making better use of existing buildings and not building buildings we don't really need. With all of the revolutionary advances in communications, for example, more and more people should find themselves able to work at home.

In Vacationland Maine, builders and architects concerned about sustainable environments may eventually have to face the question of whether second homes (which make up a significant portion of the residential architecture market) are socially and environmentally defensible. And the big unasked question in Steven Moore's "The Complete House" is, as Moore himself points out, "Should we be building single-family houses at all?"

To think that American consumers will ever abandon the dream of owning a home of one's own is as utopian as believing that they will ever willingly abandon the automobile. Steve Moore knows this, but he also knows that you don't bring about change without first questioning the status quo. "If we are going to [build single-family homes]," concludes Moore, "we have to learn how to do it without depleting the resources of the environment."

DOING MORE WITH LESS

(By John Lovell)

The idea that came to Angus King one day in 1984 was a flash of light that surely would have made Ben Franklin smile: wouldn't a kilowatt hour saved be worth as much as a kilowatt hour generated? It was a concept so basic that no one had given it a second thought—or at least not enough to pursue it. But to his benefit—and ours—King did.

A part-time television news-commentary host and nonpracticing lawyer, King was working for Swift River/Hafslund, a company that specialized in building wood-fired power generating plants and refurbishing old hydropower facilities. In the 1980s, when electric utilities were faced with the high cost and uncertain supplies of fuel oil, this was an important and profitable business to be in.

The business had been made possible by the Public Regulator Policy Act (PURPA), a law enacted by Congress in 1978 that contained an initially little notice provision requiring electric utilities to buy power from any renewable energy source at the utilities' "avoided cost"—the incremental cost of producing additional power. The idea was to help the country move away from reliance on expensive imported oil by encouraging the development or redevelopment of small hydroelectric dams and other generating plants driven by renewable domestic resources.

The amount of avoided cost per kilowatt hour determined whether developing a given alternative energy project would be viable. King recalls that at least nine cents a kilowatt hour were required to undertake a hydro project, at least seven cents for a biomass-fired project, and at least five cents for a gas turbine project. For Central Maine Power, avoided cost was effectively determined by the price of a barrel of oil, and for a time that meant between 10 and 15 cents a kilowatt hour—among the highest in the country. To build or refurbish a generating plant a developer also needed a stable, nonnegotiable, long-term contract for the power produced. Because CMP is legally required to maintain ample electricity, it entered into long-term contracts at its early and mid-1980s avoided cost levels (a factor in the company's current high electric rates).

Defying expectations, however, oil prices declined through the 1980s, and as they did, so did CMP's avoided cost. By 1987 CMP's avoided cost was about 5.5 cents a kilowatt hour and falling. Suddenly, the prospects for new alternative energy projects seemed dim. What technology could generate power for CMP at four cents per kilowatt hour and still turn a profit? To King, the only answer was conservation.

King recalls that in 1984 he had been reading about the hearings on Great Northern Paper Company's proposal to build the "Big A" dam on the Penobscot River. During those hearings energy expert Amory Lovins had testified on behalf of the Maine Audubon Society that the paper company could save more electricity in its Millinocket mill than the proposed dam would generate and at a cheaper cost per kilowatt hour. "Changing light fixtures, upgrading motors and pumps . . . the idea stuck in my mind," says King. "It suddenly occurred to me that if I could save a kilowatt somewhere for CMP that they could then turn around and sell to somebody else, then the kilowatt saved should have the same value to them as a kilowatt that I generated."

King proposed the idea to his coworkers at Swift River, who "looked at me like I was absolutely crazy." But when CMP issued a request for proposals for more power generation, King sent them a proposal. The company was intrigued enough to pass the proposal along to the Public Utilities Commission, which liked it enough to issue a set of regulations under which King's idea could be fully developed. Eventually Swift River got a contract to go ahead with the plan, but in the time it took for this to occur the company decided not to pursue the idea.

So King went out on his own and started up his own company. In the beginning the idea seemed almost too clever to work. "It made sense on paper, but no one had ever done it before," he says. But he literally gambled the homestead on the idea, taking out a second and third mortgage on his house to keep his company afloat. The first few years, he admits, were "terrifying," but he had what he calls "a series of lucky breaks. I'm a great believer in luck and that you have to be prepared to take advantage of it. Fortune favors the well-prepared."

While many other new businesses in Maine struggled to stay afloat in the deepening recession, King found that his enterprise thrived in it. The recession, he says, "made many of our customers much more sensitive to costs than they were before. To maintain your profit when sales go flat, you've got to start thinking about your costs. Electricity is certainly a cost in just about everybody's business."

With three employees, several computers, and a pool of consulting engineers to draw from when he needs them, King's Northeast Energy Management Inc. occupies the first-floor suite of offices in a renovated house on the Brunswick Mall. Two big shelves of a hallway bookcase hold the heart of his enterprise: big, black looseleaf notebooks containing the computer spreadsheet details of saved kilowatt hours for about forty energy efficiency projects undertaken since King landed his contract with CMP in 1989.

Each project that Northeast Energy Management Inc. completes means a little less electricity that CMP has to generate, and a little more electricity available for CMP to sell to its other customers. It means a little less consumption, a little less waste, a little less pollution, a little more efficiency.

"We've now done enough projects so that the amount of electricity we're saving is about the same as the entire residential electrical usage of the city of Waterville," King calculates. "A lot of what we're doing is turning off things that used to be on all the time. Our business is efficiency, a metaphor for the nineties: Doing more with less."

Sixty percent of the company's projects involve replacing light fixtures with more efficient types that typically cut energy consumption almost in half. The more the lights are on, the greater the savings for King's customer and the greater the profit for King. "Our best customer is a chain of convenience stores that don't even have light switches," he says. "Their lights are on 24 hours a day."

Before King gets paid, he must meticulously document the energy savings he creates. Each project is preceded by a detailed engineering description for CMP setting forth exactly what Northeast Energy Management Inc. proposed to do, what the anticipated energy savings will be, and how that savings will be monitored over time. "We agreed with CMP at the beginning that if we were going to do this, we were going to have to prove to the doubters that the savings were really there."

First electricians go through a client's building with meters to measure the wattage used by each light fixture. After installing the energy-efficient fixtures, they tabulate the wattage again. Both times, the readings are averaged to provide wattage differentials per fixture and then multiplied by the number of fixtures to provide wattage savings. "The key thing is the number of hours of wattage," King continues. "We install little wristwatch-sized run-hour meters in sample circuits. Whenever the lights are on, those little meters are rolling. Let's say we have a building with ten fixtures and we're saving fifty watts in each of them. That's five hundred watts. We multiply that by the number of hours the lights are on, read from the run-hour meters, divide the result by a thousand, and that gives us the kilowatt hours of electricity saved."

Everyone benefits. CMP gets extra electricity to sell, King gets money from CMP for providing it, and King's clients get lower electricity bills. But why would King's clients need his service? Why don't they just install the more efficient light fixtures themselves?

The answer, King was surprised (and thankful) to discover, is that most businesses are not interested in long-term savings. "Almost any facility has significant energy savings to be had, but rarely is there anybody in the organization whose job it is to think about it. A store might have a facilities manager, but his job is to keep the place clean, worry about the leaky roof, stuff like that. But what surprised us was that most American businesses are not interested in any capital investment that has a payback of longer than about two or two and a half years," King says.

So King speeds up the payback to make savings more attractive. Using an unnamed "large store" as an example, King explains: "Say it costs $100,000 to redo all their light fixtures. We would calculate at the outset how much that would save: say 500,000 kilowatt hours a year. They're paying CMP ten cents a kilowatt hour, so it's going to save them $50,000 in the first year. We offer to pay the store 60 percent of the $100,000 cost of replacing the light fixtures. In the first ten months, the store gets its $40,000 back, because that's what they've saved on their electric bill. And every month thereafter they're still saving. We get a payment from CMP that we then use to pay off the loan that we've taken out to put the $60,000 into the store's new lighting, and over a period of years we pay that back and hopefully make a buck in the process."

King shakes his head when he talks about companies that aren't interested in energy savings without a quick return. "What we came along and did was to take on a lot of energy-saving projects in Maine that had three- and four- and five-year paybacks. And in effect, we brought them down for the customer to a year or two payback. And that got their interest, and so we got the projects. In a lot of the industrial facilities we walked into, people had energy-saving projects sitting on their shelves that they had already designed and were ready to build, but they could never get the capital out of their management. When we came in and said we'll do that project and pay for two thirds of it, boom! We got it."

King knows that the energy efficiencies he's creating are likely to be permanent, or at least long term. New energy-efficient pumps and motors last 25 or 30 years. Light bulbs may last only two or three years, but in most cases the new fixtures are wired so that the customer has to continue using energy-efficient types. "And we'll be keeping after our customers to keep using them," says King. That's good for Maine's environment, and good for King, since CMP will stop paying him if his customers stop saving electricity.

Right now, in these recessionary times, CMP has no need for increased generating capacity—or conservation—so its avoided cost rate is about zero. King's contract with CMP is nearly completed. But he knows that the recession will end, and that energy needs will increase as the economy comes back to life. When that happens, he's convinced, there will be new economic incentives to save electricity, broaden profit margins, and protect the environment. He'll be ready.

MAKING STEWARDSHIP PAY

(By Thomas Lepisto)

From the top of the hill on Route 201 just south of Jackman, the island-dotted surface of Attean Pond below glitters in the afternoon sun. Scenic beauty, outstanding fisheries, botanical diversity, and an undeveloped shoreline earned this 2700-acre pond high ranking among Maine's "gem lakes" in a 1990 State Planning Office report. In fact, the lake is just one of many natural jewels set in the surrounding landscape of Attean Township.

In this place where mountainous wildlands rise dramatically from the shores of pristine ponds, a bold experiment in private land management is underway. Its goal is the merger of socially responsible investment with traditional private land stewardship in the Maine Woods.

The mastermind of the Attean venture is an investment manager motivated by a spiritual vision. Jim Lowell, avid canoeist, kayaker, and financial number-cruncher, is the managing partner of Lowell and Company Timber Associates, the investment group that holds title to 17,000 acres of timberland in Attean Township and adjacent Dennistown Plantation.

"I was out paddling my kayak on Attean," Lowell explains in his Boston office. "A thunderstorm came through, and at the end of that thunderstorm there was a beautiful rainbow . . . the two arcs of the rainbow went up like this," he continues raising his arms to form an arch, "on the shore and then came right back to the point of my kayak for ten minutes. The spiritual impact of that is part of what drives me to do something to stabilize some of these places in Maine."

Lowell purchased the Attean land for his investment partnership in 1987 when the Coburn family, who had owned it for generations, sold off their Maine timberlands. Though some potential buyers were deterred by the restrictions the Coburns conveyed with the land in the form of conservation easements, it was exactly the situation Lowell had been waiting for—a chance to demonstrate that land in the Maine Woods could be managed to both take advantage of and protect its inherent multiple values.

"We were looking for opportunities where the traditional North Woods stewardship system appeared to have broken down," says Lowell. "We had investors who wanted to do something to establish high land-management standards and still get their money back, rather than just giving money to charity and having the charity hold the land and take it out of woods production. Remember, we are serious, for-profit investors."

Lowell succeeded in raising $3 million in private capital for the Attean purchase, enabling him to avoid any borrowing. Investors bought in hoping to double the value of their investment in a ten-year period while receiving an annual income of about two percent during that time. The midpoint of the ten-year investment period has now passed, with financial performance to date living up to expectations. The property has increased in value, and Lowell's numbers show his timber operation making a profit, leading him to question the assertions of industrial timberland owners who say they're having trouble doing the same.

Following his purchase of the Attean lands, Lowell's next step was to assemble a team of consultants to implement his vision for "sustainable forestry and sound multiple-use management." He brought together a group with a variety of expertise and viewpoints: commercial forester Steve Coleman, land-use planner Brian Kent, and environmental consultant Jerry Bley.

Lowell notes with a twinkle in his eye that "when we started off, it was clear that these three guys would not work together at all, and that's why we chose them. And I think it's extraordinarily clear now that there's a wonderful harmony and yet complete independence." In his diverse group of consultants, Lowell sees a model for "a partnership between the public, the non-profit, and the for-profit. That's what I passionately believe is the future of the Northern Forest."

Forest manager Steve Coleman is at the controls of his float plane, up for an eagle's-eye view of Attean Township. Below, the blue pupil of Bog Pond, ringed by Number Five Bog's mile-wide iris of green sphagnum moss, stares back at the sky. Smaller bogs speckle the landscape with swatches of yellow-green. Swamps of northern white cedar show as thin spots amid denser forest; the tree-covered slopes of Sally and Burnt Jacket mountains rise to open, rocky outcrops. An osprey cruises at treetop altitude along the western bay of Attean Pond. Water invites the gaze in every direction. As the floodplain of the Moose River passes below, Holeb Falls flashes a brilliant white. Over the Benjamin Valley, Coleman drops the plane to land on bedrock-rimmed Horseshoe Pond.

Strolling the mossy footpath from Horseshoe to Benjamin ponds, Coleman gestures to the right. "We could've put a road in over there," he says, "If harvested, this timber would be worth about $150,000." The timber in question is a stand of mature red pines, a forest cathedral that easily rates a perfect ten for scenic beauty. From it a black-backed woodpecker taps out its own estimation of its habitat value. If all goes according to Lowell's plans, this red pine stand will be left untouched, part of a 330-acre area between Benjamin, Horseshoe, and Long ponds that will be set aside as an ecological preserve and permanently protected by conservation easement.

Still, the vast majority of Lowell and Company's Attean lands are managed for commercial timber production, the money-making side of the management picture. From the air, haul roads, skid trails, the strikingly artificial pattern of checkerboard clearcuts, and thinned hardwood stands make it obvious that this is not a wilderness preserve.

Two major silvicultural methods are currently in use here. Hardwood stands have been thinned by selective cutting to encourage the growth of birch and sugar maple. Along a skid trail from a past year's harvest Coleman points out the new growth between the well-spaced large trees whose leaves close the canopy above. Such selective cutting has kept the views from Attean and Big Wood ponds unscarred, honoring the terms of the Coburn easements. Although it is aesthetically sensitive forestry, the long-term ecological impacts from the use of heavy equipment, alteration of species composition, and changed distribution of age classes in the forest remain to be seen.

Elsewhere, softwoods have been cut in square patches of about five acres in a checkerboard pattern, leaving adjacent five-acre patches uncut. While not technically clearcuts (a term applied only to areas larger than five acres by the Maine Forest Practices Act), they are de facto small clearcuts and aesthetically just as ugly. The uncut areas retain a buffer zone of forest, but they have lost their habitat value for species requiring large unbroken tracts of mature trees.

Especially sensitive forest habitats near shorelines and recreational trails get various levels of protection from easements and regulations of Maine's Land Use Regulation Commission (LURC). LURC regulation, including standards for preventing erosion on logging roads, plays an important role in protecting Attean Township's environment—a role Jim Lowell acknowledges as vital in the spirit of public-private partnership.

The major role to be played by LURC in shaping the future of Attean Township, however, is just beginning. Lowell's planner, Brian Kent of Maine Tomorrow, a community planning firm, has submitted a concept plan for an unusually low-impact form of real estate development to LURC for approval. The plan, though created under provisions intended to regulate development only along lakeshores, includes the entire Lowell and Company ownership.

"I think the future for Maine is that [land-use planning] should be done on a township by township basis," says Lowell," . . . stabilize a meaningful, recognized area and don't do it piecemeal. We're not talking about just shorefront, we're talking about a whole township with a permanent stabilization."

The development part of the plan proposes the creation of 65 new shorefront cabin lots, 45 of them on the shores of Big Wood Pond across the water from Jackman. All these lots would be set back from the shore, where the cabins would be screened from view by trees and accessible only by boat or on foot. Cabin clusters would be spaced widely and would leave 93 percent of the shorelines owned by Lowell and Company undeveloped.

A large shaggy cedar tree leaning over a rustic dock made from an old boat trailer marks the site where five cabins will stand if "Wood Pond Cluster A" is approved and sold. In the forest a short way beyond the shore there is one cabin now, a traditional Maine Woods "camp." Four more cabins here won't make this condominium city, but they should forestall what could otherwise be inevitable pressure for much more intensive development. That's the case in favor of limited development. "This isn't a model for the most remote lakes in Maine," notes Lowell's environmental consultant Jerry Bley. "Being close to the town of Jackman justifies limited development for parts of Attean Township."

Other provisions in Lowell's plan are offered as conservation tradeoffs for approval-in-concept of the limited development proposal. On Attean Pond, 11.9 miles of undeveloped shoreline now owned by Lowell would be donated to the state, and new conservation easements would protect about nine miles of shoreline on Mud, Big Wood, and Little Big Wood ponds.

Attean Township is the setting for an array of recreation activities, and Lowell and Company's management has protected the tradition of public access to the backcountry. The area is popular during deer hunting season, when hunters can use a combination of foot travel and water routes to get around. Public motorized access is barred by a locked gate on the main haul road; nonmotorized entry is allowed free of charge.

Lowell has worked closely with the Maine Bureau of Public Lands (BPL), whose Holeb Pond tract borders Attean Township on the west, to maintain the portage trail between Holeb and Attean ponds, a link in the Moose River Bow canoe trip. They're also cooperating to map hiking trails in the area, including a new trail up Burnt Jacket Mountain to a superb viewpoint called Coleman's Knob, which was constructed at Lowell's expense. Lowell's largest single recreational investment ($6000) was the reconstruction of two primitive cabins at Holeb Falls for free public use.

In contrast to the lifetime, and indeed multi-generational, tenure of the Coburns, Lowell and Company's term of stewardship in Attean Township has been planned to last just ten years, five of which have already passed. After that a new landowner and a different forester may be in charge. Thus Lowell's Attean venture raises a number of important questions.

Will LURC approve a concept plan not limited to the "necklaces" of lakeshores but encompassing an entire township? If LURC accepts the concept plan, will there be a market for the primitive camp lots without road access that Lowell proposes to develop? And can a qualified party be found to hold new conservation easements? The effect of the plan on the market value of the property is also a key question. The last time the township changed hands, some potential buyers were deterred by the restrictions the Coburns had placed on the land. Questions also remain as to whether compliance with the provisions of the concept plan, the various easements, and LURC regulations will be adequately monitored and enforced, and whether the next landowner will share Jim Lowell's commitment to stewardship.

Jerry Bley, who as a member of the Northern Forest Lands Council looked at broad policy concerns affecting the 26-million-acre Northern Forest region, is uniquely qualified to see Attean in that larger context. "Jim Lowell in Attean Township is dealing with the same issues of maintaining traditional values as the Council," he says, "including the question of how private property can protect public values such as wildlife habitat, scenery, and recreation."

Jim Lowell's spirit of cooperation with the public sector (including regulatory agencies), the choices he's made to forgo some potential dollar returns in favor of environmental values, and his welcoming of diverse points of view are signs that he has established a distinct kind of private land stewardship. It's not a simple revival of the way things used to be; it's a step toward finding specific answers to the global question of how ecological and economic values can both be sustained.

WORKING FOR THE NEXT GENERATION

(By David D. Platt)

Ask Jim Robbins what he means by sustainable forestry and his response is quick and self-assured. "We're in this business for the long haul," he says. "We want the resource to be here for the next generation."

That kind of thinking isn't too surprising considering that Robbins is the fourth generation to head up his family's lumber business. Established in 1881 when Robbins' great-grandfather built a water-powered sawmill in Searsmont, Robbins Lumber Company today stands out as an example of the value in practicing sustainable natural resource use.

The old sawmill is gone now, of course, replaced by a modern facility half a mile away that saws white pine logs into a variety of products. Just as important to the family firm's continued success, however, is that the forest land that once supplied great-grandfather Robbins' mill is growing new generations of high-quality pine, oak, maple, birch, ash, and hemlock. In a state where much of the forest land has been "high-graded"—stripped of its best trees and left to regenerate on its own—this is unusual.

"We are tree farmers," Jim Robbins says, and in fact the forestry operations he shows visitors do parallel crop cultivation: planting, fertilizing, weeding, thinning, pruning, harvesting, replanting. And like most modern farming enterprises, Robbins' operation is largely automated.

It wasn't always this way. When Robbins joined the family firm after earning a forestry degree from the University of Maine in 1968, much of the land the company depended upon for its pine sawlogs was overgrown with low-grade timber. If it were to survive and prosper, Robbins reasoned, something had to be done to increase the supply of commercially valuable trees, particularly pine (whose market price has kept ahead of inflation over the years). That required thinning stands and culling out the low-value hardwood. The problem, Robbins remembers, was the lack of a market at the time for this forest "waste." If the tops, branches, rotten trees, and species that couldn't be turned into pulp, plywood, or lumber had to be left in the woods to rot, any stand improvements had to come right out of the landowner's pocket. And given the long-term nature of forest growth, that was not an investment many landowners could afford.

That changed in 1975 when Robbins became one of the first companies in the region to install a biomass boilder that would burn chipped leftovers from forestry operations and bark, sawdust, and shavings from the Searsmont mill. The boiler produces steam for the mill's drying kiln and generates 1.2 megawatts of electricity, saving and even earning money for the company from the sales of excess power. Since the boiler went on line, the value of bark, sawdust, and shavings (for mulch, particle board, and animal bedding respectively) has risen to the point where the company burns only wood chips in the boiler—100 tons a day, seven days a week.

By giving value to what had formerly been waste, the boiler has had noticeable effects on the company's forestry operations. Tree branches, tops, and other brush are routinely chipped, meaning harvest sites and log landings are swept clean. Robbins maintains that a forest floor that is not cluttered with slash makes for better regeneration. He also maintains that nutrient depletion is not a problem since a relatively small portion of the biomass produced by a tree over its lifetime is locked up in branches or even its trunk at the time it is cut.

The value of chips also makes it economically feasible to thin stands before they reach commercial size, leaving the best trees to grow with less competition. The company's long term goal is a "shelterwood" management system, under which stands get one or two thinnings before the big trees are harvested. Successive crops of seeds from the larger trees promote regeneration, and shade from the large overstory trees keeps down the raspberries and undesirable hardwoods. Shade also makes the smaller pines in the stand less vulnerable to pine weevil, a pest that doesn't do well in shade.

Like other Maine forest products companies, Robbins Lumber has done its share of clearcutting, although primarily for the purpose of reestablishing white pine as the dominant species. "We're not fans of clearcutting," he says, noting that state law now limits the size of cuts and that "every acre we cut is replanted unless there's an adequate natural seed crop." Still, he believes clearcutting has its place and wishes that the public was more understanding of forest management practices and less preoccupied with their initial visual appearance.

Until recently the company used herbicides (principally Garlon and Roundup) to kill hardwoods on sites to be replanted with pine, a practice common in the Maine forest products industry. Today, under the shelterwood system, herbicide use has stopped. Insecticide spraying for pine weevil continues (foresters treat individual trees from the ground), but Robbins hopes that can be reduced or stopped in the near future.

The company also believes in up-to-date harvesting technology. "We hardly ever touch a chainsaw anymore," Robbins remarks as he shows a visitor around a cutting operation a few miles from the mill. Equipment at the scene includes a small fellerbuncher (a type of mechanical harvester) that moves on tracks and leaves the forest floor relatively unscarred compared with conventional fellerbunchers. There's also a delimber and a chipper that blows chips into a large van for transport to the boiler. Logs are sorted at the site—white pine for the sawmill, hardwood for sale to other mills, tops, branches, and low-grade trees for the chipper.

In addition to ensuring a sustainable harvest of timber from the 5,000 acres the company owns, Robbins works closely with the landowners in central and eastern Maine from whom he buys logs. Similar to programs offered by other Maine forest-products firms, Robbins Lumber's landowner assistance program is rooted in the belief that woodlands are best managed by professional foresters. The company employs two full-time foresters and three forestry technicians to provide forestry assistance to landowners requesting it without obligation to sell timber to the company.

Two other company policies suggest a land ethic that goes beyond wood production in recognizing the multiple values inherent in the forest. Foresters and crews are instructed to leave behind all apple trees they encounter as a food source for wildlife. And company land is open to the public for hunting, fishing, snowmobiling, hiking, and camping.

Certainly having its own biomass boiler is an advantage, but that is not what sets Robbins Lumber apart. It is the company's approach to forestry in which having a continuing supply of trees is as important as quarterly cash flows. One can't make "short-term decisions about a long-term crop," Jim Robbins says. "Long-term management decisions are what we're talking about. All businesses should be run that way."

Whatever others attempt to do with their land, the long view seems to serve Jim Robbins well. The shortest "rotation" in his business is the eight years it takes to grow one of the 150,000 Christmas trees the company sells each year; more usual is the 60 to 80 years it takes to produce a big white pine. As a family business, Robbins Lumber can't afford to think solely in terms of the next quarter's profits. "That's the difference between small family operations and large corporations," he says. "It changes the way we look at the woods."

WELCOME, MATHIAS FITZGIBBONS HELLER

Mr. MOYNIHAN. Mr. President, I rise today to announce the birth of Mathias Fitzgibbons Heller to Ms. Patti Fitzgibbons and her husband, Mr. Mick Heller. Mathias Fitzgibbons Heller was born Tuesday, January 26, 1993. He is well and loud. His mother is well. My warmest congratulations to all.

IN MEMORY OF THURGOOD MARSHALL

Mr. LEAHY. Mr. President, few men or women are privileged to change the course of history. Last week, this Nation said goodbye to Thurgood Marshall, who will be remembered as a man who challenged his country to live up to its promises of freedom and justice for all citizens, regardless of their gender, their race, or their economic position. He was a man who dared to change the world in which he lived.

Many of us here had the honor of meeting Justice Marshall and of working closely on the Judiciary Committee with his son. Like his father, Thurgood Marshall, Jr., is an extraordinary individual of compassion, with a great sense of humor and a deep commitment to public service. I extend my deepest regrets to Goody and his family.

President Kennedy said:

> [W]ithout belittling the courage with which men have died, we should not forget those acts of courage with which men have lived. * * * A man does what he must—in spite of obstacles and dangers and pressures—and that is the basis of all human morality.

Thurgood Marshall was a man of extraordinary courage. When he retired from the Supreme Court, he said he hoped to be remembered as a person who "did what he could with what he had." That is a modest hope for a preeminent civil rights lawyer, who excelled as Solicitor General, as a Supreme Court Justice, and as a husband and father. Thurgood Marshall committed himself to improving the lives of others, to speaking for those with no voice, and to fighting for those with no power.

This Nation will remain forever in his debt.

From children who no longer suffer the indignity and unfairness of segregated schools;

To defendants who during Marshall's tenure could rely on him to speak out to protect their rights;

To black elected officials who can no longer be excluded from primary elections; and

To all Americans who are reminded that democracy, freedom, and justice require our continued commitment and vigilance.

Despite his enormous contribution, Thurgood Marshall's work is not done. In 1964, President Johnson declared:

> We have talked long enough in this country about equal rights. We have talked for a hundred years or more. It is time now to write the next chapter—and to write in the books of law.

Thanks to Thurgood Marshall the laws have been written. Segregation is illegal. Discrimination is illegal. But as we know all too well, racism persists and inequality of opportunity is its own form of discrimination.

Marshall knew this and grew ever more frustrated with the Supreme Court's recent unwillingness to protect individual rights and liberties. In his last in a long series of dissenting opinions, Justice Marshall warned of the conservative tide:

> Tomorrow's victims may be minorities, women or the indigent. Inevitably, this campaign to resurrect yesterday's spirited dissents will squander the authority and legitimacy of this Court as a protector of the powerless.

Thurgood Marshall was a protector of the powerless. For that, each of us owes him our respect and our deepest gratitude.

JOE ALBERTSON—AN APPRECIATION

Mr. KEMPTHORNE. Mr. President, Idaho and the United States recently lost a tremendous friend and a well-respected businessman with the passing of Joe Albertson.

Joe Albertson was a truly great philanthropist, and was so generous with his contributions. The 40-acre Kathryn Albertson Park nature refuge in downtown Boise, one of the top liberal arts private colleges in America, Albertson College of Idaho in Caldwell, and the Albertsons Library at Boise State University are all shining examples of his willingness to share his success with others.

For all his success and generosity, Joe Albertson was a humble and modest man, never seeking the spotlight or attention. In his quiet but forceful way, Joe Albertson was a tremendous businessman, and many can model themselves after his work ethic, determination, and drive to succeed.

I will always remember and cherish the opportunities I had to work with Joe Albertson. He is a man I greatly admired. He embodied the Idaho spirit and ethic, taking one tiny grocery store in Boise, and turning it into the Nation's sixth largest grocery store chain. But he never lost touch with his customers. Even after retiring from the daily operation of his company, it was not unusual to see Joe in his stores, chatting with customers and employees. Joe Albertson cared about people. That's the legacy he leaves.

While the Nation has lost a great man, Joe Albertson's undaunted entrepreneurial spirit lives on in the 70,000 Albertson's employees in 19 States.

Joe Albertson was a fine man, whose directness and laughter will be missed by all whose lives he touched. Idaho has lost a great friend, and my thoughts and prayers are with his wife Kathryn and the Albertson family.

FAMILY AND MEDICAL LEAVE ACT OF 1993 AMENDMENTS

Mr. PRESSLER. Mr. President, today I submit several amendments I intend to offer during the Senate's consideration of the Family and Medical Leave Act of 1993.

For more than 8 years, Congress has debated legislative proposals requiring employers to provide family and medical leave benefits to their employees. Such lengthy congressional consideration of this issue should not be taken lightly. It demonstrates we are doing our jobs as U.S. Senators, debating and discussing all sides of this complex matter. The legislative process is working.

Mr. President, it is our obligation to ensure that prior to passage of S. 5, all contentious provisions of that legislation are addressed. As ranking member of the Senate Small Business Committee, I plan to offer amendments to address some key concerns to our Nation's small business owners. These amendments would ensure greater fairness to both employees and their employers.

AMENDMENT TO ADJUST COBRA COVERAGE

In order to deter potential employee abuse of mandated leave, I intend to offer an amendment to adjust the health insurance continuation coverage requirement mandated under the Consolidated Omnibus Budget Reconciliation Act of 1985 [COBRA]. This adjustment would affect only those employees who take leave from employment and do not return to work following their leave period. However, as I will explain, this adjustment does not actually reduce the overall duration of coverage that an individual is currently eligible to receive.

As written, S. 5 would permit an employee to take up to 3 months of leave, not return to work, and be eligible for at least 18 months of group health insurance coverage under COBRA. Thus, the employee could receive a total of 21 months of insurance coverage by taking family or medical leave and not being up front with his or her employer that he or she won't be returning to work.

My proposal does not decrease an individual's realized coverage period. COBRA coverage would only be adjusted by the period of coverage the employee had already received while on leave. This amendment will remove an incentive to deceive an employer. It is a reasoned means to deter employee abuse of leave policies.

AMENDMENTS TO CORRECT FLSA INTERPRETATION

One of the provisions in the Family and Medical Leave Act of 1993 that is different from the version debated during the last Congress deals with the interpretation of the Fair Labor Standards Act [FLSA]. As I understand it, this provision was added to address a serious problem known as the partial day docking rule. Unfortunately, this new provision is only a limited and partial fix.

Under the Department of Labor's interpretation of FLSA, employers can face penalties if they grant partial day unpaid absences to exempt employees who have used all their available leave. Unfortunately, the corrective provision in S. 5 is only a partial solution.

I plan to offer an amendment to provide protection to employers who have been providing unpaid family and medical leave prior to enactment of S. 5. Without this protection, any employer who currently is providing unpaid leave remains exposed for potential liability suits. In addition, I may offer an amendment to provide protection to any employer who voluntarily has been providing unpaid leave benefits to their employees. If this Congress does not provide protection to all employers that today face liabilities because they have voluntarily offered their employees needed leave benefits, we are contradicting the supposed intent of this legislation. Without my amendment, Congress is telling employers not covered under S. 5 that they should not offer reduced or intermittent leave to their employees during times of need. In all, we would be holding the small businesses' doors open for lawsuits.

COMMISSION ON LEAVE

As currently written, the bill establishes a Commission on Leave to study existing and proposed policies relating to leave and the potential costs, benefits, and impact on productivity of such policies on employers. My amendment would provide more specific reporting requirements to the Commission. This would include an analysis of employers ability to collect premium payments from employees who do not return from leave. It also would expand the study to assess leave cost for employees not covered under this act. The amendment would add the Secretary of Commerce and the Administrator of the Small Business Administration [SBA] as ex officio members of the Commission. Finally, the other Commission members appointed because of expertise would include representation from both large and small businesses. In short, this amendment is designed to ensure that leaders of businesses large and small have their voices heard during the enforcement of the Family and Medical Leave Act.

Mr. President, I urge all of my colleagues to review these amendments and welcome their cosponsorship and support. I send these amendments to the desk and ask unanimous consent that they be printed in the appropriate place in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

At the end of section 104(c) of the bill, add the following:

(4) CONTINUATION COVERAGE.—

(A) IN GENERAL.—For purposes of section 4980B of the Internal Revenue Code of 1986, part 6 of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.), or title XXII of the Public Health Service Act (42 U.S.C. 300bb–1 et seq.), if an employee who is a covered employee under a group health plan fails to return from leave under section 102 after the period of leave to which the employee is entitled has expired, the group health plan shall provide continuation coverage to the employee for at least the period beginning on the first day after the period of leave has expired and ending not earlier than the earliest of the following:

(i) GENERAL RULE.—The date that is n days after such first day, where n is the difference obtained by subtracting, from 548 days, the number of days of leave taken by the employee.

(ii) SPECIAL RULE FOR MULTIPLE QUALIFYING EVENTS.—If a qualifying event (other than termination) occurs during the period beginning on such first day and ending on the date described in clause (i), the date that is m days after such first day, where m is the sum of n and 548 days.

(iii) OTHER EVENTS.—The date specified in subclause (III), (IV), or (V) of clause (i), or in clause (ii), (iii), (iv), or (v), of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986, as appropriate.

(B) DEFINITIONS.—As used in this paragraph:

(i) CONTINUATION COVERAGE.—The term "continuation coverage" means coverage under a group health plan that meets the requirements specified in subparagraphs (A), (C), (D), and (E) of section 4980B(f)(2) of the Internal Revenue Code of 1986.

(ii) COVERED EMPLOYEE; GROUP HEALTH PLAN; QUALIFYING EVENT.—The terms "covered employee", "group health plan", and "qualifying event" have the meanings given the terms in subsections (f)(7), (g)(2), and (f)(3), respectively, of section 4980B of the Internal Revenue Code of 1986.

Strike section 302(1) of the bill and insert the following:

(1) conduct a comprehensive study of—

(A) existing and proposed—

(i) government-imposed policies; and

(ii) voluntary business policies, relating to family and temporary medical leave;

(B) the potential costs, benefits, and impact on productivity and net job creation, and, with respect to private businesses, the impact on business growth, of—

(i) the policies described in subparagraph (A); and

(ii) the policies required by this Act and the amendments made by this Act,

with respect to employers (including employers covered by this Act, covered by the amendments made by this Act, or with fewer than 50 employees);

(C) the comparative effect of the costs and benefits of the policies described in subparagraph (B) with respect to the employers, analyzed by the type, size, and industry of the employers affected;

(D) the potential costs, benefits, and impact on productivity and net job creation, and, with respect to private businesses, the impact on business growth, of the policies described in subparagraph (B) with respect to employees;

(E) the comparative effect of the costs and benefits of the policies described in subparagraph (B) with respect to employees, analyzed by the type, size, and industry of the employers of the employees affected;

(F) the potential costs, benefits, and impact on productivity and net job creation, and, with respect to private businesses, the impact on business growth, of family and temporary medical leave policies, with respect to the employers and employees, in businesses that offer employee benefit plans other than the benefit plans required by the policies described in sub-paragraph (A)(i) or (B)(ii);

(G) alternative policies to reduce the costs of employers and employees of policies described in subparagraph (A)(i) of (B)(ii);

(H) alternative and equivalent State enforcement of title I with respect to employees described in section 108(a); and

(I) the ability of the employers to recover, under section 104(c)(2), the premiums described in such section; and

In section 303)a)(1) of the bill, strike "and 2" and insert "and 4".

In section 303(a) of the bill, strike paragraph (1)(C)(ii) and all that follows through paragraph (2) and insert the following:

(ii) EXPERTISE.—Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor-management issues. Such members shall include representatives of employers, including employers from large businesses and from small businesses.

(2) EX OFFICIO MEMBERS.—The Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Commerce, and the Administrator of the Small Business Administration shall serve on the Commission as nonvoting ex officio members.

Section 102(c) of the bill is amended by adding at the end the following: "Notwithstanding section 405(b)(1), the preceding sentence, and the application of this title for purposes of the preceding sentence, shall be deemed to have taken effect on June 25, 1938.".

Section 102(c) of the bill is amended to read as follows:

(c) UNPAID LEAVE PERMITTED.—

(1) IN GENERAL.—Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

(2) RELATIONSHIP WITH FAIR LABOR STANDARDS ACT OF 1938.—

(A) IN GENERAL.—Where an employee is otherwise exempt under regulations issued by the Secretary pursuant to section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)), the granting of unpaid family leave by any employer (as defined in section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d))) shall not affect the exempt status of the employee under such section 13(a)(1).

(B) DEFINITION.—As used in this paragraph, the term "unpaid family leave" means—

(i) in the case of leave granted by any employer (as defined in section 101(4)), unpaid leave granted in compliance with this title; and

(ii) in the case of leave granted by any employer described in subparagraph (A) who is not an employer described in clause (i)—

(I) unpaid leave that may be taken for one or more of the reasons described in subparagraph (A) or (B) of section 102(a)(1), and may be taken as intermittent leave or leave on a reduced leave schedule; and

(II) restoration to employment, and continued coverage under a group health plan, in accordance with section 104.

(C) EFFECTIVE DATE.—Notwithstanding section 405(b)(1), this paragraph, and the application of the provisions described in subclause (I) or (II) of subparagraph (B)(ii) for purposes of this paragraph, shall be deemed to have taken effect on June 25, 1938.

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $4,167,200,410,899.83 as of the close of business on Friday, January 29.

Anybody remotely familiar with the U.S. Constitution is bound to know that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States. Therefore, no Member of Congress, House or Senate, can pass the buck as to the responsibility for this shameful display of irresponsibility. The dead cat lies on the doorstep of the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 merely to pay the interest on deficit Federal spending, approved by Congress, over and above what the Federal Government has collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman, and child owes $16,233.69—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averages out to be $1,127.85 per year for each man, woman, and child in America. Or, looking at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

What would America's economic stability be today if there had been a Congress with the courage and the integrity to operate on a balanced budget? The arithmetic speaks for itself.

GEORGE KENNAN'S WISE COUNSEL ON WHO WON THE COLD WAR

Mr. PELL. Mr. President, our country has long been well served by the wisdom of George Kennan, who has the double distinction of being both our elder statesman and our most distinguished scholar of American foreign policy.

Ambassador and Professor Kennan's career spans more than 60 years, from his early days as a foreign service officer in Berlin and Russia to his current eminence as professor emeritus at the Institute for Advanced Study in Princeton. The Foreign Relations Committee has repeatedly benefited from his thoughtful testimony. In a rare tribute he received a standing ovation from the committee and a crowded hearing room when he testified before us on the end of the cold war and what should be done to assist the former Soviet Union in the transformation to democratic and free market institutions. The only other time that I recall a similar burst of applause was when Professor Kennan had testified before us some 20 years earlier.

On October 28, 1992, Professor Kennan published a characteristically penetrating article on the op-ed page of the New York Times under the headline "The G.O.P. Won the Cold War? Ridiculous." In the article Professor Kennan observed, "The suggestion that any administration had the power to influence decisively the course of a tremendous domestic political upheaval in another great country on the other side of the globe is simply childish. No great country has that sort of influence on the internal developments of any other one."

Professor Kennan observed that as early as the late 1940's it was possible to see that the Communist regime was becoming "dangerously remote from the concerns and hopes of the Russian people." He writes:

> There were some of us to whom it was clear, even at that early date, that the regime as we had known it would not last for all time. We could not know when or how it would be changed; we knew only that change was inevitable and impending.

Mr. President, without pretending to assume Professor Kennan's mantle of wisdom, I would note that my own experience in the Communist controlled regions of Eastern Europe during the same period—that is, the late 1940's—caused me also to predict the eventual demise of communism. During my own foreign service during that period, it was apparent to me that communism did not fulfill the material or the spiritual needs of the people it pretended to serve, and that it contained the seeds of its eventual undoing.

Professor Kennan goes on to note how some of America's hardline policies over the years may actually have delayed the eventual collapse of communism. He writes:

> Nobody—no country, no party, no person—"won" the cold war. It was a long and costly political rivalry fueled on both sides by unreal and exaggerated estimates of the intentions and strength of the other party. It greatly overstrained the economic resources of both counties, leaving both, by the end of the 1980's, confronted with heavy financial, social and, in the case of the Russians, political problems that neither had anticipated and for which neither was fully prepared.

Mr. President, Professor Kennan speaks to the dilemma we face today, which is how to invigorate our own economy and at the same time to play our necessary role in assisting the countries of the former Soviet Union to overcome the devastation caused by more than 70 years of Communist rule.

The question of who "won" the cold war fades to insignificance in face of these massive challenges confronting both sides in the aftermath of this tragic era. The costs to the people of the former Soviet Union are becoming more obvious with each passing month. The burdens on the West are also great as we join with our allies in helping to bring about democratic change and a free market economy in that region.

I ask unanimous consent that the article by George F. Kennan in the October 28, 1992, New York Times be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 28, 1992]

THE GOP WON THE COLD WAR? RIDICULOUS

(By George F. Kennan)

PRINCETON, NJ.—The claim heard in campaign rhetoric that the United States under Republican Party leadership "won the cold war" is intrinsically silly.

The suggestion that any Administration had the power to influence decisively the course of a tremendous domestic political upheaval in another great country on another side of the globe is simply childish. No great country has that sort of influence on the internal developments of any other one.

As early as the late 1940's, some of us living in Russia saw that the regime was becoming dangerously remote from the concerns and hopes of the Russian people. The original ideological and emotional motivation of Russian Communism had worn itself out and become lost in the exertions of the great war. And there was already apparent a growing generational gap in the regime.

These thoughts found a place in my so-called X article in Foreign Affairs in 1947, from which the policy of containment is widely seen to have originated. This perception was even more clearly expressed in a letter from Moscow written in 1952, when I was Ambassador there, to H. Freeman Matthews, a senior State Department official, excerpts from which also have been widely published. There were some of us to whom it was clear, even at that early date, that the regime as we had known it would not last for all time. We could not know when or how it would be changed; we knew only that change was inevitable and impending.

By the time Stalin died, in 1953, even many Communist Party members had come to see his dictatorship as grotesque, dangerous and unnecessary, and there was a general impression that far-reaching changes were in order.

Nikita Khrushchev took the leadership in the resulting liberalizing tendencies. He was in his crude way a firm Communist, but he was not wholly unopen to reasonable argument. His personality offered the greatest hope for internal political liberalization and relaxation of international tensions.

The downing of the U-2 spy plane in 1960, more than anything else, put an end to his hope. The episode humiliated Khrushchev and discredited his relatively moderate policies. It forced him to fall back, for the defense of his own political position, on a more strongly belligerent anti-American tone of public utterance.

The U-2 episode was the clearest example of that primacy of military over political policy that soon was to become an outstanding feature of American cold war policy. The extreme militarization of American discussion and policy, as promoted by hard-line circles over the ensuring 25 years, consistently strengthened comparable hard-liners in the Soviet Union.

The more America's political leaders were seen in Moscow as committed to an ultimate military rather than political resolution of Soviet-American tensions, the greater was the tendency in Moscow to tighten the controls by both party and police, and the greater the braking effect on all liberalizing tendencies in the regime. This, the general effect of cold war extremism was to delay rather than hasten the great change that overtook the Soviet Union at the end of the 1980's.

What did the greatest damage was not our military preparations themselves, some of which (not all) were prudent and justifiable. It was rather the unnecessarily belligerent and threatening tone in which many of them were publicly carried forward. For this, both Democrats and Republicans have a share of the blame.

Nobody—no country, no party, no person—"won" the cold war. It was a long and costly political rivalry, fueled on both sides by unreal and exaggerated estimates of the intentions and strength of the other party. It greatly overstrained the economic resources of both countries, leaving both, by the end of the 1980's, confronted with heavy financial, social and, in the case of the Russians, political problems that neither had anticipated and for which neither was fully prepared.

The fact that in Russia's case these changes were long desired on principle by most of us does not alter the fact that they came—far too precipitately—upon a population little prepared for them, thus creating new problems of the greatest seriousness for Russia, its neighbors and the rest of us, problems to which, as yet, none of us have found effective answers.

All these developments should be seen as part of the price we are paying for the cold war. As in most great international conflicts, it is a price to be paid by both sides. That the conflict should now be formally ended is a fit occasion for satisfaction but also for sober re-examination of the part we took in its origin and long continuation. It is not a fit occasion for pretending that the end of it was a great triumph for anyone, and particularly not one for which any American political party could properly claim principal credit.

POLL SHOWS RUSSIAN PEOPLE ARE GROWING IMPATIENT WITH DEMOCRACY AND YEARNING FOR A STRONG LEADER—SHADES OF 1917

Mr. PELL. Mr. President, a survey of the Russian people conducted by the Times Mirror Center for the People and the Press, reported in an article by Doyle McManus in the January 27 Los Angeles Times, has found that the Russian people are growing impatient with democracy and yearning increasingly for a strong leader to solve their problems.

According to the survey director, Mr. Andrew Kohut, "There are real indications that support for democracy is eroding in Russia, especially among the best and brightest. It would be much easier—for Russians—to embrace or return to a closed society" than it was 2 years ago.

The poll found that, asked to choose between a strong leader or a democratic government, 51 percent of Russians favor a strong leader and 31 percent favor democracy. This is a major shift from a similar poll 17 months ago, when 51 percent said they favor a democratic government and 39 percent want a strong leader.

Mr. President, a year ago this month I was among the first Senators to visit Russia and other parts of the New Commonwealth of Independent States. I came away then with the feeling that I expressed in this body and elsewhere that there was a danger that the Russians would turn toward a man on a horse who would promise strong leadership as an alternative to floundering democracy. This is very much what happened in 1917 when the West failed to come to the help of the democratic Kerensky government, only to see it fall to the authoritarian leadership of Lenin, the Communist Party, and later Joseph Stalin.

This published survey suggests that what I observed, and feared, may be coming true, at least in the minds of the Russian people. This makes it all the more important that the Western countries, very much including ourselves, mount a sustained and intelligent effort to strengthen democracy and help build the institutions that we know are necessary for a responsive political system and a free market economy.

I welcome the appointment of Mr. Strobe Talbott as Ambassador at Large and special adviser to the Secretary on the New Independent States, and am further heartened by the announcement that Tom Pickering will become the United States Ambassador to Russia. I know these are two very able persons who will bring energy and leadership to the great task of working through the many and serious problems that face Russia and the other parts of the former Soviet Union.

I am sure they are aware of the attitudes of the Russian people as presented in the Times Mirror survey, and the implications of this for the future governance of this important region. To bring it to a wide audience, I ask that the article from the January 27 Los Angeles Times be printed in the CONGRESSIONAL RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RUSSIANS FAVOR STRONG LEADER

(By Doyle McManus)

WASHINGTON.—Buffeted by economic and political turmoil, the Russian people are growing impatient with democracy and yearning increasingly for a strong leader to solve their problems, a poll conducted by the Times Mirror Center for the People and the Press has found.

"There are real indications that support for democracy is eroding in Russia, especially among the best and the brightest," said Andrew Kohut, who directed the survey of 1,000 people in eight areas of European Russia. "It would be much easier [for Russians] to embrace a return to a closed society" than it was two years ago, he added.

The poll found that, asked to choose between a strong leader or a democratic government, 51 percent of Russians favor a strong leader and 31 percent favor democracy. That was a major shift from a similar poll 17 months ago, when 51 percent said they favor a democratic government and 39 percent want a strong leader.

The poll also found increased hostility toward free-market economic reforms and increased uncertainty about whether democracy and capitalism are the correct way to organize a society.

The findings of the poll, one of the most comprehensive surveys ever undertaken in the former Soviet Union, are likely to reinforce a growing sense of alarm in the American government over the possibility that an unfriendly authoritarian regime could emerge in Moscow if the current reforms fail.

Kohut said the overall conclusion of the poll is that democracy is increasingly vulnerable in Russia because people have seen little concrete evidence that it works. "This is certainly not a prediction that democracy is going to die in Russia," he said. "But it's a statement of fact that there's a different political climate now than there was a few years ago," in the first wave of enthusiasm for democratic reforms.

William Green Miller, president of the American Committee for U.S.-Russian Relations, a private organization, agreed, observing: "The situation is very volatile. This is a country in creation. . . . But democracy can still work there."

Miller noted that the Russians' desire for a "strong leader" does not necessarily mean they have abandoned democracy. "Who says a democratic leader can't be strong?" he asked.

Indeed, the pollsters noted, only 12% of Russians flatly said they disapprove of democracy, and only 10% said that they want a return to communism.

And some features of a capitalist economy have become less unpopular: In 1991, 57% said that private entrepreneurs were a bad influence on society but last year that number dropped to 33%.

Still, the percentage who want democratic reforms to go faster has dropped since 1991 from 40% to 31%, and the percentage who favor Western-style capitalism has dropped from 40% to 32%.

Russian President Boris N. Yeltsin's approval rating has fallen to 54%, compared with 85% in 1991. At the same time, approval for his more authoritarian and nationalist rival, Vice President Alexander V. Rutskoi, stands at the same level as Yeltsin's: 54%.

The Russian public is growing tired of politics, as well: 37% said they were not interested in political issues, contrasted with 19% in 1991.

And public confidence in some democratic institutions has dropped: Only 17% said that they think the Russian Parliament is playing a positive role in society, contrasted with 45% in 1991.

The poll was also conducted in Ukraine and Lithuania, where disenchantment with democracy was less acute than in Russia. In Ukraine, 50% said they preferred democracy to a strong leader; in Lithuania, 67% preferred democracy.

The poll also detected widespread ethnic antagonism. In Russia, 22% of respondents said they have "unfavorable opinions" of Jews. Russians were even more unfavorable to ethnic groups of the southern republics of the Caucasus, whom many Muscovites view as unscrupulous swindlers; they gave Armenians, Azerbaijanis and Georgians "unfavorable" ratings from 46% to 50%.

The survey was conducted Nov. 1-15 by local pollsters under the direction of the Times Mirror Center, a project of the Times Mirror Co., which owns The Times. The statistical margin of sampling error was plus or minus 3%.

Mr. MATHEWS. Mr. President, I wish to join with my colleagues today in paying tribute to Supreme Court Justice Thurgood Marshall, a true champion of civil liberties, individual rights, and the common man, whose contributions to this country have left an indelible mark on our Nation's history.

Thurgood Marshall's superior skills as a litigator coupled with his legal brilliance and sense of justice and fairness truly transformed the Nation, as well as the Supreme Court.

Mr. President, as an attorney for the NAACP legal defense fund, Justice

Marshall played a pivotal role in pioneering the cause and plotting the course of civil rights in this country. In fact, during his tenure with the NAACP, Justice Marshall tried or participated in 12 cases in my own home State of Tennessee.

Some of these cases served as a foundation for the landmark 1954 Supreme Court decision in the Brown versus Board of Education case, ending segregation, for which Justice Marshall will most certainly always be remembered, and which has given him a most prominent place in our Nation's history.

As the first African-American to be appointed to the Supreme Court in 1967, Marshall brought to the Court a different perspective, and also brought the Court closer to truly representing the cultural diversity of the United States.

During his 24 years on the Court he continued to work to further advance civil rights, and to preserve individual rights and civil liberties through his interpretation of the laws and rulings of the Nation's judicial system.

Justice Marshall's final case on the Supreme Court again involved the State of Tennessee. As the balanced scales serve as a visible symbol of justice, Marshall, as he often did in his dissenting opinions, spoke on behalf of all minorities and in that specific case, also the rights of defendants involved in the legal system.

Mr. President, I was pleased to hear that the Federal Judiciary Building in Washington, DC, will be renamed the Thurgood Marshall Federal Judiciary Building, and feel that this designation is indeed appropriate in serving to honor the memory of Justice Marshall.

I am pleased to join with my colleagues in paying tribute to this outstanding individual whose commitment to justice was unparalleled and whose contributions to this country and its citizens in the preservation of civil liberties has been unmatched in our time.

RALPH TASKER

Mr. BINGAMAN. Mr. President, it is a pleasure for me to salute one of the great coaches and teachers in New Mexico, Ralph Tasker of Hobbs. Last Friday night, on his home court, in an arena bearing his name, Mr. Tasker entered the record books by coaching the Hobbs High School team to its 1,027th victory. This makes Coach Tasker the winningest coach in boys' basketball, and is, as you might know, a national record that has attracted wide attention not only in our State, but across the country.

Coach Tasker is well-known in New Mexico, and is beloved by many people. This is not just because he coaches winning basketball teams, although that does not hurt. Rather, the respect and affection we in New Mexico have for him are due to the kind of man he is, the way he treats his players and fans, and the value he puts on education for all his students. With expected and becoming modesty, Mr. Tasker gives credit to his family, his teams, and the Hobbs community for his success. They deserve some of it, of course, but the lion's share must go to the man who describes himself as being "just a plain old high school teacher and proud of it"—Ralph Tasker.

All of New Mexico is proud of him, and of the acclaim he has brought to our State in his 48-year career of being the kind of person, the kind of coach, the kind of teacher we want to guide our children.

REMARKS OF SENATOR INOUYE AT THE RESERVE OFFICERS ASSOCIATION MINUTE MAN OF THE YEAR AWARD

Mr. STEVENS. Mr. President, I want to take a few minutes of the Senate's time to introduce into the RECORD remarks made recently by my good friend, the distinguished senior Senator from Hawaii [Mr. INOUYE].

I had the privilege last week to attend the presentation of the Reserve Officers Association Minute Man of the Year Award to Senator INOUYE. As a previous recipient of that honor, and as a colleague on the Defense Appropriations Subcommittee, I was pleased to share in the evening for Senator INOUYE.

During the event, I was particularly struck by the introduction of Senator INOUYE—describing his personal background—and the events that have shaped his life. It is a remarkable story, that more of our colleagues, and, as a matter of fact, the people of the United States, should know.

Following that introduction, I was then further moved by the Senator from Hawaii's own remarks, which were a clear, coherent, and meaningful discussion of the needs and priorities of our Nation's military.

For that reason, I ask unanimous consent that both the introduction of Senator INOUYE before the Reserve Officers Association and his remarks to that organization be printed in today's RECORD. I further urge all my colleagues to take note both of Senator INOUYE's background, and his thoughts on our national security responsibilities.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. DODD. Mr. President, I would like to associate myself with the remarks of the Senator from Alaska. I realize it was a special occasion, but I, too, have a tremendous affection for the Senator from Hawaii.

INTRODUCTION OF SENATOR DANIEL K. INOUYE BY BRIG. GEN. WILLIAM BASNETT, NATIONAL PRESIDENT OF THE RESERVE OFFICERS ASSOCIATION, ON PRESENTATION OF THE MINUTE MAN OF THE YEAR AWARD TO SENATOR INOUYE, MID-WINTER CONFERENCE, WASHINGTON, DC, JANUARY 27, 1993

Senator Daniel K. Inouye was born in Honolulu, Hawaii on September 7, 1924, and was named after a Methodist minister who had adopted his mother.

Young Dan Inouye attended Honolulu public schools and earned pocket money by parking cars at the old Honolulu Stadium and giving haircuts to fellow students. Most of his earnings were spent on a flock of homing pigeons, a postage stamp collection, parts for crystal radio sets and chemistry sets.

This year, America will commemorate the 50th Anniversary of the Japanese attack on Pearl Harbor. On that fateful day, 17-year-old Daniel Inouye was one of the first Americans to handle civilian casualties in the Pacific war. He had taken medical aid training and was pressed into service as head of a first-aid litter team. He saw a "lot of blood" and did not go home for a week.

Eighteen-year-old Dan Inouye, a freshman in pre-medical studies at the University of Hawaii, enlisted in March, 1943, in the U.S. Army's 442nd Regimental Combat team.

Sergeant Dan Inouye slogged through nearly three bloody months of the Rome-Arno campaign with the U.S. Fifth Army. Early in the action, he established himself as an outstanding patrol leader with the so-called "Go-For-Broke Regiment", the famed rallying cry in infantry attacks.

Inouye's unit was shifted to the French Vosges Mountains and spent two of the bloodiest weeks of the war rescuing a Texas Battalion surrounded by German forces. The rescue of "The Lost Battalion" is listed in the U.S. Army annals as one of the most significant military battles of the century. Inouye lost ten pounds, became a platoon leader and won the Bronze Star and a battlefield commission as a Second Lieutenant.

Back in Italy, the 442nd was assaulting a heavily defended hill in the closing months of the war when Lt. Inouye was hit in his abdomen by a bullet which came out his back, barely missing his spine. He continued to lead the platoon and advanced alone against a machine gun nest which had his men pinned down. He tossed two hand grenades with devastating effect before his right arm was shattered by a German rifle grenade at close range. Inouye threw his last grenade with his left hand, attacked with a submachine gun and was finally knocked down the hill by a bullet in the leg.

Dan Inouye spent 20 months in Army hospitals after losing his right arm. He came home as a Captain with a Distinguished Service Cross (the second highest award for military valor), Bronze Star, Purple Heart with Cluster and 12 other medals and citations.

I'd like to note here that the heroics of the 442nd regimental combat team and the 100th battalion were a great source of pride for all Japanese Americans and also went a long way in soothing the post war attitudes of the American people toward Japanese Americans.

After earning his Law Degree at George Washington University Law School, he returned to Hawaii and served as a Deputy Public Prosecutor for the city of Honolulu. He broke into politics in 1954 with his election to the Territorial House of Representatives. He would later win election to the Territorial Senate.

After Hawaii became a State on August 21, 1959, Daniel Inouye won election to the United States House of Representatives as the new State's first Congressman. He was reelected to full term in 1960 and won election to the United States Senate in 1962.

Three years after U.S. Rep. Inouye took the oath of office of the House, Congressman Leo O'Brien reminisced about how Inouye arrived on the national political scene. This is how Rep. O'Brien was quoted in the Congressional Record (Note: his comments came shortly after the third anniversary of Hawaii's admission to the Union):

"Tuesday last was the third anniversary of the admission of Hawaii. Today is the third anniversary of one of the most dramatic and moving scenes ever to occur in this House.

"On that day, a young man, just elected to Congress from the brand new state, walked into the well of the House and faced the late Speaker Sam Rayburn.

"The House was very still. It was about to witness the swearing in, not only of the first Congressman from Hawaii, but the first American of Japanese descent to serve in either House of the Congress.

"'Raise your right hand and repeat after me', intoned Speaker Rayburn.

"The hush deepened as the young Congressman raised not his right hand but his left and he repeated the oath of office.

"There was no right hand, Mr. Speaker. It had been lost in combat by that young American soldier in World War II. Who can deny that, at that moment, a ton of prejudice slipped quietly to the floor of the House of Representatives."

During his tenure in the Senate, Senator Inouye has:

Delivered the Keynote Address at the 1968 Democratic Convention, in which he appealed to racial understanding and progressive change through democratic institutions;

Gained national exposure and respect as a member of the Senate Watergate Committee in 1973 and 1974;

Served as the Third-ranking leader among Senate Democrats as Secretary of the Democratic Conference from January 1979 through 1986;

In 1976, appointed first chairman of the Senate Select Committee on Intelligence, a post he voluntarily relinquished after a two-year term;

In 1984, chaired the Senate Democratic Central American Study Group to assess U.S. policy and in that year also served as Senior Counselor to the National Bipartisan Commission on Central America (also known as the Kissinger Commission);

In January 1987, appointed chairman of the Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition, which held public hearings on the Iran-Contra affair from May through August 1987.

Senator Inouye's present leadership positions include:

Chairman of the Select Committee on Indian Affairs, which looks into issues affecting Native Hawaiians;

Chairman of the Senate Appropriations Subcommittee on Defense;

Chairman of the Senate Commerce, Science and Transportation Subcommittee on Communications.

Remarks by Senator Daniel K. Inouye Recipient of the 1993 Minute man of the Year Award, Before the Reserve Officers Association

FACING THE FUTURE: THE AMERICAN DEFENSE CHALLENGE IN THE POST-COLD-WAR ERA

I am honored to be here today to receive the Reserve Officers Association Minute Man of the Year Award.

In doing so, I wish to share with you some of my thoughts on the future of our national defense and the role the Reserves should play in maintaining that defense.

Today, nearly 50 years after the end of World War II, our Nation faces new and unprecedented challenges. Ahead are challenges to our economic security and overseas interests as potent and demanding as any which we have known.

From Iraq to Bosnia and from Iran to Somalia, the forces of instability and radicalism, born of oppression and poverty, are now in the ascendancy. In the wake of the Soviet Union's sudden and unexpected demise, unchecked nationalism has replaced monolithic communism as the primary threat to our national security.

These changes give rise to a host of questions which the American people, and we in the Congress, must confront, and answer as we move toward a new century. * * *

What should be the response of the United States to the rash of new regional conflicts flaring up around the globe.

How should our Armed Forces be postured for these new challenges.

What costs in both lives and treasure are we prepared to accept in order to maintain our Nation's global reach and superpower status.

These are not easy questions to answer, particularly for any student of history who knows the consequences of overextension for all great powers from Rome to Britain.

Nevertheless, ladies and gentlemen, it is my firm conviction that despite our diminished resource base and a mounting national debt, we can ill afford to retreat from the very responsibilities which have led to our greatness and which history, as well as our own self-interest, has bestowed upon us.

The fact remains that our vast global interests will forever require vigilant tending if they are to continue to nurture our society and our economy.

We are compelled by circumstance and by destiny to remain an active player on the world stage. Along with our Democratic allies we must ensure that the necessities of our existence—free trade, abundant energy supplies, and open lines of communication—remain outside of the control of tyrants.

I believe that for the foreseeable future, these national requirements—requirements which have molded our modern history—will remain a constant in the life of the American Republic. The end of the cold war may have forced a change in our strategic thinking; it has not altered the fundamental proposition that to protect our way of life and safeguard our democratic ideals, we must never cede control of our foreign policy to others.

From time to time, this may require that we shoulder special responsibilities in an effort to swiftly, and to our satisfaction, bring order and stability out of chaos in distant reaches of the globe. Others will expect us to do it. Our interests will demand that we succeed.

This is the burden of leadership. This is the American challenge. This is the reason we must be prepared for the prudent, efficient, and well-defined application of our military power.

Ladies and gentlemen, isolationism has never suited the American character. It didn't in the 1940's and it does not today. We are a bold, activist nation which takes pride in the moral and democratic impulses which guide our foreign policy. It is no more in our nature to shrink from villains like Saddam Hussein and Manuel Noriega than it was to shrink from the likes of Hitler, Mussolini, and Tojo.

The same is true when it comes to missions like humanitarian and disaster assistance, peacekeeping, or counter-terrorism. It is the United States, before any other nation, which rises to the challenge and lends direction, leadership, and dedicated manpower to the task at hand. And we get the job done.

It is a fact of our heritage—a current which animates our national spirit—that our example often serves as the standard against which the conduct of other nations is judged.

And no where is that force of our national character better personified than in the professionalism of our Armed Forces. The men and women of the United States military—active and Reserve—the soldiers, airmen, seamen, and marines—consistently distinguish themselves as warriors, as ambassadors, as nation builders, and as protectors of the peace.

Ladies and gentlemen, in accepting the Reserve Officers Association Minuteman of the Year Award, I am cognizant of the significant role played by reservists in every major conflict this Nation has known since its inception. Today, as part of the "Total Force" concept, reservists have become indispensable to virtually every aspect of our military operations, from combat support to special operations.

Improving the capability and integration of the Reserves in the new and leaner Department of Defense is the great challenge which lies before us.

I, for one, am committed to preserving the role, mission, and stature of our Reserve Forces.

We must ensure that the Reserves continue to obtain the latest and best equipment and training.

We must ensure that the men and women who voluntarily assume the burdens of our national defense are adequately compensated.

We must ensure that in the consolidation of our military we do not destroy the critical balance between Active and Reserve Forces.

We must fund unit strength and match unit capabilities for an efficient transition from peace to war.

A PROUD LEGACY

In answering each of these questions, in responding to each of these challenges, we will look to the Reserves, just as we always have.

We must never forget the courageous sacrifices made by those men and women, those citizen soldiers, whose line of service and duty to our country stretches back to the bridge at Lexington and the village commons at Concord.

President Franklin Roosevelt, the Commander in Chief during World War II once voiced his concern that, "Those who have long enjoyed such privileges as we enjoy forget in time that men have died to win them."

We will never forget.

We shall always remember.

I know, and you know, what has happened when we have forgotten, when we have allowed the lessons of history to slip into the dim memories of the past. Each time we have allowed the past to slip beyond recall it has returned to strike us.

On December 7, 1941 our military men at Pearl Harbor, at Hickam Field, at Schofield Barracks and at other locations in Hawaii and around the Pacific were taken by surprise by the suddenness and the ferocity of the attack which struck them that morning. Years of neglect and wishful thinking had left them unprepared.

We could ask, why did this happen. There are many answers, but perhaps the best is that America in 1941 had become a sleeping giant. The widely held view that America had been drawn into a European War in World War I led to the passage of a series of legislation known as the Neutrality Act. Clearly, it was reasoned, if America was to be neutral in any future war, America need not be armed. We sharply cut defense spending; we reduced our Army to a handful of units which marched around dusty parade fields on the Fourth of July and did little else.

When George Patton arrived at Fort Benning, GA as a brigade commander in the 2d Armored Division, he found most of his 325 tanks in disrepair and in need of nuts and bolts simply to hold them together. When ordered, the nuts and bolts never arrived, probably because the Army did not have them. So he bought them from Sears, Roebuck & Co.

Gen. George C. Marshall, soon to command the largest military operations in history has said of his pre-war command at Fort Leavenworth, KS, "I commanded a post which had for its garrison a battalion of infantry * * * but a battalion only in name, for it could muster barely 200 men when every available man, including cooks, clerks, and kitchen police were present for what little training could be accomplished." Thus the future commander of over seven million men and women spent the pre-war years aimlessly maneuvering 200 soldiers, cooks, and potato peelers about a duty parade ground in Kansas.

Our soldiers drilled with broom sticks and men carried cardboard tanks on their shoulders in maneuvers to practice combined arms exercises.

This was the sleeping giant which was awakened on the morning of December 7, 1941.

We emerged from World War II victorious; we were the most powerful nation on the face of the Earth. Too soon our people forgot that it was only after the loss of thousands of precious lives that we had triumphed. Again we disarmed. We sent our boys home; we disbanded units and closed down forts, bases, and airfields.

American forces under arms numbered some 12 million in 1945; by 1946, the number was down to 3 million; and, in 1947, it was nor more than 1.2 million—about one-tenth the size of the wartime force. President Truman's budget request for Defense spending was cut in half in 1949.

Then, at 4:55 in the morning of June 25, 1950 the forces of North Korea, equipped with first-line Soviet military hardware, attacked across the 38th parallel. You know what followed, hastily formed units of cooks, stevedores, and clerks were rushed from the eighth army in Japan to the Korean peninsula to stem the advancing tide.

Again we were unprepared. We did not expect—we did not predict—an attack on South Korea. Again, we ultimately triumphed. Again, it was only after the loss of thousands of our young men that we were able to win. Our forces were sent into battle untrained and ill equipped.

And what will we do now. Today, with the nuclear republics of the former Soviet Union in a state of virtual chaos, will we again so sharply cut our defense spending that our Army is reduced to a handful of units which—as their predecessors did in 1941—march around dusty parade grounds, unappreciated, ill-equipped, and unprepared.

No. Not, if I have anything to say about it. And, I do.

Not long ago, I was preparing an article on military history and learned that, although precise records are not available, it is estimated that the Continental Army under Gen. George Washington never exceeded a total strength of about 30,000 men—most of whom were activated militia.

Negotiations to conclude the War of Independence began in 1782 and culminated in the Treaty of Paris signed on the 3d of September 1783. Demobilization of the Continental Army began even before the British evacuated New York on 25 November 1783. By the 2d of June 1794—less than 1 year after the signing of the Treaty of Paris—Congress reduced the army to 80 men, 55 stationed at West Point, and 25 at Pittsburgh.

On August 24, 1812, the British burned the White House and sacked the Capitol Building.

So, the rush to reduce forces in peacetime is not a recent phenomenon. It has been with us since the birth of our republic. But, today we live in more dangerous and uncertain times.

The ultimate outcome of the struggle for democracy within the former Soviet Union is a great unknown. The possibility of another coup attempt—or several coup attempts—remains a concern. Political chaos may be followed by economic chaos. We do not know what will be the outcome.

The specter of Bosnia-Hercegovina lurks in the shadows of each of the new republics—a reminder that democracy often comes at a price.

And, even if the worst of our fears do not come to pass, Russia will still be Russia. The land mass of Russia will still extend from Europe to Asia. Russia will still be the second most powerful military force in the world.

Russian military power—even under a ratified START-II Treaty—will continue to pose the principal threat to our national security in the world. Its range of deployable forces, its multitheater combatant capability and its extensive industrial base, provide it with an unparalleled capacity to disrupt or destroy any attacker.

When all is said and done, Russia will continue to stand as the only country in the world capable of holding all of the territory of the United States at risk—this, despite its economic woes and its internal political tensions.

It is time that we ask our leaders not just to react to events as they unfold, but to guide them to our best advantage. We cannot allow our defense policy to be dictated by others; now, as never before, it must truly be the product of Presidential initiative and congressional support for active engagement in world affairs and not the withdrawal which has characterized U.S. policy in the past.

I must tell you, honestly, that for far too long, it has seemed to me that our Ship of State was adrift without a captain, and that decisions about our national defense were being made in a piecemeal fashion, without regard to long-term objectives.

It is my sincere hope that better days lie ahead.

Ladies and gentlemen, last week's Inauguration of our new President heralded the start of a new era in the history of our Nation and in the history of the Department of Defense.

I hope that Congress will be able to participate in a constructive and innovative dialogue with the administration on the great issues now before us.

Long ago, in the wartorn fields and mountains of Europe I learned never to fear the future, but to view with hope the prospect that tomorrow will be a better day. I believe that the President and the new Secretary of Defense share this vision and will be eager to work with Congress to fashion a new defense posture that continues to rely on strong involvement of the Guard and Reserve.

I am not going to pretend to know at this time the details of all of the force structure recommendations which I will make in the fiscal year 1994 Department of Defense appropriations bill. I will await President Clinton's budget presentation before making up my mind. I can tell you now, however, that I intend to ensure that the essential interests of the Guard and Reserve will be protected.

In conflict after conflict, you have exemplified the highest form of citizenship, leadership, and professionalism. You are the fiber and the sinew of our great Democracy. I am proud of the work you have done and the spirit in which you have done it.

Remain strong. Remain proud. Thank you again for allowing me to share in this great honor.

God bless you and God bless America.

TOWARD AN EXPANDED U.N. SECURITY COUNCIL: A SOUND FIRST STEP BY SECRETARY CHRISTOPHER

Mr. BIDEN. Mr. President, the great foreign policy challenge for the Clinton administration—a challenge that will not wait—is to advance energetically in the work of converting the new world order from concept to reality.

Under my own conception, as I set it forth in the Senate last year, the task of shaping a new world order comprises four elements:

The first, cementing the democratic foundation means promoting democracy everywhere we can, but especially among the major powers.

Second, forging a new strategy of containment means empowering multilateral agencies and regimes to stop the proliferation of weapons of mass destruction.

Third, organizing for collective security means strengthening the United Nations by expanding the Security Council and assigning to it certain predesignated military forces and facilities.

Fourth, launching an economic-environmental revolution means protecting and perfecting the free trade regime by completing the new GATT agreement, and then acting to reorient the world economy to environmentally sound methods of production and consumption.

My focus today is on the third element, organizing for collective security, for I am gratified to see that Secretary of State Christopher, in his first week in office, has signaled his clear intention to move boldly in pursuing this critical objective.

Secretary Christopher's announcement that the United States will seek an expansion of the permanent membership of the U.N. Security Council involves no mere technicality. He has identified and accepted an immensely difficult task that is a prerequisite if we are to empower the Security Council to exercise the police and enforcement powers set forth in the U.N. Charter but rarely used in the last half century.

A reordering of membership on the Security Council, the most prestigious and potent of U.N. organs, is necessary because the present structure of permanent membership—America, Britain, France, Russia, and China—reflects the outcome of World War II and is, increasingly, a glaring and debilitating anachronism.

Since then, Japan has become an economic superpower and Germany the dominant power in an increasingly integrated European Community that did not then exist. From a global perspective, these nations, together with the United States, are today the leading powers of the industrialized North.

India, a colony when the Second World War ended, is now the world's largest democratic state and—with one-sixth of all humanity-the leading voice of the scores of less-developed nations that comprise the south.

The absence of such countries from the organ embodying the United Nation's most solemn responsibilities has become an unacceptable anomaly in an organization we must seek to empower.

Negotiation of membership changes will be arduous because many formulas are conceivable, and national power and prestige are at stake. But the clear goal will be to reconcile two objectives: We must enhance the Security Council's stature through a broadened membership, while avoiding the chronic stalemate that could result from increased participation.

As we approach this change, let us match our understanding of the difficulties involved with a clear recognition of the gains. The inclusion of other major nations would eliminate obvious anomalies between actual world power and the institutions we must depend on to channel that power. But more than that, the very process of restructuring the Security Council can be used to promote an objective central to our other security aim in shaping a new world order: The implementation of a new strategy of global containment, directed not at a single nation or ideology but at weapons of mass destruction.

At present, as it happens, the five permanent members of the Security Council are the world's five acknowledged nuclear powers. Yet nuclear weapons—as the case of the now-defunct Soviet Union demonstrates—confer power in only the most limited sense.

As the Security Council's permanent membership is broadened to include such nonnuclear states as Japan and Germany—and border-line nuclear states such as India—the delegitimization of nuclear arms should be made a formal and affirmative policy. The price of new membership on the U.N. Security Council should be an unconditional pledge to remain or become nonnuclear.

With this policy, we accomplish two objectives simultaneously: modernizing the Security Council's membership and further delegitimizing nuclear weapons as the currency of international power.

In the case of Japan and Germany, this will entail only the perpetuation of existing policy and treaty commitments. For India, it would mean acceding to the Nuclear Nonproliferation Treaty, accepting rigorous international inspection of its nuclear facilities, and giving up an ambiguous status that has, in reality, provided little benefit to that nation and entailed much risk.

The inclusion of Germany, Japan, and India as permanent nonnuclear members of the Security Council would validate new conceptions of power in the post-cold war world.

India's acceptance of membership under the nonnuclear condition would have the added advantage of ending South Asia's dangerous nuclear arms race, since Pakistan has already agreed to sign the NPT if India will so agree. India's accession to the Security Council could thereby become a catalyst for a breakthrough on security problems that have plagued, and squandered the resources, of the Indian sucontinent.

Catalyzing this crucial transition will require the good offices and the sustained leadership of the United States. I congratulate Secretary Christopher for acting so promptly to express the sense of magnanimity and purpose befiting the United Nation's predominant power and for wasting no time in beginning an historic task.

GET OUT AND VOTE DRIVE

Mr. MOYNIHAN. Mr. President, I recently received the following information from the New York chapter of Hadassah which I thought might be of interest to the Members of the Senate. I accordingly asked unanimous consent that this report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

> New York Chapter of Hadassah is proud to report that, during the 1992 Election Campaign, it conducted a highly successful, nonpartisan "Get Out and Vote Drive." The goals of the project, chaired by New York Chapter's National [Hadassah] Young Leaders' Advisory Council (NYLAC) Representatives Miriam Davidson and Nancy J. Brown, were to register voters, encourage voting and stimulate voter awareness.
>
> Our activities were designed not only to reach our own membership but were also organized for the benefit of all New Yorkers. In-reach activities included nonpartisan reports and presentations at group- and Chapter-level meetings, constant reminders about the significance of registration and voting and making registration forms readily available. Brochures specifically designed to strengthen registration and voter turnout among the Jewish community in particular were distributed to our members as well as to local synagogues. The concomitant community out-reach effort brought our members out on the street to man voter registration tables at various, highly trafficked locations in Manhattan, including street fairs. Our public relations campaign engendered radio, print and television publicity, including a radio talk-show interview. To culminate the project, an exciting Election Night party for singles was held in the name of Vanguard (Hadassah's Jewish singles' outreach group); attendees socialized as they followed televised election returns.
>
> During the entire project, signatures from New Yorkers were garnered on a "We the People are Registered and Voting in the 1992 Election" proclamation, to be submitted in bound form to President Bill Clinton. The purpose of this proclamation is to demonstrate New Yorkers' involvement and interest and to urge the new President to be attentive to our urban needs.
>
> Hadassah is the Women's Zionist Organization of America. It should be noted that all of our members are volunteers and that the participants in NY Chapter's "Get Out and Vote Drive" ranged in age from 25 to 85. The efforts of all the volunteers for this project are applauded, with particular acknowledgement made to the following participants: Theda L. Zuckerman, President of NY Chapter, and Mallory J. Stevens, American Affairs Chair and member of the Executive Board, who served as advisors; and Miriam Marcus, Treasurer and member of the Executive Board, who organized weekday volunteers.
>
> Our "Get Out and Vote Drive" succeeded in registering 4,000 New Yorkers, many of whom had never before voted but who claimed to have been inspired by our efforts. We are very proud to have done our part to help foster the democratic process and to have played some role in achieving a historically significant voter turnout in New York.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FAMILY AND MEDICAL LEAVE ACT OF 1993

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 5, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 5) to grant family and temporary medical leave under certain circumstances.

The Senate proceeded to consider the bill.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me begin at the outset by thanking the majority leader and the minority leader for working out the scheduling of this legislation. This will be the first piece of legislation to be considered by this body in the 103d Congress. And after 7 long years of being involved in this journey, I stand here for the third time, Mr. President, hopefully with the same success that we have had on the previous two occasions where this legislation has been adopted—in the first instance, by a voice vote of the U.S. Senate several years ago, and on a second occasion, a year ago by a substantial vote of almost 75 Members of this body.

Unfortunately, in both previous cases the legislation was vetoed by President Bush. And although this body, the Senate, was able to override the Presidential veto last year, the other body, the House of Representatives, was not. And so we find ourselves back here again to consider for the third time family and medical leave legislation.

So I thank the majority leader and I thank the minority leader for their efforts. I also want to thank the distinguished chairman of the Labor and Human Resources Committee, Senator KENNEDY of Massachusetts, who has been an unfailing ally in this effort, a strong supporter. Without his backing at the full committee, we would not have been as successful in the past occasions. We have actually on four different occasions sent the legislation from that committee.

I feel, Mr. President, sort of like that mythological figure of Sisyphus who is doomed to roll the rock up to the precipice only to have the rock roll back again. My hope is that on this occasion the predictable outcome of Sisyphus' efforts will be changed and that in face we will roll that rock over the brink and the family and medical leave legislation will become the law of the land.

So I am grateful to Senator KENNEDY for his efforts in the committee.

I would also be remiss if I did not emphasize and recognize the efforts of my Republican colleagues who have been tremendously supportive and helpful in framing this legislation. This is not a partisan bill. It has never been a partisan bill and it is not today as we begin this debate.

On the floor with me is today, Mr. President, is Senator BOND of Missouri who has been a tremendous supporter and who has provided invaluable input into this legislation.

Senator COATS of Indiana has been tremendously helpful, Senator PACKWOOD, and numerous other Members. A third of the Republican conference are cosponsors or supporters of this legislation. So it is truly a bipartisan effort.

And I am pleased, as I say, in being joined in sponsoring this bill by Senators KENNEDY, PACKWOOD, MITCHELL, JEFFORDS, FORD, HATFIELD, BOND, COATS, D'AMATO, CHAFEE, and more than three dozen other Members of this institution.

Almost 3 months ago, Mr. President, 104 million Americans stepped into polling stations across this country to cast their ballots in the 1992 election. Some, as we all know, voted for Democrats, others for Republicans, and in the case of the Presidential election a third choice, as well. Many supported independent and third-party candidates, but they all had one thing in common: they were sick and tired of politicians who think more about partisanship than leadership. They were frustrated by a Government that seemed to care more about the lobbyists than working people in this country. They were disgusted by a system in which gridlock and political sideshows take the place of real solutions to the real problems that working people face every single day of their lives.

Mr. President, today we begin the final chapter—at least I hope the final chapter—in a 7-year effort to establish a national leave policy for working families.

But, just as important, this is the first chapter in the most critical test of all: Whether we can really make government work for the people we were elected to serve. The Family and Medical Leave Act is what government should be about. It is what the American voters have sent us here to do. It is a test of our will to set politics aside and to show the people of this country, both in our words and our deeds, that government can be a positive force in their lives.

In America today, life is a family struggle to balance the competing demands of work and family responsibilities. Two-thirds of all women with children work full time today. One quarter of all children in the United States live with single parents. Millions of three generation households now care for elderly parents and almost 1 million women care for their parents and their children while working full time. Those are the demographic changes.

These are people like Eva and Michael Skubel from Moodus, CT. Their 10-year-old daughter, Jacinta, who suffers from a rare brain disease, was hospitalized several years ago while Eva was pregnant with their second child. But when Michael asked for 5 weeks of leave to be with Jacinta in the intensive care unit, he lost his job, and the family's income and health insurance were all eliminated at the same time. Now, after years of struggling to make ends meet, Eva Skubel works at Newington Children's Hospital in Connecticut, counseling families that face similar predicaments every single day.

Carmen Maya lives in Chicago, IL. A single mother of three, Carmen lost her job of 19 years as a pharmacy technician when she needed leave to recover from a difficult pregnancy and to care for a newborn child with Down's syndrome. After two decades of bringing home a paycheck, Carmen was forced onto the welfare rolls just to feed her children, because she could not get leave to be with a child with Down's syndrome.

Sandra Seymour is from a small town in Wisconsin. When her 82-year-old father had two serious heart attacks, Sandra's employer refused her request for 1 week of unpaid leave to care for her parents. Ironically, Sandra was offered 3 days' leave should her father die, but no time off for the chance to comfort her mother and to help nurse her father back to health.

For these families and thousands like them, the Family and Medical Leave Act provides an answer—it is not a complete answer, it is not a perfect answer, but it is an answer—to short-term job security in times of family or medical emergency. If you need time off to care for a new child—or to care for a sick child, spouse, or elderly parent—your job and your health insurance will be there when you return. It is 1993. It is time to recognize that this concept is deserved.

The bill before the Senate today is virtually identical to the conference report that was vetoed last year, with minor technical changes to facilitate administration and enforcement of the new law. S. 5 provides up to 12 weeks of unpaid, job-protected leave per year—with health insurance coverage—for the birth or adoption of a child, or the serious illness of an employee or an immediate family member. The bill exempts small businesses and covers only employers with 50 or more employees. In order to be eligible for leave, employees must have worked 1,250 hours over the previous 12 months and at least 1 year for that employer.

Medical certifications are required to prove that an employee must take leave in order to deal with a serious medical condition.

S. 5 enforcement procedures closely parallel the longstanding Fair Labor Standards Act enforcement regime which was enacted in 1938. So we are not creating any new bureaucracies, no new agencies. We are following existing, standing law.

Through 7 years of scrutiny, including passage twice by Congress in the last 3 years, we have amassed strong and convincing evidence that family leave is not only good for working families, it makes good business sense as well. By the way, yesterday the National Retail Federation strongly endorsed this legislation at a press conference with Senator BOND of Missouri, and myself. The National Retail Federation employs 20 million people and it represents 1 million businesses in this country. They did not reach their decision lightly. Many of these are smaller businesses, and they stand strongly and squarely behind this bill. It is not only good for families, they said, it is good for their businesses. And if the National Retail Federation, which represents almost 20 percent of the work force in this country and a million employers is comfortable with this bill, then my colleagues ought to be as well.

A 1990 study by the Small Business Administration under the Bush administration concluded:

> The net cost to employers of placing workers on leave is always substantially smaller than the cost of terminating an employee.

The SBA study commissioned and paid for by the previous administration pegged the cost of family leave at less than 2 cents per covered worker per day without ever factoring in employer savings from reductions in termination costs. A revised analysis of this study, Mr. President, last year concluded that more than 300,000 people had lost their jobs since a similar bill, the family medical leave bill, was vetoed in 1990 because they had no job-guaranteed medical leave. This 1992 report also found that mid-size and large businesses would have saved nearly $500 million in unnecessary hiring and training costs for new workers had this bill become law 3 years ago: 300,000 jobs, $500 million, an SBA study saying that would have been the savings in employment in dollars and cents had this bill become law when it was first passed by the Congress in 1990.

Another recent study, Mr. President, commissioned by the Ford Foundation, not exactly what one would think of as sort of a liberal union think tank, examined employer practices in four States, and they have enacted family leave laws. Nine out of ten employers in the Ford Foundation study reported that the laws were easy to implement and that they were not forced to provide fewer health benefits. Eight out of ten employers reported no increase in training or unemployment insurance costs.

Mr. President, further individual companies report tremendous savings with leave policies already in place. The Aetna Life & Casualty Co., one of the largest employers in my State of Connecticut, reported last year that its family leave program, which they have adopted in the last several years, in their conclusion is saving them $2 million annually in reduced employee turnover, lower hiring and training costs.

AT&T, Mr. President, recently adopted a family and medical leave policy. They have concluded that it is saving them $15 million each year in replacement costs alone. My point is, Mr. President, that every piece of data that has been collected by objective groups that do not have any particular ax to grind have concluded that the net cost to employers and businesses is positive, whether it was the Ford Foundation, the Small Business Administration, or a Republican administration that vetoed the bill, I might add, concluded that the costs were substantially going out and hiring someone new. Of course, the hard evidence and data by businesses and companies that are not thinking about what it must be like to have family and medical leave policies but are doing it every day concluded that there are real cost savings for them as well.

Mr. President, the Family and Medical Leave Act gives us the opportunity to respond in a very tangible way to a very real problem that real people face all over this Nation: The daily struggle to balance work and family responsibilities. It is an opportunity to symbolize with concrete action the end of Government gridlock and that Republicans and Democrats can work together for the common good. It is an opportunity to show that, as we begin to tackle the economic challenges of the 21st century, Government and business can form a real partnership to invest in both a productive work force and strong families at the same time.

Mr. President, this legislation touches on all of the themes that people care most about and are worried about most today: Holding their families together, the incredible pressures today, the incredible pressures on families. This is not going to solve every one of those problems but at least the Government of this country, the Congress of the United States is recognizing it and trying at least in some fact situations to make it possible for those families to be able to be together. It also recognizes the critical issue of health care. It says that if you have a need to be away on leave without being paid that we are going to maintain your health insurance. This is not a major health care reform issue. But it is one of the things that people worry most about when they lose their job at the very time they need the health care for a medical crisis, the illness of a child, the illness of a spouse, or a parent or themselves. At the very moment they need the health care the most, if they need the leave, they run the risk of losing it. What a cruel contradiction, that you lose your job and you lose your health care at the very moment you need those resources in order to keep your family together.

While there has been a lot of talk over the last couple of weeks about getting about the business of things that people care most about in this country, we are doing it, with the initiation of this legislation as the first bill before the Congress.

Mr. President, let me just take a minute, if I can, because I know there will be those who will raise arguments that we have heard over and over again, but I just want to touch on some of them very briefly and will come back to some of them again. One of the first arguments we will get is that this is already happening out there; let businesses do this on their own; that if government would stay out of it that they will start to do this; that it will begin to take care of the problem of new births or adoptions on their own. I wish that were the case. And, Mr. President, were it the case, I would not be standing here offering this legislation on the floor. But let me share with my colleagues exactly what has been happening over the last several years.

Type of leave: How many employers provide mothers with leave for a newborn child in this country? According to the Bureau of Labor Statistics, only 37 percent of all businesses in this country provide leave for a newborn child—37 percent, one of the most common sense, fact situations one could think of. How many fathers get leave at the time a child is born? Eighteen percent, according to the Bureau of Labor Statistics.

How many parents can take leave if they decide to adopt a new child? I do not know how many of my colleagues this morning saw on one of the morning news programs where a couple in the Washington area adopted four young girls, four young quadruplets and they took in all four children. They already have two sons, limited incomes, and they decided they deserved to be together, to be a family. They ought to be able to have the leave now to put that family together. Yet only 28 percent can do that.

How many employers provide leave when a child is ill and sick, a serious illness? Eighteen percent of employers. If you go up to them and say I need some leave to be with my sick child, 18 percent provide it, according to the Chamber of Commerce study, I might add.

Elder care, how many of you get any time off to be with a very sick parent where you have to be there? Fourteen percent, according to Buck Consultants. Here you see it, Mr. President: 37 percent on births, 18 percent for fathers, a fraction on adoption, child's illness—there is a need, Mr. President, that I think has been graphically pointed out.

Cost to business: I have been over already some of those statistics. I know I am going to hear this is an outrageous cost to business. In fact, a new General Accounting Office study raises it a bit. When we asked the GAO a few years, it was something like $6.50 a year. They now raise it to $9.50. In a most recent analysis, they say 80 percent of that increase is due to rising health care costs and the other 20 percent has to do with an explosion or 200,000 more people in the work force. Still, $9.50 is not an outrageous cost to be asking people to bear.

So we have already established that cost, and the difficulty of implementing it is hardly the issue.

We have been told in the past that this is going to make us less competitive with other nations in the world; how are we going to compete in the global marketplace? Let me quickly share with my colleagues what some of our competitor nations are doing. Roughly 127 other nations in the world have family and medical leave policies in place, Mr. President. Consider who our major competitors are and what they do.

Canada provides 17 to 41 weeks of leave; 15 weeks you get 60 percent of your salary. Ours is unpaid leave, by the way. France, 18 weeks; 16 weeks you get 90 percent of your salary. Germany, 14 to 26 weeks of leave and for 14 to 19 of the weeks, you get 100 percent of your salary during that period. Japan, a major competitor, 12 weeks of unpaid leave and you get 60 percent of your salary during the leave.

Mr. President, when people say we cannot compete in the global marketplace, consider what our competitors are doing and maybe one of the reasons we do not do as well is because of the understanding of how important it is to have a work force that is respected by its employers and understands their needs.

Last, Mr. President, we will be told this is a yuppie bill; this is only good for upper-income people, not for lower-income people. Again, Mr. President, the details and the information we have collected in over 20 hearings just debunk that argument completely. The least privileged, the most vulnerable workers are particularly likely to be without employer job-protected leave. A study by the Institute for Women's Policy Research, a sample of female employees who gave birth, shows the annual average earning of those without leave was $10,000 compared to over $16,000 of those who had leave policies in place.

Employees without adequate leave suffer increased unemployment. I will at a later date go into the details of this. When a child arrives, when a family member is ill, when an employee is temporarily disabled, the employees have no choice: He or she must be absent from work. With family and medical leave, as soon as the employee returns to work, his job is there. Lower-income employees who have the fewest resources to cushion the financial loss of absence from work are most in need of job-protected leave and most in need of Government's assurance that they can get it. So we will come back to some of these arguments at a later date.

But after 20 hearings and for 7 years, twice passing the Congress of the United States, we have been over all of these arguments. I think the evidence should speak for itself in handling them. But my hope is that this week we will focus on this issue and we will not bring up a lot of irrelevant amendments to this legislation. It deserves to be considered in its own right.

Hopefully, we will send a message to the American public that we heard them in this election; that we care about what happens to their families; that we care about what happens to their health care; and that we care about what happens to their jobs.

Again, I thank my colleagues for being involved in this effort over so many years and for making it possible to be where we are today.

Mr. President, at this juncture I ask unanimous consent to include in the RECORD an editorial from the Washington Post this morning entitled "Finally, Family Leave."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From The Washington Post, Feb. 2, 1993]

FINALLY, FAMILY LEAVE

The Senate will begin consideration today of the Family and Medical Leave Act, which was passed by two successive Congresses and vetoed twice by President Bush. The House will take up the bill tomorrow. While the dispute over gays in the military may tie up final action on the measure for a while, passage in both houses is considered certain. The bill may be the first piece of major legislation signed into law by President Clinton, and it is a good place to start.

Much was heard during the campaign about family values and the difficulties faced by young parents trying to hold down jobs while caring for newborns, sick children and sometimes parents, and coping with crisis when a spouse is ill. The Republicans, in fact, acknowledged that these are the kinds of problems that are widespread and create deep anxiety in many American homes. But they made the mistake of refusing to get behind a solution that involves employer mandates and of not proposing workable alternatives. The issue did not vanish with the vetoes. Backed by hundreds of organizations as diverse as Catholic Charities and the National Abortion Rights Action League, the bill picked up momentum after the election and has been placed on a fast track.

The proposal is uncomplicated. Employers of 50 or more people would be required to grant up to 12 weeks of unpaid leave to enable an employee to care for a new baby or an ill family member. Experience in companies that already have such policies indicates that less than one percent of the work force uses the benefit in any given year (the leave, after all, is unpaid), that almost all users had new babies and that few took the whole amount of time authorized. Moreover, some employers claim actually to have saved money by avoiding new hiring and training costs.

Employer mandates are nothing new, and most of them—Social Security, for example, and workers' compensation—involve direct money costs to the employer. In another generation, Congress required employers to rehire those who had to leave jobs in a national crisis. Veterans, some away form civilian work for years, were guaranteed a place when they returned. Fortunately the country does not now face a crisis of the magnitude of World War II. But for families, the loss of a job because of a health crisis or the birth of a child can be devastating. The legislation about to be passed should remove that fear and provide American workers the protection that today's families need and deserve.

Mr. DODD. Last—and I should have mentioned this at the very outset—one of the differences now is that we have a President who cares about this issue.

One of the reasons President Clinton prevailed last fall is because he emphasized so strongly his strong support for families, for providing for health care for families in this country, and understanding their needs.

I am pleased, to include in the RECORD a letter from President Clinton strongly endorsing this legislation. He says:

DEAR MR. CHAIRMAN: Our Government must dedicate itself, first and foremost, to the interests of what I have called the forgotten middle class—the people who have worked harder for less, and who have had to try and make a living while raising a family.

For that reason, I strongly support and will sign the Family and Medical Leave Act. It is important that this bill reach my desk quickly, with no weakening amendments added to the original bill as reported by the Committee on Labor and Human Resources.

Parents should not have to choose between the jobs they need and the families they love. Today, many companies provide maternity leave and leave to care for sick family members, but too many do not. This failure to put people first saps productivity and ultimately hurts our economy.

For years we have known that we need this legislation. It has been passed by Congress before, with strong bipartisan support, only to be vetoed. We have no excuse for further deadlock and inaction. I look forward to signing the Family and Medical Leave Act. It would be a fitting indication that the Government has gone to work for the American people.

With best wishes,

Sincerely,

BILL CLINTON.

Mr. President, I ask unanimous consent that there be printed in the RECORD a letter from the new Secretary of Labor, Bob Reich, indicating his strong support for the legislation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, DC, February 1, 1993.

Hon. GEORGE MITCHELL,
U.S. Senate, Washington, DC.

DEAR MR. LEADER: I am writing to urge you to act quickly upon a critically important bill, S. 5, the "Family and Medical Leave Act of 1993." The bill would require employers with 50 or more employees to provide up to 12 weeks of unpaid leave for "eligible employees" to use for the care of a newborn or newly adopted child, for the care of a family member with a serious medical condition, or for their own illness. It also requires employers to maintain health insurance coverage and job protection for the duration of the leave, and sets minimum length of service and hours of work requirements before employees become eligible. Similar provisions also apply to Federal and Congressional employees.

The Administration strongly supports the enactment of S. 5, as reported by the Senate Labor and Human Resources Committee. This legislation is needed to better balance the family and medical needs of the American worker with the demands of the American workplace, and to enhance job security and worker productivity.

Over the past 25 years the American family and the American workplace have undergone unprecedented changes, which have created a compelling need for Federal medical and family leave legislation to protect American workers. First, economic necessity and changing cultural standards—as well as greater opportunity—have resulted in large numbers of women entering the work force as contributors to family income or as sole heads of households. In 1965, about 35 percent of mothers with children under 18 were labor force participants. By 1992, that figure had reached 67 percent. By the year 2005, one of every two people entering the workforce will be women.

Also, the decline in real wages has made two incomes a necessity in many areas of this country, with both parents working or looking for work in 48 percent, or nearly half, of all two parent families with children in the United States. Single parent families have also grown rapidly, from 16 percent of all families with children in 1975 to 27 percent in 1992. Finally, with America's population aging, more working Americans are finding the need to take time off from work to attend to the medical needs of elderly parents.

As a rising number of American workers must deal with the dual pressures of family and job, the failure to accommodate these workers with adequate family and medical leave policies has forced too many Americans to choose between their job security and family emergencies. It has also resulted in inadequate job security for working parents and other workers who have serious health conditions that have prevented them from working for temporary periods. It is simply unfair to ask working Americans to choose between their jobs and their families—between continuing their employment and tending to their own health or to vital needs at home.

There also exists a direct correlation between stability in the family and productivity in the workplace. This legislation will encourage the development of high-performance work organizations. Workers who cannot take a reasonable amount of time off from work to attend to family emergencies can be expected to quit their jobs or to be absent without leave, creating unnecessary and costly job turnover, and higher absenteeism in the workplace. It is only when workers can count on a commitment from their employer that they are able to make their own full commitments to their jobs. The record of hearings on family and medical leave is full of testimonials from some of America's most respected business leaders on the powerful productive advantages of stable workplace relationships, and on the comparatively small costs of guaranteeing that those relationships will not be dissolved while workers attend to pressing family health obligations or their own illness.

While a number of enlightened employers have already recognized the benefits to be realized from a system providing for medical and family leave, data from the Bureau of Labor Statistics on private business establishments support the conclusion that private industry on the whole is not sufficiently meeting the family and medical leave needs of its workers. These data showed that, in 1991, for private business establishments with 100 workers or more, 37 percent of all full-time employees (and 19 percent of part-time employees) had unpaid maternity leave available to them, and only 26 percent of all full-time employees in such establishments had unpaid paternity leave available. The most recently available data for smaller business establishments (those with fewer than 100 workers) are for 1990, and show that only 14 percent of all those employees had unpaid maternity leave available, and only 6 percent had unpaid paternity leave available.

There is a vital role for government to play in a partnership with the private sector for transforming the American workforce, and a cost to be paid if government does not get involved. We all bear the cost when workers are forced to choose between keeping their jobs and meeting their personal and family obligations. When they must sacrifice their jobs, we all have to pay for the essential but costly social safety net. When they ignore health needs or their family obligations in order to keep their jobs, we all have to pay more for social services and medical care as neglected problems worsen.

Government must help to extend the ethic of long-term workplace relationships beyond the better-educated, better-paid segment of the workforce where high-performance workplaces have already taken root, and where family and medical leave is relatively common. This legislation will serve as a strong signal that all workers, not just the top tier, must be tied into ongoing networks of cooperative learning and teamwork.

Currently, the United States is virtually the only advanced industrialized country without a national family and medical leave policy. By enacting S. 5, the United States will join most of its keenest global competition in recognizing the social and economic benefits that family leave policies provide to workers and employers.

We also believe that this legislation will accomplish its objectives without imposing excessive costs on businesses. The General Accounting Office has estimated that this legislation will cost those businesses covered by the bill about $5 per year per employee.

The time has come to provide Federal family and medical leave protection for America's workers. Accordingly, for the reasons stated in this letter, the Administration strongly supports this legislation, and strongly supports the enactment of S. 5.

The Office of Management and Budget advises that there is no objection to the submission of this report to the Congress and that enactment of S. 5 would be in accord with the program of the President.

Sincerely,

ROBERT B. REICH.

Mr. DODD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, it is very clear that S. 5 is going to pass and be signed into law. I think there is no doubt about that. There is not going to be gridlock. There is not going to be any attempt to stall passage of this legislation.

I would like to compliment, as a matter of fact, Senator DODD, who, as chairman of the subcommittee on family and children's issues for the Labor Committee, has pursued with dedication and perseverance over the last 6 or 7 years this concept.

But also, Mr. President, I cannot stand here today without raising some serious concerns I have about this legislation. I do not believe there is anyone in the Senate or in the other body of Congress who would disagree with the concept of family and medical leave legislation. We all recognize the importance of workers having the time to be off to cope with illnesses in the family, or newborn children. I do not think anyone would disagree with the importance of that concept.

But where I find there are some troubling questions is with who should set the framework, who should be saying how much time and when an employee should take time to do those things which I think every employer and employee should recognize is of importance. I do not believe the Federal Government should be setting those parameters.

I should like to explore for a while this morning why I think we must be cognizant of the larger unforeseen and unintended consequences of Federal involvement of this kind.

Senator DODD mentioned that the National Retail Federation has endorsed S. 5 and this initiative. I think that is fine. I am delighted to see that. Business Week has editorialized in support of family medical leave for a couple of years. I think if the Business community chooses to do this, we can all be very pleased. Those kinds of initiatives are important, and I hope all members of the National Retail Federation are doing just that.

But as we look at this, we have to recognize there will be unintended consequences and there will be costs. I think it is very difficult for us to debate the costs because there are different figures—GAO has just revised theirs—as Senator DODD mentioned.

But as we look at comprehensive leave programs, we have to realize one size does not fit all and that many businesses have to approach problems on a case-by-case basis. Employers have acknowledged the increasing demands on working parents and the commitment involved in caring for a newborn and the pressures workers face when an illness strikes at home.

I personally am very pleased that part of this legislation takes into account the importance of being able to participate in the care of elderly parents. In many ways, that is just as important to employees in the work force today as the problems they face with newborn children.

Unfortunately, not all employers have recognized these needs. That is true. But for the productivity of the work force, more and more employers do recognize that it is becoming essential. And just because some have not recognized the importance of this, does this mean that Congress must mandate a response? Should we require all employers with 50 or more workers to offer no less than 12 weeks of unpaid leave? As a matter of fact, Mr. President, by setting the threshold at 50 or more employees, we leave out half of the work force. So there are a large number, many of those most in need of this type of assistance, who would not even be covered.

I have struggled with this issue, as have many of my colleagues, for the last 7 years, and I always reach the same conclusion. I believe companies should offer leave to their workers, but I cannot support a Government-mandated leave.

What concerns me most, Mr. President, is the impact this legislation will have on jobs. This country is still facing a severe job crisis. Our economy is simply not creating new jobs. As I have visited with people, job security is still one of their major concerns.

The unemployment rate has now remained above 7 percent for almost a year. Over 9 million people are out of jobs and looking for work, over a million have stopped searching, and 6 million workers with part-time jobs want to work full time. These numbers are very troubling.

The State of Connecticut, as well as the State of Kansas, recently have taken major blows as far as job losses in our States. Not a week has gone by without announcements of major layoffs, whether it is from Sears or from Boeing or from McDonnell Douglas. We simply have to recognize that workers want some sense of security in knowing what their future will be in the job market.

A headline in the Kansas City Star the other day said it all: "Layoff Plans by Boeing Terrify Kansas." People in my State and all across the country are worried about keeping their jobs—almost, more at this point I would suggest, Mr. President, than whether they are going to be able to have the time off to take care of problems, serious problems that may be affecting their families as well.

Even employee-friendly companies, as Labor Secretary Reich calls them, blue-chip companies like Xerox, IBM, and Kodak are cutting back their work forces. Why is this happening? Certainly, there are problems unique to each industry, but the overall trend is clear. If you want to cut costs, cut jobs. Like it or not, it is becoming standard practice for companies to reduce their work force to the bare minimum necessary to remain profitable.

Yet, in the face of this crisis, we now want to make it more expensive and more costly for companies to hire new workers. When this bill becomes law, businesses will have one more reason to postpone new hiring, one more reason to justify additional layoffs.

I, Mr. President, do not want to imply that this bill is going to add to the turmoil in the industry. But I clearly do believe it is a factor, and it is a factor that we cannot overlook as we lay out what our responsibilities are in passing this legislation.

Make no mistake about it, mandating such a leave will have a cost.

Estimates of the cost of S. 5 have varied from $1.2 billion to a total cost of almost $8 billion annually. I do not think we really know.

Nevertheless, of course, many of my colleagues will scoff at the notion that S. 5 will have any impact on jobs. It is frequently mentioned that other countries, as Senator DODD just said, have significantly more supportive family leave policies than the United States. But I would also suggest that they also have less productivity than the United States and far higher unemployment rates.

France has an unemployment rate of 10 percent; Great Britain, 11 percent; Spain, 17 percent; Italy, 11 percent; Germany is losing jobs at a rate of 100,000 jobs a year because of high labor costs.

Mr. President, I would suggest that we do not necessarily want to emulate what other countries are doing. I think we have to look at what best fits our job market today.

While the figures that have been given for the costs to business of continuing health care coverage during leave as mandated by S. 5, and as I think certainly is fitting, they really do not take into account the costs of hiring temporary replacements, the loss of productivity, the cost of meeting the new paperwork requirements of the bill, or the costs of fending off new litigation that I believe this bill will generate.

More importantly, they do not tell you what the costs will be to workers, not just in terms of job loss, but also in the form of reduced benefits, from health care to the elimination of existing paid leave programs which might well take effect if, indeed, we mandate an alternative of 12 weeks of unpaid leave. Unfortunately, the burdens of this bill will fall unevenly, mainly on women and those who can least afford it.

We cannot avoid the fact that when we mandate a benefit it will increase benefit costs which in turn will have a direct impact on the labor market, either curbing wage increases, reducing other benefits, or discouraging the hiring of new workers.

In the editorial in the Washington Post this morning, which endorses S. 5, it mentions that we have enacted employer mandates before, such as Social Security and workers compensation. May I just comment a minute on workers compensation?

Like many other States, Kansas is struggling with how to meet the costs now of workers compensation, and as an example, the brother-in-law of a friend of mine was just told by his company that there would be no wage increase for 3 years because of the escalating cost of workers compensation.

Those are the tradeoffs, Mr. President, that I think we must take into account when we look at actions that we take here.

If you do not believe me, I would just like to suggest that it is worth noting what one of the Nation's leading economists has said. Lawrence Summers was last week nominated by President Clinton to be the Under Secretary of the Treasury. He supports S. 5 in mandating family medical leave, but he said, while teaching at Harvard, in an article entitled "Some Simple Economics of Mandated Benefits," that the most obvious problem with mandating benefits is that they can only help those with jobs.

It is ironic for an administration that ran on a platform of job creation, that the first piece of legislation that will be passed will do absolutely nothing for the chronically unemployed of this country. In fact, it may even hurt their chances of landing a job.

Professor Summers acknowledges, as every other economist will tell you, that mandating benefits will result in either lower wages or lower employment. If wages are inflexible, as they are now, Professor Summers argues that a mandated benefit is likely to create more unemployment.

Even more troubling is his conclusion that mandating leave will have a negative impact on job opportunities for women. According to Professor Summers, the expected cost of parental leave is greater for women than for men.

Employers, he argues, will seek to hire workers with lower benefit costs, increasing the pressure to discriminate against women. "It is thus possible," he concludes, "that mandated benefit programs can work against the interest of those who most require the benefit being offered."

Mr. President, I do know that will happen. I certainly hope that it will not happen. I can only wish for the best in this legislation, but I clearly do believe that we have to weigh out the possibilities of what might happen, as do economists who really understand and who do think through the consequences in the marketplace.

In fact, according to a recent Gallup survey, almost 40 percent of employers polled confessed they would be less likely to hire women if mandated family leave becomes law. Another 50 percent said they would be more likely to reduce the number of jobs for low-skilled workers.

Many of the working women that I have spoken to in Kansas, and I have talked with many, sense they will have to pay for this mandate in some way, they worry about job security and they particularly worry that health benefits may be reduced in order to make up for another mandate imposed on an employer. Part-time workers fear that their hours will be cut so they fall outside the act. Full-time workers fear that they will be made part-time or that their health benefits will be reduced.

So there are these tradeoffs that work both ways and no one is absolutely certain what the outcome will be.

Until now Congress, I think, has been wise in refraining from interfering with the bargaining relationship. The give-and-take between employer and employee, however uneven at times it may be, is I think, the best solution. This has allowed maximum flexibility for wage and benefit packages to be shaped according to the needs of workers and the fiscal constraints of businesses.

The same dollar will be spent on workers. Only the pie will be sliced along different lines. And that is what I think, Mr. President, has to be of concern to us. Some workers will see their health care benefits reduced. Other employers will see no reason to continue their paid leave policies, since unpaid leave will be enough to satisfy the new law.

Employers must have the flexibility to offer a variety of benefits tailored to meet the diverse need of their workers. This might include provisions for child care, elder care, flexible work scheduling, job sharing or any number of programs designed to meet the unique needs of each workplace.

Finally, Mr. President, I am deeply concerned about the cumulative impact of this and other well-meaning legislation which add new costs and liabilities to every job.

As much as we might desire that this be done, and as I said earlier, I think it would be the desire of everyone to see that this could be managed in the workplace, I think that if we continue to create new burdens linked to employment, as this bill would do, businesses will come to view their employees as liabilities rather than assets. Sadly, this is already beginning to happen.

Many of my colleagues have come to the floor in the past to decry rising levels of unemployment while turning a blind eye when it comes to legislation like this, which may well influence the decision of a company to hire new employees.

I would argue, Mr. President, that is the prime responsibility we have today—to create new jobs with a secure foundation in the marketplace so that we can have some certainty about what is there, rather than just mandating from Washington a leave policy that we are not sure what the end result will be.

On top of payroll taxes and workers compensation, health care insurance is an additional, de facto employment tax on companies. Until we face the health care crisis head on, which indeed we must do, adding new mandates will only further discourage the creation of new jobs.

Before long we will see legislation to improve worker safety and health, to prohibit the hiring of striker replacements, to increase the minimum wage and to allow unlimited damage awards in civil rights cases. We can no longer afford to view measures of this kind in isolation, ignoring their impact on job creation, despite our best intentions. Now that we face a massive Federal debt, there will be more pressure for us here in Congress simply to mandate that businesses adopt programs the Federal Government can no longer afford. But then we should not be surprised to learn, as we continue to pass new and well-meaning employment laws like S. 5, that no new jobs are being created and more and more jobs are moving outside our borders.

A colleague of ours, former Senator George McGovern discovered firsthand just what obstacles a businessman must face these days. His small hotel and restaurant were driven into bankruptcy. His experience led him to conclude that: One-size-fits-all rules for businesses ignore the reality of the marketplace. And setting thresholds for regulatory guidelines at artificial levels—for example, 50 employees or more, $500,000 in sales—takes no account of other realities, such as profit margins, labor-intensive versus capital-intensive businesses, and local market economies.

It was his regret that he did not have this firsthand experience of the difficulties business people face every day when he served in public office. "That knowledge," he said, "would have made me a better United States Senator."

Mr. President, much will be said here today about family values. Leave to care for a family is good for business, and it certainly is good for a family. None of us would deny that. A number of employers already provide those benefits, and more should. But I have never believed that the Federal Government can legislate benefits to meet every need.

Mr. BOND. Mr. President, I thank the lead sponsor and the chairman of the committee who have labored long and hard to bring this measure to where we are today.

Mr. President, family versus job. Child versus career. Parenthood versus employment. These are the struggles that Americans face as our society changes.

The pressures of being a good parent or being good at your job are old. They are part of our social fabric. They make us caring parents and hard workers. Today, those pressures are in conflict—in our society, our families, and our individuals.

The conflict comes from change. The American workplace is evolving. Out of economic necessity, or from new opportunity, more women work outside their homes today; women are nearly half the work force now. Tomorrow, more women than today will hold jobs outside their homes. For most young women, it is a fact of life. Three out of every four women under 44 years old work outside the home today.

Talk with young parents today, and you can feel their daily struggle. A daughter is sick. We can take care of her all day when child care will not? A son has to get to school early. Who can be late to work? A daughter wants to play organized basketball. Who can take her to practice every day at 5 p.m.?

Finally, and most important for many of the families, how do we make ends meet? Should we spend more time and work trying to get ahead so we can give our children what we want them to have, or should we spend more time with them if it means less money or even costs us our jobs?

Most parents recognize these questions. They are central to our lives today. They present a choice—family versus job, child versus career. Today, our society suffers the results of that choice. Families are weaker.

The strongest and most important influence on a child is a parent. When that influence is removed, families break down. Many of the problems facing our society today are the consequence. Drugs, violence, crime, failing students, and poverty can be traced to a lack of family responsibility.

We should never force a parent to choose between a sick child and his or her job. We should never force a child to choose between caring for an aging parent and a job. And we should never force a mother to leave her newborn infant days after its birth in order to stay employed.

Those are the devastating effects of a lack of a family leave policy. They invite family hardship and break-up. We need to make family obligation something we encourage. We need to reinforce family ties. We heed to strengthen the sense of responsibility between a parent and a child, and we need to relieve the pressure of the choice of family versus job.

Ensuring a worker up to 12 weeks of unpaid job-protected leave for family emergencies or serious illness would do that.

Just as each American parent tries to find the right balance for their family and job responsibilities, we have tried to find the right balance in this legislation. Senator DODD has labored tirelessly for 7 years to enact family leave. He has successfully pushed that boulder up the hill. His desire to pass a workable bill with a bipartisan consensus has brought us to this point, where we trust the boulder will not roll down again.

We worked hard to answer legitimate employer concerns, and I think we have done that. The legislation minimizes the potential for employees to abuse their leave privileges and requires them to take more responsibility for their actions.

After taking a fresh look at the compromise yesterday, as Senator DODD mentioned, the National Retail Federation unanimously, through its executive committee, endorsed this legislation. The Federation represents one million retail establishments employing nearly 20 million people nationwide. Their endorsement demonstrates that the compromise is workable and is in the employers' best interest, and it provides a level playing field that all businesses with 50 or more employees throughout this country in each State will observe.

Last year, one-third of my colleagues on the Republican side of the aisle supported this legislation. I hope now, like the Retail Federation, those Republican Senators who did not and those Senators who are new to this body, will take a good hard look at the compromise. I will be happy to go over it with anybody who has questions, because I think we have dealt with many of the problems.

It is in the interest of all of us, of any party or no political party, in the interest of all of us as Americans, to understand that the changes shaping our society today require that we respond by strengthening the sense of family and responsibility.

Mr. President, we have sought a balance. Senators on this vote, and I believe all Americans in their lives, should reflect on their choice in this struggle of family versus job. When you look back on your life, what will you most appreciate? Will it be the project you spent all that time on, or the pay raise you got, or even a wonderful presentation you made? Or will it be the time that you spent with the newborn child, with your mother or father before they passed away, or with your child when that child was sick?

As we live day-to-day, we need to remember what we want our life to mean and to be when we look back. Child versus career, family versus job; we make the choice, but the choice we make affects our society, our family, and each of us as individuals, for better or for worse. Passage of this legislation, Mr. President, gives a strong signal that we want it to be for the better.

Mr. KENNEDY. Mr. President, first of all, I want to join my colleagues in expressing our appreciation and our respect for our colleagues and friend from Connecticut, Senator DODD, for his diligence in pursuing this issue. I believe this issue has been under consideration for some 7 years since the time when the first hearings were being held in distant cities across this country. Gradually, the awareness and understanding of the importance of this public policy issue has grown, and he and a handful of others involved in shaping the legislation deserve great audit for that. I commend him, as well as our friend Senator BOND, for the leadership they have provided on this issue.

As was mentioned at the outset, this has been a bipartisan effort. I think those of us who support the legislation understand very well that were it not for the strong bipartisan effort to move this legislation forward we would not be in the position we are today where, hopefully, we will see this legislation actually signed into law in these very next few days.

So I thank those Senators, and members of the Labor and Human Resources Committee on both sides of the aisle, for all the work they have done.

Mr. President, I suspect that not very long from now, when this legislation is signed into law, Members of this body will step back and say, I wonder why it took so long. I wonder why it took so long—because what we are really talking about is a matter of basic decency for workers in this country. We have found over the history of our Nation that there have been a handful of times where the case for acting to address an important social need was so compelling that Federal legislation was thought to be necessary and appropriate, and I think today is such a day.

It happened in the 1930's when the American public said that men and women in this country who work 40 hours a week, 52 weeks a year, ought to be able to receive enough in wages so that they can provide for their families. And we enacted the minimum wage. The public believed that was important as a national goal. And the minimum wage is effectively a mandate on businesses.

I think most Americans would agree with the tenet that we in this Nation have rejected the law of the jungle as far as the workplace is concerned. We believe that men and women who go out and work and who contribute to their communities and to their societies should have an income sufficient so that they can live with a sense of self-respect and a measure of dignity. That has been an important principle in our country. And support for the minimum wage has been something that has basically been continued under Republicans and Democrats over a long period of time.

We also made a decision in this country that if men and women are prepared to work, and work for 10, 15 and 20 years and then, through no fault of their own, are thrown off the payroll, there should at least be some cushion for those individuals. We decided we would not just slam the door and say, too bad if you have worked 20 years and you have got a family to support. Too bad that there has been a business judgment made to throw you out of your work. We do not do that. Instead we say all right, you have worked over the required period of time so we ensure that you get some help and assistance in the form of unemployment compensation to help you find another job and perhaps undergo some training program to upgrade your skills.

These basic protections have worked pretty well over a long period of time. We have had the greatest work force, the most productive work force in the world. And the fact that we require employers to meet these minimum labor standards has not prevented us from having the most productive work force.

We have tried to make sure that working men and women have safe conditions in the workplace. When we enacted the Occupational Safety and Health Act, we made a commitment that we were not going to say, "Workers be dammed and profits go through the sky." We were not going to say, "Workers, go in and breathe those noxious gases, work under dangerous conditions, lose fingers, lose arms, lose legs, because we don't care. The bottom line is you are expendable." Instead we said that we were going to try and ensure, to the extent possible, that working conditions would be safe.

And you know, Mr. President, it is because of, not in spite of, these policies that we do have the most productive work force. Because working men and women in this country feel that people do care, their fellow workers care and, by and large, their employers care, and they have a sense of pride in what they produce and a sense of achievement in the outcome, and a sense of loyalty to the companies and corporations for which they work.

Now in 1993, we are trying to say again, to working families that we want to make them stronger. I think of the Fernandez family in Lynn, MA—a wife that was working, a husband that was working, both in well-paying jobs. They had the blessing to have triplets, but the children became ill. And because of their caring for those triplets, because they took their life savings and invested them in health care for those triplets, because they were exhausted from caring for those triplets, because at the time when they were forced to make the choice between the job that they needed and the children that they loved, they chose the children they loved, both became unemployed. Today they are heavily in debt. Today, Rudy Fernandez is still out of work. And their futures, and their children's futures, are in jeopardy.

It is not just the Fernandez family. We have seen that this kind of thing is happening every day. As the Senator from Connecticut has pointed out, 300,000 workers have lost their jobs since the first veto of the legislation, because they were ill and were unable to take medical leave from work.

These are people like Jane Karuschakat of Long Island who lost her job just 2 weeks ago. She has breast cancer and needs chemotherapy. She asked for time off from work for her treatment. But her boss told her she could not have it, and that no law required him to keep her employed. He fired her.

And, Mr. President, incidents like this happen every day in the United States of America. And that is wrong. That is basically fundamentally wrong.

We know there are a number of companies that are enlightened companies and voluntarily grant leave to their employees, and that there are a handful of States, four States, that have led the rest in enacting State leave legislation. And we know what the results are. In surveys, employers say providing leave is not an undue burden. It has worked well. It has not been a heavy encumbrance on those companies and corporations. To the contrary, there are many studies showing that providing family and medical leave actually has saved companies money, because they do not have to go out and hire and train new workers.

It is interesting that 93 or 94 percent of people who take child care leave do come back to work. These people want to work, and they need to work, because they are not paid during this period of time.

So, Mr. President, I would hope that we would pass this legislation. The greatest asset that we have is the quality of our work force. And when we talk about the quality of our work force, we talk about wages, we talk about training, we talk about working conditions, but we also talk about morale. We talk about the mental health of the workers in the work force.

Why is it that every afternoon at 2 o'clock, 2 to 3 every afternoon, that productivity goes down in the workplaces of this country? It is because of the concerns of working mothers about whether their children are getting back from school, whether they are safe, and whether they are secure. It is a measurable, tangible factor. That is the kind of thing we are talking about here. It is just as tangible, even more important, when we are talking about the stress that occurs when an employee is unable to care for a sick child, a sick parent, a sick spouse for a limited period of time.

It is interesting to hear opponents talk about the costs of providing family and medical leave. What about the cost to the taxpayers when an employee who needs leave is fired? Who do you think ends up paying for the unemployment compensation? Who pays for the support programs for that person who has lost his job? It is the taxpayer who is paying for it—to support that individual who wants to work, is qualified to work, and whose only encumbrance is a sick child. Taxpayers are paying for the attitude of the employer who refuses to provide leave. So certainly the taxpayers have an interest in this legislation.

Finally, and most important, there is the well-being of the child. We know from studies that when a child is ill the attention and care that is given by the parent can have a dramatic impact in terms of the rate at which the child recovers.

Where is the bottom line when the issue is a child's recovery from illness being restored to decent health and returning to the members of their family?

This is a question of fairness. It is a question of decency. It is a question of the kind of society that we are, and it really is a question of whether we are going to put people first.

It is interesting that this legislation, the first piece of legislation that will pass the U.S. Senate—with the strong advocacy and support of President Clinton, who talked about putting people first—is an example of caring about the conditions of working men and women, men and women who are parents, wives, husbands, members of families—not just numbers—members of families, putting people first. That is what this issue is about, and I hope we pass this bill.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from California.

Mrs. BOXER. Mr. President, I want to commend the distinguished majority leader and my colleagues on the Committee on Labor and Human Resources for bringing the Family and Medical Leave Act to the Senate floor so quickly. I want to give a very personal thank you to the Senator from Connecticut [Mr. DODD]. This has been a very long fight for him and my colleagues; a very long fight for what I consider to be economic justice in the workplace.

The Family and Medical Leave Act is a clear demonstration of support for America's families, support which is long overdue. I cannot help but make the point, Mr. President, that it is going to be the vehicle which finally ends the gridlock in Washington, and it will not make the economic climate worse, as my fine friend and colleague from Kansas has suggested it might. I think it will make the economic climate in this country better. The act does not just apply to women, but to men and women, to fathers, as well as to mothers, to sons as well as to daughters. So to say that women will not be hired by business is a specious argument, unless you assume that men are not caring parents and men are not loving sons. I believe that they are.

Men also get sick. They get cancer. They get heart disease. They have ailments. And this bill applies to men and women.

This act, which provides up to 12 weeks of unpaid leave for workers to take care of a new child or a family emergency, recognizes the need to offer protection to our American families when they need it most—when they need it most, Mr. President. Some may never take advantage of family leave, but everyone covered by this act will have a feeling of relief when it is signed into law because they know if a crisis does strike them, they will not have to make that choice that the Senator from Massachusetts [Mr. KENNEDY] pointed to, the choice between an emergency and the well-being of your family.

Today many families need two incomes to make ends meet. We all know that. More than ever we are seeing women enter the work force. Look at the numbers: 60 percent of mothers with children under the age of 6 worked in 1990. Let me repeat that. Sixty percent of mothers with children under the age of 6 worked in 1990, and 75 percent of mothers with children ages 6 to 17 were working. I think there is universal agreement that motherhood and fatherhood is challenging enough when everything is going smoothly. Any one of us who has raised a family can tell you it is tough even in the best of times. In the worst of times, Mr. President, it can be horrible.

Many of us know firsthand it does not take too much to upset the applecart when you are weighing all the things and all the responsibilities that you have in your life. A parent never should be in a position of having to choose between a job and their child or their job and a parent with cancer or heart disease. What kind of a society would promulgate those kinds of terrible choices? The Family and Medical Leave Act is a caring response to the intense pressures that we all face in trying to balance our lives. It provides job security and continuation of health insurance.

Mr. President, the debate over this act has been raging almost as long as I have been in Congress, and I was elected in 1982. It saddens me that it has taken so long to pass this bill. But, on the other hand, it pleases me that the bill is headed toward enactment today and it will be signed by a President who understands, who personally understands the stresses and the needs of everyday working families.

I would like to set the record straight about how this bill would impact the business community, and the Senators from Connecticut and Massachusetts have put into the RECORD very important studies on this. But I want to make the point, Mr. President, that employers with 50 or less employees are exempted from this legislation. We have exempted small business.

Further, a 1991 nationwide survey conducted by the SBA, the Small Business Administration, under former President George Bush, found that the cost of permanently replacing an employee was significantly more than the cost of granting leave. And, again, the Senator from Connecticut pointed this out. It costs more not to follow this policy than to follow this policy.

Working Women magazine's 1992 survey of the 100 American companies with the best family leave policy included companies as large at AT&T with over 100,000 employees to GT Water Products of Moorpark, CA, with only 26 employees. Employers find that morale is boosted and when morale is boosted, Mr. President, productivity is boosted. So I personally look at this as pro-business legislation, as well as it being pro-worker legislation.

Mr. President, I think if you look back to the debates in this august body many years ago over child labor laws, over minimum wage, you will find many of the same arguments. But today we have an opportunity to understand that those arguments simply do not hold water. I think it is important that we look at the nations with whom we compete. Again, the Senator from Kansas said many jobs are being lost to countries overseas, countries abroad. That is true. But many of these countries, like Japan, like Germany, have very, very liberal family leave policies, and the one we are offering is indeed a modest proposal.

We have an opportunity today to act for the good of working people and their families. Congress has voted twice to pass this bill. Each time it was vetoed by President Bush and there was gridlock. I was proud to stand up and speak for the bill in the House of Representatives, as I am equally proud to speak out for this bill today. We have a family-friendly President ready to sign this bill. He gets it, he gets the pressures on America's working families. So today we can end the gridlock that has plagued Washington for too many years by passing a bill that will help the economic climate in America and by recognizing the importance and the contribution of all of America's working families.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington. The Chair will observe for those who wish to speak under the regular order, we would not proceed beyond 12:30. On the other hand, any Member seeking recognition, in spite of the regular order, would be required to be recognized by the Chair. The unusual circumstance today is that the President of the United States is coming in to the Democratic caucus at 12:15. It would be the guess of the Presiding Officer that the two distinguished Senators on their feet now might not be able to both speak by 12:35, so it would be my intention to call regular order at 12:30, thus annoying at least one of the two distinguished Senators standing on their feet and present. I hope that the Senators will be understanding.

The Senator from the State of Washington.

Mrs. MURRAY. Mr. President, I am pleased to be here on the floor of the U.S. Senate to speak in strong support of the Family and Medical Leave Act.

First of all, my heartfelt thanks go to Senator DODD and all of my colleagues who have worked so hard and spent so much time and energy working to enact this legislation, and my thanks as well to President Clinton, who has championed this legislation in his campaign.

Family and medical leave are issues that I have worked on successfully at the State level, and I am excited by the prospect that family and medical leave will be the first major legislation to pass in my first days as a Senator.

The Family and Medical Leave Act is an important bill for many reasons. Its passage will mean, finally, that when those of us who go to work every day are faced with a family crisis, we will not be forced to choose between our job and our family.

As a State senator, I spent a great deal of time and energy on this issue because of a friend who faced a personal crisis. A mother of a 16-year-old son, dying of leukemia, was forced to make a choice between taking time off to be with her son in his final few months or losing her job. Not only was she faced with a personal emotional crisis but with an economic crisis as well. At a time when hospital bills and doctors bills were piling up, she had to choose between her paycheck and her son. That was not right.

As I have championed this issue, I have met numerous people whose lives have been touched by the lack of a national family and medical leave policy. However, when I most clearly understood this issue was when it touched me personally.

My father has had multiple sclerosis since I was very young. My mother was his primary caregiver. A year and a half ago, my mother had a heart attack and bypass surgery. Suddenly, my six brothers and sisters and I were faced with the question of who could take time off to care for the people we love the most, the people who cared for us for so long.

It was then I realized the personal nature of this bill and why it is so important. My parents did not want to be a burden to any of us, and we did not want our parents to feel that they were a burden.

A single family leave policy would have allowed any of us a few weeks necessary to see them through their medical crisis but none was available.

When I was 26 years old and worked as an executive secretary in Seattle, I became pregnant with my first child. At that time, even though I was working out of economic necessity, there were no options for working mothers. A family leave policy would have enabled me to devote my attention to the changes in my family. It would also have given me a very important message about our country: That our families are as important as our jobs. This is an urgent message today as well, when we have drug and alcohol problems, rising violent crime among our youth, and families that are failing.

Today, we are one of the few industrialized nations that does not offer family leave to those who need it.

If the argument against family leave is that businesses cannot afford it, my response is simple: In order to compete in a global economy, we must address the needs of American workers. We must provide family leave, as our foreign competitors do.

We are a nation of working families—single-parent families and two-parent families. My family is an example of such a family. I am of the infamous sandwich generation, charged with caring for my own children and my parents at the same time. I personally understand the emotional consequences. I also know that when my family is safe and well cared for, I do a better job at work. Family leave is one small step in ensuring that America has a productive work force.

The reasons for passing the Family and Medical Leave Act are clear: It is sound economic policy, and it is sound social policy. Its passage will send a powerful message to our Nation that our Government finally is beginning to understand who we are today; that we are out there struggling to raise our families and care for the people we love. At the same time, we are the backbone of our economy. When we care for those we love, when they are critically ill or unable to care for themselves, without fear of losing our jobs, our Nation will have taken a giant step toward becoming a caring nation. And only a caring nation can be an economically strong one.

I believe that the message of the last election was loud and clear: As a nation, we must begin to care for each other once again.

If one mother is able to sit with her seriously ill son without fear of losing her life's savings, if one son is able to hold the hand of his dying mother, if one of us—you or I—is able to care for someone we love when they need us the most, then the time and the energy spent on the passage of this bill is worth it.

Mr. President, I urge my colleagues to vote for this important legislation.

I thank the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

I take great pride in that the first time I speak on the floor of this great body is to offer my support for the much needed Family and Medical Leave Act. This bill means a great deal to me, and I believe it means a greet deal to the people of California as well.

Thirty-five years ago, when I gave birth to my daughter Katherine, there was no maternity or family leave. I left my job to have my child.

Today, California provides 16 weeks of unpaid leave to private- and public-sector employees. The city and county of San Francisco provides up to 6 months unpaid leave. The city of Los Angeles provides up to 4 months.

But also today, according to a 1989 study of the Bureau of Labor Statistics, 63 percent of our Nation's employees do not have maternity leave coverage. They still must leave their jobs in the United States of America.

From personal experience, I have also seen how difficult it is to concentrate on work when a parent or family member is critically or terminally ill. Eleven to 13 percent of women today caring for their elderly parents are forced to leave their jobs to give the kind of care every child owes a parent. Without job-guaranteed family leave, men and women still leave their jobs to do their family responsibilities. The reality is that in this Nation, in many situations, an employee must lie in order to get time off to care for a sick child or a parent.

During last year's debate on family values, this issue was joined. Some took their shots at Murphy Brown, saying that a single mother should not be a role model for this Nation's families. But the fact is that the day when one parent could stay home with the children is over for most American families. The harsh reality today is women work because they must earn a living. And they do so when they are alone with the child, and they do so to supplement their incomes because they must.

The fact is that family leave is the centerpiece of public policy that values families. It is the first step.

The Small Business Administration has found that since the 1990 veto of this legislation, which has been spoken about, not only did 300,000 workers lose their jobs but, ironically, midsized and large businesses would have saved nearly $500 million in hiring and training costs for new workers if President Bush had signed this legislation in 1990.

California provides 16 weeks of unpaid leave to both private- and public-sector workers to care for a new child or the serious health condition of a child, spouse, or parent. Ten other States have enacted leave laws that are working for both the employee and the employer. The time has come to ensure that all America's families have the ability to keep their jobs and care for their families, not the way it was 35 years ago when I began.

Through this bill, we can bring our standards in line with every other industrialized nation, including our most competitive trading partners. We can provide the 12 weeks of unpaid, job-protected leave with health insurance coverage for the birth or adoption of a child. We apply these standards to businesses with more than 50 employees. We guarantee these rights to anyone who has worked at their job for more than 25 hours a week for at least 12 months. And we allow employers to recapture health insurance premiums paid during the leave if the employee does not return to work. It is a fair plan. It is a just plan.

Today, we have an opportunity to take a stand for our workers. We have an opportunity to support the working parents of this Nation, and we have an opportunity, finally, to allow a mother to keep her job to give birth to a child or to care for a sick child or an elderly parent.

I am proud to be in the Senate to see passage of this legislation.

Thank you, Mr. President.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. The Senate will stand in recess until 2:15 p.m.

Thereupon, at 12:30 p.m., the Senate recessed until 2:14 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GLENN].

FAMILY AND MEDICAL LEAVE ACT OF 1993

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

ORDER OF PROCEDURE

Mr. DODD. Mr. President, in behalf of the majority leader, I ask unanimous consent that the time until 3 p.m. today be for debate only on S. 5 with no amendments in order during that time, and that at 3 p.m. the majority leader be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Oregon [Mr. PACKWOOD] is recognized.

Mr. PACKWOOD. Mr. President, I thank the Chair.

Mr. President, let me congratulate the Senator from Connecticut. Earlier in the day, I asked him how long ago it was he came in my office with his charts. He said 7 years ago. It did not seem like 7 years ago but, if it was, I want to give him an "E" for effort and an "A" for ability because he has worked and worked.

I am not sure I have seen in my career anybody as diligent to pursue one topic to a successful conclusion as Senator DODD has on this, and if a single person deserves credit it is he.

I want to thank, on our side, Senator BOND. I think without Senator BOND we would not be as far as we are now.

But we are here. I am sure there are going to be some amendments offered but I do not think they are going to derail this bill, and we will at last see it passed, signed by the President, and I hope it is the last we have to see of it for 5 or 10 years on the floor.

My father died some 25 years ago—and he was a lobbyist at the Oregon Legislature for 32 years, from 1927 to 1959. I wish I had kept his scrapbook of all of the things employers did not want or could not afford through the years—workers compensation, unemployment compensation, Social Security, minimum wage, and even at the start of World War II, withholding, where we were finally going to have to fund a major war effort. So we began to withhold on the average wage earner's wages. Up to that time they just paid their tax at the end of the year. This would provide a great spurt of money initially.

On the "speed up," or withholding income taxes with each paycheck, the employers said they could not handle the additional burden. In each case, they could adapt, but they did not realize it. I am not being critical. But in each case they managed to adapt: to unemployment compensation, workers compensation, Social Security, the minimum wage, and the withholding of taxes on their employees. And business has thrived.

Therefore, I understand some of the employer opposition to the bill now because for some of them—not in Oregon—it looks like a no-win. And I think they have the same fears they had about the other pieces of social legislation in the past that they opposed.

Along with Senator DODD, I have been a long-time advocate of the family and medical leave legislation, and the bill which we have before us today does provide up to 12 weeks of unpaid—the Senator from Connecticut emphasized that—unpaid leave for the birth or adoption of a child or for a serious illness of a worker or their immediate family.

My home State of Oregon is an excellent example of the success of family and medical leave laws. In 1988 Oregon enacted legislation to allow 12 weeks of leave for parents of newborns and seriously ill children. At the time there was a great deal of opposition, and concern was heard from those who feared it would cost too much or be difficult to implement, and would force employers to cut back other benefits to employees.

I am happy to say that experience has proved these claims have been without merit. In fact, a survey by Oregon's Bureau of Labor and Industries in May 1990 found that 88 percent of employers in Oregon had no difficulty in complying with our family leave law. We were so pleased with the benefits of the original legislation that in 1991 the legislature expanded the law to add leave for serious medical conditions of the employee or their spouse.

Oregon's law is now one of the Nation's most comprehensive family and medical leave plans.

There may be skeptics who would say just because a few States have had good experience with family leave, why should I want it, or my State?

The best answer I can give is that the Family and Medical Leave Act is profamily. Whatever side of the political spectrum you may be on regarding the so-called family issues, this is clearly profamily legislation. It is a tremendous benefit to your constituents.

The bill allows parents to spend the first few critical weeks of their child's life with the child. It also allows a worker whose child, parent, or spouse, or who himself is critically ill, to take the necessary time to recover at home. Having the opportunity to deal with a crisis without fear of job loss strengthens families and keeps them together, and that, Mr. President, is profamily.

I hope we will pass the Family and Medical Leave Act without weakening amendments. I am particularly concerned about proposals which, while conceding that family and medical leave is beneficial, would allow each employer to decide whether or not to offer it.

The establishment of family leave as a basic protection for American workers is not a departure from current labor laws but a logical extension of them. Payment of a minimum wage, entitlement to Social Security, and working in a safe workplace, once controversial notions, have all come to be accpeted as minimum labor standards, and most Americans would agree that we as a nation are better for them.

I think that family and medical leave is no different. The Family and Medical Leave Act deserves our support.

For all of these reasons, I am pleased to participate in what I hope will be the final consideration of the Family and Medical Leave Act by the U.S. Senate. I look forward to its passage into law and the signing by the President.

I thank the Chair and congratulate the principal sponsors.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 268 and S. 269 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana [Mr. COATS].

Mr. COATS. Mr. President, I find myself in somewhat of a unique situation here. As a strong supporter of parental leave legislation, as someone who has worked hard to help author a compromise which hopefully brought the bill and the language of the bill to the place where it could be supported on a bipartisan basis and could address the fundamental policy that I think is the correct policy of providing a way for working mothers in particular, but for fathers and mothers to spend critical time at critical times with their children, whether they are newborn or newly adopted or whether they are in serious medical condition or have suffered injury, or with elderly parents who may be in the last few days of life, without jeopardizing their employment, I believe that is a concept that we ought to advance. And I have worked hard to advance that concept in a way that recognizes the needs of the workplace and the needs of the employer.

In addition, as many Members know, I have taken a position in terms of opposition to the President's stated policy of changing the current DOD policy regarding homosexuals in the military. This was not an issue of my choosing and not an issue of Republicans choosing. It was simply an issue that the President chose to advance early in his Presidency.

And so, as such, while we as Republicans would very much like to deal with that issue separately, and believe it ought to be dealt with separately, we find that we may be forced to deal with it as a part of this particular legislation before us.

And so, as I said, as someone who is a sponsor of this legislation and someone who wants to see it advance, but also someone who has some opinions and strong feelings about the policy as it effects the rights of homosexuals to serve in the military, I find myself somewhat at a crossroads.

I wish that I could stand here and offer unanimous consent to have the gays in the military issue dealt with on its merits as a single issue with full debate, with a final vote where Members could express whether they are in favor of retaining current policy or in changing current policy. The public would know where each Senator stood. They would have an opportunity to hear the debate and we would be able to examine the evidence and make a determination.

In fact, I think an even better policy would have been one suggested by then Secretary of Defense-Designee Les Aspin, who in response to my question in his confirmation hearing as to how he would proceed on this issue said, very, very carefully, and then later, very deliberate, and indicated that this is a highly complex, highly emotional issue, one that deserved full hearings, one that deserved full consultation with the Joint Chiefs and military personnel and those most directly affected by it.

So we all thought that was going to be the procedure used to address this issue. And all of us were stunned, and I assume that includes both Democrats as well as Republicans, when the President chose to make this one of the very first issues that he raised in his new Presidency, forcing us—because the President insisted on going forward with a modification and change in current policy—who opposed that, to try to find some way to weigh in on the issue and at least ask for a temporary suspension or freeze of current policy to give the Armed Services Committee members and all the Members of the Senate an opportunity to evaluate this carefully before making a policy change.

The President did not give us that opportunity and so now we are faced with the prospect of having only one option open to us and that is addressing the issue on legislation as it comes before the Senate.

Unfortunately, a bill which, as I said, I support is the first issue before the Senate. The Senate is going to go on recess, as is Congress, for the February recess starting probably on Friday. And this may be the only bill up this week, and then another 2-week delay. In the meantime, the policy change goes forward without an opportunity for those of us who oppose it to weigh in and to see if the Senate wants to support an effort to stop it from going forward.

So we regret that. My understanding is that the minority leader, Senator DOLE, will once again request an opportunity to separate the gays in the military issue from parental leave so that we can deal with each on its own merits so that the American public knows where each of us stands on each issue without clouding the matter or murkying up the matter so that for whatever reason people may say: Well, I am for this and not for that and therefore I could not vote for that because of this.

It is a time-honored technique in this body to cloud a position on an issue. I am not suggesting that that is what is being done here today. I am simply suggesting that affords the opportunity for Members if they so wish to do that to do so.

It appears, though, that we will not have that opportunity to separate the two issues, and so at some point I would expect we would be addressing both under this same piece of legislation. And I regret that.

Let me just say, Mr. President, that S. 5 represents a historic effort to address what I think is a very important issue facing our Nation—work and the family. It speaks to the involvement of children with their parents at two very critical times in their lives: First, at the beginning of life where children are the most fragile and the most dependent and, second, at a time of medical crisis where that moment of immediate need should involve parents together with their children. These are I think two very basic and two very essential times where the provision of leave and a guarantee of job security is in the long run a pretty modest request.

Increasing numbers of others find themselves in the workplace, many forced there by financial pressures. Today about two-thirds of the Nation's adult women are in the work force and other half of the mothers with children are employed full time for some portion of the year. Two-thirds of the new entrants in the work force between now and the year 2000 will be women, most in their child-bearing years. Clearly one of the tasks that we face as a nation is to reconcile the conflicting needs of parents, work, and children.

What mother does not sit at her desk in the afternoon at 3 o'clock as school is letting out and wondering about where her children are? What they are doing? And regretting the fact that she cannot be there. But there are few mothers that have the choice of always being there at 3 o'clock when school lets out because the realities of today, given the financial pressures that many face, are they have no choice.

Now while the measure before us is not perfect—I do not know too many measures that come before this body that are perfect—it does represent, according to our new Labor Secretary just the right amount of balance between the legitimate family needs of parents and the legitimate needs of business.

I have been interested in family issues for some time. Before coming to the Senate, I was privileged to serve on the House Select Committee on Children, Youth and Families. There I had an opportunity to gain an understanding of the importance of families having time to spend with their children. At the same time, I have been aware of the important needs of the business community and have strived to give careful consideration to their concerns.

What we have attempted to do over the last several years—and it has been several years that we have been working on this legislation—what we have attempted to do is to find that balance between legitimate business concerns about this legislation and its impact on business and employment and the legitimate concerns of mothers and fathers and parents to spend time, particularly at those critical times, with their children. We have tried to balance those needs by not requiring leave to be paid. We have allowed employers to require employees to use accrued paid vacation, personal, medical, or sick leave before taking the medical leave provided in this bill. We have allowed employers to require second and even third opinions before medical leave is granted if an employer suspects the requested leave is not requested for a valid purpose.

We have set aside a key employee designation, recognizing the needs of employers to say I need to designate certain people who are so critical to the operation of the business that in their absence and with the inability of our staff to fill that need, we need to have some adjustment and some negotiation. We just cannot have a locked-in policy. Altogether there are 18 separate provisions designed to protect and address the legitimate needs of business and employers, including a very important one, and that is that this does not even affect those businesses who employ 50 or less, which constitute 95 percent of all the businesses in this country.

To remain competitive in the global economy, to recruit and retain good employees and improve productivity, particularly at a time of growing labor problems, many employers have recognized the need to offer more attractive benefits to its employees. Many already offer plans similar to the one in this legislation, and those employers should be commended. However, we are aware of those employers who have policies that are not as favorable; in fact, not only not favorable to families but actually hostile toward families. Those are the ones we are trying to reach with this legislation.

We all need to recognize, Mr. President, that Government programs are never a substitute and never can be a substitute for the love and the care and the concern that a parent can give to its child. We need a Federal policy that recognizes the fact that children need their parents to be intimately involved in their lives, not just during the first 12 weeks after birth but for many years thereafter. We, as a nation, should support families and encourage parents to spend more time with their children. Parents should never be forced to choose between their children and economic survival. Yet, without a family leave policy, I am afraid we will force many families to do just that. Hopefully, this legislation will send a very strong message about the importance of the family and further encourage businesses to adapt family friendly work policies.

Mr. President, I am grateful for the opportunity that I have had to work closely with my colleagues to fashion what I think is an acceptable compromise, a bill which advances an important concept, but a bill which also recognizes that employers' needs also have to be looked at because ultimately they are the ones who provide the employment.

I want to thank Senator DODD for his willingness to work with me and Senator BOND and others to address these concerns. His flexibility in adjusting the legislation, his patience and his perseverance are to be commended. We have before us an opportunity to advance an important policy. I regret, as I said, that it has to be clouded with an issue of equal if not greater importance. I regret that the majority leader will not apparently allow us to deal with that issue separately and that we have no other option but to go forward with this legislation on this particular bill.

Mr. President, with that, I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, this bill certainly represents good politics, and I would be one, having been in politics a while, to presume to support it for that reason. But it is not good policy and, therefore, I cannot support it. I come from a State that has just gone through one of the most severe recessions in the post World War II period, where people's jobs are at risk and their opportunity to find jobs is severely limited. One has to wonder why it is that the first major piece of legislation that comes out of this body in this session would further limit their opportunities to find jobs and make it more difficult for them to be competitive in the marketplace, both as businesses and individuals. Yet, that is the choice which this bill has put upon us.

It is a mandated cost on the entrepreneurs of this Nation. This Nation already has too many costs placed upon its entrepreneurs in the form of regulations and restrictions. We are a nation which, if we are going to create more jobs and add to our prosperity, must allow those among us who have the energy, the desire, the interest, the enthusiasm, the originality, the initiative to go out, risk their sweat and their hard work and their capital and their time an opportunity to succeed.

And yet the Federal Government especially, and many local governments also, continue to burden that entrepreneur with more and more restraints and make it more and more difficult for that individual to be successful and to create jobs. Now we have as the first piece of legislation coming out of this Senate a piece of legislation which will go down that same path. It will limit the entrepreneur. It will cost jobs. It will mean that people who have worked out agreements with their employers, agreements which, in many cases, caused them to give up other rights which they might have wanted will find that those agreements no longer are in force or will be superseded by or will be set aside by this law.

To take a broad brush and apply it to the entire American community productivity and say that every individual business and productive action in this Nation which involves employment shall be mandated to conform with a certain set of leave principles relative to family problems and sickness and pregnancies is to say that a law passed in Washington, DC, which may affect people in Washington, DC, can be equally applied to people who live in Epping, NH, when the situations of the people in Washington, DC, and the people in Epping, NH, can be dramatically different, especially as to their employment, how they are impacted by their employment and what their relationship is between the employer and the employee.

That is why it is much more appropriate that the issues involved in this bill be settled, at the minimum at the State level, but even more appropriately between the employer and employee; that they be worked out through the process of that employment relationship; and that it not be mandated down from the top because by mandating it down from the top, not only do you put extraordinary costs onto individuals and businesses who might want to be productive in some other way, but you also put those individuals who are confronted with this law at risk of losing other rights which they may have already obtained in relationship to their employment which they deem to be better.

Why should all this knowledge of what is the best thing to do and how is the best way to approach employment be centered in this room? It clearly is not. It is much more logical that the best relationships and the people who know best as to how they should relate and manage their employment are the folks who are actually involved in the business in the entrepreneurial activity. Those agreements made between employer and employee which may be significantly different than what this bill applies to will be significantly impacted by this bill. And as a result, this bill is going to have a dramatically chilling effect on those types of relationships.

One of the big concerns that I had in my prior job as Governor of New Hampshire was that we were constantly being confronted with mandated costs passed down to us by the Federal Government which were not being reimbursed to us at the State level.

Those costs were driving our budget at the State level in a way that made it virtually impossible in many instances for us to manage our own house, and that has been a complaint of many Governors. I noticed that yesterday the President, who so well understands that concern, represented to the Governors that he would try to alleviate that mandate pressure, at least in the area of Medicaid, by allowing greater waiver opportunity.

But that same effect of passing mandated costs down to States and lower levels of government is carried out in this bill against the private sector. Here we have mandated costs being put on businesses which may not feel they can bear those costs or may feel in conjunction with their employees that it would be better if those costs were borne in a different benefit.

How are we to know, for example, that by passing this bill we have not put an employer out of business, who ends up having to hire additional people in order to fulfill the jobs that are vacated when the person leaves their employment in order to take care of their sick parent or because of a pregnancy? How are we to know that when that occurs we have not put such pressure on a small business—and 50 people is a small business—that that business cannot bear the costs of now having two people doing essentially the same job? Granted, they do not have to maintain the daily expense of the person who is on leave but they have to assume that that person is going to come back. Under this bill, they have to take that person back. And they have hired an interim person who probably does not perceive of themselves as interim. When the person comes back who has been on leave, the interim individual obviously either loses their job or finds themselves in a position of being kept on in a business that possibly cannot afford that cost.

Would it not make more sense to allow the individual who has a problem of health or the good fortune of having a child to work out agreements on a one-on-one basis with their employer or through their collective bargaining agreement so they would have an opportunity to do things that might vary the situation more appropriately to the uniqueness of their situation rather than have it mandated on them in a broad-brush approach?

This bill leaves a great deal to be desired. As I said, it is good politics. But from a policy standpoint, it will end up making it much more difficult for many individuals to set up their lifestyles in a way that they feel is appropriate. It will make it much more difficult for many small businesses to survive. And it is going to place costs on the private sector in this Nation which will undermine the strengths and the enthusiasm and the energies of the key element of the job creators in this Nation—the entrepreneurs.

It is estimated that the implementation of this bill is going to cost between $1.7 and $7 billion. That is a huge price to pay in a time when our competitiveness is at risk internationally.

I recognize that the politics of this bill means it is going to pass. But in the years to come, we are going to find the policies of this bill are going to cost Americans jobs, and that is going to be a mistake.

I yield back the time.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Chair.

Mr. President, I am proud to be cosponsor of the Family and Medical Leave Act. I strongly support it. I could go on for a long time explaining why I believe the case for this bill is so compelling. However, I would like to focus on just one issue today, the impact of this bill on our competitiveness as a nation.

We know, Mr. President, that this country faces increasingly tough international competition. Because of that competition, I know some Senators believe it does not make sense to do anything that could add to the costs of doing business in this country. I understand that view. But I think it leaves out the most important part of the competitiveness argument.

I was in the Banking Committee 2 weeks ago in a hearing on the nomination of Laura Tyson to be Chairman of the Council of Economic Advisers. One of the issues we were able to discuss with her was the issue of competitive advantage. Miss Tyson in both her committee appearance and in her writings has made it clear that a country's competitiveness no longer depends solely on its material resources.

That may seem counterintuitive at first, but Japan is the perfect example of the truth of her thesis. Japan has little or no mineral resources and no oil at all. Yet, no one would argue or even attempt to argue that Japan is not an economic powerhouse or that its businesses are not extremely competitive.

If competitive advantage does not depend on material resources, then on what does it depend? Laura Tyson's work and the work of others makes it clear that in the modern world in which we all live, competitive advantage depends on a nation's people. Our international competition knows that. That is why Japan provides its workers with 12 weeks of partially paid pregnancy disability leave. That is why in September 1992, the European Community Commission issued a directive requiring all member countries to provide a standard minimum of 14 weeks paid maternity leave. Other nations provide family and medical leave because they know it contributes to the strength of their work force. They know that keeping talented employees is important and that it saves them substantial training costs. They know that employees are more productive when they have a mechanism to deal with major family issues and crises and that employees do not abuse sound, sensible family leave policies.

Based on that evidence, there can be no doubt that the Family and Medical Leave Act before us now does not detract from our international competitiveness but, rather, enhances it.

By 1990, over 57 million women were working or looking for work—a 200-percent increase since 1950. Ninety-six percent of fathers and 65 percent of mothers now work outside of the home. All of these people need a way to deal with the birth of a child or the illness of a parent or other critically important family issues. And for all of these people as well as for the businesses that employ them, a sound family leave policy means greater productivity and greater competitiveness.

I saw this personally, Mr. President, in my office when I was recorder of deeds of Cook County. By virtue of the support of our employees and their families, our office did a better job in its service to the public. Businesses in my State tell me the same thing. Workers are a company's most important link to the market and a trained, productive work force can be the difference between profit and loss.

I want to quote, Mr. President, from a letter I received from Kenneth Lehman and Elliot Lehman, the cochairman and chairman emeritus, respectively, of Fel-Pro, a manufacturer of gaskets, sealing products, and lubricants in Illinois. The letter supports the family leave bill stating that:

> It is our belief that its passage will benefit our Nation and its citizens.
>
> Our company has provided a similar benefit for many years and has found it to be of great support to our employees. The bill deals with items of family needs (maternity, eldercare, emergencies, etc.). We know that it is comforting to our people that, at these times, they need not be concerned with job security.
>
> The advantages to the company are many, among which it helps provide and retain an experienced and loyal work force. This contributes to our ability to compete in an increasingly competitive world, which in turn contributes to our profitability.

Fel-Pro has been cited as one of the 10 best companies to work for in America. I share the view expressed by this company, Mr. President. As I understand it, the General Accounting Office estimated that the annual cost of the bill is only $5.30 per covered employee—and that cost is solely due to the fact that health insurance is kept in effect during the leave. Against that small cost is the $500 million in hiring and training costs that medium- and large-size businesses would have saved had the Family Leave Act become law in 1990. And that, in my view, is only the tip of the iceberg. The real savings are from a loyal, more productive work force that adds to the international competitiveness of our companies.

I am for the Family and Medical Leave Act because it is the right thing to do. I am also for it because it is the smart thing to do.

Our major economic asset is our people; all of our policies, therefore, must be people focused. Increasing our competitiveness is not just a matter of investing in machinery and equipment, it is also a matter of making the right investments in our people.

The Family and Medical Leave Act is a very low-cost investment that I am absolutely convinced will pay off manyfold. It is in our people's interest; it is in our national interest. I strongly urge my colleagues to join me in voting for this procompetitive, profamily, pro-America bill.

Mr. President, I ask unanimous consent that a copy of the letter from Fel-Pro be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEL-PRO, INC.,
Skokie, IL, February 2, 1993.

Senator CAROL MOSELEY-BRAUN,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR BRAUN: It is our hope that you will support the above. It is our belief that its passage will benefit our nation and its citizens.

Our company has provided a similar benefit for many years and has found it to be of great support to our employees. The bill deals with times of family needs (maternity, eldercare, emergencies, etc.). We know that it is comforting to our people that, at these times, they need not be concerned with job security.

The advantages to the company are many, among which it helps provide and retain an experienced and loyal work force. This contributes to our ability to compete in an increasingly competitive world, which in turn contributes to our profitability.

As you know, in the recently published book by Messrs. Moskowitz and Levering entitled, "The 100 Best Companies to Work For in America," Fel-Pro was selected as one of the top ten. It is reasonable to assume that this benefit helped in making this assessment.

As stated above, please support passage of this bill.

Sincerely,

KENNETH LEHMAN,
Co-Chairman.
ELLIOT LEHMAN,
Chairman, Emeritus.

Mr. PELL. Mr. President, perhaps no bill that has been considered by the Senate in recent years has received the scrutiny that the Family and Medical Leave Act has. In its various forms, this bill has been introduced, reported favorably by the Labor and Human Resources Committee, passed by the Senate, and vetoed by President Bush twice. Its course through this body has taken over 7 years. And through it all, leading the charge, has been the Senator from Connecticut [Mr. DODD] who has demonstrated to his colleagues and the people of this Nation that this is legislation that will truly address an urgent national need.

I have long supported establishing a national family and medical leave policy and have joined with Senator DODD and the chairman of the Labor Committee, Senator KENNEDY—whose support and leadership have been crucial—in introducing various versions of this bill over the years.

Mr. President, probably every one of the bill's 46 cosponsors has stated repeatedly the many reasons why family and medical leave legislation is such an urgent priority for this Nation. With 50 percent of mothers of children under age 1 working outside the home, and with two-thirds of mothers of children under the age of 3 working outside the home, it is no surprise that in many homes in America today, there is simply no one family member who can address urgent family needs without risking the loss of his or her job. And in our Nation today, when so many families desperately need a helping hand, workers should not have to choose between the job they need and their responsibility to a newborn or sick child, a sick spouse, or a sick parent.

There is no question that when this legislation was first introduced, the business community raised several concerns that deserved to be addressed. And the sponsors of this legislation—and the Congress itself—were receptive, and many changes were made to ensure that any family and medical leave policy would cause as little disruption as possible to as few businesses as possible. And I think that many of the modifications that have been made will make this law, once enacted, work even better.

Mr. President, we have engaged in a national debate on family and medical leave for many years now, and numerous States, including my own State of Rhode Island, have adopted such laws that are working quite well. We are not doing anything radical here; rather, we are simply adopting as national policy a policy that has been successfully in force in some form in 11 States and in every other industrialized nation in the world.

President Clinton has remained steadfast in his support for this legislation and has pledged to sign this bill if it is sent to him. What a pleasure it will be for so many of us, after so many times, to vote for this bill and finally see it become law. I urge my colleagues to take the best possible first step in this era of change and send this family and medical leave bill to the President today.

Mr. LIEBERMAN. Mr. President, I am pleased to speak today in support of my colleague from Connecticut, Senator DODD, and his bill, the Family and Medical Leave Act. Its speedy consideration—and, I hope, passage—this week, after years of gridlock, will be a testament to how effectively this Congress can work with the new President on behalf of the public good.

American families are struggling these days to balance the demands of work and family. Single parents must work in order to support their families, and in most two-parent families, both mother and father must work in order to be able to provide their children with the basics of life. And often, working parents also face the dilemma of caring for their own aging parents or ill spouses.

The Family and Medical Leave Act is designed to enable American working families to handle these sometimes overwhelming burdens in a way that does not place an undue burden on employers. It allows a mother or father to take an unpaid leave when a child is born or adopted. It enables a son or daughter to take unpaid leave from work when a parent is ill and in need of care. And it allows a wife or husband to take leave when a spouse is sick.

The Family and Medical Leave Act provides for a modest but important amount of leave in times of personal crisis and ensures that productive members of the work force won't have to make the difficult choice between leaving a job and caring for a loved one. I believe it will help many hard-working people keep their jobs, whereas now they might be forced to quit to care for a family member. And I also believe it will help many families avoid sending a loved one into a nursing facility, since it will give them the ability to provide home-based care without losing their jobs.

This bill is pro-family. But it is not antibusiness. The concerns of business are reflected in the provisions in the legislation: the leave is unpaid, which guarantees that it will not be abused. The employer is required to continue employee benefits for, at most, 12 weeks a year if family or medical leave is used. The bill does not apply to businesses with fewer than 50 employees, although we hope that this public policy will become a model for many of those employers to follow. Employers may require employees to use any accrued paid leave as part of, not in addition to the 12 weeks of leave provided by the bill. And employees must provide advance notice whenever possible, and extensive certification is required for leave related to an employee's medical condition. I believe this bill is also good for business because it helps business keep hard-working, highly trained employees in their work force. Such employees might otherwise be forced to leave their jobs if family or medical leave is not allowed and a baby is born or a spouse or parent falls ill.

American companies have long recognized a responsibility to provide leave for funerals, jury duty, and military service. Now firms which granted leave for a death in the family are also recognizing the need for leave for life in a family.

The Family and Medical Leave Act is legislation that is designed to bolster and strengthen the family by enabling working parents to spend time with new children or sick children, and to spend time with a spouse or parent who is in desperate need of care. This new law will ensure that the temporary need to miss work to care for the family does not result in the loss of a job.

I commend my colleague, Senator DODD, for his steadfast commitment to this legislation and to America's families. This law will serve as a lasting tribute to his concern for mothers and fathers, sons and daughters. I look forward to casting my vote in favor of the Family and Medical Leave Act, and I hope that it will soon have the force of law, so that families can use it to take care of themselves while continuing to take care of their business.

Mr. HARKIN. Mr. President, today we have the opportunity to break the gridlock that has held the Federal Government hostage for several years by not only passing the Family and Medical Leave Act of 1993, but by sending it to a President who has promised to sign it. The adoption of this legislation which provides modest protection for U.S. workers during times of family or medical emergencies, signals an important turning point in U.S. work force history. This legislation recognizes the tremendous demographic changes that have occurred since 1950. It also tells our workers, the people who pull the load and pay the taxes, that they are valuable resources and not just another expendable commodity.

Passage of this legislation is long overdue and I would like to take a moment to commend Senator DODD for his outstanding leadership on this issue. It is because of his dedication and tenacity to seeing families protected at times when they are often most vulnerable, that we stand here today and know that in the near future this legislation will finally be the law of the land.

Family and medical leave policies are not just good family policy, but they make sound business sense as well. A recent nationwide survey of businesses by the U.S. Small Business Administration found that since 1990, nearly $500 million was spent to hire and train new workers who replaced individuals needing medical leave. The researchers noted a modest cost of $6.70 per covered employee for providing family and medical leave but concluded that the net cost of placing workers on leave is substantially less than replacement.

Since 1988, Aetna Life & Casualty Co. has provided employees with 6 months of unpaid family and medical leave. Contrary to what the opponents of this legislation might have you believe, they have actually saved money. Aetna estimates that almost $2 million has been saved by reducing employee turnover and the costs associated with hiring and training new workers. Another company, AT&T, estimates that its family leave policies saves the company $15 million each year in replacement costs.

This legislation is also good family policy and responds to our changing workplace. The American work force has changed dramatically since the end of World War II—more women are working, more families are headed by single parents, and more older people need care to avoid institutionalization. Just listen to some of the statistics.

The number of women in the workplace has increased by over 200 percent since 1950. Nearly two-thirds of mothers with children under the age of 3 work outside the home.

The Census Bureau reports that the number of single-parent families has doubled since 1970 and now account for 27 percent of all families.

Because of advances in medical technology and health care Americans are living longer. The elderly is the fastest growing segment of the population. Between 1980 and 1990 the number of people age 75 and older increased by a third.

The Family and Medical Leave Act responds to the needs posed by these tremendous changes in a responsible manner. The legislation provides 12 weeks of unpaid leave for the birth or adoption of a child, or the serious illness of the employee or the employee's immediate family. Recognizing the difficulties leave policies might cause for small employers, the bill covers only businesses with more than 50 workers.

The Family and Medical Leave Act of 1993 replaces the rhetoric about family values with concrete solutions. This bill gives families real protection when they need it the most—when the worker is sick or their child, spouse or parent is seriously ill. It is unconscionable that workers have been forced to choose between their family members or the job they need. Those days are now over for millions of Americans.

Since the mid-1980's public opinion polls showed strong and consistent support for family and medical leave policies. This is sound pro-family legislation that warrants the support of this body.

Ms. MIKULSKI. Mr. President, I fully support passage of the Family and Medical Leave Act. We have tried for 7 long years to help working families by establishing a national leave policy. But, this year is different. We have a new President who cares deeply about this issue.

I am pleased that we have a chance to get this bill into law and I look forward to finally settling this issue

I am here to speak for America's working families—to fight for the men and women who work hard, pay their taxes, care about their communities, and are trying to raise a family.

There was a time when these families could buy a house, own a car, and raise a family on one income. But those times have passed. Most families can't get by on one salary—they depend on two incomes to make ends meet.

Women are usually the ones who must take time off to care for a family member. The United States depends on women in the work force more than any other Western democracy except Scandinavia and Canada. But we pretend these women still live in an Ozzie and Harriet world.

It makes sense to give our workforce leave when it is desperately needed. Family leave is a safeguard for times of family need or crisis. In fact, most families hope that there will never come a time when they have to use it.

Mr. President, this is a good bill. It is fair and it is balanced. It provides up to 12 weeks unpaid leave per year and covers those businesses with 50 employees or more.

It sets a minimum standard so that families no longer have to choose between their family and their jobs. It is especially helpful for those who can't afford to lose their job if they need to care for a newborn or adopted child, or ill parent or spouse. The facts speak for themselves.

Arguments against unpaid family leave are outdated and shortsighted.

Some have tried to say that businesses suffer when parental leave is offered. The Small Business Administration has answered these concerns. Their study from October 1991 showed that overall, it costs businesses more to replace the employee than it would to offer family leave.

All Americans suffer when workers are forced to choose between their families and their jobs. The Family and Medical Leave Act ensures that workers can remain productive members of the labor force while still providing care to their families at critical times.

This bill gives workers short-term job security and allows them to retain their health insurance at a time when they need it more.

Mr. President, the days of Ozzie and Harriet are over. It makes good business sense and common sense to give families the time they need to take care of a crisis and get back to work.

I urge my colleagues to vote for this legislation which we have passed twice before. We owe it to the American people to get this job done.

Mr. BAUCUS. Mr. President, I wish to add a few words of support for the Family and Medical Leave Act which I am cosponsoring.

A national policy that responds to the needs of working families is long overdue. In the past 20 years we have undergone a demographic revolution in both the workplace and in the family. Dramatic changes in work force participation have occurred over these past two decades and now, in a majority of American families, both parents work outside the home.

In times of family crisis, the absence of a fair leave policy is most sorely felt. Many parents are compelled to make the painful choice between caring for their child or losing their job, health insurance, or job seniority. This is clearly an untenable choice. If we fail to address this issue, we will continue to foster an unhealthy environment which forces workers to neglect their responsibility to care for their families. This, in turn, produces unhealthy and troubled children.

Passage of this legislation thus concerns not only our present but also our future. If the American economy hopes to have a healthy, intelligent, competitive work force, it is necessary to create a family atmosphere that can nurture bright, happy children who are tomorrow's workers. It is clearly time to make an investment in America's competitive future by facilitating the development of well balanced families.

The present version of the act is the result of long debate and compromise. It responds to the needs of employees and has also been crafted to give flexibility to employers. It ensures job protection during times of family crisis by allowing an employee unpaid time off for the birth or adoption of a child or the serious illness of the employee or an immediate family member, including an elderly parent. This makes sense to me and to a majority of Americans. In fact, polls show significant support for a family leave policy.

Finally, I believe that this legislation is cost-efficient and will not break the bank. In fact, a study found that the replacement of employees facing family emergencies is more costly to employers than the alternative arrangements companies make to adapt to limited family leaves. This study also estimated that the cost of providing family and medical leave to be less than $6.70 per eligible employee per year. This does not appear to be an unreasonable cost.

Accordingly, I believe that passage of this legislation constitutes a sound investment in the challenging task of nurturing families and in the process creating a superior, loyal and productive work force. It is time for America to look to the future and this is a step in that direction.

Mr. D'AMATO. Mr. President, I rise today as an original cosponsor to add my support for S. 5, the Family and Medical Leave Act. This important legislation will help families by making it easier to cope with the illness of a loved one or experience the joy of a newborn or newly adopted child without fear of losing one's job. It is sensible legislation that cements the prominence that families rightly deserve in our society.

This bill will provide up to 12 weeks of unpaid leave for the birth or adoption of a child or the serious illness of an employee or immediate family member without loss of job or health benefits. In addition, an employer would be able to use an employee's accrued paid leave to make up any part of that 12-week period.

Also, this bill will only apply to employees of companies with 50 or more employees who have worked for at least 1 year and 1,250 hours. Employers would be able to exempt their key employees from coverage and would be able to recapture medical insurance premiums if an employee who is able to work does not return to work.

Employers would be able to require 30 days notice for a request of leave and could ask an employee to certify the seriousness of an illness by obtaining a second opinion. Serious illness is defined by the bill to include a condition that requires the continued care of a health care provider or hospitalization.

Mr. President, working men and women in our Nation need to know that they will be able to return to their jobs should they, because of a family or medical emergency, need to take extended leave. This is a rational approach to protecting the integrity of the family unit without overly encumbering business in America. As a longtime supporter of this legislation and a cosponsor of this bill, I am pleased to support the passage of S. 5.

Mr. SARBANES. Mr. President, I rise in strong support of S. 5, the Family and Medical Leave Act. This legislation, which would provide 12 weeks of unpaid leave for employees to care for a seriously ill child, spouse, or parent, or in the event of the birth or adoption of a child, is long overdue. I deeply regret that similar legislation passed by the Congress on two previous occasions was vetoed by President Bush and look forward to working with an administration which has already expressed its support for this proposal.

In discussing this matter, it is important to note that the United States is the only industrialized country without a national family leave policy. In fact, almost every country in the world has a national parental leave requirement, including our most successful economic competitor in Western Europe and Asia, and these nations typically have requirements which go beyond those of the legislation we are considering today with respect to leave duration and income replacement. For example, in Europe, 5 to 6 months of paid leave is the norm for new mothers, and even Japan, which is often behind European nations in terms of labor standards, provides 12 to 14 weeks of partially paid leave with full job guarantees.

In contrast, we are attempting to pass once again a proposal which merely provides job protection for workers with newborns or who face family or medical emergencies. It does not require employers to pay such workers for this leave and excludes entirely employers with fewer than 50 employees. Workers are not automatically entitled to such leave and must, in fact, go through a very stringent screening process to demonstrate that they have a sick child, a sick spouse, or a sick parent, and that their presence is required in order to bring them back to health.

Available evidence shows that this fundamental protection is not widely offered to most of our Nation's workers. According to a recent survey by the U.S. Chamber of Commerce, 82 percent of employers provide no leave to care for sick children, and 85 percent provide no leave for elder care. In fact, the most recent Bureau of Labor Statistics survey shows that only 37 percent of female workers in firms with more than 100 employees are even offered maternity leave—and employment by the mother is increasingly critical in keeping families above the poverty line.

The Family and Medical Leave Act's guarantee of job security during family or medical emergencies is especially important to low-wage employees. A study by the Institute for Women's Policy Research has shown that working women who do not currently benefit from employer-provided leave had average annual earnings $5,000 lower than women with job-guaranteed leave. The study showed further that lack of job-guaranteed leave leads to even further losses in earnings, with working women without leave losing 86 percent of their prebirth earnings after childbirth while women with leave lost 51 percent of their prebirth earnings. Clearly, job guarantees are critical to low-income workers because they are most in need of income and health insurance protection after a family crisis. The appropriate question is not whether low-income workers can afford to take unpaid leave, but whether their jobs will be protected when they must take leave for a family or medical emergency.

While much has been made of the burden this legislation will impose on business, the facts again show otherwise. A 1992 study conducted by the Families and Work Institute concluded that providing parental leave is more cost-effective for employers than permanently replacing employees who must take leave. The cost of accommodating an employee's unpaid leave averages 20 percent of the employee's annual salary as compared to 75 percent to 150 percent for the cost of permanently replacing an employee. The study also found that 94 percent of employees taking leave returned to the company and 75 percent of supervisors concluded that such leave had a positive overall effect on the company's business.

A study by the General Accounting Office also found the cost to employers of providing family and medical leave to be minimal. In a cost estimate review, the GAO found that fewer than one-third of workers taking extended family or medical leave are replaced, and for those who are, the associated cost was generally less than the wages and benefits paid to the absent workers before they took leave. In addition, although the GAO acknowledged the benefit of such legislation to employers in retaining a loyal and experienced workforce, this was not factored into the cost estimates. Similar experiences are reported by individual employers who provide family leave policies. The Aetna Life & Casualty Co., which provides its employees with up to 6 months of unpaid job-guaranteed family leave each year with continued benefits and seniority, estimated in 1992 that its family leave program saved $2 million annually in reduced employee turnover and lower hiring, training, and replacement costs.

Uniform standards like the Family and Medical Leave Act help businesses maintain a minimum floor of protection for their employees without jeopardizing or decreasing their competitiveness. It responds to an increasingly serious societal concern in a manner no different than the Fair Labor Standards Act, the Social Security Act, the Occupational Safety and Health Act, and title VII of the Civil Rights Act. Each of these laws responded to identified needs of American workers and in each case, Congress concluded that establishing a minimal level of protection for all workers was an appropriate response. The legislation we are considering today is consistent with these principles.

Mr. President, it is time that this country reaches the point where parents are not forced to make a choice between looking after their sick child or keeping their job. While we hear much talk from opponents of this legislation about family values and being pro-family, we have been unable to finally enact legislation which would allow our citizens to meet pressing family obligations related to the birth, adoption, or the health of a child or other family member. Many employers have such arrangements with their employees, and I salute and commend them. However, sufficient instances remain in which this is not the case to make it reasonable to try to move legislation to address this critical issue.

The Family and Medical Leave Act will assist many Americans in balancing the demands of the workplace with the needs of their families. As a matter of common human decency, it attempts to take some of the stress and strain off American families without placing an undue burden on American employers. I strongly support the passage of this important legislation and urge my colleagues to join me in ensuring its passage and subsequent enactment.

The PRESIDING OFFICER (Mr. AKAKA). The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I thank my colleague for her courtesy.

Mr. President and Members of the Senate, we have been on the bill since 11 a.m. under orders limiting consideration of debate only with no amendments in order.

I have discussed the matter with the managers, the Senators from Connecticut and Kansas. They indicate that they may be prepared to proceed with some amendment. I note the presence of the Republican leader on the Senate floor.

I would like, through the Chair, to direct an inquiry to the Republican leader pursuant to private discussions which he and I have had on this subject.

I inquire as to—having noted the distinguished Republican leader's statements of an intention to offer an amendment with respect to the ban on gays in the military—whether the Republican leader is prepared to indicate at this time his intentions in that regard, and in what manner he would like to proceed, so that we can make a determination on how best to achieve prompt action on this bill.

Mr. DOLE. Mr. President, if the majority leader will yield, I say to the majority leader, it is not our intent to offer any amendment today or any second-degree amendment to any amendment. We are having a series of meetings discussing the amendment and when we will offer it. It may be that we will ask consent at an appropriate time to consider a freestanding piece of legislation, because I do not want anybody to have the impression we might be holding up the family leave bill, even though I would not mind doing that.

But I think this bill will finally pass. I know the Senator from Connecticut will be happy when that day comes.

In any event, I can assure the majority leader that before any amendment is offered dealing with this subject matter, I will so advise the majority leader. It will be no surprise. There will be no effort to come in behind somebody else's amendment.

Mr. MITCHELL. Mr. President, that was my concern. As the distinguished Republican leader knows well, under the Senate rules, if Senator KASSEBAUM or some other Senator were to offer an amendment on any subject—including relating to the pending bill—without an understanding, any Senator would then be free to seek recognition and offer any amendment dealing with gays in the military as a second-degree amendment.

Under the rules, I would ordinarily have the opportunity to prevent that from occurring. I merely wanted to make certain—and receive the assurance I just received—that that will not occur. And we can go ahead and proceed with these other amendments until such time as we discuss the matter further.

Mr. DOLE. Mr. President, the majority leader is correct. It can be done. But I would just suggest that we are working on this side. We had a number of meetings; a couple this afternoon.

I do not anticipate that happening. If it should, I would be happy to join the majority leader in a tabling motion.

Mr. MITCHELL. Mr. President, I thank my colleague, and I now wonder if the managers are prepared to get an agreement to take up amendments relating to the bill.

Mrs. KASSEBAUM. Mr. President, it is my understanding, and we are checking with Senator GREGG now to see if he will agree to a 2-hour time agreement, the time equally divided, on his amendment, which I believe will be the first one up for consideration.

Mr. MITCHELL. Mr. President, while they are waiting, I understand the Senator from Colorado wishes to address the Senate on the bill. I yield the floor so he may be able to address the subject matter.

I hope the managers can work out and obtain an agreement shortly, proceeding as the distinguished Republican leader has suggested.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. CAMPBELL. I thank the distinguished majority leader.

Mr. President, I rise to express my support for S. 5, the Family and Medical Leave Act of 1993. The reason I have chosen to speak on this issue for a moment is because I am one of the converts.

Some of my colleagues know I did not support the early versions of this legislation in the other body, when I was in that body, because of my concerns for its impact on small businesses. I would have preferred, like many of my colleagues, a self-imposed system by which businesses would provide family leave without a Federal mandate. I was concerned, as an example, that the extended absence of just one worker in a company of 10 employees would be felt deeply in a small business climate. But that is not the bill we will have before us, or the one we are now discussing.

The fact is a provision in this bill addresses that concern I did have, as this bill would be directed to only those businesses that employ more than 50 individuals. It is my understanding that that itself would exempt about 90 percent of American businesses. In my State of Colorado, I know it exceeds that.

The cost of this bill was of similar concern. That cost has also been challenged. A study commissioned by the Small Business Administration concluded that it costs employers less to place the employee on leave for a medical emergency than it does to terminate the employee and recruit, hire, and train a new worker.

In addition, a 1988 GAO study concluded that there is evidence that shows two-thirds of employers shift the existing work force to cover the absent worker's duties, rather than hiring temporary workers which are consequently hired through temporary agencies, still raising the costs.

Many other studies have also concluded that it is much more cost effective to implement a leave policy in our Nation's work force than to force families or employers to make the difficult choices to leave or to be terminated from their jobs. That is some tough choice, Mr. President.

This bill gives the U.S. citizens the same privileges and protections as those enjoyed and employed by the rest of the industrialized countries. Currently, our sophisticated country stands alone among international competitors as the only country to not have a minimum family leave standard for its workers. As Senator DODD has pointed out, in fact, nearly every other country requires some paid leave for its workers. S. 5 provides no pay.

There is much that needs to be done to make jobs and family life more compatible. The Family and Medical Leave Act would be a modest beginning and a simple commitment to this effort.

We have talked long enough about the need to recognize the importance of families in our society. In the past 7 years, legislation such as we are dealing with today has had 17 days of hearings, 11 markups, and 6 bipartisan compromises. The time to enact a piece of legislation that finally gives consideration to the family is long overdue.

I am confident that that bill accommodates the legitimate concerns of the business community and the families, and I would support it without weakening amendments.

Gays in the military is a totally separate and unrelated issue that would be dealt with in totally separate debates.

I recommend that we do not muddy the waters and hope my colleagues will pass S. 5 undiluted.

Mr. HELMS. Mr. President, there is very little point in dancing around the mulberry bush. Everybody is waiting for "the" amendment, including the Senator from North Carolina.

I imagine that if it were not for this amendment, that the distinguished members of the fourth estate would not even be in place in the gallery.

Mr. President, the people of North Carolina are proud that our State is the home to a great many of the world's most famous and decorated combat units. More than 25 percent of the troops who fought in Desert Storm came from our State.

Let me run down the list. As the Senator from North Carolina, I am privileged to represent, "America's Guard of Honor," the 82d Airborne Division; the 2d Marine Division; the Special Operations Command; the Special Forces, meaning the Green Berets, along with many Marine Corps and Air Force fighter squadrons.

Mr. President, you can add to that honor roll thousands of guardsmen and reservists, and you will see why North Carolina is not only "First in Freedom," it is "First in National Defense."

On behalf of these outstanding men, women, and veterans all across North Carolina—and I think all of them have called my office three times in the last week or two—I have pledged to do everything in my power to oppose any change in the policy which excludes homosexuals from military service.

When the election returns poured in last November, all of us heard the media chorus triumphantly sing the praises of our new President as a different leader and a different Democrat. The liberal media gleefully proclaimed that Mr. Clinton would stand up to the militant special interests in his party. We heard ad nauseam flatout guarantees about "revitalizing our economy," "reinvesting in America," "putting people back to work," and dealing with troubles in Iraq and Bosnia.

But what happened? In the past 2 weeks, the liberal media's hero has broken promise after promise. He has made clear that his top two priorities for this Nation are waging war on unborn children and waging war on the Armed Forces of the United States.

President Clinton is on record, in writing, in case anybody doubts it, as "loathing the military." His determination to invite homosexuals into the armed services can certainly be taken by America's soldiers, sailors, and airmen, as proof positive that the President is, at best, insensitive, and, at worst, contemptuous of the military way of life.

President Clinton and his advisers—many of whom have never gone near the uniform and are proud of that fact—have ignored the warnings of General Powell and his service chiefs. The Joint Chiefs pointed out that lifting the ban on homosexuals in the military will destroy the Armed Forces as an effective and efficient fighting establishment by hurting recruitment, undermining morale, and opening the military to distasteful political decisions about promotions, housing, benefits, and behavior. It seems to this Senator that the years of combined combat experience of the Joint Chiefs count for nothing in the face of the radical minority of homosexuals and their allies in the White House.

Mr. President, the American people understand what is going on. Otherwise, there would not have been so many telephone calls and telegrams and letters. Just take a minute and listen to the thousands of outraged citizens who are lighting up phone lines across Capitol Hill. I have heard from active duty soldiers, officers, and enlisted men. I have heard from black veterans, Jewish veterans, Catholic veterans. They know that the issue here has nothing to do with discrimination in the military and everything to do with what the Washington Times called the other day, a good old-fashioned grab for power.

When it comes to valor on the battlefield and a sophisticated understanding of our military, I yield to distinguished Americans like BOB DOLE and JOHN MCCAIN and STROM THURMOND and

Colin Powell and many, many others. I do, however, wish to direct the Senate's attention to the bigger problem that this country is facing.

This attempt to remove the military's ban on homosexuals is the number one priority of the homosexual political movement. They know that the Armed Forces are the last bastion of traditional morality in this country. Once the homosexuals movement breaks down the doors of the Army, Navy, and Air Force, what is next? Homosexual marriage, adoption of children, or destroying organizations like the Boy Scouts; and, yes, they have tried to do that.

If you do not believe me, listen to what one so-called gay activist told Newsweek magazine recently:

> When Bill Clinton lifts the ban, he is going to push national acceptance of homosexuality. It's not just going to push people out of the closet into the military—it's going to push people out of the closet all over the country. It's going to be OK to be a homosexual.

What is underway here is the governmental stamp of approval on the homosexual movement, the lifestyle; and that means making sexual orientation a protected class, sanctioning quotas in hiring and promotions, benefits for same-sex marriages, on down the line.

Transforming the military into the radical's social laboratory is the most important first step in the transformation of all of American society.

The January 28 editorial in the Washington Times forecasts what newspaper articles will look like in 1996, should the Congress let Mr. Clinton have his way on this issue.

> Four years after battling their way into military barracks, gay and lesbian members of the armed services say the political opposition they overcame has been replaced by a "pink curtain" of ignorance and homophobia that has come down on their aspirations of promotion and pay increases.
>
> It's our glass ceiling, said the Pentagon staffer who asked not to be identified. The difference is we can't even see our way to the top because of the hatred. Bill Clinton has a long way to go before he makes good on the promises he made back in 1992.
>
> Clinton officials have promised to revive efforts to add sexual orientation to the nation's anti-discrimination statutes, a move which Congress narrrowly rejected two years ago.

Now that is the forecast by a newspaper editorial on what newspaper articles in the future will say.

If that is not a nightmare scenario, it will do until one comes along.

Mr. President, I have heard over and over again that those who oppose President Clinton are somehow enemies of civil rights, that homosexuals simply want nothing more than legal rights held by Jews, Catholics, blacks, and others. As the philosopher once said, "that is nonsense on stilts." The American people view the organized homosexual movement as a gang demanding not tolerance or an end to discrimination but special privileges, legitimacy, and government-enforced approval of their way of life.

It is amazing, at least to this Senator, that the liberal media have allowed repugnant groups like Queer Nation and ACT-UP to hijack the rhetoric and trappings of the black civil rights movement. One of our colleagues in the House went a step further by chastising the Chairman of the Joint Chiefs of Staff for not equating the history of blacks in the military with the so-called struggle for legal privileges for homosexuals. In a stinging rebuttal General Powell destroyed this ridiculous and offensive comparison, and I quote:

> I am well aware of the attempts to draw parallels between this position and positions used years ago to deny opportunities to African-Americans. * * * I can assure you that I need no reminders concerning the history of African-Americans in the Defense of their Nation and the tribulations they faced. I am part of that history.
>
> Skin color is a benign, non-behavorial characteristic. Sexual orientation is perhaps the most profound of human behavorial characteristics. Comparison of the two is a convenient but invalid argument. I believe the privacy rights of all Americans in uniform have to be considered, especially since those rights are often infringed by the conditions of military service.
>
> As Chairman of the Joint Chiefs of Staff, as well as an African-American fully conversant with history, I believe the policy we have adopted is consistent with the necessary standards of good order and discipline required in the Armed Forces.

Mr. President, I said at the outset that I have the honor to represent the world's most famous soldiers and Marines. I would be derelict in my duty to them if I did not conclude my remarks by reminding the Senate that the bottom line in this debate, no matter how many people deny it, is not this group's rights or that group's privileges. It is in fact, what can the U.S. Senate do to ensure the men and women of the military know that their needs come first and they will not be held to the political fads of the day.

Has anyone here or at the White House bothered to ask the young paratrooper at Fort Bragg or the Marine gunner at Camp Lejeune how safe he would feel if he knew that when he went into battle his chances of survival would be threatened if he had to receive a blood transfusion from someone admitted into the military because of Mr. Clinton's rush to appease a political minority to whom he made a flatout guarantee last year during an election? Would the young Navy corpsmen think twice about treating another sailor if he suspected he had AIDS? Homosexual and bisexual men make up over 80 percent of the AIDS virus for months. If we change the military's current policy on homosexuals we are putting our young soldiers, sailors, and marines in danger.

Mr. President, on March 12, 1992, "NBC Nightly News" reported that the Pentagon was already treating more than 10,000 soldiers and dependents infected with the AIDS virus and more than a third of them are on active duty. By the way, since many of my colleagues have lamented the fact that the Pentagon has spent millions drumming promiscuous homosexuals out of the military, NBC News predicts that the military will spend over $3 billion in this decade treating those already in the service with AIDS.

Mr. President, members of the National Basketball Association rose up in arms—do you remember?—when they realized that a famous player with AIDS might bleed on them. Basketball is just a game, war is not.

War is a matter of life and death, not civil rights or social experimentation. I refuse to believe that this Congress or any Commander in Chief would intentionally, knowingly, consciously weaken our national defense and put the lives of America's fighting men and women in danger in the name of "gay" rights. We have the constitutional duty to guarantee that the security of the country is protected by the finest fighting forces in the world and those forces will remain strong only if the current ban remains in place.

Mr. President, I thank the Chair and I yield the floor.

Mr. WOFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. WOFFORD. As a former Army Air Corps veteran of the late part of World War II, I have tried to follow with due respect the extensive and remarkable concerns for the future of our military and the personal behavior of Americans by my senior colleague from North Carolina. But I do not think the millions of people in this country, the working Americans who have waited for the Family and Medical Leave Act to get off dead center, are going to appreciate any diversion, any taking our eyes off of the prize of finally breaking the gridlock here now and ending the diversionary politics. We need to get things done that are vital to the future of our families and our economy.

So I am proud to be a cosponsor of this legislation. And as a new member of the Committee on Labor and Human Resources, I salute Senator DODD for his efforts during the last 7 years on behalf of America's working families, and I salute Senator KENNEDY, as chairman of the committee, for his leadership, and all those who have pushed this bill up the hill and who are not going to let it roll down the hill this time because of diversionary social issues that divide us and take our eyes off that prize.

This bill will help America's working families by sparing them the terrible choice between keeping their jobs and caring for their young children or older parents. This legislation of course is just one part of the commitment we must make to reinvest in the American family.

Universal and affordable health care with immunization for all children, opening the doors of college opportunity to every young person, a commitment to our schools and to early childhood programs like Head Start are all essential to a better future for our children.

But this Family and Medical Leave Act is at the front of that effort. It will help millions of working families by allowing them to be both responsible parents and productive workers. The cost is small. The benefits are great.

And a few years from now, I am sure that most of those who would now oppose this bill, and in recent years have blocked it, are going to say: It helps, it raises morale, it increases productivity. Why did we not do it sooner?

Last Friday, President Clinton held a national conference call with Americans who will directly benefit from family and medical leave. One of the participants was Joann Mapp, who works in the Philadelphia Police Department's data processing unit. Joann Mapp is the single parent of 5-year-old twins, a girl and a boy, who have had serious short-term medical problems. During her conversation with the President, Joann Mapp called this legislation "a blessing" because in her words, "I have the security behind the bill giving me the time to take off to care for my child when she's sick."

Mr. President, this legislation is indeed about security—security for the American working family. Let us recognize the changing nature of work and family in this Nation and enact family and medical leave. Let us invest in our families and in our future. Let us not be diverted by any other issue. Let us do it now.

Mr. President, I ask unanimous consent that an article from the January 30, 1993, Philadelphia Inquirer on President Clinton's call to Joann Mapp be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Philadelphia Inquirer, Jan. 30, 1993]

A PHILADELPHIA MOTHER TELLS CLINTON A BILL ON LEAVE IS NEEDED

(By Thomas J. Gibbons, Jr.)

While some supervisors at police headquarters might raise an eyebrow at an employee spending time on a personal, long-distance phone call, they made an exception yesterday for Joann Mapp.

The caller was the President.

In a conference hookup from the Oval Office, President Clinton listened as Mapp, who works in the Police Department's data processing unit at the Police Administration Building, told how legislation that would require employers to grant workers unpaid leave for family and medical emergencies would benefit Americans.

"If you could pass this bill, it would just be a blessing," Mapp told Clinton at the end of her conversation in which she recounted how a sick daughter could have cost her her job.

"This bill being passed will ensure that I won't * * * because I have the security behind the bill giving me the time to take off to care for my child when she's sick," said Mapp, who has been a city employee for the last nine years.

Mapp, 37, participated in the nationwide telephone call with 10 other families. She was proposed as a candidate by Ann Cohen, her union leader, who was asked late Thursday by union officials if she knew a union member who would benefit from passage of the bill. Cohen said she knew that Mapp had experienced a problem with a sick child.

"I called her up and asked her a few questions," said Cohen, president of the American Federation of State, County and Municipal Employees Local 1637. "She's an articulate young woman. I asked her did she want to talk to the President * * * and here we are."

When Mapp arrived at work yesterday, she was accompanied by her children, 5-year-old twins. While daughter, Alia, and son, Ali, waited, Mapp finished a project left from the day before.

Then she headed for the auditorium to wait for the call from the White House.

Shortly before 11:30 a.m., the phone rang. Television cameras trained on Mapp. Reporters, who were monitoring the conversation, began taking notes. Clinton first spoke to several other people. Then it was Mapp's turn.

"Are you on the line?" asked Clinton.

"Yes I am," replied Mapp.

"Could you tell us a little bit about your story?" he asked. Then in a clear, steady voice, Mapp complied.

"I'm a single parent. I work in Philadelphia, Pennsylvania. I have a girl and a boy, twins," she began.

She recounted how when her daughter was 2, the child was hospitalized for salmonella poisoning. "I had to take off from my job to stay in the hospital with her and care for her," she said.

A year later, Alia was stricken with hepatitis, which necessitated another stay at home for Mapp. "But unlike your other callers, my daughter's sickness was short-term, but if it had of been a long-term sickness, and I didn't have time where I could stay home with her, your bill would be a blessing because then I would be allowed to stay there and care for my child."

After Clinton expressed his appreciation, and Mapp thanked him for "allowing me to speak and represent the people in Pennsylvania," her co-workers in the auditorium broke into applause.

"I'm still excited," she said later in the day. "I was very nervous, but I didn't want to get too emotional."

Clinton told the families during the conference call: "I hope I get to sign this bill next week. If it happens, it will be because of people like you and for people like you."

Clinton, joined by Vice President Gore for the half-hour group conversation, told the callers he was determined to remember that "these matters that we discuss and vote upon here really do affect real people out in our country."

Family-leave legislation is on a fast track for congressional approval after being vetoed last year by President George Bush, who argued that it would impose an undue burden on businesses.

The legislation would require employers to give workers up to 12 weeks of unpaid leave to care for a newborn or a sick relative. Companies with fewer than 50 workers would be exempt.

Mr. WOFFORD. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I rise to comment on the bill, prior to the time when we begin amending it, with a feeling of some concern because family leave and the ideas described in the bill are things I believe in very strongly. Prior to coming to the Senate, I earned my living as a businessman. I was the chief executive officer of several businesses. We always practiced the kind of family leave that is described in this bill and we found, frankly, that it was good practice. We did it because of market conditions; that is, we wanted to hang onto the good employees that we had. We recognized that giving them this benefit would cause them to stay with us when they might otherwise want to go to some other employer who might give it to them.

I can cite all kinds of examples where giving family leave was sound business practice, and I find as I read through the report that I am agreeing with the majority and the things they are saying about the importance of family leave again and again. At the same time, however, Mr. President, I find that I will have to vote against this bill, not because family leave is not a good idea, but because it falls in a category that I found when I was campaigning for the Senate.

Unlike some of my distinguished colleagues, this is the first public office I have ever held, the first public office I have ever sought, other than an aborted attempt to get on the school board one time, which fortunately failed.

In the campaign, the one thing I heard again and again as I went around the State of Utah from local officials and State officials, members of the State legislature was their concern about Federal mandates that went unfunded. They said these mandates are breaking local government. The Federal Government, in a very worthwhile effort to take care of some concerning problem instructs us that we must do this and we must do that and then lays down a set of regulations which are not geared to our local situation and which make it impossible for us to meet without raising taxes. What they really do, they said to me, is create a circumstance where they get the credit for doing something worthwhile and we get the bill and we at the local level are forced to raise taxes and face a hostile electorate because the Federal Government decides it would be a good idea if we did this or that.

As I read through this bill, I find exactly the same philosophy. The Federal Government is mandating not local government in this case but local businesses to do this, that or the other with respect to family leave. All of them are beneficial mandates in terms of the things they can do for people. But in every case, the Federal Government is deciding the standards. They are not accepting any local input, they are not accepting any local conditions and they are creating a set of circumstances which, for some businesses, could create serious hardships and which would result in a form of tax increase. We do not call it a tax increase, but it is the same thing. The Government has mandated increased costs and it comes off the bottom line just as surely as if it were a tax increase.

Let me give an example. This bill calls for an exemption for any business that has less than 50 employees. They say, "So we have taken care of small business. You see, Senator, you don't need to be concerned about your constituency in small business because anybody with less than 50 employees qualifies as a small business and, therefore, is exempt from the mandate of this bill."

By what wisdom did we decide that 50 employees was the measure of whether a business is small or large? I know of businesses, restaurants primarily, that employ as many as 200 or 300 employees but that very clearly qualify as small business and for whom this kind of mandate would be particularly expensive and onerous, even to the point where those jobs might be in jeopardy. It will be of small comfort to say to a woman who is pregnant, "Yes, you can have time off to take care of your newborn child, but you do not need to worry about coming back to work because you will not have a job because we will not have a company." Or "I hire women in that age circumstance. The number of women who are taking advantage of the family leave opportunities has risen to the point that we no longer can stay in business." I realize that is an exaggerated circumstance, but it is a demonstration of the kind of thing that could happen.

So, Mr. President, I suggest to the Senate that to mandate these kinds of benefits without providing funding, that which I heard about in the campaign from the local governments, is a form of tax increase on business that is not thought through intelligently and that will ultimately produce significant hardships.

I refer the Senate to the action that was taken some years ago when, in our wisdom as a nation, we decided we were going to tax luxury yachts. What could be a better way to raise revenue than tax yachts that only the very rich could afford? The unintended result is that we put the yachtmakers out of business and the people who got hurt were the blue-collar workers who made yachts because the rich who buy yachts decided they were going to spend their money on something else rather than pay the excise tax. I hope that we will pay attention to those kinds of unintended results from our good intentions.

I make it clear again in closing that I support the concept of family leave. As an executive, I always practiced the concept of family leave. I can give as many examples as the majority report can on the benefits of family leave, but I reluctantly come to the conclusion that I cannot support federally mandated regulations that do not take into consideration local conditions or the circumstances of individual businesses, and I intend to vote against this bill.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I would like to thank the Senator from Utah for a very realistic appraisal of this legislation. It is not that any of us would not wish to see these policies put in place, as has been said earlier, but we are concerned about what happens when they are mandated by the Federal Government. I think one particular point is worth noting.

What about the case of an employer who has 40 employees? Are not the 40 employees in that company and what they might wish to be able to do to meet a family crisis just as important as the 50 employees in a company who must be provided leave under this bill? I think as we sort through the fairness of this and recognize the fact that half of the workers in this country will not be entitled to leave, it does become harder to justify. Because for someone in a company where there are only 40 employees, a family crisis can be just as tragic and leave from work just as necessary as for someone who works in a company that meets the criteria of 50 or more employees under this bill.

As some have said, they wish it could apply to everyone, but politically they know that will be too difficult. That is a poor reason not to do it if indeed it is so important. I think the fact that the Senator from Utah mentioned the problem from the standpoint of having been a businessman who offered good policies and recognizes, however, the inherent difficulties in trying to set the parameters from here, it becomes very obvious that there are winners and losers even though we might wish, with the best of intentions, for only winners with this legislation.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me comment on the last point. We have a little time before we get to an amendment. This is an example of what exists and has existed for years in law. Arbitrary thresholds have been set. Federal laws are replete with them where 25 employees or fewer are exempt in a whole array of statutes. Why not 20? Why not 19? Why not 26?

In this particular case, a strong effort was made to exempt smaller businesses for two reasons: One is that in a smaller business environment, there is a far greater likelihood that the employer and employee will know each other. Therefore, when circumstances arise affecting adoption or birth or serious illness of a child, there is a far greater likelihood the employer is going to extend those benefits, so there is less concern these kinds of problems will occur.

As the employment force gets larger, it is unfair to expect that the employer would necessarily know everyone or could spend their time to become involved in the circumstances that affect their families. Frankly, the other reason is that we are trying to pass a piece of legislation.

As I mentioned at the outset of my remarks, I would not be standing here offering this bill if, in fact, what our colleague from Utah did in his practice was happening today. But as I cited statistically from the Chamber of Commerce and the Bureau of Labor Statistics, regrettably it is not occurring. In fact, when a survey was done of employers in the country about whether or not they would move in this area, almost 65 percent said we have no intention doing this at all unless the State or the Federal Government requires us to do it. That is not exactly welcome information. When only 37 percent of employers in this country, despite 7 years of debating this—and I see my other colleague from Utah who was giving stern lectures to businesses on this point going back a number of years—they did not listen to him when he said you ought to do it, it is the right thing to do it. But only 37 percent of employers provide maternity leave. A pregnant woman about to bear a child wants to be at home with that infant and 67 percent of the employers of this country say, "I'm sorry, it is your job or your child." Only 18 percent provide leave for elder care, a parent in the home trying to be with them; around 20 percent on adoption.

How many children do we know of today who are with special needs and care, trying to get families to adopt these children? Please take them in. And yet most State agencies today require a minimum of 6 weeks where one or the other parent will be there for the bonding period. One State in this country requires 4 months of one or the other parent being there full time to be with that newly adopted child. Here we are talking about 12 weeks.

I am responsible each and every year for the reauthorization of the special needs adoption legislation. We do it on a voice vote. I have never had a single Member of this body stand up and say I object to the, I think it is $10 million—my colleague from Utah serves with me on that committee—to assist with special needs adoption in this committee. It has never required any debate. Everyone is all for it. What an irony it is that this body supports special needs adoption, understands the importance of it.

We have families out there that want to engage in adoption practices and bring these children into a loving home and yet only about 20 percent of the employers of this country will provide the leave for their employees to do so. And the same is true with fathers.

So I am very sympathetic to the notion that in the ideal world this ought to be happening. It should not require me to stand here and debate this issue for 7 years, talking about something people ought to be doing, but the fact is it is not happening and there is no indication, no trend lines it is happening at all.

So again I say the standards and thresholds, some are higher, some lower. Plant closing, OSHA, Fair Labor Standards Act, in all of these various provisions, 25 is usually the standard. With 50, we tried to raise it high enough and exempt 95 percent of all employers in the country; 95 percent of all employers are exempt, 5 percent covering about 45, 48 percent of the employment force in the country.

But I found it particularly worthwhile to note that yesterday the National Retail Federation—a million employers in this country are represented by the National Retail Federation, 20 million people work for retailers, small retailers, a part of this federation—strongly endorsed this bill in detail. In fact, the vote of the executive board of the National Retail Federation was unanimous in support of this legislation.

These are business people who finally have said look, this thing makes sense. Why? Fifty-six percent of the 20 million people who work for retailers are women who are grappling with these problems, in many cases raising children on their own, who understand the problem and their employers now understand the problem.

So I hope that as my colleagues listen to this debate and the arguments they would appreciate the fact it is not my intention to come up with a mandate for the sake of coming up with a mandate because I have nothing else better to do. I do not like them either. I would prefer that this happen. I suspect most employers in this country did not want to contaminate their employees with toxic substances or health-jeopardizing circumstances. I presume most employers in this country a number of years ago said you should not employ infants in our factories. I presume most employers in this country said we are going to pay more than the minimum wage, we are going to pay more than that. What do you need to mandate that for?

And yet I think we have all come to appreciate, by and large, that occupational safety and health standards are necessary, not because the majority of employers are jeopardizing the health of their employees but because some do, and a minimum labor standard of a safe workplace is something we were able to develop some consensus around, the same being true with the child labor laws, the same being true with Social Security.

What we are saying here is as a minimum labor standard, not as a benefit. This is not a dental plan I am talking about, or a vacation program. We are talking about something that an employee absolutely needs because of a crisis, not some benefit because of good service somehow but because a basic minimum standard is needed. Again, most employers I think try to be helpful in these circumstances but it is a basic minimum standard in this day and age with so many people facing these problems, with families under siege in this country, with the economic and social pressures they face.

In fact, my colleague from Utah, Senator Jake Garn, whom Senator BENNETT has replaced, and a good friend, donated a kidney to his child. Jake Garn missed votes week in and week out; Jake Garn missed committee assignments week in and week out; Jake Garn did not make meetings back home in Utah week in and week out; and every one of us here applauded what Jake Garn did. He saved his child's life. He got paid for it. We did not say unpaid leave. We did not fault Jake for not being here for his votes. We did not say you are a bad Senator.

Senator KENNEDY, my colleague from Massachusetts, when his son's life was in jeopardy, missed votes right and left.

AL GORE, the new Vice President of the United States, when his son was run down by an automobile in Baltimore, was not around here for weeks. He stayed with his child.

Did anybody say they ought to not get paid? Or you ought to lose your job because you were with your kid? We applauded what they did.

Well, if it is good enough for my friend from Utah, and if it is good enough for the Senator from Massachusetts, and if it is good enough for the Vice President of the United States, why not the average American citizen who faces those crises every day? If your kid is in trouble, your job is not in jeopardy. We maintain your health benefits. Is that really that radical an idea?

I yield the floor.

Mrs. KASSEBAUM. Mr. President, I wonder if the Senator from Connecticut would yield for a question.

Mr. DODD. Certainly.

Mrs. KASSEBAUM. The Senator said that 67 percent of employers do not offer—

Mr. DODD. Sixty-three, excuse me.

Mrs. KASSEBAUM. Sixty-three percent now. How many of those employers would be covered under this bill?

Mr. DODD. I do not have that. I can check on that. I will get an answer for the Senator. I do not have that one here.

Mrs. KASSEBAUM. I appreciate that. I thank the Senator.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. I have enjoyed listening to the distinguished Senator from Connecticut. He always makes a lot of interesting points. He certainly is dedicated to this bill, and I understand why he is.

But I rise to speak in favor of progressive policies designed to support the American family. I am a strong supporter of the family. I do not think anybody in this body doubts that. There is an inextricable connection between the well-being of the family unit and the well-being of our society.

I have worked for years to advance family issues in the Senate such as child care and flex time, I think to the fore of America's agenda. And in my own Senate office, long before many others, I have had longstanding policies for family leave, flex time, and job sharing and put into practice the ideas I have supported.

I recognize the need for family and medical leave. For millions of American families, the conflicts between work and family are unavoidable. Senators on both sides of this issue I believe are struggling with how best to help families cope with these conflicts.

I agree with those who think that we can play a role in providing a better environment for work and family.

I firmly believe, however, that there are far better alternatives to this bill. In the past, I have led efforts to pass these alternatives, particularly the American Family Protection Act. And, I will continue to press for the right kind of family legislation.

Unfortunately, the bill we have before us would harm, not help, America's families:

By imposing a Federal mandate for 12 weeks of unpaid leave, it robs employers and employees of personal freedom and flexibility in designing their own benefits packages.

By excluding small businesses, it covers only 50 percent of America's work force and only 5 percent of its businesses.

It is biased in favor of upper-income Americans and will foster a bias against hiring women of child-bearing age.

By imposing additional costs on business, it will destroy jobs and ignores the fact that we cannot have a strong family policy without a strong economy.

The alternative approach that will be offered avoids all of these pitfalls:

By creating tax incentives for businesses to offer family leave, it helps offset the costs to employers who offer this benefit without undercutting the freedom of choice of employers and employees alike.

By focusing its benefits on firms with fewer than 500 employees, it targets those businesses that are least likely to be able to afford to offer family leave benefits.

It does not discriminate against women, the poor, and minority groups who work in greater numbers in America's small businesses.

By defraying the costs of family leave benefits to employers, it preserves jobs and helps keep American goods competitive abroad.

In plain truth, the issue is one of means, not ends. No Republican Member I know, and not one employer I have ever spoken to, disagrees with the goal of this bill. But many strongly object to the imposition of a new Federal mandate. They strongly object to the Federal intrusion in their businesses. Method, not motive, drives the debate on this issue. Design, not purpose, has created the opposition to this measure.

As we debate this bill, we should ask ourselves four basic questions:

First, will this bill solve the conflicts between family and work that most Americans face?

Second, will this bill preserve the personal freedom and flexibility of American employers and employees?

Third, will this bill provide benefits equitably to all Americans?

Fourth, will this bill help the United States compete in the global marketplace or achieve full economic recovery?

Unfortunately, the answer to all four of these questions is absolutely not.

The first major problem with this bill is that it fails to do the job. It does not address the tensions between work and family that most Americans face. First, it fails to cover a vast segment of the American work force. Second, for parents who take time off after the birth or adoption of a child, it fails to provide sufficient time for the bonding process between parent and child, which is a principal objective of this bill.

Despite the impression some may have about the number of workers able to receive benefits under this bill, it will cover only half the American work force. In a weak attempt to limit the damage of its costly and burdensome mandate approach, the sponsors have excluded businesses with fewer than 50 employees. That means that almost half of U.S. working family members and the employees of 95 percent of all U.S. businesses are not even eligible for these benefits despite the mandate that this bill would require.

Thus, on its own terms, this bill fails to provide benefits for vast numbers of Americans.

Moreover, this bill's 12-week unpaid leave period is inadequate to achieve what it sets out to do. Protecting jobs for individuals who must leave work to care for seriously ill children or elderly parents is an important objective. It is also obvious that many serious illnesses do not confine themselves to 12 weeks.

Likewise, it is the position of many child development experts that 12 weeks is insufficient for parent-child bonding. This process, which is crucial to an infant's later socioemotional development, is not one that is completed in a mere 12 weeks. The most important period extends over many more months, and the process as a whole extends over years.

Surveys strongly indicate that working parents want the flexibility to spend more than 12 weeks with their children following birth or adoption. That means that any help the Congress provides in this area ought to extend an option to spend more than 12 weeks. The most recent Census Bureau data reveal that 67.1 percent of all mothers remain at home with a newborn after the first 12 weeks have passed.

In fact, almost 50 percent of new mothers, according to this Census Bureau data, do not work for pay at all during the first year of their newborn's life. A full half of all new mothers decide not to work during the first year. And, the evidence unequivocally suggests that fully half of the women who left work for the birth or adoption of a baby expressed the desire to remain at home for the first 2 or 3 years of their child's life. A full 39 percent expressed a desire to remain with their new child until he or she started school at age 6.

Maybe the Census Bureau got it all wrong. But, when one adds it all up, it appears to me that these facts clearly indicate that the mandates of this bill miss the point—they stack up poorly against the desires and needs of working parents.

Our objective should not be to mandate a one-size-fits-all 12-week unpaid leave period but rather to facilitate ways for employers to offer working parents the kinds of family-related leave benefits that individual couples need.

The second major problem with this bill is that it undercuts the personal freedom and flexibility of American employers and employees to devise benefits programs that will best suit their individual needs.

Americans are not interested in having Congress make these decisions for them. Regardless of the well-intentioned motivations of Members of the U.S. Congress, people are clearly telling us that they do not want the Congress to lock them into a one-size-fits-all policy. They want room to maneuver, room to negotiate.

The fact is that this legislation will force a benefits tradeoff for all employees, not just those taking advantage of leave.

To illustrate, let us talk about an employment situation we can all relate to, the Senate. Each Member of the Senate has a budget to hire staff. Obviously, as much as we may want to, we cannot provide pay and benefits that exceed available funds. For any employer, including the Senate, there is a limit.

The employers I have worked with refer to the benefits aspect of this equation as the benefits pie. And, like any pie, there are only so many slices to be taken before it is all gone, before all the benefits budget dries up.

What is wrong with Federal mandates is that they arbitrarily force employees into certain configurations of benefits.

An elderly worker who may want additional retirement benefits may lose the opportunity to gain this piece of the pie because we in Congress are mandating family leave benefits.

Single workers who may want more vacation time may lose that option. Workers with teens who may have more interest in profit sharing for college expenses may lose those important options. You could go on and on about the different options and different fringe benefits that people would want and that will be foreclosed to a degree because of the mandate we are requiring in this bill.

That is precisely why working Americans are telling us that they want choice and flexibility with regard to employer fringe benefits. Without this choice, without this flexibility, we cut off the options of the many to satisfy the needs of the few.

We can already see that such tradeoffs will take place. More than half of the businesses surveyed by Gallup for the National Federation of Independent Business say that they will finance the imposed leave with cuts in insurance and vacation benefits provided to other employees.

Automatically they are shortening the list of available benefits that people might choose.

And, that clearly raises the question of whether individuals may prefer the benefits that may be taken away over the Government mandates that will trigger the tradeoff.

The vast majority of working families want the flexibility to choose for themselves what is best for their families. Just look at the results of a recent Gallup Poll. When asked in straightforward terms what benefits they would value most, 99 percent of employees—99 percent—chose fringe benefit areas other than family leave or personal medical leave.

Thus, only 1 percent of all working family members surveyed in this Nation said they would value the leave benefits provided under this bill above all their personally applicable benefits for their families.

In other words, they will not choose these benefits if they had a right not to choose them. We are mandating they have to take them even though they would choose other benefits.

Evidence also strongly suggests that employees vastly prefer to control their own futures.

Working family members want and demand the ability to choose their own benefits packages. A 1991 study by the Penn-Schoen Organization found that 89 percent of all adults polled in the United States prefer to have employee benefits freely negotiated between themselves and their employers and not imposed by the Federal Government or by Federal mandates.

In another recent study by the American Enterprise Institute, a majority of Americans believed that the Government should not mandate that employers provide benefits such as family and medical leave. This study found that only 31 percent—less than one-third of those questioned—believed that granting unpaid family and medical leave was something that a company should be forced to do.

A 1985 Harris Poll found that a full 73 percent of U.S. employees believed that their employer already made adequate provision for both emergency and regular needs of working parents.

Not all have, but you do not ruin the whole system just to take care of a few, even though there cause must be somewhat just. On the other hand, we ought to find a way to take care of them, and there are alternatives to this bill that would, and without the mandate which bothers an awful lot of people in our society.

When specifically asked—the people in the 1985 Harris Poll—if they were happy with the arrangements made, nearly three-quarters of all working Americans were quite content.

In fact, there are positive trends on family-related benefits. A recent survey by the U.S. Chamber of Commerce found that 99 percent of 6,367 companies questioned voluntarily provided some type of paid fringe benefits to assist working families, such as hospital coverage, profit sharing, dental plans, and/or family leave.

What is more, a recent conference board study found that nearly two-thirds of the companies that participated said that they had expanded work-family programs in their workplaces during the past year.

These respondents cited alternative work arrangements, such as part-time job sharing, telecommuting, and compressed work weeks as arrangements put in place to facilitate a better balance between work and family.

In all, 9 of 10 companies provided benefits far beyond those legally required and 8 of 10 provided such benefits in the form of cafeteria plans under which employees could freely choose the types of benefits must appropriate for their individual circumstances.

Moreover, not only does the data prove that most employers are already responding to these needs, but also 73 percent of working Americans asked in a Harris Poll said strongly that they believe their employer already has made adequate provisions for both emergency and regular needs of parents.

Other evidence strongly suggests that, given a choice, employees prefer to have greater choice in deciding the types of benefits they receive over more benefits, per se. In other words, quality, not quantity, is what people are telling us they want.

A 1986 study by the Opinion Research Corp. found that 70 percent of those employees questioned said that they would pay more out-of-pocket for the opportunity to configure benefits to better meet their own personal needs, rather than have these choices made by the employer.

I think it would even be a higher percentage who would rather make the choices themselves than have the choices made by their Government.

If you listen to what the people clearly want, it is the flexibility to choose among competing fringe benefit programs, not to have Congress mandate what they have to take.

Regardless of the well-intentioned motivations of Members of the U.S. Senate, they are clearly telling us: Thanks, but no thanks; we do not want further Federal mandates. The American people do not want Congress to make these choices for them. But Congress, seemingly, in their own wisdom always seems to want to interfere and make the choices for them.

I believe this argues for flexibility and the freedom to choose. What working families really want, and what in practice has been happening in this area, are things Congress simply cannot address with a mandate of 12 weeks leave. They want flexibility to work out solutions, not one-size-fits-all mandates that will actually limit their employers' options, for accommodating their various needs.

The third fundamental problem with the Family and Medical Leave Act is that it will have a discriminatory impact. What I mean by discriminatory impact is that different classes in this country benefit in varying degrees, and that many will receive no benefit at all from this type of mandate. For instance, because of an exclusion based on business size, almost half of the working family members of the United States are not even eligible for mandated benefits under this bill. Almost half will not even be affected, will not receive these benefits; and, yet, we are mandating them throughout society.

Moreover, this bill will benefit mostly upper-class couples who can afford to take unpaid leave, penalizing those who earn less money and have to return to work as early as they can and get fewer benefits.

Some who have been content to vote for this legislation have avoided an uncomfortable and inconvenient fact: A family with no savings cannot seriously consider a quarter-year leave without pay. Conversely, well-to-do families with a sizable nest egg can afford to and will take the time off. Thus, this bill favors the rich. It is no wonder many call this bill a yuppie mandate.

Data from the Small Business Administration indicate that small businesses, those who would be exempt under this proposal, are aware a disproportionate number of women and minorities work in this country. Those individuals who need these benefits the most, and those we think would be more inclined to use family leave benefits as well, are those least served under this bill. I want to quote a sentence from page 34 of "The State of the Small Business: A Report to the President," a report that was transmitted to the Congress. It states: "Women are more likely to be employed in small business."

So who will be hurt most by the discriminatory impact of this bill? Naturally, women. And the research shows that it will generally be female single heads of households, a group that constitutes two-thirds of the women's work force in America, or women married to husbands who earn less than $15,000 a year—precisely those who need child care.

Since small businesses with fewer than 50 employees are exempt, and since small businesses hire a disproportionate number of women, this bill misses the mark. This legislation is not covering those individuals whom the bill's sponsors say it is supposed to help.

If that is not enough, let us address a more insidious discriminatory impact of this legislation: This bill may lead to discrimination against younger women of childbearing age. They are the employees most likely to take advantage of this mandate and, as a result, some employers who have to watch costs will want to avoid hiring them, if possible.

A recent survey conducted by the Gallup organization found that if Congress passed this bill, 40 percent of the employers said they would be less likely to hire young women.

This is a legitimate concern. This bill may foster discrimination against young women as employers try to minimize costs. They certainly are going to try to do that, in order to survive.

So, Mr. President, where does this leave us so far? Helping American families is really not the issue here, because a high percentage of them already are helped by businesses providing family-related benefits voluntarily. The others are not. But we can help them without resorting to a Federal mandate. The issue here is whether the United States should enact an unprecedented employee benefit that will not help American workers across the board, will favor wealthier Americans, and will discriminate against about half of the American workers, most of whom will be young women, the poor, and minorities.

The fourth fundamental problem with the Family and Medical Leave Act is its economic impact.

If there is one lesson we should have learned by now, it is that our interest in the family simply cannot be separated from our interest in a strong, vital economy. One without the other may be pointless.

It is a strong, vital economy that delivers the jobs to families and keeps food on their tables. It is a strong, vital economy that produces an astounding array of goods and services in this Nation and that makes our Nation the envy of the world.

That is why we have to consider the impact of this act on the economy. And on that score, it also fails to measure up, because it clearly undercuts economic growth and costs jobs.

Mandated benefits by government are not free. If they were, we would give anyone an unlimited amount of time off for any reason and not be concerned for the impact on the economy. Why should we not give an unlimited amount of time off? Why should we not give parents 6 years after the birth or adoption of children? If we are trying to help the family, why do we not help them the right way.

The reason we cannot is because it is too expensive. Mr. President, we can argue all day about the cost estimates of this bill. The plain fact of the matter is that this proposal is not free. It is going to cost billions of dollars. The Small Business Administration estimated the cost at between $1.2 billion and $7.9 billion. Proponents of the bill say that is exaggerated; but no one can argue that this bill will not cost something. It simply is not free.

We all know how estimates here in Washington work out in the end; they never work out lower; they are always higher.

The plain fact is that Government mandates, no matter how well-intentioned, do not contribute to economic recovery and growth. Resources spent to comply with Federal mandates cannot be spent to create jobs.

Every new requirement we impose on business—particularly on small business—renders American industry less able to adapt to changing economic conditions and times. We become, naturally, less competitive.

The desire to facilitate a better balance between work and family is not an issue, it seems to me here. We all want that. But if we want to help American families, we must consider whether this mandated employee benefit is going to help or hinder the United States in efforts to create jobs and compete in global competition. If we pass this bill, we will take away jobs from everybody. We will hurt, not help, the recovery, certainly, if we do not stand up for what is right.

Those are the fundamental problems with the Family and Medical Leave Act. It will not address the tensions between work and family for half of America's working parents. It will undercut personal freedom and flexibility of employers and employees. It will have a discriminatory impact, and it will destroy job growth and economic growth at a time when economic recovery is just starting to gain strength.

The tragedy is that better alternatives are available—alternatives that cover the entire work force, that preserve personal choice, that are equitable toward all groups, and that will not have a detrimental economic impact.

When the Senate considered this bill in the last Congress, I offered an amendment that I believe provided greater flexibility for families. My amendment was not a mandate on an employer to hold a job open 12 weeks or to pay unearned fringe benefits. Likewise, it was not a mandate on employees to limit themselves to just 12 weeks of leave.

My amendment would have given a leave-taking employee a preferred right of rehire to the same or equivalent job and would have returned all of the employer's accrued benefits, such as seniority and pension rights. That would be a major change in labor law. The Hatch amendment covered all businesses, large and small, not just some, and it would have permitted employees to take as long as 6 years unpaid leave for the birth or adoption of a child, or up to 2 years in the case of a serious illness of a family member.

The alternative I proposed did not establish new, mandated, unearned benefits, but rather, preserved only those benefits that an employee had already accrued. As a result, there was no need to exclude 95 percent of this Nation's employers. Furthermore, because this alternative did not consist of an inflexible Federal mandate that forced employers to keep a particular job open for the leave period, it permitted parents more flexibility—up to 6 years, in fact—to choose the length of time right for their circumstances.

Here is an example of how it would have worked. Mary Smith is free to spend more time with her newborn, as much as 6 years. When she decides to return to work, she would simply notify her former employer. If the same job she held when she left, or a similar job, is available, the employer must rehire her. If Mary had 10 years' seniority with the firm when she left, she gets that restored upon her return. If the same or a similar job is not available when Mary is ready to return to work, the employer is obligated to notify Mary of any subsequent opening and offer her that position for up to a year later.

Under the Family and Medical Leave Act, Mary Smith has far fewer options. If she works in a firm with fewer than 50 employees—as do about half of all Americans—she is out of luck. The bill provides no benefits for her. If she works in a firm with more than 50 employees, she is locked into an inflexible, 12-week leave period. Suppose she needed, or wanted, more time with her child. If so, she would lose her rights to employment at that firm and all her accrued benefits. She would have no right of preferential rehire and no restoration of her previous seniority and previous benefits.

The proposed alternative approach sponsored by Senator CRAIG is also better than the Family and Medical Leave Act. It is a flexible family leave plan based on a refundable tax credit for businesses that establish nondiscriminatory family leave policies for all of their employees. It provides a tax credit of 20 percent of compensation to businesses with fewer than 500 employees for a period of family leave up to 12 weeks.

Those firms with more than 500 employees, on the whole, already have voluntary family and medical leave practices. This alternative approach focuses on that segment of business where the problem is most acute: Companies with fewer than 500 employees.

Through a tax credit, this approach actually increases the size of the benefit pie, thereby enabling employers to offer family and medical leave benefits without undercutting other benefits. It does not force employers and employees to adopt a rigid, mandated benefit but allows them to make those choices among themselves. And it does not impose a cost on the American economy that will result in lower growth and fewer jobs.

As I recall, just last year, the Senator from Connecticut was contrasting the United States system to Sweden's, trying to convince us that we were somehow missing something.

"The United States is the only industrialized nation, other than South Africa, that does not have these government mandated benefits," the Senator from Connecticut repeated over and over again.

Is this not just a bit ironic? As the rest of the world moves toward freedom and individual choice, as the rest of the world rejects their experiments with paternalistic human resources policies, here we are in the United States trying to model our economic system after theirs.

I would also like to note that in most other countries that mandate this benefit, businesses are given tax benefits that enable them to lower costs and thus remain competitive. Those governments are at least honest. If they mandate benefits, they pay the freight.

Mr. President, when we put all of this evidence together, I think a few questions are in order.

First, if the vast majority of Americans want freedom of choice and flexibility in choosing workplace benefits, why are we entertaining such an inflexible approach as the one contained in the Family and Medical Leave Act?

Second, if the vast majority of Americans want equitable treatment, why are we entertaining a bill that will exclude almost half of all Americans from receiving any benefits at all?

Third, if the vast majority of Americans oppose approaches that have a discriminatory impact, why are we entertaining a bill that will favor wealthier Americans and foster discrimination against women?

Fourth, if the vast majority of Americans want economic growth and an economically competitive America, why are we entertaining a bill that will impose draconian costs on American business, destroy jobs, and undermine our ability to compete in the world marketplace?

The answer to all of these questions is that we as compassionate legislators desire to address the needs of those who need help balancing work and family.

Now, that is fine and good. We all agree with that. But why have we crafted a bill that so abysmally fails on all these points?

That question is rhetorical. I am a realist. I know how the votes are lined up in favor of this bill. I am making this speech so that we clearly understand what choice is being made here, what options are being forfeited, what costs will have to be borne.

I have outlined alternatives to the Family and Medical Leave Act that do much better in addressing the tensions between work and family that most Americans face. Both of these alternative approaches provide broader, even universal coverage. Both avoid discriminatory impacts against poorer Americans and women. Both create incentives for employers and employees to work out family leave policies flexibly, without a Government mandate. Both will enhance, not undercut, American competitiveness.

It is a tragedy for the American family that this body will approve such a flawed piece of legislation. In this debate, we had a chance to advance the interests of the American family and the interests of the American economy. Instead, in passing this bill, we will do neither.

I ask unanimous consent that an article I wrote be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FAMILY LEAVE ACT TAKES WRONG APPROACH

(By Orrin G. Hatch)

While the family and medical leave legislation on Capitol Hill addresses an important issue facing American families, the approach adopted by President Clinton and Democratic congressional leaders—a regulatory mandate forcing businesses to offer 12 weeks of unpaid leave in certain circumstances—represents the worst possible option and harms the interest of employees as well as employers.

This debate is over means, not ends. Both sides want to help American families after a child's birth or adoption or when illness strikes. The real issue is whether we should adopt a one-size-fits-all regulatory mandate that undercuts personal freedom or enact legislation that creates incentives for business to provide unpaid leave benefits without robbing employee and management of needed flexibility.

As Milton Freidman observed 30 years ago, "there is no such thing as a free lunch." By increasing business costs, the Democratic proposal will exact a price in jobs and reduced economic growth.

In designing benefits packages, every employer must stay within the limits of its "benefits pie," the total benefits costs it can absorb and remain competitive. All benefits—vacation, health insurance, pensions, family leave, and others—cost money. Although each piece of the pie can be cut larger or smaller, the overall size of the pie is limited by the company's competitiveness and profitability.

As a result, mandatory unpaid leave would give employers only two choices—both of them bad. They can raise prices—thereby hurting their competitiveness—or they can reduce wages or other benefits. In a recent poll, half the businesses surveyed indicated that they would finance imposed leave benefits by cuts in other employee benefits.

What's worse, such mandates work against positive trends in the workplace today. More and more employers have offered innovative benefits plans in order to attract and keep skilled workers. Recent surveys show that 9 out of 10 companies provide benefits far beyond those legally required. Dramatically more businesses in recent years have offered child care assistance benefits, such as pregnancy leave, parental leave, and flexible scheduling. In addition, surveys indicate that 8 out of 10 companies now allow employees to choose their own mix of benefits through so-called "cafeteria" plans.

Government-mandated benefits stifle such freedom of choice and undermine the ability of management to respond to the diverse needs and desires of its individual employees.

To argue that we can afford to emulate West European countries that mandate unpaid leave is misguided. We should not rush to import the economic rigidities and lagging productivity growth of the European welfare states. Moreover, unlike the Democratic proposal, West European governments provide tax offsets that reduce the economic impact of the mandate.

There are other problems as well. First, in recognition that the proposal would be too costly for small businesses, it exempts those with fewer than 50 employees, thus excluding half the nation's work force. Second, it will most benefit employees with higher incomes, who can afford to take unpaid leave. Third, it will likely lead to a subtle bias against hiring women of child-bearing age, the group most likely to take advantage of unpaid leave.

The tragedy is that there are options that avoid these pitfalls. I have previously proposed the American Family Protection Act, which would have provided a right of preferential rehire for employees who left the work force for up to two years to care for a sick family member and up to six years for a child. In the current debate, I backed an alternative that would have created tax incentives for businesses voluntarily to offer unpaid leave benefits. Either would have covered virtually the entire work force, protected employee-management flexibility, and preserved America's competitiveness.

During the campaign, President Clinton often spoke about "reinventing" government. Unfortunately, by supporting another federal mandate in his first weeks in office, he has reverted to the "Washington knows best" approach that voters thought they were rejecting.

Mr. DODD. Mr. President, prior to the Senator from Utah leaving, I want to note that, while we disagree on this particular issue, my colleague from Utah and I have worked together on a number of other issues, not the least of which was the child care legislation. I would be remiss, before he departs, not to take note of that. He was a great ally in that effort. We ended up with a good child care bill. And while we agree on the goals here, we disagree about the means. He is a great advocate for children in this country, and I want to reflect that on the record.

Mr. HATCH. I thank my colleague for his kind words. It was very meaningful to me. I feel equally toward him. In working together on the child care bill, we went through a lot, and I have to say he hung in there all the way and did a tremendous job.

I feel very proud of the Dodd-Hatch child care bill, which is now serving millions of people throughout this country.

I just want to say, I know the Senator's intentions here are good. I have done my very best to explain why I disagree with him. But I never doubt his sincerity or his desire to do what is right.

Thank you, Mr. President.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me respond to my colleague from Kansas. She asked me a question a few moments ago, and I did not have the information right at hand. I think the issue was, of the 63 percent who are not included or are not receiving maternity leave, what percentage of that number would be exempt under the legislation?

I now have that information. The answer is none, because the survey done by the Bureau of Labor Statistics was a survey of firms that employed 100 people or more. Under that survey, it was their conclusion from a statistical study that 63 percent of female employees have no maternity leave with firms that employ 100 people or more.

I would just add, they also did a survey of those firms that employ fewer than 100 people, and only 14 percent of the women in that survey had maternity leave.

The obvious question is, of those firms who employ fewer than 100, how many employ fewer than 50? That, I do not have the information on.

But as for the first statistic, which is the most reliable one we have because it is firms that employ 100 or more, 63 percent of the firms in this country provide no maternity leave whatsoever. Arguably, firms with more employees have better packages. So as you move down the line, I suspect that those numbers get worse as you find fewer numbers of employees.

Mrs. KASSEBAUM. Mr. President, not to prolong this, but I only want to say that sometimes we can be confused by figures. The Family and Work Institute stated that 83 percent of employers do provide job-guaranteed leave to mothers, and 89 percent allow mothers to take unpaid leave without requiring the use of accrued sick leave or vacation time.

They go on to say that only 25 percent, however, have written leave policies.

I would suggest, Mr. President, that that is the cause of some of the confusion about figures. Because whether there is a formal policy in place or whether it is something that has evolved as a practice of that particular workplace, while it may not be a formal arrangement, can affect the accuracy of the figures we cite to prove the existence of employer leave policies.

I think, there again, we see some very different figures.

Mr. DODD. I appreciate that, if my colleague will yield. We have looked at that study as well, by the Families and Work Institute. The study was called, "Beyond the Parental Leave Debate, The Impact of Laws in Four States." If that is the same study?

Mrs. KASSEBAUM. That is right.

Mr. DODD. The Senator from Kansas is correct, in terms of how the study reported information. It asked employers to assess the economic impact of leave laws on their businesses.

While it is a different issue, I think it is worth noting here, because the issue has been raised as part of the debate by those who are not in favor of this particular law, that of the employers in Minnesota, Oregon, Rhode Island, and Wisconsin, when asked how they were impacted by the legislation, 91 percent of the employers reported that, they "did not have problems with implementation" of new leave policies. In fact, 39 percent found implementation "extremely easy," while only 9 percent found it difficult.

Employers did not reduce health insurance benefits because of leave laws: 85 percent of the employers reported "no change" in health insurance benefits due to the new legislation.

Again, the argument has been made already today that there was a real danger here that leave legislation would in some way erode existing health care policies. And if State law is any indication of where we are headed, the surveys of those employers would certainly not support that conclusion. The large majority of employers reported that new leave policies caused "no increase" in the cost for unemployment insurance—81 percent said that; health insurance, 73 percent reported that; training, 71 percent reported that; or administration, 55 percent reported that.

Further analysis suggests that for those employers that did not report cost increases, many of the perceived costs reflected general cost increases, especially in health insurance. Company size, I would say, last, had no effect on the difficulty or cost of implementing leave policies. Small employers, those with 50 employees or less, were no more or less likely to report increased costs related to compliance with the laws.

The study also found that family and medical leave policies greatly aided working parents. But I will not go into that.

But, again, statistics are used but I thought it was interesting that one survey did indicate at least in those States that employers found it pretty easy to implement the legislation and were not adversely impacted upon. But I thank the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I think it is valuable to have at least some of these statistics out, even though it may be hard to fit them together. I can only say to the Senator from Connecticut, I hope the statistics that he has prove that indeed this legislation will be beneficial and there will not be the downside that some of us worry about, regarding this particular mandate.

Mr. DODD. I thank the Senator.

The PRESIDING OFFICER (Mr. BUMPERS). The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I wanted to take just a minute or two to thank the distinguished Senator from Kansas for her leadership in trying to develop some more attractive alternatives in this issue, rather than the bill as reported by the committee.

There is still a continuing concern on my part, and I am sure on that of other Senators as well, about the Federal Government purporting to have a greater insight into the needs of the individual worker than the worker himself or herself. That is what is the main thrust of this amendment.

The Government is picking out one possible fringe benefit that can be offered in the workplace and requiring employers to offer it to employees. It seems to me that the better approach would be to encourage, through either the Tax Code or through other legislation, employers to be more sensitive to the needs of employees as those needs exist on a case-by-case basis in the workplace. And that can be decided through negotiation, through consultation, through the ordinary way in which employees confer with their employers about need for additional vacation time, child care services, and tuition to help upgrade skills that will permit a worker to take advantage of new job opportunities. There are a wide range of employee benefits that we would like to see made available in America's workplaces. But if the Government starts deciding that it is going to make the decision when there is a person who is working who is an elderly employee who might not want to have time off for a new baby in the house but would rather have more flexible working hours, for example, or may want another benefit, that employee ought to be able to have some opportunity to see those needs met in the employment situation rather than have fewer options and only those, maybe, that the Government mandates.

So I am hoping that the Senate will reserve judgment until Senators have had an opportunity to look at some of the alternatives. The Senator from Kansas has a cafeteria exemption that would permit employers to be exempt from the mandates of this bill if they provide benefits that are as attractive or as helpful to employees as the one mandated in this bill.

There is a tax credit amendment of Senator CRAIG that will be offered. It seems to me that would be more appropriate. Let us encourage employers through the Tax Code to respond to these needs in the workplace rather than mandate a benefit.

I had a call in my office this morning—here is a practical example of what is going to happen in some situations—from an employer who has a machine tool company in Mississippi, employs 45 people. Under the terms of this act he would be exempt from the mandate in the law. But he is hoping that his company gets bigger, and he can grow. He is hoping that in a few years he will add up to 20 or 30 additional employees and have maybe 75 employees. But he will be discouraged, he said in his phone call, if this bill passes. If he is going to reach that plateau where the Government makes the decisions rather than he and his employees deciding what is best in the workplace, he may not be as likely to try to get his company up to that size.

That is what is going to happen as a practical matter in some situations. That is one example of it. It is not that people are trying to get around the law so much as they do not want government interfering to the extent that this bill would have government interfere in the decisions that ought to be left to individual employers and individual employees.

I have, I think, a very liberal policy on this subject in my own office. I think other Senators do, too. I think most employers around the country realize that in order to attract the best employees you have to respond to individual needs that are described in this legislation. You need to encourage employees in the notion that the business that you run is sensitive to their individual problems. And if you do not do it you are going to lose the better people that you have. You are not going to be able to attract others.

We have a very competitive work force right now. Employers realize that. That is why you are seeing more and more businesses having health benefits, having extra vacation time, having other benefits that you would consider fringe benefits to attract employees and keep them.

This moves in just the opposite direction. This is a disincentive for imaginative, sensitive responses by employers in the workplace to the needs of their employees. They are going to say if they are going to require mandated family and medical leave, we cannot offer some of the other things we had hoped we were going to offer because we have to provide this and there is a cost associated with it and there has to be a trade-off.

I just hope the Senator from Kansas will win on the amendment that she offered; Senator CRAIG could prevail with the amendment he offers. I intend to support both of those amendments, and there may be others that are also attractive. I urge the Senate to consider carefully those alternatives to the bill reported by the committee.

The PRESIDING OFFICER (Mr. FORD). The Senator from Wyoming, the Republican whip.

Mr. SIMPSON. Mr. President, I want to join with my colleague from Kansas and my colleague from Mississippi, and to reiterate my opposition to this measure in its present form. It, once again, has captured the attention of the Senate. It has certainly had a remarkable life here. I think the sponsor, Senator DODD of Connecticut, had an apt description of it, which I shall leave unsaid.

I am surprised sometimes at the discussion of the urgency of this matter. I have seen this bill languish for months, one time for a 9-month period, an entire termination period, and nothing was done with it. Then someone said to me, "What is going to happen now, if you are not going to delay this?" I said we have never been in a delay pattern; there is no intent to delay this. It will be dealt with, there is no question about that. If I can look back on times, I know the Senator from Connecticut and the Senator from Kansas can look back on how this lay dormant for months at a time in some cubbyhole in this remarkable dual legislative system.

So I just want to relate that as a husband and also as a father of three very, of course, marvelous children, I am intimately familiar with the pressures and responsibilities of new parents. Parenthood is a joyous and rewarding experience but also very demanding and a difficult enterprise. I understand completely the anxiety and concern on the choices and dilemmas that result and also realize that I have been very fortunate. Many in this body have been similarly fortunate.

I certainly know something about the difficulties that arise when there is an ailing parent or a serious illness in the family. My father is living. He is 95, a Member of this body at one time. He served in the U.S. Senate and served as Governor of Wyoming. In his 95th year, his quality of life is severely diminished. My mother is 92. My wife's mother is 92. Caring for them is a labor of love, but also a difficult task, at whatever level society may be. Conflicts of love and guilt are rampant. But at one time or another, almost every family has experienced or will experience these things. They are universal, and because they are so much a part of life, it is understandable that there is so much interest in the subject before us today.

Mr. President, I think that no one in this Chamber would disagree that family and medical leave policies are surely a very effective and sensible way to reduce the pressures on so many working Americans who have young children and/or aging parents. Moreover, such policies can make good business sense. As both supporters and detractors of this legislation are very swift to point out, many employers already choose to offer this benefit to their employees. Parental leave policies can be beneficial to both parties, and I think this is the absolute key, and that is when the employers and the employees sit down to properly negotiate terms that are appropriate to their own particular business circumstances.

We all applaud the efforts of American business to adopt flexible and responsive management policies. These businesses receive awards in the corporate community. I believe we should continue to make it as easy as possible for employers to offer family friendly policies in the workplace. In fact, because family leave is such an important and valuable benefit to those who may need it, we should take steps always to encourage employers to provide this benefit. However, we should stop short, and the Senator from Kansas has expressed very crisply and effectively in these hours of debate, we must stop short of a congressionally mandated, imposed, inflexible procedure that may harm the very people it was intended to help. While I support this concept of parental leave, I strongly object to any proposal that would mandate the personnel policies of private employers. Yet, that is exactly what this bill does. It would dictate to employers what benefits they must provide, to whom they must be provided and under what circumstances they must be provided, and the word "must" is clear, regardless of whether or not all or even most employees may desire the benefits.

I do understand the great temptation to mandate employee benefits. In this new era of tight budgetary constraints, it is especially painful for the tax-and-spend crowd who are now limited in their ability to create new programs. So what we have been seeing is an effort to take money out of the pockets of employers in order to provide a socially desirable and politically popular new program. By disguising the true costs of social benefits in this way, Congress can pretend to be doing something for the American people without directly raising their taxes. I heard right on this floor some years ago in response to a question, how will this be paid for, what will the taxpayers do, and the response was by one of our colleagues, "Don't worry, this is not going to fall on the backs of the taxpayers, it's going to fall on the backs of employers." Now that surely is the dizziest statement that could ever have been offered, that it is not going to be borne by the taxpayers, it will be borne by employers. Who are employers? They are the most significant taxpayers in this country. I think that is an extraordinary statement. I remember it very well. It never shall escape me.

Many legislators believe that by forcing business to simply foot the bill, they have found the ultimate free lunch. In truth, Americans gain no free lunch when businesses are forced to absorb the cost of Government programs. The cruel trick of mandated benefits, of course, is that their costs are ultimately borne by the very workers they intended to help. Higher labor costs not only undermine our Nation's international competitiveness and destroy American jobs, but they also result in higher prices for consumers at home. In addition, the Federal Treasury takes in reduced tax revenues from a slower growing economy. Finally, the employers may seek out ways to minimize their liability under the new mandate and in this instance, employers may decide pretty quickly that it is not in their best interest to hire young women of childbearing age. Then where are we? Clearly, there are no winners in that situation.

Let us also be very clear about what the family and medical leave bill does not do. It does not in any way guarantee that employees will receive a larger overall package of benefits. In fact, many employees who have no need or desire for family and medical leave may find themselves worse off if an employer has to eliminate existing voluntary benefits in order to make up for the increased costs of the mandated benefits. In some instances, anticipated wage increases may even be offset or delayed. These are not outcomes that most people would associate with good public policy. So I think we should be honest in presenting the American people with a complete picture of what this bill would accomplish.

If we really want to ensure that family leave benefits are available to workers who need and want them, then we should provide incentives for employers and employees to design family leave programs that meet the specific needs of each. One way to do this is through refundable tax credits. Several of my Republican colleagues and I have joined Senator CRAIG and the Republican leader in the introduction of legislation that provides tax credits to employers who provide these kinds of benefits. This approach not only offsets the costs that are associated with the benefit but it also provides employers with greater flexibility to meet their workers' needs. It is very clear to me that the tax credit approach is far superior to a federally mandated solution to this problem, and I urge my colleagues to join in supporting that alternative.

I want to commend my colleague, my fellow classmate of the Senate class of 1978, Senator NANCY KASSEBAUM, for her extraordinary diligence in handling this measure in such a steady, thoughtful, earnest, and principled way. It is a tough one. She takes on those issues and does them with great success. I commend her for her work in a very difficult situation which if properly heard by the American public they should certainly subscribe to the results she suggests.

I thank the Chair.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

AMENDMENT NO. 4

(Purpose: To amend the Internal Revenue Code of 1986 to provide tax incentives for the adoption of flexible family leave policies by employers)

Mr. CRAIG. Mr. President, I send to the desk an amendment in the form of a substitute.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] for himself, Mr. DOLE, Mr. HATCH, Mr. SIMPSON, Mr. GRASSLEY, Mr. BURNS, Mr. KEMPTHORNE, Mr. DOMENICI, Mr. COCHRAN, Mr. THURMOND, Mr. STEVENS, Mr. WARNER, Mr. SMITH, Mr. PRESSLER, and Mr. BENNETT, proposes an amendment numbered 4.

Mr. CRAIG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. FAMILY LEAVE CREDIT.

(a) CREDIT CREATED.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45A. FAMILY LEAVE CREDIT.

"(a) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the amount of the family leave credit for any employer for any taxable year is 20 percent of the qualified compensation with respect to an employee who is on family leave.

"(2) LIMITATIONS ON AVAILABILITY AND AMOUNT OF CREDIT.—

"(A) FEWER THAN 500 EMPLOYEES.—An employer is not entitled to a family leave credit for any taxable year unless—

"(i) in the case of an employer that is in its first taxable year, the employer had fewer than 500 employees at the close of that year, and

"(ii) in the case of other employers, the employer averaged fewer than 500 employees for its preceding taxable year.

An employer is considered to average fewer than 500 employees for a taxable year if the sum of its employees on the last day of each quarter in that year divided by the number of quarters is fewer than 500.

"(B) DOLLAR CAP ON QUALIFIED COMPENSATION.—The amount of qualified compensation that may be taken into account with respect to an employee may not exceed $100 per business day.

"(C) MAXIMUM PERIOD OF FAMILY LEAVE.—No family leave credit will be available to the extent that the period of family leave for an employee exceeds 12 weeks, defined as 60 business days, in any 12-month period.

"(D) ADDITIONAL LIMITATION ON LEAVE FOR PERSONAL SERIOUS HEALTH CONDITIONS.—Leave from an employer in connection with a qualified purpose described in subsection (b)(2)(D) will qualify as family leave only if the employee on leave has no unused sick, disability or similar leave.

"(b) FAMILY LEAVE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, an employee is considered to be on 'family leave' if the employee is on leave from the employer in connection with any qualified purpose.

"(2) QUALIFIED PURPOSES.—The term 'qualified purposes' means—

"(A) the birth of a child,

"(B) the placement of a child with the employee for adoption or foster care,

"(C) the care of a child, parent or spouse with a serious health condition, or

"(D) the treatment of a serious health condition which makes the employee unable to perform the functions of his or her position.

"(3) DEFINITIONS OF CHILD, PARENT AND SERIOUS HEALTH CONDITION.—

"(A) CHILD.—The term 'child' means an individual who is a son, stepson, daughter, stepdaughter, eligible foster child as described in sections 32(c)(3)(B)(iii) (I) and (II), or legal ward of the employee or employee's spouse, or a child of a person standing in loco parentis and who either has not reached the age of 19 by the commencement of the period of family leave or is physically or mentally incapable of caring for himself or herself.

"(B) PARENT.—The term 'parent' means an individual with respect to whom the employee would be considered a 'child' within the meaning of subparagraph (A) without regard to the age limitation.

"(C) SERIOUS HEALTH CONDITION.—The term 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves the inpatient care in a hospital, hospice or residential health care facility, or substantial and continuing treatment by a health care provider.

"(c) CREDIT REFUNDABLE.—In the case of so much of the section 38 credit as is attributable to the family leave credit—

"(1) section 38(c) will not apply, and

"(2) for purposes of this section, such credit will be treated as if it were allowed under subpart C of this part.

"(d) NONDISCRIMINATION REQUIREMENT.—The family leave credit is available to an employer for a taxable year only if the employer provides family leave to its employees for that year on a nondiscriminatory basis.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) IN GENERAL.—For purposes of this section—

"(A) EMPLOYER.—Except as otherwise provided in this subpart, the term 'employer' has the meaning provided by section 3306(a) (1) and (3).

"(B) EMPLOYEE.—The term 'employee' includes only permanent employees who have been employed by the employer for at least 12 months and have provided over 1000 hours of service to the employer during the 12 months preceding commencement of the family leave.

"(C) QUALIFIED COMPENSATION.—The term 'qualified compensation' means the greater of—

"(i) cash wages paid or incurred by the employer to or on behalf of the employee as remuneration for services during the period of family leave, and

"(ii) cash wages that would have been paid or incurred by the employer to or on behalf of the employee as remuneration for services during the period of family leave had the employee not taken the leave.

"(D) COMPUTATION.—For purposes of subparagraph (C)(ii), the amount of cash wages that would have been paid to the employee for any business day the employee is on family leave is the average daily cash wages of that employee for the four calendar quarters preceding the commencement of the family leave.

"(E) AVERAGE DAILY CASH WAGES.—For purposes of the computation described in subparagraph (D), an employee's average daily cash wages is his or her total cash wages for the period described in such subsection divided by the number of business days in that period.

"(F) BUSINESS DAY.—The term 'business day' includes any day other than a Saturday, Sunday or legal holiday.

"(2) EMPLOYMENT AND BENEFITS PROTECTION.—

"(A) IN GENERAL.—Leave taken under this section shall qualify an employer for a family leave credit only if—

"(i) upon return from such leave, the employee is entitled to be restored by the employer to the position of employment held by the employee when the leave commenced, or to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment;

"(ii) the taking of such leave does not result in the loss of any employment benefit accrued prior to the date on which the leave commenced; and

"(iii) the employer maintains coverage under any 'group health plan' (as defined in section 5000(b)(1)) for the duration of such leave, at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously during the leave period.

"(B) LIMITATION.—Nothing in this paragraph shall be construed to require an employer, as a condition of qualifying for a family leave credit, to entitle any employee taking leave to—

"(i) the accrual of any seniority or employment benefits during any period of leave; or

"(ii) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

"(3) EXPECTATION THAT EMPLOYEE WILL RETURN TO WORK.—No family leave credit will be available for any portion of a period of family leave during which the employer does not reasonably believe that the employee will return from leave to work for the employer.

"(4) SPECIAL RULES.—Rules similar to the rules of section 52 shall apply for purposes of this section.

"(5) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including guidance relating to ensuring adequate employment and benefits protection and guidance to prevent abuse of this section.".

(b) CORPORATE ESTIMATED TAX PROVISIONS.—

(1) INCREASE IN ESTIMATED TAX.—

(A) IN GENERAL.—Subsection (d) of section 6655 of such Code (relating to amount of required installments) is amended—

(i) by striking "91 percent" each place it appears in paragraph (1)(B)(i) and inserting "97 percent",

(ii) by striking "91 PERCENT" in the heading of paragraph (2) and inserting "97 PERCENT", and

(iii) by striking paragraph (3).

(B) CONFORMING AMENDMENTS.—

(i) Clause (ii) of section 6655(e)(2)(B) of such Code is amended by striking the table contained therein and inserting the following new table:

"In the case of the following required installments:	The applicable percentage is:
1st	24.25
2nd	48.5
3rd	72.75
4th	97."

(ii) Clause (i) of section 6655(e)(3)(A) of such Code is amended by striking "91 percent" and inserting "97 percent".

(2) MODIFICATION OF PERIODS FOR APPLYING ANNUALIZATION.—

(A) Clause (i) of section 6655(e)(2)(A) of such Code is amended—

(i) by striking "or for the first 5 months" in subclause (II),

(ii) by striking "or for the first 8 months" in subclause (III), and

(iii) by striking "or for the first 11 months" in subclause (IV).

(B) Paragraph (2) of section 6655(e) of such Code is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION FOR DIFFERENT ANNUALIZATION PERIODS.—

"(i) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '4 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '7 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '10 months' for '9 months'.

"(ii) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '5 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '8 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '11 months' for '9 months'.

"(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the second required installment for such taxable year."

(C) The last sentence of section 6655(g)(3) of such Code is amended by striking "and subsection (e)(2)(A)" and inserting "and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)".

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall apply to taxable years beginning after December 31, 1996.

(B) The amendments made by paragraph (2) shall apply to taxable years beginning after December 31, 1992.

(c) COORDINATION WITH REFUND PROVISION.—For purposes of section 1324(b)(2) of title 31 of the United States Code, section 45A of the Internal Revenue Code of 1986 (as added by this Act) will be considered to be a credit provision of the Internal Revenue Code of 1954 enacted before January 1, 1978.

(d) CONFORMING AMENDMENTS.—

(1) Section 38 of such Code is amended by deleting the "plus" after subsection (b)(7) and "." after subsection (b)(8), by inserting ", plus" after subsection (b)(8), and by adding a new subsection (b)(9) to read as follows:

"(9) the family leave credit under section 45A."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 45A. Family leave credit."

(e) EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this section shall apply to family leave that commences 90 days after the date of the enactment of this Act.

Mr. CRAIG. Mr. President, I offer today a substitute to S. 5 in the form of the amendment that has just been presented to the desk that, in large part, was expressed by my colleague from Wyoming a few moments ago as a refundable tax credit to the issue of family and medical leave.

Mr. President, last weekend I took all of the information home that has been accumulated on this issue over the last good many years, from those who support the mandated approach and those of us who support the incentive marketplace approach, and began to read as much as I could to better understand this issue so that I could respond on the floor to questions and more clearly debate and explain for our colleagues in the Senate the differences on this very important issue.

While I was reading the pros and cons, it became very clear to me that there are few who oppose the concept of family and medical leave. I would have to say that a vast majority, if not all of the Senate, supports the concept. Whether it be the mandated leave or the incentive tax credit leave, we all say it is very important in the workplace of today that our employees have the opportunity for this kind of flexibility.

Why? Because the workplace of today has changed significantly from the workplace of a decade or two ago. We all know that both spouses are employed in large numbers today. And while all of us are increasingly concerned about the well-being of the family and the family unit, we recognize that fundamental changes have to be made in our society if that unit is to strengthen. And one of those, as has been so well argued today by my colleague from Kansas, is the issue of a flexible policy in the workplace for both parental and family medical leave.

So I hope today in this debate it is not that those who are in favor of leave are for the mandate and those who are in favor of a tax credit to promote it are somehow opposed to leave. That simply is not the case. I think the record has clearly demonstrated over the years that all of us recognize the importance of this issue, and it grows increasingly more important as our society changes and the dynamics of the workplace change.

While I was studying those issues this weekend, I was also caught up by what is going on in the workplace today. Still lingering in the newspapers was the shock to our economy of the weakening condition of something that through my childhood was a rock foundation of the free enterprise system, the Sears & Roebuck Co., that 50,000 employees in their catalog division would over a period of months be without a job.

Why was that happening? I found it almost ironic that at a time when we are talking about enhancing or increasing benefits to the workplace and to the employees of this country, the employees of this country are under increasing threat or concern about the stability of their jobs, the strength of their jobs, or the strength of the company which generates the jobs in the workplace. I thought it was interesting that in the mandate concept which is being proposed today we are asking employers to take on even greater burdens at a time when they are not even sure they can provide their employees with a job or the benefits of today.

How does all of this fit? Last week, before the Joint Economic Committee over in the House we had Alan Greenspan, and there was a lot of pounding going on, Mr. President, finger pointing:

> Mr. Greenspan, why didn't you do this with M2? Why didn't you do this with the general monetary policy of this country? Look at the work conditions. Why are we having a sluggish economy? Why are there not more jobs being created?

Generally, he and other economists agree we are at a very unique time in our economy. It does not fit the norms and standards of other recessions, for we all now recognize that we have had economic growth for at least 6 months and yet we see major layoffs and major job reductions in the marketplace at a time when our economy is in fact growing. That is a relationship that has not existed for a long time out there.

Why is it happening today? Who knows really? Some do. But we are just beginning to figure out the fact that probably as the computer and the capability of the computer in the workplace enhances the efficiency and the productivity of the workplace rapid downsizing is occurring. "Getting lean" is the term out there, getting more competitive, becoming more profitable, more efficient. That is what happens in the marketplace, and as that happens, the workplace changes and the conditions of the workplace change.

Now, there is another type, or consistency of rhetoric we have heard on the floor in the last year. Whatever we do, we have to become more competitive. Surely, our manufacturers to compete in world markets have to be more competitive. How do you explain that? Very simply, you have to produce the widget in a way that it will compete with the same widget or a similar widget produced in Germany or Japan. Plain and simple. That is the bottom line to a marketplace. That is what our companies and our workplace are trying to do today by downsizing and by efforts to become more efficient.

How does this debate fit into the context of mandated family and medical leave? I think it fits very well. I think you must look at the broad picture if you are to look at the small picture, if you are to look at jobs in our society today and the viability of those jobs at a time when our economy is amazingly fragile in a strange and new and often times different way.

I think some of us do recognize that. And that is why today I have brought to the floor an alternative, an amendment that says every bit as clearly as S. 5 that we care about the men and women of this country, who are the life blood of our country, the working people. We care about the conditions under which they work, and we want to provide the incentives to assure that those conditions stay in tune with changes in the marketplace.

That is why S. 10, or the Dole-Craig substitute in the form of an amendment, has been offered. What I would like to do for the next few minutes, Mr. President, is walk through this issue, talk about it in a way that I think better understands or explains the magnitude of the differences and why it is important that we at least have a vote on the alternative at a time in our country when we want to address the issue of this kind of flexibility in the workplace.

Mandated leave is what we have heard about for the last several hours, mandated leave that ignores the diversity of approximately 300,000 firms which, it is agreed, will be covered. It says here it is. You cannot take it or leave it; you have to take it. It is a mandate. Make it fit into the structure of your employment. Ignore the variety of geographic, economic, and labor market situations that all employers face. ignore those and fit yourself into a jacket, a mandated Federal jacket. Assume that every employer who does not offer a specific benefit, here family and medical leave, is not caring, is much more interested in their bottom line, and does not give a whit about their workers. That is what a mandated leave argues.

And so the Federal Government through the Congress of the United States is saying you are going to do it, like it or not. If you do not do it, you will be in violation of the Federal law.

This, in essence, is the first time that this Congress has stepped outside of standards into benefits. We for a long time have legislated into public law work standards, workplace conditions, health and environment. But we have never stepped across into the threshold of direct benefits. That has always been allowed to be a negotiable item between employee and employer. I must say that this is the first time we have chosen to do so in the magnitude in which this is being done.

I believe that is why the concept of incentives is such a direct contrast to what is being offered by the Senator from Connecticut. There is a basis for more than a half century of steady growth, of almost an infinite variety of employee benefits, and not one of them mandated.

They appeal to and reward people for their work ethic and their work effort. They foster negotiation and flexibility and of course, they come largely after a socioeconomic change. They never leave. They follow. That is exactly what is going on out there in the marketplace today.

Earlier, Mr. President, I spoke about the entry of women into the marketplace. By phenomenal numbers over the last two decades and as a result of that, the concept of family leave becomes increasingly more important and more and more today we see companies bringing on line in a negotiated-benefit way family leave. Why? As I said, it lags the socioeconomic shifts that we have. But it also adjusts to the geography, the demographics, and the workplace conditions as best it can, and oftentimes it fits the way it ought to fit.

One of the arguments you will hear is, well, whatever we do we have to have it because all other countries or many other countries in the world have it. That is true. Austria, Canada, France, Finland, West Germany, Japan, and Sweden have it. They all have very liberal-pay family leaves. And all of these leaves are financed by their governments. Let me repeat it. All of these leaves are financed by their governments. They do not say to the employer: You do it. And you pull it out of your pocket. And you pull it out of your profit line. And you pull it out of your margin of competitiveness. And you do it by Federal mandate. If you continue to violate Federal law, we will drag you into court, and we will sue you. The Government recognized in those countries at least that it is a valid policy, a responsible human policy, and because it was they paid for it.

It just so happens that in Sweden 62 percent of a married couple's income is paid in taxes. It also happens that in Italy, where labor costs are 37 percent higher than America, in Germany 10 percent higher, and in France, 8 percent higher, in Japan where family leave is an employee benefit, women are given the lowest pay, least significant jobs, and are oftentimes barred from the workplace.

Those are consequences of that act and others. But I think it is important for all of us to recognize that.

Let us do a comparative. I have a chart here, Mr. President, that shows a comparative between S. 5, that bill introduced by the committee, and by our chairman, and the flexible leave substitute amendment that Senator DOLE and I and others have offered, now with some 16 cosponsors.

I think it is significant to say that if we are going to have this kind of policy in our country, why do we not do it for everybody? Why do we not do it for as many people as we possibly can? Is it not as good for the woman or the man working in a company of 52 people as it is for the woman or man working in a company of 49 people? Why do I choose those numbers? Well, it is very easy. S. 5 says that it does not affect employers who employ 50 employees or less.

I think it is grossly unfair. The reason they did not do it is because they could not face the political consequences from a myriad of small businesses who would march on Washington. That is probably one of the reasons. We are saying in our bill, in our incentive bill, those with employees of 500 or fewer; in other words, we cover about 99 percent of the workplace, and they cover between 40 and 50 percent of the workplace. That is a phenomenal difference.

I am not going to debate who cares more. That is not the point. We all care about this issue. We all care about workplace conditions. We all care about the mother who is a single mother whose child is ill, and needs to leave work to care for the child. That is just not the issue here. The issue is how do you create that kind of opportunity in the marketplace, in the job market, in the workplace? Do you say through the Federal Government, do it, or pay the consequences, or do you say if you do it, we will reward you with an incentive?

I have talked about the mandates. We would suggest that a 20-percent refundable tax credit be afforded. What does that represent? Employees monthly salary, 2,020 percent, $400 a month, of tax credit back. That is a phenomenal incentive for an employer to want to do it. We will argue later about the costs involved. There are substantial costs on either side although I will have to say the mandated one does not talk costs right now because they have shoved those costs off on the private sector. So it really does not count in the debate. It is only the philosophy, principle, caring that counts, the heck with the cost, somebody else will pay for it.

You bet your life somebody else will pay for it. We will all pay for it. We are talking about unpaid leave in both bills. So we are the same there. We are talking about birth, adoption, serious ill health conditions of child, parent, or employee. So we both agree there. We want to care for the same people. Health coverage continued during the time of leave, we both agree there. Job and benefits protected and reinstated, we both agree there.

So we are in concert over the way we treat people. We just happen to disagree on how you get there. That is what is so darned important in the totality of this debate.

Supporters repeatedly cite polls showing family and medical leave is popular. Well, yes, it is popular. If you ask the question: Would you like to have it, I think everybody says yes, we would like to have it. Would you like it over paid vacation? Would you like it over some other benefit? In other words, we might not be able to provide you with all of those benefits but look at a package and then how does it fit? Well, when those kind of questions get asked, in the 1989 Washington Post poll, 3 percent rated parental leave as the most important of four issues listed as benefits in the workplace. It takes on a little different context, does not it now, when you begin to put it out in the real world, out of the abstract, the abstract of a congressional hearing room. But you put it to work in the marketplace, affecting lives and the conditions of those lives, and all of a sudden, the world begins to change a little bit.

In a Gallup Poll, 1 percent listed parental leave as their most valuable employee benefit, 2 percent did not know which of their benefits was the most valuable. Then there was a poll in a 1991 survey saying 89 percent would leave it up to an employer-employee negotiation. Why? Because they know it could be designed to their particular workplace.

In other words, the employee had a right to become involved in deciding the conditions and the environment. That is what 89 percent of the American people polled said they wanted; 6 percent preferred to have it as a Federal mandate.

That is the condition. That is the situation we are working under. I think it is a reasonable representation of the pros and cons of this issue as it relates to whether you would like to do it through mandate or whether you would like to do it through incentive.

So now let us talk about the small employers, the costs involved. Because I really do believe we are talking about a substantial burden on small employers. Small employers are largely labor-intensive employers. They have greater difficulty shifting or replacing employees. They require flexibility to be competitive, and they operate on very, very tight margins and very, very tight budgets.

What have we heard? How many small businesses go under each year? The ratio is very, very high. They have to have phenomenal flexibility to stay alive.

Mr. DODD. Mr. President, will my colleague yield for a unanimous-consent request?

Mr. CRAIG. Yes.

ORDER OF PROCEDURE

Mr. DODD. Mr. President, I ask unanimous consent that there be 2 hours of debate, equally divided in the usual form, on Senator CRAIG's amendment; that no amendments be in order to either the amendment or any language that may be stricken by the amendment; that at the conclusion or yielding back of time, the amendment be laid aside; that the vote on or in relation to the amendment occur on tomorrow, Wednesday, February 3, at 10 a.m.

I would as further, Mr. President, that the time now being expended on the amendment be counted toward that 2 hours.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Idaho.

Mr. CRAIG. Thank you, Mr. President. Could you tell me how much time I have consumed to this point?

The PRESIDING OFFICER. Nineteen minutes.

Mr. CRAIG. Thank you, Mr. President.

Mr. President, I was discussing the burden on small business that relates to the impact of a Federal mandate, and the phenomenal competitive environment in which small business today exists.

Yet, through the decade of the eighties and now well into the nineties, the small business community of this country is the great productive factory of new jobs. That is where the new jobs are created, and small companies become large companies, and new widgets are invented, new concepts are brought about. But in all of that, the environment in which they exist is an environment of tight budgets and narrow margins and the need for phenomenal flexibility.

Yet, today, we are saying you can be as flexible as you want as long as you adhere to the Federal mandate. All that a small business needs is to risk this, or blink an eye, and fail in some manner, and to be dragged into court by a Federal agency and taken through the legal process because somebody interpreted the fact that they did not adhere to a Federal mandate and that small business is out of business, and those 50 or more employees are without a job.

Those are small potatoes compared to the 50,000 people that will be terminated by Sears. But there are millions of them out there, and they soon become very large and the primary creator of jobs in our society.

Overtime workers. That is an interesting concept. Overtime workers absorbing absentee employee work loads. If you mandate the leave in the big businesses in this country, we will have a cadre of people on board ready to take the place of the person who is on leave. In many instances, that is probably true.

But that small business, in a small town, when that very valuable employee leaves, can they find the replacement? No, they do not do that. The reason they do not do that is because she or he does not exist. So they will extend on the time of the current workers into temporary or into absorbing them through extension of time. They will hire temporary workers, and they will do all kinds of things that oftentimes cost twice as much as the permanent employee.

What I am trying to suggest to you is that in a variety of the costs that are argued, and that have been argued here today, few have really considered the whole cost of the picture as it relates to the impact of a mandate on the workplace.

Let us talk about the game of size. S. 5 says 50 or more. The substitute says 500 or less. It is very important that we talk about the game of size, because it has very real impacts in the marketplace. You are a small business and you have survived for 3 years; you are up to 49 employees; you are showing some profitability; and you know that if you cross the threshold into 50, you are going to have to institute a new policy. More important, if you already have a leave policy, you are now going to be subject to the critical and scrutinizing eye of the Federal Government.

What do you do? Cross that threshold? Put on two new secretaries to monitor or jump your cost by 3, 4, or 5 percent? Well, that is a real tough business decision to be made, and you are going to have to make it, because the law requires you to make it. What you will probably do for a while until you are much more profitable is hire temps. You will not go to the 50 employees. You will do a lot of overtime work.

What happened in the economy out there this year because people were unsure that this economic growth was going to take off—we kept hearing it day after day through June, July, and August of the summer. We heard that nobody was hiring. Nobody was adding on. They were just pushing their employees to work overtime.

You see, the marketplace really is that resilient. It will really respond that way. You cannot craft a Federal law to cause it to do otherwise. Because it hurts the profitability of a company that may be very marginal. They will do what they have to to stay alive, until they are in a situation where they can well afford to cross the threshold.

What will that do to our economy? I do not think really any of us know for sure. But we do know that it is a very slippery slope, and we do know that companies and employers in the marketplace respond that way. That is why the small business groups of this country, NFIB, were concerned enough—even though it may not affect a lot of their membership—to write a letter asking them to call their Senators to oppose this. The reason is, how long will this 50 mandate or above stay in place?

We well know that the chairman of the Education and Labor Committee of the other body has frequently said in a very pointed way that the mandate should apply to all employers, that 50 was not good enough. I agree. That is why our bill covers all employers. In fact, there have been a lot of bills introduced over the course of the last number of years as we have debated this issue that talked about thresholds of 35, 20, and even 5 employees.

What is written now can be changed, and more than likely will be, as the Federal mandate increases over the next several years. What you do for political expedience today, you will change next year or the year after, once you have broken through this issue. That is a fear that I have. It is a fear a lot of small businesses have. I believe if you set up that kind of environment rapidly you will find the difficulty that results from it.

What is the difficulty? Our business is less able to compete in a world marketplace, less able to design that unique and caring package of benefits that does reflect the concern for the worker, that really does show the relationship of geography and environment and economy, and the type of worker hired, and all of those things that a good employer working with his or her employees can craft a benefit package that we have seen so productive in a voluntary capacity for a good number of years.

What about the hospital? The hospital in the small community that has the cost in 1989 dollars of training an RN to manage an operating room at the cost of $28,000; or a critical care unit RN, and the cost is $18,000 to train them. They take leave, and that hospital out in rural Idaho picks up the phone and says, "send me another nurse."

No, they do not exist, Mr. President. They are not there. They may have to drive 100 to 150 miles to fill that. Those are very, very difficult mandates to adhere to and, yet, that is exactly the kind of thing we are beginning to set in motion with S. 5. In other words, one suit cannot fit all who want to wear it. No Federal mandate ever has, and in all instances, Federal mandates have historically created great dislocations in the marketplace and have dramatically shifted the way business is done.

What I am suggesting in our amendment alternative is designer flexibility—create the incentive, push employers in that direction, reward them for doing so; but allow the genius and the intelligence of the worker and the employer to sit down together to craft a package that they think fits their needs.

(Mr. EXON assumed the chair.)

Mr. CRAIG. Determining the cost. Let us talk about costs. A lot of figures have been thrown around. If you want to believe S. 5, this is a cheapo. All kinds of figures are out there. How about $5.50 for every employee in the workplace? I think they suggested that; or $612 to $674 million a year nationwide. And they are citing GAO and SBA contract-out studies when those kinds of estimates are talked about.

I would like to look at those studies for a little bit because I think they are dramatically flawed.

For example, are you going to take 1986 filings and say they are valid today? I suspect not.

But let us look at S. 5 mandates and the kind of impact they would have. The average cost base, the analysis that was done by the GAO, I think is largely flawed. They look at a very limited set. For example, the GAO study is now 6 years old. Today's GAO costs are triple its 1987 estimate. They did not use scientifically valid size bases.

I am telling you that a workplace condition in Detroit, MI, and a workplace condition in Charleston, SC, is not the workplace condition in Boise, ID. And yet we are saying it is, it always will be, and the Federal mandate is going to be fixed to fit it and the costs are going to average out the same.

They identify as the only meaningful cost in this mandate's application, the continuation of health insurance. In the SBA contracted-out report, I think the press misreported and misrepresented some of the mandate's supporters only determined a cost of 6 weeks of maternity leave. S. 5 talks about 12 weeks. A lot of things happen between 6 and 12 weeks as it relates to the kind of employee you are going to find to replace the employee that is on leave. A lot of different kinds of adjustments have to be made between a 6-week leave and the potential of a 12-week leave. And those kinds of applications are very, very important in the examination of this.

If you move from the 6-week mandated maternity leave that was looked at one time and is now different in S. 5 in its 12 weeks, actual cost could go from $1.2 to $7.9 billion. This is a lot of money. That is an awful lot of difference between the kind of money that was argued some years ago and the kind of money we are talking about today.

Again, let us not talk about money. Let us talk about workplace environment and let us talk about being concerned that people be dealt with in a fair and equitable way.

I would suggest to you that the only cost is not just health care insurance continuation. There are a lot of other costs. Statistics show that to replace a qualified and trained worker takes at least that worker's salary for 1 year and about 13 months to train them. And that during that time they are progressively more productive, but substantially less productive than a well-trained experienced worker.

Productivity, efficiency, and cost of doing business in the marketplace directly relates to competitiveness in a world market, Mr. President. I have not heard that today, I have not heard anyone want to talk about that on the other side. They sure do want to talk about job creation and they sure do want to talk about competitiveness, but they sure do not want to talk about it in relation to this legislation. And we darn well better because every time we add on a new burden we shift the cost or expand the cost. And I would suggest there are substantially greater costs hidden in this bill that has been talked about today.

Just that one shift of 6 months makes literally billions of dollars worth of cost difference. So let us talk about realistic estimates.

I combined the best of GAO and the best of the SBA contracted out, began with a random sample of 10,000 firms. A survey produced by 1,730 responses included the cost of insurance continuation—included other types of leave such as spousal, serious illness to family, members own serious health conditions—estimated that maternity leave would amount to only about 40 percent of the actual cost of the total leave package.

When you combine all of those together and if you take the $612 million in the SBA-estimated costs for 6 weeks of maternity leave, and as I have said you multiply it by two, and then you do some reasonable and responsible math that we have looked at over and over again, and you multiply by 2½ times because you account for all those other changes out there that occur in the workplace, guess what figure you come up with? About $3 billion in actual costs a year. Three billion dollars where will that money come from?

Well, according to those who are sponsors of S. 5, it sure is not going to come out of the Federal budget. We are going to make sure somebody pays for it. We are going to be good guys and we are going to look like kind and caring and concerned people, but we are going to walk away from the responsibility of paying.

I do not want to walk away from that responsibility, Mr. President, because I think we all agree we care that this is an important issue. And if we care that much, we ought to care enough to provide a financing mechanism for it, so that that kind of benefit and reward go forward. Three billion dollars a year in the marketplace, if it has to be sucked off the bottom lines of the businesses that create the jobs, is representative of 150,000 jobs.

Now we have just heard—with Sears and other companies just in the last 2 weeks—100,000 jobs lost, gone, not to be again with those companies. And yet we are talking about a bill that could potentially have the impact of reducing employment in the country by offsetting the costs by approximately 150,000 jobs.

I think that is darned important, Mr. President, and yet nobody has chosen to talk about it who is a strong supporter of S. 5. And it is so fundamentally important at this very fragile time in our Nation's economy and in the stability of our workplace environment.

So I have used the data of the supporters of S. 5. We have looked at it in a simple way. And I will tell you that it is four to five times higher than the price advertised. And I think that is a substantial misrepresentation of some awfully darned important facts.

Why a tax credit incentive, Mr. President? There are a lot of reasons for incentives, most importantly because they work.

Somebody said, well, you just will not get what you want out there in the marketplace. We want to make sure people are covered.

I think right now we want to make sure that politicians look good and show that they really do care. I think that is maybe what is at the base of this issue, a lot more than whether we really do affect the workplace and create an environment in which people are benefiting from a public or a Federal policy.

Incentives do work. When we began to create incentives for private health insurance in the marketplace, look what began to happen: From 1948 until 1988, dramatic increases up to about $175 billion in direct insurance benefits to payment of Medicare, hospital insurance, contributions to group health plans.

Why did that happen? Well, I think in part because the workplace cared. But also because there was an incentive to care. It became a little easier to care, if you will. Employees saw the opportunity to negotiate this as part of a labor package and they began to work at it. And we saw tremendous differences, in the billions of dollars, today's $174.2 billion. The community of workers in this country said, we want that advantage. Public policy said we will reward employers for creating that advantage and it happened.

I think employers realize the tremendous value of human capital and they are recognizing more than ever before the value of investing in it, making sure that that capital feels good, that there is a real caring out there about the productive base of this economy.

Although we are seeing downsizing, we are also seeing rapid growths in general benefit packages as incentives to the workplace. Day care centers on worksite, all of those kinds of things are beginning to reflect that sociological shift that is going on out there that I talked about earlier. Employers operating at the margin who want to provide the benefit are empowered to do so by the incentives, not the mandates.

These are not Federal mandates out there that are creating this health care coverage today. We have more people covered by health care than ever before and we want to make sure the rest of them are covered, hopefully, by new health care programs that we are going to try to institute.

But this was not accidental. It did not happen overnight. It happened because public policy said we care and you ought to do it, and because employers and employees saw the opportunity and they followed suit caring, and they accomplished it. Employers who really did care found an additional reason, a tax reason, to provide the incentives that we are dealing with.

What have I offered? What have 15 of us offered here? Well, Senator DOLE and I, in offering this, saw the opportunity to generate in the marketplace some very real dynamics of caring; and that is 20 percent of an employee's regular cash wages becomes the tax credit for qualified purposes. That represents about $400 a month. It is a refundable tax credit. We did it, and it is offset perfectly through a cash management change in the estimated corporate income tax. No tax increases; none at all.

Simply put, in the estimated income tax that corporate America pays today, we asked them to pay it a little earlier. And we save the need to borrow and we save the need to pay interest. That is all that is done.

Nobody argued about this last year. They all agreed on it. That is what we have been able to accomplish here. And, in doing so, we create phenomenal dynamics because we realistically say that the cost of covering a qualified family and medical leave approach is going to, in fiscal 1993, cost about $156 million; real dollars. In 1994, about $841 million; and then, in 1995, $871 million; in 1996, $932 million. It will break, by 1999, over $1 billion in actual costs. And yet, the other side can sit by and say we do not have to worry about that. Nobody here is going to have to worry about paying it. We have a deficit to worry about. We want to make sure this happens, but we are not going to pay for it. I am suggesting, let us make it happen, but let us reward those who cause it to happen, and pay for some of it. Create the benefit by creating the incentive.

Mr. President, those are the fundamental differences in the bills.

Let me talk about one other change in S. 5 that is important. Many people are saying, you know, the bill they had up last year and the bill they have up this year are just basically the same.

There is a difference. Under the new bill, an employee who is taking leave for his or her own serious health condition, or that of a family member, has an absolute right to take leave on a reduced leave schedule—an absolute right.

What does that mean? It possibly means if you take the leave, you can say, "But I can work Wednesdays 1 to 5, and Fridays 9 to 12, and maybe—maybe—I can make it in on Mondays."

How can you possibly hire temporary employees to cover, under that kind of absolute approach? Yet, as I read it and as I talk to people in the business sector, they become very alarmed over that provision. They are not quite sure how they can cope with it, or with the bookkeeping and the cost of that kind of bookkeeping.

Remember, those who support S. 5 suggest that it is only the continued health care coverage that is the real cost. I suggest that that kind of manipulation, mandated manipulation, is an increasing cost, as I mentioned earlier, as it deals with this issue.

I have used up a fair portion of my time, Mr. President. Let me summarize.

When we talk about family and medical leave, let me once again assure the chairman how much I appreciate the tremendous energy and effort he has put into this issue. There is no doubt he is concerned in a fair and responsible way. He and I differ on how you get there, but I do not think we differ on our concern for the tremendous change that has gone on in our society and the need to change the work environment so that it is more productive, so that it really does respond to the differences that are going on out there, so that men and women alike can have equal access to that workplace and feel that they are not inhibited by certain conditions that might arise in their family or in their work situation. That is what we are talking about, and we all know we want to do that.

Companies today that are doing it find increased productivity. It is not a judgment of whether it is a good idea or a bad idea. All efforts in this area point to the fact that it is a very good idea.

The question is, who pays? Should we force it on those who do not believe they can or who have, in fact, negotiated with their employees for other benefits? Should we say: You have to do this, too? I think not. I think we really ought to extend the opportunity and create the incentive, and in so doing I think we will see these kinds of growth factors. The lines will be up on the charts 3 or 4 or 5 years from now as it relates to leave provided in the workplace because we will have generated a positive incentive. We will not have taken it off of the bottom line of profitability. We will not have made our workers and our workplace less competitive than the workplace in Japan, Sweden, Germany, France, Italy, or Austria.

That is the issue. That is why we have offered the substitute as a reasonable alternative in this debate that we hope a majority of the Members of this Senate will consider before they vote on this issue.

I retain the remainder of my time.

The PRESIDING OFFICER (Mr. REID). The Senator has 15 minutes remaining.

The Senator from Connecticut.

Mr. DODD. Mr. President, the distinguished senior Senator from New York, the chairman of the Finance Committee, is appearing as I speak. I am pleased to yield 15 minutes to the chairman of the Finance Committee, Senator MOYNIHAN.

The PRESIDING OFFICER. The Senator from New York is recognized for 15 minutes.

Mr. MOYNIHAN. Mr. President, I thank the distinguished Senator from Connecticut, who is the sponsor of this legislation. Mr. President, I rise first to express a measure of disbelief; and then, second, to explain to the Senate what the Senators know but what, even so, we have to from time to time remind ourselves of concerning our constitutional responsibilities and the constitutional restraints upon us. First, simply to express a measure of disbelief that on the first major piece of legislation to come back to the Senate after having been dealt with in the previous Congress—a measure not simple, but with straightforward purposes—that we should see offered as a substitute a $5 billion tax credit for corporations. To be precise, over the next 6 years spanning fiscal years 1993 to 1998, the Joint Committee on Taxation estimates this measure would cost us $4.8 billion. It would create a new tax expenditure, Mr. President, to use the term that Stanley Surrey introduced. Giving up tax revenues is no different in effect from spending revenues. The net effect on the deficit is the same.

I have to say, I see my very dear friend of 16 years in this body. The Senator from Oregon is on the floor; I know he will want to comment, too. He is a cosponsor of the bill before us, as am I. We are, respectively, chairman and ranking member of the Finance Committee. This amendment is a tax measure. It has never been to the Finance Committee. The idea of finding revenue in this amount for this purpose has never to my knowledge been discussed it any way in the Finance Committee. The committee did not know of it. We learned of it today, or possibly late yesterday.

But apart from these particulars of tax policy and the Finance Committees responsibility for it in the Senate, there is an insuperable constitutional objection. The Constitution draws a most important distinction between the Senate and the House as regards tax legislation. It makes a fundamental distinction between the two bodies in article I, section 7, which states:

> All bills for raising revenue shall originate in the House of Representatives.

This is an amendment in the form of a substitute for S. 5. If by some wholly unlikely event it should pass, it would go to the House. It would lay on the desk. The Parliamentarian in the House would consider it unreceivable by the House and upon a House vote, it would be sent right back through this door. It cannot become law. More importantly, Mr. President, in my view, it ought not to become law.

The distinguished managers will speak to the merits, but it should seem to me clear that as a substitute for a proposal that would provide guaranteed family leave for a great number of American workers, it would provide an optional tax scheme. Some corporations could opt to take advantage of a tax credit for providing this leave if they wished and, if they did not wish, not. And there you leave it.

The new tax credit would provide an incentive to be sure, but corporations have many tax incentives which they do not utilize. The tax credit approach does not provide a national leave standard, and I hope it will not be accepted on the merits.

If this amendment were not defeated on the merits, Mr. President, this measure would be subject to a constitutional point of order. Senate Procedures: Precedents and Practices, going back to our earliest time, provides, as I will read:

> The question of the constitutionality of a measure originating in the Senate as being revenue-raising in nature or the constitutionality of a revenue-raising amendment is submitted by the Presiding Officer directly to the Senate for determination.

This procedure has happened before in our 200-odd years. Although I could not speak with finality, it has been invariably the judgment of the Senate that we who take an oath to uphold and defend the Constitution of the United States against all enemies foreign and domestic are not going to violate it on our own in our own Chamber. As an act of constitutional principle, revenue measures must arise in the popular body. That is provided in our Constitution. It obtains in the Senate as much as in the House. We swear to uphold and defend the Constitution. The system works fine. Surely, in the first business week of the Congress we do not want to start out by offending the principle of comity with the other body. We do not want to pass a bad law and we do not want to take an unconstitutional step.

I cannot think of two more persuasive points. This amendment is unconstitutional, and it would not be good law. I think others—my distinguished friend from Idaho—will differ with me on whether this is a good measure. That is why we debate in this Chamber. But all must share the view that this is a revenue measure and it must originate in the other body.

I see that my distinguished friend and ranking member and former chairman once and future chairman, I do not doubt as the pendulum swings in this body—not too soon we hope—is on the floor. I yield to him the remainder of my time. I am sure the managers will yield him additional time he might want to have.

The PRESIDING OFFICER. The Senator has 7 minutes remaining of the time assigned to him.

Mr. PACKWOOD. Mr. President, if I might use the remainder of the 7 minutes and then ask if I need more time to finish up.

First, I have to chuckle at the revenue raiser that my good friend from Idaho has used. It is known as a speedup, as we call it in the tax law. It is a revenue raiser. It is revenue raised under the so-called shells. You can move the shells around and change their order, but taxpayers will pay this money to the Government eventually. This just accelerates the payment.

The present law requires the corporations to pay their income taxes in advance, on a quarterly basis, based upon their estimated income. Currently, they have to pay at least 97 percent of their estimated taxes in quarterly installments. This percentage decreases to 91 percent in 1997. Senator CRAIG'S amendment requires corporations to continue their estimated payments at 97 percent. I am not going to get into the complicated way they estimate it. However, by requiring payment of 97 percent of their estimated taxes in advance, they do not have to pay these taxes later. So we have simply moved the payment of taxes from later periods to earlier periods to pay for this amendment. It costs close to $5 billion over 5 years. No matter how you cut it and slice it, it costs $5 billion more than the original Dodd bill, which does not cost the Federal Government anything. I am fully aware the arguments my good friend from Idaho makes that the governments in Europe are paying for family leave. I do not find it an argument as to why we should necessarily pay for it with the deficits we have.

The Dodd bill provides for unpaid leave. We are not asking for the employer, per se, to give paid leave. Some employers do that. Employers can continue to do that. This bill will not prohibit that. We have a family leave policy in my office now and we have had several employees out on paid leave, such as maternity leave. It even applies to fathers as well as to mothers.

I am opposed to the tax credit idea of my good friend from Idaho. While opposing it, I appreciate his concern for the employers that Senator CRAIG is attempting to address because I am also familiar with those concerns. We have had a family leave policy in Oregon, not a Government-financed one, but an unpaid leave policy which the legislature passed in 1987. I recall there were very serious objections raised by employers when the legislature passed this in 1987.

Our Oregon law covers more employers than the Dodd bill does. We only exclude employers with 25 or more employees rather than 50. I am happy to say that none of the dire predictions about the Oregon law came true. A number of employers said they cannot afford this, that it will not work—the normal arguments. In fact, it worked so well that in 1991, the Oregon Legislature expanded the law to cover medical leave in addition to parental leave. Oregon's Bureau of Labor and Industries surveyed Oregon employers in 1990, and they found 88 percent had no difficulty in complying with the family leave law. This is before we added the medical leave. But 88 percent had no difficulty complying with the law that is more stringent than the law we are now considering: Oregon's law applies to employers of 25 or more employees, not 50.

The Families and Work Institute in New York in 1991 completed a study of Oregon and three other States with family leave laws—Minnesota, Rhode Island, and Wisconsin. And the Families and Work Institute study found that certain predictions under family leave laws certainly did not turn out to be accurate; 71 percent of the employers surveyed had no increase in training costs; 81 percent had no increase in unemployment costs; and 73 reported no increase in health insurance costs.

There is no question that my support for the family and medical leave bill is more enthusiastic because of Oregon's experience which has been generally good. But also critical to my support is what I believe is the most important distinction between the Dodd bill and the Craig substitute.

Senator DODD'S bill establishes a national family leave policy and therefore protects workers from having to decide at a time of crisis between their jobs and their family. The amendment of the Senator from Idaho simply does not provide employees with that guarantee. Some employers would opt to provide family leave, others would not. That is the situation we have now. Whether a worker is covered would depend upon the employer. In addition to not protecting workers of private employers, the Craig substitute would not apply to the millions of Government workers and employees of nonprofit organizations which would be covered under the Family and Medical Leave Act. If they do not pay any taxes, and governments do not, and nonprofits do not, then the tax credit, which is a credit against taxes owed is illusory. If you do not owe any taxes, the credit is worthless. So these employers are not covered, whereas they are covered in the Dodd bill.

I understand the concern that providing family leave to employees may cause financial difficulties for some employers, especially small businesses. Small employers do not have the financial flexibility that larger businesses have to cover extended absences by shifting employees from other duties, training temporary employees, or simply maintaining floating employees. However, Senator DODD'S bill already exempts many small employers by excluding those with fewer than 50 employees.

If you think about it, 50 employees is a fair size business. You are not going to have innumerable pregnancies and innumerable family leaves out of 50 employees. And as the Dodd bill already exempts the highest paid 10 percent of your employees, you are not going to lose your key employees. Generally, with 50 or more employees, you can adapt.

Senator CRAIG'S tax credits alone are not the solution to the needs of employees to be assured that they can take care of their families without losing their jobs. I want to emphasize again how critical this is, not losing your job. That is what the employees face now. If they have a sick parent, or are about to give birth to a child.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PACKWOOD. Can I have 3 more minutes?

Mr. DODD. I am glad to yield 3 more minutes to the Senator.

Mr. PACKWOOD. Mr. President, if there are tax credits, they should be targeted to small employers to provide the assistance to those who need it most and to reduce the costs of the tax credit to the Federal Government.

If tax credits are to be used, I want to emphasize that they are not free—this is a $5 billion program. We are simply going to pay for it using tax dollars now that we would later collect from the same businesses. In later periods, when we do not get it from the businesses because they had prepaid a greater amount of estimated taxes, we will be short then because we have simply speeded up collection to now.

I believe if the tax credits are to be used, then our scarce Federal dollars would be better spent encouraging employers with less than 50 employees who are not covered by the Dodd bill, to offer family leave. And we might also want to lessen any potential hardship on employers with between 50 to 100 employees by extending the tax credits to them.

But given a choice between the Dodd bill and the Craig amendment, I urge my colleague to oppose the Craig substitute tax credits, and instead to enact the Dodd bill, a bill that we have been working on for 7 years, much to the credit of the Senator from Connecticut. And I hope that tomorrow or the next day, when we finally vote on this, it is the last time we have to consider this bill for the next 5 to 10 years, and we can get on to the other problems facing this country.

I thank the Chair, and I thank my good friends from New York and from Connecticut for the time.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, I yield 30 seconds to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I would like to join with the Senator from Oregon in congratulating the Senator from Connecticut who, for 7 years, has doggedly pursued this to a moment of deliverance in this week, we cannot doubt.

May I simply say that in the wholly unlikely event the substitute should be adopted, a constitutional point of order will still lay, and that point of order will be made to the Chair.

I thank the Chair. I thank the manager.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, I yield myself such time as I may consume.

Let me, first of all, thank Senator MOYNIHAN from New York, the chairman of the Finance Committee, and Senator PACKWOOD, his ranking minority member, for their observations on the tax implications, constitutionally and substantively, regarding the amendment offered by my colleague from Idaho, Senator CRAIG.

As the Senator from New York has properly pointed out, as he has on many other occasions, aside from the merits, which are important to discuss, clearly initiation of a revenue raising measure with an S number is, ipso facto, unconstitutional, although procedures and precedents here require a vote of the membership. This is a matter that has come up on numerous occasions in the past, and I think the implication is that this body has responded accordingly.

So I thank the Senator immensely for those observations and for Senator PACKWOOD's observations as well about the merits of this amendment.

Let me take a case in point. I am not going to take a lot of time, and hopefully I can yield back some time. But I would like, if I may, to take a case study on tax credits in a related matter, child care, because there are a number of jurisdictions around the country, in fact, where we have provided tax credits for child care.

I think it is very revealing as to how business has responded to a child care tax credit in terms of, I believe most people would agree, a desirable societal goal, to provide child care for people, or to at least relieve their burdens and the financial costs involved.

I think it is interesting that in a recent study on employer tax credits for child care, asset or liability—the child care action campaign, I am told, is the author of the study—in 14 States which have enacted forms of tax credits for child care, fewer than 1 percent of all eligible employers in these States actually claim the credits, despite the fact that they exist on the books.

So for the argument that if you have a credit in place, business will then take advantage of it, clearly an issue like child care, which enjoys broad-based support—I think employers value the idea of employees having decent child care so their minds will be focused on their work and they will be more productive. And yet in 14 States where the tax credit exists, 1 percent of eligible employers take advantage of it. This is sort of instructive if you are looking at a meaningful alternative to a mandate on family and medical leave.

In six States that reported employer participation rates for child care tax credits—Arizona, Kansas, my home State of Connecticut, New Mexico, Oregon, and Pennsylvania—a total of 76 employers in all of those States took advantage of the credits for child care. The study went on to say which employers are attracted to tax credits—employers who already provide child care benefits to their employees. The study further said, "research indicates that even though employers say they want tax credits, they do not use them. The available data show that employer tax credits do not motivate employers to offer child care benefits."

So again, we can hypothesize here about whether or not credits are going to work in this area, but in a related matter affecting child care, in six States, 76 employers took advantage of it.

The idea is that if we are going to effectively deal with providing leave to people who need it—and again, we are not debating that at this point; people need leave. My colleague from Idaho said we are not arguing that—what is the best way to achieve it? What we are saying is if child care benefits are instructive, then employers are not going to take advantage of it. Hence, the employees in those firms would be denied the leave policies, in which case we have accomplished nothing at all except potentially a revenue loss, as the Senator from New York and the Senator from Oregon have already indicated.

There are other matters that have been raised, and just for the purpose of emphasis, obviously nonprofits, governmental agencies, State and local governments, obviously the Senate. Senator GRASSLEY of Iowa has repeatedly raised the issue of making sure Senate employees would receive the same kind of benefits, or that we would not impose on the private sector any mandates that we would not impose on ourselves.

And yet the irony with the tax credit approach, of course, is that for Senate employees, at other than the largesse of the individual Member, we would not be required to provide leave at all because, obviously, we do not provide tax credits any more than they do at the local governmental level, the State governmental level, or in the nonprofit organizations as well. The amendment exempts employers who employ more than 500 employees; 41 percent of all women in the work force work for companies that hire more than 500 people.

So again, none of these proposals is perfect in the sense that we exempt employers who employ less than 50, and that takes out some people. But frankly, at the lower level, that is where there are fewer employees.

As I mentioned earlier, my sense is that employers in small business are far more inclined to assist their employees because they know them; they know their secretary; they know the people on the shop floor. If there is a problem there, it is not some removed statistic or an identification number. They respond. They are human beings.

In larger corporations, larger businesses, where there are 500 or more employees, there is no way the employer is going to act on a case-by-case basis. You have to live with work practices. So when you exempt the employer who employs more than 500, the likelihood that someone is going to be sensitive to the individual employee is far less, it would seem to me, than with the employer who employs 50 or fewer people. In that case, the employer, in my view, is more likely to know the individual.

So we are excluding 41 percent of women in the work force. And again, given the fact that 90 percent of single parents in this country are women raising children and the childhood illness problem is so pronounced, it seems to me that is something all of us are more sensitive to.

Senator MOYNIHAN said we have not really heard of this amendment until the last 48 hours or so. There was an amendment introduced on September 23, 1992, I think is the date, and there have been other suggestions of this in the past.

But nonetheless, there really have not been any hearings on this idea, even if it were not subject to the constitutional issue. We have held some 17 hearings on mandated leave, if you will. As was pointed out, of course, we do not add to the Federal deficit. This is unpaid leave. The employer does not have to pay the employee.

There are some costs associated with it. But again we can get into a battle of studies. But when President Bush's Small Business Administration conducts an analysis of family and medical leave legislation and concludes that it is "always"—to quote the report—"always substantially less expensive to retain an employee than to go out, hire and train a new one," again, that seems to me for those who are concerned on the other side of the aisle about this issue, if the Bush administration's own Small Business Administration would conclude that, to suggest somehow we are talking a staggering amount—the GAO most recent study came out just I think last evening, 7 p.m. Their analysis says $9.50 per covered worker per year. We had $6.50 about 1½ years ago, but frankly because health care costs have risen, 200,000 more people in the work force, that number has gone up. That is the reason that the GAO cites.

Two cents per covered worker per day is not exactly something you can provide a credit for, it seems to me. I would note that I think under the Craig amendment, he can correct me if I am wrong on this, that you would get credit potentially even if you had unpaid leave. Providing tax credit to an employer that does not even provide paid leave, it seems to me to be engaging in a significant largess out of the Federal Treasury, not to mention the $4.8 billion lost dealing with obviously the perplexing problem of the deficit itself.

Job security, of course again, this would be year to year. The employer could decide in 1 year to take credits, and the next year not to. It makes it rather uneven, to put it mildly. The minimum period of leave guaranteed—we have 12 weeks. There would be, potentially, a claiming of credit for 1 day, it seems to me. Again I think that goes beyond what most of us are talking about.

So I respect immensely, and I appreciate my colleague from Idaho framing the debate in the way that I appreciate, and that is we are not really talking about a good idea. There was a time around here when the very idea of family and medical leave threshold question was debated whether or not it was something we ought to promote. I am pleased to note that we are no longer debating whether or not family and medical leave makes sense. We are now arguing about how best to do it.

If there is a common agreement in this Chamber that family and medical leave is something that ought to be provided for people, then it seems to me we ought to try to select the best method of achieving that result. As I pointed out with the tax credits on child care, which is the substitute here, there is little indication or evidence that tax credits for child care would have done much at all to assist families who need child care. If we take that model and apply it here, it would seem to me that we would be perpetrating an unfair solution for people who are looking for some real help in this area.

Again, we are not covering every person in the work force. But I am not concerned as much that people who work for smaller employers are going to be helped because of the personal relationships.

But here it seems we have an opportunity to do something which has a minor cost involved. After 7 years, almost 20 hearings on the matter, building bipartisan support on this issue, my hope is we will stick with the substance of the bill that Senator BOND, Senator COATS, Senator JEFFORDS, Senator PACKWOOD, Senator D'AMATO, Senator MURKOWSKI, and others have supported previously along with the strong majority on this side. It has taken a lot of effort to pull this bill together, Mr. President. We think it is going to do a good job. We will not know obviously until it is out there working. But based on what other States and jurisdictions have done we think it is the right approach.

Mr. President, I reserve the remainder of my time.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I think it is appropriate that I respond in the closing moments of this debate to some observations that have been made by the Senator from New York and from Oregon, and from the chairman who is the author of the bill that we are attempting to amend at this moment.

I found it ever so slightly amusing, Mr. President, that the Senator from New York would argue constitutionality, especially when he and the Senator from Oregon were primary designers of a bill a few years ago in 1982 called the Tax Equity and Fiscal Responsibility Act of 1982, better known as TEFRA. Now we all know it was written here in the Senate. We all know it passed the Senate before it passed the House. And nobody raised the constitutional question. What did we do? We allowed the bill to languish here until a vehicle came from the House. Then we attached it under the House number and moved it back. That is the way things are done around here. Let us not play the constitutional game when it serves us, and then ignore it when it does something else.

We all know that argument but we know that this is not a tax increase. We know that it is as explained by the Senator from Oregon a speedup in the process, and that speedup generates more revenue and offsets borrowing and offsets interest. That is how we accomplish that.

That is an important factor to understand. There is no new tax but the process is paid for.

Earlier on in my debate, Mr. President, I agreed that the GAO study of some years ago said this was a $612 to $674 million a year nationwide cost or about $5.50. What did I say in debate? The figures were wrong. That figures were misrepresentative of the facts. I did not know that a new study came out last night. But the chairman fairly said it did. The fugures were up to $9-plus. That shows the cost of this bill—now well over $1 billion a year. That is exactly what I said in my debate.

In other words, they do not know what the costs are. I would have to suggest that my studies, the ones I have cited, are substantially more accurate. They really do not know the impact in the workplace. The only thing they are doing, and I think the chairman fairly alluded to it, medical costs have gone up.

So the cost of continuous coverage during the time of leave has gone up, and they are still saying at GAO that is the only cost factor involved. If they are saying that, they are just flat blind. They have never been in the workplace. They do not recognize the cost of efficiency, of productivity, and of training a new employee. They are taking that for granted. Somebody has to pay for it. I suggest to you that the employer will pay for it.

Then we heard a comparison about day care, and reference to a State tax, not a Federal tax. State taxes are much less desirable than Federal tax. Let us all be honest. Providing a day care facility is phenomenally more expensive than providing medical or family leave, and we all know that. We are talking about a physical structure, and new employees to provide for those children of the employees. That is a very toughly negotiated time out there in the workplace. We know there is a substantial difference.

I suggest in this debate you are off limits if you want to compare apples with oranges. We all know they are fruit of a different color. In this instance, when we talk of family and medical leave we are talking of substantially different impacts in all of that.

When we talk about foreign governments again, and paid leave, and I think my colleague from Oregon mentioned that, let us also remember that foreign governments pay the employer the cost of rewarding that leave package. The employer sustains no costs in all of those countries that I have presented to you in this debate. That is awfully important to remember. It is not just paid leave. It is the total cost of the leave package.

One other item I think that deserves to be talked about. My colleague from Oregon said 71 percent of the employers in Oregon offering family and medical leave had experienced no cost increase. Twenty-nine percent did. Twenty-nine percent said they did. That was not factored in here. I would also suggest to you that in the incentive program or the mandate program some would find little cost based on the makeup of their work force. But if they were hiring predominantly women of child-bearing age, it might go up substantially. Yet, in that factor, where you talk about the exclusion of women and maternity care, I and all agree that they make up only 40 percent of the total coverage of either of the two pieces of legislation.

So let us not use them as a solo argument, Mr. President. Let us use them as only 40 percent of the costs involved, and a very important 40 percent. But the rest deals with sick leave and other members of the familys' illnesses and of the illness of the employee, him or herself. You cannot argue all of your argument on 40 percent of your basis. It will not work. You have to argue on 100 percent of your basis. That is the issue at hand.

Are we going to say to State governments that you have to do it? I remember what President Clinton said yesterday to all of the Governors assembled here in this great city: I will not bring down upon you mandates. Let us work cooperatively together to assure that what we do is to the greatest benefit to this country.

Yet, today, on this floor, S. 5 says to all State governments that do not provide this: here is a Federal mandate, get in step and in line, and you pay for it. On that basis alone, the President ought to veto it. But I know he will not. I would not want him to go back on his word to the Governors. He said he would work cooperatively with them. This is a mandate. He will sign the bill if it gets to his desk. He already said so.

Mr. President, amend your statement to Governors. You are mandating something to State governments, if those governments do not already provide within their employment package both parental and medical leave.

Well, those are the issues. I need not go any further. There is a clear difference between the two approaches, and we know that. There is not a difference with the intent.

Our amendment covers a good deal more people of the workplace. It offers the creativity of employers and employees to design a package that fits their geographic, environment, and unique workplace situation. It is not a straitjacket—one suit fits all. It says do what is good for the good of the country and for the workplace, and in a way you can best fit it into your unique situation.

The chairman this morning was talking about all of those big companies that were providing this benefit. Yet, he just said big companies did not care.

Well, big companies do care. All good employers care. That is not the issue.

Yes, Aetna does provide it. I think I heard him say that this morning. That is a big company. They cared a great deal.

I am talking about the little companies who cannot afford. They care, they simply cannot afford, Mr. President. We want to provide an environment in which it is more possible for them to afford to do it and remain competitive. That is why we go at where the workbase is. That is why we cover 90 percent of the workplace, and S. 5 only covers 40 percent of the workplace.

If you really care, if you really believe in the change that is going on in this country and brining all people into the workplace and creating the greatest flexibility and allowing us to be competitive in a world market, and making sure that the workers in Detroit, MI, are competitive with the workers in Yokohama, Japan, then veto for the incentive package. Vote to create a dynamic marketplace where employees and employers are rewarded for agreeing on the best possible conditions that both want and that most can afford. That is the issue at hand. That is what is important in this debate. It is what we are attempting to achieve, recognizing the tremendous value of the demographic shifts in our country and the importance of the dynamics of a harmonious work force where most are satisfied with the conditions under which they are asked to be employed.

I yield the remainder of my time.

Mr. DODD. I am prepared to yield my time as well, unless someone else wishes to be heard.

Mr. JEFFORDS. I would like to be heard, Mr. President.

I inquire how much time is remaining.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Connecticut has 31 minutes and 36 seconds.

Mr. JEFFORDS. I assure my colleague that I will only need about 10 minutes.

Mr. DODD. I will be glad to yield 10 minutes to my colleague from Vermont.

Mr. JEFFORDS. Mr. President, I am here to speak in opposition to the amendment of the Senator from Idaho. I know it is well intentioned and I am sure it would be helpful. In fact, I say that if the Senator had offered it as had been suggested earlier, perhaps along with the family leave bill, I might find it useful to support it.

But I find that the bill which is before us on which I have worked with the Senator from Connecticut and others for many years is a reasonable choice for us to face on the issues of how to deal with the very serious problems that families face in a time of crisis.

The statistics are known to us all, and have been reiterated earlier today. More and more women have entered the work force, more and more families do not have a spouse to stay home and care for the children, or, increasingly, the parents.

Critics of the legislation predict all manner of terrible consequences. Their arguments would be more persuasive if they did not have to coexist with contradictory facts.

Employers who now have these policies do not find them onerous, State laws across the country are working, and around the globe, our toughest economic competitors are pursuing policies more generous than what we propose today.

My own State of Vermont has adopted a family and medical leave policy that covers employers of 15 or more, less than a third the threshold of coverage of S. 5. There is no outcry from employers. And employees can be secure that they have at least some minimal protection from the type of tragedy that we heard one witness after another testify to in the Labor Committee.

All Americans deserve that security. But this bill recognizes that however desirable that goal might be, it must be balanced against the legitimate interests of employers.

The Craig amendment, which professes to be concerned for all employees, is superficially attractive because it applies in theory to small business.

In practice, of course, small businesses are not apt to adopt leave policies for a few cents for each dollar of phantom wages.

I for one, am a bit surprised that Republicans are arguing for universal coverage of all businesses for Federal purposes. To butcher metaphor, the crocodile who sheds tears today could come back and bite us when it is time to consider OSHA or civil rights or any number of employment statutes.

And in practice, the Craig amendment guarantees absolutely nothing. If you don't want to do much for family leave, you may as well vote for it. If you think families need help, vote against it.

Vote against it because this bill is not "Apocalypse Now" for American business.

The history of this bill has been one set of changes after another designed to accommodate the interests of employers. I became involved in this process in 1987, when with MARGE ROUKEMA I sat down with BILL CLAY and worked out a series of amendments to provide protections for employers.

That was perhaps already the third generation of the legislation, and it has undergone substantial changes since, most notably with the efforts of Senators BOND, FORD, and COATS in the past Congress.

Even this latest version of the legislation seeks to address a real problem of employers, the so-called pay-docking issue. Actions taken as a result of this legislation—the provision of unpaid leave, maintenance of records, and similar steps—will not jeopardize the status of an otherwise exempt employee for the purposes of the Fair Labor Standards Act's white-collar exemption.

This is a partial solution to the pay docking problem to be sure. I happen to think that employers and employees should have the flexibility to adopt partial day unpaid leave for purposes beyond this legislation. But I also think that other aspects of the exemption probably merit revision. I hope that we will build upon today's action and address the broader problem in the near future.

The second issue that I want to discuss briefly is that of reduced and intermittent leave. It has been argued that this year's bill represents a draconian change for the business community. I will concede it has changed from last year's version, but I think it is far from clear how significant the change is and what the sponsors intent has been.

In fact, I think the idea of mutual consent for reduced leave was introduced in H.R. 925 as reported in 1988. In its predecessors, H.R. 4300 and H.R. 925 as introduced, I believe it existed as a unilateral employee right. Interestingly, H.R. 925 as amended provided reduced leave, that is, leave by mutual consent, only in the case of family leave. Intermittent leave, taken without employer consent, was available then as now for medical purposes.

Sometime between then and now, reduced leave by mutual consent was redrafted to apply to medical leave as well as family leave. Great importance is now attached to that change. But I am not sure it is important, as unilateral, intermittent medical leave has been continually available.

Nor do I believe the expansion of reduced leave to medical leave was deliberate. Almost every provision of this bill has somebody's stamp on it. I suspect if some Member or Senator had sought this change, he or she would rise in its defense.

These are technical issues to be sure, but they are important, particularly since this legislation will soon become law.

This bill will soon become law. I commend the work of the many people who have been involved in its passage over the years, both the people of this Chamber and the other body, and the scores of private citizens who have worked tirelessly on its behalf, attending countless meetings, and working so hard to make sure it comes into law.

Mr. President, every nation, every developed nation, every industrial nation in this world, including even South Africa, has a similar policy.

Vermont, a small State with small businesses, has enacted a law to cover almost all small businesses. They recognize, as we do here, the importance that this has to the families of this Nation to ensure that they can—under the pressures that modern society gives them, with most likely the single parent or both parents working—have time to be able to face those crucial issues of health and problems that we all have to face with our aging parents and the problems that we have bringing up our children.

So I urge our Members to vote against the Craig amendment and to support the legislation in its present form.

Mr. PRESSLER. Mr. President, I am pleased to join my friend from Idaho, Senator CRAIG, as a cosponsor of the flexible family leave tax credit amendment. Congress must recognize that many smaller employers are unable financially to provide employee benefit programs comparable to those offered by larger companies. Other firms offer flexible leave benefits based on their employees' specific needs. This amendment addresses both realities.

As ranking member of the Senate Small Business Committee, I find this provision is a reasoned approach. The amendment would assist smaller employers in providing leave to their employees during times of need. The amendment is designed to recognize both the difficulties faced by many employers in providing leave benefits and the unique circumstances surrounding an employee's need to meet family obligations.

Mr. President, more than 90 percent of America's businesses are defined as small businesses—that is, with 500 or less employees. In fact, more than 95 percent of the businesses in South Dakota are small businesses. Adoption of the flexible family tax credit amendment would assist nearly all businesses in the Nation in providing leave benefits to their employees, particularly those located in rural States where smaller business operations prevail. Most important, leave time availability would not have to be provided at the expenses of other vital employee benefit programs.

It is also important to point out that adoption of this measure will allow S. 5 to reach a far greater number of employees. It is estimated this amendment could cover over 80 percent of our Nation's work force, while S. 5 only reaches approximately 40 percent of the work force. Don't we want to encourage leave benefits to be provided to the greatest number of individuals possible?

Mr. President, the issue of family and medical leave is critically important. However, in addressing this matter, Congress should recognize the unique needs of small businesses and their employees. I urge my colleagues to support this amendment.

Mr. DODD. Mr. President, I yield 1 minute to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask unanimous consent that additional material pertaining to this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Small Business Research Summary, March 1991]

LEAVE POLICIES IN SMALL BUSINESS: FINDINGS FROM THE U.S. SMALL BUSINESS ADMINISTRATION EMPLOYEE LEAVE SURVEY

(By Eileen Trzcinski, Cornell University, Consumer Economics and Housing and William T. Alpert, University of Connecticut, Department of Economics)

PURPOSE

The purpose of this study was to gather basic quantitative information on current leave policies, both formal and informal, available to employees. It was not designed to assess the impact of any specific legislative proposal. Further, it makes no attempt to ascertain how any employer or employee would respond to a changed workplace (meaning the passage of any leave-related legislation).

HIGHLIGHTS

A random sample of 10,000 firms was drawn from the SBA's Small Business Data Base. Interviews were obtained via questionnaires, which were mailed out in December of 1988. Seventeen hundred and thirty (1,730) responses were used in the analysis.

Most employers currently use combinations of paid sick leave, short-term disability leave, unpaid sick leave, and vacation leave to accommodate illness to personnel and family including pregnancy and childbirth. Very few firms offer separate or distinct maternity or infant care leave. However, between 74 and 90 percent of all firms provide some type of leave to their employees which may be used to meet such needs.

Approximately 60 to 70 percent of firms that employ 16 or more workers offer job-guaranteed sick leave.

Between 20 to 30 percent offer unpaid sick leave without a job guaranteed.

Such leaves are typically of an unspecified or variable length.

The majority of firms interviewed had no experience with any type of leave-taking in the 12 months preceding the survey. Firms that had formal leave policies, however, experienced greater incidence of leave taking than firms that did not. This is an indication that a mandatory leave policy will increase the incidence of leave-taking beyond that found in this survey.

The net cost of handling the work of leave-taking falls between $22 per week, in firms that employ less than 100 workers, to $90 per week in large firms. These estimates exclude health care continuation costs which would add approximately $32 per week per leave-taker.

The estimated cost of providing six weeks of unpaid leave for maternity and childbirth, including continuing health benefits, is approximately $612 million. No legislation under current consideration is so limited. Providing 12 weeks of coverage and adding leave for other family circumstances will increase costs.

(SBA calculations based on study findings suggest that the cost of providing 12 weeks of unpaid leave and providing for continued health coverage ranged from between $1.2 billion and $7.9 billion annually in 1989, assuming that the incidence of leave-taking would have remained the same. If the incidence of leave-taking rises under mandated leave, which the study indicates would happen, the annual costs of mandated leave would be much higher.)

Permanently separating workers because of illness, disability, pregnancy, or childbirth is an infrequent (and higher cost) employer response: only between 0.1 and 0.5 percent of managers, and between 0.9 and 2.8 percent of nonmanagers in the firms studied terminated their employment in the preceding 12 months for these reasons. Thus, accommodating an employee's leave needs is a logical, cost-effective employer response.

Most firms reassign the work of the leave-taking manager (between 64 and 72 percent). About 70 percent of firms in all size categories reassign the work of leave-taking nonmanagers while about 42 percent of the small and 64 percent of the larger businesses temporarily replace nonmanagers while they are on leave.

For further information, contact the U.S. Small Business Administration. Office of Advocacy, at (202) 205–6533.

U.S. GENERAL ACCOUNTING OFFICE,
HUMAN RESOURCES DIVISION,
Washington, DC, November 10, 1987.

B–229386

Hon. WILLIAM L. CLAY, *Chairman,*
Hon. MARGE ROUKEMA, *Ranking Minority Member,*
Subcommittee on Labor-Management Relations, Committee on Education and Labor.

This report responds to your request for a cost estimate of H.R. 925, "The Family and Medical Leave Act of 1987," as amended. This bill permits employees to take up to 10 weeks of unpaid leave over a 2-year period upon the birth, adoption, or serious illness of a child or parent and up to 15 weeks every 2 years for their own illness. Upon returning to work an employee is guaranteed the same, or an equivalent job. In the first 3 years after enactment, firms employing 50 or more people are subject to the legislation, and thereafter firms employing 35 or more people must provide these benefits. The legislation also specifies that employers must continue health benefits for workers while on unpaid leave on the same basis as if the employee were still working, but does not require the continuance of other employee benefits. To qualify for the unpaid leave, employees must have worked in the firm 20 or more hours per week for 1 year, but a firm's highest paid 10 percent or 5 employees, whichever is greater, may be excluded from coverage.

We estimate the cost of this legislation to employers having 50 or more workers will be about $188 million annually. This represents the cost to employers for the continuation of health insurance coverage for employees on unpaid leave. The table below shows our estimate of the number of beneficiaries and the employer costs for each provision.

[In millions of dollars]

Provision	Beneficiaries	Cost
Birth or adoption	840,000	$90
Seriously ill child	60,000	10
Seriously ill parent	165,000	35
Temporary medical leave	610,000	53
Total	1,675,000	188

With firms employing between 35 and 49 people included, we estimate the annual cost to be about $212 million.

Based on data obtained from employers we surveyed and our review of national studies of employer-provided parental leave, we believe there will be little, if any, measurable net cost to employers associated with replacing workers or maintaining current levels of output while workers are on unpaid leave. Firms told us that less than one-third of the workers are replaced and that, for workers that were replaced, the cost of replacements was similar to or less than the cost of the workers being replaced. Other absences were handled by reallocating work among the remaining work force. While some disruption occurred as a result of work reallocation or the hiring of temporary workers, the firms also experienced savings in that no wages had to be paid to the absent workers.

Although there will be costs associated with the federal administration and enforcement of this legislation, we cannot predict the extent to which violations will be alleged that would require investigation and possible adjudication. Therefore, we are unable to estimate these costs.

METHODOLOGY

To develop our cost estimate, we obtained data from numerous sources, as explained on pages 6 to 19. We estimated the number of workers likely to take unpaid leave under the new child provision from data in the March 1987 supplement to the Current Population Survey (CPS) conducted by the Bureau of the Census; the number likely to take leave under the sick child and temporary medical leave provisions from data in the 1985 National Health Interview Survey conducted by the National Center for Health Statistics; and the number likely to take leave under the ill parent provision from data in the 1982 National Long Term Care Survey sponsored by the Department of Health and Human Services. We also surveyed 80 firms in two metropolitan labor markets—Detroit, Michigan, and Charleston, South Carolina—to obtain experience data on the usage of parental leave, and how employers cope with extended absences. To estimate the employer portion of health benefit costs, we used data from a Small Business Administration (SBA) study of employee benefits in small and large firms. The weekly average employer cost per worker in 1985 was estimated to be about $25 for firms covered under this bill.

For each of the bill's provisions, we assumed that all individuals with circumstances that might necessitate extended leave would take off either the full period allowed by the bill or the entire period of illness, whichever is less. Using data from the 1986 Bureau of Labor Statistics Survey of Employee Benefits in Medium and Large Firms and the SBA study of employee benefits, we estimated the extent that workers have existing paid sick, vacation, or disability leave available to use before taking unpaid leave under any of the provisions of this legislation.

LEAVE TO CARE FOR NEW CHILDREN

We estimate that the cost of continuing health benefits for workers on unpaid leave to care for new children will be about $90 million annually ($102 million annually when firms with between 35 and 49 employees are included).

Unpaid leave to care for new children is used almost exclusively by women. Studies of firms in the United States and in other countries that allow parental leave for men as well as women, in addition to our own survey of companies, support this conclusion. According to the CPS, about 2.2 million working women gave birth or adopted a child in 1986. Given the 1-year tenure requirement and the firm size exclusion, we estimate that about 840,000 women would be covered by this provision of the legislation. We assumed that women will take the full 10 weeks of leave allowed, but about 6 weeks of this leave will be their available paid vacation, sick, and disability leave.

LEAVE TO CARE FOR SERIOUSLY ILL CHILDREN

We estimate the annual cost to employers for continued health coverage under this provision to be $10 million ($11 million annually when firms with between 35 and 49 employees are included). Using information from the National Health Interview Survey, defining serious illness as 31 or more days of bed rest, and assuming that one parent takes leave to care for each child for the duration of their illness (up to 10 weeks), we estimate that about 60,000 workers would take leave, averaging 7.8 weeks per worker. We also assumed that those workers would use their paid vacation leave, which averages 1.6 weeks, before taking unpaid leave.

LEAVE TO CARE FOR SERIOUSLY ILL PARENTS

We estimate the costs to employers for continuing health insurance coverage of workers on unpaid leave to care for seriously ill parents is about $35 million annually ($38 million annually when firms with between 35 and 49 employees are included). Using information from the 1982 National Long-Term Care Survey, we estimate that about 165,000 workers are caring for parents with serious disabilities. We assumed that one worker would take the full 10 weeks of leave authorized by this legislation. We also assumed that these workers would use paid vacation leave, which averages about 1.6 weeks per worker, before taking unpaid leave.

TEMPORARY MEDICAL LEAVE

We estimate that the health insurance cost to employers of this provision is about $53 million annually ($61 million annually when firms with between 35 and 49 employees are included). Again using the National Health Interview Survey, we estimate that about 61,000 workers having 31 or more days of bed rest would be eligible under this provision. About 40 percent of workers have short-term disability coverage, which would provide paid leave for their illness. Other workers have an average of 3.3 weeks of paid sick and vacation leave available before they would take unpaid leave. The average duration of illness for these workers is estimated to be about 8.9 weeks.

Our estimates likely overstate the costs of this legislation because we have not adjusted them to reflect the fact that some firms already have parental leave policies similar to the provisions of this legislation and that other employers make accommodations to workers who are ill or have children who are ill for extended periods of time, even in the absence of a formal leave policy. In addition, several states already have disability and/or parental leave statutes containing provisions similar to those in this legislation.

There is another matter related to the cost of this legislation that warrants your attention, namely the need to clarify the definition of serious health condition under the provisions of the bill permitting leave to care for seriously ill children and temporary medical disability. Currently there is substantial room for varying interpretations. For example, the cost of the bill would increase by nearly $120 million if serious illness is assumed to be 21 days or more of bed rest rather than 31 days as in our estimate.

As requested by your office, we have not obtained agency comments on this report. We will send copies of this report to appropriate congressional committees, other interested parties, and will make copies available to others on request.

RICHARD L. FOGEL,
Assistant Comptroller General.

[U.S. Senate Republican Policy Committee, Apr. 24, 1991]

THE SBA-SPONSORED STUDY OF PARENTAL LEAVE: WHAT DOES IT MEAN?

A study of the extent to which small businesses have made family and medical leave available to their employees has touched off a controversy between the two university professors who produced it and officials at the agency that commissioned it.

That controversy is likely to spill over into Senate debate on S. 5, the Family and Medical Leave Act, which the Labor Committee favorably reported earlier today. S. 5 would require firms with 50 or more employees to give workers up to 12 weeks of unpaid leave when they are sick, when their children or parents fall ill, and when they take time to care for newborn or newly adopted children.

At issue is the cost of federal legislation requiring businesses to provide such leave to their employees. The study, released last month, concluded that the costs to businesses of offering maternity and infant care leave would be "relatively small"—about $612 million. But the Small Business Administration (SBA), in a "Research Summary" of the study, said that the costs could approach $8 billion.

WHAT THE STUDY SAYS

Based on responses from 1,730 small businesses to a questionnaire prepared by Professors Eileen Trzcinski of Cornell University and William Alpert of the University of Connecticut, the study found that most firms accommodate employees who need time off to care for their newborn children. Although few surveyed firms had specific maternity or infant care leave policies, between 74 and 90 percent allow employees to use some type of leave for these purposes. Some 60–70 percent of firms who employ at least 16 workers also offer job-protected unpaid sick leave of an unspecified or variable duration.

They also found such leave-taking to be somewhat rare. Less than three percent of workers in firms employing fewer than 100 people took unpaid maternity, infant care, or sick leave in the 12-month period prior to the survey. Among larger firms, that figure dropped to a fraction of one percent.

The study's authors reported that only one percent of the firms surveyed offer non-discretionary parental or sick leave; in other businesses, the employer decides whether to grant leave. "Employees must negotiate for these conditions," Trzcinski and Alpert wrote. "They do not receive them as a right and entitlement of employment."

That the incidence of leave-taking would increase if the government were to mandate it. The study's authors assumed that "if a federal mandate is issued, employees will take leave in the same proportion that they currently use leave in companies already providing leave." However, the study shows that the incidence of leave-taking at firms with formal leave policies is 2 to 10 times greater than at firms without formal policies.

CONCLUSION

The Trzcinski and Alpert study, while it has made a useful contribution to the debate over family and medical leave, does not provide reliable estimates of the costs of S. 5. By assuming that the federal government would mandate only maternity and infant care leave and that it would limit this leave to six weeks, the study has almost certainly understated S. 5's costs. Just how badly it understated them will continue to be a matter of dispute.

HOW MUCH WILL IT COST?

Cost estimates, assumptions and S. 5 provisions.

Study: $612 million assumptions: 6 weeks leave, maternity and infant care, all leave unpaid.

SBA: $1.2—$7.9 billion assumptions: 12 weeks leave, maternity and infant care, lower estimate assumes all leave unpaid; higher assumes combination of paid and unpaid.

S. 5: provisions: 12 weeks leave, maternity, infant care, sick parent or child, medical or adoption leave, employee can choose to take combination of paid and unpaid.

COMPARISON OF DIFFERENT FAMILY LEAVE APPROACHES, FEB. 2, 1993

	Federally Mandated Family Leave Act S. —/ H.R. 1 (Dodd-Ford)	Flexible Family Leave Tax Credit Act S. 10/ H.R. — (Craig-Goodling)
Business workplaces covered.	Those with 50 or more employees (about 5 percent)[1].	Those with 500 or fewer employees (99.8 percent).[2]
Employees in covered workplaces.	40–50 percent[1]	80.5 percent.[2]
Type of legislation	Federally mandated fringe benefit.	20 percent refundable tax credit incentive.
Budget revenue impact.	NA[3]	Cost: $4.8 billion/5 yrs offset: $5.5 billion/ 5yrs—deficit-neutral.[4]
Cost imposed on employers.	$2.4 billion minimum[5]	NA—leave is based on employee-employer negotiation and encouraged by tax incentive.
Type of leave	Unpaid	Unpaid or paid.
	Birth, adoption, serious health condition of child, parent, or employee.	Same.
Health coverage continued.	Yes	Yes.
Job and benefits protected/reinstated.	Yes	Yes.
Enforcement	Secretary of Labor issues regulations; aggrieved employee obtains complaint and enforcement from Secretary or files civil action.	Secretary of Treasury issues regulations; credit is conditional on leave granted.

[1] Source: Committee reports on S. 5/H.R. 2.

[2] Source: Office of Management and Budget.

[3] In the committee reports on S. 5/H.R. 2, the Congressional Budget Office estimated no revenue impact. Since the additional costs mandated will likely cause the loss of thousands of jobs and much taxable income, this conclusion is arguable.

[4] Based on Joint Tax Committee estimates of S. 3265 and H.R. 11, 102d Congress.

[5] Based on a combination of General Accounting office and Small Business Administration methodologies. In 1991, SBA estimated that 12 weeks of mandated maternity leave alone would cost employers $1.2–7.9 billion a year. GAO's earlier report estimated this type leave would account for about half of the leave taken under the mandate bill.

REVENUE OFFSET: MODIFY ESTIMATED TAX PAYMENT RULES FOR LARGE CORPORATIONS

PRESENT LAW

A corporation is subject to an addition to tax for any underpayment of estimated tax. For taxable years beginning after June 30, 1992 and before 1997, a corporation does not have an underpayment of estimated tax if it makes four equal timely estimated tax payments that total at least 97 percent of the tax liability shown on the return for the current taxable year. A corporation may estimate its current year tax liability based upon a method that annualizes its income through the period ending with either the month or the quarter ending prior to the estimated tax payment date.

For taxable years beginning after 1996, the 97-percent requirement becomes a 91-percent requirement. The present law 97-percent and 91-percent requirements were added by the Unemployment Compensation Amendments of 1992.

A corporation that is not a "large corporation" generally may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of its tax liability for the preceding taxable year (the "100 percent of last year's liability safe harbor"). A large corporation may use this rule with respect to its estimated tax payment for the first quarter of its current taxable year. A large corporation is one that had taxable income of $1 million or more for any of the three preceding taxable years.

EXPLANATION OF PROVISION

For taxable years beginning after 1992, a corporation that does not use the 100 percent of last year's liability safe harbor for its estimated tax payments is required to base its estimated tax payments in every year on 97 percent (rather than 91 percent beginning in 1997) of its current year tax liability whether such liability is determined on an actual or annualized basis.

The bill does not change the present-law availability of the 100 percent of last year's liability safe harbor for large or small corporations.

In addition, the bill modifies the rules relating to income annualization for corporate estimated tax purposes. Under the bill, annualized income is to be determined based on the corporation's activity for the first 3 months of the taxable year (in the case of the first and second estimated tax installments); the first 6 months of the taxable year (in the case of the third estimated tax installment); and the first 9 months of the taxable year (in the case of the fourth estimated tax installment). Alternatively, a corporation may elect to determine its annualized income based on the corporation's activity for either: (1) the first 3 months of the taxable year (in the case of the first estimated tax installment); the first 4 months of the taxable year (in the case of the second estimated tax installment); the first 7 months of the taxable year (in the case of the third estimated tax installment); and the first 10 months of the taxable year (in the case of the fourth estimated tax installment); or (2) the first 3 months of the taxable year (in the case of the first estimated tax installment); the first 5 months of the taxable year (in the case of the second estimated tax installment); the first 8 months of the taxable year (in the case of the third estimated tax installment); and the first 11 months of the taxable year (in the case of the fourth estimated tax installment). An election to use either of the annualized income patterns described in (1) or (2) above must be made on or before the due date of the second estimated tax installment for the taxable year for which the election is to apply, in a manner prescribed by the Secretary of the Treasury.

Reason for using a refundable credit instead of a different tax incentive:

S. 841 in the 102d Congress actually included a 50% deduction. After discussions with the last Administration and colleagues we changed this to a credit:

Many of the costs associated with unpaid leave, especially, may be hard to quantify to the satisfaction of the IRS;

Precedent: Similar in that respect to the TJTC (Targeted Jobs Tax Credit), which recognizes that some of the marginal costs of recruiting and training disadvantaged employees my be less than obviously tangible;

A 20% tax credit will be a good rule-of-thumb indicator of cost of unpaid leave, generally approximating about twice the average cost of continuing health insurance;

It's supposed to be an incentive—meant both to empower and motivate employers to grant family leave.

Why give the employer a tax break when the intended beneficiary is the employee?

We do that with deductibility of employer-provided health insurance, life insurance, educational assistance, legal assistance, pensions, the TJTC, and all other incentives for the employer to act to benefit the employee.

NATIONAL ASSOCIATION OF
WHOLESALER-DISTRIBUTORS,
Washington, DC, January 21, 1993.

DEAR SENATOR: On behalf of the 40,000 companies represented by the National Association of Wholesaler-Distributors (NAW), we urge you to cosponsor and support S. 10, the Flexible Family Leave Tax Credit Act of 1993, introduced on January 21st, which will provide a refundable tax credit to companies which provide family and medical leave to their employees.

NAW supports family and medical leave policies which are privately negotiated and provide flexibility for both employers and employees. Unfortunately, legislation (S.5) recently introduced which federally mandates family and medical leave, provides neither.

S. 10 will extend to all companies with fewer than 500 employees a 20 percent tax credit for any and all expenses—up to $1,200 per employee—incurred as the result of family and medical leave policies. Not only does this legislation help businesses cope with employee family and medical leave needs, but encourages employers—no matter how small—to offer this as a paid benefit.

The introduction of S.10 has created a golden opportunity for Congress to enact responsible legislation which both recognizes the needs of working families and provides businesses with the economic incentives to facilitate public policy.

Again, we urge you to cosponsor and support S. 10, the Flexible Family Leave Tax Credit Act.

Thank you for your consideration.

Sincerely,

MARY T. TAVENNER,
Senior Director—Government Relations.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
Washington, DC, January 29, 1993.

Hon. JOHN H. CHAFEE,
U.S. Senate, Washington, DC.

DEAR SENATOR CHAFEE: The National Association of Manufacturers (NAM) encourages your support for the Flexible Family Leave

Tax Credit, S. 10. Rather than mandate employers to provide a specific leave benefit which may or may not be advantageous for employees, this incentive approach allows employers to determine whether family leave benefits should be provided and offers a 20% refundable tax credit for employers with 500 or fewer employees who do provide up to 12 weeks of leave. Employers not covered by S. 5, those with 50 or fewer employees, would be eligible for the tax credit.

The tax credit approach is far more realistic than a mandate, as it permits employers to factor in relevant workforce data, e.g., affordability and level of employee demand for unpaid leave, as they decide whether to provide this benefit. While the NAM encourages employers to voluntarily provide a variety of family-friendly benefits, including leaves, we recognize that not all employers are in a position to offer lengthy leave and continue viable business operations.

Whether or not you support S. 5, you should consider supporting S. 10. The NAM urges your close review of this legislation.

Sincerely,

MICHAEL E. BAROODY.

SOCIETY FOR HUMAN
RESOURCE MANAGEMENT,
Alexandria, VA, February 1, 1993.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: As you know, the Senate is scheduled to consider S. 5, the Family and Medical Leave Act this week. On behalf of the members of the Society for Human Resource Management (SHRM), the professionals who will be charged with the proper and cost effective administration of this proposal, I urge you to address several of the practical and administrative aspects of the legislation. SHRM is the leading voice of the human resource profession, representing the interests of more than 53,000 professional and student members from around the world. SHRM provides its membership with education and information services, conferences and seminars, government and media representation, and publications that equip human resource professionals to become leaders and decision makers within their organizations.

SHRM has long supported programs and policies which provide incentives for employers to offer creative work and family benefits. Accordingly, we encourage you to support Senator Craig's Flexible Family Leave Tax Credit, S. 10, which would make available a refundable tax credit when employers provide up to 12 weeks of family and medical leave. We also urge you to support Senator Kassebaum's amendment which would exempt employers from S. 5, who offer family leave in a cafeteria benefits plan, and Senator Pressler's amendments regarding COBRA continuation coverage, the Fair Labor Standards Act docking of overtime issue, and to expand the commission on leave to ensure a comprehensive study of the impact of S. 5.

We also urge you to delete the reduced leave schedule language which would allow employees to set their own work schedules (an expansion to last year's bill) and to delete the provision which allows the Department of Labor to determine what constitutes a "health care provider". SHRM also supports amendments which would reduce the impact of litigation resulting from this proposal.

Throughout the floor debate on S. 5, we hope that you will turn to SHRM's Government and Public Affairs Office (703–548–3440, ext. 3603) with any questions you have concerning amendments or the practical and administrative aspects of the proposal.

Sincerely,

MICHAEL R. LOSEY, SPHR,
President & CEO.

BUSINESS AND INDUSTRIAL COUNCIL,
Washington, DC, January 29, 1993.

Hon. LARRY CRAIG,
U.S. Senate, Washington, DC.

DEAR SENATOR CRAIG: On behalf of the 1500 member CEOs of the United States Business and Industrial Council, I congratulate you on re-introducing the Flexible Family Leave Tax Credit Act of 1993.

Your bill, permitting employers to use tax credits to offset the cost of offering leave for their own or a family members illness or emergency offers an approach much to be preferred to federal mandates.

By permitting employers to use refundable tax credits to offset costs of offering leave, to partially replace lost wages of employees on leave, your amendment highlights the real problem with benefit mandates—the cost of the mandate.

The Council supports your efforts to offer a reasonable alternative to benefit mandates, stands ready to assist your efforts.

Sincerely yours,

C. BRYAN LITTLE,
Director for Government Relations.

NATIONAL GROCERS ASSOCIATION,
January 28, 1993.

Hon. LYNN SCHENK,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE SCHENK: I am writing on behalf of the members of the National Grocers Association (N.G.A.). N.G.A. represents the retail and wholesale grocers who comprise the independent sector of the industry. They operate 50,000 stores which account for nearly one-half of all groceries sold in the United States.

The Family and Medical Leave Act, H.R. 1 and S. 5, were introduced on the first day of the 103rd Congress and floor votes are expected next week. I ask that you vote to oppose mandated family leave benefits and to support flexibility in businesses' employee benefit policies.

The grocery industry is a labor intensive industry. Employees are considered valuable assets and employers provide a comprehensive package of benefits which best meets their individual needs. Because it is critical for a grocer to retain good and loyal employees, providing family and medical leave on a voluntary basis is more the norm than the exception. As the demand for quality service employees grows more acute, all employers will look to enhance their benefits. Fundamentally, N.G.A. objects to federally mandated benefits which will increase the already excessive regulatory burden under which grocers must now operate and will place other, more valuable, employee benefits at risk.

Second, I would like to express our concern over a statement made recently by a proponent of H.R. 1 at the recent Clinton economic summit, who specifically solicited support for mandatory paid leave. As many responsible employers have suspected, the passage of H.R. 1 or S. 5, is only the preliminary step in proponents' strategy to enact mandatory paid leave. In the last Congress, Senator Kennedy stressed that he believed that once the principle of family, medical leave is established, "it will be expanded over the years ahead." The sentiment that this bill is only the first step was reiterated at recent committee hearings on the legislation. Mandatory paid leave would not only place pressure on employers to reduce the number of employees but would threaten the very survival of many small businesses. The bill contains 30 pages of statutory language which only adds to the regulatory burden placed on business. We do not need further regulatory expansion of coverage which proponents are advocating.

Third, I urge you to consider several specific aspects of the legislation as it was reported by the committees. Provisions within the legislation will make the bill difficult, if not legally impossible, for employers to administer.

The bill creates significant confusion as to whether the employer and employee must agree before reduced or intermittent leave is granted.

The definition of "health care provider" is anyone certified by the Department of Labor. No statutory limits are imposed on the DOL in determining who is a qualified "health care provider."

The legislation does not statutorily clarify that employers would be able to permit salaried employees to take partial day unpaid medical leave in conflict with the Department of Labor regulations as currently enforced.

I strongly urge you, on behalf of the members of the National Grocers Association, to oppose the Family and Medical Leave Act and to oppose any expansion of the scope or benefits of the bill, especially any amendment for mandatory *paid* leave. In addition, I urge you to consider the specific issues addressed above which will make the legislation difficult to administer and to enforce. A far better alternative for Congress to pursue would be to provide tax incentives to business which encourage voluntary and flexible family and medical leave. Such a proposal, as introduced by Senator Craig in S. 10, would provide family and medical leave benefits to twice as many employees.

Sincerely,

THOMAS K. ZAUCHA,
President and CEO.

ASSOCIATED BUILDERS
AND CONTRACTORS, INC.,
Washington, DC, January 29, 1993.

U.S. Senate,
Washington, DC.

DEAR SENATOR: Soon the Senate will be voting on S. 5, legislation that would grant employees mandatory unpaid family and medical leave. On behalf of Associated Builders and Contractors and its more than 16,000 member companies, I strongly urge you to vote against this "one-size-fits-all" mandate on employers.

ABC and its members are sympathetic to the ever-changing needs of their employees. We recognize that to retain a quality workforce we must remain competitive in the benefits we offer. However, ABC feels strongly that a system of federally mandated benefits does not take into account the unique nature of some industries, such as construction, and prohibits employers from offering benefit packages that are suited to the needs of their employees. To assure that employees are provided with benefit packages that reflect their specific needs, ABC supports employer tax incentives such as the flexible family leave tax credit legislation introduced by Senator Larry Craig (S. 10).

S. 10 is similar to S. 3265 offered in the 102nd Congress and builds on other family leave tax incentives initiatives introduced in the 101st and 102nd Congresses. The bill would make available a refundable tax credit based on 20% of an employee's usual compensation, when the employer gives the employee up to 12 weeks off for family or medical leave. The tax credit would be dependent on the employee's reinstatement and continuation of benefits.

The Joint Tax Committee (JTC) recently estimated cost of the S. 3265 tax credit at $4.8 billion through FY 1998. S. 10 provides, to offset this revenue loss, a 100% estimated tax payment rule for large corporations which would yield almost $5.7 billion over 5 years. This same provision was included in H.R. 11 in the 102nd Congress and was not controversial.

In addition to our fundamental concerns about S. 5, we are also disturbed that this legislation has been portrayed as being identical to the family and medical leave bill vetoed last year. S. 5 has been greatly expanded from last year's initiative by adding a provision allowing employees to take leave on a "reduced leave schedule" without any consultation with the employer.

The family and medical leave bill vetoed in the 102nd Congress would have allowed employees to take leave on a schedule that reduces the usual hours worked per day or per week when that schedule is made in consultation with the employer. S. 5 would allow an employee to demand to take leave on any varying schedule they prefer, with no consultation with their employer or co-workers. Clearly, this unilateral process places an inordinate burden on both the employer and fellow employees of the person taking leave.

Other provisions of the bill that ABC has difficulty with include the length of leave proposed for medical reasons, the threat of divergent state and federal mandates (particularly for multi-state businesses), and leaving the determination of who is a qualified "health care provider" for the purposes of the bill to the discretion of the Secretary of Labor. Further, we are concerned about the lack of incentive for employees to return to work after their 12 week hiatus while benefits have continued to be paid, and that the language added to "fix" the FMLA/FLSA conflict does not permit leave for other family purposes not expressly covered by FMLA risk liability.

ABC continues to oppose the proposed family and medical leave legislation, S. 5, due its "one-size-fits-all" approach and because of the concerns we have outlined above. Instead, ABC strongly urges you to support tax incentives to further enable and encourage employers to offer competitive benefits tailored to their employees' specific needs.

Sincerely,

CHARLOTTE W. HERBERT,
Vice President, Government Relations.

Mr. DODD. Mr. President, if there is no further discussion on this amendment, I am prepared to yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. All time has been yielded back.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, this Senator has at the desk four relatively modest amendments to the bill. He does not intend to call them up at this instant because my staff and the staff of the distinguished Senator from Connecticut are working over some of these amendments to see whether or not some or all of them may be acceptable. So I will use a very few minutes at this point to explain in general terms what the four amendments are about and to ask for their kind consideration by the Senator from Connecticut.

The PRESIDING OFFICER. The Senator may proceed.

Mr. GORTON. I begin this by saying to the Senator from Connecticut I know of the countless hours he has devoted to this cause and his dedication to the cause, and I wish to ensure him that none of these amendments, whatever the views of this Senator on the bill as a whole, are designed in any way to be destructive amendments. They are being proposed on the overwhelming assumption that this bill is going to become law, and they are designed to clarify some places in which we think it is somewhat vague.

In one case, they are based on a request from an organization that deals with adoption. In others, they are based on Washington State law on this subject, which has been in effect for some 4 years at the present time and has been found to clarify and to smooth the way in which leave is undertaken.

In any event, the first of the four amendments would clarify the definitions section in the definition of the words "parent" and "child," to ensure that adoption and foster care situations are adequately covered. In this case, I want to make certain that adopted and foster children are treated in the same fashion that natural children are. The language in the amendment we received from the National Council For Adoption and the Adoptive Families of America. It is a very narrow amendment simply designed to clarify the applicability of the bill itself to people who find themselves in that position.

The second of the four amendments relates to the 12 weeks of leave and simply adds a subsection which would clarify what I am absolutely certain is the intent of the bill, that there will be a total of 12 weeks of leave available to eligible employees in any 12-months period. We feel this is implied throughout the bill, but we cannot find that it is specifically so stated. I may be wrong on this, and I could stand corrected if this is absolutely clear. The amendment is simply designed to see to it that it is clear.

The third and fourth amendments are somewhat more substantive than the first two. But the first of those deals with key personnel. The bill, in dealing with businesses and particularly with small businesses, allows employers to designate the 10 percent of their employees who will be affected by the exemption. As we understand the bill as it appears at the present time, those 10 percent of employees of any employer who are the most highly compensated can be exempted from the bill. Basing our proposals on what takes place in Washington State under its law, we give the employer the opportunity to designate 10 percent of his employees, who will probably be the 10 percent most highly compensated but do not necessarily have to be. I do not think this will be misused. We required that designation to be made in advance so it cannot be an ad hoc situation to prevent anyone who wishes a leave from taking it.

But the specific example of this I think is the company of 100 employees, of whom 10 could be exempt. The 10 most highly paid other than the owner or the CEO are very likely all to be commission salesmen, people who are actually selling whatever product is manufactured or whatever service is offered. But it may very well be that the 9th or 10th most important person to the employer is the chief fiscal officer who, by reason of being on a regular salary, may not be in the top 10 percent most paid.

We think the employer should have the ability to make these designations as long as they are made in an objective fashion. It does not add to or expand the exemption. The percentage remains the same. The employer has a greater degree of flexibility as to which people he considers to be key employees. And it goes without saying that pay is not the sole standard in every business of who the most important employees are.

The final, the fourth, of these four amendments, would require that the 30-days notice which is in the bill be in written form and include the dates which are sought for the leave. It also, in the amendment, includes the specific instances under which 30-days notice is not required, and most of those, of course, have to do with birth, birth which cannot be predicted with precise accuracy at the beginning of the time. But the Senate of Washington has found that the kind of written documentation which is provided when written notice is required has prevented a great deal of unnecessary litigation and makes it far easier to determine whether or not both the law and the particular leave policy have been complied with.

As a consequence, Mr. President, as I say, these are not earth-shattering amendments by any stretch of the imagination. They are relatively minor. They cover minor elements of the bill. They are, I can tell my colleague from Connecticut, designed to see to it that on the very real assumption that this bill becomes law, its provisions are clear both to employers and employees. My preference is to wait to introduce those amendments until we have had a chance to discuss them objectively with the Senator from Connecticut.

I thank him for his consideration before I spoke here and his willingness to look at them with, I hope, some degree of favor.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate resume consideration of S. 5 on Wednesday, February 3, at 9:30 a.m.; that once the bill is reported, Senator GORTON be recognized to offer up to two amendments relating to S. 5, on which there be a total time limitation of 30 minutes equally divided and controlled in the usual form; that no second-degree amendments be in order thereto, nor to any language proposed to be stricken; that upon disposition of the Craig amendment, the Senate proceed to vote on, or in relation to, the Gorton amendment or emendments.

The PRESIDING OFFICER (Mr. SIMON). Is there objection?

Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Senate Resolution 4, 95th Congress, Senate Resolution 448, 96th Congress, and Senate Resolution 127, 98th Congress, as amended by Senate Resolution 100, 101st Congress, appoints the Senator from Oregon [Mr. HATFIELD] to the Select Committee on Indian Affairs.

REPORTS OF COMMITTEES SUBMITTED DURING RECESS

Under the authority of the order of the Senate of January 5, 1993, the following report was submitted on February 1, 1993, during the recess of the Senate:

By Mr. BYRD, from the Committee on Appropriations:

Senate Resolution 48, authorizing expenditures by the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. Res. 49. An original resolution authorizing expenditures by the Committee on Labor and Human Resources.

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. Res. 50. An original resolution authorizing expenditures by the Committee on Banking, Housing, and Urban Affairs.

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. Res. 51. An original resolution authorizing expenditures by the Committee on Armed Services.

By Mr. INOUYE, from the Select Committee on Indian Affairs, without amendment:

S. Res. 52. An original resolution authorizing expenditures by the Select Committee on Indian Affairs.

By Mr. BAUCUS, from the Committee on Environment and Public Works, without amendment:

S. Res. 53. An original resolution authorizing expenditures by the Committee on Environment and Public Works.

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. Res. 55. An original resolution authorizing expenditures by the Committee on Governmental Affairs.

By Mr. MOYNIHAN, from the Committee on Finance, without amendment:

S. Res. 56. An original resolution authorizing expenditures by the Committee on Finance.

By Mr. SASSER, from the Committee on the Budget, without amendment:

S. Res. 57. An original resolution authorizing expenditures by the Committee on the Budget.

By Mr. BUMPERS, from the Committee on Small Business, without amendment:

S. Res. 58. An original resolution authorizing expenditures by the Committee on Small Business.

By Mr. ROCKEFELLER, from the Committee on Veterans Affairs, without amendment:

S. Res. 59. An original resolution authorizing expenditures by the Committee on Veterans' Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COCHRAN:

S. 267. A bill to amend the Fair Labor Standards Act of 1938 to exempt garment and certain other related employees from minimum wage and maximum hour requirements, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BAUCUS (for himself, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. REID, Mr. CONRAD, and Mr. DANFORTH):

S. 268. A bill to extend the period during which the United States Trade Representative is required to identify trade liberalization priorities, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. REID, Mr. LEVIN, and Mr. DANFORTH):

S. 269. A bill to amend the Trade Act of 1974 to provide that interested persons may request review by the Trade Representative of a foreign country's compliance with trade agreements; to the Committee on Finance.

By Mr. AKAKA:

S. 270. A bill for the relief of Clayton Timothy Boyle and Clayton Louis Boyle, son and father; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. BOREN, Mr. DANFORTH, Mr. DASCHLE, and Mr. SIMON):

S. 271. A bill to amend the Internal Revenue Code of 1986 to allow a credit for interest paid on education loans; to the Committee on Finance.

By Mr. DECONCINI:

S. 272. A bill to extend the temporary suspension of import duties on cantaloupes; to the Committee on Finance.

By Mr. HOLLINGS:

S. 273. A bill to remove certain restrictions from a parcel of land owned by the city of North Charleston, South Carolina, in order to permit a land exchange, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DECONCINI:

S. 274. A bill to establish the Casa Malpais National Historic Park, in Springerville, Arizona, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 275. A bill to direct the Secretary of Agriculture to convey certain lands to the town of Taos, New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SARBANES:

S. 276. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to improve control of acid mine drainage, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMON (for himself, Mr. MCCAIN, Mr. DECONCINI, Mr. DODD, and Ms. MOSELEY-BRAUN):

S. 277. A bill to authorize the establishment of the National African American Museum within the Smithsonian Institution; to the Committee on Rules and Administration.

By Mr. DASCHLE (for himself, Mr. PRESSLER, Mr. CAMPBELL, and Mr. SIMON):

S. 278. A bill to authorize the establishment of the Chief Big Foot National Memorial Park and the Wounded Knee National Memorial in the State of South Dakota, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LIEBERMAN (for himself and Mr. BRYAN):

S. 279. A bill to prohibit the receipt of advance fees by unregulated loan brokers; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. KASSEBAUM:

S.J. Res. 38. A joint resolution designating March 20, 1993, as "National Quilting Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KENNEDY:

S. Res. 49. An original resolution authorizing expenditures by the Committee on Labor and Human Resources; from the Committee on Labor and Human Resources; to the Committee on Rules and Administration.

By Mr. RIEGLE:

S. Res. 50. An original resolution authorizing expenditures by the Committee on Banking, Housing, and Urban Affairs; from the Committee on Banking, Housing, and Urban Affairs; to the Committee on Rules and Administration.

By Mr. NUNN:

S. Res. 51. An original resolution authorizing expenditures by the Committee on Armed Services; from the Committee on Armed Services; to the Committee on Rules and Administration.

By Mr. INOUYE:

S. Res. 52. An original resolution authorizing expenditures by the Select Committee on Indian Affairs; from the Select Committee on Indian Affairs; to the Committee on Rules and Administration.

By Mr. BAUCUS:

S. Res. 53. An original resolution authorizing expenditures by the Committee on Environment and Public Works; from the Committee on Environment and Public Works; to the Committee on Rules and Administration.

By Mr. MCCAIN (for himself, Mr. DOLE, and Mr. LUGAR):

S. Res. 54. A resolution commending President Bush on conclusion of the START II Treaty; to the Committee on Foreign Relations.

By Mr. GLENN:

S. Res. 55. An original resolution authorizing expenditures by the Committee on Governmental Affairs; from the Committee on Governmental Affairs; to the Committee on Rules and Administration.

By Mr. MOYNIHAN:

S. Res. 56. An original resolution authorizing expenditures by the Committee on Finance; from the Committee on Finance; to the Committee on Rules and Administration.

By Mr. SASSER:

S. Res. 57. An original resolution authorizing expenditures by the Committee on the Budget; from the Committee on the Budget; to the Committee on Rules and Administration.

By Mr. BUMPERS:

S. Res. 58. An original resolution authorizing expenditures by the Committee on Small Business; from the Committee on Small Business; to the Committee on Rules and Administration.

By Mr. ROCKEFELLER:

S. Res. 59. An original resolution authorizing expenditures by the Committee on Veterans' Affairs; from the Committee on Veterans' Affairs; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COCHRAN:

S. 267. A bill to amend the Fair Labor Standards Act of 1938 to exempt garment and certain other related employees from minimum wage and maximum hour requirements, and for other purposes; to the Committee on Governmental Affairs.

FAIR LABOR STANDARDS ACT MODEL GARMENTS EXEMPTION ACT OF 1993

Mr. COCHRAN. Mr. President, today I am introducing a bill to allow retail fabric stores to reinstate their model garment programs under the Fair Labor Standards Act.

The Department of Labor's definition of model garments as women's apparel under its rules on industrial homework has effectively eliminated the benefits of model garment programs for employees of retail fabric stores.

Prior to publication of those rules in November 1988 and the Department's adoption of its current enforcement policy, employees of fabric stores could participate in model garment programs by voluntarily sewing model garments at home for display in the stores.

Employees considered these programs to be an employee benefit, as the fabric, notions, and patterns used to construct the model garments were provided at no charge, and after the garment had been displayed in the store for a brief period of time, the employees were allowed to keep them.

Mr. President, the legislation I am introducing today reflects the Senate's previous action on this issue, as it incorporates the compromise language adopted by the Senate when it agreed to my model garment amendment to the fiscal year 1992 Labor, Health and Human Services appropriations bill.

I had hoped that the Senate's action would have brought a change in the Department of Labor's regulation of model garment programs, but that has not been the case. It now appears that employees of fabric stores will only regain the benefit of model garment programs if they are provided an exemption from the wage and hour provisions of the Fair Labor Standards Act.

Mr. President, the legislation I am introducing today will add employees who participate in model garment programs to the other categories of employees now exempted under certain conditions from the minimum wage and maximum hour requirements of the Fair Labor Standards Act.

This legislation will also protect employees from potential exploitation, as it includes the provisions of the compromise adopted by the Senate on September 12, 1991, when it agreed to a modification of my amendment on the model garment issue. Those provisions require that model garment programs are voluntary; materials are provided at no cost to employees; employees retain ownership of the garments; and employees determine that the fabric, style, and sizes of the model garments are appropriate for the employees' use.

Mr. President, the Senate has voted once, through the appropriations process, to correct this instance of excessive and burdensome Government regulation, but that action did not bring about the intended change in the Department of Labor's rules. It appears that an exemption under the Fair Labor Standards Act for these employees is required.

Mr. President, I urge my colleagues to support this legislation that will allow retail fabric stores to once again provide the benefits of model garment programs to their employees who may wish to voluntarily sew model display garments at home for their personal use.

I ask that a copy of the bill be printed at the appropriate place in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION FROM MINIMUM WAGE AND MAXIMUM HOUR REQUIREMENTS.

Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended—

(1) by striking the period at the end of paragraph (15) and inserting "; or; and

(2) by adding at the end the following new paragraph:

"(16) any employee who constructs or assembles, at any location, any garment or craft item intended to be displayed at premises that are used for retail sales of fabrics, patterns, notions or craft materials: *Provided* That—

"(A) the employee's work is voluntary;

"(B) the patterns, fabric, and notions are provided by the employers at no cost to the employees;

"(C) the employees retain ownership of the model garments after the display period; and

"(D) the model garments are in fabrics, styles and sizes determined by the employees to be appropriate for the employees' use.".

By Mr. BAUCUS (for himself, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. REID, Mr. CONRAD, and Mr. DANFORTH):

S. 268. A bill to extend the period during which the United States Trade Representative is required to identify trade liberalization priorities, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. REID, Mr. LEVIN, and Mr. DANFORTH):

S. 269. A bill to amend the Trade Act of 1974 to provide that interested persons may request review by the Trade Representative of a foreign country's compliance with trade agreements; to the Committee on Finance.

INTERNATIONAL TRADE LEGISLATION

Mr. BAUCUS. Mr. President, I rise to introduce two critical pieces of international trade legislation.

The first revives the so-called super 301 provision of the 1988 Trade Act. The second—titled the Trade Agreements Compliance Act—establishes a new procedure to ensure that the United States enforces trade agreements.

Mr. President, the world has dramatically changed in the last few years. With the end of the cold war, our entire definition of national security must change.

National security must now be defined more in economic terms than military terms. The real threat to America is not the foreign invader from without, but economic erosion from within.

The trade balance is now a better measure of America's relative strength in the world than the arms balance. When national security is thought of in these terms, international trade automatically comes to the forefront.

Most of our allies learned this lesson sometime ago. The best and brightest in Japan and Europe, don't go into the defense industry. They go into business, economic agencies, and trade negotiating corps. And when international trade disputes arise, Japan and Europe treat them with the same deadly seriousness and focus that we in this country give to military problems.

It is in this context, that I rise today to propose two pieces of legislation aimed at strengthening America's trade policy.

THE CLINTON TRADE POLICY

Some journalists have recently asked me why I would introduce strong trade legislation, at the beginning of the Clinton administration. Don't I trust President Clinton to implement a strong trade policy on his own, they ask.

The answer to that question is that I do trust the Clinton administration to adopt a strong trade policy. I trust it absolutely. President Clinton has made it clear that he will stand with American workers and American business to protect America's trade rights. I have absolute confidence in both President Clinton and his Trade Representative Mickey Kantor.

But passage of super 301 and TACA will send a strong message to the world that both the President and Congress will be focusing on opening markets for American exports. With these two tools in place, it will be clear that the United States will no longer allow itself to be the only level playing field in the world.

With American workers, exporters, and our trading partners anxiously awaiting a full articulation of Clinton trade policy, now is the time to put this trade legislation in place.

SUPER 301

Anyone who follows trade policy at all is no doubt familiar with super 301. Though it is much maligned overseas, it is really a very straightforward and simple provision.

Super 301 is aimed at countries which systematically resort to protectionism to exclude U.S. exports. Super 301 establishes an annual procedure under which the U.S. Trade Representative identifies those countries and initiates trade negotiations—under threat of retaliation—to eliminate those countries' trade barriers.

The legislation I am introducing today would extend super 301 for 5 years. It would also include a provision that passed the Senate previously to allow the Senate Finance Committee and the House Ways and Means Committee to suggest super 301 cases to the administration.

In its short 2-year tenure, super 301 opened markets for American supercomputers, satellites, forest products, agricultural products, and a variety of other products in Japan, Brazil, Korea, and Taiwan—to name only a few. It was unquestionably the most successful provision of the 1988 Trade Act.

In a recent study even the Institute for International Economics—hardly a hotbed of protectionist thinking—conceded that super 301 had succeeded.

Unfortunately, much remains to be done. Markets remain closed to American products in Asia, Europe, and South America. Korea, Japan, India, and other countries retain a web of trade barriers that block American exports.

In a recent study, the American Chamber of Commerce in Japan, a previous defender of Japanese trade policy, indicated that significant Japanese trade barriers remain in at least 36 sectors. The report lists 14 major Japanese trade barriers. I ask unanimous consent that a summary of the report appear in the RECORD following my remarks.

THE TRADE AGREEMENTS COMPLIANCE ACT

The second piece of legislation I am introducing is the Trade Agreements Compliance Act.

This legislation was included in last year's H.R. 11, which was vetoed. The provision focuses on requiring foreign compliance with trade agreements. After review, if violations are found the foreign nation involved come into compliance or suffer retaliation against that nation's exports to the United States.

The United States has historically invested thousands of hours and much political capital in negotiating trade agreements. But once the agreement is concluded, we tend to declare victory and walk away.

Unfortunately, concluding a trade agreement is only the first and often the easiest step. The real challenge is ensuring compliance and making the cash register ring for American exporters. Many of our trading partners, including Japan, Canada, and Korea, have cut corners or openly violated important trade agreements with the United States.

This must end. The United States must take a strong stand on trade agreement violations. We must make it clear to our trading partners that a deal is a deal.

Even today, we are on the brink of a potential major trade agreement violation by Japan. In 1991, the United States and Japan concluded a second semiconductor trade agreement. One of the most important provisions in that agreement is a commitment by Japan to ensure that the foreign share of the Japanese market reaches 20 percent by January 1993.

This commitment should be easy to meet. U.S. semiconductors are consistently industry leaders and dominate markets in the United States, Europe, and around the world. But in Japan they have been kept out by a web of trade barriers.

The final figures for the January market share won't be out until March. But the United States share of the Japanese market actually declined to 15.9 percent in the latest figures available. Apparently, protectionism is on the rise in the semiconductor sector.

This is exactly the kind of violation of a trade agreement that TACA is aimed at. The United States must be prepared to stand strong in this dispute.

CONCLUSION

In my opinion, U.S. trade policy should be simple. We should ask only for what is fair from our trading partners. And we should insist on fairness in their markets if they enjoy free and fair access to the U.S. market.

Most observers concede that the United States has the most open market of any major developed country in the world. That is not to say that the United States does not have trade barriers. But on the whole, the United States maintains fewer trade barriers than our trading partners and far less than Japan and Korea.

We can no longer tolerate this inequity. Our trading partners must open their markets to U.S. products if they expect access to ours.

The two pieces of legislation I am introducing enjoy wide support in Congress. In the past, both have been cosponsored by the majority of the members of the Senate Finance Committee. Super 301 was endorsed by President Clinton during the campaign. I expect these two bills to be part of the first piece of major trade legislation to pass this Congress.

I ask that the text of both bills be printed in the RECORD immediately following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERIOD FOR IDENTIFICATION OF TRADE LIBERALIZATION PRIORITIES EXTENDED.

Section 310(a) of the Trade Act of 1974 (19 U.S.C. 2420(a)) is amended—

(1) by striking "By no later than the date that is 30 days after the date in calendar year 1989, and also the date in calendar year 1990, on which the report required under section 181(b) is submitted to the appropriate Congressional committees," and inserting "By no later than September 30 of each of the calendar years 1994 through 1997,".

(2) by striking "such report" in subparagraph (B) and inserting "the most recent report submitted under section 181(b)", and

(3) by adding at the end thereof the following new subsection:

"(e) PETITIONS BY CONGRESSIONAL COMMITTEES.—The Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives may file a petition under section 302(a) with respect to barriers and market distorting practices of a foreign country, if—

"(1) the Committee adopts a resolution that an investigation under this chapter should be initiated with respect to barriers and market distorting practices of a foreign country, and

"(2) such Committee determines that the foreign country maintains a consistent pattern of import barriers or market distorting practices.".

S. 269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trade Agreement Compliance Act of 1993".

SEC. 2. FINDINGS AND PURPOSES

(a) FINDINGS.—The Congress finds that—

(1) the United States has entered into numerous trade agreements with foreign country trading partners;

(2) foreign country performance with respect to certain agreements has been less than contemplated, and in some cases rises to the level of noncompliance; and

(3) there is a need to provide a mechanism whereby interested parties can obtain a periodic review of the performance of a foreign country under a trade agreement.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure that foreign countries which have made commitments through agreements with the United States fully abide by those commitments;

(2) to obtain foreign country compliance with agreements with the United States through negotiation or, in the alternative, through unilateral action in cases in which the GATT dispute settlement procedures cannot be employed;

(3) to achieve a more open world trading system which provides mutually advantageous market opportunities for trade between the United States and foreign countries;

(4) to facilitate the opening of foreign country markets to exports of the United States and third countries by eliminating trade barriers and increasing the access of industry of the United States and third countries to such markets; and

(5) to reduce diversion of third country exports to the United States because of restricted market access in foreign countries.

SEC. 3. REVIEW OF TRADE AGREEMENTS.

(a) IN GENERAL.—Chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) is amended by inserting after section 306, the following new section:

"SEC. 306A. REQUEST FOR REVIEW OF TRADE AGREEMENTS.

"(a) ANNUAL REVIEW OF TRADE AGREEMENTS.—

"(1)(A) At the written request of an interested person, the Trade Representative shall commence a review to determine whether a foreign country is in compliance with any trade agreement such country has with the United States.

"(B) An interested person may file a written request for review under paragraph (1) at any time after the date which is within 30 days after the anniversary of the effective date of such agreement, but not later than 90 days before the date of the expiration of such agreement.

"(C) A written request filed under this paragraph shall—

"(i) identify the person filing the request and the interest of that person which is affected by the noncompliance of a foreign country with a trade agreement with the United States;

"(ii) describe the rights of the United States being denied under such trade agreement; and

"(iii) include information reasonably available to the person regarding the failure of the foreign country to comply with such trade agreement.

"(2) Not later than 90 days after receipt of a request for review under paragraph (1), the Trade Representative shall determine whether any act, policy, or practice of the foreign country that is the subject of the review is in material noncompliance with the terms of such agreement.

"(3) In conducting a review under this subsection, the Trade Representative may, as the Trade Representative determined appropriate, consult with the Secretary of Commerce or the Secretary of Agriculture.

"(4)(A) For purposes of this subsection, the term 'interested person' means a person who has a significant economic interest that is affected by the failure of a foreign country to comply with a trade agreement.

"(B) For purposes of this subsection, the term 'trade agreement' means an agreement with the United States and is not intended to include multilateral trade agreements such as the General Agreement on Tariffs and Trade.

"(b) FACTORS TO BE TAKEN INTO ACCOUNT.—In making a determination under subsection (a)(2), the Trade Representative shall take into account, among other relevant factors—

"(1) achievement of the objectives of the agreement,

"(2) adherence to commitments given, and

"(3) any evidence of actual patterns of trade that do not reflect patterns of trade which would reasonably be anticipated to flow from the concessions or commitments of such country based on the international competitive position and export potential of a United States industry.

The Trade Representative may seek the advice of the United States International Trade Commission when considering these factors.

"(c) FURTHER ACTION.—

"(1) If, on the basis of the review carried out under subsection (a), the Trade Representative determines that a foreign country is in material noncompliance with an agreement within the meaning of subsection (a)(2), the Trade Representative shall determine what further action to take under section 301(a).

"(2) For purposes of section 301, any determination made under subsection (a) shall be treated as a determination made under section 304.

"(3) In determining what further action to take under paragraph (1), the Trade Representative shall take into account the criteria described in subsection (d) with respect to possible sanctions.

"(d) SANCTIONS.—In developing a list of possible sanctions to be imposed in the event a determination is made under subsection (a)(2), the Trade Representative shall seek to minimize any adverse impact on existing business relations or economic interests of United States persons, including consideration of taking action with respect to future products for which a significant volume of current trade does not exist.".

"(b) CONFORMING AMENDMENT.—The table of contents of chapter 1 of title III of the Trade Act of 1974 is amended by inserting after the item relating to section 306 the following new item:

"Sec. 306A. Request for review of trade agreements.".

SEC. 4. INTERNATIONAL OBLIGATIONS.

The amendments made by this Act shall not be construed to require actions inconsistent with the international obligations of the United States, including obligations under the General Agreement on Tariffs and Trade.

[From the New York Times, Jan. 26, 1993]

U.S. TRADE GROUP FINDS SECTORS IN JAPAN CLOSED

(By James Sterngold)

Tokyo, Jan. 25—In a report that encourages the Clinton Administration to adopt a more aggressive trade policy toward Japan, the American Chamber of Commerce in Japan today listed dozens of business sectors that it said remained partly closed to foreign companies, despite years of arduous negotiations.

The report also said the Japanese still used numerous practices that hobbled foreign concerns trying to crack this market.

In some past reports, the chamber, a trade body, has sounded more conciliatory, suggesting that Japan was not as closed to foreign businesses as some supposed. But today's study, the chamber's "white paper" on trade, was tougher, detailing a network of discrimination.

While describing the problems in each sector, the American Chamber of Commerce recommended that the Clinton Administration quickly pursue new negotiations with the Japanese to strip away trade barriers.

"Despite Japanese Government actions to liberalize and internationalize, years of protection and export-driven strategies have shaped an environment inherently unfavorable to foreign firms," said Richard J. Johannessen Jr., president of the chamber and president of the Asia-Pacific operations of the Rockwell International Corporation.

PLEAS TO CLINTON

Chamber officials said they planned to take their report to Washington and explain their difficulties to Clinton Administration officials, who are organizing a trade strategy.

The report, which was based on the experiences of the chamber's hundreds of member companies, said 34 business sectors remained at least partly closed to foreign concerns, even though some had been the subject of trade negotiations in the past. The sectors included agricultural products, automobiles, computers, computer software, financial services, glass and pharmaceuticals.

The report explained how the Government's inclination to regulate every aspect of business life in Japan could impede a newcomer. For example, a dog food company could be prohibited from offering a "buy one, get one free" promotion or from hiring Japanese lawyers.

AMERICAN CHAMBER OF COMMERCE IN JAPAN 1993 WHITE PAPER

INTRODUCTION

Overview and purpose

The American Chamber of Commerce in Japan (ACCJ) issues its 1993 United States-Japan Trade White Paper at a time of remarkable change in the world economy and trading system. The Japanese and American economies are struggling to recover, while restructuring to adapt to a new economic reality. In these times, a commitment to expanding trade is essential to ensuring continued growth and prosperity for both countries. This report highlights—from a U.S. business perspective—those areas of the Japanese market where a realignment of business practices, policies, and standards is still required to ensure open access.

This Trade White Paper was prepared under the auspices of the Trade Expansion Committee of the ACCJ, combining the contributions of numerous other Committees and Subcommittees, and individual companies. Its purpose is to reflect the views of Americans doing business in Japan and to document the current business situation, examine progress, and focus on the remaining unresolved product and service issues. The ACCJ is uniquely suited to report on the policy issues which affect the American business community. In existence since 1948, the ACCJ totals more than 700 firms and 2000 members and associates.

The ACCJ has issued a series of Trade White Papers dating back to the 1970s, and the 1993 United States-Japan Trade White Paper updates the most recent one, published in 1990. Building on this foundation, the 1993 Trade White Paper is not intended to be an exhaustive treatment of the issues. Rather, it focuses on those issues that people doing business in Japan have indicated continue to impede access, and to which attention still needs to be paid.

In many areas, the ACCJ notes that substantial progress has been made, through the efforts of the Japanese and American Governments and private companies, to gain access to Japan's vast and sophisticated marketplace. The need persists, however, to maintain attention on areas identified in this study to continue this progress.

The ACCJ and its member-companies have worked closely with government authorities, expressing necessary concerns and providing vital information. This 1993 Trade White Paper is only one of the many forms of information prepared by the ACCJ to be used by government officials and business persons on both sides of the Pacific to assist in the resolution of trade disputes and help broaden the access of American goods and services to the Japanese market. It also should serve to provide a better understanding of the challenges confronting U.S. business in Japan.

Earlier White Papers referred to a series of actions taken by both governments to resolve trade problems. These include negotiations and import and export promotion activities. Both continue today.

The bilateral negotiating process has become an essential element in the U.S.-Japan relationship. The MOSS (Market-Oriented, Sector-Selective) and other bilateral negotiations—including the sub-cabinet level Trade Committee meetings between the two governments and the Structural Impediments Initiative (SII) talks—have provided important mechanisms for dealing with issues of concern to American business in a systematic manner. Successful government-to-government negotiations, however, do not necessarily mean all problems have been resolved.

The Government of Japan has in the recent past issued a series of "market-opening packages," designed to increase imports of manufactured and agricultural products into Japan. Agencies such as JETRO (Japan External Trade Organization) and MIPRO (Manufactured Imports Promotion Organization) have augmented their promotional efforts to help increase imports. More recently, Japanese Government ministries have begun implementation of the "Law on Extraordinary Measures for the Promotion of Imports and the Facilitation of Foreign Direct Investment."

The United States Government has, for its part, initiated several export-promotion measures, the most notable of which is the "Japan Corporate Program." In addition, the United States & Foreign Commercial Service (US&FCS), through the U.S. Embassy in Tokyo and Consulates throughout Japan, provides excellent support to American companies. However, the US&FCS needs to receive additional budgetary resources in order to expand its ability to support U.S. business in Japan.

The ultimate success of government initiatives, often depends on the efforts of private business. The Japanese private sector, in particular, also has a responsibility to take bigger and faster steps to improve market access. Without the actions and cooperation of Japanese companies, true penetration of the market cannot take place.

The most important factor in ensuring the success of American companies in Japan, however, is the constant efforts of the companies themselves. More than anything, this document is the product of their experiences, reflecting their day-to-day travails, interaction with the Japanese private and public sectors, and commitment to succeeding in a challenging environment.

The resolution of trade issues between the United States and Japan is not a static process. The issues covered in this report are in various stages of resolution and it is possible that some may have been resolved by the time of publication.

This in no way detracts from the main objective of this work—to draw attention to current issues in U.S.-Japan trade relations, in order to heighten their visibility and speed their resolution. A great deal of time and effort spent in research, discussion and consensus building have resulted in what the ACCJ believes to be an accurate and balanced assessment of the trade and investment dimension of its most important and profitable relationship.

Recurrent Issues

American business people in Japan face many diverse obstacles of varying levels of difficulty. While progress has been made over the years in opening the Japanese market, much still needs to be done to ensure access for competitive American products.

The ACCJ Trade Expansion Committee identified 34 areas of particular concern. These include product and service sectors, as well as "generic" problems (distribution, government procurement, intellectual property, investment and taxation) that cut across these lines. In its evaluation of these areas of concern, the ACCJ has identified several recurrent issues which represent major obstacles to fair access to the Japanese market and illustrate the overall business and policy environment in Japan in which American companies operate every day. These issues and the examples mentioned are drawn from the "Analysis of Issues by Sector" part of this report. They are included in this section as representative of some of the difficulties facing U.S. firms, and should not be considered a comprehensive listing of all of the issues brought forth in the analyses, nor of all the obstacles to doing business in Japan. The primary recurrent issues are as follows:

Lack of access due to keiretsu and other exclusionary business relationships has been cited as a continued hindrance to full development of commercial activities for foreign firms in certain sectors. These arrangements have affected the ability of certain American industries, such as the automotive, flat glass, insurance, and semiconductor industries, to take full advantage of market opportunities in Japan, even when the product is highly competitive.

Failure to enforce existing anti-monopoly (anti-trust) laws and regulations and to impose sufficient penalties for violations of the law is another frequent complaint. Such laws, properly implemented and enforced, can be effective tools in reducing barriers. Monopolistic practices persist in the paper, flat glass and soda ash industries, for example. Lack of vigorous implementation of the Anti-Monopoly Law and ambiguous explanations by the Japan Fair Trade Commission (JFTC) for pressing or not pressing certain cases of anti-competitive behavior also inhibit business. This selective application of Anti-Monopoly statutes is often seen as preventing full access to Japan's complex distribution system.

Incompatibility of many Japanese standards, regulations, and testing practices with internationally recognized ones, coupled with reluctance to recognize them as applicable in Japan, impacts a variety of sectors. This disparity is particularly evident when compared to the less-restrictive and more internationally compatible standards and certification procedures applied in the United States and Japan's other major trading partners, from which Japanese companies themselves benefit. Sectors such as annual health products (residue tests), automobiles (homologation), chemicals (health and safety standards), and financial services (accounting standards) provide examples of Japan's reluctance and slowness to adopt internationally "harmonized" standards and procedures. The impact of such "unique-to-Japan" standards is to prevent easier, less expansive, importation of products otherwise competitive in their home or other markets. In effect, this situation constitutes an "invisible tariff" by requiring foreign companies to incur additional costs to meet these Japan-specific standards.

Tariffs and quotas are maintained on a number of products, for which protection is no longer justified. Although Japan has one of the lowest average industrial tariff rates in the world, duties on imports that could be more competitive in Japan continue to exist. Duties on certain agricultural products (beef), chemicals (polyethylene and polypropylene), paper products, and textile goods such as carpets are cases in point. Soda ash and some agricultural products (corn) are still subject to quotas.

Excessive regulation continues to impede the entry of foreign firms and the success of those already here. While deregulation has proceeded to some extent in recent years, many archaic and arbitrary regulations and guidelines remain in effect, serving as impediments to trade. Many building codes preclude the use of certain wood products. Radio communications and telecommunications services and equipment continue to be highly regulated sectors. These regulations keep prices high and delay access for competitive and high-quality American goods and services. Such over-regulation can sometimes be a means to preserve the domination of domestic firms over foreign ones. Air transport services suffer from regulations which control the prices they charge and the services they offer. In some cases, all that is required is simplification and clarification of regulations (cosmetics), or modification of guidelines for existing "liberalizing" laws (telecommunications services carriers).

Government procurement of U.S. products remains limited. In spite of various agreements to increase opportunities for U.S. firms in the government market in Japan, the share of that market for competitive products such as computers, supercomputers and software continues to be limited. In addition, application of the GATT Procurement Code to a large number of Japanese Government agencies has not resulted in significantly increased opportunities for U.S. suppliers. In part, this is due to the tendency to procure from associations that have ties to the agencies involved.

Unwillingness of Japanese Government authorities and private industry to facilitate or increase the purchase of U.S. products, in order to preserve existing commercial and other relationships, continues. "Buy Japanese" attitudes and practices persist in such sectors as construction and engineering, radio communications (wireless telecommunications equipment), and semiconductors, for which major "market-opening" or purchasing agreements exist. In some other sectors, foreign companies, by virtue of being foreign, are not given the same rights and privileges as Japanese companies. This is true for foreign law firms and insurance companies. Additional and more intensive efforts need to be made by the Japanese private sector to promote purchases of competitive American goods and services in these and other sectors, while Japanese Government authorities will vigorously need to monitor as well as encourage the acquisition of such goods and services by private companies, quasi-governmental entities, and government agencies.

Lack of transparency in the elaboration of rules and regulations by Japanese Government agencies has prevented many American firms from receiving information needed to compete in certain sectors, and to influence the regulatory environment in which they operate. Failure fully to provide award data and more detailed information related to government procurement tenders has limited the chances of American firms in that market. Transparency remains inadequate in the decision-making process for construction projects, the setting of regulations for solid wood products use, and the procedures for date-labeling of certain food products.

Actions on the part of the Japanese Government and industry to preserve advantages for domestic companies through regulations and practices designed to prevent "disruptive competition" and protect the status quo continue. In some sectors, there are indications of efforts to preserve the existing domination of local firms over potential foreign competitors through a variety of procedural and excessively bureaucratic practices. Foreign air transport companies face difficult and time-consuming obstacles in acquiring airport landing rights and brokerage licenses. Medical equipment companies have experienced both slowing of approvals of new medical technology in which the U.S. has a leadership position, and funding of Japanese products directly competing with U.S. products. Imported food products face rigid barriers such as unrealistically short delivery deadlines and onerous date-labeling requirements, in addition to being required to meet food safety standards different from those used in other countries. Restrictions on premium pricing and sales promotions handicap foreign and new-to-market companies, such as travel and tourism services agencies and processed food importers.

Protection of intellectual property rights is a pervasive problem for American firms in Japan. Japanese patent protection rules and the length of patent pendency compared to other nations diminish the competitive advantage of certain American products. Protection of patent information is an expressed concern of several sectors including the automotive, biotechnology, and textile sectors.

Some large Japanese companies control the importation and distribution of certain commodities. These cartel-like practices impede fair and direct access to the market. Facing these problems are companies exporting commodities to Japan such as agricultural products (wheat and barley), chemicals, flat glass, paper and wood products, and soda ash. These companies encounter distribution channels controlled by Japanese companies wishing to maintain their market dominance.

Problems of classification or "definition of terms" occasionally occur, and result in unfair treatment of foreign firms. Ways of defining terms in certain sectors such as computers ("foreign computer manufacturer"), telecommunications (Type I/Type II telecommunications carriers), insurance (life, non-life, "third area"), and construction (public, private, "third-sector" projects) constitute additional and unnecessary hurdles for foreign companies. How such terms are interpreted or defined often determines whether or not a particular agreement or law will be implemented. For example, what equity ownership constitutes an FCM versus a JCM (Japanese computer manufacturer) can be used to demonstrate whether adequate market penetration by "foreign firms" has been achieved.

High-profile and visible concessions and "break-throughs" in certain sectors often do not result in—or signify—the type of systemic change that is essential for full foreign firm entry to take place. In spite of much-publicized announcements of Japanese acquiescence to entry of such products as semiconductors, supercomputers, and construction services, companies providing such goods and services still seem to come up against an "inner wall" of resistance in the Japanese private sector to procuring foreign products.

Closed-bidding practices remain in certain product and service sectors where U.S. companies have a competitive advantage. Such activities exist not only in construction and government procurement, but also in auto parts and textiles. These arrangements conflict with publicly stated claims of a fair and open competitive environment.

Statistical Highlights

The most visible measure of trade relations between the United States and Japan is the merchandise trade balance between the two countries. The U.S.-Japan trade imbalance peaked in 1987 at over $56.1 billion. In 1990, it had dropped to a level slightly over $41.1 billion. However, subsequent years have shown an increase. In 1991, it rose to just over $43.4 billion, and indications are that the 1992 trade imbalance will again increase over the 1991 level. Although U.S. exports to Japan have been steadily increasing, since the mid-1980s, the continued imbalance and near-term trends remain "politically" unacceptable, economically disruptive, and a reflection of continued barriers to entry for U.S. products in Japan.

The composition of trade between Japan and the United States shows that there are some sectors in which the United States enjoys a surplus. These include aircraft, chemicals, coal, food and agriculture, pharmaceuticals, textiles, and wood products.

Unfortunately, the level of exports in these sectors is dwarfed by Japanese export dominance in the following sectors: automobiles, automotive components, computers and telecommunications equipment.

It is important to note, however, that parity in every sector is neither desirable nor appropriate. At the same time, an overall balance does not necessarily depict open access and a fair opportunity to compete. More important than statistical balances is the need for open access so that American firms are able to compete on a sector-by-sector basis. Achieving market access is the objective of the American business community in Japan as reflected in this 1993 White Paper.

Trade turnover in selected sectors provides some indication of the composition of U.S.-Japan trade.

UNITED STATES-JAPAN TRADE FLOWS[1]

[United States 1991, millions of U.S. dollars]

	United States exports (to Japan)	United States imports (from Japan)
Food and animals (0)	7,434	266
Motor cars & other motor vehicles (781)	715	20.673
Parts & accessories of motor vehicles (784)	489	5,007
Chemicals and related products (5)	5,098	2,705
Coal (321	531	
Automatic data processing machines (752)	2,032	6,840
Wood in the rough (247)	1,388	
Paper and paper board (641)	474	
Telecommunications equipment & parts (764)	1,020	5,267
Cotton textile fibers (263)	483	
Aircraft & assoc. equip.: spacecraft vehicles (792)	3,143	552
Thermionic, cold cathode, photocathode valves (784)	1,564	4,167
Parts for office machines & auto data processing machines (759)	1,661	3,520

[1] Data based on SITC Rev. 3 commodity codes (U.S. Department of Commerce).

SUMMARY OF TRADE NEGOTIATIONS

For over a decade now, Japan and the United States have been engaged in a series of negotiations designed to address the overall imbalance in their mutual trade and improve access for competitive U.S. products and services. However as this Trade White Paper illustrates, the existence of negotiations and the conclusion of agreements does not necessarily mean that problems no longer exist. U.S.-Japan trade negotiations have focused on both the sector-specific and the general.

In the mid-to-late 1980s, the focus was on sector-specific issues, as illustrated by the MOSS process (pharmaceutical and medical devices, telecommunications, forestry products, electronics, auto parts). In addition, negotiations pursuant to the "Super 301" provision of the Omnibus Trade and Competitiveness Act of 1988 centered on supercomputers, wood products, and satellites. Other talks were initiated and agreements reached in the areas of semiconductors and construction. Desire to achieve some tangible and visible results led to this focus on key sectors of contention.

As Japan and the United States adapt to an increasingly global marketplace, it is important to reemphasize the interdependence of the two economies. More than any other nation, Japan has benefited from free and open trade and thereby achieved remarkable economic growth. While Japanese companies have enjoyed relatively free access to the American market, the Japanese economy remains under-penetrated by foreign firms. This situation is partly due to an economic development policy that protected and promoted domestic industries. Recently, however, both Japanese business and government have recognized that new policies and practices are necessary to ensure Japan's full entry into the global economy.

While this Trade White paper focuses on remaining barriers to foreign firms in Japan, the ACCJ also recognizes the continued efforts by Japan to liberalize its economy. Many tariffs and other barriers have been reduced or eliminated in recent years. Efforts to promote imports by various government agencies are to be commended. However, years of protection of the domestic market, coupled with export-driven strategies, have shaped a business environment inherently unfavorable to foreign firms. For this reason, continued and aggressive actions by the Japanese Government, Japanese trade associations, and Japanese companies are needed to effect necessary changes in business policies and practices to make them more transparent and consistent with those of other industrialized countries. The Japanese private sector should work more forcefully to provide more opportunities to foreign firms entering the market.

At the same time, U.S. firms must be prepared and committed to take advantage of opportunities in the Japanese market. It is only through their continued presence and perseverance that the potential provided by market-opening initiatives can fully be realized.

In this regard, it must be noted that direct investment is essential to making a company competitive in Japan. Direct investment provides a framework within which U.S. companies can secure market position, improve their knowledge of the business environment, and increase trade.

Japan's trade surplus has been a source of friction with its trading partners. Ensuring better access to the large and lucrative Japanese market is a constructive way to reduce this friction, and ultimately in Japan's best interest. To this end, this report addresses specific issues inhibiting market access by American firms from a wide range of industries in the hope that increased awareness will bring about their timely elimination.

While pressing for resolution of the issues outlined in this document, the ACCJ will continue to urge the United States Government—both its legislative and executive branches—to refrain from enacting protectionist measures.

The ACCJ is confident that the commitment and well-intentioned efforts of its member-companies, working with U.S. and Japanese business leaders and government officials, can achieve mutually beneficial agreements to improve the ability of foreign firms to do business in Japan. No lesser goal is in the interest of either the United States or Japan.

By Mr. GRASSLEY (for himself, Mr. BOREN, Mr. DANFORTH, Mr. DASCHLE, and Mr. SIMON):

S. 271. A bill to amend the Internal Revenue Code of 1986 to allow a credit for interest paid on education loans; to the Committee on Finance.

HIGHER EDUCATION TAX BENEFITS ACT OF 1993

• Mr. GRASSLEY. Mr. President, I am being joined today by Senator BOREN and others in reintroducing legislation to restore tax benefits for interest paid on student loans.

Today, there is no greater issue of concern to the American people than the economic problems our Nation is facing. As we look into ways to improve our economy, we have to keep in mind the importance of addressing our Nation's long-term needs by including a restoration of tax benefits for higher education.

We all know that under the Tax Reform Act of 1986, the consumer interest deduction was phased out after the 1990 tax year. Unfortunately, educational expenses were lumped together with consumer interest and the deduction for student loan interest was also terminated. By taking this action, Congress effectively imposed an additional tax on individuals who are attempting to better themselves or their families through higher education.

Congress justified repealing the interest deduction on the grounds that it was a significant disincentive to saving. However, unlike loans for most other personal items, student loans have become a necessity for many students and their families who are unable to afford the rising costs of an education.

In addition, consumer interest, up to a limit, remains deductible if the loan is secured by a taxpayer's residence. Even if this home equity loan is used for educational expenses, the interest is deductible. Consequently, current law discriminates against middle and lower income taxpayers who are not fortunate enough to own a home and borrow on the home's equity.

With this in mind, I have introduced legislation since 1987 to restore the interest deduction on student loans. Working together, Senator BOREN and I put together legislation last year that would have provided tax benefits for higher education where taxpayers could choose between a tax credit or deduction, depending on their needs. We were successful in getting a version of our legislation included as part of the Senate version of H.R. 4210, which passed the Congress. However, although President Bush supported our legislation, he vetoed H.R. 4210. So, we're back again this year, and hopefully President Clinton will support our cause.

Under our legislation, both itemizers and nonitemizers will be eligible for benefits. In the past, only itemizers were able to qualify for a benefit, so many more people will be helped under our bill. In an effort to bring down the cost, the credit or deduction will be limited to 4 years of a loan's payback term. This is a period when interest payments are the greatest and taxpayers are less able to afford the cost of the loan.

Mr. President, the current law precluding interest deductions or credits for higher education is neither fair nor productive, and it's time to make an adjustment. We all agree that education is a national investment which will be a determining factor in the future of America. A well-educated work force is vitally important if we are to compete effectively in the international marketplace. Restoring tax benefits for interest paid on student loans is an expression of the value we place on education and its role in maintaining the position of the United States as the leader of our post-cold-war world.

I urge my colleagues to join me and the cosponsors of this legislation once again in supporting the education and future of America by adjusting the Tax Code to provide assistance to Americans for reasonable educational expenses.

I ask unanimous consent that the bill be printed following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 271

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR INTEREST ON EDUCATION LOANS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. INTEREST ON EDUCATION LOANS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the interest paid by the taxpayer during the taxable year on any qualified education loan.

"(b) MAXIMUM CREDIT.—The credit allowed by subsection (a) for the taxable year shall not exceed $300.

"(c) LIMITATION ON TAXPAYERS ELIGIBLE FOR CREDIT.—No credit shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

"(d) LIMIT ON PERIOD CREDIT ALLOWED.—

"(1) TAXPAYER AND TAXPAYER'S SPOUSE.—Except as provided in paragraph (2), a credit shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 48 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any land and all refinancings of such loan shall be treated as 1 loan.

"(2) DEPENDENT.—If the qualified education loan was used to pay education expenses of an individual other than the taxpayer or the taxpayer's spouse, a credit shall be allowed under this section for any taxable year with respect to such loan only if—

"(A) a deduction under section 151 with respect to such individual is allowed to the taxpayer for such taxable year, and

"(B) such individual is at least a half-time student with respect to such taxable year.

"(e) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses—

"(A) which are incurred on behalf of the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer,

"(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

"(C) which are attributable to education furnished during a period during which the recipient was at least a half-time student.

Such term includes indebtedness used to refinance indebtedness which qualified as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

"(2) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the day before the date of the enactment of this Act) of the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer at an eligible educational institution. For purposes of the preceding sentence, the term 'eligible educational institution' has the same meaning given such term by section 135(c)(3), except that such term shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers postgraduate training.

"(3) HALF-TIME STUDENT.—The term 'half-time student' means any individual who would be a student as defined in section 151(c)(4) if 'half-time' were substituted for 'full-time' each place it appears in such section.

"(4) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

"(f) SPECIAL RULES.—

"(1) DENIAL OF DOUBLE BENEFITS.—No credit shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

"(2) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703."

(b) OPTIONAL DEDUCTION FOR INTEREST ON EDUCATION LOANS.—Paragraph (2) of section 163(h) of the Internal Revenue Code of 1986 (defining personal interest) is amended by striking "and" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) any interest paid on a qualified education loan (as defined in section 23(e)) during the period described in section 23(d), unless a credit or deduction is taken with respect to such interest under any other provisions of this chapter, and".

(c) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Interest on education loans.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified education loan (as defined in section 23(e) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after July 1, 1993, but only with respect to any loan interest payment due after June 30, 1993, and before the termination of the period described in section 23(d)(1) of such Code.

Mr. BOREN. Mr. President, I am pleased to join with my colleague, Mr. GRASSLEY, and others in introducing again our bill that would allow taxpayers the ability to elect either a deduction or a tax credit for the interest paid on loans used to finance the costs of higher education. I think this legislation is important because it represents real relief for middle-income Americans and because it encourages investment in the most important resource of our country—an educated work force.

The new administration is committed to providing economic relief to our Nation's middle-income families; we are now searching for a way to provide meaningful relief within tight budgetary constraints. One of the greatest struggles facing middle-income families is the skyrocketing cost of providing a college education for their children. The very wealthy have little trouble finding the money to educate their children; on the other hand, many scholarships and grants are available only for the poor. Those in the middle, however, earn just enough so that their children cannot qualify for benefits; yet they don't earn enough to afford to send their children to college.

The statistics reveal the dilemma faced by middle-income families with teenaged children. While middle-income children make up three-fourths of the college-age population, they receive only about 4 percent of student aid and scholarships. One reason for this absence of grants and scholarships is that fewer are available in these times of shrinking Government resources. Loans have dramatically increased from 39 percent of all Federal aid 20 years ago to 65 percent in 1990.

Middle-income Americans have no choice but to take out large educational loans. Although the average cost of going to college ranges between $6,000 and $22,000 per year, the average middle-income family has only about $60,000 in net worth, most of it in home equities. This reality has led to high indebtedness for many students and their families. Average graduating debt for undergraduates at public 4-year programs is over $6,500, and over $9,500 at private 4-year programs. Average graduating debt for medical and dental students is over $50,000, and debt of over $100,000 for students graduating from professional schools are not unusual.

This statistical truth was forcefully brought home to me last year during the testimony of a middle-income mother of college-age sons before the Finance Committee. She spoke of the painful reality her family faced when they confronted the financial burden of sending her oldest son to university. They could not qualify for need-based scholarships or grants. If they had not taken out substantial loans and the mother had not returned to work, they would have been forced to sell their home to pay for higher education at an institution chosen in part because of its lower tuition.

This is not the story of only one mother, one family. It is the story of middle-income parents in every part of this country. Moreover, the enormous debtload carried by graduating students continues to affect their decisions even after they leave school. Many who face substantial interest payments may be discouraged from pursuing additional degrees; others feel they cannot consider careers in public service, teaching, or research because these jobs, while important to our society and rewarding, do not command sufficiently high salaries.

Mr. President, this is more than an issue of short-term relief for the middle-income taxpayer. A highly educated work force is crucial to this country's economic growth and its ability to compete in the international marketplace. We simply cannot afford to deny a generation of middle-income Americans the opportunity to contribute to this country's future, equipped with the best education available.

The bill that we introduce today addresses these problems. It offers real middle-income relief at an affordable price tag; the Joint Committee on Taxation estimated last year that similar legislation would result in a revenue loss of only $800 million over 5 years. The relief is limited to the first 4 years of loan repayment because this is the period in a student's life when earnings are low and interest makes up a greater portion of loan repayment. Moverover, by providing the option of a tax credit, the relief is available for taxpayers who do not itemize.

A similar student loan interest provision was included in H.R. 4210, the comprehensive middle-income tax relief bill that was vetoed last year. It is my hope that the provision will be enacted this year as part of the new administration's middle-income relief and economic growth package. No proposal for either middle-income tax relief or economic stimulation is complete unless it contains some provision to lessen the tremendous burden on financing higher education for middle-income Americans. I look forward to working with the administration and my colleagues in the Congress to enact this legislation.●

By Mr. DECONCINI:

S. 272. A bill to extend the temporary suspension of import duties on cantaloupes; to the Committee on Finance.

CANTALOUPE DUTY ACT OF 1993

● Mr. DECONCINI. Mr. President, today I am reintroducing legislation to extend the temporary suspension of import duties on cantaloupes during the winter months when they are unavailable from domestic sources. This legislation is identical to that recently introduced by Chairman DE LA GARZA of the House Agriculture Committee.

During the warmer months, cantaloupes are grown widely in the United States. By October and November, however, availability narrows and only small shipments are available to U.S. consumers from Arizona, Texas, California, and Georgia. Between the winter months of December through April there is no commercial production of cantaloupes in the United States. Even the temperate climate of Arizona is not warm enough to grow cantaloupes during that time. Therefore, the American consumer must turn to foreign sources.

Consumers today demand a variety of fresh fruits and vegetables throughout the year. Suspending the duty on cantaloupes in the winter months not only has no adverse affect on domestic agriculture, but positively aids American farmers. It is not beneficial to domestic producers to have consumers associate fruits and vegetables to various times of the year as sales do not reach their peak until the height of the season. Providing nondomestic supplies, so that fruits and vegetables are available throughout the year, enables a smooth transition to the domestic supply after the winter season.

The major winter producers of cantaloupes include Mexico, Costa Rica, Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, and Panama. While Arizona, Texas, and California are the major producers of cantaloupes in the summer, Mexico is a major supplier in the winter. Much of the cantaloupes from Mexico are shipped into the United States through Arizona and Texas.

The duty suspension achieved by this bill would not be new. Both Chairman DE LA GARZA's bill and my own would extend for 2 years the duty suspension which expired on December 31, 1992. The widespread benefits of the duty suspension would go to shippers, distributors, truck drivers and food store workers, and to American consumers who will be assured reasonably-priced cantaloupes during the winter months.●

By Mr. DECONCINI:

S. 274. A bill to establish the Casa Malpais National Historic Park, in Springerville, AZ, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL HISTORICAL PARK LEGISLATION

● Mr. DECONCINI. Mr. President, today I am reintroducing legislation which will establish the Casa Malpais National Historical Park in Springerville, AZ. This legislation is critical to properly protected, interpret, and open to the public the Casa Malpais archeological ruins. I am reintroducing this legislation, at the beginning of this Congress, so that it can be passed in an expeditious manner.

Mr. President, the Casa Malpais ruins are the largest and most complex ancient Mogollon communities in the United States. The site contains a large masonry pueblo, a great kiva complex, several masonry stairways, a prehistoric trail, numerous isolated rooms, catacombs, sacred chambers, and various rock art panels. The ruins were once occupied by the Mogollon tribes sometime between A.D. 1250 and 1400.

The town of Springerville along with the Zuni and Hopi Tribes have done an exceptional job of preserving the site for more than a year. Even with limited funding and facilities, more than 30,000 visitors have come to see the remains of this ancient civilization. With the site designated as a National Historical Park, it is estimated that the number of visitors could grow to more than 90,000 in each of the next 5 years.

It is this Senator's opinion that Casa Malpais is truly a national treasure and deserves preservation. This archeological site represents a unique and rare cultural resource of unusual interest to the general public and is of substantial scientific significance.

Under my legislation, the Casa Malpais would be included in the National Park System and be named "The Casa Malpais National Historic Park." The bill would establish an advisory board appointed to oversee the planning and management of the Park. Members of the advisory board would include members of the Hopi and Zuni Tribes, members of the local community, the archeological community, and Park Service personnel. My legislation provides for a significant amount of local control over the management of the park. I have done this because of local efforts thus far to preserve and interpret the Casa Malpais site.

The Casa Malpais site has great potential. I am pleased to be able to offer my colleagues the opportunity and ability to be a part of a project that will mature into a world-class historical interpretive site upon passage of this legislation. I ask that my colleagues join me in supporting this worthy endeavor.

I ask unanimous consent that the bill as well as a letter that I have received from the mayor of Springerville appear in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND CONGRESSIONAL FINDINGS.

(a) This Act may be cited as the "Casa Malpais National Historical Park Establishment Act of 1993".

(b) The Congress finds that—

(1) the Casa Malpais is historically and culturally significant to the State of Arizona, the Town of Springerville and the Nation;

(2) the Native American population in Arizona and New Mexico has shown strong and sincere interest in the preservation and interpretation of their heritage through the protection of the Casa Malpais;

(3) the Town of Springerville has played a significant role in the preservation of the cultural resources of the Casa Malpais through a program of interpretation and preservation of the landmark;

(4) the Casa Malpais National Historic Landmark was occupied by one of the largest and most sophisticated Mogollon communities in the United States;

(5) the landmark includes a 58-room masonry pueblo, including stairways, Great Kiva complex, and fortification walls, a prehistoric trail, and catacomb chambers where the deceased were placed; and

(6) the Casa Malpais was designated as a national historic landmark by the Secretary of the Interior in 1957.

SEC. 2. ESTABLISHMENT OF CASA MALPAIS NATIONAL HISTORICAL PARK.

(a) In order to preserve, for the benefit and enjoyment of present and future generations, that area in Arizona containing the nationally significant Casa Malpais, and other significant natural and cultural resources, there is hereby established the Casa Malpais National Historical Park (hereinafter in this Act referred to as the "park") as a unit of the National Park System. The park shall consist of approximately 35 acres, a map of which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and in the office of the mayor of the Town of Springerville, Arizona.

(b) The park shall be administered by the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") and the Town of Springerville, Arizona (hereinafter in this Act referred to as the "Town"), in accordance with section 3.

(c) Within 6 months after the date of enactment of this Act, the Secretary shall file a legal description of the park with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. Such legal description shall have the same force and legal description as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, in the State of Airzona, and in the office of the mayor of the Town of Springerville, Arizona: Provided, That the Secretary may from time to time, after completion of the general management plan referred to in section 108(a), may make minor adjustments to the park boundary by publication of a revised map or other boundary description in the Federal Register.

SEC. 3. ADMINISTRATION AND MANAGEMENT OF THE PARK.

(a)(1) To achieve the purpose of this Act, the Secretary, in cooperation with the Town, shall formulate a comprehensive plan for the protection, preservation, interpretation, development and maintenance of the site.

(2) Within eighteen months following the date of enactment of this section, the Secretary shall transmit the plan to the President of the Senate and the Speaker of the House of Representatives.

(b) The Secretary may, pursuant to cooperative agreement—

(1) provide technical assistance to the Town or unit of local government in the management, protection, and interpretation of the site; and

(3) make periodic grants, which shall be supplemental to any other funds to which the grantee may be entitled under any other provision of law, to the Town or local unit of government for the annual costs of operation and maintenance, including but not limited to, salaries of personnel and the protection, preservation, and rehabilitation of the site.

(c) The Secretary is authorized to enter into cooperative agreements with either the Town under which the Secretary may manage and interpret any lands owned by Town and the state of Arizona, respectively, within the boundaries of the Park.

(d) In order to encourage a unified and cost effective interpretive program of the natural, cultural and recreational resources of the Casa Malpais and its environs, the Secretary is authorized to enter into cooperative agreements with other Federal, State, and local public departments and agencies, Indian tribes, and nonprofit entities providing for the interpretation of these resources. Such cooperative agreements may also provide for financial and technical assistance for the planning and implementation of interpretive programs and minimal development related to these programs.

SEC. 4. LAND USE PLANNING.

The Secretary may participate in land use planning conducted by appropriate local authorities for lands adjacent to the park and may provide technical assistance to such authorities and affected landowners for such planning.

SEC. 5. EXISTING TRANSMISSION OR DISTRIBUTION FACILITIES.

Nothing in this Act shall be construed as authorizing or requiring revocation of any interest or easement for existing transmission or distribution facilities or prohibiting the operation and maintenance of such facilities within or adjacent to the park boundary.

SEC. 6. GENERAL MANAGEMENT PLAN.

(a) Within 3 years from the date of enactment of this Act, the Secretary, in cooperation with the Town and the State, shall develop and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, a general management plan for the park consistent with the purposes of this Act, including, but not limited to—

(1) a statement of the number of visitors and types of public use within the park which can be accommodated in accordance with the protection and preservation of its resources;

(2) a resource protection program;

(3) a general interpretive program;

(4) a general development plan for the park, including proposals for a visitor's center and recreation facilities, and the estimated cost thereof; and

(b) The general management plan shall be prepared in consultation with the Casa Malpais National Historical Park Advisory Commission established pursuant to section 7, appropriate Indian tribes and their civil officials, the Arizona Historical Preservation Office, and other interested parties.

SEC. 7. CASA MALPAIS NATIONAL HISTORICAL PARK ADVISORY COMMISSION.

(a) There is hereby established the Casa Malpais National Historical Park Advisory Commission (hereinafter in this Act referred to as the "Commission"). The Commission shall be composed of members appointed by the Secretary on the recommendation of the mayor of Springerville for terms of 5 years as follows:

(1) one member, who shall have professional expertise in history and/or archeology, appointed from recommendations submitted by the Governor of the State of Arizona;

(2) one member, who shall have professional expertise in history, appointed from recommendations submitted by the mayor of the Town of Springerville, Arizona;

(3) one member, who shall have professional expertise in Indian history or ceremonial activities, appointed from recommendations submitted by the Inter-Tribal Council of Arizona;

(4) one member, who shall have professional expertise in outdoor recreation;

(5) one member, who shall be an affected landowner;

(6) one member, who shall have professional expertise in cultural anthropology;

(7) one member from the general public;

(8) the Mayor of the Town of Springerville or his or her designee, ex officio; and

(9) the Director of the National Park Service, or his or her designee, ex officio.

(b) Any member of the Commission may serve after the expiration of his or her term until a successor is appointed. A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) The Chair and other officers of the Commission shall be elected by a majority of the members of the Commission to serve for terms established by the Commission.

(e) The Commission shall meet at the call of the Chair or a majority of its members, but not less than twice annually. Six members of the Commission shall constitute a quorum. Consistent with the public meeting requirements of section 10 of the Federal Advisory Committee Act (5 U.S.C. App.), the Commission shall, from time to time, meet with persons concerned with Indian history and historic preservation, and with other interested persons.

(f) The Commission may make such bylaws, rules, and regulations as it considers necessary to carry out its functions under this Act. Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(g) The Commission shall advise the Secretary and the Town on the management and development of the park, and on the preparation of the general management plan referred to in section 6(a). The Secretary, or his or her designee, shall from time to time, but at least semiannually, meet and consult with the Commission on matters relating to the management and development of the park.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for the purposes of this Act.

TOWN OF SPRINGERVILLE,
Springerville, AZ, October 5, 1992.

Re Casa Malpais National Historic Park.

Senator DECONCINI,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR DECONCINI: On behalf of the Town Council and the Town of Springerville, I would appreciate your accepting this letter as our strong support for the passage of the Casa Malpais National Park Bill.

We have managed the beginning of this project by providing hand cash dollars, equipment, labor, and a museum site.

We feel that the site is a very important and significant archaeological project and would be a valuable asset among the Parks of the United States.

Last but not least, we feel that the Park would be of value to our Town and the surrounding area in strengthening a soft economy picture in Apache County.

We appreciate the work and effort you have applied to this Bill and our Town stands ready to assist in any way possible.

Very truly yours,
BARBARA HUNTER,
Mayor.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 275. A bill to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM, and for other purposes; to the Committee on Energy and Natural Resources.

TAOS, NM, LANDS ACT OF 1993

• Mr. BINGAMAN. Mr. President, I rise today to introduce legislation that will serve two important purposes. First, it will enable the Federal Government to dispose of unneeded property. And second, it will fulfill an important community need of the town of Taos, NM. This bill directs the Secretary of Agriculture to convey an old Forest Service ranger district office of the town of Taos. The town will convert this building to a children's library and adult literacy center which will greatly benefit the citizens of Taos and the surrounding area. As an added benefit, the strict preservation standards of Taos's old downtown ensure that the historic integrity of the ranger district building will be preserved. I am pleased that this transfer will foster adaptive reuse of a significant historic structure.

The town of Taos has wanted to acquire this building for some time, but its limited resources, and the high price of real estate in the community, have long proved prohibitive. This legislation specifies a repayment schedule that makes this property affordable to the town, while allowing the Federal Government to get the fair market value for the building, as required by Federal law. I want to commend my colleagues in the House, particularly Congressman RICHARDSON, in whose district the town of Taos is located, for devising a workable solution to this problem.

Mr. President, this bill has been passed twice by the Senate—in the 101st and 102d Congresses—and was passed by the House last session as well. Unfortunately, we ran out of time to finally enact the bill into law. Since this legislation has broad bipartisan support in both Houses, and will clearly benefit both the Federal Government and the people of Taos, I hope we will be able to quickly pass it into law this year.

I ask that the entire text of my statement and the legislation be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to printed in the RECORD, as follows:

S. 275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAOS RANGER DISTRICT.

(a) CONVEYANCE OF PROPERTY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act and subject to the terms and conditions described in subsection (b), the Secretary of Agriculture shall convey by quitclaim deed to the town of Taos, New Mexico, all right, title, and interest of the United States in and to the lands and improvements on the lands described in paragraph (2).

(2) PROPERTY.—The property referred to in paragraph (1)—

(A) is locally referred to as the "Old Taos Ranger District Office and Warehouse";

(B) is located in the town of Taos, Taos County, New Mexico;

(C) contains approximately 0.633 acres; and

(D) is specifically described in the warranty deed dated January 22, 1937, by William T. and Mary E. Hinde, husband and wife, to the United States, as recorded on January 23, 1937, in book A–34, page 415, of the Record of Deeds of Taos County, New Mexico.

(b) TERMS AND CONDITIONS.—

(1) CONSIDERATION.—

(A) IN GENERAL.—The conveyance described in subsection (a) shall be in consideration of $360,000, payable (subject to the approval of the Secretary of Agriculture)—

(i) in full not later than the end of the 180-day period referred to in subsection (a)(1); or

(ii) at the option of the town of Taos, in 20 annual payments of $18,000 each, with each payment due January 1.

(B) DEPOSIT OF FUNDS.—

(i) IN GENERAL.—Sums received pursuant to subparagraph (A) shall be deposited in a special fund in the Treasury and shall remain available until expended.

(ii) EXPENDITURE.—Upon request by the Secretary of Agriculture, the Secretary of the Treasury shall transfer from the special fund to the Secretary of Agriculture such sums as the Secretary of Agriculture determines are necessary for the purpose of acquiring lands and administrative facilities on National Forest System lands within the State of New Mexico.

(C) INTEREST.—The town of Taos shall not be charged interest on sums owed the United States for the conveyance described in subsection (a).

(2) RELEASE.—Upon transfer of the property described in subsection (a), the town of Taos shall release the United States from any liability for claims relating to the property.

(3) REVERSION.—The conveyance described in subsection (a) shall be a conveyance of fee simple title to the property, subject to reversion to the United States if the property is used for other than public purposes or if payment is not made in accordance with paragraph (1).•

By Mr. SARBANES:

S. 276. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to improve control of acid mine drainage, and for other purposes; to the Committee on Energy and Natural Resources.

ACID MINE DRAINAGE ABATEMENT ACT OF 1993

• Mr. SARBANES. Mr. President, today I am reintroducing legislation to help address a serious pollution problem—acidic runoff from abandoned coal mines—which continues to degrade the water quality of our Nation's rivers and streams. This measure was first introduced near the end of the 102d Congress and I am hopeful that it will be considered early in this session of Congress.

I spoke last August on the vital need for this legislation and I want to underscore the most compelling reasons today. Abandoned mine drainage is the unfortunate legacy of coal mining in the years before environmental laws were enacted requiring coal companies to reclaim mined land. After the coal was extracted, the land was left riddled with coal waste, known as gob piles, and pockmarked with holes. The mining activity also unearthed sulfur compounds and metals such as aluminum, manganese, and iron. When exposed to the elements, the sulfur compounds produce sulfuric acid which in turn leaches metal loads into the streams, poisoning the water and killing the fish. There are in excess of 7,600 miles of streams in 11 States including Pennsylvania, West Virginia, Kentucky, Ohio, Indiana, and Arkansas that are adversely affected by abandoned mine drainage.

In the Appalachian Region, which suffers the most serious mine drainage problems, the acidic runoff has left a major segment of our Nation's river, the Potomac River, virtually devoid of life. Much of the north branch of the Potomac, from its headwaters near Kempton, MD, to the Jennings Randolph Lake, is biologically dead. Nearly 700 miles of the north branch's streams are currently incapable of supporting fish and other aquatic life because of this drainage. Along this stretch of the Potomac there are over 4,000 acres of abandoned mine lands, including the worst offender, Kempton Mines, which discharges approximately 3 million gallons of abandoned mine drainage each day.

The Surface Mining Control and Reclamation Act of 1977 [SMCRA] established a regulatory program for current mining activities requiring land reclamation and control of acid drainage at active mine sites to assure that today's mines do not become tomorrow's abandoned mines. It also established an abandoned mine lands reclamation [AML] fund, paid for by a fee imposed on current mining production, to address problems caused by abandoned coal mines. Current law and regulations require that priority be placed on alleviating public health and safety problems posed by abandoned mine lands. However, States are authorized to set aside up to 10 percent of their allocations under the AML annually in a special account for addressing adverse environmental effects caused by abandoned mine drainage. These funds are insufficient to clean up the acidic mine drainage. These funds are insufficient to clean up the acidic mine drainage problems. My bill would provide greater flexibility for States to use existing abandoned mines reclamation funds for acid mine drainage abatement as well as health and safety concerns. Specifically it would increase from 10 to 30 percent the portion of a State's abandoned mines reclamation funds that could be set aside for addressing environmental problems caused by acid drainage. Additionally, it authorizes a discretionary grants program enabling States to apply for up to a 50-percent cost share of an acid mine abatement project, potentially doubling available funds. I ask unanimous consent that a section-by-section analysis of this bill be included in the RECORD immediately following my statement.

Mr. President, great progress has been made in restoring the health of America's rivers in the three decades since President Lyndon Johnson vowed to make the Potomac a national model for restoring the Nation's waters. Today, much of the Potomac is a haven for fish and wildlife and provides tremendous recreational and economic opportunities. However, the north branch of the Potomac remains in marked contrast to these improvements. The States of Maryland and West Virginia and the Interstate Commission on the Potomac River Basin have been working together in a cooperative effort to restore the north branch's health and improve the quality of life for residents in the surrounding areas. Unfortunately, the job cannot be accomplished without the assistance made available under this legislation. The north branch of the Potomac is only one of many areas that could greatly benefit from improved environmental conditions made possible by this measure.

I urge my colleagues to join me in supporting this bill in order to provide States with the flexibility and additional resources needed to better address environmental problems associated with acid mine drainage.

Mr. President, I ask unanimous consent that following my remarks that the full text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Acid Mine Drainage Abatement Act of 1993".

SEC. 2. ACID MINE DRAINAGE.

Section 402(g) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)) is amended—

(1) in paragraph (3), by adding at the end the following new subparagraph:

"(E) For the purpose of paragraph (7)."; and

(2) by striking paragraphs (6) and (7) and inserting the following new paragraphs:

"(6) Any State may receive and retain, without regard to the 3-year limitation referred to in paragraph (1)(D), up to 10 percent of the total of the grants made annually to the State under paragraphs (1), (3), and (5) if the amounts are deposited into a special trust fund established under State law pursuant to which the amounts (together with all interest earned on the amounts) are expended by the State solely to achieve the priorities stated in section 403(a) after September 30, 1995.

"(7)(A) Any State may receive and retain, without regard to the 3-year limitation referred to in paragraph (1)(D), up to 30 percent of the total of the grants made annually to the State under paragraphs (1), (3), and (5) if the amounts are deposited into an acid mine drainage abatement and treatment trust fund established under State law pursuant to which the amounts (together with all interest earned on the amounts) are expended by the State to undertake acid mine drainage abatement and treatment projects. The projects shall provide for the abatement of the causes or the treatment of the effects of acid mine drainage within qualified hydrologic units affected by coal mining practices.

"(B) Any State that receives and retains funds pursuant to subparagraph (A) may apply to the Secretary for a grant in an amount not to exceed 50 percent of the cost of an acid mine drainage abatement or treatment project. A grant to a State under this paragraph shall be made from amounts available to the Secretary pursuant to paragraph (3). An application submitted to the Secretary under this subparagraph shall include a description of—

"(i) the qualified hydrologic unit;

"(ii) the extent to which acid mine drainage is affecting the water quality and biological resources within the hydrologic unit;

"(iii) the sources of acid mine drainage within the hydrologic unit;

"(iv) the project and the measures proposed to be undertaken to abate the causes or treat the effects of acid mine drainage within the hydrologic unit; and

"(v) the cost of undertaking the proposed abatement or treatment measures.

"(C) If the Secretary determines that an application made pursuant to subparagraph (B) meets the requirements of this paragraph, the Secretary may approve the application. In approving applications submitted under subparagraph (B), the Secretary shall give priority to applications that will be implemented in coordination with measures undertaken by the Secretary of Agriculture under section 406.

"(D) As used in this paragraph, the term 'qualified hydrologic unit' means a hydrologic unit—

"(i) in which the water quality has been significantly affected by acid mine drainage from coal mining practices in a manner that adversely impacts biological resources; and

"(ii) that contains lands and waters that are eligible pursuant to section 404 and promote any of the priorities stated in paragraph (1), (2), or (3) of section 403(a).".

ACID MINE DRAINAGE ABATEMENT ACT OF 1993

SECTION-BY-SECTION SUMMARY

Section 1: Short Title.—Establishes the title of the bill, the "Acid Mine Drainage Abatement Act of 1993."

Section 2: Acid Mine Drainage.—Current law allows states to retain up to 10% of their annual funds to establish either an interest bearing account to redress public health and safety problems beyond 1995 when the act is scheduled to expire, or to establish a special acid mine drainage abatement and treatment fund to redress adverse environmental effects from acid mine drainage. This section authorizes states to take advantage of both set-asides, retaining the 10% set-aside for the post-1995 interest bearing account while raising the percentage for the acid mine drainage abatement and treatment fund to 30% instead of 10%.

This section also authorizes a grants program enabling States to apply for special grants from the Secretary's discretionary account from unused acid mine funds. The Secretary could provide up to 50% of the cost for any acid mine abatement or treatment project in qualified hydrologic units, abandoned areas covered by the Act that have biological resources that have been adversely affected by acid mine drainage.●

By Mr. SIMON (for himself, Mr. McCain, Mr. DeConcini, Mr. Dodd, and Ms. Moseley-Braun):

S. 277. A bill to authorize the establishment of the National African American Museum within the Smithsonian Institution; to the Committee on Rules and Administration.

NATIONAL AFRICAN AMERICAN MUSEUM ACT

● Mr. SIMON. Mr. President, during the beginning of Black History Month, I am pleased to be joined by my colleagues, Senators McCain, DeConcini, Moseley-Braun, and Dodd in reintroducing a bill that would authorize the establishment of the National African American Memorial Museum within the Smithsonian Institution. It is a honor for me to be associated with legislation that will inspire and educate people of the United States and the world about the cultural legacy of African-Americans.

As you know, I introduced this legislation last Congress. The legislation I am introducing today regarding the museum is the same legislation that was passed by the Senate on October 3, 1992. I have not, however, included the controversial amendment regarding the expansion of the National Air and Space Museum, which was added at the committee level during the 102d Congress.

As I have argued before, the need for a national museum is evident. Our Nation's Capital is home to the most comprehensive collection of American art and culture in the world, but the collection is far from complete. Out of 15 major museums and galleries, a zoological park, and 5 major research facilities; only one is solely devoted to African-American culture—the Anacostia Museum. African-Americans make up 12 percent of the population in the United States, yet they do not have a significant space in a national permanent collection. There are many wonderful private museums, such as the DuSable Museum in Chicago and the Dunham Foundation of Cultural Arts in St. Louis, that are dedicated to the preservation and presentation of African-American heritage. These museums contribute greatly to their communities, and should continue to do so. I do, however, believe that we should establish a truly national African-American museum—a museum that can stand as a national and international center for the presentation and preservation of African-American art, history, and culture.

A National African American Memorial Museum dedicated to education and to research would provide a broader and a better understanding of the outstanding contributions made by our African-American sisters and brothers to our culture and to the world. Museums are educational tools of immense power. There are over 40 million schoolchildren in the United States, 16.2 percent are African-American. These children, as do we all, need to learn about their ancestors' role in shaping this Nation.

Mr. President, these are understandably times of fiscal restraint. We have many issues abroad and at home that clamor for our immediate attention. However, the need for an understanding of our past, and our fellow Americans, demands our attention as well. When we understand our history, we can better understand ourselves. The history of the United States has been a history of struggle and conflict fueled by the belief in individual freedoms. The heritage of African-Americans reflects a unique and vital account of what is so fundamentally American, the pursuit of the freedoms afforded to all in a democracy. We cannot continue to leave the fabric unwoven, the picture incomplete.

In addition to the issues of preservation and education, there is another issue at stake here, and that is the issue of communication. The diverse population of the United States can communicate with one another, not just through words, but through the common experience of being American. Museums reflect the cultural content people share. Of the 30 million visitors to the Smithsonian every year, many are from other countries. These travelers use museums to gain cultural impressions and information. If we are to preserve and present the American heritage to all Americans and to the world, then we must include the contributions of African-Americans.

ESTABLISHING THE AFRICAN AMERICAN MUSEUM UNDER THE AUSPICES OF THE SMITHSONIAN INSTITUTION

Some have expressed concern about placing the museum within the Smithsonian given its poor record on minority issues. The committee believes that there is validity to this complaint; however, the committee is encouraged by the Smithsonian's expressed commitment to improve in this area.

The Smithsonian Institution's 5-year prospectus, "Choosing the Future," outlines the Smithsonian's commitment to cultural pluralism throughout the institution. Among the new initiatives are the wider recruitment, hiring, and retention of women and minority professionals, an increase in African-American programming, and more effective outreach to diverse cultural audiences. As stated in the prospectus:

The Institution is committed to changing its exhibitions and educational programs to provide the public with meaningful and comprehensive interpretations of all cultures. It has also committed to internal Institutional changes affecting the current profile of its workforce and the representation of cultures on its administrative and advisory boards and commissions.

The Smithsonian Institution would bring prominence and stature to the National African American Museum, as well as its 146 years of museum experience.

EXPANSION OF THE ANACOSTIA MUSEUM

A few have pointed to the Anacostia Museum as an example of a national African-American museum supported by the Smithsonian Institution. The Smithsonian created the Anacostia Museum as a neighborhood and community museum in 1967. It was never meant to be a world-class or national institution. It is the committee's intent, however, that the National African American Museum would not exist alone, but rather in cooperation with the Anacostia Museum, the National Afro-American Museum and Cultural Center at Wilberforce, the DuSable Museum, and other institutions devoted to the presentation and preservation of African-American history and culture.

AFRICAN AMERICAN MUSEUM BUILDING

Some have argued that the story of African-Americans could be told in a wing of an existing Smithsonian facility or in a location other than on or near The Mall. The committee believes that such a move would shortchange the extensive and extraordinary heritage of African-Americans. Relegating the African-American experience to a wing of an existing facility would not afford the African-American community the accord and acclaim it is due as a result of its rich heritage and contributions to the building of our great Nation. In addition, there are no Smithsonian facilities on The Mall that would accommodate the volume of materials anticipated for the national and international center showcasing African-American history and culture.

The Smithsonian Institution's African-American Institutional Study recommended that the Arts and Industries Building, located at 900 Jefferson Drive SW., Washington, DC be used to house the museum.

The Arts and Industries Building is the second oldest building on The Mall and is between the Hirshhorn Museum and the Smithsonian Castle. The building possesses 170,000 square feet, which makes it comparable in size to most midsized museums in this country. The choice of using an existing edifice over building a new museum not only preserves a historic building and will save millions of dollars, but will also allow the Smithsonian to respond more immediately to an underrepresented and underserved audience.

AVAILABILITY OF COLLECTIONS AND THE ROLE OF THE NATIONAL MUSEUM AND EXISTING MUSEUMS

I do not believe it is our role to determine what should or should not be exhibited or collected by the National African American Museum. We do encourage the Smithsonian Board of Regents and the National African-American Museum's Board of Trustees to consult with other African American museums, historically black colleges and universities, cultural and other organizations supportive of the National African-American Museum.

There are many wonderful private museums, such as the previously mentioned DuSable Museum in Chicago, IL, and the Dunham Foundation of Cultural Arts in St. Louis, MO, that are dedicated to the preservation and presentation of African-American heritage. These museums contribute greatly to their communities, and should continue to do so. It is our vision the National African American Museum would work in consultation and cooperation with existing appropriate institutions and organizations. For example, it would be appropriate for the National African American Museum to work with the African American Museum Association, the National Afro-American Museum and Cultural Center, and the Schomburg Center for Study of African American Life and History.

I urge my colleagues to join me in support of the National African American Museum Act, and its swift passage. I ask unanimous consent that the text of the bill follow my statement in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 277

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National African American Museum Act".

SEC. 2. FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) the presentation and preservation of African American life, art, history, and culture within the National Park System and other Federal entities is inadequate;

(2) the inadequate presentation and preservation of African American life, art, history, and culture seriously restricts the ability of the people of the United States, particularly African Americans, to understand themselves and their past;

(3) African American life, art, history, and culture includes the varied experiences of Africans in slavery and freedom and the continued struggles for full recognition of citizenship and treatment with human dignity;

(4) in enacting Public Law 99–511, the Congress encouraged support for the establishment of a commemorative structure within the National Park System, or on other Federal lands, dedicated to the promotion of understanding, knowledge, opportunity, and equality for all people;

(5) the establishment of a national museum and the conducting of interpretive and educational programs, dedicated to the heritage and culture of African Americans, will help to inspire and educate the people of the United States regarding the cultural legacy of African Americans and the contributions made by African Americans to the society of the United States; and

(6) the Smithsonian Institution operates 15 museums and galleries, a zoological park, and 5 major research facilities, none of which is a national institution devoted solely to African American life, art, history, or culture.

SEC. 3. ESTABLISHMENT OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

(a) ESTABLISHMENT.—There is established within the Smithsonian Institution a Museum, which shall be known as the "National African American Museum".

(b) PURPOSE.—The purpose of the Museum is to provide—

(1) a center for scholarship relating to African American life, art, history, and culture;

(2) a location for permanent and temporary exhibits documenting African American life, art, history, and culture;

(3) a location for the collection and study of artifacts and documents relating to African American life, art, history, and culture;

(4) a location for public education programs relating to African American life, art, history, and culture; and

(5) a location for training of museum professionals and others in the arts, humanities, and sciences regarding museum practices related to African American life, art, history, and culture.

SEC. 4. LOCATION AND CONSTRUCTION OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

The Board of Regents is authorized to plan, design, reconstruct, and renovate the Arts and Industries building of the Smithsonian Institution to house the Museum.

SEC. 5. BOARD OF TRUSTEES OF MUSEUM.

(a) ESTABLISHMENT.—There is established in the Smithsonian Institution the Board of Trustees of the National African American Museum.

(b) COMPOSITION AND APPOINTMENT.—

(1) IN GENERAL.—The Board of Trustees shall be composed of 23 members, appointed as follows:

(A) The Secretary of the Smithsonian Institution who shall serve as an ex officio member of the Board of Trustees.

(B) An Assistant Secretary of the Smithsonian Institution, designated by the Board of Regents.

(C) 1 Member of the House of Representatives appointed by the Speaker of the House from among the Speaker, Majority Leader, Minority Leader, Majority Whip or Minority Whip of the House of Representatives.

(D) 1 Member of the Senate appointed by the Majority Leader of the Senate from among the President pro tempore, Majority Leader, Minority Leader, Majority Whip or Minority Whip of the Senate.

(E) 5 individuals appointed by the Secretary of the Smithsonian Institution.

(F) 6 individuals appointed by the Smithsonian Board of Regents from among individuals nominated by the Congressional Black Caucus.

(G) 4 individuals appointed by the Board of Regents from among individuals nominated by the Board of the African American Museum Association.

(H) 4 individuals appointed by the Board of Regents.

(2) INITIAL APPOINTMENT SPECIAL RULE.—The Board of Regents shall make the first appointments pursuant to paragraph (1)(H)

from among the members of the initial Board of Trustees and pursuant to nominations received from the African American Institutional Study Advisory Committee of the Smithsonian Institution.

(c) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Board of Trustees shall be appointed for terms of 3 years. Members of the Board of Trustees may be reappointed.

(2) STAGGERED TERMS.—The terms of 7 of the members initially appointed under subparagraphs (C), (E), and (G) of subsection (b)(1), as determined by the Board of Regents, shall expire at the end of the 1-year period beginning on the date of appointment. The terms of 7 of the members initially appointed under subparagraphs (D), (F), and (H) of subsection (b)(1), as determined by the Board of Regents, shall expire at the end of the 2-year period beginning on the date of appointment. The terms of the remaining 7 members initially appointed under subparagraphs (C) through (H) of subsection (b)(1) shall expire at the end of the 3-year period beginning on the date of appointment.

(d) VACANCIES.—A vacancy on the Board of Trustees shall not affect its powers and shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of the term.

(e) NONCOMPENSATION.—Except as provided in subsection (f), members of the Board of Trustees shall serve without pay.

(f) EXPENSES.—Members of the Board of Trustees shall receive per diem, travel, and transportation expenses for each day, including traveltime, during which they are engaged in the performance of the duties of the Board of Trustees in accordance with section 5703 of title 5, United States Code, with respect to employees serving intermittently in the Government service.

(g) CHAIRPERSON.—The Board of Trustees shall elect a chairperson by a majority vote of the members of the Board of Trustees.

(h) MEETINGS.—The Board of Trustees shall meet at the call of the chairperson or upon the written request of a majority of its members, but shall meet not less than 2 times each fiscal year.

(i) QUORUM.—A majority of the Board of Trustees shall constitute a quorum for purposes of conducting business, but a lesser number may receive information on behalf of the Board of Trustees.

(j) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Board of Trustees may accept for the Board of Trustees voluntary services provided by a member of the Board of Trustees.

SEC. 6. DUTIES OF THE BOARD OF TRUSTEES OF THE MUSEUM.

(a) IN GENERAL.—The Board of Trustees shall—

(1) recommend annual budgets for the Museum;

(2) consistent with the general policy established by the Board of Regents, have the sole authority to—

(A) loan, exchange, sell, or otherwise dispose of any part of the collections of the Museum, but only if the funds generated by such disposition are used for additions to the collections of the Museum or for additions to the endowment of the Museum;

(B) subject to the availability of funds and the provisions of annual budgets of the Museum, purchase, accept, borrow, or otherwise acquire artifacts and other property for addition to the collections of the Museum;

(C) establish policy with respect to the utilization of the collections of the Museum; and

(D) establish policy regarding programming, education, exhibitions, and research, with respect to the life and culture of African Americans, the role of African Americans in the history of the United States, and the contributions of African Americans to society;

(3) consistent with the general policy established by the Board of Regents, have authority to—

(A) provide for restoration, preservation, and maintenance of the collections of the Museum;

(B) solicit funds for the Museum and determine the purposes to which those funds shall be used;

(C) approve expenditures from the endowment of the Museum, or of income generated from the endowment, for any purpose of the Museum; and

(D) consult with, advise, and support the Director in the operation of the Museum;

(4) establish programs in cooperation with other African American museums, historically black colleges and universities, historical societies, educational institutions, cultural and other organizations for the education and promotion of understanding regarding African American life, art, history, and culture;

(5) support the efforts of other African American museums, historically black colleges and universities, cultural and other organizations to educate and promote understanding regarding African American life, art, history, and culture, including—

(A) development of cooperative programs and exhibitions;

(B) identification, management, and care of collections;

(C) participation in the training of museum professionals; and

(D) creating opportunities for—

(i) research fellowships; and

(ii) professional and student internships;

(6) adopt bylaws to carry out the functions of the Board of Trustees; and

(7) report annually to the Board of Regents on the acquisition, disposition, and display of African American objects and artifacts and on other matters the Board of Trustees deems appropriate.

SEC. 7. DIRECTOR AND STAFF.

(a) IN GENERAL.—The Secretary of the Smithsonian Institution, in consultation with the Board of Trustees, shall appoint and fix the compensation and duties of a Director, Assistant Director, Secretary, and Chief Curator of the Museum and any other officers and employees necessary for the operation of the Museum and the carrying out of the duties of the Board. The Director, Assistant Director, Secretary, and Chief Curator shall be qualified through experience and training to perform the duties of their offices.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Secretary of the Smithsonian Institution may—

(1) appoint the Director and 5 employees under subsection (a), without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) fix the pay of the Director and such 5 employees, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

SEC. 8. DEFINITIONS.

For purposes of this Act:

(1) The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

(2) The term "Board of Trustees" means the Board of Trustees of the National African American Museum established in section 5(a).

(3) The term "Museum" means the National African American Museum established under section 3(a).

(4) The term "Arts and Industries building" means the building located on the Mall at 900 Jefferson Drive, S.W. in Washington, the District of Columbia.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $5,000,000 for fiscal year 1994 and such sums as may be necessary for each of the succeeding fiscal years.•

By Mr. DASCHLE (for himself, Mr. PRESSLER, Mr. CAMPBELL, and Mr. SIMON):

S. 278. A bill to authorize the establishment of the Chief Big Foot National Memorial Park and the Wounded Knee National Memorial in the State of South Dakota, and for other purposes; to the Committee on Energy and Natural Resources.

MEMORIAL ESTABLISHMENT ACT OF 1993

Mr. DASCHLE. Mr. President, today I am joining with my colleague from South Dakota, Senator PRESSLER, and Senators CAMPBELL and SIMON, to introduce legislation that would establish the Chief Big Foot National Memorial Park and the Wounded Knee National Memorial in South Dakota. The purpose of this effort is to acknowledge the historical significance of the armed struggle between the Plains Indians and the U.S. Army that culminated in the massacre of over 300 Lakota Sioux men, women, and children at Wounded Knee, SD, on December 29, 1890.

The historical importance of Wounded Knee is clear. This watershed event came at a time of great turbulence and upheaval for the Indians of the Plains, and it signaled an end to a tragic chapter of American history that is often referred to in history texts as the Indian wars. What is perhaps more significant is that it marked the turning point in national policy that forced tribes onto smaller and smaller reservations and toward greater and greater dependency on the Federal Government.

On December 15, 1890, Indian agents in the employ of the Government, concerned about the potential ramifications of a spiritual movement among the Sioux known as the Ghost Dance revival, attempted to arrest Chief Sitting Bull. When one of his followers shot at the Indian police, they returned fire, mortally wounding Sitting Bull.

Chief Big Foot, Sitting Bull's half brother, took in Sitting Bull's followers. The band fled from the Badlands toward the Pine Ridge Reservation. The U.S. Army intercepted the party and accepted an unconditional surrender from Chief Big Foot, and the entire band was escorted to Wounded Knee Creek.

A subsequent skirmish between several of Chief Big Foot's followers and soldiers was initiated by a single gunshot, the origin of which remains undocumented. This exchange quickly escalated into a largely one-sided volley of bullets, leaving approximately 350 to 370 Sioux men, women, and children dead or wounded. The U.S. Army suffered 60 casualties, many of whom were reportedly hit by bullets fired by their comrades.

Those are the facts of the Wounded Knee Massacre. One hundred years later, the 101st Congress passed Senate Concurrent Resolution 153, which acknowledged the carnage at Wounded Knee and expressed congressional support for the establishment of a suitable and appropriate memorial to those who were so tragically slain at Wounded Knee.

The bill we are introducing today gives substance to that sentiment.

Mr. President, considerable thought has been given to the Wounded Knee Memorial project. It has truly been a joint effort among representatives of the descendants of the victims and survivors of the Wounded Knee Massacre, the Oglala Sioux and Cheyenne River Sioux Tribal governments, Members of Congress, the State of South Dakota, and the Department of the Interior.

This effort has traveled a long road. Since 1950, Wounded Knee has been studied six times by the National Park Service and has been identified as a prime candidate for addition to the National Park System. Since 1987, the Lakota Tribes and the State of South Dakota have been cooperating to plan for the preservation and interpretation of Wounded Knee.

In Congress, the Senate Select Committee on Indian Affairs held hearings on proposals to establish a Wounded Knee Memorial and Historic Site on September 25, 1990 in Washington, and on April 30, 1991, at the Pine Ridge Indian Reservation.

In May 1991, at the request of the Lakota Sioux and with the support of the Secretary of the Interior, the National Park Service began a study to explore management alternatives for the Wounded Knee site. This process has included strong public participation from the Oglala Sioux Tribe, the Cheyenne River Sioux Tribe, and the Wounded Knee Survivors Associations.

In my mind, there is no doubt about our common goal—the establishment of the Chief Big Foot National Park and a Wounded Knee Memorial. However, I do not view the introduction of this legislation today as the culmination of this cooperative effort or the end of public comment.

There are a number of issues addressed in this bill that will require further discussion and refinement, and all interested parties will be encouraged to participate in this process. I anticipate that park service studies and congressional committees will devote additional time and energy to such issues as land acquisition for Chief Big Foot National Park, design of the Wounded Knee Memorial, and management of the national park and memorial. Additional input from the Oglala Sioux and Cheyenne River Sioux Tribal officials, the Wounded Knee Survivors Associations, individual tribal members, the State of South Dakota, the Department of the Interior, and Congress undoubtedly will further improve this project. I welcome debate on this proposal and look forward to participating in the deliberation process.

Mr. PRESSLER. Mr. President, I am pleased to join my South Dakota colleague, Senator DASCHLE, along with Senators CAMPBELL and SIMON in introducing legislation to establish the Chief Big Foot National Memorial Park and the Wounded Knee National Memorial in our home State of South Dakota. The purpose of this legislation is to acknowledge, preserve, and protect the historical sites of the Wounded Knee Massacre of 1890. National recognition is long overdue

For a number of years, the Wounded Knee Massacre has been an important issue to the U.S. Congress. During the 101st and 102d Congresses, the Senate Select Committee on Indian Affairs held hearings to discuss the historical significance of Wounded Knee. Also, during the 101st Congress, the Senate adopted a resolution in recognition of the 100th anniversary of the 1890 Wounded Knee Massacre. This resolution, which I cosponsored, expressed congressional support for the establishment of a suitable and appropriate memorial to those tragically slain in the 1890 massacre. Enactment of the legislation we are introducing today will bring reality to those congressional words of support.

Many Americans do not have a clear understanding of the historical events leading to the 1890 massacre. Conflicting versions of the historical chain of events exist. However, an article by Rev. Sidney Byrd, "The Betrayal at Wounded Knee Creek," provides an insightful native American account of this tragic chapter in American history. I ask unanimous consent that immediately following my remarks, a copy of Mr. BYRD'S article from the December 31, 1992 issue of Indian County Today be printed in the RECORD.

Proper acknowledgment of the 1890 Wounded Knee Massacre has been long overdue. In fact, the National Park Service has studied the historical significance of Wounded Knee six times since 1950. The Park Service consistently has reaffirmed it as a nationally significant area and a prime candidate for additional to the National Park System. The massacre sites must be preserved and protected.

When this legislation was first introduced late in the 102d Congress, both Senator DASCHLE and I stated that legislative revisions and fine tuning might be needed. In this effort, I look forward to working with my Senate colleagues, members of the Cheyenne River and Oglala Sioux Tribes, the Governor of South Dakota, the National Park Service, and other interested individuals and organizations. Above all, we must ensure this legislation is implemented with proper consultation with South Dakota's native American communities.

I urge my colleagues to join with us in support of this legislation. Its enactment will promote a greater understanding of the events associated with the Wounded Knee Massacre. In turn, America's appreciation of Indian culture, heritage, and history will be enhanced.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

(From Indian Country Today, Dec. 31, 1992)

WOUNDED KNEE REMEMBERED

(By Sid Byrd)

The story of the horrible massacre of innocent Sioux Indians at Wounded Knee Creek in South Dakota by soldiers of the U.S. Army at the end of the last century has been told and retold by many competent writers. However, most of these writers are white men. This does not mean their credibility is questioned. It just means there is another side to the story.

The military has always regarded that shameful slaughter as a glorious victory for Gen. George Armstrong Custer's former unit, the U.S. 7th Cavalry regiment. If one considers the ruthless murder of noncombatant women and children a triumphant conclusion of Indian wars, then a careful reexamination must be made of that tragedy from the victim's perspective.

This is in fairness to Chief Big Foot's memory. He died a martyr for embracing the Ghost Dance religion as freely as other men have embraced their religions.

This story is a memorial to Big Foot and to those who died with him. Thus, it seems appropriate to me to look closely at the other side of the valor claimed by the soldiers. There is a conviction among many Indians today that one of the darkest pages in the annals of military history was written that sad day on the banks of the Wounded Knee Creek.

These Indians have rightly judged that the opposite of valor is cowardice; of honor, disgrace; of devotion, hatred; and of duty, disloyalty. Their eyes perceive the actions of the soldiers differently. When you concluded this story, you may agree with them.

I am not in the twilight of my life, having survived for many winters and exceeding the life expectancy determined for us by the Bureau of Indian Affairs by several years. I was born and reared at the village of Porcupine, which is just seven miles north of the site of the killing ground at Wounded Knee.

I feel compelled to retell the story of what happened at Canke Opi Wakpala, the name given by the Sioux to Wounded Knee Creek. Time passes all too quickly and I must share this story with all my precious takojas, my grandchildren, before my eyes close in eternal slumber.

This is the story as told to me by our elders. In truth, it is their story.

As a small boy, I sat around campfires during our warm summer nights to share a meal from the cooking pots and to hear the old men talk. During our long winter months, I joined these Indian men as they gathered around a pot-bellied, wood-burning stove at the trading post. The old stove was always maintained at a comfortable rosy glow. Its warmth seemed to bring contentment to the old men. They huddled on the rough wooden benches circling the source of heat with their brown, wrinkled faces.

Many of their bodies were bent from the snows of many winters, but they were a cheerful group. At these leisurely gatherings, I would sit enthralled by the hour. The old men recounted our history, gave accounts of war deeds, imparted wisdom, shared their philosophies and told humorous tales.

Most of them knew me by my Lakota name. They would make room for me on one of the benches and say, "Hiyu wo, Hoksila Waste!" (Come, Good Boy!) Sometimes I would see a twinkle in their eyes and I knew I was in for a very special treat. They knew I cherished their association and companionship.

They also knew I was reared almost like an orphan by loving grandparents so they included themselves as a part of my extended family. I accepted them all as my grandparents, too. They took special pains to maintain and enhance our kinship ties. It is the way of our people. No one is ever without friends or relatives.

I considered it the highest tribute I could receive to be accorded an honored place in their circle of friendship at such a tender age. Quite frequently, I was invited to smoke socially with them from their red Calanite pipes. These quite interludes when we shared the pipe held no religious significance. They were intended to be only happy times used merely for relaxation and enjoyment.

These old men wanted to prepare me for manhood and to teach me proper lessons of etiquette so I would know how to behave in the true manner of a Lakota. I was their willing pupil. I am now a non-smoker, but to this day when I smell the sweet fragrance of cansasa, I am overwhelmed by a flood of good memories of all my beloved grandfathers.

If I were invited to share a pipe bowl full of cansasa today by an old grandfather, I would gladly accept and consider it a high honor.

Cansasa is kinnikinick, our Indian tobacco made from the inner bark of red willow.

Alas, these great philosophers, and tellers of tales of my boyhood have all departed to the Spirit World.

Their voices are silent forever. Their sounds of good-natured laughter will never be heard again in this life, but their memory will always live in the treasure house of my heart.

Our wealth is measured in other ways than that of the wasicuns (white men or Americans). They measure their wealth only in material gains. These old men who claimed me as their takoja were my first teachers.

To my knowledge, none of them ever went to school, but that didn't make any difference to me. They were the wisest men I have ever known. None spoke English, except to mimic the wasicun when he swore obscenities. This was always a source of amusement to the old men.

At these gatherings, I always maintained my place in respectful attention, speaking only when it was absolutely necessary. Mostly, I listened politely. Sometimes it was difficult to suppress my youthful exuberance, especially when I was excited. It was with considerable discipline that I was able to maintain my silence and proper decorum. At the same time, it was easy to give in to the wise elders who were always polite to their takoja. They were always kind, gentle, patient and tolerant with me. My love and respect for them has never diminished.

It was from these unlettered grandfathers that I was given excerpts of our local tradition. And from these sources I now attempt to reconstruct the story of the massacre at Wounded Knee Creek. I have never questioned the authenticity of these accounts nor have I questioned the reliability of the storytellers. That will remain for the critics. We have always had our share of detractors. In our traditional way, the wise speak and the young listen.

Thus, from the parfleche of my mind and from the winter count of my heart, I have drawn out precious bits and pieces of old tales. I now hand down to my dear takojas this collection of incidents as they were told to me by the Ancient Ones at whose feet I sat when the world was younger. I offer no apologies for them or for myself. Perhaps one day when we gather around that great campfire in the sky, we will hear the true story from the Grandfather of all grandfathers.

On Dec. 28, 1890, troops of the U.S. 7th Cavalry Regiment moved quickly near Porcupine Tail Butte in South Dakota on the Pine Ridge Indian Reservation. This was the same unit that had been soundly defeated and completely annihilated in the battle of the Little Big Horn under the command of Gen. George Armstrong Custer in Montana on June 25, 1876. On this late December day, 14 years later, four heavily armed troop columns under command of Maj. Samuel Whitside were the advance strike force which intercepted the Indians of Big Foot's band.

There had been increased tensions, suspicions, and threats because of the emergence of the Ghost Dance religion among the Plains Indians. Big Foot had fled to the sanctuary of the Badlands with his people to avoid any military confrontation. He realized war was no longer the way to settle disputes.

He knew to fight was futile since the enemy outnumbered him overwhelmingly and had superior weapons. He had seen the soldiers practice with their deadly big-gun-on-wheels at the fort. He sincerely desired peace and wanted to protect his band, most of whom were women and children.

However, fearful settlers and accommodating politicians demanded a military presence and a show of strength.

What Big Foot did not know was that a "Hit List" had been prepared by the War Department and issued to all Indian agents to arrest, on sight, those whose names appeared on the list, including Big Foot. He was considered one of the principal malcontents. His only crime was he had embraced a new religion! He was thought to be a zealot in the "Messiah Craze" movement, as the Ghost Dance religion was called.

Thus, what precipitated the eventual slaughter of almost the entire band of Indians at Wounded Knee Creek had at its core the right of religious freedom, which in turn lies at the foundation of this country's life. In this case, the white men very clearly and openly violated their own laws regarding religious freedom. They outlawed an Indian religion, kept theirs, and demanded the death penalty for the Indians.

What would have happened had the poor Pilgrims landing on our shores been told Christianity was outlawed and its practice punishable by death? Incredibly, in the case of Big Foot, the federal government determined what religion could be practiced by the Indians. To prove it would not tolerate any violations of its orders, the federal government sent out its troops to enforce its orders and to make the Indians comply.

War hysteria flamed the frontier because of the Ghost Dance religion which had been brought to the Plains Indians. Chief Sitting Bull was already dead. He was assassinated in the early morning hours at his home on Dec. 15, 1890, by a large detachment of Indian police under Lt. Bull Head. A supporting force of U.S. Cavalry eagerly waited only a short distance away, ready to rush in at a moment's notice with superior weapons.

The old chief was suspected of permitting the new religion to be brought from Nevada to South Dakota and advocating its adoption. These suspicions were totally unfounded. It is true that Kicking Bear and other self-appointed emissaries had made a pilgrimage to the Holy Land of the prophet, Wovoka.

They had an audience with him and when they returned they shared the news with Sitting Bull. However, it is doubtful that Tatanka Iyotanka was converted to the new religion. He was shot while resisting arrest, according to a report by Indian Agent James McLaughlin to Lt. Col. William F. Drum.

The latter had been issued orders to arrest Sitting Bull on the Standing Rock Indian Reservation in South Dakota. These orders were given by Gen. Nelson Miles. The wise old chief could only smile at the ridiculous charges brought against him. He was only slightly amused at the large movement of troops to quell religious gatherings of Indians.

Even in death, the renown he enjoyed in life followed him. Today, Tatanka Iyotanka, Chief Sitting Bull, is recognized as the most famous Indian leader in all history.

The new religion originated from Pyramid Lake in Nevada by a Paiute prophet whose name was Wovoka. He taught his followers that the buffalo herds would return and the Indians would be restored to their former days of power and glory. Also, long-departed loved ones would be seen. He further taught, when the believers donned their sacred vestments, they would be impervious to bullets.

These were specially made shirts painted with appropriate symbols and colors and ritualistically passed through the smoke of the prairie sage. Both the garment and its wearer had to be purified in an approved manner. This act was always performed by a designated leader in the movement. The white men called these garments "Ghost Shirts."

The religion offered hope, it appealed to an oppressed and struggling people. It is understandable why it attracted many adherents. While the religion was pacifistic in nature, distrustful whites feared it would foster a new surge of militancy among the western tribes.

Messengers located Big Foot's band in the Badlands. He was solemnly promised if he returned to the agency at Pine Ridge under a flag of truce, he would be given safe conduct, provided food and given medical attention.

Big Foot was suffering from pneumonia and he had a high fever at that time. He was further assured no harm would come to his people. He was doubtful the white men would keep their word. He had been lied to before by them.

He was aware of their past violations of good faith. All of their previous promises made to Indians were never kept. Why should he believe the white man had a sudden change of heart at this late date?

However, when he observed the emaciated bodies of his hungry people, especially the little children, he reluctantly consented to move to the agency. He had his criers call his people to prepare to move camp.

Accordingly, pieces of white cloth were placed on improvised staffs and attached to their wagon boxes. Others carried the staffs in their hands as they rode their gaunt ponies en route to the agency. The flags were clearly visible from a distance. The Indians had no reason to fear. They had given their word of honor. They fully expected the white men to honor their solemn pledge also. Some of the hardened warriors murmured among themselves, "Are we being led into a trap?"

Needless to say, the arrogant soldiers were spoiling for a fight. They wanted to avenge the utter defeat of their comrades in the earlier encounter with the Sioux and their allies, the Cheyenne. This happened 14 years earlier, during the battle at the Little Big Horn River in Montana on June 25, 1876.

Big Foot's band peacefully surrendered to the troops. They were escorted by grim-looking armed guards to the banks of Wounded Knee Creek, located only a few miles from Porcupine Tail Butte, a prominent landmark.

The Indians were instructed to pitch camp on the level ground near the stream. Maj. Whitside ordered his men to surround the Indians and secure the area. The soldiers immediately began to circle the camp. They also strategically emplaced two Hotchkiss cannons on a rise overlooking the campsite. These cannons were placed at point-blank range, at a distance no less than 100 yards. They were capable of firing a five-point explosive shell a minute.

Questions have always been raised why it was necessary to place these destructive weapons around the camp of innocent people who came under the flag of truce. When warring parties agree to live in peace, do they not refrain from making hostile moves?

Events that followed seem to confirm the Indians' suspicions that it was indeed a prearranged plan of treachery.

The nervous soldiers took extra precautions and wanted to make absolutely certain none of the Indians would escape. They finally had their captives where they wanted them, caught in the steel jaws of a trap. They didn't want to take any unnecessary chances.

As far as they were concerned, this was no ordinary escort detail. This was total war! The jittery soldiers checked and rechecked their weapons and ammunition.

Under cover of darkness, Col. James W. Forsythe, commander of the regiment, arrived with the rest of the troops and two additional Hotchkiss cannons. The guns were quickly emplaced in support positions. All was ready. The trap was set!

The jubilant men congratulated one another for the success of their mission. Temperatures began falling. They warmed themselves around a campfire and fortified their bellies with illegal whiskey.

Dec. 29, 1890, will always live in the memory of all Lakotas and their allies as a day of infamy. The sun broke bright and clear. The Indians were made to sit in rows as the soldiers resumed their search for weapons begun the previous day.

They went into the tents and tipis. These were some objections voiced by the Indians, especially the women. They saw their meager belongings being thrown indiscriminately into a pile in the center of the camp.

These objections were completely ignored by the soldiers. Instead they seemed to enjoy goading the Indians with sneers and insults, daring them to make a false move. Others made provocative gestures and taunted them. This vindictive mood was reflected in the events that followed. The Indians, however, did not move, but remained in their places on the ground.

No one really knows what happened next. Accounts vary. One describes a soldier demanding, in the name of the United States Government, a rifle hidden under an Indian's blanket. It was not actually hidden, but the manner in which rifles are normally carried by Indians gave the impression it was intentionally concealed. In any event, the soldier had orders to disarm hostile Indians and that was exactly what he intended to do.

The order was utterly ridiculous to the Indian. It made absolutely no sense. What did the United States Government have to do with his ownership of a rifle? He had paid dearly for it and needed it to feed his family. He had purchased it fairly from a white trader. He would give it up only if the soldier would compensate him for it in equal value.

Besides if the Indian was required to lay down his weapon, then the soldier should also lay down his rifle. The indignant soldier ignored the demand for compensation and refused to lay down his rifle as suggested. Instead the trooper insulted the Indian with a harsh slap across the face. The Indian shot him where he stood.

Just exactly what happened is unknown.

Perhaps it was the other way around and it was the soldier who shot the Indian in their argument over the rifle. This is but one account. For the most part, historians have relied almost exclusively on reports released by the U.S. Army while ignoring other sources of information, as if only the Army's version of conflicts with Indians was correct.

Another account as to who fired the first shot at Wounded Knee Creek tells of an Indian brandishing a rifle, holding it high over his head with both hands. A soldier shouted at him to place the rifle on the ground. When the Indian did not obey, he was shot in the back. He crumpled to the ground dead. The soldier quickly chambered another cartridge in his rifle in case he had to shoot again. It was later learned the Indian was deaf! The Great Spirit alone knows who fired the first shot.

In any case, a single shot rang out, like a signal, in the clear, cold air and reverberated across the rolling prairie. It was from a soldier's rifle since they were the only ones armed at that moment. All hell broke loose! Pandemonium exploded on the scene. There was mass confusion. Immediately the hopelessly outnumbered Indians engaged the soldiers in desperate hand-to-hand combat. They shouted to their women and children to run for cover, "*Inyanka po! Inyanka po!*" No one knows who gave the order, but the cannons opened up with their explosive shells with devastating effect.

They poured salvo after salvo of shell bursts into the small target area that was the Indian camp. Since there was no counter fire, the artillerymen conducted their mission like a training exercise, with deadly efficiency.

They ripped into the defenseless Indians and tore their tents and *tipis* into shreds. The cries of the women and children could be heard as they ran screaming into the ravines and away from the carnage. The cavalrymen rode after them on horseback, bashing in their heads with rifle butts and ripping open their bellies with sabers. Some older men could do no more than give their traditional guttural sound *(hna, hna)* of courage and defiance.

They stood bravely to meet their foe with only their bare hands and certain death. All were killed where they stood. Perhaps for them it was, "A good day to die!" A heavy cloud of acrid gunsmoke hung like a blanket over the campsite, symbolic burial scaffold for the Lakotas.

Later some of the bodies would be found four to five miles from the scene of the slaughter. The soldiers would whoop as they spotted another woman fleeing into the woods and gave chase on horseback. They made sport of it. These old women and young children never had a chance. It is said that shouts could be heard above the din, smoke and fire: "Remember the Little Big Horn!"

One Indian combatant, as he lay bleeding from his wounds, later said it was as if the soldiers were crazed by the sight of blood. They appeared wild-eyed as they shot again and again into some of the bodies. These supposedly seasoned troops acted as if they were possessed by the devil.

Another victim, a woman, miraculously escaped the barbaric blaze of gunfire in a clump of thickets in the ravine. Two terrified little girls came screaming by. She grabbed each of them and pulled them into the thicket with her. She quickly covered their mouths with her hands to silence them. When she looked up, she saw a mounted soldier leering wickedly at her and the children. He took deliberate aim, fired one shot, and killed the first little girl instantly.

The soldier calmly reloaded his rifle. The woman raised her arms to shield the second little girl. The soldier aimed carefully and shot his second victim. He loaded his rifle again. This time he shot the woman. She fell backwards out of the thicket. The soldier rode down into the ravine. The woman was still alive, but feigned death and lay perfectly still. He took out his long saber, lifted her skirt, exposing her thighs, grinned, and rode away. She survived the terrible ordeal and gave this account to Dr. Charles Eastman before she died from her wounds.

When the bloody massacre mercifully ended, the killing ground revealed more than 150 Indians and 25 soldiers dead by the official body count. This figure does not include the many Indians who later died from their wounds. There is no doubt most of the soldiers were caught in their own crossfire and killed by their own men. Most of the Indians were without weapons.

Two days were spent disarming them before the actual shooting began. The few weapons acquired by the Indians were taken in hand-to-hand combat. At a much later date, it was estimated only 50 Indians survived from the original 350 who made up the band at the time of Big Foot's arrest.

The officers commended their soldiers for excellence in performance of duty and for distinguishing themselves in the face of the enemy. This, in the highest tradition of the U.S. Army, bringing honor and credit to themselves and their country. The soldiers gleefully accepted what they considered their finest hour and a major military victory. They had successfully sprung the trap and defeated the enemy decisively. Custer's humiliation was avenged at last!

Big Foot, whom they regarded as a rebellious religious agitator, was dead and would pose no further threat. Perhaps at another time and under different circumstances, Si Tanka, as he was known to his own people, would have been honored as a religious reformer and leader. His spirituality and integrity would not have been questioned.

Incredibly, troopers of the proud U.S. 7th Cavalry regiment would be recommended for the Medal of Honor. This is the highest honor the United States Congress can bestow upon members of the military for gallantry above and beyond the call of duty. The "Long Knives," as the soldiers were called by the Indians, claimed this was their day.

Never in the history of our Armed Forces have so many been recommended for the medal for so brief an engagement, an action regarded as totally unwarranted and utterly disgraceful by decent, peaceloving people everywhere.

Later there would be an investigation and inquiry made by the higher echelons of the military brass into the conduct of the U.S. Army on this tragic occasion. The hearing was perfunctory in nature, held merely to satisfy critics. As always, the Army would not admit any wrongdoing.

It never has, and never will. This denial was consistent with past denials when the Army was questioned about atrocities perpetrated against Indian tribes. After all, did not the Army have orders to protect the frontier from marauding, uncivilized savages? Were they not mandated to ensure the peaceful expansion of progress to the Western shores and to secure land?

This prevailing attitude of the white settlers and military personnel was expressed in the popular wisdom of those days, which said, "The only good Indian is a dead Indian!" A few years ago, the Army reviewed all its records of "The Battle of Wounded Knee," as they called the massacre. After a lengthy study, the Army concluded it had indeed acted with compassion!

On the morning of Dec. 30, 1890, an Army burial detail was sent out to recover the dying and to bury the dead. It had snowed during the night and there had been freezing temperatures. The bodies of the dead were scattered over the prairies and in the ravines. They were frozen into grotesque shapes and covered with snow. While digging in the snow, the soldiers heard the pitiful cries of a baby. They followed the sound and discovered the infant under the body of her mother who had been mortally wounded.

Both were lying beneath a blanket of snow that had drifted over them during the night. It was immediately apparent what had happened. In her final moments the mother removed her blanket, wrapped the tiny baby, covered it with her own body for protection, and awaited death. The mother will always exemplify the noblest and highest expressions of selflessness and devotion of our Lakota women.

When all the bodies were collected, they were dumped unceremoniously into a large ditch that had been hurriedly dug out of the frozen ground. They were treated like animal carcasses. No religious rites were administered and no prayers offered. No one cared. Two eagles screamed as they soared high in the sky in a final tribute to the slain Indians.

Today a lonely stone marker stands on the hilltop overlooking the site of the killing ground. The marker is a reminder, lest we forget, of the final resting place of the first true American patriots and Freedom Fighters. They were denied citizenship and became prisoners in their own land. To use a military term, "They gave their last full measure of devotion." They died as countless other native peoples have died before them, defending their homeland and way of life from the relentless encroachment of invading hordes of foreigners greedily questing for gold, land, and other riches.

Their insatiable lust for land was, and is, both unbelievable and frightening. They trampled everything before them, despoiling and ravaging the land in an orgy of destruction. They completely ignored the original caretakers and stewards of the land as they stampeded westward, seeking more and more riches.

At the hearing conducted after the massacre, the Indian Agent asked one of the soldiers to justify killing small children. The trooper replied, "Sir, I am a soldier. I have been trained to kill the enemy. Besides, nits make lice and a rattlesnake is a rattlesnake!" Then he spat contemptuously and walked away.

This attitude was exemplified in many ways from the very beginning of the military's encounter with the Indians. For instance, in 1869, a Presbyterian missionary was sent to Arizona Territory to bring the Christian gospel to the Navajo people. Unfortunately, he arrived in the company of the U.S. 3rd Infantry. A newspaper of that day described the purpose of the troops as, "conversion and death to the heathens. Glory to God and our Cavalry."

A caravan of wagons brought the wounded and dying from Wounded Knee Creek to an old Episcopal Church at the agency village of Pine Ridge 15 miles away. The building was hastily converted into a field station to accommodate the broken and bleeding bodies.

Dr. Charles Eastman, a Senate Sioux whose Dakota name is Ohiyesa, or The Winner, had been appointed to serve the reservation only a month earlier by the U.S. Indian Service. He provided whatever medical care and attention he could. He was greatly hampered by the lack of equipment and modern medicine. Many died. Some whites suspected him of malpractice.

The old church had celebrated the birth of Jesus Christ, the Prince of Peace, a few days earlier. A homemade sign was left hanging above the altar from the celebration. It provided a fitting final benediction for Big Foot. The sign read: "Peace on earth, good will to men." Like the Prince of Peace, Big Foot had come in peace and was executed like a criminal.

Outside the church, old warriors wrapped in blankets stood in the swirling snow to chant their final death songs in the frosty air, concluding with their traditional sounds of courage. Some of them smote their breasts in their lament. Standing with them were the women. They had their hair cut jaggedly with knives as a sign of mourning. They wailed brokenly in their grief. Some of the old grandmothers could do no more than groan hoarsely as their frail bodies shook convulsively. Their tears were spent.

Meanwhile, guidons of the proud U.S. 7th Cavalry Regiment fluttered briskly in the wind. The troopers saluted their officers smartly as they trailed their cannons into the village.

They truly considered themselves conquering heroes. Wounded Knee Creek would be the site of the last major conflict between Indians and the U.S. Army. If there is a lesson to be learned from this experience, it is that Indians can live with pain, treachery, and broken promises. The dishonor does not belong to them.

Sometimes the wind blows over the hilltop at Wounded Knee Creek and moans its mournful death song for the heroes of Big Foot's band resting peacefully in the bosom of our Mother Earth. The soldier's guns are silent now as are the moan and groans of the Indians who died there.

Little children laugh and play on the grassy hillside, oblivious to what happened there one cold, winter day, many years ago. And now, I must bring this story to an end in loving tribute to Si Tanka, who was truly a man of peace. Ho, mitakojapi, iyuskinyan nape ciyuzapi yelo.

My grandchildren, I give you my hand of friendship. Hoksila Waste miye (I am, Good Boy).

By Mr. LIEBERMAN (for himself and Mr. BRYAN):

S. 279. A bill to prohibit the receipt of advance fees by unregulated loan brokers; to the Committee on Banking, Housing, and Urban Affairs.

ADVANCE FEE LOAN SCAM PREVENTION ACT OF 1993

• Mr. LIEBERMAN. Mr. President, I am pleased today, with Senator BRYAN, to reintroduce the Advance Fee Loan Scam Prevention Act of 1993. Introduced in the last Congress as S. 2578, this bill combats a type of scam being perpetrated by the bottom feeders of our society, who prey upon people's desperation during hard times. This bill is the result of a hearing held in December 1991 by the Governmental Affairs Committee's ad hoc Subcommittee on Consumer and Environmental Affairs, which I chaired. What we learned proves that when the going gets tough, the swindlers get going.

These schemes are devilishly simple. The perpetrator takes out an ad in the newspaper advertising his or her ability to help people secure a loan. When the consumer, who is usually down on his luck and being hounded by creditors, calls, he or she is told that to get a loan, they must pay a processing or good faith fee of anywhere from $100 to $100,000. The con artist then takes the money and runs. To add insult to injury, some of these con artists are even using 900 numbers to bilk even more money from the desperate. During my investigation, I received a letter from one woman who paid $50 just for the initial, 3-minute call to a 900 number in response to an ad promising easy credit cards.

I also learned that you can't even defend yourself by asking good questions. One loan broker, shut down by Connecticut Attorney General Richard Blumenthal, told potential victims:

He was a member of the Greater Hartford Chamber of Commerce—he was not;

His fees for services were refundable—most were not;

He guaranteed he would procure loans of from $1,000 to $10,000—he did not;

Loans would come within 14 days—they did not.

The recession, which is still going strong in much of our country, has turned America into a lucrative hunting ground for these scams. Boiler rooms around the country hum with activity, taking calls and money from desperate people in need of a loan. The Better Business Bureau estimated that financially strapped consumers and small businesses are losing a million dollars or more each month to loan broker con artists. That is a million dollars a month that could otherwise be used to help people and businesses stay afloat and recover.

At our hearing, we heard testimony about what the states are doing successfully to combat advance fee loan scams. Last year, Florida passed a law to prohibit unregulated loan brokers from charging advance fees, and it made violations of that law a felony. As a result, Florida saw an 85-percent drop in boiler rooms operating within its borders. Other States, including Connecticut, have moved to follow Florida's lead.

But these actions by the States cannot fully address this problem. Many of these loan scammers are sophisticated, and deliberately operate across States lines in order to attempt to frustrate State law enforcement efforts. Indeed, last December 38 States asked the Federal Trade Commission to facilitate a comprehensive, nationwide strategy to eradicate advance fee loan schemes.

This bill complements that effort. In this bill, we prohibit unregulated loan brokers from charging fees before closing a loan. Violators are subject to criminal penalties of up to 5 years in prison, fines, and civil forfeiture of all ill-gotten gains. The bill also gives the FTC the power to obtain refunds for consumers, damages and civil penalties of up to $10,000 per violation. Federal law enforcement officers will have a powerful tool that they can bring to bear to stop interstate advance fee loan fraud. Of course, this bill does not preempt State efforts to combat this problem.

Mr. President, it is my intent to seek to have this bill moved quickly this year. It is uncontroversial, and has been endorsed by the Mortgage Bankers Association.

I ask unanimous consent that the text of the letter to me from the Mortgage Bankers Association, and a copy of the bill be reprinted in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Advance Fee Loan Scam Prevention Act of 1993".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) LOAN BROKER.—The term "loan broker"—

(A) means any person who—

(i) for, or in expectation of, a consideration, arranges or attempts to arrange or offers to find for any individual, consumer credit;

(ii) for, or in expectation of, a consideration, assists or advises an individual on obtaining, or attempting to obtain, consumer credit; or

(iii) acts or purports to act for, or on behalf of, a loan broker for the purpose of soliciting individuals interested in obtaining consumer credit; and

(B) does not include—

(i) any insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), any insured credit union (as defined in section 101(7) of the Federal Credit Union Act), or any depository institution which is eligible for deposit insurance under the Federal Deposit Insurance Act or the Federal Credit Union Act and has deposit insurance coverage provided by any State;

(ii) any lender approved by the Federal Housing Administration, Farmers Home Administration, or Department of Veterans Affairs;

(iii) any seller or servicer of mortgages approved by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; or

(iv) any consumer finance company, retail installment sales company, securities broker or dealer, real estate broker or real estate salesperson, attorney, credit card company, installment loan licensee, mortgage broker or lender, or insurance company if such person is—

(I) licensed by and subject to regulation or supervision by any agency of the United States or by the State in which the person seeking to utilize the services of the loan broker resides; and

(II) is acting within the scope of that license or regulation.

(2) ADVANCE FEE.—The term "advance fee"—

(A) means any fee (including any advance payment of interest or other fees for any extension of consumer credit) which is assessed or collected by a loan broker from any person seeking the consumer credit before the extension of such credit; and

(B) does not include—

(i) any amount that the loan broker can demonstrate is collected solely for the purpose of payment to unaffiliated, third party vendors for actual expenses incurred and payable before the extension of any consumer credit; or

(ii) any application fee or other charge assessed or collected—

(I) by a retail seller of property that is primarily for personal, family, or household purposes or automobiles;

(II) in connection with a consumer credit transaction in which a purchase money security interest arising under an installment sales contract (or any equivalent consensual security interest) is created or retained against any such property or automobile being sold by the retail seller to the person seeking the extension of credit; or

(III) in connection with a residential real estate transaction that is secured by a first lien on the property, including a purchase, refinancing, or consolidation of an extension of credit.

(3) CONSUMER; CREDIT.—The terms "consumer" and "credit" have the meanings given to such terms in section 103 of the Truth in Lending Act.

SEC. 3. PROHIBITION ON ADVANCE FEES.

(a) IN GENERAL.—No loan broker may receive an advance fee in connection with—

(1) arranging or attempting to arrange consumer credit;

(2) offering to find for any individual consumer credit; or

(3) advising any individual as to how to obtain consumer credit.

(b) PROHIBITION ON FALSE OR MISLEADING REPRESENTATIONS.—No loan broker may—

(1) make or use any false or misleading representations or omit any material fact in the offer or sale of the service of a loan broker; or

(2) engage, directly or indirectly, in any act that operates or would operate as fraud or deception upon any person in connection with the offer or sale of the services of a loan broker, notwithstanding the absence of reliance by the person to whom the loan broker's services are offered or sold.

SEC. 4. ENFORCEMENT BY THE FTC.

Any violation of section 3 of this Act shall—

(1) be treated as a violation of a rule of the Federal Trade Commission issued pursuant to section 18(a)(1)(B) of the Federal Trade Commission Act; and

(2) be subject to enforcement by the Federal Trade Commission under the enforcement and penalty provisions applicable to violations of such rules.

SEC. 5. CRIMINAL PENALTY.

(a) IN GENERAL.—Whoever knowingly violates section 3 shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

(b) CIVIL FORFEITURE.—Section 981(a)(1)(C) of title 18, United States Code, is amended—

(1) by striking "title or a violation" and inserting "title, a violation"; and

(2) by inserting ", or a violation of section 5(a) of the Advance Fee Loan Scam Prevention Act of 1992" before the period.

(c) NONMAILABLE MATTER.—For purposes of section 3005(a) of title 39, United States Code, a violation of section 3 by any person shall constitute prima facie evidence that such person is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations.

MORTGAGE BANKERS
ASSOCIATION OF AMERICA,
Washington, DC, August 3, 1992.

Hon. JOSEPH I. LIEBERMAN,
502 Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR: The Mortgage Bankers Association of America would like to express its support for S. 2578, as amended. The "Advance Fee Loan Scam Prevention Act of 1992" would prohibit lenders or brokers from accepting upfront fees in certain credit transactions. The purpose of this legislation is to prevent situations where fees are collected from consumers, but credit is never extended.

We believe that the amendment to that legislation, which provides an exception from the legislation's coverage for first lien residential mortgage transactions, appropriately narrows the scope of this legislation to those areas of consumer credit where abuses have occurred. As introduced, the legislation provides definitions that exclude lenders or brokers who are federally or state licensed or regulated. Furthermore, the legislation allows a lender or broker to collect a fee where that fee will be paid for a third party service, such as a real estate appraisal fee or a charge for a credit report.

This legislation and these provisions of the bill appropriately recognize the nature of the mortgage lending business, as well as the fact that existing Federal statutes, notably Truth in Lending and the Real Estate Settlement Procedures Act, provide for significant disclosures and mandatory provision of information regarding fees and other elements of the mortgage transaction.

MBA supports this legislation and appreciates your addressing the concerns of the mortgage banking industry in the development of this legislation, so as not to impede the operation of the mortgage application process.

Sincerely,

MICHAEL J. FERRELL.●

By Mrs. KASSEBAUM:

S.J. Res. 38. A joint resolution designating March 20, 1993, as "National Quilting Day"; to the Committee on the Judiciary.

NATIONAL QUILTING DAY

Mrs. KASSEBAUM. Mr. President, I rise today to introduce a resolution to designate March 20, 1993, as "National Quilting Day."

The story of quilts is the story of the early American pioneers and of our country's heritage. During the westward migration, quilts served as shelter when draped as tents or hung as room dividers, as shrouds for death, and for some, quilts served as luggage as they bound their possessions in them in preparation for the journey westward.

By the mid-1850's, women had begun quilting for hire, charging a fee to customers who supplied the patchwork materials. Yet women continued the tradition of combining needlework with social activities, to welcome newcomers to towns and to build strong bonds of friendship. These ladies' social clubs flourished in Kansas and elsewhere providing a social network for quiltmaking activities that continues to the present day.

The art of quiltmaking found its way into the 20th century as Eleanor Roosevelt incorporated them into the New Deal. Under the provisions of Work Projects Administration, hundreds of women learned the art of quiltmaking to combat the economic hardships brought on by the Depression. Later these quilting projects were integrated into the war effort upon the outbreak of World War II.

During the 1970's, quilting became an important focus in feminist art, literature, and history, and was seen as a traditional woman's art form with important contributions to society and culture. The American bicentennial celebration in 1976 broadened the popular interest in quilts as a link to both craftsmanship and history.

Mr. President, I ask my colleagues to cosponsor this resolution and thus pay tribute to the thousands of quilters in the United States.

ADDITIONAL COSPONSORS

S. 1

At the request of Mr. KENNEDY, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Iowa [Mr. HARKIN], the Senator from Utah [Mr. HATCH], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 1, a bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes.

S. 3

At the request of Mr. BOREN, the names of the Senator from Connecticut [Mr. DODD], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 3, a bill entitled the "Congressional Spending Limit and Election Reform Act of 1993".

S. 4

At the request of Mr. HOLLINGS, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 4, a bill to promote the industrial competitiveness and economic growth of the United States by strengthening and expanding the civilian technology programs of the Department of Commerce, amending the Stevenson-Wydler Technology Innovation Act of 1980 to enhance the development and nationwide deployment of manufacturing technologies, and authorizing appropriations for the Technology Administration of the Department of Commerce, including the National Institute of Standards and Technology, and for other purposes.

S. 7

At the request of Mr. DOLE, the names of the Senator from Montana [Mr. BURNS], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 7, a bill to amend the Federal Election Campaign Act of 1971 to reduce special interest influence on elections, to increase competition in politics, to reduce campaign costs, and for other purposes.

At the request of Mr. MCCONNELL, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 7, supra.

S. 9

At the request of Mr. MCCAIN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 9, a bill to grant the power to the President to reduce budget authority.

S. 10

At the request of Mr. CRAIG, the names of the Senator from New Mexico [Mr. DOMENICI], the Senator from Mississippi [Mr. COCHRAN], the Senator from South Carolina [Mr. THURMOND], the Senator from Alaska [Mr. STEVENS], the Senator from Virginia [Mr. WARNER], the Senator from New Hampshire [Mr. SMITH], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 10, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the adoption of flexible family leave policies by employers.

S. 11

At the request of Mr. BIDEN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 11, a bill to combat violence and crimes against women on the streets and in homes.

S. 15

At the request of Mr. ROTH, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 15, a bill to establish a Commission on Government Reform.

S. 26

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 26, a bill to amend the Internal Revenue Code of 1986 to end deferral for United States shareholders on income of controlled foreign corporations attributable to property imported into the United States.

S. 27

At the request of Mr. SARBANES, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Florida [Mr. GRAHAM], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 27, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 30

At the request of Mr. MCCAIN, the names of the Senator from Washington [Mr. GORTON], the Senator from Mississippi [Mr. LOTT], the Senator from Virginia [Mr. WARNER], the Senator from Alaska [Mr. STEVENS], the Senator from Nevada [Mr. BRYAN], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 30, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 31

At the request of Mr. MCCAIN, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 31, a bill to amend title XVIII of the Social Security Act to repeal the reduced Medicare payment provision for new providers.

S. 67

At the request of Mrs. KASSEBAUM, the names of the Senator from Utah [Mr. HATCH], and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 67, a bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents.

S. 81

At the request of Mr. NICKLES, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 81, a bill to require analysis and estimates of the likely impact of Federal legislation and regulations upon the private sector and State and local governments, and for other purposes.

S. 88

At the request of Mr. LUGAR, the names of the Senator from Utah [Mr. BENNETT], and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 88, a bill to amend the National School Lunch Act to remove the requirement that schools participating in the school lunch program offer students specific types of fluid milk, and for other purposes.

S. 103

At the request of Mr. NICKLES, the names of the Senator from Utah [Mr. BENNETT], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 103, a bill to fully apply the rights and protections of Federal civil rights and labor laws to employment by Congress.

S. 107

At the request of Mr. MOYNIHAN, the name of the Senator from Rhode Island [Mr. CHAFEE] was withdrawn as a cosponsor of S. 107, a bill to mandate a study of the effectiveness of a National Drug Strategy and to provide for an accounting of funds devoted to its implementation, and for other purposes.

S. 152

At the request of Mr. PRESSLER, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 152, a bill to amend the Mount Rushmore Commemorative Coin Act to conform to the intent of Congress.

S. 164

At the request of Mr. DASCHLE, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 164, a bill to authorize the adjustment of the boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest, and for other purposes.

S. 171

At the request of Mr. GLENN, the names of the Senator from Rhode Island [Mr. PELL], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 171, a bill to establish the Department of the Environment, provide for a Bureau of Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes.

S. 178

At the request of Mr. MOYNIHAN, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 178, a bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber and 9 millimeter ammunition.

S. 179

At the request of Mr. MOYNIHAN, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 179, a bill to tax 9 millimeter, .25 caliber, and .32 caliber bullets.

S. 185

At the request of Mr. GLENN, the names of the Senator from Colorado [Mr. CAMPBELL], the Senator from Ohio [Mr. METZENBAUM], the Senator from New Mexico [Mr. BINGAMAN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Maryland [Ms. MIKULSKI], the Senator from Vermont [Mr. JEFFORDS], the Senator from Nevada [Mr. BRYAN], the Senator from Delaware [Mr. BIDEN], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 185, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the nation, to protect such employees from improper political solicitations, and for other purposes.

S. 186

At the request of Mr. REID, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 186, a bill to require reauthorizations of budget authority for Government programs at least every 10 years, to provide for review of Government programs at least every 10 years, and for other purposes.

S. 210

At the request of Mr. WOFFORD, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 210, a bill to provide for cost-of-living adjustments for pay and retirement benefits for Members of Congress and certain senior Federal officials to be limited by the amount of social security cost-of-living adjustments, and for other purposes.

S. 214

At the request of Mr. THURMOND, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Alaska [Mr. STEVENS], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of S. 214, a bill to authorize the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict.

S. 222

At the request of Mr. WELLSTONE, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 222, a bill to require the Commissioner of Food and Drugs to collect information regarding the drug RU-486 and review the information to determine whether to approve RU-486 for marketing as a new drug, and for other purposes.

S. 235

At the request of Mr. REID, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 235, a bill to limit State taxation of certain pension income, and for other purposes.

S. 236

At the request of Mr. MCCAIN, the names of the Senator from Arizona [Mr. DECONCINI], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 236, a bill to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

S. 254

At the request of Mr. JOHNSTON, the names of the Senator from Louisiana [Mr. BREAUX], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 254, a bill to amend the Internal Revenue Code of 1986 to impose a fee on the importation of crude oil or refined petroleum products.

S. 257

At the request of Mr. BUMPERS, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 257, a bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

S. 261

At the request of Mr. LAUTENBERG, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 261, a bill to protect children from exposure to environmental tobacco smoke in the provision of children's services, and for other purposes.

S. 262

At the request of Mr. LAUTENBERG, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 262, a bill to require the Administrator of the Environmental Protection Agency to promulgate guidelines for instituting a nonsmoking policy in buildings owned or leased by Federal agencies, and for other purposes.

SENATE JOINT RESOLUTION 11

At the request of Mr. SARBANES, the names of the Senator from Minnesota [Mr. WELLSTONE], the Senator from Hawaii [Mr. AKAKA], the Senator from Michigan [Mr. LEVIN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from South Carolina [Mr. THURMOND], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from California [Mrs. BOXER], the Senator from Rhode Island [Mr. PELL], the Senator from Virginia [Mr. WARNER], the Senator from Arizona [Mr. DECONCINI], the Senator from Tennessee [Mr. SASSER], the Senator from Kansas [Mr. DOLE], the Senator from Louisiana [Mr. BREAUX], the Senator from Connecticut [Mr. DODD], the Senator from California [Ms. FEINSTEIN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Arkansas [Mr. BUMPERS], the Senator from New York [Mr. MOYNIHAN], the Senator from Virginia [Mr. ROBB], the Senator from Maine [Mr. MITCHELL], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 11, a joint resolution to designate May 3, 1993, through

May 9, 1993, as "Public Service Recognition Week".

SENATE JOINT RESOLUTION 20

At the request of Mr. BRYAN, the names of the Senator from Utah [Mr. BENNETT], the Senator from Rhode Island [Mr. PELL], the Senator from Delaware [Mr. BIDEN], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 20, a joint resolution to designate February 7, 1993, through February 13, 1993, and February 6, 1994, through February 13, 1994, as "National Burn Awareness Week".

SENATE JOINT RESOLUTION 21

At the request of Mr. THURMOND, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Maryland [Mr. SARBANES], the Senator from Michigan [Mr. LEVIN], the Senator from Ohio [Mr. METZENBAUM], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Alaska [Mr. STEVENS], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Joint Resolution 21, a joint resolution to designate the week beginning September 19, 1993, as "National Historically Black Colleges and Universities Week".

SENATE JOINT RESOLUTION 22

At the request of Mr. SPECTER, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Tennessee [Mr. SASSER], the Senator from Nevada [Mr. BRYAN], the Senator from Maryland [Ms. MIKULSKI], the Senator from Alabama [Mr. SHELBY], the Senator from Michigan [Mr. LEVIN], the Senator from Arizona [Mr. DECONCINI], the Senator from Maryland [Mr. SARBANES], the Senator from Wisconsin [Mr. KOHL], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Hawaii [Mr. INOUYE], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Rhode Island [Mr. PELL], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Michigan [Mr. RIEGLE], the Senator from Connecticut [Mr. DODD], the Senator from California [Ms. FEINSTEIN], the Senator from Delaware [Mr. BIDEN], the Senator from Ohio [Mr. GLENN], the Senator from Alabama [Mr. HEFLIN], the Senator from Delaware [Mr. ROTH], the Senator from North Carolina [Mr. HELMS], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Georgia [Mr. COVERDELL], the Senator from Virginia [Mr. WARNER], the Senator from Missouri [Mr. DANFORTH], the Senator from South Dakota [Mr. PRESSLER], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of Senate Joint Resolution 22, a joint resolution designating March 25, 1993 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".

SENATE JOINT RESOLUTION 27

At the request of Mr. MOYNIHAN, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 27, a joint resolution providing for the appointment of Hanna Holborn Gray as a citizen regent of the Board of Regents of the Smithsonian Institution.

SENATE JOINT RESOLUTION 28

At the request of Mr. MOYNIHAN, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 28, a joint resolution to provide for the appointment of Barber B. Conable, Jr., as a citizen regent of the Board of Regents of the Smithsonian Institution.

SENATE JOINT RESOLUTION 29

At the request of Mr. MOYNIHAN, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 29, a joint resolution providing for the appointment of Wesley Samuel Williams, Jr., as a citizen regent of the Board of Regents of the Smithsonian Institution.

SENATE JOINT RESOLUTION 30

At the request of Mr. D'AMATO, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Virginia [Mr. WARNER], the Senator from Washington [Mr. GORTON], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Wisconsin [Mr. KOHL], the Senator from Tennessee [Mr. SASSER], the Senator from Illinois [Mr. SIMON], the Senator from Connecticut [Mr. DODD], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Pennsylvania [Mr. SPECTER], the Senator from California [Ms. FEINSTEIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Nevada [Mr. REID], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Washington [Mrs. MURRAY], the Senator from Maine [Mr. MITCHELL], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 30, a joint resolution to designate the weeks of April 25 through May 2, 1993, and April 10 through 17, 1994, as "Jewish Heritage Week".

SENATE RESOLUTION 13

At the request of Mrs. KASSEBAUM, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Resolution 13, a resolution to amend the rules of the Senate to improve legislative efficiency, and for other purposes.

SENATE RESOLUTION 35

At the request of Mr. LAUTENBERG, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Michigan [Mr. LEVIN], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of Senate Resolution 35, a resolution expressing the sense of the Senate concerning systematic rape in the conflict in the former Socialist Federal Republic of Yugoslavia.

SENATE RESOLUTION 49—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. KENNEDY, from the Committee on Labor and Human Resources, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 49

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Labor and Human Resources is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $5,412,714, of which amount not to exceed $30,900 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $5,530,058, of which amount not to exceed $30,900 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 50—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. Res. 50

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing, and Urban Affairs is authorized from March 1, 1993, through February 29, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or non-reimbursable, basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 29, 1994, under this resolution shall not exceed $3,386,083, of which amount not to exceed $1,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $3,458,110, of which amount not to exceed $1,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long distance telephone calls, or for the payment of stationery supplies purchased through the Keeper of Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 29, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 51—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON ARMED SERVICES

Mr. NUNN, from the Committee on Armed Services, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. Res. 51

Resolved, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $3,132,733, of which amount (1) not to exceed $24,300 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $3,200,710, of which amount (1) not to exceed $25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 29, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 52—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE, from the Select Committee on Indian Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. Res. 52

Resolved, That, in carrying out its powers, duties and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rules XXV of such rules, including holding hearings, reporting such hearings, making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Select Committee on Indian Affairs is authorized from March 1, 1993 through February 28, 1994, and March 1, 1994 through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the Select Committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $1,197,940, of which amount not to exceed $4,846 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $7,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period of March 1, 1994 through February 28, 1995, expenses of the Committee under this resolution, shall not exceed $1,221,872, of which amount (1) not to exceed $4,846 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $7,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Committee, except that vouchers shall not be required for the (1) disbursement of salaries of employees paid at an annual rate, or (2) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the Committee from March 1, 1993 through February 28, 1994, and March 1, 1994 through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 53—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAUCUS, from the Committee on Environment and Public Works, reported the following original resolution; which was referred to the Committee on rules and Administration:

S. RES. 53

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Environment and Public Works is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $2,874,715, of which amount (1) not to exceed $8,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $2,874,715, of which amount (1) not to exceed $8,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 54—COMMENDING PRESIDENT BUSH ON CONCLUSION OF THE START II TREATY

Mr. MCCAIN (for himself, Mr. DOLE, and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 54

Whereas on January 3, 1993, President George Bush and President Boris Yeltsin signed the Treaty on Further Reduction and Limitation of Strategic Offensive Arms (START II);

Whereas, as a result of the implementation of the START I and START II treaties, the immediate threat of nuclear war will be reduced by creating a more stable mix of nuclear weapons between the world's two foremost nuclear powers;

Whereas the START treaties will eliminate heavy ICBMs and multiple-warhead ICBMs, weapons which have long been the most destabilizing weapons associated with the East-West arms race;

Whereas the threat of a first strike in the event of renewed hostilities with the former Soviet Union would be greatly reduced;

Whereas nuclear weapons remain a central element of United States force structure and an essential element of its national security;

Whereas the START II Treaty allows the United States to maintain its nuclear triad with a more stable mix of weapons while maintaining United States security in the event of political instability in Russia; and

Whereas the START II Treaty continues the stringent verification regime of the first START agreement, thereby reducing the risk of conscious Russian non-compliance: Now, therefore, be it

Resolved, That the Senate—

(1) commends George Bush on the successful conclusion of the START II Treaty;

(2) having received the START II Treaty from the President, intends to take up the Treaty at the earliest possible moment in pursuit of its Constitutional duty to advise and consent to the ratification of treaties;

(3) calls on President Clinton to encourage ratification of START II by the Russian Parliament;

(4) calls on President Clinton to encourage the ratification of START I by the parliaments of Belarus and Ukraine; and

(5) calls on President Clinton to support appropriate forms and levels of assistance to the republics of the former Soviet Union as a means to secure the timely implementation of the START I and START II treaties.

• Mr. MCCAIN. Mr. President, with the conclusion of the START II, the threat of nuclear war has been greatly reduced and our relationship with the Republics of the former Soviet Union reestablished on a mutually more secure basis. For this historic achievement we owe President George Bush, and I rise today to introduce a resolution, on behalf of myself, Senator DOLE and Senator LUGAR, commending him for his efforts.

George Bush and his predecessor, Ronald Reagan, cannot take sole responsibility for ending the cold war. We owe that victory to many American policy makers, from Paul Nitze and the founders of American post World War II foreign policy through successive administrations since the end of World War II.

We owe victory to the millions of service men and women who stood watch in Europe for over half a century. They prepared to fight a war of apocalyptical proportions in the cause of freedom and because of their commitment to freedom and excellence, war never came to the heart of Europe.

Finally, we owe victory to the American taxpayer who sacrificed in the name of peace and freedom.

George Bush and Ronald Reagan can be given credit, however, for renewing the American commitment to winning the cold war at a crucial point in the history of American foreign policy. Their efforts layed the ground for this fourth in a series of treaties concluded in the Reagan-Bush era that makes our world more secure. George Bush can also be given credit for wrestling successfully with the complex issues of arms control, where every stroke of the pen carries implications for American national security.

The START II treaty itself is a testament to President Bush's understanding of American security interests. There is no need to go over all the details of the treaty. In the weeks to come the Senate will be formally offered its advice and consent to ratification of the treaty. However, before this process begins in earnest and abstraction and detail separate American security from the individuals who did such a great deal to guarantee it, I would like to mention some of its most salient aspects. They are the aspects of the treaty outlined in the resolution.

The START II treaty will eliminate heavy ICBM's and multiple-warhead

ICBM's and cut strategic nuclear forces by two-thirds by the year 2003. The reductions create a more stable mix of nuclear weapons and greatly reduce the possibility of a first strike by Russia in the event of renewed hostilities.

The terms of the treaty recognize the fact that nuclear weapons remain a central element of U.S. force structure and an essential element of our national security. It maintains our commitment to the security of Europe and recognizes that for the foreseeable future, tactical nuclear weapons on air, sea, and land will be a part of this commitment.

Most importantly, the treaty reflects George Bush's understanding that effective arms control is best measured in terms of security, not the reduction of weapons.

If the recognition of George Bush's achievement is threatened by the necessarily complex examination of the treaty ahead, it is also threatened by a view of history that sees developments as impersonal and inevitable. There is nothing impersonal or inevitable about the end of the cold war. There should be no mistake: History is made by great men. George Bush seized upon the opportunities provided him vis-a-vis the Soviet Union and made history.

Following the coup attempt in August 1991, George Bush took advantage of the weakness of regressive forces in the Soviet Union to make unilateral changes in American nuclear forces. Among other steps he announced on September 27, 1991, he took American strategic bombers off alert, announced the withdrawal of nuclear weapons from surface ships and attack submarines, and announced the intent to destroy nuclear artillery shells and Lance missile warheads deployed in Europe. Mikhail Gorbachev responded by offering his own unilateral measures.

In December 1991, George Bush was offered another opportunity to secure a safer world when the Soviet Union collapsed and became a collection of 12 independent Republics. In response, George Bush announced on January 28, 1992, the cancellation of the small ICBM program and capped the B–2 program at 20 aircraft. It was once again the Russians who responded to George Bush's initiatives. The following day Boris Yeltsin announced a series of unilateral measures affecting Russian nuclear posture.

In response to both crises, George Bush also sought bilateral agreement on the elimination of the most destabilizing weapons of the cold war, multiple warhead intercontinental ballistic missiles.

The culmination of these initiatives was the announcement on January 3, 1993, that Boris Yeltsin and George Bush had reached agreement on START II.

President Clinton has repeatedly emphasized the need for continuity and bipartisanship in American foreign policy. He is right to do so. In the area of arms control, he would be well advised to continue the policies of President George Bush.

George Bush is now back in the "grandfather business," but he left Washington having secured a more stable world where, as he said so many times, our grandchildren will not have to live with constant threat of nuclear war.●

SENATE RESOLUTION 55—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GLENN, from the Committee on Governmental Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 55

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Governmental Affairs is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994 through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $5,603,819, of which amount (1) not to exceed $417,926 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $2,470 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $5,213,729, of which amount (1) not to exceed $49,326 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $2,470 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. (a) The committee, or any duly authorized subcommittee thereof, is authorized to study or investigate.

(1) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of government funds in transactions, contracts, and activities of the government or of government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public.

(2) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(3) organized criminal activities which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(4) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud and the use of offshore banking and corporate facilities to carry out criminal objectives;

(5) The efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(A) The effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(B) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(C) the adequacy of present intergovernmental relations between the United States and international organizations principally concerned with national security of which the United States is a member; and

(D) legislative and other proposals to improve these methods, processes, and relationships;

(6) The efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(A) the collection and dissemination of accurate statistics on fuel demand and supply;

(B) the implementation of effective energy conservation measures;

(C) the pricing of energy in all forms;

(D) coordination of energy programs with State and local government;

(E) control of exports of scarce fuels;

(F) the management of tax, import, pricing, and other policies affecting energy supplies;

(G) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(H) the allocation of fuels in short supply by public and private entities;

(I) the management of energy supplies owned or controlled by the Government;

(J) relations with other oil producing and consuming countries;

(K) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(L) research into discovery and development of alternative energy supplies; and

(7) the efficiency and economy of all branches and functions of government with particular reference to the operations and management of Federal regulatory policies and programs: *Provided*, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of any particular branch of the Government; but may extend to the records and activities of any persons, corporation, or other entity.

(b) Nothing contained in this section shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(c) For the purpose of this section the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, is authorized, in its, his, or their discretion (1) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents, (2) to hold hearings, (3) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate, (4) to administer oaths, and (5) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.

(d) All subpoenas and related legal processes of the committee and its subcommittee authorized under S. Res. 62 of the One Hundredth Second Congress, second session, are authorized to continue.

SEC. 4. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery keeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 6. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 56—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON FINANCE

Mr. MOYNIHAN, from the Committee on Finance, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 56

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Finance is authorized from March 1, 1933, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $4,185,586, of which amount (1) not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $4,289,738, of which amount (1) not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments of the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 57—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON THE BUDGET

Mr. SASSER, from the Committee on the Budget, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 57

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion—

(1) to make expenditures from the contingent fund of the Senate,

(2) to employ personnel, and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $3,424,833, of which amount—

(1) not to exceed $20,000 may be expended for the procurement of the services of individual paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion—

(1) to make expenditures from the contingent fund of the Senate,

(2) to employ personnel, and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $3,424,833, of which amount—

(1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and

(2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(i) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $3,499,838, of which amount—

(1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(j) of the Legislative Reorganization Act of 1946, as amended), and

(2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for—

(1) the disbursement of salaries of employees paid at an annual rate,

(2) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate,

(3) the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate,

(4) payments to the Postmaster, United States Senate,

(5) the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or

(6) the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations".

SENATE RESOLUTION 58—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS, from the Committee on Small Business, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 58

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2(a) The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $1,137,330, of which amount (1) not to exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $1,161,856, of which (1) not to exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 59—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON VETERANS' AFFAIRS

Mr. ROCKEFELLER, from the Committee on Veterans' Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 59

Resolved, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $1,253,028, of which not to exceed $3,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $1,253,028, of which not to exceed $3,000 may be expended for training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for: (1) The disbursement of salaries of employees paid at an annual rate, or (2) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

AMENDMENTS SUBMITTED

FAMILY AND MEDICAL LEAVE ACT OF 1993

GRASSLEY (AND OTHERS) AMENDMENT NO. 3

(Ordered to lie on the table.)

Mr. GRASSLEY (for himself, Mr. DURENBERGER, and Mr. DANFORTH) submitted an amendment intended to be proposed by them to the bill (S. 5) to grant family and temporary medical leave under certain circumstances, as follows:

In section 107(a) of the bill, strike paragraphs (2) through (4) and insert after paragraph (1) the following:

(2) JURISDICTION.—

(A) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of—

(i) the employees; or

(ii) the employees and other employees similarly situated.

(B) RELATIONSHIP WITH ARBITRATION PROCEDURES.—No court shall have jurisdiction to render a judgment in such an action unless the court complies with the requirements of paragraphs (3) and (4) relating to arbitration and continuation of such an action after arbitration.

(3) ARBITRATION.—

(A) SENSE OF CONGRESS.—It is the sense of Congress that parties with a dispute regarding rights provided under this title should attempt to resolve the dispute without resort to litigation.

(B) ARBITRATION.—

(i) IN GENERAL.—The parties to an action brought under paragraph (2) may, if the parties agree, submit the dispute to nonbinding arbitration in accordance with this paragraph.

(ii) NOTIFICATION.—Each judge assigned to an action brought under paragraph (2) shall conduct a conference with the parties, and with counsel for the parties unless inappropriate, within 90 days after the complaint relating to the action is filed, to notify the parties of the availability of arbitration under this paragraph that may be used in lieu of litigation to resolve the complaint.

(iii) REQUEST.—Not later than 30 days after receiving the notification described in clause (ii), the parties may file a request for arbitration with the Secretary regarding the complaint. Such request shall include a copy of the complaint. The Secretary shall by regulation specify procedures for filing the request.

(iv) SELECTION OF ARBITRATOR.—

(I) LIST.—Not later than 10 days after receiving such a request regarding an eligible employee and an employer, the Secretary shall make available to the employee and employer a list of not fewer than seven arbitrators. Such list shall include, at a minimum, two names provided by the Federal Mediation and Conciliation Service. Each arbitrator on the list shall possess such qualifications as the Secretary, in consultation with the Federal Mediation and Conciliation Service and the Administrative Conference of the United States, shall by regulation specify.

(II) SELECTION.—The eligible employee and employer shall choose a mutually acceptable arbitrator (referred to in this paragraph as the "arbitrator") from the list provided by the Secretary. If the employee and employer are unable to agree on an arbitrator, the Secretary shall appoint the arbitrator.

(III) HEARING DATE.—The eligible employee and employer shall schedule a mutually acceptable date to conduct a hearing with the arbitrator under subparagraph (C), which hearing shall take place not more than 60 days after the date of choosing the arbitrator. The Secretary or the arbitrator may grant an extension of the hearing date for good cause shown.

(C) HEARING.—

(i) IN GENERAL.—The arbitrator shall conduct a hearing regarding the complaint referred to in subparagraph (B)(ii) in accordance with the procedures set forth in this subparagraph.

(ii) DISCOVERY.—The eligible employee and employer shall be entitled to make appropriate requests for discovery prior to the hearing. The Secretary, in consultation with the Federal Mediation and Conciliation Service and the Administrative Conference of the United States, shall by regulation specify the appropriate scope for the discovery requests. The ruling of the arbitrator on the discovery requests shall be final, binding, and nonreviewable.

(iii) EVIDENCE.—The arbitrator shall preside over the hearing and take into consideration written and oral evidence on the record as presented by the eligible employee and the employer. The arbitrator may utilize the Federal Rules of Evidence as a guideline for determining the admissibility of evidence during the hearing, but the Federal Rules of Evidence shall not be determinative.

(iv) DECISION.—The arbitrator shall issue a written decision to the eligible employee and the employer not later than 30 calendar days after the last day of the hearing. The decision shall be final and nonreviewable.

(D) REMEDY.—

(i) IN GENERAL.—The remedies applicable to individuals who demonstrate a violation of a provision of sections 101 through 105 shall be such remedies as would be appropriate if awarded under paragraph (1).

(ii) FEES.—The arbitrator, in the discretion of the arbitrator, may award reasonable attorney's fees and arbitrator's fees to a prevailing party in a hearing brought under subparagraph (C).

(E) ACCEPTANCE OR REJECTION OF DECISION.—Not later than 30 days after receipt of a final decision under subparagraph (C), each of the parties shall give notice with respect to each claim that is the subject of the arbitration that the party accepts, or that the party rejects, the decision of the arbitrator. If any party rejects the decision with respect to such a claim, the parties shall continue with the action described in paragraph (2) with respect to such claim. Such action shall be a trial de novo.

(4) FEES AND COSTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the court in such an action may, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(B) ASSESSMENT IN ACTIONS CONTINUED AFTER ARBITRATION.—In any action continued after arbitration under paragraph (3)—

(i) an eligible employee who rejects the decision of the arbitrator under such paragraph shall pay the employer's costs, as set forth in section 1920 of title 28, United States Code, and attorney's fees, as set forth in subparagraph (D), with respect to a claim, that are incurred after the rejection of the decision if—

(I) with respect to a claim seeking monetary compensation (which compensation shall be calculated as the total of damages, equitable monetary relief, and interest, and attorney's fees attributable to arbitration, that are sought with respect to the claim), the employee fails to obtain a final judgment regarding the monetary compensation that is at least 10 percent greater than the monetary compensation awarded under the decision; or

(II) with respect to a claim seeking equitable relief not described in subclause (I), the employee fails to obtain equitable relief;

(ii) an employer who rejects such a decision shall pay such costs and fees, with respect to a claim, that are incurred after the rejection of the decision if—

(I) with respect to a claim seeking monetary compensation (as described in clause (i)(I)), the employer fails to obtain a final judgment regarding the monetary compensation that is at least 10 percent less than the monetary compensation awarded under the decision; or

(II) with respect to a claim seeking equitable relief not described in subclause (I), the employee obtains equitable relief;

(iii) if all of the parties reject the determination, no costs or attorney's fees shall be assessed against any party; and

(iv) the court may, in addition to any judgment, costs, and attorney's fees awarded in the action, allow reasonable expert witness fees to be paid by the nonprevailing party.

(C) LIMITATION IN ACTIONS CONTINUED AFTER ARBITRATION.—In any action continued after arbitration under paragraph (3)—

(i) the amount of costs and attorney's fees paid by a party under subparagraph (B) with respect to a claim shall not exceed the amount of the costs and attorney's fees of the party against whom the fees are assessed with respect to the claim; and

(ii) expert witness fees paid by the nonprevailing party shall not exceed the amount of the expert witness fees of the nonprevailing party.

(D) PROCEDURES FOR AWARDING FEES.—A party seeking an award of attorney's fees in an action described in paragraph (2) shall file an application for fees with the court before which the action is brought within 30 days after final judgment in the action involved. The application shall show that the party is eligible to receive an award under this section and the amount sought, including an itemized statement from any attorney appearing on behalf of the party that sets forth the actual time expended and the rate at which fees are computed. Within 30 days after service of the fee application upon the party against whom the fees are sought to be awarded, such party may file a response setting forth reasons why an award of fees would not be reasonable or why the amount of fees should be reduced.

(5) LIMITATIONS.—The right provided by paragraph (2) to bring an action by or on behalf of any employee shall terminate—

(A) on the filing of a complaint by the Secretary in an action under subsection (d) in which restraint is sought of any further delay in the payment of the amount described in paragraph (1)(A) to such employee by an employer responsible under paragraph (1) for the payment; or

(B) on the filing of a complaint by the Secretary in an action under subsection (b) in which a recovery is sought of the damages described in paragraph (1)(A) owing to an eligible employee by an employer liable under paragraph (1), unless the action described in subparagraph (A) or (B) is dismissed without prejudice on motion of the Secretary.

(6) OTHER REVIEW.—No person may commence a civil action to enforce a right provided under this title except—

(A) in accordance with this section; or

(B) in an action brought under the Constitution.

In section 501(e) of the bill, strike "(3)" and insert "(4)".

CRAIG (AND OTHERS) AMENDMENT NO. 4

Mr. CRAIG (for himself, Mr. DOLE, Mr. HATCH, Mr. SIMPSON, Mr. GRASSLEY, Mr. BURNS, Mr. KEMPTHORNE, Mr. DOMENICI, Mr. COCHRAN, Mr. THURMOND, Mr. STEVENS, Mr. WARNER, Mr. SMITH, Mr. PRESSLER, and Mr. BENNETT) proposed an amendment to the bill S. 5, supra, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. FAMILY LEAVE CREDIT.

(a) CREDIT CREATED.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45A. FAMILY LEAVE CREDIT.

"(a) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the amount of the family leave credit for any employer for any taxable year is 20 percent of the qualified compensation with respect to an employee who is on family leave.

"(2) LIMITATIONS ON AVAILABILITY AND AMOUNT OF CREDIT.—

"(A) FEWER THAN 500 EMPLOYEES.—An employer is not entitled to a family leave credit for any taxable year unless—

"(i) in the case of an employer that is in its first taxable year, the employer had fewer than 500 employees at the close of that year, and

"(ii) in the case of other employers, the employer averaged fewer than 500 employees for its preceding taxable year.

An employer is considered to average fewer than 500 employees for a taxable year if the sum of its employees on the last day of each quarter in that year divided by the number of quarters is fewer than 500.

"(B) DOLLAR CAP ON QUALIFIED COMPENSATION.—The amount of qualified compensation that may be taken into account with respect to an employee may not exceed $100 per business day.

"(C) MAXIMUM PERIOD OF FAMILY LEAVE.—No family leave credit will be available to the extent that the period of family leave for an employee exceeds 12 weeks, defined as 60 business days, in any 12-month period.

"(D) ADDITIONAL LIMITATION ON LEAVE FOR PERSONAL SERIOUS HEALTH CONDITIONS.—Leave from an employer in connection with a qualified purpose described in subsection (b)(2)(D) will qualify as family leave only if the employee on leave has no unused sick, disability or similar leave.

"(b) FAMILY LEAVE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, an employee is considered to be on 'family leave' if the employee is on leave from the employer in connection with any qualified purpose.

"(2) QUALIFIED PURPOSES.—The term 'qualified purposes' means—

"(A) the birth of a child,

"(B) the placement of a child with the employee for adoption or foster care,

"(C) the care of a child, parent or spouse with a serious health condition, or

"(D) the treatment of a serious health condition which makes the employee unable to perform the functions of his or her position.

"(3) DEFINITIONS OF CHILD, PARENT AND SERIOUS HEALTH CONDITION.—

"(A) CHILD.—The term 'child' means an individual who is a son, stepson, daughter, stepdaughter, eligible foster child as described in sections 32(c)(3)(B)(iii) (I) and (II), or legal ward of the employee or employee's spouse, or a child of a person standing in loco parentis and who either has not reached the age of 19 by the commencement of the period of family leave or is physically or mentally incapable of caring for himself or herself.

"(B) PARENT.—The term 'parent' means an individual with respect to whom the employee would be considered a 'child' within the meaning of subparagraph (A) without regard to the age limitation.

"(C) SERIOUS HEALTH CONDITION.—The term 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves the inpatient care in a hospital, hospice or residential health care facility, or substantial and continuing treatment by a health care provider.

"(c) CREDIT REFUNDABLE.—In the case of so much of the section 38 credit as is attributable to the family leave credit—

"(1) section 38(c) will not apply, and

"(2) for purposes of this section, such credit will be treated as if it were allowed under subpart C of this part.

"(d) NONDISCRIMINATION REQUIREMENT.—The family leave credit is available to an employer for a taxable year only if the employer provides family leave to its employees for that year on a nondiscriminatory basis.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) IN GENERAL.—For purposes of this section—

"(A) EMPLOYER.—Except as otherwise provided in this subpart, the term 'employer' has the meaning provided by section 3306(a) (1) and (3).

"(B) EMPLOYEE.—The term 'employee' includes only permanent employees who have been employed by the employer for at least 12 months and have provided over 1000 hours of service to the employer during the 12 months preceding commencement of the family leave.

"(C) QUALIFIED COMPENSATION.—The term 'qualified compensation' means the greater of—

"(i) cash wages paid or incurred by the employer to or on behalf of the employee as remuneration for services during the period of family leave, and

"(ii) cash wages that would have been paid or incurred by the employer to or on behalf of the employee as remuneration for services during the period of family leave had the employee not taken the leave.

"(D) COMPUTATION.—For purposes of subparagraph (C)(ii), the amount of cash wages that would have been paid to the employee for any business day the employee is on family leave is the average daily cash wages of that employee for the four calendar quarters preceding the commencement of the family leave.

"(E) AVERAGE DAILY CASH WAGES.—For purposes of the computation described in subparagraph (D), an employee's average daily cash wages is his or her total cash wages for the period described in such subsection divided by the number of business days in that period.

"(F) BUSINESS DAY.—The term 'business day' includes any day other than a Saturday, Sunday or legal holiday.

"(2) EMPLOYMENT AND BENEFITS PROTECTION.—

"(A) IN GENERAL.—Leave taken under this section shall qualify an employer for a family leave credit only if—

"(i) upon return from such leave, the employee is entitled to be restored by the employer to the position of employment held by the employee when the leave commenced, or to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment;

"(ii) the taking of such leave does not result in the loss of any employment benefit accrued prior to the date on which the leave commenced; and

"(iii) the employer maintains coverage under any 'group health plan' (as defined in section 5000(b)(1)) for the duration of such leave, at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously during the leave period.

"(B) LIMITATION.—Nothing in this paragraph shall be construed to require an employer, as a condition of qualifying for a family leave credit, to entitle any employee taking leave to—

"(i) the accrual of any seniority or employment benefits during any period of leave; or

"(ii) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

"(3) EXPECTATION THAT EMPLOYEE WILL RETURN TO WORK.—No family leave credit will be available for any portion of a period of family leave during which the employer does not reasonably believe that the employee will return from leave to work for the employer.

"(4) SPECIAL RULES.—Rules similar to the rules of section 52 shall apply for purposes of this section.

"(5) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including guidance relating to ensuring adequate employment and benefits protection and guidance to prevent abuse of this section.".

(b) CORPORATE ESTIMATED TAX PROVISIONS.—

(1) INCREASE IN ESTIMATED TAX.—

(A) IN GENERAL.—Subsection (d) of section 6655 of such Code (relating to amount of required installments) is amended—

(i) by striking "91 percent" each place it appears in paragraph (1)(B)(i) and inserting "97 percent",

(ii) by striking "91 PERCENT" in the heading of paragraph (2) and inserting "97 PERCENT", and

(iii) by striking paragraph (3).

(B) CONFORMING AMENDMENTS.—

(i) Clause (ii) of section 6655(e)(2)(B) of such Code is amended by striking the table contained therein and inserting the following new table:

"In the case of the following required installments:	The applicable percentage is:
1st	24.25
2nd	48.5
3rd	72.75

"In the case of the following required installments:	The applicable percentage is:
4th	97."

(ii) Clause (i) of section 6655(e)(3)(A) of such Code is amended by striking "91 percent" and inserting "97 percent".

(2) MODIFICATION OF PERIODS FOR APPLYING ANNUALIZATION.—

(A) Clause (i) of section 6655(e)(2)(A) of such Code is amended—

(i) by striking "or for the first 5 months" in subclause (II),

(ii) by striking "or for the first 8 months" in subclause (III), and

(iii) by striking "or for the first 11 months" in subclause (IV).

(B) Paragraph (2) of section 6655(e) of such Code is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION FOR DIFFERENT ANNUALIZATION PERIODS.—

"(i) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '4 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '7 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '10 months' for '9 months'.

"(ii) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '5 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '8 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '11 months' for '9 months'.

"(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the second required installment for such taxable year."

(C) The last sentence of section 6655(g)(3) of such Code is amended by striking "and subsection (e)(2)(A)" and inserting "and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)".

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall apply to taxable years beginning after December 31, 1996.

(B) The amendments made by paragraph (2) shall apply to taxable years beginning after December 31, 1992.

(c) COORDINATION WITH REFUND PROVISION.—For purposes of section 1324(b)(2) of title 31 of the United States Code, section 45A of the Internal Revenue Code of 1986 (as added by this Act) will be considered to be a credit provision of the Internal Revenue Code of 1954 enacted before January 1, 1978.

(d) CONFORMING AMENDMENTS.—

(1) Section 38 of such Code is amended by deleting the "plus" after subsection (b)(7) and "." after subsection (b)(8), by inserting ", plus" after subsection (b)(8), and by adding a new subsection (b)(9) to read as follows:

"(9) the family leave credit under section 45A."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 45A. Family leave credit."

(e) EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this section shall apply to family leave that commences 90 days after the date of the enactment of this Act.

GORTON AMENDMENT NOS. 5 THROUGH 8

(Ordered to lie on the table.)

Mr. GORTON submitted four amendments intended to be proposed by him to the bill S. 5, supra; as follows:

AMENDMENT NO. 5

On page 8, strike lines 17 through 20, and insert the following:

(7) PARENT.—The term "parent" means an individual who was the biological parent, adoptive parent, legal guardian, or stepparent of an employee when the employee was a son or daughter.

On page 9, strike lines 13 through 16, and insert the following:

(12) SON OR DAUGHTER.—The term "son or daughter" means a biological or adopted child, a stepchild, a legal ward, or a child placed for adoption, who is—

On page 36, strike lines 12 through 15, and insert the following:

"(3) the term 'parent' means an individual who was the biological parent, adoptive parent, legal guardian, or stepparent of an employee when the employee was a son or daughter;

On page 37, strike lines 3 through 6, and insert the following:

"(6) the term 'son or daughter' means a biological or adopted child, a stepchild, a legal ward, or a child placed for adoption, who is—

AMENDMENT NO. 6

On page 13, between lines 12 and 13, insert the following:

(C) CONSTRUCTION.—No provision of this title shall be construed to require an employer, in providing leave under subsection (a)(1), to provide to an employee more than 12 workweeks of such leave in total during any 12-month period.

AMENDMENT NO. 7

On page 19, lines 11 and 12, strike "HIGHLY COMPENSATED EMPLOYEES" and insert "KEY PERSONNEL".

On page 19, line 15, strike "described in paragraph (2)" and insert "who is designated under paragraph (2)(A), or, if no employee is so designated, who is deemed to be designated under paragraph (2)(B)".

On page 20, strike lines 1 through 6, and insert the following:

(2) AFFECTED EMPLOYEES.—

(A) DESIGNATED EMPLOYEES.—

(i) IN GENERAL.—The employee may designate as key personnel up to 10 percent of the eligible employees of the employer at a facility, or employed within 75 miles of the facility.

(ii) BASIS.—An employer shall not designate key personnel on the basis of age, race, color, sex, or national origin, or for the purpose of evading the requirements of this title. No employer may designate an eligible employee as a member of the key personnel of the employer after the employee gives notice of intent to take leave pursuant to section 102.

(iii) MANNER.—Designations of employees as key personnel shall be in writing and shall be displayed in a conspicuous place described in section 109(a).

(iv) EFFECTIVE DATE.—Any designation made under this subparagraph shall take effect 30 days after the designation is issued and may be changed not more than once in any 12-month period.

(B) EMPLOYEES DEEMED TO BE DESIGNATED.—Until an employer designates key personnel under subparagraph (A), an eligible employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed shall be deemed to be designated as a member of the key personnel of the employer.

AMENDMENT NO. 8

On page 13, strike lines 14 through 24 and insert the following:

(1) REQUIREMENT OF NOTICE.—

(A) IN GENERAL.—

(i) NOTICE.—In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or placement, the employee shall provide the employer with not less than 30 days' written notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph.

(ii) DATES; SCHEDULE.—Such notice shall state the dates during which the employee intends to take leave or provide a schedule under which the employee intends to take intermittent or reduced leave.

(B) EXCEPTIONS.—The employee shall take the leave described in subparagraph (A)(i) in accordance with the dates or schedule stated in the notice unless—

(i) the birth is premature;

(ii) the employee must care for a son or daughter because the mother is so incapacitated due to the birth that the mother is unable to care for the son or daughter;

(iii) the employee takes physical custody of a child being placed for adoption at an unanticipated time and is unable to give notice 30 days in advance of such time; or

(iv) the employer and employee agree to alter the dates of leave, or the schedule of leave, stated in the notice.

(C) REVISED DATE OR SCHEDULE.—In a case referred to in subparagraph (B), the employee must give such notice of revised dates during which the employee intends to take the leave, or a revised schedule under which the employee intends to take the leave, as is practicable, but at least 1 workday of notice before the date the leave is to begin.

On page 14, line 13, insert "written" after "days"'.

On page 14, line 18, after "practicable" insert the following: ", but at least 1 workday of notice before the date the leave is to begin".

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL RESEARCH, CONSERVATION, FORESTRY AND GENERAL LEGISLATION

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research, Conservation, Forestry and General Legislation will hold a hearing on food safety and Government regulation of coliform bacteria. The hearing will be held on Friday, February 5, 1993, at 10:30 a.m. in SR–332. Senator TOM DASCHLE will preside.

For further information please contact Ted Sullivan at 224–2321.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, February 2, 1993, at 10 a.m. to hold an open confirmation hearing on the nomination of R. James Woolsey to be Director of Central Intelligence.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup after the first rollcall after 2 p.m. on Tuesday, February 2, 1993. The markup will be held in the Reception Room.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE 1992 GOLDEN APPLE AWARD WINNERS

• Ms. MURRAY. Mr. President, as our country turns to President Clinton's challenge to rebuild America, it will find that the foundation for this goal rests on our children. They are the bricks and mortar that hold our communities together. In his inaugural speech, the President declared that there is nothing that is wrong with America that cannot be cured with what is right about America. Today, I stand before Congress in praise of those who demonstrate what is right about America. These are the winners of Seattle's public broadcasting station KCTS's Golden Apple awards to outstanding schools and teachers, recognized for exceptional teaching and educational innovation. The awards were presented in conjunction with the Citizens Education Center; KSPS-TV, Spokane and KYVE-TV, Yakima.

The following are 1992 Golden Apple Award winners:

THE 1992 GOLDEN APPLE AWARD WINNERS

DIANE BOISEN, CENTENNIAL ELEMENTARY SCHOOL, MOUNT VERNON

Diane Boisen's experience with the Inclusion Program shows that developmentally disabled children can be mainstreamed into the classroom with positive results for everyone involved. Boisen worked closely with Centennial's developmental classroom teacher to bring three Down's Syndrome children into her 2nd grade class and then was involved in preparing the other kids to learn to be peer helpers. The children became adept at helping and guiding the Down's Syndrome children, while learning the importance of letting them complete activities by themselves. The children became wonderful supporters to not only the Down's children but to all of their peers. A sense of responsibility and achievement were the prizes for all of the students in Boisen's class.

SUE GILLELAND, PHANTOM LAKE ELEMENTARY SCHOOL, BELLEVUE

Sue Gilleland wants every student to share her enthusiasm for science and math, so she began two after-school programs to reach students—particularly females and ethnic minorities—most likely to avoid those subjects. In the past three years, the Math Club for Girls at Phantom Lake has proven to be a popular activity. Intermediate-aged girls are learning real life math skills while being encouraged to persevere in math and rise above the peer pressure and stereotyping of "smart" girls. Gilleland's work with the Family Science Program encourages whole families to get involved in hands-on science activities where technology becomes a nonthreatening tool for learning and having fun.

HENRY FRIEDMAN, CHAIRMAN OF THE WASHINGTON STATE HOLOCAUST EDUCATION RESOURCE CENTER, SEATTLE

To Henry Friedman, teaching about the Holocaust is not just another history lesson, but a proven way for students to study the moral and social implications of racism and hatred. In 1990, Friedman founded the Washington State Holocaust Education Resource Center and through his work with schools, discovered the need for proper Holocaust teaching methods and materials. To answer these needs, the Resource Center is working with the Superintendent of Public Instruction's office to develop a five-day lesson plan on the Holocaust for middle and high school students, and has been given a grant to produce a videotape for teachers on how to teach the Holocaust. The Resource Center also arranges for Holocaust survivors to go to schools and talk about their experiences with students. As one of these speakers, Friedman has spoken to thousands of students throughout Washington state, relating his experiences in hiding from the Nazis with his family for 17½ months under very severe conditions. His story hits home for his young audiences, as one student wrote after hearing Friedman, "The message I got from Holocaust survivor Mr. Friedman was very clear. Not to hate anyone for anything or any reason."

DANIEL JURDY, RAINIER BEACH HIGH SCHOOL, SEATTLE

"Mr. Jurdy teaches lessons in biology and lessons in life," says a student in one of his biology courses. Indeed, Jurdy says he sees science as a vehicle for teaching survival skills, particularly learning about team work. Jurdy is known for dedicating much of his evening and weekend time to helping students prepare for the advance Placement Biology Examination. In conjunction with the South Pacific Islanders Dropout Prevention Program, Jurdy set up a general science class aimed at sparking an interest in science among Pacific island students who had failed science more than once. Students excelled in the class, with all of them receiving an A or B at the end of the first quarter.

CRAIG MACGOWEN; GARFIELD HIGH SCHOOL, SEATTLE

At Garfield High, 91 percent of the school's 1,300 students enroll in science classes, and a look at Craig MacGowen's leadership in the Marine Science Program makes it evident why these classes are so popular. MacGowen's students have studied marine life on the beaches of the San Juan Islands and the geology of eastern Washington lakes, and—with fundraising efforts—have even gone as far as Australia, Ecuador, and Papua New Guinea. The students then visit elementary schools to begin fostering excitement about marine life and science. The Marine Science Program has attracted support from several organizations, including the Seattle Parks Department, Explorer Scouts, NOAA, and the University of Washington College of Fisheries.

JERRY DEAN NAUDITT, YWCA TRANSITION SCHOOL; SPOKANE

Motivating students to love learning is a challenge for any teacher. But in Jerry Dean Nauditt's classroom it is even more difficult since the students he teaches come from dysfunctional homes or are homeless. Jerry teaches 5th through 8th grade students at a transitional school run by Spokane School District and the YWCA. His students are often at varying stages in their academic development and he structures the curriculum to try to meet the needs of each individual. Nauditt's goal is to help these children, who come from homes where little or no support is offered, know that life can be better and that they can succeed. As one of Jerry's colleagues stated, "In a world where nobody much notices, Mr. Nauditt expresses his caring for these kids on a daily basis."

HILDA SHEPARD, ADAMS ELEMENTARY SCHOOL, YAKIMA

How do you make a child feel at home in the classroom when they don't speak the language? That is the challenge faced by Hilda Shepard in her work as a bilingual teacher's aide at Adams Elementary School. Over the seven years Hilda has worked with the Bilingual, Migrant, and Chapter I programs, she stresses the importance of learning, self esteem, and parental involvement in education despite the barrier of language. Along with her regular classroom duties, Hilda does all translations of report cards, school newsletters, and parent-teacher conferences, facilitating communication between teachers and the families of Spanish speaking students. She also works many extra hours helping her students' families find jobs, housing, food, medical care, and legal assistance. As a colleague noted, "Hilda's instruction of English as a second language is outstanding. Her students feel important and worthwhile. They are proud of their heritage while learning a new language and culture." Hilda says her real reward will come in 1993, when she will see the first of her students graduate from high school.

ORONDO SCHOOL DISTRICT, ORONDO

With just 250 students, the Orondo School District, located north of Wenatchee, has made sweeping changes that have energized staff, students, parents, and the community. In just two years, student achievement scores have climbed from the 30th percentile to the 62nd percentile. This change reflects the innovative new programs now in place at Orondo, including preschool for all 3- and 4-year-olds, enrichment and extension activities available after school, and a 200-day school year with the extra 20 days falling in July and attended by 90 percent of the students. The district boasts a model drop-out retrieval program, small class sizes, a home liaison program to help families, and a program that gives each student in grades 1 to 6 a half-hour of computer instruction every day. The Orondo School District is truly the heart of its community, with school open literally all day every day, offering learning activities for people of all ages.

POWERFUL SCHOOLS, SEATTLE

Powerful Schools is a diverse group of parents, staff and neighbors of Hawthorne, Muir, Orca, and Whitworth elementary schools who have joined with members of the Mount Baker Community Club and the Columbia City Neighbors Association to create world-class schools in Seattle's Rainier Valley. Their goals are simple: to improve student performance for all children, strengthen neighborhoods through expanded use of school facilities, and to serve as a model to empower neighbors, parents, and students in creating world-class schools. Powerful Schools promotes cooperation—rather than competition—between schools and creatively pools resources to benefit all those involved. In its first two years of operation, Powerful Schools has achieved success through innovative programs like "The Parent Involvement Incentive Program" where each elementary school received funding to hire and train 10 low-income parents to work in the school 30 hours a week as library technicians, aides in the kitchen and classrooms, and in the computer lab. Results of this program include a decrease in absenteeism, a dramatic decrease in discipline referrals, and a significant improvement in academic performance. Powerful School's approach of bringing people together, utilizing community talents to develop activities such as after-school enrichment programs and homework centers, and emphasizing parent involvement is a visionary approach to school reform.

SKYLINE ELEMENTARY SCHOOL, FERNDALE

At Skyline Elementary School, you rarely see a child studying alone. Children are usually working in pairs or groups. Learning through teamwork is Skyline's vision of the future of education and they have developed a cooperative learning model which has been hailed by education experts as the best in the country. The model uses teachers as facilitators of learning, requires children to be actively involved in the learning experience, and encourages students to work together to accomplish goals. A major benefit of this system has been its success with the Lummi Indian students. Since their own culture is cooperative in nature, the model has been effective in raising their level of achievement. Other changes in staff development, as well as the extensive use of cross-age and peer tutoring programs have made Skyline into a school that is positive and open to change when it is demonstrated that the change will result in improved learning opportunities for its students.•

AVIATION INDUSTRY SHAKEOUT

• Mr. D'AMATO. Mr. President, military aviation has reached a crossroads. At no time since the earliest days of flight have fewer production lines turned out fewer aircraft. Manufacturers with histories stretching back many decades are collapsing or being absorbed in an industry shakeout that will probably leave us with only two or three aircraft producers by the end of the decade.

Congress has sought, with some success, to ease the pain for aerospace firms. We've tried stretchouts, remanufacturing, reengineering, rewinging, reskinning, and service life extension programs. All have been costly. All have been temporary.

Let me suggest another strategy to my colleagues: pick a winner. It would be far better for industry and the services if we had one hot line mass producing a given type of aircraft, than a number of struggling lines delivering a variety of similar aircraft at low rates. Low rate production, and the resulting high unit costs, has, over the last 5 years, forced the Navy to cancel the A-6, F-14, EA-6B, and E-2C, pushing Grumman out of the aircraft business. Low rate production's cousin, silver bullet procurements, leave aircraft programs vulnerable to the same high unit cost problems that buried the B-2.

In my opinion, the most obvious winner is the F-22 advanced tactical fighter. It was originally a joint program, and bidders were required to develop Air Force and Navy variants. The F-22 should become the F-4 of the late 1990's, in other words, the backbone of its generation of tactical aviation. The efficiencies of scale achievable if the requirements of the Air Force, Navy, and Marines were pooled would drive the unit cost of the F-22 down to well within affordable limits. The same cannot be said of the multirole fighter [MRF], the advanced short takeoff and vertical landing aircraft [ASTOVL], the two variants of the A/FX, and the F/A-18E/F.

The MRF, A/FX, F/A-18E/F, and F-16 should be canceled. All thought of reopening the F-15E line should cease. ASTOVL work should be refocused toward enhancing the F-22. If tactical aviation is to benefit from the advantage of stealth, and maintain sensible inventories, this is the only affordable, thus feasible way.•

TRIBUTE TO HENDERSON

• Mr. McCONNELL. I rise today to pay tribute to Henderson in Henderson County.

Henderson is a city in western Kentucky, on a bluff overlooking the Ohio River. This city has seen dramatic changes in the last 40 years, preparing Henderson for the 21st century.

Henderson is a charming city filled with many elegant old homes and buildings with architectural styles ranging from Victorian to Romanesque. Henderson has a strong arts community, and is currently building an $8 million fine arts center. Famous former local residents include John Audubon and W.C. Handy. The Audubon Museum in Henderson houses one of the two finest Audubon collections in the world, and there is a music festival every year to honor Handy who is known as the father of the blues.

The economy in Henderson is stable. Farming, specifically tobacco, is a major part of the region's economy. Last year alone, the county's farms produced more than $42 million in revenue. Henderson County also has one of the State's largest coal reserves. The river economy is mainly limited to tourism from the 19th century riverboats which still grace the Ohio.

I applaud Henderson's move forward, making it one of Kentucky's finest towns.

Mr. President, I ask that a recent article from Louisville's Courier-Journal be submitted in today's CONGRESSIONAL RECORD.

The article follows:

HENDERSON: ITS PROSPERITY REFLECTS A GRAND—IF SHADY—PAST

(By Mark Schaver)

Driving the wide streets of Henderson, past elegant old homes and through the prosperous and stable downtown, you would never imagine it was once a town known for its vice.

But this is how the Rev. Charles Dietze, in his book "The Henderson Crusade," describes the town as it was around 1950:

"The people went about their tasks with lethargy, as if there was a pall over them. . . . Behind closed doors in thirty-nine night clubs, I was told, however, there was real life. Craps tables, blackjack, roulette wheels and slot machines brought a kind of release from the humdrum existence of our citizenry. . . . There were slot machines in private clubs, grocery stores and filling stations, playthings for everybody, young and old. I even suspected that one might find an occasional 'one-arm-bandit' in the basement of a church or two. . . ."

The biggest and fanciest of those 39 clubs was The Trocadero, a nightspot so plush it drew national entertainers like Tommy Dorsey and his big band and jazz musician Count Basie, "The Troc," as everyone called it, was in "no-man's land," a stretch of ground that is on the Indiana side of the Ohio River, yet still a part of Kentucky. The shifting course of the river created it, and even today many travelers driving north on U.S. 41 are surprised to learn that they are still in Kentucky after crossing the Ohio.

The Trocadero, which burned a decade ago, was also a gambling den where high rollers were rumored to play poker with as much as $100,000 on the table. And the money also bred corruption, which was so blatant that even though gambling was illegal in Kentucky, the sheriff had a reserved parking space out front.

"There were not any major corporations that wanted to come to Henderson because it was like a little Las Vegas," said Dietze, who is now retired after a lifetime of service to the Christian Church (Disciples of Christ) in Kentucky and North Carolina. "People seemed to have a guilty conscience about the gambling."

Dietze was the driving force behind the "Good Government League," a citizens' group that shut down the gamblers in the early 1950s by getting dozens of witnesses to sign affidavits about gambling. Convictions allowed the state Alcoholic Beverage Control Board to cancel the clubs' liquor licenses.

These days Henderson finds itself newly discomfited by its current prominence as the site of a horse-industry dispute over intertrack-wagering rights between Riverside Downs, a harness track, and Ellis Park, a thoroughbred track.

The rivalry has become a central issue in the FBI corruption probe that has resulted in the indictment of Kentucky House Speaker Don Blandford and an assortment of other legislators, former legislators, lobbyists and government officials.

Townspeople seem a bit sheepish when asked about the tracks, which are not in the city limits. "They're both in the county. I'm in the city. I don't know anything about them," said William Newman, a retired dentist and Henderson's mayor for the past 23 years. "I personally never understood it."

The first person indicted was former Democratic state Sen. John Hall of Henderson, who pleaded guilty earlier this year to extorting $4,850 from Riverside Downs. Hall, who has not been sentenced, admitted keeping some of the money for himself and giving the rest to other legislators. Some in Henderson think Hall was duped.

"You could walk up and down the street and you would have a very hard time finding anyone to say anything bad about him," said Donald Wathen, the director of the Henderson library. "You would find people who really feel he was used and abused."

Townspeople much prefer talking about the brighter side of Henderson's past. For about nine years in the early 1800s, the city was home to John James Audubon, who owned a general store and then a mill that went bankrupt while he spent most of his time in the woods sketching and observing wildlife.

Audubon left in disgrace, but later prospered with the publication of the books containing his art: "The Birds of America," "Ornithological Biography," "Viviparous Quadrupeds of North America" and "The Biography of American Quadrupeds."

In 1938, the Works Projects Administration built a museum in Henderson modeled after a French Norman inn to hold water colors, oils, engravings and memorabilia loaned by Audubon's descendants. It is one of the two finest collections of his work in the world. (The museum, which is part of a 700-acre state park, is undergoing a $2 million renovation and expansion. It will be closed until sometime next summer.)

Audubon was not the only person who found inspiration in Henderson.

Every year there is a festival to honor W.C. Handy an African-American musician who is known as the "Father of the Blues." Handy was born in Alabama, but lived in Henderson in the 1890s while playing cornet in the Hampton Cornet Band. In his autobiography, Handy gave Henderson credit for putting him on the road to fame:

"I didn't write any songs in Henderson, but it was there I realized that experiences that I had had, things I had seen and heard could be set down in a kind of music characteristic of my race.

"There I learned to appreciate the music of my people. . . . The blues were born because from that day on, I started thinking about putting my own experience down in that particular kind of music."

Henderson tries to draw tourists with the slogan, "Southern Hospitality Begins in Henderson." but beneath the gentility there is the rough edge of competition with Evansville, across the Ohio River in Indiana, which is seen as irredeemably Yankee.

"I think some people over there still think we're hillbillies, but that's all right," said Marcie Schekles, executive director of the Convention and Visitors Bureau, who greets visitors in a log cabin along the chaotic strip of fast-food restaurants and motels on U.S. 41.

State Sen. Henry Lackey, who owns WSON radio, said he can tell whether someone on his morning call-in show is from Evansville or Henderson by the accent. (Lackey himself tries to suppress his tendency to drawl because he said that, while he was in college, CBS anchorman Walter Cronkite told him, "You're supposed to sound like you're from nowhere.")

A large number of Henderson residents work in Evansville, and many go there to shop, but the Kentucky town hasn't suffered much in the larger city's shadow. Unlike most towns, where the downtown have died under competition from Wal-Marts, only a half dozen of Henderson's 175 downtown storefronts are vacant.

A century ago, Henderson was known as "the second-richest town per capita in the world." The town had one of the world's largest markets for dark tobacco until World War I, and the tobacco barons built many of the old homes that gave the town its charm. Historic Henderson is a banquet of architectural styles, from Victorian to Romanesque to Italianate and more.

Henderson also benefited from its position on bluffs high above the Ohio. The town was spared the disastrous 1937 flood that inundated virtually every other community on the Ohio. It is said that Chicago will be under water before Henderson, and one of the town's mottos is "On the Ohio, but never in it."

Today the economy is not booming, but neither is it dormant. The president of the Henderson-Henderson County Chamber of Commerce likes to point out that, according to the 1990 census, the city grew in population while Owensboro and Madisonville, Ky., and Evansville shrank some. The most recent industry to open was Millstone Coffee, a company based in Washington state that grinds beans into brews such as Mocha Java and Bed and Breakfast.

Henderson has an unusual number of plastics and tool-and-die makers, drawn to the town in part because of it offers unusually low utility costs as the result of its being one of the few towns in the state that operates all of its own utilities.

Tobacco is far less important than it used to be, but agriculture is still important, and last year the county's farms produced $42 million in revenue. The county also has one of the state's largest coal reserves, and Henderson County is the only one in the state that has the authority to regulate strip mining, although that hasn't stopped rural residents from complaining about blasting and noise from the mines that opened in the 1980s.

Henderson has a strong arts community. It was the first town in the state to be a satellite for the Louisville Orchestra, and it is now building a $8 million fine-arts center at Henderson Community College. Both the Mississippi Queen and the Delta Queen riverboats dock on the riverfront, and their passengers are greeted with lemonade and cookies and a blues band.

The visitors can take the historic walking tour or look for their own surprises, such as the unintended humor contained in these words engraved on the cornerstone of the First Baptist Church, which received a new facade 13 years ago:

"Founded 1840
Erected 1879
Stoned 1979"

But despite Henderson's allures, not everyone is a defender of the town.

"It's a small town, and I like bigger towns," said Mary Harris, who was drinking a beer one evening at Spanky's bar. "I don't like to step out the door and people know my business."

Smoke filled the room, and in the back a man was sitting at a video poker machine (he was not gambling of course). The bar has been in the neighborhood so long the fixtures have turned into antiques. Once a man asked to buy the plastic Kentucky Maid Dairy clock on the wall because, he said, the company had been owned by his family. The owner wouldn't sell.

"If you could talk to that clock," said Bubby Oglesby, who was sitting on a stool at the bar, "that clock would tell you a story about Henderson."

Transportation: Air—Henderson Airport, 4,800-foot runway, Nearest commercial service, Dress Memorial Airport, Evansville, Ind., 10 miles, Highways—U.S. 41 and 80 and the Audubon and * * * parkways, Water—barge docking and loading facilities at the riverport on the Ohio River, Rail—Seaboard System Railroad and Illinois Central-Gulf Railroad, Bus: Greyhound.

Media: Newspaper—The Gleaner (daily), Radio—WGBF-FM (adult-oriented radio), WKDQ-FM (country), WSON-AM (easy listening), Television—WEHT-TV 25; Cable—TCI Cablevision, Webster Cable TV of East Henderson.

Topography: Henderson sits on an Ohio River bluff. It is 70 feet above the river's low-water mark.

Population (1990): Henderson, 25,946; Henderson County, 43,044.

Per Capita Income (1990): $18,075, or $1,083 above the state average.

Jobs (1991): Mining/quarrying, 593; contract construction, 488; manufacturing, 5,398; transportation, communications and utilities, 721; wholesale/retail trade, 3,719; finance, insurance and real estate, 498; services, 3,495; state/local government, 1,888; agriculture, 627.

Big Employers: Big Rivers Electric Corp., 870; Community United Methodist Hospital, 702; Gibbs Die Casting Aluminum Corp., 617; Accuride Corp., 550.

Education: Henderson County Schools, 7,900 students, Holy Name Grade School (Catholic), 465, Henderson Community College, 1,500.

FAMOUS FACTS AND FIGURES

Henderson is named after Col. Richard Henderson, who bought 17 million acres from the Cherokee Indians, including most of what is now Kentucky. The Virginia legislature, however, refused to recognize that claim and instead deeded his Transylvania company 200,000 acres at the site of what is now Henderson County. Henderson died before ever setting eyes on it.

Transylvania Park in Henderson is said to be the oldest municipal park west of the Alleghenies.

Henderson was the home of Mary Towles Sassean, whom the Kentucky General Assembly has recognized as the "originator of the idea" of Mother's Day. Most encyclopedias, however, do not recognize the claim.

George "Bugs" Moran, a gangster who was on the FBI's most-wanted list in the 1930s, was arrested at a home on Canter Street where he and his girlfriend had been lodgers for several months. According to the book, "Old Henderson Homes and Buildings," the couple that rented Bugs and his "moll" their rooms recalled them as "far more courteous and quiet than average law-abiding citizens."

A teen-age boy, Bobby Eugene Williams, was killed in a shootout with police in 1946 after he and three friends stole machine guns from Henderson's armory. The other boys were captured after they fell into a creek, which clogged their weapons with mud.

Henderson County was the home of four Kentucky governors; Lazarus Powell (1851–1856); John Y. Brown (1891–1895); A.O. Stanley (1915–1919); and A.B. "Happy" Chandler, (1935–1939 and 1955–1959).•

SPACE STATION PROGRAM

• Mr. D'AMATO. Mr. President, the latest announcement of a $500 million cost overrun in the space station program came as no surprise to me. My colleagues who are concerned about NASA and who do not sit on a defense panel would do well to familiarize themselves with three recent Pentagon development disasters: the A-12, C-17, and T-45 programs. They will quickly find a common thread. And they will note that even fixed price development contracts were unable to protect the Government from a gouging.

I am, and have been, a strong supporter of the space station, and I fervently believe that NASA is a great, untapped defense conversion dynamo. I will support greater space funding this year, but I cannot condone the brand of sloppy management, and resultant cost overruns, that were hallmarks of the A-12, C-17, and T-45 programs. The American taxpayer deserves better than this.

More NASA spending does not necessarily mean that the space station cannot be canceled. I put the contractors on notice: I am watching.•

U.S.S. "INDIANAPOLIS" (CA-35)

• Mr. LUGAR. Mr. President, I rise today to pay tribute to the men of the U.S.S. *Indianapolis* (CA-35) who valiantly served the ship that bore the name of the Hoosier capital. As honorary national campaign chairman for the U.S.S. *Indianapolis* (CA-35) Memorial, I wish to insert for the RECORD a letter from the members of the McNeely Commission, who for the past 18 months reviewed the tragic circumstances surrounding the sinking of the U.S.S. *Indianapolis* (CA-35).

The letter follows:

> DEAR SENATOR LUGAR: At your request, our committee has reviewed the events surrounding the sinking of the U.S.S. *Indianapolis*, the ordeal and ultimate rescue of its crew, as well as the events and activities which have taken place since that time.
>
> The history of America is replete with stories of its sons and daughters being summoned, and responding, to their nation's call to duty in times of war. It is a proud history of accomplishment, honor, and victory. It is also a history that reflects moments of tragedy, defeat, suffering, despair, and ultimate sacrifice. The fabric of our society is interwoven with these events of the past and the lives, conduct and character of the men and women who have served their country and have shaped and molded the character of our nation.
>
> Against this backdrop, our committee has reviewed the legacy of the U.S.S. *Indianapolis*. It is a legacy of service, of accomplishment, of heroism and of ultimate tragedy and sacrifice. The fate of the U.S.S. *Indianapolis* epitomizes the dangers of war and the accomplishments of brave men under adversity.
>
> The U.S.S. *Indianapolis* was commissioned in 1932. The ship and crew served valiantly throughout World War II, participating in 10 major battles and other wartime air strikes and campaigns, distinguishing itself and receiving severe damage in the battle of Okinawa, and serving as flag ship of the Fifth Fleet. For its actions in time of war the ship and crew received three Presidential Unit Citations.
>
> On July 24, 1945, the U.S.S. *Indianapolis* undertook a mission of truly monumental and historic significance. Alone, and under a veil of secrecy that would later contribute to the tragedy it was about to endure, the U.S.S. *Indianapolis* delivered vital components of the atomic bomb to awaiting forces on the island of Tinian. Having accomplished this mission, which would hasten the end of the war and result in saving the lives of literally hundreds of thousands of American and allied troops who were poised for the invasion of Japan, the U.S.S. *Indianapolis* was proceeding to its new station in the Philippines when tragedy struck.
>
> On the fateful morning of July 30, 1945, literally at the brink of the end of a long and hard-fought war, the U.S.S. *Indianapolis* was suddenly and tragically struck by Japanese torpedoes and instantly sunk. As a result of the sinking and ensuing events, 880 men of the U.S.S. *Indianapolis* lost their lives in the worst sea disaster in our nation's history.
>
> History has recorded, however, that the actual sinking of the U.S.S. *Indianapolis* was only the beginning of the horror which would ultimately befall the crew of the gallant ship. For five seemingly endless days and nights, the crew of the U.S.S. *Indianapolis* remained adrift, unreported and alone, without assurance that they were about to be or would ever be rescued. During these days, the crew endured debilitating weather conditions and lack of food and water, as well as countless attacks by schools of sharks. Ultimately, by an act of providence, they were discovered and rescue efforts began.
>
> For most observers, that marked the end of the suffering that had been the fate of the crew of the U.S.S. *Indianapolis*. However, for the surviving members of the crew and the relatives of those who perished, one last act remains undone.
>
> The heroism and sacrifice of the crew of the U.S.S. *Indianapolis* in the summer of 1945, demonstrated by their completion of their vital and secret mission, and emphasized by their actions and conduct during their ordeal awaiting rescue, have never been appropriately recognized or memorialized by a grateful nation. This is a circumstance that needs to be remedied at the first opportunity.
>
> Sincerely,
>
> J. LEE MCNEELY.
> C. DON NATTKEMPER.
> ROBERT MORRIS.•

TRIBUTE TO JOHN CATALINE

• Mr. D'AMATO. Mr. President, I rise today to honor a man who, like so many others, has selflessly served and defended his country. John Cataline, a colonel in the New York Army National Guard, has been named Man of the Year by the Loyal Order of Moose Lodge.

I feel that there is no one more deserving of the honor than Col. John Cataline of Geneva, NY. Colonel Cataline has served New York and the country for almost 26 years. He began his distinguished career at Officer Candidate School in 1966 and entered Infantry School the following year. His talents led him through many professional schools and postings, including Air Assault School and the Command and General Staff College. He progressed in rank to colonel, which is indicative of his dedication and fine abilities.

Not only has Colonel Cataline served us in the New York Army National Guard, but for the past 25 years he has been a member of the Geneva, NY, Police Department. He has served the force in every facet of operations, demonstrating the essential talents necessary to be an effective police investigator. His leadership qualities are exemplary, and the result is evident in the men and women whom he trains and leads.

John Cataline is not only a fine police and National Guard officer, he has been active in the community. He has given many hours a week to help others less fortunate. This generosity includes his acts as a trustee of Happiness House, a United Cerebral Palsy facility; Cubmaster, Pack 8, St. Stephen's Church; advancement chairman, Troop 13, Boy Scouts of America; Statute of Liberty Bicentennial Committee; and others too numerous to mention. John Cataline has set an example for all who become involved in the community.

Colonel Cataline was born in Geneva, NY, and attended the State University of New York and St. Francis de Sales High School. He has been married to the former Carol J. D'Agostino for 24 years. They have three fine sons, John, Michael, and David. John Cataline has been a dedicated defender of the people and is devoted to the betterment of mankind.

I salute him.•

RECOGNIZING RECIPIENTS OF THE GIRL SCOUT SILVER AND GOLD AWARDS AND THE BOY SCOUT EAGLE AWARD

• Mr. CHAFEE. Mr. President, As the 103d Congress commences, I believe that it is appropriate to recognize two groups of youths for Rhode Island who have distinguished themselves as leaders in their communities. These young people have demonstrated their leadership abilities through their achievements in the Girl Scouts and Boy Scouts.

Since the early nineteen hundreds, the Girl Scouts and Boy Scouts have given thousands of youths each year the opportunity to make friends, explore new skills, and develop a sense of leadership, patriotism, self-reliance, and teamwork.

The Silver Award and the Gold Award are the highest awards that can be attained by junior and high school Girl Scouts. These awards are the culmination of hard work in which they master new skills, explore career opportunities, act as leaders and mentors to younger Scouts, and perform a service project in their community. Likewise, the Eagle Scout Award is the highest rank that a Boy Scout can attain. Eagle Scout candidates must demonstrate leadership in the form of a service project which is helpful to their religious institution, school, or community. The service project allows the Scout to prove himself as a leader by planning, organizing, arranging, and executing its completion.

It gives me great satisfaction to know that these young men and women have stepped forward early in their lives to act as role models for their peers. It is also appropriate for us to acknowledge the families, Scout leaders, and Scouting organizations that have given generously of their time and energy in support of Scouting.

It is with great pride that I submit a list of the youngsters who have earned these awards.

The list follows:

GIRL SCOUT SILVER AWARD RECIPIENTS, 1992

Ashaway, RI: Jennifer Graby.

Carolina, RI: Jennifer M. Thackeray.

Charlestown, RI: Jill Bentley, Karen Klumbis.

Coventry, RI: Kristin Hughes, Jaclyn Sheppard, Jessica Stone.

East Greenwich, RI: Susan Biancani, Stacie Bowman, Patricia Greene.

Johnston, RI: Stacey Shackford.

Kenyon, RI: Kimberly Pierce.

Little Compton, RI: Kelley Ayer, Cara Dunn, Ann Marie Gagnon, Jennifer Green, Nicole Laferriere, Amy Simmons.

North Providence, RI: Heather Konicki.

North Kingstown, RI: Katherine Blinkhorn, Rebecca McGrory, Kathryn Wodecki.

North Scituate, RI: Ruth M. Carlson.

Pawtucket, RI: Tanya Coots, Heather Davis.

Portsmouth, RI: Lorna Ashmore, Erin Conboy, Alyssa Kneller, Patricia McGrath, Jennifer Ort, Sirena Spencer.

Rehoboth, MA: Nicole Swallow, Sheila Peloquin.

Scituate, RI: Anna Cogean, Karena Cogean, Elizabeth D'Agostino, Nicole LaFrancois, Jackie Watt, Jessica Williams.

Wakefiled, RI: Jennifer McPherson, Molly Meeker.

Warwick, RI: Irene Belanger, Kelley Brooks, Laura DeStefanis, Summer Nelson, Bridget O'Brien, Stephanie Shields.

Westerly, RI: Roanna Morgan.

West Kingston, RI: Cheryl Berker, Aislynn Morgan.

Wood River Junction, RI: Shayna Horgan.

Woonsocket, RI: Melissa Brin, Tammy Doiron, Beth Gobeille, Christine Lozeau, Megan Minot, Roberta Paul, Jessica Smith.

GIRL SCOUT GOLD AWARD RECIPIENTS, 1992

East Greenwich, RI: Karin M. Gaffney.

Middletown, RI: Jodi MacCormick.

Providence, RI: Shawn Moreau.

1992 EAGLE SCOUTS

Stephan Abate, North Stonington, CT.
Charley Adams, Newport, RI.
Mark Alves, East Providence, RI.
Neil Anderson, Greenville, RI.
Jason Armstrong, Pawcatuck, CT.
Jason Arnone, Warwick, RI.
Nathan Aube, Hopkinton, RI.
Bradford Barton, Barrington, RI.
Jed Barton, Barrington, RI.
Glenn Bernard, Uxbridge, MA.
Nathaniel Blanchard, Exeter, RI.
Brian Blanchette, Pawtucket, RI.
Brendan Boragine, Cumberland, RI.
Ryan Boulais, Warwick, RI.
Michael Boyko, Blackstone, MA.
Edward Brady, Seekonk, MA.
Eric Brequet, Smithfield, RI.
Brian Budlong, East Greenwich, RI.
Philip Buffery, Cranston, RI.
Donald Bumgardner, North Kingstown, RI.
Christopher Calabretta, Jamestown, RI.
Michael Campobianco, Riverside, RI.
Russell Cates, Uxbridge, MA.
Paul Choquette III, Warwick, RI.
Matthew Christopher, Rehoboth, MA.
Courtney Chronley, Narragansett, RI.
Samuel Ciotola, Smithfield, RI.
Patrick Clarkin, Province, RI.
Christopher Collins, Cranston, RI.
Colin Combs, Cumberland, RI.
Wayne Connors, Cumberland, RI.
Jeremy Conrad, Providence, RI.
Daniel Cost, Glocester, RI.
Jonathan Couto, East Providence, RI.
Brad Coyle, Portsmouth, RI.
Seth Crothers, Wakefield, RI.
Mark S. Dabek, Coventry, RI.
Dean Dansereau, Cumberland, RI.
Erick Davis, Middletown, RI.
David Bryant Dawson, Milford, MA.
Robert Deady, Jr., Warwick, RI.
Matthew Denning, Warwick, RI.
Craig Drury, Coventry, RI.
Daniel Duggan, Portsmouth, RI.
Adam Durant, Wakefield, RI.
David Dyer, Warwick, RI.
Roger Emery III, Pawtucket, RI.
Lawrence Fagan, Cranston, RI.
John Fairhurst IV, Uxbridge, MA.
Kevin Fay, Smithfield, RI.
Dermot Fitzgerald, Smithfield, RI.
Rusty Fake, Newport, RI.
Brian Flanagan, Cranston, RI.
Steven Florio, Cranston, RI.
Kenneth Froberg, Jamestown, RI.
Barry Thomas Fuller, Jr., Pawtucket, RI.
Matthew Gabriel, Middletown, RI.
Eric George, Coventry, RI.
Robert Gigliodoro, Jr., Cranston, RI.
David A. Giroux, Coventry, RI.
Ryan Gomersall, North Kingstown, RI.
Paul Gorman, West Warwick, RI.
Nathaniel H. Wetherbee, Barrington, RI.
Mark Hamel, North Smithfield, RI.
Brendan Handfield, Barrington, RI.
John Joseph Hanley, Newport, RI.
Matthew Hanson, Warwick, RI.
Joseph Hartman, Coventry, RI.
Paul Hefner, Jr., North Providence, RI.
Garth Holman, Portsmouth, RI.
Michael Horstman, Smithfield, RI
Christian Hosford, Seekonk, MA.
James Houston, Norfolk, VA.
Clinton Howarth, Warwick, RI.
Jonathan Izzi, West Warwick, RI.
Jason Joslin, Woonsocket, RI.
Kurt Kazlauskas, East Greenwich, RI.
Robert Kerr, Jr., Narragansett, RI.
Robert King, East Providence, RI.
Peter Koerner, Jr., Cumberland, RI.
Jared Kohl, Portsmouth, RI.
Jeffery Larence, North Smithfield, RI.
Nathan Lavellee, Cumberland, RI.
Jason LeClair, Pawtucket, RI.
Ronald LeClair, Jr., Pawtucket, RI.
John Linton, Westerly, RI.
Christopher Lisy, East Greenwich, RI.
Joseph Luszca, Warwick, RI.
Christopher Magarian, North Kingstown, RI.
Michael Magnone, Providence, RI.
Derek Mailloux, North Providence, RI.
Joe Mancebo, Pawtucket, RI.
Patrick Mara, Barrington, RI.
Gregory Marchetti, Narragansett, RI.
Gary Martin, Westerly, RI.
Gregory Martin, Westerly, RI.
John Martish, Jr., Providence, RI.
Christopher Meo, North Smithfield, RI.
Brian Moffitt, Coventry, RI.
Michael Morelli, Jr., Warwick, RI.
Scott Munroe, Kingston, RI.
Jonathan Munson, Seekonk, MA.
Jeffrey Nasif, Cumberland, RI.
Richard Nawrocki, Cranston, RI.
John Newman, East Greenwich, RI.
Earl Newman III, East Greenwich, RI.
Thadius Niekerk, Barrington, RI.
Jack Norris, East Greenwich, RI.
Michael Obara, Portsmouth, RI.
Joseph Ostrenga, Millville, MA.
Matthew Palazzo, Cranston, RI.
William Palm IV, Kingston, RI.
Jeremy Patrick, Cranston, RI.
Jonathan Patrick, Cranston, RI.
Eric Paulhus, Wood River Junction, RI.
Michael Pescatello, Westerly, RI.
Craig Poissant, Coventry, RI.
Jason Poissant, Coventry, RI.
Sebastian Porto, East Providence, RI.
Ryan Raposa, Portsmouth, RI.
Jacob Rasmussen, Barrington, RI.
Christopher Ryan Riccio, Cranston, RI.
Michael Ride, Cumberland, RI.
Brett Roberts, Seekonk, MA.
Kevin Romano, Greenville, RI.
Benjamin Sammis, Rehoboth, MA.
Jeffrey Schneller, Middletown, RI.
James Schomer, Barrington, RI.
James Schwab, Cumberland, RI.
Scott Shaheen, Warwick, RI.
Kenneth Shallcross, East Greenwich, RI.
Steven Sluter, Seekonk, MA.
Gregory Snow, Smithfield, RI.
Raymond Soccio, Providence, RI.
Matthew Soroka, Pascoag, RI.
Joshua Spooner, Newport, RI.
Noel St. Germain, Coventry, RI.
Michael Stimpson, Portsmouth, RI.
Chris Strand, Hopkinton, RI.
James Stuart, Seekonk, MA.
Frank Susa, Warwick, RI.
Edward Svehlik, Wakefield, RI.
Bryan Tamburro, Barrington, RI.
Leo Tetreault, Jr., Cumberland, RI.
Matthew Ulricksen, Hope Valley, RI.
Michael Violette, Portmouth, RI.
Jeffrey Viveiros, Wyoming, RI.
Christopher Voccio, Cranston, RI.
Christopher Wallick, North Providence, RI.
Mark Whiteman, Barrington, RI.
Joseph Wignall, Cumberland, RI.
Jared Wilbur, Cranston, RI.
Robert Wilbur, Barrington, RI.
Michael Winn, Middleton, RI.
Daniel Zalit, Charlestown, RI.●

ECONOMIC GROWTH AND REGULATORY PAPERWORK REDUCTION ACT—S. 265

● Mr. SHELBY. Mr. President, I ask unanimous consent that S. 265 be printed in today's CONGRESSIONAL RECORD.

The text of S. 265 follows:

S. 265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Economic Growth and Regulatory Paperwork Reduction Act of 1993".

(b) TABLE OF CONTENTS.—

TITLE I—REGULATORY IMPACT ON CREDIT AVAILABILITY

Subtitle A—General Provisions

Sec. 101. Regulation of real estate lending.

Sec. 102. Real estate appraisal amendment.
Sec. 103. Public deposits.

Subtitle B—Impact of Accounting and Capital Issues on Credit Availability

Sec. 111. Audit costs.
Sec. 112. Recourse agreements.
Sec. 113. Market value accounting.
Sec. 114. Report on capital standards and their impact on the economy.
Sec. 115. Minimize potential impact of capital standards on credit availability.

Subtitle C—Disincentives to Risk-Taking

Sec. 121. Due process protections.
Sec. 122. Culpability standards in penalty provisions.
Sec. 123. Director and officer liability actions.

Subtitle D—Miscellaneous Credit Availability Provisions

Sec. 131. Regulatory appeals process.
Sec. 132. Aggregate limits on insider lending.
Sec. 133. Sterile reserves studies.
Sec. 134. Credit card accounts receivable sales.
Sec. 135. Changes to the Federal Home Loan Bank Act to promote credit availability.

TITLE II—REGULATORY MICROMANAGEMENT

Sec. 201. Regulatory standards.
Sec. 202. Paperwork reduction review.
Sec. 203. Rules on deposit taking.
Sec. 204. Adequate transition period for new regulations.

TITLE III—UNNECESSARY COST, PAPERWORK AND REGULATION

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Sec. 302. Coordinated examinations.
Sec. 303. Differences in accounting principles.
Sec. 304. Reduction of call report burdens.
Sec. 305. Regulatory review of capital compliance burden.
Sec. 306. Branch closures.
Sec. 307. Bank secrecy act amendments.
Sec. 308. Clarifying amendments.
Sec. 309. Limiting potential liability on foreign accounts.
Sec. 310. Repeal out-dated statutory provision.

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Sec. 322. Exemption of certain holding company formations from registration under the securities act of 1933.
Sec. 323. Expedited procedures for bank holding companies to seek approval to engage in nonbanking activities.
Sec. 324. Reduction of post-approval waiting period for bank holding company acquisitions.
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Sec. 404. Alternative disclosures for adjustable rate mortgages.
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Sec. 406. Elimination of duplicate disclosures for home equity loans.

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Sec. 414. Unauthorized electronic fund transfers.

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Sec. 433. Elimination of duplicative data collection.

PART 4—AMENDMENTS TO THE TRUTH IN SAVINGS ACT

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TITLE V—COMMUNITY INVESTMENT

Sec. 501. Community reinvestment act amendments.

TITLE I—REGULATORY IMPACT ON CREDIT AVAILABILITY

Subtitle A—General Provisions

SEC. 101. REGULATION OF REAL ESTATE LENDING.

Subsection (o) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(o)) (as added by section 304 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(a) by redesignating paragraph (4) as paragraph (5); and

(b) by inserting new paragraph (4) as follows:

"(4) CONSIDERATION OF PARTICULAR IMPACT.—In prescribing standards under paragraph (1), the appropriate Federal banking agencies shall, consistent with safety and soundness,—

"(A) consider the impact that such standards have on the availability of credit for small business, residential, and agricultural purposes, and on low- and moderate-income communities; and

"(B) minimize the negative impact that these standards have on the availability of credit for such purposes and in such areas".

SEC. 102. REAL ESTATE APPRAISAL AMENDMENT.

Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended—

(a) by redesignating subsections (b), (c), (d) and (e) as subsections (c), (d), (e) and (f) respectively;

(b) by adding the following new subsection (b):

"(b) RECIPROCITY.—The Appraisal Subcommittee shall encourage the States to develop reciprocity agreements among themselves so as to readily authorize appraisers licensed or certified in one State and in good standing with their State appraiser certifying or licensing agency to perform appraisals in another State or States as though they were licensed or certified in that State or States."; and

(c) by adding at the end of subsection (a)(3) the following new sentence: "A State appraiser certifying or licensing agency shall not impose excessive fees of burdensome requirements for temporary practice under this subsection, as determined by the Appraisal Subcommittee.".

SEC. 103. PUBLIC DEPOSITS.

Section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)) is amended—

(a) by inserting "(1) IN GENERAL.—" before "No agreement which tends";

(b) by redesignating paragraphs (1), (2), (3) and (4) as subparagraphs (A), (B), (C) and (D) respectively; and

(c) by inserting the following new paragraph (2):

"(2) EXCEPTION.—This subsection shall not apply to any agreement permitting or affecting the deposit custody or collateralization of funds of any public entity.".

Subtitle B—Impact of Accounting and Capital Issues on Credit Availability

SEC. 111. AUDIT COSTS.

(a) IN GENERAL.—Section 36 of the Federal Deposit Insurance Act (12 U.S.C. 1831m) (as added by section 112 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) AUDITOR ATTESTATIONS.—

(A) in subsection (a)(2)(A)(ii), by striking "subsections (c) and (d)" and inserting "subsection (c)";

(B) by striking subsection (c);

(C) in subsection (d), by deleting "(d)" and inserting "(c)"; and

(D) by striking subsection (e);

(2) DUPLICATIVE REPORTING.—in subsection (i), by striking "if—(1) services and functions" and all that follows through "or the appropriate Federal banking agency." and inserting "if services and functions comparable to those required under this section are provided at the holding company level.";

(3) INDEPENDENT AUDIT COMMITTEES.—

(A) in subsection (g)(1)(A), by striking "entirely" and inserting "the majority of which is";

(B) in subsection (g)(1)(C),

(i) by inserting "and" after the semicolon in clause (i), and by striking "; and" in clause (ii) and inserting "."; and

(ii) by striking clause (iii);

(C) in subsection (g)(1), by inserting the following new subparagraph:

"(D) EXEMPTIVE AUTHORITY.—each appropriate Federal banking agency shall, by regulation, exempt from the requirements of this subsection all insured depository institutions which face hardships in retaining competent directors on their internal audit committees as a result of this subsection. In determining what types of institutions will be exempted, the agency shall consider such factors as the size of the institution and the availability of competent outside directors in the community."; and

(4) PUBLIC AVAILABILITY.—in subsection (a)(3), by inserting at the end the following new sentence—"Notwithstanding the previous sentence, the Corporation and the appropriate Federal banking agencies may designate certain information as privileged and confidential and not available to the public.".

(5) QUARTERLY REPORTS.—in subsection (g)(2), by inserting the following new subparagraph (D)—

"(D) NOTICE TO INSTITUTION.—Upon determining that an institution's quarterly reports shall be subject to the requirements of subparagraph (A), the Corporation shall promptly provide the institution with written notice of such determination.".

(6) by redesignating subsections (f) through (j) as subsections (d) through (h), respectively.

(b) EFFECTIVE DATE.—Section 112(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "December 31, 1992" and inserting "December 31, 1993".

SEC. 112. RECOURSE AGREEMENTS.

Section 37(b) of the Federal Deposit Insurance Act (12 U.S.C. 1831n(b)) (as added by section 121 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by adding at the end the following new paragraph (3):

"(3) RECOURSE AGREEMENTS.—Each appropriate Federal banking agency shall require insured depository institutions to use accounting principles consistent with generally accepted accounting principles in determining, for purposes of compliance with statutory or regulatory requirements, the capital required to be held against loans sold with recourse.".

SEC. 113. MARKET VALUE ACCOUNTING.

Section 37(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831n(a)(3) (as added by section 121 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking subparagraph (D).

SEC. 114. REPORT ON CAPITAL STANDARDS AND THEIR IMPACT ON THE ECONOMY.

(a) STUDY.—No later than 90 days after enactment of this Act, the Department of the Treasury, after consultation with the Federal banking agencies, shall report to the House and Senate Banking Committees on the effect that the implementation of risk based capital standards, including the Basle international capital standards, is having on—

(1) the safety and soundness of insured depository institutions; and

(2) the availability of credit, particularly to consumers and small businesses.

The report shall contain any recommendations with respect to capital standards that the Department of the Treasury may wish to provide.

(b) DEFINITION.—For purposes of this section, the terms "Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 115. MINIMIZE POTENTIAL IMPACT OF CAPITAL STANDARDS ON CREDIT AVAILABILITY.

Section 305 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1828 note) is amended—

(a) in subsection (b)(1)(A)—

(1) by striking clauses (ii) and (iii);

(2) by striking "(A) take adequate account of—(i) interest-rate risk" and inserting "(A) take adequate account of interest-rate risk; and".

(b) by striking paragraph (3) in subsection (b) and inserting the following new paragraph (3):

"(3) TIMING FOR PRESCRIBING REVISED STANDARDS.—

"(A) INTEREST RATE RISK.—No appropriate Federal banking agency shall prescribe final regulations in the Federal Register to implement subparagraph (A) of paragraph (1) of this subsection prior to—

"(i) the implementation of similar standards at an international level; and

"(ii) the establishment of reasonable transition rules, subsequent to the occurrence specified in clause (i), to facilitate compliance with those regulations.

"(B) MULTIFAMILY MORTGAGES.—Each appropriate Federal banking agency shall—

"(i) publish final regulations in the Federal Register to implement paragraph (1)(B) not later than 18 months after date of enactment of this Act; and

"(ii) establish reasonable transition rules to facilitate compliance with those regulations.".

Subtitle C—Disincentives to Risk-taking

SEC. 121. DUE PROCESS PROTECTIONS.

(a) ATTACHMENT OF ASSETS.—

(1) INSURED DEPOSITORY INSTITUTIONS.—

(A) Section 11(d)(19) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(19)) is amended—

(i) in subparagraph (A), by striking "without regard" and all that follows through "immediate";

(ii) in subparagraph (B), by striking "(as modified with respect to such proceeding by subparagraph (A))".

(B) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by redesignating subsection (b)(6)(F) as subsection (b)(6)(G), and inserting after subsection (b)(6)(E) the following:

"(F) prohibit such person from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets or other property where injury, loss, or damage to such property is irreparable and immediate; and".

(C) Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by striking paragraph (4)(B) and inserting the following:

"(B) STANDARD.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under this paragraph.".

(2) CREDIT UNIONS.—

(A) Section 207(b)(2)(H) of the Federal Credit Union Act (12 U.S.C. 1787(b)(2)(H)) is amended—

(i) in clause (i), by striking "without regard" and all that follows through "immediate"; and

(ii) in clause (ii), by striking "(as modified with respect to such proceeding by clause (i))".

(B) Section 206(e)(3) of the Federal Credit Union Act (12 U.S.C. 1786(e)(3)) is amended by redesignating subsection (e)(3)(F) as subsection (e)(3)(G), and inserting after subsection (e)(3)(E) the following:

"(F) prohibit such person from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets or other property where injury, loss, or damage to such property is irreparable and immediate; and".

(b) STRICT LIABILITY.—Section 18(j)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(4)(A)) is amended by inserting "negligently" after "who," each time it appears.

SEC. 122. CULPABILITY STANDARDS IN PENALTY PROVISIONS.

(a) GENERAL PROVISIONS.—

(1) INSURED DEPOSITORY INSTITUTIONS.—Section 8(i)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)) is amended—

(A) in subparagraph (A)(i), by inserting "negligently" after "(i)"; and

(B) in subparagraph (B)(i)(I), by inserting "recklessly" after "(i)(I)".

(2) CREDIT UNIONS.—Section 206(k)(2) of the Federal Credit Union Act (12 U.S.C. 1786(k)(2)) is amended—

(A) in subparagraph (A)(i), by inserting "negligently" after "(i)"; and

(B) in subparagraph (B)(i)(I), by inserting "recklessly" after "(i)(I)".

(b) NONMEMBER INSURED BANKS AND SAVINGS ASSOCIATIONS.—Section 18(j)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(4)) (as amended by section 121(b) of this Act) is amended in subparagraph (B), by inserting "recklessly" after "(i)(I)".

(c) CHANGE IN CONTROL OF DEPOSITORY INSTITUTIONS.—Section 7(j)(16) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(16)) is amended—

(1) in subparagraph (A), by inserting "negligently" after "Any person who"; and

(2) in subparagraph (B), by inserting "recklessly" after "(i)(I)".

(d) NATIONAL BANKS.—Section 5239(b) of the Revised Statutes (12 U.S.C. 93(b)) is amended—

(1) in paragraph (1), by inserting "negligently" after "who,"; and

(2) in paragraph (2)(A)(i), by inserting "recklessly" after "(A)(i)".

(e) MEMBER BANKS.—Section 29(a) of the Federal Reserve Act (12 U.S.C. 504(a)) is amended—

(1) in subsection (a), by inserting "negligently" after "who,"; and

(2) in subsection (b)(1)(A), by inserting "recklessly" after "(1)(A)".

(f) MEMBER BANKS.—Section 19(l) of the Federal Reserve Act (12 U.S.C. 505(l) is amended—

(1) in paragraph (1), by inserting "negligently" after "who,"; and

(2) in paragraph (2)(A)(1), by inserting "recklessly" after "(A)(1)".

(g) BANKS.—Section 106(b)(2)(F) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(F)) is amended—

(1) in clause (i), by inserting "negligently" after "who,"; and

(2) in clause (ii)(I)(aa), by inserting "recklessly" after "(I)(aa)".

SEC. 123. DIRECTOR AND OFFICER LIABILITY ACTIONS.

Section 11(k) of the Federal Deposit Insurance Act (12 U.S.C. 1821(k)) is amended by deleting the last sentence.

Subtitle D—Miscellaneous Credit Availability Provisions

SEC. 131. REGULATORY APPEALS PROCESS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Administration shall establish an independent appellate process within its agency responsible for reviewing material supervisory determinations made at insured depository institutions or credit unions that it supervises.

(b) REVIEW PROCESS.—In establishing this independent appellate process, each agency shall ensure—

(1) that any appeal of a supervisory determination from any insured depository institution or credit union, or any officer, director, employee or other representative of any insured depository institution or credit union, be heard and decided expeditiously;

(2) that appropriate safeguards exist for protecting the appellant from retaliation by agency examiners; and

(3) that the ruling agency officer have the authority, where appropriate and as justice so requires, to stay the supervisory determination pending completion of the appellate process.

(c) COMMENT PERIOD.—Each agency shall provide public notice and opportunity for comment on proposed guidelines for an appellate process not later than 90 days after enactment of this Act.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "agency" shall refer to the appropriate Federal banking agency and the National Credit Union Administration;

(2) the terms "insured depository institution" and appropriate Federal banking agency" have the same meanings as in section 3 of the Federal Deposit Insurance Act; and

(3) the term "material supervisory determination" includes determinations relating to exam ratings, the adequacy of loan loss reserve provisions, and loan classifications on loans significant to the institution.

SEC. 132. AGGREGATE LIMITS ON INSIDER LENDING.

Section 22(h)(5) of the Federal Reserve Act (12 U.S.C. 375b(5)) (as amended by section 306 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(a) by redesignating subparagraph (C) as subparagraph (D);

(b) by inserting the following new subparagraph (C):

"(C) SMALL BANK EXCEPTION.—Notwithstanding subparagraph (A), member banks with less than $100,000,000 in deposits may make such extensions of credit in the aggregate to persons specified in subparagraph (A) in an amount not to exceed 2 times the bank's unimpaired capital and unimpaired surplus."; and

(c) in subparagraph (D), as redesignated, by striking "less than $100,000,000" and inserting "between $100,000,000 and $250,000,000".

SEC. 133. STERILE RESERVES STUDIES.

(a) FEDERAL RESERVE STUDY.—No later than 90 days after enactment of this Act, the Board of Governors of the Federal Reserve System, in consultation with the Federal Deposit Insurance Corporation, shall study and report to Congress on—

(1) the necessity, for monetary policy purposes, of continuing to require insured depository institutions to maintain sterile reserves;

(2) the appropriateness of paying insured depository institutions with a market rate of interest on sterile reserves, or in the alternative, providing payment of this interest into the appropriate deposit insurance fund;

(3) the monetary impact that the failure to pay interest on sterile reserves has had on insured depository institutions, including an estimate of the total dollar amount of interest and potential income lost by insured depository institutions; and

(4) the impact that failure to pay interest on sterile reserves has had on the ability of the banking industry to compete with nonbanking providers of financial services and with foreign banks.

(b) BUDGETARY IMPACT STUDY.—No later than 90 days after enactment of this Act, the Office of Management and Budget and the Congressional Budget Office, in consultation with the Senate and House Committees on the Budget, shall jointly study and report to Congress on the budgetary impact of—

(1) paying insured depository institutions a market rate of interest on sterile reserves; and

(2) paying such interest into the respective deposit insurance funds.

(c) DEFINITION.—For purposes of this section, the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

SEC. 134. CREDIT CARD ACCOUNTS RECEIVABLE SALES.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended by adding at the end the following new paragraphs:

"(14) SELLING CREDIT CARD ACCOUNTS RECEIVABLE.—

"(A) NOTIFICATION REQUIRED.—An undercapitalized insured depository institution (as defined in section 38) shall notify the Corporation in writing before entering into an agreement to sell credit card accounts receivable.

"(B) WAIVER BY CORPORATION.—The Corporation may at any time, in its sole discretion and upon such terms as it may prescribe, waive its right to repudiate an agreement to sell credit card accounts receivable if the Corporation—

"(i) determines that the waiver is in the best interests of the deposit insurance fund; and

"(ii) provides a written waiver to the selling institution.

"(C) EFFECT OF WAIVER ON SUCCESSORS.—

"(i) IN GENERAL.—If, under subparagraph (B), the Corporation has waived its right to repudiate an agreement to sell credit card accounts receivable—

"(I) any provision of the agreement that restricts solicitation of a credit card customer of the selling institution, or the use of a credit card customer list of the institution, shall bind any receiver or conservator of the institution; and

"(II) the Corporation shall require any acquirer of the selling institution, or of substantially all of the selling institution's assets or liabilities, to agree to be bound by a provision described in subclause (I) as if the acquirer were the selling institution.

"(ii) EXCEPTION.—Clause (i)(II) does not—

"(I) restrict the acquirer's authority to offer any product or service to any person identified without using a list of the selling institution's customers in violation of the agreement;

"(II) require the acquirer to restrict any preexisting relationship between the acquirer and a customer; or

"(III) apply to any transaction in which the acquirer acquires only insured deposits.

"(D) WAIVER NOT ACTIONABLE.—The Corporation shall not, in any capacity, be liable to any person for damages resulting from waiving or failing to waive the Corporation's right under this section to repudiate any contract or lease, including an agreement to sell credit card accounts receivable. No court shall issue any order affecting any such waiver or failure to waive.

"(E) OTHER AUTHORITY NOT AFFECTED.—This paragraph does not limit any other authority of the Corporation to waive the Corporation's right to repudiate an agreement or lease under this section.

"(15) CERTAIN CREDIT CARD CUSTOMER LISTS PROTECTED.—

"(A) IN GENERAL.—If any insured depository institution sells credit card accounts receivable under an agreement negotiated at arm's length that provides for the sale of the institution's credit card customer list, the Corporation shall prohibit any party to a transaction with respect to the institution under this section or section 13 from using the list except as permitted under the agreement.

"(B) FRAUDULENT TRANSACTIONS EXCLUDED.—Subparagraph (A) does not limit the Corporation's authority to repudiate any agreement entered into with the intent to hinder, delay, or defraud the institution, the institution's creditors, or the Corporation.".

SEC. 135. CHANGES TO THE FEDERAL HOME LOAN BANK ACT TO PROMOTE CREDIT AVAILABILITY.

(a) Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) by redesignating subparagraphs (4) and (5) as subparagraphs (5) and (6), respectively;

(2) in newly redesignated subparagraph (5) (as redesignated by subsection (a)(1) of this section), by inserting "nonresidential" after the first "Other";

(3) by inserting new subparagraph (4) as follows:

"(4) Other residential real estate-related collateral acceptable to the Bank."; and

(4) in newly redesignated subparagraph (6) (as redesignated by subsection (a)(1) of this section), by striking "(4)" and inserting "(5)".

(b) (Section 11(h) of the Federal Home Loan Bank Act (12 U.S.C. 1431(h)) is amended by inserting after "Federal Home Loan Bank System," the following clause: "the purchase of participating interests in residential construction loans that are originated by member institutions and that comply with uniform Federal regulations on real estate lending standards under subsection (o) of section 1828 of title 12 of the United States Code, the authority to enhance the credit quality of any such participation interests in residential construction loans that the Banks resell,".

TITLE II—REGULATORY MICROMANAGEMENT

SEC. 201. REGULATORY STANDARDS.

Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831s) (as added by section 132 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is hereby repealed.

SEC. 202. PAPERWORK REDUCTION REVIEW.

Not later than 180 days after the date of enactment of this Act, each appropriate Federal banking agency, in consultation with insured depository institutions and other interested parties, shall—

(a) review the extent to which current regulations require insured depository institutions to produce unnecessary internal written policies; and

(b) eliminate such requirements, where appropriate.

For purposes of this section, the terms "insured depository institution" and "appropriate Federal banking agency" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 203. RULES ON DEPOSIT TAKING.

Section 29(g)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)(3)) is amended—

(1) by inserting "undercapitalized" after "includes any"; and

(2) by inserting "undercapitalized" after "employee of any".

SEC. 204. ADEQUATE TRANSITION PERIOD FOR NEW REGULATIONS.

(a) ADEQUATE TRANSITION PERIOD FOR NEW REGULATIONS.—No new regulation issued by a Federal banking agency which imposes additional reporting, disclosure or other requirements on insured depository institutions shall be effective prior to 180 days from the date that that regulation becomes final unless—

(1) the agency makes a finding that an emergency exists which requires sooner action; or

(2) explicitly directed by Congress.

(b) DEFINITION.—For purposes of this section, the terms "Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

TITLE III—UNNECESSARY COST, PAPERWORK AND REGULATION

Subtitle A—General Provisions

SEC. 301. ANNUAL EXAMINATIONS.

(a) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) (as amended by section 111 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) SMALL INSTITUTION TREATMENT.—In subsection (d), delete paragraph (4) and insert the following new paragraph:

"(4) 2-YEAR RULE FOR CERTAIN SMALL INSTITUTIONS.—Paragraphs (1), (2), and (3) shall apply with '24-month' substituted for '12-month' if—

"(A) the insured depository institution has total assets of less than $250,000,000;

"(B) the institution is well capitalized, as defined in section 38;

"(C) when the institution was most recently examined, it was found to be well managed, had solid earnings, had been profitable for the previous 2 years, and its composite condition was found to be good;

"(D) the insured depository institution is not currently subject to a formal enforcement order by the appropriate Federal banking agency; and

"(E) no person acquired control of the institution during the 12-month period in which a full-scope, on-site examination would be required but for this paragraph.

"The dollar amount in the preceding sentence shall be adjusted annually after December 31, 1992, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.".

(2) STATE EXAMINATIONS.—In subsection (d), delete paragraph (3) and insert the following new paragraph:

"(3) STATE EXAMINATIONS ACCEPTABLE.—The examination requirement established under paragraph (1) may be satisfied by an examination of the insured depository institution conducted by the state during the 12-month period if the appropriate Federal banking agency determines that the state examination carries out the purposes of this subsection.".

(3) CERTAIN DEPOSITORY INSTITUTIONS WITHIN HOLDING COMPANIES.—At the end of subsection (d), add the following new paragraph:

"(7) CERTAIN INSTITUTIONS WITHIN DEPOSITORY INSTITUTION HOLDING COMPANIES.—The appropriate Federal banking agency may exempt any insured depository institution owned or controlled by a depository institution holding company from the requirements of this subsection where—

"(A) the agency is satisfied that adequate internal controls and examination procedures exist within the holding company structure; or

"(B) the insured depository institutions owned or controlled by the depository institution holding company which hold a substantial majority of the total assets of all insured depository institution assets owned or controlled by the depository institution holding company have been examined pursuant to the requirements of this subsection.".

SEC. 302. COORDINATED EXAMINATIONS.

(a) COORDINATED STATE AND FEDERAL EXAMINATIONS.—Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) (as amended by section 301 of this Act) is amended by inserting after paragraph (7) the following new paragraph:

"(8) COORDINATED EXAMINATIONS.—Each appropriate Federal banking agency shall, to the extent practicable—

"(A) coordinate all examinations to be conducted by that agency at an insured depository institution; and

"(B) work with other appropriate Federal banking agencies and appropriate State bank supervisors to coordinate examinations to be conducted at an insured depository institution.

so as to minimize the disruptive effects of such examinations on institution operations.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(r) of the Federal Deposit Insurance Act (12 U.S.C. 1813 (r)) is amended to read as follows:

"(r) APPROPRIATE STATE BANK SUPERVISOR.—The term 'appropriate State bank supervisor' means any officer, agency, or other entity of any State which has primary regulatory authority over State banks or State savings associations in such State.".

SEC. 303. DIFFERENCES IN ACCOUNTING PRINCIPLES.

Section 37(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831n(a)(2)) (as added by section 121 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by adding the following new subparagraph (C)—

"(C) MINIMIZE DIFFERENCES.—Notwithstanding subparagraph (B), each appropriate Federal banking agency and the Corporation shall require insured depository institutions to use accounting principles consistent with generally accepted accounting principles to the extent practicable so as to minimize differences between statements and reports, and thereby reduce the compliance burdens and costs on insured depository institutions.".

SEC. 304. REDUCTION OF CALL REPORT BURDENS.

(a) REGULATORY REVIEW OF CALL REPORT BURDENS.—

(1) IN GENERAL.—Within 60 days after the date of enactment of this Act, each appropriate Federal banking agency shall review the regulatory burden and costs incurred by insured depository institutions during their preparation of reports of condition.

(2) FACTORS TO BE CONSIDERED.—In conducting its review, each agency shall consider all relevant factors that it deems necessary to correctly determine the extent of the burden and costs, including—

(A) the actual dollar cost to financial institutions in preparing such reports;

(B) the time and resources expended to meet regulatory directives;

(C) the frequency in which the agency has modified the type(s) of information required to be reported in such reports and the costs and burdens associated with complying with such modifications; and

(D) the extent to which such costs and burdens, viewed within the overall context of the total regulatory burden and cost incurred by insured depository institutions in their day-to-day operations, impact upon the availability of credit.

(3) CORRECTIVE MEASURES.—After conducting its review, each appropriate Federal banking agency shall revise its call report requirements to remove any unnecessary burdens and costs. Prior to any subsequent modification in call report requirements, each agency shall consider the extent to which such modifications impose unnecessary regulatory burdens and costs upon insured depository institutions.

(4) DEFINITIONS.—For purposes of this section, the terms "insured depository institution" and "appropriate Federal banking agency" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(b) REPEAL OF PUBLICATION REQUIREMENTS.—

(1) The fifth sentence of section 5211(a) of the Revised Statutes (12 U.S.C. 161(a)) is amended by striking "; and the statement of resources and liabilities in the same form in which it is made to the comptroller shall be published in a newspaper" and all that follows through the period and inserting a period.

(2) Section 5211(c) of the Revised Statutes (12 U.S.C. 161(c)) is amended by striking the fourth sentence.

(3) Section 7(a)(1) of the Federal Deposit Insurance Act is amended by striking the fourth sentence.

(4) The last sentence of the sixth undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended by striking "and shall be published" and all that follows through the end of the sentence and inserting a period.

(c) AMENDMENT RELATING TO NATIONAL BANKS.—Section 5211(a) of the Revised Statutes (12 U.S.C. 161(a)) is amended by adding at the end the following sentence: "Any change in the form of report of condition made under this subsection shall be effective only once in a particular calendar year, and only after at least 6 months from the date that notice of the change is published in the Federal Register, except that such change may be effective on a subsequent date or after less notice if the Comptroller makes a specific finding that an additional change in the form or a shorter advance-notice period is necessary because of an emergency or change in Federal law.".

(d) AMENDMENT RELATING TO STATE NONMEMBER INSURED BANKS.—Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(10) TRANSITION PERIOD FOR CHANGES IN REPORT REQUIREMENTS.—Any change in the form of reports of condition made under this subsection shall be effective only once in a particular calendar year, and only after at least 6 months from the date that notice of the change is published in the Federal Register, except that such a change may be effective on a subsequent date or after less notice if the Board of Directors makes a specific finding that an additional change in the form or a shorter advance-notice period is necessary because of an emergency or change in Federal law.".

(e) AMENDMENT RELATING TO STATE MEMBER BANKS.—The sixth undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended by adding at the end the following sentence: "Any change in the form of report of condition made under this subsection shall be effective only once in a particular calendar year, and only after at least 6 months from the date that notice of the change is published in the Federal Register, except that such a change may be effective on a subsequent date or after less notice if the Board of Governors of the Federal Reserve System makes a specific finding that an additional change in the form or a shorter advance-notice period is necessary because of an emergency or change in Federal law.".

(f) AMENDMENT RELATING TO SAVINGS ASSOCIATION.—Section 5(v) of the Home Owners' Loan Act (12 U.S.C. 1464(v)) is amended by adding at the end the following new paragraph:

"(9) TRANSITION PERIOD FOR CHANGES IN REPORT REQUIREMENTS.—Any change in the form of reports of condition made under this subsection shall be effective only once in a particular calendar year, and only after at least 6 months from the date that notice of the change is published in the Federal Register, except that such a change may be effective on a subsequent date or after less notice if the Director makes a specific finding that an additional change in the form or a shorter advance-notice period is necessary because of an emergency or change in Federal law.".

(g) AMENDMENT RELATING TO CREDIT UNIONS.—Section 202(a)(1) of the Federal Credit Union Act (12 U.S.C. 1782(a)(1)) is amended by adding at the end the following sentence: "Any change in the form of reports of condition made under this subsection shall be effective only once in a particular calendar year, and only after at least 6 months from the date that notice of the change is published in the Federal Register, except that such a change may be effective on a subsequent date or after less notice if the Board makes a specific finding that an additional change in the form or a shorter advance-notice period is necessary because of an emergency or change in Federal law.".

SEC. 305. REGULATORY REVIEW OF CAPITAL COMPLIANCE BURDEN.

Not later than 180 days after the date of enactment of this Act, the Federal Financial Institutions Examination Council, in consultation with insured depository institutions and other interested parties, shall—

(a) review the extent to which current compliance requirements associated with risk-based capital rules have an unnecessarily costly and burdensome effect on community banks; and

(b) where appropriate, reduce such costs and burdens.

For purposes of this section, the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

SEC. 306. BRANCH CLOSURES.

Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p) (as added by section 228 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by adding at the end the following new subsections:

"(d) Definitions.—for purposes of this section, the term "branch" shall not include:

"(1) automated teller machines;

"(2) a branch acquired through merger, consolidation, purchase, assumption or other method that is located in a local market area currently served by another branch of the acquiring institution;

"(3) a branch that is closed and reopened in another location within the same local market area which would continue to provide banking services to substantially all of the customers currently served by the branch that is closed;

"(4) a branch that is closed in connection with—

"(A) an emergency acquisition under—

"(i) section 11(n); or

"(ii) subsections (f) or (k) of section 13;

"(B) any assistance provided by the Corporation under section 13(c); and

"(5) any other branch closure whose exemption from the notice requirements of this section would not produce a result inconsistent with the purposes of this section. The appropriate Federal banking agency shall, by regulation, determine the circumstances under which such exemptions will be granted.

"(e) Effective Date.—the amendments made by this section shall become effective on the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

SEC. 307. BANK SECRECY ACT AMENDMENTS.

(a) Staff Commentaries.—Title 31 of the United States Code is amended to add the following new section 5327:

"SEC. 5327. STAFF COMMENTARIES.

"The Secretary of the Treasury shall review all regulations promulgated under this title on an annual basis and seek comment from the public pursuant to this review. The Secretary shall publish all written rulings interpreting this title, as well as a staff commentary to the regulations issued under this title. This commentary shall be issued on an annual basis.".

(b) Log Requirements.—Section 5325(a)(1) of title 31 of the United States Code is amended—

(1) by striking subparagraphs (A) and (B); and

(2) by inserting the following new paragraph (1):

"(1) the individual has a transaction account with such financial institution and the financial institution verifies that fact through a signature card or other information maintained by such institution in connection with the account of such individual.".

(c) Exemption Process.—Section 5318(a)(5) of title 31 of the United States Code is amended—

(1) by inserting "or exception" after "an appropriate exemption"; and

(2) by inserting "only after receiving comments from the entities covered by this chapter. The Secretary must take into account the effect that changes to the exemption or exception process will have on the cost and efficiency of the reporting process." after the words "under this subchapter".

(d) Customer Filings.—Section 5313(a) of title 31 of the United States Code is amended by striking ", the institution and any other participant in the transaction the Secretary may prescribe shall file a report" and inserting "the person who participates in the transaction shall file a report".

(e) Inflation Adjustments on CTR Amounts.—Section 5313(a) of title 31 of the United States Code is amended by inserting after the second sentence the following new sentence: "The Secretary must review the reporting requirements mentioned above by September 1 of each calendar year to determine if the reporting amount prescribed by the Secretary should be adjusted to account for inflation, cost effectiveness of the requirement or the usefulness for law enforcement purposes. The Secretary must submit a written report to the Congress each year disclosing how the reporting threshold decision was reached. The report must include an analysis of how the change will affect domestic financial institutions.".

SEC. 308. CLARIFYING AMENDMENTS.

(a) Data Collections.—Section 7(a)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(8)) (as amended by section 141(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended to add at the end the following new sentence: "In prescribing reporting and other requirements pursuant to this paragraph, the Corporation shall minimize the regulatory burden imposed upon insured depository institutions.";

SEC. 309. LIMITING POTENTIAL LIABILITY ON FOREIGN ACCOUNTS.

(a) Amendment to the Federal Reserve Act.—Section 25 of the Federal Reserve Act (12 U.S.C. 601 et seq.) is amended by adding at the end the following:

"11. Limitations on Liability.—

"A member bank shall not be required to repay any deposit made at a foreign branch of the bank if the branch cannot repay the deposit due to—

"(i) an act of war, insurrection or civil strife, or

"(ii) an action by a foreign government or instrumentality (whether de jure or de facto) in the country in which the branch is located,

unless the member bank has expressly agreed in writing to repay the deposit under those circumstances. The Board is authorized to prescribe such regulations as it deems necessary to implement this paragraph.".

(b) Amendments to the Federal Deposit Insurance Act.—

(1) Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following:

"( ) Sovereign risk.—Section 25(11) of the Federal Reserve Act shall apply to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.".

(2) Conforming amendment.—Subparagraph (A) of section 3(1)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(1)(5)) is amended to read as follows:

"(A) any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State unless—

"(i) such obligation would be a deposit if it were carried on the books and records of the depository institution, and payable at, an office located in any State; and

"(ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State; and".

(c) Existing Claims Not Affected—The amendments made by this section shall not be construed to affect any claim arising from events (described in section 25(11) of the Federal Reserve Act, as added by subsection (a)) that occurred before the date of enactment of this section.

SEC. 310. REPEAL OUT-DATED STATUTORY PROVISION.

Section 5204 of the Revised Statutes (12 U.S.C. 56) is amended—

(1) in the second sentence, by striking "deducting therefrom its losses and bad debts" and inserting "subject to other provisions of law"; and

(2) by striking the third sentence.

SEC. 311. FLEXIBILITY IN CHOOSING BOARDS OF DIRECTORS.

Section 72 of title 12, United States Code is amended: In the first sentence delete "two-thirds" and replace it with "one-half"; In the first sentence after the phrase, "affiliate of a foreign bank" insert, "whether or not the association is owned or controlled by such foreign bank".

Subtitle B—Holding Company Efficiencies

SEC. 321. EXPEDITED PROCEDURES FOR FORMING A BANK HOLDING COMPANY.

Section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended—

(1) by striking out "or (B)" and inserting in lieu thereof "(B),"; and

(2) by inserting before the period at the end of the second sentence the following: ", or (C) with 30 days prior notification to the Board, the acquisition by a company of control of a bank in a reorganization in which a person or group of persons exchange their shares of the bank for shares of a newly formed bank holding company and receive, after the reorganization, substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law if, immediately following the acquisition, the bank holding company meets the capital and other financial standards prescribed by the Board by regulation for such a bank holding company and the holding company does not engage in any activities other than those of banking or managing and controlling banks. In promulgating regulations pursuant to this subsection, the Board shall not require more capital for the subsidiary bank immediately following the reorganization than is required for a similarly sized bank that is not a subsidiary of a bank holding company.".

SEC. 322. EXEMPTION OF CERTAIN HOLDING COMPANY FORMATIONS FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933.

Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended by adding at the end thereof the following new paragraph:

"(7) transactions involving offers or sales of equity securities, in connection with the acquisition of a bank by a company under section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(A)), if the acquisition occurs solely as part of a reorganization in which a person or group of persons exchange their shares of a bank for shares of a newly formed bank holding company and receive, after that reorganization, substantially the same proportional share interests in the bank holding company as they held in the bank, except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law.".

SEC. 323. EXPEDITED PROCEDURES FOR BANK HOLDING COMPANIES TO SEEK APPROVAL TO ENGAGE IN NONBANKING ACTIVITIES.

Paragraph (8) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by redesignating clauses (i) and (ii) of subparagraphs (C), (D), and (E) as subclauses (I) and (II), respectively;

(2) by redesignating subparagraphs (A) through (G), and any cross references thereto as clauses (i) through (vii), respectively; and

(3) by striking out all that precedes "purposes of this subsection it is not" and inserting in lieu thereof the following:

"(8)(A) ACTIVITIES CLOSELY RELATED TO BANKING.—In accordance with the limitations and requirements contained in subparagraphs (B) and (C) of this paragraph, shares of any company whose activities the Board has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto.

"(B) NOTICE REQUIREMENTS.—

"(i) No bank holding company shall engage in any activity or acquire the shares of a company pursuant to this paragraph, either de novo or by an acquisition in whole or in part of a going concern, unless the Board has been given 60 days prior written notice of that proposal and, within that period, the Board has not issued an order—

"(I) disapproving the proposal, or

"(II) extending the time period in accordance with clause (iii) below.

"(ii)(I) An acquisition may be made prior to the expiration of the disapproval period if the Board issues a written statement of its intent not to disapprove the proposal.

"(II) The Board shall publish in the Federal Register notice of receipt of a notice under this paragraph involving insurance and provide a reasonable period for public comment. The Board shall issue an order involving any such notice.

"(III) No notice under this paragraph is required for a bank holding company to establish de novo an office to engage in any activity previously authorized for that bank holding company under this paragraph or to change location of an office engaged in that activity.

"(iii) The notice submitted to the Board shall contain such information as the Board shall prescribe by regulation or by specific request in connection with a particular notice, except that the Board may require only such information as may be relevant to the nature and scope of the proposed activity and to the Board's evaluation of the notice under the criteria specified in clause (iv). If the Board requires additional relevant information beyond that provided in the notice, the Board may by order extend the time period provided in clause (i) of this subparagraph until it has received that information, and the activity that is the subject of the notice may be commenced within 60 days of the date of that receipt unless the Board issues a disapproval order as provided in clause (i). Such an extension order is reviewable under section 9 of this Act.

"(iv) In determining whether to disapprove a notice under this paragraph, the Board shall consider whether the performance of the activity described in the notice by a bank holding company or subsidiary thereof can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. In orders and regulations under this paragraph, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern.

"(c) The Board shall by order set forth the reasons for any disapproval or determination not to disapprove a notice under this paragraph.

"(C) INSURANCE ACTIVITIES NOT CLOSELY RELATED TO BANKING.—For".

SEC. 324. REDUCTION OF POST-APPROVAL WAITING PERIOD FOR BANK HOLDING COMPANY ACQUISITIONS.

Section 11(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by adding before the period at the end of the fourth sentence thereof the following: "or if no adverse comment has been received regarding section 4(c)(8)(C) or section 4(j) of this act, such shorter period of time as may be prescribed by the Board with the concurrence of the Attorney General, but in no event less than 5 days.".

SEC. 325. REDUCTION OF POST-APPROVAL WAITING PERIOD FOR BANK MERGERS.

Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended by inserting before the period at the end of the last sentence thereof the following: "or such shorter period of time as may be prescribed by the agency with the concurrence of the Attorney General, but in no event less than 5 days.".

TITLE IV—CONSUMER INCONVENIENCE, PAPERWORK, AND COST; OTHER NON-SUPERVISORY REFORMS

Subtitle A—Consumer Benefits and Lending Process Improvements

SEC. 401. STREAMLINED LENDING PROCESS FOR CONSUMER BENEFIT.

(a) FEDERAL RESERVE STUDY.—Within twelve months of enactment of this Act, the Board of Governors of the Federal Reserve System, in consultation with the Department of Housing and Urban Development, shall conduct a study and report to Congress on ways to streamline the credit-granting process.

(b) FOCUS.—In carrying out subsection (a), the Board shall—

(1) identify ways to streamline the home mortgage, small business and consumer lending processes so as to—

(A) reduce consumer inconvenience, cost and time delays; and

(B) minimize cost and burdens on insured depository institutions and credit unions;

(2) take such regulatory action, as appropriate, to meet the objectives of paragraph (1); and

(3) provide Congress with legislative recommendations on changes necessary to carry out the purposes of this section.

(c) COMMENT.—In carrying out the objectives of this section, the Board shall solicit comments from other Federal banking agencies, consumer groups, insured depository institutions, credit unions, and other interested parties.

(d) DEFINITION.—For purposes of this section, the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

SEC. 402. EXEMPTION FOR CERTAIN BORROWERS.

Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended by adding at the end the following:

"(7) Credit transactions involving consumers who earn more than $200,000 annually or have net assets in excess of $1,000,000 at the time of such transaction.".

SEC. 403. MODIFICATION OF WAIVER OF RIGHT OF RESCISSION.

Section 125(d) of the Truth in Lending Act (15 U.S.C. 1635(d)) is amended by striking ", if it finds that such action is necessary in order to permit homeowners to meet bona fide personal financial emergencies,".

SEC. 404. ALTERNATIVE DISCLOSURES FOR ADJUSTABLE RATE MORTGAGES.

(a) Section 127A(a)(2)(G) of the Truth in Lending Act (15 U.S.C. 1637a(a)(2)(G)) is amended by inserting before the semicolon ", or a statement that the monthly payment may increase or decrease significantly due to increases in the annual percentage rate".

(b) In Section 128(a) of the Truth in Lending Act (15 U.S.C. 1638(a)), insert at the end the following new paragraph (14):

"(14) In any variable rate residential mortgage transaction, at the creditors' option, a statement that the monthly payment may increase or decrease substantially, or an historical example illustrating the effects of interest rate changes implemented according to the loan program.".

SEC. 405. EXEMPTION FOR BUSINESS ACCOUNTS.

Section 274 of the Truth in Savings Act (15 U.S.C. 4313) is amended by striking subsection (1) and inserting the following in its place:

"(1) The term 'account' means any account intended for use by and generally used by consumers primarily for personal, family, or household purposes by a depository institution into which a customer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.".

SEC. 406. ELIMINATION OF DUPLICATE DISCLOSURES FOR HOME EQUITY LOANS.

Section 4 of the Real Estate Settlement Procedures Act (12 U.S.C. 2603) is amended by inserting in subsection (a) after the first sentence: "except that for federally related mortgage loans secured by a subordinate lien on residential property subject to section 127A(a) of the Truth in Lending Act (15 U.S.C. 1637a(a)), the disclosures of section 127A(a) of the Truth in Lending Act (15 U.S.C. 1637a(a)) may be used in place of the standard real estate settlement form.".

Subtitle B—Other Non-Supervisory Reforms

PART 1—EXPEDITED FUNDS AVAILABILITY AND ELECTRONIC TRANSFERS

SEC. 411. AVAILABILITY SCHEDULES.

(a) TREASURY CHECKS.—Section 603(a)(2)(A) of the Expedited Funds Availability Act (12 U.S.C. 4002(a)(2)(A)) is amended—

(1) by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively; and

(2) by inserting before clause (ii), as redesignated, the following:

"(i) is deposited in a receiving depository institution which is staffed by individuals employed by such institutions;".

(b) ON-US ITEMS.—Section 603(a)(2)(E) of the Expedited Availability Act (12 U.S.C. 4002(a)(2)(E)) is amended by inserting "is staffed by individuals employed by such institutions" after "branch of a depository institution".

(c) LOCAL CHECKS.—Section 603(b)(1) of the Expedited Funds Availability Act (12 U.S.C. 4002(b)(1)) is amended by striking "1 business day" and inserting "2 business days".

SEC. 412. DEFINITION OF A NEW ACCOUNT.

Section 604(a) of Expedited Funds Availability Act (12 U.S.C. 4003(a)) is amended by striking "30-day period" and inserting "90-day period".

SEC. 413. JURISDICTION.

Section 611(f) of the Expedited Funds Availability Act (12 U.S.C. 4010(f)) is amended in the first sentence by inserting "or other entities participating in the payments system, including States and political subdivisions thereof on which checks are drawn." after "depository institutions".

SEC. 414. UNAUTHORIZED ELECTRONIC FUND TRANSFERS.

Section 909(a)(1) of Electronic Fund Transfer Act (15 U.S.C. 1693g(a)(1)) is amended by inserting "(or in cases where the cardholder has substantially contributed to the unauthorized use, including writing on or keeping with the card or other means of access a personal identification or other security code, $500)" after "$50".

PART 2—AMENDMENTS TO THE TRUTH IN LENDING ACT

SEC. 421. LIABILITY FOR UNAUTHORIZED USE OF CREDIT CARDS.

Section 133(a) of the Truth in Lending Act (15 U.S.C. 1643(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2)(A) Notwithstanding paragraph (1), a cardholder shall be liable for the unauthorized use of a credit card if—

"(i) the liability is in excess of $50; and

"(ii) the cardholder fails to notify the card issuer of any unauthorized transaction which appears on the statement of the cardholder's account in connection with an extension of consumer credit within 60 days of the receipt of such statement.

"(B) The liability described in subparagraph (A) shall not apply if the cardholder demonstrates that the failure to timely notify the card issuer of the unauthorized use was due to extenuating circumstances such as extended travel or hospitalization, and notice was provided at the earliest possible time thereafter.

"(C) the liability described in subparagraph (A) shall only apply where the card issuer has provided prior notice to the cardholder of such liability.".

PART 3—HOMEOWNERSHIP AMENDMENTS

SEC. 431. HOME MORTGAGE DISCLOSURE ACT EXEMPTION.

The Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801 et seq.) is amended in section 309 (12 U.S.C. 2808) by inserting at the end the following new sentence: "The amount of total assets in the preceding sentence shall be adjusted yearly on January 1 by the annual percentage change in the Consumer Price Index reported for the previous June 1.".

SEC. 432. HOMEOWNERSHIP DEBT COUNSELING NOTIFICATION.

Section 106(c)(5) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)) is amended:

(a) by inserting at the end the following new subparagraph (F):

"(F) AFFECT ON FORECLOSURE PROCEEDINGS.—Failure of a creditor to comply with the requirements of this subsection shall in no way affect foreclosure proceedings under State law."; and

(b) in subparagraph (B)—

(1) by inserting "(i)" before "The notification required" and by renumbering clauses (i) and (ii) as subclauses (I) and (II), respectively;

(2) by inserting the following new clause (ii)—

"(ii) Creditors shall not be required to provide the notification required under subparagraph (A) more than once annually.".

SEC. 433. ELIMINATION OF DUPLICATIVE DATA COLLECTION.

Effective six months after the date of enactment of this Act, no Federal banking agency shall require any institution for which it is the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) to prepare, file, or maintain any form for the purpose of collection, analysis, or maintenance of appropriate data to further the purposes of, or to fulfill the requirements of, the Fair Housing Act, other than a form for data collection, analysis, or maintenance required under the Home Mortgage Disclosure Act of 1975.

PART 4—AMENDMENTS TO THE TRUTH IN SAVINGS ACT

SEC. 441. CIVIL LIABILITY.

Section 271 of the Truth in Savings Act (15 U.S.C. 4310) is amended—

(1) by inserting the following new subsection (c):

"(c) LIMITS TO CIVIL LIABILITY.—In connection with the disclosures referred to in section 268, a depository institution shall have liability under paragraph (a)(2) of this section only for failing to comply with subsections (2) and (4) of section 268. A depository institution has no liability under this section for any failure to comply with section 263."; and

(2) by redesignating subsections (c), (d), (e), (f), (g), (h) and (i) as subsections (d), (e), (f), (g), (h), (i) and (j), respectively.

PART 5—AMENDMENTS TO THE REAL ESTATE SETTLEMENTS PROCEDURES ACT

SEC. 451. CLARIFY DISCLOSURE REQUIREMENTS.

Section 6 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605) is amended—

(a) in subsection (a)(1)(B)—

(1) by inserting "at the choice of the person making a federally related mortgage loan—(i)" after "(B)";

(2) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and by striking "and" at the end of newly redesignated subclause (II) and inserting "or"; and

(3) by inserting the following new clause (ii):

"(ii) a statement that the person making the loan has previously assigned, sold, or transferred the servicing of federally related mortgage loans; and".

(b) in subsection (a)(2), by inserting at the end the following new sentence: "Notwithstanding the previous sentences of this paragraph, the Secretary shall also permit any person originating the loan, at the choice of such person, to provide instead of the percentage estimates required to be disclosed under this paragraph a statement that the servicing may be assigned, sold or transferred during the 12-month period beginning upon origination.".

SEC. 452. EXEMPTION OF BUSINESS LOANS.

The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601) is amended—

(1) by redesignating sections 4 (as amended by section 406 of this Act) through 19 as sections 5 through 20, respectively; and

(2) by inserting the following new section 4:

"SEC. 4. EXEMPTED TRANSACTIONS.—This title does not apply to the following:

"(1) Credit transactions involving extensions of credit primarily for business, commercial, or agricultural purposes, or to government or governmental agencies or instrumentalities, or to organizations; or

"(2) Credit transactions to finance or refinance agricultural property (such as farms, ranches, aquaculture, or vineyards) constituting 25 or more acres regardless of whether the loan in part involves a lien including residential property.".

TITLE V—COMMUNITY INVESTMENT

SEC. 501. COMMUNITY REINVESTMENT ACT AMENDMENTS.

(a) COMPLIANCE BURDENS.—Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended—

(1) in paragraph (1), by striking "; and" and inserting ";";

(2) in paragraph (2), by striking "." and inserting "; and"; and

(3) by adding at the end the following new paragraph (3):

"(3) minimize the regulatory paperwork burdens and costs associated with compliance with this Act, giving appropriate consideration and recognition to such factors as the nature and scope of the institution's business, its location and area of service, and such other factors as may be appropriate.".

(b) SAFE HARBOR.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is hereby amended by adding the following new section:

"SEC. 809. SAFE HARBOR.—Notwithstanding section 804(2), an application for a deposit facility by—

"(a) a regulated financial institution shall not be denied on the basis of such institution's compliance with this Act is such institution received a rating in its last evaluation under section 804 of 'Outstanding' in its record of meeting community credit needs, as provided in section 807(b); or

"(b) a depository institution holding company, as defined in section 3(w) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)), shall not be denied if—

"(1) regulated financial institution subsidiaries representing, in the aggregate, two-thirds of the holding company's regulated financial institution assets received a rating in their last evaluation under section 804 of 'Outstanding'; and

"(2) the remaining regulated financial institution subsidiaries received a rating in their last evaluation under section 804 of at least 'Satisfactory'.".

(c) INCREASED INCENTIVES TO LENDING TO LOW- AND MODERATE-INCOME COMMUNITIES.—Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) (as amended by section 501(a) of this Act) is amended—

(1) in paragraph (2), by striking "; and" and inserting ";";

(2) in paragraph (3), by striking "." and inserting "; and"; and

(3) by adding at the end the following new paragraph (4):

"(4) provide the institution with credit, for purposes of satisfying the requirements of this Act, for investments in, and loans to, joint ventures or other entities or projects which provide benefits to distressed communities, as such term is defined by the appropriate Federal financial supervisory agency, whether those communities are located within or outside of the service area of the regulated financial institution.".

(d) SPECIAL PURPOSE BANKS.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is hereby amended—

(1) in section 803 (12 U.S.C. 2902), by inserting the following new paragraph (5):

"(5) the term "special purpose banks" means a bank that does not generally accept retail deposits, such as credit card banks and trust banks."; and

(2) in section 804 (12 U.S.C. 2903) (as amended by sections 501(a) and 501(c) of this Act)—

(A) by inserting "(a)" before "In connection with";

(B) by inserting at the end the following new subsection (b):

"(b) In conducting assessments pursuant to subsection (a) at special purpose banks, each appropriate Federal financial supervisory agency shall take into consideration the nature of business such banks are involved in and develop standards under which such banks may be deemed to have complied with the requirements of this Act which are consistent with the specific nature of such businesses.".

(e) STATE EXAMS.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is hereby amended by adding after section 809 (as added by section 501(b)) the following new section:

"SEC. 810. STATE EXAMS.—The appropriated Federal financial supervisory agency may accept examinations conducted by state supervisory agencies pursuant to comparable state community reinvestment laws in order to satisfy the requirements of this Act.".•

COMMERCE COMMITTEE RULES

• Mr. HOLLINGS. Mr. President, in accordance with paragraph 2 of rule XXVI of the Standing Rules of the Senate, I submit the rules of the Committee on Commerce, Science, and Transportation to be printed in the RECORD.

These committee rules were adopted at the committee's executive session held on January 28, 1993.

The rules follow:

RULES OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

I. MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the Committee shall be the first and third Tuesdays of each month. Additional meetings may be called by the Chairman as he may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the Committee, or any subcommittee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee, or any subcommittee, on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the Committee, or any subcommittee, when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

3. Each witness who is to appear before the Committee or any subcommittee shall file with the Committee, at least 24 hours in advance of the hearing, a written statement of his testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

4. Field hearings of the full Committee, and any subcommittee thereof, shall be scheduled only when authorized by the Chairman and Ranking Minority Member of the full Committee.

II. QUORUMS

1. Eleven members shall constitute a quorum for official action of the Committee when reporting a bill or nomination, provided that proxies shall not be counted in making a quorum.

2. Seven members shall constitute a quorum for the transaction of all business as may be considered by the Committee, except for the reporting of a bill or nomination, provided that proxies shall not be counted in making a quorum.

3. For the purpose of taking sworn testimony, a quorum of the Committee and each subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

III. PROXIES

When a record vote is taken in the Committee on any bill, resolution, amendment, or any other question, a majority of the members being present, a member who is unable to attend the meeting may submit his vote by proxy, in writing or by telephone, or through personal instructions.

IV. BROADCASTING OF HEARINGS

Public hearings of the full Committee, or any subcommittee thereof, shall be televised or broadcast only when authorized by the Chairman and the Ranking Minority Member of the full Committee.

V. SUBCOMMITTEES

1. Any member of the Committee may sit with any subcommittee during its hearings or any other meeting but shall not have the authority to vote on any matter before the subcommittee unless he is a Member of such subcommittee.

2. Subcommittees shall be considered *de novo* whenever there is a change in the chairmanship, and seniority on the particular subcommittee shall not necessarily apply.•

BUDGET SCOREKEEPING REPORT

• Mr. SASSER. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through January 29, 1993. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget—House Concurrent Resolution 287—show that current level spending is below the budget resolution by $2.1 billion in budget authority and $0.5 billion in outlays. Current level is $0.5 billion above the revenue floor in 1993 and above by $1.4 billion over the 5 years, 1993–97. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $392.4 billion, $28.4 billion below the maximum deficit amount for 1993 of $420.8 billion.

There has been no action that affects the current level of budget authority, outlays, or revenues since the last report, dated January 26, 1993.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 2, 1993.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1993 and is current through January 29, 1993. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 287). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated January 26, 1993, there has been no action that affects the current level of budget authority, outlays, or revenues.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer.)

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONG., 1ST SESS., AS OF JAN. 29, 1993

[In billions of dollars]

	Budget resolution (H. Con. Res. 287)	Current level[1]	Current level +/− resolution
On-budget:			
Budget authority	1,250.0	1,247.9	−2.1
Outlays	1,242.3	1,241.8	−.5
Revenues:			
1993	848.9	849.4	+.5
1993–97	4,818.6	4,820.0	+1.4
Maximum deficit amount	420.8	392.4	−28.4
Debt subject to limit	4,461.2	4,082.0	−379.2
Off-budget:			
Social Security outlays:			
1993	260.0	260.0	
1993–97	1,415.0	1,415.0	
Social Security revenues:			
1993	328.1	328.1	(2)
1993–97	1,865.0	1,865.0	(2)

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] Less than $50,000,000.

Note.—Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONG., 1ST SESS., SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1993 AS OF CLOSE OF BUSINESS JAN. 29, 1993

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			849,425
Permanents and other spending legislation	764,283	737,413	
Appropriation legislation	732,061	743,943	
Offsetting receipts	(240,524)	(240,524)	
Total previously enacted	1,255,820	1,240,833	849,425
ENACTED THIS SESSION			
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	(7,928)	962	
Total current level[1]	1,247,892	1,241,794	849,425
Total budget resolution[2]	1,249,990	1,242,290	848,890
Amount remaining:			
Under budget resolution	2,098	496	
Over budget resolution			535

[1] In accordance with the Budget Enforcement Act, the total does not include $1,145 million in budget authority and $6,988 million in outlays in emergency funding.

[2] Includes revision under Section 9 of the Concurrent Resolution on the Budget.

Note.—Amounts in parentheses are negative.•

RULES FOR THE COMMITTEE ON THE BUDGET

• Mr. SASSER. Mr. President, pursuant to rule XXVI(2) of the Standing Rules of the Senate, I submit for printing in the CONGRESSIONAL RECORD the rules of the Committee on the Budget for the 103d Congress as adopted by the committee, Friday, January 29, 1993.

The rules of the committee follow:

RULES OF THE COMMITTEE ON THE BUDGET, 103D CONGRESS

I. MEETINGS

(1) The committee shall hold its regular meeting on the first Thursday of each month. Additional meetings may be called by the chair as the chair deems necessary to expedite committee business.

(2) Each meeting of the Committee on the Budget of the Senate, including meetings to conduct hearings, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the committee determines by record vote in open session of a majority of the members of the committee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(a) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(b) will relate solely to matters of the committee staff personnel or internal staff management or procedure;

(c) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(d) will disclose the identify of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

(e) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(i) an act of Congress requires the information to be kept confidential by Government officers and employees; or

(ii) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person.

II. QUORUMS

(1) Except as provided in paragraphs (2) and (3) of this section, a quorum for the transaction of committee business shall consist of not less than one-third of the membership of the entire committee: Provided, that proxies shall not be counted in making a quorum.

(2) A majority of the committee shall constitute a quorum for reporting budget resolutions, legislative measures or recommendations: Provided, that proxies shall not be counted in making a quorum.

(3) For the purpose of taking sworn or unsworn testimony, a quorum of the committee shall consist of one Senator.

III. PROXIES

When a record vote is taken in the committee on any bill, resolution, amendment, or any other question, a quorum being present, a member who is unable to attend the meeting may vote by proxy if the absent member has been informed of the matter on which the vote is being recorded and has affirmatively requested to be so recorded; except that no member may vote by proxy during the deliberations on Budget Resolutions.

IV. HEARINGS AND HEARING PROCEDURES

(1) The committee shall make public announcement of the date, place, time, and subject matter of any hearing to be conducted on any measure or matter at least 1 week in advance of such hearing, unless the chair and ranking minority member determine that there is good cause to begin such hearing at an earlier date.

(2) A witness appearing before the committee shall file a written statement of proposed testimony at least 1 day prior to appearance, unless the requirement is waived by the chair and the ranking minority member, following their determination that there is good cause for the failure of compliance.

V. COMMITTEE REPORTS

(1) When the committee has ordered a measure or recommendation reported, following final action, the report thereon shall be filed in the Senate at the earliest practicable time.

(2) A member of the committee who gives notice of an intention to file supplemental, minority, or additional views at the time of final committee approval of a measure or matter, shall be intitled to not less than 3 calendar days in which to file such views, in writing, with the chief clerk of the committee. Such views shall then be included in the committee report and printed in the same volume, as a part thereof, and their inclusions shall be noted on the cover of the report. In the absence of timely notice, the committee report may be filed and printed immediately without such views.•

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

• Mr. PELL. Mr. President, pursuant to the requirements of paragraph 2 of Senate rule XXVI, I ask to have printed in the RECORD the rules of the Committee on Foreign Relations for the 103d Congress adopted by the committee on January 26, 1993.

The rules of the committee follow:

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

(Adopted January 26, 1993)

RULE 1—JURISDICTION

(a) *Substantive*.—In accordance with Senate Rule XXV.1(j), the jurisdiction of the Committee shall extend to all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Acquisition of land and buildings for embassies and legislations in foreign countries.
2. Boundaries of the United States.
3. Diplomatic service.
4. Foreign economic, military, technical, and humanitarian assistance.
5. Foreign loans.
6. International activities of the American National Red Cross and the International Committee of the Red Cross.
7. International aspects of nuclear energy, including nuclear transfer policy.
8. International conferences and congresses.
9. International law as it relates to foreign policy.
10. International Monetary Fund and other international organizations established primarily for international monetary purposes (except that, at the request of the Committee on Banking, Housing, and Urban Affairs, any proposed legislation relating to such subjects reported by the Committee on Foreign Relations shall be referred to the Committee on Banking, Housing, and Urban Affairs).
11. Intervention abroad and declarations of war.
12. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.
13. National security and international aspects of trusteeships of the United States.
14. Ocean and international environmental and scientific affairs as they relate to foreign policy.
15. Protection of United States citizens abroad and expatriation.
16. Relations of the United States with foreign nations generally.

17. Treaties and executive agreements, except reciprocal trade agreements.

18. United Nations and its affiliated organizations.

19. World Bank group, the regional development banks, and other international organizations established primarily for development assistance purposes.

The Committee is also mandated by Senate Rule XXV.1(j) to study and review, on a comprehensive basis, matters relating to the national security policy, foreign policy, and international economic policy as it relates to foreign policy of the United States, and matters relating to food, hunger, and nutrition in foreign countries, and report thereon from time to time.

(b) *Oversight.*—The Committee also has a responsibility under Senate Rule XXVI.8, which provides that ". . each standing Committee . . . shall review and study, on a continuing basis, the application, administration, and execution of those laws or parts of laws, the subject matter of which is within the jurisdiction of the Committee."

(c) "*Advice and Consent*" *Clauses.*—The Committee has a special responsibility to assist the Senate in its constitutional function of providing "advice and consent" to all treaties entered into by the United States and all nominations to the principal executive branch positions in the field of foreign policy and diplomacy.

RULE 2—SUBCOMMITTEES

(a) *Creation.*—Unless otherwise authorized by law or Senate resolution, subcommittees shall be created by majority vote of the Committee and shall deal with such legislation and oversight of programs and policies as the Committee directs. Legislative measures or other matters may be referred to a subcommittee for consideration in the discretion of the Chairman or by vote of a majority of the Committee. If the principal subject matter of a measure or matter to be referred falls within the jurisdiction of more than one subcommittee, the Chairman or the Committee may refer the matter to two or more subcommittees for joint consideration.

(b) *Assignments.*—Assignments of members to subcommittees shall be made in an equitable fashion. No member of the Committee may receive assignment to a second subcommittee until, in order of seniority, all members of the Committee have chosen assignments to one subcommittee, and no member shall receive assignments to a third committee until, in order of seniority, all members have chosen assignments to two subcommittees.

No member of the Committee may serve on more than three subcommittees at any one time.

The Chairman and Ranking Minority Member of the Committee shall be ex officio members, without vote, of each subcommittee.

(c) *Meetings.*—Except when funds have been specifically made available by the Senate for a subcommittee purpose, no subcommittee of the Committee on Foreign Relations shall hold hearings involving expenses without prior approval of the Chairman of the full Committee or by decision of the full Committee. Meetings of subcommittees shall be scheduled after consultation with the Chairman of the Committee with a view toward avoiding conflicts with meetings of other subcommittees insofar as possible. Meetings of subcommittees shall not be scheduled to conflict with meetings of the full Committee.

The proceedings of each subcommittee shall be governed by the rules of the full Committee, subject to such authorizations or limitations as the Committee may from time to time prescribe.

RULE 3—MEETINGS

(a) *Regular Meeting Day.*—The regular meeting day of the Committee on Foreign Relations for the transaction of Committee business shall be on Tuesday of each week, unless otherwise directed by the Chairman.

(b) *Additional Meetings.*—Additional meetings and hearings of the Committee may be called by the Chairman as he may deem necessary. If at least three members of the Committee desire that a special meeting of the Committee be called by the Chairman, those members may file in the offices of the Committee their written request to the Chairman for that special meeting. Immediately upon filing of the request, the Chief Clerk of the Committee shall notify the Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the Committee may file in the offices of the Committee their written notice that a special meeting of the Committee will be held, specifying the date and hour of that special meeting. The Committee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk shall notify all members of the Committee that such special meeting will be held and inform them of its date and hour.

(c) *Minority Request.*—Whenever any hearing is conducted by the Committee or a subcommittee upon any measure or matter, the minority on the Committee shall be entitled, upon request made by a majority of the minority members to the Chairman before the completion of such hearing, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon.

(d) *Public Announcement.*—The Committee, or any subcommittee thereof, shall make public announcement of the date, place, time, and subject matter of any hearing to be conducted on any measure or matter at least one week in advance of such hearings, unless the Chairman of the Committee, or subcommittee, determines that there is good cause to begin such hearing at an earlier date.

(e) *Procedure.*—Insofar as possible, proceedings of the Committee will be conducted without resort to the formalities of parliamentary procedure and with due regard for the views of all members. Issues of procedure which may arise from time to time shall be resolved by decision of the Chairman, in consultation with the Ranking Minority Member. The Chairman, in consultation with the Ranking Minority Member, may also propose special procedures to govern the consideration of particular matters by the Committee.

(f) *Closed Sessions.*—Each meeting of the Committee on Foreign Relations, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee or a subcommittee on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in paragraphs (1) through (6) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the Committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct; to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interest of effective law enforcement;

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person, or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

A closed meeting may be opened by a majority vote of the Committee.

(g) *Staff Attendance.*—A member of the Committee may have one member of his or her personal staff, for whom that member assumes personal responsibility, accompany and be seated nearby at Committee meetings.

Each member of the Committee may designate members of his or her personal staff, who hold a Top Secret security clearance, for the purpose of their eligibility to attend closed sessions of the Committee, subject to the same conditions set forth for Committee staff under Rules 12, 13, and 14.

In addition, the Majority Leader and the Minority Leader of the Senate, if they are not otherwise members of the Committee, may designate one member of their staff with a Top Secret security clearance to attend closed sessions of the Committee, subject to the same conditions set forth for Committee staff under Rules 12, 13 and 14. Staff of other Senators who are not members of the Committee may not attend closed sessions of the Committee.

Attendance of Committee staff at meetings shall be limited to those designated by the Staff Director or the Minority Staff Director.

The Committee, by majority vote, or the Chairman, with the concurrence of the Ranking Minority Member, may limit staff attendance at specified meetings.

RULE 4—QUORUMS

(a) *Testimony.*—For the purpose of taking sworn or unsworn testimony at any duly scheduled meeting a quorum of the Committee and each subcommittee thereof shall consist of one member.

(b) *Business.*—A quorum for the transaction of Committee or subcommittee business, other than for reporting a measure or recommendation to the Senate or the taking of testimony, shall consist of one-third of the members of the Committee or subcommittee, including at least one member from each party.

(c) *Reporting.*—A majority of the membership of the Committee shall constitute a quorum for reporting any measure or recommendation to the Senate. No measure or recommendation shall be ordered reported from the Committee unless a majority of the Committee members are physically present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of those members who are physically present at the time the vote is taken.

RULE 5—PROXIES

Proxies must be in writing with the signature of the absent member. Subject to the requirements of Rule 4 for the physical presence of a quorum to report a matter, proxy voting shall be allowed on all measures and matters before the Committee. However, proxies shall not be voted on a measure or matter except when the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he or she be so recorded.

RULE 6—WITNESSES

(a) *General.*—The Committee on Foreign Relations will consider requests to testify on any matter or measure pending before the Committee.

(b) *Presentation.*—If the Chairman so determines, the oral presentation of witnesses shall be limited to 10 minutes. However, written statements of reasonable length may be submitted by witnesses and other interested persons who are unable to testify in person.

(c) *Filing of Statements.*—A witness appearing before the Committee, or any subcommittee thereof, shall file a written statement of his proposed testimony at least 48 hours prior to his appearance, unless this requirement is waived by the Chairman and the Ranking Minority Member following their determination that there is good cause for failure to file such a statement.

(d) *Expenses.*—Only the Chairman may authorize expenditures of funds for the expenses of witnesses appearing before the Committee or its subcommittees.

(e) *Requests.*—Any witness called for a hearing may submit a written request to the Chairman no later than 24 hours in advance for his testimony to be in closed or open session, or for any other usual procedure. The Chairman shall determine whether to grant any such request and shall notify the Committee members of the request and of this decision.

RULE 7—SUBPOENAS

(a) *Authorization.*—The Chairman or any other member of the Committee, when authorized by a majority vote of the Committee at a meeting or by proxies, shall have authority to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials. When the Committee authorizes a subpoena, it may be issued upon the signature of the Chairman or any other member designated by the Committee.

(b) *Return.*—A subpoena, or a request to an agency, for documents may be issued whose return shall occur at a time and place other than that of a scheduled Committee meeting. A return on such a subpoena or request which is incomplete or accompanied by an objection constitutes good cause for a hearing on shortened notice. Upon such a return, the Chairman or any other member designated by him may convene a hearing by giving 2 hours notice by telephone to all other members. One member shall constitute a quorum for such a hearing. The sole purpose of such a hearing shall be to elucidate further information about the return and to rule on the objection.

(c) *Depositions.*—At the direction of the Committee, staff is authorized to take depositions from witnesses.

RULE 8—REPORTS

(a) *Filing.*—When the Committee has ordered a measure or recommendation reported, the report thereon shall be filed in the Senate at the earliest practicable time.

(b) *Supplemental, Minority and Additional Views.*—A member of the Committee who give notice of his intentions to file supplemental, minority, or additional views at the time of final Committee approval of a measure or matter, shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the Chief Clerk of the Committee. Such views shall then be included in the Committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the Committee report may be filed and printed immediately without such views.

(c) *Rollcall Votes.*—The results of all rollcall votes taken in any meeting of the Committee on any measure, or amendment thereto, shall be announced in the Committee report. The announcement shall include a tabulation of the votes cast in favor and votes cast in opposition to each such measure and amendment by each member of the Committee.

RULE 9—TREATIES

(a) The Committee is the only Committee of the Senate with jurisdiction to review and report to the Senate on treaties submitted by the President for Senate advice and consent. Because the House of Representatives has no role in the approval of treaties, the Committee is therefore the only congressional committee with responsibility for treaties.

(b) Once submitted by the President for advice and consent, each treaty is referred to the Committee and remains on its calendar from Congress to Congress until the Committee takes action to report it to the Senate or recommend its return to the President, or until the Committee is discharged of the treaty by the Senate.

(c) In accordance with Senate Rule XXX.2, treaties which have been reported to the Senate but not acted on before the end of a Congress "shall be resumed at the commencement of the next Congress as if no proceedings had previously been had thereon."

(d) Insofar as possible, the Committee should conduct a public hearing on each treaty as soon as possible after its submission by the President. Except in extraordinary circumstances, treaties reported to the Senate shall be accompanied by a written report.

RULE 10—NOMINATIONS

(a) *Waiting Requirement.*—Unless otherwise directed by the Chairman and the Ranking Minority Member, the Committee on Foreign Relations shall not consider any nomination until 6 calendar days after it has been formally submitted to the Senate.

(b) *Public Consideration.*—Nominees for any post who are invited to appear before the Committee shall be heard in public session, unless a majority of the Committee decrees otherwise.

(c) *Required Data.*—No nomination shall be reported to the Senate unless (1) the nominee has been accorded a security clearance on the basis of a thorough investigation by executive branch agencies; (2) in appropriate cases, the nominee has filed a confidential statement and financial disclosure report with the Committee; (3) the Committee has been assured that the nominee does not have any interests which could conflict with the interests of the government in the exercise of the nominee's proposed responsibilities; (4) for persons nominated to be chief of mission, ambassador-at-large, or minister, the Committee has received a complete list of any contributions made by the nominee or members of his immediate family to any Federal election campaign during the year of his or her nomination and for the 4 preceding years; and (5) for persons nominated to be chiefs of mission, a report on the demonstrated competence of that nominee to perform the duties of the position to which he or she has been nominated.

RULE 11—TRAVEL

(a) *Foreign Travel.*—No member of the Committee on Foreign Relations or its staff shall travel abroad on Committee business unless specifically authorized by the Chairman, who is required by law to approve vouchers and report expenditures of foreign currencies, and the Ranking Minority Member. Requests for authorization of such travel shall state the purpose and, when completed, a full substantive and financial report shall be filed with the Committee within 30 days. This report shall be furnished to all members of the Committee and shall not be otherwise disseminated without the express authorization of the Committee. Except in extraordinary circumstances, staff travel shall not be approved unless the reporting requirements have been fulfilled for all prior trips. Except for travel that is strictly personal, travel funded by non-U.S. Government sources is subject to the same approval and substantive reporting requirements as U.S. Government-funded travel. In addition, members and staff are reminded of Senate Rule XXXV.4 requiring a determination by the Senate Ethics Committee in the case of foreign-sponsored travel.

Any proposed travel by Committee staff for a subcommittee purpose must be approved by the subcommittee chairman and ranking minority member prior to submission of the request to the Chairman and Ranking Minority Member of the full Committee.

When the Chairman and the Ranking Minority Member approve the foreign travel of a member of the staff of the committee not accompanying a member of the Committee, all members of the Committee shall be advised, prior to the commencement of such travel of its extent, nature, and purpose.

(b) *Domestic Travel.*—All official travel in the United States by the Committee staff shall be approved in advance by the Staff Director, or in the case of minority staff, by the Minority Staff Director.

(c) *Personal Staff.*—As a general rule, no more than one member of the personal staff of a member of the Committee may travel with that member with the approval of the Chairman and the Ranking Minority Member of the Committee. During such travel, the personal staff member shall be considered to be an employee of the Committee.

RULE 12—TRANSCRIPTS

(a) *General.*—The Committee on Foreign Relations shall keep verbatim transcripts of all Committee and subcommittee meetings and such transcripts shall remain in the custody of the Committee, unless a majority of the Committee decides otherwise. Transcripts of public hearings by the Committee shall be published unless the Chairman, with the concurrence of the Ranking Minority Member, determines otherwise.

(b) *Classified or Restricted Transcripts.*—

(1) The Chief Clerk of the Committee shall have responsibility for the maintenance and security of classified or restricted transcripts.

(2) A record shall be maintained of each use of classified or restricted transcripts.

(3) Classified or restricted transcripts shall be kept in locked combination safes in the Committee offices except when in active use by authorized persons for a period not to exceed 2 weeks. Extensions of this period may be granted as necessary by the Chief Clerk. They must never be left unattended and shall be returned to the Chief Clerk promptly when no longer needed.

(4) Except as provided in paragraph 7 below, transcripts classified secret or higher may not leave the Committee offices except for the purpose of declassification.

(5) Classified transcripts other than those classified secret or higher may leave the Committee offices in the possession of authorized persons with the approval of the Chairman. Delivery and return shall be made only by authorized persons. Such transcripts may not leave Washington, DC, unless adequate assurances for their security are made to the Chairman.

(6) Extreme care shall be exercised to avoid taking notes or quotes from classified transcripts. Their contents may not be divulged to any unauthorized person.

(7) Subject to any additional restrictions imposed by the Chairman with the concurrence of the Ranking Minority Member, only the following persons are authorized to have access to classified or restricted transcripts.

(i) Members and staff of the Committee in the Committee rooms;

(ii) Designated personal representatives of members of the Committee, and of the Majority and Minority Leaders, with appropriate security clearances, in the Committee's Capitol office;

(iii) Senators not members of the Committee, by permission of the Chairman in the Committee rooms; and

(iv) Members of the executive departments involved in the meeting, in the Committee's Capitol office, or, with the permission of the Chairman, in the offices of the officials who took part in the meeting, but in either case, only for a specified and limited period of time, and only after reliable assurances against further reproduction or dissemination have been given.

(8) Any restrictions imposed upon access to a meeting of the Committee shall also apply to the transcript of such meeting, except by special permission of the Chairman and notice to the other members of the Committee. Each transcript of a closed session of the Committee shall include on its cover a description of the restrictions imposed upon access, as well as any applicable restrictions upon photocopying, note-taking or other dissemination.

(9) In addition to restrictions resulting from the inclusion of any classified information in the transcript of a Committee meeting, members and staff shall not discuss with anyone the proceedings of the Committee in closed session or reveal information conveyed or discussed in such a session unless that person would have been permitted to attend the session itself, or unless such communication is specifically authorized by the Chairman, the Ranking Minority Member, or in the case of staff, by the Staff Director or Minority Staff Director. A record shall be kept of all such authorizations.

(c) *Declassification.*—

(1) All restricted transcripts and classified Committee reports shall be declassified on a date twelve years after their origination unless the Committee by majority vote decides against such declassification, and provided that the executive departments involved and all former Committee members who participated directly in the sessions or reports concerned have been consulted in advance and given a reasonable opportunity to raise objections to such declassification.

(2) Any transcript or classified Committee report, or any portion thereof, may be declassified fewer than twelve years after their origination if:

(i) the Chairman originates such action or receives a written request for such action, and notifies the other members of the Committee;

(ii) the Chairman, Ranking Minority Member, and each member or former member who participated directly in such meeting or report give their approval, except that the Committee by majority vote may overrule any objections thereby raised to early declassification; and

(iii) the executive departments and all former Committee members are consulted in advance and have a reasonable opportunity to object to early declassification.

RULE 13—CLASSIFIED MATERIAL

(a) All classified material received or originated by the Committee shall be logged in at the Committee's offices in the Dirksen Senate Office Building, and except for material classified as "Top Secret" shall be filed in the Dirksen Senate Building offices for Committee use and safekeeping.

(b) Each such piece of classified material received or originated shall be card indexed and serially numbered, and where requiring onward distribution shall be distributed by means of an attached indexed form approved by the Chairman. If such material is to be distributed outside the Committee offices, it shall, in addition to the attached form, be accompanied also by an approved signature sheet to show onward receipt.

(c) Distribution of classified material among offices shall be by Committee members or authorized staff only. All classified material sent to members' offices, and that distributed within the working offices of the Committee, shall be returned to the offices designated by the Chief Clerk. No classified material is to be removed from the offices of the members or of the Committee without permission of the Chairman. Such classified material will be afforded safe handling and safe storage at all times.

(d) Material classified "Top Secret," after being indexed and numbered shall be sent to the Committee's Capitol office for use by the members and authorized staff in that office only or in such other secure Committee offices as may be authorized by the Chairman or Staff Director.

(e) In general, members and staff undertake to confine their access to classified information on the basis of a "need to know" such information related to their Committee responsibilities.

(f) The Staff Director is authorized to make such administrative regulations as may be necessary to carry out the provisions of these regulations.

RULE 14—STAFF

(a) *Responsibilities*—

(1) The staff works for the Committee as a whole, under the general supervision of the Chairman of the Committee, and the immediate direction of the Staff Director; provided, however, that such part of the staff as is designated Minority Staff, shall be under the general supervision of the Ranking Minority Member and under the immediate direction of the Minority Staff Director.

(2) Any member of the Committee should feel free to call upon the staff at any time for assistance in connection with Committee business. Members of the Senate not members of the Committee who call upon the staff for assistance from time to time should be given assistance subject to the overriding responsibility of the staff to the Committee.

(3) The staff's primary responsibility is with respect to bills, resolutions, treaties, and nominations.

In addition to carrying out assignments from the Committee and its individual members, the staff has a responsibility to originate suggestions for Committee or subcommittee consideration. The staff also has a responsibility to make suggestions to individual members regarding matters of special interest to such members.

(4) It is part of the staff's duty to keep itself as well informed as possible in regard to developments affecting foreign relations and in regard to the administration of foreign programs of the United States. Significant trends or developments which might otherwise escape notice should be called to the attention of the Committee, or of individual Senators with particular interests.

(5) The staff shall pay due regard to the constitutional separation of powers between the Senate and the executive branch. It therefore has a responsibility to help the Committee bring to bear an independent, objective judgment of proposals by the executive branch and when appropriate to originate sound proposals of its own. At the same time, the staff shall avoid impinging upon the day-to-day conduct of foreign affairs.

(6) In those instances when Committee action requires the expression of minority views, the staff shall assist the minority as fully as the majority to the end that all points of view may be fully considered by members of the Committee and of the Senate. The staff shall bear in mind that under our constitutional system it is the responsibility of the elected Members of the Senate to determine legislative issues in the light of as full and fair a presentation of the facts as the staff may be able to obtain.

(b) *Restrictions.*—

(1) The staff shall regard its relationship to the Committee as a privileged one, in the nature of the relationship of a lawyer to a client. In order to protect this relationship and the mutual confidence which must prevail if the Committee-staff relationship is to be a satisfactory and fruitful one, the following criteria shall apply:

(i) members of the staff shall not be identified with any special interest group in the field of foreign relations or allow their names to be used by any such group;

(ii) members of the staff shall not accept public speaking engagements or write for publication in the field of foreign relations without specific advance permission from the staff Director, or, in the case of minority staff, from the Minority Staff Director. In the case of the Staff Director and the Minority Staff Director, such advance permission shall be obtained from the Chairman or the Ranking Minority Member, as appropriate. In any event, such public statements should avoid the expression of personal views and should not contain predictions of future, or interpretations of past, Committee action; and

(iii) staff shall not discuss their private conversations with members of the Committee without specific advance permission from the Senator or Senators concerned.

(2) The staff shall not discuss with anyone the proceedings of the Committee in closed session or reveal information conveyed or discussed in such a session unless that person would have been permitted to attend the session itself, or unless such communication is specifically authorized by the Staff Director or Minority Staff Director. Unauthorized disclosure of information from a closed session or of classified information shall be cause for immediate dismissal and may, in the case of some kinds of information, be grounds for criminal prosecution.

RULE 15—STATUS AND AMENDMENT OF RULES

(a) *Status.*—In addition to the foregoing, the Committee on Foreign Relations is governed by the Standing Rules of the Senate which shall take precedence in the event of a clear inconsistency. In addition, the jurisdiction and responsibilities of the Committee with respect to certain matters, as well as the timing and procedure for their consideration in Committee, may be governed by statute.

(b) *Amendment.*—These Rules may be modified, amended or repealed by a majority of the Committee, provided that a notice in writing of the proposed change has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken. However, Rules of the Committee which are based upon Senate Rules may not be superseded by Committee vote alone.•

LYME DISEASE AWARENESS WEEK

• Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of legislation designating the week beginning June 6, 1993, as Lyme Disease Awareness Week and commend my colleague from Connecticut, Senator LIEBERMAN, for introducing this important legislation. It is vital that we continue to increase the public's awareness of Lyme disease.

Lyme disease was first identified in Lyme, CT, 17 years ago. A tick-borne disease, Lyme disease has spread to 46 States across the country. In 1991, 9,344 cases were reported in the United States, 3,357 of those in the State of New York.

Lyme disease is difficult to diagnose because its symptoms mimic a host of other ailments. Symptoms often include a rash at the site of the tick bite accompanied by a fever, headaches, stiff neck, and fatigue. Unfortunately, these symptoms are often ignored or dismissed as insignificant. If left untreated, Lyme disease can lead to arthritis, meningitis, encephalitis, heart disease, and paralysis. In some cases it can even cause irreversible joint and neurological damage.

While there is no vaccine available now, Lyme disease can be cured when diagnosed early and treated properly. Additionally, one can avoid contracting the disease by taking some simple precautions when in a tick-infested area. The key to successful prevention, diagnosis and treatment, however, is public awareness. It is therefore crucial that we use every means available to alert the public to this health threat.

The designation of the week of June 6, 1993, as Lyme Disease Awareness Week is an important way to increase public awareness of Lyme disease and to educate people about the prevention, diagnosis, and treatment of this debilitating disease. I am pleased to be an original cosponsor of this resolution, and I urge my colleagues to join me in supporting its immediate passage.•

PRESIDENTIAL POLITICS IN SOUTH DAKOTA, 1936

• Mr. DASCHLE. Mr. President, I would like to bring to my colleagues' attention an article, "Presidential Politics in South Dakota, 1936." It was written by Philip A. Grant, Jr., a distinguished professor of history at Pace University in New York.

One of the major themes of the article is the tendency of South Dakota voters to split their tickets. In 1936, South Dakotans voted for President Roosevelt and elected a Republican Governor and Congressman. Last November, South Dakotans favored President Bush and reelected a Democratic Senator and Congressman.

I ask that Professor Grant's fascinating article be printed in the RECORD and commend it to my colleagues.

The article follows:

[From the South Dakota State Historical Society Quarterly, Fall 1992]

PRESIDENTIAL POLITICS IN SOUTH DAKOTA, 1936

(By Philip A. Grant, Jr.)

On 11 June 1936, the Republican party nominated Governor Alfred M. Landon of Kansas as its candidate for president of the United States. Fifteen days later, the Democrats renominated incumbent president Franklin D. Roosevelt. Although both major political parties had officially chosen presidential candidates by late June, the 1936 campaign did not actually begin until Governor Landon gave his first major speech on 22 August. Between that date and 3 November, the American electorate had the opportunity to evaluate the personalities and policies of the Republican and Democratic nominees. During those ten weeks, both Governor Landon and President Roosevelt traveled throughout the nation, held press conferences in numerous cities and towns, delivered formal addresses over the various radio networks, and issued a multitude of position papers detailing their campaign promises. While the people of the United States were certainly interested in the outcome of the 1936 presidential contest, they were equally preoccupied with the progress made toward mitigating the suffering the Great Depression had caused. Indeed, nearly seven years had elapsed since the infamous Wall Street financial crisis of 1929. As the campaign of 1936 progressed, political observers kept an eye on South Dakota, for the state had proven to be a barometer of midwestern, if not national, political sentiment, having cast its electoral votes for victorious candidates in seven of the last nine presidential elections.[1]

Between 1900 and 1928, South Dakotans had been steadfastly Republican, sending GOP candidates to both the United States Senate and House of Representatives and voting for Republicans in thirteen of fifteen gubernatorial elections.[2] On 8 November 1932, the sustained Republican domination of South Dakota politics had ended abruptly and dramatically with Roosevelt winning all but one county in the state and outpolling President Herbert Hoover 183,515 to 99,212. Also triumphant in the 1932 South Dakota race were the Democratic nominee for governor, the two Democratic candidates for the House of Representatives, and ninety-eight Democrats seeking seats in the one hundred-forty-eight-member state legislature.[3] By August and September 1936, however, some South Dakota Republicans were cautiously optimistic about their party's prospects for the November election. First, these Republicans suspected that an appreciable number of voters were growing impatient with the limited success of President Roosevelt's attempts to revitalize the American economy. Second, they believed that Governor Landon, who was in no way associated with the origins of the depression, was a decidedly more attractive and viable candidate than discredited former president Herbert Hoover had been four years earlier. Finally, they anticipated that the Union party presidential nominee, Congressman William Lemke of neighboring North Dakota, might draw thousands of disgruntled Democratic and independent votes in rural South Dakota.

South Dakota Republicans had some justification for their optimism regarding Landon's challenge to Roosevelt's reelection quest. One of the few Republican governors elected in the Democratic landslide of 1932, Landon had been comfortably reelected two years later in defiance of a pronounced nationwide Democratic trend. The popular chief executive of a Great Plains state that was similar to South Dakota both geographically and economically, he had carried the bulk of the agricultural counties in his two Kansas gubernatorial campaigns. Moreover, Landon clearly identified with the moderate wing of the Republican party, making him more acceptable to those whom Hoover's rigid conservatism had alienated in 1932.[4]

South Dakota political observers estimated that Union party candidate Lemke might poll in excess of twenty percent of South Dakota's popular vote, recalling that third-party candidates had fared conspicuously well in several past presidential elections. In 1892, Populist James B. Weaver had received 26,552 votes (37.8 percent) in South Dakota, while in 1912 Theodore Roosevelt, the Progressive ("Bull Moose") nominee, had accumulated 58,811 ballots (50.6 percent). In 1920, Parley P. Christensen, the Farmer-Labor candidate, had won 34,406 votes (19.0 percent), and four years later, Progressive Robert M. La Follette secured 75,200 votes (36.9 percent). Observers speculated that if Lemke did reasonably well in his presidential bid in South Dakota, he might cause serious problems for the Roosevelt candidacy.[5]

With few exceptions, South Dakota Democrats expected that 1936 would be a productive year for their party. President Roosevelt's magnetic personality would be a meaningful factor in the presidential contest, as it had in 1932. Destined to become the most formidable vote-getter in the annals of American politics, Roosevelt had twice won the governorship of New York, the nation's largest and most diverse state. In the 1932 presidential election, he had won every state between the Ohio River and the Pacific Ocean. His aristocratic background notwithstanding, Roosevelt repeatedly stressed his commitment to improving the lot of the small and frequently impoverished farmer. During his first administration, he had persuaded Congress to enact the most sweeping domestic-reform program in American history. An orator of renowned eloquence, he had delivered a number of his legendary "fireside chats" before the 1936 campaign began.[6]

In addition to Roosevelt's popularity, Democrats had further reason to be optimistic when they reviewed the off-year elections of 1934, which had afforded voters an opportunity to express their approval for or disenchantment with Roosevelt's New Deal. In all previous off-year elections, the party controlling the White House had lost congressional seats and governorships. In 1934, however, the Democrats added to their already sizable House and Senate majorities and captured several key governorships. Particularly noteworthy were Democratic successes in the Midwest, where Democrats won Senate seats in Ohio, Indiana, Missouri, and Nebraska and governorships in Ohio, Iowa, Nebraska, North Dakota, and South Dakota. In South Dakota, both incumbent Democratic congressmen, Fred H. Hildebrandt of Watertown and Theodore B. Werner of Rapid City, defeated their Republican adversaries. Voters gave Democratic Governor Tom Berry a second term by a record 62,593 majority.[7]

Of paramount importance to the fate of the Democratic ticket in South Dakota, however, was the impact of the various New Deal agricultural programs, which had resulted in a study increase in annual farm income across the Midwest and the entire nation. Such landmark measures as the Agricultural Adjustment Act of 1933, the Farm Mortgage Moratorium Act of 1935, the Soil Conservation and Domestic Allotment Act, and the Rural Electrification Act had contributed to a reversal of the misfortunes that had plagued American agriculture since the early 1920s. Between 1932 and 1936, farm income nationwide had increased by more than sixty-eight percent, from $6,405,000,000 to $10,756,000,000. Roosevelt's emphasis on farm relief generated considerable enthusiasm in South Dakota and its neighboring states throughout the farm belt, where support for the president crossed party lines. Endorsing Roosevelt in 1936 were Senators George W. Norris of Nebraska, Henrik Shipstead of Minnesota, and Robert M. La Follette, Jr., of Wisconsin, three distinguished public servants who had long advocated farm relief but had never affiliated with the Democratic party.[8]

In late August, prior to launching his formal reelection campaign, Roosevelt traveled through several midwestern states on a drought-inspection trip. The president visited South Dakota from 28 to 30 August, participating in drought-crisis conferences in Pierre and Rapid City. Roosevelt's presence in South Dakota generated a substantial amount of favorable publicity around the country, and the chief executive frequently reminded South Dakotans of his administration's unwavering commitments to agriculture and conservation.[9]

At Aberdeen on 28 August, the president expressed concern over both the drought and the projected needs of the 1936–1937 winter, stating, "I have been thinking more about the future, for I want to see South Dakota continue to grow and prosper." Acknowledging that the economy of South Dakota was largely dependent upon agriculture, Roosevelt stressed that those who lived in the cities needed to realize that "there would not be any cities if there were not any farms." Urging South Dakotans "to cooperate with Nature," the president concluded: "I have come out here to learn more about the conditions at first hand. I shall take back to Washington with me the picture of a whole lot of people with courage, with their chins up, who are telling us that they are going to see things through. And I am going to help."[10]

Later the same day, Roosevelt delivered an extemporaneous speech at Huron. Voicing optimism about the future, the president asserted that the federal government was "trying to restore this country out through here to a position where we can go ahead in South Dakota to better times, not only in the cities, but on the farms." Confident that the cooperation of South Dakotans would make "the days to come more happy and prosperous than in the past," Roosevelt climaxed his remarks with his own appraisal of the farm situation: "I notice a good deal of change up here from the days when wheat was selling at twenty-five cents and corn at ten cents, even if we have not got so much wheat and corn. And next year we hope that we shall have them and that the prices for them will be higher than they were in the old days."[11] The president also spoke at Mount Rushmore after unveiling the face of Thomas Jefferson on 30 August. In an informal speech, he hailed the memorial to democratic government as an inspiration "not only in our own beloved country, but, we hope, throughout the world."[12]

Although Republican presidential candidate Alfred Landon did not appear in South Dakota during the 1936 campaign, his running mate, *Chicago Daily News* publisher Frank Knox, visited the state in early September. In addresses delivered at Mitchell, Aberdeen, and Rapid City, Knox criticized the Roosevelt Administration for squandering government money and charged that New Deal farm policies had resulted in a loss of foreign markets. Knox assured South Dakotans that the Republican party would not cut relief benefits but would instead eliminate the waste in government programs.[13]

William Lemke, the Union party nominee, confined his 1936 campaign in South Dakota to a single speech in Sioux Falls on 7 October, in which he predicted that he would carry the state in the general election if the race between Roosevelt and Lemke was close. Denouncing the records of both major parties, Lemke declared: "We are through with the reactionary Democrats and Republicans. They are not only breeds of the same cat, but are the same cat." Presenting himself as the true friend of the farmer, Lemke recalled the bills that he and his North Dakota colleague, Sen. Lynn J. Frazier, had authored between 1933 and 1936 calling for massive federal aid for agriculture.[14]

Perhaps the most noteworthy development of the entire 1936 South Dakota presidential campaign was Sen. Peter Norbeck's decision to endorse Roosevelt. A lifelong Republican and highly respected leader of the bipartisan congressional farm bloc, Norbeck, of Redfield, South Dakota, had been elected governor twice and United States senator three times. Despite his Republican affiliation, Norbeck had compiled a virtually unblemished record of support for New Deal legislation. In his 13 October announcement that he favored Roosevelt's reelection, Norbeck credited the president with having fostered business recovery and improved the overall welfare of agriculture.[15]

Republicans met Norbeck's endorsement with dismay, but they took encouragement from the results of two public-opinion polls published in the *Farm Journal* and the *Literary Digest*. The *Farm Journal's* surveys, conducted monthly between August and November, revealed that Landon led Roosevelt in South Dakota by 13.5 to 18.8 percent. The *Literary Digest* findings indicated that Landon would handily carry the state by a margin of 25.6 to 28.9 percent. Both polls predicted that Lemke would not be a factor in the South Dakota election. According to the *Farm Journal*, Lemke would attract a maximum of 7.4 percent of the ballots, while the *Literary Digest* calculated the North Dakotan's proportion at 5.7 percent or less.[16]

The Gallup and Crossley polls indicated a somewhat different political climate in the State. In several surveys conducted between 24 November 1935 and 19 January 1936, the Gallup organization concluded that most South Dakotans favored the president's reelection. In late August, however, the poll placed South Dakota and ten other states in the "borderline Republican" category. In late October, South Dakota was listed in the ranks of fourteen "doubtful" states. The Crossley Poll published the results of three surveys in the autumn of 1936. On 27 September, the poll estimated that Roosevelt and Landon would both receive fifty percent of the popular vote, while on 1 November it projected that the president held a fifty-four-to-forty-six-percent advantage over his Republican challenger.[17]

On 3 November 1936, nearly three hundred thousand South Dakotans went to the polls to choose between Roosevelt and Landon. Early returns showed the president leading his Republican challenger in approximately three-quarters of the state's counties. By midnight, it was certain that Roosevelt would carry South Dakota by at least thirty thousand votes. After all the ballots were counted, Roosevelt had garnered 160,137 votes (54.0 percent); Landon, 125,977 (42.5 percent); and Lemke, 10,338 (3.5 percent).[18]

While the president's plurality of 34,160 votes was far less than his 1932 margin of 84,303, he prevailed over Landon in fifty-four of South Dakota's sixty-nine counties. In addition to winning most of the state's rural areas, Roosevelt also ran well in eight primarily urban counties, although in the largest, Minnehaha County, his margin of victory was only 756 votes:

County	Roosevelt	Landon
Minnehaha (Sioux Falls)	13,174	12,418
Brown (Aberdeen)	9,177	4,505
Beadle (Huron)	5,843	2,965
Pennington (Rapid City)	5,557	4,442
Davison (Mitchell)	4,983	2,510
Yankton (Yankton)	4,349	2,702
Codington (Watertown)	4,256	3,005
Clay (Vermillion)	3,070	[19]1,692

The Republican challenger had captured only fifteen counties, twelve of which were located east of the Missouri River. Landon proved particularly strong in seven counties close to the Minnesota border:

County	Landon	Roosevelt
Brookings	3,899	3,161
Turner	3,214	2,923
Lake	3,182	2,520
Lincoln	2,918	2,541
Kingsbury	2,813	2,037
Hamlin	1,857	1,622
Deuel	1,595	[20]1,440

Interestingly, all seven counties had favored Roosevelt in 1932.

As some pollsters had predicted, Lemke's 10,338 votes had absolutely no impact on the outcome of South Dakota's presidential contest. His candidacy harmed Roosevelt only in Butte County, which Landon carried by six votes. As a long-time advocate of farm relief and an outspoken congressman from an adjacent state, Lemke was well known in South Dakota. Although he did attract a somewhat higher proportion of the vote in the state than in other parts of the nation, his performance was obviously disappointing. The fact that the president swept most of the state's rural counties indicated that South Dakotans were generally satisfied with the New Deal farm programs and saw no overriding reason to cast a protest vote for Lemke.[21]

In November 1936, across the country, Roosevelt scored the most overwhelming victory in the annals of American presidential elections, defeating Landon by 531 to 8 ballots in the electoral college and 11,068,093 in the popular vote. In nearly all sections of the United States, Roosevelt substantially improved his showing over that of 1932—except in South Dakota and a few other states, where the president's percentage declined. While his support nationwide increased from 57.4 to 60.8 percent, his share of the vote in South Dakota dropped from 63.6 to 54.0 percent.[22]

Roosevelt's overwhelming victory in other areas of the country reflected the fact that by 1936, the problems confronting urban America had begun to preoccupy the president. Such significant New Deal laws as the National Housing Act of 1934, the Social Security Act, and the National Labor Relations (Wagner) Act had enormous importance to tens of millions of citizens clustered in the nation's urban centers. While the president still commanded the loyalty of most farmers in South Dakota and its neighboring agricultural states, his popularity in the industrial states of the Northeast and Midwest had grown significantly. Between the 1932 and 1936 elections, the proportion of the vote Roosevelt received in the industrial states of New York, New Jersey, Pennsylvania, Ohio, Michigan, and Illinois rose an average of 6.8 percent, an increase of 2,348,113 votes.[23]

In 1932, the Roosevelt landslide had resulted in Democrats winning nearly all key South Dakota offices. In 1936, the coattail effects of the president's victory were more limited. Although the Republican party had been unable to deny Roosevelt South Dakota's four electoral votes, it had regained control of both the governorship and the legislature and ousted an incumbent Democrat in the second congressional district. In the gubernatorial race, Republican Leslie Jensen of Hot Springs emerged victorious by a 9,404-vote margin over Democratic incumbent Tom Berry. Republicans registered net increases of ten seats in the state senate and twenty-five seats in the house of representatives. In the second congressional district race, Republican Francis H. Case of Custer prevailed by a vote of 34,812 to 32,549 over Democrat Theodore B. Werner, thus beginning a career on Capitol Hill that would span more than a quarter century. Republicans also made respectable showings in contests for the United States Senate and the first congressional district. Republican Senate candidate Chan Gurney of Yankton secured 49.2 percent of the vote, coming within 6,048 votes of unseating Democratic incumbent William J. Bulow, and Republican Karl E. Mundt of Madison received 49.4 percent of the vote for the House seat, losing the race to Fred H. Hildebrandt by only 2,570 votes.[24]

In South Dakota, a correlation certainly existed between the president's second victory in 1936 and the progress his administration had made in combating the depression. To assert that Roosevelt had ended the depression by November 1936 would be erroneous, but evidence abounded that both the state and the nation as a whole had experienced gradual economic recovery during Roosevelt's tenure. Of paramount importance were the figures both for annual statewide farm income and prices of individual crops. In 1932, South Dakota's farm income from crops, livestock, and government payments had been $56,654,000, while in 1936 the figure had been $103,972,000. This increase of $47,318,000 represented a rise of nearly 54.5 percent and reflected the prices South Dakota farmers received for their crops. The comparative statistics for four major crops were as follows:

Crop	1932	1936
Corn	$0.25 per bushel	$1.08 per bushel
Wheat	$0.34 per bushel	$1.15 per bushel
Oats	$0.10 per bushel	$0.40 per bushel
Barley	$0.16 per bushel	$0.67 per bushel

The outcome of the presidential election of 1936 in South Dakota constituted both a personal tribute to Franklin D. Roosevelt and a basic sympathy on the part of most South Dakotans with the objectives of the New Deal. While South Dakota had been consistently Republican since its admission to the Union in 1889, Roosevelt's dynamic personality and avowed determination to change the nation's economic structure, along with some recognizable success, had profoundly influenced the people of the state.

In no sense did the South Dakota election of 1936 suggest a mandate for the Democratic party. Indeed, the president's victory was considerably more modest than in 1932, and the electorate of South Dakota, while declining to approve Landon's candidacy, had returned control of the state government to the Republicans. Moreover, the extremely close House and Senate contests confirmed that South Dakotans were almost evenly divided over which party should represent them in Congress. In helping to elect Roosevelt to a second term, South Dakotans did not repeat their 1932 repudiation of state Republican party leadership. In voting Democratic at the presidential level in 1936, the citizens of South Dakota continued to affirm their support of Roosevelt's New Deal and act as a barometer concerning midwestern political trends.●

FOOTNOTES

[1] Richard C. Bain and Judith H. Parris, *Convention Decisions and Voting Records*, 2d ed. (Washington, D.C.: Brookings Institution, 1973), pp. 245–50; *New York Times*, 12 June 1936, pp. 1, 12, 27 June 1936, pp. 1, 8, 23 Aug. 1936, pp. 1, 35. Comprehensive accounts of the 1936 presidential campaign can be found in the following works: James A. Farley, *Behind the Ballots: The Personal History of a Politician* (New York: Harcourt, Brace & Co., 1938), pp. 289–327; William E. Leuchtenberg, *Franklin D. Roosevelt and the New Deal, 1932–1940* (New York: Harper & Row, 1963), pp. 175–96; Donald R. McCoy, *Landon of Kansas* (Lincoln: University of Nebraska Press, 1966), pp. 262–339; and Arthur M. Schlesinger, Jr., *The Politics of Upheaval* (Boston, Mass.: Houghton Mifflin Co., 1960), pp. 626–43.

[2] Svend Petersen, *A Statistical History of the American Presidential Elections* (New York: Frederick Ungar Publishing Co., 1963), pp. 67, 70, 74, 78, 81, 83, 86, 89, 91. Between 1900 and 1928, the Republicans won eight of nine contests for the Senate and prevailed in thirty-six of the thirty-nine campaigns for seats in the House. The only South Dakota Democrats serving on Capitol Hill during the period were Sen. Edwin S. Johnson of Platte and Rep. Harry L. Gandy of Rapid City. The sole Democratic governor was William J. Bulow of Beresford, elected in 1926 and reelected in 1928. *Guide to U.S. Elections* (Washington, D.C.: Congressional Quarterly, Inc., 1975), pp. 429–30, 477, 504–5, 690, 695, 700, 705, 710, 715, 722, 729, 734, 739, 745, 749, 754, 759, 764; Lawrence F. Kennedy, comp., *Biographical Directory of the American Congress, 1774–1971* (Washington, D.C.: Government Printing Office, 1971), pp. 983, 1191; Robert Sobel and John Raimo, comps., *Biographical Directory of the Governors of the United States, 1789–1978*, 4 vols. (Westport, Conn.: Meckler Books, 1978), 4:1449–54.

[3] South Dakota, *Legislative Manual* (1933), pp. 297–98, 301–9, 520–34, 536–70; Philip A. Grant, Jr., "Establishing a Two-Party System: The 1932 Presidential Election in South Dakota," *Presidential Studies Quarterly* 10 (Winter 1980): 76–79. For an analysis of the 1932 national election and party platforms, *see* Frank Freidel, "Election of 1932," in *History of American Presidential Elections, 1789–1968*, ed. Arthur M. Schlesinger, Jr., 4 vols. (New York: Chelsea House Publishers, 1971), 3:2707–62.

[4] In 1932, Democrats had won governorships in Ohio, Michigan, Indiana, Illinois, Missouri, Iowa, Wisconsin, Nebraska, and South Dakota, while Minnesota voters had elected the Farmer-Labor candidate. *Guide to U.S. Elections*, pp. 406–7, 415–18, 425, 430, 436. Having won by a mere 5,637-vote margin in 1932, Landon defeated his Democratic opponent by a 62,153 majority in 1934. After the 1934 elections, Republicans held only eight of the nation's forty-eight governorships and one hundred twenty-eight of the five hundred thirty-one seats in Congress. *Guide to U.S. Elections*, pp. 397–437, 485–509, 776–80.

[5] Ibid., pp. 279, 284, 286–87. The following volumes offer scholarly analyses of the Lemke campaign: David H. Bennett, *Demagogues in the Depression: American Radicals and the Union Party, 1932–1936* (New Brunswick, N.J.: Rutgers University Press, 1969), pp. 189–276; Edward C. Blackorby, *Prairie Rebel: The Public Life of William Lemke* (Lincoln: University of Nebraska Press, 1963), pp. 217–31; Donald R. McCoy, *Angry Voices: Left-of-Center Politics in the New Deal Era* (Lawrence: University of Kansas Press, 1958), pp. 142–57.

[6] *Guide to U.S. Elections*, p. 289.

[7] Ibid., pp. 491, 496–97, 501; Kennedy, *Biographical Directory of the American Congress*, pp. 1116–17, 1901; Sobel and Raimo, *Biographical Directory of Governors*, 2:446–47, 3:906–7, 1182, 1230–31, 4:1454–55; *New York Times*, 7 Nov. 1934, pp. 1–2, 8 Nov. 1934, pp. 1–3.

[8] John A. Garraty, ed., *Dictionary of American Biography, Supplement Six (1956–1960)* (New York: Charles Scribner's Sons, 1980), pp. 577–79; Richard Lowitt, *George W. Norris: The Triumph of a Progressive, 1933–1944* (Urbana: University of Illinois Press, 1978), pp. 151–62; Patrick J. Maney, *"Young Bob" La Follette: A Biography of Robert M. La Follette, Jr., 1895–1953* (Columbia: University of Missouri Press, 1978), pp. 189–91. Roosevelt's farm-relief programs are discussed in Frank Freidel, *Franklin D. Roosevelt: Launching the New Deal* (Boston, Mass.: Little Brown & Co., 1973), pp. 83–101, 308–19; Van. L. Perkins, *Crisis in Agriculture: The Agricultural Adjustment Administration and the New Deal, 1933* (Berkeley: University of California Press, 1969), pp. 1–78; Theodore Saloutos and John D. Hicks, *Agricultural Discontent in the Middle West, 1900–1939* (Madison: University of Wisconsin Press, 1951), pp. 452–502; and Edward L. Schapsmeier and Frederick M. Schapsmeier, *Henry A. Wallace of Iowa: The Agrarian Years, 1910–1940* (Ames: Iowa State University Press, 1968), pp. 166–209.

[9] *Sioux Falls Daily Argus-Leader*, 30 Aug. 1936; *Washington Evening Star*, 29, 31 Aug. 1936; *New York Times*, 31 Aug. 1936, pp. 1, 3.

[10] *Public Papers and Addresses of Franklin D. Roosevelt, 1936* (New York: Macmillan Co., 1938), pp. 307–8.

[11] Ibid., pp. 308–9.

[12] Ibid., pp. 309–10.

[13] Edward T. James, ed., *Dictionary of American Biography, Supplement Three (1941–1945)* (New York: Charles Scribner's Sons, 1973), pp. 424–26; *New York Herald Tribune*, 11 Sept. 1936; *Sioux Falls Daily Argus-Leader*, 10, 11 Sept. 1936; *Rapid City Journal*, 10 Sept. 1936.

[14] *Sioux Falls Daily Argus-Leader*, 8 Oct. 1936.

[15] Ronald L. Feinman, *Twilight of Progressivism: The Western Republican Senators and the New Deal* (Baltimore, Md.: Johns Hopkins University Press, 1981), p. 106; Gilbert C. Fite, *Peter Norbeck: Prairie Statesman*, University of Missouri Studies, vol. 22, no. 2 (Columbia, 1948), pp. 202–4; *Sioux Falls Daily Argus-Leader*, 14 Oct. 1936.

[16] *Farm Journal* 60, no. 8 (Aug. 1936): 18, no. 9 (Sept. 1936): 19, no. 10 (Oct. 1936): 17, and no. 11 (Nov. 1936): 17; Literary Digest 122, no. 14 (3 Oct. 1936): 7, no. 15 (10 Oct. 1936): 7, no. 16 (17 Oct. 1936); 7, no. 17 (24 Oct. 1936); 9, no. 18 (31 Oct. 1936): 5.

[17] George H. Gallup, *The Gallup Poll: Public Opinion, 1935–1971*, 3 vols. (New York: Random House, 1972),

1:3-4, 6, 10, 32–33, 38; *New York American*, 27 Sept., 25 Oct., 1 Nov. 1936.

[18] Richard M. Scammon, comp. and ed., *America at the Polls: A Handbook of American Presidential Election Statistics, 1920–1964* (Pittsburgh, Pa.: University of Pittsburgh Press, 1965), pp. 404–5; *Sioux Falls Daily Argus-Leader*, 4, 5, 6 Nov. 1936.

[19] Scammon, *America at the Polls*, pp. 403–5.

[20] Ibid., pp. 402–5.

[21] Ibid. In 1936, Lemke's 892,492 ballots accounted for 1.96 percent of the nation's total votes. Lemke polled the following proportions in South Dakota and the surrounding farm states: South Dakota, 3.5 percent; Nebraska, 2.1 percent; Iowa, 2.6 percent; and North Dakota, 13.4 percent. *Guide to U.S. Elections*, p. 290.

[22] *Guide to U.S. Elections*, pp. 251, 289–90.

[23] Ibid., pp. 289–90.

[24] *Guide to U.S. Elections*, pp. 430, 504, 784; South Dakota, *Official Directory and Rules of the Senate and House of Representatives, Twenty-fifth Session of the Legislature of South Dakota, 1937–1938*, pp. 22–26, 43–49; *Biographical Directory of the American Congress*, pp. 714, 1043, 1454; Sobel and Raimo, *Biographical Director of Governors*, 4:1455.

[25] South Dakota, Cooperative Crop and Livestock Reporting Service, *Agricultural Statistics, Annual Report, 1937* (Sioux Falls, S. Dak., [1937]), pp. 12–13, 57, 61–63.

PRIMARY IMMUNE DEFICIENCY

• Mr. D'AMATO. Mr. President, I rise today to offer my support to legislation designating the week of April 18, 1993, as Primary Immune Deficiency Awareness Week.

Today, approximately 500,000 Americans, most of them children, are affected by primary immune deficiency, a condition which cripples the immune system. Because PID can take 70 different forms, diagnosis and treatment are difficult, yet early intervention is a key to successful management of this condition. Public awareness of PID and its symptoms is critical to early diagnosis and treatment.

The Jeffrey Modell Foundation at the Mount Sinai Medical Center in New York City is the primary source of PID information in this country and houses the only laboratory devoted exclusively to research in primary immune deficiency. Fred and Vicki Modell formed this organization after the death of their son Jeffrey, who suffered from primary immune deficiency, in order to fund research, educate physicians and patients, and offer support services to sufferers and their families. The Modells remain active in getting the message of PID to the public, but they need our help.

I am pleased to join Senators LIEBERMAN, DODD, and COHEN as an original cosponsor of Primary Immune Deficiency Awareness Week, and I urge my colleagues to join me in supporting its immediate passage.•

STEINBRENNER BAILOUT

• Mr. McCAIN. Mr. President, I want to focus the Senate's attention on a story from the Washington Post entitled "How Congress Delivered for Steinbrenner." This story provides dramatic evidence that the authorization/appropriations system in the Senate is not functioning. Simply, the appropriations process is broke, and the result is that the American taxpayer is forced to fund wasteful, unneeded pork barrel projects.

Mr. President, this is no trivial matter. We face an enormous budget deficit while there are many worthwhile programs that this body should support. But, the amount of pork being passed by the Congress is a disgrace and it must be stopped.

The system under which the appropriations process functions is designed to eliminate such wasteful projects. Under ideal circumstances, authorizing committees would hold public hearings on authorizing bills. Next these bills would be debated on the floor. Upon passage, the Appropriations Committee would fund projects as authorized, bearing in mind budget and other fiscal constraints. Thus only projects that met the scrutiny I just outlined would be funded.

However, and most unfortunately, the process is broken and countless billions of dollars are earmarked to fund pet projects that have never been authorized or even debated on the floor.

Mr. President, the Post article I mentioned describes the perfect example of what is wrong with the current appropriations system.

As relayed in the article, this dispute began in 1987 with an agreement by Steinbrenner to convert and refurbish a pair of crane ships for a fixed price of $43.1 million and a 1989 pact to complete two fuel supply ships for $49 million.

The Washington Post notes that Federal officials say that "Steinbrenner bid unrealistically low to win the fixed-price contracts, hoping that he could recover later through appeals for reimbursement." When the job was complete—and Mr. President I repeat for emphasis, this was a fixed-price contract—the Navy and the Maritime Administration offered minor price adjustments.

Steinbrenner then went to court to seek the money he claimed was owed him due to unforeseen costs, suing for $13.3 million for the crane ships and $24 million for extraordinary contractual relief, for a total of $37.3 million.

But Mr. President, at the same time George Steinbrenner had another plan of action. He hired two high-paid power lobbyists to procure the funds he sought through congressional largess. Although Government investigators have stated, according to the Post, that "Steinbrenner was trying to charge the Government for mistakes made by his workers," the Congress earmarked $58 million in the Defense Department's 1993 budget for Steinbrenner.

The normal process would have been to hold hearings on this subject and debate it on the floor, as I detailed earlier. However, without any authorization, without holding any hearings, and without this subject ever being debated on the floor, a $58 million earmark for Steinbrenner's company appeared in the bill that passed the Senate. Against the advice of Government investigators, the Congress gave George Steinbrenner $58 million in pork, $20.7 million more than Mr. Steinbrenner requested in his lawsuit.

Mr. President, let me state one reason why wasteful pork is so detrimental. Since Operation Desert Storm/Desert Shield, we have forced approximately 300,000 men and women from the military. If current estimates for the military hold—and I have every reason to believe that President Clinton may seek even larger cuts—some 350,000 additional men and women will be forced to leave the service of their Nation.

To clarify, these individuals we are forcing to leave the military are not wealthy. They are predominantly minorities and others of moderate means. They voluntarily joined the military not only to serve their country, but to have a better chance of realizing the American dream.

And Mr. President, I most certainly assure you, none of them owns professional baseball teams.

Unfortunately, this sad example of pork barrel politics is not an isolated occurrence. From studies on cow flatulence, to belgian endive research, to baseball teamowner bailouts, it is unconscionable that the Congress is willing to spend taxpayer dollars on wasteful projects that do nothing to better the lives of ordinary Americans. At the same time we tell hundreds of thousands of hard-working, loyal American men and women in uniform that they are out of jobs.

Mr. President, this is not a partisan issue. It is an issue of supporting profligate waste or doing what is right. I invite every Member of this Senate to come to Arizona with me, visit the unemployment offices around my State, and talk to these people who we put on the streets, and then defend bailing out George Steinbrenner.

Mr. President, the Steinbrenner incident demonstrates why it is imperative that we adopt the line-item veto and do so now. The President would then be empowered to veto this disgraceful waste of taxpayer dollars. The line-item veto will not alone result in Congress becoming more responsible or eliminate the budget deficit, but it is a crucial first step in the process.

Mr. President, I am outraged and I am putting the Senate on notice that I may, at any time, come to this floor and offer the line-item veto. The time for talk is over. We must act.

President Clinton has stated that we must all sacrifice. To my colleagues who are so in love with pork, I ask that you pay special heed to President Clinton's words. Let us put aside party affiliation, let us put aside institutional turf wars, and let us finally do what is right by giving the President the line-item veto.

Mr. President, I ask that the text of the Washington Post article I referenced be printed in the RECORD at the end of my remarks.

The article follows:

[From the Washington Post, Feb. 2, 1993]

HOW CONGRESS DELIVERED FOR STEINBRENNER

(By Jim Drinkard)

New York Yankees owner George Steinbrenner failed in the first round of contract dispute with the government. But his second try was a sweet success—a $58 million bailout for his family shipbuilding business provided quietly by Congress.

Steinbrenner, a contributor to key legislators, enlisted two lobbyists with connections to the appropriations subcommittees that control Pentagon spending.

Last October, without a single public hearing and without consulting the government officials who had steadfastly refused to pay the claims, Congress quietly added the money to the Defense Department's 1993 budget.

The final amount ordered paid to Steinbrenner's Tampa shipyard was even more than he originally sought in negotiations and in a lawsuit he filed against the Navy and U.S. Maritime Administration.

"It's bad public policy," said Patrick Morris, deputy administrator of the Maritime Administration. Congress, he said, was meddling in an area where it had no proper role.

"Every single major shipyard in this country has had problems with the Navy on their contracts," Steinbrenner said.

The Navy would not discuss the case. "The Navy's not going to bite the hand that feeds it," said one Pentagon official.

The dispute arose over a 1987 agreement to convert and refurbish a pair of crane ships for a fixed price of $43.1 million, and a 1989 pact to complete two fuel supply ships for $49 million.

The shipyard, like many others in the industry, was starving for work at the time. Federal officials say Steinbrenner bid unrealistically low to win the fixed-price contracts, hoping that he could recover later through appeals for reimbursement.

But Steinbrenner said the government saddled him with "rust buckets" that required more extensive repairs than he expected.

The Navy and the Maritime Administration offered minor price adjustments, but sought for the most part to make the yard honor its fixed-price contract.

Steinbrenner went to court, suing to recover $13.3 million in overruns on the crane ship contract and $24 million in "extraordinary contractual relief" on the Navy oilers.

But soon after, he set his sights on Rep. John P. Murtha (D-Pa.) and Sen. Daniel K. Inouye (D-Hawaii), the chairmen of the House and Senate Appropriations defense subcommittees.

Last spring Steinbrenner dispatched two lobbyists to Capitol Hill. Paul Magliocchetti, an aide on the House subcommittee from 1981 to 1987, approached Murtha. William F. Ragan, a longtime Inouye supporter and fund-raiser, approached the senator.

Both lobbyists had made political contributions to Murtha and Inouye; Steinbrenner was a regular giver, too. He had donated $4,000 to Inouye in 1987, when the senator was mounting an unsuccessful bid to become Senate majority leader, and gave Inouye and Murtha $1,000 each for last year's elections. His American Ship Building's political action committee also donated to both.

Steinbrenner said he began pushing his interests on the political front only after another shipyard, Bethlehem Steel's facility at Sparrows Point, Md., won its own $40 million bailout from Congress.

When Inouye and Murtha won final passage of their bill Oct. 5, it contained provisions awarding American Ship the full $13.3 million it had sued for on the crane ships—rendering moot the government's efforts to fight it in court—and ordering a $45 million additional payment for the oilers, about $20 million more than Steinbrenner originally sought.

Murtha said his action was an attempt to find "an equitable solution" after the problems were brought to his attention by Magliocchetti and Florida Reps. C.W. Bill Young (R) and Sam Gibbons (D).

"Every shipyard's in trouble," Murtha said. "The incentive to cheat is such a problem. They low-ball them [contracts], and then they can't do the work. That's the position they have to take."

But government investigators said Steinbrenner was trying to charge the government for mistakes made by his workers. For example, welders accidentally cut into electrical cables, requiring the cables to be repaired, and a fire on one ship damaged other electrical cables.•

IN CELEBRATION OF BLACK HISTORY MONTH

• Mr. RIEGLE. Mr. President, each February Americans review the vital contributions of individuals of African descent during Black History Month. As we reexamine the lives of African-Americans we are inspired by the courage, talent, and determination of those men and women who have made a difference, often in the face of extraordinary obstacles.

For far too long, we have not adequately recognized how much African-Americans have meant to our society. Just as racial barriers have prevented many citizens from enjoying full opportunity in our past and continue to exist in the present, bias has also prevented many accomplished and influential men and women from gaining the recognition they deserve. As a result, we have not had an accurate representation of our past.

Our celebration of Black History Month is critical in filling in the missing elements in our history and gaining a full understanding of how our world has been shaped. The struggle for a better America has deep roots in our history and African-American Michiganians have led the way. African-American men and women have contributed in all areas of American life.

African-Americans from Michigan have been leaders in education and technology. Michigan has benefited from the work of Violet T. Lewis, who founded the Lewis College of Business, Michigan's only chartered historically black college. The well-known inventor Elijah McCoy, who made important advancements in the design of railroads and industrial technology, was from Michigan.

African-Americans from Michigan have been pioneers in business and the workplace. Detroit citizen Ed Davis overcame racial barriers and through talent and hard work earned the opportunity to become the first African-American to own a new car dealership. Mozelle McNorriel who represents the American Federation of State, County, and Municipal Employees became a trailblazer when she was elected vice-president of that union. Up to that time, no woman had been elected to that high of a position in the American labor movement.

African-Americans have served their Nation honorably and with a level of excellence in international affairs. Ralph Bunche, who was from Detroit, won the Nobel Peace Prize for his work in mediating peace in the Middle East.

Today, African-Americans from Michigan are serving their Nation in Somalia and the Middle East. They are following in the footsteps of many other African-Americans who have answered the call of duty. The brave men and women serving in the Armed Forces are undertaking valuable work. Our thoughts and prayers are with them as we hope that they will all return home safely and quickly.

African-Americans have made vital contributions fighting for equality and in making our country what we want it to be. Sojourner Truth, a woman born into slavery, did much to change our history. She lived much of her life in Battle Creek. In addition to fighting racial discrimination, Sojourner Truth was a powerful leader in promoting equal rights for women.

We in Michigan are proud of the thousands of our fellow citizens who bravely battled for a better America in the civil rights movement. Detroit is home to one of the shining figures in the history of the fight for justice and equality: Rosa Parks. Ms. Parks' courage and determination in fighting discrimination was an example to the country and her commitment endures to the present. Rosa Parks, in her courageous confrontation of injustice, worked closely with Dr. Martin Luther King, Jr. His life fundamentally transformed our Nation. We are fortunate that his widow, Coretta Scott King, continues his work.

The civil rights movement spurred the Nation forward and helped to open our government to greater participation by more citizens. African-Americans have pushed us closer to our ideal of having a government "of the people." The late Floyd J. McCree was one of the pioneers. Mr. McCree was among the first African-American mayors of a major American city when he became the mayor of my hometown of Flint in 1966.

Michigan was home to Cora M. Brown who was one of the first African-American women to serve in high office in a Presidential administration when she was appointed to Assistant General Counsel to the U.S. Postmaster in the 1950's. Prior to that, she served in the Michigan State Senate. Mrs. Olive Beasley of Flint continues in the strong tradition of African-Americans who have served in Government. She was instrumental in the creation of the Michigan Fair Employment Practice Commission.

Finally, as we celebrate Black History Month this year, we do so with the vivid memory of Justice Thurgood Marshall fresh in our mind. With the recent death of Justice Marshall, we have lost one of our strongest voices for American ideals of social justice and equal opportunity. His legacy will endure far into the future and we are extraordinarily grateful for his service.

These men and women are only a few of the great citizens who have added much to our Nation. Americans around the country will have the opportunity during Black History Month to learn about the countless others who have enriched our history.

By reviewing the courageous and inspiring work of African-Americans we are moved to carry on the fight for a better society. In our celebration of Black History Month we gain appreciation for what Americans can do. Let us take this time to reinvigorate our commitment to making our Nation what we want it to be: A society in which every single citizen has a fair chance to make full use of his or her talents.●

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, there will be no rollcall votes this evening. Pursuant to the order obtained earlier today, there will be a vote on the Craig amendment at 10 a.m., and pursuant to the order just obtained, if Senator GORTON offers an amendment or amendments at 9:30 tomorrow, there will be votes on that amendment, or those amendments, immediately following disposition of the Craig amendment.

So there will be a recorded vote at 10 a.m. tomorrow and the possibility of two votes following that, a minimum of one vote, maximum of three votes, depending upon what happens to the Gorton discussions with the managers this evening and his amendments tomorrow morning.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:15 a.m., on Wednesday, February 3; that following the prayer, the Journal of the proceedings be approved to date and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 9:30 a.m., with Senator GRASSLEY recognized for up to 10 minutes and Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. MITCHELL. If there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:08 p.m., recessed until Wednesday, February 3, 1993, at 9:15 a.m.

EXTENSIONS OF REMARKS

VA RESEARCH LEADING THE WAY

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. MONTGOMERY. Mr. Speaker, the research program of the Department of Veterans Affairs is vital to the health care of our Nation's veterans. The accomplishments of researchers in the Department of Veterans Affairs are well known.

As chairman of the Committee on Veterans' Affairs, I am very pleased with the accomplishments of VA researchers. Other agencies and departments of the Government are aware of the VA's success in medical and prosthetic research, and I would like to see the public become equally aware of these contributions.

The Department of Defense is working jointly with the Department of Veterans Affairs in helping fund certain research projects that benefit active military personnel and veterans alike.

There follows an excellent summary of VA research programs by Dr. Dennis B. Smith, Associate Chief Medical Director for Research and Development. In the article that follows, Dr. Smith also points out that VA research is at a critical juncture due to a funding crisis that has developed over the last 10 years. It is an issue that we must face during this session of the Congress and I will do everything I can to see that the research program is strengthened and improved in the coming fiscal year.

[From Academic Medicine, December 1992]

THE FUTURE OF RESEARCH AT THE DEPARTMENT OF VETERANS AFFAIRS

(By Dennis B. Smith, M.D.)

The primary purpose of the research program of the Veterans Health Administration (the VHA) is to support the clinical mission of the Department of Veterans Affairs (the VA). The VHA research program is entirely intramural and funds only investigators who are associated with the VA. The total VHA research budget for FY 93 is $232 million, which supports over 1,500 programs. Although nearly 75% of that budget supports investigator-initiated biomedical research, the VHA research program sponsors investigations along the full spectrum of health research areas, including those in basic and clinical sciences, health services (outcomes, cost-effectiveness, and technology assessment), applied research, and rehabilitation and prosthetics.

The accomplishments of VHA researchers are well known; for example, two of our investigators are Nobel Laureates, Rosalyn S. Yalow, Ph.D., and Andrew V. Schally, Ph.D., and another investigator, Dr. William Oldendorf, developed the concept of the computed tomography (CT) scan. The VHA's contributions to scientific knowledge in such areas as AIDS, aging, alcohol and drug dependency, brain and spinal cord injuries, nerve regeneration, heart disease, post-traumatic stress disorders, and schizophrenia are particularly noteworthy and emphasize the relationship of VHA research to the special health problems of our aging veteran population. Virtually every issue of every peer-reviewed medical journal contains articles authored by VHA investigators; reports featuring the results of multicenter clinical trials tend to generate the most national attention. Recent published results include the assessment of early AZT treatment in HIV-infected patients; a comparison of surgical and medical treatments of GI reflux disease; effects of coronary angioplasty in single-vessel coronary artery disease; a comparison of the major antiepileptic drugs; and the effects of treatment with low-dose warfarin on the development of strokes. Rehabilitation research has focused primarily on prosthetic research and development (the so-called "Seattle foot" was a result of this effort), but recently there has been a shift to more broadly based studies, such as investigations focusing on neural rehabilitation, cardiac rehabilitation, and geriatric rehabilitation.

In the past two to three years, the Health Services Research and Development (HSR&D) Service has grown more rapidly than the other two branches of the research program. The HSR&D is currently supporting research and development projects addressing health care delivery concerns in the areas of HIV and AIDS, prostate cancer, substance abuse, care of the aging veteran, mental health, quality of ambulatory care, and the concerns of special populations such as women veterans. Service-directed research projects consist of studies conducted in response to needs identified by Congress, the Office of Management and Budget, or health care system managers at the VA. Investigator-initiated research is the most common type of investigation under the HSR&D program, just as it is in the VHA research program as a whole.

A CRITICAL JUNCTURE

Research by the VHA has been a huge success in terms of both productivity and quality; most observers maintain that VHA studies are on a par with those done at the NIH. But VHA research is at a critical juncture. A funding crisis that has been building for over a decade threatens the existence of the biomedical research component and endangers both the health service and the rehabilitation research components.

Until this year, despite a shrinking, inflation-adjusted budget, we have been able to obtain funding for a fairly constant overall number of research programs. This relative constancy has been achieved by implementing a number of resourceful (but not painless) budgetary maneuvers. New programs have been funded with money captured by taxing existing programs, taxing newly funded programs on the basis of their priorities, by redirecting money budgeted for mandatory pay raises and by deferring purchases of core equipment. In addition, since 1987, largely through the efforts of Representative Sonny Montgomery, our budget has been supplemented by an annual $20 million transfer of funds from the Department of Defense (DOD) intended to fund research of common interest to the DOD and the VA. Despite all of these maneuvers and an even larger DOD transfer, in 1993 the number of funded research programs in the VHA will shrink more than 25%.

While it is true that the economy in general has suffered, and that there are budgetary problems in nearly all medical schools and universities as well as in most other government agencies, VHA research has suffered disproportionally. Our budget has decreased from 3.5% of the VHA's medical care appropriation in 1970 to 2.2% of the 1987 appropriation and finally to 1.5% in 1993. Further, while our budget has declined relative to inflation each year for the past decade, the NIH budget has kept ahead of inflation every year until this one.

Many people who are fairly familiar with the VHA research program have not been aware that this funding crisis has been building, and are surprised that the program is in trouble. Few have been aware how fragile our budget has become. After ten years of decline, we can no longer compensate. In the 1993 budget year, we had no choice but to stop funding all new programs after the October 1, 1992, start date.

WHY RESEARCH IN THE VA?

At this juncture, it is legitimate to ask whether a strong research program in the VA is important, and whether the same goals can be accomplished if the money currently used to fund VHA research were simply transferred to the NIH. First, I think that it is naive to think that the money currently being awarded to VHA would be transferred to the NIH. It would, I suggest, simply be lost—and $232 million is not a windfall for the NIH! Second, the kinds of investigations carried out by the VHA do not duplicate those at the NIH. VHA research, as mentioned earlier, is an intramural affair. More than 80% of VHA researchers are clinicians, who take care of patients in the VA medical centers. Less than 25% of NIH-funded investigators are clinicians. VHA research is clinically informed and is derived directly from the health care problems of veterans. A nationwide network of hospitals with a fairly homogeneous population of patients and a uniform database creates a unique opportunity for large multicenter clinical trials, and a centralized management system provides an accessible mechanism for collaborative research at all levels. No other system in this country provides the opportunity for involvement in research activity that links basic science, clinical studies, and rehabilitation to the extent that VHA research does.

VHA research is an integral part of the VHA's health care mission, and it also contributes significantly to our knowledge of diseases and their treatment. While these contributions indirectly affect the health care of veterans (and nonveterans), the high quality of health care provided to veterans is directly affected by the inquiring academic atmosphere generated by the VHA research program. In addition, VHA research is important to university-VA affiliation programs. Not many universities would find the VA affiliation so attractive if research opportunities did not exist within the VHA. Few of us would question the important role that such affiliations play in providing pa-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

tient care of the highest quality to our veterans. Both a strong VHA research program and the affiliation program are essential to recruit and retain the high-quality physicians who now staff VA medical centers. Thus, not only does VHA research contribute directly to the diagnostic and treatment modalities currently available to veterans, but many of the physicians who make the diagnoses and prescribe the treatments would not be in the VA system if there were not a strong research program.

FUTURE PLANS

It is not clear whether VHA research funding will improve sufficiently to understand new initiatives, much less sustain the present level of activity. I am convinced, however, that changes in emphasis and direction in the program are necessary if it is to survive. I agree with Dr. Robert Rosenzweig, who wrote in this column in the October issue that he thought that the prospects for large increases in science funding were slim and that large increases would only "lubricate the system well enough to keep everyone minimally happy; they would not solve the underlying problem, because . . . they would also be creating even larger future demand." (1) An increase in funding alone will not solve our problem. But we cannot move in new directions and be responsive to Congress and our constituents without a substantial increase in funding.

In order to attract more funds and to better reflect the health care needs of our veterans, VHA research must change. Emphasis is already shifting toward clinically relevant and clinically derived research. Special initiatives are planned in the areas of aging, mental illness, prostate disease, women's health, and, in conjunction with the Decade of the Brain, neurosciences. Integration of research efforts in biomedicine, health services, and rehabilitation will be encouraged. For example, studies on the biomedical underpinnings of health services and rehabilitation research will be strengthened and the effectiveness and cost consequences of biomedical maneuvers will be high-priority research topics. Neurorehabilitation and rehabilitation in aging patients and those with heart disease or mental illness are therapeutic challenges that require the intellectual and technical resources of biomedical, health services, and rehabilitation research. In turn, investigators in these broad research areas need access to organizational arrangements uniquely available at the VA, such as the Cooperative Studies Program.

VHA research should support the overall goals of the VA and not function as an independent activity. In addition to the core, investigator-initiated research, we will develop other types of studies and will support research that addresses the specific needs of the veteran population. We will initiate true multidisciplinary research programs that integrate basic science and clinical applications, and will encourage the integration of biomedical research and rehabilitation research. Finally, we will look for ways to foster research collaboration between smaller hospitals and larger secondary and tertiary care facilities. This will be done partly by establishing disease-oriented centers without walls that will link VA medical centers in the same geographic areas.

A major goal of VHA research is to place greater emphasis on clinical investigations (such as just described), but the present budgetary projection seriously threatens such initiatives as well as the existing core programs. This unfortunate situation not only has an immediate and direct impact on our clinician-investigators but also sends a message that research is not an essential element of the VA health care system.

The academic medical model of integrated clinical care, research, and education is universally accepted as the best means of providing care of the highest quality. Compromising this time-tested model will ultimately compromise the quality of care available in the VA system. It is essential that every member of the VHA community in our medical centers and central office, as well as our colleagues in affiliated medical schools, understand this and become actively involved in supporting a strong program of VHA research. We must all take responsibility to educate our policymakers, administrators, and constituents. The future of VHA research, our affiliation program, and ultimately the quality of health care delivered in our VA medical centers are at stake.

REFERENCE

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TRIBUTE TO 135TH AVIATION BATTALION'S SAFETY RECORD

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. SKELTON. Mr. Speaker, it has come to my attention that the 1st Battalion 135th Aviation, which is located at Whiteman Air Force Base in Warrensburg, MO, has set new safety standards for the Army National Guard and the Army as a whole. It's safety record is unprecedented in Army flying circles. The last accident this unit suffered was in 1963. Since that time, Warrensburg assigned aviators have compiled more than 118,000 accident-free flying hours. This safety record was established and maintained in a high stress and demanding flight environment. These flying conditions included nap of the earth [NOE] flights, night-vision goggles, and poor weather conditions.

This battalion safety record warrants recognition, and I take this means to congratulate Lt. Col. Dalton C. Wright, the battalion commander, and the other members of the battalion for such outstanding accident-free flying hours.

ARMY AVIATION SUPPORT FACILITY,
MISSOURI NATIONAL GUARD,
Whiteman AFB, MO, September 11, 1992.

Memorandum for 1/135 AVN, Attn: LTC Dalton C. Wright.

Subject: Battalion safety record.

1. The battalion has set new safety standards, not only for the Army National Guard: but, for the Army as a whole. It's safety record is unprecedented in Army flying circles. The last accident this unit suffered was in 1963. Since that time Warrensburg assigned aviators have compiled more than 118,000 accident free flying hours. This safety record was established and maintained in a high stress and demanding flight environment, under such flight conditions as nap of the earth flight (NOE), night, night vision goggles, and poor weather conditions

2. Aviation experience and the outstanding safety record attained by this Battalion warrants recognition, both state and federal. Recognition received from this safety record will give great esprit de corps to the 1st Battalion 135th Aviation.

3. Recommend that you and your Battalion Safety Officer give this serious consideration.

4. POC is the undersigned.

KENNETH B. MCNEEL,
MAJ., AV, MOARNG,
Facility Commander.

THE CLINTON DOCTRINE?

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. FRANK of Massachusetts. Mr. Speaker, sadly, there are many instances in the world where people are behaving brutally toward each other and it is not possible for our country to put an end to all of this brutality. But the situation in Bosnia stands out among all the rest for the viciousness of the attacks being made primarily by Serbs on innocent people. And I believe that the Bush administration's policy in this area was woefully lacking. We have recently bombed Iraq because of its defiance of the United Nations but no where in the world has the blatant abuse of the U.N. authority been more grievous than in Serbia—the murder of a Bosnian government official who was supposedly being protected by U.N. officials is a dramatic example of this.

In Friday's New York Times, Anthony Lewis forcefully and cogently made the case for President Clinton to change the morally inadequate policy he inherited from President Bush. I think Mr. Lewis has made an extraordinarily powerful case and I ask that it be printed here.

THE CLINTON DOCTRINE?

BOSTON.—The classic reason for the use of American military force has been to protect our vital interests. In one pregnant sentence of his Inaugural Address, President Clinton added another.

"When our vital interests are challenged," he said, "*or the will and conscience of the international community is defied*, we will act, with peaceful diplomacy whenever possible, with force when necessary." (Emphasis added.)

If that important new doctrine is to have any meaning—if it is to be respected as the Clinton Doctrine—the place to apply it is at hand in Bosnia. And the time is now.

That Serbian aggression in Bosnia defies the conscience of the international community cannot be in doubt. Not unless at the end of the 20th century the world accepts mass murder, rape and terror directed at one ethnic group.

"It borders on genocide," Patricia Diaz Dennis, Assistant Secretary of State for Human Rights, said of Serbian behavior as she released the annual State Department report on human rights around the world. The Serbs' "ethnic cleansing," the report said, was "on a scale that dwarfs anything seen in Europe since Nazi times."

What can and should President Clinton do to stop the horror? He may be tempted to postpone the hard decisions because Cyrus Vance and Lord Owen are seeming to make progress in their negotiations on Bosnia. But that would be a disastrous mistake, morally and politically.

The singular fact about the Vance-Owen effort is that while it has gone on, over many months, the Serbs have continued their killing. They are still besieging Sarajevo and other cities, lobbing shells at civilians. And they will go right on, as things look now.

The Bosnian Serbs' "assembly" voted this week to accept the Vance-Owen plan for a Bosnia with 10 autonomous provinces. But the Serbs, though that plan would reward their aggression, insisted that they would keep working for their ultimate aim: a Bosnian Serb republic.

Even if all the parties sincerely accepted the Vance-Owen principles—a huge if—the borders of the autonomous provinces still have to be negotiated. And while that difficult business goes on, the Vance-Owen approach allows the Serbs to continue their slaughter.

To earn any respect, this "peace process" would at a minimum require that the Serbs immediately stop their siege of Sarajevo and other Bosnian cities. Even under their own aggressive theories, what possible excuse do the Serbs have for shelling and starving a capital that has never been a Serbian city?

That is where President Clinton must act: to stop the killing while peace negotiations go on. He can do so with great effect by speaking directly and strongly to the warring parties in Bosnia. These are some of the things he should say:

The siege of Sarajevo must end at once.

Aid to civilians elsewhere must get through. Any further interruptions of relief convoys will not be tolerated.

Military attacks on civilians must stop.

President Clinton would of course work with our European allies and with the United Nations. But if there was at last some forceful American leadership, it would quickly have its effect. For one thing, he could urge on the British and French, and the United Nations, a change in the rules for their peacekeeping forces on the scene allowing them to use their weapons if there are any further attempts to block relief convoys.

Moreover, the President would have many ways to signal the Serbs that he means business. He could act to tighten the economic embargo, for example. He could reduce the number of U.S. diplomats in Belgrade.

And he could prepare to act militarily. After 14 months of American dithering and evasion on the Serbian attacks, military action is more difficult. But at a minimum the United States could join in setting up and protecting safe havens for the Bosnian Muslim population now threatened with genocide.

The stakes are high: for Bill Clinton's credibility abroad as a decisive President, and more broadly for the world's safety. Continued appeasement of the worst calculated atrocities in Europe since the Nazis would exact a terrible price.

LAURA McCLUGAGE: MAKING A DIFFERENCE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. MICHEL. Mr. Speaker, I would like to bring to the attention of my colleagues the dedicated public service of one of my constituents, Laura McClugage.

Mrs. McClugage has been active in many aspects of community service in Peoria, IL. Mrs. McClugage has lent a helping hand to those in need and she has encouraged others to do so as well.

At this time, I would like to insert an article by Jo Ann Newberg of the Peoria Journal Star, McClugage Slower in Body, But Not in Mind, which further describes the life and good works of Laura McClugage.

McCLUGAGE SLOWER IN BODY, BUT NOT IN MIND

(By Jo Ann Newberg)

Former Peoria County Board member and community volunteer Laura McClugage is gray-haired now and slowed down by arthritis. But she still manages to keep up with local politics and social concerns from her apartment at Independence Village.

She laughs as she says, "The older you get, the bossier your daughters get. My three daughters decided I should move from my house on Maplewood. They thought I would fall down the basement stairs and break my neck."

McClugage said she read the advertisement for Independence Village wrong. She saw "apartment for rent," not "retirement center."

But she's settled in now and confesses to doing a lot of talking on the phone. "My advice is free."

She also frequently goes out to dinner with friends. Conversation usually centers on such political concerns as who should be mayor.

"What we need is another Bob Morgan," McClugage says of the retired judge who was Peoria's mayor in the 1950s.

"We gotta do something real quick. I think the riverfront looks terrible. I'm personally opposed to all that gambling on the riverboat. I think it's a scandal that the ministers never raised their breath when they were first talking about a gambling boat. They never said a word, and they're supposed to point the way for our young people."

As a County Board member, McClugage supported the League of Women Voters' drive to reduce the size of the board. She believes the league, which she joined in 1928, is the greatest thing that ever happened to women.

"Years ago, women never did anything unless they asked their husband first. My mother never voted until 1920. Women were second-class citizens.

"I go to league meetings, but I don't drive anymore and somebody has to pick me up. I think getting old is a terrible disease, but there is nothing you can do about it. You lose your status. I don't know why; it must be our culture or something.

She may be older, but McClugage's status remains intact because of all she's done for the community.

In 1987, when she received the Tom Connor Award from the Peoria Area Chamber of Commerce for 50 years of public service, she recalled being in Saint Francis Hospital's maternity ward in 1937. She was told that a woman who was screaming in pain down the hall would receive only one dose of pain killer because she was poor. The unfairness of the situation sparked her interest in helping the needy.

McClugage was instrumental in the formation of a maternity clinic in 1939 at Neighborhood House, the predecessor of Peoria's first clinic for the poor.

During World War II's shortage of doctors and nurses, it became apparent to clinic volunteers that an expanded facility for all the poor was needed.

St. Francis sisters were asked to help, and they donated space in buildings they had purchased for hospital expansion. From 1942 to 1945, McClugage donated 1,500 hours of volunteer service to St. Francis.

Her volunteerism extended to the mental health field, as well.

Today as a member of the local Mental Health Board, she is troubled by conditions at Zeller Mental Health Center. She said the facility was intended to be a treatment center with 22 beds for overnight stays, but at last count had 300 patients and had discontinued its geriatric section.

She is also an honorary member of the board of the Illinois Department on Aging, which arranges meals for the elderly who pay according to their ability.

"This poverty business is a big, big job," she said. "There are people who never get help. A lot more services are needed for the poor, but I am an old lady and can't do anything.

"There are people who should see what needs doing instead of going off on a wild goose chase after something like laurel trees on the riverfront. Younger people, doctors, lawyers, all are thinking about their own little bailiwick and not the overall thing. They should talk it up in high schools and Bradley and let them take a swing at it."

HEALTH CARE FOR ALL CHILDREN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. MATSUI. Mr. Speaker, today I am introducing the Children and Pregnant Women's Health Insurance Act of 1993. I am reintroducing this legislation because the crisis in health care faced by American children is far from over. Too many American children go without basic health care because their parents cannot afford to pay for a visit to the doctor or dentist. While this may sound trivial this lack of care can have devastating consequences.

How much longer can we deny children a healthy future? Each year 40,000 babies born in the United States die before their first birthday. Many of these deaths could have been prevented if basic prenatal and infant health care services were more available.

Thirteen percent of the Nation's children go without adequate health care. Over 8 million children under the age of 18 who have no health insurance coverage; children make up one-quarter of the Nation's uninsured population.

The crisis in health care is not confined to low-income children. Almost two-thirds of uninsured children have at least one parent who works full time. Only 20 percent of uninsured children live in families in which neither of their parents work.

We must not forget about these children as we move forward in the debate over how to reform the Nation's health care system. The Children and Pregnant Women's Health Insurance Act would guarantee health insurance coverage to all pregnant women and children, regardless of their economic or employment status. It puts into place a public program to provide health insurance coverage to those children not covered through an employer-sponsored plan.

It is our responsibility as leaders to give all children the very basic gift of being born healthy by making sure their mothers receive adequate prenatal care. It is also our responsibility to ensure that all children stay healthy throughout their youth by providing them with basic health care services, such as immunization against childhood disease.

It is time that Congress took action to improve the quality of health care for America's children. The Nation's future health depends upon the health and well-being of our children. The Children and Pregnant Women's Health Insurance Act of 1993 makes a down payment on this commitment to children's health.

THE PASSING OF JOHNNY MOST, CELTIC BROADCASTER

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. NEAL of Massachusetts. Mr. Speaker, I wish to take a few moments today to remember the passing of a man who brought much joy to the sports fans of New England. Johnny Most, the long-time radio voice of the Boston Celtics died earlier this month at the age of 69. For many of us growing up in the years before televised games, Johnny Most brought into our homes the excitement and thrill of basketball.

I think the reason why Johnny was the most loved and respected sports broadcaster in New England for 39 years was the way he called a game. There was no objectivity in a Johnny Most broadcast. The Celtics always wore the white hat. Only the opposing team fouled or played dirty. His us against them mentality was never questioned by true Celtic fans.

During the last years of his life Johnny Most was an inspiration to all people who face adversity. Almost a year after the amputation of both legs he continued to work on a local Cape Cod radio station. Many have imitated his gravelly voice but no one can replace the original. All of us who were fortunate enough to hear a Johnny Most broadcast will miss his calls from high above courtside.

TRIBUTE TO LLOYD MOREHEAD

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. SKELTON. Mr. Speaker, today I pay tribute to an outstanding public servant, Lloyd Morehead. On January 1, 1993, Lloyd Morehead of Odessa, MO, stepped down after two successful terms as the Western District Commissioner for Lafayette County, MO.

During his tenure as commissioner, he was instrumental in the inspection of all bridges under 20 feet in Lafayette County. He was concerned for the public's safety when he learned that only structures of 20 feet or longer are required to be regularly inspected by certified engineers. He requested, and was granted, proper inspection. Now, there are proper weight limits and warning signs where they should have been originally. This is an example of his concern for the people he served. Lloyd Morehead devoted his energies and abilities to his position, and his work on the commission will long be remembered.

Please join me in commending Lloyd Morehead and, at his side, his wife Opal, for the outstanding services to Lafayette County.

HOUSE CONCURRENT RESOLUTION 25—THE RIGHT TO BASIC HEALTH CARE

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. PASTOR. Mr. Speaker, last week I introduced House Concurrent Resolution 25 which calls upon the Congress to recognize that access to basic health services is a fundamental human right and that all legislative proposals by the President and Congress concerning national health care reform should be based upon recognition of this fundamental right.

Thirty-five million Americans are currently denied the right to basic health care because they have no insurance coverage for health care services; 60 million more Americans are underinsured; and millions more are in jeopardy of losing their health insurance if they become ill and cannot work. Not surprisingly, these burdens fall disproportionately on the poor, the minorities, the disabled, and those who live in rural areas.

The United Nations Universal Declaration of Human Rights recognizes access to health service as a basic human right. One hundred and eighteen countries, though not yet the United States, have agreed to be bound by the International Covenant on Economic, Social, and Cultural Rights which also includes the right to health services. The day of health care as a fringe benefit must go. It is time for the United States to recognize health care as a basic right on an equal footing with the right to a fair trial and to free speech.

Mr. Speaker, as this House, and indeed the Nation, are flooded with a myriad of proposals to reform our Nation's health care system and contain costs we must remind ourselves that access to basic health care is not a privilege, but a right. I call upon Congress to recognize this fundamental right and develop health care reform that protects and guarantees it for all Americans.

THE FIRE SALE ACT OF 1993: TIME TO OPERATE UNDER SOUND BUSINESS PRACTICES

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. SYNAR. Mr. Speaker, I rise today with my good friend Representative GEORGE MILLER of California to introduce the Federal Investment Recovery, Economic Security And Liquidation Examination [FIRE SALE] and Disclosure Act of 1993. This is the same measure that I originally introduced in the 101st Congress along with our friend and former colleague, and now Office of Management and Budget Director, Leon Panetta to correct a longstanding deficiency in the budget-making process. Enactment of this measure will be good for both the taxpayers and the environment.

Each year, Mr. Speaker, the Federal Government loses billions of dollars selling, leasing, renting, and exchanging taxpayer assets. In thousands of transactions each year the Federal Government fails to obtain the fair market value for taxpayer-owned assets, because the pricing decisions are either shielded from public scrutiny or masked by questionable accounting practices. As a result of the Federal deficit is growing in part because the Government refuses to operate as a prudent seller.

The Fire Sale Disclosure Act would mandate a simple change in the President's annual budget submission to Congress. The bill requires a separate section in each year's budget with a statement of revenues to be obtained from the sale, lease, or transfer of publicly owned assets and an accompanying statement of the fair market value of those assets.

Stated simply, the taxpayers deserve to know what their assets would sell for in arms-length transactions in the private sector, and this measure will give them that information.

Mr. Speaker, there may be justifiable and sound reasons for certain Federal subsidies. The problem, however, is that many of the subsidy pricing decisions have been made outside legitimate public policy parameters, and many of these decisions have not been reviewed for years, in part, because Congress has not been routinely provided with information from the executive branch. In fact, there currently is no requirement that this vital information be compiled and provided to Congress.

Mr. Speaker, the additional information required by the Fire Sale Disclosure Act will enable the Congress to determine if such continued deals are in the public interest. The idea behind this measure is simple: information is power. By requiring the administration to disclose the revenues lost by below market pricing of natural resources and other public assets, Congress will gain significant leverage in candidly and rationally assessing the value of such subsidies or, in some cases, restricting or eliminating them.

The Subcommittee on Environment, Energy and Natural Resources of the Committee on Government Operations, which I have chaired since 1983, has had many such transactions under investigation for several years. But there are others. In fact, the General Accounting Office, the Congressional Budget Office and numerous private reports have detailed monumental sums of lost Federal revenues attributed to fire sale pricing for disposal of Federal assets. The following are estimates of losses from some Federal fire sale pricing practices over the past few years:

Below cost timber sales from national forests, $750 million.

Undercollection of oil and gas royalties, $800 million.

Subsidized grazing fees on Federal lands, $150 million.

Below cost uranium enrichment, $1 to $2 billion.

Below cost concession contracts at recreation areas, $300 million.

Land exchanges, no rent leases and transfers, $2 to $5 billion.

Below cost hard rock minerals, $2 to $4 billion.

Running the Federal Government under sound business practices is an idea whose time has come. Given the deficit crisis facing the Nation, we need to evaluate all sources of Federal revenue. Accordingly, Congress and the administration should be prepared to take a long, hard look at natural resource subsidies.

Mr. Speaker, this measure will help us begin to obtain the return of reasonable value for publicly owned assets. I urge all of my colleagues to join as cosponsors of the Fire Sale Disclosure Act. It will be good for both the taxpayers and the environment.

KHALISTAN ADMITTED INTO UNREPRESENTED NATIONS AND PEOPLES ORGANIZATION

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. BURTON of Indiana. Mr. Speaker, I want to call to the attention of my colleagues Khalistan's recent admission as a full member into the Unrepresented Nations and Peoples Organization. This a is a well-respected organization with strong connections to the United Nations and the international community which is dedicated to advancing the aspirations of its members through nonviolent means. This is a major milestone for those Sikhs who are struggling for independence from India. Since their struggle started, the Indian Government has killed over 110,000 Sikhs.

I want to commend Dr. Gurmit Singh Aulakh, president of the Council of Khalistan for his tireless efforts in the struggle for Sikh freedom. Dr. Aulakh led the delegation to the UNPO, gaining membership on June 24, 1993. That same day the Khalistani flag was hoisted in The Hague during the UNPO's annual General Assembly.

Thanks to the work of Dr. Aulakh and other Sikhs dedicated to freedom, justice, and democracy, Khalistan has made a giant step in the international community. For almost a decade the Sikh Nation has suffered murder, rape, torture, and other injustices at the hands of the Indian Government. It is time that the world took notice.

I ask President Clinton and the United States Department of State to take notice of the injustices Sikhs face under Indian Government oppression and take action accordingly. The Indian Government should be sent a message that the United States and the rest of the international community will not accept Indian brutality against the Sikhs and other minority nations and peoples. In the Justice in India Act, I propose that we terminate United States developmental aid to India in protest of its violation of human rights and its utter disrespect for freedom. I urge my fellow Members of Congress to cosponsor this piece of legislation. It is a just bill which seeks to correct the grave injustice faced by the Sikhs, Kashmiris, Christians of Nagaland, and other minority peoples at the hands of the Indian Government.

I submit for the record a Council of Khalistan press release on Khalistan's entrance into the UNPO and other relevant articles:

KHALISTAN ADMITTED INTO UNREPRESENTED NATIONS AND PEOPLES ORGANIZATION

WASHINGTON, DC, January 24.—In a major milestone for the movement for Sikh independence from India, Khalistan was admitted today as a full member of the Unrepresented Nations and Peoples Organization having its flag hoisted at the Hague in the Netherlands during the organization's annual General Assembly. The UNPO, a well respected organization with strong connections to the international community, is dedicated to advancing the aspirations of its members through nonviolent means.

Attending the General assembly were Lord Ennals, Member of the British House of Lords and former British Minister of Foreign Affairs and Defense; H.S.H. Prince Hans-Adam II of Liechtenstein; Ireland's Noble Peace Prize Laureate Ms. M. Corrigan Maguire, President of the Peace People, Belfast and many other renowned dignitaries. UNPO members include Kurdistan, Tibet and Taiwan among many others. Four founding members, Latvia, Estonia, Georgia and Armenia, have already gained their independence and now possess full membership in the United Nations.

Dr. Gurmit Singh Aulakh, President of the Council of Khalistan who leads the struggle for Sikh independence headed the Khalistan delegation to the UNPO. "I thank the UNPO for admitting Khalistan within its organization," he said. "This is a big boost for the movement for Sikh freedom and increases international pressure on the Indian government to honor the independence of Khalistan and cease its violation of human rights against the Sikh nation."

"We are all very pleased," said delegation member Dr. Paramjit Singh Ajrawat. "India has sought to keep us isolated from the international community for years, but thanks to the work of Dr. Aulakh we are spreading the news of India's oppression of the Sikhs throughout the world community."

"We have long sought an audience with the International community," said Bhupinder Singh of Holland, also a member of the delegation. "Now India cannot hide. Its brutality will be exposed."

Since 1984, over 110,000 Sikhs have been killed by Indian government police, paramilitary forces, death squads and vigilante mobs. Between 30 to 40 Sikhs are killed everyday in extrajudical murders. At least 38,000 Sikhs languish in Indian prisons under draconian laws condemned as "disturbing" and "completely unacceptable" by the U.N. Human Rights Committee for falling far short of international standards for the protection of human rights.

But India's oppression is not isolated to the Sikh nation. The Christians of Nagaland, who were also admitted as full members of the UNPO, have lived under constant oppression at the hands of the Indian government since 1947. Since then, over 100,000 Nagas have been killed by Indian government forces. Sikhs and Nagas hope that the exposure the UNPO can shed on such atrocities will help cease the long nightmare they have had to endure under Indian government rule.

"India is not one nation but a conglomerate of nations held together against the will of the people," said Dr. Aulakh. "Like the Soviet Union, India too will disintegrate into its natural parts.

"Our admittance into the UNPO is a milestone for the Sikh struggle for independence," Dr. Aulakh continued. "The Council of Khalistan will use this as a springboard toward outright independence. With our admittance we seek, through peaceful means in accordance with methods accepted by the international community to expose India's oppression of the Sikh nation and its mistreatment of the Nagas, Kashmiris, Tamils, Assamese and other nations suffering under Indian rule as well.

"We now have behind us an organization recognized by the international community for its integrity. India can no longer malign the Sikhs in the eyes of the world with its disinformation. It is time for India to face the world and answer to its misdeeds. It is time for India to realize that its tactics of government by oppression will no longer be accepted by the international community. It is time for India to respect the human rights of the Sikh nation. And it is time for the freedom of Khalistan. The Sikh nation will have its freedom. India has no other choice."

[From Newsweek, Feb. 1, 1993]

BIRTHPLACE OF NATIONS—WHERE SCANIANS, LAKOTANS, KURDS RUN UP THEIR FLAGS

(By Scott Sullivan)

Absolutely everybody wants a government to call his own. The remnants of ancient civilizations like Assyria want to become self-governing states. So do indigenous tribes like the Masai and the Aboriginals of Australia. Microdot islands, like Bougainville in the far Pacific, yearn for a seat at the United Nations. Once-powerful nations like the Mohawks in North America dream of regaining past glories. The struggles of hundreds of different groups of statehood is becoming one of the permanent—and permanently dangerous—phenomena of our postcolonial, post-cold-war world.

Last week representatives of more than 60 would-be nations met in The Hague to publicize their causes and try to gain strength through numbers. The occasion was the third annual general assembly of the Unrepresented Nations and Peoples Organization (UNPO). Formed in 1991, the group has seen four of its founding members—Estonia, Latvia, Armenia and Georgia—actually ascend to statehood. Its official membership has swelled from 6 to 32, with 19 candidates hammering at the door. But expansion has brought problems as well as opportunities. UNPO is strapped for cash, and it faces a huge embarrassment: one of its active members, Abkhazia, is waging a full-scale war of independence against former UNPO member Georgia.

The shooting war between Georgians and Abkhazians is simply the most visible case of the complex enmities produced by the wave of decolonization in the 1960s and the fall of communism in 1989. Many of the nations now accused of exploiting and even massacring their subject peoples are themselves ex-colonies, like India, Indonesia and Nigeria. The new Baltic nations have barely had time to adopt democratic constitutions, but they are already facing charges of prejudice and ethnic persecution from their own minorities of Russians and Ukrainians. In Yugoslavia, the secession of Slovenia, Croatia and Bosnia set off a multifaceted civil war that now threatens the peace of Central Europe.

The high-profile war in ex-Yugoslavia is only one of dozens of armed struggles between the forces of centralization and independence. Rebels in the Indonesian island of East Timor say they have lost 200,000 citizens in a war that's been raging since 1975. Spokesmen for the quaintly named East Turkistan Cultural Association accuse China of slaying "hundreds of thousands" of their Turkic brethren. Indian police and troops are killing "30 or 40 people every day" in Khalistan, better known as the Punjab, according to the independence-minded Council of Khalistan. Kurds and Turkomans from Iraq rehearse Saddam Hussein's atrocities against them.

Already vanished: Some independence movements are more rhetorical than real. The Scanians of Sweden and the Jurassic people of Switzerland both sent spokesmen to last week's meeting on behalf of their virtually vanished cultures and languages. Sister Shaba Shabaka, from Los Angeles, argued that a vast swath of Central Africa, once known as Nigritia, had been stolen from its rightful owners, the Africans carried off to slavery in the Americas. Richard Grass from South Dakota, whose grandfather fought against General Custer at the battle of the Little Big Horn, said his Lakota nation continued to claim all of the U.S. territory known as the Louisiana Purchase, "plus a fair amount that is now in Canada."

On most issues at last week's meeting, a high degree of solidarity prevailed. All the aspirant nation-builders agreed that self-determination was an inalienable right. They all subscribed to the proposition that large nations are by nature hegomonistic. But there were limits to the harmony of the unrepresented. Last week 24 independence movements applied for UNPO membership. Only 10 were immediately accepted, and those rejected were furious. "Why should the people of Khalistan be left at the door?" asked Gurmit Singh Aulakh, an elegant Sikh with a waxed mustache and a splendid saffron-colored turban. Richard C. La France, a representative of the Mohawk Nation, warned: "When we met here two years ago, we were all brothers. Today we are pointing fingers at one another. Tomorrow, when you yourselves become sovereign, you may end up pointing guns at your own minorities."

Michael van Walt, the suave Dutch lawyer who founded UNPO and serves as its secretary general, recognizes the difficulty of separating the nationalist sheep from the goats. The main criteria for membership are that an organization should stand for a recognizable geographical area (which rules out such universalist groups as Black Muslims), that it be representative of its people and that it renounce the use of terrorism. Van Walt admits that most active members carry on activities that "lie in a gray area between armed struggle and terrorism." He tries to guide them from clearly terrorist actions like bombing school buses and "to help them learn other forms of resistance, especially diplomacy and skillful use of the media."

UNPO has largely fulfilled its aim of acting as an alternative United Nations—sometimes to the point of parody. Each member of UNPO sports a national flag, many featuring a green stripe for "hope." The organization has an elaborate set of committees, subcommittees and regional officers. Its delegates sit through hours of droning speech upon speech. As each orator approaches the podium, the chairman announces, for example: "We will now hear from the very distinguished representative of the Udmurt National Movement."

Real need: UNPO's rapidly growing membership suggests that the organization fills a real need. During the cold-war decades, "movements of national liberation" routinely turned to the Soviet Union and its allies for both recognition and practical aid. Those that could not gain Moscow's backing could usually hope for some support from the West. But the new Russia has closed down its revolution-exporting activities, and the West no longer needs to balance Soviet influence. Modest as it is, UNPO is the best available sounding board for, and moderating influence upon, the countless groups striving for independence and statehood.

The movement for national identity is likely to continue growing, and more than a few world leaders view it with alarm. In a recent speech, Boutros Boutros-Ghali, the U.N. secretary-general, warned: "The international community is threatened by micro-nationalism. If we permit it to continue till the end of the century, the U.N. will grow from 180 members perhaps to 300." To ward off the threat, Boutros suggested, "we should encourage states not to separate but to gather together, as the members of the European Community have done.

Boutros may be right in theory. But the fact of the 1990s is that tens of millions of the world's people aspire to statehood, and large numbers of them are ready to fight and die for it. For all its quaintness, its overblown rhetoric and its petty squabbles, the Unrepresented Nations and Peoples Organization is sailing with the wind of history. If it continues to grow at its current pace, UNPO's next general assembly, in 1994, will include more than 100 tribes, movements and governments-in-exile. Some will be harmless dreamers, but a good number will fight their bloody battles along the fault lines of history, and a few may make it to full-scale membership in the comity of nation-states.

[From Time, Feb. 1, 1993]

STATES OF MIND

(By Margot Hornblower)

The plaint of the Batwa pygmy, translated into Russian, resonated through the earphones of the foreign minister of the Sakha republic of Siberia. The Iraqi Assyrian compared his forgotten people with American Indians, as a Sioux from South Dakota and a Mohawk from Quebec applauded gravely. Two exiled princes—Tengku Hasan di Tiro of Acheh in Sumatra and Agofe John Bart Agami of Lado in Africa-chatted over cheese sandwiches. "We all have our own dreams," said Erkin Alptekin, and Uighur from East Turkestan. "And if we can share the same pillow, we can achieve our dreams."

A kaleidoscopic cross section of the oppressed, the colonized, the neglected and the rebellious gathered in the Hague last week for the general assembly of the Unrepresented Nations and Peoples Organization. With flag-bearing delegates from five continents, it had all the trappings of a mini-United Nations, despite one key difference: its 39 members, representing 130 million people, are mostly diplomatic out-casts, unwelcome in the international bodies where their fate is discussed. "There are some 5,000 distinct peoples in the world," said UNPO Secretary-General Michael van Walt. "But fewer than 200 states are recognized. Many groups want only basic human rights and their cultural identity. But others, perhaps 50, have the historical and political legitimacy to form new separate states."

The splintering of the Soviet Union and Yugoslavia has roused the expectations of restive peoples around the world. Kurds from Iraq. Ogonis from Nigeria. Nagas from India. Frisians from Holland. Shan from Burma. Mapuches from Chile and Argentina. At last week's conference, they agreed on one goal: self-determination. "Indonesia is Yugoslavia a hundred times over," claimed Di Tiro. The Achenese fought a long war against Dutch colonizers, only to be handed over in 1949 to the new Republic of Indonesia. The Javanese-dominated archipelago is battling uprisings in Acheh, East Timor and West Papua. "More than 200,000 of our people have been massacred since Indonesia invaded us in 1975," said an East Timor delegate. "But the world is changing. The Soviet empire has crumbled. We too can be free."

UNPO grew out of the unlikely friendship of a Tibetan, an Estonian and a Dutchman. On a visit to the Soviet Union in 1989, Lodi Gyari, foreign minister of the Tibetan exile government, looked up a fellow Buddhist, Far Eastern history professor Linnart Mäll. Their two peoples had something in common: neither could argue their case before the U.N., which deals only through member nations or nongovernmental organizations. "Nobody stood for our interests," said Mäll, now vice president of the Estonian National Independence Party. He and Gyari resolved to form an organization "to work for small peoples." They called on Van Walt, the son of Dutch diplomats, who had become a Washington lawyer and general counsel to the Dalai Lama. Representing Tibet's case before the U.N. Human Rights Commission, Van Walt had been besieged with requests for help from members of other nationalities. "The frustration was high," he said. "When people cannot be heard, it leads to violence."

In the two years since it began, four founding UNPO members have gained independence: Estonia, Armenia, Georgia and Latvia. Now several are embroiled in controversy over the treatment of their own minorities. At the conference, Estonia was criticized for refusing citizenship to its Russian inhabitants. Georgia was censured for repressing the Abkhazians, who asked for self-government in 1990. "In an act of genocide," Abkhaz National Theater director Valeri Kove told the assembly, "the Georgian army is trying to annihilate the people of Abkhazia. We cannot accept losing our motherland."

UNPO has led fact-finding missions to Abkhazia, Kosovo, Kurdistan, Tatarstan and Chechnya in an effort to mediate conflicts, monitor elections and draw attention to human-rights abuses. "The first step is to listen to people's feelings—not just to list statistics," sad Van Walt. "But UNPO also aims to provide services." Last week delegates attended workshops on diplomacy skills, conflict resolution and media relations.

"How do you deal with hostile journalists?" wondered a Scanian, whose group, from southern Sweden, seeks more cultural autonomy; a Tibetan counseled him to establish regular contact with a limited number of reporters. Many representatives of the would-be nations complained that their conflicts are rarely covered. "Reports in the media are few and far between," said Mike Foster, a spokesman for the island of Bougainville, which has been under siege by the Papua New Guinea army for three years. "Our crimes must be heard."

The most frequent complaint of conference participants focused on the use of population transfers as a weapon against self-determination. Thus a representative of the Mari said Russians are being encouraged to move into their territory. Likewise, Menelaos, Tselios, representing Greeks in Albania, claimed: "The Albanian government is intimidating, assimilating and forcing population transfer on the Greek minority." Similar complaints came from Bangladesh's Chittagong Hill Tracts where indigenous peoples are being forced into "cluster villages" to make room for Bengali settlers. Tatars, forcibly transferred to East Asia from their Black Sea homeland by Stalin, have moved back and built homes and mosques only to have them razed by the resident Russians and Ukrainians. "We do not ask for independence," said Ilknur Baysu, a Crimean Tatar attorney. "Only for basic human rights."

Thirty new peoples have applied for UNPO membership. To join, they must show they are representative. Two separatists from the Jura region of Switzerland did not qualify: their group has only 50 members. Another applicant, the Union Démocratique Bretonne, a minority party that promotes Breton, the Celtic language of Brittany, had high hopes. "UNPO is the only global organization where we can express ourselves," said delegate Kristian Guyonvare'h.

Prospective members must disavow terrorism. Two Sikhs from Punjab complained their application was delayed. "If we do not have a place in an organization like this, where will we go?" said Gurmit Singh Aulakh, president of the Washington-based Council of Khalistan. Three black American groups—Nigritia, the National People's Democratic Uhuru Movement and the Lost-Found Nation of Islam—came as observers. "There's a struggle all over the world for identity," said Jerry Carroll, a onetime Los Angeles blues singer and president of the Nigritian Commission. Also seeking a platform, a group of Bosnian Gypsies showed up to get help in fighting a Dutch deportation order.

UNPO's sudden popularity could lead to growing pains. With a largely volunteer staff, its funds come from U.S. and European foundations, as well as from a $1,000 annual fee charged each member. Mostly, though, it survives on determination. After giving a harrowing description of the Serbian terror campaign against his fellow Muslims, Alija Mahmutovic, a physician from the former Yugoslav territory of Sanjak, listened with furrowed brow to the testimony of his fellow delegates. "I realized we are not the only ones to go through hard moments," he said. "I was touched by the Indians from America, by the men from Khalistan. And," he smiled, "I had never before heard of Scania!"

THURGOOD MARSHALL AND LBJ

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. PICKLE. Mr. Speaker, I rise to add my voice to the huge chorus of proud Americans who have memorialized the late great Justice Thurgood Marshall.

I do not really need to add to the accolades and laurels that have been heaped upon this great giant of human rights and full citizenship advocacy. Leaders far more eloquent than I have done a more than adequate job of that.

Rather, I choose to recall the event that made so much of what Thurgood Marshall accomplished possible: His appointment as Solicitor General and then as U.S. Supreme Court Justice by President Lyndon Baines Johnson.

Mr. Speaker, for the benefit of future generations, we can ill afford to forget the courage that it took in those turbulent times both for Marshall to accept these appointments and for LBJ to make them.

Remember, this was at a time when an extremely popular President had been assassinated a few years before, when social unrest was at a fever pitch, and when both LBJ and Marshall were the target of numerous death threats.

In a CBS interview shortly after leaving office, President Johnson told Walter Cronkite about some of the circumstances surrounding the appointments. The interview showed the human level of these champions of human dignity as well as their devotion to their beloved wives. Following are some excerpts:

Mr. CRONKITE. Could you tell us about the decisions that went into the appointment of the first Negro ever to the Supreme Court, Thurgood Marshall?

Mr. JOHNSON. Yes. I had met Justice Marshall when he was a lawyer for the NAACP. And I had not had an intimate relationship, but I knew him. When I became President he was on the Federal bench in New York. I looked over the country to attempt to find a person to be Solicitor General, who would argue the cases before the Supreme Court. I also knew that there had never been a black on the Supreme Court in this country and had never been a black in the Cabinet in this country, and I didn't feel that was just. And I sent for him and told him: "If you resign the Federal judgeship, you'll give up a lifetime job. The job I'm offering you is a temporary job. If I'm—if something happens to me, you'll be out of a job the next morning. Another administration, you'll be out of a job. But I'd like for you to be my Solicitor General if you feel that you can be available for that assignment."

And he said, "Yes, Mr. President, I am available. I'll resign and I'll be ready whenever you ask me." He came there and he discharged his duties as Solicitor General well. I never mentioned the Supreme Court to him.

But when it became possible for me to appoint him on the Supreme Court, I called him and asked him to come to my office quietly the next day and tell no one; I wanted to counsel with him on a matter. And he courteously agreed to be there at 10 o'clock—whatever time I set for the appointment. He came in and sat down and I told him that I had this problem of selecting a man to the Supreme Court and that I had had him in mind. And I said, "I'm going to send your nomination to the Senate, if that's agreeable to you."

He said it was. He said, "You told me not to say anything about this to anyone and," he said, "before you do, I think I ought to tell you something." And my heart almost stopped beating because I was afraid it was going to be some problem of some kind. But he said, "You told me not to discuss this with anyone else—this conference—but," he said, "I just couldn't contain myself. I had to tell my wife. When a President calls up and asks to see a man, he just can't be expected to keep that from everyone, and I had to tell her. And," he said, "now that you've given me this great honor, could I be excused long enough to just call her and tell her that—what has happened?"

And I asked that they get Mrs. Marshall on the phone. The White House operator got her on the phone and I asked him to pick it up and he said hello, to make sure that Mrs. Marshall was on the other end. And she said, "Honey, did we make it?" And all the feeling that I felt I had contained must have been present there all those years and they must have at least had the silent hope that if any black ever made it to the Supreme Court, he would make it.

I've always felt very warm toward Mrs. Marshall, because I think that Lady Bird must have felt that way many times in critical crises that I was confronted with. She would say "Honey, did we make it?" and there was a team.

But the pride that really came to me was here was a qualified man who had done so much for his people and so much for his country that finally, on the basis of merit, could be nominated and confirmed by the Senate, and that last is not an easy job for any man that's nominated to the Supreme Court.

Mr. Speaker, these two great men obviously had a great deal of admiration and respect for each other and were able to build a strong rapport. Indeed, the Washington Post carried a story this past Sunday quoting Justice Marshall's 1977 comments on his feelings toward LBJ. The article reads:

Marshall praised former president Lyndon Baines Johnson, who nominated him to the Supreme Court, and said Johnson sometimes called him in a funk after leaving office in 1969. "I think if he'd been reelected, he'd still be alive today," Marshall said four years after Johnson's death. "He died of a broken heart. What a lovely guy."

TRIBUTE TO GEN. JAMES P. McCARTHY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. SKELTON. Mr. Speaker, I take this opportunity to recognize Gen. James P. McCarthy for his exemplary dedication and selfless service to this Nation during more than 35 years as an officer in the United States Air Force. Since entering the Air Force in 1957, Gen. Jim McCarthy earned a reputation for outstanding leadership, vigorous initiative and innovative problem solving. His highly respected flying skills were acquired during many cockpit hours in fighters over Japan, Korea and Vietnam as well as in bombers stationed at bases across the United States. His leadership is evident in his command of a tactical fighter combat squadron, two strategic bomber wings and the command of the United States 8th Air Force.

Yet, General McCarthy's commitment to the Air Force extended beyond the flight line. Throughout his career, he was actively engaged in the development of a strong, effective Air Force for the future. As Vice Commandant of Cadets at the Air Force Academy, he directed the preparation of the Academy for the entrance of women into the Corps of Cadets in July 1976. He served with distinction during tours of the Air Force staff in Washington, DC, determining worldwide policy for bases; formulating concepts for the M–X missile; directing the Air Force legislative liaison; and directing Air Force programs, manpower and foreign military sales. The culmination of his career came as the Deputy Commander in Chief, United States European Command. It was here that he oversaw the largest peacetime troop withdrawal initiating a military contacts program with our former adversaries in the Eastern Bloc.

During the Gulf crisis, he directed the deployment of half of his forces and fought in the campaign against northern Iraq with coalition forces. After Iraq, General McCarthy directed humanitarian relief efforts through Operations Provided Comfort—Kurdish refugees—Provide Hope—former Soviet Union—and Provide Promise—former Yugoslavia. In addition, General McCarthy designed a smaller, future-oriented European-based force which will maintain the United States commitment to NATO in the years following the cold war.

I request that my colleagues join me in expressing heartfelt gratitude to not only Gen. Jim McCarthy, but to his wife Thia as well for their service above and beyond to the Air Force and the United States of America.

THE POLLUTION PREVENTION, COMMUNITY RECYCLING, AND INCINERATOR CONTROL ACT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. TOWNS. Mr. Speaker, I had the honor to reintroduce the Pollution Prevention, Community Recycling and Incinerator Control Act on the opening day of this Congress. Designated H.R. 424, the bill will establish a national moratorium on new municipal solid waste incinerators until the year 2000. It also provides much more stringent requirements for all incinerators.

This issue is of particular concern to New York City. Our Comptroller, a former member of this body, Elizabeth Holtzman, has been a leader in raising the health risks and environmental impacts of burning our trash. I take this opportunity to include her statement on H.R. 424:

STATEMENT OF NYC COMPTROLLER ELIZABETH HOLTZMAN

I commend Congressmember Ed Towns' reintroduction of H.R. 424, a bill calling for a national moratorium on construction and expansion of incinerators. Further, I will support his efforts to make this proposed legislation law.

Incineration is an antiquated, costly, hazardous means of eliminating waste. A Congress truly intent on bringing about change can start by passing H.R. 424, the "Pollution Prevention, Community Recycling, and Incineration Control Act." If passed, the act would withhold permits to construct or expand incinerators nationally until the year 2000.

My office has issued several reports listing the environmental and health risks of burning garbage. The most recent report entitled "Smokescreen: How the Department of Sanitation Attempts to Cover up Poisonous Effects of Burning Garbage," looked at the cancer-causing agents released by incineration. The report indicated incineration releases—among other harmful chemicals—dangerous amounts of carbon monoxide, nitrogen oxide, mercury and lead.

The harmful chemicals released by incineration often fall on densely populated areas, increasing the risk of breast and lung cancer. Children and the elderly are especially susceptible to respiratory problems caused by these poisons.

Cancer is only one health risk of several to consider. According to the United States General Accounting Office (GAO), federal emission standards fail to consider the effects of toxins on human reproduction and developing fetuses. In addition, new information shows pollutants such as dioxin and nitrogen oxide weaken the immune system. The potential consequences of incineration become even greater as the nation tries to control the spread of AIDS.

The chemical by-products of incineration that are not inhaled directly still pose a threat. Many of these toxins do not break down. Instead, they accumulate in the ground and water each year, to endanger future generations.

Another report from my office, "Fire and Ice", found incinerators emit greenhouse gases that contribute to global warming, while recycling reduces the production of greenhouse gases by saving energy. According to the study, higher temperatures in upstate New York reservoirs could mean poorer quality drinking water in New York City.

Furthermore, incineration is more expensive than recycling. In New York City alone taxpayers could save $100 million annually with an intensive waste reduction and recycling plan.

In the long run, recycling will save more land fill space and create more jobs than incineration. There is no fiscal or environmentally sound reasons to burn garbage.

I have worked consistently to block the construction of new incinerators and the expansion of existing incinerators in New York City. The reintroduction of H.R. 424, the incineration moratorium, is a move in the right direction. Incineration is bad for the environment, bad for our health and bad for the economy.

PAUL X. TIVNAN, PUBLIC SERVANT

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. NEAL of Massachusetts. Mr. Speaker, it is my pleasure to pay tribute to a man who has unselfishly served his community, county, State and country over the last 40 years. It is with great pride that we honor Paul X. Tivnan, a man who has dedicated his life to serving his fellow man.

Mr. Paul X. Tivnan's honorable career in public service includes valiantly protecting our Nation's liberty, for 4 years, while a member of the U.S. Army during World War II. Following his military service Paul has continuously strived to protect the interests of his fellow citizens. He had dedicatedly served as a Worcester city councilor, a Worcester county commissioner for 28 years and a recreation supervisor with the Worcester Parks Department for 31 years.

Paul is a graduate of St. John's High, Cushing Academy, and Boston University. In 1991, he was inducted into the St. John's Athletic Hall of Fame in recognition of his outstanding playing days as a three-sport athlete; baseball, basketball, and football.

Few people have touched so many lives as Paul X. Tivnan has. For the past 40 years, Paul has volunteered his service to the youth of our community through Little League Baseball. He was one of the first four elected members of the International Board of Directors of Little League Baseball, and currently is the District 4 Little League administrator, an elected position he has held since 1957. Paul supervises 19 leagues with over 7,500 players. In 1992, the Paxton Little League Field was renamed the "Paul X. Tivnan Field" in his honor.

Originally from Vernon Hill in Worcester, Paul has resided in Paxton since 1956 and is a lector at St. Columba's Church. Paul and his late wife, Agnes, have five children—Maureen, Paula, Kevin, Brian, and Michael—and seven wonderful grandchildren.

Mr. Speaker, I salute Paul X. Tivnan for the many services that he has provided without fanfare. Although we are a nation built on individual liberty it has been our community cooperation that has enabled our Nation to reach the unparalleled level of success that it has. Mr. Speaker, I salute Paul X. Tivnan's exemplary service to both family and community.

CHALLENGES TO MILITARY DISCIPLINE AND MORALE IN 1850 AND 1993

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. MILLER of California. Mr. Speaker, nearly a century and a half ago, a proposal to initiate reforms in the operations of the U.S. Navy sent shivers through naval officialdom. The radical proposal: abolition of flogging as punishment of sailors.

Professor Richard D. Brown of the University of Connecticut has written a brief essay that illustrates the curious parallels in the proposals to end unconstitutional and abusive behaviors in the military, comparing the rhetoric and illogic of the 1850's with the current issue of removing blatant discrimination against gay and lesbian Americans, as proposed by the President.

Mr. Speaker, each and every time efforts have been made to rid our Nation of discriminatory behavior, the forces of bias, of reaction, and of the status quo have made dire predictions of disorder, ruination, and disintegration. We heard those voices when it was proposed that we end flogging. But we also heard them when we confronted the slave trade, and slavery itself; when women were allowed to vote; when the military was desegregated after World War II; when women were admitted to the service academies, and in many more cases, too.

Mr. Speaker, this country is better than that. This current brouhaha is totally contrived. Everyone knows that gay men and women serve, with distinction, in the military and throughout our society. The issue is behavior, as President Clinton says. Many of the same people who are aghast at the current proposal covered up, brushed off, and apologized for the blatant heterosexual harassment in the military for years.

The issue here is that you are going to be judged by how well you do your job, not on irrelevant and hysterical criteria. Yes, some people's attitudes will have to change. But we will be a better nation, and a better military, for that change.

I am including Professor Brown's essay for my colleagues to review:

CHALLENGES TO MILITARY DISCIPLINE AND MORALE IN 1850 AND 1993

(By Richard D. Brown, professor of history, University of Connecticut, and American Antiquarian Society—National Endowment for the Humanities Fellow, 1992-93)

On September 28, 1850, after several years of agitation and following the publication of Herman Melville's muckraking novel, White Jacket, or the World in a Man-of-War, the United States Senate voted by a margin of 26 in favor and 24 opposed, to end flogging as a disciplinary practice in the United States Navy.

Prior to the vote navy brass, as well as spokesmen for common sailors, opposed this reform measure almost unanimously. Senator James M. Mason of Virginia declared that "it will be found utterly impolitic and ruinous for the service to abolish flogging in the navy." This was, he said, not his opinion only: "I am informed by naval officers * * * that it would be utterly impracticable to have an efficient navy without this mode of punishment."

To buttress the Virginian's assertions, Florida Senator David Levy Yulee reported that the Senate committee studying the subject had "taken pains to procure information from the best sources—the opinions of seamen in the navy—and the result * * * is, that the intelligent, and faithful, and honest portion of the seamen in the navy are opposed to the abolition of corporal punishment."

Without it, Yulee and several other senators argued, "the skulkers would be able to throw upon the good men all the labors of the voyage, and all the fatigue, hazard, and exposure." Senators from Georgia and Mississippi repeated Yulee's assertion that the morale of officers and sailors rested "upon the necessary subordination and discipline" that only "flogging in the navy" could supply.

For generations in peace and war, they said, flogging had served the navy well. The fact that the United States Navy had recorded 5,936 floggings at sea and on land as recently as 1846-47, only served to demonstrate how necessary flogging was for naval efficiency. Those who believed it was immoral and contrary to the Constitutional rights of United States citizens were, according to Senator James A. Pearce of Maryland, the dupes of a "false philanthropy and sickly sentimentality" which demeaned the bravery and manhood of America's fighting men: "Why, sir, these men are not babies."

Recently we have again been advised by seasoned, knowledgeable military professionals that to recognize the Constitutional rights of American servicemen and women, in this case to be gay or straight, will compromise military efficiency and morale. Many civilian political leaders also maintain that openly permitting homosexuals in the armed forces would be, as their counterparts in 1850 put it, "utterly impracticable," "impolitic," and would disrupt "the necessary subordination and discipline."

But how much weight should civilians give to these assertions? Surely it would be more congenial for our military leaders now, as in 1850, to preserve a status quo which they believe has served the nation well. At the same time, however, we must remember the military's dire predictions in 1850, and that the navy survived reform of its discipline system.

The sky did not fall when the cat-o'-nine-tails was thrown overboard. Instead, civilian leadership moved American policy closer to the realization of the sacred dignity of natural rights proclaimed in the Declaration of Independence.

Today, not even a reactionary would choose to restore flogging to military policy. Today, if civilians insist on the equal treatment of gays in the armed forces, then tomorrow no one will wish to return to the days when "the intelligent, and faithful, and honest portion" of our servicepeople, if they happened to be gay, were required to pretend to be straight.

That policy, like flogging, cannot provide the foundation for the self-respect, courage, and dignity that have always distinguished our finest servicemen and women.

In 1850 the United States Navy needed civilian guidance; and to go forward today the Joint Chiefs need the civilian leadership President Clinton has promised.

SECONDHAND SMOKE

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. DURBIN. Mr. Speaker, today I am introducing legislation with Mr. HANSEN and Mr. MAZZOLI to protect children from secondhand smoke while they are participating in federally-funded children's programs and to protect Federal employees from secondhand smoke in the Federal workplace.

On January 7, the Environmental Protection Agency released its final report designating environmental tobacco smoke as a group A carcinogen, the same designation applied to asbestos, benzene, and arsenic.

EPA found that secondhand smoke is responsible for approximately 3,000 lung cancer deaths annually in U.S. nonsmokers.

In addition, exposure to secondhand smoke causes 150,000 to 300,000 lower respiratory tract infections such as bronchitis and pneumonia in young children each year, causes additional episodes of asthma and increased severity of asthma symptoms in children who already have asthma, and may be a risk factor for 8,000 to 26,000 new cases of asthma annually in children who would not otherwise become asthmatic.

Our legislation requires federally funded children's programs to establish a nonsmoking policy limiting indoor smoking to areas of their facilities which are not normally used to serve the children and which are ventilated separately from the children's areas.

In all buildings owned or leased by the executive, judicial, or legislative branches of the Federal Government, smoking would be prohibited except in areas that are ventilated separately from the rest of the building.

I ask that my summary of the legislation appear in the RECORD following these remarks.

I urge my colleagues to join me in cosponsoring this measure, which will bring the smoking policies under our Federal jurisdiction into conformity with the scientific and health findings of the EPA.

THE PRO-KIDS ACT (PREVENTING OUR KIDS FROM INHALING DEADLY SMOKE)

SMOKING IN THE FEDERAL WORKPLACE

1. EPA shall develop, within 180 days, guidelines for instituting and enforcing a nonsmoking policy at each federal agency, which will prohibit smoking except in separately ventilated areas.

2. As soon as is practicable, the head of each Executive agency shall adopt a nonsmoking policy that meets the requirements of the EPA guidelines. The Director of the Administrative Office of the U.S. Courts shall adopt a nonsmoking policy for Judicial Branch buildings. The House Building Commission, the Senate Rules Committee, and the Architect of the Capitol shall adopt nonsmoking policies for Legislative Branch buildings.

3. The Administrator of the General Services Administration shall certify that each Executive agency's policy meets the requirements of the EPA guidelines.

4. Agency heads may publicly petition for a waiver, which may be granted if (1) unusual extenuating circumstances prevent enforcement and the agency establishes and enforces an alternative policy protecting individuals to the maximum extent possible, or (2) the agency establishes an alternative policy that provides protections equal to that of the EPA guidelines.

5. Agencies subject to collective bargaining agreements shall engage in collective bargaining to ensure implementation, and may exempt work areas for up to 1 year that are covered by a previous agreement permitting smoking.

SMOKING IN FEDERALLY-FUNDED CHILDREN'S PROGRAMS

6. Any entity using federal funds to provide health services to children under age 18 or to provide other services primarily to children under age 18 shall establish and make a good-faith effort to enforce a nonsmoking policy that prohibits smoking except in separately-ventilated areas, beginning with the first fiscal year after enactment.

7. Entities may petition the agency funding them for a waiver, which may be granted if the conditions in #4 are met. Entities subject to collective bargaining agreements that permit smoking may request a waiver of up to 1 year.

8. Entities that fail to establish or make a good-faith effort to enforce the nonsmoking

requirement are subject to civil penalties of up to $1,000 per violation per day, which would be assessed by the head of the agency that provided the federal funds, with an opportunity for a hearing. The agency head could reduce or waive the penalty and take into account mitigating factors and the violator's willingness to abide by the law in the future.

TECHNICAL ASSISTANCE AND OUTREACH ACTIVITIES

9. EPA and HHS shall provide technical assistance to agency heads and other persons who request technical assistance, including information on smoking cessation programs for employees and information to assist in compliance with the requirements of this Act.

10. EPA shall establish an outreach program to inform the public concerning the dangers of environmental tobacco smoke, and shall establish an Environmental Tobacco Smoke Advisory Office to operate a telephone hotline and provide information to persons who request it.

THURGOOD MARSHALL: "A HERO FOR ALL TIMES"

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. STOKES. Mr. Speaker, today the Nation mourns the loss of one of its greatest pioneers, retired Supreme Court Justice Thurgood Marshall. Justice Marshall died Sunday, January 24, 1993 at the National Naval Medical Center in Bethesda, MD at the age of 84. For more than six decades, his unyielding leadership in the fight against racial discrimination and as the champion of individual rights, Justice Marshall blazed a pathway to equality through our Nation's justice system.

Long before being appointed to the Supreme Court, Justice Marshall championed the rights of the underprivileged and the unrepresented. In 1936 Justice Marshall was hired as an assistant to the National Counsel for the National Association for the Advancement of Colored People [NAACP]. In 1939 he created the NAACP Legal Defense and Educational Fund which he headed from 1940 to 1961. Under the umbrella of the Legal Defense Fund, Justice Marshall worked within the legal system to improve the rights of minorities. In an unprecedented fashion Justice Marshall won all but 3 of the 32 cases which he argued before the Supreme Court.

Justice Marshall is remembered by most for his lead in the landmark 1954 Supreme Court decision styled Brown versus Board of Education. Through a series of wellcrafted court cases over several years, Justice Marshall methodically dismantled segregation in our Nation's schools. This landmark decision provided all Americans regardless of race, creed, or color, equal access to a quality education.

After being appointed by President John F. Kennedy, Justice Marshall served on the bench of the United States Court of Appeals for the Second Circuit from 1961 through 1965. In 1965 Justice Marshall secured a place in history once again when he was appointed by President Lyndon B. Johnson as the first African American to hold the position of Solicitor General of the United States. As the Nation's top lawyer Justice Marshall was responsible for assuring the Supreme Court's approval of the 1965 Voting Rights Act which secured equal voting privileges for all Americans.

Upon President Johnson's nomination and the confirmation of the U.S. Senate, Thurgood Marshall became the first African American Justice in the history of the Supreme Court. During his tenure on the Court Justice Marshall served as the legal voice of American liberalism. His retirement in June 1991 marked the end of a significant era on the U.S. Supreme Court.

Justice Marshall's competence was matched only by his dedication to destroying every last legal barrier to justice and equality under the Constitution, which he so scholarly mastered. During his 24 years on the Supreme Court, Justice Marshall aggressively assaulted racism, bigotry and prejudice with his brilliant mind and candid speech which can never be matched.

Mr. Speaker, I will personally remember Justice Marshall not only as a drum major for equality, but also as an idol and a role model. It was Justice Marshall's position as the chief advocate of defendant's rights that inspired me in my practice of the law. One of my most memorable experiences is having argued Terry versus Ohio, before Justice Marshall and the Supreme Court in 1968. As America's greatest constitutional lawyer, Justice Marshall's writings and words served as a pillar of authority for myself and other young lawyers committed to civil rights.

I am proud to know that Justice Marshall's name will forever fill the pages of history books along side the names of Fredrick Douglass, Harriet Tubman, Dr. Martin Luther King, Jr. and others who fought so hard to secure the freedom of all people. In Justice Marshall's own words, I will remember him best for "doing what he could, with what he had."

SHENANDOAH VALLEY NATIONAL BATTLEFIELDS AND COMMISSION

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. WOLF. Mr. Speaker, today I am pleased to introduce legislation to establish the Shenandoah Valley National Battlefields and Commission in the Commonwealth of Virginia.

Many Americans recognize the significance of such Civil War battles and campaigns as Gettysburg, Antietam, and Manassas, but cannot truly comprehend the realism of the American Civil War without visiting these battlefields. To have the opportunity to walk the hallowed ground where brave men fought and died for a cause they believed in enables one to feel that experience.

In November 1991, the National Park Service completed a draft study of the Civil War battlefields in Virginia's Shenandoah Valley. The study considered several alternatives aimed at preserving the valley's unsurpassed Civil War heritage as represented by 15 individual battlefields located in the Shenandoah Valley.

In response to the National Park Service's study emerged a proposal for the creation of the Shenandoah Valley National Battlefields drafted by a coalition of citizens from the Shenandoah Valley including property owners, elected officials, regional planning offices, the business and tourism communities, and representatives of preservation and conservation organizations. The basic theme throughout this legislation stresses the significance of the valley's Civil War battlefields, but also recognizes the importance of valley residents and property owners in determining the future of these historic sites.

Before I introduced this legislation in the House of Representatives, I had the opportunity to hold discussion meetings on this proposed bill in the Shenandoah Valley. My primary objective in holding these meetings was to provide an opportunity for thorough review and comment on this legislation. Participants in the drafting of the bill were present at these meetings to brief valley citizens about the plan and to answer any questions. These meetings, attended by local government officials, landowners, and business people, served as a vehicle to refine, modify, and improve the legislation with the input and advice of citizens from throughout the Shenandoah Valley.

Following these meetings we worked with the participants who drafted the bill to include constructive changes offered by valley residents. These meetings proved to be a critical step in advancing this legislation.

The Shenandoah Valley National Battlefields legislation is designed to achieve seven objectives:

First, to protect individual property rights of landowners;

Second, to provide incentives for local governments and individuals to preserve historic land voluntarily and include battlefield protection in regional planning;

Third, to foster the participation of the private sector, local and State government, and the Federal Government in a partnership approach to battlefield preservation;

Fourth, to provide significant regional involvement in the planning of the national battlefields;

Fifth, to preserve the battlefields in the most expeditious, cost-effective, and efficient way;

Sixth, to encourage heritage tourism for the economic well-being of the Shenandoah Valley, and

Seventh, to provide first rate interpretation of the valley's Civil War history.

The Commonwealth of Virginia is a State rich in Civil War heritage, and the opportunity exists to benefit the Shenandoah Valley region economically. Recent studies prepared by the Virginia Polytechnic Institute and State University indicate that the preservation of Civil War National Battlefields in the Shenandoah Valley will generate annual sales of goods and services valued at $50–$60 million, create up to 1,600 new jobs, generate up to $22 million in new salaries and wages, and enhance the local tax base.

This legislation establishes a heritage commission composed of local landowners, local governmental entities, historic preservationists, and representatives from the business community. The commission, in partnership with the Secretary of the Interior, will create the framework for a national battlefield in the Shenandoah Valley.

The commission would be charged to draft a heritage plan. The plan will promote heritage tourism and provide incentives to local landowners and governments to preserve the battlefields within the Shenandoah Valley corridor. Through cooperative agreements between governments, landowners, and the Secretary, these entities will work together to preserve and restore historic lands.

Private property owners would be entitled to receive direct cash payments from the Federal Government if they agree to:

First, continue to farm their land;

Second, assist in efforts to restore battlefield land to its historic appearance;

Third, at their option, sell to the Government a right of first refusal so that their lands may be acquired at some future date;

Fourth, restore historic barns and other structures in order to preserve the historic values of the battlefields;

Fifth, employ voluntary methods of land protection to ensure battlefield preservation.

The legislation provides that local governments and their regional entities are entitled to receive planning grants of up to 90 percent of the cost to develop plans that conserve the historic character of the battlefields. Moneys are also authorized to assist governments and landowners in the implementation of approved preservation plans.

No boundary for the National Battlefields is defined in the legislation. Only after the heritage commission has conducted extensive public hearings and has prepared its Shenandoah Valley Civil War Sites Heritage Plan is a boundary established. But regardless, no lands within the battlefield may be acquired through condemnation—land can be acquired only with the explicit consent of the owner.

Federal acquisition of lands with appropriate funds is further limited to those lands in the historic core identified in the National Park Service study, "Civil War Sites in the Shenandoah Valley of Virginia." Lands must be purchased at fair market value as determined by one or more independent appraisers. Lands within the boundary, but outside the historic core, may be acquired only with donated funds.

The heritage plan serves as the focal point for management of the area. It is to be prepared with extensive local participation. Within 3 years after the legislation becomes law, the commission is to complete the plan which will identify potential partnerships with local governments, landowners, and businesses.

The plan also will identify the location of visitor centers, suggest a means to implement a continuing program of interpretation and visitor education, establish a framework for a valleywide historical marker and wayside exhibit program, and assess the potential for the operation of battlefield concessionaires by locally owned and operated businesses.

The creation of the Shenandoah Valley Battlefields Commission is the heart of this bill. The commission will include two members from each of the eight jurisdictions that possess a nationally significant battlefield; one of the two members must be a local property owner who owns land in the historic core. Also represented on the commission are local preservationists, business representatives, regional planning officials, and experts in Civil War history.

As the representative for the 10th Congressional District of Virginia, which includes the major land areas cited in this legislation, I believe the creation of a Shenandoah National Battlefield will provide the opportunity for millions of Americans and others to visit these battlefields so much a part of Virginia's rich Civil War history.

Mr. Speaker, I believe this legislation is flexible, workable, and responsible, but I want to emphasize that this continues to be a preliminary step in the process of determining the best plan.

Through this legislation we have the chance to provide the opportunity for our citizens to experience the history of the Civil War and I welcome the support of my colleagues in cosponsoring this bill.

H.R. 746

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Shenandoah Valley National Battlefields Partnership Act of 1993".

SEC. 2. FINDINGS.

Congress finds that—

(1) there are situated in the Shenandoah Valley in the Commonwealth of Virginia the sites of Civil War battles;

(2) certain sites, battlefields, structures, and districts in the Shenandoah Valley, are collectively of national significance in the history of the American Civil War;

(3) the National Park Service has assessed the suitability and feasibility of including Shenandoah Valley battlefield sites in the National Park System, or of affiliating these sites with the National Park System, and has found that these sites possess national significance and a high degree of historical integrity;

(4) the preservation and interpretation of these sites, battlefields, structures, and districts can make a vital contribution to the understanding of the heritage of the United States;

(5) popular interest in the Civil War has reached a point not seen since Civil War veterans themselves sought to preserve battlefields they hallowed;

(6) the historic integrity of these battlefields is imperiled by an accelerated pace of growth in the region;

(7) concerned individuals and nonprofit organizations have expressed interest in donating land in the Shenandoah Valley to the United States for the purpose of preserving sites of the Nation's vanishing Civil War legacy;

(8) as evidenced by studies by Virginia Polytechnic Institute and State University, the preservation of highly significant Civil War battlefield sites within the regional framework of the Shenandoah Valley, together with site improvements, including visitor centers and interpretive programs, would have a positive impact on economic development and employment in the Shenandoah Valley by generating new annual sales of goods and services valued at $50,000,000 to $65,000,000, creating 1,300 to 1,600 new jobs, and generating $18,000,000 to $22,000,000 in new salaries and wages;

(9) the goal of preserving Civil War sites within a regional framework is to promote cooperation among local property owners and Federal, State, and local government entities that seek to promote economic development through the preservation of sites and places significant to the history of the Nation; and

(10) partnerships between Federal, State, and local governments and their regional entities, and the private sector—

(A) offer the most effective opportunities for the enhancement and management of the Civil War battlefields and related sites in the Shenandoah Valley; and

(B) are best fostered through establishment of a region-wide Commission.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) preserve, conserve, and interpret the legacy of the Civil War in the Shenandoah Valley of Virginia;

(2) recognize and interpret important events and geographic locations in the conduct of the Civil War in the Shenandoah Valley of Virginia, including those battlefields associated with the Thomas J. (Stonewall) Jackson Campaign of 1862 and the decisive campaigns of 1864;

(3) recognize and interpret the effect of war on the Valley's civilian population during the war and the postwar reconstruction period;

(4) create partnerships among Federal, State, and local governments and their regional entities, and the private sector to preserve, conserve, enhance, and interpret the nationally significant battlefields and related sites associated with the Civil War in the Shenandoah Valley; and

(5) establish and maintain a geographic database and information system that can be used to locate, track, and cross reference significant historical and cultural properties, structures, and markers.

SEC. 4. DEFINITIONS.

For the purposes of this Act:

(1) BATTLEFIELDS.—The term "Battlefields" means the Shenandoah Valley National Battlefields established under section 101.

(2) COMMISSION.—The term "Commission" means the Shenandoah Valley National Battlefields Commission established by title II.

(3) CONTRIBUTING BATTLEFIELD.—The term "contributing battlefield" means those areas identified in the National Park Service study, "Civil War Sites in the Shenandoah Valley of Virginia", that—

(A) encompass all important components of a conflict, including approach routes, areas of troop concentrations, reserve positions, command headquarters, hospitals, signal stations, or other important observation points, picket lines, battle lines, maneuver areas, assault areas, artillery positions, retreat routes, and places where the armies bivouacked before or after the fighting; and

(B) provide a strategic context and geographic setting for understanding the conflict.

(4) HERITAGE PLAN.—The term "Heritage Plan" means the Shenandoah Valley Civil War Sites Heritage Plan approved pursuant to section 104.

(5) HISTORIC CORE.—The term "historic core" means areas identified in the National Park Service study, "Civil War Sites in the Shenandoah Valley of Virginia", containing sites of confrontational deployment, heaviest fighting, and most severe casualties, and those sites important in shaping the ebb and flow of battle.

(6) MAJOR INTERPRETIVE FACILITY.—The term "major interpretive facility" means a year-round staffed visitor center that pro-

vides an orientation to the entire park, and, through interpretive exhibits and media, communicates to the public the story of the Civil War in the Shenandoah Valley of Virginia.

(7) LANDS THAT HAVE LOST THEIR HISTORIC INTEGRITY.—The term "lands that have lost their historic integrity" means those battlefield areas identified on site maps in the National Park Service study, "Civil War Sites in the Shenandoah Valley of Virginia", that are identified as having experienced a significant percentage of land use change from its historic appearance to the extent that the areas no longer retain a unique cultural or historical identity.

(8) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

TITLE I—SHENANDOAH VALLEY NATIONAL BATTLEFIELDS

SEC. 101. ESTABLISHMENT OF SHENANDOAH VALLEY NATIONAL BATTLEFIELDS.

(a) ESTABLISHMENT.—On the approval by the Secretary pursuant to section 104 of the Heritage Plan, and on notice published in the Federal Register of the approval, there is established the Shenandoah Valley National Battlefields as a unit of the National Park System.

(b) AREAS INCLUDED.—The Battlefields shall consist only of those lands identified in the Heritage Plan in the counties of Clarke, Frederick, Highland, Rockingham, Shenandoah, and Warren, and in the city of Winchester. The Commission shall identify lands in the historic core, and the contributing battlefield area immediately adjacent to, or in the vicinity of the historic core, that shall comprise the Shenandoah Valley National Battlefields.

(c) BATTLEFIELDS INCLUDED.—The following battlefields shall be included in the Battlefields:

(1) Cedar Creek.
(2) Cool Spring.
(3) Cross Keys.
(4) Fisher's Hill.
(5) First Kernstown.
(6) Second Kernstown.
(7) McDowell.
(8) New Market.
(9) Port Republic.
(10) Tom's Brook.
(11) Opequon (Third Winchester).
(12) Second Winchester.

(d) MAP.—The map entitled "Shenandoah Valley National Battlefields", and dated ________, shall be on file and available for public inspection in the Office of the Director of the National Park Service.

SEC. 102. PROTECTION AND CONSERVATION OF HISTORIC PROPERTIES.

(a) HERITAGE PRESERVATION.—The Secretary and the Commission shall take appropriate action to encourage heritage preservation within the regional area of the Battlefields by landowners, local governments, organizations, and businesses.

(b) HERITAGE TOURISM.—The Secretary and the Commission shall cooperate to promote appropriate levels of heritage tourism in the Shenandoah Valley of Virginia that are compatible with resource protection.

(c) PARTNERSHIPS AND COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary, with the consent of the Commission, may establish partnerships and enter into cooperative agreements relating to planning, development, use, management, and interpretation of properties within the Battlefields with other Federal agencies, State and local subdivisions, and private persons, to advance the purposes of this Act.

(2) AGREEMENTS WITH OWNERS OF PROPERTY.—

(A) IN GENERAL.—The Secretary may enter into agreements with the owners of property in the Battlefields on which historic monuments and tablets commemorating the battles have been erected.

(B) ACQUISITION.—Within the boundaries of the Battlefields, as provided in the Heritage Plan, the Secretary may, with the consent of the owner, acquire by donation, purchase, or exchange, lands and interests comprising the monuments and tablets, together with lands and interests in lands necessary to provide adequate public access to the monuments and tablets.

(C) MAINTENANCE.—The Secretary may make funds available, subject to appropriations, for the maintenance, protection, and interpretation of the monuments and tablets pursuant to the agreements.

(3) INTERIM AUTHORITY.—During the period Heritage Plan is being prepared, the Secretary, with the approval of the Commission, may enter into agreements described in paragraph (2) to advance the purposes of this Act.

(d) RESTORATION OF PROPERTIES.—Notwithstanding any other provision of law, the Secretary, with the advice and approval of the Commission, may restore and rehabilitate property within the Battlefields pursuant to partnerships and cooperative agreements without regard to whether title to the property vests with the United States.

(e) GRANTS.—Within the Battlefields, the Secretary may award grants to property owners and governmental entities and provide technical assistance, information, and advice under section 101(h) of the National Historic Preservation Act (16 U.S.C. 470a(h)) to promote the use of natural and cultural resources to conserve and maintain the historic character of the Battlefields. The grants shall be made to assist local landowners, businesses, and local governments in cooperative efforts designed to meet heritage preservation objectives in the historic core and contributing battlefield area.

(f) PLANNING COSTS.—

(1) IN GENERAL.—The Secretary, under such terms and conditions as the Secretary may prescribe, and at the request of any local or county government entity or a regional entity that encompasses any one or more of the Battlefields, may reimburse up to 90 percent of the planning cost incurred by the entity in the development of comprehensive plans and land use guidelines, regulations, and ordinances that are consistent with conserving the historic character of the Battlefields.

(2) CONSULTATION.—The plans shall be prepared in consultation with the Secretary and the Commission.

(3) IMPLEMENTATION GRANTS.—A plan or strategy that is approved by the Secretary and Commission shall be eligible for implementation grants under subsection (g).

(4) APPROPRIATION DETERMINATE.—Reimbursement under this subsection may only be made in such amounts as are provided by appropriation.

(g) IMPLEMENTATION GRANTS TO GOVERNMENTAL ENTITIES AND THE PRIVATE SECTOR.—

(1) IN GENERAL.—The Secretary may provide grants to State, county, or municipal governmental entities or regional entities, based on a matching formula identified in the Heritage Plan to facilitate the implementation of protection plans and strategies to further the purposes of this Act. The grants shall be conditioned on the approval by the Secretary of commitments from the governmental entities that the entities will assist in the implementation of an approved protection strategy. The Secretary shall suspend the provision of grants if the Secretary has withdrawn approval of the strategy under paragraphs (2) and (3).

(2) REVIEW.—The Secretary and the Commission shall conduct a regular review of approved strategies for the purpose of ensuring that the strategies continue to meet the requirements of subsections (e) and (f) and this subsection. If the Secretary finds that a strategy or the implementation of a strategy no longer meets the requirements, after consultation with the Commission and the affected governmental entity, the Secretary shall withdraw approval of the strategy.

(3) GRANT CONDITIONS.—Grants under this subsection shall be made only on application of the recipient governmental entity and shall be made using funds specifically appropriated for the grants as authorized by this Act. The funds shall be in addition to any other Federal financial assistance for any other program, and shall be subject to such terms and conditions as the Secretary deems necessary to carry out the purposes of this subsection.

SEC. 103. ACQUISITION.

(a) GENERAL AUTHORITY.—Within the historic core, subject to the limitations specified in subsection (b), on the adoption of the Heritage Plan by the Secretary and the Commission, the Secretary may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, or exchange with willing landowners.

(b) LIMITATIONS ON AUTHORITY.—

(1) STATE OR LOCAL LAND.—Lands, and interests in lands, within the boundaries of the Battlefields that are owned by a State, county, or municipal entity, or any political subdivision of the entity, may be acquired only by donation or exchange.

(2) CONDEMNED LAND.—The Secretary may not accept lands acquired by the State through condemnation for the purposes of battlefield preservation under this Act.

(3) EMINENT DOMAIN.—Private property shall not be taken through eminent domain under this Act.

(4) LANDS THAT HAVE LOST THEIR HISTORIC INTEGRITY.—Unless recommended by the unanimous consent of the Commission, in purchasing property the Secretary may not use appropriated funds to acquire lands that have lost their historic integrity.

(c) PURCHASE AT FAIR MARKET VALUE.—Lands and interests in land may be acquired under this Act by purchase at a price that is based on the fair market value determined by one or more independent appraisals, consistent with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(d) RIGHT OF FIRST REFUSAL.—

(1) IN GENERAL.—Subject to the limitation specified in subsection (b), the Secretary or Commission may acquire the right of first refusal in the acquisition of historic core property specified in section 101(b).

(2) CONSENT.—The Secretary or the Commission may purchase the right of first refusal only from a consenting property owner.

(3) TRANSFER OF INTERESTS.—If the owner of the property from whom the Secretary or the Commission has purchased a right of first refusal intends to transfer any interest in the property by direct and exclusive sale and not by gift or donation, the owner shall, as a condition of the purchase of the right of first refusal, notify the Secretary and the Commission in writing of the intention.

(4) PERIOD FOR EXERCISING RIGHTS.—The Secretary or the Commission shall have 120

days after notification to exercise a right of first refusal to match any bona fide offer, so long as the offer does not exceed the fair market value of the property, to obtain the interest under the same terms and conditions as are contained in the offer.

(5) NONEXERCISE OF RIGHTS.—If the Secretary has not exercised the right within the 120-day period, the right of first refusal shall be considered void and the owner may transfer the interest.

(e) ADMINISTRATION.—

(1) IN GENERAL.—On the adoption of the Heritage Plan, the Battlefields shall be administered in accordance with this title and with those provisions of law, rules, and regulations generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 2), the Act entitled, "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.), and all other relevant Acts that seek to preserve the heritage of the United States. In the case of a conflict between the provisions of this Act and any generally applicable provision of law, the provisions of this Act shall govern.

(2) DONATIONS.—Notwithstanding any other provision of law, the Secretary and the Commission may accept donations of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities for the purpose of carrying out this Act.

(3) PROGRAMS.—The Secretary and the Commission may sponsor, or coordinate within the Battlefields and adjacent counties and cities within the Shenandoah Valley, such educational or cultural enrichment programs as the Secretary or the Commission considers appropriate to encourage appreciation and preservation of the resources of the Battlefield.

(4) FEES.—The Secretary and the Commission may establish such entrance or other fees as the Secretary and the Commission consider necessary and appropriate. A portion of the revenue generated from the fees shall be placed in a special account established and administered by the Secretary and the Commission for one or both of the following purposes:

(A) Acquisition of lands or interests in lands described in section 101.

(B) Direct cash payments to local governments to supplement existing Federal payments in lieu of taxes in accordance with a payment schedule established by the Commission, in consultation with the Secretary.

SEC. 104. SHENANDOAH VALLEY CIVIL WAR SITES HERITAGE PLAN.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Commission, with the approval of the Secretary, shall submit to Congress a Heritage Plan that shall describe the appropriate protection, management, uses, and development of the Battlefields consistent with the purposes of this Act. The plan shall contain the information described in section 12(b) of Public Law 91-383 (16 U.S.C. 1a-7(b)). The Plan shall be prepared with adequate public involvement, as determined by the Secretary and the Commission.

(b) PREPARATION AND APPROVAL OF THE PLAN.—

(1) SUBMISSION OF DRAFT PLAN TO THE SECRETARY.—Not later than 2 years after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a draft Shenandoah Valley Civil War Sites Heritage Plan, that shall meet the requirements of subsection (c).

(2) REVIEW OF DRAFT PLAN BY THE SECRETARY.—The Secretary shall review the draft plan and, not later than 90 days after the date on which the plan is submitted to the Secretary suggest appropriate modifications and forward the modifications to the Commission.

(3) NO SUGGESTED MODIFICATIONS.—If no suggestions are submitted by the Secretary within the 90-day period referred to in paragraph (2), the Plan shall be considered approved.

(4) REVISED PLAN.—Not later than 90 days after the Secretary submits suggestions, the Commission shall submit a revised Heritage Plan to the Secretary. The Secretary shall approve or disapprove any revised plan in accordance with paragraph (1). The Secretary may approve a Heritage Plan only if the Secretary determines that the plan would carry out the purposes of this Act.

(c) SPECIFIC PROVISIONS.—The Heritage Plan shall include the following provisions:

(1) A description of the boundaries of the Battlefields.

(2) Identification of partnerships between the Secretary, the Commission, and other Federal, State, and local governments and regional entities, and the private sector, for the management of properties within the Battlefields.

(3) Proposed locations for visitor contact and major interpretive facilities, including at least one major interpretive facility in the upper valley vicinity and one major interpretive facility in the lower valley vicinity.

(4) Plans for implementing a continuing program of interpretation and visitor education concerning the resources and values of the Battlefields.

(5) Plans for a uniform valley-wide historical marker and wayside exhibit program, including a provision for marking, with the consent of the owner, historic structures and properties contained in the areas identified in section 101(b) that contribute to the understanding of the Civil War heritage of the valley.

(6) Plans for the management of natural and cultural resources of the Battlefields, with particular emphasis on the preservation of historic landscapes and scenes, including a reassessment of the historic integrity of lands within the historic core every 5 years, or otherwise, as considered necessary by the Secretary and the Commission.

(7) Proposals for possible future operation of battlefield concessions by locally owned businesses, certification of battlefield guides, and a Battlefields-wide interpretive training program.

(d) PUBLICATION.—On approval of the Heritage Plan, the Secretary shall publish notice of the approval in the Federal Register and the Commission shall forward copies of the approved plan to Congress.

(e) REVISIONS.—The Secretary may revise the Heritage Plan established pursuant to this section, only after consulting with the Commission, and after adequate public involvement.

TITLE II—SHENANDOAH VALLEY NATIONAL BATTLEFIELDS COMMISSION

SEC. 201. ESTABLISHMENT, DUTIES, AND ADMINISTRATION OF THE COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Shenandoah Valley National Battlefields Commission.

(b) DUTIES.—

(1) IN GENERAL.—In addition to the duties authorized in other provisions of this Act, the Commission shall—

(A) advise and actively participate with the National Park Service in developing the Heritage Plan for the Battlefields;

(B) assist in the implementation, coordination, protection, promotion, and management of the Battlefield resources in the Shenandoah Valley of Virginia; and

(C) administer funds donated pursuant to paragraph (2).

(2) DONATIONS.—Notwithstanding any other provision of law, the Commission may accept, retain, expend, and dispose of donations of funds for the purpose of carrying out the duties of the Commission authorized by this Act.

(c) MEMBERSHIP.—The Commission shall be composed of the following members:

(1) Sixteen members, of which 2 members (one of which must be a property owner in the historic core) shall represent each of the areas specified in section 101(b). The members shall be appointed by the appropriate local governing body as determined by the Secretary.

(2) The executive director of the Lord Fairfax Planning District Commission.

(3) The executive director of the Central Shenandoah Planning District Commission.

(4) Two members with demonstrated expertise in historic preservation, appointed by the Secretary.

(5) Two members who are recognized historians with expertise in Civil War history, appointed by the Secretary.

(6) Two members appointed by the Secretary, one of whom shall be from a chamber of commerce from within a county in which part of the historic core is located and the other of whom shall be a business leader from a county in which part of the historic core is located.

(7) The executive director or designee from each of the following nonprofit entities that own Battlefield property within the historic core:

(A) The National Trust for Historic Preservation/Belle Grove Incorporated.

(B) The Cedar Creek Battlefield Foundation.

(C) The New Market Battlefield Park.

(D) The Association for the Preservation of Civil War Sites.

(E) The Lee Jackson Foundation.

(F) The Stonewall Brigade Foundation.

(G) The Society of Port Republic Preservationists.

(H) Preservation of Historic Winchester.

(8) The Director of the Department of Historic Resources, Commonwealth of Virginia (SHPC), appointed by the Governor, to serve as an ex officio member of the Commission.

(9) The Director of the National Park Service or the designee of the Director, to serve as an ex officio member of the Commission.

(d) OPERATIONS OF THE COMMISSION.—

(1) APPOINTMENTS.—Members of the Commission shall be appointed for staggered terms of 3 years, as designated by the Secretary at the time of initial appointment. Any member of the Commission appointed for a definite term may serve after the expiration of the term of the member until the successor of the member is appointed.

(2) ELECTION OF OFFICERS.—The Commission shall elect one of the members of the Commission as Chairperson and one as Vice Chairperson. Terms of the Chairperson and Vice Chairperson shall be 2 years. The Vice Chairperson shall serve as Chairperson in the absence of the Chairperson.

(3) VACANCY.—Any vacancy on the Commission shall be filled in the same manner in

which the original appointment was made, except that the Secretary, if responsible for the appointment, shall fill any vacancy within 30 days after the vacancy occurs. If an appointment has not been made 30 days after the vacancy occurs, the Commission may fill the position in the same manner in which the original appointment was made.

(4) QUORUM.—Eleven members of the Commission shall constitute a quorum.

(5) MEETINGS.—The Commission shall meet not less than quarterly, or at the call of the Chairperson or a majority of its members. The Director or the designee of the Director shall attend each Commission meeting. Notice of meetings and agenda shall be published in local newspapers that have a distribution throughout the Shenandoah Valley. Commission meetings shall be held at various locations throughout the valley and in such a manner as to ensure adequate public participation.

(6) EXPENSES.—Members of the Commission shall serve without compensation, but the Secretary may reimburse members for expenses reasonably incurred in carrying out the responsibilities of the members under this Act on vouchers signed by the Chairperson.

(7) STAFF.—The Commission may hire such staff as is necessary to carry out this Act. The salary of an employee may not be in excess of a rate comparable to a grade GS–14 of the General Schedule. On the request of the Commission, the Director of the National Park Service may detail, on a reimbursable basis, personnel of the service to the Commission to assist it in carrying out its duties under this Act.

(8) FEDERAL ADVISORY COMMITTEE ACT.—The provisions of section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) are waived with respect to the Commission.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of fiscal years 1993 through 2003 such sums as may be necessary to carry out this Act.

TRIBUTE TO PHILIP CHALMERS YOUNG II

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. SKELTON. Mr. Speaker, today I pay tribute to a great public servant from my hometown of Lexington, MO. Philip Chalmers Young II died on November 22, 1992, after significant contributions to the State of Missouri and his country.

Philip Chalmers Young II was born in Lexington on June 28, 1909, attended Lexington schools and graduated from Wentworth Military Academy, of which I am also an alumnus.

In 1929, Chal Young began his long career in Missouri Public Service Company, working his way up to area manager and district supervisor for Lexington and Richmond. He retired in 1974 after 45 years of service to that organization. He continued to serve his community for many years as the executive secretary of the Lexington Chamber of Commerce. In 1978 he was elected mayor of Lexington and served until 1982. As always, he was concerned about what was best for the citizenry during his tenure.

In addition to his administrative service to Lexington, he participated in a wide variety of community activities. He served on both the Lexington R–V Board of Education and the Memorial Hospital Board, he was an elder of the First Presbyterian Church and past Exalted Ruler of the Elks Lodge as well as a member of the Lexington Turner Society and the Lexington Historical Society. He served his country in the Air Force during WW II and was past commander of the George Thomas Cullom Post of the American Legion.

Philip Chalmers Young II is survived by his son Philip Chalmers III of Kansas City, MO; a daughter, Claudia Young Way, of Grandview, MO; a sister, Betty Y. Tempel, of Lexington, MO; and one granddaughter, Kate Walker, of Grandview, MO.

Philip Chalmers Young II will not only be missed by his family and friends, but by his community as well.

[From the Lexington News, Nov. 26, 1992]

PHILIP CHALMERS YOUNG II

Philip Chalmers Young II, 83, Lexington, died Nov. 22, 1992 at Santa Fe Trail Health Care Center, Lexington.

He was born June 28, 1909 in Lexington to Philip Chalmers Young and Anne Tabb Young. He was preceded in death on Aug. 10, 1989 by his wife, Claudia Dell Johnson.

A lifelong resident of the Lexington and Richmond communities, he served as Lexington's mayor from April 1978 to April 1982.

He was attended Lexington High School and was graduated from Wentworth High School and Junior College.

Young retired in 1974 after 45 years of service to Missouri Public Service. He served as supervisor and district manager in the Lexington and Richmond area.

Beginning in 1974 and continuing for several years, he served as executive secretary of the Lexington Chamber of Commerce.

Young was a member of the First Presbyterian Church, Lexington, where he was an elder. He had served on the Lexington R–V Board of Education and the Lexington Memorial Hospital Board. He was past Exalted Ruler of the Elks Lodge and a member of the Lexington Turner Society and the Lexington Historical Society.

He served in the United States Air Force during World War II and is a past commander of the George Thomas Cullom Post of the American Legion.

Survivors include a son, Philip Chalmers Young III, Kansas City; a daughter, Claudia Young Way, Grandview; a sister, Betty Y. Tempel, Lexington; and one granddaughter, Kate Walker, Grandview.

Services will be held at 2 p.m. Saturday, Nov. 28 at the First Presbyterian Church with Rev. Keith Hall officiating. Cremation. Inurnment will be in Machpelah Cemetery, Lexington. No visitation is scheduled.

The family suggest memorials be made to the First Presbyterian Church, Lexington.

FORMER LEXINGTON MAYOR DIES SUNDAY

Former Lexington Mayor Chal Young, 83, died Sunday at Santa Fe Trail Health Care Center.

Young was elected mayor in April 1978 and served until April 1982.

Dorothy Stapleton, who served as city clerk during Young's tenure as mayor, described him as a kind and compassionate man.

"He loved to sit in the office and visit with the people," she recalled.

"Chal was very concerned about the community and only wanted the best for it," Stapleton added.

Philip Chalmers Young II was born on June 28, 1909 in Lexington. He attended Lexington Public Schools, graduating from high school and junior college from Wentworth Military Academy.

In 1929 Young began working for Missouri Public Service. During his employment, Young worked his way up to area supervisor and district manager for the Lexington and Richmond area.

After 45 years of service, Young retired in 1974.

Beginning in 1974 and continuing for several years, Young served as executive secretary of the Lexington Chamber of Commerce.

Services will be held at 2 p.m. Saturday at the Presbyterian Church. A complete obituary appears on Page 9 of today's edition.

A TRIBUTE TO FOUR HEROES

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. BATEMAN. Mr. Speaker, I rise today in recognition of four U.S. Army chaplains, 1st Lts. George L. Fox, Clark V. Poling, John P. Washington, and Alexander D. Goode, each of different faiths, who worked together and gave their lives in an effort to save others in a selfless act of heroism. Fifty years ago, on February 3, 1943, the SS *Dorchester*, an Army transport vessel, was in the North Atlantic en route from St. John's, NF, to Narsarsuak, Greenland, transporting 904 passengers, in addition to some cargo. At approximately 3:55 a.m., the *Dorchester* was torpedoed without warning.

The torpedo hit the ship just aft of amidships near the engine room. The explosion was muffled, and there was very little noise, but the concussion was severe. The ship took on water at such a fast rate that in a matter of just 25 minutes, it was lost.

In that short time, it was the bravery of Lieutenants Fox, Poling, Washington, and Goode, the four chaplains aboard the *Dorchester*, that saved the lives of many. According to many survivors, the chaplains, with complete disregard for their own safety, quieted the panic of men frozen by fear at the ship's rail, forcing them into boats and lifejackets. They handed out lifebelts from a box, and when those were gone, they gave their own to enlisted men. Additionally, they helped construct makeshift rafts out of timbers, cork, and other materials at hand. The only concern of these brave men was to do everything they could to save the lives of the others on the transport. Chaplain Goode even gave his gloves to another man, despite the bitter cold, knowing that having those gloves might help him survive. The recipient of the gloves did indeed survive, and credited his survival to the selflessness of Chaplain Goode.

When these four brave men had done everything humanly possible to help those on board, and when the end was imminent, Lieutenants Poling and Fox, both Protestants, and

Washington, a Roman Catholic, and Goode, who was Jewish, joined hands and prayed together as the ship went down.

Because of their bravery, these four heroic men were posthumously awarded the Purple Heart and the Distinguished Service Cross. Additionally, in 1960, this body awarded Fox, Poling, Washington, and Goode the Congressional Medal for Heroism. This medal was specifically created to honor these men, and they are the only four to have received it.

The SS *Dorchester* was built at Newport News Shipbuilding & Dry Dock Co., and was originally a passenger liner when delivered in 1926. With the commencement of the United States involvement in World War II, the owners chartered it to the Army Transport Service to transport personnel and cargo. In Newport News today, the memory of the four chaplains is kept alive by the efforts of the Four Chaplains Memorial Committee, and with the marble and bronze monument that was erected in their memory in 1989 at the War Memorial Museum grounds. Let us keep alive their memory, and the spirit of selflessness and bravery their actions embodied, by remembering their heroism today, the 50th anniversary of their deaths.

THE FEDERAL MILK MARKETING ORDER REFORM ACT OF 1993

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. ROTH. Mr. Speaker, today I am introducing legislation to restore fairness and competition to the Federal milk marketing order system.

I first introduced this bill in 1989. In 1990, we thought we had this problem solved. The 1990 farm bill mandated that USDA review the system and recommended changes by January 1, 1992. The 1992 deadline came and went. We in the Midwest continued to be patient. The obvious inequities detailed in the 43 days of hearings and 10,000 pages of testimony gathered from all over the country would surely bring results.

As they say on TV—not. The USDA has recently decided to ignore both the Congress and the farmers of the upper Midwest. According to USDA, there will be no change.

The milk marketing order system was created in the late 1930's—well over 50 years ago. It increases the base price of milk to producers by 2 cents for every 10 miles from Eau Claire, WI. The original intention was to foster milk production outside the upper Midwest. Technological advances, including better refrigeration and transportation, have made this system obsolete. Now, we are unnecessarily subsidizing the West and South. In Florida, producers receive up to four times as much as they do in my home State of Wisconsin.

And so here I am again. First, my bill repeals the 1985 increases in the class I differentials. At that time, several regions received financial incentives to produce more milk, even as efforts were underway to lower milk production nationwide.

Second, it also requires the USDA to site an additional four to eight basing points throughout the Nation. Developing basing points besides Eau Claire will help eliminate price discrepancies. Differentials would be reduced to reflect the actual costs of producing and transporting milk from the new basing points. These points would be located in areas with a surplus of milk that can easily meet the needs of deficit areas.

It is time that this issue ceases to be a political football. Study after study has shown that the current situation promotes inefficiency and burdens the American taxpayer. It is both obsolete and discriminatory. There is no longer any rational justification for using market distance from Eau Claire, WI, to determine milk prices.

I urge my colleagues to support this proposal to bring greater fairness to our Nation's dairy industry and eliminate regional inequity.

A FITTING TRIBUTE TO A GREAT JURIST

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. CLAY. Mr. Speaker, I rise to express my unconditional approval for House and Senate action last week that resulted in the designation of the Federal Judiciary Building in Washington, DC, as the "Thurgood Marshall Federal Judiciary Building."

Justice Marshall is so highly deserving of this honor. He was the spokesman for the rights of all Americans. He looked to the principles of the Bill of Rights and to the amendments on civil rights that protect the most powerless among us.

Thurgood Marshall has been called a "rock of justice." This description aptly describes the role he played in his untiring efforts to secure equal rights so often denied to women, gays, prisoners, and racial and religious minorities. He used his brilliant mind to etch these rights into the law where they could no longer be denied.

He has long been a special and heroic person to me. I liked the fight and determination that he brought to the court. He backed down from no one, holding his own through his intelligence and his sheer physical magnetism. When he spoke, all had to listen and understand that his battles were unending until justice could be brought to bear.

Not only did Thurgood Marshall prevail in his fight to bring down the walls of segregation in the educational arena, opening the door of opportunity to thousands and thousands of black Americans, he conquered injustices on all fronts.

Here was a man who knew who he was and who, through his chosen profession, strove to bring about changes that would make his country live up to its ideals of liberty and justice for all. His was a job well done.

MILITARY PERSONNEL SERVING IN SOMALIA

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. MURTHA. Mr. Speaker, I recently went on an inspection trip to Somalia. I would like to briefly address the House on the fine job being conducted by the brave men and women of our Armed Forces who are carrying out a most difficult assignment under extremely harsh conditions.

Significant progress has been made in achieving the goals set by President Bush when he directed the deployment of our troops to Somalia. Food is being delivered to the areas of the country most in need, the death rates are down significantly for the citizens of Somalia, and some local leadership is beginning to emerge as secure zones are set up by our troops.

Mr. Speaker, as we all know, although this is a humanitarian mission it is also a dangerous mission. Living conditions are very primitive for our personnel. Day-to-day existence of our troops is one of long hours, hard work, and often dangerous assignments.

Mr. Speaker, one of the marine units I visited on my trip had served in the Persian Gulf during Christmas of 1990, was deployed overseas on a normal rotation during Christmas of 1991, was serving in Somalia during Christmas of 1992 and is scheduled for rotational deployment overseas for Christmas of 1993. They will be away from their families for four Christmases in a row. None of the troops complained about the situation, but my fear is that as we downsize and the same units are called on time after time for deployment overseas, we may begin to have a morale problem and have difficulty retaining high quality troops. I believe the biggest challenge faced by our military is to insure that we continue to have a force of highly trained, highly motivated personnel as we go through the phasedown of force structure and budgets.

In conclusion Mr. Speaker, I would simply say that every Member of this legislative body and every citizen of this country can be immensely proud of the magnificent job being done by the servicemen and servicewomen of America who once again are selflessly serving their country under extremely tough conditions in a distant land.

HONORING JUSTIN ROGERS UPON HIS RETIREMENT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. GILLMOR. Mr. Speaker, I want to take this opportunity to pay tribute to an outstanding Ohioan, Justin Rogers.

On March 1 of this year, Justin Rogers will retire after more than a decade of distinguished service as chairman and CEO of the Ohio Edison Co. For 13 years, Justin Rogers has led Ohio Edison with a remarkable commitment to excellence, productivity, and professionalism. Since he began his tenure with Ohio Edison in 1958, Justin Rogers has earned the respect and admiration of the many people who have become familiar with his talents and abilities.

There are two reasons why I take great pleasure in saluting Justin Rogers. First of all, he is a native of the congressional district I am proud to represent. And second, Justin and I are both graduates of the University of Michigan Law School, an institution whose profound greatness is not often appreciated by our fellow Ohioans.

Justin Rogers' tenure at Ohio Edison, while laudable, does not tell the whole story of his achievements. He has also performed with distinction in a litany of leadership positions in the community ranging from the Akron General Medical Center, to the Akron Child Guidance Center, to the United Way. In all of this, Justin Rogers has made a positive difference in the lives of many Ohioans, and he deserves the commendation of this House for all that he has done.

Mr. Speaker, I want to wish Justin Rogers a happy, healthy retirement, a retirement filled with new challenges and proud memories.

TRIBUTE TO CANDLEWOOD ELEMENTARY SCHOOL

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mrs. MORELLA. Mr. Speaker, it is a proud moment for me to pay tribute to the teachers, students and parents of Candlewood Elementary School in Rockville, MD, on winning the Blue Ribbon Excellence in Education Award from the Department of Education school recognition program. Candlewood was one of only four schools in the State of Maryland to receive national recognition.

At the foundation of Candlewood's success is the extensive involvement of parents, who are instrumental in sustaining programs that reinforce and enhance the school's curriculum. Parent volunteers support activities that include the Art Club, the Math Lab, the Drama Club, the Computer Club, and the Just Say No Club, to name only a few. Under the program called Art Fever, parents visit classrooms on a monthly basis to introduce students to well-known works of art and to acquaint students with paintings and their artists. Parents assist teachers with the schoolwide cultural arts programs, as well as in the classrooms with group instruction and the preparation of materials.

This past year, parents at Candlewood initiated a special program in sensitivity training for students to help them to understand the needs of persons with disabilities. A week was set aside during which students visited a special center where they were encouraged to experience what it is like to ride in a wheelchair and use a walker to more around. Students were encouraged to read books about persons with disabilities which were made readily available in the school library. In addition, students were asked to solve problems involving physically, visually, and hearing impaired individuals.

The principal of Candlewood, William Alexander, called the homes of different students each evening during a 3-week period to inquire about homework activities. Mr. Alexander also instituted a principal's hotline, which designates one evening per month during which parents are encouraged to call the principal and ask questions or make comments about the school.

As a former teacher, I am delighted that Candlewood Elementary School, in my eighth Congressional District, is receiving the recognition it deserves. Mr. Speaker, I congratulate the parents and faculty at this outstanding public institution for their commitment and their responsiveness in providing a quality education to a diversity of students. I applaud Candlewood Elementary School on receiving national recognition from the Department of Education, and I wish the winning combination of faculty, parents, and students at the school continued success in achieving excellence in education.

TRIBUTE TO CARETAKERS OF THE ENVIRONMENT

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. PORTER. Mr. Speaker, I would like to draw your attention to Caretakers of the Environment, a nonprofit organization that works with young people around the world to teach them to be responsible stewards of the environment. Caretakers of the Environment empowers today's youth with scientific knowledge and practical skills to enable them to become environmental leaders of the 21st century. The organization involves a diverse group of young people in local, national, and international environmental projects, and has students from 45 countries meet and exchange ideas and experiences at its annual conference.

Caretakers of the Environment participated at the Earth Summit as an accredited organization. Renew America, and the Global Assembly of Women and the Environment has honored Caretakers as a success story to be emulated.

Mr. Speaker, I am especially proud of Caretakers of the Environment-USA, which was established in 1990 with offices in Arizona and Illinois. The U.S. organization works with 26 high schools in 11 States and one U.S. territory. Caretakers of the Environment-USA has involved hundreds of high school students in environmental projects that range from local antilitter campaigns to a world wetlands watch.

Caretakers of the Environment-USA plans to extend its network of high school students and teachers to every State and will organize regional projects and exchanges between students from all over the country. Starting in 1996, Caretakers-USA will hold annual national conferences with participants from all 50 States and each U.S. territory. These students will also be able to participate in a science job corps which places them as assistants to scientists conducting environmental and ecological research.

Mr. Speaker, I applaud the activities of Caretakers of the Environment and hope that my colleagues will join me in supporting their efforts.

NATIONAL REHABILITATION WEEK

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. McDADE. Mr. Speaker, a recent survey found that more than half of the general public is uninformed about the tremendous potential offered by rehabilitative medical services available across our Nation. Today, I am introducing a resolution to designate the third week in September as "National Rehabilitation Week" for 1993 and 1994, to increase public awareness and improve understanding.

Over 35 million Americans have conditions that interfere with their daily lives. Rehabilitation is a vital, cost-effective way in which to improve the lives of Americans with disabling conditions.

Rehabilitation services are as diverse as our population. They bring together determined disabled Americans with skilled professionals who help them achieve the greatest possible level of independence. The wide range of rehabilitation therapies include physical therapy, occupational therapy, speech language pathology and audiology, and respiratory therapy.

Whether they are provided in a hospital, nursing home, clinic, outpatient facility, or in the home, rehabilitation services provide customized patient treatment.

Congress enacted similar measures in 1990, 1991, and 1992. More than 2,000 organizations in all 50 States participated in National Rehabilitation Week activities dedicated to promoting awareness of the great potential in rehabilitative services.

I invite my colleagues to join with me in celebrating the daily victories of people with disabilities and in saluting those who provide care to the disabled by cosponsoring the resolution to designate the weeks beginning September 19, 1993, and September 18, 1994, as "National Rehabilitation Week."

LEGION POST SETS NATIONAL EXAMPLE

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. GORDON. Mr. Speaker, 3 years ago, members of American Legion Post 17 in Gallatin, TN, became disturbed by a growing number of veterans, especially older veterans, who were homeless or living in poverty.

And in the true tradition of our Nation's veterans, the Legion moved quickly to solve the problem. Today, the results—a shelter for homeless and low-income veterans—is a model for our Nation.

I recently had the privilege of visiting the facility; it is a shining example of how individual Americans are doing their part to make a difference in their communities.

The center, started and operated completely with funds raised by the Legion Post, currently provides clean, comfortable housing and related services to 14 veterans, several of whom were living on the streets before the center opened. The center provides a sense of community, a place where the veterans, many of whom are elderly, can see old friends, make new ones, and reshape their lives.

And finally, by restoring a closed hotel, the Legion has not only helped the less fortunate but also has turned what could have become an eyesore into a source of goodwill and community pride.

Please join me in honoring the members of American Legion Post 17 for the dedication, sacrifice, and pioneering spirit that led to this innovative project.

GROUNDHOG'S DAY

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. CLINGER. Mr. Speaker, today is one of the most important holidays in America; it's a time when millions decide how they will live for the next 6 weeks, whether or not they will hole up in the house over a game of monopoly or get the family together to start planting grass for spring.

Of course, the holiday I am talking about is Groundhog's Day and early this morning, Punxsutawney Phil, the one true groundhog emerged from his burrow and predicted the fate of winter.

Now, direct from Gobbler's Knob is Phil's prediction:

Here on Gobbler's Knob, as the world waited anxiously at exactly 7:27:46 a.m., Punxsutawney Phil, King of Groundhogs, Seer of Seers, Prognosticator of Prognosticators emerged from his burrow with the style and grace of a movie star. His first observation: "I wonder where Bill and Andie are".

Handler Bud Dunkel held him aloft so he could greet the huge throng of faithful followers. He gleefully chattered, "Thank you all for coming to hear what I have to say, but first I want to wish everyone Happy Groundhog Day".

Then turning to President Jim Means he spoke in his inimitable Groundhogese which Jim translated to be "See that image over by that twig, it's not very dark and not very big, it's a likeness of me, that's my shadow I see, six more weeks of winter there'll be".

CONGRESSIONAL ARTS CAUCUS HONORS FRANKIE HEWITT OF FORD'S THEATRE

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Ms. SLAUGHTER. Mr. Speaker, the congressional arts caucus was proud today to honor Frankie Hewitt, executive producer of the Ford's Theatre, who for 25 years has not only presented the very best in American theater but has ensured that these performances are shared by everyone in the community.

Twenty-five years ago, Frankie envisioned a Ford's Theatre that would not only serve as a museum but as a leading center of the performing arts. The theater has lived up to this vision. On its stage have appeared outstanding premieres—such as "Will Rogers' U.S.A.," "A Christmas Carol," and "Give 'Em Hell, Harry!"—as well as productions that have gone on to Broadway such as "Your Arms Too Short To Box With God," and "Joseph and the Amazing Technicolor Dreamcoat," and countless other productions that have delighted audiences of all ages.

But, also performing on the Ford's Theatre stage have been disadvantaged children who have taken part in "Opening Act," a series of theater workshops used as a learning tool for younger audiences. Under Frankie Hewitt's leadership, the theater has also presented programs for the elderly, the visually and hearing impaired, the economically challenged, and every facet of the community. In this, the Ford's Theatre has not only functioned as a performing venue but a beloved community institution.

Mr. Speaker, Frankie Hewitt has shown how the arts can and should touch all of our lives. For all of her great contributions, not only to the cultural life of Washington, DC, but to the Nation's cultural vitality, we are honored to present her with the Congressional Arts Caucus Award.

I ask that the text of my comments in presenting this award today be printed in the RECORD.

PRESENTATION OF CONGRESSIONAL ARTS CAUCUS AWARD TO FRANKIE HEWITT, FEBRUARY 2, 1993

It is a sincere pleasure to welcome each of you to this luncheon honoring such an extraordinary woman and friend of the arts. I would like to extend a special welcome to all of our special guests, whose careers and lives have been touched by Frankie's exceptional dedication and talent. That such an esteemed group is here is in itself a phenomenal tribute.

Twenty-five years ago, Frankie Hewitt literally brought life to the Ford's Theatre. Transforming a landmark which would have been solely a monument to tragedy, she insisted that the Ford's Theatre remain alive by offering theatre productions and staying true to its history. That she succeeded is obvious. The Ford's Theatre stands as one of our nation's most respected and beloved theatres, presenting new American works, launching productions that have gone on to Broadway and hosting television specials which have brought theatre into millions of homes.

But, as successful as Frankie has been in the realm of theatre production, she has been perhaps even more successful in a way that has literally changed lives. Quite simply, Frankie has brought the entire community—each and every member of the family that comprises our neighborhood—into the splendor, into the magic of the theatre.

Frankie has gone out into the community, embraced it in its entirety, and led it by the hand into the Ford's Theatre. Young and old, rich and poor, disadvantaged and advantaged, hearing and visually impaired, all have been not only guests of the theatre but participants as well.

Through "Operation Discovery," more than 100,000 economically disadvantaged youths and adults have been able to buy tickets for just a couple of dollars, enabling many to experience a theatre production for the first time. A ground-breaking series called "Opening Act" involves children in pre-performance workshops, where they become the actors themselves through drama exercises and improvisations. Presented free of charge, many of the children are from shelters, rehabilitation programs and clinics. After the experience of performing themselves on the stage of the Ford's Theatre, who knows how many of these children will become the next James Earl Jones, Bea Arthur or James Whitmore.

However, Frankie has not just brought in children, but also the elderly, through "The Matinee Club" and "The Senior Plan." These programs provide substantially discounted tickets, encouraging the attendance of older and economically disadvantaged residents.

In Frankie Hewitt's hands lie what is greatest about the arts. Namely, the power of the arts to heal, to inspire, to bring us together into a world of love and hope, energy and understanding.

Her success in theatre has been one which encompasses but also transcends the stage. Fundamental to her vision has been the idea that each of us deserves the arts in our lives. In bringing the entire community into the magic of the theatre, Frankie Hewitt has made this idea a reality.

It is my honor, on behalf of all of the Members of the Congressional Arts Caucus, to present Frankie Hewitt with the Congressional Arts Caucus Award.

A TRIBUTE TO BRIAN CHESKE

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today the story of a 10-year-old boy, Brian Cheske, and his courageous action that saved his brother when fire struck his home only 2 days after Christmas. Brian is being recognized later this week for his bravery in a public presentation of Baldy Mesa Elementary School.

The following article from the Mountaineer Progress written by Rick Olderback describes Brian's heroic actions:

YOUNG BALDY MESA BOY ACTS COOL UNDER FIRE: SAVES HIS YOUNGER BROTHER FROM FLAMES

When fire tragically struck the home of Bill and Julie Cheske in Baldy Mesa just two days after Christmas it was a race for life and death in the predawn hours. And with the flames spreading quickly through the single story house young Brian Cheske, 10, acted with a cool head and saved his younger brother and an adjacent building. With seven people in the house, including five children, there was no time to waste. "It was really fast," said Bill Cheske. "From the point of ignition there was about two minutes for us to get out of the house."

Two minutes can go by quickly at five in the morning especially when you have to make sure five kids get out of bed and away from danger. Fortunately the Cheske's two oldest kids were away visiting or there would have been seven children at home. Angie, 13, and Amy, nine, made it out on their own. Julie grabbed Hannah, their three-month-old daughter. That left Brian and Aaron, two. Brian awoke and rushed into his younger brother's bedroom on the far side of the house when the fire had started. "I heard an explosion and thought is was an earthquake," said Brian.

The only way out was through the window and in his shorts Brian carried Aaron out to safety. "He was asleep and I grabbed him and carried him out the window," he said.

His courage did not stop there. As Bill moved cars away from the flames Brian ran to a neighbor's house, woke them and got them to call 911. "I ran to one house to call 911, but no one was home," he said. "So I ran to another house and woke up the neighbor and called 911. I knew if we didn't get help my dad could get hurt."

He then returned to the fire and grabbed a water hose and began hosing down an adjacent building to keep the flames from spreading. "He really deserves a lot of credit," said Bill. "He really acted cool, especially for someone 10 years old."

Mr. Speaker, I ask that you join me and our colleagues in recognizing this special and extremely brave young man. It is fitting that the House of Representatives pay tribute to him today.

CONGRATULATIONS TO THE CHAMPIONS FROM BARTLETT

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. EDWARDS of Texas. Mr. Speaker, today it gives me great pleasure to recognize the Bartlett High School football team which I am privileged to represent. This team has distinguished itself by winning its second State championship in 3 years.

The Bulldogs, coached by Terry Cron, compiled a record of 15–0–1 on their way to winning the 1992 Texas Class A Schoolboy Football Championship in San Angelo, TX.

I extend my sincere congratulations for the accomplishments made by these young men by achieving the ultimate goal in high school sports. The hard work and dedication demonstrated by these athletes are some of the qualities that make them true champions both on and off the field as well.

I urge my colleagues to join me today in recognizing and honoring the players, coaches, students, and parents of Bartlett, TX.

A WORKERS' BILL OF RIGHTS

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. SANDERS. Mr. Speaker, American workers once had the highest wages and the best benefits of any workers in the world, but in the last dozen years their status has seen an alarming decline. Today I published an oped article in the Los Angeles Times, arguing for rapid action on a workers' bill of rights to deal with this critical problem. I would like to enter this article in the RECORD, and I urge the administration and my colleagues to move quickly to enact the kinds of urgently needed reform it proposes.

[From the Los Angeles Times, Feb. 2, 1993]

WORKERS NEED HELP TO REGAIN THEIR RIGHTS

One of the major economic crises facing our nation is that not only are ten million workers unemployed and six million underemployed—but the wages of those who are employed are in significant decline. Twenty years ago the United States led the world in the wages and benefits we provided our workers. Today, we're in 12th place and declining. We must reverse that trend.

It should not be acceptable to President Clinton and the United States Congress that the average weekly earnings of production workers have declined by over 15 percent since 1973, and that we have lost millions of decent paying manufacturing jobs in the last dozen years. It should not be acceptable that there has been a major increase in the percentage of Americans working at low wage jobs, and that the minimum wage today has 26 percent less purchasing power than it had in 1970. It should not be acceptable that Americans work longer hours and enjoy less paid vacation time than almost any other industrialized country, or that we are the only major nation without a national health care system.

During the 1980s, the richest 1 percent of our population saw a doubling of their real income, and the gap between the rich and the poor became greater than at any time since the 1920s. If the Reagan-Bush era was the period when government functioned to protect the interests of the wealthy and the powerful, the time is now for government to forcefully represent the interests of the ordinary working person. In fact, the Congress needs to pass a "Workers' Bill of rights" which, at a minimum, should protect working people in the following five areas:

Congress needs to raise the minimum wage to at least $5.50 per hour. This action would push up wages for all low wage workers. The minimum wage today is really a poverty wage, leaving a family of three 29 percent below the poverty level. It is absurd that the U.S. taxpayer today must subsidize low wage employers by supplementing those wages with federally supported food stamps, Medicaid and other programs.

American workers are now working longer hours in order to maintain a lower standard of living. Today, Americans after one year on the job have ten days of paid vacation, compared to 27 days for the Swedes, 25 days for the French, and 18 days for the Germans. We must lower the amount of time that Americans work by increasing paid vacations and providing more flexible work hours. Not only will this lessen the terrible stress which millions of American workers are experiencing, but it will allow more workers to enter the workplace and lower unemployment.

While 16 million Americans remain unemployed or underemployed, our roads, bridges, mass transit, sewer systems, landfills, schools, and housing continue to deteriorate. It is absolutely absurd that, despite the end of the Cold War, we continue to spend $280 billion a year on the military—$130 billion defending Western Europe and Asia. We must cut military spending in half and reinvest hundreds of billions of dollars into rebuilding America and thus creating millions of decent paying jobs. A portion of that money should also go toward cutting the deficit.

Working people will continue to see a decline in their standard of living until a strong trade union movement reemerges. Workers today, without decent unions, have little protection from their bosses and relatively little political clout. After 12 years of Reagan-Bush labor law it is now extremely difficult for workers to organize unions. It is necessary for Congress to pass legislation which will provide workers with the legal protection they need to form unions and to negotiate fair contracts with their employers.

The United States today spends far, far more per capita on health care than any other country, yet 80 million Americans are either uninsured or underinsured. The only way to provide all Americans with comprehensive health insurance and control the exploding cost of health care is through a single-payer Canadian-style national health care system. By eliminating the waste and inefficiency inherent in 1500 private insurance companies, each with their own program and paperwork, and by controlling doctors' fees and drug company profits, we could save over $80 billion dollars a year—more than enough money to provide comprehensive health insurance for all Americans.

The United States today faces its most serious domestic crisis since the Great Depression of the 1930's. Now is the time for President Clinton and the Congress to show the American people that our government represents all our citizens, not just the rich and the powerful. Now is the time to pass a Workers' Bill of Rights.

THE SOCIAL SECURITY AND SSI AIDS DISABILITY ACT OF 1993

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. MATSUI. Mr. Speaker, today I am joining my colleague, ANDY JACOBS, in introducing the Social Security and SSI AIDS Disability Act of 1993. We are reintroducing this legislation because of the tremendous need of HIV-infected individuals across the country for these benefits.

Last year, the Ways and Means Subcommittee on Social Security, under Representative JACOBS' guidance, took a close look at how HIV-infected individuals, particularly women and children, are treated with regard to their applications for Social Security disability and SSI disability benefits. In particular we examined the rules proposed by the Social Security Administration to revise the listing of impairments for those with HIV disease or AIDS.

What the subcommittee found was that these programs do not work for women and children with HIV disease. In fact, we found that in many instances the rules work against them.

When SSA proposed their rule, they wrote in their introduction that their intent was to broaden the listing of impairments so as to include more women with HIV. However, when we looked closely at the proposed rule, we found that just the opposite was true. Consultation with medical experts revealed that women are unable to obtain benefits for two reasons. First, the ailments which most commonly afflict HIV-positive women are not included in the listing. Second, the rule requires HIV-positive individuals to demonstrate a higher level of functional limitation than other disabled people. As a result, many women who are severely disabled by HIV disease are unable to obtain benefits and are left without vital medical care.

The legislation we are introducing today is a very modest attempt to revise this rule to include the ailments that most commonly afflict HIV-infected women. All of the recommendations included in this legislation are based on lengthy discussions with the medical community, particularly with physicians who are on the front line in the fight against AIDS.

This bill would add several conditions that the medical community has recognized as disabling to women with HIV infection. The bill also attempts to lessen the restrictiveness of the functional assessment in HIV listing.

We hope, and expect, that the new administration will reevaluate and revise this regulation, making this legislation unnecessary. Our Nation's disability laws must continue to be responsive to those in need and this legislation ensures accessibility for women and children with AIDS.

FULL SOVEREIGNTY FOR THE PASCUA YAQUI TRIBE

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. PASTOR. Mr. Speaker, today I introduced an important piece of legislation that will clarify the status of the Pascua Yaqui Tribe of Arizona and enable the people of the tribe to receive the full benefits of sovereignty to which they are rightfully entitled.

The Bureau of Indian Affairs [BIA] currently has a policy that makes a distinction between a historic Indian tribe and a created Indian tribe. The Solicitor General's office within the BIA has determined that created tribes have more limited sovereignty than do historic tribes. According to the BIA, these created tribes do not have the inherent authority to enact laws pertaining to taxation, probate matters, domestic relations, and condemnation. It is important to note that this distinction, and the policies that stem from it, do not exist in law, but are merely creatures of the BIA bureaucracy.

Mr. Speaker, the Pascua Yaqui Tribe has endured several hardships due to its BIA classification as a created tribe, the worst of which is a denial of the sovereignty that they possess. My bill would not grant the tribe this sovereignty, but merely declare that the Pascua Yaqui Tribe is a historic Indian tribe, thereby recognizing the independence which the tribe inherently possesses. In addition, the bill would open the enrollment of the tribe for a period of 3 years after its enactment.

Mr. Speaker, it is time for the BIA to recognize a fact that is already well known: The Pascua Yaqui Tribe is a sovereign entity and should be accorded all the rights and privileges which come with such a status.

TRIBUTE TO HARVEY L. DAY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. SKELTON. Mr. Speaker, today I honor the memory of an outstanding Missourian, Harvey L. Day, who died at the age of 83 on October 5, 1992.

Harvey L. Day was born to Henry Benton and Ida Mae Day on June 13, 1909, at Greenton Community, north of Odessa, MO. Harvey Day was a lifelong resident of Odessa who made his living as a self-employed farmer.

His farming did not keep him from being an active participant in the community. During World War II he worked at Lake City Army Ammunition Plant. Later, he served as deputy sheriff of Lafayette County from 1956 to 1964 and as judge of the western district of Lafayette County from 1964 through 1977. He was a member of the First Baptist Church of Odessa; the Knights of Pythias, Odessa chapter; active in the Democratic Party; and served as the president of the R–7 Board of Education.

He married the former Edna May Westerhold on December 9, 1936. He is survived by Edna May Day as well as three sons: Harvey Day, Jr., of Grandview, MO; Leland Day of Nevada, MO; Bill Day of Eldorado Springs, MO; a daughter, Mary Casanover of Lee's Summit, MO; a sister, Irene Stone of Odessa, MO; and four grandchildren.

Harvey L. Day will not only be missed by his family and friends, but by his community as well.

HARVEY L. DAY

Harvey L. Day, 83, of Odessa, died Oct. 5, 1992 at Research Hospital in Kansas City. He was born June 13, 1909 at Greenton Community, north of Odessa, the son of Henry Benton Day and Ida Mae Rowland.

On Dec. 9, 1936 he and Edna May Westerhold were united in marriage at Odessa. Mr. Day was a life time Odessa resident. He was a self-employed farmer, served as Deputy Sheriff of Lafayette County from 1956 to 1964; served as judge of the Western District of Lafayette County from 1964 through 1977 and worked at Lake City Army Ammunition Plant during World War II. He was a member of the First Baptist Church of Odessa; Knights of Pythias, Odessa Chapter; active in Democratic party; served on the R–7 Board of Education and had served as president.

Survivors include his wife, Edna May Day of the home; three sons, Harvey Day Jr. of Grandview, Leland Day of Nevada and Bill Day of Eldorado Springs; one daughter, Mary Casanover of Lee's Summit; one sister, Irene Stone of Odessa and four grandchildren.

Visitation was Wednesday evening at Husman-Sparks-McDowell Chapel in Odessa. The funeral service was 2 p.m. Thursday, Oct. 8 at the church with Rev. Jim Walker officiating. Burial was at the Odessa Cemetery.

The family suggest memorials to the Harvey Day Memorial Scholarship Fund, care of Bank of Odessa, P.O. Box 10, Odessa, MO. 64076.

IN APPRECIATION OF THELMA RENNER

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mrs. LLOYD. Mr. Speaker, I rise today to commemorate a great Tennessean and American, Thelma Renner. I have had the great privilege of knowing Thelma for many years and have benefited and learned so much from my friendship with her. A longtime resident of East Ridge, TN, Thelma is a landmark in the community there. Her unselfish contributions and sacrifices for her community have earned her a place in the hearts of all those who know her.

Thelma is a role model for young and old alike. She has fought tirelessly for the convictions and causes she felt were worthy. Working with local officials, Thelma always lends her help where needed, whether it be to elected officials and their staff, me or my staff, or the area school children. I hope that Thelma will continue her distinguished service in East Ridge. She is truly an outstanding American who has distinguished herself among her peers.

A tribute to Thelma would not be complete without recognizing the great barbecue that she is famous for. People truly come from all parts to get a taste of Thelma's delicious cooking. These brief remarks barely scratch the surface of what Thelma Renner is all about, but today the city of East Ridge will be celebrating with its beloved Thelma and I wanted to bring part of that celebration here to Washington. God bless you, Thelma.

LEGISLATION FOR ADJUSTMENT OF BOUNDARIES OF THE SIOUX RANGER DISTRICT OF THE CUSTER NATIONAL FOREST

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. JOHNSON of South Dakota. Mr. Speaker, today I am reintroducing legislation to provide for boundary adjustment authority for the Sioux Ranger District of the Custer National Forest in South Dakota. This legislation, which has the support of the U.S. Forest Service as well as local landowners, was the subject of hearings by both the Interior and Agriculture Committees during the last session of Congress. After passage of H.R. 4087 by both committees, the House passed H.R. 4087 by voice vote on September 29 of last year. While similar legislation was also introduced in the Senate last year, S. 1879, the legislative session ended before final action on the bill was completed by the Senate.

Land exchanges between the private landowners and the Forest Service are authorized by three pieces of existing law, the Weeks Law Act of 1911, the General Exchange Act of 1922 for national forest lands, and the Bankhead Jones Act, 1937, for national grasslands. The General Exchange Act allows for exchanges of lands with the exterior boundaries of national forest lands. The national forest boundary usually lies directly adjacent to federally owned lands, which results in land outside the boundary not being able to be exchanged, even if they were immediately adjacent to the boundary and forest lands. The legislation which I am introducing today would allow the Secretary of Agriculture to accept title to any lands located within 5 miles of the exterior boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest.

Over a period of 50 years, a number of boundary extension laws have been passed which allowed for land exchanges to include lands adjacent to but outside the national forest boundary. While there is boundary extension law for the Black Hills National Forest and portions of the Sioux Ranger District National Forest in Montana, there is no extension law for the South Dakota portion of the Sioux Ranger District, which prevents them from conducting land exchanges the rest of the Custer National Forest, as well as many others, are already able to conduct.

The Forest Service and private landowners have used land exchanges as another tool to increase the management of their respective holdings, allow for the consolidation of property ownership, and allow the Forest Service to resolve public access and trespass situations. The Sioux Ranger District currently has two firms and several possible exchange proposals from several landowners which involve private lands just outside the forest boundary. This legislation is necessary to provide for a boundary extension for the Sioux Ranger District so these proposals can be pursued.

I look forward to the continued support and passage of this legislation again this year by the House.

BREAST CANCER EDUCATION: HELPING YOUNGER WOMEN

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mrs. SCHROEDER. Mr. Speaker, today I want to recognize the work of Glamour Magazine/Hanes Hand-in-Hand breast health program for young women. This is the first national attempt to educate young women about breast cancer detection and prevention. With guidance from the National Cancer Institute and the American College of Obstetrics and Gynecologists, Glamour/Hanes Hand-in-Hand distributes life-saving information to women between 18 and 39 years of age about breast cancer prevention, detection, and basic healthy practices. Since the program started in October 1992, Glamour/Hanes Hand-in-Hand has distributed 1 million booklets to young women through college health service centers, fitness centers, sororities, day care centers, and other places where women frequent. With new materials being printed up, the Glamour/Hanes Hand-in-Hand program will continue for the next 5 years.

The urgent need for the Glamour/Hanes Hand-in-Hand project will be underscored this week as the National Cancer Institute hosts a conference on breast cancer in younger women. The conference will bring together doctors, researchers, and activists to determine how to use what we know and how to discover what we don't know about breast cancer in younger women. With this knowledge and expertise, we will soon be able to defeat a disease that kills 46,000 American women annually.

TRIBUTE TO GEORGE BAILEY

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. HUNTER. Mr. Speaker, it is with great pleasure that I recognize the retirement of one of San Diego's outstanding leaders, George Bailey. Through his 34 years of dedicated public service, Mr. Bailey served the interests of the city he loved and earned the respect and admiration of his constituency.

As an active member of the planning commission and city council of La Mesa and later as the mayor of La Mesa, George Bailey distinguished himself early on as a man who cared about his agenda and followed through with his promises. His subsequent terms as chairman of the San Diego Board of Supervisors capped an exemplary career as a fighter for local interests.

Numerous achievements can be attributed to the efforts of George Bailey. He founded the East County Economic Development Council in an attempt to organize area leaders and set their focus on the future. He also spearheaded the Grossmont Summit project to relieve traffic and accommodate the rapid expansion of east county. His accomplishments were many and left a legacy that will influence local politics for years to come.

I am fortunate to have had the opportunity to work closely with George and I value the friendship we've developed. Rarely does a community yield a leader with such devotion and unparalleled vision. On behalf of the citizens of San Diego County, I wish George and his wife Elaine all the best in the future.

NATIONAL PARKS REVITALIZATION ACT: TIME TO CHANGE CONCESSIONER POLICY AT OUR NATIONAL PARKS

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. SYNAR. Mr. Speaker, I rise today to introduce the National Parks Revitalization Act. Enactment of this amendment to the 1965 National Park Concessions Policy Act will be good for both the taxpayers and the environment.

Mr. Speaker, it is increasingly clear that the Federal Government is underpaid for the use of taxpayer assets at national parks. In fact, the Department of the Interior does not have a national—or rational—system for managing park concessions. The GAO estimates that there are more than 1,500 concession agreements at national park sites. This GAO study was the first of its kind; remarkably, the Park Service, for example, did not even know how many private concerns were doing business in our national parks.

Many of these concession arrangements have not been reviewed for years, and many have resulted in the Federal Government and the taxpayers being underpaid by scores of millions of dollars. For example, to the extent reliable data is available, overall gross concessions receipts by national park concessioners topped $570 million in 1990, but less than 3 percent of those gross revenues—$13.2 million—were returned to Treasury through fees paid to the Government by concessioners.

Unbelievably, complete financial data is available for only 60 percent of the more than 1,500 concession agreements; for the remaining 40 percent, financial data was not required by the agency or, if required, was not submitted by the concessioners. More equitable concession fees, improved collection of financial data from concessioners and contractors, and fair market building use fees for federally owned recreation facilities—discussed below—could result in an increase of over $200 million per year in Federal revenues.

The National Park Service is not receiving fair market rental value for most of the 1,400 Government-owned facilities used by private companies to provide concession services and amenities at more than 100 National Park Service sites, even though Park Service policy requires the Service to receive fair market value for use of these facilities. In fact, until GAO obtained and analyzed the data, the Park Service did not even have an inventory of the Government-owned facilities that are used by private companies for concession operations.

GAO estimates that in 1990 concessioners paid the Park Service just $1.2 million in building use fees. In 1990, the Interior Department's Inspector General estimated the Park Service was losing more than $1.4 million each year on rents paid by concession operators at just 11 major parks and historic areas, by charging only about one-quarter of the actual fair market value of government-owned facilities.

The simple truth is that it is time for a change. Concessions contracts create monopolies over all goods and services consumed at our national parks, the crown jewels of this Nation's natural heritage. But, the contracts and the National Park Concessions Policy Act are relics of a time gone by.

Mr. Speaker, the existing law is based on a set of assumptions that are no longer valid. It was enacted at a time in our Nation's history when it was deemed necessary to extend extraordinary incentives to businesses to operate in our national parks. At that time—before the completion of our interstate highway system revolutionized family travel—concessions operations in national parks were viewed as risky commercial outposts that we sought to coax into providing goods, services, and hospitality at remote and scarcely visited locales with a short summer season of operations and activities.

Accordingly, the 1965 National Park Concessions Policy Act created a set of incentives for concessioners, which included low franchise fees, renewal preference for satisfactory performance and the rights to acquire, hold and transfer a possessory interest in structures, fixtures, and improvements upon land owned by the United States within areas administered by the National Park Service. This incentive package worked in the beginning, but perhaps it has worked too well.

While the right of preference renewal and the rights associated with possessory interest served the initial purposes of attracting private capital and quality concessions operations to our national parks, these rights have now become significant, and almost insurmountable impediments to competition.

Mr. Speaker, the circumstances at our national parks have changed dramatically since 1965. Our national parks are not commercial outposts. In fact, many parks are teeming with visitors and the short summer season is growing to 10 months or even year-round visitation even in many of the most remote areas.

The incentive package provided under the original National Park Concessions Policy Act has outlived its usefulness. Now, operating a concession at one of our national parks has become a lucrative enterprise and the taxpayer is being shortchanged.

The leverage created by the National Park Concessions Policy Act's incentive package has made it virtually impossible for others to compete against an existing concessioner at one of our national parks. At the end of every concessions contract term, the Secretary of the Interior must entertain offers from others for improved concessions services or increased franchise fees, but no one will submit a bid. Instead, enterprising businesses are dissuaded from submitting proposals because a successful bidder proposal would have to do more than simply prepare the highest and best bid for concessioner services. In fact, a successful bidder would have to accept the obligation of paying off the possessory interest of the existing, tenured concessioner and would have to overcome the existing concessioner's renewal preference. Thus, the incentive package has become a nearly perfect barrier to competition for concession opportunities.

Unfortunately, the loser in all this is the taxpayer, Mr. Speaker. As documented in reports from the inspector general of the Department of the Interior [OIG], the U.S. General Accounting Office, the House Committees on Small Business and Government Operations and the National Park Service itself, the existing contract law and regulations are not in the public interest. It is time for reform.

The current policy poses other problems, as well. For example, it is good that concession services are provided by the private sector, instead of the Government, and no one wants to change that aspect of national park concessions operations. However, it is wrong for concession revenues to be diverted from the National Park System's resource conservation needs at a time when park budgets are stagnant and park visitation is soaring.

Mr. Speaker, here is a summary of some of the continuing deficiencies in existing concessions policy, law and regulation: franchise fees for national park concession contracts are far too low; existing concession contracts have lasted too long; existing contractors have a renewal preference and possessory interest in park structures and facilities that are preventing open competition; existing contracts do not charge fair market rents for taxpayer-owned facilities; the cost of administering concessions contracts are too high; and, contracts allow a concessioner to sell his exclusive use of park facilities, low concession fees and preference for renewal as intangible assets when the concessioner corporation is sold. Some even argue that concession contracts allow our national parks be managed for the benefit of concessioners rather than for resource conservation.

To his credit, former Secretary of the Interior Manuel Lujan initiated a reform campaign to correct some of these deficiencies. But the job has not been completed. Now, Congress must take legislative action to complete and perfect the reform effort. The National Parks Revitalization Act that I am introducing today will strengthen the Secretary's authority to reform concessions operations, standardize the process of concessions reform, and assure a fair return to the taxpayers.

This reform effort is vitally important since most contracts come up for renewal over the next 5 years, including several large contracts: Yosemite, 1993; Olympic, 1993; and Grand Canyon, 1998. Therefore, we need to give the Secretary all the tools necessary to take advantage of this unique window of opportunity to construct a proper balance for concessions operation.

Mr. Speaker, as I have already noted the National Parks Revitalization Act is written as an amendment to the 1965 National Park Concessions Policy Act so as to take advantage of the better aspects of the existing law while making the changes necessary to fit current circumstances.

The National Parks Revitalization Act will increase franchise fees from the present average of 2.5 percent of gross receipts to 22.5 percent of gross receipts. This increase is consistent with former Secretary Lujan's publicly stated objective for concessions reform. This increase will allow the Park Service to acquire the possessory interest of existing concessioners and to more adequately fund resource management, interpretation, and conservation activities from the proceeds of a reasonable franchise fee.

But raising franchise fees by itself it will remedy our national park concessions problems. Congress must agree to return more of these dollars to the parks for operation, maintenance, and capital improvements.

Additionally, Mr. Speaker, the National Parks Revitalization Act prescribes maximum terms for concessions contracts, requires concessioners to pay fair market rents and all utilities costs, and phases out the anticompetitive problems presented by the existing statute's treatment of renewal preference. The National Parks Revitalization Act will allow the National Park Service and the Secretary of Interior to redirect concession operations to be consistent with today's circumstances and budget constraints.

Finally, the National Parks Revitalization Act will resolve the argument that concession contracts allow our national parks to be managed for benefit of concessioners rather than for resource conservation and the public. Under this measure all concession contracts must be consistent with the National Park Service organic Act, the purposes of the act creating the particular unit of the National Park System in question and its general management plan.

Mr. Speaker, I hope that introduction of the National Parks Revitalization Act will help frame this important debate and promote reform. I believe the National Parks Revitalization Act presents a formula that will be good for both the taxpayers and the environment. I urge all my colleagues to join me as a cosponsor of this important legislation.

GLEAN ST. PETE 1993

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. YOUNG of Florida. Mr. Speaker, the people of Pinellas County, FL have a reputation for developing creative new ways to help the less fortunate of our community.

One of the leading innovators is the St. Petersburg Free Clinic, which provides medical assistance and surplus food supplies to needy families. A unique way in which they help provide nutritional support to these families is through the Glean St. Pete Program.

Last year, volunteers gleaned more than 7½ tons of citrus fruit from neighborhood trees for distribution to area families. This year, the St. Petersburg Free Clinic hopes to build on its success of past years and recruit enough youth and community groups to harvest 50 tons of citrus.

In cooperation with the Pinellas County Cooperative Extension Service, the free clinic conducts comprehensive training programs to help hundreds of volunteers glean fresh citrus from neighborhood trees.

Citrus trees thrive throughout our community and through this program the free clinic ensures that families, who are not able to afford fresh citrus, receive this nutritional support from one of our State's best known products.

Mr. Speaker, I wanted to bring to the attention of my colleagues the outstanding work of the hundreds of volunteers who have made Glean St. Pete an outstanding success and who have found such an innovative way in which to help their neighbors in need.

TRIBUTE TO MIRIAM SMITH

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to Miriam Smith, a kindergarten teacher at Emma V. Lobbestael Elementary School. She retired after 28 years as a teacher in the L'Anse Creuse District. Miriam always provided an atmosphere where children could develop to their greatest potential.

A typical day in Miriam's classroom started with Miriam greeting the class and letting them know that it would be a good day at school. Often mornings were started with a song. Although Miriam claims not to be a vocalist, her music has warmed the hearts of so many children and helped them find the courage to learn in ways that few professional musicians have achieved.

Miriam received an associate's degree from Jackson Junior College, a bachelor of science from Eastern Michigan University, a master of science from Saginaw Valley College and has taken graduate hours at the University of Michigan, Oakland University, Eastern Michigan University, and Wayne State University. She has also completed instructional theory into practice training in the Macomb Intermediate School District, and the Michigan model for health education at Oakland University.

During her outstanding career, Miriam has received numerous awards. She was honored with the Michigan Model Service Award, the Computer Based Instruction Honor Award, and the L'Anse Creuse Michigan Education Association Outstanding Educator Award. She has been profiled in the L'Anse Creuse newsletter as an outstanding educator and she is a Delta Kappa Gamma Woman of Distinction.

Miriam's activities and involvement in the community have contributed to her success as a teacher. Miriam has been a member of several organizations including the Michigan Reading Association, the Delta Kappa Gamma Society International Education, including Omega chapter president and secretary and president of River Lake Council, secretary of L.C.E.A., National Education Association and the Michigan Education Association. She devoted many hours working for the American Cancer Society, which was especially important to her because her father died of cancer. Miriam also spent one summer as a counselor at a family church camp.

The Emma V. Lobbestael Elementary School was one of the first schools to form a building staff development team and Miriam was a member of the original team. She has participated in workshops in the areas of time management, stress management, children of divorce, power writing, process writing, and whole language and computer literacy. She has presented Michigan model training workshops for kindergarten and first grade teachers.

Miriam has not only worked to improve the L'Anse Creuse education system for students, she has also worked to improve the system for teachers. Her educational society sponsored future teacher recruitment teas. The society has also sponsored and granted scholarships for promising students going into education. She has worked with high school students and college students and encouraged them to assist her in the classroom.

I ask all of my colleagues to join me today in acknowledging the accomplishments of Miriam Smith and thanking her for all of her hard work. Although Miriam will no longer be teaching at Emma V. Lobbestael Elementary School, I know that our community can still learn a great deal from her. Miriam Smith is truly a teacher.

INTRODUCTION OF THE FINANCIAL FRAUD DETECTION AND DISCLOSURE ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. WYDEN. Mr. Speaker, on January 26, in order to ensure that investors and taxpayers will be protected by public accountants from rampant fraud by corporate insiders, I introduced the Financial Fraud Detection and Disclosure Act. Telecommunications and Finance Subcommittee chairman, EDWARD MARKEY, and Energy and Commerce Committee chairman, JOHN DINGELL joined me as original cosponsors.

The central point of this bill is to require public auditors to report to regulators if a company's management refuses to correct fraud that has been brought to its attention by the auditors. Without this protection, investors and taxpayers have been devastated time and again by larcenous managers and indifferent accountants. The headlines of recent months tell a story of serious fraud in significant companies across the economy.

The accounting firm, Ernst & Young, recently agreed to pay the Federal Government $400 million to settle potential claims arising out of its audits of savings and loans in the 1980's. That settlement provided a fitting capstone to the financial excesses of the 1980's, epitomized by the S&L debacle. But the problems continue. After a review of recent accounting-related enforcement actions, the Securities and Exchange Commission [SEC] reported that 86 percent of its actions involved companies outside the financial services industry. Fraud continues in all industries.

For example, Phar-Mor, a major discount drug chain; Cascade International, a women's clothing retailer; College Bound, a college entrance exam trainer; Miniscribe, a computer manufacturer; and Fidelity Medical, a medical products firm, are just a few of the companies that have recently collapsed because of major financial fraud. In not one instance did accountants blow the whistle on management.

The Energy and Commerce Subcommittee on Oversight and Investigations, of which I am a member, has held over two dozen hearings in the past 8 years on corporate financial fraud in the financial services, health care, defense, insurance, and other industries. Out of those hearings has come the bill I introduced on January 26. This bill was first introduced 7 years ago. It has passed the House of Representatives twice, most recently last fall on a unanimous voice vote. A voluminous record has been established. All of the interest groups have had input. It is time now for this bill to become law.

Mr. Speaker, the belief that accountants need to fight more forcefully against fraud is not limited to the sponsors of this bill. The Economist magazine says that accountants are frequently guilty of "an all-too-willing suspension of disbelief." Walter P. Scheutze, chief accountant of the Securities and Exchange Commission [SEC], argues that the accounting profession "has become a cheerleader for its clients."

Such statements suggest that accountants are directly violating a clear mandate established by the Supreme Court in the 1984 case, United States versus Arthur Young: "By certifying the public reports that collectively depict a corporation's financial status, the independent auditor assumes a public responsibility transcending any employment relationship with the client."

In other words, auditors are supposed to inform the public when they see companies committing fraud. Unfortunately, 8 years later, the auditing profession still has not caught up with the Supreme Court. It is still possible for an auditor to know about fraud and fulfill his professional responsibilities without actually coming right out and telling regulators or the public about it.

This legislation, creating this public reporting responsibility, merely codifies the principle articulated by the Supreme Court. Unfortunately, the accounting profession, moving with geologic speed, has not been able to comply with that mandate through its self-regulatory process. In that case, it is up to the Congress to enact it through legislation.

Mr. Speaker, this bill will not impose new regulatory burdens on public companies, which is why the Financial Executives Institute, an organization of top corporate financial officers, has informed me that it has no objections to the bill. But it will significantly help protect investors and taxpayers, which is why the SEC, the State securities regulators, and the General Accounting Office have all supported public reporting of fraud.

I thank Chairman MARKEY and Chairman DINGELL for joining me as original cosponsors and urge my colleagues to support the bill.

TRIBUTE TO SLATER-FILMORE ELEMENTARY SCHOOL AND WASHINGTON ELEMENTARY SCHOOL

HON. ROBERT F. (BOB) SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. SMITH of Oregon. Mr. Speaker, I am pleased to rise today to honor Slater-Filmore Elementary School in Burns, OR, and Washington Elementary School in Medford, OR. In January, both schools received the 1991–92 Blue Ribbon School of Excellence Award by the U.S. Department of Education. The coveted award honors schools which demonstrate innovative reform efforts while furthering intellectual growth.

American schools are at a crossroads. The restructuring of the educational system is a very complex and consequential undertaking. Only by being bold, innovative, and resourceful will we prepare our children to meet the challenges of the next century.

Clearly, these two Oregon schools have exhibited this type of ingenuity and resourcefulness necessary to reform our educational system. Moreover, since both schools harbored a great proportion of low-income students than most Oregon elementary schools, their reforms appropriately emphasized the development and advancement of educational, social, and familial skills. The programs included self-esteem improvement, counseling for student-teacher relationships, parental and community growth, drug-and-alcohol awareness, and the creation of drug-free environments.

Mr. Speaker, being named a Blue Ribbon School of Excellence is testimony to the quality and success of the reforms initiated by these two schools. I stand here to not only pay tribute to Washington Elementary and Slater-Filmore Elementary but challenge schools throughout our Nation to embark upon a similar educational path.

THE 100TH ANNIVERSARY OF THE DISTINGUISHED MT. PILGRIM BAPTIST CHURCH

HON. CLEO FIELDS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. FIELDS of Louisiana. Mr. Speaker, on Sunday, January 31, 1993, the distinguished Mt. Pilgrim Baptist Church located at 9700 Scenic Highway, Baton Rouge, LA will celebrate its 100th-year anniversary. During its 100-year existence, Mt. Pilgrim has served as a beacon for the Scotlandville community.

This fine church was built in 1893 by a group of devout Christians feeling a need to worship. This marked the beginning of 100 years of growth and development. The church was remodeled in 1924, burned in December 1926, and was rebuilt in 1927. At that time, Mt. Pilgrim was incorporated as a nonprofit corporation in the State of Louisiana.

In January 1984, the thoughtful and humble Rev. Jesse B. Bilberry, Jr. was elected to serve as pastor of Mt. Pilgrim. Reverend Bilberry is also president of the fourth district Congress of Christian Education. The Reverend Bilberry is a visionary leader for the congregation providing a progressive and innovative ministry.

Mr. Speaker, the Mt. Pilgrim congregation and Reverend Bilberry have influenced my life beyond measure. Therefore, I am proud to present you with this brief sketch of the history of my church.

TRIBUTE TO COMMAND SERGEANT MAJOR BILLY JOE ADAMS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. SKELTON. Mr. Speaker, it has come to my attention that Command Sgt. Maj. Billy Joe Adams is ending his 36 years of military service, 30 as a member of the Missouri Army National Guard. It is people like Command Sergeant Major Adams who make the term "citizen soldier" truly meaningful. I congratulate him on his unselfish devotion to duty, his hard work for the State of Missouri and his patriotism to the United States of America.

Command Sergeant Major Adams became State Command Sergeant Major April 1, 1985 and has served until the present time in that position.

Among his many awards and decorations, he has received the following: The Army Reserve Components Achievement Medal (six awards), the Meritorious Service Medal, the Armed Forces Reserve Medal (second award) and the Non Commissioned Officer Professional Ribbon with numeral four.

I know the men of this body join me in wishing Command Sergeant Major Adams all the best in his retirement.

Adams, Billy Joe [redacted]

Enlisted MOARNG 7 May HHC 1st Bn 140th INF.

Enter active [ARNGUS] 3 Oct 57 thru 28 Jul 59.

Transferred to USAR 29 Jul 59.

Enlisted MOARNG 8 Dec 59 thru 10 Jul 63.

Enlisted MOARNG 15 Oct 72 thru present.

Promoted to Sergeant Major 26 Sep 84 at HQ, 35th Engr Bde.

Became State Command Sergeant Major on 1 April 85.

Awards & Decorations: Army Reserve Components Achievement Medal (6 awards).

Meritorious Service Medal.

Armed Forces Reserve Medal (2d Award).

Non Commissioned Officer Professional Development Ribbon with numeral (4).

Army Service Ribbon.

Good Conduct Medal.

Overseas Service Ribbon.

Army Reserve Components Overseas Training Ribbon.

National Defense Service Medal (w/1 bronze star).

Missouri National Guard Commendation Ribbon (3d Award).

25-year Missouri Long Service Ribbon.

State Emergency Duty Service Ribbon.

Rifle M16 Expert Qualification Badge.

Pistol, 45 Cal Expert Qualification Badge.

Command Sergeant Major Adams has served in the following duties: Scout Drive, Carpenter, Squad leader, Army Career Counselor, Assistant Criminal Investigator, Military Policeman, Senior Instructor, Deputy Chief Operations Sergeant and Command Sergeant Major.

Military Education: Noncommissioned Officer Leaders Course 1973.

Senior Noncommissioned Officer School 1976.

Senior NCO Cadre School 1980.

Advanced NCO course 1981.

Battle Skills Course 1986.

U.S. Army Sergeants Major Academy 1988.

INTRODUCTION OF HANDGUN LICENSE BILL

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. GONZALEZ. Mr. Speaker, I am introducing a bill today, H.R. 711, to address a public health crisis—that is, the proliferation of death and maiming by the use of handguns. Former U.S. Surgeon General Dr. C. Everett Koop has said that violence by firearms has risen to the level of a public health crisis and must be addressed as such. I agree, and thus the bill I am introducing today approaches one aspect of the problem by requiring permits to be obtained in order to possess a handgun, by requiring training in use, maintenance, and storage of handguns prior to being eligible for a permit, and by requiring certain mental and legal capacity to be proven. Penalties are provided for violation of these provisions.

We have such laws on the books with regard to automobiles, and a good analogy can be made. Automobiles are not, in and of themselves, unsafe products—the problems that arise causing health and maiming come from improper and unwise use and maintenance. Similarly, guns are not, alone, unsafe products, but it is their illegal, improper, and unwise use that causes the problems. We have a license system for operation of automobiles; my bill proposes a license system for handguns.

The statistics are clear: Firearm homicide has become the second leading cause of death among high-school-age children, rising 23 percent in the past 3 years among young people in the suburbs and 28 percent among young people in the inner cities; the huge majority of gunshot deaths and injuries are inflicted not by career criminals using illegal weapons but by ordinary citizens; and the firearm homicide rate in the United States is nearly 7 times that of Australia, 55 times that of Great Britain, and 58 times that of Japan.

I know from personal experience what the proliferation of firearms has done to our communities. In 1946, I became the chief juvenile probation officer for Bexar County, which is the county where San Antonio is located. For the most part, the worst behaviors I witnessed were school-skipping and glue-sniffing. The kids were neglected, but not really delinquent. I concentrated on the families and greatly reduced the number of children placed in institutions. During my tenure, there was a 36.6-percent decrease in juvenile crime, and more than anything else today I am proudest of that fact.

But I was also the first juvenile probation officer to refuse to carry a gun. I knew that that was no answer. Today, everyone seems to have guns, and we have a complete breakdown of our society. It breaks my heart to see young people like those I used to work with being the victims of handgun violence today. And I can see what the proliferation of handguns has done to the neighborhoods in which I used to work.

After I was elected to Congress, I was eyewitness to the greatest crime of the century—the assassination of President Kennedy. The President and I had been friends for many years, and he visited San Antonio before we went to Dallas that fateful November in 1963. Although official reports are that his life was ended by virtue of a firearm, but apparently not a handgun, it is clear that firearm violence has escalated since that date. From 1960 to 1980, the population of the United States increased by 26 percent; the homicide rate due to guns increased 160 percent.

Around the time of President Kennedy's assassination, I had begun to become aware of the proliferation of arms and ammunition available to extremists. I spoke out repeatedly on the House floor in the early 1960's about the extremist right-wing hate group called the Minutemen. This group, and numerous others since then, received arms and ammunition free of charge from the U.S. Government. What our Government has done domestically it is also doing internationally—perhaps not giving away weapons as much as making weapons of mass destruction available to unstable individuals and governments all around the world. As we now know, we did this with Saddam Hussein.

The escalation in the availability of handguns, especially, must be stopped. These are our children, mainly, who are dying. It's an epidemic, and it's a public health crisis. The American people recognize this: A 1990 Gallup poll found that most Americans strongly favor a host of serious restrictions, including registration of handguns, a 7-day waiting period for the purchase of a handgun, a total ban on semiautomatic assault weapons, and stricter handgun sales restrictions. It is time for Congress to respond.

Slayings due to handgun violence have increased every year in recent memory, and it is expected that this trend will continue—to the point, even, of supplanting illegal drug activity as the major public health and societal concern.

In my hometown of San Antonio, slayings increased from 1991 to 1992, rising from 213 to 220. Easy access to firearms figures prominently in the growing violence, and young people are being hit particularly hard. During 1990, firearm-related injuries surpassed motor vehicle crashes as the leading cause of injury-related mortality in Texas, the first State to report this pattern.

Handguns are the most common type of firearm involved in gunshot deaths in the home, whether accidental or intentional. The most common reason given for owning a handgun is protection from crime, yet only a small percentage of firearm deaths in the home are the result of an incident requiring self-protection.

Mr. Speaker, the bill I am introducing today doesn't do everything that needs to be done to address the epidemic level of firearm violence in our society, but it's a step. The public health crisis must be addressed, and my bill moves us toward accepting that handgun violence is a public health concern and must be addressed with as much commitment as public health crises of the past have been addressed.

IN MEMORY OF NELSON T. "PETE" SHIELDS

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. CASTLE. Mr. Speaker, I rise today to pay tribute to a true American hero who dedicated his life to making this country a better and safer place—Pete Shields, whom I have always been proud to call a friend as well as a constituent—who passed away on Monday, January 25, 1993.

Pete's command and tireless efforts to reduce random gun violence can only be called inspirational.

The senseless killing of his son, Nick, in 1974, changed Pete's life forever. In 1975, he took a leave of absence from his business career with E.I. DuPont of Wilmington, DE, to help set up an organization working for stronger handgun laws. In December 1976, Pete resigned from DuPont to become executive director of the National Council to Control Handguns, now called Handgun Control, Inc. He became chairman of the organization in 1978.

In 1983, Pete founded the Center to Prevent Handgun Violence, an organization dedicated to reducing gun violence through education, research, and legal action. He served as chairman from its inception until May 1991.

During Pete's years in Washington, he always kept a statue on his desk of Sisyphus, one man attempting to move a boulder up a mountain. He set a powerful example of how one person can truly make a difference. Among the many victories in his campaign for a safer America were the outlawing of cop-killer bullets in 1986 and undetectable plastic handguns in 1988; a ban on the import of Saturday night special parts in 1986, and protecting the Nation's ban on Saturday night specials in the State of Maryland in 1988.

I send my condolences to Pete's family—his wife Jeanne, his son, David, and daughters, Pamela Pragoff and Leslie Lundgaard, and I salute Pete's dedication to making this country a safer place.

INTRODUCTION OF LEGISLATION REGARDING ARIZONA'S NATIVE AMERICANS

HON. JON KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 2, 1993

Mr. KYL. Mr. Speaker, today I am introducing legislation with my Arizona colleague, KARAN ENGLISH, to make good on a commitment that was made by Congress 4 years ago to Arizona's native Americans when it approved legislation authorizing the exchange of the Phoenix Indian School property.

The bill is identical to legislation introduced last week in the other body by Senator JOHN MCCAIN.

Mr. Speaker, the 1988 legislation authorizing the exchange—Public Law 100–696—required the Barron Collier Co., which is to acquire the Indian School property, to pay $34.9 million into an Indian education trust fund. The money was intended to be used for educational purposes for Arizona's native Americans, whom the school had served for many years.

Last year, however, the Interior Department and the Collier Co. reached an agreement which allowed the exchange to proceed, but which delayed the ultimate transfer of the title of the property, as well as the commencement of payments to the education trust fund, for up to 4 years. According to Secretary Lujan, the delay was necessary in order to preserve the overall agreement.

But, that delay shortchanges Arizona's native Americans, who will not have the use of the education funding that they were promised.

I believe the Indian education trust fund ought to be fully funded as soon as possible, and that is the intent of the measure I am introducing today.

I would note for the benefit of my colleagues that steps have already been undertaken to permit the city of Phoenix and the Veterans' Administration to utilize the lands, to which they were entitled under Public Law 100–696, prior to a formal transfer of title. Native Americans deserve the same accommodation if consummation of the transaction is to be delayed.

If Congress appropriates the full $34.9 million authorized by this legislation, the bill provides that the Treasury will be reimbursed by the Barron Collier Co. under the same terms and conditions as if the company were paying into the education trust fund.

If Congress appropriates only a portion of the total, the Colliers would be required to pay the balance of the principal, plus interest, to the trust fund, and reimburse the Treasury for the amount appropriated by Congress, plus interest.

The legislation further requires the consent of the Inter-Tribal Council of Arizona and the Navajo Tribe to any alternative form of payment to ensure that their concerns are heard and met.

I hope the House will act promptly on this legislation which will fulfill our commitment to native Americans in Arizona. I ask that the text of the bill be reprinted in the RECORD at this point:

H.R. 722

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INDIAN EDUCATION ASSISTANCE TRUST FUNDS.

(a) ESTABLISHMENT.—

(1) ARIZONA FUND.—

(A) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Interim Arizona InterTribal Education Assistance Trust Fund subject to the same conditions as described for the Arizona InterTribal Trust Fund in subsections (c) and (d) of section 405 of the Arizona-Idaho Conservation Act of 1988, Public Law 100-696 (here in after "the Act").

(B) AMOUNTS IN FUND.—The fund established in subparagraph (A) shall consist of such amounts as are appropriated and allocated to the fund pursuant to subsection (b).

(2) NAVAJO FUND.—

(A) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Interim Navajo Education Assistance Trust Fund subject to the same conditions as described for the Navajo Trust Fund in subsections (c) and (d) of section 405 of the Act.

(B) AMOUNTS IN FUND.—The fund established in subparagraph (A) shall consist of such amounts as are appropriated and allocated to the fund pursuant to subsection (b).

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated an aggregate of $34,900,000 to the funds established in subsection (a) to be allocated in accordance with paragraph (2). In no case shall moneys appropriated pursuant to this authorization diminish or otherwise reduce any Indian account.

(2) ALLOCATION.—

(A) ARIZONA FUND.—Sums appropriated pursuant to paragraph (1) shall be allocated to the fund established in subsection (a)(1) in the same manner as sums are allocated to the Arizona InterTribal Trust Fund pursuant to section 405 of the Act.

(B) NAVAJO FUND.—Sums appropriated pursuant to paragraph (1) shall be allocated to the fund established in subsection (a)(2) in the same manner as sums are allocated to the Navajo Trust Fund pursuant to section 405 of such Act.

(c) REIMBURSEMENT.—

(1) IN GENERAL.—

(A) FULL APPROPRIATION.—Notwithstanding title IV of such Act, if the full amount specified in subsection (b)(1) is appropriated and allocated in accordance with subsection (b) prior to the date on which the first annual payment is required to be made by Collier to the Arizona InterTribal Trust Fund and the Navajo Trust Fund under title IV of such Act, and the Trust Fund Payment Agreement required under section 403 of such Act, the Secretary of the Interior shall direct Collier to pay to the Secretary of the Treasury for deposit into the general fund of the Treasury any amounts otherwise due and payable to the United States under the Trust Fund Payment Agreement, in lieu of and in full satisfaction of payment to the United States by Collier for deposit into the Arizona InterTribal Trust Fund and the Navajo Trust Fund pursuant to title IV of such Act and such Trust Fund Payment Agreement.

(B) PARTIAL APPROPRIATION.—Notwithstanding title IV of such Act, if less than the amount specified in subsection (b)(1) is appropriated and allocated in accordance with subsection (b) prior to the date described in subparagraph (A), at such time as Collier is required to make any payment under the Trust Fund Payment Agreement described under subparagraph (A), the Secretary of the Interior shall direct Collier to pay, in full satisfaction and in lieu of such payment: (i) to the Secretary of the Treasury for deposit into the general fund of the Treasury, an amount which bears the same proportion to the total amount of such payment as the total of the sums appropriated pursuant to subsection (b) bears to $34,900,000, and (ii) to the Secretary of the Interior for deposit into the Arizona InterTribal Trust Fund and Navajo Trust Fund, in accordance with section 405 of the Act, the remainder of each such payment.

(2) DEFINITION.—As used in this subsection, the term "Collier" has the meaning provided under section 401(5) of such Act.

(d) TERMINATION.—

(1) IN GENERAL.—The funds established in subsection (a) shall terminate on the date of the first Collier payment described in subsection (c)(1)(A).

(2) TRANSFER OF REMAINING SUMS.—Upon termination under paragraph (1)—

(A) The Secretary of the Treasury shall transfer any sums remaining in the fund established in subsection (a)(1) to the Arizona InterTribal Trust Fund established under section 405(a) of such Act; and

(B) The Secretary of the Treasury shall transfer any sums remaining in the fund established in subsection (a)(2) to the Navajo Trust Fund established under section 405(a) of such Act.

(e) No funds appropriated under this Act shall be available to the InterTribal Council of Arizona (ITCA) and Navajo Tribe (as defined in section 401 of the Act) or be deposited into the Interim Trust Funds established by section 1 of this Act unless the ITCA and Navajo Tribe provide written consent to the method of payment established in this Act in lieu of the method of payment provided in the Act and the Trust Fund Payment Agreement authorized by the Act.

SENATE—*Wednesday, February 3, 1993*

(Legislative day of Tuesday, January 5, 1993)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be led by the Senate Chaplain, the Reverend Richard C. Halverson.

Dr. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Gracious Father in Heaven, we pray for those whose lives have been altered by the transition in Government—those who must find a new job and a new home. We take comfort in Your word to Jeremiah, "For I know the thoughts that I think toward you, saith the Lord, thoughts of peace, and not of evil, to give you an expected end."

Be with those experiencing difficulty in finding a new job. Bless the families as they adjust to a new home and their children as they find their way in a new school.

We pray also, loving Father, for all of the new people on Senate staffs. May their adjustment time be brief and satisfying. Bless the new Senators as they find their way through rules and traditions characteristic of this very powerful institution.

Thank you, Lord, for Your gracious care and provision for all who trust You and look to You.

In Jesus' name, who is love incarnate. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

WELCOME BACK TO REVEREND HALVERSON

Mr. MITCHELL. Mr. President, I know that I speak for all Members of the Senate when I express our gratitude of his presence this morning and the delivery of the prayer by our esteemed Senate Chaplain, Dr. Halverson. We welcome Dr. Halverson back and look forward to serving with him for some time to come.

THE JOURNAL

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of proceedings has been approved to date?

The PRESIDENT pro tempore. The majority leader is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, and Members of the Senate, there will be a period for morning business until 9:30 a.m., at which time the Senate will return to the consideration of the Family and Medical Leave Act. A minimum of one and a maximum of three votes are set to commence at 10 a.m. The uncertainty results from negotiations that were continuing last evening involving an amendment offered by the distinguished Senator from Washington. And I notice his presence on the floor.

Mr. GORTON. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. GORTON. I think it would be more accurate to say a minimum of two. At least one of the amendments the Senator will offer will require a rollcall. We hope we can avoid a third.

Mr. MITCHELL. I thank my colleague.

Mr. President, Senators should be aware that at least two votes will occur at 10 a.m., with a possibility of a third. That remains yet to be resolved. And then the Senate will continue on the measure today.

This is a very important bill. It is my hope and intention that we can complete action on the bill as soon as possible. As I have stated publicly on several previous occasions, it is also my hope that this week we can also complete action on the reauthorization bill for the National Institutes of Health and for a resolution regarding the situation in Somalia, which Senator DOLE and I have been working on and which we expect to introduce together following completion of action on the NIH reauthorization bill.

So, those are the three measures which we hope to complete this week. Rollcall votes are possible throughout the day and into the evening for the remainder of the week—whatever it takes to complete action on the bill.

I thank the managers, the Senator from Connecticut and the Senator from Kansas [Mrs. KASSEBAUM], both of whom who have been very diligent about proceeding with this bill and I thank the Senator from Washington for his cooperation, permitting moving forward on his amendments with dispatch.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve all of the leader time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the remainder of the majority leader's time is reserved and all of the minority leader's time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. There will now a period for the transaction of morning business not to extend beyond the time of 9:30 a.m., with Senators permitted to speak therein.

The Senator from Washington [Mr. GORTON] is recognized.

TIMBER SALVAGE SALES

Mr. GORTON. Mr. President, on Monday, the Seattle Post-Intelligencer reported that many wildlife biologists and other environmental activists are coming to the realization that active management of our national timber lands in the Pacific Northwest may actually be beneficial to the health of our forests. The director of former Governor Gardner's timber team, the Washington Environmental Council, and faculty from the University of Washington's Forest Ecology Program now agree that active forest management practices such as thinning stands, and removal of diseased, downed, and dead timber can promote the health of a forest ecosystem.

Last year this Senator offered an amendment to the Interior appropriations bill to facilitate just such management practices. The amendment called for the creation of forest health improvement projects to permit active forest management practices which improve the health of forests. It was not, as some claimed, a stalking horse for renewed, large-scale timber harvesting in the Northwest. By definition, that amendment would allow the appropriate agencies to consider only those practices that would enhance the health of the forest.

I am glad to see that a biologist involved with the drafting of the original Jack Ward Thomas report and supporters of that report are now open to new information. When the report was published, the committee rejected even limited logging unless it could be proven that logging would be beneficial to the health of the spotted owl's habitat.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Now, there is a growing consensus that a forest containing huge amounts of downed and dead timber presents a real fire hazard. Neglecting the forest's health may threaten the owl's habitat more than limited thinning and removal of dead timber.

This Senator has always believed that we can improve the habitat for the owl while protecting jobs for the timber dependent communities throughout the Northwest. One biologist is quoted as decrying artificial untouchable conservation areas. I agree. Human beings can and do play a positive role in the environment. Where we can improve the habitat for the spotted owl, we should act appropriately.

This is the ultimate win-win for the spotted owl and for our communities. I hope that the new administration is open to the possibility of implementing these more active forest management practices soon. I look forward to working with the new administration on this issue.

The PRESIDENT pro tempore. The senior Senator from Montana [Mr. BAUCUS] is recognized.

THE NEED FOR ENVIRONMENTAL INFRASTRUCTURE

Mr. BAUCUS. Mr. President, over the past several weeks, the economic news has been decidedly mixed for most Americans. The economy is showing signs of improvement. The gross domestic product is up. So too are housing sales, personal income, and orders for durable goods.

But it is a recovery without many jobs. Corporate layoffs continue by the thousands. And workers still wonder if their company, their job, will be next.

As President Clinton prepares his economic program, it is vital that it address the scarcity of new jobs. That is why a short-term stimulus package centered on job creation is a must.

INFRASTRUCTURE CREATES JOBS

One of the surest ways to create jobs—good jobs—and at the same time improve our economic foundation is by investing in our country's physical infrastructure. It is a job we know needs to be done if we are to have a competitive economy. And it is a job that can bring with it hundreds of thousands of good paying jobs.

Most of us are well acquainted with the advantages of greater investment in highways. Full funding of the Intermodal Surface Transportation Efficiency Act would speed implementation of that landmark legislation. It would bring about jobs, economic growth, and a more efficient transportation network.

But we should not stop with highways and bridges. We expand our vision to our environmental infrastructure, to sewage treatment plants, drinking water systems, and solid waste facilities.

Construction of these facilities creates jobs. But more than that it also protects human health and the environment. And these facilities provide a foundation for local business development.

Earlier this week, the National Governors Association recommended an infrastructure investment program totaling $9.6 billion this year. The program includes $8.4 billion in transportation and environmental projects.

Funding for both transportation and environmental projects will create significant employment benefits in the construction and related trades and provide a major boost to the national economy. Most economists agree that transportation and environmental construction projects generate between 30,000 and 50,000 jobs per $1 billion invested.

If we were to provide $10 billion for transportation and environmental projects, the employment benefit would be between 300,000 and half a million jobs in employment sectors not addressed by other economic stimulus proposals.

While not all these jobs would be created immediately, these projects could begin this year and would provide employment benefits for years to come.

ENVIRONMENTAL INFRASTRUCTURE

There is no doubt about the need to invest in environmental infrastructure. The Environmental Protection Agency has recently provided me with a comprehensive assessment of the amount of such projects. The total costs of the projects that are ready to go this year are almost $30 billion—$12 billion for sewage projects, $14 billion for drinking water, and over $3 billion for solid waste.

These projects would have a tremendous economic benefit to the communities involved and would provide critical protection of public health and the environment.

I also recently received a similar analysis prepared by State water pollution agencies. This survey of States identified a total of $10 billion worth of ready-to-build sewage treatment projects this year and next year.

This State assessment of sewage project needs differs from the EPA assessment in that it does not include many smaller sewer line projects or projects to which Federal loan funds are already targeted.

Mr. President, I ask unanimous consent that a copy of the EPA analysis and the assessment by the States be printed at the end of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BAUCUS. Together, these two studies fully document the substantial need for financial assistance for environmental infrastructure projects that are ready-to-go in the short term. Furthermore, by investing environmental infrastructure funds in the existing State revolving loan funds, we help build a financial base in each State which will be a source of financing for years to come—a very important point, particularly for the States.

These vital projects will pay double dividends by creating jobs at the same time they will protect public health and the environment.

HELP WITH RISING COSTS

But there is another important reason for including them as part of any economic stimulus package. Many communities, especially those in rural States, are struggling to build needed environmental facilities without sharp increases in user charges. Some simply may be unable to pay for the needed facilities at all.

Small communities are most at risk. The Environmental Protection Agency estimated in a recent report that the user fees for new water and sewer facilities in 20 percent of the communities under 2,500 persons could more than double within the next 4 years.

DRINKING WATER PROJECTS

The stimulus package also presents an opportunity to expand Federal assistance to drinking water projects, a long overlooked area of environmental infrastructure. As I mentioned earlier, communities face drinking water project costs equal to or greater than sewage treatment costs.

Unfortunately, to date, we have not provided any general financial assistance for construction of these important projects. I hope we can use the State loan funds to assist with drinking water treatment needs in the future.

Of course, the stimulus package must be accompanied by a long-term plan to significantly reduce the budget deficit. Without a partnership between short-term stimulus and long-term deficit reduction, the economic benefits from a stimulus program only will be illusory. And our fiscal problems only will deepen.

President Clinton's economic program provides a unique opportunity to meet several of his economic and environmental goals simultaneously. An infrastructure program that provides significant funding for both environmental and transportation projects will create jobs, build a sound foundation for economic growth, and achieve a cleaner, healthier environment.

EXHIBIT 1

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, January 22, 1993.

Hon. MAX BAUCUS,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in further response to a letter of November 24, 1992, from then Chairman Daniel Patrick Moynihan to William K. Reilly, Administrator, regarding the construction of environmental facilities and the need to support the economic recovery program.

In his letter, Senator Moynihan requested information regarding communities in a position to finalize contracts for the construction of wastewater, drinking water, and solid waste facilities by December 31, 1993. As we stated in our interim response, the Agency does not maintain a database which includes the requested information. However, my staff obtained comparable information from F.W. Dodge, a division of McGraw-Hill Corporation, for wastewater and drinking water facilities.

Enclosed is the information requested for wastewater and drinking water projects to the extent that we are able to provide it. The enclosed detailed project lists are organized by broad purpose (e.g., collection/supply, treatment, storage) and include the probable contract amount, project status (i.e., final planning, bid results) and the primary purpose of each facility. Information is also summarized by State. For wastewater and drinking water projects, there are three cost categories: project valuation under $100,000; project valuation from $100,000-$999,000; and project valuation of $1 million and above.

Also enclosed is summary information for solid waste projects. The solid waste information was collected by EPA Headquarters from the States and Regions and is not broken down by project status or size. The solid waste summary does not provide detailed listings of facilities because EPA does not have reliable project specific data. The summary includes estimates for underground storage tank (UST) projects on Indian lands. Because the UST program is highly delegated, the Agency does not have information about individual projects to upgrade or replace underground storage tanks except on Indian lands where there are no delegated programs. The summary includes cost estimates for certain Superfund activities over and above what will be funded during 1993 from the Superfund Trust Fund. These activities include early actions or removals (i.e., short-term responses providing immediate environmental benefits) and remedial actions (i.e., longer term construction projects to clean up sites on the Superfund National Priorities List).

In the November 24, 1992, request, Senator Moynihan asked for population to be served by each project. The Dodge database does not have population data and other potential sources do not provide adequate population information that can be readily identified for these projects. We are also not able to provide expected date of contract award; however, information is divided into the following stages: final planning, bidding, negotiating, and bid results. (Projects with bid results are closest to contract award.)

The total value of projects which are ready for construction during the next twelve months is $29.2 billion. In the wastewater category, F.W. Dodge reports a total of $11.9 billion with $4.7 billion for wastewater treatment and $7.2 billion for sanitary sewer projects. For drinking water, Dodge reports a total of $14.0 billion with $1.4 billion for storage tanks, $7.6 billion for water supply line projects, and $5.0 billion for water treatment. For solid waste projects, EPA's Office of Solid Waste and Emergency Response reports a total of $3.3 billion with $3.1 billion for municipal solid waste projects, $2.4 million for UST projects on Indian lands, and an additional $170 million for Superfund construction projects.

As indicated in my December 23, 1992, interim response to Senator Moynihan, the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) recently conducted a parallel survey of the States to assess the value of wastewater treatment projects which are ready to proceed, but are not expected to receive State or Federal funding during 1993. EPA has worked closely with the States in conducting this survey. ASIWPCA will provide the results of the survey to you when it completes compilation of the data.

I hope this information helps in addressing your concerns. Please call me if you have questions or have your staff contact Michael J. Quigley, Director, Municipal Support Division, Office of Wastewater Enforcement and Compliance, at (202) 260-5859.

Sincerely yours,

MARTHA G. PROTHRO,
Acting Assistant Administrator.

CONSTRUCTION PROJECTS—SUMMARY REPORTS

NATIONAL VALUATION SUMMARY—WASTEWATER TREATMENT PROJECTS

State	Under $100,000	$100,000 to $999,999	$1,000,000 and above	Total
AK	$31,800	$1,235,758	$3,219,477	$4,487,430
AL	299,619	2,633,593	2,506,758	5,439,970
AR	328,399	7,024,110	10,929,243	18,281,752
AZ	147,422	3,257,269	38,592,000	41,996,691
CA	1,171,933	11,072,744	1,187,243,378	1,199,488,055
CO	343,823	3,614,309	99,447,882	103,406,014
CT	313,060	4,010,643	71,597,959	75,921,662
DC		1,849,400	23,653,000	25,502,400
DE	77,271			77,271
FL	1,467,369	19,046,222	195,296,444	215,810,035
GA	715,717	6,713,741	138,487,691	145,917,149
HI	43,666	733,990		777,656
IA	40,000	2,700,678	5,114,396	7,855,074
ID	199,907	321,270	1,469,000	1,990,177
IL	515,195	11,491,631	39,181,370	51,188,196
IN	158,939	5,934,908	20,262,984	26,356,831
KS	166,037	3,548,614	2,145,000	5,859,651
KY	490,015	3,944,139	40,770,962	45,205,116
LA	767,892	3,960,334	7,257,202	11,985,428
MA	496,360	741,524	210,648,614	211,886,498
MD	124,260	5,188,063	72,518,426	77,830,749
ME	234,569	1,159,542	4,200,000	5,594,111
MI	585,044	7,902,191	72,550,155	81,037,390
MN	113,654	3,326,233	80,571,658	84,011,545
MO	227,530	5,565,090	9,874,764	15,667,384
MS	153,347	2,353,496	1,484,681	3,991,524
MT	24,200	1,429,480		1,453,680
NC	236,499	5,442,506	59,142,300	64,821,305
ND		120,000		120,000
NE	28,328	2,104,781	5,000,000	7,133,109
NH	262,250	1,482,175	11,766,585	13,511,010
NJ	937,651	39,143,570	48,619,764	58,700,985
NM	310,931	2,651,491	6,077,324	9,039,746
NV	50,000	625,000	9,248,000	9,923,000
NY	932,625	9,100,670	419,196,441	429,229,736
OH	715,057	9,711,927	125,793,418	136,220,402
OK	416,044	7,985,498	14,662,811	23,064,353
OR	199,769	6,251,983	68,729,394	75,181,146
PA	1,982,469	19,978,343	433,942,266	455,903,078
PR		1,649,000	27,180,600	28,829,600
RI	174,797	1,740,829	1,897,163	3,812,789
SC	91,900	2,142,636	23,700,000	25,934,536
SD	80,000	1,257,943		1,337,943
TN	299,193	6,786,336	21,551,283	28,636,812
TX	937,819	19,726,418	376,897,423	397,561,660
UT	152,077		8,971,827	9,123,904
VA	162,376	6,255,863	149,988,343	156,406,582
VT	45,795	543,621	3,678,750	4,268,166
WA	186,059	5,179,082	56,529,831	61,894,972
WI	426,308	5,857,044	91,246,000	97,529,352
WV	290,500	3,113,874	146,697,292	150,101,666
WY	67,910	1,300,607		1,368,517
Total	18,223,385	250,910,169	4,449,539,859	4,718,673,413

NATIONAL SUMMARY—WASTEWATER TREATMENT PROJECTS

State	Under $100,000	$100,000 to $999,999	$1,000,000 and above	Total
AK	1	4	2	7
AL	5	10	2	17
AR	8	17	6	31
AZ	3	9	10	22
CA	23	41	47	111
CO	8	11	8	27
CT	8	11	6	25
DC	0	4	3	7
DE	1	0	0	1
FL	27	55	38	120
GA	11	23	17	51
HI	1	2	0	3
IA	1	5	2	8
ID	3	2	1	6
IL	10	25	15	50
IN	3	13	6	22
KS	3	9	2	14
KY	8	10	11	29
LA	15	9	5	29
MA	11	6	7	24
MD	3	14	8	25
ME	4	3	1	8
MI	15	28	26	69
MN	3	9	6	18
MO	5	15	3	23
MS	3	6	1	10
MT	1	3	0	4
NC	7	16	9	32
ND	0	1	0	1
NE	2	8	1	11
NH	4	5	3	12
NJ	23	29	10	62
NM	6	8	3	17
NV	1	1	2	4
NY	18	25	28	71
OH	15	32	26	73
OK	10	25	5	40
OR	4	18	8	30
PA	44	54	53	151
PR	0	3	3	6
RI	4	7	1	12
SC	3	8	6	17
SD	1	4	0	5
TN	6	16	9	31
TX	20	56	32	108
UT	3	0	3	6
VA	5	20	20	45
VT	1	3	1	5
WA	3	17	8	28
WI	8	17	10	35
WV	6	7	9	22
WY	1	4	0	5
Total	379	728	483	1,590

NATIONAL VALUATION SUMMARY—SANITARY SEWER PROJECTS

State	Under $100,000	$100,000 to $999,999	$1,000,000 and above	Total
AK	$56,650	$3,135,476	$7,201,261	$10,393,387
AL	1,605,156	16,314,214	33,250,747	51,170,117
AR	880,813	18,375,317	17,182,542	36,438,672
AZ	1,208,677	10,762,849	58,848,097	70,819,623
CA	10,166,735	100,286,184	817,298,983	927,751,902
CO	1,382,118	24,299,924	55,898,187	81,580,229
CT	1,900,474	25,531,715	70,544,931	97,977,120
DC		1,142,897	5,000,000	6,142,897
DE	381,951	943,398	1,731,635	3,056,984
FL	4,968,459	61,567,550	323,716,156	390,252,165
GA	1,910,398	29,029,627	303,834,772	334,774,797
HI	90,000	351,888	57,818,708	58,260,596
IA	2,021,278	23,517,694	31,839,501	57,378,473
ID	1,418,870	4,204,642	1,392,886	7,016,398
IL	4,502,581	87,839,160	327,258,988	419,600,729
IN	2,150,579	29,128,926	92,171,246	123,450,751
KS	3,577,305	15,941,247	31,105,288	50,623,840
KY	1,428,300	19,288,396	90,400,265	111,116,961
LA	2,812,987	28,564,125	41,141,496	72,518,608
MA	2,070,575	14,598,514	92,973,191	109,642,280
MD	18,957,214	39,406,982	63,628,333	121,992,529
ME	1,214,215	17,963,755	21,427,415	40,605,385
MI	4,611,989	57,111,791	201,419,598	263,143,378
MN	4,546,031	81,833,193	130,382,103	216,761,327
MO	3,677,340	37,368,199	59,802,122	100,847,661
MS	1,498,032	15,075,912	14,544,682	31,118,626
MT	192,870	4,014,519	4,301,588	8,508,977
NC	2,516,600	44,881,493	74,693,108	122,091,201
ND	1,370,147	2,819,938	4,064,156	8,254,241
NE	3,792,883	22,225,474	11,661,538	37,679,895
NH	404,019	7,534,694	10,640,930	18,579,643
NJ	6,377,898	27,459,705	105,186,011	139,023,614
NM	609,740	7,006,710	30,348,865	37,965,315
NV	349,541	2,368,833	409,090,806	411,809,180
NY	4,649,761	53,598,546	237,214,725	295,463,032
OH	8,345,152	77,635,412	243,529,603	329,510,167
OK	2,059,516	36,164,283	20,839,690	59,063,489
OR	1,566,415	14,331,502	54,405,842	70,303,759
PA	12,530,055	51,048,492	401,815,494	465,394,041
PR	92,600	1,824,154	8,000,000	9,916,754
RI	411,538	1,999,658	25,368,000	27,779,196
SC	1,644,986	13,632,719	19,379,193	34,656,898
SD	692,772	6,999,600	32,439,498	40,131,870
TN	1,411,744	26,104,493	161,374,114	188,890,351
TX	9,102,714	167,769,742	334,372,108	511,244,564
UT	1,188,531	10,797,550	24,393,866	36,379,947
VA	3,366,884	33,672,318	221,159,377	258,198,579
VT		2,729,714		2,729,714
WA	1,501,434	32,075,291	58,760,141	92,336,866
WI	8,923,951	78,072,901	51,743,153	138,740,005
WV	669,377	7,352,630	39,405,159	47,427,166
WY	305,943	5,745,846	5,486,018	11,537,807
Total	153,115,798	1,503,449,792	5,541,486,116	7,198,051,706

NATIONAL SUMMARY—SANITARY SEWER PROJECTS

State	Under $100,000	$100,000 to $999,999	$1,000,000 and above	Total
AK	2	10	4	16
AL	33	54	17	104
AR	18	50	9	77
AZ	25	29	18	72
CA	203	282	158	643
CO	24	68	9	101
CT	42	65	21	128
DC	0	2	1	3
DE	8	3	1	12
FL	87	160	68	315
GA	35	80	46	161
HI	1	1	4	6
IA	40	69	16	125
ID	35	16	1	52
IL	98	215	78	391
IN	48	93	28	169
KS	78	53	10	141
KY	29	51	29	109
LA	53	73	21	147
MA	38	49	19	106
MD	342	140	20	502
ME	24	53	9	86
MI	91	153	70	314
MN	79	216	43	338
MO	75	115	27	217
MS	32	45	8	85
MT	4	11	2	17
NC	40	123	34	197
ND	22	11	3	36
NE	82	75	7	164
NH	8	17	6	31
NJ	138	92	30	260
NM	13	17	13	43
NV	6	7	3	16
NY	87	148	66	301
OH	158	249	67	474
OK	47	100	15	162
OR	28	39	14	81
PA	259	159	83	501
PR	1	5	3	9
RI	8	8	8	24
SC	38	47	10	95
SD	12	26	8	46
TN	29	74	23	126
TX	177	469	104	750
UT	24	33	8	65
VA	73	85	43	201
VT	0	10	0	10
WA	28	77	23	128
WI	167	241	29	437
WV	15	15	14	44
WY	5	16	4	25
Total	3,009	4,299	1,355	8,663

NATIONAL VALUATION SUMMARY—STORAGE TANK PROJECTS

State	Under $100,000	$100,000 to $999,999	$1,000,000 and more	Total
AK	$38,107	1,081,229	$2,579,603	$3,698,939
AL	691,179	14,207,698	6,139,900	21,038,777
AR	380,829	8,074,743	7,943,801	16,399,373
AZ	424,750	1,343,096	10,197,349	11,965,195
CA	1,695,066	16,752,735	159,233,956	177,681,757
CO	178,812	4,701,421	4,203,282	9,083,515
CT	103,314	2,501,370	1,000,000	3,604,684
DC		150,000		150,000
DE			15,227,000	15,227,000
FL	1,567,324	9,536,481	12,987,010	24,090,815
GA	436,075	11,074,819	121,663,650	133,174,544
HI		100,000	1,097,002	1,197,002
IA	115,000	3,348,262	1,243,157	4,706,419
ID	195,992	1,543,757	1,012,030	2,751,779
IL	755,640	13,566,565	19,232,003	33,554,208
IN	653,012	8,424,463	1,438,000	10,515,475
KS	520,171	3,275,952	9,648,829	13,444,952
KY	538,887	14,932,844	42,617,064	58,088,795
LA	774,077	8,487,421	3,023,240	12,284,738
MA	223,965	3,510,290	20,572,185	24,306,440
MD	256,899	6,488,412	17,835,357	24,580,668
ME		821,002		821,002
MI	746,417	6,467,421	14,327,240	21,541,078
MN	100,000	7,219,475	6,124,324	13,443,799
MO	745,939	10,461,807	11,104,643	22,312,389
MS	584,357	7,379,115	4,938,334	12,901,806
MT	66,000	759,376		825,376
NC		5,183,924	11,498,471	16,682,395
ND	198,768	4,255,776	5,298,257	9,752,801
NE	180,216	2,104,799	2,724,425	5,009,440
NH	270,050	1,203,468		1,473,518
NJ	1,354,513	5,904,668	22,999,190	30,258,371
NM	69,836	3,693,050	9,185,635	12,948,521
NV	168,192	1,956,000		2,124,192
NY	2,086,046	15,398,611	44,249,342	61,733,999
OH	1,357,053	15,119,826	75,960,105	92,436,984
OK	417,615	4,912,372	8,603,746	13,933,733
OR	149,505	599,818	2,262,260	3,011,583
PA	1,937,386	21,016,553	154,647,449	177,601,388
PR		1,093,000	1,250,000	2,343,000
RI	225,448	875,000		1,100,448
SC	192,539	1,752,583	16,987,730	18,932,852

NATIONAL VALUATION SUMMARY—STORAGE TANK PROJECTS—Continued

State	Under $100,000	$100,000 to $999,999	$1,000,000 and more	Total
SD	270,092	2,734,830	4,609,597	7,614,519
TN	540,193	7,005,478	3,761,730	11,307,401
TX	4,242,380	28,197,632	46,090,165	78,530,177
UT	477,543	5,234,594	2,956,065	8,668,202
VA	530,952	9,805,449	23,960,472	34,296,873
VT		953,469	1,,000,000	1,953,469
WA	327,996	7,849,247	8,383,800	16,561,043
WI	120,000	6,443,529	51,649,587	58,213,116
WV	350,050	3,701,033	24,730,370	28,781,453
WY	147,479	1,271,999	1,497,678	2,917,156
Total	27,405,664	324,476,462	1,019,695,033	1,371,577,159

NATIONAL SUMMARY—STORAGE TANK PROJECTS

State	Under $100,000	$100,000 to $999,999	$1,000,000 and above	Total
AK	1	3	1	5
AL	14	38	4	56
AR	7	24	4	35
AZ	9	6	4	19
CA	36	45	28	109
CO	4	16	2	22
CT	4	8	1	13
DC	0	1	0	1
DE	0	0	1	1
FL	31	31	6	68
GA	8	25	13	46
HI	0	1	1	2
IA	3	9	1	13
ID	3	5	1	9
IL	15	43	7	65
IN	15	21	1	37
KS	10	11	2	23
KY	11	37	17	65
LA	15	23	2	40
MA	6	10	7	23
MD	6	17	4	27
ME	0	3	0	3
MI	17	17	6	40
MN	2	20	4	26
MO	13	32	6	51
MS	14	27	3	44
MT	1	1	0	2
NC	0	13	6	19
ND	3	9	1	13
NE	4	6	2	12
NH	5	2	0	7
NJ	34	21	11	66
NM	3	15	5	23
NV	4	7	0	11
NY	40	45	20	105
OH	28	38	18	84
OK	10	14	3	27
OR	3	3	1	7
PA	41	50	28	119
PR	0	2	1	3
RI	4	2	0	6
SC	6	3	4	13
SD	6	11	2	19
TN	14	18	2	34
TX	80	91	17	188
UT	8	12	1	21
VA	9	22	10	41
VT	0	2	1	3
WA	8	18	6	32
WI	3	15	8	26
WV	6	9	8	23
WY	3	2	1	6
Total	567	904	282	1,753

NATIONAL VALUATION SUMMARY—WATER SUPPLY LINE PROJECTS

State	Under $100,000	$100,000 to $999,999	$1,000,000 and above	Total
AK	$214,599	$2,558,808	$9,574,784	$12,348,191
AL	1,729,174	28,147,107	30,148,835	60,025,116
AR	1,128,655	17,951,868	29,145,264	48,225,787
AZ	2,107,851	20,225,480	134,507,774	156,841,105
CA	8,866,229	113,892,609	1,075,091,308	1,197,850,146
CO	2,405,268	29,126,332	58,372,731	89,904,331
CT	976,847	8,930,401	16,243,241	26,150,489
DC		1,457,861	11,870,350	13,328,211
DE	381,632	2,392,494		2,711,126
FL	5,194,345	83,666,054	319,387,231	408,247,630
GA	2,664,527	50,508,304	293,932,789	347,105,620
HI		3,709,799	57,818,708	61,528,507
IA	1,569,679	15,629,751	49,698,286	66,897,716
ID	259,524	5,199,794	2,383,790	7,843,108
IL	4,809,166	58,331,825	173,550,483	236,691,474
IN	1,912,298	23,666,296	41,529,137	67,107,731
KS	4,611,878	13,978,369	31,303,098	49,893,345
KY	5,254,941	35,544,321	87,018,882	127,818,144
LA	3,417,005	37,886,333	41,466,717	82,770,055
MA	2,319,506	39,028,933	130,345,646	171,694,085
MD	11,248,737	36,749,284	75,047,436	123,045,457

NATIONAL VALUATION SUMMARY—WATER SUPPLY LINE PROJECTS—Continued

State	Under $100,000	$100,000 to $999,999	$1,000,000 and above	Total
ME	494,786	6,914,391	25,010,935	32,420,112
MI	5,146,753	67,691,518	209,917,884	282,756,155
MN	3,982,966	66,952,027	77,636,133	148,571,126
MO	2,409,456	31,626,359	31,345,781	65,381,596
MS	1,451,833	22,001,527	13,398,116	36,851,476
MT	335,650	5,015,187		5,350,837
NC	3,301,081	52,323,379	35,643,570	91,268,030
ND	1,593,930	8,743,655	22,040,836	32,378,421
NE	2,901,813	11,031,678	14,507,084	28,441,575
NH	652,755	3,730,757	7,566,585	11,950,097
NJ	3,117,915	19,455,034	78,509,125	101,082,074
NM	1,259,190	13,562,112	33,426,546	48,247,848
NV	462,911	3,258,544	412,470,112	416,191,567
NY	5,623,593	59,772,744	602,810,955	668,207,292
OH	8,485,955	91,960,611	283,620,791	384,067,357
OK	3,058,383	25,153,439	24,772,415	52,984,237
OR	1,264,422	14,349,393	12,578,224	28,192,039
PA	12,114,250	55,954,269	379,500,485	447,569,004
PR		2,151,800	21,052,700	23,204,500
RI	150,000	5,478,092	5,540,621	11,168,713
SC	1,576,061	9,298,291	64,092,929	74,967,281
SD	666,493	8,856,894	34,486,566	44,009,953
TN	1,967,969	21,921,960	71,261,730	95,151,659
TX	11,920,710	180,877,296	309,316,629	602,114,635
UT	2,470,395	15,986,476	24,633,493	43,090,364
VA	2,010,211	39,507,394	194,244,398	235,762,003
VT	352,327	4,226,983	2,000,000	6,579,310
WA	1,713,427	29,605,708	62,926,940	94,246,075
WI	8,009,352	72,465,604	28,505,086	108,980,042
WV	673,340	9,373,782	37,140,488	47,187,610
WY	758,865	8,962,771	20,965,726	30,687,362
Total	150,936,653	1,596,791,698	5,809,359,373	7,557,087,724

NATIONAL SUMMARY—WATER SUPPLY LINE PROJECTS

State	Under $100,000	$100,000 to $999,999	$1,000,000 and above	Total
AK	3	7	4	14
AL	35	84	16	135
AR	29	51	15	95
AZ	42	57	21	120
CA	175	338	167	680
CO	45	81	12	138
CT	19	26	6	51
DC	0	3	2	5
DE	7	6	0	13
FL	97	213	74	384
GA	48	137	55	240
HI	0	7	4	11
IA	29	43	19	91
ID	6	17	2	25
IL	99	181	27	307
IN	42	74	10	126
KS	110	53	13	176
KY	142	110	33	285
LA	65	111	21	197
MA	47	110	28	185
MD	205	132	23	360
ME	8	19	8	35
MI	98	195	68	361
MN	70	182	28	280
MO	53	100	13	166
MS	26	73	7	106
MT	8	10	0	18
NC	54	140	19	213
ND	25	26	9	60
NE	64	43	5	112
NH	16	13	4	33
NJ	64	61	16	141
NM	26	39	13	78
NV	10	10	5	25
NY	110	177	79	366
OH	160	279	75	514
OK	64	89	12	165
OR	20	51	4	75
PA	242	168	75	485
PR	0	4	8	12
RI	3	14	2	19
SC	34	32	9	75
SD	14	39	11	64
TN	35	69	4	108
TX	213	519	83	815
UT	57	46	12	115
VA	39	100	37	176
VT	5	12	1	18
WA	34	88	16	138
WI	145	232	17	394
WV	13	24	14	51
WY	16	20	6	42
Total	2,971	4,715	1,212	8,898

NATIONAL VALUATION SUMMARY—WATER TREATMENT PROJECTS

State	Under $100,000	$100,000 to $999,999	$1,000,000 and above	Total
AK	$117,590	$763,005	$7,579,603	$8,460,198

NATIONAL VALUATION SUMMARY—WATER TREATMENT PROJECTS—Continued

State	Under $100,000	$100,000 to $999,999	$1,000,000 and above	Total
AL	722,522	12,529,544	34,410,440	47,662,506
AR	699,784	11,744,605	29,568,439	42,012,828
AZ	1,020,499	7,673,828	83,392,323	92,086,650
CA	6,186,568	70,474,704	670,685,981	747,347,253
CO	1,196,156	11,081,841	73,188,494	85,466,491
CT	175,432	5,524,071	32,619,886	38,319,389
DE	242,998	3,062,048	3,497,010	6,802,416
FL	4,109,809	34,699,780	223,124,990	261,934,579
GA	820,107	13,579,280	144,615,141	159,014,528
HI	....	1,560,954	7,560,002	9,120,956
IA	354,877	6,011,861	52,525,784	58,892,522
ID	312,501	2,800,973	....	3,113,474
IL	2,753,626	27,304,504	82,098,885	112,157,015
IN	711,448	6,233,013	4,695,144	11,639,605
KS	861,208	4,522,307	13,766,924	19,150,439
KY	650,185	15,009,506	62,064,342	77,724,033
LA	939,004	18,576,366	37,641,205	57,156,575
MA	1,754,036	5,432,163	242,790,157	249,976,356
MD	1,590,066	20,396,943	87,373,227	109,360,236
ME	112,500	1,649,628	12,909,490	14,671,618
MI	2,126,011	14,847,281	104,825,311	121,798,603
MN	1,446,025	5,341,979	119,119,872	125,907,876
MO	1,328,183	14,261,731	15,820,856	31,410,770
MS	839,341	13,970,065	17,682,797	32,492,203
MT	270,569	1,703,559	4,236,362	6,210,490
NC	695,539	8,792,296	408,395,456	417,883,291
ND	356,522	1,543,427	25,252,016	27,151,965
NE	945,879	2,952,498	9,168,035	13,066,412
NH	705,740	150,000	7,553,298	8,409,038
NJ	3,030,321	10,190,308	126,580,542	139,801,171
NM	782,867	5,794,054	60,363,298	66,940,219
NV	570,528	704,792	17,365,000	18,640,320
NY	4,004,495	19,888,116	237,156,685	261,049,296
OH	2,514,149	18,015,601	174,859,705	195,389,455
OK	1,299,963	14,365,847	74,873,664	90,539,474
OR	1,018,624	6,319,913	22,216,000	29,554,537
PA	2,453,331	29,078,986	488,198,173	519,730,490
PR	....	1,128,800	14,557,600	15,686,400
RI	130,000	1,771,452	20,000,000	21,901,452
SC	479,113	6,346,646	52,506,443	59,332,202
SD	556,360	1,425,955	20,925,900	22,908,215
TN	498,014	15,323,221	56,326,618	72,147,853
TX	4,897,153	35,623,616	174,767,791	215,288,560
UT	1,258,985	5,043,846	51,562,845	57,865,676
VA	1,087,004	8,433,792	39,031,298	48,552,094
VT	468,497	1,555,079	13,068,500	15,092,076
WA	1,241,518	10,598,293	18,161,231	30,001,042
WI	1,378,120	9,958,775	18,869,835	30,206,730
WV	293,926	4,115,776	51,396,363	55,806,065
WY	816,248	3,536,322	1,288,267	5,640,837
Total	62,823,941	553,413,310	4,352,237,228	4,968,474,479

NATIONAL SUMMARY—WATER TREATMENT PROJECTS

State	Under $100,000	$100,000 to $999,999	$1,000,000 and above	Total
AK	2	3	2	7
AL	16	32	12	60
AR	14	33	15	62
AZ	24	21	9	54
CA	128	202	90	420
CO	29	32	13	74
CT	7	12	5	24
DE	4	10	1	15
FL	82	110	47	239
GA	20	30	18	68
HI	0	4	3	7
IA	6	19	10	35
ID	7	10	0	17
IL	63	78	25	166
IN	15	22	4	41
KS	16	15	5	36
KY	14	33	24	71
LA	21	56	15	92
MA	48	16	14	78
MD	34	75	15	124
ME	2	3	4	9
MI	43	44	23	110
MN	34	16	10	60
MO	25	42	7	74
MS	16	54	9	79
MT	6	6	2	14
NC	12	23	20	55
ND	8	6	7	21
NE	20	10	4	34
NH	17	1	4	22
NJ	69	33	11	113
NM	19	24	10	53
NV	12	4	3	19
NY	88	61	30	179
OH	56	52	33	141
OK	31	46	17	94
OR	17	17	3	37
PA	62	76	57	195
PR	0	4	3	7
RI	4	4	1	9
SC	14	16	7	37
SD	10	8	8	26
TN	13	40	9	62
TX	101	125	21	247
UT	32	12	6	50
VA	22	24	12	58
VT	9	4	2	15
WA	23	30	9	62
WI	38	26	9	73
WV	6	7	15	28
WY	19	11	1	31
DC	0	0	0	0
Total	1,378	1,642	684	3,704

UNDERGROUND STORAGE TANK PROJECTS ON INDIAN LANDS

EPA region	Tribe	Cost
5	Menominee Tribe	$100,000
5	Oneida Apache Trible	50,000
6	Jicarilla Apache Tribe	100,000
6	Laguna Pueblo	100,000
6	Sandia Pueblo	75,000
8	Southern Ute	300,000
9	Chenehuevi Tribe	250,000
9	Fort McDowell Reservation	500,000
9	Navajo Nation	600,000
10	Yakima Tribe	300,000

MUNICIPAL SOLID WASTE PROJECTS

EPA region	State or tribe, and project type	Cost (thousands)
1	Connecticut, landfill closures (15)	$14,000
1	Connecticut, recycling center (1)	2,000
1	Connecticut, transfer stations (6)	1,200
1	Maine, landfill closures (296)	74,195
1	Maine, landfill construction (2)	15,000
1	Massachusetts, landfill closures (30)	67,750
1	New Hampshire, landfill closures (3)	975
1	Rhode Island, landfill closures (3)	5,850
2	New Jersey, recycling, source separation, and treatment facilities (8).	191,779
2	New York, landfill closures (74)	161,472
2	New York, recycling facilities (18)	109,730
2	New York, sludge composting projects (20)	161,315
2	New York, landfill construction (10)	20,000
2	New York, transfer stations (3)	1,000
2	Puerto Rico, landfill closure and construction (11)	462,321
2	Virgin Islands, miscellaneous projects (10)	287,900
3	Delaware, landfill expansions (2)	11,500
3	Delaware, gas collection (2)	3,700
3	Pennsylvania recycling centers (21)	9,466
5	Illinois, urban trash cleanup (1)	920
5	Illinois, HHW collection centers (5)	11,000
5	Leech Lake Indian Reservation, landfill closure (1)	715
5	Red Lake Indian Reservation, landfill closure (1)	310
5	White Earth Indian Reservation landfill closure (1) transfer station (1).	100
5	Menominee Indian Reservation, landfill closure (1)	600
5	Bad River Indian Reservation, landfill closure (1)	250
5	Lac Courte Oreilles Indian Reservation, landfill closure (1).	450
5	Hannahwille Indian Reservation, landfill closure (1)	480
5	Sault Ste. Marie, landfill closure (1)	850
6	Louisiana, landfill closures ( )	26,500
6	Louisiana, landfill expansions (28)	180,000
6	Louisiana, lanffill construction (1)	4,000
6	Louisiana, transfer stations (20)	100,000
6	Louisiana, waste to energy (1)	350,000
6	Louisiana, composting facilities (3)	150,000
6	Louisiana, waste oil (64)	6,400
6	New Mexico, landfill construction (11)	9,200
6	New Mexico, landfill expansion (1)	750
6	Oklahoma, landfill expansions (4)	16,000
6	Oklahoma, landfill closures (50)	5,000
6	Oklahoma, transfer stations (25)	1,750
6	Oklahoma, recycling centers (5)	750
6	Oklahoma, composting facilities (25)	3,125
6	Texas, landfill closures (179)	296,578
6	Texas, transfer stations (9)	1,285
6	Taos Pueblo, landfill closure (1)	45
6	Taos Pueblo, transfer station (1)	100
7	Iowa, HHW processing facilities (4)	300
7	Iowa, landfill closures (16)	43,725
7	Kansas, transfer stations (5)	5,479
7	Kansas, landfill closure (1)	2,000
7	Missouri, landfill closures (9)	1,647
7	Missouri, transfer stations (4)	1,500
7	Missouri, miscellaneous NSW facilities (3)	18,000
7	Nebraska, landfill (1)	321
7	Nebraska, tire processing facility	472
7	Nebraska, recycling, composting and mulch facilities (15).	1,499
7	Potowatomi Reservation, cleanup and recycling	85
7	Kickapoo Reservation, landfill closure recycling	50
7	Omaha Reservation, landfill closure and recycling	125
7	Winnebago Reservation, recycling center (1)	55
7	Santee Sioux Reservation, landfill closure and recycling.	90
7	Mesquakie (Sac and Fox of Mississippi) recycling facility.	60
7	Sac and Fox (Mississippi), recycling facility	25
8	Colorado, landfill closures (2)	400
8	Colorado, landfill construction (2)	2,000
8	Colorado, transfer stations (2)	75
8	Colorado, combuster (1)	250
8	North Dakota, landfill closures (20)	5,055
8	South Dakota, landfill closures (79)	3,982
8	South Dakota, landfill construction (18)	9,082
8	South Dakota, transfer stations (3)	735
8	South Dakota, restricted use facilities (83)	2,154
8	Wyoming, landfill construction (1)	730
8	Fort Belknap, landfill closures (3)	600
8	Fort Berthold, landfill closures (3)	600
8	Cheyenne River, landfill upgrade (1)	1,000
8	Oglala Sioux, landfill closures (9)	510
8	Rosebud Sioux, landfill closure (15)	645
8	Standing Rock, landfill closures (8)	1,600
8	Uintah and Ouray, landfill closures (5)	1,000
8	Wind River, landfill closures (10)	2,000
9	Agua Caliente Reservation, landfill closures (3)	75
9	Grindstone Rancheria, landfill closure (1)	25
9	Hopland Rancheria, landfill closures (5)	125
9	Morongo Reservation, landfill closures (2)	50
9	Round Valley Reservation, landfill closures (6)	150
9	Santa Ynez Reservation, landfill closure (1)	25
9	Yurok Reservation, landfill closures (5)	125
9	Tohono O'odham Nation, landfill closures (50)	1,250
9	Hopi Reservation, landfill closures (3)	750
9	Navajo Nation, landfill closures (3)	75
9	Navajo Nation, transfer stations (6)	600
9	Navajo Nation, landfill construction (2)	2,000
10	Alaska, landfill closures (2)	2,000
10	Alaska, landfill construction (2)	6,000
10	Alaska, landfill expansion (1)	5,000
10	Alaska, plastic recycling facility (1)	100
10	Idaho, landfill closure and construction (44)	84,563
10	Oregon, miscellaneous projects (10)	4,766
10	Washington, landfill closures (3)	10,440
10	Washington, miscellaneous projects (26)	87,400
10	Umitilla Tribe, landfill closures (10)	650
10	Makah Tribe, landfill closure (1)	3,000

ASSOCIATION OF STATE AND INTERSTATE WATER POLLUTION CONTROL ADMINISTRATORS,
Washington, DC, January 22, 1993.

Hon. MAX BAUCUS,
Chairman, Senate Environment and Public Works Committee, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN BAUCUS: In response to your request for information relative to the short term needs of the State Revolving Loan Fund (SRF) for supplemental funds, the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) has surveyed the 50 States. ASIWPCA found that there are over $10 Billion ready to proceed projects currently on line that could benefit.

ADDITIONAL SRF FUNDS THAT COULD BE USED

[In millions of dollars]

	1993	1994	Total
Traditional needs: (wastewater plants, interceptors, collectors, combined sewer overflows, etc.)	$3,938	$3,741	$7,679
Other States[1]	345	483	828
Total, 40 reporting States	4,283	4,224	8,507

[1] Alaska, Arkansas, Iowa, Montana, and North Dakota can satisfy projects that are ready to go on the SRF priority list for traditionally eligible needs if SRF funding continues at fiscal year 1993 levels. But, they could use the indicated funds if they were able to eliminate Title II requirements and provide principal subsidies for water supply or wastewater for small hardship communities or native tribes. Rhode Island reported in this category, as well as for traditional needs.

Note.—While the other States were not asked to provide such information, their ability to use funds for non-traditional eligibilities, if flexibility were allowed, would substantially increase the funding levels reported above. Total estimated for 50 States and territories, $10,000,000,000.

Coupled with other ASIWPCA and USEPA information, the survey data indicates that the SRF should be appropriated at the $5 Billion level in FY 1994–97, as originally authorized by the 1972 Act. This does not account for inflation or increased mandates under the 1987 Act. It has been clearly documented that the SRF is the best mechanism for promoting construction of effective environmental infrastructure. It is unique in its ability to provide funding and jobs, with $5 Billion generating up to 350,000 jobs annually and over 2-5 times that investment over time.

Short-Term: The over $10 Billion in additional projects "ready to go" for 1993 and 1994 would enhance protection of America's waters. In providing supplemental funds, however, Congress needs to assure that funds are accompanied by the following reforms, so that States can expedite obligations:

(1) Due to deficits, States are unable to match a supplemental.

(2) Purchase of land/easements should be eligible. Restrictions on funding collectors and combined sewer overflows should be eliminated.

(3) Limitations on refunding/refinancing and cash payments should be eliminated.

(4) States should be able to extend repayment periods and blend principal subsidies with loans for small hardship communities. Smaller projects should be exempt from Federal requirements.

(5) Grant projects, created by the Bush Administration at the SRF's expense, should not continue. "Special treatment for noncompliance" fuels a feeding frenzy among city lobbyists that is inequitable and threatens the very core of the SRF. The multitude of municipalities who accepted their responsibilities are being penalized.

(6) States, whose projects "ready to go" can be satisfied by continuing existing funding levels, should be able to fund water supply projects and eliminate Title II and other Federal requirements.

Long-Run: Municipalities are the largest single source of water pollution. The nation's wastewater treatment needs documented by the States and USEPA exceed $130 Billion. Once the 1987 Act requirements are reflected in facility plans, they are likely to be over $200 Billion. The SRF, with its leveraging potential, offers the only viable national vehicle for meeting that need. It has been successful in the 50 States. While the Act envisioned a 6 year $8.4 Billion capitalization to be phased out in FY94, Congress continues the program because of its effectiveness. States can tailor SRFs to meet local needs, building projects cheaper and 50 percent faster. In contrast, with 55-75 percent Federal grants, cities face a plethora of nationally prescriptive requirements that increase costs, delay projects, discourage local initiative and often reward non-compliance. In providing long term funding, the following needs to be considered in addition to the above reforms as outlined in ASIWPCA testimony:

Problems States are encountering in providing a 20 percent match,

Simplification of Federal requirements,

Broad flexibility to extend repayment periods, and

Elimination of the 4 percent restriction on funds for State administration.

The Association appreciates this opportunity to respond to your request. Please contact me if you have any questions or further needs.

Sincerely,

ROBERTA (ROBBI) SAVAGE,
Executive Director.

ADDITIONAL SRF FUNDS THAT COULD BE USED FOR PROJECTS DOCUMENTED AND READY TO GO

[In millions of dollars]

	1993	1994	Total
Alabama	49	....	49
Alaska[1]	63	63	126
Arkansas[1]	25	175	200
California	371	385	756
Colorado	19	200	219
Connecticut	146	225	371
Delaware	90	42	132
Florida	200	400	600
Georgia	95	40	135
Idaho	19	21	40
Illinois	214	....	214
Iowa[1]	20	20	40
Kansas	3	20	23
Louisiana	16	17	33
Maine	100	200	300
Maryland	....	317	317
Michigan	41	100	141
Minnesota	16	173	189
Mississippi	26	15	41
Montana[1]	20	28	48
New Hampshire	57	120	177
New Jersey	280	140	420
New Mexico	20	12	32
New York	180	277	457
North Dakota[1]	172	172	344
Ohio	122	100	222
Oklahoma	37	29	66
Pennsylvania	128	33	161
Rhode Island	29+[1]45	18+[1]25	47+[1]70
South Carolina	156	116	272
South Dakota	25	12	37
Tennessee	50	50	100
Texas	320	....	320
Utah	....	22	22
Vermont	8	18	26
Virginia	200	300	500
Washington	790	197	987
West Virginia	49	20	79
Wisconsin	82	112	194
Total; 40 States reporting	4,283	4,224	8,507

[1] These States do not have projects "ready to go" on SRF priority lists for traditionally eligible needs that could now use supplemental funds, but could use the funds indicated if they were able to eliminate Title II requirements and provide principal subsidies or zero interest loans for water supply or wastewater for small hardship communities or Native Tribes.

Note.—Rhode Island has projects in both categories. While the other States were not asked to provide such information, their ability to use funds in a like manner, if flexibility were allowed, could substantially increase the totals indicated above. Estimated total for 50 States and the territories: Over $10,000,000,000.

LIST OF STATE PROJECTS READY TO GO, WHICH COULD BE FUNDED IF ADDITIONAL FEDERAL FUNDS ARE PROVIDED

[In millions of dollars]

State and projects	Additional SRF funding needs		Total
	1993	1994	
Alabama:			
Montgomery	49	....	49
Jefferson County	....	....	....
Alex City	....	....	....
Monroeville	....	....	....
Jasper	....	....	....
Mobile	....	....	....
Robertsdale	....	....	....
Wetumpka	....	....	....
Chickasaw	....	....	....
Oxford	....	....	....
Satsuma	....	....	....
Decatur	....	....	....
Level Plains	....	....	....
Silver Hill	....	....	....
Madison	....	....	....
Huntsville	....	....	....
Talladega	....	....	....
Marion	....	....	....
Arkansas:			
Kodiak	63	63	126
Ketchikan	....	....	....
Unalaska	....	....	....
Wrangell	....	....	....
Seldovia	....	....	....
Pelican	....	....	....
King Cove	....	....	....
Skagway	....	....	....
Nome	....	....	....
Juneau	....	....	....
Petersburg	....	....	....
Saxman.			
(Plus an additional 100 projects to be determined)	....	....	....
Arizona:			
231 projects identified (available from ASIWPCA	25	175	200
EBMUD—San Antonio	371	385	756
Escondido	....	....	....
Pacheco	....	....	....
Ojai	....	....	....
Livermore	....	....	....
Triunfo	....	....	....
Moulton Niguel	....	....	....
Padre Dam	....	....	....
Olivehain	....	....	....
San Francisco	....	....	....
Loyalton	....	....	....
North of River	....	....	....
Tulare	....	....	....
City of Colton	....	....	....
San Lorenzo Valley	....	....	....
Lake Mathews	....	....	....
County of Merced	....	....	....
City of Corona	....	....	....
Paradise	....	....	....
City of Santa Monica	....	....	....
Monterey Regional WPCA	....	....	....
Placer County	....	....	....
Running Springs	....	....	....
Rubidoux	....	....	....
Santa Cruz	....	....	....
Padre Dam	....	....	....
Torrance	....	....	....
San Elijo	....	....	....
Watsonville	....	....	....
South Tahoe	....	....	....
Western Riverside	....	....	....
Pacifica	....	....	....
Bear Valley	....	....	....
Santa Margarita	....	....	....
Otay Water District	....	....	....
Windsor	....	....	....
SAWPA	....	....	....
LACSD La Can	....	....	....
Lake County	....	....	....
Sonoma Valley	....	....	....
Valencia	....	....	....
McKinleyville	....	....	....
June Lake	....	....	....
WASCO	....	....	....
San Francisco	....	....	....
Santa Monica	....	....	....
Colorado:			
Boulder	19	200	219
Niwot	....	....	....
Mesa County	....	....	....
Empire	....	....	....
Ft. Morgan	....	....	....
Mine Land Rec	....	....	....
San Juan River Met	....	....	....
Connecticut:			
Newton	146	225	371
East Haven	....	....	....
Bridgeport	....	....	....
Suffield	....	....	....
Canton	....	....	....
West Haven	....	....	....
New Haven	....	....	....
Meriden	....	....	....
Stratford	....	....	....
Middletown	....	....	....
Waterford	....	....	....
East Hampton	....	....	....
MDC	....	....	....
Norwich	....	....	....
Seymour	....	....	....
New Milford	....	....	....
Greenwich	....	....	....
Stanford	....	....	....
Milford	....	....	....
Norwalk	....	....	....
Fairfield	....	....	....
Branford	....	....	....
Westport	....	....	....
Ridgefield	....	....	....
Maiden	....	....	....
Lebanon	....	....	....
Lisbon	....	....	....
Ansonia	....	....	....
Waterbury	....	....	....
Seymour/Oxford	....	....	....
Simsbury	....	....	....
Middlefield	....	....	....
Griswold	....	....	....
Vernon	....	....	....
Somers	....	....	....
Wilton	....	....	....
North Canaan	....	....	....
Ledyard	....	....	....
Wallingford	....	....	....
Hartford	....	....	....
South Windsor	....	....	....
Newington	....	....	....
Harrington	....	....	....
Winchester	....	....	....
Union	....	....	....
Woodstock	....	....	....
Colechester	....	....	....
Sterling	....	....	....

LIST OF STATE PROJECTS READY TO GO, WHICH COULD BE FUNDED IF ADDITIONAL FEDERAL FUNDS ARE PROVIDED—Continued

[In millions of dollars]

State and projects	Additional SRF funding needs		Total
	1993	1994	
Killingworth			
Talcottville			
Gillette Castle			
Sherwood Island			
Wharton Brook			
Black Rock			
Peoples Forest			
Kent Falls			
Lake Waranaug			
Day Pond			
Squantz Pond			
Chattfield Hollow			
Wadsworth Falls			
Sleeping Giant			
Hublein Tower			
Various camp grounds and picnic areas			
Delaware:			
Rehoboth	90	42	132
Kent County			
New Castle County			
Seaford			
Florida:			
Pinellas County	200	400	600
Apopka			
Howey in the Hills			
Oviedo			
Seminole County			
S. Broward County			
Sanford			
Inverness			
Citrus County			
Longwood			
Volusia County			
Tequesta			
Bartow			
Punta Gorda			
Collier County			
Edgewater			
Gainesville			
Winter Park			
Alachua County			
Plant City			
Palmetto			
Eustis			
Callaway			
Palatka			
Panama City			
Magnolia Park			
North Palm Beach			
Largo			
Lake Mary			
Ft. Pierce			
Yankeetown			
Brevard County			
Pinellas Park			
St. Johns County			
Winter Garden			
Dunedin			
Miramar			
Jacksonville Beach			
Hallandale			
Indian River County			
Clearwater			
Escambia County			
Delray Beach			
Jacksonville			
Davie			
Daytona Beach			
Sarasota County			
Georgia:			
Columbus	95	40	135
Cobb County			
Blakely			
Donalsonville			
Savannah			
Indiana:			
Lemhi County	19	21	40
Stanley			
Meridian			
Montpelier			
Vicrot			
Boise			
Council			
Culdesac			
Pocatello			
Priest River			
Hayden			
Buhl			
Coeur d' Alene			
Gooding			
Nampa			
Rupert			
Heyburn			
Illinois:			
Bonnie Brae	214		214
Braidwood			
Chillicothe			
Clinton			
Country Club Hills			
Cullom			

LIST OF STATE PROJECTS READY TO GO, WHICH COULD BE FUNDED IF ADDITIONAL FEDERAL FUNDS ARE PROVIDED—Continued

[In millions of dollars]

State and projects	Additional SRF funding needs		Total
	1993	1994	
DuPage County			
Dupo			
Evanston			
Fairbury			
Farmer City			
Fox Lake			
Franklin Park			
Henry			
Lake Zurich			
Libertyville			
McLeansboro			
Maple Park			
Marseilles			
Mendota			
Minonk			
Mt. Prospect			
MWRDGC			
North Chicago			
Olney			
Oneida			
Palos Park			
River Forest			
Rock River			
Sauget			
Seneca			
Sheridan			
Skokie			
Springfield			
Toluca			
Wasco			
Washington			
Wheaton			
Wilmette			
Iowa:			
(Definitive project list not yet available)	20	20	40
Kansas:			
Topeka	3	20	23
Hays			
JO County			
Ashland			
Atchison			
Maple Hill			
Osawatomie			
Leon			
Sedan			
Satanta			
Olathe			
Coffeyville			
Eureka			
McPherson			
Caldwell			
Valley Falls			
Lenora			
Altoona			
Scranton			
Great Bend			
Holyrood			
Madison			
CK County			
Valley Center			
Anthony			
St. Francis			
Waverly			
SH County			
Hesston			
Baldwin			
Udall			
Gypsum			
Ottawa			
Bonner Springs			
Mankato			
Baxter Springs			
Arkansas City			
Ellinwood			
Girard			
Louisiana:			
Sabine River Authority	16	17	33
Shreveport			
St. Charles Parish			
Lafourche Parish			
Maine:			
Bangor	100	200	300
Portland			
Westbrook			
Bath			
Thomaston			
Vinalhaven			
Cornish			
Maryland:			
(Definitive project list not yet available)		317	317
Michigan:			
Branchio	41	100	141
Brandon			
Dundee			
Grass Lake			
Leoni Tays			
Litchfield			
Port Austin			
Wyandottle			
Detroit			

LIST OF STATE PROJECTS READY TO GO, WHICH COULD BE FUNDED IF ADDITIONAL FEDERAL FUNDS ARE PROVIDED—Continued

[In millions of dollars]

State and projects	Additional SRF funding needs		Total
	1993	1994	
Minnesota:			
Pelican Rapids	16	173	189
St. Paul			
Moose Lake			
Morgan			
Silver Bay			
Winona Township			
Landfall			
Wyoming			
Danvers			
Kasson			
Redwood Falls			
Albert Lea			
Moorehead			
Piera			
Princeton			
Cokato			
Nashwauk			
MWCC Bubble Ret.			
Farmington			
MNWCC Joint Int.			
MWCC Lino Lakes Int.			
MWCC Blaine Int.			
MWCC Chaska			
MWCC B. Lake			
Mississippi:			
Vicksburg	26	15	41
Jackson			
Aberdeen			
Lumberton			
Waveland Regional			
Montana.			
(Definitive project list not yet available)	20	28	48
New Hampshire:			
Rochester	57	120	177
Keene			
Epping			
Concord			
Nashua			
Milford			
Manchester			
Merrimack			
Claremont			
Jaffrey			
Goffstown			
Hinsdale			
Northwood			
Hudson			
New Jersey:			
71 projects identified (Available from ASIWPCA)	280	140	420
New Mexico:			
Albuquerque	20	12	32
New York:			
Albany County (4)	180	277	457
Allegany (5)			
Broose (3)			
Cattaraugus (7)			
Cayuga (11)			
Chautaugua (5)			
Cheung (2)			
Cherango (4)			
Clinton (4)			
Columbia (3)			
Cortland (3)			
Delaware (4)			
Dutchess (8)			
Erie (18)			
Essex (6)			
Franklin (6)			
Fulton (9)			
Genesee (5)			
Greene (3)			
Hamilton (2)			
Herklimer (7)			
Jefferson (12)			
Kings (3)			
Lewis (6)			
Livingston (5)			
Madison (4)			
Monroe (12)			
Montgomery (10)			
Nassau (22)			
Niagara (16)			
Oneida (10)			
Onandaga (10)			
Orange (35)			
Orleans (2)			
Osuego (7)			
Otsego (2)			
Putnam (1)			
Queens (1)			
Rensselaer (7)			
Rockland (3)			
Saratoga (9)			
Schenectady (5)			
Schaharia (1)			
Schuyler (1)			
Seneca (4)			
St. Lawrence (11)			

LIST OF STATE PROJECTS READY TO GO, WHICH COULD BE FUNDED IF ADDITIONAL FEDERAL FUNDS ARE PROVIDED—Continued

[In millions of dollars]

State and projects	Additional SRF funding needs		Total
	1993	1994	
Steuben (6)			
Suffolk (24)			
Sullivan (9)			
Tompkins (8)			
Ulster (9)			
Warren (2)			
Washington (5)			
Wayne (10)			
Westchester (8)			
Wyoeing (1)			
North Dakota:			
105 projects identified (Available from ASIWPCA)	172	172	344
Ohio:			
Cincinnati Metropolitan	122	100	222
Bowling Green			
Euclid			
Springfield			
Medina County			
Hiram			
Granville			
Northeast Ohio Regional			
Oklahoma:			
348 projects identified (Available from ASIWPCA)	37	29	66
Pennsylvania:			
Decatur	128	33	161
Harrison			
Huston			
Mansfield			
Middleburg			
Muncy			
Porter			
Shamokin			
South Philipsburg			
Worth			
Smethport			
Keating			
Penn			
Chicora			
Briar Creek			
Centerhall			
Delaware			
Hartleton			
Ralpho			
Sayre			
Shinglehouse			
West Buffalo			
Chippewa			
Penn Hills			
Burrell			
Baden			
Hempfield			
Peters			
S. Fayette City			
Lower Lackawana			
White Haven			
Rush			
Dennison			
East Penn			
Ross			
Sugerloaf			
Conyngham			
Greater Pottsville			
North Union			
North Manheim			
Wayne			
Haxle			
Snyder			
Straban			
Hermitage			
Farrell			
N & S Shenango			
Ridgeway			
North Warren			
S.W. Delaware			
Avondale			
Rhode Island:			
Bristol	74	43	117
Burillville			
E. Providence			
NBWQMDC			
Narragansdett			
New Shoreham			
S. Kingstown			
N. Kingstown			
Woonsocket			
N. Smithfield			
Central Falls			
Johnston			
Cranston			
Warwick			
Coventry			
South Carolina:			
Georgetown	156	116	272
Grand Strand			
Richland			
Taylors			
Lake City			
St. Andrews			
Saluda			
Blackville			
Jonesville			
Aiken			
Bamberg			
Allendale			
Pickens			
Beaufort			
Mt. Pleasant			
Western Carolina			
Sumter			
Cayce			
James Island			
Lexington			
Florence			
Spartanburg			
Chesnee			
Lancaster			
North Myrtle Beach			
Oconee			
Barnwell			
Pendleton			
Blacksburg			
Ridgeland			
Cowpens			
Kingstree			
James Island			
Denmark			
Batesburg			
Hanahan			
Sullivan's Island			
South Dakota:			
Aberdeen	25	12	37
Belle Fourche			
Box Elder			
Brandon			
Britton Dev. Corp			
Brookings			
Chamberlain			
Custer			
Doland			
Elk Point			
Fort Pierre			
Freeman			
Groton			
Kadoka			
Lake Byron			
Lake Poinsett			
Lead			
Lead-Deadwood			
Leola			
Madison			
Mission			
Rapid City			
Salem			
Sioux Falls			
Sisseton			
Spearfish			
Tea			
Watertown			
Webster			
Worthing			
Yankton			
Tennessee:			
Murfreesboro	50	50	100
Memphis			
Chattanooga			
Nashville			
Texas:			
Bellaire	320		320
Atlanta			
Deer Park			
Hardin			
Heath			
Houston			
Lampasas			
Montgomery			
Terrell			
Van			
Alvarado			
Brownwood			
Jasper			
Jefferson			
League City			
Navasota			
Pine Village			
Texas A & M			
Dallas			
Lubbock			
Plains			
Dalhart			
Nazareth			
Woodville			
Nocona			
Collinsville			
Lumberton			
Groom			
Rankin			
Hidalgo			
Bayside			
Abilene			
Venus			
Edna			
Hallsville			
Marshall			
Deaf Smith			
Sealy			
Harlingen			
Somerset			
New Waverly			
Willis			
Leonard			
Panhandle			
Saint Jo			
Farmers Branch			
Lyford			
Kirbyville			
Stinett			
Matagorda			
Crockett			
Sweetwater			
Nacogdoches			
Zavalla			
Hillsboro			
Orange			
New Ulm			
Bellmond			
Burkburnett			
Decatur			
Frankston			
Granbury			
Kaufmann			
Lorenzo			
Mexia			
Rusk			
Victoria			
Whitesboro			
Utah:			
Central Valley		22	22
Salt Lake City			
Tooele City			
Vermont:			
Charlotte	8	18	26
South Burlington			
Stowe			
Windsor			
Castleton			
Milton			
St. Albans			
Middlebury			
Virginia:			
(Definitive project list not yet available)	200	300	500
Washington:			
Seattle	790	197	987
Auburn			
Tumwater			
Tukwila			
Tacoma			
Port Townsend			
Oak Harbor			
Mercer Island			
Lynnwood			
Everett			
Lacey			
Port of Skagit			
Aberdeen			
Federal Way			
Skyway			
Cross Valley			
Quileute Tribe			
Havel Dell			
Val Vue			
Lake Chelan Reclamation			
Spokane			
Pullman			
Okanogan			
Napavine			
Moses Lake			
Leavenworth			
Kettle Falls			
Kennewick			
Kent			
Kelso			
Des Moines			
Bellingham			
Blaine			
Clark			
Milton			
Metropolitan Seattle			
Colville			
Sewage Treatment—48 projects			
CSO Reduction—8 projects			
NPS Control—52 projects			
West Virginia:			
Lubeck	49	30	79
N. Wayne			
Poca			
Bennwood			
Culloden			
Evans			

LIST OF STATE PROJECTS READY TO GO, WHICH COULD BE FUNDED IF ADDITIONAL FEDERAL FUNDS ARE PROVIDED—Continued

[In millions of dollars]

State and projects	Additional SRF funding needs		Total
	1993	1994	
Follansbee			
Guthrie			
Jaegar			
Glenville			
Thomas			
Meadow Bridge			
Wisconsin:			
114 projects identified (Available from ASIWPCA)	82	112	194
Total, 40 States reporting	4,283	4,224	8,507

Note.—Estimated total for 50 States and territories: Over $10,000,000,000.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $4,176,491,860,224.29 as of the close of business on Monday, February 1, 1993.

Anybody remotely familiar with the U.S. Constitution is bound to know that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States. Therefore, no Member of Congress, House or Senate, can pass the buck as to the responsibility for this shameful display of irresponsibility. The dead cat lies on the doorstep of the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 merely to pay the interest on deficit Federal spending, approved by Congress, over and above what the Federal Government has collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman, and child owes $16,259.86—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averages out to be $1,127.85 per year for each man, woman, and child in America. Or, looking at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

What would America's economic stability be today if there had been a Congress with the courage and the integrity to operate on a balanced budget? The arithmetic speaks for itself.

GAYS IN THE MILITARY

Mr. DURENBERGER. Mr. President, I rise today to address the question of homosexuals in the military. The specific question before us is: Will we approve the Clinton-Nunn proposal, and allow a 6-month period of study on the complex moral, legal, and administrative issues involved? I would urge a vote for the option that will do us the most credit as a deliberative body.

What we are addressing today is not the simple question of whether we approve or disapprove of the sexual orientation of certain individuals. We are discussing whether we have the right to deny some of these individuals the right to serve in the U.S. Armed Forces because of that status.

It is a fundamental principle of American Government that we must not discriminate against an individual for having a certain status—a certain gender, religion, sex, race, disability, or age. In civilian life, the Government can only legitimately prevent or punish conduct—behavior that society views, rightly or wrongly, as harmful to its own interests.

The military is recognized, appropriately in my view, as a special case. Military service does, in fact, require certain forms of discrimination—like restrictions on the role of women in combat, and the exclusion of some disabled persons.

In the present case, homosexuals have been expelled from the military absent any demonstration that they have actually engaged in homosexual conduct. What we have to determine is whether the status of being a homosexual—in and of itself—is sufficiently harmful in a potential military service member to warrant an exception to the rule that in civilian life we do not discriminate on the basis of status.

Is this a decision we have to make now? Yes and no. For each gay person facing disciplinary proceedings in the military, the answer is "Yes." For those who are investigating the tragic death of Seaman Allen Schindler in Japan, again, the answer is "Yes." But for the Americans who are desperately concerned about the economy, the budget deficit, and guaranteeing access to high quality health care and education, the answer is "No."

But the issue will not go away. President Clinton has put us on the track toward a date certain for the resolution of this problem. We can't duck it—so let's get to work on making the best decision we can.

It is in the interest of the Armed Forces of this country that we make a decision, but not an unconsidered decision. This issue affects the lives of millions of men and women currently in uniform, and also those we will need to attract to service in the future. We need to examine the potential consequences in detail—and come to a principled decision.

This Senator isn't prepared to decide today. We are nowhere near that stage yet. When any major change is contemplated in a huge organization of people, one with a varied, distinctive, and constantly changing mission, analysis of the real disruptions that are going to result—and whether they are so great that to risk them would be unwise.

This sort of analysis is precisely what we have lacked so far in the national discussion on gays in the military.

We also need to understand that in recent years, we have repudiated laws that discriminate against individuals in employment or public accommodation on the basis of their status—on the basis of stereotypes that relegate every individual to a pigeonhole. We have repudiated the spurious logic that goes, "All Polish people are stupid. I, Dave Durenberger, am Polish. Therefore, I am stupid. Therefore, do not hire me."

The days of Jim Crow—the days when it was acceptable to put up signs reading "No Irish Need Apply"—are over. Employment law now protects individuals from this kind of pigeonholing by status.

Again, we recognize that the military has the right to discriminate in certain cases. In some areas of discrimination, the military has reversed its opinion—in other areas, it has not. And for the next 6 months we will be examining whether the policy on homosexuals ought to be reversed.

What we need to determine is whether the status of homosexuality standing alone bestows on everyone in that category a set of behavior patterns that can't be modified by conduct regulation. Then, and only then, should status classification lead to blanket exclusion.

It is objected that having gays in the military would pose a serious threat to morale—that it would reduce the camaraderie, the bonding, and the trust that are necessary if soldiers are going to be an effective fighting team in combat. But it is acknowledged even by those who advance this line of argument that there are gays currently serving in the military. What evidence suggest that these gays have impaired the morale or fighting effectiveness of our Armed Forces.

I am not saying that there is no evidence proving this. I am merely saying that I have not seen it—yet. That's another reason why I think this 6-month delay will be extremely valuable—we need to find out if their acknowledged presence will reduce our military effectiveness.

It has also been objected that gays in the military might abuse positions of authority to engage in sexual harassment. Again, no evidence has been presented to demonstrate that these cases would be any more disruptive than the cases of heterosexual harassment that we already have to confront.

It would be truly perverse to draw the conclusion from the Tailhook scandal that heterosexual men or women ought to be excluded from the military. It would seem to me that if this were the sole objection, the appropriate solution is not to exclude people from the armed services, but to have a code of conduct and enforce it.

I recognize that there is undoubtedly more to this argument than I currently know. And I want to learn about it over the next 6 months.

I join my distinguished colleague, the senior Senator from Georgia, as well as the no less distinguished Chairman of the Joint Chiefs of Staff, General Powell, in hoping that the proposed 6 months of investigation will give us a better understanding of the serious objections that no doubt exist to the lifting of the ban.

Like Senator NUNN, I am making no commitment to support the full lifting of the ban when the 6-month investigation is over. In 6 months, I expect that we will have a better understanding of the real facts and issues involved—and thus be able to make that decision intelligently. In the meantime, I would modestly suggest that it would be appropriate for us to address other issues of national importance—such as economic growth and job creation, the Federal budget deficit, and the fundamental reform of U.S. health care.

GAYS AND LESBIANS IN THE ARMED FORCES

Mr. BAUCUS. Mr. President, from time to time, Congress and the President are forced to deal with issues that spark a wildfire of controversy, anger, and divisive debate among the American people. The admission of gays and lesbians into the our Armed Forces is clearly one such issue.

I believe, however, that the agreement between the President, the majority leader and the chairman of the Armed Services Committee offers a reasonable means of resolving this dispute.

Over the past few decades, this Nation can point with great pride to the progress we have made in stamping out bigotry, prejudice, and discrimination. While we have yet to eliminate these problems, we have made giant strides toward achieving equality under the law for all Americans.

Much of our national strength is drawn from our diversity. As Americans become more tolerant of each other, we come that much closer to realizing the true potential of this great Nation. We simply cannot afford to waste the talents and abilities of any of our fellow citizens.

As he grew up in the segregated South, President Clinton saw the ugly face of discrimination. He saw how it needlessly divided his home State and the entire Nation.

Perhaps in reaction and revulsion to what he saw as a young man, Bill Clinton's entire public career has been an exercise in bringing people together. This is a trait that will serve him well in the White House.

Moreover, I believe it is this desire—a desire to see Americans working together in the service of their country—that motivated the President to propose lifting the ban on gays in the military.

While there is room for legitimate disagreement with this proposal, its timing and execution, I do not believe there is any room for disagreement with the President's motives in proposing to lift the ban.

Moreover, contrary to what some opponents of lifting the ban contend, standing by the current policy is probably not a viable option. As Judge Hatter's ruling from last week shows, if Congress and the President fail to change the current policy, the courts are likely to force our hand—perhaps by issuing a very broad judicial decree.

For all these reasons, the current policy demands review. It may be unfair, unnecessary, and—most importantly—unconstitutional.

However, we must conduct this review in the most deliberate, thoughtful, and fair way possible. I believe the compromise before us today establishes a reasonable process to bring about a new policy accommodating our military leadership's reasonable concerns.

In contrast, with this clear lack of public consensus, a simple and abrupt lifting of the ban by Executive order would have created more problems than it solved.

Last week, the distinguished chairman of the Armed Services Committee, Senator NUNN, offered a very detailed and thoughtful statement on this subject. He raised a number of questions that merit answers before definitive action is taken to reverse the current policy. Let me review just a few of these unanswered questions:

What would be the impact of changing the current policy on recruiting, retention, and morale within our armed services?

What is the basis for the policy in light of contemporary trends in American society? As society changes in this regard, should our military services reflect those changes in society?

What has been the experience of our NATO allies and other nations around the world that allow gays and lesbians to serve in the military?

And what specific steps would be taken to safeguard the privacy expectations of heterosexual service men and women objecting to sharing living quarters and other facilities with homosexuals?

In closing, I urge caution. Until these questions can be satisfactorily answered, I believe it would be unwise to move beyond the carefully crafted compromise announced last week.

As part of this compromise, the Armed Services Committee will soon schedule hearings. These hearings will give the administration, the military, and individuals on all sides of this issue a chance to express their concerns.

Only when this factfinding process is completed will we be able to determine the exact appropriate course of action.

IN TRIBUTE TO COL. RICHARD D. CONN

Mr. GLENN. Mr. President, Col. Richard D. Conn, director for manpower and personnel for the North American Air Defense Command [NORAD] and U.S. Space Command [USSPACECOM], retired in January after more than 30 years of active duty in the U.S. Air Force. I would like to commend him for his outstanding military career and his dedicated service to his country and to the men and women of the Armed Forces.

Colonel Conn was born May 9, 1941, in Akron, OH. He graduated from Ohio State University in 1965 with a bachelor of science degree, cum laude, in personnel management. In 1971, he received a master of business administration degree from the University of Utah.

He enlisted in the Air Force in 1962, and was commissioned a second lieutenant in 1965 as a distinguished graduate of the Officer Training School Program. From December 1965 to May 1967 he served as personnel officer for the 703d Radar Squadron, at Texarkana, TX, and from November 1967 to May 1970 as chief, Consolidated Base Personnel Office at RAF Mildenhall, England.

From May 1970 to May 1974, Colonel Conn was assigned as associate professor of aerospace studies for AFROTC at the University of Akron, then as chief, Personnel Plans Division and chief, Faculty Assignments, Air University, Maxwell Air Force Base, AL, where he served until he was selected in 1976 to attend Air Command and Staff College, Maxwell Air Force Base, AL.

After graduation from Air Command and Staff College, he moved to Headquarters Air Force Manpower and Personnel Center, Randolph Air Force Base, TX, in July 1977, where he served first as special manning resource officer, then as executive officer to the Director of Assignments, and finally as chief, Support Officer Manning.

In June 1982, Colonel Conn reported to Headquarters Pacific Air Forces, Hickam Air Force Base, HI, as Deputy Director Personnel Plans. Departing in July 1986, as a newly promoted colonel, he reported to Headquarters U.S. Air Force, Washington, DC, where he served as chief, Promotion and Separation Policy Branch until August 1987, when he assumed the position of chief, Personnel Policy Division. He assumed his present position in U.S. Space Command in December 1989.

Colonel Conn is a graduate of Squadron Officers School; Air Command and Staff College, distinguished graduate; and the Air War College. He has received various awards, including the Legion of Merit, the Meritorious Service Medal with two Oak Leaf Clusters, and the Air Force Commendation Medal with one Oak Leaf Cluster.

Colonel Conn is married to the former Marilyn Scheatzle of Akron, OH. They have three daughters, Laura, Deborah, and Rhonda.

In his outstanding performance in over more than 30 years of active duty, Colonel Conn has served his Nation and the Air Force well. We wish him and his family the best as he enters a well deserved retirement.

IN TRIBUTE TO THURGOOD MARSHALL

Mr. DODD. Mr. President, it is with great sadness that I rise today to remember Thurgood Marshall. With his passing, our Nation has lost a courageous champion of the principles which uphold our democracy: that all men are created equal and that they are endowed by their creator with certain inalienable rights.

Although he would eventually accomplish great things, Thurgood Marshall's origins were humble. He was the great grandson of a slave brought to America from Africa's Congo region. His father toiled as a steward at an all-white yacht club and his mother taught elementary school. Born in 1908, Thurgood Marshall grew up in the segregated South, and he learned quickly that the promise of America—liberty and justice for all—was but a faint dream for far too many citizens.

With a fighting spirit instilled in him by his parents, Thurgood Marshall dedicated himself to the battle against racial oppression. He obtained his law degree from Howard University, and became chief counsel for the NAACP Legal Defense and Educational Fund. Although his legal victories have become enshrined in America's history, we must not forget the hardships and dangers he faced. During the 1930's and 1940's, he risked his life traveling through the South to try cases against segregation. He was threatened, and some tried to humiliate him, but his indomitable spirit prevailed and we are a better nation for it.

Undoubtedly, Thurgood Marshall's greatest victory was the Supreme Court's decision in Brown versus Board of Education. That decision freed children across the Nation from the chains of the separate but equal doctrine and ushered in a new era of multicultural education.

Of course, after the decision in Brown versus Board of Education, much work remained in the battle against racial injustice. Thurgood Marshall continued his efforts as a judge on the U.S. Court of Appeals for the Second Circuit, through his tenure as President Johnson's Solicitor General, and most importantly, as the first black Justice on the U.S. Supreme Court.

I am proud to note that my father, Senator Thomas Dodd, played a role in Thurgood Marshall's elevation to the Supreme Court. My father was one of Thurgood Marshall's staunchest supporters and helped shepherd his nomination through the confirmation process.

During his years on the Supreme Court, Thurgood Marshall spoke eloquently on behalf of the poor and the weak, and he would not let his colleagues forget the work that needed to be done to make our laws more just. In his opinion in the Bakke case, written in 1978, he observed that:

> The position of the negro today in America is the tragic but inevitable consequence of unequal treatment. * * * In light of the sorry history of discrimination and its devastating impact on the lives of negroes, bringing the negro into the mainstream of American life should be a state interest of the highest order. To fail to do so is to ensure that America will forever remain a divided society.

Fundamentally, Thurgood Marshall leaves a legacy of hope. The hope that through peaceful change our Nation will provide every citizen with an equal opportunity to realize his or her dreams. To honor him, we must rededicate ourselves to the battle against injustice and inequality, and strive to mend the divisions in our society.

Mr. DOLE. Mr. President, my understanding is leader time has been reserved and that I still have a few minutes of leader time. I ask that I be permitted to use that time.

The PRESIDING OFFICER. The Republican leader has 7 minutes.

SALUTING WINFIELD AND McPHERSON, KS: "TOP SMALL TOWNS IN AMERICA"

Mr. DOLE. Mr. President, those of us who are fortunate enough to call Kansas home know that the Sunflower State has a lot to offer. Our State is the breadbasket of the world. We are home to the world's aircraft capital. We are a State of tremendous educational resources and national championship athletic teams. Kansas is a State blessed with majestic natural beauty and superb recreation resources. And if you are looking for Main Street America, Kansas cannot be beat.

That is why I am proud that two great Kansas towns have earned a spot on list of "The 100 Best Small Towns in America" in a just-published book. I know all Members of the Kansas congressional delegation join me in congratulating the people of Winfield, KS, and the people of McPherson, KS, for winning this national recognition, and for making their towns such great places to live, work, and raise families. After all, Main Street America is paved with the warm hospitality, the good deeds, the patriotism, and the work ethic of its people.

Winfield is a town of 12,000 people, located about 50 miles southeast of Wichita. It is the home of great educational, cultural, and recreation opportunities, including Southwestern College, the nationally renowned Walnut Valley Festival, the Art in the Park Program, the Kanza Days Festival, summer concerts, and one of America's oldest continuous city bands. And the list goes on and on.

McPherson, a town of 12,800 Kansans located about 30 miles northeast of Hutchinson, boasts among other things a strong industrial base and economic diversity, a low crime rate, low unemployment, outstanding recreation facilities, 29 different churches, and a May Day parade that attracts 30,000 people to line the streets.

The people of Winfield and McPherson will tell you that small town America is not without its share of problems. Winfield, for example, faces a potential crisis should the State hospital shut down. But I suspect most would also tell you they would not want to live anywhere else. If I know anything about Kansas, I know that when times are tough, our people are tougher.

Mr. President, if you ask me, Kansas could fill the entire list of "100 Best Small Towns in America" and then some, but Kansans are fair people, and we'll let other States share in the limelight.

I would like to congratulate mayor Judy Showalter of Winfield, mayor Zeke Anderson of McPherson, and the good people at the local chambers of commerce. But first and foremost, I know my colleagues join me in congratulating the proud people of Winfield and McPherson who every day show America the meaning of Main Street USA.

FINAL REPORT OF THE U.S. SENATE SELECT COMMITTEE ON POW/MIA AFFAIRS COMMITTEE

Mr. DOLE. Mr. President, as an ex officio member of the U.S. Senate Select Committee on POW/MIA Affairs, I am pleased that the final report has been issued and agreed to by its six Republican and six Democrat Senators. This committee has accomplished the most exhaustive and comprehensive investigation that has ever been conducted on this highly emotional issue. The members of the committee and its professional staff are to be praised and congratulated. Their extraordinary efforts and long hours of work will provide meaningful answers on this most important issue for the American people.

No doubt about it, the committee faced a long and difficult 15-month investigation. It is all but impossible to go back 20 years in history and recreate the exact setting of late 1972 and early 1973. All too often we want to rewrite history the way we would have preferred it to have been, as opposed to the way it really was. But some of us were there then, and are here today, involved with the issue 20 years later.

When one reads the executive summary in detail the significant highlights of the final report are:

> Given the committee's finding, the question arises as to whether it is fair to say American POW's were knowingly abandoned in Southeast Asia after the war. The answer to that question is clearly "no."
>
> While the committee has some evidence suggesting the possibility a POW may have survived to the present, and while some information remains yet to be investigated, there is, at this time, no compelling evidence that proves that any American remains in captivity in Southeast Asia.

Part of the pain caused by this issue has resulted from rumors and Hollywood fiction about hundreds or thousands of Americans languishing in camps or bamboo cages which only added to the suffering of American families. The committee, however, found:

> The circumstances surrounding the losses of missing Americans render these reports arithmetically impossible.

Another important myth that is put to rest is the conspiracy theory. Witness after witness was questioned by the committee about a conspiracy either to leave POW's behind or to conceal knowledge of their fates. Not one single piece of evidence was produced.

It is again disappointing—but not surprising—to note that with all of the press articles in the last several months on this subject, so few have truly sought out the facts as well as the history as it really happened. It must be again recorded that between 1969 and 1973 both President Nixon and Dr. Kissinger waged an uphill battle to keep military pressure on Hanoi until the North Vietnamese finally agreed both to return the POW's and to account for the MIA's. Often, President Nixon and Dr. Kissinger were accused of warmongering rather than attempting to achieve "peace with honor."

We must remember the domestic climate of the times with the numerous antiwar movement rallies around the country. During this period, Congress passed numerous resolutions calling for an immediate U.S. withdrawal from Southeast Asia. It is important to remember that in the caucuses in December 1972 of the newly elected Democrat majority in both the House and Senate, votes were taken to once again indicate a strong movement to reduce or eliminate our military presence in Southeast Asia. As we know, this was accomplished within a few months in 1973.

This Senator offered an amendment that would have given the President the authority to resume military action if the North Vietnamese did not provide a full accounting of our missing heros. History recorded a clear rejection of this on May 31, 1973, by a vote of 56 to 25. That vote sent a most important signal to the North Vietnamese that our President would not be able to play a strong hand in future negotiations as his power had been eroded. These plain facts cannot be rewritten or left unsaid in any correct account of this issue.

Although the final report of the committee has been issued, the work is not finished. I call upon Vietnam, Laos, and Cambodia to be immediately forthcoming with all information in their possession. Furthermore, I also call upon the Department of Defense to continue to seek all answers and respond quickly to all new leads. The Senate committees that will now have jurisdiction on this issue must continue to closely monitor all related developments.

On another note, the committee received testimony from numerous POW/MIA organizations. One of the finest of these organizations is the Red River Valley Fighter Pilots Association which is headquartered in Derby in my home State of Kansas.

The executive director, Mrs. Patti Sheridan, was an excellent spokesperson for her organization. For years they have been providing scholarships to children of POW/MIA servicemen from the Vietnam war. I am proud to have been associated with the work of this group and urge anyone who is interested in supporting this wonderful cause to contact my office.

I would also like to call attention to the contribution of Sybil Stockdale, the wife of Adm. James Stockdale, for her courage as the wife of a POW and her eloquence in testifying before the select committee. I began working with her on POW/MIA issues 20 years ago and I can attest to her contributions to this cause. Sybil and Jim Stockdale are both genuine American heroes.

A special tribute must be given to Gen. John W. Vessey, Jr., U.S. Army, retired, who, since 1987, has been the Presidential Emissary to Vietnam for POW/MIA Affairs, for once again giving his outstanding service to his country. General Vessey's efforts helped create the improved atmosphere of cooperation with Vietnam on POW/MIA matters.

Again, I congratulate the Members and professional staff of the U.S. Senate Select Committee on POW/MIA Affairs for their tireless efforts on this issue. Twenty years is a long, long time. The committee has made a significant and worthwhile contribution to the American people.

THE DEATH OF CHARLES "LEW" DOLLARHIDE

Mr. MURKOWSKI. Mr. President, in addition to supporting the confirmation of Hershel Gober as Deputy Secretary, I also speak in memory of Charles L. Dollarhide, a dedicated public servant who died on January 28. Lew Dollarhide became Director of VA's Education and Rehabilitation Service in 1980 after a 21-year career of service to America's veterans including 6 years as Deputy Director of Education Service. He served as Director for the next 6 years until his retirement in 1986.

Mr. President, I believe the GI bill education program may have done more to transform this country than any other program of the Government. In opening the doors to higher education to millions of Americans who would have had no other chance to further their education, the GI bill did much to transform our Nation's ideal of opportunity from a promise into a reality. We see the effects of that reality in a veteran population which is both better educated and more prosperous than their nonveteran counterparts.

When we in the Congress make policy, confident in the knowledge that the GI bill keeps the door to opportunity open for America's veterans, we incur a debt to Lew Dollarhide for his role in creating that reality.

Every day, in every community of our country, American veterans enjoy the fruits of their education without knowledge of the efforts of public servants like Lew Dollarhide who made their GI bill possible.

Mr. President, Lew Dollarhide did not dedicate his talent and his energy to his fellow veterans in order to create an indebtedness on the part of the Congress or the veterans he served. He did it because he was a dedicated professional. That career of professionalism created a monument to his memory far more lasting than any words carved in stone or recorded in the CONGRESSIONAL RECORD. His monument may be found in the lives and careers of the millions of veterans whose lives he touched through the GI bill.

I believe I speak for all who knew him in mourning his death.

I thank the Chair.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Morning business, under the order, has expired.

FAMILY AND MEDICAL LEAVE ACT OF 1993

The PRESIDENT pro tempore. Under the order, the Senate will resume consideration of S. 5, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 5) to grant family and temporary medical leave under certain circumstances.

The Senate resumed consideration of the bill.

Pending:

Craig amendment No. 4, in the nature of a substitute.

The PRESIDENT pro tempore. Under the previous order, the Senator from

Washington [Mr. GORTON] is recognized to offer up to two amendments, on which there should be a total time limitation of 30 minutes equally divided and controlled.

Mr. GORTON. Mr. President, may I inquire whether copies of my amendments are at the desk?

The PRESIDENT pro tempore. The Senator has four amendments at the desk. The Chair is not aware which amendment the Senator from Washington intends to offer at this point.

Mr. GORTON. Under the circumstances, Mr. President, I send two amendments to the desk so we will be clear what they are.

The PRESIDENT pro tempore. Which amendment does the Senator wish to offer at this moment?

AMENDMENT NO. 9

(Purpose: To establish provisions relating to key personnel)

Mr. GORTON. Mr. President, I will offer at this moment the key personnel amendment.

The PRESIDENT pro tempore. The clerk will state the amendment.

The bill clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 9.

Mr. GORTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows.

On page 19, lines 11 and 12, strike "HIGHLY COMPENSATED EMPLOYEES" and insert "KEY PERSONNEL".

On page 19, line 15, strike "described in paragraph (2)" and insert "who is designated under paragraph (2)(A), or, if no employee is so designated, who is deemed to be designated under paragraph (2)(B)".

On page 20, strike lines 1 through 6, and insert the following:

(2) AFFECTED EMPLOYEES.—

(A) DESIGNATED EMPLOYEES.—

(i) IN GENERAL.—The employee may designate as key personnel up to 10 percent of the eligible employees of the employer at a facility, or employed within 75 miles of the facility.

(ii) BASIS.—An employer shall not designate key personnel on the basis of age, race, color, sex, or national origin, or for the purpose of evading the requirements of this title. No employer may designate an eligible employee as a member of the key personnel of the employer after the employee gives notice of intent to take leave pursuant to section 102.

(iii) MANNER.—Designations of employees as key personnel shall be in writing and shall be displayed in a conspicuous place described in section 109(a).

(iv) EFFECTIVE DATE.—Any designation made under this subparagraph shall take effect 30 days after the designation is issued and may be changed not more than once in any 12-month period.

(B) EMPLOYEES DEEMED TO BE DESIGNATED.—Until an employer designates key personnel under subparagraph (A), an eligible employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed shall be deemed to be designated as a member of the key personnel of the employer.

Mr. DODD. Mr. President, parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state the parliamentary inquiry.

Mr. DODD. Just for clarification, these amendments were not submitted last night. I inquire of the Chair. I believe that to be the case. So the fact is that these four amendments at the desk are not under consideration, but rather the amendments the Senator has submitted are under consideration.

Mr. GORTON. The two amendments I submitted right now I believe are identical to two of the four that were at the desk last night. Simply in order not to have a long conversation here, I sent the copies up.

The PRESIDENT pro tempore. The Senator from Washington.

Mr. GORTON. Mr. President, this amendment, which is based on provisions in the family leave law which has been in effect in the State of Washington since 1989, will alter the provision regarding highly compensated employees. The bill in its present form allows employers to deny reinstatement under certain circumstances to certain key employees, which the bill effectively defines as those who are in the highest paid 10 percent of all employees.

The purpose of this amendment is not to extend the number of employees affected by the exemption, but to allow a certain degree of flexibility on the part of employers in designating who those exempt employees shall be. It is obvious, and this is most particularly true in a small business, that the key employees, the 10 percent most important employees to a given employer, may not necessarily be identical to the 10 percent who are of the most highly compensated. For example, as I stated last night, the highest paid employees may very well be sales people, people who work on commission. It may vary from month to month or year to year who the highest paid employees are. But they may not be the most important. If all of the highest paid employees are in one section of an employer's work force, it may very well be the head of another section, the chief financial officer, for example, may be more a key to the operation of the business than the eighth or ninth most highly compensated sales person.

So in order to give a slightly larger degree of flexibility to the employer, this allows the employer to make a designation. The designation must be made before an application for leave is made. It cannot be ex post facto and it can only be changed once in every 12-year period.

In addition, however, this amendment includes a provision which prevents the designation of such employees on the basis of race, religion, creed, and the like, a provision which does not exist in the bill as it is set forth. If no designation is made, the highest 10-percent compensation rule, which is in the bill, already applies. It does seem reasonable, however, to this Senator that this degree of flexibility, particularly with respect to relatively small businesses, be allowed an employer.

It is our understanding, the understanding of this Senator from having discussed the issue with the Washington State Department of Employment Security and Labor and Industries that no complaint has ever been filed with respect to the misuse of this provision. In other words, it now has a 3- to 4-year history. This portion of the family leave in the State of Washington works, and I commend it to the sponsors as a friendly rather than unfriendly amendment to this bill and hope that it can be accepted.

The PRESIDENT pro tempore. Who yields time?

Mr. DODD. I yield 3 minutes, Mr. President, to the Senator from Washington.

The PRESIDENT pro tempore. The Senator from Washington [Mrs. MURRAY] is recognized for 3 minutes.

Mrs. MURRAY. Thank you, Mr. President. Mr. President, I rise today to oppose this amendment, with all due respect to my colleague from the State of Washington and his attempt to look at this bill in terms of making it better. However, having been one of the original sponsors and persons who worked on this bill from the State of Washington, knowing all of the conversations, the intent, and the work on it, I would like to respond to my colleague from the State of Washington.

The key personnel language that is in the State of Washington bill was an intense compromise, after much work, that came at the very end of the session and was not agreed upon by a lot of people. We came back several times to work on the family leave legislation over the last several years, but our determination was that great progress was being made here in Congress and that as a State, we wanted to wait and see what happened in the U.S. Senate and Congress and see what passed out of here, before we came back to amend our legislation in a way that would work better for us.

I think it is very clear to me, having read the legislation here and having worked on the legislation from the State of Washington, that this is a much better written bill and I strongly support it. In fact, I talked with the Governor's office yesterday and he also opposes this amendment which is put in front of us and feels that from the State of Washington perspective, that the national legislation which is being proposed is much better language.

I have some real concerns in changing the key personnel language because this bill was written to ensure that middle-income, low-wage workers would be allowed family leave. If we change the key personnel provision to allow an employer to designate any 10 percent, the employer could, in fact, designate front office personnel, who often tend to be younger women who are most likely to take pregnancy leave and who would most likely be affected by this bill and who certainly most deserve to have this bill passed.

Although I would like to think that all the businesses out there would not do that, it is a concern of mine that we write this in a good way so that we send a strong message that this bill is written to help those people who most need it and deserve it. The way it is written, with key personnel being the top 10 percent, I think effectively makes that happen.

I am also very concerned that this bill has been debated, compromised, worked on for many, many years in the Senate and certainly back in my State legislature. I think it is imperative that we do not amend it at the 11th hour without having consultation from the many groups and Senators who have been involved in it; in fact, we may find ourselves in litigation if we have not looked seriously at the language.

I believe that the language of the bill is absolutely excellent, and I strongly oppose this amendment.

The PRESIDENT pro tempore. The Senator's 3 minutes have expired.

Mr. KENNEDY addressed the Chair.

Mr. DODD. I yield to the Senator from Massachusetts 3 minutes.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KENNEDY] is recognized for 3 minutes.

Mr. KENNEDY. Mr. President, I listened with great interest to the comments of the Senator from Washington in terms of bringing that information to the Senate which I find extremely persuasive. I understand, and I would be interested if the floor manager would agree, that the addition of this provision, of the 10-percent exclusion was really added as a result of the request of a number of employers and in the attempt of the Senator from Connecticut [Mr. BOND] and others to try to deal with very specific kinds of requests and that it was the employers who made the representation that they felt this would meet their particular needs; that it was basically a response to the employer community generally that this adjustment was made in the legislation to permit the employers to have the 10-percent designation.

Furthermore, if I understand the provision correctly, there is no criteria that is established in the amendment of the Senator from Washington. So when the employee joins a particular company they would not know whether they could be designated or would not be designated or designated one year and not designated another. So they have no predictability, no certainty, no understanding.

We do not do that with regards to minimum wage or workmen's compensation or with regards to safety in the workplace. This seems to me to be a benefit of that different dimension.

I would be interested to know, in terms of the legislative history and how the chairman of the committee approached this issue, whether my understanding is correct.

Mr. DODD. Mr. President, I say to my colleague from Massachusetts he is absolutely correct. This was a provision that was added in a very positive and constructive amendment which was suggested by the Republican Congresswoman from the State of New Jersey, MARGE ROUKEMA, who specifically raised the issue of the employee provision. Senator BOND also was a strong supporter of it, and so we crafted that language.

I would say to my colleague from Massachusetts he is absolutely correct. No system of selection is absolutely perfect. I suppose the suggestion, Mr. President, might have been why not on a seniority basis—those people who have worked for the company the longest would be the ones exempt—or possibly leave it up to a collective-bargaining agreement; let them work that out somehow.

Salaries is a third. My colleague from Washington has suggested a fourth. So you could pick and choose.

It was the consensus of those who worked very long on this legislation that this was probably the least objectionable process because it would allow for a certain predictability, a certain certainty that the Senator from Massachusetts has just identified, rather than allowing this to be left totally arbitrary from year to year where people would not have a sense of security.

I agree with the Senator; there are those who want to call this a benefit. This is a minimum labor standard. There is a significant difference between benefits and minimum labor standards. As the Senator has pointed out, to say, for instance, that we would apply minimum wage, occupational safety standards, child labor laws, and a variety of others arbitrarily, as to who would be covered under those by the employer, would completely change the nature of what we are trying to accomplish.

Mr. KENNEDY. I thank the Senator. I think the explanation is enormously compelling, and for the reasons he has outlined the amendment of the Senator from Washington I hope will not be accepted.

The PRESIDENT pro tempore. The time of the Senator from Massachusetts has expired.

Mr. GORTON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Washington [Mr. GORTON].

Mr. GORTON. Mr. President, I have listened with interest and with a certain degree of sympathy with regard to the three sets of remarks on the other side of this issue. I am most moved by the abstraction of their sets of ideas and on the tenuous relationship between the arguments as to what happens in the real world and real businesses with real people.

I certainly agree with the Senator from Connecticut, who has worked for so many years on this bill, that having the degree of flexibility which is added to the bill by allowing an exemption of 10 percent of most important employees from some of the strictures of the bill is significant and is important and is particularly important to small businesses. There is no question but that that is the case. The question is how do you define who those 10 percent most important employees are.

It seems overwhelmingly logical that they are the 10 percent of the employees whom the employer thinks are the most vital to the conduct of his business.

The use of the 10 percent most highly compensated is simply a short hand by which to reach that conclusion, but it is not the best way of reaching the conclusion.

This is not something that is going to be changed rapidly. It is required to be set out in writing. It is required that it not be changed more than once a year. It is no less certain than the 10 percent most highly compensated employees.

In most business enterprises compensation is highly variable. Not every employee works on a salary. There are bonuses. There are incentive programs. There are commission sales people. And there is no more certainty in a situation which says that the exemption applies only to the 10 percent most highly compensated than there is to any other 10-percent rule.

So if we are truly concerned with allowing the greatest degree of flexibility within the parameters of the social program, we should do so. We have the example of the State of Washington. Obviously, this is a matter which was debated in that legislature, but now that State has had the experience of 3½ years operating under exactly the rules we propose here and not a single complaint has been filed about their misuse. What could be more important than experience.

Mr. KENNEDY. Will the Senator yield for a question? Will the Senator yield me a minute?

Mr. DODD. Mr. President, I yield 1 minute.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Connecticut yields 1 minute to the Senator from Massachusetts.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. GORTON. Yes.

Mr. KENNEDY. What if the employer designates, say, in January as a matter of course, and then the next January comes around and he finds out that two of the employees happen to be pregnant. Is there anything in the amendment of the Senator to prohibit that employer from changing the designation to include those two employees?

Mr. GORTON. The employer cannot make a change after a request for leave has been filed.

Mr. KENNEDY. I am saying, under the Senator's amendment, you could designate once a year, am I correct?

Mr. GORTON. That is correct.

Mr. KENNEDY. So the employer designates in January and that goes on for 1 year. Then the next January comes around and they can designate again, can they not?

Mr. GORTON. That is correct.

Mr. KENNEDY. Is there any prohibition in the amendment for a particular employer who says I am going to designate the secretary in the front room and the clerk typist in another room, that they will be part of the 10 percent, is there anything in the amendment of the Senator that prohibits that?

Mr. GORTON. There are two things in the amendment that make it—

Mr. KENNEDY. Can the Senator specify where in the amendment that is prohibited?

Mr. GORTON. Highly unlikely.

Mr. KENNEDY. I cannot hear the Senator. Did he say yes or highly unlikely?

Mr. GORTON. If the Senator will allow me to answer the question, this Senator will be happy to do so.

The PRESIDING OFFICER. The time yielded to the Senator from Massachusetts has expired.

Mr. GORTON. The designation can be made once a year. The designation, however, cannot impact an employee who has already made a request for leave, which I would assume under the conditions announced by the Senator from Massachusetts would clearly be the case. The individual knows that she is pregnant. She has asked for the leave. You cannot make a redesignation of the people to whom it applies after that takes place. Moreover, since we have added the prohibition that an employer shall not designate key personnel on the basis of age, race, sex, or national origin, it would seem to me that such a punitive designation would almost certainly be a violation of the antisex discrimination provisions.

Mr. KENNEDY. Will the Senator yield 30 seconds more?

Mr. DODD. I yield 30 more seconds.

Mr. KENNEDY. In the amendment, the individual only has to make the application 30 days prior to the time of the leave. There are instances, for example, that a woman might not understand she has an ectopic pregnancy. Just to receive the good assurances of the Senator from Washington of his own judgment that this may fall in terms of the discrimination based upon gender is not terribly reassuring particularly when all the most recent reports across the country demonstrate that time in and time out women who are pregnant are discriminated against as a general rule in our society and have difficulty retaining their jobs.

Mr. President, this amendment is really filled with loopholes and does not deserve support.

Mr. DODD. Mr. President, I yield myself 1 minute to conclude this.

The junior Senator from Washington, who was very much involved, I might point out, in the debate in her own State legislature when the family medical leave legislation was being adopted by the State of Washington and is intimately involved and aware of how the State of Washington resolved this issue, I think brings vital testimony to this issue and the ones that will follow.

Let me just say in conclusion, if I can, Mr. President, that there is no perfect system. This is not a perfect system. What we have tried to do is respond to the request of employers in this country who said we would like to designate 10 percent of our key employees. We responded positively to that. We wanted to make sure we struck a balance.

When Congresswoman ROUKEMA and Senator BOND and others came, we accepted this idea, we accepted this particular system by which we would designate those 10 percent. Is it a perfect system? No. But it has gone through a significant process over a number of years with a lot of people working to come to this conclusion.

I urge with all due respect the rejection of the amendment.

Mr. GORTON. Mr. President, I agree with the remarks of the Senator from Connecticut. I point out only that there is a difference in a democratic debate and the real world. The Senator from Massachusetts brings up all kinds of horrors. The Senator from Connecticut says we have worked this out; that is to say we here in Congress.

This amendment is based on a law which actually exists in a State with 5 million people. It has been on the books for 3½ years. No complaint has ever been filed with the relative State agency about the concerns raised by the Senator from Massachusetts. No complaint has ever been filed with respect to any of the objections of the Senator from Connecticut.

It seems to me that experience in the real world should be touted as having somewhat more weight than abstract objections by a group of people not immediately concerned with the problem.

Mr. President, I am willing to yield the remainder of my time on this amendment.

Mr. DODD. Mr. President, I do not know if there is any allocation of time. I think both amendments would be considered in half an hour.

The PRESIDING OFFICER. The Senator from Connecticut is correct. The Senator from Washington was allocated a half-hour, and has 5 minutes and 24 seconds remaining for the purpose of introducing the second amendment.

Mr. GORTON. Mr. President, the better course of wisdom would be that I call up the second amendment.

AMENDMENT NO. 10

(Purpose: To establish provisions relating to notice)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 10.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, strike lines 14 through 24 and insert the following:

(1) REQUIREMENT OF NOTICE.—

(A) IN GENERAL.—

(i) NOTICE.—In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or placement, the employee shall provide the employer with not less than 30 days' written notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph.

(ii) DATES; SCHEDULE.—Such notice shall state the dates during which the employee intends to take leave or provide a schedule under which the employee intends to take intermittent or reduced leave.

(B) EXCEPTIONS.—The employee shall take the leave described in subparagraph (A)(i) in accordance with the dates or schedule stated in the notice unless—

(i) the birth is premature;

(ii) the employee must care for a son or daughter because the mother is so incapacitated due to the birth that the mother is unable to care for the son or daughter;

(iii) the employee takes physical custody of a child being placed for adoption at an unanticipated time and is unable to give notice 30 days in advance of such time; or

(iv) the employer and employee agree to alter the dates of leave, or the schedule of leave, stated in the notice.

(C) REVISED DATE OR SCHEDULE.—In a case referred to in subparagraph (B), the employee must give such notice of revised dates during which the employee intends to take the leave, or a revised schedule under which the employee intends to take the leave, as is practicable, but at least 1 workday of notice before the date the leave is to begin.

On page 14, line 13, insert "written" after "days'".

On page 14, line 18, after "practicable" insert the following: ", but at least 1 workday of notice before the date the leave is to begin".

Mr. GORTON. Mr. President, this amendment is also based on provisions in Washington State's family leave law. It clarifies and expands the notification provisions regarding foreseeable leave. I want to emphasize that phrase, "foreseeable leave." This applies when the person seeking the leave knows that it is going to be required. Most frequently this will be the case of an expected birth or adoption; that kind of change in family relationships.

The purpose of the amendment is to provide that the leave notice shall be in writing, and shall include the dates which are sought for in the leave.

There are various exceptions. Obviously a premature birth would be such an exception.

The purpose of having the notice in writing of course is so that there will be fewer disputes. If oral notice is given there almost inevitably will be a dispute. One person says they gave the notice at such and such a time: "I asked for a certain period of time." The other will say that is not the case.

The history of the law in the United States is that written documents are to be preferred to oral notification.

This provision again has not ever resulted in litigation or protest of the proposition that it is somehow or another unfair in the State of Washington. Experience would indicate that we should write a law in such a way as to reduce the number of disputes over the meaning and use of the law rather than to encourage such disputes.

Mr. DODD. Mr. President, I yield 1 minute to the junior Senator from Washington on this amendment.

Mrs. MURRAY. Mr. President, I rise again with all due respect to my colleague from the State of Washington to oppose this amendment, and as well again having been involved in the writing of the Washington law, that he is referring to.

As written notice is required, as he has stated, there have not been any problems. However, the Federal legislation that is before us is much stronger legislation, not only for the employees but for the employer and allows them the flexibility of being silent on the law to determine how they as a company will put this into effect. I think it is much more effective for both those who use it and those who have to implement it.

I am also very concerned about the minor exceptions. I think it very much narrows the law, the exceptions that are written into the amendment. I am very concerned about the effect that it may have on a young man whose mother has Alzheimer's disease and he has no way of knowing that tomorrow a tragedy is going to strike and he needs to take time off from work in order to find her care.

I am very concerned about the effect on a person whose son or daughter is in a car accident, who has no way of knowing whether this would end up in litigation because written notice was not on file. It is a very deep concern to those of us who feel this law is imperative. I therefore oppose the amendment.

Mr. DODD. Mr. President, I yield myself 1 minute and 39 seconds.

Let me once again say, Mr. President, this is a proposal regarding notice that had hours spent putting this together. Senator BOND and Senator COATS were principally responsible for insisting upon significant notification and certification reporting on the part of the employees. That is included in the legislation.

Again, this goes back many, many months and years, in fact, in working these provisions out with many people being involved, including people in the private sector.

We have in the legislation, so my colleagues will be aware, 30 days' advance notice where there is a predictable event to occur. In the case of intermittent leave or planned medical treatment certain indication is required from appropriate medical people including up to three certifications if necessary to verify the conditions as the employee claims them. Third, the worker must make a reasonable effort to schedule the treatment.

So we have tried to build into this as many protections as possible to guarantee that the employer and the operations of the business will not be disrupted, as well as to guarantee the reasons for the leave being taken is as the employee charges.

The concern we have, as the junior Senator from Washington has pointed out, is requiring rigid requirements, place an undue burden on the employee, and circumstances that are beyond the employee's control.

Therefore, this would really create more of a problem, and probably generate more litigation, than the system we have crafted would allow.

This is again based on a lot of work, a lot of consultation, a lot of involvement, and a bipartisan effort to put these provisions together so as to make sense.

We will not know obviously, none of us can say with absolute certainty, how the law will work. But we think this is the proper way to go. If need be, we can always in the future time come back and rework this.

The PRESIDING OFFICER. The Senator from Washington has 2 minutes 9 seconds remaining.

The Chair advises the Senator from Washington that he has 1 minute remaining.

Mr. GORTON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DODD. Mr. President, I want to inquire. Have the yeas and nays have been asked for on both amendments?

Mr. GORTON. No. Amendment No. 10, the amendment about written notice.

Mr. DODD. So it is the second amendment on which the Senator has asked for the yeas and nays.

Mr. GORTON. That is correct.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GORTON. Mr. President, again I repeat here we have a difference of an abstract debate here on the floor of the Senate and the actual practice in the real world.

The actual practice in the real world has been the kind of written notice that is asked for by this amendment, and which does in fact work, reduces disputes, reduces the litigation, and, therefore, should improve the administration of the act, rather than to hurt it. It is really not too much to ask that people give notification of requested leave when they know that the leave is going to be required.

The PRESIDING OFFICER. The time of the Senator from Washington has expired.

AMENDMENT NO. 4

Mr. DOLE. Mr. President, I rise in support of the Craig amendment of which I am also an original cosponsor and urge my colleagues to vote in its favor.

If I had one wish regarding this debate, it would be that we could erase the last 7 years of partisan bickering and gamesmanship that has governed this issue. Unfortunately, the only legacy of these debates and votes is that individuals and groups have become trapped by their own inflexible positions and rhetoric. New ideas and important arguments are only met with deaf ears.

I sincerely believe that if you line up S. 5 and S. 10, the Craig amendment, side-by-side and evaluate the pros and cons of each bill, it is no contest.

S. 10 is by far the better bill and should be supported regardless of whether you are a Democrat or Republican.

PRO-FAMILY

Both bills have been offered with the intention of being pro-family. Indeed, there is no debate over whether family leave is a good idea or of the need to provide a legislative solution to the increasing demands and stresses of parents caught between work and family.

Both bills provide up to 12 weeks of leave for the birth, adoption, or placement for foster care of a child. Both bills also provide leave in the case of a serious health condition of the employee, or the parent, spouse, or child of the employee. Both bills provide for the continuation of health insurance and for reinstatement rights upon completion of leave.

A big difference, however, is that S. 5 applies to employees of businesses with 50 or more workers whereas S. 10 reaches to businesses with fewer than 500 employees.

So if we are looking at which bill reaches more families, it is S. 10. It covers 48.7 million workers and 6 million businesses against the 33.4 million workers and 300,000 businesses covered by S. 5.

In my State of Kansas, S. 5 excludes 95 percent of the businesses and 43 percent of the work force. What about those companies and those workers? Our proposal reaches over 99 percent of the workplaces in Kansas and 80 percent of the work force. I suspect that there are similar statistics in many other States.

In addition, S. 10 reaches more part-time workers by requiring only 19.2 work hours per week to be eligible for the benefit against the 24 hours required in the Democrat's bill.

PRO-BUSINESS

The alternative offered by the distinguished Senator from Idaho is also pro-business—something that S. 5 certainly can't claim.

The Flexible Family Leave Tax Credit Act provides an incentive for businesses to establish family and medical leave programs.

S. 5 is a mandate; a hidden tax. It is Washington, DC, reaching out into every community, every office, and every factory telling the American people what is best for them.

Indeed, legislation mandating benefits demands an offset and will force employers to cut jobs or other more desirable employee benefits.

In the first place, I wouldn't be surprised to see a lot of companies in the 50- to 60-person range cut enough jobs or reduce the hours of certain workers to fall below the mandate trigger level.

It goes without saying that this mandate legislation creates enormous pressures on and incentives for employers to do so.

In my State of Kansas, there are almost 580 companies that employ between 50 and 60 people. There are about 71 companies that employee 50 persons.

If I were a worker in one of these companies, I would be scratching my head wondering why the U.S. Congress—which should be working to create jobs, is putting expensive mandates on employers and encouraging them to cut jobs.

The Committee on Joint Taxation estimates a tax credit to pay for the Dodd mandate at $8.8 billion over 5 years.

By some estimates, that is well over 60,000 jobs. The new administration had better get cracking on their jobs creation bill because it will be needed just to mitigate the effects of this legislation.

Already, my State is reeling from the effects of recent layoff announcements. Kansas is looking to lose 1,700 jobs from Sears, as many as 6,000 jobs from Boeing, and 400 jobs from Beech.

And this legislation—which will only add to the job losses—is the first piece of legislation we send to the President. I don't get it.

PRO-JOBS

The legislation offered by the distinguished Senator from Idaho is a pro-jobs bill. Not only does it not tax employers to pay for a congressionally mandated benefit, but the credit provides an incentive to create new jobs to temporarily fill the places of those workers on leave.

DEFICIT NEUTRAL

The Flexible Family Leave Tax Credit Act is also deficit neutral. Indeed, it raises more money than it spends. It contains a pay for similar to one contained in H.R. 11 from last Congress which increases the corporate estimated tax to 97 percent beginning in 1997.

I think everyone will agree that it is not easy to pay for legislation. Indeed, rather than do so, my colleagues on the other side of the aisle prefer to impose mandates on business so that they have to pay for it.

In this Senator's opinion, that is not the direction we should be moving in.

It is the easy way out—an out-of-sight, out-of-mind approach that shirks the responsibility we have to pay for the programs we make into laws.

Unfortunately, the Democrats don't even know how much their bill costs. Sometimes, they say it will actually save businesses money; other times they say it will cost about $7.30 per employee per year. The Small Business Administration said it could cost over $7 billion. Joint tax has a different number based on a tax credit for the mandated leave.

If the Craig amendment fails, perhaps we should amend S. 5 to limit the mandate to only a cost of $7.30 per employee per year. Certainly, that is what we are hearing from my colleagues on the other side of the aisle. Of course, if we did that, then each employee would probably get about 1 hour of leave.

CUT THROUGH THE POLITICS

Mr. President, as I said at the outset, I wish we could erase the political screen on which this debate has taken place for years.

S. 10 is the best way to meet the needs of the American family without harming American businesses—and ultimately the employees of those businesses.

S. 5 is a clumsy, one-size-fits-all mandate that will force businesses to cut jobs and employee benefits to the detriment of working Americans and their families.

EXTENDING FAMILY MEDICAL LEAVE TO ALL STATES

Mr. HATFIELD. Mr. President, we live in an era where the concept of the family has rapidly changed. American families are facing a level of economic and social stress unlike any other in our history. Currently, women constitute the fastest growing portion of the American work force. Furthermore, we are seeing a dramatic increase in the number of divorce rates, children living in poverty, families without access to health care, the number of single-parent families, and the list goes on and on. The effects of that stress are becoming more evident in everything from crime rates to the number of people who are being forced to take two jobs just to meet their family's daily needs. What compounds this problem is that many U.S. families are not only dependent on a single individual's paycheck but also as the sole provider of health insurance.

It is incumbent upon the Congress to provide some type of relief to people who face the terrible choice between one's family and one's work. I would prefer providing relief to America's families through a Federal policy which gives employers maximum flexibility. I believe the least intrusive approach is to provide market incentives to employers to provide a family leave package. The Craig proposal does this and includes a revenue offset that is similar to offsets previously approved by Congress. Furthermore, the Kassebaum proposal also approaches this issue with flexibility by allowing the employee to choose whether they wish to receive a leave package if their employer offers a cafeteria plan of employee benefits. Nevertheless, the route by which we arrive at a family leave package is far less important than relieving the burden of choice between a family and a job.

Congress has often looked to states as laboratories for public policies which might be extended nationally. In my home State of Oregon, our legislature established a parental leave package in 1988. In the following 4 years, we built upon its success and made pregnancy and family medical leave available to a large segment of the State's population.

Oregon's experience with its mandated leave policies has been extremely positive. Although our leave package does not require businesses to cover their employee's health insurance premium, 88 percent of the businesses covered reported in a recent survey that they did not need to reduce employee benefits or increase their operating costs to accommodate the law. Furthermore, a great majority had absolutely no implementation problems. Many businesses in Oregon have realized a boost in employee moral and some have even gone so far as to increase their leave benefits beyond what our current law dictates.

There has been a lot of discussion as to whether a national leave standard will hurt business. From my State's experience, our leave package has created little if any burden on business, and has provided countless people with an opportunity to tend to their family needs.

Mr. President, the American family is being held hostage because we live in a society where too many people are so dependent on their paychecks and health care benefits that their families necessarily become a secondary priority. That is why I have supported this legislation for the last four sessions of Congress and will support S. 5 today.

Finally, I would like to congratulate Senator DODD for his steadfast commitment to this issue. His dedication to bring this matter before us today will serve as a testament to his commitment to the American family.

The PRESIDING OFFICER. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now vote in relation to the Craig-Dole amendment No. 4.

Mr. CRAIG. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I move to table the Craig amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The clerk will call the roll.

The legislation clerk called the roll.

The result was announced—yeas 67, nays 33, as follows:

[Rollcall Vote No. 1 Leg.]

YEAS—67

Akaka
Baucus
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Coats
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Krueger
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Simon
Specter
Wellstone
Wofford

NAYS—33

Bennett
Brown
Burns
Cochran
Coverdell
Craig
Dole
Domenici
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield
Helms
Kassebaum
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Shelby
Simpson
Smith
Stevens
Thurmond
Wallop
Warner

So the motion to table the amendment (No. 4) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, may we have order.

The PRESIDING OFFICER. The Senate will come to order. The Senators will please clear the aisles. The Senate majority leader has the floor.

Mr. MITCHELL. Mr. President, I want to make an announcement regarding——

Mr. BYRD. Mr. President, may we have order? This is going to be an important announcement. I hope Senators will listen.

Mr. President, I insist on order. I insist on it.

The PRESIDING OFFICER. The Senator from West Virginia is correct; the Senate is not in order.

Mr. MITCHELL. Mr. President——

Mr. BYRD. Mr. President, the Senate is still not in order. I do not want to see the majority leader waste his words on this particular announcement. It is of interest to all Senators.

The PRESIDING OFFICER. The Senate majority leader has the floor.

ALL SENATE VOTES TO CONCLUDE AFTER A MAXIMUM OF 20 MINUTES

Mr. MITCHELL. Mr. President, following consultation with the Republican leader and with a large number of Senators individually, I want to announce to Senators now that during this Congress all Senate votes will conclude after a maximum of 20 minutes. The rollcall votes are 15 minutes. Allowances will be made for up to 5 minutes thereafter to accommodate Senators. But only under the most extraordinary of circumstances will any vote be held beyond a total of 20 minutes. Extraordinary circumstances will not include that a Senator is on the way, that a Senator is at the airport, at Union Station, on the subway, coming up the steps, or in the hallway.

I have tried very hard to be accommodating to all Senators over the last 4 years. And what we found is that accommodation has encouraged tardiness. And, as a result, votes were held for as many as 30 and 40 minutes while Senators were engaged in other business. And no individual, no party, no group was abusive more than others. It is something that we all shared. The result, though, was the Senate itself and large numbers of Senators were greatly inconvenienced on many, many occasions.

So everyone has notice now, and there is no reason why a vote cannot be concluded in 20 minutes. Indeed, many argued that the limit should be 15 minutes and enforced strictly thereafter, but I have decided after consultation to permit a period, an additional 5 minutes beyond that. Senators who are not able to make it within that time will simply have to accept the consequence of having missed a vote.

I apologize in advance for any inconvenience this may cause individual Senators but I have concluded that the result will be to the benefit of the institution itself, the expeditious handling of business, and to the convenience of a much larger number of Senators.

Mr. President, I would like to yield now to the distinguished Republican leader for any comment he may like to make and then to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senate Republican leader, Mr. DOLE.

Mr. DOLE. Mr. President, I do not have any quarrel with that decision. I guess it is pretty hard to define what the unusual circumstances may be but I am certain somebody will come up with one.

Mr. MITCHELL. Mr. President, I will be pleased to yield to the Senator from Rhode Island [Mr. PELL].

Mr. PELL. Mr. President, I congratulate the majority leader on that announcement. As one who has been here for 32 years and never asked for a vote to be held over, I am particularly grateful for that announcement.

Mr. MITCHELL. Mr. President, I thank my colleagues. We will begin the new policy——

Mr. COHEN. May I ask a question? Does the time limit also include the two leaders?

[Laughter.]

Mr. MITCHELL. Yes, it does.

Mr. COHEN. Thank you.

Mr. MITCHELL. I thank my colleague for that clarification.

Mr. President, the new policy will begin right now, with the vote that is about to occur.

VOTE ON AMENDMENT NO. 10

The PRESIDING OFFICER. The question now occurs on the Gorton amendment No. 10. The Chair recognizes the Senator from Connecticut.

Mr. DODD. Mr. President, I move to table the Gorton amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Connecticut. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced, yeas 60, nays 40, as follows:

[Rollcall Vote No. 2 Leg.]

YEAS—60

Akaka
Baucus
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Danforth
Daschle
DeConcini
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Krueger
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun

Moynihan
Murray
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Simon
Wellstone
Wofford

NAYS—40

Bennett
Brown
Burns
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Dole
Domenici
Durenberger
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield
Helms
Kassebaum
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

So the motion to lay on the table the amendment (No. 10) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 9

The PRESIDING OFFICER. The question is on agreeing to the Gorton amendment No. 9.

Mr. DODD. Mr. President, I move to table the Gorton amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Gorton amendment No. 9.

The motion was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 3

(Purpose: To establish arbitration procedures)

Mr. GRASSLEY. I would like to call up for consideration amendment No. 3.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. GRASSLEY. Mr. President, if the leader wants the floor, I would be glad to yield.

Mr. MITCHELL. Mr. President, I was going to seek recognition following the reporting for purpose of suggesting the absence of a quorum.

The PRESIDING OFFICER. The clerk will report the amendment. Then the majority leader.

The legislative clerk read as follows:

The Senator from Iowa, Mr. GRASSLEY, for himself, Mr. DURENBERGER, and Mr. DANFORTH, proposes an amendment numbered 3.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 107(a) of the bill, strike paragraphs (2) through (4) and insert after paragraph (1) the following:

(2) JURISDICTION.—

(A) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of—

(i) the employees; or

(ii) the employees and other employees similarly situated.

(B) RELATIONSHIP WITH ARBITRATION PROCEDURES.—No court shall have jurisdiction to render a judgment in such an action unless the court complies with the requirements of paragraphs (3) and (4) relating to arbitration and continuation of such an action after arbitration.

(3) ARBITRATION.—

(A) SENSE OF CONGRESS.—It is the sense of Congress that parties with a dispute regarding rights provided under this title should attempt to resolve the dispute without resort to litigation.

(B) ARBITRATION.—

(i) IN GENERAL.—The parties of an action brought under paragraph (2) may, if the parties agree, submit the dispute to nonbinding arbitration in accordance with this paragraph.

(ii) NOTIFICATION.—Each judge assigned to an action brought under paragraph (2) shall conduct a conference with the parties, and with counsel for the parties unless inappropriate, within 90 days after the complaint relating to the action is filed, to notify the parties of the availability of arbitration under this paragraph that may be used in lieu of litigation to resolve the complaint.

(iii) REQUEST.—Not later than 30 days after receiving the notification described in clause (ii), the parties may file a request for arbitration with the Secretary regarding the complaint. Such request shall include a copy of the complaint. The Secretary shall by regulation specify procedures for filing the request.

(iv) SELECTION OF ARBITRATOR.—

(I) LIST.—Not later than 10 days after receiving such a request regarding an eligible employee and an employer, the Secretary shall make available to the employee and employer a list of not fewer than seven arbitrators. Such list shall include, at a minimum, two names provided by the Federal Mediation and Conciliation Service. Each arbitrator on the list shall possess such qualifications as the Secretary, in consultation with the Federal Mediation and Conciliation Service and the Administrative Conference of the United States, shall by regulation specify.

(II) SELECTION.—The eligible employee and employer shall choose a mutually acceptable arbitrator (referred to in this paragraph as the "arbitrator") from the list provided by the Secretary. If the employee and employer are unable to agree on an arbitrator, the Secretary shall appoint the arbitrator.

(III) HEARING DATE.—The eligible employee and employer shall schedule a mutually acceptable date to conduct a hearing with the arbitrator under subparagraph (C), which hearing shall take place not more than 60 days after the date of choosing the arbitrator. The Secretary or the arbitrator may grant an extension of the hearing date for good cause shown.

(C) HEARING.—

(i) IN GENERAL.—The arbitrator shall conduct a hearing regarding the complaint referred to in subparagraph (B)(ii) in accordance with the procedures set forth in this subparagraph.

(ii) DISCOVERY.—The eligible employee and employer shall be entitled to make appropriate requests for discovery prior to the hearing. The Secretary, in consultation with the Federal Mediation and Conciliation Service and the Administrative Conference of the United States, shall by regulation specify the appropriate scope for the discovery requests. The ruling of the arbitrator on the discovery requests shall be final, binding, and nonreviewable.

(iii) EVIDENCE.—The arbitrator shall preside over the hearing and take into consideration written and oral evidence on the record as presented by the eligible employee and the employer. The arbitrator may utilize the Federal Rules of Evidence as a guideline for determining the admissibility of evidence during the hearing, but the Federal Rules of Evidence shall not be determinative.

(iv) DECISION.—The arbitrator shall issue a written decision to the eligible employee and the employer not later than 30 calendar days after the last day of the hearing. The decision shall be final and nonreviewable.

(D) REMEDY.—

(i) IN GENERAL.—The remedies applicable to individuals who demonstrate a violation of a provision of sections 101 through 105 shall be such remedies as would be appropriate if awarded under paragraph (1).

(ii) FEES.—The arbitrator, in the discretion of the arbitrator, may award reasonable attorney's fees and arbitrator's fees to a prevailing party in a hearing brought under subparagraph (C).

(E) ACCEPTANCE OR REJECTION OF DECISION.—Not later than 30 days after receipt of a final decision under subparagraph (C), each of the parties shall give notice with respect to each claim that is the subject of the arbitration that the party accepts, or that the party rejects, the decision of the arbitrator. If any party rejects the decision with respect to such a claim, the parties shall continue with the action described in paragraph (2) with respect to such claim. Such action shall be a trial de novo.

(4) FEES AND COSTS.—

(A) IN GENERAL.—Except as provided in subparagraph (b), the court in such an action may, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(B) ASSESSMENT IN ACTIONS CONTINUED AFTER ARBITRATION.—In any action continued after arbitration under paragraph (3)—

(i) an eligible employee who rejects the decision of the arbitrator under such paragraph shall pay the employer's costs, as set forth in section 1920 of title 28, United States Code, and attorney's fees, as set forth in subparagraph (D), with respect to a claim, that are incurred after the rejection of the decision if—

(I) with respect to a claim seeking monetary compensation (which compensation shall be calculated as the total of damages, equitable monetary relief, and interest, and attorney's fees attributable to arbitration, that are sought with respect to the claim), the employee fails to obtain a final judgment regarding the monetary compensation that is at least 10 percent greater than the monetary compensation awarded under the decision; or

(II) with respect to a claim seeking equitable relief not described in subclause (I), the employee fails to obtain equitable relief;

(ii) an employer who rejects such a decision shall pay such costs and fees, with respect to a claim, that are incurred after the rejection of the decision if—

(I) with respect to a claim seeking monetary compensation (as described in clause (i)(I)), the employer fails to obtain a final judgment regarding the monetary compensation that is at least 10 percent less than the monetary compensation awarded under the decision; or

(II) with respect to a claim seeking equitable relief not described in subclause (I), the employee obtains equitable relief;

(iii) if all of the parties reject the determination, no costs or attorney's fees shall be assessed against any party; and

(iv) the court may, in addition to any judgment, costs, and attorney's fees awarded in the action, allow reasonable expert witness fees to be paid by the nonprevailing party.

(C) LIMITATION IN ACTIONS CONTINUED AFTER ARBITRATION.—In any action continued after arbitration under paragraph (3)—

(i) the amount of costs and attorney's fee paid by a party under subparagraph (B) with respect to a claim shall not exceed the amount of the costs and attorney's fees of the party against whom the fees are assessed with respect to the claim; and

(ii) expert witness fees paid by the nonprevailing party shall not exceed the amount of the expert witness fees of the nonprevailing party.

(D) PROCEDURES FOR AWARDING FEES.—A party seeking an award of attorney's fees in an action described in paragraph (2) shall file an application for fees with the court before which the action is brought within 30 days after final judgment in the action involved. The application shall show that the party is eligible to receive an award under this section and the amount sought, including an itemized statement from any attorney appearing on behalf of the party that sets forth the actual time expended and the rate at which fees are computed. Within 30 days after service of the fee application upon the party against whom the fees are sought to be awarded, such party may file a response setting forth reasons why an award of fees would not be reasonable or why the amount of fees should be reduced.

(5) LIMITATIONS.—The right provided by paragraph (2) to bring an action by or on behalf of any employee shall terminate—

(A) on the filing of a complaint by the Secretary in an action under subsection (d) in which restraint is sought of any further delay in the payment of the amount described in paragraph (1)(A) to such employee by an employer responsible under paragraph (1) for the payment; or

(B) on the filing of a complaint by the Secretary in an action under subsection (b) in which a recovery is sought of the damages described in paragraph (1)(A) owing to an eligible employee by an employer liable under paragraph (1),

unless the action described in subparagraph (A) or (B) is dismissed without prejudice on motion of the Secretary.

(6) OTHER REVIEW.—No person may commence a civil action to enforce a right provided under this title except—

(A) in accordance with this section; or

(B) in an action brought under the Constitution.

In section 501(e) of the bill, strike "(3)" and insert "(4)".

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DODD. Mr. President, I ask unanimous consent that there be 90 minutes for debate equally divided in the usual form on Senator GRASSLEY's amendment; that no other amendments or motions be in order prior to the disposition of the Grassley amendment; that at the conclusion or yielding back of their time, the Senate vote on or in relation to Senator GRASSLEY's amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GRASSLEY. Reserving the right to object, can the Senator amend that for an up-or-down vote?

Mr. DODD. I ask my colleague, let us get the unanimous-consent agreement because we have to protect the majority leader's position on second-degree amendments. That is the primary purpose of this request. Otherwise, we will have to stay in a quorum call. I do not want to do that.

Mr. GRASSLEY. Let me ask the floor manager.

Mr. DODD. I say to my colleague, my intention is to table amendments. I do not want to be deprived of that. We will not be able to proceed because of the second-degree amendment problem. So why do we not leave the question open on the table and we can talk about that? Let us get this agreement.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. I thank the Chair.

(The remarks of Mr. MCCAIN pertaining to the introduction of S. 283 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. WOFFORD). Under the previous order, the Senator from Iowa and the Senator from Connecticut are responsible for 45 minutes.

Mr. GRASSLEY. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 15 minutes.

Mr. GRASSLEY. Mr. President, I say to those people who support this bill, my amendment will make their good idea work better. For people who oppose this bill, my amendment will make what is going to become law work better.

So this is an amendment that ought to appeal equally well to proponents, as well as opponents of this legislation. The Durenberger-Grassley amendment authorizes the use of arbitration to resolve disputes under the Family and Medical Leave Act.

When the Senate last considered family leave—and that was in the fall of 1991—Senator DURENBERGER offered an amendment that would have created binding arbitration under the family leave bill, as it was introduced and debated in 1991. I, at that time, did not work more closely with Senator DURENBERGER, and I regret that, because I have long been an advocate for alternative dispute resolution.

The Durenberger amendment was a very good idea, and it received 40 votes the last time it was up. It received 40 votes from both Democrats and Republicans, from both supporters and opponents of the Family Leave Act. This was a great first effort.

This year, Senator DURENBERGER and I have teamed up, and we have made some modifications in his idea. In fact, he might tell us that this amendment is not strong enough on the subject of arbitration. This is a somewhat more modest amendment. It does not revolutionize dispute resolution methods, nor does it make major changes in our civil justice system. But I believe that this amendment is critically important.

In Congress, we routinely create new rights and new remedies for our citizenry, and we expect the courts to vindicate those rights. The truth is that the rights can be protected through other means, and that truth is what lies behind this amendment—to protect rights, but to do it in ways other than just formal litigation, not mandating something other than formal litigation, but encouraging the use of alternatives to formal litigation. The effort here is about trying to keep things out of the adversarial environment of the courtroom and out of the costly environment of the courtroom. That is what our amendment is all about.

If this Congress and other Congresses in the future continue to define new rights—and let me add that that is our job; that is the job of the legislative branch. It is not the judicial branch that should be creating new rights. If we are, as a legislature, going to do this, we must devise new ways to solve disputes, which are going to grow out of our defining new rights.

Litigation is not always the most efficient way to resolve disputes. Federal courts have backlogs that range from 2 to 5 years. A parent who is wrongfully denied family leave under this new legislation will not be able to afford to wait 2 to 5 years to vindicate his or her rights under the bill. Employees need an alternative route.

In addition, we know that litigation does not always result in efficient payment of damages. University of Iowa law school Prof. Michael Saks has highlighted the inefficiencies of trials. In some forms of tort litigation, it costs $2.33 in order to compensate a victim $1. In asbestos litigation, it costs $2.59 to deliver $1 to a victim. Professor Saks concluded, "The principal beneficiaries of the tort system are insurers followed by lawyers."

If this bill becomes law, it will be no different, and the simple truth is that an employee suing for family or medical leave should not have to enrich lawyers to get what Congress says is a right under law. We simply have to stop creating more work for the courts. The Administrative Office of the U.S. Courts recently reported that in 1992 there was a 20-percent increase in the number of civil rights lawsuits filed. That is 20 percent. Does that mean that discrimination in America increased by 20 percent in 1 year, from 1991 to 1992? Of course not. The difference is that Congress enacted a new civil rights law in 1991, and the lawyers are reaping windfalls.

For these reasons, we need a legitimate alternative, and arbitration is just that alternative. Arbitration has a rich history in resolving disputes at the workplace. Unions and management have been handling employee grievances through arbitration throughout most all of this century. In the business world, disputes over securities issues are almost always handled through arbitration. Many States with so-called lemon laws to protect consumers from defective automobiles employ arbitration. And more and more companies are turning to arbitration in disputes with suppliers, as well as customers.

According to a Business Week article from last April, Motorola reports that it has slashed litigation costs by 75 percent since it started an alternative dispute resolution program in 1984.

Alternative dispute resolution is the trend, and it is time that Congress take notice of this trend.

So I want to explain our amendment in this context of movement in support of an idea.

First, it differs from Senator DURENBERGER'S amendment in 1991 in that it is voluntary. I want to repeat clearly, this is not binding arbitration. Within 90 days of the filing of a complaint in court, the parties will have a conference with the judge. The judge will explain the arbitration alternative to the parties, and, if they voluntarily agree, the Department of Labor will administer arbitration. The parties will have the opportunity to agree on an arbitrator from a list supplied by the Secretary of Labor. If they cannot agree on an arbitrator, the Secretary so appoints one. The arbitrator will hold a hearing within 60 days and take evidence from the parties. And, although it is not necessary that the Federal rules of evidence apply, the proceedings may be less formal if the parties choose.

The arbitrator must issue a decision within 30 days, and the arbitrator is authorized to award all forms of relief as provided in the bill. There is not a single form of relief that is applicable in this bill that the courts can apply that an arbitrator also cannot use at less cost and faster and in a less adversarial environment.

The parties may accept or reject the decision. If they accept, the case will have been concluded within 6 months. If one party declines the arbitration award, then that case can proceed to court. The judge will review and hear the case de novo. But if the party who wanted the case to go to court does not do better in court than it did before the arbitrator, that party will be responsible for the attorney fees of the other party from the date the arbitration award was rejected.

There will be some risks in proceeding to court, I want to be candid, but this is precisely the message that we think this process ought to send—family leave cases should not clog the courts. And I can come to this floor on future bills when there are Federal rights of action and suggest ways that we can relieve the clogging of the courts in those areas as well, and I intend to do that whether or not this amendment is successful here because we have to do something about the overburdening and the clogging of the court dockets.

Family leave cases should not clog the courts. The employer's responsibility will be clear. Any dispute should be able to be resolved efficiently before an arbitrator but, if a party insists on court consideration, that party may have to bear an additional cost.

The provision to govern this fee-shifting is modeled on an existing Federal rule of civil procedure. Rule 68 allows a defendant to make an offer of judgment up to 10 days before a trial. If the defendant's offer to settle is rejected and the final judgment is not more favorable to the plaintiff in the settlement offered, then the plaintiff is responsible for the defendant's costs from the date of the offer.

Our amendment builds on rule 68 in a way that has been suggested by Judge William Schwarzer, the Director of the Federal Judicial Center. The Federal Judicial Center is the research arm of the Administrative Office of the U.S. Courts. He wrote an article published last fall recommending that rule 68 be expanded to include attorney's fees and that it be a two-way fee-shifting process. Under the Schwarzer proposal, either the plaintiff or the defendant could offer to settle the case. If the settlement was rejected and the party did not do better at trial, then the party would be liable for the other side's attorney fees.

Our amendment takes Judge Schwarzer's idea one step forward.

I ask unanimous consent that his article be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRASSLEY. The limited fee-shifting provision of our amendment also contains a cap. This is necessary to be fair to both sides. The party who pursues the lawsuit after rejecting arbitration would only be responsible for the other side's attorney fees up to his or her own fees. So this is how it would work: If, for example, an employee is not satisfied with arbitration but at trial does not do better, that employee would only have to pay the company's fees in an amount up to his own fees. There would be no incentive for the employer to over-lawyer a case with the hopes of imposing costs on the employee that would be punitive and inhibit the exercise of rights.

Mr. President, arbitration is a well-accepted method in resolving disputes. The Supreme Court in the 1991 Gilmer case held that an employee's age-discrimination claim could be arbitrated where the employee signed an agreement to that effect. Arbitration in that case was mandatory and the Supreme Court upheld its use.

Here we have voluntary arbitration. It is really a very modest step and some may say too modest. But I am confident arbitration will be used regularly, even under the voluntary provisions. When the parties get into court and realize the backlogs, the delays, the inefficiency, they will choose arbitration, and they ought to have that alternative. Let us give them the option. I encourage my colleagues to support the amendment.

EXHIBIT 1

[From Judicature, October–November 1992]

FEE-SHIFTING OFFERS OF JUDGMENT—AN APPROACH TO REDUCING THE COST OF LITIGATION

(By William W. Schwarzer)

(The views expressed in this article are not necessarily those of the FJC. The author is indebted to John Shapard, who conceived the make whole principle. Edward Sussman helped prepare this article, Professor Tom Roe provided valuable assistance, and Professor Roy Simon facilitated our research.)

After fighting since 1988 over "The Uncollected Stories of John Cheever," the publishing firm Academy Chicago and the late writer's family reached a settlement this week. . . . The Cheevers have now agreed to drop a lawsuit they had filed in New York. In exchange, Academy Chicago said it would not publish any out-of-copyright material by the celebrated writer. . . .

The Cheevers, whose legal fees were estimated at more than twice the $420,000 Academy paid, could not be reached for comment. Their lawyer . . . said yesterday: "They are elated."

Elated?

"They're elated it's over," he amended.

But is "elated" really the word he wanted to use?

"I think 'relieved' is more accurate," he agreed.[1]

Is it possible to reduce the cost of litigation by creating incentives to settle quickly?

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[1] Streitfeld. *Cheevers, Publisher End Fight*, Washington Post, January 25, 1992, at C5.

Virtually nobody disputes that costs have skyrocketed and are often disproportionate to the stakes. One recent study reported that it costs $2.33 to deliver $1 in compensation to tort victims.[2] The total cost of tort litigation alone in 1985 has been estimated as high as $29–36 billion, only $14–16 billion of which went to compensate victims.[3]

Some argue that the cost of litigation could be reduced by adopting the English "loser pays" rule. Advocates of the rule maintain that it would not only restrain frivolous or marginal litigation, but would also more fully compensate the prevailing party. Yet a closer look at the role reveals that, at least on this side of the Atlantic, it would be counterproductive. It would tend to deter meritorious as well as frivolous claims and defenses, failure to distinguish between the real winners and losers, and produce windfalls as well as draconian penalties.

English practice does, however, offer an alternative approach of greater promise—the "payment into court" rule under which a defendant may deposit in court a sum in satisfaction of the plaintiff's claim. If the plaintiff does not accept it, goes to trial, and recovers less than the sum offered, it is not entitled to recover costs and instead must pay the defendant's costs (which in England include reasonable attorney fees as determined by a taxing master) from the time of the payment into court.

Our own Rule 68 of the Federal Rules of Civil Procedure is a cousin of the English practice. But Rule 68 has never had a significant impact, largely because it is limited to court costs. The utility of the English practice of payment into court (coupled with growing interest in the United States in experimenting with fee shifting) suggests that revision of Rule 68 to encourage early settlement without inflicting draconian penalties of generating windfalls deserves renewed and serious consideration.

Twice before, in 1983 and 1984, the Advisory Committee on Civil Rules considered amendments of Rule 68 to include attorney fees, but both attempts met with vigorous opposition and failed. The principal objections were that fee-shifting offers of judgment could have a devastating impact on plaintiffs (including those with meritorious claims), and that they could circumvent the statutory provisions for attorney fees in civil rights cases, undermining important policies underlying the civil rights laws.

The revision proposed in this article meets these objections. It would permit plaintiffs as well as defendants to make offers of judgment. If the offeree fails after a trial to improve his or her position over what it would have been had the offer been accepted, the offeror is entitled to post-offer costs (including reasonable attorney fees). But the amount of costs that could be recovered under the rule would always be limited to the lesser of the following: the amount of the judgment, or the amount needed to make the offeror whole for having had to go to trial. Claims subject to statutory fee shifting and class and derivative actions would be exempted.

This article first analyzes the operation of the English loser-pays and payment-into-court rules as background for the proposed amendment would function and explores its impact on the dynamics of the settlement process.

THE LOSER-PAYS RULE IN ENGLAND

Under the English rule, "costs follow the event." Generally, in civil non-family litigation, the losing party pays the costs of the prevailing party as taxed, including reasonable attorney fees. This practice, however, has significant limitations and qualifications.

First, costs are not awarded where the losing party's representation is financed through legal aid. Parties whose incomes fall below blue-collar or middle-class levels are eligible for such aid, although they may be required to make some contribution as their means permit.[4] Control is exercised over the acceptance of cases to screen out complaints with no reasonable chance of success.

Second, the loser-pays rule is circumscribed by the way in which costs are awarded. On the entry of final judgment, or of an interlocutory order such as an injunction, the prevailing party applies for taxation of costs attributable to that event. Costs, therefore, are awarded not only at the end of the litigation but also at intermediate stages and may be awarded to a party that does not prevail in the end. Costs, which include both solicitors' and barristers' fees, are considered to be a reasonably incurred, with any doubts the taxing officer may have resolved in favor of the paying party. The taxing officer, who functions somewhat like a federal magistrate judge, determines fees with reference to a fee schedule, taking into account the time spent, a reasonable hourly rate (which is less than that actually charged by attorneys), and a multiplier based on the amount at stake, the complexity of the matter, and the degree of skill required. Awards tend to run at 60–70 percent of actual fees.[5]

Costs are taxed against parties, not the attorneys, except in a case of misconduct, which does not include maintaining an unsuccessful action. Taxing masters have wide discretion, but the losing party's financial situation is generally not regarded as relevant. Losing a lawsuit can therefore have severe financial consequences. Even if a party is unable to pay a cost order, the order remains on the books as a continuing liability.

LOSER-PAYS IN THE U.S.

How would the English rule work in the United States? In the absence of comparable legal aid, access to the courts by economically disadvantaged people would be burdened. Although contingent fee arrangements would still be available, unsuccessful plaintiffs would be exposed to the risk of losing their assets to pay the defendant's fees. (The English rule does not tax costs against attorneys and presumably, any American version would not do so either.) But the rules potentially harsh impact would not be limited to those on the lowest rungs of the economic ladder. Even individuals with annual incomes in the $50,000 to $75,000 range would face difficult decisions whether to hazard having to pay an opponent's fees that might equal or exceed their annual income. This risk falls equally on plaintiffs and defendants. An individual or small business confronted with an uninsured claim, for example, might settle rather than assert a reasonable defense and risk having to pay the plaintiffs fees if the defense is unsuccessful. The rule would deter some litigation, but it would do so more on the basis of the litigant's risk averseness than the merits of the litigant's case.

Why, then, does the loser-pays rule survive in England? Apart from tradition and legal aid, one explanation lies in the profound differences between the British and American civil justice systems. England virtually abolished juries in civil cases (except for libel and malicious prosecution) more than 50 years ago.[6] Cases are tried before judges whose decisions are narrowly bound by precedent, not only on liability but on damages as well. Outcomes, therefore, tend to be more predictable in England than in the United States.

As a result, litigation decisions in the two systems are fundamentally different. A case that might to some appeal frivolous or marginal upon filing in an American court may still lead to a plaintiff's verdict; similarly, an apparently weak defense may prevail before a jury. As long as civil cases are tried before juries, fee shifting must be approached with caution, lest it result in imposition of possibly devastating penalties against actions or defenses that could have been winners.

Moreover, lack of predictability in American law is not limited to juries. Substantive and procedural law has undergone constant and sometimes dramatic change during the past 40 years. Law in America is more volatile and less precedent-bound than in England. Propositions that might at one time have been thought frivolous, or at least highly speculative, have become accepted. It is a rare case of which one can say with assurance that it cannot prevail.

If, then, there are circumstances that tend to lead to what many regard as an excess of litigation, they probably reflect the nature of our system more than the litigiousness of the population. It does not seem wise to try to cure problems inherent in our legal system by exposing parties who use it to severe and uncontrollable hazards.

At least two additional reasons exist for rejecting the conventional loser-pays rules: it mistakenly equates "loser" with "party against whom judgment is entered," and it fails to account equitably for the costs that the "winner" may impose on the "loser."

To illustrate this point, suppose the plaintiff in a personal injury action recovers a judgment of $30,000, after incurring attorney fees of $10,000. Under the loser-pays rule, the defendant would have to pay the plaintiff $40,000. But suppose further that the defendant had offered to settle the case for $35,000, and thereafter had to pay substantial attorney fees to defend the case at trial. Had the plaintiff accepted the defendant's offer, the matter would have cost the defendant only $35,000. But by virtue of the loser-pays rule, the defendant—who was the real "winner" in the sense that the judgment was less than what he or she had offered to pay—incurred a loss of more than $40,000 ($30,000 to pay the verdict and $10,000 for the plaintiff's reasonable attorney fees, plus the defendant's own fees).

Or suppose the plaintiff had recovered a judgment of only $500 after rejecting the defendant's $35,000 offer. It makes no economic sense to regard the plaintiff as the winner in this situation and require the defendant to pay the fees, which would probably vastly exceed the amount of the judgment.

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[2] Hensler *et al.*, Trends in Tort Litigation: The Story behind the Statistics 27 (1987), as cited in Saks, *Do we really Know Anything About the Behavior of the Tort Litigation System—and Why Not, 140* U. PENN. L. Rev. 1147, 1282 (1992) (statistic based on non-auto torts

[3] Drawing on data from Kakalik & Pace, COSTS AND COMPENSATION PAID IN TORT LITIGATION vi, 67–68, 75 (1986) and Sturgis, "The Cost of the U.S. Tort System: An Address to the American Insurance Association" (1985), cited in Saks, *supra* n. 2, at 1281–1283.

[4] Published reports indicate that the proportion of people eligible for aid has decreased in recent years from about 70 percent to about 40 percent. *See A Survey of the Legal Profession.* The Economist, July 18–24, 1992, at 15–17.

[5] *Id.*

[6] Administration of Justice (Miscellaneous Pro visions) Act, 1933 (restricting the right to trial by jury in civil cases to defamation and other limited exceptions).

These cases illustrate the need for a fee-shifting process to determine the true winner and consider the true costs imposed on the winner by the loser's actions, without generating windfalls or inflicting draconian consequences. An offer-of-judgment rule, appropriately designed, can accomplish these purposes.

THE PAYMENT-INTO-COURT RULE IN ENGLAND

The English payment-into-court rule permits a defendant (or cross- or counter-defendant) to deposit in court a sum it believes is sufficient to meet the claim. If the claimant does not accept the deposit, continues through trial to judgment, and recovers less than the amount deposited, it is the losing party. It will not be entitled to costs and will have costs taxed against it from the time for acceptance of the deposit. If, on the other hand, the claimant recovers a judgment for a greater amount, it will be the prevailing party and as such recover costs under the loser-pays rule. The procedure does not preclude a party from recovering costs in connection with an interlocutory proceeding. The deposit may be made at any time, even during the course of trial, though the later it is made, the less its potential benefit. A deposit that has not been accepted within 21 days lapses, but it may be renewed in the same or a different amount.

The procedure creates a strong incentive to early settlement. It provides defendants with the opportunity to reduce the risk of having to pay the plaintiff's costs as well as their own. And it gives plaintiffs the option to accept an offer, eliminating the risk of losing the lawsuit and having to pay both sides' costs. It is a more flexible procedure than the loser-pays rule, because both sides have some control over their fate, beyond the decision whether to file and whether to defend. Decisions about making and accepting offers occur in the course of the litigation when both sides have acquired information enabling them to evaluate their prospects and risks. Moreover, the practice enables parties to avoid proceedings for the taxation of post-offer costs.

AN OFFER-OF-JUDGMENT RULE FOR THE FEDERAL COURTS

Rule 68 of the Federal Rules of Civil Procedure resembles the English practice, except that by its terms it is limited to court costs, generally only a fraction of attorney fees. As now written, it permits defendant at any time more than 10 days before trial to serve an offer of judgment for money or other relief and costs then accrued. If the plaintiff accepts the offer within 10 days, judgment is entered. If the plaintiff does not accept and the final judgment "is not more favorable [to the plaintiff] than the offer," it must pay the costs incurred after the making of the offer. If an offer is not accepted, a subsequent offer may be made.

Because Rule 68 ordinarily applies only to court costs,[7] it is rarely used. Moreover, it is limited to offers by defendants; plaintiffs do not have the option to make cost-shifting offers. And it invites uncertainty and disputes in the determination of whether a non-monetary judgment is "more favorable than the offer."

Rule 68 could be made into an effective and fair vehicle to encourage early settlements without generating objectionable consequences by adoption of the revision here proposed. The full text of the proposed revision appears on page 151. It has the following elements:

Recoverable costs include reasonable attorney fees as well as court costs incurred following expiration of the time for acceptance of the offer;

Offers of judgment may be made by plaintiffs as well as defendants;

Recoverable costs are limited to the amount of the judgment;

Recoverable costs are limited to what is needed to make the offeror whole. That is, they would be reduced by the amount by which the offeror benefits from paying or receiving the judgment compared with what it would have paid or received under its offer;

The period for acceptance of the offer is extended to 21 days, or such additional time as the court may allow, to allow reasonable time for evaluation;

The court has discretion to reduce costs where necessary to avoid infliction of undue hardship on a party;

Claims arising under fee-shifting statutes and class and derivative actions are excluded.

HOW IT WOULD WORK

The following discussion describes the operation of the revised rule in various typical circumstances. Suppose a defendant offers to settle for $25,000, by the plaintiff rejects the offer and obtains judgment for $20,000. The defendant's reasonable post-offer costs are $10,000. The defendant would be entitled to recover its post-offer costs because the plaintiff's judgment was not more favorable to the plaintiff than the defendant's offer. Had the plaintiff accepted the settlement offer, not only would its recovery have been greater, but both the defendant's and plaintiff's post-offer costs would have been avoided. The proposed rule would reward the defendant for having made a settlement offer the plaintiff could have accepted to its benefit.

Note, however, that the defendant is $5,000 better off under the $20,000 judgment than had the $25,000 offer been accepted. Here the make-whole restriction comes into play. Under the proposed revision, the offeree pays costs "only to the extent necessary to make the offeror whole" and "in no case shall an award . . . exceed the amount of the judgment obtained."

To make the offeror whole, the amount by which the offeror is better off after trial than had the offer been accepted—$5,000—is deducted from the defendant's costs of $10,000. The defendant is therefore entitled to recover only $5,000 of its $10,000 in post-offer costs, and this amount is set off against the plaintiff's $20,000 judgment, making the defendant's net liability to the plaintiff $15,000.

Suppose the defendant's post-offer costs had been $30,000. Under the second limitation mentioned above—the amount of the judgment—the defendant could not recover more than $20,000, the amount of the plaintiff's judgment. This restriction serves to protect plaintiffs against out-of-pocket liability to defendants and to deter offering parties from incurring excessive litigation costs. Both sides' incentives to make offers that are likely to lead to settlement remain substantial, however; plaintiffs because they may lose the benefit of their judgments and defendants because they risk doubling their exposure in case of an adverse judgment.

Now suppose the plaintiff, rather than the defendant, had made a $25,000 offer. Since the judgment of $20,000 was not more favorable to the plaintiff than the offer made, the plaintiff would not be entitled to post-offer costs. The revised rule provides equal incentives for plaintiffs and defendants to make reasonable offers—that is, offers that appear to have a reasonable chance of being more favorable to the offeree than the judgment it is likely to obtain and thereby shifting post-offer costs. As each side moves toward such offers, the negotiating gap between the parties should narrow.

Suppose the plaintiff had offered to settle for $15,000 instead of $25,000. Since the judgment was for $20,000, the plaintiff's offer "beat" the judgment by $5,000 (in other words, the judgment was "more favorable to the offeree") and the plaintiff is entitled to post-offer costs. But the plaintiff's costs will be reduced, just as in the defendant's case, by the amount gained from the rejection of the offer, $5,000. If the plaintiff's reasonable post-offer costs were $10,000, this amount would be reduced by $5,000 and the balance added to the judgment, making it $25,000. the plaintiff's recoverable costs could in no event, however, exceed $20,000, the amount of the judgment.

Confronted with the risk of having to pay all or part of their opponents fees, litigants are likely to consider offers more seriously. And each is likely to want to hedge its bets by making counter-offers. Thus, the negotiating process will tend to be energized by the rule's incentives. These incentives, moreover, encourage early offers, because the more fees that remain to be incurred, the greater the potential gains and risks. To enable parties to evaluate offers, the time for acceptance is extended to 21 days, with the court having discretion to extend it further. No restriction is imposed on how early an offer can be made. This will create a strong incentive, in cases where the outcome appears relatively certain from the outset, to make early offers to avoid most litigation costs.

The revised rule's incentive structure is based on the imposition of risks on the parties, but the make-whole and capping restrictions limit these risks. No costs are recoverable when judgment is for the defendant. And neither side can expect to recover disproportionate attorney fees and costs.[8]

MULTIPLE OFFERS

The revised rule is designed to accommodate multiple offers. Suppose a defendant rejects the plaintiff's offer to settle for $25,000. Following discovery, the defendant offers $30,000. Meanwhile the plaintiff has incurred $10,000 in costs since making the offer. The case goes to trial, and judgment is for the plaintiff for $27,500. The defendant may have calculated that my making a last-minute-offer the plaintiff could probably not beat at trial, it could deprive the plaintiff of the cost-shifting benefits of the earlier offer. To promote the ongoing exchange of realistic offers throughout the pretrial period, while preventing game playing that might defeat this purpose, the revised rule provides that a party making an offer "shall not be deprived of the benefits thereof by a subsequent offer unless and until the offeror fails to accept [a move] favorable offer." In other words, if a later offer from the opponent is not more favorable to the offeror than the judgment, taking into account costs incurred in the interim, the earlier offer prevails. But if the opponent's later offer is more favorable to the offeror than the judgment, that offer prevails.

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[7] See text at note II, *infra*.

[8] In some cases in which the plaintiff has a contingent fee contract with its attorney, the rule could operate to reduce the amount available to pay attorney's fees if the plaintiff recovers judgment but fails to improve on the defendant's offer, and the defendant's post-offer fees absorb much of that judgment. But this disadvantage should be offset by the tendency of the rule to encourage earlier and more attractive settlement offers by defendants.

Under the facts stated above, suppose the plaintiff incurred costs of $10,000 after its offer until the time of the defendant's offer. This amount would be deducted from the defendant's offer of $30,000 for purposes of determining whether that offer was more favorable to the plaintiff than the $27,500 judgment. So adjusted, the defendant's offer becomes a $20,000 offer and is not more favorable to the plaintiff than $27,500 judgment. The defendant has not succeeded in "cutting off" the plaintiff's earlier offer, and the plaintiff recovers its reasonable post-offer costs minus the make-whole reduction of $2,500.

The revised rule's incentive structure remains dynamic throughout the litigation. An offeror is likely to be faced with a counter-offer that will require evaluation. The risks and opportunities created by the rule, amplified by the passage of time and the accumulation of costs, should exert constant pressure on parties to move toward agreement.

OTHER VARIABLES

Improving one's offer. Suppose that sometime after having its offer of $25,000 rejected, the plaintiff offers to settle for only $15,000. Meanwhile it has incurred additional costs of $5,000. The defendant again rejects the offer, causing the plaintiff to incur an additional $10,000 in costs. The judgment is for $30,000. Both the first and second offer are more favorable to the offeree than the judgment, but each has different consequences. Recall that under the revision, an offeror is entitled to the benefit of its offer unless and until it declines to accept a subsequent more favorable offer. Since no subsequent offer was made to the plaintiff, it is still entitled to the benefits of the first offer if they are greater than those of the second. In other words, in the absence of a counter-offer, the plaintiff can choose the offer that will lead to the greater recovery. In this case, the plaintiff can recover $10,000 in costs under the first offer but nothing under the second because of the impact of the make-whole restriction.[9]

Non-monetary offers. When the offer and judgment include non-monetary relief, the proposed revision calls for a straightforward comparison: "if the judgment obtained includes non-monetary relief, a determination that it is more favorable to the offeree than was the offer shall not be made except when the terms of the offer included *all* such non-monetary relief" (emphasis added). Suppose the defendant offered $25,000 and no additional non-monetary terms. If the judgment is for $20,000 but also includes injunctive relief, the defendant would not be entitled to costs despite its more favorable monetary offer.

Suppose the defendant offered $25,000 and an agreement not to publish material for five years, but the judgment was for $20,000 and an order imposing a trust with all publication profits for three years going to the plaintiff. Because the offer did not include all the non-monetary relief awarded in the judgment, though its monetary terms were more favorable, the defendant is still not entitled to costs. This would be true even if a comparative appraisal were to establish that the terms of the offer had been more favorable than the judgment obtained. The terms must be the same (or subsumed therein) for the offer to be considered more favorable than the judgment obtained. This restriction is necessary to avoid collateral litigation over the evaluation of non-monetary relief.

If, in the above case, the judgment had been for $20,000 and an order not to publish the material for three years, the terms of the offer would have included all the non-monetary relief awarded by the judgment, and the defendant would have been entitled to recover costs. The three-year ban can be said to have been completely subsumed under the offer of a five-year ban (even if the words differed). Note, however, that since the award of fees cannot exceed the amount of money awarded in a judgment, an award of only non-monetary relief precludes fee shifting under the revised rule.

IMPACT OF THE PROPOSED REVISION

As the foregoing discussion has shown, the proposed revision has none of the objectionable features of the 1983 and 1984 proposals:

It does not threaten plaintiffs with out-of-pocket loss;

It does not undercut the policy of fee-shifting statutes;

It does not permit windfall recoveries;

It does not permit recovery of disproportionate costs;

It eliminates the need for judicial review of the reasonableness of offers and rejections.

Scope of the rule. The revised rule has three exclusions. First, claims arising under fee-shifting statutes, such as the civil rights and antitrust laws, are excluded to avoid undercutting the congressional policy encouraging private enforcement.[10] The effect of this exclusion would be to supersede the Supreme Court's 1985 decision in *Marek* v. *Chesny*.[11] Chesney held that Rule 68 could bar an award of statutory attorney fees to a prevailing civil rights plaintiff who had rejected a settlement offer that exceeded the judgment. The decision did not shift the defendant's fees; the plaintiff remained the prevailing party for purposes of the civil rights statute.

The revised rule also excludes class and derivative actions because Rules 23, 23.1, and 23.2 require settlements of such actions to be approved by the court. To permit unapproved offers of settlement to be operative to shift fees would be prejudicial to the parties and create an irreconcilable conflict with these rules.

The revised rule does not exclude actions in which the parties by prior agreement have provided for recovery of attorney fees by the prevailing party. In such cases, in which a final judgment may include attorney fees, the rule will treat offers as including the component of monetary relief as well as others. Similarly, punitive damage would be treated as an element of monetary relief encompassed in an offer. Doing so is consistent with the normal practice of settling such cases.

Judicial impact. Because of the limits the revised rule imposes on cost recoveries, there is no need for judicial review of rejected offers. But because the revised rule also limits recovery to reasonable attorney fees, the court is the ultimate arbiter of the award. If the rule operates as contemplated, however, the court should rarely have to be called on, because the vast majority of cases will settle, and because it is reasonable to expect that more often than not, the rule's make-whole and capping limits will make it self-evident that reasonable attorney fees exceed the amount allowable, obviating the need for court proceedings. If the revised rule accomplishes its purpose on generating not only more but earlier settlements, and with less need for judicial intervention than currently, the resulting savings in judicial time should more than offset the amount of time required by the occasional attorney fees proceedings under the rule.

IMPACT ON SETTLEMENTS

The assumption underlying the proposed revision is that it will encourage parties to make earlier and more reasonable offers, leading to earlier settlement negotiations with greater prospects of success.

The legal literature abounds with economic analysis of fee-shifting mechanisms. Not surprisingly, given the complexity of the subject, opinions differ on whether such mechanisms encourage early settlement. One writer recently concluded that "[u]ntil a better empirical foundation has been established, the existing theoretical arsenal is still too weak to resolve many of the ultimate questions of interest."[12] "Institutional details" motivating and constraining the behavior of parties and lawyers, the writer noted, are not necessarily accounted for by the current economic analysis of fee shifting.

Indeed, a host of not readily quantifiable factors can influence the incentive structure in any particular case. Deep-pocket litigants determined to eliminate their adversaries or those driven by principle or policy might be impervious to economic incentives. Highly risk-averse litigants, on the other hand, would be extremely sensitive to the threat of added costs and opt for settlement.

Some commentators have argued with respect to a loser-pays rule that it might actually discourage settlement rates by driving apart litigants who both firmly believe they will win. According to this argument, in such a case only the prospect of the parties bearing their own attorney fees creates a range of possible settlements. If, instead, each party believed that the other side would ultimately bear all the costs of the litigation, the incentive to settle to avoid expenses would disappear. For example, under the American rule, if the plaintiff firmly believed he or she would recover $10,000, and the defendant firmly believed there would be no recovery, but each anticipated having to spend $6,000 to take the case through trial, the parties might enter settlement discussions anyway, because even a $5,000 settlement would leave each party in better financial shape than a trial. Yet under the loser-pays rule, the argument goes, the litigants might dig in since each anticipates no net loss following a verdict.

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[9] The plaintiff incurred costs of $15,000 following the first offer. But $5,000—the amount by which the judgment exceeded the offer—must be deducted from this amount. Thus, under the first offer, the plaintiff can recover $10,000 in costs in addition to the judgment. Following the second offer, the plaintiff incurred only $10,000 in costs. Since it received a $15,000 benefit, the amount by which the $30,000 judgment exceeded the offer, the plaintiff would not be entitled to recover costs under the second offer.

[10] Pendent state law claims would be included.

[11] 473 U.S. 1 (1985).

[12] Donohue, *The Effects of Fee Shifting on the Settlement Rate: Theoretical Observations on Costs, Conflicts, and Contingency Fees*, 54 Law & Contemp. Prob. 195 (1991). There have also been several analyses focusing on the question of including legal fees under Rule 68. See Rowe, *American Law Institute Study on 'Paths to a Better Way': Litigation, Alternatives and Accommodation—Background Paper*, 1989 Duke L.J. 824: Rowe and Vidmar, *Empirical Research on Offers of Settlement; A Preliminary Report*, 51 Law & Contemp. Prob. 13 (1988); Miller, *An Economic Analysis of Rule 68*, 15 J. of legal Stud. 93 (1986); Toran, *Settlement, Sanctions and Attorney Fees: Comparing English Payment into Court and Proposed Rule 68*, Am. U. L. Rev. 301 (1986); Woods, *For Every Weapon a Counterweapon: The Revival of Rule 68*, 14 Ford. Urb. Law J. 283 (1986); Simon, *The Riddle of Rule 68*, 54 Geo. Wash. L. Rev. 1 (1985).

Even if this argument has some validity under a loser-pays rule, it carries little weight under the proposed offer-of-judgment rule. For the defendant, there is no advantage in digging in without ever making an offer, as there might be under a loser-pays scheme, for by digging in it gives up any chance of recovering costs, regardless of any recovery by the plaintiff. For the plaintiff, in turn, there is no advantage in refusing to make an offer that might beat the judgment. And once such an offer is on the table, the defendant's risk of loss escalates unless it accepts the offer or makes a counter-offer attractive to the plaintiff. Unlike the loser-pays scenario under which the parties may be stalemated, the revised rule provides incentives that should energize the negotiating process.

The incentive structure under the revised rule will not be equally powerful in all cases. In large and especially multiparty litigation—in which the stakes are high relative to costs and control may be dispersed—fee-shifting offers of judgment may have little utility. But as the cost of litigating a dispute rises in relation to its value, the power of the revised rule increases. Because the incentive will be to confront the opponent with an offer it would not lightly refuse, offers and counter-offers should move toward the middle ground.

It is true that the larger the gap between an offer and a judgment, the larger will be the offeror's make-whole offset against the costs he or she can recover to reflect the resulting benefit. Thus, if a defendant offering to settle for $35,000 succeeds in holding the plaintiff to a $5,000 judgment, the defendant will recover less in costs than if the plaintiff won a judgment of $30,000. Similarly, the larger the excess of a judgment over a plaintiff's offer, the greater the offset against a plaintiff's cost recovery. This result is a necessary corollary of the make-whole principle underlying the rule. But it does not significantly weaken the revised rule's incentives and is justifiable on the basis of the benefit derived by the offeror from the more favorable result obtained.

The principal impact of the revised rule will likely be on cases in which the cost of litigation could become disproportionate to the amount at stake. It would also have a significant impact in cases where liability is all but certain. Suppose a creditor is owed $50,000. He or she estimates that to take the case through trial will cost approximately $50,000. The defendant may currently be able to escape having to pay the debt by simply stonewalling, figuring that the creditor may not wish to throw good money after bad. The revised rule would enable the creditor to file suit and make an offer of judgment for $49,999. If the debtor refuses the offer, it risks having to pay the debt as well as the creditor's and its own costs. The creditor can go to trial and incur costs up to $50,000 without jeopardizing any of the $50,000 recovery. The debtor, facing up to $100,000 in potential losses, plus its own attorney fees, has a strong incentive to settle. Similarly, a defendant with a strong defense against a doubtful claim can make a modest offer, with a high expectation of setting off its costs against a judgment if the offer is rejected.

No doubt, even under the proposed revised Rule 68, some litigation will continue to be protracted and costly. Some cases will not, and should not, settle for any number of reasons. But the revised rule may often give parties the push that is needed to initiate settlement negotiations on a basis that is likely to lead to agreement.

Mr. GRASSLEY. Mr. President, I would like, if it is possible, to yield 10 minutes, or what portion he might use, to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I rise now in support of the Family and Medical Leave Act and in support of the amendment by my colleague, Senator GRASSLEY, and we are offering to provide for voluntary arbitration of disputes.

Last year, I supported the Family and Medical Leave Act. At that time I complimented my colleagues, Senators DODD, COATS, BOND, FORD, and others, for their work to make this bill employee and employer friendly, and I renew that commendation today, particularly for the man who spent so much time bringing us to this point, our colleague from Connecticut, Senator DODD .

Just a few months ago, I voted to override President Bush's veto of family and medical leave, because I think it is an idea whose time has come.

A good society is not measured by how many people are on welfare, but how many are at work. So our national income security policy begins with earnings; plus the programs like medical leave, health insurance, pensions, and vacation that supplement earnings; and catastrophic insurance, social insurance, and tax policy.

My home State of Minnesota is out front on many issues, and this is one of them. Minnesota employers already provide 6 weeks of parental leave and allow workers to use their sick leave to care for sick family members. In most cases, this is paid sick leave. Last year, I introduced a bill based on this Minnesota model.

In Minnesota, we do it because it is the right thing to do. For workers, for families, for our own sense of community. But for many employers the costs of leave disadvantage their products and services in national and international competition. It is for this reason we need a national policy to guide all employers.

From the time in 1935 that Wisconsin passed an unemployment compensation tax on to its employers, we have found that good policies start locally, but eventually become national policy—to prevent these right things to do from being defeated by market competition.

The Family and Medical Leave Act is a national policy that instills an ethic of caring in the workplace.

We want workers to be able to care for a newborn or newly adopted child, or care for a sick family member. We want employers to care enough to continue health insurance coverage when families need it most, and care about workers having jobs when their family obligations are over.

This debate should not be a choice between what is good for employers and what is good for employees. I believe that a national family and medical leave policy will be good for both.

Family and medical leave will be good for workers and their families who need support to face crisis situations. It will be good for employers, since it costs less to provide unpaid leave than it does to fire and replace employees.

A national leave policy will be good for our country, because we care about providing income security for all Americans, and the best income security is job security.

Our industrial competitors around the world already have generous family and medical leave policies. America can have a workplace that cares and competes.

I am aware that this bill has already been through a series of compromises. S. 5 is perceived as the unfinished business of the last Congress, and I understand the sense of urgency that many of my colleagues feel to enact this bill as quickly as possible. But I am asking my colleagues to consider one more change: one more promotion of the ethic of caring.

Under the current framework of this bill, employer and employee disputes will be resolved in court. As I have said, a family and medical leave policy will be good for both parties. But a protracted court battle to settle disputes will be good for neither.

In 1991, I proposed an amendment to the Family and Medical Leave Act that would have provided a mechanism for settling disputes through binding arbitration with limited judicial review. This process would be less costly and time-consuming for both employers and employees. That amendment as my colleague has already pointed out, got 40 votes in this body.

Today, Senator GRASSLEY and I are offering an amendment that will provide for voluntary arbitration. This amendment will address the concerns of my colleagues who were reluctant to support my 1991 binding arbitration amendment because of issues of equal bargaining power and judicial review.

Under the Grassley-Durenberger amendment, after a complaint is filed in court, the judge is required to meet with the parties and inform them of the availability of arbitration to settle the dispute. Arbitration will mean a less costly, less time-consuming, and less adversarial process.

Court battles can mean delays of 2 to 5 years before disputes are resolved. In the end, workers who prevail in court usually end up with only 43 percent of their award—the rest is eaten by court costs, attorney fees, and other administrative costs. Employees who have been aggrieved under the Family and Medical Leave Act are probably least able to afford the time and money it takes to resolve these disputes in court.

Under the Grassley-Durenberger amendment, employees and employers can resolve their disputes through arbitration, but only if both parties agree to enter into arbitration. The Department of Labor will provide a list from which the employer and employee will choose the arbitrator. The arbitrator will have full authority to award any of the remedies available under the Family and Medical Leave Act.

If both parties are satisfied with the outcome, the process can be completed in under 6 months. If one party is not satisfied, that party can proceed to de novo review in court. That means that the arbitrator's findings of fact and conclusions of law will be fully reviewable in court.

If the arbitrator's decision is reasonable, however, there will be a strong incentive to abide by that decision. If the party who chose to proceed does not fare better in court, he or she will be responsible for the other side's attorney fees, limited to the total of their own attorney costs.

Mr. President, this amendment promotes an ethnic of caring by providing a way to resolve disputes without having to resort to confrontational, costly, time-consuming litigation. It will allow employers and employees to voluntarily sit down at a table and work through their dispute, without sacrificing any right to judicial review.

This amendment is good for employees and good for employers because it will reduce the time and cost of resolving conflicts on an issue critical to both. It is also good for our overburdened courts that are already clogged with cases. This amendment is a win-win proposition.

As you will hear from the sponsor of the bill, it has only one problem—my colleage from Connecticut, Senator DODD, will say that family and medical leave cannot pass the House of Representatives with an arbitration amendment.

I say we now have undivided Government in D.C. We have not had it for 12 years. This bill is here because President Clinton wants it here—and wants it to move rapidly. Its his opportunity—and the House of Representatives opportunity—to give us family and medical leave. Let us give them a chance to pass an even better bill.

I hope that my colleagues will support family and medical leave because it makes sense and its the right thing to do. I also hope my colleagues will support this amendment because it makes sense and its the right thing to do.

Mr. DODD. Mr. President, I yield 5 minutes to the distinguished junior Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. KRUEGER. Mr. President, I thank the chairman for yielding this time.

Mr. President, I rise to express my strong support for Senator DODD's Family and Medical Leave Act of 1993. I am convinced that this measure will reduce the workplace pressures that already damage our families. If this legislation does not embody family values, I do not know what does.

The pressures on working families are real. Both parents have to work in almost 60 percent of U.S. households with children today. That percentage compares with just 19 percent 30 years ago. Presently, two-thirds of single and married mothers, with children under age 18, work outside the home.

Mr. President, these numbers prove the days of Ozzie and Harriet are long gone. More often than not, dad no longer trots off cheerfully to work, while mom contentedly stays home to care for the little ones.

Now, both mom and dad trudge off to work, scrambling for day care and scared stiff about what they will do if one of the kids becomes seriously ill. If one of the kids does, and the parents' employers do not provide leave, the parents face a Hobson's choice: either turn their back on their family or on the job on which their family depends.

The risk of that Hobson's choice is real. The U.S. Chamber of Commerce found that 82 percent of employers do not provide leave to care for sick children. The Bureau of Labor Statistics found that only 37 percent of workers are granted maternity leave in firms with more than 100 workers. The U.S. Chamber discovered that 75 percent of employers fail to offer paternity leave.

The Family and Medical Leave Act will reduce the risk of working families facing the Hobson's choice. This legislation entitles eligible working parents to 12 weeks of unpaid leave a year. We need to keep in mind, that's unpaid leave.

They can use that unpaid leave to have or adopt a child, care for a sick child, or recover from their own illness. Finally, they can take leave to care for an ill grandparent for whom they have responsibility.

These working parents get to keep their health insurance while they are gone and get their jobs back when they return.

That is all they are entitled to under this bill. That is all covered businesses have to provide.

I do not believe the business community will suffer from enactment of this legislation. First of all, the legislation exempts 95 percent of all employers nationwide: it exempts all businesses with less than 50 employees. This measure therefore sidesteps the small companies, the partnerships, and the mom and pop operations. But even for covered businesses, the General Accounting Office estimates this legislation will cost them only $5 per year, per employee.

Mr. President, this minimal cost is one of the reasons that this bill has strong bipartisan support. Some of the Republicans supporting this bill, as I understand it, are Senators KIT BOND and DAN COATS, who could never be accused of being enemies of small business.

These Senators were instrumental in helping to craft this legislation to make sure it is business-friendly.

I think it is business friendly. I think it is friendly not only to businesses but to the well-being of all people in our country.

These business friendly provisions are apparently satisfactory to the National Retail Federation. They have come out in support of this legislation. The federation represents over 1 million retail establishments nationwide. We have 100,000 retailers in my State of Texas who are members of the federation.

I think that family and medical leave is long overdue. It is overdue because our society has been changing, because the economy is such, and our society is such, that in the majority of American families today, both parents work. If both parents work, both parents should at least have the opportunity to return to their own families when there is a need there.

We now have a President who will sign this measure into law after having one who previously vetoed it. Now we have a change to protect working families from their Hobson's choice. When their loved ones become ill they can protect both their jobs and their families.

Mr. President, when it comes to family values, the Family and Medical Leave Act is where the rubber meets the road. We need to get moving down that road and pass this legislation as soon as possible.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I yield myself 10 minutes on the Grassley amendment.

Before I take time to discuss the Grassley amendment, let me first of all commend my colleague from Texas. I have not had the opportunity in a formal setting to congratulate him on his arrival in the Senate.

I had the pleasure of serving with Senator KRUEGER in the House of Representatives. In fact we were elected the same year to the House, 1974, and spent several terms together in the Congress. I am pleased to welcome him here in the Senate.

While obviously there are, from time to time, issues that will create some conflicts between the northeast and Texas, I can say categorically that the energy-producing States of this country, in my experience serving in the House, never had a better advocate, a more articulate advocate, than BOB KRUEGER. Certainly, coming into these difficult days, when talking about important issues such as energy in his involvement on the Commerce Committee, Texas is going to be well represented in the U.S. Senate with the arrival of BOB KRUEGER. Obviously, his interests go beyond just the issues of energy.

But nonetheless, I am pleased that he is here. I think he will make a tremendous addition to the U.S. Senate and I commend him on his comments.

Mr. KRUEGER. I thank my colleague very much.

Mr. DODD. Mr. President, if I may, in response to my two colleagues from Iowa and Minnesota, first let me begin by saying that I find myself in general agreement with the idea of trying to resolve disputes other than going to litigation. In fact, I am a strong supporter of the product liability legislation. Some 7 or 8 years ago, Senator DANFORTH of Missouri and I put forward an alternative conflict resolution or dispute resolution procedure which did not get very far here. Certainly in medical malpractice, I am a strong supporter of trying to eliminate the need of going to the courts and all of the costs involved in it, the lengthy delays, the hardships.

On the basic issue of whether or not we ought to try to avoid litigation and to avoid matters being tied up in courts, I have no argument with that at all, but I think there are a couple of points that need to be made regarding this particular amendment, and it is a modified amendment from what was offered earlier. As I understand it, this is more voluntary, in a sense, than binding. So I certainly appreciate the authors of the amendment trying to at least move this debate a bit further along.

One point is that in this bill, we are dealing with the Fair Labor Standards Act. We do not change that at all. One of the complaints that we had received when I initially introduced the legislation is that we are setting up a new mechanism for dealing with disputes or litigation or problems. And that is why we utilized an existing body of law, existing agencies, an existing mechanism so as not to complicate matters. That was a good suggestion. We changed the law so that we now, on the dispute resolution or the enforcement mechanisms, follow virtually 50 years of the Fair Labor Standards Act. Of course, that act was adopted in 1938.

Rather than getting into some new areas, charting some new courses, we decided to stick with an existing tested and proven body of law. That is No. 1. No. 2, this is a different matter. We are not talking about a contract dispute between a union and management. We are talking about a basic minimum labor standard. So I think it is important for people to distinguish this is not a matter where you have parties coming to the table necessarily on equal footing. But the more important point to make to my colleagues on this particular amendment is that, frankly, if the facts are as I lay them out here, there is little need, if any, for this particular proposal, based on the experience of how the Fair Labor Standards Act works. I think it is important to make that case.

I point out third, Mr. President, thanks to the tremendous efforts of Senator BOND, Senator COATS, and Senator FORD who worked tirelessly in trying to come up with some legislation in this area, some ideas in this area, we were able to arrive at the point where S. 5 now completely parallels the procedures used for the Fair Labor Standards Act. These are the procedures, as I mentioned earlier, used by the Department of Labor to enforce minimum wage and overtime laws. Thus, we have a well-known, efficient approach that has worked for years.

The Senators from Iowa and Minnesota propose, of course, instead to create an unprecedented new system that would establish a new mechanism for arbitrating family and medical leave complaints; one that would put parties who appeal at risk and including the responsibility of both parties for attorneys' fees. I oppose this idea not because of what the Senator from Minnesota says, because it complicates where this bill could end up in the House given the strong feelings on this issue, but I think the facts indicate on this particular area it may not be necessary for the reasons I will state, Mr. President.

I hope my colleagues will agree that the Fair Labor Standards Act enforcement scheme embodied in S. 5 addresses all of their concerns.

Here is the point. I thought it was worthwhile to go back and to take a look at what had been the history of matters brought before the Department of Labor under the Fair Labor Standards Act. Based on available information, more than 97 percent, let me repeat that, more than 97 percent of all Fair Labor Standards Act cases are resolved without litigation. In 1990, the Department of Labor investigated 74,000 Fair Labor Standards Act cases and determined there were violations of law in 52,000 of the 74,000. Of the 52,000, only 2,081 cases were referred to litigation and two-thirds of the 2,081 cases were resolved without going to court. That is a remarkable record.

So if you begin with 74,000, with 52,000 involved in violation of law, 2,000 of them were actually referred to litigation and two-thirds of those were settled without going to court, in effect, we have an arbitration system, if you will, de facto under this law. Let me explain how it works.

Under this act, if a worker is denied, let us say, leave illegally—let us assume that—and loses his or her job, the worker has the following recourses under the bill: The employee contacts the Wage and Hour Division at the Department of Labor which enforces the Fair Labor Standards Act. The compliance officer investigates the complaint obtaining and reviewing records and meets with the employer and the employee to attempt to resolve the violation of law. If this family leave case follows typical patterns, it will be resolved at this stage. As I say, the overwhelming majority, thousands of them are resolved. In effect, it is arbitration. They bring together the parties and try to resolve it. There is no court action yet at all.

More than 97 percent of the complaints are resolved during that process, which I gather is exactly what the offerors of this amendment are trying to do, which does exist already in these kinds of matters.

If the compliance officer, however, cannot resolve the complaint, it is taken to higher levels of the agency for another round of meetings and arbitration. So if you are not satisfied, if you do not get it in the first case, the procedures require that you can go to a second round of arbitration. No one has gone to court yet. We want to keep people out of court if we can. If these administrative procedures do not work, the Department of Labor refers the case to the Solicitor's office for litigation. Again, in 1990, only 2.8 percent of the 74,000 cases were referred to litigation, and of those that were referred to litigation, two-thirds of them were settled without going to court. So de facto, Mr. President, we have arbitration here.

My concern would be if you decide to demand sort of an arbitration process with attorneys fees, you are in effect creating and inviting litigation, it seems to me, or creating yet another round of bureaucracy unnecessarily. Obviously, as a final step, the DOL can file suit on behalf of the employee in State or Federal court. Should the Department of Labor not file at this juncture, then the employee can sue directly. Such private litigation, I point out, is extremely rare. Of course, the Presiding Officer—I am preaching to the choir here—is a former Commissioner of Labor in the State of Pennsylvania and is more than aware of these matters. Obviously, I would like to think that my colleagues will understand that under the present system it works pretty well. Let me go on further.

My colleagues obviously should be able to see the strength of this enforcement approach. It is the informal, long-time expertise of the Department of Labor which comes into play. There are few legal costs involved, which is one of the things my colleagues are trying to bring down, the costs that are staggering to people. And using the British idea of the loser pays, if you can avoid those kinds of costs in the beginning by having the first, second, and third phases of parties meeting with each other, then we are avoiding those costs and avoiding getting clogged up in the courts.

Because the Family and Medical Leave Act will not lead to a litigation bonanza, I believe there is little reason to consider an alternative to administrative review of complaints. It also establishes a time-tested procedure that allows workers and employers to obtain administrative investigation and resolution of their complaints without requiring that they hire a lawyer.

The PRESIDING OFFICER. The Senator has spoken for 10 minutes.

Mr. DODD. I ask unanimous consent to proceed for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, the one thing you want to do is avoid hiring lawyers. The complainant goes to the Department of Labor. The Department of Labor handles it, so you are not out there trying to get your own lawyer. Obviously, when you get the employer involved, he does not have to hire a labor lawyer. The Department of Labor is not taking a side. They are interested in protecting the employer and employee. If you require that they go right into an arbitration procedure, the employer has to get his lawyers, the employee gets his lawyers and you know what happens then. It is not in their interest to see it resolved. The system that presently exists avoids that altogether, and it seems to me it would be in our interest to avoid, in a sense, inviting the kind of litigious activity that can occur.

At any rate, there are serious disadvantages, I point out as well, to the amendment. When arbitration is used in labor/management relations, the circumstances are very different. I tried to make this point earlier.

Arbitration is used to resolve disputes generally regarding union contract interpretation. The parties, both union and management, agree voluntarily to use a professional arbiter during the life of the union contract to rule on questions of contract interpretation rather than taking such disputes to court. Individual employees do not incur legal costs because they are represented in those cases by their union.

In union contract arbitration, the parties are in a position of equality. Union and management have negotiated the contract and have experience in taking such cases to arbitration. In contrast, under what my colleagues are proposing, a mother who has been told that she cannot take time off to care for a sick child is not on an equal footing with her employer and their lawyers.

An arbitration proceeding is neither informal nor inexpensive, I might point out as well. How is that mother who has a sick child, who lost her job, lost her health care benefits, going to feel when faced by an employer's attorney in an arbitration matter? That is not equal footing. And yet under the present system you get equal footing through the Department of Labor.

Would she not be much better off using the simple Department of Labor procedure that is accessible to lay people and the employer without being charged? I mean the very arguments my colleagues are raising I agree with. But I do not think there has been a thorough examination of what the existing procedures are and how it avoids exactly the very issues that they have raised: getting to court too early, heavy costs involving a litigious type of environment.

The present system does just the opposite and the facts speak loudly to that, when you are down, basically out of 74,000 cases that are filed, to roughly 600 ending up in court in 1990. These are the statistics. That is a very good record, a very good record, when you are able to resolve those matters without ever entering a courtroom.

At any rate, for those reasons, Mr. President, I respectfully urge and hope that my colleagues—as I say, on the issue of trying to come up with tort reform, I agree with them. I am an ally in that debate. I am an ally. But I think we have to be careful about taking that issue on tort reform, which is a very good issue and I think needed, and I am a strong supporter—I voted with it last year when we had the matter up on the floor. But taking that issue and applying it in this kind of a fact situation where already you have good dispute resolution mechanisms I think is a mistake.

So I would hope that my colleague from Iowa might consider, having discussed this a bit and realizing we are dealing with different fact situations—this is not product liability; it is not medical malpractice at all, where there is no means by which the parties can arbitrate their differences. Here we have a system, and yet we are now going to bring the lawyers into a system where they are not involved unless they get to the point where they have no other choice but go to court.

Why do you want to invite the lawyers in now if the reason is to try to keep them out? We have them out. What my colleagues are suggesting is bringing them in—exactly the opposite thing we ought to be trying to do. And I am an ally on tort reform. I am an ally on product liability. Those are different fact situations. They are in de novo right from the very beginning. We do not try to put it aside and get a new mechanism to replace that. Here they are out already and you are bringing them in.

From the standpoint of those who are truly interested in tort reform, this system works. It works very, very well. Now all of a sudden we are going to add a new dimension to it and change it.

So with all due respect, I have asked that they might consider, having discussed this, maybe withdrawing the amendment because, as the Senator from Iowa knows better than I do—he has tried to many times on so many different bills—we need to deal with tort reform. I agree with him.

My concern is that if we get a vote on this, it sends a signal I think that maybe we do not care enough about it. It is a very different fact situation. But nonetheless, if he persists in it, obviously I will be urging the defeat of the amendment because I think his amendment does exactly the thing that I know the Senator from Iowa wants to avoid doing.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. I yield myself 3 minutes.

Mr. President, the Senator from Connecticut has not said anything inaccurate, but he only deals with a part of the problem, and my amendment does not intend to deal with a part of the problem that he had described.

Before I go into that though let me make the point about the 600 cases. Now, 600 cases out of thousands of cases does not sound like a lot of cases. In fact, 600 cases would probably not be a problem for the courts. But 600 cases there and 500 cases there and 300 cases some place else just adds up to an exploding number of cases. Those additional filings are a major problem and we must deal with it. I am trying to deal with it here in a very specific way.

The Senator is accurate when he states that there are a lot of cases in which the Secretary of Labor can trigger the very expansive process he described. That administrative process will keep some cases out of court, and that process probably does work as he has described and does have the beneficial impact. But I seek to address another area of the bill and allow even more cases to be resolved out of the court, by using processes that are not so controversial, so adversarial, and so costly.

My amendment deals with the cases that will not be before the Secretary of Labor—where the individual employee wants to get directly into court immediately, without using administrative processes of the Department of Labor.

I am not arguing with the individual employee wanting to get into court immediately. If that employee wants to get into court, that employee should have that right to get into court. But in that instance, the process just described by the Senator from Connecticut will not stop those cases from being filed. Let me add, I do not intend to stop those cases from being filed because that is a right which ought to be preserved. But what I want to do is have a voluntary procedure, unrelated to the process which the Senator from Connecticut described. The intent is to keep some of these cases out of court and give a right of redress to a harmed person, if that person has been harmed, that is less costly, less adversarial, and works to get the dispute resolved outside of the courts.

The administrative process described by the Senator from Connecticut will not cover those cases where the employee immediately sues the employer in court. Hence, the need for my amendment. Under my amendment, the judge will have to tell both parties about the arbitration option; then they have to mutually agree that they want to use arbitration. Only those circumstances can arbitration be utilized. So, voluntary arbitration is a necessary option because the employee is not required to pursue his or her claim at the Department of Labor. That administrative process described by Senator DODD will not be applicable in all cases under this family leave bill.

I yield the floor.

Mr. DODD. Mr. President, let me just comment.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. I do not deny the logic of that argument, but there is no evidence it is the case. Six hundred out of 74,000 cases, that is not success nationwide under the Fair Labor Standards Act where you have an arbitration system? And what interest would there be for an employee who arguably has limited resources to go hire a lawyer to go into court and avoid the entire arbitration process when they can go to the Department of Labor and resolve the matter and receive the award without having to hire the lawyer and run the risk of having to, if they were the loser, pay all attorney's fees. It does not make any sense.

I agree, 600 cases may be a lot if you are talking about 1,200 filed but 74,000 complaints and you come down to roughly 600 cases that end up in court, that is a failure of the system, without getting into attorneys and litigation and costs? And here we are now going to set up yet another system inviting in a sense—at least it appears to invite—going into court.

I do not understand that. I know my colleague from Iowa would love nothing more than basically to have most matters in this country resolved at minimum cost to the employer and employee, and to get them over with as quickly as possible so you do not have the economic disruption and the people who deserve to be made whole are done so as quickly as possible.

If that is our mutual goal, why in the Lord's name are we setting up yet another system which invites the attorneys into the process where they are not presently allowed? I do not understand that. If the Senator's interest is in trying to encourage arbitration, the present system does just that. It has resolved the overwhelming majority of cases. The Senator now jeopardizes that system. He is not going to jeopardize that.

In fact, if you are on the side of those who want to minimize the involvement of attorneys, cost, and litigation, then frankly you ought to be absolutely on the opposite side of this amendment. This is a bonanza. This is once more, again, creating a pond or pool for people to swim around in to make their dollars in practicing law. I do not see the value of this at all, based on the facts.

Mr. President, I reserve the remainder of my time on this, and I do not want to use a lot more time on it. At an appropriate moment, I will move to table the amendment.

Mr. GRASSLEY. Mr. President, let my say in response to the Senator from Connecticut, that first of all, the process that he is talking about is based under 50 years of labor law, dating from 1938. There is a considerable amount of experience with that process. There is quite a track record, probably, in that process.

What we are talking about here is a whole new right. If the Senator from Connecticut, I ask, is so certain that the process he describes would work so well as it has in some other cases that have 50-year histories, then why does he give access to the courts for the solving of these disputes? But he does.

There is going to be, obviously, under new legislation, an explosion of these cases. It seems to me that we ought to provide a process for a new right that allows for arbitration, and even encourage that arbitration, but not have it be binding—have it be voluntary. This is what this amendment does.

I yield, Mr. President, 5 minutes, or whatever she uses, to the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I think the Senator from Iowa.

I rise in strong support of the Grassley-Durenberger voluntary arbitration amendment. I do so because I really do believe that today we are engaged in too much litigation.

While the Senator from Connecticut makes a persuasive point that a number of cases have been settled without resort to lengthy litigation, we cannot be sure that adding additional requirements will not change the situation for the worse. Therefore, I think it is very important for us to make some provision in this bill to encourage arbitration.

Our Federal and State courts are clogged with pointless lawsuits. I think the amendment that is before us is designed to assure that family and medical leave claims do not contribute to further court backlogs.

So, for that reason alone, I think this approach has merit. I do not in any way believe that it would encourage further litigation. On the contrary, I think it allows for the circumstance for everyone to stop and think twice. It allows the parties to voluntarily choose to arbitrate, not litigate, any disputes that would come under this legislation.

The Department of Labor is charged with overseeing the process to assure that a list of qualified arbitrators remains available to the parties. One of the problems that has existed in the past, as I understand it, is that the Department of Labor has not been fully engaged in this arena. There have not been the staff available to really provide that kind of support system. This amendment would call for sufficient personnel and resources to provide that support system.

Moreover, the amendment contains strict timetables to assure that aggrieved employees can obtain the relief that they deserve.

The Grassley amendment authorizes the arbitrator to award the same remedies that Federal judges may award to employees who try their cases initially in court—for example, arbitrators may award reinstatement, lost wages, other equitable relief, and reasonable attorneys' and arbitrators' fees. Accordingly, the parties may choose arbitration and obtain a fair hearing with meaningful remedies.

For all of those reasons, Mr. President, I would encourage the parties to accept the arbitrator's decision and stay out of court. I think this is a positive approach, and I urge that my colleagues support this amendment.

Mr. President, let me reiterate that I support the Grassley-Durenberger voluntary arbitration amendment. The fact is that in this country, we have too much litigation. Our Federal and State courts are clogged with pointless law suits, and the Grassley-Durenberger amendment is designed to assure that family and medical leave claims do not contribute to court backlogs. This is an excellent idea and I commend their effort.

The Grassley amendment allows the parties voluntarily to choose to arbitrate their family leave disputes. The Department of Labor is charged with overseeing the process to assure that a list of qualified arbitrators remain available to the parties. Moreover, the amendment contains strict timetables to assure that aggrieved employees can obtain the relief that they deserve.

The Grassley amendment authorizes the arbitrator to award the same remedies that Federal judges may award to employees who try their cases initially in Federal court—that is to say, arbitrators may award reinstatement, lost wages, other equitable relief, liquidated damages for willful violations, and reasonable attorneys' and arbitrator's fees. Accordingly, the parties may choose arbitration and obtain a fair hearing with meaningful remedies.

Mr. President, I would encourage the parties to accept the arbitrator's decision and to stay out of court. But in the event either party wishes to challenge the arbitrator's decision, the Grassley amendment allows the parties to choose that course.

However, if the employer challenges the arbitrator's decision, but the employer does not obtain a court judgment that is at least 10 percent less than the arbitrator's monetary award, then the employer must pay the employee's attorneys' fees and costs associated with challenging the arbitrator's decision.

Similarly, if the employee challenges the arbitrator's decision, but the employee does not obtain a court judgment that is at least 10 percent greater than the arbitrator's monetary award, then the employee must pay the employer's attorneys' fees and costs associated with challenging the arbitrator's decision. Thus, the amendment provides an incentive for the parties to accept the arbitrator's award; otherwise, the challenger might have to pay the opposing party's costs.

Mr. President, the Grassley-Durenberger amendment is long overdue. It will allow the parties to vindicate fully their rights under the Family and Medical Leave Act, and at the same time, decrease the backlog in our Federal courts. I urge my colleagues to vote for the amendment.

The PRESIDING OFFICER. Is there additional debate?

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Connecticut has 21 minutes 21 seconds.

The Senator from Iowa controls 15 minutes and 18 seconds.

Mr. DODD. Mr. President, I will check very quickly to see if I have any additional request for time. If not, I am prepared to yield.

Mr. GRASSLEY. Mr. President, in response to that, I have at least one more person on this side of the aisle who wants to speak. Then I will have to wait to give him time.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, was leader time reserved?

The PRESIDING OFFICER. Yes.

TALK SHOW DEMOCRACY

Mr. DOLE. Mr. President, for the past few weeks the phones have been ringing off the hook on Capitol Hill. Americans in record numbers have taken the time and trouble—and do not forget, the cost—to dial their elected Representatives to let us know how they feel. Most of the incoming fire has been directed at two controversial issues precipitated by the Clinton administration—the nomination of Zoë Baird, and gays in the military.

In fact, on those two hot potato topics, my four district offices in Kansas and my Washington office have received about 6,000 calls. Now, that sounds like democracy in action to me. But wait. The political correct police in the media have decided that it is not. It is not democracy, it is a disgrace. At least that is the spin we are hearing these days as the media comes to grip with some surprisingly tough competition.

It seems the new p.c. analysis is that all those Americans calling in were just following orders; that they were forced to pick up the phone because all those radio talk show hosts made them do it. In other words, please disregard all incoming phone calls—no matter how many and how often—because they are merely orchestrated hysteria. Instead, hang up and just listen to us, your friendly inside-the-Beltway, know-it-all media gods.

Well, it seems to me that one of the messages of the 1992 Presidential campaign is that the people have finally figured out a way to penetrate the steel curtain that has for too long surrounded Presidential campaigns. Voters "voted" for access by picking up the phone, tuning in their radios and TV's and, in some cases, talking directly to the candidates.

When the talk shows were helping catapult Bill Clinton into the White House, the talk show phenomenon was hailed as the new wave of American politics. If voters talked to Bill Clinton on the "Larry King Show," it was a high-technological breakthrough. If young Americans were wowed by the Democrat candidate on MTV, the media gods told us, then it was 21st-century America in action. But now, a few months later, if some talk show informs its listeners about the latest Clinton administration controversy, then it is just a bunch of radio and TV windbags rallying an audience of kooks.

It looks like a double standard to me. Lost in all the focus on phone calls is something old fashioned—writing your elected Representative. Believe me, we still get mail, and lots of it. My office gets about 10,000 cards and letters every month. We read it all. Together with the phone calls and letters, and face-to-face comments, I try to make the best judgment I can on the issues.

Now, my judgment is not always guided by the volume of calls and letters on either side of an issue. After all, we were elected to make tough decisions, and sometimes that means making votes that are not popular. But when someone takes the time, and spends the money, to call my office, I take that call seriously—each and every one—and so should the White House. Some may try to discredit the calls as meaningless statistics, but no elected official, or media pundit should lose sight of the fact that behind each call is a real person.

So let us calm down about talk show democracy. The political correct squad does not like it too much, but maybe that is the best endorsement I have heard yet.

Mr. President, I thank my colleagues and yield the remainder of my time.

FAMILY AND MEDICAL LEAVE ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. GRASSLEY. Mr. President, I yield 5 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 5 minutes.

Mr. McCONNELL. Let me commend Senators GRASSLEY and DURENBERGER for their outstanding amendment. I started to take an interest in tort reform back in 1985. We have had a number of votes on the floor of the Senate on some portion of tort reform or another at the Federal level. Unfortunately, we have rarely gotten very many votes. But I think it is important to keep up the effort.

This amendment being offered today by Senator GRASSLEY certainly warrants consideration. It is a very meritorious proposal.

The family leave bill, like so many that go through this body, of course, is going to spawn a lot of litigation. While hailed as a victim's rights mechanism, in fact, the tort system in this country is a grossly inefficient means of resolving disputes.

This particular amendment is fair and reasoned to both plaintiffs and defendants. Arbitration is the method of alternative dispute resolution chosen in the Grassley-Durenberger amendment.

A court resolution of a dispute may take up to 2 to 5 years, as we all know, because of court backlogs. In the end, Mr. President, plaintiffs who prevail in court end up with only about 43 percent of the awards, because the rest is eaten up by administrative and legal costs.

Lest there be a knee-jerk reaction against anything wreaking of tort reform, let us be clear on what this amendment is and what it is not. It is not mandatory arbitration. As I understand the Grassley amendment, once a complaint is filed, a judge meets with both parties and will inform them of the availability of arbitration as a device to solve the dispute. Arbitration will not proceed unless both parties agree to it. They have to agree to it up front. Both parties choose the arbitrator from a list provided by the Department of Labor. Either party may retain counsel for the arbitration proceeding.

This is not binding arbitration with limited judicial review. Neither party is bound by the arbitrator's decision. If one or both are not satisfied with the arbitration outcome, a de novo judicial review is available. The findings of fact and conclusions of law are fully reviewable.

There is incentive to abide by a reasonable arbitration decision in this amendment. If the party that proceeds to court after the arbitration ends up with less than the arbitrator awarded, that party pays the other side's attorney's fees. However, that party will not be required to pay more than the total of its own attorney's fees.

This amendment will benefit both employees and employers. An arbitration process is less costly and less time-consuming for both employees and employers. Employees aggrieved under the Family and Medical Leave Act are probably the least able to afford a protracted litigation.

Mr. President, I commend the Senator from Iowa for his leadership, and I urge my colleagues to support this most worthwhile amendment.

Mr. DODD. If the Senator will yield for a minute, I want to find this out before the Senator from Kentucky leaves. I am a strong supporter of tort reform and have voted for it, going back a number of years.

People are confusing tort reform with this. This is under the Fair Labor Standards Act, where you have a three-tiered arbitration process that has resolved—out of 74,000 cases filed in 1990, 600 ended up in court. What we are doing here is changing that and, in a sense, inviting going to arbitration, which requires hiring lawyers at a cost, if they decide to go that route, and legal fees being assessed based on the losers, if in fact you end up taking the arbiter's decision or rejecting it, as the amendment is crafted.

I do not understand, if somebody wants to avoid litigation costs, why—and the present system has been so successful of avoiding litigation, attorneys, and attorneys' fees—we want to create a way which sort of attracts people to go that route, rather than go with the existing system, where the overwhelming majority, thousands of cases, are resolved.

Mr. McCONNELL. Well, I would say to my friend that this does not preclude the other means in existence, and that is certainly an argument for my friend's position, which I am certain is to have no amendments to this bill.

I am encouraged to hear that the Senator from Connecticut is a supporter of tort reform and is interested in the issue. I think it is going to come back time and time again in legislation in the coming months.

Virtually everything we do here has a litigation impact on somebody in America. I think it is high time—and I commend the Senator from Iowa for this—that we start dealing with tort reform on issues as they arise before the Senate, because we are creating reams of additional litigation with most of the legislative actions we take here, without any concern whatsoever about the impact of that on our economy and society.

Mr. President, I yield the floor.

Mr. DODD. Mr. President, I point out, as I wrap this up, that this is a great irony. What, in a sense, what we are doing here is creating, in effect, for those people who are annoyed about too many attorneys involved in matters, costs involved, this amendment creates a system that will attract, in my view, more people to seek out this approach than the existing one, which involves no lawyers, a three-tiered system for arbitration. For the very people who suggest they want to minimize the involvement of litigation and attorneys and the costs, this does exactly the opposite.

So I appreciate the motivations, but as somebody who goes back years supporting tort reform, you are, in a sense, your own worst enemy with this amendment. Out of 74,000 cases in 1990, 600 ended up in court because of the arbitration system in place. You are calling now for attorneys to be hired to represent employers and employees in an arbitration system which gets them into court—in a sense, attracting them away from the present system, which has been tremendously successful in avoiding litigation.

I am just stunned, in a sense, that we are arguing for something which has merit in tort reform; in the absence of the Fair Labor Standards Act, where that does not apply, you are right. But you have a system that does not exist in other areas. Why we are jeopardizing a system that has worked so well, I do not know. For a legitimate case, such as a product liability, medical malpractice, and the like, you are right. We tried—Senator DANFORTH and I—8 years ago, offering this approach. We got creamed on it out here.

I am a supporter of that approach, but you are jeopardizing an approach which has worked in this area by calling for the establishment of a system that invites attorneys to get involved in the case.

I reserve the remainder of my time.

Mr. GRASSLEY. Mr. President, how many minutes remain on both sides?

The PRESIDING OFFICER (Mr. KERREY). The Senator from Iowa has 9 minutes, 36 seconds. The Senator from Connecticut has 18 minutes, 27 seconds.

Mr. GRASSLEY. Mr. President, I yield myself 4 minutes at this point.

First of all, this family leave bill is not a tort reform bill. It gives statutory rights to working persons who need to be accommodated to care for an ill relative or a newborn child. So the equating of my amendment with tort reform is totally out of place and is creating a smoke screen. We are talking about issues and rights that affect families. Lawsuits can take 2 to 5 years to be resolved in the court system. Families cannot wait 2 to 5 years for their rights under this statute. Those need to be responded to very, very quickly. And that is part of the rationale behind my amendment of voluntary arbitration.

The other point that the Senator from Connecticut makes concerns an administrative procedure that he has followed under the Fair Labor Standards Act. Under that act, there is an administrative process that operates to resolve fair labor standards cases without resort to the courts. That process has probably worked well to resolve FLSA cases, dating back to 1938, when the Fair Labor Standards Act became law. But there is something different between the mechanism that exists and the bill that is before us. The argument made by the Senator from Connecticut presumes there is a requirement of the exhaustion of administrative remedies. There is no such exhaustion requirement in his bill. There may very well be a practice of using administrative remedies under the Fair Labor Standards Act disputes. That practice may result in the vast majority of wage/hour cases getting resolved without litigation. But creating a new right without requiring exhaustion of administrative remedies will surely lead to lots of lawsuits.

Now if he would put that exhaustion requirement in his legislation, then he could be making a good point why the voluntary arbitration proposals of Durenberger and Grassley are not needed. But because there is not such an exhaustion requirement, he is making a very good argument why our amendment should be adopted. But, most important for anybody listening, please do not get our amendment mixed up with the very important subject of tort reform. Our amendment will give families a good way to solve a dispute. We are talking about people who need, if there is a dispute, a remedy that is going to be very quick and easy. And that is what the Grassley amendment is all about.

I yield the floor.

Mr. DODD. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, let me point out to my colleagues that Senator BOND, Senator COATS, Senator FORD, we spent a lot of time over the last 7 years putting together an enforcement procedure here that makes sense in a bipartisan way.

I appreciate again my colleagues who are interested in tort reform as I am, but please respect in the sense that we have spent literally months and years fashioning this legislation with countless meetings and efforts to come up with an intelligent workable system. And while there is a legitimate case to be made on tort reform, please do not confuse the two subjects. In a sense, respect the works and labor that have been done to make this a viable product here. Unfortunately, what we are doing here is how changing the results in all of this, and in an unwarranted fashion in my view, given the arbitration fashion that exists. And we debated that.

But with respect, I would ask the work of Senator BOND and Senator COATS and Senator FORD and others who have really tried very hard at the request, I might point out, of the business community, who asked us not to set up some new enforcement mechanism, not change the rules, but to use existing standards, the Fair Labor Standards Act since 1938. And so this enforcement mechanism is used in exactly the same way it has been used to resolve through arbitration matters that have been brought before it. What my colleagues from Iowa and Minnesota want to do is to change that, creating the kind of uncertainty in a sense the business community and others are concerned about.

So in respect, I would ask the work that has been done to put something together that has involved all of the necessary parties and elements across the country.

Mr. President, does my colleague from Ohio seek a minute?

Mr. METZENBAUM. I would like to be heard.

Mr. DODD. I yield 2 minutes to my colleague from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. May I ask the manager, is there not a sufficient amount of time for the Senator from Ohio to have 10 minutes?

Mr. DODD. I apologize to the Senator. I was trying to wrap up. How much time does the Senator need?

Mr. METZENBAUM. Ten minutes.

Mr. DODD. I yield 10 minutes to the Senator.

Mr. METZENBAUM. Mr. President, I sought 10 minutes because it is my view that this is a major matter. I think we are getting close to wrapping it up. We are finally going to send a family and medical leave bill to a President that will sign it. We are now faced with an amendment that I think would be hurtful, confusing, and would not work in the interests of the workers of this country, nor of the employers for that matter.

This amendment would actually establish an arbitration procedure for claims filed under the Family and Medical Leave Act.

The idea behind it is to avoid litigation. I think most of us would agree that quite often the arbitration process is a good road to go in order to avoid the complications of court procedures. But this bill already has a mechanism avoiding litigation.

Under the bill's provisions, an employee unlawfully denied leave can either file a complaint with the Department of Labor or go to court. The bill provides for an administrative complaint-handling process at the Department modeled on the Fair Labor Standards Act.

This process has been tremendously successful in the past, in resolving claims short of litigation. In fact, more than 97 percent of all FLSA cases are resolved without litigation. There is no reason to think this process would be any less successful if we apply it to family and medical leave claims.

In addition, the proponent of the amendment, my friend from Iowa, contends that it involves "nonbinding" arbitration. But on close examination, it is very binding on the complainant.

Under this amendment, if both parties agree to arbitrate, but they both reject the arbitrator's decision, and proceed to trial, the plaintiff cannot recover attorney's fees even if he or she prevails. That turns our system of justice on its head—workers would have to pay to enforce their rights.

Now, frankly speaking, we are close to passing a family and medical leave bill and sending it to the President. The distinguished Senator from Connecticut has been working on this subject for 7 years, and many of us have been attempting to help him.

For America's working men and women, it is about time. Our work force—100 million strong—knows all too well how difficult it can be to balance work and family. And with more and more families relying on two incomes to make ends meet, this balancing act is only going to get tougher. Quite simply, passing this bill is the right thing to do for these workers.

When a working woman bears a child, she needs leave. When a worker is a primary care-giver for a child or an elderly parent, and that child or parent gets sick, that worker needs leave. When a working man has a serious illness, he needs leave. No one would dispute that these workers need leave.

But some in the business community say, "don't mandate leave. Let us provide it voluntarily." Well, there are plenty of companies that have been responsible enough to do just that—and I commend them for it. But there are plenty more that have not.

Even in the biggest companies, half of all working mothers have inadequate maternity leave or no leave at all. Roughly a third of American businesses provide no sick leave.

Older workers increasingly have primary responsibility to care for their parents. But only 14 percent of American businesses permit elder care leave for a parent's serious illness.

Workers are all too often faced with an agonizing choice between their job and their family. This legislation allows workers to have both—job security along with the time needed to care for a seriously ill family member. No worker should lose a job because he or she needs to take a few days or a few weeks off to care for a newborn infant, a sick child, or a dying parent or spouse.

Some have expressed concern about whether this bill will help low-income workers. But it is low-income workers who are most dependent on two wage-earners, and who are most likely to have no leave. When a low-income worker has to take leave for an illness or a family member's illness, this bill ensures that he or she will have a job to come back to.

It is hard to understand why some in the business community continue to oppose this legislation. Frankly, their arguments are absurd. First, in a study of States that already require family and medical leave, 9 out of 10 employers said the requirements were not difficult to implement.

Second, let us remember that this bill provides only unpaid leave. The only cost employers face is continuing health care benefits, which GAO says will cost roughly $10 per worker per year. According to the Small Business Administration employee leave survey, these costs are substantially smaller than the costs of terminating and replacing workers who need leave. The bottom line is that providing leave is good for an employer's bottom line.

Third, the bill's small business exemption nearly swallows the rule, exempting 95 percent of the businesses in this country. As a result, 60 percent of our work force will not be protected by this bill.

Let me make this clear: This bill ought to protect all workers, not just an arbitrary fraction. A worker's right to take family or medical leave should not depend on whether he or she works for a big company or a small one. But I recognize that compromise is part of the legislative process, and I strongly support this bill as a first step toward providing leave to all hardworking Americans.

Mr. President, this pro-family legislation is a matter of basic human decency. Over 70 percent of Americans support it, as has the great majority of this body. Senator DODD is deserving of great praise for laboring for 7 years to see this bill become law. For America's work force, it is about time.

Mr. President, this is major, major legislation. It will have an impact upon this country for the rest of our days and years. The amendment offered by my colleague from Iowa is well intentioned, but I believe that it will only confuse the issue and would be a major setback in the enactment of this legislation. I hope that, at an appropriate time, the manager of the bill will see fit to move to table the amendment. I will certainly support that.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, in consultation with Senator DODD, I would like to suggest that I will take one more minute and then yield back my time unless something new comes up here. This is just kind of a summation.

Mr. President, this amendment ought to be good for the proponents of the bill because this process is going to make the new rights for the workers in this bill more real because there is going to be a more inexpensive way of exercising those rights.

For opponents of the bill, it is a fact of political life that this legislation will become law. So the opponents should want, then, to have this bill work the best way possible as long as it is a fact of life, and my amendment will do that as well. The whole idea is to keep these disputes for workers out of the adversarial and costly environment of the courtroom and to offer a nonbinding, voluntary approach called arbitration.

Arbitrators will issue a judgment within 6 months or less. The cases that wind up in the courts of this country will not give workers, under this law, what they will be entitled to. We all know too well that justice delayed is justice denied. With the burgeoning workload of our courts, the result is, in a very real sense, will be a denial of their rights under this bill.

This amendment is put forth as an effort to see that whatever justice and rights come to workers under this legislation turn out to be real and do not turn out as fantasy.

So I suggest that this amendment is a good amendment that ought to be adopted and ask for my colleagues' support. I am prepared to yield the remainder of my time.

Mr. LEVIN. Mr. President, I am voting today to table the Grassley-Durenberger amendment because I agree with the bill sponsors that we should not create a separate system for deciding family leave disputes under the Fair Labor Standards Act. I would, however, be interested at a future date in exploring amending the whole fair labor standards law to encourage binding arbitration.

Mr. DODD. The Grassley-Durenberger amendment does raise interesting points in the area of dispute resolution, and I would be willing to explore this area in relation to the entire Fair Labor Standards Act in the future.

Mr. President, I have no further requests for time. I yield back the remainder of my time.

Mr. GRASSLEY. I yield the remainder of my time.

Mr. DODD. Mr. President, I move to table the Grassley amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment offered by the Senator from Iowa [Mr. GRASSLEY]. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 53, nays 47, as follows:

[Rollcall Vote No. 3 Leg.]

YEAS—53

Akaka
Baucus
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Byrd
Campbell
Daschle
DeConcini
Dodd
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wofford

NAYS—47

Bennett
Brown
Bumpers
Burns
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Dole
Domenici
Dorgan
Durenberger
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield
Helms
Kassebaum
Kempthorne
Krueger
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Sasser
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

So the motion to lay on the table the amendment (No. 3) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. I thank the Chair.

Mr. President, I rise today in support of S. 5, the Family and Medical Leave Act of 1993. I would like to begin by commending my distinguished colleague from Connecticut, Senator DODD, who has worked tirelessly on this important legislation during the entire time that I have had the privilege of serving in this body.

I support S. 5 because I honestly believe that it embodies a reasonable balance between the needs of employees and the interests of businesses. While a great deal of care has been taken to minimize any hardship on businesses, especially small businesses, this legislation provides critical protection for covered workers and their families.

Mr. President, 56 percent of all mothers with children age 5 and under are in the work force. According to the Work Force 2000 Report, two-thirds of all newcomers into the work force through the end of this century will be women. At the same time, the elderly population has grown dramatically during the last decade.

At a women's health seminar I held last June in Fairfax, a session on caring for and parenting the elderly was especially popular. I was surprised at how many families in northern Virginia are urgently seeking information on access to services for elderly parents.

S. 5 helps meet the needs of this changing society. It requires businesses to allow up to 12 weeks of unpaid family and medical leave during a 12-month period. It covers the birth, adoption, or placement of foster care of a son or daughter, the care of a son, daughter, or parent with a serious medical condition, and a serious medical condition which renders an employee unable to work.

The bill requires employers to continue to contribute their share of health insurance premiums and, when leave is completed, to simply reinstate the employee at a comparable position and equal salary.

I am fully aware that a strong, healthy economy depends on strong, healthy businesses, and I take questions of unnecessary Government interference and Government overregulation very seriously.

S. 5 only covers businesses with more than 50 employees, thereby exempting 95 percent of all employers. It further restricts employee eligibility by requiring that workers have at least 1 year with the employer and have worked at least an average of 25 hours per week.

S. 5 also includes an exemption for key employees, certification provisions to combat abuse, and notification to allow employer flexibility.

Moreover, several studies have indicated that placing employees on leave actually costs businesses less than replacing them. And for businesses that currently offer adequate leave to their employees, this legislation really should pose no hardship at all.

Through the years, Congress has required businesses to pay Social Security taxes, has established a minimum wage floor, and has implemented OSHA regulations, child labor laws, and prohibitions against workplace discrimination. But Congress has never protected an employee's right to be sick and return to work, to have a child and return to work, and to care for a sick parent or child—or even a dying parent or child—and return to work. I think it is time that we did so.

This legislation provides a safety net for some average Americans who play by the rules, as our President likes to say, and fall on hard times. They are working Americans who want to keep working, keep paying taxes, keep their families together, and just make it through. They will not get paid while they are away from the office, but they will have a chance to keep their health insurance when they need it most and ultimately get their job or a comparable job back again.

Mr. President, I compliment my friend from Connecticut for bringing the Family and Medical Leave Act of 1993 to the floor of the Senate once again, and I am very pleased to be able to add my support.

Mr. President, I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I ask unanimous consent that Senator KASSEBAUM now be recognized to offer an amendment, with the time until 2 p.m. today equally divided and controlled in the usual form on the amendment; that no other amendments or motions, other than a motion to table, be in order prior to the disposition of the Kassebaum amendment; and that at 2 p.m., the Senate vote on or in relation to Senator KASSEBAUM's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

AMENDMENT NO. 11

(Purpose: To permit employers to satisfy family medical leave requirements by offering such leave as a benefit in a cafeteria plan)

Mrs. KASSEBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] proposes an amendment numbered 11.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 102 of the bill, add at the end the following:

(g) REQUIREMENTS CONSIDERED TO BE SATISFIED IF CAFETERIA PLAN PROVIDES FOR LEAVE.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, an employer shall be considered to have satisfied the requirements of this title with respect to any employee if—

(A) such employee is a participant in a cafeteria plan, as defined in section 125(d) of the Internal Revenue Code of 1986, that is maintained by the employer;

(B) section 125(a) of the Internal Revenue Code of 1986 applies to the benefits under such cafeteria plan; and

(C) a participating employee is eligible to choose, as a benefit under such plan, a family and medical leave benefit that provides family and medical leave rights identical to, or greater than, the rights provided under this title, including any right of the employee under—

(i) this section, or

(ii) section 104 (including the rights under such section to be restored to employment and receive continued coverage under a group health plan).

(2) REGULATIONS.—The Secretary of the Treasury shall issue regulations establishing methods for employers to value such a family and medical leave benefit under such a cafeteria plan.

(3) CONSTRUCTION.—Nothing in this subsection shall affect—

(A) the duties or liabilities of an employer under this title with respect to an employee; or

(B) the right of any person to enforce the requirements of this title against an employer with respect to an employee,

unless the employee elects not to receive such a benefit under such plan.

Mrs. KASSEBAUM. Mr. President, the amendment I send to the desk permits employers, who offer a selection of employee benefits under a flexible cafeteria plan, to include family and medical leave as one of the employee's choices.

As long as the family and medical benefit is offered as part of the employee benefit selection, then the requirement that family leave be offered to each employee would be deemed satisfied. By allowing the family and medical leave mandate to be included as part of the cafeteria plan selection, my amendment allows employees to choose the benefits that they value the most.

If employees truly want family leave, and many do, they can select it under the cafeteria plan. On the other hand, if some employees would rather have more paid vacation, orthodontic care, for instance, or child care rather than family and medical leave, they can make that choice under the cafeteria plan selection.

Mr. President, we need to be honest and make clear to the public that passing unfunded employee benefits is not without cost to either the employer or the employees. This amendment underscores the point that passing unfunded mandates is not without choices and tradeoffs.

Employers must offset the cost of this unfunded mandate. Employees must understand that other employee benefits may very well be reduced to offset this cost. If employee benefits are going to be reduced to pay for this new mandate, I believe, to the extent possible, the employees should be given the opportunity to determine whether they want this benefit and to identify which benefits they are willing to give up in order to pay for it.

The issue really is whether we want employees to decide which benefits they need or whether we want the Federal Government to make the decision for them. My amendment offers an opportunity for the employees themselves to decide which benefits they want, including family and medical leave.

In order to qualify, the employer must offer a so-called cafeteria plan, as defined by the Internal Revenue Code. Cafeteria plans, also known as flexible-benefit plans, allow employees to select from an array of benefits those they value the most and that meet their specific family or lifestyle needs.

Typically, benefits offered in the cafeteria plan include a variety of health benefits, together with other options such as life insurance, 401(k) plans, and flexible vacation time. Some now even offer child care. The number of cafeteria plans is growing rapidly and polls indicate they are very popular among employees.

This amendment is very straightforward. If a cafeteria plan includes the option of family and medical leave, then the requirements of S. 5 will be considered satisfied.

The amendment is narrowly drawn. It will not provide a loophole. Employers must provide a family and medical leave plan at least as generous as the requirements of S. 5 among the options in the cafeteria plan. The enforcement provisions will still apply, and the Internal Revenue Service will issue regulations to ensure it will not be abused. We need to be frank with the American public that, by adopting minimum Federal leave standards, employer may have no choice but to offset the cost of this unfunded mandate by reducing other employee benefits.

It is something about which, Mr. President, we are just not certain, and it seems to me far better for us to approach this issue when we all recognize that many types of benefits including family and medical leave, are important benefits. This amendment at least would allow the employer and employee to be drawn into the choice process.

This raises the question of whether we are being fair to employees by legislatively giving them a new benefit in the form of unpaid family and medical leave, but putting their employers in the position of having to reduce some other employee benefit which they may value more.

This amendment makes clear the obvious tradeoffs that occur by passing unfunded mandates and gives employees the chance to make a decision as to which benefits they find to be the most valuable. For example, an employer currently offering employees 3 weeks of paid family and medical leave may drop this benefit and instead offer only 12 weeks of unpaid leave as required by law. There would be nothing to prevent an employer from deciding to take that option. And it could be that the employee would prefer to have the 3 weeks of paid leave instead of the 12 weeks of unpaid family leave.

Under this amendment, employers would be given the flexibility to offer both options as part of their cafeteria package, and it gives employees the right then to select the leave option most helpful to their particular situation.

I have already expressed my concern that if Congress mandates certain benefits, it may discourage the growing trend toward more flexible benefit plans. Changing demographics—more women in the workplace, more husband-and-wife wage earners, and more working families with children—make it vitally important, I believe, Mr. President, that we keep the flexibility necessary to meet these changing needs.

This amendment would further encourage the use of flexible benefit plans but, more importantly, it will let employees and not the Federal Government choose which benefits best suit their own needs.

I would like to include at this point, Mr. President, an editorial that appeared in the Wichita, KS, Eagle yesterday that questioned the wisdom of mandating family and medical leave and suggested that a more flexible approach would be a far sounder way to assist families when they are trying to meet family and medical emergencies. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wichita Eagle, Feb. 2, 1993]

MANDATE: FAMILY-LEAVE PROPOSAL HURTS WORKERS, EMPLOYERS, ECONOMY

One campaign promise President Clinton is virtually certain to keep is enactment of the family-leave bill. The measure has been a top Democratic priority for years, and without a Republican veto in the White House it looks as if American workers will have to live with the consequences of a well-intentioned but ill-conceived bit of social policy.

Family leave sounds good—12 weeks a year of unpaid time off to allow workers to deal with childbirth, adoption or serious illness to a family member. Indeed, it is a good idea. That's why most of the country's more enlightened employers already offer such a benefit.

But family leave comes with a cost to workers and employers.

Most employers can afford only a limited employee-benefit package. In effect, the mandate pushed by Mr. Clinton and congressional Democrats tells employers that family leave is a more important benefit than any other. The politicians are saying that some workers may be forced to trade wages and other fringe benefits, such as vacation time, for a family-leave benefit.

Many firms realize that the same benefit package does not suit the individual needs of all their employees. That's why the trend is toward "smorgasbord" type plans where employees can pick from a menu of benefits. Some people, for example, may want family leave; others may want more vacation time; still others may prefer more comprehensive medical care.

Family leave reduces employers' flexibility in meeting the personal interests of their employees.

The point is that family leave is not a cost-free benefit provided out of the good hearts of the president and congressional Democrats. Rather, it is a potentially costly benefit for many companies, a hardship on some workers and another example of how government social engineering is weakening the American economy.

Mrs. KASSEBAUM. Mr. President, I yield the floor at this time.

Mr. DODD. Mr. President, I yield 5 minutes to the distinguished junior Senator from Washington.

Mrs. MURRAY. Mr. President, I rise in opposition to this amendment. Although I believe it is well-intentioned, I fear that it would really lose the spirit of the Family Medical Leave Act if it were to be included in this bill.

This amendment would allow employers to provide family and medical leave under a menu of benefits that are offered to employees and called cafeteria. When an employee comes on, they would be given so much money that they would be allowed to choose whether they wanted family leave, health care, or some of the other benefits offered.

Mr. President, I urge all of us to remember that this act is put in place so that emergencies can be taken care of. Very few people, when looking at a cafeteria-style plan, would think that perhaps they would have a parent with a heart attack that they may need a few days off to care for or that they may become pregnant during the year and need time off for pregnancy leave, or that some serious accident would occur that they would need time off to care for family.

The intent, the spirit, of the Family and Medical Leave Act is to care for emergencies. I think it is very important that we offer and provide it for employees based on that spirit. I also believe that very few employers provide a cafeteria-style plan. In fact, only 5 percent of American businesses do so.

So I think, in order to keep the integrity of this Family Medical Leave Act as it has been put together by the Senate so carefully, we must oppose this amendment. I urge my colleagues to do so.

Thank you.

Mrs. KASSEBAUM. Mr. President, in response to my colleague from Washington State, I would say that I do not believe this amendment detracts from the spirit of what we are trying to accomplish with this bill. In fact, I think that, really, it creates what I believe is a very important option for employees. What you are really saying is that the Government is in a better position to know what is best for workers than the workers themselves. This is the worst kind of paternalism.

It is very true we do not know what emergencies may arise. That is true for any of us. But I think we do tend to know, when we are working with a flexible-benefit program, what means the most to us at any given time. Someone who is 25 may have very different options than someone who is 50. I think it is very important to allow that flexibility.

Employers can make new selections each year, and it is my understanding that in the case of emergencies, employees can change their own selections. I think most plans would allow for contingencies in case of emergencies that arise.

The amendment, I argue, underscores the point that there are choices and tradeoffs that are associated with mandating benefits.

I am certainly hopeful that this amendment succeeds. All of us have said that we have no quarrel with the concept; but just how it is arranged and put together and who determines what is in it and when it is triggered is really the question.

I think that this amendment would encourage employers to include family and medical leave in their cafeteria plans. Prior to this time, no cafeteria plan has included family and medical leave. This amendment really encourages that participation, and that is why I think it has much merit, Mr. President.

(Mr. SHELBY assumed the chair.)

Mr. DODD. Mr. President, let me begin by, first of all, thanking the Senator from Kansas for her work and effort on this bill and some of the ideas she has put forward. We have had the pleasure of working together on numerous other proposals.

This amendment, in effect, is a substitute, Mr. President, because it changes the whole nature of the legislation. Other amendments that have been offered do not go to the very heart of the bill. They deal with various aspects of it—enforcement, or consent, or notice, and the like.

What the Senator from Kansas is offering here changes fundamentally what we have voted on twice now here in the Senate—the last time was a rather overwhelming vote—in that it takes away a mandate. This, in a sense, eliminates the mandate.

I think there is a fundamental distinction here. Many people argue here that there is an additional benefit to employees. For those of us who have worked on this bill, this is not a benefit, family and medical leave. This is a minimum labor standard. I think it is on that specific point that there is a significant disagreement.

If we argue just benefits here—a dental plan, a vacation day, some other issue like that—then arguably the notion of cafeteria plans and the like would make some sense. But from my standpoint, what I am talking about as the author of the bill, and what has been part of this negotiation over 7 years, is a basic minimum labor standard. That is fundamentally different than a benefit. There is a distinction. Occupational safety and health is not a benefit. That is a basic minimum labor standard. Child labor laws, Social Security, other such matters that are very basic, we do not leave up to cafeteria plans or the choices of the employer. We do not say to the employer, look, we would like you to have a good dental plan or safety in the workplace. That is not a viable exchange, because occupational safety and health is a basic minimum standard.

What we are arguing for, and what is in this bill and is the essence of this bill, is a basic minimum standard. That is, if something happens to your child, to your spouse, to the parent you are caring for, and you need to be with them, having passed all of the other criteria, obligations, and notice, that you have the right to be there with them, except for those employees who are exempt; and, of course, you must be an eligible employee.

So in a sense it is a critical, underlying, fundamental point. To that extent, there is a fundamental difference in how you look at these issues. If it is seen as just a benefit, then the notion of a cafeteria idea may have some appeal. If you understand it as a basic minimum standard, in today's world with today's demographics and the problems that families face as single heads of households or as a two-income-earner family trying to make ends meet, when you are faced with a crisis of choosing between the job you need and family you love, we are saying you ought not to be placed in the position of making that choice. You are going to get job security without pay, maintaining your health insurance while you deal with that underlying family crisis.

There is another point to this. People have cited over the last couple of days that people do not care about family and medical leave. When you ask people what are the sort of benefits you like, they do not list family and medical leave as one of the ones they care most about.

In my experience, Mr. President, nobody ever thinks that their child, their wife, their parent, is ever going to be in any kind of serious crisis. It always happens to the neighbor, to the coworker, and it always happens to someone else. It never will happen to me. My family is invulnerable. Nothing bad will happen.

The fact of the matter is that bad things happen to a lot of people a lot of the time, and it does not discriminate. Those people who are least capable of managing their lives because of economic circumstances need relief. You do not normally think your child is going to end up in an emergency room. So when they ask you for the benefits you want, you do not anticipate that your spouse is going to be receiving chemotherapy, or that your parents are going to have Alzheimer's. Whoever thinks about that? No one wants to think about it. But a dental plan, yes, I want my teeth cleaned. I want to go on a vacation each year. But my kid, dying in a hospital, that is never going to happen to me.

So there is an instinctive natural repulsion at including these kinds of benefits as part of the things that people request in the normal course of listing one of the preferential benefits. Yet, it is fundamental here. This is not a question of somebody going off and enjoying themselves. This is not going fishing. We are talking about dealing with a crisis—a newborn child, the adoption of a new child, a serious, serious medical condition for a family member you are responsible for caring for.

This is not something people welcome, except adoption and birth. These are not crises that people enjoy. We are just saying, in the midst of those, you have your job security, without pay, and your insurance benefits. Saying we will provide this to you if it is part of a cafeteria plan changes the whole nature of what the 7-year-long effort has been about, what Senator BOND and Senator COATS and I have worked so hard on to pull together.

Let me mention a couple of other points about this. As I mentioned, family leave is not a benefit per se. I do not think it ought to be placed in the category of a cafeteria plan which has much greater dollar value and frequency of use.

According to a 1990 Small Business Administration study, S. 5 would cost business—that study says $6.90. The new study says $9.50 per covered worker per year, exclusively for the continuation of workers' health insurance coverage while on paid leave.

The 1993 GAO study indicated the cost to be less than $9.95 per covered worker, solely related to the continued insurance coverage. For the purposes of benefit comparisons, family leave is more analogous, I suppose, to those benefits which usually are core benefits. That is what I am trying to explain.

I want to show this. We have here, if we accept generally the cost numbers, $9.50 per covered worker per year. Where does that fall into the category of other benefits that are applied or available to employees? Let me bring this chart over here, because I want my colleague to see this as well. Overall, according to those firms—this is a source of the U.S. Chamber of Commerce, these numbers, the benefits packages, annual cost to employer per worker in 1991 of all of the benefits available. On the average, it is about $13,000 a year benefit packages to those businesses in this country that are members of the Chamber of Commerce. Not everybody is, but these are the Chamber's data. Medical benefits, roughly $3,465 to an employee. Legally required benefits—and that covers a lot of small items—total roughly $3,000; pensions are $1,900, almost $2,000; vacation amounts to roughly $1,800 a year; holidays, another $1,000; sick leave, $392. And the estimate of the SBA and GAO now make that change, and that number that says $6.70, make that $9.90, as a result of increased health care cost, and add 200,000 new people in the work force. That is $6.70 cents a year in comparison to these other benefits.

So you have these high-cost benefits and here the $9 or $10 per covered worker per year as opposed to almost $3,500 on medical, pensions, vacations, holidays and the like. So, in a sense, by putting this on a cafeteria plan and saying employees can choose, or we will choose, obviously the one that costs $10 is going to be much more attractive in some ways than the one that costs $3,000 or $4,000. So it really does put them on unequal footing in that sense.

Less than 5 percent of employers in this country and 9 percent of employees have flexible cafeteria benefit plans. I presume my colleague from Kansas would argue if we include this and expand it, then we will get more people on cafeteria plans. But, as of today, it is only a small fraction of people who are covered by these so-called cafeteria plans.

However, where such plans are available, statistics show that family leave policies are never included. We have spoken to every employee benefit organization that we could find in the United States and none, not a single one, was aware of any situation in which family leave programs were a part of such plans. Despite the fact there are many businesses in this country that have cafeteria plans, and that have family and medical leave, in none that we could find was family and medical leave included in any of the cafeteria plans.

They informed us that the monetary value of a leave policy is impossible to calculate from their standpoint, so employers and employees have no way of assigning values, as they say, to the regular benefits. There is the other argument, of course, that said by including this, and mandating it, that other benefits will be denied, or that employers are apt to pull back on other benefits.

About 3 years ago, in one of our hearings, since this had been made as a major argument against the bill, I asked in front of all of the various business organizations that were present at the hearing if they would identify for me—and this was a dangerous question to ask, because I did not know the answer—I said: Will you identify for me the one single employer in the country who, as a result of adopting a family medical leave plan, has taken back some of the benefits that they were otherwise providing?

It was a stupid question to ask, because the minute I got it out of my mouth I presumed there might have been one. That was 3 years ago, and I reiterated the question every year. I have yet to receive a single example of a single business in the United States that decided to put in a family and medical leave plan but felt that because they did that they had to take back some of the benefits they were offering to their employees. And despite 3 years of asking the question, of saying just name one for me, not in a single instance or a single example have benefits been retracted or removed, taken back, because of a family and medical leave policy being put in place.

Lastly, I would say on this point, the issue of whether or not women will be discriminated against, that is another argument here: Women do not get hired because of childbirth, obviously, and adoption, and single mothers raising families. This is apt to be an occurrence where women are going to be more adversely affected, positively affected, if this legislation is adopted, at least under the present demographic changes.

And yet studies that have been conducted in States where that same argument was made, where maternity leave must be required under disabilities, the argument was made in California, being one of the States, and there were three or four others, if you do that then women are going to be discriminated against in the hiring practices because employers are going to say if we have got to give them that then we are going to choose the man over the women in the hiring.

I am not going to make the case here because after the law was adopted more women were hired. But it is important for my colleagues to know that in those States that adopted mandatory maternity leave, the employment of women in those States actually went up. I am not going to argue it did so because the law was put into place but certainly you cannot make the argument that women were losing out in the job market because the law went into place.

So there is no evidence whatsoever, despite the fact that these arguments get made all the time, that women are going to lose job opportunities because of a mandated leave being required for those eligible employees in the country.

At any rate, Mr. President, as I said, there is a fundamental distinction here. This is the essence of this bill we are talking about. This is not an ancillary side question. It is a fundamental issue of whether or not you believe that what we are talking about here is a basic right for families to be able to take the time.

As I said, no one would disagree if someone argued that OSHA or labor laws be left up to the industries. That is different. This is different.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I would like to respond to some of the questions raised by the Senator from Connecticut. In saying that this amendment eliminates the mandate and creates some kind of loophole to escape having to offer family and medical leave, I would say that the amendment does not create a loophole. It applies only to employers that offer a cafeteria plan. And at that point, the cafeteria plan offered must include the mandated family and medical leave provisions under this bill. That would be the minimum that would have to be offered. So if indeed that is a concern, then I say that this amendment does not eliminate the mandate.

Second, because the argument was being made by the Senator from Connecticut that it is the fundamental standard of labor that is important, and not just a benefit, I would have to ask him why are we excluding from this legislation 50 percent of the employees in today's work force and some 90 percent of the employers?

I think if it is a fundamental standard that we are wishing to impose on the labor force, we obviously are leaving out a sizable portion of the work force.

Mr. DODD. Well, the Senator from Kansas is correct in that we are leaving out people. But, as I pointed out yesterday, there are other areas where we have threshold numbers in dealing with what would be considered basic rights, OSHA regulations, for instance, and a number of other areas where 15 and 25 employees are the threshold. So firms that have less than 25 or 15 are not covered is the one example.

Second, as a practical matter, in dealing with this legislation, we also recognize that more smaller employers probably deal with these issues than larger employers.

I am not going to argue on a question that in a perfect world we would have all of these laws apply to everybody if they hired themselves and did not hire anybody else. But, as a practical matter, we set arbitrary thresholds to take into account other considerations.

Mrs. KASSEBAUM. Perhaps we are picking and choosing here, as well. And I understand that.

But as the Senator just pointed out, you do make choices for one reason or another.

I was interested in seeing your chart, because if family and medical leave is really such a little cost, then I think that any employer with a cafeteria plan would be more than happy to offer it and it would be an option that an employee could take that would be at a very low cost to the employer. And I really think that, as a matter of fact, since it is such a little cost, it would only be an argument in favor of adding it on to the plan because it would make it that much more attractive.

Mr. DODD. Will my colleague yield on that point?

Mrs. KASSEBAUM. Yes.

Mr. DODD. The point of the chart is, just like in a cafeteria, you do not go in and order every item in the cafeteria. Those in the cafeteria plan you pick and choose. Why this is there is that the person who does choose family and medical leave because they need it is not allowed then to choose every other item. So they have to give up something else which is far more valuable in some ways, or at less as essential to them in terms of vacation and pensions and health care. So that they do not want to have to be in the position where they are saying I need that as a basic right, but let me see now, I have to give up other things which are also important. That is No. 1.

No. 2, employers do not want to put them in in many cases, as we understand it, because it has such a low value that the tradeoff is not valuable. That is the point of listing the values.

Mrs. KASSEBAUM. That seems sort of specious reasoning to me on the part of the employer; I am not implying on the part of the Senator from Connecticut. But it seems to me that what an employer does is provide an employee with a certain dollar amount to spend, say $1,000. The employee can then allocate the funds among the options available in the plan.

Just to ask something else, and now I am drawing on my own experience with my daughter who is a working mother. She had 3 weeks of paid leave from her place of employment when she had her first child. Under this bill, is my colleague at all concerned that an employer might say: We have been given a Federal mandate of 12 weeks of unpaid leave. And so, because of that mandate, we are going to drop the 3 weeks of paid leave that we have offered. Is there anything in this bill that would prevent an employer from doing that?

Mr. DODD. There is no incentive to do it because they get credit for it. Again, in States that have mandated leave, I do not know if we have any data that supports whether or not the paid leave was reduced. I know we have to count that. They get credit for it in terms of the overall time.

So I know of no evidence that indicates in those States that have adopted family and medical leave legislation where paid leave has fallen off.

I would presume, having made the offer of the question where any other benefit had been reduced, to a number of the organizations, the people I asked—it was Ms. Alvis. She was with the American Society for Personnel Administration. The question was, I asked her to cite for me a single business in this country that adopted a family and medical leave plan that has then reduced another benefit; I assume also paid leave.

Mrs. KASSEBAUM. I was just curious. It may be. I know it is also counted as part. I can also see an employer who, today, trying to cut costs, might say that they will abide by the mandate by eliminating the paid leave provision they currently provide.

That is why, under this amendment, an employee would if they still retain the ability to choose the 3 weeks of paid leave, if it was offered in the cafeteria plan. Therefore, employees could protect their paid leave benefits.

Mr. President, I yield such time as the Senator from Mississippi may wish.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator for yielding me time on this amendment.

I first want to congratulate Senator KASSEBAUM on offering this amendment as an alternative, or a supplementary provision to the bill, because it gets at a problem which many of us are troubled by with the Dodd bill language as it now stands before the Senate. The bill, as everybody knows by now who has been following the debate, provides for mandated, unpaid leave for family or medical reasons. Twelve weeks is the period, as I understand it, in the bill.

The Kassebaum amendment is attractive to me, because it applies to those employers who offer already a multiple benefit employee plan. There are many businesses in our society today who have been very responsive to the changing configuration of the workplace in America. More women are coming into the work force. More families with children who need care and attention during working hours are a part of the labor force now with both parents working. There are obligations for elderly family members in many households around the country.

These needs are very real; they are very important to American workers, and many employers—a growing number each year—are responding to these needs by providing multiple benefit plans. Some are calling these plans cafeteria plans. As you go through the cafeteria line you can select one or the other or a combination of benefits that are offered by the employer to the employee. This is very imaginative, and it is a very popular way to deal with these problems in the work force today.

What the Dodd bill says is we do not care what kinds of benefit plan you have. You have to provide this many weeks of unpaid leave on demand if you are an eligible employee. And they exempt some employees as being ineligible. Then of course they exempt a lot of businesses. If you employ fewer than 50 people you are exempt from the application of this law. And there are other provisions of the bill as well.

But the point of the Kassebaum amendment is if you provide benefits already that are just as generous as this unpaid leave mandate of the Dodd bill you are exempt. This bill does not apply to you. You are not the problem.

Why not adopt that amendment? Think about it. The manager of the bill is resisting this amendment. This amendment ought to be accepted. It would certainly improve the bill. I do not know whether it would get one or two more votes or 10 more votes or what the practical consequences would be, but this amendment makes sense. It encourages employers to continue to do what they are now doing already without the benefit of Government mandates. And that is they are providing day care facilities and benefits for employees; they are providing tuition assistance to go back to school, to upgrade skill levels; they are providing on-the-job training in many situations to try to give better opportunities to the employees and to make them better workers—more productive workers.

We now have the most productive work force in the world. That is a surprise to many, because they have been hearing how terrible American workers are in comparison with other industrialized countries' workers. That is just not true. Our workers produce more value per unit of time worked in the workplace in the United States than any other country in the world. Germany is now No. 2. Japan has fallen to third place.

The point is this: That is no accident. We are seeing workers taking advantage of the opportunity to become better at what they do—better training opportunities, more on-the-job experiences that are varied and stimulating and challenging.

I say, Mr. President, it is another reason why we should give credit to the economic system in this country for doing a lot of things right today, bringing us to the point where we have the strongest economy in the world. If you compare our situation to many of the European countries where they have this kind of government regulation and mandated kind of benefit offering, you will find out why they have problems that they have now that we do not have. Many countries in the world are changing their systems to be more like us. Now we are finding we are very successful in many ways and now we are trying to change ours to be more like the more unsuccessful economies of the world. That part does not make sense to me.

But back to the Kassebaum amendment, let me just make a couple of other points. It provides a protection to the right of choice for workers. If the worker wants to continue to enjoy a variety of benefit offerings, this bill will not penalize that employer who offers that kind of plan. If there is paid leave being now offered—and in many cases that is the situation—for the same family and medical reasons, the employer would not have to worry about reducing the amount of the paid leave in order to make available the more generous, in terms of time-off in an unpaid status. That is a practical consequence that could result with the passage of this bill if the Kassebaum amendment is not agreed to. You could actually be reducing and cutting back by law as a practical matter the benefit plans that are available to many workers today.

That is not doing something for somebody. That is doing something to somebody. So let us take a look at the practical consequences. I am hoping that as Senators will review the Kassebaum amendment they will see it as one of protection of choice, protection of flexibility in the workplace, rewarding and encouraging more businesses to be more generous with benefit plans of the multiple choice variety rather than waiting, sitting back, and making Government tell you what you have to do. That is not the way to do it. That is not the way American business has been operating lately. And it ought to be congratulated. For those who are doing the right thing, they ought not to be penalized by a bill like this and neither should their employees. I hope the Senate will adopt the Kassebaum amendment.

The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM. Mr. President, I would just like to say I very much appreciate the comments of the Senator from Mississippi, particularly for his stressing the commonsense approach that I think this amendment takes by encouraging businesses and employees to do what works best for them. In no way is it designed to undercut family and medical leave. It is designed in many ways to strengthen it, and with as little costs as has been projected by the Senator from Connecticut with the chart, it would seem to me it would be an option that everyone would choose that would mean very little taken away from other benefits, if indeed that is the case.

But, again, it is the choice and the opportunity that both employers and employees would have in working out together what serves their purpose best. I very much appreciate the comments of Senator COCHRAN.

The PRESIDING OFFICER. Who yields time? The Senator from Connecticut.

Mr. DODD. Mr. President, we have a vote that will occur at 2 p.m. I will just point out a Buck Consultants study done of businesses in the country as to whether or not they would ever move to family and medical leave legislation. I often stated I would not be standing here introducing the bill if this would happen. There would be no reason for it. The Buck Consultants' studies of businesses indicated that some 62 percent of the businesses said they would never get involved in family and medical leave legislation unless they were required to by State or Federal law. Studies and surveys are obviously vulnerable to attack.

I think it is interesting to note, given the fact this issue has had a relatively high profile over the last 5 or 6 years as we have debated it some four different times in committee, debated it in the Halls of Congress on two different occasions and passed it, the fact it has been the subject of two Presidential vetoes is not exactly a surprise issue, and yet during all of that time, the numbers of businesses that provide leave for adoption, for sick children, for new births, for sick parents have basically stayed the same. In fact, they are very, very low. Sixty-three percent of women do not receive maternity leave in firms that employ more than 100 people. Only about 14 percent I think have leave for sick children; 18 percent for elder care leave. These numbers have not moved at all.

What my colleague from Mississippi, who now unfortunately has left the floor, and others are advocating is leave this up to the marketplace; this is going to happen out there. I wish they were right. If they were, I would not offer a bill. But with only 14 percent that provide leave, God forbid your child is in an emergency room or intensive care unit. That is not progress. Only 37 percent of women who work for firms who employ more than 100 people received maternity leave in 1992, with women as single heads of household. Today there are a million women in this country in the work force who have children under the age of 1 out there with crises that are occurring everyday. And yet 14, 18 percent, whatever it is, get leave if something happens to that child. I am not talking about a cold or cough now. I am talking about a serious medical condition where three physicians will certify that that parent should be with that child.

So I hear over and over this wave of argument: Stay out of this area, it will happen. I am sure if we went back and reviewed the debates on occupational safety and health, child labor laws, many of the same arguments were made: Let the private sector handle this, they will eventually stop hiring kids, they will eventually clean up the workplace. As I said yesterday, many did. Those laws actually ended up affecting a relatively small percentage of employers because I believe most employers wanted safe workplaces and did so. Regrettably, today the statistics on family and medical leave are not good at all.

So I would like to take some comfort in the fact that eventually this was going to happen, but after 7 years of a highly public debate, of requests being made of businesses to move into this area, of States doing some things in certain areas, we still find, regrettably, that there seems to be little or no movement on this issue.

So aside from the minimum labor standard feature of this, and the basic right—and for those who are watching or listening to this debate, this is a basic right. As my colleague from Kansas asked, if it is such a basic right, who do you exempt employers who employ less than 50 people? We do that across the board—the Americans with Disabilities Act, certain civil rights areas, in OSHA where we have numbers that exclude employees. We have done that under the Fair Labor Standards Act from the very beginning and across the board. That is a good question and I suppose, I said to my colleague, in a perfect world we would include everybody. But we understood in these other areas, as fundamental as they were, that that was difficult to achieve for the reasons we talked about earlier.

But this is a basic right. No Member in the Chamber of this body should have any illusion that what we are arguing for is as basic as your family. And what is more basic than your family? We are saying when that family is in trouble and you have to make a choice between your job and your family, we do not think you ought to lose your job or health care when you decide to be with your family. That is not basic. That is not some question that ought to be left on some cafeteria plan. That is as basic a problem as I know in this country. With the problems people face, they ought not to be placed in the position, when it happens to them, of making the choice between some other benefit, or the whim of the employer, but to be with that family. It is not only important for that child, it is not only important for that parent, it is important for that employer.

The countless—countless—testimony we received from employers who established these plans on their own, I wish that other people would have listened to them. My best witnesses were employers, my best ones, who stood up and said, "Senator, I don't know what people are talking about." You have one group of witnesses that says, "Senator, if you do this, this is what we think it will be like," and another group of witnesses from the business community saying, "Let me tell you what it is like to have a family and medical leave plan, and it works; it is good for us as employers; it is good for the business. We have much higher productivity. We have higher attention rates, lower absenteeism. It really makes a difference; it makes a difference." And yet somehow their evidence or their testimony was not given any additional weight than the person who said hypothetically, I think, this is going to create the problems people identified here.

I am convinced as one of our colleagues said yesterday, when this debate is over, we are going to look back and wonder what all the fuss was about. This is as common sense a piece of legislation, in my view, as we have had before us in some time. It is basic, fundamental, and human decency. To put it on a different level than that is to minimize the importance of this issue to so many families in this country today. It ought not to be put on that basis. It is a basic right to be with your family.

Mr. President, I do not know if I have any other speakers. I will inquire.

Mrs. KASSEBAUM. Mr. President, I yield time as may be needed to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Kansas has 9 minutes and 20 seconds left. The Senator from Utah.

Mr. BENNETT. Mr. President, I rise once again to talk about my experience in dealing with these matters. I spoke yesterday about what we did in our company with respect to family leave. I would like to speak now about our experience with the cafeteria plan.

We instituted a cafeteria plan when it became obvious to us that the benefits that we offered to our employees did not meet the needs of every employee. And the one thing that hit us in our experience that I had not expected was that as soon as we gave the employees their choice of how they could use their benefit dollars, a fairly large number of the employees opted out of our medical insurance.

I thought that was the one thing that every American wanted. I discovered that many of these employees were women whose husbands had medical insurance where they were employed, and they did not want double coverage.

We said, "Here is the menu of benefits that you can have. Which would you prefer?" And many of the women said, "We do not want health insurance. We would prefer to take these dollars that are spent on health insurance and spend them on child care." And so our company was paying child care bills for the women who had young children who needed to be taken care of while they were at work. There were others who said, "We are covered by our husband's health insurance. We are past the childbearing age. We want to take all these benefit dollars and put them into our 401(k) plan," which the company would then match and it would add to their retirement. And we noticed that each employee used the flex bucks, as we called them, to make the decision as to what would be best for him or her.

I think Senator KASSEBAUM's amendment will allow employers who have adopted that kind of approach to proceed in the most beneficial and economic way.

I noticed in the private sector that as cafeteria plans became known, they became more and more popular. We thought we were breaking new ground. We were interested to see the number of companies that came to us and said, "We have done the same thing," because the old days when benefits are prescribed for everybody in every kind of circumstance, willy-nilly, everything has to be treated the same, are past. The work force has become so diverse, family situations have become so different that the cafeteria approach where the employee gets to choose is really the wave of the future.

I support the amendment of the Senator from Kansas because she has taken cognizance of the wave of the future. This bill, as I said yesterday, is a Federal mandate that will try to lock all employers into the same straitjacket. She has taken cognizance of the fact that this kind of legislation must be brought up to date and be made compatible with the wave of the future instead of following the patterns of firm mandates that we have had in the past.

I think I speak for most employers who are trying to look to the future to take care of our work force in a way that is progressive, that is innovative, that is creative in saying that support for the amendment of Senator KASSEBAUM would be by far the most logical thing for us to do at this point in the debate.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I yield 5 minutes to the distinguished Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank my friend from Connecticut. I rise to reject the contention of this amendment that family and medical leave is a benefit like other fringe benefits that must be negotiated between employer and employee.

I also reject the notion that the provision of family leave is some sort of tradeoff with benefits like health care coverage or a paid vacation. The people taking leave under our bill have no other choice. We strengthened the standard to the point where the abuse of leave would be extremely difficult, if not impossible. Rare is the person in this day and age who can afford to take unpaid leave except under the most serious conditions.

So the question really becomes, the question that I ask my colleagues to focus on, should an employee who is forced to take unpaid time off for the birth of a child, arrival of a child, or to care for a sick child, a parent who is ill and elderly, or a spouse who has been in a car accident, have to choose between their job and the family? To me that answer should be no.

Second, unpaid family and medical leave costs businesses less than $10 per covered worker per year. It may be $6; it may be $9; it may be $9.50, but it is not a significant cost. We have already discussed how the so-called costs are certainly less than the cost to a business of hiring and training a new worker. The average cost, on the other hand, of a health care policy is over $3,000 a year. And a total benefits package costs in excess of $10,000 per year. Family leave costs a very small fraction of paid vacation and sick leave policies and, frankly, it is not something that most people would think about unless they are planning to expand their family. How do they know the illness is going to strike? How do they know that they are going to be required to care for that ill and aging parent or for the very sick child or for the victim of a car accident?

Family leave is far less than the cost of a parking benefit or a subsidized cafeteria. So the notion that employer provision of family leave will somehow result in a tradeoff of other benefits, to me, just does not hold water. Families need this basic job protection. In my State of Missouri, over 50,000 families a year could benefit from this protection, men and women who will experience the birth of a child or whose parents will become very ill or who may become ill themselves. These Missourians who face times of great family need should not have to choose between being with the family, being with the sick child or the aging parent, and losing the job which pays the bills for the family.

I am committed to establishing the basic job protection of family leave because I believe it is crucial to the preservation of our families, to ensuring that family responsibility once again becomes a priority in this country. Family preservation is crucial to the long-term economic health of our Nation. So many times we have heard it said that the basis for strong communities is strong families, the basis for strong States, the basis for strong nations is strong families. By enacting this basic protection, we are not trading off for the paid vacation or subsidized parking; we are assuring that a family which faces a very real family crisis has the ability to respond and exercise family relationships and responsibilities without forfeiting the economic wherewithal vitally important to the family's future.

I urge my colleagues not to support this amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Kansas has 5 minutes and 20 seconds remaining. The Senator from Connecticut has 6 minutes and 15 seconds.

Mrs. KASSEBAUM. Mr. President, I reserve the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I ask unanimous consent that the time under the quorum call be counted against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise today in opposition of S. 5, the Family and Medical Leave Act of 1993. Over the past few years, the Congress has debated various proposals which would mandate employers to provide several weeks of family leave for an employee to care for a child, spouse, or parent who is ill. While family leave is desirable and should be encouraged, I continue to question whether a Federal mandate in this area fully takes into account the varying needs and circumstances of employers and employees.

I am concerned that this legislation could hamper the ability of employees to freely choose benefits. With the help of computers, employers can provide a wide variety of benefits. The easy access and storage of various plans, provided by computers, allows the flexibility employees need to choose the benefits that best fit their individual needs.

I believe the choices of how to best utilize these benefits is best left to the employee. Compelling an employer to provide a particular benefit will not necessarily enlarge the number of available benefits. I am concerned that employers will only offer the benefits provided for in this bill and may be inflexible to the needs of a diverse work force.

Mr. President, we cannot reduce overall employee benefits. We need to make every effort to encourage and support employers to add family and medical leave to the benefits they provide their employees.

This is the first time Congress will be mandating employee benefits. I am concerned that this precedence will lead the Government into a role of micromanaging these issues. I believe such issues are best left to the private sector and employer-employee relations.

Mr. President, the proponents of this legislation frequently remind us that many European countries have laws similar to S. 5. What these proponents omit is that these laws have contributed to a stagnate economy and unemployment. As our economy attempts a recovery, it would seem unwise to reduce the choice and flexibility available to employers and employees.

Mr. President, I strongly support the idea of family and medical leave. However, I do not believe a Federal mandate is the best course of action.

Mr. DODD. Mr. President, parliamentary inquiry. Under the previous unanimous-consent agreement, I believe the hour of 2 p.m. has arrived, and we are ready to vote; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DODD. Mr. President, I move to table the Kassebaum amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The question is on a motion to table the Kassebaum amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 63, nays 36, as follows:

[Rollcall Vote No. 4 Leg.]

YEAS—63

Akaka
Baucus
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Coats
Cohen
Conrad
Danforth
Daschle
DeConcini
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Krueger
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Simon
Wellstone
Wofford

NAYS—36

Bennett
Brown
Burns
Campbell
Cochran
Coverdell
Craig
D'Amato
Dole
Domenici
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield
Helms
Kassebaum
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NOT VOTING—1

Durenberger

So the motion to table the amendment (No. 11) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona, Senator DECONCINI.

Mr. DECONCINI. Mr. President, I rise today to join the Senator from Connecticut and the other distinguished cosponsors to once again support this very important legislation. The Senator from Connecticut, Senator DODD, has labored on the family medical leave bill for years. The time has finally come to pass this important measure for the families of the United States.

This will be the second time in recent months that the Congress will send a bill to the White House that will provide working families with some job protection by providing 12 weeks of unpaid leave for employees after the birth or adoption of a child, or to care for an immediate family member who is seriously ill.

With the swearing in of a President who has confirmed his support of family leave legislation, the time has finally come where this bill will be enacted into law.

Although I have always been a strong supporter of family leave, I would suggest that this legislation is even more important now than it was when it was first introduced in 1985. Figures from the 1990 census show that 10.1 million families were headed by single parents.

The high cost of living has forced many families to generate two incomes in order to keep their heads above water. It is projected that by the year 2000, 3 out of 4 American children will have mothers in the workplace.

Mr. President, working parents should not have to choose between a job they cannot afford to lose and a newborn child or a family member who needs them. Only 18 percent of employers provide leave for parents to care for a sick child, and less than half of working women have maternity leave. We can send a very strong message of support to the working parents of this country by enacting this legislation—a message that says we care about protecting their jobs and their economic security without forcing them to compromise their family responsibilities.

We have all heard the arguments against this legislation. Representing a State with an economy that depends on small businesses, I can appreciate the concerns that mandated family leave would be devastating to small business owners. And, as the result, this bill provides for an exemption for businesses with less than 50 employees. This exemption will cover more than 95 percent of all employers.

It also allows an employer some flexibility to substitute accrued paid leave for any part of the 12-week period, and it allows them to recapture health insurance premiums if the employee does not return to work.

So the legislation here is thoughtful, and concerned about small business and what they have to take on if they happen to be slightly over the small business exemption.

While many industrialized nations provide their workers with some form of family leave, most of them do so with compensation. Workers in Japan or in Germany, for instance, our toughest trade competitors, get 14 weeks of leave with pay. The family and medical leave bill provides up to 12 weeks of unpaid leave—unpaid leave—for the birth or adoption of a child, or an illness in the family.

That is not a huge burden. Rather, it is security that the job will be there after you have handled this family emergency, whether it is an adoption or giving birth to a child, or caring for a sick relative.

A General Accounting Office report estimates that the annual cost for providing unpaid family leave is $5.30 per eligible employee. These costs are incurred primarily through the continuation of health insurance benefits for employment on unpaid leave. That seems a very small price to pay for the immense impact that time can have on the family being able to bond with a newborn child, or to struggle through a serious family illness that is traumatic in many, many respects.

President Clinton has pledged his support in preserving family values by vowing to sign this bill into law. The President realizes the needs of the changing American family to stay home during the first 12 weeks of a child's life or take care of a sick family member without the fear of becoming unemployed.

Children today are fighting against tremendous odds. The high risk of teen pregnancy, gang violence, drug and alcohol abuse are part of the world in which young people have to live on a day-to-day basis. The least we can do is give them the first 12 weeks of their lives with their parents.

It is no guarantee that they will avoid these threats to their well-being, but it is a good start.

I urge my colleagues to pass this bill today so we might be able to proceed, holding our heads high as a nation because we have decided to put families first, and we understand the needs of working families, and we understand the need that family values start by providing working parents time to be with a child when it is born, is adopted, or if there is a serious illness.

I thank the Senator from Connecticut.

UNANIMOUS-CONSENT AGREEMENT

Mr. DODD. Mr. President, I understand the Senator from Wyoming is about to offer an amendment.

I ask unanimous consent that Senator WALLOP be recognized to offer an amendment, with the time until 3:15 p.m. divided as follows: 30 minutes for the Senator from Wyoming and the remainder of the time to myself on the amendment; that no other amendments or motions, other than a motion to table, be in order prior to the disposition of the Wallop amendment and that at 3:15, the Senate vote on or in relation to Senator WALLOP's amendment. I will say to my colleague from Wyoming, if he needs additional time, I will see that he gets that time.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Reserving the right to object, and I shall not object, I told the Senator from Connecticut this is not his problem, but the reason for which this unanimous-consent agreement is sought is not to speed up time but to limit amendments. I thought I heard the Republican leader give his commitment to the Democratic leader yesterday that no second-degree amendments would be offered and that they would be given a full heads up on any amendments offered. This amounts to the statement on behalf of the majority leader that he does not trust that commitment. I resent it, but I will not object to it.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Under the unanimous-consent request just agreed to, the Chair recognizes the Senator from Wyoming for the purpose of offering an amendment.

AMENDMENT NO. 12

(Purpose: To amend the Fair Labor Standards Act of 1938 to permit an employee to take compensatory time off in lieu of compensation for overtime hours)

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP], for himself, Mr. DOLE and Mr. SIMPSON, proposes an amendment numbered 12.

Mr. WALLOP. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

SECTION 1. PERMITTING COMPENSATORY TIME OFF.

Section 7(o) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(o)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5), the following new paragraph:

"(6) With respect to employees not covered under paragraph (1), an employer may not be deemed to have violated subsection (a) by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under subsection (a) if, pursuant to a contract made between the employer and the employee individually, or an agreement made as a result of collective bargaining by representatives of employees entered into prior to the performance of the work, the employer at a written request of the employee grants the employee compensatory time off with pay in a subsequent workweek in lieu of payment of the number of hours worked in such current workweek in excess of the maximum workweek applicable to such employee under subsection (a). For purposes of determining the maximum workweek applicable to such employee under subsection (a), and the rate of pay due to the employee, compensatory time used by the employee shall be considered hours actually worked during the subsequent workweek in which actually used.".

Mr. WALLOP. Mr. President, I yield myself such time as I may consume.

Mr. DODD. Will my colleague yield just for a point? I do not think it is a question of the majority leader not trusting the Republican leader at all. I know he does trust him. I think there was a concern, as things can happen sometimes, of someone showing up, gets a second-degree amendment in, despite the good efforts of the Republican leader. Sometimes that does happen. I do not think it has anything to do with trust. I make that point.

Mr. WALLOP. Mr. President, I would argue that, but I have an amendment to argue.

Mr. President, the Senate majority and some in the minority have expressed themselves as being willing to mandate certain employment requirements on American business. I am not here to argue whether that is the right thing or wrong thing to do. My position on it is well known. But as this bill has come up before, I have offered this amendment before and received promises from the able majority leader and others that this was an amendment whose purposes were totally legitimate. So while here we are willing to mandate on businesses certain employment practices, we are, I will guarantee you, about to deny employees of America their right to petition their employer for flexible leave time for their family. And I say to the Democrats who are so anxious to push this, and I say to those who say that the purpose of this legislation is to make the workplace more family friendly, that one of the ways to make it more family friendly would be to listen to the families and their requests.

The amendment that I am offering would allow private sector employees to choose a flexible work schedule if they desire and if they can persuade their employer. The issue is whether compensatory time can be used by the hourly wage employees of a business. Under the Fair Labor Standards Act, if an hourly wage employee works more than 40 hours per week, then the only way to compensate that employee is through the overtime pay requirement. The use of alternative compensatory time off policy is now prohibited.

The amendment I offer would provide useful labor law reform as it would allow employers and employees to voluntarily enter into contracts to use a compensatory-time format as an alternative to the overtime requirement. Employees would be able to earn paid leave, unlike the requirements of this bill, as a result of overtime work. This is similar to the compensatory-time procedure that is now available to many salaried employees, as well as to employees of State and local governments.

Mr. President, the need for this measure was brought to my attention by the employees of a private employer in my home State, but fellow colleagues may be most familiar with the issue when it first became a problem to State and local governments performing what was called traditional functions. That was in 1985 when the U.S. Supreme Court decided in Garcia versus San Antonio METRO to overturn the law of the land which up until then had been that State and local employees engaged in traditional public responsibilities would not be covered by Federal labor law. Public employees engaged in nontraditional activities had always been covered by the Federal labor law.

Many Senators objected to the Garcia decision because of the worry that compensatory time agreements involving firemen, law enforcement officials, and road maintenance crews would be affected. Due to the long shifts that those employees work, they typically receive compensatory time off to reimburse them for their work schedules.

Congress then acted swiftly to reinstate compensatory-time agreements in the public sector because of what it called great burdens on the State and local government. It made good sense for public employees and it is equally wise to allow private businesses, but more important, the employees of private businesses the opportunity to earn a stable wage throughout the year, despite the erratic annual production of hours of business. We should treat the private sector with the same fairness that we do the public sector. It would be good for employees and good for employers.

It would also be good for the economy, because without this measure, there is a fluctuation in business, in production schedules. Employees have to be laid off in slow periods, forcing them either to deplete their savings or to apply for unemployment benefits, forcing them to seek unemployment compensation and increase the cost not only to the States but to the employers who would have to pay the higher unemployment taxes. Allowing employees to petition their employer to choose a stable wage throughout the year would prevent these unfortunate consequences.

So, Mr. President, because this bill allows for flexible schedules not only on a seasonal basis but on a week-to-week basis as well, it should prove especially beneficial to working mothers who have a real need for a flexible time plan. The women in this particular plan wanted to work their extra hours in the week so that they could spend more time with their children, and here we are saying the workplace has to be family friendly, denying families the very objective that they have of trying to spend more time with their children and avoid as much of the latchkey world as they possibly can.

Women, it was said by the Senator from Arizona, currently comprise more than 45 percent of the U.S. labor force. As predicted by the end of this decade, 2 out of 3 new work force entrants will be women. The Bureau of Labor Statistics indicates 56 percent of mothers with children under age 6 and 50 percent of mothers with children under age 1 work outside the home. Why is it that this Senate and this Congress, talking about making the workplace more family friendly, will be unwilling to allow these mothers, these employees, that time, structured with their employer, to care for their family?

There is a need for flexibility to meet the unique needs of this very important sector of America's work force, and my amendment would provide just that.

Under the amendment, Mr. President, they would have the option to enter into an agreement with their employer to work longer each day in order to take off time to spend with their children during school vacations, for example. Importantly, business would not be penalized for allowing such flexibility to its working mothers.

Mr. President, it is important to point out that under this amendment, employees would be able to take compensatory time off in lieu of monetary compensation for overtime hours if, and only if, they are to make such a request in writing and if they either enter into a contract with their employer as an individual or if an agreement is made as the result of collective bargaining.

Why we would be frightened of collective bargaining agreements that would provide this flexibility, why we would be frightened of individual agreements that provide this flexibility when the stated hypocrisy of this bill is that we are trying to make employment circumstances more family friendly, I just do not understand, Mr. President. I do not understand why it would be opposed. I was assured by the majority leader in 1989 that this was an idea of great merit and that the Senate would study it. It has done nothing of the kind, and it is time that the working people of America, speaking through their Representatives, are heard and that this opportunity becomes theirs just as it is for public employees.

I am hopeful that the committee will find it in its heart to suggest that this is part and parcel of what they are otherwise trying to do with the family leave bill, to make working conditions for families better. And when families petition for it, where their Representatives bargain for it, who are we in this Congress to say they should not allow it?

I have not understood it since 1985, Mr. President, and I doubt that I will understand it today, but I ask this Senate to consider carefully what it is doing in the name of making the workplace family friendly. I ask them to consider why people who petition for this privilege should not be allowed that choice. Are we so frightened of what Americans will do in their own behalf that we cannot allow it? Are we willing to mandate the terms of employment on employers yet ignore the pleas of employees to have a separate work schedule that suits what their family does? Why would we be frightened to permit that? I hope the answer is forthcoming that we will not be.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, I yield 7 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY] is recognized for up to 7 minutes.

Mr. KENNEDY. Mr. President, I have listened to the arguments of my friend from Wyoming. I find it difficult to relate his particular amendment to the issue that is before us, because the issue that is before us is the family and medical leave issue. That is what we have been debating. That is what we have been focusing on.

The Senator from Wyoming is talking about bringing about a very dramatic change in the Fair Labor Standards Act, which really is not the issue that is before us, nor is it an issue that was raised in the many hearings we had on the family and medical leave issue over the last 7 years. Nor is it an issue, I say quite frankly as the chairman of the Human Resources Committee, on which we have been hearing from workers themselves.

I have heard a great deal about how the workers of America really are waiting for this kind of amendment to be put into effect. Well, I would say the silence is deafening, because I know of no such petition; I know of no such correspondence; I know of no such letters; I know of no such phone calls to our committee saying look, while you are going ahead on the family and medical leave, will you please also go ahead and change the Fair Labor Standards Act to eliminate the requirement for overtime pay. None.

Maybe I will be corrected, but I am also not aware of any employers having raised this particular issue when the debate on the family and medical leave bill was taking place, and we were trying to make changes to address concerns expressed by the employer communities. I do not know that they have been knocking on the doors of the members of the committee.

Quite frankly, I also do not see any evidence that over the 55-year period of time the Fair Labor Standards Act has been in effect, the overtime requirements have been such a major problem. I know this issue is of concern to the Senator from Wyoming, but maybe there are others of our colleagues who are hearing from workers and business leaders in their States that these overtime requirements are a problem back home, but I have certainly not heard about it.

Mr. President, first of all, to set the record straight, if employers want to adjust and provide some flexible work schedule for employees within the 40-hour week, they already have the ability to do that. Within a 40-hour week, if an employer wants to allow an employee to work 10 hours a day for 4 days and take Fridays off, for example. He can go ahead and do it and pay the employee the same as if the employee worked 8 hours a day for 5 days. They can go ahead and do it now.

My good friend from Wyoming says, well, beyond that 40 hours if an employee wants to work 60 hours a week, and 20 hours the next week, he ought to be able to do that without the employer having to pay overtime for that extra 20 hours over 40 hours in the first week. The Senator from Wyoming may want to go back to the time when many employers in this country were requiring employees to work 60, 70 hours a week. Those were the working conditions prior to the time of the Fair Labor Standards Act. But when Congress passed the Fair Labor Standards Act it was agreed in that legislation to encourage adherence to the national norm of a 40-hour workweek, we would require employers to pay overtime for hours over 40 hours a week and we would not permit individual employees to waive their rights on the issues of overtime. The issue was debated and discussed and here in the United States as in the other major industrial nations of the world we have settled on a 40-hour week. If the employer wants additional time from the employee that week, they are going to have to pay the employee time and a half. We made a policy decision that working 40 hours a week, 8 hours a day, 5 days a week ought to be considered a full week's work, and that employees should be able to do a full weeks' work and still be able to spend time on the weekend with their children and time on Sunday in expressing their religious beliefs of expressing their family ties.

Many workers have to work other jobs because of the economic challenges they face. But what we are saying is 40 hours a week is a full week's work.

The Senator says, well, let us let employees waive their right to overtime if they want to. Do we permit the workers to say all right, we will waive our right to be paid at least the minimum wage? If a worker needs a job so bad that he says you don't have to pay me $4.25 an hour, I will work for $2 an hour, do we say that's fine, let's waive the minimum wage and let the employee pay $2 so we can give these workers a chance to work? Do we say its fine with us if a worker wants to waive the right to conditions in the workplace? Do we say that if the worker wants to waive the right to unemployment compensation its okay with us if the employer doesn't pay unemployment taxes? Why not leave this all up to the employer and the employee and let them negotiate between themselves to decide whether the employee will get minimum wage, or a safe workplace, or unemployment insurance coverage?

We have had these debates and discussions in this country, and what we basically have recognized is that when an individual employee who needs to be able to keep his job in dealing with the employees on issues like this, there is inherently an imbalance in the relative power situation, and with so much power on the side of the employer it is hard for the employee to say no to what the employer wants. It was decided as a matter of public policy that on these very basic and fundamental issues of child labor, worker safety, minimum wage, we would not leave it up to the "market" or individual bargaining between the employee and the employer to determine the outcome, but we would set a minimum standard for all employers to comply with. I am talking about a minimum wage, by the way, that was supposed to say that if someone is going to work 40 hours a week, 52 weeks of the year, they are going to be guaranteed a sufficient income enabling them to support their family in the United States of America.

There is a bold, radical concept for you. There is a really bold, radical concept. And of course that is a "mandate." My goodness. The minimum wage has been embraced by Republicans and Democrats up until fairly recently in the previous administration, which did not want to raise the minimum wage to reflect the increase in the Consumer Price Index.

So now we have a situation in which there are hundreds of thousands of employees in this country who are working 40 hours a week and still in poverty, and the taxpayers are picking up the difference. They are subsidizing those employers, because those individuals who work full-time and are still in poverty are eligible for safety net programs. Their employers are basically bilking the American taxpayers because they are not willing to provide a living wage for their workers.

So, Mr. President, first of all, the overtime issue addressed in the Senators amendment is not an issue on which we have been focusing because it is basically unrelated to the issue at hand. Secondly, there have been times in the past where we have debated the issue of waiving various workplace standards such as the minimum wage, workplace safety and health, the child labor laws. Why not waive the child labor laws and go ahead and put those children back to work, those 12- and 13-year-olds who used to work in the plants up in Lowell and Lawrence and in the mills of my own State. The fact is that I think we have moved beyond the point that we would seriously consider that. I think the issue in terms of flexible time is enormously important as an issue. We have found many enlightened employers and employees working through various adjustments and agreements. It is a particularly important kind of issue where both members of the family are working.

But Mr. President, there just does not seem to be the demand for the kind of change the Senator is proposing, certainly not from the employees. They have not been demanding it. I do not believe as the chairman of the Labor and Human Resources Committee that employers are demanding it. I support finding ways for flexible time to be provided, particularly where two members of the family work, but within the protections which have been established by the Fair Labor Standards Act. These protections are working. They are working effectively. And there is no question that this amendment really is not related to the subject at hand.

I hope it will not be accepted.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Wyoming controls an additional 13 minutes 32 seconds.

Mr. WALLOP. I yield myself 7 minutes.

Mr. President, I am always entertained by entering into a debate with the Senator from Massachusetts. His frequent want is to substitute decibels for logic. I certainly heard him. I heard him say exactly the same thing in 1989. I have introduced this legislation since 1982. I have been promised by his committee over the course of that time that there would be hearings on it and we would move toward it.

Mr. KENNEDY. Will the Senator yield?

Mr. WALLOP. Not yet. I will in a second.

Mr. President, who controls the floor?

The PRESIDING OFFICER. The Senator from Wyoming controls the floor.

Mr. WALLOP. I will yield to the Senator in a minute. I would like to finish my statement on this.

The able majority leader promised me in 1989 that this had a great deal of merit. I just quote him. "There is no doubt in my mind that there are circumstances under which the flexibility he suggests is appropriate, and indeed in the best interests of the employee."

This is not a new issue to the Senate. It is an issue which they do not wish to confront.

The Senator from Massachusetts talks about my going off the topic. I did not say anything about abandoning the minimum wage. Did the Senate hear me say we were going to abandon the minimum wage or child labor laws? Did the Senate hear me say we had no concern for safety? No.

Mr. President, what the Senator from Wyoming is seeking to do is to allow employees who work in the modern workplace—in the era in which modern labor takes place; where lots of work is seasonal; where some people would like to make an arrangement to be paid all year long so that their income is steady, predictable; where there are certain times in which they would like to work more so that they could have time off to spend with their family; not to abandon child labor laws, not to abandon safety laws, not to abandon minimum wage—to deal uprightly with their employer. They must, if the Senator would take time to read this amendment, petition for this. It is not something that is going to be or can be forced on them. It is something that must be petitioned.

I could read from April 12, 1989, precisely the speech you just heard. We have not yet come to the realization, Mr. President, that this is a modern-era workplace which has changed substantially from the thirties, the fifties, and other times when those labor laws were put into place.

There are people who have petitioned us for the flexibility to work out things with their employer in ways which are of satisfaction to them both. Not every American wants time-and-a-half; some would rather spend time with his or her children and family.

I do not understand what makes the Congress of the United States think that the working people of America are not able to petition for their own goals and purposes in life? Who are we to substitute our judgment for those of working men and women in America who want to spend some time in a different way than the Congress has stipulated?

They are not asking to be let free from safety laws, OSHA, or child labor laws. They are asking, and this amendment says, they must petition their employer. It is not being run down their throat.

Mr. President, it is time we dealt honestly with the working men and women of American and treated them as though they had some level of maturity and that acting as adults they could, with their employer, decide that was best for them.

Are there employment abuses in America? Of course there are. Will there be after this bill passes? Of course there will be. Will there be if this amendment were to pass? Of course. But the great vast majority of working men and women and employers in America have found the way to live with each other. The only thing that enters into that process that really binds them is an act passed in another era. Congress should have brains enough, ears enough, heart enough to understand that this is a different time and that different things could make life in the workplace much more agreeable, and that American employees are adult enough and mature enough to be able to make that decision in their own behalf.

Mr. President, I reserve the remainder of my time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. I yield 2 minutes to the Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. President, the Senator leaves out some very basic and fundamental facts relating to the current law under the Fair Labor Standards Act. In order to permit the kind of flexibility to exceed 40 hours a week that the Senator is talking about, we would effectively be removing the norm the 40-hour workweek from the Fair Labor Standards Act.

Let us understand the facts. Within 40 hours a week, an employer and employee already have flexibility on hours. The employee can work 12 hours one day and just 4 hours the rest of the employee's regular rate of pay, and that's not an issue with the FLSA. Above 40 hours a week, an employer can make any employee work 50, 60, or 70 hours but they have to pay time and a half.

The Senator from Wyoming has given us this wonderful explanation that his amendment is something to benefit workers, that workers are asking for. There are 120 million workers in the work force, Senator. Show me the letters you have received from workers asking for this kind of change. They are not. Why do you think that you know better what workers really want? My experience is that working men and women generally want a 40-hour work week. They want to work 8 hours a day, 40 hours a week. And they want to get paid time and a half if they are going to have to work over 40 hours a week.

If the employer wants to make a worker work 50, 60, or 70 hours, he can do that under the law. But he has to pay that worker time and a half for those overtime hours. This acts as an economic disincentive to discourage employers from requiring employees to work excessive hours. This is an important worker protection which workers in the early part of the century struggled for—the right to limit work time to 40 hours a week, 8 hours a day.

I say with all respect to the Senator that I am amazed by the representations of the Senator from Wyoming, that his amendment represents something that workers all over the country are petitioning for. They are not. Workers basically support the Fair Labor Standards Act overtime requirements because they struggled to obtain these protections over a long period of time.

Mr. President, I just do not see why we at this time ought to be altering and changing by legislation what has been a carefully protected right for workers in our society.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator controls 3 minutes 12 seconds.

Mr. DODD. Mr. President, I yield 2 minutes to the Senator from Ohio.

Mr. WALLOP. Mr. President, I inquire again if that is the correct apportionment of the time. It seems as though the Senator from Connecticut might have had more than that.

The PRESIDING OFFICER (Mr. HARKIN). The original agreement apportioned 30 minutes to the Senator from Wyoming, and the remainder was 14 minutes to the Senator from Connecticut; and the Senator from Connecticut, or his designees, have used all but 3 minutes and 12 seconds.

The Senator from Ohio is recognized up to 2 minutes.

Mr. METZENBAUM. Mr. President, I came to the floor to oppose this amendment because, first of all, the amendment itself does not have merit, as I see it. This idea of substituting comp—compensatory time—for the amount of money that an individual is entitled to is not a rational approach to the whole question of management-labor relations.

Beyond that, and far more important, as I see it, is the fact that this amendment does not belong on this bill. It has no relevance whatsoever to the subject before the Senate this afternoon. This body is attempting to pass a bill that has to do with the right of individuals to get medical and family leave. Instead of that, we find something coming in way from out in left field—maybe it is the right field in this instance, only the right is not very right in this instance—coming along and proposing something having to do with substituting compensatory time for the wages that the individual is entitled to.

That subject, if it had any merit, should be a matter to be considered by the Members of this body in a regular manner before a committee hearing. But the fact is, it does not have that kind of merit. There has been no bill before the body, and now we find the Senator from Wyoming coming forward with an idea that is totally foreign, alien to the whole strength and the substance of this legislation.

I believe that we ought to table the amendment. I believe that the amendment is bad on its face. I think it is wrong on its face. I think it is wrong on the merits. But I am convinced beyond any shadow of a doubt that even if it had merit, it does not belong on this legislation this afternoon.

One gets the feeling that there are those in this Senate who are trying to come up with amendments to try to delay the Senate from working its will and passing this legislation. I think we have had enough of these dilatory amendments. I suggest we move forward to final passage of the legislation.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WALLOP. Mr. President, I yield myself such time as I may require. I ask the Chair to notify me when I have 1 minute left.

The PRESIDING OFFICER. The Senator is recognized.

Mr. WALLOP. Mr. President, one of the things in the 16 years as a Senator that has grown to be a cheerful pastime is this world of Alice in Wonderland. Quoting Yogi Berra, I believe, "deja vu all over again."

The Senator from Ohio made precisely the same speech in 1989 but with the provision that he promised that we would consider it. He stated at the same time that he and Senator NICKLES had worked out a provision similar to my amendment for public employees. My amendment is not a new thought, I say to my friend from Ohio. It is just that the rigid government control by the Democratic Party cannot find it in its heart to let Americans petition in the workplace for their own benefit. Unless the unions ask for it for them, it is not a competent request.

The committee is wrong that it has not been notified of this. The committee has letters, and the committee has had this legislation. This is not a new subject. Now the Senator says that it does not belong on this bill. Well, how quaint.

The purpose of the bill is family leave. The purpose of my amendment is family leave. The purpose of my amendment is to give families some choice in tailoring their workweek with the satisfaction of their employer. It is absolute poppycock, Mr. President, that I am, or any of the cosponsors of this amendment is seeking to apply 70-hour workweeks without compensation.

If the Senator from Massachusetts or the Senator from Ohio would willingly show me the employee who would sign such a request, which signature is the condition of my amendment, I would happily withdraw it. But I do not believe you are going to find employees going up to their boss and saying I want to work 70 hours a week for the next 3 weeks, and I am signing this request. What rubbish. American workmen are more mature than American Senators. They will know what amounts to compensatory time in their interests.

Is it not interesting that those on the other side of the aisle were quite willing to provide State employees with a privilege that they will not provide to private employees? Is it not interesting that in a matter of weeks we passed compensatory time off for public employees?

Once again, are we not in the same sort of mindset—my friends on the left—that says only government in America can be trusted? Employees cannot be trusted with their own well-being. Certainly, employers cannot. Employers in America are uniformly crass, evil, uncaring, insensitive, and exploitative. Everybody knows that.

Mr. President, that is ridiculous on its face. This is the modern workplace with modern things that take place in that workplace. And among the things that take place are seasonal fluctuations, times when things are very busy and times when things are not so busy. When they are very, very busy, yes, an employer can pay time and a half. But when they are not very busy, the employee gets no time at all. So he gets time and a half for busy time and no pay at all for a slack time. Most people would think that they were better off getting paid full time for all of the time. But not my friends on the other side of the aisle. Full time for all of the time avoids a standard that has been in place since 1933. America's workplace has not changed since 1933.

If the Congress of the United States has any say in it, it will not, yet. The only thing that will change are the mandates we put on employers. But those requests, those legitimate requests of employees, cannot be trusted to be responsible.

Well, Mr. President, what disdain for the American workers is expressed in those two comments. What disdain for the worker's ability to choose in his or her own behalf. What disdain for the democratic processes of the Senate to say that we cannot allow this because we have not heard it, though we have heard about it since 1982.

Mr. President, logic would tell us that if this is the bill, the family leave bill, that families ought to be able to take care of their leave without having this Senate in its arrogance impose its ideas of what constitutes a good working environment. That is what is at issue, Mr. President.

I inquire of my friend from Connecticut, are we obligated to wait until 3:15?

Mr. DODD. No. I would take a minute myself to make a comment. Other than that, I am prepared—that is the remainder of my time.

Do we have to put in a unanimous-consent request? We are pretty close. I will take a minute, and the Senator may want to respond a minute.

Mr. WALLOP. Before that, I ask unanimous consent that Senator NICKLES be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I rise in strong support of the amendment offered by my good friend and colleague, Senator WALLOP. My colleague from Wyoming has offered this particular legislation several times in the past, going as far back as 1986 and the stunning activity that followed the Supreme Court's Garcia decision. It remains a mystery to me that the Congress has failed to adopt—failed to even seriously consider—the labor policy embodied in this amendment. For some reason we seem to prefer to remain mired in the outdated, outmoded stuff on the books, to the detriment and frustration of both our work force and its employers.

As my good friend the senior Senator from Wyoming stated so clearly, existing Federal labor law essentially prohibits employers and employees from voluntarily entering into contracts which would permit hourly employees to accumulate paid leave as compensation for overtime hours worked. Under existing Federal law, State and local workers, seasonal workers, and professional workers are entitled to enter into comp-time arrangements with their employers, but hourly workers are not. This is a glaring omission in our efforts to promote a more flexible work environment.

Comp-time, the awarding of leave time in lieu of cash wages for overtime hours worked, provides both employers and employees with fair and flexible means of exchange. It allows employers to meet booms and busts in their business cycles without radically disrupting the size of their work force, either in times of plenty or times of lean. It similarly offers employees greater latitude in managing their working lives by allowing them to take their overtime compensation as leave time.

This is a proworker amendment. Employees today have greater expectations about relationships which should be permissible with their employers and the amount of control that they should be able to exercise over both their working and leisure time. It may be that many employees are really more interested in having more time off—to take vacations, to care for children or relatives—than they are in cash compensation for overtime. Yet the Federal Fair Labor Standards Act prohibits employers from offering precisely that—precisely the kind of flexible arrangements we have all been advocating on this floor. I agree with my fine friend that it is time to provide employees with greater latitude in managing their working lives without unreasonable overprotection from the Government.

I join with my colleague to urge the distinguished chairman of the Labor Committee to look much deeper into this issue, and I suggest that he will find that hourly employees want no less the kind of flexible workplace that is currently available to their public and professional counterparts. The Senator from Massachusetts has pointed out some of the potential loopholes in this particular amendment—a certain potential for abuse on the part of employers—but there is nothing there that cannot be corrected with some honest effort. I am willing to offer whatever assistance I may provide in such an effort.

Mr. DURENBERGER. Mr. President, I rise to briefly explain why I will be voting against the amendment offered by my friend and colleague, Senator WALLOP.

I am not sure that I disagree with my colleague on the merits—this amendment would give employees greater flexibility by allowing them to take comp time instead of overtime pay for hours worked over 40-hour per week.

But this is not the right forum for that debate. We are here to discuss the Family and Medical Leave Act. The amendments we offer today should try to shape a better Family and Medical Leave policy. The Wallop amendment changes the Fair Labor Standards Act, and I do not believe this should be part of today's discussion about a new national policy on family and medical leave.

I will be voting against the Wallop amendment today, but I hope that Senator WALLOP will continue to pursue the issues he has raised today in another forum.

Mr. DODD. Mr. President, the reason I have not gotten up and become so involved in this debate is because this is an extraneous matter and as the chairman of the committee and of the subcommittee dealing with labor matters, I asked to come over, because this does not relate to, in a sense, being germane to the issue of family and medical leave.

The Senator from Wyoming points out that it does have to do with the possibility of people having a different working relationship in terms of their hours. To that extent, I suppose there is some nexus.

My concern—and I say this with all due respect, not having been involved in the previous debate on this matter—is that this is an issue that does come up on a piece of legislation which has not really had the benefit—whether or not it should have, and arguably, it should have—of some discussion, at least, so that there is a way to determine whether or not this body wants, on this hour of this day, when considering family and medical leave legislation, to make a fundamental change in the Fair Labor Standards Act.

Now, they may want to do that. But it seems to me there is a way in which to do it other than just offering an amendment on another bill on the floor.

I realize that could be difficult. And it depends in no small degree on whether or not others want to provide hearings, and so forth. That is a legitimate complaint about the process.

But I would urge my colleagues who may be attracted to the idea of maximizing flex time, or similar such circumstances, that we do it in a proper way; that we know what we are doing.

My concern here is, with 45 minutes of debate on a fundamental change in a 50-year piece of legislation that has worked pretty well, I think, we should be a lot more deliberate and be careful to take into consideration all the concerns that have been expressed by the Senator from Massachusetts and the Senator from Ohio on the ideas raised by the Senator from Wyoming. A 15-minute floor vote this afternoon, changing 50 years of basic law on a matter that has nothing to do—at least legislatively—with the issue before us I think is a very dangerous way to proceed.

And so, with all due respect, I oppose the amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Wyoming.

Mr. WALLOP. Mr. President, I have heard, in all fairness, this argument before. I have heard promises to look into this issue before.

I would say that if the argument were to hold any water at all—and I am not certain that that is a requirement for an argument in this body; just to be stated seems to be enough, if you control the votes—but if it were to hold any water at all, we would have at least to be able to say that we have done it for public employees.

We did it in 1985 in a matter of hours. This is not new. This is not some crazy idea out of the mountains of Wyoming, Mr. President. This is part of the workplace of America today. And we have not seen all public employees in America topple over dead by use of 70-hour weeks and abandonment of child labor laws, and all the other excesses that have been raised in argument against it.

I would say, Mr. President, I know wherein the forces lie. But this is not extraneous. If, in fact, we are trying to do as its proponents have said from the first hour of all of this debate, that we are trying to make the workplace family friendly, why in Heaven's name do we shirk from families who wish to have it friendly? Well, because we do not control the votes. The AFL-CIO, in this instance, does.

But someday, somewhere along the line, perhaps the Senate, Mr. President, will indeed find a way to respond to the flexibility that the modern workplace can and should provide for its employees. Time and a half for overtime is great. But no time for all time is really worse. In fact, most American employees, if they could work out something with their employer, would probably prefer to be paid day in and day out.

Mr. President, I yield back the remainder of my time.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent that the vote occur now, rather than at 3:15.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I move to table the Wallop amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Connecticut [Mr. DODD] to table the amendment of the Senator from Wyoming [Mr. WALLOP].

The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from South Carolina [Mr. THURMOND] is absent due to a death in family.

The result was announced—yeas 64, nays 35, as follows:

[Rollcall Vote No. 5 Leg.]

YEAS—64

Akaka
Baucus
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Cohen
Conrad
Daschle
DeConcini
Dodd
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Krueger
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wofford

NAYS—35

Bennett
Brown
Burns
Coats
Cochran
Coverdell
Craig
D'Amato
Danforth
Dole
Domenici
Faircloth
Gramm
Grassley
Gregg
Hatch
Hatfield
Helms
Kassebaum
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Simpson
Smith
Specter
Stevens
Wallop
Warner

NOT VOTING—1

Thurmond

So the motion to lay on the table the amendment (No. 12) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mrs. KASSEBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. LEAHY). The Senator from Kansas.

EXPLANATION OF ABSENCE

Mrs. KASSEBAUM. Mr. President, Senator THURMOND asked that I make an announcement that he would like to be recorded as being necessarily absent on this vote and other votes today and tomorrow due to the death of his brother.

The PRESIDING OFFICER. The record will show that on each vote today and any subsequent votes today or tomorrow.

The Senator from Connecticut.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I ask unanimous consent that I be permitted to talk for 5 minutes as in morning business.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? Without objection, it is so ordered. The Senator from New York is recognized for not to exceed 5 minutes.

THE ADMISSION OF RADOVAN KARADZIC INTO THE UNITED STATES

Mr. D'AMATO. Mr. President, it is out of a sense of utter disbelief that I come to the floor to protest Secretary of State Christopher's decision to grant a visa to Radovan Karadzic, the leader of the self-proclaimed Serbian Republic of Bosnia. He was publicly identified by former Secretary of State Eagleburger as a war criminal who should be tried by a Nuremburg-style tribunal.

Kardzic's admission into this country is a moral outrage.

It was Secretary Eagleburger who had come under criticism for his policies regarding the conflict in the former Yugoslavia. He saw the need to identify Karadzic as a war criminal. I do not understand why Mr. Christopher failed to realize this.

Karadzic's admission into the United States now lends our tacit approval to his actions as well as those of Slobodan Milosevic and the other war criminals that have raped and slaughtered thousands of Bosnians, and created over a million refugees.

As if his admission were not bad enough, I understand that he will not be subject to arrest for the war crimes with which our State Department has identified him. For all the talk of an international tribunal, for all the talk of justice, this chance is now gone.

The war in Bosnia has resulted in a new genocide:

The rape of tens of thousands of women and young girls by Serbian forces, thousands of men, women, and children have been detained in over 100 concentration camps in Serbian-controlled areas of Bosnia, and according to Bosnian President Izetbegovic over 100,000 people have been slaughtered.

America must never coddle mass murderers. By issuing this visa, we are rewarding aggression with appeasement. As history has so often shown, those who cannot remember the past, are condemned to repeat it.

Worse yet, the current peace talks in Geneva have only served to buy time for the Serbs, to consolidate their position, and ultimately to legalize Serbia's conquests.

These negotiations are no more than a replay of Munich.

Mr. President, I have to tell you, this is a sad day for America. I hope that the Secretary of State will recognize that he is going to invite someone who has been publicly identified as a mass murderer, something akin to what Europe and Neville Chamberlain did when they sat down with Hitler ignoring the circumstances, and negotiated a nation away. Appeasement failed to stop Hitler and it won't stop the Serbs. Just as Czechoslovakia was sold down the river, Bosnia will also be sacrificed to appease the unquenchable appetite of the bloody aggression of Slobodan Milosevic.

History has proven that a dictator's appetite is never fulfilled.

Mr. President, I have written a letter today protesting this action. I hope that President Clinton would review this and before it's too late keep this mass murderer Karadzic from coming to the United States. We must let him know that we are not going to be a sanctuary to a butcher.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I want to assure the Senator from Connecticut I merely want to make a statement. I ask unanimous consent I be permitted to speak for 7 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE CHALLENGE OF TODAY

Mr. DOMENICI. Mr. President, in the country today a lot of talk is forthcoming about what has happened to the American economy. Why is it not generating new jobs while it is generating new growth? I think we all would like to see more than 3.8 percent growth in our domestic product, but clearly that is a long way from where we were a couple of years ago and a long way from any recessionary periods. This is real sustained growth now. And it is not producing any new jobs.

Frankly, that is the challenge of our day, to find out why and what we can do about it.

I do not think it has anything to do with short-term stimulus. In fact, I urge the President not to have any short-term stimulus unless he has at the same time a long-term deficit reduction plan because I do not think a short-term stimulus is going to do anything other than send some wrong signals that we are not busy about getting the long-term deficit under control.

Second, I urge that the President and the Democratic leadership in the Senate and the House put together first a long-term deficit reduction package consisting only of cuts in Federal expenditures. No one is going to believe that there can be a credible package until they see that exposed and debated.

Whether you are going to have any new taxes or not is totally irrelevant, unsupportable, and I do not think there will be much support on this side of the aisle unless and until you see a long-term enforceable budget cut package. It is the expenditures of our Government that are causing the deficit, not the lack of taxation.

So all these questions that we are being asked: Do you support this tax? Do you support that tax? I will make it clear right now I support none of them. I hope Republicans say they support none of them, because you have to see a deficit cut package first. There are many who will say no taxes under any circumstances. But there is an overwhelming chorus that says none until there is a deficit reduction package in place, multiyear in nature, significantly reducing the deficit, perhaps as much as half in 4 years as heretofore committed by our President. But, indeed, it ought to get us to the path that will lead us to no longer having deficits.

You are not going to get sustained growth until you make that commitment a reality to the American marketplace. Until you make it a reality, long-term interest rates will not come down. You are depleting the national savings, the net national savings, which is the most significant thing we must do for long-term growth.

Now, having said that, I think it is rather interesting to note—and maybe it is more than interesting, but I will just call it interesting—that while you have this kind of problem, why are business people, men and women, corporations large and small, not hiring more people, not creating more jobs, while that is the issue of the day, we are on the floor debating putting more cost on business in the name of something we all think would be nice, would be good, would be better than where we are. Let me assure you, business is not going to add more people, create more jobs unless and until the burden of doing business is lowered, not raised, until you get health care costs coming down, not going up, until you stop saying to them you have to incur these kinds of mandated expenditures because your Government says you must and then run around asking why are you not adding jobs.

So, Mr. President, I think it is ill-timed to place any mandates that cost substantial amounts of money on the American businessmen and women, corporations, partnerships large and small. And that is essentially why I am not going to support the bill before us.

I hope we have no mandates on American business until we have an American set of policies for growth. Why would we put mandates on when we are running around beating our brains out trying to find growth policies? Do you not think we would put those in place before we come along and say let us order business to pay more for whatever the cost?

Having said that, I do not want anyone to think that the cause in this bill is not a very good one. It is an excellent one. Frankly, it is a close call. But I would have preferred to see something like a tax credit that we voted on before so that there would be no additional burden on business, because a tax credit is dollar for dollar against income taxes for plans you are forced to pay for. It would be an incentive for business to do it and in a sense, since this is a new mandate, it would be highly preferential if you used the tax credit. And while some think that is an argument against it because there are other things which have a real important position in terms of social responsibilities of business, this would be a preferred one if it were a tax credit. I frankly think it would be much more accepted by the business community and, I must say, much less by way of additional burden on an American business marketplace that cannot add jobs because it is suffering under an enormous burden right now.

Now, I am willing to say that besides the increased costs of health care and other mandates, there is another anomaly in the marketplace, I say to my friend from Connecticut. We are winning the battle of increased productivity, and increased productivity is permitting businesses especially on the social side to do more work with less man hours. So when you add that to the increasing cost of health care and other mandates, you do have a casual relationship between a growing economy with no new jobs and previously a growing economy with additional jobs.

So I do believe there is a better way to do this under the circumstances of today's job market, and I think that circumstance will be with us for a few years.

I have some additional remarks that examine the consequences and pros and cons of some different approaches. I have nothing but the greatest respect and esteem for my good friend, Senator DODD, with whom I serve on two committees.

We joke with each other about one of these days we will be shoulder-to-shoulder supporting something. That will happen. Indeed it will because that will be good for the American people I am sure. I look forward to the day. I am sorry that this is not a shoulder-to-shoulder day with him today.

Mr. President, I would like to take the opportunity to comment on S. 5, the Family and Medical Leave Act.

America's working families have legitimate concerns. Specifically, how does the American work force, man or woman, juggle the competing demands between the job and the family when illness strikes a spouse, a child, a parent, or oneself?

I believe there are some options that can provide some relief. I am unconvinced, however, that S. 5 is the proper vehicle for addressing these problems. I question how legislating a 12-week, unpaid leave mandate covering approximately 50 percent of the work force resolves legitimate demands on the American household.

My reasons for opposing S. 5 are straightforward. I believe it discriminates against the lower or single income earner, the majority of whom are women. It has an unequal impact on the work force. We are unable to assess the real cost of this mandate to employees and to our economy's long-term health. And, it deprives the employee and employer the flexibility they need to develop individual and competitive employee benefit plans.

With regard to the first point, this legislation is not targeted to the group we most want to help. Higher income duel-earner families can best afford to take unpaid leave and lower income single-earner families will help pay the cost. Furthermore, research shows that higher mandated benefits do not raise the worker's overall compensation package but, instead, reduce either cash wages or other nonwage benefits.

We hear anecdotal evidence of those who have lost their jobs because of absenteeism for pressing family responsibilities. I do not doubt that these circumstances occur, and this is a sad situation. At the same time, we have absolutely no facts to substantiate the degree of this problem. The studies that I have reviewed indicate that the majority of businesses value their employees enough to transfer the workload to another employee, most often without additional compensation to that fellow worker.

For the many working women who must juggle home and work, who make the lowest wages, are often in small businesses not covered by this act, and who have the least long-term job security and minimal pension or retirement opportunities, this act does little to resolve their problems.

Who this measure will help, however, is the higher income, dual-wage-earning family who can afford to take this option.

This bill's unequal impact on the work force is another problem. We all recognize that we must spare small businesses the burden of an additional benefit they may not be able to afford at this time. Thus, we recognize this measure has costs. I presume we are suggesting that a business of 52 people can better afford this benefit than one with 49 employees. Giving 50 percent of the population a benefit not available to the remaining population is like arguing whether a glass is half full or half empty.

The bottom line is that this measure has a severe, unequal impact on 50 percent of the work force. It certainly cannot be touted as answering equitably the serious demands upon the American family.

Another area of concern is the real cost of this mandate to employees and to our economy's long-term health. Some claim that the only cost is the maintenance of health insurance. When we take into account the income losses to coworkers who usually take up the slack for an absent worker, the losses from this legislation could be as much as $6 billion a year, or $130 to $140 per worker. Absent real data on this issue, we have no way of assessing the costs, but I can assure you that it is more than the $10 per year per employee offered by the proponents of this bill.

Finally, this measure deprives the employer and employee the flexibility of developing individual and competitive employee benefit plans. Workers lose choice in the kind of benefits that best meet the diverse individual needs of our work force, and employers lose the flexibility of offering plans that best fulfill its business and employee objectives.

Given these concerns, and they are by no means conclusive, the real issue is whether we add yet another mandate without fully understanding its implications. While I hear the arguments that we should pass this measure because it has been discussed for 7 years, this is simply not a valid justification for another mandate.

There are alternatives, and I think they are good ones. These alternatives offer less costly and less discriminatory approaches. If we care about families and if we care about jobs for our American workers, then we should remember who we are trying to help and how we can best facilitate this assistance.

In closing, I want to reiterate strongly that those of us who cannot support S. 5 understand the concerns of the American family. We are aware of the impacts of birth, illness, and death on our fellow citizens; we, too, confront these situations in our own lives. We are pro-family and we are caring individuals.

We only ask that we better assess the real problems, that we offer a package that is more inclusive than exclusive, and that we provide employers and employees flexibility in choosing what best meets their needs. I think the families of this country understand that these are reasonable expectations, and that there are legislators who believe deeply there are ways to help America's families without resorting to another Government mandate.

Mr. DODD. Mr. President, I want to say before the Senator from New Mexico departs that I want him to know that I tried hard to get his support on this. I went to his office with a fistful of charts, graphs, and arguments that I thought would absolutely convince my colleague from New Mexico. I must tell you, I got this close.

But he has made a compelling argument as he always does. Unfortunately, we were not able to reach agreement on this. But I too, think perhaps sooner or later we will stand shoulder-to-shoulder as we have on other matters.

Mr. DOMENICI. Absolutely. I yield the floor.

Mr. JOHNSTON. Mr. President, I rise today to express my continued support for S. 5, the Family and Medical Leave Act. Enactment of this legislation is long overdue.

This measure addresses one of the most fundamental and difficult choices that any individual may to have to face—having to choose between job security and one's family needs. It is a choice that hard working Americans should not be forced to make.

I am also supportive of this legislation because it looks forward and recognizes the changing social and economic climate of our Nation.

In the past a disproportionate number of women performed the duties of care-giving following the birth of a child or in the event of a family illness or crisis. This was possible when one-income, two-parent families were the norm.

Today, however, women are entering the workforce in ever increasing numbers became they either head a single-family household or must contribute an additional income to the family just to maintain basic needs.

By recognizing this reality, a family and medical leave policy will strengthen the family and foster the development of loyal employees. Under this scenario, there can be no losers.

Business will win by retaining valuable and skilled employees. Families will win by securing peace of mind. Our Nation will win by closing the competitive gap with the family of industrialized nations who have experienced success with similar policies.

Those opposed to this legislation claim that it would increase costs to business and create unnecessary regulatory burdens. However, studies commissioned by the administration clearly show that this reasoning is both unrealistic and unfounded.

Studies have placed the cost of this policy to businesses at between $5 and $7 per covered employee per year. But without such a policy the cost of providing unemployment insurance for displaced workers would be far greater. The benefit of a family and medical leave policy is clearly greater than the cost of retraining new employees, unemployment expenditures, as well as the potential losses to families faced with loss of employment.

Finally, as I have stated in the past, I consider it a tragedy that our Nation is currently the only Western industrialized nation without such a policy. I am pleased that the administration has stated its support for this measure. Enactment is long overdue.

Mr. BOREN. Mr. President, I originally intended today to introduce the Ethics in Government Reform Act as a floor amendment to the Family and Medical Leave Act. My intent was to express to my colleagues that I am serious about my commitment to the American people to halt the revolving door of lobbying in the executive and legislative branches of our Government.

Mr. GLENN. I note that Senator BOREN's Ethics in Government Reform Act legislation, S. 36, has been referred to the Governmental Affairs Committee, which I chair. The Governmental Affairs Committee, has jurisdiction over Governmentwide ethics issues, and has always played a key role in drafting and reviewing lobbying and ethics reform legislation. I have encouraged Senator BOREN to work with the committee on S. 36 and the important policy issues it raises about which employees should be covered, what types of contracts with the Government should be banned, what is the appropriate length of post-employment bans, and more. These are some of the same policy issues that have received public attention since President Clinton signed an executive order placing stricter controls on the post-employment activities of certain employees who join the Clinton administration.

Mr. BOREN. Although I am committed to moving forward with this legislation, I understand the need for a hearing on the bill. I look forward to having the chance to testify and working with the Governmental Affairs Committee to make sure this legislation is as strong and just as it can possibly be. The issues involved in this legislation are not as clearcut as they appear to be, and we must make sure that this legislation is carefully crafted to stop the revolving door without harming people who are not involved in nefarious lobbying practices. I understand that Senator GLENN has agreed to hold a hearing on this bill and the issues it raises before the end of March. I appreciate his efforts in this area and his consideration in holding a hearing so promptly. The American people have a right to know where we stand as Members of Congress on this important matter so that they may hold us accountable.

Mr. GLENN. I look forward to working with Senator BOREN in the coming weeks on a hearing which will shed more light on the issues raised by S. 36. As Senator BOREN indicated, I am committed to holding a hearing on this bill in the Governmental Affairs Committee before the end of March.

Mr. BOREN. Mr. President, I appreciate the speed with which the Governmental Affairs Committee is moving on this legislation. I therefore will not offer my Ethics in Government Reform Act as an amendment on the Family and Medical Leave Act. I want to thank Senator GLENN for his help and Senators MCCAIN, CAMPBELL, and BRYAN for their support as cosponsors of the bill.

AMENDMENT NO. 13

(Purpose: To clarify that the provision of unpaid family leave by any employer shall not affect the applicability of an exemption for executive, administrative, and professional employees from certain requirements of the Fair Labor Standards Act of 1938)

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 13.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 102(c) of the bill is amended to read as follows:

(c) UNPAID LEAVE PERMITTED.—

(1) IN GENERAL.—Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

(2) RELATIONSHIP WITH FAIR LABOR STANDARDS ACT OF 1938 FOR EMPLOYERS.—Where an employee is otherwise exempt under regulations issued by the Secretary pursuant to section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)), the compliance of an employer with this title by providing unpaid leave shall not affect the exempt status of the employee under such section.

(3) RELATIONSHIP WITH FAIR LABOR STANDARDS OF 1938 FOR SMALL BUSINESSES.—

(A) IN GENERAL.—Where an employee is otherwise exempt under regulations issued by the Secretary pursuant to section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)), the granting of unpaid family leave by a small business employer shall not affect the exempt status of the employee under such section.

(B) DEFINITIONS.—As used in this paragraph:

(i) SMALL BUSINESS EMPLOYER.—The term small business employer'' means a person that—

(I) is an employer (as defined in section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d))); and

(II) is not an employer (as defined in section 101(4)).

(ii) UNPAID FAMILY LEAVE.—The term "unpaid family leave" means—

(I) unpaid leave that may be taken for one or more of the reasons described in subparagraph (A) or (B) of section 102(a)(1), and may be taken as intermittent leave or leave on a reduced leave schedule; and

(II) restoration to employment, and continued coverage under a group health plan, in accordance with section 104.

(4) EFFECTIVE DATE.—Notwithstanding section 405(b)(1)—

(A) paragraph (2), and the application of this title for purposes of paragraph (2); and

(B) paragraph (3), and the application of the provisions described in subclause (I) or (II) of paragraph (3)(B)(ii) for purposes of paragraph (3),

shall be deemed to have taken effect on June 25, 1938.

(5) REPEAL.—Effective 1 year after the date of enactment of this Act, paragraph (3) is repealed.

Mr. PRESSLER. Mr. President, one of the consequences of S. 5, the Family and Medical Leave Act, involves the Fair Labor Standards Act, or FLSA. Though the FLSA can get mired in complicated legalisms, the issue I wish to discuss is very simple. This issue is not about family leave itself, but flexible family leave—flexible for both employer and employee.

To explain, Mr. President, permit me to indulge in a brief review of the basics of the FLSA. As my colleagues well know, employers can opt to pay their workers hourly wages or a yearly salary. The FLSA was crafted to protect the rights of the hourly wage earner, particularly with respect to overtime pay.

My concerns involve only salaried employees, usually managers or executives. They are considered exempt from the FLSA. However, a Department of Labor interpretation has altered this exempt status with respect to unpaid leave policies in the public and private sectors, entitling these employees for overtime and other benefits.

Let me explain this interpretation by way of an everyday example. Many businesses already offer unpaid family leave, either voluntarily or in compliance with State or local mandates. Pursuant to these policies, many employees seek partial days off. For example, if a salaried employee's child gets sick at school in the middle of the day, an employer should have the option of granting that employee a half-day of unpaid leave to care for the child. However, according to the Department of Labor, if the employer were to grant that salaried employee unpaid leave for a partial day, that employee is being treated as an hourly employee and thus, can claim overtime and other benefits under the FLSA.

In fact, according to the Department of Labor, the mere existence of a policy that allows for salaried employees to take partial day unpaid leave for any reason can cause the FLSA exemption to be lost for all salaried employees, regardless of whether the policy is enforced.

In short, under current law, an employer cannot offer salaried employees a partial day of unpaid family or medical leave. Instead, the employer is forced to pay a full day's salary for less than a full day's work, or the employer must require the employee to take a full day's unpaid leave, even if the employee does not need or desire to do so.

Does this sound unfair? It more than sounds unfair. It is unfair. It's unfair for both the employer and the employee. So unfair that the proponents of S. 5 have crafted a narrow solution. Specifically, S. 5, the bill before the Senate, allows employers covered under the bill the option of offering partial-day unpaid family or medical leave without being subject to a lawsuit under the FLSA.

That makes sense. I commend my colleagues from Connecticut and the other authors of the legislation for including this provision. It promotes flexibility for both employer and employee to use only the amount of unpaid leave that is needed.

Unfortunately, this narrow solution exposes other problems and potential liabilities for large and small businesses. This bill provides protection to covered employers only from the date of enactment. However, there are many employers today who—either voluntarily or in compliance with a State or local mandate—offer family and medical leave and have granted partial day's worth of leave to salaried employees.

Should not these employers be protected from liability? After all, simple fairness demanded that those who comply with S. 5 be protected. Why stop there? Should not that same fairness extend to employers who acted to meet the needs of their employees long before mandated family leave was vogue or politically correct?

My amendment addresses this concern. It simply protects the conscientious employer who listened to the needs of his team of workers and constructed a flexible leave policy. We must not discourage employer innovation to improve worker relations or productivity. However, under S. 5 we send a message to business that it's better to wait for Government to come along and mandate a leave policy. Though I believe mandates are a mistake, promoting mandates over employer innovation is an even bigger mistake. My amendment prevents that mistake from being made.

While we are on the subject of policy promotion, Mr. President, permit me to point out an even greater consequence of S. 5. As we all know, S. 5 impacts only 5 percent of all American business, perhaps less than 5 percent in my home State of South Dakota. Certainly, we all recognize that there are numerous costs of mandating leave to the more than 95 percent of American employers not covered under this bill. At best, we should be encouraging those not covered under S. 5 to offer similar voluntary leave policies.

Ironically, S. 5 provides disincentives to employers not covered under this legislation. As I stated earlier, S. 5 allows affected employers to offer a partial day's unpaid family or medical leave to all employees. In short, it allows flexible family leave. Why stop with employers covered under this legislation? Should not we allow all employers the option of offering flexible unpaid family leave? Of course we should, but S. 5 fails to protect all employers. And by doing so, it is providing a disincentive for these employers to offer similar, flexible policies voluntarily.

Even worse, S. 5 punishes smaller employers who may not be under S. 5 but must comply with a State or local mandate. It punishes these businesses by exposing potential liability and forcing them to opt for a one-size-fits-all leave policy that hurts both employer and employee.

My amendment would solve this problem as well. It simply allows for all employers to offer flexible unpaid family leave, whether it is done so voluntarily or in compliance with local, State, or Federal law. In short, it recognizes the importance of family leave while minimizing its costs by providing both employee and employer the flexibility to take just the right amount of unpaid leave.

Mr. President, my amendment addresses one part of an enormous FLSA problem. The Department of Labor's interpretation extends to all types of unpaid leave policies, not just family leave. It affects employers in the public and private sector. In fact, the Employment Policy Foundation estimates the current liability exposure is $39 billion. I know the chairman of the Senate Labor Committee is aware of this issue, including my colleague from Connecticut, as well as the ranking Republican, Senator KASSEBAUM. In fact, my good friend from Kansas has been a strong leader on this issue, and introduced legislation last year to address the public sector problem.

My amendment does not attempt to solve the entire FLSA problem with respect to partial-day leave. I respect the need for congressional hearings to discuss all aspects of this issue. My amendment simply addresses this problem as it relates to family leave. In fact, to underscore my support to achieve a comprehensive solution to the unpaid leave problem, my amendments's protections to employers not covered under the act only would be in effect for 1 year.

My amendment is designed not to circumvent the legislative process. By applying a 1-year limit, my amendment encourages the Congress to enact a comprehensive solution, while enabling employers to construct flexible family leave policies without the fear of liability.

My amendment is a modest, reasonable answer, but passing it will send a strong signal that we intend to solve the larger problem. At the very least, let us simply provide for protection, albeit temporary, in one narrow, but important case—the case of an employer offering family or medical leave, whether it is voluntary or compulsory. Doing so will demonstrate that Congress does not intend to punish the good intentions of America's employers. We must stand by our commitment to make family leave available to the greatest number of working families without imposing unnecessary costs and burdens on businesses large and small.

Mr. President, this chart will illustrate the points I have made. I ask unanimous consent that a copy of this illustration be printed in the RECORD at this point. Under the Fair Labor Standards Act, as interpreted by the Department of Labor, an employer can be held liable under FLSA if he grants a salaried employee a partial day of unpaid leave. According to the Department of Labor interpretation, that employee would be considered an hourly employee rather than a salaried employee, and the employer would be in violation of the FLSA.

S. 5 allows an employer covered under the act to grant a partial day of unpaid leave to a salaried employee without being liable under FLSA, but only for family and medical leave taken after the enactment of the bill.

To illustrate, the first scenario is an employer with 50 or more employees who has a family leave policy similar to S. 5, the Family and Medical Leave Act.

The salaried employee needs to take leave to pick up his sick son at school. He has used up his paid leave and he asks his employer that it be taken out of his unpaid leave allotment. The employee would prefer to take a partial day of unpaid leave. Could the employer have granted a partial day of unpaid leave prior to the enactment of S. 5 without being liable under FLSA, based on S. 5, the legislation we are considering? The answer is "no." If the Pressler amendment is added, the answer is "yes." That is the purpose of my amendment.

The second scenario assumes the same set of facts as the first scenario—an employer with 50 or more employees. The salaried employee wants to pick up his sick son at school. He used up all of his sick leave, all of his paid vacation leave, and he now wants to take a half day of unpaid leave. Assuming S. 5 was law when leave was negotiated, could the employer grant a partial day of unpaid leave without being liable under the FLSA? Based on S. 5, "no." Under the Pressler amendment, "yes."

The next example is similar to scenarios 1 and 2, but assumes the employer has fewer than 50 employees. Could the employer grant a partial day's unpaid leave without being liable under the FLSA? Based on S. 5, "no"; based on the Pressler amendment, "yes."

I believe these examples clearly illustrate the pay docking problem. This is why I am offering my amendment. Employers should not be penalized for offering their employees partial day unpaid leave.

Mr. DODD. First of all, let me commend our colleague from South Dakota who is providing a valuable service. This is a complicated issue, the docking issue. The word comes from docking one's pay, in a sense. He is properly—and I appreciate his comments about the bill, where we have tried to take care of that salaried employee who otherwise would place the employer in violation of the Fair Labor Standards Act.

What we were able to do is deal with the situation as it is confined within the parameters of eligible employees under the broader parameters of the family and medical leave legislation. We were able to get that done. What we have not been able to deal with yet is the broader question that needs to be dealt with. As he points out, if you employ fewer than 50 people, you are not dealt with in this legislation.

I want to say to my colleague from South Dakota that I have already notified—in fact, in public hearings we have gone over this issue and explained how the broader question needs to be dealt with. We were confronted with trying to get this piece of legislation up and on the floor of the Senate in anticipating the very legitimate question raised by the court decisions. So we were able to reach an agreement as it pertains to this bill.

But I want to tell my colleague from South Dakota that we are going to deal with the broader questions, including the retroactivity issue. There is a lot of good dialog going on between the various parties in the country, and I hope that possibly with that assurance I am giving him here this afternoon, he might withdraw the amendment, given the fact that we need to look at this and hold some good hearings on it to understand the full implications of it. But this is not a hollow proposal or a commitment. I believe it is a very important issue that needs to be addressed generically. We have not done that with this bill. We have only dealt with it within the parameters of this bill. I am in total agreement with my colleague that this issue must be addressed immediately.

Mr. PRESSLER. Mr. President, I commend my colleague for his leadership and management of this bill. If I may ask a question of my colleague, what does he envision as a timetable for addressing this important problem? Perhaps he has talked to the administration. What would he see as a timetable for addressing this pay docking issue in this coming year?

Mr. DODD. Mr. President, not being the full committee chairman, I am reluctant to commit my chairman to a time certain. I would hope that in this calender year we will complete this. It is a legitimate issue that needs to be addressed. I do not know of anybody who is really in disagreement with dealing with this. This is not an issue where there is a group lined up against dealing with the docking question. I would say as soon as possible and practical, and he has my commitment on that.

Mr. PRESSLER. I thank my friend. With that, I shall agree to withdraw my amendment with the understanding that we will revisit this. I appreciate the fact that he is working on this, and with his leadership, I hope we can accomplish a clarification in this area.

Mr. President, I commend my colleague from Connecticut and withdraw my amendment.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator has a right to withdraw his amendment.

The amendment (No. 13) was withdrawn.

Mr. DODD. I thank my colleague. Mr. President, we are down to one or two amendments, possibly, and there is an important meeting going on, I believe, at the White House with a number of Members of the Senate at this particular hour. So it would not be possible for us to have a vote.

For those who have outstanding amendments who care to come to the floor, I am perfectly prepared to entertain those and debate them over the next hour or so, if those are going to be offered. We ought to utilize the time, it seems to me, it being 4:05; it would be a way to handle those issues.

I make that request to Members who wish to offer amendments on this legislation, so we might continue to move the product along. While awaiting word from other Senators as to whether they are going to offer the amendments, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, in the absence of any other Senator on the floor, I intend to speak for a few minutes on the bill. I will ask unanimous consent to proceed for up to 7 minutes as in morning business.

Mr. President, I support the Family and Medical Leave Act of 1993. My wife, Joan Specter, brought the issue of family and medical leave to my attention long before it became a highly publicized issue. She, in fact, was a sponsor of such legislation in her capacity as a city councilwoman in the city of Philadelphia. I had the pleasure of cosponsoring with Senator DODD as an early piece of legislation, the Parental and Medical Leave Act, as we began the legislative session in 1987, some 6 years ago in the 100th Congress. I have had, in my 12 years in the Senate, a longstanding policy in my office for family and medical leave.

Our country has experienced a major demographic transformation in the composition of today's work force and in family households. The General Accounting Office reports that over the past 40 years the female civilian labor force has increased by about 1 million workers a year. By 1990, nearly 57 million women were working or looking for work. This represents, I am told, a 200-percent increase since 1950.

The Families and Work Institute predicts that by 1995, two-thirds of women with preschool children and three-quarters of women with schoolage children will be in the labor force.

According to the Bureau of Labor Statistics, currently 96 percent of fathers and 65 percent of mothers work outside the home; 74 percent of women in the 25 to 54 age category are in the labor force. Of this number, 56 percent are mothers with children under the age of 6. More than half of mothers are mothers with children under the age of 1.

Equally as dramatic has been the substantial increase in the number of single-parent households. The Census Bureau reports that single parents account for more than a quarter of all family groups with children under the age 18 in 1988, and more than twice the number in 1970. This accounts for millions of women struggling to support themselves and their children while managing their children's needs and their own needs. In fact, single mothers often cannot keep their families above the poverty line.

Again, according to the Census Bureau, in 1987, 20 percent of all children under age 6 lived with single mothers. The poverty rate among these young children was more than five times the poverty rate in two-parent families. This signifies the financial and social effects of not acknowledging the demographics of today's families.

A 1990 report by Columbia University's National Center for Children and Poverty found that the incidence of poverty for African-American children whose mothers were employed full time declined dramatically—from 26 to 13 percent. Obviously, a meaningful reduction.

Both the Government and the business community must do their share in enabling such women to remain independent. This legislation acknowledges the needs of such families, and I am hopeful that it will contribute to further reducing the poverty levels in both single- and two-parent families.

In addition, the burdens of caring for parents have and will continue to increase since the elderly are the fastest growing segment of our American population.

The National Council on Aging estimates that almost a quarter of the more than 100 million American workers have care-giving responsibility for an older relative. This means that as we address the area of health reform and reducing costs, home care for long-term care needs are not only more cost efficient but often were more preferable than institutionalization, which is dehumanizing as well as extremely costly.

It is common that the burden of assisting the elderly, chronically ill, and the disabled, falls on working children, spouses, or other immediate family members. The National Council on Aging found that two-thirds of nonprofessional care-givers for such persons are working women.

While there is concern about the cost involved, findings from a report entitled the "U.S. Small Business Administration Employee Leave Survey" found that:

> The net cost to employers placing workers on leave are substantially smaller than costs of terminating an employee, which may well be equal in amount to 10 weeks or more of unpaid leave.

It is important to note that this legislation would cover only businesses with 50 or more employees which excludes 95 percent of all U.S. employees. That exemption has been made to try to lessen the burden in a realistic way on small business. It is always a matter of concern that we do not mandate programs which unduly burden small business and destroy the opportunities for more jobs in our country, especially in a time of economic recession, which I believe we are still in, notwithstanding some conclusory reports to the contrary.

My travels around the country, and especially my intense travels across Pennsylvania's 67 counties, tell me repeatedly that there are people out of work, there is a recession, and we have to stimulate the economy. In undertaking the Family and Medical Leave Act, we do recognize the burdensome aspect of some of it, but the exemption of small business has been crafted to try to minimize that.

I believe that the changes in our country necessitate a profound reorientation as to how both the private and public sector respond to the realities of working men and women and their families. This act is a step in the right direction: Government responding to the real life needs of the American people.

This legislation has had a long and difficult history, Mr. President, I think that we are on the verge of passing a meaningful bill. It has not been easy. I compliment my friend and colleague, Senator DODD, who came to the Senate after the 1980 election, as I did, and at that time I worked with him on this bill. It has been difficult. There have been estimates of enormous costs which have been pared down. The bill has been refined, and I think that in its present form, it is a bill which ought to be enacted. I, therefore, am pleased to be a cosponsor and lend my support to this legislation.

Mr. DODD. Will my colleague yield?

Mr. SPECTER. I will.

Mr. DODD. Mr. President, I just want to say that the very first person who joined with me in this effort is the distinguished senior Senator from Pennsylvania. He has articulately, as he always does, explained his own arrival at the importance of this particular idea and concept, but we began, even prior to 1986, when Senator SPECTER and I arrived in the Senate in January 1981, or shortly thereafter. We joined together and formed a children's caucus in the Senate. There was no single committee or caucus. We had caucuses on every imaginable subject matter one could think of and for every imaginable constituency in the country except for the one out of every four Americans who happen to be a child under 18.

In a bipartisan way, more than 10 years ago we formed the children's caucus. Those children's caucus hearings that we held on a rump basis basically examined for the first time that I know of the issues of latchkey children, child abuse, dropout long before any formal committees of the U.S. Senate examined those issues, and then introduced as a result of those rump hearings efforts in child care and family and medical leave.

When the history is written about this particular law, the name of ARLEN SPECTER ought to appear in bold type and at the top of the list because he was an early and strong backer and supporter of a variety of issues that affect the children and young people in this country. I appreciate immensely his support again today.

Mr. SPECTER. Mr. President, I thank my distinguished colleague from Connecticut for those very kind remarks. I hope that when the history of this important legislation is written, and if my name does happen to appear in a footnote perhaps, that they put the footnotes at the bottom of the page, instead of putting them at the end of the book where nobody reads them. I expect no greater recognition than in a footnote.

Senator DODD, as usual, ably brings up a facet of our working together which I had not included in my statement. He is accurate. At that time, I was chairman of the Juvenile Justice Subcommittee, a distinguished subcommittee which did not have too much of a constituency when the large groups of advocates and lobbyists met on the second floor of the Dirksen Senate Office Building, commonly referred to as Gucci gulch. They all congregated around the Finance Committee. None of them found their way down to the Judiciary Committee.

In those days, the distinguished senior Senator from Connecticut [Mr. DODD] was not the chairman of the powerful subcommittees as he is today. In his ingenious way, he approached the issue of the children's caucus. It was his idea. He came to me and I was pleased to be his cochairman, and we did have some very important hearings at that time and explored some very important subjects which I think have given rise to at least part of this legislation.

Senator DODD, in his work on the Labor and Human Resources Committee, has done very important work in this field. This has been a tough matter. CHRIS DODD has come to me over the years and asked for support on cloture votes. I have supported him; however, the legislation did not reach fruition. I think this year is the year that that is likely to happen. We will have to monitor closely to see that it is not excessively burdensome to whom we apply the mandates to see that it accomplishes the purposes for which it was intended.

Mr. President, in the absence of any other Senator on the floor besides Senator DODD and myself, I now ask unanimous consent that I may proceed for a period not to exceed 7 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 292 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. Mr. President, I note the presence of no other Senator on the floor. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CLINTON ADMINISTRATION

Mr. NICKLES. Mr. President, yesterday marks the first 2 weeks of President Clinton's administration. I can tell you, this Senator and as an American, I have been disappointed in his first 2 weeks.

I would also say that I seriously question his priorities for our country. I say his priorities, because I am looking at what he has done the first couple of weeks. I would like to express my displeasure on several different issues, including the legislation that we have before us.

One of the first actions President Clinton made were Executive orders dealing with abortion. One of those orders will make abortion more available in military hospitals. Hospitals that are designed to protect lives now are licensed under this administration to take the lives of innocent children, unborn children. Another order dealt with family planning clinics. Except now, instead of these clinics being for family planning, they can now give advice on destroying unborn children's lives.

Also, within his first week, President Clinton issued an Executive order regarding the elimination of the ban on homosexuals serving in the military. There will probably be a vote on this issue if not today, probably tomorrow. Many people across the United States are opposed to this policy. In my office we have had thousands of calls in opposition to President Clinton's actions. President Clinton was changing this policy without consulting Congress and without consulting the military leaders, who are almost unanimous in their opposition; and without really considering the impact it would have on the military, the impact on our readiness, the impact on our ability to be able to perform our duties in protecting our country.

I think that was a serious mistake. There has been a lot of discussion on that, and I am sure we will hear more discussion when we have that amendment ahead of us.

The President took the actions I have just mentioned unilaterally. He took them in advance of an economic agenda. He took them in advance of an agenda to reduce the deficit, to improve health care, or reduce the health care costs. So I question his priorities.

Those were the first things the President did in his first week. As a matter of fact, when we talk about deficit reduction, he made a campaign promise or pledge time and time again that he was going to cut the deficit in half. And yet, in his first week in office, he moved away from that promise

I read his statements. I saw him make the statements on TV: We are going to cut the deficit in one-half.

Now, it is a moving target. Now, I read in the paper, we are going to put that off for the first year or so. We will work on that in the long term. But the facts are, they have moved away from that promise. And I think it happens to be one of the ones which needs to be carried out.

The President is complying with his promises or pledges to some special-interest groups, to the homosexual activists. Yes, he is complying with that promise to the unions. I will touch on a couple of promises he is making to them. He is carrying forth to the abortion rights activists. But to the American taxpayers, to the people to whom he said he wanted to cut the deficit in half, he has backed away.

As a matter of fact, one of the first items the President did in his first week was to move away from the deficit reduction targets. He could have used those targets, the idea of having a sequester—which I believe would have been about $22 billion in this year, and an additional $40-some billion in the next year—he could have used that as leverage over Congress to make sure we got some cuts. Congress, you do not make these cuts, and we will have automatic cuts go forward. That was great leverage.

He said no; we will not abide by those targets. He will waive the deficit reduction targets. So basically, he told taxpayers: The promise I made to you, I was not really too serious about. To the middle-income taxpayers, whom he promised a tax cut, now we find him totally backing away from that.

I am going to talk about business issues, because I happen to be a businessman, prior to coming to the Senate, and I still have a business interest. Several of the initiatives he made this last week are very counterproductive to small business. I happen to be one.

The Council on Competitiveness was one of the few organizations in Government that actually would try to make sure that rules and regulations that came out of the executive branch from the regulatory agencies would make sense, that they would have some balance; that they would have some balance between jobs and the impact on the economy and various rules and regulations. President Clinton eliminated the council competitiveness.

Then, just in the last couple of days, the President issued two executive orders aimed at hurting business. President Clinton rescinded an Executive order that President Bush had signed which prohibited Government agencies from requiring or permitting union only. President Clinton's Executive order reestablishes the practice of discriminating against open shop or nonunion contractors. In other words: If you are nonunion, you need not apply; you do not quality if it is a Federal or federally funded contract.

I think that is an outrage. I think it is outlandish. We have 80 percent of the American work force today which is nonunion, and we are telling them, a lot of Federal construction projects which represents about 40 percent of all construction work nationwide. You need not apply; you do not qualify. Not to mention the fact that it is a rip-off on taxpayers. It will cost a lot more. It will cost jobs. It is going to have a negative impact on the economy. It is going to drive up the cost of a lot of construction projects.

The President did it anyway. Why? Because he had made promises to organized labor, and he is carrying out those promises.

He also signed an executive order rescinding an Executive order that was signed by President Bush that would notify employees of their rights not to contribute to unions for political purposes under the Beck decision.

The order issued by President Bush protected the rights of workers. They should not be compelled to contribute to political organizations or activities of the union, if they did not want to. They have a right to decline to do that. President Bush signed an Executive order notifying the employees of that right. President Clinton took that notification away.

President Clinton does not want the employee to know of his rights. He wants the employee to continue making these contributions to organized labor, mainly because they gave him a lot of money. That is an outrage.

He made promises to the pro-abortion groups. Yes, he carried out those. He made promises to the gay rights groups. Yes, he carried forth on those. He made promises to the union bosses. He carried those out. He made promises to the taxpayer and said, "We are going to cut the deficit in half." He is already backing away. He made promises to the middle-income taxpayers: "We are going to cut your taxes." He backed away. As a matter of fact, now instead of backing away, they are talking about "We are going to increase taxes. We are looking at more and more ways to increase taxes on working Americans."

Whether you are talking about energy taxes or whether you are talking about taxing Social Security, there are more and more ways to spend money. But we do not hear very much about ways to cut spending. I think that is the common thread we will be finding. I am not trying to prejudge. I am saying just look at the actions taken in the last 2 weeks, and you find a lot of actions that have been very detrimental to taxpayers and very detrimental to small business, very detrimental to people who want to build and expand and employ and make our economy grow. Is it not interesting to note that the first legislative item that we have on the floor of the Senate is a mandate on business?

The so-called parental leave bill is a mandate; it is a hit on business. I do not know if my colleagues have read the bill. Everybody has talked about how great of a bill it is. I encourage them to read it. It is fairly simple, as far as the legislation goes on the Federal side. It is not as complicated as some, but it is 56 pages. I can tell you, as part owner of a business, most businesses are not looking for more regulation. This little bill is 56 pages. Several pages are telling business what to do and how to do it, and if you do not, there is a heavy fine, penalty, or suit.

Incidentally, although this bill is only 56 pages, the regulations to implement the bill will be in the hundreds of pages. The final regulations to comply with the bill we are going to pass—come out from the Department of Labor, they will be in the hundreds of pages—hundreds, not 100, at least a couple hundred pages. They will be telling businesses that if you do not do this, this, and this, you are going to be subjected to fines, penalties, back wages, litigation costs, et cetera.

Most business people are going to be saying: Thank you very much, that is exactly what I did not need. Are we going to tell businesses to provide time off for a sick child or relative? That is what this bill does. Frankly, most businesses will do that without the Federal Government telling them to do it. I have owned and operated businesses that have had a significant number of employees, and also businesses that only had a handful of employees. But I always gave my employees time off if they had a sick child or relative. I did not need the Federal Government to mandate it.

Some say it will not cost anything, because we do not mandate that the time off be paid. I will tell you that it will cost a lot. I also say that all of the estimates that I have heard that, well, it is only going to cost a few dollars per employee, only a little bit per hour, and they are underestimating the cost and impact of complying with the so called Family and Medical Leave Act of 1993. They are underestimating it by a big amount. Maybe you have not been able to put yourself in the shoes of an employer that is trying to comply with Federal rules and regulations. This bill is going to end up mandating that an employer post notification, to say we want you to provide time off for a child or for a parent, for a spouse, and it will define those terms, and those are going to have to be notified.

Most employers already do that. I know as the presiding officer of a business, and I venture to say that most businesses offer family and medical leave. As I have stated, most businesses do it anyway—many offering paid leave. I know in my company, we offer paid maternal leave and paid disability, and we do not need the Federal Government to tell us to do this. And, frankly, we have a great deal of flexibility. I am going to tell you that when people say this act is for the employee, they are wrong, this is going to hurt employees. The reason why it is going to hurt them is because a lot of employers right now have some flexibility in their disability plans or some flexibility in their maternal leave plan, or in their sick leave plans, where they allow employees time for when they are sick, or they allow the employee to have time off if their spouse or a relative is sick. They may not have it in writing, they may not have it in concrete, but right now this will tell them you better get it in writing and orchestrate it like this, and a lot of employers are going to define their policy just like this.

It will take away that flexibility, take away the flexibility of benefits as designed and orchestrated between employer and employee. I can tell you that when I was working our wage and benefit packages, I would talk to employees and say, "What do you want? How can we best orchestrate a package mutually beneficial to the company and to the employees?"

I will tell you, our employees were not asking for a Family and Medical Leave Act. They were asking for dental benefits, or they were asking for better health care for another day off, or they were asking for flex time where we would allow them to have weekends.

You know, a lot of companies say, "We will give you a couple weeks off," or 4 weeks, depending on your seniority. A lot of people say: We would like to be able to work this out. We want to have more time off for our families. This mandating and orchestrating a benefit as designed by Congress, instead of by employers and employees, will be less beneficial. This package is not offered by most employers as designed by Congress, but most employers already offer it; and in many cases, they are more generous than this, but not exactly designed like this; and now they are going to have to come in and design it exactly as Congress has designated, because I will tell you almost every employer does not offer paternal leave. For example, if you have a male employee, and his father-in-law is sick, they do not offer a benefit that says you can have 3 months off, and we will continue your health insurance, and yet you can pick up the same position. I am going to tell you that is not in anybody's health benefit package right now or fringe benefit package. It is just not there.

The reason why it is not, most people do not want it. Congress is going to dictate it, and most people have not asked for that. Most people can modify their plans, but that is going to cause confusion. It is going to cause confusion in our little company, because we offer paid disability. We offer time off for people if they are sick or something; we give them that time off, or we have generous vacations or something.

Now we are going to have something different, time off without pay, for fathers-in-law or mothers-in-law, or for other relatives, which right now is not in the package. Wait a minute, we have paid leave for some and nonpaid, now mandated by the Government. Are we going to strike out other package so we can add this to it? Are we going to have to coordinate the two? One paid, one unpaid? Maybe some people had a package that goes for several months of disability time or sick leave time, and now we have the Federal Government coming in saying, well, this is what we are going to mandate, and you have to offer this.

It is going to be very confusing. It means, in my opinion, probably anybody that has a contract—anybody—is going to have to go in and modify those contracts to be in compliance.

It is going to require almost every contract in America to be renegotiated. It is going to require those who do not have contracts but yet have some kind of written policy to rewrite those policies to be in compliance.

Again, many places, instead of designing benefits with flexibilities—and I am talking about businesses where you have employers that know their employees, they know if they have a good employee; in many cases they do not have anything written down, but they know their employees and they know if a certain employee says, "I have a sick child," they say, "Fine," and there are no questions asked.

This little piece of legislation easily can be very adversarial where employers are going to feel like, well, I need to protect myself. Maybe we should always require, if somebody says they have a sick child and want some time off, we better make sure a doctor says, yes, in that circumstance because, if we are going to do it for one man, we better do it for all. If we have to do it for some, maybe we better do it for all.

You can see how easily an adversarial relationship can exist between employers and employees that never existed before to provide a benefit that, frankly, most employers were providing for their employees anyway.

I am not saying there are not some bad apples out there. I am not saying there are not some employers that have not offered time off when they should have. Frankly, I want to tell you something about that kind of employer. Those are the type of employers that will not survive.

I will also tell you there are a lot of good employers out there right now that are struggling to survive, that are having a hard time.

I am glad to see the economy in the last quarter really had a nice growth. Leading economic indicators are way up, a 10-year high. That is great. I am delighted.

I want our economy to grow. I do not care who the President is. I want more people employed. I do not care who gets credit. I want this country to grow and build and expand and produce. But I am going to tell you something. This legislation will hurt the economy. It certainly will not help it. It is one of these added burdens, expenses, mandates that will cost some jobs, that will be an additional burden.

I know from personal experience in this little company I have mentioned before that is going through some real hard times right now, the last thing they need is more Federal mandates, more dictates coming from Uncle Sam. I have had countless of my constituents writing me, talking to me saying, "Please let us make it easier for business to survive so we can grow and build and expand, not make it more difficult."

You make it difficult for business in many cases through excessive regulation, such as the family leave bill, a mandate, and also through excessive taxation. And now employees are hearing that they are going to get stuck with both by the new administration.

Let me just give you a couple of examples of letters—and I will submit these for the RECORD. I have a letter from the W.B. Johnson Co. in Enid, OK. he says:

> At the present time we have a company policy that takes care of employees' needs such as this, and in doing so, we do not have to hire someone to take their place.

It goes on. He says:

> Leave to attend to family matters is fine and it is an excellent employee benefit for those who need it and want it, and we provide it. However, I find that some employees do not require such leave and many prefer higher pay rates, more vacation time, etc. For the federal government to mandate leave means that we will be obligated to obey the law and offer our employees such leave. If this passes, I fear it will force us to reconsider the remainder of the benefit package we offer employees, even to the extent that we may have to withdraw some of these benefits due to the federal leave requirement.

I also have another letter that is from the Daily Oklahoman. I will just read one paragraph of that letter.

> I felt, and still do feel, that employers, not the federal government, are best situated to know the benefits preference of their own employees. Businesses have traditionally worked to tailor leave requirements to the needs of their employees and any federal initiative that removes or restricts the flexibility of an employer in shaping such leave benefits tends to work against employees themselves.

And one final one, and this is from Shawnee Garment Manufacturing Co. It says:

> We have been hiring and expanding but now I will have to cut off my employment level under 50 to escape this bill.
>
> I try to be flexible with leave but this bill is open to heavy abuse. Especially the opportunity for intermittent leave could destroy any attendance system we have. How can we run an assembly line with people taking leave any time they want?

Mr. President, I ask unanimous consent that these letters be printed in the RECORD at this point.

There being no objection, the letters were ordered to printing in the RECORD, as follows:

W.B. JOHNSTON GRAIN CO.,
Enid, OK, January 25, 1993.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR DON: I have learned that Congress will be taking action on the mandatory leave bill within the next few days. I believe that I have written you in the past concerning my opposition to the federal government mandating twelve weeks unpaid leave for employees every year, for those who have worked 1,250 hours during the previous year.

At the present time, we have a company policy that takes care of employees' needs such as this, and in doing so, we do not have to hire someone to take their place. If we are required by law to give 120 days unpaid leave, and they use 120 days, we would have to hire somebody to do their job. When the original employee returns to work, we would have to fire the temporary replacement, who then would file on us for Unemployment Compensation.

Leave to attend to family matters is fine and it is an excellent employee benefit for those who need it and want it, and we provide it. However, I find that some employees do not require such leave and many prefer higher pay rates, more vacation time, etc. For the federal government to mandate leave means that we will be obligated to obey the law and offer our employees such leave. If this passes, I fear it will force us to reconsider the remainder of the benefit package we offer employees, even to the extent that we may have to withdraw some of these benefits due to federal leave requirement.

I truly feel that most employers will make arrangements for the employees who need this type of leave without the federal government mandating it.

I urge you to carefully consider the likely consequence of this federal requirement and to oppose mandated leave. I eagerly await your responce.

Sincerely,

LEW MEIBERGEN.

THE DAILY OKLAHOMAN,
Oklahoma City, OK, February 1, 1993.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: The Congress is soon expected to consider family and medical leave legislation. I felt, and still do feel, that employers, not the federal government, are best situated to know the benefits preference of their own employees. Businesses have traditionally worked to tailor leave requirements to the needs of their employees and any federal initiative that removes or restricts the flexibility of an employer in shaping such leave benefits tends to work against employees themselves.

However, it appears that with the change of administration this legislation is likely to become law. As a Human Resource Manager for The Oklahoma Publishing Company in Oklahoma City and the person who will be charged with the proper and cost effective administration of this new requirement, I have some practical and administrative concerns with the legislation that I urge you to address.

The legislation would permit employees to take intermittent leave (an hour or a day at a time). With no enforceable notice requirement, this provision presents tremendous administrative and operational difficulties for employers.

As previously drafted, the Family and Medical Leave Act would do nothing to eliminate the confusion already created by a complex patchwork of state family leave statutes. The bill would not provide for a national uniform standard. In cases where existing state and new federal family and medical leave requirements conflict, employers would be uncertain over which provisions of which law would take precedence. The proposal would create much confusion and difficulty in the administration of family leave policies. Multi-state employers would be unable to establish one nation-wide family and medical leave policy.

Serious health condition is not well defined in the current legislation and would encourage abuse. As drafted, any condition requiring "ongoing medical supervision" would qualify as serious. Regular visits to the orthodontist fall into this category. We urge you to tighten up the language so that only those employees who are seriously ill or are taking care of seriously ill family members are entitled to the requirements of the bill.

While an employer is required under the bill to continue health insurance for the duration of the leave period and hold the job open for the employee, the bill does not contain any incentive for an employee to be forthright about their intention to return after taking the leave. As a result, the employer might hold the job open and continue health benefits for the 12-week period only to learn that the employee has decided not to return to work. An incentive for employees to be forthright about their intention to return to work would alleviate such operational problems and would enable employers to begin to recruit for the open position.

Additionally, although the legislation requires employers to provide unpaid leave, under the Fair Labor Standards Act (FLSA), private employers are prohibited from docking the pay of an exempt employee for partial day absences. Accordingly, to comply with the FLSA, leave taken under the Family and Medical Leave Act on an intermittent basis would be required to be paid leave for employees exempt under the FLSA. Hourly, or non-exempt employees would not be entitled to be paid. Therefore, I urge you to amend family leave legislation to permit employers to dock an employee's pay for partial day absences, where the employee has exhausted their available leave.

I urge you to address these provisions in order to reduce confusion and difficulty in the administration of the Family and Medical Leave Act before it becomes enacted.

Sincerely,

PATRICIA PODOLEC, SPHR
Manager, Human Resource Administration.

SHAWNEE GARMENT MFG. CO.,
Shawnee, OK, February 1, 1993.

Re: Parental Leave Legislation.

Senator DON NICKLES,
Hart Building, Washington, DC.

I am writing in opposition to mandated parental leave. This bill will create significant costs to us. Clothing manufacturing is a very competitive business especially with so many imports.

We have been hiring and expanding but now I will have to cut off my employment level under 50 to escape this bill.

I try to be flexible with leave but this bill is open to heavy abuse. Especially the opportunity for intermittent leave could destroy any attendance system we have. How can we run an assembly line with people taking leave any time they want?

Please work against this legislation.

Sincerely,

JIM ANTOSH,
President.

Mr. NICKLES. Mr. President, for those that have looked at this and said, well, it is not going to be that much of a burden on employers, it is not going to have a real negative impact on the economy, it is marginal in its impact, I hope they look at section 105 and section 107.

Prohibited acts. I will just read a couple of these. This is under section 105(a):

> (1) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this title.
>
> (2) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this title.
>
> (b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because such individual—

And on and on and on.

A little obligation to keep records:

> Any employer shall make, keep, and preserve records pertaining to compliance with this title in accordance with section 11(c) of the Fair Labor Standards Act * * * and in accordance with regulations issued by the Secretary.

A little paperwork requirement: Well, we are just talking about employers with over 50 employees. Let us say an employer has 75. That is about the size of Nickles Machine Corp. You are going to keep records on every employee. I already have records. Maybe that is not such a big thing. I will wait. We are allowing people to take leave. We allow some of that leave to be with pay. Now we are going to have some leave that is maybe not with pay. We have some people that have vacations. Is it going to be coordinated with vacations? Is it going to be coordinated with existing disability benefits already offered? Does it really make much sense? And are we going to make those times run concurrently or not run concurrently? Are we going to keep all the records? It is not going to be that easy.

And then section 107, enforcement; civil action by the employee. A right of action may be:

> maintained against any employer (including a public agency) and any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of (A) the employees, or (B) the employees similarly situated.

You not only can take action on behalf of these aggrieved employees that said:

> You did not allow me to have time off because my father-in-law was ill. My spouse was with my father-in-law, but I still like needed 3 months off to be with my father-in-law and you would not allow me off, so I am going to take action against you and I am going to sue you for double damages and legal expenses, court fees, attorney fees.

It also says not just for the employee, but also other employees; in other words, a class-action suit. This bill is inviting class-action suits. So, if an employer for some reason did not formulate a formal policy, if he did not make an action, you can have an aggrieved employee file a class action suit on behalf of all employees in that class and, quite frankly, you could be talking about very significant penalties and damages and expenses which could bankrupt an employer.

The net result could cost a lot of employees their jobs. And I am not sure people are aware of that.

When I talk about fees and costs, under section 107 it says:

> The court, in such an action shall, in addition to any judgment awarded to the plaintiff—

That could be for back wages and basically double wages—

> allow reasonable attorney's fees, reasonable expert witness fees, and other costs be paid for by the defendant.

What I am saying by all these actions that can be taken by the plaintiff, by the disgruntled employee, that the employers are liable for all the wages, for all the legal fees, you could easily have a very adversarial relationship just with the threat of a suit if you do not do this; or, if you do not do this, we are going to institute legal action and an employer is liable for all of it, and, instead of having the employers and employees working together hand in hand moving together working together, you could have an adversarial type relationship, and that is not healthy.

I know that is not the sponsors' intention, but I will tell you, when you get into a class-action suit, when you get into a grievance—and we would like to think that is not going to happen, but I will tell you it will happen.

Again, I am not trying to defend every employer in America because I know there are some employers that make some mistakes. I know we have some bad apples. But I will also say that those are not the ones that are going to survive. This is not an easy climate in this day and age where you are competing not only in this country but you are competing internationally. In the long run, if businesses are going to be successful they are going to have good employer-employee relationships. If they have any real intelligence they are going to be defining their fringe benefit plans to be mutually acceptable and agreeable with employers and employees, designed for the mutual benefit of employers and employees. Not to the exclusion or not to the detriment of employees, not in an adversarial relationship, but in a positive relationship. And I fear that this legislation will be another hit, another negative on some of those businesses that are struggling to survive.

I will just maybe make another example. You could have a skilled machinist who has a spouse who is able to take care of her mother who maybe is chronically ill, and maybe she spends a great deal of her time taking care of her chronically ill mother. You are going to tell that employer that the employee can also take off 120 days. If the production line demand is there, you may not have a replacement.

Some people act like we will just have a replacement and there will be no cost except for the cost of the temporary employee. You may have one person trained for that position. Maybe that is not good management but maybe that happens to be the situation you are in.

There is a lot of potential for negative action as a result of this bill. I know that is not the author's intention. And, again, I respect Senator DODD for his persistence in going through this legislation for the last few years—7 years—through two vetoes. I respect that. I do not happen to agree with the result.

I have mentioned this bill as part of a sequence of several other things that the Clinton administration has already done that I see as a detriment to business. I find it somewhat ironic that President Clinton, in issuing his Executive order on February 1, said he wanted to help the economy and business.

I will just read his statement issued with the February 1 Executive order. He said:

> I believe that these steps, by reducing unnecessary Federal Government intrusion into workplace regulations, ultimately will promote the shared goals of American workers and management and strengthen the ability of this country's businesses and industry to compete in the world economy.

If he is interested in reducing unnecessary Federal intrusion he should veto this bill because this bill is unnecessary Federal intrusion. Most businesses that are worth their salt are going to give good employees time off to take care of sick relatives. And they do not need the Federal Government to dictate it, to mandate it.

So I mention that with the realization that the Clinton administration made two Executive orders on February 1 that in my opinion are detrimental to businesses. If you happen to be nonunion they are very detrimental to business.

Why in the world are we only concerned about union business? That is only 20 percent of the work force. What about the 80 percent that is not? What about giving nonunion employers, many of which are much smaller employers, what about giving them a chance to compete? He signs an Executive order that says if you are nonunion, you need not apply. You cannot apply. You will not be accepted. Is that American? Is that free enterprise? It is just the opposite.

Then he eliminates the Council on Competitiveness. Then he eliminates his objective to reduce the deficit by half. Now he is talking about more business taxes. He says we are just going to tax the wealthy, just going to sock it to the people who make over $200,000. That is what he says. Then we hear talk about energy taxes. I think everybody I know who is 16 and older is driving a car. Those are energy taxes. They are not all making over $200,000 a year. Or people paying their fuel oil bills or people who are flying in an airplane—those people are all consuming energy. He is talking abut raising their taxes.

I find the first 2 weeks very disappointing in the Clinton administration. I hope we will see better in the next 3 years and 50 weeks that we have left.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, Senator DANFORTH of Missouri is about to propose an amendment. I ask unanimous consent that Senator DANFORTH be recognized to offer such an amendment, on which there be 30 minutes for debate with the time equally divided and controlled in the usual form; that no other amendments or motions, other than a motion to table, be in order prior to the disposition of the Danforth amendment; and that when all time is used or yielded back, the Senate vote on or in relation to Senator DANFORTH's amendment.

Mr. DANFORTH. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DANFORTH. Mr. President, I withdraw my objection.

Mr. DODD. I would renew my unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 14

(Purpose: to encourage mediation of complaints filed with respect to family and medical leave)

Mr. DANFORTH. Mr. President, on behalf of myself and Senator DURENBERGER, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Missouri, Mr. DANFORTH, for himself and Mr. DURENBERGER, proposes an amendment numbered 14.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 24, line 19, strike "107(b)" and insert "107(c)".

On page 27, line 10, strike "(d)" and insert "(e)".

On page 27, line 17, strike "(b)" and insert "(c)".

On page 27, between lines 24 and 25, insert the following:

(b) MEDIATION.—

(1) FINDING.—Congress finds that cooperative mediation of complaints is a more time-saving and cost-effective method of resolving disputes than litigation of civil actions.

(2) INITIATION OF MEDIATION IN ACTION BROUGHT BY SECRETARY.—

(A) NOTICE OF ACTION AND AVAILABILITY OF MEDIATION.—

(i) NOTICE.—If the Secretary determines that there is reasonable cause to believe that an employer has violated this title and that the Secretary will file an action against the employer under subsection (c) or (e), the Secretary shall inform—

(I) the employer that the employer may, within 7 days, request that the complaint be referred to the Service for mediation; and

(II) the employee aggrieved by the violation, and the employer, that the employee may become a party to mediation under this paragraph.

(ii) LIMITATION ON ACTION.—The Secretary shall not file such an action earlier than 7 days after the date on which the employer is so informed.

(B) REFERRAL AND NOTIFICATION.—

(i) REFERRAL TO MEDIATOR OTHER THAN THE SERVICE.—In lieu of receiving mediation services from the Service, the Secretary and the employer (and the employee, if the employee elects to become a party) may agree in writing to refer the complaint to a mediator (other than the Service) that has been mutually agreed to by the parties, for mediation in accordance with regulations promulgated by the Service pursuant to this subsection. A copy of the agreement to mediate shall be served upon the Service and the employee.

(ii) NOTIFICATION OF COSTS, FEES, AND EXPENSES.—Before the commencement of mediation services under this subparagraph, the mediator shall notify the parties and the Service in writing of the per diem costs and any other fees and expenses the mediator may reasonably be expected to incur in providing such services. The cost of mediation services shall be shared as mutually agreed by the parties.

(C) PROHIBITION ON FILING OF ACTION.—

(i) IN GENERAL.—The Service, within 7 days of receipt of the mediation request, shall inform the employee that mediation has been requested. If the employer requests mediation by the Service under subparagraph (A) or agrees to mediation by a mediator under subparagraph (B), the Secretary may not file an action against the employer under subsection (c) or (e), and the employee may not file an action against the employer under subsection (a)(2), until the completion of the mediation.

(ii) INJUNCTIVE RELIEF.—Nothing in this subsection shall prevent the Secretary from filing an action under subsection (e), or the employee from filing an action under subsection (a)(2), with respect to any claim for temporary injunctive relief.

(iii) LIMITATIONS.—If—

(I) the time for the Secretary or the employee to file an action described in clause (i) would otherwise lapse during the 7-day period described in subparagraph (A);

(II) the employer does not request mediation by the Service under subparagraph (A); and

(III) the parties do not agree to mediation by a mediator under subparagraph (B),

the time for the Secretary or the employee to file such an action shall be tolled until 7 days after the end of the period.

(3) INITIATION OF MEDIATION.—

(A) NOTICE OF ACTION AND AVAILABILITY OF MEDIATION.—No employee shall bring a civil action against an employer under subsection (a)(2) unless the employee has given the employer at least 7 days written notice that the employee intends to file such action and informed the employer that either party may request that the complaint be referred to the Service for mediation pursuant to the procedures set forth in this subsection.

(B) REFERRAL AND NOTIFICATION.—

(i) REFERRAL TO MEDIATOR OTHER THAN THE SERVICE.—In lieu of receiving mediation services from the Service, the employer and the employee may agree in writing to refer the complaint to a mediator (other than the Service) that has been mutually agreed to by the parties, for mediation in accordance with regulations promulgated by the Service pursuant to this subsection. A copy of the agreement to mediate shall be served upon the Service and the Secretary.

(ii) NOTIFICATION OF COSTS, FEES, AND EXPENSES.—Before the commencement of mediation services under this subparagraph, the mediator shall notify the parties and the Service in writing of the per diem costs and any other fees and expenses the mediator may reasonably be expected to incur in providing such services. The cost of mediation services shall be borne by the party that requested the mediation, unless the parties mutually agree to share the costs.

(C) PROHIBITION ON FILING OF ACTION.—

(i) IN GENERAL.—The Service, within 7 days of receipt of the mediation request, shall inform the Secretary that mediation has been requested. If either party requests mediation by the Service under subparagraph (A), or if the parties agree to mediation by a mediator under subparagraph (B), the Secretary may not file an action against the employer under subsection (c) or (e), and the employee may not file a civil action against the employer under subsection (a)(2), until the completion of the mediation.

(ii) INJUNCTIVE RELIEF.—Nothing in this subsection shall prevent the Secretary from filing an action under subsection (e), or the employee from filing a civil action under subsection (a)(2), with respect to any claim for temporary injunctive relief.

(iii) LIMITATIONS.—If—

(I) the time for the Secretary or the employee to file an action described in clause (i) would otherwise lapse during the 7-day period described in subparagraph (A);

(II) neither party requests mediation by the Service under subparagraph (A); and

(III) the parties do not agree to mediation by a mediator under subparagraph (B),

the time for the Secretary or the employee to file such an action shall be tolled until 7 days after the end of the period.

(4) REGULATIONS.—

(A) ISSUANCE, AMENDMENT, AND RESCISSION.—After providing an opportunity for public comment, the Service shall issue, and may amend or rescind, regulations to carry out the provisions of this subsection relating to mediation of complaints. The Service shall issue the regulations not later than 6 months after the date of enactment of this subsection.

(B) MEDIATION IN ACCORDANCE WITH REGULATIONS.—Mediation provided by the Service under subparagraph (A), or by another mediator under subparagraph (B), of paragraph (2) or (3), shall be provided in accordance with the regulations.

(C) MEDIATION SERVICES.—The regulations shall specify the form and manner of, and the procedures for providing, the mediation services provided under this subsection.

(5) DUTY OF MEDIATOR.—It shall be the duty of the mediator to communicate promptly with the parties and use best efforts, by mediation, to reach an agreement resolving the complaint.

(6) REPRESENTATIVE.—During mediation, the employee and the employer may be represented by legal counsel or another representative of their choice.

(7) RESOLUTION.—

(A) MANNER.—If the complaint is resolved through mediation, the complaint shall be resolved in a manner that is mutually agreeable to the parties, including a settlement agreement or voluntary withdrawal of the complaint (by the employee or the Secretary, as appropriate). The resolution of the complaint shall be recorded in writing. In no case shall the mediator have the power to dismiss a complaint.

(B) EFFECT OF AGREEMENT ON RESOLUTION.—

(i) MEDIATION BETWEEN EMPLOYER AND EMPLOYEE.—Once the employee and employer have agreed on a resolution of the complaint following mediation initiated under paragraph (3), the mediator shall so advise the Secretary. The Secretary shall take no further action on the matter that is the subject of the mediation as the matter affects the employee or employees.

(ii) MEDIATION INVOLVING THE SECRETARY.—Once the parties have agreed on a resolution of the complaint following mediation initiated under paragraph (2), the mediator shall so advise the employee, unless the employee is a party to the mediation. No employee may bring an action under subsection (a)(2) after the parties have recorded such a resolution.

(8) COMPLETED MEDIATION.—

(A) RESOLVED COMPLAINT.—The mediation shall be deemed to be completed on the date that the resolution of the complaint is recorded, as provided for in paragraph (7)(A).

(B) UNRESOLVED COMPLAINT.—If a complaint that has been referred to mediation has not been resolved by settlement, withdrawal of complaints, or otherwise within 45 days of receipt of the complaint by the Service or other mediator, and the parties do not agree in writing, with the consent of the mediator, to further extend the mediation process, the mediation shall be deemed to be completed.

(9) CIVIL ACTIONS FOLLOWING MEDIATION.—

(A) RIGHT TO BRING ACTION.—If mediation has been completed without resolution, as described in paragraph (8)(B), the employee may file a civil action under subsection (a)(2), or the Secretary may file an action under subsection (c) or (e).

(B) LIMITATIONS.—If—

(i) mediation is initiated under paragraph (2) or (3); and

(ii) the time for the employee or the Secretary to file an action described in subparagraph (A) would otherwise lapse—

(I) not earlier than the first day of the 7-day period described in paragraph (2)(A) or (3)(A), as appropriate; and

(II) not later than the completion of the mediation,

the time for the employee or Secretary, as appropriate, to file such an action shall be tolled until 7 days after the completion of the mediation (including any referral under subparagraph (C)).

(C) REFERRAL FOR ADDITIONAL MEDIATION.—The court in which the action is filed shall have the discretion to refer the complaint to the Service or the other mediator used by the parties for an additional 30 days of mediation pursuant to this subsection.

(D) CONSTRUCTION.—Nothing in this subsection shall be construed to limit the authority of the court to attempt to resolve the case under the authority of the court or dispute resolution procedures established by the court.

(10) AGREEMENTS.—

(A) AGREEMENT INVOLVING SECRETARY.—The employee shall be provided a copy of any settlement agreement, or other agreement resolving the complaint, between the parties after mediation initiated under paragraph (2). Any such agreement shall be kept confidential by the mediator, the employer, the employee, and other parties to the agreement unless all parties agree otherwise in writing.

(B) AGREEMENT BETWEEN EMPLOYEE AND EMPLOYER.—Any settlement agreement, or other agreement resolving the complaint, between the employee and the employer after mediation initiated under paragraph (3) shall be considered confidential and shall not be provided to the Service, the Secretary, or any other person, unless all parties to the mediation so agree in writing.

(11) COMMUNICATIONS.—

(A) CONFIDENTIALITY.—Whether or not a complaint that has been referred to mediation is resolved, all communications, oral or written (including memoranda, work product, transcripts, notes, or other materials), made by the Secretary, the employee, the employer, or the mediator in or in connection with the mediation that relate to the controversy being mediated shall be kept confidential by the participants in the mediation.

(B) PROHIBITION ON MAKING COMMUNICATIONS AVAILABLE.—Such communications shall not be made available by the mediator, or parties to the mediation, to any person not participating in the mediation, including the Secretary in any case in which the Secretary is not a participant.

(C) PROHIBITION ON USE OF COMMUNICATIONS AS EVIDENCE.—Such communications may not be used as evidence in any other proceeding, as provided for in paragraph (12).

(D) FINE.—Any person, including any official of the Department of Labor, who discloses information in violation of this subsection shall be fined not more than $5,000.

(12) DISCLOSURE.—

(A) IN GENERAL.—Communications referred to in paragraph (11), shall not be disclosed voluntarily, and, pursuant to this subsection, shall not be subject to disclosure through discovery or compulsory process in any investigatory, arbitral, judicial, administrative or other proceedings, unless—

(i) all parties to the mediation agree, in writing, to waive the confidentiality of such communications; or

(ii) the communications involve statements, materials, and other tangible evidence, that—

(I) are otherwise not privileged and subject to discovery; and

(II) were not prepared specifically for use in mediation.

(B) DEMAND FOR DISCLOSURE.—If any demand for disclosure, including a request pursuant to discovery or other legal process, is made upon the mediator, the Service, or the Secretary, regarding the mediation of a complaint, the mediator, the Service, or the Secretary, as appropriate, shall immediately make reasonable efforts to notify all parties to the mediation of the demand.

(13) ACTION FOR ENFORCEMENT.—A party to an agreement made pursuant to mediation under this subsection may bring any action to enforce the agreement in any Federal or State court of competent jurisdiction.

(14) DEFINITION.—As used in this subsection, the term "Service" means the Federal Mediation and Conciliation Service.

(15) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection for fiscal year 1994 and each subsequent fiscal year.

On page 27, line 25, strike "(b)" and insert "(c)".

On page 28, line 20, strike "(c)" and insert "(d)".

On page 29, line 11, strike "(d)" and insert "(e)".

On page 29, line 22, strike "(e)" and insert "(f)".

Mr. DANFORTH. Mr. President, earlier today by a close vote the Senate rejected an amendment that was offered by Senator GRASSLEY and Senator DURENBERGER relating to arbitration.

This amendment is somewhat different and simpler than the Grassley-Durenberger amendment but it is designed to accomplish the objective of trying to resolve as many cases as possible without full-blown litigation. As opposed to arbitration which was provided for in the Grassley amendment, this amendment provides for mediation. Mediation is different from arbitration in that arbitration is related to formal litigation. In fact, under the Grassley amendment, before arbitration could commence, litigation would have to commence.

So once a case was in the formal process of litigation, an arbitrator, under the Grassley amendment, would be appointed. The arbitrator would make findings. The proceedings under arbitration would be subject to motions, to discovery. The parties would be represented by attorneys.

Mediation is much different. Mediation is to provide that each of the parties, the employer and the employee, at the election of one of them, for a short period of time have the opportunity to work out their differences not in the format of litigation, not with attorneys, not with discovery, not with motions, but instead with a professional mediator in a very informal setting.

So the amendment that has just been offered says very simply that 7 days before litigation is commenced under this bill, the employee gives notice to the employer, or the Labor Department gives notice to the employer, that mediation is an option. And if either party asks for mediation, then either the Federal Mediation and Conciliation Service or some mutually agreed to mediator convenes the parties for a period not to exceed 45 days, a month and a half, of informal mediation in an effort to work matters out.

Now, I know that it is anticipated by the managers of the bill that not many cases will really go to trial. I think any cases are too many. I believe that the record of the Federal Mediation and Conciliation Service is excellent; that it is a pattern that should be followed; and that if it is the purpose of the underlying legislation to try to settle problems between employers and employees in an amicable way, this amendment provides a much greater possibility of working out real disputes amicably. Therefore, I offer this amendment.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. DODD. Mr. President, it is truly painful for this Member to disagree with the distinguished Senator from Missouri in light of the fact that going back some 7 or 8 years ago I joined with the Senator from Missouri in proposing a similar proposal in tort reform, a dual-track dispute resolution process, which, regretfully, we did not get very far with despite a valiant effort.

I am pleased to report that at least more recently efforts at tort reform seem to be gaining some momentum and we may actually achieve tort reform in this Congress. But my colleague from Missouri has anticipated my argument. This is a bit dissimilar to the amendment offered earlier by the Senators from Iowa and Minnesota but nonetheless fails to distinguish the fact situations that are presented with a normal tort matter which could end up in litigation almost immediately, and a process in which enforcement or litigation would be brought under the Fair Standards Act.

As I made the case earlier, I will make it here again. Were the enforcement procedures of the litigation processes in this legislation ones where a complainant would just file a complaint and end up in court, then I think the mediation proposal would have a lot of merit. But under the Fair Labor Standards Act it is not the way that works. Under the Fair Labor Standards Act, a complainant goes to the Department of Labor; the Wage and Hour Division then begins a conciliation or mediation process, in which they bring together the employer and the employee and they try and resolve the matter. If it fails at that level, it goes to a second level where a similar process is engaged in to resolve the matter without going to litigation. And then if that process fails entirely, of course litigation is possible.

Of the 74,000 cases, as I referred earlier, in 1990 that were brought under the Fair Labor Standards Act, there were some 2,081 cases where legal actions were actually brought. And of that 2,081 cases, some 600 actually ended up in litigation.

Now, I do not disagree with my colleague from Missouri that any time a case has to be brought in court, if there were other means of resolving it, that is regrettable. But I must say, Mr. President, when you go from 74,000 complaints to 600 court actions, that is a pretty good statistical result if you are striving to resolve these matters short of hiring the lawyers, getting involved in costly, lengthy litigation.

What my colleague has suggested here is yet one more layer, a mediation process, as if somehow the first two had not occurred at all under the Fair Labor Standards Act. In fact, what it may do is people sort of disregard or minimize the importance of going through the Wage and Hour Division of the Department of Labor if you know you are going to end up in mediation anyway.

It seems to me we can sort of get carried away here trying to pile on one conciliation process after another in the assumption somehow that the other ones are failing right and left and that only the one left that is being proposed here today can succeed. I know of no evidence which would indicate, for instance, that of those 74,000 cases which ended up with 600 going to court necessarily that number of 600 would have been reduced. Maybe it would be. I might argue we might have ended up with more because people may say, well, why am I going to go through the first two when I am going to end up with this one anyway.

So again, I do not question the motivations here. But it seems to be it is important for our colleagues to distinguish between a product liability case or a medical malpractice case or some other normal tort where there is no process, as the Senator from Missouri and I have advocated for many years, where there is some other way other than going to court of resolving those matters. Today there really is none except voluntary actions on the part of a plaintiff and the willingness of the defendant to sit down and resolve it. I hope we can get to a point where we can set up a conflict resolution process as a part of tort reform. Today there really is? But, under the Fair Labor Standards Act, we already have that process in place.

What is being suggested here is yet one more layer of it, one more effort, if you will. I suppose one could say, well, why not one more effort? But one of the complaints we have is the time it takes to resolve some of these matters. Complaints do come into our offices. They may have to do with a lack of personnel to handle the various complaints that get filed.

Of course, we have no idea whether or not there is even going to be a flood of complaints here. The assumption is on the part of those who are not in favor of the legislation this is going to create some tidal wave of legal actions. I doubt that. We heard that argument raised in the past when legislation has been proposed. In fact, in the Americans With Disabilities Act, there was a great concern raised about the mountain of litigation that would occur as a result of that legislation. I think it was so revealing that the Wall Street Journal a few weeks ago reported, in a survey of corporations and businesses that raised a real cry about the impact of the Americans With Disabilities Act, that in fact the act was working very well and they were having very few problems with it. No one who opposed that legislation would have predicted, I think, that sort of result in the surveys.

I think it is also worth noting there are some 30 jurisdictions, including local governments, which have adopted family and medical leave legislation in the country, about 7 States and a number of communities. The surveys done by the Chamber of Commerce and others about how well the acts at the local level are working is phenomenal, well into the 90 percent; 90 to 95 percent of the businesses surveyed have said in those jurisdictions where family and medical leave, as in my State, has been the law for several years, the reaction has been extremely positive, little or no cost, easy to implement, and working well.

The assumption somehow we are going to get this massive amount of litigation I do not think is well founded, particularly when you consider the fact the legislation or similar legislation has been on the books in other jurisdictions at other levels of government.

So, again, I commend my colleague's efforts in thinking to do what can be done in the area of tort reform and minimizing the cost of litigation involved in suits, but I urge my colleagues to reject this amendment because of the fact that under the present system—

I might point out as well, something I did not mention, when the amendment was raised by Senator GRASSLEY and Senator DURENBERGER, it was the business community that came to me and said, "Look, please don't set up a new enforcement mechanism here. Don't create any new agencies. Will you just take the Fair Labor Standards Act, make that your vehicle, don't fool around with it because we have worked with that for 50 years. We understand it. We have a knowledge of it. It has worked very well by and large. We have our complaints, but at least we are comfortable with that structure." So at their request, we, frankly, put that in because they asked us to.

With all due respect, when people come along now and want to amend the Fair Labor Standards Act, arguably to serve the interests of the business community, when it was the very business community which came to me and said, "Don't monkey with this," in a sense, what we are doing today is monkeying with that law. That is what the net effect here is, changing it.

Again, the results may turn out to minimize a number of those cases. But it seems to me when you have that kind of a track record, going from 74,000 cases down to 600 in court, that is a pretty good record of conciliation, mediation, call it what you will. That is a very fine record and ought to be duplicated in other areas. But I do not think a case can be made that it is not working and that yet one more level of mediation is necessary.

With all due respect, Mr. President, at the appropriate time, I will urge the defeat of this amendment. I reserve the remainder of my time.

Mr. DANFORTH. Mr. President, first of all, let me say I support the bill, I will vote for the bill. So this is not an effort to in any way weaken or destroy the bill.

The second point that I make is that I do not think there is any doubt that there is a litigation explosion in this country. All of us know that. Some people can say, well, that is a good thing, that keeps the lawyers busy. We have a surplus of lawyers with something to do. but for those who believe it is not a good thing, it seems to this Senator that anything we can do to reduce the number of cases in court we should do provided it is simple, provided we are not just bollixing things up by our efforts. We should try to simplify. We should try to get cases resolved amicably and out of court. That is the whole point.

Yes, 600 cases under one part of the law are not many. There are another couple of thousand under another way of instituting these cases. Twenty-six hundred lawsuits maybe is not a lot, but what is wrong with a month and a half of efforts under the auspices of a professional mediator, provided that the party who asks for the mediator pays for the mediation service, which is part of this amendment?

There are, under the law and under the law as it will be when this legislation is enacted, two ways in which an employee can institute proceedings. One is to go to court and file a lawsuit. That is the employee's right, not to go through the conciliation efforts of the Department of Labor, but simply to go right to the courthouse and file a lawsuit. That can be done by employees under the law that we are about to enact.

What we are saying is that in those cases the employee, 7 days before filing the lawsuit, simply has to provide notice to the employer of the possibility of mediation. The employer can say yes or no. If the employer says yes, the employer pays for the mediation, and there is a 45-day effort to try to work things out before the case proceeds.

If the employee, during that time, wants to or has to or has the grounds for a temporary restraining order, the employee can proceed with the temporary restraining order. But what we are saying is let us at least give the parties, at their option, the opportunity to have a little bit of time, a month and a half, which is nothing in litigation, nothing, a month and a half to utilize the service of professional mediators without lawyers, without going through the legal process. That does not make matters more complicated. It makes matters more simple, to avoid litigation, to avoid lawyers, to avoid motions, to avoid discovery. That makes matters more simple.

I said that employees have an option under the law as to how to initiate proceedings. One is to go to the courthouse and file a lawsuit. The second way is to file a complaint with the Department of Labor. And, under that method, then the Department of Labor proceeds with what is called conciliation. But conciliation under the Department of Labor's methodology does not include any representation by the employee. It is an adversarial proceeding by the Department of Labor against the employer, which then can lead to the employer going to court—or to the Department of Labor, rather, going to court.

What we are saying is, if it comes to the point where the conciliation process is moved along, the employee has been represented, the Department of Labor is there as an adversary, and if the employer and the Department of Labor can work nothing out, then, before litigation proceeds, give the employer and employee another 45 days with a professional mediator.

I honestly do not understand what is lost by providing some time for a mediator to work. That is the whole thrust of the amendment. It is just as simple as that. I reiterate the fact that I am for the bill. I support it. I support family leave. I do not support needless litigation, not only because it is expensive, not only because it consumes a lot of time which could better be used by doing other things, but because litigation creates hostility and bitterness and divisiveness, which I thought we were trying to take care of and really cure in this legislation.

I think this is a good supplement to the basic purpose of the legislation. I hope that the amendment will be adopted.

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Connecticut has 5 minutes, 30 seconds.

Mr. DODD. Well, we have more recent numbers here. Again, I am not arguing, I say to my colleague, about trying to reduce litigation. There is a common ground here. The question is whether or not one more layer in amending the Fair Labor Standards Act is going to achieve the desired results.

In 1992, the Wage and Hour Division completed about 67,000 compliance actions of which nearly 27,000 were conciliations and 40,000 were investigations. Conciliations were all initiated from responses to complaints. Total number of investigations completed, 23,000; Wage and Hour completed, 56 percent of conciliated complaints with 15 days of receipt and 74 percent within 30 days.

What I am worried about here, as I wait for the junior Senator from Missouri to come to the floor, is that when you propose yet another layer of mediation here, where already two or three exist, that could end up delaying this process even more. People are never satisfied by what they get out of these things—whether the employer or the employee. I did not get exactly what I wanted out of that conciliation round. I will try the next round. I am not satisfied there either. And you end up delaying results on these matters. Why not add four or five or six rounds of mediation? At some point here, you have to move and decide this is the best, based on objective analyses of reports, and if somebody wants to bring an action at the end of the day, so be it. But the assumption that one more layer of mediation or conciliation is going to resolve this or reduce those numbers substantially, I do not think there is evidence to support, were there no ability to have conciliation or mediation.

My colleague is correct, a complainant can go directly into court and file a complaint. But the fact of the matter is that no one does that, because there are no costs involved. This goes to the Department of Labor, and they try and resolve matters. It is not in the interest of a complainant to go to court directly. There are very, very few—and "rare" is the proper word to use—instances where someone goes directly to court. But here with three rounds, if you will, of conciliation, and yet adding one more—I presume somebody else may offer another amendment, because if this mediation round does not work, why not a fifth round. It seems to me it could be carried out ad curiam.

I hope the people appreciate what we have done with this legislation. There has been 7 years of effort, working with everybody we possibly could, inviting employers and employees, and meeting with my colleagues. I have spent hours and hours in offices to come up with a proposal that would make sense. Maybe it is the late hour and the frustration, but after 7 years going through this bill four times out of committee, twice through the Congress, at the last hour I am faced with yet one more idea on all of this.

This is not a perfect bill. I know that. We will find out, as it goes into effect, where it is not working well and how we can improve it or change it. But, at this late hour, to say we need one more level of government here—and that is what we are talking about, in a sense—when the ones in existence can do the job, I think then it is unnecessary and uncalled for, particularly, when the process that exists that has proven to be successful, with thousands of complaints, reducing those to a fraction in terms of cases actually brought to litigation.

While I certainly would like to discourage litigation, I do not think we ought to allow this debate to end suggesting that litigation or going to court is a terrible thing. We would like to reduce it, if we could, but the third branch of Government, the judicial branch, certainly is a viable structure and means by which people can have their grievances adjudicated. While we had hoped to reduce that, I do not think we want to necessarily suggest that, ultimately, the good people sitting around in a room are necessarily going to resolve matters for the people who feel injured.

While we have gone through a conciliation process here, if at the end of the day a person feels he has to go to court, maybe you have to do it. As I said, the numbers indicate that the Department of Labor is pretty good at resolving most of these in pretty short order. When you get 74 percent of all of the complaints and investigations resolved in 30 days, that is pretty good work, in my view. Instead of suggesting that somehow they are failing at it, I think they deserve a commendation for doing what other agencies ought to be able to accomplish and possibly could do as well in other areas of tort reform, so as to reduce the proliferation of litigation and the costs associated with it, to business and to employers and to the employees, and others who have been aggrieved. With that, I do not see the junior Senator from Missouri. I guess we are running out of steam here, I say to the senior Senator from Missouri.

I reserve the remainder of my time.

Mr. DANFORTH. How much time do I have.

The PRESIDING OFFICER (Mr. AKAKA). The Senator has 5 minutes, 30 seconds.

Mr. DANFORTH. Mr. President, I understand the pique of the manager of the bill in saying that after all of the time he has spent working on the bill, to have somebody show up on the Senate floor with just one more idea is something that any manager would want to avoid.

I only suggest that I really think that is what the Senate floor is for; it is for people who have not been on the committee to show up with one more idea and offer that idea. The idea of mediation is not new. In fact, we have something called the Federal Mediation and Conciliation Service. All we are saying is that this very good service should be available before going to court. I think it will work in a number of cases.

I say that the only time this amendment is going to have any affect at all is when cases are on the way to the courthouse. In fact, there are a couple of thousand cases that are just taken to court without going to the Department of Labor under the existing law. What we are saying is that, in those cases, and in the 600 or so that the Department of Labor is said to file, in those cases that are headed to court, even if it is only 2,600 cases, instead of turning it right over to the lawyers, getting right into the process of litigation, into court, can we have a short period of time, a month and a half, where a professional mediator in an informal setting has at least the chance to work it out?

I see no harm in doing that. I honestly do not understand the argument against it, other than the argument that "let us never have any floor amendments to bills." But if our objective is not to have every problem in this country resolved in court, then what is wrong with allowing a professional mediator provided for under Federal law, allowing that person to sit down informally and try to work things out before proceeding with matters in court. That is all the amendment is about. It is straightforward, simple, easy, and designed to avoid needless litigation.

I yield the remainder of my time.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, has all time expired on the Danforth amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. DODD. Mr. President, I move to table the Danforth amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on the motion to table.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Texas [Mr. GRAMM] is necessarily absent.

I further announce that the Senator from South Carolina [Mr. THURMOND] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 6 Leg.]

YEAS—56

Akaka
Baucus
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Conrad
Daschle
DeConcini
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Simon
Wellstone
Wofford

NAYS—42

Bennett
Brown
Burns
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Faircloth
Gorton
Grassley
Gregg
Hatch
Hatfield
Helms
Kassebaum
Kempthorne
Kohl
Krueger
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Pressler
Roth
Shelby
Simpson
Smith
Specter
Stevens
Wallop
Warner

NOT VOTING—2

Gramm
Thurmond

So, the motion to table the amendment (No. 14) was agreed to.

Mrs. KASSEBAUM. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I rise today in support of the American family. As a proud cosponsor of S. 5, the Family and Medical Leave Act, I think it is time that we respond to the changes that have occurred in the American workplace.

Earlier this century, most families had one parent who went to work everyday to feed his—usually the primary income earner in a family was a male—wife and children. Since the early 1950's, women have joined the labor force in steadily increasing numbers—by about a million workers each year. These women started working for many reasons. I am sure some do for the sense of accomplishment and fulfillment that working gave them. Others went to work after their children had grown up and moved out of the house. But many have had to go to work out of economic necessity. For many families, it now takes two incomes just to make ends meet.

Families have changed as well. The Census Bureau reports that single parents account for 27 percent of all family groups with children under 18 years of age—that was in 1988. This level is more than twice the level in 1970. Millions of women struggle as single heads of households. And the poverty level for these families is quite high. Most single parents have to work in order for their families to survive.

So the workplace has changed, but life continues to present challenges and unanticipated problems for many families. At any moment, a child could get sick, a parent may fall and break a hip, or your spouse could have a heart attack—not to mention that the same could happen to you. Our workers need the flexibility to take time off away from their jobs for emergency situations without fearing that they will lose their health benefits, or lose their jobs.

This legislation also addresses another major change in our society: the American population is getting older. Thanks to major accomplishments in medical technology and health care, Americans are living longer than ever before. The elderly are the fastest growing segment of the American population. Between 1980 and 1990, the number of people aged 75 and older grew by nearly one-third. Today, 32 million Americans are aged 65 and older—that is 12 percent of the population. How many of my colleagues have older parents? We live everyday with the prospect that an emergency will arise. Can we take leave at that point?—of course we can.

Now I know that many business interests are very concerned about this legislation. They say it will result in significantly higher costs for employers. They believe it will hurt U.S. competitiveness in the world economy. I am persuaded that this will not be the case. The Small Business Administration estimated that providing unpaid leave to an employee would cost $6.70 per employee per year. That is not a substantial cost. In fact, terminating an employee because of illness, disability, pregnancy, and childbirth costs much more—between $1,131 to $3,152 per termination—because of the costs associated with recruiting and retraining a new employee.

This legislation will not hurt the United States in the world economy. Virtually every industrialized country, as well as many Third World countries, have national policies in place to provide some sort of maternity or paternity leave. This includes many of our competitors. Japan provides 12 weeks of partially paid pregnancy disability leave; note that Japanese workers can still collect some salary—S. 5 calls for unpaid leave. Canada allows women to take up to 41 weeks off for the birth of a child; for the first 15 weeks of the leave, they can receive 60 percent of their salary.

Mr. President, the changes in the American workplace have placed new demands on the American family. It is time for us to give families the support they need to meet the often conflicting demands placed on them by work and family. I encourage my colleagues to support this legislation.

Mr. GRASSLEY. Mr. President, I rise today to speak on the family and medical leave bill, which the Senate is expected to pass in a matter of days. There is not one Member of this body who feels that this is not an issue worthy of attention. Families continue to struggle with the often conflicting demands of work and family, and meeting these challenges in a difficult economy poses even more hardship.

I question whether the passage of this bill will address these conflicts and truly assist families in need. I also question why we are here today considering this bill as our first order of business. Whatever happened to the economic and job crisis we all believe faces this Nation? And that is why I cannot support this legislation. In previous statements, I have thoroughly outlined my reasons for opposing the family and medical leave bill. So, I will not repeat myself in such depth today. However, in short, the bill does not even cover the majority of the American work force. It does not acknowledge the fact that many workers cannot forgo 3 months' salary, and, last, it fails to recognize that all families, and individuals, are different and that their needs vary. The bill simply does not give individuals the flexibility to tailor leave policies to their own needs. This bill will not allow for flex-time, part-time work, or job sharing.

For these reasons, I chose to support a bill that offers a tax credit for businesses that offer leave benefits. Unlike S. 5, this bill would cover the majority of the American work force. It would allow employees to design the leave benefit to meet their specific needs and, notably, the proceeds of the tax credit could be used to supplement income during the leave period. Senator CRAIG offered this bill as a substitute amendment to S. 5. I support and applaud his efforts. It seems appropriate that we consider alternatives to Senator DODD'S bill as well as attempts to improve the bill. However, I believe these attempts may not be fruitful due to opposition from my colleagues on the other side of the aisle.

Despite the opposition to this bill by many Members of Congress, the legislation will be passed and signed into law, as promised. Its passage, however, will create a new set of problems, and I would like to take this opportunity to focus on one of them: namely, new costs associated with this unprecedented Government mandate and its affect on job creation.

Last week, the Commerce Department announced that the economy grew at a surprisingly strong rate in the last 3 months of 1992, the strongest rate in nearly 4 years. That's the good news. The bad news is that unemployment claims are up and some of our oldest and largest companies are announcing layoffs right and left.

Some people wonder how the economy can grow, yet not create new jobs. Is this possible? Sure it is. The economy is growing because productivity is on the rise. Instead of hiring more workers to keep up with rising demand, companies are simply buying automated equipment to do the extra work or they are requiring more output from current employees. Even small businesses, which historically have been the sources of new jobs, are not hiring. These, and even larger businesses are wary of the future and the added costs associated with the labor market.

The family and medical leave bill is an unprecedented Government mandate. Its enactment will add new costs to the labor market, therefore hindering job creation. This mandate creates a new set of financial burdens on employers. Health insurance is by far one of the most expensive benefits a business offers. We all know that these costs are rising at alarming rates. As a result of this legislation, employers will have to continue to pay health benefits during the leave period, they will also assume the cost of hiring and training temporary employees. Or employers can simply let opportunities for growth pass by and not compensate for an absent employee. Furthermore, in the majority of States, including

Iowa, employers must pay unemployment compensation when a temporary worker leaves. Each claim raises the employer's unemployment insurance rates.

In an attempt to reduce the costs associated with this Government mandate, employers have a few options. According to a poll conducted by the National Federation of Independent Businesses, the largest representation of small- and medium-size businesses, 45 percent of its members said they would be less likely to hire young women, 46 percent said they would reduce low-skilled jobs, and more than half said they would cut other employment benefits and establish stricter personnel policies. Ironically, these very businesses are usually those that overwhelmingly provide the new jobs in this country.

At a time when job creation is our greatest need, we are going to inhibit job creation. Ironically, President Clinton was elected on a promise to stimulate economic growth and create millions of jobs over a 4-year period. This very promise was at the heart of his campaign commercials. However, mandating additional employment benefits is counterproductive to successful job creation. The central fact is that a rising cost for anything, including labor, reduces the amount employers can afford to buy in terms of new benefits or new employees.

Before we legislate employment benefits, we need to stimulate the economy and adopt policies which will promote job creation. Proponents of this bill often state that the United States is the only industrialized country in the world without a national family and medical leave policy. What they fail to tell you is that these nations suffer from high unemployment, suffering economies and tragically high taxes. This is the price they pay.

Whatever happened to the urgent need expressed by candidate Clinton, and accepted by the American people, to rejuvenate the economy? To stimulate job creation? To rebuild infrastructure? Why, instead, is our first legislative act an employment mandate that hinders rather than enhances these worthy goals.

Let the record reflect, Mr. President, that this Senator is scratching his head, wondering how we go forth toward economic recovery while our first step is taken backward.

Mr. FEINGOLD. Mr. President, I am pleased to join in supporting the Family and Medical Leave Act.

I was a proud sponsor of Wisconsin's family and medical leave law which has been in effect since 1988, and I thank the committee for including strong protections for State laws such as Wisconsin's which mandate family and medical leave provisions that are at least as generous as the Federal bill we have before us.

I hope this year we will be able to create the same profamily atmosphere for working families across the Nation.

Indeed, we are the only industrialized country that does not have a uniform policy determining family and medical leave benefits. Both the 101st and 102d Congress passed legislation establishing family and medical leave policies, and in both instances those bills were vetoed.

Now we face a fresh opportunity to assist working families. The Family and Medical Leave Act is a reasonable response to the changing needs of our work force. With more single-parent families, and more families where both parents work, caring for a sick child or parent poses special challenges. These challenges should not be compounded by fear of losing one's job.

Throughout the committee action and debate of the last two Congresses, I believe a very workable bill has been crafted. The Family and Medical Leave Act would require employers with more than 50 employees to provide up to 12 weeks of unpaid leave yearly. Coverage includes caring for a newborn or newly adopted child, caring for a seriously ill child, parent or spouse, or the employee's own serious illness. The bill would require continued health insurance, and reinstatement in the same or similar job at the end of leave.

Despite warnings raised during legislative debate on the Wisconsin law about the potential harmful effects on the State's business, Wisconsin's economy has continued to outperform many other States with no such law. In fact, by the end of the legislative debate on the issue, the bill was endorsed by the largest business lobby in our State, and was signed by a Republican governor.

At the Federal level as well, this has become a bipartisan issue. Many members of both sides of the aisle realize that a parent who is distracted by thoughts of a sick child at home, is not the most productive employee. They also realize that the failure to provide family or medical leave presents other hardships for employees striving to balance the needs of their families with the demands of their jobs.

For instance, as our elderly population grows, more and more adults contribute to the care of both their children and their parents while working full time. Striving to keep parents in their own homes and relatively independent provides a real benefit to society as well as the family structure and should not be punished by loss of a job. Both our society and our families have undergone substantial change; our family leave policies must also change.

I join my colleagues in seeking swift passage of this important legislation.

Mr. DECONCINI. Mr. President, I want to make a statement on a different matter. I have already spoken in favor of the family leave bill. I want to discuss something that is somewhat of a personal nature but more of national importance from my perspective.

"FRONTLINE" ATTACK ON DRUG INTERDICTION PROGRAMS

Mr. DECONCINI. Mr. President, last night the Public Broadcasting Service aired a "Frontline" program which I cannot characterize as anything more than an all-out sensational attack on our Nation's drug interdiction programs. Not only was the program unfair in its treatment of the Customs' drug interdiction personnel and programs, but it was grossly unfair to me as an individual. Mr. President, until last night, I was under the impression that the Public Broadcasting Service, which receives support from Federal appropriations to the Corporation for Public Broadcasting, attempts to objectively investigate and report the news. I am now convinced that PBS, at least in the case of this particular program, has succumbed to the tactics of the network news shows which are more concerned about ratings than providing an honest analysis of facts. As a consistent supporter of public television, I was appalled by the "Frontline" piece, which was full of inaccuracies, insinuations, and unsubstantiated accusations by less-than-credible sources.

Uncovering the sophisticated methods of the drug traffickers is no easy chore. Drug criminals have unlimited access to money and will go to any lengths to succeed in their criminal activities. So, what should the Federal Government do—should it arm itself with state-of-the-art technology to make the human job easier, or should it simply sit back and let the traffickers laugh at its lack of commitment? Mr. President, as early as 1981, along with Congressman GLENN ENGLISH, I was at the forefront of efforts to make sure that our Federal law enforcement agencies had the authority and the tools needed to stem the flow of illegal narcotics into this country. At that time, the steady flow of single-engine planes carrying cocaine and other narcotics from the drug source countries had a stranglehold on law enforcement. Customs, the Coast Guard, and DOD did not have the equipment nor the personnel required to stop the onslaught. It was not until after continual prodding from experts in Customs, NORAD, and the Congress that those responsible for the formulation of a comprehensive and intelligent antidrug policy for the United States were able to embark on a program to even up the odds, just to make it a level playing field at best.

Back in the early 1980's, Congressman GLENN ENGLISH and I held numerous hearings on the lack of proper equipment and personnel for our Federal law enforcement agencies to stem the flow of illegal narcotics into the United States. An air interdiction program was formulated which called for the procurement of radar ballons, known as aerostats, to be placed all along the southern border of the United States to detect low-flying aircraft coming into the United States. This concept was borrowed from DOD who had successfully operated aerostats for defense purposes in southern Florida for years, monitoring every ship and airplane that went in and out of Cuba. The whole idea of using aerostats in drug interdiction was to provide a resource to serve as a deterrent to low-flying aircraft carrying illegal narcotics which were attempting to penetrate U.S. borders.

The current air drug interdiction program consists of land-based aerostat radar detection ballons along the U.S. southern border and in the Carribbean, and a series of airborne surveillance assets such as P-3 AEW, interceptor aircraft, and apprehension helicopters. The purpose is to seal off the border to illegal drugs coming in by aircraft. The program has been expanded in recent years to interdict the narcotic flow before it gets to the U.S. border.

The aerostat program is not perfect, and I have never claimed that it is, but it is currently our most effective and financially reasonable technology available to combat airborne drug smuggling. "Frontline," however, rather than presenting an insightful, thoughtful, or even well-researched exploration of the aerostat program, chose to sacrifice all journalistic integrity in favor of a completely lopsided smear piece, rife with easily identifiable mistakes and baseless attacks on me and my motivations for supporting the aerostat program. The personnel of our law enforcement agencies risk their lives on a day-to-day basis to stop drugs coming into this country.

"Frontline" states that in 1992, aerostats were up only 39 percent of the time. Mr. President, this figure is just flat out wrong. They know it was wrong. The figure is 59 percent. Some may say that 59 percent is not very good. But let us be accurate. For the record I will insert some charts that I received from the Customs Service on this subject matter that verify those figures.

Why only 59 percent? Because there were aerostats in Texas that fell down because of improper production. As a result, the contractor for those ballons lost the contract for the option on the next four ballons. All the time those aerostats were down on the ground, being repaired, was counted in that 59 percent.

I have been deeply involved with air interdiction programs since their inception over a decade ago, and it is simply absurd for "Frontline" to suggest that my support for four aerostats in 1991 was based on lobbying efforts or campaign contributions from former staff members now working with the Parry and Romani consulting firm. There is no need to lobby Lee Iacocca to buy a Chrysler, and there is no need to lobby DENNIS DECONCINI to support the aerostats when experts have repeatedly indicated it is the most cost-effective alternative. And I have been there since 1981.

I had called for these balloons publicly, and customs had planned for them publicly, years before TCOM ever hired Parry and Romani. The Federal Aviation Administration first advised Customs to begin looking for aerostat sites on the Southwest border and the gulf in 1981. Major General Piotrowski, in hearings before the House in 1983, urged consideration of the use of aerostats in the war on drugs. At a 1984 press conference in Arizona I briefed reporters on the first antidrug aerostat, which went operational in 1985 at High Rock in the Bahamas. In 1986 I spoke on the Senate floor of the need for more balloons to complete the aerostat fence. Customs began seeking proposal requests from contractors for these balloons in 1987. TCOM built the first aerostat, including the ones still successfully flying over High Rock and Fort Huachuca.

The campaign contributions referred to in the "Frontline" piece were not made until 1989. The idea that my support was bought 8 years after I helped start the program is, quite frankly, completely ludicrous. By the time Parry and Romani began representing TCOM my support for the aerostats as the most cost-effective drug detection technology was well known and widely publicized. Members of this body, I am sure, recall me standing on the floor many times advocating the aerostat program all the while these two gentlemen were actually on my staff helping me secure authorization and funding for the program.

Additionally, the piece did not include the fact that shortly after hiring Parry and Romani, TCOM lost their contract with the Department of Defense to build the aerostats. That was not in the "Frontline" program. The contracts are, and always have been, awarded on the basis of competitive bidding, a process I have never involved myself in. TCOM lost the contract because they were underbid by GE. GE built the aerostats which are the ones most often cited as having a large amount of downtime.

The GE-built balloons did not stay afloat, as evidenced in the "Frontline" piece. The contractor could not deliver a product that would stay airborne. As a result, Customs did not renew the GE contract.

The GE contract had also included an option for four additional aerostats, an option which was understandably not picked up by the U.S. Government due to the problems with GE-built balloons. These four balloons are the ones "Frontline" credits to lobbying efforts on the part of Parry and Romani. I can not even begin to understand the reasoning behind this assertion.

Obviously these balloons were planned by Customs for years, and did not spring full-grown from the head of either TCOM or the Parry and Romani public relations firm. In fact, some of the money used to pay for these aerostats had been appropriated for the purchase of new aerostats before TCOM even hired Parry and Romani, and years before TCOM won the contract.

Finally, and most importantly, I wish to assert once again that the aerostat program does work. All intelligence sources report dramatic decreases in the amount of airborne drug traffic since the first Southwest border antidrug balloon went up above Fort Huachuca, AZ, in 1987. In a September 1990 letter, written shortly before funding was secured for the four aerostat balloons in question, Stephen Duncan, DOD's coordinator for drug enforcement policy, called the aerostats the "most cost-effective counternarcotics detection and monitoring asset" for the near future.

"Frontline" featured Duncan in their segment. He said Congress sometimes requires the Pentagon to buy equipment it does not want. They pointed to a letter which was written to me in 1991 from Duncan which stated that "the technology had shortcomings." That is accurate.

Now, Mr. President, that was not too surprising because "Frontline" wanted to paint the worst picture and not tell the whole story.

Weather, terrain, and other factors affect the performance of the aerostats. But, because I was concerned that DOD may have some knowledge that I needed to be aware of, I called a meeting with Duncan to discuss DOD's concerns in April 1992. Duncan sent his deputy Mike Wermuth and Rear Adm. Lloyd Allen to that meeting in my office. We had a meeting. We went over the whole thing—I was told that the aerostats were still the most cost-effective means of deterring airborne drug smugglers.

I do not recall Mr. Duncan quoted in the "Frontline" story saying that the aerostats were forced on the Department of Defense. He said sometimes Congress forces us to buy things we do not want. "Frontline" drew the conclusion that he was referring to the aerostat balloons. Is that honesty? It is not.

The 1989 General Accounting Office report criticizing the aerostats which "Frontline" referred to has been widely disputed and virtually disregarded by nearly everyone with expertise on the drug problem.

Mr. President, "Frontline" chose to use sources for the antidrug piece who have questionable credibility. One such source, was Frank Ault, a former Customs consultant who was fired by the former Commissioner of Customs. He then went to work for GE, a company that was under contract with Customs for the aerostat program. GE fired him also. Maybe "Frontline" should have investigated the explanation for Mr. Ault's criticism of the program instead of taking everything and anything he said at face value.

At least they should have pointed out that he had once worked for Customs and was fired because he was not a good employee—that he worked for GE and was fired because he was not a good employee. To the credit of GE, they wrote me a letter of apology for Mr. Ault's statements.

I have no personal stake or interest in aerostats or any other air interdiction technology. My only interest is that we have the best technology available to fight drug traffickers. The fact is there are no cost-effective alternatives to aerostats—nothing else exists. If and when something becomes available, I will be the first to support using alternative technology.

Other sources used in that program was a Mr. Blum, who worked for a Senator. He stated that the only reason we supported aerostats was because money was laid on the table. That is absurd. This lawyer ought to be ashamed of himself for making such statements. He himself has raised money for his former boss. He knows and has respect for that Senator. He ought to have respect for this body and for this Senator.

More disturbing, Mr. President, is that after listening to the "Frontline" piece, I am convinced more than ever that this body must make campaign finance reform a top legislative priority. Without changes in the way in which campaigns are financed, every Member of this body who supports a program based on the merits, will subject himself or herself to the types of harmful and unwarranted allegations which were leveled against me in the "Frontline" program. You support and fund a program that you believe in. Some individual or entity who has an interest in the program gives you a campaign contribution and all of a sudden, sometime sinister is afoot.

You did not do it because you thought it was good for law enforcement, health purposes or education or family leave.

You did it because of the contributions. That is nonsense.

Have we won the war on drugs in this country? No, we have not. Is the war on drugs as successful as it could be? No, it is not. The answer, however, will never be found through sensationalism, shoddy journalistic techniques and personal attacks. Either Frontline's producers and reporters simply do not understand the issue with which they were dealing, or else they deliberately chose to ignore the facts in their drive to find a hot story. I understand that television reporters are under intense pressure to produce something exciting and new, particularly after investing the time and expenses of an 8-month investigation. But this does not justify misleading the public by presenting them with a supposedly unbiased report which is, in fact, riddled with mistakes, omissions, and insinuations as this one was.

Mr. President, either we get serious in this war on drugs, or we just be honest with the public and say we surrender, legalize the drugs, let them come in over the border with no prohibitions whatsoever. You cannot wage a war on drugs without a full frontal assault on the traffickers. Sure, we can take down the aerostat balloons, mothball the antidrug aircraft, and sit back and wait until the communities are bombarded with drugs. We would then leave a legacy for our children of violence and drugs far greater than what we have today, and it is a shame what we have today. But to use news shows to try to dismantle a program which is working is just flat wrong.

Mr. President, I ask unanimous consent that this information regarding aerostat uptime and downtime be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PERCENTAGE OF AEROSTAT—UPTIME VS. DOWNTIME

	Uptime	Downtime
Fiscal year 1991:[1]		
Cudjoe Key	47	53
High Rock	61	39
Georgetown	68	32
Puerto Rico	38	62
Ft. Huachuca	67	33
Deming	66	34
Yuma	84	16
Marfa	41	59
Eagle Pass	37	63
Rio Grande City	55	45
Fiscal year 1992:[2]		
Cudjoe Key	59	41
High Rock[3]	46	54
Georgetown	69	31
Deming	65	35
Ft. Huachuca	65	35
Yuma	82	18
Marfa	48	52
Eagle Pass	41	59
Rio Grande City	51	49
Puerto Rico	82	18

[1] Average percent uptime=60%.

[2] Average percent uptime=59%.

[3] Out of service.

Source: U.S. Customs Service.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LEVIN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, the distinguished Republican leader and I have had a series of discussions today regarding the disposition of the pending bill and as part of that the disposition of possible amendments to the bill, including an amendment relating to the current policy of the military regarding the service of homosexuals in the military.

It had been my hope that the Senate would have completed action on the family and medical leave bill this evening. We had progressed through a number of amendments during the day and there was good reason for optimism in that regard. About an hour ago, Senator DOLE asked me not to proceed further on the bill, specifically to permit him to consult with his colleagues regarding one or two amendments which he may offer to the bill that are related to the bill and also to consult with his colleagues regarding the best course of action to take with respect to the possible amendment relating to the ban on gays in the military. I, of course, agreed to the delay to accommodate Senator DOLE, as I always do when he is mutually accommodating in similar circumstances as well.

Following that, Senator DOLE has just advised me that it is his preference that we not proceed further on the bill at all this evening and that we put it over until the morning, at which time he is prepared to offer his amendments related to the bill. It is his anticipation that they will not take a long period of time and should be resolved promptly. And there may be one or two other such amendments, so that we can anticipate early during the day tomorrow that all action on the bill will have been completed that relates to the subject matter of the bill, with the only matter then unresolved, the possible amendment on service by gays in the military.

On that matter, we have had several discussions during the day about a possible agreement on a process for resolving that, and we have not, as of this time, reached agreement. We have discussed a number of alternatives. Senator DOLE made one suggestion to me; I made a suggestion to him. We have consulted with various of our colleagues on both sides, but as of this moment, we do not have an agreement and it is possible that there will not be an agreement regarding that and we will, of course, each and all of us have to proceed in accordance with the rules and practices of the Senate.

It is also possible that we will be able to reach an agreement in the morning and do it in a manner that is by mutual agreement that will enable us to dispose of that matter and complete action on the bill. But as of now, no decision has been made. I have called a caucus of Democratic Senators for 9:30 tomorrow morning for the purpose of discussing, of reporting to Democratic Senators on the substance of my discussions with Senator DOLE and of the options available and will be in a position to discuss the matter further with Senator DOLE immediately following that caucus.

If we are not able to reach agreement and if we must proceed with respect to the rules, then Senator DOLE has indicated to me that there is a possibility, as is permitted under the rules, that he and his colleagues will not permit us to proceed to complete action on the bill and that it will then be necessary to file a cloture motion in an effort to terminate debate and complete action on the bill.

So I have indicated to Senator DOLE that this being Wednesday, I believe the best way to proceed in terms of trying to complete action on the bill will be, in the absence of an agreement at this time, for me to file the cloture motion this evening so that if a cloture vote does occur, it will occur not later than Friday, but in the interim to continue our efforts which have been serious and in good faith on both sides to try to reach an agreement on a way to proceed that will enable us to dispose of the issue which is in contention and complete action on the bill, thereby rendering unnecessary any vote on the cloture motion.

So that is where we stand right now, and I would like at this time to invite the distinguished Republican leader to first comment to make certain that I correctly stated the situation with respect to the discussions between us and our current intentions and then to add any further comments that he may wish to make.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, if the majority leader will yield, he has correctly stated the facts. I do have two meritorious amendments which the manager may accept. I could discuss those this evening, but they do relate to the bill, very thoughtful amendments. I know I will receive sympathetic consideration before they are killed. But in any event, I am prepared to offer those in the morning.

We are not trying to delay the bill. We would like to finish everything except the one area where I think there will be some controversy. If we can work it out, we will have a debate and we will have a vote. But it is our intention to offer an amendment. If we cannot work it out, we will offer the amendment and see what happens. The majority leader will then second degree the amendment, we will have a vote on the second-degree amendment and we will offer our amendment again. That can, I assume, go on for some time.

It is our hope that we can reach some agreement, that we can have an expression on our amendment and on the majority leader's amendment, either freestanding votes or in some other fashion we have discussed, as the majority leader indicated.

I will just indicate if we are successful, we could complete action on the bill tomorrow. If not, I think the majority leader has indicated he will file a cloture motion. I do not believe that cloture can be obtained, and that would mean that we would not be able to complete action on the bill. I guess the cloture vote would come Friday unless we consent to do it earlier.

Mr. MITCHELL. That is correct.

Mr. DOLE. So we would not be able to complete action on the bill. And of course, if cloture is not invoked, the majority leader is at liberty to file additional cloture motions, and we would have additional votes on cloture.

I think that covers everything. I know it is cleared up for me.

Mr. MITCHELL. Mr. President, I thank my colleague and, given the circumstances, I think that there really is not any alternative but to accede to Senator DOLE's request to put the matter over until tomorrow. That will give us all a chance to review it at that time, as I earlier described. Therefore, there will be no further rollcall votes this evening, and we will resume on the bill as indicated tomorrow morning and I hope complete action on the two or three pending measures unrelated to the controversial issue, and then we will discuss at that time how best to proceed.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on S. 5, the family and medical leave bill:

Senators Christopher Dodd, Patty Murray, Russ D. Feingold, D.K. Inouye, Carol Moseley-Braun, Bob Krueger, Jeff Bingaman, Paul Wellstone, Dianne Feinstein, Joe Biden, B.A. Mikulski, J. Lieberman, Chuck Robb, John F. Kerry, Bob Kerrey, Edward M. Kennedy.

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the following nominations, en bloc—

Hershel Gober to be Deputy Secretary of Veterans Affairs, reported today by the Committee on Veterans' Affairs, and

R. James Woolsey to be Director of Central Intelligence, reported today by the Select Committee on Intelligence.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the CONGRESSIONAL RECORD as if read; that the motions to reconsider be tabled, en bloc; that the President be notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

EXECUTIVE OFFICE OF THE PRESIDENT

R. James Woolsey, of Maryland, to be Director of Central Intelligence.

DEPARTMENT OF VETERANS AFFAIRS

Hershel Wayne Gober, of Arkansas, to be Deputy Secretary of Veterans Affairs.

STATEMENT ON THE CONFIRMATION OF HERSHEL GOBER

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I am delighted to recommend to the Senate that Hershel Gober be confirmed as the Deputy Secretary of Veterans Affairs. Together with Secretary Jesse Brown, Hershel will provide leadership and strength to the Department of Veterans Affairs to serve the veterans of West Virginia and the entire Nation.

The committee held a hearing on January 22, 1993, at which Hershel responded openly to questions from committee members. After reviewing Hershel's answers to posthearing questions, the committee met today and voted, without dissent, to recommend his confirmation as Deputy Secretary.

Mr. President, Hershel Gober understands the obligations that we hold to those who served this country, both in times of war and in times of peace. First in the Marine Corps, followed by a 17-year career in the Army, Hershel served with honor and distinction as is recognized by his many military decorations, including the Bronze Star and Purple Heart which he received during service in Vietnam.

Upon Hershel's return to his home State of Arkansas in 1983, he committed himself to protecting and supporting veterans' benefits. His work as the director of the Arkansas Department of Veterans Affairs earned him the respect of his colleagues and, in 1992, the award as the most effective State director from the National Association of State Directors.

Mr. President, Hershel brings to VA a valuable perspective on the relationship between the various State departments of veterans affairs and the Federal Department of Veterans Affairs. Such a perspective will assist him in building a closer partnership around sharing responsibilities and providing services more effectively to veterans. Also, his close working relationship with President Clinton and Secretary Jesse Brown should ensure that the voice of America's veterans will be heard clearly throughout the administration.

During his confirmation hearing before the committee, Hershel highlighted the importance of delivering veterans' services in rural areas and his experience in doing so in Arkansas. I certainly look forward to working with him to find the best ways to meet the needs of veterans in West Virginia and other rural States.

Mr. President, I close by sharing a comment Hershel made in his opening remarks before the committee. He said, "I give you and this committee my personal commitment that I will do everything in my power to ensure that America continues to meet its obligations to those who have served in our Nation's armed services." I look forward to working with Hershel toward the fulfillment of that commitment and am confident that he will serve veterans well as VA's Deputy Secretary.

STATEMENT ON THE NOMINATION OF R. JAMES WOOLSEY

Mr. DECONCINI. Mr. President, the Select Committee on Intelligence yesterday voted unanimously to recommend Mr. Woolsey's confirmation to the Senate, and I heartily endorse this nomination to my colleagues.

Assuming his confirmation, Mr. Woolsey will be the 16th person to serve as Director of Central Intelligence since the office was created in 1946 by President Truman. The responsibilities and authorities of the DCI have evolved considerably since then, and, indeed, the capabilities of U.S. intelligence are vastly larger and vastly more sophisticated than President Truman could ever have imagined.

As the official responsible for coordinating these capabilities and marshalling them in support of the President and other policymakers, the DCI plays a uniquely sensitive and a uniquely important role in the Government. He must support policymakers, but not become a captive of policymakers. He must ensure that the vast capabilities at his disposal are effectively utilized, but that they remain within the confines of U.S. law and bounded by our national interest. He should be prepared to take risks, and yet be prudent and restrained in terms of both policy decisions and resource allocations. In short, the position demands an uncommon measure of judgment and discretion.

And the next DCI, it seems to me, is likely to face an even more difficult assignment than his predecessors. It hardly needs repeating that the world has dramatically changed. While it may have become less threatening, it has also become vastly more complicated. The end of the cold war has unleashed nationalistic, ethnic, and religious conflicts which had been previously held in check. We now have to worry about countries and conflicts which were not on our screens several years ago.

The Intelligence Community has necessarily shifted the focus of its attention. The demands for information have not abated; indeed, they have increased. The review of intelligence requirements which was completed last year at DCI Gates' direction resulted in not one requirement being dropped. Rather, the review resulted in only new requirements being added.

Notwithstanding the apparent appetite for intelligence, there is considerable pressure, given our enormous budget deficits, to do more with less, and, I, for one, think it can and should be done. While the demands for information have not abated, it does seem to me there is a potential for savings if we look objectively at the means we use to collect it. In the past, we were forced to undertake costly technical programs because we were denied access to certain countries. Many of those countries are now accessible. By the same token, we developed highly specialized capabilities to be able to reach particular targets. Now many of those targets no longer pose a threat to us. On the other hand, because of our long fixation on the Soviet military threat, we may not have developed capabilities to give us sufficient breadth and flexibility in other parts of the world.

It seems to me the principal challenge for the new DCI will be to match collection capabilities to the rapidly shifting needs of the Government. I will be looking to the new DCI to undertake a comprehensive review of this problem as an early order of business, and advise this committee of his findings. Clearly, we must preserve a capability to provide the President with warning of diplomatic and military crises around the world, and provide him with the information he needs to choose between competing options. We must provide our military forces with the information they need to deploy around the world and to defend themselves against hostile actions. We must preserve a capability to monitor and verify the arms control agreements we now have in place, as well as cope with international narcotics and terrorist operations.

The cold war may be over, but there are some demands on intelligence that will remain constant whatever the political environment.

To confront these daunting challenges, President Clinton has, in my view, sent us a very able nominee. Jim Woolsey is, in many ways, an ideal choice for this job. He has seen intelligence from the inside, but he brings the vigor and fresh perspective of an outsider.

The nominee's academic and professional credentials are impeccable. A graduate of Stanford where he became a Rhodes scholar, with a graduate degree from Oxford and a law degree from Yale Law School, he has also served with distinction as the Under Secretary of the Navy during the Carter administration, and as Ambassador to the Conventional Forces in Europe talks where he led the U.S. team to a successful negotiation of a very complicated and important treaty. He has written and spoken frequently and eloquently on public policy issues.

Mr. President, yesterday the committee had the opportunity to question the nominee in both open and closed sessions. He acquitted himself quite well. While he was unable to answer a few of our questions pending the Clinton administration developing its own positions, I cannot fault him for this. He did impress me, however, with what I perceive to be a genuine committment to the oversight process and to working with the oversight committee. The importance of this committment cannot be overemphasized.

In sum, Mr. President, I think we are fortunate, indeed, to have a man of his caliber nominated for this position, and I urge my colleagues to support him.

STATEMENT ON THE NOMINATION OF HERSHEL W. GOBER

Mr. MURKOWSKI. Mr. President, I am pleased to support the confirmation of Hershel Gober to be Deputy Secretary of Veterans Affairs. Mr. Gober has most recently served as a State director of veterans affairs, in Arkansas. That background, and Mr. Gober's experience as a career Army officer and, before that, an enlisted Marine, are key qualifications for this important post. As ranking Republican of the Veterans' Affairs Committee, I very much look forward to working with Mr. Gober, and with Mr. Jesse Brown, the Department of Veterans Affairs' recently confirmed Secretary, in addressing the needs of the Nation's veterans.

There is an additional aspect of Mr. Gober's background which I, as a Senator from Alaska, would like to highlight. While Mr. Gober is a native of Arkansas, he also spent a number of years in Alaska—first, as an Army officer and later, after his retirement from the Army, as a civilian. I am particularly pleased to see that a person with a firsthand understanding of Alaska's unique circumstances—and her geography, weather, and people—will be on VA's senior management team.

Mr. Gober is a graduate of Alaska Methodist University in Anchorage. He has resided in my hometown, Fairbanks. He served for 5 years as an employee of the NW Alaskan Pipeline Co. And in his capacity as the NW Alaskan

Pipeline Co.'s director of permits, rights of way and land acquisition, he learned firsthand about the concerns of Alaska landowners—particularly of Alaska Natives—with whom he did extensive business in securing right of way access to Alaska Native lands. He obviously learned well of the concerns of Alaska Natives. Since the announcement of his nomination, representatives of Alaska Native veterans groups have spoken to me glowingly of Mr. Gober.

Mr. President, at the hearings held by the Committee on Veterans' Affairs on January 22 on Mr. Gober's nomination, all of the members of the committee learned for themselves why Alaskans enthusiastically support Mr. Gober's nomination. He is obviously an intelligent, confident, and capable man. He is also a man who does not put on airs, and who talks straight. I look forward to working with him as Deputy Secretary of Veterans Affairs. I hope that he will visit Alaska before many weeks have passed, and I am pleased to support his nomination.

STATEMENT ON THE CONFIRMATION OF HERSHEL W. GOBER

Mr. SIMPSON. Mr. President, I rise today to offer my strong support for the confirmation of Mr. Hershel W. Gober to be Deputy Secretary of Veterans Affairs.

Mr. Gober has a long and distinguished career of service to this country. First as an enlisted man in the Marine Corps and then as an infantry officer in the Army. He has served honorably and worked diligently in various countries and States ranging from Vietnam and Germany to Alaska and other domestic posts.

Mr. Gober retuned to his native Arkansas in 1983 and in 1988, became the director of the Arkansas Department of Veterans Affairs.

As the director of the Arkansas Department of Veterans Affairs he had the opportunity to see firsthand the positive effects that benefits and programs have on the everyday lives of deserving veterans. He has also come to understand the many challenges that face those who run the Department of Veterans Affairs and our national health care system.

In addition, his experience has afforded him the chance to meet and work directly with the numerous hardworking professionals who make up the Department of Veterans Affairs and he understands how the system works.

His life of exemplary service to our Nation and his understanding of veterans' issues will serve to assist Mr. Gober in tackling the challenges that will arise daily during his tenure at the VA.

I met with Mr. Gober recently, and I am very impressed by his sincerity, his qualifications, and his concern about veterans' issues.

I do very much look forward to working with Mr. Gober and with the new Secretary of Veterans Affairs—Jesse Brown—as we grapple with the difficult issue of how to reconcile the genuine needs of veterans with our sincere desire to reduce the Federal deficit.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

REREFERRAL OF A BILL—S. 267

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 267 be discharged from the Governmental Affairs Committee, and referred to the Labor and Human Resources Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIRECTING THE SENATE LEGAL COUNSEL TO APPEAR AS AMICUS CURIAE

Mr. MITCHELL. Mr. President, on behalf of myself and the distinguished Republican leader, Senator DOLE, I send to the desk a resolution to direct the Senate legal counsel to appear as amicus curiae in the name of the Senate in the case pending before the U.S. District Court for the District of Columbia, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 62) to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in Turner Broadcasting System, Inc., et al. v. Federal Communications Commission, et al. and consolidated cases.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

APPEARANCE BY SENATE AS AMICUS CURIAE IN SUPPORT OF THE CONSTITUTIONALITY OF THE CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992

Mr. MITCHELL. Mr. President, a three-judge Federal district court in the District of Columbia is considering constitutional challenges to the must-carry provisions of the Cable Television Consumer Protection and Competition Act of 1992, which was passed over the President's veto. The must-carry provisions require cable operators to carry the signals of certain local commercial and noncommercial educational television stations. They have been challenged primarily by cable operators who argue that the provisions violate their first amendment rights, as speakers, to choose what messages they will convey over their cable systems.

The Cable Act seeks in large measure to control the market power of cable, while fostering competition so that the need for regulation will eventually diminish. As part of this legislation, Congress has acted to ensure that both cable subscribers and those who do not subscribe to cable will continue to have access to local broadcast signals by requiring that cable operators must carry those signals under certain circumstances. In addition, the legislation is intended to foster competition by placing over-the-air broadcast stations in a better position to compete with cable for advertising revenue. Although there was intense debate about a number of provisions of the Cable Act, including the provisions on rate regulation, there was broad support in the Congress for the act's must-carry provisions.

This resolution would authorize the Senate legal counsel to file a brief in the name of the Senate as amicus curiae in support of the must-carry provisions of the Cable Act. Last November, the Department of Justice notified the Congress that it would have an ethical conflict of interest in defending the act's must-carry provisions after having advised President Bush that they were unconstitutional. Following that notification, the district court entered an order that would allow the Houses of Congress to file briefs in support of the statute by February 12. While it is hoped that the Department will now support the statute, there is merit, in light of this transitional period and the schedule established by the court, for a brief to be filed on behalf of the Senate which describes to the court the legislative record upon which the Congress enacted cable legislation.

The PRESIDING OFFICER. Without objection, the resolution is considered and agreed to, and the preamble is agreed to.

The resolution (S. Res. 62), with its preamble, reads as follows:

S. RES. 62

Whereas, in the case of Turner Broadcasting System, Inc., et al. v. Federal Communications Commission, et al., No. 92-2247, and consolidated cases Nos. 92-2292, 92-2494, 92-2495, 92-2558, pending before a three-judge court of the United States District Court for the District of Columbia, the plaintiffs have challenged the constitutionality of sections 4 and 5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460, 1471-81, which require cable operators to carry the signals of certain local commercial and noncommercial educational television stations;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(c), 288e(a), and 288l(a) (1988), the Senate may direct its Counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae on behalf of the Senate in Turner Broadcasting System, Inc., et al. v. Federal Communications Commission, et al., and consolidated cases in support of the constitutionality of sections 4 and 5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 105 Stat. 1460, 1471-81.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. MITCHELL. Mr. President, on behalf of myself and the distinguished Republican leader, Senator DOLE, I send to the desk a resolution to direct the Senate legal counsel to represent members who have been named as defendants in a lawsuit pending in a State court in Arkansas, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 63) to authorize representation of Members of the Senate in the case of Bobbie Hill v. Bill Clinton, et al.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

AUTHORIZATION FOR REPRESENTATION

Mr. MITCHELL. Mr. President, a civil action has been commenced in Arkansas circuit court to challenge the constitutionality of an amendment to the Arkansas State Constitution that the voters of Arkansas approved in November 1992, establishing term limits for Arkansas' State officials and representatives in Congress. The amendment limits U.S. Senators to two 6-year terms and Representatives to three 2-year terms.

The plaintiff, who sued on behalf of herself, other voters in Arkansas, and the Arkansas League of Women Voters, asserts that the Arkansas term limitation amendment violates the U.S. Constitution by imposing a qualification for congressional office other than the qualifications listed in the Constitution.

The plaintiff named the members of Arkansas' congressional delegation, including Senator DALE BUMPERS and Senator DAVID PRYOR, among the defendants in the action, pursuant to an Arkansas statute requiring that all individuals who would be affected by a declaratory judgment action be named as defendants. The title of the action reflects that then-Governor Clinton was also named as a defendant in his capacity as Governor of Arkansas. Because Senator BUMPERS and Senator PRYOR have been named as defendants in this lawsuit, under Arkansas legal procedure, they are required to respond to the complaint.

Mr. President, the U.S. Constitution states three qualifications for an individual to be a U.S. Senator: he or she must have attained 30 years of age, have been a citizen for 9 years, and inhabit at the time of election the State he or she will represent. The qualifications to be a Representative differ only in that a Member of the House must be at least 25 years old, and have been a citizen for 7 years.

Arkansas' determination to limit the terms of its own executive officials and of members of the Arkansas legislature raises no question of Federal law. However, the imposition of a maximum of two terms for U.S. Senators and three terms for U.S. Representatives from Arkansas, through an amendment to the Arkansas State Constitution, necessarily raises the question, as a matter of Federal constitutional law, whether Arkansas has sought impermissibly to add to the uniform qualifications for election to the U.S. Senate and House specified in the Constitution.

The Senate has never taken a position on the precise question of the constitutionality, without amending the Federal Constitution, of States' establishing term limitations for congressional offices. However, the Senate has determined several times that the qualifications enumerated in the Constitution for Senators are the exclusive qualifications permitted under the Constitution and that State laws seeking to impose additional requirements on holding Senate office are invalid under the U.S. Constitution.

The Senate first addressed this question in 1856, when it voted to seat Senator Lyman Trumbull of Illinois, who had been elected notwithstanding a provision of the Illinois State Constitution rendering Illinois State court judges ineligible to Federal office during, or within 1 year of, their State office term. The issue arose when a group of State legislators protested the seating of Senator Trumbull, relying on the State constitutional restriction. The Senate considered whether a State had authority under the U.S. Constitution to add restrictions on election to the Senate other than those set forth in the Constitution. After extensive constitutional debate, the Senate voted to seat Senator Trumbull by a vote of 35 to 8.

Although there was also an issue whether the State law restriction, in fact, applied to the case at hand, because Trumbull had resigned his judgeship more than 1 year before his election to the Senate, an effort to base the Senate's judgment upon that fact was abandoned before the vote was taken. Instead, the overriding view of the Senate, in adopting the resolution to seat Senator Trumbull, was the view of the sponsor of the resolution, Senator Crittenden of Kentucky, that "the Constitution of the United States has assumed to itself the exclusive regulation of this subject, and that no State can add any disqualification or require any new qualification." (Cong. Globe, 34th Cong., 1st sess. 549 (1856).)

In 1887, the Senate voted similarly, without recorded opposition, to seat Senator Charles Faulkner of West Virginia in disregard of a like provision in the West Virginia Constitution. The Senate acted after the chairman of the Committee on Privileges and Elections, Senator Hoar of Massachusetts, reported the committee's unanimous view that "no State can prescribe any qualification to the office of United States Senator in addition to those declared in the Constitution of the United States." (S. Rept. 1, 50th Cong., 1st sess. 4 (1887).)

Most recently, in 1964 the Senate seated Senator Pierre Salinger, who had been appointed by the Governor of California, notwithstanding a California statute, to fill a vacancy upon the death of Senator Engle. The statute in question required, beyond inhabitancy at the time of election, that Senators be qualified as electors in California elections, which Salinger was not because he had not been a resident of the State for the requisite period of time provided under State law.

The Committee on Rules and Administration reported to the Senate that "[i]t is well settled that the qualifications established by the U.S. Constitution for the office of U.S. Senator are exclusive, and a State cannot, by constitutional or statutory provisions, add to or enlarge upon those qualifications." (S. Rept. 1381, 88th Cong., 2d sess. 5 (1964).) A number of the Senate's most esteemed constitutional scholars on both sides of the aisle, including Senator Ervin of North Carolina and Senator Cooper of Kentucky, supported the committee's conclusion. Senator Cooper explained that his study of the constitutional question required him to reject the view that "there could be 50 qualifications enacted by the 50 different States as to appointed Members," (110 Cong. Rec. 19412 (1964)) and to conclude that the constitutional qualifications for appointed and elected members were the same. the Senate agreed, determining to seat Senator Salinger notwithstanding the State limitation.

In 1969, the Supreme Court decided, as the Senate had long concluded, that the constitutionally prescribed qualifications for election to Congress are exclusive. In the case of *Powell* v. *McCormack*, 395 U.S. 486, which concerned the seating of Representative Adam Clayton Powell, the Supreme Court held that the House of Representatives could not add any qualifications in judging a Representative-elect's eligibility for office, beyond the qualifications enumerated in the Constitution for election to the House of Representatives.

Thus, although the adoption of term limitations by the States for congressional offices is a relatively recent phenomenon, the settled underlying constitutional principle is that the U.S. Constitution fixes the qualifications for Federal legislators, and that it would take a Federal constitutional amendment to alter, or to authorize the alteration of, those qualifications. Consistent with that principle, and, importantly, the Senate's adherence to it, it is the intention of Senators BUMPERS and PRYOR to state in answering the complaint that article V of the U.S. Constitution, on amending the Constitution, sets forth the exclusive methods for altering the qualifications for Federal legislators.

Indeed, amending the Constitution was the procedure that was used in 1951 when the 22d amendment established a two-term maximum for the President of the United States. Constitutional amendments to impose limits on congressional terms have been introduced in recent Congresses and have a already been introduced in this session. The submission of these proposals reflects the understanding that, under the Constitution, it is for this body and the other House, or the State legislatures in calling for a convention, to consider initially the policy arguments for and against limiting the terms of Members of Congress.

Senator BUMPERS and Senator PRYOR have advised the leadership that they do not intend to take an active role at the current stage of this litigation, in which they find themselves as defendants, not as plaintiffs or intervenors. However, as defendants, they have a responsibility to respond to the complaint and to communicate to the court about their legal status in the suit.

The resolution at the desk would authorize the Senate legal counsel to represent Senator BUMPERS and Senator PRYOR to fulfill their responsibilities to the court as defendants named solely by virtue of their status as Senators, and to answer the complaint in a manner consistent with the precedents of the Senate. If the future course of this litigation appears, in the view of the Senators, to warrant more active participation on their behalf, they and the Senate legal counsel will seek guidance from the joint leadership group.

The PRESIDING OFFICER. Without objection, the resolution is agreed to, and the preamble is agreed to.

The resolution (S. Res. 63), with its preamble, read as follows:

S. RES. 63

Whereas, in the case of Bobbie Hill v. Bill Clinton, et al., No. 92–6171, pending in the Circuit Court of Pulaski County, Arkansas, the Plaintiff has named, among others, Senator Dale Bumpers and Senator David Pryor as defendants;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official or representative capacity: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator Dale Bumpers and Senator David Pryor in the case of Bobbie Hill v. Bill Clinton, et al.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ACTION VITIATED—S. 267

Mr. MITCHELL. Mr. President, I am advised that the discharge of S. 267 as previously approved was premature and had not been satisfactorily cleared.

So I ask unanimous consent that the prior action in which S. 267 was discharged from the Governmental Affairs Committee and referred to the Labor and Human Resources Committee be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Veterans' Affairs:

Hershel Wayne Gober, of Arkansas, to be Deputy Secretary of Veterans' Affairs.

By Mr. DECONCINI, from the Select Committee on Intelligence:

R. James Woolsey, of Maryland, to be Director of Central Intelligence.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. RIEGLE, from the Committee on Banking, Housing and Urban Affairs:

Laura D'Andrea Tyson, of California, to be a member of the Council of Economic Advisers.

(The above nomination was approved subject to the nominee's commitment to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAMM:

S. 280. A bill to extend the temporary suspension of duty on fresh cantaloupes imported between January 1 and May 15 of each year; to the Committee on Finance.

By Mr. McCAIN (for himself and Mr. DECONCINI):

S. 281. A bill to establish certain environmental protection procedures within the area comprising the border region between the United States and the Republic of Mexico; to the Committee on Foreign Relations.

By Mr. SHELBY (for himself, Mr. INOUYE, and Mr. HEFLIN):

S. 282. A bill to provide Federal recognition of the Mowa Band of Choctaw Indians of Alabama; to the Select Committee on Indian Affairs.

By Mr. GRASSLEY (for himself, Mr. HEFLIN, and Mr. CONRAD):

S. 283. A bill to extend the period during which chapter 12 of title 11 of the United States Code remains in effect and for other purposes; to the Committee on the Judiciary.

By Mr. PRESSLER:

S. 284. A bill to amend the Food Stamp Act of 1977 to permit a State agency to require households residing on reservations to file periodic reports of income and household circumstances, and to remove the requirement that a State agency establish a procedure for staggered issuance of coupons for eligible households residing on reservations, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. ROTH:

S. 285. A bill to amend the Internal Revenue Code of 1986 to require reporting of group health plan information on W–2 forms, and for other purposes; to the Committee on Finance.

By Mr. PELL (for himself and Mrs. KASSEBAUM):

S. 286. A bill to reauthorize funding for the Office of Educational Research and Improvement, to provide for miscellaneous education improvement programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 287. A bill to amend the Employee Retirement Income Security Act of 1974 with respect to the preemption of the Hawaii Prepaid Health Care Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DORGAN:

S. 288. A bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gains tax on individuals, and for other purposes; to the Committee on Finance.

By Mr. REID (for himself, Mr. PRYOR, Mr. DANFORTH, Mr. KEMPTHORNE, Mr. LUGAR, Mr. McCAIN, Mr. WARNER, Mr. BRYAN, Mr. COHEN, and Mr. GRAHAM):

S. 289. A bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, and for other purposes; to the Committee on Finance.

By Mr. MACK:

S. 290. A bill to provide for the cancellation of all existing leases and to ban all new leasing activities under the Outer Continental Shelf Lands Act in the area off the coast of Florida, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI:

S. 291. A bill to amend the Alaska National Interest Lands Conservation Act to improve the management of Glacier Bay National Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SPECTER:

S. 292. A bill to amend the Internal Revenue Code of 1986 to provide incentives for investments in disadvantaged and women-owned business enterprises; to the Committee on Finance.

By Mr. McCAIN (for himself, Mr. CAMPBELL, Mr. SIMON, Mrs. KASSEBAUM, Mr. AKAKA, Mr. STEVENS, Mr. GOR-

TON, Mr. MURKOWSKI, and Mr. DASCHLE):

S. 293. A bill to provide for a National Native American Veterans' Memorial; to the Select Committee on Indian Affairs.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 294. A bill to authorize the Secretary of the Interior to formulate a program for the research, interpretation, and preservation of various aspects of colonial New Mexico history, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DURENBERGER (for himself, Mr. KOHL, Mr. BAUCUS, Mr. SMITH, Mr. GRASSLEY, Mr. CAMPBELL, Mr. LEAHY, Mr. KEMPTHORNE, Mr. ROTH, Mr. LUGAR, Mr. COHEN, Mr. BROWN, Mr. SIMPSON, Mr. CONRAD, Mr. BURNS, Mr. DORGAN, Mr. COATS, Mr. JEFFORDS, and Mr. WALLOP):

S. 295. A bill to amend title 23, United States Code, to remove the penalties for States that do not have in effect safety belt and motorcycle helmet traffic safety programs, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BUMPERS (for himself, Mr. PRYOR, Mr. KERREY, Mr. COCHRAN, Mr. BOND, Mr. WOFFORD, Mr. BOREN, Mr. KOHL, Mr. SHELBY, and Mr. REID):

S. 296. A bill to require the Secretary of Agriculture to submit monthly financial obligation and employment reports to Congress for the Food and Safety and Inspection Service, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. STEVENS:

S. 297. A bill to authorize the Air Force Memorial Foundation to establish a memorial in the District of Columbia or its environs; to the Committee on Energy and Natural Resources.

By Mr. DECONCINI (for himself, Mr. HATCH, Mr. HEFLIN, Mr. KENNEDY, Mr. KOHL, Mr. LAUTENBERG, Mr. SPECTER, Mr. GRASSLEY, Mr. BROWN, and Mr. DOMENICI):

S. 298. A bill to amend title 35, United States Code, with respect to patents on certain processes; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself, Mr. JEFFORDS, Mr. SIMON, Mr. LEVIN, Mrs. BOXER, Ms. MOSELEY-BRAUN, and Mr. DODD):

S. 299. A bill to amend the Housing and Community Development Act of 1974 to establish a program to demonstrate the benefits and feasibility of redeveloping or reusing abandoned or substantially underutilized land in economically and socially distressed communities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MACK:

S. 300. A bill to provide for the utilization of the latest available census data in certain laws related to airport improvements; to the Committee on Commerce, Science, and Transportation.

By Mr. DASCHLE (for himself, Mr. LEVIN, and Mr. JOHNSTON):

S. 301. A bill to revive and strengthen the "Super 301" authority of the United States Trade Representative to eliminate unfair trade barriers, and for other purposes; to the Committee on Finance.

By Mr. MACK:

S. 302. A bill to provide for the utilization of the latest available census data in certain laws related to Energy and Natural Resources; to the Committee on Energy and Natural Resources.

S. 303. A bill to provide for the utilization of the most current census data in certain laws related to the environment and public works; to the Committee on Environment and Public Works.

S. 304. A bill to provide for the utilization of the latest available census data in certain laws related to urban mass transportation; to the Committee on Banking, Housing, and Urban Affairs.

S. 305. A bill to utilize the most current Federal census data in the distribution of Federal funds for agriculture, nutrition, and forestry; to the Committee on Agriculture, Nutrition, and Forestry.

S. 306. A bill to provide interim current census data on below poverty, urban, rural, and farm populations; to the Committee on Governmental Affairs.

S. 307. A bill to require that, in the administration of any benefits program established by or under Federal law which requires the use of data obtained in the most recent decennial census, the 1990 adjusted census data be considered the official data for such census; to the Committee on Governmental Affairs.

S. 308. A bill to require the use, in Federal formula grant programs, of adjusted census data, and for other purposes; to the Committee on Governmental Affairs.

By Mr. D'AMATO (for himself and Mr. LIEBERMAN):

S.J. Res. 39. Joint resolution designating the weeks beginning May 23, 1993, and May 15, 1994, as Emergency Medical Services Week; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. AKAKA, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BRADLEY, Mr. CHAFEE, Mr. COHEN, Mr. CONRAD, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DORGAN, Mr. DURENBERGER, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GLENN, Mr. GRAHAM, Mr. HARKIN, Mr. HATFIELD, Mr. HOLLINGS, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Mr. LEVIN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. PACKWOOD, Mr. PELL, Mr. RIEGLE, Mr. ROBB, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SIMON, Mr. SPECTER, and Mr. WELLSTONE):

S.J. Res. 40. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. D'AMATO:

S. Res. 60. Resolution supporting United States requests to reopen the December 20, 1991 draft final text in the Uruguay round to address areas of particular concern to United States manufactures, environmental and consumer groups; to the Committee on Finance.

By Mr. ROTH:

S. Res. 61. Resolution amending the Standing Rules of the Senate; to the Committee on Rules and Administration.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 62. Resolution to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in Turner Broadcasting System, Inc., et al. v. Federal Communications Commission, et al. and consolidated cases; considered and agreed to.

S. Res. 63. Resolution to authorize representation of Members of the Senate in the case of Bobbie Hill v. Bill Clinton, et al; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN (for himself and Mr. DECONCINI):

S. 281. A bill to establish certain environmental protection procedures within the area comprising the border region between the United States and the Republic of Mexico; to the Committee on Foreign Relations.

UNITED STATES-MEXICO BORDER ENVIRONMENTAL PROTECTION ACT

Mr. MCCAIN. Mr. President, today, I rise to introduce the United States-Mexico Border Environmental Protection Act.

My colleagues may remember this measure from last year. I introduced it then in response to concerns about the condition of the environment along our border with Mexico. It was reported by the Senate Foreign Relations Committee. Sadly, it was never agreed upon by full Senate. In that year's time, because of our inaction, the environment in the border region has continued to degrade, increasing the risk to public health and safety.

Our Nation shares a 2,000 mile border with Mexico. Numerous American and Mexican sister cities link hands across that border, binding our two nations in friendship. As friends and neighbors, the United States and Mexico have profound responsibilities to one another. Chief among those duties is to respect and safeguard the natural resources our citizens must share along the international boundary. No activities or conditions occurring on one side of the border must be permitted to adversely impact the health of people or the environment on the other.

Passage of the United States-Mexico Border Environmental Protection Act will help us meet our environmental responsibilities successfully. It will do so by promoting pollution prevention in the region through resource monitoring and long-term planning. Second, recognizing that environmental accidents do occur and sometimes political expectations are not fulfilled it provides the resources necessary to protect American lives and property from environmental hazards which may arise unabated south of the border—an important Federal responsibility.

Specifically, to address environmental threats, the bill seeks to establish a $10 million border environmental emergency fund under the auspices of the Environmental Protection Agency. The fund would make money readily available to investigate occurrences of pollution, identify sources and take immediate steps to protect land, air, and water resources through cleanup and other remedial actions.

While the EPA can address many problems along the border, some issues involving the protection of surface waters are under the jurisdiction of the International Boundary Water and Water Commission. The commission was created by a treaty with Mexico in 1944 to control floods, manage salinity, and develop municipal sewage treatment facilities along international streams.

In my home State, the IBWC has constructed international wastewater treatment facilities in Nogales and Naco, AZ. The Commission's authority, however, to respond to emergency situations involving the pollution of surface waters is a matter of some doubt. This measure provides the IBWC with explicit authority and resources to protect American lives and property from emergency conditions and establishes a $5 million fund to do the job. In addition, the Secretary of State is directed to pursue agreements with Mexico for joint response to such events.

Mr. President, I'd like to offer an example of why this legislation is needed. A little more than a year ago, the breakage of a sewer main combined with heavy rains to carry raw sewage into Nogales, AZ, via an international stream. The contamination resulted in a high incidence of hepatitis, harmed wildlife, and degraded public and private property, prompting the declaration of a State emergency. No definitive and comprehensive action was taken to stem the flow of sewage for several weeks due to concerns about the availability of funds and trepidation about the legal authority necessary to take action.

Had the emergency fund and response authority I'm proposing been in place, perhaps we could have prevented much of the sickness and suffering visited upon the residents of Nogales. Passage of this legislation will ensure prompt and effective response in the future.

I would like to note that certain provisions related to the IBWC in this bill are virtually identical to those in the Rio Grande Pollution Correction Act which was signed into law in 1987. Like the bill I'm introducing, the Rio Grande legislation authorized the IBWC to conclude agreements with Mexico to respond to surface water contamination. The United States-Mexico Border Environmental Protection Act expands the Rio Grande bill to include the entire border, as a matter of fairness and necessity.

In addition to funding field investigations and rapid emergency response, the legislation recognizes the importance of communication between Mexico and the United States, and among Federal, State, and local authorities here at home. The bill seeks to establish an information sharing and early warning system so that Mexican and American officials at all levels will be apprised of environmental hazards and risks in a timely and coordinated fashion, so that response and remedy, likewise, will be timely and coordinated.

The EPA and IBWC funds will ensure comprehensive and timely response to hazards as they arise along the border. The long-term answer, however, is planning and prevention. In that regard, the bill seeks to bolster attention on the border environment and promote planning so that emergencies can be avoided. It calls for the establishment of domestic and binational advisory committees on the border environment. These groups would help monitor environmental conditions along the border, as well as to plan and make recommendations for the continued protection of the region's air, land, and water resources.

Passage of this bill is critical to the protection of the border environment and with the maintenance of harmonious and productive relations with our friends to the south. Mexico recognizes the importance of this initiative as well. When I visited President Salinas a year ago, he agreed on the need and told me that if Congress created such an account, Mexico would do the same.

Mr. President, there is no doubt of our obligation to be a responsible neighbor to Mexico, nor of Mexico's obligation to us. Considering our current efforts to open the doors of commerce between our nations, now more than ever, it is important that we commit ourselves to a clean and healthy border environment for the safety and enjoyment of Americans and Mexicans who inhabit the region. Enactment of this legislation is the first and most important step to that end.

I urge the Senate to consider and swiftly pass this vital legislation. I ask unanimous consent that a statement from Senator DECONCINI regarding this measure and the text of the bill be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 281

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Mexico Border Environmental Protection Act".

SEC. 2. PURPOSE.

It is the purpose of this Act to provide for the protection of the environment within the area comprising the border region between the United States and the Republic of Mexico, as defined by the La Paz Agreement between the United States and Mexico, referred to hereafter as the "Border Environment Zone".

SEC. 3. FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States the "United States-Mexico Border Environmental Protection Fund (hereinafter referred to as the "Fund"). The Fund shall consist of such amounts as may be appropriated or transferred to the Fund. No moneys in the Fund shall be available for obligation or expenditure except pursuant to an environmental emergency declaration pursuant to section 4.

(b) PURPOSE OF THE FUND.—The Fund shall be readily available for use by the Administrator of the Environmental Protection Agency (hereinafter referred to as the "Administrator") to investigate and respond to conditions which the Administrator determines present a substantial threat to the land, air, or water resources of the area comprising the border region of the United States and the Republic of Mexico.

(c) USES OF FUND.—(1) Moneys in the Fund shall be available, without fiscal year limitation, for use by the Administrator in carrying out field investigations and remediation of any environmental emergency declared by the Administrator under this Act.

(2) In carrying out his authority under this Act, the Administrator is authorized to expend moneys in the Fund directly or make such moneys available through grants or contracts.

(3) Moneys in the Fund shall be available for use by the Administrator for cost-sharing programs with the Republic of Mexico, any of the States of Arizona, California, New Mexico, or Texas, any political subdivision of any such State, any local emergency planning committee, federally recognized Indian tribes, or any other appropriate entity, for use in carrying out field investigations and remediation actions pursuant to this Act.

SEC. 4. DECLARATION OF ENVIRONMENTAL EMERGENCY.

(a) DETERMINATION BY ADMINISTRATOR.—The Administrator, whenever he determines conditions exist which present a substantial threat to the land, air, or water resources of the area comprising the Border Environment Zone, may declare the existence of an environmental emergency in such region. In no case shall the Administrator declare a condition an emergency under this section if such condition is specifically within the sole jurisdiction of the International Boundary and Water Commission.

(b) CONSULTATION WITH AFFECTED PARTIES; AUTHORITY TO RESPOND.—In responding to emergencies, the Administrator shall consult and cooperate with affected States, counties, municipalities, Indian tribes, the Republic of Mexico, and other affected parties. The Administrator may respond directly to an emergency declared under this section or may coordinate with appropriate State or local authorities to respond.

(c) PETITION OF GOVERNOR.—In addition to the authority under subsection (a), the Administrator, upon the petition of the Governors of the States of Arizona, California, New Mexico, or Texas, or the governing body of a Federally recognized Indian tribe, may declare the existence of an environmental emergency in such region. In no case shall the Administrator declare a condition an emergency under this section if such condition is specifically within the sole jurisdiction of the International Boundary and Water Commission.

SEC. 5. INFORMATION SHARING.

The Administrator, in cooperation with the Secretary of State, the Governors of the States of Arizona, California, New Mexico, or Texas, and the governing bodies of Federally recognized Indian tribes located within the United States-Mexico border region, and the

Republic of Mexico, is authorized to establish a system for information sharing and for early warning to the United States, each of the several States and political subdivisions thereof, and Indian tribes, of environmental problems affecting the Border Environment Zone. The Administrator shall integrate systems and procedures authorized by this section into any existing systems and procedures established to provide information sharing and early warning regarding environmental problems affecting the Border Environment Zone.

SEC. 6. REPORT TO CONGRESS.

The Administrator, after consultation with the Secretary of State, the Republic of Mexico, the Governors of the States of Arizona, California, New Mexico, and Texas, and the tribal governments of appropriate Indian tribes, shall submit an annual report to the Congress on the use of the Fund during the calendar year preceding the calendar year in which such report is filed, and the status of the environmental quality of the area comprising the Border Environment Zone. The Administrator shall publish the availability of the report in the Federal Register, along with a brief summary.

SEC. 7. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Administrator shall establish a United States-Mexico Border Environmental Protection Advisory Committee (hereinafter referred to as the "Advisory Committee").

(b) FUNCTIONS.—It shall be the function of the Advisory Committee to—

(1) monitor and study environmental conditions within the Border Environment Zone;

(2) plan and make recommendations for ongoing environmental protection within such border region; and

(3) carry out such other functions as the Administrator may prescribe.

(c) COMPOSITION OF ADVISORY COMMITTEE.—The Advisory Committee shall consist of such number as the Administrator shall appoint. At least one member shall be from the Department of State. At least 2 of the members shall be from business, 2 from non-Government organizations, and 5 from State, local or tribal governments. The term of each member shall be for a period of not more than 5 years, specified by the Administrator at the time of appointment. Before filling a position on the Advisory Committee, the Administrator shall publish a notice in the Federal Register soliciting nominations for membership on the Advisory Committee.

(d) MEETINGS AND REPORTS.—The Advisory Committee shall meet at least on a quarterly basis, and report to the President and Congress not less than annually, on the state of the Border Environment Zone; together with the recommendations of the Advisory Committee, if any. The initial report shall be submitted within 12 months following the date of the enactment of this Act.

(e) COMPENSATION.—Members of the Advisory Committee shall serve without compensation. When serving away from home or regular place of business, a member may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for individuals employed intermittently in the Government service.

SEC. 8. INTERNATIONAL AGREEMENTS.

(a) AUTHORITY.—The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico (hereafter "United States Commissioner") is authorized to conclude agreements with the appropriate representative of the Ministry of Foreign Relations of Mexico for the purpose of correcting border sanitation problems in international streams that form or cross the international boundary between the United States and the Republic of Mexico, caused by the discharge of untreated or inadequately treated sewage into such streams.

(b) RECOMMENDATIONS.—Agreements concluded under subsection (a) should consist of recommendations to the Governments of the United States and the Republic of Mexico of measures to protect the health and welfare of persons along those international streams that cross the international boundary between the United States and the Republic of Mexico, and should include—

(1) facilities that should be constructed, operated, and maintained in each country;

(2) estimates of the costs of plans, construction, operation, and maintenance of such facilities;

(3) formulas for the division of costs between the United States and the Republic of Mexico; and

(4) time schedule for the construction of facilities and other measures recommended within the agreements authorized by this section.

SEC. 9. JOINT RESPONSES TO SANITATION EMERGENCIES.

(a) CONSTRUCTION OF WORKS.—The Secretary of State, acting through the United States Commissioner, is authorized to conclude agreements with the appropriate representative of the Ministry of Foreign Relations of the Republic of Mexico for the purpose of joint response through the construction of works, repair of existing infrastructure, and other such appropriate measures in the Republic of Mexico and the United States to correct border sanitation emergencies in international streams that form or cross the international boundary between the United States and the Republic of Mexico caused by the discharge of untreated or inadequately treated sewage into such streams. The United States Commissioner shall consult with the Governors of the States of Arizona, California, New Mexico, and Texas in developing and implementing agreements under this section.

(b) HEALTH AND WELFARE.—Agreements concluded under subsection (a) should consist of recommendations to the Governments of the United States and the Republic of Mexico establishing general response plans to protect the health and welfare of persons along those international streams that form or cross the international boundary between the United States and the Republic of Mexico, and should include, but not be limited to—

(1) description of types of border sanitation emergencies requiring response including, but not limited to, sewer line breaks, power interruptions to wastewater handling facilities, components breakdowns to wastewater handling facilities, and accidental discharge of sewage, which result in the pollution of streams that form or cross the international boundary;

(2) description of types of response to emergencies including, but not limited to, acquisition, use and maintenance of joint response equipment and facilities, small scale construction, including modifications to existing infrastructure and temporary works, and the installation of emergency and standby power facilities;

(3) formulas for distribution of costs of responses to emergencies under this section on a case-by-case basis; and

(4) requirements for defining the beginning and end of an emergency.

SEC. 10. CONSTRUCTION; REPAIRS; AND OTHER MEASURES.

(a) DEFINITION.—As used in this Act, the term "border sanitation emergency" means a situation in which untreated or inadequately treated sewage is discharged into surface rivers or streams that form or cross the boundary between the United States and the Republic of Mexico.

(b) WATER POLLUTION EMERGENCIES.—The Secretary of State, acting through the United States Commissioner, is authorized to respond through construction, repairs and other measures in the United States to correct "border" sanitation emergencies in international streams that form or cross the international boundary between the United States and the Republic of Mexico, caused by the accidental discharge of untreated or inadequately treated sewage into such streams.

(c) CONSULTATION WITH AFFECTED PARTIES; AUTHORITY TO RESPOND.—In responding to a border sanitation emergency, the Secretary shall consult and cooperate with the Administrator, affected States, counties, municipalities, Indian tribes, the Republic of Mexico, and other affected parties. The Secretary of State may respond to a border sanitation emergency or may coordinate with appropriate State or local authorities to respond.

SEC. 11. BINATIONAL ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of State, in cooperation with the Administrator, is authorized to enter into an agreement or other arrangement with the Republic of Mexico to establish an Advisory Committee comprised of members from the Republic of Mexico and the United States.

(b) FUNCTIONS.—It shall be the functions of the Binational Advisory Committee to (1) assist EPA and SEDUE in the monitoring and study of environmental conditions within the border region of the United States and Mexico; (2) plan and make recommendations to EPA and SEDUE for on-going environmental protection within such border region; and (3) carry out such other functions as EPA and SEDUE may prescribe.

(c) COMPOSITION.—The United States Delegation shall consist of such number as the Administrator shall appoint. At least two of the members shall be from business, two from nongovernment organizations, and five from State or local governments. The term of each member shall be for a period of not more than five years, specified by the Administrator at the time of appointment. Before filling a position on the Advisory Committee, the Administrator shall publish a notice in the Federal Register soliciting nominations for membership on the United States Advisory Committee.

(d) AVAILABILITY OF COMMITTEE RECORDS TO THE PUBLIC.—The Binational Advisory Committee shall make all reasonable efforts to make available to the public information on environmental conditions in the border region and efforts the Committee undertakes or recommends to address these conditions.

SEC. 12. TRANSFER OF FUNDS.

(a) TRANSFER AUTHORITY.—The Secretary of State, acting through the United States Commissioner, is authorized to include as part of the agreements authorized by sections 8, 9, and 10 of this Act, the necessary arrangements to administer the transfer to another country of funds assigned to one country and obtained from Federal or non-Federal governmental or nongovernmental sources.

(b) COST-SHARING AGREEMENTS.—No funds of the United States shall be expended in the

Republic of Mexico for emergency investigation or remediation pursuant to section 8, 9, or 10 of this Act absent a cost-sharing agreement between the United States and the Republic of Mexico unless the Secretary of State has determined and can demonstrate that the expenditure of such funds in the Republic of Mexico would be cost-effective and in the interest of the United States. In cases where funds of the United States are expended in the Republic of Mexico without a cost-sharing agreement, the Secretary of State shall submit a report to the appropriate committees of Congress explaining why costs were not shared between the United States and the Republic of Mexico, and why the expenditure of such funds without cost-sharing was in the national interest of the United States.

(c) ESTABLISHMENT OF FUND.—(1) There is established in the Treasury of the United States the United States International Boundary and Water Commission Fund (hereinafter referred to as the "Commission Fund"). The Commission Fund shall consist of such amounts as may be appropriated or transferred to the Commission Fund.

(2) Moneys in the Commission Fund shall be available, without fiscal year limitation, for use by the Secretary of State in carrying out the provisions of this section and sections 8, 9, 10 and 11 of this Act.

(3) In carrying out the purposes of this section and sections 8, 9, 10 and 11 of this Act, the Secretary of State is authorized to expend moneys in the Commission Fund directly or make such moneys available to fulfill the purposes of any such section through grants or contracts.

SEC. 13. AUTHORIZATION.

(a) AUTHORIZATION FOR THE FUND.—There is authorized to be appropriated to the Fund $10,000,000, for use in accordance with the purposes of this Act.

(b) AUTHORIZATION FOR ADVISORY COMMITTEE.—There is authorized to be appropriated to the Administrator $500,000 for support and operation of the Advisory Committee.

(c) AUTHORIZATION FOR INTERNATIONAL BOUNDARY AND WATER COMMISSION FUND.—There is authorized to be appropriated to the International Boundary and Water Commission Fund $5,000,000 for carrying out sections 8, 9, 10, 11 and 12 of this Act.

(d) AVAILABILITY OF FUNDS.—All amounts appropriated pursuant to this Act shall remain available until expended.

SEC. 14. DISCLAIMER.

Nothing in this Act shall be construed as amending, repealing or otherwise modifying any provision of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Superfund Amendments and Reauthorization Act of 1986, or any other law, treaty or international agreement of the United States.

Mr. DECONCINI. Mr. President, I am pleased to join my colleague, Senator McCAIN, as an original cosponsor of the United States-Mexico Environmental Protection Act. This legislation responds to a real and current threat to the health and environment of those citizens living along our border with Mexico.

As many of my colleagues know, I have long been concerned about the unique nature of binational environmental problems facing the United States and Mexico. The environment does not recognize the artificial boundaries. Because of the unique geographic and ecological characteristics of this region, border communities share common aquifers, and air supplies. If those resources are degradated, citizens of both countries suffer.

The legislation we are introducing today will enable the EPA and the State Department to respond to urgent environmental situations in an emergency fashion. This legislation is particularly important in light of past and future potential pollution problems of the water supply in Nogales, AZ. And, the importance of this legislation will grow for all of the States along the border as negotiations continue for a free trade agreement. For the benefit of my colleagues, untreated sewage from Nogales, Sonara, was being discharged from damaged sewage lines into Nogales Wash, threatening drinking water supplies which service the communities on both sides of the border. Mexico lacks the resources to adequately respond to infrastructure deficiencies such as what occurred in Nogales. This legislation will provide the resources needed to rapidly respond to this situation.

The United States-Mexico Environmental Protection Act also calls for extensive monitoring of environmental problems along the border. In my experience in working on these problems, one fact is clear to me; there is a definite lack of substantial information on the environmental issues along the border. This legislation will go a long way toward rectifying this problem.

Mr. President, I want to commend Senator McCAIN for his initiative in this regard. With the United States-Mexico Environmental Protection Act, he has recognized a critical need and has responded to it. I look forward to working with him to see that this legislation is enacted.

By Mr. SHELBY (for himself, Mr. INOUYE, and Mr. HEFLIN):

S. 282. A bill to provide Federal recognition of the Mowa Band of Choctaw Indians of Alabama; to the Select Committee on Indian Affairs.

MOWA BAND OF CHOCTAW INDIANS RECOGNITION ACT

• Mr. SHELBY. Mr. President, I rise today to reintroduce the Mowa Band of Choctaw Indians Recognition Act. This is the fourth time that I have introduced this measure in the Senate. I hope that this is the last time I will introduce this bill because the 103d Congress will have seen the measure passed and signed into public law.

On October 5, 1992, we came very close to moving this bill from the Halls of Congress to the White House. The Mowa bill passed the Senate. However, the bill died in the House Interior Committee. And so, I introduce the bill again because I believe strongly in this legislation. In fact, the more time that passes, the more I am convinced of the authenticity of the Mowa claim.

Others have already recognized the Mowa Band of Choctaws as an Indian tribe.

In 1979, the U.S. Department of Education awarded one of the first Indian education programs in Alabama with title V funding. Title V funding is set aside for Indian children who are being educated in the public school system. That Alabama Indian Education Program, which has received title V funding from the Department of Education every year since 1979, is administered by the Mowa Band of Choctaw Indians.

The U.S. Department of Health and Human Services' Administration for Native Americans has awarded more than $1,150,000 to the Mowa Choctaw tribal government for economic development.

The U.S. Department of Housing and Urban Development found the Mowa Choctaw Housing Authority eligible to participate in all HUD Indian housing programs.

These Government agencies have recognized the Mowa Choctaws as an Indian tribe. However, the Mowas still are not federally recognized. Since the 1880's, ancestors of today's Mowas have consistently sought Federal recognition as an Indian tribe. Each time the U.S. Government opened the rolls, the tribe applied. They finally achieved State recognition in 1978 and it is time that Congress acted to give them Federal recognition.

Over two centuries have passed since a group of native Americans settled in Mobile and Washington Counties, AL. The name Mowa, derived from the first two letters of their geographic location, Mobile and Washington Counties, was taken by the more than 7,000 descendants of the Choctaw Indians settling in south Alabama. These individuals are the beneficiaries of a proud heritage from a group of Indians who refused to migrate from their homeland during the infamous "Trail of Tears."

The direct ancestors of the Mowa Choctaws of Alabama came together in the forks between the Alabama and Tombigbee Rivers, below a stream called the "Cut-Off," which flows from the Alabama River southwest to the Tombigbee.

This basin area between the rivers had always been claimed by both Choctaw and Creek Indians. To settle the dispute, the U.S. Government set the watershed as the boundary line with the creek to the east and the Choctaw to the west. The Mowa community was, and still is on the Choctaw side of the Tombigbee River.

The U.S. Army Corps of Engineers has identified the Mowa area as a prehistoric Indian site. Artifacts attest to Indian occupation long before the arrival of Europeans. However, there are still those who doubt the tribes's claim of being Indian.

The goal of the Mowa's in seeking Federal recognition is to preserve their community. I believe that, with a little assistance and the cooperation and good faith of their non-Indian neighbors, the Mowa's can improve their standard of living and obtain adequate housing.

As I have stated time and time again, the Mowa Choctaws are a proud, self-respecting people who are fighting a long, hard battle to regain their rightful identity. The Mowa Choctaw Indians enjoy a good relationship with their non-Indian neighbors. They serve with them in local community organizations and in leadership positions. The Mowa's have paid taxes, voted, and served their country from the Civil War through today's Persian Gulf war. They deserve and need the opportunities that Federal recognition will provide.

The opportunities for employment. The opportunities for job training. The opportunities for better education, health care and housing.

I urge my colleagues to join me in helping the Mowa Choctaw's hopes come to fruition.●

By Mr. GRASSLEY (for himself, Mr. HEFLIN, and Mr. CONRAD):

S. 283. A bill to extend the period during which chapter 12 of title 11 of the United States Code remains in effect and for other purposes; to the Committee on the Judiciary.

BANKRUPTCY CODE EXTENSION ACT OF 1993

Mr. GRASSLEY. Mr. President, I rise today to introduce S. 283, to extend until October 31, 1998, chapter 12 of the Bankruptcy Code. Chapter 12, which was first enacted in 1986, provides a mechanism to facilitate the reorganization of family farm bankruptcies. I am pleased that Senator HEFLIN is an original cosponsor of this bill. He is the chairman of the Courts Subcommittee, which has jurisdiction over bankruptcy matters, and I am confident that with his support we can move this bill quickly this year.

Chapter 12 fulfills an important need. Before its creation, family farmers could file for bankruptcy only under chapter 11 or 13. Most farmers could not file under chapter 13 either because their secured debts were too large to qualify, or because they were partnerships or incorporated entities. Chapter 11 presented different difficulties, making that chapter all but unworkable to farmers. When the farm crisis of the 1980's hit, farmers risked losing their farms for reasons beyond their control.

Congress properly recognized these conditions when it enacted chapter 12. In so doing, Congress acted to make sure that bankruptcy laws respond to the special needs of farmers, an approach Congress first took more than 150 years ago, and then again in the 1930's when it passed Frazier-Lemke. Chapter 12 has made bankruptcy realistically available to family farmers.

Under chapter 12, the farmer files a plan within 90 days of filing the bankruptcy petition. The court then completes action within 45 days. The debtor must make available the discretionary income for the next 3 to 5 years to pay unsecured creditors. After the 3- to 5-year period, the unsecured debt is discharged. The debtor must also pay the secured debts up to the market value of the collateral. If the farmer owes more than the property is worth, the difference is treated as an unsecured debt and must be paid out of disposable income for 3 to 5 years.

Because chapter 12 is based on chapter 13, the farmer can remain in control of the farming operation. A trustee is appointed to see that payments are timely made, to investigate fraud if the court so requires, and to operate the farm if the court finds gross mismanagement.

I am pleased to note that chapter 12 has worked very well. As the chapter 12 trustee for Nebraska recently states, "There's no question that we need chapter 12, absolutely no question at all." He called chapter 12 "the most economical fashion for farmers to reorganize," and noted that one of its advantages is to offer farmers a completely fresh start. Since bankruptcy process inefficiencies necessarily reduce the amount available to compensate creditors, chapter 12's efficient operation benefits creditors as well as debtors.

Chapter 12's positive effects are not limited to the Midwest. A Louisiana attorney recently wrote me to say that chapter 12 offers the only real remedy for farm bankruptcy problems. His view is that the program has worked splendidly in Louisiana. Although the farm crisis has eased somewhat since 1986, he states that although he wished that the program is no longer needed, that is simply not the case. He stated:

> The farm economy, nationwide is still quite fragile. Without the benefits of this program, many farmers will be unable to reorganize their operations and will be forced from the land. Because of this program, we have been able to maintain the family farmer in this area and we certainly hope to continue to do so.

I also note that in some States, chapter 12 filings, which had declined somewhat after 1987, have started again to increase.

Chapter 12, like other farm bankruptcy bills, was enacted as a temporary measure, and is currently set to expire on October 31, 1993. I believe that its success warrants its extension, and the bipartisan cosponsorship of this bill extending the life of the program attests to the widespread sharing of that belief. Because the farm economy remains weak, and since the process of passing legislation is often unpredictable, I believe that the program should be extended for 5 years, as opposed to the 2 additional years that the Senate voted for last June as part of the omnibus bankruptcy bill. A 5-year extension will ensure that there is no gap in the event that Congress cannot act quickly enough to extend the program before its expiration.

I look forward to the rapid passage of this measure to ensure that the program continues without interruption.

By Mr. PRESSLER:

S. 284. A bill to amend the Food Stamp Act of 1977 to permit a State agency to require households residing on reservations to file periodic reports of income and household circumstances, and to remove the requirement that a State agency establish a procedure for staggered issuance of coupons for eligible households residing on reservations, and for other purposes; to the Select Committee on Indian Affairs.

INDIAN RESERVATIONS ACT OF 1993

Mr. PRESSLER. Mr. President, I am introducing legislation to amend the Food Stamp Act of 1977. This legislation strikes two provisions regarding food stamp issuance on Indian reservations that were included in the 1990, farm bill (P.L. 101-624).

Many individuals have been involved to resolve this issue, both at State and Federal levels, for more than 2 years now. I commend them for their diligence.

Specifically, the first provision of the 1990 act, section 1723, exempts reservation households from the food stamp program's State option of monthly income reporting. My bill reverses that exemption, which has never been implemented.

Therefore, the current practice of a household giving a food stamp office current information will be maintained. This practice allows for accurate use of food stamp resources. In addition, it allows the members of eligible households to receive services.

The second Farm Bill provision in question requires State agencies to stagger the issuance of food stamp benefits throughout the month for those recipients living on Indian reservations. My legislation reverses this provision.

Mr. President, though this measure was never entered, staggered issuance would be a nightmare in Indian country. Instead of all families being able to travel together to receive food stamps on a designated day each month, they would be forced to go at different times, often over long distances in difficult situations. In fact, transportation difficulties alone would have made this provision an impairment to the very people it was designed to assist.

To illustrate my point, I ask unanimous consent that a November 22, 1992, Washington Post article entitled "On Sioux Reservation, Transportation Literally Means Life or Death" be included in the RECORD following my remarks.

Mr. President, I also ask unanimous consent that two letters in agreement with my legislation also be included in the Record at the conclusion of my remarks.

The first letter, dated November 25, 1992, is from the General Accounting Office [GAO] to my colleagues, Senator Leahy, chairman of the Agriculture Committee and Senator Lugar, ranking Republican. In this letter, the GAO states that both provisions are opposed by State programs and Indian organizations that submitted comments.

In addition, I would like to submit a letter, dated April 7, 1992, from the South Dakota Department of Social Services to the GAO providing additional data regarding these two food stamp provisions.

Mr. President, I believe in the concept, "if it isn't broke, don't fix it." Current food stamp practices are working well according to both those administering the services and those receiving the services. Until such time that this changes, let's maintain the present system and focus on problems that do exist and do need to be solved.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record at the conclusion of my remarks. I urge my colleagues to support this cost-effective administrative change in our food stamp program.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 283

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPORTING AND STAGGERED ISSUANCE FOR HOUSEHOLDS ON RESERVATIONS

(a) Budgeting and Monthly Reporting on Reservations.—Section 6(c)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)(A)) is amended—

(1) by striking clause (ii); and

(2) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(b) Staggered Issuances on Reservations.—Section 7(h)(1) of such Act (7 U.S.C. 2016(h)(1)) is amended by striking the second sentence.

(c) Conforming Amendments.—

(1) Subtitle A of title IX of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237) is amended by repealing section 908.

(2) Section 5(f)(2)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(2)(C)) is amended by striking "(iii), and (iv)" and inserting "and (iii)".

[From the Washington Post, Nov. 22, 1992]

On Sioux Reservation, Transportation Literally Means Life or Death

(By Don Phillips)

Pine Ridge, S.D.—The need for transportation dominates the lives of the Oglala Sioux in ways that city dwellers would find difficult to understand.

Even a trip from homes scattered about the remote Pine Ridge Indian Reservation to grocery stores here, the reservation's largest town, is an event. Some people begin walking before dawn for a 40-mile round trip to the store, returning after dark.

"They're used to walking because there's no transportation on the reservation at all, and it's a big reservation," said Marguerite Very-Miller, a onetime VISTA volunteer among the Oglala Sioux who now runs the Sheridan County Public Transportation System just over the state line in Nebraska. It is a well-run dial-a-ride service that stands in stark contrast to the transit poverty of the reservation. "If I had my dreams, I'd just run up and down the highway so I could pick up people who are walking."

When it comes to mobility, America has become a nation of haves and have-nots. The story has been told often: Rural communities have been left with deteriorating bus service; local train service disappeared years ago; local dial-a-ride van services are subject to the whims of county governments and a static-to-declining federal subsidy.

The plight of the have-nots of transportation is uniquely displayed on the Pine Ridge reservation, a vast expanse of rolling green hills and badlands where soldiers massacred more than 200 followers of Sitting Bull in 1890 at Wounded Knee.

Many residents do not own cars. There is no public transit system.

With a constant 85 percent unemployment rate, most Oglala Sioux residents find it difficult even to pay for a ride. Throughout the reservation, sometimes arrogant young men charge exorbitant prices for rides, in what has grown into an informal taxi service in which Sioux prey on Sioux. But if there is no nearby relative with a car, there may not be a choice.

Transportation can mean life or death in this sparsely populated country, especially when combined with the paucity of telephones. Two premature infants died this summer on the way to faraway hospitals because the needed facilities were unavailable at the Indian Health service hospital here. The two-hour wait to get a plane from Rapid City was too long for their tiny bodies.

A 5-year-old girl slowly died from a chronic heart ailment on a Saturday night in July as her mother, who has no telephone or car, desperately tried to flag down cars on the highway. Two passed, but neither stopped. And the nearest neighbor, a quarter-mile away, did not come home until 4:30 a.m.

"Essentially the child was dead on arrival," said Joe Lucero, an official at the Indian Health Service hospital. "That's one example of how transportation caused the death of a 5-year-old child. . . . If we'd got to her at 2 or 2:30 a.m., she'd be alive."

Such transportation tragedies are unusual. But just getting around is a daily struggle. It is especially severe among people who are disabled and use wheelchairs. Neither the tribe nor various federal agencies provide special services for the disabled, including transportation. It is not unusual for quadriplegics and paraplegics to spend weeks or months in bed simply because there is noting else to do.

John Yellow Hair has been a paraplegic for almost two decades, and he is familiar with the struggle for mobility. For transportation, he relies on a wheelchair with bicycle tires and his mother's 1981 Monte Carlo with an engine from another car that was wrecked when it hit a horse.

He cannot drive, so he is dependent on his mother and the family car for the occasional 23-mile trip from his home to a hospital here. Driving the family car is almost an act of faith.

"Our car?" huffed Rebecca Yellow Hair. "It's falling apart, the roads are so bad."

Yellow Hair is part of a self-help group called the Quad Squad, which was formed to help quadriplegics and paraplegics deal with their depression and the lack of services on the reservation, where there are no nursing homes, no independent living facilities, no physical therapy.

The Quad Squad potentially could recruit a lot of members. An unusually large number of quadriplegics and paraplegics live on the reservation, most disabled for reasons that grow out of wine bottles and beer cans.

The problem has defied solution. "Traditional approaches like Alcoholics Anonymous don't work here," Lucero said. With few telephones, long distances between homes and little transportation, it is hard for a recovering alcoholic to find support during bouts of temptation.

Lucero estimated that half the admissions to the hospital are alcohol-related, many from traffic accidents.

Yellow Hair said his accident, which happened in Arlington, Va., was not alcohol-related. But he has plenty of friends who awoke paralyzed in hospital beds after a Saturday night of drinking.

Marlin Weston, a quadriplegic who once rode on the rodeo circuit, remembers slipping into a drunken stupor in 1985 on the passenger side of a friend's car and awakening in a Denver hospital seven days later, unable to more. His friend, the driver, suffered a broken collarbone.

Weston's 18-year-old sister, Colleen was killed by a drunk driver on the reservation in 1987. And nine months later, his 7-year-old nephew, B.J., was killed by a drunk driver while riding his bicycle at Wounded Knee.

Weston is to graduate this year from Oglala Lakota College to become a drug and alcohol counselor. "I don't want other young kids to go through what my family went through," he said.

Unlike some reservations where political stability has allowed progress and even prosperity, the Oglala Sioux regularly change governments every two years. As a result, it is difficult to sustain community programs and easy to overlook the disabled. "The most vulnerable people are largely forgotten," said Jim West, a social worker with the South Dakota Adult Services and Aging agency.

In 1989, frustrated by the lack of action, West and Weston decided that if government would not help, the people would have to help themselves, and the Quad Squad was born.

The Quad Squad has evolved into an amateur lobbying group, with a primary emphasis on transportation and mobility. "We wanted to influence positive change without blaming," West said. "And we wanted to emphasize individual responsibility and the power of community."

Weston is president and Yellow Hair is vice president; between them and their friends, they have made some people uncomfortable in the tribal government and in trips to the state capital at Pierre.

Take the case of Yellow Hair's wheelchair ramp. The tribe promised him a ramp repeatedly over the years, a promise that was never fulfilled. In a way, his only advance during the 1970s and 1980s was to find inflated bicycle tires for his wheelchair, to avoid jarring his body while riding over rocky roads around his home

In 1990, he appeared at a disabled advocacy meeting in Pierre, telling his story, with his friend Lyle Bald Eagle translating for him, since his traffic accident left him unable to form full sentences.

The state Office of Vocational Rehabilitation immediately offered to build a ramp, not knowing that the tribe had succumbed to

Quad Squad lobbying and had already built one. In fact, a lot of ramps have begun appearing all over the reservation.

The community still needed a van to transport the disabled. On the reservation, there was no wheelchair-lift van, and apparently no hope of getting one from the tribal government.

That is where luck and religion came in. Traveling during a vacation in Colorado, West spotted a rarity: a used wheelchair van sitting on the side of the road with a for-sale sign.

West remembered that a Nebraska Methodist Church group had been particularly moved by what it saw in a tour of the reservation, and he contacted the Methodist district superintendent at Scottsbluff, Neb., who contacted the Methodist missionary group for northwest Nebraska, which came up with $3,000 for the van.

The tribe agreed to include the van in its insurance policy and buy the license. "That leaves us with gas money, like the rest of the folks," West said. By patching together money from federal programs, he said, he hopes to have the van on the road soon.

These are small victories, considering the need. For example, a system for non-emergency medical transportation does not exist, even though a number of residents with alcohol-induced kidney disease must come to Pine Ridge as often as three times a week for dialysis.

Paul Iron Cloud, Weston's cousin and an official with the housing authority, acknowledges that the Quad Squad has raised the consciousness of the tribe to the needs of the disabled. It was not so much that tribal leaders refused to help the disabled as it was that the disabled did not demand help before now, he said. "A lot of people in a handicapped position just didn't care anymore," he said.

The Quad Squad gave the disabled a way to fight for their mobility, and it has paid dividends. Among other things, Yellow Hair finds it a little easier to move around since the housing authority widened the doors between his bedroom and bathroom and began installing handicapped-accessible facilities.

DEPARTMENT OF SOCIAL SERVICES,
OFFICE OF THE SECRETARY,
Pierre, SD April 7, 1992.

Mr. JAMES FOWLER,
General Accounting Office, Washington, DC.

DEAR MR. FOWLER: This letter is offered for your consideration when preparing General Accounting Office's (GAO) report back to Congress regarding two Indian reservation provisions mandated in the Mickey Leland Domestic Hunger Relief Act. Reservation provisions of great concern to the South Dakota Department of Social Services and to many of our reservation recipients include a thirty day staggered issuance rule and the prohibition of monthly reporting retrospective budgeting on Indian reservations.

South Dakota has nine Indian Reservations. The Oglala Sioux Reservation was included in the initial GAO report on food assistance programs on Indian Reservations.

Staggered Issuance—Section 1728 of Public Law 101-624 requires staggered issuance throughout the entire month on Indian reservations. Please reference the attached letter to FNS from Secretary James W. Ellenbecker regarding proposed rules published May 20, 1991, which reflects reservation recipients fears about staggered issuance. Their concerns were gathered in a South Dakota survey conducted in June, 1991 in which forty-four percent of active food stamp reservation households responded (see attachment one). Survey results voice the same transportation difficulties described in your report. A thirty day staggered issuance will spread issuances over the entire month and make car-pooling impossible. Currently, common practice on South Dakota reservations is for those with vehicles to charge $20 to $50 for a ride to purchase groceries when the transporter must make a special trip. Staggered issuances will greatly increase these "special trips" and cause great financial hardship for approximately half of the reservation food stamp families without transportation.

Staggered issuance was also mandated due to general comments to the GAO that grocery prices are higher during regular issuance schedules. GAO did not prove whether these statements were in fact valid. FNS staff from the Bismarck, North Dakota, office did visit several grocery stores to determine if grocery prices fluctuate according to food stamp issuance dates. Three reservations stores and six near-reservations stores were visited (see attachment two). Four of the six small towns visited are located in three different counties which border the North Dakota reservation selected for the GAO report. Two visits were made to the stores; one on issuance day (September 25, 1990) and the second between two issuance periods (December 11, 1990). Grocery prices reflected a decline in milk prices and showed slight variations according to normal factors such as grocery volume purchased and transportation expenses. Prices did not vary due to food stamp issuance cycles.

The South Dakota FNS office, located in Pierre, surveyed seventeen various items at ten authorized retailers on the Pine Ridge Oglala Sioux Reservation. The visits were made on September 17–18, 1990 (between issuance cycles), and again on December 11–12, 1990 (regular issuance pay date). Both surveys included the same stores and products. It was found that there was no appreciable difference in the pricing of the selected items for the end of the issuance period to the beginning of the issuance period (see attachment three).

Therefore, thirty day staggered issuance is not a necessary nor a beneficial change for reservation recipients but conversely would be an impairment to those households.

Monthly Reporting Retrospective Budgetary—Mandatory exemption of additional households from monthly reporting requirements is a barrier to effective state administration. The option currently exists for states to exempt additional households should they so choose. Monthly reporting is client responsive as it allows for twelve monthly certifications periods which is responsive to transportation difficulties found on reservations. Without monthly reporting, South Dakota would assign much shorter certifications periods as reservation households frequently change income and the Native American extended family culture results in fluid household composition.

Other reasons to preserve the portion of monthly reporting on reservations includes the following:

(1) Joint AFDC-Food Stamp households will still monthly report for AFDC which will cause client and agency confusion. The same household would be prospectively budgeted for food stamps but retrospectively budgeted for AFDC. Mandatory exemption of reservation households from monthly reporting provides further inconsistencies between AFDC and Food Stamps.

(2) Monthly reporting provides for changes to be reported just once a month. Eliminating this monthly change report structure would cause household to report changes as they occur, which in our opinion, would increase a reservation household's reporting responsibilities as food stamp case circumstances frequently change throughout the month.

(3) Many reservation households do not have telephones nor access to them which will make it difficult to report necessary changes.

(4) The GAO report does not hint at elimination of monthly reporting on reservations but instead remarks that states who do not reinstate benefits after an incomplete or late monthly report is filed should be required to do so. We agree with that recommendation.

(5) Agency workloads will increase as reservation households will be assigned shorter certification periods because caseworkers must check on circumstances without the benefit of monthly reports.

(6) Prospecting fluctuating income levels and household composition will be difficult. However, Indian lease income and other stable income sources can be anticipated based on historical data. In the future, Congress should move to exempt all Indian lease income from food stamp consideration.

I appreciate the opportunity comment on these provisions.

Sincerely,

JULIE OSNES,
Program Administrator,
South Dakota Food Stamp Program.

ATTACHMENT 1

DEPARTMENT OF SOCIAL SERVICES,
OFFICE OF THE SECRETARY,
Pierre, SD, June 19, 1991.

MARILYN P. CARPENTER,
Chief, State Administration Branch, Program Accountability Division, Food Stamp Program, Food and Nutrition Service, USDA, Alexandria, VA.

DEAR MS. CARPENTER: South Dakota Department of Social Services submits the following comments on the proposed Benefit Delivery Rule published Monday, May 20, 1991:

(1) Staggered Issuance—Section 1728 of Public Law 101-624 requires staggered issuance throughout the entire month on Indian reservations. South Dakota wishes to make the following comments:

(A) Survey—In June, 1991, the Office of Food Stamps surveyed 2808 active reservation Food Stamp households seeking public comment on the staggered issuance rule. Over 44 percent of reservation households responded in time for their comments to be reflected in this letter. Of reservation households responding to the survey, 47.90% stated that staggered issuance would be a hardship for them. Specific comments included:

"Food sales occur during the normal issuance week at local grocery stores so some would miss sale items as sale is only one week of the month."

"My daughters, who also receive Food Stamps, pick up my stamps for me so we need the same issuance time."

"We really need our stamps when we get them now because we don't have much money."

"It surely would be a problem for me as my monthly income is $195 and with this, I support myself and two children * * * so I need my stamps early in the month."

"I would probably run out of food by the time my turn came up so I might as well drop Food Stamps and get commodities."

"The money from our check doesn't last so I depend on Food Stamps coming in on time."

"I might not have gas money to get groceries by the time my stamps would come."

"We pick up for our neighbors so we would have to make two trips."

"Food items would never go on sale if Food Stamps were issued throughout the month."

"My authorized representative would probably be on a different list (schedule)."

"Our rides have different last names."

"My rides wouldn't be available then."

"It is very easy to get a ride when we get them the same day."

(B) Intent of mandatory staggered issuance was apparently seen as a way to solve a "perceived", but unfounded, unfairness on Indian reservations. However, our documentation reveals that clients who could previously "car pool" or obtain rides to a grocery store would lose their transportation opportunity. Any benefit envisioned by this law change is outweighed the minute reservation families begin paying $20 to $50 for a ride to purchase groceries because their previous coordinated travel arrangement no longer works due to staggered issuance schedules.

(C) Forty Day Limit—Because South Dakota is a monthly reporting state, we are concerned that households who file a late monthly report form could conceivably wait 50 days between issuances.

(D) Definition of month—Section 271.2 defines "issuance month" for MRRB systems as well as for prospective budgeting systems. Issuance months can either be fiscal or calendar months. The definition of issuance month has been defined by the Secretary and could be subject to change to ensure effective and efficient administration of the Food Stamp Program. We wish to suggest that regulations not bind this law change to the current issuance month definition of a calendar or fiscal month but instead be written to allow maximum state flexibility. The law does not specify calendar or fiscal month or even refer to "issuance month" terminology. Therefore, leave the interpretation of "throughout the month" to the State Agency. South Dakota would then be allowed flexibility to work within computer system restraints as well as afford maximum consideration of reservation recipients' circumstances.

(E) Automated System Issues—South Dakota's certified, integrated automated eligibility and issuance system, ACCESS, would require massive changes to accommodate staggered issuances over an entire month should the final rule restrict us to the current issuance month definition. Preliminary cost estimates are anticipated at $500,000 and changes would impact AFDC and medical programs as well. A timetable for the ACCESS rewrite is estimated to involve a year's worth of staff time, and would prevent any other changes from being made during the rewrite for all programs served by ACCESS.

(2) Mail Issuance in Rural Areas—It appears South Dakota meets the mail issuance requirement for rural areas since our recipients have always been afforded the right to choose between mail issuance or over the counter pick-up via an ATP system. Recent reports indicate approximately 55% of South Dakota recipients select mail issuance while the other 45% prefer the ATP system. The proposed rule, as written, does not reference client option and appears to remove a benefit recipients in this state have always enjoyed. We encourage mail issuance and support the usefulness of such a rule in states where recipients were not previously afforded the right to mail issuance.

Households selecting over the counter pick-up have legitimate reasons for their issuance choice. Those reasons include convenience due to living near the issuance office (same town), concerns with unlocked mailboxes shared by multiple families, and only three day a week mail delivery service in some areas.

We advocate that South Dakota's client choice issuance system be deemed to meet the intent of this amendment.

(3) Combined Allotments—South Dakota implemented the combined allotment rule previously and will continue under the optional rule. In our experience, combined allotments for initial month applicant households provide maximum food purchasing power for qualifying families with minimal administrative burden.

We appreciate the opportunity to comment on this proposed rule package and are hopeful that the definition of "month" in the final rule package will be left up to State Agencies' expertise. In addition, be assured South Dakota will continue to pursue a legislative change to the staggered issuance reservation rule.

Sincerely,

JAMES W. ELLENBECKER,
Secretary, Chairperson,
APWA Food Stamp Subcommittee.

ATTACHMENT 2

U.S. DEPARTMENT OF AGRICULTURE,
FOOD AND NUTRITION SERVICE,
Bismarck, ND, March 4, 1992.

Subject: Food Cost Comparison.

To: Ms. Julie Osness, Director, South Dakota Food Stamp Program, Department of Social Services, Pierre, SD.

Here is subject matter requested to be sent to you by Rafael Zambrano, Food Stamp Program, Federal Operations Section, Mountain Plains Regional Office, Denver, Colorado.

SHARRON LASHER,
Officer-in-Charge,
Bismarck, North Dakota Field Office.

The information was gathered by visiting nine (9) grocery stores. Three (3) of the stores were located on the Reservation and six (6) were off the Reservation, but are in the immediate service area.

Four (4) of the six (6) small towns visited are located in three different counties which border the Reservation. All of the stores are small rural grocery businesses. However, five (5) of the stores are located in prime recreational (boating, fishing and hunting) areas. The stores identified as #3, #5, #6 on the chart are located on the Reservation.

This office made two (2) visits to the area stores. The first visit was on September 25, 1990, issuance day for food stamp households. The next visit was made on December 11, 1990, which is between two issuance periods (dates).

In addition to the normal factors (volume purchased, product transportation) related to pricing, there is a need to consider the recreational seasons and the fact that on December 3, 1990, milk products began declining in price.

In you have any questions, please do not hesitate to call.

BRUCE BELL,
Food Program Specialist,
Bismarck, North Dakota Field Office.

ATTACHMENT 3

To: Greg Evans,
Pierre, SD.

December 14, 1990.

Subject: Retailer Price Survey—South Dakota.

Prices of 17 various items were surveyed at 10 authorized retailers on the Pine Ridge Indian Reservation of South Dakota on 9/27-28/90 and again on 12/11-12/90. Both surveys included the same stores and products. The first survey was conducted just prior to Food Stamp issuance and the second survey was conducted during the first 3 days of the December Food Stamp issuance. It was found that there was no appreciable difference in the pricing of the selected items from the end of the issuance period to the beginning of the issuance period. Records of the specific stores and the pricing of the selected items are available in the Pierre Field Office.

SARA HOSTBJOR,
Pierre, SD, Field Office.

U.S. GENERAL ACCOUNTING OFFICE,
RESOURCES, COMMUNITY, AND ECONOMIC DEVELOPMENT DIVISION,
November 25, 1992.

Hon. PATRICK J. LEAHY, *Chairman*
Hon. RICHARD G. LUGAR, *Ranking Minority Member,*
Committee on Agriculture, Nutrition, and Forestry, U.S. Senate.

Hon. E. (KIKA) DE LA GARZA, *Chairman,*
Hon. E. THOMAS COLEMAN, *Ranking Minority Member,*
Committee on Agriculture, House of Representatives.

In response to Public Law 102-237 (sec. 908) and subsequent meetings with your offices, this correspondence provides information on two provisions of the Food, Agriculture, Conservation, and Trade Act of 1990 (P.L. 101-624), Title XVII, (the "Mickey Leland Memorial Domestic Hunger Relief Act"), regarding the administration of the Food Stamp Program on Indian reservations.

The first provision of the 1990 act (sec. 1723) exempts reservation households from the Food Stamp Program's monthly income reporting requirement. State agencies certify households to participate in the program continuously for up to a year, during which time they are eligible to receive food stamps. State agencies use monthly reports from households to update their eligibility status and to ensure that benefit issuances are correct. The exemption for reservation households was intended to overcome perceived problems encountered by these households in complying with the program's monthly income reporting requirement.

The second provision of the 1990 act (sec. 1728) requires state agencies to stagger the issuance of food stamp benefits throughout the month for recipients residing on Indian reservations. State agencies issue food stamps to eligible households, including those located on Indian reservations, on or about the same day each month. Some reservation households have claimed that food stores appear to raise their prices at the time when food stamps are issued. This provision was intended to discourage food stores from increasing their prices to coincide with food stamp issuances.

Under Public Law 102-237, the Congress temporarily suspended the implementation of the two provisions and required us to provide information on the difficulties that reservation households experience in obtaining and using food stamps. We agreed with your Committee to summarize the views of 13 state agencies that provided written comments to congressional offices, the U.S. Department of Agriculture (USDA), and our office, regarding the provisions' potentially disruptive impacts on program administration and on recipient reservation households. About half of the Indian reservations nationwide are located in these 13 states whose comments we agreed to summarize. In addition to the state agencies' comments, we also solicited comments from four nationally prominent Indian organizations regarding the anticipated impacts of the two provisions. We received responses from two of the four Indian organizations. The remaining two organizations did not provide comments on either of the two provisions.

MONTHLY REPORTING EXEMPTION FOR RESERVATION HOUSEHOLD IS OPPOSED

State agencies and Indian organizations that provided comments on this provision oppose the exemption of reservation households from the Food Stamp Program's monthly income reporting requirement. A majority of state agencies commented that the exemption would increase the potential for food stamp benefit errors. Benefit errors are used as a basis to determine what, if any, penalties should be imposed on state agencies for inaccurate benefit issuances. Eleven of the 13 state agencies commented on the monthly reporting exemption. Four of these 11 state agencies were potentially liable for penalties in fiscal year 1991. The state agencies also commented that monthly reporting standards should apply consistently throughout the program.

The two Indian organizations commented that the elimination of monthly reporting might cause some state agencies to require that reservation households be recertified for food stamp benefits more than once a year to account for frequent changes in their income and household circumstances. To obtain benefits, program participants would have to complete a new application and appear for an interview with a caseworker. In this regard, some state agencies did, in fact, comment that they would shorten the program's certification period if the monthly reporting requirement is eliminated.

Enclosure I contains more detailed information on the comments provided by the state agencies and Indian organizations on this provision.

STAGGERED ISSUANCE OF FOOD STAMPS IS OPPOSED

State agencies and Indian organizations that provided comments on this provision oppose staggering the issuance of food stamps to households on Indian reservations. State agencies commented that the provision would require them to modify their existing administrative procedures and systems to stagger the issuance of food stamps throughout the month. According to the agencies, these modifications would increase the time and cost required to administer the program. None of the state agencies provided estimates of the increased costs that they would incur to implement this provision. Since the federal government shares the costs of administering the program with the state agencies, any increase in allowable administrative costs would require additional federal funding. We estimated that if the staggered issuance provision had been in effect during fiscal year 1991 and had raised the federal administrative costs in those states with Indian reservations by 1 percent, 5 percent, or 10 percent, then approximately $5 million, $26 million, or $53 million, respectively, in additional federal funds would have been needed to administer the program.

The state agencies also noted that the provision could increase transportation difficulties for reservation households that rely on car pooling to obtain and use their food stamps. The Indian organization agreed that staggering the issuance of food stamps could create additional transportation problems for reservation households, unless recipients were permitted to choose their food stamp issuance date of facilitate carpooling.

Also, the state agencies and Indian organizations differ on whether retailers are increasing their food prices when food stamps are issued—the problem that the provision was intended to address. About half of the state agencies commenting on the staggered issuance provision said that there are no indications that food retailers on or near reservations are raising their food prices to coincide with the issuance of food stamps. However, according to one Indian organization, some retailers may be increasing their prices by removing sale signs when food stamps are issued.

We issued two reports—one in 1989 and one in 1990[1]—that contained information on various obstacles affecting food stamp recipient households on four Indian reservations. Our June 1990 report included a recommendation to the Secretary of Agriculture to explore with state officials in North Dakota and South Dakota whether state agency food stamp issuance practices resulted in increased food prices and to take corrective action, as appropriate. In response, USDA's Food and Nutrition Service (FNS) conducted surveys of grocery stores authorized to accept food stamps in two reservation areas in both states. In January 1991 FNS concluded that there was no appreciable difference in the pricing of selected food items in either of the two reservation areas surveyed.

Enclosure II contains more detailed information on the comments provided by the state agencies and Indian organizations on this provision.

We conducted our work from May to November 1992 in accordance with generally accepted government auditing standards. As noted previously, we reviewed comments and information provided to congressional offices, USDA, and our office by 13 agencies that administer the Food Stamp Program in their respective states. These states contain about 158, or about 47 percent, of the approximately 337 Indian reservations located in a total of 29 states. Eleven state agencies commented on the monthly reporting exemption, and all 13 state agencies commented on the provision to stagger the issuance of food stamps.

We also requested comments on both provisions from four nationally prominent Indian organizations concerning the impact of the provisions on reservation households. We selected these organizations on the basis of our previous work on Indian issues and the recommendations of representatives from several Indian organizations. We received comments from two of the four Indian organizations. The comments provided by the state agencies and Indian organizations contained information on their overall concerns regarding the implementation of the two provisions and offered some examples of specific difficulties that would be encountered by the agencies and recipient households. The comments from the state agencies and Indian organizations contained limited quantitative support for their stated positions. We also gathered information on the Food Stamp Program and met with FNS officials to obtain their views of these issues.

Enclosure III lists the 13 state agencies that provided comments and the four Indian organizations from which we requested comments on the two provisions.

If you have any questions, please contact me at (202) 275-5138.

Sincerely yours,

JOHN W. HARMAN,
Director, Food and Agriculture Issues.

ENCLOSURE I

COMMENTS ON MONTHLY REPORTING EXEMPTION PROVISION

This enclosure contains information on the Food Stamp Program's monthly reporting requirement and a summary of the comments provided by 11 state agencies and 2 Indian organizations on the provision to exempt reservation households from the requirement.

MONTHLY REPORTING REQUIREMENT

To obtain food stamps, individuals must complete and file an application with a state agency indicating that they are seeking Food Stamp Program benefits. A face-to-face certification interview must also be completed, during which a caseworker obtains detailed information on the applicant household's income, assets, and expenses. If eligible, the household is certified to receive food stamps for a continuous period of up to 12 months.

During the certification period, households are required to report changes in income and to verify information that may affect the amount of their benefits. Most state agencies require monthly reporting by all participating households or selected groups of participating households. Households are permitted to submit the monthly reports by mail or deliver the reports in person to local food stamp offices. These monthly reporting procedures were established to reflect changes in the circumstances of recipient households in a timely manner and to ensure the adequacy of benefits. As a quality control measure, state agencies review samples of their active food stamp cases and determine whether the amounts of past benefits issued were correct. The federal government levies financial penalties against state agencies for excessive erroneous benefit issuances. The amount of the penalty varies with the extent to which a state agency's issuance errors exceed a predetermined threshold. Enclosure IV shows the error rates for the 11 state agencies that commented on the monthly reporting exemption.

Certain households have been legislatively exempted from the monthly reporting requirement, including (1) migrant farm workers, (2) the homeless, and (3) the elderly or disabled with no earned income. Section 1723 of Public Law 101-624 adds Indian reservation households to the list of households exempted from the monthly reporting requirement. This provision is intended to eliminate reservation households' difficulties in completing and submitting monthly reports. However, in response to concerns expressed by state agencies regarding the potentially disruptive impact of the exemption of their administration of the program as well as on reservation households, the Congress included a provision in Public Law 102-237 that suspended implementation of the exemption until April 1, 1993.

STATE AGENCY COMMENTS

The 11 state agencies that commented on the monthly reporting exemption cited the following three key issues.

Monthly reporting exemption will increase potential for benefit errors

Seven state agencies commented that the monthly reporting exemption for reservation households will increase the potential for food stamp benefit errors. For example, the Montana Department of Social and Rehabilitation Services commented that because extended families are common among Indian households, frequent changes occur in household composition and income. The Montana agency stated that without monthly reporting, recipients would have to report changes as they occur rather than once a month. According to the agency, this process would likely increase the probability of over- and underissuances of food stamp benefits. Several other state agencies also expressed concerns that implementing the monthly reporting exemption would lead to increases in benefit errors. For example, the South Dakota Department of Social Services stated that errors in benefits would increase for most reservation families if the families were exempted from monthly reporting.

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[1] *Food Assistance Programs: Nutritional Adequacy of Primary Food Programs on Four Indian Reservations*, (GAO/RCED-89-177, Sept. 29, 1989) and *Food Assistance Programs: Recipient and Expert Views on Food Assistance at Four Indian Reservations*, (GAO/RCED-90-152, June 18, 1990).

GAO Comment: U.S. Department of Agriculture's Food and Nutrition Service officials told us that state agencies are concerned about the possible increase in error rates resulting from the elimination of the monthly reporting requirement. They explained that higher error rates may result if recipient households do not report changes in income and other household circumstances with the same reliability as they would under monthly reporting.

As enclosure IV shows, three of the seven state agencies that cited the potential for increased error rates exceeded the national average error rate for fiscal year 1991, and two of these state agencies may be liable for penalties.

Monthly reporting requirement should be consistent throughout the Food Stamp Program

Seven state agencies commented that monthly reporting standards should be applied consistently throughout the entire Food Stamp Program. For example, the Wyoming State Department of Family Services stated that monthly reporting requirements are currently the same for all food stamp recipients throughout the state. However, if these requirements are changed for reservation households, the Wyoming agency recommends that the same changes be made for all Food Stamp Program households. According to the state agency, exceptions to monthly reporting requirements would create confusion for recipients and caseworkers. For example, the agency noted that in the counties where an Indian reservation is located, about 85 percent of all recipients of Aid to Families with Dependent Children (AFDC) also receive food stamps. Because AFDC requires monthly reporting by recipient households, the majority of AFDC households that also receive food stamps would still be required to report monthly, even though the households would be exempt from monthly reporting under the Food Stamp Program, according to the Wyoming agency.

Certification periods may be shortened

Four state agencies commented that monthly reporting is advantageous for food stamp recipients because it allows yearlong program certification periods. In addition, three of these agencies stated that if reservation households are exempt from the monthly reporting requirement, shorter certification periods would be needed to account for frequent changes in household income and composition. For example, the South Dakota agency commented that if monthly reporting is eliminated, it intends to shorten the certification period to reflect the frequent changes in reservation household circumstances. This change would require recipients to have face-to-face visits with their local caseworker more than once a year to be recertified for the program.

Two other state agencies also commented that the exemption from monthly reporting would require more frequent recertification of reservation households. For example, the Montana agency stated that these yearlong certification periods, in conjunction with monthly reports, were more responsive to the "severe transportation difficulties" commonly experienced by reservation households. The Washington Department of Social and Health Services provided similar comments, noting that the lack of monthly reports would necessitate shorter certification periods to keep track of recipients' circumstances and would therefore require more frequent interviews with recipients. The shorter certification periods would also increase work loads for Washington's community services offices, according to the agency.

INDIAN ORGANIZATION COMMENTS

The National Congress of American Indians (NCAI) and Americans for Indian Opportunity (AIO) provided comments on the monthly reporting exemption for reservation households. Both organizations commented that eliminating monthly reporting might cause some state agencies to require reservation households to be recertified for food stamps more often than once a year to account for frequent changes in their income and family circumstances. Requiring more frequent recertification would increase the burden on households applying for and receiving food stamps, according to these organizations.

NCAI commented that the composition of Indian households may change frequently because of extended family relationships and that many households have unstable monthly incomes. These changes must be reported to local food stamp authorities. However, reservation households often have transportation difficulties or limited access to telephones. The organization commented that without monthly reporting recipients would be required to report changes in income and household composition as they occurred—rather than only one time each month.

ENCLOSURE II

COMMENTS ON THE STAGGERED ISSUANCE PROVISION

This enclosure contains information on the Food Stamp Program's benefit issuance procedures and a summary of the comments provided by 13 state agencies and 2 Indian organizations on the provision to stagger the issuance of food stamps throughout the month on Indian reservations.

FOOD STAMP BENEFIT ISSUANCE PROCEDURES

Each state agency is responsible for the timely and accurate issuance of Food Stamp Program benefits to certified eligible households. Certified households are placed on an issuance schedule so that they receive their benefits on or about the same date each month. Depending on the state agency involved, households receive their benefits through a number of issuance systems, including direct mail, authorization to participate cards, electronic benefit transfer cards, and manual delivery of benefits at local food stamp offices.

Currently, the only program requirement concerning staggered issuance applies to direct mailings of food stamps. State agencies that issue benefits by direct mail must stagger the mailings of food stamp benefits over at least 10 days of the month. In addition, state agencies have the option to stagger the issuance of benefits to households throughout the entire month.

Section 1728 of Public Law 101-624 requires state agencies to stagger the issuance of benefits throughout the month to all eligible households on Indian reservations, regardless of the issuance system used to deliver benefits. This provision is intended to discourage retail stores from increasing their food prices on the day that food stamps are issued, thereby improving the delivery of benefits to reservation households. However, in response to concerns expressed by state agencies regarding the potentially disruptive impact of this section, the Congress included a provision in Public Law 102-237 that temporarily suspended its implementation until April 1, 1993.

STATE AGENCY COMMENTS

The 13 state agencies that commented on the staggered issuance provision cited the following three key issues.

Staggered Issuance Will Increase State Agency Administrative Burdens

Comments from 10 state agencies indicated that administrative problems could occur if the staggered issuance provision was implemented. For example, the Washington Department of Social and Health Services commented that reservation boundaries are not well known to either recipients or eligibility workers, making identification of affected households difficult. The Washington agency also noted that Indian recipients represent only 4.3 percent of Washington's food stamp caseload and that many Indians do not live on reservations. As a result, the agency is concerned that it will be required to establish a separate and expensive issuance system to implement the provision for a very small portion of the state agency's caseload.

The Idaho Department of Health and Welfare also commented that, although its data system collects ethnic information from food stamp recipients, the agency has no means to identify Indian recipients who live on reservations. According to the Idaho agency, not all Indian recipients live on reservations and not all residents of reservations are Indians. In addition, the agency noted that it cannot use U.S. mail zip codes to identify Indian reservation residents, since reservations are located in rural areas where zip codes include much larger geographical areas than reservation boundaries. The Idaho agency added that some reservations are intersected by multiple zip codes, each encompassing nonreservation areas.

Several state agencies cited other administrative problems that might accompany staggered issuance on reservations. For example, the Iowa Department of Human Services commented that it uses the direct mail issuance system to deliver food stamp benefits throughout the state. Using this system, the agency staggers the issuance of food stamps through the first 10 business days of each calendar month. However, if required to stagger food stamp issuance throughout the month on Indian reservations, the agency would have to make "significant" changes to its existing issuance system. In addition, the agency noted that Iowa has only 47 food stamp reservation households, which represent about 0.06 percent of the total number of food stamp households in the state. According to the Iowa agency, the amount of time and money needed to make the necessary changes would be "astronomical considering the percentage of the population affected."

GAO Comment: Seven state agencies commented that costly modifications to their food stamp issuance systems would be needed to implement this provision. However, no agency estimated the possible increase in costs. The costs of administering food stamps is shared between the federal government and the state agencies. According to the U.S. Department of Agriculture's Food and Nutrition Service's (FNS) Food Stamp Program State Activity Report for fiscal year 1991, the federal share of administering the Food Stamp Program in the 29 states that contain Indian reservations was about $525 million. We estimated that if the staggered issuance provision had been in effect during fiscal year 1991 and had raised the federal share of allowable administrative costs by 1 percent, 5 percent, or 10 percent, then approximately $5 million, $26 million, or $53 million, respectively, in additional federal funds would have been needed to administer the program. Enclosure V lists the federal costs of administering food stamps in those states containing Indian reservations.

Staggered Issuance Could Increase Participation Barriers for Reservation Households

According to 10 state agencies, the staggered issuance provision could make it more difficult for reservation households to participate in the Food Stamp Program. In particular, increased transportation difficulties were cited by nine state agencies as a potential participation barrier. For example, the Montana State Department of Social and Rehabilitation Services commented that carpooling is a common means of transportation, since many reservation households do not own a vehicle and access to public transportation is limited on reservations. When food stamps are issued once a month, reservation households can share rides to purchase groceries at distant off-reservation retailers. However, if the issuance of food stamps is staggered throughout the month, carpooling would not be feasible for food stamp recipients who share rides over long distances to shop at off-reservation food stores, according to the Montana agency.

The South Dakota Department of Social Services agreed that the staggered issuance provision would make carpooling impractical for many reservation households. The South Dakota agency added that the provision would create great financial hardship for many reservation households, especially those who cannot carpool, since vehicle owners often charge reservation residents $20 to $50 for transportation to shopping areas. The agency also provided the results of a survey that the agency conducted in June 1991 which included 2,808 reservation households receiving food stamps in South Dakota. This survey sought public comment concerning the provision to stagger the issuance of food stamps on Indian reservations. According to the South Dakota agency, over 44 percent of the households responded to the survey, and, of these households, about 48 percent stated that the staggered issuance provision "would be a hardship for them."

State Agencies Report Few Price Increases Associated With Issuance of Food Stamps

Eight state agencies commented that there were no indications that food retailers on or near Indian reservations were raising their food prices to coincide with the issuance of food stamps. For example, the South Dakota agency stated that food price surveys conducted by FNS in North Dakota and South Dakota showed that food prices did not vary with food stamp issuance cycles in reservation areas. For this reason, state agencies view the provision to stagger the issuance of food stamps on reservations as unnecessary, administratively burdensome, and, in most cases, detrimental to reservation households.

Although state agencies did not regard increases in food prices associated with the issuance of food stamps as a widespread problem, they did propose a number of possible ways to address potential price-increasing by retailers. For example, Nebraska's Department of Social Services suggested that rather than burdening recipients and state agencies with mandated staggered issuance, state agencies should impose penalties on retailers that increased prices. Arizona and South Dakota state agencies recommended that retailers be monitored for potential food price increases associated with food stamp issuance. In particular, the South Dakota agency recommended that appropriate penalties should be applied in cases of unfair grocery pricing during food stamp issuance cycles on reservations.

GAO Comment: FNS officials told us that, although they are concerned about equal treatment for food stamp coupon customers, food stamp regulations do not provide FNS with the authority to specify the prices at which retailers may sell food. FNS can impose a penalty on retailers who raise their food prices if the increase is directed at food stamp customers.

INDIAN ORGANIZATION COMMENTS

The National Congress of American Indians (NCAI) and Americans for Indian Opportunity (AIO) provided comments on the staggered issuance provision. Both Indian organizations cited the following two key issues in their comments.

Staggered Issuance Could Increase Transportation Difficulties for Reservation Households

According to both Indian organizations, staggering the issuance of food stamps throughout the month would make it more difficult for recipients who must rely on limited resources to carpool to off-reservation grocery stores. For example, NCAI commented that it was concerned about the additional transportation problems that the provision would cause for Indian recipients residing on remote areas of reservations and suggested that recipients should be allowed to choose the time of the month when food stamps are issued if this provision is implemented.

AIO agreed that reservation recipients should be allowed to chose their date of benefit issuance, so that families can continue to carpool under the staggered issuance provision.

Indian Organizations Disagree With State Agencies on Existence of Price Increasing in Reservation Areas

Both Indian organizations agreed with the state agencies that appropriate penalties should be applied in cases of unfair grocery pricing during food stamp issuance cycles on reservations. However, NCAI does not agree with state agencies that maintain that no price-increasing problems exist. The organization pointed out that "price-gouging may be subtle, such as the disappearance of sale signs when food stamps are issued."

NCAI suggested that additional studies should be conducted if complaints of "price-gouging" were received in other states.

GAO Comment: In our 1990 report, we recommended that FNS and state agency officials in North Dakota and South Dakota explore whether food stamp issuance practices increased food prices on or near Indian reservations. In response, FNS surveyed grocery stores authorized to accept food stamps in two reservation areas in North Dakota and South Dakota. In January 1991 FNS concluded that there was no appreciable difference in the pricing of selected food items on the two reservations surveyed.

Both NCAI and AIO suggested that the current price-increasing penalties should be changed. The current penalty is the withdrawal of a retailer's authority to accept food stamps—a penalty that harms the recipient more than it harms the retailer, according to both Indian organizations. They noted that this penalty reduces the number of locations where reservation households can shop and requires households to travel greater distances to other stores authorized to accept food stamps. The organizations recommended that state agencies impose direct penalties, such as civil fines, upon retailers rather than revoke their food stamp authorization.

ENCLOSURE III

STATE AGENCIES AND INDIAN ORGANIZATIONS

STATE AGENCIES

Arizona Department of Economic Security.

California Department of Social Services.

Florida Department of Health and Rehabilitative Services.

Idaho Department of Health and Welfare.

Iowa Department of Human Services.

Kansas Department of Social and Rehabilitation Services.

Montana Department of Social and Rehabilitation Services.

Nebraska Department of Social Services.

South Dakota Department of Social Services.

Texas Department of Human Services.

Utah Department of Human Services.

Washington Department of Social and Health Services.

Wyoming Department of Family Services.

INDIAN ORGANIZATIONS

Americans for Indian Opportunity.

Association on American Indian Affairs (Did not respond).

National Congress of American Indians.

Native American Rights Fund (Did not respond).

FISCAL YEAR 1991 FOOD STAMP PROGRAM QUALITY CONTROL ERROR RATES

[In percent]

State agency	Under-issuance error rate	Over-issuance error rate	Combined error rate
Arizona Department of Economic Security*	3.0	8.23	11.23
Florida Department of Health and Rehabilitative Services	2.88	8.01	10.89
Idaho Department of Health and Welfare*	2.01	7.5	9.5
Iowa Department of Human Services*	1.73	5.77	8.5
Kansas Department of Social and Rehabilitation Services	1.24	6.15	7.4
Montana Department of Social and Rehabilitation Services*	1.54	5.31	6.85
South Dakota Department of Social Services*	0.48	3.52	4.0
Texas Department of Human Services	1.93	8.53	10.46
Utah Department of Human Services*	0.96	6.29	7.25
Washington Department of Social and Health Services*	1.71	9.51	11.22
Wyoming Department of Family Services	2.53	6.59	9.13

In June 1992, FNS published a summary of food stamp quality control error rates for fiscal year 1991. According to this summary, the national combined payment error rate for fiscal year 1991 is 9.31 percent, and the tolerance level above which state agencies are potentially liable for financial penalties is 10.31 percent. Listed above are the quality control error rates for the 11 state agencies that commented on the monthly reporting exemption. Four of the 11 state agencies exceeded the tolerance level of 10.31 percent and were potentially liable for penalties.

Seven state agencies, designated by an asterisk, specifically commented that error rates could increase if the monthly reporting exemption is implemented. Three of these seven state agencies were potentially liable for penalties.

FISCAL YEAR 1991 FEDERAL FOOD STAMP PROGRAM ADMINISTRATIVE COSTS FOR STATES CONTAINING INDIAN RESERVATIONS

State	Certification	Issuance	Combined
Arizona	$7,852,254	$419,590	$8,271,844
California	97,770,658	5,357,168	103,127,826
Colorado	3,863,062	2,169,025	6,032,087
Connecticut	5,935,780	410,529	6,346,309
Florida	29,618,972	4,047,310	33,666,282
Idaho	2,546,709	241,684	2,788,393
Iowa	5,701,104	627,665	6,328,769
Kansas	2,822,777	234,636	3,057,413
Louisiana	20,221,346	3,273,564	23,494,910
Massachusetts	8,798,472	1,385,442	10,183,914
Maine	3,371,495	289,044	3,660,539
Michigan	14,705,326	2,492,927	17,198,253
Minnesota	11,078,956	1,421,881	12,500,837
Mississippi	9,320,344	1,549,428	10,869,772
Montana	2,586,125	261,435	2,847,560
Nebraska	2,595,203	720,452	3,315,655
Nevada	2,931,075	112,563	3,043,638
New Mexico	6,718,672	606,133	7,324,805
New York	70,809,264	10,849,483	81,658,747
North Carolina	19,869,908	1,822,476	21,692,384
North Dakota	1,579,676	293,749	1,873,425
Oregon	3,807,273	1,019,462	4,826,735
South Dakota	1,678,256	404,937	2,083,193
Texas	75,545,803	9,390,965	84,936,768
Utah	5,638,466	458,270	6,096,736
Washington	18,901,844	1,826,723	20,728,567
Wisconsin	6,904,023	2,086,452	8,990,475
Wyoming	838,383	22,663	861,046
Total	468,641,408	56,833,175	525,474,583

By Mr. ROTH:

S. 285. A bill to amend the Internal Revenue Code of 1986 to require reporting of group health plan information on W-2 forms, and for other purposes; to the Committee on Finance.

MEDICARE SECONDARY PAYER REFORM ACT OF 1993

• Mr. ROTH. Mr. President, health care reform is one of the most urgent items on the new administration's domestic agenda, and one of the reforms most urgently demanded by American health care consumers. It is imperative that steps be taken to rein in spiraling health care costs, and ensure top-quality medical care at economical and affordable prices for all Americans.

As we consider how to address this situation, it is also imperative, Mr. President, that we look at the system which we now have, and attempt to preserve the good aspects of this and eliminate the bad. This approach will save needless retracing of steps and ensure that we proceed systematically and prudently.

Today, with the legislation I am introducing, I would like to address one small, yet significant component of this existing system: the Medicare secondary payer, or MSP program—one part of the Medicare system. This program involves primarily the working elderly—people who are over 65 but who are still employed and have private health insurance through their employer. MSP is designed, as its name implies, to ensure that if an individual has private insurance, this private insurance will pay the primary cost of medical bills, while Medicare will contribute only as a secondary payer.

MSP provisions have been in force for over a decade. Unfortunately, however, implementation of the program has been, at best, erratic. Various government sources estimate that losses to the Federal Government as a result of improper payments which do not conform to the MSP program range from $400 million to $1 billion per year. Several years ago, the Permanent Subcommittee on Investigation, on which I serve as ranking minority member, held hearings on the MSP Program. Our investigation revealed that a major reason for the losses in the MSP Program is inefficiency and inaccuracy in collection and dissemination of data on private insurance coverage. Payments are made by Medicare as primary payer in many circumstances where the individual in question is covered under an employer-sponsored group health plan which should be bearing the primary costs.

Today, I am introducing legislation aimed at eliminating improper payments under the MSP Program and thereby stemming the flow of wasted Federal tax dollars. This legislation has two components. The first is an amendment to the Federal W-2 tax form which would add one additional line asking employers to certify: First, whether or not they offer group health insurance to their employees; and second, what type of coverage—self or family—if any, the employee has elected. The second component, and the key to the success of this MSP reform legislation, is the establishment of a data bank for the collection and processing of this health insurance information. Without such a systematic process, the erroneous payments, waste, and abuse occurring under the MSP Program will continue. Medicare administrators as well as other appropriate State agencies would have access to the information as a check to ensure that the proper private insurance, if applicable, has paid primary to Medicare.

Costs of our medical care and health insurance systems are spiraling. Medical care providers such as hospitals, Medicare contractors which administer Medicare benefits, private insurance companies, the Health Care Financing Administration, and even the Congress—all bear some of the responsibility for this situation, and all must work together to rectify it. The United States has the most advanced medical research programs and health technology in the world. Yet, by gradually pricing ourselves out of our own market, we run the danger of losing the competitive edge which has enabled our doctors and nurses, our hospitals and clinics to be at the forefront in offering lifesaving cures and techniques.

I urge the support of my colleagues for this legislation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Secondary Payer Reform Act of 1993".

SEC. 2. GROUP HEALTH PLAN INFORMATION REPORTING.

(a) IN GENERAL.—Subsection (a) of section 6051 of the Internal Revenue Code of 1986 (relating to receipts for employees) is amended—

(1) by striking "and" at the end of paragraph (8),

(2) by striking the period at the end of paragraph (9) and inserting ", and", and

(3) by inserting after paragraph (9) the following new paragraph:

"(10) whether a group health plan (as defined in section 6103(l)(12)(E)(ii) is available to the employee and the plan coverage (single or family) elected by such employee (if any)."

(b) DISCLOSURE OF INFORMATION.—Paragraph (12) of section 6103(l) of the Internal Revenue Code of 1986 (relating to disclosure of returns and return information for purposes other than tax administration) is amended—

(1) by striking "the Administrator of the Health Care Financing Administration, disclose to the Administrator" in subparagraph (B) and inserting "the applicable official, disclose to such official",

(2) by adding at the end of subparagraph (B) the following new clause:

"(iv) With respect to each such medicare beneficiary and spouse (if any), the group health plan information required under section 6051(a)(10).",

(3) by striking the matter preceding clause (i) of subparagraph (C) and inserting the following:

"(C) DISCLOSURE BY OFFICIAL.—With respect to the information disclosed under subparagraph (B), the applicable official may disclose—",

(4) by striking "as having received wages from the employer" in subparagraph (C)(i),

(5) by striking "such Administrator" each place it appears in subparagraph (C)(iii) and inserting "such official",

(6) by striking clause (iii) of subparagraph (E), and inserting the following new clause:

"(iii) APPLICABLE OFFICIAL.—The term 'applicable official' means—

"(I) the Administrator of the Health Care Financing Administration,

"(II) the Secretary of Defense,

"(III) the Secretary of Veterans Affairs,

"(IV) the Director of the Office of Personnel Management.",

(7) by striking "qualified employer" each place it appears and inserting "employer",

(8) by striking subparagraph (F), and

(9) by inserting "AND GROUP HEALTH PLAN" in the heading thereof.

(c) DATA BANK.—Paragraph (5) of section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) is amended by adding at the end thereof the following new subparagraph:

"(F) MEDICARE SECONDARY PAYER DATA BANK.—The Secretary shall collect and store in a data bank established for purposes of this subsection the information provided to the Secretary by entities as described in this paragraph along with such further information on medicare secondary payer situations as the Secretary deems appropriate not later than July 1, 1994."

(d) CONFORMING AMENDMENTS.—Paragraph (5) of section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) is amended—

(1) by striking "a qualified employer (as defined in section 6103(l)(12)(D)(iii) of such Code)" in subparagraph (C)(i) and inserting "an employer", and

(2) by striking clause (iii) of subparagraph (C).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.•

By Mr. PELL (for himself and Mrs. KASSEBAUM):

S. 286. A bill to reauthorize funding for the Office of Educational Research and Improvement, to provide for miscellaneous education improvement programs, and for other purposes; to the Committee on Labor and Human Resources.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT REAUTHORIZATION ACT

Mr. PELL. Mr. President, I am pleased to be joined by Senator KASSEBAUM in reintroducing legislation to reauthorize the Office of Educational Research and Improvement. The bill, fashioned in a spirit of bipartisanship last Congress, was reported unanimously out of both the Subcommittee on Education and the full Committee on Labor and Human Resources.

We submit the legislation again this year as a proposal we are hopeful will be given careful consideration by the new administration. At this point, we do not plan separate action on this bill. Our intention is to give the Clinton administration the opportunity to formulate its own set of recommendations in this area, and to submit them to Congress before we proceed with reauthorization. We believe, however, that this bill contains several very important provisions that might be incorporated in an administration bill, and it is in that spirit that it is being introduced.

The Office of Educational Research and Improvement should be a beacon of educational excellence. It should assist educators, schools, communities, and States in charting a course of comprehensive educational improvement. Our legislation strengthens the quality and focus of educational research and development, and improves the linkage between basic research and actual classroom practice.

We propose a new Board of Governors not only to review the research agenda but the operation of the Office as well. We create five new directorates to focus the research effort toward the most critical areas of education: Curriculum, instruction, and assessment; early childhood education and family training; historically underserved populations; school finance and governance; and postsecondary and adult education.

For the first time, dissemination and access become main missions of the Office. Amid the reports of decline, we too often lose sight of programs and efforts of educational excellence which need to be nurtured so that they might be utilized on a more widespread scale.

To strengthen the flow of information to educators, we create a new Office of Dissemination. The national diffusion network will identify successful approaches and make them available to schools throughout the Nation. The Regional Educational Laboratories will facilitate the adaptation of that information to meet an individual school's needs. Senator KASSEBAUM, in particular, has worked very hard indeed on a teacher training program to empower educators with the ability to reach and use the latest educational research and to bring its benefits to our Nation's classrooms, particularly those most in need of help.

Mr. President, as my colleagues are aware, I have had longstanding interest in assessment. We must know how our young people are doing so we might better focus our resources to improve American education. I encourage the administration to examine carefully the standards and assessment language in this legislation. Standards and assessment are critical to the success of education reform.

Our legislation would also create a new international educational exchange program with a special focus on economic and civics and government. Education officials from Eastern Europe have made clear to us that the need and desire for this type of program is overwhelming. It is a wise investment both nationally and internationally.

Following the lead of Senator BINGAMAN, our bill breaks ground in the Department of Education's policy toward technology. Technology is a tool of awesome potential; it is time we began to utilize it creatively and productively. The Office of Educational Technology will promote technology as a means of improving academic access and achievement. I have long advocated a program of technology transfer among Federal agencies, and am very encouraged that this new Office will facilitate bringing together technological advances and programs from other Federal departments so that they may be applied to our schools.

This reauthorization bill also incorporates several proposals by Members outside of the committee, including a Parents as Teachers Program advocated by Senator BOND and a math/science equipment initiative proposed by Senator HATFIELD.

Mr. President, we have worked on this comprehensive legislation for over 2 years. I am pleased with the bill. It is a good, solid bill which will strengthen the Federal effort in educational research and development.

We have attempted to redesign the Office to augment its support of high-quality research, and to strengthen the pipeline of information and technical assistance which will bring research to bear in each and every school. This is an ambitious bill, but if it is embraced and seriously implemented, it could have a profound, and most beneficial impact on education for many years to come.

Mr. President, I ask that the full text of the legislation be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 286

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION.

Paragraph (1) of subsection (e) of section 405 of the General Education Provisions Act (20 U.S.C. 1221e(e)(1)) is amended by striking "1987" and inserting "1992".

SECTION 1. SHORT TITLE; TABLE OF TITLES.

(a) SHORT TITLE.—This Act may be cited as the "Office of Educational Research and Improvement Reauthorization Act".

(b) TABLE OF TITLES.—The table of titles is as follows:

TITLE I—OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

TITLE II—IMPROVED STATISTICS REGARDING AMERICAN SCHOOLS

TITLE III—EDUCATIONAL IMPROVEMENT PROGRAMS

TITLE IV—DEFINITIONS

TITLE I—OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 101. OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

(a) IN GENERAL.—Section 405 of the General Education Provisions Act (20 U.S.C. 1221e et seq.) is amended to read as follows:

"SEC. 405. OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

"(a) PURPOSES; COMPOSITION; DEFINITIONS.—

"(1) PURPOSE.—The purposes of the Office of Educational Research and Improvement are to—

"(A) assess, promote, and improve the quality and equity of education in the United States, so that all Americans have an equal opportunity to receive an education of the highest quality;

"(B) provide new directions for the federally supported developmental and research activities with a view toward reform in the Nation's school systems, achieving national education goals and effecting national policy for education;

"(C) provide leadership in the scientific inquiry into the educational process;

"(D) provide leadership in advancing the practice of education as an art, science, and profession;

"(E) collect, analyze, and disseminate statistics and other data related to education in the United States and other nations; and

"(F) make available to the Congress and the people of the United States the results of research and development activities in the field of education in order to bring research directly to the classroom to improve educational practice.

"(2) COMPOSITION.—

"(A) IN GENERAL.—The Office shall be administered by the Assistant Secretary and shall include—

"(i) the Distinguished Board of Governors for Educational Research described in subparagraph (B);

"(ii) the Directorates for Educational Research described in subsections (c) through (h);

"(iii) the regional educational laboratories described in subsection (k);

"(iv) the Office of Educational Dissemination described in subsection (m);

"(v) the National Education Library described in subsection (o);

"(vi) the Education Resources Information Clearinghouses described in subsection (p);

"(vii) the National Center for Education Statistics, including the National Assessment of Educational Progress; and

"(viii) such other entities as the Assistant Secretary deems appropriate to carry out the purposes of the Office.

"(B) DISTINGUISHED BOARD OF GOVERNORS.—

"(i) DISTINGUISHED BOARD OF GOVERNORS.—The Distinguished Board of Governors shall consist of 9 members to be appointed by the President, by and with the advice and consent of the Senate, and the Assistant Secretary ex officio.

"(ii) QUALIFICATIONS.—(I) The persons nominated for appointment as members of the Board shall be nominated solely on the basis of—

"(aa) eminence in fields of basic or applied research, or dissemination of such research; or

"(bb) established records of distinguished service in educational research and the education professions.

"(II) In making nominations under this clause, the President is requested to give due consideration to equitable representation of educational researchers who—

"(aa) are women;

"(bb) represent minority groups; or

"(cc) are classroom teachers with research experience.

"(III) The President is requested in the making of nominations of persons for appointment as members, to give due consideration to any recommendations for nomination which may be submitted to the President by the National Academy of Education and the National Academy of Sciences.

"(IV) A nominee for membership on the Board, if confirmed, may not serve on any other Department of Education advisory board, panel, including peer review panel, or task force, or as a paid consultant of such Department.

"(iii) TERM.—(I) The term of office of each member of the Board shall be 6 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term. Any person, other than the Assistant Secretary, who has been a member of the Board for 12 consecutive years shall thereafter be ineligible for appointment during the 6-year period following the expiration of such twelfth year.

"(II) The members of the Board shall select a Chairperson from among such members.

"(III) A majority of the appointed members of the Board shall constitute a quorum.

"(IV) From amounts appropriated pursuant to the authority of subsection (q), the Board shall appoint an Executive Director, and may with the concurrence of a majority of its members, permit the appointment of a staff consisting of not more than 3 professional staff members and clerical staff members as may be necessary and selected by the Board. Such staff shall be appointed by the Assistant Secretary and assigned at the direction of the Board. The professional members of such staff may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive services, and may be paid without regard to the provisions of chapter 51 and subchapter 53 of such title relating to classification and general schedule pay rates.

"(iv) RESPONSIBILITIES.—The Board shall provide oversight of the Office, and shall—

"(I) advise the Nation on the Federal research and development effort;

"(II) recommend ways for strengthening active partnerships among researchers, educational practitioners and policymakers;

"(III) recommend ways to strengthen interaction and collaboration between the various program offices and components;

"(IV) solicit advice and information from the educational field, to define research needs and suggestions for research topics, and shall involve educational practitioners, particularly teachers, in this process;

"(V) provide recommendations for translating research findings into workable, adaptable models for use in policy and in practice across different settings, and recommendations for other forms of dissemination;

"(VI) provide recommendations for creating incentives to draw talented young people into the field of educational research, including scholars from disadvantaged and minority groups;

"(VII) provide recommendations for new studies to close gaps in the research base;

"(VIII) advise the Assistant Secretary on standards and guidelines for research programs and activities to ensure that research is of high quality and is free from undue partisan or political influence; and

"(IX) provide recommendations for coordination and synthesis of research among directorates.

"(v) MEETINGS AND REPORTS.—(I) The Board is authorized to appoint from among its members such committees as the Board deems necessary, and to assign to committees so appointed such survey and advisory functions as the Board deems appropriate to assist the Board in exercising its powers and functions under this section.

"(II) From amounts appropriated pursuant to subsection (g), the Board shall render to the President, for submission to the Congress no later than January 15 of each even-numbered year, a report on the activities of the Office, and on education, educational research, national indicators and data gathering in general.

"(C) DEFINITION.—For the purposes of this section—

"(i) the term 'Office', unless otherwise specified, means the Office of Educational Research and Improvement established by section 209 of the Department of Education Organization Act;

"(ii) the term 'Assistant Secretary' means the Assistant Secretary for Educational Research and Improvement established by section 202 of the Department of Education Organization Act;

"(iii) the term 'Board' means the Distinguished Board of Governors for Educational Research established under paragraph (2)(B);

"(iv) the term 'education research' includes basic and applied research, inquiry with the purpose of applying tested knowledge gained to specific educational settings and problems, development, planning, surveys, assessments, evaluations, investigations, experiments and demonstrations in the field of education and other fields relating to education;

"(v) the term 'dissemination' means the transfer of ideas and products developed through research to educational sites where such ideas and products can be developed, adapted, implemented and operated for the purpose of improvement, communication techniques to spread information, and demonstrations of the utility and applicability of research; and

"(vi) the term 'technical assistance' means assistance in identifying, selecting or designing solutions based on research to address educational problems, planning and design that leads to adapting research knowledge to school practice, training to implement such solutions, and other assistance necessary to encourage adoption or application of research.

"(b) AUTHORIZED ACTIVITIES.—

"(1) OFFICE.—In fulfilling its purposes under this section, the Office is authorized to—

"(A) conduct and support education-related research and activities, including basic and applied research, development, planning, surveys, assessments, evaluations, investigations, experiments and demonstrations of national significance;

"(B) disseminate the findings of education research, and provide technical assistance to apply such information to specific school problems at the school site;

"(C) collect, analyze and disseminate data related to education;

"(D) promote the use of knowledge gained from research and statistical findings in schools, other educational institutions and communities;

"(E) train individuals in education research; and

"(F) promote the coordination of education research and research support within the Federal Government, and otherwise assist and foster such research.

"(2) ASSISTANT SECRETARY.—

"(A) IN GENERAL.—In carrying out the activities and programs of the Office, the Assistant Secretary shall—

"(i) ensure that there is broad and regular public and professional involvement from the educational field in the planning and carrying out of the Office's activities, including establishing teacher advisory boards for any program office, program or project of the Office as the Assistant Secretary deems necessary;

"(ii) ensure that the selection of research topics and the administration of the program are free from undue partisan or political influence;

"(iii) enter into a contract for the conduct of an independent evaluation of programs and activities carried out through the Office to—

"(I) advise the President, the Congress and the Nation on—

"(aa) the effectiveness of the programs of the Office; and

"(bb) the implementation of projects and programs funded through the Office over time;

"(II) measure the success of educational information dissemination;

"(III) evaluate the impact of educational research on instruction at the school level;

"(IV) assess the usefulness of research and activities carried out by the Office, including products disseminated by the Office;

"(V) evaluate the ability of the Office to keep research funding free from undue partisan or political interference; and

"(VI) provide recommendations for improvement of the programs of the Office;

"(iv) have direct authority to make grants and contracts pursuant to the programs and activities of the Office;

"(v) develop directly, or through grant or contract, standards and guidelines for research, programs and activities carried out through the Office;

"(vi) establish a long- and short-term research agenda in consultation with the Board; and

"(vii) review research priorities established within each directorate and promote research syntheses across the directorates.

"(B) INFORMATION AND TECHNICAL ASSISTANCE.—The Assistant Secretary, through the directorates and regional educational laboratories assisted under this section and other appropriate entities, is authorized to offer information and technical assistance to State and local educational agencies, school boards and schools to ensure that no student is—

"(i) denied access to the same rigorous, challenging curriculum that such student's peers are offered; and

"(ii) grouped or otherwise labeled in such a way that may impede such student's achievement.

"(C) LONG-TERM AGENDA.—One year after the date of enactment of the Office of Educational Research and Improvement Reauthorization Act, the Assistant Secretary shall submit a report to the President and to the Congress on a six-year long-term plan for the educational research agenda for the Office. Upon submission of such report and every 2 years thereafter, the Assistant Secretary shall submit to the President and to the Congress a progress report on the six-year plan, including an assessment of the success or failure of meeting the components of the six-year plan, proposed modifications or changes to the six-year plan, and additions to the six-year plan.

"(3) OPEN COMPETITION.—All grant contracts and cooperative agreements awarded or entered into pursuant to this section shall be awarded or entered into through a process of open competition that shall be announced in the Federal Register.

"(c) DIRECTORATES OF EDUCATIONAL RESEARCH.—

"(1) IN GENERAL.—(A) In carrying out the functions of the Office, the Assistant Secretary shall establish 5 directorates of educational research in accordance with this section.

"(B) The Assistant Secretary shall appoint a Director for each directorate. Each such Director shall be a leading professional in the field relevant to the mission of the directorate. Each such Director shall be paid at the rate of pay payable for level IV of the Executive Schedule.

"(C) The Assistant Secretary shall provide for and promote research syntheses across the directorates, and shall coordinate research plans, projects and findings across the directorates. Each Director shall report directly to the Assistant Secretary, regarding the activities of the directorate, and shall work together to promote research syntheses across the directorates.

"(2) DUTIES.—Each such directorate shall—

"(A) carry out its activities directly or through grants, contracts, and cooperative agreements with institutions of higher education, public and private organizations, institutions, agencies or individuals, or a consortia thereof;

"(B) conduct the highest quality basic and applied research in early childhood, elementary and secondary, vocational and higher education which is relevant to the directorate;

"(C) serve as a national database on model and demonstration programs which have particular application to the activities of the directorate, particularly with respect to model programs conducted by business, private and nonprofit organizations and foundations, Essential Schools, Accelerated Schools, New American Schools, charter schools, Comer schools and Schools of the 21st Century;

"(D) support, plan, implement and operate dissemination activities designed to bring the most effective research directly into classroom practice, school organization and management, and teacher preparation and training, and to the extent possible carry out dissemination activities through the use of technology in accordance with such directorate's technology agreement described in section 405A(d)(1);

"(E) support and provide research information that leads to policy formation for State legislatures, State and local boards of education and other policy and governing bodies, to assist such entities in identifying and developing effective policies to promote student achievement and school improvement; and

"(F) coordinate the directorate's activities with the activities of the regional educational laboratories established pursuant to subsection (k) in designing the directorate's research agenda and projects in order to increase the responsiveness of such directorate to the needs of teachers and the educational field and to bring research findings directly into schools to ensure greatest access at the local level to the latest research developments.

"(3) RESERVATIONS.—(A) Each directorate shall reserve in each fiscal year not less than 15 percent of the amount available to such directorate to conduct field-initiated research.

"(B) Each directorate shall reserve not less than one-third of the amount available to such directorate to award a grant or enter into a contract or cooperative agreement with an institution of higher education, a public agency or a private nonprofit organization for the support of one or two long-term national research centers for educational research and development in accordance with paragraph (4).

"(4) NATIONAL RESEARCH CENTERS.—

"(A) DURATION.—The grant, contract, or cooperative agreements awarded or entered into to establish a national research center described in paragraph (3)(B) shall be awarded or entered into for a period of 10 years.

"(B) LOCATION.—Each such center shall be located at a single site with a majority of the staff located at such site.

"(C) STAFF.—The Assistant Secretary shall make available adequate funds for each such center to support a long-term research agenda of sufficient scope and allow a staff of sufficient size and quality to be recruited and hired to support such an agenda.

"(5) REVIEW AND MONITORING.—The Board shall evaluate and provide recommendations regarding the quality of research conducted through each directorate, the relevance of the research topics and the effectiveness of the dissemination of each directorate's activities. The Board shall report such recommendations to the President and the Congress.

"(6) PUBLICATION.—The Assistant Secretary shall publish proposed research priorities developed by each directorate in the Federal Register every 2 years, not later than October 1 of each year, and shall allow a period of 60 days for public comments and suggestions.

"(7) COMPETITION.—Prior to awarding a grant or entering into a contract for a research project or center, the Assistant Secretary shall invite applicants to compete for projects, centers or assistance under this section through notice published in the Federal Register.

"(8) REPORTING AND COORDINATION.—Each Director shall report directly to the Assistant Secretary, regarding the activities of the directorate, and shall work together to promote research syntheses across the directorates.

"(d) NATIONAL DIRECTORATE ON CURRICULUM, INSTRUCTION, AND ASSESSMENT.—The Assistant Secretary shall establish and carry out the National Directorate on Curriculum, Instruction and Assessment. The directorate established under this subsection is authorized to conduct research on—

"(1) methods to improve student knowledge at all levels in English, mathematics, science, history, geography, civics and government, foreign languages, arts and humanities, and economics;

"(2) methods to improve the process of reading, the craft of writing and the growth of reasoning skills;

"(3) enabling students to develop higher order thinking skills;

"(4) methods to teach effectively all students in mixed-ability classrooms;

"(5) developing or identifying new educational assessments, including performance-based and portfolio assessments which demonstrate a command of knowledge and skill;

"(6) developing standards for what students should know and be able to do, particularly standards of desired performance set at internationally competitive levels;

"(7) the use of testing in the classroom and its impact on improving student achievement, including an analysis of how testing affects what is taught;

"(8) test bias as such bias affects historically underserved and minority populations;

"(9) research on test security, accountability, validity, reliability and objectivity;

"(10) relevant teacher training and instruction in giving a test, scoring a test and in the use of test results to improve student achievement;

"(11) curriculum development designed to meet national standards, including assistance to States to develop such curriculum; and

"(12) the use of technology in accordance with such directorates technology agreement described in section 405A(d)(1) as a learning tool and as such technology is used in testing.

"(e) NATIONAL DIRECTORATE ON EARLY CHILDHOOD LEARNING, FAMILIES AND COMMUNITIES.—The Assistant Secretary shall establish and carry out the National Directorate on Early Childhood Learning, Families and Communities. The directorate established under this subsection is authorized to conduct research on—

"(1) effective learning methods and curriculum for early childhood learning;

"(2) the importance of family literacy and parental involvement in student learning;

"(3) the impact that outside influences have on learning, including television, and drug and alcohol abuse;

"(4) methods for integrating learning in settings other than the classroom, such as within families and communities, with a special emphasis on character development and the value of hard work;

"(5) teacher training on early childhood education and family literacy;

"(6) research on readiness to learn, including topics such as prenatal care, nutrition and health services;

"(7) the use of technology in accordance with such directorate's technology agreement described in section 405A(d)(1) to enhance effective learning methods for early childhood learning; and

"(8) other topics relevant to the mission of the directorate.

"(f) NATIONAL DIRECTORATE ON THE EDUCATIONAL ACHIEVEMENT OF HISTORICALLY UNDERSERVED POPULATIONS.—The Assistant Secretary shall establish and operate a National Directorate on the Educational Achievement of Historically Underserved Populations. The directorate established under this subsection is authorized to conduct research on—

"(1) the quality of educational opportunities afforded historically underserved populations, including minority students, students with disabilities, the economically disadvantaged, girls, women, limited-English proficient students and economically disadvantaged students, and particularly the quality of educational opportunities afforded such populations in highly concentrated urban areas and sparsely populated rural areas;

"(2) effective institutional practices for expanding opportunities for such groups;

"(3) methods for overcoming the barriers to learning which may impede student achievement;

"(4) innovative teacher training on methods to improve the educational achievement of the historically underserved;

"(5) the use of technology in accordance with such directorate's technology agreement described in section 405A(d)(1) to improve the educational achievement of the historically underserved; and

"(6) other topics relevant to the mission of the directorate.

"(g) NATIONAL DIRECTORATE ON SCHOOL ORGANIZATION, STRUCTURE AND FINANCE.—The Assistant Secretary shall establish and operate a National Directorate on School Organization, Structure and Finance. The directorate established under this subsection is authorized to conduct research on—

"(1) school-based management, shared decisionmaking and other innovative school structures which show promise for improving student achievement;

"(2) innovative school design, including lengthening the school day and the school year, reducing class size and building professional development into the weekly school schedule;

"(3) the social organization of schooling and the inner-workings of schooling;

"(4) effective approaches to organizing learning;

"(5) effective ways of grouping students for learning so that a student is not labeled or stigmatized in ways that may impede such student's achievement;

"(6) the amount of dollars allocated for education that are actually spent on direct learning;

"(7) disparity in school financing among States and school districts;

"(8) the use of technology in accordance with such directorate's technology agreement described in section 405A(d)(1) to assist in school-based management and to ameliorate the effects of disparity in school financing among States and school districts; and

"(9) other topics relevant to the mission of the directorate.

"(h) NATIONAL DIRECTORATE ON POSTSECONDARY AND ADULT EDUCATION.—The Assistant Secretary is authorized to establish and operate a National Directorate on Postsecondary and Adult Education. The directorate established under this subsection is authorized to conduct research on—

"(1) the most effective training methods for adults to upgrade education and vocational skills;

"(2) opportunities for adults to continue their education beyond higher education and graduate school, in the context of lifelong learning;

"(3) adult literacy and effective methods, including technology to eliminate illiteracy;

"(4) preparing students for a lifetime of work, the ability to adapt through retraining to the changing needs of the work force and the ability to learn new tasks;

"(5) disparity in school financing among States and school districts;

"(6) the use of technology in accordance with such directorate's technology agreement described in section 405A(d)(1) to develop and deliver effective training methods for adults to upgrade their education and vocational skills; and

"(7) other topics relevant to the mission of the directorate.

"(i) PERSONNEL.—

"(1) IN GENERAL.—From amounts appropriated pursuant to the authority of subsection (q), the Assistant Secretary may appoint, for terms not to exceed 3 years (without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service) and may compensate (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates) such scientific or professional employees of the Office as the Assistant Secretary considers necessary to accomplish its functions. The Assistant Secretary may also appoint and compensate not more than one-fifth of the number of full-time, regular scientific or professional employees of the Office without regard to such provisions. The rate of basic pay for such employees may not exceed the maximum annual rate of pay for grade GS-15 under section 5332 of title 5 of the United States Code.

"(2) REAPPOINTMENT.—The Assistant Secretary may reappoint employees described in paragraph (1) upon presentation of a clear and convincing justification of need, for 1 additional term not to exceed 3 years. All such employees shall work on activities of the Office and shall not be reassigned to other duties outside the Office during their term.

"(j) SELECTION PROCEDURES AND FELLOWSHIPS.—

"(1) SELECTION PROCEDURES.—(A) When making competitive awards under this section, the Assistant Secretary shall—

"(i) solicit recommendations and advice regarding research priorities, opportunities, and strategies from qualified experts, such as education professionals and policymakers, personnel of the regional educational laboratories described in subsection (k) and of the research and development centers assisted under this section, and the Board, as well as parents and other members of the general public;

"(ii) employ suitable selection procedures utilizing the procedures and principles of peer review, except where such peer review procedures are clearly inappropriate given such factors as the relatively small amount of a grant or contract or the exigencies of the situation; and

"(iii) determine that the activities assisted will be conducted efficiently, will be of high quality, and will meet priority research and development needs under this section.

"(B) Whenever the Assistant Secretary enters into a cooperative agreement under this section, the Assistant Secretary shall negotiate any subsequent modifications in the cooperative agreement with all parties to the agreement affected by the modifications.

"(2) FELLOWSHIPS.—(A) The Assistant Secretary shall publish proposed research priorities for the awarding of research fellowships under this paragraph in the Federal Register every 2 years, not later than October 1 of each year, and shall allow a period of 60 days for public comments and suggestions.

"(B) Prior to awarding a fellowship under this paragraph, the Assistant Secretary shall invite applicants to compete for such fellowships through notice published in the Federal Register.

"(C) From amounts appropriated pursuant to the authority of subsection (q), the Assistant Secretary may establish and maintain research fellowships in the Office, for scholars, researchers, policymakers, education practitioners and statisticians engaged in the use, collection and dissemination of information about education and educational research. Subject to regulations published by the Assistant Secretary, fellowships may include such stipends and allowances, including travel and subsistence expenses provided under title 5, United States Code, as the Assistant Secretary considers appropriate.

"(k) REGIONAL EDUCATIONAL LABORATORIES FOR RESEARCH AND DISSEMINATION.—

"(1) IN GENERAL.—The Assistant Secretary shall support at least 10 but not more than 15 regional educational laboratories established by public agencies or private nonprofit organizations.

"(2) DEFINITION.—For purposes of this subsection, the term 'regional educational laboratory' means a public agency or institution or a private nonprofit organization which—

"(A) serves the education improvement needs in a geographic region of the United States; and

"(B) operates under the direction of a governing board, the members of which—

"(i) are representative of that region;

"(ii) include teachers; and

"(iii) have sole authority for determining, subject to the requirements of this section, the mission of such laboratory.

"(3) DUTIES.—Each regional educational laboratory shall—

"(A) serve the educational improvement needs of the region by bringing educational research to bear upon promoting school improvement and academic achievement and on correcting educational deficiencies;

"(B) develop a plan for identifying needs and for serving the needs of the region by conducting a continuing survey of the educational needs, strengths and weaknesses within the region, including a process of open hearings to solicit the views of schools, teachers, administrators, parents, local educational agencies, and State educational agencies within the region;

"(C) have as such laboratory's central mission the dissemination of educational research to schools, teachers, local educational agencies and State educational agencies, and through such dissemination and the provision of technical assistance serve the educational needs of the region;

"(D) use applied educational research to assist in solving site-specific problems and to assist in development activities;

"(E) conduct applied research projects designed to serve the particular needs of the region only in the event that such quality applied research does not exist in such region;

"(F) facilitate school restructuring at the individual school level, including technical assistance for adapting model demonstration grant programs to each school;

"(G) facilitate communication between educational experts, school officials, and teachers and parents to enable such individuals to assist schools to develop a plan to meet the national education goals;

"(H) facilitate communication among program offices, programs and projects of the Office;

"(I) bring teams of experts together to develop and implement school improvement plans and strategies;

"(J) provide technical assistance to State and local educational agencies, school boards, State boards of education and schools in accordance with the prioritization described in paragraph (4)(E);

"(K) establish an open hearing process for schools, teachers, parents and educational organizations to identify particular educational needs within the region;

"(L) provide training in the field of education research and related areas, in the use of new educational methods, practices, techniques and products developed in connection with such activities, for which the regional educational laboratory shall be authorized to support internships and fellowships and to provide stipends;

"(M) coordinate such laboratory's activities with the directorates assisted under this section in designing such laboratory's services and projects in order to—

"(i) maximize the use of research conducted through the directorates in the work of such laboratory;

"(ii) keep the directorates apprised of the work of the regional educational laboratories in the field; and

"(iii) inform the directorates about additional research needs identified in the field; and

"(N) collaborate with the State educational agencies in the region in developing the plan for serving the region.

"(4) Governing board.—In carrying out the activities described in paragraph (3), the governing board described in subparagraph (B) of paragraph (2) of each region shall—

"(A) ensure that the regional educational laboratory attains and maintains a high level of quality in its work and products;

"(B) establish standards to ensure that the regional educational laboratory has strong and effective governance, organization, management, and administration and employs qualified staff;

"(C) encourage the regional educational laboratory to carry out such laboratory's duties in such a manner as will make progress toward achieving the national education goals;

"(D) conduct a continuing survey of the educational needs, strengths and weaknesses within the region, including a process of open hearings to solicit the views of schools and teachers; and

"(E) prioritize, and ensure that the regional educational laboratory serves the needs within the region based upon economic disadvantage in urban and rural areas of such region.

"(5) Competition.—(A) Prior to entering into a contract under this subsection, the Assistant Secretary shall invite applicants to compete for such regional educational laboratory through notice published in the Federal Register or Commerce Business Daily.

"(B) Each application for assistance under this subsection shall contain such information as the Assistant Secretary may reasonably require, including assurances that the regional educational laboratory will address the activities described in paragraph (3).

"(C) No contract shall be entered into for assistance under this subsection unless—

"(i) proposals for assistance are solicited from regional educational laboratories by the Office;

"(ii) proposals for assistance are developed by the regional educational laboratories in consultation with the Office; and

"(iii) the Office determines that the proposed activities will be consistent with the education research and development program and dissemination activities which are being conducted by the Office.

"(6) Additional projects.—In addition to activities described in paragraph (3), the Assistant Secretary, from amounts appropriated pursuant to subsection (q)(3), is authorized to enter into agreements with a regional educational laboratory for the purpose of carrying out additional projects to enable such regional educational laboratory to assist in efforts to achieve the national education goals.

"(7) Special rule.—No regional educational laboratory shall by reason of receipt of assistance under this section be ineligible to receive any other assistance from the Office authorized by law.

"(8) Plan.—Not later than July 1 of each year, each regional educational laboratory shall submit to the Assistant Secretary a plan covering the succeeding fiscal year, in which such laboratory's mission, activities and scope of work are described, including a general description of—

"(A) the plans such laboratory expects to submit in the 4 succeeding years; and

"(B) an assessment of how well such laboratory is meeting the needs of the region.

"(9) Contract duration.—The Assistant Secretary shall enter into a contract for the purpose of supporting a regional educational laboratory under this subsection for a minimum of 5 years.

"(10) Construction.—Nothing in this subsection shall be construed to require any modifications in the regional educational laboratory contracts in effect on the date of enactment of the Office of Educational Research and Improvement Reauthorization Act.

"(l) Teacher Research Dissemination Network.—

"(1) Findings.—The Congress finds that—

"(A) education research, including research funded by the Office, is not having the impact on the Nation's schools that such research should;

"(B) relevant education research and resulting solutions are not being adequately disseminated to the teachers that need such research and solutions;

"(C) there are not enough linkages between the research and development centers assisted under this section, the regional educational laboratories described in subsection (k), the National Diffusion Network State facilitators, the Education Resources Information Clearinghouses, and the public schools to ensure that research on effective practice is disseminated and technical assistance provided to all teachers;

"(D) the average teacher has almost no time to plan or engage in a professional dialogue with such teacher's peers about strategies for improving learning;

"(E) teachers do not have direct access to information systems or networks;

"(F) teachers have little control over what in-service education teachers will be offered; and

"(G) individual teachers are not encouraged to move beyond the walls of their school buildings to identify and use outside resources.

"(2) Program authorized.—

"(A) In general.—The Assistant Secretary is authorized to award grants to or enter into contracts with regional educational laboratories to enable such laboratories to carry out the activities described in paragraph (3) for not more than 250 teacher participants in any fiscal year.

"(B) Award basis.—

"(i) In general.—The Assistant Secretary shall award grants and enter into contracts under this subsection in an equitable manner and shall provide assistance on the basis of the number of teachers, schools and students located in each region.

"(ii) Special rules.—In the case where one or more regional laboratories fail to submit a plan acceptable to the Secretary in accordance with paragraph (3)(D)(ii)(I), the Assistant Secretary may—

"(I) enter into a grant or contract with a regional laboratory to serve more than one region; or

"(II) redistribute funds appropriated to carry out this subsection among regional educational laboratories receiving assistance under this subsection.

"(C) Duration.—Grants or contracts under this subsection shall be awarded for a period of 3 years.

"(3) Program activities.—

"(A) Mandatory.—

"(i) In general.—(I) Each regional educational laboratory receiving a grant or entering into a contract under this subsection shall carry out 3 one-year-long programs of providing training to teachers relevant to the needs and problems of the schools and school districts in which teachers teach for the purpose of—

"(aa) educating such teachers on how to acquire information about education research findings and best practices and about using the educational infrastructure assisted by the Department of Education and other major educational research organizations; and

"(bb) providing such teachers with current education research and development theory and practice.

"(II) Teachers that participate in training assisted under this subsection shall be known as 'teacher research dissemination experts'.

"(ii) Summer training.—The program described in clause (i) shall provide teachers with training during the summer which shall—

"(I) give teachers knowledge and guidance in using the existing educational improvement services and resources funded by the Department of Education, including the products and work of the regional educational laboratories and the National Diffusion Network, the available reports and work underway in the centers and directorates assisted under this section, the information and access strategies for using the Education Resources Information Clearinghouses and other relevant information centers, and the products and services offered directly from the Department of Education;

"(II) certify participating teachers in a small number, such as 3 to 4, of products or programs developed by the regional educational laboratories, the National Diffusion Network, the national research centers, or the directorates of the Office, that the teachers judge most relevant to the needs of their district; and

"(III) inform participating teachers about government programs, including programs in government agencies other than the Department of Education, which offer research opportunities and funding.

"(iii) SCHOOL YEAR ACTIVITIES.—The program described in clause (i)—

"(I) shall provide teachers participating in such program during the school year with—

"(aa) opportunities to meet with other such teachers to exchange experiences;

"(bb) additional training or assistance in using or applying the information provided during the summer training as needed or requested; and

"(cc) updates in education research, information and findings;

"(II) shall provide such teachers during the school year with the opportunity to provide feedback into the educational research infrastructure regarding needed research and ways to improve the dissemination of information; and

"(III) may make use of video conferences for some of the training to reduce travel time and expenses.

"(B) PERMISSIVE.—If the amount appropriated pursuant to subsection (q)(4) is greater than $30,000,000, then—

"(i) first, the number of teachers which each teacher research dissemination expert is expected to reach, as defined in subsection (l)(5)(B)(iii), may be decreased as appropriate; after which

"(ii) the program described in clause (i) of subparagraph (A) may include additional teacher training activities and teacher responsibilities related to such training, including—

"(I) training in applied research methodologies;

"(II) assistance in conducting applied research;

"(III) teacher research sabbaticals;

"(IV) training in assessment and testing;

"(V) training in developing and implementing effective teacher in-service training;

"(VI) training in change management, including strategies for restructuring schools, building local capacity, and generally strengthening the culture of schools so that the culture of school is conducive and supportive of change, including training in interpersonal and leadership skills; and

"(VII) developing strategies that could be used to restructure the school day to allow more time for planning and teacher collaboration.

"(C) TEACHER RESPONSIBILITIES.—Each teacher participating in a program assisted under this subsection shall, during the school year—

"(i) meet with other teachers in the school district of such participating teacher to provide such other teachers with information about how to acquire information regarding education research findings and best practices, including what resources are available to such other teachers from the Department of Education, how to obtain products and technical services from the Department, and how to submit programs and products to the National Diffusion Network;

"(ii) help interested schools identify resources needed to address the school's needs and act as liaison between the schools and the appropriate resource bodies, such as regional educational laboratories, centers or directorates assisted under this section, the National Diffusion Network, universities, experts, scholars, consultants and other schools and school districts that may be of assistance;

"(iii) teach other teachers how to use the products or programs in which the teacher was certified pursuant to subclause (II) of subparagraph (A)(ii);

"(iv) inform teachers about how teachers can obtain Federal research funding, fellowships, and sabbaticals; and

"(v) survey teacher needs in the areas of research and development.

"(D) APPLICATION.—

"(i) IN GENERAL.—Each regional educational laboratory desiring a grant or contract under this subsection shall submit to the Secretary an application at such time, in such manner and accompanied by such information as the Assistant Secretary may reasonably require.

"(ii) CONTENTS.—Each application described in clause (i) shall—

"(I) contain a plan acceptable to the Assistant Secretary for conducting the program to be assisted under this subsection;

"(II) contain assurances that the regional educational laboratory shall provide each participating teacher with a stipend for the entire summer recess in an amount approximately equal to one-third of such teacher's annual salary and travel expenses, in order to permit a teacher to participate in the training program during the summer without incurring a loss of income;

"(III) contain assurances that each teacher participating in the program shall receive an award of not more than $10,000 to be used by such teacher during the school year of such teacher's participation to purchase materials, support and coordinate such teacher's teaching activities with other teachers in the school district, and to participate in the program;

"(IV) contain assurances that such regional educational laboratory shall provide not more than $5,000 to each school district or group of school districts having an individual from such district or districts participate in the program assisted under this section for each of the 2 years following such participation to enable such school district or districts to continue efforts to improve dissemination of effective practices and programs within the district or districts;

"(V) contain assurances that representatives of State educational agencies, intermediate educational agencies, teacher centers, teacher educators at institutions of higher education, and school district in-service or curriculum specialists will be eligible to participate in the program assisted under this section if such individuals pay the cost of their participation;

"(VI) describe how such regional educational laboratory will—

"(aa) provide and coordinate its training program with the staffs of the Office, the National Diffusion Network, the centers and directorates assisted under this section, and other regional educational laboratories; and

"(bb) develop training and resource materials and develop teacher conferences jointly with the entities described in item (aa); and

"(VII) contain an assurance that such regional educational laboratory shall not permit a teacher to participate in the program unless such laboratory determines that the teacher will be afforded a full opportunity by the district to perform such teacher's responsibilities described in subparagraph (3)(C).

"(5) TEACHER SELECTION AND ELIGIBILITY.—

"(A) NOMINATION.—Teacher participants in the program assisted under this subsection shall be nominated by their peers at the school district level or by a group of school districts in the case of small school districts.

"(B) ELIGIBILITY.—Each school district or group of school districts desiring to have teachers from such district or districts participate in the program assisted under this subsection shall provide the Assistant Secretary with—

"(i) the names of such teachers;

"(ii) an indication of the types of issues or problems on which each such teacher would like to receive information and training;

"(iii) assurances that teacher research dissemination experts will have access during the school year to approximately 1,000 teachers to train; and

"(iv) assurances that such district or districts will pay the teacher's salary during the school year and release the teacher from such teacher's regular teaching duties for not more than 1 school year as necessary to enable such teacher to participate in such program.

"(C) SELECTION.—Teacher participants shall be selected by the regional educational laboratories in consultation with the National Diffusion Network State facilitators and State educational agencies in the region. Teacher participants shall be selected in such a manner so as to ensure an equitable representation of such teachers by State and school enrollment in the region.

"(6) INDEPENDENT EVALUATION.—

"(A) IN GENERAL.—The Assistant Secretary shall provide for an independent evaluation of the program assisted under this subsection to determine the net impact and cost effectiveness of the program and the reactions of teachers and school districts participating in such program, including any career plan changes of participating teachers.

"(B) DATE.—The evaluation described in subparagraph (A) shall be submitted to the Congress on or before September 1, 1996.

"(C) FUNDING.—The Assistant Secretary may reserve not more than $1,000,000 of the amount appropriated pursuant to the authority of subsection (q)(4) to carry out the evaluation described in this paragraph.

"(7) DEFINITION.—For the purpose of this subsection—

"(A) the term 'educational research infrastructure' means all program offices and components of the Office; and

"(B) the term 'regional educational laboratory' means a laboratory supported by the Assistant Secretary pursuant to subsection (k).

"(m) OFFICE OF EDUCATIONAL DISSEMINATION.—

"(1) IN GENERAL.—The Assistant Secretary shall establish an Office of Educational Dissemination, which may include the Education Resources Information Clearinghouses, the National Diffusion Network, and the National Education Library. The Office of Educational Dissemination shall be headed by a Director appointed by the Assistant Secretary, who has a demonstrated expertise and experience in dissemination.

"(2) DUTIES.—In carrying out its dissemination activities, the Office of Educational Dissemination shall—

"(A) operate a depository for all Department of Education publications and products and make available for reproduction such publications and products;

"(B) coordinate and oversee the dissemination efforts of all Office of Educational Research and Improvement program offices, the regional educational laboratories, the directorates assisted under this section, the National Diffusion Network, and the Education Resources Information Clearinghouses;

"(C) disseminate relevant and useful research, information, products and publications developed through or supported by the Department of Education to all schools throughout the Nation;

"(D) develop the capacity to connect schools and teachers seeking information with the relevant regional educational laboratories assisted under this section, the National Diffusion Network, the directorates assisted under this section, the Education Resources Information Clearinghouses, and Teacher Research Dissemination Network contacts; and

"(E) provide an annual report to the Secretary regarding the types of information, products and services that teachers, schools and school districts have requested and have determined to be most useful, and describe future plans to adapt Department of Education products and services to address the needs of the users of such information, products and services.

"(3) ADDITIONAL ACTIVITIES.—In addition, the Office of Educational Dissemination may—

"(A) use media and other educational technology to carry out dissemination activities, including program development;

"(B) establish and maintain a database on all research and improvement efforts funded through the Department of Education;

"(C) actively encourage cooperative publishing of significant publications;

"(D) disseminate information on successful models and educational methods which have been recommended to the Office of Educational Dissemination by educators, educational organizations, nonprofit organizations, business and foundations, and disseminate such models by including with any such information an identification of the organization or organizations that have recommended the program; and

"(E) engage in such other dissemination activities as the Assistant Secretary determines necessary.

"(n) NATIONAL DIFFUSION NETWORK STATE FACILITATORS.—The National Diffusion Network described in section 1562 of the Elementary and Secondary Education Act of 1965 is authorized to provide information through National Diffusion Network State facilitators on model or demonstration projects funded by the Department of Education. For purposes of carrying out this paragraph, information on such model projects does not have to be approved through the program effectiveness panel, but may be provided directly through the State facilitators. In addition, the National Diffusion Network may disseminate other information available through the Office of Educational Dissemination established under subsection (m) through the National Diffusion Network.

"(o) NATIONAL EDUCATION LIBRARY.—

"(1) ESTABLISHMENT.—There shall be established a National Library of Education at the Department of Education (hereafter in this subsection referred to as the 'Library') which shall—

"(A) be a national resource center for teachers, scholars, State and local education officials, parents, and other interested individuals; and

"(B) provide resources to assist in the—

"(i) advancement of research on education;

"(ii) dissemination and exchange of scientific and other information important to the improvement of education at all levels; and

"(iii) improvement of educational achievement.

"(2) MISSION.—The mission of the Library shall be to—

"(A) become a principal center for the collection, preservation, and effective utilization of the research and other information related to education and to the improvement of educational achievement;

"(B) strive to assure widespread access to the Library's facilities and materials, coverage of all education issues and subjects, and quality control;

"(C) have an expert library staff; and

"(D) use modern information technology that holds the potential to link major libraries and educational centers across the United States into a network of national education resources.

"(3) FUNCTIONS.—The Library shall—

"(A) establish a coherent policy to acquire and preserve books, periodicals, data, prints, films, recordings, and other library materials related to education;

"(B) organize the materials by appropriate cataloging, indexing, and bibliographic listings;

"(C) establish a policy to disseminate information about the materials available in the Library;

"(D) make available through loans, photographic or other copying procedures, or otherwise, such materials in the Library as the Secretary deems appropriate; and

"(E) provide reference and research assistance.

"(4) TASK FORCE.—(A) The Secretary shall appoint a task force of librarians, scholars, teachers, parents, and school leaders (hereafter in this paragraph referred to as the 'Task Force') to provide advice on the establishment of the Library.

"(B) The Task Force shall prepare a workable plan to establish the Library and to implement the requirements of this subsection.

"(C) The Task Force may identify other activities and functions for the Library to carry out, except that such functions shall not be carried out until the Library is established and has implemented the requirements of this subsection.

"(D) The Task Force shall prepare and submit to the Secretary not later than 6 months after the first meeting of the Task Force a report on the activities of the Library.

"(5) LIBRARIAN.—(A) The Secretary shall appoint a librarian to head the Library.

"(B) The individual appointed pursuant to subparagraph (A) shall have extensive experience as a librarian.

"(C) The Secretary shall solicit nominations from individuals and organizations before making the appointment described in subparagraph (A).

"(D) The librarian shall serve for a 5-year term, which may be renewed.

"(E) The librarian shall be paid at not less than the minimum rate of pay payable for level GS-15 of the General Schedule.

"(p) EDUCATION RESOURCES INFORMATION CLEARINGHOUSES.—The Assistant Secretary shall establish and support 16 Education Resources Information Clearinghouses (including directly supporting dissemination services) having the same functions and scope of work as such clearinghouses had on the date of enactment of the Higher Education Amendments of 1986, except that the Assistant Secretary shall establish for the clearinghouses a coherent policy for the abstracting and inclusion in the educational resources information clearinghouse system of books, periodicals, reports, and other materials related to education.

"(q) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—(A)(i) There are authorized to be appropriated $70,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1999 to carry out subsection (c) relating to the Directorates of Educational Research.

"(ii) From the amount made available under clause (i) in any fiscal year—

"(I) 50 percent of such amount shall be available to carry out subsection (d), relating to the National Directorate on Curriculum, Instruction and Assessment;

"(II) 10 percent of such amount shall be available to carry out subsection (e), relating to the National Directorate on Early Childhood Learning, Families and Communities;

"(III) 10 percent of such amount shall be available to carry out subsection (f), relating to the National Directorate on the Educational Achievement of Historically Underserved Populations;

"(IV) 10 percent of such amount shall be available to carry out subsection (g), relating to the National Directorate on School Organization, Structure and Finance;

"(V) 10 percent of such amount shall be available to carry out subsection (h), relating to the National Directorate on Postsecondary and Adult Education; and

"(VI) 10 percent of such amount shall be available to carry out synthesis and coordination activities described in subsection (c)(1)(C).

"(iii) Not less than 95 percent of funds appropriated pursuant to the authority of clause (i) in any fiscal year shall be expended to carry out this section through grants, cooperative agreements, or contracts.

"(B) There are authorized to be appropriated $12,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1999 to carry out the provisions of subsection (c) relating to the salaries and expenses of the directorates of educational research.

"(2) REGIONAL EDUCATIONAL LABORATORIES.—There are authorized to be appropriated $37,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1999 to carry out subsection (k), relating to the regional educational laboratories.

"(3) OFFICE OF EDUCATIONAL DISSEMINATION.—There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums for each of the fiscal years 1994 through 1999 to carry out subsections (m) and (k)(6), relating to the Office of Educational Dissemination and additional projects for regional education laboratories, respectively.

"(4) TEACHER RESEARCH DISSEMINATION NETWORK.—There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1999 to carry out subsection (l), relating to the Teacher Research Dissemination Network.

"(5) NATIONAL DIFFUSION NETWORK STATE FACILITATORS.—There are authorized to be appropriated $10,000,000 for the fiscal year 1993 and such sums as may be necessary for each of fiscal years 1994 through 1999 to carry out subsection (n), relating to the National Diffusion Network State Facilitators.

"(6) NATIONAL EDUCATION LIBRARY.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1999 to carry out subsection (o), relating to the National Education Library.

"(7) EDUCATION RESOURCES INFORMATION CLEARINGHOUSES.—There are authorized to be appropriated $7,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1999 to carry out subsection (p), relating to the Education Resources Information Clearinghouses.

"(8) ADMINISTRATION OF FUNDS.—When more than 1 Federal agency uses funds to support a single project under this section, the Office may act for all such agencies in administering such funds.".

(b) EXISTING CONTRACTS.—Notwithstanding any other provision of law, contracts for the regional educational laboratories and centers assisted under section 405 of the General Education Provisions Act on the date of enactment of this Act shall remain in effect until the termination date of such contracts, except that the grants for such centers which terminate before the competition for the new centers described in section 405(c)(3)(B) of such Act (as amended by section 101(a) of this Act) is completed may be extended until the time that the awards for such new centers are made.

TITLE II—IMPROVED STATISTICS REGARDING AMERICAN SCHOOLS

SEC. 201. IMPROVED STATISTICS REGARDING AMERICAN SCHOOLS.

(a) IN GENERAL.—Section 406 of the General Education Provisions Act (20 U.S.C. 1221e–1) is amended—

(1) in paragraph (2)(A) of subsection (a), by amending the second sentence to read as follows: "The Commissioner of the National Center for Education Statistics shall possess substantial experience with or knowledge of the data collection efforts of the National Center, expertise in mathematical statistics or statistical methodology, or extensive knowledge of uses of statistics for policy purposes.";

(2) by amending paragraph (1) to read as follows:

"(1)(A) There are authorized to be appropriated $85,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1999 to carry out this section.

"(B) There are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1999 for the salaries and expenses of the Center.";

(3) in subsection (i)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "and regional basis"; and

(ii) in subparagraph (C)—

(I) by redesignating clauses (iii), (iv), and (v) as clauses (iv), (v), and (vi), respectively;

(II) by inserting after clause (ii) the following new clause:

"(iii) The National Assessment shall—

"(I) conduct, in 1994, a trial mathematics assessment for the 4th and 8th grades and a trial reading assessment for the 4th grade, in States that wish to participate, for the purpose of determining whether such assessments yield valid and reliable State representative data;

"(II) develop a trial mathematics assessment for the 12th grade and a trial reading assessment for the 8th and 12th grades, to be administered in 1994 in States that wish to participate, for the purpose of determining whether such assessments yield valid and reliable State representative data;

"(III) conduct, in 1996, trial assessments in mathematics and reading, and plan for a trial assessment in science as determined by the Secretary and the National Assessment Governing Board established by paragraph 5(A)(i) for the 4th, 8th and 12th grades in States that wish to participate in such assessments, for the purpose of gaining additional information about whether such assessments yield valid and reliable State-representative data; and

"(IV) include in each such sample assessment referred to in subclauses (I) and (II) students in public and private schools in a manner that ensures comparability with the national sample."; and

(III) in clause (vi) (as redesignated by clause (i))—

(aa) in the first sentence, by striking "and the fairness and accuracy of the data they produce" and inserting ", the fairness and accuracy of the data produced by the National Assessment, and important issues affecting the quality and integrity of the National Assessment"; and

(bb) by striking "paragraph (C)(i) and (ii)" and inserting "clauses (i), (ii), and (iii)";

(B) in paragraph (5)—

(i) in clause (x) of subparagraph (B), by inserting "who shall be psychometricians, educational psychologists, or measurement specialists, with extensive experience working on large-scale assessments" before the semicolon; and

(ii) in subparagraph (C)—

(I) in clause (i), by adding at the end the following new sentence: "No member of the Board may serve as a consultant to the Department of Education or serve on any other board, committee, panel, task force, or advisory body to the Department of Education simultaneously while serving on the Board."; and

(II) in clause (iii), by striking "technical employees to administer" and inserting "technical employees who by virtue of their education or training and experience are eminently qualified to assist the Board in administering"; and

(C) in subparagraph (E) of paragraph (6), by inserting ", except that no adoption, use or reporting of the achievement goals or statements shall be made until the Commissioner provides for an independent technical review of the replication and validation studies conducted by the Board" after "public"; and

(4) by adding at the end the following new subsection:

"(k) Nothing in this section or in the Privacy Act of 1974 shall be interpreted to restrict the right of the Director of the Congressional Budget Office to secure information, data, estimates and statistics, including information identifying individuals, in the Center's possession, except that the same restrictions on disclosure that apply to the Center under subparagraphs (B) and (G) of subsection (d)(4) shall apply to the Congressional Budget Office.".

(b) ADDITIONAL REPORT.—

(1) IN GENERAL.—The Secretary shall provide for the organization that conducts the independent evaluation required by section 406(i)(2)(C)(vi) of the General Education Provisions Act (as redesignated in subsection (a)(2)(A)(ii)(I)) to study and report to the Congress on—

(A) the process whereby achievement goals are set pursuant to section 406(i)(6) of such Act;

(B) whether such achievement goals are set at an appropriate level; and

(C) the ability of the National Assessment to maintain valid data with respect to trends in student performance.

(2) TIME FOR SUBMISSION OF REPORT.—The report required by paragraph (1) shall be submitted as soon as practicable, but in any event not later than 120 days after the date of the enactment of this Act.

SEC. 202. REPORTS ON SCHOOL DROPOUTS; SINGLE DEFINITION.

Paragraph (4) of section 406(g) of the General Education Provisions Act (20 U.S.C. 1221e–1(g)(4)) is amended—

(1) by amending subparagraph (C) to read as follows:

"(C)(i) The Commissioner shall submit to the Congress by January 1 of each year, beginning on January 1 of 1994, a report which describes the number of school dropouts in elementary and secondary schools in the United States. Such report shall contain statistical information on the number and percentage of elementary and secondary school students, who drop out of school each year, including statistical information stated by—

"(I) race and ethnic origin of such students;

"(II) rural and urban location in the United States (as defined by the Secretary) of such students; and

"(III) the number of such students in individual States and the District of Columbia.

"(ii) The report described in clause (i) shall utilize the single definition of school dropouts developed pursuant to section 6201(a) of the Elementary and Secondary Education Act of 1965."; and

(2) by adding at the end the following new subparagraph:

"(D) STATE INFORMATION.—(i) Each State shall provide to the Secretary such information as the Secretary may determine necessary to carry out the provisions of this section.

"(ii) Each State submitting information to the Secretary pursuant to paragraph (1) may use funds received by the State educational agency under chapter 2 of title I of the Elementary and Secondary Education Act of 1965 to meet any costs associated with collecting the information described in paragraph (1) in the form required by the Commissioner of Education Statistics.".

SEC. 203. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.

Subsection (i) of section 406 of the General Education Provisions Act (20 U.S.C. 1221e–1(i)) is further amended—

(1) in paragraph (1)—

(A) in the first sentence, by inserting "(hereafter in this subsection referred to as the 'National Assessment')" after "Progress"; and

(B) in the second sentence, by striking "of Educational Progress"; and

(2) by adding at the end the following new paragraphs:

"(10) The Secretary of Education and the Secretary of Defense may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment the defense dependents education system established under the Defense Dependents' Education Act of 1978.

"(11) The Secretary of Education and the Secretary of the Interior may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment schools for Indian children operated or supported by the Bureau of Indian Affairs.

"(12) For the purpose of this subsection the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.".

SEC. 204. FIELD READERS.

Section 402 of the Department of Education Organization Act (20 U.S.C. 3462) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Secretary"; and

(2) by adding at the end the following new subsection:

"(b) SPECIAL RULE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may use not more than 1 percent of the funds appropriated for any education program that awards such funds on a competitive basis to pay the expenses and fees of non-Federal experts necessary to review applications and proposals for such funds.

"(2) APPLICABILITY.—The provisions of paragraph (1) shall not apply to any education program under which funds are authorized to be appropriated to pay the fees and expenses of non-Federal experts to review applications and proposals for such funds.".

SEC. 205. OFFICE OF EDUCATIONAL TECHNOLOGY.

(a) AMENDMENT TO THE DEPARTMENT OF EDUCATION ORGANIZATION ACT.—Title II of the Department of Education Organization Act (20 U.S.C. 3411 et seq.) is amended by adding at the end the following new section:

"OFFICE OF EDUCATION TECHNOLOGY

"SEC. 216. There shall be in the Office of Educational Research and Improvement described in section 209 an Office of Educational Technology, established in accordance with section 405A of the General Education Provisions Act.".

(b) AMENDMENT TO THE GENERAL EDUCATION PROVISIONS ACT.—Part A of the General Education Provisions Act (20 U.S.C. 1221e et seq.) is amended by inserting after section 405 the following new section:

"SEC. 405A. OFFICE OF EDUCATIONAL TECHNOLOGY.

"(a) ESTABLISHMENT.—

"(1) OFFICE ESTABLISHED.—The Secretary shall establish within the Office of Educational Research and Improvement an Office of Educational Technology within 90 days of the date of enactment of the Office of Educational Research and Improvement Reauthorization Act.

"(2) DIRECTOR.—The Office of Educational Technology (hereafter in this section referred to as the 'Office') shall be headed by a Director, who shall be appointed by the Secretary and shall have demonstrated expertise and experience in the application of a broad range of technologies for instruction and educational management, and in planning and policy formulation pertaining to technology application at all levels in the education system. The Director shall be compensated at the rate of pay payable for level IV of the Executive Schedule.

"(b) TECHNOLOGY BOARD.—The Assistant Secretary for Educational Research and Improvement shall appoint a Technology Board consisting of 11 members, of which—

"(1) six such members shall have demonstrated competencies or expertise in developing technology systems;

"(2) five such members shall have past and ongoing experience with education at the State or local school level; and

"(3) at least three such members shall be educators with experience in using technology in the classroom.

"(c) PERSONNEL.—In order to carry out the provisions of this section, the Director may appoint personnel in accordance with title 5, United States Code, and may compensate such personnel in accordance with the General Schedule described in section 5332 of title 5, United States Code.

"(d) FUNCTIONS OF THE OFFICE.—The Secretary, through the Office, shall—

"(1) provide leadership for policy development and coordinate technology related education activities within the Department of Education;

"(2) administer the Star Schools Program, the activities of the Office of Training Technology Transfer, and any other technology programs the Assistant Secretary deems appropriate;

"(3) consult, cooperate, and coordinate educational technology programs with analogous programs of other Federal agencies and initiate interagency agreements for joint funding of such programs;

"(4) make recommendations for wider applications of the use of technology in Federal education programs;

"(5) develop agreements with each of the directorates assisted under section 405 to ensure coordination of technology activities and policies and to guide such directorates in the use of technology in carrying out the duties of such directorates;

"(6) provide guidelines to establish a technology education repository to house existing educational technology, including programming designed for the purpose of locating and disseminating information requested by teachers, administrators and other members of the public utilizing Federal data banks in order to avoid duplication;

"(7) develop a proposal for a system to transfer to local school districts, schools and classrooms nationwide the information described in paragraph (6) via computer systems, visual transmission systems, including open broadcast, closed circuit, cable, microwave, or satellite transmission, the use of video cassettes, video discs, fiber optics, and other systems or devices which produce visual images, and other technological methods;

"(8) develop a proposal for—

"(A) developing a fair system for metering the use of the repository information described in paragraph (6) provided via an electronic network to local classrooms; and

"(B) appropriately charging for copyrighted materials and computer access time; and

"(9) promote the use of technology to assist the Office of Educational Research and Improvement in carrying out the dissemination activities of the Office of Educational Research and Improvement.

"(e) TRANSFER OF THE OFFICE OF TRAINING TECHNOLOGY TRANSFER.—The Office of Training Technology Transfer as established under section 6103 of the Training Technology Transfer Act of 1988 is transferred to the Office.

"(f) STUDY ON IMPLEMENTATION OF A NATIONAL TECHNOLOGY REPOSITORY AND TRANSFER SYSTEM.—

"(1) IN GENERAL.—Upon completion of the guidelines for a technology education repository described in subsection (d)(6) and the development of a system to transfer such information to local school districts, schools and classrooms in accordance with subsection (d)(7), the Secretary shall provide for an independent study to—

"(A) determine the estimated costs that would be incurred in the implementation of such repository and system; and

"(B) assess the availability of technology at the local school district, school and classroom level to access the educational technology to be transmitted.

"(2) SPECIAL RULE.—In carrying out the study described in paragraph (1), studies conducted by other Federal agencies may be utilized, if applicable.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 for the fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1999 for salaries and expenses of the Office.".

TITLE III—EDUCATIONAL IMPROVEMENT PROGRAMS

PART A—INTERNATIONAL EDUCATION PROGRAM

SEC. 311. INTERNATIONAL EDUCATION PROGRAM.

(a) PROGRAM ESTABLISHED.—The Secretary shall carry out an International Education Program in accordance with this section that shall provide for—

(1) international achievement comparisons;

(2) the study of international education programs and delivery systems; and

(3) an international education exchange program.

(b) ASSESSMENT AND INFORMATION.—The Secretary shall award grants for the study, evaluation and analysis of education systems in other nations, particularly Great Britain, France, Germany and Japan. Such studies shall focus upon a comparative analysis of curriculum, methodology and organizational structure, including the length of the school year and school day. In addition, the studies shall provide an analysis of successful strategies employed by other nations to improve student achievement, with a specific focus upon application to schooling in our Nation.

(c) ACHIEVEMENT COMPARISONS.—The Secretary shall develop or identify a test or series of tests which may be used to compare achievement levels in reading, mathematics and science, history and geography, civics and government, economics, and foreign languages. In carrying out the provisions of this section, the Secretary shall give priority to applicants who have experience or expertise in calibrating tests for purposes of comparison.

(d) INTERNATIONAL EDUCATIONAL EXCHANGE.—

(1) IN GENERAL.—(A) The Secretary shall carry out an International Education Exchange Program that shall—

(i) make available to educators from eligible countries exemplary curriculum and teacher training programs in civics and government education and economic education developed in the United States;

(ii) assist eligible countries in the adaptation and implementation of such programs or joint research concerning such programs;

(iii) create and implement educational programs for United States students which draw upon the experiences of emerging constitutional democracies;

(iv) provide a means for the exchange of ideas and experiences in civics and government education and economic education among leaders of participating eligible countries; and

(v) provide support for—

(I) research and evaluation to determine the effects of educational programs on students' development of the knowledge, skills and traits of character essential for the preservation and improvement of constitutional democracy; and

(II) effective participation in and the preservation and improvement of an efficient market economy.

(B) In carrying out the program described in subparagraph (A), the Secretary shall reserve in each fiscal year—

(i) 50 percent of the amount available to carry out this subsection for civics and government education activities; and

(ii) 50 percent of such amount for economic education activities.

(2) CONTRACT AUTHORIZED.—(A) The Secretary is authorized to contract with independent nonprofit educational organizations to carry out the provisions of this subsection. The Secretary shall enter into such contract through an open competition.

(B) The Secretary shall award at least 1 but not more than 3 contracts described in subparagraph (A) in each of the areas described in subclauses (I) and (II).

(C) The Secretary shall award contracts described in subparagraph (A) so as to avoid duplication of activities in such contracts.

(D) Each organization with which the Secretary enters into a contract pursuant to subparagraph (A) shall—

(i) be experienced in—

(I) the development and national implementation of curricular programs in civics and government education and economic education for students from grades kindergarten through 12 in local, intermediate, and State educational agencies and in private schools throughout the Nation with the cooperation and assistance of national professional educational organizations, colleges and universities, and private sector organizations;

(II) the development and implementation of cooperative university and school based in-service training programs for teachers of grades kindergarten through 12 using scholars from such relevant disciplines as political science, political philosophy, history, law, and economics;

(III) the development of model curricular frameworks in civics and government education and economic education;

(IV) the administration of international seminars on the goals and objectives of civics and government education and economic education in constitutional democracies (including the sharing of curricular materials) for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers; and

(V) the evaluation of civics and government education and economic education programs; and

(ii) have the authority to subcontract with other organizations to carry out the purposes of this subsection.

(3) ACTIVITIES.—The international education program described in this subsection shall—

(A) provide eligible countries with—

(i) seminars on the basic principles of United States constitutional democracy and economics, including seminars on the major governmental and economic institutions and systems in the United States, and visits to such institutions;

(ii) visits to school systems, institutions of higher learning, and nonprofit organizations conducting exemplary programs in civics and government education and economic education in the United States;

(iii) home stays in United States communities;

(iv) translations and adaptations regarding United States civics and government education and economic education curricular programs for students and teachers, and in the case of training programs for teachers translations and adaptations into forms useful in schools in eligible countries, and joint research projects in such areas;

(v) translation of basic documents of United States constitutional government for use in eligible countries, such as *The Federalist*, selected writings of Presidents Adams and Jefferson and the Anti-Federalists, and more recent works on political theory, constitutional law and economics; and

(vi) research and evaluation assistance to determine—

(I) the effects of educational programs on students' development of the knowledge, skills and traits of character essential for the preservation and improvement of constitutional democracy; and

(II) effective participation in and the preservation and improvement of an efficient market economy;

(B) provide United States participants with—

(i) seminars on the histories, economics and governments of eligible countries;

(ii) visits to school systems, institutions of higher learning, and organizations conducting exemplary programs in civics and government education and economic education located in eligible countries;

(iii) home stays in eligible countries;

(iv) assistance from educators and scholars in eligible countries in the development of curricular materials on the history, government and economics of such countries that are useful in United States classrooms;

(v) opportunities to provide on-site demonstrations of United States curricula and pedagogy for educational leaders in eligible countries; and

(vi) research and evaluation assistance to determine—

(I) the effects of educational programs on students' development of the knowledge, skills and traits of character essential for the preservation and improvement of constitutional democracy; and

(II) effective participation in and improvement of an efficient market economy; and

(C) assist participants from eligible countries and the United States in participating in international conferences on civics and government education and economic education for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers.

(4) PRINTER MATERIALS AND PROGRAMS.—All printed materials and programs provided to foreign nations under this subsection shall bear the logo and text used by the Marshall Plan after World War II, that is, clasped hands with the inscription "A gift from the American people to the people of (insert name of country)".

(5) PARTICIPANTS.—The primary participants in the international education program assisted under this subsection shall be leading educators in the areas of civics and government education and economic education, including curriculum and teacher training specialists, scholars in relevant disciplines, and educational policymakers, from the United States and eligible countries.

(6) PERSONNEL AND TECHNICAL EXPERTS.—The Secretary is authorized to provide Department of Education personnel and technical experts to assist eligible countries to establish and implement a database or other effective methods to improve educational delivery systems, structure and organization.

(7) DEFINITIONS.—For the purpose of this subsection the term "eligible country" means a Central European country, an Eastern European country, Lithuania, Latvia, Estonia, Georgia, the Commonwealth of Independent States, and any country that formerly was a republic of the Soviet Union whose political independence is recognized in the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) ASSESSMENT AND INFORMATION.—There are authorized to be appropriated $2,500,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1999 to carry out subsection (b).

(2) ACHIEVEMENT COMPARISON.—There are authorized to be appropriated $2,500,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1999 to carry out subsection (c).

(3) INTERNATIONAL EDUCATION EXCHANGE.—There are authorized to be appropriated $30,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1999 to carry out subsection (d).

PART B—TRANSFER OF EDUCATION AND TRAINING SOFTWARE

SEC. 315. TRANSFER OF EDUCATION AND TRAINING SOFTWARE.

The Training Technology Transfer Act of 1988 (20 U.S.C. 5091 et seq.) is amended by adding after section 6107 the following new section:

"SEC. 6108. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $3,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1999 to carry out this chapter.".

PART C—AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT

SEC. 321. AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

Section 422 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2422) is amended—

(1) in paragraph (2) of subsection (a), by inserting ", including postsecondary employment and training programs," after "training programs"; and

(2) in subsection (b)—

(A) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(B) in the matter preceding paragraph (1) (as redesignated in subparagraph (A)), by inserting "the State board or agency governing higher education" after "coordinating council,"; and

(C) in paragraph (1) (as redesignated in subparagraph (A))—

(i) by striking "Act and of" and inserting "Act, of"; and

(ii) by inserting "and of the State board or agency governing higher education" after "Job Training Partnership Act"; and

(3) by redesignating subsection (d) as subsection (e); and

(4) by inserting after subsection (c) the following new subsection:

"(d) DATA COLLECTION SYSTEM.—In the development and design of a system to provide data on graduation or completion rates, job placement rates from occupationally specific programs, and licensing rates, each State board for higher education shall develop a data collection system whose results can be integrated into the occupational information system developed under this section.".

PART D—SATISFACTORY PROGRESS STUDY

SEC. 325. SATISFACTORY PROGRESS STUDY.

Part A of title XIII of the Higher Education Amendments of 1986 (20 U.S.C. 1091 et seq.) is amended by adding at the end the following new section:

"SEC. 1308. SATISFACTORY PROGRESS STUDY.

"(a) STUDY.—The Secretary is authorized to conduct a study of the satisfactory progress requirement described in section 484(c) of the Higher Education Act of 1965. Such study shall—

"(1) examine whether there is a need to apply satisfactory progress requirements to institutions of higher education with short-term periods of instruction, such as less than 1 year, and how such requirements might be applied to such institutions; and

"(2) examine whether there is a need to apply such requirements to the first year of instruction, and in particular, examine the problems the first year students may have in adjusting to the rigors of postsecondary instruction and assess whether there is a need to provide an initial year before the satisfactory progress requirements are applied.

"(b) DATE.—The study described in subsection (a) shall be completed not later than January 1, 1995.

"(c) REPORT.—

"(1) IN GENERAL.—The Secretary shall submit a report to the Congress on the study described in subsection (a) that—

"(A) assesses how such satisfactory progress requirements are working; and

"(B) makes recommendations on how such satisfactory progress requirements may be strengthened.

"(2) REPORT.—The report described in paragraph (1) shall be completed not later than July 1, 1995.".

PART E—NATIONAL EDUCATION STANDARDS AND ASSESSMENTS COUNCIL

SEC. 331. NATIONAL EDUCATION STANDARDS AND ASSESSMENTS COUNCIL.

(a) ESTABLISHMENT.—There is established within the Department of Education a National Education Standards and Assessments Council (referred to in this part as the "Council").

(b) APPOINTMENT AND COMPOSITION.—

(1) APPOINTMENT.—The Council shall be composed of 15 members (hereafter in this part referred to as "members") appointed by the National Education Goals Panel described in section 113 of the Neighborhood Schools Improvement Act (hereafter in this part referred to as the "Panel").

(2) COMPOSITION.—The Council shall be composed of—

(A) five public officials;

(B) five educators; and

(C) five members of the general public.

(3) TIME.—The members of the Council described in paragraph (2) shall be appointed within 120 days after the date of enactment of this Act.

(c) QUALIFICATIONS.—

(1) IN GENERAL.—Members shall—

(A) be appointed to the Council on the basis of widely recognized experience in, knowledge of, commitment to, and a demonstrated record of service to, education and to achieving education excellence at the Federal, State or local level; and

(B) include curriculum design specialists, subject matter scholars, and testing or measurement experts (experts in educational evaluation, educational measurement, educational assessment, educational psychology, or psychometrics).

(2) NOMINATIONS.—Members under this subsection shall be appointed from among qualified individuals nominated by the public and other groups representative of public officials, educators, and individuals described in subsection (c)(1).

(d) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the members shall be appointed for 3-year terms, with no member serving more than 2 consecutive terms.

(2) INITIAL SELECTION.—The Panel shall establish initial terms for individuals of 2, 3, or 4 years in order to establish a rotation in which one-third of the members are selected each year.

(A) PUBLIC OFFICIALS.—From among the members appointed under subsection (b)(2)(A), the Panel shall designate 2 appointees to serve 2-year terms, 2 appointees to serve 3-year terms and 1 appointee to serve a 4-year term.

(B) EDUCATORS.—From among the members appointed under subsection (b)(2)(B), the Panel shall designate 2 appointees to serve 2-year terms, 2 appointees to serve 3-year terms and 1 appointee to serve a 4-year term.

(C) GENERAL PUBLIC.—From among the members appointed under subsection (b)(2)(C), the Panel shall designate 2 appointees to serve 2-year terms, 3 appointees to serve 3-year terms and 2 appointees to serve 4-year terms.

(3) CONFLICT OF INTEREST.—(A) No member of the Council may concurrently serve as a member of the Panel or on any other Department of Education advisory board, panel (including a peer review panel), task force, or as a paid consultant of such Department.

(B)(i) No member of the Council may serve on the Council if such person directly or indirectly is the recipient of any Federal funds for curriculum or assessment planning, design, development, or implementation.

(ii) No member of the Council shall have any financial interest in the development of tests or assessments related to the standards described in subsection (e). Any person who served on the Council shall report any subsequent proposals for Federal, State, or local funding related to the standards or assessments described in subsection (e) to the National Goals Panel and to the Department of Education.

(4) DATE OF APPOINTMENT.—The initial members shall be appointed, by the Panel, not later than 120 days after the date of enactment of this Act.

(5) RETENTION.—In order to retain an appointment to the Council, a member must attend at least two-thirds of the scheduled meetings of the Council in any given year.

(6) OFFICER SELECTION.—The members appointed under subsection (b)(2) shall select officers of the Council from among the members of the Council. The officers of the Council shall serve for 1-year terms.

(7) VACANCIES.—A vacancy on the Council shall not affect the powers of the Council, but shall be filled in the same manner as the original appointment.

(8) TRAVEL.—Each member of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(9) INITIATION.—The Council may begin to carry out the duties of the Council under this part when—

(A) all 15 members have been appointed; or

(B) 8 members have been appointed pursuant to the provisions of subsection (b).

(e) FUNCTIONS OF THE COUNCIL.—The Council shall—

(1) be a coordinating body to establish national education content and student performance standards;

(2) serve as a coordinating body to encourage a voluntary system of assessments for individual students consistent with the national standards;

(3) develop criteria for world-class content and student performance standards and establish guidelines for standard setting and assessment development, including guidelines for the development of a variety of assessment measures;

(4) establish guidelines for assessments which ensure technical merit through determining that assessments are specifically valid, reliable, and unbiased for any purpose for which the assessments may be used;

(5) establish procedures and criteria for ensuring that, to the extent possible and without sacrificing the validity, reliability, directness, and fairness of the assessments, assessments are comparable to each other;

(6) issue certification of content and student performance standards as world-class and transmit such certification to the Panel for the Panel's certification;

(7) issue criteria for assessments as world-class, and procedures for certification of assessments which meet such world-class content standards, and transmit such criteria and procedures for certification to the Panel for the Panel's certification, except that no assessment may be certified prior to certification of the appropriate content and student performance standards; and

(8) establish guidelines for the use and design of standards and assessments, and of data derived from such assessments, so that—

(A) all students are provided with a rigorous and challenging curriculum designed to meet or exceed the standards;

(B) no student is placed in a curriculum track or is otherwise labeled on the basis of such student's performance on an assessment certified pursuant to this section;

(C) student performance is reported in the context of other relevant information about aggregate student, school and system performance; and

(D) all students are provided multiple opportunities and methods to demonstrate that they have met student performance standards.

(f) PERFORMANCE OF FUNCTIONS.—In carrying out its responsibilities, the Council shall work with Federal and non-Federal agencies and organizations which are conducting research, studies or demonstration projects to determine world-class education standards and assessments based on such standards.

(g) PROCEDURES.—

(1) PUBLICATION.—The Council shall publish in the Federal Register—

(A) proposed criteria for determining what are world-class content and student performance standards;

(B) proposed guidelines for standards setting;

(C) proposed procedures and criteria for certifying content standards as world-class; and

(D) proposed procedures and criteria for certifying assessments of world-class standards, including an evaluation of the extent to which individual student assessments incorporate such final world-class standards.

(2) FINAL REGULATIONS.—Final regulations, reflecting public comment, for the proposals developed in accordance with paragraph (1) shall be published in the Federal Register prior to the implementation of such regulations.

(h) DATA COLLECTION.—The Council shall make arrangements with any appropriate entity to generate or collect such data as may be necessary to carry out the Council's functions.

SEC. 332. ANNUAL REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date the Council concludes its first meeting of members and in each succeeding year, the Council shall prepare and submit to the President, the appropriate committees of Congress, and the Governor of each State a report on its work. Such report shall—

(1) analyze the progress and obstacles, if any, toward the development and certification of world-class content and student performance standards;

(2) analyze the process and implementation of procedures to develop criteria for assessments and certifications that assessments reflect the world-class standards; and

(3) analyze the progress and obstacles, if any, to the adoption of certified content and

student performance standards by State and local educational agencies.

(b) SPECIAL RULE.—In carrying out paragraph (3) of subsection (a), the Council shall collect information on the implementation by State and local educational agencies of certified content standards, including—

(1) adoption of curricula frameworks, including instructional materials, assessments and teacher training that incorporates or reflects world-class content standards;

(2) availability of school resources, including instructional materials and technology, necessary to meet world-class standards;

(3) staff capacity;

(4) school governance systems; and

(5) barriers to implementation of world-class standards.

SEC. 333. POWERS OF THE COUNCIL.

(a) REGIONAL MEETINGS.—The Council shall convene regional meetings, in urban and rural areas, to obtain public involvement in the development of proposed regulations implementing this part. Such meetings shall include individuals and representatives of the groups involved in the development of content and student performance standards and assessments, including educators, administrators, students and parents, curriculum and assessment experts, and organizations which have demonstrated experience in these areas. Such meetings shall provide for a comprehensive discussion and exchange on information regarding the implementation of this part. The Council shall take into account the information received in such meetings in the development of regulations.

(b) INFORMATION.—The Council may secure directly from any department or agency of the United States information necessary to enable the Council to carry out this part. Upon request of the Chairperson of the Council, the head of a department or agency shall furnish such information to the Council to the extent permitted by law.

(c) GIFTS.—The Council may accept, use, and dispose of gifts or donations of services or property.

(d) POSTAL SERVICES.—The Council may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE AND SUPPORTIVE SERVICES.—The Secretary shall provide to the Council, on a reimbursable basis, administrative support services as the Council may request.

SEC. 334. ADMINISTRATIVE PROVISIONS.

(a) MEETINGS.—The Council shall meet on a regular basis, as necessary, at the call of the Chairperson of the Council or a majority of its members.

(b) QUORUM.—A majority of the members shall constitute a quorum for the transaction of business.

(c) VOTING.—The Council shall take all action of the Council by a two-thirds majority vote of the total membership of the Council, assuring the right of the minority to issue written views. No individual may vote or exercise any of the powers of a member by proxy.

SEC. 335. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Chairperson of the Council shall, in consultation with other members of the Council and without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a Director who by virtue of such individual's education or training and experience is eminently qualified to assist the Council in administering the functions described in section 331(e) to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

(b) APPOINTMENT AND PAY OF STAFF.—The Chairperson may appoint such personnel who by virtue of such personnel's education or training and experience are eminently qualified to assist the Council in administering the functions described in section 331(e) as the Chairperson considers appropriate without regard to the provisions of title 5, United States Code, governing appointments to the competitive service. The staff of the Council may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates. The rate of pay of the staff of the Council shall not exceed the rate of basic pay payable for GS-15 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—The Council may procure temporary and intermittent services under section 3019(b) of title 5, United States Code, if the individual performing such services, by virtue of such individual's education or training and experience, is eminently qualified to assist the Council in administering the functions described in section 331(e).

(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Council, the head of any department or agency of the United States is authorized to detail, on a reimbursable basis, any of the personnel of that department or agency to the Council to assist the Council in its duties under this part.

(e) CONFLICT OF INTEREST.—No director, staff, expert, or consultant may serve the Council if such person directly or indirectly has any financial interest in the development of tests or assessments related to the standards described in section 331(e). Any person who served the Council in such capacity shall submit any subsequent proposals for Federal, State, or local funding related to the standards or assessments described in section 331(e) to the National Goals Panel and to the Department of Education.

SEC. 336. EVALUATION.

The Comptroller General of the General Accounting Office shall conduct an evaluation of the work of the Council, in order to evaluate the process by which world-class content and student performance standards have been developed, the contents of such standards, the process by which criteria for assessments of world-class standards have been developed, and the process of determining whether the assessments measure world-class standards. Such evaluation shall include—

(1) an analysis of the technical expertise and objectivity of the Council and the staff of the Council; and

(2) an evaluation of whether—

(A) the standards developed by the Council reflect world-class standards; and

(B) the assessments certified under the procedures of the Council measure the world-class standards.

SEC. 337. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Council $2,000,000 for each of the fiscal years 1993 and 1994, and such sums as may be necessary for each succeeding fiscal year thereafter, to carry out this part.

PART F—ELEMENTARY SCIENCE EQUIPMENT PROGRAM

SEC. 341. SHORT TITLE.

This part may be cited as the "Elementary Science Equipment Act".

SEC. 342. STATEMENT OF PURPOSE.

It is the purpose of this part to raise the quality of instruction in mathematics and science in the Nation's elementary schools by providing equipment and materials necessary for hands-on instruction through assistance to State and local educational agencies.

SEC. 343. PROGRAM AUTHORIZED.

The Secretary is authorized to make allotments to State educational agencies under section 344 to enable such agencies to award grants to local educational agencies for the purpose of providing equipment and materials to elementary schools to improve mathematics and science education in such schools.

SEC. 344. ALLOTMENTS OF FUNDS.

(a) IN GENERAL.—From the amount appropriated under section 350 for any fiscal year, the Secretary shall reserve—

(1) not more than one-half of 1 percent for allotment among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau according to their respective needs for assistance under this part; and

(2) one-half of 1 percent for programs for Indian students served by schools funded by the Secretary of the Interior which are consistent with the purposes of this part.

(b) ALLOTMENT.—The remainder of the amount so appropriated (after meeting requirements in subsection (a)) shall be allotted among State educational agencies so that—

(1) one-half of such remainder shall be distributed among the State educational agencies by allotting to each State educational agency an amount which bears the same ratio to such one-half of such remainder as the number of children aged 5 to 17, inclusive, in the State bears to the number of such children in all States; and

(2) one-half of such remainder shall be distributed among the State educational agencies according to each State's share of allocations under chapter 1 of title I of the Elementary and Secondary Education Act of 1965,

except that no State shall receive less than one-half of 1 percent of the amount available under this subsection in any fiscal year or less than the amount allotted to such State for fiscal year 1988 under title II of the Education for Economic Security Act.

(c) DEFINITION.—For the purposes of this part the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(d) DATA.—The number of children aged 5 to 17, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

SEC. 345. STATE APPLICATION.

(a) APPLICATION.—Each State educational agency desiring to receive an allotment under this part shall file an application with the Secretary which covers a period of 5 fiscal years. Such application shall be filed at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) CONTENTS OF APPLICATION.—Each application described in subsection (a) shall—

(1) provide assurances that—

(A) the State educational agency shall use the allotment provided under this part to award grants to local educational agencies within the State to enable such local educational agencies to provide assistance to schools served by such agency to carry out the purpose of this part;

(B) the State educational agency will provide such fiscal control and funds accounting as the Secretary may require;

(C) every public elementary school in the State is eligible to receive assistance under this part once over the 5-year duration of the program assisted under this part;

(D) funds provided under this part will supplement, not supplant, State and local funds made available for activities authorized under this part;

(E) during the 5-year period described in the application, the State educational agency will evaluate its standards and programs for teacher preparation and inservice professional development for elementary mathematics and science;

(F) the State educational agency will take into account the needs for greater access to and participation in mathematics and science by students and teachers from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the economically disadvantaged, and individuals with disabilities; and

(G) that the needs of teachers and students in areas with high concentrations of low-income students and sparsely populated areas will be given priority in awarding assistance under this part;

(2) provide, if appropriate, a description of how funds paid under this part will be coordinated with State and local funds and other Federal resources, particularly with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

(3) describe procedures—

(A) for submitting applications for programs described in sections 346 and 347 for distribution of assistance under this part within the State; and

(B) for approval of applications by the State educational agency, including appropriate procedures to assure that such agency will not disapprove an application without notice and opportunity for a hearing.

(c) STATE ADMINISTRATION.—Not more than 5 percent of the funds allotted to each State educational agency under this part shall be used for the administrative costs of such agency associated with carrying out the program assisted under this part.

SEC. 346. LOCAL APPLICATION.

(a) APPLICATION.—A local educational agency that desires to receive a grant under this part shall submit an application to the State educational agency. Each such application shall contain assurances that each school served by the local educational agency shall be eligible for assistance under this part only once.

(b) CONTENTS OF APPLICATION.—Each application described in subsection (a) shall—

(1) describe how the local educational agency plans to set priorities on the use and distribution among schools of grant funds received under this part to meet the purpose of this part;

(2) include assurances that the local educational agency has made every effort to match on a dollar-for-dollar basis from private or public sources the funds received under this part, except that no such application shall be penalized or denied assistance under this part based on failure to provide such matching funds;

(3) describe, if applicable, how funds under this part will be coordinated with State, local, and other Federal resources, especially with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

(4) describe the process which will be used to determine different levels of assistance to be awarded to schools with different needs.

(c) PRIORITY.—In awarding grants under this part, the State educational agency shall give priority to applications that—

(1) assign highest priority to providing assistance to schools which—

(A) are most seriously underequipped; or

(B) serve large concentrations or large numbers of economically disadvantaged students;

(2) are attentive to the needs of underrepresented groups in science and mathematics;

(3) demonstrate how science and mathematics equipment will be part of a comprehensive plan of curriculum planning or implementation and teacher training supporting hands-on laboratory activities; and

(4) include plans for dissemination of lessons and activities using equipment and materials purchased pursuant to assistance provided under this part to teachers in schools not receiving such assistance.

SEC. 347. PARTICIPATION OF PRIVATE SCHOOLS.

(a) PARTICIPATION OF PRIVATE SCHOOLS.—To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private nonprofit elementary schools, such State educational agency shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this part.

(b) WAIVER.—If by reason of any provision of State law a local educational agency is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsection (a), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers subject to the requirement of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements described in section 1017 of the Elementary and Secondary Education Act of 1965.

SEC. 348. PROGRAM REQUIREMENTS.

(a) COORDINATION.—Each State educational agency receiving an allotment under this part shall—

(1) disseminate information to school districts and schools, including private nonprofit elementary schools, regarding the program assisted under this part;

(2) evaluate applications of local educational agencies;

(3) award grants to local educational agencies based on the priorities described in section 346(c); and

(4) evaluate local educational agencies' end-of-year summaries and submit such evaluation to the Secretary.

(b) LIMITATIONS ON USE OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), grant funds and matching funds under this part only shall be used to purchase science equipment, science materials, or mathematical manipulative materials and shall not be used for computers, computer peripherals, software, textbooks, or staff development costs.

(2) CAPITAL IMPROVEMENTS.—Grant funds under this part may not be used for capital improvements. Not more than 50 percent of any matching funds provided by the local educational agency may be used for capital improvements of classroom science facilities to support the hands-on instruction that this part is intended to support, such as the installation of electrical outlets, plumbing, lab tables or counters, or ventilation mechanisms.

SEC. 349. FEDERAL ADMINISTRATION.

(a) TECHNICAL ASSISTANCE AND EVALUATION PROCEDURES.—The Secretary shall provide technical assistance and, in consultation with State and local representatives of the program assisted under this part, shall develop procedures for State and local evaluations of the programs under this part.

(b) REPORT.—The Secretary shall report to the Congress each year on the program assisted under this part.

SEC. 350. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1997 to carry out this part.

PART G—PARENTS AS TEACHERS PROGRAMS

SEC. 351. FINDINGS.

The Congress finds—

(1) increased parental involvement in the education of their children appears to be the key to long-term gains for youngsters;

(2) providing seed money is an appropriate role for the Federal Government to play in education;

(3) children participating in the parents as teachers pilot program in Missouri are found to have increased cognitive or intellectual skills, language ability, social skills and other predictors of school success;

(4) most early childhood programs begin at age 3 or 4 when remediation may already be necessary; and

(5) many children receive no health screening between birth and the time they enter school, thus such children miss the opportunity of having developmental delays detected early.

SEC. 352. STATEMENT OF PURPOSE.

It is the purpose of this part to encourage States to develop and expand parent and early childhood education programs in an effort to—

(1) increase parents' knowledge of and confidence in child-rearing activities, such as teaching and nurturing their young children;

(2) strengthen partnerships between parents and schools; and

(3) enhance the developmental progress of participating children.

SEC. 353. DEFINITIONS.

For the purposes of this part—

(1) the term "developmental screening" means the process of measuring the progress of children to determine if there are problems or potential problems or advanced abilities in the areas of understanding and use of language, perception through sight, perception through hearing, motor development and hand-eye coordination, health, and physical development;

(2) the term "eligible family" means any parent with one or more children between birth and 3 years of age;

(3) the term "lead agency" means the office, agency, or other entity in a State designated by the Governor to administer the parents as teachers program authorized by this part or the entity in a State operating a Parents As Teachers Program on the date of enactment of this Act;

(4) the term "parent education" includes parent support activities, the provision of resource materials on child development and parent-child learning activities, private and group educational guidance, individual and group learning experiences for the parent and child, and other activities that enable the parent to improve learning in the home; and

(5) the term "parent educator" means a person hired by the lead agency of a State or designated by local entities who administers group meetings, home visits and developmental screening for eligible families, and is trained by the Parents As Teachers National Center established under section 357.

SEC. 354. PROGRAM ESTABLISHED.

(a) IN GENERAL.—The Secretary is authorized to make grants to States to pay the Federal share of the cost of establishing, expanding, or operating parents as teachers programs.

(b) PRIORITY.—In making grants to States, the Secretary shall establish a priority for applications describing parents as teachers programs that target parents and children at risk, including families on public assistance.

(c) SPECIAL RULE.—Grant funds awarded under this section shall be used so as to supplement, and to the extent practicable, increase the level of funds that would, in the absence of such Federal funds made available under this section, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

SEC. 355. PROGRAM REQUIREMENTS.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Each State receiving a grant pursuant to section 354 shall conduct a parents as teachers program which—

(A) establishes and operates parent education programs including programs of developmental screening of children; and

(B) designates a lead State agency which shall—

(i) hire parent educators who have had supervised experience in the care and education of children;

(ii) establish the number of group meetings and home visits required to be provided each year for each participating family, with a minimum of 2 group meetings and 10 home visits for each participating family;

(iii) be responsible for administering the periodic screening of participating children's educational, hearing and visual development, using the Denver Developmental Test, Zimmerman Preschool Language Scale, or other approved screening instruments; and

(iv) develop recruitment and retention programs for hard-to-reach populations.

(2) LIMITATION.—Grant funds awarded under this part shall only be used for parents as teachers programs which serve families during the period of time beginning with birth and ending when a child attains the age of 3.

SEC. 356. SPECIAL RULES.

Notwithstanding any other provision of this section—

(1) no person, including home school parents, public school parents, or private school parents, shall be required to participate in any program of parent education or developmental screening pursuant to the provisions of this part;

(2) no parents as teachers program assisted under this part shall take any action that infringes in any manner on the right of parents to direct the education of their children; and

(3) the provisions of section 438(c) of the General Education Provisions Act shall apply to eligible entities awarded grants under this part.

SEC. 357. PARENTS AS TEACHERS NATIONAL CENTER.

The Secretary shall establish a Parents As Teachers National Center to disseminate information to, and provide technical and training assistance to, States establishing and operating parents as teachers programs.

SEC. 358. EVALUATIONS.

The Secretary shall complete an evaluation of the State parents as teachers programs assisted under this part within 4 years from the date of enactment of this Act, including an assessment of such programs' impact on at-risk children.

SEC. 359. APPLICATION.

Each State desiring a grant pursuant to the provisions of this part shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. Each such application shall describe the activities and services for which assistance is sought.

SEC. 360. PAYMENTS AND FEDERAL SHARE.

(a) PAYMENTS.—The Secretary shall pay to each State having an application approved under section 359 the Federal share of the cost of the activities described in the application.

(b) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share—

(A) for the first year for which a State receives assistance under this part shall be 100 percent;

(B) for the second such year shall be 100 percent;

(C) for the third such year shall be 75 percent;

(D) for the fourth such year shall be 50 percent; and

(E) for the fifth such year shall be 25 percent.

(2) NON-FEDERAL SHARE.—The non-Federal share of payments under this part may be in cash or in kind fairly evaluated, including planned equipment or services.

SEC. 360A. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1997 to carry out this part.

PART H—MEDIA INSTRUCTION

SEC. 361. MEDIA INSTRUCTION.

(a) GRANTS AUTHORIZED.—The Assistant Secretary shall enter into a contract with an independent nonprofit organization described in subsection (b) for the establishment of a national multimedia television-based project directed to homes, schools and after-school programs that is designed to motivate and improve the reading comprehension and writing coherence of elementary school-age children.

(b) DEMONSTRATED EFFECTIVENESS.—The Assistant Secretary shall award the contract described in subsection (a) to an independent nonprofit organization that has demonstrated effectiveness in educational programming and development on a nationwide basis.

(c) AUTHORIZATION AND APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal year 1994 and fiscal year 1995 to carry out this section.

PART I—MIGRANT EDUCATION

SEC. 365. MIGRANT EDUCATION.

The first sentence of subsection (c) of section 1202 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2782(c)) is amended by inserting ", except that notwithstanding any other provision of law, the definition of 'currently migratory child' shall be modified to include a child who resides in a school district of more than 15,000 square miles and who migrates at least 20 miles to a temporary residence to enable the child, the child's parent, or a member of the child's immediate family to engage in fishing activity".

PART J—HISTORY AND PRINCIPLES OF THE CONSTITUTION

SEC. 371. PROGRAM AUTHORIZED.

(a) GENERAL AUTHORITY.—

(1) ESTABLISHMENT.—The Secretary shall carry out a program to educate students about the history and principles of the Constitution of the United States, including the Bill of Rights, and to foster civic competence and civic responsibility.

(2) EDUCATIONAL ACTIVITIES.—The program required by paragraph (1) shall continue and expand the educational activities of the Chief Justice Warren E. Burger National Historical Map Contest sponsored by the Commission on the Bicentennial of the United States Constitution.

(3) CONTRACT.—The Secretary is authorized, through an open competition process, to contract with an independent nonprofit educational organization to carry out the program described in this section. Such organization shall have demonstrated experience and effectiveness in educating students about the history and principles of the Constitution of the United States.

(b) PROGRAM CONTENT.—The program authorized by this section shall provide—

(1) curricular materials required for students at upper elementary, middle, and secondary school levels to participate in the contest described in paragraph (2) of subsection (a); and

(2) for the conduct of the contest described in paragraph (2) of subsection (a) at upper elementary, middle, and secondary school levels at the congressional district, State, and national levels for schools wishing to participate in such program.

(c) PROGRAM PARTICIPANTS.—The program authorized by this section shall be made available to public and private elementary, middle, and secondary schools in the 435 congressional districts, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

(d) REPORT.—The Secretary shall report on a biennial basis, to the appropriate committees of the Congress on the distribution and use of funds authorized pursuant to the authority of subsection (e).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for the fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1997 and to carry out this section.

PART K—CLASSROOMS FOR THE FUTURE

SEC. 375. SHORT TITLE.

This part may be cited as the "Classrooms for the Future Act of 1992".

SEC. 376. PURPOSE.

It is the purpose of this part to establish a program to develop and expand the use of high quality curriculum-based learning resources using state-of-the-art technologies and techniques which are or can be designed to increase the achievement levels of students in subject areas including mathematics, science, geography, history and English.

SEC. 377. ACHIEVEMENT GRANTS.

(a) COMPETITIVE GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants, on a competitive basis, to eligible consortia to enable such eligible consortia to develop instructional programs and technology-based systems for complete courses or units of study for a specific subject and grade level, if such programs and systems are commercially unavailable in the local area served by such eligible consortia.

(2) ELIGIBLE CONSORTIUM.—For the purpose of this section the term "eligible consortium" means a consortium consisting of—

(A) State or local educational agencies in partnership with businesses; and

(B) institutions of higher education or other public or private nonprofit organizations.

(b) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applications describing programs that are developed—

(1) so that the program may be adapted and applied nationally; and

(2) to raise the achievement levels of students, particularly disadvantaged students who are not realizing their potential.

(c) DURATION AND AMOUNT.—Each grant made under this section shall be awarded for a period not to exceed 3 years and in an amount not to exceed $3,000,000.

(d) APPLICATION.—

(1) IN GENERAL.—Each consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may prescribe.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall include—

(A) a description of how the program shall improve the achievement levels of students; and

(B) an assurance that the program shall effectively serve a large number or percentage of economically disadvantaged students.

(e) CRITERIA FOR AWARDING GRANTS.—In awarding grants under this section to develop programs, the Secretary shall consider the appropriateness and quality of the following elements of the programs:

(1) Identification of specific learning objectives and strategies of the proposed course or unit of study.

(2) Incorporation in creative ways of a variety of technology-based learning resources such as computer software, databases, films, transparencies, video and audio discs, telecommunications (including educational radio and television), and print materials.

(3) Design that allows tailoring of the program to meet individual needs of students, particularly students at greatest risk of not reaching their educational potential.

(4) Flexibility of use by teachers or local schools.

(5) Methods for updating or revising information and material.

(6) Programs or materials to train and guide teachers.

(7) Coordination with teacher training programs.

(8) Explanatory materials for students and parents.

(9) Field testing and evaluation in terms of stated learning objectives.

(10) Plans for pricing technology-based materials that are affordable for public schools and agencies.

(11) Plans for distribution that ensure access for the poorest schools and school districts.

(12) Demonstration of cost-effectiveness in relation to existing programs and to achieving stated learning objectives.

SEC. 378. AUTHORIZATION OF FUNDS.

There are authorized to be appropriated $25,000,000 for the fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1997 to carry out this part.

PART L—BUDDY SYSTEM COMPUTER EDUCATION

SEC. 381. SHORT TITLE.

This part may be cited as the "Buddy System Computer Education Act".

SEC. 382. PURPOSE.

It is the purpose of this part to award demonstration grants to develop and expand public-private partnership programs which extend the learning experience, via computers, beyond the classroom environment in order to—

(1) enhance learning by providing students with the technological tools and guidance necessary to develop skills critical to educational growth and success in the workplace, including—

(A) mastery of fundamental computer technology and applications;

(B) improved written and visual communication skills;

(C) improved critical thinking and problem solving abilities; and

(D) improved ability to work in a collaborative, teamwork-driven environment;

(2) encourage parental involvement in education and total family use and understanding of computers and telecommunications through at-home applications; and

(3) establish foundations for life-long learning through improvement in education skills and student motivation and attitudes.

SEC. 383. GRANT AUTHORIZATION.

(a) GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary shall conduct a program of awarding a grant to each of 3 States to enable such States to create a computer-based education project for children in grades 4 through 6 in accordance with the requirements of section 384.

(2) AWARD BASIS.—The Secretary shall award grants under this part on a competitive basis.

(3) PREFERENCE.—In awarding grants under this part, the Secretary shall give preference to applications—

(A) from States that have a demonstrated ability or commitment to computer-based technology education; and

(B) describing projects that serve school districts which serve a large number or percentage of economically disadvantaged students.

(b) SITE SELECTION AND PROJECT IMPLEMENTATION.—Site selection and implementation of the computer-based education projects assisted under this part shall take place not later than 9 months after funds are appropriated to carry out this part pursuant to the authority of section 389.

SEC. 384. PROGRAM REQUIREMENTS.

Each State receiving a grant to conduct a computer-based education project under this part shall—

(1) provide a continuous 3-year computer-based education project to 2 consecutive groups of 4th, 5th, and 6th grade elementary school students during the period commencing with each such group's entry into 4th grade and ending the summer following each such group's completion of 6th grade;

(2) ensure that each student in each of the classes participating in the project shall participate in the project;

(3) conduct such project in not more than 7 public elementary schools within the State; and

(4) ensure that each student participating in the project shall have access to a computer—

(A) at school during the school year; and

(B) at home during the school year and summer.

SEC. 385. APPLICATIONS.

(a) APPLICATION REQUIRED.—In order to receive a grant under this part, the chief State school officer of a State shall submit an application to the Secretary in such form and containing such information as the Secretary may reasonably require. Such application shall include an assurance from the State educational agency that the State educational agency has made every effort to match on a dollar-for-dollar basis from private or public sources the funds received under this part, except that no such application shall be penalized or denied assistance under this part on the basis of the failure to provide such matching funds.

(b) APPLICATION PERIOD.—States shall be eligible to submit applications for assistance under this part during a 3-month period determined by the Secretary.

SEC. 386. USE OF FUNDS.

Grant funds under this part shall be used to provide hardware and software components to all sites, and training for classroom teachers as well as parents, administrators and technical personnel.

SEC. 387. EVALUATION.

The Secretary shall evaluate the demonstration program assisted under this part and shall report to the Congress regarding the overall effectiveness of such program.

SEC. 388. DEFINITIONS.

For the purpose of this part, the term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

SEC. 389. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997 to carry out this part.

PART M—COMPENSATION

SEC. 391. COMPENSATION.

(a) POSITIONS AT LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Education (6)" and inserting in lieu thereof "Assistant Secretaries of Education (10)".

(b) POSITIONS AT LEVEL V.—Section 5316 of title 5, United States Code, is amended by striking "Additional Officers, Department of Education (4)".

(c) APPLICABILITY.—This section shall take effect on the first day of the first pay period that begins on or after the date of enactment of this Act.

PART N—STAR SCHOOLS

SEC. 395. STAR SCHOOLS.

Subsection (a) of section 908 of the Star Schools Assistance Act (20 U.S.C. 4085b(a)) is amended by striking "greater" and inserting "lesser"

TITLE IV—DEFINITIONS

SEC. 401. DEFINITIONS.

For the purpose of this Act—

(1) the term "elementary school" has the same meaning given to such term by section 1471(8) of the Elementary and Secondary Education Act of 1965;

(2) the term "field-initiated research" means research in which the topics and methods of study are generated by the investigators, not by the source of the research funding;

(3) the term "institution of higher education" has the same meaning given to such term by section 1201(a) of the Higher Education Act of 1965;

(4) the term "local educational agency" has the same meaning given to such term by section 1471(12) of the Elementary and Secondary Education Act of 1965;

(5) the term "secondary school" has the same meaning given to such term by section 1471(21) of the Elementary and Secondary Education Act of 1965;

(6) the term "Secretary" means the Secretary of Education; and

(7) the term "State educational agency" has the same meaning given such term by section 1471(23) of the Elementary and Secondary Education Act of 1965.

Mrs. KASSEBAUM. Mr. President, the Office of Educational Research and Improvement, also known as OERI, is the agency in the Department of Education which has the potential to make the most significant contribution to our educational system. The other offices in the Department primarily provide financial assistance to students and schools which amount to about 7-8 percent of all money spent on education in the United States.

While this money is spent on worthwhile programs such as chapter I, OERI is the office that supports the research and development which has the potential to enable our schools and teachers to reform and adapt to the continual changes in our society and the needs of students. OERI can make a difference in the classroom by disseminating research findings on effective education practices and providing technical assistance to teachers in translating that research into practice. However, the education research being funded by OERI is not having the impact on the Nation's schools that it could.

In attempting to remedy this in this bill, we have tried to make changes to OERI programs to improve the outreach and dissemination efforts and to ensure that OERI programs are truly serving the needs of schools and teachers.

Toward this end, we have created an Office of Dissemination in OERI to take what we know about effective education practice and deliver it to the frontline teachers who need it. We also tried to create more linkages among the many OERI components so that they work together and complement each other's efforts working toward the same goals.

I have recommended the creation of a multipurpose teacher research dissemination network which has the the potential to reach 50 percent of the Nation's teachers over the next 5 years. This program will put teachers in touch with new ideas and approaches to help them tackle the difficult problems of low student achievement, dropouts, and the increasing responsibilities being passed onto teachers in today's society.

The program is intended to improve communication among OERI components and among teachers within their own school and across the district. It will empower teachers with information about U.S. Department of Education resources available to them by improving dissemination of information about OERI services, products, and activities. Most importantly, it will foster teacher professionalization by encouraging teachers to become more active players in improving their craft, seeking outside assistance, and working with other teachers to share and train each other in successful practices and develop solutions to common problems.

We have streamlined OERI operations through creation of five directorates focusing on broad comprehensive research areas rather than many isolated issues.

The bill provides authority for the continuation of the State National Assessment of Educational Progress [NAEP] trial program. We also incorporated the recommendations of the National Council on Standards and Testing for starting a process by which broader questions of standards and testing can be addressed. I would emphasize, however, that I view this as the beginning of the testing discussion—not the end point.

If we are moving in the direction of developing national standards, we must have broad debate and consensus on what those standards should be. Teachers must have a major role in the development of the standards for they are the ones who will be implementing the standards by turning them into curricula and helping students to meet the standards.

As for the development of a national test or system of tests, many difficult questions deserving of broad public debate remain. I continue to believe it would be a mistake to rush headlong into some type of national test or system of tests. We must be satisfied that such assessment is worth the time, efforts, and money which would be involved. I firmly believe that the primary goal of any such tests should be to improve teaching and learning and inform teachers and students. The Federal role in this area should be one of informing the debate on assessment practices and supporting State and local efforts.

Overall, I believe that this bill has the potential to provide valuable research, guidance, and technical support for our Nation's schools and teachers as they work with our students to help them prepare for the future.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 287. A bill to amend the Employee Retirement Income Security Act of 1974 with respect to the preemption of the Hawaii Prepaid Health Act, and for other purposes; to the Committee on Labor and Human Resources.

HAWAII PREPAID HEALTH CARE EXEMPTION ACT

Mr. AKAKA. Mr. President, I rise today to reintroduce legislation to exclude the Hawaii Prepaid Health Care Act from the Employee Retirement Income Security Act of 1974 [ERISA]. Senator INOUYE has joined me in introducing this bill.

In recognition of Hawaii's determined effort to provide universal health care, my bill would exempt the State's Prepaid Health Care Act from restrictions contained in ERISA. Such an exemption would give Hawaii greater flexibility to improve both the quality and scope of health coverage to her working men and women and their families. It would also allow the State to address inconsistencies in its innovative approach to health care.

Hawaii had led the Nation in ensuring that basic health care is available to all its people. This system delivers high-quality care at relatively low cost, despite a cost of living that is 30 to 40 percent higher than the rest of the country.

The results of Hawaii's innovative approach is impressive. Of all the States, Hawaii is the closest to achieving universal health care coverage. Results of a State of Hawaii department of health survey indicate that 3.75 percent of Hawaii's residents lack health insurance. This compares with national estimates that between 14 and 17 percent of U.S. residents are not covered.

Mr. President, my State has achieved this unique status by building on the success of the Hawaii Prepaid Health Care Act of 1974, which forms the backbone of the system. There are two other components of this three-pronged approach. One is the State's Medicaid Program, which uses Federal and State funds to provide access to care for the medically and economically needy. The other part is the State Health Insurance Program [SHIP], which seeks to enroll the remaining gap group ineligible for either employer-provided coverage, Medicaid or other Federal programs.

Since 1974, Hawaii has had a mandated employer health benefits program, the first and only one of its kind in the United States. The Prepaid Health Care Act was enacted after many years of study and debate in an environment of already strong employment-based coverage. Nearly all of Hawaii's employers are required to provide employee health insurance, with the employee paying up to half the premium cost, but no more than 1.5 percent of monthly wages and the employer providing the balance. Dependent coverage is optional.

Eligible employees must work at least 20 hours a week. Employers may offer one or two basic plans—a fee-for-service plan or a designated health maintenance organization plan.

Hawaii has also been expanding eligibility for Medicaid allowed under Federal options and recently implemented SHIP, its subsidized insurance program covering those left in the gap between employer-provided insurance and Medicaid.

Launched in April 1990, SHIP provides a State-subsidized, basic insurance plan to those in the gap group—mainly the unemployed; dependents of low-income workers, who are mostly children; and part-time workers unable to afford coverage. An estimated 30,000 to 35,000 individuals are in the gap group. To date, over 17,000 members have enrolled.

Mr. President, the road to universal health care coverage is often rocky, and the Federal Government has sometimes erected barriers rather than removed constraints to achieving maximum coverage. A case in point is the State's experience with the Hawaii Prepaid Health Care Act and ERISA.

In 1980, the Ninth Circuit Court of Appeals held that the preemption clause in ERISA prevented the State from enacting minimum health care requirements for employers governed by ERISA. The court determined that in the absence of an expressed exemption for the Hawaii statute, Federal law governs. The U.S. Supreme Court affirmed the lower court ruling, and concluded that relief could come only from Congress.

Soon thereafter, I sponsored legislation to grant an exemption for the Hawaii statute. After considerable congressional debate, a limited ERISA exemption was signed into law on January 14, 1983. However, the exemption was not prospective and only permitted the State to require the specific benefits set forth in its 1974 statute.

An unfortunate consequence is that the Hawaii Prepaid Health Care Act has been frozen in time, with no amendments or changes allowed other than those that would enhance effective administration.

Mr. President, there is an urgent need to bring the State statute up to date, inasmuch as 19 years have passed since its enactment. We need to allow a State that has been at the forefront of innovative approaches to health care to make changes which better reflect the needs of today's population and their employers. Hawaii should not have to resort to back-door approaches in order to ensure basic health care to its citizens. My legislation will permit the State to address these issues and upgrade its successful health care programs for the 1990's and beyond.

Today, Hawaii has one of the lowest infant mortality rates and one of the highest life expectancy rates in the Nation. Although the incidence of chronic diseases, such as cancer and heart disease is similar to that of other States, the death rates from these diseases are lower. The substantial investment Hawaii has made in the prepaid health care law has clearly paid off.

In recognition of Hawaii's need to make beneficial changes to its landmark health care statute, a provision expanding the existing ERISA exemption for Hawaii was included in the conference report on H.R. 11 in the 102d Congress.

Although we continue the quest for a long overdue national health care reform, we should not allow a dynamic State like Hawaii to remain hobbled by Federal limitations on a truly innovative program with a proven record of success.

Mr. President, I urge my colleagues to support this bill, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 287

Be it enacted by the Senate and House Representatives of the United States of America in Congress assembled,

SECTION 1. PREEMPTION OF HAWAII PREPAID HEALTH CARE ACT.

Section 514(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(5)) is amended to read as follows:

"(5)(A) Except as provided in subparagraphs (B) and (C), subsection (a) shall not apply to the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. §§393–1 through 393–51).

"(B) Nothing in subparagraph (A) shall be construed to exempt from subsection (a) any State tax law relating to employee benefits plans.

"(C) If the Secretary of Labor notifies the Governor of the State of Hawaii that as the result of an amendment to the Hawaii Prepaid Health Care Act enacted after the date of the enactment of this paragraph—

"(i) the proportion of the population with health care coverage under such Act is less than such proportion on such date, or

"(ii) the level of benefit coverage provided under such Act is less than the actuarial equivalent of such level of coverage on such date,

subparagraph (A) shall not apply with respect to the application of such amendment to such Act after the date of such notification.".

By Mr. DORGAN:

S. 288. A bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gains tax on individuals, and for other purposes; to the Committee on Finance.

CAPITAL GAINS TAX FAIRNESS ACT OF 1993

Mr. DORGAN. Mr. President, the debate over capital gains in America today shows what is wrong with the economic thinking in this Nation, and why the middle class never seems to gain any ground.

For the past decade, a cadre of beltway pundits has turned capital gains into the poster child of the rich. They have painted a picture of investors sitting glumly in their Wall Street offices, so victimized and despondent over the lack of a capital gains tax loophole that they have lost all will to save and invest.

Of course, that picture is a product of ideological ax grinding. The rich are doing quite well in America today. Their tax rates are about half the level of the 1960's—a time when, let us not forget, the American economy was booming, despite the very high tax rates in the upper brackets.

The sad part of the maudlin handwringing over the rich, is that it has overshadowed a very real problem facing middle-income taxpayers. People of modest means who sell an occasional asset—a small family business, for example—often find the gain wiped out by taxes. These are not professional investors, nor tax shelter players. Rather, they are ordinary people who depend on some property for long-term savings and investment, only to find much of that savings wiped out by taxes and inflation.

That is why I am introducing today the Capital Gains Tax Fairness Act of 1993. This is tax relief for Main Street rather than Wall Street; it would deal with the capital gains problems that ordinary Americans, like family farmers and Main Street business owners, actually experience, as opposed to the kind of tax problems that the ideological ax grinders moan about. Under this bill, an individual taxpayer would get a special low-tax rate on up to $200,000 in capital gain income—not including stocks and bonds—over his or her lifetime. The House passed this proposal as part of the 1990 budget bill; it was later dropped in conference.

In addition, this bill would enable middle-income taxpayers to take a modest $1,000 in capital gains income each year, tax free. This exclusion would apply to publicly traded stock, among other assets; but it would be diminished for taxpayers who make over $150,000 a year. The $1,000 annual tax break would not count against the lifetime allowance of $200,000 in low-taxed gains.

What I am proposing today is an alternative to the kind of across-the-board capital gains loophole that the Bush administration was pushing to revive. This country cannot afford more tax breaks for the rich. The last thing our economy needs, moreover, is a return of the tax shelter industry, which was built on the old capital gains tax break, and which siphons off the Nation's productive energies into tax lawyering and accounting.

America will not return to prosperity through tax loopholes and accounting finagles. We need low rates for everyone, and simple laws, so that investors can respond to the market, rather than to the arcana of the Internal Revenue Code and to the whims of the IRS.

Capital gains tax relief should be a response to a real problem, and that is what my bill does. It would address a real tax burden felt by middle-income Americans. They would be able to sell the family farm or business, or to cash in some stock to send the kids to college, without incurring an overbearing tax burden. They wouldn't have to watch their savings from modest, long-term investment disappear into the IRS. My approach is simple, and fair; and it would provide the middle-class some tax relief that they need and deserve.

I ask unanimous consent to include the full text of the bill into the RECORD following this statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 288

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Capital Gains Tax Fairness Act of 1993".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—REDUCTION IN CAPITAL GAINS TAX FOR INDIVIDUALS

SEC. 101. REDUCTION IN CAPITAL GAINS TAX FOR INDIVIDUALS.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1202. CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.

"(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the sum of—

"(1) the annual capital gains deduction (if any) determined under subsection (b), plus

"(2) the lifetime capital gains deduction for nontradable property (if any) determined under subsection (c).

"(b) ANNUAL CAPITAL GAINS DEDUCTION.—

"(1) IN GENERAL.—For purposes of subsection (a), the annual capital gains deduction determined under this subsection is the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) $1,000.

"(2) PHASE-OUT FOR INCOMES BETWEEN $100,000 AND $150,000.—The $1,000 amount specified in subparagraph (B) of paragraph (1) shall be reduced by an amount which bears the same ratio to $1,000 as—

"(A) the adjusted gross income of the taxpayer for the taxable year in excess of $100,000, bears to, or

"(B) $50,000.

"(3) CERTAIN INDIVIDUALS NOT ELIGIBLE.—This subsection shall not apply to—

"(A) any taxpayer whose adjusted gross income for the taxable year exceeds $150,000, or

"(B) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(4) ANNUAL DEDUCTION NOT AVAILABLE FOR SALES TO RELATED PERSONS.—The amount of the net capital gain taken into account under paragraph (1)(A) shall not exceed the amount of the net capital gain determined by not taking into account gains and losses from sales and exchanges to any related person (within the meaning of section 267(b) or 707(b)(1)).

"(c) LIFETIME CAPITAL GAINS DEDUCTION FOR NONTRADABLE PROPERTY.—

"(1) IN GENERAL.—For purposes of subsection (a), the lifetime capital gains deduction for nontradable property determined under this subsection for any taxable year is 50 percent of the qualified gain for such taxable year.

"(2) LIMITATION.—

"(A) IN GENERAL.—The amount of the qualified gain taken into account under paragraph (1) for any taxable year shall not exceed $200,000 reduced by the aggregate amount of the qualified gain taken into account under this subsection by the taxpayer for prior taxable years.

"(B) SPECIAL RULE FOR JOINT RETURNS.—The amount of the qualified gain taken into account under this subsection on a joint return for any taxable year shall be allocated equally between the spouses for purposes of determining the limitation under subparagraph (A) for any succeeding taxable year.

"(3) QUALIFIED GAIN.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified gain' means the lesser of—

"(i) the net capital gain for the taxable year reduced by the annual capital gains deduction for such taxable year, or

"(ii) the net capital gain for the taxable year determined by only taking into account gains and losses from sales and exchanges on or after January 27, 1993, of qualified assets.

"(B) SPECIAL RULES.—

"(i) For purposes of subparagraph (A)(ii), any amount treated as a capital loss for the taxable year under section 1212 shall be treated as a loss from a sale or exchange on or after January 27, 1993, of a qualified asset.

"(ii) A taxpayer may elect for any taxable year not to take into account under this subsection all (or any portion) of the qualified gain for such taxable year. Such an election, once made, shall be irrevocable.

"(4) QUALIFIED ASSETS.—For purposes of this subsection, the term 'qualified assets' means any property other than—

"(A) stock or securities for which there is a market on an established securities market or otherwise, and

"(B) property (other than stock or securities) of a kind regularly traded on an established market.

"(5) SUBSECTION NOT TO APPLY TO CERTAIN INDIVIDUALS.—This subsection shall not apply to any individual who has not attained age 25 before the close of the taxable year.

"(d) SECTION NOT TO APPLY TO CERTAIN TAXPAYERS.—No deduction shall be allowed under this section to—

"(1) a married individual (within the meaning of section 7703) filing a separate return for the taxable year, or

"(2) an estate or trust.

"(e) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN SALES OF INTERESTS IN PARTNERSHIPS, ETC.—For purposes of subsection (c), any gain from the sale or exchange of a qualified asset which is an interest in a partnership, S corporation, or trust shall not be treated as gain from the sale or exchange of a qualified asset to the extent such gain is attributable to unrealized appreciation in the value of property described in subparagraph (A) or (B) of subsection (c)(4) which is held by such entity. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(2) DEDUCTION AVAILABLE ONLY FOR SALES OR EXCHANGES ON OR AFTER JANUARY 27, 1993.—The amount of the net capital gain taken into account under subsections (b)(1)(A) and (c)(3)(A)(i) shall not exceed the amount of the net capital gain determined by only taking into account gains and losses from sales and exchanges on or after January 27, 1993. For purposes of the preceding sentence, any amount treated as a capital loss for the taxable year under section 1212 shall be treated as a loss from a sale or exchange on or after January 27, 1993.

"(3) DETERMINATION OF ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—For purposes of subsection (b), adjusted gross income shall be determined—

"(i) without regard to the deduction allowed under this section, but

"(ii) after the application of sections 86, 135, 219, and 469.

"(B) COORDINATION WITH OTHER ADJUSTED GROSS INCOME LIMITATIONS.—For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(4) SPECIAL RULE FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying this section with respect to any pass-thru entity—

"(i) the determination of when the sale or exchange occurs shall be made at the entity level, and

"(ii) any gain attributable to such entity shall in no event be treated as gain from sale or exchange of a qualified asset if interests in such entity are described in subparagraph (A) or (B) of subsection (c)(4).

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru-entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund."

(b) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTERESTS IN PARTNERSHIPS, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(c) MINIMUM TAX.—Paragraph (1) of section 56(b) is amended by adding at the end thereof the following new subparagraph:

"(G) CAPITAL GAINS DEDUCTION NOT ALLOWED.—The deduction under section 1202 shall not be allowed."

(d) COORDINATION WITH MAXIMUM CAPITAL GAINS RATE.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under subparagraph (A).

"(2) COORDINATION WITH SECTION 1202 DEDUCTION.—For purposes of paragraph (1), the amount of the net capital gain shall be reduced by the sum of—

"(A) the amount allowable as a deduction under section 1202(a)(1), plus

"(B) the amount of the qualified gain (as defined in section 1202(c)) for the taxable year to the extent taken into account under section 1202(c)(1) for the taxable year."

(e) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 62 is amended by inserting after paragraph (14) the following new paragraph:

"(15) CAPITAL GAINS DEDUCTION.—The deduction allowed by section 1202."

(2) Clause (ii) of section 163(d)(4)(B) is amended by inserting ", reduced by the amount of any deduction allowable under section 1202 attributable to gain from such property" after "investment".

(3)(A) Paragraph (2) of section 172(d) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(4)(A) Section 220 (relating to cross reference) is amended to read as follows:

"SEC. 220. CROSS REFERENCES.

"(1) For deduction for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 is amended by striking "reference" in the item relating to section 220 and inserting "references".

(5) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1202, and 1211".

(6) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for net capital gain) and" after "except that".

(7) Paragraph (1) of section 1402(i) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(f) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1202. Capital gains deduction for individuals."

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after January 27, 1993.

(2) TREATMENT OF COLLECTIBLES.—The amendments made by subsection (b) shall apply to dispositions on or after January 27, 1993.

(3) COORDINATION WITH PRIOR TRANSITION RULE.—Any amount treated as long-term capital gain by reason of paragraph (3) or (4) of section 1122(h) of the Tax Reform Act of 1986 shall not be taken into account for purposes of applying section 1202 of the Internal Revenue Code of 1986 (as added by this section).

TITLE II—DEPRECIATION RECAPTURE

SEC. 201. RECAPTURE UNDER SECTION 1250 OF TOTAL AMOUNT OF DEPRECIATION.

(a) GENERAL RULE.—Subsections (a) and (b) of section 1250 (relating to gain from disposition of certain depreciable realty) are amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

"(1) the depreciation adjustments in respect of such property, or

"(2) the excess of—

"(A) the amount realized (or, in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of such property), over

"(B) the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(b) DEPRECIATION ADJUSTMENTS.—For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods after December 31, 1963, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 169, 185 (as in effect before its repeal by the Tax Reform Act of 1986), 188 (as in effect before its repeal by the Revenue Reconciliation Act of 1990), 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed."

(b) LIMITATION IN CASE OF INSTALLMENT SALES.—Subsection (i) of section 453 is amended—

(1) by striking "1250" the first place it appears and inserting "1250 (as in effect on the day before the date of the enactment of the Capital Gains Tax Fairness Act of 1993)", and

(2) by striking "1250" the second place it appears and inserting "1250 (as so in effect)".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 1250(d)(4) is amended—

(A) by striking "additional depreciation" and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(2) Subparagraph (B) of section 1250(d)(6) is amended to read as follows:

"(B) DEPRECIATION ADJUSTMENTS.—In respect of any property described in subparagraph (A), the amount of the depreciation adjustments attributable to periods before the distribution by the partnership shall be—

"(i) the amount of gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied."

(3) Subsection (d) of section 1250 is amended by striking paragraph (10).

(4) Section 1250 is amended by striking subsections (e) and (f) and by redesignating subsections (g) and (h) as subsections (e) and (f), respectively.

(5) Paragraph (4) of section 50(c) is amended to read as follows:

"(4) RECAPTURE OF REDUCTION.—For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation."

(6) Clause (i) of section 267(e)(5)(D) is amended by striking "section 1250(a)(1)(B)" and inserting "section 1250(a)(1)(B) (as in effect on the day before the date of the enactment of the Capital Gains Tax Fairness Act of 1993)".

(7)(A) Subsection (a) of section 291 is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Subsection (c) of section 291 is amended to read as follows:

"(c) SPECIAL RULE FOR POLLUTION CONTROL FACILITIES.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(4)."

(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(D) Paragraph (2) of section 291(d) (as redesignated by subparagraph (C)) is hereby repealed.

(E) Subparagraph (A) of section 265(b)(3) is amended by striking "291(e)(1)(B)" and inserting "291(d)(1)(B)".

(F) Subsection (c) of section 1277 is amended by striking "291(e)(1)(B)(ii)" and inserting "291(d)(1)(B)(ii)".

(8) Subsection (d) of section 1017 is amended to read as follows:

"(d) RECAPTURE OF DEDUCTIONS.—For purposes of sections 1245 and 1250—

"(1) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

"(2) any reduction under this section shall be treated as a deduction allowed for depreciation."

(9) Paragraph (5) of section 7701(e) is amended by striking "(relating to low-income housing)" and inserting "(as in effect on the day before the date of the enactment of the Capital Gains Tax Fairness Act of 1993)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions made on or after January 27, 1993, in taxable years ending on or after such date.

By Mr. REID (for himself, Mr. PRYOR, Mr. DANFORTH, Mr. KEMPTHORNE, Mr. LUGAR, Mr. MCCAIN, Mr. WARNER, Mr. BRYAN, Mr. COHEN, and Mr. GRAHAM):

S. 289. A bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, and for other purposes; to the Committee on Finance.

CONTRIBUTIONS IN AID OF CONSTRUCTION ACT

Mr. REID. Mr. President, today I, along with Senators PRYOR and DANFORTH, are reintroducing legislation to reinstate the exclusion from gross income of contributions in aid of construction—known as contributions or CIAC—to a water or wastewater utility. Joining us as original cosponsors are Senators KEMPTHORNE, LUGAR, MCCAIN, WARNER, BRYAN, COHEN, and GRAHAM.

Mr. President, this legislation passed in amendment form in the Senate on two occasions last year. Once during consideration of H.R. 4210, and again during consideration of H.R. 11.

In order to understand the economic and environmental effects of the CIAC tax, it is necessary to explain what a contribution is in the context of this legislation. Utilities are capital intensive industries. Historically, they have received the capital for the construction of a utility extension directly from new customers, typically a developer. The customer contributes this property, or a cash equivalent, to the utility. In this way, existing customers will not face rate increases every time the utility gains new customers.

Prior to enactment of the Tax Reform Act of 1986, CIAC were not included in the gross income of an investor-owned utility and therefore were not subject to Federal income tax. In addition, utilities could not earn, take tax depreciation or investment tax credits on CIAC.

The 1986 act repealed section 118(b) of the Internal Revenue Code and thus subjected CIAC to tax as gross income. As we all remember, the 1986 act had two basic premises as its core. One, the tax base would be broadened and rates would be lowered. Two, cuts in individual rates would be offset by increases in the corporate tax burden. Clearly the authors of the 1986 act intended to ensure that the burden of corporate taxes was spread to all industries including utilities.

The removal of the exclusion from gross income of CIAC was intended as a tax on utilities. In practice, the CIAC tax is not a tax on utilities, but a tax on utility customers, primarily developers and home buyers.

State utility regulatory bodies, often referred to as PUC's, generally require utilities to pass tax costs onto their customers. This means utility customers must make a larger contribution in order to cover a utility's tax costs. This is done in 1 of 2 ways. The most common approach is to require the new customer to pay the cost of the tax. But this is not a simple dollar for dollar charge. In order for a utility to be made whole, it must pay tax on the CIAC, plus a tax on the tax. This phenomenon is known as a gross-up. Depending on the State, a gross-up can add as much as 70 percent to the customer's cost of the contribution. In other words, a contribution of water mains valued at $100,000 would cost a customer $170,000.

Alternatively, the PUC may allow the utility to recover the tax cost from existing customers. Not only does this defeat the purpose of a contribution, it also means a rate increase. And with many water utilities seeking rate increases of as much as 25 percent in order to pay for Safe Drinking Water Act requirements, additional rate increases can lead to calls for condemnation.

Whichever method is chosen, utilities do not pay the tax, they pass it on. But passing the tax on has detrimental effects, not only on the utility's ability to bring in new business, but on the environment and—most significantly—on the price of new housing and housing construction.

Any developer faced with a large gross-up will have to evaluate its effect on the bottom line. Depending on conditions in the local housing market, a developer will ultimately pass the cost of the CIAC and the gross-up on to the new home buyer. The National Assocation of Home Builders has estimated that the CIAC tax can increase the cost of new housing by as much as $2,000 a unit. This additional cost is enough to end the dream of home ownership for a young couple.

The CIAC tax also has some important environmental effects. New customers can avoid paying the CIAC tax by building their own independent water systems. This leads to a proliferation of systems that may not have the financial, technical, or managerial ability to comply with the rigorous requirements of the Safe Drinking Water Act. Such systems are referred to as nonviable. According to EPA, in fiscal year 1990, more than 90 percent of the violations of the Safe Drinking Water Act were made by systems serving less than 3,300 individuals. By encouraging the proliferation of nonviable systems, the CIAC tax frustrates the environmental policy goal of consolidating these systems into already existing, professionally managed systems.

Mr. President, section 118(b) of the Internal Revenue Code, exempting contributions in aid of construction from gross income, should be restored. It is a tax on capital not income. It is not a tax on utilities, it is a tax on their customers. The CIAC tax increases the price of new homes, leads to the development of environmentally unsound water and sewage facilities and reduces the tax base for all levels of government.

Most important in my opinion, elimination of the CIAC tax will help get the real estate market back on its feet. Not by fueling real estate speculation, but by removing another barrier to the purchase of a new home. Anyone who has bought a house recently knows you just don't pay the price of the house. You pay closing costs, title costs, title insurance fees, attorneys' fees, and points. And when you buy a house hooked up to privately owned utilities, you also pay the CIAC tax—as much as $2,000 a unit.

This legislation was most recently estimated to cost $106 million over 5 years. I have included a revenue offset in the bill as introduced that raises $140 million over the same period, thus netting $34 million for the Federal Government. The offset extends depreciation on new water utility plants from 20 to 25 years and switches from 150 percent declining balance to straight line depreciation. This offset was suggested by the investor-owned water industry and is indivisible from the substance of the legislation which is the restoration of the exclusion of CIAC from gross income. The industry suggested it only for the purpose of repealing the CIAC tax, and that is its only intended use.

Mr. President, repeal of the tax on CIAC for water and wastewater utilities will have a noticeable effect on both housing prices and environmental policy. It is supported by both the National Association of Water Companies and the National Association of Regulatory Utility Commissioners. I urge my colleagues to cosponsor this important legislation.

I ask unanimous consent that the text of the bill follow my statement in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.—

(1) IN GENERAL.—Section 118 of the Internal Revenue Code of 1986 (relating to contributions to the capital of a corporation) is amended—

(A) by redesignating subsection (c) as subsection (e), and

(B) by inserting after subsection (b) the following new subsections:

"(c) Special Rules For Water and Sewage Disposal Utilities.—

"(1) General rule.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

"(A) such amount is a contribution in aid of construction,

"(B) in the case of contribution of property other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

"(C) such amount (or any property acquired or constructed with such amount) is not included in the taxpayer's rate base for ratemaking purposes.

"(2) Expenditure rule.—An amount meets the requirements of this paragraph if—

"(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

"(i) which is the property for which the contribution was made or is of the same type as such property, and

"(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

"(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

"(C) accurate records are kept of the amounts contributed and expenditures made, the expenditures to which contributions are allocated, and the year in which the contributions and expenditures are received and made.

"(3) Definitions.—For purposes of this subsection—

"(A) Contribution in aid of construction.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as service charges for starting or stopping services.

"(B) Predominantly.—The term 'predominantly' means 80 percent or more.

"(C) Regulated public utility.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

"(4) Disallowance of deductions and investment credit; adjusted basis.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

"(d) Statute of Limitations.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (c), then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

"(A) the amount of the expenditure referred to in subparagraph (A) of subsection (c)(2),

"(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

"(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (c)(2); and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(2) Conforming amendment.—Section 118(b) of such Code is amended by inserting "except as provided in subsection (c)," before "the term".

(3) Effective date.—The amendments made by this subsection shall apply to amounts received after the date of the enactment of this Act.

(b) Recovery Method and Period for Water Utility Property.—

(1) Requirement to use straight line method.—Section 168(b)(3) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(F) Water utility property described in subsection (e)(5)."

(2) 25-year recovery period.—The table contained in section 168(c)(1) of such Code is amended by inserting the following item after the item relating to 20-year property:

"Water utility property .... 25 years".

(3) Water utility property.—

(A) In general.—Section 168(e) of such Code is amended by adding at the end the following new paragraph:

"(5) Water utility property.—The term 'water utility property' means property—

"(A) which is an integral part of the gathering, treatment, or commercial distribution of water, and

"(B) which, without regard to this paragraph, would be 20-year property."

(B) Conforming amendment.—Subparagraph (F) of section 168(e)(3) of such Code is amended by adding at the end the following new sentence: "Such term does not include water utility property."

(4) Alternative system.—Clause (iv) of section 168(g)(2)(C) of such Code is amended by inserting ", water utility property," after "grading".

(5) Effective date.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act, other than property placed in service pursuant to a binding contract in effect on such date and at all times thereafter before the property is placed in service.

By Mr. MACK:

S. 290. A bill to provide for the cancellation of all existing leases and to ban all new leasing activities under the Outer Continental Shelf Lands Act in the area off the coast of Florida, and for other purposes; to the Committee on Energy and Natural Resources.

FLORIDA COASTAL PROTECTION ACT

• Mr. MACK. Mr. President, during the past election year, two of the issues that have been the focus of much debate and concern were: the state of our economy; and the condition of our environment. These two issues are usually found at opposite ends of any conversation for they are often seen as being competing concerns. But this need not be the case. My State provides an excellent example, since probably more so than most States, Florida's environment is a fragile one. Its beauty is a constant reminder that a sound environment and a sound economy go hand in hand.

For Florida, the beauty of the environment plays a key role in the economy. A clean environment is not only desirable, but also necessary for a strong economy. In fact, the economic health of the people of the State of Florida depends significantly upon the coastline and the waters surrounding our State. The pristine beaches of Florida are the primary attraction to the millions of tourists who fuel our economy, and provide our State with its single greatest source of revenue. Our waters support vast commercial and recreational fishing industries, which together generate more than $1.6 billion annually. These are in addition to popular recreational boating activities that also capitalize upon our valuable water resources.

On the environmental side, the area off the southwest coast of Florida is one of the most environmentally sensitive coastal habitats in the continental United States. The only living coral reef in the continental United States lines the east coast of the Florida Keys. In addition to providing life support for more than 400 species of fish, coral reefs of this size take hundreds of years to form and if left undisturbed, can create new islands such as the Keys.

Some of our country's greatest national treasures are located in southwest Florida, including the Everglades National Park, Crocodile Lake, and Great White Heron and Key West National Wildlife Refuges. The Florida Everglades are lined with mangroves which, besides acting as a natural filtration system between water and land, also provide shallow, sheltered nutrient-rich water for marine life. The State of Florida and the National Government have allocated substantial amounts of money toward rebuilding the environment of our State in these various areas. They are a source of national pride not only for their beauty, but also because of the international admiration they inspire. The United Nations has designated the Everglades National Park and Dry Tortugas ecosystem as an international biosphere reserve.

Despite the pride that all Floridians share in having these treasures located in our own backyards, my aim in speaking here today is not simply to praise the beauty of our State. Rather, I am compelled to take action now to ensure its environmental safety before it is too late. I am very concerned over what an oilspill would do to the ecology, economy, and beauty of Florida. I have always said that I believe drilling should not be allowed off the coast of

Florida in the absence of conclusive evidence that environmental damage will not occur. This evidence is not forthcoming. In fact, after reviewing the latest information on offshore oil drilling, and making recent trips to the Everglades and Keys, I am even more convinced that offshore drilling will always present an unacceptable risk to the economy and environment of Florida.

One danger outlined by the President's Leasing and Development Task Force back in 1989, but only fully appreciated now, is the impact that a major hurricane would have on oil drilling operations off the coast of Florida. Not only do hurricanes increase the likelihood of oilspills from platforms and tankers, but they also raise serious questions about emergency preparedness. Two days after the worst national disaster in our Nation's history—Hurricane Andrew—I was in south Florida with President Bush to survey the incredible damage. As local, State, and national authorities responded to the emergency, and labored under seriously limited conditions, it became clear to me that there would be no way to simultaneously handle an oilspill. In fact, based upon what I saw, it would have been weeks before an effective cleanup could have begun. Added to these very real limitations, is the fact that, according to the task force, "There is no proven environmentally sound way to remove oil from sandy beaches or mangrove roots." Thankfully, Florida was spared an oil related accident this time; next time we may not be so lucky.

All of this raises the question of: What is to be done? When the Presidential task force visited Florida, the cancellation of all future leasing was essentially the only option expressed by the vast majority of individuals at the four workshops in Florida and through written comments. In addition, many expressed the view that all existing permits for exploration from previous lease sales be revoked and leases repurchased so as to exclude any oil and gas development activities.

Much more than anyone else, Floridians know the value of our scenic coast. We also know how much our livelihoods are closely linked to the economic value of our shoreline and fisheries. Florida's coast belongs to Floridians and its use should be determined by Floridians. The Federal Government should not impose the huge risk of an oilspill on Florida's pristine coast against the will of Floridians. Over the past several years, I have traveled from the panhandle of Florida to the Florida Keys many times. Throughout these journeys, the people of Florida told me that they do not want drilling off their coast.

What is good for Florida's environment is also best for its economy. The threat of disaster far outweighs the benefits of offshore drilling activities in both environmental and economic terms. It is easy to understand and picture the environmental damage an oilspill might bring, but the economic consequences would be staggering. Oil-slicked beaches wouldn't be much of a tourist attraction.

The protection of Florida's coastline is a priority issue. If anyone should decide the fate of Florida's coastline, Floridians should, and the Floridians I've talked to have said "no" to offshore oil drilling. Therefore, tonight I am introducing a bill to ban all leasing and drilling activities off of the Florida coast and cancel all existing leases currently held there. The decision by the Department of Commerce to allow the Department of the Interior to issue a permit for drilling just 29 miles off of the coast of the panhandle of Florida underscores the urgency of this legislation. It is my hope to work with the new administration to make the dream of protecting the Florida coastline from offshore drilling a reality.•

By Mr. MURKOWSKI:

S. 291. A bill to amend the Alaska National Interest Lands Conservation Act to improve the management of Glacier Bay National Park, and for other purposes; to the Committee on Energy and Natural Resources.

GLACIER BAY NATIONAL PARKS MANAGEMENT ACT

• Mr. MURKOWSKI. Mr. President, I am today reintroducing my bill to allow continued commercial and subsistence fishing in Glacier Bay National Park. This bill was heard by the members of the Committee on Energy and Natural Resources last year, and was reported out of that committee by an overwhelming margin. Because I am today offering precisely the same version, I hope that we can anticipate rapid action on it.

Let me emphasize that this bill will not—not in any way—affect the essentially wild and untouched nature of Glacier Bay National Park. For well over 100 years commercial fishermen have plied the waters now encompassed by the park, and for many thousands of years, local villagers have engaged in subsistence fishing and gathering there. At no time have these activities damaged the park or its resources, nor have they harmed the area's wild and scenic qualities.

Mr. President, this simple fact cannot be overemphasized: Commercial fishermen and local villagers have continually fished in Glacier Bay since long before it became a park or a monument, and the fact that we value it so highly today is proof that they have not had an adverse impact on the species of the bay.

SUBSISTENCE

It is no secret that Park Service personnel have attempted to discourage subsistence uses within the park, even before that became the Service's policy. Attempts to discourage local residents from using the park date back at least into the 1950's, according to research by the Alaska Department of Fish and Game.

Now, in response to a lawsuit filed by radical groups with no conception of the human realities involved, the Service has decided it must take formal steps against this stable, small-scale activity, as well as against the equally stable level of commercial fishing. The only use that is not being challenged is sport fishing—the one type of fishing that is currently undergoing rapid growth.

Furthermore, there is no clear basis for a subsistence prohibition. In fact, there are numerous passages in the Alaska National Interest Lands Conservation Act [ANILCA] which indicate that its purpose was in part to ensure the continuation of subsistence.

For example, section 802(1) of ANILCA states that the "utilization of the public lands in Alaska is to cause the least adverse impact possible on rural residents who depend upon subsistence uses of the resources of such lands." Section 203 states that: "Subsistence uses by local residents shall be allowed in national preserves and, where specifically permitted by this act, in national monuments and parks." And section 816 of ANILCA, entitled, "Closure to Subsistence Uses," closes parks like Glacier Bay National Park only to the taking of wildlife, not fish and other marine resources.

Although ANILCA is intended to protect the rights of rural residents, the current Park Service interpretation of ANILCA denies these rights to rural residents in the Glacier Bay area. Subsistence fishing and gathering, which are vital to these communities, must be permitted. My bill will correct the inconsistencies in the Alaska National Interest Lands Conservation Act [ANILCA] concerning subsistence fishing and gathering in Glacier Bay National Park.

If this new policy is allowed to stand unchallenged, villagers living near Glacier Bay will no longer be able to use the bay to feed their families—to fish for halibut, salmon, and crabs, and collect clams, seaweeds, berries, and other foods that are traditional in their cultures. And let me emphasize that we are talking about a relative handful of families from the local village of Hoonah, which has a population of less than 900, and a few people from other nearby communities such as Yakutat, Elfin Cove, Gustavus, and Pelican.

We are not talking about thousands of people. These Alaskans live miles from the nearest supermarkets. They rely on the land and marine waters for their food—they catch fish, they kill game, and they collect berries and marine life. This is subsistence hunting, fishing, and gathering.

Hoonah residents subsistence fish for salmon in the waters of the bay and outside the bay in the Gulf of Alaska. They collect seaweeds and crabs and other intertidal animals—all foods that have economic and cultural significance in this small Alaska village.

For countless generations—as long as 9,000 years—the ancestors of today's residents have been using Glacier Bay for subsistence. Indeed, the ancestors of today's residents actually lived in the bay until the last great glacial advance, and reestablished summer residences there after the ice had retreated.

As the overriding purpose of ANILCA's subsistence provisions clearly intends to prevent, these people should not be barred from their history.

COMMERCIAL FISHING

My bill also addresses commercial fishing in the park. For generations, commercial fishermen have caught salmon, halibut, and crabs in Glacier Bay and have fished the rich grounds in the outside waters of the park.

The history of commercial fishing there began before the turn of the century. In fact, one of the first great salmon salteries in Alaska, built to produce fish which were sent on sailing ships to San Francisco, and then around the Nation, was built inside what is now a park.

There is no biological reason for restricting commercial fishing activity in the park. The fishery resources are healthy, diverse, and closely monitored. It should also be noted that of the park's approximately 3 million acres of marine waters, only about 500,000 are productive enough to warrant significant interest.

These fisheries already are restricted as to method and number of participants, and are carefully managed to ensure continued abundance. There is nothing in this bill, and there is no desire by the fishing industry, to move the level and type of activity that has been in place for many years. Closely monitored by the State of Alaska, which has proven itself a reliable custodian of the fisheries resources, these forms of commercial fishing do not harm the environment in any way.

Furthermore, the park provides invaluable refuge for trollers fishing the outside coast in times of rough weather.

This bill creates no new fisheries and expands no existing fisheries. In addition, it requires a thorough study of the effects that even the current small fisheries may have on the park. It is strongly supported not only by fishermen and subsistence users, but also by the local Alaska environmental community.

Mr. President, in the grand scheme of this Nation's economy, these fisheries are small potatoes. But to the fishermen who depend upon them, to their families, and to the small remote communities in which they live, these fisheries are of utmost importance. They are harm free, and they do not deserve to be crushed by the Government behemoth.

I look forward to my colleagues' rapid concurrence, and will welcome any inquiries.●

By Mr. SPECTER:

S. 292. A bill to amend the Internal Revenue Code of 1986 to provide incentives for investments in disadvantaged and women-owned business enterprises; to the Committee on Finance.

MINORITY AND WOMEN CAPITAL FORMATION ACT OF 1993

Mr. SPECTER. Mr. President, I rise for the purpose of introducing legislation captioned the Minority and Women Capital Formation Act of 1993.

Mr. President, as I have just spoken and heretofore have lent my support as a cosponsor to the Family and Medical Leave Act, I am introducing this legislation which is designed to be an economic stimulus to promote jobs and economic opportunity from the recession which we are currently facing. Unquestionably, small minority- and women-owned businesses can and must play an integral role in helping our country return to solid economic ground, but they cannot do so unless we are able to close the great capital gap facing these businesses.

This bill, captioned the Minority and Women Capital Formation Act of 1993, would close this gap by providing targeted tax incentives for investors to invest equity capital in minority- and women-owned small businesses, as well as venture capital funds which are dedicated to investing in minority and/or women-owned businesses.

Small businesses in general face limited access to capital. In many instances, this lack of access amounts to a failure of many such businesses to succeed. But unlike other small businesses owned by minorities or women which have traditionally faced greater barriers in addressing private capital for startups, these businesses have been unable to achieve such funding.

Candidly, Mr. President, many of these barriers are founded in racism and sexism, two subjects we do not like to talk about but two subjects which are very important and really very pervasive in our society.

While the United States has benefited from civil rights laws, we have not yet moved ahead on the business front to provide the kinds of capitalization which we need. The "capital gap" is a phrase adopted by the U.S. Commission on Minority Business Development. In its 1990 interim report, the Commission found that the "availability of capital is probably the single most important variable affecting minority business." As stated by the Commission "the problem is twofold: Lack of access to capital and credit and the need for development of alternatives to conventional financial instruments and intermediaries."

In its 1992 final report, the Commission said: "Without timely access to capital, you can't start or grow a business, particularly growth firms being weaned off solely Government business."

In 1988, the House Committee on Small Business, in its report, "New Economic Realities, The Rise of Women Entrepreneurs," also noted the barriers which women face in accessing capital and the need for the Federal Government to take into account alternative development financing institutions and eliminating or circumventing such barriers.

Mr. President, this legislation is designed to focus our attention on critical elements of a national strategy for providing access to capital and credit from minorities and women in business. The bill provides investors, and others who invest equity, capital in a small minority- or women-owned businesses or venture capital for minorities, African-Americans, Hispanics, et cetera, will have tax breaks of, first, the option to elect either a tax deduction or a tax credit subject to certain annual and lifetime caps and, second, a partial capital gains exclusion of limited deferral of the remaining capital gain if it is reinvested in another minority- or women-owned small business.

Mr. Robert Johnson, president of Black Entertainment Holdings, the only minority-controlled enterprise publicly traded on the New York Stock Exchange, as I understand it, in last year's Banking Committee hearing on the availability of capital to minority businesses testified:

> The urgency of the problem requires more adventuresome kinds of policies. Policies that are designed to deal with a specific problem should be problem specific in their solution.

Mr. President, I note that in the 1981 to 1990 timeframe, the venture capital resources increased from approximately $5.8 billion to some $36 billion but less than one-half of 1 percent of the capital raised by the majority venture capital industry was invested in minority- or women-operated businesses, which demonstrates the need for legislation of this type and incentives.

I believe minority and women shall business development is critical to urban revitalization, job creation, and long-term economic growth. No one denies the need for urban revitalization and job creation to facilitate a sustained economic recovery. And no one should deny the role that women and minority business owners must have in this effort. During the 102d Congress as a member of the Banking Committee, I heard many first-hand accounts concerning the lack of access to capital for minority- and women-owned businesses. In some cases the cause is outright discrimination; in other instances investor or lender ignorance of the marketplace; in other fear. Whatever the cause, we are facing an emergency that requires Congress' and the President's immediate attention.

To avoid abuse, the bill also imposes minimum holding periods of 5 years for such investments and contains recapture provisions for instances where the minority- or women-owned business or venture capital fund fails to remain qualified within the meaning of the legislation.

Admittedly, my proposal may not be inexpensive. Last year, I received from the Joint Tax Committee a revenue estimate that effectively prevented me from offering my proposal to tax legislation considered late last Congress. To address the cost issue, perhaps the bill should be limited to a tax credit, or perhaps to the capital gains benefit. In any event, I am willing to work with the estimators, my colleagues and others to modify my bill as necessary to achieve the ultimate goal of eliminating the capital gap confronting minority- and women-owned businesses.

Some may question the use of tax policy in the manner I am proposing. However, just as we use tax policy to foster development of housing, jobs, and research and development, so too should we utilize tax policy to foster economic empowerment of minority and women business owners who will provide jobs and generate tax revenues.

Stated differently, this bill is really a Federal investment strategy for such businesses. The proposed tax expenditures represent seed capital to help develop greater self-sufficiency in the long term. In this regard, the bill recognizes that capital targeted to women and minority business is an essential, but often overlooked component of economic development. In my judgment, it is a very creative tool to spur business growth and job creation, particularly in distressed communities.

Another very important feature of the bill is the provision of similar tax incentives for those who invest in venture capital funds dedicated to investing in minority- and/or women-owned businesses. Prior to 1970, the Federal Government had no dedicated sources of financing for disadvantaged businesses. In 1971, however, Congress authorized the creation of the specialized small business investment company [SSBIC] program administered by the Small Business Administration. For the last 20 years SSBIC's have been the primary source of capital for disadvantaged businesses. In the face of tremendous obstacles SSBIC's and the minority venture capital industry have made a real difference. For example, according to the National Association of Investment Companies [NAIC], over the last decade they have raised and invested nearly $1 billion in disadvantaged businesses.

In sum, Mr. President, there remains a need to facilitate the development of minority- and women-owned small business. We cannot allow the capital gap to grow. If we are to remain a productive and competitive nation, we must eliminate it. Moreover, there is no substitute for equity capital. Federal policies should not focus exclusively on debt financing. With targeted tax incentives, such as those that I am proposing, we can cause greater investment of equity in businesses that traditionally have not been able to access it to any significant degree. I believe this capital formation bill will take us a long way toward achieving this goal. I, therefore, encourage my colleagues to join my efforts to enact this much needed legislation.

Mr. President, I ask unanimous consent that the bill be printed in the Congressional Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 292

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minority and Women Capital Formation Act of 1993".

SEC. 2. INCENTIVES FOR INVESTMENT IN DISADVANTAGED AND WOMEN-OWNED ENTERPRISES.

(a) Subchapter P for chapter 1 of the Internal Revenue Code of 1986 (relating to capital gains and losses) is amended by adding at the end thereof the following new part:

"PART VI—INCENTIVES FOR INVESTMENT IN DISADVANTAGED AND WOMEN-OWNED ENTERPRISES

"Subpart A—Initial investment incentives.
"Subpart B—Capital gain provisions.
"Subpart C—General provisions.

"Subpart A—Initial Investment Incentives

"Sec. 1301. Deduction for investment in minority and women venture capital funds.
"Sec. 1302. Deduction for investment in small minority and women's business corporations.
"Sec. 1303. Taxpayer may elect credit in lieu of deduction.
"Sec. 1304. Recapture provisions.

"SEC. 1301. DEDUCTION FOR INVESTMENT IN MINORITY AND WOMEN VENTURE CAPITAL FUNDS.

"(a) General Rule.—There shall be allowed as a deduction an amount equal to the sum of the aggregate bases of—

"(1) qualified minority fund interests, and

"(2) qualified women's fund interests,

which are acquired by the taxpayer during the taxable year at their original issuance (directly or through an underwriter), and which are held by the taxpayer as of the close of such taxable year.

"(b) Limitations.—The amount allowable as a deduction under subsection (a) (1) or (2), respectively, for any taxable year shall not exceed $300,000 ($150,000 in the case of a separate return by a married individual).

"(c) Qualified Minority Fund Interest.—For purposes of this part, the term 'qualified minority fund interest' means any stock in a domestic corporation or partnership interest in a domestic partnership if—

"(1) such stock or partnership interest (as the case may be) is issued after the date of the enactment of this part solely in exchange for money,

"(2) such corporation or partnership (as the case may be) was formed exclusively for purposes of—

"(A) acquiring at original issuance equity interests in qualified minority corporations, or

"(B) making loans to such corporations, and

"(3) at least 70 percent of the total bases of its assets is represented by—

"(A) investments referred to in paragraph (2), and

"(B) cash and cash equivalents.

For purposes of paragraph (2), the term 'equity interests' means stock, warrants, and convertible securities.

"(d) Qualified Women's Fund Interest.—For purposes of this part, the term 'qualified women's fund interest' shall be determined under subsection (c) by substituting 'qualified women's corporations' for 'qualified minority corporations' in paragraph (2)(B).

"SEC. 1302. DEDUCTION FOR INVESTMENT IN SMALL MINORITY AND WOMEN'S BUSINESS CORPORATIONS.

"(a) General Rule.—There shall be allowed as a deduction an amount equal to the sum of the aggregate bases of—

"(1) small minority business stock, and

"(2) small women's business corporations,

which are acquired by the taxpayer during the taxable year at its original issuance (directly or through an underwriter), and which are held by the taxpayer as of the close of such taxable year.

"(b) Limitations.—

"(1) Noncorporate taxpayers.—

"(A) In general.—In the case of a taxpayer other than a corporation, the amount allowable as a deduction under subsection (a) (1) or (2), respectively, for any taxable year shall not exceed the lesser of—

"(i) $50,000 ($25,000 in the case of a separate return by a married individual), or

"(ii) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by the aggregate amount allowable as a deduction under subsection (a) (1) or (2), respectively, to the taxpayer for prior taxable years.

"(B) Carryover.—If the amount otherwise deductible under subsection (a) exceeds the limitation under subparagraph (A)(i) for any taxable year, the amount of such excess shall be treated as an amount described in subsection (a) which is paid in the following taxable year.

"(C) Special rule.—The amount allowable as a deduction under subparagraph (A) (i) or (ii) with respect to any joint return shall be allocated equally between the spouses in determining the limitation under subparagraph (A)(ii) for any subsequent taxable year.

"(2) Corporation taxpayer.—In the case of a corporation, the amount allowable as a deduction under subsection (a) (1) or (2), respectively, for any taxable year shall not exceed $100,000.

"(c) Small Minority Business Stock.—For purposes of this part, the term 'small minority business stock' means any stock in a qualified minority corporation if—

"(1) as of the date of the issuance of such stock, the total bases of property owned or leased by such corporation does not exceed $12,000,000,

"(2) such stock is issued after the date of the enactment of this part solely in exchange for money, and

"(3) such corporation elects to treat such stock as small minority business stock for purposes of this section.

An election under paragraph (3), once made, shall be irrevocable.

"(d) Small Women's Business Stock.—For purposes of this part, the term 'small women's business stock' means any stock in a qualified women's corporation if—

"(1) as of the date of the issuance of such stock, the total bases of property owned or leased by such corporation does not exceed $12,000,000,

"(2) such stock is issued after the date of the enactment of this part solely in exchange for money, and

"(3) such corporation elects to treat such stock as small women's business stock for purposes of this section.

An election under paragraph (3), once made, shall be irrevocable.

"(e) Issuer Limitation.—The aggregate amount of stock for which an issuer may make an election under subsection (c)(3) or (d)(3) shall not exceed $5,000,000.

"SEC. 1303. TAXPAYER MAY ELECT CREDIT IN LIEU OF DEDUCTION.

"(a) Minority and Women Venture Capital Funds.—

"(1) In general.—A taxpayer may elect, in lieu of the deduction under section 1301, to take a credit against the tax imposed by this chapter for the taxable year in an amount equal to 15 percent of the sum of the aggregate bases of—

"(A) qualified minority fund interests, and

"(B) qualified women's fund interest,

which are acquired by the taxpayer during the taxable year at their original issuance (directly or through an underwriter), and which are held by the taxpayer at the end of the taxable year.

"(2) Limitations.—The amount allowable as a credit under paragraph (1) for any taxable year shall not exceed the lesser of—

"(A) $500,000 ($250,000 in the case of a separate return by a married individual), or

"(B) $7,000,000, ($3,500,000 in the case of a separate return by a married individual), reduced by the amount of the credit allowed under paragraph (1) for all preceding taxable years.

"(3) Carryover.—If the amount otherwise allowable as a credit under paragraph (1) exceeds the limitation under paragraph (2)(A) for any taxable year, the amount of such excess shall, subject to the limitation of paragraph (2), be treated as an amount which is allowable as a credit in the following taxable year.

"(b) Small Minority and Women's Business Corporations.—

"(1) In general.—A taxpayer may elect, in lieu of the deduction under section 1302, to take a credit against the tax imposed by this chapter for the taxable year in an amount equal to 10 percent of the sum of the aggregate bases of—

"(A) small minority business stock

"(B) small women's business corporations, which are acquired by the taxpayer during the taxable year at their original issuance (directly or through an underwriter), and which are held by the taxpayer at the end of the taxable year.

"(2) Limitations.—The amount allowable as a credit under paragraph (1) for any taxable year shall not exceed the lesser of—

"(A) $250,000 ($125,000 in the case of a separate return by a married individual), or

"(B) $5,000,000, ($2,500,000 in the case of the separate return by a married individual), reduced by the amount of the credit allowed under paragraph (1) for all preceding taxable years.

"(3) Carryover.—If the amount otherwise allowable as a credit under paragraph (1) exceeds the limitation under paragraph (2)(A) for any taxable year, the amount of such excess shall, subject to the limitation of paragraph (2), be treated as an amount which is allowable as a credit in the following taxable year.

"(c) Application With Other Provisions.—For purpose of this title, any credit allowed under this section shall be treated in the same manner as a credit allowed under subpart B of part IV of subchapter A.

"(d) Election.—An election under the section for any taxable year shall be made at such time and in such manner as the Secretary may prescribe and shall apply with respect to all acquisitions to which this subpart applies for such taxable year.

"SEC. 1304. RECAPTURE PROVISIONS.

"(a) Basis Reduction.—For purposes of this title, the basis of any qualified minority or women's fund interest or small minority or women's business stock shall be reduced by the amount of the deduction allowed under section 1301 or 1302, or the credit allowed under section 1303, with respect to such property. In any case in which the deduction allowable under subsection (a) of section 1301 or 1302 (as the case may be) is limited by reason of subsection (b) of such section, or in any case in which the credit allowable under subsection (a)(1) or (b)(1) of section 1303 is limited by reason of subsection (a)(2) or (b)(2) of section 1303, the deduction or credit shall be allocated proportionately among the qualified minority or women's fund interests or small minority or women's business stock, whichever is applicable, acquired during the taxable year on the basis of their respective bases (as determined before any reduction under this subsection).

"(b) Deduction Recaptured as Ordinary Income.—

"(1) In general.—For purposes of section 1245—

"(A) any property the basis of which is reduced under subsection (a) (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such property) shall be treated as section 1245 property, and

"(B) any reduction under subsection (a) shall be treated as a deduction allowed for depreciation.

If an exchange of any stock the basis of which is reduced under subsection (a) qualifies under section 354(a), 355(a), or 356(a), the amount of gain recognized under section 1245 by reason of this paragraph shall not exceed the amount of gain recognized in the exchange (determined without regard to this paragraph).

"(2) Certain events treated as dispositions—For purposes of this section, if—

"(A) a deduction was allowable under section 1301, or a credit was allowable under section 1303, with respect to any stock in a corporation or interest in a partnership and such corporation or partnership, as the case may be, ceases to meet the requirements of paragraphs (2) and (3) of section 1301(c), or

"(B) a deduction was allowable under section 1302, or a credit was allowable under section 1303, with respect to any stock in a corporation and such corporation ceases to be a qualified minority corporation or qualified women's corporation, whichever is applicable,

the taxpayer shall be treated as having disposed of such property for an amount equal to its fair market value.

"(c) Interest Charged if Disposition Within 5 Years.—

"(1) In General.—If a taxpayer disposes of any property the basis of which is reduced under subsection (a) before the date 5 years after the date of its acquisition by the taxpayer, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by interest at the underpayment rate (established under section 6621(a)(2))—

"(A) on the additional tax which would have been imposed under this chapter for the taxable year in which such property was acquired if such property had not been taken into account under section 1301, 1302, of 1303, whichever is applicable;

"(B) for the period beginning on the due date for the taxable year in which the property was acquired and ending on the due date for the taxable year in which the disposition occurs.

For purposes of the preceding sentence, the term 'due date' means the due date (determined without regard to extensions for filing the return of the tax imposed by this chapter.

"(2) Special rule.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter, for purposes of determining the amount of any credit allowable under this chapter or the amount of the minimum tax imposed by section 55.

"Subpart B—Capital Gain Provisions

"Sec. 1311. Exclusion of gain on sale by qualified minority or women's fund.
"Sec. 1312. Deferral of capital gain reinvested in certain property.

"SEC. 1311. EXCLUSION OF GAIN ON SALE BY QUALIFIED MINORITY OR WOMEN'S FUND.

"(a) General Rule.—Gross income shall not include 50 percent of any gain on the sale or exchange of any property by a qualified minority or women's fund if such property was acquired after the date of the enactment of this part and was held by such fund for at least 5 years.

"(b) Qualified Minority Fund.—For purposes of this section, the term 'qualified minority fund' means any domestic corporation or domestic partnership which meets the requirements of paragraphs (2) and (3) of section 1301(c).

"(c) Qualified Women's Fund.—For purposes of this section, the term 'qualified women's fund' means any domestic corporation or partnership meeting the requirements of paragraphs (2) and (3) of section 1301(c) (as modified by section 1301(d)).

"SEC. 1312. DEFERRAL OF CAPITAL GAIN REINVESTED IN CERTAIN PROPERTY.

"(a) General Rule.—Except as otherwise provided in this section, in the case of an individual, any qualified reinvested capital gain shall be taken into account for purposes of this title—

"(1) in the 9th taxable year following the taxable year of the sale or exchange, or

"(2) in such earlier taxable year (or years) following the taxable year of the sale or exchange as the taxpayer may provide.

"(b) Limitations.—

"(1) Dollar limitation.—

"(A) In general.—The amount of the gain to which subsection (a) applies shall not exceed $500,000, reduced by the aggregate amount of gain of the taxpayer to which subsection (a) applied for prior taxable years. This subparagraph shall be applied separately for property described in subsections (c)(2) (A) and (B) and for property described in subsection (c)(2) (C) and (D).

"(B) Special rule.—The amount of gain to which subsection (a) applied on a joint return for any taxable year shall be allocated equally between the spouses in determining the limitation under subparagraph (A) for any subsequent taxable year.

"(2) INELIGIBILITY OF CERTAIN TAXPAYERS.—Subsection (a) shall not apply to—

"(A) a married individual (as defined in section 7703) who does not file a joint return for the taxable year, or

"(B) any estate or trust.

"(c) QUALIFIED REINVESTED CAPITAL GAIN.—For purposes of this section—

"(1) QUALIFIED REINVESTED CAPITAL GAIN.—The term 'qualified reinvested capital gain' means the amount of any long-term capital gain (determined without regard to this section) from any sale or exchange after the date of the enactment of this part to which an election under this section applies but only to the extent that the amount of such gain exceeds the excess (if any) of—

"(A) the amount realized on such sale or exchange, over

"(B) the cost of any qualified property which the taxpayer elects to take into account under this paragraph with respect to such sale or exchange.

For purposes of subparagraph (B), the cost of any property shall be reduced by the portion of such cost previously taken into account under this paragraph.

"(2) QUALIFIED PROPERTY.—The term 'qualified property' means—

"(A) any qualified minority fund interest acquired by the taxpayer at its original issuance (directly or through an underwriter),

"(B) any small minority business stock acquired by the taxpayer at its original issuance (directly or through an underwriter),

"(C) any qualified women's fund interest acquired by the taxpayer at its original issuance (directly or through an underwriter), and

"(D) any small women's business stock acquired by the taxpayer at its original issuance (directly or through an underwriter).

Such term shall not include any property taken into account by the taxpayer under section 1301, 1302, or 1303.

"(3) REINVESTMENT PERIOD.—The term 'reinvestment period' means, with respect to any sale or exchange, the period beginning on the date of the sale or exchange and ending on the day 1 year after the close of the taxable year in which the sale or exchange occurs.

"(d) TERMINATION OF DEFERRAL IN CERTAIN CASES.—

"(1) CERTAIN DISPOSITIONS, ETC., OF REPLACEMENT PROPERTY.—

"(A) IN GENERAL.—If the taxpayer disposes of any qualified property before the date 5 years after the date of its purchase—

"(i) any amount treated as a qualified reinvested capital gain by reason of the purchase of such property (to the extent not previously taken into account under subsection (a)) shall be taken into account for the taxable year in which such disposition or cessation occurs, and

"(ii) the tax imposed by this chapter for the taxable year in which such disposition or cessation occurs shall be increased by interest at the underpayment rate (established under section 6621(a)(2))—

"(I) on the additional tax which would have been imposed under this chapter (but for this section) for the taxable year of the sale or exchange, and

"(II) for the period of the deferral under this section.

Any increase in tax under clause (ii) shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit allowable under this chapter or the amount of the minimum tax imposed by section 55.

"(B) CERTAIN EVENTS TREATED AS DISPOSITIONS.—For purposes of subparagraph (A), rules similar to the rules of section 1304(b)(2) shall apply.

"(2) LAST TAXABLE YEAR.—In the case of the last taxable year of any taxpayer, any qualified reinvestment capital gain (to the extent not previously taken into account under subsection (a)) shall be taken into account for such last taxable year.

"(e) COORDINATION WITH INSTALLMENT METHOD REPORTING.—This section shall not apply to any gain from any installment sale (as defined in section 453(b)) if section 453(a) applies to such sale.

"(f) STATUTE OF LIMITATIONS.—If any gain is realized by the taxpayer on any sale or exchange to which an election under this section applies, then—

"(1) the statutory period for the assessment of any deficiency with respect to such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing any qualified property,

"(B) the taxpayer's intention not to purchase qualified property within the reinvestment period, or

"(C) a failure to make such purchase within the reinvestment period, and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment.

"Support C—General Provisions

"Sec. 1321. Qualified minority corporation defined.
"Sec. 1322. Qualified women's corporation defined.
"Sec. 1322. Other definitions and special rules.

"SEC. 1321. QUALIFIED MINORITY CORPORATION DEFINED.

"For purposes of this part, the term 'qualified minority corporation' means any domestic corporation if—

"(1) 50 percent or more of the total value of the stock of such corporation is held by individuals who are members of a minority,

"(2) throughout the 5-year period ending on the date as of which the determination is being made (or, if shorter, throughout the period such corporation was in existence), such corporation has been engaged in the active conduct of a trade or business or in startup activities relating to a trade or business, and

"(3) substantially all of the assets of such corporation are used in the active conduct of a trade or business or in startup activities related to a trade or business.

"SEC. 1322. QUALIFIED WOMEN'S CORPORATION.

"For purposes of this part, the term 'qualified women's corporation' means any domestic corporation if—

"(1) 50 percent or more of the total value of the stock of such corporation is held by individuals who are women,

"(2) the management and daily business operations of the corporation are controlled by one or more women, and

"(3) the requirements of paragraphs (2) and (3) of section 1301 are met with respect to the corporation.

"SEC. 1323. OTHER DEFINITIONS AND SPECIAL RULES.

"(A) MINORITY INDIVIDUALS.—For purposes of this part, individuals are members of a minority if the participation of such individuals in the free enterprise system is hampered because of social disadvantage within the meaning of section 301(d) if the Small Business Investment Act of 1958.

"(b) CONTROLLED GROUP RULES.—

"(1) IN GENERAL.—All corporations which are members of the same controlled groups shall be treated as 1 corporation for purposes of this part.

"(2) CONTROLLED GROUP.—For purposes of paragraph (1), the term 'controlled group' has the meaning given such term by section 179(d)(7)."

(b) The table of parts for subchapter P of chapter 1 of such Code is amended by adding at the end thereof the following item:

"Part VI. Incentives for investments in disadvantaged and women-owned enterprises."

(c) The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

By Mr. MCCAIN (for himself, Mr. CAMPBELL, Mr. SIMON, Mrs. KASSEBAUM, Mr. AKAKA, Mr. STEVENS, Mr. GORTON, Mr. MURKOWSKI, and Mr. DASCHLE):

S. 293. A bill to provide for a National Native American Veterans' Memorial; to the Select Committee on Indian Affairs.

NATIVE AMERICAN VETERANS' MEMORIAL ESTABLISHMENT ACT

Mr. MCCAIN. Mr. President, I rise today on behalf of myself and Senators CAMPBELL, SIMON, KASSEBAUM, AKAKA, STEVENS, GORTON, MURKOWSKI, and DASCHLE to introduce legislation to establish a National Native American Veterans' Memorial. The bill would authorize the establishment of the memorial to be located within the future National Museum of the American Indian as authorized under Public Law 101-185.

From the Revolution through Desert Storm, native Americans have served, suffered and died for the cause of American freedom. During World War II, military communications between allied forces were constantly intercepted by the enemy with tragic consequences for the success of allied missions and forces. The legendary Navajo Code Talkers used their language to devise an unbreakable code, and by so doing greatly hastened the day of allied victory. The Navajo Code was the only allied code that the enemy was never able to decipher.

Earlier, the Choctaws provided the same service for the American Expeditionary Force in World War I. Like their Navajo successors, the Choctaw Code Talkers devised the only code that the Germans could not break. The strength of their great service, like the service of all native Americans who have fought in their country's battles, rested on the conviction they shared with the rest of their countrymen. That conviction was best expressed by a great chief of the Choctaws, Pushmataha, who in 1811 appealed to his people not to join the British in their war with the Americans. "We do not take up the warpath," he told his people, "without a just cause and an honest purpose."

Native Americans have never served their country in war time without a just cause and an honest purpose. I believe that the tenacity with which Indians hold to their convictions is the source of their tenacity on the battlefield. I greatly admire those values as I admire the great courage and the exceptional fighting ability of native Americans.

I would point out that our service academies still teach the military tactics of the great chiefs. The lessons taught to us by men like Geronimo and Chief Joseph are still employed by American Armed Forces whenever they are called upon to defend the interests of this Nation. Professional soldiers can recognize superior fighting skills and bravery when they see it on the battlefield. And we recognize military genius when we study the exploits of these great Indian leaders.

Sadly, though we may acknowledge their military prowess and their contributions to our victories, we have not always acknowledged our debts to the native American. After wars have ended, the Indian's prominent place in the battlefield has been replaced with second-class citizenship at home. That sad truth is captured in the life of Ira Hayes. A Pima Indian who served in the Marine Corps in World War II, Ira Hayes was a genuine American hero. In a place very near here, he is depicted in the Iwo Jima Memorial planting his country's flag in the soil of a foreign land. His heroism has been enshrined for all time in that memorial, but the man was soon forgotten. He died a broken man, a victim of alcoholism.

I hope that we will not only acknowledge the service of native American veterans by enacting this legislation, but we also will honor our debts to them in peacetime. In all tribes, the native American bows to no one in the depth of his patriotism and in his love of country. They fought, more bravely than many, for the same values that all the sons and daughters of America have so nobly preserved when they have taken up arms to defend us. They are the values Chief Joseph described, much better than I can. He pleaded:

> Let me be a free man, free to travel, free to stop, free to work, free to trade where I choose, free to choose my own teachers, free to follow the religion of my fathers, free to think and talk and act for myself.

Michael Noline of the San Carlos Apache Tribe in Arizona and Eric Bentzlen of the Sisseton-Wahpeton Sioux Tribe in South Dakota did not return from the Persian Gulf. Like native American veterans in previous wars, they perished in service to this country and the values Chief Joseph spoke of so eloquently.

I view this national memorial as only a small way in which we can honor the service and sacrifice of all native American veterans. Such sacrifice deserves to be memorialized in something more lasting, more meaningful than bronze. Let their memory be the spirit that guides us all as we seek means to redress the disservice done to the native American. I promise you the memory of their valor will guide me, for I, too, want to remain a free man, and I know that they died so that we all might be free to think and talk and act for ourselves.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD immediately after my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 293

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Veterans' Memorial Establishment Act".

SEC. 2. FINDINGS.

The Congress finds that:

(1) Native Americans across the Nation, have a long, proud and distinguished tradition of service in the armed forces of the United States.

(2) Native Americans have historically served in the armed forces of the United States in numbers which far exceed their representation in the population of the United States.

(3) Native Americans have lost their lives in the service of their Nation, and in the cause of peace.

(4) The National Museum of the American Indian was established as a living memorial to Native Americans.

(5) The National Museum of the American Indian is an extraordinary site and is an ideal location to establish a National Native American Veterans' Memorial.

(6) A National Native American Veterans' Memorial would further the purposes of the National Museum of the American Indian by giving all Americans the opportunity to learn of the proud and courageous tradition of service of Native Americans in the armed forces of the United States.

SEC. 3. AUTHORIZATION FOR ESTABLISHMENT OF MEMORIAL.

(a) MEMORIAL.—The Board of Trustees of the National Museum of the American Indian is authorized to design, construct, and maintain a National Native American Veterans' Memorial (hereafter referred to in this section as the "Memorial").

(b) SITE.—The Board of Trustees shall select a suitable site for the Memorial within the interior structure of the facility provided for by section 7(a) of the National Museum of the American Indian Act to house the portion of the National Museum to be located in the District of Columbia.

(c) DESIGN AND PLANS.—The Board of Trustees is authorized to hold a competition to select the design of the Memorial.

(d) DONATIONS.—Notwithstanding any other provision of law, the Board of Trustees may accept, retain, and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of designing, constructing, or maintaining the Memorial.

(e) PAYMENT OF EXPENSES.—The United States Government shall not pay any of the expenses of the establishment of the Memorial other than providing the site referred to in subsection (b).

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term "Native American" means an Indian, a Native Hawaiian, and an Alaska Native.

(2) The term "Indian" means a member of an Indian tribe.

(3) The term "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

(4) The term "Alaska Native" means any Eskimo, Aleut, or Alaska Indian.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 294. A bill to authorize the Secretary of the Interior to formulate a program for the research, interpretation, and preservation of various aspects of colonial New Mexico history, and for other purposes; to the Committee on Energy and Natural Resources.

THE COLONIAL NEW MEXICO COMMEMORATIVE ACT

Mr. BINGAMAN. Mr. President, today I am pleased to reintroduce legislation to commemorate a significant period in the history of the State of New Mexico and the United States. In 1598, approximately 10 years before the establishment of the Jamestown settlement, the colonization of New Mexico territory by Spanish explorers began nearly 200 years of interaction between our American Indian and Hispanic peoples.

These two centuries of interaction, while often traumatic, have wrought a unique cultural landscape which distinguishes the character of New Mexico within the United States and even within the American Southwest.

To preserve and protect the tangible historic resources of the colonial New Mexico period and, equally important, the more intangible qualities such as the traditions and customs of our local American Indian and Hispanic cultures, I am introducing legislation which formally recognizes the influence of this period on our national history and establishes a vehicle by which this unique period can be preserved and interpreted for the benefit of the American people.

This legislation directs the Secretary of the Interior to prepare a comprehensive management plan to provide direction for commemorative actions and projects. The plan will establish a process and procedures for undertaking research, develop a survey program to further evaluate known resources, and identify sites and features that require additional study; and identify a core system of interpretive sites and features that would provide a comprehensive overview of the colonial New Mexico story. Most importantly, this plan will evaluate and recommend high priority sites and resources that need protection and assistance. This legislation also establishes a Colonial New Mexico Preservation Advisory Committee, which will advise the Secretary with respect to the administration of this act.

In 1991, I convened a New Mexico based task force to study this issue and to provide the recommendations which ultimately resulted in this bill. The task force was composed of representatives from local, State, and Federal agencies as well as representatives from the regional Indian tribes and Hispanic communities. As a result of their hard work, I believe that there is strong support for this initiative throughout the State and for the establishment of a Colonial New Mexico Advisory Committee whose function it will be to implement this effort. Last Congress identical legislation passed the Senate, but time ran out in the legislative session before action could be taken in the House. I believe that there is strong support for this legislation among my colleagues from New Mexico in the House, as well as from Mr. DOMENICI here in the Senate, and I hope that the House and Senate will quickly pass the Colonial New Mexico Commemorative Act.

Mr. President, I ask unanimous consent that the text of this bill and my statement be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 294

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Colonial New Mexico Commemorative Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) in 1598, almost a decade before the first permanent English settlement was established at Jamestown, Spanish colonists entered New Mexico, beginning more than 2 centuries of colonization that would indelibly mark the character of the American Southwest;

(2) because of the flow of history, New Mexico has remained a unique area of the Spanish borderlands;

(3) as a result of its remoteness, New Mexico changed more slowly than other settlements and has retained many significant remnants of colonial customs, language, and attitudes; and

(4) the interaction of the American Indian and Hispanic colonial heritages resulted in customs, architecture, and many other manifestations that are unique to today's American culture.

(b) PURPOSE.—In order to enhance the preservation, interpretation, and public understanding of various aspects of colonial New Mexico, the purpose of this Act is to authorize the Secretary of the Interior to formulate a program for the research, interpretation, and preservation of various aspects of colonial New Mexico history.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) COMMITTEE.—The term "Committee" means the Colonial New Mexico Preservation Advisory Committee established by section 6.

(2) PLAN.—The term "plan" means the comprehensive management plan described in section 5.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. DUTIES OF SECRETARY.

(a) PLAN.—

(1) PREPARATION.—The Secretary shall prepare the comprehensive management plan in accordance with section 5.

(2) IMPLEMENTATION.—In close consultation with the Office of Cultural Affairs of the State of New Mexico and the Committee, the Secretary shall—

(A) coordinate the activities of Federal, State, and local governments, and private businesses and organizations, to carry out the plan and the purpose of this Act; and

(B) consistent with standards established by the Secretary for the preservation of historic properties and for educational programs, and consistent with the National Historic Preservation Act (16 U.S.C. 470 et seq.), prepare guidelines and standards for projects, as identified in the plan, that will further public understanding of colonial New Mexico history.

(b) GRANTS.—

(1) IN GENERAL.—From funds appropriated, donated, or otherwise made available to the Secretary, the Secretary shall award grants to tribal, governmental, and nongovernmental entities to conserve and protect structures, objects, and sites, and help support cultural events, that have outstanding significance in the commemoration of colonial New Mexico, except that the Federal share shall not exceed 50 percent of the cost of each project.

(2) NON-FEDERAL SHARE.—The non-Federal share may be in the form of cash or services, including donation of labor for project implementation.

(c) SURVEYS AND ARCHAEOLOGICAL INVESTIGATIONS.—The Secretary shall contract for surveys and archaeological and historical investigations of sites relating to colonial New Mexico, including the preparation of reports and maps, and the curation of artifacts.

(d) PUBLICATIONS.—The Secretary shall publish study reports and educational materials.

(e) NOMINATIONS TO NATIONAL REGISTER OF HISTORIC PLACES.—The Secretary shall prepare thematic nominations to the National Register of Historic Places of colonial sites and resources in New Mexico.

(f) STAFF OF OTHER AGENCIES.—On a reimbursable basis, the Secretary may procure the services of personnel detailed from the State of New Mexico or other Federal agencies.

(g) DONATIONS.—The Secretary may seek and accept donations of funds or services from public and private entities to carry out this Act.

SEC. 5. COMPREHENSIVE MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 2 years after funds are made available for purposes of this Act, the Secretary, in consultation with the Committee, the State of New Mexico, units of local government, and private groups, shall prepare a comprehensive management plan to provide direction for commemorative actions and projects.

(b) CONTENTS.—The plan shall—

(1) establish a process and procedures for undertaking research relating to colonial New Mexico and a program for regular publication of research materials and findings;

(2) develop a survey program to further evaluate known resources and identify sites and features that require additional study;

(3) identify a core system of interpretive sites and features that would provide a comprehensive overview of the colonial New Mexico story;

(4) prepare interpretive materials to address the colonial New Mexico story and identify locations where this material will be available to the public;

(5) evaluate and recommend high priority sites and resources that need protection and assistance;

(6) with the assistance of site owners, prepare options for the protection and management of high priority colonial New Mexico resources;

(7) evaluate and recommend highway routes, in existence on the date of the plan, that could be designated by the State of New Mexico as colonial New Mexico tour routes; and

(8) evaluate the feasibility of and need for developing commemorative centers in New Mexico in accordance with section 7(a).

SEC. 6. ESTABLISHMENT OF ADVISORY COMMITTEE.

(a) IN GENERAL.—There is established in the Department of the Interior the Colonial New Mexico Preservation Advisory Committee to advise the Secretary with respect to the administration of this Act.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Committee shall be composed of 15 members who have knowledge of New Mexico colonial history and culture and who shall be appointed by the Secretary, of whom—

(A) three members shall be appointed from recommendations submitted by the Governor of New Mexico, of whom one member shall represent the Office of Cultural Affairs of the State of New Mexico;

(B) one member shall be appointed from recommendations submitted by the All Indian Pueblo Council;

(C) one member—

(i) shall be from the general public; and

(ii) shall have knowledge of colonial history in New Mexico;

(D) four members—

(i) shall be appointed from recommendations submitted by local governments in New Mexico; and

(ii) shall represent Hispanic communities;

(E) one member shall be appointed from recommendations submitted by the President of the University of New Mexico;

(F) one member shall be appointed from recommendations submitted by the President of New Mexico State University;

(G) one member shall be appointed from recommendations jointly submitted by the Navajo and Apache tribal governments;

(H) one member shall have professional expertise in the colonial history of New Mexico;

(I) one member shall have professional expertise in architectural history; and

(J) one member shall be the Secretary or the Secretary's designee and shall serve in an ex-officio capacity.

(2) CHAIRPERSON.—

(A) IN GENERAL.—The Committee shall elect a chairperson from among its members.

(B) TERM.—The chairperson shall serve for a term of 2 years.

(3) VACANCIES.—A vacancy in the Committee shall be filled in the manner in which the original appointment was made.

(4) TERMS.—

(A) IN GENERAL.—Each member of the Committee shall be appointed for a term of 5 years.

(B) MEMBERS FILLING VACANCIES.—A member appointed to fill a vacancy shall serve for the remainder of the term for which the member's predecessor was appointed.

(C) EXTENDED SERVICE.—A member of the Committee may serve after the expiration of the member's term until a successor is appointed.

(5) COMPENSATION.—Members of the Committee shall serve without compensation.

(6) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(c) MEETINGS.—

(1) IN GENERAL.—The Committee shall meet at least twice annually or at the call of the chairperson or a majority of the members of the Committee.

(2) QUORUM.—A simple majority of members of the Committee shall constitute a quorum.

(d) HEARINGS.—To carry out this section, the Committee may hold public hearings, take testimony, and record the views of the public regarding the plan and implementation of the plan.

(e) TERMINATION.—The Committee shall terminate 10 years after completion of the appointment of the first group of members.

SEC. 7. COMMEMORATIVE CENTERS.

(a) IN GENERAL.—

(1) IN GENERAL.—The Secretary may develop commemorative centers, operate educational programs, provide technical assistance, conduct cultural events, and prepare media materials, except that the Federal share of a project shall not exceed 50 percent of the total cost of development.

(2) NON-FEDERAL SHARE.—The non-Federal share may be in the form of cash or services.

(b) ESPAÑOLA PLAZA CENTER.—

(1) IN GENERAL.—In consultation with the Committee, the Secretary may pay to the city of Española, New Mexico, the Federal share of planning, developing, and operating a commemorative center as an element of the Spanish Commemorative Plaza.

(2) FEDERAL SHARE.—The Federal share may not exceed 50 percent of the total cost of the Española Plaza project.

(3) NON-FEDERAL SHARE.—The non-Federal share may be in the form of cash or services.

SEC. 8. GALISTEO BASIN STUDY.

In accordance with the National Park Service document entitled "Alternative Concepts for Commemorating Spanish Colonization" and dated February 1991, the Secretary shall undertake a special resource study of the major prehistoric and historic sites in the Galisteo Basin relating to colonial New Mexico. The study shall include evaluations of significance, site integrity, threats, and protection and management options.

SEC. 9. PUEBLO TRAIL.

(a) REDESIGNATION.—The Masau Trail, as designated by Title II of Public Law 100–225 (16 U.S.C. 460uu–11 et seq.), is redesignated as the Pueblo Trail.

(b) LEGAL REFERENCES.—Any reference in any record, map, or other document of the United States to the Masau Trail is deemed to be a reference to the Pueblo Trail.

(c) CONFORMING AMENDMENTS.—

(1) The title heading of title II of Public Law 100–225 (16 U.S.C. 460uu–11 et seq.) is amended by striking "MASAU" and inserting "PUEBLO".

(2) Public Law 100–225 (16 U.S.C. 460uu et seq.) is amended by striking "Masau" each place it appears in sections 201, 204, and 510 and inserting "Pueblo".

SEC. 10. ANNUAL REPORTS.

(a) IN GENERAL.—The Secretary shall submit an annual report to Congress that lists with respect to this Act—

(1) actions taken by the Secretary;

(2) entities to which any grants were made during the fiscal year and any recipients of technical assistance; and

(3) actions taken to protect and interpret significant sites, structures, and objects relating to colonial New Mexico.

(b) COST ESTIMATES.—The report shall include detailed cost estimates of projects that are proposed to be funded under this Act during the next fiscal year.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior $5,000,000 to carry out this Act, to remain available until expended.

Mr. DOMENICI. Mr. President, I am pleased to rise today to join the other Senator from New Mexico [Mr. BINGAMAN] who is sponsoring legislation to establish in the Department of the Interior the Colonial New Mexico Preservation Commission.

The Spanish colonization of the United States began in 1598, more than a decade before the first English settlement was established at Jamestown. The settlement by Spanish colonists within New Mexico continued to influence development within the area for more than two centuries. The interaction of the Spanish colonists with the American Indians within the area produced a way of life and a blend of customs that embodies the best of both cultures. The contributions of the Spanish colonists to the character of New Mexicans' way of life, architecture, sense of community, and culture are evident today.

The influence of the Spanish colonial settlement is more apparent within New Mexico than in other areas, due to New Mexico's geographic location and remoteness. The remnants of customs, language, and attitudes of colonial settlement are apparent and integral to New Mexican society, which is unique within the American culture.

New Mexico and most of the Southwest are experiencing cumulative pressures from economic expansion, housing development, and population increases. These impacts have the potential to dilute and obscure the heritage of the Spanish colonists and the vital role they played in the settlement and development of New Mexico. The understanding of the role of this rich tradition and history on the American development within New Mexico needs to be preserved, documented, and shared as a continuing American legacy.

Mr. President, I urge the Senate to move rapidly on this important legislation, in order to enhance the preservation, interpretation, and public understanding of various aspects of colonial New Mexico, and establish a commission representing government and private sector interests to formulate a program for the research, interpretation, and preservation of various aspects of the colonial New Mexico story.

By Mr. DURENBERGER (for himself, Mr. KOHL, Mr. BAUCUS, Mr. SMITH, Mr. GRASSLEY, Mr. CAMPBELL, Mr. LEAHY, Mr. KEMPTHORNE, Mr. ROTH, Mr. LUGAR, Mr. COHEN, Mr. BROWN, Mr. SIMPSON, Mr. CONRAD, Mr. BURNS, Mr. DORGAN, Mr. COATS, Mr. JEFFORDS, and Mr. WALLOP):

S. 295. A bill to amend title 23, United States Code, to remove the penalties for States that do not have in effect safety belt and motorcycle helmet traffic safety programs, and for other purposes; to the Committee on Environment and Public Works.

REMOVAL OF PENALTIES ON STATES WITHOUT SAFETY BELT AND HELMET PROGRAMS

• Mr. DURENBERGER. Mr. President, the Intermodal Surface Transportation Efficiency Act of 1991 included provisions regarding the use of safety belts and motorcycle helmets, section 153 of title 23, United States Code. The goals of these provisions are laudable—the reduction of the number of fatalities and crippling injuries which occur on our Nation's roadways. In 1989 over 45,000 lives were lost in motor vehicle accidents and over 3 million people were injured. The consequence of these deaths and injuries cost our country approximately $74 billion each year. These losses are generated by a combination of lost lives, productivity, medical and rehabilitation expenses, and insurance and litigation costs.

The intent is to provide a carrot and stick mechanism of manipulating the disbursement of Federal transportation funds in order to coerce States into adopting mandatory safety belt and helmet laws. The proponents of the safety belt and helmet provisions expect that this legislation will significantly reduce those losses which befall unbelted motorists and unhelmeted motorcyclists. Yet of the 10 safest States to ride a motorcycle, based on fatalities per 10,000 registrations, 7 are States which do not require mandatory helmet use for adults.

This is an important States rights issue. I believe there is merit in using Federal funds for highway safety research, to 6encourage States to improve traffic safety via greater education efforts and by stimulating innovative programs designed to reduce the number of high-risk motorists. However, I have serious reservations about using Federal blackmail to force States into enacting mandatory seatbelt and motorcycle helmet laws. Likewise, I believe that outlining how a State spends its own money—which the Federal Government collects through the gas tax—erodes the principles of flexibility which were redefined in the Intermodal Surface Transportation Efficiency Act of 1991.

In addition, ISTEA directs the National Highway Traffic Safety Administration to carry out studies to determine the benefits of safety belt and motorcycle helmet use in crashes and the costs associated with resulting injuries. Yet this report was given a time schedule that far exceeds the deadline for States to pass the relevant laws. At minimum, the Federal Government should not penalize the States without providing adequate, updated information.

Mr. President, it is for those reasons that I am again introducing a bill to repeal the penalty provision of section 153 of title 23. My bill retains the grant program as a positive incentive to pass both laws, while also encouraging a high rate of compliance with the laws. Throughout the process of passing the Intermodal Surface Transportation Efficiency Act of 1991, I went on record in opposition to this penalty proposal. I recognize that both bodies of Congress included the safety belt and helmet provisions in their respective bills. However, I strongly believe that Congress should reexamine this attempt to manipulate State governments. During the last legislative session, the State of Minnesota passed a resolution "memorializing Congress to refrain from imposing the States' constitutional authority to regulate traffic and motor vehicle safety within their respective boundaries, and specifically, to refrain from mandating the passage of State laws requiring the use of motorcycle helmets, safety belts, and child restraint systems." I ask unanimous consent that the text of Minnesota Resolution No. 10 (S.F. No. 1778) be included in the RECORD.

The fatality record in Minnesota seems to contradict the argument that mandatory helmet laws are the best way to increase traffic safety of motorcyclists. During the period 1968–77 when Minnesota had a mandatory helmet law, fatalities per 10,000 registered vehicles went up almost every year.

In contrast, the Motorcycle Industry Council rated Minnesota the second safest State in the Nation in which to ride a motorcycle. Minnesota's 1992 fatality rate plummeted to a 25-year low, in spite of doubling the number of licensed motorcyclists. Since record high fatalities were recorded in 1980, Minnesota has experienced a 77-percent reduction in fatalities. This occurred because Minnesota motorcyclists and lawmakers realized that there is no substitute for continued ongoing traffic safety education and tough licensing provisions. Minnesota motorcyclists encouraged the State legislature to enact the toughest licensing standards in the Nation. They have also implemented self-funded comprehensive rider education programs and public awareness programs which have won over 20 national awards and serve as a model for other States.

I would like to encourage my colleagues to closely examine why Minnesota has been able to drastically lower the fatality rate of its motorists to one of the lowest in the Nation. I think they will find it is because Minnesotans know that there is no panacea or easy fix. Minnesotans know that it takes persistent effort in a broad array of traffic safety initiatives to significantly reduce roadway fatalities. Minnesota motorists and motorcyclists have shown that they have a strong commitment to improving traffic safety. They have requested, supported and prodded the Minnesota Legislature to honestly and competently meet their demands for safer roadways. They do it because in Minnesota good behavior is rewarded—not because someone in Washington said they had to do it.

Mr. President, my bill retains the monetary rewards for implementing both laws. It does not penalize, punish or micromanage the State's Federal funds if they choose not to pass either a mandatory safety belt or helmet law. Proponents of the penalty provision will tell you that it is not a mandate. The penalty directs States to spend additional moneys on the section 402 program in exchange for not passing the laws. But, most States already have programs in place. Forcing them to spend more money is only giving public safety offices the green light to come up with ways to spend more money. In fiscal year 1996, Minnesota will be forced to spend over twelve times the amount it spent in fiscal year 1992 on section 402 programs. I am concerned that under those circumstances, the result could be irresponsible spending of scarce transportation dollars. Mr. President, I invite my colleagues to review table A showing the amount of money their State will lose from its transportation programs if this bill is not enacted prior to September 30, 1993. That amount can be compared to table B showing the current amount your State spends on safety programs. I ask unanimous consent that these tables be included in the RECORD.

In closing, I would caution my colleagues that reliance on Federal mandates to traffic safety, such as that embodied in Public Law 102-240, may be counterproductive in the long run. It seems to me that a wiser course of action would be to enlist cooperative support and to harness the creative energies of concerned citizens to work together with the goal of decreasing the number of serious traffic accidents. Consequently, I believe that the Intermodal Surface Transportation Efficiency Act needs to be refocused to solicit teamwork, rather than provoke conflict between Government and citizens, both of whom share a common goal of improved traffic safety.

I ask unanimous consent that the text of the bill be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE A.—U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION

[Estimated amount of funds for section 153 transfer penalty]

States	Fiscal year 1993 apportionments NHS, STP, CMAQ	Estimated	
		Fiscal year 1995 apportionments 81½ percent	Fiscal year 1996 apportionments 80 percent
Alabama	154,170,650	2,312,560	4,625,120
Alaska	175,680,158	2,635,202	5,270,405
Arizona	114,334,349	1,715,015	3,430,030
Arkansas	85,825,287	1,287,379	2,574,759
California	794,270,585	11,914,059	23,828,118
Colorado	127,097,950	1,906,469	3,812,939
Connecticut	159,508,408	2,392,626	4,785,252
Delaware	48,647,523	729,713	1,459,426
District of Columbia	43,338,163	650,072	1,300,145
Florida	375,902,429	5,638,536	11,277,073
Georgia	236,902,772	3,553,542	7,107,083
Hawaii	92,477,313	1,387,160	2,774,319
Idaho	71,453,247	1,071,799	2,143,587
Illinois	355,432,188	5,331,483	10,662,966
Indiana	187,066,529	2,805,998	5,611,996
Iowa	124,966,720	1,874,501	3,749,002
Kansas	104,058,695	1,560,880	3,121,761
Kentucky	133,652,184	2,004,783	4,009,566
Louisiana	114,008,685	1,710,130	3,420,261
Maine	56,573,535	848,603	1,697,206
Maryland	140,260,031	2,103,900	4,207,801
Massachusetts	109,456,942	1,641,854	3,263,708
Michigan	219,879,599	3,298,194	6,596,388
Minnesota	143,671,496	2,155,072	4,310,145
Mississippi	86,373,606	1,295,604	2,591,208
Missouri	157,720,393	2,365,806	4,731,612
Montana	89,440,421	1,341,606	2,683,213
Nebraska	90,579,354	1,358,690	2,717,381
Nevada	70,674,877	1,060,123	2,120,246
New Hampshire	55,116,812	826,752	1,653,504
New Jersey	216,955,586	3,254,334	6,508,668
New Mexico	87,523,953	1,312,859	2,625,719
New York	428,935,117	6,434,027	12,868,054
North Carolina	212,197,108	3,182,957	6,365,913
North Dakota	71,418,578	1,071,279	2,142,557
Ohio	285,294,140	4,279,412	8,558,824
Oklahoma	115,134,994	1,727,025	3,454,050
Oregon	87,622,810	1,314,342	2,628,684
Pennsylvania	246,490,786	3,697,362	7,394,724
Rhode Island	46,771,686	701,575	1,403,151
South Carolina	118,713,771	1,780,707	3,561,413
South Dakota	72,960,126	1,094,402	2,189,804
Tennessee	158,279,065	2,374,186	4,748,372
Texas	644,629,022	9,669,435	19,338,871
Utah	69,155,819	1,037,337	2,074,675
Vermont	46,872,961	703,094	1,406,189
Virginia	169,516,449	2,542,747	5,085,493
Washington	121,474,907	1,822,124	3,644,247
West Virginia	78,829,715	1,182,446	2,364,891
Wisconsin	152,206,649	2,283,100	4,566,199
Wyoming	68,458,560	1,026,878	2,053,757
Puerto Rico	50,707,286	760,609	1,521,219
Subtotal	8,268,689,999	124,030,150	248,060,700

Note: Fiscal year 1995 and fiscal year 1996 percentages are based on estimates of State apportionments for fiscal year 1993. The actual percentages for fiscal year 1995 and fiscal year 1996 will be based on that year's apportionment which will vary from the amounts above.

Table B.—National Highway Safety Administration Fiscal Year 1993 Limitation on Obligations for the State and Community Highway Safety Program

State:

	Amount
Alabama	1,894,567
Alaska	549,235
Arizona	1,536,291
Arkansas	1,267,250
California	10,558,187
Colorado	1,574,116
Connecticut	1,178,379
Delaware	549,235
District of Columbia	549,235
Florida	4,850,817
Georgia	2,801,254
Hawaii	549,235
Idaho	739,912
Illinois	4,545,298
Indiana	2,380,307
Iowa	1,641,586
Kansas	1,688,142
Kentucky	1,640,058
Louisiana	1,733,926
Maine	549,235

	Amount
Maryland	1,711,805
Massachusetts	2,139,826
Michigan	3,742,135
Minnesota	2,262,573
Mississippi	1,306,395
Missouri	2,441,153
Montana	731,916
Nebraska	1,127,128
Nevada	689,287
New Hampshire	549,235
New Jersey	2,682,857
New Mexico	859,613
New York	6,458,112
North Carolina	2,745,265
North Dakota	788,335
Ohio	4,207,415
Oklahoma	1,756,556
Oregon	1,552,477
Pennsylvania	4,556,566
Rhode Island	549,235
South Carolina	1,538,921
South Dakota	783,739
Tennessee	2,120,274
Texas	7,370,962
Utah	838,115
Vermont	549,235
Virginia	2,422,043
Washington	2,083,339
West Virginia	803,829
Wisconsin	2,297,471
Wyoming	549,235

RESOLUTION NO. 10

Whereas, the Tenth Amendment to the U.S. Constitution, part of the original Bill of Rights, reads as follows, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people"; and

Whereas, the limits on Congress' authority to regulate state activities prescribed by the Tenth Amendment have gradually been eroded and federal mandates to the states in these protected areas have become almost commonplace; and

Whereas, the regulation of traffic and motor vehicle safety laws are constitutionally the province of state, not congressional, authority; and

Whereas, a recently proposed federal mandate would reduce the apportionment of federal highway funds to states which do not enact statutes requiring the use of helmets by motorcyclists and the use of safety belts and child restraint systems by drivers and front seat passengers in automobiles by July 1, 1992; and

Whereas, while the stated goals of this federal mandate, to reduce highway fatalities and injuries through increased use of motorcycle helmets and safety belts, are certainly praiseworthy, it is the opinion of this body that the passage of such legislation by the U.S. Congress would be a blatant transgression upon the state's regulatory authority under the Tenth Amendment: Now, therefore, be it

Resolved by the Legislature of the State of Minnesota, That it urges the Congress to refrain from imposing upon the states' constitutional authority to regulate traffic and motor vehicle safety within their respective boundaries, and specifically, to refrain from mandating the passage of state laws requiring the use of motorcycle helmets, safety belts, and child restraint systems: Be it further

Resolved, That the Secretary of State of the State of Minnesota is directed to prepare certified copies of this memorial and transmit them to the President and Secretary of the United States Senate, the Speaker and Chief Clerk of the United States House of Representatives, and Minnesota's Senators and Representatives in Congress.

This bill was passed in conformity to the rules of each House and the joint rules of the two houses as required by the Constitution of the State of Minnesota.

S. 295

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF SAFETY BELTS AND MOTORCYCLE HELMETS.

Section 153 of title 23, United States Code, is amended—

(1) by striking subsection (h); and

(2) by redesignating subsections (i) through (k) as subsections (h) through (j), respectively.●

● Mr. KOHL. Mr. President, I am delighted to join with Senator DURENBERGER in introducing this legislation to correct what we see as a flaw in the Transportation bill we passed in 1991.

As my colleagues recall, when we debated the issue of mandatory seatbelt and helmet laws, we pretty much agreed that the Federal Government did not have the right to require States to pass them. But we also agreed that such laws might be desirable. So in the Senate version of the Transportation bill we attempted to persuade States to adopt them. Unfortunately, the final legislation attempted to coerce States into adopting them.

While the goal of the legislation may have been desirable, the tactics are objectionable. In essence, we are going to force States which do not adopt mandatory helmet and seatbelt laws to waste—waste—money, money that neither they nor we have, to the extent that the law now requires spending on education above and beyond desirable and necessary levels, to the extent that the law requires States to divert spending from more critical programs and projects, to that extent we are mandating that money be wasted.

And Mr. President, we cannot afford to do that.

As I said last year, when I drive, I wear my seatbelt; and if I rode a motorcycle, I would wear a helmet. But we all know that, as a Federal Government, we do not have the right or the ability to require States to pass the laws we might like to see in these areas. The Senate version of the legislation, while problematic, at least was acceptable because it sought to persuade States to move in a certain direction; current law coerces them. And that is unacceptable.

Again, I am delighted to join with Senator DURENBERGER in this effort. I congratulate him on his leadership and I look forward to working with him and our colleagues as we seek to find an acceptable way to resolve this problem.●

By Mr. BUMPERS (for himself, Mr. PRYOR, Mr. KERREY, Mr. COCHRAN, Mr. BOND, Mr. WOFFORD, Mr. BOREN, Mr. KOHL, Mr. SHELBY, and Mr. REID):

S. 296. A bill to require the Secretary of Agriculture to submit monthly financial obligation and employment reports to Congress for the Food and Safety and Inspection Service, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD SAFETY AND INSPECTION SERVICE REPORTS

● Mr. BUMPERS. Mr. President, the meat and poultry industry is one of the largest in the country, with annual retail value of nearly $150 billion in products to American and international consumers. In 1992, approximately 117 million red meat animals and 6.6 billion birds were slaughtered under Federal inspection and products undergoing further processing were reinspected in over 5,000 plants.

Not only is the meat and poultry industry a major player in moving goods through commerce, it also makes a very important contribution to direct employment of American workers. Over 400,000 people are employed in plants under the jurisdiction of Federal inspectors and many thousands of other people are employed in the breeding, raising, and transportation of food animals. In addition, thousands of other people are employed in the storage and distribution of meat and poultry products. Only a few days of industry closure would result in the loss of billions of dollars to the American economy and the disruption of a very large segment of the American work force.

Food safety, rightfully, is one of the most important responsibilities of Federal oversight in consumer affairs. American consumers are afforded the most abundant and the safest variety of food products in the world through no accident. The Food Safety and Inspection Service, an arm of the Department of Agriculture, is charged with the responsibility of closely monitoring activities in meat and poultry slaughter and processing plants across the country through the placement of highly skilled and dedicated men and women who serve as inspectors and veterinary specialists. These people not only assure the availability of safe products, they help assure American consumers that the products they want will be available in a sufficient quantity to meet demand.

The legislation I introduce today will simply provide the Congress with adequate informational tools to keep us better apprised of funding levels and inspection activities of the Food Safety Inspection Service. In the recent past, funding shortfalls have required the passage of emergency supplemental appropriations bills in order to maintain the level of inspectors necessary to meet industry and consumer demand. My legislation will do much to keep us better informed of potential shortfalls in funding and inspector vacancies to help us avoid the problems of taking emergency actions to keep slaughter and processing lines running, maintain workers on the job, and meet American and international consumers demand for meat and poultry products.

My legislation has the support of the meat and poultry industries and will help the Food and Safety Inspection Service maintain the highest capability possible to meet the demands of food safety for consumers. The safety of our food supply and the security of our work force should demand no less.•

By Mr. STEVENS:

S. 297. A bill to authorize the Air Force Memorial Foundation to establish a memorial in the District of Columbia or its environs; to the Committee on Energy and Natural Resources.

AIR FORCE MEMORIAL ESTABLISHMENT ACT

• Mr. STEVENS. Mr. President, the U.S. Air Force was established as a separate service in 1947. Since that time, the men and women of the U.S. Air Force have distinguished themselves as an integral part of our Nation's defense in times of peace and war. The men and women of the Air Force have demonstrated bravery and effectiveness during such historical events as the Berlin airlift and, most recently, Operation Desert Storm.

The 50th anniversary of the founding of the Air Force will be 1997. Today, I am introducing a bill to authorize the erection of a memorial to the Air Force and to the men and women who have honorably served our country within this extraordinary institution. Congress must begin the process now if a memorial is to be completed in time for the 50th anniversary celebration.

The memorial will also be dedicated to those men and women who served in the Army Air Corps, the predecessors to the Air Force, who fought valiantly in World War I, and provided the Allies with their greatest advantage in Europe and the Pacific during World War II.

This bill requires that funds will be raised privately and expressly prohibits any taxpayer funding for the Air Force Memorial. The process for the establishment of a memorial must be in accordance with all existing standards for erecting such works as laid out in 40 U.S.C. 1001.

I urge my colleagues to assist me in establishing a long awaited monument honoring this great institution and our fellow citizens who have served in the U.S. Air Force.•

By Mr. DECONCINI (for himself, Mr. HATCH, Mr. HEFLIN, Mr. KENNEDY, Mr. KOHL, Mr. LAUTENBERG, Mr. SPECTER, Mr. GRASSLEY, Mr. BROWN, and Mr. DOMENICI):

S. 298. A bill to amend title 35, United States Code, with respect to patents on certain processes; to the Committee on the Judiciary.

THE BIOTECHNOLOGY PATENT PROTECTION ACT

Mr. DECONCINI. Mr. President, I rise to introduce with my colleagues, Senators HATCH, HEFLIN, KENNEDY, KOHL, LAUTENBERG, SPECTER, GRASSLEY, BROWN, and DOMENICI, the Biotechnology Patent Protection Act of 1993. This legislation passed the Senate last year, but unfortunately, the House did not have time to act upon the bill before the 102d Congress adjourned. Representatives BOUCHER and MOORHEAD are introducing a companion version in the House today.

The Biotechnology Patent Protection Act is critical to the continued success of the United States biotechnology industry. The United States is currently the world leader in biotechnology, an industry expected to grow from $2 to $5 billion by the year 2000. In addition to the billions of dollars this field generates for our economy, biotechnology offers a potential panacea to seemingly hopeless problems. Currently, biotechnology researchers are developing new energy sources, cures for cancer and heart disease, and healthier food products.

Patents are the lifeblood of the biotechnology industry. They are used to attract the venture capital necessary to finance research and development. Patents also motivate inventors to devote their energies to the discovery and realization of technological innovations. In order to encourage these scientific breakthroughs, as well as to stimulate commercial development, we need strong patent protection for our innovations. Our current patent system, however, fails to sufficiently safeguard the biotechnology industry.

The Biotechnology Protection Act provides a rather simple solution to this very complex area of law. Specifically, it amends the Patent Code to provide additional patent protection to the biotechnology industry through two provisions. The first provision overrules the troublesome 1985 Federal circuit case of In re Durden, which has been a serious obstacle for the biotechnological industry in obtaining process patent protection. The second provision closes a loophole in the Patent Code which currently permits a competitor to exploit a patented host cell by importing the resulting product into the United States.

In Durden, the Federal Circuit denied a process patent under the nonobvious standard of the Patent Code. The patent applicant in Durden admitted the familiarity of the general nature of the chemical reaction involved in his application, but asserted that because a new compound was produced from a new starting material, a patent should be issued. The Federal circuit disagreed, holding that, in this case, the use of a different starting material in an otherwise known process did not constitute a patentable process. The court indicated that each process patent must be evaluated on a case-by-case basis.

As a result of Durden, the Patent Office now routinely denies process claims, thereby diminishing patent protection in the U.S. biotechnology industry. The Durden decision is exacerbated by its inconsistent application by patent examiners.

Title I of the Biotechnology Protection Act resolves the Durden predicament by utilizing more appropriate criteria for assessing patentability. The bill provides that a biotechnological process of making or using a product will not be considered nonobvious if the starting material or resulting product is novel. Such a provision is necessary to afford predictability to the patent procedure and to ensure equal and adequate access to patent protection.

Title II closes the loophole which currently allows foreign exploitation of patented biotechnological material. Under current law, a U.S. patent holder of a genetically engineered host cell is unable to prevent a competitor from using the patented invention overseas and then exporting the product to the United States to compete with the patentee. Such piracy enables a competitor to circumvent established patent law, encouraging businesses to go overseas to evade U.S. law.

Furthermore, this abuse undermines continued investment in the research and development phase of scientific advancements. Not only may scientists abandon meritorious experiments on patented material they fear will be taken overseas, developed, and imported into the United States, but investors may withdraw financial backing from such projects as well.

Mr. President, this legislation moves U.S. biotechnology in the right direction—forward. It is time to end the uncertainty in this area of law that hinders the essential progress of the biotechnology industry. It is time to stop intellectual property pirates from abridging the spirit of U.S. patent laws. Time and time again, we hear of a U.S. industry losing its global lead to another country willing to provide the tools for that industry to succeed. Time and time again, we have been forced to look back in retrospect, lamenting what little needed to be done to maintain U.S. dominance in a particular high-technology industry. If we act now on this legislation, we will not lose the U.S. lead in biotechnology.

Mr. President, in light of the fact that this bill passed the Senate last Congress, and in light of the urgent need for the protection this bill provides, I would like to move quickly on this legislation. I ask unanimous consent that the full text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 298

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—BIOTECHNOLOGICAL PROCESS PATENTS

SEC. 101. CONDITIONS FOR PATENTABILITY; NONOBVIOUS SUBJECT MATTER.

Section 103 of title 35, United States Code, is amended—

(1) in the first unnumbered paragraph by inserting "(a)" before "A patent";

(2) in the second unnumbered paragraph by inserting "(b)" before "Subject matter"; and

(3) by adding at the end thereof the following new subsections:

"(c) Notwithstanding any other provision of this section, a claimed process of making or using a machine, manufacture, or composition of matter is not obvious under this section if—

"(1) the machine, manufacture, or composition of matter is novel under section 102 of this title and nonobvious under this section;

"(2) the claimed process is a biotechnological process as defined in subsection (d); and

"(3)(A) the machine, manufacture, or composition of matter, and the claimed process invention at the time it was made, were owned by the same person or subject to an obligation of assignment to the same person; and

"(B) claims to the process and to the machine, manufacture, or composition of matter—

"(i) are entitled to the same effective filing date; and

"(ii) appear in the same patent application, different patent applications, or patent which is owned by the same person and which expires or is set to expire on the same date.

"(d) For purposes of this section, the term 'biotechnological process' means any method of making or using living organisms, or parts thereof, for the purpose of making or modifying products. Such term includes recombinant DNA, recombinant RNA, cell fusion including hybridoma techniques, and other processes involving site specific manipulation of genetic material.".

SEC. 102. NO PRESUMPTION OF INVALIDITY.

The first unnumbered paragraph of section 282 of title 35, United States Code, is amended by inserting after the second sentence "A claim issued under the provisions of section 103(c) of this title on a process of making or using a machine, manufacture, or composition of matter shall not be held invalid under section 103 of this title solely because the machine, manufacture, or composition of matter is determined to lack novelty under section 102 of this title or to be obvious under section 103 of this title.".

SEC. 103. EFFECTIVE DATE.

The amendments made by this title shall apply to all United States patents granted on or after the date of the enactment of this Act and to all applications for United States patents pending on or filed after such date of enactment, including any application for the reissuance of a patent.

TITLE II—BIOTECHNOLOGICAL MATERIAL PATENTS

SEC. 201. INFRINGEMENT BY IMPORTATION, SALE OR USE.

(a) INFRINGEMENT.—Section 271 of title 35, United States Code, is amended by adding at the end the following new subsection:

"(h) Whoever without authority imports into the United States or sells or uses within the United States a product which is made by using a biotechnological material (as defined under section 154(b)) which is patented in the United States shall be liable as an infringer if the importation, sale, or use of the product occurs during the term of such patent.".

(b) CONTENTS AND TERM PATENT.—Section 154 of title 35, United States Code, is amended—

(1) by inserting "(a)" before "Every";

(2) by striking out "in this title," and inserting in lieu thereof "in this title (1)";

(3) by striking out "and, if the invention" and inserting "(2) if the invention";

(4) by inserting after "products made by that process," the following: "and (3) if the invention is a biotechnological material used in making a product, of the right to exclude others from using or selling throughout the United States, or importing into the United States the product made or using such biotechnological material,"; and

(5) by adding at the end thereof the following:

"(b) For purposes of this section, the term 'biotechnological material' is defined as any material (including a host cell, DNA sequence, or vector) that is used in a biotechnological process as defined under section 103(d).".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect six months after the date of enactment of this Act and, subject to paragraph (2), shall apply only with respect to products made or imported after the effective date of the amendments made by this section.

(2) EXCEPTIONS.—The amendments made by this section shall not abridge or affect the right of any person, or any successor to the business of such person—

(A) to continue to use, sell, or import products in substantial and continuous sale or use by such person in the United States on the date of enactment of this Act; or

(B) to continue to use, sell, or import products for which substantial preparation by such person for such sale or use was made before such date, to the extent equitable for the protection of commercial investment made or business commenced in the United States before such date.

Mr. HATCH. Mr. President, today I am pleased to cosponsor the Biotechnology Patent Protection Act of 1993 with my colleague, Senator DECONCINI.

This legislation is the result of a great deal of work by numerous Members of Congress over the past two Congresses. The problem it addresses was best summarized by the Council on Competitiveness in a report it issued nearly 2 years ago:

> The uncertainties in intellectual property rights for innovations in the biotechnology area continue to hamper the industry. Changes in U.S. law have been suggested as a way of improving patent protection. Legislation has been introduced to overturn a court case (In re Durden) that suggests that use of a novel starting material in combination with a known chemical process is not eligible for a process patent. The application of Durden in the biotechnology area could deny protection to innovations that only can be protected through process patents. If Durden were overturned, patenting these processes would permit the patent holder to exclude the importation into this country of a product produced by using a patented biotechnological material.
>
> The administration should support passage of legislation to provide necessary process patent protection for products, such as those in the biotechnology area, that can be protected only through process patents.

The key elements of this legislation are the protection of major scientific breakthroughs involved in the methods of making and using new products. The best examples of the types of processes that will benefit from this legislation are those that arise in the biotechnology industry.

As noted by the Council on Competitiveness, for a variety of reasons, the patent position of the biotechnology industry is not as strong as that available to traditional pharmaceuticals. This means that under current law it is possible for a major innovation, such as creation of the first commercially effective process for making a recombinant human therapeutic, to be without adequate patent protection. In some instances there may be no product patent protection available for the end product, no process protection for the method of making the product, and no ability to prevent foreign manufacture of the end product using the patented intermediate or host cell. In biotechnology, the use of an intermediate, most frequently a host cell or organism, is the modern equivalent of creating a miniature factor for the production of a product. Thus, the inability to prevent the transportation of a patented host cell offshore and the subsequent importation of an end product is a serious defect in our current patent system. Our bill addresses this problem directly by extending process patent protection to cover the inventor's process of making the product. Such process patents may be enforced under the current law to stop importation of a product made by a patented process. Thus, this bill will give inventors the full promise of the process patent amendments Senator DECONCINI and I authored in the 1988 omnibus trade bill.

The other important reason that this bill makes sense is that it will produce an international patent norm that no longer leaves our inventors at a competitive disadvantage. Under current law, it is possible for innovators to face unfair foreign competition from parties who would be barred from using a patented host cell in the United States. This legislation will correct that anomaly by granting process patent protection. In my view, this approach is preferable to attempting the creation of a new set of remedies for the making, using, or selling of products of host cells. This bill removes a court-created barrier resulting from an anomalous interpretation of the patent laws. Removal of this barrier will result in: First, process patent allowance; and second, application of existing process patent laws to enforce the newly allowed process patents to stop the importation into the United States of products made outside the United States by the patented process.

By Mr. RIEGLE (for himself, Mr. JEFFORDS, Mr. SIMON, Mr. LEVIN, Mrs. BOXER, Ms. MOSELEY-BRAUN, and Mr. DODD):

S. 299. A bill to amend the Housing and Community Development Act of 1974 to establish a program to demonstrate the benefits and feasibility of redeveloping or reusing abandoned or substantially underutilized land in economically and socially distressed communities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

ABANDONED LAND REUSE ACT OF 1993

• Mr. RIEGLE. Mr. President, today I rise to introduce the Abandoned Land Reuse Act of 1993.

This legislation is a more comprehensive version of S. 3164, that I introduced last session along with Senators JIM JEFFORDS and JOE LIEBERMAN. The legislation addresses a basic issue of community development and economic policy in this country; what to do with abandoned industrial and commercial land. The Abandoned Land Reuse Act of 1993 is different from S. 3164 in a number of respects, most notably in providing more assistance to distressed neighborhoods and creating new jobs where old jobs have been lost.

Abandoned industrial and commercial sites are a major problem for many communities. Taking steps to reuse and rehabilitate these areas will increase the tax base, rehabilitate distressed neighborhoods, and provide a new start for communities that are currently locked in economic decline, and lack the resources to address these and other key issues.

The legislation authorizes grants by the Secretary of Housing and Urban Development to local governments or local nonprofit community development corporations to carry out a program to redevelop or rehabilitate abandoned industrial and commercial facilities that are located in economically and socially distressed communities. This is especially important where the existing owners of the facilities lack the resources to accomplish the redevelopment or rehabilitation.

The Abandoned Land Reuse Act of 1993 authorizes the appropriation of $100 million for each of the next 3 fiscal years. The legislation enables the HUD Secretary to approve the demonstration grant proposals or to delegate this responsibility to a State's Governor with respect to demonstration project sites in that State. The grants would cover 75 percent of the costs of site redevelopment or rehabilitation and would be subject to repayment, if the grantee recovered from site disposition an amount exceeding its 25 percent share of the costs, or the grantee failed to carry out the redevelopment or rehabilitation project in a timely manner.

For several years now the U.S. Congress has been debating the need to reinvest in the infrastructure that supports the efficient operation of our economy.

This country cannot afford to abandon the sites that have employed thousands of our Nation's workers. We do not have the capital to be so extravagant. We also cannot ignore the impact upon our economy of the large-scale abandonment of large portions of our communities to nonproductive use.

Additionally, this legislation responds to our need to reinvest in our Nation. In my home State of Michigan, the marketability and reuse of thousands of sites are impaired by past industrial or commercial land use practices. These sites, which are in some kind of economic limbo, need rehabilitation to make them viable for reuse. This legislation provides assistance for that economic and community regeneration.

In fact, the Michigan State Legislature has created a special committee to consider what initiatives the State might take to facilitate the reuse of these sites for contemporary uses that will attract or retain private employers. Other levels of government in Michigan and other Michigan organizations, including the Southeast Michigan Council of Governments and the Michigan Municipal League, are similarly focused on these issues.

Further, Michigan is not alone in its efforts. States, cities, and local community development organizations throughout America—from the west coast to the Midwest and east coast, from the San Francisco Bay Area and Los Angeles, to Detroit, Chicago, Toledo, Baltimore, Cleveland, Bridgeport, and Newark—are similarly seeking to reuse abandoned industrial sites and facilities.

The legislation I am introducing today will complement and encourage these efforts at the State and local level and enhance the capacity of governmental entities and local community development corporations to respond to this very pressing demand to act. Removing the constraints on reuse of those facilities or sites improves the economic prospects of their communities' residents—particularly the disadvantaged and chronically unemployed.

This focus is good policy from many points of view—whether considering economic, employment, community development, housing, public health, environmental, or other needs.

Mr. President, the reuse of abandoned industrial and commercial sites in our Nation's distressed communities can create significant economic opportunities for the benefit of their residents. It will create significant job training and employment opportunities—both to achieve the removal of existing constraints on reuse and redevelopment as well as to conduct the new economic activities attracted to the sites or adjacent property.

I am very interested in the job training opportunities that can result from the initiatives that this legislation is intended to stimulate. I mean to work with my colleagues to identify how best to maximize these opportunities.

Land reuse has benefits similar to the reuse of other resources in limited supply. This country is becoming more aware of the need to recycle newspapers, glass bottles, aluminum cans, and other materials and products. Reusing our land and the very substantial public and private utilities and other infrastructure that have improved the value of that land is consistent with this contemporary ethic. Our communities continually have to contend with responding to new realities that alter the nature of their economic base. The changes affecting our Nation's economy today are particularly wrenching. They demand a renewed public effort to assist our communities to meet the challenge.

Mr. President, a number of individuals representing public and private organizations have contributed to the development of this legislation and support its purpose and concept.

Members of my staff have been working closely with the staffs of Senators BAUCUS and LAUTENBERG to fashion legislation that we can mutually support. I recognize the interest of these Senators BAUCUS and LAUTENBERG in facilitating achievement of the objectives of this legislation. I am willing to work closely and cooperatively with my colleagues and the Clinton administration to develop legislation that is mutually acceptable to all concerned.

Mr. President, I have attached to my statement a brief summary of the purposes and provisions of this bill and ask unanimous consent that it and the text of the bill be reprinted in the CONGRESSIONAL RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 299

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. ABANDONED LAND REUSE ACT OF 1993.

The Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended by adding at the end the following new title:

"TITLE IX—REDEVELOPMENT OR REUSE OF ABANDONED LAND

"SEC. 901. SHORT TITLE.

"This title may be cited as the 'Abandoned Land Reuse Act of 1993'.

"SEC. 902. FINDINGS.

"The Congress finds that—

"(1) past uses of land in the United States for industrial and commercial purposes or the conduct of other economic activities have created many sites throughout the United States that are now abandoned or substantially underutilized;

"(2) the abandonment or substantial underutilization of the sites referred to in paragraph (1) contribute substantially to the economic and social distress of communities in large portions of the population, including poor and unemployed individuals and disadvantaged population groups, have concentrated;

"(3) the abandonment or substantial underutilization of the abandoned sites impairs the ability of the Federal Government and the governments of States and political subdivisions of States to provide employment opportunities for, and improve the economic welfare of, the people of the United States and the poor, unemployed, and disadvantaged, in particular;

"(4) the abandonment or substantial underutilization of the abandoned sites results in the inefficient use of community development facilities and related public services, and extends conditions of blight in local communities;

"(5) the manner in which—

"(A) the population of the United States is distributed; and

"(B) communities accommodate the growth of the national economy;

affects the employment opportunities, availability of capital to provide economic opportunities, social conditions, and other important conditions of each such community;

"(6) the private market demand for abandoned sites has been reduced or eliminated;

"(7) the capital available for the redevelopment or reuse of abandoned sites may be limited;

"(8) cooperation among Federal agencies and the departments and agencies of States and political subdivisions of States is necessary to accomplish timely redevelopment or reuse of abandoned sites;

"(9) in addition, cooperation between the departments and agencies referred to in paragraph (8) and private parties is necessary to accomplish the objective referred to in paragraph (8); and

"(10) there is a need for a program to demonstrate the public purposes and benefits of the redevelopment or reuse of abandoned sites.

"SEC. 903. DEFINITIONS.

"As used in this title:

"(1) ABANDONED SITE.—The term 'abandoned site' means a facility or a combination of geographically or economically related facilities within the same unit or immediately contiguous units of general local government—

"(A) that is no longer operating or is so substantially underutilized as to provide only marginal employment opportunities;

"(B) that is located within a community that suffers from economic and social distress measured by factors referred to in section 907(a)(4);

"(C) that has one or more conditions, constraints, or characteristics (other than only being a type of facility with respect to which market supply exceeds demand) that are detrimental to the public health, safety, or welfare and, in the absence of the assistance under this title, prevent or materially discourage the timely redevelopment or reuse of a facility or real property immediately adjacent to the facility for a use or uses that include the provision of employment opportunities in accordance with applicable community development strategies; and

"(D) with respect to which a person referred to in section 910(a) is unable to fund or finance the full amount of the cost of a reuse action.

"(2) FACILITY.—The term 'facility' means an improved or previously improved site or area, or a surface or subsurface improvement to a site or area, including a building, structure, installation, fixture, or equipment on or within the site, that has been used primarily for an industrial or commercial use.

"(3) GOVERNOR.—The term 'Governor' means the Governor of a State, or the Governor's designee.

"(4) LOCAL COMMUNITY DEVELOPMENT ORGANIZATION.—The term 'local community development organization' means a nonprofit organization (as defined in paragraph (7)) that—

"(A) has a history of serving the needs of residents of the local community affected by an abandoned site;

"(B) maintains accountability to persons of low-income in a local community through significant representation on the governing board of the organization, and such other means as are appropriate; and

"(C) has the institutional and administrative capacity for carrying out activities assisted under this title (as determined by the Secretary).

"(5) LOCAL GRANTEE.—The term 'local grantee' means a local community development organization or unit of general local government.

"(6) PERSONS OF LOW INCOME.—The term 'persons of low income' has the meaning provided the term under section 102(20).

"(7) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means any private, nonprofit organization (including a State or locally chartered, nonprofit organization)—

"(A) that is organized under State or local laws;

"(B) with respect to which no portion of the net earnings inure to the benefit of a member, founder, contributor, or individual associated with the organization;

"(C) that complies with standards of financial accountability that the Secretary determines to be acceptable; and

"(D) that carries out activities related to the retention or expansion of employment opportunities for, and improvement of economic and social conditions of, persons of low income.

"(8) REUSE ACTION.—The term 'reuse action' means an action that makes such physical changes in, or improvements or additions to, an abandoned site so as to enable the timely redevelopment or reuse of the site or real property immediately adjacent to the site. Such term shall include the clearance, demolition, or rehabilitation of the site. Such term shall not include the construction of new buildings on the site.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(10) STATE.—The term 'State' has the meaning provided the term under section 102(a)(2).

"(11) UNIT OF GENERAL LOCAL GOVERNMENT.—The term 'unit of general local government' has the meaning provided the term in the first sentence of section 102(a)(1).

"SEC. 904. DEMONSTRATION PROGRAM.

"(a) IN GENERAL.—The Secretary shall select appropriate States in which to establish and carry out either—

"(1) a program to provide grants to States to establish a State program to provide grants to local grantees; or

"(2) a direct grant program to provide grants to local grantees,

for the purpose of carrying out the demonstrations described in subsection (b).

"(b) PURPOSE.—The purpose of the programs authorized by subsection (a) is to demonstrate—

"(1) the economic feasibility of redevelopment or reuse of abandoned sites;

"(2) the employment benefits, economic benefits, social benefits, and such other benefits to distressed communities that may occur as a result of focusing financial resources and cooperative action on the redevelopment or reuse of abandoned sites;

"(3) the beneficial impacts on patterns of community development and use of public resources of redevelopment or reuse of abandoned sites; and

"(4) the feasibility of timely, cooperative action—

"(A) among Federal agencies and departments and agencies of States and political subdivisions of States that have jurisdiction over the redevelopment or reuse of abandoned sites; and

"(B) between the agencies and departments referred to in subparagraph (A) and private parties.

"(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds made available pursuant to this title among the States or to local grantees. In allocating the funds, the Secretary shall take into account—

"(1) the relative commitment of a State and local grantees to achieving successfully the demonstrations described in subsection (b) measured by factors that include that referred to in section 907(a)(7);

"(2) the relative number of abandoned sites in the State;

"(3) the need to allocate funds in amounts that will contribute to achieving successfully the demonstrations described in subsection (b); and

"(4) the desirability of carrying out a variety of demonstration projects with respect to the location, characteristics, and issues addressed by the projects, and the types of participants associated with the projects.

"(d) SCOPE OF PROGRAM.—

"(1) IN GENERAL.—In carrying out the demonstration program established under subsection (a), the Secretary may award a grant to a State pursuant to section 905 or to a local grantee that submits an approved application to the Secretary pursuant to paragraph (2).

"(2) GRANT APPLICATION.—An application for a grant under this section shall include a proposal for a reuse action for the redevelopment or reuse of an abandoned site, and shall be in such form as the Secretary determines to be appropriate.

"(3) COMPETITIVE SELECTION PROCEDURE.—Each grant made under this title by the Secretary or a Governor to a State or local grantee shall be made on the basis of an open and competitive selection procedure approved by the Secretary. In making a grant to a local grantee, the Secretary shall conduct a selection procedure on a State-by-State basis.

"(4) SELECTION OF SITES BY GOVERNOR.—If a State establishes a State demonstration program that is approved in accordance with section 905, the Governor shall select the abandoned sites to receive assistance under the grant program. In carrying out the demonstration program, the Governor may act through appropriate officials of the State.

"(5) GRANT AWARDS.—Except as provided in paragraph (6), the aggregate amount of grants awarded for reuse actions at an abandoned site shall not exceed an amount equal to 75 percent of the total eligible costs of carrying out a reuse action at the abandoned site. Each local grantee that receives a grant award under this title shall be required to pay a non-Federal share in an amount equal to 25 percent of the total eligible costs of carrying out the reuse action at the abandoned site that is the subject of the grant award.

"(6) EXCEPTION.—Subject to sections 906 and 909, the Secretary (or in the case of a State demonstration program under section 905, the Governor) may fund up to 100 percent of the total eligible costs of carrying out a reuse action at an abandoned site if the Secretary (or the Governor) obtains satisfactory assurances from the grant recipient that—

"(A) a transfer of the abandoned site will occur as part of the redevelopment or reuse of the site;

"(B) the net proceeds realized from the transfer of the site will reasonably approximate at least 25 percent of the eligible costs of carrying out a reuse action at the site; and

"(C) an amount reasonably approximating 25 percent of the eligible costs referred to in subparagraph (B) from the net proceeds referred to in subparagraph (B), will be paid promptly upon receipt of the proceeds by or on behalf of the grant recipient to the Secretary (or the Governor).

"SEC. 905. DELEGATION OF IMPLEMENTATION TO STATE DEMONSTRATION PROGRAM.

"On a State-by-State basis, the Secretary may, in lieu of awarding grants to individual local grantees, award a grant to a State that submits an approved application to the Secretary to conduct a State demonstration program to carry out the demonstrations described in section 904(b). Subject to the limitations referred to in section 904(d), under a State demonstration program, the Governor of a State shall have the authority to select abandoned sites and allocate assistance from amounts awarded to the State pursuant to this section.

"SEC. 906. FUNDING.

"(a) IN GENERAL.—Payment of the non-Federal share under section 904(d)(5) may be made from funds from any non-Federal source, and may include services or equipment necessary to carry out the reuse action.

"(b) AVOIDANCE OF WINDFALL FROM GRANT AWARD.—

"(1) IN GENERAL.—A local grantee, shall, as a condition to receiving a grant award, enter into an agreement with the Secretary (or in the case of a State demonstration program under section 905, the Governor) that requires the payment of an amount specified in paragraph (2) to the Secretary (or the Governor) by the local grantee of any amount of compensation that the local grantee may recover from another person as compensation for the cost of carrying out a reuse action at the abandoned site that is the subject of the grant award.

"(2) AMOUNT OF PAYMENT.—The amount of payment described in this paragraph shall be—

"(A) in addition to the amount required to be paid pursuant to section 904(d)(6); and

"(B) an amount equal to 85 percent of any amount by which the amount recovered (net of recovery costs) exceeds the non-Federal share of the local grantee.

"(c) AVOIDANCE OF WINDFALL WHERE LOCAL GRANTEE IS NOT SITE OWNER.—In the event that—

"(1) an abandoned site that is the subject of a grant award under this title is not owned by the local grantee that receives the award, or

"(2) an action is taken with respect to an abandoned site to enable the reuse or redevelopment of real property immediately adjacent to the abandoned site, and the local grantee does not own the adjacent site,

the local grantee shall be required, as a condition of receiving the grant award, to enter into an agreement that is satisfactory to the Secretary with the owner of the site or adjacent site. The agreement shall ensure that the owner of the site or adjacent site will not realize a windfall from the assistance provided under the grant, and the local grantee will be able to meet the requirements of this title.

"(d) OTHER RECOVERY OF FEDERAL ASSISTANCE.—

"(1) IN GENERAL.—

"(A) AMOUNT.—An agreement referred to in subsection (b)(1) shall specify that as a condition of receiving a grant award under this title, the grant recipient shall be required to pay to the Secretary (or the Governor) the sum of—

"(i) the amount of the grant award; and

"(ii) the amount of interest accrued on the amount referred to in clause (i) from the date of the awarding of the grant (at a rate determined by the Secretary)

if a condition described in clause (i) or (ii) of subparagraph (B) is met.

"(B) FAILURE TO INITIATE.—If, with respect to the abandoned site that is the subject of the grant—

"(i) a reuse action has not been initiated by 1 year after the date that the grant is awarded; or

"(ii) the redevelopment or reuse has not been completed in a timely manner (as determined by the Secretary, or, in the case of a State demonstration program under section 905, the Governor),

the grant recipient shall be required to make a payment pursuant to subparagraph (A).

"(2) TIMING OF REPAYMENT.—A repayment referred to in paragraph (1) shall be due upon notice to the grant recipient by the Secretary (or the Governor) that a condition described in clause (i) or (ii) of paragraph(1)(B) has been met.

"(3) WAIVER.—The Secretary (or the Governor) may waive the requirement for repayment under paragraph (1) or may require only partial payment of the amount specified in paragraph (1) if the Secretary, (or the Governor) determines that—

"(A) the grant recipient acted in a manner consistent with the requirements of section 904(b); and

"(B) exigent circumstances contributed to the delay.

"(e) USE OF RECOVERED FUNDS.—The Secretary (or the Governor) may use funds recovered pursuant to this section to make additional grant awards in accordance with this title. The Governor may issue an additional grant award with funds recovered pursuant to this section without regard to the requirement for preapproval by the Secretary under section 905.

"SEC. 907. CRITERIA FOR SITE SELECTION.

"(a) IN GENERAL.—The Secretary (or in the case of a State demonstration program under section 905, the Governor), after receiving completed applications for grant awards under this title, shall select abandoned sites and allocate awards. In making the grant awards, the Secretary (or the Governor) shall take into account the following criteria:

"(1) The extent to which economic, social, and such other benefits of the redevelopment or reuse of the site as the Secretary (or the Governor) determines to be appropriate, including the employment and job training opportunities, and other related benefits to persons of low income who are residents of the local community in which the site is located, are likely to exceed the costs of the redevelopment or reuse of the site. In determining the benefits, the Secretary (or the Governor) shall consider the amount of job opportunities to be retained or created, expected increases in economic activity within the community, expected increases in local tax revenue, capital resources to be conserved, and such other public resources as the Secretary (or the Governor) determines will be conserved.

"(2) The extent of need for assistance under this title to fund a reuse action.

"(3) The extent of contribution from non-Federal sources, including capital investment by private parties, expected to occur in connection with the redevelopment or reuse of the site.

"(4) The degree of economic and social distress of the local community in which the site is located, determined by considering the amount of loss of community employment in the industrial sector, the rate and period of unemployment, the relative per capita income of local community residents, any decline in economic activity, any population loss or growth that is disproportionate to local economic opportunity, and such other related factors as the Secretary determines to be appropriate.

"(5) The degree of cooperation among appropriate Federal agencies and departments and agencies of relevant States and political subdivisions of the States, as well as between the departments and agencies and private parties.

"(6) Whether the redevelopment or reuse of the site will be achieved in a timely manner.

"(7) Whether and to what extent the State or unit or units of general local government in which the site is located have established an ongoing program or programs to facilitate the redevelopment or reuse of abandoned sites.

"(8) Such other factors as the Secretary considers relevant to the purposes of the program authorized by this title.

"(b) PRIORITY.—The Secretary (or in the case of a State demonstration program under section 905, the Governor) shall give the greatest priority to the criteria referred to in paragraphs (1) through (7) of subsection (a), and shall give an equal degree of priority to each criterion referred to in paragraphs (1) through (7) of subsection (a).

"SEC. 908. FEDERAL FACILITIES EXCLUDED.

"The Secretary (or in the case of a State demonstration program under section 905, the Governor) may not award a grant under this title for a reuse action on a site controlled by the Federal Government.

"SEC. 909. ELIGIBLE COSTS.

"(a) IN GENERAL.—Administrative and nonadministrative costs for a reuse action carried out pursuant to a grant program under section 904 or a State demonstration program under section 905 shall constitute eligible costs.

"(b) NONADMINISTRATIVE COSTS DEFINED.—For the purposes of this section, the term 'nonadministrative costs' shall include the cost of—

"(1) identifying the probable extent and nature of, and preferred manner of carrying out, a reuse action at an abandoned site;

"(2) fees relating to any application for approval by a Federal agency or a department or agency of a State or a political subdivision of a State, that is required and necessary to carry out a reuse action at an abandoned site; and

"(3) implementing a reuse action.

"(c) ADMINISTRATIVE COST LIMITATION.—Not more than 10 percent of the amount of a grant award under this title may be used for administrative costs.

"SEC. 910. LIABILITY UNDER OTHER LAW; AVOIDANCE OF WINDFALL.

"(a) LIABILITY UNDER OTHER LAW.—Nothing in this title is intended to relieve any person who had an interest in an abandoned site prior to the initiation of a reuse action that is the subject of grant award under this title from liability under, or other requirements of, any other provision of law.

"(b) AVOIDANCE OF WINDFALL.—The Secretary (or in the case of a State demonstration program under section 905, the Governor) shall implement a grant program under this title in a manner that does not—

"(1) relieve from liability under any other law any person referred to in subsection (a); and

"(2) reduce the incentive of any such person to participate in funding the non-Federal share required under section 906.

"(c) STATUTORY INTERPRETATION.—Nothing in subsection (b) is intended to prevent a local grantee who acquires an abandoned site solely for the purpose of carrying out a proposal to redevelop or reuse the site from obtaining assistance under this title.

"SEC. 911. EVALUATION AND REPORT.

"(a) EVALUATION.—

"(1) IN GENERAL.—Not later than December 31, 1995, the Secretary shall conduct an initial evaluation of the grant program established under section 904 and any State demonstration program established under section 905. The evaluation shall be based on information that is available at the time of the evaluation.

"(2) DATA COLLECTION.—The Secretary (or in the case of a State demonstration program under section 905, the Governor) shall require that as a condition to receiving a grant under this title, each grant recipient shall submit to the Secretary data that indicate the actual costs, benefits, sources and uses of funds, the results of an assisted redevelopment or reuse project, and such other data as the Secretary determines to be necessary for the evaluation referred to in paragraph (1).

"(b) CONFIDENTIALITY OF DATA COLLECTED.—The Secretary shall maintain confidentiality of data collected from grant recipients in accordance with any applicable law.

"(c) REPORT.—Upon completion of the evaluation referred to in subsection (a), but not later than December 31, 1995, the Secretary shall submit a report to the Congress containing the findings and recommendations of the Secretary.

"(d) USE OF CONTRACTORS.—The Secretary may, in accordance with any applicable law, enter into agreements with such private contractors (including institutions of higher education), as the Secretary determines necessary for the preparation of the report referred to in subsection (c).

"SEC. 912. TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—The Secretary may use up to 5 percent of any amount appropriated to implement this title to fund technical assistance grants by the Secretary (or in the case of a State demonstration program under section 905, the Governor) to local grantees to facilitate their participation in the demonstration program established by this title and their successful achievement of the purposes of this title.

"(b) PURPOSES.—A local grantee may use a grant under this section to pay for up to the full amount of its costs—

"(1) to identify the probable extent and nature of, and preferred manner of carrying out, a reuse action at an abandoned site;

"(2) to identify potential non-Federal sources of capital for the redevelopment or reuse of an abandoned site;

"(3) to determine the means of implementing in connection with a reuse action a job training program that benefits persons of low-income who are residents of the local community in which an abandoned site is located;

"(4) to identify public agencies cooperation with which would be necessary to carry out a reuse action; or

"(5) for such other purposes approved by the Secretary as directly relate to the local grantee's successfully organizing the human and other resources and cooperative action necessary to carrying out a reuse action.

"(c) REPAYMENT OBLIGATION.—If a local grantee obtains a technical assistance grant pursuant to this section and subsequently obtains a grant to carry out a reuse action under this title, the grant recipient's payment obligation under section 906(d) shall include the amount of the technical assistance grant.

"SEC. 913. REGULATIONS.

"Not later than 180 days after the date of enactment of this title, the Secretary shall issue such rules and regulations as are necessary to carry out this title.

"SEC. 914. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Department of Housing and Urban Development for the purposes of carrying out this title $100,000,000 for each of the fiscal years 1994, 1995, and 1996. Such sums shall remain available until expended.".

SUMMARY OF ABANDONED LAND REUSE ACT OF 1993

The Abandoned Land Reuse Act of 1993 establishes a program to reuse and rehabilitate abandoned industrial and commercial sites in a manner that creates jobs, increases the tax base, rehabilitates distressed neighborhoods, and provides a new start to communities that are currently locked in economic decline, and lack the resources to address these and other key issues.

The bill creates a program to demonstrate the benefits of reusing these sites and facilities where feasible rather than wasting the substantial capital resources invested in public and private infrastructure serving the sites and rather than consuming additional capital and land resources to provide employment sites elsewhere. The program is designed to encourage Federal, State, and local governmental cooperative action and public/private partnerships that will induce private investment and create new employment and job training opportunities in our Nation's distressed communities.

Grant recipients are required to contribute at least 25% of the costs of making sites marketable. Eligible grantees are general purpose local governments and local, nonprofit community development corporations. Grantees may satisfy their contribution following site redevelopment or reuse and disposition of a site or adjacent property. Non-Federal third parties may help grantees satisfy their requirement through contributions of financial assistance, or necessary services or equipment.

The bill authorizes the Secretary of Housing and Urban Development (the "Secretary") to select sites for assistance, or on a State-by-State basis to delegate site selection and related funding authority to a State's Governor, who would be expected to act through the appropriate State agency or agencies.

After the conduct of an open, competitive selection process, the Secretary or State Governor would select demonstration sites nominated by local grant applicants based upon criteria that require:

An economically viable redevelopment or reuse project;

Significant leveraging of the Federal grant with non-Federal funds;

Site location in areas suffering economic and social distress;

Intergovernmental agency cooperation and public/private partnership;

Commitment of State and local governments to programs that facilitate site redevelopment or reuse;

Consideration of need for assistance to achieve site reuse;

Consideration of job training and employment opportunities generated by the project; and

Timely site redevelopment or reuse.

The demonstration program applies to sites other than federally owned facilities.

The bill also provides that up to 5% of the funds appropriated to implement the program can be used for technical assistance grants to facilitate local grantees' participation in the program and their successful achievement of program purposes. Grant-eligible activities include undertaking assessments of site conditions and determining appropriate means of implementing a job training program in connection with a redevelopment or reuse project.

The bill requires the Secretary or State Governor to implement the program in a manner that does not relieve site owners from liability under Federal, State, or local law relating to site conditions and does not undermine such parties' incentive to participate in funding the non-Federal contribution to site redevelopment or reuse.

Grant recipients also would be obligated to repay:

Up to 85% of Federal grant funds, if grant-funded costs were recovered from parties responsible for remedying site conditions under applicable law or with an interest in a site or adjacent property following site redevelopment or reuse; or

The full grant amount plus interest, if approved redevelopment or reuse of a site were not initiated and implemented in a timely manner. In the latter event the Secretary or State Governor would have authority to waive repayment in certain, limited circumstances.

The bill provides for the authorization of $100 million for each of the next three fiscal years, and requires the Secretary to submit by December 31, 1995, an initial report evaluating the results of the demonstration program.

Mr. JEFFORDS. Mr. President, I am pleased to cosponsor the Abandoned Land Reuse Act of 1993, with my distinguished colleague, the chairman of the Committee on Banking, Housing, and Urban Affairs.

We hope our bill will promote the reuse of abandoned manufacturing facilities. These idle facilities—mining operations in the West, textile mills in the South, steel mills in the Northeast, metal plating and chemical facilities from the Great Lakes to the Gulf of

Mexico, machine tool plants in my State of Vermont—represent a tremendous waste of physical resources and capital. And too often, the abandonment of these facilities and sites has led to the deterioration of the surrounding communities, many of which are located in our inner cities. In many instances, the facility was the community's sole or largest employer.

I know of several instances in Vermont in which private parties and public or nonprofit community development organizations express interest in remediating abandoned sites and facilities but face liability concerns and financial disincentives. A wooden toy manufacturer, for instance, recently attempted to move into a Poultney facility once used for manufacturing mercury thermometers. Liability concerns prompted the manufacturer to move elsewhere; the property remains vacant.

The Southern Vermont Development Council [SVDC] has remodeled mill buildings at the Holden-Leonard Mill complex in Bennington. Holden-Leonard wove wool into cloth at the site from 1865 to 1949 and employed one-quarter of the city's population at its peak early in the century. SVDC is struggling to find buyers for its industrial condominiums. Again, liability is a concern.

A happier example of what might be concerns the Howe Center in Rutland. Howe Scales—an historic industrial property—now houses a multiple-use complex whose tenants include a furniture manufacturer, an auto body shop, and classrooms for an adult education program.

The bill Senator RIEGLE and I are introducing builds upon the pioneering work the Northeast-Midwest Institute has done to promote industrial facility reuse. It convened a conference on the subject in 1991 and published "New Life for Old Buildings," which contains scores of successful reuse case studies from around the Nation, last year. Last week, the Institute and the Northeast-Midwest Congressional Coalition held a hearing on the subject in Chicago. House Members heard from panels of officials representing low income, environmental, and community development interests.

I successfully offered an amendment to the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA] directing the Department of Transportation [DOT] to conduct a study of the fiscal, physical, and regulatory impediments to reuse. Former Transportation Secretary Andrew Card informed me late last year that DOT—in addition to conducting the study—will attempt to compile an inventory of abandoned facilities nationwide. I anxiously await the report, which should be completed this spring or early summer. It will help us determine the extent of the problem.

Mr. President, this is not a new Superfund program. National Priority List [NPL] sites are excluded. So, too, are sites that qualify for Federal assistance under the underground storage tank trust fund. The bill also excludes Department of Energy, Department of Defense, and other Federal sites.

The core purpose of our bill is to promote the remediation of non-NPL, non-Federal abandoned manufacturing sites so that they can be returned to productive use. Why encourage urban sprawl and the problems associated with it by developing new sites? Why not get to work remediating abandoned sites? Abandoned manufacturing facilities have tremendous potential. Infrastructure—roads, sewers, utilities, rail siding, and the like—already is in place. Surrounding communities usually are economically distressed and hungry for good manufacturing jobs. We have to reinvest in our cities, in our manufacturing, and in our greatest resource, people. The measure that Senator RIEGLE and I are introducing today is a start in the long process of bringing these sites and communities back to life.

Mr. President, I have attached to my statement an executive summary of the Northeast-Midwest Institute's report, "New Life for Old Buildings." I ask unanimous consent that it be reprinted in the CONGRESSIONAL RECORD following my remarks.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

NEW LIFE FOR OLD BUILDINGS—CONFRONTING ENVIRONMENTAL AND ECONOMIC ISSUES TO INDUSTRIAL REUSE

(By Charles Bartsch, Jocelyn Seitzman, Carol Andress, and Deborah Cooney)

Shuttered industrial complexes with contaminated buildings and soils sit idle in communities across the United States. While they pose a special problem in the "rustbelt" states of the Northeast and Midwest, they are truly a national concern. In an August investigative report, the Detroit News termed this situation "our legacy of decades of heavy industry." Today, millions of acres of contaminated industrial land defy renewal, the Chicago area's Southtown Economist wrote in June, "because of the myriad problems that stand in the way of rescuing them."

These sites include the closed steel mills of western Pennsylvania and Chicago's southeast side, textile mills from New England to North Carolina, mining centers throughout the West, and machine shops, mental-plating factories, and chemical plants in cities such as Toledo, Ohio, South Bend, Indiana, and Baton Rouge, Louisiana. Changes in technology and world markets have rendered these once thriving producers of goods and jobs obsolete.

Few needs are more pressing than that of restoring these buildings and sites to useful life. Their continued deterioration will only worsen the environmental problems already created and weaken the economic base of their host communities. These properties have the potential to house emerging technologies and manufacturing processes once rehabilitated. Their adaptation to new uses could restore not only the buildings and their environment but also the jobs and vitality of the communities surrounding them.

The reuse potential of outmoded industrial complexes, however, involves much more than new windows and ceilings. In addition to the exceedingly complex technical, physical, and economic challenges of retrofitting older buildings to house new operations are serious pollution problems. Refineries, processing plants, and other heavy industrial functions—especially those that began earlier in the century—were not gentle to the environment. As a result, attempts to reuse industrial sites must confront a host of issues that new construction often can avoid. Investment capital, which is in short supply for reuse and renovation projects in general, has nearly dried up for sites with even a hint of contamination. The savings and loan crisis has dampened real estate activity overall; in this climate few lenders are willing to take on a project in which the value of their collateral may be lost to cleanup liabilities.

Large metropolitan areas have considerable difficulty grappling with these problems; small cities often fare much worse, having no resources available to deal with them. Industrial towns such as those in Pennsylvania's Monongahela Valley and Michigan's Downriver area grew up around one factory complex and have few businesses independent of it. Small towns have lost large parts of their tax bases after plant shutdowns, making cleanup and reuse virtually impossible without outside help.

Yet in spite of these difficulties, few jurisdictions have a choice; the benefits of returning these structures and properties to productive use outweigh the option of inactivity. Federal and state agencies, development organizations, and private interests are confronting the obstacles, however daunting. Public and private entities have mapped out several strategies to encourage reuse of old sites and structures. Some recognize the economic advantage of historic preservation and have restored their communities' industrial identity as small-scale production centers, seaports, or mill villages. Buildings with particularly striking architecture or historic connections become desirable properties. Developers are converting factory complexes to housing, shops, museums, and festival markets in communities from San Francisco to Boston.

While many of these conversions are appropriate and desirable, factory sites and structures are often only suited for industrial uses. A new generation of industrial systems, processes, and technologies can be accommodated in older facilities. State agencies and private developers are using old mills, laboratories, and arms manufacturing plants for new, cleaner industrial operations.

The Northeast-Midwest Institute has completed a major study, one of the first ever to analyze both the environmental and economic challenges to industrial reuse. This paper summarizes that report, New Life for Old Buildings, which examines: environmental factors, the legal framework for liability, and the impact on project finance in the economic development process; the process for identifying and treating contamination, and state efforts to clarify uncertainties; public-sector financial incentives to spark reuse through federal programs and prospective state initiatives; more than a dozen detailed case studies of industrial site cleanup and restoration; and initial thoughts on a national reuse strategy.

FACTORS THAT INHIBIT REUSE

Despite the many benefits, several factors that inhibit reuse of old industrial sites have become more evident in the past five years. The legacy of serious contamination at many sites and stringent environmental laws present great impediments to quick resolution. In fact, potential environmental liability is a major obstacle to the acquisition of industrial property or the merger of manufacturing industries. The decline of federal support for local projects also blunts reuse efforts.

Cost of Environmental Cleanup

Processing plants, steel mills, and other industrial facilities, as well as service-oriented enterprises such as auto repair shops and dry cleaners, pollute the land, water, and air—and have for decades. The new elements are public awareness and knowledge of the health and environmental risks and a recognition that pollutants must be cleaned. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, or Superfund), enacted in 1980, holds present owners responsible for the costs of cleanup even if they did not cause the contamination. Because of these liabilities, prospective purchasers usually require that the property be cleaned before they buy or lease it. Unfortunately, cleanup is rarely easy or cheap; the contamination in fact triggers a host of technical and legal tangles.

Cleanup adds to the cost of a redevelopment project, often significantly. Valuable sites and structures where the expected financial returns exceed the redevelopment costs, including cleanup, will attract the needed resources. Economically marginal facilities, on the other hand, will lie dormant without some additional incentive or assistance. Depending on the extent and type of contamination, cleanup costs can reach into tens of thousands, sometimes millions of dollars. Cleanup also takes time, extending project completion time by months or even years. For developers, any delay is costly; they are dealing with sunk costs that eat into the profitability of a project. According to a 1990 Wall Street Journal article, contamination is "killing some deals outright, sharply raising the price tags of others and causing still others to crash later on." The mere suspicion of contamination has increased lending costs. More time and staff work is required to put financial packages together, and prospective borrowers must pay for environmental assessments and more detailed appraisals. The extra steps affect many small firms' ability to secure financing.

Uncertain Liabilities

Although CERCLA broadly defines who is potentially liable, uncertainty still clouds many individual projects and deters reuse. The prospect of liability keeps companies and private developers from being able to borrow enough to clean up properties and modernize buildings. Local governments, public-private development organizations, and nonprofit groups taking title to property through forfeiture, condemnation, or donation increasingly are concerned about the possible repercussions of their real estate acquisitions.

At the center of the issue is the extent to which lenders, as potential owners or operators of a facility, are liable for the cleanup costs should they assume title through foreclosure. Recognizing the unique role of lenders and investors, Congress in 1986 included in Superfund a specific exemption for persons who do not participate in management but who hold an ownership claim on a facility to protect their investment (as loan collateral, for example) as part of conventional underwriting practices. This is known as the "secured creditor exception" or SCE, which covers lenders having only limited involvement in managing or operating a property, either as creditors or as owners following foreclosure. Several court cases have attempted to clarify what constitutes "ownership" and "participation in management." These cases included Bergsoe Metal Corp. v. East Asiatic Co., Ltd., which pegged SCE eligibility to what the financial sponsor actually did in managing the project, not simply what rights or unexercised authority it had to influence the operation. While lenders could be liable if they were involved in management beyond the financial dealings of a facility, judicial decisions until 1990 generally supported the promise of Bergsoe.

However, the most controversial case, U.S. v. Fleet Factors Corporation, raised new uncertainties about when lenders cross the threshold of "ownership" into "participation in management." The court ruled that a secured creditor could be liable under CERCLA if its involvement with a facility's management is "sufficiently broad to support the inference that it could affect hazardous waste disposal decisions if it so chose." The judge also stated that "it is not necessary for the secured creditor to actually involve itself in the day-to-day operations of the facility in order to be liable." Lenders have taken issue with the fact that, despite CERCLA's explicit exclusion for lenders who hold a security interest in property, the ruling implies that lenders serve as owners of property because of the nature of their financial relationship with their borrowers. This decision appears to broaden the range of those liable and means that they can be held responsible for cleanup efforts. It has made most lenders reluctant to become involved in any properties involving or suspected to contain hazardous substances—in practice, nearly every old industrial facility. Clearly, this reluctance will affect reuse efforts drastically.

Concerns about the impact of lender liabilities on real estate transactions and loans to small businesses have prompted several proposals in the 102nd Congress to broaden the CERCLA exemptions for lenders. According to testimony in support of these bills fear of liability is affecting both loans for purchase of potentially polluted property and investment in businesses that may occupy the site in the future. At best, many borrowers are facing greatly increased loan-transaction fees and other costs as the lending community grapples with the provisions of CERCLA. At worst, companies are having their financing cut off altogether.

However, some experts have testified that making the lender liable in some instances serves a valuable role in ensuring that contamination is identified and cleaned and that borrowers stay clean. Fears of lenders notwithstanding, several public and private environmental interests maintain that existing CERCLA provisions are appropriate and meet their mission without deterring investment or forcing other negative economic consequences. The lender's stick is quick and direct—if the property is not cleaned no money is loaned.

A decade of experience with CERCLA has shown that the environmental probes that lenders now perform routinely have helped reverse long-standing abuses at thousands of older industrial and commercial sites. An exemption that is too broad may encourage indiscriminate lending practices on contaminated sites and discourage private-sector cleanups. Clarification of liabilities, rather than exemption, may be sufficient to clam lenders fears. To that end EPA on June 5, 1991, issued a proposed rule in response to the Fleet Factors ruling to clarify issues of liability for financial institutions and individuals holding security interests in properties. The proposal specifies a range of activities, including foreclosure, that lenders can undertake to protect their collateral without triggering CERCLA liability provisions. It remains to be seen whether the new rule sufficiently balances lenders' and environmentalists' concerns or whether legislation is still needed.

Uncertain Process

Public officials trying to encourage site reuse and attract private developers and investors express confusion about the process for identifying and cleaning up contamination. Some of this fear stems from lack of understanding of environmental laws and procedures which often intimidates developers and economic development officials. In fact, the process becomes more perplexing and more complex legally every year as environmental laws are amended, regulations are modified, and courts reinterpret their applications. As one economic development official noted most projects formerly did not involve lawyers until settlement; now the lawyer is often the first person on site.

Developers, economic development officials and lenders also nervous about the lack of guidance on how to protect themselves from liabilities. Prospective owners may protect themselves under the "innocent landowner defense" added to CERCLA in 1986 by conducting "all appropriate inquiry" prior to acquiring the property. Not surprisingly, environmental assessments are a booming business; the Bureau of National Affairs estimates that owners and prospective owners could spend more than $400 million by the year 2000 to evaluate environmentally risky properties. In spite of this level of activity, such assessments are neither universal in scope nor consistently performed. No national guidelines exist, and neither EPA nor the courts (through case law) have defined how much inquiry is enough and what level is appropriate. Instead EPA has stated it will decide what is appropriate on a case-by-case basis. The lack of clarity on the need for an environmental assessment or what it must include means the scope of inquiry at different sites may vary widely.

This imprecise language and lack of interpretation leaves lenders and purchasers to determine appropriate inquiry. Prospective landowners, particularly those with limited resources, cannot be certain of the steps needed to ensure compliance with the law and prevent possible liability. Without guidance, inadequate environmental investigations—sometimes based on limited or incorrect understanding of the requirements—may complicate property transfers and impede public and private efforts to identify and clean up contamination. In fact, faulty assessments will allow contamination to remain untended and possibly spread.

Moreover, some experts believe that the fluidity of the process leads to minimal efforts at compliance. Even worse, some site owners may conclude that no way exists to avoid liabilities and, therefore, no benefit is gained in spending money on thorough site assessments. In some cases, purchasers committed to buying the property may not investigate the full extent of any problems at the site, usually because state regulatory involvement is such a burden. Some adopt what one expert called the "what they don't know won't hurt them" posture. In other situations, prospective owners will be deterred from purchasing the property if they must spend more money to find out if there is any contamination. Developers also are concerned that even when they clean a property to today's standards, it may not be enough; what is considered clean today may not be tomorrow.

Such uncertainties affect their cost projections for a site. Several developers have stated that they would consider virtually any site for a project if a cleanup timetable and costs can be defined. They avoid those likely to become floating cleanup targets. Many fear that changes in environmental standards and improvements in technologies may force them to revise their cleanup plans when a project is underway, adding more costs and delays. More sophisticated devices may discover previously undetected contamination that they, as current owners, would be required to clean up. Unfortunately, environmental laws, like tax laws, probably will continue to change.

The process of identifying hazards is further clouded by the lack of standard accreditation for site assessors. Even with guidance on all appropriate inquiry, much depends on the judgment of the individual doing the assessment, especially when less visible subsurface contamination is involved. The assessor's qualifications, therefore, can have a great impact on the quality of their review. Unfortunately, assessors do not need a license to practice, nor do they bear any responsibility or liability for an inaccurate assessment. A poor evaluation can lead to unnecessary expenses up front, or result in costly surprises later on.

In response to these concerns, several states are trying to standardize elements of the environmental review process by enacting "buyer protection programs" for potential purchasers of industrial properties. They are commonly known as property-transfer laws. One of the most aggressive laws is New Jersey's Environmental Cleanup Responsibility Act (ECRA), passed in 1983. ECRA imposes preconditions on the sale, transfer, or closure of industrial facilities containing hazardous substances. Sellers subject to ECRA must conduct an environmental assessment to determine the presence and extent of contamination. Ultimately, the seller must prepare a cleanup plan which, after state approval, must be implemented. Once the site has been cleaned and the state certifies compliance, the transaction may proceed.

At first this program was criticized as too intrusive and deleterious to real estate transactions in the state. However, most fears of its effect appear to be unfounded. Lenders view the law favorably because the process is well defined and the state certifies cleanliness. Thousands of properties have been sold since 1983. More importantly, site cleanup has boomed; nearly 300 privately funded cleanups have been completed to date (compared to about 60 cleanups during 11 years of federal Superfund program activity) and another 373 are under way. ECRA ensures that when a property is ultimately sold, it is clean. At the end of the process, sellers receive a letter from the state certifying that fact. ECRA does not relieve owners of liability for contamination that occurs after the transaction, but it does reduce the change of contamination going undetected and being passed on to the prospective buyers.

Connecticut's Transfer Act imposes notification requirements for the sale of property where hazardous material was generated or handled. California requires notification to buyers of hazardous substance releases before sale of the property; so far it is the only state to adopt a mechanism to register environmental assessors. The Illinois Responsible Property Transfer Act (IRPTA) was designed to increase buyer, seller, and lender awareness of environmental liability involved in property transfers and stimulate private investigations and cleanups. Recent changes to Michigan's Environmental Response Act will implement extensive state control over hazardous waste sites and impose strict liabilities on responsible parties. One key incentive is a "covenant not to sue" for qualifying "innocent landowners" proposing to redevelop or reuse a contaminated facility.

Decline in Federal Financial Support

Federal economic development programs and tax incentives provide the financial foundation for numerous site reuse and structural renovation projects. Yet federal funding for economic development programs has fallen dramatically in the last ten years; it is not likely to be restored, given the current budget climate. Moreover, loss of direct federal funding was exacerbated by changes in two important tax code provisions: industrial development incentives and rehabilitation tax credits. Tax-exempt small-issue industrial development bonds (IDBs) have in the past provided flexible and affordable financing for a variety of privately undertaken projects. Many IDBs were earmarked for site-reuse activities. However, the Tax Reform Act of 1986 capped the level of IDB activity in each state and forbade their use for manufacturing projects after 1989. Later this authority was extended until the end of 1991, when it will expire unless Congress decides to extend it.

Rehabilitation tax credits have more direct influence on reusing old industrial sites. Congress devised these tax credits to discourage unnecessary demolition of sound older and historic buildings and to slow the loss of businesses from old inner-city industrial sites and downtown commercial areas. The 1986 tax law, however, made these credits more difficult to use by applying new limits on passive losses and passive credits that generally result from real estate activity. This change restricted the benefits of investment by prohibited tax credits a passive-income activity—to offset taxes owned on salaries, dividends, and other active income. The act also reduced the pool of high-income investors able to take advantage of the benefits by capping the credit at $7,000 for any individual and eliminating it for persons with more than $250,000 in income. This cap has halted many high-priced industrial-reuse efforts, especially for historic buildings.

The fading of these incentives has hurt site and facility reuse. The situation is especially severe for small and start-up businesses. The public sector has a role in helping to finance and advance reuse projects. Moreover, these efforts do not have to be "giveaways." The notion of the entrepreneurial city or state, increasingly prevalent in many types of development programs, can be extended to initiatives targeted to site cleanup and reuse; public agencies and organizations that share in project risks can also share in its rewards.

States have assumed greater responsibilities for site reuse because the federal government has reduced its participation so drastically. They have set up finance programs to ease the cost or terms that borrowers face, augmented private funds, and filled funding gaps that the private sector will not bridge. States offer numerous financing options to solve a variety of economic development problems: grants, individual loans and revolving loan funds, loan guarantees, interest subsidies, chartering or capitalizing business development corporations, tax increment financing, and tax abatements. States formulating a reuse strategy could adopt these tools separately or in combination. Moreover, public-sector financial support does not have to help specific companies; states and localities could assume some of the responsibilities for testing, site preparation, and cleanup, recovering some of their costs during subsequent site sale or development. Minneapolis has such a program in place now.

Several States are considering new types of financial-assistance programs targeted directly to the needs of projects that face environmental difficulties. Michigan's new Site Reclamation Grant and Loan Program provides funding for site remediation based on environmental factors as well as economic development potential. One program official called it "a cleanup program with a twist." Pennsylvania has adopted an Industrial Communities Action Program (ICAP) that offers grants to bring blighted industrial sites into productive use. ICAP is geared to projects that encourage local commitment and participation to bring dormant facilities back into productive use.

EFFECTS OF CONTAMINATION AND LIABILITY ON ECONOMIC DEVELOPMENT

Lender liability is not the only issue involved in the complex relationship between environmental concerns and the economic development process, but it is a key one. According to a Minnesota industrial development expert interviewed in the Dayton Daily News, "If developers are scared of contaminated properties, banks are downright terrified." Lenders see themselves targeted as "deep pockets" to be tapped for cleanup costs, which may exceed the total value of the property. While prudent lending practice may dictate that a lender foreclose on property in default, the threat of CERCLA liability in some cases requires the lender to abandon the property, even in cases where an attempt to clean and reuse it might prove worthwhile.

Little statistical evidence exists to support lenders' contention that a serious liability problem exists. Bankers, nevertheless, are changing the way they deal with projects that even remotely involve contamination in response to these risks—real or perceived. More and more, lenders are simply avoiding doing business with them altogether. In a recent American Bankers Association poll of smaller financial institutions, 43 percent of the responding lenders indicated that they have already stopped making loans to companies associated with environmental concerns, and another 11 percent plan to curtail such lending. Many bankers have cut off financing altogether for certain categories of undesirable borrowers such as high-technology metal fabricators, semiconductor facilities, and bottling and canning plants—ironically, many of the same industries targeted by government agencies and economic development organizations for special attention as part of community growth and diversification strategies.

Environmental concerns have driven transaction costs higher because lenders now require a thorough environmental assessment and necessary cleanup as a condition of loan approval. These steps can be worthwhile, but they are time-consuming and expensive; satisfactory assessments of long-time industrial sites can cost $50,000 or more. In many cases, the time and cost of processing a loan package has increased threefold. Small businesses with few assets and little equity are hard hit by the amount of these up-front investigative fees, which make loans prohibitively expensive to obtain.

In other cases, bank officials are limiting their interaction with the borrower to reduce their exposure to liability. This restraint comes at the expense of the business borrower, who could benefit from information and technical support that lenders customarily offer their borrowers. Varying judicial rulings have left lenders uncertain about how to manage their loans and advise their customers.

Coping With Contamination: Selected Redevelopment Projects

In researching New Life for Old Buildings, Institute staff identified several industrial reuse projects. Some have succumbed to the problems of contamination, but others have been successful despite all odds. Innovative public-private partnerships, cooperative efforts of local and state agencies, and marketing ingenuity have played an important role in the projects profiled.

The Upper Illinois Valley Association (now the Canal Corridor Association) organized a drive to revitalize a 170-acre, nearly abandoned former U.S. Steel site in Joliet as part of a larger, multi-jurisdictional reuse effort centered on the Illinois and Michigan Canal National Heritage Corridor. A division of USX corporation, which owns most of the site, is preparing it for reuse.

Minneapolis buys contaminated properties and arranges for their cleanup and redevelopment for industrial purposes. Recent purchases include a tank farm and railyard.

Rejuvenate Davenport in Iowa successfully arranged for the reclamation and reuse of an abandoned manufacturing plant despite a bout with unexpected contamination. The willingness of city officials to help finance the project and their cooperation with future owners is a model of broad-based community involvement in reuse projects.

Cooperation between the city of Wyandotte, Michigan, and BASF Corporation, a key employer, made a long-time industrial site available for reuse after a major cleanup effort paid for by the company.

In Wichita, Kansas, city officials and community leaders have grappled with groundwater contamination under a large section of downtown. Recently the city accepted liability for the contamination to allow business lending to go forward in that area.

The Santa Fe railroad and a development group cleaned a contaminated railyard near Chicago's Chinatown district for offices, retail and residential use, and a trade center.

In spite of heavy contamination of sections of the property, the Meadville, Pennsylvania, Redevelopment Authority converted a former synthetic fiber-making plant into an industrial park. Cleanup continues in stages, but the park operates safely as it proceeds.

The Southern Vermont Development Council (SVDC) in Bennington is struggling to retain tenants of a redeveloped textile mill after an EPA inquiry unexpectedly found contamination. SVDC crafted a legal arrangement to limit its liability and protect future tenants.

Officials at the Waterloo Museum and Recreation Center in Waterloo, Iowa, worked closely with the state environmental regulatory agency and a responsible party to remove and underground storage tank threatening an addition to the museum.

City officials in Fond du Lac, Wisconsin, are working closely with state regulators to develop a flexible reuse plan for an abandoned tannery in downtown.

City officials in Eau Claire, Wisconsin, worked out an agreement between the city, a responsible party, and the future owners of a manufacturing plant that shifted the burden of liability for contamination among the parties and allowed the project to proceed.

The New York legislature in 1991 authorized the Horizons Waterfront Commission to establish in the western part of the state "a waterfront which . . . reaches its fullest economic potential, and which is environmentally sound." The commission has adopted a long-term plan to guide the revitalization and reuse of the Erie County waterfront, which held numerous heavy industrial operations.

THE CHALLENGE: CONFRONTING ENVIRONMENTAL AND ECONOMIC ISSUES TO REUSE

Underused or abandoned industrial facilities are a national concern. Confronting the environmental and economic issues affecting industrial site reuse requires a deliberate, multi-dimensional approach. A consistent thread through successful projects is that parties often in conflict—the environmental and economic development professionals, private developers, lenders, and preservationists—must work cooperatively. A significant obstacle to reuse, in fact, is that these different interests have focused only on their part of the problem, ignoring other important aspects.

The combined efforts of the public and private sectors will be needed to bring prosperity back to these sites. Reuse can be economically worthwhile. If industrial site reuse is to succeed in achieving its full potential for economic recovery and growth, however, a national strategy for reuse must be framed that addresses investor and developer concerns in a way that is environmentally responsible. The problems associated with old buildings and contaminated land are complex and diverse; a viable strategy will have to tackle the thorny issues raised by the Institute's research.

No community benefits when entangled liabilities for a site actually allow contamination to worsen by preventing cleanup and reuse. No business or worker benefits when lender fears thwart investment in facility modernization or clean up. No local, state, or regional economy gains when sites remain dormant, existing infrastructure goes unused, and adjoining neighborhoods suffer from ongoing distress.

The increasing interplay between the economic and environmental arenas is emerging as one of the most prominent development issues of the 1990s. The obstacles to revitalizing and reusing old industrial properties are formidable, but not insurmountable. The benefit can be considerable.

By Mr. MACK:

S. 300. A bill to provide for the utilization of the latest available census data in certain laws related to airport improvements; to the Committee on Commerce, Science, and Transportation.

S. 302. A bill to provide for the utilization of the latest available census data in certain laws related to Energy and Natural Resources; to the Committee on Energy and Natural Resources.

S. 303. A bill to provide for the utilization of the most current census data in certain laws related to the environment and public works; to the Committee on Environment and Public Works.

S. 304. A bill to provide for the utilization of the latest available census data in certain laws related to urban mass transportation; to the Committee on Banking, Housing, and Urban Affairs.

S. 305. A bill to utilize the most current Federal census data in the distribution of Federal funds for agriculture, nutrition, and forestry; to the Committee on Agriculture, Nutrition, and Forestry.

S. 306. A bill to provide interim current census data on below poverty urban, rural, and farm populations; to the Committee on Governmental Affairs.

S. 307. A bill to require that, in the administration of any benefits program established by or under Federal law which requires the use of data obtained in the most recent decennial census, the 1990 adjusted census data be considered the official data for such census; to the Committee on Governmental Affairs.

S. 308. A bill to require the use, in Federal formula grant programs, of adjusted census data, and for other purposes; to the Committee on Governmental Affairs.

THE FAIR SHARE ACTS OF 1993

• Mr. MACK. Mr. President, today I am introducing legislation to ensure that Federal funds are distributed to States fairly and reflect a State's current needs. The Fair Share Acts of 1993 would require that Federal funds to States are allocated fairly, based on the most recent population data available.

A total of 100 Federal programs, providing around $116 billion in grants at the State and local levels, use population count or characteristic data—such as age or income—in the formulas that allocate all or a portion of program grant money. Some of these programs are still required by law to use decennial census data when more recent estimates are available. The result is that the years go by between decennial censuses, high growth States, such as Florida, are increasingly shortchanged by using these outdated populated figures.

Consider fiscal year 1989 as an example, when some of the Federal formula grant programs used Census Bureau population data that was almost 10 years old. The result: in Florida alone, over 3,190,000 people were ignored. Clearly these funds are needed immediately as the population expands and the State and local infrastructure incurs stress, not 8 or 9 years later.

During the time between the 1980 and 1990 decennial census, Florida's population increased by nearly 900 people every day. That is the equivalent of every person currently living in the States of Wyoming, South Dakota, Montana, and Maine packing up all their belongings and moving to the State of Florida, all in the span of 10 years.

Some may argue that since Federal formula grant programs are now using the most recent decennial census data, any harm done to Florida during the 1980's will now be undone, especially since Florida is now the fourth largest State. This is simply not true and is downright misleading. Instead of benefiting and making up for previous losses, Florida and other fast growing States will be using all of these additional funds distributed by the new decennial census figures just to catch up.

I am deeply concerned that this violates the intent of Congress in creating these programs. Congress mandates that population should be used in distributing Federal funds for the purpose of dividing those funds among States fairly, that is in proportion to the relative number of people living in those States. Using old population data subverts congressional intent.

This is where my proposed legislation comes in. In order to correct this obvious violation of the principle of fairness, I have introduced eight separate bills. First, there are 10 programs that require the authorizing legislation to be amended to delete all references to the decennial census data. The first five bills divide these programs up among their respective committees of jurisdiction, amends them to delete references to the decennial census, and requires them to use the latest census estimates prepared by the Department of Commerce.

Second, there are 26 programs that use data that is only calculated once every 10 years. These programs use data concerning urban, rural, farm, and below poverty populations. One bill requires the Department of Commerce to publish annual data for each State, urban area, and rural area, on below poverty, urban, rural, and farm populations.

Another bill requires programs to use the most current data available. This bill will ensure that all programs that use population data will use the most current data available and will not change back to decennial census data for political or other reasons.

The final bill requires the Census Bureau to use the postenumeration survey data for calculation of the future estimates. This data is more accurate than the initial survey, and will prevent States that had high undercounts in the census from being cheated out of funds. The bottom line is this: The adjusted data is accurate, the original census figures are not.

This legislation will eliminate the spikes in funding that occur every 10 years and provide funds to areas intended by formulas based on population as the population increases. It's an outrage that Florida and other fast-growth States are being short-changed by a Federal Government that refuses to allow funding to follow population growth. It is high time that these inequalities be eliminated. These funds must be fairly distributed for the benefit of the people they are intended to help. It is my intent as a new member of the Senate Appropriations Committee to scrutinize all formula grant programs to ensure that the money does indeed follow the people.●

By Mr. D'AMATO (for himself and Mr. LIEBERMAN):

S.J. Res. 39. A joint resolution designating the weeks beginning May 23, 1993, and May 15, 1994, as Emergency Medical Services Week; to the Committee on the Judiciary.

EMERGENCY MEDICAL SERVICES WEEK

● Mr. D'AMATO. Mr. President, I rise today to introduce a joint resolution designating the weeks beginning May 23, 1993, and May 15, 1994, as "Emergency Medical Services Week," and I ask unanimous consent that the full text of the resolution be printed in the RECORD at the conclusion of my remarks.

This legislation recognizes the dedication of the approximately 750,000 men and women who give their time and talents to provide emergency medical services [EMS], including 25,000 emergency physicians, 70,000 emergency nurses, and 500,000 emergency medical technicians. There are also paramedics, educators, administrators, and lay people who have learned CPR and other first aid procedures to help care for those in need of emergency medical attention. Eighty percent of emergency medical service providers are volunteers. These men and women deserve our recognition for their efforts and our support for the events of Emergency Medical Services Week.

During the designated weeks, the American College of Emergency Physicians will sponsor events across the country to remind the public about the vital role that the EMS plays in the community and at the same time to educate them about safety practices and how to access emergency services. Last year, EMS units across the country held first aid demonstrations, distributed public safety tips, provided health screenings, and sponsored other activities to enhance the lives of those in their communities. Let's help them continue to make EMS Week a time of recognition and education.

Emergency medical services are vital to the health of the American public. Approximately 1.5 million heart attacks occur per year. For persons age 1–37, the No. 1 cause of death is unintentional injury. In 1991 there occurred 88,000 deaths due to unintentional injury, an average of 7,330 per month. In that same year, there were 43,500 deaths due to motor vehicle accidents. EMS units respond in all of these situations and often make the difference in surviving one of these occurrences. In 1991 there were 93,469,930 emergency department visits, 16 percent arriving by ambulance.

The dedication of the weeks of May 23, 1993, and May 15, 1994, as Emergency Medical Services Week will highlight the vital role that EMS units play in the community and will create an important opportunity for greater public education about accident prevention and medical emergency management.

I thank Senator LIEBERMAN for joining me as an original cosponsor of this vital measure. I urge my colleagues to consider the importance of this resolution to the health and well-being of all Americans, and to join us in supporting its prompt passage.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 39

Whereas emergency medical services is a vital public service;

Whereas access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury;

Whereas efforts to establish emergency medicine as a medical specialty began 25 years ago with the founding of the American College of Emergency Physicians in 1968;

Whereas the members of emergency medical services teams are ready to provide lifesaving care to those in need 24 hours a day, 7 days a week;

Whereas emergency medical services teams consist of emergency physicians, emergency nurses, emergency medical technicians, paramedics, firefighters, educators, administrators, and others;

Whereas approximately two-thirds of all emergency medical services providers are volunteers;

Whereas the members of emergency medical services teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills;

Whereas Americans benefit daily from the knowledge and skills of these highly trained individuals;

Whereas it is appropriate to recognize the value and the accomplishments of emergency medical services providers by designating Emergency Medical Service Week; and

Whereas the designation of Emergency Medical Services Week will serve to educate all Americans about injury prevention and how to respond to a medical emergency: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the weeks beginning May 23, 1993, and May 15, 1994, are designated as "Emergency Medical Services Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such weeks with appropriate ceremonies and activities.●

By Mr. KENNEDY (for himself, Mr. AKAKA, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BRADLEY, Mr. CHAFEE, Mr. COHEN, Mr. CONRAD, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DORGAN, Mr. DURENBERGER, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GLENN, Mr. GRAHAM, Mr. HARKIN, Mr. HATFIELD, Mr. HOLLINGS, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr.

KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Mr. LEVIN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. PACKWOOD, Mr. PELL, Mr. RIEGLE, Mr. ROBB, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SIMON, Mr. SPECTER, and Mr. WELLSTONE):

S.J. Res. 40. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.

EQUAL RIGHTS AMENDMENT

Mr. KENNEDY. Mr. President, I am pleased to reintroduce today the equal rights amendment, on behalf of myself and 43 other Senators, and to reaffirm our strong commitment to making the ERA part of the Constitution of the United States.

Enactment and ratification of the ERA is essential to ensure equality for women in both the law and the life of this land. Existing statutory prohibitions against sex discrimination have failed to give women basic educational and employment opportunities equal to those available to men in our society. The need for a constitutional guarantee of equal rights for all citizens remains compelling.

In the absence of the ERA, depressingly little change has occurred on women's rights, especially in the area of economic opportunity. An unconscionable gap between the earnings of men and women persists in the work force; women continue to earn less than 75 cents for every dollar earned by men. While this wage gap has narrowed over the past 10 years, it remains unacceptable.

Sex discrimination continues to permeate many areas of the economy. Women with college degrees have made significant inroads in many professional and managerial occupations in recent years. But women are still clustered in a very narrow range of traditionally female, traditionally low-paying occupations, such as clerical jobs, waiting on tables, nursing, child care, and elementary school teaching.

Female-headed households continue to dominate the bottom rungs of the economic ladder. In 1991, an astounding 46 percent of all families headed by single mothers lived below the poverty line. Half of all families with children in poverty are headed by women. This dismal situation is getting worse instead of better.

Plainly, much remains to be done to secure equal opportunity for women. Enactment of the equal rights amendment alone cannot undo generations of economic injustice. But it will encourage all women in their efforts to win redress under the Nation's laws and in the courts.

We know from the ratification experience of the 1970's and early 1980's that the road to adoption of the ERA will not be easy. But the extraordinary importance of the effort gives us the strength to persevere. With hard work, we can act in this Congress to approve the ERA, and begin the ratification process anew, so that at long last the ERA will take its rightful place in America's founding document.

Mr. President, I ask unanimous consent that the text of the resolution may be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 40

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SECTION 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SECTION 3. This amendment shall take effect two years after the date of ratification.".

By Mr. D'AMATO:

S. Res. 60. A resolution supporting United States requests to reopen the December 20, 1991 draft final text in the Uruguay round to address areas of particular concern to United States manufacturers, environmental and consumer groups; to the Committee on Finance.

SUPPORT FOR THE REOPENING OF THE DRAFT FINAL ACT TEXT IN THE URUGUAY ROUND

• Mr. D'AMATO. Mr. President, on January 19 the GATT's Director-General Arthur Dunkel provided an assessment of the current status of the Uruguay round multilateral trade negotiations. The negotiations, which were started in September 1986, are now in their 7th year. Although a final package is possible, the roadblocks to a successful conclusion remain significant.

While there are issues in the round of great importance to every Member of Congress and our constituents, the position of our country has been that no deal is better than a bad deal. On that point I am particularly concerned and focused on assuring that the ongoing GATT negotiations strengthen and don't weaken U.S. fair trade laws.

As my senior colleague from New York, Senator MOYNIHAN, and I pointed out before, during, and after our October 5 filibuster last fall, a grave oversight had been made regarding the lack of enforcement of the current U.S. trade laws. The consequences were devastating to hundreds of Smith Corona workers who lost their jobs as a result of inaction by the administration and by Congress. The case of Smith Corona couldn't have made more clear how easy it is for foreign companies to evade our anticircumvention laws. These laws, which were put in place to guarantee American workers and American companies a level playing field here at home, have obviously not been effectively implemented and enforced.

Our GATT trade representatives recognize that what is in the December 20, 1992, draft final act text of the Uruguay round is totally useless, for United States companies would continue to face the all too common practice of circumvention of antidumping orders by our trading partners. Our negotiators stated in their paper that,

> From the outset of the negotiation, the United States has made clear that the U.S. acceptance of a moderate package of reforms to methodology depends on the inclusion in the text of effective anticircumvention provisions.

Mr. President, in the last Congress, Senator MOYNIHAN and I pushed for adoption of legislation that would correct existing deficiencies in U.S. law. This is an issue on which I feel convinced that our negotiators have taken appropriate steps to safeguard the right of our country to make our trade laws effective. I urge the new administration to aggressively pursue this issue.

We must work for an agreement that will strengthen the ability of U.S. companies to compete in the international arena. In addition, our agriculture and manufacturing industries seek a package that maximizes trade liberalization in tariffs and nontariff barriers that are consistent with our needs to be considerate to particularly sensitive sectors, while our service industries require a substantial package of commitments to justify their continued open access to the world market.

When a proposed package that would address some of these concerns was announced by the GATT Director-General in December 1991, only one major participant—the European Community—was unable to work with the basic package as a basis for negotiating a final deal. Throughout 1992, our negotiators were involved with the European Community in an effort to deal with their broad based problems with the agricultural text. The round's success was essentially held hostage to the bilateral negotiations between the United States and the European Community on agriculture. With the conclusion of the Blair House agreement in late November 1992, the Community achieved a significant revision in the agriculture package to reduce the adverse impact on their farmers.

With an agricultural compromise achieved, there was hope that other countries would be forthcoming in making meaningful offers in goods, initial commitments in services and that other issues in the December 1991 text could be quickly resolved.

In that regard, the United States has identified a series of critical issues in the December 1991 text that were, with few exceptions, not negotiated but added by the GATT Secretariat as arbitrated solutions to outstanding issues. In December 1992, the United States proposed changes that would be needed in the draft text. These modifications from the United States were generally effective solutions to particularly egregious problems with the draft text.

These proposals by the United States were made in an effort to comply with the congressionally identified negotiating objective to "improve the provisions of the GATT and nontariff measure agreements in order to define, deter, discourage the persistent use of, and otherwise discipline unfair trade practices having adverse trade effects, including forms of subsidy and dumping and other practices not adequately coverd"—19 U.S.C. 2901(b)(8)(A). While U.S. industries, that have had to seek protection from unfair trade practices, identified literally dozens of problems with the draft final text, our representatives sought to reopen negotiations with regard to only three issues: First, guidelines for panel review; second, sunset; and third, anticircumvention.

The issues raised by the United States reflect our extensive experience with unfair trade practices by our trading partners and our justified concerns over the direction of dispute settlement in these specialized areas. For example, the U.S. proposed guidelines for panel reviews in antidumping. In the current GATT panel process, opposing parties have attempted to raise issues never raised during the administrative proceedings, and to introduce evidence that was not before the decision makers. Panelists have also chosen to select the judgment of panelists who may have no actual familiarity with administrative practice of trade laws over those of the Government even though the latter's interpretation of the Code provision may be reasonable.

Also, under current U.S. law, antidumping duties do not accrue to the benefit of the injured domestic industry, are limited to the amount of dumping that occurs in the future, and result from the refusal of foreign producers to price fairly as opposed to some static price comparison taken during the original investigation. Thus, U.S. law places the burden on companies who continue to dump to justify the termination of outstanding orders. The United States has requested a change to the draft final act to permit the United States to continue that practice.

The resolution being presented today is intended to encourage the new administration continue to pursue an early resolution of the Uruguay round negotiations that will be in America's best interest. The changes that our negotiators have presented to our trading partners in Geneva are all very important for a balanced package to be achieved. The United States must continue to insist on rebalancing the package so our industries are not seriously prejudiced. This resolution calls for the changes proposed by our negotiators to be adopted in the Uruguay round of talks, and for a package to be negotiated that will increase trade liberalization, while addressing the concerns of our most sensitive import sectors. It also calls for achieving maximum commitments that would benefit our service sector, as well as providing for a trading environment which would maintain a level playing field for American companies at home and abroad.•

By Mr. ROTH:

S. Res. 61. A resolution amending the Standing Rules of the Senate; to the Committee on Rules and Administration.

A RESOLUTION TO AMEND THE STANDING RULES OF THE SENATE

• Mr. ROTH. Mr. President, today I am reintroducing legislation I introduced in 1991 to strengthen the independence and credibility of the Select Committee on Ethics. I have long been concerned with the problems inherent in asking Senators to investigate the conduct of their own colleagues—a concern I first raised in 1977, when I offered similar legislation. The problems I saw then I still see today.

The Senate is bound by the Constitution to judge the propriety of its own Members' conduct. For any small, collegial organization, this is not an easy task, though it is one we are obligated to undertake. The much more difficult task, however, is conducting the actual investigation of, and recommending specific action on, the conduct of a Member. This is what the Select Committee on Ethics must do, yet it is the role in which Senators feel most uncomfortable.

Compounding this natural discomfort is the public's distrust of Congress' ability to act with objectivity and thoroughness in these matters. Committee members know that even where no misconduct is found, an exoneration can unfairly taint both the investigators and the investigated.

Clearly there is a need for both the perception and the reality of greater independence by the investigating body. We cannot avoid the constitutionally imposed specter of Senators judging Senators, once the recommendations of the investigators reach the Senate floor. But we can do something about the process that occurs before the matter reaches that point.

I am proposing that the membership of the Select Committee on Ethics be changed, so that no sitting Senator is a member of that body. Instead, two former Members of Congress would be named to the Committee, who in turn would choose a retired judge to serve as chairman.

This three-member select committee would be paid on a per diem basis, serve 4-year terms, and not be eligible for reappointment. They would be prohibited from engaging in any outside employment that is in conflict with their official duties.

This committee of non-Senators will have greater independence in conducting thorough investigations and making fair recommendations. Both the perception and the reality of this would be enhanced by having a former judge as the chairman. The two former Members of Congress will bring a familiarity with congressional institutions and practices, without the handicap of having to work closely with someone they are also investigating. There is a real problem when a Member of Congress has to investigate someone whose vote they are seeking at the same time.

The current system puts the members of the select committee in a very difficult position. Indeed, the Senate owes a real debt of gratitude to those who have been willing in the past to serve in that capacity. It is now time to relieve Senators of this most difficult task of investigating, and recommending action on, close colleagues. I believe my proposal would accomplish this in a way that strengthens both the independence and credibility of the Select Committee on Ethics.•

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. FORD, the names of the Senator from Colorado [Mr. CAMPBELL], the Senator from Connecticut [Mr. DODD], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 2, a bill to establish national voter registration procedures for Federal elections, and for other purposes.

S. 7

At the request of Mr. MCCONNELL, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 7, a bill to amend the Federal Election Campaign Act of 1971 to reduce special interest influence on elections, to increase competition in politics, to reduce campaign costs, and for other purposes.

S. 11

At the request of Mr. DECONCINI, the names of the Senator from Utah [Mr. HATCH], the Senator from Georgia [Mr. COVERDELL], and the Senator from Kansas [Mrs. KASSEBAUM] were withdrawn as cosponsors of S. 11, a bill to combat violence and crimes against women on the streets and in homes.

S. 21

At the request of Mrs. FEINSTEIN, the names of the Senator from Illinois [Ms.

MOSELEY-BRAUN], the Senator from Texas [Mr. KRUEGER], the Senator from Florida [Mr. GRAHAM], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of S. 21, a bill to designate certain lands in the California Desert as wilderness to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes.

S. 27

At the request of Mr. SARBANES, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 27, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 50

At the request of Mr. WARNER, the names of the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Georgia [Mr. COVERDELL], the Senator from Alaska [Mr. STEVENS], the Senator from Kansas [Mr. DOLE], the Senator from Colorado [Mr. BROWN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Florida [Mr. GRAHAM], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of S. 50, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson.

S. 81

At the request of Mr. NICKLES, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 81, a bill to require analysis and estimates of the likely impact of Federal legislation and regulations upon the private sector and State and local governments, and for other purposes.

S. 98

At the request of Mr. BRADLEY, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 98, a bill to establish a Link-up for Learning grant program to provide coordinated services to at-risk youth.

S. 138

At the request of Mr. INOUYE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 138, a bill to prohibit a suspension of the Act of March 3, 1931 (commonly known as the "Davis-Bacon Act") in the State of Hawaii.

S. 139

At the request of Mr. INOUYE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 139, a bill to amend the Internal Revenue Code of 1986 to extend the period for the rollover of gain from the sale of a principal residence to a principal residence located in a disaster area.

S. 142

At the request of Mr. INOUYE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 142, a bill to provide that the Secretary of Commerce shall not set minimum or maximum amounts on grants made for the purpose of providing financial assistance to States whose tourism promotion needs have increased due to Hurricane Andrew, Hurricane Iniki, or other disasters.

S. 144

At the request of Mr. INOUYE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 144, a bill to waive certain requirements under the Small Business Act for disaster relief assistance.

S. 177

At the request of Mr. DOLE, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 177, a bill to ensure that agencies establish the appropriate procedures for assessing whether or not regulation may result in the taking of private property, so as to avoid such where possible.

S. 211

At the request of Mr. MCCAIN, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Arizona [Mr. DECONCINI], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 211, a bill to amend the Internal Revenue Code of 1986 to provide tax credits for Indian investment and employment, and for other purposes.

S. 235

At the request of Mr. REID, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 235, a bill to limit State taxation of certain pension income, and for other purposes.

S. 236

At the request of Mr. MCCAIN, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 236, a bill to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

SENATE JOINT RESOLUTION 30

At the request of Mr. D'AMATO, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Ohio [Mr. GLENN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Missouri [Mr. DANFORTH], the Senator from Kansas [Mr. DOLE], the Senator from Delaware [Mr. ROTH], the Senator from Michigan [Mr. LEVIN], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of Senate Joint Resolution 30, a joint resolution to designate the weeks of April 25 through May 2, 1993, and April 10 through 17, 1994, as "Jewish Heritage Week".

SENATE RESOLUTION 11

At the request of Mr. DECONCINI, the names of the Senator from Utah [Mr. HATCH], the Senator from Florida [Mr. GRAHAM], the Senator from Georgia [Mr. COVERDELL], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of Senate Resolution 11, a resolution relating to Bosnia Herzegovina's right to self-defense.

SENATE RESOLUTION 35

At the request of Mr. LAUTENBERG, the names of the Senator from Colorado [Mr. BROWN] and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of Senate Resolution 35, a resolution expressing the sense of the Senate concerning systematic rape in the conflict in the former Socialist Federal Republic of Yugoslavia.

SENATE RESOLUTION 62—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 62

Whereas, in the case of Turner Broadcasting System, Inc., et al. v. Federal Communications Commission, et al., No. 92–2247, and consolidated cases Nos. 92–2292, 92–2494, 92–2495, 92–2558, pending before a three-judge court of the United States District Court for the District of Columbia, the plaintiffs have challenged the constitutionality of sections 4 and 5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102–385, 106 Stat. 1460, 1471–81, which require cable operators to carry the signals of certain local commercial and noncommercial educational television stations;

Whereas, pursuant to section 703(c) 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(c), 288e(a), and 288l(a) (1988), the Senate may direct its Counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae on behalf of the Senate in Turner Broadcasting System, Inc., et al. v. Federal Communications Commission, et al., and consolidated cases in support of the constitutionality of sections 4 and 5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102–385, 105 Stat. 1460, 1471–81.

SENATE RESOLUTION 63—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 63

Whereas, in the case of Bobbie Hill v. Bill Clinton, et al., No 92–6171, pending in the Circuit Court of Pulaski County, Arkansas, the plaintiff has named, among others, Senator Dale Bumpers and Senator David Pryor as defendants;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official or representative capacity: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator Dale Bumpers and Senator David Pryor in the case of Bobbie Hill v. Bill Clinton, et al.

AMENDMENTS SUBMITTED

FAMILY AND MEDICAL LEAVE ACT OF 1993

GORTON AMENDMENT NO. 9

Mr. GORTON proposed an amendment to the bill (S. 5) to grant family and temporary medical leave under certain circumstances, as follows:

On page 19, lines 11 and 12, strike "HIGHLY COMPENSATED EMPLOYEES" and insert "KEY PERSONNEL".

On page 19, line 15, strike "described in paragraph (2)" and insert "who is designated under paragraph (2)(A), or, if no employee is so designated, who is deemed to be designated under paragraph (2)(B)".

On page 20, strike lines 1 through 6, and insert the following:

(2) AFFECTED EMPLOYEES.—

(A) DESIGNATED EMPLOYEES.—

(i) IN GENERAL.—The employee may designate as key personnel up to 10 percent of the eligible employees of the employer at a facility, or employed within 75 miles of the facility.

(ii) BASIS.—An employer shall not designate key personnel on the basis of age, race, color, sex, or national origin, or for the purpose of evading the requirements of this title. No employer may designate an eligible employee as a member of the key personnel of the employer after the employee gives notice of intent to take leave pursuant to section 102.

(iii) MANNER.—Designations of employees as key personnel shall be in writing and shall be displayed in a conspicuous place described in section 109(a).

(iv) EFFECTIVE DATE.—Any designation made under this subparagraph shall take effect 30 days after the designation is issued and may be changed not more than once in any 12-month period.

(B) EMPLOYEES DEEMED TO BE DESIGNATED.—Until an employer designates key personnel under subparagraph (A), an eligible employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed shall be deemed to be designated as a member of the key personnel of the employer.

GORTON AMENDMENT NO. 10

Mr. GORTON proposed an amendment to the bill (S. 5), supra, as follows:

On page 13, strike line 14 through 24 and insert the following:

(1) REQUIREMENT OF NOTICE.—

(A) IN GENERAL.—

(i) NOTICE.—In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or placement, the employee shall provide the employer with not less than 30 days' written notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph.

(ii) DATES; SCHEDULE.—Such notice shall state the dates during which the employee intends to take leave or provide a schedule under which the employee intends to take intermittent or reduced leave.

(B) EXCEPTIONS.—The employee shall take the leave described in subparagraph (A)(i) in accordance with the dates or schedule stated in the notice unless—

(i) the birth is premature;

(ii) the employee must care for a son or daughter because the mother is so incapacitated due to the birth that the mother is unable to care for the son or daughter;

(iii) the employee takes physical custody of a child being placed for adoption at an unanticipated time and is unable to give notice 30 days in advance of such time; or

(iv) the employer and employee agree to alter the dates of leave, or the schedule of leave, stated in the notice.

(C) REVISED DATE OR SCHEDULE.—In a case referred to in subparagraph (B), the employee must give such notice of revised dates during which the employee intends to take the leave, or a revised schedule under which the employee intends to take the leave, as in practicable, but at least 1 workday of notice before the date the leave is to begin.

On page 14, line 13, insert "written" after "days"'.

On page 14, line 18, after "practicable" insert the following: ", but at least 1 workday of notice before the date the leave is to begin".

KASSEBAUM (AND OTHERS) AMENDMENT NO. 11

Mrs. KASSEBAUM (for herself, Mr. NICKLES, and Mr. THURMOND) proposed an amendment to the bill (S. 5), supra, as follows:

In section 102 of the bill, add at the end the following:

(g) REQUIREMENTS CONSIDERED TO BE SATISFIED IF CAFETERIA PLAN PROVIDES FOR LEAVE.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, an employer shall be considered to have satisfied the requirements of this title with respect to any employee if—

(A) such employee is a participant in a cafeteria plan, as defined in section 125(d) of the Internal Revenue Code of 1986, that is maintained by the employer;

(B) section 125(a) of the Internal Revenue Code of 1986 applies to the benefits under such cafeteria plan; and

(C) a participating employee is eligible to choose, as a benefit under such plan, a family and medical leave benefit that provides family and medical leave rights identical to, or greater than, the rights provided under this title, including any right of the employee under—

(i) this section, or

(ii) section 104 (including the rights under such section to be restored to employment and receive continued coverage under a group health plan).

(2) REGULATIONS.—The Secretary of the Treasury shall issue regulations establishing methods for employers to value such a family and medical leave benefit under such a cafeteria plan.

(3) CONSTRUCTION.—Nothing in this subsection shall affect—

(A) the duties or liabilities of an employer under this title with respect to an employee; or

(B) the right of any person to enforce the requirements of this title against an employer with respect to an employee,

unless the employee elects not to receive such a benefit under such plan.

WALLOP (AND OTHERS) AMENDMENT NO. 12

Mr. WALLOP (for himself, Mr. DOLE, Mr. SIMPSON, and Mr. NICKLES) proposed an amendment to the bill S. 5, supra, as follows:

At the end of the bill add the following:

SECTION 1. PERMITTING COMPENSATORY TIME OFF.

Section 7(o) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(o)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5), the following new paragraph:

"(6) With respect to employees not covered under paragraph (1), an employer may not be deemed to have violated subsection (a) by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under subsection (a) if, pursuant to a contract made between the employer and the employee individually, or an agreement made as a result of collective bargaining by representatives of employees entered into prior to the performance of the work, the employer at a written request of the employee grants the employee compensatory time off with pay in a subsequent workweek in lieu of payment of the number of hours worked in such current workweek in excess of the maximum workweek applicable to such employee under subsection (a). For purposes of determining the maximum workweek applicable to such employee under subsection (a), and the rate of pay due to the employee, compensatory time used by the employee shall be considered hours actually worked during the subsequent workweek in which actually used.".

PRESSLER AMENDMENT NO. 13

Mr. PRESSLER proposed an amendment to the bill (S. 5), supra, as follows:

Section 102(c) of the bill is amended to read as follows:

(c) UNPAID LEAVE PERMITTED.—

(1) IN GENERAL.—Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

(2) RELATIONSHIP WITH FAIR LABOR STANDARDS ACT OF 1938 FOR EMPLOYERS.—Where an employee is otherwise exempt under regulations issued by the Secretary pursuant to section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)), the compliance of an employer with this title by providing unpaid leave shall not affect the exempt status of the employee under such section.

(3) RELATIONSHIP WITH FAIR LABOR STANDARDS ACT OF 1938 FOR SMALL BUSINESSES.—

(A) IN GENERAL.—Where an employee is otherwise exempt under regulations issued by the Secretary pursuant to section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)), the granting of unpaid family leave by a small business employer shall not affect the exempt status of the employee under such section.

(B) DEFINITIONS.—As used in this paragraph:

(i) SMALL BUSINESS EMPLOYER.—The term "small business employer" means a person that—

(I) is an employer (as defined in section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d))); and

(II) is not an employer (as defined in section 101(4)).

(ii) UNPAID FAMILY LEAVE.—The term "unpaid family leave" means—

(I) unpaid leave that may be taken for one or more of the reasons described in subparagraph (A) or (B) of section 102(a)(1), and may be taken as intermittent leave or leave on a reduced leave schedule; and

(II) restoration to employment, and continued coverage under a group health plan, in accordance with section 104.

(4) EFFECTIVE DATE.—Notwithstanding section 405(b)(1)—

(A) paragraph (2), and the application of this title for purposes of paragraph (2); and

(B) paragraph (3), and the application of the provisions described in subclause (I) or (II) of paragraph (3)(B)(ii) for purposes of paragraph (3),

shall be deemed to have taken effect on June 25, 1938.

(5) REPEAL.—Effective 1 year after the date of enactment of this Act, paragraph (3) is repealed.

DANFORTH AMENDMENT NO. 14

Mr. DANFORTH proposed an amendment to the bill (S. 5), supra, as follows:

On page 24, line 19, strike "107(b)" and insert "107(c)".

On page 27, line 10, strike "(d)" and insert "(e)".

On page 27, line 17, strike "(b)" and insert "(c)".

On page 27, between lines 24 and 25, insert the following:

(b) MEDIATION.—

(1) FINDING.—Congress finds that cooperative mediation of complaints is a more time-saving and cost-effective method of resolving disputes than litigation of civil actions.

(2) INITIATION OF MEDIATION IN ACTION BROUGHT BY SECRETARY.—

(A) NOTICE OF ACTION AND AVAILABILITY OF MEDIATION.—

(i) NOTICE.—If the Secretary determines that there is reasonable cause to believe that an employer has violated this title and that the Secretary will file an action against the employer under subsection (c) or (e), the Secretary shall inform—

(I) the employer that the employer may, within 7 days, request that the complaint be referred to the Service for mediation; and

(II) the employee aggrieved by the violation, and the employer, that the employee may become a party to mediation under this paragraph.

(ii) LIMITATION ON ACTION.—The Secretary shall not file such an action earlier than 7 days after the date on which the employer is so informed.

(B) REFERRAL AND NOTIFICATION.—

(i) REFERRAL TO MEDIATOR OTHER THAN THE SERVICE.—In lieu of receiving mediation services from the Service, the Secretary and the employer (and the employee, if the employee elects to become a party) may agree in writing to refer the complaint to a mediator (other than the Service) that has been mutually agreed to by the parties, for mediation in accordance with regulations promulgated by the Service pursuant to this subsection. A copy of the agreement to mediate shall be served upon the Service and the employee.

(ii) NOTIFICATION OF COSTS, FEES, AND EXPENSES.—Before the commencement of mediation services under this subparagraph, the mediator shall notify the parties and the Service in writing of the per diem costs and any other fees and expenses the mediator may reasonably be expected to incur in providing such services. The cost of mediation services shall be shared as mutually agreed by the parties.

(C) PROHIBITION ON FILING OF ACTION.—

(i) IN GENERAL.—The Service, within 7 days of receipt of the mediation request, shall inform the employee that mediation has been requested. If the employer requests mediation by the Service under subparagraph (A) or agrees to mediation by a mediator under subparagraph (B), the Secretary may not file an action against the employer under subsection (c) or (e), and the employee may not file an action against the employer under subsection (a)(2), until the completion of the mediation.

(ii) INJUNCTIVE RELIEF.—Nothing in this subsection shall prevent the Secretary from filing an action under subsection (e), or the employee from filing an action under subsection (a)(2), with respect to any claim for temporary injunctive relief.

(iii) LIMITATIONS.—If—

(I) the time for the Secretary or the employee to file an action described in clause (i) would otherwise lapse during the 7-day period described in subparagraph (A);

(II) the employer does not request mediation by the Service under subparagraph (A); and

(III) the parties do not agree to mediation by a mediator under subparagraph (B),

the time for the Secretary or the employee to file such an action shall be tolled until 7 days after the end of the period.

(3) INITIATION OF MEDIATION.—

(A) NOTICE OF ACTION AND AVAILABILITY OF MEDIATION.—No employee shall bring a civil action against an employer under subsection (a)(2) unless the employee has given the employer at least 7 days written notice that the employee intends to file such action and informed the employer that either party may request that the complaint be referred to the Service for mediation pursuant to the procedures set forth in this subsection.

(B) REFERRAL AND NOTIFICATION.—

(i) REFERRAL TO MEDIATOR OTHER THAN THE SERVICE.—In lieu of receiving mediation services from the Service, the employer and the employee may agree in writing to refer the complaint to a mediator (other than the Service) that has been mutually agreed to by the parties, for mediation in accordance with regulations promulgated by the Service pursuant to this subsection. A copy of the agreement to mediate shall be served upon the Service and the Secretary.

(ii) NOTIFICATION OF COSTS, FEES, AND EXPENSES.—Before the commencement of mediation services under this subparagraph, the mediator shall notify the parties and the Service in writing of the per diem costs and any other fees and expenses the mediator may reasonably be expected to incur in providing such services. The cost of mediation services shall be borne by the party that requested the mediation, unless the parties mutually agree to share the costs.

(C) PROHIBITION ON FILING OF ACTION.—

(i) IN GENERAL.—The Service, within 7 days of receipt of the mediation request, shall inform the Secretary that mediation has been requested. If either party requests mediation by the Service under subparagraph (A), or if the parties agree to mediation by a mediator under subparagraph (B), the Secretary may not file an action against the employer under subsection (c) or (e), and the employee may not file a civil action against the employer under subsection (a)(2), until the completion of the mediation.

(ii) INJUNCTIVE RELIEF.—Nothing in this subsection shall prevent the Secretary from filing an action under subsection (e), or the employee from filing a civil action under subsection (a)(2), with respect to any claim for temporary injunctive relief.

(iii) LIMITATIONS.—If—

(I) the time for the Secretary or the employee to file an action described in clause (i) would otherwise lapse during the 7-day period described in subparagraph (A);

(II) neither party requests mediation by the Service under subparagraph (A); and

(III) the parties do not agree to mediation by a mediator under subparagraph (B),

the time for the Secretary or the employee to file such an action shall be tolled until 7 days after the end of the period.

(4) REGULATIONS.—

(A) ISSUANCE, AMENDMENT, AND RESCISSION.—After providing an opportunity for public comment, the Service shall issue, and may amend or rescind, regulations to carry out the provisions of this subsection relating to mediation of complaints. The Service shall issue the regulations not later than 6 months after the date of enactment of this subsection.

(B) MEDIATION IN ACCORDANCE WITH REGULATIONS.—Mediation provided by the Service under subparagraph (A), or by another mediator under subparagraph (B), of paragraph (2) or (3), shall be provided in accordance with the regulations.

(C) MEDIATION SERVICES.—The regulations shall specify the form and manner of, and the procedures for providing, the mediation services provided under this subsection.

(5) DUTY OF MEDIATOR.—It shall be the duty of the mediator to communicate promptly with the parties and use best efforts, by mediation, to reach an agreement resolving the complaint.

(6) REPRESENTATIVE.—During mediation, the employee and the employer may be represented by legal counsel or another representative of their choice.

(7) RESOLUTION.—

(A) MANNER.—If the complaint is resolved through mediation, the complaint shall be resolved in a manner that is mutually agreeable to the parties, including a settlement agreement or voluntary withdrawal of the complaint (by the employee or the Secretary, as appropriate). The resolution of the complaint shall be recorded in writing. In no case shall the mediator have the power to dismiss a complaint.

(B) EFFECT OF AGREEMENT ON RESOLUTION.—

(i) MEDIATION BETWEEN EMPLOYER AND EMPLOYEE.—Once the employee and employer have agreed on a resolution of the complaint following mediation initiated under paragraph (3), the mediator shall so advise the Secretary. The Secretary shall take no further action on the matter that is the subject of the mediation as the matter affects the employee or employees.

(ii) MEDIATION INVOLVING THE SECRETARY.—Once the parties have agreed on a resolution of the complaint following mediation initiated under paragraph (2), the mediator shall so advise the employee, unless the employee is a party to the mediation. No employee may bring an action under subsection (a)(2) after the parties have recorded such a resolution.

(8) COMPLETED MEDIATION.—

(A) RESOLVED COMPLAINT.—The mediation shall be deemed to be completed on the date that the resolution of the complaint is recorded, as provided for in paragraph (7)(A).

(B) UNRESOLVED COMPLAINT.—If a complaint that has been referred to mediation has not been resolved by settlement, withdrawal of complaints, or otherwise within 45 days of receipt of the complaint by the Service or other mediator, and the parties do not agree in writing, with the consent of the mediator, to further extend the mediation process, the mediation shall be deemed to be completed.

(9) CIVIL ACTIONS FOLLOWING MEDIATION.—

(A) RIGHT TO BRING ACTION.—If mediation has been completed without resolution, as described in paragraph (8)(B), the employee may file a civil action under subsection (a)(2), or the Secretary may file an action under subsection (c) or (e).

(B) LIMITATIONS.—If—

(i) mediation is initiated under paragraph (2) or (3); and

(ii) the time for the employee or the Secretary to file an action described in subparagraph (A) would otherwise lapse—

(I) not earlier than the first day of the 7-day period described in paragraph (2)(A) or (3)(A), as appropriate; and

(II) not later than the completion of the mediation,

the time for the employee or Secretary, as appropriate, to file such an action shall be tolled until 7 days after the completion of the mediation (including any referral under subparagraph (C)).

(C) REFERRAL FOR ADDITIONAL MEDIATION.—The court in which the action is filed shall have the discretion to refer the complaint to the Service or the other mediator used by the parties for an additional 30 days of mediation pursuant to this subsection.

(D) CONSTRUCTION.—Nothing in this subsection shall be construed to limit the authority of the court to attempt to resolve the case under the authority of the court or dispute resolution procedures established by the court.

(10) AGREEMENTS.—

(A) AGREEMENT INVOLVING SECRETARY.—The employee shall be provided a copy of any settlement agreement, or other agreement resolving the complaint, between the parties after mediation initiated under paragraph (2). Any such agreement shall be kept confidential by the mediator, the employer, the employee, and other parties to the agreement unless all parties agree otherwise in writing.

(B) AGREEMENT BETWEEN EMPLOYEE AND EMPLOYER.—Any settlement agreement, or other agreement resolving the complaint, between the employee and the employer after mediation initiated under paragraph (3) shall be considered confidential and shall not be provided to the Service, the Secretary, or any other person, unless all parties to the mediation so agree in writing.

(11) COMMUNICATIONS.—

(A) CONFIDENTIALITY.—Whether or not a complaint that has been referred to mediation is resolved, all communications, oral or written, (including memoranda, work product, transcripts, notes, or other materials) made by the Secretary, the employee, the employer, or the mediator in or in connection with the mediation that relate to the controversy being mediated shall be kept confidential by the participants in the mediation.

(B) PROHIBITION ON MAKING COMMUNICATIONS AVAILABLE.—Such communications shall not be made available by the mediator, or parties to the mediation, to any person not participating in the mediation, including the Secretary in any case in which the Secretary is not a participant.

(C) PROHIBITION ON USE OF COMMUNICATIONS AS EVIDENCE.—Such communications may not be used as evidence in any other proceeding, as provided for in paragraph (12).

(D) FINE.—Any person, including any official of the Department of Labor, who discloses information in violation of this subsection shall be fined not more than $5,000.

(12) DISCLOSURE.—

(A) IN GENERAL.—Communications referred to in paragraph (11), shall not be disclosed voluntarily, and, pursuant to this subsection, shall not be subject to disclosure through discovery or compulsory process in any investigatory, arbitral, judicial, administrative or other proceedings, unless—

(i) all parties to the mediation agree, in writing, to waive the confidentiality of such communications; or

(ii) the communications involve statements, materials, and other tangible evidence, that—

(I) are otherwise not privileged and subject to discovery; and

(II) were not prepared specifically for use in mediation.

(B) DEMAND FOR DISCLOSURE.—If any demand for disclosure, including a request pursuant to discovery or other legal process, is made upon the mediator, the Service, or the Secretary, regarding the mediation of a complaint, the mediator, the Service, or the Secretary, as appropriate, shall immediately make reasonable efforts to notify all parties to the mediation of the demand.

(13) ACTION FOR ENFORCEMENT.—A party to an agreement made pursuant to mediation under this subsection may bring any action to enforce the agreement in any Federal or State court of competent jurisdiction.

(14) DEFINITION.—As used in this subsection, the term "Service" means the Federal Mediation and Conciliation Service.

(15) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection for fiscal year 1994 and each subsequent fiscal year.

On page 27, line 25, strike "(b)" and insert "(c)".

On page 28, line 20, strike "(c)" and insert "(d)".

On page 29, line 11, strike "(d)" and insert "(e)".

On page 29, line 22, strike "(e)" and insert "(f)".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup after the first rollcall after 10 a.m. on Wednesday, February 3, 1993. The markup will be held in the reception room.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, February 3, 1993, at 9:30 a.m., to hold hearings on Senate committee funding resolutions. The committee will receive testimony from the chairman and ranking members of the following committees: Banking, Housing, and Urban Affairs; Energy and Natural Resources; Aging; Organization of Congress; Agriculture, Nutrition, and Forestry; Armed Services; Intelligence; Governmental Affairs; and Veterans Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate, Wednesday, February 3, 1993, at 10 a.m. to conduct a hearing on community development banking.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, February 3, 1993, at 10 a.m. to hold an open confirmation hearing on the nomination of R. James Woolsey to be Director of Central Intelligence.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, February 3, 1993, at 2 p.m., in open session, to receive an intelligence community briefing on developments in the former Soviet Union.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE SESAME STREET PRESCHOOL EDUCATION PROGRAM

• Mr. DASCHLE. Mr. President, last year the Senate, with broad support, approved legislation that authorized funding for the Corporation for Public Broadcasting [CPB] for fiscal years 1994 through 1996. In large part, this support came from a strong belief on the part of many Senators that public broadcasting can play a vital role in the improvement of our Nation's educational system, particularly in ensuring that children arrive at school ready to learn.

I am pleased to announce to my colleagues a project that is being supported by the Corporation and public broadcasting in my State of South Dakota. The "Sesame Street Preschool Education Program," and "PEP Project," was developed by the Children's Television Workshop with support from CPB, and is being coordinated by the Children's Television Workshop, South Dakota Public Broadcasting and South Dakota's Extension Home Economists. Its purpose is to provide child-care providers with training and support materials to aid in the development of learning skills and curiosity in children between the ages of

2 and 5. The project is designed to help preschool children have fun while they learn and develop an enthusiasm and love for reading. Using the combined power of books and television, the program will develop the learning abilities and natural curiosity of thousands of South Dakota preschool children.

The "PEP Project" is part of South Dakota Public Broadcasting's "Learning to Learn" campaign. The goal of "Learning to Learn" is to bring people and resources together to help child care providers prepare preschoolers for school. Through the project children learn about the environment, geography, cultural diversity, people with special needs, cooperation, pride, self-esteem, health and safety practices, and various careers. The "PEP Project" combines the use books and television with additional learning materials and activities designed to address these and other issues.

Today South Dakota Public Broadcasting will host a day-long celebration of the "PEP Project" with South Dakota State legislators and their children. The event will provide the legislators with demonstrations of the project and will serve to increase awareness of this very innovative program.

Mr. President, the "PEP Project" is just one example of the educational benefits that are part of public broadcasting's commitment to improving education in the United States. Congressional support for CPB enables the corporation to assist at both the national and local levels in the development of new educational programs and services. I want to congratulate both the Corporation for Public Broadcasting and South Dakota Public Broadcasting, and all involved in this program, for their efforts in addressing this critical need in our society.•

HONORING THE MAN WHO BROUGHT BEAN SOUP TO THE SENATE

• Mr. SIMON. Mr. President, William Jennings Bryan was barely 30 when he took the floor of the House of Representatives for his maiden speech as a Congressman. The subject was legislation to reduce the tariff on wool and he spoke for 3 hours.

Bryan told young Everett McKinley Dirksen of Pekin, IL, always to "talk to the last row and everybody else will hear you."

As we all know, Dirksen parlayed his own oratorical skills into a successful political career. Like Bryan, he tried and failed to make it to the White House, but this central Illinoisan vigorously opposed Roosevelt's New Deal, but eventually rose to become the Republican leader of the U.S. Senate, and no one in the last row of the galleries ever failed to hear what Dirksen had to say.

To his credit, Dirksen became one of the most respected Republican leaders of his day and was a key player in the passage of the landmark Civil Rights Act of 1964.

Dirksen came to this Chamber in 1950 and his loquacious style earned him the nickname, "the Wizard of Ooze." As I focus my efforts to this Congress on the passage of a balanced budget constitutional amendment, I recall the fiscal conservative quipping: "A billion here, a billion there, and pretty soon you're talking real money."

By siding with the cause of justice, Dirksen was elected minority leader in 1959, riding the prestige of his efforts on the Civil Rights Act, busing and other progressive legislative efforts. Historians generally concede that without Dirksen's backing, such legislation almost certainly would not have passed. He remained a true conservative on foreign policy, however, fully supporting Presidents Johnson and Nixon on Vietnam.

I remember in 1948 when most politicos in Illinois thought that Dirksen was through when he quit the House due to an eye ailment. Pekin's most famous citizen came roaring back, as he was later identified as a Taft Republican in 1952 who quickly became an Eisenhower loyalist. Dirksen was a vigorous conservative and anti-Communist and he even encouraged the witchhunts of Joseph McCarthy.

Let me leave you with this story. We are all familiar with how Dirksen and his pal David Burpee of W. Atlee Burpee Seed Co. proposed to make the marigold the national flower in the 1950's, but did you know, Mr. President, and I know the Senate pro tempore will enjoy this anecdote, that Senator Dirksen is responsible for putting bean soup on the menu in the Senate dining room?

"It was many years ago," Senator Dirksen once wrote, "that a very dignified and slightly belligerent Senator took himself to the Senators' dining room to order bean soup, only to discover that there was no bean soup on the menu. This dereliction on the part of the Senate dining room cooks called for an immediate declaration of war and the Senator promptly introduced a resolution to the effect that henceforth not a day should pass when the Senate was in session and the restaurant open that there would not be bean soup on the calendar."

The Senator obviously got his way. That he thought eating beans gave Senators more energy for filibusters probably was right on the money.

Mr. President, Philip A. Grant, Jr., has written to me on the late Senator Dirksen and I ask that his correspondence be printed in the CONGRESSIONAL RECORD in full.

The correspondence follows:

THE ELECTION OF EVERETT M. DIRKSEN OF ILLINOIS AS SENATE REPUBLICAN LEADER

On January 7, 1957 Senator William F. Knowland of California announced that he would not be a candidate for re-election to a third term in 1958. Knowland since 1953 had occupied the post of Republican floor leader. The Californian's decision to relinquish his Senate seat meant that there would be a vacancy in the leadership position at the opening of the next Congress.

It was widely assumed that Senator Everett M. Dirksen of Illinois would be favored to succeed Knowland in the capacity of Floor Leader. Dirksen, sixty-two years of age and an alumnus of the University of Minnesota Law School, had served eight terms in the House of Representatives prior to entering the Senate in 1951. Re-elected to the Senate by 357,469 votes in November 1956, Dirksen had been unanimously chosen by his Republican colleagues to become Assistant Floor Leader (Whip) in January 1957.

Under ordinary circumstances Dirksen's elevation to the floor leadership would have been accomplished with minimal difficulty. Between January 1957 and January 1959, however, there had been drastic changes in the Republican membership of the Senate. Over this twenty-four month period one Republican had died, six had opted to retire, and ten had been defeated by Democrats in their quests for re-election. Thus, of the forty-eight Republican incumbents of 1957, only thirty-one were still serving in 1959.

Dirksen throughout his long and eventful tenure on Capitol Hill had been firmly identified with the conservative wing of the Republican Party. It was anticipated that he commanded the support of eleven of the thirteen Republicans from the Midwest, four of the five Republicans from the West, and Senator John Marshall Butler of Maryland, nearly all of whom were thoroughly in accord with his well-documented conservative voting record. Dirksen also enjoyed the backing of Styles Bridges of New Hampshire, the senior Republican in the Senate and Chairman of the G.O.P. Policy Committee.

Committing themselves to oppose Dirksen's bid for the floor leadership were seven moderate Republicans from the Northeast, six of whom were relatively new in terms of seniority. Joining the seven northeasterners were three other comparatively junior Republicans, John Sherman Cooper of Kentucky, Frank Carlson of Kansas, and Thomas H. Kuchel of California. These ten gentlemen complained that for many years the Republican leaders in the Senate had vigorously resisted change and were perceived as unduly negative, if not obstructionist, in their outlooks.

Inasmuch as there were thirty-four Republicans in the Senate, eighteen votes would be required to elect a new Floor Leader. It appeared that seventeen Republicans were sympathetic to Dirksen's candidacy and ten Republicans wished to designate a more moderate senator for Floor Leader. While it was certain that Dirksen would persevere in his drive to win the Leadership position, there was considerable doubt as to the identity of his prospective opponent from within the ranks of the moderate bloc of Senate Republicans.

On December 30, 1958 the moderate Republicans endorsed Senator Cooper of Kentucky as their candidate to challenge Dirksen. Fifty-seven years old and a graduate of Yale and Harvard Law School, Cooper had begun his career in public service as a member of the Kentucky Legislature in 1928. In 1946 and 1952 he had been elected to fill unexpired terms in the Senate, but he had been defeated for re-election both in 1948 and 1954. After serving as Ambassador to India in 1955 and 1956, Cooper had again won a Senate contest in 1956.

Cooper, dignified and scholarly, had been primarily interested in foreign affairs during his years in the Senate. As an internationalist, he consistently advocated a bipartisan foreign policy during the Administrations of Presidents Harry S. Truman and Dwight D. Eisenhower. Representing a state where Democrats outnumbered Republicans by a margin of nearly three to one, Cooper deliberately refrained from partisanship and was frequently aligned with the bulk of his Democratic colleagues on economic and social issues.

Dirksen, a skilled parliamentarian and legendary orator, was among the most extroverted Republicans on Capitol Hill. At the 1952 Republican National Convention, as a fervent supporter of the late Senator Robert A. Taft of Ohio, Dirksen had attracted nationwide attention by publicly ridiculing Governor Thomas E. Dewey of New York, the principal spokesman of moderate Republicans. A professional politician in every respect, Dirkesn was an avid participant in floor debates and an outspoken apologist for causes long espoused by conservative Republicans.

There were numerous important questions on which Dirksen and Cooper were in sharp disagreement. The two senators had differed on such major issues as the proposed Bricker Amendment to the Constitution, the censure of Senator Joseph R. McCarthy of Wisconsin, and the liberalization of the so-called filibuster rule. Dirksen and Cooper were also on opposing sides on the transfer of control of the tidelands oil reserves to the states, the extension of unemployment compensation, the Hells Canyon Dam and Hydroelectric Power Project, the Atomic Energy Bill, and increased appropriations for the Tennessee Valley Authority (TVA).

Dirksen not only argued that his voting record accurately reflected the conservative attitudes of Republicans both in Congress and throughout the nation, but also that over two decades he had acquired the necessary experience to exercise forceful leadership in the Senate. While not disavowing his conservative approach on nearly every issue of consequence, Dirksen did agree that one of the moderate Repubicans should be chosen to replace him as party Whip.

By contrast Cooper pointed out that, because of the unfavorable image projected by Republicans, the Democrats had controlled the Senate for twenty-two of the twenty-six years between 1932 and 1958. The Kentuckian, seriously concerned about the precarious status of the Republican Party, emphasized that Senate Republicans had been humiliated in the congressional elections of 1958. Consequently, Cooper insisted that the Republican party turn to new leaders.

After Cooper became an active contender for the floor leadership, two uncommitted Republicans announced which of the two candidates they favored. Cooper obtained the support of his Kentucky colleague, Thurston B. Morton, who otherwise would definitely have voted for Dirksen. Morton's endorsement of Cooper was offset, however, by the decision of Senator J. Glenn Beall of Maryland, ostensibly a moderate Republican, to commit himself to Dirksen.

The Republican Conference assembled in the Capitol Building on January 7. While Dirksen had apparently secured the necessary eighteen votes for victory, as many as four Republican senators had declined to endorse either of the two G.O.P. candidates. By secret ballot Dirksen defeated Cooper for the position of Floor Leader by a 20–14 tabulation. There was considerable evidence to suggest that the two additional votes for Dirksen were cast by Senators Norris Cotton of New Hampshire and John J. Williams of Delaware. While Cooper was obviously disappointed by his failure to outpool Dirksen, he and his fellow moderates were somewhat consoled by the election of Senator Kuchel of California as the new Republican Whip.

There were three principal reasons tending to explain why Dirksen defeated Cooper in the contest for Republican Floor Leader. They were as follows: 1) Cooper's conspicuous lack of seniority; 2) The comparative stature of the rival candidates within the Senate; 3) Dirksen's political and geographic identification with the Midwest.

By January 1959 Dirksen was beginning his twenty-fifth year on Capitol Hill. Indeed Dirksen had accumulated more seniority in Congress than any other Republican member of the Senate. A review of the backgrounds of the fifteen gentlemen chosen as G.O.P. Floor Leaders in the present century established that each such individual has spent an average of twenty years in Congress prior to his election. By contrast Cooper's senatorial experience consisted of a mere six years, which twice had been interrupted by defeats at the polls in his home state of Kentucky. At the time he announced his intention of challenging Dirksen, Cooper's continuous tenure in the Senate was limited to only two years. Dirksen, having never lost a congressional race since launching his first campaign in the early nineteen thirties, enjoyed a distinct advantage over Cooper based on the factor of his twenty-four years of seniority.

Almost without exception Republican Senate Leaders have served as Acting Leaders, Assistant Leaders (Whips), or as chairmen of important standing committees. Senators Wallace H. White and Knowland were Acting Leaders prior to being elevated to the floor leadership. In addition to Dirksen Senators Charles Curtis, Kenneth S. Wherry, and Hugh D. Scott were Whips who subsequently acceded to the post of Floor Leader. Other Republican Floor Leaders had previously or concurrently occupied key committee chairmanships. Among the Floor Leaders who presided over committees were Senators Shelby M. Cullom (Foreign Relations), Henry Cabot Lodge (Foreign Relations), James E. Watson (Interstate Commerce), Charles L. McNary (Agriculture and Forestry), Robert A. Taft (Labor and Public Welfare), and Robert J. Dole (Finance). Moreover, Scott and Dole were former Chairmen of the Republican National Committee, and Taft had been Chairman of the Senate Republican Policy Committee. Cooper, unlike Dirksen, had never been chosen by his G.O.P. colleagues to hold a leadership position, and, unlike the bulk of the other Republican Senate Leaders, had not been afforded the opportunity to chair a standing committee.

Throughout the twentieth century Dirksen was one of the many illustrious midwesterners who rose to positions of prominence in the Senate. Midwesterners who became Republican Floor Leaders were Senators Cullom of Illinois, Curtis of Kansas, Watson of Indiana, Wherry of Nebraska, Taft of Ohio, and Dole of Kansas. Two distinguished Republicans from the Midwest, Albert B. Cummins of Iowa and Arthur I. Vandenberg of Michigan, were Presidents pro tempore of the Senate, and two others, Simon D. Fess of Ohio and Robert P. Griffin of Michigan, were designated G.O.P. Whips. It was noteworthy that thirteen of the thirty-four Republicans in the Senate in 1959 were from the Midwest, thereby providing Dirksen with a solid base of regional support. Since Dirksen had a longstanding identification with the most populous midwestern state and came from a section of the country which for many decades had largely dominated the Republican Party, it was not difficult to understand why he was likely to wield more influence than Cooper. Cooper represented a traditionally Democratic state located within the confines of a region with a pronounced Democratic heritage.•

TRIBUTE TO LEITCHFIELD

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to Leitchfield in Grayson County.

Leitchfield is a small town located in central Kentucky, almost directly south of Louisville. Even though Leitchfield is small, it made a name for itself in the region 20 years ago, and other small communities are still trying to catch up.

Leitchfield is a progressive town, and it was this progressiveness that helped establish a solid industrial economic base for the county. Leitchfield built an industrial park in 1967, and currently there are more than 30 manufacturing firms in Grayson County. These industries provide jobs and economic stability for the community and its residents.

Farming still makes up a large portion of the region's economy. The residents of Leitchfield are the reasons for the growth of the town. Their enthusiasm and hard work has made what the town is today, one of Kentucky's finest towns.

Mr. President, I ask that a recent article from Louisville's Courier Journal be submitted in today's CONGRESSIONAL RECORD.

The article follows:

LEITCHFIELD

(By Beverly Bartlett)

Perhaps it could have been more.

Perhaps with a little more luck or effort. Perhaps if the people had been more savvy at selling themselves.

Perhaps if they could have claimed a geological wonder or the birthplace of a great leader.

Perhaps then, Leitchfield could have been more.

But there is little wrong, it seems, with what Leitchfield is—a sort of slow-paced county seat with enough industry for residents to complain about the late afternoon "traffic jam" and enough perspective to laugh a little as they complain.

They could use more hotel rooms. They're still waiting for a planned bypass to allow trucks to avoid the square when traveling from the Western Kentucky Parkway to the industrial park.

But people here are undaunted by such drawbacks. This is a town that seems sure of itself, a progressive practical place whose leaders more than two decades ago set about to do the work that many county seats are just today beginning.

By all accounts, they did the work well.

In 1967, they laid out an industrial park and began finding the industry that now fills it. And shortly after the industrial council bought the park, the city found the federal money to build a 26-mile gas line, an umbilical cord for industry. They also embraced the Western Kentucky Parkway though they knew it had made it easier for local shoppers to take their business to Elizabethtown or Louisville.

"Back before industrial recruiting or economic development was fashionable they attracted a lot of industry," said Alan Bernard, president of one of the relatively few industries that did not need recruiting, Mid-Park Inc., a home-grown company that makes highway construction products.

"I keep telling everyone that's when we started to grow, because they set the foundation," Mayor Sherrill Watson said with a gesture that was obviously supposed to take in all the people of his time—a time not so long ago in the scope of life, but back to the dawn of modern-day Leitchfield.

It was a day before residents could use factory work to supplement their farm income, which still sustains the county. It was a day when the community's inadequate natural gas supply tapered off when the temperature dropped below zero. It was time when the city couldn't afford to provide a car for the night police officer.

It was about the time that Nancy and Jodie Hall moved from Elizabethtown to Leitchfield and felt to some extent as if they'd moved into a different world.

I really had to teach myself to slow down, said Nancy Hall, who was surprised to find she couldn't even buy a loaf of bread on Thursday afternoons or Sundays. But she adjusted. "I bought my bread on Saturdays. It didn't hurt me."

And it was a time when the community's biggest claim to fame dated to the 1941 birth of Porter and Beulah Lashley's quadruplets—the first in Kentucky Newspaper accounts followed every step of their development.

"Lashley Quads Meet Parents 1st Time, and Are Not Amused," said one headline. "John Weakest Quad At Birth, Now Is the Loudest Shouter," said another. (John Lashley, the only boy among the four died last year while awaiting a heart transplant. The three girls, Martine, Mildred, and Beulah, survive but no longer live in Leitchfield.)

By the early 1960s, community leaders had begun dreaming of a more bustling place.

"They had" Watson says, "pretty good vision back in those days."

Former Mayor James D. Beville, who led the city for 23 years and sprinkled through the 1950s, '60's and '70s, said he and other leaders were motivated not so much by a vision of the future as they were by a clear view of the present.

"We wanted work for people," he said. If they wanted to stay here, we wanted to find something for them to do. And we did."

But Beville says he never really realized what they were setting in motion. "It's grown a lot faster than anybody had any idea. Any idea at all.

Even now Beville's role in the community's growth doesn't seem to overwhelm the 86-year-old former painter. He is proudest of the good deal he arranged on City Hall. The city paid $60,000 for a building he swears was worth twice that.

Gesturing at the kitchen cabinets that fill a break room where city employees can make coffee and relax, he looks wistful. "See all this stuff," he says. "I didn't have any of this stuff."

But he and the others did have enthusiasms, illustrated by a Leitchfield banker's 1972 boast to a reporter that, if other cities weren't growing as fast as Leitchfield. "they're not trying hard enough."

They had the gumption and spunk to try to recruit a Toshiba microwave-oven plant in the early 1970s. William R. Vincent, a local businessman, said Leitchfield leaders dined with Japanese executives at Rough River State Resort Park in a time when microwave ovens still seemed futuristic and when few Central Kentucky leaders has given much thought to the Japanese.

Community leaders wanted employment, Vincent said. "They didn't care where they came from or what they did as long as they got a check."

The Toshiba plant never materialized, but other companies lured by low wages and clean natural gas, came stayed and expanded.

The state's list of manufacturing firms in Grayson County includes more than 30 establishments, nearly a third of which have been in operation for more than 20 years. At least seven now employ 200 or more people, the Grayson County Chamber of Commerce says.

And with products ranging from French cheese to light bulbs, from golf clubs to honey-extracting equipment it's an impressive example of industrial vitality and diversity for a county of just more than 20,000.

It means that, when companies have folded, the loss meant only a small, temporary dent in the county's employment, a dent easily filled when a new plant moved into the old building. And it means that local leaders feel comfortable with the words "recession proof."

"We've been recession-proof," said former Circuit Judge Kenneth Goff, who lead early industrial growth efforts. "They talk about recession, but our industry, we've been busy."

Mid-Park's Bernard says, however, that unemployment has risen some during the recent national downturn, and the community could use another company employing 400 or 500 people; even though it would probably drive up wages.

Wages are still low. Grayson County manufacturing wages averaged about $200 a week less than the Kentucky average in 1988, according to the state Economic Development Cabinet.

But Bernard says the wages aren't as low as they seem, given that Leitchfield workers can live well on less money than workers in suburban Chicago, for example.

"We are a Wal-Mart town. . . . The people here can live comfortably and very happy and very contently on those kind of wages, if they're treated fairly," he said.

The Walter T. Kelley Co. Inc. which says it's the second-oldest and second largest beekeeping equipment manufacturer in the nation, apparently has kept employees content.

Many of the company's 75 workers were hired a quarter of a century ago by Walter T. Kelley, the "Bee Man." Among them was Doris Pharris, who became president when Kelley died in 1986. She started working there in 1953 just a year after Kelley moved the company to Grayson County from Paducah.

"He decided to look for a more rural area." Pharris said.

And like many other companies that came after his, Kelley's company and the man himself became a part of the place, so much so that his will provided for the company to continue as an operating trust for Twin Lakes Regional Medical Center, the local hospital, for 20 years after his death.

Local people say that's just an example of Grayson County's community spirit and cooperative style. Vincent says it's an attitude that has served the area well, when neighboring counties struggled, internally.

"If you bring an industry into the county, everyone is top dog," he says. Some counties can't seem to understand that."

And so maybe Leitchfield could have been more, but think how easily it could have been less.●

TRIBUTE TO THE POP WARNER CHEERLEADERS FROM FREEHOLD, NJ

● Mr. BRADLEY. Mr. President, it is a most impressive accomplishment to be selected to participate in the Presidential Inaugural Parade, and I want to tell my colleagues about the Pop Warner Cheerleaders from Freehold, NJ. These girls, ages 11 to 13, were the youngest participants in this national event, and they gave the performance of a lifetime.

Their selection for this prestigious honor is public tribute to their dedication, hard work, and talent, and I shared the pride of all New Jerseyites when the cheerleaders performed for our new President on January 20. I know all the spectators admired and enjoyed their outstanding presentation.

On February 1, the Governor and General Assembly of New Jersey formally recognized the Greater Freehold Pop Warner Cheerleaders. It is my pleasure today, Mr. President, to applaud their singular achievement on Inauguration Day.●

TAOS RANGER DISTRICT

● Mr. DOMENICI. Mr. President, I am pleased to rise today to join the other Senator from New Mexico, Senator BINGAMAN, who has sponsored legislation for conveyance of property from the Department of Agriculture to the town of Taos, NM.

The property to be conveyed has been and is today locally referred to as the "Old Taos Ranger District Office and Warehouse," which is a parcel located within the town of Taos County, NM. This property had long served the needs of the U.S. Forest Service, providing an office and warehouse that became commonly known in the region. As the needs of the local Forest Service office changed, a more functional facility was required. Consequently, the ranger office vacated the old ranger station property and moved the office to a new location.

This property within the established town has lost its utility to the Federal Government and as a federally owned property has limited uses for the surrounding community. The town's purchase of this property will remove the property from the Federal inventory, and allow the local government to select a use that will better serve the people of Taos.

Additionally, the bill will provide a special fund in the Treasury for the purpose of the Secretary of Agriculture to acquire lands and administrative facilities within New Mexico.•

SUPPORT OF THE RESOLUTION ON THE EQUAL RIGHTS AMENDMENT

• Mrs. BOXER. Mr. President, today I rise in support of Senator KENNEDY's resolution on the equal rights amendment. When I entered Congress 10 years ago, one of my first actions was to vote in favor of the ERA. Though years have passed and I now speak from the Senate, I am still fighting for the equal rights of women.

Women continue to face serious obstacles: harassment in the workplace, the threat of violence, of poverty, and of the chipping away at our reproductive freedom. As we gradually witness barriers to equal opportunity fall, the many that remain become more blatant and intolerable, continuing to undermine justice and productivity in our society. America cannot afford to have our progress toward genuine equality, regardless of gender, threatened. Passage of the ERA, 24 simple words, is essential to ensure that we reap the benefits of our achievements and that our progress is never undone.•

TRIBUTE TO SISTER JANE FISCHER, 1992–93 CLOSE UP FOUNDATION LINDA MYERS CHOZEN AWARD RECIPIENT

• Mr. DURENBERGER. Mr. President, I am happy to have this opportunity to pay tribute to Sister Jane Fischer who was honored this week, in Washington, as a leader in civic education by the Close Up Foundation. She was awarded the Close Up Foundation Linda Myers Chozen Award on February 1, 1993.

The Close Up Foundation-Linda Myers Chozen Award for Teaching Excellence in Civic Education was established in 1991 through an endowment funded by the late Linda Myers Chozen. Award recipients are selected based upon teaching excellence and leadership in the Close Up Washington Program, local or State programs, and related classroom and civic activities.

Sister Jane Fisher, a teacher at Cretin-Durham Hall High School in St. Paul, MN, helped found the Minnesota Close Up Program more than 20 years ago. She has a remarkable record of providing citizenship education for our Nation's youth, and is one of only five teachers nationwide to receive this annual award.

After enjoying many years of friendship and cooperation with her, I would like to thank Sister Jane Fischer on behalf of myself, the people of Minnesota and especially her students. Through her teaching, as well as by example, Sister Jane Fischer has shown those who have had the good fortune to be a part of her life, how to be active citizens in our democracy.•

TRIBUTE TO PROJECT PPEP FOR 25 YEARS OF DEDICATED SERVICE

• Mr. MCCAIN. Mr. President, every day we are constantly reminded of the human injustices, poverty, and social division that plague our world. However, today I am privileged and honored to share with my colleagues some brief words about an organization that has worked tirelessly to improve the lives of the rural poor in the Southwest. I would like to extend my sincere gratitude and commendations to the Portable Practical Educational Preparation, Inc. [PPEP] of Tucson, AZ, as they celebrate their 25th year of service.

Twenty-five years ago, a man named John Arnold converted his 1957 Chevrolet schoolbus into a traveling classroom for rural Arizonans. He compassionately spent his time teaching migrant workers English as a second language and the value of learning vocational and technical skills. This was only the beginning of what is now known as PPEP.

Twenty-five years later, PPEP, a multifunded and nonprofit corporation continues to provide a multitude of social services for our disadvantaged population. Some examples of these vital services include: Affordable housing for migrant workers, necessary sewers and streets enhancement, day care sites, senior nutrition, and recreation centers. The list of good works accomplished by PPEP on a daily basis is lengthy and impressive. Most importantly, PPEP has made it possible for rural families to experience the dignity they so undoubtedly deserve.

The success stories of these migrant families are a testimony to the American dream. Organizations like PPEP prove that many of our underprivileged citizens are receptive to learning and eager to better their own lives, if we are willing to listen and lend a helping hand.

It is extremely important that we continue to support such organizations as PPEP. The committed staff and volunteers of PPEP understand that investment and involvement in grassroots level programs better our communities and our country as a whole.

Ultimately much of our future depends on programs such as PPEP. The staff at PPEP has encouraged many disadvantaged citizens to utilize the advantages of technical skills and computer literacy. With these skills, people are capable of shifting from welfare to productive lives in the job market.

We cannot afford to do without organizations and people such as PPEP. It gives me great pleasure to extend my best wishes to John Arnold and his colleagues at PPEP upon their 25th anniversary of service. I hope they have many more years ahead.•

THE REPORT OF THE SELECT COMMITTEE ON POW/MIA's

• Mr. BROWN. Mr. President, the recent issuance of the final report of the Select Committee on POW/MIA's marks the end point of 15 months of the most extensive investigation of the POW/MIA issue yet completed by the Congress. Numbering more than 1,000 pages, the final report covers in detail the wide range of the committee investigation.

As important as the final report, though, are the myriad of other initiatives resulting from the committee's work. For instance, our investigation resulted in the most rapid and extensive declassification of public files and documents in American history. This effort is nearing completion. The committee conducted the most rigorous examination yet completed of U.S. intelligence operations concerning the possibility that Americans survived after the war. We reviewed more than 3,000 National Security Agency intelligence reports and 90 boxes of wartime NSA files and conducted the first ever review of pilot distress symbols and their relationship to photographic interpretation.

The committee's efforts were significant in moving the Vietnamese Government toward increased openness and assistance in accounting for Americans missing in action in Southeast Asia. During a committee trip to Vietnam, the Vietnamese Government announced its intention to provide increased access to American investigators. The result has been unprecedented American access to Vietnamese prisons, military bases, government buildings, documents, photographs, archives, and materials—all of which may assist our own Government in answering the many questions still surrounding the fate of our missing servicemen.

The committee has worked with the executive branch to establish a process of live-sighting response, investigation, and evaluation that is the most extensive and professional ever conducted. Even as the committee's efforts draw to a close, the live-sighting investigations are moving ahead rapidly.

Furthermore, committee efforts in coordination with the executive branch led to the beginning of a significant joint process with Russia to uncover information the Russian Government might have concerning American POW/MIA's. Never before has the Russian Government opened some of its most secret files to United States historians and archivists. Although Russian Army intelligence, the GRU, has not open its files to the Russian-American team, the Russian KGB's willingness to open its own files is a significant first step.

The chairman, Senator JOHN KERRY, deserves special recognition for this tireless efforts to ensure the committee's investigation was brought to a successful conclusion. JOHN KERRY provided an effective environment for tough discussions of heart-rending issues. He acted as both a peacemaker, an arbiter, and an organizer of a pack of headstrong legislators.

The ranking member, Senator BOB SMITH, should be recognized for his efforts to ensure that the committee's staff used every imaginable investigative method in reviewing available data. It is in large part due to these efforts that the committee was able to reach a unanimous conclusion on the state of the evidence concerning Americans unaccounted for Vietnam.

VIETNAM: THE HEROES

During the course of our investigation, the select committee was struck by the heroics of the Americans held in captivity in Vietnam.

The commitment and sacrifice of these men under the most extreme conditions was truly remarkable. In spite of discord at home, propaganda, and torture, the conduct of most of the POW's stands as an inspiration and example to all who wear our country's uniform.

Following are a few examples of those who were captured and detained in North Vietnam, Loas, and Cambodia.

Vice Adm. James B. Stockdale, U.S. Navy: Vice Admiral—then Commander.—Stockdale's A4E aircraft was shot down over North Vietnam on September 9, 1965. Injured during the ejection sequence and wounded by his captors, Stockdale was the senior American imprisoned in Vietnam. His organization of the prisoners into a cohesive military chain of command earned him numerous beatings and time in solitary confinement. He was recognized by his captors as the leader in the POW's resistance to interrogation and in their refusal to participate in propaganda exploitation.

Admiral Stockdale was singled out for interrogation and torture after being caught in a covert communications attempt. Sensing the start of another purge, and aware that his earlier efforts at self-disfiguration, beating his head against a wall so that he could not be photographed by the North Vietnamese to dissuade his captors from exploiting him for propaganda purposes, had resulted in cruel and agonizing punishment, Stockdale nonetheless resolved to make himself a symbol of resistance regardless of personal sacrifice.

He deliberately inflicted a near-mortal wound to his person in order to convince his captors of his willingness to give up his life rather than capitulate. He was subsequently discovered and revived by the North Vietnamese who, convinced of his indomitable spirit, abated in their employment of excessive harassment and torture toward all of the American prisoners. His courageous resistance, his efforts to account for the prisoners that were his responsibility and his inspirational example for all American servicemen in North Vietnam's prison system led to his receipt of the Nation's highest award following his release—the Congressional Medal of Honor.

M. Sgt. Terrill J. Salley (U.S. Army): In March 1971, Vietcong and Hanoi radio broadcasts recounted the capture of two Americans. Circumstances correlate one of these Americans to be M. Sgt. Salley. Former POW's confirmed that Salley died in captivity. In addition, his name was on the Died in Captivity List of the Provisional Revolutionary Government of Vietnam.

Col. Fred Vann Cherry (U.S. Air Force): Then-Major Cherry's F-105D aircraft was shot down while striking military targets in northern Vietnam. He was observed on the ground by his wingman, and beeper contact was established and maintained throughout the remaining daylight hours, but could not be reestablished. Colonel Cherry's subsequent captivity was marked by senseless, violent beating by his North Vietnamese captors. Cherry refused to compromise his beliefs and training and stubbornly resisted his captors until his eventual release.

M. Sgt. Isaac Camacho (U.S. Army): Master sergeant (then sergeant first class)—Camacho, a special forces noncommissioned officer, was captured early in the conflict in South Vietnam. On November 24, 1963, the unit he was advising was overrun. He and three other U.S. servicemen were captured. Master Sergeant Camacho's assistance to his fellow prisoners and his resistance to his captors remains a legend in the U.S. Army. Camacho eventually escaped and returned to U.S. control. For his gallantry, this brave sergeant was awarded the Congressional Medal of Honor.

Pfc. Donald J. Sparks (U.S. Army): Private First Class Sparks was captured on June 17, 1969, when his patrol was ambushed in South Vietnam. Sparks and another soldier were wounded, and as members of the patrol withdrew, they observed North Vietnamese personnel stripping Sparks of his clothing and weapon. The following day a U.S. patrol returned to the ambush site and recovered the body of the other American, but there was no sign of Sparks.

Almost a year later, two letters written by Sparks in April 1970 were found on a Vietcong soldier. In one of the letters, which was determined to be authentic, the young soldier mentioned that he had received a foot wound, but that it had healed. he added that he had not seen another American during his 10 months in captivity.

Three Americans released during Operation Homecoming reported that in the spring of 1970, while they were enroute to a new camp in the same province where Sparks was lost, a Vietnamese guard mentioned that a POW named "Don" was moving slowly because of a foot wound, but would soon join them. The POW the guard mentioned never arrived. Sparks is still carried as missing in action.

Capt. John S. McCain III (U.S. Navy): Captain—(then Lieutenant commander)—McCain's A4E aircraft was shot down over Hanoi in October 1967. Captain McCain ejected from an inverted aircraft and broke both arms and a leg during the ejection. North Vietnamese soldiers quickly pulled him from a lake near Hanoi and beat him severely. Near death, McCain recovered slowly.

McCain's father, Admiral McCain, was then commander of the Pacific Fleet. Lieutenant Commander McCain was singled out for repeated torture and brutal treatment. Numerous beatings, bones rebroken by his captors time and again, and months of solitary confinement further slowed recovery. The Vietnamese offered him early repatriation several times in an attempt to dishearten the other prisoners, but McCain refused to be repatriated ahead of the other POW's. His spirit could not be broken. He continued to resist his captors and to inspire other prisoners by his patriotic determination.

During the long internment, McCain served the other prisoners both as chaplain and as an educator. As chaplain, he conducted religious services, provided spiritual guidance, and instilled constructive rehabilitative thinking for the benefit of his fellow prisoners. In addition, despite constant harassment and the routine harsh treatment, McCain devoted long hours to preparing educational lessons that would improve the morale and well-being of the other prisoners.

Col. Charles Shelton (U.S. Air Force): Colonel Shelton was shot down over Laos in April 1965 in a photo reconnaissance mission over northeast Laos. Nearby aircraft had been diverted to assist in search operations, and the pilot of an F-105 aircraft observed Colonel Shelton on the southern slope of a small ridge, about 30 to 40 yards from his empty parachute. Shelton waved his hands and indicated he was OK, but before rescue helicopters reached him, cloud cover completely obscured the ground, making rescue impossible. Weather conditions continued to prevent helicopter recovery for the next few days, and when friendly ground parties landed in the area and conversed with indigenous Laotians, they evaded questions concerning the fate of the downed pilot.

A friendly search team of Meo team tribesmen sent in one week after the crash confirmed Shelton was taken captive by enemy forces but could provide no further information on his fate. Intelligence received later cannot be correlated with complete certainty to Colonel Shelton, but it appears to indicate that he continued to resist his Pathet Lao captors, even making attempts to escape. However, no concrete information has been provided by the Government of North Vietnam concerning Colonel Shelton. Consequently, he is still carried on the rolls of the missing in the symbolic status of missing/captured—the only U.S. serviceman in that status.

WO1 Daniel F. Maslowski's UH 1H helicopter was shot down in eastern Cambodia on May 2, 1970. Lieutenant Colonel Maslowski subsequently rallied his crew and attempted to resist North Vietnamese forces until they were overrun. During his follow-on captivity in Cambodia, Lieutenant Colonel Maslowski continued to assist and care for injured crewmembers. His efforts to resist his captors continued until their release. For his actions, Maslowski was awarded the Bronze Star and the Distinguished Flying Cross.

Col. William Thomas Mayhall (U.S. Air Force): Colonel—then first lieutenant—Mayhall's B-52 was struck by multiple surface-to-air missiles during a daylight strike on military targets in the Red River Delta of North Vietnam on December 21, 1972. When his ejection seat mechanism failed, Lieutenant Mayhall bailed out through a hole in the aircraft and, upon landing, was captured by armed civilians and militia.

Throughout his captivity in Hanoi, Mayhall assisted more senior POW's in maintaining morale and cohesiveness among his fellow prisoners. His strict adherence to the rules of the Geneva Convention and his aircrew training were a constant example to the other POW's. Upon return, he received the Distinguished Flying Cross and the POW medal.

Capt. Lance P. Sijan (U.S. Air Force): Captain Sijan's F-4C was shot down over Laos in November 1967. During his ejection he was seriously injured, breaking both legs. In this condition, he successfully evaded capture for several weeks by dragging himself through the jungle with his hands.

After his capture, Sijan, even though in weakened condition, overpowered his guard and crawled into the jungle, only to be recaptured a few hours later. During subsequent questioning, the Vietnamese interrogator pulled and twisted his broken limbs in attempts to break Captain Sijan's spirit and force him to divulge classified information.

Despite intense pain frequently causing unconsciousness, Sijan never gave information other than that required by the Geneva Convention. Thus weakened, Sijan died in captivity. He was posthumously awarded the Congressional Medal of Honor for his heroism.

Col. Robert R. Craner (U.S. Air Force): Colonel—then major—Craner's forward air control F-100F was shot down near Vinh on December 20, 1967. He was initially held with Capt. Lance Sijan, whom he tried in vain to keep alive. Craner's refusal to be used in Hanoi's propaganda campaign, and his efforts to improve the morale of his fellow American prisoners and their covert communications efforts, inspired continued resistance by the POW's. His efforts earned him frequent interrogations, torture, and long periods in solitary confinement. Upon his return, Colonel Craner was awarded two Silver Stars for his actions while a POW.

Col. Floyd James Thompson (U.S. Army): Colonel—then captain—Thompson was an aerial observer aboard an O1F observation aircraft when it was shot down on March 26, 1964, near the Laotian border in South Vietnam. Captain Thompson was then held in several primitive detention facilities over the next 9 years. Thompson was held longer than any U.S. prisoner; his steadfast courage under extreme conditions was a model for all U.S. servicemen to emulate.

Comdr. Richard Allen Stratton (U.S. Navy): Then—lieutenant commander—Richard Stratton was shot down over North Vietnam on January 5, 1967, when his A-4 aircraft came under intense antiaircraft and surface to air missile attack. Commander Stratton's fierce resistance to his North Vietnamese captors earned him many ferocious beatings and hours of solitary confinement. He resisted all efforts by his captors to use him in causes detrimental to the United States. Stratton maintained good order and discipline among his fellow prisoners. Despite constant harassment and the routine harsh treatment, he devoted long hours toward improving the morale of other prisoners as a member of the entertainment group. His spirit and audacity inspired the rest of the prisoners to continue resistance to their North Vietnamese captors.

Col. George Day (U.S. Air Force): Col. George "Bud" Day was shot down over North Vietnam in August 1967. His right arm was broken in three places and his knee badly sprained. He was captured by hostile forces and immediately taken to a prison camp where he was interrogated and severely tortured. After causing the guards to relax their vigilance, Colonel Day escaped into the jungle and began the trek toward South Vietnam. He was the only POW to escape from prison in the north.

Despite injuries inflicted by fragments of a bomb or rocket, he continued southward surviving only on a few berries and uncooked frogs. He successfully evaded enemy patrols and reached the Ben Hai River, where he encountered U.S. artillery barrages. With the aid of a bamboo log float, Colonel Day swam across the river and entered the demilitarized zone. Due to delirium, he lost his sense of direction and wandered aimlessly for several days. After several unsuccessful attempts to signal U.S. aircraft, he was ambushed and recaptured by the Vietcong, sustaining gunshot wounds to the left hand and thigh.

He was returned to the "zoo," the prison from which he had escaped and later was moved to Hanoi after giving his captors false information in response to their questions. Physically, Day was totally debilitated and unable to perform even the simplest task for himself. Despite his many injuries, he continued to resist. Furthermore, 37 months of his 5½ year imprisonment were spent in solitary confinement. Upon his release in 1973, Colonel Day was awarded the Congressional Medal of Honor for his heroic efforts.

WO 1 Solomon Goodwin (U.S. Marine Corps): Warrant Officer Goodwin's residence in Hue City came under fire at the beginning of the Tet Offensive. Realizing that an American agricultural advisor was occupying the building adjacent to his own, Goodwin exposed himself to the enemy fire to bring the man to the relative safety of his own position.

With a total of 6 defenders, Goodwin's position repeatedly rebuffed enemy attack, killing at least 20 enemy soldiers and capturing one Vietcong. While retreating from a final, all-out assault on their position, the men were captured by the enemy on February 5, 1968.

Warrant Officer 1 Goodwin was detained in the hills outside Hue until July 1968 when he and another American POW, who returned to the United States during Operation Homecoming, began their journey to North Vietnam. Warrant Officer 1 Goodwin's health deteriorated rapidly and he died during the march northward. He was posthumously awarded the Silver Star medal.

Rear Adm. Jeremiah Denton (U.S. Navy): Rear Admiral Denton's A6 aircraft was shot down near Thanh Hoa, North Vietnam in July 1965. North Vietnamese soldiers quickly captured him as his parachute landed in the Ma River. He was soon transported to a prison in Hanoi. There, Denton was tortured, put into solitary confinement and repeatedly beaten. It was Denton who provided the United States the first evidence of torture by the Vietnamese of the American prisoners when he blinked the word torture in Morse code in a televised interview. This brave stunt led his captors to increase the frequency and harshness of Denton's interrogations and beatings during the next 7 years of imprisonment.

At one point, Denton perceived a high-level shift in enemy tactics in dealing with the prisoners which imposed new limitations on the North Vietnamese captors. Denton then directed increased resistance by the American prisoners which resulted in a significant reduction in enemy demands to use prisoners for propaganda purposes. In May 1970, Denton personally led and directed a period of fasting by the prisoners to demand better treatment and protest solitary confinement.

In September 1972, Denton refused to appear at a public presentation of the POW's planned by their North Vietnamese captors. Annoyed by his refusal, the North Vietnamese ordered guards to torment him to complete physical exhaustion. After being overpowered by his guards, Denton was transported to the museum where he displayed such disinterest and disdain toward the North Vietnamese that he proved to be an embarrassment in his captors' attempts to use the appearance for propaganda purposes. Consequently, the North Vietnamese never again attempted a similar display of the prisoners. Rear Admiral Denton's stubborn resistance was an inspiration to his fellow prisoners.

DEFENSE INTELLIGENCE AGENCY

During the course of our investigation, we received testimony from many POW/MIA family members that the Defense Intelligence Agency has been less than helpful in its responses to their requests for information and assistance.

After working closely with DIA in this investigation for more than a year, it is evident that the families' concerns are well-founded. Some of the DIA's responses to questions put to it by the committee were evasive and nonresponsive.

From the beginning, DIA's assessment that hundreds of sworn live-sight reports did not constitute evidence was disconcerting. Certainly our investigation determined the reports may not constitute proof, but to dismiss them as evidence implied an unwillingness to conduct an objective inquiry.

Obtaining straight answers to straightforward questions was often difficult. In some cases, DIA's broad assertions that no evidence existed on one point or another were cavalier and misled the committee. Here are two examples:

First. On August 4, 1992, when asked about the possibility of an underground prison beneath Ho Chi Minh's Mausoleum in Hanoi, the DIA testified to the committee that they could not "find any evidence that there is even a basement in any building in the country * * *."

In fact, DIA's testimony was contradicted by a September 1992 Defense Intelligence Agency message that stated:

> DNA and DIA analysts have identified items associated with the construction of Ho Chi Minh's tomb that indicate a below-grade infrastructure that is far more elaborate than what one would expect from simply a mausoleum. [DIA/PW message, dated 101522Z September 1992, Subject: Collection Support Requirement, paragraphs A, B, and C].

Although the September message did not prove the existence of any sort of underground facility, it certainly brought to the committee's attention once again DIA's propensity for categorical denials not supported by the evidence, or even by thorough analysis.

Second. DIA officials testified that a November 25, 1979, radio intercept concerning possible United States prisoners in Viengxay, Laos, was followed up completely. They further stated the intercept contained no information regarding American prisoners. However, in direct contradiction, the committee uncovered the fact that the actual National Security Agency memorandum discussing NSA's attempts to follow up on the intercept stated that none of NSA's followup attempts had been successful—not that the intercept contained no information of American prisoners (NSA Central Security Service Memorandum, Nov. 18, 1992).

THE PARIS PEACE ACCORDS

Mr. President, no single element of the investigation generated more controversy than did the committee's attempt to characterize what it learned concerning the Paris peace accords. In the view of this committee member, some on the committee attempted to artificially limit their focus on the accords to such an extent that the picture the report communicates of events occurring in 1973 and 1974 is skewed. Consequently, I would like to take a moment to clarify the record on these important events.

At this point, I ask that a recent editorial from the Washington Post be included in the RECORD.

The article follows:

[From the Washington Post, Jan. 19, 1993]

PUTTING THE MIA ISSUE BEHIND

Were any of the American military men classified as missing in the Indochina war alive then and are any alive now? Neither part of this painful question can be answered with conclusive proof. The Senate MIA Committee, however, has done what duty demanded and circumstance permitted to wrap up an inquiry that has roiled the national conscience and national politics for 20 years. Its conclusion that some Americans may have been left behind but that there is "no compelling evidence" any are now alive deserves a sober hearing. Some anguished families may be unable to accept it. Some conspiracy theorists may refuse to. It is notable, however, that on the committee the unanimous support for this conclusion reached from Chairman John Kerry to Jesse Helms.

Much of the public discussion of MIAs has been an intensely partisan inquiry into whether the Nixon administration or the Defense Department abandoned American fighting men and then covered up the abandonment. The committee found evidence of sloppiness, secrecy and fatigue on the bureaucratic level and of evasion on the political level, but not of a coverup or conspiracy. Even as they soft-pedaled the MIA issue in home debate, President Nixon and his secretary of state, Henry Kissinger, pressed the North Vietnamese hard. One reason a full MIA accounting eluded them was that Congress, to end the war on its own terms, had removed from the executive's hand a plausible threat to resume military action. This is the point that Mr. Kissinger, alerted by leak of a staff draft, sought, without full success, to have made in the final report.

The American debate should not impede understanding of where the principal onus for the failure to obtain a full accounting lies: on Vietnam. Hanoi saw in American concern for MIAs a lever with which to bargain successively for: (1) reparations, which the United States flatly refused to pay: (2) economic aid, a tenuous possibility that disappeared when Hanoi broke the peace accords, and (3) more recently, normalization of relations. Its bargaining involved constant lies so that each new slice of disclosure inevitably became a confession of past deception.

No one can know what secrets Vietnam may still be hiding. Anyway, 20 years is a long time. The committee has made a useful contribution to American comity.

THE ACCORDS

Mr. President, as a casual reader reviews the body of our report, he would get the distinct impression that during the development of the accords in late 1972 and early 1973, somehow, someway, United States negotiators developed a defective document that let the Vietnamese off the hook and did not require a complete and full accounting of United States prisoners and those missing in action. That impression left by the report is simply inaccurate.

What is not included in the report is the simple fact that every witness heard by the committee during the course of its investigation of the accords stated that the "Accords were the best achievable under the circumstances." We took sworn testimony from the full range of negotiators, experts, and other government officials involved in the negotiation of the accords. Not one of the many who appeared before our committee contradicted that assertion. The Chairman, Senator KERRY, perhaps summed it up best during Dr. Kissinger's testimony when he stated:

> I think you got the best agreement you could. And I said that at the very beginning. And I am proud to acknowledge there were, as people have written many times, extraordinary moments of your deftness, brilliance, capacity to negotiate with very difficult levers. And I want that on the record * * * you have made your mark in history on that [the Accords].

The accords were signed after 4 grueling years of negotiations with the North Vietnamese. They provided for the withdrawal of all United States forces and the release of all United States POW's held throughout Indochina within 60 days.

Internationally and at home the agreement was hailed as a success. U.S. negotiators had successfully achieved peace with honor for the United States. Critics became advocates. Kissinger was awarded a Nobel Peace Prize for his efforts. At the time, the New York Times, no fan of the administration, hailed the accords as "a diplomatic triumph" which had been achieved "under merciless crossfire" and "complex pressures." The Washington Post applauded the administration for not trying to iron out every nuance:

> Ambiguities necessarily—providentially—remain. For Americans, they are not defects: they are assurances that the unresolved questions at issue will be left for resolution to parties other than the United States. The alternative would be for the United States to fight on.

The POW/MIA provisions of the accords were the most extensive of any postwar settlement. In 1976, the House Select Committee on Missing Persons in Southeast Asia thoroughly reviewed these provisions and concluded that they were "not only adequate, but excellent. * * * These provisions constitute an achievement of which the American negotiators and the American people can be proud."

Although some during our committee's investigation have tried to argue the administration should have achieved more definite assurances or more ironclad guarantees, according to testimony received by the committee, there was no support in 1973 for more definite assurances. In fact, throughout 1972 the administration was castigated in congressional hearings and in the media for continuing to negotiate rather than withdraw unilaterally.

Furthermore, it is not apparent that the North Vietnamese would have acted differently if the language of the accords been more specific, if the Laotian provisions had been part of the text of the agreement itself rather than a side understanding, or if lists of POW's had been exchanged prior to the signing of the agreements. The plain fact is that Hanoi violated all of the agreements, whether formal or informal, written or oral.

IMPLEMENTATION OF THE PARIS PEACE ACCORDS

Some have contended that once the Paris peace accords were signed, the Nixon administration made few efforts to ensure a complete accounting for those missing in action. Furthermore, some claim that once it was evident the North Vietnamese were not abiding by the accords, the administration did not bring its concerns that Americans might still be held in Indochina to the attention of the American public.

Once the accords were signed, what actions could the administration have taken to ensure the North Vietnamese complied with the requirement to provide a full accounting for American servicemen missing in action?

First, Congress and the executive branch could have spoken out. The record shows that the executive branch repeatedly and publicly expressed its concerns about Hanoi's refusal to help account for the MIA's, especially those known to have been alive and in captivity. Dr. Kissinger included the following as examples of administration efforts in a letter he provided to the Committee:

On February 8, 1973, Secretary of State Rogers told the House Foreign Affairs Committee "As you know, we do not regard the Lao list as complete." He expressed concern about some 1,300 American MIA's not on lists and pledged efforts to obtain the fullest possible accounting.

On February 21, 1973, Secretary Rogers testified to the Senate Foreign Relations Committee stressing that the United States was pushing for a full accounting of MIA's and expressing concern those "missing or captured" in Laos.

On February 25, 1973, Dr. Kissinger told Barbara Walters that much of the time in Hanoi was spent on MIA's.

On March 2, 1973, during peace conference meetings in Paris, Secretary Rogers noted United States unhappiness with MIA accounting and warned against any delay of POW releases.

On March 29, 1973, President Nixon addressed the Nation and stated as part of the same address in which he made the oft-quoted statement that "* * * all our POW's are home * * *" that the United States was not satisfied with the North Vietnamese accounting for those missing in action.

On April 12, 1973, during his much cited press conference, Dr. Roger Shields stated that the United States had "no indication" that Americans remained alive in Indochina. However, he also repeatedly stated "we have not yet received all information concerning our men in Laos and Cambodia."

On April 20, 1973, the United States issued a public statement listing all violations including the DRV failure to provide information on MIA's or those who had died there.

On May 3, 1973, the President's foreign policy report notes that the United States focus is on MIA's.

On May 31, 1973, the Special Assistant to the Secretary of State for POW/MIA's, Mr. Frank Sieverts, testified to the Senate Foreign Relations Committee noting United States unhappiness with the North Vietnamese accounting, and stating that the United States would continue pressing for a full accounting.

On June 13, 1973, in a press conference following the issuance of the joint U.S./DRV communique on the Paris peace accords, Dr. Kissinger stated that "We are concerned about inadequate accounting for MIA's."

On July 29, 1973, the United States issued a public protest to the Government of North Vietnam concerning its failure to comply with the article in the accords on accounting for those missing in action.

In September 1973, during his confirmation hearing as Secretary of State, Dr. Kissinger testified to the Senate Foreign Relations Committee that he was "extremely dissatisfied" with Hanoi's refusal to provide additional information about the MIA's, especially those men known to have been alive in captivity.

On January 25, 1974, President Nixon proclaimed a "National MIA Awareness Day" and called upon all Americans to express their commitment to seek a full accounting for the missing.

However, even in light of these many actions some have complained that although the administration at the time was raising the issue of the lack of Vietnamese cooperation in providing a full accounting, the administration did not point out to the public that this group of the missing included men who we had reason to suspect might still be held as prisoners. That complaint is flatly controverted by the facts. Beginning in May 1973, both the Senate Foreign Relations Committee and the House Foreign Affairs Committee held a series of hearings focusing on the problem of obtaining an accounting for American servicemen still missing in action in Indochina after Operation Homecoming. A review of these hearings and of the CONGRESSIONAL RECORD from 1973 and 1974 makes it clear that both Congress and the executive branch were well aware that the large grouping of men termed "missing" in action included a number who were last known to have been in captivity.

The report compiled by the Defense Department's Comptroller on March 31, 1973, listing 81 servicemen as "current captured" was printed in the CONGRESSIONAL RECORD on June 4, 1973.

A similar report, compiled by Dr. Roger Shields, as printed in the CONGRESSIONAL RECORD on May 31, 1973, at the request of Senator DOLE.

In a memo sent to the select committee, Dr. Kissinger noted that "Representatives of the National League of Families also provided Congress on numerous occasions with specific information about individual servicemen, such as Lieutenant Commander Dodge and Donald Sparks, who were known to be alive in captivity and who continued to be listed as prisoners of war. National League representatives repeatedly stated that they believed some of these men were alive. For example, on May 25, 1973, Joseph McCain, brother of now-Senator JOHN MCCAIN showed slides of men known to have been captured alive, including Lieutenant Commander Dodge, to a congressional fact-finding delegation in New York City. McCain concluded: 'I think all of us here are saying unless there is something done, and hopefully by Congress, those men are going to remain as slides in that machine, and in those photographs, and they are just going to remain question marks.'" [House Foreign Affairs Committee hearings, 1973, p. 134].

On June 4, 1973, demonstrating congressional awareness that the term "missing in action" also included those last known to have been prisoners, Congressman MONTGOMERY stated, "* * * in Laos alone, some 311 men were shot down, but we have received only 7 prisoners from the Communists in Laos. The law of averages tells us many more of these men should still be alive."

In yet another demonstration that Congress was fully aware that the list of MIA's contained those who were last known to be prisoners and might still be held as such, Congressman John Ashbrook stated on October 4, 1973 that—

> Eighty-three Americans, have been identified in either pictures or by those POW's who returned home as having been held prisoner by the North Vietnamese. The North Vietnamese have released no information on these men. While the likelihood of these 83 still being alive is slight, there is no military reason for the North Vietnamese being as cruel and inhuman as they are being in this matter.

On December 5, 1973, Dr. Shields testified to the House Foreign Affairs Committee that—

> The most we can say today is that these men were alive, some definitely captured, and the other side knows what happened to them. If the men are not alive today, we certainly should receive information about what happened. If they are dead, we should receive the remains.

During the same December 5, 1973 hearing, when asked how many were in the above status, Shields stated "Today, I believe we carry 57 men as prisoners of war. * * *"

In an April 10, 1974, report on "Missing in Action in Southeast Asia," issued after a year of hearings, the Senate Foreign Relations Committee stated that "some 56 servicemen who were previously acknowledged as captured are still officially listed on Defense Department rolls as POW." [Report 93-982, 1974].

Second, after speaking out—and the record is clear on that point, it seems that the administration should have demanded a full accounting at the negotiating table. Did they? The record uncovered by the select committee is clear. In February 1973, Dr. Kissinger raised specific cases with Le Duc Tho of United States prisoners not on Vietnamese lists. In biweekly meetings with the North Vietnamese negotiators that lasted until June 1974 when the DRV began to boycott the meetings, the United States team made specific requests for the information on particular cases of Americans missing or last known to be in captivity.

Deputy Assistant Secretary of State Frank Sieverts testified in December 1973 that the United States side had "followed up as intensively as we can every one of those cases. We have raised them with the other side individually, in small groups, and in larger groups." He stated that the United States team had provided the North Vietnamese voluminous dossiers on every missing individual with evidence indicating that some of these men were alive and in captivity, but that the North Vietnamese simply "put on a blank face" and refused to provide any information.

Dr. Kissinger testified that he also pressed Le Duc Tho for more information about the MIA's in meetings in May–June and December of 1973. On June 13, Hanoi agreed to a joint communique that "any captured personnel covered by article 8(a) of the agreement who have not yet been returned shall be returned without delay" and to help "get information about these military personnel and foreign civilians of the parties missing in action."

The United States made private protests, public protests, diplomatic protests and military threats. The North Vietnamese were well aware of our concerns that they might still hold American prisoners. As the Montgomery report stated, the primary reason the American people did not gain a full accounting for those missing in action was not due to State Department inaction, but rather, it was due to Hanoi's deliberate withholding of information on United States prisoners of war.

Third, the question is raised as to whether the United States could have obtained the release of more POW's by paying ransom. However, it is clear that our policy from the beginning was not to link the release of POW's to any form of reparations. It is important to note too the committee found that after the return of our POW's during Operation Homecoming, North Vietnam did not offer to exchange prisoners for ransom, and Congress acted to deny economic assistance payments talked about during the negotiations.

LEVERAGE

Last, the United States could have threatened to bomb North Vietnam, or to take other military actions, if the DRV did not come forward with a full accounting. During testimony to the committee, Dr. Kissinger noted that he recommended just such action. Public opinion clearly was against it. Editorials in the New York Times, the Philadelphia Inquirer, the L.A. Times, Newsweek, the Washington Post, the Minneapolis Star, the Baltimore Sun, the Des Moines Register, the St. Louis Post-Dispatch, the Atlanta Journal all spoke out in strong opposition to the threat the President held out that there could be potential bombing if North Vietnam did not comply.

In fact, the Congress prohibited such action. As noted in the report, during Senate consideration of the Eagleton-Brooke-McClellan amendment to the defense appropriations bill, Senators DOLE and HELMS offered an amendment that would authorize the President to use force:

> * * * if the President finds and forthwith so reports to the Congress that the Government of North Vietnam is not making an accounting, to the best of its ability, of all missing in action personnel of the United States in Southeast Asia, or is otherwise not complying with the provisions of article 8 of the agreement signed in Paris on January 27, 1973, and article 10 of the protocol. * * *

By a 2-to-1 margin, the Dole-Helms amendment was defeated by the Senate and the Eagleton amendment sustained, cutting off all funds that might have provided the President leverage and sending a clear signal to the North Vietnamese that America would not retaliate for any reason whatsoever. We could not. In other words, we had a clear vote in Congress on the question of demanding an accounting from the Vietnamese, and if they did not comply with that, having the ability to bomb. Twenty-five Members of the Senate voted to demand a full accounting with the threat of bombing. Fifty-six members of the Senate, including 12 that are still Members, voted to deny funds for bombing, even if the North Vietnamese did not account for our POW's.

During the debate on the Dole amendment, the Senate majority leader, opposed to the Dole-Helms effort, stated:

> Mr. President, the only way to deal with this situation is to face up to our responsibility. The only way to do it effectively is to cut the purse strings. And that is what the Eagleton amendment does, because it locks off funds from any and all directions and any and all acts so that if the Congress speaks on this basis, it will means that we will at long last—13 years too late—get out of Southeast Asia all the way. And as far as the MIA's are concerned, this Government is making every effort, and will continue to do so, to attempt to identify them. But if we want more MIA's we should vote for the pending amendment and we will get them, just as we are getting them now in Cambodia.
>
> If we want quicker action as far as the MIA's are concerned, we should keep the Eagleton amendment intact.

Seeing imminent defeat of his attempt to give the executive branch much-needed leverage to ensure all those missing in action were accounted for, Senator DOLE remarked prophetically:

> I would hope those who read the record and those who sit down next year or 20 years fron now to read the record, in the event the North Vietnamese do not carry out the agreement, will know that there were those of us in the Senate who stood and let our views be known.

On September 18, 1973, Congressman Huber stated on the floor of the House of Representatives:

> Almost anything would be better than what the Congress is now doing about the issue [POW/MIA's], which is almost nothing at the moment.

On December 17, 1973, Congressman Sikes noted that:

> The Congress has stripped the President of any power he may have had to deal with problems in Indochina by taking from him authority to use the military forces to America's interests.

One Member of Congress attributed congressional inaction on POW/MIA's to Congress' complete absorption with the unfolding political situation. On

June 4, 1973, Congressman MONTGOMERY pleaded with the House of Representatives:

Mr. Speaker, in my opinion, it is time to push the Watergate off the front pages of the American newspapers and start focusing our attention on the plight of these 1,300 American servicemen. I also believe it is time for Members of Congress to stop trying to make political points out of Watergate and turn their attention to the humane task of finding information on our fellow Americans missing in Southeast Asia. Our time will be much better spent working on behalf of these men rather than becoming self-appointed prosecutors in a case that properly belongs within the jurisdiction of the Department of Justice.

Mr. President, Congress removed any possibility of leverage the United States might have held over the North Vietnamese. They, like the President at the time, were absorbed by the unfolding Watergate scandal. Despite repeated attempts to bring the North Vietnamese failure to provide a full accounting for those missing in action and those last known to be held as prisoners to the attention of the Congress, the Congress blocked all efforts to increase the administration's leverage.

These are the three main issues surrounding the signing and implementation of the Paris peace accords. I would ask that a memo prepared by Dr. Kissinger in response to his testimony before the committee as well as the full text of President Nixon's answers to committee questions be included at the end of my statement.

(See exhibit 1.)

EXHIBIT 1

INACCURATE POW/MIA COMMITTEE ASSERTIONS, NOVEMBER 4, 1992

ADEQUACY OF THE POW/MIA PROVISIONS

Allegation No. 1: Contrary to assertions by Nixon and Kissinger, the POW/MIA provisions were not "ironclad."

Response: The POW/MIA provisions of the Paris Peace Accords were the most extensive of any post-war settlement in history and were the best achievable by the U.S. side under the circumstances. The House Select Committee on Missing Persons in Southeast Asia (the "Montgomery Committee") concluded in 1976 that they were "not only adequate, but excellent. . . . These provisions constitute an achievement of which the American negotiators and the American people could be proud. "Hanoi has never questioned its obligations to release all U.S. POWs and to account for U.S. MIAs throughout Indochina. If, in hindsight, the provisions do not appear to be perfect, the reason is that in any negotiation, perfection is never achievable. Those who today assert that better provisions should have been achieved should be obliged to specify precisely which provisions they would have changed in what way and how they would have successfully negotiated such provisions given the political, diplomatic, and military environment in early 1973.

ACCOUNTING FOR MIAS IN LAOS

Allegation No. 2: The side understanding on Laos and Cambodia did not cover MIAs as well as POWs. Hanoi had no obligation to account for the missing in Laos.

Response: False. In the first place, Hanoi has never questioned its obligation to account for the missing throughout Indochina. Instead, North Vietnamese officials cynically claimed that the task was difficult and that they were doing all they could. Additionally, a close examination of the exchange of messages in October 1972 disproves this allegation. In its message of October 21, 1972, the U.S. stated that it needed an assurance from the North Vietnamese that "the provision in the general agreement for verification of those U.S. military men and civilians considered missing in action will be applied also in Laos and Cambodia." In its reply dated October 22, Hanoi stated that it would "do its utmost to come to an agreement with its allies with a view of finding a satisfactory solution to the questions with which the United States is concerned." Since question of accounting for MIAs in Laos and Cambodia was obviously one with which the U.S. was concerned (as the U.S. had stated the previous day), the statement satisfied the U.S. request. Hanoi also stated that "the DRV side will carry out, without any change, what it has declared to the U.S. side."

THE SIDE UNDERSTANDING ON LAOS AND CAMBODIA

Allegation No. 3: U.S. negotiators made a major concession in agreeing to cover U.S. POWs in Laos and Cambodia in an informal side understanding rather than in the formal agreement.

Response: False. The U.S. concern was not whether POW/MIA issues would be covered in any particular agreement, but whether it would be covered by any agreement between the parties at all. From beginning to end, the U.S. negotiators insisted categorically that the North Vietnamese agree to release and account for all U.S. POWs and MIAs throughout Indochina. To address North Vietnam's insistent position that it did not control its allies in Laos and Cambodia and because we did not want to legitimize North Vietnam's control over the governments of Laos and Cambodia, we ultimately agreed to have the issue covered by verbal assurances and a side understanding. In the end, the U.S. side got what it wanted—firm guarantees regarding U.S. POWs and MIAs throughout Indochina.

LINKAGE OF RECONSTRUCTION AID AND RELEASE OF POWS

Allegation No. 4: Hanoi linked the issues of reconstruction aid and return of the POWs/accounting for MIAs. The U.S. inadvertently strengthened this linkage in the North Vietnamese mind by conditioning the delivery of the Nixon letter upon delivery of the Laos list. When the U.S. ultimately did not deliver reconstruction aid, Hanoi felt justified in not complying with the POW/MIA provisions.

Response: The U.S. side was very careful throughout the course of the negotiation of the Paris Peace Accords to assure that there was never a linkage between actual release of our POWs and the actual delivery of reconstruction aid. We did not see a problem, however, in using the highly conditional Nixon letter about future aid as leverage to obtain the lists when or shortly after the agreements were signed. Surely, no one would suggest that, with hundreds of POW families clamoring for information about their missing men, we should have delivered the Nixon letter without demanding the prisoner list, or that we should not have delivered such a letter.

Whether or not the North Vietnamese considered the two issues to be linked in their own minds, Hanoi did not cite the U.S. failure to provide reconstruction assistance as the reason for its refusal to provide an accounting until 1975. The Montgomery Committee examined this issue in detail and concluded:

"the fact is the Vietnamese did not begin to link Articles 8(b) and 21 until well after North Vietnamese military forces overran the South in April 1975. Then, and only then when their drive to the south had been completed in gross violation of Paris Agreement, did they begin to link these two issues and begin to make overtures of bargaining and accounting for American reconstruction aid, claiming a binding obligation of the Paris Peace Agreement still existed."

In any event, Hanoi has finally begun to provide information about U.S. MIAs without any demands for U.S. economic aid.

SUSPENSION OF TROOP WITHDRAWAL IN MARCH 1973

Allegation No. 5: In late March 1973, Admiral Moorer ordered a suspension in troop withdrawals until Hanoi provided information about the final group of U.S. POWs to be released, including those in Laos, but then, on White House instructions, reversed his orders and completed the troop withdrawal despite the fact that Hanoi had not provided any information about the more than 300 U.S. MIAs in Laos. The U.S. "gave in." We "completed our troop withdrawal without insisting that the Pathet Lao give us our prisoners back."

Response: Although Dr. Kissinger was on vacation during this period and has no specific recollection of this incident, it appears that the dispute in March was not over the fate of the 300 missing Americans in Laos, about whom the U.S. Government had no current information, but rather was over whether Hanoi would release the nine known POWs listed on the February 1, 1973 list. After a ten day impasse during which time Hanoi initially denied that it was responsible for the release of the nine POWs on the list, the Pathet Lao announced that the nine would be released and President Nixon ordered the withdrawals to resume.[1] Thus, the impasse was resolved because the Pathet Lao agreed to release the nine known prisoners in Laos, not because the U.S. Government decided to declare the remaining MIAs in Laos to be dead.

The minutes of the March 16, 1973 WSAG Committee make clear that Admiral Moorer's March 22 cable simply reflected the execution of Administration policy. The Committee had agreed that "U.S. troops in the third tranche who are still in Vietnam will not be withdrawn until the third tranche of POWs have been released. The withdrawal of the remainder of the troops will not begin until we have received the list of the last group of POWs, and the withdrawal will not be completed until all of our POWs, including those in Laos, have been released."

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[1] See, e.g., New York Times, March 24, 1973 ("the dispute centered on the United States demand for the release . . . of nine Americans held by the Pathet Lao in Laos") (also noting that U.S. officials had told the North Vietnamese on March 22 that the U.S. troop withdrawal was contingent upon receipt of a list of all U.S. POWs, including those held in Laos); New York Times, March 26, 1973 ("the deadlock centers on the United States demand that nine American captives of the Pathet Lao in Laos be freed . . ."); New York Times, March 26, 1973 (reporting that President Nixon had ordered U.S. forces to stay in South Vietnam until the issue of the nine American captives was resolved); New York Times, March 27, 1973 (reporting that President Nixon had ordered resumption of the troop withdrawal after the Pathet Lao agreed to release the nine American POWs in Laos).

These were precisely the instructions articulated in Admiral Moorer's cable of March 22 and in the letter delivered by General Wickham to the North Vietnamese the same day.[2] In addition, General Scowcroft's cable to Colonel Guay dated March 20, 1973 emphasized that the U.S. Government's principal concern was to ensure that Hanoi recognized, as a legal matter, its obligation under the Paris Peace Accords to release U.S. POWs in Laos. Scowcroft's cable mentions as an additional issue the adequacy of the February 1 list, but does not condition U.S. withdrawal upon a resolution of the question.

ADEQUACY OF ADMINISTRATION DISCLOSURES TO CONGRESS AND THE AMERICAN PEOPLE

Allegation No. 6: After March 29, the Administration failed to disclose to Congress and the American people evidence that U.S. POWs were still alive in Vietnam and Laos. Senator Kerry has said that "Information was withheld from the American people" and that "The Administration did not level with the American people." The Eagleburger Memorandum and Godley cables are alleged to be the "smoking guns" proving that U.S. officials knew that U.S. POWs were alive in Laos but did not tell the American people.

Response: False. Administration officials repeatedly stated publicly and testified before Congress that they did not consider Hanoi's accounting for U.S. servicemen to be complete. Moreover, all of the evidence cited in the Eagleburger Memorandum and Godley cables—statements by Lao officials, the fact that a number of men had been known to have been captured alive, and the statistical inadequacy of the February 1 list—was on the public record and well known to Congress as well as to the MIA families. Dr. Kissinger had presented essentially this same evidence to the North Vietnamese on his trip to Hanoi in February 1973. The Administration disclosed all credible information to Congress and the MIA families.

DID THE ADMINISTRATION REVEAL SPECIFIC NAMES?

Allegation No. 7: The Administration did not tell Congress and the American people that specific men whom it believed to be POWs—e.g., Dodge, Hrdlicka—did not return. Senator Kerry has said that "We have not found one document, one conversation, one debate, one Congressional Record statement, not one, pertaining to real individuals who did not come home. Not one."

Response: False. Roger Shields and Frank Sieverts testified before the House Foreign Affairs and Senate Foreign Relations Committees on several occasions in 1973 and 1974 about the approximately 80 cases of men who were known to have been captured alive but who did not return. The famous discrepancy cases of Commander Dodge, Colonel Hrdlicka, and Donald Sparks, among others, were referred to repeatedly by Administration officials and were well known to Congress and to the American people.

On May 31, 1973, Roger Shields told the House Foreign Affairs Committee that "As for those who are thought to have been captured alive but who have not been returned, let me say that this is perhaps the most agonizing and frustrating issue of all. These are the cases of men who were seen on the ground of whose pictures were released subsequent to capture but who, for one reason or another, have not returned and for who the other side has yet to provide a satisfactory explanation."

On December 5, Frank Sieverts told the House Foreign Affairs Committee that "We have called particular attention to cases of men who were previously acknowledged as captured in Laos, or for whom there are indications that they survived shootdowns. Two of the most obvious cases are Air Force Lieutenant Colonel David Hrdlicka, whose capture May 18, 1965 was openly confirmed by the Pathet Lao, and the American civilian, Eugene Drebruin, of Air America, also confirmed as a prisoner following his capture September 5, 1963, who is known to survive as recently as 1966. We continued to hope that lists and information we provided will help convince the LPF to provide additional information on our missing men."

On December 5, Roger Shields told the House Foreign Affairs Committee that "We have information that shortly after these men became missing, were prisoners in the case of Lt. Col. Hrdlicka and Commander Dodge, that some of them survived the initial incident and were indeed captured. In most cases, this goes back a number of years, 1965–1966, and we have heard nothing since that time. The most we can say today is that these men were alive, some definitely captured, and the other side knows what happened to them. If the men are not alive today, we certainly should receive information about what happened. If they are dead, we should receive the remains."

THE CURRENT CAPTURED LISTS

Allegation No. 8: The Administration did not disclose to Congress or to the American people that it continued to list between 81 and 67 men as "current captured" after Operation Homecoming.

Response: False. Frank Sieverts and Roger Shields testified on numerous occasions that the Defense Department continued to carry a number of men as prisoners of war. Indeed, the very same DOD Comptroller's report of March 31, 1973 listing 81 servicemen as "current captured," which has been alluded to as the "smoking gun," was printed in the Congressional Record on June 4, 1973. Roger Shields explained that the fact that men continued to be listed as prisoners of war did not mean that the government "knew" them to be alive: "The most we can say today is that those men were alive, some definitely captured, and the other side knows what happened to them." According to Roger Shields, the fact that certain men continued to be listed as prisoners of war was specifically disclosed to the affected family members.

ADEQUACY OF EFFORTS TO OBTAIN AN ACCOUNTING AFTER OPERATION HOMECOMING

Allegation No. 9: After Operation Homecoming, the Administration ceased its efforts to bring the POWs home. The "mood" changed. Senator Kerry has said that "Once the war was over, it didn't seem to matter to get them back anymore." Senator Kerry has suggested that the reason for the Administration's failure to take action on the POW issue in 1973 was that the Presidency was "crumbling" and that the Administration needed to put the Vietnam War behind it.

Response: False. The Watergate incident did not affect the commitment or the effort of the U.S. Administration to achieve a full accounting for U.S. MIAs in Indochina. Both the 1973–1974 hearings and the Montgomery Committee hearings in 1975–1976 chronicle the U.S. government's persistent efforts to obtain a full accounting for U.S. MIAs after Operation Homecoming. The Montgomery Committee found that:

"After the war, when the provisions for gaining an accounting failed to be followed, the State Department tried other means to achieve that end. It tried government to government appeals, demands, and protests. It enlisted the assistance of international humanitarian organizations, sought the aid and support of third party nations and the pressure of world opinion. *That the results proved less effective than hoped for and desired cannot be attributed to lack of effort.* Critical factors were beyond American control, including the enemy's general perception of humanitarian obligations and specific application of humanitarian principles."

The Montgomery Committee specifically examined the charge that the State Department did not attach sufficient priority to obtaining an accounting for the missing, a charge the Committee noted drew "its credibility from the widespread distrust of government officials generated by the War itself and by the Watergate affair." The Montgomery Committee concluded:

"Plausible at first glance, the charge of State Department disinterest appears far less credible after closer examination. In fact, rather than a valid charge that provides insight into the failure to gain an accounting, it appears as a symptom of the deep dissatisfaction and frustration that the failure to gain an accounting, a frustration vented on the State Department because of the State's responsibility to gain that accounting. It is doubtful that State could have gained an accounting by being more insistent. The main problem was not that gaining an accounting was low on the State Department's list of priorities. The primary reason the American people have not gained an accounting . . . was the recalcitrance and the intransigence of the Indochinese communists leaders."

WHY DIDN'T WE RESUME MILITARY OPERATIONS?

Allegation No. 10: The Administration made the "hard decision" not to resume military operations in Vietnam in order to get the POWs back because it did not believe it had the support of the American people.

Response: Dr. Kissinger has written that in light of Hanoi's massive violations of the Peace Accords, including those covering POWs and MIAs, he favored resuming bombing in late March 1973. However, President Nixon decided not to do so then because he wanted to be sure he first got back all the POWs on Vietnam's lists. Then the President decided to try one more negotiating session with Hanoi over their violations. By the time this took place in mid-May, Congressional pressures against further military action had reached a crescendo. Congress itself specifically removed the option of using military operations when on May 31 it voted to bar them *even if* Hanoi was not cooperating on MIAs and POWs. It can scarcely be said that it was the Administration which "decided" not to resume military operations.

THE STATEMENT THAT ALL THE MIA'S ARE DEAD

Allegation No. 11: The Administration explicitly or implicitly stated to the American people that all of the MIAs were "dead."

Response: False. Although this perception is widely held, we have been unable to find any public statement by an American official that all U.S. MIAs were dead. With respect to Mr. Clements' alleged private statement to Mr. Shields, Mr. Clements has denied making the statement. Administration officials repeatedly stated that they had "no indication" that any U.S. servicemen were still alive after Operation Homecoming, but they did not state that they were dead. The 1973–1974 hearings make clear that Administration officials repeatedly left open the possibility that American servicemen might still be alive in Indochina.

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[2] See New York Times, March 24, 1973.

NO INDICATION THAT ANYONE IS ALIVE

Allegation No. 12: Rather than saying that "we have no indication that anyone is alive," Senator Kerry has said that the Administration should have told Congress and the American people that there were a number of servicemen who were last known to be alive, whom we continue to list as captured, and whom we are determined to get information about.

Response: This is *exactly* what Frank Sieverts and Roger Shields told Congress and the American people. Shields and Sieverts repeatedly stated that the U.S. government was dissatisfied with the accounting for its missing, particularly with respect to those men who were known to have been alive in captivity.

For example, on December 5, 1973, Roger Shields told the House Foreign Affairs Committee that "We have information that shortly after these men became missing, were prisoners in the case of Lt. Col. Hrdlicka and Commander Dodge, that some of them survived the initial incident and were indeed captured. In most cases, this goes back a number of years, 1965–1966, and we have heard nothing since that time. The most we can say today is that these men were alive, some definitely captured, and the other side knows what happened to them. If the men are not alive today, we certainly should receive information about what happened. If they are dead, we should receive the remains."

WOULD CONGRESS HAVE TAKEN ACTION?

Allegation No. 13: If Congress had been aware that the Administration believed that specific people had been left behind, it would have taken some action.

Response: The 1973–1974 hearings clearly demonstrate that Congress was well aware that Hanoi had not provided a full accounting for U.S. missing in action and that there were a number of specific individuals who were known to have been captured alive but who had not returned. Although both houses of Congress ultimately passed resolutions calling for a better accounting for the missing, on May 31, 1973 the Senate voted down Senator Dole's amendment that would have authorized the President to continue to use force in order to gain an accounting for U.S. MIAs. Senator Dole presented a name-by-name list of all U.S. servicemen unaccounted for in Indochina after Operation Homecoming and in "missing or captured status." Senator Dole also presented to the Senate the entire statement made that same day by Roger Shields to the House Foreign Affairs Committee, which specifically referred to the continuing problem of those thought to have been captured alive, but who had not returned. Accordingly, it cannot be said that Congress was unaware of the possibility that American POWs might still be alive in Indochina.

MILLER, CASSIDY, LARROCA & LEWIN,
Washington, DC, December 30, 1992.

U.S. SENATE,
Select Committee on POW/MIA Affairs, Hart Senate Office Building, Washington, DC.

DEAR MR. CODINHA: Enclosed is the memorandum response of former President Richard Nixon to the questions asked by the Senate Select Committee on POW/MIA Affairs.

Sincerely yours,
HERBERT J. MILLER, Jr.

WOODCLIFF LAKE, NJ,
December 30, 1992.

Mr. HERBERT J. MILLER, Jr.,
Miller, Cassidy, Larroca & Lewin, Washington, DC.

DEAR JACK: I am enclosing my memorandum in response to the Select Committee on POW/MIA Affairs' request for information dated December 18, 1992. Please deliver the attached memorandum to the Committee.

I again wish to emphasize that the questions cover in detail matters that occurred eighteen to twenty years ago and that some of them do reflect a predetermined viewpoint.

Since I only returned from a trip outside the country on December 23rd and, obviously, have not had an opportunity to review the myriad of documents involved in this matter, I cannot be more precise.

Sincerely,
RICHARD NIXON.

MEMORANDUM OF RICHARD M. NIXON IN RESPONSE TO THE COMMITTEE'S QUESTIONS OF DECEMBER 18, 1992

As the members of the committee are aware, Dr. Kissinger had primary responsibility for conducting negotiations to end the war we inherited from the Kennedy/Johnson Administration and to obtain the release of our POWs and an accounting for those missing in action. On the basis of that direct involvement, Dr. Kissinger already has addressed in his testimony to the committee most of the issues raised in the questions you have submitted to me. I will not elaborate on his answers. I will, however, respond to questions that he did not cover or that involve my personal assessment of the POW/MIA issue.

Question 1: Dr. Kissinger addressed this question in detail in his testimony before the committee. I have nothing further to add except to observe that throughout the negotiations which led up to the Paris Peace Agreements and thereafter my position was that the return of our POWs and accounting for those missing in action was the highest priority. The testimony of Dr. Kissinger and General Haig clearly demonstrates that key members of my White House staff shared that conviction and did everything possible to attain that objective in the negotiations with the North Vietnamese.

Question 2: Dr. Kissinger has testified at length on the issues raised in this question. I should note, however, that the distinction the committee draws between "formal agreements" and "informal side understandings" is meaningless in the context of the committee's question. International agreements frequently include non-public provisions that are just as binding as the public provisions, but that for domestic public opinion or other reasons one party or the other is unwilling to make public. In this case, it was North Vietnam's public position that Communist-dominated areas of Laos and Cambodia were not under North Vietnamese control. We acceded to Hanoi's request that the formal accords not address prisoners in Laos and Cambodia because we did not believe that it was in the U.S. interest to codify Hanoi's right to intervene in the affairs of Laos and Cambodia. It was also obviously better to have a separate agreement with North Vietnam that committed Hanoi to the return of POWs and MIAs in Laos and Cambodia than to have no agreement at all. The North Vietnamese never contested the fact that this separate agreement obligated them on POWs and MIAs throughout Indochina.

I would add that I had no confidence whatever that the "side agreement" by itself would result either in the accounting of our missing or in the repatriation of live U.S. POWs held in Laos and Cambodia with the 60-day period set forth in Article 8 of the Accords for the release of POWs held in Vietnam. I never relied on the words of the North Vietnamese then or now.

Throughout the war, we found that the North Vietnamese responded only to force or threats of force. Our December 1972 bombing, which was so violently criticized by some of the members of this committee, was what broke the logjam in the negotiations. As one of the POWs told me when he returned, "When we heard the bombs falling we knew we were on the way home." Admiral James Stockdale, who was awarded the Medal of Honor when he returned, later described the scene when the prisoners heard the explosions as the bombs began hitting their targets. He wrote, "Cheers started to go up all over the cell blocks of that downtown prison. This was a new reality for Hanoi. One look at any Vietnamese, hopelessness, remorse, fear. The shock was there. Our enemy's will was broken." Our POWs knew then that they were coming home, even if our critics in the Congress and many of the nation's editorial writers did not.

As it became clear to the North Vietnamese that the Congress would not permit a resumption of the bombing to enforce the Paris Accords, their incentive for complying with the agreement regarding MIA's and POW's as well as other provisions was completely destroyed. The return of all our POWs and an accounting of all our MIAs was difficult to achieve because of the intransigence of the North Vietnamese and the substantial sentiment in the country and in Congress for an unconditional withdrawal from Vietnam in advance of any North Vietnamese commitment to return our prisoners and account for our missing. Indeed, in the midst of the final negotiations of the agreements in early January 1973, the House and Senate Democratic Caucuses both voted to cut off immediately U.S. combat activities in Indochina. I can only presume that those who urged such a course of action naively believed that following a unilateral U.S. withdrawal the Vietnamese would voluntarily return our POWs and account for our missing.

The responsibility for denying to our Administration the means to force the North Vietnamese to comply with the agreements concerning the accounting for MIAs lies squarely on those who opposed the use of military force to bring the war to a conclusion and who later sabotaged our efforts to enforce the peace agreement by drastically reducing American aid to South Vietnam and prohibiting the resumption of the bombing in order to enforce the Accords.

Question 3: Dr. Kissinger has responded to this question at length.

I note, however, that the committee's questions appear to ignore completely the realities of international negotiation, especially negotiation with the North Vietnamese. Adversaries in general, and the North Vietnamese in particular, are not in the habit of giving the other side everything it wants. We asked for an assurance, and while the response may not now appear as "definite and specific" as this committee sitting twenty years later would like, we did receive an assurance that we thought was the best obtainable under the circumstances. In the negotiation of the Accords, the North Vietnamese never questioned that the separate agreement obliged them to release our POWs and to account for the missing throughout Indochina. Therefore, whether a more precise form or wording of these terms could have been negotiated or would have led to greater North Vietnamese cooperation is beside the point.

Question 4: In response to this question, it must be borne in mind that the North Vietnamese demanded that the United States agree to pay reparations for war damages. We categorically rejected this demand. We agreed to provide reconstruction aid to North Vietnam *provided* they complied with the terms of the peace agreement, including but not limited to the return of POWs and the accounting for all missing in action.

The rationale for reconstruction aid was similar to the justification we gave for providing billions of dollars of aid to our former enemies in Japan and Germany at the end of World War II. President Johnson had previously promised that at the end of the war the United States would provide reconstruction aid. We believed that such aid would serve not only the interests of the people of North Vietnam and South Vietnam, but also our own interests in creating a more peaceful environment in Southeast Asia.

We consistently and deliberately refused to link the demand for reparations to the release of POWs and accounting for MIAs and other provisions of the peace agreement because to do so would mean that we implicitly were accepting the concept of reparations.

That was the reason why reconstruction aid was raised in a confidential letter rather than in the peace agreement. Since the North Vietnamese did not comply with the peace agreement, including the separate agreement with regard to MIAs, the question of reconstruction aid became moot.

At the present time, to normalize relations with the government of Vietnam and to provide trade or other aid would be a tragic mistake. It is astonishing to me that many, including some members of this committee, have so effusively praised Hanoi for taking steps today to facilitate resolution of the MIA cases that any humane government would have taken twenty years ago. The North Vietnamese continue to torture the families of MIAs by disclosing only as many bits and pieces of bodies, clothing, and other effects as their diplomatic campaign for normalization requires.

Even if they completely satisfy our demands on this issue, normalization should not go forward because of a profoundly important issue that has been completely ignored by most of the members of Congress and the media who advocate normalization: Hanoi's continuing massive abuse of those in South Vietnam who were our allies. Hundreds of thousands—including the children and grandchildren of many who served in South Vietnam's government and armed services—are treated like second-class citizens. Until Hanoi not only fully accounts for the MIAs but also ceases its brutal treatment of those who were aligned with the U.S. during the war, and until North Vietnam complies with the other terms of the Paris Peace Accords, it would be a diplomatic travesty and a human tragedy to go forward with normalization.

Question 5: Dr. Kissinger has covered this question in his testimony, and I have nothing to add.

Question 6: Dr. Kissinger has covered this question in his testimony, and I have nothing to add.

Question 7: Dr. Kissinger has covered this question in his testimony. We had no way of actually knowing whether the Laos POW list was complete or not. Although everyone was aware of the possibility that the release was incomplete, I had no personal knowledge that any U.S. serviceman still alive had been kept behind. Without better evidence, more than suspicion, we had no options other than to continue to demand a better accounting from Hanoi in the strongest possible terms. Congress was unwilling to support a resumption of military operations which would involve the loss of additional American lives simply to resolve this issue. Indeed, Congress soon tied our hands by cutting off funding for military operations in Indochina and specifically rejected a Republican-supported amendment offered by Senator Dole that would have allowed the resumption of force if the President found that the North Vietnamese had violated their obligation to make a full accounting for the missing.

Question 8: Dr. Kissinger has covered this question in his testimony, and I have nothing to add.

Question 9: Dr. Kissinger has covered this question in his testimony, and I have nothing to add except to observe that in my speech of March 29, I strongly expressed my concern with regard to the accounting for "all missing in action in Indochina, the provisions with regard to Laos and Cambodia", and other provisions of the agreement. I stated that we shall insist that North Vietnam comply with this agreement, and "the leaders of North Vietnam should have no doubt as to the consequences if they fail to comply with the agreement." In view of my having ordered the December bombing in 1972 despite the enormous political risks, the North Vietnamese could not have misread this implied threat. Unfortunately, the actions of many members of Congress, including some on this committee, in limiting my power to enforce the agreement by a resumption of bombing made such threats, as the Chinese would put it, "an empty cannon."

Question 10: Dr. Kissinger has covered this question in his testimony. I do not recall directing Admiral Moorer to send this cable. It appears to be a statement of our policy at the time, namely that we would not commence the final phase of our withdrawal until we received a complete list of the last group of POWs to be released, including those from Laos. We had interrupted our troop withdrawal on several previous occasions until we received lists of our POWs to be released. In this case, we apparently interrupted our withdrawal again because Hanoi had suddenly disclaimed responsibility for releasing U.S. POWs in Laos. As far as I can recall, I do not believe this cable was based on any knowledge that there were POWs held in Laos in addition to the nine we were aware of at that point.

Question 11: Dr. Kissinger has covered this question in his testimony. Like the earlier cable, the March 23 cable appears to be a restatement of our policy, but in the affirmative rather than the negative, namely that we would resume our withdrawal provided we received a list of POWs to be released, including the nine from Laos. I do not recall that we changed our position on this issue.

Question 12: As I have already indicated, the only option that I believed would affect the North Vietnamese was the use of military force. The Congress denied me that option. The suggestion by various members of this committee that the Congress would have approved a resumption of the bombing is ludicrous supposition. The overwhelming consensus among those who opposed the use of force was summed up by Senator Ted Kennedy when he observed, "If we really want peace in Cambodia and cease fire agreements for all of Indochina, then we should be sending our diplomats to help negotiate these arrangements instead of sending our B-52s to bomb." We tried on every front to convince the North Vietnamese that they should comply with the peace agreement as well as the separate agreement on POWs and MIAs in Laos and Cambodia by diplomacy. In view of the outrage of our critics when we resumed the bombing in December 1972—the very action that led the North Vietnamese to accept the peace agreement and to release our POWs—it is highly ironic and cynically irresponsible for anyone to insist twenty years later that we should have resumed the bombing in order to get the North Vietnamese to give a full accounting for MIAs and that the Congress would have approved it.

As I pointed out in my book *No More Vietnams*, "Antiwar senators and congressmen launched a frontal assault on our policy in May and June [1973]. Initially, their target was legislating a halt to our bombing in Cambodia. But soon they raised their sights to a prohibition of all direct and indirect American military actions in or around Indochina. They also sought to forbid the sending of reconstruction aid to North Vietnam. When they succeeded with both efforts, Congress had withdrawn both the carrots and the sticks built into the agreement. Hanoi as a result had no reason to comply with its terms."

Question 13: I am astonished that the committee's question to me takes my statement with regard to POWs on March 29 out of its full context. On the other hand, I am reminded that General Haig too found it necessary to call to the Chairman's attention that my statement, "All of our American POWs are on their way home," was directly followed by this paragraph:

"There are still some problem areas. The provisions of the agreement requiring an accounting for all missing in action in Indochina, the provisions with regard to Laos and Cambodia, the provisions prohibiting infiltration from North Vietnam into South Vietnam have not been complied with. We have and will continue to comply with the agreement. We shall insist that North Vietnam comply with the agreement. And the leaders of North Vietnam should have no doubt as to the consequences if they fail to comply with the agreement."

I firmly believe that the committee's handling of my statement has been totally unprofessional, calculatedly attempting to create the impression that Dr. Kissinger and I and other members of the Administration knowingly presented false information with regard to the return of all of our POWs. As Dr. Kissinger has testified, to leave the impression that any President and his associates would deliberately leave behind live POWs was a lie. For members of the committee to create such an impression, even for partisan political reasons, is totally unjustifiable. But to convey the impression to the hundreds of families of MIAs that an American President deliberately left behind their loved ones and that some of them might still be alive can only be described as obscene.

The committee owes to the MIA families and to history an honest statement of the facts with regard to POWs and MIAs. Throughout America's military history, casualties are divided into three categories—those known to be killed in action; those known to be and acknowledged by the enemy to be prisoners of war; and all others who are classified as missing in action. My statement on March 29 that all of our POWs were on the way home was true to my knowledge then and, in view of what I have seen of the committee's work to date, is true now. Further, the fact that I was not satisfied with the accounting we received for MIAs was true then and is true now. The inclusion of my full answer in this regard in the committee's report is owed not only to those in my Administration who worked tirelessly on this issue at a time many of our critics were sabotaging our peace efforts by denying us the power to enforce the peace agreement, but also, and above all, to the MIA families.

Question 14: It is my understanding that General Scowcroft and Mr. Shields have testified concerning the April 11, 1973, meeting. The suggestion in your questions that I pressured Mr. Shields with General Scowcroft present to announce there were no indications that live U.S. POWs remained in captivity in Indochina is insulting and untrue. My recollection is that I told Mr. Shields we had an equal obligation to find the facts concerning the MIAs as we did to secure the release of the POWs. I also conveyed to him my belief, which I still firmly hold, that it would have been unfair and a disservice to MIA families to raise false hopes without justification.

Question 15: Dr. Kissinger has addressed this question, and I have nothing to add except to emphasize that, as he has testified, we continued to hit the issue over and over again in the Kissinger negotiations with the North Vietnamese. The Dole Amendment that would have authorized use of force to bring about compliance with the Peace Accords was an indication of our continued interest in finding ways to maintain pressure on Hanoi to comply fully with the agreement.•

TRIBUTE TO KEN NAGEL

• Mr. DANFORTH. Mr. President, I rise to pay special tribute to a man who has given much to America. Ken Nagel of St. Peters, MO, a veteran of World War II, remembers the bombing of Pearl Harbor with the pride and clarity of one who was there.

The observance each December 7 of the anniversary is a special and unique occasion for Ken Nagel. Sharing the pride of millions of other Americans, Mr. Nagel was able to call forth the recollections shared by a very few. On that day, he was aboard the USS *Seagull*, a Navy vessel stationed within 3 miles of Pearl Harbor, at Lahaina Roads on Maui Island.

On December 7, he was a witness to history. He saw one of those moments that shape the destines of people around the globe. He can testify to the tragedy that became at last a triumph for America and for America's great and deathless ideals.

As one who was a youngster when Ken Nagel and so many other brave Americans were serving the cause of freedom and democracy, I am pleased that he takes a special interest in sharing his knowledge and recollections with those who know him.

Such willingness to share history with others is a vital way of preserving undimmed the memory of December 7, and of instilling in people today a fuller understanding of the fateful importance of those years of struggle and, ultimately, of victory in the 1940's.•

CENTENNIAL OF WESTERN NEW MEXICO UNIVERSITY

• Mr. BINGAMAN. Mr. President, I rise today to recognize Western New Mexico University's 100 years of distinguished service to the people of New Mexico. Chartered on February 11, 1893, to fulfill the need for teachers to educate the children of local miners and prospectors, the university has expanded its original mission as a teacher training college to become one of the Southwest's outstanding educational institutions. This important landmark provides me the opportunity to offer well-deserved praise to the university and enthusiastic encouragement as it enters its second century of service.

Proudly, I point to the record Western New Mexico University has built since its founding in Silver City by the 30th Territorial Legislature of New Mexico. Student enrollment has grown from 40 students in the inaugural year to more than 2,500 students today. Wonderful ethnic diversity lends additional strength to the cultural and educational experience at Western. This no doubt contributes to the admirable job placement rate of Western New Mexico University graduates—over 86 percent annually.

The university is constantly searching for new ways to enhance and meet the present and future needs of southwestern New Mexico. Examples of this include the recent national certification of the university's child development program. The nursing program expects similar accreditation within months. Augmenting these programs will be a new occupational therapy assistant's program. These additions are in keeping with the spirit of innovation and growth exhibited by the university's founders.

My first impressions of Western were formed in the kindergarten class I attended on the campus in the old training school in 1947. In later years, I came to know each path and tree throughout the campus. I would ride to Fleming Hall each morning with my father and spend time either exploring the science classrooms then located in the basement or studying in the library upstairs. The university was a place to swim, a track to run on in high school, and a library to do research for term papers.

The university is to me what I believe it is Silver City, Grant County, and to all who value it—a resource, a place for enriching life and expanding understanding.

Both of my parents graduated from Western, and my father made teaching at this university his life's work. Teaching is a noble calling. It has been said that the most important work that any of us do is teaching our children. If so, then teaching those who will teach our children must rank near the top of human endeavors as well.

As I age, I frequently find myself impressed with the wisdom and vision of those who came before. That wisdom and vision were in abundance in 1893 when the territorial Governor and legislature founded New Mexico Normal School at Silver City. It was the act of builders—people of great hopes for the future and determination to see those hopes become reality.

Our community, our State, and Nation are stronger, wiser, and more generous because of the learning that has occurred at this place. One hundred years after its birth we need to reaffirm those great hopes. We need to recommit ourselves to the ideals that inspired them to found this university. We need to continue this journey.

"It is, sir, a small college—and yet there are those who live it * * *." Daniel Webster eloquently spoke those words to the Supreme Court in 1818 in defense of Dartmouth College. Those same words capture my thoughts about Western New Mexico University.•

THE NATIONAL GOVERNOR'S ASSOCIATION'S ENDORSEMENT OF WORK FORCE DEVELOPMENT

• Mr. HATFIELD. Mr. President, yesterday, the National Governor's Association endorsed a resolution calling for the Federal Government to make fundamental changes to our current strategies for delivering education and training services in order to build a world-class work force. According to the NGA's resolution, in order to compete in a global economy, the United States must enhance efforts to build partnerships among business, labor, education, and government, and make work force development an integral component of national, State, and local economic development policies.

As a sponsor of the High Skills Competitive Work Force Act of 1992, Senator KENNEDY and I attempted to address many of the problems our country faces in work force development. I would like to commend the Governor's Association and I look forward to working with Senators KENNEDY and KASSEBAUM with the hope that we can craft a revised legislative vehicle which will be brought before this body during the first session of the 103d Congress.•

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Thursday, February 4, that following the prayer, the Journal of proceedings be approved to date and the time for the two leaders reserved for their use later in the day; that there then be a period of morning business, not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 10 minutes each; with the exception of the following Senators who are to be recognized in the order listed and time periods specified immediately following the Chair's announcement: Senator PRYOR for up to 30 minutes; Senator SIMON for up to 30 minutes; and Senator KASSEBAUM for up to 30 minutes; that at 11 a.m., the Senate resume consideration of S. 5, the family and medical leave bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:53 p.m., recessed until Thursday, February, 4, 1993, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 3, 1993:

DEPARTMENT OF VETERANS AFFAIRS

HERSHEL WAYNE GOBER, OF ARKANSAS, TO BE DEPUTY SECRETARY OF VETERANS AFFAIRS.

CENTRAL INTELLIGENCE

R. JAMES WOOLSEY, OF MARYLAND, TO BE DIRECTOR OF CENTRAL INTELLIGENCE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Wednesday, February 3, 1993*

The House met at 12 noon.

Rev. Tommy C. Higle, First Baptist Church, Marietta, OK, offered the following prayer:

Heavenly Father, thank You so much for the privilege of living in this great country. Thank You, Father, for each representative who faithfully serves in this Chamber. Bless each home and family represented here.

Father, give each Congressman the strength and clarity of mind for this busy day. Also give them Your wisdom in their actions so they will merit Your blessings.

Heavenly Father, we all know our weaknesses and shortcomings, but we also know Your strength and righteousness. Lead in the proceedings today so that when the day is done, this Nation of the people, by the people, and for the people is even stronger and better because we sought Your direction. In Jesus name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York [Mr. KING] please come forward and lead the House in the Pledge of Allegiance.

Mr. KING led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REV. TOMMY C. HIGLE

(Mr. BREWSTER asked and was given permission to address the House for 1 minute.)

Mr. BREWSTER. Mr. Speaker, it is a distinct honor and pleasure for me to be able to recognize our guest Chaplain today.

Rev. Tommy Higle has been a most important person in our personal lives for more than 10 years. During our darkest hours, Brother Higle and his wife, Virginia, stood at our sides with empathy, dignity, and calming words that gave Suzie and me the serenity to deal with our most trying times.

Brother Tommy has been an inspiration—not only to Suzie and me and members of his congregation—but also to hundreds of residents of our hometown.

He has been pastor of the First Baptist Church in Marietta for 10 of his 24 years in the ministry and has led our church to increase its membership by more than 50 percent.

In addition, he has authored 13 books and his 14th will be released later this year. These books are being used by more than 5,000 churches in every State of the Union and 17 countries around the world. Wide acceptance of his writings is demonstrated by the fact that churches of more than 45 denominations use these books as Bible study curriculum. He is listed in Who's Who in Religion.

Brother Tommy has traveled extensively in Australia on two separate occasions, being invited by Australian churches to promote his Bible studies. He has also traveled in Israel, Spain, Austria, Bolivia, and New Zealand.

His wife, Virginia, is administrator and editor-in-chief of Tommy Higle Publishers.

Mr. Speaker, I hope my fellow Members will have a chance to visit Tommy and Virginia Higle during their visit to the Nation's Capitol. He is an outstanding minister and they are a notable couple. I am honored this body invited Rev. Tommy Higle as guest Chaplain for today's session.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will limit to 10 Members on each side requests for 1-minute statements.

THE FAMILY AND MEDICAL LEAVE ACT

(Mr. KLEIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLEIN. Mr. Speaker, this week, my colleagues will consider the Family and Medical Leave Act—legislation identical to the bill this House passed last session.

The bill's number, H.R. 1, reflects our commitment, shared by the President, that family leave be a top priority for this Congress.

This legislation is long overdue. The United States is currently the only industrialized Nation in the world that provides no family leave for its workers.

Americans should not have to choose between saving their jobs and caring for ailing parents or children. New mothers and fathers should not have to jeopardize their careers so that they can spend time with newborn or adopted children during their first few months of life.

The Family and Medical Leave Act is not an attempt to increase Government regulation and it is not overly generous; it provides a minimum of job security and health benefits as dictated by compassion and common sense.

Let us send a message that Congress values the American family by sending President Clinton this fundamental legislation.

I urge my colleagues to vote for the Family Medical Leave Act.

INTRODUCING THE COLA BILL

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, today, I am introducing a bill that is amazingly simple. It states that COLA's for Members of Congress may not exceed COLA's for Social Security recipients. It is so simple that it does not sound like something that needs to be legislated—but look again. Special treatment has gotten to be a way of life for this institution. All the loud talk of shared sacrifice gets muffled inside the Halls of Congress, where last year Members received a COLA of 3.2 percent compared with a 3-percent raise for Social Security. To add insult to injury, now the Clinton administration is suggesting that seniors fork over some—or all—of their COLA's to reduce the deficit. Noticeably absent from the roster of deficit reduction targets is the Federal Government itself. No wonder my phones are ringing like crazy and people are furious. Hopefully, my bill will bring the issue close to home for Members—right to their pockets, in fact. If we are going to ask for shared sacrifice, we had better be ready to share in that sacrifice.

□ 1210

APPOINTMENT AS MEMBERS OF PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER. Pursuant to the provisions of clause 1 of rule XLVIII and clause 6(f) of rule X, the Chair appoints as members of the Permanent Select Committee on Intelligence the following Members of the House.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, if I might be recognized to pose a question to the Speaker, I wonder, under the new rules of the House that were adopted on opening day, could the Speaker explain his authority for appointing and removing Members from this select committee?

The SPEAKER. The Chair would advise the Member that the rules of the House as adopted on the opening day provide, in section 6(f) of rule X, that—

> (f) The Speaker shall appoint all select and conference committees which shall be ordered by the House from time to time. At any time after an original appointment, the Speaker may remove Members or appoint additional Members to select and conference committees. In appointing members to conference committees the Speaker shall appoint no less than a majority of members who generally supported the House position as determined by the Speaker. The Speaker shall name Members who are primarily responsible for the legislation and shall, to the fullest extent feasible, include the principal proponents of the major provisions of the bill as it passed the House.

The Chair's interpretation of this rule is that, as in previous iterations of this rule in previous Congresses, there is in the appointment authority to conference and select committees by the Speaker no requirement, as such, for consultation with the minority or any other Members of the House, but it has been the constant practice of Speakers to consult with the minority leadership, particularly the minority or Republican leader, on the appointment of Members from the minority to such select and to such conference committees.

The view of the Chair is that although the rule is similar to previous rules in the terms of appointment, it adds an additional authority to remove Members or to add additional Members not found in previous rules.

It is the Chair's opinion that the practice of comity should be continued, and while the Chair will not state that there are no circumstances in which he would not remove a Member, including a minority Member, from a select or conference committee, it is the anticipation that the Chair would no more indulge in a removal without the consultation and the permission of the minority with respect to minority Members than he would appoint without consultation and the recommendation of the minority.

To state again, the Chair is not saying in every case he will never consider removing a Member, either of the majority or minority, but he would always do that with consultation, and for the vast majority, in virtually unanimous circumstances, it would be with the recommendation and/or the acquiescence or approval of the minority with respect to minority Members.

Mr. SOLOMON. Mr. Speaker, I certainly appreciate that clarification. Naturally we would prefer that there be never any circumstance, but we understand that it is your intention, then, to continue, as has been done in the past, to consult with the minority leader on either the appointment or the removal of any Republican member of any of those committees.

The SPEAKER. The gentleman is correct.

Mr. SOLOMON. I thank the Speaker.

The SPEAKER. The appointees are as follows: Mr. GLICKMAN of Kansas, chairman; Mr. RICHARDSON of New Mexico; Mr. DICKS of Washington; Mr. DIXON of California; Mr. TORRICELLI of New Jersey; Mr. COLEMAN of Texas; Mr. SKAGGS of Colorado; Mr. BILBRAY of Nevada; Ms. PELOSI of California; Mr. LAUGHLIN of Texas; Mr. CRAMER of Alabama; Mr. REED of Rhode Island; Mr. COMBEST of Texas; Mr. BEREUTER of Nebraska; Mr. DORNAN of California; Mr. YOUNG of Florida; Mr. GEKAS of Pennsylvania; Mr. HANSEN of Utah; and Mr. LEWIS of California.

AMERICA IS READY FOR COMPETENT AND PRODUCTIVE LEADERSHIP

(Mr. OWENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS. Mr. Speaker, in his State of the Union Address I hope the President will take the time to tell the full truth about the awful state of the American economy after 12 years of Republican mismanagement. We have a monstrous deficit on our backs after 12 years of savings and loan bank swindles, defense contractor ripoffs, foreign trade sellouts, the building of unnecessary and expensive bombers, and star wars boondoggles. We have had 12 years of greed and mismanagement and 12 years of refusing to invest in the economy.

The infrastructure is crumbling, layoffs are escalating, and benefits and wages are still going down. This chart shows the dramatic drop in the real hourly wages over the last 10 years. The new Democratic administration has inherited a disaster. Emergency action is needed immediately in order to jump start the economy.

I hope the new administration will focus first on human investment. Investment in human resources must be our first priority. We need emergency funding for Head Start, for the Job Corps, for the immunization of children. We need emergency funding for our schools to rehire all the staff that was laid off as a result of budget cuts in the last few years, and we need special appropriations to adjust aid formulas to avoid new layoffs.

Mr. Speaker, after 12 years of gross mismanagement, let us give our Nation competent and productive leadership.

MORE POWER FOR THE PEOPLE, NOT FOR GOVERNMENT

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, this body should act responsibly by voting down H.R. 1, the Family and Medical Leave Act. It is the last thing this economy needs and it is the worst thing working men and women deserve.

How long will it be before we learn our lessons from our mistakes of the past? When will some of us realize that there is only so far a business will bend before breaking? To my fellow colleagues, I say we are nearing that breaking point for too many companies.

I want to make sure that those voting in favor of this bill have no illusions. Jobs will be lost. Businesses will have many new regulations placed on them. Big business may survive, but small- and medium-sized businesses with over 50 employees will sure be in danger.

The cap of 50 employees should tell us this is poor legislation. Is there a reason besides bureaucratic meddling that this number was chosen? Why not 51, or 49, or 60? If it will not hurt business, why does a cap even exist?

I say to my fellow colleagues we must draw the line. Vote against the Government gaining power, and vote for the people who sent you here to represent them.

THE FAMILY AND MEDICAL LEAVE ACT

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, I am proud to rise today to speak in favor of an idea that is basic, that is simple and is long overdue.

The idea is this—that in America, working people deserve some time off to take care of their family and loved ones.

It seems like an idea that is self-evident—that in America your family comes first. That taking care of your loved ones comes first. That our Nation is strong enough and generous enough that we can allow our people to put their family before work every now and then.

Every now and then, when a child is sick.

Every now and then, when an aging parent needs to be cared for because he can no longer care for himself.

Every now and then, when you need to spend some time with your child during their most impressionable, most important years—every now and then when raising your family becomes more important than working to raise your bank balance.

You know, when you get married, you make a pledge—a pledge that you will take care of your spouse in sickness and in health. That is a pretty simple promise. But it is a simple promise that is hard to keep if you can't take some time off of work when you really need to.

And I believe it is the simplicity of this promise, of this bill that makes most of my constituents wonder why we have to argue about its merits here on the floor of the U.S. Congress.

Frankly, my constituents—the working people of the Fourth Congressional District—do not understand why we are still arguing about this issue.

The people in my district who get up every day at 5 a.m. to take the bus or the train to make it to the factory on the other side of town before the bell rings for the 7 a.m. shift, the people who work the overnight shift as nurses and security guards and clerks, the people who protect our city as police officers and firefighters—these people don't think there is much left to debate about family leave.

I know they think the issue is simple. They believe that if a loved one is sick or if they are going to have a baby that they should be able to take some time from work—unpaid time—to concentrate on family concerns.

And perhaps even more relevant to this debate today, to a debate where we are hearing a lot about the concerns of business, is the belief my constituents have about places they work.

They know that a positive working atmosphere, that a business where they enjoy working and know that the owners and managers are concerned about them and their family is a place they are likely to work longer and work for harder.

We also hear a lot about costs in this argument about family leave. But what cost is higher than neglecting our families, than neglecting our children?

Is it really a cost to our society to allow parents to spend a few months with their children when they need them most?

Or is it really a savings? Savings that society reaps from having a few families that are stronger, from having children spend a little extra time with their parents.

I think the answer to that question is simple.

The rest of the issues that have been raised in this debate do nothing but distract us from the basic question—is America strong enough, is America generous enough to do for its working people what so many other nations have done.

I am confident the answer to this question is "Yes," so I encourage my colleagues to vote "yes" on the previous question.

MR. PRESIDENT, LEAVE SOCIAL SECURITY ALONE

(Mr. KING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KING. Mr. Speaker, I am disturbed by the threats from some of President Clinton's advisers to reduce the Social Security benefits of older Americans. As recently as yesterday, a high-ranking administration official stated that plans to freeze or reduce Social Security COLA's are being considered.

It is my hope and the hope of the thousands of seniors in my Long Island district that the President will not listen to the advice of the so-called experts around him. I believe that our seniors deserve the important assurance that their Social Security benefits will be adjusted for inflation.

Rather than targeting older Americans to bear the brunt of deficit reduction, the Clinton administration should be talking about eliminating wasteful Federal spending and providing tax relief so that the economy can grow and revenues can increase.

I am proud to join with my colleagues who will vigorously oppose efforts to balance the Federal budget on the backs of those who can least afford it. Our bipartisan and prosenior message to the President is clear, leave Social Security alone.

□ 1220

INTRODUCTION OF BILL REQUIRING DIRECTOR OF FEMA TO REPORT TO CONGRESS ON NATIONAL WINDSTORM INSURANCE PROGRAM

(Mr. DE LUGO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LUGO. Mr. Speaker, today I am introducing legislation which I hope will focus the attention of Congress on a crisis of national proportions.

Thanks to Hurricane Gilbert in 1988 and Hurricane Hugo in 1989, which devastated my district of the U.S. Virgin Islands, especially the island of St. Croix, and caused hundreds of millions of dollars of damage in Puerto Rico and the Carolinas; and thanks to Hurricane Andrew which caused so much damage in Florida that 1992 is the worst year for property and casualty losses, insurers are now unwilling to write policies in areas where there is the threat of hurricanes or tornadoes.

Millions of Americans in the islands, along the coasts, and in tornado alley from Texas to Illinois in the Midwest, cannot obtain insurance on their homes.

In some areas of this country, both conventional and FHA loans have come to a standstill because insurance is unavailable.

In my own district of the U.S. Virgin Islands, homeowner's insurance capped out last September and since then almost no one has been able to buy a home because lenders will not give mortgages on homes that are not insured. Private insurers are also leaving Florida in droves.

It is clear this country's private insurance industry can no longer respond to the need.

As a result, Mr. Speaker, we should examine the possibility of establishing a windstorm insurance program, similar to the Federal Flood Insurance Program, so that it once again becomes available and at prices people can afford.

The bill I am introducing today takes the first step in solving our national insurance crisis, by directing FEMA to develop such a plan and submit a report to Congress within 90 days of passage.

FEMA is asked to look into: Establishing an affordable windstorm insurance program; sharing coinsurance between the Federal Government and private insurance companies; finding incentives for private insurers to reenter the market; making savings in disaster relief costs if the Federal and private sectors provide insurance together; and, establishing mitigation programs that reduce windstorm damage.

Mr. Speaker, I urge my colleagues, especially those from the coastal States and areas affected by tornadoes, to support this bill. This will be the first step in opening a dialog and drawing up a Federal windstorm insurance program to prevent economic disaster in those areas.

ONE NATION, ONE LANGUAGE

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Mr. Speaker, we Americans are a people from every corner of the globe, every ethnic group, every language known on Earth, yet we are one people, one Nation. Why?

Because we have a wonderful bond called the English language. When immigrants came to America they adopted English so that their children could compete and could assimilate and become successful Americans.

We have not had the ethnic strife that we see in Quebec, Canada, Yugoslavia, and other places around the globe.

All that is now changing in America. In the last election people could vote in seven different languages in San Francisco alone. In many parts of our country, English is not the primary language in schools, and in many parts of America, English is not the language of choice.

This will create tremendous problems for our children down the road. America is no longer the melting pot; America is becoming more like a patch quilt. America is breaking up into different linguistic groups.

Therefore, I have introduced legislation to make English our official language of this country. I do not think it is asking too much for our new arrivals to adopt English as the common language.

If we Americans are to remain one Nation, one people, we have no other choice but to make English our common language. I ask all Members to sign on to this legislation.

VANCE-OWEN PLAN FOR BOSNIA SERIOUSLY FLAWED

(Mr. McCLOSKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLOSKEY. Mr. Speaker, proponents of a more forceful and committed Bosnian policy constantly have been castigated as being indifferent to the dangers of western military intervention and arming the beleaguered Bosnians against genocidal Serb force.

Now with the Vance-Owen, U.N./E.C. proposal in its final stages, the stage is set for President Clinton to exert moral, political, and possibly military leadership at a time that is beyond critical.

Make no bones about it—the Vance-Owen plan is seriously flawed. It rewards genocidal aggression. It exterminates the reality of a democratically elected government. It will lead to further Serb aggression in Bosnia, Kosovo, and Macedonia.

The Vance plan would ultimately involve tens of thousands of U.N. forces in Bosnian peacekeeping. Among them will be thousands of young Americans with the most unenviable and dangerous job of enforcing interethnic neighborhood and community peace in Sarajevo and elsewhere. Talk about quagmires, this would be a quagmire to say the least.

The President should reject the Vance-Owen plan. Put the Serbs on notice that enough is enough—the lessons of Munich are not forgotten.

OPPOSITION TO H.R. 1, FAMILY AND MEDICAL LEAVE ACT

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, I oppose H.R. 1, the mandated family leave bill. This is a costly Federal mandate that we can ill afford.

H.R. 1 claims to be prowomen, but according to a 1991 Gallup survey, if mandated leave is enacted into law, 45 percent of small businesses would be less likely to hire young women of childbearing age.

H.R. 1 claims to be profamily. But, according to the same survey, if mandated leave is enacted into law, 55 percent of the businesses will be more likely to reduce or eliminate other employee benefits such as paid vacations, unpaid personal leave, and health insurance.

H.R. 1 claims to be proeconomic growth. But according to this survey performed by Gallup, 46 percent of all small businesses will be more likely to reduce the number of jobs for low-skilled workers.

In short, Mr. Speaker, H.R. 1 hurts women, harms families, and kills jobs. I urge Members to vote "no."

CUT THE REGULATORY REDTAPE FOR FINANCIALLY HEALTHY BANKS

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, the banking industry has designated this week as "National Cut the Red Tape Week" to draw attention to the growing amount of unnecessary paper work imposed on the Nation's financial institutions.

Behind me I have a stack of regulations. Visualize a stack 12 times that high, almost to the ceiling, and Members will see the regulations coming out of one recent congressional act, FDICIA.

On January 5, this Member introduced H.R. 59 to reduce regulatory redtape for healthy and profitable institutions.

H.R. 59 would eliminate certain unnecessary impediments to lending, thereby freeing up additional capital to lend to small businesses, consumers, and others.

The Comptroller General, Mr. Charles Bowsher, told the Senate Banking Committee "the current system of bank regulation, as a whole, does not undermine the economic incentive for a bank to make sound loans."

This statement suggests that Mr. Bowsher is out of touch with what is happening in the banking industry, and out of touch with reality. Mr. Bowsher needs to get beyond the beltway—to main street America. Unnecessary regulations are consuming too much time and expense for sound banks—with little return by way of new loans for small businesses and the consumer. That must be a vital concern to Congress because, between 1977 and 1987, small businesses produced 11.3 million of the 16.5 million net new jobs.

I urge my colleagues to join me in cosponsoring H.R. 59 to eliminate unnecessary regulatory redtape and the bureaucratic micromanagement of America's financial institutions.

U.S. JUSTICE DEPARTMENT AIDING AND ABETTING NO. 1 NAZI WAR CRIMINAL

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the standard of proof in a murder case is supposed to be guilty beyond a reasonable doubt, but not so in the case of John Demjanjuk, convicted of being Ivan the Terrible.

Not only is there enough doubt to drive a whole truckload of constitutions through, but there is now enough proof beyond a reasonable doubt that a man named Ivan Marchenko is the infamous Ivan of Treblinka. Eighty different people have now fingered Marchenko as Ivan, including two new statements from Israeli investigators.

But the irony is, Mr. Speaker, that Congress created a special investigative unit in the Justice Department to go after these Nazi war criminals, and the way it has turned out, this U.S. Justice Department is now aiding and abetting the No. 1 Nazi war criminal of all time, a man named Marchenko, who is somewhere in Eastern Europe, reportedly alive, doing quite well in a very tranquil setting, while Demjanjuk is in jail supposed to be executed.

I think it is time to get the manhunt on for the real Ivan: Marchenko.

ELKO, NV, THE BEST SMALL TOWN

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, my State of Nevada is known for the glitter and glamour of Las Vegas and Reno. But there is another side to the State. Nestled in the foothills of the Ruby Mountains along the route of the Immigrant Trail is the small town of Elko. They say you can still see the ruts cut into the bedrock by wagon wheels as the goldminers and settlers treked to California. Step into Elko and you know what we mean by cowboy country. It has the timeless quality of the real West where ranchers and Basque sheepherders share the range and the mountains with native Americans and miners. It is a place to hunt and fish, to pursue helicopter skiing or to compete in the cowboy poetry competition. It will come as no surprise today to Nevadans that author Norman Crampton in his, "The 100 Best Small Towns in America," has rated Elko No. 1 out of his 100. He is absolutely correct.

THE FAMILY AND MEDICAL LEAVE ACT

(Miss COLLINS of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Miss COLLINS of Michigan. Mr. Speaker, I rise today with great pleasure knowing that we care enough about the American family to once again bring the Family and Medical Leave Act to the forefront of our legislative agenda. Much has been said about the Family and Medical Leave Act; in fact, I have a stack of letters in my office urging me to vote in favor of this important and historic piece of legislation. And in favor of this legislation I will vote. Yet, there are naysayers to this significant piece of legislation. In fact, we will hear the argument that this bill will destroy small businesses, which are the backbone of the American economy.

This is not a business destroying bill. This is not even a medical or family bill per se, this is a jobs bill. It is a jobs bill because it will protect American jobs, not destroy them.

No longer will an employer have the right to summarily dismiss an employee who had to stay home for 3 weeks with an ailing child.

No longer will the employer, small or large, have the right to summarily dismiss an employee who wanted to spend their last weeks with their dying father or mother; no longer will a sister or brother be afraid to fly across the country to care for that ailing brother or sister with terminal cancer or AIDS.

My fellow colleagues, I believe that if we pass this bill, we have taken a step toward protecting jobs in America.

If we pass this bill we have taken a step toward healing the ailing family in America; if we pass this bill, we have taken a step toward bringing America back to the family oriented country that its Founders intended it to be.

I urge my colleagues to support H.R. 1, the Family and Medical Leave Act.

CUTS IN SOCIAL SECURITY PAYMENTS SHOULD BE SUMMARILY REJECTED

(Mr. ZIMMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZIMMER. Mr. Speaker, I rise to object strongly to any proposal that would limit cost-of-living increases in Social Security payments.

I would like to remind the Clinton administration that Social Security is not a Government handout.

Our senior citizens earned their benefits through years of paying their Social Security taxes.

The administration's willingness to consider using Social Security as a quick fix to balance the budget is alarming. While the President may ultimately back off from the misguided notion that Social Security is no different from welfare, he already has made it clear that he thinks the hard-earned benefits paid to our older Americans should be fair game for budget cuts.

I ask my colleagues to join me in informing the President that any attempt on his part to cut Social Security payments will be summarily rejected.

THE ECONOMY AND CONGRESS: THE BALL IS IN OUR COURT

(Mr. BLACKWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLACKWELL. Mr. Speaker, in exactly 2 weeks from today on February 17, the President will deliver his first address to a joint session of Congress.

In that address, the President is expected to announce his eagerly anticipated program to rebuild the American economy. From that time on, the ball will be in our court.

The President's economic plan will be grounded in three crucial elements—job creation, increased income, and deficit reduction.

I am certain, Mr. Speaker, that each and every one of us is encouraged by the recent economic indicators. Consumer confidence is on the rise. American men and women are once again purchasing homes. Auto manufacturers here in America are clearly optimistic toward the future as well.

There is, however, one element lacking. Jobs. And while growth is a good thing, the bottom line is that economic growth without job creation is both meaningless and pointless.

We must put Americans back to work.

The men and women who fill unemployment offices in every corner of the Nation each and every day, are not just numbers to be figured into a statistic. They are people, with families who depend on them.

In addition, Mr. Speaker, they are people who want to work and be productive, and pay their taxes. It is a simple equation. When we send these people to work, they will pay their taxes, and deficit reduction becomes a reality.

We must have a short-term stimulus package which will put Americans back to work, and rebuild our crippled infrastructure.

In doing so, the President will send a serious message to Congress and the entire Nation that it is time to get moving in the right direction. With nearly 9 million people unemployed, we cannot and must not wait any longer.

PUTTING UNIONS FIRST

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, with each passing day of this new administration it is becoming clear where the White House's priorities lie, not with giving a break to the middle class, not with protecting Social Security recipients, but keeping promises to liberal special interests.

First it was the abortion and homosexual rights groups, and now it is big labor.

In two Executive orders, President Clinton has begun to pay his tab to big labor. The President has stopped the Government from informing many employees of their right to withhold dues that fund the political activity of unions. The President also decreed that all Federal projects must be granted to union contractors or those who comply with all union wage and work rules. And the Washington Post reported this morning that the White House intends to lift the ban that punished the air traffic controllers who violated the law and struck in 1981.

These were the demands made on candidate Clinton by big labor in exchange for their endorsement. It seems that President Clinton is focusing like a laser, but on the issues important to liberal special interests—and not on real Americans. So much for putting people first.

IN SUPPORT OF THE FAMILY AND MEDICAL LEAVE ACT

(Ms. MARGOLIES-MEZVINSKY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MARGOLIES-MEZVINSKY. Mr. Speaker, I rise today in support of H.R. 1, the Family and Medical Leave Act of 1993. This bill represents real support for the Nation's working families.

As a working mother, I know the importance of a strong family leave policy. When I adopted my first child, Lee Heh, in 1970, I was a single parent struggling to balance my obligations to my job and to my child. Without the support of my employer, Barry Nemcoff, I could not have managed these two important parts of my life.

If we are a Nation which truly cares about its families, and I think we are, then we must support policies which allow workers to care for their families. For millions of American women and men, passage of H.R. 1 will simply relieve them of the difficult choice pitting jobs against family responsibility. For these Americans, family and medical leave means securing health care coverage and, most importantly, securing the hopes and dreams for their children. It is time for the rhetoric to end and the change to begin.

Those who challenge passage of this bill as adverse to business interests fail to recognize its impact upon those women and men who now live on the margins—women and men for whom the decision to have a child or care for a loved one pushes them into unemployment compensation lines or onto public assistance rolls. Simply put, our failure to enact family and medical leave exacts not only a staggering emotional cost for the individual family but a staggering financial cost for our society.

My campaign for the U.S. Congress was grounded in part upon a pledge to vote for the enactment of family leave legislation. Therefore, it is only fitting that my first vote on a major piece of legislation be a vote in support of H.R. 1, the Family and Medical Leave Act.

FAMILY AND MEDICAL LEAVE ACT MANDATE DOES NOT COME FREE

(Mr. ISTOOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ISTOOK. Mr. Speaker, there is no such thing as a free lunch, and the mandate we vote on today does not come free. Someone must pay the price, and the price we will pay is jobs.

This bill will kill jobs in America.

We cannot fool Mother Nature, nor the laws of economics. This bill makes it more expensive to hire each worker, so businesses will respond by hiring fewer workers.

No matter how noble the goal may be, this bill artificially raises the price of labor. That makes it more expensive to operate a business and inflates the price of everything. This bill requires companies to pay health insurance for 3 months for people who are not working. But it is more than that. The Congressional Joint Economic Committee says the average cost when someone takes this leave will be $2,000 to pay health benefits and to handle the business disruption.

□ 1240

One national group projects it will cost American business $1.5 billion this year and more next year. Businesses will respond by hiring fewer people in America. Instead they will hire them overseas or south of the border, where they do not have to fight this Government redtape.

So, to those who want to create jobs, this bill says, "adios."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). Pursuant to the Speaker's prior announcement, this concludes the 1-minute statements for this time. Additional 1-minute statements will be entertained later in the day.

PROVIDING FOR CONSIDERATION OF H.R. 1, FAMILY AND MEDICAL LEAVE ACT OF 1993

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 58 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 58

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1) to grant family and temporary medical leave under certain circumstances. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with clause 2(l)(6) of rule XI are waived. General debate shall be confined to the bill and shall not exceed three hours and twenty minutes, with ninety minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, ninety minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, and twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute printed in part 1 of the report of the Committee on Rules accompanying this resolution, modified by the amendment printed in section 2 of this resolution. The amendment in the nature of a substitute, as modified, shall be considered as read. No amendment to the amendment in the nature of a substitute, as modified, shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed, may be offered only by the named proponent or a designee, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. At the end of section 101 add the following:

"(14) SPOUSE.—The term spouse means a husband or wife under the law of any State.".

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, during consideration of this resolution, all time yielded is for the purpose of debate only. I yield the customary 30 minutes, for the purpose of debate only, to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 58 provides for the consideration of H.R. 1, the family and Medical Leave Act of 1993. The resolution calls for 3 hours and 20 minutes of general debate apportioned as follows: 90 minutes for the Education and Labor Committee, 90 minutes for the Post Office and Civil Service Committee, and 20 minutes to the House Administration Committee. All time is to be equally divided and controlled by the chairman and ranking minority member of each committee.

The rule waives clause 2(l)(6) of rule XI, requiring a 3-day layover for measures reported by a committee, against the bill.

House Resolution 58 makes in order an amendment in the nature of a substitute as reported by the Committee on Education and Labor and the Committee on Post Office and Civil Service as original text for purposes of amendment. The substitute which is printed in part 1 of the report to accompany the rule is modified by the amendment printed in section 2 of the rule, which is the text of amendment 28, the Walker-Solomon amendment.

The rule makes in order no other amendments except the three amendments printed in part 2 of the report which are only to be offered by Representative GOODLING or his designee. Each amendment is debatable for 20 minutes to be equally divided and controlled, and the amendmends are not subject to amendment nor to a demand for a division of the question.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, on November 3 Americans expressed their frustration over legislative gridlock. Hardworking Americans said they were tired of feeling as if Congress and the President weren't dealing with the problems that face them every day.

Today, Mr. Speaker, the House of Representatives has an opportunity to demonstrate that gridlock is over by taking action on an issue that is very real to American workers, the issue of how to balance the needs of their families with the responsibilities of their jobs.

Simply put, this bill is a reaction to changes in the American work force.

Today, two-thirds of women with school aged children work.

One-fourth of our children are raised by a single parent.

And one out of every five American workers has some responsibility for an older parent or relative.

In other words, most Americans today are trying to hold down a job while holding together a family. Unfortunately, 150,000 Americans lose their job each year because they have no leave benefit.

The question we are addressing here concerns the options we offer these working Americans when a crisis arises which upsets their careful balance, when they are faced with a family emergency.

Is it right to ask the mother of a child in the hospital to choose between leaving her son or daughter and losing her job just at the moment she needs security the most?

And what about the elederly—those of our parents with severe health problems who fall through the cracks of our long-term-care system? Do we tell Americans that when their widowed father is bedridden, needing constant medical supervision, they cannot stay at home for a few weeks to take care of him without worrying that they will be out of work.

These are not choices we should be asking American workers to make, especially if at the same time we are pushing them to once again be the most productive work force in the world.

Family and medical leave is not some fancy fringe benefit. It is not a vacation. At its most basic level, it provides Americans with a sense of security, with the knowledge that, should a crisis arise, they will be able to fulfill their family responsibilities without risking their livelihood.

Neither is family and medical leave breaking new ground. As a matter of fact, the United States is the only industrialized country in the world that doesn't offer this type of policy.

Eleven States have also decided to offer family and medical leave with few resulting problems.

And major corporations have reported that implementing family and medical leave policies actually saved them money by lowering turnover and training costs, and increasing productivity.

Mr. Speaker, as we consider this bill, let's not forget the message that we time and again give our young, "Work hard, raise a family, always care for your parents."

Work and family—these are the values that hold this country together.

On this very day, thousands of Americans, in each of our districts, are choosing between beginning a family and staying on the job.

They're choosing between work and caring for an older parent.

By forcing workers to make these choices, we are not only harming families but we are harming business. Because choosing means one side losing.

This bill defuses some of that tension by creating a balance between family needs and workplace reality.

Twelve weeks of unpaid leave spent with a new baby or a hospitalized parent is not a vacation; it is an option that every working American deserves.

I hope that after 7 years of hearings and debates, after substantive compromises to meet the needs of businesses, we will not today be distracted by hypothetical or last-minute proposals.

H.R. 1 is a reasonable bill, one that has bipartisan support and which passed both the House and the Senate last session. It has the strong support of the new administration and the American public.

Mr. Speaker, I say to my colleagues that the choice today is simple: You are either for or against the concept of family and medical leave.

I encourage my colleagues to adopt this rule.

□ 1250

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my colleague, the gentleman from Tennessee [Mr. GORDON], has thoroughly described this rule, and I am strongly opposed to it for several reasons. I urge the membership to vote down the previous question. I urge the Members of this body to vote down the measure.

Mr. Speaker, the Family and Medical Leave Act is a comprehensive measure which will impact the majority of our Nation's employers and workers. I do not think any of us are opposed to the concept of providing leave to employees after the birth or adoption of a child or to take care of themselves or a family member during a serious illness.

However, Mr. Speaker, to my knowledge no studies have been conducted which indicate the need for Federal legislation, and I do not think the Government should be mandating leave policy. In fact, according to the National Federation of Independent Businesses, approximately 93 percent of our small businesses already offer such leave to their employees. Also, some 33 States have passed laws requiring similar leave policies. I am not convinced that this legislation is really necessary.

But if we are going to consider this measure, we need to do it thoroughly and allow all Members the opportunity to review the bill and the committee reports and to offer amendments. This rule prohibits the right of Members to fully participate in the legislative process.

By waiving the 3-day layover rule Members were not given sufficient time to review the committee reports, which were filed just yesterday. Some will argue that the House has debated and voted on the legislation five times over the last 10 years. Many of us have been here for all five votes. But there are 110 new Members, 25 percent of this body, who are considering this issue for the first time. They deserve the time to educate themselves on the provisions of the bill, and they deserve the right to offer and vote for amendments.

There were 30 amendments submitted to the Committee on Rules for consideration by Members on both sides of the aisle. All of them addressed important provisions, and all of them deserve to be considered here on the floor. We certainly are not pressed for time in our legislative schedule, yet only three amendments were made in order under this rule.

Mr. Speaker, the gentleman from Iowa [Mr. GRANDY], the gentleman from Utah [Mr. ORTON], and the gentlewoman from Washington [Ms. DUNN] have developed a bipartisan substitute which would provide a tax incentive for employers who offer family leave and medical leave. I personally think this is a more appropriate approach and deserves consideration here on the floor. But this substitute was not made in order. No substitute was made in order. The open rule request was defeated by a partisan vote.

Mr. Speaker, I urge my colleagues to oppose this rule and vote down the previous question so that we can have an open rule which the membership richly deserves.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], chairman of the Committee on Rules.

Mr. MOAKLEY. Mr. Speaker, I rise in strong support of the Family and Medical Leave Act. After 7 years of debate, five votes, two Presidential vetoes, it appears likely that this profamily legislation will finally be enacted and the gridlock will end.

The Family and Medical Leave Act is a sound and reasonable policy; it provides job security for individuals who need to take leave to care for a family member.

Nowadays, economic necessity dictates that two parents work in order to make ends meet. Two-thirds of women with school-age children are in the work force. It is unconscionable to make them choose between working and caring for a new child or sick parent. Yet, most Americans do not have job protection when they need to take a leave of absence for a family emergency. A recent Bureau of Labor Statistics study found that only 37 percent of female employees in companies with more than 100 employees were covered by maternity leave, while only 14 percent of all female workers in companies with fewer than 100 employees were covered. The Family and Medical Leave Act addressed these changes in the composition of the work force and provides job security for working families.

This is a very modest proposal that should not be a burden on businesses. A GAO report found that family and medical leave policies reduce turnover, and eliminate unnecessary hiring and training costs. The report further found that the cost to businesses is less than $5 per employee—a small price to pay for valued employees.

One of the most important provisions of this legislation is that it guarantees a continuation of health benefits for working families. The spiraling cost of health care can financially devastate uninsured families at a time when they need the benefits the most.

Additionally, a continuation of health benefits will enable families to receive preventive care and immediate treatment rather than neglect the problem until it worsens, and thus, costing us all more. The Family and Medical Leave Act sets a standard that is long overdue in today's job market.

Let us join with virtually every other industrialized nation, and more than 30 States, and demonstrate our commitment to family values by passing the Family and Medical Leave Act.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. DREIER], a distinguished member of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I rise in strong support of the concept of family and medical leave. I hope very much that the other 7 percent of the businesses in this country which do not provide a family and medical leave program will do that. I think that they would have an incentive to do it if we had allowed for consideration of the Grandy amendment in this measure, but tragically we have not.

What I am saying, Mr. Speaker, is that 93 percent of the businesses in this country today do provide a family and medical leave package. The thing that concerns me most about this legislation is that I believe it creates the potential for major discrimination against women of childbearing age. In 1991 the Gallup organization did a survey in which they found that 45 percent of the businesses would not hire women of child-bearing age if this measure were to go into effect.

It also seems to me, Mr. Speaker, that, as we look at the issue of unpaid leave, this discriminates against the people who really do need to deal with the question of leave. This favors those who can take unpaid leave because not every worker can afford to do that.

I urge opposition to this rule, Mr. Speaker. We can come up with something better that would be fairer for working Americans.

Mr. GORDON. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I rise in support of House Resolution 58, which provides for the consideration of H.R. 1, the Family and Medical Leave Act. House Resolution 58 makes in order three amendments which will be offered by the ranking Republican on the Education and Labor Committee, Mr. GOODLING.

While I am opposed to all three amendments and would urge my colleagues to vote against them, I do believe they are offered in good faith and that the gentleman from Pennsylvania has the right to be heard.

By providing for 3 hours and 20 minutes of general debate, in addition to the debate on Mr. GOODLING's three amendments, I believe this rule will give all interested parties an opportunity to speak on this important profamily legislation.

Mr. Speaker, today we have the chance to pass legislation that will not only help American workers, but will also strengthen American families. We have spent 8 years debating this issue, and today we'll spend about 8 more hours. That is enough. The sponsors of this bill, both Democrats and Republicans, have already accepted enough modifications to address the concerns of the opposition. We have here before us fair and even-handed legislation that should be passed overwhelmingly without amendment.

I ask my colleagues to support this rule, but to oppose all weakening amendments that it makes in order. And—of course—I urge all Members to vote "aye" on final passage of H.R. 1, the Family and Medical Leave Act.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, today is an exciting day for this Congress and for our country because today we will vote on long overdue legislation for American families, and we have a President who will sign the bill; a President who is committed to providing strong protections for American families.

□ 1300

The enactment of this bill would truly put people first.

We all know that this bill is about families. It is also about making our work force more competitive by lifting the morale of our workers. It is about ending gridlock because this legislation is a true compromise.

This legislation is a real compromise; it provides workers with 12 weeks of unpaid leave to care for a parent, spouse, or child with a serious medical illness, or for themselves, and to care for a newborn or adopted child. It only applies to certain employees in businesses with 50 or more employees.

Without this bill, American workers must choose between their families and their jobs at times of serious family crises. Our workers deserve better choices than these. This legislation is what the platform President Clinton campaigned on is all about—weighing the concerns and needs of businesses with those of individual workers and their families, distributing the burden evenly for a healthy, fit economy and work force. It is about compromise. It is the least we can do.

Mr. Speaker, I urge my colleagues to join in supporting the Family and Medical Leave Act. American workers and their families deserve a fighting chance.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, let me begin by saying that I have supported family leave for the four Congresses I have served in this body and I have opposed federally mandated family and medical leave at the same time. That is not inconsistent. Right now employers in this country are spending $474 billion a year in benefits, 16 percent of compensation. A full 80 percent of those, a ratio of 4 to 1, are voluntary benefits.

We have not seen fit in the course of labor law in this country to mandate benefits beyond Social Security, unemployment compensation, Medicaid, and five other items. Now, what we do today in H.R. 1, if we adopt this rule and do not allow the amendment the gentleman from California [Mr. DREIER] referred to to be made in order, is this: We will tell all those workers out there who are supposedly entitled to something under this bill that they will have to choose between employment security and economic security because, yes, they will get to keep their jobs if they have to go home, but if they have to go home for an extended period, they will not be able to get any kind of wage replacement because the employer does not have to provide it, and in most cases cannot and will not, if the mandate is put in place.

A lot has been made about the sins of commission that this bill makes. They talk about the loss of jobs, 60,000 jobs, and I am concerned about that. I represent small business. But I want to talk about the sins of omission. I want to talk about all those employees who are automatically excluded under this because we have an arbitrary threshold of 50 employees or less. Ironically it is those people who work for small employers, who probably are making the low incomes, who live from paycheck to paycheck, and who need this wage replacement. And the median income in this country right now, Mr. Speaker, is $29,000; 59 percent of the workers in this country do not earn that much.

So this is a right without a remedy. What good is a benefit if one cannot use it?

A lot has been made by speakers on the other side about the fact that every industrialized nation except the United States has some form of leave. That may be true, but let me read another quote to the Members about industrialized nations:

> Every industrialized nation recognizes the importance of strong families in its tax code. We should, too.

The author of that remark is the President of the United States Bill Clinton in his book "Putting People First." With that in mind, the gentleman from Utah [Mr. ORTON] and myself, along with the gentlewoman from Washington [Ms. DUNN] and the gentlewoman from Ohio [Ms. PRYCE] and Mr. GOODLING of the Education and Labor Committee, have offered the Family and Medical Leave Account Act, not because we are opposed to medical and family leave but because we are for a benefit that people can really use, and that involves a tax incentive to allow wage replacement.

If we want to talk about Europe as a model, I would remind my colleagues that all 28 countries in Europe have statutory entitlements for paid leave and they all involve a contribution between the employer, the employee, and in some cases, the government.

What we are trying to talk about today and why we ask Members to defeat the previous question is because in a few weeks we will be talking about investment tax credits, and we will probably be referring to plant and equipment. Today we talk about a tax credit for human capital, an IRA for leave, if we want to express it that way.

Let me address one concern I have heard used as a counterpoint to this proposal: It costs too much. The Joint Tax Committee today scored the family and medical leave account as a total cost of $416 million over 5 years. The GAO has scored the hidden costs of family and medical leave, H.R. 1, at somewhere between $600 million and $7 billion a year.

So let us not beguile the taxpayer on this. It is easy to be against the previous question and be for parental and medical leave, but we must let the debate go further.

Mr. Speaker, I ask the Members to please vote "no" on the previous question and continue the debate.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, Congress talks profamily. The rhetoric never stops, but the truth is the laws never equal the rhetoric in America.

The laws in America are quite clear. If you take that minimum-wage job, you will lose your medical card, and if you choose to raise a family, you can in fact lose your job. I say to the Members, it is as simple as that.

If everybody is so profamily, why is America the only industrialized nation in the world to discriminate against working families? And just take a look at the law. The sad fact is that until Congress takes positive legislation action, Congress and our laws will simply be considered stone-cold, antifamily, empty rhetoric.

Mr. Speaker, let us pass the family and medical leave bill, and let us also work on people who do not have to give up their medical cards by going to work.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to a freshman Member of this Congress, the gentlewoman from Washington [Ms. DUNN], who is the newest member of the Joint Committee on the Organization of Congress.

Ms. DUNN. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, today I rise in opposition to this rule and to H.R. 1, the Family and Medical Leave Act, not only because H.R. 1 is antiwoman and antibusiness, but because a better alternative is not being allowed to be considered.

Mr. GRANDY, Mr. ORTON, and myself, yesterday voiced our support for an alternative to H.R. 1 which would have provided truly attainable benefits for the Nation's workers. Certainly, all of us can agree with the goal behind H.R. 1, and I applaud the interest of the Clinton administration in promoting the welfare of our Nation's families. However, I am very disappointed that this rule does not allow the House to consider a more reasonable alternative that would not give rise to discrimination against women of childbearing age as H.R. 1 will, in my judgment.

Today, I pledge to work diligently with Republicans and Democrats in the search for hope and opportunities for our families, but, as a woman who is concerned about our economy, I won't be able to support H.R. 1.

A closer review of H.R. 1 shows that this bill will serve to the detriment of the economy, small business, and more importantly, it will hurt the very employees the legislation is designed to help—women.

Mr. Speaker, distinguished colleagues, I think we all know that in our society, when a child is born or a loved one is ill, it is the woman who will most likely bear the burden of caring for that infant, or caring for that sick or aging parent. This bill is entitled "the Family and Medical Leave Act," but, the great and disproportionate impact will fall on the shoulders of American women.

By the year 2000, 51 percent of the workers in small businesses will be women. And currently, 65 percent of all American women in their childbearing years are in the labor force. Given these statistics, it is apparent that we must reflect upon how business—and particularly small business—will react toward a prospective young female employee given that this unfunded Federal mandate adds significantly to the cost of her employment. We place these women of childbearing age in a subtle trap where they are pitted against older women and male counterparts.

Mr. Speaker, I urge the full House to vote against this rule or to defeat the previous question when the opportunity arises, and give our proposal a flexible, reasonable alternative that enhances the status of women in our economy, and particularly in small business. The House should be given a chance to debate our alternative. It would cover more women, men, and ultimately benefit more children by providing tax incentives to small businesses. it would provide the flexibility and the opportunity to empower employees with a family leave package that is tailored to the specific needs of the individual.

I urge my colleagues to defeat the rule and vote "no" on the previous question.

□ 1310

Mr. GORDON. Mr. Speaker, for the purposes of debate only, I yield 1 minute to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Speaker, it has been pointed out several times in remarks about the Family and Medical Leave Act that virtually every other industrialized nation has a similar law—and, indeed, that is an important fact.

But Mr. Speaker, we should want this law not only because it will raise America to the standards of other nations, but because it is the right thing to do for our businesses, our workers, and the families of America.

As a manager, you can often tell when otherwise trustworthy employees are not being entirely accurate about why they can't show up for work.

They may cite the stomach flu or a doctor's appointment, but one can tell from their voices that they have to stay home to take care of their children or a member of their family. They should not have to lie. Our laws should promote work policies that encourage people to do the right thing and that are fair to the worker, good for business, and promote healthy families.

Mr. Speaker, my support of the rule and H.R. 1 fulfills these goals, and I urge my colleagues to join with me in supporting it. It's the right thing to do for our constituents and our country.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I rise in opposition to the rule, not on the basis of the merits of the bill. I will address that later. But I think that we have a rule here that is more a gag rule than it is a legitimate rule.

It is kind of sad to see that the Committee on Rules is doing a lot of what they have done before, just going along with what party discipline might suggest. Thirty Members trekked up to the Committee on Rules, waited for many, many hours, and then, with a lot of time in preparation on their amendments, only three amendments were allowed. Those were three amendments which the chairman of the Committee on Education and Labor, the gentleman from Michigan [Mr. FORD] said he had no objection to.

I do not know why we have a Committee on Rules if, in effect, the only amendments which will be allowed are those to which the committee of jurisdiction has no objection.

I had one of those amendments, and I think that I have a difficult time going back to my district to try to explain why an amendment which would have the effect of eliminating the exception of Congress in regard to having the employees of the House be able to bring suit against Members of Congress, why that kind of amendment has not been authorized.

H.R. 1 maintains the exception for Congress, which it has done with the Civil Rights Act and the ADA. We are not about to be dragged into Federal court by providing its own in-house rules. That is, we set up procedures and remedies under the House Office of Fair Employment Practices as the sole remedy for any House employee who may feel that there is a violation of H.R. 1 that has occurred.

In effect, we, the Members of the House, become the friendly prosecutor and the judge and the jury of all complaints made by any of the 12,236 House employees. And by the way, those provisions, those hearings are all secret. The press is not allowed. The people are not allowed. They will publish a decision at the end, but that is all there is to it.

Now, that would be unthinkable in private business. Say IBM or General Motors, just think if we would say to them that "You folks will have the right to be able to dispose of complaints of all of the thousands and thousands of employees by using your own in-house procedure." That, I think, is just untenable.

We are talking here in terms of the private sector, of having them really face some big damages, obviously. If they are dragged into Federal court, just the expert witness fees and just the legal fees alone can be tremendously expensive, but there are all kinds of potential violations under the act, including charges of employer retaliatory discrimination against employees, damages which include recovery of wages, salary or employment benefits or other compensation denied or lost, plus interest, liquidated damages, too, and equitable relief, including employment, reinstatement and promotion, and the list goes on and on.

If the Committee on Rules will not even allow that kind of an amendment just to be debated on the floor of the House, my only explanation to the people back home is that, well, it is a gag rule. I cannot really explain why Congress continues to do these things.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, we are about to consider legislation that speaks to preserving the very nucleus of our Nation, the family unit. For too long we have expected our families to survive under legislation that is not only unfriendly, but downright hostile. We must begin today by sending a signal that to our fellow Americans that we will not put them in the position of having to chose between caring for a child or aging parent, and losing their jobs. Passage of the Family and Medical Leave Act would guarantee 60 percent of all working Americans the right to unpaid leave when circumstances in their lives demand it. It is a national disgrace that more than 150,000 people lose their jobs every year because they have to take time off to care for a loved one. Let this Congress be the one that says, no more. We are compassionate, intelligent people who think it is totally unreasonable for Americans to have to chose between caring for family members or putting a roof over their heads. The Family and Medical Leave Act is considerate of families and small businesses as well. It is a win-win situation, let us do this, and all of America wins.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I would urge Members to vote against the previous question and against this rule.

We are 2 weeks into the new administration now, and I guess one could forgive them for not having a particular game plan, economically, or to produce jobs. I heard during the course of the campaign, "We are going to put right up on the front burner the creation of jobs."

Here we are this week first with a family leave bill that will not create one job. Let us face it. We cannot go out there and put a mandate on industry and business and say, "Now, would you please create some more jobs for us." It works exactly the opposite way, believe me.

Then tomorrow we are going to consider motor-voter registration. That legislation surely won't create jobs. And then I suppose maybe the third bill coming down the pike will be campaign reform. What kind of jobs do we create with that bill?

We are asking for an open rule today to discuss and debate some of the aspects of the family leave mandate legislation. The gentleman from Iowa [Mr. GRANDY], a few moments ago, raised a very legitimate question that I have. Why this arbitrary line of 50 or more employees? Is it any different for people who work for an employer with fewer than 50 employees or more than 50? It just does not make sense. Why do we draw the distinction?

I've listened to all these bleeding hearts about how we really are going to help the family by passing this particular piece of legislation. I would say to my colleagues, there are so many things here that ought to be more fully debated. I for one want to make sure there are some safeguards here, for example, to ensure that the leave really is for maternity leave or for a real crisis in a particular family. Is there doctor certification involved? How much does an employee have to do to justify the request for leave?

□ 1320

Now we would like to think all our employees are absolutely honest and would ask for leave unless it were absolutely legitimate. I will tell the Members, we have employers out in my area where the employees work at a business, and also farm a little bit on the side, and there are certain times of the year when they would like to take maybe a couple weeks off, do the farm work or planting or harvesting. Is it possible under the guise of an urgent medical problem in the family to request leave for the wrong purpose? What kind of checks and balances are there?

I just think there are enough questions to be asked out there that, as noble as the effort may very well be, we ought to have an open rule, an opportunity to debate it freely, and allow Members to offer amendments. We have some good ones crafted on our side that have been offered by some very knowledgeable people who have studied the problem.

This is a debating society. We ought to give Members an opportunity to do just that and, if we cannot win it on a vote, I will stand by that. For the moment, however, I would urge Members to vote down the previous question and against the rule.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, nothing is more devastating to a parent than the serious illness of a child. Add to that the fear of losing a desperately needed job, and the burden is unbearable.

Last year, after a barrage of rhetoric about the importance of family values, George Bush vetoed the Family Medical Leave Act—legislation that would ensure that parents do not have to choose between caring for a sick child and keeping the job that puts food on their table.

Now, we again take up this legislation, but this time the bill will be given to a President who will sign it.

Throughout his campaign, President Clinton promised he would fight to help middle-income Americans—that he would work to strengthen the family. His call for swift enactment of the Family and Medical Leave Act shows his commitment to keeping his promises.

The family and medical leave bill will ensure a family friendly work environment for millions of Americans. It provide up to 12 weeks of unpaid leave to hard-working parents to care for a sick family member or care for a newborn baby. Small businesses, those with less than 50 employees, will be exempt from this requirement.

All of our major trading partners—Germany, Japan, the EC countries—and every other industrialized nation have family leave laws that are much more generous than this. It is a work policy that is cost effective and long overdue. And it will make us more competitive.

Americans should not have to choose between their jobs and caring for newborn children, between their jobs and sick parents, or between their jobs and their health.

We must pass this important legislation without delay—without obstruction—in order to start addressing the real needs of America's families.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida [Ms. FOWLER].

Ms. FOWLER. Mr. Speaker, this legislation has been put on the fast track to enactment, and as a new Member of this body I must say I am very uncomfortable with this process.

We were asked to draft amendments to this bill without benefit of a committee report. There are nearly 60 full-time staff on this committee, and they couldn't produce a report before consideration of this bill.

Maybe the bill is so complicated that the staff needed extra time to draft the report. All the more reason the leadership should have taken more time before bringing this bill to the floor.

So I oppose the rule because it, and the three amendments it allows, were drafted in the dark—without benefit of a committee report.

Absent that report, my colleague from Florida, Mr. MICA, submitted to the Rules Committee what I believe to be a reasonable and prudent amendment to this bill.

Included in H.R. 1 is a provision that sets up a commission to study existing and proposed leave policies, and to determine the costs and benefits.

The amendment by the gentleman from Florida would have retained the commission and stopped implementation of the rest of the bill.

It makes no sense to pass a new Federal mandate while at the same time acknowledging that we don't know enough about its possible effects on the economy.

Because the Rules Committee chose to reject this commonsense amendment and it chose to rush this process without benefit of a committee report, I urge my colleagues to oppose the rule.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I am here today to urge my colleagues on both sides of the aisle to support the family and medical leave legislation.

Before being elected to serve in Congress, I was a human resources manager and private business owner for over 20 years. I know from firsthand experience the true value of family leave policies, and to employee and employer alike, I have encouraged my clients to adopt similar policies.

Mr. Speaker, no American worker should have to choose between caring for a family member and the job that provides for that family. This bill provides a modest leave policy so that employees may keep their jobs while caring for their family members during crises.

Beyond that, Mr. Speaker, these policies make good economic sense. Given a sense of job security, employees are more loyal, dependable, and productive. In fact, Aetna Insurance reports that their leave policy, much more generous than this bill, saves over $2 million annually in reduced turnover costs.

Mr. Speaker, most other industrialized nations have family leave laws that are broader than the bill proposed today. In order for the United States to compete in the global economy, we must have the most productive and efficient work force possible. This legislation, H.R. 1, is an important first step in building this 21st century work force.

I urge my colleagues to support H.R. 1 and the rule.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to express my thanks to the Committee on Rules for the self-executing amendment that they have put into this rule, which was an amendment I presented before the committee yesterday to define the term spouse. It is very unusual for me to get a self-executing amendment in a rule. I know that many Members on the majority side have on many occasions wanted to execute me. This is the first time they have done so successfully in the recent past. However, I do appreciate the fact that we now have included that in the bill, because I think it does provide a definition that was much needed.

It is clear, however, that this bill has nothing to do with families. It has a lot to do with trail lawyers. That is the reason why we had to put that definition in there. The administration supports this bill largely because this is a major trial lawyers' bonanza bill.

We in the committee attempted to get this bill amended to have it regulated by the Federal Government. Oh, no, we could not do that. The only regulation we were going to do on this bill was in the courts. Why in the courts? So that the trial lawyers can pick this bill apart, go after every employer in the country that is covered, and just pound them day after day.

Do the Members want to know why Congress is not covered in this bill? Because we do not want the trial lawyers on our backs. We do not want to have to defend the practices in our office. We do not want to have to defend the practices in our committees. So what do we do? We exempt Congress.

When we wanted to offer an amendment, did the Committee on Rules make that amendment to cover Congress under the bill in order? No. That is one of the amendments that was frozen out. We will not be able to do that.

This bill, this bill will not help families because families making $29,000 on an average in this country cannot afford to take unpaid leave. Who will this bill help? It will help a whole bunch of lawyers who want to take this bill, page after page of it, pick it apart, take employers to court, and have themselves a ball. There will be lawyers who will make millions of dollars out of this bill. The people who paid for the campaign of the President will make a bonanza out of this bill. American families will be harmed by this.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from Utah [Ms. SHEPHERD].

Ms. SHEPHERD. Mr. Speaker, today we offer security and solace to hardworking Americans who have labored too long without the job security that the Family and Medical Leave Act guarantees.

After today, there will be no more tragedies like James Callor's, the Utah man who was denied leave from his job to care for his 6-year-old daughter, who died 3 weeks later. Today, we take a major step to ensure that no American—no mother, no father, no employee with an ill parent or sick child—will be forced to choose between employment and compelling personal responsibilities.

As a small business owner, I personally, experienced the amazing results of family and medical leave. When I made a real, solid commitment to my employees, they did the same for me. Far from strapping my business economically, family and medical leave created strong bonds between myself and my employees. Our cooperation naturally led to profitability and prosperity.

Mr. Speaker, today we cast a vote for American families. We cast a vote for American employees. We cast a vote for American business. I urge my colleagues to support passage of the rule and join me this afternoon in supporting the Family and Medical Leave Act.

□ 1330

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. PRYCE].

Ms. PRYCE of Ohio. Mr. Speaker, I rise in opposition to the rule, and I am disappointed that true and meaningful Family and Medical Leave Act will not be considered. Now is not the time to shove restricted Federal mandates down the throats of American businesses and American families. As we try to work our way out of this recession, a one-size-fits-all federally mandated family leave plan will just hamper our economic recovery and impede our competitiveness.

Instead, as the gentleman from Iowa [Mr. GRANDY] suggests, let us give employers the flexibility to decide which benefits they can afford to offer and which ones are most suited to the diverse needs of today's work force and today's employees. That is why I support the Grandy-Orton proposal which would provide tax incentives to fund accounts for paid family and medical leave, giving workers a wage replacement during their time off. Unfortunately, the Rules Committee did not want the full House to have the opportunity to vote on this commonsense approach to family leave.

When we take up H.R. 1 later today, let us remember that costly Federal mandates are not the way to go. Tax incentives and employer flexibility will help meet workers' needs and ensure a good work force.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from California [Ms. SCHENK].

Mr. SCHENK. Mr. Speaker, I stand before this body as a new Member. But long before coming to this House, I had and continue to have many other life roles. I am a wife, a stepmother—and a daughter.

It is because of this life experience—shared by millions of American women—that I support the Family and Medical Leave Act.

I have had the personal experience of sitting by a sick parent's hospital bed day after day, hurting and worrying about my parent. But I was one of the few lucky ones—I did not have to also worry about losing my job. Most others in a similar circumstance are not so fortunate.

The Family and Medical Leave Act will not only allow a person a minimal level of job security when faced with the need to care for a newborn, a sick child or a spouse—but equally as important, the act will afford adult children the same minimal level of job security when faced with the caretaking responsibilities for elderly sick parents.

While the act applies equally to men and women, the statistics are unequivocal—the burden of caregiving for aging, ill parents falls most heavily on daughters and daughters-in-law.

Two-thirds of the nonprofessional caregivers for older, chronically ill, or disabled persons are working women. Caring for elderly parents has not only forced women to cut back their much needed working hours, take time off without pay, rearrange their job schedules. But worst of all, such care has caused them to lose their jobs.

Also, let us not forget that more often than not these same women are faced with responsibilities for their own children. Women can expect to spend 17 years of their lives caring for their children and 18 years caring for an elderly relative.

Let it not be said that the 103d Congress allowed this double-edged responsibility become a double-edged sword. Let us quickly and boldly pass the Family and Medical Leave Act.

I urge my colleagues to support the rule and the bill.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. GOSS], a distinguished member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to this rule—and I must admit that I am quite disappointed that we come to the floor today under the shadow of a highly restrictive rule, even as we launch the reform Congress and take up an issue of tremendous importance to American families and businesses. It just does not make sense to me that we should be constrained by a closed rule—we had about 30 amendments offered and we spent almost 5 hours in the Rules Committee hearing intelligent and thoughtful testimony from Members with a sincere interest in producing the best possible family leave legislation. In addition, we have 110 new Members in this body who have not been privy to previous years' discussion on this issue who would have undoubtedly benefited from full and open debate on this floor. It is because of them, primarily, that I also object to the fact that we were forced to waive the 3-day rule, requiring reports to be filed and available for Members at least 3 days before floor consideration of the bill. In this case, Members had barely 24 hours to review the committee report. Finally, as we look at the week's schedule of business in this Chamber we find ourselves in the enviable position of actually having time for extended debate. For all of these reasons I am dismayed and somewhat perplexed by the majority's unwillingness to open up its bill for substantive debate, beyond the specific three modifications being proposed by Mr. GOODLING. That being said, I also wish to register my opposition to the bill as it stands—and I urge my colleagues to defeat the previous question to give us a chance to open up the process. The bill we have before us, while striving for an admirable goal of helping Americans balance their work and family responsibilities, will, I am afraid, have unintended consequences, not the least of which will be indirectly harming the very people it seeks to protect. I am opposed to the notion of mandating a Washington-driven leave policy that ignores specific circumstances of individual workers and employers. In my view, such mandates will lead businesses to seek ways to minimize their risks and cut their losses. As it now stands, this legislation does not account for the inevitable costs associated with its mandates—who will pay for the cost to the employer of having to hold jobs open, of continuing to provide health benefits to workers who are on leave and of litigation costs in the inevitable efforts of some attorney to make a case that the new rules were violated? There is no free lunch—those costs will be felt, and I would argue the consumer will feel them, the economy will feel them, and job seekers will feel them, too. In my view, we are still lacking empirical evidence to support imposing such a sweeping mandate on our Nation's business, especially at a time when we desperately need to be encouraging job creation, productivity, and business expansion. Finally, Mr. Speaker, let me say that I am disturbed by the effort on the part of the authors of this bill to convince the American people that, for a change, Congress is doing the responsible thing and subjecting itself to the mandates it is imposing on the rest of America. Although this bill states that Congress, too, must comply with its provisions, there is one important difference: The Congress does not face the same degree of enforcement that other businesses do—in fact, as the bill now stands it is Congress that is charged with enforcing this mandate—on itself. Judicial remedies are denied to Hill employees.

Mr. Speaker, amendments were offered on both sides of the aisle that would have corrected some serious problems with this legislation—but all except three to be offered by Mr. GOODLING were defeated on party line votes. Although we might have expected as much—given the comments made by speaker FOLEY about the majority not even attempting to be fair when it comes to the rules committee—this is certainly not a good way to start off the new Congress. I urge defeat of the previous question and this restrictive rule.

□ 1340

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, as a working mother with two children and as the Representative in Congress of tens of thousands of other working parents in New York City, I rise to voice my strong support for the Family and Medical Leave Act.

As my 12-year-old daughter might tell you, this bill is a no-brainer. Every industrialized nation in the world has adopted a policy allowing workers time off to care for a new baby or an ill family member. It is ridiculous, and profoundly embarrassing, that we still do not have such a policy.

The bill we consider today is modest. It requires that companies provide only unpaid leave. It limits that leave to 12 weeks and exempts all businesses with fewer than 50 workers.

Yet this bill is an important step in the right direction. For a nation tired of gridlock and desperate for change, this bill embraces two fundamental human values—compassion and responsibility. It empowers workers to do what is right for their loved ones without fear of losing their jobs. Is that not what government is all about? I can think of no better way to begin setting a new direction for our Nation than quick enactment of this legislation.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I rise today once again in support of the Family and Medical Leave Act. For many of us, it has been a long and arduous struggle to assure that this bill becomes law.

Just last September, I stood here at this same spot urging my colleagues to vote to override President Bush's veto of S. 5. Unfortunately, we were not successful. However, times have changed dramatically and I have a renewed confidence that this time the outcome will be different.

H.R. 1 is a family and medical leave bill that is equitable, sensitive to the needs of our families, and reflective of sound business practices. In fact, a September 21, 1992, editorial in Crain's New York Business, a well-respected New York business weekly and successful small business, supports family and medical leave. The company has voluntarily put in practice flexible working arrangements, including shortened work weeks, splitting a position, and unpaid leave. The editorial concludes that—

> Not only can (we) manage more flexible arrangements to accommodate the needs of working parents, but it is in (our) own best interest to do so.

Under leave to include extraneous material, I will include this editorial for the RECORD.

While many businesses have concluded that flexible work arrangements are beneficial for both employee and employer, others have lacked the foresight and sound business sense in establishing such programs. That is why Federal legislation is required.

I urge my colleagues to vote in favor of H.R. 1. The time is right for family and medical leave.

Mr. Speaker, the editorial to which I referred is included as follows:

[From Crain's New York Business, Sept. 21, 1992]

THIS SMALL FIRM FOUND HOW FAMILY LEAVE CAN WORK

Once again, President Bush vows to veto legislation requiring that most companies grant workers 12-week unpaid leaves after the birth or adoption of a child or in the event of a serious illness. The president says such a burden would severely harm small businesses. I know he's wrong.

We at Crain's New York Business believe we know a lot about small companies, devoting considerable resources to both covering small businesses and to arguing their cause. Essentially, I run a small business, the 22-person Crain's editorial staff. What I've learned in recent years is not only that I can manage more flexible arrangements to accommodate the needs of working parents, but that it is in my own best interest to do so.

The issue of granting a 12-week unpaid leave seems to me almost absurd, especially as the father of a four-month-old who still isn't sleeping through the night. Crain's reporters and editors are offered a three-month leave after the birth of a child followed by three months of part-time schedules. (Paid leave varies between four weeks to eight weeks.) We fill in with free-lancers and part-timers. Sometimes our coverage of an industry slips somewhat during such times. But it would as well if the reporter, up night after night with a baby, was too tired to concentrate or if we had to hire a replacement. For the record, I always come out ahead financially.

Schedules for working parents (in our experience to date mothers) seemed more complicated for a while, involving endless negotiation, the potential for resentment from colleagues and possible harm to the paper. But it also became clear that I had little choice. One of our best reporters decided she just wouldn't work full time following the birth of her second child. We noticed her loss almost immediately. Eventually, some of our valuable staffers would decide that working full time at Crain's simply was incompatible with their family responsibilities. It was far from certain if their replacements would be as good.

In reality, allowing flexibility wasn't complicated at all. We have two reporters on three-day schedules, splitting a position. We have two staffers on four-day weeks. That accommodates varying needs for health insurance (there isn't coverage for three days a week), job satisfaction and time with the kids. We manage our work somewhat more efficiently, we use free-lancers to fill in and no one resents the situation.

My wife, by the way, just returned to work on a four-day schedule. She wanted three; the business library where she's employed wanted five; they settled on four. Everyone's happy.

If I can manage such arrangements, so can other small businesses. That they won't is why federal legislation is required. I think that's what family values are all about. And I don't think George Bush or Dan Quayle understand at all.—Greg David, Editor.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, as we have commented, this is a shared goal which is a laudatory goal in this body.

The question is: How do we get there from here? The concern that I and many others have is that the Family and Medical Leave Act, as we are now considering it, makes a great political statement but has little positive impact and may, in fact, have significant negative impact.

The impact in my district in Utah is that 95 percent of the work force is already exempt under this bill, as they are working for employers with fewer than 50 employees. Of the 5 percent who would be covered, many are already covered under voluntary plans or collective bargaining. Of the 1 or 2 percent who would be covered, few could afford to take unpaid leave.

The unintended impacts have already been discussed.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the legislation, but I rise in opposition to the rule.

Few of us in this body can argue that we are breaking new ground with the Federal mandate in terms of family leave policy, because in fact there are few of us who have stood up and opposed everything from setting minimum wage standards to worker safety to unemployment compensation, or actually calling for the repeal of unpaid leave for jury duty or for military activity. In fact, we have gone on the record in the past to support basic parameters for work men and women in this country.

Many of us a few years ago worked for a compromise on the original family leave bill to tighten it up. As a matter of fact, my colleague, the gentleman from Tennessee [Mr. GORDON], and I offered this very bill 3 years ago as a compromise in this body which we are going to vote on today. That bill tightened up the family leave policy, the definition, the requirement for certification, the amount of time to be taken off, and protected small business.

I urge its support by my colleagues today.

The compromise that we are voting on today did receive the support of 40 Republicans in the last session of Congress because of the tightening up that we made on the original legislation.

My one concern, however, with this rule is the fact that the Committee on Rules would not allow me to offer an amendment that deals with any costs associated with this legislation that are imposed on State and local government. I think it is something we should have had a chance to vote upon. It is something we should look at with every bill that we vote on in this body, and it is an issue that I will be bringing up time and time again in this session.

For this reason, I urge my colleagues to oppose the rule but to support passage of H.R. 1.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise in strong support of this bill.

Mr. Speaker, today we have a unique opportunity. After 7 years of debate, after 7 years of concessions, after 7 years of compromise—we can pass the Family and Medical Leave Act and expect the President to sign it.

Sometimes the marketplace lags behind what the public wants. Occasionally, businesses may not respond quickly to new needs. Every now and then, social change outpaces every day needs. And when that happens, Government has a role to play—as a catalyst for change. That is how we came to have minimum wage laws, child labor laws, and OSHA. These are not excessive regulation, just sound and responsive public policy. Now we must add the Family and Medical Leave Act to that list.

Americans want this legislation—so mothers and fathers can care for their children who are ill; so sons and daughters can help their ailing parents; so businesses can have productive workers who have the peace of mind to do their jobs.

It is time we faced facts: 67 percent of mothers with schoolage or younger children are employed outside the home. Many of these women work not just for self-fulfillment, but out of economic need, and in some cases, out of economic desperation. Certainly, we can offer them the job security and safety net that this legislation provides.

Those of us who truly value families understand how critical family leave can be in maintaining economic security and personal dignity. It is simply not right for us to allow families to face economic and emotional ruin because the marketplace has not yet adjusted to America's changing family patterns.

I urge my colleagues to pass this bill today. Let us put it on the President's desk so he can sign it. This is not just sound social legislation—it is sound economic legislation. And America's families want it.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge the membership to vote down the previous question, defeat the rule. It is very important that we vote down the previous question so some of these amendments can be offered for debate.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. COX].

Mr. COX. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we have heard repeatedly this bill referred to as 12 weeks of unpaid leave, and that is false. It is a lie. It is not true, and I do not want to hear it said again.

It is not unpaid leave. As a matter of fact, total compensation in the real employment place comprises many elements only one of which is salary.

In particular, this bill covers a variety of employment benefits, life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits and pensions, all of which must be maintained when the employee returns as if the employee had not left at all. Health insurance, in fact, must be paid on a current basis during the 25 percent of the entire work year that the employee is not even working. That is very much paid leave.

Not too long ago the No. 1 cost in an automobile in the United States of America was the steel. Today the cost of the health benefits is greater than the cost of the steel in a car.

This is not trivial. This Member would have offered an amendment, had the rule permitted it, to grant a tax credit to the small business people who have no way to pay these costs, because it is mandated that this benefit be granted without any wherewithal to pay for it. That amendment to provide a tax credit was conservatively estimated to cost one-third of a billion dollars, and that is before all the litigation costs that, as has been explained earlier, will be generated by this bill. This is enormously expensive.

There are reasonable alternatives. We would like to offer them. The upshot of this rule is it will make it look as if the liberals favor family and medical leave and Republicans do not. We are being prevented by this rule from offering reasonable alternatives, from having a debate and from having a vote. The fix is in. It is crooked. It is wrong, and it is not unpaid.

□ 1350

Mr. QUILLEN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I would like to alert the membership of this body that this is a bill that was vetoed under two administrations, President Reagan and President Bush, and I have the feeling that all of the measures that these great Presidents vetoed, and where the veto was sustained, expect those measures on the floor of the House. This is the first one.

I think it is a poor way to run a railroad. Let us defeat the previous question.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. I thank the gentleman for yielding.

Mr. Speaker, we have debated this year after year after year with the same disingenuous argument that it is going to destroy business as we know it, that there is simply no way they are going to survive if we ask them to give their employees a little time off to take care of their family emergency.

When are we going to stop using this absolute—this argument that makes absolutely no sense to anybody in the rest of the world but some few people in the United States?

A 3-year study was conducted by the Small Business Administration—one of our very own agencies—and they studied four States that had mandatory leave laws. In their final report they concluded—and please really listen to this; this is something done by our own Federal Government—they said giving workers unpaid leave was cheaper, and let me underline that, for employers than letting the workers quit and having to hire permanent replacements.

This does not even take into account the human costs, the elder parent who could recover from surgery, the working mother who can rest assured that her job is secure as she nurses her child back to health.

You know, the American family has taken a back seat to this Washington lobby for far too long.

I said yesterday in the Committee on Rules, and I think it bears repeating, that is that the American woman is under seige like no other person. They work out of pure necessity. They do not have the option of staying at home or working, because the income structure of the American family today requires that at least two members work since wages have not risen. The only way that they can improve their standard of living is to put their children out in the market.

We argued about this forever, as to whether or not this is going to be the end of business; it is absolutely not. Every State that has it has found that it has worked well. Small business people have said that they were in no way inconvenienced. The paperwork problem is not onerous.

Now, I have heard some of our people on the other side talking about a great tax incentive to give to businesses who do not have family leave, an incentive to institute it. I think the study on that said that it would cost over a billion dollars to bring in what appears to be about 7 percent of the rest of the American businesses.

Now, this is the same group of people here who are trying to propose that we give $1 billion in tax money incentives to get business to do something that every other business in the world is doing without that tax incentive; but at the same time they are opposing the motor-voter bill because it might cost $1 billion. That gives you some idea of where their priorities are.

Mr. Speaker, it is really time that we put out actions where our talk is.

Unless, when we refer to family values, we are only referring to the families who have lots of options, to work or not to work, or unless we are talking about the women who have to work, whose choice is to stay home with her child that is sick because there is no one else to care for it, who has the responsibility for all the caregiving in the home, all the housework. Parents, both husband and wife, are sandwiched in in their lives between the needs of other generations and their family pulling on them.

It seems to me if every other country in the world can provide this, American business can as well. I for one believe in them. I know that they can. They are strong enough to take this on. I would promise you a year from now we would find there has been absolutely no disruption in the economy in the United States because we did something humane for a change.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think it has been interesting today to listen to the opponents of the family medical leave bill. If you will listen to them closely, you will find that virtually every opponent prefaced their remarks with the statement, "I am for family medical leave, but," but, "I don't like this, I don't like that, what about a little bit of this over here and a little talking about a little more there?"

Mr. Speaker, let me just say to all of those folks, you can run but you cannot hide. Today is the time to vote. The question is very simple: Are you for family medical leave or not?

If you think that a parent deserves the right to go to school and pick up a sick child without fear of losing their job, if you think that a parent can go, or a child should have the right when they hear that their father has had a heart attack, to go to them to stay a couple of days with them without fear of losing their jobs, then you should vote for this bill. If you are against family medical leave, then vote against the bill. The question is very simple.

Mr. KOLBE. Mr. Speaker, it is ironic that the first bill considered in Congress and that Mr. Clinton has promised to sign is likely to cost Americans an estimated 60,000 jobs while benefitting only those employees who are paid the most. Passage of H.R. 1, the Family and Medical Leave Act, may be a sweet political victory for the new administration and Congress, but it is sure to leave a bitter taste in the mouths of employees and employers alike.

The mandates in this bill would require an employer with 50 or more employees to provide up to 12 weeks of unpaid leave each year for the birth, adoption, and foster care of a child; for the care of a child, spouse, or parent with a serious health condition; or for an employee with a serious health condition. During the leave, the employee is entitled to keep all health benefits and is guaranteed the same or equivalent position upon returning to work.

So what's wrong with such a noble idea?

First, it is yet another unfunded Federal mandate dropped on the backs of employers struggling to make their businesses profitable again at the end of a recession.

Second, H.R. 1 is a chimera for most American workers, for it will benefit only the most affluent of the U.S. work force. How many American workers have the ability to leave work for 12 weeks of unpaid leave and still pay bills, make mortgage payments, and buy food and clothing? So who really benefits from the passage of this legislation? Certainly not the ones who need it most. As Mr. GRANDY has so appropriately stated, peace of mind does not pay the bills, and peace of mind is all that will come out of the Family and Medical Leave Act.

A third objection is that this bill would diminish the availability of benefits employers can offer. With H.R. 1 as law, employers will have to make adjustments in their benefits plan to accommodate the costs of the new mandate. The benefit pie is only so big, and once a slice is made for family and medical leave, then health insurance benefits, pay raises, Christmas bonuses, paid vacations, or some other benefit will necessarily be cut. Because this mandate is unfunded by the Federal Government, the benefit pie doesn't get bigger; other benefits—benefits that may be important—will diminish. H.R. 1 eliminates employer/employee flexibility in determining workplace benefits. It is a big price to pay for a peace-of-mind benefit.

Fourth, because of the burden this places on businesses, hiring will be skewed toward part-time employees and will encourage discrimination against women of child-bearing age. Now there are laws against such discrimination, but the burden this puts on employers invites efforts to skirt the edges of such nondiscrimination laws. Employers will seek to avoid the high costs of this mandate by hiring fewer women or hiring by contract.

Fifth, there is no compelling argument for this legislation. Why is it that we are told by President Clinton, Mr. FORD, and labor unions that H.R. 1 is the solution to our family-values woes, yet we hear little from our constituents that would benefit from this legislation? Could it be they know some things that our national leaders don't? Perhaps they already know that approximately 93 percent of small business owners already offer some form of family and medical leave. Maybe they understand, as some in Congress do not, that it is more cost effective for employers to work with their already trained, and therefore invaluable, employees when family emergencies arise.

But we also recognize that the American workplace and work force has undergone a fundamental change. Laws need to adapt to these changes, but there is a better solution than H.R. 1. The substitute offered by Representatives GRANDY and ORTON provides a tax incentive for employers and their employees, to develop family and medical leave accounts [FMLA's] the purpose of which would be to guarantee a period of family or medical leave that would include some negotiated level of wage replacement.

Tax-exempt FMLA's would be available to all employers regardless of size, while H.R. 1 covers only about 5 percent of all businesses and only about 50 percent of workers. And unlike the unfunded Federal mandate proposed in H.R. 1, Grandy-Orton substitute recognizes that few employees can afford 12 weeks of unpaid leave, dealing with these costs up front.

The FMLA that could be created by this substitute has several components that are of particular interest. First, contributions to a FMLA must be made using a formula that does not discriminate in favor of highly compensated employees. Second, employees will fully and immediately vest in the employer's contributions for income replacement. Thus, the employee would have nonforfeitable rights to the funds provided to replace lost income. That ensures portability if the employee changes jobs. The FMLA could simply be rolled over into a new employer's plan or into an individual retirement account if the individual is leaving the work force. Third, contributions to a FMLA, as well as earnings on it, would be exempted from Federal income tax until withdrawn. In addition, the money the employer contributes will not be subject to Social Security or unemployment taxes.

The reasons I oppose H.R. 1 and support the Grandy-Orton substitute, that the Rules Committee has not made in order, are straightforward and common sense. H.R. 1 leaves both the employee and the employer at a disadvantage because it strips away any bargaining power from both parties. It burdens businesses with another unfunded mandate, and it does not address the real problems involved in a family crisis. By contrast, the substitute is voluntary, encourages benefit negotiations, can benefit all employees, not just those of larger businesses, and provides a way for the employee to afford 12 weeks of leave with compensation.

We should keep the interests of both employees and employers in mind, and vote to defeat the previous question on the rule and vote "no" on H.R 1.

Mr. GORDON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GORDON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a recorded vote, if ordered, may be taken on the question of adoption of the resolution if the previous question is ordered.

The question is on ordering the previous question.

This will be a 15-minute vote, and it may be followed by a 5-minute vote.

The vote was taken by electronic device and there were—yeas 246, nays 176, not voting 8, as follows:

[Roll No. 12]

YEAS—246

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman

Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—176

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Orton
Oxley
Packard
Paxon
Petri
Pombo
Porter
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—8

Bateman
Ford (TN)
Henry
Payne (NJ)
Sharp
Washington
Whitten
Wilson

☐ 1417

Mr. BRYANT and Mr. CARR changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. McNULTY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 259, nays 164, no voting 7, as follows:

[Roll No. 13]

YEAS—259

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Serrano
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Wheat
Whitten
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)

NAYS—164

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)

Lewis (FL)
Lightfoot
Linder
Livingston
Lloyd
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Paxon
Pelosi
Penny
Petri
Pombo
Porter
Pryce (OH)
Quillen
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Waxman
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—7

Barrett (WI)
Ford (TN)
Hamburg
Henry
Sharp
Washington
Wilson

□ 1428

Ms. PELOSI changed her vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—REQUEST TO DELAY IMPLEMENTATION OF PROVISIONS OF HOUSE RULES RELATING TO VOTES OF RESIDENT COMMISSIONER AND DELEGATES IN THE COMMITTEE OF THE WHOLE

Mr. SOLOMON. Mr. Speaker, I have at the Speaker's desk a privileged resolution raising a question of the privileges of the House, and I ask for its immediate consideration.

Mr. Speaker, before the Chair makes a decision as to whether my resolution presents a legitimate question of privilege, I would like to be heard in defense of its admissibility.

The SPEAKER. Pursuant to rule IX, the gentleman from New York [Mr. SOLOMON] will be recognized for that purpose. The Chair is not yet ruling on the question of privilege.

Does the gentleman offer the resolution?

Mr. SOLOMON. Yes, Mr. Speaker, and I ask that the resolution be read.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. —

Whereas Article I, section 1, of the Constitution provides that, "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives;" and

Whereas Article I, section 2, of the Constitution provides that, "The House of Representatives shall be composed of Members chosen every second year by the people of the several States;" and

Whereas the Committee of the Whole is a device used by the House under which all House members act together to debate and amend bills raising revenues or directly or indirectly appropriating money; and

Whereas the Committee of the Whole is an integral part of the legislative process and the means by which the House of Representatives exercises its legislative powers and prerogatives under the Constitution; and

Whereas on January 5, 1993, the House, in the resolution adopting the Rules of the House for the 103rd Congress (H. Res. 5), included provisions authorizing the Resident Commissioner from Puerto Rico and the delegates from the District of Columbia, Guam, American Samoa and the Virgin Islands to vote in and preside over the Committee of the Whole; and

Whereas attempts to refer the proposal to a select committee to study its constitutionality and to separately vote on such proposal were prevented by procedural votes, and the House was thereby precluded from making a separate determination as to whether such provisions are in conformance with constitutional requirements and Members' sworn duty to uphold the Constitution; and

Whereas such proposal affects the representational rights of duly elected Members of the House under the Constitution and could result in a derogation or denial of such rights; and

Whereas such proposal affects the constitutional lawmaking prerogatives of the House and its Members and the integrity of the process by which bills are considered, and thus raises a question of the privileges of the House; and

Whereas the House has just adopted a resolution making it in order for the Speaker to declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of legislation, and this represents the first instance in the 103rd Congress in which the House is resolving into the Committee of the Whole under the provisions of the new rule allowing non-Members of the House to vote in and Chair the Committee of the Whole; and

Whereas the inability and failure of the House to make a separate determination as to the constitutionality of the proposal prior to this first use of the new rule presents the House with an "extraordinary question" under the Constitution requiring a separate determination and thus raises a question of the privileges of the House: Now, therefore, be it

Resolved, That, as a matter of the constitutional privileges of the House to make all laws and to preserve the integrity of its proceedings and the representational rights of its Members, the implementation of those provisions of House Rules as adopted on January 5, 1993, authorizing the Resident Commissioner from Puerto Rico and the Delegates from the District of Columbia, American Samoa, the Virgin Islands and Guam to vote in and preside over the Committee of the Whole, shall be delayed until such time that the House has made a separate determination as to whether such provisions can and should be implemented by a Rule of the House, consistent with Article I, sections 1 and 2, of the Constitution.

□ 1430

The SPEAKER. Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the Speaker in the legislative schedule within two legislative days from its being properly noticed. In the current circumstances, however, the Chair is inclined to entertain the matter raised by the gentleman from New York [Mr. SOLOMON] at this point.

Does the gentleman from New York wish to be heard on the question of privilege?

Mr. SOLOMON. Mr. Speaker, I would like to be heard on the admissibility of my resolution.

The SPEAKER. The gentleman is recognized.

Mr. SOLOMON. Mr. Speaker, the resolution that has been presented calls for a delay in the implementation of those provisions of House rules which would permit non-Member Delegates to vote in and chair the Committee of the Whole until the House has made a separate determination as to whether the House can and should implement such a rule under the existing provisions of the Constitution.

It clearly raises a question of the privileges of the House for a variety of reasons stated in the precedents of the House under which we operate. It is being offered in a timely manner since the House is about to resolve into the Committee of the Whole for the first time in this 103d Congress under the provision of this new rule.

In support of this question of privilege, I wish to cite section 662 of the House Rules and Manual, which states that questions of privilege of the House are those which affect "the integrity of the processes by which bills are considered," especially when a process is of questionable constitutionality.

In such instances, the precedents made clear that the issue raises an extraordinary question under the Constitution which is eligible for separate consideration and determination by the House.

In this regard, the section cites a question of privilege resolution offered on August 15, 1978, involving "the constitutional question of the vote required to pass a joint resolution extending the State ratification period of a proposed Constitutional amendment."

The manual, at section 664 elaborates that this involved "an extraordinary question * * * where the House had not otherwise made a separate determination on that procedural question" as to whether a majority or two-thirds vote was required to pass a joint resolution extending the ratification period for a constitutional amendment, "and where consideration of the joint resolution had been made in order."

In that instance, after the special order for the joint resolution had been adopted, a question of privilege resolution was offered which would have required a two-thirds rather than majority vote to pass the joint resolution. After the Chair ruled as to its legitimacy, the question of privilege resolution was subsequently tabled by the House.

By the same token, the pending question of privilege resolution raises an extraordinary question under the Constitution, on which the House has not made a separate determination. And that extraordinary question is whether delegates can be granted voting privileges in the Committee of the Whole by a rule of the House, or whether a constitutional amendment would be required.

The resolution specifically requires the House, before implementing the Delegate voting rule, to make a separate determination as to whether the rule can and should be implemented consistent with the provisions of sections 1 and 2 of article I of the Constitution.

Numerous Supreme Court decisions have held that while the right of the House to determine its own rules of proceeding under the Constitution is nearly absolute, it may not by its rules violate constitutional rights or ignore constitutional mandates.

In this instance, not only are the representational rights of House Members involved, but the rights of their constituents to equal representation as well.

In the present instance, as with the 1978 precedent I have cited, the House has never made a separate determination as to whether Delegate voting in the Committee of the Whole can be authorized by rule or whether it requires a constitutional amendment.

The adoption of House Resolution 5 on January 5 of this year cannot be construed as a separate determination of that issue since the Delegate voting provisions constituted only three of over 20 changes in House rules made by that resolution, all of which were adopted by a single vote.

Moreover, on three occasions when that House rules resolution was called up or under consideration, attempts to separate the Delegate voting issue were rebuffed by rulings or procedures:

First on the refusal of the Speaker to recognize a Member to offer a question of privilege resolution that would have required a separate vote;

Second, on a motion to refer the resolution to a select committee to study and report on the constitutionality of the Delegate voting provisions; and

Third, on a motion to commit with instructions to delete the Delegate voting provisions. In all three instances, opportunities to separately determine the efficacy and constitutionality of the delegate voting provisions were blocked by procedural moves.

For the House to protect itself against overreaching its constitutional rulemaking powers, the extraordinary-question doctrine enunciated in the 1978 precedent must be applied to such a serious constitutional issue as this.

The second precedent I will cite in support of this resolution is found at section 664 of the manual, "a question of privileges of the House is raised" when there is an alleged "denial of representational rights."

While the precedent cited in that incident involved inequitable party ratios at the subcommittee level, the same principle should apply to the possible derogation or denial of representational rights of House Members in the Committee of the Whole where the votes of non-Members could make the difference on important questions.

Mr. Speaker, I realize that it might be argued that this resolution does not constitute a question of privilege because it might be interpreted as changing the rules of the House.

However, that is not the case because the resolution only calls for a delay in the implementation of the rule until the House has made a separate determination as to whether it should be implemented in light of the requirements of article I of the Constitution.

In 1978 precedent, a question of privilege resolution was ruled proper even though it sought to alter the number of Members required to approve the extension from a majority to two-thirds.

If anything, the 1978 precedent was more farreaching than the pending question since it would have changed rules already adopted which required only a majority vote for passing legislation brought under a special rule.

No pretense was made that the joint resolution was framed as an amendment to the Constitution requiring a two-thirds vote of both Houses, let alone ratification by three-fourths of the States.

And yet the Chair's holding in that 1978 precedent makes clear that it involved extraordinary question under the Constitution, and the resolution therefore constituted a legitimate question of privilege.

The pending question of privilege resolution does not attempt to force a two-thirds vote of the House to permit implementation of the delegate voting rule. It simply requires the House, by simple majority vote, to make a determination that implementation of the rule is permissible under the Constitution.

Such a determination could be made immediately after the question of privilege resolution is adopted, and the House could then proceed with the consideration of the pending legislation based on the determination made by the House.

In conclusion, Mr. Speaker, the issues raised by this resolution clearly involve a question of the privileges of the House and should therefore be allowed for consideration and determination by the House.

☐ 1440

Let us do it the right way. The Chair can do it right now by letting us pass this resolution and then bringing up a resolution which would speak to the admissibility, speak to the constitutionality, and then go ahead with the vote, but we are entitled to that, and so are the people we represent, Mr. Speaker. I would hope that the Chair would rule in my favor.

The SPEAKER. The gentleman from New York [Mr. SOLOMON] was kind enough to furnish the Chair a copy of his resolution and his supporting arguments citing certain precedents.

On August 15, 1978, Speaker O'Neill ruled that a question of the privileges of the House may be based on an assertion that the immediate determination of an extraordinary procedural question is indispensable to the integrity of its impending proceedings, where that procedural question was not otherwise addressed in the rules of the House.

In that case, the question of the vote required to pass a joint resolution proposing an extension of the ratification deadline for a constitutional amendment already passed by Congress and submitted to the State legislatures was not directly addressed in the rules of the House. Indeed, on that occasion the House had not otherwise made a separate determination on that procedural question either in the context of the adoption of its rules for that Congress or of any specific rule.

In that case, there was no prior House determination of the procedural question being challenged. The uncertainty of the very nature of the extension joint resolution on that occasion—that is, whether it represented legislation passable by a majority or was more tantamount to a constitutional amendment, and whether it required presentation to the President—belied the argument that the rules of the House clearly addressed the procedure.

In the instant case, the provisions of clause 2 of rule XII and clauses 1(a) and 2(d) of rule XXIII adopted as part of House Resolution 5 on January 5, 1993, specifically address the procedures complained of and sought to be delayed in the pending resolution. A delay in the implementation of a rule is in essence a change in that rule.

The precedents are clear that the validity of an existing rule of the House may not be challenged under the guise of a question of privilege, whether or not that existing rule was separately adopted by a vote of the House or as part of a package of rules adopted by the House.

As cited in section 664 of the House rules and manual, the Speaker ruled on January 23, 1984, that a resolution directing that the party ratios of all standing committees, subcommittees, and staffs of the House be changed within a time certain to reflect overall party ratios in the House was held to constitute a change in the rules of the House and not to constitute a proper question of the privileges of the House, since House rules already provided mechanisms for changing the selection of committee members and staff. The Speaker ruled that because the rules complained of could be properly addressed by proposed rules changes which could be presented to the House in a privileged manner, that is, by resolution reported from the Committee on Rules or discharged therefrom, or in that case by privileged resolutions from the respective party caucuses relating to committee membership, it was not in order to collaterally challenge the fairness of an adopted rule under the guise of a question of privilege.

By contrast, the ruling of October 2, 1984, cited by the gentleman from New York, involved a situation where the rules of the House did not address the alleged unfairness complained of—subcommittee ratios—and where the resolution offered as a question of privilege only admonished the House to respect the representational rights of minority committee members and did not constitute a directive or admonition to change any rule. That precedent does not support the proposition that the House may as a question of privilege collaterally challenge the fairness or validity of an adopted rule.

The Chair rules that the resolution does not state a question of privilege under rule IX.

□ 1450

Mr. SOLOMON. Mr. Speaker, all of the Members on this side of the aisle have great respect for you as a friend and as a colleague, and certainly as Speaker of the House, but this is the fourth time we have been rebuffed from receiving a separate vote on this issue. Therefore, with all due respect, sir, we would have to appeal the ruling of the Chair, and I so do.

The SPEAKER. I thank the gentleman.

The gentleman from New York [Mr. SOLOMON] appeals the ruling of the Chair.

MOTION OFFERED BY MR. GEPHARDT

Mr. GEPHARDT. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER. The question is on the motion offered by the gentleman from Missouri [Mr. GEPHARDT] to lay the appeal of the ruling of the Chair on the table.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 251, nays 174, not voting 5, as follows:

[Roll No. 14]

YEAS—251

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—174

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
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Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
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Emerson
Everett
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Fawell
Fields (TX)
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Fowler
Franks (CT)
Franks (NJ)
Gallegly
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Hoekstra
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Houghton
Huffington
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Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—5

Ford (TN)
Geren
Henry
Sharp
Washington

□ 1507

Mr. TAYLOR of Mississippi changed his vote from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1510

REAPPOINTMENT AS MEMBER OF COMMISSION ON CIVIL RIGHTS

The SPEAKER. Pursuant to the provisions of section 2(b) of Public Law 98–183, the Chair reappoints Ms. Mary Frances Berry to the Commission on Civil Rights on the part of the House.

FAMILY AND MEDICAL LEAVE ACT OF 1993

The SPEAKER. Pursuant to House Resolution 58 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1.

□ 1511

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1) to grant family and temporary medical leave under certain circumstances, with Mrs. KENNELLY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Michigan [Mr. FORD] will be recognized for 45 minutes, the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 45 minutes, the gentleman from Missouri [Mr. CLAY] will be recognized for 45 minutes, the gentleman from Indiana [Mr. MYERS] will be recognized for 45 minutes, the gentleman from North Carolina [Mr. ROSE] will be recognized for 10 minutes, and the gentleman from California [Mr. THOMAS] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Madam Chairman, I yield myself 30 seconds.

Madam Chairman, not since the great days of the 1960's when we were passing people programs very rapidly in this House have I been as excited as I am to be here today with this legislation.

We have had this legislation before us before. We have passed it 4 or 5 times by imposing majorities, and it was met on the other end of the street with a veto pen.

If we pass this bill today, I am informed that the Senate will do the same, and the President will sign it tomorrow, and it will become the first law in the new administration, and everybody who had had a part of it can be proud that that is the way the history books are going to record your action here today.

Madam Chairman, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. WALKER. Madam Chairman, reserving the right to object, the gentleman's remarks contained no legislative history. Is this correct?

Mr. FORD of Michigan. Madam Chairman, will the gentleman yield?

Mr. WALKER. Further reserving the right to object, I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I say to the gentleman from Pennsylvania [Mr. WALKER], as I understand it, everything you and I say about this bill contains legislative history.

Mr. WALKER. Further reserving the right to object, the gentleman is revising and extending his remarks, and I just want to make certain that since he is chairman of the committee that nothing that is included in the remarks that are being revised and extended would include legislative history that would result in an interpretation of this act.

Mr. FORD of Michigan. If the gentleman will yield further, everything that is in my remarks will be legislative history for this act. Everything that is in the gentleman's remarks on the subject matter will be legislative history.

Now, we are faced with a situation with a lot of people who want to be heard on this bill. I took 30 seconds, as the chairman of the committee, as a demonstration of how tight the time is. If the gentleman wants to insist that I give this whole statement, I am afraid that I would have to yield to it and complain that the gentleman was muzzling me, something that he complaints about frequently.

Mr. WALKER. Further reserving the right to object, some of us believe that this bill is a trial lawyer's bonanza, that it was designed specifically to allow trial lawyers to go after employers in the country. Therefore, every piece of legislative history becomes important.

If the gentleman is putting remarks into the RECORD that will consist of interpretations of this bill, it becomes extremely important that those issues be responded to on the floor, and we will have no idea what those issues may be if the gentleman simply puts remarks into the RECORD and does not allow any kind of rebuttal. That is my concern, and I am simply asking the gentleman.

Mr. FORD of Michigan. Madam Chairman, will the gentleman yield to me for a response?

Mr. WALKER. Further reserving the right to object, I am happy to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Madam Chairman, as I understand the rules of the House, the only proper debate that should be taking place on this floor is about the subject matter before us, and that debate, whether it is for or against the subject matter before us, becomes part of the legislative history. I suggest to the gentleman an extension of remarks with matters that do not pertain to or are not relevant or material to explaining the legislation before us are, on their face, outside the rules of the House.

Mr. WALKER. Further reserving the right to object, the problem is that the remarks of the chairman of the committee are regarded as being very important by the courts when they are doing matters of interpretation. The gentleman's remarks will, in fact, establish major principles of legislative history. Yet, if in fact what you are doing is putting things in the RECORD with regard to this bill that would consist of interpretations of the bill, then that could be a very serious matter at some later stage when this bill is before the courts, and what I am asking the gentleman is whether or not there is anything in the prepared remarks that he is putting in that could be said to be legislative interpretation of this bill.

Mr. FORD of Michigan. If the gentleman will yield further, everything that is in my remarks is intended to explain the intent and purpose of this legislation. I believe it is part of the legislative history of this bill.

Madam Chairman, I appreciate the kind words of the gentleman that my words would carry more weight than others before the court. I do not think he is correct. But I appreciate the compliment anyhow, and I do not think we should be wasting time over this.

Mr. WALKER. Further reserving the right to object, I am simply stating the fact that when these matters are being interpreted, those who are regarded as authors of the bill, namely, the chairman of the committee, who I think is listed first on the bill in sponsorship, and, indeed, is that member of the committee of jurisdiction regarded as the person with the most knowledge about the bill and so, therefore, his words carry great weight.

He has just put evidently remarks in the RECORD that consist of interpretation of this bill. The House has absolutely no idea what the gentleman has just put in the RECORD. We have no way of knowing until after the bill has been passed what those words consist of and what interpretation the gentleman has lent to the bill.

And so, therefore, I object.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. WALKER. Madam Chairman, I object.

The CHAIRMAN. The gentleman did object.

PARLIAMENTARY INQUIRY

Mr. FORD of Michigan. Madam Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FORD of Michigan. Madam Chairman, do I understand that the gentleman objected to me taking 30 seconds and then revising and extending my remarks?

The CHAIRMAN. The gentleman does object to the revision and extension.

Mr. FORD of Michigan. You are sure you want to do that?

The CHAIRMAN. The gentleman wishes to continue to object?

Mr. WALKER. Madam Chairman, well, I have objected.

The CHAIRMAN. The gentleman has objected.

Mr. FORD of Michigan. I ask the gentleman from Pennsylvania [Mr. WALKER], have you ever seen this happen before?

Mr. WALKER. Regular order.

The CHAIRMAN. The gentleman has more time. Does the gentleman wish more time?

Mr. FORD of Michigan. Madam Chairman, how much time has been used?

The CHAIRMAN. The gentleman was recognized for 45 minutes, and the gentleman has used 30 seconds, and no additional time has been counted against him at this point since he is not controlling the time under the reservation of objection.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Madam Chairman, I yield 4 minutes to the distinguished gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Madam Chairman, I rise today as a voice for the 20 million small businesses in our country who will be profoundly affected by yet another mandate, this time for family and medical leave. I ask my colleagues to join me in opposing this legislation.

Madam Chairman, I certainly understand, as one who has been responsible for small children and then aging parents—the concept set forth in this legislation. This conflict of competing priorities—between family and work—why the proponents of this legislation feel strongly that the mandate is needed.

However, the fact is that this is a steep, slippery slope of a mandate, and we do a great disservice to those who create the jobs in this country if we neglect to carefully weigh the consequences of our actions today.

Madam Chairman, in the years that I have served in this body, I have received only one letter from an individual stating that he or she lost their job because they had to take time off for the birth of a new baby or the illness of a family member. This is not because the situation does not ever arise, but because in most cases, both employee and employer were handling the situation well.

However, in just the past 2 months, I have received several letters from individuals who say "my company already provides unpaid leave, but I need paid leave." Friends to not be comforted by the assurances of the proponents who say the 50 employee threshold will not be lowered, or unpaid benefits will not become 12 weeks of paid leave. This first step of a mandate is a snowball teetering on the top of Mount Everest.

When that snowball starts careening down hill, and the small business exemption is peeled away, and paid leave takes over unpaid leave, small businesses will be crushed under the cumulative weight of yet another mandate. Can anyone in the Chamber honestly say they have not been barraged with comments from small businessowners about how they are being regulated right out of business?

Madam Chairman, in the rush to have this bill signed into law, I wonder if my colleagues have taken the time to read all 56 pages of this simple concept and ponder some serious questions about how it will be implemented.

Madam Chairman, I am quite sure it will be implemented in the courts. In this litigious society we live in, our already backlogged courts will find their dockets overflowing with more lawsuits—some just, but many frivolous. We need to ask ourselves, isn't there a better way?

It is very troubling to me that we are mandating a benefit that has traditionally been negotiated between labor and management. Congress tries to stay out of this relationship, but this bill takes the issue of family and medical leave off the table and, for the very first time, mandates a specific employment benefit. In addition, H.R. 1 will upset the system of those employers who have carefully established cafeteria plans which allow employees to choose those benefits which most suit their needs.

□ 1520

Madam Chairman, the future of employment in this country rests with small business. If we continue with more mandates, we will completely stifle new job creation.

I hope my colleagues will give serious thought to what they are about to do, and I urge them to vote against the bill.

Mr. CLAY. Madam Chairman, I rise in support of H.R. 1, the Family and Medical Leave Act, and I yield myself such time as I may consume.

The CHAIRMAN. The gentleman from Missouri [Mr. CLAY] is recognized for 25 minutes.

Mr. CLAY. Madam Chairman, as America's work force changes to meet the economic realities of the 1990's, it is critical that the work force adapt to accommodate those changes. The Family and Medical Leave Act, of which I have been a principal sponsor for the past 8 years, will provide a minimum labor standard to ease the new workplace burden of balancing the demands of work and family. We are not mandating anything. What we are doing is imposing a standard of work conditions which is just and fair for our work force.

H.R. 1 is fair and humane legislation. It would provide job security for those who need to take time away from work during a family or medical emergency. It is a compassionate response to the new dynamic of today's working family. In a world where tragedy can strike at any time and it is no longer a certainty that someone will be at home to take care of the family, H.R. 1 is the least we in Congress can require.

When this important legislation is signed into law, people will never again have to make the unconscionable choice between their jobs, which they desperately need, and the health and well-being of their families, which they desperately want.

Parents will be able to be where they are supposed to be when tragedy strikes their kids, and that is at their bedsides.

Madam Chairman, title 2 of the bill provides family and medical leave to those working for the Federal Government. H.R. 1 would entitle Federal employees to 12 weeks of family and medical leave per year upon the birth or adoption of a child, to care for a seriously ill child, a parent or spouse, or for their own serious health condition.

Employees would be able to continue their health benefits while on leave and would be entitled to the same or an equivalent position when they return to work.

Our Government should be a model employer. It is important to provide this benefit to the hard-working individuals who have chosen to dedicate their careers to public service.

Like title 1 of the bill, the provisions applying to Federal workers have been modified over the years to help agencies better implement the law. The Congressional Budget Office estimates that title 2 should not result in any significant additional cost to the Federal Government.

Madam Chairman, it is time to move forward on this legislation. We have been debating the issue for too long. While we in Washington were bickering, our global competitors were enacting family and medical leave laws for their citizens.

The United States alone stands among all industrialized countries in not having this minimum labor standard for its workers.

This is an embarrassment we can no longer afford.

I am pleased, Madam Chairman, that President Clinton has pledged to sign this bill once it reaches his desk. It is high time that America has a national Family and Medical Leave Act.

Madam Chairman, I urge my colleagues to support H.R. 1 and oppose any weakening amendments.

Mr. CLAY. Madam Chairman, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

Mr. WALKER. Madam Chairman, reserving the right to object, is there anything in the gentleman's remarks that could be regarded as interpretations of this bill that later on would provide a legislative history for the bill?

Mr. CLAY. Madam Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Missouri.

Mr. CLAY. Madam Chairman, I think the gentleman would have to interpret for himself whether or not what I just said is legislative history. I contend it is.

Mr. WALKER. Madam Speaker, reserving the right to object, I have no problem with what the gentleman just said, because it gives us an opportunity to challenge his remarks when the gentleman is speaking. We can ask him to yield and we can challenge his remarks. My problem is with that which may go into the RECORD which we did not have an opportunity to challenge.

What I am asking the gentleman is whether or not there is anything that he is putting into the RECORD which could in fact be interpreted as legislative history for this bill.

Mr. CLAY. Madam Chairman, will the gentleman yield further?

Mr. WALKER. Sure, I have yielded to the gentleman.

Mr. CLAY. I will say to the gentleman that no one in this body or anyplace else can determine what a judge may or may not construe to be legislative history.

In the Watergate case, Judge Sirica totally ignored what the committee had said and placed into the record as legislative history, and a number of other floor statements. So you cannot prejudge what a court may or may not determine to be legislative history.

I said on this floor precisely what I want to say for the record, and it is legislative history. And I thank the gentleman for yielding.

Mr. WALKER. Madam Chairman, further reserving the right to object, I will say to the gentleman that I have absolutely no problem at all with people making statements on the floor that become legislative history. The problem is the RECORD, as reflected, will show not just that the Member made a statement on the floor but the material which was revised and extended shows up as though he made it on the floor, he made the statement. It also becomes part of the legislative history that those particular remarks went unchallenged.

So, therefore, it becomes legislative history that the Whole House must have agreed with because no one challenged it.

The fact is that some of these statements may not have been made on the floor, there may have been no opportunity for challenge. What I am trying to determine before giving the right to revise and extend is that there is nothing in the remarks that could be interpreted as interpreting particular language in the bill in such a way as to give a judge an ability to say that this meant one thing when in fact the House may have really meant another.

Mr. MURPHY. Madam Chairman, will the gentleman who made the objection yield?

Mr. WALKER. Surely, I yield to the gentleman under my reservation.

Mr. MURPHY. I thank the gentleman.

Madam Chairman, if the gentleman would spend a few seconds or a few minutes requesting the Clerk to show him those remarks and read them and read the remarks submitted by both the gentleman from Michigan and the gentleman from Missouri, we will be here on the floor for 3½ hours, giving the gentleman adequate opportunity to go sit down in his seat and read those remarks and then make his objection. we can then move on with the business of the day.

Mr. WALKER. I thank my colleague from Pennsylvania except that he is a little bit bad on his interpretation of the rules. I have to make my objection in a timely manner or my objection does not rest.

So, therefore, the reason I raised it now—

Mr. MURPHY. What I suggested is—

Mr. WALKER. Does the gentleman want me to yield?

Mr. MURPHY. Please.

Mr. WALKER. I am happy to yield to the gentleman.

Mr. MURPHY. After the gentleman has made his objections, if he will, while his objections are pending, please read the remarks; then I am sure he is going to lift his objection and we can go on with the business of the day. We can do this for every speaker who stands here this afternoon because most speakers like to have their remarks be submitted, then submitted to the Clerk.

□ 1530

Mr. WALKER. Further reserving the right to object, Madam Chairman, it is clear that the people who have the greatest effect in this matter are the people who are chairmen of the various committees and subcommittees involved, because they are the people who control the issue.

The CHAIRMAN. Does the gentleman continue to object?

Mr. WALKER. I reserved the right to object, and I have been trying to yield to people so that we can resolve this issue.

Mr. FORD of Michigan. Madam Chairman, will the gentleman yield?

Mr. WALKER. Yes, I am happy to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Madam Chairman, I would like to point out to the gentleman that one of the reasons that I held my spoken remarks to the briefest possible performance was to accommodate Members, particularly new Members who want to have an opportunity to be heard and want to revise and extend their views on this bill as well. That includes a number of Members on the gentleman's side who will not be accommodated at all unless I yield them time because they cannot get time from the gentleman's side if they are for the bill.

Now, if the gentleman wants to persist, I suggest to him that he is going to prevent Members of his party from even getting a chance to be before the television cameras today.

I suggest to the gentleman that I do not want to play that way, but if he wants to do that to his fellow Republicans, that is exactly what he is going to do.

Mr. WALKER. Well, further reserving the right to object, I know the gentleman is attempting to be extremely gracious here, but my concern is with the long-term effects of what we do, not whether people get on television today.

I think that we would be better off in fact, that if the people who are responsible for this bill, would they give their complete speeches on the floor so that we know from them what the bill is about and maybe we would not have to parade every Member of the House before the cameras to speak on this. That gives me the impression that this is more of a political exercise than it is a legislative exercise.

I must say to the gentleman, I would prefer to hear him give all his remarks to the House so that we know exactly how he interprets this bill, rather than a group of people who parade to the microphone and give us 1-minute snippets of their particular views of this legislation.

So I will insist wherever there are Members who we believe would have some reason to be interpreted as being authors of this bill, where they have request to revise and extend, I am going to raise the question of whether or not their revisions and extensions do in fact constitute legislative history.

I continue to ask that question. Do I understand the gentleman from Missouri has indicated to me that the material he is going to put in his revisions and extension would in fact constitute legislative history?

The CHAIRMAN. The Chair would like to remind the Members that remarks will be clearly distinguishable when inserted in the RECORD by different typeface from material that was delivered. The material inserted and the material spoken on the floor have different typesets, so it would be very clear to judge who said what and who inserted what.

Mr. WALKER. Further reserving the right to object, Madam Chairman, I appreciate what the Chair says, except that if the Member speaks for a period of time, the tradition has been that the speeches are not separate, that the type is not separated, that the Member's speech appears in total as if it were delivered on the floor. I think that is the case here. If a Member simply stands and asks for the ability to revise and extend their remarks, then it does appear in different type; but if the Member gives a portion of their speech, it appears in the RECORD as though it were fully made on the House floor.

Is that not correct, may I ask the Chair?

The CHAIRMAN. Let the Chair read the applicable portion of the rule from the Joint Committee on Printing.

> The substantially verbatim account shall be clearly distinguishable, by different typeface, from material inserted under permission to extend remarks.

Mr. WALKER. Is it not the practice of the House whenever a Member delivers a portion of a speech and then asks for a revision and extension, that it appears in the RECORD as though it was given completely?

The CHAIRMAN. Grammatical changes are not distinguishable, typographical changes are not distinguishable.

Mr. WALKER. Precisely. That is what I am saying, that one can make grammatical changes, but the fact is that the gentleman from Michigan when he delivered 30 seconds and then submitted a group of papers for revision and extension, that will appear in the RECORD tomorrow as though the whole speech was given on the House floor. That is the problem here.

The CHAIRMAN. The Chair having read the rule to the gentleman, does the Chair understand that the gentleman still objects and would like to make an objection?

Mr. WALKER. Well, the Chair read the rule. Now I am asking the Chair whether or not my interpretation of that rule is correct.

The CHAIRMAN. The Chair has read the rule and what the Chair has said is that grammatical changes are not distinguishable.

Mr. WALKER. Will the gentleman's speech, when it appears in the RECORD tomorrow, be in the same type as though he delivered it in total?

The CHAIRMAN. That is not the Chair's understanding.

Mr. WALKER. That is not the Chair's understanding? In other words, the gentleman's speech will be separated in the RECORD tomorrow and all the speeches will be separated as though they gave a portion of it when they speak and the rest will be in italic?

The CHAIRMAN. That is the Chair's understanding from reading the rule.

Mr. FORD of Michigan. Madam Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Maybe I can put the mind of the gentleman from Pennsylvania at ease. The gentleman's main concern seems to be that my words would carry such weight that all Clerks would look at them and ignore everyone else who spoke on it.

I tell the gentleman that his objection comes late. For 8 years my words have been spread on the RECORD, on the RECORD here, on the record in committee hearings, in committee markup sessions, and on this bill in the report that is before us and is a publication coming from the majority. That is the legislative history of this bill.

Mr. WALKER. Once again, the gentleman I do not think understands legislative history. This is the bill that will probably become law.

Mr. FORD of Michigan. I understand the gentleman is trying to make us look foolish to the American public.

Mr. WALKER. All I am attempting to do is make certain that the bill that becomes law has legislative history that we can rely upon. I do not believe that is happening here. That is what I want to make certain does happen.

It is the gentleman who went to the Rules Committee and asked for a rule to limit debate. We could have these things out and he would not have to worry about yielding time if we were out here under an open rule. The gentleman got the limitation on time and now the gentleman is suggesting that his limitation on time is too limiting on him.

Maybe the gentleman the next time will go to the Rules Committee and get an open rule so that we can discuss these matters in total rather than having this time of exercise on the House floor.

It is the gentleman who is embarrassing the legislative process.

Madam Chairman, I object.

The CHAIRMAN. Objection is heard.

PARLIAMENTARY INQUIRIES

Mr. CLAY. Madam Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman may state it.

Mr. CLAY. Madam Chairman, the last 20 minutes of conversation on this floor, will that be part of the legislative history?

The CHAIRMAN. The Chair has not deducted the time. What has been said has been taken down.

Mr. CLAY. So that will not even appear in the RECORD tomorrow?

The CHAIRMAN. It will appear, yes. The Chair simply did not take the time away.

Mr. CLAY. If I were to make the ruling, it would not. But will it be part of the legislative history of this bill?

The CHAIRMAN. Everything that is said will be part of the legislative history.

The Chair would like to further elaborate by saying that if a Member speaks the first paragraph and the last paragraph which represents the essential substance of the speech; there might be no difference in the type in the revised and extended speech; however, if the Member did in fact make a 30-second statement and then inserted a fairly lengthy speech, that would be in different type.

Mr. WALKER. I appreciate the Chair's explanation. How do we know what is the first and last paragraph? I mean, the gentleman put, as I saw, a fairly large sheaf of paper in. Is the Chair telling me that everything the gentleman put in the RECORD that was not spoken in actual words on the House floor will appear in italics in the RECORD?

The CHAIRMAN. The Chair responds by saying that is a decision made by the Reporters of Debate as the record is made.

Mr. WALKER. Well, the decision made by the Reporters on several occasions in the past several years has been to allow the whole matter to appear in full bold type, and I will tell the Chair that I have followed this very closely so I do know what happens on the record.

My point is that unless I have some assurance that everything submitted for the RECORD is going to appear in italics, then I am going to have a problem with this process.

The CHAIRMAN. Does the gentleman from Pennsylvania object?

Mr. WALKER. Well, can the Chair tell me that the Clerks will be ordered that every bit of legislative matter that is submitted for the RECORD will appear in italics in tomorrow's RECORD?

The CHAIRMAN. The Chair continues to say that anything that is added, except for grammatical or typographical errors, will be in a different type.

Mr. WALKER. The Chair is telling me that orders to the Clerks are that they are to consider everything that was put in the RECORD not spoken on the floor to appear in italics?

The CHAIRMAN. That is the Chair's understanding, consistent with the Chair's directive in 1988.

Mr. WALKER. I thank the Chair, and I withdraw my objection.

The CHAIRMAN. May the Chair question whether the gentleman from Pennsylvania withdraws both objections?

Mr. WALKER. Yes, sure, Madam Speaker.

The CHAIRMAN. The Chair thanks the gentleman.

Mr. CLAY. May I inquire of the Chair how much time I have consumed?

The CHAIRMAN. The gentleman from Missouri has already consumed 3½ minutes. The gentleman has 20 minutes remaining.

Mr. CLAY. Twenty?

The CHAIRMAN. The gentleman had 45 minutes on two positions.

The Chair recognizes the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Madam Chairman, I yield 3 minutes to the gentleman from New York [Mr. BOEHLERT], who is, I understand, supporting the legislation.

Mr. BOEHLERT. Madam Chairman, I thank my colleague, the gentleman from Indiana, for yielding me this time to prove that ours is a party of tolerance, understanding, and inclusion.

☐ 1540

To quote one of my favorite Americans who happens to be a part-time resident of my district where the Baseball Hall of Fame is located, Yogi Berra, "This is deja vu all over again." Madam Chairman, this is the umpteenth time I have stood in this well of this House to proclaim my support for the family leave legislation. I do so after very careful consideration of all the objections I have heard.

Madam Chairman, the objections essentially boil down to three categories:

We are told repeatedly by the opponents of this legislation that we cannot vote for family leave because it is too costly, and then when those of us who support this legislation remind them it is unpaid family leave, they say, "Well, that isn't exactly so because we're going to have to continue the insurance benefits for a period of time." Yes, that is true, we will have to continue the insurance benefits for a period of time, but, as the General Accounting Office has reported to us in a very detailed study, the average cost per employee for family leave legislation is less than $6 a year. I think that is a real bargain for a very humane, necessary piece of legislation.

Then we are told, "It's too disruptive. You can't pass family leave legislation. It will be too disruptive in the work force." Well, we understand that, and we made a conscious decision to recognize the special consideration to small businesses. Businesses of 50 or fewer employees are exempt, and, quite frankly, that is the majority of businesses in America.

And then we are told, and this one is one that is really offensive to me, and maybe it is because I have three daughters, and I am proud of those three daughters, but we are told, "You know what? They'll take advantage of this family leave legislation." The "they" are the women of America who have a child; they will take the full 12 weeks to adjust to this new experience and the new addition to the home, and I say to those who make that point that they do not understand America's women and why America's women work. It is for the very same reason America's men work. They like to eat, they want a roof over their head, they want to put clothes on their backs, put some money away for a rainy day, educate their kids, pay the dental bills. That is why America's women work, for the very same reason America's men work. Those who suggest that they will take advantage of this bill, and stay home and treat it as if it is vacation time just do not get it. As a matter of fact, we have all sorts of evidence to prove conclusively that the people want to get back to work as soon as they can.

Madam Chairman, I thank my colleague for having yielded to me, for proving that ours is a party of understanding, tolerance, and inclusion.

Mr. CLAY. Madam Chairman, I yield 5 minutes of the time of the Committee on House Administration to the gentlewoman from Colorado [Mrs. SCHROEDER], an original cosponsor of this bill and a driving force behind it.

Mrs. SCHROEDER. Madam Chairman, I thank the gentleman from Missouri [Mr. CLAY] for yielding this time to me, and I especially thank the gentleman from Missouri for standing by me for 8 years and as we bring this bill, one more time, to the floor.

Madam Chairman, I really want to say this is a good day because I think we finally are going to see it move from rhetoric to reality for people who are really going to have something today when we finally finish this. We are going to find out who is for families and who is just faking.

My colleagues, having been around for 8 years and having listened to all this debate about what is legislative history, and on, and on, and on, I feel that for 8 years we have been talking past each other on some very critical items in this legislation, that the critics get up and say the same thing over and over again, and they never listen to the answers that we continue to give them.

Madam Chairman, we constantly hear, "If you pass this bill, it's going to hurt America's competitiveness." Well, I want to know what is different about America's families. My colleagues, if the Japanese and Germans, who are knocking our socks off in international trade, do much more than this bill ever would, why is our doing a little bit of something, even though it is less than what they do, for our families going to mean we never can compete again? I do not believe it.

Then we hear it is going to hurt small business. Well, over and over again we say, "Please look. Groups under 50 or businesses under 50 employees are not covered."

Then we hear it is going to cost too much. Well, the gentleman from New York [Mr. BOEHLERT] just gave a fantastic statement about that, and over and over again it has been shown that the cost of retraining new employees is much greater to an employer than the cost of retaining people through family leave, that the cost estimate on this is $6 per employee per year. Now, if we do not care that much about America's families, we are in trouble.

The new one I love is that this discriminates against women. Right; that is why I have been pushing it. I really want to get all women out of the workplace.

Come on. Again every single other industrial country has done this, and they have not found that it discriminated against women, and so I do not think we are going to find out it does that here either.

So, Madam Chairman, one more time when we look at this body and see 80 percent of the elected women backing this, I do not think any of them are backing it because they are out to discriminate against women, and I hope just once our critic would listen.

We also have people standing up against this because they want people to have the flexibility to design the benefit package they can get. Well, that is wonderful except that employers are not giving it flexibility. We have listened to testimony upon testimony upon testimony of people who would love that flexibility but have never been given that flexibility, and we know the horror stories.

Madam Chairman, in the workplace we have never established a family-friendly standard, and we have never recognized anyone's care-giver role in the workplace. The answer is always, "If you are a care-giver, you shouldn't be in the workplace. You should be able to afford somebody full time to stay home." In other words, get a wife.

I mean I would like a wife; I think most of the Congresswomen would like a wife. My husband would like a wife. We are going to get one, so let us get real about that and let us realize that we do have to be both care-givers and good employees. If every other country can get it, we can get it.

Then finally we hear what I really love. The people say that because it is unpaid all of a sudden there becomes this great compassion for the poor. Now I would believe this a whole lot more if they were offering to pay it. I would love to have it paid, but we figure this should be in the area of a labor standard and not a benefit because indeed at the Federal level we have never legislated benefits. So, this is a labor standard which means it is a de minimis floor, the lowest possible floor that we do not want people to fall though. Therefore it is unpaid, unpaid leave for a handful of weeks for some of the most critical things people can go through: the birth of a baby where it is so important that bonding take place, the adoption of a baby, and adoption agencies will not even let someone apply for an adoption if they cannot stay home with the child for a while and get to know it because they know they do not bond when they are picked up at the agency. It takes a little more time. We also see it for the critical illnesses that all of us are going to have to face at some time with a spouse, or with a parent or with a child.

Madam Chairman, I just do not understand why we did not pass this ages ago. I now realize that children who were born the year I introduced this are in third grade. It is time we pass it. It is time we make it the law, and I really look forward to it.

Madam Chairman, again I thank all my colleagues for their help.

Mr. GOODLING. Madam Chairman, the minority of the Committee on House Administration has asked that I yield their time, which is 10 minutes.

Madam Chairman, I yield such time as he may consume to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Madam Chairman, I rise today in opposition to H.R. 1, the Parental and Medical Leave Act of 1993.

At first glance, this piece of legislation sounds like a lifesaver to the average worker. It would require employers to provide up to 12 weeks of unpaid leave per year for the care of a newborn baby, an adopted child, an ill family member, or an employee with a serious illness. Additionally, employees on leave would continue to receive health benefits, and the same or equivalent job would be waiting for them when they return. Sounds reasonable, right? Wrong.

A closer look shows that this bill does nothing but benefit the few employees who can actually afford unpaid leave. Moreover, this bill would further cripple American businesses who for years have been victims of a government which thrives on intrusive and overburdensome regulations.

While supporters of this legislation contend that mandated leave is a profamily policy that will ease the burden on working families, studies show that the very workers this legislation is intended to benefit are less than enthusiastic about its passage: A recent Penn-Schoen survey found that 89 percent of workers actually prefer to negotiate benefits directly with their employer than have them mandated by the Government. And 47 percent flat out rejected the conditions provided by the Family and Medical Leave Act. Clearly, workers prefer to have the freedom to negotiate with their employers to develop a benefit package that best suits their specific needs. In reality, then, mandated leave will only limit the ability of employers to offer benefits that workers actually prefer such as child care vouchers or onsite day care, flexible working hours, job-sharing, telecommuting, more paid vacation, or simply better health care coverage.

Frankly, I am left puzzled by the fortitude with which my liberal colleagues are pursuing this legislation. In recent years, American companies have come to realize the importance of workplace flexibility and have found innovative ways of balancing the needs of working families with the need to enhance workplace productivity, none of which is achieved through the Family and Medical Leave Act. In fact, more than 70 percent of today's workers express satisfaction with their companies current family oriented and leave policies. Workers are satisfied with these policies because they provide options so that they may balance the needs of work with their responsibilities in the home. All this can be achieved effectively without the threat of government interference, for instance by offering voluntary measures, such as tax relief and other incentives, that encourage businesses to become more family friendly.

Why do some opponents refer to H.R. 1 as welfare for yuppies? Because the only people who benefit from this legislation are those employees who can actually afford to take up to 12 weeks off without being paid, that is, families where the husband and wife both earn large salaries and where the family can get by on just one salary. The majority of average workers cannot afford such a luxury.

Furthermore, employees earning lower wages will be forced to pick up the slack for those who are on leave. Should government force people who do not want this benefit, namely childless couples, singles, parents with grown children, or older workers, to accept the consequences of H.R. 1—that is less flexibility in the workplace? Unfortunately, the majority of workers who either can't afford to take time off or are in no need of such benefits will end up subsidizing the leave taken by high-salaried workers.

Supporters of H.R. 1 also contend that this piece of legislation is primarily aimed at benefiting women competing in the workforce. They assert that women who are forced to give up a good position to have a child will always hold an inferior position relative to men in the business world. What they don't understand is that mandated leave will actually make employers less likely to hire women in the first place or promote them to key positions. Hiring women—especially those in the childbearing years—will be considered risky because of the costs associated with allowing valuable employees to take extended periods of time off. Therefore, employers will avoid this burden by hiring less women or hiring by contract. In other words, H.R. 1 will only hinder the progress made by women in the workplace due to increased job discrimination.

Not surprisingly, American companies are furious about this kind of Government intervention. Can you blame them? Since when does Government know what is best for our Nation's businesses? Or better yet, for our families? It is this kind of Government intervention that has crippled businesses and the American families in the first place. Mandated leave imposes an enormous burden on businesses throughout the country. Indeed, new labor costs associated with the mandate are estimated to exceed $3.3 billion in the first year alone, resulting in a loss of nearly 60,000 jobs. This hardship is added to the estimated $500 billion a year American businesses already spend on Government regulation. Furthermore, violation of this new law could result in an onslaught of outrageous litigation expenses for businesses. These costs will surely be passed on to workers and consumers alike.

While this measure is basically identical to the Family and Medical Leave Act which was vetoed by George Bush last year, a recent expansion of H.R. 1 enables employees to unilaterally determine new workweek schedules based on reduced leave. In other words, an employee can come to work and declare he is only working 3 hours a day this week, 2 hours a day next week, and 6 hours a day the following week. An employer would have no rights in this situation. This is ludicrous. Furthermore, while employees are encouraged to inform employers when they are taking leave and when they will be returning, they are not required to. Which ultimately means that employees will be able to come and go as they want to regardless of the impact on fellow employees or the employer. The potential for abuse is obvious, but when you consider the ramifications of public safety officials who would be eligible to take leave without notice, the stakes are much greater.

Finally, as with the majority of regulatory measures slammed down our throat by the liberals, the actual language in this bill is entirely too vague. It leaves a great deal of wiggle room which opens the way for abuse. Terms such as "health care provider" and "serious health condition" are not defined clearly in the bill, which usually means some faceless bureaucrat or an army of trial attorneys will be left to clarify these terms.

The Family and Medical Leave Act is meant to be a one-size-fits-all measure, but in reality fits only those who can afford to take advantage of it. However, the authors were nice enough to make an exception for the teachers union, which was successful in convincing the authors of H.R. 1 to grant them an exemption from the rigid restrictions imposed by this bill. It will undoubtedly result in discrimination against women and the poor, reduced benefits, and longer hours for low-paid employees. Additionally, businesses will be further strangled by this kind of unwarranted Government intervention. The truth is, H.R. 1 simply misses the point—neither business owners nor employees want the Federal Government dictating employee benefits. More importantly, it fails to help the very workers targeted for assistance—the working poor and women.

Do not be fooled by those who will tell you that H.R. 1 is profamily legislation. Tightening the leash on our Nation's businesses is no way to help the American family. I ask that my colleagues join me in preventing this destructive measure from being passed.

Mr. GOODLING. Madam Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON], a distinguished member of our committee.

□ 1550

Mr. GUNDERSON. Madam Chairman, I rise in opposition to H.R. 1. This is no surprise to most of you who listened to this debate in the past. But I will tell you why I do.

We in this Congress go to one extreme or the other. We do nothing, or we do everything. We have no mandate, or we override every State mandate in this particular area. We have no Federal leave policy, or we enact a leave policy which exceeds every State in terms of what ought to be covered by their State leave provisions.

I happen to believe there is a need for a minimum Federal labor standard in this area, disagreeing with some of my more conservative colleagues who do not want any mandates of any kind.

I recognize there has been a 200-percent increase since 1970 of women in the work force. I recognize that by the end of this decade, 60 percent of our women will be working and 75 percent of women with children will be working. But I tell you my problem with this legislation is that this is not a minimum Federal standard in any way, shape, or form. This bill is only a minimum Federal labor standard in comparison to the original legislation introduced 10 years ago.

The fact is that 31 States and the District of Columbia have enacted some kind of leave policy. Some have maternal leave policy only. Others limit their leave only to female employees. Some limit leave only to the public sector. Some limit leave only to certain sizes of businesses.

But not H.R. 1. This is everything for everybody, regardless of what those 31 States and the District of Columbia have enacted. Twelve weeks per year. Not 12 weeks over 2 years, but 12 weeks per year for any employee, whether it be for the birth and/or adoption of a child, whether it be for a serious illness to anyone in the immediate family, or whether it be for serious illness of that particular employee.

Now, those are all reasonable issues to talk about when we talk about a leave policy. But a carte blanche 12 weeks per year for any of the above is hardly a minimum Federal labor standard.

In a 1990 Washington Post survey, only 3 percent of the American people believed that this was a top legislative priority for the Congress to deal with. I happen to believe in mandates. I happen to believe in leave policies. It seems to me if we are going to do a mandate, we would do much better making sure we mandated health care coverage for every American than an unpaid leave policy for the very people who cannot afford it.

It seems to me if we are going to try to do a leave policy at the Federal level, we ought to try to parallel those States, and not supersede every one of them.

Madam Chairman, the Congress stands poised to take a step which everyone in the Chamber today would probably agree is going to have a very substantial impact on the American workplace. Obviously, there is much less agreement regarding whether that impact will be for better or for worse. Today, however, we'll bring the decade-long debate on the issue to a close. The House and Senate will pass this bill, the new President will sign it, and time and experience will decide who was right.

Madam Chairman, I do not disagree with the basic argument that the supporters of this legislation have put forward. We must recognize the realities of today's work force, and recognize that we cannot turn back the clock. The number of women in the work force has increased 200 percent since 1950, to over 55 million. By the end of the decade, nearly 60 percent of America's women will be working, and more than 75 percent of American women with schoolage children will be in the work force. Tragically, more than 25 percent of American households are headed by a single parent, and that is often a working parent. The relationship between work and family in America, as the supporters of H.R. 1 have argued, is being strained.

America, however, has not been waiting for Washington—for us in this Congress—to solve the problem. A great deal is being done at the point where these kinds of problems are usually best handled—between individual employers and their employees. Most of America's largest and most competitive corporations already provide the kind of leave that this bill would mandate. Many smaller companies are trying to do the same. A 1989 Harris survey found that 73 percent of employees believed that their employers made adequate provision for the needs of working parents. In a Gallup Poll taken in 1991, 94 percent of small businessowners who were contacted had in fact granted their employees' last request for family or medical leave. It's not surprising, under the circumstances, that very few Americans—3 percent according to a 1990 Washington Post poll—actually believe this legislation should be a top Federal priority.

Madam Chairman, I don't raise these issues in order to argue that the Congress should do nothing—that we should leave it all to the private sector. What we should be doing, as I've argued many times in the past during committee hearings and markups of the ancestors of this bill, is establishing minimum Federal standards for family and medical leave. We should be establishing a foundation under what has already been done, and creating incentives for American business to go further.

The proponents of H.R. 1 have argued that this is in fact what the legislation does—establish minimum Federal standards for family and medical leave. The truth is that this is not what H.R. 1 does. What it does, instead, is mandate Federal standards that go dangerously far beyond current norms.

The leave standards established in H.R. 1 are minimum standards relative only to the standards which would have been established in bygone versions of this same legislation—which called for 26 rather than 12 weeks of mandated family and medical leave. They are minimum standards relative to the legislative history of this bill, in other words, but to nothing which actually exists in the real world of the American workplace and the American economy.

I have argued and I continue to believe, Madam Chairman, that we should have adopted much more concrete points of reference against which to judge what are or are not minimum leave standards. That point of reference exists in State law. Thirty-one States and the District of Columbia currently have family and/or medical leave policies in place. The policies vary widely. Some provide only maternity leave. Some limit leave to female employees. Some limit it to employees in the public sector. Some States mandate leave for companies with as few as 5 employees, some mandate leave only for companies with over 100 employees.

The variety of these plans notwithstanding, H.R. 1 requires an expansion in coverage under every single program, and a very major expansion under most.

Madam Chairman, H.R. 1 is in no way, shape, or form legislation to establish minimum standards. It goes far beyond the outer limits of what is now available in most of the States that have family and medical leave policies, not to mention most of the companies that it would effect. Passage of H.R. 1 in its current form, Madam Chairman, is the legislative equivalent of economic shock therapy, and no Member of the House should cast a vote for this bill having been convinced otherwise.

Mr. FORD of Michigan. Madam Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Madam Chairman, I thank the committee chairman for yielding, and I regret that my colleague, the gentleman from Pennsylvania [Mr. WALKER], who is raising the objection has not been here to listen to the last three speakers, the gentleman from New York and Wisconsin and the gentlewoman from Colorado, who have adequately explained this legislation. It is not that we are trying to push this through, as the gentleman indicated. We are in the midst of 5 hours of debate today on this measure.

We have been debating this measure for over 2 years. It has passed this Congress in both the House and the Senate. It has been sent to an unsympathetic President who saw the necessity to veto it. We are now counting on a new and younger President who understands the changing ways of the American work force.

We have single parents who are the single wage earner in a family. We have families, such as mine, where my children, both husband and wife, find it necessary to go out and work and support and educate their children.

We have this changing work force, and now it is time that America changed with it. Our competitive friends around the world, our economic competitors, have already adopted this type of policy, either on a paid or an unpaid basis.

I guess it really is not fair to call this a family leave bill, because no small employers are affected at all. Only those employers who have 50 or more employees are requested merely to provide job protection for their employees who find the necessity to leave the workplace rather than surrender the safety of their child or their parent, merely a right to return to work when they find the need for the family is over. So it really is not a family leave bill, but it is a job protection bill.

Madam Chairman, I invite all Members to join us in saying let us offer this minimal amount of job protection for America's workers. It is time.

Madam Chairman, today I rise to support passage of the Family and Medical Leave Act. This afternoon's debate is long overdue. The last time we passed legislation it was vetoed at the White House. Today we are at the beginning of a different era and the country will be better for it.

This issue, probably more than any other, highlights our Nation's character. The changing roles of men and women in the work force are rapidly transforming America. It is our responsibility as Members of Congress to shape public policy to suit these changing times. America cannot be a superpower, promoting human rights and dignity abroad, if we continue to ignore these basic humanitarian obligations to our citizens.

America's toughest competitors—Germany and Japan—actually guarantee their workers an average of 3 months of paid family leave; most countries in the European Economic Community guarantee at least unpaid leave. H.R. 1 offers to a long time, full employee only leave without pay for a limited duration, with the right to return to work. Few, if any, employees can afford to abuse this privilege. It makes sense, in human and economic terms, for working families, for businesses, and for all Americans.

Losing your job because you have taken time to care for a sick child or elderly parent is both unfair and cruel. H.R. 1 represents the new standard of decency for the modern work force. Working parents should not have to choose between a job or a child. The time has arrived for the Federal Government to put an end to this practice, and enact meaningful and effective legislation supportive of American families. Having a large family myself, I know that the comforting presence of a parent is just as important to a sick child as any medicine a doctor can prescribe.

Today we are passing legislation that will be beneficial to all Americans. The Congress must today seize this valuable and historic opportunity. Working men and women have waited long enough for social justice.

Mr. MYERS of Indiana. Madam Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. Madam Chairman, I rise in support of opposing this bill. There are two things that have been said to which I object. I am resentful of them. One is if you are opposed to this bill, somehow you are not profamily. I tell you I oppose this legislation precisely because I am profamily.

The second thing that I object to is the implication that businessmen will not provide all of the amenities that they can for their employees. I assure you, I was a businessman. Every businessman I know is doing this.

Madam Chairman, this bill is purely and simply a mandate. What it does is to mandate prosperity. It mandates that businesses will be prosperous enough to support the requirements of this bill.

Madam Chairman, I will tell you that I think there is only one circumstance under which we should discuss bills that mandate prosperity, and that is after we have voted a bill that mandates happiness. We will have time enough to see that we can in fact mandate happiness and have it happen.

Madam Chairman, I submit that it is at least as difficult to mandate prosperity as it is happiness. When you demonstrate you can mandate happiness and make it happen, then I will believe you can mandate prosperity and make that happen.

Mr. CLAY. Madam Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Madam Chairman, certainly it is a pleasure to join with the many veteran Members who have over the years championed this cause. It is also a good opportunity to be a counterpoint to my colleague, the gentleman from Maryland [Mr. BARTLETT].

Madam Chairman, today American workers face a cruel dilemma between their job security and the needs of their families. Today many white collar, most blue collar, and almost all no collar workers lack family leave. They confront this dilemma upon the birth of a child, upon an adoption, or at the time of a family crisis involving a family member.

Madam Chairman, I believe the solution is family leave. Family leave is not a revolutionary policy.

Seventy-five westernized countries already have it. In fact, if you are a professional journalist, a corporate attorney, or an employee of a public utility, there is a good chance that you already have family leave.

On the other hand, if you are a bank clerk in the childbearing years, if you are a family worker, if you are a truck driver, or one of 3 million Federal employees, 57,000 of whom live in my district, you do not have family leave.

Madam Chairman, let me say a word about the Federal employees, because they are often maligned. They are your HUD secretaries, your FDA biologists, FBI agents, forest rangers, and farm extension agents.

President Clinton talks about people working harder for less. That is certainly true. But in the absence of family leave, not only are they working harder for less, they are working under much more stress and anxiety as they confront the dilemma of whether to stay on the job or attend to family matters.

I understand business concerns, but the facts refute them. This bill exempts small business, which means that 95 percent of all American businesses are exempt. At the same time, the remaining 5 percent include the biggest corporations in this country and 60 percent of all American workers. They ought to be included.

Recent studies at the University of Connecticut and Cornell show that companies with no medical leave policy actually lost money when they had to retrain new workers. Aetna Life & Casualty indicated they saved $2 million with a family leave policy.

The bill also exempts key personnel, again addressing the problems of business. I believe this bill resolves this dilemma, and I certainly hope that the Members of this House will concur.

□ 1600

Mr. GOODLING. Madam Chairman, I yield 3 minutes to the distinguished gentleman from Wisconsin [Mr. PETRI], a member of the committee.

Mr. PETRI. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, as we prepare to enact the Family and Medical Leave Act, I believe that, in addition to considering the establishment of minimum workplace leave standards, it is equally important that we consider the removal of existing obstacles to flexible workplace leave policies. The Department of Labor's pay docking rule is one such obstacle.

This rule prohibits employers from providing salaried workers with unpaid leave on a partial-day basis. If such leave is made available or provided to a salaried employee, that employee's exemption under the Federal overtime law is nullified, and the employer is liable for overtime pay to that employee and all of the other salaried employees. In some cases, the liability extends retroactively for up to 3 years.

H.R. 1 provides a partial fix which exempts leave taken under the Family and Medical Leave Act from the pay docking rule. However, this narrow exception still fails to address the need for flexibility in numerous other situations such as:

Employers with fewer than 50 employees;

Employees wishing to take time off to address the needs of a child who does not have a serious medical condition;

Employees who need family leave but have exhausted the 12 weeks provided under H.R. 1; and

Employees who wish to take partial-day leave on an unpaid basis in order to conserve their paid leave accruals.

The partial fix in H.R. 1 results in an anomaly under the Fair Labor Standards Act. An employer with more than 50 employees is required to provide partial day unpaid medical leave to salaried employees, but an employer with less than 50 employees is prohibited from doing the same thing.

I attempted to offer an amendment to ensure that employers would not be penalized for providing unpaid partial-day leave to their salaried employees. However, I was prevented from offering my amendment on the floor by the rule governing the consideration of this bill. We need to remove this roadblock to workplace flexibility so that all employers, not just those covered under this bill, would be able to provide flexible leave policies for their employees.

In addition to providing prospective relief, we need to eliminate the enormous liability already incurred in the public and private sector by employers who have run afoul of the pay docking rule by having flexible leave policies. In the public sector in California alone, the liability has been estimated by the Governor to be $3 billion. While the pay docking rule has been eliminated prospectively in the public sector, enormous liability remains.

I urge my colleagues to examine the current rules and recent court decisions interpreting the overtime provisions of the Fair Labor Standards Act. We should ensure that the law does not discourage employers from having flexible leave policies, while we pass legislation to require them to do so.

Mr. CLAY. Madam Chairman, I yield 2 minutes to the gentleman from New York [Mr. ACKERMAN].

Mr. ACKERMAN. Madam Chairman, I regret having to stand here today because this bill should have been enacted many years ago. Delay is the consequence of narrowminded social commentators. They argued that family and medical leave was some kind of liberal plot. And, two successive administrations heartlessly procrastinated.

Millions of fathers, mothers, sons, and daughters have had to wait too long.

H.R. 1 would enable family members, in times of need, to be true families.

It would provide leave and continued health coverage for families in dire need of such time together. No longer would family members be held hostage to the threat of the loss of their employment. Families would be able to provide the love and caring necessary to help heal.

Madam Chairman, I have been working for family and medical leave since 1969, when my daughter Lauren was born. Back then, I had to sue in order to win the right to stay home and care for my daughter. It shouldn't be that way. Workers shouldn't have to go to court—workers shouldn't have to choose between their jobs and their families. However, in the years since this bill was first introduced, American families have had to do just that.

Countless parents were forced to decide between their job and caring for a sick child or dying parent.

Mothers, and, yes, even fathers, have had to decide between bonding with their newborns and their adopted children, and their livelihood.

Madam Chairman, they say the third time is a charm. With a new President, I believe that the third time we send the bill to the White House will be the charm and that the Family and Medical Leave Act will finally become law.

Mr. MYERS of Indiana. Madam Chairman, I yield 2 minutes to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, it is with great optimism that I rise today in support of the Family and Medical Leave Act, after 8 years of consideration by the U.S. Congress, optimism for the countless number of working men and women who will be able to respond to family emergencies and childbirth without the apprehension of losing their jobs.

The bill before the House today represents a moderate and appropriate response to the dramatic changes in the American work force as women and single parents compose an ever larger proportion of employees in many companies.

Americans want to be both conscientious workers and attentive, responsible parents. Fulfilling both of these roles is a difficult and all-too-familiar balancing act, one that can be immeasurably eased with the enactment of this legislation.

Members of the House, the Family and Medical Leave Act sends a clear message to employers that minimal leave for family crises is as important as workplace safety standards and minimum wage.

Dedicated legislators, like the gentlewoman from New Jersey [Mrs. ROUKEMA] and others, have taken pains to ensure that the compromise version of the Family and Medical Leave Act responds to the concerns of the business community. Several safeguards and flexibility measures have been incorporated to protect employers and eliminate potential abuse.

But can the goals of this legislation be accomplished? Well, the experience in my own State of Maine proves that they can. We are predominantly a small business State. And we have a family leave policy in Maine, one that applies to smaller businesses than the legislation before us—employers with 25 or more employees. Yet the experience with in Maine has been overwhelmingly positive.

When a bill extending the family and medical leave policy moved through the State legislature 2 years ago, after its sunset, there was no dissent. The State official who oversees this legislation stated that the original concerns with the bill simply never materialized. Further, when I actively solicited from the business community any comments on problems with Maine's legislation, there was none, not one.

Members of the House, Congress spends an inordinate amount of time on issues and problems that are of little relevance or meaning to the daily lives of the American people. Today, though, is different. Today we can and will make an enormous positive impact on the very real problems of many of our constituents and many American families.

Mr. CLAY. Madam Chairman, I yield 1 minute to the gentleman from New York [Mr. MANTON].

Mr. MANTON. Madam Chairman, I rise in strong support of H.R. 1, the Family and Medical Leave Act of 1993. I want to take this opportunity to commend my good friend from Michigan, Mr. FORD, for his tireless commitment to this important family issue.

Finally, Madam Chairman, this legislation will become law. American workers will no longer be forced to make the difficult choice between keeping their job or caring for a newborn or a sick child.

This long overdue measure simply provides for a modest period of unpaid leave for an employee who has a newborn, a sick child or parent, or is medically unable to work. The legislation does not require wage reimbursement, it simply gives workers the opportunity to recover from a serious illness or tend to a family crisis without losing their job.

This legislation also recognizes that imposing a family and medical leave policy on small firms may not be practical. In that regard, the bill exempts employers with less than 50 employees.

Finally, as the new chairman of the House Administration Subcommittee on Personnel and Police, I am delighted this legislation includes family and medical leave coverage for all House employees. House employees who believe their employers are in violation of the act can file a grievance with the Office of Fair Employment Practices.

Madam Chairman, I recommend that my colleagues vote for it.

Mr. GOODLING. Madam Chairman, I yield 3 minutes to the gentleman from Texas [Mr. ARMEY], a very sweet, soft-spoken member of the committee.

Mr. ARMEY. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, as the gentleman from Pennsylvania knows, I am from Texas, Dallas, TX, the home of the world champion Dallas Cowboys. And in my home State, we find country and western music very popular.

And one of my favorite songs, by Clint Black, has a great line in it. The line is, "Ain't it something what a heart can convince a mind?"

□ 1610

I would say to the Members, listen to Clint Black on this. Certainly we are people who care. As the working men and women of this country, employers and employees are people who care, and care about each other. One of the sad things about this bill is the lack of respect that is given to the compassion, the empathy, the cooperation shown between employees and employers every day in America as they work out leave arrangements for people in their work force that have troubles.

No; this bill was written by people who cannot see anything happen in America unless they see the Federal Government do it. Unfortunately, they miss the best of what is happening in America. Members are going to be asked to vote "yes" on this bill to prove that they can govern. I am going to say that that is absurd. We were not elected to govern, we were elected to represent the real men and women in our home districts working to support and care for our families. In order to do that we should not succumb to what I call buzz word blackmail.

It cannot be enough for us to read the bill and see that it at least feigns heart. We must read the fine print. That is what we are hired to do. As we read the fine print on this legislation, we will see that it precipitates unintended consequences. We will see that when it is enacted into law, as it most certainly will be, it will have terribly damaging effects on the real people in their real jobs with respect to their real families in their real districts, and we will soon hear from those people how it is; that we gave them in their cities and their States and their local governments mandates without Federal money to pay for those mandates; how the firemen and the police in local communities were forced to take something from the Federal Government they did not ask for and could not use, and in the process were forced also, because the city could not afford to expand their benefits package, to accept something dropped from their benefits package that they really in fact negotiated for.

Perhaps that will be paid maternity leave, perhaps it will be sick leave, perhaps it will be vacation time, perhaps it will be dental coverage for their children. Employees will be forced to give up something they valued more in order to get something they value less. Read the fine print.

If we want to prove that we are profamily, give the family something of value. I ask my Republican colleagues, let them make the mistake and take the heat. Vote "no."

Mr. FORD of Michigan. Madam Chairman, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK. Madam Chairman, I rise today in strong support of the Family and Medical Leave Act. The Congress has been debating this for the past 8 years, and finally under a new President we have the opportunity to enact it into law.

This bill speaks to the suffering of millions of families who have been torn between caring for their families or losing their jobs. When the President signs this bill into law, families can finally feel that taking care of a critically sick child, or a spouse or a parent, will not force them to lose their jobs. They can take a unpaid leave for 12 weeks and be by the side of their family member.

It is ridiculous to assume that people will abuse this law. Who in the world is going to take leave without pay for other than the most serious of all reasons?

Small businesses hiring less than 50 persons are not covered under this bill. The opposition is hammering on the impact of the bill on employers. The truth is that 95 percent of our Nation's employers are not covered. This bill covers only 5 percent of our companies.

I fail to see how H.R. 1 covering only 5 percent of our companies could possibly have all the dire effects on prospective workers. Some 95 percent of all our employers will continue the same employment practices. Hopefully they will see by example that they ought to adopt this program as well.

It certainly will not have the effect on women which have been touted by the other side. Women will be the greatest beneficiary of this bill. Women constitute the largest providers as single parent families. They lose their jobs today if their children need them at home. Their job stability will be assured under this bill. This will help to build up the confidence of our workers in these companies. And in building up this confidence in our workers, it will build up the productivity of our companies and create the climate for economic growth and increase our competitiveness with our international rivals most of whom already mandate family and medical leave to their workers.

Two parent working families are typical today. They need this bill as much as the single parent family.

Our Nation will grow stronger and its work force will be stronger and more stable when this bill becomes law.

I urge my colleagues to give this bill a strong vote of approval. Its enactment will have a positive impact on our economy and your vote for H.R. 1 will have helped to make this so.

Mr. MYERS of Indiana. Madam Chairman, I yield 1 minute to the distinguished gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Madam Chairman, it is a good idea, but it also would be a good idea for business to pay $10 or $15 an hour. It would be a good idea for business to give good retirement benefits that cannot be impinged on. It would be a good idea for business to have the Delta Dental or whoever's dental program it is to provide eyeglass care.

I came to Washington to encourage business expansion. For the last 30 years we have been overzealous in the regulations that we have passed on business, on the decision to tax business rather than encourage savings, encourage investment in new machinery, in equipment. It seems like the very least we could do, if we are going to pass a bill like this, we should have a companion bill that says we are going to reduce some of your taxes if you make those good investments that are going to end up being more competitive and producing jobs and producing the kind of atmosphere where business will bid up the cost of labor and give these fringe benefits without trying to legislate prosperity that is not there.

Mr. FORD of Michigan. Madam Chairman, I yield 2 minutes to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Madam Chairman, I rise in strong support of H.R. 1, the Family and Medical Leave Act.

Madam Chairman, I would like to note that this is a compromise. This is the lowest common denominator, as other speakers have pointed out. This is a bill that was fashioned in order to try to get the vote of a very insensitive President. This was intended to garner the maximum support, but it places us at the bottom rung, the lowest level among the industrialized nations. There are many more nations that offer family leave, and among our competitors there are nations that offer family leave with pay.

I hope we will see that this is a break in the gridlock, but it is only step one. We have a long way to go in order to, step-by-step, get the American worker back to the point where they are competitive in terms of benefits and wages with other industrialized nations.

We have to understand that in every respect the conditions for working people in this country are at the lowest levels. We have, relatively speaking, the lowest minimum wage among industrialized nations, and benefits are declining. We have to get back in step, and this is step one.

I hope that very soon after this trial period is over we will go on to develop a more meaningful family leave bill, a family leave bill which will offer some paid leave, a family leave bill that will be more flexible in terms of the amount of time that is offered. Let us applaud this as a first step, but understand clearly that it is a first step. It is a bill fashioned as a result of trying to seek a compromise in a situation where we felt we had to do it.

It is important to understand that new initiatives, taken under the leadership of the present Secretary of Labor, where American workers are considered as assets, that is the kind of initiative and that is the kind of philosophy that will take us forward in a new competitive new world order, and have our workers be raised to a level equal to that of the other industrialized nations.

Madam Chairman, I rise in strong support of H.R. 1, the Family and Medical Leave Act.

At long last, today we bust the gridlock and begin the process of reordering our Government's priorities to, as President Bill Clinton has promised, put people first.

H.R. 1 requires employers with 50 or more employees, as well as State and local governments, to provide their workers with up to 12 weeks of unpaid leave each year to allow them to care for a new child or seriously ill family member; this leave period could also be used as medical leave if the employee is seriously ill. Workers' jobs would be fully protected during their leave and employers would be required to continue to provide health benefits during the period of leave.

For 8 long years, the robber-barons of corporate America and their Republican allies have blocked the enactment of this legislation which recognizes one simple, but important reality of today's world: That most American workers have families and sometimes they need time off from work to care for them. Two-thirds of mothers of preschool children and three-quarters of mothers of school-age children now work outside the home, generally out of economic necessity. Some 20 to 25 percent of American workers also have caregiving responsibility for an older relative. Inevitably, these family responsibilities will at times create conflicts with the demands of the job. The simple proposition behind H.R. 1 is that those conflicts should not be economically fatal; no worker in America must ever be asked to choose between keeping a job and tending to the needs of his or her family.

Fairness and justice alone would demand that we protect all Americans from being forced to make such an impossible choice, but the enactment of a national family leave policy also makes good economic sense. It would enhance, not injure, our economic competitiveness. Workers in 135 other countries—including nearly every industrialized nation and some Third World nations—already have the kind of job-protected family leave H.R. 1 would provide to our constituents. In 127 nations—including some of our chief economic competitors like Japan and Germany—workers even get paid family leave. And workers in some of these countries have had these basic rights since before World War I. These nations have learned that one of the keys to economic growth and success is treating each worker as an essential resource to be developed and invested in—not as an expendable, interchangeable cog to be cast aside the first moment it poses an inconvenience.

The cost to business of providing family leave is minimal. The General Accounting Office estimated that H.R. 1 would cost covered employers about $5 per employee annually; another study commissioned by the Small Business Administration put the cost at $6.70 per employee annually. In contrast, that same SBA study found that every time an employer discharges a worker because of illness, disability, pregnancy, and childbirth, instead of providing leave, it costs the business between $1,000 and $3,000.

Though the cost to business of providing leave is trivial, the emotional and financial cost of not having access to family and medical leave can be devastating. Workers without leave suffer added unemployment and earnings losses after childbirth of illness because they cannot return to their former jobs; others who are able to return to their jobs are often paid substantially lower hourly wage rates. A 1989 study by the Institute for Women's Policy Research estimated that working women without family leave suffer a cumulative earning loss of $607 million every year. Losses due to the lack of job-protected leave for workers who experience longer than average illness amount to $12.2 billion. The emotional toll is also severe. During the 8 years that the Education and Labor Committee has had this legislation under consideration, we have heard numerous sorry tales from Americans who have been victimized by their lack of access to family and medical leave. Fathers unable to be with a child at a time of serious illness. Parents unable to adopt a child because neither could get sufficient time off from work to care for the child after placement. Mothers trying to cope with the dual stress of having to care for a newborn while simultaneously looking for a new job. Workers battling deadly illnesses who were summarily dismissed by their employers.

H.R. 1 is necessary, breakthrough legislation, but I think it is important that we do not overstate what it will accomplish. It would be hard to weaken and water down this bill any more than it has been during the past 8 years it has been under consideration in the Congress. Every time this legislation has been brought forward to the floor, we have pared away more and more of the protections this bill would provide workers in order to make it more palatable to more Members of this body. Most businesses are not even covered by this bill any more. Small businesses with fewer than 50 employees are now completely exempted. This bill will have no effect at all on 95 percent of the businesses and 44 percent of the employees in this country. The sponsors of the bill have also dramatically reduced the amount of leave that would be available to employees. When we started this process we were talking about providing 18 weeks of family leave and 26 weeks of disability leave. What we're down to now is a total of just 12 weeks of leave for any reason.

And, as from the beginning, we are only talking here about unpaid leave. Unpaid. For many families who are living from paycheck to paycheck, family and medical leave will still be an economic impossibility. They will just not be able to afford the time off. My hope is that once H.R. 1 is enacted, the Congress and the Clinton administration will move forward to fashion new legislation which would provide some form of income replacement for low- and middle-income workers who take family and medical leave. Today, workers in Japan receive 12 weeks of partially paid family leave and workers in the European Economic Community receive a minimum of 14 weeks of fully paid family leave. American workers deserve no less; we must press on to assure that income replacement is made part of our national family and medical leave policy.

With H.R. 1, the 103d Congress can take its first concrete step toward putting people first in American again. I urge my colleagues to support this legislation.

Mr. MYERS of Indiana. Madam Chairman, I yield 3 minutes to a very valuable member of the Committee on Post Office and Civil Service, the former ranking member, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Madam Chairman, I rise today in strong support of H.R. 1, the Family and Medical Leave Act of 1993. I commend the sponsor of the legislation, the gentleman from Missouri [Mr. CLAY], who also serves as chairman of our Committee on Post Office and Civil Service, for his efforts in bringing this important measure to the floor.

I have been a supporter of this legislation since it was first introduced in 1986. While it has been changed significantly in the intervening years, H.R. 1 signals congressional support for creating a positive environment for today's working families, who should not be forced to choose between starting and maintaining a family and their career.

H.R. 1 not only favors working mothers who must take time off from work for child bearing purposes, but all workers who must take leave in cases involving a birth, adoption, or a serious health condition of a close family member. This statutory provision replaces administrative guidelines for agencies to follow in cases of employees seeking leave for pregnancy or other medical reasons.

Specifically, title II of H.R. 1 provides for an employee to be entitled to a total of 12 administrative work weeks of leave during any 12-month period for family and medical leave. Where the need for such leave is foreseeable, the employee is required to notify his or her employing agency 30 days in advance. Upon return to the work force, the employee is entitled to his or her former position, or an equivalent position. Any family or medical leave granted under this legislation will be on leave without pay, although an employee may elect to substitute any accrued or accumulated sick or annual leave in lieu of leave without pay.

An agency may require an employee requesting such leave to provide a medical certification for taking leave. If the agency doubts the validity of this certification, it can request a second opinion of a second health care provider to be paid at the agency's expense. Title II of H.R. 1 contains prohibitions on coercion of employees from attempting to exercise their rights under this legislation. Also important to note is the fact that an employee is entitled to health care coverage during the duration of any family and medical leave taken.

Madam Chairman, working families across our Nation will all benefit from this legislation. H.R. 1 is fair legislation which should be enacted promptly. As more women enter the work force the need for such leave becomes even greater. We should establish a national policy encouraging responsibility in caring for close family members. Because of the complexities of today's society, the Federal Government has an obligation to see that workers should not be penalized when serious family responsibilities compete with job demands.

H.R. 1 creates no burden for the Federal Government in its role as an employer. The legislation goes to great lengths to see that any disruptions in the workplace associated with an employee taking unpaid leave are minimal at best. In fact, worker morale, productivity, and retention should be enhanced by a clear, stated policy not subject to arbitrary changes and discretionary grants of leave.

Madam Chairman, I ask my colleagues to note the comments of the U.S. Catholic Bishops' Conference statement of 1991:

> This legislation advances the type of workplace that values family. The Catholic Bishops' Conference 1991 statement, Putting Children and Families First, noted: "Passage of a family-leave bill would not only protect the jobs of parents whose employers might otherwise penalize them for taking time for family responsibilities, but would also send a message that the Nation sees children as a real priority for all of society." We see this

legislation as a first step in the 103d Congress to put children and families first.

Accordingly, Madam Chairman, I urge our colleagues to join today in supporting this important measure.

□ 1620

Mr. CLAY. Madam Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Madam Chairman, I rise in strong support of the Family and Medical Leave Act of 1993, and I thank both of my chairmen for their efforts on behalf of these measures.

As many of our colleagues have made clear, family leave is a matter of fairness. It is a sound employer practice, something that nobody disputes anywhere on this floor, and long overdue. It is motivated by decency.

But it is also inevitable. It is inevitable if we want to ensure a productive and competitive work force into the next century, and it is inevitable if we are going to make the fullest possible use of the American talent pool.

The fact is that this legislation has been motivated by decency, but it is being driven by demographic change. It is a kind of change that is rapid and profound, and perhaps unparalleled in 100 years. Growth in the American economy over the last two decades is directly attributable to growth in our work force, and we are running out of room to grow. Sixty percent of all women are now in the work force. At the same time, fewer men are available to enter that work force. In two-thirds of married couple families with children, both the mother and the father work today. And the number of married women with very young children who are working has tripled over the last 30 years.

We just cannot afford to waste talent. We cannot afford to wait any longer to accommodate the pace and scope of demographic change that has swept this Nation and its work places, because as we have learned, we simply cannot any longer afford to waste a single person.

The Family and Medical Leave Act of 1993 is a significant and necessary effort to do just that. I would urge my colleagues to support it.

Mr. GOODLING. Madam Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. FAWELL], a distinguished member of the committee.

Mr. FAWELL. Madam Chairman, I thank the gentleman for yielding me this time.

It is amazing how different people can express themselves here, and I think it is good that we all have to listen to each other.

But I rise in support of the concept of unpaid leave, and I object with equal conviction, however, to the notion that an arcane, and it is that, national personnel leave plan can be mass produced by Congress to fit all of America's employers and employees, public or private, for profit, not for profit, where they happen to have more than 50 employees now, and that will change.

First, such a one-size-fits-all plan ignores the diversity of America's employers and employees. Personnel leave plans have to dovetail with the unique missions of employers and employees.

For instance, the bill assumes that personnel leave policies of a dress shop in Kansas City can also fit the coming and going of employees in the Chicago Police Department or the New York Police Department or a trauma unit in a hospital where if an employee does not show up somebody might die.

Second, the health problems that trigger the act's mandates, though defined as "a serious condition," are defined so broadly as to be anything but that, and no doctor is necessary to even make a diagnosis.

Third, this one-size-fits-all mandate restricts the opportunity increasingly being given to employees to choose from a cafeteria of benefit options such as early retirement, a flex-leave policy, a 4-day workweek, home work, life and health insurance, education, extended vacations. And we all should ask ourselves the question: Why should Congress choose to mandate unpaid leave rather than any of the other employee benefits to which I just made mention? Why pick one, unpaid leave? Congress does not know which of the many employee benefit options are best or most desired by employees, and yet if Congress mandates unpaid leave, they must realize that they are correspondingly limiting other employee benefit options.

Fourth, the bill throws the U.S. Department of Labor into another massive and costly bureaucracy. The mandates far exceed anything any State has ever dreamt of. Employers will be subject to a Federal jury trial and possible damages, liquidated damages, expert witness fees, mandated legal fees, injunctions to rehire, promote, and so forth. And one need only look at, for instance, administering of the workmens comp laws, whether conditions of ill-being proscribe an employee from doing his job, to understand. This is what we are buying here.

OK, but then in the final analysis, look what happens. When we come to Congress we exempt Congress insofar as that massive bureaucracy which we have now heaped upon the rest of America, and we also exempt Congress from the idea of having to have somebody that can drag us into Federal court, and we say to our 12,362 estate employees, "I'm sorry, this act isn't for you. We exempt you too."

That makes no sense whatsoever.

Mr. CLAY. Madam Chairman, I yield 2 minutes to the gentlewoman from Virginia [Mrs. BYRNE].

Mrs. BYRNE. Madam Chairman, one of the reasons I ran for Congress, and one of the reasons that people voted for me, was to break the gridlock. If there is any bill that has represented gridlock, it is this one. It has been introduced for 8 years. It has been passed by this body for 2 separate years.

So for those new Members who talked about gridlock, this is the time. This is the time to move the process and the national agenda forward.

The bill has broad-based support throughout America. This bill has broad-based support because it is fair. It does not ask workers to choose between their family responsibilities and their jobs.

Sometimes when I have heard this debate, I think we need a reality check here. Have any Members had to take a sick parent to chemotherapy and wonder if their jobs would be there when they got back? Have any Members been called by a school that said their child was ill and wondered if their jobs would be there when they got back?

Ladies and gentlemen of the House, this is the kind of everyday dilemma that this bill will address.

□ 1630

Madam Chairman, there is no other reason to vote against this bill than to say you do not care about these people, you do not care about their everyday problems.

This is not a benefit, ladies and gentlemen. This is a right, and it should be treated as a right for American workers. It is common sense, and it is time it became law.

Mr. MYERS of Indiana. Madam Chairman, I yield 2 minutes to the gentleman from California [Mr. KIM], a new Member, a businessman.

Mr. KIM. Madam Chairman, I rise in opposition to this bill.

Before coming to Congress, I was the owner of a 130-employee business. I created this successful business from scratch.

Like all businessmen, I feel insulted that big bureaucratic Government claims to know more about what is best for employers and employees. Our Government cannot even manage its own affairs. It is over $4 trillion in debt.

Employees and employers themselves know what benefits and policies are the best for them. Let them work it out together. Each business is unique, and so are the benefits each must provide.

One-size-fits-all Government mandates just do not work.

This bill is very discriminatory. It only covers employees in businesses with more than 50 employees. Therefore, all the government employees are covered. How about the other half?

The Government should give the right to all or none.

Third, the mandated leave only benefits those fortunate employees who do not have to live paycheck to paycheck. It discriminates against the average worker who cannot afford unpaid leave.

Does this bill actually create more jobs? Does this bill stimulate the economy? Of course not.

Please, help business; help support jobs by rejecting this discriminatory bill.

Mr. FORD of Michigan. Madam Chairman, I yield 2 minutes to the gentlewoman from the State of Washington [Mrs. UNSOELD], a long-time supporter of this legislation.

Mrs. UNSOELD. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, I appreciate the chairman yielding to me, and I thank the chairman, the gentleman from Michigan [Mr. FORD], the chairman, the gentleman from Missouri [Mr. CLAY], the chairman, the gentleman from Montana [Mr. WILLIAMS], for their leadership throughout the many years, 8 years of gestation which is about to give birth.

I rise in strong support of the Family and Medical Leave Act. For me, it is a symbolic vote.

With a new President in the White House who has unequivocally demonstrated his support for greater attention to the issues that affect children and families, I feel a great deal of optimism that these issues are finally going to be addressed. That is why, for me, this is such a symbolically important vote.

It is time to show that we do support our Nation's children and families, and that we share in President Clinton's optimism that their desires will be heard and their needs will be met.

Let us give full support to this legislation today.

Mr. GOODLING. Madam Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. BOEHNER], another distinguished member of our committee.

Mr. BOEHNER. Madam Chairman, we are going to hear a lot today in favor of this bill, a lot of comments and reasons why we should not support it. I would like to take a broader view. Thomas Jefferson outlined his vision of government in his first inaugural address. He spoke of:

> * * * a wise and frugal government, which shall restrain men from injuring one another; which shall leave them free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned.

Jefferson talked of the "magic of the marketplace. Agriculture, manufactures, commerce, and navigation, the four pillars of our prosperity, are the most thriving when left most free to individual enterprise."

Where did we stray from our Founding Father's vision? What cataclysmic event occurred that subjugated our constitutional right to property and enterprise to some new-found legislative authority to dictate to all who attempt to live the American dream what they can and cannot do with their labors?

At what point, and for what reason, did this Congress determine that the citizens of this country could no longer be trusted with their own affairs? Why have those who have a stranglehold on power lost faith in our citizens, replacing it with a faith in big Government? They have replaced community and family with new Government spending and programs.

I ask my colleagues to listen to these words, the words of a great man. "From time to time, we have been tempted to believe that society has become too complex to be managed by self-rule, that Government by an elite group is superior to Government for, by, and of the people. But if no one among us is capable of governing himself, then who among us has the capacity to govern someone else?" Ronald Reagan knew that power belongs with the people, not the Government. Who among you stands here today and claims that you, as a Member of Congress, are better suited to govern than those you have been privileged to represent. Do you not display that arrogance with support of this bill?

I could spend hours detailing the legal and legislative landmines in this bill. No exemptions for public safety employees. Your house is on fire? Too bad. Let it burn to the ground since your local firefighters are out on leave. Your mother-in-law has hypertension that happens to coincide with the first day of hunting season. Perfect. Take some medical leave. I admit that these are extreme examples, but all are within the realm of possibility with this bill.

And what is your answer to the employee who takes a job, only to be forced on the unemployment roles after 10 weeks because someone has returned from leave to reclaim their job? What do you tell the young women denied a place in the work force because a small employer cannot afford the risk of hiring her for fear that she will be gone for 12 weeks a year? And what is your answer to the employee who is so unfortunate to work in a company with only 40 employees? How do you explain to that employee that they are not good enough to qualify for this minimum labor standard?

But again, I do not wish to focus on these issues, for I will be honest; even if all my concerns were addressed with this bill, I would still oppose it on principle.

Only in the rarest of instances does Congress have the constitutional authority to impose upon our citizens conditions of property ownership. This is not one of those instances. And what is a business but property ownership? I ask my colleagues on both sides of the aisle who rush to embrace this piece of feel good legislation, where will you stop. How long before you impose this minimum labor standard on all employers and not just those with more than 50 employees. Can I count the months on one hand before you begin to position yourselves to ask for paid leave?

Why have we strayed from the vision of Thomas Jefferson? Oh, the bitter irony of President Clinton and the Democrat Party's embrace of our third President. Have they taken the time to hear his words? With their support of mandated leave, it is obvious to me they have not.

Alice Rivlin, the new Deputy Director of OMB in her book "Reviving the American Dream," argues that any enterprise that can be undertaken by the private sector should not be usurped by the public sector, and that no higher echelon of government should undertake what a lower echelon is capable of handling.

Madam Chairman, is President Clinton listening to his own appointees?

I have resigned myself, with no great pleasure, to passage and enactment of this bill. It is a bitter pill to swallow. But I continue to have faith in the thousands of hard working Americans out there who have carved out a piece of the American dream for themselves with ownership of a business. For they are the true strength of this Nation. Yes; I have no doubt that most will survive this egregious infringement on their rights.

America's business owners are a resilient bunch. But let there be no doubt, H.R. 1 will be the demise of some. And as that occurs, the light of freedom will grow dimmer.

Enterprising citizens of the world were drawn to our shores by the promise of freedom, by the hope of being unshackled from Government tyranny. What do we tell them today as the Federal Government extends its tentacles even further into the body of economic growth, draining the lifeblood of free enterprise.

Yes; most business will survive this time. But how much more can they take? When will this Congress take one step too far? Think about it I say to my colleagues. Who then will you turn to to pay for your salary, your staff, your programs, and your mandates?

Let there be no doubt that H.R. 1 will be the demise of some and will be the ruination of others.

It is time, ladies and gentlemen, that we do what we should do and that is to vote "no" and not incur more mandates on America's free-enterprise system.

Mr. CLAY. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Georgia [Mr. LEWIS], the deputy majority whip.

Mr. LEWIS of Georgia. Madam Chairman, I rise today to urge my colleagues to support H.R. 1, the Family and Medical Leave Act of 1993. This legislation is long overdue. For too long, political gridlock has blocked the passage of this important legislation.

I firmly believe that we have the opportunity to deal gridlock a deadly blow by passing H.R. 1. We now have a Congress and a President that truly wants to protect working families. We have a Government that truly cares.

Madam Chairman, H.R. 1 marks a new commitment to family values—real family values. It is time to give American families a chance. We have a mandate, a mission and a moral obligation to stand up for the American family. It is time to put the needs of the American family first.

Our country has changed. The American family has changed. We must help the American family and their employers adapt to these changes. If we do not our businesses and communities will suffer.

It is time for us to stop talking, it is time for us to act. Let us pass this legislation with a big margin and send a message to all who work in America that the Family and Medical Leave Act will lift a heavy burden off the shoulders of working people.

With the passage of this bill, we not only pass a good and necessary piece of legislation; but we also say goodbye to gridlock and hello to a Congress and an administration working together for the good of the working people of America.

□ 1640

Mr. MYERS of Indiana. Madam Chairman, I yield 3 minutes to the very senior member of the Committee on Post Office and Civil Service, the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. I thank the gentleman for yielding.

Madam Chairman, I rise in strong support of H.R. 1, the Family and Medical Leave Act. Eight years have passed since this bill was first introduced. I have been here for 7 of them, and I have cosponsored it every year. And it finally appears that this critical legislation will be approved and signed into law. American families will at last be allowed to take care of family emergencies and childbirth without risking their economic self-sufficiency.

I hope that every Member is familiar with the statistics: That we are the only industrialized nation without a family and medical leave policy; that only 37 percent of all female workers and 18 percent of all male employees in companies with over 100 or more workers are covered by unpaid family leave. With the many changes that have been made to address the concerns of the business community, the bill now provides a modest leave program affecting only 5 percent of the businesses in this country.

Congressional employees are covered. Of course, their enforcement procedures are through the House Office of Fair Employment Practices. The top 10 percent in terms of salary of the employees can be denied that. Medical certification can be required. There are all kinds of safeguards in this bill.

Madam Chairman, too many American workers have been forced to choose between their families and their jobs. These choices have had devastating consequences in many cases.

All these studies have been compiled by the Women's Legal Defense Fund that portray countless examples of employees who were fired as they or their families prepared to undergo surgery, leaving them without health insurance and with full financial responsibility for the medical costs despite the fact that their employers have granted the leave beforehand.

Families have lost their life savings in an effort to care for a dying child, or have lost their jobs for taking time to care for a newborn, even though they had made prior arrangements with their employer and had worked long hours to make up the lost time. The case studies included in this report have been repeated over and over again throughout this country year after year, and they increase

Madam Chairman, today's families already face tremendous stress, and that stress is having a serious impact on our children. This bill is pro-family legislation that is critically needed. Every Member of this House I know professes and does show to be deeply concerned with the breakdown of the family in this country and the high poverty rate among our children. Anyone who is truly concerned with these issues will I hope vote for this bill. It is long overdue and we simply cannot afford to delay any longer. I urge my colleagues to vote for H.R. 1 and affirm this Congress' commitment to the American family.

Mr. CLAY. Madam Chairman, I yield 3 minutes to the gentlewoman from Michigan [Miss COLLINS], a member of the committee and chairman of a subcommittee of the Committee on Post Office and Civil Service.

Miss COLLINS of Michigan. I thank the gentleman for yielding time to me.

Madam Chairman, today, we will let the American people know we have heard their cries for help. Today, we will show the American people our commitment to their health, we will show the American people our commitment to their families, and we will show the American people our commitment to their jobs.

Today, I will proudly vote for H.R. 1, the Family and Medical Leave Act, and I urge my colleagues on both sides of the aisle to join with me. The American people deserve no less.

Over the course of today's debate, we have heard, and will continue to hear, the naysayers prophesy upon the doom of American business, particularly small business. They will argue that small businesses, the backbone of the American economy, will be destroyed by excessive Government mandates. This just isn't true.

My friends, the American people want us to put this trivial partisan bickering aside. As the needs of our citizens change, so too must the laws we pass. The world we now live in has many single and working mothers, the world we now live in has a large number of elderly who are unable to care for themselves, the world we now live in has a majority of households where two parents work outside the home. The time has come for us to offer new options to workers facing new challenges.

Personally, I know all to well the challenges that our workers face. As a single mother of two children, I was often forced to make a choice between going to work, or staying at home with my sick child. This can be an agonizing decision, because I may not have always had someone else to care for my child. Can you imagine leaving a sick child at home, alone? I assure you my friends, that this situation is not the basis for a hit comedy movie.

The Family and Medical Leave Act will define the relationship between workers rights and family rights, which we now see are interrelated. The Family and Medical Leave Act demonstrates that this Congress is actually supportive of families, and is tired of empty rhetoric and broken promises.

There are Members of this body that will say we are acting on emotions. To them, I say you are right. If the emotional well-being and peace of mind of the American worker will be helped by this act, then I say this is an emotional issue. And it is one I will support.

The naysayers of this bill will also argue that we do not need Federal mandates for leave because many businesses already offer family leave. I applaud those businesses that do offer this leave, and I am sure they will tell us that they see increased productivity, lower turnover rates, and high morale. I know by firsthand experience that a happy, content, and secure employee will do better work. Therefore, it would seem to me, that a family leave bill would increase worker productivity and help grow our businesses and economy.

Quite simply, the Family and Medical Leave Act addresses the real concerns of a changing workforce. This legislation is 8 years overdue and desperately needed.

Mr. GOODLING. Madam Chairman, I yield 2 minutes to a distinguished new member of our committee, the gentleman from Michigan [Mr. HOEKSTRA].

Mr. HOEKSTRA. I thank the gentleman for yielding.

Madam Chairman, we are at a crucial point in history. This Government can best serve its citizens by supporting businesses and employees. Strong and competitive businesses provide jobs. Strong competitive businesses are not built on the theory that Government knows best. It is time for Government to realize that the enlightened business world has worked beyond the old central planning mentality toward a flexible working relationship between management and employees. We in Congress should seek to support and create a new approach. What we need is to create something like a new Department of Labor which provides working models of exemplary businesses. What we need is multiple models, not a single model.

On a philosophical level I listened with interest to Secretary Reich last week during his testimony. He spoke eloquently of inspiring trust and loyalty in American workers, of aiding American competitiveness. I agree with much of what the Secretary had to say, but I adamantly disagree with the premise that by setting a precedent for federally mandating benefits in the workplace for a small number of employees that we, as big brothers, are somehow aiding those helpless, unenlightened companies to do the right thing, to build trust. The ironical thing is that the Members of this institution have no business lecturing to American workers and businesses on how to build trusting relationships. It is an arrogant and laughable thought. Today only 19 percent of the American people believe that we, this Congress, are trustworthy. We should be looking at businesses, we should be taking lessons in building trust, not giving them.

□ 1650

I urge the Members of this House to vote against this bill, not because the idea lacks merit, but because the bill itself is a giant step in the wrong direction.

Why? Because as businesses and employees around the country are breaking new ground in employee-management relations, this Government now tells us, "Trust us. We are here to help."

Mr. FORD of Michigan. Madam Chairman, I yield 2 minutes to the gentleman from California [Mr. MARTINEZ] a longtime toiler on this bill.

Mr. MARTINEZ. Madam Chairman, this Congress in its new beginning faces I think a wonderful opportunity, that together with the President signing this bill we can lead the way toward that kinder and gentler America that we all heard spoken of in the last administration.

H.R. 1 is a step in that direction. This is a bill that provides people with the ability to care for their loved ones without the fear of losing their seniority, health coverage, and even their jobs. Men and women ought to be able to care for their loved ones without the penalty of losing their livelihood. That should be basic.

And finally, for the critics of this bill, I say to them, they who say it is too costly or that it would tie the hands of businesses, I ask them to look at the fact that employers of good conscience are already providing this, and they do not consider it either.

In reality, however, H.R. 1 balances the needs of our families with the interests of our private and public employers. Small businesses are exempt from the act and key employees are excluded. Financial harm will not come to either employer or employee in this bill.

The one governor in this bill is the fact that employees need their salaries and are not going to take any more time than they absolutely need to take care of their families. It is right for families and it is right for business.

President Clinton has said that there is nothing wrong with America that cannot be cured with what is right for America. Our family values are something that is right about America, but there is really something wrong if we support family values, but fail to support the family. The Family and Medical Leave Act of 1993 supports family values because it allows working family members to support what is most important in their lives without fear of losing their jobs. For that reason, I ask my colleagues to search their hearts and their consciences and vote for this bill.

Mr. MYERS of Indiana. Madam Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. COLLINS].

Mr. COLLINS of Georgia. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, I rise to voice my concerns about the Family and Medical Leave Act of 1993 which we are today considering.

As an employer, I support the idea and certainly understand the need for time off from work for family and medical purposes; however, I know that when an employer is creating a benefit package for his or her employees, it must be a policy that is based on sound commonsense principles.

H.R. 1, plain and simply, fails to meet such principles. There are many weaknesses I see in this legislation. Most alarming to me is the fact that this legislation will open the doors to both higher unemployment and increased discrimination, hurting the very people it sets out to help.

Today America's businesses are already saddled with too many suffocating regulatory burdens. By mandating a Federal leave policy we eliminate the much-needed flexibility in the employer-employee relationship.

According to H.R. 1, if you employ less than 50 people, then you are exempt from the Family and Medical Leave mandate. But what about the company with 50 to 55 people? The simple answer would be they will have to comply with H.R. 1. I disagree.

I believe rather than comply with H.R. 1, companies that employ between 50 and 55 will dismiss employees so that they can get below the 50 mark, thereby avoiding more government-imposed regulation.

This bill creates a new vehicle for discrimination in the workplace. It targets for discrimination the very group it should be most geared toward helping. This act will limit the choice of employment for many young women and single-parent mothers. According to a 1991 Gallup survey as reported by the Federation of Independent Businesses, of the business owners surveyed 45 percent are much less likely to employ young women.

I ask you to consider your thoughts on this. This is not good legislation.

Mr. CLAY. Madam Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WELDON], who has played an instrumental role in putting together the compromise that we are considering today.

Mr. MYERS of Indiana. Madam Chairman, I also yield 1 minute to the gentleman.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WELDON] is recognized for a total of 4 minutes.

Mr. WELDON. Madam Chairman, I thank my colleagues for yielding me this time.

First of all, I want to say that I support this legislation, and I want to say that I totally respect the purists in this institution who oppose all governmental involvement in the workplace, who have consistently stood up and opposed minimum wage standards that the majority of Republicans supported, those who have consistently opposed worker safety requirements as minimum standards, those who opposed unemployment compensation, those who are willing to stand up and say they are not for having unpaid leave for jury duty nor having unpaid leave for military service, I support those purists in this body who are willing to take those stands.

Madam Chairman, I would say that number is perhaps less than 25 Members of this House who have been willing to take those stands on each and every one of those issues.

Most of us believe, as I do, that in fact there are certain minimums that are warranted by the Government in terms of the way we set up our employment policies in this country.

Like my colleagues, especially on the Republican side, but also on the Democratic side, I am proud of my business support. I am proud to receive the chamber of commerce endorsement every session when I run, to have my NFIB statues in my office; but let me say to my colleagues, business is not always right.

I think of my first session in this House when we were debating the plant closing legislation. We heard the same arguments down here. Companies are going to close. It is going to drive business out of America. It is going to be terrible. It is going to wreak havoc. It is law.

What has happened? Not one instance has been brought to our attention of a company shutting its doors because we asked companies to tell us when in fact they are going to close major installations.

Madam Chairman and my colleagues, I ask you to look at this issue based upon the merits. I do not like the politics that has been played with family and medical leave.

Let me say to my Democratic colleagues, I do not like the way that we passed this bill a year ago in the fall, in September, and waited to bring it up during the campaign so that it would give President Clinton a major political advantage. That was wrong, and I am a cosponsor of the bill. We should have worked on a compromise last year, and we did not do that, and that is unfortunate; but we are here today and we are here having had 40 Republicans in the last session support this legislation in a bipartisan manner.

But I want to add some additional thrust to this argument. I want to talk not about the cost of this, but about savings. We are going to be debating in this session savings in the health care area. I submit to you that the one area we can achieve savings in health care is to encourage home care.

I will submit for the RECORD the results of a series of studies that show that we can save hundreds of millions and billions of dollars in terms of allowing people to care for loved ones at home, rather than putting them in hospitals where the costs are five and six times the daily rate that it would be if they were in fact in their homes.

There were 113,000 patients in America last year who qualified for full medical care funding related to hospice. The cost of hospice on a daily basis is $91. If we had put those people in the hospital, somebody in this country, the people who buy insurance, the taxpayers, would have paid $500 a day.

We save over $1 billion on health care costs by allowing those people to be cared for at home.

I have numerous studies that I will submit for the RECORD in other cases where it has been proven on the record, including by Everett Koop's own studies, that having home care is a way to achieve substantial savings in terms of our health care costs.

Madam Chairman, the material I refer to is as follows:

THE ECONOMIC IMPERATIVE

RESEARCH SUPPORTING HOME CARE AS COST-EFFECTIVE

As America has worked to bring burgeoning health care costs under control, one key strategy has been to save money by moving people from institutions into home settings. While home care may not be appropriate for all patients, it has benefited many people already, and can benefit many more. According to a recent study by the American Medical Association, "For every patient in a nursing home, there are three more severely impaired patients cared for in their home." The potential for even greater savings remains.

In addition to the quality-of-care advantages reflected in the "technological imperative," a number of studies have shown home care services, in several instances, to be substantially more cost-effective than hospital care alone. As the issue of controlling health care costs becomes even more salient, economic advantages will provide another imperative for utilization of home care. Recent research indicates this is already the case.

LEWIN/ICF STUDY

Commissioned and cosponsored by the National Association of Medical Equipment Suppliers (NAMES) and conducted in 1991 by the research and consulting firm Lewin/ICF, this study compared the costs of home care versus hospital care for three diagnoses responsive to HME technology. They were: hip fracture, amyotrophic lateral sclerosis (ALS)—also known as Lou Gehrig's disease—with pneumonia, and chronic obstructive pulmonary disease (COPD) (see chart 3 below).

CHART 3.—COST SAVINGS PER QUALITY ADJUSTED EPISODE

Type of patient	Hip fracture	ALS w/ pneumonia	COPD
Savings per episode	$2,300	$300	$520
Diagnoses per year	250,000	1,533	93,184
Annual savings	575,000,000	459,900	48,455,680

The study found that: a combination of inpatient and home therapy with HME was preferred by patients and had a potential savings of between $300 and $2,300 per patient episode; and when the potential cost savings of home care compared with institutional care was multiplied by the prevalence of each illness, the potential annual savings per year reached as high as $575 million.

AETNA STUDY

A recent study by Aetna Life & Casualty Co. looked at patients who experienced catastrophic illnesses—including infants with breathing and feeding problems and people with HIV/AIDS. *This study found that home care resulted in a savings of about $200,000 per patient per month for AIDS patients and around $40,000 per patient per month for infants with breathing problems.*

PILOT PROGRAMS ESTABLISHED BY FORMER U.S. SURGEON GENERAL C. EVERETT KOOP

Three model programs were funded to develop home care alternatives for children, the result of a 1982 conference convened by U.S. Surgeon General C. Everett Koop. The programs were in Chicago, New Orleans and Maryland.

A study of the Maryland program[1] was conducted in 1986 comparing monthly hospital and home care payments for children who required respiratory support. It found that the state had saved $1 for every $1 it spent. Home care saved more than $15,000 each month per patient, with $3.1 million saved during the 34-month period monitored. Without this home care program, the total price for covering these children would have been $6.2 million. Louisiana and Illinois completed similar studies of their pilot programs and also reported considerable cost savings.

Programs now operate (with varying levels of participation and support) in 34 states. Many of the programs are funded only to the extent that they can demonstrate a cost savings over institutionalization for each patient.

ADDITIONAL INFANT AND CHILDREN STUDIES

A study completed in 1981 of infants who were sent home while dependent on oxygen found that home care resulted in savings of more than $600 a day. When multiplied by the number of hospital patient days avoided, the total savings was more than $728,000—or more than $60,000 per patient.

Another study completed in 1981 found that over a four-year period, the state of Illinois saved more than $4 million treating children dependent on ventilators at home rather than in the hospital. Statistics from Illinois and other studies suggest there is about a 75 percent drop in expenses when ventilator-dependent children are treated at home.

CHART 4.—REPRESENTATIVE CASE STUDIES OF SAVINGS: HOSPITAL CARE VERSUS HOME CARE

Case No.	Annual Cost—		Annual savings
	Hospital care	Home care	
1	$336,000	$45,000	$291,000
2	241,200	74,400	166,800
3	245,000	1,000	244,000
4	192,000–357,000	21,500	170,500–335,500
5	120,000–219,000	29,000	91,000–190,000
6	109,500–182,500	1,000	108,500–181,500
Total[1]			1,071,800–1,408,800

[1] Total savings per year.

A 1983 study by the Massachusetts Department of Public Health of children on respirators found that families spent between $1,000 and about $75,000 a year using home care. These home care costs were 50 to 95 percent lower than comparable hospital costs, which ranged from $109,500 to $357,000 per year, per child (see chart 4).

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[1] The Maryland study found that the state had saved $1 for every $1 spent. Home care saved more than $15,000 each month per patient, with $3.1 million saved during the 34-month period monitored. Without this home care program, the total price for covering these children would have been $6.2 million.

Quality of life is the driving force behind many Americans' preference for home care. Although it is not always easy to quantify or conceptualize quality of life, research suggests that home care services help to ensure that fewer patient needs go unmet.

HOSPICE PROGRAM FACT SHEET

In 1990, 113,000 patients were qualified for full medical funding of hospice care at a cost of $91 per day. If treated in a hospital, the cost of care would have exceeded $400 per day.

In 1991, there were 25,000 patients covered by Medicare who qualified for the hospice program. If these people could have been cared for at home by a relative, a savings of approximately $500 million would have been realized.

Mr. WELDON. Madam Chairman, this legislation will help us in that regard, because if there was no one in the home to care for that sick person, to care for that terminally ill individual with cancer, to care for that hospice patient, then you cannot have home care, it does not work.

☐ 1700

So, to my fiscally conservative friends, of whom I consider myself to be one, I say that this legislation in fact will allow us to begin to move to achieve savings in terms of health care costs, and I urge my colleagues on both sides of the aisle to put aside the politics. Both parties have been at fault in this regard. This is the right issue for America.

Madam Chairman, I am proud to be a supporter of this very tight compromise that my colleague, BART GORDON, and I worked out 3 years ago, and I ask my colleagues to give us a "yes" vote when it comes time for passage.

Mrs. ROUKEMA. Madam Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WELDON] has expired.

Mr. CLAY. Madam Chairman, I yield 30 seconds to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Madam Chairman, I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Madam Chairman, I want to congratulate the gentleman from Pennsylvania [Mr. WELDON] for his statement. His statement with respect to the attitudes of the business community and the assessment of the business community, the comparison to the plant closing legislation and the assessment of its impact on the soaring health care costs, is the most clear-headed statement I have heard in this debate, and I want to congratulate the gentleman.

Mr. WELDON. Madam Chairman, I thank the gentlewoman from New Jersey [Mrs. ROUKEMA] very much. I appreciate that.

Mr. FORD of Michigan. Madam Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. ANDREWS], a valuable member of our committee who has worked on this legislation since he first arrived in the last Congress.

Mr. ANDREWS of New Jersey. Madam Chairman, I wish to commend our chairman of the committee for all of his hard work as well as all the hard work of both the Republicans and Democrats. Let me say that as a Representative from New Jersey I am particularly proud and grateful for the work of my colleague, the gentlewoman from New Jersey [Mrs. ROUKEMA], who has led the way on this issue, and I congratulate her on this achievement.

Madam Chairman, we have heard a couple of images conjured up this afternoon in this debate, and one image of those who oppose this bill is a very sympathetic image. It is the image of a small company led by a few entrepreneurs struggling to build their business, dealing with overregulation and the problems of building a business, and we picture a small firm with 11 or 12 people struggling to build and struggling to get by, and very, very accurately a new mandate on that business would be a problem, a new cost for that business would be a problem, but it is an inaccurate image for this bill because that small company with 11 or 12 people, that small new entrepreneur, is not covered by this bill. He or she is exempted. We picture the small company that cannot afford to lose a key person for a few weeks because the business would suffer qualitatively. That exemption for key employees is available to that employer to deal with this, and it is because people have crafted this bill properly.

The other image we ought to think about tonight is this: If we were to walk into any diner, or any meeting of any organization, civic, fraternal, firehall around this country and say, Do you think that if one of your fellow members has a baby, God forbid has their husband or wife die, or has a serious illness in their family, do you think that as a basic minimum standard in our country they should be able to take a limited period of time off without pay if they have been an employee of that company for at least 15 months? My constituents back home call this a no-brainer. The answer is yes, of course we should do that, and that is the basic minimum step this legislation proffers.

Madam Chairman, I only have one request that we pass along to the President, and that is that, when he signs this bill, among those invited should be Murphy Brown and her new child.

Mr. MYERS of Indiana. Madam Chairman, I yield 4 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Madam Chairman, President Clinton says he wants to reinvest in the economy; he says he wants to put people back to work. The Democrats claim that their party has changed, it is time for a new direction. They are no longer antibusiness, they claim, because they recognize that it is the businesses of this country that provide jobs for our citizens, allowing Americans to support their families and maintain a good standard of living.

Well, Madam Chairman, it is clear to me that they still don't get it. They do not get that the ability of American businesses to create jobs is fundamentally related to the burden government places on their backs. They don't get that you can not saddle American business with huge costs just because the idea sounds good. Family and medical leave is one more item on the long social agenda some Members of Congress support but can't seem to come up with the Federal dollars to pay for it. No problem, mandating that American businesses pick up the tab for these benefits allows them to legislate another Federal entitlement—for free. Well, not really; as the saying goes, the best tax is a hidden tax.

Madam Chairman, this mandate, like all of the old Democratic sock-it-to-business legislation, will raise the cost of labor and make this country less competitive. Labor costs will increase by more than $3.3 billion in the first year alone, translating into nearly 60,000 lost jobs. Despite all the new-team, job-creation rhetoric of the current administration, unfunded mandated leave is a chapter copied word for word from the same old Democrat playbook entitled, "Social Engineering at the Expense of American jobs." I hope you get to meet one of those 60,000 families that lost their job, so that another American may not lose their job.

Now, I want to stress that I am a strong supporter of family leave policies, I have a family leave policy in my company because I want to keep valued employees. I cannot, however, fathom the logic behind these across-the-board requirements and the refusal to allow employers and employees the flexibility needed in structuring benefits to individual needs.

This bill, for example, penalizes the employee who does not need maternal leave as well as the employee who cannot afford to take unpaid leave. It completely ignores and thereby punishes those employers and employees who have negotiated effective leave policies privately, replacing their benefit plan with an unfunded mandate. It denies employees the right to choose from a mix of wages, salaries, and benefits that they feel are most appropriate in their lives.

Moreover, the worst victims of this bill are the very people its sponsors propose to help: It invites discrimination against women of child bearing age and will thwart the ascension of women into the more prominent positions of our society.

Madam Chairman, mandating family and medical leave is bad public policy.

The fact is, we in Congress have no business, no right, and frankly, no ability to legislate how the American family should apportion the burden of caring for its own. Yet, this bill demonstrates the mind-numbing illogic of setting social norms through paternalistic Federal mandates.

This bill is unfair, antibusiness, antigrowth, invasive, deathly expensive, and paid for through a hidden tax. Yep, sounds like Democrats are back in town. But at least it is no longer a secret; the unquestioned support of this bill by the new administration and the new Democrat Party sheds light on the kind of economic growth we can expect in the next 4 years.

Mr. CLAY. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Ms. LONG) having assumed the chair, Mrs. KENNELLY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1) to grant family and temporary medical leave under certain circumstances, had come to no resolution thereon.

HOUR OF MEETING ON TOMORROW

Mr. REED. Madam Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 noon on tomorrow.

The SPEAKER pro tempore (Ms. LONG). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

GENERAL LEAVE

Mr. CLAY. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill, H.R. 1, now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

□ 1710

FAMILY AND MEDICAL LEAVE ACT OF 1993

The SPEAKER pro tempore (Ms. LONG). Pursuant to House Resolution 58 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1.

□ 1710

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1) to grant family and temporary medical leave under certain circumstances, with Mrs. KENNELLY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the gentleman from Michigan [Mr. FORD] had 32½ minutes remaining, the gentleman from Pennsylvania [Mr. GOODLING] had 33 minutes remaining, the gentleman from Missouri [Mr. CLAY] had 28½ minutes remaining, and the gentleman from Indiana [Mr. MYERS] had 23 minutes remaining.

The Chair recognizes the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Madam Chairman, I yield 1 minute to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Madam Chairman, I rise in support of the Family and Medical Leave Act. This legislation is already the law of the State of Rhode Island. I was very pleased and privileged as a member of the General Assembly of Rhode Island to sponsor this legislation. It works.

More importantly than that, it is keeping people in Rhode Island at work, because it avoids the cruel choice between sacrificing a job or caring for a loved one. It allows parents to care for ailing children. It allows children to care for ailing parents.

We want all of our citizens and all of our families to be responsible. But if we want this responsibility, we have to give families the opportunity to exercise the responsibility, and that is precisely what this legislation does.

The experience in Rhode Island has been outstanding. The legislation has been implemented by companies. There have been no complaints. Indeed, there has been no lessening of benefits.

Madam Chairman, for those who are suggesting that this has to be done in some type of cafeteria plan, the evidence contradicts that assertion. We can in fact, we should in fact, mandate this as a requirement, as a right, for all American workers. I think it is about time that we join the rest of the industrialized world. As we look around and see fierce competition, all those countries have family leave. It is about time that we join the ranks of world leaders in the economy, that we continue our productivity, that we support this family leave legislation. It is right for our families. It is right for all of our citizens.

Mr. FORD of Michigan. Madam Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. DERRICK] for a colloquy.

Mr. DERRICK. Madam Chairman, I would like to ask the gentleman from Michigan [Mr. FORD], the chairman of the Education and Labor Committee, to clarify the application of this legislation to a unique situation involving the full-time staff employees of temporary help services.

Most temporary help offices operate with very small staffs. However, on any given day, they generally employ many times that number of temporary employees who are assigned to their customers' worksites. If the temporaries are included in the head count along with the staff employees, most temporary help offices technically will have more than 50 employees. Under this interpretation, a mom and pop temporary help firm with two or three staff employees would be covered by the law.

Since the 50 employee exemption was included in recognition of the problems faced by small employers, it would seem inconsistent to require small temporary help offices to cover their staff employees if they number less than 50.

Is it the committee's intent that these employees should be covered?

Mr. FORD of Michigan. Madam Chairman, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Obviously, the committee did not consider every possible business situation. The example cited by the gentleman raises a valid concern and would appear to be an appropriate subject for rulemaking. It is our hope that the regulations to be issued by the Secretary would address such situations, taking into account the broad purpose of the act to provide protection to as many employees as possible and, at the same time, the legitimate concerns of small businesses.

Mr. DERRICK. I thank the gentleman.

Mr. GOODLING. Madam Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MILLER], a distinguished new member of our committee.

Mr. MILLER of Florida. Madam Chairman, voters in my district in Florida elected with a mandate for change. They wanted me to change the way business is done in Washington. They want to see us solve the deficit, reform health care, and get the economy moving forward. They do not want more government. They want less government.

People would tell me during the campaign, "DAN, just vote no." And that is what I intend to do on this bill.

There are two questions I ask on each piece of legislation: First, how does it affect the deficit; and, second, does the Federal Government have to get involved?

This bill fails both of my tests. It affects the deficit by increasing government bureaucracy with more regulation and more paperwork. We may only be talking about millions of dollars here, which is not much with a trillion dollar deficit. The other impact on the deficit is the added cost to businesses and local governments to comply. That is who will pay the real costs of this bill.

The other question is does the Federal Government have a role? This issue is a motherhood and apple pie issue. It is a feel good issue.

Madam Chairman, I completely agree with the issue and the concept. Workers should be able to take leave, to have time to care for ill relatives and newborn children. Businesses should make leave time available. It makes good business sense. As a businessman, the most valuable asset is not bricks and mortar, but people. Committed, motivated, and talented workers are the key to success. That is true in business, in government, and even in a congressional office. Do right with your employees and they will do right with you.

It is not necessary for another Federal mandate to tell businesses something else to comply with. This bill is poorly written and will do nothing to improve the relationship of employee and employer. It is another mandate by the Federal Government It will help the trial lawyers as they have one more issue to take to court.

Business does not need more mandates and government should stay out of the mandate business. Business has enough mandates and we are hitting them again with another one.

Madam Chairman, I plan to vote "no" on this bill.

Mr. CLAY. Madam Chairman, I yield 2 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Madam Chairman, today I rise in support of H.R. 1, the Family and Medical Leave Act. Over the past three decades, we have seen major changes in the American family and the American workplace. In the early 1960's less than 40 percent of all women were in the work force. Today, 56 percent of all women with children under the age of 5 are in the work force. The majority of families in our country are comprised of couples who both work outside the home, and there are many working single mothers.

I support family and medical leave because it is a policy which makes sense. It will allow women and men to be able to give their full attention to a family crisis, or changes in their family such as the birth or adoption of a child, without having to worry about their job or their insurance.

We are the only industrialized nation lacking a family and medical leave policy. The lack of such policy has had dramatic adverse consequences for our families and for our Nation. Each year, approximately 150,000 workers at midsize and large firms lose their jobs when they become seriously ill and lack job-guaranteed medical leave. The lack of a family and medical leave policy has cost taxpayers billions of dollars in social benefits drawn by workers who have lost their jobs.

Many employers have opposed family and medical leave because, they say, it will increase their cost. However, a 1989 General Accounting Office study found that the average cost to an employer would only be $7.10 per covered employee per year. The results of a 1990 survey by the Small Business Administration estimated the cost at approximately $6.70 per covered employee per year.

The bill exempts all companies with fewer than 50 employees—95 percent of all companies. The highest paid 10 percent of the work force in covered companies would be exempt. The coverage applies only to employees who worked more than 25 hours per week.

I just do not accept that Germany and Great Britain and Sweden and Italy can afford to invest fully in their working families and that we just cannot afford to. In my view, we cannot afford not to.

I support H.R. 1, the Family and Medical Leave Act, as a first step in the right direction.

□ 1720

Mr. MYERS of Indiana. Madam Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Madam Chairman, I rise in support of the Family and Medical Leave Act of 1993.

Madam Chairman, I rise in support of the Family and Medical Leave Act of 1993, and I am pleased that it will finally become law after years of hard work, debate, and frustration. During the last election the Republican Party stressed family values as a primary campaign theme. Yet both President Reagan and President Bush were opposed to providing basic protection for American families against job losses because of the birth, adoption, or sickness of a child or the sickness of an immediate family member.

The United States is one of the few industrialized nations which does not provide essential job protection to workers with families. A family and medical leave policy which ensures that an employee has a job to return to after taking leave to care for a sick, or newborn child, or family member is sound social policy. H.R. 1 seeks to balance the need of all affected parties with sensitivity to the problems of small employers. Employers with less than 50 employees are exempt from the provisions of the bill. H.R. 1 establishes a minimum standard that hopefully all employers both large and small view as sensible and compassionately policy.

Title II of the bill provides a family and medical leave program for Federal employees. As chairman of the Civil Service subcommittee, I am particularly pleased with this provision. Federal employees will be entitled to 12 weeks leave without pay in a 12-month period upon the birth of a child; placement for adoption of a child; illness of a child, spouse, or parent; or due to serious illness of the employee. Recent General Accounting Office surveys have shown that the Federal Government by the year 2000 will be employing more women and the average age of the Federal work force will be younger. In any given year, the Federal Government loses nearly 120,000 full-time employees which accounts for nearly 9 percent of the work force. This rate of turnover in the work force leads to dysfunctional government. The Federal Government needs family and medical leave to ensure that we will be able recruit and retain the best and brightest into the civil service.

Not only is the Federal work force changing. Over the past 30 years, the composition of our private sector work force has changed dramatically. Given the current economic reality, many families today depend upon two incomes to make ends meet. The workplace must address these changes. Employers should provide some guidelines for family and medical leave and continued insurance coverage for those individuals who experience a family medical crisis.

Providing unpaid leave for a medical emergency or for care of a child, guaranteeing a job, and continued health insurance coverage are the three components of this legislation. Family and medical leave is a small step in the right direction towards strengthening the family and the workplace. Families, workers, and business will all benefit. I hope that all my colleagues, particularly those who espouse family values, will support this important bill.

Mr. MYERS of Indiana. Madam Chairman, I yield 3 minutes to the gentleman from Colorado [Mr. McINNIS].

Mr. McINNIS. Madam Chairman, I thank the distinguished gentleman for yielding time to me.

First of all, let me tell my colleagues that I am a father of three children and a father of two teenagers, which I think entitles anybody to a couple of stripes.

Let me say this: I have heard some of the previous speakers stand up here and say, "Hey, you are not pro-family if you are not voting for this bill. Hey, you don't care about kids. Hey, it is about time you stood up for family."

Let me say this to my colleagues who take that kind of position, do not come tell me about family until you experience some of the experiences that my family has experienced. Then maybe you can earn the right to come and talk to me about family.

Obviously, I care about my family and I think that every one of my colleagues sitting in these Chambers cares about their family. I think any argument based on that is simply frivolous, simply an opportunity to earn some TV time in front of C-SPAN.

I say we go back to the issues. It is very simple to me. When I hear one of my distinguished colleagues stand up here and say, "You know, my constituents say this is a no-brainer," my constituents say this is Big Brother, Big Brother riding in on a white horse to save us all.

How much further are we going to carry these mandates? Some of my distinguished colleagues say the most feared words that I think all of us—at least my constituents—worry about; that is, "This is a first step."

It is a first step. What is the next step, paid leave? And the next step, is it going to apply to all business? Is my family ranch now going to have to, in a very short period of time, be under another Federal mandate, as if we do not have enough?

Beyond the bill's uniform approach to regulation of the workplace, I have other specific concerns with its inherent ambiguities. I fear the small businesses will incur the greatest costs, as they attempt, in good faith, to comply.

Under the bill, leave is available to any employee who either suffers from a serious health condition or has a family member with a serious health condition. While the American public may be thinking that this legislation will simply allow a parent to take care of a child who is suffering from a disease like leukemia or that it will allow an employee to undergo a procedure like that of chemotherapy, the bill appears to be much broader. A serious health condition is defined in this bill to include any physical or mental condition which requires continuing treatment by a health care provider. In other words, a parent may be entitled to take his teenager to the doctor for continuing treatment of acne or regular visits to the general doctor for treatment of in-grown toenails.

While I would like to be able to assure my constituents that the leave will only be taken for legitimate purposes, I am concerned that it will not. And how does it define who the health care provider is? It is the Department of Labor that makes that definition.

My concern is that once we look past the pretty face of this bill, we are going to find: First, that we have further Federal Government mandates, and second, there are going to be serious interpretation problems which, in my opinion, will always be interpreted against business.

Let me just simply reiterate, and that is, I do not want my colleagues, and I do not want the Government telling me about family. We in Colorado can handle our families without Government interference.

Mr. FORD of Michigan. Madam Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER], a member of the committee.

Mr. ROEMER. Madam Chairman, I would first of all like to start out by congratulating the gentleman from Michigan [Mr. FORD] and the gentleman from Missouri [Mr. CLAY] and the gentlewoman from New Jersey [Mrs. ROUKEMA] for their long minutes and hours and years of work on this very, very important legislation and ask my colleagues, as they consider how to vote on this legislation, when they have been door to door, when they have been on talk shows, when they have been in town meetings, when people say to them in these town meetings, "When are you in Washington finally going to do something that helps me," my colleagues, this is a piece of legislation that helps the working people of this country.

Some Members have said it is apple pie; it is feel-good legislation. Yes, it is feel-good legislation. It makes the working people of this country feel good.

Does it make our businesses feel bad? No. Our businesses are exempted, 50 and fewer employees. Key employees are exempted.

One has to work a year before they are covered by this act. There are all kinds of exemptions that protect our small businesses.

This issue ultimately is about caring about our children and about caring about our families. When a future nominee, a potential Attorney General Zoe Baird, is tripped up on this issue and she potentially makes $500,000 a year, think of the middle-class families in our country that are experiencing this problem of caring for each other, their parents, and teachers.

After World War II, we extended rights to our veterans to protect them to come back to a job, and that was a moral imperative. This is an economic imperative, to help our working people.

In conclusion, Madam Chairman, let me say that President Clinton said this well in his Inaugural. He says, "A nation must invest in its people as a family invests in its children."

Let us cast votes today to invest in our families and our children.

Mr. GOODLING. Madam Chairman, I yield 3 minutes to another distinguished member of the committee, the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Madam Chairman, I rise in opposition to H.R. 1, the mandated leave act.

This legislation cannot be considered in isolation. Madam Chairman, there are a number of antibusiness proposals on the legislative fast track that could have an extreme and adverse effect on the American economy. Soon we will be voting on the Striker Replacement Act, a massive overhaul of the Occupational Safety and Health Act, another bill to add punitive and compensatory damages to litigation under the Employee Retirement Income Security Act, along with a bill to eliminate the caps on damages under the Civil Rights Act, and finally, a minimum wage increase is also expected. Undoubtedly, Mrs. Rodham Clinton's mandated health insurance proposal cannot be far behind.

At a time when our economy is struggling, we do not need to restrict business with further noncompetitive measures. As a small businessman, I can tell you that many of these prolabor bills would drastically impact the small business owner and dramatically increase the cost of business. Small businesses have traditionally generated much of the economic growth and new jobs in the Nation. From 1988 to 1990, the overwhelming number of the new jobs in the Nation were created by small businesses. In North Carolina, small businesses created 100 percent of the net new jobs over the same time period. These antismall business bills will retard the economy and increase unemployment.

If the Federal Government is really interested in improving employees' working conditions, it should help create a more productive environment for businesses. To my way of thinking, it is reasonable and fair to expect industry to offer new benefits for employees if it is able to afford them. Our policies should help make businesses more competitive, not weigh them down with cumbersome mandates.

As I have argued at committee hearings, markups, and during previous floor debate—family and medical leave is a good employee benefit. It is the Federal mandate that remains a bad policy. My opposition to yet another Federal mandate can best be explained in simple business terms. As many of my colleagues know, I operate a small business that prints and converts plastics. My business, like other small firms across the country, sets aside a certain amount of money for benefits and benefit programs. In my company in Hickory, NC, we provide a number of employee benefits including a retirement plan, 18 paid vacation days, personal leave, paid time off, jury duty, sick leave, health insurance, life insurance, maternity, and family leave. Under H.R. 1, company and employees lose the flexible option of choosing benefits that meet their specific needs. This is a lose/lose situation for everyone concerned. My employees lose the choice of benefits that they currently enjoy, and, as an employer, I lose the flexibility to tailor benefit programs that fit the needs of my individual employees.

□ 1730

Madam Chairman, I ask my colleagues to join me one last time in opposing a mandated leave act.

Mr. CLAY. Madam Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. BISHOP].

Mr. BISHOP. Madam Chairman, the Family and Medical Leave Act is an act whose time has come. I am fortunate to have been a member of the Georgia General Assembly and to have participated in enacting such a piece of legislation last year in the State of Georgia for State employees.

Time and again over the 16 years that I was in public life I had people come to me who were employed in State government and who were employed in the private sector and say, "Mr. Bishop, I need to go to work. I have got to choose between my wife and my job; my child is sick, but I have got to choose between my child and my job; my husband is sick, but I have got to choose between my husband or my job."

This is an opportunity for us to cherish and to demonstrate the family values that we talk so much about. This is an opportunity for us to truly make a difference, because the family is the basic unit of our society. As the family goes, so does our society go.

We talk about the breakdown in the American family, and we have experienced all kinds of crises in our family life, but here is an opportunity, once again, in 1993 for us to truly make a difference. Each and every one of us was elected by people to come to Washington and to try to make a difference, to make change, to improve the quality of all of our lives. Today we will have that opportunity.

Isn't it strange how princes and kings and clowns that caper in sawdust rings and common people, like you and me, are builders for eternity. Each is given a bag of tools, a shapeless mass and a set of rules, and each must make'ere life has flown a stumbling block or a stepping stone.

I submit to the Members this afternoon that the Family and Medical Leave Act and our opportunity to vote for it and to pass it will be not a stumbling block, but a stepping stone to a higher, better quality of life, and a stronger family fabric for the people of the United States of America.

I urge the Members, do the right thing and make a difference for the families of this country. Support House Resolution 1.

Mr. MYERS of Indiana. Madam Chairman, I yield 2 minutes to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Madam Chairman, breathlessly I ask the Members to listen for 2 quick minutes to what I have to say. This is a very emotional issue. No one says that a family leave concept is not a great idea.

I probably am one of the only people around here that has ever put in a family leave program, and I did it with great pride. We did it with a paid family leave, far more than we are talking about here, but I did it in a compay that had about 30,000 employees.

I have worked in smaller companies and I have advised smaller companies. If a company does not have the money, it is not a good idea. Let me tell the Members what I mean.

There was a friend of mine who came up to me and he said, "You know that family leave plan you were talking about? It is terrific, and I am going to have that some day, but I cannot afford it now. You know what I want to have first? I have got a bunch of young people. I want to have a child care center and I want to have a total health plan. Someday I will have that family leave plan. I can't do it now, but when I do, it is going to be our plan. We have done it together. Nobody superimposed it upon us."

The problem is that there must be a critical mass. If there is a company of 55 to 60 people and there are 10 people on a shift, that is 40 people, and then there are quality control people and maintenance people, and a variety of different other people, and every single person is critical. Then we cannot hold jobs open. We want to, some day we will, but we cannot because the critical mass is too small.

I ask two things, to recognize that the people who we are superimposing this on want to do it but they do not necessarily have the money to do it right now. When they do, let them take the credit, rather than us taking the credit when they do it.

Also recognize one other thing, that the people we are doing this to, our customers, they do not want it. We may want it, but they do not, so please let this not be a partisan issue.

Mr. FORD of Michigan. Madam Chairman, I yield 2 minutes to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Madam Chairman, I wish to engage in a colloquy with the gentleman from Michigan [Mr. FORD].

Madam Chairman, first, I want to commend the distinguished gentleman from Michigan for his outstanding leadership on H.R. 1. The Family and Medical Leave Act is undoubtedly one of the most important pieces of legislation we will act upon in this session of Congress. I consider it a privilege to be a cosponsor of this measure; its passage is long overdue.

As you know, H.R. 1 is intended to establish basic standards for family and medical leave in the United States. According to section 401(b) of the bill, it is not intended to supersede provisions of State or local law that provide greater employee leave rights than the rights established under this act.

In my home State of California, the Family Rights Act of 1991 features certain provisions which are more generous to employees than what is contained within H.R. 1.

For example, under current California law, employees who want to take family leave to care for a seriously ill family member are required to obtain certification from a health care provider, just as in H.R. 1. But under California law, the certification, in order to be deemed sufficient, need not be as extensive as that which would be required under the proposal before us.

Another example is that, under California law, once sufficient medical certification has been produced by an employee, an employer is not allowed to question the validity of the certification. An employer must grant the family leave unless she can successfully invoke an undue hardship defense. But under H.R. 1, up to three medical certifications may be required if the employer challenges the findings of the initial health care provider's certification. As you can see, California law in this area is more generous from the employee's standpoint than H.R. 1.

Where these differences favor the employee, is it consistent with your intention that H.R. 1 would not supersede those provisions of California law?

Mr. FORD of Michigan. Madam Chairman, will the gentleman yield?

Mr. BECERRA. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Madam Chairman, I would say to the gentleman, yes, that is indeed the case.

Mr. BECERRA. I thank the gentleman. Finally, I would like to add that I do not mean to suggest by any of my comments that other provisions of California law might not also be more generous than H.R. 1.

Mr. GOODLING. Madam Chairman, I yield 4 minutes to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Madam Chairman, I rise in opposition to H.R. 1.

Madam Chairman, our debate here, this afternoon, is not about family and medical leave. I have not heard anyone rise to say that providing employees leave without pay to recover from an illness, to deal with the birth or adoption of a child, or to care for a sick relative is a bad idea.

It is a good idea. As a working mother, I do not believe anyone should have to choose between a job and his or her family. I think we can all agree on that.

But where we part ways is on the idea of Federal mandates. While I am a working mother, I am also the wife of a small businessman who will be covered by this legislation. I have seen first hand the effects of unfunded Government mandates.

So, Madam Chairman, I rise today not in opposition to family and medical leave, but to yet another Federal mandate.

This family and medical leave mandate troubles me in many ways. One of the first concerns I have is the lack of a clear and concise definition of what a serious health care condition is.

Maybe it is better defined in the committee report, but I would not know since the report has just been released.

Absent a clear definition in the legislation, we are opening the door for fraud and abuse. We are also leaving clearer and more expansive definition to the bureaucrats. This is far too important of a term to be left to bureaucratic interpretation.

Which leads me to my next point. Would Congress pass a law prohibiting speeding without also passing a speed limit? That is exactly what this Congress is doing with this new mandate.

While the bill will become law in 6 months, and businesses will be forced to comply on day one, the final rules do not have to be written for some time after compliance begins.

I would ask some of my colleagues who are supporting this legislation to consider the fact that once the ambiguities in this bill are cleared up in the rulemaking process, they may end up having supported something totally different from what they think they are supporting today.

I would also ask them to consider the fact that the committee report has just been released. With nearly 60 full-time staff on the Education and Labor Committee, I cannot believe they could not produce a report on this bill before we are all asked to cast our votes. I also cannot believe that the leadership would not delay this vote until each one of us has had a chance to read and study that report.

And finally, Madam Chairman, I fail to understand why the sponsors of this new Government mandate excluded a provision allowing employees to voluntarily waive their rights to the leaves and benefits of this legislation.

Where would the employees of the New York Post be if they had not been able to opt out of their previous benefits package? They would be in the unemployment line, Madam Chairman, and the presses of the country's oldest newspaper would be on the auction block.

By being so rigid as to not allow employees the freedom to choose, the Congress may not only shut down presses, but assembly lines, factories, and other businesses.

Madam Chairman, I was sent here by the people of the Fourth District of Florida to protect jobs and create new ones. This bill does neither. I urge my colleagues not to be a part of the leadership's attempt to steamroll this bill through the Congress. This issue needs study. We need to see a committee report. Until those basic things happen, I urge my colleagues to vote "no" on H.R. 1.

Madam Chairman, on December 7, 1992, I and the other newly elected women of the 103d Congress pledged our support for family and medical leave legislation. As a working mother, I know from my own experiences that no employee should have to choose between attending to a family crisis or keeping a job.

As the wife of a small businessman, I also know that during these tough economic times, employers like my husband are trying hard simply to stay in business. Smaller businesses will suffer the most when an employee is absent for 3 months every year.

Why isn't already successful leave legislation guiding this Congress when crafting Federal law? Today, 11 States and the District of Columbia have enacted leave laws. Arkansas is not one of them. Eight of these States allow leave to be taken every 2 years, not every year.

Why does this bill provide 12 weeks of leave? Is this amount a political compromise or a period of time determined by medical studies and observation? Where is the statistical data to show that this timeframe is best and necessary for American workers? I think that we all know the answers to my questions.

I was sent to Congress as a citizen representative of Florida's Fourth Congressional District. As a working mother, a wife, and a representative of my district, I recognize that this H.R. 1, as written, is not best for the Fourth District of Florida or for our country. I do not support H.R. 1 as it is written.

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Mr. CLAY. Madam Chairman, I yield 2 minutes to the gentleman from California [Mr. TUCKER].

Mr. TUCKER. Madam Chairman, I rise today in overwhelming support of H.R. 1, the family and medical leave bill. There is increasing stress placed on American households all over this country to maintain an adequate standard of living when faced with the exigencies of their personal lives.

Two-thirds of all mothers, more than 70 percent of women with school-age children, and 56 percent of women with preschool children work outside the home. The American work force needs the ability to care for its young and elderly family members.

This family leave bill helps us to begin concretely and responsibly to define the ofttimes elusive term, family values. However, some have said and do say that businesses should not be mandated to provide and pay the benefits while employees are on leave. However, American businesses have not seen fit to voluntarily permit their workers to take off time from their jobs, even without pay, to deal with major family emergencies, and allow them to return to their jobs afterward.

We have seen too many instances of workers whose aging parents need care and find that they are unable to take leave from their jobs to deal with these emergencies.

Therefore, Madam Chairman, the time has come to legislate and to mandate compliance with this act established on behalf of working Americans all over this country. The choice between caring for family members in need and meeting the financial responsibilities of daily life is no choice at all. The time has come for this family leave bill.

There have been those in the executive and in the legislative branches of this Government who have prevented the enactment of this legislation, and now today the time has come for us to vote in favor of American workers.

Mr. FORD of Michigan. Madam Chairman, I yield 2 minutes to the gentleman from Texas [Mr. GREEN].

Mr. GENE GREEN of Texas. Madam Chairman, I would like to thank the distinguished chairman for yielding 2 minutes of his time for me to address this Chamber on H.R. 1, the Family and Medical Leave Act.

As a new member to the Education and Labor Committee and as a cosponsor to H.R. 1, I am extremely proud to stand before you today in support of this bill. I support this bill because I believe that we need to put an end to the days when struggling families are forced to choose between the health and well-being of their families and the demands of their jobs.

Those Members who oppose this bill will argue that the Government should not be mandating this benefit and that leave policies should be provided only if employers are willing, and employees choose to accept this benefit. However, the fact is that employers are not currently providing this benefit to employees and people are continuing to suffer.

I appeal to my colleagues to look at this bill for what it really is. It sets a basic standard by which employees must be treated by their employers. This bill is not a Government giveaway, nor is it some pork barrel project that benefits one small segment of the population. American workers can and are competing in the world economy. We should provide comparable benefits.

By passing this bill, we will fulfill our first obligation as public representatives. That obligation is to set the ground rules under which we all must work. It creates a standard of decency by which we can all expect to be treated, even when times are not their best. We have seen the result of the absence of a family leave policy and it is time to set the record straight on the direction we are going and the value we place on the working women and men of this country.

Mr. CLAY. Madam Chairman, I yield 2 minutes to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Madam Chairman, I rise in strong support of H.R. 1, the Family and Medical Leave Act of 1993. Hubert H. Humphrey, one of this country's greatest public servants, once said,

> The moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy and the handicapped.

Well, Madam Chairman, by approving H.R. 1, this House has the opportunity today to pass that moral test of government.

Over the past 25 years, our families and our work settings have undergone phenomenal change. In 1965, only 35 percent of mothers with children under 18 years of age were in the work force. That figure presently stands at close to 70 percent, and estimates indicate that by the year 2000, one of every two new workers will be women. In addition to the feminization of the work force, the steady decline in real wages over the years has made two-income families a necessity in many households. Single parent families have also grown from 16 percent of all families with children in 1975 to 27 percent in 1992. Due to these dramatic changes, there is an urgent need for a national leave policy that accommodates employees' job responsibilities with their family obligations.

The Family and Medical Leave Act will require businesses with 50 or more employees to provide up to 12 weeks of unpaid leave in order for workers to nurture a new born or newly adopted child, to care for a family member with a serious medical condition or to rehabilitate from their own illness. The measure protects the jobs of employees while on leave, and requires employers to continue health insurance benefits during the leave period.

The coverage extends only to those employees who have worked 1,250 hours for an employer over a 12-month period which translates into an average of 25 hours per week for more than a year. The bill also requires that an employee be restored to his or her previous job or an equivalent position with equivalent benefits, pay, and other terms and conditions of employment when the employee returns from the leave provided under the measure. In addition, H.R. 1 proves that Congress indeed does practice what it preaches by extending the bill's provisions to Federal civil service workers and employees of the House and Senate.

Contrary to the cries of its opponents, this legislation will neither harm businesses nor damage our global competitive position. In fact, the General Accounting Office has estimated that this legislation will cost those businesses covered by the bill about $5 per year per employee. Furthermore, studies have indicated that some companies which have voluntarily instituted leave policies have actually saved money by cutting down on employee turnover and reducing hiring and training costs. The Family and Medical Leave Act will merely bring the United States into the large family of nations that offer some sort of leave policy. In fact, the United States is virtually the only industrialized country without a national family and medical leave plan.

Madam Chairman, this is long overdue legislation that adapts the American workplace to the needs of the modern American family. I urge my colleagues to support the Family and Medical Leave Act without weakening amendments.

Mr. GOODLING. Madam Chairman, I yield 3 minutes to the gentlewoman from Washington [Ms. DUNN.]

Madam Chairman, earlier today I spoke in favor of defeating the previous question and in support of an amendment introduced by the gentleman from Iowa [Mr. GRANDY], the gentleman from Utah [Mr. ORTON], the gentlewoman from Ohio [Ms. PRYCE], and myself. It was an alternative that offered tax incentives to employers, and true hope and benefits to every man, every woman, and every child in America. I think it is very unfortunate that the Rules Committee would not allow this body to consider and debate our proposal.

But Madam Chairman, with that battle behind us, I now rise in opposition to H.R. 1. Madam Chairman, as a working mother of two college-age sons and the daughter of parents who are now in their eighties, I am a whole-hearted supporter of the concept of strengthening the family and providing support to families in the event of crisis.

□ 1750

But as a woman, I am particularly concerned that H.R. 1 will have a negative impact on those women and families that it is supposed to help, because by the close of the decade, women will comprise a majority of the workers in small businesses, and I believe we all appreciate that it is the women of America who will almost always take on the burden of providing the care for children, for the elderly, and for the aged and the sick.

My friends on the other side of the aisle will quietly acknowledge that this bill will cost over 60,000 jobs. That is 60,000 men and women who, because of the enactment of this bill, will lack the most basic needs, and that is a job. Let me tell you why. In a recent survey, 45 percent of small businesses indicated that if this legislation is enacted they will be more hesitant to hire women and especially young women who may have to ask to take leave to care for young children.

Madam Chairman, also, do not forget that H.R. 1 overlooks large portions of working people, those who work for companies employing under 50 workers and those who cannot afford to take 3 months of unpaid leave. In actuality, H.R. 1 provides little real hope and opportunity to those who would be eligible.

Madam Chairman, I support the goals of this bill's supporters, but it is not enough, and it does not go far enough.

Let us vote on this bill. Let us go back to the drawing board and let us craft a new bill. Let us create proposals that provide coverage to every American man, woman, and child. Let us do it with a proposal that uses incentives and not more mandates from Washington, DC. Let us offer real hope and opportunity to low- and middle-income families of America.

Mr. CLAY. Madam Chairman, I yield 2 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Madam Chairman, the Family and Medical Leave Act has had majority support in the country for years. We are finally moving to help America's crisis-racked families, but we are doing it on the cheap.

In an economy that has sent every living soul to work just to make it, business need not worry that this 12-week, no-pay leave would be exploited. Who could afford it? Due to cost-benefit analysis, you will see who comes out ahead.

D.C.'s comparable act will cover employers with 20, not 50, employees as with H.R. 1, yet only 14 percent of employers will be covered, while 81 percent of employees will be covered. This is the pattern throughout the country.

Small business will be well shielded from the effects of H.R. 1. It is the family members who work for them who will still have many struggles.

Yet in Wisconsin, only 13 percent of businesses had to hire replacement workers as a result of family and medical leave. Less than one-half percent of businesses cited any significant increase in training costs. Only 5 percent reported a significant increase in administrative costs. Eighty-three percent said that they experienced no increase in health care costs, and only 4 percent of the State's businesses cited difficulty in implementing the legislation.

On the other hand, the costs of not enacting H.R. 1 are exorbitant. The cost to the taxpayers alone is $4.3 billion annually. The opponents do not want to face the fact the family and medical leave actually saves businesses money.

Skilled, experienced, well-trained workers are a business' most valuable asset. Retaining such employees plows profits back into the business. We have no choice. The time has come. We must enact H.R. 1.

Mr. MYERS of Indiana. Madam Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Madam Chair, I thank the gentleman for yielding me this time.

Madam Chair, I am very troubled by this legislation. I have been troubled by it before.

I favor the concept. I think that this country is wealthy enough and compassionate enough to provide this type of family leave for all of our employed citizens.

This is not a costly measure. It is not paid leave. It is unpaid leave. But it seems to me that it ought to be available to all working Americans, not to some.

I wonder how we are going to explain, when this legislation passes, as I know that it will, how we are going to explain to the workers who do not come under its benefits that they are left out. They are probably the ones that need it more than others.

Many are already provided for by larger businesses. It is the smaller ones that cannot afford it, and the employees of those small businesses are the ones who are going to be left out. That troubles me a great deal.

Even more than that, however, it strikes me that this is yet another example of the lack of fortitude of this body. We are wonderful at mandating benefits. But we are cowards at requiring ourselves to mandate the money to pay for it. Here we are again about to mandate benefits and make someone else pay for them.

Madam Chair, we ought to have the courage to provide a refundable tax credit for the actual costs of unpaid leave and to reduce spending in some other area of lower priority, or, if necessary, to increase a tax to pay for it. A tax of just 5 additional cents on a pack of cigarettes would provide the funds to pay for family leave for every working American. I do not know that that is too much to ask of ourselves.

I believe that if we had a rule requiring that we vote the revenue—then and there—for each benefit are grant, we would be much more responsible in our approach to legislation. It is so easy to vote a benefit, when you don't move to the revenues or funds to pay for it.

I am going to vote against this bill very reluctantly, because I think the concept is a good one. It is simply that the legislation itself is flawed reflecting, as it does, the too-often gutless and pandering character of this body.

Mr. FORD of Michigan. Madam Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KLINK], a new member of the committee.

Mr. KLINK. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, I rise today in this my very first floor statement on the floor of the House, in strong support of H.R. 1, the Family Medical Leave Act.

As an original cosponsor of H.R. 1, I am pleased that this legislation is moving to the floor in such a timely manner.

I believe that my perspective on family and medical leave may be somewhat unique, because, you see, I am both a union member and the owner of a small business. As a member of the American Federation of Television and Radio Artists of the AFL-CIO and a partowner of a restaurant in Pittsburgh, I have seen the changes the American workplace has gone through that make this bill necessary from both sides. I know what it is like to feel the need for time off to take care of a sick child or other relative. I also know that an employee is a better worker when he or she is able to keep their mind on the job and not on a problem at home.

More recently, when going through our freshman orientation on the very floor of this Chamber, I received word that my previous employer had ceased my medical benefits while I was here. That is germane only in that it points out the fact that we cannot depend on corporate America to look out for the welfare of its workers. That is our job. That is what we have been elected to do, and the Family and Medical Leave Act does that.

It will help provide flexibility for working families. They will no longer be forced to choose between their jobs and loved ones or for fear that they lose their jobs because of illness. That kind of peace of mind can only make for a better employee, and that is why I am convinced that H.R. 1 will be as good for employers as it will be for the employees.

Most other industrialized countries, as you have heard here today, require from 12 to 14 weeks of paid leave. H.R. 1, in providing for 12 weeks of unpaid leave, will belatedly give American workers equity with workers in other countries.

I strongly urge my colleagues in both Houses to support H.R. 1 so that we can quickly send it on to President Clinton, and it can be signed into law.

Mr. GOODLING. Madam Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Madam Chairman, I received a letter this morning from the Secretary of Labor, Mr. Reich, who stated that the United States is the only industrialized country in the world that does not have mandated family leave.

Well, let us take a look at some of those countries and see what they do. In Great Britain, maternity leave is up to 40 weeks mandated maternity leave of which the first 18 weeks are paid. In Japan, employees are entitled to 14 weeks of unpaid maternity leave, 6 weeks before childbirth and 8 weeks afterward, but their national health insurance pays them.

□ 1800

Plus Japan also has mandated vacation pay, vacation leave with pay. In Finland employees are guaranteed up to 10 months of maternity leave; the first 3 months of leave are paid by the employer, the remaining 7 months by the Government. In Finland it is mandated that 30 days have to be with paid vacation.

The senior Member of the other body, from Massachusetts, on June 14, 1990, said on the Senate floor, "This legislation represents a significant and fundamental principle which I believe, once established, will be expanded over the years ahead."

If the United States is the only country that does not have mandated family leave, then I thank God for that because we will be back in this Chamber again and again in the same numbers who will use that same argument and they will say, "After all, we are the only industrialized nation that doesn't have mandated vacation leave." Or, "We are the only industrialized nation that does not provide for 30 days of paid vacation."

Madam Chair, the issue is how far and how long and to what extent does the U.S. Congress interfere with the affairs of private businesses in this country?

I would urge my colleagues to vote against this bill.

Mr. CLAY. Madam Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Madam Chairman, I rise today in strong support of H.R. 1, the Family and Medical Leave Act of 1993, and I urge all my colleagues, on both sides of the aisle, to join in support of this worthwhile, bipartisan legislation. I want to take this opportunity to commend Chairman FORD of Michigan for bringing the bill to the floor so quickly. I also want to commend two Members who have struggled for many years to enact parental leave legislation; my good friend from Missouri, BILL CLAY, and the gentlewoman from New Jersey [Mrs. ROUKEMA]. I know how proud both of you are to finally see the day when we have a President who recognizes the need for family leave, and who will sign this bill into law.

Over the last three decades, major changes have taken place in the composition of the U.S. work force, and in the economics of our families. Greater numbers of women with young children are now wage earners, and nearly half of all two-parent families in America have both parents working to make ends meet. Single-parent families are also growing rapidly, from 16 percent of all families with children in 1975 to 27 percent in 1992.

Madam Chairman, with the changes sweeping the American work force, it is becoming increasingly difficult for working parents to perform the basic functions of a traditional family, including caring for young children, family members who are seriously ill, or a seriously ill parent. Far too many Americans are being forced to choose between maintaining their economic livelihood and meeting their family responsibilities. The Family and Medical Leave Act would enable employees to take short leaves for the birth or adoption of a child, or for serious medical reasons, with the security of knowing they can return to their jobs.

While a number of enlightened employers in the United States have already recognized the benefits to be realized from a system providing for medical and family leave, information from the Bureau of Labor Statistics show that private business on the whole is not sufficiently meeting the needs of American workers. In 1991, only 37 percent of employees of private businesses with 100 or more employees had unpaid maternity leave available to them, and only 26 percent of these employees had paternity leave available. The numbers for smaller businesses, those with under 100 employees, are even worse. As of 1990, only 14 percent of employees had maternity leave available to them, and only 6 percent were eligible for paternity leave benefits.

Clearly the private sector is not moving of their own accord to meet the needs of today's working families, therefore creating a need for Government action. The Family and Medical

Leave Act is a modest bill, which provides a bare minimum of family leave, which is unpaid, while exempting 95 percent of all employers from compliance with the act. The exemption for employers with less than 50 employees means that 44 percent of all workers will not be covered by the act. In addition, only workers who have been employed for 1 year, for an average of 25 hours per week, are eligible for benefits under the act.

The Family and Medical Leave Act does require that employers continue health insurance for the duration of the leave, and guarantee reinstatement in the same or a similar job upon return from leave. The General Accounting Office has estimated that the cost for employers of complying with the Family and Medical Leave Act would equal less than $5 annually per employee.

Madam Chairman, many of us would like to provide more generous benefits, covering a greater number of employers and employees; however, concerned opposition from the business community prevents us from enacting a stronger parental leave bill. Currently, the United States is virtually the only advanced industrialized nation without a family and medical leave policy. By enacting H.R. 1, the United States would join the rest of the industrialized world, including our toughest international competitors, in providing these enlightened, reasonable benefits for working families.

Madam Chairman, I once again urge all my colleagues to support this legislation. We need to show the American people that we believe in the family, and that we believe that family obligations should never have to be sacrificed in order to keep one's job. Americans have demanded change. Let us prove that we understand their message by enacting the Family and Medical Leave Act.

Mr. GOODLING. Madam Chairman, I yield 2½ minutes to the distinguished gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. I thank the gentleman for yielding.

Madam Chairman, when former U.S. Senator George McGovern's hotel went bankrupt recently, he blamed Government regulations for its demise. In fact, he went so far as to say that had he known what he knows now, he might rethink his support for all those so-called worker protection bills for which he voted when he was in the U.S. Senate.

I guess I can only hope that some of my colleagues would go into the hotel business real quick so that they could get a dose of reality. Otherwise, a majority of the House Members who have never had to meet a payroll in their life are going to impose one more barrier to employment in this country.

A proponent of family leave recently listed Government mandates proposed by American business in the last 60 years and his point, as I gathered, was that the world did not end when these bills became law. But increasingly, Federal mandates are killing the incentive for those who would like to start a business and offer jobs to people.

To that Member and to others who agree with him, I suggest you take a look at the teenage unemployment rate in this country. Or better yet, just drive your car two blocks down South Capitol Street. As you sit at the stoplight there, chances are there will be a young man or two who will run out with a squeegee in their hand to wash your windshield. They are trying to make a little bit of change doing that.

There are two filling stations on that very same corner, but those two filling stations cannot hire these young men because they simply cannot afford to, and the reason they cannot afford to is because of the level of mandates put on them by Governments at all levels.

Madam Chairman, I find it terribly ironic and horribly sad that all those commuters getting gasoline on their suits as they pump their own gas can entertain themselves by watching the boys risk life and limb to wash somebody else's windshields.

All those laws for which we are so proud have literally priced these youths out of the job market and into the streets.

The family and medical leave bill is just one more nail in the coffin that was these kids' future.

Madam Chairman, President Clinton ran on the promise to put America back to work. With that in mind, I am going to point out something that is painfully obvious to me and this country's small and large business employers: This bill will not create a single new job, not one. On the other hand, it will force low-income Americans to subsidize unpaid leaves for middle- and upper-income Americans; it will ignore the vast majority of American employers who already provide some type of leave policy; and it will stick Federal Government's nose into where it has no business.

Family and medical leave is a good idea, but it is a bad bill and it should not be enacted by the Federal Government.

Mr. CLAY. Madam Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. I thank the gentleman for yielding time to me.

Madam Chairman, there are certain things that are important to all of our constituents. Regardless of economic status, or geographic location, American people care first and foremost about their families, and their jobs.

The loss of either a family member or a job is a devastating loss.

We have the direct opportunity today to ease the burden of such losses.

At the same time, this excellent bill will provide for the majority of American men and women in this country.

Madam Chairman, last session, the will of this great institution was cast aside on this crucial issue. As the economy grew worse and worse, the previous administration continued to degrade the hard-working men and women of this Nation, by refusing to pass this crucial legislation.

Now Madam Chairman, is the time to show our constituents the real changes that have taken place here in the Nation's Capitol. Not the kind of change that embodies itself in an inaugural party, but real effective change.

In fact, Madam Chairman, study after study confirms that family leave is cost effective for employers. A top 10 insurance company reports that its generous family leave policy saves them $2 million a year in reduced employee turnover costs.

And, to my colleagues who continue to insist that this bill would overload small businesses, I would like to stress that this legislation was crafted with those concerns in mind. By exempting businesses with fewer than 50 workers—95 percent of all American businesses will be exempt from this legislation.

The concept of family leave is not a new one. In fact, all of our major trading partners—Germany, Japan, the entire European Economic Community, and every major industrialized country in the family of nations, have all implemented comprehensive family and medical leave laws.

The message is clear. Family medical leave equals job security, which means increased productivity.

Recent surveys of employers in four States which have enacted their own leave laws, show that 91 percent of employers themselves report that their State leave laws are not overly burdensome.

By passing the legislation before us today, we are sending a message to the hard-working men and women of this Nation.

No American worker—from the day laborer to the banker—will ever be forced to choose between caring for an ill child or aging parent, and the job that puts food on the table.

Madam Chairman, all we have to do is look at the facts—they speak for themselves.

Without family leave, too many workers and their families are falling through the cracks. More than 150,000 workers lose their jobs each year due to the lack of guaranteed medical leave. This is a disgrace.

We will let our actions speak for themselves by passing H.R. 1. We will ease the burden, show our faith, and promise better days for each and every American worker. It is the very least we can do.

Madam Chairman, we have not lost jobs because of bills like this; we have lost jobs because we send them to foreign countries, because we refuse to protect the American worker, protect the American worker from foreign enterprise which subsidizes their workers. Let us bring our jobs back, and we will not have to clean car windows at stops.

Pass H.R. 1, give the American workers a break for a change, and they will give you a break by sending you back. If not, then I guarantee you, next time we will have another turnover.

Mr. GOODLING. Madam Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MICA].

□ 1810

Mr. MICA. Madam Chairman, before the Congress today is a noble-sounding and well-intended bill. However, in a time when Sears is cutting back, Boeing is announcing layoffs, and Smith-Corona is on its way out of the country, what is the first piece of legislation to be considered by the U.S. Congress? Not a bill to encourage job creation, not legislation to aid business expansion, and certainly not a law to help American business survive in a highly competitive international market. Instead what are we doing here today? With this bill, we impose more Government regulation on business, and we penalize employers who already have adequate family leave plans for their workers.

But the working men and women of America should not be fooled. This bill does not include them. What does it do? This bill increases Government regulation. This bill encourages corporations to ship more jobs overseas. This bill imposes another costly mandate on public and private schools and local governments. This bill excludes Congress from the same penalties as a private or local government employer. This bill adds to the cost and size of the bureaucracy of the Department of Labor. This bill discourages people from creating and expanding business. This bill increases the potential for litigation. Finally, this bill perpetuates the myth that it protects working men and women when in reality, the vast majority of American workers will remain unprotected. This legislation is a cruel hoax.

Please understand that I am not opposed to family and medical leave for American workers. I support a plan which will provide incentives to business and industry to comply. I support a plan that will encourage business expansion to keep jobs at home and provide a positive opportunity for business to include all working men and women.

When they write the final chapter of how American business was killed, the culprit is certain to be the U.S. Congress. And I am afraid that the method of murdering economic growth and productivity in this country will have been death by strangulation in the form of governmental regulation. While this bill will not kill American business and industry, surely it is another nail in its coffin.

Mr. FORD of Michigan. Madam Chairman, I yield 1 minute to the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. Madam Chairman, I rise in support of H.R. 1.

This measure is both wise and long overdue.

It is wise because America's competitiveness depends on a stable, committed work force, and H.R. 1 would strengthen the commitment of the American worker to his or her employer, and it is long overdue because the United States is the only major industrialized nation that lacks a policy such as this.

I must add, Madam Chair, that even after enacting H.R. 1, the United States would still be providing fewer weeks of leave than is currently provided by other industrialized nations. However, this measure is an important step in the right direction and we must give it our full support.

America's economic performance in the 1990's and beyond will depend upon our ability to compete, and corporate competitiveness depends upon employee commitment.

H.R. 1 would strengthen the commitment of the American worker, and I ask my colleagues to support it.

Mr. MYERS of Indiana. Madam Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS].

Mr. GOODLING. Madam Chairman, I also yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS].

The CHAIRMAN. The gentleman from Florida [Mr. BILIRAKIS] is recognized for a total of 4 minutes.

Mr. BILIRAKIS. Madam Chairman, in 1991, the House considered family and medical leave legislation under a narrow rule which allowed only an underlying bill and a substitute to be offered. Today, we are again debating important changes in Federal legislative policy under a similarly restrictive rule.

It is abundantly clear to this Member that that watchword of the 1992 elections—changes—is not a concept sufficiently powerful to scale Capitol Hill.

Why, on a matter with such far-reaching consequences for American society, must we virtually strangle all consideration of better alternatives? Why can we not honestly debate and amend family and medical leave in the open?

Is it because Congress is too pressed for time? Hardly—I suspect Michael Jackson spent more time at the Super Bowl then we have spent considering legislative business this year.

Is it because this bill is so perfect? Hardly—how perfect can a bill be that does nothing for the majority of American workers.

Alternative approaches, like mine and those sought to be offered by several of my colleagues, would have provided businesses an incentive to offer leave under a broader array of circumstances. They would have provided a cafeteria-style approach to family leave and importantly—they would not have constituted another unfunded Federal mandate.

The alternatives sought a means to offset the cost of family leave, not merely foist this cost on all affected employers. All such approaches were disallowed by the Rules Committee. "Not germane," they said. What is no longer germane in this Chamber is the concept of Government paying for its generosity.

Family leave is a good idea and it spares workers the cruelty of choosing between a loved one and a job. But this bill will not achieve it. This bill does nothing for the worker who cannot afford to take unpaid leave.

This bill hamstrings the worker who would rather negotiate with his or her employer for some other benefit. It is a slap in the face to businesses and their employees which have already voluntarily implemented family leave programs. And it will lead to hiring discrimination against women.

In fact, Madam Chairman, this legislation has little value beyond the rhetorical. It gives a Congress dominated by Democrats the opportunity to give a Democratic President a small victory.

However, Madam Chairman, we were sent here to do the people's business. When the multiple tax proposals start raining down in a few weeks, this fig leaf of a bill will protect neither its engineers of Capitol Hill who rammed it through or the President who asked for it.

Mr. CLAY. Madam Chairman, I yield 3 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Madam Chairman, the eyes of history are upon us today.

We know that Americans want to work hard and meet their family responsibilities.

We know that a workplace sensitive to family needs is a high morale workplace.

We know that firms that respond to family needs are better able to retain highly skilled workers.

We know that businesses have implemented family leave at minimal cost and without disruption.

We know that every other industrial nation has already implemented a leave policy, most providing benefits that make our bill look modest by comparison.

And we know that a loss of employment by women giving birth, or workers caring for children, or parents who have fallen ill will cost the taxpayers large sums in welfare, unemployment, and higher health care costs.

In other words, we know that family and medical leave is not a budget buster or an obstacle to business growth—rather, a progressive family and medical leave policy is a prescription for cost savings and enhanced competitiveness.

But despite this knowledge, we have struggled for almost a decade to enact a simple minimum standard of unpaid leave for illness or childbirth.

In the years to come, historians will look back on this period, wondering why it took some politicians, consumed with supporting the family, so long to enact a minimum standard that is as fundamental as child labor laws or the minimum wage.

They will wonder how some Members of Congress could defend the status quo at a time when change was desperately needed.

The Family and Medical Leave Act is historically inevitable, and a new epoch of respect for work and family is upon us. Let us not tolerate any further delay, but join in embracing it, knowing full well that it will make us stronger as a nation.

Let us choose to stand up for family leave or take all this talk about the family and leave.

Mr. GOODLING. Madam Chairman, I yield 1½ minutes to the gentleman from Minnesota [Mr. GRAMS].

Mr. GRAMS. Madam Chairman, family leave is a good idea. Mandating family leave is not.

First, there is nothing profamily about putting people out of work—but that is exactly what this bill does.

Estimates are that tens of thousands of working men and women will be put out of work if this bill passes. For them, this may mean weeks, months, or maybe years of permanent unpaid leave.

Second, there is nothing healthy about mandating medical leave when it may force employees to give up other benefits such as health care, dental, or other important benefits.

Third, there is nothing democratic about Congress playing Big Brother and mandating one set of benefits over another.

Surveys show that given their own choice, 99 out of 100 employees would choose benefits other than family or medical leave. Yet, Congress still thinks it knows better than the American people, and will take their choice away.

Finally, Madam Chairman, there is an issue of fairness.

By passing this bill, Congress will put people out of work, cause the loss of other benefits, and take away benefit choice for employers and employees—just to mandate a benefit that not all employees can afford to take advantage of.

Family leave is a good idea. This bill is not. I urge my colleagues to vote "no."

☐ 1820

Mr. FORD of Michigan. Madam Chairman, I yield 1 minute to the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Madam Chairman, "There is nothing wrong with America that cannot be cured by what is right with America." That was the reminder that President Clinton gave 2 weeks ago, and today, we have the opportunity to move our country forward with the strongest prescription available to us: a policy that will strengthen American families.

For 7 years, Congress and two administrations have locked horns over the value of implementing a family and medical leave policy that will require only 5 percent of employers to provide temporary leave for only half of all American workers. Meanwhile, our strongest global competitors—Germany and Japan—have built impressive economic records—with family and medical leave as a component of their industrial policies.

Despite the doomsday predictions, there are numerous examples of successful family and medical leave policies—formal or informal—implemented by companies of all sizes. In fact, some form of leave policy exists already in many American businesses. The U.S. Government is just now catching up with reality.

Madam Chairman, Congress has the opportunity to ensure that half of this Nation's workers will never have to fear that they will lose their jobs should their children become seriously ill or their parents too ill to care for themselves. The economic successes of Germany and Japan should be evidence enough of the value of this policy. We must take bold steps to remain competitive.

Mr. GOODLING. Madam Chairman, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mr. MYERS of Indiana. Madam Chairman, I likewise will yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mr. CLAY. Madam Chairman, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA]. I am more generous than my friends on the other side of the aisle.

The CHAIRMAN. The gentlewoman from New Jersey [Mrs. ROUKEMA] is recognized for 7 minutes.

Mrs. ROUKEMA. Madam Chairman, some of you are saying, "here we go again—deja vous all over again." But, there is a big difference and the difference today is that this is the final act of a long political drama—and this drama will end successfully in the passage into law of this landmark legislation—setting a minimum labor standard—one which simply says, "No, you don't lose your job or your health benefits when you must take unpaid leave to have a baby, care for a desperately ill child or your parent who is terminally ill and in need of home health care."

In these harsh economic times and with health costs soaring, are you going to tell a pregnant woman or the mother of a child dying of leukemia to, "Go find another job, if you can?"

Are these family values? Is this the way Congress responds during harsh economic times, where losing one's job is everyone's nightmare? And when the crisis of health care haunts every American, are we going to turn our backs on these families?

With our votes today, we go beyond all the lip service to family values.

With our vote today, we are saying that we really do value all those hard working, tax paying American families that are working so hard to help themselves. They are working to get by, pay the mortgage, the doctor bills and educate the kids. They are not on the dole. But, I can tell you if they do lose their jobs it is only a short drop to the welfare rolls.

An objective look at the fact presents a compelling case for family leave. Two-thirds of women today hold jobs outside the home because of economic necessity. Job security for both wage-earners is more crucial than ever.

But this is only part of the new equation.

Those over age 75 are the fastest growing segment of society. Americans are healthier and living longer. But the reality is that an overwhelming majority of these elderly will need the care of a family member when serious illness strikes. If they cannot be cared for at home they will require expensive nursing home treatment which relatively few can afford.

There are those who are trying to divert the issue at this last stage of debate. They claim they are for family leave but are opposed to this bill and favor tax credits as an incentive.

To the tax credit idea, I say good! Let's add those credits to the next tax bill!

But it is no substitute for this minimum labor standard.

These are not abstract problems. Families are stressed and strained by the competing demand of jobs and caring for family members. Families are thrown into crisis when serious illness strikes. I know. I have been there. When my son, Todd, was stricken with leukemia and needed home care, I was free to remain at home and give him the loving care he needed. But what of the millions of mothers who work for the thousands of companies that do not have family leave policies? Are we to say to them, "go find another job, if you can?"

It is time, I say to my colleagues, that we have some straight talk about this legislation and separate fact from fiction in this bill. This is not a departure from traditional labor law. It is not a radical idea. It is completely consistent with minimum labor standards that we have promoted through the 60 years of American labor law.

What we are creating is a minimum labor standard. The history of American labor law shows that Federal labor standards have always developed to meet the changes necessitated by fundamental shifts in the workforce. Laws concerning child labor, worker health and safety standards, the minimum wage, and 40-hour workweek were all enacted in response to problems experienced by the American worker, and the need to provide minimum standards of protection in the workplace. These laws have benefited all working Americans. The Family and Medical Leave Act is completely in keeping, in letter and in spirit, with out existing labor standards.

And for those who erroneously believe that this is the only legislation that limits benefits or labor standards based on size of the business. Not so.

A whole body of laws ranging from the Fair Labor Standards Act to the Civil Rights Act to the Age Discrimination in Employment Act have size limits. The Age Discrimination Act, for example, covers businesses of 20 or more employees. The Americans With Disabilities Act covers businesses of 25 or more employees.

Madam Chairman, let me insert in the RECORD at this point a list of additional statutes which include similar coverage provisions.

Title VII of the 1964 Civil Rights Act: Covers employers with 15 or more employees.

Age Discrimination in Employment Act: Covers employers with 20 or more employees.

Americans With Disabilities Act: Covers employees with 25 or more employees, will eventually cover employers with 15 or more employees.

Occupational Safety and Health Act: Although the Act, by its terms, covers all private sector employers, every year since approximately 1980, a rider attached to the Labor/HHS appropriations bill has generally exempted employers with 10 or fewer employees.

Fair Labor Standards Act: Covers employees of businesses involved in and affecting interstate commerce. Certain provisions are applicable to workers under a certain age, to workers in certain industries and establishments, and to workers in businesses with sales over a certain dollar amount.

Now let me stress that I and other strong pro-business Members, including Members in this House and Republican Senators BOND and COATS in the other body and Representative GORDON and Representative HYDE in the House, have written compromises in this bill to protect virtually all the legitimate concerns of the small business community.

In the first place, any small business with 50 employees or fewer is exempt. The key employees exemption is in here. Only permanent employees who have worked more than a year and have worked a minimum of 25 hours per week qualify for this leave.

I personally insisted on a provision that required that an employee taking family and medical leave use that leave to actually care for an ill child, spouse, or parent. This safeguard was included to protect employers from abusive employees who might try to take leave for something other than a true family need.

We have adopted added protections for the business community including medical certifications by a licensed health care professional, the ability to substitute accrued sick leave for leave time, and also notification of intention to leave and reimbursement of health insurance premiums if the employee does not return.

Madam Chairman, I would like to insert for the RECORD at this point a list of other pro-business protections.

Restrictions on eligibility for leave to those employees who have one year and 1,250 hours of service (raised from 1,000) to an employer. An employee must work an average of 25 hours per week for 1 year before he or she can take family or medical leave.

Limitations on the definition of serious health condition to illnesses which require continuing treatment by a health care provider. Employees requesting leave must also have a health care provider certify that the employee is needed to care for a son, daughter, spouse or parent, and a health care provider must certify the estimated time that the employee will be needed to care for a family member.

Simplification of FMLA enforcement provisions to include only double actual losses incurred through violation of the Act. FMLA enforcement provisions are parallel to those in the Fair Labor Standards Act.

Employees must now give employers 30 days notice of intent to take leave based on planned medical treatment.

Employers may recover the costs of health insurance premiums paid for employees who do not return to work from a period of leave.

Employers may require that an employee taking intermittent leave for planned medical treatments transfer temporarily to an equivalent alternative position.

Employers can substitute an employee's accrued paid sick leave for any part of the 12-week leave period to care for the serious health condition of a family member.

There is no evidence at all, and I will repeat it, absolutely not one shred of evidence, that this will be costly to business. In fact, in study after study, it has been proven that the FMLA will only cost employers $6 and change per covered employee. To those who criticize H.R. 1 on the basis of cost, I say, "Give me a break!"

Not one State or one business who has adopted similar or more far-reaching leave policies testified or gave any evidence that there has been any detrimental effect to productivity. In fact, Madam Chairman, all the studies show—including one done for the SBA—that it costs more to train a new employee than to hold the job open for a loyal and experienced employee. It is just plain good business to keep experienced workers on the job.

Those who maintain that family and medical leave is being offered voluntarily by employers and, therefore, should be left to the vagaries of the employee-benefit marketplace, conveniently ignore neutral statistics. The fact of the matter is the voluntary approach to this problem is simply not working.

According to one survey, only 37 percent of all female workers are covered by unpaid maternity leave, and only 18 percent of male employees are covered by unpaid paternity leave; and those are in companies of 100 or more employees. Yet another survey notes that 30 to 40 percent of employers with more than 50 workers do not even offer job-guaranteed sick leave.

And there is ample documentation that since the failure to pass this bill last September, untold numbers of Americans have lost their jobs because of abusive employer practices.

The simple fact is that many Americans continue to work under the threat of losing their job and their health insurance should they be forced to take leave in order to deal with a family medical emergency.

In addition, the Families and Work Institute reported that in States which have comprehensive leave laws, such as Minnesota, Oregon, Wisconsin, and New Jersey, only one-in-seven employers had leave policies and practices equal to those in H.R. 1 prior to the enactment of those State laws. And, I must say that the early returns from those States demonstrate that employers are having little trouble complying and are not experiencing rampant abuses.

Finally, there is a whole array of organizations—religious, medical, and educational—who support this legislation. They understand with crystal clarity that this debate over family leave is not about mandates or benefit packages or tax credits. It is fundamentally about values, family values, and a standard of decency, and protecting the jobs of workers who are working hard to hold on to the American dream.

Madam Chairman, I include for the RECORD a list of organizations and businesses which support the Family and Medical Leave Act.

ORGANIZATIONS ENDORSING THE FAMILY AND MEDICAL LEAVE ACT

Nearly 250 organizations endorse the Family and Medical Leave Act, including:

Families, USA.
Children's Defense Fund.
National Education Association.
American Psychiatric Association.
American Nurses Association.
Citizens Action League.
National Council of Churches.
American Jewish Congress.
United States Catholic Conference.
Catholic Charities USA.
United Methodist Church.
National Women's Business Enterprise Association.
American Federation of Teachers.
American Association of Retired Persons.
The National PTA.

American Academy of Pediatrics.
Womens Legal Defense Fund.

Hundreds of businesses support the Family and Medical Leave Act, including:

Hasbro.
Ben and Jerry's.
Espirit.
The Stride Rite Corporation.
Reebok, International.
The Timberland Company.
Lotus Development Corporation.
Lotus Publishing.
Quad Graphics.
The Body Shop.
AVEDA Corporation.
Resource Decision Consultants.
Platinum Technology.
Tangent Corporation.

Mr. CLAY. Madam Chairman, I yield 2 minutes to the gentlewoman from Florida [Ms. BROWN].

□ 1830

Ms. BROWN of Florida. Madam Chairman, I appreciate having the opportunity to address my colleagues on H.R. 1, the Family and Medical Leave Act. This bill is one of the most important pieces of legislation that will come before the House in the 103d Congress.

Over the past three decades, dramatic changes have taken place in the American work force. Today, two-thirds of all women with children under 18 and one-third of the adult children caring for elderly parents are in the labor force.

Yet, the United States is the only industrialized country that does not provide a basic family leave policy for its workers. Canada, West Germany, and Japan all have family leave policies.

We must protect our workers when they take time off from their jobs for important family responsibilities. Parents should not have to choose between the jobs they need and the children who need them. Mothers and fathers should not risk unemployment when they stay home with their newborn or newly adopted children for the first few months. Workers should not be forced to stay on the job when they are needed at home to be with a sick child, or a parent in failing health.

The Family and Medical Leave Act meets the basic needs of both employees and employers. It would provide workers with up to 12 weeks of unpaid leave each year for newborn or newly-adopted children, seriously ill family members, or for the worker's own illness.

But businesses with fewer than 50 employees—which account for 95 percent of all American businesses—would not be affected by this legislation. They are exempted. At the same time, half of all American employees would benefit from this legislation.

I want the American people to know that this bill is cost-effective. It will protect working families from over $600 million in lost wages while costing employers only $5.30 per year for each covered employee.

In fact, a major insurance company, Aetna Life, has reported that its family and leave policy saved the company an estimated $2 million in 1991 by cutting down employee turnover and reducing hiring and training costs.

The Family and Medical Leave Act, first introduced in 1985, is long overdue for American families and workers. With a Democrat in the White House, it is clear that a bill strongly supported by the American people and Congress will finally become law. And we will be sending a signal to the American people that the gridlock in Washington is over.

Mr. GOODLING. Madam Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. BUYER].

Mr. MYERS of Indiana. Madam Chairman, I yield 1 minute to the gentleman from Indiana [Mr. BUYER].

The CHAIRMAN. The gentleman from Indiana [Mr. BUYER] is recognized for 3 minutes.

Mr. BUYER. Madam Chairman, I rise in opposition to the legislation currently before the House.

Just as you cannot judge a book by its cover, so you cannot judge this legislation by its pretty and soothing title. My wife and I both work and we have two children. I know first hand the burdens of parenthood.

I support families, and the ability of working parents to meet the needs of their children and parents. But, I do not support this legislation.

In their desire to rush this legislation to the White House, the Democratic leadership of this House has stifled those of us who support families. Government should help guide the boat, but with this legislation, Government is rowing the boat.

Why is this bad legislation:

First, by setting the threshold of this legislation at 50 employees, automatically we exclude 60 percent of the Nation's work force. If this is such a good deal, it should apply to everyone. But the sponsors of this legislation recognize that it is harsh and if it applied to everyone, it simply could not pass. In fact, all American consumers will be asked to pay for this legislation which only applies to 40 percent of the work force.

Second, this legislation will accelerate discrimination against women. It is ironic that the President's own nominee for Under Secretary of the Treasury, Lawrence Summers, said while teaching at Harvard, "It is thus possible that mandated benefit programs can work against the interest of those who most require the benefit being offered." Employers will hire the employees that are the least cost to them. This legislation will increase the pressure to discriminate against women. This is intolerable.

Last night, I spent a considerable amount of time on the phone talking to employers and labor leaders in my district. One of the largest employers in my district offers 6 weeks paid leave followed by up to 3 months of unpaid leave as agreed to through the collective bargaining process. This is an example of how family leave policies should be set in the free and open market system.

Another employer, who will not be affected by this legislation because he has less than 50 employees, nonetheless says due to previous unfortunate experiences he now thinks that his only recourse to a productive work force is to not employ women of child bearing age. He is hiring a 50-year-old woman over a 20-year-old. This bill will become a barrier to women trying to enter the work force. This is unfortunate and this legislation will only accelerate such discrimination.

Finally, this bill only helps those with a job. This bill does nothing to get one single unemployed person a job but burdens business so that they cannot create jobs.

If you support families and job creation, then vote against H.R. 1.

Mr. SCOTT. Madam Chairman, I yield 1 minute to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Madam Chairman, I rise to speak in favor of H.R. 1, the Family and Medical Leave Act of 1993.

As a new Member of the House of Representatives, I was elected by voters who wanted change, and an end to the gridlock that has crippled our Government in recent years.

As a working mother of four, I have had to face the task of prioritizing family and work demands so that I don't cheat either.

As a loving daughter of ailing parents, I am currently enduring another tug of war on my time and emotion—wanting to be in two places at one time—and it is very hard.

As a businesswoman, I have dealt directly with the problems of employee absenteeism, turnover, and training that are inherent in any work force.

As a Member of Congress who wears all those hats, I stand in unwavering support of this legislation. Its passage is long overdue. The issues have been debated for years, countless hearings have been held and all the lobbyists have had their say.

The bottom line is that this is a bill that will help our families. It will help them when they are in crisis and need it most. Workers want to keep their jobs and fulfill their family obligations; they shouldn't keep having to choose between them. I urge us to vote in support of real family values.

I have heard all the criticisms of this legislation. But there is an exemption for small businesses that might be unduly burdened, and the projected cost for larger companies is negligible. Despite the arguments of the opponents, I do not believe that treating workers humanely hurts business; in fact, it helps productivity and profit. Every other industrialized nation in the world has some sort of parental leave. The United States is the exception, and it is a uniqueness of which I am not proud.

I commend Congresswoman PAT SCHROEDER and Chairman BILL FORD for their hard work on this legislation over the years, and urge my colleagues to vote for its immediate passage.

Mr. CLAY. Madam Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Madam Chairman, we know about the "Home Alone" scandal in Chicago, where parents left their small children for days without supervision. But there are home alone cases every day which parents cannot avoid. Single parents, sick children, no babysitter, no helping hand, and a boss who will not let them off work. So a parent leaves their sick child at home alone, hoping nothing will happen; hoping that a neighbor will drop in; hoping that child will be well enough soon to go back to school or to day care.

What I have just described for Members is the real world of single parents. Not a "Home Alone" movie script, but the worries and fears facing thousands of American families.

When I hear the opponents of the Family and Medical Leave Act get up and argue against it, I cannot believe that they have ever had to face in their own personal lives the tragedy of a child that faced a surgery or a serious long illness. That they ever sat at work, not even thinking about what they are supposed to be doing on their job, but worrying about that child day in and day out.

Maybe they had the good fortune, if it happened to them, to be able to leave work and go home and give a helping hand. But for many parents across America they do not have that choice. If they want to give that child a helping hand, they are going to lose their job, and that is why we need to pass this legislation.

Madam Chairman, this legislation is sensitive to the real world. This is family values legislation that we heard so much about during the last campaign. It will be interesting to see how many Members on the other side of the aisle who talked about "Murphy Brown" and family values will show up with a green light when a real family value vote comes up to help working families have the time off to give their kids a helping hand, for the birth of a new child, or for an ailing parent.

Madam Chairman, I sincerely hope we send this bill out of here with a strong majority to a President who has the compassion and good sense to sign it.

□ 1840

Mr. MYERS of Indiana. Madam Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Madam Chairman, I rise today as a father and as a parent, as a single father and as one who has personally had a child with severe medical problems himself, and has been involved with severe, major, open-heart surgeries with that child.

I frankly rise with a heavy heart because what we have today is, we have fiction masquerading as truth. What we have today, masquerading as something that will help American workers, will, in fact, cause the loss of jobs.

What we have today is, unfortunately, an act that will be taking place at a Federal level that will take away from States, who are in a much better position to speak to the particulars of a region and the business climate and needs of a particular area, what will now be put in the hands of the Federal Government. And we are doing all of this in the name of families when, in fact, the people that are going to be most hurt by it are those least equipped, those least able to protect themselves, because those are the jobs that are going to get lost first.

One of the immediate impacts of this bill will be to eliminate the companies that have from 51 to 75 or 80 or 85 employees. It will certainly be a great thing for temporary agencies that will be able to contract out employees on a contract basis, but it will, in fact, eliminate the medium-sized business and will be a tremendous burden on them.

I am troubled by this bill because it is something that appears so seductive. It appears so great. It appears that we are doing such a good thing. But in fact, what we are doing is laying another layer of Government regulation on businesses which are not able to sustain that regulation and which will, in fact, cause job losses to those people who are least able to sustain them.

Mr. FORD of Michigan. Madam Chairman, I yield 1 minute to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Madam Chairman, it has been noted that no one says on their deathbed, "I wish I had spent more time at my job." The Family and Medical Leave Act of 1993 recognizes that nothing is more important than family. This legislation advances the type of workplace that values the family. Workers should not have to risk unemployment to care for a newborn baby, a newly adopted infant, or a loved one who is seriously ill. When our families need us, in a rare emergency, we should not feel that we are jeopardizing our livelihood in order to take off from work to care for them.

The backbone of America has always been the family. For too long, far too many politicians seem to have forgotten that. But now, we are poised to enter a new age in which America and its domestic needs are paramount. It is appropriate that America join the rest of the developed world in formalizing a family leave policy.

As I was reviewing the letters and calls that I had received regarding this bill, I thought back to a debate of almost 100 years ago. In 1906, our forefathers in the 59th Congress began the discussion on child labor laws. It was not until 1938 that Congress finally passed the child labor laws recognizing that this action was, very simply, the right thing to do. Its time had come.

Compared to this 32-year discussion, the Family Leave Act is on the fast track. I believe that we have a good bill before us. The exemptions that will prevent undue hardships on any one business have been included. Like the child labor law, passage of the Family and Medical Leave Act is the right thing to do. Its time has come.

I urge you to vote for passage.

Mr. CLAY. Madam Chairman, I yield 3 minutes to the distinguished gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Madam Chairman, we have heard time and time again on this floor this afternoon and this evening that parents should not be asked to choose between their jobs and caring for a sick child. And of course, that is the fundamental principle behind our actions today. Families should not be torn apart when illness strikes. That is when we should be giving support to families.

And for 7 years, we have toiled in this body, and in the other body, to put on the President's desk a bill that will accomplish those goals.

The great majority of the American people support it. We have passed it time and time again. The problem has been the White House. Two Presidents opposed family leave and got out that veto pen whenever it hit their desk. That is one reason why we have a new President today. Americans rejected overwhelmingly that kind of indifference. What could better symbolize this new era of change for America than passing the Family and Medical Leave Act? It is a bill that leaves everybody—everybody—better off.

Employers will be better off. The studies show family leave improves morale and competitiveness. It is cheaper than hiring new workers. That is why Japan has it. That is why Germany has it.

In fact, the United States is the only industrial country without it.

Taxpayers will be better off. Why? Because they do not have to pay unemployment or welfare for workers who have been fired.

But let us put the emphasis where it belongs, on the benefit that makes this bill not just good policy and sound politics, but a compelling moral issue.

Families will be better off. That is what this is about, making families better off. After all, do we really want an America where workers can be fired because they need to take cancer-ridden children for chemotherapy? Do we really want an America where workers can be fired because they need some time off to care for an aging parent who may have Alzheimer's disease? Is that the kind of America that we want, an America that gives lip service to family values but turns it back at the very moment they are the most vulnerable?

For 7 years, this bill has been blocked. Now the roadblocks are removed. The road is clear. Thanks to the likes of the gentleman from Michigan [Mr. FORD], the gentleman from Missouri [Mr. CLAY], the gentlewoman from New Jersey [Mrs. ROUKEMA], and the gentleman from the other body, CHRIS DODD, who have worked tirelessly to make sure this bill hits the President's desk.

Let us get it to the President's desk this week, to the President who not only believes in family values but who values families. Let us move together on this bill that keeps families together.

Mr. MYERS of Indiana. Madam Chairman, I yield 3 minutes to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Madam Chairman, I rise in opposition to H.R. 1, the Federal Government-Knows-Best-Act of 1993.

I have nine kids. I know the importance of spending time with newborn infants and children when they are seriously ill. We all understand that. But this bill is not the way to do it.

This bill basically says that the U.S. Congress knows better than the marketplace. This bill says that Congress knows better than the Nation's employers and employees about what kind of benefits our Nation's workers want and need.

It plucks a magic number of 12 weeks a year out of a hat, and says this is what we need.

This kind of one-size-fits-all mandate from on high just does not make sense. It does not matter if your employees want it. It does not matter if it damages your business. This is the one benefit that Congress is going to single out and insist that you provide.

Not only does it reduce flexibility in the kind of benefit programs employers can offer, but like any Government mandate, it also imposes very real costs on small business.

It is another layer of regulation that does nothing to promote economic growth. It will actually destroy job opportunities and damage productivity.

Just yesterday, the owners of a small business in my district explained to me that, if this bill passes, they will just make sure that they do not grow to the point that they have 50 employees. They will hire part-time workers. They will contract out. They will do what is necessary to stay under the 50-employee trigger.

So, this bill—compassionate as it may sound—is going to create a ceiling—a very artificial ceiling that limits growth and slows job creation. And anything that slows job growth is not compassionate in my book. The first and foremost need of American families—any family—is a job. And this bill destroys jobs.

Make no mistake about it, if this bill was as harmless and as inexpensive as its supporters pretend, they would not have had to exempt 95 percent of all businesses from its coverage to get it to the floor.

But, what is even more frightening is that we all know what happens to small business exemptions. They tend to erode over the years. We know that this bill is just the beginning. We know that if we enact this bill, it is just the first step to paid leave and other mandated benefits for all American businesses, large and small alike.

Madam Chairman, this is a bad bill. It is a bad precedent. It is bad economic policy. And it should be rejected.

□ 1850

Mr. FORD of Michigan. Madam Chairman, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Madam Chairman, today we have an opportunity to pass legislation that will help American families cope with a difficult and painful decision with which they are too often confronted: The choice between keeping a job or caring for their children and their loved ones.

Passage of the Family and Medical Leave Act is long overdue. For 8 years this legislation has been blocked by administrations that did not see the needs of working families as a priority. We now have a chance to put an end to the gridlock by sending the Family and Medical Leave Act to the President's desk with the assurance that this vital legislation will be signed into law. No parent should be forced to choose between their job and their children. Hard-working American families deserve leave, a benefit that workers in all other industrialized nations enjoy, with the sole exception of the United States and South Africa, and they deserve more. They deserve a government that works for them.

Some have argued that this legislation is unnecessary, that businesses will take care of their workers if they are allowed to develop their own leave policies. Sadly, the facts do not support this argument. Family and medical leave simply is not available for the vast majority of American workers. It is time that we stand up and do what we are elected to do, strengthen American families and create policies that protect the hard-working people that have made this country great.

Mr. GOODLING. Madam Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Madam Chairman, we notice that the throngs of the crowd demanding this bill are eagerly awaiting our passage and conclusion of this debate. The intensity is all over.

I would like to make a couple of comments in regard to some of the points that have been made in the discussions thus far. I plead with those who want to support this legislation, can we not as a Congress legislate not only with our hearts but also with our heads? Can we not also deal with the issue of leave in a rational and sensible minimum standard from the Federal level?

Our good friend, the Democratic whip, said, "Taxpayers will be better off if this bill passes." Of course they will; they mandated it all on private business. What a deal.

Our good colleague from New Jersey, she says, "What we are doing here is just setting a minimum labor standard." We are, but that minimum labor standard that she talks about is going to impose $674 million of costs on business in this country in the first year, according to the projections by GAO.

She asked is our message, the message of those of us who oppose this, simply to "go out and find another job if you can?" No, that has not been our message and that is certainly the frustration here. No one listens to the debate to see if there might be a better alternative.

We have suggested preferred rehire, we have suggested tax incentives for paid leave, we have suggested a cafeteria plan requiring that this be one of the options, but that we give every worker in America full choice over what benefits they want mandated or chosen, and we have suggested that if it is truly going to be a minimum standard in labor law, that we try to parallel these 31 States that have done something in this area thus far.

They say that somehow or other this provides a key employee exception. If it is clear about the key employee exception, why is one of the major amendments that is going to be offered yet tonight an amendment that tries to clarify this very area of what ought to constitute a key employee, and most importantly, under what conditions?

It says that we are going to go beyond, somehow, what we have done in the past. No, we are not. We are not going to do minimum standards here, as I said earlier. What we are going to do is something that exceeds absolutely every State in the Union.

I would like to refer to a Department of Labor study on this legislation, where they talk about all those 31 States and the District of Columbia. They talk about the fact that yes, there are States like California that even provide 16 weeks, but they spread that over 2 years, which would equal about 8 weeks a year, not 12 weeks a year, like under this bill.

Or we can go to Vermont's law. Vermont's law has a considerably tighter definition of what is a serious illness.

Or we can talk about New Jersey's, but New Jersey's is clearly 12 weeks over 2 years, not over 1 year. Nobody comes close to 12 weeks in any given year covering every conceivable reason for leave that we have been able to look at.

Finally, the advocates of this bill say the voluntary approach is not working. It is not working totally, I will agree to that, but if it is not working at all, how come only 3 percent of the people in the Washington Post survey in 1990 suggested that this ought to be a major legislative priority? How come in a Gallup Poll, 90 percent of the small businesses that were interviewed said they had honored the latest request for leave from their employees, and if it is not working at all, how come the recent Harris Poll survey said that 68 percent of the employees said that their employers had provided the leave request that they had submitted?

There are real attempts to respond to the change in work force. There are real attempts by States to respond to this situation. The tragedy tonight is that we are going to discard, dispel, and preempt every one of those States that have enacted some kind of a leave policy to say, "Big brother, government at the Federal level, knows best. We are not going to pay for it. We are not going to get involved ourselves. We are not going to give incentives through the tax law for you to pay for it, we are simply going to mandate that you do it."

I would say to the Members that I do believe that we can do better. I do believe that we can do more than just end gridlock, that we can do more than just legislate with our hearts. We can pass reasonable family and medical leave that will stand the test of time.

Mr. FORD of Michigan. Madam Chairman, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS] for a colloquy.

Mr. WILLIAMS. Madam Chairman, I would like to clarify the coverage of this act with respect to individuals who take time from their jobs to donate an organ, or part of an organ, to someone in need. These are life-saving donations and I would want to make sure that these heroic individuals are protected under the provisions of H.R. 1.

Mr. FORD of Michigan. Madam Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Madam Chairman, yes, individuals who take time off from work to donate an organ would be covered under section 102(a)(1)(D). Organ donors would meet the definition of serious health condition under section 101(11). Such procedures would also come under the provisions of section 102(e)(2), requiring reasonable notice to employers and a reasonable effort not to disrupt an employer's operation.

Mr. WILLIAMS. Madam Chairman, further, H.R. 1 states that in order to take leave in case of illness, the employee or his family member must be under the care of the "health care provider," am I correct about that?

Mr. FORD of Michigan. If the gentleman will continue to yield, yes, the gentleman is correct.

Mr. WILLIAMS. Then, Madam Chairman, we have had, as the gentleman knows, a well-established principle of religious tolerance for those who seek and obtain treatment for a serious medical condition through prayer alone. Is it your intent that the definition "health care provider" include such practitioners when they are properly accredited by a national organization, such as the case with journal-listed Christian Science practitioners?

Mr. FORD of Michigan. If the gentleman will continue to yield, yes, it is.

Mr. WILLIAMS. Madam Chairman, I would ask the gentleman to clarify one point regarding the rights of key employees to health benefits. Where an employee receives notice of the employer's intent to deny restoration, if the employee does not return to work, it is my understanding that the employee's health benefits would continue until the end of the employee's leave period and the employer would have no right to recover the premiums paid. Is this correct?

Mr. FORD of Michigan. If the gentleman will continue to yield, yes, that is correct.

Mr. WILLIAMS. Madam Chairman, we have received inquiries regarding the application of section 104(a)(3)(B), which states, as a limitation, that nothing in that section shall be construed to entitle an employee to "any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave." That limitation would be applicable in situations in which there is a subcontract or similar arrangement between a contractor and the employee's subcontractor-employer, pursuant to which the employee—including a temporary employee—is performing services for the contractor on a task of a project; if, while the subcontractor-employer's employee is on leave, that task of the project is completed or the contractor cancels the funding for that employee's services such as by eliminating or resubcontracting that position or portion of the subcontract in accordance with the terms of a valid contract between the contractor and the subcontractor, then reinstatement of the employee would not be required by section 104(a)(3)(B), where the employee would otherwise not normally have been employed elsewhere by the employer. Is this understanding correct?

Mr. FORD of Michigan. I would say to the gentleman, yes, that is correct.

□ 1900

Mr. MYERS of Indiana. Madam Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. McCRERY].

Mr. McCRERY. Madam Chairman, well, here we go again. The very first bill of substance this Congress will pass—and apparently the first bill of substance our new President will sign—will create a new Government-mandated benefit which 84 percent of American small business owners oppose, a benefit which 89 percent of employees believe would be best left to be worked out between them and their employer, and, sadly, a mandated benefit which will likely drive more American workers onto unemployment lines—some benefit.

But I did not come to the well to talk about what a bad idea this bill is, I came to ask why, if it is as good an idea as its proponents claim, why are its enforcement provisions not as applicable to Congress as they are to American businesses?

That is right. Once again, Congress is passing legislation which creates burdens on the private economy the Congress itself is unwilling to shoulder. I would direct Members' attention to section 502(b) of the bill. This section provides that, with regard to employees of this body, enforcement will be made as provided in the fair employment practices resolution. Section 9 of that resolution provides remedies roughly similar to those available to a private-sector employee whose case is heard by the Labor Department. That is all well and good except that what is missing from the fair employment practices resolution is the remedies provided to private-sector employees by section 107 of the bill before us today.

H.R. 1 provides that a private-sector employee may sue his or her employer for violations of the law. Section 107 goes further to provide that an employee may recover lost wages, benefits, and reasonable interest on any amount owed. It provides for the award of attorney's fees, except witness fees, and any costs associated with the lawsuit if the employee prevails. H.R. 1 also entitles a prevailing plaintiff to any equitable relief such as reinstatement or even promotion.

But the simple fact is that Congress has exempted itself from the hazards of having to face a civil lawsuit in the event we fail to give our employees the same benefits we are prepared to foist on the private sector.

Madam Chairman, have we learned nothing from the House bank scandal and the last election? If those events taught us anything they should have taught us that the American people are tired of a Congress which acts like a professional ruling class, a Congress which makes law for everyone but itself.

The bill before us is another example of Congress' unwillingness to abide by the rules it sets for others. We will, by passage of the Family and Medical Leave Act, increase the liability exposure of every covered employer—but one.

The family and medical leave bill upsets the balance of labor-management relations, it is likely to increase unemployment, and, because it exempts this body from the full effects of its enforcement mechanisms, it is unfair. I urge each of you to vote against this bill.

Mr. MYERS of Indiana. Madam Chairman, I yield myself my remaining time.

Madam Chairman, I regret that I must take the well this evening and oppose this legislation. As a parent of two daughters, a grandparent, as one whose parents and mother-in-law suffered serious illness before they passed, and having a wife that has had three cancers in 3 years, requiring very serious and long and extended treatment, I do not think I have to have my credentials in family values questioned tonight. I agree with the concept many who have taken the floor this evening have talked about, that what we are trying to do for people is a good idea. But my goodness, I can think of so many things that are good.

But I am somewhat concerned as an employer, and I have been an employer, and we had policies, and it was a policy usually that we allowed time, with pay, for people who had a serious illness or a pregnancy, or even the adoption of a child, as long as the time off was reasonable and financially the business could support it. But there is no concern here about the business.

I am shocked to hear statements almost to the point of where, well, I would like to go to work on a day that is convenient for me, but if there is anything else I could do that day I would rather do that. I suppose many people feel this way. But there has been very little concern today expressed about the employers of these people who are going to have all of this time off about replacement of an individual who may be very, very vital to that institution. It is not as easy as hiring a Kelly Girl to come in and do the payroll.

So I have been concerned about the attitude that has been expressed here today and the damage we are doing to small businesses, businesses that are already burdened from competition from outside of the United States as well as other larger industries. Many businesses are going bankrupt today. This is going to probably drive more into bankruptcy. And to say that it is not going to do damage to small business is wrong. Members say well, 50 employees is not small, and certainly 50 up to some number above that still is not a relatively small business. So we are impacting these businesses, regardless of how much we talk about not having that intention. I am quite sure no one here has the intent of driving any business out, but the effect of this legislation is going to be to do serious damage to an already burdened business community.

Who is going to hire a young woman who is of childbearing age if they have a choice between hiring her and someone who is not likely to take time off? Think about that if you were going to be the employer. Obviously very few have been employers, judging from some of the colloquy I have heard here today. Not many have stood in those shoes. But we are going to hurt the very people we are trying to help here, because if faced with the situation of hiring one or the other, they are going to hire the person that is not going to be taking 12 weeks off, in all likelihood.

How about they pay issue? People now are getting paid for less time. Who is going to pay these people if they are not already in a contract to provide pay for extended leave, even though they may be paying today, even though this law is passed? They are going to stop this payment, and some people are going to take leave.

I think we are doing serious damage. I can count. I know the skids are greased and this is going to pass, and it is going to go down to the White House, and it is going to be signed by the President. But I think we should stop and think about the damage we are going to do today to an economy that is trying to recover.

I would like to vote for maybe a more reasonable 6 weeks, even with all of the conditions, but I just simply cannot tonight support 12 weeks, and I regret that I cannot. I had an amendment that I would like to have offered to reduce this to 6 weeks, and I tried for 6 weeks, but unfortunately the rule does not provide for this.

Madam Chairman, I yield back the balance of my time.

Mr. FORD of Michigan. Madam Chairman, I yield 3 minutes to the gentleman from Maryland [Mr. HOYER], the chairman of our caucus.

Mr. HOYER. Madam Chairman, I thank the distinguished chairman of the Education and Labor Committee for yielding me this time, and I rise in very strong support of this legislation.

Madam Chairman, I rise today in strong support of H.R. 1, the Family Medical Leave Act. I would like to thank and commend the chairmen of the Education and Labor and Post Office and Civil Service Committees for bringing this monumental legislation to the floor so expeditiously.

For the past 7 years, the Family Medical Leave Act has been brought before this Congress with the certainty that it would be vetoed. In the 103d Congress, we know that we have a President who not only lauds the goals of the Act but who has demonstrated that he is firmly committed to giving the American people what they so critically deserve: The ability to care for their families without the fear of losing their jobs or their health insurance coverage. It is, in my opinion, the right thing to do.

Over the past few decades, we have seen the fabric of our families unravel. The number of children living in single-parent households has increased, the number of children living in poverty has increased and the number of juveniles living in custodial care, outside of their families has increased. And nearly 20 percent of our Nation's children, poor or not, do not receive adequate preventive health care or the full course of immunizations required to guard against polio, diphtheria, tetanus, and other diseases. Aged and ill parents, new born babies and newly adopted children are being cared for by someone other than family members because their financial situations render them unable to rock the job security boat by taking a few weeks to care for or bond with their loved ones.

The American people deserve better than this. The Family Medical Leave Act does not require an employer to provide paid leave for an employee, nor does it require that an employer suffer economic harm by granting their highest paid employees family or medical leave. In fact, the bill covers only about 5 percent of employers and half of all employees. The obligation provided in this bill is, small and the necessity to respond to the crisis in our families is great. We must strike a balance. And, I believe this bill accomplishes that goal.

Madam Chairman, I am mindful of the concerns of the business community with regard to federally mandated benefits and I fully intend to support efforts to reduce the burdens we place upon business. However, I believe that the bill before us will be good for business. Over the past few years, many companies have come to recognize that an employee who has job security and good benefits, works harder and stays on the job longer.

Madam Chairman, there is no substitute for a parent.

No one I am convinced can bestow the love or provide for the needs of a child like a mother or father. No one I am convinced can provide the care and support a person dying from cancer like a family member. Our schools, nurses, doctors, counselors, and government can not become surrogate parents. It is a responsibility which I believe all of us want to meet. It has become increasingly difficult to do so. With passage of the Family Medical Leave Act the Congress will have taken an important step toward reinforcing family responsibilities and a more secure and productive work force.

Twelve weeks may not be perfect, 18 weeks may not be perfect, 6 weeks may not be perfect. The fact of the matter is we have a problem in America, and the problem we have in America is families, family unity, family structure, young people feeling a sense of insecurity, and parents being able to call upon their children at times of great illness.

We have had a substantial change in America over the last 40 years, indeed over the last 20 years, and that is that we have a substantial number of historic caregivers now in the work force.

We need them in the work force. America needs their skills, and families need their earning power, male or female, to maintain the family lifestyle and the family standard of living. So this is not a question of options. It is a question of providing a society that allows caregivers appropriately, in a pro-family mode, to care for sick wives, to care for sick grandchildren, to care for parents at times of crisis. I have a daughter who has a child, and like my friend, Mr. MYERS, who spoke before me, I too am a grandfather. I frankly do not believe, except for the fact that she may be able to call upon the support of her parents, that she could afford 12 weeks of no pay.

So this is not an option that will be easily taken by persons in the work force. As a matter of fact, it is my suspicion, as a former employer in the private sector, that it will be economically very difficulty for most people to take unpaid leave. They will do so only in the instance where the need is critical, and where we as a society ought not to say to them have your children cared for by a third party, even an aunt or an uncle if they are lucky, or a grandmother if they are lucky, but if that is not available, have them cared for by a third party, someone who is not close to the child, or close to the spouse, or close to the parent.

This legislation accommodates this change in the work force and ameliorates the disruption to the families that this change has brought about. It simply says let us take a step.

This legislation, contrary to what the gentlewoman from Florida said earlier tonight, that it was a new proposal that she had not had an opportunity to review the report on, is a proposal that has been on this floor time and time again, and has passed both the House and the Senate and been sent to the President. The President made a determination that he did not like it and vetoed it, the same President that said in 1988 in the course of a campaign, because he knew the American people believed that this legislative proposal was right, that mothers and fathers and children ought not to be confronted with the alternative of caring for a sick family member or having an opportunity to earn a living.

□ 1910

This legislation is moderate. It is reasonable. It is appropriate. It is needed. Let us pass it tonight.

Mr. FORD of Michigan. Madam Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. MEEHAN].

Mr. MEEHAN. Madam Chairman, I strongly support the Family and Medical Leave Act and I would urge my colleagues to do the same.

I chose this bill as the first piece of legislation to sign my name to as a new Member of Congress. I did that because we finally have a Congress backed up by a President who understands what family values really means.

It means that a mother will no longer have to choose between caring for her new baby and losing her job.

It means an adult son can take time off from work to help his elderly mother spend her last days in comfort.

And it means that an employee will not be fired for missing work to receive medical treatment for a serious illness. With two-thirds of all mothers working outside the home, Congress has to find ways to ensure that families are not torn apart by the need to earn a living.

The family leave bill also protects small businesses, by exempting companies with less than 50 employees, and affects just 95 percent of the country's employers—while benefiting half of the Nation's workers. There are other protections built into the bill to ensure that it does not place an undue burden on American businesses.

It is time to send a message to American families that we will support you when you need us the most.

The time has finally come to pass the family leave bill.

Mr. FORD of Michigan. Madam Chairman, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS], the chairman of the subcommittee that has done all the heavy lifting on this bill.

Mr. WILLIAMS. Madam Chairman and my colleagues, today we take a long overdue and much needed step to help turn things around for that 75 percent of the American work force that for a very long decade and a half has been on the down escalator.

Today's workers are the first generation of America's workers in almost three-quarters of a century who find that working conditions for them are worse, not better, than they were just one-and-one-half decades ago.

I personally believe that is because we have had two administrations which have been frozen in the ice of their own indifference toward improving the working conditions, the safety conditions, the income/salary conditions of America's middle- and low-income workers. But today we take a step to turn that around, and we do it because at long last this Nation has leadership, determined leadership from the White House that intends to work every day on behalf of the American economy by lifting the standard of living for America's middle-income workers.

The bill that we have before us today will, I believe, be most useful, because it will help to bring and keep families together. At a time of birth when a family is coming together, establishing itself, this bill will help, and it will help America's working families when their family is threatened with coming apart. This bill will protect workers when they or a close family member is desperately ill, and it seems to me that family, without a little help, it is liable, indeed, to come apart.

So today with the help of President Clinton, we now move down the path toward making a genuine difference for the good of America's middle-income and low-income workers, and it is about time.

Mr. GOODLING. Madam Chairman, I yield myself 2 minutes.

Madam Chairman, the 3 hours, 20 minutes today was for the the purpose of having everybody come down and be seen on television. The next hour and 45 minutes will be for the purpose of trying to perfect the legislation.

I take the same attitude today as I took in committee when we had the markup, and the attitude is that we did not need any debate on the bill any longer, because as of November 2 or 3, I do not know which it was, there was no question that the bill was going to become law. So I think it is our responsibility in a situation of that nature to see whether we cannot make the best possible legislation that we can get at this particular time, both for the employees and the employers and for all Americans.

So, I will offer three amendments a little bit later, all three of which, I believe, will help to strengthen the legislation. None of them can do anything to take away from the legislation, because my amendments are so tightly written, and the legislation is so tightly written that no employer would have any opportunity in any way, shape, or form to abuse the legislation in its final form.

And so I will offer a cafeteria-plan amendment. I will offer a reduced-leave-schedule amendment which is very, very important, because no one has ever debated this part of the legislation. In all previous bills, this has never been part of the legislation the way it is written, and so I think it is very, very important that we take a careful look at that.

Then I will also call your attention to key-employee exemptions as they are presently written.

So my effort will be to try to improve the legislation so that it is the best we possibly can get at this particular time.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, January 29, 1993.

To: House Committee on Education and Labor, Attention: Russ Mueller.

From: American Law Division.

Subject: Relationship Between Family Leave Bill and ERISA Preemption.

This memorandum is in response to your question concerning the extent to which section 401(b) of the proposed Family Leave bill, H.R. 1, 103d Cong., would affect the provisions of the Employee Retirement Income Security Act (ERISA), 29 U.S.C. §§1101 et seq., relating to the preemption of state laws affecting employee benefit plans, including state family and medical leave laws. You have asked whether it would be possible that this provision could be read to supersede ERISA preemption of state laws relating to employee benefit plans.

From our review, we have found that the Family Leave bill would expressly disclaim any intent to alter or amend relevant state and local family leave laws. ERISA, however, would continue to preempt those laws insofar as they relate to any employee benefit plans. Nothing in the Family Leave bill would directly or indirectly amend or alter the preemption provisions of ERISA. Our analysis reveals nothing in the bill that can be read to supersede the preemption provisions of ERISA with respect to state laws relating generally to employee benefit plans, or specifically to continuation or conversion rights.

FAMILY LEAVE ACT RELATIONSHIP TO OTHER LAWS

Section 401(b) of the proposed "Family and Medical Leave Act of 1993" provides:

"(b) State and Local Laws. Nothing in this Act or any amendment made by this Act shall be construed to supersede any provision of any State and local law that provides greater employee leave rights than the rights established under this Act or any amendment made by this [Act]."

Maintenance of health benefits would be required by section 104(c):

"(c) Maintenance of Health Benefits.

"(1) Coverage.

"Except as provided in paragraph (2), during any period that an eligible employee takes leave under section 102, the employer shall maintain coverage under any 'group health plan' (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously from the date the employee commenced the leave until the date the employee is restored under subsection (a)[emphasis added].

"(2) Failure to return from leave.

"The employer may recover the premium that the employer paid for maintaining coverage for the employee under such group health plan during any period of unpaid leave under section 102 if—

"(A) the employee fails to return from leave under section 102 after the period of leave to which the employee is entitled has expired; and

"(B) the employee fails to return to work for a reason other than—

"(i) the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under subparagraph (C) or (D) of section 102(a)(1); or

"(ii) other circumstances beyond the control of the employee."

The relation to state laws established by section 401(b) is similar to the policies established by the Fair Labor Standards Act (FLSA) and the Labor Management Reporting and Disclosure Act (LMRDA). Under the FLSA it is expressly provided that no provision of the FLSA, or of any order thereunder, shall excuse noncompliance with any Federal or State law or municipal ordinance establishing a minimum wage higher than the minimum wage established under FLSA, or a maximum workweek lower than the maximum workweek under FLSA, or a child labor law establishing a higher standard than FLSA. FLSA §18(a), 29 U.S.C. §218(a). Under the LMRDA, unless explicitly provided to the contrary, nothing shall reduce or limit the responsibilities of a labor organization under any other Federal law or under the laws of any State. . . ." LMRDA, §603(a), 29 U.S.C. §523(a).

ERISA PREEMPTION

Under the ERISA preemption clause, the provisions of ERISA, with certain exceptions, "shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan" covered by ERISA. ERISA §514(a), 29 U.S.C. §1144(a).

The major exceptions to ERISA preemption are set forth in the "saving clause" for State laws which regulate insurance, banking or securities. ERISA §514(b)(2)(A), 29 U.S.C. §1144(b)(2)(A).

ERISA, then, in turn, provides that an employee benefit plan shall not "be deemed to be an insurance company . . . for purposes of any law of any State purporting to regulate insurance companies [or] insurance contracts. . . ." ERISA §514(b)(2)(B), 29 U.S.C. §1144(b)(2)(B).

Under this "deemer" clause, a state may regulate insurance companies that are licensed or authorized to do business within its boundaries, but it may not apply its insurance statutes and regulations to an employee benefit plan, nor may it treat an employee benefit plan as if it were an insurance company for the purpose of those laws.

ERISA supersedes all state laws except those regulating insurance, but does not permit laws regulating insurance to apply to employee benefit plans. A state may therefore mandate the benefits that must be included in any group health insurance policy sold in the state. Any employer choosing to purchase insurance for its employee benefit plan must accept the mandated benefits as part of the policy of insurance. The situation is different, however, if the employee benefit plan does not purchase insurance.

When a plan is self-insured or self-funded, the employer pays all claims that arise during the plan year out of its own funds. Under the deemer clause, the employer cannot be deemed to be an insurer under state law, and cannot be compelled to provide benefits mandated by state law. *Metropolitan Life Ins. Co.* v. *Massachusetts*, 471 U.S. 725 (1985); *FMC Corp.* v. *Holliday*, 498 U.S. 52 (1990).

Many states have enacted laws requiring conversion of group coverage to individual coverage upon termination of coverage. A "conversion" statute requires that a beneficiary who loses group coverage under a policy be afforded the opportunity to convert group coverage to an individual policy of insurance, usually without regard to evidence of insurability or pre-existing health conditions. Other laws impose "continuation" requirements on group health policies, requiring that the beneficiary be afforded continued group coverage, upon payment of the premium, without regard to insurability.

Conversion and continuation statutes are preempted by ERISA to the extent that they might be construed to apply to an employee benefit plan that is self-funded. *Cuttle* v. *Federal Employees Metal Trades Council*, 623 F.Supp. 1154 (D.C.Me. 1985); *Rasmussen* v. *Metropolitan Life Ins. Co.*, 675 F.Supp. 1497 (W.D.La. 1987). A state law allowing for continued eligibility under a health benefits plan "without additional premium" was held to be preempted by ERISA, since the state law was not a law regulating insurance within the meaning of the saving clause for insurance laws. *Duclos* v. *General Dynamics Corporation*, 12 EBC 2651 (D.R.I. 1990).

ERISA also preempts state laws which require group health insurance policies to include conversion requirements. *Tingey* v. *Pixley-Richards West, Inc.*, 953 F.2d 1124 (9th Cir. 1992). Because ERISA establishes conversion rights for beneficiaries of ERISA group health plans, state statutes concerning conversion rights for group health plans are preempted by ERISA. *Greany* v. *Western Farm Bureau Life Ins. Co.*, 973 F.2d 812 (9th Cir. 1992).

COBRA CONTINUATION COVERAGE

Under ERISA, every plan sponsor of a group health plan must provide that each qualified beneficiary who would lose coverage under a plan as a result of a qualifying event will be entitled to elect continuation coverage under the plan. For employees who have lost coverage because they lost their jobs, the coverage can be continued up to 18 months, at the employee's expense, but at the same group rate for the same coverage afforded to current employees. ERISA §§601–608, 29 U.S.C. §§1161–68. (These provisions are known as COBRA requirements because they were first enacted as part of the Comprehensive Omnibus Budget Reconciliation Act of 1985, Pub. L. 99-272, Apr. 7, 1986, 100 Stat. 227).

In *Tingey* v. *Pixley-Richards West, Inc.*, *supra*, an employee had subscribed to the company's comprehensive Blue Cross & Blue Shield medical plan. The employee was fired after he had incurred large expenses for a dependent. The insurer paid all benefits up to the day of termination, but refused to allow the employee to convert the policy. The employee charged that the refusal to convert the policy violated an Arizona law requiring group policies to offer conversion rights to terminated employees. Arizona Revised Statutes §20–1408. It does not appear that the employee claimed his COBRA benefits. He instead sued in state court; the employer, however, removed the case to federal court. The trial court dismissed all claims. On appeal, the court observed that the alleged violation of Arizona law "presents a problem not yet faced by the Supreme Court." 953 F.2d at 1132.

"However, it is plain that ERISA sets forth comprehensive conversion [sic] rights for health benefits. *See* 29 U.S.C. §§1022–1024, 1161–1167. These provisions create the specific right to conversion, *id.*, §1161(a), specify time periods in which notice of the conversion right must be given, *id.*, 1162(5), and detail the maximum period, depending on the circumstances, for which the plan must maintain coverage, *id.* §1162(2). The health insurance conversion right attaches for both self-funded and insured plans. In light of the attention Congress has given to the question of conversion rights for health benefits, we hold *Pilot Life* [481 U.S. 41 (1987)] and *Ingersoll-Rand* [111 S.Ct. 478 (1990)] require these rights and the remedies for breaches thereof be exclusively those found in ERISA. To apply the saving clause [for state laws on insurance] would allow the employee to end-run an explicit ERISA provision; the employee's remedy under state law might allow for a perpetual right to health benefits. This is at odds with the limits on conversion rights to health benefits set by Congress in ERISA itself, and is contrary to the exclusive nature that Congress intended ERISA-created rights to have. [Arizona Revised Statutes 20–1408] is therefore preempted." *Tingey* v. *Pixley-Richards West, Inc.*, 953 F.2d 1124, 1132–33 (9th Cir. 1992) (footnote omitted).

Although the Court of Appeals repeatedly refers to COBRA rights as "conversion" rights, its citations to the COBRA portions of ERISA consistently refer to COBRA "continuation" rights. The holding of the court appears to be that the COBRA continuation provisions of ERISA do in fact preempt state laws requiring continuation or conversion of health insurance policies, under insured plans as well as self-funded plans.

ERISA thus sets forth comprehensive conversion rights for health benefits. These provisions create the specific right to conversion, specify the time limits in which notice must be given, and detail the maximum period. The conversion right attaches for both insured and self-funded plans. Since the rights and remedies for breaches of these provisions are exclusively those found in ERISA, the Court of Appeals held that state conversion and continuation laws are therefore preempted. *Tingey* v. *Pixley-Richards West, Inc., supra*, at 953 F.2d 1132–33 (9th Cir. 1992).

ERISA'S EFFECT ON OTHER FEDERAL LAWS

With respect to federal laws, nothing in ERISA "shall be construed to alter, amend, modify, invalidate, impair, or supersede any law of the United States . . . or any rule or regulation issued under such law." ERISA §514(d), 29 U.S.C. §1144(d).

DISCUSSION

From this review, several general principles emerge. First, the Family Leave bill by its own terms would not affect any state law and local law that provides greater employee leave rights than the rights the bill would establish. Second, the bill would not expressly amend either ERISA or its preemption clause. Third, ERISA itself would not have a direct impact on the Family Leave bill, if it were enacted, because ERISA itself expressly provides that its terms shall not be construed to alter, amend, modify, invalidate, impair, or supersede any law of the United States.

Although the Family Leave bill, as introduced, contains no express amendments to ERISA, the bill would modify the provisions of ERISA in one important respect. The Family Leave bill would require employers to maintain coverage under any "group health plan" for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment.

The Family Leave bill would therefore mandate that the employer pay for health insurance continuation coverage for the beneficiary during the period of family leave. Under ERISA, the COBRA continuation requirements mandate only that the employer provide health insurance at group rates at the employee's expense. This would be a significant modification of ERISA's governing scheme for group health benefit plans.

Moreover, it should be noted that the Family Leave bill itself relies heavily on the federal Fair Labor Standards Act for its definitions and coverage provisions. H.R. 1, §101. It could thus be reasonably assumed that the drafters were familiar with the FLSA. If it had been desired to preserve other federal laws, the Family Leave bill could have adopted language similar to that found in section 18(b) of the FLSA, providing that nothing in the FLSA "shall excuse noncompliance with any Federal or State law" providing a higher minimum wage.

If it were desired to supersede ERISA preemption, section 401(c), quoted above, should be amended with language providing that, "notwithstanding any other provision of Federal law," or "notwithstanding any provision of ERISA," the Family Leave bill shall not be construed to supersede state or local laws. The absence of any reference to federal law in general or to ERISA in particular, given the drafters' presumed familiarity with the FLSA, would imply a legislative intent to leave federal laws, including ERISA, in full force and effect.

It should therefore be emphasized that nothing in the Family Leave bill's continuation provisions would appear to have any effect on ERISA's preemption provisions insofar as they may relate to employee benefit plans, or to state continuation or conversion laws. The Family Leave bill would have no effect on the provisions of ERISA that invalidate continuation or conversion laws to the extent that they "relate to" employee benefit plans. The Tingey court held that ERISA does preempt state and local laws which mandate conversion or continuation options in group health plans. The Family Leave bill would not affect the scope or effect of ERISA's preemption clause. From our review, there are no express or implied provisions in the bill which would alter or limit the effect of ERISA on State laws.

In conclusion, the Family Leave bill expressly disclaims any intent to alter or amend the relevant state and local family leave laws. ERISA, however, would continue to preempt those laws insofar as they relate to any employee benefit plans. Our analysis reveals nothing in the bill that can be read to supersede the preemption provisions of ERISA with respect to state laws relating generally to employee benefit plans, or specifically to continuation or conversion rights.

VINCENT E. TREACY,
Legislative Attorney.

Madam Chairman, I reserve the balance of my time.

Mr. FORD of Michigan. Madam Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader.

Mr. GEPHARDT. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, I rise this evening to make an appeal for the American family. I appeal to all of my colleagues to support unpaid family and medical leave for working Americans and put to rest the anxieties of Americans who are blessed by the birth of a newborn baby, but without the wherewithal to properly welcome them home.

We have the opportunity tonight finally to alleviate the burden on families who are affected by sickness or infirmity. Tonight we move forward on issues important to families, knowing that the fruits of our labors will not turn up fruitless.

After being vetoed time and again, this legislation is destined for a desk in the Oval Office occupied by a man who understands that family leave policy is both humane and economically responsible.

□ 1920

In President Clinton's first week in office he asked that we move swiftly on the family and medical leave bill, and tonight, notwithstanding extraneous and irrelevant challenges, we are rushing to put this bill on his desk—for the American family.

This is a bill that American families and the American people want to see signed into law. They want us to put an end to the terrible dilemma of workers who have to choose between their families and their jobs. The ability to welcome a new child, or rally around a sick family member, is a crucial element in family strength and solidarity, values we have an obligation to promote.

Madam Chairman, I know personally how much it meant to me and my family when I was able to leave work over an extended period to be at the bedside of my 18-month-old son, who was diagnosed with terminal cancer. I was lucky that I had a job and an employer at the time who let me go, and let my wife go, to be able to be with him 24 hours a day.

I must report to you, if I had not had an employer who would let me do that, I would have done it anyway. But adding to the upset that we were involved in, the stress, the difficulty, the terror that we were involved in, we would have known that we were losing our jobs, in addition.

Family leave is not only humane policy, it is smart policy. Keeping the American family viable is good for the country. That is why our economic competitors have already implemented this policy long ago.

Workers who need to be with their families at crucial times, without jeopardizing their livelihood, will return to the work force with the skills they developed over a lifetime of experience on the job. And they return to the job comforted that they did not have to sacrifice the living standards of their family in order to be where they should be at a time of stress and difficulty.

My colleagues, we can act tonight in the interest of the American family. The President is waiting to sign this bill. Let us pass it tonight, let us pass the conference report tomorrow, if we need do that; let us put this bill on Bill Clinton's desk and make it the law of this land.

We have been waiting too long. Now is the time to act.

Mr. FORD of Michigan. Madam Chairman, I believe I have the privilege of closing.

The CHAIRMAN. The gentleman is correct.

Mr. FORD of Michigan. The gentleman from Pennsylvania will get to close when we vote down his amendments.

Mr. GOODLING. Madam Chairman, I yield back the balance of my time.

Mr. FORD of Michigan. Madam Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Madam Chairman, I thank the chairman for yielding time to me.

Madam Chairman, I rise today in strong support of the Family and Medical Leave Act.

Passing the Family and Medical Leave Act in the first weeks of the new Congress and the new administration sends a strong message to the American people:

We know it is hard to balance family and job obligations.

We understand that a parent may require care in an emergency.

We understand that parents need to be home with a new baby or newly adopted child, or with a child who is seriously ill.

And people should not lose their jobs because they have to care for their families.

This act has limits and safeguards. Small businesses and new employees are exempt. Medical leave is unpaid. Notice of leave is required for preplanned medical care. And, employers can recover benefits paid for an employee who quits the job after taking leave.

Nearly all of our global competitors provide more generous family and medical leave. This act is long overdue for America.

Mr. FORD of Michigan. Madam Chairman, I yield myself the remainder of my time.

The CHAIRMAN. The gentleman from Michigan [Mr. FORD] is recognized for 2 minutes.

Mr. FORD of Michigan. Madam Chairman and members of the committee, this has been a long and interesting day. It was stated during the discussion of the rule that until that point a member of the Committee on Rules had not heard a single Republican say they were against this bill. They were all saying, "It is a good idea," they are for the principle, "but * * *"

We have been listening all day to how many stretches they can make to explain "but." The word "but" has become the operative word for the minority party here today.

Now, I understand that it is difficult to accept that the people of this country voted to change the government of this country in November and that this bill, because it is the identical bill that was vetoed twice by the previous President, is going to be signed as soon as we get it to him, by the new President, thereby demonstrating to the American people where the gridlock has been in Washington and putting at ease a lot of people in my part of the country who will then understand that gridlock was taken care of in November 1992.

Now, I can understand that makes some people uncomfortable here because they were running around here talking about all kinds of things last week in 1-minute speeches that indicated that they could not wait to suggest that the new administration had already failed.

Madam Chairman, this is the first opportunity we have to put a piece of legislation in front of the new administration. My suggestion to you is watch what they do, not what they have said. They are not going to fail.

Bill Clinton told me before the election that if he was elected, he wanted an opportunity at the earliest possible date to sign this legislation. He repeated that when I saw him at subsequent meetings during the campaign and before the election.

In my congressional district, one of the very clear distinctions between the Republican candidate and the Democratic candidate was their respective positions on this issue. And I want to tell you that you are making a mistake if you think you can come into this well and say, "It is a good idea to give people family and medical leave, but not now, not us, someplace else, some other time, some other way; I am really for it, but we can't do it." That is not going to sell with the American people, because we are way, way behind the curve. The American people have been ready for this kind of a simple, modest, floor-level guarantee of employees' rights for a long time. It is overdue, and it is not some other time, somebody else; it is us, it is now.

And you vote your own conscience. You either vote to continue business as usual or you vote for the first dramatic change in family value practice in this country that we are going to have in this Congress.

The National Catholic Conference told our committee that you will never have a chance to vote for a more important piece of pro-life and pro-family legislation. And whether you are pro-choice or pro-life, you can certainly vote pro-family. That is what a "yes" vote is today.

Mr. GLICKMAN. Madam Chairman, I come from a small business background in the heartland of our country. My father still operates the company in Wichita that my grandfather started in 1910. While I completely understand the thrust of the Family and Medical Act, its good intentions may be overwhelming and potentially disastrous to small- and medium-sized businesses throughout our Nation.

Unlike many who are locked within the beltway, I do understand many of the needs of small business owners and the unique complexities that differentiate one small business operation from another. I have grappled with this legislation for many years now, and a number of concerns I have had with the bill have not been alleviated or addressed.

Though our administration has changed hands, and my specific objections to parts of this bill may be dismissed in light of a promised signing by the President, I still feel it incumbent upon me to raise these issues.

First, the kind of leave that is needed and appropriate undoubtedly will vary from situation to situation. I believe this bill precludes the ability of employers to work out suitable arrangements in special circumstances involving family sickness and other health and maternity situations. The Federal Government has traditionally chosen not to impose particular benefit packages on employers and employees. Rather, its role has been to provide an environment in which the parties could negotiate benefits. Again, while the thrust of this proposed legislation may be needed in the American workplace, I firmly believe this bill—as currently written—will ultimately not accomplish what it sets out to do and sets an awful precedent. This bill goes against the current trend to flexible benefits such as cafeteria plans and forces all employees to accept benefits they may neither want nor need. If we mandate one piece of the employee benefits pie, are we saying that the other fringe benefits that make up the package are less important to employees? What makes us think that people cannot decide what is best for themselves?

Second, the bill's definition of "key employees" poses a significant problem for businesses employing workers who may perform a highly critical function, but who are not among the highest paid 10 percent. If, for example, a small high technology company employs a staff scientist working on a critical technology, and that scientist wants to take leave, although the bill may not define that scientist as a "key employee," the company could have its core research completely suspended for up to 12 weeks. Losing such a critical employee could devastate a cutting-edge, tightly run technology firm.

Third, another problem I see is the tremendous hardship this legislation could impose on medium-sized firms and their individual employees. There are many companies who actually provide paid leave for their employees if there is a family emergency or when a child is born. I fear this bill would destroy any kind of paid leave plans currently provided—formally or informally—by some employers.

Fourth, finally, I want to share with my colleagues, the thoughts of average Americans. I have spent the last few weeks holding a series of town hall meetings in my district, particularly in the outlying and rural areas. What I keep hearing, over and over again, is that small businesses, covered under this legislation, can't withstand any more government intrusion. There is only so much the Federal Government can mandate before a businessowner realizes a profitable operation can no longer be operated. In our fragile economy, Government's role should be to encourage small business owners to prosper and expand so they can hire more workers, not encumber them with more Government mandates.

I have supported a number of important Federal laws which have a significant impact on the average business in this country; including minimum wage standards, the Americans With Disabilities Act, and the recent Civil Rights Act prohibiting employment discrimination. In addition, I expect that we will also see legislation mandating a minimum health benefits package for all workers in the near future. However, the Government should mandate rules and regulations on the business sector only when those requirements cannot be fairly negotiated between employers and employees. While the reasons for the family and medical leave bill are very real indeed, I believe the bill, unfortunately, creates more problems than it solves.

Mr. KOPETSKI. Madam Chairman, I rise today in support of family and medical leave for our country's workers, and in support of H.R. 1. We should have had family and medical leave established long ago at the Federal level, and I am pleased it is finally happening.

Madam Chairman, those opposed to family and medical leave apparently hold business interests more dear than family values. This bill will truly separate those who are for children and families from those who are just kidding. But not only are the opponents of leave misplacing their priorities, they are making a false agreement.

Madam Chairman, my State of Oregon has had parental leave since 1988, and I would like to point out that Oregon's parental leave law covers all parents in businesses with 25 or more workers. A 1990 study asked employers in Oregon three basic questions regarding the law. The first was how easy or difficult was it to implement the legislation? 88 percent of businesses found it either easy or not difficult to implement the law. The survey also asked businesses if they were providing fewer health benefits as a result of the legislation. Again, 88 percent of businesses said they were not providing fewer health benefits. Finally, the survey asked if health benefits costs had increased as a result of the legislation. Seventy-two percent of businesses replied that they had not. This study and others like to make it clear that this law will not harm business, let alone destroy it.

Madam Chairman, this bill we are considering is far from perfect. It allows the exclusion of high wage earning employees, and requires a fully year of work for the employer before leave is allowed. Oregon's family medical leave law requires employees to work at least 180 days and average 25 hours per week to qualify, and does not exempt key employees. The Federal law should be at least as far reaching as the Oregon law. It should not discriminate between key employees and nonkey employees, for both kinds of employees have the same wonderful trait that should qualify them for this legislation. Both kinds are parents, and as parents they should have the same right afforded under this law. They should have the right to be with their baby through the first precious and important weeks of their baby's life. I am also concerned about the message this exemption will send to women seeking higher levels of employment. Nevertheless, this family leave bill is far better than none.

Mr. Chairman, I urge my colleagues to vote for the family and medical leave bill, and against all weakening amendments. Let's show we're serious about putting people first.

Mr. CARDIN. Madam Chairman, I rise today with a great sense of joy that after years of toil we will finally enact the Family and Medical Leave Act.

The American work force has experienced dramatic change over the past few decades. Most American families find it increasingly difficult to maintain their standard of living on a single income. Women are playing a larger and larger role in the financial success of their families. Some may be surprised by the percentage of women working outside the home: Two-thirds of all mothers, 56 percent of women with children in preschool, and more than 70 percent of women with school age children.

Public policy in the United States has been entirely too slow in responding to these new social realities. The Family and Medical Leave Act, by addressing the social needs of the 1990's, will enable working men and women to care for their children and/or their parents, while guaranteeing them the right to be a productive member of the American work force. Every American has a right to be a productive member of our work force. Working Americans should never be forced to choose between their financial livelihood and their child.

I firmly believe we suffer as a nation when workers must forego their jobs for family needs. Not only does family and medical leave make good sense, it makes good business sense. It costs far less to retain an experienced, well-trained employee than it does to replace one lost to childbirth or medical emergency. Productivity and company loyalty can only be enhanced by the protection of these employee rights.

Madam Chairman, I am deeply concerned about families and workers. The Family and Medical Leave Act ensures the American people can be good caretakers of their children and other loved ones, at the same time they are good workers. No American should be penalized for attempting to succeed at both jobs. I urge my colleagues to support this legislation of critical concern to so many families.

Mr. BONILLA. Madam Chairman, I thought the American people spoke loud and clear in the past election, 110 new Members were sent to Washington to change the way the Congress does business.

However, today we are voting on a bill that is business as usual. The family and medical leave bill is just another Federal mandate that could destroy 60,000 jobs, drive up costs of goods and services, reduce our Nation's competitiveness, promote part-time over full-time jobs, favor richer employees, discriminate against women, and stunt the growth of small businesses to resist expanding above the small business threshold number of employees.

Instead of trying to drive businesses into bankruptcy we should be focusing on the basic long-term requirements for job security: A growing economy, lowering the Federal deficit, encouraging investment, and increasing productivity. Unemployment is not profamily. Let's allow the free market to dictate the needs of businesses, not government bureaucrats. Employers and employees are the best judges of benefit policies, not legislators or bureaucrats. I urge my colleagues to vote for secure jobs for America's families—vote "no" on final passage of H.R. 1.

Mr. FORD of Michigan. Madam Chairman, today, as we begin the debate which I believe will end with House approval of H.R. 1, the Family and Medical Leave Act of 1993, I have a confession to make. I admit to being as excited and hopeful for this country today as I was in 1965 when I came to this floor for the first time to help President Lyndon Johnson by passing all those people programs which became known collectively as the Great Society.

I honestly believe that our people and our working families need our help as greatly today as they did then. I also firmly believe that, with our new President and a newly committed Congress, the opportunity and desire to help people is as great as it was when the Speaker, Mrs. MINK, Chairman CONYERS, Chairman DE LA GARZA, and I—along with a few others on this floor—came to this House, once before, to work with a new President on new ideas for America.

We have arrived at this historic point after a decade-long battle. Several people have consistently fought for our objectives along the way, including Chairman BILL CLAY of Missouri, Representative PAT SCHROEDER of Colorado, Congressman PAT WILLIAMS of Montana, and Senator CHRIS DODD from the other side of the Capitol. On the other side of the aisle, MARGE ROUKEMA of New Jersey has been a true believer in this legislation, and my ranking Republican friend, BILL GOODLING of Pennsylvania, has allowed us to debate the merits of H.R. 1 in a free and open manner.

We now have a President in the White House who believes as I and a majority of the Congress believe: that the Family and Medical Leave Act should be the law of this land. As early as last October, he personally asked me to move this bill as soon as the new 103d Congress convened. He put it in writing as we introduced our bill, H.R. 1, on the first day of this session. He has promised to sign H.R. 1 into law before the paper stops fluttering on his desk.

This past weekend, as President Clinton and Vice President GORE talked with 11 American working families who need the Family and Medical Leave Act, the President said our bill "was just the first of many initiatives we hope will strengthen the American family."

I agree with our President. Family and medical leave is an issue where the people have been way ahead of the Congress and past administrations. Our workers and their families want a guarantee that they won't lose their jobs if they need time off to care for their family. They want us to put into law all of the words about family values.

If you need further testimony that the concept of legislating family and medical leave has strong, bipartisan support, consider these comments from the U.S. Conference of Catholic Bishops:

> The bill would send a message that our nation really believes its pro-family rhetoric and that we back up that belief with the power of the law. The bill would protect people when they take time off from work for important family responsibilities. Parents should not have to choose between the jobs they need and the children who need them * * * this legislation is an affirmation of human dignity and family life.

If you are profamily, H.R. 1 is legislation you can support wholeheartedly. It means:

First, employees have the right to up to 12 weeks a year of unpaid leave for: Birth or adoption of a child, to care for a seriously ill child, to care for an ill spouse or parent, and an employee's own serious illness.

Second, employees must be reinstated to the same or equivalent position, with the continuation of pre-existing health insurance during the period of leave.

Third, employers having fewer than 50 employees are exempt from coverage.

Fourth, to be eligible for leave, an employee must have worked for the employer for at least 1 year and at least 1,250 hours in the previous 12 months.

Fifth, a doctor's certification must be obtained to verify a serious illness.

Sixth, certain key employees are exempt from coverage of the act. A key employee is defined as one who receives a salary in the top 10 percent of the work force and whose leave taking would cause economic harm to the employer.

Now, all year, all week—and likely all day long—you will hear opponents of our bill promoting scare stories about H.R. 1 and what it might or might not do for America's workers and America's economy. The hue and cry comes from the usual list of suspects: the U.S. Chambers of Commerce, the National Federation of Independent Businesses, the National Association of Manufacturers, and the National Restaurant Association. These groups make up the same chorus which wails about decent wages, workplace safety, and bans against discrimination in the workplace. Their opposition is nothing new to us.

However, what you will never hear from the other side are the success stories of the ever-increasing number of businesses that already have a family leave plan similar to the one we will approve today. To a company, these firms have recognized the challenge facing their workers as they try to balance their jobs and their families. These firms have found that retaining key personnel and fostering employee commitment and loyalty to an organization benefits them in their battle for a place in the global economy. As our new Secretary of Labor, Robert Reich, says, these companies consider their workers to be assets worthy of support.

A strong supporter of our bill is the organization Businesses for Social Responsibility. Let me share with you some of their members' comments on family leave plans they already have in place:

> It has been our experience that upon an employee's return from leave, increased productivity has been reported and a sustained sense of motivation and positive morale achieved.
>
> Family leave clearly contributes to the company's productivity and consistent financial performance.
>
> Our family leave policy, which permits up to 16 weeks of leave, is simple to administer to our 650 employees.
>
> We find that people do not request leaves on a whim. They are generally confined to emergencies, which would force an employee to otherwise quit or jeopardize his or her performance.
>
> We have found no compromise in corporate productivity and employees have benefited from the opportunity to attend to family needs in times of crisis.
>
> This policy directly benefits the company. Over 1,000 of our employees have been eligible for the same family leave benefits since 1991.

There are literally hundreds more companies with similar success stories regarding their family leave programs. One of the largest employers in my district in Michigan is the Ann Arbor headquarters of the Warner-Lambert/Parke-Davis worldwide research and development program. Warner-Lambert/Parke-Davis has written in strong support of H.R. 1. In their words, the bill "is fair and balanced * * * our support of this legislation is premised on the notion that family and medical leave is fundamentally a question of workplace fairness and a recognition of the importance of family to our employees"

As they say, the proof is in the pudding, or on the balance sheet. Businesses with a family leave program are better businesses with a loyal work force.

There is another point to be made here, especially to those who say our standing in the international marketplace would be hurt by enactment of the Family and Medical Leave Act. Japan, Germany, Canada, and over 60 other nations have family and medical leave policies—paid leave in some cases—and they're not having any problems competing with anyone. Writing in U.S. News & World Report last year, former White House Communications Director David Gergen said "those are nations that truly honor family life."

To one degree or another, almost everyone agrees with the core principle of this legislation: to protect family values and America's children. The Family and Medical Leave Act will make it possible for working Americans to provide care when it is needed without fear of losing their jobs.

This is a proud moment for this chairman. We are on the verge of passing the Historic Family and Medical Leave Act of 1993, and I cannot think of a better issue as the first successful initiative between this new Congress and the Clinton administration.

For more years than I care to remember, we've had to play defense on this floor, trying to prevent others from ripping the safety net to shreds. From this day forward, this congressman intends to work in this Congress to do what is right for American workers and their families.

Family and medical leave is the first of many commitments we're going to make to working families. This bill, when our President signs it, puts them back in the ball game—and better productivity, a stronger economy, loyal workers, and fair employers will be the result.

Mr. BORSKI. Madam Chairman, I rise in support of H.R. 1, the Family and Medical Leave Act of 1993.

This is a measure I wholeheartedly endorsed last year and one I am convinced that our new President, who pledged to fight for issues benefitting the American family, will be proud to sign into law.

The American worker deserves nothing less than what this measure would provide. H.R. 1 would require companies with 50 or more employees to grant up to 12 weeks of unpaid leave for family members who need to care for a newborn infant or a seriously ill family member.

H.R. 1 would provide job security for millions of American workers who would currently lose their jobs if they took time off to care for an ailing family member or a newborn infant. Furthermore, H.R. 1 would require employers to continue providing health insurance benefits during the leave period, assuring workers they will not lose this important benefit at a time when they may need health insurance the most.

Madam Chairman, the United States is the only industrialized country in the world that does not have a Federal job-protected, family and medical leave law and it is my belief the time has come to rectify that wrong.

What greater service can a government provide than to care for its working citizens in the most sensitive of ways at the most difficult of times?

When a working person is experiencing a family crisis how can that person possibly give their all at work and give their all to an ailing family member? Why should a working person be forced to choose one over the other?

Madam Chairman, it is obvious that the American family is undergoing a drastic change. Today, the majority of families in our country are comprised of two-earner couples working outside the home. Almost half of all mothers with children under the age of one are employed outside the home. I believe there must be a minimum leave standard so that employees can cope with crises at home and not have to worry about losing their jobs.

This bill would establish that standard and in turn, provide the flexibility and relief many families need.

Madam Chairman, H.R. 1 must be approved and implemented immediately.

I believe that we must invest in the American family if we are to create a stronger, more productive work force. Studies show that family and medical leave enables workers to be more productive by improving worker morale, lowering the absentee rate and reducing the cost of hiring and training new employees.

H.R. 1 will enable a worker to concentrate on family when needed, and be better able to concentrate on job when a crisis has been resolved.

I urge my colleagues to approve the Family and Medical Leave Act of 1993 and hope that by signing the measure into law, President Clinton will send a clear message to the American worker that helping a worker will in turn create a more efficient worker.

Mr. STENHOLM. Madam Chairman, I rise in opposition to H.R. 1, the Mandated Parental and Family and Sick Leaves Act.

This bill is another symptom of a virus that has been going around inside the capital beltway in recent years, the MOSFA—the mandated, one size fits all attitude.

This bill was well-intentioned. I think we all agree that every employer who can provide the kinds of benefits outlined in this bill ought to do so. But not every good idea makes a good law, for the whole Nation, regardless of the circumstances, needs, or preferences of individual workers and employers. The issue is not whether a particular mandate is a good idea. The real issue is whether it is appropriate for us to place costs on others without providing the means to pay for them.

Madam Chairman, we spend far too much time here in Congress imposing placing requirements on business, as well as State and local governments. We do not consider fully consider the costs associated with our good ideas because we do not have to pay for them. We simply require others to find a way to stretch their budgets to meet the requirements. If Federal legislation is important enough for Congress to pass, then it should be important enough for us to fund. We should not separate the budgetary considerations of businesses or State and local government from Federal policy decisions.

Congressman GARY CONDIT has introduced H.R. 140, which would prevent the Federal Government from imposing unfunded mandates on State and local governments. I, for one, believe that we should extend the bill to prohibit Congress from imposing unfunded costs on businesses as well. I believe that adopting such a rule would greatly improve the legislative process by requiring that we think about the cost of all our great ideas before we ask others to live with them.

Mr. FAZIO. Madam Chairman, I rise in support of H.R. 1, the Family and Medical Leave Act, the first bill introduced in the 103d Congress. The Family and Medical Leave Act will protect American workers by letting them take time off for family emergencies without fear of losing their jobs.

H.R. 1 will give an employee up to 12 weeks a year of unpaid, job-protected leave for the birth or adoption of a child, to care for a seriously ill child, to care for a seriously ill spouse or parent, or for the employee's own serious illness. The act protects the employee's health insurance coverage, as well as his or her job, so that when an employee returns to work from leave, he or she must be reinstated to the same or equivalent position, and the employee's preexisting health insurance must be continued.

The entrance of large numbers of women into the American work force has drastically changed the workplace and the American family. In 1965, less than 40 percent of women were in the work force, whereas today, nearly 60 percent of women work outside of the home. Full-time working mothers increased by 52 percent from 1970 to 1988, and 1 out of 4 children is being raised by a single parent, usually the mother. And, even when both parents are in the home, they both work. This means that less than 10 percent of American families fit the traditional mold of the father working and the mother staying at home to care for their children.

But, in spite of these increasing pressures on families trying to juggle the responsibilities of work and family, most employers have failed to adapt their policies to these new circumstances. American workers are entitled to a certain amount of job security when they have family and health needs that must be met. They should not have to lose their jobs in order to take care of home.

Workers who do not have parental and medical leave, and need it, end up receiving a greater share of public assistance, resulting in costs to taxpayers and other workers alike. These costs amount to well over $4 billion annually in unemployment compensation and other public benefits.

These costs to workers and taxpayers are far greater than what it will cost employers to implement leave programs. In fact, a standard for family and medical leave can provide significant benefits to business at a low cost. The General Accounting Office estimates that the cost of providing leave time to be only about $5 per employee per year. Providing this leave often leads to gains in productivity and retention of a loyal and experienced work force which, in turn, lowers the cost that businesses must assume to train new employees.

Because the Family and Medical Leave Act only applies to employers with 50 or more employees, only 5 percent of employers are covered. Small businesses are truly exempt. Additionally, to insure that businesses are not unfairly affected, only employees who have worked for their employer for at least 1 year and at least 1,250 hours in the previous 12 months are eligible for leave. Employees must also furnish a doctor's certification in order to verify a serious illness. And certain key employees—those whose salaries are in the top 10 percent of the work force and whose leave taking would cause economic harm to the employer—are not eligible for family and medical leave. Lastly, an employer may also substitute an employee's accrued paid leave for any part of the 12-week period.

Times are tough for middle-income working families. Most American workers cannot afford to take time off without pay. But for those workers who can, the Family and Medical Leave Act will make all the difference in the world.

Twice during the last administration, President Bush vetoed family and medical leave legislation. Although the House of Representatives overwhelmingly approved a family and medical leave bill as recent as last fall—by an impressive bipartisan margin of 258 to 169—Congress still did not have enough votes to override his veto.

But President Clinton has pledged his support for family leave legislation. His administration has strongly encouraged passage of H.R. 1 "to better balance the family and medical needs of the American worker with the demands of the American workplace, and to enhance job security and worker productivity."

The Family and Medical Leave Act makes good economic sense, particularly during these times. It is one of many logical steps toward a productive American work force and a healthy national economy.

This is an opportunity for us here in Congress to do something positive for American workers and their families. American workers should be able to balance their home and family responsibilities, without having to choose between two of their most important values: family and work. Let's give them some protection for family emergencies. I urge my colleagues on both sides of the aisle to support final passage of the Family and Medical Leave Act.

Mr. MATSUI. Madam Chairman, today we have the opportunity to really do something to help American families. The legislation before us puts into place the foundation of a national family policy and recognizes the relationship between family obligations and professional responsibilities.

This truly is a vote for the American family, an institution that has come under hard times lately and truly needs and deserves this kind of boost. There has been a great deal of discussion of individual and family responsibility in recent months, and this legislation lives up to that commitment.

Passage of this legislation is long overdue. It is high time we provide this very basic employment protection to the millions of American families who need time together due to a birth, adoption, or an illness.

As someone who has spent many years working to develop programs that keep families together, I view this legislation as extremely important. At a time when American families are breaking apart because of drug use, divorce, and child abuse, this legislation eases some of the conflicts and burdens many families face.

Caring for a new family member can be tremendously stressful, whether that child is newly adopted or a newborn. By denying parents the opportunity to take a short leave to get their family together, we compound this stress. Imagine the conflicts a parent must address if they have to choose between staying home and caring for a newly adopted or seriously ill child and keeping the job that allows the parent to put food on the table, to clothe, and to protect that child.

We cannot, and should not, continue to ask parents to choose between earning a living or fulfilling their obligations to their families. I urge my colleagues to support this very important legislation. Now is the time for us to begin to act on our commitment to help American families.

Mrs. COLLINS of Illinois. Madam Chairman, I happily rise in support of H.R. 1, the Family Medical Leave Act of 1993, as I have for the many years that this legislation and other bills similar to it have come before this body. But this time, I am happy to say, that if and when we pass this important piece of legislation the families of America will actually receive some benefit from our actions because we have someone in the White House who also cares about working families.

As everyone knows, many men and women who used to stay at home to undertake the difficult task of rearing a family, find it increasingly necessary to enter the work force to increase the family income. Because of this, working families must now make difficult choices between the nurturing of and caring for their family members, or jeopardizing their careers and income. These are the people that this urgent legislation would seek to help.

Today the need for this measure could not be greater since three-quarters of all American women with children work, and the number of single headed households has risen to unprecedented levels in recent years. In my district covering parts of Chicago and some of its western suburbs, 46 percent of all families are headed by single women. Having been a single parent, I can appreciate the dilemma of these mothers when one of their children becomes seriously ill and they face losing their jobs in order to attend to their parental duties.

H.R. 1 would allow all workers to take up to 12 weeks of unpaid leave from their job for the birth or adoption of a child, serious illness, or to care for a sick relative.

To ensure that this bill does not harm small businesses, the framers have included several safeguards so that there is no unintended negative impact on marginal businesses which may be unable to cope with long absences to key employees.

Madam Chairman, finally we can do something to help working Americans confront the day to day struggles of raising a family and earning a living. I will vote for this important bill and I urge my colleagues on both sides of the aisle to do likewise.

Mr. POMEROY. Madam Chairman, I am pleased to offer my support for the Family and Medical Leave Act of 1993. When enacted, this legislation will provide invaluable relief to families coping with the arrival of a new child or to care for a seriously ill family member. I believe that the humanitarian value of this legislation is beyond question. The Family and Medical Leave Act recognizes the changed character of today's work force where single parent families and households where both parents work are in the vast majority. Thankfully, this legislation will prevent American workers from having to choose between caring for their family or keeping their job.

Critics will argue that American businesses cannot afford the Family and Medical Leave Act despite the fact that it is far less generous than the leave policies of most industrialized countries. A 1992 GAO report estimated that the Family and Medical Leave Act will cost employers about $5 per year per employee. In my view, $5 is an investment American business owners will reap many times over in terms of an employee's overall health and welfare as well as their commitment to the future of the company.

Contrary to the statements made by this bill's detractors, the Family and Medical Leave Act was not created without considerable regard for the interests of American business. In fact, over the past 2 years, many executives who have adopted employee leave policies similar to H.R. 1 have testified before Congress that the benefits accrued far outweigh the costs. Moreover, by exempting businesses that employ fewer than 50 workers, this bill avoids placing any undue burden on small enterprises. The Family and Medical Leave Act also contains important safeguards against fraud. Under this bill, employers may require employees to provide medical certification by a doctor to support their claims to temporary medical or family leave.

Clearly, the Family and Medical Leave Act of 1993 is a law whose time has come. I strongly urge my colleagues to vote in favor of this bill.

Mr. KNOLLENBERG. Madam Chairman, today it appears that the House will pass the Family and Medical Leave Act of 1993. While its proponents have tried to pass this legislation off as a free lunch, I fear that we will never know the true cost of compliance to America's businesses.

I fear that statistics will never show the expense of temporarily replacing key employees that were not defined as such in this legislation. I fear that polling numbers will never show the extent to which employers will discriminate against those prospective hires, especially women, who are likely to use mandated leave frequently.

Finally, I'm afraid that the costs of this legislation, along with the thousands of other unfunded Federal mandates, will just silently be passed back to the very people it was drafted to help.

I wholeheartedly believe in the concept of family leave. As an owner of a small business, I myself have granted leave to my employees on several occasions. However, I believe that there are other ways to encourage the small percentage of businesses who don't already have family leave policies to adopt them.

Instead of blindly extending the paternalistic hand of Government into yet another facet of private business, I urge my colleagues to weigh the costs and vote against H.R. 1.

Mr. PAYNE of New Jersey. Madam Chairman, the passage of the Family Medical Leave Act is an issue of vital importance to the American work force.

Finally, after 7 long years, this legislation, which will require businesses with 50 or more workers to allow employees to take up to 12 weeks of unpaid leave to care for a new baby, a family member, or themselves, has an excellent chance of passing and a commitment from the President to sign the bill into law.

Without the passage of this legislation, the majority of Americans risk losing their job if they are forced to take a leave to care for a new or ill child, for their parents, or even for themselves.

It is hard to conceive of any legislation that is more pro-family than this measure, which protects the jobs and health insurance of workers when they face extreme family emergencies. This legislation deserves the support of all those who truly support family values.

Today, two-thirds of all mothers and more than 70 percent of all women with school-aged children, and 56 percent of women with preschool children, work outside the home. In this economy most parents must work outside the home.

It is evident that women especially carry an unequal share of this caregiving, often forcing them to choose between work and their families.

According to a 1992 study by the Families and Work Institute, family leave policies save money for employers. The study's findings also debunk several prevailing myths about the impact of leave on the employees' job performance.

The study found that 94 percent of the leave takers returned to the company; 93 percent of the supervisors reported that employees maintained or improved their performance upon return from leave; and that 93 percent of supervisors found that the effect of pregnancy on office productivity was not disruptive, observing no impact of upcoming leave on coworker performance.

Madam Chairman, the United States is the only major industrial nation without a family medical leave policy. Even when this measure becomes law, we will still be far behind, since most industrialized countries provide more weeks of leave, as well as require the employer, or government, to pay workers for at least part of their leave.

In this globally competitive market, businesses must have policies that support their workers and in today's economy, workers must understand that they must do their part by doing the best job they possibly can. This legislation supports both of those concepts.

Madam Chairman, I urge my colleagues to support the Family Medical Leave Act, because it is both pro-family and pro-business.

Ms. ROYBAL-ALLARD. Madam Chairman, I rise in strong support of H.R. 1, the Family and Medical Leave Act. The American public is in favor of this policy and I urge my colleagues to pass it unanimously. Many of my constituents are working mothers and blue-collar workers with families who fear the impact that an illness or medical emergency might have upon their lives and the lives of their families. I was a single mother, and I know the anguish parents feel when they must work and balance their concerns over the health of a child at the same time. Let us bid farewell to the days when a working mother worries about her job security when her child becomes ill, when a construction worker has to choose between keeping his job and caring for an ailing parent, when an adoptive family cannot take time to bond with their new child.

This bill has been passed in each of the last two Congresses, only to be subsequently vetoed by the President. This legislation merely allows workers to take unpaid leave when their loved ones become ill or when a new child comes into their family. This bill does not affect small mom and pop type businesses, it only pertains to employers with 50 or more employees. In order to qualify for leave, a worker needs to have been employed for a year and to have worked 1,250 hours, so an employer does not have to worry about a brand new employee taking an extended leave of absence. Employers do not have to worry about their employees playing hookie as the bill requires a doctor's certification to verify a serious illness. Key managerial employees are exempted from the bill, any employee whose salary is among the top 10 percent at his or her workplace or whose absence would cause economic harm to the employer, is not covered by this bill.

Let us all vote for the Family and Medical Leave Act and send it to the White House, where it will be signed into law.

Mr. VENTO. Madam Chairman, I rise in strong support of H.R. 1, the Family and Medical Leave Act, as a means to achieve a better environment for the American family. The first measure introduced, H.R. 1, indicates that family leave is important and a top legislative priority. I am delighted to rise in support of this Family and Medical Leave Act, confident that this sound family oriented policy will finally be enacted with the signature of President Clinton. The fact that the Family and Medical Leave Act will be the first law signed by President Clinton, is a signal to American working families that the national Government is listening and willing to act to address their needs.

The United States is alone among the world's leading industrial societies in having no national parental leave policy. We can attend to the needs of working families as other countries have done and indeed remain competitive in the international economy. By recognizing the competing demands on working families, greater employee loyalty would be encouraged. The Family and Medical Leave Act, by providing workers with greater job security, makes it more likely that they will remain focused on their work and promote an attitude of mutual respect and self-help in the world of work.

Certainly, the most significant change during the past 25 years has been the participation of a majority of women with children in our work force. Today Congress must recognize in policies and law that our society has dramatically changed, that our economy is absolutely dependent on the effective work force participation of talented women. It is estimated by the Department of Labor that by the year 2005, one of every two people entering the work force will be a woman. Our American/global economy and the needs of families have changed. The majority of American families today often find both parents in the work force. But being a two-income family does not mean you are living a life of luxury, such two-parent working families often do so out of need. The number of single-parent families has also grown rapidly in the last 20 years. The Family and Medical Leave Act that we will vote on today gives needed support to families experiencing increasing stress due to the policies put in place under 12 years of Republican administrations, the recent recession, and the continued structural changes in our economy.

This family medical leave legislation is a moderate measure. It is a fair and realistic approach to the situation American families are experiencing. Greater demands are placed upon the family while their social and financial resources decline. When attempting to be both caretakers and wage earners, families inevitably suffer financial difficulties, guilt, and stress. Too often today, workers must choose between the need to provide physical and emotional care for family members and the need to keep their jobs.

The Family and Medical Leave Act gives parents the flexibility they need to take care of ailing children or their own aging parents without the threat of job loss. The social reality is that families today are far less likely to have the built-in support systems of an extended family on whom they can depend. Passage of the Family and Medical Leave Act demonstrates that job security for working parents is a high priority of this Congress and the Clinton administration. But it is not merely a symbol, the Family and Medical Leave Act is an action to help families facing real problems and fulfillment of an appropriate commitment to working families.

If the family is to remain our most basic social institution, we must ensure that our employment and social policies reflect economic realities. The Family and Medical Leave Act balances the interests of employers and employees in an equitable manner and places the proper value on nurturing the American family values we all agree are needed today and tomorrow.

Mr. NEAL of North Carolina. Madam Chairman, I rise today in support of H.R. 1, the Family and Medical Leave Act of 1993.

In the last Congress, I voted against this legislation. However, numerous conversations with workers, business owners, and others who support the bill have convinced me that I was mistaken.

Madam Chairman, the social fabric of our country is coming unglued. Our children suffer as a result of this more than anyone else. It is absolutely essential that we take steps to strengthen the family unit.

While I am still uncomfortable with the idea of government telling business what to do, we must face the fact that the nature of the American work force has permanently changed. Due to economic conditions, more and more women have gone to work. Among the 50 States, North Carolina ranks 11th in its percentage of working mothers.

Families in which both parents work and single parent families are now the norm rather than the exception. For the good of our children, for the good of our families, and for the good of our country, our policies must change to fit this new reality.

Madam Chairman, H.R. 1 sets a minimum standard of job protection for workers who need leave for family emergencies. It will ensure that workers who need time off to care for a newly born child or a seriously ill parent won't have the added stress of worrying about losing their jobs as they fulfill their family responsibilities. We are the only industrialized country in the world other than South Africa that does not have a family and medical leave policy.

By adopting this legislation, we are acknowledging an important principle—that families are best suited to care for their own family members. A single mother who is fired because she takes time off to care for a seriously ill child may end up needing Medicaid, AFDC benefits, and other forms of government assistance. Thus, the Federal Government ends up caring for her and her child. In this sense, a vote for the Family and Medical Leave Act is a vote for the family self-sufficiency.

The legislation acknowledges some important limitations, however. Recognizing that small businesses do not have the flexibility that larger companies have, H.R. 1 exempts businesses with fewer than 50 employees. The bill also requires employees to schedule their leave time in advance, whenever possible, and allows employers to require medical certification of a serious illness before an employee can take leave.

We've heard a great deal of rhetoric in recent months, Madam Chairman, about family values. Almost everyone agrees that we can begin to solve many of our Nation's problems by adopting policies that encourage stronger families. American families need the security of knowing that they don't have to choose between their livelihood and their legitimate family responsibilities. For this reason, I will be voting for the Family and Medical Leave Act today.

Mr. SYNAR. Madam Chairman, I rise today in support of H.R. 1, the Family and Medical Leave Act of 1993.

Oklahomans need this legislation. Two of our most important commitments are to our families and our work. However, with the changing nature of the family, wherein often both parents must work or there is only one parent in the home, these two commitments are frequently in conflict. The strength of these commitments is evidenced by the fact that so many people successfully find a balance between them on an everyday basis.

Nonetheless, when the needs of the family are strong, as in the case of a birth or the illness of a parent or child, the commitment to family becomes paramount. I commend the many companies that have recognized this fact and have provided for their employees. However, there are many others that have not. For the employees of these companies, responding to the needs of a severely ill child can mean a loss of employment. This is unconscionable.

Critics of this act charge that it will give workers license to take off from work at will. The guidelines of the act are clear. It allows an employee to take up to 12 weeks per year of unpaid leave for: the birth or adoption of a child, the care of a seriously ill child, the care of a seriously ill spouse or parent, and an employee's own serious illness.

Further, I would like to remind the critics that the average working American cannot afford to take 12 weeks of unpaid leave on a whim. However, should the needs of the family be so great that an individual must miss work, he or she should have the security of knowing that their job will be there for them when the crisis is past.

This act is not about providing leave so much as is about providing job security. The choice between work and family is one that individuals should not have to make.

I urge my colleagues to support this legislation.

Mr. CONYERS. Madam Chairman, I rise today in support of H.R. 1, the Family and Medical Leave Act of 1993. Every year since 1985, supporters of this measure have been waiting for the day when we would have a President that would sign this legislation: now is our chance to make family and medical leave a law.

Working families in this country have simply waited too long for this measure. For too long working Americans have had to choose between their jobs and their families and health.

In every single major industrialized nation except the United States, family and medical leave is a basic right for its workers, like the guarantee of minimum wage and health and safety standards. These are the same countries that are beating us in the global market place.

We are not talking about some unreasonable plan for employees to skip out on their jobs for vacation, we are talking about a simple guarantee. A simple guarantee that you will not have to live in fear of losing your job when you are forced to take a brief leave for a legitimate family or medical reason. A simple guarantee that you will not lose your health insurance benefits just when your family needs them most. A simple guarantee that makes sense for American workers and American business.

With a family and medical leave benefit, business gains as much as the worker. Workers who can count on their jobs being there when they return from a family emergency will then in turn strengthen their commitment to their employers. Studies have even shown that employers with generous leave policies have more productive and satisfied employees. In order for U.S. businesses to compete globally in the 21st century, we must start with nothing less than a stable, committed, productive and satisfied work force.

Opponents of this measure will tell you that the Family and Medical Leave Act will hurt small business. It is easy to see how ridiculous this argument is—with the 50-employee limit in this bill, 95 percent of all small businesses will be exempted from the regulation. We are not hurting small businesses, we are helping all businesses maintain healthy, stable work forces.

There are other opponents to this bill who have said that this legislation is bad for workers because it will deprive labor unions of the bargaining power to obtain leave benefits on a company by company basis. If that is true, then why are hundreds of unions, representing everyone from university professors to firefighters, in complete support of this legislation? They are supporting the Family and Medical Leave Act because it is good for the workers of America.

When only 37 percent of female workers in firms with more than 100 employees receive some form of family and medical leave, we cannot count on businesses to produce this benefit for our Nation's working families on their own—we must pass this legislation today. Support America's workers and families, support America's businesses—vote for H.R. 1, the Family and Medical Leave Act.

Mr. CLINGER. Madam Chairman, I rise to speak not only for the small business community, but also for the men and women who have little chance of finding a job until the economy grows and new jobs are created.

Lest there be any doubt, Madam Chairman, this bill will not create jobs. What it will do is add to the everygrowing mound of Government rules and regulations slowly smothering the small business community.

It has been said that the requirements imposed by this bill will not force any business to close. That observation would be relevant if mandated employee leave was the only Federal rule which small businesses must obey. In fact, small businesses must comply with a very long list of Federal rules and regulations.

Collectively, these "do's" and "don'ts" are forcing small businesses to shift more and more resources away from business operations to Government compliance activities. Under such conditions, it is difficult for any business to flourish and grow, and if business fails to thrive, people who want to work will continue to have a rough time finding work.

Again, Madam Chairman, it is in the aggregate Federal burden on small business that must be considered here, and I urge my colleagues to reject the simplistic, but unrealistic argument that this one new requirement will not hurt small business.

Ms. MCKINNEY. Madam Chairman, I rise in support of the Family Medical Leave Act. As one of the new Members of this Congress, I was pleased to see the young children on the House floor when we were sworn in. Many of us are balancing the needs of our families and the demands of our work, everyday. That should make us more sensitive to the challenges facing today's families.

At no time is the parent-child bond more fragile than at the birth or major illness of a child. We can not talk about the importance of family and family values and fail to provide our families with the tools to become and remain strong.

I was troubled to read in the Atlanta Constitution the tragic story of a young woman named Stephanie. This young Georgia mother tried desperately to support her son, as a single parent. A victim of a society that talks about families and fails to deliver—she gave up 2 days before Christmas. Stephanie shot herself, because she could not provide a good life for her son.

Too many people live on the margins in this country. It may be difficult for many in this Chamber to understand the economic insecurity of America's new parents. Few of us are faced with the choices that face the working poor and the middle-class families that rely on two paychecks to stay middle class.

This legislation will give new parents one less thing to worry about as they learn to be good parents.

As we vote for this important legislation, let us remember that it is but a first step toward putting families first.

Mr. DINGELL. Madam Chairman, I rise in support of H.R. 1, the Family and Medical Leave Act. Over the last few decades, the nature of the American work force has changed dramatically. Largely through economic necessity, there has been a significant increase in the number of working women, single-parent families, and those caring for elderly relatives. The passage of family and medical leave legislation is of vital importance to preserve the traditional bonds of family life and strengthen the protections afforded to our working men and women.

This legislation would require employers with more than 50 employees to provide workers with up to 12 weeks of job protected, unpaid leave for the birth or adoption of a child, the serious illness of an immediate family member, or for the worker's own serious illness. Employers with fewer than 50 employees would be exempt. As two-income families have become increasingly important to American families' economic survival, the need for the Federal Government to set a minimum leave standard has grown.

Since the Industrial Revolution, our Government has improved the standards and environment of the American work force by establishing employment standards to safeguard, protect, and assist our Nation's working men and women. Child labor, occupational safety and health, and minimum wage and maximum hours standards, have arisen out of a need for greater flexibility and pragmatism. They have helped to balance the economic needs of corporate America against the framework of a humane and democratic society.

Today we are the only industrialized nation which does not have a family and medical leave policy. As a result, too many American working men and women are forced—in cases of medical emergency and the critical needs of loved ones—to make an impossible choice between their families and their jobs.

The success of family and medical leave policies is well established. I would like to highlight one such example. In 1988, Wayne County, MI, expanded their existing civil service rules to provide parental leave for all county employees. Wayne County's 6-month unpaid leave period has received widespread support and proved extremely beneficial to its employees' families, particularly to young children.

While many enlightened employers voluntarily provide this type of leave to their employees, most do not. The very purpose of a Federal mandate is to protect those individuals who would not otherwise be protected. The benefits of this legislation are great, and the relative costs small. A study commissioned by the Small Business Administration affirmed that the net cost to employers of placing workers on leave is substantially smaller than the cost of terminating their employment.

Responding to the needs of our children and their families should not, and cannot be a partisan issue. We must come together and recognize the importance of this initiative in strengthening family bonds, providing a foundation for our children's emotional and physical development, and relieving the needs of desperately ill family members. In so doing, we can provide a measure of security and comfort to families in their time of greatest need.

I urge my colleagues to vote for this important bill.

Mr. KLECZKA. Madam Chairman, today we move toward completion of an important task, approval of legislation which will be enacted into law to put the American family, and the American worker, first. The Family and Medical Leave Act assures workers job security, and health benefit security, when it is necessary for them to tend to a family health crisis or the birth of a new family member.

The legislation is neither an attack on business nor a disincentive to productivity. It simply permits employees up to 12 weeks of unpaid leave in certain instances. Covered employers are those having 50 or more workers, so small businesses are exempted from this Federal proposal. Employers are also protected from frivolous requests for leave. We have crafted a balanced policy which addresses both employer and employee concerns.

Also important is the fact that this legislation recognizes the changing demographic nature of families and the work force. The increasing numbers of both two-earner families and single-parent families are well documented. In today's society, a birth or medical emergency often requires one or the other parent to leave work for a short period of time.

More and more families also include elder parents, who often have chronic health problems. This may, in part, be due to the high cost of health care or living expenses in today's economy. In any case, it is becoming a fact of life for some American families. The family and medical leave bill responds to these realities. It is good public policy.

This family leave compromise is the result of years of debate and many of our differences have been ironed out. It requires part-time workers to have 1 year on the job, plus 1,250 hours the previous year, to qualify. The measure also exempts the top paid 10 percent of a firm's employees, which is important to small businesses.

This legislation provides workers peace of mind so they can tend to a family crisis. And, of course, an employee who feels comfortable in a job is likely to be more productive. Increased productivity is good for business, and good for the economy. It is a win-win for employers, employees, and society as a whole.

To critics who question the impact of family leave policies, I point to my home State of Wisconsin, which approved a family and medical leave policy in 1988. In 1991, the Families and Work Institute conducted a survey of Wisconsin employers, and employers in three other States with leave policies, to examine costs, and to determine whether the policy was burdensome. Ninety-one percent of employers interviewed reported no difficulty in implementing the State laws. The majority of employers had no increased costs associated with leave, and two-thirds relied on other workers to pitch in while one used leave.

Madam Chairman, American workers want a family and medical leave policy. So do many of us in this Chamber. Let us show our constituents that we are working with the new President to help American families.

Mr. LEHMAN. Madam Chairman, I rise today in support of the Family and Medical Leave Act. It is appropriate that the first major piece of legislation the Congress considers is one that is family friendly. For the past 12 years, we have witnessed the American public being placated with profamily rhetoric but shortchanged by antifamily policies. Child care, parental leave, and public education represent profamily issues virtually ignored or actively opposed by the past two administrations. It is clear that today signifies a break from the past.

Times have changed. The American family has changed. The reality is that most families not only have both parents in the work force but that they need two incomes just to maintain their standard of living. In addition, single-parent families now make up one-third of all families with children.

It is about time that we as a caring Nation acknowledge that children need a parent after birth, family members do get sick, and employees cannot simply put aside their family obligations while at work. Today we are finally acknowledging that employees have responsibilities other than the ones from 9 to 5.

In terms of cost, the GAO has estimated that this bill will cost $5 per employee. Studies have shown that businesses that have policies that are family-friendly, that respect and value the worker, are businesses that have higher productivity, lower turnover rates, and a higher worker loyalty. Family and medical leave policies simply make sense—from an economic and business viewpoint.

Today, we will approve legislation that truly promotes family values. Today, we will stand up and say, you do not have to choose between your family or your economic survival, your health care or your family emergency, you have a choice.

I urge my colleagues to support this legislation. To do otherwise is to turn a blind eye to the very real needs of the American work force.

Mr. SWETT. Madam Chairman, I rise today in strong support of H.R. 1, the Family and Medical Leave Act.

The American work force has changed. It now includes many dual-income families and single parents who are struggling to juggle job responsibilities with family responsibilities.

Unfortunately, many businesses have no set policy to accommodate employees who need to take time off for a family or medical emergency. In some cases, employees are forced to choose between keeping their job or taking time off to care for a new baby or a sick family member.

A recent study by the Bureau of Labor Statistics found that 37 percent of women employed by businesses that employ more than 100 people have no set maternity leave. Similarly, a study conducted by the Small Business Administration found that 30 to 40 percent of companies with more than 50 employees do not have guaranteed sick leave.

Every other industrialized nation, including our toughest international competitors, has some form of family leave law. It is time that we, too, recognize the relationship between strong families and a productive work force. It is time that we, too, enact a family and medical leave law—we can no longer afford to neglect the needs of American families. It is time to put families first.

Madam Chairman, I urge my colleagues to join me in supporting this important legislation.

Mr. CUNNINGHAM. Madam Chairman, I rise today in opposition to H.R. 1, the Family and Medical Leave Act. It is unfortunate that this is the first major bill being considered by the House in the 103d Congress. At a time when American business is struggling, we are sending them yet another Federal mandate, in effect saying, we don't care if this means you have to fire some workers or postpone improving your equipment. We in our wisdom know what's best for you.

Well, Madam Chairman, we don't always know what's best here. Now I support the concept of family leave. That isn't the issue. The issue is forcing business to do it one way, the Washington way, regardless of what works well. According to a 1991 Gallup survey, 93 percent of the small business owners surveyed currently offer some form of family and medical leave to their employees. Businesses know they have to be competitive in their benefit packages. In that same group of business owners, 45 percent said they will be less likely to hire young women, and 55 percent will be more likely to reduce or eliminate other employee benefits such as paid vacations, unpaid personal leave and health insurance if this legislation passes.

Madam Chairman, this is the wrong bill at the wrong time. There are huge gaps in coverage for small business and for Congress itself. I believe it will create lawsuits because of the vagueness of many of its provisions. In the Education and Labor Committee, I introduced an amendment which I believed would provide some clarification of the present language, and reduce possible legal ramifications. My amendment, along with those introduced by my Republican colleagues, were all rejected on party line votes. None of the amendments were frivolous, all 14 were constructive, clear, and attempted to improve the bill. It became apparent that this bill was on a fast track, regardless of the consequences to business or jobs.

This recession has hit American business hard, but it has also hit American workers hard. Unemployment in San Diego County is currently 7.3 percent. This bill won't help those families find or keep jobs. If anything, it will make it that much tougher for businesses in San Diego County and across the country to prosper.

President Clinton spoke during the campaign about the need to create jobs and pledged to focus like a laser on the domestic economy. H.R. 1 is definitely a weapon focused on the economy. Unfortunately, the barrel is aimed right at American jobs.

Madam Chairman, I urge my colleagues to oppose this legislation. Let's focus on progrowth, proworker, profamily legislation and leave the social engineering behind.

Mr. EMERSON. Madam Chairman, over the past several months we have heard a lot of talk about change. We have heard that the voters want change, that the new administration wants change, and that supposedly the Congress wants change. When I go home to meet with folks in the Eighth District of Missouri, the issues they talk to me about, are jobs and the economy. I remember hearing, when President Clinton was on the campaign trail, both the slogans "jobs, jobs, jobs" and "the economy, stupid." Most of my colleagues in this body said practically the same thing during their election efforts.

So what is the first bill introduced in the new 103d Congress? An economic growth package? A tax cut proposal? A jobs bill? No. The majority leadership and the new administration—in the face of a nationwide public demand for more jobs and a growing economy—put the Family and Medical Leave Act on the top of their list as priority No. 1.

Please don't misunderstand me. I believe that parental leave and sick leave are wonderful employee benefits. I believe that employers should offer these benefits to their employees in most situations. It makes good business sense to accommodate the trying circumstances an employee may confront; also to give an employee time off in order to enjoy the blessings of parenthood. But I don't believe that the Federal Government should step in and mandate that employers give the employees the type of leave benefits we in Congress designate.

Is employee leave the No. 1 problem confronting the Nation? According to a 1991 Gallup survey, 93 percent of small business owners already offer some form of family and medical leave to their employees, and 94 percent granted their last request for leave. So the figures don't seem to bear this out as a national catastrophe. I realize for that 6 or 7 percent, not being able to take leave may be very difficult. But I can't say whether or not this legislation would even include that 6 or 7 percent since only employers with 50 or more workers are covered, and even covered employers can exempt the highest paid 10 percent of their staff. I'm not sure that even people without such benefits would say that leave benefits is their No. 1 issue—above, having a job.

And here we come right down to it. H.R. 1 will cost jobs. It isn't a debate about whether it will or whether it won't, it's a debate over how many jobs and whose. The proponents of H.R. 1 concede that since the primary responsibility for child care still falls mainly to women; women will be the predominate ones using mandated leave. Whether we like it or not, this will make employers much less likely to hire both younger women of child-bearing age, and women with children. As the father of four daughters, I don't want to legislate women into unemployment. And it's not just women who will lose jobs. Almost all employers surveyed said that if H.R. 1 passes, they will likely reduce the number of jobs for low-skilled workers. The last thing our Nation needs right now is a job-killing bill and H.R. 1 is just that.

So here we go again, revisiting the same issues. The Democratic leadership isn't open to change; again, they wouldn't allow a vote on a substitute for this bill. The new administration isn't fulfilling their fundamental campaign promise. They promised change and they promised to focus on the economy like a laser beam. Well, just last week, the economic figures were released and for the fourth quarter in a row, the economy grew. GDP was a promising 3.8 percent. At the same time, first time unemployment claims rose by 19,000. If the new administration is serious about growing the economy and putting people to work, they should pay attention to this dichotomy. Good economic growth and more unemployment. This says to me that while businesses are doing well, they are making the conscious choice not to expand their labor forces. Profits are going into capital and computerization.

The logic is simple. Businesses expect more mandates from the new Government such as family and medical leave, and they are making a bottom line decision that people are going to be too expensive. Mandates kill jobs and the only way for businesses to survive under such burdensome mandates is to cut labor costs. I hope the leadership and the new administration is listening. The electorate voted for change—this bill is the same tired solution. Family and medical leave is a wonderful idea and a great employee benefit, but I cannot support this legislation, as a Government mandate. The costs will be too great.

Mr. CALVERT. Madam Chairman, as one who has owned and operated several businesses, I have always believed very strongly in the philosophy that providing good benefits for employees creates a happier and more productive workplace. For that reason, I believe that business owners are wise to provide employees with leave, either paid or unpaid, for the birth or adoption of a child, or when there is some other critical family need, such as a serious injury or illness.

What is a good business practice, however, does not necessarily make a good legislative proposal—and that is the case with H.R. 1, the Family and Medical Leave Act of 1993. Although its intention is a good one, this act, should it become law, could actually have a detrimental effect on many working Americans—particularly during this period of high unemployment and marginal business profitability.

Many employers who already provide an attractive combination of benefits for their employees may find that this additional required benefit will simply be more than they can afford. And, because the act applies only to companies with more than 50 full-time employees, some employers may be inclined to reduce their work forces so that they will fall under the provisions of the legislation. Rather than be forced out of business altogether, they may simply move some employees to part-time status and lay off others.

Another argument we hear concerning this and other similar legislation is that businesses have a social responsibility to factor in the social and environmental costs of doing business. To some extent, I agree with this viewpoint. However, we need to keep in mind the lessons of those socialist countries, such as the former U.S.S.R. and other Eastern European nations, which had comprehensive social welfare and environmental laws. The result of these laws was that people had fewer real benefits, and the condition of their environment was disastrous.

The simple fact is, that family leave is a good business policy—for most businesses. However, most families that live paycheck to paycheck could not afford to take unpaid leave if offered. A much better solution to the problem has been proposed by Representatives FRED GRANDY and BILL ORTON. Their bill would provide incentives for businesses to offer family leave, including the establishment of tax-free medical leave accounts.

In short, Madam Chairman, H.R. 1 is the wrong approach, at the wrong time to provide medical and family leave. It will hurt, not help, America's workers.

Mr. NADLER. Madam Chairman, I rise today in support of the Family and Medical Leave Act, H.R. 1. This bill provides workers with the right to receive up to 12 weeks of unpaid leave in the case of the birth or adoption of a child, in the case of a seriously ill family member, or an illness which may afflict the employee.

In this day and age many Americans are finding it almost impossible to maintain a decent standard of living without both parents having to work. Many more parents must raise their children on their own. Close to two-thirds of all mothers with children in school work outside of the home. Consequently, many employees have to take time from work to care for their children or parents should they become ill. In the case of a major illness, parents should not have to choose between caring for their loved ones and keeping their jobs. All too often, however, this is the case, and many hard-working Americans have been unfairly discharged on this basis.

Madam Chairman, this type of discrimination against working parents, and especially against working women who are still the primary care givers for most American families, is absurd and unacceptable.

We have heard a lot of rhetoric about family values over the last few years. This legislation provides an opportunity for every one of us to back up that rhetoric with action. The time spent to help nurse a sick family member back to health, or to look after a child is invaluable. No one should ever have to choose between their family and their livelihood. I hope that all of my colleagues who have spoken in support of the American family will cast their vote in favor of this necessary legislation.

Let's do something to help the American family for once. I urge my colleagues to vote for H.R. 1, the Family and Medical Leave Act.

Mr. ABERCROMBIE. Madam Chairman, I rise today in support of the American worker and family values. It is time to end the gridlock and pass the Family and Medical Leave Act for the third time and send it to a President who will sign it into law.

I do not have to look any further than my own immediate family to address the questions that have been raised about family leave. My wife had open heart surgery last week. She is at home recovering. I am spending 8 hours a day and more helping her through the recovery process. Where would our family be if I did not have enough control over my schedule to spend that time helping my wife?

Now think about what that means for Americans who don't have an understanding employer or the money to hire domestic help. It is unfair and unjust in a country as great as ours for working Americans to have to choose between their jobs and their families. No parent, spouse, son, or daughter should be forced to choose between a family member and keeping a job.

As we all know in this age when more and more families need multiple incomes just to survive, an illness in the family can be a complete disaster without the family leave. All H.R. 1 does is make it easier for working Americans to keep their jobs while attending to their family responsibilities.

This is not an anti-small business bill. It fully exempts small businesses. The bill includes only businesses with 50 or more employees. It includes such safeguards as: The exemption of essential personnel and a requirement of 30 days notice when leave is foreseeable.

This is not burdensome. Keeping workers is good for business.

Saving someone's place on the production line or the work schedule costs only a small fraction of what it would cost to fully replace that worker. Indeed, the burden actually remains with the worker because the leave is unpaid.

We all praise family values. This is our first opportunity to do something about it. In most other industrial nations guaranteed paid leave is provided for their citizens.

I think that what is good for the family is good for America. This is the least we can do.

Mr. MACHTLEY. Madam Chairman, I find it very easy to rise today in support of H.R. 1, the Family and Medical Leave Act. As some of you may know, Rhode Island has had a family leave law since 1987 that is virtually identical to this legislation. We are long overdue for a nationwide policy on family leave.

As we have recognized in Rhode Island, as have many other States, it is becoming increasingly clear that modern working families need the kind of flexibility this bill would provide. Two incomes are more and more often needed to support a family and maintain a certain standard of living. As a result, nearly two-thirds of all mothers currently work outside the home. This evolving work force precipitates the need for a Federal leave policy.

The Family and Medical Leave Act would allow Americans to use up to 12 weeks of unpaid leave to care for a newborn or seriously ill child, a seriously ill parent or spouse, or as personal medical leave. This type of flexibility on the part of the employer helps families cope with situations in the home, protects their jobs while on leave, and continues their health benefits. No longer will Americans be forced to choose between attending to crises in the home and their jobs.

There are those who fear that the enactment of this legislation would place an additional burden on small businesses. But the Family and Medical Leave Act targets businesses with 50 or more employees—thereby exempting small businesses. This translates into only 5 percent of all businesses but about 50 percent of all workers.

In the past, family leave has been the unfortunate victim of political game playing. But I am confident this will no longer be the case. Over the last couple of years, a real effort has been made toward compromise and consensus. The efforts of many of my colleagues both in the House and the Senate are about to pay off.

Make no mistake. A vote for the Family Medical Leave Act is a vote for the American family. I urge my colleagues from both sides of the aisle to join me in supporting this measure.

Mr. MINETA. Madam Chairman, I rise today in strong support of H.R. 1, the Family and Medical Leave Act of 1993.

Unlike the 1950's, and the idealized family paragons of Ward and June Cleaver, the America of the 1990's has more single-parent families to than ever before, and an increasing number of two-parent families in which both parents work outside of the home.

A new American family has been evolving in which men and women share household responsibilities and both parents follow individual career paths. Unfortunately, as part of this evolution, many American children are bearing the brunt of these changes. That is why it is crucial that we support the Family and Medical Leave Act here today.

American women will also benefit greatly from the realities of life recognized in this law. Women now represent the fastest growing segment of our Nation's workforce. Sixty percent of women with children ages 3 to 5 years old have careers. California has long recognized these realities, and established a visionary family and medical leave program. It is now time make that standard available to all Americans.

For 12 years we had an administration who claimed they believed in family values. But the only American families they saw in our Nation were the Cleavers. That shortsightedness has forced other Americans to choose between having a job and having a family, and no American should ever have to make that choice. Now we have the opportunity to change all that.

Today we have an administration that also believes in family values, but it's an American family that we all know and recognize. It's the American family that we all live in. President Clinton's administration will finally end the gridlock on this crucial issue. I urge my colleagues to join me, and finally give the American family what they have long deserved.

Mr. EWING of Illinois. Madam Chairman, I rise in opposition to H.R. 1, the so-called Family and Medical Leave Act.

Despite it's "feel good" name, this legislation is bad for businesses and the economy, it is also not a priority of working women and men.

For those of my colleagues who spent any time with business constituents this winter, they know that one of the top concerns of these entrepreneurs is the explosive growth of Federal mandates and the crippling costs they impose. Well, now is the time for my colleagues to take a stand for those struggling businesses in their district and vote against this harmful legislation.

The Family and Medical Leave Act will establish a nationwide formula for all affected companies, painting them all with a broad brush and forcing them to provide the same type of family and medical leave policies. Instead of allowing individual businesses to determine the benefits they can afford to offer, and the kind their employees want, this legislation will shackle employers to a single inflexible federally-mandated formula.

In an economy in which every employment situation is different, and in which the work force is constantly changing, employers and employees should have the freedom to work together to establish benefits which are mutually acceptable. Working women and men should have the flexibility to negotiate with their employers for the type of benefits they value the most. For example, those just starting a family may want more liberal maternity leave, while older workers may want more liberal policies for personal illnesses. Also, individual companies know what they can and cannot afford, and they should have the flexibility to negotiate an affordable benefits package with their employees. Congress does not have the answer to what works in each and every company throughout America, and we do not have the answer to what every employee wants. This legislation takes away the flexibility currently enjoyed by employees and employers.

Of course we all want companies to offer leave time to employees facing health problems, taking care of a sick relative, or welcoming a new baby to their families. We are ignoring the fact that most of them already do. In fact, a poll taken in April 1991 by Gallup and the National Federation of Independent Business found that well over 90 percent of small businesses already provide some type of family or medical leave.

However, the mandates contained in H.R. 1 will tie the hands of many businesses, forcing them to abide by the dictates of Congress, and drive up their costs. This, in turn, will force many to reduce the number of their employees or avoid hiring more. In the long run this could kill jobs. Obviously, this is not good for the working men and women of America, or for the economy.

Another factor we should keep in mind as we consider H.R. 1 is America's international competitiveness. We hear a lot these days about the need to make America more competitive with the Europeans, Japanese, and others. We will not make our companies more competitive by loading them down with another expensive Federal mandate and taking away what flexibility they have in managing their own business, as this legislation will do. On the contrary, we can make our businesses more competitive by reducing the costly mandates they already face, and by giving them more flexibility. H.R. 1 will further deteriorate America's competitiveness.

President Clinton and the Democrats in control of Congress have been touting the Family and Medical Leave Act as evidence of their commitment to family values. Family values do not come in the form of expensive job-killing Federal mandates on employers. Families would be much better served with the flexibility of employers and workers working together to come up with benefits which both can accept. They don't need Congress telling them how to run their families and businesses.

Voting for H.R. 1 may look appealing, and it may make Members feel like they have done something good for families. However, I hope my colleagues will take a long-term view of the effect this legislation will have on businesses, the economy, and jobs. If you do, you will vote against H.R. 1.

Mr. BEREUTER. Madam Chairman, the mandatory family and medical leave bill we are considering today is a seriously flawed bill that will cost many Americans their jobs; therefore this Member intends to vote against it.

The measure coming before the House would require businesses to provide as much as 12 weeks of unpaid leave annually to any employee for their own sick leave, for the care of a sick child, spouse, or parent, and for the birth or adoption of a child.

Businesses, especially the small businesses that are the backbone of this Nation's economy, will be hurt by H.R. 1. The National Federation of Independent Businesses estimates that it could cost each small business as much as $12,832.60 per employee per year to comply with all requirements of the bill. The costs to small businesses include lost productivity, health insurance costs, higher unemployment insurance rates, and the expense of interviewing, employing, and training replacement workers. Those costs could kill small businesses and the jobs they provide. It doesn't make much sense to try to guarantee someone a job in a business that will be wiped out as a result of too much Government intrusion.

Madam Chairman, there is almost unanimous opposition to this bill among the small business community in this Member's State. A letter this Member received from one of his constituents who owns a small business illustrates the problems with this legislation and with the big Government mind set behind the legislation. This Member would like to read excerpts from a letter from the manager and owner of one of Lincoln, NE's outstanding businesses and employers. The letter points to the difficulties and probable results of this legislation. This Member's constituent writes:

> DEAR CONGRESSMAN BEREUTER: The Family Leave scheme, that is expected to whiz through the new Congress, will have a multitude of adverse effects on companies with 50 or more workers. If workers are allowed 12 weeks of family leave and have accrued 3 or 4 weeks of vacation, an employee could possibly be away from the workplace a total of 15 to 16 weeks. During this time the employer must keep up their medical, life and dental insurance, in addition to hiring temporary workers to replace the employees on leave and invest training expenses in new employees that will not be retained in that position when the employees on leave return.
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> Considering the state of our Nation's economy one would think that its elected leaders would consider measures to spur businesses and therefore promote economic growth. Instead, many elected officials seem hell-bent on burdening businesses to the breaking point.
>
> A simple solution to all of these mandated regulations would be for employers to keep their work force below the magic 50 number, but that goes against the old American dream of growth and prosperity. Many employers will, nonetheless, try to cut back on hiring to meet that magic number.
>
> The government of this country must learn to look at employers as a vital part of our nation's economy, not the "bad guy". Employers care about their employees and their well being. We are not heartless scoundrels that take pleasure in our workers' pain and suffering. We grant leaves of absence to employees on an individual basis and many factors are considered in granting the leave. Valuable employees that contribute to the company are granted leaves of absence for many personal reasons including care of a new child or sick relative.
>
> Since I consider the government of this country to be in "bankruptcy", I certainly don't think that they should be mandating business policies to those of us that are still afloat.

Madam Chairman, smaller businesses are especially hurt by this kind of legislation as they are more likely to have specialized employees. When those specialized employees take leave, the business must temporarily replace them. Currently, businesses have the flexibility to accommodate both the replacement and the returning employee. The mandatory leave bill would take that flexibility away. While the legislation currently only applies to businesses with more than 50 employees, a great many Nebraska businesses expect that once such legislation is enacted it would soon be applied to smaller businesses as well.

While this Member does strongly support private businesses establishing family and medical leave policies, he opposes H.R. 1, as this Member does not believe that the Federal Government should move so intrusively into the policies or practices of those private businesses and local entities. Both families and businesses will be better off negotiating benefits and leave between themselves without Government interference. Most Americans don't want the Federal Government telling them how and when to take family related or medical leave. In fact, according to a 1991 Gallup survey, 93 percent of those businesses contacted already offered some form of family and medical leave. The mandatory family and medical leave bill not only would take decisions regarding leave away from the individual, but would force those businesses with already established, successful leave programs to switch to a rigid, Government-controlled policy. While the goals of H.R. 1 are laudatory, the means of reaching those goals would result in much greater governmental intrusion into business and family matters. That is the wrong direction.

Madam Chairman, this legislation is an example of the liberal, big Government inclinations of the supporters of this bill. They would take a matter best left to employers and employees and give the authority to an already over-regulating, stifling, Federal Government, not even pausing to consider that any family leave legislation or regulations would first properly be a field for action by State governments.

Mr. COYNE. Madam Chairman, I am pleased that the House is moving quickly to pass H.R. 1, the Family and Medical Leave Act of 1993.

American families can take comfort from the fact that their needs are being placed at the top of the Nation's legislative agenda. Gridlock has been broken on a basic question of providing a minimum level of guaranteed family and medical leave for families who must care for a new child or a seriously ill family member.

Congress and President Clinton are ready to move on this issue. The House is acting now to redeem the promise of family and medical leave which was deferred last year by a presidential veto. Passage of H.R. 1 will make clear that Congress is ready to take concrete steps to enact pro-family policies.

H.R. 1 makes a simple point: Parents should not have to choose between caring for a child and keeping their jobs. This legislation provides a majority of American workers with a guarantee that they can take up to 12 weeks of unpaid leave to care for the birth or adoption of a child or to care for a seriously ill family member. Workers able to take advantage of this unpaid leave benefit are assured that they must be reinstated to the same or equivalent position, with the continuation of preexisting health insurance during the period of leave.

H.R. 1 is not a perfect bill. It is a limited measure which attempts to balance the needs of families against the economic concerns of employers, especially those operating small businesses. While many of our competitors in Europe mandate paid family leave policies, H.R. 1 provides American workers only the basic guarantee of unpaid leave. Small businesses with 50 or fewer employees are exempt from the requirements of this legislation. Certain key employees are exempt from coverage of this bill.

While the Family and Medical Leave Act of 1993 will not address the needs of all American workers, it signals a clear commitment by the Congress and the White House to begin working again in a common effort to promote the interests of working families. President Clinton has made clear that he shares our interest in moving quickly to enact the Family and Medical Leave Act.

Madam Chairman, the American people have heard a lot about family values over the past few years. I am pleased that the House finally has an opportunity to pass pro-family legislation with the knowledge that we have a president in the White House who shares our commitment to act on this issue.

Mr. GEJDENSON. Madam Chairman, I rise today to voice my support for H.R. 1, the family medical leave bill.

Currently, the United States stands alone among industrialized nations in its failure to offer family and medical leave to its workers. In contrast, Japan and West Germany currently guarantee at least 3 months of paid family leave. Additionally, 37 other countries—including Laos, Indonesia, and India—allow their workers to take 12 to 14 weeks off to care for a newborn. It's time the United States became competitive with the rest of the world on the subject of family leave.

H.R. 1, which is the culmination of 8 years of hard work by Congress, is the way our Nation can finally hope to keep pace with our foreign competitors. It provides job-protected, unpaid leave for workers who need time off to care for a newborn or a seriously ill child, spouse, or parent. Leave could also be taken for the worker's own illness.

This legislation recognizes the changes that have affected the family and workplace over the past two decades. The majority of American families are now comprised of two-earner couples working outside the home. There has been an escalation of women who are raising children without a husband and the increase of the number of elderly in our society has meant that more than 2 million people—one-third of whom are in the work force—care for their elderly parents.

Studies by the General Accounting Office [GAO] and the Small Business Administration, have shown that the costs of granting a worker's request for leave are significantly less than permanently replacing that employee. The 1987 GAO study found that the cost of the Family and Medical Leave Act to an employer would be only $5.30 per employee per year. This country's businesses must move forward to respond to the needs of today's families and H.R. 1 will help them do so.

As a proud cosponsor of this legislation, I urge my colleagues on both sides of the aisle to join the other industrialized nations in the world and support this legislation which gives American workers the flexibility they need to handle life's most important challenge—their family.

Mr. ACKERMAN. Madam Chairman, I rise in support of H.R. 1, the Family and Medical Leave Act. However, I regret having to stand here today, because this bill should have been enacted many years ago. Delay is the consequence of narrow-minded social commentators. They argued that family and medical leave was some kind of liberal plot. And, two successive administrations heartlessly procrastinated. Millions of fathers, mothers, sons, and daughters have had to wait too long.

H.R. 1 addresses fundamental shifts in the demographics of the American work force. According to the Bureau of Labor Statistics, 96 percent of fathers and 60 percent of mothers work outside the home. The participation of women in the work force has risen from 19 percent in 1900 to 52 percent today. Between 1950 and 1980, the labor force participation of mothers tripled. The fastest growing segment of this group is comprised of women with chidren under the age of 3.

Another demographic change profoundly affecting the American family involves the number of elderly in our society. Currently, more than 2.2 million family members provide help to ailing relatives. About 38 percent of those caring for elderly relatives are adults caring for their own parents. The burdens of childcare and eldercare create tensions between the family and the workplace. The Family and Medical Leave Act would enable family members, in times of distress, to be true families. It would provide leave and continued health coverage for families in dire need of such time together. No longer would family members be held hostage to the threat of the loss of their employment. Families would be able to provide the love and carying necessary to help heal.

Madam Chairman, I have been working for family and medical leave since 1969, when my daughter Lauren was born. Back then, I had to sue in order to win the right to stay home and care for my daughter. It shouldn't be that way. Workers shouldn't have to do to court—workers shouldn't have to choose between their jobs and their families. However, in the years since this bill was first introduced, American families have had to do just that. Countless parents were forced to decide between their job, and caring for a sick child or dying parent. Mothers, and, yes, even fathers, have had to decide between bonding with their newborns and their adopted children, and their livelihood.

Madam Chairman, they say "the third time is a charm." With a new President, I believe that the third time we send the bill to the White House will be the charm and that the Family and Medical Leave Act will finally become law.

Mr. PENNY. Madam Chairman, it is with reluctance that I rise in opposition to H.R. 1, the Family and Medical Leave Act of 1993. I oppose this legislation not because I am opposed to providing job protected leave for American workers, but instead because of the approach, scope, and enforcement provided for in the bill.

I have no objection to leave from work for the purpose of caring for a sick child or parent, for pregnancy, or for personal reasons. Most firms already provide time off for these types of leaves, often as a result of negotiations between workers and their employers. I have concerns, however, about imposing on workers and small employers a Federal mandate to provide leave, feeling that mandating this benefit can only result in reduced flexibility in providing other desired fringe benefits to employees.

Despite my concerns, I have become convinced that minimal requirements for leave should be guaranteed. For several years, I have sponsored legislation to guarantee job-protected time off from work for the birth or adoption of a child. During the debate last year, I was prepared to offer an amendment to this legislation to provide 6 weeks of medical leave each year and 12 weeks of maternity leave; with no more than 12 weeks of unpaid leave for all purposes each year. Although my amendment was supported by a broad coalition of organizations, including family rights and labor groups, the House Rules Committee would not allow me the right to offer it during House floor debate at that time. Yesterday, again I asked the Rules Committee to permit me to offer an alternative. My request was denied. With the exception of relatively minor amendments offered today to H.R. 1, Members are not being given the opportunity to vote for a major alternative family leave amendment.

The amendment I first drafted in 1992 is more in keeping with existing State family and medical leave statutes. The 13 States with family and leave laws that apply broadly, with only a few exceptions, provide for only 6 to 8 weeks of job protected leave. For the purposes of this debate it is important for Members to know that State laws are less complicated than the provisions of H.R. 1 and Members should also know that existing State laws in this area provide for at least minimal protection for small employers against employee abuse.

These State family leave protections themselves are relatively new. It's clear that we do not today know the effect of these State laws on job creation and retention, and more importantly we do not have any good data on the impact of these State laws on workers and their employers. The jury is still very much out. And yet today with little evidence of the effect of existing laws we are poised to pass a major family leave bill whose very scope goes beyond anything currently in place at the State level.

Madam Chairman, in the area of employment protections historically the Congress first provides for minimal protections or benefits, which are subsequently expanded or changed based on their effect in the workplace. I fear that the step we take today in passing H.R. 1 will force us to rewrite the law at a future day to account for the problems encountered by employees and employers in complying with the law. I sincerely hope I am wrong on that point.

The proponents of H.R. 1 have worked long and hard to get to this point. They deserve our congratulations. The authors of H.R. 1 are well intentioned. But I fear they have presented us once again with a bill that has many provisions that are untested in their application in the workplace, and may, unfortunately, in the final analysis have the effect of reducing or eliminating existing employee fringe benefits.

Mr. FRANKS of Connecticut. Madam Chairman, during the course of my campaign, like many of you, I pledged to work toward improving our economy. I told my constituents that we need to both help employers employ employees and we need to create more entrepreneurs. This bill, H.R. 1, would impair that objective.

Let us remember that 95 percent of all companies already offer some form of family leave.

Let us also remember that no one is against having a family leave policy. The question is, should the government mandate this fringe benefit? I say, along with many of my colleagues, "No."

Government should not be in the business of mandating fringe benefits. Instead, we should try to help those companies that cannot afford to offer this benefit via tax incentives. Let us use the carrot instead of the stick.

In these bad economic times we should not be going after the segment of our business community that has been producing most of our jobs. I believe that this bill could hurt the very people that it is intended to help.

Small business—the backbone of our economy, the creators of jobs and prosperity—will suffer. The average employer now spends 39.3 percent of their payroll on employee benefits, an expenditure that rose from $190 billion in 1973 to $742 billion in 1986. There seems to be no end in sight to the expensive mandated benefits that the government wants to unload on our business community.

Instead of mandates, we need to look at ways to help employers employ employees.

We must also consider the more personal side of this issue—the views of the workers. According to national surveys, 89 percent of Americans have indicated that they prefer to have benefits set by employer-employee negotiations rather than imposed by Federal mandate, and only one percent listed family leave as their most important benefit.

You may wonder why employees would rather negotiate with their employers when it comes to an issue as important as family leave. Maybe it is easier to understand when you study the costs of such benefits. If the family and medical leave bill should pass, employers have indicated that the results may include not only family leave for interested employees, but lost jobs in the area of 60,000, and reduction of other benefits the employees may consider more important, such as paid vacations, unpaid personal leave and health insurance.

Not to mention the fact that employers have stated that, if this bill should pass, they may be less likely to hire young women in their childbearing years. It is impossible to measure the costs to our economy of the lost talent and productivity of these women who will not be given a chance, merely because they may choose at some point in the future, to start a family.

At first glance H.R. 2 seems like a beautiful piece of legislation, a family friendly bill. I disagree. I believe the facts behind H.R. 2, the facts that say we must pay more attention to the needs of families, especially families where both parents are working, or single families headed by a working mother, reveal that mandated benefits are not the easy answer they appear to be. Establishing a Federal mandate assumes that all results of this legislation will be beneficial, that they will result in happier families and happier, more productive workers. Yes, we do need to address our changing society and focus more on the family. So let's do it in our States, in our communities and in our workplaces. Let's do it by looking at our individual needs. Let's remember those that we are trying to help, and act in the best interest of all involved.

Mr. GILCHREST. Madam Chairman, I rise today in opposition to H.R. 1.

It's almost a cliché in America to observe that "There is no free lunch." There is nothing which government can provide which costs nothing, and this bill is no exception.

Labor budgets are basically a constant. If you drive up costs in one area, employers will try to cut them in another, through layoffs, or benefit cuts. If they can't cut costs, they'll pass them along to consumers. If they can't do that, they'll shut down. One way or another, someone will pay for any attempt to increase labor costs; there are no exceptions.

Proponents of this bill will argue that unpaid leave has little or no costs to employers, with great benefits for both the employer and employee; in most cases, this is true. And in such cases, the employers already provide leave. But there are businesses where unpaid leave can prove very costly—seasonal businesses, for example, or businesses where temporary employees are expensive or unavailable. In some cases, the cost of maintaining the health benefits of employees is prohibitive.

Employers who can afford to provide this leave have a tremendous incentive to do so; it affords them employee loyalty and morale. If an employer does not provide this leave, it is for a reason.

There are also procedural arguments involved here. The majority passed a restrictive rule which prevented consideration of Congressman GRANDY'S substitute which would have provided all businesses with the incentive and the means to provide leave. There objection is that the Grandy version would put the costs on the Government rather than employers.

The majority also did not feel compelled to comply with the normal rules of the House which would require a 3-day wait before consideration of the bill. While I understand the majority's desire to make a political statement, one would hope they would follow the normal process on what they describe as important legislation.

And, to no one's surprise, we the Congress have exempted ourselves. Proponents of this will say that most congressional offices have leave policies, and they do. But unlike the private sector, where most employers also have leave policies, we allow special exceptions for ourselves to avoid inconvenience.

Madam Chairman, I strongly support family and medical leave for any employer who can afford to provide it; most managers recognize the importance of this, and do so. The purpose of this bill, however, is to impose family leave on the employers who cannot afford to provide it, and it is this which I oppose.

I urge my colleagues to oppose H.R. 1.

Mr. HUGHES. Madam Chairman, I rise in strong support of H.R. 1, the Family and Medical Leave Act. Passage of this important legislation will afford a modest benefit and an enormous relief to American workers who value their jobs and face pressing family obligations.

The Family and Medical Leave Act provides employees with up to 12 weeks of unpaid leave each year to either care for a new child or seriously ill child, parent or spouse, or to use as medical leave if an employee has a serious illness. This benefit protects the job of an employee while he or she is on leave and guarantees the continuation of health care coverage.

Enactment of the Family and Medical Leave Act will eliminate a no-win situation for millions of American workers forced to choose between family and work.

We are not a society of two-income families out of economic necessity. Reducing a family's income by an entire salary places that family's future at great risk through the loss of health care coverage, possible foreclosure on a home, and eliminating the ability to provide food, clothing, and make ends meet.

Protecting the jobs of workers who must take time off to assume crucial family responsibilities will safeguard families from financial ruin, and will also result in huge savings from both Federal and State governments by reducing costs for welfare, Medicaid, unemployment compensation, and the other safety net programs Americans rely on when they are out of work.

It seems to me the Family and Medical Leave Act makes abundant good sense as we collectively endeavor to reduce the Federal deficit, put more Americans back to work, and expand access to health care coverage.

The Family and Medical Leave Act also contains important safeguards to protect employers from placing their business in financial distress and from being bilked by employees who would abuse this new benefit. Under the act, employers may: First, require medical certification to support an employee's claim to leave: second, exclude from coverage employees who have not worked at least 25 hours per week over a 12-month period; third, exempt from coverage key employees who are among the highest paid 10 percent of the business, if necessary to prevent economic distress; and fourth, recapture the health insurance premiums paid during leave for employees who fail to return to work.

I am aware of the particular concerns expressed by the business community with respect to this legislation. However, if every other industrialized nation around the world can overcome these obstacles and provide their workers family and medical leave, I refuse to believe that American companies are not capable of doing the same.

The Family and Medical Leave Act will go a long way to assist American families and strengthen the American work force. I am proud to be a cosponsor of the Family and Medical Leave Act and I urge my colleagues to support this important piece of legislation.

Mr. CARR. Madam Chairman, earlier this week, I asked the Rules Committee for approval to offer the Universal Family and Medical Leave Policy Disclosure Act, in order, as a substitute to H.R. 1, the Family and Medical Leave Act. I have sponsored this legislation the past three sessions of Congress, and I frankly believe it offers a better alternative than the bill we are about to consider. However, the Rules Committee declined my request.

First, I want to make it clear that I strongly support the concept of family and medical leave, and believe that our Government has a positive role to play in helping to create good policies that respond to the changing needs and responsibilities of families. With the emergence of more and more dual income and single parent families, these policies are important if we are to maintain and strengthen families.

However, I believe that we ought to postpone action on mandating benefits until we have the objective information we need to make an informed and intelligent decision on the question of mandated benefits. Most of the debate on this issue revolves around conflicting studies and polls. With each study indicating vastly different information, it is important for Congress to get an accurate picture of the family leave policies that are in effect across the country.

My legislation would accomplish this by requiring businesses of all sizes to report to the Department of Labor their family and medical leave policy. At the end of 3 years this information would be compiled and reported to Congress. Once the information is gathered, accurately and impartially, it will allow Congress to make an informed decision on the question of mandated family and medical leave benefits. If Congress decides mandated benefits are necessary—then we ought to act.

Second, my bill does not exempt 95 percent of employers or 61 percent of employees. It would apply to virtually all businesses with the exception of family-owned enterprises that are operated exclusively by members of a family who are not more than one generation removed from each other by blood or marriage.

Another concern of mine is that the one-size-fits-all approach doesn't make sense in this area. Although I believe that a comprehensive family and medical leave policy should be encouraged as an act of Congress—the details ought to be left to collective bargaining or otherwise in the workplace.

Businesses are simply too diverse for Congress to arbitrarily decide one uniform standard to fit the needs of all employees, regardless of their unique circumstances and desires. The fact is that while some employees may prefer 12 weeks of family and medical leave, others may prefer perhaps 6 weeks of such leave or a different type of benefit altogether—such as child care or enhanced medical coverage. Although well-intentioned, H.R. 1 imposes an inflexible standard on both employees and their employers.

Lastly, I want to say that this is not the first time that the Rules Committee has declined my request for debate on my proposal as well as other substantial alternatives. Many Members of Congress who support the core concept behind family and medical leave, but not H.R. 1, have not been given the opportunity to vote on any other substantial policy. Unfortunately, the leadership does not support the democracy of allowing debate on alternatives to H.R. 1. That to me is objectionable.

My proposal would have provided a viable alternative, and it offered my colleagues a true opportunity to cast a vote for a reasonable approach to mandated family and medical leave. Not everyone who opposes the current legislation opposes Federal action to extend reasonable family and medical leave benefits to our Nation's work force. They should have the opportunity to vote for another substantial alternative, and not simply against the committee bill.

Mrs. LLOYD. Madam Chairman. I rise in support of H.R. 1, the Family Medical Leave Act. I do so, however, with reservations. I would have preferred to enact a medical leave bill that would have provided more flexibility.

Madam Chairman, I realize that dramatic changes have occurred in our work force participation over the past several decades, and that a parental and medical leave policy has become a necessary component of any competitive employee benefit package. My constituents have overwhelmingly supported some type of family leave policy. I have always supported the concept of family medical leave.

I find it unreasonable to overlook our families' needs. Today about two-thirds of all mothers, more than 70 percent of women with school aged children, and 56 percent of women with preschool children work outside the home. Unfortunately, some American companies have not adequately responded to the dramatic increase in the number of families in which both families work outside the home—or the changing trend in the work force.

Our population is living longer, with some families having to strike a balance between caring for two generations of parents and maintaining a job. We need to recognize the vast changes in the work force.

Madam Chairman, the United States is the only industrialized nation without a family and medical leave policy. This bill is a profamily measure and its time has come.

Mr. MFUME. Madam Chairman, today we again face the issue of whether to enact legislation to aid working parents and the American family.

The Family and Medical Leave Act will aid parents who must take leave for the purposes of adoption; to care for a seriously ill child; to care for a seriously ill spouse; or if the employee themselves are severely ill.

In our Nation today, approximately two-thirds of all mothers, 70 percent of women with school-aged children, and 56 percent of women with preschool children, work outside of the home.

These people should not have to worry about job security simply because they choose to have a family and a career. Congress must act to provide relief for these persons because a large segment of the private sector does not provide adequate leave coverage for their needs.

Without the Family and Medical Leave Act, the American taxpayer will have to pay increased costs for unemployment compensation, Medicaid, and other programs to assist unemployed Americans.

The Bureau of Labor Statistics indicates that only 37 percent of female workers in firms with more than 100 people are afforded maternity leave.

As a Member of the Committee on Small Business, I can attest to the fact that this bill will not hurt small businesses. Companies with fewer than 50 employees are exempt from the Family Leave Act.

Roughly, 95 percent of all employers are exempt from this bill. So, Madam Chairman, I ask where is the problem?

Sadly, our Nation is the only major industrial nation without a family and medical leave policy. Most industrialized countries provide more leave than this legislation does, yet we can not reach a consensus to pass this profamily legislation.

Maintaining workers is good for business, good for morale, and good for American competitiveness. Our corporations will benefit from increased productivity and job security while they tend to their family's needs during difficult times.

If we are ever going to raise voter confidence about Congress, we must begin by enacting legislation to lessen the average citizen's daily burdens.

I encourage each and everyone of our colleagues in the House of Representatives to support H.R. 1, the Family and Medical Leave Act.

Mr. POSHARD. Madam Chairman, I rise in strong support of H.R. 1, the Family and Medical Leave Act of 1993, which meets the real concerns of employees who find themselves in need of extended leave upon the arrival of a new child, or for serious illness within the family. Many companies across the Nation already recognize the cost-effectiveness and humaneness of initiating the type of leave policy included in this legislation. It is now up to us to provide this opportunity for the remainder of the American work force.

In this day and age, three out of four families depend on both parents working outside the home to make ends meet. Most single-parent families, too, struggle to maintain an adequate income. I feel strongly that when we have a national policy of taking care of our families, we will have more productive and long-term employees.

Passage of H.R. 1 will ensure economic fairness for middle-income Americans who so often are forced to choose between job security and the legitimate and serious responsibility they have to care for their children, spouses, and parents at times when extended time at home is crucial. With enactment of this bill into law, American family providers can feel that their basic extended leave needs are being recognized, thus alleviating their very real and frustrating fears of job loss in a national economy that is already threatening enough. Again, I wholeheartedly support passage of H.R. 1.

Mr. RUSH. Madam Chairman, the Family and Medical Leave Act of 1993 is beneficial to the economy, workers and families by allowing employees to attend to family emergencies. The necessity of two income families has led to a gap in health care. No longer is one parent able to remain at home to care for an ill family member. And with the aging U.S. population, more Americans are finding it necessary to take time off to care for an elderly parent.

It is unfair to ask workers to choose between their jobs and their families. This act will bring employers in line with other enlightened employers who already have made provision for family leave. These employers already know that there exists a direct correlation between family stability and productivity in the workplace. This act will allow workers to enjoy job security, thereby ensuring increased productivity.

Some of my colleagues are concerned about the financial burden this act will place on employers. The General Accounting Office has estimated that this legislation will cost eligible employers about $5 per year per employee. I believe that this is a small price to pay for efficiency, continuity and productivity.

The Family and Medical Leave Act of 1993 demonstrates the true meaning of "family values". I urge my colleagues to vote yes on H.R. 1 today.

Mr. BARRETT of Wisconsin. Madam Chairman, I rise in strong support of H.R. 1, the Family and Medical Leave Act of 1993. This family oriented legislation ensures American workers that they have a job to come back to if they have or adopt a child, become seriously ill, or experience serious illness in their family. This legislation encompasses the profound changes in the composition of today's American work force.

Madam Chairman, I am proud to be from the State of Wisconsin that has had family and medical leave since 1988. And I am here to tell you that the law works in Wisconsin. The dire predictions or collapse have not materialized. For 7 years this body has struggled to pass this family oriented measure that basically makes good business sense of maintaining a stable work force. According to a 1990 Small Business Administration report, it is much more expensive to permanently replace a worker than grant a worker family leave.

The estimated costs to implement family and medical leave are nominal for both employers and taxpayers. According to the 1990 SBA study, family and medical leave was found to be cost effective at $6.70 per covered employee per year.

Madam Chairman, as we vie to be more competitive in today's global market, it makes sense to invest in our workers by providing up to 12 weeks of unpaid leave rather than spending much more on welfare, unemployment compensation, Medicaid, and other social programs that workers seek when they lose their jobs due to medical or other compelling family need. It is unfair to ask a parent or a spouse to choose between family obligations and their jobs. I urge my colleagues to support H.R. 1 without any weakening amendments.

Mr. HUFFINGTON. Madam Chairman, I have observed with concern American families who suffer medical crises followed by unemployment. I am concerned that mothers and fathers must both work full-time in order to feed children or care for aging parents, leaving homes without adequate nurture or caretaking.

I also worry about American business' loss of economic advantage, owing in part to Federal regulations which put them at a disadvantage with competitors from other nations.

Years of experience in American business left me wary of Government intervention. I know personally the burden of unnecessary Federal regulation. But I also know that most corporate leaders in America are sympathetic toward employees. Many already champion policies reflected in the Family and Medical Leave Act. They are eager to support parents' time at home with newborns, in the interest of stronger families and stronger communities. They recognize the escalating costs of procuring care for a sick child or elderly parent, and the urgency of family presence in moments of crisis.

In the heat of last year's election races, some critics touted this as the defining issue of the campaign. Proponents of last year's legislation characterized themselves as really for families. Opponents worried more about protecting business from unwarranted Federal mandates.

The campaigns are over. Since arriving in Washington, I've not met a Member of Congress who is opposed to either the American family or American business. We are all concerned to support both. The issue, it seems to me, is merely this: Are we willing to use Government as a tool to assure family and medical leave for American workers?

Although I am new to voting on Congressional matters, I am not new to implementing within business what Congress has approved. A once-sensible law can be turned into a travesty. And so I issue this warning to those of us charged with lawmaking: The limitations in this bill are critical. Small business must be kept exempt. And demands for paid leave must be restrained.

Given the boundaries in the legislation before us, I believe the bill is worthy of our support. I therefore encourage my colleagues to join me in passing this legislation.

Mr. STUPAK. Madam Chairman, I rise as an original cosponsor of H.R. 1, the Family and Medical Leave Act. I want to commend Chairman Ford for his outstanding leadership on this important issue.

This legislation should have become law long ago. Unfortunately, opposition from the Republican White House has prevented millions of working Americans from obtaining essential unpaid family and medical leave to spend time with their loved ones.

Over the last two decades we have witnessed dramatic changes in the American family. Families are finding it more and more difficult to meet both their work and family responsibilities. Today, about two-thirds of all mothers, more than 70 percent of women with school age children, work outside the home. Additionally, our parents and grandparents are living longer. No person should be forced to choose between keeping a job and caring for a loved one. And no worker should fear that they will be fired from their job—and lose their health insurance—because they need a few unpaid days to care for their newborn infant, a sick child, or dying parent or spouse.

Madam Chairman, it is clear that the people of this Nation want to strengthen our family structures and improve the lives of our children. We have a new President, many new Members of Congress, and broad bipartisan agreement on the need to move forward on a family leave bill. Let us take this opportunity and make a significant contribution to America's working families by passing this much needed legislation.

I urge swift passage of the Family and Medical Leave Act.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in part 1 of House Report 103-10, as modified by the amendment printed in section 2 of House Resolution 58, is considered as an original bill for the purpose of amendment and is considered as read.

The text of the amendment in the nature of a substitute, as modified, is as follows:

H.R. 1

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family and Medical Leave Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

Sec. 101. Definitions.
Sec. 102. Leave requirement.
Sec. 103. Certification.
Sec. 104. Employment and benefits protection.
Sec. 105. Prohibited acts.
Sec. 106. Investigative authority.
Sec. 107. Enforcement.
Sec. 108. Special rules concerning employees of local educational agencies.
Sec. 109. Notice.

TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

Sec. 201. Leave requirement.

TITLE III—COMMISSION ON LEAVE

Sec. 301. Establishment.
Sec. 302. Duties.
Sec. 303. Membership.
Sec. 304. Compensation.
Sec. 305. Powers.
Sec. 306. Termination.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Effect on other laws.
Sec. 402. Effect on existing employment benefits.
Sec. 403. Encouragement of more generous leave policies.
Sec. 404. Regulations.
Sec. 405. Effective dates.

TITLE V—COVERAGE OF CONGRESSIONAL EMPLOYEES

Sec. 501. Leave for certain Senate employees.
Sec. 502. Leave for certain House employees.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of single-parent households and two-parent households in which the single parent or both parents work is increasing significantly;

(2) it is important for the development of children and the family unit that fathers and mothers be able to participate in early childrearing and the care of family members who have serious health conditions;

(3) the lack of employment policies to accommodate working parents can force individuals to choose between job security and parenting;

(4) there is inadequate job security for employees who have serious health conditions that prevent them from working for temporary periods;

(5) due to the nature of the roles of men and women in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects the working lives of women more than it affects the working lives of men; and

(6) employment standards that apply to one gender only have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender.

(b) PURPOSES.—It is the purpose of this Act—

(1) to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity;

(2) to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition;

(3) to accomplish the purposes described in paragraphs (1) and (2) in a manner that accommodates the legitimate interests of employers;

(4) to accomplish the purposes described in paragraphs (1) and (2) in a manner that, consistent with the Equal Protection Clause of the Fourteenth Amendment, minimizes the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis; and

(5) to promote the goal of equal employment opportunity for women and men, pursuant to such clause.

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

SEC. 101. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include "commerce" and any "industry affecting commerce", as defined in paragraphs (1) and (3) of section 501 of the Labor Management Relations Act, 1947 (29 U.S.C. 142 (1) and (3)).

(2) ELIGIBLE EMPLOYEE.—

(A) IN GENERAL.—The term "eligible employee" means an employee who has been employed—

(i) for at least 12 months by the employer with respect to whom leave is requested under section 102; and

(ii) for at least 1,250 hours of service with such employer during the previous 12-month period.

(B) EXCLUSIONS.—The term "eligible employee" does not include—

(i) any Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code (as added by title II of this Act); or

(ii) any employee of an employer who is employed at a worksite at which such employer employs less than 50 employees if the total number of employees employed by that employer within 75 miles of that worksite is less than 50.

(C) DETERMINATION.—For purposes of determining whether an employee meets the hours of service requirement specified in subparagraph (A)(ii), the legal standards established under section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) shall apply.

(3) EMPLOY; EMPLOYEE; STATE.—The terms "employ", "employee", and "State" have the same meanings given such terms in subsections (c), (e), and (g) of section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203 (c), (e), and (g)).

(4) EMPLOYER.—

(A) IN GENERAL.—The term "employer"—

(i) means any person engaged in commerce or in any industry or activity affecting commerce who employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;

(ii) includes—

(I) any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer; and

(II) any successor in interest of an employer; and

(iii) includes any "public agency", as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)).

(B) PUBLIC AGENCY.—For purposes of subparagraph (A)(iii), a public agency shall be considered to be a person engaged in commerce or in an industry or activity affecting commerce.

(5) EMPLOYMENT BENEFITS.—The term "employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an "employee benefit plan", as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

(6) HEALTH CARE PROVIDER.—The term "health care provider" means—

(A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

(B) any other person determined by the Secretary to be capable of providing health care services.

(7) PARENT.—The term "parent" means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter.

(8) PERSON.—The term "person" has the same meaning given such term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(9) REDUCED LEAVE SCHEDULE.—The term "reduced leave schedule" means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

(10) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(11) SERIOUS HEALTH CONDITION.—The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves—

(A) inpatient care in a hospital, hospice, or residential medical care facility; or

(B) continuing treatment by a health care provider.

(12) SON OR DAUGHTER.—The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

(14) SPOUSE.—The term spouse means a husband or wife under the law of any State.

SEC. 102. LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—Subject to section 103, an eligible employee shall be enti-

tled to a total of 12 workweeks of leave during any 12-month period for one or more of the following:

(A) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.

(B) Because of the placement of a son or daughter with the employee for adoption or foster care.

(C) In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.

(D) Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.

(2) EXPIRATION OF ENTITLEMENT.—The entitlement to leave under subparagraphs (A) and (B) of paragraph (1) for a birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement.

(b) LEAVE TAKEN INTERMITTENTLY OR ON A REDUCED LEAVE SCHEDULE.—

(1) IN GENERAL.—Leave under subparagraph (A) or (B) of subsection (a)(1) shall not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the employer of the employee agree otherwise. Subject to paragraph (2), subsection (e)(2), and section 103(b)(5), leave under subparagraph (C) or (D) of subsection (a)(1) may be taken intermittently or on a reduced leave schedule when medically necessary. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.

(2) ALTERNATIVE POSITION.—If an employee requests intermittent leave, or leave on a reduced leave schedule, under subparagraph (C) or (D) of subsection (a)(1) that is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that—

(A) has equivalent pay and benefits; and

(B) better accommodates recurring periods of leave than the regular employment position of the employee.

(c) UNPAID LEAVE PERMITTED.—Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave. Where an employee is otherwise exempt under regulations issued by the Secretary pursuant to section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)), the compliance of an employer with this title by providing unpaid leave shall not affect the exempt status of the employee under such section.

(d) RELATIONSHIP TO PAID LEAVE.—

(1) UNPAID LEAVE.—If an employer provides paid leave for fewer than 12 workweeks, the additional weeks of leave necessary to attain the 12 workweeks of leave required under this title may be provided without compensation.

(2) SUBSTITUTION OF PAID LEAVE.—

(A) IN GENERAL.—An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or family leave of the employee for leave provided under subparagraph (A), (B), or (C) of subsection (a)(1) for any part of the 12-week period of such leave under such subsection.

(B) SERIOUS HEALTH CONDITION.—An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or medical or sick leave of the employee for leave provided under subparagraph (C) or (D) of subsection (a)(1) for any part of the 12-week period of such leave under such subsection, except that nothing in this title shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.

(e) FORESEEABLE LEAVE.—

(1) REQUIREMENT OF NOTICE.—In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or placement, the employee shall provide the employer with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the birth or placement requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

(2) DUTIES OF EMPLOYEE.—In any case in which the necessity for leave under subparagraph (C) or (D) of subsection (a)(1) is foreseeable based on planned medical treatment, the employee—

(A) shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee, as appropriate; and

(B) shall provide the employer with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

(f) SPOUSES EMPLOYED BY THE SAME EMPLOYER.—In any case in which a husband and wife entitled to leave under subsection (a) are employed by the same employer, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period, if such leave is taken—

(1) under subparagraph (A) or (B) of subsection (a)(1); or

(2) to care for a sick parent under subparagraph (C) of such subsection.

SEC. 103. CERTIFICATION.

(a) IN GENERAL.—An employer may require that a request for leave under subparagraph (C) or (D) of section 102(a)(1) be supported by a certification issued by the health care provider of the eligible employee or of the son, daughter, spouse, or parent of the employee, as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the employer.

(b) SUFFICIENT CERTIFICATION.—Certification provided under subsection (a) shall be sufficient if it states—

(1) the date on which the serious health condition commenced;

(2) the probable duration of the condition;

(3) the appropriate medical facts within the knowledge of the health care provider regarding the condition;

(4)(A) for purposes of leave under section 102(a)(1)(C), a statement that the eligible employee is needed to care for the son, daughter, spouse, or parent and an estimate of the amount of time that such employee is needed to care for the son, daughter, spouse, or parent; and

(B) for purposes of leave under section 102(a)(1)(D), a statement that the employee is unable to perform the functions of the position of the employee; and

(5) in the case of certification for intermittent leave or leave on a reduced leave schedule for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment.

(c) SECOND OPINION.—

(1) IN GENERAL.—In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a) for leave under subparagraph (C) or (D) of section 102(a)(1), the employer may require, at the expense of the employer, that the eligible employee obtain the opinion of a second health care provider designated or approved by the employer concerning any information certified under subsection (b) for such leave.

(2) LIMITATION.—A health care provider designated or approved under paragraph (1) shall not be employed on a regular basis by the employer.

(d) RESOLUTION OF CONFLICTING OPINIONS.—

(1) IN GENERAL.—In any case in which the second opinion described in subsection (c) differs from the opinion in the original certification provided under subsection (a), the employer may require, at the expense of the employer, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (b).

(2) FINALITY.—The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employer and the employee.

(e) SUBSEQUENT RECERTIFICATION.—The employer may require that the eligible employee obtain subsequent recertifications on a reasonable basis.

SEC. 104. EMPLOYMENT AND BENEFITS PROTECTION.

(a) RESTORATION TO POSITION.—

(1) IN GENERAL.—Except as provided in subsection (b), any eligible employee who takes leave under section 102 for the intended purpose of the leave shall be entitled, on return from such leave—

(A) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(B) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) LOSS OF BENEFITS.—The taking of leave under section 102 shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

(3) LIMITATIONS.—Nothing in this section shall be construed to entitle any employee to—

(A) the accrual of any seniority or employment benefits during any period of leave; or

(B) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(4) CERTIFICATION.—As a condition of restoration under paragraph (1) for an employee who has taken leave under section 102(a)(1)(D), the employer may have a uniformly applied practice or policy that requires each such employee to receive certification from the health care provider of the employee that the employee is able to resume work, except that nothing in this paragraph shall supersede a valid State or local law or a collective bargaining agreement that governs the return to work of such employees.

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an em-

ployer from requiring an employee on leave under section 102 to report periodically to the employer on the status and intention of the employee to return to work.

(b) Exemption Concerning Certain Highly Compensated Employees.—

(1) Denial of restoration.—An employer may deny restoration under subsection (a) to any eligible employee described in paragraph (2) if—

(A) such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer;

(B) the employer notifies the employee of the intent of the employer to deny restoration on such basis at the time the employer determines that such injury would occur; and

(C) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.

(2) Affected employees.—An eligible employee described in paragraph (1) is a salaried eligible employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed.

(c) Maintenance of Health Benefits.—

(1) Coverage.—Except as provided in paragraph (2), during any period that an eligible employee takes leave under section 102, the employer shall maintain coverage under any "group health plan" (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.

(2) Failure to return from leave.—The employer may recover the premium that the employer paid for maintaining coverage for the employee under such group health plan during any period of unpaid leave under section 102 if—

(A) the employee fails to return from leave under section 102 after the period of leave to which the employee is entitled has expired; and

(B) the employee fails to return to work for a reason other than—

(i) the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under subparagraph (C) or (D) of section 102(a)(1); or

(ii) other circumstances beyond the control of the employee.

(3) Certification.—

(A) Issuance.—An employer may require that a claim that an employee is unable to return to work because of the continuation, recurrence, or onset of the serious health condition described in paragraph (2)(B)(i) be supported by—

(i) a certification issued by the health care provider of the son, daughter, spouse, or parent of the employee, as appropriate, in the case of an employee unable to return to work because of a condition specified in section 102(a)(1)(C); or

(ii) a certification issued by the health care provider of the eligible employee, in the case of an employee unable to return to work because of a condition specified in section 102(a)(1)(D).

(B) Copy.—The employee shall provide, in a timely manner, a copy of such certification to the employer.

(C) Sufficiency of certification.—

(i) Leave due to serious health condition of family member.—The certification described in subparagraph (A)(i) shall be sufficient if the certification states that the employee is needed to care for the son, daughter, spouse, or parent who has a serious health condition on the date that the leave of the employee expired.

(ii) Leave due to serious health condition of employee.—The certification described in subparagraph (A)(ii) shall be sufficient if the certification states that a serious health condition prevented the employee from being able to perform the functions of the position of the employee on the date that the leave of the employee expired.

SEC. 105. PROHIBITED ACTS.

(a) Interference With Rights.—

(1) Exercise of rights.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this title.

(2) Discrimination.—It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this title.

(b) Interference With Proceedings or Inquiries.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because such individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this title;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(3) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this title.

SEC. 106. INVESTIGATIVE AUTHORITY.

(a) In General.—To ensure compliance with the provisions of this title, or any regulation or order issued under this title, the Secretary shall have, subject to subsection (c), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(b) Obligation To Keep and Preserve Records.—Any employer shall make, keep, and preserve records pertaining to compliance with this title in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) and in accordance with regulations issued by the Secretary.

(c) Required Submissions Generally Limited to an Annual Basis.—The Secretary shall not under the authority of this section require any employer or any plan, fund, or program to submit to the Secretary any books or records more than once during any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order issued pursuant to this title, or is investigating a charge pursuant to section 107(b).

(d) Subpoena Powers.—For the purposes of any investigation provided for in this section, the Secretary shall have the subpoena authority provided for under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

SEC. 107. ENFORCEMENT.

(a) Civil Action by Employees.—

(1) Liability.—Any employer who violates section 105 shall be liable to any eligible employee affected—

(A) for damages equal to—

(i) the amount of—

(I) any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or

(II) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to 12 weeks of wages or salary for the employee;

(ii) the interest on the amount described in clause (i) calculated at the prevailing rate; and

(iii) an additional amount as liquidated damages equal to the sum of the amount described in clause (i) and the interest described in clause (ii), except that if an employer who has violated section 105 proves to the satisfaction of the court that the act or omission which violated section 105 was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of section 105, such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under clauses (i) and (ii), respectively; and

(B) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(2) Right of action.—An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of—

(A) the employees; or

(B) the employees and other employees similarly situated.

(3) Fees and costs.—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(4) Limitations.—The right provided by paragraph (2) to bring an action by or on behalf of any employee shall terminate—

(A) on the filing of a complaint by the Secretary in an action under subsection (d) in which restraint is sought of any further delay in the payment of the amount described in paragraph (1)(A) to such employee by an employer responsible under paragraph (1) for the payment; or

(B) on the filing of a complaint by the Secretary in an action under subsection (b) in which a recovery is sought of the damages described in paragraph (1)(A) owing to an eligible employee by an employer liable under paragraph (1);

unless the action described in subparagraph (A) or (B) is dismissed without prejudice on motion of the Secretary.

(b) Action by the Secretary.—

(1) Administrative action.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of section 105 in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(2) Civil action.—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in subsection (a)(1)(A).

(3) Sums recovered.—Any sums recovered by the Secretary pursuant to paragraph (2) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee affected. Any such sums not paid to an employee because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) Limitation.—

(1) IN GENERAL.—Except as provided in paragraph (2), an action may be brought under this section not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

(2) WILLFUL VIOLATION.—In the case of such action brought for a willful violation of section 105, such action may be brought within 3 years of the date of the last event constituting the alleged violation for which such action is brought.

(3) COMMENCEMENT.—In determining when an action is commenced by the Secretary under this section for the purposes of this subsection, it shall be considered to be commenced on the date when the complaint is filed.

(d) ACTION FOR INJUNCTION BY SECRETARY.—The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Secretary—

(1) to restrain violations of section 105, including the restraint of any withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to eligible employees; or

(2) to award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(e) SOLICITOR OF LABOR.—The Solicitor of Labor may appear for and represent the Secretary on any litigation brought under this section.

SEC. 108. SPECIAL RULES CONCERNING EMPLOYEES OF LOCAL EDUCATIONAL AGENCIES.

(a) APPLICATION.—

(1) IN GENERAL.—Except as otherwise provided in this section, the rights (including the rights under section 104, which shall extend throughout the period of leave of any employee under this section), remedies, and procedures under this title shall apply to—

(A) any "local educational agency" (as defined in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12))) and an eligible employee of the agency; and

(B) any private elementary or secondary school and an eligible employee of the school.

(2) DEFINITIONS.—For purposes of the application described in paragraph (1):

(A) ELIGIBLE EMPLOYEE.—The term "eligible employee" means an eligible employee of an agency or school described in paragraph (1).

(B) EMPLOYER.—The term "employer" means an agency or school described in paragraph (1).

(b) LEAVE DOES NOT VIOLATE CERTAIN OTHER FEDERAL LAWS.—A local educational agency and a private elementary or secondary school shall not be in violation of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), solely as a result of an eligible employee of such agency or school exercising the rights of such employee under this title.

(c) INTERMITTENT LEAVE AND LEAVE ON A REDUCED SCHEDULE FOR INSTRUCTIONAL EMPLOYEES.—

(1) IN GENERAL.—Subject to paragraph (2), in any case in which an eligible employee employed principally in an instructional capacity by any such educational agency or school requests leave under subparagraph (C) or (D) of section 102(a)(1) that is foreseeable based on planned medical treatment and the employee would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, the agency or school may require that such employee elect either—

(A) to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or

(B) to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified, and that—

(i) has equivalent pay and benefits; and

(ii) better accommodates recurring periods of leave than the regular employment position of the employee.

(2) APPLICATION.—The elections described in subparagraphs (A) and (B) of paragraph (1) shall apply only with respect to an eligible employee who complies with section 102(e)(2).

(d) RULES APPLICABLE TO PERIODS NEAR THE CONCLUSION OF AN ACADEMIC TERM.—The following rules shall apply with respect to periods of leave near the conclusion of an academic term in the case of any eligible employee employed principally in an instructional capacity by any such educational agency or school:

(1) LEAVE MORE THAN 5 WEEKS PRIOR TO END OF TERM.—If the eligible employee begins leave under section 102 more than 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of at least 3 weeks duration; and

(B) the return to employment would occur during the 3-week period before the end of such term.

(2) LEAVE LESS THAN 5 WEEKS PRIOR TO END OF TERM.—If the eligible employee begins leave under subparagraph (A), (B), or (C) of section 102(a)(1) during the period that commences 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of greater than 2 weeks duration; and

(B) the return to employment would occur during the 2-week period before the end of such term.

(3) LEAVE LESS THAN 3 WEEKS PRIOR TO END OF TERM.—If the eligible employee begins leave under subparagraph (A), (B), or (C) of section 102(a)(1) during the period that commences 3 weeks prior to the end of the academic term and the duration of the leave is greater than 5 working days, the agency or school may require the employee to continue to take leave until the end of such term.

(e) RESTORATION TO EQUIVALENT EMPLOYMENT POSITION.—For purposes of determinations under section 104(a)(1)(B) (relating to the restoration of an eligible employee to an equivalent position), in the case of a local educational agency or a private elementary or secondary school, such determination shall be made on the basis of established school board policies and practices, private school policies and practices, and collective bargaining agreements.

(f) REDUCTION OF THE AMOUNT OF LIABILITY.—If a local educational agency or a private elementary or secondary school that has violated this title proves to the satisfaction of the court that the agency, school, or department had reasonable grounds for believing that the underlying act or omission was not a violation of this title, such court may, in the discretion of the court, reduce the amount of the liability provided for under section 107(a)(1)(A) to the amount and interest determined under clauses (i) and (ii), respectively, of such section.

SEC. 109. NOTICE.

(a) IN GENERAL.—Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, to be prepared or approved by the Secretary, setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertaining to the filing of a charge.

(b) PENALTY.—Any employer that willfully violates this section may be assessed a civil money penalty not to exceed $100 for each separate offense.

TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

SEC. 201. LEAVE REQUIREMENT.

(a) CIVIL SERVICE EMPLOYEES.—

(1) IN GENERAL.—Chapter 63 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—FAMILY AND MEDICAL LEAVE

"§ 6381. Definitions

"For the purpose of this subchapter—

"(1) the term 'employee' means any individual who—

"(A) is an 'employee', as defined by section 6301(2), including any individual employed in a position referred to in clause (v) or (ix) of section 6301(2), but excluding any individual employed by the government of the District of Columbia and any individual employed on a temporary or intermittent basis; and

"(B) has completed at least 12 months of service as an employee (within the meaning of subparagraph (A));

"(2) the term 'health care provider' means—

"(A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; and

"(B) any other person determined by the Director of the Office of Personnel Management to be capable of providing health care services;

"(3) the term 'parent' means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter;

"(4) the term 'reduced leave schedule' means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee;

"(5) the term 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves—

"(A) inpatient care in a hospital, hospice, or residential medical care facility; or

"(B) continuing treatment by a health care provider; and

"(6) the term 'son or daughter' means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

"(A) under 18 years of age; or

"(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

"§ 6382. Leave requirement

"(a)(1) Subject to section 6383, an employee shall be entitled to a total of 12 administrative workweeks of leave during any 12-month period for one or more of the following:

"(A) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.

"(B) Because of the placement of a son or daughter with the employee for adoption or foster care.

"(C) In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.

"(D) Because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

"(2) The entitlement to leave under subparagraph (A) or (B) of paragraph (1) based on the birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement.

"(b)(1) Leave under subparagraph (A) or (B) of subsection (a)(1) shall not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the employing agency of the employee agree otherwise. Subject to paragraph (2), subsection (e)(2), and section 6383(b)(5), leave under subparagraph (C) or (D) of subsection (a)(1) may be taken intermittently or on a reduced leave schedule when medically necessary. In the case of an employee who takes leave intermittently or on a reduced leave schedule pursuant to this paragraph, any hours of leave so taken by such employee shall be subtracted from the total amount of leave remaining available to such employee under subsection (a), for purposes of the 12-month period involved, on an hour-for-hour basis.

"(2) If an employee requests intermittent leave, or leave on a reduced leave schedule, under subparagraph (C) or (D) of subsection (a)(1) that is foreseeable based on planned medical treatment, the employing agency may require such employee to transfer temporarily to an available alternative position offered by the employing agency for which the employee is qualified and that—

"(A) has equivalent pay and benefits; and

"(B) better accommodates recurring periods of leave than the regular employment position of the employee.

"(c) Except as provided in subsection (d), leave granted under subsection (a) shall be leave without pay.

"(d) An employee may elect to substitute for leave under subparagraph (A), (B), (C), or (D) of subsection (a)(1) any of the employee's accrued or accumulated annual or sick leave under subchapter I for any part of the 12-week period of leave under such subsection, except that nothing in this subchapter shall require an employing agency to provide paid sick leave in any situation in which such employing agency would not normally provide any such paid leave.

"(e)(1) In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or placement, the employee shall provide the employing agency with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the birth or placement requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

"(2) In any case in which the necessity for leave under subparagraph (C) or (D) of subsection (a)(1) is foreseeable based on planned medical treatment, the employee—

"(A) shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employing agency, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee, as appropriate; and

"(B) shall provide the employing agency with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

"§ 6383. Certification

"(a) An employing agency may require that a request for leave under subparagraph (C) or (D) of section 6382(a)(1) be supported by certification issued by the health care provider of the employee or of the son, daughter, spouse, or parent of the employee, as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the employing agency.

"(b) A certification provided under subsection (a) shall be sufficient if it states—

"(1) the date on which the serious health condition commenced;

"(2) the probable duration of the condition;

"(3) the appropriate medical facts within the knowledge of the health care provider regarding the condition;

"(4)(A) for purposes of leave under section 6382(a)(1)(C), a statement that the employee is needed to care for the son, daughter, spouse, or parent, and an estimate of the amount of time that such employee is needed to care for such son, daughter, spouse, or parent; and

"(B) for purposes of leave under section 6382(a)(1)(D), a statement that the employee is unable to perform the functions of the position of the employee; and

"(5) in the case of certification for intermittent leave or leave on a reduced leave schedule for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment.

"(c)(1) In any case in which the employing agency has reason to doubt the validity of the certification provided under subsection (a) for leave under subparagraph (C) or (D) of section 6382(a)(1), the employing agency may require, at the expense of the agency, that the employee obtain the opinion of a second health care provider designated or approved by the employing agency concerning any information certified under subsection (b) for such leave.

"(2) Any health care provider designated or approved under paragraph (1) shall not be employed on a regular basis by the employing agency.

"(d)(1) In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employing agency may require, at the expense of the agency, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employing agency and the employee concerning the information certified under subsection (b).

"(2) The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employing agency and the employee.

"(e) The employing agency may require, at the expense of the agency, that the employee obtain subsequent recertifications on a reasonable basis.

"§ 6384. Employment and benefits protection

"(a) Any employee who takes leave under section 6382 for the intended purpose of the leave shall be entitled, upon return from such leave—

"(1) to be restored by the employing agency to the position held by the employee when the leave commenced; or

"(2) to be restored to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment.

"(b) The taking of leave under section 6382 shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

"(c) Except as otherwise provided by or under law, nothing in this section shall be construed to entitle any restored employee to—

"(1) the accrual of any employment benefits during any period of leave; or

"(2) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

"(d) As a condition to restoration under subsection (a) for an employee who takes leave under section 6382(a)(1)(D), the employing agency may have a uniformly applied practice or policy that requires each such employee to receive certification from the health care provider of the employee that the employee is able to resume work.

"(e) Nothing in this section shall be construed to prohibit an employing agency from requiring an employee on leave under section 6382 to report periodically to the employing agency on the status and intention of the employee to return to work.

"§ 6385. Prohibition of coercion

"(a) An employee shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with the exercise of any rights which such other employee may have under this subchapter.

"(b) For the purpose of this section—

"(1) the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or taking or threatening to take any reprisal (such as deprivation of appointment, promotion, or compensation); and

"(2) the term 'employee' means any 'employee', as defined by section 2105.

"§ 6386. Health insurance

"An employee enrolled in a health benefits plan under chapter 89 who is placed in a leave status under section 6382 may elect to continue the health benefits enrollment of the employee while in such leave status and arrange to pay currently into the Employees Health Benefits Fund (described in section 8909), the appropriate employee contributions.

"§ 6387. Regulations

"The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary of Labor to carry out title I of the Family and Medical Leave Act of 1993.".

(2) TABLE OF CONTENTS.—The table of contents for chapter 63 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER V—FAMILY AND MEDICAL LEAVE

"6381. Definitions.
"6382. Leave requirement.
"6383. Certification.
"6384. Employment and benefits protection.
"6385. Prohibition of coercion.
"6386. Health insurance.
"6387. Regulations.".

(b) EMPLOYEES PAID FROM NONAPPROPRIATED FUNDS.—Section 2105(c)(1) of title 5, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (C); and

(2) by adding at the end the following new subparagraph:

"(E) subchapter V of chapter 63, which shall be applied so as to construe references to benefit programs to refer to applicable programs for employees paid from nonappropriated funds; or".

TITLE III—COMMISSION ON LEAVE

SEC. 301. ESTABLISHMENT.

There is established a commission to be known as the Commission on Leave (referred to in this title as the "Commission").

SEC. 302. DUTIES.

The Commission shall—

(1) conduct a comprehensive study of—

(A) existing and proposed policies relating to leave;

(B) the potential costs, benefits, and impact on productivity of such policies on employers; and

(C) alternative and equivalent State enforcement of title I of this Act with respect to employees described in section 108(a); and

(2) not later than 2 years after the date on which the Commission first meets, prepare and submit, to the appropriate Committees of Congress, a report concerning the subjects listed in paragraph (1).

SEC. 303. MEMBERSHIP.

(a) COMPOSITION.—

(1) APPOINTMENTS.—The Commission shall be composed of 12 voting members and 2 ex officio members to be appointed not later than 60 days after the date of the enactment of this Act as follows:

(A) SENATORS.—One Senator shall be appointed by the Majority Leader of the Senate, and one Senator shall be appointed by the Minority Leader of the Senate.

(B) MEMBERS OF HOUSE OF REPRESENTATIVES.—One Member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one Member of the House of Representatives shall be appointed by the Minority Leader of the House of Representatives.

(C) ADDITIONAL MEMBERS.—

(i) APPOINTMENT.—Two members each shall be appointed by—

(I) the Speaker of the House of Representatives;

(II) the Majority Leader of the Senate;

(III) the Minority Leader of the House of Representatives; and

(IV) the Minority Leader of the Senate.

(ii) EXPERTISE.—Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor-management issues and shall include representatives of employers.

(2) EX OFFICIO MEMBERS.—The Secretary of Health and Human Services and the Secretary of Labor shall serve on the Commission as nonvoting ex officio members.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the manner in which the original appointment was made. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson and a vice chairperson from among the members of the Commission.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when performing duties of the Commission.

SEC. 305. POWERS.

(a) MEETINGS.—The Commission shall first meet not later than 30 days after the date on which all members are appointed, and the Commission shall meet thereafter on the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title, if the information may be disclosed under section 552 of title 5, United States Code. Subject to the previous sentence, on the request of the chairperson or vice chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(d) USE OF FACILITIES AND SERVICES.—Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency.

(e) PERSONNEL FROM OTHER AGENCIES.—On the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to serve as the Executive Director of the Commission or assist the Commission in carrying out the duties of the Commission. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(f) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Commission may accept for the Commission voluntary services provided by a member of the Commission.

SEC. 306. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of the report of the Commission to Congress.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTIDISCRIMINATION LAWS.—Nothing in this Act or any amendment made by this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability.

(b) STATE AND LOCAL LAWS.—Nothing in this Act or any amendment made by this Act shall be construed to supersede any provision of any State or local law that provides greater family or medical leave rights than the rights established under this Act or any amendment made by this Act.

SEC. 402. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE.—Nothing in this Act or any amendment made by this Act shall be construed to diminish the obligation of an employer to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater family or medical leave rights to employees than the rights established under this Act or any amendment made by this Act.

(b) LESS PROTECTIVE.—The rights established for employees under this Act or any amendment made by this Act shall not be diminished by any collective bargaining agreement or any employment benefit program or plan.

SEC. 403. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this Act or any amendment made by this Act shall be construed to discourage employers from adopting or retaining leave policies more generous than any policies that comply with the requirements under this Act or any amendment made by this Act.

SEC. 404. REGULATIONS.

The Secretary of Labor shall prescribe such regulations as are necessary to carry out title I and this title not later than 120 days after the date of the enactment of this Act.

SEC. 405. EFFECTIVE DATES.

(a) TITLE III.—Title III shall take effect on the date of the enactment of this Act.

(b) OTHER TITLES.—

(1) IN GENERAL.—Except as provided in paragraph (2), titles I, II, and V and this title shall take effect 6 months after the date of the enactment of this Act.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a collective bargaining agreement in effect on the effective date prescribed by paragraph (1), title I shall apply on the earlier of—

(A) the date of the termination of such agreement; or

(B) the date that occurs 12 months after the date of the enactment of this Act.

TITLE V—COVERAGE OF CONGRESSIONAL EMPLOYEES

SEC. 501. LEAVE FOR CERTAIN SENATE EMPLOYEES.

(a) COVERAGE.—The rights and protections established under sections 101 through 105 shall apply with respect to a Senate employee and an employing office. For purposes of such application, the term "eligible employee" means a Senate employee and the term "employer" means an employing office.

(b) CONSIDERATION OF ALLEGATIONS.—

(1) APPLICABLE PROVISIONS.—The provisions of sections 304 through 313 of the Government Employee Rights Act of 1991 (2 U.S.C. 1204–1213) shall, except as provided in subsections (d) and (e)—

(A) apply with respect to an allegation of a violation of a provision of sections 101 through 105, with respect to Senate employment of a Senate employee; and

(B) apply to such an allegation in the same manner and to the same extent as such sections of the Government Employee Rights Act of 1991 apply with respect to an allegation of a violation under such Act.

(2) ENTITY.—Such an allegation shall be addressed by the Office of Senate Fair Employment Practices or such other entity as the Senate may designate.

(c) RIGHTS OF EMPLOYEES.—The Office of Senate Fair Employment Practices shall ensure that Senate employees are informed of their rights under sections 101 through 105.

(d) LIMITATIONS.—A request for counseling under section 305 of such Act by a Senate employee alleging a violation of a provision of sections 101 through 105 shall be made not later than 2 years after the date of the last event constituting the alleged violation for which the counseling is requested, or not later than 3 years after such date in the case of a willful violation of section 105.

(e) APPLICABLE REMEDIES.—The remedies applicable to individuals who demonstrate a violation of a provision of sections 101 through 105 shall be such remedies as would be appropriate if awarded under paragraph (1) or (3) of section 107(a).

(f) EXERCISE OF RULEMAKING POWER.—The provisions of subsections (b), (c), (d), and (e), except as such subsections apply with respect to section 309 of the Government Employee Rights Act of 1991 (2 U.S.C. 1209), are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate. No Senate employee may commence a judicial proceeding with respect to an allegation described in subsection (b)(1), except as provided in this section.

(g) SEVERABILITY.—Notwithstanding any other provision of law, if any provision of section 309 of the Government Employee Rights Act of 1991 (2 U.S.C. 1209) or of subsection (b)(1) insofar as it applies such section 309 to an allegation described in subsection (b)(1)(A), is invalidated, both such section 309 and subsection (b)(1) insofar as it applies such section 309 to such an allegation, shall have no force and effect, and shall be considered to be invalidated for purposes of section 322 of such Act (2 U.S.C. 1221).

(h) DEFINITIONS.—As used in this section:

(1) EMPLOYING OFFICE.—The term "employing office" means the office with the final authority described in section 301(2) of such Act (2 U.S.C. 1201(2)).

(2) SENATE EMPLOYEE.—The term "Senate employee" means an employee described in subparagraph (A) or (B) of section 301(c)(1) of such Act (2 U.S.C. 1201(c)(1)) who has been employed for at least 12 months on other than a temporary or intermittent basis by any employing office.

SEC. 502. LEAVE FOR CERTAIN HOUSE EMPLOYEES.

(a) IN GENERAL.—The rights and protections under sections 102 through 105 (other than section 104(b)) shall apply to any employee in an employment position and any employing authority of the House of Representatives.

(b) ADMINISTRATION.—In the administration of this section, the remedies and procedures under the Fair Employment Practices Resolution shall be applied.

(c) DEFINITION.—As used in this section, the term "Fair Employment Practices Resolution" means rule LI of the Rules of the House of Representatives.

The CHAIRMAN. No amendment to the substitute, as modified, is in order except those amendments printed in part 2 of House Report 103-10. Each amendment shall be considered in the order printed, may be offered only by the named proponent or a designee, shall be considered as read, shall not be subject to amendment and shall not be subject to a demand for a division of the question. Debate on each amendment shall be equally divided and controlled by the proponent and an opponent of the amendment.

□ 1930

AMENDMENT OFFERED BY MR. GOODLING

Mr. GOODLING. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GOODLING: Add at the end of section 102 the following:

(g) REQUIREMENTS TREATED AS SATISFIED IF CAFETERIA PLAN PROVIDES FOR LEAVE.—The requirements of this Act shall be treated as satisfied with respect to any eligible employee if—

(1) such employee is a participant in a cafeteria plan (as defined in section 125(d) of the Internal Revenue Code of 1986) which is maintained by the employer and meets the requirements of section 125 of the Internal Revenue Code of 1986,

(2) one of the benefits such employee may choose under the plan is leave with respect to which the plan provides at least the rights and protections provided under this Act, and

(3) such plan provides reasonable methods for the valuation of such leave.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Madam Chairman, I yield myself such time as I may consume.

Let me preface my remarks by saying that I cannot yield, because I have very little time.

As I said earlier, my whole approach to this is the fact that it is a done deal. Debate time is over and was over a long time ago and now our responsibility should be to try to make it the best possible legislation that we can pass in the Congress and have signed at this particular time.

My first amendment, Madam Chairman, offers a very simple choice. The choice is, who decides what benefits workers should have, the Federal Government or the workers themselves?

My amendment offers an opportunity under limited circumstances, and I repeat, under limited circumstances, for the employees themselves to decide which benefits they want, including family and medical leave.

In order to qualify, the employer must offer a so-called cafeteria plan, as defined under section 125 of the Internal Revenue Code. Cafeteria plans, also known as flexible benefit plans, allow employees to select from an array of benefits those they value most and that meet their specific family or lifestyle needs.

Typically, benefits offered in a cafeteria plan include a variety of health benefits, together with other options such as life insurance, 401(k) plans, and flexible vacation time. Some offer child care. The number of cafeteria plans is growing rapidly, and polls indicate they are very popular among employees.

My amendment is straightforward. If a cafeteria plan includes the option of family and medical leave, the requirements of the bill will be considered satisfied. What does this mean?

It means, first and foremost, that limited benefit resources will be allocated in the most efficient manner. Employers will not have to spend limited funds for a benefit not all employees may want.

More importantly, employees who do not need or desire family and medical leave will have more funds available to choose other benefits from the plan that will more closely fit their needs. It is a win-win proposition for the employer and the employee.

The amendment is tightly drawn as I indicated before. Employers must provide a family and medical leave plan at least as generous as the requirements of H.R. 1 among the options in their cafeteria plan. The enforcement provisions of the bill will still apply to ensure employer compliance with the basic rule. And, it can be expected that regulations will be issued to ensure it will not be abused.

Earlier, I mentioned my concern that if Congress mandates certain benefits, it may discourage the growing trend toward more flexible benefit plans. Changing demographics—more women in the workplace, more husband and wife wage earners, and more working families with children—make it vitally important we keep the flexibility necessary to meet these changing needs.

As I said on many occasions, if the father happens to be employed at a place where there is a health plan available and the wife or the mother is employed where she may decide some benefit is more important to her than family and medical leave such as child care, she would have that opportunity to choose that, and may even have an opportunity to choose that with paid leave and may have an opportunity to choose both, as a matter of fact, under the bill we are discussing with the cafeteria plan offer that I am talking about.

Therfore, we should not discourage employee benefit choice, especially under existing cafeteria plans that may already offer paid leave for the events included under H.R. 1. To the contrary, we should be encouraging an even wider set of leave options, including paid leave.

This is what my amendment would accomplish. It will protect those employees actually needing leave, and encourage flexible options, even paid leave. But importantly, it will let employees, and not the Federal Government, choose which benefits best suit their own needs.

Lastly, let me emphasize that Congress cannot forget that employers do not have to offer health care; it is totally voluntary. In the haste to ensure that employees get a family leave policy, Congress should not jeopardize the one benefit people value most: their health insurance. Under the bill, an employer who provides health coverage must maintain an employee's health benefits throughout the 12-week leave period. By contrast—and get this—an employer who provides no employee health insurance at all has no health coverage cost throughout the leave period. This kind of no-good-deed-goes-unpunished approach taken by H.R. 1 will only discourage employers from offering health care. On the other hand, my amendment will help reduce this disincentive by allowing employees to choose the health insurance coverage and family leave that they actually need.

For these reasons, I urge my colleagues to support the amendment.

Mr. WILLIAMS. Madam Chairman, I rise to oppose the amendment.

The Family and Medical Leave Act has as the bedrock of its values the fact that it sets a minimum standard that applies to all covered employees.

The amendment offered by the gentleman would set a limitation precedent that exists in no other Federal labor law.

The gentleman's amendment would allow an employer to offer a series of benefits and then to require the employee to choose one.

Now, family and medical leave would be among the benefits that would be offered, but an employee could be forced to choose among that and other benefits that would be offered in the gentleman's amendment under this so-called cafeteria plan.

For example, an employer might say to their work force, "our cafeteria plan, now made legitimate by the acceptance of the Goodling amendment, allows us to offer you vacation leave, family leave or health care. Choose one."

That is not the intention of labor law in this country. Under labor law in this country, we do not allow employers to say to their employees, "Tell you what, we'll give you this deal. You can take minimum wage or a 2-week vacation. Choose one."

We set minimum benefits and then apply them to all covered employees.

The gentleman's amendment is a limitation that would set new precedent in American labor law that is designed to set simply minimum standards for all covered employees.

Madam Chairman, I urge my colleagues to reject this invitation and this serious precedent-setting amendment.

Mr. GOODLING. Madam Chairman, I yield myself such time as I may consume.

First of all, Madam Chairman, it is very, very inaccurate and very, very mischievous to say that somehow or other in this piece of legislation we are setting minimum benefits. That is totally incorrect. If we were setting minimum benefits, would we deny those benefits to 50 percent of the employees who are out there, 95 percent of the employers? Of course not. We are not setting any minimum benefits whatsoever.

We are saying employees do and they can choose several packages from a cafeteria plan, as I indicated before. It may be this and something else. It may not be this. It may be two of something else, whatever they wish to choose from that package.

So it is very erroneous to say that somehow or other we are setting minimum benefits when we exclude more than 50 percent of the employees and 95 percent of the employers.

Mr. WILLIAMS. Madam Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. FORD], the chairman of the committee.

Mr. FORD of Michigan. Madam Chairman, I am persuaded by the passionate pleading of the gentleman from Pennsylvania, and if he is sincere about it I would ask unanimous consent to entertain at this time an amendment to the bill that would apply it to all workers in America and support his efforts to get his amendment adopted.

Would the gentleman like to do that?

□ 1940

Mr. GOODLING. Madam Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Madam Chairman, of course he knows that I would object simply because there has been no debate, no discussion on this, just as there is on the next amendment, and the rule does not allow it anyway.

Mr. FORD of Michigan. Madam Chairman, I was going to ask for unanimous consent, but I guess he did not really mean it when he said the main weakness of this bill was that it does not extend to enough employers and enough employees. Now, how can we square that with what everybody has been saying on that side all day? It is no more difficult than following the logic of their arguments which have seesawed from it is a bad bill because it does not cover enough employees; it is a bad bill because it covers too many employees; it is a bad bill because it does not do enough; it is a bad bill because it does too much.

Madam Chairman, that is what we have been hearing all day long, and I ask the Members to vote against this amendment and the two subsequent amendments that will be offered. We voted these amendments down in the committee, and this one was defeated 29 to 13 on a rollcall vote.

Mr. GOODLING. Madam Chairman, I yield 1 minute to the gentleman from California [Mr. McKEON], a new member of the committee.

Mr. McKEON. Madam Chairman, I rise in strong support of the amendment offered by the gentleman from Pennsylvania. I would ask that in the midst of the debate of H.R. 1, we give serious consideration to a cafeteria style plan.

If the true intent in H.R. 1, Madam Chairman, is to benefit the American worker, then we need to incorporate this cafeteria plan. In its current form, H.R. 1 has the heavy hand of Government deciding what is best for every employee. Yet today's work force is extremely diverse. An 18-year-old, single employee may have very different needs or concerns than a 50-year-old employee with children. A cafeteria plan can accommodate this diversity as it allows an employee to select the benefits from a package that best fits his or her needs.

Madam Chairman, as a business owner, I am very aware of how a Federal mandate such as H.R. 1 can seriously impact a business. In these tough economic times and with a high unemployment rate, this is not the time to be overburdening employers who may in turn have to sacrifice jobs to accommodate the mandate of H.R. 1. Representative GOODLING's amendment, then, seems extremely fair. While employers will continue to be required to offer the family and medical leave benefit, employees will have a choice. Thus, this will not disqualify more important or desired benefits for these employees.

A cafeteria plan ultimately works for both the employee and the employer. It puts choices back in the hands of those who truly know what is best for themselves.

Mr. WILLIAMS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I do want to point out to my colleagues that, not only as our chairman of the full committee has pointed out, that this amendment failed overwhelmingly in the committee, but earlier today, when this amendment was offered in the other body, it failed by a vote of 63 to 36, which is a rather astonishing, lopsided vote considering the current makeup of the Senate. I believe it fails because it is, in fact, a precedent-setting limitation of America's workers.

Madam Chairman, I reserve the balance of my time.

Mr. GOODLING. Madam Chairman, do I have the right to close debate?

The CHAIRMAN. The gentleman from Montana [Mr. WILLIAMS] is the committee manager.

Mr. WILLIAMS. Madam Chairman, is the gentleman from Pennsylvania [Mr. GOODLING] ready to close? Is the gentleman prepared to close?

Mr. GOODLING. Yes, Madam Chairman.

Mr. WILLIAMS. Madam Chairman, does the gentleman from Pennsylvania have the right to close on his amendment? Is that his right?

The CHAIRMAN. The gentleman from Montana [Mr. WILLIAMS] has the right to close unless the gentleman desists.

Mr. WILLIAMS. Madam Chairman, I will yield back the balance of my time so the gentleman from Pennsylvania [Mr. GOODLING] may close.

Mr. GOODLING. Madam Chairman, I yield myself such time as I may consume in closing.

Let me again remind all that this amendment is very tightly written so that it cannot be abused by any employer. This amendment, with the rest of the legislation, makes sure that an employer cannot take advantage of employees.

But the beauty of the amendment is that it gives that employee an opportunity to choose what they believe is most important.

Madam Chairman, we had a survey, several surveys, that indicated that as much as 73 percent of the employees in this country do not consider this their No. 1 item when they talk about benefits. It is not their No. 2 item. In fact, Madam Chairman, it was not even their No. 3 item.

So, this gives an employee the best of all worlds. It is a win/win situation because the employee can select H.R. 1, the employee can select child care, health care, whatever that employee wants to choose from that particular cafeteria plan.

It is something that, as I indicated earlier, is growing rapidly. It is something that the employees of this country say is in their best interests. It is something that the employees say they want to make the decision on rather than us making that decision.

So, Madam Chairman, again I say we are trying to perfect legislation that will be law, and we should not act hastily simply because some other body may have voted some way.

I realize that everything is on a fast track, but the fast track is not necessarily in the best interests of the employees of this country or the employers.

So, let us think carefully. Let us improve the bill before we send it to the President's desk.

Mr. FAWELL. Madam Chairman, will the gentleman yield?

Mr. GOODLING. Madam Chairman, do I have any time left?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GOODLING] has 30 seconds remaining.

Mr. GOODLING. Madam Chairman, I yield 30 seconds to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Madam Chairman, I do not know if I can help or hurt, but every once in a while some common sense comes bouncing down on top of our heads here, and it seems to me this legislation is exactly that. Here we have a situation where employees have a cafeteria type of a flex plan, in which they can make all kinds of choices, and we are simply saying that under those circumstances they will have the right to opt out of the obligations or the great benefits of H.R. 1, on the basis that they would rather have other benefits that would take the place of H.R. 1.

There are certain people who may say, because they have got some good flex plans, that they want to try something else, and we are saying no. We are closing the window to something like that? I do not understand how this body works sometimes; in fact, many times.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING].

The question was taken; and on a division (demanded by Mr. GOODLING) there were ayes 10, and noes 17.

RECORDED VOTE

Mr. GOODLING. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 187, noes, 244, not voting 4, as follows:

[Roll No. 15]

AYES—187

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
Cunningham
de la Garza
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kopetski
Kyl
Lancaster
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Lloyd
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Neal (NC)
Nussle
Orton
Oxley
Packard
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Porter
Pryce (OH)
Quillen
Quinn
Ramstad
Regula
Ridge
Roberts
Rogers
Rohrabacher
Roth
Rowland
Royce
Santorum
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Slattery
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Whitten
Wolf
Young (FL)
Zeliff

NOES—244

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Faleomavaega
(AS)
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-
Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Ravenel
Reed
Reynolds
Richardson
Roemer
Romero-Barcelo
(PR)
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Williams
Wilson

Wise	Wyden	Yates
Woolsey	Wynn	Zimmer

NOT VOTING—4

Ford (TN)	Washington
Henry	Young (AK)

□ 2010

Messrs. DEUTSCH, McHALE, and GILMAN changed their vote from "aye" to "no."

Messrs. PENNY, GEREN of Texas, INGLIS, DE LA GARZA and BARCIA changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. GINGRICH. Madam Chairman, it is 8:10. I simply want to clarify, on a parliamentary inquiry, whether or not on the last vote, if we count only the States which have been admitted to the Union, the vote was 187 to 239, and that in fact the additional 5 votes include four Delegates whose territories do not pay taxes to the U.S. Treasury and one Delegate, so that all five are Delegates, not currently States, but the vote among the States, those Representatives representing the State, was actually 187 to 239. I simply want to clarify for the RECORD that that was the vote among Representatives.

The CHAIRMAN. The gentleman's statement which is not a parliamentary inquiry will appear in the RECORD.

Under the rule, it is now in order for the gentleman from Pennsylvania [Mr. GOODLING] to offer his second amendment.

AMENDMENT OFFERED BY MR. GOODLING

Mr. GOODLING. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GOODLING: Amend section 101(2)(B) to add a new clause as follows:

(iii) any employee of an employer whose absence during leave would clearly result in substantial and grievous economic injury to the operations of the employer or substantial endangerment to the health and safety of other employees of the employer or the public.

Amend section 101(2)(C) to read as follows:

(c) DETERMINATION.—

(A) CLAUSE (ii).—For purposes of determining whether an employee meets the hours of service requirement specified in subparagraph (A)(ii), the legal standards established under section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) shall apply.

(B) CLAUSE (iii).—The exception in subparagraph (A)(iii) shall apply only if—

(i) the employer notices the employee of intent of the employer to deny leave on such basis at the time the employer determines that such injury or endangerment would occur; and

(ii) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.

In section 104, strike out subsection (b) and redesignate subsection (c) as subsection (b).

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 10 minutes, and the gentleman from Michigan [Mr. FORD] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I would like to take some time on this one, because it is a very important amendment if we are going to try to improve the bill at all.

What we are talking about here is allowing the employer to deny leave in very critical, limited circumstances when the employee in question is crucial to the ongoing operation of the employer, but only in those circumstances. Again, it is very tightly drawn so that it cannot be abused.

H.R. 1 appears to recognize an employer's right to deny leave in such a situation, but let us look at it carefully. If we turn to section 104(b) of the bill where the so-called key employee exemption is to be found, first the employee must be in the top-paid 10 percent of the employer's work force at the worksite in question, or within 75 miles thereof. Then if the employee's reinstatement would cause substantial and grievous economic harm, the employer need not reinstate the employee.

Note that the focus, strangely, is not on the impact of the employee's absence, but on the reinstatement. Let us read the text of the bill and then the Members will understand what it is all about. Maybe if he or she was making $500,000 a year, reinstatement might lead to grievous harm but when else?

I realize this is strange language that is in this bill, and it may have been structured this way in order to require the employer to continue to pay health insurance benefits for the employee, but that fact does not change the bill's focus on the effect of reinstatement. The Members may also have noticed that the language does not allow for any consideration of any factors other than economic, such as safety and health. What about the safety of the workplace? It cannot even be considered under H.R. 1.

Let me just say that I strongly disagree with this whole idea that only employees in the highest-paid echelons of a company are the only valuable ones. In fact, in many instances it is just the opposite. Many employees are crucial employees to a company's operation in one way or another, without being in this top 10 percent category. Indeed, one might legitimately argue that the most top-paid employees will be the ones who are the least missed on occasion, as their work tends to be more oriented toward paperwork rather than hands-on production, but maybe that is not a popular thing to say.

For instance, could an employer under H.R. 1 deny leave to an employee whose work is crucial to finishing a contract with a deadline of 3 weeks away? The answer is no. What if that employee had a top security clearance or was simply irreplaceable on short notice because of his or her specialized expertise? The answer, again, is no.

Indeed, unless these employees were in the top 10 percent pay, we could not even look at the other criteria of the bill.

What if the employer was short-staffed at the time in the safety and health department and could not spare anyone without endangering the lives of others, or if sparing that person meant others would have to do double overtime in critical safety areas, increasing fatigue and thus carelessness? No; the answer is.

Let me read from a letter that came from Georgia Pacific. Let me put that in the RECORD and move on. I am not saying that these matters of leave should be decided simply on the basis of convenience to an employer, but H.R. 1 does not even allow consideration of severe economic factors unless the employee is in the top 10 percent and does not even recognize safety and health factors. This focuses simply on economic factors.

My point is that we need some additional flexibility, but with employee protection, and my amendment does that. If the employer could demonstrate that the employee's absence would clearly cause substantial and grievous economic harm or would substantially endanger fellow employees or the public, leave could be denied, tied very, very tightly so it could not be abused.

□ 2020

These are not easy tests, nor should they be easy tests. Clearly an employer could use this exception only in cases of true circumstances which are real, dire emergencies.

Indeed, one way my amendment is more restrictive than H.R. 1 is that the threat of economic harm, or safety and health problems must be clear, and that is obvious. I hasten to respond to those who will say that this leaves employees open to abuse, because I said the way this is written, that is an impossibility, as in no situation. The employer is going to work with that employee to address his or her family needs, maybe not in the same way as the bill, but things will be worked out. That employer is going to keep that employee happy, believe me.

An earlier version of this amendment conditioned the exemption on the employer also considering whether a replacement employee was reasonably available in the area, and whether the work of the employee could be assumed by others. It seemed a little tortured, so I dropped it. But we can concede that these concepts could be considered by an employer as part of the determination as to what effect that employee's absence would have.

Again, it is written very tightly so that it cannot be abused, but at the same time allows a company to continue if they have some employees who are positively necessary for the health and the safety of the employees and also for the economic well-being of the employees as well as the business.

Madam Chairman, I reserve the balance of my time.

Mr. FORD of Michigan. Madam Chairman, I yield myself such time as I may consume, and I rise in opposition to the amendment. I will not take the 10 minutes in deference to our efforts to conclude this matter and get out of here. We know what the conclusion is going to be. The gentleman from Pennsylvania has announced it at least three times since we finished the general debate.

The amendment now placed before us eliminates the requirement that a key employee be recognized as such by being in the top 10 percent of the salary scale of the employer. Under the gentleman's amendment, you can claim any employee as a key employee at any time.

Under this amendment, in every instance an employer would be able to challenge the right of an employee to take leave whether the employer worked on an assembly line or as a secretary. This amendment would mean that in order to take leave an employer would always be able to require an employee to prove that his or her absence will not harm the employer. This could cause delay and extensive litigation.

The essential purpose of the bill is to provide employees the security that comes from the knowledge that leave will be available if a family emergency arises. Because the employer could always challenge the right to take leave, this amendment would significantly undermine, if not eliminate, the peace of mind that the legislation is intended to give the employees in the first place.

If an employee was truly essential, the employee should be receiving top salary, and could be covered by the key employee exemption of this bill. It is an exemption that everybody recognizes going in. They know that some employees do not have the protection of this bill because of their position in the company. They do not have to wait until the emergency arises and then try to provide to the employer that he cannot do without them.

The bottom line effect of this amendment is to totally destroy the availability of the basic right of the bill in the case of an emergency. I urge the House to vote against this amendment.

Mr. GOODLING. Madam Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Madam Chairman, as most Members know, I have never been too comfortable with the specifics of this bill having voted against the family leave bill twice before, and this amendment demonstrates one of the reasons why I have not been comfortable with the bill. I went to the Rules Committee last year on this particular issue.

The definition of key employee, who is exempt from the terms of this bill has to do strictly with salary. But in fact, I come from a small business background, and a lot of other people know that in fact there are a lot of very critical employees in a company who may not be paid in the top 10 percent. For example, take a biotechnological firm where you have a couple of scientists working on gene splicing or a new idea, but they are not the entrepreneurs, they did not start the company and they are not paid in the top 10 percent of their company. And if perchance those two students have to leave, either or both of them for a 12-week period of time, you could shut down the company.

I grant that the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING] is perhaps stronger than I would like. I suspect that it is going to go down. But I would hope that as this bill goes forward that we recognize that there are an awful lot of technical people working for small companies, with 50 to 500 employees, let us say, who if they left for up to 12 weeks they could not be replaced, and in fact this might just result in a company having to shut down its operations.

I also recognize that they deserve some rights on family leave as well. But the definition of key employees only including the top 10 percent does not seem to be very flexible in recognition of the way a lot of new startup businesses, particularly highly technical startup businesses are actually operating.

So while I do not expect this amendment to pass, I do support it, and I hope that as this bill is passed, and as it is implemented that we recognize that there are some flexibility problems with medium-sized businesses, not the huge businesses, but medium-sized businesses. And this problem I believe will ultimately have to be fixed, or else an awful lot of medium-sized businesses will suffer.

Mr. GOODLING. Madam Chairman, who has the right to close debate?

The CHAIRMAN. The gentleman from Michigan [Mr. FORD] as the floor manager has the right to close.

Mr. GOODLING. Madam Chairman, I yield myself my remaining time.

Madam Chairman, let me make sure Members were not confused by my chairman's statement, because my amendment is so narrowly crafted that it could not happen the way he indicated.

This exemption would be construed very narrowly, as all labor laws are. Let me read two cases. First a case from the Fair Labor Standards Act. Let me read:

> The defendant claims an exemption from the above requirements on the basis of section 13(a)(1) of the FLSA. The defendant contends that its "staff accountants" are bona fide administrative employees under 13(a)(1) and therefore it is exempt from paying overtime and maintaining records. The exemptions from the Act are to be narrowly construed against the party asserting them and "their application limited to those establishments plainly and unmistakably within their terms and spirit."

Let me read a second case. Also noting that exemptions from the FLSA are to be narrowly construed, Mitchell versus Kentucky Finance Co.:

> Furthermore, an employer carries the burden of proving the applicability of the exemption to the specific employee.

So Members can see that this legislation is written so narrowly that any abuse is not possible. And I would hope that people would understand that the top 10 highest paid employees of a company are not necessarily the crucial ones, and in all probability, in many cases could be done without.

So I hope we look carefully at this legislation. Let us improve it before it becomes law.

Mr. FORD of Michigan. Madam Chairman, I yield myself my remaining time.

Madam Chairman, I simply would like to observe that coming from the side that constantly attacks legislation on the basis that it is going to be litigious and it is going to encourage lawsuits, we now have them quoting arcane technical decisions by the court on the Fair Labor Standards Act as precedent for how to interpret this act, and we do not have to do that. If one just reads the plain language of the bill, and then reads the plain language of the amendment, we do not need arcane legal, technical language to understand it. Common sense will tell us what is at stake here, and Members should vote no.

☐ 2030

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GOODLING. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 185, noes 238, not voting 12, as follows:

[Roll No. 16]

AYES—185

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley

Bereuter
Bilbray
Bilirakis
Blute
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Castle
Clinger
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock

Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hughes
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lancaster
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Lloyd
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
Meyers
Mica
Michel
Miller (FL)
Minge
Montgomery
Moorhead
Myers
Neal (NC)
Nussle
Oxley
Packard
Paxon

Payne (VA)
Penny
Petri
Pickett
Pombo
Porter
Pryce (OH)
Quillen
Quinn
Ramstad
Regula
Ridge
Roberts
Rogers
Rohrabacher
Roth
Rowland
Royce
Santorum
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Spratt
Stearns
Stenholm
Stump
Sundquist
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Whitten
Wolf
Young (AK)
Zeliff
Zimmer

NOES—238

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Chapman
Clay
Clayton
Clement
Clyburn

Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Faleomavaega (AS)
Fazio
Fields (LA)

Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston

Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan

Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Ravenel
Reed
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schenk

Schroeder
Schumer
Scott
Sharp
Shays
Shepherd
Skaggs
Slaughter
Smith (IA)
Snowe
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Watt
Waxman
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (FL)

NOT VOTING—12

Bliley
Coble
Ford (TN)
Hastings

Henry
Kaptur
McMillan
Mfume

Moran
Serrano
Washington
Waters

□ 2047

Mr. MARTINEZ changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. For what purpose does the gentleman from Georgia [Mr. GINGRICH] rise?

Mr. GINGRICH. Madam Chairman, I want to make certain that at this point the RECORD would show that among those Representatives——

The CHAIRMAN. May the Chair ask: Is the gentleman making a parliamentary inquiry?

PARLIAMENTARY INQUIRY

Mr. GINGRICH. Madam Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GINGRICH. Madam Chairman, I inquire whether it would be accurate to state that on the last vote among those Representatives representing States, the vote was 184 to 233 against, and among those delegates not representing States, the vote was 0 in favor and 5 against.

The CHAIRMAN. The vote in the RECORD will indicate that, and the Chair feels that this is not a parliamentary inquiry but rather a statement of fact.

Mr. GINGRICH. Madam Chairman, I was just inquiring of the Chair if that is how it would show in the RECORD.

The CHAIRMAN. The vote will appear in the RECORD, sir.

Mr. GINGRICH. I thank the chairman.

□ 2050

The CHAIRMAN. It is now in order to consider the third amendment printed in House Report 103–10, part 2.

AMENDMENT OFFERED BY MR. GOODLING

Mr. GOODLING. Madam Chairman, I offer an amendment dealing with reduced leave.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GOODLING: Amend section 102(a)(3) and section 102(b) to read as follows:

(3) INTERMITTENT LEAVE.—

(A) IN GENERAL.—Leave under subparagraph (A) or (B) of paragraph (1) shall not be taken by an employee intermittently unless the employee and the employer of the employee agree otherwise. Subject to subparagraph (B), subsection (e), and section 103(b)(5), leave under subparagraph (C) or (D) of paragraph (1) may be taken intermittently when medically necessary.

(B) ALTERNATIVE POSITION.—If an employee requests intermittent leave under subparagraph (C) or (D) of paragraph (1) that is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that—

(i) has equivalent pay and benefits; and

(ii) better accommodates recurring periods of leave than the regular employment position of the employee.

(b) REDUCED LEAVE.—On agreement between the employer and the employee, leave under subsection (a) may be taken on a reduced leave schedule. Such reduce leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 10 minutes, and a Member in opposition will be recognized for 10 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Madam Chairman, I would like to have total attention, because this is something that has never been debated before, never been discussed before, has never been a part of any previous legislation that people have voted for or against.

Madam Chairman, again I repeat, it is very important that we listen to this particular amendment. The reason it is important is that we have never voted on this issue before. This has never been part of the legislation when it has come before us before.

I understand it was put in simply because the Senate had it in, and therefore they would not have to go to conference or something of that nature, but I also understand that perhaps the Senate at the present time is taking this amendment; so we do not have to keep it the way it is presently written because they apparently are going to go back to the original H.R. 1, and that is all I am asking for us to do.

This amendment simply returns reduced leave schedule rights for employees to as they were in H.R. 1 as introduced and in all prior versions of this legislation prior to the time the Williams substitute was adopted in the Education and Labor Committee, that is, to require the employer to agree to such a schedule before it can be taken.

Let me explain this issue carefully. Under H.R. 1 as reported, an employee may take both reduced leave schedule leave and intermittent leave so long as medically necessary—whatever that means. Under all prior versions of the legislation the reduced leave schedule would have to be approved by the employer—not the intermittent, but the reduced leave. That requirement was clearly set out in the bill at section 102(b). I know we do not have the text of H.R. 1 as introduced in past times in front of us, so let me read the section so every one can be clear on this.

The section reads as follows:

> (b) REDUCED LEAVE.—On agreement between the employer and the employee, leave under subsection (a) may be taken on a reduced leave schedule. Such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.

The employer would agree to that, and that is the way it has always been until the legislation came to us from our committee last week.

Let me talk a little bit about what that does. As I indicated before, the bill as now written thus creates an entirely new right, and one never subject to prior hearings or other consideration. What is meant here? Well, the definition of a reduced leave schedule in the bill, found at section 101(9), defines the concept as "a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee." Hence, an employee could now demand that he or she be allowed to work 4 hours a day, every day, for 6 months; or 6 hours every other day for 9 months, or whatever. Basically, an employee could now set his or her work schedule.

This right is obviously more expansive than the concept of intermittent leave, which is not defined in the bill, or at least it is different. If not different, then why would the bill expressly identify both kinds of leave? I do wish to emphasis that my amendment has no effect on the right to intermittent leave. That concept, although I am not altogether comfortable with it, was at least in the bill before and subject to hearings and examination. In contrast, the concept of a reduced leave schedule never received any close analysis because the employer always had the right to say "no." That's not the case anymore.

Some will argue that there is no problem of employee abuse under the revised bill because the reduced leave schedule under the bill must be medically necessary as certified by a health care provider. Well, that does not give me much comfort, I am sorry to say, given the broad definition of the physical and mental conditions covered under this bill and of the term "health care provider," who can be anybody certified as such by the Department of Labor. So part of the problem with this provision stems from other problems in the bill—but our efforts at committee to correct those problems went nowhere, which is why we are here today.

Let me just note that in the committee markup, we heard much about the minority was too anxious over areas of possible abuse of leave rights by employees. Well, let me say that the majority apparently has never met an employer it could trust or who would not abuse his employees. The fact is most employers work these things out on a day-to-day basis and that this bill as a whole, including the changes in this new version, is evidence of an overriding distrust of the employer community, which I find hard to fathom. But back to the amendment.

I realize that the opponents will also argue that under my amendment, an employer could deny leave to an employee who says he needs a set number of hours off every week for treatment for, or because of, a medical condition, and that this would not be fair. My response is threefold: First, I would ask how this alleged problem would have been resolved under the past versions of the bill—as written then, the employer had that right and for all these years no one thought there was a huge problem with it. Second, at some point an employer must be allowed to manage his workplace—so, yes, we have drawn a line here, as did prior versions of this particular legislation, and stating that at this point an employer's agreement is necessary; and third, I have a hard time imagining many situations where an employee's condition could not be addressed as far as treatment under the intermittent leave provisions.

But let me also note that if an employee actually had some sort of condition where he needed an extensive set schedule of reduced work, he or she would not be without remedy. It seems to me that this is the exact type of thing the Americans With Disabilities Act, with its reasonable accommodation provisions, is expressly addressed at. But let us not overlay the Family and Medical Leave Act on top of that one.

In sum, Congress cannot totally eliminate the employer's ability to control his or her workplace. A reasonable balance must be struck at some point between the employee's rights and the employer's needs to produce a product. The concept of a reduced leave schedule is simply too broad to turn over to the yeas or nays of a health care provider and certainly not without some intelligent consideration of what we are doing here. Since all prior versions of the bill required employer approval, this whole area has never before been addressed. We should return to those prior versions by retaining the requirement that an employer approve this particular portion of the leave policy, which still allows intermittent leave. And my amendment would do just that.

Mr. FORD of Michigan. Madam Chairman, I rise in opposition to the amendment.

I followed this very closely and the gentleman made the strongest argument against his amendment he could make. He said, "I know that the opponents will argue this, and I know the opponents will argue that," and he is right. He has analyzed his amendment correctly and properly attacked it and disposed of it.

Nevertheless, the question is really not as complex as he makes it sound. There is a difference between the ability of an employer and an employee to decide when someone is going to adopt a child, or even to anticipate the expected termination of a pregnancy through childbirth, but not for a child when a doctor calls you up and says, "I want that kid every Monday for the next 5 weeks,", to drive 50 miles up the road to the general hospital and have a chemotherapy treatment."

□ 2100

It is the doctor's schedule and the hospital's schedule that says what day the employee has to take off to take that child for treatment. That is why there is a distinction made between medical necessity and family leave generally.

Now, the gentleman speaks longingly of the language the way it was passed the last time. There was a change made in the language that is a difference without a distinction. When we were preparing the bill for reintroduction, the Solicitor's office of the Department of Labor said that they felt the former language, which the gentleman would not restore to the bill, created an unnecessary ambiguity and asked us if we would be willing to clear that ambiguity up. So, at the markup we accepted the Solicitor, the advice of the Solicitor from the Labor Department, and cleared the language up. Now, Madam Chairman, the gentleman from Pennsylvania [Mr. GOODLING] wants to obfuscate it again by putting it back. I will not embarass the gentleman by asking him if he voted for the language that he likes so much in the bill the last time because I know he did not.

Let us not be fooling around at this time of night with this kind of how many angels can dance on the head of a pin sort of attack on this bill. This is straight-up language that anybody with reasonable reading comprehension can understand when they read it. Madam Chairman, I see no reason to invite trouble by trying to fiddle around with this late at night.

No, I say to the gentleman from Pennsylvania [Mr. Goodling], we did not accept this language because the Senate did it, and, yes, Mr. GOODLING, the Senate did consider an amendment like this but refused it tonight, and, if we now accept this amendment, we will not match the Senate amendment, and that would suit some people because it will delay the time that it will take us to get this bill to the President for signature.

Madam Chairman, I recommend that we vote against this very strongly and put an end to these games we have been playing today.

Mr. GOODLING. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, first of all let me say that I resent the last remark. I think we have worked together long enough to know that I do not play games. My time is too valuable to play games. I spend too much time trying to do what I think is in the best interests of my constituents and the country as a whole. I am not here to play games. I can play games at home if I want to do that.

Madam Chairman, let me make two observations.

First of all, the chairman talked about a doctor. It does not have to be a doctor. It can be anybody the Secretary of Labor so desires it might be.

Second, if there were only some kind of limitations, but there are none. It is broad, wide open. There are no limitations whatsoever.

Madam Chairman, I do not know how anybody could run a business if every employee has the right to make this determination any way they want or to make it with no consideration by the employer.

Madam Chairman, I yield 30 seconds to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Madam Chairman, to allow this language to remain in the bill would be the straw that broke the camel's back in proverbial language. If there was any evidence needed for the American public to judge this type of legislation to determine whether or not the businessman can any longer make his own decisions in pursuit of his business, this is it. This constitutes an erosion of the employers' rights to manage their businesses as they, and their timetables, and their business proposals and projections permit. This is antiemployer, not pro-employee. It is mainly antiemployer.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GEKAS] has expired.

Mr. FORD of Michigan. Madam Chairman, if the gentleman from Pennsylvania [Mr. GEKAS] will yield to me, I will yield him 2 minutes.

Madam Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Madam Chairman, did I hear the gentleman say that the import of this amendment is so great that, as he put it, it is the straw that breaks the camel's back? Do I interpret that to mean that, if this amendment does not pass, he will vote against the bill?

Mr. GEKAS. Madam Chairman, I do not know how the gentleman interprets it.

Madam Chairman, this issue shows once and for all that the general tenor of this legislation, I submit and I insist, is that it is an antiemployer concept that is built into this language. This particular language which the gentleman from Pennsylvania wants to eliminate is the straw that breaks the camel's back. It shows once and for all that, even in this concept of these intermittent or reduced leaves, it is the employee that is going to make the decision with external factors deciding how the business owner is going to conduct his business. That is a straw that breaks the camel's back.

Mr. FORD of Michigan. Madam Chairman, if it has that importance, if I accept the gentleman's amendment, will the gentleman vote for the bill?

Mr. GEKAS. No.

Mr. FORD of Michigan. OK.

Mr. GEKAS. OK.

Will the gentleman vote against it if this is defeated?

Mr. GOODLING. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, first of all, as I said when we began the whole debate, whether he votes for a bill or does not vote for a bill has nothing to do with the fact that we should be trying to improve legislation. That is why we are sent here, and that is what I am trying to do in this particular amendment.

Again, keep in mind the reduced leave schedule is wide open. There is no control whatsoever for an employer the way this written. Also keep in mind that it can be any health person that the Secretary of Labor determines is a health provider. So, again it is so wide open that I think it makes it impossible for any business to run properly. I think it makes it impossible to keep jobs for employees because they will not be able to keep the employment there because they will not be able to run a successful business.

Again, Madam Chairman, I would hope that my colleagues will look carefully at this. It is new, it is nothing we have voted on before, and I would hope that my colleagues will vote for this amendment.

Mr. FORD of Michigan. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GOODLING. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 223, noes 209, not voting 3, as follows:

[Roll No. 17]

AYES—223

Allard
Andrews (TX)
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Castle
Chapman
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Cramer
Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
English (OK)
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kaptur
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lambert
Lancaster
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McCurdy
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Myers
Neal (NC)
Nussle
Ortiz
Orton
Oxley
Packard
Paxon
Payne (VA)
Penny
Petri
Pickett
Pombo
Porter
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns

Stenholm
Stump
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Torkildsen
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Whitten
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—209

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Applegate
Baesler
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Engel
English (AZ)
Eshoo
Evans
Faleomavaega (AS)
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Owens
Pallone
Parker
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Shepherd
Slaughter
Smith (IA)
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tejeda
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—3

Ford (TN)
Henry
Moran

☐ 2128

Mrs. LLOYD changed her vote from "aye" to "no."

Messrs. HEFLEY, CRANE, and HANSEN, Ms. KAPTUR, and Mr. BILBRAY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as modified, as amended.

PARLIAMENTARY INQUIRY

Mr. GINGRICH. Madam Chairman, I was going to make a parliamentary inquiry. I am not sure what the Chair is doing, and I think we need order before we rush through whatever the next phase is.

The CHAIRMAN. The gentleman was on his feet, and the gentleman will state his parliamentary inquiry.

☐ 2130

Mr. GINGRICH. Madam Chairman, my parliamentary inquiry was, were there any votes cast on that amendment which were in violation of article I, section 2 of the Constitution?

The CHAIRMAN. That is not a parliamentary inquiry.

Mr. GINGRICH. I would ask the Chair, it is not a legitimate inquiry to ask the nature of the votes which were just cast? At what point is it appropriate to ask the nature of the votes which were just cast, I would ask the Chair?

The CHAIRMAN. The Chair replies that the votes were cast in accordance with the rules as adopted by this House.

Mr. GINGRICH. That was not my question, Madam Chairman. I would ask the Chair, all I am seeking, article I, section 2, simply mentions Representatives of the States.

I would make my inquiry differently, Madam Chairman. I would inquire of the Chair, were there any votes cast on the last amendment which were cast by people not Representatives of the States?

The CHAIRMAN. The Chair responded when the question was asked in another manner previously. The vote was announced. The vote will appear in the RECORD as was taken and was announced.

Mr. GINGRICH. I misunderstood the Chair. The Chair, I thought, reassured me on the two previous occasions that in the RECORD it would show both the votes by State Representatives and the votes by delegates as clearly separate. Maybe I did not hear in the confusion, but did the Chair announce the votes? I must have misunderstood.

The CHAIRMAN. The Chair announced that the votes would appear in the RECORD tomorrow as cast under the rules.

Mr. GINGRICH. I would ask the Chair, meaning lumped together, so that the Representatives and delegates would be lumped together in one vote?

The CHAIRMAN. It would be alphabetical; the ayes and then the noes.

Mr. GINGRICH. I thank the Chair for allowing me to ask that.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as modified, as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FORD of Michigan. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 269, noes 163, not voting 3, as follows:

[Roll No. 18]

AYES—269

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Faleomavaega (AS)
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoke
Holden
Horn
Hoyer
Huffington
Hughes
Hyde
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Norton (DC)
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickle
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Slaughter
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett

Swift
Synar
Tanner
Taylor (MS)
Tejeda
Thornton
Thurman
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zimmer

NOES—163

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Bonilla
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gingrich
Glickman
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Houghton
Hunter
Hutchinson
Hutto
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lancaster
Laughlin
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Manzullo
McCandless
McCollum
McCrery
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Montgomery
Moorhead
Myers
Nussle
Oberstar
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Penny
Pickett
Pombo
Porter
Pryce (OH)
Quillen
Ridge
Roberts
Rogers
Rohrabacher
Roth
Rowland
Royce
Santorum
Sarpalius
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (MI)
Smith (OR)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Valentine
Vucanovich
Walker
Wolf
Zeliff

NOT VOTING—3

Ford (TN)
Henry
Torres

□ 2149

Messrs. WYNN, CONYERS, and HOKE changed their vote from "no" to "aye."

So the amendment in the nature of a substitute, as modified, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mrs. KENNELLY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1) to grant family and temporary medical leave under certain circumstances, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. SOLOMON. Mr. Speaker, I would intend to ask for two separate votes on two amendments that passed in the Committee of the Whole. The first one I would ask for a vote on is the third Goodling amendment which reduces leave, the one that passed the House 223 to 209, with all five Delegates voting "no," and I would ask for a recorded vote on that one at this time.

The SPEAKER. The clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Amend section 102(a)(3) and section 102(b) to read as follows:

(3) INTERMITTENT LEAVE.—

(A) IN GENERAL.—Leave under subparagraph (A) or (B) of paragraph (1) shall not be taken by an employee intermittently unless the employee and the employer of the employee agree otherwise. Subject to subparagraph (B), subsection (e), and section 103(b)(5), leave under subparagraph (C) or (D) of paragraph (1) may be taken intermittently when medically necessary.

(B) ALTERNATIVE POSITION.—If an employee requests intermittent leave under subparagraph (C) or (D) of paragraph (1) that is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that—

(i) has equivalent pay and benefits; and

(ii) better accommodates recurring periods of leave than the regular employment position of the employee.

(b) REDUCED LEAVE.—On agreement between the employer and the employee, leave under subsection (a) may be taken on a reduced leave schedule. Such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.

The SPEAKER. The question is on the amendment.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. The Chair announces that following the amendment presently being voted on, the vote on the next amendment will be limited to 5 minutes.

PARLIAMENTARY INQUIRIES

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry

Mr. SOLOMON. Mr. Speaker, the second vote, which will be a 5-minute vote, will be the committee amendment in the nature of a substitute that previously passed the House?

The SPEAKER. If ordered, if a rollcall vote is ordered.

Mr. SOLOMON. I thank the Chair.

Mr. MYERS. of Indiana. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. MYERS of Indiana. Has that second vote been ordered?

The SPEAKER. No. It has not been ordered. The Chair is announcing to Members that in the event the second amendment voted on is ordered for a rollcall vote, the Chair will limit that vote to 5 minutes. It has not been so ordered.

Mr. MYERS of Indiana. I thank the Chair.

The SPEAKER. This vote will be 15 minutes.

The vote was taken by electronic device, and there were—yeas 221, nays 204, not voting 5, as follows:

[Roll No. 19]

YEAS—221

Allard
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Cramer
Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
English (OK)
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kaptur
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lancaster
Laughlin
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McCurdy
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Myers
Neal (NC)
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Penny
Petri
Pickett
Pombo
Porter
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Sharp
Shaw

Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Stump
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Torkildsen
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Whitten
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—204

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Engel
English (AZ)
Eshoo
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Foglietta
Ford (MI)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lantos
LaRocco
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Shepherd
Slaughter
Smith (IA)
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tejeda
Thurman
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—5

Flake
Ford (TN)
Henry
Lambert
Torres

□ 2209

Ms. ENGLISH of Arizona changed her vote from "yea" to "nay."

Mr. SHARP changed his vote from "nay" to "yea."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 2210

The SPEAKER. The question is on the amendment in the nature of a substitute, as amended.

Mr. WALKER. Mr. Speaker, I have a separate amendment that I wish a vote on.

The SPEAKER. The question is being put by the Chair at this time on the underlying substitute amendment.

The gentleman from New York announced that he wished to have a separate vote on both amendments adopted in the Committee of the Whole. The Chair is now putting the question on the underlying amendment, the amendment in the nature of a substitute, as amended.

Mr. WALKER. Mr. Speaker, I have a separate amendment that I wish to be considered.

The SPEAKER. The amendment was adopted in the Committee of the Whole.

Mr. WALKER. The amendment printed in section 2 of House Resolution 58, the rule for H.R. 1.

The SPEAKER. That amendment was self-executed and its incorporation as a modification is not subject to a separate vote.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WALKER. Mr. Speaker, House Resolution 58 makes it clear that the amendment printed in section 2 has been self-executed on to the amendment in the nature of a substitute printed in part 1 of the Rules Committee report; but under the terms of the rule, the amendment in the nature of a substitute is only considered as modified by this amendment in the Committee of the Whole. I refer to House Resolution 58 at page 2, lines 17 and 18, lines 19 and 20, and line 21—all of which refer to the amendment in the nature of a substitute as modified.

However, after the Committee of the Whole rises and reports the bill back to the House "with such amendments which may have been adopted," the rule says the following:

> Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute made in order as original text.

Mr. Speaker, the words "as modified by the amendment printed in section 2" do not appear here. The only amendment in the nature of a substitute is printed in part 2 of the Rules Committee report.

It is therefore clear that a separate vote must now be allowed on my section 1 amendment.

The SPEAKER. In prescribing a special order for the consideration of H.R. 1, House Resolution 58 constructs an amendment in the nature of a substitute to serve as the original text for the purpose of reading for amendment in the Committee of the Whole. That amendment in the nature of a substitute is composed of the text printed in part 1 of the accompanying Rules Committee report with one modification. The modification is described as the amendment printed in section 2 of the rule, itself.

The language printed in section 2 of the rule is called an amendment only as a convenient reference to its form. It is not made in order for separate consideration or adoption. It is made a part of the text printed in part 1 of the Rules Committee report, which text, as so modified, represents the original text for the Committee of the Whole.

This is not a new form of special order. As recently as on September 23, 1992, the House considered a special order using the same method to construct an original text. The rule on that occasion was House Resolution 573, providing for consideration of H.R. 3298 of the 102d Congress.

As in House resolution 573 last fall, today's rule permits separate votes in the House on amendments to the original text substitute adopted by the Committee of the Whole. The language printed in section 2 of the rule, however, is placed before the Committee of the Whole as part of the original text, not as an amendment thereto. It is not separately voted on, in the House or in the Committee of the Whole. The original text substitute of which it is a part is voted on in the Committee of the Whole and, if reported therefrom, in the House as one amendment in the nature of a substitute for the bill.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WALKER. Do I understand that the Speaker has just ruled that an amendment in the form of an amendment is not an amendment unless the Chair rules it is an amendment?

The SPEAKER. The gentleman has understood the Chair quite clearly.

Mr. WALKER. I thank the Chair.

The SPEAKER. The question is on the amendment in the nature of a substitute as amended.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. This vote will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 266, nays 162, not voting 2, as follows:

[Roll No. 20]

YEAS—266

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoke
Holden
Horn
Hoyer
Huffington
Hughes
Hyde
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickle
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Slaughter
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Taylor (MS)
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zimmer

NAYS—162

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Bonilla
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gingrich
Glickman
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Houghton
Hunter
Hutchinson
Hutto
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lancaster
Laughlin
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Manzullo
McCandless
McCollum
McCrery
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Montgomery
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Penny
Pickett
Pombo
Porter
Pryce (OH)
Quillen
Ridge
Roberts
Rogers
Rohrabacher
Roth
Rowland
Royce
Santorum
Sarpalius
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (MI)
Smith (OR)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Valentine
Vucanovich
Walker
Wolf
Zeliff

NOT VOTING—2

Ford (TN)
Henry

☐ 2222

The Clerk announced the following pairs:

Mr. HINCHEY and Mr. LEACH changed their vote from "nay" to "yea."

So the amendment in the nature of a substitute as amended, was agreed to.

The result of the vote was announced as above recorded?

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. FAWELL

Mr. FAWELL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. FAWELL. Yes, in its present form I am opposed to the bill, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. FAWELL moves to recommit the bill H.R. 1 to the Committee on Education and Labor with instructions to report the same back to the House forthwith with the following amendment:

Insert before the period at the end of section 502(a) the following: ", except that with respect to a position on the minority staff of a committee, the term 'employing authority' means the ranking minority Member of such committee".

Redesignate subsection (c) of section 502 as subsection (d) and insert after subsection (b) the following:

(c) EMPLOYEE ACTION.—Within 90 days of exhausting all procedures authorized under subsection (b), or after 180 days after the timely filing of a complaint under such procedures, an employee may bring a civil action against the employee's employing authority in the appropriate United States district court. In any such action, the court may order such relief, including damages, interest, attorney fees, expert witness fees, and other costs, as may be ordered by a court under section 107 of this Act.

The SPEAKER. The gentleman from Illinois [Mr. FAWELL] is recognized for 5 minutes in support of his motion to recommit.

Mr. FAWELL. Mr. Speaker, I offer this motion to recommit H.R. 1 to the Committee on Education and Labor with instructions to report the measure back to the House with an amendment. The amendment has the effect of removing the exemption of Congress relative to the right of congressional employees to use judicial remedies and the obligation of Members of Congress to be subjected to judicial remedies for violations under H.R. 1.

Mr. Speaker, Congress is often termed the last plantation. Unfortunately, as we all know, Congress does indeed exempt itself either partially or wholly from a variety of important laws. Congress is wholly exempted from the Equal Employment Opportunity Act, the Occupational Safety and Health Act, the Freedom of Information Act, and a variety of other measures.

In recent years, Mr. Speaker, Congress has exempted itself from the judicial enforcement provisions of such well-known labor laws as title VII of the Civil Rights Act of 1964, the Fair Labor Standards Act and the Americans With Disabilities Act, thereby shielding Members of Congress from being brought into Federal court to be held accountable for their violations of employee rights under those places of employment labor laws.

H.R. 1 continues this irresponsible action by again exempting Members of Congress from being sued in Federal court for any of the many potential violations of this arcane national personnel leave law. Congress does this by providing its own in-house rules; that is, procedures and remedies under our House Office of Fair Employment Practices as the sole remedy for any House employees to use who may feel that a violation of H.R. 1 has occurred.

☐ 2230

So the House uses its own administrative procedures.

And who runs the Office of Fair Employment Practices in the House? Of course, the Members of Congress do. And how are the complaints to this office handled? We will never know. The final decision in a case is the only information ever made available to the public, or to the press, for that matter.

The vital information on how the decision was arrived at, which should be available through the various proceedings and records, is sealed. We do not even have access to the number of complaints filed.

In effect, therefore, the Members of the House become the secret prosecutor, judge, and jury of any complaints made by their aggrieved House employees, and there are 12,236 of them in the House, from the men and women who clean our offices and up.

It would be unthinkable, Mr. Speaker, that private businesses, say IBM or General Motors, would be allowed to dispose of complaints of their employees under such in-house procedures.

In the private sector and noncongressional public sector in this bill, the bill allows all covered employees to file a civil suit for damages, including a jury trial, for any of the myriad potential violations of the act, including various prohibited employer acts of retaliatory discrimination against employees.

Damages include recovery of any wages, salary, employment benefits, or other compensation denied or lost; plus interest, liquidated damage, equitable relief, including employment, reinstatement and promotion, expert witness fees, and, of course, mandated legal fees.

I believe the employees of Congress deserve no less protection than their counterparts in the private sector.

Mr. Speaker, this amendment, therefore, would allow employees who feel that they have been wronged under the provisions of this bill and who are unsatisfied with the decision of the House Office of Fair Employment Practices, to take their case to Federal court.

The amendment takes care to track all relief, including damages, to that which is granted to the private sector.

The amendment avoids a possible constitutional separation of powers issue since it does not give the Federal executive branch, the Department of Labor, any authority to enforce its will on Congress.

In addressing the question of the protections afforded Members of Congress under the speech and debate clause of the Constitution, I might add that a senior specialist of American constitutional law at the Congressional Research Service has stated in a memo to the gentleman from Pennsylvania [Mr. GOODLING] that the constitutional text of the speech and debate clause, as informed by the interpretive judicial decisions, does rather strongly suggest that the courts would sustain the validity of the enactment, basically of laws authorizing protections to employees, including judicial remedies against Members of Congress, should Congress choose to take the step.

Mr. Speaker, I simply ask that Members vote to make it clear that we will no longer exempt Congress through special privileges.

Mr. FROST. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER. The gentleman from Texas is recognized for 5 minutes.

Mr. FROST. Mr. Speaker, the House has a carefully crafted procedure for hearing antidiscrimination complaints brought by its own employees. Those procedures are contained in rule LI of the House. All appeals are heard by a bipartisan board. Serving on that board with distinction are Members on the other side, the gentleman from Kansas [Mr. ROBERTS] and the gentleman from Louisiana [Mr. LIVINGSTON]. I chair that board on the Democratic side.

Mr. Speaker, I would like to read from the rules of the House the remedies that employees have under this procedure. Then I would like to yield to the distinguished majority leader.

Under rule LI an employee who brings a discrimination complaint against the House or employing authority has the following remedies if the complaint is deemed to be successful: Monetary compensation, to be paid from the clerk hire allowance of a Member or from personnel funds of a committee of the House or other entity as appropriate; monetary compensation to be paid from the contingent fund of the House of Representatives; injunctive relief; costs and attorney's fees; reinstatement to employment or promotion with or without back pay.

These matters are ultimately decided by a bipartisan board that has heard matters brought by employees and has decided the matters both in favor of employees and against employees during the pendency of that board.

Mr. Speaker, at this point, this is a matter of basic separation of powers between the legislative, executive, and judicial branches.

Mr. Speaker, at this time I yield to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would just urge Members to vote against the motion to recommit. The issue is clear. It is an issue of separation of powers.

The other point that is sometimes talked about here is whether or not the procedure we are using, which I think has worked well under bipartisan leadership, should be reconsidered and otherwise found within the principles of the separation of powers to do this. We have a Hamilton-Gradison commission which is considering all manner of changes in House procedures. I think that is the appropriate place for a clear examination of this particular feature of our organization.

Mr. Speaker, I do not think that here, within this bill, we should be taking this up, changing such an important feature of our organization, which has been in place for so long.

The separation of powers is the issue that is at stake here. I believe what we have done to honor that has worked. If Members feel that it has not and it needs to be improved, the place to talk about it, to analyze it, and to decide it, is within the work of the Hamilton-Gradison commission.

Mr. Speaker, I urge members to vote against the motion.

Mr. FROST. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. FAWELL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER. The Chair announces that a vote on final passage, if ordered, will be limited to 5 minutes. This vote will be a 15-minute vote.

The vote was taken by electronic device, and there were—yeas 175, nays 253, not voting 2, as follows:

[Roll No. 21]

AYES—175

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Mann
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari

Moorhead
Morella
Myers
Neal (NC)
Nussle
Oxley
Packard
Paxon
Penny
Petri
Pombo
Porter
Pryce (OH)
Quillen
Quinn
Ramstad
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—253

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Manton
Margolies-
Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Ravenel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—2

Ford (TN)
Henry

□ 2252

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FAWELL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 265, noes 163, not voting 2, as follows:

[Roll No. 22]

AYES—265

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoke
Holden
Horn
Hoyer
Huffington
Hughes
Hyde
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lantos
Lazio
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-
Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickle
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Slaughter
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Taylor (MS)
Tejeda
Thomas (WY)
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zimmer

NOES—163

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Bonilla
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
Darden
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gingrich
Glickman
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Houghton
Hunter
Hutchinson
Hutto
Inglis
Inhofe
Istook
Johnson (GA)
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lancaster
LaRocco
Laughlin
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Manzullo
McCandless
McCollum
McCrery
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Montgomery
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Penny
Pickett
Pombo
Porter
Pryce (OH)
Quillen
Ridge
Roberts
Rogers
Rohrabacher
Roth
Rowland
Royce
Santorum
Sarpalius
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (MI)
Smith (OR)
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Tauzin
Taylor (NC)
Thomas (CA)
Torkildsen
Upton
Valentine
Vucanovich
Walker
Wolf
Zeliff

NOT VOTING—2

Ford (TN)
Henry

☐ 2306

So the bill was passed.

The result of the vote was announced as above recorded.

The SPEAKER. Without objection, a motion to reconsider is laid on the table.

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER. The gentleman from Pennsylvania objects to laying the motion to reconsider on the table. Objection is heard.

MOTION OFFERED BY MR. GEPHARDT

Mr. GEPHARDT. Mr. Speaker, I move to reconsider the vote.

MOTION OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Speaker, I move to table the motion to reconsider the vote.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan [Mr. FORD] to lay on the table the motion offered by the gentleman from Missouri [Mr. GEPHARDT] to reconsider the vote.

The question was taken; and on a division (demanded by Mr. WALKER) there were—yeas 21, nays 14.

So the motion to lay on the table the motion to reconsider was agreed to.

PERSONAL EXPLANATION

Mr. MORAN. Mr. Speaker, during rollcall vote No. 17 on H.R. 1 I was unavoidably detained. Had I been present I would have voted "aye".

PERSONAL EXPLANATION

Mr. MORAN. Mr. Speaker, during rollcall votes No. 16 and 17 on H.R. 1 I was unavoidably detained. Had I been present I would have voted "no."

PERSONAL EXPLANATION

Mr. THOMAS of Wyoming. Mr. Speaker, on rollcall No. 22, I was recorded as voting in the affirmative for H.R. 1, the "Family Medical Leave Act of 1993," however, I intended to vote no. There was either a breakdown in mechanics or concentration.

Clearly, parents and children should have the opportunity to care for loved ones during crucial times in their lives. Rather than imposing additional mandates on businesses, though, we should provide incentives to help employers establish flexible leave policies.

Many employers, including myself, already allow workers time off to care for a seriously ill parent or a newborn child. But only wealthy, middle class families can afford to take 12 weeks off without pay under H.R. 1. Instead, Congress should encourage businesses to grant parental leave with the help of tax deduction and other similar incentives. This approach is not only fair, effective, and meaningful, it also reaches the most people.

If we're wondering why we have a lackluster economy, it's because of unfunded mandates imposed by the Federal Government. If Congress is serious about job creation, it should stop stifling economic growth with increased regulations and value businesses for what they are—job providers.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1, MEDICAL AND FAMILY LEAVE ACT OF 1993

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1, the Clerk be authorized to make corrections to section numbers, punctuation, and cross-references, and to make other necessary technical and conforming changes as may be necessary to reflect the actions of the House in amending H.R. 1.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

☐ 2310

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2, NATIONAL VOTER REGISTRATION ACT OF 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-11) on the resolution (H. Res. 59) providing for consideration of the bill (H.R. 2) to establish national voter registration procedures for Federal elections, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING A CERTAIN REQUIREMENT OF RULE XI WITH RESPECT TO CONSIDERATION OF A CERTAIN RESOLUTION REPORTED FROM THE COMMITTEE ON RULES

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-12), on the resolution (H. Res. 61) waiving a requirement of clause 4(b) of rule XI with respect to consideration of a certain resolution reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. BEREUTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 58.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

A COMBAT TEAM, NOT A SOCIAL LABORATORY

(Mr. BACHUS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BACHUS of Alabama. Mr. Speaker, I rise today to express my strong opposition to President Clinton's proposal to lift the ban on homosexuals in the military. I believe that the President's decision is not only unwise, but wrong.

Like many of my colleagues here today, I have received hundreds of calls and letters supporting my position to keep the ban in place. I was pleased to tell those callers that I was one of the first cosponsors of a bill that would codify the existing military policy banning homosexuals from serving in the armed forces.

Lifting the ban on homosexuals in the military would wreak havoc on the morale and discipline required for military effectiveness. Perhaps Gen. Norman Schwarzkopf said it best, and I quote "Allowing homosexuals in the Armed Forces will destroy the military." These are strong words from someone who has dedicated his life leading the military.

A major concern is whether openly homosexual officers could effectively lead heterosexual troops—especially into combat. Columnist and Vietnam veteran, William Hamilton, makes the point that civilians—those who have never served in military— can't understand "what it's like to be in charge of hundreds of men who, in the absence of good leadership, can become an armed mob capable of 'fragging' their officers or anyone for whom they have no respect."

No matter how outstanding an individual soldier may be, if his or her behavior interferes with the performance of others within a unit, then that soldier should be discharged. The military should not be a social laboratory; it should be a team and a unified fighting force. Individual needs must never take precedence over the mission and effectiveness of the team.

We cannot bow to the demands of gay rights groups and allow them to use the military to promote their agenda. And for those who would argue that the same thing was said of civil rights activists, consider the words of the Chairman of the Joint Chiefs of Staff, Colin Powell:

> Skin color is a benign, non-behavioral characteristic. Sexual orientation is perhaps the most profound of human behavioral characteristics. Comparison of the two is a convenient but invalid argument.

So, Mr. Speaker, I challenge my fellow Members and the President to uphold the ban on homosexuals in the military. And let us quickly move on to more pressing issues. President Clinton promised to cut wasteful spending and get the deficit under control. Those two promises are worth keeping, and I urge President Clinton to do so. On the other hand, the President's promise to gay rights groups, so detrimental to our combat team is, to the contrary, a promise worth breaking.

IN SUPPORT OF H.R. 1, THE FAMILY AND MEDICAL LEAVE ACT

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, why is it important to pass a family and medical leave act?

First, it is profamily legislation. It is prochildren legislation. It is proworker legislation. And most importantly, it sends a signal that the gridlock in Washington is over, that one of President Clinton's campaign promises is going to be enacted and signed into law, possibly even this week.

Passage of this legislation recognizes the reality of working Americans, that most American families are headed either by two working parents or by single women, and that women are now the fastest-growing segment of the labor market.

Mr. Speaker, Canada, West Germany, Japan, our major trading partners have family and medical leave. Why does the United States not have it? Maybe this is the reason for our trade deficit and our competitiveness not being as strong as it should be.

Mr. Speaker, I rise in strong support of the Family and Medical Leave Act, a bill whose time has finally come. Having survived congressional passage and subsequent vetoes during the past two congresses, the Family and Medical Leave Act has been, until recently, a victim of Washington gridlock. At long last, Congress will cast its vote on this legislation with confidence that it is not merely another empty symbol.

During the past decade, previous administrations failed to acknowledge the dramatic transformation of America's families and labor force. Passage of the Family and Medical Leave Act recognizes the reality of working Americans: That most American families are headed either by two working parents or by single women and that women are now the fastest growing segment of the labor market. According to the Labor Department, by the year 2005, 50 percent of those entering the work force will be women.

In the past, those who called for the defeat of the Family and Medical Leave Act also operated under the misguided assumption that establishing certain guarantees for employees was necessarily in opposition to the economic well-being of businesses. Indeed, this is not the case. Some of the benefits of family and medical leave include increased worker productivity, decreased absenteeism, and decreased costs of retraining new employees. It should come as no surprise that some of our greatest trade partners, including Canada, West Germany, and Japan, have family and medical leave policies already in place.

It is time to view the work place in a new light, one which responds realistically to the family and medical obligations of the American work force, while fostering renewed productivity and allegiance of workers to their employers.

Congressional passage of the Family and Medical Leave Act and anticipation that President Clinton will sign it into law mark the establishment of a new covenant between Washington and the American public. I strongly support this legislation and urge my colleagues to do the same.

URGE CLINTON ADMINISTRATION TO VETO FAMILY AND MEDICAL LEAVE ACT

The SPEAKER pro tempore. Under a previous order of the House the gentleman from California [Mr. KIM] is recognized for 5 minutes.

Mr. KIM. Mr. Speaker, today the House considered and passed H.R. 1, the so-called Family and Medical Leave Act. I opposed and voted against this flawed legislation and urge the Clinton administration to veto it.

Before coming to Congress, I was the owner of a 130-employee firm. I created this successful business from scratch. Like all businessmen, I'm insulted that through mandates like this bill, big, bureaucratic government claims to know more about what is best for my firm and its employees than those workers and I do. That is ridiculous. We should let the employer and employees work it out. This is just more government interference. And, government is not very good at business. The Federal Government itself is over $4 trillion dollars in the red! Any business run like government would be bankrupt.

I'm all for improving benefits for employees. If a cost-effective way can be found, it makes very sound business sense. I strongly support other incentives to businesses thereby allowing them to affordably provide increased benefits while remaining competitive. Mandating such benefits, hurts competitiveness and job creation.

During today's debate, my Republican colleagues detailed many serious flaws in H.R. 1. I agree with many of their concerns. However, I would like to focus on just three points at this time:

First, each employer and each employee have unique needs. Dictated one-size-fits-all Government mandates do not provide the necessary flexibility.

Family and medical leave is a benefit. Some businesses already offer it. Some offer less leave, but more pay.

Some offer flexible schedule or part-time work at home with full-time benefits. What is wrong with all these options? This bill could eliminate all of them.

But, what happens if business slows down and positions must be cut? If the business does not hold that position open at great cost and wait to terminate the employee after he or she returns up to 12 weeks later. Trust me, a costly lawsuit will follow.

Clearly, the Government's dictating an arbitrary 12-week unpaid leave benefit destroys this important flexibility for both employee and employer. It attracts costly lawsuits. What is next, mandated vacation time, lunch hours, and coffee breaks?

Second, H.R. 1 discriminates against the millions of Americans who work for business with less than 50 employees. Over 50 percent of American workers fall into this category. Why discriminate against those who do not work for a Fortune 500 company?

In the interest of fairness and equity, government should give the right to all or none.

Third, this costly benefit discriminates against those lower- and middle-income workers who essentially live paycheck to paycheck. What is up to 12 weeks unpaid leave to them? Most of us cannot afford to take off even 1 week without pay. Why are we protecting only a few fortunate employees at great cost to business?

Does H.R. 1 create more jobs? No, it may cost many jobs.

Does H.R. 1 promote equal working standards? No. It is very discriminatory and could promote bias against hiring child-bearing-aged women or for part-time workers instead.

Does H.R. 1 really benefit employees? Very few. Most American workers are not covered by the act and of those who are, most cannot afford the luxury of 12 weeks off without pay.

Does H.R. 1 stimulate economic growth and enhance competitiveness? No. It could hurt both by adding new, costly burdens to business.

Does H.R. 1 increase bureaucracy, endless lawsuits, and Government intervention? Yes.

The message from the American voter this past November was very clear. We want an effective economic growth package that creates real jobs—not time off without pay. It is sad that H.R. 1—the first bill introduced in Congress and the first real legislation passed by the House this year—does nothing to help economic growth and jobs. That is why I voted against it and urge Americans to join me in calling on the Clinton administration to veto it.

□ 2320

The SPEAKER pro tempore (Mr. SWETT). Under a previous order of the House, the gentleman for Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, the end of the cold war and the breakup of the former Soviet Union has dramatically altered the way that we view national security. In previous years the United States and the members of the NATO alliance looked at the Warsaw Pact and saw only the heavily armed, menacingly hostile, monolithic adversary. Now we look to the East and see a diverse and highly independent group of newly independent nations, each scrambling to establish good relations with the West.

In response to this remarkable turn of events, the NATO nations are in the process of significantly reducing their active-duty, forward-based presence. From its high of more than 300,000 forward-based troops, the United States has already reduced to approximately 210,000, and will be down to 100,000 by 1995. Other NATO countries have similar plans to limit defense spending.

But the breakup of the Warsaw Pact does not mean that the West can blithely ignore its defense and security requirements. While the threat of a massive Soviet armored attack through the Fulda Gap no longer exists, the world remains a dangerous place. If one doubts that continued threats to Western security do, in fact, exist, this Member would suggest looking at Bosnia, at Croatia, at Serbia, Kosovo, Macedonia, Georgia, Armenia, Moldavia, and any of a score or more hot spots where conflict has erupted. Clearly, these new crises call for a different type of response than we applied when dealing with the Soviet Union, but these new crises do require a response.

That is why, Mr. Speaker, this Member views with particular alarm the precipitous cuts in defense spending by some of our NATO allies. Recently it was reported that Belgium's Defense Minister intends to slash its military by half, and hold what has been called a mammoth garage sale of 210 battle tanks, 105 fighter jets, and 22 ships—more than half the Belgian Armed Forces' rolling, flying, and floating stock. Norway, Spain, the Netherlands, and other allies are also said to be planning major force reductions. What has been this Member's concern seems to be happening—a precipitous rush by various NATO member nations to be first in line to unilaterally take their personnel and unit cuts before there is a concerted, fair, and responsible reduction plan in place.

This planned action by Belgium is especially unfortunate in timing and scope of reduction. That country, after all, is the economic beneficiary of the NATO headquarters located in Brussels. That conduct is not what we should expect of a well-benefited host country.

The North Atlantic Treaty Organization is the most successful collective security arrangement in recorded history. NATO has been instrumental in ensuring peace and prosperity for over four decades. Yet NATO will remain effective only as long as the members of the alliance remain committed to the mutual defense of member nations. Precipitous force reductions run the risk of turning NATO into a hollow shell that can respond to each new crisis by only issuing another staff study.

Mr. Speaker, this Member would appeal to President Clinton to stoutly reaffirm the longstanding U.S. commitment to NATO and its defense objectives, and would urge our NATO friends and allies to move cautiously in coordinated fashion when considering addition unilateral force reductions. NATO can make an invaluable contribution to international peace and stability—if it is permitted to survive. NATO is far too important a resource to die of benign neglect.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEARS 1993–97

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. SABO] is recognized for 5 minutes.

Mr. SABO. Mr. Speaker, on behalf of the Committee on the Budget and as chairman of the Committee on the Budget, pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget Act of 1974, as amended, I am submitting for printing in the CONGRESSIONAL RECORD the official letter to the Speaker advising him of the current level of revenues for fiscal years 1993 through 1997 and spending for fiscal year 1993. Spending levels for fiscal years 1994 through 1997 are not included because annual appropriations acts for those years have not been enacted.

This is the first report of the 103d Congress for fiscal year 1993. This report is based on the aggregate levels and committee allocations for fiscal years 1993 through 1997 as contained in House Report 102–529, the conference report to accompany House Concurrent Resolution 287.

The term current level refers to the estimated amount of budget authority, outlays, entitlement authority, and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

As chairman of the Budget Committee, I intend to keep the House informed regularly on the status of the current level.

HOUSE OF REPRESENTATIVES,
Washington, DC, February 3, 1993.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: To facilitate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, as amended, I am herewith transmitting the status report on the current level of revenues for fiscal years 1993 through 1997 and spending estimates for fiscal year 1993, under House Concurrent Resolution 287, the Concurrent Resolution on the Budget for Fiscal Year 1993. Spending levels for fiscal years 1994 through 1997 are not included because annual appropriations acts for those years have not been enacted.

The enclosed tables also compare enacted legislation to each committee's 602(a) allocation of discretionary new budget authority and new entitlement authority. The 602(a) allocations to House Committees made pursuant to House Concurrent Resolution 287 were printed in the statement of managers accompanying the conference report on the resolution [H. Report 102–529]

Sincerely,

MARTIN OLAV SABO,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES, FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1993 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 287, REFLECTING COMPLETED ACTION AS OF ADJOURNMENT, 1992

[On-budget amounts, in millions of dollars]

	Fiscal year 1993	Fscal years 1993–1997
Appropriate level:		
Budget authority	1,246,400	6,669,200
Outlays	1,238,700	6,473,700
Revenues	845,300	4,812,900
Current level:		
Budget authority	1,247,892	NA
Outlays	1,241,794	NA
Revenues	849,333	NA
Current level over (+)/under(−) appropriate level:		
Budget authority	+1,4292	NA
Outlays	+3,094	NA
Revenues	+4,033	−5,732

NA—Not applicable because annual Appropriations acts for those years have not been enacted.

BUDGET AUTHORITY

Any measure that provides new budget or entitlement authority for fiscal year 1993 that is not included in the current level estimate for that year, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in House Concurrent Resolution 287 to be exceeded.

OUTLAYS

Any measure that: First, provides new budget or entitlement authority that is not included in the current level estimate for fiscal year 1993; and second, increases outlays for fiscal year 1993, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in House Concurrent Resolution 287 to be exceeded.

REVENUES

Any measure that would result in a revenue loss that is not included in the current level revenue estimate and exceeds $4,033 million for fiscal year 1993, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in House Concurrent Resolution 287. Any measure that would result in a revenue loss that is not included in the current level revenue estimate for fiscal years 1993 through 1997, if adopted and enacted, would cause revenues to be less than the appropriate level for those years as set forth in House Concurrent Resolution 287.

DIRECT SPENDING LEGISLATION

[Fiscal years, in millions of dollars]

House Committee	1993			1993–1997		
	BA	OLS	NEA	BA	OLS	NEA
Agriculture:						
Appropriate Level	0	0	0	13656	12806	15190
Current Level	1	1	0	3	3	0
Difference	1	1	0	−13653	−12803	−15190
Armed Services:						
Appropriate Level	0	0	0	0	0	0
Current Level	26	−41	26	313	−330	311
Difference	26	−41	26	313	−330	311
Banking, Finance and Urban Affairs:						
Appropriate Level	0	0	0	0	0	0
Current Level	−60	−60	0	−118	−118	0
Difference	−60	−60	0	−118	−118	0
District of Columbia:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Education and Labor:						
Appropriate Level	0	0	1472	0	0	21564
Current Level	−128	−148	1347	−132	−177	21384
Difference	−128	−148	−125	−132	−177	−180
Energy and Commerce:						
Appropriate Level	35	35	0	187	187	0
Current Level	−166	−166	−25	−601	−601	−51
Difference	−201	−201	−25	−788	−788	−51
Foreign Affairs:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Government Operations:						
Appropriate Level	0	0	0	0	0	0
Current Level	−8	37	−8	−20	−20	−20
Difference	−8	37	−8	−20	−20	−20
House Administration:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Interior and Insular Affairs:						
Appropriate Level	0	0	0	0	0	0
Current Level	−38	−38	0	2	2	0
Difference	−38	−38	0	2	2	0
Judiciary:						
Appropriate Level	251	251	251	251	139	251
Current Level	210	210	260	244	244	300
Difference	−41	−41	9	−7	105	49
Merchant Marine and Fisheries:						
Appropriate Level	0	0	0	0	0	0
Current Level	4	4	0	−366	−366	0
Difference	4	4	0	−366	−366	0
Post Office and Civil Service:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Public Works and Transportation:						
Appropriate Level	2000	22	0	10596	22	0
Current Level	2050	28	0	2050	−44	0
Difference	50	6	0	−8546	−66	0
Science, Space, and Technology:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Small Business:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Veterans Affairs' Transportation:						
Appropriate Level	0	0	339	0	0	6566
Current Level	170	170	341	−76	−76	2239
Difference	170	170	2	−76	−76	−4327
Ways and Means Technology:						
Appropriate Level	0	0	0	352	352	1213
Current Level	3590	3590	3475	5719	5719	5564
Difference	3590	3590	3475	5367	5367	4351
Perm. Select Committee on Intelligence:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0

DISCRETIONARY APPROPRIATIONS, FISCAL YEAR 1993

[In millions]

	Revised 602(b) subdivisions		Current level		Difference	
	BA	0	BA	0	BA	0
Agriculture, Rural Development	13,874	13,420	13,873	13,420	−1	0
Commerce, State, Judiciary	22,852	21,923	22,477	21,923	−375	0
Defense	255,560	266,963	253,618	264,699	−1942	−2264
District of Columbia	688	698	688	698	0	0
Energy and Water Development	22,080	21,409	22,080	21,409	0	0
Foreign Operations	14,701	13,301	14,071	13,300	−630	−1
Interior	13,230	12,666	12,505	12,617	−725	−49
Labor, Health and Human Services, and Education	62,161	62,428	62,144	62,380	−17	−48
Legislative	2,328	2,297	2,275	2,274	−53	−23
Military Construction	8,389	9,370	8,389	9,365	0	−5
Transportation	12,815	33,555	12,626	33,555	−189	0
Treasury-Postal Service	11,278	12,003	11,283	12,003	5	0
VA-HUD-Independent Agencies	66,172	65,307	66,042	65,303	−130	−4
Grand total	506,128	535,340	502,071	532,946	−4057	−2394

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 3, 1993.
Hon. MARTIN O. SABO,
Chairman, Committee on the Budget,
House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1993 in comparison with the appropriate levels for those items contained in the 1993 Concurrent Resolution on the Budget (H. Con. Res. 287). This report, my first for the 1st session of the 103rd Congress, is tabulated as of close of business February 2, 1993. A summary of this tabulation follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 287)	Current level +/ – resolution
Budget authority	1,247,892	1,246,400	+1,492
Outlays	1,241,794	1,238,700	+3,094
Revenues:			
1993	849,333	845,300	+4,033
1993–1997	4,807,168	4,812,900	−5,732

Sincerely,

JAMES L. BLUM,
for ROBERT D. REISCHAUER,
Director.

PARLIAMENTARIAN STATUS REPORT, 103D CONGRESS, 1ST SESSION, HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1993, AS OF CLOSE OF BUSINESS, FEBRUARY 2, 1993

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			844,708
Permanents and other spending legislation	757,700	732,858	
Appropriation legislation		241,891	
Offsetting receipts	(187,433	(187,433)	
Total previously enacted	570,267	787,316	844,708
ENACTED 102D CONGRESS, 2D SESSION			
Appropriation legislation:			
1992 Rescissions (Public Law 102–298)		(1,829)	
Disaster Assistance for Los Angeles and Chicago (Public Law 102–302)		44	
1992 Supplementals (Public Law 102–368)	500	1,451	
Agriculture (Public Law 102–341)	60,170	40,228	
Commerce-Justice-State (Public Law 102–395)	22,835	16,781	
Offseting Receipts	(128)	(128)	
Defense (Public Law 102–396)	253,787	165,979	
District of Columbia (Public Law 102–382)	688	688	
Energy and Water (Public Law 102–377)	22,080	12,386	
Foreign Operations (Public Law 102–391)	14,114	5,693	
Offsetting Receipts	(43)	(43)	
Interior (Public Law 102–381)	12,037	8,328	
Labor-HHS-Education (Public Law 102–394)	213,761	171,439	
Offsetting Receipts	(46,250)	(46,250)	
Legislative Branch (Public Law 102–392)	2,275	1,952	
Military Construction (Public Law 102–380)	8,389	2,948	
Transporation (Public Law 102–388)	13,197	12,099	
Treasury-Postal Service (Public Law 102–393)	22,384	19,386	1
Offsetting Receipts	(6,471)	(6,471)	
Veterans-HUD (Public Law 102–389)	85,794	46,286	
Other Spending legislation:			
Emergency Unemployment Compensation Extension (Public Law 102–244)	600	600	500
Food Stamp Family Welfare Reform Act (Public Law 102–281)	(26)	(26)	
Extend Certain Expiring Veterans Programs (Public Law 102–291)	(1)	(1)	
Unemployment Compensation (Public Law 102–318)	3,372	3,372	3,526
Transfer Certain Naval Vessels (Public Law 102–322)			5
Higher Education Amendments (Public Law 102–325)	(128)	(148)	
Partial Restoration of Highway Obligational Authority (Public Law 102–334)		28	
Pacific Yew Act (Public Law 102–335)	1	1	
Civil Liberties Act Amendments (Public Law 102–371)	250	250	
Health Professions Education Extension Amendments (Public Law 102–408)	(14)	(14)	
WW II, 50th Anniversary Commemorative Coins Act (Public Law 102–414)	(8)	(8)	
National Defense Authorization Act, fiscal year 1993 (Public Law 102–484)	26	(41)	(3)
Energy Policy Act of 1992 (Public Law 102–486	68	68	590
Intelligence Authorization Act, fiscal year 1993 (Public Law 102–496)			1
Telecommunications Authorization Act (Public Law 102–538)	(2)	(2)	(3)
Veterans' Home Loan Program Revitalization Act (Public Law 102–547)	1	1	
Housing and Community Development Act (Public Law 102–550)	(26)	(26)	
Audio Home Recording Act (Public Law 102–563)	(50)	(50)	
Veterans' Benefits Act (Public Law 102–568)	166	166	
Federal Courts Administration (Public Law 102–572)	10	10	2
Reclamation Projects Authorization and Adjustment Act (Public Law 102–575)	(38)	(38)	
Airport and Airway Safety, Capacity and Noise Improvement Act (Public Law 102–581)	2,050		
High Seas Driftnet Fisheries Enforcement Act (Public Law 102–582)	4	4	
Cash Management Improvement Act (Public Law 102–589)	(8)	37	
Homeless Veterans Comprehensive Service Programs Act (Public Law 102–590)	4	4	
Private Relief Acts (Public Law 8, 11, 13, 15, 18, 19)	(3)	(3)	
Discretionary estimating adjustment (House Concurrent Resolution 287)		(1,848)	
Total enacted 2d session, 102d Congress	685,371	453,309	4,625
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted [1]	(7,746)	1,170	
Total current level [2]	1,247,892	1,241,794	849,333
Total budget resolution	1,246,400	1,238,700	845,300
Amount over budget resolution	1,492	3,094	4,033

[1] Includes changes to the baseline estimate for appropriated mandatories due to the following legislation: Technical Correction to the Food Stamp Act (Public Law 102–265); Higher Education Amendments (Public Law 102–325); Prevent Annual Food Stamp Price Adjustment (Public Law 102–351); Veterans' Compensation COLA Act (Public Law 102–510); Preventive Health Amendments (Public Law 102–531); Veterans' Benefits Act (Public Law 102–568); Veterans' Radiation Exposure Amendments (Public Law 102–578); and Veterans' Health Care Act (Public Law 102–585).

[2] In accordance with the Budget Enforcement Act, the total does not include $1,145 million in budget authority and $6,988 million in outlays in emergency funding.

[3] Less than $500 thousand.

Notes: Amounts in parenthesis are negative. Numbers may not add due to rounding.

LEGISLATION TO DIRECT THE NATIONAL PARK SERVICE TO UNDERTAKE FEASIBILITY STUDIES IN CERTAIN AREAS OF HAWAII

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii [Mrs. MINK] is recognized for 5 minutes.

Mrs. MINK. Mr. Speaker, today I rise to introduce legislation that is of extreme importance to the preservation of the natural, cultural, and environmental resources of the islands of Hawaii.

Over the last several decades Hawaii has experienced the loss of too much of its beaches, waters, mountains, and lush valleys to reckless development and pollution. We have seen overgrazing, nonnative species, runoff, and other fallout of our own neglect strip away centuries of God's handiwork and leave in its place eroded hillsides, barren reefs, and unforgiving pavement.

Today, I am introducing a bill which would initiate the study and evaluation of certain areas in Hawaii for possible protection under the National Park System.

My bill would direct the National Park Service to undertake feasibility studies for designated areas on the islands of Maui, Lanai, Molokai, and Kauai, which have environmental, cultural, or historical significance of national importance that deserve preservation.

All these areas are under present or potential jeopardy because of encroaching development. Each represents a unique resource to the community and the nation that I consider irreplaceable. And together as park units in Hawaii they would reiterate to the citizens across this country that the National Park System continues to be a vital and attentive guardian of the best of our natural treasures.

My bill describes the specific areas I have in mind for the National Park Service to investigate: The shoreline area on Maui Island known as North Beach; the mountaintop of central Lanai Island; Anini Beach and the north shoreline of Kauai Island, and Molokai Island's northern coastline from the present national historic park boundary at Kalaupapa Settlement to Halawa Valley.

I know these are just names of unknown places today in these Halls of Congress, Mr. Speaker. But like each and every one of our national park units now in existence, they have special relevance and meaning to the surrounding community disquieted by their possible loss from public use, enjoyment, and contemplation.

It is my fervent hope that the feasibility studies this bill authorizes lead to further evaluation by the National Park Service, and that these areas then satisfy all appropriate criteria for national park status.

I ask my House colleagues to join in this effort.

SETTING THE RECORD STRAIGHT WITH RESPECT TO THE LATE WILLIAM CASEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. HYDE] is recognized for 60 minutes.

Mr. HYDE. Mr. Speaker, I come to the floor this evening to try to restore the reputation of a man who was unable to do so himself.

William J. Casey passed away on May 6, 1987, but his spirit lingers in these Halls. Here William Casey was posthumously condemned for his alleged role in the Iran/contra scandal and here William Casey has been accused with outrageous disregard for the facts of treachery most foul, making a deal with the Iranians in 1980 to delay the release of the American hostages and thus to ensure the election of Ronald Reagan as President of the United States.

So it is fitting then that I make this attempt at restoration here on the floor of the U.S. House of Representatives.

Mr. Speaker, I yield to the gentleman from New York [Mr. LEVY].

Mr. LEVY. I thank the gentleman for yielding.

Mr. Speaker, I want to rise tonight and thank my colleague from Illinois, HENRY HYDE, for putting together this special order. It is indeed time that we recognize the findings of the October Surprise committee and set the record straight, much to the chagrin of many who continue to assert that Reagan-Bush shenanigans were behind the 1981 American hostage release.

I would also like to address the degree of insensitivity that has been associated with the late Bill Casey, a fellow Long Islander. Whether or not one agreed with the style that Mr. Casey exhibited in his role as Central Intelligence Agency Director, the mistreatment his family has endured since his death is nothing less than despicable. Since his passing, Bill Casey has been nothing more than a scapegoat, and I suspect, that will undoubtedly continue despite the clearing of any wrong doing during the Iranian hostage crisis.

□ 2330

Mr. Speaker, again I want to thank the gentleman from Illinois [Mr. HYDE] for reserving time tonight for this special order. It is imperative that the truth behind the October Surprise be known and that the rumors and rhetoric associated with the charges that have been leveled against Mr. Casey be resolved.

I am very pleased tonight to associate myself with the remarks of the gentleman from Illinois [Mr. HYDE], and once again I want to thank the gentleman from Illinois for yielding to me.

Mr. HYDE. Mr. Speaker, I am pleased to yield to the gentleman from New York [Mr. KING].

Mr. KING. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, like the gentleman from New York [Mr. LEVY], I am proud to associate myself with the remarks of the gentleman from Illinois [Mr. HYDE].

I was very proud that former CIA Director, Mr. Casey, was a resident of my Third Congressional District. Presently his widow, Sophia, and his daughter, Mrs. Bernadette Casey Smith, also reside in my district.

I know the terrible suffering they have gone through as a result of these untrue charges that were leveled against Mr. Casey, charges that were made after this death, charges that were repeated throughout our Nation's media, charges which Mr. Gary Sick promoted at every opportunity, as he also promoted the sale of his book.

I commend the gentleman from Illinois [Mr. HYDE] and the other members of the committee who went through the details, who went through the evidence and who realized that there was absolutely no basis for these charges; however, I deplore the media which promoted the original charges, but now remains silent in the presence of Mr. Casey's vindication.

Mr. Speaker, Mr. Casey was an outstanding American. I was proud to know him. I was proud to know his family, and I am now proud that the gentleman from Illinois [Mr. HYDE] has come before the House of Representatives to lay out the record, to establish once and for all that there was absolutely no wrongdoing on Mr. Casey's part, that Mr. Casey acted as a patriot, that Mr. Casey was not involved in any maneuverings or any dealing at all which prolonged for even one day the holding of our hostages in Tehran.

I thank the gentleman from Illinois [Mr. HYDE] for the outstanding work he has done. I commend him for coming before the House this evening.

Mr. HYDE. Mr. Speaker, I thank the gentleman for his contribution.

Mr. Speaker, I yield to the gentleman from New York [Mr. SOLOMON].

Mr SOLOMON. Mr. Speaker, I certainly thank the gentleman from Illinois [Mr. HYDE], one of the most distinguished Members of this House, who I have had the privilege of serving with for many, many years on the Foreign Affairs Committee, for holding this particular special order today.

It is a shame that we have to be here to say, "I told you so."

Mr. Speaker, when this House debated the creation of the October Surprise Task Force 1 year ago, not one Republican Member voted to fund that investigation, not one.

I believe that Republican leader BOB MICHEL best characterized Republican Members' doubts about the usefulness of such an investigation during that debate when he said:

> In my view, the majority is offering an unacceptable resolution, for an unnecessary investigation, into unbelievable allegations based on unsubstantiated claims made by unsavory characters.

Mr. Speaker, the task force has now completed its work. What are the results? America, I hope you are listening.

I quote, first, Congressman LEE HAMILTON, the chairman of the task force: He said:

> The overall conclusion of the task force is that there is no credible evidence to support the central October Surprise allegations—that coming from the Democrat chairman. The task force found that nearly all of the individuals claiming firsthand knowledge of the October Surprise allegations were either wholesale fabricators or were impeached by documentary evidence.

Now, let me quote Congressman HENRY HYDE, standing in the well right now—the ranking Republican member of the task force:

> The task force has authoritatively and decisively refuted the October Surprise allegations . * * * The task force concluded that many of the key sources of these allegations not only lacked credibility, but were fabricators.

Just as the chairman, Mr. HAMILTON, said.

Mr. Speaker, this is the part that galls me to no end, 1 year and $4.5 million later, the task force has simply reported what some major U.S. news magazines and many of us here in the Congress had already concluded—this whole thing has been a hoax, a $4½ million hoax, using American tax dollars. Now, we cannot get that $4.5 million back. It is spent. It is gone, with people flying all over the world carrying out this hoax.

But, as the ranking Republican member on our House Rules Committee, I sincerely hope that this House will learn some important lessons from all of this.

First, we must avoid the temptation to use our committees and task forces such as this in such frivolous ways and wasting the taxpayers' money.

In this time of burgeoning deficits, we just cannot afford to so easily acquiesce to the expenditure of millions in taxpayer dollars.

Second, we have to have stricter adherence to the rules governing approval of investigations conducted in the name of, or under the authority of our House committees. You know, we are not God around here.

As I pointed out when we debated all of this in the House last year, our standing rules do not delegate to any chairman of a committee the authority to initiate and conduct investigations in the absence of approval by that committee.

Unfortunately, in the months leading up to the creation of this task force, that stricture of our rules was not observed by this House. It was a violation of the rules of this House.

Finally, we in this House need clear guidelines as to when, and in what manner, this body, or its committees, may be represented to a court of law as having an opinion on a criminal case pending before that court.

Regrettably, the gentleman from Illinois [Mr. HYDE] knows this, and the chairman [Mr. HAMILTON] knew it, too. In this instance—prior to the task force's creation—a committee counsel's correspondence with a court of law, resulted in the lessening of that court's sentence for a convicted arms dealer who, the task force later found, to have had no useful information whatsoever regarding an alleged October Surprise.

And yet he got his sentence reduced because of a committee counsel here in this Congress. Did you ever hear of anything as outrageous?

Mr. Speaker, I share Mr. HYDE'S view that it is simply incredible to think that Ronald Reagan, a great President of this country, or the late Bill Casey would have condoned the use of Americans held hostage overseas to gain political advantage. They would never do such a thing.

I believe that rather than substantiating such incredible allegations, the October Surprise Task Force—and the actions taken which I referred to above—have instead substantiated the need for some changes in the way this House conducts itself when confronted with such allegations.

Every Member of this House ought to think about that. We have a joint committee now working bipartisan in both Houses that ought to clear up this mess and not allow this thing to happen again, to sully the names of people who are so respected in this country.

So I say to the gentleman from Illinois [Mr. HYDE], that I appreciate his taking the time at almost midnight to bring this to the attention of the American people. They surely needed to hear from the gentleman and his task force, and I thank the gentleman for the great job he did.

Mr. HYDE. Mr. Speaker, I thank the gentleman from New York for his usual excellent contribution to this important subject.

Mr. Speaker, I yield to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, this special order is intended to bring perspective to the conclusion of one of the most extraordinary committee investigations in congressional history.

In America, process is our most important product. The October Surprise Task Force was created, with much partisan concern, to ascertain whether the democratic process was besmirched by the leadership of one of America's two principal political parties in the 1980 elections. If the allegations that a Presidential campaign had entered into negotiations with leaders of a foreign state to prolong the incarceration of American citizens by foreign terrorists proved valid, the basis of two centuries of constitutional governance—respect for rules and comity of process—would have been undercut.

While the purpose of the task force investigation was fundamentally historical rather than prosecutorial, congressional inquiries, as we all understand, are blunt instruments. At issue is the confidence of the people of the United States in our electoral system.

At issue also is conspiratorial explanations of events.

The conclusions of the task force are important because the allegations of wrongdoing are so disturbing.

The good news the task force in effect concluded is that the Reagan campaign of 1980 appears to have been honorable. The bad news is that honorable conclusions, unlike the reverse, appear to be of limited public newsworthiness.

□ 2340

Given that the Reagan administration policy toward Iran later proved controversial, indeed embarrassingly stretching of the law, it is crucial that events surrounding the campaign of 1980 be put in perspective. It is the judgment of this Member that the mid-1980's policy of the Reagan Presidency may legitimately be criticized, but the integrity of the electoral process in which Mr. Reagan became President was not breached. In fact, the 1980 Republican campaign was one of the most philosophically high-minded in American history.

Finally, a note about two people, the then Vice-Presidential candidate, George Bush, and the current chairman of the Committee on Foreign Affairs, the gentleman from Indiana [Mr. HAMILTON]. Perhaps the Vice President came to learn more about the Reagan administration policy toward Iran than he cared to reveal in subsequent Presidential elections, but the much publicized allegations that, as the 1980 Vice-Presidential candidate, Mr. Bush managed secretly to slip the country and fly to Paris 3 weeks before the election to meet with the Iranian intermediaries defies credulity and, as the task force easily ascertained, fact. For the fourth estate to allow such conspiratorial nonsense to percolate is unpardonable. As for the gentleman from Indiana [Mr. HAMILTON] who so honorably led the October Surprise Task Force, I would like to express my personal appreciation that in a highly charged political environment he had the decency to call a preelection press conference to issue a preliminary report declaring a sitting President not of his party of alleged misdeeds associated with the 1980 campaign. Mr. HAMILTON'S decision to defend Mr. Bush protected the honor of the House and not inconsequentially reflected honorably on his own character.

The ultimate irony of the task force investigation is that an October Surprise did occur, almost. As a task force report clearly indicates, the Carter administration put an arms for hostage exchange arrangement on the table, only to be rebuffed at the time by the Iranians. Indeed it might well be argued that the mistake the Reagan administration later made was that it propitiated a policy which at first was unsuccessfully broached by the Carter administration. In this context the 1992 book award for chutzpah must go to Mr. Gary Sick for criticizing without credible substantiation the Reagan campaign for toying with the very arms for hostage policy he, as an NSC aide, knew the Carter administration had on its own, advanced.

Mr. Speaker, I would be remiss if I did not express respect for the quality legal counsel provided the committee, Mr. Leon and Mr Barcel in particular, in the extraordinary bipartisan staff cooperation. I would also be remiss not to express my deepest respect for the leadership of the gentleman from Illinois [Mr. HYDE] whose distinguished career has been embellished by his service to this task force.

Mr. HYDE. Mr. Speaker, I thank the gentleman from Iowa [Mr. LEACH], and I want to say before he leaves that the leader of the Republican side, the gentleman from Illinois [Mr. MICHEL], in setting this task force up from the Republican perspective I think made a selection of the most wise, the most prudent, Members, those with a reputation for integrity, and for insight, and for energy and for honor in picking the gentleman from Iowa [Mr. LEACH,] in picking the distinguished gentlewoman from Maine [Ms. SNOWE], in picking the distinguished gentleman from Nebraska [Mr. BEREUTER] and in picking the very distinguished gentleman from Florida [Mr. GOSS]. Our leader did a single service to the cause of the historical record and to the restoration of the reputations of those who were unfairly and unjustly smeared by this horrendous hoax.

So, Mr. Speaker, I just want to thank the gentleman from Iowa, the gentleman from Nebraska, the gentleman from Florida and the gentlewoman from Maine for their enormous contributions to the historical record. They have done their job diligently, and it was such a pleasure to serve with them.

If the distinguished gentleman from Florida [Mr. GOSS] is ready, I am honored to recognize him.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from Illinois [Mr. HYDE] very much for his extremely kind remarks, as well as for the opportunity to deal further with this subject.

I think it might be appropriate, looking around and noting the hour of the day, to make the comment that the silence is truly deafening, and that is a shame. I think we can recall back on January 13 when the bipartisan task force made its announcement that there was no credible evidence to support the very serious allegations regarding the Reagan-Bush campaign and the American hostages, that we had a military event at that time. That was when the Saddam Hussein business started up again, and obviously the Nation's attention was diverted, properly, in that direction.

But we have had a multimillion dollar investigation. This is a big deal. We had 10 attorneys, 6 investigators. They went all over the world. There were more than 200 interviews seeking cooperation from at least 7 Federal agencies, and I do not think this should fade quietly away, and I thank the gentleman from Illinois [Mr. HYDE] for making sure that it does not fade quietly away because there are a great many unanswered questions still that need to be discussed, but they do not go to the issues of the things that we heard the allegations about. They came to other areas of what I will term "mischief" in our investigation, and I am going to deal directly with them and then ask my distinguished colleague if he would in fact indulge me in a colloquy about some questions in a moment.

I would like to talk a little bit about some of the things that I would classify as sordid motivation by those who made these allegations. Our investigation showed that there was a "quid pro quo," and I use the term in quotes, an arms for hostage deal that was discussed in 1980, if not actually proposed, but it was not by Reagan-Bush. The deal was actually conceived by the Carter administration and presented by then Deputy Secretary of State Warren Christopher, apparently desperate to make progress in getting the hostages free, understandable, before the November election. The plan to trade arms for hostages was described by former National Security Adviser Zbigniew Brzezinski and even by Gary Sick, the author of the much hyped book, "All Fall Down," about the hostage crisis. That is where that information came from, and I think it should be pursued. I would like to know more about that.

I would also like to know more about some false allegations made against the Reagan-Bush team that the hostages were being used as political props. Our investigation found very much to the contrary, that the most blatant perceived politicization of the hostage crisis was undeniably at the hands of President Carter and his reelection team who held a bizarre, and that is the only way one can describe it, early morning, predawn news conference on the day of the crucial Wisconsin primary to announce some very nebulous program in the hostage crisis, progress that actually never materialized but was labelled as a significant development just as the polls were opening and apparently had some type of impact. Despite repeated attempts by the minority when this investigation began, the majority never actually granted the task force the authority to further investigate this incident. I think we ought to know more about it.

There is great concern among the task force members about the use of the General Accounting Office in the early stages of this investigation. The GAO is supposed to be objective. There is supposed to be a research branch of this Congress, but in this case we know that the GAO, at the behest of the majority and without the knowledge of the minority, undertook a secret partisan investigation. I would say this was political. Our distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], was right when he said the GAO has become, quote, the handmaiden of the majority, unquote, not the watch dog of the citizens, which is what it is paid to be. I think we have to deal with suspicion in this manner, the GAO's early role. Partisan politics unquestionably seem to have spilled over here. It was referred to previously. We have got a high ranking staff member of the House Committee on Foreign Affairs in my view abusing his congressional authority. We note that this senior Democrat staffer, apparently acting on his own authority and without the blessings of the Justice Department, and that is something that I would like to know more about, actually intervened in a criminal case recommending release of a dangerous convicted felon who in fact was released early, provided no useful information on this and, I believe, fled the country, if memory serves me correctly.

Mr. HYDE. He went to South Africa.

Mr. GOSS. He went to South Africa.

Mr. HYDE. Where we had to chase after him and interview him and found that he had nothing to contribute.

Mr. GOSS. But he did get out of jail.

Mr. HYDE. Oh, indeed, at the written request of the chief counsel to the House Committee on Foreign Affairs chairman.

☐ 2350

Mr. GOSS. That is interesting, and I think that would certainly in most people's mind require further explanation.

Finally, the critical point, the one that I think is most important in all of this, where we need further information, a whole lot has been said about lying to Congress lately. If we are going to protect our integrity and the interest of our future congressional investigations, we cannot tolerate lying to Congress.

There is no question, there is unfinished business here. We have made that part of the task force's report, that indeed those who deliberately lie should be punished, and efforts should be taken to find out who they are and to follow through with the appropriate procedures of punishment.

I think those are the type of unanswered things that mean the silence should not be deafening, that this should not fade into history. These are questions that we ought to get a little return on this multimillion investment.

At this time I would like to go directly into colloquy with my distinguished leader, Mr. HYDE, on this, and ask actually all totaled, how much did this House investigation cost the U.S. taxpayers?

Mr. HYDE. Well, more than $4½ million total, including the $1.3 million that the House of Representatives itself expended, plus the cost of the executive branch agencies, the Department of Justice, the Federal Bureau of Investigation, the Central Intelligence Agency, the Department of the Treasury, the National Security Council, the State Department, and the Defense Department, for responding to our requests for documents, witnesses, and other evidence.

Mr. GOSS. So it would not be fair to characterize this as just a minor incident, a small asterisk on the bottom of some accounting sheet somewhere, something around $1 million. We are talking about the involvement of several agencies and several millions of dollars.

Mr. HYDE. It was a massive investigation, done by some experts. We had a great bipartisan team of experts. The U.S. Customs Service detailed people to us. Alcohol, Tobacco and Firearms, the FBI, and other agencies also. And we had a very skilled professional investigative group. They knew their business and they did it well, and it cost about $4½ million of taxpayer money.

Mr. GOSS. I recall that there was some talk about joining forces with the other body in an interest of saving some dollars, and that was an effort that was frustrated. But we do know that the other body did issue a report.

I wonder if our distinguished leader from Illinois would tell us if the House report agrees with the troublesome conclusion of the Senate special counsel that Mr. Casey, to whom we have referred earlier, then Ronald Reagan's campaign manager, was "fishing in troubled waters," if you care to define that?

Mr. HYDE. Well, Mr. Goss, that was a gratuitous statement by the chief counsel, who was retained by the other body, the Senate Foreign Relations Committee, that looked into this. They did a very superficial job because they did not have the personnel, they did not have the resources, they did not have the funds.

So they took a lick and a promise, so to speak, and came back with a report that found nothing. But I guess the chief counsel could not resist a gratuitous swipe at the deceased Bill Casey by saying that he was dangerously close to doing something wrong and was fishing in troubled waters.

But the House task force had much more staff, much more time to explore all of Mr. Casey's activities relating to the Iranian hostages in the 1980 campaign. Our investigation, which was vast and comprehensive and thorough, found nothing improper or sinister as to Bill Casey's activities and in monitoring developments on their possible release.

In fact, because of President Carter's perceived manipulation of the hostage issue before the Wisconsin primary on April 1, an appropriate date, 1980, Casey's concern for a possible preelection release of the hostages was entirely justified and explainable.

Mr. GOSS. I think, Mr. HYDE, that everybody well knows that you are a man of unassailable integrity. You certainly have that reputation, well deserved, in this body, and I am sure in your district and elsewhere where people know you and have observed the things you have accomplished and the principles you stood for.

I also believe it is accurate to say that you are probably one of the most knowledgeable people on this subject of this particular conspiracy allegation, having waded in early, read the documentation, talked to people, and been totally involved.

In your view now, are you convinced that the conspiracy theory, A, has been debunked, even though we have never found the missing passport of Mr. Casey from 1980?

Mr. HYDE. Based on our extensive, thorough, and lengthy investigation, we believe all allegations have been satisfactorily resolved. Even without Mr. Casey's passport, we have been able to determine, using other records and evidence, his whereabouts on the key days in question. He did not meet with any Iranians in Madrid or Paris during the campaign.

Mr. GOSS. Can you actually explain where Mr. Casey's 1980 passport is?

Mr. HYDE. No. Some 12 years have elapsed since those days, and we cannot find every document. We could not locate his passport. But through other evidence, which was corroborated and validated by these professional investigators, who are nonpolitical, who are bipartisan, we were able to account for his whereabouts almost totally during that period of time.

To think that a campaign manager of a Presidential campaign that is close to victory would risk leaving the country and going to Madrid to meet with Iranians to cut a deal for Iran to hold our hostages beyond the election to harm Carter is a flight of fancy that I think would be long in the abnormal psychology books.

Mr. GOSS. Do you think reasonable men can now put the conspiracy theory to rest, even though not every conceivable document, in your words, has been located?

Mr. HYDE. Well, according to the U.S. State Department passport records, Bill Casey applied for his last ever personal tourist passport in 1976, which covered a 5-year period of validity, including the 1980 campaign period.

This was the last and final personal tourist passport Mr. Casey was ever to apply for or hold prior to his death in 1987.

In January 1981, following the election of Ronald Reagan, Mr. Casey assumed the duties of Director of Central Intelligence and received the first of two official diplomatic passports.

Because of Mr. Casey's duties as Director of the CIA, a very sensitive and important government position, any personal overseas travel would likely be on his official diplomatic passport. This would be particularly true because foreign travel would require a CIA security detail arrangement due to personal safety concerns and the need for instant communication and other official requirements.

Mr. Casey may not have seen any need to retain his personal passport after receiving his official one. This was very evident by his state of mind in 1986 when he again applied for and received a renewal of his 1981 official diplomatic passport, and never again renewed his personal tourist passport.

So what I am saying is after 1981 he had no further need for his tourist passport, but he used his official passport. He may well have discarded the other one. But we could not find it.

But, nonetheless, we were able to locate his whereabouts with virtual certainty, certainly with corroborative evidence adequate to dispel the notion that there was anything to these charges.

Mr. GOSS. I only have three more questions in my colloquy, but I cannot help but observe I have no idea where my 1980 passport is. I wonder if we ask Members, how many of them could tell us where their 1980 passport is.

But my next question, there has been a little disagreement between the majority and the minority on one point in our task force report, and that is whether or not the Reagan campaign in 1980 should have reported a meeting that took place in the L'Enfant Plaza Hotel about this hostage situation, and the report should have been made to the Carter White House. The circumstances of that meeting, of course, are gone into in the report itself. That is the only point of disagreement.

Do you think that matters, and do you think it is real?

□ 0000

Mr. HYDE. Well, the majority, in my opinion, mistakenly believes that the 1980 Reagan campaign had a moral, although they concede not a legal, obligation to report the September 1980 contact at the L'Enfant Hotel with an individual who raised the hostage issue with people associated with the Reagan campaign. The meeting was not with an Iranian but with someone who may have been a Malaysian who had a plan to restore the son of the Shah to the Peacock Throne of Iran and free the hostages in the process.

The Reagan campaign officials refused to discuss the plan and explained to the individual that the United States has one President at a time and the campaign of Reagan would not entertain such offers. To say that the Reagan campaign had an obligation to report this meeting to the Carter administration is absurd.

Mr. GOSS. So what we have here is a judgment difference on a point of when do you report every crazy piece of information that comes your way to the White House.

Mr. HYDE. They thought this man's approach was off the wall and it was nonsense without any substance, and they were not about to bother anybody at the White House with this silly encounter.

Mr. GOSS. And there was no legal requirement.

Mr. HYDE. Certainly not.

Mr. GOSS. And we are in agreement on that point.

I get to the last two question, somewhat subjective, but I think important. And this gets back to this sordid motivation concern I have. The question I have is, why do you think Gary Sick pursued the theory of the October Surprise?

Mr. HYDE. Of course, the best source for an answer would be Mr. Sick himself. It is worth noting, however, the October Surprise has hardly been a financial burden to Mr. Sick, having supposedly earned over half a million dollars during the last 4 years from his book. And there is a movie rights contract. That ought to be an excellent work of fiction.

It is hard to figure out why people are wedded to nonsensical conspiracy theories, but it happens more than we imagine. Saul Bellow, the novelist, once said, "A great deal of intelligence can be invested in ignorance, when the need for illusion is great."

Mr. GOSS. I think that is exactly appropriate.

I guess my final question is a follow-on to that, because clearly what fueled this was on an op-ed piece, started this whole nonsense, again, was this op-ed piece that appeared, I guess in April, in the New York Times.

I wondered, did the task force work include any effort to determine what communications, if any, were made with the New York Times by anybody who was interviewed to arrange for the publication of this Gary Sick op-ed piece? Is that something we know anything about?

Mr. HYDE. I certainly do not. That would be interesting to know, but it was a provocative piece from a person who had some authority on the subject. But he exercised a flight of fancy and caused an awful lot of people lasting damage.

Mr. GOSS. Of course, we live in a wonderful democracy and the freedom of the press is something we all cherish. And with that goes responsibility. I think when an error is made, we expect to see some type of an admission that an error has been made. I am curious, do you have a thought on that? I do.

Mr. HYDE. Falsehood flies on falcons' wings, while the truth shuffles along in wooden shoes. I do not know who said that, but he is certainly right.

Mr. GOSS. I think whoever said it deserves applause, and I thank the distinguished leader of our task force for the outstanding job he did.

I would only comment that I honestly believe it was a truly excellent, bipartisan effort. And I think that the facts speak for themselves.

I dare say, if the conclusions had come down otherwise, the silence would, indeed, not be deafening

Mr. HYDE. Well, I thank the gentleman from Florida [Mr. Goss], again, one of the most valuable members of our task force, wisely chosen by our leader, the gentleman from Illinois [Mr. Michel]. Your contribution was enormous, and I really thank you for your continuing interest.

Mr. Speaker, I am very proud and pleased to yield to the gentleman from Nebraska [Mr. Bereuter], who was one of the outstanding members of our subcommittee, of our task force, really, who approached this subject with zeal and with great concern to let the facts lead where they may and whose honesty and insightfulness were a tremendous asset to getting the report together, getting the facts together.

I am honored to yield to the distinguished gentleman from Nebraska.

Mr. BEREUTER. Mr. Speaker, this Member too would take this opportunity to thank the distinguished gentleman from Illinois, the ranking Republican on the October Surprise Task Force, for organizing this special order. As a member of that congressionally authorized task force, this Member would recognize the exceptional leadership displayed by our distinguished colleague from Illinois, and his dogged determination to get at the truth. I would say to both Henry Hyde and to our distinguished task force chairman, the gentleman from Indiana [Mr. Hamilton], in particular, that their charge, and the task force's charge, in general, was a task that no one would relish—sifting through the morass of obscure charges and unsubstantiated accusations. But, for these two gentlemen, in particular, I would say in performing your duties so admirably in laying to rest for once and for all the October Surprise allegations, you have done a major service to the Nation, and this Member is sincerely grateful.

The distinguished gentleman from Indiana [Mr. Hamilton] was similarly committed to a thorough and honest investigation, and went to great lengths to secure a genuinely bipartisan report. He selected a staff that worked in an integral manner with the minority staff and Republican Members throughout the entire investigation. Like Mr. Hyde, Chairman Hamilton displayed the sound judgment for which he has become noted, and we on this side of the aisle are greatly appreciative.

But while the task force performed its job well, it remains a question of how the House of Representatives came to the point where we felt compelled to undertake this October Surprise investigation. For the creation of the October Surprise issue is truly a sad tale of sloppy journalism and irresponsible academicians joining in an unholy alliance with, or being naively hoodwinked by, an odd assortment convicted felons, arms smugglers, pathological liars, and various and sundry conspiracy theorists. We were in a strange situation where the decade-old allegations against former President Bush, CIA Director Bill Casey, and others grew evermore fantasy-like. It seemed that with every new wave of charges came an ever-widening circle of those individuals sitting in jail cells who were seeking to parlay their fabricated or exaggerated inside knowledge into an early release from their prison term.

To illuminate the point, this Member would raise the case of one of these so-called expert witnesses, Mr. Dirk Stoffberg. Mr. Stoffberg is a South African citizen with a long history of connections with some of the more odious characters in the Middle East. Mr. Stoffberg's contention was that, in August of 1980, he had dinner in London with Reagan campaign official William Casey, at Mr. Casey's request. Stoffberg claims that Casey came to know of him as a result of his activities with British Intelligence, and his success in securing the release of some British citizens that were held by the government of Iran. Stoffberg claimed that Casey expressed a similar problem with American hostages, and asked that Stoffberg use his connections with the Iranian underworld to secure the American's release. According to Stoffberg's story, Mr. Casey seemed willing to supply Iran with 155mm artillery pieces in the event that Ronald Reagan was able to claim responsibility for the release of the hostages.

Mr. Speaker, there are a number of very basic problems with Mr. Stoffberg's story. First, there is no indication that Mr. Stoffberg ever worked for British intelligence, as he claimed. The British certainly don't claim him, and he had not one shred of evidence to support his assertion that he was a British agent.

Even more conclusive, the alleged act that brought Stoffberg to Bill Casey's attention—the release of a number of British hostages—had not yet occurred and would not occur for another 6 months. Indeed, at the time that Stoffberg claims his meeting with Casey took place the Iranian government had not even seized the British hostages in question.

Mr. Stoffberg insists this dinner with Bill Casey occurred some time in August 1980. But the task force investigation was able to account for Mr. Casey's whereabouts during the entire month, save for portions of 2 days. The task force concluded that, in order for Casey to have participated in the meeting, he would have had a very small window of opportunity to make the 2-day trip that Stoffberg claims to have taken place. Not impossible, but extremely unlikely, and even more difficult to keep a secret.

Mr. Stoffberg also claimed to have the documentation to support his allegations. But when the task force investigated Stoffberg's proof, we found his evidence to be nonexistent. According to the task force report:

> [I]n all of the hundreds of pages of documents Stoffberg showed to the Task Force to corroborate his testimony, not one mentioned either Casey's involvement in the matter, or the contention that the arms dealings were being undertaken to assist in the freeing of the American hostages. This absence of even one reference that the arms dealings were in contravention of a worldwide arms embargo strains credulity. (October Surprise Task Force Report, p. 107.)

Not surprisingly, the task force rightly judged the information Mr. Stoffberg supplied to be wholly lacking in credibility.

Mr. Speaker, this Member has raised the allegations of Dirk Stoffberg's case for a particular reason. Not only are Mr. Stoffberg's allegations highly typical of the type of information that permeates the entire October Surprise controversy, but Mr. Stoffberg's subsequent treatment should cause us all to pause. Stoffberg first leveled his allegations while behind bars, where he was held on felony charges involving international arms smuggling. From his cell Mr. Stoffberg contacted members of the press and congressional staffers with the news that he had a story to tell for anyone who could spring him from jail. Remember, Dirk Stoffberg is a convicted arms dealer. Remember, Dirk Stoffberg is someone who, according to the Federal judge, had threatened violence during the course of his criminal activity.

This Member has taken the time to examine Mr. Stoffberg's claims in order to reveal, once and for all, that his allegations were simply the transparent lies of a convicted felon who wanted help in getting out of jail. And Mr. Stoffberg is not atypical of the types of witnesses who have propagated the October Surprise conspiracy. Time and time again the task force investigators would review a set of allegations, only to find them to be clumsy fabrications.

Mr. Speaker, the fact of the matter is that the congressionally authorized October Surprise Task force, under the leadership of the distinguished gentleman from Indiana [Mr. HAMILTON] and the distinguished gentleman from Illinois [Mr. HYDE], followed all leads and explored all possible avenues of inquiry. Mr. Speaker, we found that the charges were groundless. This investigation should put an end to all the vicious gossip and rumors among responsible individuals and organizations. It is now time for the House to move forward, Mr. Speaker, and stop focusing for partisan reasons on decade-old events that never occurred. It is time to put the alleged and unfounded October Surprise behind us.

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Mr. HYDE. I certainly thank the gentleman from Nebraska for his usual excellent contribution.

For 11 months in 1992, this body investigated the so-called October Surprise allegations. Along with Chairman LEE H. HAMILTON, I served as the ranking Republican member on the October Surprise Task Force, composed of eight Democrats and five Republicans, all members of the House Foreign Affairs Committee, which conducted an extensive and costly investigation. Our investigators reviewed tens of thousands of pages of documents and interviewed hundreds of individuals in all parts of the world. It was a comprehensive, exhaustive and professional investigation, costing the taxpayers from all sources about $4.5 million.

There should be no mistake, these are serious charges. Indeed, as our House task force report noted:

> The suggestion, in essence, that leaders of one of our two principal political parties would attempt to steal a presidential election by seeking to prolong the incarceration of fellow Americans by foreign terrorists is little short of treachery.

Such serious charges demand a serious response.

Let me state, in no uncertain terms, that the bipartisan House task force report—released on January 13, 1993—finally and conclusively refuted the October Surprise myth. The bipartisan task force concluded that there is no credible evidence that there was any deal between the Reagan campaign and Iranians to delay the release of the hostages. As Chairman HAMILTON wrote recently in the New York Times, there was no credible evidence that the campaign tried to delay the hostages' release. I offer his statement to be placed in the RECORD immediately following these remarks.

Unfortunately, many believers in the October Surprise conspiracy theory are undismayed by the joint task force report. In particular, Gary Sick, the former staffer on the Carter National Security Council whose celebrated 1991 op-ed article in the New York Times prompted our congressional investigation, continues to claim that the late William Casey was fishing in troubled waters with regard to his alleged relationship with the Hashemis through John Shaheen; even though we included a 28-page section in our report which specifically refuted that assertion, see chapter 7, pages 119 to 147.

Mr. Sick's continuing effort to keep alive this conspiracy theory is a triumph of political paranoia over reality. Because of his former position on the National Security Council and his 1985 authorship of a widely respected account of the hostage crisis, All Fall Down, Mr. Sick has been accorded great credibility by many in the media, Congress, and the national security community. Most recently, Mr. Sick served as an adviser to the Clinton transition team and has been mentioned as a candidate for an important position in the Clinton administration. I cannot predict how his refusal to accept the facts will affect any prospective appointment—it might even help him.

On Sunday, January 24, 1993, the New York Times again printed Mr. Sick's most recent effort to keep the October Surprise alive. In his polemic, Mr. Sick found fault with the joint report of the task force.

In this effort, Mr. Sick makes four claims: First, Casey had a relationship with the late Iranian banker and arms dealer Cyrus Hashemi through the late John Shaheen; second, the task force failed to show that alleged meetings in Paris and Madrid involving Casey and Hashemi did not take place; third, missing Casey documents, including his passport and pages from a calendar, are evidence of the conspiracy; and fourth, new sources told the task force that they knew of the secret meetings in Paris arranged by the French intelligence service. All four of these claims are refuted by the task force report.

First, on the claim that Casey had a relationship with Cyrus Hashemi, the task force's conclusion, which is set forth in a lengthy section devoted to that issue, is very clear:

> Of all the evidence reviewed by the Task Force, the conversations involving Cyrus Hashemi that were recorded by the FBI in 1980–81 are among the most probative evidence of whether Cyrus and Jamshid Hashemi had contact with William Casey in 1980. In more than 21,000 conversations recorded by the FBI—spanning nearly 1,800 hours—there is not a single indication that—William Casey had contact with Cyrus or Jamshid Hashemi * * *. Indeed there is no indication on the tapes that Casey or any other individuals associated with the Reagan campaign had contact with any persons representing or associated with the Iranian government. (p. 123)

Second, on the claim that the task force failed to show that the Madrid and Paris meetings did not take place:

Regarding Madrid:

> As alleged, these meetings could not have taken place without the simultaneous pres-

> ence in Madrid of William Casey, Cyrus Hashemi, and Donald Gregg. There is no credible evidence to support this proposition. . . . Substantial credible evidence demonstrates that William Casey, Cyrus Hashemi and Donald Gregg were all in the United States at the very time they are alleged to have been meeting in Madrid. (p. 103)

Regarding Paris:

> The task force focused substantial effort in this area and finds both the components and sum of the allegations to be lacking credible evidence. In almost all instances, the evidence clearly establishes the presence of major alleged participants in Paris meetings to be someplace else, doing something else. . . . The credibility of those making the allegations has in most every instance been shown to border on non-existent, while those who deny the allegations often had documentary corroboration. In sum, the task force has found that there is simply no credible evidence of any attempt or proposal to attempt to delay the release of the Americans held hostage in Iran by the 1980 Reagan Presidential campaign. (p. 175)

Our July 1, 1992, interim report had made it clear that George Bush was not in Paris either in October 1980.

Third, on the claim that missing Casey documents, including his passport and certain calendar pages, are evidence of Casey's involvement in an illicit deal.

Despite the absence of one Casey passport and several pages from a calendar:

> The task force is confident that it eventually received sufficient evidence to make sound conclusions regarding Mr. Casey's whereabouts during relevant time periods. (p. 23)

In other words, these 12-year-old documents were not necessary to establish William Casey's noninvolvement in the alleged events. To suggest that there is something even questionable about the documents' absence is both foolish and irresponsible. The burden of proof was on Mr. Sick and his questionable sources to prove a conspiracy; not for the Casey family to prove the negative, that no conspiracy existed. Mr. Sick and these sources failed miserably in meeting any burden of proof.

Fourth, the new sources that told the task force of evidence regarding the alleged meetings in Paris are two journalists: Claude Angeli and David A. Andelman. Andelman told the task force that the former head of the French intelligence service, Alexandre de Marenches, told Andelman in a series of interviews that he had helped arrange the Paris meetings. The task force report states:

> According to Andelman, de Marenches acknowledged setting up a meeting in Paris between Casey and some Iranians in late October of 1980. Andelman could offer no additional details. Additionally, Andelman was not able to recall in the course of their exchange, the state of his (Andelman's) own knowledge of "these stories" at the time he questioned de Marenches, or the state of de Marenches' knowledge as to these allegations. Moreover, Andelman stated that de Marenches had only cryptically commented on these discussions, off the record, and had not given him any details as to the participants in the meeting, where the meeting occurred, or its stated purpose. Andelman testified he did not pursue that information further because de Marenches did not want it included in the book.
>
> Andelman further noted that de Marenches was a man of considerable ego. Andelman could not therefore rule out the possibility that de Marenches had told him that he was aware of and involved in the Casey meetings because he, de Marenches, could not risk telling his biographer he had no knowledge of these allegations at a point when they were as yet unproven." Andelman speculated that if something of that magnitude involving William J. Casey had in fact happened during de Marenches' tenure, without his knowledge, it would have been very embarrassing to him. Indeed, Andelman acknowledged, that for de Marenches to have denied any involvement in, or knowledge of, such a meeting would have cast grave doubts about the true nature of his relationship with Casey should it ever be proven to have happened.
>
> In light of the above, the task force's assessment of Andelman's testimony was that while he was credible with respect to his recollection that de Marenches told him that he had arranged some form of a meeting between Casey and some Iranians, this purported statement was of little probative value given its cryptic nature. . . . Accordingly, the task force concludes that this uncorroborated and unverified statement is insufficiently probative to overcome the great weight of evidence indicating that no such meeting occurred. (pp. 167–8)

As indicated earlier, the task force conclusively established that Casey was in the United States in October 1980, running a Presidential campaign. He wasn't in Paris meeting with anyone.

At the close of the New York Times article, Mr. Sick writes that he hopes the task force will open its files to outside independent investigators to the maximum extent permissible by law, thus raising the specter of closed Government files that has kept alive the conspiracy theories surrounding the assassination of President Kennedy and the fate of American POW's in Southeast Asia. While I too believe that all files that can be opened should be opened, it is outrageous to even remotely imply that there may be evidence hidden by the bipartisan task force. To do so is insulting to the outstanding effort put forth by Chairman HAMILTON and the entire bipartisan task force and its professional staff.

I do not know why Mr. Sick continues to propound and promulgate a discredited theory, but his stubborn refusal to accept the facts can only take a toll on a number of Americans who do not deserve to have their names and reputations tainted in this way. Every time Mr. Sick writes or speaks on the October Surprise, he is callously and irresponsibly tearing at the most precious and enduring asset those he attacks possess—their reputations.

Among the most aggrieved by this travesty has been the family of the late William J. Casey. Mr. Casey's family, including his widow, his daughter, his son-in-law and his nephew, have every right to be proud of the reputation of Bill Casey. Gary Sick, should, as a matter of honor, apologize to the Casey family for being the chief instrument in putting them through this ordeal. Former Secretary of Labor Raymond Donovan asked after his trial and exoneration, Where do I go to get my reputation back? The Casey family asks the same question for Bill Casey. Those who have besmirched his good name owe a special duty to its restoration.

□ 0020

Mr. Speaker, I include for the RECORD following my remarks a list of the FBI agents who served with such distinction on this task force. They deserve recognition. They were diverted from pressing responsibilities in order to assure the FBI's compliance with voluminous document requests, and this task force was created by the Bureau, and did a marvelous job. So I will include that following my remarks, as follows:

HON. HENRY J. HYDE OF ILLINOIS

Mr. HYDE. Mr. Speaker, as Ranking Minority Member of the "October Surprise" Task Force, authorized by House Resolution 258, the timely assistance of numerous agencies and individuals was necessary. With our investigation complete and our report to the American people made public, I would like to acknowledge the outstanding cooperation of the Federal Bureau of Investigation. A number of their employees were diverted from already pressing responsibilities in order to assure the FBI's compliance with voluminous document requests. Creating its own task force, the FBI opened files to us in an unprecedented yet controlled fashion, and our review of the official record of potentially relevant events was greatly facilitated. As a result, FBI information concerning events in question was subjected to strenuous, thorough, and bipartisan Congressional review. With thanks to the FBI for their openness, cooperation, and professionalism, I would like to recognize the following FBI employees: Lisa R. Browning, Julia E. Eichhorst, Gary E. Emrick, Ellen Glasser, John A. Hartingh, Carol L. Keeley, Debbie A. Mayer, Maureen G. McKee, Terry T. O'Connor, Ricardo A. Page, Fereidun B. Sanjabi, Tara L. Smith, Marilyn Diane Tibbs, Kevin VanHutton, Gerald F. Whitmore, Theda Ophelia Young, Mark A. Zettler.

[From the New York Times, Jan. 24, 1993]

LAST WORD ON THE OCTOBER SURPRISE?

(By Lee H. Hamilton)

The House October Surprise Task Force has completed its 10-month investigation into accusations that representatives of the 1980 Reagan-Bush campaign made a secret deal with Iranian officials to delay release of the American hostages in Iran. If true, these extraordinarily serious claims would have cast doubt on the legitimacy of the Reagan Presidency. If false, it would have been unfair to allow this cloud to linger over the reputations of those accused of being involved.

The task force report concluded there was virtually no credible evidence to support the accusations. Specifically, we found little or no credible evidence of communications between the 1980 Reagan campaign and the Government of Iran and no credible evidence that the campaign tried to delay the hostages' release.

While there was substantial evidence that the Reagan campaign collected and disseminated information on the hostage crisis and on the Carter Administration's attempts to negotiate the hostages' release, we found no credible evidence that the campaign sought to do so illegally.

We found no link between the timing of the hostage release and any sale or transfer of U.S. arms or spare parts by Israel or any other party to Iran.

Finally, we found no credible evidence that the Reagan campaign sought to keep any communications or actions secret from the U.S. Government, except for one meeting in October 1980 that the task force found was unrelated to any attempt to effect release of the hostages.

The task force's bipartisan staff of lawyers and investigators conducted over 230 formal interviews and depositions, many with witnesses whose statements had never been taken under oath. We analyzed hundreds of thousands of documents, including raw, intelligence information. We reviewed thousands of records held by individuals, including ex-Iranian officials.

The task force was given an almost impossible task: trying to put a controversy to rest by proving that something did not happen. Despite this difficulty, the evidence the task force did not find is telling. Not a single one of the more than 21,000 intercepted conversations involving the late Iranian arms dealer Cyrus Hashemi, who Gary Sick cast as a central figure in the October Surprise scenario, even makes reference to the existence of contacts between Republicans and Iranians as claimed.

Mr. Sick, citing hearsay evidence noted in our report, says we failed to lay to rest accusations that William Casey met secretly with Iranians in Paris and Madrid in 1980. I disagree.

The task force did not locate Mr. Casey's 1980 passport, and one of the three Casey 1980 calendars the task force did obtain—a looseleaf version—was missing a few crucial pages. But the absence of these materials did not prevent us from determining the whereabouts of Mr. Casey and others on dates when meetings were claimed to have occurred. Credible witnesses and corroborating documents showed Mr. Casey to be in California and London and Mr. Hashemi to be in New York and Connecticut at the time Mr. Sick claimed they were meeting in Madrid.

Similarly, documents and witnesses place Mr. Casey in Washington and F.B.I. wiretaps put Mr. Hashemi in New York and Connecticut when Mr. Sick says they were meeting in Paris to discuss the October Surprise.

Even Gary Sick concedes the absence of any evidence of arms transfers in exchange for delaying release of the hostages. This is crucial because the foundation of the October Surprise theory has always relied on a quid pro quo—namely, that Iran agreed to this nefarious deal because it needed U.S. weapons to respond to Iraq's invasion in September 1980.

The seriousness of these accusations required the kind of thorough independent investigation we conducted. The overwhelming weight of the evidence should put the controversy to rest once and for all.

Mr. Speaker, I am pleased to yield to the distinguished gentleman from California [Mr. ROHRABACHER] for whatever remarks he wishes to make.

Mr. ROHRABACHER. Mr. Speaker, I was not part of the task force, but I was a member of the Reagan team in 1980, and I was a member of the Reagan White House team for 7 years from 1981 through 1988. And during my time with the Reagan campaign, and during my time at the White House I knew Bill Casey, and I had many times occasions to work with Mr. Casey. I found him to be an honorable man, and found him to be a patriotic American.

The gentleman's remarks tonight, the just horrible beating that his memory has taken in these last few years has compelled me to come here tonight to join with you in a demand that those people who have been tearing apart Bill Casey's reputation apologize to Mr. Casey's family, and yes, apologize to the American people for what lies have been told about Mr. Casey.

Bill Casey was a true American hero in a number of ways. Let us not forget that during the Second World War Mr. Casey risked his life, and that Mr. Casey was an intricate part of the system that brought down that major threat to the Western democracies and the freedom of the world in that day, the Nazis in Europe. And during the Reagan administration Mr. Casey played no lesser role when he helped in the cold war with peace. We did not end up with a shooting war with the Soviet Union. Communism was defeated because of men like Mr. Casey, because of their courage, because of their diligence, because of their hard work.

Now to see, after he is dead, a man like Gary Sick tearing away at his reputation, we must ask what motivates Mr. Sick, first of all in making the charge, and second of all in continuing this charge. Let us note that Mr. Sick was and continues to be compelled to find an excuse for his own failure during the Carter administration, because Mr. Sick was part of the White House team in the Carter administration, deeply responsible for the hostage situation, a hostage situation that he and the Carter administration were not able to bring to a successful conclusion.

Mr. HYDE. May I say to the gentleman that the term "great American" is much abused and used almost frivolously, but it certainly applies to Bill Casey. His entire career has been one of service to this country, both in war and in peace. He truly was a great American, and we can all be very, very proud of him.

Mr. ROHRABACHER. In my life I have met a lot of people, and I have worked in the White House. I have met kings and queens. I will have to be very honest with the people who are watching tonight and all of you who are here. This was a man who I really stood in awe of. And when I met him I knew the things that he had done for the cause of human freedom from World War II on, and I knew what he was doing at that time during the Reagan administration, and now basically this man, and Ronald Reagan, and those people who served in high levels of his administration are being charged that they played politics, politics with the national security of the United States.

□ 0030

Mr. HYDE. Let me say to my friend that it takes a big man to admit he is wrong when he is wrong, and I still hope for that largeness of spirit of Mr. Sick which has yet to manifest itself, because he is wrong. He is dead wrong, and I hope that he will admit it and apologize.

Mr. MICHEL. Mr. Speaker, I want to thank HENRY HYDE for leading this special order on the October Surprise hoax.

It is important that the American people realize what exactly happened with this October Surprise investigation.

When the Democrat majority first pressed for a task force to investigate these charges, I said: "The Majority is offering an unacceptable resolution for an unnecessary investigation into unbelievable allegations based on unsubstantiated claims made by unsavory characters."

Now, after an 8-month investigation, at a cost to the taxpayers of $4.5 million, the October Surprise task force conclusively refuted all allegations made by the proponents of the October Surprise conspiracy theory.

I hate to tell you I told you so, but I told you so.

I believe now, and I have always believed that this investigation was not necessary. We were told by the majority that there were troubling allegations.

These allegations were not troubling. There were preposterous. Both Newsweek and the New Republic concluded as much, in detailed investigative reports, before the Democrats even started this committee.

There is a curious Alice-in-Wonderland logic about all of this.

First there were a number of October Surprise conspiracy theories reported in the media. These theories fed off each other, repeating the same myths and fantasies in different ways, taking unproven assertions and claiming they were undeniable facts, quoting dubious sources, playing up anything that could damage the Reagan campaign team, playing down anything that would damage their own case—all the sordid, ancient tricks of the conspiracy trade.

But simply by being reported and commented upon in the politically correct media outlets; that is, the New York Times, public television, et cetera, the conspiracy theories were said by Democrats to raise questions that needed to be answered. Once that claim was made, it was inevitable that a Congress dominated by Democrats would be asked to provide the answers, particularly since it was the anti-Republican conspiracy theorists themselves who primarily did the asking.

So the House had a costly investigation based on nothing more than the claim that "questions had been raised." But questions are raised all the time in the media. Theories about secret, powerful cabals of sinister puppet masters abound. Why was this particular theory dragged out for so long in the press, paid such respectful attention, and finally made the subject of two congressional investigations?

The fact that the questions were raised by disgruntled Democratic Party partisans, shady characters, and world-class international liars, was rarely mentioned by Democrats. When Democrats were accused by Republicans of partisanship in asking for an investigation based on unproven allegations, they held up their hands in pious horror and exclaimed: "But questions have been raised, we must investigate," as if they rush to answer all conspiracy theory questions as matter of principle.

Shorn of its sensationalism here is what happened: Reagan-hating political activists and scoundrels concocted a libelous story claiming that Ronald Reagan or his aides or both deliberately used the hostages for their own political purposes. The media reported the story and gave the theorists forums from which to spread the libel. Because the story had been reported, Democrats said there are questions that must be answered. And a congressional investigatory committee was formed and funded. The theories were, as I have said, groundless.

Is this going to be the investigative model for our future in the House? Will the Democratic leadership always call for an investigation of conspiracy theories, no manner what the source, so long as "questions are raised"?

Will we see Democrats rushing to the floor, or secretly enlisting the GAO, to investigate conspiracy theories about President Clinton, if and when such theories appear? If some disgruntled Republican who served in the Bush administration manages to get a large part of the op-ed page given to him of the New York Times—as Mr. Sick did—to offer a wacko conspiracy theory about the President Clinton, will Democrats say "Questions have been raised!" and call for an investigation? I watch and wait with patient expectation.

It is also interesting to note the timing of the release of the report. I can guarantee you one thing: If there had been one bit of evidence that the Reagan-Bush campaign was indeed involved, the information would have been on every front page across the Nation before the election. Instead, the report concluded that there was no credible evidence of a conspiracy, and it was released following the election.

I commend Mr. HAMILTON, the very distinguished Member from Indiana who did a fine job in leading this investigation. But LEE HAMILTON should not be forced to waste his valuable time tracking down erroneous, outrageous, ridiculous allegations.

He should spend his time on the substantive things he does best, things like heading a task force on congressional reform.

In fact, investigations like this should be an item for the Joint Committee on the Organization of the Congress. We should have better procedures in the House so that we can make certain that we don't form committees to investigate every wild conspiracy theory that hits the halls of Congress.

We should also have a requirement that the minority is always kept informed of GAO investigations initiated by the majority. We should also prohibit staff from writing to Federal judges, urging them to release convicted felons from prisons, because they proved helpful with secret investigations.

Mr. Speaker, I appreciate the role that HENRY HYDE, both as the Republican leader of this task force and as a force for reason during the entire debate. I would like to thank him for reminding us all, through this special order, that the October Surprise Task Force was formed not because the majority wanted to answer troubling questions from credible sources, but because there are some who want to cast a shadow on one of the greatest Presidents in our history.

I think the formation of this task force, not the work product of the Members of that task force, symbolizes much to what is wrong with this House, after 38 years of majority control.

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order of today.

The SPEAKER pro tempore (Mr. SWETT). Is there objection to the request of the gentleman from Illinois?

There was no objection.

RULES OF PROCEDURE FOR THE COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY FOR THE 103D CONGRESS

(Mr. BROWN of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BROWN of California. Mr. Speaker, pursuant to the provisions of clause 2(a) of rule XI of the rules of the House, I hereby submit the rules of the Committee on Science, Space, and Technology for the 103d Congress for printing in the CONGRESSIONAL RECORD at this point. The rules were adopted by the committee in open session on January 7, 1993.

RULES GOVERNING PROCEDURE OF THE COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

GENERAL

1. The Rules of the House of Representatives, as applicable, shall govern the committee and its subcommittees, except that a motion to recess from day to day and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege in the committee and its subcommittees. The rules of the committee, as applicable, shall be the rules of its subcommittees.

COMMITTEE MEETINGS

Time and Place

2. Unless dispensed with by the Chairman, the meetings of the committee shall be held on the 2nd and 4th Wednesday of each month the House is in session at 10:00 a.m. and at such other times and in such places as the Chairman may designate.

3. The Chairman of the committee may convene as necessary additional meetings of the committee for the consideration of any bill or resolution pending before the committee or for the conduct of other committee business.

4. The committee shall make public announcement of the date, time, place and subject matter of any of its hearings at least one week before the commencement of the hearing. If the Chairman determines that there is good cause to begin the hearing sooner, he shall make the announcement at the earliest possible date. Any announcement made under this Rule shall be promptly published in the Daily Digest, and promptly entered into the scheduling service of the House Information Systems.

Vice Chairman to Preside in Absence of Chairman

5. The Member of the majority party on the Committee ranking immediately after the Chairman shall be the Vice Chairman of the Committee and shall preside at any meeting during the temporary absence of the Chairman. If the Chairman and Vice Chairman of the committee are not present at any meeting of the committee, the ranking Member of the majority party on the committee who is present shall preside.

Order of Business

6. The order of business and procedure of the committee and the subjects of inquiries or investigations will be decided by the Chairman, subject always to an appeal to the committee.

Membership

7. A majority of the majority Members of the committee shall determine an appropriate ratio of majority to minority Members for each subcommittee and shall authorize the Chairman to negotiate that ratio with the minority party; *Provided, however,* that party representation on each subcommittee (including any ex-officio Members) shall be no less favorable to the majority party than the ratio for the full committee. *Provided, further* that recommendations of conferees to the Speaker shall provide a ratio of majority party Members to minority party Members which shall be no less favorable to the majority party than the ratio for the full committee.

Special Meetings

8. Rule XI 2(c)(2) of the Rules of the House of Representatives is hereby incorporated by reference (Special Meetings).

COMMITTEE PROCEDURES

Quorum

9. (a) One-third of the Members of the committee shall constitute a quorum for all purposes except as provided in paragraphs (b) and (c) of this Rule.

(b) A majority of the Members of the committee shall constitute a quorum in order to: (1) report or table any legislation, measure, or matter; (2) close committee meetings or hearings pursuant to Rules 17 and 18; and (3) authorize the issuance of subpoenas pursuant to Rule 31.

(c) Two members of the committee shall constitute a quorum for taking testimony and receiving evidence, which, unless waived by the Chairman of the full committee after consultation with the Ranking Republican Member of the full committee, shall include at least one member from each of the majority and minority parties.

Proxies

10. Any Member may authorize a vote by proxy with respect to any measure or matter before the committee. Such proxy authorization shall be in writing, shall assert that the Member is absent on official business or is otherwise unable to be present at the meeting of the committee, shall designate the person who is to execute the proxy author-

ization, and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto; except that a Member may authorize a general proxy only for motions to recess, adjourn, or other procedural matters. Each proxy to be effective shall be signed by the Member assigning his or her vote, filed with the committee clerk, and shall contain the date and time of day that the proxy is signed. Proxies may not be counted for a quorum.

Witnesses

11. The committee shall, insofar as is practicable, require each witness who is to appear before it to file with the committee (in advance of his or her appearance) a written statement of the proposed testimony and to limit the oral presentation to a five-minute summary of his or her statement, provided that additional time may be granted by the Chairman when appropriate.

12. Whenever any hearing is conducted by the committee on any measure or matter, the minority Members of the committee shall be entitled, upon request to the Chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon.

Investigative Hearing Procedures

13. Rule XI 2(k) of the Rules of the House of Representatives is hereby incorporated by reference (rights of witnesses under subpoena).

Subject Matter

14. Bills and other substantive matters may be taken up for consideration only when called by the Chairman of the committee or by a majority vote of a quorum of the committee, except those matters which are the subject of special-call meetings outlined in Rule 8.

15. No private bill will be reported by the committee if there are two or more dissenting votes. Private bills so rejected by the committee will not be reconsidered during the same Congress unless new evidence sufficient to justify a new hearing has been presented to the committee.

16. (a) It shall not be in order for the committee to consider any new or original measure or matter unless written notice of the date, place and subject matter of consideration and to the extent practicable, a written copy of the measure or matter to be considered, has been available in the office of each Member of the committee for at least 48 hours in advance of consideration, excluding Saturdays, Sundays and legal holidays.

(b) Notwithstanding paragraph (a) of this Rule, consideration of any legislative measure or matter by the committee shall be in order by vote of two-thirds of the Members present, provided that a majority of the committee is present.

Open Meetings

17. Each meeting for the transaction of business, including the markup of legislation, of the committee shall be open to the public except when the committee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public. No person other than Members of the committee and such congressional staff and such departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This Rule does not apply to open committee hearings which are provided for by Rule 18 contained herein, or to any meeting that relates solely to internal budget or personnel matters.

18. Each hearing conducted by the committee shall be open to the public except when the committee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence or other matters to be considered would endanger the national security or would violate any law or rule of the House of Representatives. Notwithstanding the requirements of the preceding sentence, and Rule 9, a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony:

(1) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security or violate Rule XI 2(k)(5) of the Rules of the House of Representatives; or

(2) may vote to close the hearing, as provided in Rule XI 2(k)(5) of the Rules of the House of Representatives.

No Member may be excluded from nonparticipatory attendance at any hearing of any committee or subcommittee, unless the House of Representatives shall by majority vote authorize a particular committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this Rule for closing hearings to the public *Provided, however*, that the committee or subcommittee may by the same procedure vote to close one subsequent day of hearing.

Requests for Rollcall Votes at Full Committee

19. A rollcall vote of the Members may be had at the request of three or more Members or, in the apparent absence of a quorum, by any one Member.

Committee Records

20. (a) The committee shall keep a complete record of all committee action which shall include a record of the votes on any question on which a rollcall vote is demanded. The result of each rollcall vote shall be made available by the committee for inspection by the public at reasonable times in the offices of the committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and the names of those Members present but not voting.

(b) The records of the committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule XXXVI of the Rules of the House of Representatives. The Chairman shall notify the Ranking Republican Member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the Rule, to withhold a record otherwise available, and the matter shall be presented to the committee for a determination on the written request of any Member of the committee.

Publication of Committee Hearings and Mark-Ups

21. The transcripts of those hearings conducted by the committee which are decided to be printed shall be published in verbatim form, with the material requested for the record inserted at that place requested, or at the end of the record, as appropriate. Any requests by those Members, staff or witnesses to correct any errors, other than errors in transcription, or disputed errors in transcription, shall be appended to the record, and the appropriate place where the change is requested will be footnoted. Prior to approval by the Chairman of hearings conducted jointly with another congressional committee, a memorandum of understanding shall be prepared which incorporates an agreement for the publication of the verbatim transcript. Transcripts of mark-ups shall be recorded and published in the same manner as hearings before the committee.

Opening Statements; 5-Minute Rule

22. Insofar as is practicable, the Chairman, after consultation with the Ranking Republican Member, shall limit the total time of opening statements by Members to no more than 20 minutes, the time to be divided equally among Members present desiring to make an opening statement. The time any one Member may address the committee on any bill, motion or other matter under consideration by the committee or the time allowed for the questioning of a witness at hearings before the committee will be limited to five minutes, and then only when the Member has been recognized by the Chairman, except that this time limit may be waived by the Chairman or acting Chairman. The rule of germaneness will be enforced by the Chairman.

Requests for Written Notions

23. Any legislative or non-procedural motion made at a regular or special meeting of the committee and which is entertained by the Chairman shall be presented in writing upon the demand of any Member present and a copy made available to each Member present.

SUBCOMMITTEES

Structure and Jurisdiction

24. The committee shall have the following standing subcommittees with the jurisdiction indicated.

(1) *Subcommittee on Investigations and Oversight.*—Review and study, on a continuing basis, of the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of the committee and the organization and operation of the Federal and private agencies and entities having responsibilities in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress. In addition, the Subcommittee on Investigations and Oversight and the appropriate subcommittee with legislative authority may cooperatively review and study any conditions or circumstances which indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of the committee, and may undertake futures research and forecasting on matters within the jurisdiction of the committee. The Subcommittee on Ivestigations and Oversight shall in no way limit the responsibility of other subcommittees from carrying out their oversight responsibilities, nor shall any investigation be undertaken by the Subcommittee on Investigations and Oversight without (a) consultation with the Chairman of the appropriate subcommittee with legislative authority and (b) approval of the Chairman of the committee.

(2) *Subcommittee on Energy.*—Legislation, general and special oversight and all other matters relating to energy research, develop-

ment, and demonstration (RD&D) (other than high energy and nuclear physics RD&D) conducted by the Department of Energy, and projects therefor; all federally owned or operated nonmilitary multiprogram and energy laboratories; supporting research and technical analysis, including basic energy sciences; biological and environmental science activities of the Department of Energy; advanced energy technology; transportation programs of the Department of Energy; and uranium enrichment and waste management activities, as appropriate.

(3) *Subcommittee on Science.*—Legislation, general and special oversight and all other matters relating to science policy; the role of basic research in economic competitiveness; the National Science Foundation; the Office of Science and Technology Policy; scientific research, development, and demonstration, and projects therefor; scientific and engineering resources (including manpower); math, science and engineering education; science scholarships; international scientific cooperation; computer science, engineering, networks, and data bases; RD&D relating to governmental health, nutritional, handicapped, earthquake, and fire programs; intergovernmental mechanisms for RD&D; geographic distribution of Federal RD&D; university research policy, including infrastructure, overhead, and partnerships; the effect of tax policy on research; the Department of Energy's high energy and nuclear physics RD&D, including the superconducting super collider; and to the extent appropriate, agriculture research, and life sciences and medical activities of the Executive departments and agencies.

(4) *Subcommittee on Technology, Environment and Aviation.*—Legislation, general and special oversight and all other matters relating to the Technology Administration in the Department of Commerce, including the National Institute of Standards and Technology and the National Technical Information Service; technology policy; technology assessment; the Office of Technology Assessment; technology transfer; innovation and industrial RD&D; productivity and competitiveness, including small business competitiveness; patent and intellectual property policy; international technology, trade, and competitiveness; technology resources (including manpower); standards and standardization of measurement; tax, antitrust, and other governmental policies as they relate to technological development, commercialization, and competitiveness; civil aviation RD&D, including aeronautical research and technology programs of the National Aeronautics and Space Administration and RD&D programs of the Federal Aviation Administration; materials RD&D and policy; surface transportation RD&D program of Executive departments and agencies; computer, communications, and information technology; infrastructure, as appropriate; biotechnology; environmental RD&D, including RD&D activities of the Environmental Protection Agency; and environmental technologies.

(5) *Subcommittee on Space.*—Legislation, general and special oversight and all other matters relating to the National Aeronautics and Space Administration (except aeronautical research and technology); space commercialization, including the commercial space activities relating to the Department of Transportation and the Department of Commerce; outer space, including exploration and control thereof; the National Space Council; space applications, space communications and related matters; earth observing systems including Landsat; the National Weather Service; operational activities and RD&D related to weather, weather services, climate, and the atmosphere; and oceanic RD&D activities of the National Oceanic and Atmospheric Administration.

Referral of Legislation

25. All legislation and other matters referred to the committee shall be referred to all subcommittees of appropriate jurisdiction within two weeks unless, by a majority vote of the majority Members of the full committee, consideration is to be by the full committee. Subcommittee chairmen may make requests for referral of specific matters to their subcommittee within the two week period if they believe subcommittee jurisdictions so warrant.

Ex Officio Members

26. The Chairman and ranking minority Member shall serve as ex officio Members of all subcommittees and shall have the right to vote and be counted as part of the quorum on all matters before the subcommittee.

Procedures

27. No subcommittee shall meet for mark-up or approval when any other subcommittee of the committee is meeting to consider any measure or matter for mark-up or approval.

28. Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the committee on all matters referred to it. Each subcommittee shall conduct legislative and general oversight, inquiries for the future and forecasting, and budget impact studies on matters within their respective jurisdictions. Subcommittee chairmen shall set meeting dates after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of committee and subcommittee meetings or hearings wherever possible.

29. Any Member of the committee may have the privilege of sitting with any subcommittee during its hearings or deliberations and may participate in such hearings or deliberations, but no such Member who is not a member of the subcommittee shall vote on any matter before such subcommittee, except as provided in Rule 26.

30. During any subcommittee proceeding for mark-up or approval, a rollcall vote may be had the request of one or more Members of that subcommittee.

Power to Sit and Act: Subpoena Power

31. The committee and each of its subcommittees may exercise the powers provided under Rule XI 2(m) of the Rules of the House of Representatives, which is hereby incorporated by reference (power to sit and act; subpoena power).

National Security Information

32. All national security information bearing a classification of secret or higher which has been received by the committee or a subcommittee shall be deemed to have been received in Executive Session and shall be given appropriate safekeeping. The Chairman of the full committee may establish such regulations and procedures as in his judgment are necessary to safeguard classified information under the control of the committee. Such procedures shall, however, ensure access to this information by any Member of the committee, or any other Member of the House of Representatives who has requested the opportunity to review such material.

Sensitive or Confidential Information Received Pursuant to Subpoena

33. Unless otherwise determined by the committee or subcommittee, certain information received by the committee or subcommittee pursuant to a subpoena not made part of the record at an open hearing shall be deemed to have been received in executive Session when the Chairman of the full committee, in his judgment, deems that in view of all the circumstances, such as the sensitivity of the information or the confidential nature of the information, such action is appropriate.

REPORTS

Substance of Legislative Reports

34. The report of the committee on a measure which has been approved by the committee shall include the following, to be provided by the committee:

(1) the oversight findings and recommendations required pursuant to Rule X 2(b)(1) of the Rules of the House of Representatives, separately set out and identified [Rule XI 2(l)(3)(A)];

(2) the statement required by section 308(a) of the Congressional Budget Act of 1974, separately set out and identified, if the measure provides new budget authority or new or increased tax expenditures [Rule XI 2(l)(3)(B)];

(3) a detailed, analytical statement as to whether that enactment of such bill or joint resolution into law may have an inflationary impact on the national economy [Rule XI 2(l)(4)];

(4) with respect to each rollcall vote on a motion to report such a bill or resolution, the total number of votes cast for and the total number of votes cast against the reporting of such bill or resolution [Rule XI 2(l)(2)(B)];

(5) the estimate and comparison prepared by the committee under Rule XIII 7(a) of the Rules of the House of Representatives, unless the estimate and comparison prepared by the Director of the Congressional Budget Office prepared under subparagraph 2 of the Rule 34 has been timely submitted prior to the filing of the report and included in the report [Rule XIII 7]; and

(6) in the case of a bill or joint resolution which repeals or amends any statute or part thereof, the text of the statute or part thereof which is proposed to be repealed, and a comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended [Rule XIII 3].

35. (a) The report of the committee on a measure which has been approved by the committee shall further include the following, to be provided by sources other than the committee:

(1) the estimate and comparison prepared by the Director of the Congressional Budget Office required under section 403 of the Congressional Budget Act of 1974, separately set out and identified, whenever the Director (if timely, and submitted prior to the filing of the report) has submitted such estimate and comparison of the committee [Rule XI 2(l)(3)(C)];

(2) a summary of the oversight findings and recommendations made by the Committee on Government Operations under Rule X 2(b)(2) of the Rules of the House of Representatives, separately set out and identified [Rule XI 2(l)(3)(D)].

(b) Notwithstanding paragraph (a) of this Rule, if the committee has not received prior to the filing of the report the material required under paragraph (a) of this Rule, then it shall include a statement to that effect in the report on the measure.

Minority and Additional Views

36. If, at the time of approval of any measure or matter by the committee, any Mem-

ber of the committee gives notice of intention to file supplemental, minority, or additional views, that Member shall be entitled to not less than 3 calendar days (excluding Saturdays, Sundays, and legal holidays) in which to file such views, in writing and signed by that Member, with the clerk of the committee. All such views so filed by one or more Members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to the measure or matter. The report of the committee upon that measure or matter shall be printed in a single volume which shall include all supplemental, minority, or additional views, which have been submitted by the time of the filing of the report, and shall bear upon its cover a recital that any such supplemental, minority, or additional views (and any material submitted under paragraph (a) of Rule 35) are included as part of the report. However, this rule does not preclude (1) the immediate filing or printing of a committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by this Rule or (2) the filing by the committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by that committee upon that measure or matter.

37. The Chairman of the committee or subcommittee, as appropriate, shall advise Members of the day and hour when the time for submitting views relative to any given report elapses. No supplemental, minority, or additional views shall be accepted for inclusion in the report if submitted after the announced time has elapsed unless the Chairman of the committee or subcommittee, as appropriate, decides to extend the time for submission of views beyond 3 days, in which case he shall communicate such fact to Members, including the revised day and hour for submissions to be received, without delay.

Consideration of Subcommittee Reports

38. Reports and recommendations of a subcommittee shall not be considered by the full committee until after the intervention of 48 hours, excluding Saturdays, Sundays and legal holidays, from the time the report is submitted and printed hearings thereon shall be made available, if feasible, to the Members, except that this rule may be waived at the discretion of the Chairman.

Timing and Filing of Committee Reports

39. It shall be the duty of the Chairman to report or cause to be reported promptly to the House any measure approved by the committee and to take or cause to be taken the necessary steps to bring the matter to a vote.

40. The report of the committee on a measure which has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the committee a written request, signed by the majority of the Members of the committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the committee shall transmit immediately to the Chairman of the committee notice of the filing of that request.

41. (a) Any document published by the committee as a House Report, other than a report of the committee on a measure which has been approved by the committee, shall be approved by the committee at a meeting, and Members shall have the same opportunity to submit views as provided for in Rule 36.

(b) Subject to paragraphs (c) and (d), the Chairman may approve the publication of any document as a committee print which in his discretion he determines to be useful for the information of the committee.

(c) Any document to be published as a committee print which purports to express the views, findings, conclusions, or recommendations of the committee or any of its subcommittees must be approved by the full committee or its subcommittee, as applicable, in a meeting or otherwise in writing by a majority of the members, and such Members shall have the right to submit supplemental, minority, or additional views for inclusion in the print within at least 48 hours after such approval.

(d) Any document to be published as a committee print other than a document described in paragraph (c) of this Rule: (1) shall include on its cover the following statement: "This document has been printed for informational purposes only and does not represent either findings or recommendations adopted by this Committee;" and (2) shall not be published following the sine die adjournment of a Congress, unless approved by the Chairman of the Full Committee after consultation with the Ranking Republican Member of the Full Committee.

MEDIA COVERAGE

42. The committee may permit, by majority vote, hearings or meetings which are open to the public to be covered in whole or in part by television, radio and still photography—or by any such methods of coverage—in accordance with Rule XI (3) of the Rules of the House of Representatives; Provided, that the Chairman shall determine, in his or her discretion, the number of television and still cameras permitted in a hearing or meeting room.

LEGISLATIVE AND OVERSIGHT JURISDICTION OF THE COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

"*Rule X. Establishment and Jurisdiction of Standing Committees*

"The Committees and Their Jurisdiction.

"1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned to it by this clause and clauses 2, 3, and 4; and all bills, resolutions, and other matters relating to subjects within the jurisdiction of any standing committee as listed in this clause shall (in accordance with and subject to clause 5) be referred to such committees, as follows:

* * * * *

(r) Committee on Science, Space, and Technology

(1) Astronautical research and development, including resources, personnel, equipment, and facilities.

(2) National Institute of Standards and Technology, standardization of weights and measures, and the metric system.

(3) National Aeronautics and Space Administration.

(4) National Space Council.

(5) National Science Foundation.

(6) Outer space, including exploration and control thereof.

(7) Science Scholarships.

(8) Scientific research, development, and demonstration, and projects therefor.

(9) Civil aviation research and development.

(10) Environmental research and development.

(11) All energy research, development, and demonstration, and projects therefor, and all federally owned or operated nonmilitary energy laboratories.

(12) National Weather Service.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1), the committee shall have the special oversight function provided for in clause 3(f) with respect to all nonmilitary research and development.

* * * * *

"*Special Oversight Functions*

"3. (f) The Committee on Science, Space, and Technology shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving nonmilitary research and development."

RULES OF PROCEDURE FOR THE COMMITTEE ON RULES FOR THE 103D CONGRESS

(Mr. MOAKLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MOAKLEY. Mr. Speaker, pursuant to House rule XI, clause 1, I am submitting for publication in the CONGRESSIONAL RECORD the official rules of the Committee on Rules for the 103d Congress.

These rules were adopted at the committee's January 6th organizational meeting.

Rules of the Committee on Rules

Rule XI, 1(a)(1) of the House of Representatives provides:

The rules of the House are the rules of its committees and subcommittees so far as applicable, except that a motion to recess from day to day is a motion of high privilege in committees and subcommittees.

Rule XI, 2(a) of the House of Representatives provides, in part:

Each standing committee of the House shall adopt written rules governing its procedure.

In accordance with the foregoing, the Committee on Rules adopted the following Rules of Procedure on January 6, 1993.

RULE 1—APPLICABILITY OF HOUSE RULES

The Rules of the House of Representatives are the rules of the Committee on Rules (hereafter in these rules referred to as the "Committee") so far as applicable, together with the rules contained herein.

RULE 2—SCHEDULING AND NOTICE OF MEETINGS AND HEARINGS

Regular meetings

(a)(1) The Committee shall regularly meet at 10:30 a.m. on Tuesday of each week when the House is in session.

(2) A Tuesday meeting of the Committee may be dispensed with if, in the judgment of the Chairman of the Committee (hereafter in these rules referred to as the "Chair"), there is no need for the meeting.

(3) Additional regular meetings and hearings of the Committee may be called by the Chair or by the filing of a written request, signed by a majority of the Members of the Committee, with the Staff Director of the Committee.

Notice for regular meetings

(b) The Chair shall notify each Member of the Committee of the agenda of each regular meeting or hearing of the Committee at least 48 hours before the time of the meeting or hearing and shall provide to each such Member, at least 24 hours before the time of each regular meeting or hearing—

(1) for each bill or resolution scheduled on the agenda for consideration of a rule, a copy of (A) the bill or resolution, (B) any committee reports thereon, and (C) any letter requesting a rule for the bill or resolution; and

(2) for each other bill, resolution, report, or other matter on the agenda, a copy of (A) the bill, resolution, report, or materials relating to the other matter in question, and (B) any report on the bill, resolution, report, or other matter made by any subcommittee of the Committee.

Emergency meetings and hearings

(c)(1) The Chair may call an emergency meeting or hearing of the Committee at any time on any measure or matter which the Chair determines to be of an emergency nature; provided, however, that the Chair has made an effort to consult the Ranking Minority Member.

(2) As soon as possible after calling an emergency meeting or hearing of the Committee, the Chair shall notify each Member of the Committee of the time and location of the meeting or hearing and shall particularly make an effort to consult the Ranking Minority Member of the Committee or, in such Member's absence, the next ranking minority party Members of the Committee.

(3) To the extent feasible, the notice provided under paragraph (2) shall include the agenda for the emergency meeting or hearing and copies of available materials which would otherwise have been provided under subsection (b) if the emergency meeting or hearing was a regular meeting or hearing.

RULE 3—MEETING PROCEDURES

In general

(a)(1) Meetings and hearings of the Committee shall be called to order and presided over by the Chair or, in the Chair's absence, by the Ranking Majority Member of the Committee present as Acting Chair.

(2) Meetings and hearings of the Committee shall be open to the public unless closed in accordance with clause 2(g) of rule XI of the Rules of the House of Representatives.

(3) The five-minute rule shall be observed in the interrogation of each witness before the Committee until each Member of the Committee has had an opportunity to question the witness.

(4) When a recommendation is made as to the kind of rule which should be granted for consideration of a bill or resolution, a copy of the language recommended shall be furnished to each Member of the Committee at the beginning of the Committee meeting at which the rule is to be considered or as soon thereafter as the proposed language becomes available.

Voting

(b)(1) No vote may be conducted on any measure or motion pending before the Committee unless a majority of the Members of the Committee is actually present, except as otherwise specified in these rules.

(2) A rollcall vote of the Committee shall be provided on any question before the Committee upon the request of any Member of the Committee.

(3) A record of the vote of each Member of the Committee on each rollcall vote on any matter before the Committee shall be available for public inspection at the offices of the Committee.

(4) The Members of the Committee, or one of its subcommittees, present at a meeting or hearing of the Committee or the subcommittee, respectively, may, by majority vote, limit the duration of debate, testimony, or Committee or subcommittee consideration with respect to any measure or matter before the Committee or subcommittee, respectively, or provide for such debate, testimony, or consideration to end at a time certain.

Media coverage of committee and subcommittee proceedings

(c)(1) The Committee and each of its subcommittees may permit, by majority vote for each day of an open meeting or hearing of the Committee or of that subcommittee, respectively, the coverage of that meeting or hearing, in whole or in part, by television broadcast, radio broadcast, or still photography.

(2) Any media coverage under this subsection shall be subject to all the requirements and limitations set forth in clause 3 of rule XI of the Rules of the House of Representatives, and the provisions of subparagraphs (1) through (13) of paragraph (f) of such clause are hereby incorporated as part of the rules of the Committee applicable to such coverage.

Quorum

(d)(1) For the purpose of hearing testimony on requests for rules, five Members of the Committee shall constitute a quorum.

(2) For the purpose of hearing and taking testimony on measures or matters of original jurisdiction before the Committee, three Members of the Committee shall constitute a quorum.

SUBPOENAS AND OATHS

(e)(1) Pursuant to clause 2(m) of rule XI of the Rules of the House of Representatives, a subpoena may be authorized and issued by the Committee or a subcommittee in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the Members voting, a majority being present.

(2) The Chair may authorize and issue subpoenas under such clause during any period in which the House has adjourned for a period of longer than three days.

(3) Authorized subpoenas shall be signed by the Chair or by any Member designated by the Committee, and may be served by any person designated by the Chair or such Member.

(4) The Chair, or any Member of the Committee designated by the Chair, may administer oaths to witnesses before the Committee.

GENERAL OVERSIGHT RESPONSIBILITY

(f)(1) The Committee shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within its jurisdiction.

(2) Upon direction of the Chair, the Committee shall meet to discuss and formulate oversight plans for each new Congress, as described in clause 2(b)(1) of rule X of the Rules of the House of Representatives.

RULE 4—SUBCOMMITTEES

Application of House and Committee Rules

(a)(1) As provided by clause 1(a)(2) of rule XI of the Rules of the House of Representatives, subcommittees of the Committee are a part of the Committee and are subject to its authority and direction.

(2) Subcommittees of the Committee shall be subject (insofar as applicable) to the Rules of the House of Representatives and, except as provided in this rule, the rules of the Committee.

Establishment and Responsibilities of Subcommittees

(b)(1) There shall be two subcommittees of the Committee as follows:

(A) *Subcommittee on the Legislative Process,* which shall have general responsibility for measures or matters related to relations between the Congress and the Executive Branch.

(B) *Subcommittee on Rules of the House,* which shall have general responsibility for measures or matters related to relations between the two Houses of Congress, relations between the Congress and the Judiciary, and internal operations of the House.

In addition, each such subcommittee shall have specific responsibility for such other measures or matters as the Chair refers to it.

(2) Each subcommittee of the Committee shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within its general responsibility.

Reference of Measures and Matters to Subcommittees

(c)(1) In view of the unique procedural responsibilities of the Committee—

(A) no special order providing for the consideration of any bill or resolution shall be referred to a subcommittee of the Committee, and

(B) all other measures or matters shall be subject to consideration by the full Committee except for those measures or matters referred by the Chair to one or both subcommittees of the Committee.

(2) The Chair may refer a measure or matter, which is within the general responsibility of one of the subcommittees of the Committee, jointly or exclusively to the other subcommittee of the Committee where the Chair deems it appropriate.

(3) In referring any measure or matter to a subcommittee, the Chair may specify a date by which the subcommittee shall report thereon to the Committee.

(4) The Chair or the Committee by motion may discharge a subcommittee from consideration of any measure or matter referred to a subcommittee of the Committee.

Composition of Subcommittees

(d) The size and ratio of each subcommittee shall be determined by the Committee at its organizational meeting at the beginning of each Congress, and Members shall be elected to each subcommittee, and to the positions of chairman and ranking minority member thereof, in accordance with the rules of the respective party caucuses.

Subcommittee meetings and hearings

(e)(1) Each subcommittee of the Committee is authorized to meet, hold hearings, receive testimony, mark up legislation, and report to the full Committee on any measure or matter referred to it.

(2) No subcommittee of the Committee may, without the Chair's approval, meet or hold a hearing at the same time as a meeting or hearing of the full Committee is being held.

(3) The chairman of each subcommittee shall schedule meetings and hearings of the subcommittee only after consultation with the Chair.

(4) A Member of the Committee who is not a Member of a particular subcommittee of the Committee may sit with the subcommittee during any of its meetings and hearings, but shall not have authority to vote, cannot be counted for a quorum, and cannot raise a point of order at the meeting or hearing.

Quorum

(f)(1) For the purpose of taking testimony, two Members of the subcommittee shall constitute a quorum.

(2) For all other purposes, a quorum shall consist of a majority of the Members of a subcommittee, except as otherwise specified in these rules.

(3) Any vacancy in the membership of a subcommittee shall not affect the power of the remaining Members to execute the functions of the subcommittee.

Records

(g) Each subcommittee of the Committee shall provide the full Committee with copies of such records of votes taken in the subcommittee and such other records with respect to the subcommittee as the Chair deems necessary for the Committee to comply with all rules and regulations of the House.

RULE 5—BUDGET AND TRAVEL

Budget

(a) The Chair, in consultation with other Members of the Committee, shall prepare for each session of Congress a budget providing amounts for staff, necessary travel, investigation, and other expenses of the Committee and its subcommittees.

Travel

(b)(1) The Chair may authorize travel for any Member and any staff member of the Committee in connection with activities or subject matters under the general jurisdiction of the Committee. Before such authorization is granted, there shall be submitted to the Chair in writing the following:

(A) The purpose of the travel.

(B) The dates during which the travel is to occur.

(C) The names of the States or countries to be visited and the length of time to be spent in each.

(D) The names of Members and staff of the Committee for whom the authorization is sought.

(2) Members and staff of the Committee shall make a written report to the Chair on any travel they have conducted under this subsection, including a description of their itinerary, expenses, and activities, and of pertinent information gained as a result of such travel.

(3) Members and staff of the Committee performing authorized travel on official business shall be governed by applicable laws, resolutions, and regulations of the House and of the Committee on House Administration.

RULE 6—STAFF

In general

(a)(1) Except as otherwise provided in this rule, a Staff Director of the Committee, professional and clerical staff of the Committee, and investigating staff of the Committee compensated from funds provided by any expense resolution, shall be appointed, and may be removed, by the Chair and shall work under the general supervision and direction of the Chair.

(2) Except for any staff appointed by the Ranking Minority Party Member of a subcommittee (Pursuant to subsection [c]) or by any other minority party Member of the Committee (pursuant to subsection [b]), all professional and clerical staff provided to the minority party Members of the Committee under paragraphs (a)(2) and (b)(2), respectively, of clause 6 of rule XI of the Rules of the House of Representatives, shall be appointed, and may be removed, by the Ranking Minority Member of the Committee and shall work under the general supervision and direction of such Member.

Associate staff

(b) Each Member of the Committee is authorized to designate one person, whom the Chair shall appoint to the staff of the Committee and who shall work under the general supervision and direction of the Member. The type of staff to which such a person is appointed shall be determined by the Chair, in the case of a person recommended by a majority party Member, and shall be determined by the Ranking Minority Member of the Committee, in the case of a person recommended by a minority party Member.

Subcommittee staff

(c)(1) The chairman and ranking minority member of each subcommittee of the Committee are each authorized to designate one person, whom the Chair shall appoint to the professional staff of the Committee and who shall work under the general supervision and direction of the chairman or the ranking minority member, respectively, of the subcommittee.

(2) The Chair may assign investigating staff of the Committee compensated from funds provided by any expense resolution to assist in work of a subcommittee of the Committee to the extent the Chair determines it to be appropriate, and any such staff to the extent so assigned shall work under the general supervision and direction of the chairman of the subcommittee.

Compensation of staff

(d)(1) Subject to paragraph (2), the Chair shall fix the compensation of all professional, clerical, and investigative staff of the Committee, as provided by clause 6(c) of Rule XI of the Rules of the House of Representatives.

(2) Compensation paid to associate staff appointed under subsection (b) shall not exceed 75 per centum of the maximum established in clause 6(c) of Rule XI of the Rules of the House of Representatives.

Certification of staff

(e)(1) To the extent any staff member of the Committee or any of its subcommittees does not work under the supervision and direction of the Chair, the Member of the Committee who supervises and directs the staff member's work shall file with the Staff Director of the Committee (not later than the tenth day of each month) a certification regarding the staff member's work for that Member for the preceding calendar month.

(2) The certification required by paragraph (1) shall be in such form as the Chair may prescribe, shall identify each staff member by name, and shall state that the work engaged in by the staff member and the duties assigned to the staff member for the Member of the Committee with respect to the month in question met the requirements of clause 6 of rule XI of the Rules of the House of Representatives.

(3) Any certification of staff of the Committee, or any of its subcommittees, made by the Chair in compliance with any provision of law or regulation shall be made (A) on the basis of the certifications filed under paragraph (1) to the extent the staff is not under the Chair's supervision and direction, and (B) on his own responsibility to the extent the staff is under the Chair's supervision and direction.

RULE 7—COMMITTEE ADMINISTRATION

Reporting

(a) Whenever the Committee authorizes the favorable reporting of a bill or resolution from the Committee—

(1) the Chair or Acting Chair shall report it to the House or designate a Member of the Committee to do so, and

(2) in the case of a bill or resolution in which the Committee has original jurisdiction, the Chair shall allow, to the extent that the anticipated floor schedule permits, any Member of the Committee a reasonable amount of time to submit views for inclusion in the Committee report on the bill or resolution.

Any such report shall contain all matters required by the Rules of the House of Representatives (or by any provision of law enacted as an exercise of the rulemaking power of the House) and such other information as the Chair deems appropriate.

Records

(b)(1) There shall be a transcript made of each regular meeting and hearing of the Committee, and the transcript may be printed if the Chair decides it is appropriate or if a majority of the Members of the Committee requests such printing.

(2) The minutes of each executive meeting of the Committee shall be available to all Members of the House of Representatives in compliance with clause 2(e)(2) of rule XI of the Rules of the House of Representatives.

(3) The Committee shall keep a record of all actions of the Committee and of its subcommittees. The record shall contain all information required by clause 2(e)(1) of rule XI of the Rules of the House of Representatives and shall be available for public inspection at reasonable times in the offices of the Committee.

(4) The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with rule XXXVI of the Rules of the House of Representatives. The Chairman shall notify the Ranking Minority Member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on written request of any Member of the Committee.

Calendars

(c)(1) The Committee shall maintain a Committee Calendar, which shall include all bills, resolutions, and other matters referred to or reported by the Committee and all bills, resolutions, and other matters reported by any other Committee on which a rule has been granted or formally requested, and such other matters as the Chair shall direct. The Calendar shall be published periodically, but in no case less often than once in each session of Congress.

(2) The staff of the Committee shall furnish each Member of the Committee with a list of all bills or resolutions (A) reported from the Committee but not yet considered by the House, and (B) on which a rule has been formally requested but not yet granted. The list shall be updated each week when the House is in session.

(3) For purposes of paragraphs (1) and (2), a rule is considered as formally requested when the Chairman of a committee which has reported a bill or resolution (or a Member of such committee authorized to act on the Chairman's behalf) (A) has requested, in writing to the Chair, that a hearing be scheduled on a rule for the consideration of the bill or resolution, and (B) has supplied the Committee with an adequate number of copies of the bill or resolution, as reported, together with the final printed committee report thereon.

Other procedures

(d) The Chair may establish such other Committee procedures and take such actions as may be necessary to carry out these rules or to facilitate the effective operation of the Committee and its subcommittees.

RULE 8—AMENDMENTS TO COMMITTEE RULES

The rules of the Committee may be modified, amended or repealed, but only if written notice of the proposed change has been provided to each such Member at least 48 hours before the time of the meeting at which the vote on the change occurs.

CLAUSE 3 OF RULE XI OF THE RULES OF THE HOUSE OF REPRESENTATIVES

Broadcasting of committee hearings

3. (a) It is the purpose of this clause to provide a means, in conformity with acceptable standards of dignity, propriety, and decorum, by which committee hearings, or committee meetings, which are open to the public may be covered, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage—

(1) for the education, enlightenment, and information of the general public, on the basis of accurate and impartial news coverage, regarding the operations, procedures, and practices of the House as a legislative and representative body and regarding the measures, public issues, and other matters before the House and its committees, the consideration thereof, and the action taken thereon; and

(2) for the development of the perspective and understanding of the general public with respect to the role and function of the House under the Constitution of the United States as an organ of the Federal Government.

(b) In addition, it is the intent of this clause that radio and television tapes and television film of any coverage under this clause shall not be used, or made available for use, as partisan political campaign material to promote or oppose the candidacy of any person for elective public office.

(c) It is, further, the intent of this clause that the general conduct of each meeting (whether of a hearing or otherwise) covered, under authority of this clause, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, and the personal behavior of the committee Members and staff, other Government officials and personnel, witnesses, television, radio, and press media personnel, and the general public at the hearing or other meeting shall be in strict conformity with and observance of the acceptable standards of dignity, propriety, courtesy, and decorum traditionally observed by the House in its operations and shall not be such as to—

(1) distort the objects and purposes of the hearing or other meeting or the activities of committee Members in connection with that hearing or meeting or in connection with the general work of the committee of the House; or

(2) cast discredit or dishonor on the House, the committee, or any Member or bring the House, the committee, or any Member into disrepute.

(d) The coverage of committee hearings and meetings by television broadcast, radio broadcast, or still photography is a privilege made available by the House and shall be permitted and conducted only in strict conformity with the purposes, provisions, and requirements of this clause.

(e) Whenever any hearing or meeting conducted by any committee of the House is open to the public, that committee may permit, by majority vote of the committee, that hearing or meeting to be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, but only under such written rules as the committee may adopt in accordance with the purposes, provisions, and requirements of this clause. *Provided, however,* Each committee or subcommittee Chairman shall determine, in his discretion, the number of television and still cameras permitted in a hearing or meeting room.

(f) The written rules which may be adopted by a committee under paragraph (e) of this clause shall contain provisions to the following effect:

(1) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(2) No witness served with a subpoena by the committee shall be required against his or her will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any such witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off. This subparagraph is supplementary to clause 2(k)(5) of this rule, relating to the protection of the rights of witnesses.

(3) The allocation among the television media of the positions of the number of television cameras permitted by a committee or subcommittee Chairman in a hearing or meeting room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(4) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the committee or the visibility of that witness and that Member to each other.

(5) Television cameras shall operate from fixed positions but shall not be placed in positions which obstruct unnecessarily the coverage of the hearing or meeting by the other media.

(6) Equipment necessary for coverage by the television and radio media shall not be installed in, or removed from, the hearing or meeting room while the committee is in session.

(7) Floodlights, spotlights, strobelights, and flashguns shall not be used in providing any method of coverage of the hearing or meeting, except that the television media may install additional lighting in the hearing or meeting room, without cost to the Government, in order to raise the ambient lighting level in the hearing or meeting room to the lowest level necessary to provide adequate television coverage of the hearing or meeting at the then current state of the art of television coverage.

(8) In the allocation of the number of still photographers permitted by a committee or subcommittee Chairman in a hearing or meeting room, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If requests are made by more of the media than will be permitted by a committee or subcommittee Chairman for coverage of the hearing or meeting by still photography, that coverage shall be made on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(9) Photographers shall not position themselves, at any time during the course of the hearing or meeting, between the witness table and the Members of the committee.

(10) Photographers shall not place themselves in positions which obstruct unnecessarily the coverage of the hearing by the other media.

(11) Personnel providing coverage by the television and radio media shall be then currently accredited to the Radio and Television Correspondents' Galleries.

(12) Personnel providing coverage by still photography shall be then currently accredited to the Press Photographers' Gallery.

(13) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

The rule permitting broadcasting of committee hearings was contained in section 116(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and became part of the rules on January 22, 1971 (H. Res. 5, 92nd Congress, p. 144). On July 22, 1974 (H. Res. 1107, 93rd Congress, p. 24447), the rule was amended to permit committees to adopt rules allowing coverage of committee meetings as well as hearings.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous material:)

Mr. BEREUTER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FISH and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,357.

(The following Members (at the request of Mr. BEREUTER) and to include extraneous matter:)

Mrs. MORELLA.

Mr. MCDADE.

Mr. SOLOMON in five instances.

Mr. SKEEN.

Mr. HYDE.

Mr. SHAW in two instances.

Mr. GILMAN in two instances.

Mr. EMERSON.

Mr. MOORHEAD.

Mr. TAYLOR of North Carolina.

Mr. BURTON of Indiana in two instances.

Mrs. BENTLEY.

Mr. CRANE.

Mr. DORNAN.

Mr. ROTH.

Mr. GINGRICH.

Mr. CLINGER.

Mrs. JOHNSON of Connecticut.

(The following Members (at the request of Mr. COPPERSMITH) and to include extraneous matter:)

Ms. PELOSI.

Mr. MANN.

Mr. ANDREWS of Texas in two instances.

Mr. BOUCHER.

Ms. KAPTUR.
Mr. HAMILTON.
Mr. BONIOR.
Mr. TOWNS.
Mr. JACOBS in two instances.
Mr. STOKES.
Mr. WAXMAN.
Mr. STARK.
Mr. DARDEN.
Ms. SLAUGHTER.
Mr. TORRICELLI.
Mr. FOGLIETTA.
Mr. HOCHBRUECKNER.
Mr. SKELTON.
Mr. DINGELL.
Mr. SANGMEISTER.
Mr. CONYERS.
Mr. STUDDS in two instances.
Mr. MORAN in two instances.

ADJOURNMENT

Mr. ROHRABACHER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 31 minutes a.m.), under its previous order, the House adjourned until today, February 4, 1993, at 12 noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the fourth quarter of 1989, as well as reports of the delegations to the North Atlantic Assembly, in connection with foreign travel pursuant to Public Law 95–384, are as follows:

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the second, third, and fourth quarters of 1992, in connection with foreign travel pursuant to Public Law 95–384, an amendment to the second quarter consolidated report of expenditures for foreign travel authorized by the Speaker, as well as the third quarter of 1992 consolidated report of foreign currencies and U.S. dollars utilized in connection with official foreign travel authorized by the Senate, and various reports for expenditures made in connection with official foreign travel by miscellaneous groups in 1992 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. E de la Garza	6/15	6/16	Mexico				917.20				917.20
Committee total							917.20				917.20

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

E de la GARZA, Chairman, Nov. 7, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Bill Alexander	9/10	9/12	Nicaragua		450.00		1,719.00				2,169.00
Hon. Bill Lowery	9/4	9/9	England		1,735.00		(3)				1,735.00
Hon. Neal Smith	9/2	9/7	Belgium								
	9/7	9/9	Spain		224.00						224.00
Commercial air transportation							3,269.80				3,269.80
Hon. Charles Wilson	9/4	9/11	England		2,776.00						2,776.00
Commercial air transportation							6,560.00				6,560.00
Hon. Frank Wolf	8/30	8/31	Germany		87.00						87.00
	8/21	9/2	Yugoslavia		254.00						254.00
Commercial air transportation							2,214.30				2,214.30
John Blazey	8/27	9/4	Taiwan		2,979.00						2,979.00
Commercial air transportation							4,041.00				4,041.00
Delacroix Davis	8/18	8/20	Turkey		392.00						392.00
	8/21	8/24	Bahrain		732.00						732.00
	8/24	8/25	Oman		179.00						179.00
	8/26	8/27	Diego Garcia		66.00						66.00
	8/28	8/29	Hong Kong		582.00						582.00
	8/30	9/3	South Korea		1,140.00						1,140.00
Commercial air transportation							4,168.00				4,168.00
Robert V. Davis	8/28	8/31	Russia		1,000.00						1,000.00
	8/31	9/2	Lithurania		500.00						500.00
	9/2	9/4	Poland		500.00						500.00
Commercial air transportation							5,917.00				5,917.00
James Kulikowski	8/16	8/17	Japan								
	8/17	8/28	China		2,257.00						2,257.00
	8/28	8/30	Hong Kong		424.00						424.00
Commercial air transportation							2,640.06				2,640.06
Mark Murray	9/10	9/12	Nicaragua		450.00						450.00
Commercial air transportation							1,719.00				1,719.00
Terry Peel	7/8	7/13	Ireland		1,500.00						1,500.00
	7/13	7/15	England		580.00						580.00
Commercial air transportation							3,413.00				3,413.00
Terry Peel	8/30	9/4	Russia		1,400.00						1,400.00
Commercial air transportation							5,556.10				5,556.10
John Plashal	8/1	8/2	Croatia		125.00						125.00
Military air transportation							4,500.00				4,500.00
John Plashal	8/18	8/20	Turkey		392.00						392.00
	8/21	8/24	Bahrain		732.00						732.00
	8/24	8/25	Oman		179.00						179.00
	8/26	8/27	Diego Garcia		66.00						66.00
	8/28	8/29	Hong Kong		582.00						582.00
	8/30	9/3	South Korea		1,140.00						1,140.00
Commercial air transportation							4,168.00				4,168.00
Hon. John Murtha	8/1	8/2	Croatia		125.00						125.00
Military air transportation							4,500.00				4,500.00
Committee total					23,548.00		54,385.26				77,933.26
Appropriations, surveys and investigations staff: Henry Avalos	7/5	7/17	Switzerland		2,031.25		3,268.00		42.50		5,341.75

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1992—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	7/26	7/29	Canada		405.25		338.88		60.07		804.20
Roger T. Castonguay	7/5	7/17	Switzerland		2,031.25		3,268.00		53.53		5,352.78
Gerald T. Coughlin	7/5	7/17	Switzerland		2,031.25		3,268.00		60.63		5,359.88
Anthony J. Gabriel	7/5	7/17	Switzerland		1,981.75		3,268.00		95.31		5,345.06
Norman H. Gardner	8/31	9/5	Germany		1,193.25		2,788.55		49.98		4,031.78
	9/5	9/8	Portugal		765.50						765.50
William P. Haynes, Jr.	8/10	8/12	Colombia		351.50		1,273.00		40.50		1,665.00
Joseph J. Hazewski	8/31	9/5	Germany		1,193.25		2,812.55		61.00		4,066.80
	9/5	9/8	Spain		930.50						930.50
Dennis K. Lutz	7/12	7/16	Korea		510.00		2,949.38		45.10		3,504.48
Leo R. Morris	7/12	7/16	Korea		510.00		3,048.17		20.30		3,578.47
Robert H. Pearre, Jr.	8/31	9/5	Germany		1,193.25		3,974.55		113.31		5,281.11
	9/5	9/7	Portugal		564.75						564.75
	9/7	9/9	England		435.75						435.75
Thomas R. Reilly	8/31	9/5	Germany		1,193.25		3,533.55		130.55		4,857.35
	9/5	9/7	Spain		688.50						688.50
	9/7	9/9	England		448.25						448.25
Philip P. Rittman	7/5	7/17	Switzerland		1,981.75		3,209.00		111.70		5,302.45
	7/26	7/28	Canada		405.25		447.78		90.91		943.94
R.W. Vandergrift, Jr	8/27	8/31	Russia		713.50		5,470.19		269.66		6,453.35
	8/31	9/2	Lithuania		461.25						461.25
	9/2	9/4	Poland		328.00						328.00
T. Peter Wyman	8/10	8/12	Colombia		351.50		1,273.00		40.50		1,665.00
H.C. Young	7/5	7/17	Switzerland		2,031.25		3,268.00		89.36		5,388.61
Committee total					24,731.00		47,458.60		1,374.91		73,564.51

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

JAMIE WHITTEN, Chairman, Oct. 31, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Visit to England, Belgium, Germany, Italy, Greece, and Spain, Aug. 19–29, 1992:											
Hon. Patricia Schroeder	8/19	8/21	England		598.00						598.00
	8/21	8/22	Belgium		349.50						349.50
	8/22	8/25	Germany		528.00						528.00
	8/25	8/26	Italy		268.00						268.00
	8/26	8/28	Greece		274.00						274.00
	8/28	8/29	Spain		291.00						291.00
Commercial transportation							5,836.00				5,836.00
Alma B. Moore	8/19	8/21	England		598.00						598.00
	8/21	8/22	Belgium		349.50						349.50
	8/22	8/25	Germany		528.00						528.00
	8/25	8/26	Italy		268.00						268.00
	8/26	8/28	Greece		274.00						274.00
	8/28	8/29	Spain		291.00						291.00
Commercial transportation							5,836.00				5,836.00
Stuart J. Ishimaru	8/19	8/21	England		598.00						598.00
	8/21	8/22	Belgium		349.50						349.50
	8/22	8/25	Germany		528.00						528.00
	8/25	8/26	Italy		268.00						268.00
	8/26	8/28	Greece		274.00						274.00
	8/28	8/29	Spain		291.00						291.00
Commercial transportation							5,836.00				5,836.00
Visit to England Sept. 4–9, 1992:											
Hon. William L. Dickinson	9/4	9/9	England		1,735.00						1,735.00
Hon. Floyd Spence	9/4	9/9	England		1,735.00						1,735.00
Hon. Robert W. Davis	9/4	9/9	England		1,735.00						1,735.00
Hon. Robert K. Dornan	9/4	9/9	England		1,735.00						1,735.00
Peter M. Steffes	9/4	9/9	England		1,735.00						1,735.00
Douglas H. Necessary	9/4	9/9	England		1,735.00						1,735.00
Andrew K. Ellis	9/4	9/9	England		1,735.00						1,735.00
Committee total					19,070.50		17,508.00				36,578.50

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LES ASPIN, Chairman, Oct. 20, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Carroll Hubbard	9/4	9/9	England		1,735.00		(3)				1,735.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1992—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Committee total					1,735.00						1,735.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military transportation.

HENRY GONZALEZ, Sept. 24, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
David Finnegan	7/13	7/18	Switzerland		1,500.00						1,500.00
Commercial airfare							2,028.00				2,028.00
Mary-Moore Hamrick	7/1	7/5	France		1,052.00						1,052.00
	7/5	7/10	England		1,450.00						1,450.00
Commercial airfare							3,968.90				3,968.90
Janet Potts	7/1	7/5	France		1,052.00						1,052.00
	7/5	7/10	England		1,450.00						1,450.00
Commercial airfare							3,968.90				3,968.90
Tim Westmoreland	7/19	7/24	Holland		1,470.00						1,470.00
Registration fee									853.04		853.04
Conference fee									853.04		853.04
Commercial airfare							829.90				829.90
Committee total					7,974.00		10,795.70		1,706.08		20,475.78

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN D. DINGELL, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
P. Abbruzzese	9/9	9/13	Israel		806.00						806.00
Commercial transportation							2,501.00				2,501.00
M.J. Camp	9/28	10/2	France		1,189.00				40.00		1,229.00
Commercial transportation							8,048.00				8,048.00
Hon. M. Dymally	7/13	7/17	Zaire		1,500.00						1,500.00
Commercial transportation							5,879.00				5,879.00
	8/9	8/12	Morocco		506.00						506.00
	8/12	8/13	Egypt		187.00						187.00
	8/13	8/16	Sudan		966.00						966.00
	8/16	8/18	Egypt		374.00						374.00
	8/18	8/20	Tunisia		266.00						266.00
	8/20	8/23	Algeria		300.00						300.00
	8/23	8/24	France		278.00						278.00
	8/24	8/25	United Kingdom		299.00						299.00
Commercial transportation							7,249.15				7,249.15
	9/8	9/10	Djibourti		268.00						268.00
Commercial transportation							7,358.30				7,358.30
	9/28	10/2	France		1,100.00						1,100.00
Commercial transportation							4,818.00				4,818.00
Hon. E. Feighan	8/28	8/29	Germany								
	8/29	9/5	Russia		2,400.00						2,400.00
Commercial transportation							2,464.00				2,464.00
	7/19	7/22	Italy		969.00						969.00
No transportation cost											
A. Gray	8/16	8/21	Israel		[3]1,155.00						1,155.00
Commercial transportation							2,393.00				2,393.00
M. Gueye	7/26	7/29	Senegal		717.00						717.00
Commercial transportation							4,226.00				4,226.00
	8/22	8/31	Senegal		1,722.00						1,722.00
	8/31	9/8	Nigeria		102.00						102.00
Commercial transportation							7,139.00				7,139.00
R. (Mickey) Harmon	7/17	7/18	France		263.00						263.00
	7/18	7/25	Tanzania		1,016.00				338.19		1,354.19
Commercial transportation							8,325.00				8,325.00
	9/3	9/8	Congo		1,315.50						1,315.50
	9/8	9/9	Ivory Coast		245.00						245.00
	9/9	9/13	Senegal		1,012.00						1,012.00
Commercial transportation							5,890.30				5,890.30
G. Ingram	7/8	7/14	Ireland		600.00						600.00
	7/14	7/16	Belgium		434.00						434.00
	7/16	7/20	France		364.00						364.00
Commercial transportation							3,004.90				3,004.90
G. Kapen	8/26	8/31	South Africa		468.00						468.00
	8/27	8/28	Mozambique		75.00						75.00
	8/31	9/3	Angola		1,196.00						1,196.00
Commercial transportation							6,012.48				6,012.48
J. McCormick	8/14	8/15	Thailand		213.00						213.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1992—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	8/15	8/19	Vietnam		768.00						768.00
	8/19	8/23	Cambodia		1,040.00						1,040.00
	8/23	8/25	Thailand		426.00						426.00
Commercial transportation							3,068.00				3,068.00
K.B. Moazed	8/14	8/15	Thailand		213.00						213.00
	8/15	8/19	Vietnam		768.00						768.00
	8/19	8/23	Cambodia		1,040.00						1,040.00
	8/23	8/26	Hong Kong		774.00						774.00
Commercial transportation							3,143.00				3,143.00
R.S. Oliver	9/1	9/4	Denmark		802.25						802.25
	9/4	9/9	Sweden								
	9/8	9/8	Finland								
	9/9	9/10	United Kingdom		347.00						347.00
Commercial transportation							3,678.00				3,678.00
Hon. W. Owens	7/14	7/16	Israel		680.00				211.02		891.02
	7/16	7/19	Jordan		579.00						579.00
	7/19	7/20	Syria		202.00						202.00
No transportation cost											
B. Paolo	8/9	8/12	Morocco		506.00						506.00
	8/12	8/13	Egypt		187.00						187.00
	8/13	8/16	Sudan		966.00						966.00
	8/16	8/18	Egypt		374.00						374.00
	8/18	8/20	Tunisia		266.00						266.00
	8/20	8/23	Algeria		300.00						300.00
	8/23	8/24	France		278.00						278.00
	8/24	8/25	United Kingdom		299.00						299.00
Commercial transportation							6,724.10				6,724.10
	9/26	10/1	Angola		1,900.00						1,900.00
Commercial transportation							6,869.00				6,869.00
G. Pitchford	8/30	8/31	South Africa		131.00						131.00
	8/31	9/3	Angola		897.00						897.00
	9/3	9/4	South Africa								
	9/4	9/5	Zimbabwe		186.00						186.00
	9/5	9/8	Malawi		382.00						382.00
Commercial transportation							7,674.00				7,674.00
J. Scheibel	8/16	8/21	Israel		1,230.00						1,230.00
Commercial transportation							1,921.10				1,921.10
G. Strand	7/17	7/18	France		263.00						263.00
	7/18	7/26	Tanzania		1,016.00						1,016.00
Commercial transportation							8,325.00				8,325.00
	9/3	9/8	Congo		1,315.50						1,315.00
	9/8	9/9	Ivory Coast		245.00						245.00
	9/9	9/13	Senegal		1,012.00						1,012.00
Commercial transportation							5,890.30				5,890.30
Total for 3d quarter											164,888.09

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Represents refund of unused per diem.

DANTE B. FASCELL, Chairman, Oct. 30, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT OPERATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPTEMBER 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Theodore Jacobs	7/10	7/14	United Kingdom	599.33	1,160.00		3,378.90				4,538.90
	7/14	7/17	Belgium	24,462	801.00						801.00
	7/17	7/12	Switzerland	921.39	825.00						825.00
Jeffrey Tassey	7/10	7/14	United Kingdom	599.33	1,160.00		3,378.90				4,538.90
	7/14	7/17	Belgium	24,462	801.00						801.00
	7/17	7/20	Switzerland	921.39	[3] 825.00						825.00
Patsy Fleming	7/20	7/25	The Netherlands		935.89		843.90				1,779.79
Committee total					6,057.89		7,601.00				13,659.59

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Returned to State Department, $450.

JOHN CONYERS, JR., Chairman, Nov. 1, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEEE ON PUBLIC WORKS AND TRANSPORTATION, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Robert A. Roe	8/24	8/26	Japan		484.00		(3)				484.00
	8/26	9/4	China		1,752.00		(3)				1,752.00
	9/5	9/6	Thailand		213.00		(3)				213.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1992—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	9/6	9/7	Hong Kong		516.00		(3)				516.00
Hon. J.P. Hammerschmidt	8/24	8/26	Japan		484.00		(3)				484.00
	8/26	9/4	China		1,752.00		(3)				1,752.00
	9/5	9/6	Thailand		213.00		(3)				213.00
	9/6	9/7	Hong Kong		516.00		(3)				516.00
John S. Doyle	8/24	8/26	Japan		484.00		(3)				484.00
	8/26	9/4	China		1,752.00		(3)				1,752.00
	9/5	9/6	Thailand		213.00		(3)				213.00
	9/6	9/7	Hong Kong		516.00		(3)				516.00
Jack L. Schenendorf	8/24	8/26	Japan		484.00		(3)				484.00
	8/26	9/4	China		1,752.00		(3)				1,752.00
	9/5	9/6	Thailand		213.00		(3)				213.00
	9/6	9/7	Hong Kong		516.00		(3)				516.00
James R. Miller	8/24	8/26	Japan		484.00		(3)				484.00
	8/26	9/4	China		1,752.00		(3)				1,752.00
	9/5	9/6	Thailand		213.00		(3)				213.00
	9/6	9/7	Hong Kong		516.00		(3)				516.00
Kathy Guilfoy	8/24	8/26	Japan		484.00		(3)				484.00
	8/26	9/4	China		1,752.00		(3)				1,752.00
	9/5	9/6	Thailand		213.00		(3)				213.00
	9/6	9/7	Hong Kong		516.00		(3)				516.00
David Smallen	8/24	8/26	Japan		484.00		(3)				484.00
	8/26	9/4	China		1,752.00		(3)				1,752.00
	9/5	9/6	Thailand		213.00		(3)				213.00
	9/6	9/7	Hong Kong		516.00		(3)				516.00
Erla S. Youmans	8/24	8/26	Japan		484.00		(3)				484.00
	8/26	9/4	China		1,752.00		(3)				1,752.00
	9/5	9/6	Thailand		213.00		(3)				213.00
	9/6	9/7	Hong Kong		516.00		(3)				516.00
Errol L. Tyler	8/24	8/26	Japan		484.00		(3)				484.00
	8/26	9/4	China		1,752.00		(3)				1,752.00
	9/5	9/6	Thailand		213.00		(3)				213.00
	9/6	9/7	Hong Kong		516.00		(3)				516.00
Gabor J. Rozsa	8/24	8/26	Japan		484.00		(3)				484.00
	8/26	9/4	China		1,752.00		(3)				1,752.00
	9/5	9/6	Thailand		213.00		(3)				213.00
	9/6	9/7	Hong Kong		516.00		(3)				516.00
Cynthia A. Elliot	8/24	8/26	Japan		484.00		(3)				484.00
	8/26	9/4	China		1,752.00		(3)				1,752.00
	9/5	9/6	Thailand		213.00		(3)				213.00
	9/6	9/7	Hong Kong		516.00		(3)				516.00
Benjamin H. Grumbles	8/24	8/26	Japan		484.00		(3)				484.00
	8/26	9/4	China		1,752.00		(3)				1,752.00
	9/5	9/6	Thailand		213.00		(3)				213.00
	9/6	9/7	Hong Kong		516.00		(3)				516.00
Scott Slesinger	8/24	8/26	Japan		484.00		(3)				484.00
	8/26	9/4	China		1,752.00		(3)				1,752.00
	9/5	9/6	Thailand		213.00		(3)				213.00
	9/6	9/7	Hong Kong		516.00		(3)				516.00
Jeffrey Shoaf	8/24	8/26	Japan		484.00		(3)				484.00
	8/26	9/4	China		1,752.00		(3)				1,752.00
	9/5	9/6	Thailand		213.00		(3)				213.00
	9/6	9/7	Hong Kong		516.00		(3)				516.00
Hon. William F. Clinger	8/26	9/4	China		1,034.00		(3)				1,034.00
	9/5	9/6	Thailand		213.00		(3)				213.00
	9/6	9/7	Hong Kong		516.00		(3)				516.00
Robert W. Maitlin	8/29	9/4	China		971.00		[4] 1,738.00				2,709.00
	9/5	9/6	Thailand		213.00		(3)				213.00
	9/6	9/7	Hong Kong		516.00		(3)				516.00
Hon. Bud Shuster	8/24	8/26	Japan		484.00		(3)				484.00
	8/26	9/1	China		1,233.00		(3)				1,233.00
	9/2	9/6	Italy		1,404.00		[4] 3,763.00				5,167.00
Committee total					48,094.00		5,501.00				53,595.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Air transportation provided by USAF.
[4] Commercial air transportation.

ROBERT A. ROE, Chairman, Oct. 22, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, SPACE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Daniel Sarewitz	8/16	8/22	Columbia		1,200.00						1,200.00
Commercial air							1,063.00				1,063.00
Katherine Van Sickle	8/31	9/4	Finland	2,794.60	716.00					2,794.60	716.00
Commercial air							928.00				928.00
Committee total					1,916.00		1,991.00				3,907.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

GEORGE E. BROWN, JR., Chairman, Oct. 13, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Mark Davis	9/22	[3] 9/26	Canada		[4] 750.00		[5] 438.61				
Committee total					750.00		438.61				

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Required to stay 1 day beyond original authorization due to mechanical problem causing cancellation of return flight.
[4] Paid in U.S. dollars by State Department; includes $325 conference fee in addition to per diem.
[5] Airfare only; other transportation (to and from airport, parking, local transfers) paid from per diem.

LOUIS STOKES, Chairman, Oct. 20, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE. U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Michael W. Sheehy, staff	7/12	7/16	Australia		832.00						832.00
	7/16	7/20	Asia		992.00						992.00
Commercial airfare							5,539.00				5,539.00
Robert J. Fitch, staff	7/12	7/16	Australia		832.00						832.00
	7/16	7/20	Asia		992.00						992.00
Commercial airfare							5,539.00				5,539.00
John G. Keliher, staff	8/11	8/20	Europe		2,042.00		3,970.00				6,012.10
Larry D. Cox, staff	8/9	8/20	Europe		1,843.00		4,171.10				6,014.10
Kenneth M. Kodama, staff	8/19	8/21	North America		288.00		435.40				723.40
W. Ross Newland, staff	8/19	8/21	North America		288.00		435.40				723.40
Hon. Bud Shuster	9/1	9/6	Europe		1,404.00						1,404.00
Committee total					9,513.00		20,090.00				29,603.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAVE McCURDY, Chairman, Oct. 27, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON HUNGER, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Richard A. Leach	8/15	8/26	Switzerland		2,050.00						2,050.00
Commercial air travel, IAD–GVA–IAD							2,028.00				2,028.00
Richard A. Leach	9/2	9/7	Brazil	3,221,730	590.00				30.00	3,221,730	620.00
Commercial air travel, DCA–MIA–RIO–MIA–DCA.							2,834.00				2,834.00
Patricia R. Johnson	9/2	9/7	Brazil	3,221,730	590.00				30.00	3,221,730	620.00
Commercial air travel, DCA–MIA–RIO–MIA–DCA.							2,834.00				2,834.00
Committee total					3,230.00		7,696.00		60.00		10,986.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

TONY P. HALL, Chairman, Oct. 15, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
John Finerty		9/16	United States				2,249.00				2,249.00
	9/17	9/21	Estonia		420.00						420.00
Robert Hand		7/29	United States				1,315.10				1,315.10
	7/30	8/4	Croatia		600.00						600.00
Heather Hurlburt		9/15	United States				1,013.70				1,013.70
	9/16	9/20	Czechoslovakia		832.00						832.00
	9/20	9/30	Austria		2,035.00		17.90				2,052.90
Michael Ochs		9/16	United States				2,249.00				2,249.00
	9/17	9/21	Estonia		422.00						422.00
Victoria Showalter		9/1	United States				1,068.60				1,068.60
	9/2	9/7	Romania		675.98						675.98
		9/22	United States				1,437.10				1,437.10

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1992—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Samuel Wise	9/23	9/29	Romania		822.00						822.00
	9/29	9/30	Germany		218.00						218.00
		9/15	United States				965.40				965.40
	9/16	9/20	Czechoslovakia		832.00						832.00
	9/20	9/24	Austria		740.00		17.90				757.90
Committee total					7,596.89		10,333.70				17,930.68

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

STENY H. HOYER, Chairman, Oct. 16, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1992

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Congressman Joseph Kennedy	12/1	12/2	Bonn, Germany								
	12/2	12/3	Berlin, Germany		970.29		2,891.30				3,861.59
Michael Powell	12/1	12/2	Bonn, Germany								
	12/2	12/3	Berlin, Germany		970.29		2,891.30				3,861.59
Committee total					1,940.58		5,782.60				7,723.18

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HENRY B. GONZALEZ, Chairman, Dec. 17, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OR REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1992

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Visit to England, Oct. 20–24, 1992:											
Robert E. Schafer	10/20	10/24	England		1,196.00						1,196.00
Commercial transportation							3,966.00				3,966.00
Visit to England, the Netherlands, Germany, Nov. 8–19, 1992:											
Hon. William Glen Browder	11/8	11/11	England		858.00						858.00
	11/11	11/15	the Netherlands		978.00						978.00
	11/15	11/19	Germany		1,153.00						1,153.00
Jean D. Reed	11/8	11/11	England		858.00						858.00
	11/11	11/15	the Netherlands		978.00						978.00
	11/15	11/19	Germany		1,153.00						1,153.00
Commercial transportation							3,610.60				3,610.60
Visit to England, the Netherlands, Germany and Italy, Nov. 8–24, 1992:											
Stephen O. Rossetti	11/8	11/11	England		858.00						858.00
	11/11	11/15	the Netherlands		978.00						978.00
	11/15	11/21	Germany		1,347.00						1,347.00
	11/21	11/24	Italy		741.00						741.00
Commercial transportation							3,610.60				3,610.60
Visit to Belgium, Germany and Italy, Nov. 15–22, 1992:											
Hon. H. Martin Lancaster	11/15	11/19	Belgium		1,224.00						1,224.00
	11/15	11/21	Germany		194.00						194.00
	11/21	11/22	Italy		247.00						247.00
Hon. Herbert H. Bateman	11/15	11/19	Belgium		1,224.00						1,224.00
	11/15	11/21	Germany		194.00						194.00
	11/21	11/22	Italy		247.00						247.00
Visit to Belgium and Italy, Nov. 15–22, 1992:											
Hon. Norman Sisisky	11/15	11/19	Belgium		1,224.00						1,224.00
	11/19	11/22	Italy		873.00						837.00
Hon. Floyd Spence	11/15	11/19	Belgium		1,224.00						1,224.00
	11/19	11/22	Italy	873.00							873.00
Hon. James H. Bilbray	11/15	11/19	Belgium		1,224.00						11,224.00
	11/19	11/22	Itlay	873.00							873.00
Hon. Joel Hefley	11/15	11/19	Belgium		1,224.00						11,224.00
	11/19	11/22	Italy		873.00						873.00
Ronald J. Bartek	11/15	11/19	Belgium		1,224.00						1,224.00
	11/19	11/22	Italy		873.00						873.00
Georgia C. Osterman	11/15	11/19	Belgium		1,224.00						1,224.00
	11/19	11/22	Italy		873.00						873.00
Evelyn J. Mackrella	11/15	11/19	Belgium		1,224.00						1,224.00
	11/19	11/22	Italy		873.00						873.00
Visit to Korea, People's Republic of China, Hong Kong, and Japan, Nov. 24–Dec. 5, 1992:											
Hon. Patricia Schroeder	11/24	11/27	Korea		729.00						729.00
	11/27	12/1	People's Republic of China		740.00						740.00
	12/1	12/3	Hong Kong		516.00						516.00
	12/3	12/5	Japan		684.00						684.00
Hon. Frank McCloskey	11/24	11/27	Korea		729.00						729.00
	11/27	12/1	People's Republic of China		740.00						740.00
	12/1	12/3	Hong Kong		516.00						516.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OR REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1992—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	12/3	12/5	Japan		684.00						684.00
Hon. Solomon P. Ortiz	11/24	11/27	Korea		729.00						729.00
	11/27	12/1	People's Republic of China		740.00						740.00
	12/1	12/3	Hong Kong		516.00						516.00
	12/3	12/5	Japan		684.00						684.00
Alma B. Moore	11/24	11/27	Korea		729.00						729.00
	11/27	12/1	People's Republic of China		740.00						740.00
	12/1	12/3	Hong Kong		516.00						516.00
	12/3	12/5	Japan		684.00						684.00
Peter M. Steffes	11/24	11/27	Korea		729.00						729.00
	11/27	12/1	People's Republic of China		740.00						740.00
	12/1	12/3	Hong Kong		516.00						516.00
	12/3	12/5	Japan		684.00						684.00
Stuart J. Ishimaru	11/24	11/27	Korea		729.00						729.00
	11/27	12/1	People's Republic of China		740.00						740.00
	12/1	12/3	Hong Kong		516.00						516.00
	12/3	12/5	Japan		684.00						684.00
Committee total					45,121.00		11,187.20				56,308.20

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RONALD V. DELLUMS, Chairman, Jan. 29, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
P. Abbruzzese	10/10	10/14	Greece		904.00						904.00
	10/14	10/15	Italy		313.00						313.00
Commercial transportation							2,707.10				2,707.10
	11/14	11/20	Belgium		1,836.00						1,836.00
	11/20	11/22	Italy		626.00						626.00
Commercial transportation one-way							1,257.00				1,257.00
Military transportation one-way											
S. Andross	11/2	11/6	Australia		716.00						716.00
Commercial transportation							8,420.00				8,420.00
Hon. D. Bereuter	11/15	11/19	Belgium		[3]917.72						917.72
Commercial transportation one-way							1,648.40				1,648.40
Military transportation one-way											
N. Bloomer	11/14	11/20	Belgium		1,836.00						1,836.00
	11/20	11/24	Italy		1,252.00						1,252.00
Military transportation											
J.J. Brady	11/14	11/20	Belgium		1,836.00						1,836.00
	11/20	11/24	Italy		1,252.00						1,252.00
Military transportation											
D. Burns	12/16	12/19	Denmark		728.00						728.00
Commercial transportation							2,438.70				2,438.70
M.J. Camp	10/29	10/30	United Kingdom		92.00		205.40				297.40
Commercial transportation							8,020.00				8,020.00
F.M. Chambers	11/12	11/13	Panama		132.00						132.00
	11/13	11/17	Columbia		828.00						828.00
	11/17	11/19	Ecuador		405.00						405.00
Commercial transportation							2,082.00				2,082.00
M. Ennis	11/14	11/20	Belgium		1,836.00						1,836.00
	11/20	11/23	Russia		[3]801.00						801.00
	11/23	11/24	Italy		313.00						313.00
Military transportation											
Hon. E. Feighan	10/8	10/12	Russia								
Commercial transportation							2,853.00				2,853.00
R.M. Finley	11/14	11/20	Belgium		1,836.00						1,836.00
	11/20	11/24	Italy		1,252.00						1,252.00
Military transportation											
B. Ford	11/13	11/17	Bolivia		623.40						623.40
	11/17	11/19	Ecuador		405.00						405.00
	11/19	11/22	Peru		696.00						696.00
Commercial transportation							5,539.00				5,539.00
Hon. P. Goss	11/14	11/20	Belgium		[3]917.44						917.44
	11/20	11/23	Russia		[3]466.00						466.00
	11/23	11/24	Italy								
Military transportation											
M. Gueye	11/1	11/3	Kenya		769.50						769.50
Commercial transportation							7,518.00				7,518.00
A. Hoffman	11/28	12/5	South Africa		1,319.00						1,319.00
Commercial transportation							7,704.00				7,704.00
V. Johnson	11/15	11/18	Haiti		307.00		117.52		206.56		631.08
Commercial transportation							973.00				973.00
C. Kojm	11/9	11/10	Estonia		250.00						250.00
	11/10	11/12	Latvia		500.00						500.00
	11/12	11/13	Lithuania		250.00						250.00
	11/13	11/15	Austria		235.00						235.00
	11/15	11/16	Czechoslovakia								
	11/16	11/16	Switzerland		293.00						293.00
	11/16	11/17	United Kingdom		572.00						572.00
Commercial transportation							3,933.00				3,933.00
Hon. T. Lantos	11/18	12/3	Hungary		3,440.00						3,440.00
	11/23	11/24	Slovakia		416.00						416.00
	11/27	11/28	Romania		168.00		360.79		56.57		585.36
	12/1	12/2	Croatia		170.00						170.00
	11/30	12/1	Serbia		215.00						215.00
Commercial transportation							566.00				566.00
R. McBride	11/2	11/6	Australia		716.00						716.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1992—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Commercial transportation							8,420.00				8,420.00
	12/14	12/18	Switzerland		908.00						908.00
Commercial transportation							5,354.00				5,354.00
Hon. F. McCloskey	11/12	11/13	Hungary		215.00						215.00
	11/13	11/14	Macedonia		139.00						139.00
	11/14	11/15	Greece		194.00						194.00
	11/15	11/16	Germany		268.00						268.00
Military transportation											
Commercial transportation DC-Germany-DC							3,047.80				3,047.80
J. Mack	10/19	10/23	Egypt		684.00						684.00
	10/23	10/24	France		276.00						276.00
	10/24	10/26	Central African Republic		281.00						281.00
	10/26	10/29	Mali		774.00						774.00
	10/29	11/1	Togo		480.00						480.00
	11/1	11/2	France		138.00						138.00
Commercial transportation							13,361.10				13,361.10
K. Nakamura	11/2	11/6	Australia		716.00						716.00
Commercial transportation							8,420.00				8,420.00
R.S. Oliver	10/22	10/24	United Kingdom		598.00		112.12				710.12
	10/24	10/26	Russia		716.00						716.00
	10/26	10/27	Finland		212.00						212.00
	10/27	11/3	Denmark		699.00						699.00
Commercial transportation							3,977.40				3,977.40
	11/11	11/15	Denmark		932.00						932.00
	11/15	11/20	Belgium		1,530.00						1,530.00
	11/20	11/22	Italy		626.00						626.00
Commercial transportation							3,321.90				3,321.90
	12/12	12/15	Sweden		900.00						900.00
	12/15	12/19	Denmark		954.00						954.00
Commercial transportation							2,636.80				2,636.80
B. Paolo	10/19	10/27	Egypt		1,368.00						1,368.00
Commercial transportation							5,967.20				5,967.20
Hon. D. Payne	11/24	11/27	Senegal		765.00						765.00
Commercial transportation							4,154.60				4,154.00
M. Poloyac	11/14	11/20	Belgium		1,836.00						1,836.00
	11/20	11/24	Italy		1,252.00						1,252.00
Military transportation											
J.W. Roberts	10/15	10/19	France		714.00						714.00
	10/19	10/21	Belgium		[3]566.00						566.00
	10/21	10/22	France		276.00						276.00
Commercial Transportation							3,219.20				3,219.20
R. Scheunemann	11/12	11/13	Panama		132.00						132.00
	11/13	11/17	Colombia		828.00						828.00
	11/17	11/19	Ecuador		405.00						405.00
Commercial transportation							2,082.00				2,082.00
D. Schlieker	11/14	11/20	Belgium		1,836.00						1,836.00
	11/20	11/24	Italy		1,252.00						1,252.00
Military transportation											
M. Sletzinger	10/10	10/15	Greece		1,130.00						1,130.00
Commercial transportation							2,710.20				2,710.20
	11/9	11/13	Baltic States		1,000.00						1,000.00
	11/13	11/15	Austria		235.00						235.00
	11/15	11/16	Switzerland		293.00						293.00
	11/16	11/18	United Kingdom		572.00						572.00
Commercial transportation							3,933.00				3,933.00
	12/16	12/18	Denmark		502.00						502.00
Commercial transportation							2,438.70				2,438.70
I. Spalatin	10/15	10/19	France		1,104.00						1,104.00
	10/19	10/21	Belgium		[3]566.00		127.00				693.00
	10/21	10/22	France		276.00						276.00
Commercial transportation							3,219.20				3,219.20
Hon. R. Torricelli	11/15	11/17	Haiti		287.00		117.52		206.56		611.08
Commercial transportation							873.10				873.10
M. Van Dusen	11/6	11/8	United Kingdom		483.00						483.00
	11/9	11/10	Estonia		250.00						250.00
	11/10	11/12	Latvia		500.00						500.00
	11/12	11/13	Lithuania		250.00						250.00
	11/13	11/15	Austria		235.00						235.00
	11/15	11/16	Czechoslovakia								
	11/16	11/16	Switzerland								
	11/16	11/17	United Kingdom		572.00						572.00
Commercial transportation							4,153.00				4,153.00
J. Weber	11/14	11/20	Belgium		1,836.00						1,836.00
	11/20	11/24	Italy		1,252.00						1,252.00
Military transportation											
P. Weir	11/15	11/18	Haiti		266.00		117.52		206.56		590.08
Commercial transportation							603.00				603.00
Hon. H. Johnson	11/14	11/20	Belgium		1,836.00						1,836.00
	11/29	11/24	Italy		1,252.00						1,252.00
Total for 4th quarter											209,992.58

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Represents refund of unused per diem.

LEE H. HAMILTON, Chairman, Jan. 29, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Joan M. Bondareff	11/8	11/15	Italy		[3]1,550.00		[4]1,488.00				3,038.00
Laurel Bryant	11/7	11/22	Spain	173,382	1,533.00		[4]610.00				2,143.00
Jean Flemma	11/8	11/13	Spain	123,845	1,095.00		[4]610.00				1,705.00
James K. McCallum	11/7	11/14	Spain	173,382	1,533.00		[4]610.00				2,143.00
Committee total					5,711.00		3,318.00				9,029.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Cash advance issued by U.S. Department of State.
[4] Commercial airfare.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, SPACE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Rick Boucher	12/12	12/21	New Zealand		1,204.00						1,204.00
Commercial air							4,528.00				4,528.00
Michael Rodemeyer	12/12	12/19	New Zealand		776.00						776.00
Commercial air							4,528.00				4,528.00
Grace Ostenso	12/12	12/19	New Zealand		776.00						776.00
Commercial air							4,528.00				4,528.00
James Wilson	12/12	12/19	New Zealand		776.00						776.00
Commercial air							4,528.00				4,528.00
Committee total					3,532.00		18,112.00				21,644.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

GEORGE E. BROWN, JR., Chairman, Jan. 26, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1992

Name of member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Mary Latimer	12/13	12/20	Switzerland	2,230.15	1,589.00		3,050.00				4,639.00
Committee total					1,589.00		3,050.00				4,639.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAN ROSTENKOWSKI, Chairman, Jan. 19, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Patricia Carley		12/1	United States				6,416.60				6,416.60
	12/2	12/5	Kazakhstan		336.00						336.00
	12/5	12/8	Kyrgyzstan		336.00						336.00
	12/8	12/9	Turkey		78.00						78.00
Robert Hand		12/14	United States				1,365.00				1,365.00
	12/15	12/21	Yugoslavia		990.00						990.00
	12/21	12/22	Hungary		165.00						165.00
Heather Hurlburt	10/1	10/23	Australia		4,070.00						4,070.00
		11/2	United States				3,172.00				3,172.00
	11/3	12/9	Austria		6,737.00		1,680.00				8,417.00
	12/10	12/16	Sweden		1,800.00						1,800.00
	12/16	12/17	Austria		173.00						173.00
Michael Ochs		10/6	United States				3,625.20				3,625.20
	10/7	10/14	Georgia		1,239.00						1,239.00
	10/14	10/15	Germany		171.40						171.40
Erika Schlager		10/10	United States				3,050.00				3,050.00
	10/11	10/24	Switzerland		2,154.70		150.00				2,304.70
Samuel Wise		12/10	United States				2,357.70				2,357.70
	12/11	12/16	Sweden		1,500.00						1,500.00
	12/16	12/21	Yugoslavia		825.00						825.00
	12/21	12/22	Hungary		165.00						165.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1992—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Shared administrative costs for participation in the CSCE forum on Security Cooperation (Vienna, Australia).											3,504.00
Committee total					20,740.10		21,816.50		3,504.00		46,060.60

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

STENY HOYER, Chairman, Jan. 27, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON HUNGER, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Richard A. Leach	12/4	12/13	Italy		2,367.00						2,367.00
Commercial air transportation IAD–FCO–IAD							3,046.00				3,046.00
Committee total					2,367.00		3,046.00				5,413.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

TONY P. HALL, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THAILAND, CAMBODIA, VIETNAM, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 15 AND APR. 26, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Jim McDermott	4/15	4/17	Thailand		5,226.00		4,844.88		723.21		10,794.09
	4/17	4/20	Cambodia								
	4/20	4/23	Vietnam								
	4/23	4/23	Thailand								
	4/24	4/24	Tokyo								
Charles M. Williams	4/15	4/17	Thailand				2,962.00				2,962.00
	4/17	4/20	Cambodia								
	4/20	4/25	Vietnam								
Committee total					5,226.00		7,806.88		723.21		13,756.09

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JIM McDERMOTT, Chairman, Sept. 30, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO HUNGARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 2 AND JULY 6, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Representative Dante Fascell	7/3	7/6	Hungary	49,826	645.00		(3)				645.00
Representative Ed Jenkins	7/3	7/6	Hungary	49,826	645.00		(3)				645.00
Representative John Tanner	7/3	7/6	Hungary	49,826	645.00		(3)				645.00
Representative Ed Feighan	7/3	7/6	Hungary	49,826	645.00		(3)				645.00
Representative James Moran	7/3	7/6	Hungary	49,826	645.00		(3)				645.00
Representative Dennis Hertel	7/3	7/6	Hungary	49,826	645.00		(3)				645.00
Representative J.P. Hammerschmidt	7/3	7/6	Hungary	49,826	645.00		(3)				645.00
Steve Biegun	7/3	7/6	Hungary	49,826	645.00		(3)				645.00
Deborah Burns	7/3	7/6	Hungary	49,826	645.00		(3)				645.00
Meg Donovan	7/3	7/6	Hungary	49,826	645.00		(3)				645.00
R. Spencer Oliver	7/2	7/6	Hungary	66,435	860.00		[4] 1,752.00				2,612.00
Brian O'Malley	7/3	7/6	Hungary	49,826	645.00		(3)				645.00
Martin Sletzinger	7/3	7/6	Hungary	49,826	645.00		(3)				645.00
Sara Winslow	7/3	7/6	Hungary	49,826	645.00		(3)				645.00
Cathy Zimmer	7/3	7/6	Hungary	49,826	645.00		(3)				645.00
Bob Shea	7/3	7/6	Hungary	49,826	645.00		(3)				645.00
Committee total					10,535.00		1,752.00				12,287.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Roundtrip, military air.

[4] Military air, one way.

DANTE B. FASCELL, Chairman, July 7, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO AMSTERDAM, THE NETHERLANDS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 17 AND JULY 20, 1992

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
James A. McDermott	7/17	7/20	Netherlands		2,202.34		4,908.90				7,111.24
Charles M. Williams	7/17	7/20	Netherlands		2,202.34		4,983.90				7,186.24
Committee total											14,297.48

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JIM McDERMOTT, Chairman, Sept. 30, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO CZECHOSLOVAKIA, POLAND, AND SWEDEN, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 8 AND AUG. 20, 1992

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Kristi E. Walseth	8/9	8/12	Czechoslovakia		225.00						225.00
	8/12	8/15	Poland		650.00						650.00
	8/15	8/20	Sweden	9,082.60	1,705.00						1,705.00
Commercial transportation						3,144.20					3,144.20
Cathy Brickman	8/9	8/12	Czechoslovakia		225.00						225.00
	8/12	8/15	Poland		650.00						650.00
	8/15	8/20	Sweden	9,082.60	1,705.00						1,705.00
Commercial transportation						3,144.20					3,144.20
William Freeman	8/9	8/12	Czechoslovakia		225.00						225.00
	8/12	8/15	Poland		650.00						650.00
	8/15	8/20	Sweden	9,082.60	1,705.00						1,705.00
Commercial transportation							3,144.20				3,144.20
Committee total D				7,740.00		9,432.60				17,172.60	

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KRISTI E. WALSETH, Sept. 4, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HON. DONNALD K. ANDERSON, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 14 AND AUG. 21, 1992

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Donnald K. Anderson	8/14	8/21	Scotland		2,250.00		[3] 6,468.00		[4] 720.00		9,438.00
Committee total					2,250.00		6,468.00		720.00		9,438.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Commercial airfare: round-trip Washington/Scotland/Washington.
[4] Registration fee and copy of proceedings.

DONNALD K. ANDERSON, Sept. 10, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. BERNARD E. BEIDEL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 14 AND AUG. 21, 1992.

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Bernard E. Beidel	8/14	8/21	Scotland		2,250.00		[3] 1,560.00		[4] 640.00		4,450.00
Committee total				2,250.00		1,560.00		640.00		4,450.00	

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Commercial airfare: Roundtrip, Washington/Scotland/Washington.
[4] Registration fee.

BERNARD E. BEIDEL, Sept. 10, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HON. WILLIAM HOLMES BROWN, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN SEPT. 11 AND SEPT. 18, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
William Holmes Brown	9/11	9/18	Poland		1,300.00		2,436.00				3,736.00
Committee total											3,736.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

WILLIAM HOLMES BROWN, Sept. 30, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. HEIKE NUHSBAUM, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN SEPT. 19 AND SEPT. 26, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
HEIKE NUHSBAUM	9/20	9/25	Russia		308.00						1,420.00
Military transportation											
Committee total											1,420.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HEIKE NUHSBAUM, Nov. 18, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO 88TH INTERPARLIAMENTARY CONFERENCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN SEPT. 4 AND SEPT. 11, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Edward Feighan	9/5	9/9	Sweden		1,817.24		[3]3,565.00				5,382.24
Hon. James Scheuer	9/5	9/9	Sweden		2,162.44		[4]2,210.00				4,372.44
Hon. Barbara-Rose Collins	9/5	9/9	Sweden		1,817.24		[4]3,828.00				5,645.24
Elizabeth Davidson	9/4	9/9	Sweden		1,906.55		[4]2,729.00				4,635.55
Charles O'Regan	9/4	9/11	Sweden		2,669.17		[4]2,626.00				5,295.17
Neil Levine	9/5	9/9	Sweden		1,525.24		[4]2,729.00				4,254.24
Michele Manatt	9/5	9/10	Sweden		1,906.55		[4]2,626.00				4,532.55
Spencer Oliver	9/4	9/9			1,906.55						1,906.55
Delegation expenses:											
Control room					2,883.55						2,883.55
Local transportation							883.73				883.73
Embassy personnel (overtime) for American and FSN.									1,276.45		1,276.45
Miscellaneous									1,420.28		1,420.28
Committee total					18,594.53		21,196.73		2,696.73		42,487.99

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Commercial-1-way—Stockholm/Washington.

[4] Commercial-round trip—Washington/Stockholm/Washington.

DANTE B. FASCELL, Chairman, Nov. 24, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, NORTH ATLANTIC ASSEMBLY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 10 AND OCT. 14, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Charlie Rose	10/10	10/14	Greece		904.00		2,710.20				3,614.20
Committee totals					904.00		2,710.20				3,614.20

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CHARLIE ROSE, Nov. 13, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, NORTH ATLANTIC ASSEMBLY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 14 AND NOV. 24, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Charlie Rose	11/14	11/20	Belgium		1,836.00		1,929.00				3,765.00
Hon. Jack Brooks	11/14	11/19	Belgium		1,530.00						1,530.00
Hon. Ralph Regula	11/14	11/20	Belgium		1,836.00						
	11/20	11/23	Russia		801.00						

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, NORTH ATLANTIC ASSEMBLY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 14 AND NOV. 24, 1992—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	11/23	11/24	Italy		313.00						2,950.00
Hon. Gerald Solomon	11/14	11/20	Belgium		1,836.00						
	11/20	11/24	Italy		1,252.00						3,088.00
Hon. Tom Bliley	11/14	11/20	Belgium		1,836.00						
	11/20	11/24	Italy		1,252.00						3,088.00
Hon. Marge Roukema	11/14	11/20	Belgium		1,836.00						
	11/20	11/24	Italy		1,252.00						3,088.00
Hon. Tom Lewis	11/14	11/20	Belgium		1,836.00						
	11/20	11/24	Italy		1,252.00						3,088.00
Hon. Sherwood Boehlert	11/14	11/20	Belgium		1,836.00						
	11/20	11/24	Italy		1,252.00						3,088.00
Hon. Ron Coleman	11/14	11/19	Belgium		1,530.00						
	11/19	11/20	Rome, Italy		247.00						
	11/20	11/22	Naples, Italy		626.00						2,403.00
Hon. Mike Bilirakis	11/14	11/20	Belgium		1,836.00						
	11/20	11/24	Italy		1,252.00						3,088.00
Hon. J. Alex McMillan	11/14	11/20	Belgium		1,836.00						
	11/20	11/23	Russia		801.00						
	11/23	11/24	Italy		313.00						2,950.00
Hon. Davis Price	11/14	11/20	Belgium		1,836.00						
	11/20	11/23	Russia		801.00						
	11/23	11/24	Italy		313.00						2,950.00
Hon. Nancy Pelosi	11/14	11/19	Belgium		1,530.00		1,748.54				3,278.00
Hon. Ronald Lasch	11/14	11/20	Belgium		1,836.00						
	11/20	11/23	Russia		801.00						
	11/23	11/24	Italy		313.00						2,950.00
Deborah Graze	11/14	11/20	Belgium		1,836.00						
	11/20	11/24	Italy		1,252.00						3,088.00
Sharon Matts	11/14	11/20	Belgium		1,836.00						
	11/20	11/24	Italy		1,252.00						3,088.00
Robert Shea	11/14	11/20	Belgium		1,836.00						
	11/20	11/24	Italy		1,252.00						3,088.00
Rebecca Harrington	11/14	11/20	Belgium		1,836.00						
	11/20	11/24	Italy		1,252.00						3,088.00
Committee total					49,979.00		3,677.54				53,656,54

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CHARLIE ROSE, Chairman, Dec. 18, 1992.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

627. A letter from the Comptroller General of the United States, transmitting an updated compilation of historical information and statistics regarding rescissions proposed by the executive branch and rescissions enacted by Congress (H. Doc. No. 103–44); to the Committee on Appropriations and ordered to be printed.

628. A letter from the Chairman, Federal Housing Finance Board, transmitting the Board's annual report on the low-income housing and community development activities of the Federal Home Loan Bank System for the years 1990 and 1991, pursuant to 12 U.S.C. 1430(j)(12)(A); to the Committee on Banking, Finance and Urban Affairs.

629. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–408, "District of Columbia Unemployment Compensation Comprehensive Improvements Temporary Amendment Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

630. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–409, "Regional Interstate Banking Act of 1985 Temporary Amendment Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

631. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–410, "Air Pollution Control Act of 1984 National Ambient Air Quality Standards Attainment Temporary Amendment Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

632. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–411, "District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Temporary Amendment Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

633. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–412, "Authorization for Medical Consent for Children in the Care of Adults Other Than Parents Temporary Amendment Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

634. A letter from the Vice Chairman, Chief Financial Officer, Potomac Electric Power Co., transmitting a copy of the balance sheet of Potomac Electric Power Co. as of December 31, 1992, pursuant to D.C. Code, section 43–513; to the Committee on the District of Columbia.

635. A letter from the Secretary of Education, transmitting final regulations—Minority Science Improvement Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

636. A letter from the Administrator, Office of Juvenile Justice and Delinquency Prevention, transmitting a copy of OJJDP's report entitled "The Study of American Indian and Alaska Native Juvenile Justice Systems," pursuant to 42 U.S.C. 5662; to the Committee on Education and Labor.

637. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting a report of those foreign military sales customers with approved cash flow financing in excess of $100 million as of October 1, 1992, pursuant to 22 U.S.C. 2765; to the Committee on Foreign Affairs.

638. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report in compliance with sections 116(d)(1) and 502B(b) of the Foreign Assistance Act of 1961, pursuant to 22 U.S.C. 2304(a)(2) and 2151n(d); to the Committee on Foreign Affairs.

639. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 93–14, designating refugees, displaced persons, and victims of conflict from Tajikistan as qualifying for assistance under section 2(b)(2) of the Migration and Refugee Assistance Act, pursuant to 22 U.S.C. 2601(c)(3); to the Committee on Foreign Affairs.

640. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report in compliance with section 116(d)(3) of the Foreign Assistance Act of 1961, pursuant to 22 U.S.C. 2151n(d); to the Committee on Foreign Affairs.

641. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

642. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the President's determination (93–8) on the eligibility of the

Federated State of Micronesia to be furnished defense articles and services, pursuant to 2 U.S.C. 2311(a) and 2753(a)(1); to the Committee on Foreign Affairs.

[Omitted from the Record of January 5, 1993]

643. A letter from the Acting Assistant Secretary for Legislative, Department of State, transmitting the Acting Secretary's determination with respect to assistance for humanitarian relief in Somalia, pursuant to 22 U.S.C. 2261; to the Committee on Foreign Affairs.

[Submitted February 3, 1993]

644. A letter from the Secretary of Agriculture, transmitting the semiannual management report for the period April 1, 1992 through September 30, 1992, pursuant to Public Law 100–504; to the Committee on Government Operations.

645. A letter from the Secretary of Commerce, transmitting the semiannual report on the activities of the Inspector General for the period April 1, 1992 through September 30, 1991, and the semiannual management report, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

646. A letter from the Secretary of Labor, transmitting the semiannual report of the Inspector General for the period April 1 through September 30, 1992, including the semiannual management report, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

647. A letter from the Secretary of Transportation, transmitting the semiannual report of the Inspector General for the period April 1, 1992 through September 30, 1992, and Management Report, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

648. A letter from the Comptroller General, General Accounting Office, transmitting the list of all reports issued or released in December 1992, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

649. A letter from the Comptroller General, General Accounting Office, transmitting the GAO's annual report for fiscal year 1992 and a supplement summary tables of GAO personnel assigned to congressional committees for fiscal year 1992, pursuant to 31 U.S.C. 719(a); to the Committee on Government Operations.

650. A letter from the Acting Secretary of Veterans Affairs, transmitting the semiannual report of the Inspector General for the period April 1, 1992 through September 30, 1992, and the Department's Management Report on actions taken in response to audit recommendations, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526, 2640); to the Committee on Government Operations.

651. A letter from the Chairman, Advisory Commission on Intergovernmental Relations, transmitting the Commission's 34th annual report of the Advisory Commission on Intergovernmental Relations, pursuant to 42 U.S.C. 4275(3); to the Committee on Government Operations.

652. A letter from the Administrator, Agency for International Development, transmitting the semiannual report of the Agency's Inspector General for the period April 1, 1992 through September 30, 1992, and the semiannual report on audit management and resolution, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

653. A letter from the Director, ACTION, transmitting the two semiannual reports on activities pursuant to the Inspector General Act and the management report, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

654. A letter from the Executive Secretary, Barry M. Goldwater Scholarship and Excellence in Education Foundation, transmitting an annual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

655. A letter from the Chairman, Board for International Broadcasting, transmitting the annual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

656. A letter from the Executive Director, Committee for Purchasing From the Blind and Other Severely Handicapped, transmitting the annual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

657. A letter from the Chairman, Corporation for Public Broadcasting, transmitting the annual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

658. A letter from the U.S. Commissioner, Delaware River Basin Commission, transmitting an annual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

659. A letter from the Department of the Navy, transmitting the Navy Exchange Service Command Retirement Plan, years ended December 31, 1991 and 1990, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

660. A letter from the Acting Assistant Secretary (Management)/Chief Financial Officer, Department of the Treasury, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1992, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

661. A letter from the Attorney General, Department of Justice, transmitting the semiannual report of the inspector general for the period April 1, 1992 through September 30, 1992 and the management report for the same period, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

662. A letter from the Administrator, Environmental Protection Agency, transmitting the semiannual report of the Office of Inspector General covering the period April 1, 1992 through September 30, 1992, and the semiannual management report, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

663. A letter from the Assistant to the President for the Office of Management and Administration, Executive Office of the President, transmitting a report of activities under the Freedom of Information Act for calendar year 1992, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

664. A letter from the Chairman, Farm Credit System Assistance Board, transmitting the annual report on audit and investigative coverage; to the Committee on Government Operations.

665. A letter from the Chief Executive Officer, Farm Credit System Insurance Corporation, transmitting the annual report of audit and investigative coverage; to the Committee on Government Operations.

666. A letter from the Inspector General, General Services Administration, transmitting the semiannual audit report; to the Committee on Government Operations.

667. A letter from the Administrator, General Services Administation, transmitting the semiannual report on the activities of the Department's inspector general for the period April 1, 1992 through September 30, 1992, and the semiannual management report, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

668. A letter from the Public Printer, Government Printing Office, transmitting the semiannual management report on audits; to the Committee on Government Operations.

669. A letter from the Chairman, Harry S. Truman Scholarship Foundation, transmitting the annual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

670. A letter from the Director, Institute of Museum Services, transmitting the annual report on audit and investigative activities; to the Committee on Government Operations.

671. A letter from the President, James Madison Memorial Fellowship Foundation, transmitting the annual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

672. A letter from the Executive Director, Marine Mammal Commission, transmitting the annual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

673. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the semiannual report of the Office of Inspector General, and the management report on the status of audit, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

674. A letter from the Chairman, National Commission on Responsibilities for Financing Postsecondary Education, transmitting the annual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

675. A letter from the Chairman, National Credit Union Administration, transmitting the semiannual report on activities pursuant to the Inspector General Act, accompanied by the management's report, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

676. A letter from the Chairman, National Transportation Safety Board, transmitting the annual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

677. A letter from the Executive Director, Neighborhood Reinvestment Corporation, transmitting the annual report on audit and investigative activities; to the Committee on Government Operations.

678. A letter from the Chief of Staff, Office of the U.S. Nuclear Waste Negotiator, transmitting the annual report on audit and investigative coverage; to the Committee on Government Operations.

679. A letter from the Director, Office of Government Ethics, transmitting the annual

report under the Federal Managers' Financial Integrity Act for fiscal year 1992, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

680. A letter from the Inspector General, Office of Personnel Management, transmitting the semiannual report of the inspector general for the period of April 1, 1992 through September 30, 1992, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

681. A letter from the President, Overseas Private Investment Corporation, transmitting the annual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

682. A letter from the Chairman, Board of Directors, Panama Canal Commission, transmitting the semiannual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

683. A letter from the Secretary of Labor, Pension Benefit Guaranty Corporation, transmitting the semiannual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

684. A letter from the Chairman, Postal Rate Commission, transmitting the annual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

685. A letter from the Secretary of Defense, transmitting the semiannual report on audit, inspection, and investigative activities; to the Committee on Government Operations.

686. A letter from the Secretary of Education, transmitting the semiannual audit followup report; to the Committee on Government Operations.

687. A letter from the Secretary of Education, transmitting the semiannual report on audit followup; to the Committee on Government Operations.

688. A letter from the Director, Selective Service System, transmitting the annual report on activities pursuant to the Inspector General Act, pursuant to Public Law 100-504 to the Committee on Government Operations.

689. A letter from the Administrator, Small Business Administration, transmitting the semiannual report of the Inspector General for the period April 1, 1992 through September 30, 1992, including the management report, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

690. A letter from the Executive Director, State Justice Institute, transmitting the annual report on activities pursuant to the Inspector General Act; to the Committee on Government Operations.

691. A letter from the Chairman, Thrift Depositor Protection Oversight Board, transmitting an annual report on activities pursuant to the Inspector General Act; pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

692. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting the annual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

693. A letter from the Director, U.S. Trade and Development Agency, transmitting the annual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

694. A letter from the Staff Director, United States Commission on Civil Rights, transmitting the annual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

695. A letter from the Executive Director, United States Holocaust Memorial Council, transmitting the annual report on activities pursuant to the Inspector General Act; pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

696. A letter from the Chairman, United States Nuclear Waste Technical Review Board, transmitting the annual report on activities pursuant to the Inspector General Act, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

697. A letter from the Chairman, Federal Election Commission, transmitting 63 recommendations for legislative action, pursuant to 2 U.S.C. 438(a)(9); to the Committee on House Administration.

698. A letter from the Secretary of the Interior, transmitting a report on four compensatory royalty agreements relating to oil or gas which were entered into during fiscal year 1991 involving unleased Government lands, pursuant to 30 U.S.C. 226(j); to the Committee on Natural Resources.

699. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's Eleventh Annual Report to Congress pursuant to section 201 of the Hart-Scott—Rodino Antitrust Improvements Act of 1976 (fiscal year 1988), pursuant to 15 U.S.C. 18a; to the Committee on the Judiciary.

700. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's Twelfth Annual Report to Congress pursuant to section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (fiscal year 1989), pursuant to 15 U.S.C. 18a; to the Committee on the Judiciary.

701. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's Thirteenth Annual Report to Congress pursuant to section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (fiscal year 1990), pursuant to 15 U.S.C. 18a; to the Committee on the Judiciary.

702. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's Fourteenth Annual Report to Congress pursuant to section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (fiscal year 1991), pursuant to 15 U.S.C. 18a; to the Committee on the Judiciary.

703. A letter from the Administrator, Maritime Administration, transmitting a copy of the most recent publication of the Maritime Administration entitled, "The Jones Act, A 72 Year Old Cabotage Law and A 203 Year Old Tradition"; to the Committee on Merchant Marine and Fisheries.

704. A letter from the Assistant to the Chairman and Secretary, Board of Directors, Panama Canal Commission, transmitting the Commission's report, including unaudited financial statements, covering the operations of the Panama Canal during fiscal year 1992, pursuant to 22 U.S.C. 3722; to the Committee on Merchant Marine and Fisheries.

705. A letter from the Chairman, U.S. International Trade Commission, transmitting the Commission's seventy-second quarterly report on trade between the United States and the nonmarket economy countries, pursuant to 19 U.S.C. 2440; to the Committee on Ways and Means.

706. A letter from the President and CEO, Resolution Trust Corporation, transmitting the status report for the month of December 1992 (The 1988-89 FSLIC Assistance Agreements), pursuant to 12 U.S.C. 1441a note; jointly to the Committees on Appropriations and Banking, Finance and Urban Affairs.

707. A letter from the Comptroller of the Department of Defense, transmitting the quarterly report on program activities for facilitation of weapons destruction and nonproliferation in the former Soviet Union; jointly to the Committees on Appropriations and Foreign Affairs.

708. A letter from the Administrator, Federal Aviation Administration, transmitting the report of progress on developing and certifying the Traffic Alert and Collision Avoidance System (TCAS) for the third and fourth quarters of 1992, pursuant to Public Law 100-223, section 203(b) (101 Stat. 1518); jointly, to the Committees on Public Works and Transportation and Science, Space, and Technology.

709. A letter from the Secretary of Labor, transmitting the annual report on employment and training programs for veterans during program year 1990 (July 1, 1990 through June 30, 1991) and fiscal year 1991 (October 1, 1990 through September 30, 1991), pursuant to 38 U.S.C. 4107(c) and 4212(c); jointly to the Committees on Veterans' Affairs and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FROST: Committee on Rules. House Resolution 59. Resolution providing for the consideration of the bill (H.R. 2) to establish national voter registration procedures for Federal elections, and for other purposes (Rept. 103-11). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. House Resolution 61. Resolution waiving a requirement of clause 4(b) of rule XI with respect to consideration of a certain resolution reported from the Committee on Rules (Rept. 103-12). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and several referred as follows:

By Mr. ANDREWS of Texas (for himself, Mr. THOMAS of California, Mr. MATSUI, Mr. SHAW, Mr. HERGER, Mr. SUNDQUIST, Mr. MCCRERY, Mr. JEFFERSON, Mr. BREWSTER, Mr. GRANDY, Mr. NEAL of Massachusetts, Mr. JACOBS, Mr. ARCHER, Mr. HANCOCK, Mr. CARDIN, Mr. SANTORUM, Mr. PAYNE of Virginia, Mr. BUNNING, Mr. PICKLE, Mr. KOPETSKI, Mr. HOUGHTON, Mr. MCNULTY, Mr. DICKS, Mr. PETE GEREN, Mr. MORAN, Mr. CRANE, Mrs. JOHNSON of Connecticut, Mr. LEHMAN, Mr. LEWIS of California, Mr. LEWIS of Georgia, Mr. BEREUTER, Ms. DANNER, and Mr. GILMAN):

H.R. 749. A bill to amend the Internal Revenue Code of 1986 to encourage investment in real estate and for other purposes; to the Committee on Ways and Means.

By Mr. GEJDENSON (for himself and Mr. ROTH):

H.R. 750. A bill to extend the Export Administration Act of 1979 and to authorize appropriations under that act for fiscal years 1993 and 1994; to the Committee on Foreign Affairs.

By Mr. BACCHUS of Florida (for himself, Mr. GIBBONS, Mr. HUTTO, Mr. HASTINGS, Mrs. MEEK, Mr. JOHNSTON of Florida, Mr. DEUTSCH, Ms. BROWN of Florida, Mr. SHAW, Mr. PETERSON of Florida, and Mr. GOSS):

H.R. 751. A bill to utilize the most current Federal census data in the distribution of Federal funds for agriculture, nutrition, and forestry; to the Committee on Agriculture.

H.R. 752. A bill to provide for the utilization of the latest available census data related to energy and natural resources; to the Committee on Energy and Commerce.

H.R. 753. A bill to provide interim current census data on below poverty, urban, rural, and farm populations; to the Committee on Post Office and Civil Service.

H.R. 754. A bill to require the use, in Federal formula grant programs, of adjusted census data, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 755. A bill to provide for the utilization of the latest available census data in certain laws related to airport improvements; to the Committee on Public Works and Transportation.

H.R. 756. A bill to provide for the utilization of the latest available census data in certain laws related to urban mass transportation; to the Committee on Public Works and Transportation.

H.R. 757. A bill to provide for the utilization of the most current census data in certain laws related to the environment and public works; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

By Mr. BALLENGER:

H.R. 758. A bill to amend the Harmonized Tariff Schedule of the United States to provide duty-free status for hosiery knitting machines and parts thereof, and for hosiery knitting needles; to the Committee on Ways and Means.

By Mr. BOUCHER (for himself and Mr. MOORHEAD):

H.R. 759. A bill to amend chapter 1 of title 17, United States Code, to include in the definition of a cable system a facility which makes secondary transmissions by microwave or certain other technologies; to the Committee on the Judiciary.

By Mr. BOUCHER (for himself, Mr. MOORHEAD, Mr. COBLE, Mr. KOPETSKI, Mr. MCDERMOTT, Mr. DICKS, Mr. BLILEY, Mr. GALLEGLY, and Mr. MCCOLLUM):

H.R. 760. A bill to amend title 35, United States Code, with respect to patents on certain processes; to the Committee on the Judiciary.

By Mr. BOUCHER:

H.R. 761. A bill to amend the Appalachian Regional Development Act of 1965 to include Montgomery and Roanoke Counties, VA, as part of the Appalachian region; to the Committee on Public Works and Transportation.

By Mr. CLEMENT (for himself, Mr. TANNER, Mr. GORDON, Mr. GILMAN, Mr. SHUSTER, Mr. DE LUGO, Mr. EMERSON, Mr. STUMP, Mr. SKELTON, Mr. BARTON of Texas, Mr. MONTGOMERY, Mr. DURBIN, Mr. LEWIS of Florida, Mr. MANTON, Mr. OXLEY, and Mr. PACKARD):

H.R. 762. A bill to amend the Controlled Substances Act to increase penalties for the distribution of controlled substances at truck stops and rest areas; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. CRANE (for himself and Mr. GIBBONS):

H.R. 763. A bill to encourage the establishment of free trade areas between the United States and certain Pacific Rim countries; to the Committee on Ways and Means.

By Mr. DE LUGO (for himself and Mr. APPLEGATE):

H.R. 764. A bill to require the Director of the Federal Emergency Management Agency to develop a plan and submit a report to the Congress regarding establishing a national windstorm insurance program; jointly, to the Committees on Public Works and Transportation and Banking, Finance and Urban Affairs.

By Mr. DOOLEY (for himself, Mr. VENTO, Mr. HANSEN, and Mr. HERGER):

H.R. 765. A bill to resolve the status of certain land relinquished to the United States under the act of June 4, 1897 (30 Stat. 11, 36), and for other purposes; jointly, to the Committees on Natural Resources, Merchant Marine and Fisheries, and Agriculture.

By Mr. ENGLISH of Oklahoma:

H.R. 766. A bill to prohibit the transportation, treatment, storage, or disposal of hazardous waste outside the State in which the waste was generated; to the Committee on Energy and Commerce.

H.R. 767. A bill to provide for a 2-year delay in the effective date of certain regulations applicable to municipal solid waste landfills under the Solid Waste Disposal Act; to the Committee on Energy and Commerce.

H.R. 768. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require certain States to contribute to other States' shares of cleanup costs; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. FRANK of Massachusetts:

H.R. 769. A bill to amend title XVIII of the Social Security Act to limit the penalty for late enrollment under Medicare Program to 10 percent and twice the period of no enrollment; jointly, to the Committee on Ways and Means and Energy and Commerce.

By Mr. GIBBONS:

H.R. 770. A bill to establish for certain employees of international organizations an estate tax credit equivalent to the limited marital deduction; to the Committee on Ways and Means.

H.R. 771. A bill to amend the Internal Revenue Code of 1986 to ensure hat charitable beneficiaries of charitable remainder trusts are aware of their interests in such trusts; to the Committee on Ways and Means.

By Mr. GOSS (for himself, Mr. DREIER, and Mr. SHAW):

H.R. 772. A bill to provide that annual pay adjustments for Members of Congress may not exceed cost-of-living increases in benefits under title II of the Social Security Act; to the Committee on House Administration.

By Mr. HYDE:

H.R. 773. A bill to amend the Internal Revenue Code of 1986 and the Social Security Act to repeal provisions relating to the State enforcement of child support obligations and to require the Internal Revenue Service to collect child support through wage withholding; to the Committee on Ways and Means.

By Mrs. JOHNSON of Connecticut (for herself and Mrs. KENNELLY):

H.R. 774. A bill to temporarily suspend the duty on certain lead fuel test assemblies; to the Committee on Ways and Means.

By Ms. DELAURO (for herself and Mrs. LOWEY):

H.R. 775. A bill to amend title VI of the Federal Water Pollution Control Act to establish a 1-year program to stimulate the economy by providing additional funding for the State Water Pollution Control Revolving Fund Program, and for other purposes; to the Committee on Public Works and Transportation.

By Mrs. JOHNSON of Connecticut (for herself, Mrs. ROUKEMA, Mr. RAVENEL, Mr. BURTON of Indiana, Mr. LEWIS of Florida, Mr. KING, Mr. GALLEGLY, Mr. DOOLITTLE, Mr. ROHRABACHER, Mr. GILMAN, Mr. SAM JOHNSON of Texas, Mr. FRANKS of Connecticut, Mr. GREENWOOD, and Mr. SHAYS):

H.R. 776. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of a principle residence by a first-time homebuyer; to the Committee on Ways and Means.

By Mr. KOLBE:

H.R. 777. A bill to amend the Internal Revenue Code of 1986 to provide for a maximum long-term capital gains rate of 15 percent and indexing the basis of certain capital assets; to the Committee on Ways and Means.

By Mr. KOPETSKI (for himself, Mr. GRANDY, Mr. RICHARDSON, Ms. LONG, and Mr. SLATTERY):

H.R. 778. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain amounts received by cooperative telephone companies; to the Committee on Ways and Means.

By Mr. MANTON (for himself, Mr. STUDDS, and Mr. YOUNG of Alaska):

H.R. 779. A bill to reauthorize the Atlantic Tunas Convention Act of 1976; to the Committee on Merchant Marine and Fisheries.

H.R. 780. A bill to reauthorize the Magnuson Fishery Conservation and Management Act; to the Committee on Merchant Marine and Fisheries.

By Mr. MAZZOLI:

H.R. 781. A bill to amend the Federal Election Campaign Act of 1971 to ban activities of political action committees in elections for Federal office and to reduce the limitation on contributions to candidates by persons other than multicandidate political committees; to the Committee on House Administration.

H.R. 782. A bill to amend the Immigration and Nationality Act to permit the spouses of citizens and permanent resident aliens to file classification petitions for immediate relative and second preference family status and to permit the use of credible evidence in spousal waiver applications for removal of conditional permanent residence; to the Committee on the Judiciary.

H.R. 783. A bill to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization; to the Committee on the Judiciary.

By Mr. MCDERMOTT (for himself, Mr. KOPETSKI, Mr. NEAL of Massachusetts, Mr. HOUGHTON, Mr. HALL of Texas, and Mrs. JOHNSON of Connecticut):

H.R. 784. A bill to amend the Internal Revenue Code of 1986 to clarify that conservation expenditures by electric and gas utilities are deductible for the year in which paid or incurred; to the Committee on Ways and Means.

By Mrs. MINK:

H.R. 785. A bill to direct the Secretary of the Interior to undertake the necessary feasibility studies regarding the establishment of certain new units of the National Park System in the State of Hawaii; to the Committee on Natural Resources.

By Mr. MONTGOMERY (for himself, Mr. Stump, Mr. Evans, Mr. Rowland, Mr. Slattery, Mr. Sangmeister, and Mr. Bishop):

H.R. 786. A bill to amend the Internal Revenue Code of 1986 to clarify the exclusion from gross income for veterans' benefits; to the Committee on Ways and Means.

By Mr. MORAN (for himself, Mr. Andrews of Texas, Mr. Bacchus of Florida, Mr. Bateman, Mr. Bilirakis, Mr. Brooks, Mr. Browder, Ms. Brown of Florida, Mr. Bryant, Mrs. Byrne, Mr. Chapman, Mr. Clement, Mr. Clyburn, Mr. Coleman, Mr. Coppersmith, Mr. Cramer, Mr. Darden, Mr. Deutsch, Mr. Edwards of Texas, Mr. Fields of Louisiana, Mr. Frost, Mr. de la Garza, Mr. Gene Green of Texas, Mr. Goss, Mr. Hall of Ohio, Mr. Hastings, Mr. Hefner, Mr. Hutto, Mr. Johnson of Georgia, Ms. E.B. Johnson of Texas, Mr. Johnston of Florida, Mr. Lancaster, Mr. Lewis of Florida, Mr. Matsui, Mr. McCurdy, Mrs. Meek, Mr. Mica, Mr. Ortiz, Mr. Pastor, Mr. Peterson of Florida, Mr. Price of North Carolina, Mr. Rose, Mr. Rowland, Mr. Sarpalius, Mr. Schiff, Mrs. Schroeder, Mr. Shaw, Mr. Spratt, Mr. Stenholm, Mr. Synar, and Mrs. Thurman):

H.R. 787. A bill to require that, in the administration of any benefits program established by or under Federal law which requires the use of data obtained in the most recent decennial census, the 1990 adjusted census data be considered the official data for that decennial census; to the Committee on Post Office and Civil Service.

By Mr. NEAL of North Carolina:

H.R. 788. A bill to eliminate the exemption for Congress from the application of certain provisions of Federal law and for other purposes; jointly, to the Committees on Education and Labor and Government Operations.

By Mr. PAYNE of Virginia (for himself, Mr. Bliley, Mr. Bateman, Mr. Boucher, Mrs. Byrne, Mr. Goodlatte, Mr. Moran, Mr. Pickett, Mr. Scott, Mr. Sisisky, and Mr. Wolf):

H.R. 789. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PENNY:

H.R. 790. A bill to provide for the termination of further production of the Trident II (D-5) missile; to the Committee on Armed Services.

By Mr. POSHARD:

H.R. 791. A bill to name the United States courthouse in Benton, Illinois, the "James L. Foreman Courthouse"; to the Committee on Public Works and Transportation.

By Mr. RAHALL:

H.R. 792. A bill to amend the Black Lung Benefits Act to provide procedures for certain claims due to pneumoconiosis, and for other purposes; to the Committee on Education and Labor.

H.R. 793. A bill to provide for the preservation, restoration, and interpretation of the historical, cultural, and architectural values of the town of Bramwell, WV, for the educational and inspirational benefit of present and future generations; to the Committee on Natural Resources.

By Mr. RAMSTAD:

H.R. 794. A bill to amend the Small Business Act to authorize small business concerns owned and controlled by individuals with disabilities to participate in business development programs established by that act, and for other purposes; to the Committee on Small Business.

By Mr. ROSE (for himself, Mr. Sarpalius, Mrs. Mink, Mr. Hefner, Mr. Emerson, Mr. Ravenel, Mr. Darden, Mr. Ford of Michigan, Mr. Gordon, Mr. Rahall, Mr. Pickett, Mr. Frost, Mr. Chapman, Mr. Price of North Carolina, Mr. Clay, Mr. Lancaster, Mr. Quillen, Mr. Volkmer, Mr. Bonior, and Mr. Gonzalez):

H.R. 795. A bill to amend the Harmonized Tariff Schedule of the United States to exclude certain footwear assembled in beneficiary countries from duty-free treatment; to the Committee on Ways and Means.

By Mr. SCHUMER (for himself and Mrs. Morella):

H.R. 796. A bill to assure freedom of access to clinic entrances; to the Committee on the Judiciary.

By Mr. SHAW:

H.R. 797. A bill to extend the existing suspension of duty on metal oxide varistors; to the Committee on Ways and Means.

By Mr. SLATTERY (for himself, Mr. Montgomery, Mr. Stump, Mr. Edwards of California, Mr. Smith of New Jersey, Mr. Applegate, Mr. Burton of Indiana, Mr. Evans, Mr. Bilirakis, Mr. Rowland, Mr. Ridge, Mr. Sangmeister, Mr. Spence, Ms. Long, Mr. Hutchinson, Mr. Edwards of Texas, Mr. Everett, Mr. Clement, Mr. Buyer, Mr. Filner, Mr. Bachus of Alabama, Mr. Gutierrez, Mr. Linder, Mr. Quinn, Mr. Clyburn, Mr. Kreidler, and Ms. Brown of Florida):

H.R. 798. A bill to amend title 38, United States Code, to codify the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans as such rates took effect on December 1, 1992; to the Committee on Veterans' Affairs.

By Ms. SNOWE (for herself, Mr. Ramstad, Mr. Frank of Massachusetts, Mr. Grandy, Mr. Pallone, Mr. Boehner, Mr. Fawell, Mr. Hansen, Mr. Livingston, Mr. Myers of Indiana, Mr. Kopetski, Mr. Petri, Mr. Crane, Mr. Jacobs, Mr. Swett, Mr. Gillmor, Mr. Inhofe, Mrs. Vucanovich, Mr. Roemer, Mr. Rohrabacher, Mr. Hastert, Mr. Doolittle, Mr. Stump, Mr. Goss, Mr. Thomas of Wyoming, Mr. Peterson of Minnesota, Mr. Gallegly, Mr. Grams, Mr. Minge, Mr. Lehman, Mr. Lightfoot, Mr. Penny, Mr. Hancock, Mr. Orton, Ms. Kaptur, Mr. Bereuter, Mr. Sensenbrenner, Ms. Danner, Mr. Zimmer, Mr. Burton of Indiana, Mr. Zeliff, Mr. Sharp, Mrs. Thurman, and Mr. Poshard):

H.R. 799. A bill to amend title 23, United States Code, to repeal a penalty for noncompliance by States with a program requiring the use of safety belts and motorcycle helmets; to the Committee on Public Works and Transportation.

By Mr. SOLOMON:

H.R. 800. A bill to increase opportunities for veterans with service-connected disabilities to participate in Department of Defense procurement actions; to the Committee on Armed Services.

H.R. 801. A bill to prohibit the export of satellites intended for launch from launch vehicles owned by China; to the Committee on Foreign Affairs.

H.R. 802. A bill to increase opportunities for veterans held as prisoners-of-war during the Vietnam era to participate in Department of Defense procurement actions; to the Committee on Armed Services.

H.R. 803. A bill to establish the Hudson River Artists National Historical Park in the State of New York, and for other purposes; to the Committee on Natural Resources

By Mr. STARK:

H.R. 804. A bill to amend the Internal Revenue Code of 1986 to reduce emissions of carbon dioxide by imposing a tax on certain fuels based on their carbon content; to the Committee on Ways and Means.

By Mr. TORRICELLI (for himself and Mr. Rohrabacher):

H.R. 805. A bill to direct the Secretary of Transportation to issue rules which require vessels operating in harbors in the United States to use state-of-the-art maritime vessel traffic control equipment, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Science, Space, and Technology.

By Mr. TORRICELLI (for himself, Mr. Saxton, and Mr. Klein):

H.R. 806. A bill to exclude certain rebates received by families for State property taxes paid by such families from consideration as family income for purposes of the United States Housing Act of 1937 and section 202 of the Housing Act of 1959; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WALKER:

H.R. 807. A bill to amend the Internal Revenue Code of 1986 to allow individuals who are exempt from the self-employment tax by reason of their religious beliefs to establish Keogh plans, et cetera; to the Committee on Ways and Means.

By Mr. FRANKS of Connecticut:

H.J. Res. 91. Joint resolution proposing an amendment to the Constitution of the United States authorizing the President to veto an item of appropriation in any act or resolution containing such an item; to the Committee on the Judiciary.

By Mr. HOCHBRUECKNER:

H.J. Res. 92. Joint resolution designating the weeks beginning June 6, 1993, and June 5, 1994, as "Lyme Disease Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. JACOBS:

H.J. Res. 93. Joint resolution for the relief of Alexander Vraciu; to the Committee on Armed Services.

By Mr. JACOBS (for himself, Mrs. Roukema, Mr. Ackerman, Mr. Durbin, Mr. Slattery, Mr. Doolittle, Mr. Kasich, Mr. Lipinski, Mr. Myers of Indiana, Mr. McCloskey, Mr. Waxman, Mr. Rangel, Mr. Stark, Mr. Quillen, Mr. Dellums, Mr. Spence, Mr. Walsh, Mr. Kleczka, Mr. Sanders, Mr. Bateman, Mr. Bartlett, Mr. Hayes of Louisiana, Mr. McHugh, Ms. Byrne, Mr. Hochbrueckner, Mr. Andrews of Maine, Mr. Skeen, Mr. LaFalce, Mr. Conyers, Mr. Valentine, Mr. Frost, Mr. Royce, Mrs. Clayton, Mr. Deutsch, Mr. Fazio, Mr. Hughes, Mrs. Bentley, Mr. Burton of Indiana, Mr. Lancaster, Mr. Scott, Mr. Moran, Mr. Blackwell, Ms. Pelosi, Mr. Bilbray, Mr. Bliley, Mrs. Meek, and Mr. DeFazio):

H.J. Res. 94. Joint resolution to designate the week beginning April 18, 1993, and the week beginning April 17, 1994, each as "National Organ and Tissue Donor Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. OBERSTAR:

H.J. Res. 95. Joint resolution designating the week of February 7 through 13, 1994, as "Travel Agent Appreciation Week"; to the Committee on Post Office and Civil Service.

H.J. Res. 96. Joint resolution designating the week of February 1 through 7, 1993, as "Travel Agent Appreciation Week"; to the Committee on Post Office and Civil Service.

H.J. Res. 97. Joint resolution designating the week commencing October 3, 1993, as "National Aviation Education Week"; to the Committee on Post Office and Civil Service.

By Ms. KAPTUR:

H. Con. Res. 33. Concurrent resolution expressing the sense of the Congress health insurance reform bill that is enacted should require that family and temporary medical leave be incorporated as a basic or elective option for plan participants under certain circumstances; jointly, to the Committees on Ways and Means, Energy and Commerce, Education and Labor, and Post Office and Civil Service.

By Mr. STUDDS (for himself and Mr. Saxton):

H. Con. Res. 34. Concurrent resolution calling for a continued U.S. policy of opposition to the resumption of commercial whaling, and otherwise expressing the sense of the Congress with respect to conserving and protecting the world's whale, dolphin, and porpoise populations; jointly, to the Committees on Foreign Affairs and Merchant Marine and Fisheries.

By Mr. SOLOMON:

H. Res. 60. A resolution raising a question of the privileges of the House; to the Committee on Rules.

By Mr. FORD of Michigan (for himself, Mr. Williams, Mr. Goodling, and Mrs. Roukema):

H. Res. 62. A resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Committee on Education and Labor in the first session of the One Hundred Third Congress; to the Committee on House Administration.

By Mr. MOAKLEY:

H. Res. 63. A resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Committee on Rules in the first session of the One Hundred Third Congress; to the Committee on House Administration.

By Mr. SOLOMON:

H. Res. 64. A resolution expressing the sense of the House of Representatives with respect to the important contributions of the men and women in the number one industry of New York State, the agriculture industry; to the Committee on Agriculture.

By Mr. SOLOMON (for himself and Mr. Stump);

H. Res. 65. A resolution to authorize and direct the Committee on Appropriations to create a new Subcommittee on Veterans' Affairs; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. JOHNSTON of Florida:

H.R. 808. A bill for the relief of James B. Stanley; to the Committee on the Judiciary.

By Mr. POSHARD:

H.R. 809. A bill for the relief of Kenneth R. Loeh of Royalton, IL to the Committee on the Judiciary.

By Mr. STENHOLM:

H.R. 810. A bill for the relief of Elizabeth M. Hill; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1: Mr. Lipinski.

H.R. 4: Mr. Shays.

H.R. 20: Mr. Abercrombie, Mr. Ackerman, Mr. Andrews of Texas, Mr. Andrews of New Jersey, Mr. Andrews of Maine, Mr. Bacchus of Florida, Mr. Bereuter, Mr. Bishop, Mr. Blackwell, Mr. Boehlert, Mr. Bonior, Mr. Borski, Mr. Boucher, Mr. Browder, Mr. Brown of California, Mr. Brown of Ohio, Ms. Byrne, Mr. Cardin, Mr. Clement, Mr. Clyburn, Mr. Coleman of Texas, Mrs. Collins of Illinois, Mr. Conyers, Mr. Cooper, Mr. Costello, Mr. DeFazio, Mr. de Lugo, Mr. Deutsch, Mr. Dicks, Mr. Durbin, Mr. Edwards of California, Ms. Eshoo, Mr. Evans, Mr. Filner, Mr. Ford of Michigan, Mr. Frank of Massachusetts, Mr. Frost, Mr. Gejdenson, Mr. Gonzalez, Mr. Gordon, Mr. Gene Green, Mr. Hall of Ohio, Mr. Hefner, Mr. Hochbrueckner, Mr. Holden, Mr. Hughes, Mr. Kanjorski, Mr. Kleczka, Mr. Kopetski, Mr. LaFalce, Mr. Lipinski, Mr. McCloskey, Mr. McHugh, Mr. McNulty, Mr. Machtley, Mr. Maloney, Mr. Mazzoli, Mr. Meehan, Mr. Miller of California, Mr. Mineta, Ms. Molinari, Mrs. Morella, Mr. Moran, Mr. Murtha, Ms. Norton, Mr. Olver, Mr. Owens, Mr. Pallone, Ms. Pelosi, Mr. Penny, Mr. Peterson of Minnesota, Mr. Peterson of Florida, Mr. Poshard, Mr. Price of North Carolina, Mr. Quillen, Mr. Richardson, Mr. Rush, Mr. Sanders, Mr. Sawyer, Mr. Saxton, Mrs. Schroeder, Mr. Schumer, Mr. Shays, Mr. Skaggs, Mr. Solomon, Mr. Stark, Mr. Stokes, Mr. Studds, Mr. Thomas of California, Mrs. Unsoeld, Mr. Washington, Mr. Watt, Mr. Waxman, Mr. Weldon, Mr. Williams, Mr. Wise, Mr. Wynn, Mr. Kreidler, Mr. Gephardt, Mr. Markey, Mr. Hoagland, Mr. Neal of Massachusetts, Mr. Matsui, Mr. Swift, Mr. LaRocco, Mr. King, Mr. McDermott, Mr. Chapman, Mr. Kildee, Mr. Hastings, Mr. McCurdy, Mr. Dixon, Ms. Long, Mr. Fazio, Mr. Hinchey, Mr. Murphy, Mr. Hamilton, Mr. Dingell, Mr. Gutierrez, Mr. Lancaster, Mr. Barlow, Mr. Coyne, Mr. Ravenel, Mr. Oberstar, Mr. Rahall, Mr. Jacobs, Mr. Johnston of Florida, Mr. Brewster, Ms. Furse, Mr. Reynolds, Mr. Reed, Ms. Kaptur, Mr. Sabo, Mr. Sarpalius, Mr. Mollohan, Mr. Smith of New Jersey, Ms. Meek, Ms. Waters, Mr. Gilman, and Mr. Martinez.

H.R. 39: Mr. Ravenel, Mr. Brown of California, Mr. Towns, Mr. Machtley, Mr. Sanders, Mr. Cardin, Mr. Beilenson, Mr. Williams, Mr. Poshard, Mr. Ackerman, Mr. Yates, Mr. DeFazio, Mr. Gilchrest, Mr. Mineta, Mr. Kennedy, Mr. Hastings, Mr. Wheat, Mr. Olver, Mr. Peterson of Minnesota, Mr. Sabo, Mr. Hinchey, and Mr. Penny.

H.R. 54: Ms. Pelosi, Mr. Solomon, Mr. Faleomavaega, Mr. Gingrich, Mr. McCandless, Mr. Hunter, Mr. Fawell, Mr. Cox, Mr. Royce, Mr. King, Mr. Dornan, Mr. Menendez, and Mr. Lancaster.

H.R. 55: Mr. Williams, Mr. Gingrich, Mr. McCloskey, Mr. Bacchus of Florida, Mr. Goss, Mr. Walsh, Mr. Beilenson, Mr. Ravenel, and Mr. Jacobs.

H.R. 56: Mr. Solomon.

H.R. 58: Ms. Snowe, Mr. Rangel, and Ms. Meek.

H.R. 106: Mr. Dixon, Mr. Fingerhut, and Mr. Evans.

H.R. 109: Mrs. Meyers of Kansas, Mr. Walsh, Mr. Goss, Mr. Lancaster, Mr. Lewis of Florida, and Mr. Gilman.

H.R. 123: Mr. Sensenbrenner, Mr. Taylor of North Carolina, Mr. Sam Johnson, Mr. Stump, Mr. Santorum, Mr. Shays, Mr. Clement, and Mr. Lewis of Florida.

H.R. 124: Mr. Sensenbrenner.

H.R. 144: Mr. Rohrabacher, Mr. Baker of Louisiana, Mr. Doolittle, Mr. Gallegly, Mr. Dornan, Mr. Cunningham, Mr. Hancock, Mr. Blute, Mr. Armey, and Mr. Herger.

H.R. 150: Mr. Herger.

H.R. 163: Mr. Oxley, Mr. Lightfoot, and Mr. Bereuter.

H.R. 178: Mr. Inglis.

H.R. 181: Ms. Woolsey.

H.R. 214: Mr. Shays, Mr. Hutchinson, Mrs. Vucanovich, Mr. Santorum, Mrs. Meyers of Kansas, Mr. Gallegly, Mr. Oxley, Mr. Parker, Mr. Clement, Mr. Lewis of Florida, Mr. Walsh, Mr. McCandless, Mr. Klug, Mr. Gillmor, Mr. Baker of Louisiana, Mr. Livingston, Mr. Myers of Indiana, Mr. Costello, Mr. Kopetski, Mr. Smith of Oregon, Mr. Schiff, Mr. Hastert, Mr. Kanjorski, Mr. Sundquist, Mr. Sensenbrenner, Mr. Hall of Ohio, Mr. Allard, Mr. Armey, Mr. Minge, Mr. Grams, and Mr. Hobson.

H.R. 224: Mr. Waxman, Mr. Sanders, Ms. Slaughter, Ms. Woolsey, Mr. Stokes, Mrs. Meek, Mr. Scott, Mr. Kopetski, Mr. Wynn, Mrs. Byrne, Mr. Evans, and Mr. Neal of Massachusetts.

H.R. 225: Mrs. Johnson of Connecticut.

H.R. 286: Mr. Shays, Mr. Sundquist, and Mr. Bereuter.

H.R. 300: Mr. Barcia, Mr. Andrews of New Jersey, Mr. Rogers, Mr. Lewis of Florida, Mr. Rangel, Mr. Grandy, Mr. Myers of Indiana, Mr. Greenwood, Miss Collins of Michigan, Mr. Bliley, Mr. Levy, Mr. McKeon, and Mr. McHugh.

H.R. 348: Mr. Sarpalius, Mr. Cunningham, Mr. Stump, Mr. Barcia, Ms. Ros-Lehtinen, Mr. Bateman, Mr. Gallegly, Mr. Rogers, Mr. Greenwood, Mr. Lewis of Florida, Mr. Gillmor, Mr. McDermott, Mr. King, Mr. Baker of Louisiana, Mr. Spence, Mr. Abercrombie, Mr. Levy, Mr. Jefferson, Mr. Stupak, Mrs. Lloyd, Mr. Miller of Florida, Mr. Pickett, Mr. Hochbrueckner, Mr. Hastings, Mr. de Lugo, Mr. Inhofe, Mr. Armey, Mr. Zeliff, Mr. Peterson of Florida, Mr. Brewster, Mr. Bliley, and Mr. Saxton.

H.R. 349: Mr. Leach.

H.R. 350: Mr. Andrews of Maine, Mr. Brown of California, Ms. Byrne, Mr. Cardin, Ms. Eshoo, Mr. Gejdenson, Mr. Hinchey, Mr. Machtley, Mr. McDermott, Mr. Olver, Mr. Rangel, Mr. Sabo, Mr. Sanders, Mrs. Schroeder, Mr. Skaggs, Ms. Slaughter, Mr. Torres, Mr. Towns, Mr. Waxman, and Ms. Woolsey.

H.R. 388: Mr. Ramstad and Mr. Saxton.

H.R. 428: Mrs. Morella.

H.R. 429: Mr. Cox and Mr. Hunter.

H.R. 436: Mr. Stearns, Mr. Collins of Georgia, Mr. Torkildsen, Mr. Wilson, Mr. Sam Johnson, Mr. Camp, Mr. Lewis of California, Mr. Rogers, Mr. Stump, Mr. Hutchinson, Mr. Leach, Mr. Bartlett, Mr. Quillen, and Mr. Regula.

H.R. 462: Mr. Holden, Mr. McNulty, Mr. Hefner, Mr. Frank of Massachusetts, Mr. Bilirakis, Mr. Schumer, Mr. Rush, Mr. Brown of Ohio, Mr. Frost, Ms. Woolsey, Mr. Hutchinson, Mr. Bonior, Mr. Gillmor, Mr. Moran, Mr. Spratt, Mr. Costello, Mr.

Torres, Mr. Mica, Mr. Kopetski, Ms. Byrne, Mrs. Meyers of Kansas, Mr. McCloskey, Mr. Gutierrez, and Mr. Hastings.

H.R. 465: Mr. Towns.

H.R. 494: Mr. Torres and Mr. Schumer.

H.R. 509: Mr. Manzullo, Mr. Hancock, Mr. Armey, and Mr. Herger.

H.R. 518: Mr. Bacchus of Florida, Mr. Kildee, Mr. Conyers, Mr. Clay, Mr. Berman, Mr. Beilenson, Mr. Edwards of California, Mr. Becerra, Mr. Skaggs, Ms. Woolsey, Mr. Bonior, Mr. Dellums, and Ms. Eshoo.

H.R. 539: Mr. Moran, Mr. Emerson, Mr. Stump, Mr. McDade, Mr. Zimmer, Mr. Goss, Mr. Fawell, Mr. McCandless, Mr. Bliley, Mr. Packard, and Mr. Lewis of Florida.

H.R. 567: Mr. King.

H.R. 571: Mr. Hastings.

H.R. 633: Mr. Cox, Mr. Wolf, Mr. Walsh, and Mr. Bereuter.

H.R. 634: Mr. Schiff, Mr. Wheat, Mr. Bereuter, Mr. Valentine, Mr. Andrews of New Jersey, Mr. Skeen, Mr. McCandless, Mr. Lancaster, Mr. Bartlett, Mr. Baker of California, Mr. Neal of North Carolina, Mr. Herger, Mr. Blackwell, and Mr. Markey.

H.R. 656: Mr. Greenwood, Mr. Ackerman, Mr. Hastings, Mrs. Meyers of Kansas, and Ms. Furse.

H.R. 667: Mr. Talent, Mr. Packard, Mr. Smith of New Jersey, Mr. Burton of Indiana, Mr. King, Mr. Oxley, Mr. Hefley, Mr. Goodlatte, Mr. Armey, Ms. Fowler, Mr. Bliley, and Mr. Barrett of Nebraska.

H.R. 673: Mr. Frost and Mr. Zeliff.

H.R. 674: Mr. Bartlett and Mr. Zeliff.

H.R. 697: Mrs. Collins of Michigan, Mr. Conyers, Mr. Hinchey, Mr. Mineta, Mr. Rangel, Mr. Scott, and Mr. Wynn.

H.R. 709: Mr. Herger.

H.R. 723: Mr. Armey and Mrs. Meyers of Kansas.

H.J. Res. 6: Mr. Kennedy, Mr. Richardson, and Mr. Bachus of Alabama.

H.J. Res. 10: Ms. Kaptur, Mr. Lipinski, Ms. Shepherd, Mr. Shaw, Mr. Quillen, Mr. Neal of North Carolina, Mr. Lancaster, Mr. Markey, Mrs. Bentley, Mr. Schiff, Mr. Dingell, Mr. LaFalce, Mr. Bonior, Mrs. Collins of Michigan, Mr. Pickett, Mrs. Byrne, Mrs. Meyers of Kansas, Mr. Evans, Mr. Abercrombie, Mr. Rose, Mr. Martinez, Mr. Dixon, Mr. Gilman, Mr. Thomas of Wyoming, Mrs. Kennelly, Mr. Levin, Mr. Young of Florida, Ms. Woolsey, and Mr. Traficant.

H.J. Res. 22: Mr. Ballenger.

H.J. Res. 26: Mr. Tauzin.

H.J. Res. 27: Mr. Blute and Mr. Taylor of North Carolina.

H.J. Res. 30: Mr. McHugh and Mr. Armey.

H.J. Res. 32: Mr. Lancaster and Mr. Evans

H.J. Res. 38: Mr. Cox and Mr. Rohrabacher.

H.J. Res. 67: Mr. Torres, Mr. Gillmor, and Mr. Roberts.

H.J. Res. 76: Mr. Bartlett.

H. Con. Res. 7: Mr. Gallegly, Mr. Solomon, Mr. Lightfoot, Mr. Pastor, Mr. Manton, Mr. Gillmor, Mr. Wilson, Mr. Sensenbrenner, Mr. Gordon, Mr. Blackwell, Mr. Tauzin, Mr. Gingrich, Mr. Coble, Mr. Levy, Mr. Wynn, Mr. King, Mr. McHugh, Mr. Knollenberg, Mr. Dornan, Mr. Shays, Mr. Sarpalius, Mr. Saxton, Mr. Hunter, Mr. Upton, Mr. Gene Green, Mr. Baker of California, Mr. Baker of Louisiana, Mrs. Morella, Mr. Smith of New Jersey, Mr. Schiff, Mr. Emerson, Mrs. Vucanovich, Mr. Mica, and Mr. Hilliard.

H. Con. Res. 8: Mr. Shays.

H. Con. Res. 13: Mr. Sensenbrenner and Mr. Clement.

H. Con. Res. 16: Mr. McCandless, Mr. Lipinski, Mr. Walsh, Mr. Lancaster, Mr. Wynn, Mr. Spratt, Mr. Emerson, Mr. Smith of New Jersey, Mrs. Meyers of Kansas, and Mr. Traficant.

H. Con. Res. 18: Mr. Mann, Mrs. Johnson of Connecticut, Mr. McHugh, Mr. Jacobs, Mr. Ramstad, and Mr. Zimmer.

H. Res. 16: Mr. McCandless.

H. Res. 26: Mr. Sam Johnson, Mr. Oxley, Mr. Schiff, Mr. Zimmer, Mr. Pete Geren, Mr. Gallegly, Mr. Bateman, Mr. Smith of New Jersey, Mr. Gingrich, Mr. Baker of Louisiana, Mr. Dornan, Mr. Goss, Mr. Henry, Mr. Duncan, Mr. Barton of Texas, Mr. Smith of Texas, Mr. Royce, Mr. Ewing, Mr. Petri, Mr. Camp, Mr. Collins of Georgia, Mr. Blute, Mr. Torkildsen, Mr. Fawell, Mr. Walsh, Ms. Fowler, Mr. Hancock, Mr. Armey, Mr. DeLay, Mr. Cox, Mr. Barrett of Wisconsin, Ms. Molinari, Mr. Gilchrest, Mr. Walker, Mr. Thomas of Wyoming, Mr. Hastert, Mr. Doolittle, Mr. Rohrabacher, Mr. McCollum, Mr. Ballenger, Mr. Paxon, Mrs. Vucanovich, Mr. Lewis of Florida, Mr. Barrett of Nebraska, Mrs. Meyers of Kansas, and Mr. Herger.

H. Res. 41: Mr. Beilenson and Mr. Smith of New Jersey.

H. Res. 45: Mr. Saxton and Mr. Packard.

H. Res. 53: Mr. Solomon, Mr. Lewis of Florida, Mr. Ramstad, Mr. Crapo, Mr. Herger, Mr. Fawell, and Mr. Sensenbrenner.

EXTENSIONS OF REMARKS

QUESTIONS ABOUT CONGRESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, February 3, 1993, into the CONGRESSIONAL RECORD:

QUESTIONS ABOUT CONGRESS

Constituents often tell me of their concerns about the operation and management of Congress. I usually agree with their views—often to their surprise—but find that there is sometimes confusion, and even misinformation, over some basic facts. This newsletter attempts to set the record straight on some of the questions Hoosiers commonly ask about Congress.

HOW MANY PEOPLE WORK IN CONGRESS?

Staff in the legislative and executive branches of government has increased since the end of World War II, mainly because of the growing role of government in our society. However, while the executive branch has continued to grow, congressional staffing has remained relatively stable over the last decade—with House staff at around 12,000 and Senate staff at around 7,000. There has been some dispute about the precise number of people working in the legislative branch. Congressional critics say that Congress employs about 40,000 people. The facts do not support this claim. Adding together the staff for the House and Senate as well as congressional support agencies, like the Capitol Police and the Library of Congress the total staff for the legislative branch in 1991 was 30,622. This marks a 2.2% decline from the 1979 total. Furthermore, legislative branch staff is tiny when compared to executive branch departments. Excluding the military, there are 80 executive branch employees for every legislative branch employee. Additional cuts are likely in both branches.

HOW BIG IS THE CONGRESSIONAL BUDGET?

The congressional budget has been cut in recent years after growing since the 1970s. The congressional budget for this fiscal year totals $2.3 billion, a 6.5% cut from last year's level. Congress has cut mailing costs and official expenses. I agree with constituents who say that additional cuts can, and should, be made, but also stress to them that eliminating all spending on Congress, the Library of Congress and support agencies would save only 0.2% of the federal budget. Meaningful deficit reduction will require across the board cuts in executive branch budgets and, more importantly, in entitlement spending.

WHY DOES CONGRESS EXEMPT ITSELF FROM FEDERAL LAWS?

Congress does not, and should not, "exempt" itself from the laws which apply to the private sector and to the executive branch. Certain laws, as applied to Congress, are, and should be, enforced differently for constitutional reasons. Allowing executive branch agencies to enforce federal laws in Congress would violate the separation of powers doctrine in the Constitution and could compromise the autonomy of the legislative branch. The House and Senate have taken steps to ensure that their employees have the same rights and protections as employees in the private sector. In 1988 the House approved a resolution which provides House employees and job applicants with protection against discrimination based upon race, color, national origin, religion, sex, handicap, or age. The resolution also gives employees a full range of remedies, including timely hearings, an appeals process, and the right of financial compensation. House employees are also covered by the overtime and minimum wage requirements of the Fair Labor Standards Act and the employment provisions of the American with Disabilities Act. Better enforcement of these provisions is still necessary.

WHAT HAS CONGRESS DONE TO IMPROVE ITS MANAGEMENT PRACTICES?

The House banking scandal of 1991 spurred a flurry of reforms. The House voted to close the House bank, and has adopted a series of reforms to improve Congress' overall operations. The House has hired a non-partisan administrator, a former army lieutenant general, who is now responsible for managing and coordinating all non-legislative services and facilities of the House, including management of House accounts, internal mail delivery, and service employees. The administrator is implementing policies that will, ultimately, abolish patronage hiring in offices under his jurisdiction. The House has also established the post of House Inspector General responsible for auditing the financial operations of the administrator and other House activities.

DO I ANSWER MY OWN MAIL?

I am responsible for all the letters that leave my offices in Jeffersonville and Washington, D.C. Given the volume of contacts—about 550 a week by phone and mail—my staff assists me in responding to them. Following my directions, my staff answers routine mail. I read most of the letters and comments from phone calls asking my position or my views on certain issues, and, working with my staff, respond to them.

WHAT ABOUT CONGRESSIONAL PERKS?

On the general issue of perks, my view is that members of Congress should be treated the same as any other individual—no better, no worse. I have consistently supported the elimination of perks.

DO MEMBERS RECEIVE FREE HEALTH CARE?

Members participate in the same health plans as other federal employees, and pay the same rates. I pay market rate for health insurance premiums for my wife and me. There is not, as many suggest, a free medical clinic serving Congress. Members do not receive free prescriptions or free hospital care; they purchase prescriptions and are treated in hospitals in the commercial market. There is a physician in attendance at all times at the Capitol. Members are required to pay about $500 a year to use the physician. The physician also assists any of the tens of thousands of visitors who come to the Capitol each year who require emergency aid.

WHAT ABOUT RETIREMENT BENEFITS?

Members of Congress contribute up to 8% of their salaries to retirement, including the congressional pension plan and Social Security.

WHAT ABOUT OTHER "FREEBIES"?

I pay for the gas I use to drive to and from work, just as my staff and other members of Congress do; pay $400 a year to use the house gym; pay $10 for my haircuts, and my meals are not subsidized. I do not enjoy free use of military aircraft, or free golf, tennis and hunting privileges, and do not receive immunity from parking tickets, or have the use of military officers' clubs. I do have free parking.

WHY DOES CONGRESS ENJOY FRANKING PRIVILEGES?

The frank refers to the practice by which members of Congress use their signatures, rather than postage, to send mail to constituents. The founding fathers established the frank in 1775 as an aid in communicating with constituents and informing them of important issues facing Congress. Every year Congress receives over 215 million pieces of mail. My offices receives about 29,000 contacts a year. Congress appropriates money every year to reimburse the Postal Service for the use of the frank. In 1990, the House greatly reduced the permissible uses of the frank, and then cut its mailing budget by 57%. Further cuts are expected this year.

BRAMWELL NATIONAL HISTORICAL PARK ACT OF 1993

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. RAHALL. Mr. Speaker, today, I am introducing legislation to establish, as a unit of the National Park System, the Bramwell National Historical Park in the State of West Virginia. This bill is identical to the legislation I sponsored during the 101st and 102d Congresses.

As I have noted in the past, it is my intention to seek as part of my southern West Virginia coal heritage initiative the establishment of what I like to call the Colonial Williamsburg of coal towns. We have been fortunate to find in Bramwell some outstanding, and what I believe to be nationally significant, historical, cultural, and architectural values relating to the coal mining heritage of southern West Virginia.

The proposed Bramwell National Historical Park is envisioned as being a living unit of the National Park System in a manner similar to the Harpers Ferry National Historical Park in West Virginia. People would continue to make the area their homes. For this reason, the legislation makes a number of specific provisions to protect private property rights: acquisition of land could only take place with willing sellers and the National Park Service would not have access to private residential property within the park without the advice and consent of the owner.

Development of the park would be outlined in a management plan, which would be devised by the National Park Service with public input and through consultation with the Bramwell National Historical Park Advisory Committee established by the bill. However, the legislation does provide for the restoration of a brick surface to North River Street, Main Street, Rose Street, South River Street, and Bloch Street to restore the historical and architectural character of the park; measures to mitigate the visual impact of public utility facilities such as phone and electrical lines on the historical and architectural character of the park; the reconstruction of the Bramwell Railroad Depot; and, the restoration of an edifice or edifices suitable to provide for the interpretation and visitor appreciation of the historical, cultural, and architectural features of the park. Under the bill, the National Park Service would be authorized to enter into cooperative agreements with the owners of properties of historical or cultural significance within the park to mark, interpret, restore, and provide technical assistance for the preservation and interpretation of the properties.

The 13 member advisory committee would consist of the Governor of the State of West Virginia or his delegate; one member to represent the West Virginia Division of Culture and History; the mayor of the town of Bramwell; one member to represent the Mercer County Commission; one member to represent the Mercer County Historical Society; two members to represent the Bramwell Historic Landmark Commission; two members to represent the Bramwell Millionaire Garden Club; one member to represent the West Virginia Preservation Alliance, Inc.; one member to represent Coalways, Inc.; one member to represent the West Virginia Association of Museums; and one member to represent the Pinnacle Rock State Park Foundation, Inc.

A portion of the town of Bramwell, where the historic coal baron homes are located, is currently listed on the National Register of Historic Places as a historic district. The Bramwell Historic Landmarks Commission is in the process of working to expand the existing historic district to include the outlying Coopers, a former company-run coal camp, and other areas within the corporate boundary of the town. I expect this effort to be finished shortly. Under this legislation, we will adopt this boundary for the purpose of the park. As such, both sides of our coal heritage—management and labor—will be represented.

I would also note that a number of developments have taken place since I originally introduced this bill during June 1990. Aside from the progress that has been made on expanding the existing National Register listing, the legislation was the subject of a hearing conducted by the Subcommittee on National Parks and Public Lands on September 18, 1990, during which we received excellent testimony from the mayor of Bramwell, Harry Donnal Murphy, who has been extremely supportive of this initiative. In fact, early in 1990 the town council voted to endorse the bill. Also presenting testimony was Louise Stoker, the chairman of the Bramwell Historic Landmark District; Beth Hager, the Curator of History for the Huntington Museum of Art; and Commissioner Bill Drennen of the West Virginia Division of Culture and History.

In addition, as part of the fiscal year 1991 appropriation bill for the Interior Department, with the assistance of Senator ROBERT C. BYRD of West Virginia, we were able to obtain funds for the National Park Service to conduct a new area study on Bramwell. It is due to the delays in the completion of this study that action was not taken on this bill during the last Congress. However, it is my understanding that the study will be transmitted to the Congress in the very near future. I would state that in reviewing a draft of the study, I find it tainted with the prejudice against establishing new units of the National Park System that was endemic to both the Reagan and Bush Administrations. In fact, as I understand it, after the NPS Mid-Atlantic Region was initially given responsibility for conducting this study, the funding was almost immediately snatched back and sent to the Denver service center. Hence began a grim saga during which a site visit to Bramwell for the purpose of conducting this study consisted of a couple cursory visits to the town. Afterward, drafts of the study bounced back and fourth between Denver, Philadelphia and Washington, DC, for the better part of a year. For my part, if the final version of this study looks anything like the draft dated December 1992 which I had the displeasure to review, I dismiss it out-of-hand as being the product of nothing more than a political football game tainted by the misguided philosophies of a failed administration.

The only saving grace in this initiative has been the NPS' Historic American Buildings Survey/Historic American Engineering Record [HABS/HAER] interest in Bramwell. After sending a team to the community, HABS/HAER personnel returned to Washington, DC, extremely excited over the resources they found there. This visit was followed up by a photographic review of Bramwell. The interest HABS/HAER in Bramwell is deeply appreciated, not only by me, but by the community, and we look forward to their continued involvement in this initiative.

Mr. Speaker, the purpose of the bill is to gain the preservation, restoration and interpretation of the historical, cultural and architectural values of the town of Bramwell for the educational and inspirational benefit of present and future generations. I do contend that it is in the national interest to preserve the unique character of Bramwell and its environs. I commend it to the House.

CONGRATULATIONS TO LYN M. ROSS

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. FOGLIETTA. Mr. Speaker, I would like to take this opportunity to honor the distinguished career of Lyn Ross as she prepares to step down after 7 years of exemplary service as president of the National Museum of American Jewish History in Philadelphia.

During her tenure as head of the museum, she has directed major changes which have resulted in unprecedented growth. Under her guidance, the museum has seen a major expansion in its base of support and the museum's collection which documents the American Jewish experience. Throughout these changes she never lost sight of the museum's original mission: the collection, preservation, and interpretation of this rich and fabled history. As the custodian of this heritage, she has worked tirelessly to preserve and protect this treasure for Philadelphia, the Nation, and for countless generations to come. For this we owe her our sincere gratitude.

In addition to these many responsibilities, Lyn has remained deeply involved in numerous civic organizations which were committed to the betterment of the arts in Philadelphia and its people. I applaud her many accomplishments and I know she will be greatly missed by the museum as well a the people of the city of Philadelphia.

A TRIBUTE IN CELEBRATION OF THE UNITED NEGRO COLLEGE FUND'S NATIONAL ALUMNI COUNCIL

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. BLACKWELL. Mr. Speaker, I rise today to commemorate a most special gathering that is taking place in the great city of Philadelphia this week. As the National Alumni Council of the United Negro College Fund convenes to celebrate its 47th year, I would like to reflect on the legacy of the United Negro College Fund, and the tremendous dedication of its alumni.

Consider the plight of the African-American in the United States just prior to the Civil War. Either bound by the shackles of slavery, or free in a world with no promise for a brighter future, the prospects were grim. Then came the emergence of Lincoln University in my home State of Pennsylvania, in 1854. The seeds of knowledge were planted, and today, the 41 schools which are represented by the UNCF, have blossomed into a tree of knowledge from which hundreds of thousands of African-Americans have harvested the fruits of higher learning.

Mr. Speaker, since its inception, the United Negro College Fund has played a crucial role in the continued development of our Nation's historically black colleges and universities. No one can deny the fact that each and every one of these institutions is a national treasure, and a testament to the quality of academic excellence that the African-American has come to expect.

Despite the success of these institutions Mr. Speaker, new challenges face the United Negro College Fund and its member institutions every day. Rising to meet these challenges is not only the dedicated staff of the UNCF, but the thousands of men and women who have walked through the great halls of these institutions. Alumni support is an important aspect of any educational institution. In the case of historically black colleges and universities, it is essential.

The National Alumni Council and Pre-Alumni Councils represent America's finest professionals in areas ranging from business, to science, to education. They serve as role models for our children, and testify to the invaluable and unique education that only an historically black college or university can provide. I am certain that this year's meeting will once again yield a most beneficial exchange of ideas which will assist the United Negro College Fund in forging a continued path of academic excellence.

I ask my colleagues to rise and join me in paying our greatest tributes to the National Alumni and Pre-Alumni Councils of the United Negro College Fund. May God bless you, and continue to instill you with the highest sense of pride and duty.

RAY McBRIDE SERVED UNION AND COMMUNITY WELL

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. SOLOMON. Mr. Speaker, I like to call them "quiet heroes," people who don't get that much notoriety, and certainly not as much recognition as they deserve. They simply work, obey the law, raise families, and make their communities better places to live.

I'd like to say a few words about one of them today. His name is Ray McBride of Waterford, NY. I'm proud to say he's always been a big supporter of mine. I say proud, because Ray McBride devoted 20 years of outstanding service to union affairs.

Ray is a veteran, which also makes him special to me, and spent 1 year in Korea during his 3 years in the Air Force. He started with Norton Paper Co. in Watervliet in 1956. He soon became involved in union activities, and this February 6 he will retire as president of local 17, United Paperworkers International Union, a position he held for 6 years.

Like many of my "quiet heroes," Ray also found time to be a solid family man and to take part in community activities. He and his wife Harriet raised a daughter, Mary, who has presented them with a granddaughter, Debra, now 5 years old. Ray has been very active in the Hibernians and in veterans organizations. He's a heck of a bowler and golfer, and I hope he'll find more time to indulge those hobbies.

Everyone who knows Ray respects him as a man who is honest, knows how to listen, and never gets too excited under pressure.

I know him as a good friend and a great American.

Mr. Speaker, on February 6 his many friends are going to honor him at a retirement party. I would ask you and other Members to join me so that we may pay our own tribute to Ray McBride, a quiet hero who has made a difference.

REAL ESTATE STABILITY AND RECOVERY AMENDMENTS ACT OF 1993

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. SHAW. Mr. Speaker, today I and three of my colleagues, MIKE ANDREWS of Texas, BILL THOMAS of California, and BOB MATSUI of California, are introducing legislation that we call the Real Estate Stability and Recovery Amendments Act of 1993.

While we decide what to do about a fragile U.S. ecomony, it would be useful for us to realize a few things. Everyone agrees that real estate is a critical sector of the U.S. economy. The Nation most likely will remain unable to experience sustained economic recovery and long-term economic growth as long as real estate remains in a depressed condition. In fact, real estate generates about one-fifth of the gross national product of this country, about 23 percent of all Government tax revenue, and about 70 percent of local tax revenue for roads, schools, public safety, and other critical services. And if that is not enough, I urge my colleagues to consider that in the 1990's alone, commercial real estate assets have lost about $500 billion in value.

Mr. Speaker, even if I cannot say that a recovery in real estate means a recovery in the general economy, I can at least tell you that a general and lasting economic recovery will not happen without a recovery in real estate. Perhaps we could have called this legislation the Economic Stability and Recovery Act of 1993.

Our legislation addresses three areas of Federal real estate tax law that impede a rebound in real estate. One thing this bill does is correct the gross inequity created in 1986 in the passive loss rules. For 6 years these rules have chained the real estate industry with a special set of rules that have driven commercial values down and blocked a meaningful recovery. It is long past time that we rectified this mistake, and this bill would do that.

The bill would also update the rules governing pension capital investment with respect to debt-financed real estate. Pension funds are a commonsense source of credit and capital for long-term investment in real estate, but present law makes this too difficult. This bill contains generally technical changes that would help in this area.

Finally, this legislation remedies a critical problem plaguing many distressed commercial properties across the Nation. This issue is of particular concern to me, because I was the first sponsor of legislation in the last Congress to address this situation.

Currently, many owners of commercial real estate are struggling because their properties cannot support the debt encumbering those properties. A loan restructuring is often out of the question because present tax law imposes immediate tax liability even though no cash is received in the renegotiated deal. The taxpayer often finds himself better off from a tax perspective if he declares bankruptcy or simply walks away from the property.

The legislation we introduce today would remove from the Tax Code the current disincentives for restructuring distressed real estate loans. It would establish a tax treatment similar to that currently available for farming debt. Taxpayers, however, would not be relieved of any tax liability. Instead, the liability to the Treasury would be deferred until the property is sold, a transaction likely to result in the funds needed to satisfy the tax obligation.

Congress should act immediately to remedy these critical flaws in the Tax Code that impede a meaningful and lasting real estate recovery, without which continued general economic growth will be difficult at best. I urge my colleagues to cosponsor this legislation, and I respectfully request prompt action on this bill by the Ways and Means Committee and the full House.

DEMOCRATS ARE THE CHAMPIONS OF REFORM

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. OWENS. Mr. Speaker, Democrats in this Capitol should be reminded that campaign reform and higher standards of ethics are Democratic initiatives. Long before Ross Perot came on stage the impetus for change in the campaign financing laws and for the regulation of lobbyists was in place as a result of Democratic sponsorship. The new administration promised to broaden and accelerate these initiatives. Without the prodding of Ross Perot supporters these promises must be kept. The army of American mercenary lawyers working for Japanese corporations must be exposed. Our voters need to know that giant trade imbalances and the flight of American jobs are caused partially by day to day sellouts in Washington.

We very much need new kinds of disclosure requirements for media mercenaries who insist on describing groups who lobby for the vaccination of children as "special interests" equal to the S&L bank conspirators. Talk show hosts subsidized by the public airwaves should disclose the amount and sources of their income as they bombard their listeners with their personal propaganda. The people need to know why the talk show Napoleons treat the half trillion dollar savings and loan bank swindle with lethargy and indifference while overdrafts and gay soldiers are depicted as a threat to the national security.

Above all, Mr. Speaker, it is imperative that 2 years from now Democratic incumbents should not have to face the charge of being soft on campaign reform and higher standards of ethics in Washington. We should also not have to answer the charge that all that was done was completed only after the Perot watchdogs made us do it. Democrats must expose the incest in Washington. Performances like the instant hearings which confirmed most Cabinet members must not be repeated. In the name of efficiency we looked slick. No one would have been hurt if the nominees had been asked a few hard questions. In the next few years fuller disclosure of the mechanics of Washington dealing is inevitable. Instead of dropping the ball, Democrats should escalate their efforts to force the doors of the invisible clubs open.

INCEST CITY

The public has a right to know
Full meaning of charges
Made by mad Ross Perot
Cocktail power's
Finest hour
Is after session
Never mind
Financial disclosures
Confess
Your intimate connections
Who's whose mama
And what's your sister's
Married name
Insider trading
Of political information
Is still a legal game
But confess
Your contacts
Hang your advantages
On the public racks
The public has a right to know
Where all the foreign trade
Bribery dollars go
Who's switching sides
And changing pace
Watch double dealing
That deadly disgrace
Carla and Ron
Have lucrative non-partisan
Client swapping fun
Maya and Clarence
Jimmy Linda Cokie
Camouflaged
Family Values
Mardi Gras masks
Complicate our tasks
Saints are marching in
While sinners
With old connections
Convene
The orgy resurrections
Duvalier's favorite men
Escorting Aristide in
The public has a right to know
Which corporate clients
Sponsored frugal Zoe
Cocktail power's
Finest hour
Is after session
Confess your contacts
Hang your privileges
On the public racks
Old revolving doors
Still turning
Taxpayers' dollars
Still burning
The public has a right to know
Full meaning of charges
Made by mad Ross Perot.

IN RECOGNITION OF RALPH TASKER

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. SKEEN. Mr. Speaker, this past weekend, a major national landmark was achieved in the city of Hobbs, which is located in my district in southeastern New Mexico.

The local high school basketball coach, Ralph Tasker, commanded his players to another victory at home, against their opponents from Alamogordo. Another Friday game at home; another win. It's been that way for over four decades.

But this win had a little more significance. It was the 1,027th win for Coach Tasker and his Hobbs Eagles and placed him in the national record books as the winningest high school boys basketball coach. Coach Tasker, 73, now has 1,027 wins and only 252 defeats in his 43 seasons as the coach at Hobbs High School. Mr. Tasker previously coached in Lovington, NM, High School, and at Sulpher Springs, TX, prior to moving to Hobbs in 1950.

Coach Tasker is a source of pride and honor to Hobbs, NM. His dedication and commitment to his students, school, and community has not gone unnoticed and has put Hobbs High School on the national high school basketball map.

On behalf of my colleagues, I would like to extend my hearty congratulations to Coach Tasker and all his players throughout the years who contributed to this important record.

Mr. Speaker, I insert the enclosed news article from the wires of the Associated Press in recognition of Mr. Tasker's accomplishment:

IN RECOGNITION OF RALPH TASKER

HOBBS, NM.—Ralph Tasker came within eight seconds of missing out on a national record, but Tyrone Haynes' 15-foot jumper with 8 seconds left sent Hobbs into overtime and overdrive.

With an 87–77 victory Friday night over Alamogordo, the Hobbs Eagles made Tasker the winningest high school boys basketball coach ever.

Tasker, 73, now has 1,027 victories and 252 defeats, one win better than previous record holder Leslie Gaudet of Louisiana's Pine Prairie High School. Gaudet had 1,026 victories and 353 losses in a career that ended in 1970.

Tasker tied the record Jan. 22 with a 61–51 victory over Roswell and moved into sole possession of the mark Friday night.

"The past 10 days have been the longest of my life," Tasker said afterward. "I don't know how my boys could have won if they were as tired as their coach. I knew the record was on the line, and my boys worked so hard to get it."

Of overtime, he said: "It made it special, didn't it?"

"Tonight I'm the happiest guy, not just in New Mexico but the entire Southwest. This win ranks right at the top. It meant a lot to us. Everybody in Hobbs has been pointing toward it. As time goes on, it will mean more and more to me. Right now, I'm going home, sit down and let it sink in."

Typically, the Eagles used their patented full-court press the whole game, and the press forced four crucial Tiger turnovers in overtime.

In regulation, Hobbs had been ahead 68–62 with 3:20 left, but tentative play by the Eagles on offense allowed the Tigers to catch up, and then Hobbs fell behind 70–68 with 48 seconds left.

Haynes tied it for the Eagles with eight seconds left in regulation. Alamogordo tried an 18-footer that missed at the buzzer. And the score was 70–70 at the end of regulation.

Overtime stayed close for about 3 minutes. But with 1:45 remaining, the Eagles turned on their offense and began an 8–0 run that put them up 81–74 with 41 seconds remaining.

The Tigers' Jeffrey St. Julien scored a 3-pointer with 33 seconds left to get Alamogordo within 81–77.

The tigers then began fouling to stop the clock, but the Eagles made four of six free throws down the line to clinch it.

Tasker began his career at Sulphur Springs, Ohio, in 1941, losing the first game he coached, 72–38.

"I didn't speak to my wife for days," he said in a recent interview.

World War II limited him to one season at Sulphur Springs, where he compiled a 5–11 record, then joined the Army Air Corps. He finished his tour of duty at Kirtland Air Force Base in Albuquerque in 1945 and took a job coaching basketball at Lovington, about 25 miles northwest of Hobbs.

Lovington had three straight winning seasons capped by a State championship in 1949.

Hobbs hired Tasker in 1950, and he's been here ever since, winning 11 more State championships. He installed a full-court press in 1956, and it has been the hallmark of Tasker's defense ever since.

Through every season and in every game, the sideline refrain from the Hobbs bench has been a constant "press, press, run, run, run."

And he never forgot Sulphur Springs.

"I just want everyone to know that I'm representing all the kids at Hobbs, at Lovington and the kids in Sulphur Springs who played for me all these years," he said Friday night.

REAL ESTATE STABILITY AND RECOVERY AMENDMENTS ACT OF 1993

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. ANDREWS of Texas. Mr. Speaker, while recent economic figures indicate a modest economic recovery in this country, we all recognize that we still have some important structural weaknesses that demand our attention.

Our economic foundation has many components. One of the most significant, and one of the most neglected, has been the real estate market. Presently, the real estate industry contributes more than a fifth of the annual gross domestic product of the U.S. economy, with more than $1 trillion in debt secured by real estate. This makes the real estate industry roughly equivalent to the corporate bond market.

However, real estate's stability has slid in recent years. Commercial real estate values have declined by $500 billion in the 1990's, not only halting new construction and encouraging the abandonment of existing structures, but sparking a debilitating crisis in the banking industry. As Federal Reserve Chairman Alan Greenspan has recently indicated, banks and other lending institutions are not likely to launch aggressive lending campaigns until real estate values clearly stabilize.

Unfortunately, much of the blame for this instability in the real estate markets lies with the Federal Income Tax Code. Under the passive loss rules, owners of property are frequently prohibited from deducting any losses on that property against their gross income.

The Real Estate Stability and Recovery Amendments Act of 1993 that I have introduced with a majority of my colleagues on the House Committee on Ways and Means, addresses this flaw in the Tax Code in three ways.

First, this legislation would reform the passive loss rules that continue to create difficulty for real estate investors 6 years after their enactment. Under current law, an investor in real estate, unlike an investor in a shoe store for example, cannot typically take a deduction against gross income due to losses from the investment. My bill would allow full-time real estate entrepreneurs—taxpayers who spend 50 percent of their time in a real estate trade or business and who are 5 percent owners of that business—to take a deduction against gross income for losses incurred due to the ownership of real estate. The current passive loss rules fail to recognize the true economics of owning and operating rental real estate and effectively discourage owners from working out troubled properties. For that reason, these rules have abetted the slide in real estate values and diminished local tax bases while discouraging a sustained economic recovery. A study by the Mortgage Bankers Association last year concluded that such a change to the passive loss rules would increase commercial real estate values by 3 to 5 percent across the board.

The second provision would remove current law disincentives for restructuring troubled real estate debt. Under this provision taxpayers would still bear their tax liability, but would be allowed to satisfy it over time. Current law provides an incentive for a taxpayer to deed the property back to the lender or place it into bankruptcy. That's because the tax liability of doing so is frequently lower than the immediate tax obligation that results from restructuring commercial real estate—even though no cash is received in the transaction. This change, currently applicable to restructuring farming debt, will help encourage property owners to work even harder to make the troubled property a viability and not a liability. Clearly, these are the business decisions that our public policy should encourage.

The third and final provision would modernize the rules applicable to pension capital investment in debt-financed real estate. With their long-term liabilities, pension funds are a logical source of capital and credit for long-term real estate investment. However, several existing rules serve as unnecessary obstacles to investment and should be changed. These proposed changes, largely technical in nature, would help ease the credit crunch that continues to hamper even the most basic business transaction in the industry.

The benefits for our entire economy are evident, and not just in the commercial lending sector. Stabilizing the real estate market has a direct correlation to economic development and jobs.

Not that swift enactment of this legislation will, in and of itself, ensure long-term economic growth. It will, however, remove the current risk that further reserves may have to be set aside by banks to cover potential losses on real estate loans. As Chairman Greenspan noted last Friday, this risk has led banks to bolster book capital, widen lending margins, and approach new credits with caution. At a minimum, my legislation will ensure that lenders will be more confident that prices will not continue to fall, eliminating uncertainty and allowing an injection of liquidity into real estate markets by unshackling investors from the current tax law inequities that prevent responding to the free market rather than tax law.

THE COMPULSORY LICENSE CLARIFICATION ACT OF 1993

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. BOUCHER. Mr. Speaker, today I am pleased to be joined by the gentleman from California [Mr. MOORHEAD] the ranking member of the Subcommittee on Intellectual Property, in introducing the Compulsory License Clarification Act of 1993.

Our objective in introducing this legislation is to clarify Congress' original intent when it amended the Copyright Act in 1976 to create the compulsory license, which permits cable systems to carry broadcast programming without incurring copyright liability. This clarification is needed because of a January 29, 1992, ruling by the Copyright Office which we believe interprets the 1976 amendments too narrowly, and would strip at least one emerging video technology, wireless cable, of its right to the license.

In 1976, Congress amended the Copyright Act with respect to cable system retransmission of broadcast signals. Recognizing that it would be impractical and unduly burdensome to require every cable system to negotiate with every copyright owner whose programming was retransmitted through the carriage of local broadcast signals on cable systems, Congress created a compulsory license scheme by which cable systems could meet their copyright responsibilities.

Under the Copyright Act, cable systems are eligible for the license. The language of the Act shows that Congress did not intend to limit eligibility for the compulsory license to coaxial cable systems. In section 111(f) of the Act a cable system is defined as—

> A facility, located in any State, Territory, Trust Territory, or Possession, that in whole or in part receives signals transmitted or programs broadcast by one of more television broadcast stations licensed by the Federal Communications Commission, and makes secondary transmissions of such signals or programs *by wires, cables, or other communications channels* to subscribing members of the public who pay for such service. [Emphasis added.]

Although this language is clearly broad enough to encompass transmissions through wireless cable technology, a little over a year ago the Copyright Office issued a final rule denying wireless cable systems the benefits of the compulsory license. The Copyright Office concluded that the phrase "other communications channels" was intended merely to extend the compulsory license to coaxial cable systems that utilize wireless technology to extend their signal into unwired areas—so-called "hybrid systems." We do not believe this strained interpretation is supported by the plain language of the Act. This view in effect reads an "and" into the statute where an "or" clearly exists.

Moreover, the legislative history of the 1976 amendments to the Copyright Act indicates that when Congress created the compulsory license, it intentionally used language flexible enough to include advances in technology, such as the emergency of wireless cable technology. For example, the House Report accompanying the 1976 legislation states that the definition of the term "transmit" in section 101 "is broad enough to include all conceivable forms and combinations of wired or wireless communications media, including but by no means limited to radio and television broadcasting as we know them." (H. Rept. 1476, 94th Cong., 2d sess. 63, reprinted in 1976 United States Code Cong. & Admin. News 5659, 5678.) Clearly, Congress used broad language in the 1976 amendments to ensure that the Act would be able to operate in the face of technological changes.

The fact that Congress enacted the Satellite Home Viewer Act of 1988 in order to extend the compulsory license to satellite carriers does not in any way argue against the interpretation of section 111(f) that we are advocating. Satellite carrier transmissions were clearly outside the scope of the definition of "cable system" contained in section 111(f) because they do not originate from "a facility, located in any State, Territory, Trust Territory, or Possession." Rather, they originate from a satellite in space. In contrast to satellite carrier transmissions, wireless cable transmissions do originate from a facility located within a State. In fact, a wireless cable system functions exactly like a coaxial cable system—it sells the same product to the same audience from a local site.

Recognizing that its decision to deny the compulsory license to wireless cable systems is a controversial one that could have a serious adverse effect on the wireless cable industry, the Copyright Office has delayed until January 1, 1994 the effective date of its rule. In granting this delay, the Copyright Office expressly intended to give Congress adequate time to adopt legislation clarifying the eligibility of wireless cable systems for the compulsory license.

The wireless cable industry has utilized the compulsory license since the first wireless system became operational in 1986. The future of the wireless cable industry depends upon the continued availability of the compulsory license. As a practical matter, without the compulsory license a wireless cable operator will be unable to clear the copyrights of each program it wishes to carry on an individual basis.

The Compulsory License Clarification Act will amend the definition of a cable system in the statute to ensure the availability of the compulsory license for wireless cable and "any other technologies employed for the local distribution of secondary transmissions of broadcast programming." This modest amendment will ensure that the compulsory license is available on a technology-neutral basis and will help ensure that alternative video transmission technologies will be able to provide competition to the cable television industry.

THE LIFE OF THURGOOD MARSHALL

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Ms. PELOSI. Mr. Speaker, Justice Thurgood Marshall said he wanted to be remembered as someone who, in his words, "did what he could with what he had."

As law scholar, pillar of the civil rights movement, and finally Supreme Court Justice, what Thurgood Marshall was able to do was nothing less than fundamentally change the way American society deals with race, and with each other.

As the director of the NAACP Legal Defense and Educational Fund for more than 20 years, Thurgood Marshall blazed a trail of court victories culminating in the historic Brown versus Board of Education decision in 1954. That decision was 1 of 29 cases Marshall won before the Supreme Court.

Unlike so many who have reached the pinnacle of the legal profession, Thurgood Marshall was not a child of privilege. His great-grandfather was a slave. He did not attend an Ivy League school; they would not admit him because of his skin color. He was not the scion of a wealthy family; his father was a steward at an all-white yacht club. His mother, a school teacher, pawned her wedding and engagement rings to pay for her son's law school entrance fees.

Those values, and the hard lessons he learned as he traveled the Deep South fighting injustice as a young lawyer for the NAACP, handling as many as 450 civil rights cases at a time, are what Thurgood Marshall brought to the Bench. His hope and vision of an integrated and fair society is what he fought for once there.

When President Johnson named him to the Supreme Court in 1967, it was yet another achievement of an already glorious career. Thurgood Marshall had accomplished more in the years before being named to the Court than most of us could hope to accomplish in a lifetime.

Besides the distinction of being the first African-American to serve on our Nation's highest court, Thurgood Marshall had what a former law clerk called "a heroic imagination." He had the ability to see through the darkness of segregation, lynching, and injustice and into the daylight of equality, freedom, and justice.

While others used laws and courts to deprive many of their legal rights, Thurgood Marshall used the constitution as his weapon to fight inequality and segregation.

Mr. Speaker, to truly honor Justice Marshall, we must continue his work fighting injustice and inequality. I pray this American hero will rest well, knowing that he truly "did what he could with what he had."

NATIONAL CENTER FOR BIOLOGICAL RESOURCES

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mrs. MORELLA. Mr. Speaker, yesterday I introduced a bill to establish a National Center for Biological Resources. The United States leads the international community, and it seems to me that this bill takes a modest step toward getting our own house in order before we encourage less developed countries to conduct biological inventories and to conserve their biological resources.

The Earth Summit's Agenda 21 is described as "a workplan for sustainable development into the 21st century." The establishment of a center at the Smithsonian Institution, I believe, is a must do item on Agenda 21's list. Almost 2 years ago, at a hearing of the Science, Space, and Technology Subcommittee on Environment, Dr. Peter H. Raven, director of the Missouri Botanical Garden, estimated that there were 250,000 species of organisms within the boundaries of the United States, yet no more than 150,000 of them had been identified. And identification is only one aspect of the problem. Biological resources are being reduced throughout the world. The tropical forests of Puerto Rico and Hawaii are rich in rare plants and animals, but they are disappearing at an alarming rate. The tropical rain forests are severely threatened. The loss of unique plants and animals, however, is occurring in all habitats.

A September 1990 report by the Scientific Advisory Board of the Environmental Protection Agency entitled "Reducing Risk: Setting Priorities and Strategies for Environmental Protection," listed the following environmental risks as relatively high-risk: First, habitat alteration and destruction; and second, species extinction and overall loss of biological diversity. The report warned that loss of species over time has grave implications for the future health of the human race.

The center would set research priorities and would provide coordination for the understanding and promotion of knowledge of the plants and animals within the United States, the effect of human activities on the biota, and would make this knowledge available to the people of the United States and to others working on research in biological resources throughout the world.

Mr. Speaker, I ask my colleagues to join me in supporting the establishment of the National Center for Biological Resources. Secretary Curtis Bohlen in his report to Congress on the Earth Summit stated: ". . . Rio set us on a path toward a better future from which there is no turning back." The establishment of the Center for Biological Resources at the Smithsonian will keep us moving forward.

CORNELIUS VANDERBILT "SONNY" WHITNEY HAS LEFT US, AND THE LOSS IS GREAT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. SOLOMON. Mr. Speaker, now that Congress has reconvened I would ask this House to add its condolences and posthumous tribute to a great man who passed away last December 13, Cornelius Vanderbilt "Sonny" Whitney of Saratoga Springs, NY.

It is hard to imagine what Saratoga Springs would be like without the enormous contribution of C.V. Whitney. The word Renaissance man comes to mind when describing him. He was a generous philanthropist, a well-known horseman, a highly successful businessman, and devoted public servant.

He had impressive blood in his veins. He was a descendent of Eli Whitney, inventor of the cotton gin. His mother was a talented sculptor who founded the Whitney Museum of American Art in New York. And he was the great-great-grandson of Commodore Cornelius Vanderbilt, who built a fortune in railroads and steamships.

His paternal grandfather, William Collins Whitney, was Secretary of the Navy under President Grover Cleveland. C.V. Whitney himself was Assistant Secretary of the Air Force and Undersecretary of Commerce under President Harry Truman.

His accomplishments were dazzling. He played a major role in establishing the Saratoga Performing Arts Center and the American Museum of Natural History. He founded the National Museum of Racing, Pan American Airways, the Whitney Museum of Western Art in Wyoming, and the Marine Studios in Florida.

He wrote four books and produced such films as "Gone With the Wind," "Rebecca," and "A Star is Born." I might add that he helped finance the development of Technicolor and Cinerama.

C.V. Whitney was the owner of top thoroughbreds, including two Belmont Stakes winners.

Our condolences go to his gracious wife, Marylou, and to his many children, stepchildren, grandchildren, and great-grandchildren.

And so, Mr. Speaker, I would ask you and all Members to rise in tribute to a man for whom the description great is inadequate, to a man who crowded several impressive lifetimes into one, Cornelius Vanderbilt, "Sonny" Whitney, Saratoga Springs' most illustrious son.

SPEECH OF THE BAHRAINI AMBASSADOR TO THE UNITED STATES

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. BURTON of Indiana. Mr. Speaker, the Gulf State of Bahrain is a trusted and valuable friend to the United States. That friendship has endured for over 60 years now, and I am pleased to note that our relationship with Bahrain in the economic, cultural, and diplomatic spheres, is a solid one.

I look forward to continued cooperation between our two countries, and I would like to submit for the RECORD the text of a recent speech delivered by the Bahraini Ambassador to the United States, the Honorable Abdul Rahman Bin Fares Al-Khalifa.

ADDRESS TO THE AMERICAN-BAHRAINI FRIENDSHIP SOCIETY

(By H.E. Abdul Rahman Bin Fares Al-Khalifa, Ambassador to the United States from the State of Bahrain)

As a relative newcomer to Washington, it is a great pleasure to find myself at this gathering of old friends. The generous invitation afforded to me by the Directors of the American-Bahraini Friendship Society and the kind words of introduction by Admiral Bayne remind me that this is, indeed, Bahrain's American family.

I would like to begin my remarks by conveying to you the greetings of the President

Emeritus of our Society, His Highness Sheik Isa Bin Salman Al-Khalifa, the Amir of the State of Bahrain. He sends a warm welcome to the members of the American Bahraini Friendship Society. This evening bears witness to the value of human sentiment in building cooperation among nations. The celebration of our friendship gives us pride in the past and optimism for the future.

This is a notable gathering tonight. In June of this year, in Bahrain we celebrated 60 years of successful economic cooperation between our two nations. This, then, is a good moment to reflect on where we began and how far American-Bahraini friendship has grown.

I hope you will pardon my very concise rendering of our shared history. I see many people before me here tonight who have played an important role in the events I am about to summarize. Surely your own memories would fill volumes and give depth and color to the official history as I am about to tell it.

Bahrain is an ancient country and has long been a cross-roads of the region. However, it was only at the turn of this century that missionaries from your nation arrived on our shores. In setting the stage for future cooperation, they established a school and the American Mission Hospital—a facility which still exists to serve Bahrain's citizens and which is particularly dear to me: It is where I was brought into the world.

History is full of irony. Beginning in the late 1920s, the mood in Bahrain grew bleak for a variety of reasons. British engineers reported that the Gulf region was "devoid of all prospects for petroleum." The world economic depression dramatically lowered demand for Bahrain's warm-water pearls, while favoring Japan's emerging industry for the production of lower-quality and less expensive cultured pearls.

In June 1932, however, American initiative helped to bring us back from the brink of despair and propelled us forward into the modern age. A forerunner of the modern day CALTEX invested its faith in unexploited concessions abandoned by the British and drilled the first major oil production well in the Gulf. This was but the first of many American-Bahraini joint ventures which have prospered during the past half-century.

Following the allied victory in World War II and in recognition of America's growing influence in the world, Bahrain granted port facilities to the United States Navy. This announced a broadening of Bahrain's international relations, which for years took place in the shadow of Great Britain's strategic interests. I would, in fact, like to acknowledge and salute those of you in the audience this evening who served in Bahrain during and after this very signal period, helping to ensure security for Bahrain's people. Your contributions to peace in our troubled region are dear to our hearts.

When Bahrain attained independence as a modern state in 1971, the United States was among the first nations to establish a diplomatic mission in Bahrain. And I remember the day I was at the airport to receive our friend Mr. John Gatch when he arrived to represent the United States as the first head of Diplomatic Mission in Bahrain. I prefer to think that this was not so much an investment in future cooperation as it was a testament to the bond of friendship which already existed between two peoples.

International cooperation requires order and freedom, and, sadly, we in the Gulf have had to remain vigilant on that issue. In 1991, the people of Bahrain joined with the member states of the United Nations in an effort to restore the rightful freedom of the Kuwaiti people. As a nation and a people, we are proud of the role we were able to play, and we are grateful for the leadership provided to that initiative by the United States.

The liberation of Kuwait was an acknowledgement of that fundamental truth: in unity there is strength. In Bahrain, alliances have always been the result of shared vision, rather than momentary opportunity. We celebrate our victory for the same reason we celebrate our friendship today—in the knowledge that understanding among peoples will always be the greatest safeguard of our sovereignty and our freedom.

How successful have we been in building bridges between our nations? I can only tell you that our success in this regard came in a meeting that I had several months ago with then-U.S. Deputy Secretary of State Lawrence Eagleburger. The Secretary pointed out that relations between our two nations are stronger than they have ever been before, holding great promise for the future.

As we focus towards the future of American Bahraini cooperation, we can do so in the knowledge that the goals of this Society are also those of Bahrain's people: to celebrate existing friendships; to pass our legacy of personal ties to a new generation of friends; and to encourage and support cooperative efforts for the mutual benefit of our citizens and our nations.

Neither the American nor Bahraini citizen of the year 1900 could have imagined the technical and economic progress that we have made together. Nor could they have imagined this gathering tonight, the wealth of experience that we have shared, and the many fruits of our friendship.

It is my sincere hope that generations to come will continue to be inspired by the friendships we have begun. I wish them the same satisfaction, warmth and promise that I and the people of my nation feel among you today.

TRIBUTE TO JACQUELINE R. JOLLY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to Jacqueline R. Jolly who is retiring from the position of director of the Clinton Township Senior Center after 14 years of dedicated service.

Jacqui has been a champion for senior citizens and is held in high esteem in our community. When she began as director in 1979, it was a volunteer position and remained so for the next 3 years. Since then, Clinton Township has built a senior center with a gymnasium and a weight room. Jacqui's philosophy on aging is, "As you get older your intellect gets keener, your self-esteem improves and life is more beautiful than ever." Because of Jacqui, life is more beautiful than ever for seniors in our area.

Jacqui was never known not to try something innovative just because it had never been done before. We should all heed her advice, "Each year try something you have never done before, conquer a fear." Indeed, Jacqui has tried many new programs to improve the quality of life in our community.

Jacqui is a pioneer for senior citizens. She established the first site-to-site transportation program for seniors, which was then used as a model throughout Macomb, Oakland, and Wayne counties. She was responsible for the first hospital open house for seniors at St. Joseph Hospital. The most successful first-time Health-O-Rama was held in a senior center because of Jacqui. The program provides screening for major health problems.

The Clinton Township Senior Center, under Jacqui's direction, was the first center to train older adults in a peer support group, the first to hold educational classes for high school credit, the first to organize a medical advisory committee, and the first to establish a countywide fashion show in celebration of Older American Month, in which seniors modeled. She also organized the first Ms. Senior Michigan Pageant for women 60 and older.

Jacqui was the organizer and founder of the National Association of Senior Citizens Softball Tournament held annually in Clinton Township, MI. This was the first Senior Citizen Softball Tournament in the Nation held for seniors 50 years and older. She also organized the first Pan Am Softball Classic in Great Britain.

She has spoken to many groups to get her message out, including ABC Sports and the AARP radio seminar. She has spoken at colleges and universities including Wayne State University, Macomb Community College, and Madonna College. She was a presenter at the National Conference on Aging.

She has been a member of numerous professional organizations including the National Council on Aging, the National Institute of Senior Centers, Northeast Senior Adult Coordinators, Michigan Parks and Recreation, Michigan Society of Gerontology, SCAN II, International Myomasethics Federation, Macomb Inter-Faith Agency, Michigan Pre-Retirement Planners, National Association of Older Workers, and the Private Industry Council.

She has attended the University of Michigan Institute of Gerontology, Madonna College, Catholic University in Washington, DC, and Macomb Community College.

I ask that my colleagues in the U.S. Congress join me in saluting the accomplishments of Jacqueline R. Jolly. She has made life more beautiful for our community seniors.

ADDRESS TO THE ADJUTANTS GENERAL ASSOCIATION OF THE UNITED STATES NATIONAL GUARD

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. SKELTON. Mr. Speaker, on Tuesday, February 2, I had the pleasure of addressing the Adjutants General Association of the U.S. National Guard at the association's headquarters here in Washington. As the new chairman of the House Armed Services Subcommittee Military Forces and Personnel, I spelled out some of my thoughts regarding the future of our National Guard. I attach here a copy of my address:

ADDRESS BY CONGRESSMAN IKE SKELTON

Thank you for your generous introduction. I am honored to be with you today, the Adjutants General of America's National Guard, the uniformed leaders from each of our States, who give added meaning to the term "twice the citizen."

Allow me to also thank Generals Conoway and Rees for all the good work they do for you and our nation's security. I meet with them more than you might realize and have been able to draw upon their good advice on more than a few occasions.

Let me take this opportunity to wish the senior adjutant general of this group, my good friend Charlie Kiefner, a fond farewell at this last meeting for him. I have known him for a more than a few years and can say that he has served both the State of Missouri and our nation well. I voted to confirm him when he first became adjutant general for the State of Missouri when I was in the State Senate back in * * * * let's just say that both of us had less grey hair back then.

All of us are justly proud of the performance of the men and women of our country's National Guard, particularly during the past few years. They have met unexpected challenges at home and abroad: Rioting in Los Angeles; hurricane devastation in Florida, Louisiana, Hawaii, and Guam; participation of the Panama crisis; and major involvement in the Persian Gulf war, the Somalia relief operation, and Yugoslavia.

Several years ago, I was asked to speak to the recently promoted Brigadier Generals in our Army. Wishing to make the point that many active duty military officers were completely uninformed about Congress or their elected representatives, I told them that I would randomly pick a name from the list of new Brigadier Generals that was in front of me, and I would ask that person to tell me who represented him in the U.S. Congress. You could see nearly every new army one-star slinking down in his seat with the hope that I would not call on him. A Missouri National Guard Brigadier General, Dick Dean, was in the audience, and I called on him. Dick, unhesitatingly, said "Ike Skelton." I had made my point as the nervous laughter of the others revealed.

Of course, that is not the case for you, the adjutants general of our National Guard. Each of you is aware of the political process, at both the State and Federal levels. You know that the United States Congress is charged with the constitutional duty of raising and maintaining the military forces of our Nation.

It is especially fitting that the first speech I make as chairman of the House Armed Services Subcommittee on Military Forces and Personnel, is to you, leaders of America's National Guard. Yours is an institution which has played an important role in the defense of our Nation down through the years. It is the role of all who serve in uniform of which I speak today.

END OF THE COLD WAR

Looking back through the pages of history, America has always been in a rush to disarm at the end of a war—to "bring the boys home." That has been true of every major conflict within my memory—World War Two, Korea, Vietnam, and more recently, Desert Storm.

This is especially true again today in light of our victory in what was the cold war. Because the Soviet Union has splintered, and the Warsaw Pact has ceased to exist, there are many, including some of my colleagues in the Congress, who would have us go on a disarmament binge. Nothing would be more unwise.

Many Americans view the military "as useful as a summer chimney", and the defense budget as a cash cow to solve all our domestic problems. This is unfortunate.

We have just passed through—successfully, we should remember—the cold war era. The Soviet Union and its satellites are no longer the threat to the Western freedom that you and I cherish so much. But this is still a dangerous world, and the kaleidoscope of events shows us the renewal of old hatreds, and the emergency of nationalistic, ethnic, and religious tension.

Of course, we are already cutting our defense structure to meet the new realities of the federal budget deficit and the dissolution of the USSR. But we must do it wisely and well, or there could be a heavy price to pay at some future date. We met the cold war era with forces to counter an onslaught from the East. We must now face the decade of disorder that is upon us, and fashion forces that can meet the uncertainties not only of regional conflicts, but of what could sadly and unexpectedly mushroom into larger, multinational conflicts. Men and women who wear the uniform of our country should well remember the shot fired in Sarajevo in June of 1914 and how, unpredictably, that incident led to what came to be known as the Great War. It lasted more than four years and came to involve many uniformed Americans in 1917 and 1918.

IMPROVING THE ACTIVE/GUARD/RESERVE RELATIONSHIP

Over the last three years the Department of Defense has been engaged in crafting a new defense strategy based on regional contingencies and implementing a base force to support that strategy. The base force includes components from both active and reserve forces. Reductions were scheduled to continue until 1995, when the size of the force would have leveled out. The new Clinton administration will reduce the active force level by a further 200,000 which will probably stretch the timetable a further two years to 1997.

Yet, despite this era of retrenchment, I believe we have the opportunity to build a much better relationship between the active and reserve components. Those Guard and Reserve forces that were called to active duty during the Persian Gulf crisis two and a half years ago did an outstanding job overall. There was a fundamental validation of the total force concept. The active Army now understands that the Reserve components not only will be called up but that they will also bring along the support of the American public.

Over the last two years active duty force levels have been reduced without any changes made by the Congress. However, over the same period, the National Guard numbers were not reduced as recommended. Congress set the 1993 Reserve component numbers at 703,000, instead of the recommended figure of 640,000. This political tug of war, between the National Guard on one hand and the nation's senior military leaders on the other, could continue to be an annual legislative battle. Conceivably, it could come at the expense not only of active duty end-strength, but of our training and readiness budget. We cannot afford the time, effort, and anguish of this annual political battle. In the end, America and American interests in the world would be the big losers.

A proposal recently put forward by retired General Maxwell Thurman deserves thoughtful consideration by both the Pentagon and Capitol Hill to resolve this serious issue. I see a great deal of merit in his idea to base Army National Guard and Reserve strength on a proportion of the American population. For example, using a .275% figure of the U.S. population as a base would mean a combined reserve component strength of 700,000 this year and approximately 742,000 by the year 2000.

The Bush administration's base force envisioned a Reserve component of 567,000 personnel by 1995. This would be the force that would be available for supplementing the active army on short notice. Peacetime training would have to be restructured to improve those early go to war skills for combat maneuver units. Contingency operations are far more likely to occur than the full or partial mobilizations planned for during the cold war. There would be a higher premium placed on readiness.

Congress, however, allocated 703,000 for this fiscal year, a difference of 136,000 from the Bush administration's 567,000 figure. General Thurman has made the suggestion that the 136,000 be placed in the "reconstitution" pillar of our defense strategy. As you know that strategy has four parts to it—strategic deterrence, forward presence, crisis response, and reconstitution. The 136,000 "reconstitution force" would also be available to support State missions on a moment's notice. It would consist of infantry, engineer, military police, communications, medical, and helicopter transportation units. It would also constitute the basic building blocks to reconstitute our forces in the event of a renewed global-scale threat.

Once we have established a top line strength, we could then get on with the serious business of determining appropriate missions and what the structure and composition of the force should be. Realistically, we must design a National Guard and Reserve that are complementary to the active force and can support our national defense policy.

In making this assessment, we need to consider the types of units that can best be trained in the reserve environment, what levels of readiness can be realistically expected, and what type and size units can be mobilized and deployed quickly. From the gulf war experience, it is clear that most combat support and service support units can be deployed soon after mobilization. However, large combat maneuver units require more time because of the complexity of tasks they must be able to perform.

The Army Guard must look at the experience of the Marines and the Air Force. They deployed smaller combat units and integrated them into their active units. Companies and batteries, and battalions can be deployed faster than brigades. If the Guard wants to provide roundout and roundup combat units for contingency forces, and it should, then you need to seriously consider providing companies and battalions to supplement active duty forces. Let me be clear about my view here: I am skeptical about training the Guard to fight at the brigade and division level. And in the immediate contingency operations of the future, companies and battalions will have a greater chance of being called up than brigades. I support the Guard organized in divisions and brigades, but battalion or company units are more likely to be mobilized.

THE RAND STUDY

Due to the different perspectives of the executive branch and the Congress on the proper mix of Active and Reserve components, the Rand Corporation undertook a study on this important matter as part of the Defense Authorization Act of fiscal year 1992. Rand was chosen because an earlier report done by the Defense Department simply did not do the job. In a word it was biased, favoring Defense Department policies that had already been decided upon by former Secretary Cheney and his advisors.

The Rand report finally came out late last year and my perusal of it tells me its a pretty good study. I plan to hold hearings on it late this year in order to craft together proposals that I hope can improve the functioning of both Active and Reserves components. General Powell will soon issue his report on roles and missions and this will also provide us much food for thought. The Rand study, General Powell's roles and missions report, and continuing budget pressures will provide the Defense Department and the Congress the opportunity and incentive to design a defense force structure that will serve the Nation for the decade of disorder and beyond.

RECENT CONGRESSIONAL INITIATIVES

The 1993 defense authorization bill contained a section that addressed some of the problems identified during the Desert Shield/Desert Storm mobilization. Known as the Army Guard Combat Reform Initiative, the areas covered included establishing an improved readiness evaluation system; improving and focusing training; increasing active duty experience levels, and strengthening personnel standards.

As you know, I am very interested in professional military education. In 1987, Les Aspin, the former chairman of the Armed Services Committee asked me to chair a panel to examine the professional military education system for officers to determine if it was capable of developing officers competent in military strategy, tactics, and joint warfighting to meet the requirements of Title IV of the Goldwater/Nichols Act of 1986.

In 1991, the panel began looking into professional military education for Reserve and National Guard officers. It became quite clear that, for a multitude of reasons, most Reserve officers do not have access to a quality professional military education similar to their active duty counterparts. Professional military education is important to the development of an Active officer and it should be no less important to the Guard or Reserve officer.

Clearly there is a need for a managed professional military education system for reservists similar to the system for active duty officers. To be effective, such a program requires that we do a better job in providing military education opportunities for those officers who are unable to attend active duty courses. The 1993 Defense Authorization Act directs the Secretary of the Army to develop a test plan for a program that would incorporate the concept of assigning reservists to attend nonresident military education courses in a paid drill status and the development of a system for managing the selection and assignment of officers for schooling and unit positions.

I believe that a successful test program can lead to an improved U.S. Army Reserve forces school system that would be responsible for providing all nonresident professional military education courses. Eventually, it should be possible for a reservist to complete the command and general staff course in one year instead of the two and three years that are currently required.

As you know, I have also been concerned by the percentage of officers in the Army National Guard who do not have a college degree, which I attribute to the dependence on state OCS programs as a primary source of officers. I would prefer to see greater utilization of ROTC graduates, especially when we are now faced with large numbers of newly commissioned 2nd lieutenants who must be assigned to the individual Ready Reserve because there are no available unit positions in the Active or Reserve components. I have taken steps to increase the number of dedicated ROTC scholarships for the National Guard, but I also think that you must do a better job of finding positions for these ROTC graduates who do not go on active duty.

I realize that there is going to still be a need for a National Guard OCS program. Perhaps the solution would be to establish a special Reserve component OCS at Fort Benning that could be run in three or four week segments. This may take time to work out. In the interim, I believe the National Guard could conduct OCS programs on a regional basis, as is already being done in the Northwest part of the country. It is my intention that no deserving and qualified guardsman be deprived of serving as an officer, but there should be common sources for new officers, be they Active, Guard, or Reserve.

CONCLUSION

I am a strong supporter of the total force policy. It proved itself in Desert Shield/Desert Storm. A strong and viable National Guard is vital to our national security. Our Active duty forces must remain strong and capable even as we reduce their size. I believe we now have the opportunity to strengthen that relationship between the Active and Reserve components even further.

Quality people, good equipment, tough training, and sound doctrine are the ingredients for a strong military. As I assume my new position as chairman of the House Armed Services Subcommittee on Military Forces and Personnel I promise you I will do everything in my power to strengthen that relationship.

General Douglas MacArthur once said, "Nothing is so appallingly irresponsible, and so irrevocable, as to commit untrained soldiers to battle." As the leaders of the largest Reserve component, you have a special responsibility in this regard. I charge you to live up to this responsibility and I will do my best to support you. Thank you.

INTERNATIONAL COMMUNITY MUST RALLY TO ARMENIA'S DEFENSE, END THE AZERBAIJANI BLOCKAGE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. PALLONE. Mr. Speaker, I rise today to address an issue that many of my colleagues in this body are discussing throughout the week as part of an effort to halt an international outrage that is happening in our time. Azerbaijan's 4-year blockade against its neighbor Armenia has caused extensive suffering and a complete economic and social collapse in Armenia. The situation has now reached the critical stage. It is no exaggeration to say that the current Azeri action against Armenia, if allowed to continue, will lead to genocide.

Armenia is a landlocked nation currently experiencing a winter of subfreezing temperatures without electricity and other basic necessities. Earlier this month an explosion destroyed the last fuel pipeline into Armenia, leaving tens of thousands of people in danger of death by exposure and starvation. Recent press reports have painted a disturbing picture of life in Yerevan, the formerly thriving capital of Armenia, and in other parts of the country. People there are barely clinging to life in primitive, horrible conditions similar to those being endured by the people of Bosnia. The U.N.'s High Commissioner on Refugees, the International Federation of the Red Cross, and other humanitarian organizations have attested to the looming catastrophe in the once prosperous Armenian state. The blockage is also holding back progress toward democracy and free markets in the volatile Caucasus region of the former U.S.S.R.

The lack of electricity in Armenia has raised the potential of a nuclear accident at the Medzamor nuclear power station outside Yerevan. Internal safety systems at the nuclear facility need a minimum level of electricity so that the power station can remain in stable condition. The International Atomic Energy Agency must be allowed in to this facility, and the international community must be allowed to assist in preventing a potentially devastating disaster.

Mr. Speaker, it must be the policy of the United States and the United Nations to press Azerbaijan to immediately open corridors for the transport of food, fuel, medicine, and other humanitarian supplies to Armenia. Basic human decency dictates that this step be taken immediately. Members of both Houses of Congress and from both sides of the aisle have joined in calling on President Clinton and U.N. Secretary General Boutros Boutros-Ghali to do all in their power to get food and supplies into Armenia immediately, while working for a negotiated settlement. In December President Bush and Russian President Yeltsin agreed on the need to peacefully resolve the Azeri-Armenian conflict. I believe that the new American-Russian partnership can play a positive role in resolving this dispute.

In addition, the Republic of Turkey, in particular among the nations of the region, has a special historical obligation to do something positive to end this tragedy. The slaughter of more than a million Armenians at the hands of the Ottoman Empire in the early part of this century still sears the memories of Armenians throughout the world, and weighs heavily on the conscience of all humanity. There have been some indications that Turkey may be taking steps to end the blockage and help get vital, humanitarian supplies to the people of Armenia. The world will be watching very closely to see how Turkey responds to this moral challenge.

We hope that pressure from the United States and the international community will bring Azerbaijan back to its senses and into the family of civilized nations. If international persuasion can't persuade Azerbaijan to lift the blockage, severe economic sanctions should be imposed on the Azeris.

Mr. Speaker, this tragic story is not without at least a slim ray of hope. Operation Winter Rescue is an American-led relief effort to provide food, medicine, and clothing to Armenia. The United States has provided three ships for transport and other logistical coordination, while private donors, corporations, and churches have provided supplies. This is certainly an indication that not everyone has forgotten about the plight of Armenia. But it is going to take a far more comprehensive international effort to finally remove the shroud of darkness that has descended over this proud and ancient nation. Let us hope that a newly empowered United Nations will marshall its resources to put an end to the horror in Armenia. If we fail, history will not forgive us.

TRIBUTE TO HOWARD MATZ

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. WAXMAN. Mr. Speaker, I ask my colleagues to join me in saluting Howard Matz of Los Angeles, who has just completed his term as president of Bet Tzedek Legal Services. Bet Tzedek is a nonprofit, nonsectarian legal aid organization that provides free and low-cost quality legal services to its clients.

Howard Matz' term as president of Bet Tzedek has been marked by great success. He has presided over the most successful fundraising activities ever done for the organization and has overseen litigation with an astonishing success rate exceeding 90 percent.

Howard Matz earned a place in Los Angeles legal history with his effective leadership during the Los Angeles riots. Emergency legal aid was swiftly made available to riot victims. Mr. Matz will also be long remembered for the nationally recognized Housing Conditions Acting Team, which takes up the cause of tenants whose landlords are in violation of basic health and safety laws.

Please join me in recognizing Howard Matz for his extremely successful tenure as president of Bet Tzedek Legal Services and in wishing him good health and success in all his future endeavors.

TRIBUTE TO LAKE SENECA ELEMENTARY SCHOOL

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mrs. MORELLA. Mr. Speaker, I am proud to pay tribute to the faculty, parents, and students of Lake Seneca Elementary School in Montgomery County, MD, for winning the Blue Ribbon Excellence in Education Award from the Department of Education. Lake Seneca was 1 of only 4 schools in the State of Maryland to receive national recognition.

Lake Seneca Elementary School won this Blue Ribbon Award based on several factors, including an outstanding parent outreach program and a strategy among teachers which stresses the individual needs of each student. Under the leadership of Principal Pat Abrunzo, students, faculty, and parents at Lake Seneca work together to create a harmonious atmosphere which enriches the learning process.

Teachers go beyond fulfilling the duties of the classroom. Each teacher, with parental permission, mentors two sixth-graders, offering friendship and guidance on a one-to-one basis. This mentoring program promotes a spirit of camaraderie and boosts self-confidence among the students.

Students and teachers at Lake Seneca take great pride in their school. The building is clean, and the walls are filled with the work of productive students.

As a former teacher, I congratulate the faculty, parents, and students of this outstanding public institution for creating an atmosphere in which learning is valued and rewarded. Mr. Speaker, I am proud of the hard-working and supportive staff, the enthusiastic parents, and the eager students at Lake Seneca Elementary School, and I wish them continued success in achieving the excellence in education needed to face the challenges of the future.

HELP OUR DOMESTIC AUTO INDUSTRY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to draw the attention of my colleagues to a bill I have introduced, H.R. 718, which amends the Internal Revenue Code of 1986 to allow a refundable credit for the purchase of a domestically manufactured automobile.

As the new administration prepares its budget and continues to consider a short-term economic stimulus package, it is becoming increasingly apparent that our automobile industry continues to suffer from unfair trade practices.

Over the past year, I have had the sad task of serving on a New York State task force to persuade General Motors not to close the Tarrytown assembly plant. It is particularly disheartening to note that the Tarrytown plant was one of the most productive, successful plants in the Nation, manufacturing the popular minivan.

Yet, even though the Tarrytown plant is one of the leading auto assembly plants nationwide in terms of innovation and efficiency, General Motors has placed the plant on a list of possible closures.

The GM plant utilizes several innovative concepts such as a team concept on the assembly line, synchronous manufacturing including just-in-time inventory management, and weekly meetings of teams to discuss issues of concern and suggest improvements to name just a few. One only has to consider that this plant has been at the top of its division in terms of both the numbers of suggestions for improvement and actual payments to the workers for innovative ideas to improve manufacturing to understand the quality of its product.

Yet GM has decided that this plant cannot compete. Therefore, it is apparent that some form of Government assistance is necessary. My legislation creates a refundable tax credit of 10 percent of the cost of a new car, up to a total tax credit of $2,500.

As you know, there has been a considerable debate over the definition of an American-made car. Therefore, my legislation defines a domestically produced vehicle as a vehicle containing at least 75 percent of U.S. material and labor.

Mr. Speaker, I request that the full text of H.R. 718 be inserted at this point in the Congressional Record, and I invite my colleagues to cosponsor this vital measure.

H.R. 718

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR PURCHASE OF DOMESTICALLY MANUFACTURED AUTOMOBILES.

(a) General Rule.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. PURCHASE OF DOMESTICALLY MANUFACTURED AUTOMOBILES.

"(a) Allowance of Credit.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount for each qualified automobile acquired by the taxpayer during the taxable year equal to the lesser of—

"(1) 10 percent of the cost of such automobile to the taxpayer, or

"(2) $2,500 ($1,000 in the case of a qualified automobile described in subsection (b)(1)(B)).

"(b) Qualified Automobile.—For purposes of this section—

"(1) In general.—The term 'qualified automobile' means any automobile if such automobile is manufactured in the United States and if—

"(A) such automobile is purchased by the taxpayer in the 1st retail sale of such automobile (within the meaning of section 4011), or

"(B) such automobile is acquired by the taxpayer in a qualified resale and such resale occurs within the 2-year period beginning on the date of the 1st retail sale of such automobile.

"(2) Automobile.—The term 'automobile' means any 4-wheeled vehicle which is propelled by fuel (as defined in section 4064(b)(7)) and which is manufactured primarily for use on public streets, roads, and highways.

"(3) Qualified resale.—The term 'qualified resale' means any sale of an automobile if—

"(A) such sale is after the 1st retail sale of such automobile,

"(B) such sale is for a purpose other than resale, and

"(C) no credit was allowed under this section for any prior acquisition of such automobile other than at its 1st retail sale.

"(c) Special Rules.—For purposes of this section—

"(1) Manufactured in the United States.—An automobile shall be treated as manufactured in the United States if at least 75 percent of the cost to the manufacturer of such vehicle is attributable to value added in the United States or Canada.

"(2) Joint acquisitions.—If any qualified automobile is jointly acquired by two or more persons—

"(A) the aggregate amount allowable as credit under subsection (a) to such persons with respect to such automobile shall be determined by treating all of such persons as one taxpayer whose taxable year is the calendar year in which such acquisition occurs, and

"(B) there shall be allowed to each of such persons a credit under subsection (a) for such person's taxable year in which such calendar year ends in an amount which bears the same ratio to the credit determined under subparagraph (A) as the portion of the cost of such automobile borne by such person bears to the aggregate cost of such automobile.

"(d) BASIS REDUCTION.—The basis of any qualified automobile shall be reduced by the amount of the credit allowable under this section to the taxpayer for the purchase of such automobile."

"(d) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting the following:

"Sec. 35. Credit for purchase of domestically manufactured automobiles.
"Sec. 36. Overpayments of tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to automobiles acquired after December 31, 1993.

A VERY HAPPY BIRTHDAY TO D.C. COUNCILMEMBER HARRY L. THOMAS, SR.

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. BLACKWELL. Mr. Speaker, I rise today to pay tribute to a great public servant who has dedicated his life to helping the people of the District of Columbia. As ward 5 representative of the D.C. City Council, Harry L. Thomas, Sr. celebrates his birthday this week, I would like to take a moment to reflect on the wonderful contributions of a true gentleman.

Although Councilmember Thomas was born in Richmond, VA, he has lived in our Nation's capitol for nearly all of his adult life. Following years of honorable service in the U.S. Army, Councilmember Thomas decided to return to civilian life, still joining the Naval Reserve. Upon entering the Federal service, Councilmember Thomas rapidly moved up the career ladder at the Department of the Interior, where he served as assistant press relations liaison. During his years of service, the Department greatly expanded its public policy role and grew by more than 30,000 employees. Councilmember Thomas' diligent concern for human rights and justice was recognized by former Interior Secretary Cecil Andrus who appointed him to serve on the prestigious incentive awards committee. Following 37 years of faithful and distinguished service, Harry L. Thomas, Sr. retired from the Department of the Interior.

Mr. Speaker, throughout Councilmember Thomas' professional life, he worked equally as hard as a community activist, selflessly sacrificing all of his free time for the common good of the District of Columbia. His involvement with community based organizations has provided invaluable service to youth, senior citizens, and people at each and every level of society.

As one of the first elected advisory neighborhood commissioners, Councilmember Thomas developed a thorough understanding of the needs of our communities, and gained broader insight into how government can directly improve the quality of life in America's urban neighborhoods. Councilmember Thomas served in this capacity for 10 years, and was then elected as a delegate to the first Statehood Constitution Convention for the District of Columbia. As a delegate representing ward 5, he served on the judiciary and public relations committees.

As the two term chairman of the ward 5 Democrats, Councilmember Thomas provided a new level of leadership for the political community of the District's 5th ward. His intense dedication certainly earned him the respect of citizens across the District who elected him as an alternate delegate to the 1984 Democratic National Convention held in San Francisco, CA.

Mr. Speaker, in November 1986, the citizens of ward 5 cast their historic vote that sent Harry L. Thomas, Sr. to the District of Columbia City Council. Four years later, his constituents realized they had found someone who was not shy to fight for them, and returned him to city council with a stunning 87 percent of the vote. As chairman of the council's committee on public works, Councilmember Thomas has provided unparalleled leadership that has earned him the respect of both colleagues and constituents alike.

In addition to Councilmember Thomas' professional and political triumphs, he has received a countless number of awards and honors including; Leadership Award by the African Legal Defense Fund, Citizen of the Year Award by McKinley High School, and Dedicated Service Award by the Edgewood Civic Association, just to name a few.

Mr. Speaker, I would like to ask my colleagues to rise and join me in wishing the happiest of birthdays to Councilmember Harry L. Thomas, Sr. I would also like to extend our best wishes to his wonderful wife Romaine Bell, and their two lovely children, Debra and Harry Jr.

Councilmember, on behalf of the U.S. Congress, we wish you continued good health and spirits so that you may continue to provide strong leadership for the citizens of ward 5.

PLEASE COSPONSOR HOUSE CONCURRENT RESOLUTION 26, BIPARTISAN EFFORT TO SUPPORT OUR TROOPS IN SOMALIA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. SOLOMON. Mr. Speaker, I wish to express my appreciation to my Democrat colleagues in the House, from Congressman BARNEY FRANK to Congressman SONNY MONTGOMERY, who have already become cosponsors of my bill to support our troops in Somalia. And I would ask all Members of the House to become cosponsors of the bill.

The resolution simply commends the United States military forces for successfully establishing a secure environment for the humanitarian relief operations in Somalia.

In the past 2 years over 300,000 Somalis, including one-fourth of the children under the age of 5, have died. Prior to Operation Restore Hope over half of the country's population of 8 million people were at risk of starvation.

Our troops have performed magnificently and are entitled to recognition. Please join me in cosponsoring legislation commending the efforts of our military forces in Somalia.

ERITREA REBUILDS AFTER LONG CIVIL WAR

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. BURTON of Indiana. Mr. Speaker, the nation of Eritrea is about to achieve its age-old dream of self-determination. After a difficult struggle of more than 30 years, the Eritrean people managed to defeat the Communist dictatorship of Mengistu Haile Mariam and the DERG. In less than 2 years, the Provisional Government of Eritrea [PGE] has done a remarkable job of stabilizing the country, caring for the needs of the people, and preparing for the national referendum coming up in April. They have truly earned our admiration.

I wish all Americans could learn more about Eritrea, the African miracle. I would like to urge my colleagues to read this excellent article on Eritrea by Sarah Gauch which appeared last week in the Washington Times.

[From the Washington Times, Jan. 25, 1993]

ERITREA REBUILDS AFTER LONG CIVIL WAR

(By Sarah Gauch)

ASMARA, ERITREA.—While teenagers in nearby Somalia wave Kalashnikovs, the youths of Eritrea tote lunch boxes on the way to school or labor beside their elders to wrest a living from the arid fields.

In stark contrast to disintegration that marks its neighbor on the Horn of Africa, Eritrea is a society that is methodically—and successfully—piecing itself back together after 30 years of civil war.

"Eritrea is a haven of peace in a troubled region," said one Western aid worker. "There is tremendous solidarity here."

The Eritrean People's Liberation Front (EPLF) captured Asmara in May 1991, sparking joyful celebrations among its people and ending three decades of war with Ethiopia. But its work was far from finished.

As the new provisional government, it has had to rebuild a shattered infrastructure, construct houses, schools and hospitals, save a drought-ridden agricultural sector, and integrate hundreds of thousands of homeless refugees.

One of the government's first priorities was to establish peace and stability in a territory accustomed to violence and death. During the war, weapons were everywhere and most families lost three, four or sometimes five members.

So far the administration has succeeded. Today, no policemen are visible on Asmara's streets and crime is practically nonexistent. There is overwhelming support for the government, when it told people to stop begging and children to stop selling gum and tissues, they did.

Eritrea, which stretches along Ethiopia's Red Sea coast and holds its only seaports, was severed from the rest of Ethiopia in the late 19th century and prospered as an Italian colony.

The United Nations reunited Eritrea with Ethiopia in a loose federation after World War II, but in 1961 Emperor Haile Selassie annexed the region to his Addis Ababa-based kingdom after a controversial vote of the Eritrean legislature.

The war for independence began then and raged until rebels in the neighboring province of Tigre joined the Eritreans to help end the Marxist rule of President Mengistu Haile Mariam two years ago.

Eritrea will not officially become a country until after a referendum in April, in which 90 percent are expected to vote in favor. The new government in Addis Ababa has promised to honor the results.

Although the euphoria that followed the military victory has subsided, the people still are reveling in the area's calm. Reconstruction has been slower than expected, but they are not disgruntled.

Agricultural output increased fourfold this year after good rains and the official distribution of seeds, fertilizer and oxen. The government has planted 28 million trees and built 17 dams. Terraces, ponds and hand-dug wells were also constructed.

The administration has meager resources for reconstruction. It inherited a bankrupt treasury, and many international donors are waiting for the results of the April referendum. Revenues have come mainly from expatriate remittances, taxes and customs.

The people themselves are giving what they can. Former guerrillas, many of them now government employees, have agreed to work for two years without pay, and some government department heads still are living in military camps.

These sacrifices have paid off. Today, water and electricity are on tap in Asmara. People can telephone outside the country, and shops are full of goods. The 40 public sector factories that stood idle in May 1991 all are working.

Everywhere, the people's pride in their soon-to-be country shows. Villas, storefronts and hotels are under repair. There are freshly painted signs identifying the different government departments.

Even in Massawa, a port city 40 miles northeast of Asmara, workers have taken the time to plant bright-pink flowers in clay pots at the badly damaged port. Most buildings there remain devastated from 10 straight days of Ethiopian air and sea bombardment in February 1990.

Despite the positive signs of repair and optimism, many challenges await. The EPLF has promised a free market and multiparty democracy after the referendum, but democratic institutions, such as a credible opposition, still are lacking.

There are 500,000 refugees in neighboring Sudan who must be reintegrated and who will strain an already overburdened system.

There is not enough housing, and unemployment is estimated to be as high as 50 percent. Rusting tanks and trucks still must be removed from Eritrea's lush green landscapes.

But judging from the determination and resourcefulness shown so far, the Eritreans seem ready for the challenges ahead.

HOME OWNERSHIP FOR LOW INCOME PEOPLE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. FRANK of Massachusetts. Mr. Speaker, one of the least understood issues in public policy in recent years has been the question of how best to get home ownership for low income people. That is a very attractive idea. But it is also one far more difficult to execute than some people have been led to believe. And it is also one which, if done in the wrong way, may wind up hurting rather than helping the low income population of our country. Walter Ramos has been a member of the Housing Authority in the city of New Bedford, and I was very pleased recently to come across an article he had written some time ago which cogently summarizes the problems with the approach to the sale of public housing attendance which had been advocated by former HUD Secretary Jack Kemp. While this article is more than a year old, its relevance remains very strong, and because this is an issue to which we will be returning this year, and because this article shed so much useful light on it, I ask that it be printed here.

FROM PUBLIC TO PRIVATE: HOUSING QUESTION SHOULD GIVE US PAUSE

(By Walter J. Ramos)

Home ownership in the United States is an intricate part of the American Dream. That dream has failed to materialize for the working poor and moderate-income families throughout the nation. Governmental public housing policies originally designed to make public housing a "temporary home" have consistently missed the mark. Public housing tenants do not have the ability to move into the private housing market, and their stay in public housing is more likely to be longer than intended and, in some cases, permanent.

For those on the lower rung of the socioeconomic ladder, the possibility of home ownership in their lifetimes has become unattainable. That is why some tenants and involved citizens from the oldest public housing facilities in New Bedford, Bay Village and Presidential Heights, have approached the New Bedford Housing Authority.

The request appears simple enough. Bay Village and Presidential Heights were built in 1940. Some tenants, many of whom have lived in these facilities most of their lives, want a share in the American Dream. They want the opportunity to purchase their own apartments and manage their own complex.

This prospect, at first glance, has some attractive qualities. It provides home ownership to those who otherwise would never have the opportunity to do so. Hand and hand with home ownership comes neighborhood and community pride—a powerful force in maintaining property and safety. Tenant ownership would provide residents with a purpose to maintain not only their own apartments, but the common areas, as well. At the same time this endeavor would relieve the federal, state and local governments of the operating and management cost of public housing. This prospect should lift even the heaviest of conservative and liberal eyelids in Washington.

However, it also has some disturbing possibilities. Conversion of public housing to private ownership forever eliminates those particular housing slots for other poor people. Nationally, replacing housing now averages $70,000 per unit. With a substantial federal and state deficit, not to mention lack of buildable lots and neighborhood revolts against any new development, the prospect of low-income and moderate-income housing replacement is bleak.

The most frightening of possibilities is the threat of financial failure of public housing turned to private ownership. If the financial numbers can be met for public housing tenants to purchase their apartments, will the income be adequate to maintain and repair them when necessary? Could a public-to-private conversion give false hope to public housing tenants who transform from public tenants to private tenants and then to foreclosure and homelessness? Will the quality of life be better or will it deteriorate further?

Tenant ownership of public housing, if considered desirable, must be carefully designed if it is to avoid creating far greater hardships than public housing itself.

If we are to alleviate the problems of affordable housing and home ownership today, we must first examine where the problems exist, and then apply the appropriate remedy.

Statistics from the Joint Center for Housing Studies of Harvard University show that the percentage of families owning their own homes rose on a regular basis until 1980, when private ownership peaked at 65.6 percent of all households. In 1989, a short nine years later, there were 2 million fewer homeowners (63.8 percent). The most devastating decline in home ownership is among households with people under 34. Many people in these households have jobs that pay well, but they are rent-poor, unable to save enough money to make a down payment on their first home.

This fact, coupled with the fact that people 65 or over are living longer and staying in their homes longer, has resulted in an affordable-housing shortage.

Apartments that normally would have become available for lower-paid workers have remained occupied by young and middle-aged moderate-income people. This breakdown in the housing market chain has caused a blockage in what has been called the "filtering process" in the housing market. The market has responded accordingly, regularly increasing rents well beyond the once-standard 25 percent of a person's income, further compounding the problem.

These factors have frustrated the middle-income earners, and have devastated and demoralized the working poor. They have contributed to the growing problem of homelessness throughout the nation.

This juggernaut in our housing market has denied middle-income people the ability to move up the housing scale, freeing apartments for up-and-coming renters who also would eventually enter into home ownership.

The working poor who live in public housing are trapped, unable to move up and out.

As a result, "tenant ownership of public housing apartments" will become a familiar phase in the decade ahead. We need to take a closer look, before making an irreversible or reactionary response to the proposition.

Bay Village and Presidential deserve a second look in the 1990s.

The Housing Authority and the city of New Bedford must respond appropriately to the increasing call for tenant ownership of public housing.

Involved citizens should not move too quickly into tenant ownership without proper study and review, and the Housing Authority should not brush the issue aside for another day, for the ramifications of either direction are too far-reaching to ignore.

SHERIFF EARL LEE RETIRES AFTER 20 YEARS OF SERVICE

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. DARDEN. Mr. Speaker, today I rise to recognize Mr. Earl Lee, who for the past 20 years served as sheriff of Douglas County, GA. On January 1 of this year, Sheriff Lee ended his long-time career in law enforcement, the longest in Douglas County history.

Staff writer Kerry Jackson of the Douglas County Sentinel has captured Sheriff Lee's legendary story in an article which I would like to share with my colleagues at this time. I also take this opportunity to commend Mr. Lee on his many years of devoted service to the people of Douglas County and wish him well in his retirement from law enforcement work.

A LEGEND RETIRES

(By Kerry Jackson)

He will officially leave office at the very moment millions will celebrate the new year, but Douglas County Sheriff Earl D. Lee wishes he could turn back the clock just a bit.

"It's sad," he says of his impending retirement. "I dread it. I wish I could change my mind."

But Lee, who has served in law enforcement longer than anyone else in Douglas County history, is leaving the post he has held the last 20 years with no regrets except for a lingering feeling that he might have accomplished more.

"I wish I had worked harder," he said, though he later admitted that he likely could not have humanly done more.

A notorious workaholic who had little or no interests outside of law enforcement, the 61-year-old Lee said he is not planning a quiet retirement of fishing and hunting.

"I never cared that much about them," said Lee, sitting in an office where a card table replaces the large desk he once sat behind and directed a powerful department he crafted from a handful of men in 1972. "The only thing I know how to hunt" is criminals.

Apparently, it is hard to expect a man who has spent the last 28 years of his life trying to clean up his county to merely leave his office without a struggle. Especially if his name is Earl D. Lee.

Lee began his career in 1964 as a deputy training in Fulton County. Then "I came here the first day in '65" to become a Douglas County deputy. Eight years later he beat his boss, Claude Albercrombie, in the sheriff's election and initiated an era in Douglas County law enforcement that some have bitterly criticized and others have supported without reservation.

"His reputation, whether you agreed or disagreed with him, has been an influence that has caused Douglas County not to have the crime rate that it otherwise might have had," said Ron Shadix, a 13-year veteran of the Sheriff's Department and the current chief deputy.

"It wasn't a job, it was a way of life for him."

Maj. Phil Miller, a 16-year veteran of the Sheriff's Department who knew Lee as a deputy while he was working for the Douglasville Police Department, also said the reputation took on a life of its own.

"The greatest thing he did for Douglas County is the reputation he built over the years. It's amazing how many criminals, because of this reputation, will not come out to this county to complete drug deals, illicit deals or deals involving stolen goods."

Before he became a deputy Lee worked for his father-in-law's grocery and feed store business for 12 years and for Firestone tires for eight years before that. He boasts of having "only three jobs in my life," and quickly confesses that law enforcement is by far his favorite.

Ironically, Lee's career was initiated by Albercrombie who asked him as far back as 1959 to get into law enforcement.

"I hadn't really thought about it, but I'm glad I did it," he said.

The highlights of Lee's career include more than a few firsts. He was the first sheriff to serve on the Organized Crime Council and the first Georgia sheriff to investigate a fellow sheriff.

Because of the reputation, Lee also investigated a number of high-profile cases outside of Douglas County. He coaxed the first confession among the suspects in the Alday family murders in December 1973 in Seminole County. He was instrumental in finding who he and other investigators believed to be responsible for killing the Matthews, a husband-and-wife psychology team that was murdered in Cobb County in 1976.

He was also the first Douglas County law officer to attend the FBI Academy.

"I learned how much I didn't know," he said.

But after a lifetime of hideous and baffling murders, well-publicized violent crimes and an endless string of bizarre cases, Lee said the saddest thing he can think about is putting away his star. He's simply not going to go easily.

"The thing that's foremost in my mind is putting it down. I'm going to miss it," he said.

If Lee were to change anything, he said he would strike at crime at its most elemental level. He would have attacked the career criminal before the career could have had a chance to take root.

"I'd probably try to get involved in more kids' lives and turn them around. It's a sad state of affairs when a young person wastes his whole life by committing crimes," he said.

Whether he intended to or not, Lee created a legend over the years. It likely began in 1974, almost two years after he first took office.

In December of that year, he and Georgia Bureau of Investigation agent Ron Angel were taking a murder suspect, Paul John Knowles, to a sight where Knowles said he disposed of a gun he used in at least one murder. But before the men could even get out of Douglas County, Knowles, who was in leg irons and handcuffs that were locked to a chain around his waist, lunged over the seat and got his right hand on Lee's gun. In the struggle, Lee's gun was fired at least once, but it was Angel's gun that killed Knowles.

"It became widely rumored that Sheriff Lee and Ron Angel executed Paul John Knowles," said Douglas County District Attorney David McDade. "I think it's fair to say those rumors definitely contributed to the reputation Sheriff Lee was an extremely tough lawman."

A bent paper clip found in the back seat of Lee's car was likely the pivotal piece of evidence in the case. Authorities ruled that Knowles used the clip to pick the locks on the handcuffs and waist chain, enabling him to get a hand free to go after Lee's gun.

"Ron Angel is credited with saving Earl Lee's life by shooting and killing Paul John Knowles," McDade said.

McDade said the rumors were unfounded and both a coroner's jury and the GBI Crime Lab cleared Lee and Angel. But the Atlanta media focused on Lee and the legend was birthed.

That legend only grew when Lee began to handle high-profile cases outside the county. He was trusted and respected so much among his peers that his presence in these cases became almost routine.

"He has an unduplicated, uncanny investigative ability," said McDade. "He literally has a gift. He can assess any situation quicker than anybody I've ever seen."

Lee also solved a few infamous crimes in his own county. He was a relentless investigator and admits that "I've gone three days and nights without taking off my shoes."

That was when he was looking for Christie Ann Griffith, a young girl who disappeared in 1984, only to be found dead a few days later.

"I kept thinking I'd find her alive," Lee said.

"If Earl said it was three days, it was longer than that," McDade said.

Her killer was eventually found and now sits on death row.

The most difficult crime Lee solved is still fresh on many minds. Judy Smail, a mother of four, was killed in August 1990 when a 46-pound rock crashed through the windshield of the family car on Interstate 20.

With no evidence and no motive, Lee interviewed 96 people in less than a month and "kept the pressure on."

"All you can look for is somebody talking and that's what happened," said Lee.

Smail's killers were eventually arrested and convicted for "just an act of foolishness that cost a person her life."

"Whatever it takes," said Lee. "I always preached to never quit."

While developing the legend, Lee also developed a rare loyalty among his deputies and his supporters became legion. But more than once it has been called demagoguery.

"He's more than just a boss," said Miller, offering a possible explanation. "He's a good friend."

Lee said he has merely "treated the people right who work here." That treatment, he said, produced a loyal and hard-working department.

"People here know I wouldn't ask them to do something I wouldn't do. I never have and I never will," he said.

"If people realize the sacrifice he made for law enforcement, the time he spent away from his family, in time he'll get the respect he deserves," Miller said.

But with the unabashed loyalty came the enemies. His supporters, however, say that the foes were simply a by-product of Lee's fierceness, his hunger to make sure the law was the law.

"Earl never backed down from any fight," McDade said. "You're going to have to make enemies" if you do what is right by the law.

Through it all, Lee survived. he was reelected four times and persisted through numerous battles with his adversaries and the Atlanta media.

"I've really enjoyed it. It's been a challenge every day. I've never dreaded coming to work one day in the last 28 years," Lee said.

As prizes go, Lee has surely been granted his share. But the memory he wants to take with him is rich with satisfaction.

"The best reward is when an adult nudges you on the elbow and says 'Remember me?' You really don't, but then they cite an experience you had with them about changing their lives and turning them around," he said. "That's the best reward."

With less than a week before he leaves office, Lee said he is not sure what direction his life will take. He said he can go on to some other things, but he is in no hurry.

"I'm going to wait, relax and make a decision," he said.

So ends the crimefighting career of Earl D. Lee. Every man is mortal and will one day meet his end. But legends can last forever.

A NATION'S DISASTROUS SMOKING ADDICTION

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. JACOBS. Mr. Speaker, George Will slams one home again, this time about the national pastime of smoke induced suicide.

A NATION'S DISASTROUS SMOKING ADDICTION

(By George F. Will)

WASHINGTON—At Barnes Hospital in St. Louis in 1919 a doctor summoned some medical students to an autopsy, saying the patient's disease was so rare that most of the students would never see it again. It was lung cancer.

That story, from Dr. John A. Meyer's article "Cigarette Century" in the December American Heritage, illuminates like a lightning flash this fact: much of America's hideously costly health care crisis is caused by unwise behavior associated with eating, drinking, driving, sex, alcohol, drugs, violence and, especially, smoking. Therefore, focusing on wellness—on preventing rather than curing illness—will reduce the waste inherent in disease-oriented, hospital-centered, high-tech medicine. The history of the connection between cigarettes and lung cancer illustrates the fallacy of associating health with the delivery of medicine.

One of those 1919 medical students later wrote that he did not see another case of lung cancer until 1936. Then in six months he saw nine cases. By the 1930s advances in immunology and public health measures were reducing the incidence of infectious diseases. But the nation was about to experience an epidemic of behaviorally driven disease.

The lung-cancer epidemic can be said to have sprung from the 1881 invention of a cigarette-making machine. Prior to that, commercial manufacturing of cigarettes was, Meyer says, a cottage industry. But by 1888 North Carolina's James Buchanan Duke (whose fortune endowed the university) was selling nearly a billion cigarettes annually. Next, war, the shaper of our century, worked its transforming force. Duke's company and the National Cigarette Service Committee distributed cigarettes free to soldiers in France during World War I.

Between 1910 and 1919 U.S. cigarette production increased 633 percent from 10 billion to almost 70 billion annually. Meyer notes that O. Henry's meticulously observed short stories, written at the turn of the century, almost never mention cigarettes, but the expatriates in Hemingway's The Sun Also Rises smoke constantly. By the 1930s physicians were struggling with the consequences of the new, "emancipated" behavior.

In 1930 the lung cancer death rate among men was less than five per 100,000 per year. By the 1950s, after another war in which cigarettes were sold for a nickel a pack and were distributed free in forward areas and were included with K rations, the death rate among men was more than 20 per 100,000. Today it is more than 70 per 100,000, women's lung cancer rates are soaring and lung cancer is far and away America's leading cause of cancer death.

We have come a long way from the early days of television, when the sponsor of anchorman John Cameron Swayze's The Camel News Caravan required him to have a lit cigarette constantly visible. The aggressiveness of today's anti-smoking campaigns is attested, paradoxically, by a "smokers' rights" movement trying to protect from employment discrimination those persons who only smoke away from the job.

The American Cancer Society is testing the tolerance of the magazine industry, which last year got $264.4 million—4 percent of its revenue—from tobacco advertising. Some magazines may flinch from running ACS advertisements that say "Smoking promotes zoo breath" or "More Americans die each year from illness related to smoking than from heroin, crack, homicide, car accidents, fires and AIDS combined."

The social disaster of the smoking addiction illustrates why behavior modification, especially education, is the key to cost-containment regarding health. And journalism can help, as the Washington Post's Jay Matthews deftly demonstrated in his reporting on the Liggett company's campaign to revive the Chesterfield brand of cigarettes, a brand which has not been advertised for decades.

Launched 80 years ago, Chesterfield flourished when smoking was most glamorous, from the 1930s into the 1950s, when the "Chesterfield Girl" was a television fixture. Today 50 million addicted Americans still pay $26 billion for almost half a trillion cigarettes each year, so if Chesterfield wins one-half of 1 percent of the market (2.4 billion cigarettes), it will be a success.

To achieve that, Liggett is merchandizing Chesterfields with a $50 million advertising campaign featuring soft, 1930s-style photography. Matthews reported that—and this, too:

"Janet Sackman, who was the Chesterfield Girl on The Perry Como Show in the late 1940s, said she was not impressed. She speaks with difficulty because of surgery for both throat and lung cancer, which she blames on 33 years of smoking urged by a Chesterfield executive who thought she would look more authentic, 'People who smoke ought to take a look at me,' she said."

And at the trajectory of the epidemic from 1919 until now.

TRIBUTE TO JUSTICE THURGOOD MARSHALL

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Ms. SLAUGHTER. Mr. Speaker, to commemorate Black History Month in the past, I paid tribute to Frederick Douglas, a man who lived in Rochester, NY, and published his abolitionist newspaper, the North Star to help lead the fight against slavery. This year, I would like to pay tribute to one of the greatest leaders in the history of the civil rights movement, Justice Thurgood Marshall.

It was with great sadness that America recently bid farewell to justice Marshall, a towering man who utilized his formidable skills as a lawyer and a judge to obtain liberation and justice from the same legal system which had been used for centuries to deny rights to African-Americans. On the day he lay in state at the U.S. Supreme Court, over 20,000 people filed past his flag-draped coffin to pay their respects to a man whose legacy made this a better Nation for all Americans.

Thurgood Marshall was born in Baltimore, MD, in 1908. At that time, Baltimore was a segregated city which meant that the public schools Marshall could attend, the restaurants he could frequent, and even the rest rooms he could use were determined by the color of his skin. Despite these restrictions which made African-Americans second-class citizens in their own country, Marshall remained undaunted and committed himself to receiving the best education that he could. With assistance from his parents and the wages he earned working several jobs, Marshall attended Lincoln University.

When he graduated from college, he wanted to become a lawer, but was denied entrance to the University of Maryland Law School because he was black. Marshall, however, would ultimately have the last laugh. After graduating magna cum laude and first in his class from Howard University Law School in 1933, he took and won a case which overturned the racist admissions policy of the University of Maryland Law School. In 1935, the first black student was admitted to the formerly all-white institution. Marshall later said of this case, "I enjoyed it to no end."

During his early years as a lawyer, Marshall was a tireless and successful advocate of civil rights first with the Baltimore chapter of the NAACP, and then as the primary strategist and chief counsel of the NAACP Legal Defense Fund. His record as a litigator before the Supreme Court was truly impressive; he won 29 of the 32 cases he tried.

The case which brought him the greatest national attention was the 1954 Supreme Court case Brown versus Board of Education. The 1896 decision rendered in Plessy versus Ferguson claimed that the shameful policy of segregation was legal so long as institutions remained "separate but equal." Marshall powerfully and passionately argued before the court that "separate educational facilities are inherently unequal" and the justices unanimously agreed. The historic importance of the Brown case cannot be overstated. It marked the beginning of the end of apartheid in the United States, and according to Marshall, "* * * probably did more than anything else to awaken the Negro from this apathy to demanding his right to equality."

Marshall did not stop with this decision, and he continued to battle discriminatory housing and electoral statues. Given his tenacity and success, he was known at home and abroad as Mr. Civil Rights. In the late 1950's, many African-Americans considered Thurgood Marshall and Dr. Martin Luther King to be the two most important civil rights leaders in the country.

In 1961, President Kennedy appointed Marshall to the Second Circuit Court of Appeals, and in 1965 President Johnson appointed him as Solicitor General, the attorney who represents the U.S. Government before the Supreme Court. Than, in 1967, history was made when Marshall became the first African-American to be appointed to the U.S. Supreme Court. Thurgood Marshall—whose grandfather was a Union solder and whose great-grandfather was a slave-replaced Justice Tom Clark, the grandson of a Confederate soldier.

Justice Marshall was appointed at the end of the Warren Court, and was always an outspoken advocate of the underprivileged. he once wrote: "When elected officials cower before public pressure, this court, more than ever must not shirk from its duty to enforce the Constitution for the benefit of the poor and powerless." He was vehemently opposed to the death penalty and strongly supported the rights of the individual, the right to privacy, and maintaining a strong wall between the church and state.

Marshall was also a strong supporter of affirmative action. In one of his most passionate dissents as a Justice, he eloquently wrote:

> It must be remembered that during most of the past 200 years the Constitution as interpreted by this court did not prohibit the most ingenious and pervasive forms of discrimination against the Negro. Now, when a state acts to remedy the effects of that legacy of discrimination, I cannot believe that this same Constitution stands as a barrier. At every point from birth to death the impact of the past is reflected in the still disfavored position of the Negro. In light of the sorry history of discrimination and its devastating impact on the lives of Negroes, bringing the Negro into the mainstream of American life should be a state interest of the highest order.

It is important to remember that Justice Marshall brought more than just his great legal mind to the Supreme Court. He used examples from his own life and experiences as a civil rights lawyer to educate and sensitize his fellow judges about what it was like to live in this country as an African-American as recently as the 1950's. He told of how he would have to go to the back doors of restaurants to buy his food because he was not allowed to eat in the main dining area. He told of the racial epithets that were hurled at him. He told of a man who came up to him carrying a gun and told him he better be on the 4 o'clock train because "* * * the sun is never going down on a live nigger in this town."

Marshall once said of his travels,

> When I was a youngster, a Pullman porter told me that he had been in every city in the country * * * and he had never been in any city in the United States where he had to put his hand in front of his face to find out he was a Negro. I agree with him.

Marshall also employed his sardonic humor to heighten awareness about the history of African-Americans in this Nation. When he declined an invitation to attend a reenactment of the Founding Fathers drafting of the Constitution, he said, "If you are going to do what you did 200 years ago, somebody is going to give me short pants and a tray so I can serve coffee." On another occasion, he remarked,

> The biggest thing we brag about in this country on the ethical side is that it's the great melting pot. As I sit and look at it now at this late date, I have come to the definite conclusion that if the United States is indeed the great melting pot, the Negro either didn't get in the pot, or he didn't get melted down."

There was a purpose to these stories and wry observations. While America for many was a promised land which offered unlimited opportunity, this was not true for African-Americans. On the occasion of the American Bicentennial, Marshall remarked:

> Thus, in a Bicentennial year, we may not all participate in the festivities with flag-waving fervor. Some may more quietly commemorate the suffering, the struggle and sacrifice that has triumphed over much of what was wrong with the original document, and observe the anniversary with hopes not realized and promises not fulfilled.

Of all the great qualities this great man had, the one I admire most is his tireless and relentless pursuit of justice. Despite his failing health, he continued to sit on the bench until he was in his eighties. One of my favorite stories regarding Marshall's unyielding persistence occurred in the 1970's when he was hospitalized with pneumonia. Then-President Richard Nixon contacted the hospital to request Justice Marshall's medical records to determine whether he should look for a replacement. Fearing that he would be replaced by a Justice who would not actively champion the causes he had fought a lifetime for, Marshall scrawled on the folder before it was sent to the President, "Not Yet."

We should all take inspiration from the life of Thurgood Marshall, and strive to emulate his energy and impatience with social injustice. We must also realize that while he accomplished so much, the struggle is far from over. As was often the case, Marshall said it best at the dedication of a statue of him in Baltimore in 1980:

> Some Negroes feel we have arrived. Others feel there is nothing more to do. I just want to be sure when you see this statue, you won't think that's the end of it. I won't have it that way. There's too much work to be done.

A SPECIAL SALUTE TO MAYOR MICHAEL R. WHITE, 1993 BLACK PROFESSIONAL OF THE YEAR

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. STOKES. Mr. Speaker, on February 13, 1993, members of the Black Professionals Association Charitable Foundation [BPACF] will gather at the Stouffer Tower City Hotel in Cleveland, OH, for the organization's 13th annual scholarship and awards gala. Business and community leaders will join elected officials, civic leaders and other distinguished guests for a grand celebration.

One of the highlights of the BPACF gala will be the awarding of the 1993 Black Professional of the Year Award. This award honors Cleveland African Americans who have demonstrated leadership in the community, in their professions and beyond. I am proud to salute the recipient of the 1993 Black Professional of the Year Award, Cleveland Mayor Michael R. White.

In honoring Mayor White, the Black Professionals Association Charitable Foundation has chosen the theme "A Champion for Cleveland, A Champion for All" for the 13th annual dinner. As a past recipient of the Black Professional of the Year Award and as an honorary co-chairman for this year's gala, I join members of the Black Professionals Association and the community in saluting Mayor Michael R. White. I rise today to share with my colleagues and the Nation some of the highlights of his distinguished career.

Mr. Speaker, Mayor Michael White was born in Cleveland and educated in the Cleveland public schools, graduating from Glenville High School. He went on to earn a bachelor's degree in education and a master's degree in public administration from Ohio State University.

Michael White has enjoyed a distinguished career in public service. In 1977, he was elected to the Cleveland City Council where he served as a member of the Finance Committee and as chairman of the Community Development Committee. In 1984, he was appointed to the Ohio Senate from Ohio's 21st Congressional District. In the Senate, Mike served as a member of the Judiciary, Ways and Means and Rules Committees. During his Senate tenure, he was twice elected assistant minority whip. These assignments were impressive and earned Mike White the respect and admiration of his colleagues.

Ever since he was 14 years of age, Michael White's desire was to become mayor of Cleveland. He often tells of how his first venture into politics was as a youngster delivering campaign materials in the campaign of Carl B. Stokes, who made history in 1967 when his election as mayor of Cleveland made him the first black mayor of a major American city. Some years ago prior to his entry into Cleveland politics, Michael White, then a recent graduate of Ohio State University, served as campaign manager in one of my congressional elections. From his initial entry into Cleveland politics, he has etched out his own meteoric career.

On January 1, 1990, Michael R. White took the oath of office as the 54th mayor of Cleveland. Throughout his tenure as mayor, Michael White has been committed to revitalizing the city and preserving its neighborhoods. He is also deeply committed to improving the lives of Cleveland residents. Mike White has been a leader in the fight against drugs, helping to reorganize the police force and close drug houses in Cleveland neighborhoods. He has been a staunch advocate of education who has brought together civic leaders, members of the business community and educators for continuing dialog on the future of the city's education system. Equally important, Mayor White has been a positive and effective role model for our youth. He encourages our children to dream, to work hard to achieve their goals and to be willing to serve their communities.

Despite a hectic mayoral schedule, Mike White devotes time to several key organizations. He serves as chairman of the Human Development Committee of the National League of Cities. He is also chairman of the Health Committee of the U.S. Conference of Mayors, where he serves as a national spokesman for health-related issues.

Mayor White has been honored for his commitment and efforts over the years. He is the recipient of the "In Tribute to Public Service Awards"; he has been named "Man of the Year" by the Baptist Ministers Conference; and just recently he was honored by the Black Women's Political Action Committee.

Mr. Speaker, I am honored to salute Mayor Michael R. White upon being named Black Professional of the Year. I also take this opportunity to extend my best wishes to his lovely wife, Tamera Kay, and his daughter, Brieanna Marie. I am proud of Mayor White's achievements and I wish him continued success.

TREATMENT OF PRE-CONTRIBUTION GAIN ON PROPERTY CONTRIBUTED TO A PARTNERSHIP

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. TORRICELLI. Mr. Speaker, I am very concerned about a retroactive tax provision that was included in the energy bill during the 102d Congress. Since this provision has become law, many corporations that are currently involved in partnerships have been placed at severe financial risk.

When a partnership is formed, the majority partner may often elect to partially liquidate the minority partner's interest by distributing property to the minority partner—this procedure is commonly known as divorce provision. Prior to the passage of this energy bill tax provision, a minority partner could receive this property without suffering any adverse tax consequences.

As passed, this tax provision requires partners who contribute property to a partnership to pay tax on pre-contribution gain to the extent that other—non-cash—property is distributed to that partner within 5 years of the contribution. Unfortunately, this provision has a retroactive effect because it applies to property contributed to a partnership before the effective date of the legislation if the distribution is made after June 24, 1992. As a result, a minority partner—who may have contributed property to the partnership several years ago—can be forced to either incur an unforeseen tax liability without receiving cash with which to pay the tax or offer the majority partner substantial financial concessions to forego the majority partner's right to liquidate the minority partner's interest. This law will leave many minority partners vulnerable to any business demands that a majority partner chooses to impose in return for foregoing its right to liquidate the minority partner's interest in the partnership.

I understand that the original purpose of this tax provision was to act as a revenue raising mechanism. Unfortunately, the retroactive element involved has now placed many minority partners in partnerships at great financial risk. I do not wish to diminish the revenue raising capability of the tax provision; however, something must be done to protect minority partners prejudiced by this legislation. My solution to this problem is simple and straightforward. Under my legislation, H.R. 545, I propose to make three changes to the tax provision that will eliminate the retroactive element but will offset the revenue loss incurred. First, the provision would apply prospectively to tax pre-contribution gains only with respect to property contributed to a partnership on or after June 25, 1992; hence, property contributed to a partnership prior to June 25, 1992 would not be subject to this energy bill tax provision. Second, pre-contribution gains would be subject to tax without netting of pre-contribution losses. Third, an interest charge would be imposed on the deferred tax liability based on the underpayment rate under section 6621 (a)(2) from the year property is contributed to the partnership to the year a distribution occurs. If implemented, these changes will protect the minority partners of partnerships and offset any revenue loss incurred by curing the retroactive effect of the tax provision.

I urge my colleagues to join me in this effort to provide smaller partners involved in partnership the protection that they deserve and to cosponsor H.R. 545.

THE TIME FOR A CARBON TAX IS NOW

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. STARK. Mr. Speaker, today I am reintroducing a bill that I introduced 2 years ago at the beginning of the last Congress, a tax on the carbon emissions of fossil fuels. The climate for a carbon tax has certainly changed dramatically in the last 2 years. The front pages of our Nation's newspapers are seriously discussing broad-based energy taxes, something 2 years ago was virtually unthinkable.

The budget deficit must be addressed. But so must serious environmental problems, especially global warming. An energy tax, based on the carbon content of fuels deals directly and effectively with both of these pressing national problems.

A carbon-based energy tax does more than just raise money. It puts the United States on the road to being an environmentally responsible world citizen on the issue of global warming. This is the type of signal the Europeans and the Japanese have been waiting for to implement their strategies for reducing carbon emissions.

The economy will benefit from this type of approach. It is axiomatic that reducing today's excessive budget deficit is good for the economy. Industry will be given appropriate signals to invest and retool in the energy efficiency technology that exists today. A portion of the revenues can be recycled to lower and middle income individuals to mitigate regressive aspects of the tax.

The carbon tax I am proposing is estimated to bring in roughly $7 billion in the first year. Each year of the 5-year phase in would increase the revenue by $7 billion. The 5th year of the tax would see revenue of approximately $35 billion with a 5-year total of $105 billion.

Mr. Speaker, I believe in President Clinton's call for change. We must change the way we have dealt with the budget deficit and the environment. The carbon tax can be that instrument of change.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. IMPOSITION OF CARBON TAX ON PRIMARY FOSSIL FUELS.

(a) General Rule.—Chapter 38 of the Internal Revenue Code of 1986 (relating to environmental taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter E—Carbon Tax on Primary Fossil Fuels

"Sec. 4691. Tax on coal.
"Sec. 4692. Tax on petroleum.
"Sec. 4693. Tax on natural gas.
"Sec. 4694. Inflation adjustments.

"SEC. 4691. TAX ON COAL.

"(a) General Rule.—There is hereby imposed a tax at the rate specified in subsection (b) on coal sold by the producer or importer thereof.

"(b) Rate of Tax.—

"(1) In general.—Except as provided in paragraph (2), the rate of the tax imposed by subsection (a) shall be $18 per ton.

"(2) Phase-in.—

Effective during calendar year:	The rate of the tax imposed by subsection (a) shall be the following amount per ton:
1992	$3.60
1993	$7.20
1994	$10.80
1995	$14.40

"(c) Definitions and Special Rules.—For purposes of this section—

"(1) Coal to include lignite.—The term 'coal' includes lignite.

"(2) Ton.—The term 'ton' means 2,000 pounds.

"(3) Use treated a sale.—If the producer or importer of any coal uses such coal, such producer or importer shall be liable for tax under this section in the same manner as if such coal were sold by such producer or importer.

"SEC. 4692. TAX ON PETROLEUM.

"(a) General Rule.—There is hereby imposed a tax at the rate specified in subsection (c) on any petroleum with respect to which there is a taxable event.

"(b) Taxable Event.—For purposes of this section, the term 'taxable event' means any event which would result in tax being imposed under section 4611 if—

"(1) such section were applied without regard to subsections (b)(2), (e), and (f) thereof, and

"(2) section 4612(b) were applied by substituting 'section 4692' for 'section 4611'.

"(c) Amount of Tax.—

"(1) In general.—Except as provided in paragraph (2), the rate of the tax imposed by subsection (a) shall be $3.90 per barrel.

"(2) Phase-in.—

Effective during calendar year:	The rate of the tax imposed by subsection (a) shall be the following amount per barrel:
1992	$.78
1993	$1.56
1994	$2.34
1995	$3.12

"(d) Person Liable for Tax.—The person required to pay the tax imposed by this section on any petroleum shall be determined under the principles of section 4611(d).

"(e) Definitions and Special Rules.—For purposes of this section—

"(1) PETROLEUM.—The term 'petroleum' means any petroleum product including crude oil.

"(2) BARREL.—The term 'barrel' means 42 United States gallons.

"(3) FRACTION OF BARREL.—In the case of a fraction of a barrel, the tax imposed by this section shall be the same fraction of the amount of such tax imposed on a whole barrel.

"(4) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c) and (e) of section 4612 shall apply to the tax imposed by this section.

"SEC. 4693. TAX ON NATURAL GAS.

"(a) GENERAL RULE.—There is hereby imposed a tax at the rate specified in subsection (c) on—

"(1) natural gas received at a United States pipeline facility, and

"(2) natural gas entered into the United States for consumption, use, or warehousing.

"(b) TAX ON CERTAIN USES, ETC.—

"(1) IN GENERAL.—If—

"(A) any domestic natural gas is used in or exported from the United States, and

"(B) before such use or exportation, no tax was imposed on such natural gas under subsection (a),

then a tax at the rate specified in subsection (c) is hereby imposed on such natural gas.

"(2) EXCEPTION FOR CERTAIN USES ON PREMISES WHERE PRODUCED.—Paragraph (1) shall not apply to any use of natural gas for extracting oil or natural gas on the premises where such natural gas was produced. The preceding sentence shall not apply to any use involving the combustion of the natural gas.

"(c) RATE OF TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the rate of the taxes imposed by this section shall be 48 cents per MCF.

"(2) PHASE-IN.—

Effective during calendar year	The rate of the taxes imposed by subsection shall be the following amount per MCF
1992	$.096
1993	$.192
1994	$.288
1995	$.384

"(d) PERSONS LIABLE FOR TAX.—

"(1) RECEIPT AT PIPELINE.—The tax imposed by subsection (a)(1) shall be paid by the operator of the United States pipeline facility.

"(2) IMPORTATION.—The tax imposed by subsection (a)(2) shall be paid by the person entering the natural gas for consumption, use, or warehousing.

"(3) TAX ON USE OR EXPORTS.—The tax imposed by subsection (b) shall be paid by the person using or exporting the natural gas, as the case may be.

"(e) DEFINITIONS.—For purposes of this section—

"(1) NATURAL GAS.—The term 'natural gas' includes any natural gas liquid which is not treated as petroleum for purposes of the tax imposed by section 4692.

"(2) DOMESTIC NATURAL GAS.—The term 'domestic natural gas' means any natural gas produced from a well located in the United States.

"(3) UNITED STATES PIPELINE FACILITY.—The term 'United States pipeline facility' means any pipeline in the United States for purposes of transporting natural gas (other than a pipeline which is part of a gathering system).

"(4) MCF.—The term 'MCF' means 1,000 cubic feet.

"(5) OTHER DEFINITIONS.—The terms 'United States' and 'premises' have the respective meanings given such terms by section 4612(a).

"(6) FRACTIONAL PART OF MCF.—In the case of a fraction of an MCF, the tax imposed by this section shall be the same fraction of the amount of such tax imposed on a whole MCF.

"(7) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subsections (b), (c), and (e) of section 4612 shall apply to the tax imposed by this section.

"SEC. 4694. INFLATION ADJUSTMENTS.

"(a) GENERAL RULE.—Each rate of tax which would otherwise be in effect under this subchapter during any calendar year after 1992 shall be increased by the percentage (if any) by which—

"(1) the CPI for the preceding calendar year (as defined in section 1(f)(4)), exceeds

"(2) the CPI for calendar year 1991 (as so defined).

"(b) ROUNDING.—Any increase under subsection (a) shall be rounded—

"(1) to the nearest multiple of 10 cents in the case of a rate in effect under section 4691,

"(2) to the nearest multiple of 1 cent in the case of a rate in effect under section 4692, and

"(3) to the nearest multiple of 1/10 cent in the case of a rate in effect under section 4693."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 of such Code is amended by adding at the end thereof the following new item:

"SUBCHAPTER E. Carbon tax on primary fossil fuels."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1992.

BILL CLINTON'S INAUGURAL IGNORED AMERICA'S VETERANS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. SOLOMON. Mr. Speaker, America's veterans should take careful note of President Clinton's inaugural speech for fear that it is a sign of the times to come.

One does not have to read between the lines to understand the importance Bill Clinton places on the contributions of our veterans * * * and I quote, "We must bring to our task today the vision and will of those who came before us. From our revolution to the Civil War, to the Great Depression, to the civil rights movement, our people have always mustered the determination to construct from these crises the pillars of our history."

What about World War II? What was that * * * a walk in the park?

Of course, we all know that Bill Clinton wrote the speech himself and no doubt conveniently left out any reference to World War I, World War II, the Korean war, and the Vietnam war out of fear it would remind us all of his role in history. It's understandable but not defensible.

Our Commander in Chief may choose to gloss over the role of the United States in World War II, for his own personal reasons, but the rest of us will never forget the contributions of America's veterans.

TRIBUTE TO MS. ARGIE JOHNSON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. TOWNS. Mr. Speaker, I rise today to applaud an outstanding educator by the name of Argie Johnson.

We so often feel that our public schools are not doing an adequate job of educating America's children. I am pleased to say that in my congressional district we have an educational administrator who recently assumed the post of deputy chancellor for the entire New York City school system who is committed to educating the children of New York and is not afraid to talk about what has to be done.

Argie Johnson comes to this position after a distinguished career as the superintendent of Community School District 13 in Brooklyn. As superintendent of District 13, it was not unusual to find her meeting with parents in their home or visiting parents to discuss educational plans for their children. Argie Johnson has devoted her life to educating our young people. Her philosophy is that all children are capable of learning and that it is the responsibility of the school system to ensure that they do learn. I am certain with this kind of commitment and philosophy the New York City schools will move forward with Argie Johnson as the deputy chancellor for instruction. Ms. Johnson, we salute you.

FAMILY AND MEDICAL LEAVE

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Ms. KAPTUR. Mr. Speaker, even though the Family and Medical Leave Act will pass the House today, I am introducing legislation today to express the sense of the Congress that family and medical leave should be included as an elective option in any national health insurance reform legislation enacted. Given a chance to purchase family and medical leave as an elective option in their health care plan will help both the employee and the employer. Everyone can win. The employee can purchase leave and the employer has costs offset by providing the leave.

My bill is also preventive medicine at its best: It allows employees to meet two important family obligations—rearing children and caring for their sick family members.

So join with me today in support of including family and medical leave as an elective option in national health insurance reform. Give half of the American population who will remain without family and medical leave after passage of this legislation the option to choose it as a benefit—and not have to choose between work and family.

REFORM OF THE FEDERAL BLACK LUNG PROGRAM

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. RAHALL. Mr. Speaker, today I am reintroducing legislation to reform the Federal Black Lung Program.

This legislation reflects the frustration of thousands of miners and their families with the extremely adversarial nature of the current program as administered by the Labor Department.

As it now stands, disabled miners who suffer from the crippling effects of black lung disease are faced with a Federal bureaucracy so totally lacking in compassion to their plight, that it appears intent upon harassing their efforts to obtain just compensation at every single step of the claim adjudication process.

Today, according to a recent General Accounting Office report, we are witnessing less than a 10-percent approval rate on claims for black lung benefits.

This figure does not attest to any reasonable and unbiased comportment of the facts.

Rather, it represents nothing less than a cruel hoax being perpetrated against hardworking citizens who have dedicated their lives to the energy security and economic well-being of this Nation.

The original intent of Congress in enacting legislation to compensate victims of black lung disease was for this to be a fairly straightforward program. This intent has been defeated by years of administrative maneuverings aggravated by some extremely harmful judicial interpretations. Under this bill, we will return to a program that reflects the statutory commitment Congress, and indeed, the Nation, made to compensate these coal miners and their families.

Make no mistake about it. Victims of black lung disease are not people who are looking for a handout.

They are people who worked their lives in one of the most dangerous occupations in this country.

They are people who were promised compensation by their Government. And they are people who now see their Government break that promise.

It is time, indeed, long past the time that Congress move legislation on behalf of the thousands of miners, their widows, and families who are being victimized by this program, the very program that was intended to bring them relief.

In general, this measure contains the following proposals:

First, new eligibility standards: A miner would be presumed to be totally disabled by black lung if the miner presents a single piece of qualifying medical evidence such as a positive x ray, ventilatory or blood gas studies, or a medical opinion. The Secretary of Labor could rebut the presumption of eligibility only if he can show that the miner is doing coal mine work or could actually do coal mine work.

Second, application of new eligibility standards: The new standards would apply to all claims filed after enactment of the Black Lung Benefits Act of 1991. All pending claims, and claims denied prior to enactment of the Black Lung Benefits Act of 1991 would be reviewed under the new standards.

Third, elimination of responsible operators: All claims would be paid out of the coal industry-financed black lung disability trust fund. The purpose of this provision is to eliminate coal operators as defendants in black lung cases and the advantages they have over claimants by being able to afford to pay legal counsel.

Fourth, widows/dependents: A widow or dependent of a miner would be awarded benefits if the miner worked 25 years or more in the mines; the miner died in whole or in part from black lung; the miner was receiving black lung benefits when he died; or medical evidence offered by the miner before he died satisfies new eligibility standards. Widows who are receiving benefits and who remarry would not be disqualified from continuing to receive the benefits, and, a widow would be entitled to receive benefits without regard to the length of time she was married to the miner.

Fifth, offsets: The practice of offsetting a miner's Social Security benefits by the amount of black lung benefits would be discontinued.

A TRIBUTE TO NORTHPORT'S RESCUE AND RELIEF WORKERS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to the valiant efforts of the many organizations and individuals that helped the people of Northport during a crucial time of need.

On December 11, 1992, the Northport area of Suffolk County, NY, including the coastal communities of Asharoken and Eatons Neck, was struck by the high winds and heavy rains of one of the worst nor'easters to hit Long Island in 50 years. Many communities were devastated by extensive flooding, power outages, substantial property damage, and impassable roads.

But local relief workers did not flinch. They selflessly provided assistance to those who required it, and made the most of an impossible situation. On February 7, the Northport American Legion will recognize these remarkable people, whom I am now pleased to acknowledge and applaud.

Those being honored include: Chief Edward O'Donnell, Eatons Neck Fire Department; Mr. Larry Cavanagh, former chief of Eatons Neck Fire Department; Mr. Frank Cass, chairman, fire commissioners, Eatons Neck; Chief W.O. Myron Verville, U.S. Coast Guard; Chief Ronald Gatto, Dix Hills Fire Department; Chief John Blanda, Halesite Fire Department; Mr. Raymond Mahdesian, administrator of the Asharoken Police Department; Capt. Geoffery J. Slack, NYARNG Co.; Mr. John Tarduno, division manager, LILCO Gas Customer Service; Mr. Ron Truman, division manager, LILCO Electric Customer Service; Mr. Dennis O'Conner, IMC, New York Telephone Co.; Mr. Joseph Azzmara, general manager of Cablevision; Inspector R. Dmuchowski, Suffolk County Police Department; Mr. William Naughton, superintendent of highways, town of Huntington; Mr. Thomas Mazzola, director of HART System; Mr. William J. Brosnan, superintendent of Northport USFD; Theresa Oropallo, principal of Northport High School; Mrs. Janet Hanania, administrator of the American Red Cross; Chief Chris Hughes, Northport Fire Department; Chief Robert Howard, Northport Police Department; Mr. John McGinn, superintendent of public works, village of Northport; and Mr. Harold Knudsen, foreman of highway department, village of Northport.

JERSEY COAST BOAT SHOW: LANDMARK EVENT CELEBRATES 40TH ANNIVERSARY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. PALLONE. Mr. Speaker, one of the most exciting events on the calendar for those of us lucky enough to come from the New Jersey shore will take place during two upcoming weekends later this month. I am speaking of the Jersey Coast Boat Show, the third-oldest show of its kind in the Nation. This year, the boat show celebrates its 40th anniversary with a wide range of displays, exhibits, and other special programs which will begin during the 3-day weekend of February 13–15, 1993, and then resume from February 19 through 21.

Forty years ago, the late Jerry Gasque, himself an avid boatman who at one time captained a tugboat bringing huge ships from around the world into New York Harbor, determined that there must be thousands of people who shared his fascination for the sea. He decided to put together an exhibit which would help people to realize what he called the third leg of the American dream: First the house, then the car, and the boat. The first show, held in Asbury Park's Convention Hall, was a huge success, and the boat show has prospered and grown ever since. The site of the show has recently moved to the Monmouth Park Grandstand in Oceanport, NJ. Indeed, many of the same dealers who participated in that first show are still exhibiting, while the show continues to attract new sources of support.

Today, Mr. Thomas H. Gasque, Jerry's son, carries on the tradition begun by his father. Now producing and directing New Jersey's oldest and largest boat show, Tom Gasque has planned an event that retains the charm and the traditions of the events of years passed while adding several new and exciting ideas. There will be the traditional captain and mates to greet the people as they enter, while the always popular model ship exhibit will be expanded. While the show is geared primarily to power boats, there will also be sailboats presented by long-time exhibitors. Marine engines and accessories, electrical necessities, nautical jewelry, clothing, and furniture are among the special items to be displayed.

As Tom Gasque says, the goal is to give the visitor the most complete boat show imaginable, recognizing that for thousands of people boating is a way of life. Mr. Gasque correctly points out that boating is a major part of the vacation and leisure patterns of thousands of families from all income brackets. In areas like the Jersey shore and other coastal areas, boating is central to the quality of life, and often the livelihoods, of countless residents. A boat is one of the most important investments for many families, and they spend significant time and personal resources on maintaining and upgrading their vessels, same as they would for their houses and cars. Boating is a wholesome activity that can be enjoyed by whole families and people of all ages. I salute Tom Gasque, and all of his hard-working assistants. I am sure that their dedicated efforts will result in yet another pleasant and memorable program for the thousands of current and prospective boaters who will attend the show.

As an elected official from a coastal region, I know the importance of being a representative and advocate for the large boating public. We must constantly work to enact policies that respect and protect the needs and interests of boatowners. I am not only talking about statutes and regulations specifically concerning boaters, but the full range of fiscal and tax policies as well. Boaters contribute a great deal to the Federal Treasury, through a variety of fees and excise taxes. In recent years, they have been a tempting target for the collection of even more taxes, without any increased benefits to justify these taxes. I want to reverse this trend, and I know many of my colleagues feel the same way. The boaters of New Jersey and the entire United States pay more than their share of taxes, and they are among the most conservation-minded citizens you will find. Let's work to keep America's vital boating industry afloat, for the benefit of the manufacturers, dealers, and the consumers.

LONG ISLAND FIRM RECEIVES INTERNATIONAL ACCOLADE

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to share with our colleagues and with the American people an outstanding story of American products and American pride.

On February 5, 1993, Satellite Transmission Systems, Inc., of Hauppauge, on Long Island in New York, will join the ISO 9001 registry, an elite group of worldwide industries on the cutting edge of technology.

ISO 9001, ISO 9002, and ISO 9003 are three tiers of the ISO 9000 series registry, an international forum for recognition of excellence. An honor reserved for firms of truly exceptional quality, only 621 companies in the United States are registered. ISO 9001, the most comprehensive of the three levels, requires exemplary performance in design, manufacturing, installation, and service.

ISO is an acronym for the International Organization for Standardization, an agency composed of the national standard-setting bodies of 91 countries. It seeks to promote global commercial standardization in order to facilitate international exchange of goods and services. It awards the honor of ISO 9000 series registration to firms around the world that demonstrate a preeminent commitment to quality.

To receive the honor of registration, applicant companies must pass a stringent onsite audit performed by an independent firm according to ISO 9000 series standards. After registration, additional audits are conducted to ensure that the company's quality is maintained at ISO standards.

Registration in the ISO 9000 series is a guarantee to customers that Satellite Transmission Systems, Inc., has met the high quality standards of the International Organization for Standardization. It also ensures that Satellite Transmission Systems products and services can be measured by a common set of standards worldwide. This facilitates expansion of international markets and gives Satellite Transmission Systems an edge in global satellite systems markets.

The ISO 9000 series honor recognizes Satellite Transmission Systems individually, but the registration of a domestic firm benefits our entire Nation. In today's global economic climate there is intense competition for market control. Many nations are struggling to capture and dominate various high-technology markets in order to improve their domestic economies. As Satellite Transmission Systems, Inc., expands its international stronghold, the U.S. garners laurels as well, earning a worldwide reputation for high quality, cutting edge technology. More directly, the increased competitiveness and contract preference that comes with ISO 9001 registration means increased sales, company expansion, and additional employment opportunities.

Mr. Speaker, companies like Satellite Transmission Systems propel our Nation to a new level of international competitiveness. The quality and ingenuity demonstrated by STS should serve as a model to other American firms, proving that our Nation has not and will not lose its place at the vanguard of the global high-technology market. I ask my colleagues to join me in saluting STS and its employees. It is in the continued success of such firms that we must place our hope for the future.

THE BIOTECHNOLOGY PATENT PROTECTION ACT

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. BOUCHER. Mr. Speaker, the Biotechnology Patent Protection Act of 1993, which I am introducing today, will strengthen the protection afforded to products produced through biotechnology. I am pleased to be joined by the gentleman from California, Mr. MOORHEAD and seven of our colleagues in offering this measure.

Biotechnology allows us to replicate beneficial substances that naturally occur in minuscule quantities and produce them in sufficiently large amounts to make them commercially feasible. The United States has only just begun to tap the potential of biotechnology, which generates billions of dollars in annual sales for our Nation's economy. Currently, American companies are spending up to $2 billion in biotechnology research and development each year. The industry employs tens of thousands of highly trained scientists and engineers. More than 30 States are involved in the active promotion of biotechnology efforts.

The U.S. biotechnology industry has made impressive scientific and commercial inroads. Today, our industry is a clear leader over its counterparts in Japan and Europe. One of the key ingredients to maintaining this lead is an adequate and effective system of intellectual property protection. Without strong patent protection, our industry faces serious "free riders" problems from offshore competition. Our legislation provides a clear set of rules for obtaining process patents and offers strong remedies to the holders of patented biotechnology-derived intermediates.

This bill is necessary because in many instances questions of novelty and obviousness preclude patents on the end product. As a result, more than any other industry, biotechnology is dependent on process patents. These patents on the method of making an end product, or on using an intermediate, are often the only real protection available to American biotechnology firms. Unfortunately, the lack of clarity in the rules for obtaining this form of intellectual property deprives the industry of an environment in which there is strong investment certainty.

As a result of a series of confusing, contradictory, and arguably inconsistent court cases, American inventors are faced with a legal Tower of Babel when they apply for a biotechnology-derived process patent. The Patent and Trademark Office has recommended to Congress that unless clarifying legislation is enacted, the uncertainty in this area of the law will continue and grow worse.

The measure we are introducing today sets a clear congressional policy that rewards innovation. The bill accomplishes this goal in two ways. First, it creates understandable rules for determining the issue of obviousness in the context of a process patent claim for a biotechnology related process. It differs from earlier versions of this legislation in that it is limited only to biotechnology related processes.

The legislation also addresses the much discussed problem of unfair offshore competition by providing new remedies for U.S. innovators who have created an essential intermediate used in the production of a biotechnology end product. Under the measure, persons who have created a "miniature factory"—for example, a patented host cell—will have a remedy to prevent unfair foreign competitors from circumventing the U.S. inventor by using this "factory" offshore to import the end product.

The measure makes it an act of patent infringement to import into the United States, or sell, or use within the United States, a product which is made by using a biotechnological material patented in the United States. The term biotechnological material is broadly defined to include materials whose existence and use are necessary to produce final biotechnology related products.

Our legislation has been pending, in various forms, for the past two Congresses. I sincerely hope that during this Congress we will obtain its enactment. After three hearings and volumes of analysis, there is no question that there is a need for a legislative response to the patent problems faced by the American biotechnology industry.

Our legislation has the strong support of the business community—including the pharmaceutical and biotechnology industries—and the university community. The past administration supported the bill, and President Clinton, during his campaign, indicated his support for remedies to this problem.

The Biotechnology Patent Protection Act of 1993 will promote industrial innovation and enhance fair trade.

MARINES URGED NOT TO QUIT OVER CLINTONS GAY POLICY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. SOLOMON. Mr. Speaker, for those people who believe that the President's policy of allowing gays into the military will not have serious consequences on the morale of our troops I wish to submit into the RECORD an article in yesterday's Washington Times. The article's headlines say it all * * * Commandant urges Marines not to quit.

> COMMANDANT URGES MARINES NOT TO QUIT
>
> (By Bill Gertz and Rowan Scarborough)
>
> The Marine Corps commandant notified all personnel about changes in policy regarding the ban on homosexuals and is urging leathernecks not to quit over the issue.
>
> Republican senators are set to introduce an amendment, perhaps as early as today to the family leave legislation that would codify the policy of excluding homosexuals from military service.
>
> "It is not characteristic of Marines to quit their posts, either under fire or when things are not to their liking," Gen. Carl E. Mundy said in a message to his 185,000 Marines.
>
> Gen. Mundy was reflecting concerns among military leaders that President Clinton's decision to lift the ban on homosexuals will lead to protest resignations.
>
> Mr. Clinton requested a draft executive order by July 15. Until then, Marine recruits "will not be asked" about their sexual orientation, Gen. Mundy said.
>
> Army, Air Force and Navy chiefs have not notified their personnel of any change and are awaiting guidelines from Pentagon and service lawyers, service spokesmen said.
>
> Defense Secretary Les Aspin will issue implementing orders, probably before the end of this week, Pentagon spokesman Lt. Col. Dong Hart said.

A TRIBUTE TO THE JOLIET HERALD-NEWS UPON RECEIVING THE "SALUTE TO INDUSTRY" AWARD

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. SANGMEISTER. Mr. Speaker, it is with great pride that I rise today to salute a newspaper in my district whose rich history mirrors that of the city it serves—the Joliet Herald-News. This 154-year-old publication, one of the oldest continuously published newspapers in Illinois, will be honored February 9, 1993, with the Joliet region Chamber of Commerce's Salute to Industry Award. This annual award recognizes the recipient for contributions made in the area of economic growth, community service, and human resources.

The Herald-News was founded April 20, 1839, as the Juliet Courier. A printing press had been mistakenly shipped to a community about 60 miles west of Joliet, or Juliet, as the city was called back then. When the makers of the press offered to sell it at a bargain rate in Illinois rather than have it shipped back east, 13 enterprising residents of Juliet purchased the press, and the community's first newspaper was born.

Over the years, the newspaper has changed mastheads many times: It became the Joliet Signal, then the True Democrat, then the Joliet Herald. Perhaps the most significant event in the newspaper's history occurred in 1913, when publishing entrepreneur Col. Ira C. Copley purchased the Herald. Two years later, Colonel Copley consolidated the Herald with the News, another area newspaper he owned, forming the Herald-News.

Under the guidance of the Copley family and community-minded publishers such as John Lux, Bill Blackburn, and currently George Fisk, the Herald-News has become one of the finest newspapers in Illinois. As Joliet has grown over the years, so has the Herald-News. The community expanded westward during the last half-century, and so did the newspaper, moving to its newest facility on the west side of the city in 1975. In the past year, the Herald-News began printing on a state-of-the-art offset press.

This publication combines and balances the old-fashioned journalism values of tough, but objective and fair-minded, coverage of the news with a desire to better the community that it serves. Above all else, the Herald-News still maintains the innovative, can-do attitude that marked its founding and reflects the community that it has served for 154 years.

Mr. Speaker, I congratulate all the people associated with the Herald-News on earning the Salute to Industry Award, and wish this fine newspaper continued success in the years to come.

TRIBUTE TO THOMAS CALLIHAN, SULLIVAN COUNTY CONSERVATIONIST OF THE YEAR

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. GILMAN. Mr. Speaker, today I rise in the well of the House of Representatives to invite my colleagues to pay tribute to a devoted, outstanding conservationist, sportsman, accomplished hunter, archer, fly fisherman, veteran, and friend from Sullivan County, NY.

It is no surprise that Tom Callihan is being honored by the Sullivan County Board of Supervisors as the Conservationist of the Year. He is without a doubt one of the most widely respected voices for conservation, sportsmanship, the wise use of natural resources, and recreational land use issues in the region. Tom has been appointed by the Sullivan County Board of Supervisors as a county representative to the regional Fish and Wildlife Management Board—a volunteer organization that works with private landowners, sportsmen, and agricultural interests in a seven-county region to provide access to private lands for outdoor recreation. Tom was also appointed by the Commissioner of the New York State Department of Environmental Conservation as a volunteer member of the Neversink River State Nature Preserve Advisory Committee as well as a member of the Deer Management Task Force Citizen's Advisory Committee.

If that were not enough, Tom Callihan has also served as chairman of the Town of Thompson's Conservation Advisory Council; a hunter safety instructor; master bow hunter safety instructor; as a member of the Sullivan County Federation of Sportsmen Clubs since 1964; New York State Conservation Officers Association; the Sullivan County Conservation Club, and much more.

Accordingly, it is without reservation that I wholeheartedly congratulate Tom Callihan for his designation as this year's Sullivan County Conservationist of the Year. Furthermore, along with all of the residents of Sullivan County, I thank Tom for all of the outstanding conservationist and sportsmanship services that he has provided and shared with his region throughout the years. We look forward to Tom's continued efforts and pledge to follow his example.

TRIBUTE TO MILDRED LEONARD BURTON

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Ms. PELOSI. Mr. Speaker, San Francisco lost one of its treasured citizens recently—Mildred Leonard Burton. It is particularly fitting that we in Congress pay tribute to this delightful, strong woman who instilled such extraordinary commitment to community and the Nation in her sons that all three have devoted their lives to public service.

Mildred Burton's sons—former Representative Phillip Burton, who died in 1983; former Representative and now-Assemblyman John Burton; and Robert Burton, member of the San Francisco Community College Board—are certainly one of California's most powerful political dynasties. They have achieved enduring victories for our Nation in protecting our public lands and the rights of individuals in our society. And they will long, and rightly, be remembered for their stunning accomplishments and dedication.

As too often happens, history books may not give the emphasis due to the charming and steadfast woman who gave birth to, nurtured, and guided these sons in their values, their perserverence, and their intellectual honesty. Mildred had a very great sense of decency and fairness which she worked to instill in her sons.

Mildred was born in Cincinnati, OH, 3 years after the turn of the century. There she met and married, in the mid-1920's, Thomas Burton. While raising their three sons, she worked to enable her husband to complete medical school. It is California's great good fortune that the family decided, in 1941, to move to San Francisco.

Mildred's lively wit, humor, intelligence, charm, and love of fun—the embodiment of her Gaellic heritage—will live on in the hearts of all who knew her. San Francisco bids a very fond farewell with our love and warm thanks to Mildred Leonard Burton.

"STRENGTH THROUGH UNITY": A TRIBUTE TO THE SANTA ANA POLICE OFFICERS ASSOCIATION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. DORNAN. Mr. Speaker, I would like to take this opportunity to commend the Santa Ana Police Officers Association as they celebrate the opening of their new offices in Santa Ana, CA, on Thursday, February 11, 1993.

Over the years, the Santa Ana Police Officers Association has been instrumental in recognizing the special concerns and interests of police officers dedicated to protecting the lives of their fellow citizens.

Originally designed as a support group for officers and their families back in 1948, this association has evolved into one of Orange County's most prominent law enforcement organizations. They provide a much needed voice for nearly 470 members by acting as a liaison between the officers and their superiors, as well as providing information, legal assistance and an association newspaper, The Reliable Source. Additionally, the association organizes community service programs and social activities for members and their families.

Their continual involvement with community youth events, activities, and sponsorships is particularly noteworthy, and the numerous photographs, awards and plaques which line the walls of their offices is evidence of the association's concern for children throughout the county.

The Santa Ana Police Officers Association's motto, "Strength Through Unity," clearly demonstrates their commitment to working as a unified voice toward protecting our families and the entire community. They are a much needed and appreciated organization, and I wish them much success in all that they do.

On a final note, I would like to dedicate these remarks to those officers who have lost their lives in the line of duty and to the association itself which has been invaluable to the families of these loved ones.

CHERRY SIGL: A BUDDING CONSTITUTIONAL SCHOLAR

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. ROTH. Mr. Speaker, I rise today to share with my colleagues a brilliant letter I received from Miss Cherry Sigl of De Pere, WI. Cherry is an eighth grade student in Mr. Mike Taylor's class at Notre Dame Middle School in De Pere.

While she was reading through her copy of the Constitution, Cherry stumbled upon the 10th amendment. Imagine her surprise when she read this quaint defense of federalism:

AMENDMENT X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Today the ever-growing power of the Federal Government reaches into every corner of every town in America. Cherry asked me why, in light of the 10th amendment, the Congress oversteps the powers granted to it by article I, section 8.

Mr. Speaker, the answer is that the Congress cannot resist the temptation to micromanage the Nation through the chambers of the Capitol and the corridors of the Executive agencies.

I urge my colleagues to read Cherry's letter. The next time you vote to impose another burdensome regulation on the American people, take a moment and contemplate the 10th amendment.

Cherry, thank you for providing all of us a lesson in the Bill of Rights and the Constitution. Notre Dame Middle School, Keith and Lorna Sigl, and the people of De Pere should be very proud of Cherry. One day, she may sit on the Supreme Court.

A copy of Cherry's thoughtful letter follows:

DE PERE, WI,
January 25, 1993.

MR. TOBY ROTH,
Rayburn Building, Washington, DC.

DEAR MR. TOBY ROTH, Thank you for your answer to my letter in regards to the support of school choice. I think it's great that you agree. Maybe if we all work hard we can change the negative views on school choice.

The reason I wrote is I had a question. When I received your letter, I read through the Constitution of the United States. In it I found an amendment that was of great interest to me. In the tenth amendment it states that all powers not given to the national government by the constitution and not denied to the states, are to be given to the states or to the people of the states.

With that in mind how is it possible for the national government to control education? When reading through the constitution I found nothing granting the national government the right to control education. Is there a law that was made that explains this unconstitutional act? If so I would appreciate a written copy of this law.

Thank you for your time and concern about this issue. If you have any answers to my questions or any other information concerning this issue please write.

Sincerely,

CHERRY SIGL.

A TRIBUTE TO STANLEY JOSEPH PANIKOWSKI

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. FOGLIETTA. Mr. Speaker, I rise today to honor Stanley Joseph Panikowski III upon the occasion of his being named as a Rhodes Scholar.

After attending our Lady of Mount Carmel School, where he graduated in 1985, Stanley received a full 4-year scholarship to Saint Joseph's Preparatory where he graduated with highest honors and received 11 academic awards. This outstanding academic record was rewarded through his receiving a full 4-year Woodruff Scholarship to attend Emory University.

Throughout his tenure at Emory University, Stanley has maintained an academic record that has kept him on the dean's list. Along with this attention to his studies, he was active in student government and served as president of the Residence Hall Association, resident adviser, sophomore adviser, and national regional officer of the Catholic Student Coalition.

All of these efforts have culminated in Stanley being selected as a Rhodes Scholar. He will attend Oxford University for 2 years beginning in October 1993, and will study politics, philosophy, and economics.

I join with Stanley's father, Stanley Joseph II; his mother, Joanne; his sisters, Linda and Karen; and his brother Michael, in commending Stanley on his outstanding academic achievements and in wishing him the future successes that other Rhodes Scholars have achieved—President Bill Clinton and Senator BRADLEY among them. This is indeed an accomplishment of which Stanley is well deserved.

THE ENERGY EFFICIENCY AND CONSERVATION ACT OF 1993

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. McDERMOTT. Mr. Speaker, today, I am introducing the Energy Efficiency and Conservation Act of 1993. I am pleased that Congressmen MIKE KOPETSKI, AMO HOUGHTON, and RICHARD NEAL have joined me in cosponsoring this legislation.

Energy experts across the Nation recognize conservation as the most environmentally responsible and cost-effective source of energy available today. Under the direction of the Northwest Power Planning Council, the States of Washington, Oregon, Idaho, and Montana are committed to achieving 1,500 megawatts of energy conservation over the next decade. This effort will save enough energy to meet the electricity demands of a city half again as large as Seattle.

This legislation will overturn the International Revenue Service practice that discourages private utilities from pursuing the kind of effective conservation programs that are vital to the Nation's energy future. Longstanding IRS policy has allowed electric and gas utilities to deduct from their tax liabilities the cost of their energy conservation programs in the year in which the costs are incurred. However, the Service has begun to pressure private utilities to spread these deductions over a period of several years. The Puget Sound Power & Light Co. estimates that this could reduce its annual conservation expenditures by up to 10 percent. That amount is equivalent to the loss of the electricity conserved when 4,500 homes participate in the company's residential weatherization program.

I want to emphasize that this legislation is nothing more than an affirmation of longstanding tax policy, and a rejection of the Service's recent attempts to modify it. Utilities have deducted conservation expenditures in the current year since the beginning of these programs in the 1960's. As recently as 1991, the IRS acknowledged in a technical memorandum that conservation expenditures are, in fact, allowable as a current deduction.

Investor owned utilities, like the ones represented here today, are key to the success of conservation programs across the country. Of the 1,500 megawatts of energy savings the Pacific Northwest has committed to achieve in this decade, over half of that will come from private utilities. I am committed to supporting these companies in this important effort, and this legislation is a vital first step.

BACKGROUND

Energy conservation and efficiency are top national priorities for the United States. Across the country, and especially in the Pacific Northwest region, energy conservation is the preferred alternative for obtaining new energy resources and slowing down the depletion of the available energy supply. In order to promote energy conservation, many utility companies have energy conservation programs which are mandated by State regulators and paid for by customers through authorized electric and gas rates.

Conservation expenditures are made by utilities for products and services to enable their customers to reduce energy use, and the products are owned by the customer. Examples of conservation expenditures include: Energy efficiency audits, education and marketing programs to promote conservation and efficient use of energy, insulation and weatherization materials, and subsidies and rebates for the installation of efficient lighting, appliances, and other efficiency products.

THE PROBLEM

Some IRS auditors, in an attempt to raise revenue, are currently beginning to disallow deductions for energy conservation expenditures made by electric and gas utilities and are directing that the deductions be spread over a period of years. This is in direct contradiction to the industry practice by electric and gas utilities, since the introduction of energy conservation programs in the early 1960's, of deducting energy conservation expenditures in the year incurred for tax purposes. If the IRS's recent interpretation remains unchanged, the after-tax cost of energy conservation programs will be dramatically increased, thus discouraging conservation at a time when environmental, energy, and customer cost considerations all argue for maximizing conservation. More importantly, utilities will also face enormous back tax liabilities for conservation expenditures made in previous years and taken as a current deduction as a result of reliance on well established accounting and tax principles.

If the IRS is allowed to continue to disallow deductions for energy conservation expenditures by electric and gas utilities, it is estimated that the expenditures utilities make for conservation programs will be reduced by up to 10 percent. For Puget Power, this is the equivalent of eliminating 4,500 homes from the company's residential weatherization program or having to sell an additional one or two average megawatthours of electricity per year to its customers.

PROPOSED LEGISLATION

The Energy Efficiency and Conservation Act of 1993 will establish that conservation expenditures by an electric or gas utility that promote and encourage energy efficiency and conservation are deductible for the year in which they are paid or incurred thus reducing the after-tax cost of these programs for the utility companies. The legislation only clarifies and makes explicit current tax and accounting practice.

TIME TO HELP CAMBODIA

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mrs. BENTLEY. Mr. Speaker, in a column printed last week in the Washington Times, Heritage Foundation analyst Richard Fisher lays out several courses of action for President Clinton regarding the unstable situation which persists in Cambodia. One suggestion is for the United States to provide direct assistance to the democratic opposition—a democratic opposition that is routinely denied equal access to newspapers and radios.

With national elections tentatively scheduled for May, it seems incomprehensible that the Khmer Rouge and the Communist Hun Sen government continues to monopolize the airwaves. The entire drama now being played out inside Cambodia is very disturbing indeed. But, despite the continued diplomatic intransigence of the Khmer Rouge, all is not lost. For 3 years, my colleague, JOHN PORTER, and I have advocated the creation of a Radio Free Asia to advance the cause of democracy where the free flow of information is reduced to a trickle.

I know that President Clinton supports Radio Free Asia because he said so on numerous occasions during the last campaign. Mr. Speaker, our new President is in a position to offer the Cambodian people a meaningful alternative to radio airwaves now entirely controlled by their oppressors. I hope that he will do the right thing.

I insert the text of the Washington Times article in the RECORD.

[From the Washington Times, Jan. 25, 1993]

AVOIDING THE U.N.'S OTHER CONFLICT

(By Richard Fisher)

In addition to Iraq, Somalia, and Bosnia, President Clinton may soon have another international crisis on his hands, this time in Cambodia.

Since October 1991, Cambodia's future has been in the hands of the United Nations Transition Authority in Cambodia (UNTAC). As part of a peace treaty that included a cease-fire, Cambodia's warring factions agreed that UNTAC would take control of the government, disarm the factions, and conduct elections—now scheduled for May.

To support this effort, UNTAC has gathered the largest-ever U.N. peace-keeping force: about 22,000 soldiers and administrators from 44 different countries. Total cost of the effort could be as much as $3 billion, of which the United States has pledged $513 million.

However, UNTAC appears headed for failure as a result of continuing terrorism by the two largest factions, the communist Khmer Rouge and the Hun Sen government in Phnom Penh. The notorious Khmer Rouge were responsible for killing more than a million Cambodians during their rule from 1975 to 1979. The Khmer Rouge has, unfortunately, refused to disarm and has regularly violated the U.N. cease-fire. With some 30,000 well-armed guerrilla fighters, the Khmer Rouge probably could retake Cambodia by force if war breaks out again.

The Hun Sen government, installed by invading Vietnamese in 1978 and protected by 100,000 Vietnamese troops until 1989, has also observed the cease-fire mostly in the breach.

A former Khmer Rouge, Hun Sen has been portrayed by American liberals as a democratic reformer. He is anything but, and after 13 years of oppression, corruption, economic stagnation, and subservience to the Vietnamese, his grip on the country could be nearing its end.

Without President Clinton's active intervention, the situation in Cambodia will deteriorate and UNTAC's mission will be lost.

What can the president do? First, Mr. Clinton must insist that UNTAC do its job. Most of its well-paid soldiers stay in the cities. They need to be deployed to the countryside, where they can protect local political organizers.

Mr. Clinton also must insist that UNTAC take control of Hun Sen government ministries, as it was empowered to do in the October 1991 agreement. Hun Sen continued to use the security-related ministries, such as the Ministry of Interior, to intimidate his democratic opponents, led by Prince Norodom Ranariddh and former Prime Minister Son Sann. This will continue unless UNTAC fulfills its mandate.

Second, Mr. Clinton should provide direct assistance to the democratic opposition. Currently, Hun Sen is denying the noncommunists access to newspapers and radios. Washington should provide them with needed newsprint, and insist that Hun Sen give them equal access to radio stations.

Third, Mr. Clinton should be prepared to act firmly and immediately if the rapidly deteriorating situation breaks down completely. Mr. Clinton should warn both China and Vietnam that the United States will view with severity any resumption of military aid to their respective clients, the Khmer Rouge and Hun Sen. In addition, he should ask Thailand to end its trade with the Khmer Rouge, an important source of funds for the guerrillas, and he should make it clear that he intends to provide economic and military support to the noncommunist Cambodians.

Most important, the new U.S. government should not allow itself to be caught in the trap of equating elections with success in

Cambodia Elections will be meaningless if they are unfair and merely serve to perpetuate the strong-arm control of one communist faction or another.

THE BIOTECHNOLOGY ACT OF 1993

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. MOORHEAD. Mr. Speaker, today Congressman RICK BOUCHER and I are introducing legislation which is necessary to cure a defect in current patent law. When Congress last amended the patent law in 1988 in the omnibus trade bill, we provided that the unauthorized use of a patented process by a person—inside or outside the United States—to produce a product constituted an act of patent infringement. This action was aimed at preventing the use of American innovation by unfair foreign competitors. Unfortunately, these amendments do not adequately address the problems of the biotechnology industry. As a result additional legislation is necessary.

Biotechnology products currently on the market in the United States are virtually all the work product of American inventors. The predominant form of intellectual property protection in this industry has been process patents. There are two types of patents that we should be familiar with, one is a product patent and the other is a process patent. Product patents cover the actual item invented. A process patent does not cover the product invented but it covers the process used to make a product. An inventor would seek a process patent when a product patent would be unavailable, for example, the development of a new way to make gasoline. You would not be able to obtain a product patent on gasoline because it's an old product but you could obtain a patent on a new process for manufacturing gasoline. Another example in the biotech area is interferon which is a natural substance found in the human body, therefore not patentable as a product. However, if you invent a process for making interferon, that process is patentable. Product patents are generally considered to provide better protection for drugs than process or use patents because the latter two types usually can be circumvented more easily. Inventors of some recombinant versions of naturally occurring products have found it difficult to obtain adequate patent protection because of the mere existence of literature disclosing incomplete information about the product. When this occurs a patent may be denied for lack of novelty, in other words, as far as the Patent and Trademark Office [PTO] is concerned it has already been discovered. A second problem is that the PTO may find that a process is unpatentable because it is obvious, that is, its basic properties, before they have been isolated in a substantially pure form by use of recombinant technology are known and therefore deemed unpatentably obvious. Before you can obtain a patent it must be novel and nonobvious to someone skilled in the particular field of discovery.

This legislation addresses both of these problems. The bill we are offering today clarifies the rules of obtaining biotechnology-related process patent claims, and offers meaningful remedies for firms with U.S. patents on essential intermediates. This legislation will return the rules for obtaining process patents to the case law exemplified by In re Mancy and effectively overrule in the case of In re Durden, insofar as the biotechnology industry is concerned.

The second change in the bill will prospectively change the anomalous result that confronted the California biotechnology firm, Amgen, when they attempted to exclude from the United States products unfairly made in Japan using an essential intermediate—also known as a host cell or miniature factory—patented by Amgen. This part of the bill makes it an act of patent infringement to make, use, or sell products produced by patented biotechnological materials. The biotechnology materials envisioned by the bill include host cells, DNA sequences and vectors. But for the discovery of these patented materials and their application to create a commercially viable product there would be no meaningful discovery. Thus, it makes sense for us to extend the reasoning of the 1988 process patent amendments to this category of materials. Moreover, as the court of appeals for the Federal circuit said in the Amgen case, the remedies available to these innovative American firms is a question of policy best addressed by Congress.

This bill is the first step toward a recognition by the Congress of the need to nurture an innovative, high technology industry that has strong growth potential. Our U.S. industry is currently ahead of our major trading partners in this technology. In order to maintain that lead we need to assure that the risk taken, the scientific breakthroughs achieved, and the investments made, are rewarded by a system of adequate and effective intellectual property protection.

I urge early action on this legislation.

DELEGATE VOTING IN THE COMMITTEE OF THE WHOLE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. HYDE. Mr. Speaker, today I must comment upon the deplorable decision of this body to allow delegates to vote in the Committee of the Whole. The following remarks, addressed to a citizen, set forth my views:

If you haven't given much thought to American Samoa recently, you should know that this U.S. territory consists of seven lush islands and coral atolls sitting atop New Zealand in the South Pacific—some 4,800 miles from Los Angeles. Its main industry is tuna fishing and canning. The 51,000 residents are not U.S. citizens, but U.S. nationals (who cannot be drafted into the armed forces). You may be more familiar with the U.S. Virgin Islands, perhaps having vacationed there. The Islands' 99,000 residents are U.S. citizens, but do not pay income taxes to the U.S. Treasury. They are dwarfed by the 1,000,000 tourists who visit each year.

What do these two American territories have in common? The majority Democrats in the House of Representatives have forced through a change in the rules of the House that will allow the two territorial delegates of Samoa and the Virgin Islands, along with the delegates of the District of Columbia, Guam, and the resident commissioner of Puerto Rico, to participate in votes on the House floor. This is a privilege presently possessed only by 435 U.S. Representatives by virtue of our each representing about 570,000 Americans.

Why was the change approved? Politics, raw and simple. It is no accident that the five delegates in the 103rd Congress are Democrats. The Democrats' majority in the House of Representatives was reduced by ten on November 3—and the party simply wants to regain some of their ground lost at the ballot box. It was such a blatant power grab that 27 Democrats voted against it, all demonstrating political courage for representatives who vote against their party on procedural matters do so at their own peril.

This rule change dilutes the political power of those Americans living in the 50 states by giving voting privileges to representatives of sparsely populated territories, whose residents do not always have to shoulder the burdens borne by other Americans. If the territories want full representation in Congress, they can get it the old-fashioned way—they can apply for statehood! Anyone interested is free to consult Article IV, Section 3 of the Constitution.

It is true that delegates would not be given the right to vote on the final passage of legislation, only on amendments that are offered in the "Committee of the Whole." (I should explain that the Committee of the Whole, as its name implies, is comprised of the entire House. It is merely a procedural device employed by the House of Representatives when it sits in the House Chamber debating and amending legislation prior to final passage.)

However, most of the victories Republicans will win in the House over the next four years will not be over the final enactment or defeat of legislation. We Republicans are an embattled minority in the House and we can no longer threaten a presidential veto of bad legislation as we could with George Bush in the White House. Our victories will likely be on amendments. Votes in the Committee of the Whole are therefore of crucial importance.

Perhaps embarrassed by the scathing reaction of editorial writers nationwide, the Democrats at the last minute modified the rule to require a vote of the House—minus the delegates—"whenever a recorded vote on any question has been decided by a margin within which the votes cast by the [d]elegates . . . have been decisive." At first glance, this move seems to make a mockery of the aspirations of the delegates: they can vote as long as their votes do not count. However, anyone familiar with the rough and tumble of the legislative arena knows that one legislator can influence the votes of a whole horde of others simply by offering to "logroll," to promise future support on legislation of interest to those members. The Democrats are too clever by half.

Not only is this a quintessential example of the arrogance of power, but it is most surely unconstitutional. The Constitution specifies that the legislative power belongs to the House and the Senate and that "[t]he House of Representatives shall be composed of Members chosen every second Year by the People of the several States . . . ." This is why House rules prevent delegates, who are not members of the House, from voting on the floor, the place where the House takes formal legislative action. Delegates have admittedly been granted the right to vote during deliberations of the various standing committees. However, these committees are purely advisory bodies, creatures of the House and not of the Constitution, and their actions do not bind anyone since they can be reversed on the floor in the Committee of the Whole. In the 101st Congress, 345 bills and joint resolutions were reported by House and Senate committees and yet not considered by the full bodies. Conversely, bills stalled in committee can reach the House floor through "discharge petitions" signed by a majority of House members. And, depending on the liberality of the ground rules governing consideration of legislation on the floor, members may be able to offer amendments previously rejected by a committee. But amendments rejected by the Committee of the Whole are generally not later voted upon by the full House. In essence, the decision of the Committee of the Whole is final.

Thus, delegates could usurp the legislative power reserved to House members. It is more than a little interesting that present House Speaker Thomas Foley stated over 20 years ago that "a constitutional amendment would be required to give the Resident Commissioner [from Puerto Rico] a vote in the Committee of the Whole or the full House."

Pehaps it is a reflection of the times that House Democrats are so willing to trample on rights of the minority, and the Constitution as well.

House Republicans had no choice but to bring suit in federal court challenging the constitutionality of the Democrats' move. What an abysmal way to begin the Clinton administration.

HEALTH CARE REFORM: BENEFITS OF A SINGLE-PAYER HEALTH CARE SYSTEM TO CONTAIN COSTS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. CONYERS. Mr. Speaker, I wanted to bring to the attention of my colleagues the following article in today's Wall Street Journal entitled "House Panel Told Health-Care System Run by Government Would be Cheapest."

As reported in this article, in congressional testimony yesterday Robert Reischauer of the Congressional Budget Office noted that "the likelihood of success [in controlling health costs] increases with a single-payment mechanism."

Representative JIM MCDERMOTT [D–WA] and I, along with other Members of the House will shortly introduce the American Health Security Act—comprehensive health care reform legislation that will create single-payer mechanisms in each of the 50 States. This bill is based on last year's efforts of our colleague Marty Russo, which garnered the most cosponsors of any reform legislation introduced in the House.

Under our proposal, through each State single-payer a global national health care budget, tied to the growth of GDP, will be adhered to. Annual budgets for hospitals and nursing homes will be negotiated at the State level to promote greater efficiency; professional fees and prescription drug prices will also be negotiated to control exorbitant increases.

Equally important, such a single-payer mechanism will dramatically reduce the enormous paperwork burden generated by 1,500 different insurance companies with their separate forms and filing requirements. In a report prepared for the Committee on Government Operations, which I chair, the General Accounting Office estimated that about 10 percent of health care costs could be eliminated with a single-payer mechanism. That's about $90 billion in 1993—more than enough to provide health insurance to all those without it!

I urge my colleagues to join us in cosponsoring this legislation.

[From the Wall Street Journal, February 3, 1993]

HOUSE PANEL TOLD HEALTH-CARE SYSTEM RUN BY GOVERNMENT WOULD BE CHEAPEST

(By Hilary Stout)

WASHINGTON.—A national health-insurance system financed and operated by the federal government may have the best chance of controlling medical cost, the director of the Congressional Budget Office suggested to a House health panel.

Robert Reischauer, CBO director, testifying before a hearing of the House Ways and Means Committee's health subcommittee, asserted that government-imposed limits on medical expenditures "could substantially reduce the rate of increase in health spending."

But he added that "the likelihood of success increases with a single-payment mechanism," restrictions on the ability to purchase health care outside the regulated system and government-set budgets for hospitals and other institutions. Currently, the only so-called single-payer systems are government-financed systems such as the one in Canada.

President Clinton, however, has said he will propose a cap on overall health spending in the U.S., not a government-run single-payer system. He wants to maintain a system based on market competition, with private insurers as well as government programs.

The health-care task force headed by his wife, Hillary Rodham Clinton, is still weighing various options. Mr. Clinton's goal is a bill that provides health insurance to everyone, curbs the relentless rise in medical costs, and shrinks the bulging budget deficit.

Mr. Reischauer's views are important because his office, along with the White House budget office, will calculate the potential savings of the plan President Clinton will submit to Congress to overhaul the nation's health-care system.

In addition to the expenditure cap, Mr. Clinton advocates an approach known as "managed competition," a system whereby large purchasing networks negotiate for the best health plan on behalf of employers and individuals, forcing health providers to compete for their business on price and quality.

The CBO director told the panel that to be effective at curbing costs, a managed competition system must include all of the following ingredients:

Universal health coverage.

Large health-insurance purchasing cooperatives that bargain for health insurance on behalf of consumers and oversee the insurance market.

Limits on the amount of health benefits that workers can receive tax-free from their employers, and caps on the amount of money employers can contribute to their employees' health benefits.

Uniform, reliable data on costs, outcomes of specific medical services and quality.

Fewer insurance firms.

Limits on an insurer's ability to raise premiums based on the health of beneficiaries, and "an accurate method to adjust for differences among insurers in the health status of their enrollees."

Together, Mr. Reischauer said, these elements "could result over time in a reduction in the rate of increase in national health spending." But he warned that "omitting some of these elements from a proposal for managed competition would significantly lessen its potential effectiveness."

Mr. Clinton hasn't said whether he will propose the most controversial element on that list, limited tax breaks for employer-provided health benefits.

The health-care task force is studying the possibility of imposing a so-called tax cap, but hasn't yet made a decision. In an interview with The Wall Street Journal in December, Mr. Clinton said he "was inclined to agree" with the idea. But he has been warned that the political consequences of proposing to tax some health benefits could be dire.

Separately, a study by Lewin-VHI Inc., a consulting firm, estimated that the country could save an average of $35.8 billion over the next five years by reducing the "defensive medicine" doctors practice to avoid malpractice suits.

The firm defined defensive medicine as tests and procedures that have either no benefit or a marginal benefit to the patient and are simply performed as a protection against potential malpractice claims. The group cited the administering of skull X-rays to all patients with head injuries and fetal monitoring of routine births as examples of procedures that often aren't necessary.

The study was released by a coalition of health and business groups pushing for reform of the medical malpractice system. The coalition advocates, among other things, limiting the damages that can be awarded in medical liability suits and protecting physicians from malpractice claims if they follow certain guidelines.

LEGISLATION TO EXTEND THE DUTY SUSPENSION ON METAL OXIDE VARISTORS

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. SHAW. Mr. Speaker, today, I am introducing legislation which extends the duty suspension on metal oxide varistors which was first enacted into law in 1990. This legislation is very similar to H.R. 4828, which I introduced during the 102d Congress, to continue the duty suspension on this product for an additional 5 years.

Prior to 1989, when duties were set under the Tariff Schedules of the United States, metal oxide varistors entered the U.S. duty free under a tariff heading devoted to diodes, transistors and other similar semiconductor devices. When the United States converted to the Harmonized Tariff System in 1989, metal oxide varistors were reclassified under a nonsemiconductor, dutiable heading. Action taken by Congress in 1990 suspended the duty on this product in response to a view by American industry that the reclassification under HTS incorrectly removed this product from the zero duty category accorded to other semiconductor devices.

The action I am taking today extends the duty suspension which has been in place on this product since 1990 and is identical to H.R. 4828 except that it incorporates a change suggested by the International Trade Commission. The change limits the scope of this legislation to small-scale metal oxide varistors weighing less than 2.5 kilograms, a change which will clearly distinguish small scale metal oxide varistors from large scale arrestors. This modification will also alleviate concerns from domestic suppliers of large scale arrestors who have indicated that they face closed foreign markets for their products.

Mr. Speaker, in 1990 and in 1992, the U.S. Department of Commerce's International Trade Administration had no opposition to congressional passage of this legislation. The Department's position was based upon the fact that no adverse effect on domestic industry from the duty free treatment of metal oxide varistors was expected since the product entered duty-free previously with no adverse effect.

Passage of this legislation is very important to several segments of America's electronic industry since the duty in effect for the past few years expired at the end of 1992. I encourage the Committee on Ways and Means to move expeditiously on this measure to minimize the financial disruption caused by resumption of the duty.

SALUTE TO LISA POWELL

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. GINGRICH. Mr. Speaker, I rise today to recognize the years of dedication to me and the entire Sixth District of Georgia by Lisa Powell. Lisa served on my staff for 2 years and her hard work and commitment to the constituents of the Sixth District of Georgia should not go unnoticed.

Whether is was resolving constituent problems, organizing district-wide activities, assisting the district's veterans, or helping service academy candidates, she always approached her job with a high level of professionalism and dedication to duty that had a profound effect on helping the constituents of the district.

We will all miss Lisa and wish the best for her, her husband, and her daughter.

RECYCLING MARKETS IN WESTERN NORTH CAROLINA

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. TAYLOR of North Carolina. Mr. Speaker, I would like to have entered into the RECORD a recycling report prepared by the Western North Carolina Environmental Council which advises me on solutions to the environmental challenges facing both my district and the Nation as a whole.

RECYCLING MARKETING IN WESTERN NORTH CAROLINA

(Prepared by the Western North Carolina Environmental Council)

I. INTRODUCTION

The Western North Carolina Environmental Council was created in May 1989 by Executive Order of Governor James G. Martin. During the two years ending in May 1991, in which the Council operated under the Governor's office as a public forum for the discussion of economic and environmental issues, the Council addressed many issues of pressing importance to WNC.

Recycling was among the topics which were addressed. In the final report to the Governor, Lt. Governor Jim Gardner wrote the following:

"Many counties and municipalities across the state are faced with a shortage of landfill space. This shortage is even more severe in Western North Carolina where there is limited space for new or expanded landfills. Consequently, the Council placed considerable emphasis on discussing recycling options and opportunities * * * The Council made a special effort to invite local government officials from the region to attend meetings on recycling. Many officials were able to learn more about ways to reuse, reduce and recycle solid waste" (Gardner 12).

Acting in response to the shortage of landfill space, the North Carolina Legislature passed N. C. Senate Bill 111 in 1989 and passed N. C. House Bill 1109 in 1991. According to Secretary William Cobey of the North Carolina Department of Environment, Health, and Natural Resources, these bills addressed alternatives to landfill disposal of solid waste through waste reduction at the source, recycling and reuse, composting and incineration. Specifically, these two bills include the following provisions:

1. Establish waste reduction goals for waste received at solid waste management facilities.

2. Provide that plastic bags and polystyrene containers provided at retail outlets to retail customers must be recyclable, and that 25% of such bags and containers must be recycled by certain dates.

3. Ban yard trash from MSW landfills effective January 1, 1993, except under special provisions. Yard trash may be accepted at a solid waste disposal area where the yard trash is composted.

4. The state and counties must develop comprehensive solid waste management plans consistent with state policy and state waste reduction goals.

At the directive of Congressman Charles Taylor, the Western North Carolina Environmental Council, which has operated under the auspices of the Congressional office since May 1991, examined the impact of both state and federal government action on local recycling markets. Recycling was the focus of the Council's quarterly meetings held in January and March 1992.

The goals of the Council were two-fold. The first goal was to develop a clear understanding of the mechanics of those markets in Western North Carolina and how they were affected by government mandates. The second goal was to provide recommendations to help local governments and businesses comply with the federal and state legislation.

Speakers at the January meeting were: Dr. Tim Wilson, Chairman of the Board of Directors of Quality Rubber Manufacturing Co., Inc.; Alston Macon and Ben Bridgers of Appalachian Second Resource, Inc.; Tom Weaver of EEE ZZZ Lay Drain Co.; Kenneth Pankow of Pankow Engineering; Nancy McGraw and Andrew Kao of Champion International Corporation; Russell Duffner, plant manager of G & H Industries, Inc.; Don Wood, general manager of Jackson Paper Manufacturing, Co.

Speakers at the March meeting were: Robin Mitchell, environmental scientist with the office of Solid Waste EPA Region IV; Al Ebron, local government specialist of the Energy Division of the North Carolina Department of Economic and Community Development; Sig Huitt of the Carolina Glass Recycling Program; James Morrow, production supervisor of Webster Enterprises; and Tom Rhodarmer, Director of Environmental Affairs for Dayco Products, Inc.

The program for the second meeting was designed by the recycling sub-committee of the Environmental Council. Sub-committee members are: Charles Roudane, Russell Duffner, Tom Rhodarmer and Don Monk. Among the issues addressed at the second program were defining recycling and reuse; understanding the state mandate; and gaining a basic knowledge of the scope of federal guidelines.

II. FINDINGS

Speakers at both meetings unanimously agreed that in contrast to the establishment of new landfills, the activity of recycling has very positive public support. James Morrow stated that, "Recycling gives the average person something 'hands on' to do for the world he lives in." This positive perception generates active public participation in recovery, the process of gathering recyclable materials.

An additional factor driving the recovery of materials for recycling is government initiative (NC Senate Bill 111). The EPA has a goal of 25% reduction in the waste stream—North Carolina has a two tiered goal. In "Marketing Recyclable Materials in North Carolina," Al Ebron of the N.C. Department of Economic and Community Development states, "Two major items came out of this bill. The first was that the state should achieve a 25 percent recycling goal by January 1, 1993 (which has been changed by HB 1109 to a 25% waste reduction goal by June 30, 1993). The second was that state and local governments needed to take an active role to get the process moving (Ebron 1)." Additionally, the bill sets a goal of 40% reduction of the waste stream by June 30, 2001.

In spite of these goals, however, according to Robin Mitchell, EPA figures indicate that Americans are generating increasingly larger quantities of solid waste. Currently, four (4) pounds of solid waste per person per day are being generated. By the year 2000, the EPA estimates that this will total 216 million tons per year.

With the continued heavy supply seemingly ensured, refinement of handling of the stream is a major technical aspect. All speakers pointed to the problems in acquiring an uncontaminated source. For instance, Russell Duffner stated, "A shared problem is contamination of the 'junk'." Al Ebron reiterated, "What item is the most important when marketing recyclable materials? Contamination!"

Ms. Mitchell agreed that industries need consistent, high-quality supply, though there is no uniformity between states' requirements. Anyone using federal funds must comply with procurement guidelines set by the federal government. These guidelines cover five areas: 1. paper and paper products, 2. retread tires, 3. re-refined oil, 4. building insulation, and 5. cement and concrete made with fly ash. Additionally, the EPA has proposed guidelines for using the terms "recycled" and "recyclable," though the Federal Trade Commission will probably be responsible for enacting these guidelines and sharing any information with state agencies.

Al Ebron recognized one further result of the ease of obtaining a voluminous supply of recovered materials when he stated that, "In North Carolina we have set up great programs before we have had markets." Certainly, with some recyclable materials, those people who are involved in processing, transporting, or marketing to an end-user are feeling the effects of managing an increased supply. Jay Morrow said that processors such as Webster Enterprises, which handles and processes recyclables for the Cherokee Tribal Council and five westernmost counties of WNC, are struggling. He called response on the supply side "overwhelming." He continued that for Webster Enterprises, "Volume is increasing every day, and is currently at 240,000 pounds per month of processed waste. I can't imagine," he said, "what it would take to reduce 25% of the waste stream."

To a significant extent, the pressure expressed by Mr. Morrow is the result of government mandates. In 1989, a Legislative Research Commission of the N.C. General Assembly released their, "Development of a State Strategy for the Management of Solid Waste and Infectious Wastes." This document outlined the numerous requirements imposed by SB 111. First, the bill establishes a heirarchy of solid waste management methods, in descending order of preference, as follows:

1. Waste volume reduction at the source;
2. Recycling and reuse;
3. Composting;
4. Incineration with energy production;
5. Incineration for volume reduction;
6. Disposal in landfills (Legislative Study Commission 3).

Additionally, SB 111 set forth new responsibilities for several state agencies including the N.C. Department of Environment, Health, and Natural Resources. Among others, the Solid Waste Section of the NCDEHNR was given the following duties:

1. To develop a comprehensive solid waste management plan by 3/1/91;
2. To provide additional technical assistance;
3. To develop a recycling and resource recovery directory;
4. To educate the public by providing descriptive literature regarding recycling;
5. To develop composting standards;
6. To develop standards and guidance documents for local government recycling programs.

The N.C. Department of Economic and Community Development was given assignments to:

1. Identify and analyze present and potential markets for recyclable materials in this State, other states and foreign countries and to develop and distribute that information to business industry and local governments;
2. Investigate and report on potential markets for composted materials; and
3. Submit an annual report to the General Assembly beginning March 1991, assessing the recycling industry and recyclable material markets in the State, and identifying the manner in which composted materials can be effectively marketed.

According to the Legislative Study Commission, "the development of markets for recycled goods is recognized as essential to the success of recycling. DECD will modify various ongoing activities within the Department to accommodate the Department's responsibilities to expand recycling markets (Legislative Study Commission 7)."

Following these directives, the N.C. Department of Economic and Community Development issued a report entitled "Assessment of the Recyclable Materials Markets and Market System in North Carolina," which states the following:

"Three important elements must be in place for end-use markets to exist. First, there must be an adequate supply of raw materials. Second, the physical capacity, or capital equipment, must be in place to convert those raw materials into a finished product. And finally, there must exist the ability to profitably sell that finished product. All three elements must exist and be in balance for the market to sustain itself. * * * The long term success of local markets (hence, local recycling programs) is dependent upon end-use markets. If the local market is characterized in the short run by an inelastic supply and a limited or constrained demand, it should be remembered that, in this situation, one seller benefits from another seller's loss" (NCDECD 2–2,2–3).

The report continues with significant analysis when it states that:

"Government is constrained by the fact that its product (i.e., recovered materials generated as a result of programs, policies, or mandates aimed at reducing solid waste disposal, rather than for making a profit) is not sensitive to variations in value or, at least, is highly insensitive. The supply of this material is, therefore, highly inelastic. * * * While this approach by government appears to result in an increase in recycling on the local level, on a larger level, it is merely displacement" (NCDECD 2–3).

The demand for a product is paramount. As Dr. Tim Wilson pointed out, "Customers are not endeared by the world 'recycled.' The product has to be good."

The North Carolina Department of Economic and Community Development defines end-user demand as the willingness and eagerness of a company or institution to purchase a material need to produce an end product. End-use product demand is the willingness and eagerness of consumers to purchase a material or good (NCDECD 2–6). The Legislative Study Commission stated that, "The Committee heard again and again that the long term success of recycling depends on the accessibility of markets for the goods recycled (Legislative Study Commission 11)." Indeed, existence of a viable market in Western North Carolina varies by material and is reflected in reported demand. Materials comprising the bulk of the waste stream are glass, paper, aluminum and ferrous metals, plastics, tires and yard waste. According to the NCDECD, there are a total of 50 recycling businesses in the mountain section of North Carolina. This number, which was compiled through March 1, 1991, includes six end-users, 21 processors, 21 handlers, and 2 brokers (NCDECD 2–18).

PAPER

Nationwide, waste paper comprises approximately 40% by weight of the MSW stream (Porter). In the seventeen westernmost counties of North Carolina that are now (prior to 1/93) included (either partially or totally) in the 11th Congressional District, there are two end-users, three processors and two handlers (NCDECD 3–21—3–23). In Western North Carolina, processors and handlers of waste paper are experiencing serious stress because of excess supply. Also, according to Jay Morrow, many of the end-marketers are located in Atlanta. The cost of transporting one truck load to Atlanta from Jackson County is $300.00 and processors are becoming more selective, some refusing to take newspaper. The NCDECD states that:

"As the supply of newsprint continues to grow, prices will recover only to the extent that additional capacity is built to process ONP. * * * To justify (the required) investment, the long-term relative price of virgin fiber has to go up and/or the demand for paper products with high levels of recycled content has to increase dramatically" (NCDECD 3–4).

Mr. Morrow stated that specifications set by end-users are increasing costs. For instance, Beauwater in Tennessee sets specifications for their purchases; i.e. newspapers have to be bailed and must weigh a set amount. Yet equipment to bail has become so expensive that the ability to handle ONP may be an opportunity only for larger businesses. Mr. Morrow states that from his perspective, in Western North Carolina, "We have a supply that we can't control."

Jackson Paper Manufacturing, Inc. which is an end-user of old corrugated containers and some old newsprint has developed a system whereby they are also an end-user of waste biomass resulting from the timber industry. This firm uses waste wood as a fuel.

In ordinary operations of Champion International Corporation, paper is reclaimed within the plant and returned to the process. Additionally, in response to customer demand, they have introduced a line of stationery which is of recycled material. Nevertheless, according to the NCDECD, "Although a high value is placed on discarded printing and writing paper, little demand exists for it in domestic mills. Most high-grade paper is exported (NCDECD 3–6)."

GLASS

After paper, by weight, glass comprises the second largest recyclable in the waste stream. According to Porter, "Glass makes up about 8% of MSW, with recycling largely confined to beverage containers, which are 40% of glass wastes. About 20% of these containers are recycled." In Western North Carolina there is an end-user of waste glass, three processors and two handlers (NCDECD 3–32—3–34). Though the only end-use for recyclable glass in North Carolina is the manufacture of new glass containers, the Western North Carolina demand for recyclable clear glass is vigorous. According to Sig Huitt, though there is a green glass glut, there is no reason for glass to end up in a landfill. In fact, the NCDECD states, "It is not clear that sufficient infrastructure exists to supply end users with additional quantities of high quality recycled glass containers. The most critical need is for processors that possess the more advanced systems capable of minimizing contaminants (NCDECD 3–28)."

METALS

However, the composition of the solid waste stream is changing. According to the Congressional Research Service, "The percentages of paper and plastics have been increasing while the percentages of glass, metals, and organic waste (food and yard waste) have been decreasing (McCarthy 2)." Porter states that, "Aluminum wastes are about 2% of MSW, with half being aluminum cans. Over 60% of these cans are now recycled. Ferrous metal wastes are about 7% of MSW. Steel food and beverage cans make up 25% of these wastes About 2% of such cans are currently recycled." In the 11th Congressional District, there are no end-users of metal wastes; there are seven processors, five handlers and two brokers (NCDECD 3–46—3–52).

Jay Morrow reported that there is continued demand for aluminum recovered in Western North Carolina.

PLASTICS

Plastics comprise about 7% of the municipal solid waste stream and are recycled at a 1–2% rate. (Porter), Plastics are either thermosets, which cannot be easily recycled, or thermoplastics which can be reshaped over and over (NCDED 3–57). According to the NCDECD, the far-western seventeen counties of the state have one end user, five processors and one handler.

A problem that has been identified in relation to polystyrene recycling is the reluctance of state government to permit innovative uses of the plastic. The EEE ZZZ Lay Drain Company relayed their experience with state regulators. EEE ZZZ Lay uses discarded polystyrene pieces as a substitute for gravel in drainage fields. Drainage pipes are wrapped with a layer of chipped polystyrene and buried for use in sewer systems. This use of the material requires less labor than gravel and diverts material from landfills. However, while their product has been accepted in other states, North Carolina has not approved this use.

The NCDEC reports that:

"North Carolina can look forward to continued growth in plastics recycling opportunities. Currently, the greatest opportunities sexist for polyethylene teraphthalate (PET) and high density polyethyene (HDPE)" (NCDECD 3–62).

Other sources, however, are critical of current plastics recycling efforts. Lisa Collatin of the Environmental Action Foundation was quoted in Greenline:

"We do think (the coding system stamped on the bottom of plastic containers) is a bit of a sham. * * * because plastics are too cheap to produce to be worth recycling, and because current recycling efforts do not remove enough plastic from the waste stream (Helm 6)."

Nevertheless, the NCDECD calls the value of plastic resins "inherently high and likely to remain so (NGDECD 3–62)."

TIRES

The NCDECD notes that rubber tires are becoming an environmental problem for the United States and North Carolina. The Scrap Tire Disposal Act which is part of SB 111 directed the N.C. Department of Transportation to expand its current use of these recovered materials in its construction programs. This use may result in a higher price for road construction since the Rubber Manufacturers Association indicates that the cost of rubberized asphalt is 10 to 400 percent greater than traditional asphalt (NCDECD 3–73).

Other uses are roadway fill, tire-derived fuel, artificial reefs, retreaded or recapped truck and passenger tires, dock and trailer bumpers, containers, mats, pads and floor tile. Dr. J. Tim Wilson of Quality Rubber said that discarded tires could be "black gold." He stated, "Solving the problem of tires is going to take decades and will require a systematic program." Wilson suggested that tires should be cracked and stored in separate land fill areas so that at a later period, when technology has developed, they can be retrieved for use.

Currently, North Carolina is the largest retreader of tires in the United States (NCDECD 3–73).

OTHER RESPONSES

One of the alternatives in dealing with municipal solid waste is incineration. The proposal shared by Appalachian Second Resource described a comprehensive system whereby MWS is sorted; and that which may be safely incinerated is compacted into small fuel cubes. This company is looking for a place in WNC in which to locate one of these facilities.

Western North Carolina is also fortunate to have corporate citizens who have devised good-neighbor plans to reduce the waste that derives from their operations.

Tom Rhodarmer, Director of Environmental Affairs for Dayco Products, Inc., described the systematic approach taken by his fifty-year old company to reduce waste that is landfilled from a single source. The oldest Dayco facility is in Waynesville and employs 885 people.

The plant is currently collecting and recycling 25,000 pounds of cardboard per month; and has a contract with a wastehauler, though there is no profit involved. Additional material comes in on wooden skids. A contractor reworks the skids and returns them to Dayco at a rate of 50 to 75 per day.

DRUG FREE TRUCK STOP ACT OF 1993

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. CLEMENT. Mr. Speaker, I rise today to introduce legislation which addresses an important issue related to highway safety and the role of illicit drug use along our Nation's highway system.

Despite extensive initiatives, illegal use of drugs continues at an alarming rate across our Nation. Unfortunately, it has become popular for drug pushers to distribute many of these narcotics at truck stop facilities and highway rest areas. These areas are defined as locations where drivers frequently stop for fuel, vehicle maintenance, relaxation, and rest. The National Association of Truck Stop Operators estimates that drug use or distribution occurs at approximately 50 percent of these areas.

During the 101st Congress, and again during the 102d Congress, I introduced the Drug Free Truck Stop Act. This legislation establishes drug-free zones around truck stops and highway rest areas, and it mandates, for the first time, minimum penalties and increases the maximum penalties and increases the maximum penalties for distribution or possession with intent to distribute illegal drugs at or within 1,000 feet of these areas.

Specifically, the Drug Free Truck Stop Act designates truck stops and highway rest areas along our Nation's highways as drug-free zones. Under this legislation, a first-time drug offense would establish a minimum jail sentence of 1 year. The legislation then doubles the maximum sentence for first time offenses and triples the penalties for a second offense occurring in the drug-free zone.

During the 101st Congress, I offered the Drug Free Truck Stop Act as an amendment during House consideration of the Omnibus Crime bill. While the amendment passed on voice vote, it was subsequently dropped from the final conference report.

During the 102d Congress, I reintroduced the Drug Free Truck Stop Act. When the House of Representatives considered the Omnibus Crime Bill, I offered the Drug Free Truck Stop Act as an amendment. By a recorded vote of 371–48, the amendment passed and was included in this legislation. Despite overwhelming support for the amendment, the Omnibus Crime bill was not enacted by the 102d Congress.

Mr. Chairman, the effort to reclaim these facilities will make our Nation's highways safer for everyone while further discouraging the flow of illegal drugs in our communities. By making America's rest stops safer, we also offer those fatigued drivers a protected area to relax, an effort which will surely decrease the number of traffic fatalities in our national highway system.

This legislation is supported by the National Association of Truck Stop Operators, the American Trucking Association, the National Private Truck Council, the Owner-Operated Independent Drivers Association, and the Professional Truck Drivers Institute of America.

I urge my colleagues to support this worthwhile legislation.

TRIBUTE TO ED BRADLEY

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. BLACKWELL. Mr. Speaker, I am extremely delighted to stand here today to pay tribute to Mr. Ed Bradley, an exceptional gentleman who is well respected for his extraordinary accomplishments and contributions in the field of media broadcasting.

Born in Philadelphia, as the only child of Edward and Gladys Bradley, Ed Bradley has long been known for his ability to boldly face any challenge that is set before him with professionalism and vigor.

In 1959, he entered Cheyney State College as an education major. In addition to his interest in the field of education, Bradley also exhibited a profound enthusiasm in the area of media broadcast. In the early 1960's he worked as an unpaid news reporter and disc jockey at WDAS–FM in Philadelphia whereby he made a remarkable contribution.

Upon graduation from Cheyney, Bradley began his teaching career in a Philadelphia elementary school. While teaching the sixth grade in the 1960's, he became increasingly interested in events that took place during the historic civil rights movement. As a result, he utilized his journalistic talents and spent 48 hours covering the race riots in Philadelphia.

Following that event, he divided his time between teaching, working as a disc jockey, and as a news reporter. In 1967, Bradley made the decision to become a news reporter on a full-time basis. He vigorously sought out to begin his career by applying for a job with WCBS radio in New York.

Many say that the secret to Ed Bradley's success has a lot to do with his honesty, innovative style, and commitment to quality productions.

In 1971 he joined CBS News as a stringer in the Paris Bureau. By September 1972, he was reassigned to Southeast Asia where he covered the Vietnam war as a television correspondent. Unfortunately, during that time he was wounded by mortar fire while on assignment in Cambodia. Nevertheless, his injury did not halt his commitment to his work. In 1974 he returned to Southeast Asia to cover the evacuation of the last Americans in Vietnam.

In 1976, Bradley was assigned to cover the Presidential campaign, covering Jimmy Carter. After Carter became President, he served as a CBS White House correspondent. In 1976 he left that position to become the principal correspondent for CBS Reports.

Bradley received much praise and notoriety for his reports, some of the most outstanding include:

"The Boat People," written in January 1979; won: Emmy, Alfred I duPont Columbia University, and Oversees Press Club Awards;

"The Boston Goes to China," written in April 1979; a report on the historic visit by the Boston Symphony Orchestra to China; won: Emmy, George Foster Peabody, and Ohio State Awards;

"Blacks in America: With All Deliberate Speed?" written in July 1979; won: Emmy and Alfred I duPont-Columbia University Awards.

This list of outstanding works, led Bradley to attain overwhelming success and respect as a leader in his field. As a result, in 1981, he joined the well-known "60 Minutes" as a coeditor.

During the time that he has been with "60 Minutes," Ed Bradley has completed a number of phenomenal reports. His valuable work has been both insightful and inspiring. Much of Ed Bradley's work has exposed both the positive and negative things that occur in the world around us; but most of all, he has helped to educate millions of people through the broadcast media.

Mr. Speaker, I am extremely happy to congratulate Ed Bradley on his vast achievements. He is definitely a role model and a highly skilled professional. Most of all, he has gained his place as a significant part of African-American history, of which we can all be proud.

ORPHAN DRUG ACT

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. WAXMAN. Mr. Speaker, few pieces of legislation passed by Congress in recent years have been more innovative than the Orphan Drug Act of 1983. The word pioneering is an adjective that is often misapplied, but truly it can be said that the Orphan Drug Act was a pioneering, landmark piece of legislation.

What it did was to declare, for the very first time, that the afflictions endured by the 20 million Americans with rare disorders represent a massive problem that had gone untended for too long and that cried out for concerted, national attention.

It set up a system of incentives to make it worthwhile for pharmaceutical and biotechnical companies to engage in the research and development necessary to produce treatments for these diseases, whose patient populations are usually very small.

The result has been a resounding success. In the last 10 years, more than 50 orphan drugs have been designated by FDA and 87 of these have been approved for patient use. This compares to a mere 10 orphan drugs approved in the decade before the law was passed, and what it means is that many thousands of rare-disease patients who had previously felt abandoned now have hope—and, in many cases, they also have a new lease on life.

The Orphan Drug Act did not, of course, just happen on its own. It was the product of the hard work of many, many people. But, Mr. Speaker, there was one person whose contribution stands out above all others, and as we mark the 10th anniversary of the passage of this law, it is fitting to give this person, Mrs. Abbey S. Meyers, the recognition she so richly deserves.

There are thousands of people who contributed to the beneficial effects of this legislation, who labor in research laboratories and medical facilities to develop, test and perfect treatments, and who do all the necessary work—in industry and at FDA—to get these treatments approved and to the people who desperately need them. All these people in their own way are striving to create a secure future for rare-disorder patients. Yet no one—I repeat, no one—has been more active and more dedicated to this cause than Abby Meyers.

She was there on the front line battling for passage of this law when it was just a gleam in the eyes of a few sponsors; she was there when amendments to this law were needed to make it more workable, and she was been there every day, for every sufferer of a rare disorder, serving as a symbol of hope and a constant source of encouragement and support.

I suspect there are few in this chamber who have not been visited by Mrs. Meyers as she has made her rounds to champion the needs of rare-disease sufferers. And she had applied the same tireless energy to pushing for rare-disease progress within the medical and scientific communities, with industry, and among patients and their families.

As the first and only executive director of the National Organization for Rare Disorders [NORD], located in New Fairfield, CT, she has also led the way to many advancements outside of government. She has, for example, been the architect of numerous programs of patient and family support, as well as the NORD rare-disorder database, the definitive source of information or rare disorders that is relied upon by doctors, scientists, and other professionals not only in America but worldwide.

Among other things, Mrs. Meyers also provides living testament to the power of voluntarism in America. She knew nothing about rare disorders until her two children were diagnosed as having such a disease in the 1970's. And it was only when an experimental drug with which here children were successfully being treated was withdrawn that she became actively involved in this field. One thing led to another, and when the idea for the Orphan Drug Act was born, hers was perhaps the strongest and most persistent voice arguing for it.

Today, she is in the forefront of encouraging others to form nonprofit, volunteer organizations dedicated to the abolition of various rare diseases. She has been a powerful, constructive force for the good.

On February 23, 1993, there will be a reception and dinner here in Washington to honor the 10th anniversary of the Orphan Drug Act and various people who made the law possible. Among the honorees will be Mrs. Meyers. It will be an honor richly deserved, and I think it is important that this RECORD reflect that Mrs. Meyers deserves the thanks, not just of those concerned with rare disorders, but of all Americans who want our Nation to be happier and healthier.

THE MULTI-BILLION-DOLLAR CONSUMER RIP-OFF

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. CRANE. Mr. Speaker, Detroit's Big Three automobile manufacturers and the United Auto Workers [UAW] are hard at work pressuring the Clinton administration to slap an exorbitant 1,000 percent tariff increase on imported passenger minivans and Jeep-like sport/utility vehicles, commonly known as multipurpose passenger vehicles [MPV's]. They want the new administration to define these passenger vehicles as cargo vehicles—trucks. If these passenger vehicles, popular with the American middle-class family, are reclassified as cargo vehicles, the tariff rate will change from the current 2.5 percent rate applied to passenger vehicles to the 25 percent rate applied to light-duty cargo vehicles.

Here is what will happen if the Big Three and the UAW get their way:

The average price of imported MPV's will increase by nearly $4,000, according to consumer analysts. Consumer analysts also predict that, given the penchant for the Big Three to raise prices when they get import protection, the average price of the Big Three's models will increase by more than $1,300. With annual U.S. sales of almost 2 million MPV's, that's like stealing billions of dollars a year out of the pockets of middle class American consumers!

Import competition, which has been so important to bringing competition to the marketplace, will be virtually eliminated by this tariff hike, returning us to an era when the Big Three dominated consumer choice—and prices.

American families with children, disabled individuals, commuters and school, church, and community organizations will all pay the price.

American jobs at automobile dealerships and U.S. ports will be lost.

Calling these vehicles cargo vehicles and raising the tariff on them by 1,000 percent could also lead to trade retaliation. The tariff hike would violate GATT, as our trading partners have warned, and require the United States to compensate our trading partners by more than $500 million or face GATT-sanctioned retaliation against U.S. products. Ironically, because the European Community recognizes these vehicles as passenger vehicles, the Big Three benefit from lower tariffs on their MPV exports to the EC.

Among the many recent articles and editorials pointing out the folly of the minivan tariff hike—and protectionism in general—the three below, from the New York Times, the Wall Street Journal and the Washington Times, command attention.

A 1,000 percent tariff hike on MPV's simply does not make sense. President Clinton, who promised to give government back to the people and reduce the tax burden on the middle class, should resist the call for such a blatantly protectionist and anticonsumer act.

[From the Wall Street Journal, Jan. 27, 1993]

A Fight Worth Picking

Bill Clinton could use a victory about now. But to win, he's got to pick a fight. From where we sit, beating up on Colin Powell and Sam Nunn would appear to produce the victory that is called Pyrrhic. Why not take on an opponent on behalf of the middle class, which must be feeling pretty jilted these days. Take on the protectionists in Detroit.

In the weeks since the election, the Big Three have been lobbying for a crippling 25% tax on Japanese minivans. From the way they carry on, you'd think it was in the bag for them. But the American middle class loves these hybrids—half station wagon, half van. Detroit's auto makers deserve full credit for inventing them, but auto consumers like the array of minivan choices they've got. Though apparently Detroit would rather rest on its laurels than compete.

Their CEOs practically did a victory dance on the President-elect's lawn after a preinaugural visit to Little Rock. Then it was off to deliver "coordinated speeches" at the Econonic Club of Detroit, laying out their demands for the new administration. Now the Big Three are reportedly considering yet more trade complaints against virtually all imported autos, not just minivans. If successful under our zany trade laws, this would be a multibillion dollar tax hike on U.S. car buyers.

Chrysler, Ford and even GM have all made well-earned progress in recent years. But that doesn't justify this effort to offload their problems onto the car-buying public. A presidential rejection of this soak-the-nonrich strategy couldn't come at a riper moment and would save the President grief in the long run.

Mr. Clinton's reign is barely a week old, but he's already being treated as an easy mark. Let's try to count the industries that are suddenly crawling all over him, clamoring for protectionist favors: steel, domestic oil, airlines, makers of ceramic computer-chip housings. The line will ring the Beltway.

It's worth remembering why this is bad and worth stopping. America's President is the closest thing the world has to a leader, and for the last half century, Presidents have recognized a special duty to protect humanity's stake in an open trading system. Today, GATT and Nafta are both hanging in the balance. The director-general of Japan's MITI was murmuring darkly this week about retaliation against unilateral trade sanctions. With one of the few growing economies, thanks largely to exports, America hardly needs a trade war. Yet trade policy is in danger of degenerating into a special-interest *pinata*.

The confirmation testimony of Commerce Secretary Ron Brown of Patton, Boggs & Blow couldn't have been comforting to the world's hardworking masses. It was one long come-hither for special pleaders. "Action, not ideology, will be my watchword," he blathered. "We have to stop getting rolled."

Until last week, Mickey Kantor's most famous statement on trade was to advise Candidate Clinton to politick against Nafta. In his testimony on the way to becoming Special Trade Representative with an office in the White House, he proudly declared himself "theology"-free.

Which brings us back to the middle class. Every act of protectionism is a direct tax on consumers, most of whom, interestingly, aren't the evil rich. Princeton's Allan Blinder, now a member of Mr. Clinton's Council of Economic Advisers, spelled it out in his Business Week column a few years ago. "More often than not, protectionist measures redistribute income from average citizens to those doing better than average while harming economic efficiency in the bargain." he wrote. "That is why economists on both the left and the right are mostly free traders."

If the industries now lining up for import protection get their way, the prices of lots of things will go up. Mr. Clinton should step in between these special interests and U.S. consumers and tell the protectionists to pick on someone their own size.

[From the New York Times, Jan. 28, 1993]

Economic Scene

(Peter Passell)

While Treasury Secretary Lloyd Bentsen acknowledged this week that the White House was agonizing about a middle-class tax increase to pare the deficit, Mr. Bentsen was not advertising the fact that the Treasury could soon impose a new tax aimed squarely at the middle class with the stroke of a pen.

The catch: Most of the revenue would end up in the pockets of Detroit's auto makers, which are reportedly pressing on a variety of fronts for a helping hand from Uncle Sam. Well, make that catches. The tax—actually a tariff on imported mini-vans and Jeep-like sport utility vehicles—would further sour economic relations with Japan and distract the "strategic" trade issues in high technology.

The levy, on the agenda of the first meeting of President Clinton's new National Economic Council, which will most likely be held in early February, would come innocently packaged as a Customs Service reclassification of some 200,000 imported "multipurpose vehicles," like Toyota's Previa mini-van and Mitsubishi's Montero, as trucks rather than passenger cars. The resulting increase in the duty to 25 percent, from 2.5 percent, would add thousands of dollars to the imports' sticker prices. More ominous, it would give Detroit's Big Three, which already have more than 80 percent of this market, a freer hand to raise prices.

This tale, no joke, began with the Great Chicken War of 1962. When West Germany tripled duties on imported poultry to please its European Common Market partners, America retaliated with a batch of tariffs that applied to all countries, but were really aimed at the Europeans. The bird battle was settled long ago, and most of the retaliatory tariffs have been rescinded by Presidential order. But the 25 percent light-truck tariff, initially aimed at Volkswagen, is still on the books. And it gives Detroit an edge against Japanese rivals who were innocent bystanders in the chicken war.

Irony has since been piled on irony. As a favor to American makers of mini-vans and short utility vehicles, Congress initially classified these newly popular vehicles as trucks in order to exempt them from strict auto emissions and safety regulations. And while hardly anyone—certainly not the ad agencies—thinks of Dodge Caravans or Ford Explorers primarily as commercial cargo haulers, Detroit has been using the break it got on safety and emissions standards as a wedge to demand that the Treasury reclassify the almost entirely Japanese competition as high-tariff trucks.

The Bush White House offered an arbitrary concession to Detroit in 1989, applying the 25 percent truck rate only to sport utility vehicles with just two doors. But the issue arose again in the 1992 elections. In September, Congress barely defeated a bill to do for Detroit what George Bush would not. And in the last week of the campaign, with polls tightening in Michigan, Clinton-Gore strategists ran a television ad deriding President Bush for giving "the Japanese an unfair advantage over our trucks, and our workers."

This not a policy question that generates a lot of head-scratching among mainstream economists. "There is no argument for a developed country to protect old-line producers of middle technology with a 25 percent tariff," declares Robert Crandall of the Brookings Institution.

Moreover, the 25 percent could mean real money for middle-class families, the sort that use their $15,000 mini-vans to cart around three tots, four bags of groceries and scads of old newspapers bound for recycling. Even "buying American" would not exempt consumers from the inflationary clout of the import reclassification. Citizens for a Sound Economy, a nonprofit Washington group that lobbies against economic regulation, used earlier academic studies of auto protectionism to project that Detroit would raise multipurpose vehicle prices by 40 cents for every extra dollar of tariff—an average of $1,300.

Is the deal wired, as reports following President-elect Clinton's private Jan. 5 meeting with auto executives suggested? Maybe not. When pushed on the NBC News program "Meet the Press" on Jan. 17, Al Gore responded that "no commitment was made" at the auto meeting. And there are reasons to believe that Laura D'Andrea Tyson, the newly appointed chairwoman of the President's Council of Economic Advisers, will oppose the change. Ms. Tyson, known as advocating "cautious activism" in trade policy, may want to take pains to differentiate the championing of American cutting-edge technologies from garden-variety protection of an influential industry undergoing hard times.

In the end, of course, the choice will be President Clinton's. His decision could say a lot about how he plans to cope with conflict between the old, blue-collar constituencies and the suburban pragmatists, who apparently voted Democratic this time because they were frustrated by stagnating living standards.

Mr. Clinton has long argued that globalization of the economy cannot be slowed, only better molded to American interests. That mold would be hard to fashion on the precedent of a long-forgotten food fight with Europe.

[From the Washington Times, Jan. 28, 1993]

Dumping on Free Trade

Just when we thought it was safe to buy American cars again, Detroit goes and does something really stupid—tries to start a trade war. Competition has been great for the domestic auto industry. Well, not great if you are a union auto worker and want to slap together junkers for $50,000 a year. But terrific if you are a consumer who wants a decent and affordable car and doesn't mind buying American.

Sensing that the new president is less than committed to free trade, the U.S. auto industry is preparing to ask for radical trade protection from the Clinton administration. Chrysler, Ford and General Motors plan to file a complaint with the Commerce Department claiming that European and Japanese automakers are dumping their product in the United States, using predatory pricing to drive the domestic industry out of business. If the Big Three find a friendly protectionist in the White House, it will be bad not only for international trade as a whole but bad for American car buyers and even bad for domestic carmakers.

Remember when the Big Three owned the auto market? Fat and lazy, the industry treated us to such fine vehicles as the Mustang II. American cars from the 1970s were basically dreck. That is why European and Japanese companies were able to make such dramatic inroads into the U.S. market. Their products were better designed and better made. In the 1980s, American automakers realized they had better do better and began creating cars that were worth driving. It took a while of course. Longer for some U.S. companies than others. General Motors was still trying to fob off as a luxury car the Cadillac Cimmaron after Ford took its lineup in an original and exciting direction with rounded, aerodynamic cars. The most enduring of those designs is the Taurus, which is a well-made, attractive family car at a good price. Last year it outsold the leading Honda product, the Accord, for the first time in years. Competition doesn't destroy American companies. If anything, competition kept U.S. automakers from destroying themselves through sheer mediocrity.

But now the auto industry wants the federal government to once again present consumers with substandard choices at extravagant prices. If the carmakers get their way, Japanese and European cars will be slapped with $1,000 import duties. The U.S. companies can then boost their profitability—on the backs of U.S. consumers—by charging an extra $1,000 on each of their own makes. Import duties just end up being a new tax on consumers. That's not how the car companies sell it—it's all about protecting America from the yellow peril, we are told. Nonsense. It would be more honest if the automakers just asked Congress to raise taxes and hand the booty over to the Big Three.

The industry tried the protectionist racket last year, hoping to get duties placed on imported minivans, and failed. But now it expects the Commerce Department and the International Trade Commission to be more accommodating. If these agencies want to rule in favor of U.S. auto companies, they can. The dumping laws under the General Agreement on Tariffs and Trade are notoriously shoddy, written in a way that allows a government to find illegal predatory pricing almost anyplace it looks. Mexico, for example, has taken advantage of these loopholes to protect its markets from competitors north of the border.

One of the ways that an industry can show its competitors abroad are dumping their goods on the U.S. market is by proving that the foreign firms charge more for their goods at home than they do in America. The idea is that high prices in a protected home market give companies monopoly profits that they then use to subsidize their operations in the U.S., where they use low prices to bankrupt their American competitors. In practice, this is not what is going on, in most cases. But the dumping laws are screwy and it can almost always be made to look as though foreign firms are charging more at home than abroad. The reason? Because in doing the calculation, the Commerce Department averages the foreign home market prices and then compares that average against specific prices charged in the United States.

For example: In January, a Japanese company might sell its product for $3 both at home and abroad; in February the price drops to $2 and in March even further to $1 in each market. To get the price in the Japanese market, the Commerce Department averages prices from January through February, and finds that the average in Japan was $2.

Commerce then compares that average with the prices charged in each of the months in the U.S. In January the price in the United States—$3—was more than the average in the Japanese market; but in March the U.S. price—$1—was less than the average Japanese market price. Dumping! Not really, but clearly in this way, dumping can always be found, even if actual prices are the same in every country at any given moment.

The only restraint on the use of this system is the realization among politicians that retaliation would be devastating. If the United States plays the dumping game with the $45 billion automobile import market, all free-trade bets are off. If Mr. Clinton thinks a trade war is the way to revitalize the American economy, he should think again. Otherwise his electoral base in 1996 may be limited to the executives of three auto companies and the United Auto Workers. A governing coalition it isn't.

TRIBUTE TO DONALD FISCHER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. SKELTON. Mr. Speaker, today I pay tribute to Donald Fisher, immediate past president of the Missouri Farm Bureau Federation, for his career in service to rural America and Missouri farmers. Don is a resident of Corder, MO, in Missouri's Fourth Congressional District.

Don Fischer has spent his entire lifetime in agriculture. He was born and raised on his farther's farm in Lafayette County, and he currently farms 655 acres in a general farm operation near Corder that includes soybeans, corn, and wheat. He has been active in the Missouri Farm Bureau for over 25 years, and he has served in several key positions. In 1975, he was elected to the board of directors. In 1985, he was elected vice president. Then in December 1988, he was elected president.

Don's involvement with agriculture does not end with the Missouri Farm Bureau, however, He also serves on the Governor's Advisory Council on Agriculture, as chairman of the State Soil and Water Districts Commission, and as a member of the State Corn Grower's Board. In addition, he has served on the Missouri Opportunity 2000 Commission, represents the Farm Bureau as a trustee for the 4–H Foundation, and has been an ASCS committeeman.

Mr. Speaker, Don Fischer's agricultural accomplishments alone would warrant recognition. But he has also been active in his community, his local schools, and his church. A veteran of the military he is a member and former post commander of the VFW. He has been president of the Lafayette County C–1 School Board and president of the PTA. He served as chairman of the Missouri Valley Human Resource Development Corp. He is an active member of the Corder United Methodist Church, and has been president of the board, school superintendent, and Sunday school teacher.

During his extraordinary career as a farmer, and as an agricultural and community leader, Don has been aided and supported by a wonderful family: his wife, Marcile, his two children, Gary and Debbie (Fisher) Good, and his five grandchildren.

Mr. Speaker, Don Fischer represents all that is good about rural America. He has served his Nation, his community, and his fellow farmers selflessly in time of war and peace, and I know he will continue to do so in the months and years ahead. I urge all the Members of the House to join me in recognizing Don Fischer and in thanking him for his contributions to our Nation.

CONGRATULATIONS TO VALLEY VIEW HIGH SCHOOL STATE FOOTBALL CHAMPIONS

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. McDADE. Mr. Speaker, I rise today to recognize a group of young people whose commitment to hard work and sportsmanship have made them champions. I congratulate the Valley View High School Cougars on winning the 1992 Pennsylvania Interscholastic Athletic Association class AA State football championship December 18.

In a battle of two undefeated teams, the Cougars defeated East Allegheny High School 21–13 at Mansion Park in Altoona for their first State championship. The Valley View team came back after trailing at halftime and made a formidable goal-line stand in the final minutes to secure the State title.

This achievement could not have been possible without the students, parents and community members who have shown such tremendous support of Valley View football and of the school system through the years. Buses and cars full of supporters braved Pennsylvania winter weather and made the long drive to Altoona to cheer the Cougars to victory.

This victory adds to the rich tradition of Cougar football, which through the dedication of Coach Frank Pazzaglia and his staff, includes 214 victories, 9 Big 11 titles and 5 Eastern Conference championships in the school's 24-year history. Coach Passaglia and his staff are congratulated for their role in helping to shape the lives of these champions and of all the young people who have participated in their program. Coach Pazzaglia teaches responsibility, sportsmanship, and teamwork—lessons which stay with his players throughout the lives.

I ask my colleagues to join me in recognizing and honoring the Valley View players, coaches, students, parents, and supporters for their spirit, sportsmanship and dedication during this championship season.

A TRIBUTE TO BEN JARRETT

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. MANN. Mr. Speaker and my colleagues, I ask you to join me in congratulating Ben Jarrett of Cincinnati, OH, who has been selected to attend the National Young Leaders Conference here in Washington, DC, from February 9 to 14, 1993.

Ben Jarrett, a junior at Western Hills High School, has been selected as one of 350 outstanding high school students from across the Nation to participate in the conference. Ben has been an exemplary student throughout his educational career. He has been the recipient of many honors awards, including awards in algebra and chemistry, culminating in his recent induction into the National Honor Society.

During his stay in Washington, Ben will participate in conference programs which include meeting with Members of the House and Senate, journalists, and the diplomatic corps. Additionally, the students will participate in a mock Congress in which they will assume the roles of U.S. Representatives and debate, lobby, and vote on proposed handgun legislation.

This conference is sponsored by the Congressional Youth Leadership Council which was founded in 1985. Since then the council has been committed to recognizing outstanding youth and providing them with hands-on civic learning experience in our Nation's Capital.

Mr. Speaker, it is my hope that at the conclusion of the conference Ben will take with him a new awareness of our political process and the desire to be active participant in the policies that will take our Nation into the 21st century.

Mr. Speaker, I am extremely proud of Ben Jarrett and I ask you to join me in commending Ben and his parents, John and Linda Jarrett, on this great achievement.

A TRIBUTE TO MR. CHARLES ROBERT JONES

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. BLACKWELL. Mr. Speaker, I am extremely proud to stand here today to honor Mr. Charles Robert Jones, an individual of great character and immense talent.

Mr. Charles Robert Jones has made pivotal contributions to the Vine Memorial Baptist Church of Philadelphia as its minister of music for the past 40 years. I would like to applaud him in celebration of this eminent achievement.

A native Philadelphian, Mr. Jones has had a love for music since childhood. During his early years, he was instructed by Ida Moore of Galilee Baptist Church and later entered the Hamilton Institute of Organ, Piano, and Choral Music in Philadelphia. At the Hamilton Institute, he earned a certificate of music. Charles Robert Jones has diligently studied with the best in the field of music and developed his talent into a beautiful mastery.

His dynamic technique of transmitting the gospel through music led him to be one of the most celebrated musicians in the city of Philadelphia. Consequently, it was no surprise when the late founder and pastor of the Vine Memorial Baptist Church, Rev. Leonard George Carr, recognized Mr. Jones' gift and strongly encouraged him to carry on his work.

By the age of 17, Jones had a significant impact on the influence of music at Vine Memorial as the organist/choir master of the senior choir, the pianist for the youth choir, and pianist for the gospel chorus simultaneously. The commitment that this man gave to these responsibilities, no doubt led to his being named the church's minister of music in 1956.

For Charles Robert Jones, music is a means of expression which he has utilized to touch the lives of many. His artistic inventiveness has both astounded and delighted audiences throughout the city of Philadelphia and abroad.

He has participated in a myriad of musical performances. For instance, he has directed choirs from 300 to 1,000 voices, such as the choir which performed at the National Baptist Convention held in Philadelphia in 1960. Moreover, he has received several awards for the many contributions he has made to gospel music including the prestigious Chapel of Four Chaplains Award.

Therefore, Mr. Speaker, I am proud to pay special tribute to this incredible individual. It is a privilege to congratulate Charles Robert Jones for bringing his beautiful musical legacy both to Vine Memorial Baptist Church, as well as to the city of Philadelphia.

LT. COL. DONALD G. MASCH RETIRES AFTER DISTINGUISHED ARMY CAREER

HON. DAVE McCURDY

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. McCURDY. Mr. Speaker, I would like to take a moment to recognize the distinguished service of Army Lt. Col. Donald G. Masch, who retires this month following more than 22 years of service to our country.

A distinguished military graduate from the University of Connecticut ROTC program, Lieutenant Colonel Masch was commissioned as a Regular Army infantry officer in June 1970 and served for 7 years in a succession of challenging assignments as a troop leader and staff officer. Selected for the Army's Foreign Area Officer program, Lieutenant Colonel Masch received his master's degree in National Security Affairs with a Mideast specialty from the U.S. Naval Postgraduate School in 1980.

He was then assigned to the Assistant Chief of Staff for Intelligence, Department of the Army, as the area analyst for Southwest Asia. He quickly earned recognition in the intelligence community and on Capitol Hill for his perceptive analysis of political events in Iran, the political-military aspects of the Iran-Iraq war, and the Soviet quagmire in Afghanistan.

In 1983, Lieutenant Colonel Masch was selected for duty as a military observer with the U.N. Truce Supervision Organization. Serving first as the senior United States observer in the observer detachment in Damascus, Syria, and then as an observer and operations officer in southern Lebanon, Lieutenant Colonel Masch earned the respect of his fellow observers for his handling of delicate confrontational situations between armed militias and for his effective liaison between U.N. agencies and local authorities.

Returning to the U.S., Lieutenant Colonel Masch next served at the U.S. Army Infantry School, where his 9 year association with research, development and acquisition programs began. He quickly became one of the Army's recognized experts on requirements for and development of infantry antiarmor weapons. Efforts he led during this time and during his subsequent assignment on the Army staff resulted in improvements to systems like TOW and Hellfire which proved invaluable to U.S. forces during Operation Desert Storm. He has also played a pivotal role in advancing the development of the Army's new Javelin antitank system.

Lieutenant Colonel Masch's work with the Armed Services Committees over the past 3 years is known to many of you. As a liaison officer in Army Legislative Liaison, he has worked closely with Members and staff personnel on missile and missile defense programs, lessons learned in Operation Desert Storm, and critical defense acquisition issues. His efforts have helped insure that our servicemen and women will continue to be the best equipped in the world. Lieutenant Colonel Masch has served his country with dedication and distinction and, as he leaves the Army, I extend to him and his family our thanks and best wishes for the future.

CERTAIN LEAD FUEL TEST ASSEMBLIES

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mrs. JOHNSON of Connecticut. Mr. Speaker, today Congresswoman KENNELLY and I are reintroducing our bill on behalf of ABB–CE Nuclear Fuel, which is located in Connecticut, to exempt from duty four entries of lead fuel test assemblies imported for testing by U.S. utilities during 1990.

This miscellaneous, technical tariff legislation is necessary because U.S. law permits duty-free importation of items for testing purposes only if they are re-exported or destroyed within 3 years, whereas the testing period for the fuel assemblies will be about 8 years. The bill we are reintroducing is identical to section 2107 of H.R. 4318 as approved by the House Ways and Means Committee and then passed by the House of Representatives last year.

THOMAS JEFFERSON COMMEMORATIVE COIN

HON. L.F. PAYNE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. PAYNE of Virginia. Mr. Speaker, on April 13, 1993, our Nation will commemorate the 250th anniversary of the birth of Thomas Jefferson. The timing of this commemoration could not be more appropriate. We are not just recognizing the birth and the contributions of a great American patriot—we are celebrating our democratic ideals and freedoms.

Two weeks ago, we witnessed the most vivid example of the legacy handed down to us by Thomas Jefferson, the peaceful transfer of power that is the hallmark of our democratic system of government. Around the globe, nations are emerging from the darkness of tyranny into the light of freedom and self-determination, guided and encouraged by the promise of these same principles that Jefferson helped define and nurture two centuries ago.

Thomas Jefferson's legacy was profound. He believed that the only legitimate government was one which was based upon the active consent of the people. He believed that those in government must be held accountable to the governed. He believed that, if the United States was to achieve its promise, it had to secure, protect, and promote individual rights and liberties against the power—and potential abuse—of the state.

Last year, Congress recognized the importance of 1993 for our Nation by authorizing the creation of a Federal commission to assist in the planning of the celebration commemorating Jefferson's birth. As an accompaniment to this effort, the Virginia congressional delegation is today introducing legislation authorizing the minting of a commemorative coin. Passage of this bill will allow every citizen the opportunity to honor this man of the people. At the same time, proceeds from the sale of the coin will be dedicated to the restoration and preservation of Jefferson's homes at Monticello and Poplar Forest, and for the educational programs of the International Center for Jefferson Studies. There will be no cost to the Federal Government.

As Thomas Jefferson prepared for his death, he wrote this epitaph:

> Here was buried Thomas Jefferson, author of the Declaration of American Independence, of the Statute of Virginia for Religious Freedom, and father of the University of Virginia.

In the simple and humble dignity of those words, Jefferson wanted to be remembered as an American citizen, not a statesman. I urge my colleagues to help us preserve his legacy and honor his memory by cosponsoring our legislation authorizing the minting of a Thomas Jefferson commemorative coin.

FIRST TIME HOME BUYER TAX CREDIT

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mrs. JOHNSON of Connecticut. Mr. Speaker, today I am reintroducing a bill that I believe will help pull working men and women off unemployment rolls and restore the health of a major segment of our economy. The first time home buyer tax credit, last used in the mid-1970's, is a substantive attempt to jump start the economic engine called home building.

Construction, especially of single family homes, is a labor intensive undertaking and usually leads this country out of recession. As carpenters, bricklayers, stonemasons, plumbers, painters, roofers, electricians, carpet layers, furniture makers, and many others start work on new homes, they reestablish their role in a vibrant economy and carry many others along with them.

This bipartisan bill would provide a $2,500 nonrefundable tax credit for first time home buyers for the purchase of a new or used principal residence during calendar year 1993. Half of the credit would be allowed on the taxpayer's 1993 tax return and the rest would be taken on the 1994 return. Unused portions of the credit could be carried forward for up to 5 years.

The first time home buyer tax credit also offers young families the opportunity to achieve a part of the American dream. For all of these reasons, I hope the new administration, working with the Committee on Ways and Means, will enact this initiative into law.

REAUTHORIZATION OF THE MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. STUDDS. Mr. Speaker, today I am pleased to join with my colleagues from New York and Alaska, Mr. MANTON and Mr. YOUNG, in introducing a bill reauthorizing the Magnuson Fishery Conservation and Management Act, the principal law that governs the management of our Nation's valuable fishery resources.

Sixteen years ago, when we fought so hard to pass the Magnuson Act, our fisheries were in trouble, overfished by the fleets of many foreign nations. At that time, we sought to enact legislation that would provide for sound conservation and management of these resources while helping an ailing U.S. fishing industry.

Since 1977, the act has literally added billions of dollars into the economies of coastal communities like New Bedford, MA and Kodiak, AK; created tens of thousands of jobs; and helped make our Nation's fishing industry among the most modern and productive in the world. In short, the act has fulfilled its economic goals through the Americanization of our fisheries. Unfortunately, the act has not been nearly as successful in ensuring the long-term conservation of our resources.

As stewards of our fishery resources, we have a responsibility to balance the economic interests of our fishermen with the conservation needs of the resource. This is a fundamental principle of the act. And common sense tells us that without a healthy resource, we cannot have a healthy industry. This is why I believe it is now time to examine how our policies and priorities of the past 16 years have prevented us from achieving all that we set out to do in 1976. For example, we must determine how the crisis in the New England groundfish fishery developed and act to ensure that it is never repeated again.

The bill we are introducing today is a straightforward reauthorization of the act and merely the first step of the process. There is much more work to be done. I expect that there will be many people who will come to us with their ideas on how the act can be improved, and I encourage these suggestions. I look forward to working with all those who share our commitment to the long-term health and productivity of our Nation's fishery resources.

TRIBUTE TO MR. GEORGE "REX" FENSTEMAKER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. KILDEE. Mr. Speaker, it is with great pleasure that I rise now to pay tribute to Mr. George "Rex" Fenstemaker, a hardworking, devoted public servant of Clarkston, MI, who is celebrating his 50th year of service as a volunteer firefighter for the Independence Township Fire Department.

Mr. Fenstemaker's career as a fireman began in 1943 with the Clarkston Fire Department. Although the department was small, Mr. Fenstemaker and his fellow firefighters provided full support to the surrounding communities with a litany of public services, including responding to fires, medical emergencies, and personal injury accidents.

With the formation of the Independence Township Fire Department in 1952, Mr. Fenstemaker continued his outstanding career and soon was promoted to captain and then to district chief shortly thereafter.

When Mr. Fenstemaker underwent medical operations to have both hip joints replaced during the late 1970's, he stepped down from his post as district chief because he felt he would not have been able to fulfill his responsibilities as district chief. Despite injury, Rex remained loyal to his commitment, and continued with the department as a volunteer. Again in the early 1980's, Rex had another medical setback. This time it was cancer. After a few operations and much therapy Rex was right back on the job.

The people of the Clarkston area have truly been blessed to have a man of Mr. Fenstemaker's caliber as a tireless public servant for 50 years. Not only has he given selflessly to the fire department, but he has also been a devoted family man. This year he and his lovely wife Rose, will celebrate their 53d year of marriage. They share their lives with their daughter and son-in-law, Mary and Raymond Pendergrass. In addition, Mr. Fenstemaker cares for his 98-year-old mother, tending to all of the maintenance for her home and yard.

Mr. Speaker, I would like to take this moment to ask my colleagues in the U.S. House of Representatives to join with me in wishing Mr. Fenstemaker much joy in his retirement. His selflessness has touched the lives of countless people and will continue to serve as a message of bright hope for Clarkston and Independence Township.

CONCURRENT RESOLUTION OPPOSING ANY RESUMPTION OF COMMERCIAL WHALING

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. STUDDS. Mr. Speaker, today I am pleased to introduce a resolution expressing congressional opposition to any resumption of the practice of killing whales for profit.

The resolution calls for a continued U.S. policy of opposing commercial whaling in keeping with the policies established 20 years ago under the Marine Mammal Protection Act. It also urges the establishment of international whale sanctuaries where whaling is prohibited. The Antarctic Ocean is currently under consideration as one of these sanctuaries, and I strongly urge that we actively support special protection for this unique marine ecosystem.

In 1946, nations from around the globe came together to sign what proved to be a landmark wildlife conservation treaty: the International Convention for the Regulation of Whaling. The need for the treaty was clear, since 200 years of commercial whaling had brought most of the world's whale species literally to the verge of extinction.

The treaty's success in slowing, if not entirely stopping, the slaughter has been nothing short of remarkable. Although still menaced by marine pollution and global climate changes that threaten to destroy their habitats, the great whales have slowly begun to repopulate the oceans of the world. If we do not repeat the mistakes of our whaling ancestors, we may yet see a day when we don't always hear "endangered" and "whales" in the same sentence.

But sadly, the tireless efforts of the past 47 years now face the possibility of being completely undermined by the reckless actions of a few shortsighted nations seeking to resume the practice of killing whales for profit. This is simply unacceptable to the American people and, increasingly, to much of the rest of the world.

In today's world, commercial whaling is simply an anachronism. No other group of animals has so captured the imagination of the American people—yet no other group of animals has been subjected to such relentless hunting for profit. Commercial whaling must be stopped, and I urge my colleagues to support this resolution.

SEVEN VALUES TO LIVE BY

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 3, 1993

Mr. FISH. Mr. Speaker, I would like to insert "Seven Values To Live By," by Norman Vincent Peale, into the CONGRESSIONAL RECORD. I believe the messages contained in this Action Booklet are of great value to my colleagues and to all Americans.

SEVEN VALUES TO LIVE BY

(By Norman Vincent Peale)

INTRODUCTION

Value: A principle that reflects an ideal moral standard by which individuals guide their throughts and actions, and from which society as a whole ultimately benefits.

How would you define real success in life? In the minds of many Americans, success means the making of a great deal of money or achieving fame and recognition. But haven't we all known people, who, possessing a great deal of money, fame, or both, are failures? And haven't we all seen people with little money who are great successes?

The standards of true success are these: Are you in control of yourself? Do you have a grip on life? Are you happy? Are you developing your spiritual life? Do you get a thrill out of everyday living? Do you know God? Are you held in esteem by other people? If money comes to you along with all these values, that is good. But money should not be your main goal. Achieving a happy, satisfying, and fulfilling life is what you really should focus on.

And the next logical question is, how do you go about doing this?

First, select and adopt a set of values. Then, dedicate yourself to living by them. This may not be easy, but the rewards of living by specific values in your life are enormous and gratifying.

Based on my years of experience as a pastor and observer of the human spirit, I have discovered that seven values, when carefully and diligently applied, will bring happiness, satisfaction, and success to any man or woman, regardless of age or circumstance.

Seven Values To Live By contains seven chapters, each of which highlights a particular value. Read each chapter thoroughly and study the value described therein. Then take the action steps that follow and practice them on a daily basis.

This will not be easy, but the task is not impossible. Once attained, these values will produce happiness, and a sterling character as well. So if you want to be continuously victorious over your problems, study and resolutely master each value: Integrity, Courage, Enthusiasm, Happiness, Faith, Hope, Love, and make them part of your life. You will achieve success beyond anything you have ever experienced before.

But there is one further principle you must apply to make these great values a powerful part of your life. You must make a *commitment* to learn them and use them. They are not easy, but by committing yourself to learning them and living them, you will acquire the basis for becoming a great person.

When you get discouraged, when you cannot seem to make it, there is one thing you must practice. It is the priceless ingredient of success: relentless effort. Never give up, never quit.

The world today is much in need of men and women who will personally do something about wrong conditions. Our crisis times call for people who will respond positively to challenges with a "Here am I—send me," and then wade right in. Such people can bring about important changes in situations, and thereby set in motion forces that make for corresponding changes in the world at large. Thank God, it is still true that a few dedicated people can change the world.

Norman Vincent Peale

INTEGRITY: FIRM ADHERENCE TO A CODE OF MORAL VALUES

Complete honesty, complete integrity, is almost tangible. Whenever you encounter it in people, you know you can trust them. This ability to inspire trust and confidence is often a factor in their success.

I have often been struck by the realization that many highly successful people seem to live by what might be called a code of superhonesty. They're not satisfied with casual, everyday standards. They go an extra mile. They make the unusual choice.

One of the best ways to strengthen your standards of honesty is to speak out forcibly against dishonesty wherever you come into contact with it. We all tend to condone things by keeping silent, afraid we'll be disliked or that we may be considered smug or selfrighteous.

If you are easy on wrongdoers, you may wind up being too easy on yourself. On the other hand, if you speak out loud and clear in favor of honesty, you make it difficult for yourself to be anything but honest.

Once, when speaking before a large crowd, my attention became fixed on a face that reflected great anguish. The man continued to appear in the crowd at talks I gave around New York City.

Then, one day, I met him on the street and he said, "I have to tell you something. Could we talk?"

I fixed a time for us to meet. He arrived at the appointed hour and launched into this story:

"You do not know me. In my hometown, I am a prominent, highly respected citizen. I have a wonderful wife who regards me as a good husband, and my children think I am a fine father."

"Well, are you? I asked. "Are you all that good?"

He gulped and said, "No, I'm a thief and I can't tell anyone at home about it. I have got to find relief."

"Does any know about it?"

"Not a soul."

"Why don't you tell your clergyman?"

"I don't want to tell him. He wouldn't understand."

"Be explicit. What did you steal? Was it money?"

Then he told me. "The president of the company where I work as treasurer is like a father to me. But I got in over my head on personal financial matters and began to siphon money from the company."

"How much?" I asked.

"Well, I kept an exact account. With interest, it would be fifty-two-thousand dollars. Dr. Peale, I've thought of suicide, but I haven't the nerve."

"What if you confessed this to your president?"

"He would lose respect for me. I would be ruined and disgraced. If it came out, my wife and children would be disgraced, too. Why did I do it? I have been decent all my life, except for this moral failure."

"When do you go back home?"

"Tonight, on the sleeper train."

"What time do you get there?"

"The train gets in about seven o'clock tomorrow morning."

"What time does your bank open?"

"Nine o'clock."

"How much have you in the bank?"

"I have ten-thousand dollars, to meet my obligations, including college expense for two children."

"Do this. Monday morning, be the first man in the bank, and write out a check for five-thousand dollars in cash. Then go to your place of business."

"I can't do it," he said. "I can't do it."

"It will do you good. You will be rid of your guilt. Say to your president, 'I have come to confess. I was under pressure and "borrowed" this money and quite a bit more. I meant to pay it back. Now, I want to start doing that. I went to see a preacher in New York City, who told me throw myself upon your understanding. I'm ashamed and humiliated.'"

Before he left, I had convinced him to give this procedure a try. As the man told me later, the president looked at the money and was silent. Then he spoke: "You have been in hell, haven't you? When a good man does wrong, he carries hell around with him. I trust you that the whole debt will be paid. And here is what I am going to do about you. I'm going to put you in charge of sales. Mr. Smith is retiring. You will be our new sales manager. Go and sin no more."

My new friend ended his report by declaring, "My president is the greatest man alive."

Integrity relates to character, honesty, and fidelity, all products of accepting God's standards for right living. Remember, nothing wrong ever turns out right.

The president treated my friend kindly. He said, "You are a good man despite your wrongdoing. You have learned your lesson."

When my friend, overwhelmed by gratitude, asked how he could repay this kindness, the president replied, "By being a great sales manager. Besides," he added, "our business is God's business."

This is a human story. It is also a story about integrity, theft, dishonesty, guilt, conscience, honesty, confession, forgiveness, and kindness.

It is a story that turns out well. It is a story of value, for its shows the value of integrity.

Action Steps

1. When you are on a course of dishonesty, stop it at once; no excuses, no delaying tactics.
2. Talk it over with a pastor, priest, or rabbi.
3. Rebuild your moral strength.
4. Get forgiveness from the person wronged and from God. Forgive yourself and put it in the past.
5. Right the wrong as fully and as fast as you are able, and resolve never to be dishonest again.

"The one thing worth living for is to keep one's soul pure."—Marcus Aurelius

COURAGE: STRENGTH TO DO WHAT IS RIGHT REGARDLESS OF THE CONSEQUENCES

Successful living requires courage. Perhaps courage is a basic-life quality that God gives us, since it is of the spirit. Moments may come when courage alone will stand between us and disaster. There will be times when we shall need dogged courage to keep us going when the going is hard. And what is the source of such rugged courage? It is a sense of God's presence, when we hear Him say "I am with you always."

To have courage, do three things: First, think courage. We become what we think. There is a law of attraction whereby like responds to like. If you think thoughts of courage, courage will flow to you. The more courageous your thinking, the greater the results will be. Second, act courageously. We usually get according to the way we act. And we all have built into us a capacity for acting with courage. Third, pray for courage. Pray for courage as you pray for your daily bread. God will give it to you, because He will give you Himself.

Gladys Aylward was a little person. Seated, her feet scarcely touched the floor. But she had pure and undoubting faith in God. She trusted implicitly. She came to see me in New York City. I wondered how this quiet petite lady had the courage to face the terrifying experiences that were shown in the motion picture "Inn of the Sixth Happiness." As she visited me, I asked her to tell me the story.

At a Salvation Army street meeting, in London, she became converted, completely changing her life. The gentleman for whom she worked in London had a wonderful library on China, and she began reading.

One day, her employer came in, found her reading, and reproached her. He said, "I hired you to dust and clean, not to read my books. Besides, you didn't ask if you might read my books."

"Sir," she said, "I am fascinated with China."

"Read the books then, but not until after you get the housework done," he replied.

Through her reading, Gladys came to believe that God wanted her to go as a missionary to China. She went to the mission board. The members, all highly intellectual, highly educated church leaders, gave her an intellectual test she couldn't pass. They said: "No, you do not measure up to our intellectual standards. You can't go." But did that faze her? Not at all. She had received her commission from a higher source than a mission board.

So Gladys Aylward went to China without any sponsorship and was now sitting in my study telling me about the times she spent on the streets in Yangchuan and other cities. The tiny British cockney woman told the people that no power on earth could overcome the person who gave his or her life to God and Jesus Christ. That person would become a resurrected soul and could triumph over the world. She went on telling this message week after week.

One day, the governor called her, saying, "We have a terrible situation. There is a riot in the prison where murderers and vicious men are guarded by only twelve soldiers. If we go in, they will kill us. One of the worst men in the prison has a huge meat cleaver, and has already killed two men and terrified the others. We want you to go in and take the meat cleaver out of his hands."

"You must be out of your mind, sir," she said.

"I have listened to you in the street saying that God is always with you, about Daniel in the lion's den, and how Jesus Christ in your heart will protect you."

"Ah, but you misunderstand, sir."

"Haven't you been telling the truth?" he replied.[6] "I know what you've said, and I believed you."

She knew that if she ever wanted people to believe, she would have to go into that prison. She asked the Lord to go with her and she felt strangely peaceful. After unlocking the prison door, they quickly shut her in. There, at the end of a long, narrow tunnel she could see men wildly running about shouting and cursing. She prayed, "Be with me, Lord."

She walked to the end of the tunnel and saw the man with the meat cleaver, which was dripping with blood, chasing another man. Suddenly, he was in front of her. They stood facing each other: the little woman and the giant. She looked into his wild and feverish eyes and calmly said, "Give me that weapon." There was a moment of hesitation; then, with utter docility, he handed it to her. "Now," she said, "get in line, all of you." Quietly, they lined up.

"What are your complaints?" she asked. "I will tell them to the governor, and I assure you in his name that, where possible, they will be corrected."

As a believer, Gladys Aylward found unbelievable courage. Her secret can be found in a Scripture verse from the Psalms that gives a formula anyone can follow to find courage in any situation:

"I sought the Lord, and He heard me, and delivered me from all my fears" (Psalm 34:4).

Action Steps

1. Always be faithful to your principles and values. It may require guts to stand by them, but that is the way to build your courage.
2. Pray for courage as you pray for your daily bread. Both are vital to your welfare.
3. Courage comes naturally from spiritual commitment. So become spiritually committed.
4. Courage depends on the strength of your commitment to Jesus Christ, so deepen that commitment.

"Courage is the resistance to fear, mastery of fear—not absence of fear." —Mark Twain

ENTHUSIASM: PASSION FOR LIFE

A member of my church in New York was one of the most enthusiastic salesmen in the city, certainly one of the most successful men I have known.

Asked the secret of his long-lived vitality, he replied, "Well, it's like this: You taught me to love God, to love people, and to love life. And to keep my mind and spirit always renewed and at a high level. I followed your advice, and the result has been enthusiasm and happiness that never run down."

There is the basic answer to the problem of keeping enthusiasm. Be renewed in the spirit of your mind. The Apostle Paul believed that this renewal had great power to change life habits, for he wrote, "Be ye transformed by the renewing of your mind" (Romans 12:2).

I once met an enthusiastic lady who told me that every morning she reads a statement by Thoreau that hangs on the wall of her kitchen: "None are so old as those who have outlived enthusiasm." It became a mental pattern for her life.

Emerson wrote: "Nothing great was ever achieved without enthusiasm." And a prominent businessman once said, "Every business organization should have a vice president in charge of constant renewal."

If that is good for a business, surely it is more important for an individual to have an automatic self-motivator that keeps him alive and vibrant. Without this, such a person becomes a relic who fades further each day into the dead past. Enthusiasm puts a person into the present regardless of how many years he has lived. Such a vitalized individual cannot possibly become a has-been. He is perpetually the is-now type.

A friend who operated a drugstore, Mr. Russ, once told me of his personal battles with discouragement. As I listened to his story of difficulties, reverses, and sorrows, my depression seemed trifling indeed. "But I can tell you honestly," he declared, "that since I began a certain mental and spiritual practice, I have never had any lasting discouragement. And I'm sure you will agree I'm on the enthusiastic side."

"I don't know a man of more genuine enthusiasm than yourself," I replied. "What is this mental and spiritual practice that helped you?"

"Daily mental ventilation," he replied. "That's what did it and, I may add, still does it. Keeping the mind free of darkness is a day-to-day job."

He went on to emphasize the importance of the process of daily mind-emptying. "If you allow dark thoughts, regrets, resentments, and the like to accumulate, your whole psychology can, in time, be so adversely affected that a major effort may be required to bring it back to a normal state of balance."

Since then, I have used the mental ventilation system employed daily by Mr. Russ, both personally and in other cases, with effective results in stimulating new enthusiasm. Here's what he did. At the end of every day, he "emptied" his mind to prevent unhealthy thoughts from lodging in consciousness overnight, for he knew such thoughts can take root quickly, if allowed to accumulate even for as long as 24 hours.

This mental emptying took the form of a recapitulation of unpleasant incidents that had occurred during the day: a sharp word, an insinuating remark, a hostile act by some other person. Also, a review of his own mistakes, errors, or stupidities. To these, he added disappointments, frustrations, and every form of unhappiness that had clouded the preceding hours. He held all these in a strong mental view, deliberately drawing from them all the experience and understanding they had to give. Then he "lumped" them together and mentally "dropped" them out of consciousness, saying as he did so these therapeutic words: "Forgetting those things which are behind, and reaching forth unto those things which are before . . ." (Philippians 3:13).

Mr. Russ stated that when he first began to use his "lumping" and "dropping" practice, the mental accumulation, as he put it, readily "lumped" but just did not "drop." However, the continued application of a determined and disciplined mental effort resulted in a remarkable ability to forget the useless and unhealthy items that had previously cluttered his mind, siphoning off zest and enthusiasm. In these procedures, Mr. Russ made use of the law that one can do practically anything he wants with his thoughts, provided he consistently continues the effort.

"You cannot possibly realize, until you try it for yourself, what a powerful upthrust of joy surges through your being when you find that you can actually 'lump' and 'drop' those pesky enemies of a happy mind," he declared. "Ventilate—that's the answer. Ventilate. Let them go; throw them out; 'lump' and 'drop'—ventilate the mind." By so doing, the mind will be open to developing the great value of enthusiasm.

Action Steps

1. Become enthusiastic by practicing the "as if" principle. Act "as if" you were enthusiastic, and you will become enthusiastic.
2. Begin each day thinking enthusiastic thoughts.
3. Picture yourself as being the most enthusiastic person you know.
4. Enthusiasm is catching, so surround yourself with enthusiastic people.
5. Every day, three times a day, say: "This is the day the Lord has made. I will rejoice and be glad in it" (Psalm 118:24).

"Enthusiasm is a kind of faith that has been set afire."—George Matthew Adams

HAPPINESS: STATE OF WELL-BEING AND CONTENTMENT

In writing the Declaration of Independence, Thomas Jefferson described our country as favoring unalienable rights: life, liberty, and the pursuit of happiness. It is therefore a favorite objective of the American to be happy. And an American must have freedom to be what he can be.

I have found, personally, that happiness is religiously based. All the unhappiness I have encountered in life has been where men and women lived otherwise than according to the precepts of Holy Scripture.

I have seen unhappy people fully adopt the teachings of Jesus Christ and become happy ever after. So I conclude that spiritual faith, hope, and love are involved in the state of mind we call happiness.

In reviewing a recent book, *The Pursuit of Happiness* by David G. Myers, a distinguished social psychologist, Peter Groner, wrote in the June 3, 1992, Chicago *Tribune:* "Myers, a respected scholar, measured people's feelings of happiness. He found, after reviewing thousands of studies, 'that people who are energetic, decisive, flexible, creative, and sociable are happy. They are more trusting, more loving, more responsive than unhappy people. They tolerate frustration well, and are more willing to help others. Even their immune systems function better. Physical fitness is important, as are such traits as self-esteem and optimism. Science has found that close friends bring happiness, but money and possessions won't.'"

Gorner concludes his positive review of Myers' book by these words: "To experience deep well-being," Myers says, "is to be self-confident, yet unselfconscious, self-giving, yet self-respecting, realistic, yet hope-filled."

So important is happiness that a Southern university, some years ago, offered a special course for alumni in how to be a good-humored person. This course, I understand, was popularly received. Good humor means to have an inner sense of affability and geniality. It is an attitude of urbanity and kindliness. It was, in a sense, a course in happiness.

Not long ago, I was with a man who was tops in his profession. It was his 70th birthday. I asked him what was the most important discovery he had made in business that accounted for his rise to the top. I remember that he stopped as we walked on Walnut Street in Philadelphia and turned to face me. "A good question," he said, "and I can answer you instantaneously. I learned to get and keep a good-humored attitude toward life. To be explicit, I became a genuinely happy man, one day, when I met someone who changed me deep inside. When I became happy and good humored, I found less resistance to my business leadership. People started going along with me rather than opposing me."

I was curious, for my friend was an outstanding thinker and leader, professionally. But I had heard that he once had been dictatorial and difficult, even though he was a recognized genius. So I asked, "Where did you meet this amazing person who had the ability to make such a change in you?" (I was thinking of myself when I asked him that.)

"At the old Conwell Baptist Church on Broad Street, where you, too, have met Him."

There is always a reason why people act as they do. If they are unhappy within themselves, that will come out in their emotional reactions. People are motivated by a force they do not understand. Emotional reaction is likely to be too quick. In the controlled person, it is slow. The reaction is slower in the happy personality because he likes the other fellow.

Emotion must be deliberate. The Roman philosopher Seneca said, "The greatest cure for anger is delay." Emotion by its nature is always hot. So let it cool. One man, a happy and successful fellow, told me that he never gets mad until 24 hours afterward. He waits to cool down. You can do that when you live the principle, "Rest in the Lord, and wait patiently for Him: fret not thyself . . ." (Psalm 37:7).

I like the story about the late Robert Taft, the revered U.S. Senator from Ohio. In his early political career, Senator Taft went into hostile territory to make a speech. Someone threw an over-ripe tomato. It hit the Senator in the chest and burst all over his face, his glasses, and his hair.

How did he react? He did not wipe his face, his glasses, or his hair. He just went on making his speech. He never referred to the tomato. When he finished, he stepped down from the platform and, with his handkerchief, wiped his face, and then his glasses.

"Good-by, boys," he said in a friendly manner.

As he walked down the aisle toward the door, the crowd gave him a standing ovation.

A controlled person controls. A controlled person is deeply happy and can handle difficult situations.

Action Steps

1. Happiness comes from knowing you can handle things. Become confident, and happiness will follow.
2. To be happy, find a human need and help fill it.
3. Take Jesus, the greatest giver of happiness the world has ever known, into your heart. His presence in your life will bring you joy and happiness.
4. Be happy about your struggles. They can bring you untold satisfaction as you conquer them.
5. Emotional control results in happiness. Do not allow the heat of the moment to get the best of you.

"There is no happiness in having or getting, but only in giving."—Henry Drummond

FAITH: BELIEF AND TRUST IN GOD

The Bible has a lot to say about values to live by. Perhaps the greatest statement is found in 1 Corinthians 13:13: "And now abide faith, hope, love, these three; but the greatest of these is love." The last three of our seven values will be faith, hope, and love.

The Bible is full of principles that can change your life. One of them is Matthew 17:20, "If ye have faith as a grain of mustard seed, ye shall say unto this mountain, Remove hence to yonder place; and it shall remove: and nothing shall be impossible unto you."

Almighty God never meant that His highest creature, man, should be a failure. Have you ever been conscious of your own greatness? Have you ever glimpsed what is really within you?

The science of psychology has stated that we have within us something called the subconscious mind. William James, the father of American psychology, said: "The greatest discovery in one hundred years is the discovery of the power of the subconscious mind."

The deep impulses that motivate us come from the subconscious. It is what Jesus referred to in the statement: "The kingdom of God is within you" (Luke 17:21).

When Jesus said, "Greater works than these shall He do" (John 14:12), He was saying: "Think big to get big results." The sad reality is that most of us never set out sights as high as Jesus intended we should.

The reason we do not attain more in our lives is because we do not believe in ourselves. If you have faith as a grain of mustard seed, nothing shall be impossible. That means that you can get the mountain of failure, frustration, sin, and hate out of the way and, in short, "nothing shall be impossible unto you."

Come out of disbelief in yourself. Believe that God made you a good person and let it come out of you.

While autographing books in a San Francisco bookstore, the most obese woman I think I had ever seen stood before me.

"If I buy your book, will you guarantee that the slender person within me will come out?"

I answered, "No, that will only happen if you believe that a surrendered person is within you, and that God can bring it out. God has not made you what you are. You have done that to yourself. Can you look me in the eye and say, 'I believe, I believe'?"

She said, "I can do that, with God's help."

I answered excitedly, "A great lady is living within you. What date will you give me that you will be slender?"

"A year from today," she replied confidently.

A little over a year passed, and I was shaking hands with members of the audience following a meeting in Los Angeles. A lady appeared before me in the long line. She said, "Remember that huge woman who talked to you in San Francisco about a year ago?"

I answered, "She was the biggest lady I ever saw."

"Well, look carefully, for I am she." She added, "Praise God. He and I have worked a miracle on me."

Whatever personality you have created can be changed. There is a better, stronger, more remarkable man or woman within you. You will never be happy until you bring him or her out of you.

Faith is available to everyone. It does not matter what your difficulty is: physical, mental, spiritual, business, or moral; if you bear upon it, using the power of faith, it can be solved. The Bible is filled to overflowing with the truth that faith conquers all and that, by faith, all things are achieved. The secret, then, of building yourself a better future is to attack it with faith.

If you will definitely set aside five minutes every day to think about God and Christ, to confess your sins, to pray for those who have done wrong against you, and to ask for strength, a true faith will begin to send spiritual health and power through your personality.

Action Steps

1. Believe! By having faith, you can bring out all the greatness in yourself. Believe that God made you in His image, higher than any other form of creation.
2. Act upon that belief.
3. Copy from the Bible every statement of faith you can find. Then proceed in embed these faith concepts into your consciousness.
4. Believe in impossibilities; that which is impossible with man is possible with God.

"Faith is like radar that sees through the fog—the reality of things at a distance that the human eye cannot see."—Corrie ten Boom

HOPE: EXPECTATION OF SUCCESS

The second great value from 1 Corinthians 13 is hope.

When you live with hope in your heart, in your mind, and in your spirit, you have discovered one of life's most powerful secrets of success.

Did you ever hear of the sermon that was made into a statue? In a big-city church, the preacher, a powerful speaker, gave a sermon depicting hope as a struggle upward against adversity, with hope triumphing.

A famous sculptor in the congregation that day was so deeply impressed, he went to his studio and molded a man struggling upward from the trials and temptations that would hold him back. The inscription on the marble base of the statue read: "Hope thou in God: for I shall yet praise Him" (Psalm 42:5).

Elbert Hubbard, one of the greatest inspirational writers this country has ever produced, wrote:

"Whenever you go out of doors, draw the chin in, carry your head high, fill the lungs, drink in the sunshine, greet your friends with a smile, put soul into every handclasp. Picture in your mind the able, earnest, useful person you desire to be. This thought will transform you into that particular individual. We become like that on which our thoughts are fixed."

The lesson here is to get hope into your thought pattern and there will be nothing you cannot overcome.

This life is not easy. It is often fraught with pain and suffering. But hope gives a lilting upthrust that takes you above the suffering. Storms sweep down upon human beings individually. And they sweep down over society. But if you hope in God, the storms will pass after a while. "Why art thou cast down, O my soul? and why art thou disquieted within me? Hope thou in God" (Psalm 42:11).

After the death of my grandparents, Mrs. Grace Williams purchased our family home and lived there for many years. I would always go to see her when I visited Lynchburg, Ohio.

During one visit, I mentioned that I was much attached to the old-fashioned doorbell that I could remember twirling as a boy. Well, a few days after arriving back in New York City, I received a package. And there was the bell. Mrs. Williams had taken it out of the door and sent it to me.

The first time I visited Mrs. Williams, she had answered the door and said, "You are one of the Peales, aren't you?"

"Yes," I replied.

"Which one are you, Norman or Robert?"

"I am Norman."

"Ah ha!" she said. "Do I know you! Your name is written all over my wallpaper. As a youngster, you apparently believed in advertising." From that day on, Mrs. Williams and I were wonderful friends.

She told me that her favorite text from the Bible was, "And now abide faith, hope, love, these three; but the greatest of these is love" (1 Corinthians 13:13).

"Stick to those three words," she told me, "and you will come out all right."

I went to a Brooklyn hospital to see a friend who had a leg amputated. Now, even the most courageous person might find himself feeling hopeless in this situation. When I asked to see him, the nurse said, "Oh, you want to see Mr. Weiss, the life of the party."

"What do you mean, the life of the party?" I asked.

"Why," she said, "he brings joy, life, hope, and excitement to all the other patients on his floor."

"Well, that's the way I know him, too, but I didn't think he would be that way in a hospital."

"He's got it, all right. No matter what he's gone through." Later, as I sat visiting my friend, a drunk came in. He was full of a certain kind of spirit that you get from the bottle. He was very drunk, and he held a bunch of flowers he had probably bought from a street vendor. They tried to get rid of him, unsuccessfully. He said, "I want to find the happiest man here, someone who hasn't lost the spirit of hope." They tried to shoo him away, but he wouldn't leave. He went along peering into each patient's face, saying, "No, you haven't got it. No, you don't have it, either," he would say to the next.

Finally, he came to Mr. Weiss. He peered at him and then a big smile spread over his face. "You get my flowers. You're alive. You have the spirit of hope."

After he gave my friend the flowers, he asked, "where did you get it from?"

Mr. Weiss picked up his Bible and said, "Here—in the Bible. If you get your spirits out of this instead of the bottle, you, too, will have it all."

I have never forgotten the touching human scene where two men clasped hands, the drunk and the man who had lost his leg.

Hope is one of the great teachings of the New Testament.

A vital growing person cultivates hope and makes it a bulwark of strength in every endeavor. The hopeful person is joyous and confident. Be hopeful!

Action Steps

1. There is a world of difference between these two words: hopeless and hopeful. Read inspiring stories of people who find hope instead of hopelessness.
2. Concentrate your thoughts to create a hope filled attitude within you.
3. Think, talk, and act hopefully. As you do, hopelessness retreats and hopefulness takes over.

"Hope is an adventure a going forward—a confident search for a rewarding life."—Karl Menninger

LOVE: SELFLESS CONCERN FOR ALL OTHERS

According to 1 Corinthians 13:13, *love of everyone* is the greatest value.

Live with love in your heart. Do all within your power to reduce human sorrow. This will make you so spiritually victorious that you will be able to rise above all difficulty; and fear will be crowded out of your mind and heart by love.

Practice loving people. This requires great effort, for some people are not lovable, or so it seems—with emphasis upon "seems." Every person has lovable qualities, when you really learn to know him.

Now, you are probably saying, "That sounds good, but how do you do it?"

To answer that question, I think of my friend Sam Shoemaker, who genuinely loved everyone.

He was known as Sam to everyone, and really lived out his principle of loving all. Once at Christmastime, he told his story. He depicted an imaginary scene where Jesus was about to leave the heavenly home and go to earth. God said to His Son, "Those folks on earth, whom I have created, have forgotten Me. You are to go among them as a baby, for everyone loves a baby, and they will take you to their heart."

So, at the gate of heaven, God said, "Goodby, Son, I will ever bless you."

"But Father," the Son asked, "what shall I tell them is the secret of life?"

"Love. Tell them to love one another."

So Jesus came down to earth where there was little love. He came to teach the simple principle of love. And His message changed the course of history.

For the first time, a loveless world was called upon to accept the love principle instead of the force principle that had dominated mankind for so long.

Even after 2000 years, we have not yet fully developed Christ's love principle. God left it to each of us to work out how to live this divine principle. We are still faltering, but have made some progress. God has been patient with us, but we desperately need to learn it today, if we are to survive.

My wife and I took our entire family, 17 persons in all, to the Holy Land one Christmas. At each site, we stopped and read from the Scriptures the story about the happening at that place. Our most memorable experience was on the shore of Lake Galilee, where Jesus gave His Sermon on the Mount to an immense crowd.

There, under the trees, we looked toward the lake, and we imagined the Master laying down the principles that later became the basis of world civilization.

Apparently, the vast audience was greatly impressed, for the Scriptures say: "Never man so spake like this man" (John 7:46).

His words remain for us in Matthew, Chapters Five, Six, and Seven. Of special note is Matthew 5:44-45:

"But I say unto you, Love your enemies, bless them that curse you, do good to them that hate you, and pray for them which despitefully use you, and persecute you; That ye may be the children of your Father which is in heaven: for he maketh his sun to rise on the evil and on the good, and sendeth rain on the just and on the unjust."

The fact that the world has not yet caught up with this does not invalidate the greatness of the principle.

Many years ago, I had an experience that demonstrates this truth. It happened in the great Protestant Cathedral in Copenhagen, Denmark. I had gone there to see a famous statue by Thorvaldsen, the great Danish sculptor. It is considered to be one of the great pieces of art in the world. Thorvaldsen was fascinated by Jesus, but he was not a committed believer. It was the mind of Jesus that impressed him. Never did one have such a brain, so subtle, so perceptive. "With that brain, He will conquer the world," said the sculptor.

So Thorvaldsen decided to make a heroic statue of Jesus. He modeled Him in clay with authoritative upstretched arms and hands. The result was an austere, regal, dominating figure. Thorvaldsen was satisfied. "Jesus is the greatest figure in human history, and this statue will so represent Him," he said.

The sculptor left the clay model in a shed to cure. But the sea mists came in and worked a strange miracle on the clay. The upstretched arms and hands had dropped from their imperious gesture of command to one of supplication. The hands were now in a pleading position; and the face, previously raised, had lowered, giving it a look of infinite compassion. Thorvaldsen saw this as a truer portrayal of the regal figure. He inscribed on the pedestal not, "Follow My Commands," but rather, "Come unto Me."

In the cathedral that day were people of many colors: black, white, brown, yellow. They looked at all the statues, but it was the figure of Jesus that held them spellbound. I saw tears on many a cheek, and there were tears on my own. Everyone was looking at Jesus with adoration. No one can reach the human heart as He can. For no one showed us how to love as He did.

ACTION STEPS

1. To become as near like Jesus as possible, try to see the best in everyone, including yourself.

2. Avoid joining in the character assassinations that even good people at times indulge in.

3. Pray to maintain the friendship of others as you live the love principle yourself.

4. Avoid showing your disappointment in those who do not demonstrate love. Our first priority is to keep the love principle going ourselves.

"Love is the hardest lesson in Christianity. For that reason, it should be most our care to learn it."—William Penn.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, February 4, 1993, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 5

9:30 a.m.
Joint Economic
To hold hearings on the employment-unemployment situation for January.
2359 Rayburn Building

10:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research, Conservation, Forestry and General Legislation Subcommittee
To hold hearings to examine food safety and Government regulation of Coliform bacteria.
SR-332

FEBRUARY 18

9:30 a.m.
Governmental Affairs
To hold hearings on S. 171, to establish the Department of the Environment, provide for a Bureau of Environmental Statistics, and a Presidential Commission on Improving Environmental Protection.
SD-342

Rules and Administration
Business meeting, to mark up proposed legislation authorizing biennial expenditures by standing, select, and special committees of the Senate, and to consider other pending legislative and administrative business.
SR-301

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the Federal Reserve's monetary policy report for 1993.
SD-562

FEBRUARY 23

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of the Disabled American Veterans.
345 Cannon Building

FEBRUARY 25

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of the Paralyzed Veterans of America, the Blinded Veterans of America, the Military Order of the Purple Heart, the Jewish War Veterans, and the Retired Officers Association.
345 Cannon Building

MARCH 2

9:30 a.m.
Governmental Affairs
To hold hearings on S. 185, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the nation, to protect such employees from improper political solicitations.
SD-342

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of the Veterans of Foreign Wars.
345 Cannon Building

MARCH 31

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of AMVETS, the Veterans of World War I, the Vietnam Veterans of America, the American Ex-Prisoners of War, and the Non-Commissioned Officers Association.
345 Cannon Building

POSTPONEMENTS

FEBRUARY 4

9:30 a.m.
Governmental Affairs
To hold hearings to examine the General Accounting Office analysis of TRIAD cost effectiveness.
SD-342

SENATE—*Thursday, February 4, 1993*

(Legislative day of Tuesday, January 5, 1993)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable PAUL D. WELLSTONE, a Senator from the State of Minnesota.

The PRESIDING OFFICER. Today's prayer will be offered by the Reverend Richard C. Halverson, Jr., Falls Church, VA.

PRAYER

The Reverend Richard C. Halverson, Jr., of Falls Church, Virginia, offered the following prayer:

Let us pray:

Almighty God, let the words, "In God We Trust," which are etched in stone over the doorway of the floor of this Senate, be inscribed in the hearts of those who enter here: "In God We Trust." But who shall we say You are in whom we are to trust? And how are we to know You, unless You reveal Yourself to us? You, Lord, are omniscient, omnipotent, omnipresent. You are invisible, immutable, incomprehensible. We have but a frail understanding of Your divine attributes. And not one of us holds all of the truth.

Forgive us for too quickly judging others who have a different understanding of You. Give us patience with one another, as each person seeks to find You in their own time and way. And open our eyes to see the light in Your Light. "In God We Trust." Cause us, Lord, to put our trust in Thee, not in ourselves, nor our ways; not in our leaders, nor our plans; not in our institutions, nor our resources.

Teach us Thy wisdom, as written, "It is better to trust in the Lord than to put confidence in man. It is better to trust in the Lord than to put confidence in princes." (Psalms 118:8,9).

Lead us, Lord, in following Thy admonition and promise to "Trust in the Lord with all thine heart; and lean not unto thine own understanding. In all thy ways acknowledge Him, and He shall direct thy paths." (Proverbs 3:5–6).

In times like these, when we need to clearly see Your plumb line of divine justice and righteousness, inspiring us to circumspection to heed Thy warning, "There is a way that seemeth right unto a man, but the end thereof are the ways of death." (Proverbs 16:25).

We ask this in the name of Jesus Christ, who made the astounding claim that to see Him was to see the Father, and to trust in Him was to do the work of God. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 4, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL D. WELLSTONE, a Senator from the State of Minnesota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WELLSTONE thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for not to exceed 10 minutes each.

PARTNERSHIP WITH THE PEOPLE

Mr. PRYOR. Mr. President, during a 5-month period almost 2 years ago, I had the opportunity to watch official Washington through the lens of C-SPAN and other news shows. For those 5 months, I was on the outside looking in.

That "view from the other side" gave me a new perspective on Washington, a better understanding of the frustration voters feel, and a renewed commitment to help the system to make life better for the average American.

In 2 weeks, the new President will deliver his State of the Union Address. Today, I want to take a moment to reflect on the State of the people in this great country of ours.

In particular, I want to talk about the frustrations, the worries, and the future facing what I call the "core of America"—our elderly citizens, our taxpayers, and our working families who are challenged each day to make ends meet.

First, America's elderly.

We face a growing elderly population and we must prepare now to meet the needs of this population. If we delay, it will be too late.

While the elderly face some unique challenges—like paying their bills on fixed incomes—they have much more in common with Americans of all ages.

Like other taxpayers, our senior citizens are frustrated with an impersonal and unresponsive Federal Government that seems bent on wasting their tax dollars.

Like American business owners, our seniors are angry about skyrocketing health care costs and runaway prescription drug prices.

And like many of our children, many of our senior citizens are going hungry in this land of plenty.

Another group that we, in Congress, must look out for is the American taxpayer.

They see a bloated $1.5 trillion Government. They see bureaucracies that often provide bad service and ignore their needs.

They are frustrated by excessive regulation, piles of paperwork, and overzealous IRS agents.

And they feel lost and disconnected in the maze of big Government.

Finally, there are the working Americans:

The working family, husband and wife, worried about paying the rent, health care costs, saving for retirement and educating their children;

The working poor, putting in more hours each day, but still living in poverty; and

The small businessowner, struggling to stay ahead of a weak economy. Worried about rising insurance premiums and endless Government forms. For them, there is no COLA.

These people deserve our help and support. They need change in Government and new ideas. They need a creative Congress to help them meet their everyday challenges.

In the next few minutes, I want to lay out some of the major areas where I believe we must focus our efforts to make change work in the everyday lives of the American people.

AMERICA'S POCKETBOOK

No issues mobilize the American voter like those that affect our pocketbook.

In then Governor Clinton's campaign "war room" was a sign on the wall that read "The Economy, Stupid." It was his success at framing and focusing on economic issues that brought a Demo-

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

crat to the White House after a long-seated Republican administration.

And it will be this issue upon which Democrats and all of us will be judged over the coming years.

The downsizing of corporate America and our post-cold-war military complex is having a dramatic effect on the lives of the American worker. High unemployment levels and feelings of uncompetitiveness have crept into the mindset of the American worker.

Now, workers sense that we must change—before change passes us by. And the Government must become the people's partner—not their adversary—in meeting that change head on.

Between 1992 and 1997, 1,000 jobs a day will be lost due to defense reductions.

Where will the people go? And if we retrain them, for what type of job? These are just a few of the questions we face.

But, if we intelligently reinvest our defense savings, by promoting economic development in defense-dependent communities, and seeking avenues leading to high-technology, high-wage jobs then we will emerge from the down-sizing stronger and more vibrant than ever.

Last year, the Senate Defense Transition Task Force made a strong start at meeting these challenges head on.

This year, together with an aggressive, strong administration, I believe Government will help propel our workers, our communities, and our industries into a prosperous post-cold-war era. We can and must do it.

I believe another area of potential dynamic growth is in the small business arena. In an era of corporate down-sizing, small businesses continue to be key generators of new jobs and represent well over one-half of all jobs in the private economy.

It is interesting to note that the real explosion has been in minority-owned small businesses. During the 1980's, minority small business ownership increased 65 percent.

I might also add that in my State of Arkansas, the latest studies show that women-owned businesses saw an increase of 45 percent in just 1 year, with receipts of those businesses rising 88 percent. And this is just a small part of a larger national trend.

Truly, if there is a community that naturally cuts across all ethnic, religious, and gender bounds, it is the small business community.

So, what can Government do to encourage growth in small business?

In the coming weeks, I will introduce, along with my distinguished colleague from Missouri—Senator DANFORTH—a small business package that will improve the capital formation opportunities of small businesses. It will contribute to the preservation of family owned businesses. And it will eliminate many of the unnecessary traps that ensnare the small business person.

When we talk about people's pocketbooks, we must talk also about the farmers who feed our people.

American agriculture is a $950 billion segment of our economy. It must be treated as such in any economic plan.

American farmers know that economic growth for their industry is largely dependent upon opening up commodity markets overseas. Their growth is crippled, among other things, by Japan's trade barriers to United States rice and by Europe's treatment of oilseeds.

Congress will need to work hard with the new U.S. Trade Representative to break open foreign markets. We also must take tough legislative actions when negotiations fail. Free trade has a nice ring to it, but fair trade should be our actual goal.

We also must address the onslaught of regulations and redtape that encroach upon farmers' ability to manage their farms. Decisions are made in agencies other than USDA that too often result in an increase in the farmer's overhead or a decrease in his right to property. Until we can ensure more profitability for farmers, this is not acceptable.

HEALTH CARE REFORM

The health care crisis is perhaps our greatest domestic challenge of this decade. We must tackle it; we must not postpone it.

Why the richest economy on this Earth is unable to meet the basic health care needs of its people, is a question that we should never have to ask. To be unable to deal with the problem is a defeat we must never concede.

Americans spent $817 billion last year on health care alone. That is $2.2 billion each day—$26,000 each second. And each year, as costs soar, we get less for our money.

For the 35 million Americans who do not have basic health care insurance, becoming sick is something to fear.

Middle class families fear that illness will strike and destroy their hard-earned savings.

Young entrepreneurs who want to start a new business, cannot because they fear losing their health coverage, or because private insurance is simply out of reach.

Many families have loved ones with a preexisting condition—arthritis, cancer, heart disease, or a handicapped child, and they find the insurance companies won't sell them a policy. Or if they do, the cost is prohibitive.

The fears of these people should steel our resolve and give us the direction and the strength to do what the skeptics say we cannot.

Days before the Presidential election, 41 Senate Democrats pledged their commitment to then-Governor Clinton to craft a package of health-care reforms—comprehensive reforms that will guarantee the right of every American to basic health care—changes that will free working Americans from the fear of rising health care costs.

I will be focusing my energies on several specific issues during this debate. These include the issues of prescription drugs, long-term care, and rural health care.

PRESCRIPTION DRUGS

While Americans across the Nation suffer because they cannot afford to pay the cost of filling their prescriptions, the prescription drug industry has, repeatedly and consistently, boasted recordbreaking profits—profits that far exceed any Fortune 500 industry.

While millions try to stretch their medications by skipping doses or splitting pills in half, jeopardizing their health, the drug companies continue to inflate their prices at a dizzying rate—three, four and five times the general rate of inflation.

And while the drug industry continues its practice of spending more on marketing than on research, four out of five elderly citizens must choose between food or heat and filling their prescription.

And all the while, American taxpayers subsidize the most profitable industry in the world by giving the drug companies billions of dollars in tax credits.

The drug companies say they need their big prices for new research and development. But the truth is that they routinely take advantage of research that is done in Federal laboratories—such as NIH. Laboratories that American taxpayers pay for. Yes, you and I. We pay for their research and today, they spend more on marketing drugs than for research.

And what do we get for our money? The highest prescription drug prices in the world.

For years, the drug companies have had programs to give away free drugs to people who cannot afford them. But, for obvious reasons, they have kept these programs a secret. I call them "America's best kept secret."

Well, Ray Brady on the CBS Evening News broke the story one evening in October—the story that the Special Committee on Aging wanted the American people to know about these programs. Seconds later, the phones began to ring and they have been ringing ever since.

From every region of the Nation, the plea was one: "Please, help me with my prescription drugs!"

This past fall, and even as we speak today, we have sent out some 65,000 pamphlets to Americans everywhere telling them how they might apply and how they might come under the free drug program.

Additionally, last year, legislation I introduced was brought to the Senate floor—the Prescription Drug Cost Containment Act.

It was a simple idea. If drug companies do not keep their price increases within the general rate of inflation, then we scale back their tax breaks.

The drug companies won that battle, but now we will be fighting on new turf. This President of the United States understands the message. Over 40 national organizations, who supported this fight, understand the message. Any person who has ever paid for a prescription drug, understands the message.

Prescription drugs must and will be a part of health care reform.

LONG-TERM CARE

Just as we must attack runaway prescription drug prices, we must also remember the issue of long-term care.

Often, we think of long-term care as a problem just for old people. But in fact, some estimate that between 9 and 11 million Americans need chronic care—and one-third of them are under the age of 65.

The need for long-term care can arise from growing old, from illness or accident that can strike at any age, or from the disability of a child, spouse, or family member. One study found that a majority of Americans have already faced a long-term care crisis with a family member or friend, or expect to in the next 5 years.

And, as we as a nation grow older—as the baby boom nears its retirement years—America's long-term care needs will become ever more pressing. Now is the time to prepare for this need. Before we face a national crisis. But right now, the answers are few.

Only a handful—the very wealthiest—can afford the $30,000 a year or more it costs for nursing home care. Medicare pays for only 2 percent of nursing home costs. And Medicaid, while paying 41 percent, is available only to those who are destitute, or who become impoverished by spending-down their lifelong savings.

It is my belief that we should explore cost-effective ways to deliver long-term care services, like home-based supportive services. We must move away from the old notion that long-term care necessarily means expensive institutional care.

Right now, we can take measures to improve the long-term care insurance market. Significant and positive steps that will not add a single penny to the deficit, but will add a whole host of consumer protections for those who wish to buy insurance protection.

This Congress, I will introduce legislation—the Long-Term Care Consumer Protection Act—to make sure that long-term care policies meet the needs of American consumers, that policies do not contain overly restrictive limitations, and that abusive practices in their marketing are stopped.

RURAL HEALTH CARE

In undertaking the health care reform challenge, we must also recognize an important fact—that making people eligible for health care is sometimes not enough.

Seventeen million Americans live in rural communities—1,930,000 in Arkansas alone. For these Americans, the problem is simple: Doctors are scarce and hospitals even scarcer.

To make matters worse, a recent survey found that one-quarter of all the physicians practicing in small communities plan to retire or leave the area in the next 5 years—leaving their patients in a medical lurch.

And to add to these troubles, some Federal programs actually discourage doctors from practicing where they are needed most. Efforts to draw doctors to rural areas are up against a powerful trend—a trend toward high-technology, high-paying, big-city hospital care.

We need to stop using taxpayers' money to subsidize the training of more costly medical specialists than our country needs. And, we must change Medicare's current practice of paying rural physicians less. It makes no sense why—for the same services—a doctor in rural Arkansas should be paid less than 90 percent of the national average, while a doctor in Los Angeles is paid over 110 percent.

I ask—is this wise use of taxpayers' money at a time when hundreds of communities do not even have a doctor to call on for a broken leg, a stroke, or to have a baby?

Last week I introduced a package of bills aimed at reducing the rural doctor shortage and making better sense of the way Medicare pays its doctors and hospitals. I invite my colleagues to join this effort to assure that rural Americans do not receive second-class care.

AGING

The health care problems I just outlined are challenges that all Americans share, young and old.

But, for older Americans, there are some other issues that have not received the attention they deserve. Among them are: Maintaining the economic security of the elderly and exploring ways to enrich the lives of older and young Americans alike by tapping into the powerful potential of mentoring.

SAFEGUARDING THE ECONOMIC SECURITY OF OLDER AMERICANS

Many retired Americans today face an uncertain financial future. They have found their savings depleted by rising health care costs. And their pensions and retiree health benefits are jeopardized by hard economic times and the closure of thousands of businesses nationwide.

The security they have counted on—the promises that were made to them—are now on the rocks.

Today, more than ever, we need assurances that those who wish to work and who have the skills can continue to do so despite their age, because age discrimination, like all forms of intolerance, is an evil that has no place in our society.

Full implementation of the Age Discrimination in Employment Act, as well as the Older Worker Benefit Protection Act—a law that prevents discrimination in employee benefits—is more important than ever before.

We will be looking at these issues at the Senate Aging Committee and watching how well the EEOC [Equal Employment Opportunity Commission] is doing its job in enforcing the anti-discrimination laws.

I plan to oversee the speedy implementation of the Older Americans Act Amendments of 1992, to ensure that programs vital to helping our Nation's seniors to help themselves are preserved. Of particular interest will be the amendments which I introduced to improve nutrition and transportation services for seniors. Additionally, I will introduce legislation to clarify language in the Food Stamp Act pertaining to SSA's processing of food stamp applications. We must improve access to benefits which have proven to be so crucial to the health and welfare of needy older Americans.

Something else is jeopardizing the lives of thousands of Americans—the growing delays faced by people who apply for Social Security disability benefits. I have learned that unless we act now, by the end of this year, over 1 million Americans could still be waiting to hear decisions on their claims. They may have to wait up to 7 months. These bureaucratic delays are not reasonable and they certainly are not acceptable.

We must prevent the tragedy that happened to June Herrin—who told her story at an Aging Committee hearing. This 57-year-old woman developed a heart condition and became unable to work. In waiting for her benefits—and it took almost a year—she lost her home and her dignity and was left to live in her car, without food and shelter. What an inexcusable tragedy.

We, in Congress, must give the Social Security Administration the financial support and the tools it needs to make the system work again. Then we must expect the agency to work with efficiency, accuracy, and excellence to make sure that what happened to June Herrin will not happen again.

MENTORING

So often we talk only about the special needs of older Americans. We all but forget the many good things that older Americans have to offer—their wisdom and talents, and all their experiences of life and work.

There is an idea that the Senate Aging Committee is exploring right now—bringing the generations together through an idea called intergenerational mentoring—senior citizens volunteering their time and talents to help youngsters at school and in their communities. This idea even has the attention of big business. Recently, the Marriott Corp. did a study and they found something wonderful—that millions of seniors would volunteer—if simply asked.

Our challenge ahead will be to find and promote the best ways to take advantage of the vast talents of older Americans—for the good of millions of youngsters yearning for direction, guidance, and companionship. The potential is exciting and endless.

GOOD GOVERNMENT

Mr. President, our Government affects all of our lives profoundly. It researches disease, develops cures, and tests new drugs. It provides for our Nation's security, and it protects all of the freedoms that many before us have died for. It educates our children. It builds our roads and bridges. It investigates and punishes law breakers. And it carries out thousands of other important tasks that we take for granted.

So now, when the expectations from Government are higher than ever before, the pressure is greatest for Government to do better work for less money. And I believe any budget cuts should first come from waste, not from services.

So where do we start? One fight is the examination of the Government's runaway use of outside contractors and consultants. In 1992, some $10 to $20 billion was spent on so-called consulting services and contracting services.

I would like to be able to tell the American taxpayer exactly how much is spent on these services, and what the services went for. But despite my efforts since 1979, no one in this town can or will tell me the answer. I will work with Leon Panetta, OMB Director, to force agencies to assess the cost-effectiveness before hiring contractors.

By allowing these fundamental questions to go unanswered, Government has created a huge and invisible shadow bureaucracy whose continued growth will remain unchecked. Not only are huge dollars at stake, there is also the very real possibility of serious conflicts of interest going unexposed, allowing critical decisions to be made using tainted information and advice. New ways to protect against conflicts of interest can and must be found.

In addition to services, the Government also buys goods. And of course, waste and inefficiencies occur throughout this process.

One area well known for inefficient spending is in defense. In 1993, we will spend $290 billion on defense and a major part of that tab will be on weapons systems. The potential for waste in purchasing weapons systems is great considering the complexities and the enormity of these systems.

The airborne self-protection jammer [ASPJ] is a prime example of a weapon system which took on a life of its own even though it was a miserable failure from the beginning. Before we finally killed ASPJ last fall, the Navy had spent $2 billion and 16 years developing a system that could have endangered the lives of our pilots using this radar-protection jammer.

Diligent, impartial and honest testing of these weapons could have saved the taxpayers of America billions of wasted dollars on this particular weapon.

The presence of the new administration offers new opportunities to review wasteful procurements and establish more efficient purchasing practices. There is much work to be done.

Also, Government must be accessible to people. Tapping into all of the programs designed to help Americans is beyond the reach of most.

For example, there are presently 125 Federal employment training programs. These programs received some $16 billion in 1991; 65 of these programs provide employment training for the economically disadvantaged., As the General Accounting Office concluded, "These myriad programs do not function as a comprehensive, cohesive system, but often operate in isolation."

Programs like these must be consolidated and streamlined. I want to bring Government officials together with the people they are meant to serve and, once again, we must do it now.

Making sure Government works for its people also includes protecting the people from the Government. This protection need not cost large sums of money. It simply requires vigilance, and commitment.

For instance, until the first taxpayer bill of rights passed in 1988, no legislation in the history of the Congress ever recognized the rights of the taxpayer in dealing with the awesome power of the tax collector, the IRS.

In carrying out its mission, the IRS will make mistakes, and some IRS employees will overstep their bounds. Our laws must reflect this reality by providing safeguards to protect the taxpayer from the devastating effect of these mistakes and misdeeds.

In the coming weeks, Mr. President, I will reintroduce the taxpayer bill of rights two, which was included in both tax bills that were approved by Congress last year but vetoed by then President Bush. T2 as we call it, builds on the original bill and carries the message that taxpayers are to be treated with respect.

Finally, Congress must clean up and organize its own House. We must rethink our Byzantine budget process and our confusing and burdensome committee system. We must come to grips with an ethics process that is swift and fair in order that we restore the credibility of the Congress with the people.

The newly named Joint Committee on Organization of Congress just began a year long effort to address these issues. I am proud to be a part of this bipartisan and bicameral effort. Its work is critical to the ultimate progress we hope to achieve.

THE NECESSITY OF CHANGE

The goals I have set in this talk today all involve change—dramatic change from the business as usual mentality within our Government.

Skeptics say that we cannot change our system. They say that to find a better way is not possible; that a new way will not work.

But in this past election, the people spoke loudly for change. Now lawmakers must come together and heed their call. And we must look beyond the skeptics that divide the debate and slow down the progress toward reform.

Mr. President, we must defy those skeptics. We must show anyone who says a better way is not possible—that they are wrong, totally wrong.

We should never admit nor concede we cannot do better. We can do better. We will do better and, Mr. President, we must do better.

I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, Senator SIMON, from Illinois, is recognized to speak for not to exceed 30 minutes.

Mr. SIMON. I thank the Chair.

(The remarks of Mr. SIMON pertaining to the introduction of Senate Joint Resolution 41 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized.

Mr. KRUEGER. I thank the Chair.

(The remarks of Mr. KRUEGER pertaining to the introduction of Senate Joint Resolution 41 are location in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SIMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAHAM). The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Utah is recognized.

Mr. HATCH. I thank the Chair.

(The remarks of Mr. HATCH pertaining to the introduction of Senate Joint Resolution 41 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is conducting morning business. Senators can speak for up to 10 minutes.

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 309 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas is recognized.

Mr. BUMPERS. I thank the Chair.

(The remarks of Mr. BUMPERS pertaining to the introduction of S. 31, are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana is recognized.

(The remarks of Mr. LUGAR pertaining to the submission of Senate Resolution 64 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. I thank the Chair.

(The remarks of Mr. GRAMM pertaining to the introduction of S. 315 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE BALANCED BUDGET AMENDMENT

Mr. GRAMM. Mr. President, we have had colleagues come to the floor today and talk about the balanced budget amendment to the Constitution. I am very fond of saying that balancing the budget is like going to heaven: Everybody wants to do it; they just do not want to do what you have to do to make the trip.

Let me say that I intend to work this year to get a vote on the balanced budget amendment to the Constitution. We are going to vote on a debt ceiling here probably the first week in April. And when the bill collector is at the door, I cannot think of a better time to get people to sit down around the kitchen table and look at this problem.

I remember when the debt ceiling was voted on, when I first had come to the House, the majority leader at the time got up and said that we had no choice except to pay our bills and that to be debating the debt ceiling was basically abrogating our responsibilities. I responded to that by saying, well, the analogy is good that people have to pay their bills, but the analogy collapses thereafter. It collapses because in every family in America, when people run up too much debt, they are forced to sit down around the kitchen table, get out the credit cards and the butcher knives, cut up the credit cards, write a budget, and make hard choices. That never seems to happen in the Congress of the United States.

In fact, throughout our Nation, in virtually every business and household, in every State and local government in the land, we have had in the last 4 or 5 years a retrenchment, a restructuring. That has yet to happen in the Federal Government. It seems to me that when the debt ceiling comes up in April, that is the perfect time to write a new compact with the American people. And that compact with the American people could not be stronger, could not be more important than to adopt a balanced budget amendment to the Constitution.

Some of my Democratic colleagues say this is not the right time; that we need to give our new President a chance. I remind those same colleagues that when Ronald Reagan was President, I was a leader in the effort to bring the balanced budget amendment to the floor of the House. It was adopted in the Senate. It failed in the House on a very close vote.

When George Bush was President, I worked to bring the balanced budget amendment to the Constitution to the floor of the Senate. It failed on a filibuster that was led by the Democratic leadership. It was not that I did not want to give George Bush a chance. It was not that I did not want to give Ronald Reagan a chance. It was that I wanted to give them a hand; that I wanted to give them a vehicle to help force Congress and to force the President to make hard choices.

So I do not buy into this logic that because we have a new President, the old problem has magically gone away. I think we need a balanced budget amendment to the Constitution to force us all to make tough choices, choices that will be unpopular. These are choices that—quite frankly—we have all proven that, in the absence of a binding constraint, we will not make.

So I look forward to having the opportunity, when the debt ceiling comes up, to debate this issue. We have a consensus balanced budget amendment that was written on a bipartisan basis toward the end of the last Congress. It failed in the House by 9 votes, when 12 people who cosponsored it and went back home and told people how great it was, under pressure voted against it. It failed here in the Senate, when we offered it, by two votes when we tried to break the filibuster.

I think when the debt ceiling is back before us; when the bill collector is at the door; when, perhaps, we are sobered concerning our problems in paying the bills of the Nation, that is the time that we ought to be voting on the balanced budget amendment to the Constitution. And I look forward to having that opportunity.

I thank the Chair for his indulgence. I know we are moving into the time to consider the family leave bill.

GAYS IN THE MILITARY

Mr. GRAMM. Mr. President, let me say that I want an opportunity to vote on the issue of gays in the military. No issue in the last 2 years has gotten more attention from the people who pay my salary, the working men and women of Texas, than this issue.

What we are asking on the Republican side of the aisle is to have an opportunity to present our resolution and to have an up-or-down vote. I think that is a reasonable request. The purpose of the Senate and the Congress is to do the people's business. I think the people want this addressed. I look forward to having an opportunity for the Democrats to present their sense-of-the-Senate resolution. From what I have seen of it, I view it as largely meaningless. I intend to vote for it. But then we will have a real vote on real policy, to set out a policy that requires a decision based on the facts, that does not prejudge that decision—as I believe the President unwisely has done—and that will ultimately result in a joint decision by the Congress and by the President.

I believe that we can settle this issue today. I hope we will not delay family leave and other issues that will come before us in an effort—which I believe will fail, in any case—to deny us an opportunity to vote on this issue.

I am determined that we are going to have a vote. And if it means that nothing ever passes the Senate until we have an opportunity to cast that vote, until every Member of the Senate has a chance to say yes or nay, then I am willing to do that.

But I do not think that serves the public interest. I think we are ready to vote. We are ready to set a time limit on the debate, and simply have the debate and make the decision.

I thank the Chair for his sufferance. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. AKAKA). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the submission of Senate Resolution 64 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I ask to proceed in morning business for a period of 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho is recognized.

Mr. CRAIG. I thank the Chair.

(The remarks of Mr. CRAIG pertaining to the introduction of Senate Joint Resolution 41 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CRAIG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Idaho suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. I ask unanimous consent that I may speak for 5 minutes and my remarks placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

NORTH AMERICAN FREE-TRADE AGREEMENT

Mr. DORGAN. Mr. President, other speakers on this floor have discussed our problems in this country describing what we may have caused and what others may have caused. And I admit that many of the economic problems in this country are problems that we have caused ourselves and we are going to have to fix ourselves.

But I would like to bring to the attention of the Members of the Senate today a problem in international trade that is something that we have not caused but something that has caused significant harm, financial harm, to producers in this country.

The reason I am interested in this subject is that we in this country find ourselves in the position from time to time of producing a good product and trying to compete in an international marketplace and discovering that rules are unfair to our producers.

I would like to talk just briefly about the North American Free-Trade Agreement and especially about our trade situation with Canada. We are now in the process of talking about NAFTA, the Mexican agreement in which Canada was a participant.

Some years ago, we decided to have a free-trade agreement with Canada. At the time, I was serving in the United States House, on the Ways and Means Committee, and we were involved in the legislation to establish a free-trade agreement with Canada. At that time, Ronald Reagan was President and Clayton Yeutter was the Ambassador for Trade. And when they brought to us an agreement with the Canadians that they had negotiated calling for a United States Free-Trade Agreement, I raised a lot of questions. Because, I said, you know the way you have negotiated this it looks to me like it is not going to be fair to our side, and you would expect our negotiators to be wearing our uniforms and playing on our team and at least negotiate a trade agreement that represents our economic interests.

They said, no, Mr. Congressman, you are all wrong about that. You are worried about grain and various kinds of marketing of grain up in the northern Great Plains. Do not worry about it. You are wrong to be concerned about it.

In fact, Mr. Yeutter said—and the President then subsequently said in a statement to Congress accompanying the bill—Mr. Yeutter said first in that letter, I will guarantee that we are not going to have a problem here.

"The administration agrees with the committee"—these were questions I raised in the House—"that the interests of both countries are better served through a cooperative, mutually beneficial approach. One indication of such an approach by the Canadian Wheat Board would be the volume of shipments to United States in future years relative to recent years and that continuation of its counterrestrictive policy regarding the granting of export license to producers."

The point that Mr. Yeutter was trying to make and President Reagan subsequently made is that we have an agreement with the Canadians. They are not going to flood grain across our border.

The reason I was concerned about it flooding across our border is they did not get rid of the deep rail subsidy for transporting grain in Canada with this agreement.

So the result was much grain in Canada that is hauled with a deep rail subsidy; it competes against our grain and we cannot compete. It is unfair competition.

So Mr. Yeutter promised and President Reagan promised: This is not going to happen. We have a mutual understanding with the Canadians; this is not going to happen.

I would like to tell you what has happened since that time. We passed the free-trade agreement—not with my vote. I voted against it in the U.S. House, but it was passed. Let me describe what has happened. And most of you understand this is an arcane issue that does not mean very much.

You go home tonight and eat some elbow macaroni. Where does the macaroni come from? It comes from semolina flour. Semolina flour is used to produce the macaroni, the pasta. Where is the semolina flour coming from? Durum wheat, 80 percent of which is raised in North Dakota. Durum wheat produces semolina flour, which produces the pasta. So when you eat lasagna tonight, very likely you are eating something from the plains of North Dakota in the form of durum wheat that became flour and then pasta.

Let me call to your attention, Mr. President, a chart that shows back when the United States-Canada Free-Trade Agreement was negotiated, and when Mr. Yeutter and President Reagan said: Do not worry about a flood of grain coming across. It is not going to happen. Back then we had no durum wheat coming from Canada into this country. Shortly after that the Canadian Wheat Board, which controls all shipments of wheat from Canada, began to increase the amount of durum wheat coming into this country. You will see what happened in 1986 and 1987, 1987 and 1988, 1988 and 1989, 1989 and 1990, and 1990 and 1991.

All through this process I was complaining to the U.S. Trade Ambassador and the negotiator, saying: Do you not see what is going on here? This is terribly unfair trade. It is taking millions of dollars out of the pockets of American producers, who cannot compete and should not be expected to compete in unfair trade.

Finally, here in 1990 and 1991, the U.S. Trade Ambassador, lo and behold, discovered, yes, indeed, this was unfair; it was a problem, and they would take action. So a complaint was filed under the United States-Canada Free-Trade Agreement provisions, and a binational panel was established to rule on this dispute.

Guess what? Even after the complaint was filed, the Canadians continued to increase the flow of durum wheat from Canada into this country.

Just to show the unfairness of this, during this period someone came to North Dakota, Bowman, ND, who was married to a Canadian. She came down for Thanksgiving, and was going to go back home after having a nice visit in Bowman, ND. And then she wrote me a letter.

She asked her father if he would give her a couple of sackfuls of clean grain from spring wheat, Hard Red Spring wheat, because she liked to bake fresh bread. So she was going to take a few bags of spring wheat back to Canada to make some bread.

She drove up with her husband back to Canada and got to the border. The folks at the border said: "What is in the back seat of that car?"

"Wheat," she said, "a couple of sacks of wheat. I am going to grind it up, up there in Canada, and bake some whole wheat bread. It is from the family farm."

"Sorry; you cannot take two grocery sacks of wheat into Canada. You cannot take any wheat into Canada. Do you have a license?" they said.

You cannot get two sacks of American wheat into Canada. At the same time, millions and millions and millions of bushels of Canadian Durum, unfairly subsidized, were coming into our country, coming into our pasta plants, displacing the market for our producers because our producers could not compete.

That, Mr. President, is unfair trade.

Next Monday there will be a ruling on this issue from the binational panel. I do not know what the ruling is at this point. But I know this: The ruling is not going to solve this problem, because it is very unlikely the Canadians are going to comply with price transparency, disclosing prices so we know what is happening with respect to this trade.

This chart describes what is wrong with those who chant about free trade. Yes, I suppose you might call this free. But it sure as heck is not fair to somebody on our side of the border who raises a crop and expects to be able to compete in a market that represents fair competition.

This problem has become exacerbated just in recent months. From August to December 1991, you will see what came in. August to December, 1992; this is during the dispute. This is after the United States filed a complaint.

The Canadian Wheat Board has continued to target our market, and it is not just in Durum. Now it is also in other areas—barley—in this same period. You will see what is happening; barley shipments from Canada.

It is also in spring wheat. Take a look at the spring wheat shipments.

Obviously, that is a much bigger crop. So it is a smaller percentage. But the fact is, in Durum, 20 percent of the domestic use of Durum is now coming in our back door from Canada, most of it unfairly subsidized. And, at the same time, we are taking Durum and trying to move it around the rest of the world with a deep export subsidy, trying to move it around to market it. And then we get it through the back door from up North.

Just in the past month or two, when we were trying to get rid of a damaged crop—we had moisture-damaged grain, a lot of wheat from this past harvest. We were trying to move ours from our country to Russia, for example, in various ways. Guess what happened? The Canadian Wheat Board decided they would allow farmers to sell to them, buy it back, and truck it across the American border so that we would get an influx of damaged grain from Canada at the very time we were trying to move our damaged grain out of this country and move it off the market. There is something wrong here.

This afternoon, I am meeting with the new U.S. Trade Ambassador and I want to present this information to the U.S. Trade Ambassador. My hope is that after 12 years of this mantra chant about free trade that really does not mean anything—because free trade does not mean anything if it is not fair—after 12 years of that, my hope is that we will finally—finally—have a Trade Ambassador and trade negotiators who will stand up for and represent the best economic interests of the American producers.

No, I am not asking for protectionism. I am not suggesting we close our borders. I am saying that when it comes to American producers, we ought to be expected to compete with others around the world, but we also ought to insist the competition be fair. Why is it every time our negotiators go into a negotiation, they seem to come out on the short end of the stick?

What happened to those shrewd Yankee traders? You know, we were a nation of shrewd Yankee traders, the history books tell us. Where are they? Why do we get trade agreements that are so fundamentally unfair to us? Why do we get trade agreements that trade off the economic concerns of people who produce real new things, like farmers who produce real new wealth, and provide advantages on the other side for the investment bankers and big financiers in this country who, in my judgment, have not done a lot to move America ahead?

The answer, it seems to me, is that is where the economic power has been. But maybe we ought to understand that this country is going to move ahead, this country is going to progress, when we decide to place value on people who produce real new wealth. That is what is going to move this country ahead, when we place value on that production and we say to them: What you produce, you have to compete across the world with, so what you ought to do is produce the best, and market it at the best price.

And they say to us: Well, even if we do that, if the rules are unfair, we lose.

That has been falling on deaf ears here in Washington. And that is why it is time for trade negotiators to begin to stand up for the economic interests of American producers. Not to protect them, but simply to guarantee to American producers that when they compete, we will insist the competition be fair.

My hope is that with the information about the Canadian shipments—and this is only one piece of a large puzzle—the Trade Ambassador will initiate discussions immediately, even outside of this binational panel, to say to the Canadian Government, the Trade Minister, the Wheat Board, and others that we will simply not accept nor will we stand for this kind of targeting of our market which places our producers at an unfair disadvantage.

I know all of this represents charts and graphs and data, and so on. But it also represents macaroni and income, and a livelihood and a family farm. That is, in the final analysis, what it represents.

Even more importantly, it represents the ability of this country to move ahead. We will move ahead when we produce goods which we can sell around the world at a decent price in a competitive arena in which the competition is fair. There is nothing wrong with American producers. We can compete—and win—with any other producer in the world. But we cannot do it with our hands tied behind our backs. And we certainly cannot do it if the rules are not fair.

Mr. President, my hope is that with a new administration and a new determination to move this country ahead in a whole range of areas, that we will begin to see solutions to problems of this type.

I intend to continue work that I have done for 3 or 4 years on this issue, and I look forward to the cooperation and interest of other Members of the Senate.

Mr. President, I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota [Mr. CONRAD] is recognized.

Mr. CONRAD. Mr. President, I rise to congratulate my colleague on his first speech, his maiden speech on the floor of the U.S. Senate and just say that from North Dakota's interest, he could not have focused on a more important subject than the question of trade and whether or not we are going to have fair trade policies affecting this country.

Mr. President, my colleague, Senator DORGAN, who has been a forceful advocate of fair trade when he was a member of the Ways and Means Committee on the House side, brings that same interest, that knowledge base over to the Senate, and we are lucky to have him here. My State is lucky to have him here. This body is lucky to have him here because they do not come any better than Senator DORGAN.

Let me just say to my colleagues that I think you will find over the coming days and weeks and months that we have somebody who has joined this body who is going to make a special contribution. There are not many people who are as productive as Senator DORGAN and not as many people who have as clear a vision of what needs to be done to get this country back on track. One of the key components of doing that is fair trade practices for this country. He has highlighted, I think, in a very compelling way for us today the issues that are at stake and what needs to be done.

So I just want to say welcome to my new colleague from North Dakota. I think this Senate is going to be a better place because he is here and to say to my colleagues, we have a new partner in the U.S. Senate who is going to make a difference for this country and certainly for my State. I thank the Chair and yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to proceed for 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Chair.

EXCESSIVE GOVERNMENT SPENDING

Mr. DOMENICI. Mr. President, I come to the floor to talk about two issues today, and let me discuss one that is on the front burner these days. It has to do with the deficit, and short-term stimulus.

Mr. President, speaking for myself as one Republican—and I sense for a growing number of other Republicans—I am coming to the conclusion that what we need most from our new President, since he has overwhelming party control of the House and significant control in the Senate—in a sense, he is kind of dealing the cards. I am coming to the conclusion that what we need is to address excessive Government spending because it is excessive spending that is creating the deficit.

Now, there are those who would like to fuzz that up, but the truth is that the tax base in the United States has not changed much since the late seventies. In fact, the way we look at it, it is still about 18 percent of our gross domestic product—where it was 5 years ago. It was about 18.5 then. It is now about 18.6.

What is changing is that spending, in comparison to our gross domestic product, is at 23-plus percent and the Congressional Budget Office says in 6 years it will be 24 percent. They also tell us unequivocally that, during the next 5 years, 93 percent of the spending increase will come from the entitlement side of the ledger, led particularly by Medicare and Medicaid and not necessarily by all of the entitlements. So I have said, let us get those under control and leave Social Security out because it, indeed, is an entrusted entitlement.

But the point I want to make today is that we need to see, first and foremost, a long-term, enforceable, credible spending reduction plan. Why do we need that? We need that, Mr. President, because the problem with the American deficit is spending increases. In fact, just a few days ago the Governors, at their national conference, addressing spending reductions over an 8-year period, borrowed from the Nunn-Domenici CSIS strengthening America report, which the occupant of the chair so graciously chose to introduce in the RECORD and speak affirmatively about. They chose the part of that report, that says deficit reduction should require $2.70 in spending savings for every $1 in revenue increases.

But they also said it should be first things first. So what we need—and I believe we are coming to that on our side of the aisle—is to see long-term permanent enforceable spending cuts because the problem is spending.

Having said that, I want to address for a moment the notion of stimulating the American economy over the short term. I have come to the realization and conclusion—and I believe there is a growing number on our side of the aisle who feel the same way—that you have to link any short-term stimulus, to a long-term deficit reduction package that is credible and enforceable. We would be sending the wrong message if we signal an increase in the deficit and we do not send a signal of decreasing it over the long-term. Without long-term deficit discipline, long-term interest rates could rise and bringing them down, is really what drives growth and long-term investment in America.

Let me make one last observation about our short-term stimulus that I think has escaped the attention of most Members and the American people.

Mr. President, by definition, whatever the Government spends that the Government does not pay for is a stimulus. That is the definition. That is the Keynesian idea. If you have taxes coming in to pay for a $300 billion budget and you increase spending to $400 billion, the extra hundred is stimulating the economy. Mr. President, we have the largest stimulus in American nonwar history, $320 billion this year.

So you see when we speak of 20 or 30, it seems to me we are not really talking about anything significant because the deficit is 10 times that, and maybe more, already in this deficit-laden American fiscal policy.

The economy is already growing. Why it is not creating jobs will not be addressed by a stimulus of $20 to $30 billion. A lack of job growth is a function today of other dimensions that we ought to really analyze.

Last, we must look at the tax situation in our country. I have just said to the Senate, that I have come to the conclusion that we need a significant enforceable, multiple-year spending reduction program on the table. But when you look at the tax situation, I have come to the conclusion that the Tax Code of the United States is centered on an income Tax Code that is antigrowth and antijobs in its incentives. This is because it does not cause Americans to want to save or invest. Rather, it encourages spending and borrowing.

And long-term, the antipathy, in our kind of economy to growth, prosperity, investment, and jobs is excessive spending and excessive borrowing.

So I believe we ought to be looking at a Tax Code change of big proportions. Don't just change the income tax law from the way it is now, but abolish it. Put a new system in place that does not penalize investment and savings. This is done by giving tax relief to people who save and invest. Certain thresholds would be established to make it fair by retaining progressive tax rates.

So I rise today to try to make clear, where this Senator is coming from, and hopefully in a spirit of cooperation where a lot of us on this side are going in our thinking. We hope to see long-term multiyear, real spending cuts, and hope to see them as soon as possible because spending is the problem—not the fact that we are not taxing enough. That is not the problem. The problem is we are spending too much. Spending is not going to decrease in proportion to our tax take or our gross domestic product unless we reform certain programs that are growing out of control.

Mr. President, I said I will make two points. That finishes the part I have to say about stimulus, about deficit reduction and what comes first, and what causes it.

MEDICAL LIABILITY REFORM IN MANAGED COMPETITION

Mr. DOMENICI. Mr. President, I would like to speak to an issue of medical liability reform as part of any new reform health care delivery system, including managed competition.

Mr. President, I believe we will really miss the boat in a serious way if as part of this reform we do not get to the issue of medical liability being determined by juries across America without any limit on what they can award. I think the time has come to realize that this method of establishing the quality of health care and the appropriate standards of delivery is ludicrous, for it is not objective, it is not scientific. It is clearly filled with emotion. It is biased by big adverse effects that nobody is responsible for.

So I have a detailed statement here asking my colleagues to seriously consider the approach which I introduced last year which I will refine that says because the Federal Government is now involved in most of the health delivery one way or another, tax laws or Medicare or Medicaid, and will be more involved in setting standards and other things when we are finished with reform, we, at the national level, ought to mandate arbitration with realistic caps, and insist that the medical profession is part of that, set a new system of policing their own. I believe there are billions of dollars to be saved if we do that as part of real reform.

My statement goes into detail, talks about as best we can, how these kinds of jury verdicts are setting standards, that are clearly not consistent with science and good delivery, but are costing an inordinate amount of money; not bringing negligence under control at all. In fact, I believe arbitration will bring it under control more readily. In fact, I think there will be more arbitration cases than there are current jury cases. They will go quickly. They will be based on science, based on good testimony, science on both sides, and will get over quickly, and they will be reasonable. That will begin to be a much better analysis of how we ought to be cautious in the delivery system to take good care of our American people and others who are part of the health care delivery system.

MEDICAL LIABILITY REFORM IS CRITICAL TO HEALTH CARE REFORM

Again, I want to speak for a few moments about a subject that I believe will be critical to the success or failure of health care reform: Changing our medical liability system.

Clearly, the most difficult issue in health reform is how to slow the growth of health care costs.

CBO now projects that we will spend $1.7 trillion, or 18 percent of GDP, in the year 2000 if we don't enact significant reforms.

We argue and discuss for hours on end whether competition or regulation will be more effective in controlling health care costs.

And I think that is a very critical debate.

But regardless of where we fall in that debate, we must also include in reform significant changes in how we determine liability for negligent medical care.

Without such changes, neither regulation nor competition will be able to eliminate the costs of defensive medicine—doctors and hospitals will still perform unneeded treatments and procedures to protect themselves in case they get sued.

Recently, the Washington Post reported on a new study by Lewin-VHI that estimated we could reduce our health care bills by as much as $76 billion over the next 5 years by reducing defensive medicine.

That will not solve our whole problem, but we cannot afford so much waste anymore.

REPLACING JURIES WITH SCIENCE

What causes defensive medicine?

The main culprit is our jury system for determining tort liability.

Doctors and other health providers practice by fuzzy standards that are set in large measure in courtrooms by lay juries.

These juries hear cases that are filled with human tragedy and high emotion—and the defendants are well paid doctors and insurance companies.

Clearly, the tendency of these juries is to expect health providers to do everything possible for the patient, regardless of cost and regardless of science evidence on the efficacy of the treatments.

Doctors understand this process, and they practice medicine accordingly.

They do whatever they think a jury would expect them to do, whether or not it is good medical practice.

To get at the heart of defensive medicine, we must eliminate juries from this process and decide medical negligence in arbitration or other objective forums where scientific evidence can set the standards.

THE DOMENICI BILL AND MANAGED COMPETITION

Last year, I introduced a bill to do just that.

S. 1232 would have taken nearly all of our medical liability claims out of the courtroom and put them into binding arbitration.

My bill also allowed scientifically developed medical practice guidelines to determine the standards by which health providers would be judged in arbitration.

This approach is absolutely consistent and, in fact, reinforces the principles of managed competition.

Managed competition works if consumers can buy health insurance plans based on how well those plans deliver high quality care at a low price.

But to lower their price, health plans must be able to eliminate unnecessary and inefficient care.

And they will not be able to do that if juries keep setting the standards based on emotion rather than science.

For managed competition to work, therefore, I believe it must include provisions for deciding liability in arbitration with new, more precise standards.

My bill also includes constraints on the awards that arbitration panels can make, which are important.

But constraints alone will not do the job.

The key is to get the cases out of the courtroom and into settings where science can rule the day.

REINTRODUCING THE DOMENICI APPROACH

Frankly, I believe others in the health reform debate are beginning to see the merits of my proposal.

Last year, House Republicans introduced a health care bill that included my approach to medical liability.

When we return from the upcoming recess, I will reintroduce my bill with some slight modifications to make it fit more easily into the context of managed competition.

I hope many of my colleagues will join with me in that effort.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. JOHNSTON. Mr. President, I ask unanimous consent that it be in order for me to proceed as if in morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana is recognized.

Mr. JOHNSTON. I thank the Chair.

(The remarks of Mr. JOHNSTON pertaining to the introduction of S. 318 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Chair, in his capacity as the Senator from Nebraska, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas is recognized.

Mrs. KASSEBAUM. I thank the Chair.

(The remarks of Mrs. KASSEBAUM pertaining to the introduction of S. 325 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

BOSNIA AND HERZEGOVINA: THE ATROCITIES CONTINUE

Mr. PRESSLER. Mr. President, life in Bosnia and Herzegovina continues to deteriorate. There is little food, water, heat, and electricity in most areas of the former Yugoslavia. While Cyrus Vance and Lord Owen have switched venues from Geneva to New York to negotiate settlements of the ethnic conflicts in the region, life for the Bosnian Moslems and Croats has, at best, improved little.

Because of firm opposition to rewarding the evil aggression of the Bosnian

Serbs, I and four of my colleagues recently sent a letter to Secretary of State Christopher, urging him to deny Bosnian Serb leader Radovan Karadzic a visa for entrance into the United States. We believe that allowing Karadzic into the United States sends a wrong message—a message condoning the atrocities his government is committing against the Bosnian Moslems and the Croats. After all, according to the State Department, Mr. Karadzic is a suspected war criminal. Despite our efforts, the State Department allowed Karadzic to enter our country.

According to the Immigration Act of 1990, a visa applicant can be denied entry into the United States because of international terrorist activity, membership in a totalitarian organization, or if the Secretary of State believes entry into the United States would have adverse foreign policy consequences. The Serbian ethnic cleansing, rape, and brutal totalitarianism provided more than enough evidence to justify Karadzic's exclusion. Still, the State Department allowed this aggressor to enter into the United States.

Mr. President, I support peace in the Bosnian region. However, we must win a true peace, not force a false peace. I do not condone rewarding the territorial gains of an aggressor through the Vance-Owen peace plan. Until he and his marauders are brought to justice, I will not support Karadzic's presence in the United States.

In a separate letter to U.N. Secretary General Boutros Boutros-Ghali, I urge him to have the U.N. Commission on Experts question Mr. Karadzic while he is in the United States. The world needs to know the extent of Mr. Karadzic's participation in Serbian war crimes in Bosnia. The process of justice must not take a back seat to the prospects for peace.

Mr. President, I ask unanimous consent that both my letters to Secretary Christopher and Secretary General Boutros-Ghali be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, February 1, 1993.

Hon. WARREN CHRISTOPHER,
Secretary, Department of State, Washington, DC.

DEAR MR. SECRETARY: We have learned that Radovan Karadzic, leader of the Bosnian Serbs and a suspected war criminal, is seeking a visa to enter the United States. We are writing to urge strongly that Mr. Karadzic's visa request be denied.

According to the Immigration Act of 1990, Mr. Karadzic could be denied entry because of international terrorist activity; membership in a totalitarian organization; or if the Secretary of State believes entry into the United States would have adverse foreign policy consequences.

There is more than enough evidence to justify exclusion. Mr. Karadzic has presided over the greatest systematic violation of basic human rights in more than a generation. Violence in Bosnia-Hercegovina has claimed the lives of more than 200,000 citizens. Tens of thousands of Bosnian women have been raped. Ethnic cleansing has uprooted more than 1.5 million people. There appears to be no limit to the senseless genocide imposed by the forces controlled by Mr. Karadzic. It is for these atrocities that the United States State Department has listed Mr. Karadzic as a potential war criminal.

Now Mr. Karadzic intends to travel to New York to cement the territorial gains of his aggression. Though we support efforts to achieve peace in Bosnia-Hercegovina, we strongly oppose any agreement that legalizes military aggression. Such an agreement cannot last. Just as important, we strongly oppose any attempts to negotiate peace agreements with potential war criminals, such as Mr. Karadzic. Peace is not a substitute for justice.

For these reasons and pursuant to the Immigration Act of 1990, we urge you to deny Mr. Karadzic's visa application. However, should the United Nations insist that Mr. Karadzic be granted a visa, we urge that his entry be conditioned on his being questioned by the United Nations Commission on Experts, recently established to gather evidence on possible war crimes in the former Yugoslavia.

The world must learn the extent of his involvement in the horrific crimes perpetrated by the Serbs against Bosnian Croats and Muslims, and against humanity itself.

Thank you for your prompt attention to this vital issue.

Sincerely,

ALFONSE D'AMATO.
BOB DOLE.
DICK LUGAR.
LARRY PRESSLER.
JESSE HELMS.

U.S. SENATE,
Washington, DC, February 3, 1993.

Secretary General BOUTROS BOUTROS-GHALI,
The United Nations,
New York, NY.

DEAR MR. SECRETARY GENERAL: As you well know, Bosnian Serb leader Radovan Karadzic will be present at the United Nations as part of the peace talks mediated by Cyrus Vance and Lord Owen.

I support any and all attempts to achieve real peace in the Bosnian region. However, I do not condone any peace plan that rewards violent aggression. Mr. Karadzic's involvement in the atrocities committed in Bosnia-Hercegovina has prompted the United States Department of State to list Mr. Karadzic as a potential war criminal.

The process of justice must not be sacrificed in the quest for peace. You have demonstrated a commitment to justice with the establishment of the U.N. Commission on Experts to investigate war crimes in the former Yugoslavia. As part of that investigation, I strongly urge that the Experts Commission question Mr. Karadzic during his stay in the United States. No doubt his testimony would be crucial to the investigation.

Mr. Secretary General, real peace in Bosnia-Hercegovina will not be achieved unless justice is brought against the war criminals who brought the horrors of rape, murder and ethnic cleansing to the Bosnian people. For this reason, I hope the United Nations will question Mr. Karadzic extensively on his alleged involvement in this senseless genocide.

Thank you for your attention to this vital matter.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOX SCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress—stood at $4,177,801,340,225.78 as the close of business on Tuesday, February 2, 1993.

Anybody remotely familiar with the U.S. Constitution is bound to know that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States. Therefore, no Member of Congress, House or Senate, can pass the buck as to the responsibility for this shameful display of irresponsibility. That dead cat lies on the doorstep of the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 merely to pay the interest on deficit Federal spending, approved by Congress, over and above what the Federal Government has collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman, and child owes $16,264.96—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt averages out to be $1,127.85 per year for each man, woman, and child in America. Or, looking at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

What would America's economic stability be today if there had been a Congress with the courage and the integrity to operate on a balanced budget? The arithmetic speaks for itself.

A SALUTE TO WILLIAM F. "BILL" FARMER

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to William F. "Bill" Farmer, Jr., a Frankfort, KY, native who recently retired after 32 years of Federal service.

Mr. Farmer is a graduate of the University of Kentucky, where he received a degree in commerce. He began working for the Senate in December 1964 when he was appointed assistant registration clerk. This position eventually led him to an appointment to registration clerk. In 1969, he left the registration clerk's office to accept a position as assistant editor of the Daily Digest section of the CONGRESSIONAL RECORD.

In 1971, Mr. Farmer joined the legislative staff at the rostrum in the Senate Chamber. For 3 years, he served as second legislative clerk until he was appointed assistant legislative clerk. In 1980, he was appointed chief legislative clerk. He held this position until he retired.

Mr. Farmer will be remembered by Members of the Senate and staff as the "voice of the Senate." He earned this title after calling for numerous votes and reading many amendments. We will miss his familiar voice, as well as his humorous stories and jokes.

Today I honor Bill Farmer for his dedication to his country, and I wish him future good health and happiness.

TRIBUTE TO SOL LEVITES

Mr. MACK. Mr. President, I would like to take this opportunity to recognize and congratulate one of my constituents, Sol Levites, on receiving the Institute of Human Relations Award from the American Jewish Committee. This prestigious award is being presented to Sol in recognition of his achievements in business, his commitment to intergroup and inter-religious harmony, and his quiet philanthropy.

In 1936, after graduating from McGill University, cum laude, Sol launched a career that has been marked with success. During World War II, Sol participated in the war effort by directing aircraft parts operations. In 1948, he was a cofounder and president of plastics plants in Plattsburgh, NY, and Georgetown KY. In 1972, Sol relocated his base of operations to Sarasota, FL, and has since served as President and CEO of Sun Precision, Inc.

In addition to his successes in business, Sol has always worked to promote a better understanding among people wherever he lived. He has served as president of Temple Beth Israel in Plattsburgh, and Temple Beth Israel in Sarasota. He is a past president of the Sarasota-Manatee Foundation, World Union for Progressive Judaism, and the Weizman Institute. Sol also serves on the executive committees of the Union American Hebrew Congregations, Manasota Industry Council, and Home Instruction Program for Pre-School Youngsters. Sol is the current president of the American Jewish Committee, where he has been a lifelong member.

Sol has enjoyed a successful business career, and a rich personal life dedicated to helping others. I commend for his selfless contributions to society, and am proud to congratulate him on receiving this prestigious award.

CONGRESSIONAL DELEGATES TO THE UNITED NATIONS

Mr. DOLE. Mr. President, our esteemed colleague from South Dakota, Senator PRESSLER, spent a great deal of time at the United Nations during the recent congressional recess. He served along with the Senator from Maryland, Senator SARBANES, as our congressional delegate to the United Nations. Both of our colleagues had the opportunity to participate in the detailed operations of the United Nations. I would like to commend my colleagues for their dedicated service in New York.

A CONGRESSIONAL DELEGATE'S EXPERIENCE AT THE UNITED NATIONS

Mr. PRESSLER. Mr. President, during the recent legislative recess, I had the privilege of serving as one of two congressional delegates to the United Nation's 47th General Assembly. My colleague from Maryland, Senator SARBANES, and I had the opportunity to view, firsthand, the intricate daily workings of the world's peacekeeping organization. While the work was difficult and even frustrating at times, I now have a much greater and more lucid understanding of the positive and negative happenings at the United Nations. I would like to take this opportunity to report to the Senate on some of my recent experiences and activities at the United Nations.

U.N. SPENDING PRACTICES

There is no question that the United Nations is in desperate need of reform. I participated in numerous meetings with U.S. mission staff to discuss U.N. spending practices. I also met with Secretary General Boutros Boutros-Ghali and Under Secretary General for Administration and Management, Dick Thornburgh, on U.N spending and personnel issues. In particular, I digested the contents of the U.N. Board of Auditors audit report for the biennium 1990–91 and the followup conducted by the U.N. Secretariat. Mr. President, to say I was shocked would be a gross understatement.

Let me take a moment to share with you several examples of the kinds of abuse, mismanagement, and fraud outlined in the audit report:

The former director of the International Decade for Natural Disaster Reduction secretariat has been retained on payroll after being removed from the position. The individual continues to collect approximately $140,000 annually.

Computer systems valued at $100,000 were purchased and delivered, but never were used, and are now obsolete.

A U.N. institute was advanced $10,040,882. Of this amount, only $886,000—less than 9 percent—had been authorized by the U.N General Assembly.

Of 5,444 purchase orders issued by the United Nations during 1990–91, only 17 percent were awarded on a competitive basis, notwithstanding U.N. financial rules that require all purchases of $20,000 or more to be subject to competitive bidding.

One example of abuse not covered by the audit concerns independent salary decisions by organizations within the United Nations. The salary scale for U.N. employees is in the range of 10- to 20-percent higher than for comparative positions in the U.S. Civil Service system. Last year, the executive director of the U.N.'s International Telecommunications Union in Geneva awarded 90 percent of its staff a "special pay allowance" amounting to an additional 3- to 4-percent temporary pay increase, which cost the United Nations $1.3 million. The rationale used was that all of these employees had accepted additional responsibilities. The U.N General Assembly approved a resolution condemning this action. Yet even with the General Assembly's rejection, the Secretary General approved the additional pay.

In September 1992, the Washington Post ran a four-part series by William Branigin. The series did an excellent job of documenting the prevalence of administrative abuse in the United Nations. I ask unanimous consent that the Washington Post series be printed in the RECORD immediately following my remarks.

(See exhibit 1.)

Mr. PRESSLER. After studying this issue carefully, it was my honor to deliver the official U.S. position on the audit report in two speeches before the U.N. Fifth Committee. I ask unanimous consent that those speeches, together with an article from the Washington Post concerning the first speech, be printed in the RECORD at the conclusion of my remarks.

(See exhibits 2, 3, and 4.)

Mr. PRESSLER. I carried the theme of the great need for fiscal reform at the United Nations to the U.S. Commission on Improving the Effectiveness of the United Nations during a hearing it held on October 23, 1992. I am pleased to have been appointed recently as a member of that commission as it continues its work and prepares to report to Congress and the President later this year.

Identifying the need for reform at the United Nations is the first, easy step. The next and more difficult question is: How can meaningful reform be achieved? Quite simply, Secretary General Boutros-Ghali himself must take the lead to institute reform within the United Nations. He must do so now. The most recent audit is just one source outlining numerous examples of abuse, waste, and fraud. Those responsible should be fired and, where appropriate, prosecuted.

If the United States alone tries to lead such an effort, it will fail. Reform must come from inside the institution. The charge must be led from the very top. First, the Secretary General must mobilize a coalition of support among the developing nations. Second, he must take swift action to end abusive practices and punish those responsible for past abuse. The United Nations has the information; what it appears to lack is the will to change. Secretary General Boutros-Ghali cannot be blamed for practices tolerated by his predecessors. However, he must distinguish himself by leading the cleanup crew. I'll be happy to help him in the Congress.

THE FORMER YUGOSLAVIA AND KOSOVA

It was my honor to host a lunch at the United Nations with ambassadors from several nations. I brought these leaders together to discuss the situation in the former Yugoslavia. Those attending included Ambassador Thanas Shkurti of Albania, Ambassador Mustafa Aksin of Turkey, Ambassador Tom Richardson, the United Kingdom's Deputy Permanent Representative; Mr. Vasily Sidorov, Russia's Deputy Permanent Representative; and Mr. Jim Xhema, Mr. Harry Bajraktari, and Mr. Bruno Silmaj, three leaders of the Albanian-American community.

The discussion was very lively and focused on the danger that Serb belligerence, first against Croatia and now against Bosnia and Herzegovina, could next be focused on the ethnic Albanian population of Kosova. If past aggression against Croatia and Bosnia is allowed to stand, it is my strong belief that the people of Kosova will be the next target. I will continue to use every means possible to direct the attention of this Nation and the world toward the plight of the citizens of Kosova.

LIBERIA

During one particular meeting, I discussed the situation in Liberia with Ambassador Winston Tubman. Mr. Tubman's family was once a strong part of the Liberian Government. In our discussion, the question arose: Who will respond to the needs of Liberia? Liberia, war-torn and ravaged, continues to plead for recognition from the international community. While its plight is reaching Somalian proportions, Liberia essentially has been ignored by major aid-donor nations.

Inadequate food supplies, unsafe drinking water, and a host of other inhospitable conditions have made life for the Liberians difficult at best. Civil strife, unrest, and the chaos of human suffering spawned by the Taylor junta are the order of the day. The U.N. Security Council's arms embargo on Liberia's warring factions represents long overdue international action. U.N. support for the disarmament of Charles Taylor's regime should continue.

WEST AFRICAN AMBASSADOR MEETING

I visited with several West African Ambassadors while at the U.N. headquarters. They shared some candid views regarding the role of the United States in the region. I believe the United States must clarify its policy in this region of the world. I have questioned the United States role in Somalia. I do not oppose humanitarian aid. However, I am concerned about the precedent we are establishing. A stronger U.N. force could better resolve this matter. Ironically, the West African Ambassadors indicated that limited resources prohibit them from greater participation in Operation Restore Hope. We must work with these nations in helping them develop the resources necessary to police this region of the world.

SOMALIA

While I was serving as a congressional delegate to the United Nations, United States troops and dollars were sent to the Somali humanitarian aid program, Operation Restore Hope. From day one, I opposed the operation's global cost-sharing imbalance. I always have favored feeding the hungry and starving Somalians. However, the cost of Operation Restore Hope has fallen inequitably into U.S. hands.

At the outset of the humanitarian aid project, I wrote to the U.N. Secretary General Boutros-Ghali, urging him to conduct a cost assessment of Operation Restore Hope. I advised Boutros-Ghali to establish an equitable burden sharing system and request formally the monetary support from other wealthy nations in Europe, Asia, and throughout the world. My letter also stressed that something needed to be done to alleviate the crisis in Somalia. However, because of serious economic problems in the United States—a huge budget deficit, a growing number of homeless people, senior citizen concerns and many other needs and problems—I continued to plead that the United States not be forced to foot the bill for Somali humanitarian aid. Mr. President, I ask unanimous consent that this letter to Secretary General Boutros-Ghali and a second, followup letter to him be printed at this point in the RECORD.

(See exhibits 5 and 6.)

CENTRAL AMERICA

Mr. PRESSLER. Another issue I discussed at the United Nations was the situation in Central America. In early December, I spoke on behalf of the United States regarding the peace processes evolving in Central America. Secretary General Boutros-Ghali has promoted the regional peace process and supported the fulfillment of peace accords in El Salvador. The constructive developments toward democracy in the Central American region have not been unnoticed. Mr. President, I applaud Secretary General Boutros-Ghali's leadership in furthering peace and democracy in this region. Also, I ask unanimous consent that my speech to the U.N. General Assembly on the situation in Central America be placed in the RECORD following the conclusion of my remarks.

(See exhibit 7.)

INDIGENOUS PEOPLES

Mr. PRESSLER. I had a wonderful opportunity to speak at the United Nations on behalf of the United States in launching 1993 as the International Year of the World's Indigenous Peoples. The power of indigenous peoples' movements and the United Nations appreciation of that power was obvious at the Indigenous Peoples U.N. ceremonies. Two native Americans from my home State of South Dakota, Arvol Looking Horse and his wife Carole Anne Heart, were participants in the celebration.

Arvol Looking Horse represents the 19th generation of keepers of the Sacred Buffalo Calf Pipe. The Sacred Pipe is regarded as the center of spirituality for the Sioux Nation. As keeper of the pipe, Arvol provides spiritual guidance and support to those seeking to live a religious life. He had the special honor of giving the spiritual prayer marking the opening of the Indigenous Peoples Year. Arvol's and Carole's presence at the U.N. ceremonies added a special and unique element to the events. Mr. President, I commend Arvol Looking Horse and Carole Anne Heart for their work with the Lakota Sioux Tribe. Mr. President, I also ask unanimous consent that my speech on the Year of Indigenous Peoples be placed in the RECORD at the conclusion of my remarks.

(See exhibit 8.)

AGING/DISABILITY ISSUES

Mr. PRESSLER. I have been troubled by the fact that many of the world's senior citizens and disabled individuals are living in poverty and have little opportunity to improve their situation. I visited with several experts from different regions of the world on this matter. I was most impressed with conversations I had with officials from the Philippines and Chile. Certainly, many of our policies are sound and we are recognized as a leader in these areas. However, it appears we need to designate additional resources for prevention. The quality of life could be improved for many if we were able to prevent Alzheimer's disease or cerebral palsy.

SOCIAL DEVELOPMENT SUMMIT

I had an opportunity to discuss the proposed social development summit with Sandra Parrino, chairperson of the National Council on Disabilities, and, later, with a U.N. staff member, Bob Anthony. The purpose of the summit is to develop new and ingenious ways of fighting global poverty and its associated ill effects. The summit, in theory, is a good idea. However, the United States should be careful that the summit does not turn into a First World/Third World economic summit. It's one thing to spend money on the summit and quite another to ensure that money gets to the poor nations where it actually can do some physical good. As I stated earlier about the need for cost-sharing in the Somalian Operation Restore Hope, the United States should be wary of overextending its financial commitments abroad.

EROS

EROS Data Center, located near Garretson, SD, recently became affiliated with the United Nations. For 20 years EROS has been providing satellite photos to many of our Federal agencies and to researchers throughout the world. I participated in negotiations that resulted in EROS agreeing to provide satellite data to other countries through the United Nations. A U.N. office at the EROS Data Center, the Global Resource Information Database [GRID], will share satellite photos of the Earth with eight other U.N. GRID locations worldwide. These photos will be used to study global changes in the environment.

I met with U.N. officials to discuss the possibility of furthering EROS role at the United Nations. I am pleased to report that groundwork has been laid for expanded utilization of EROS data to determine trends in economic development, population growth, and international trade.

A REPORTER'S U.N. PERSPECTIVE

On one particular day while I was at the United Nations, Chet Lunner, a reporter for the Gannett News Service accompanied me throughout the day to chronicle the daily events of a congressional U.N. delegate. Chet was able to sit in on one of my meetings with the West African Ambassadors, and he was able to witness the ceremonies marking the International Year of the World's Indigenous Peoples. Chet, frustrated by the bureaucracy of the United Nations, detailed his day with me in an article printed in the Sioux Falls, SD, Argus Leader. Mr. President, I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

(See exhibit 9.)

U.S. COMMISSION ON IMPROVING THE EFFECTIVENESS OF THE UNITED NATIONS

Mr. PRESSLER. At the conclusion of my service as a congressional delegate to the United Nations, I had the privilege of being nominated to serve on the U.S. Commission on improving the Effectiveness of the United Nations. The Commission is comprised of two Members of the Senate, two Members of the House of Representatives, eight individuals from the private sector selected by the House and Senate leadership, and four appointed by the President. The Commission will hold at least five public hearings at locations throughout the country. When the hearings are completed, the Commission will prepare a final report for the President and Congress.

The world's peacekeeping body must continue to evolve as the new world order evolves. To succeed in meetings its many obligations with limited resources, the United Nations must initiate fiscal and administrative reform. My experiences as a congressional delegate to the United Nations will serve me well during my service on the U.S. Commission on U.N. Effectiveness. I am very pleased to have the opportunity to continue to play a part in improving the productivity and effectiveness of the United Nations.

EXHIBIT 1

[From the Washington Post, Sept. 20, 1992]

THE U.N. EMPIRE: AS U.N. EXPANDS SO DO ITS PROBLEMS

(By William Branigin)

UNITED NATIONS.—The images are familiar: blue-bereted U.N. peace-keepers performing difficult missions in places like Lebanon and Cambodia, humanitarian relief workers fighting poverty and hunger in the Third World, idealistic, U.N. employees striving to make the "new world order" a reality.

As its new secretary general has observed, "The United Nations has almost too much credibility now."

But behind these images lies an enormous, largely uncontrolled bureaucracy, subject to abuses and deficiencies that impair its effectiveness, a nine-month study of the United Nations by The Washington Post has found. Interviews with current and former U.N. officials on four continents, review of thousands of pages of documents and visits to U.N. program sites yielded these snapshots:

Thousands of refugees in Africa have gone hungry or died because of what relief officials describe as mismanagement, negligence and, in some cases, corruption in U.N. agencies or associated governmental bodies. U.N. food aid and other resources have been pilfered for years by governments and armies with impunity.

Peace-keeping operations, some of which drag on for decades, have become a source of soaring costs with minimal oversight. In a $1.7 billion operation in Cambodia, five times more money is budgeted for newspaper and magazine subscriptions for U.N. troops than for external auditing.

Reports and publications that serve mainly to justify budgets and employment are printed at enormous cost, contributing to the United Nations' image as a huge paper mill. Among the works are voluminous yearbooks published years out of date and esoteric technical studies that go largely ignored.

U.N. offices that dot the globe, such as a "regional disarmament center" in Katmandu, Nepal, often seem to have scant value beyond expanding the organization's worldwide presence. Once formed, U.N. entities hardly ever disband.

Heavy spending on travel and conferences, including Law of the Sea talks in Jamaica in the winter and meetings of the Economic and Social Council in Geneva in the summer, often produce little more than talk and a break from New York weather. Years of negotiation are invested in such endeavors as drafting a "code of conduct" for transnational corporations, without tangible result.

The heads of specialized U.N. agencies and other top officials operate with few checks and balances in the absence of any U.N. standards for management. The system currently has no inspector general, and a Joint Inspection Unit based in Geneva is made up mostly of retired diplomats.

These examples characterize a U.N. system that has grown into what former undersecretary general Brian Urquhart calls "an enormous ramshackle structure . . . a most astonishing concoction." In ways that reform advocates find both absurd and infuriating, the U.N. system appears to have careened out of control. Many of its programs and activities have become redundant or irrelevant. Their main beneficiaries often are the bureaucrats they employ.

The United Nations, its internal critics say, has been self-protecting and self-perpetuating, rather than self-policing. It has proved largely incapable of setting priorities, evaluating program results of eliminating useless make-work. Budgets are opaque and auditing inadequate. Many entities have overlapping functions, but efforts to coordinate them have largely failed.

"There's a hell of a lot of shocking things going on," said Rakiya Omaar, the Somali executive director of the human rights group Africa Watch, which is demanding an investigation of alleged mismanagement and graft in U.N. famine relief efforts. "I think there's a great deal of incompetence, there's a lot of corruption, and there's no accountability."

U.N. Secretary General Boutros Boutros-Ghali, who has promoted reform measures since taking office for a five-year term in January, declined to be interviewed for this series. In an interview published last month in the London-based Arabic newspaper Asharq al-Awsat, however, he said he was battling his own staff in trying to implement unpopular reforms and "restore discipline in an organization where the negligence and fragmentation are widespread."

Describing a recent trip to the Geneva offices of what he called the far-flung U.N. "empire," he said: "I went there and I was attacked. There are thousands of staff. Half of them do not work. I decided to launch a reorganization campaign."

"I told them I do not fear anyone," Boutros-Ghali said, "I will not stay forever. I do not want another term. . . . Don't expect them to be pleased. On the contrary, they will attack me."

Despite broad agreement on the need for reform, abuses within the organization persist and often go unpunished. The chiefs of some autonomous U.N. agencies rule their fiefdoms like autocrats, answering to no one. Regional mafias of U.N. bureaucrats have taken root, consolidating their power through favoritism in hiring and promotions. Recipient governments also routinely plunder U.N. programs, diverting aid from intended beneficiaries with little remonstration from U.N. agencies.

Ronald I. Spiers, an American who served as a U.N. undersecretary general, attributes many of the United Nations' problems to a shortage of management skills in an organization run largely by diplomats. "There has never been efficient management," he said. Of the six U.N. secretaries general so far, "none has been management-oriented. They have been politically oriented."

Bo Jerlstrom, the Swedish deputy director of the Nordic U.N. Project, a group studying U.N. reform, said a lack of accountability in the United Nations "is a systemic problem to a very great extent. We have a governmental system in the U.N. that is not geared to get accountability."

SYSTEM OBSCURES ITS ABUSES

In addition to its high-profile peace-keeping and political functions, the United Nations plays an essential role in setting global norms governing such fields as shipping, telecommunications and civil aviation. The issues of reform and accountability examined in this four-part series, however, stem largely from a part of the system that gets little public scrutiny even as it eats up the great bulk of U.N. resources: the economic, social and humanitarian programs aimed at development, emergency relief and "better standards of life" around the world in accordance with the U.N. Charter.

Clearly, the United Nations employs many hard-working and idealist people. But there are widespread complaints of uneven workloads and poor deployment of manpower. Parts of the system are overstaffed and lethargic, while others, particularly field offices in unpleasant places, are understaffed and overworked.

There's such a bad distribution of the workloads in the U.N. system," a Rome-based U.N. official said. "The bulk of the work is done by perhaps one-third of the employees."

Local employees tend to bear the brunt of disciplinary action, such as criminal proceedings, when fraud or other abuses are discovered, while erring international professional staffers often survive and even advance in the organization. At the same time, U.N. employees who complain about irregularities have found themselves blocked from promotion or forced to transfer to other jobs.

It is a system that tends to cover up its abuses and discourage whistle-blowers. Indeed, most U.N. employees who spoke on these issues did so on condition of anonymity for fear of ruining their careers.

Many expressed concern that disclosing waste and fraud could jeopardize funding from donors and ultimately hurt the people that the agencies are trying to help. But sources both inside and outside the U.N. system generally agreed that reform is imperative.

A European U.N. official, who recently left his agency in frustration after concluding that his anti-corruption efforts had made him an outcast, said reform efforts so far have fallen short of real commitment to creating a more transparent and accountable U.N. system.

"A certain enabling environment . . . allows [fraud] to happen," he said. "The question is not whether you do it or not, but whether you're stupid enough to be caught."

"Basically, there's a lack of determination to combat the sleaze factor," he added. "In an environment where mediocrity has a strong self-protective interest, these things flourish."

U.N. officials who advocate a cleanup in their ranks say that management by the heads of agencies and other top officials has been inept and, occasionally, corrupt. "There is no supervision of any agency on a weekly or monthly basis as you have in a government," said a senior Rome-based U.N. official. Governing councils of agencies' member states are "basically rubber-stamp bodies."

In a statement to a U.N. financial committee last year, the United States expressed grave concern over "the seriousness and number of cases of fraud and presumptive fraud" in the office of the U.N. High Commissioner for Refugees (UNHCR). "Large amounts have been embezzled by UNHCR staff," the statement said.

In reports being released this month, the U.N. Board of Auditors, a group of outside analysts, cites numerous irregularities and "weak internal controls" at U.N. headquarters and subsidiary agencies during 1990 and 1991 in what amounts to an indictment of U.N. management. A 136-page report on the U.N. headquarters and a dozen field offices enumerates irregularities or deficiencies in hiring, cash and property management, internal audits and purchases of everything from project equipment to airline tickets.

At the U.N. Economic Commission for Africa, the report says, an official was dismissed last year after bilking the organization of at least $125,000 through abuses that persisted amid weak management and "apparent laxity or indifference" among his colleagues. It says that submitting contracts for competitive bids has become "the exception rather than the rule," notes repeated overpayments totaling nearly $900,000 for office supplies at U.N. headquarters in New York and reports "excessive" or wasteful payments to senior officials and consultants.

Many anomalies reported by auditors "appear to be recurring" and point to a "lack of determination to enforce regulations and rules and make the heads of units of the organization accountable," the report says.

A recent confidential internal paper circulating in the U.N. Development Program, the system's main coordinating and funding agency for technical assistance, put the problem more bluntly. Citing "a deplorable vacuum of basic ethics" in the system, it noted widespread criticism of "prolific structures, pompous-Byzantine attitudes of ranking officials, operational inefficiency and . . . gross mismanagement of financial and personnel resources."

The 10-page paper listed a dozen cases of corruption involving the development agency's staffers or programs that totaled millions of dollars in pilfered funds.

LOOKING BEYOND THE COLD WAR

For years, the East-West conflict effectively blocked fundamental U.N. reforms. As a result, the system grew steadily more unwieldy. Now, the expanding U.N. role in the world and greater demands on its resources have given reform efforts new impetus.

"The United Nations has to reform itself to be appropriate to new challenges," Russian Foreign Minister Andrei Kozyrev said in an interview. "Yes, the East-West confrontation was the major stumbling block, but when it is removed, other problems remain." Among them, he said, are fears among Third World countries that reforms will hinder them and resistance from "bureaucratic corporate interests."

Some of the waste in the system was directly related to the Cold War, sources said. As an example, several cited the case of the Dag Hammarskjold Library, located in the Secretariat, as the U.N. headquarters in New York is generally known.

Staffed in key posts by Soviets, the library was used to collect information from various research organizations and computer databases on behalf of the Soviet intelligence service, the KGB, a senior U.N. official and U.S. sources said. Documents would be translated into Russian and sent off to Moscow—all at U.N. expense and thus courtesy, in part, of the American taxpayer.

"If you went to the library for a legitimate request, they would look at you like you were from the zoo," one official recalled. A senior staff member confirmed that the library was controlled by the Soviets until 1989, when the directorship was given to a Dutch official.

COUNTING COSTS AND BENEFITS

Founded by 50 countries in 1945, the United Nations currently has 179 members. Initially it employed about 1,500 people. Now the U.N. system—excluding the U.N.-related World Bank, International Monetary Fund and regional development banks—counts more than 51,600 employees around the world, nearly 14,000 of them attached to the New York-based Secretariat and its dependencies. In addition, at least 9,600 consultants were employed by U.N. agencies in 1991, the last period for which figures are available.

Total spending by the U.N. system for the two-year period ending in 1991, including voluntary funds and peace-keeping operations, came to nearly $15.6 billion, of which the United States contributed about $2.6 billion. Since the first U.N. session in 1946, the United States has poured more than $20.3 billion into the system, making it by far the largest contributor.

At present, the U.S. share of U.N. assessed budgets is 25 percent, double that of the next-largest single contributor, Japan, which is assessed 12.45 percent. At present, 44 percent of member states pay the minimum assessment of one-hundredth of 1 percent, and the shares of 16 new members have yet to be determined.

A perennial problem for the U.S. government has been that, since regular budgets of the U.N. Secretariat are approved by a two-thirds majority of the General Assembly, countries that collectively pay less than 2 percent of assessments historically have had enough votes to control passage of budgets. And since the poorer countries are the main beneficiaries of U.N. spending, it has been in their interest to have more organizations, more programs and growing expenditures.

The United States, on the other hand, traditionally has been the strongest critic of wasteful U.N. spending, much of which inevitably comes out of the pockets of American taxpayers.

"There is a measure of built-in irresponsibility that comes with the fact that people who vote for certain measures don't have to foot the bill," said Alan Gerson, a former counselor to the U.S. delegation to the United Nations.

Since the 1980s, the United States has insisted on "consensus budgeting" to reflect the views of major contributors. Washington also has withheld portions of its assessments to protest spending that it opposes for political or fiscal reasons.

Currently, the United Nations is strapped by huge unpaid assessments of $1.75 billion. The United States—which owes about $731 million for the U.N. regular budget plus peace-keeping operations, according to the secretary general's office—is the leading debtor, followed by Russia with total unpaid contributions of $415 million. According to recent U.N. figures, only eight countries are fully paid up.

One project for which the United States is withholding its 25 percent share is a grandiose conference center in Addis Ababa, Ethiopia, for the Economic Commission for Africa, one of the United Nations' five regional commissions and by far the most expensive. Construction of the conference center, project to cost $73.5 million, was approved by the General Assembly in 1984 at the height of the Ethiopian famine when international and private organizations were scrounging for funds to feed starving people.

The fact that the brutal Marxist government of Mengistu Haile Mariam then held power in Addis Ababa contributed to the U.S. refusal to help fund the project. But even since the regime's fall in May 1991, Washington has continued to hold back its share because it views the center as a huge boondoggle far too expensive to build and maintain.

By the end of 1990, the project's rising price tag had reached $107 million, and now no one knows how much it will cost when completed. So far, about $90 million has been appropriated, of which only about $12 million has been spent, but practically all there is to show for it is a huge hole in the ground. Still, the U.N. Secretariat, prodded by African states, insists on going ahead with the center, if only to show that a member state cannot use nonpayment to stop a project approved by the General Assembly.

BOOKKEEPING FAULTED

The U.N. bodies ostensibly set up to oversee the workings of the system's many branches apparently are scarcely more effective than the agencies they monitor. The Internal Audit Division at the Secretariat in New York lacks the staff, funding and independence to do a more far-reaching job, critics say. It has jurisdiction over the U.N. headquarters and its subsidiary organizations, but not the autonomous specialized agencies that accounted for nearly $5.7 billion of the U.N. system's 1990-91 spending.

In addition, internal audits are confidential, making it difficult for interested member states to exercise oversight.

External audits are performed by the U.N. Board of Auditors, composed of auditing teams contributed by three countries chosen by the General Assembly. The board's reports are public and sometimes cite instances of fraud and other irregularities committed by U.N. agency employees, contractors or governments, but they rely on management to provide such information, and they never identify the offenders and rarely even mention the countries in which the corruption took place.

"They just don't like to embarrass anyone," a U.S. official said. "Yes, they have all these auditors, but they just don't work. There's no question that money is being wasted. They catch maybe 5 percent of what's wrong with the place."

A major part of the problem with the United Nations lies at headquarters in New York, many officials agree. It is here that the principal U.N. organs—the General Assembly, Security Council, Economic and Social Council and Secretariat—are located and where many U.N. programs, policies, conferences, studies and peace-keeping operations are discussed, formulated and administered.

Answerable to U.N. headquarters are major U.N. branches in Geneva and Vienna, the five regional economic commissions and various offices around the world.

"The waste is everywhere," said Dennis Goodman, a former U.S. deputy assistant secretary of state for international organization affairs. "The waste is the mere numbers of people working at the Secretariat in New York. A vast number of them don't do anything useful."

According to U.N. budget officials, at least 70 percent of the Secretariat's regular, assessed budget, which stands at $2.4 billion for 1992-93, pays for salaries and other "staff costs."

Last year, nearly 90 percent of the estimated $7.8 billion in total expenditures by the U.N. system, excluding the multilateral banks, was spent on economic and social programs, as opposed to policymaking, political affairs and peace-keeping, U.N. figures show.

"That money is not getting the results that it should," Goodman said. "The beneficiaries largely are the people who have jobs with the U.N.," he said. "They are talented people, but they are there to preserve a system that has rewarded them."

As a veteran negotiator at U.N. conferences, Goodman said he saw the problems first-hand. "They really don't give a damn what they're negotiating as long as there's something to negotiate," he said, "because that gives them a reason to be in New York or Geneva. The name of the game is the game."

In the system's defense, said Domingo Siazon of the Philippines, who heads the Vienna-based U.N. Industrial Development Organization, "the whole is the sum of its parts. So when they say the U.N. is inefficient, I say it's because the member governments are. They don't govern properly."

"There is certainly some duplication," he said. "There is certainly a good argument for restructuring. And we certainly can be much more efficient [by cutting posts] by at least 20 to 30 percent. However, we can do this first if member states are really serious in wanting to have efficiency, and the price for that is they must yield turf."

A major, and largely unscrutinized, source of spending in the United Nations has been travel, officials who monitor the organization say. Travel costs during the current 1992-93 biennium are estimated at more than $100 million for the U.N. Secretariat alone, a figure that excludes untold millions more in travel spending by the various U.N. agencies. According to the latest audit findings, air tickets bought by the United Nations for employee home leaves from an in-house travel agency at headquarters were up to 55 percent more expensive than available budget rates.

And how do U.N. officials travel to their missions and meetings? Not economy class, if they can help it. Current regulations require most employees to fly economy on flights of up to nine hours, but they are often honored in the breach.

In a report last year, then-Secretary General Javier Perez de Cuellar "welcomed" a General Assembly request to upgrade air travel to business class on all flights to avoid "large groups of [discount] travelers" and "the cramped conditions, excessive noise and inadequate service" of economy class. The report cited a U.N. medical panel's finding that flying economy class "involved certain health risks" because of "limited leg room inaction and dehydration."

WHAT IS THE UNITED NATIONS?

The United Nations is a vast organization designed to promote peace and international cooperation. The U.N. system consists of more than 50,000 staff members and almost 10,000 consultants, with a two-year budget of $15 billion. U.S. taxpayers pay 25 percent of regular budgets. The people of Norway pay the most per person—$13 in 1992—to the United Nations.

The Secretariat carries out the administrative work of the United Nations and is headquartered in New York along with the General Assembly and Security Council. Staff members are international civil servants and take an oath not to seek or receive instructions from any government.

Specialized agencies such as UNESCO and the World Health Organization tackle issues including health, science, aviation and energy. These intergovernmental agencies are related to the United Nations by special agreements. They have their own membership, legislative and executive bodies and budgets, but they work with the United Nations and each other through the U.N.'s Economic and Social Council in New York.

Subsidiary agencies are affiliated with the Secretariat. The three biggest are the massive U.N. Development Program, the United Nations Children's Fund and the U.N. High Commissioner for Refugees.

Peace-keeping operations involving 47,000 troops are underway in 13 countries.

PURPOSES

To maintain international peace and security; to develop friendly relations among nations; to achieve international cooperation in solving economic, social, cultural and humanitarian problems and in promoting respect for human rights and fundamental freedoms; to be a center for harmonizing the actions of nations in attaining these common ends.

GROWTH

The United Nations has more than tripled its membership in the past 47 years.

Staff has grown from 1,500 to 51,000.

Spending has grown to $1 billion per year for the Secretariat, and $15 billion in the 1990-91 two-year budget for the total system, including voluntary funds and peace-keeping operations.

HISTORY

The United Nations was born in the wake of the United Nations Conference on International Organization in San Francisco in 1945. The conference drew up a U.N. charter, which was signed by 50 nations on June 26.

MEMBERSHIP

Today the United Nations comprises 179 members: all the world's nations except Andorra, Kiribati, Monaco, Nauru, Switzerland, Taiwan, Tonga, Tuvalu and Vatican City.

The United Nations System

	Staff
Secretariat:	
1. —Headquarters, General Assembly, Security Council	6,000
2. ECA—Economic Commission for Africa	750
3. ECE—Economic Commission for Europe	189
4. ECLAC—Economic Commission for Latin America and the Carribean	697
5. ESCAP—Economic and Social Commission for Asia and the Pacific	777
6. ESCWA—Economic and Social Commission for Western Asia	289
7. UNCHS—United Nations Center for Human Settlements (Habitat)	328
8. UNCTAD—United Nations Conference on Trade and Development	505
9. UNEP—United Nations Environment Program	639
10. —World Court	120
11. WFC—World Food Council	28
Specialized agencies:	
12. FAO—Food and Agriculture Organization	5,863
13. IAEA—International Atomic Energy Agency	2,193
14. ICAO—International Civil Aviation Organization	777
15. ILO—International Labor Organization	1,795
16. IMO—International Maritime Organization	293
17. ITU—International Telecommunication Union	726
18. UNESCO—United Nations Educational, Scientific and Cultural Organization	2,297
19. UPU—Universal Postal Union	140
20. WHO—World Health Organization	4,680
21. WIPO—World Intellectual Property Organization	409
22. WMO—World Meteorological Organization Geneva	246
Other subsidiary bodies:	
23. UNDP—United Nations Development Program	6,805
24. UNFPA—United Nations Fund for Population Activities	643
25. UNHCR—Office of the U.N. High Commissioner for Refugees	2,000
26. UNICEF—United Nations Children's Fund	5,052

	Staff
27. UNIDO—United Nations Industrial Development Organization ..	1,350
28. UNITAR—United Nations Institute for Training and Research ...	23
29. UNRWA—United Nations Relief and Works Agency for Palestinian Refugees in Near East	173
30. UNU—United Nations University	63
31. WFP—World Food Program	631

P.—Peace-Keeping Forces: Africa—Angola, Somalia, Western Sahara. Asia—Cyprus, Cambodia, Israel, India and Pakistan. Lebanon, Iraq-Kuwait. Europe—Croatia. North America—El Salvador.

What Taxpayer Pays Most[1]

1. Norway.	$12.84
2. United Arab Emirates	9.19
3. Sweden	1.30
4. Denmark.	1.25
5. United States	1.20
6. Kuwait	1.18
7. Iceland	1.18
8. Canada	1.15
9. Finland	1.13
10. Germany	1.11

[1] 1992 U.N. assessed budget.

[From the Washington Post, Sept. 21, 1992]

THE U.N. EMPIRE: IN AFRICA, LOST LIVES, LOST DOLLARS

(By Keith B. Richburg)

LIBOI REFUGEE CAMP, KENYA.—A long row of graves behind a makeshift field hospital in a corner of this dry and desolate camp marks the human cost of United Nations mismanagement.

"Those guys were my friends," said Jusuf Hussein Lohos, a 22-year-old Somali refugee, as he recalled the names of former high school classmates buried there in January. "Every day, maybe 15 persons died. . . . That time, the problem was water and rations. That time, it was very difficult."

According to doctors, relief workers and human rights investigators, thousands of Somalis died in refugee camps early this year in part because of what the sources described as the incompetence, negligence and maladministration of the U.N. agencies and local implementing organizations that are supposed to help the refugees.

Much of the suffering at this remote desert site in northeastern Kenya was for want of a simple borehole—a well with a pump that would have taken two days to install and could have increased the meager supply of drinking water for Liboi's 50,000 refugees. But its construction was delayed for months while the Nairobi office of the U.N. High Commissioner for Refugees (UNHCR) haggled with a local contractor over terms, payments and specifications.

About 300 miles away, at the Dolo refugee camp in southern Ethiopia, conditions were even worse. Somali refugees there died at a rate of 50 a day from January until April as food aid from the UNHCR was diverted to private markets—and U.N. agencies, Ethiopian party officials and Somali clan leaders did virtually nothing to relieve the massive starvation.

Today up to 3,000 Somalis are dying every day, and at least 2 million out of an estimated population of 6 million are said to be in immediate danger of starvation. Meanwhile, the clan warfare that broke out soon after the fall of dictator Mohamed Siad Barre in January 1991 is reducing the country to anarchy. The combination of famine and lawlessness has driven more than 300,000 Somali refugees into Kenya and displaced at least 2 million inside the country.

"What has happened to Somalia is a tragedy and an international disgrace," said Aryeh Neier, executive director of the New York-based group, Human Rights Watch, in recent testimony before the U.S. House Select Committee on Hunger. He charged that "the United Nations and its various organizations have been so monstrously negligent and incompetent that they have played almost no role at all in alleviating Somalia's misery."

"Somalia," Neier quoted a U.N. official as admitting, "is the greatest failure of the United Nations in our time."

LIVES SAVED, LIVES LOST

This latest African refugee crisis lays bare a breakdown of planning, administration and accountability by U.N. agencies, characterized by long delays and confusion in dealing with a growing emergency, and resulting in needless deaths. But it is only one chapter of what many relief workers say has long been a sorry performance by the United Nations in Africa.

Over the years, the United Nations has poured billions of dollars into Africa. There is no doubt that the aid has been urgently needed on a continent wracked by wars, famine, poverty, underdevelopment, disease and recurring refugee crises. Of an estimated 17 million refugees around the globe, about half are African. Of the world's 42 poorest countries, 29 are in Africa. Accordingly, the continent has been the largest regional recipient of U.N. assistance.

The aid has raised agricultural production in some places, improved water supplies, inoculated children against diseases and, by all accounts, saved countless lives. Many selfless, idealistic people work for U.N. humanitarian and development programs in Africa, often under difficult conditions far from their families. The UNHCR often has performed heroically, winning two Nobel Peace Prizes for its efforts.

But thousands of lives and millions of dollars also have been lost, current and former U.N. officials concede, because of the perennial ills of U.N. bureaucracy: waste, mismanagement and, on occasion, outright corruption in U.N. programs.

Often, the sources say, the losses stem from greed or callousness among the governments, armies or armed bands that U.N. agencies must deal with to carry out their programs. These authorities have taken their cuts of relief aid with impunity in return for granting refugees asylum or allowing U.N. workers access to suffering populations. In the UNHCR, those losses are widely referred to as "the price of protection."

"You have no leverage whatsoever in the refugee business," a senior UNHCR official explained. "What are you going to take away? You take your money away and the refugees don't get fed."

Less well known outside U.N. agencies are losses that current and former staffers say have occurred when U.N. employees helped themselves to large amounts of international aid or otherwise profited from donor money. In addition to patronage, unproductive activities, ineptitude and other bureaucratic failings, an investigation by the Washington Post of U.N. accountability in Africa uncovered several cases of fraud.

Across the continent, U.N. officials at various levels have been implicated in diversions of food aid, embezzlement of humanitarian and development assistance, fraudulent procurements, black marketeering, currency exchange manipulation, kickbacks and various other moneymaking schemes. Among the countries in which U.N. investigators found evidence of fraud are Angola, Djibouti, Ethiopia, Kenya, Mali, Uganda and Zaire.

Whether caused by governments or international civil servants, the losses add up to a squandering of U.N. and donor funds, with American taxpayers footing a hefty chunk of the bill. As the leading contributor to the United Nations, the U.S. government normally pays 25 percent of assessed budgets and about 21 percent of the voluntary funds that make up the UNHCR budget. And while virtually all U.N. agencies have been shown to experience such losses to some degree, the UNHCR stands out from the rest because it deals with life-and-death situations.

"The horror stories are not aberrations," said Jeffrey Clark, a former staffer on the Select Committee on Hunger and now a consultant for the private U.S. Committee for Refugees. "Incompetence and evasion of responsibility are pervasive within UNHCR. That incompetence is so severe that it almost borders on negligence of a criminal nature. Then on another layer you have outright malfeasance."

Behind the agency's deficiencies and delays in responding to crises, its officials say, are inherent limitations on its mandate, inadequate staffing in key posts, scarce funding and the need to wait until a crisis erupts before soliciting donations.

"All of these problems are true," Clark said. "But the main problem is the lack of determination to get a handle on these situations and try to prevent these crises from developing. A bad situation is allowed to fester and become a horrible situation, and a horrible situation is allowed to become a catastrophe."

"There is no attempt to replace the inadequate staff that they have so they could correct these situations before they degenerate," he said. "You have too much emphasis on coordination meetings in capital cities, and a reluctance to get out there and get dirty."

SLOW START IN SOMALIA

The United Nations' failure in Somalia began with its slowness in responding to the initial political crisis there, as the country slid into chaos after Siad Barre's overthrow.

With rebels closing in on the capital, Mogadishu, and Siad Barre preparing to flee in January 1991, the United Nations pulled out, as did most foreign diplomatic delegations. Other voluntary agencies, including the International Committee of the Red Cross, Save the Children and Medecins Sans Frontieres (Doctors Without Borders), moved in to help ease the suffering, but the United Nations generally stayed on the sidelines for more than a year. The sole exception was the U.N. Children's Fund (UNICEF), which returned to Somalia on Dec. 24 and resumed full operations in March.

When James Jonah of Sierra Leone, the U.N. undersecretary general responsible for Africa, came to Nairobi this February to launch a new interagency appeal for the Horn of Africa, he testily defended the U.N. decision to withdraw from Somalia. At the time of the pullout, he said, U.N. premises had been looted and personnel were being molested, making it too dangerous to maintain a presence there.

"The U.N. as it is now is not structured for emergency situations," Jonah said at a news conference. He said it was hard to keep U.N. staffers in a place like Somalia. "How do you cover them by insurance?" he asked. "It is very difficult to find a credible insurance company to cover them."

"It's the bureaucratic answer," said Mohammed Sahnoun, the new U.N. special envoy to Somalia and a critic of the organization's performance there. "If you're not able to operate quickly and you're not able to find people to go into the problem areas quickly, then let's support [non-governmental organizations]. Save the Children has done much better than the U.N.," he said, referring to the London-based relief agency.

"We were absolutely, totally absent," the outspoken former Algerian diplomat said in an interview in Mogadishu. "The U.N. should have intervened, and I do not understand why they didn't. It was a very, very long delay and a tragic delay. And now we are paying the price."

Sahnoun said the U.N. failure to get involved in Somalia earlier may have added to the suffering there. "I saw children dying with my own eyes," he said. "I saw old people dying . . . and there was no assistance. The only U.N. organization which deserves great credit is UNICEF."

"Jonah was the African in charge," Sahnoun said. "He should have drawn the world's attention to Somalia . . . I know the U.N. doesn't like it that I say these things, but it is reality."

The difference between the United Nations and private relief groups, Sahnoun said, is that the latter "work with volunteers, people who can take risks. They really work out of charity and the goodness of their hearts. Our staff, our people, are civil servants. They want [at least] minimum compensation and minimum accommodation."

HORROR IN REFUGEE HAVENS

The UNHCR office in Nairobi was considered a quiet, comfortable post that dealt mainly with legalistic matters. It was headed by Sylvester Awuye, a Ghanaian legal officer who had virtually no experience in handling a major refugee influx.

But as Somalia's victorious rebel coalition splintered into warring factions in mid-1991, refugees began moving across the border into northern Kenya. The trickle soon became a flood, and Kenya was engulfed in a refugee crisis.

For most of the malnourished, dehydrated refugees who began staggering in, the first stop was Liboi, 10 miles from the Somali border. At the time, the area had one borehole to provide water for Kenyan villagers. Another was dug and fitted with a pump, but it soon proved inadequate as refugees arrived by the thousands.

* * * firm in September 1991 to build refugee camps at Walds and Ifo, and Liboi was redesignated as a "reception center." The firm also was supposed to build a second borehole at Liboi, but the project soon became paralyzed by squabbling. The firm complained that the UNHCR constantly changed its mind about what it wanted; the relief agency accused the company of incompetence. The matter is now in the hands of lawyers and has not been resolved.

The result was that, for six months, nothing was done to ease Liboi's water shortage. Refugees were forced to wait in long lines under scorching sun for up to 12 hours a day to receive a couple of quarts of water. Problems with diarrhea and dysentery among the Somalis grew worse, and the death rate climbed.

"Many of these deaths are preventable," Kenyan doctor Erastus Kiratu said here earlier this year when Somalis were dying at the rate of 10 a day. With more water, he said, "we could save many lives."

The German government eventually stepped in and built a second borehole at Liboi in March. Kenya's government settled a dispute with Medecins Sans Frontieres and allowed the group to start working in the camp, and conditions gradually improved.

At about the same time, a team from Save the Children discovered an even greater tragedy at Dolo, a camp in southern Ethiopia near the borders of Kenya and Somalia that had been set up by UNHCR for Ethiopian refugees. In December, thousands of starving Somalis had started streaming into the Dolo area, but Ethopian and U.N. officials largely ignored reports of their plight, private human rights and relief agency sources said.

Soon, 70,000 to 80,000 people were in the camp, about 50,000 of them Somalis, and the rest Ethiopians.

From January until at least April, virtually no food reached Dolo, there was no U.N. presence there, and a nearby UNHCR regional officer did not investigate, said Wllet Weeks, the Horn of Africa director for Save the Children. "A lot of people were just plain starving to death," he said.

Eventually, after months of interagency U.N. bickering over a transport contract, 360 tons of food arrived in the remote area in May, but it was promptly divided up by leaders of Somali clans represented in the camp; officials of a local U.N.-sponsored implementing agency, the Emergency Prevention and Preparedness Group; and Ethiopian government authorities. Hardly any of the food was distributed.

"They obviously made a deal," said Rakiya Omaar, director of the human rights group Africa Watch. The food "was sold on the markets, but it never reached the refugees."

A U.N. official involved in the Dolo situation confirmed that, between January and April, 50 people a day died because of what he called a "hiatus" in deliveries of food, about 90 percent of which was sold on the black market. April, he said, "was a heartbreaking time" because U.N. agencies by then were well aware of the problem. "It should never have reached the stage it did—but it did," he said. "It made people cry."

In May, the Dutch branch of Medecina Sans Frontiers established a feeding program at Dolo, and the death rate began to fall. Now it is down to about 16 people a day, the U.N. official said.

The tragedies in Dolo and Liboi illustrate some major flaws of U.N. relief agencies, particularly the UNHCR, internal critics say.

* * * action can make the difference between life and death, they say, the agency often has behaved like a hidebound bureaucracy, mired in its time-consuming regulations and staffed at top levels by entrenched civil servants with little energy or enthuasian for grappling with remote emergencies.

"We are still a traditional U.N. agency with an untraditional set of problems, and we haven't been able to bridge that gap," a senior UNHCR official said in Geneva. "The consequence is we react very slowly to an emergency, and that, he a sense, is unforgiveable."

"What happened in Kenya we have seen before in Sudan," he said, referring to the agency's initially slow response to the Ethiopian refugee crisis of the mid-1960s. "Even today, lives are being lost that could be saved. . . . This organization has not woken up to the fact that this is an emergency response organization.

TAKING INSTEAD OF GIVING

Many other shortcomings in the U.N. system go largely unnoticed by outsiders. Often, they are papered over by a system that tends to obscure its faults and by an apparent lack of interest among donor governments in exposing them. The history of U.N. operations in Africa is replete with scams by U.N. employees, sometimes at the expense of destitute refugees.

In Angola in 1986, the UNHCR representative, Diara Boubakar of Burkina Faso, and an administrative officer were linked by auditors to several irregularities that an investigator said cost the agency at least $200,000 over an 18-month period from a program intended to help Namibian refugees.

Among the schemes alleged by U.N. investigators were currency manipulation—pocketing the difference between black market and official exchange rates, in this case up to 8,000 percent, when accounting for purchases—and sending relatives on flights to Europe under the names of refugees. Other alleged irregularities involved the rent and repair of the representative's house and the "loss" of 1,000 tons of cement.

Also implicated in the case was Boubakar's wife, Deolinda D'Almeida, a senior official in the Angolan Ministry of Planning. A memorandum prepared by a U.N. official who documented the case charged that the wife of an unnamed U.N. representative—said by the official to be D'Almeida—was a "facilitator and major beneficiary" of her husband's activities.

After a suspension of nearly two years with full pay, Boubakar was dismissed in 1988. But, according to U.N. officials familiar with the case, ranking Africans in the United Nations intervened to secure D'Almeida a high-level job with the U.N. Development Program in 1989. She is now the deputy resident representative for the program in Botswana.

Boubakar declined to comment on the allegations, but D'Almeida said she welcomed an investigation. She denied any involvement in irregularities and described the UNHCR's treatment of her husband as unjust. She attributed his troubles to a relatively minor discrepancy involving an airline ticket for a U.N.-paid family home leave.

An exodus of Angolan refugees into neighboring Zaire spawned other irregularities in 1985, according to U.N. officials who served there. The number of refugees was overestimated by about 100 percent, and there was too much food coming in for them, said a U.N. source who looked into the affair. "It was a serious scam built on what was presented as mistakes" and apparently benefited some UNHCR officials, he said.

The following year, further questionable transactions were reported. An Austrian UNHCR official, Helmut Langschwert, tried to auction 825 metric tons of supposedly spoiled grain as animal feed. The sale was stopped after a friend of Langschwert's won the bidding and the losers complained that the auction was rigged. A UNHCR official who investigated the deal found nothing wrong with the gain in the first place, but by then, only 300 tons of it was left.

Langachwert declined to return telephone calls or respond to written questions.

Another agency that has been plagued by a history of irregularities, insiders say, is the U.N. Development Program. Like the UNHCR, its scandals have rarely been publicized.

In Mali, for example, a locally hired development program employee embezzled about $560,000 from the government through fraudulent claims for fuel-tax reimbursements. When the fraud was discovered in 1986, an oil company that was also victimized in the fraud, ShellMali, had to repay the Mali tax authorities. The U.N. employee was prosecuted and eventually jailed, but his agency disavowed any responsibility.

The oil company successfully sued the agency for the embezzled amount in a local court case, but the agency invoked diplomatic "functional" immunity in 1989.

"The UNDP is immune from any legal process," said Toshiyuki Niwa, the director of its Bureau for Finance and Administration. "Therefore the case is closed. There was no lost money on our part."

As internal critic argued, however, that the agency's handling of the case hardly encouraged contributions to its programs in Mali, one of the world's poorest countries.

In Nairobi, the development agency in 1989 had to write off at least $368,000 stolen by a local employee a two-year period through a scheme involving payments to phony companies for items that were never delivered. The employee was convicted after a lengthy trial in a Kenyan court and sentenced to jail, but the agency was not found culpable for any administrative failures that might have allowed the fraud to happen.

In other cases, ranking development agency officials who have been implicated in serious irregularities have been let off with mild reprimands, generous agreements to pay back pilfered funds, favorable early retirement settlements or no disciplinary action at all, according to agency sources and a confidential paper on ethics for "internal discussion" within the agency. Among the cases cited in the document are incidents of alleged misappropriation, currency exchange manipulation and other fraud in Malawi, Rwanda, Sierra Leone and Equatorial Guinea as well as in Vietnam, Yemen and at headquarters in New York.

GREED IN GOVERNMENT

Africa's refugee programs are especially vulnerable to abuse because they typically involve moving large amounts of cash or food into chaotic, emergency situations in some of the world's poorest countries. Poorly paid government officials on the receiving end often view refugee programs as burdensome to local populations and feel justified in diverting aid, both for themselves and for government coffers, UNHCR officials say.

The pilferage "has been institutionalized in Africa to a great degree and is probably endemic around the world," said a veteran U.N. refugee official who has served in several African countries. "A lot of governments feel that UNHCR assistance is an integral part of their national budgets."

According to officials of different U.N. agencies, authorities in several countries—including Sudan, Uganda, Ethiopia, Somalia, Zaire, Angola, Cambodia, and Iran—have used a variety of schemes over the years to skim off large amounts of U.N. money. Among the most common have been requiring U.N. agencies to use transport companies controlled by top government officials or their wives, and stipulating unrealistic currency exchange rates, which can increase costs significantly.

"In the last five or 10 years, the worst case was Sudan," a World Food Program official said. A UNHCR source recalled that at one point, when the agency tried to cut program funds there, the government threatened to close its borders to refugees immediately. The threat stemmed not from authorities' concern about maintaining assistance to refugees already in the country, but from fear of losing the U.N. cash flows that benefited their friends and relatives, the source said.

In the late 1980s, Somalia became known to relief agencies as "the black hole of international aid" because of the immensity of the plunder. Field workers estimated that up to 60 percent of emergency assistance was diverted to the pockets or bank accounts of authorities in the Siad Barre regime. But the problem got little publicity, and the United Nations did virtually nothing about it.

More common than outright theft is the exaggeration of refugee populations to bring in more food than needed, relief officials say. The excess, they say, is often sold by government officials for profit. The Siad Barre regime insisted on an "artificial inflation of refugee numbers" to "keep their aid levels high," said Tom Barnes, an American who served as deputy UNHCR representative in Mogadishu. The government's refugee count reached 840,000 at one point, another official said, while relief agencies estimated the total at around 350,000.

"It was an exercise in massive fraud," Barnes said. When he complained about "a perversion of aid" in two other cases, he said, he was warned that he was risking expulsion and, perhaps, his life.

More recently, an American official of UNHCR, Christopher Thorne, was forced to flee Swaziland after he angered local authorities by exposing an apparent scam involving a phantom refugee population, according to U.N. officials familiar with the case. This is their account of what happened:

When Thorne arrived in Swaziland in August 1990, the government was operating a U.N.-supplied feeding program for 12,500 Mozambican refugees allegedly living with Swazi families because of a shortage of space at the Malindza refugee camp expanded to accommodate 20,000, and Thorne decided to have the food that had been distributed in homes handed out at the camp instead. Only 896 refugees showed up.

Thorne then demanded that Swazi authorities let him inspect a warehouse for U.N. food supplies. He found it empty. About 1,800 tons of food, worth up to $4.5 million on the black market in neighboring Mozambique, had disappeared. After Thorne complained, the Swazi press denounced him, a cabinet official threatened him and, finally, in December five armed men attacked his house while he was away on a trip. When the government revoked his diplomatic status in January, Thorne left the country secretly.

Sir George Mamba, Swaziland's foreign minister, denied that any food had been diverted. He blamed Thorne's difficulties on "a lot of misunderstanding" between him and the Interior Ministry and asserted that refugees had written letters to the press "condemning" Thorne for alleged ill-treatment in the camps. An Interior Ministry official in charge of refugees, Priscilla Shabngu, said angrily, "There is no food that got lost in Swaziland."

VICTIMIZED CONTINENT

In the U.N. system, graft and mismanagement plainly cut across the ethnic, racial and cultural lines of the organization's 179 member states. Yet it is also evident—and U.N. officials confirm—that irregularities are especially common in Africa. Several explanations are offered for this.

In part, fraud recurs chronically in Africa because this is where the money is. The largest regional share of U.N. relief and development funds goes to Africa, often under emergency conditions that make monitoring difficult. In the case of the U.N. Development Program, at least 41 percent of total resources are spent in Africa, the largest share of any region.

"Africa is the largest bureau of UNDP, and the most corrupt bureau by far," one veteran official of the development agency said.

In addition, U.N. officers from Africa are usually recruited from elite, pro-government sectors in their countries, where graft is often rife and accountability is nil, U.N. and governmental sources said. Many of these states lack a free press, a credible opposition or other institutions to hold authorities to account.

"In Africa, we never recruited anyone from the opposition," the development agency official said. "We only recruited those who were firmly part of the establishment."

But there is another factor at work, a far more sensitive one for the United Nations as it tries to maintain the delicate balances of a self-described "multicultural organization." According to a number of U.N. officials, regional or national "mafias" within the U.N. system help protect their members' interests and sometimes exert pressure to overlook wrongdoing or mismanagement for political reasons, or in the name of "geographic balance" within the organization.

There is an American mafia, a French mafia, a Danish mafia, but the most active of these cliques, U.N. officials say, is what has come to be known as the African mafia, a loose group of senior African officials in the U.N. bureaucracy who wield enormous influence, especially in recruitment and promotions.

African U.N. officials tend to deny that any such thing exists. "That's an absolute lie," said a high-ranking Tanzanian who did not wish to be identified. "There's no African mafia in the United Nations. I've never seen it."

One of many sources who dispute that view, however, is a black American who has long experience in Africa with a U.N. agency. The Africans came into what they perceived as a white-dominated system and decided to stick together for self-preservation and mutual assistance, he said.

"They banded together, they protected each other, they covered up each other's mistakes," he said. Outsiders, he said, are distrusted regardless of race.

REFUGEES

U.N. High Commissioner for Refugees 1992 projected spending

	Millions
Angola	$13.0
Burundi	4.9
Chad	1.5
Ethiopia	45.3
Liberia	8.0
Mozambique	8.0
North Africa[1]	.4
Rwanda	4.5
Sierra Leone	3.0
Somalia	15.7
South Africa	13.1
Zaire	.3

[1] Western Sahara, Morocco, Mauritania, Tunisia, Libya.

DEVELOPMENT

U.N. Development Program has offices in all African nations except Western Sahara. The 1991 worldwide budget: $1.4 billion, Africa $512 million, Other regions $888 million.

DROUGHT

The International Fund for Agricultural Development raised $500 million from 1986–89 to help the poorest rural people affected by drought in sub-Saharan Africa with food and agricultural aid. In 14 years, it has sponsored 128 projects in 43 African countries.

THE UNITED NATIONS IN AFRICA

The United Nations has poured billions of dollars into Africa. Selfless people have worked to better the lives of refugees, drought victims and the hungry. As the map shows, a vast U.N. bureaucracy has a presence in every African nation. Yet as the fiasco of starvation and death in Somalia shows, bureaucratic wrangling, waste and mismanagement blunt U.N. effectiveness in Africa. In addition, evidence of fraud has been found in Angola, Djibouti, Ethiopia, Kenya Mali, Uganda and Zaire.

[From the Washington Post, Sept. 27, 1992]

THE U.N. EMPIRE: MISSTEPS ON THE PATH TO PEACE

(By William Branigin)

PHNOM PENH, CAMBODIA.—After two decades of war and upheaval, Cambodians greeted the arrival of the first U.N. peace-keeping troops last November with undisguised joy and relief. Exuberant crowds outside the soldiers' compound would stare at them for hours. Hopes grew that Cambodia was saved at last.

Today the joyous crowds are long gone, and a certain disillusionment has set in. The U.N. operation in Cambodia, launched with so much fanfare 10 months ago, is struggling with the inherent difficulties of one of the world's most intractable conflicts. But it also has brought with it some of the United Nations' own familiar problems of bureaucracy and excess.

A U.N. program to repatriate Cambodian refugees from Thailand has virtually abandoned its original goal of making them self-sufficient farmers. A mine-clearing operation, bogged down in bureaucracy, is still barely underway. Thousands of peace-keeping troops are idle because the demobilization of Cambodia's warring factions so far has been rendered largely cosmetic by the refusal of the largest guerrilla group, the notorious Khmer Rouge, to participate. And U.N. financial specialists have criticized a number of expenditures in the peace-keeping budget as exorbitant.

For many Cambodians, the biggest impact of the operation so far has been a skewed economy. Everything from rents and plots of land to rice, meat and potatoes has soared in price. The crowds that cheered the arrival of the first peace-keepers had no way of knowing that, months later, they would be paying from two to five times more for beef, rice, pork and diesel fuel than they did before—largely because of U.N.-induced inflation.

With a budget of $1.7 billion, the U.N. peace-keeping operation in this war-ravaged country represents the world body's most ambitious such effort to date. In just 18 months, it will cost more than a fifth of the total amount spent by the United Nations on peace-keeping in the previous 46 years.

Cambodia is just one example of the United Nations' peace-keeping problems. As the organization heads into larger commitments in Somalia and Yugoslavia and struggles with its huge mandate here, concerns about the soaring costs of peace-keeping are spurring demands to trim budgets, tighten management and rein in some of the excesses that have dogged the U.N. bureaucracy for years. Chief among the complaints are waste, mismanagement and a tendency to become entangled in endless mandates.

U.N. peace-keeping is generally regarded as a good investment—especially compared with the costs of conflict or with the estimated $1 trillion a year that the world spent on arms in the 1980s. There is little argument, for example, that ending Cambodia's devastating war and ushering in democracy are worthy goals in the interests of stability and prosperity in Southeast Asia.

Since peace-keeping operations often put their members in harm's way, scrutiny of them on management or budgetary grounds is especially sensitive. Over the years, more than 800 people from 43 countries have died in the service of U.N. peace-keeping forces.

Lately, U.N. peace-keeping has become a growth industry. In the last four years, 13 peace-keeping operations have been set up—as many as were formed during the entire period from 1945 to 1987. Five years ago, peace-keeping cost U.N. member states $233 million in assessments. This year the bill is around $2.7 billion, with no indication that the price tag will stop growing.

"COULD REMAIN FOREVER"

In a recent congressional speech, Sen. Larry Pressler (R-S.D.) expressed concern about what he called "sticker shock in peace-keeping costs" and called for "a brake against U.N. overspending" on such operations. Currently, the U.S. share of U.N. peace-keeping budgets is pegged at 30.4 percent, but Congress has no say in determining where such missions should be deployed, how much they should cost or how long they should last, he said.

"There is no sunset law for peace-keeping," Pressler said. "Once peace-keepers are assigned, they could remain forever."

U.N. Secretary General Boutros Boutros-Ghali said in a recent lecture that he was "taking a close look at the costs of existing peace-keeping operations, especially the older ones." He said budget cuts were in the works for the U.N. Interim Force in Lebanon, deployed since 1978; the U.N. Disengagement Observer Force, posted in the Golan Heights since 1974; and the U.N. Truce Supervision Organization, stationed in the Middle East for more than 40 years.

He also suggested a reappraisal of peace-keeping operations that drag on for decades, consuming hundreds of millions of dollars, while negotiations remain deadlocked. In Cyprus, for example, he noted, a U.N. force has been deployed since 1964 with no apparent progress toward solving the island's conflict. In Kashmir, a small team of U.N. military observers has been monitoring a cease-fire line since 1949.

Although peace-keeping operations traditionally have accounted for a relatively small share of total U.N. spending, they have been important symbols of the world organization's primary original mission: preventing conflict. But because the Security Council's five permanent members, including the United States, the Soviet Union and China, hold veto power in the Council, Cold War considerations blocked many opportunities for U.N. intervention. Since the United Nations was founded in 1945, an estimated 20 million people have been killed in more than 100 major conflicts.

There have been some complaints about the management of peace-keeping operations over the years, but they apparently have made little difference.

In Namibia, the U.N. Transition Assistance Group, set up to oversee a cease-fire and supervise an election in the African territory, raised U.S. concerns last year when it "donated" U.N. property worth nearly $26 million to the new government at the end of its mission instead of keeping it for future operations. Accounding to an inventory, the property included $18.3 million worth of "transportation items," notably 1,400 four-wheel-drive station wagons, sedans and pick-up trucks.

U.S. diplomats who monitored the operation had little doubt about the beneficiaries of the U.N. largesse. "U.S. taxpayers should not be required to provide new equipment every time the U.N. sets up an operation, only to have it given away to local government officials," a memorandum on the donation said.

In Somalia, a new peace-keeping operation got off to a rocky start last month amid intense criticism of the performance of U.N. relief agencies there. According to private relief officials, a U.N. technical team assigned to scout territory for possible food distribution that would be protected by U.N. troops spent 10 days flying around Somalia but failed to consult voluntary aid groups that have been working inside the country for months and took too long to make its "assessments" while people starved.

The United Nations now plans to send 3,500 troops to help guard food shipments and supervise a cease-fire for six months at a projected cost of $130 million.

NUMBER OF MISCALCULATIONS

Here in Cambodia, questions about the peace-keeping mission are multiplying as the operation hits snags and its timetable slips. Member governments that pay the bills want to know how the United Nations is managing the venture and spending the money.

Parts of the operation are lurching forward. Refugees are returning, and money is flowing into the country. But U.N. sources and other officials say the effort also has been marked by confusion, delays, profligate spending and some questionable deals.

In an upcoming report on Cambodia, the human rights group Asia Watch says that U.N. plans for repatriating refugees "were grounded in a number of miscalculations." It describes the U.N. Transitional Authority in Cambodia (UNTAC) as engaged "in a race against time" driven by a U.N.-sponsored peace plan that has promised "too much, too quickly." Human rights safeguards have been compromised, it says, and "information given to refugees has been constantly revised, sometimes in a "misleading" way that has tended to "undermined faith in the U.N."

Despite the urgency of the U.N. deployment and the shortness of its timetable, the report notes, the U.N. special representative in Cambodia, Yasushi Akashi of Japan, did not arrive until nearly five months after the peace plan was signed in Paris last October. Even now, it says, mine clearing, once a top priority, "has barely begun."

"The Cambodian people are very disappointed" with the U.N. peace mission, said Prince Norodom Ranariddh, the son of Cambodia's head of state and leader of one of its four rival factions. "They expected much more." Some hopes were too high, he said, but the U.N. mission also has been slow in carrying out its mandate.

The harshest criticism has come from the Khmer Rouge, whose brutal rule from 1975 to 1979 caused the deaths of more than a million people. The radical communist group recently said it had lost confidence in Akashi and called for his resignation.

The Khmer Rouge, ousted by Vietnamese invasion forces and replaced with a government loyal to Hanoi in January 1979, has been waging a guerrilla war ever since. Fearful of losing its followers, it has refused to join the demobilization phase of the peace plan on grounds that the U.N. mission has not verified the withdrawal of Vietnamese "forces" from Cambodia or taken control of the Phnom Penh government's police.

'EXCESSIVE' COSTS

The U.N. peace mission in this country of 8 million people is charged with monitoring a cease-fire and helping govern the country in preparation for national elections in 1993 under the Paris peace plan. To fulfill that mandate, it plans to deploy 19,500 troops, military observers and civilian police and 1,020 international staffers, plus thousands of local employees.

Besides the $1.7 billion cost of the peacekeeping mission, an additional $800 million in voluntary contributions has been solicited to finance reconstruction of the country and repatriation of refugees.

Of the budget for the U.N. peace mission in Cambodia, only $120,000 is earmarked for external auditing. By comparison, nearly $2.5 million is set aside for "contractual services for laundry, dry cleaning, tailoring and haircutting." The mission also plans to spend more than $1 million for televisions and video equipment, $600,000 for newspaper and magazine subscriptions and $200,000 for U.N. flags and decals, its budget shows.

Some U.N. sources say the allocations reflect the relatively low priority attached to oversight. "We would feel more confident that the money was being spent wisely if [the U.N. peace mission] had stronger auditing," one U.S. official said. Having just two internal auditors working on it, he said, was "just not adequate."

In a report on the Cambodian operation in May, the U.N. Advisory Committee on Administrative and Budgetary Questions expressed concern about the external auditing and cited costs that it considered "excessive" in many areas. Of $234.5 million budgeted for "premise and accommodation," for example, $67.2 million is earmarked for "upgrading of tent accommodation for military contingents," it noted. The report said this amount was too high because most of it applies to only 9,600 U.N. military personnel. Six contingents are scheduled for withdrawal by October, it added, and the troops are subject to rotation.

Citing budget allocations of more than $92 million for the purchase of 8,044 vehicles—in addition to those accompanying troop contingents—the committee said the ratio of vehicles to staff was too high and that "unit prices should be considerably lower."

So far, the main beneficiary has been Toyota, which is supplying most of the jeeps and double-cabin deluxe pickup trucks that now clog the streets of Phnom Penh. Chrysler, which had been competing for the business, was awarded a token contract to supply about 30 jeeps.

Perhaps the most controversial deal to date has been a contract to supply more than $50 million worth of fuel, oil and lubricants to the U.N. peace mission in Cambodia. The contract was awarded in August to a secretive Singapore-based company, Continental Offshore. Neither the firm nor the U.N. procurement office would divulge its ownership.

The U.S. Commerce Department took an interest in the deal because Mobil, based in Fairfax, VA., had been competing to supply the oil products as part of a rival group. U.S. officials raised questions about Continental Offshore's ownership and its ability to service the U.N. mission, citing Singapore records that they said showed a weak financial position. They said U.N. officials had rejected Mobil's partner, the British firm Inchcape, as too small although it has much higher net assets of more than $750 million.

The managing director of Continental Offshore, Clive Fairfield, said the firm won the contract because it has experience in Cambodia and an "infrastructure for distribution" there. He declined to discuss Continental Offshore's size or identify its owners, saying only that it is a "private" company "set up in trust." He said the firm already had been supplying oil products to the United Nations in Cambodia since last November under accords reached with "no bidding."

According to Leon Bloch, a procurement officer at U.N. headquarters in New York, other competitors "didn't have the structure for delivery" of the fuel inside Cambodia and the U.N. peace mission "was convinced that this outfit [Continental Offshore] can do the job." He said the United Nations had investigated the company, but he dismissed questions about who owns it.

"The U.N. gives an award to the lowest bidder," Bloch said. "This is the lowest bidder, and I don't see what the problem is."

MONEY TO BE MADE

As some Cambodia-watchers see it, part of the problem for the U.N. peace mission lies in the very nature of the country, where official corruption has long been endemic and conflict of interest is not recognized as a problem. Cambodians say officials of the government of Prime Minister Hun Sen have been among the main beneficiaries of the outlandish rents paid by U.N. personnel for houses and offices. Public anger at perceived corruption in the sale of government-owned land, buildings and factories to private interests boiled over in December when students took to the streets in protest.

According to Cambodian and foreign diplomatic sources, there have been persistent reports that private money from Southeast Asian countries has been flowing in to buy up land, including areas around the renowned Buddhist temple complex of Angkor Wat. Some of it reportedly has been channeled through military officers serving with the U.N. mission, diplomats said.

Not surprisingly, U.N. provisions ranging from spare tires to bottled water occasionally have wound up on the black market.

In volunteering to serve in the peace mission here, the thousands of military, police and civilian personnel are driven by a mixture of motives. For some it is altruism or an intense interest in the country. Others come mainly for the money.

According to U.N. figures, $346 million—20 percent of the budget for the U.N. peace mission in Cambodia—is allocated to salaries, staff costs and per diem payments to mission personnel. Military observers, civilian police and international staff members receive per diem "mission subsistence allowance" payments of up to $145 a day on top of their salaries. For many, these largely bankable payments, which are meant to cover lodging and meal expenses, serve as a major incentive for joining the U.N. force.

Asked recently why he volunteered for Cambodia, a Uruguayan naval officer rubbed thumb and forefinger together in the universal sign for cash. In four days here, he said, his per diem would pay him the equivalent of his normal monthly salary back home, and he figured he could bank 80 percent of it—nearly $3,500.

Noting that estimates of the total per diem payments come to about $227.5 million, the advisory committee called for a review of the rates.

For residents of Phnom Penh and other areas, one of the most criticized aspects of the U.N. presence has been its effect of driving up prices.

In a country where per capita income is about $150 a year, the United Nations has been shelling out $6,000 a month and more for houses in the capital. Topping the list of rental properties is a concrete building with 36 rooms, for which it paid $26,500 a month—about three times higher than estimates of its normal market value even with the current U.N.-inspired inflation.

In the provincial town of Mongkol Borei recently, the U.N. mission swooped in and without checking rates with any of the nongovernmental aid agencies based there, rented a house for $2,000 a month. The aid agencies, which had been paying $200 to $300 a month for their premises, were promptly hit with demands by their landlords to hand over $1,000 a month and more or move out.

A HARSH HOMECOMING

Steep prices, especially for land, also are affecting resettlement prospects of refugees returning from camps run by Cambodian factions opposed to the Phnom Penh government.

As part of the overall peace plan, the United Nations is repatriating most of the 360,000 Cambodians who have been living in the camps inside Thailand, some for as long as 13 years.

The $116 million program, financed separately from the peace mission's budget and carried out by the U.N. High Commissioner for Refugees (UNHCR), has been portrayed as a major success. So far, about 100,000 Cambodians have returned.

But behind the scenes, there has been considerable criticism, both from returnees and refugee officials. Promises about the availability of farmland turned out to be false, many returnees have been practically abandoned inside the country, and the United Nations has become bogged down in confusion and inertia in dealing with a major obstacle to safe repatriation: the presence of hundreds of thousands, if not millions, of land mines.

When the repatriation started at the end of March, under pressure from Thai authorities, the UNHCR was promising about five acres of farm land per family to help the returnees put down new roots in Cambodia.

The agency paid a French company, Spot Image, $675,000 to identify settlement areas by satellite—using funds that had been provided by the French government. Some officials, however, called the project a waste of money, because it could not measure two critical factors: the presence of mines and the willingness of local officials to accommodate the returnees.

With trouble looming, the UNHCR in late May dropped the land promises and offered the returnees other options, including cash grants of $50 per adult and $25 per child plus food for a year. The change led to a violent protest at the largest Thai camp, but the refugees eventually accepted it.

Many Cambodians took the cash and sought out relatives in their home villages. But others have been simply dropped off by roadsides in western Cambodia as the UNHCR races to move as many people across the border as quickly as possible.

"I'm in despair right now," said Ly Voun, 45, a returnee, as he camped out with his wife and three children under blue plastic sheeting near the village of Prey Leou in Battambang Province. A trained mechanic originally from Kandal Province near Phnom Penh, he said he received about $23 and only enough wood to build half a house. In any case, he said, he cannot afford the $1,500 demanded by a village leader for a plot of land.

"I don't know what to do," Ly Voun said. "I'm very angry and disappointed with the way the U.N. has handled the whole thing. Look at me, I live under a tree and there's no land where I can stay. In the whole country, they can't even find me a place to live."

The situation has alarmed some UNHC officials in Cambodia and opened a rift in the organization about how much should be done to help the returnees reintegrate. So far, critics say, the agency is acting mainly as a transport service.

Especially critical to the repatriation is the removal of the land mines that have maimed one out of every 236 Cambodians, giving this country the highest proportion of amputees in the word.

According to the peace mission's budget, $14.7 million is allocated for mine-clearing programs, including equipment, services and operating costs. Boutros-Ghali has reported plans to train 5,000 Cambodians to clear mines by the end of the year. However, the mine-clearing operation has been mired in legal wrangling over liability, the extent of the U.N. mandate and how to disburse the funds.

As a result, just a small fraction of the mines have been removed, fewer than 800 Cambodians have been trained in mineclearing, and only about 100 of them have actually started work for teams organized by the French military and private groups such as Halo Trust and Handicap International. Frustrated with the inactivity of the past 10 months since the United Nations landed in Cambodia, the U.S. government has put up some of the money to fund mine-clearing operations.

'PRINCESS' PAYS PRICE

Along with its soldiers, its bureaucracy and its Midas touch, the United Nations has brought a few other problems into the picture. Added to the perennial plague of official corruption have been new levels of greed and vice in the frenetic get-rich-quick atmosphere. Production has spread, and children who once sold maps to foreigners are now peddling pornographic videotapes.

It all became too much recently for Jean-Marie Bertron, a French entrepreneur who started the popular Cafe No Problem here earlier this year. Last month, he sold his share in the profitable gathering place and left the country in dismay. Perhaps the United Nations would save the country after all, but for Bertron, the huge operation had brought an unwelcome change.

"The U.N.," he lamented, "has turned a princess into a hooker."

U.N. PEACEKEEPING FORCES

	Annual cost (millions)	Date deployed	Current strength
U.N. Truce Supervision Organization (UNTSO) set up to monitor Arab-Israel armistice agreement	$31	1948	300
U.N. Military Observer Group in India and Pakistan (UNMOGIP)	5	1949	40
U.N. Peace-keeping Force in Cyprus (UNFICYP) [1]	[2] 31	1964	2,200
U.N. Disengagement Observer Force (UNDOF) between Israeli and Syrian armies in the Golan Heights	42	1974	1,300
U.N. Interim Force in Lebanon (UNIFIL)	157	1978	5,800
U.N. Iraq-Kuwait Observation Mission (UNIKOM)	65	1991	549
U.N. Angola Verification Mission (UNAVEM II)	72	1991	440
U.N. Observer Mission in El Salvador (ONUSAL)	52	1991	543
U.N. Mission for the Referendum in Western Sahara (MINURSO) scheduled operation has run into political problems	200	1991	375
U.N. transitional authority in Cambodia (UNTAC)	NA	1992	19,500
U.N. Protection Force (UNPROFOR) deployed in Serb-inhabited regions of Croatia	400	1992	16,000
U.N. operation in Somalia, (UNOSOM)	[3] 23	1992	550

[1] Only U.N. operation paid for by voluntary contributions instead of through assessments against all U.N. members

[2] Troop-contributing countries absorb an additional $60,000,000.

[3] For 6 months.

Source: United Nations.

[From the Washington Post, Sept. 23, 1992]

THE U.N. EMPIRE: NORTH AND SOUTH STAND WORLDS APART ON REFORM

(By William Branigin)

JAKARTA, INDONESIA.—At a summit meeting of the 108-nation Nonaligned Movement here this month, the assembled presidents and prime ministers of the disparate group found common ground with U.N. Secretary General Boutros Boutros-Ghali and the world's major powers on at least one broad proposition: The United Nations urgently needs reform.

But in speech after speech, it became clear that the reforms sought by the developing world are quite different from those advocated by industrialized countries, especially the United States.

As the nations of the globe seek to define the "new world order" in the aftermath of the Cold War, the United Nations is shaping up as a major ideological battleground. The East-West conflict may be over, but an intensified North-South struggle appears to be looming between industrialized and developing countries. One of its first tests appears likely to be U.N. reform.

"We're not on the same frequency," said Abdulrahman Gara, a delegate from Nigeria. "In the new world order, everyone has his own idea," added his colleague, Jonathan Ndagi.

For the developing states, reform means upgrading the authority of the 179-member General Assembly, gaining increased representation on the Security Council, curtailing the veto rights of the five major powers and expanding U.N. economic and social programs.

For the industrialized world, however, it means curbing the growth of those programs, streamlining the bureaucracy and eliminating waste, duplication, mismanagement and corruption.

Boutros-Ghali has tried to overhaul the U.N. headquarters in New York, but his efforts have stirred concern—and some stiff opposition—among staff members. But even the limited cuts in high-level posts announced to date have been partially offset by the creation of new positions and the awarding of lucrative consulting contracts to top officials who lost their jobs.

As part of its version of U.N. reform, the Nonaligned Movement, the world's largest political assembly of developing countries, agreed during its summit meeting here to establish a "high-level working group" to develop proposals aimed at the "revitalization, restructuring and democratization of the United Nations system."

Berating "those who seek to preserve their privileged positions of power" in the United Nations, a lengthy final communique called for a review of "the veto powers which guarantee an exclusive and dominant role" for the five permanent members of the U.N. Security Council—the United States, Russia, China, Britain and France.

The developing countries, which make up two-thirds of the United Nations' membership, view the council as an outmoded product of World War II that inadequately represents their interests. The North, on the other hand, considers the main problem to be the General Assembly—two-thirds of whose members are developing nations. In the view of the industrialized nations, the General Assembly is burdened by time-consuming debates, repetitive resolutions and an unwieldy annual agenda of more than 150 items.

"There are enormous difficulties in reforming an organization of this kind," said Russian Foreign Minister Andrei Kozyrev in a recent interview in Manila. "It is a very, very delicate and painful process," added the former Soviet U.N. specialist, who has written extensively on the world body. "There is a lot of resistance, especially from the Third World and some other countries."

The split between North and South "is the major hazard for the U.N. now," said Brian Urquhart, a retired undersecretary general from Britain. "It's very difficult to move forward while the gulf is growing."

Ultimately, the major powers must agree to some changes in the Security Council if it is to maintain its authority with the U.N. membership at large, said Ronald I. Spiers, a former undersecretary general for political and General Assembly affairs who advocates U.N. reform.

Spiers described Third World proposals to eliminate the permanent members' veto as a "quixotic aspiration" and said he opposes expanding the council beyond the current 15 members. But he said the council could be reorganized to include "semi-permanent" or rotating memberships to better represent the major developing countries. He suggested that Japan and the European Community could each be given a permanent seat instead of Britain and France.

The General Assembly, Spiers said in a telephone interview, "would have greater power if it could discipline itself. It has dissipated its force and influence by trying to cast too wide a net."

'IT'S THE OLD-BOY NETWORK'

Caught in the middle of the reform debate is Boutros-Ghali, a former Egyptian foreign minister now in his ninth month as U.N. secretary general. He has inherited the unpopular task of trying to curb the excesses and trim the bloat of the world body amid increasing demands for its services.

Now he faces pressures from all sides: the developing world that claims him as one of its own, the industrialized countries that pay the organization's bills, the U.N. staff members who want to keep their paychecks and privileges, reform advocates and private groups that want to end U.N. abuses and shore up accountability.

So far, his efforts appear to be falling well short of what many U.N. and other officials say is needed. In fact, some of them say, substantial reforms ultimately may prove impossible to achieve.

"To really reform, you have to do something that is absolutely undoable in a bureaucracy: You have to clean the place out," a senior U.N. official said. "To do something meaningful, you have to scrape away 45 years of barnacles, and that's a lot of barnacles."

Rakiya Omaar, the Somali director of the human rights group Africa Watch, said: "I don't think there's any chance of reform from within. . . . Even if you get a real reformer at the top—and I think Boutros-Ghali is sincere in wanting to reform—I think there's too much vested interest in the U.N. to let him have his way."

In an interview last month with the London-based Arabic daily Asharq al-Awsat, Boutros-Ghali said high-level staff cuts and other reform efforts had brought him under constant attack from "power centers within the U.N."

"I am in the process of restructuring the Secretariat," he said, referring to the U.N. offices, councils and commissions housed at headquarters in New York. He added, "This does not mean that I will succeed."

Citing a need to "restore discipline" and rein in waste in the organization, he gave this example: "An undersecretary flies and travels on what grounds? He wants to go on a promenade. So he pretends that he is going on an inspection mission. I gave instructions that no one can travel without my permission."

Boutros-Ghali said he was told "that if I succeed in abolishing two posts it will be an enormous achievement. I abolished 15 posts, and I will continue to do so."

In a speech to U.N. employees this month, he said his references to staff reductions applied "only to top-echelon posts." He sought to reassure staff members that they would not lose their jobs and that he would soon try to improve "conditions of service," including salaries and long-term recruitment.

According to budget figures, a net total of 12 top-level positions at New York headquarters have been eliminated so far, leaving the Secretariat with 36 undersecretaries general and assistant secretaries general. Boutros-Ghali also has merged several departments and revamped the unwieldy U.N. chain of command, cutting the number of officials reporting directly to the secretary general from at least 38 under his predecessor to fewer than 10.

But controversial new high-paying consultancies or stipends for several removed officials have negated part of the savings and stirred debate about an "old-boy network" inimical to U.N. reform, internal critics say.

Especially controversial, apart from these arrangements, has been the appointment in March of Joseph Verner Reed, President Bush's former protocol chief, to a specially created senior U.N. position as a new undersecretary general and "special representative for public affairs."

Among Reed's main duties are raising funds and organizing celebrations to commemorate the 50th anniversary of the United Nations in 1995. The appointment is widely seen as the result of "pressure from the White House," as one former top U.N. official put it, to give the President's friend a job.

"It looks bad for the United States, after pushing for a reduction of posts, that they created a high-level post to accommodate this guy," a U.S. official said. "It's a non-job that was created for a high-ranking American and has been an embarrassment."

Reed rejects criticism that the post was not really necessary and duplicates functions of the U.N. Department of Public Information. In a telephone interview, he pointed to his hectic schedule attending such events as the recent inauguration of the president of Ecuador and the opening of the World Space Congress in Washington on behalf of the secretary general.

"I'm not only an ambassador-at-large, but a utility fielder for him," Reed said. He said he was chosen in part because, as a former U.S. ambassador, U.N. undersecretary general and White House protocol chief, "I know a broad spectrum of leaders around the world."

Another subject of controversy has been what U.N. sources describe as a series of special financial arrangements benefiting Virendra Dayal of India, a former undersecretary general and chief of staff of Boutros-Ghali's predecessor, Javier Perez de Cuellar. Dayal's post was eliminated in the shakeup earlier this year—about 18 months short of his retirement age. Rather than assign the career U.N. official to another, possibly lower-ranking position, the United Nations reached an "agreed termination" that, combined with pension payments, allowed him to cash out with a total package close to $500,000, according to U.N. insiders.

Then Dayal received a fee of about $50,000 for assembling a report titled "An Agenda for Peace," a series of proposals on strengthening U.N. peace-keeping capabilities, U.N. sources said. Now, they said he has a consultancy lasting into 1993 that pays him at undersecretary general level to work on special projects. A Sept. 14 U.N. press release said Boutros-Ghali has designated Dayal as a special envoy to South Africa, but it made no mention of payment.

A 1982 General Assembly resolution prohibits contract or consultancy payments of more than $12,000 in any calendar year to former staff members receiving U.N. pension benefits.

Dayal did not respond to written questions about his severance and subsequent payments, and the secretary general's office declined comment.

"It's the old-boy network," a U.N. official said. "People get bounced out of one job and appear back in something else."

Two other high-ranking bureaucrats recently landed lucrative consulting contracts with the United Nations after their jobs were eliminated in March as part of the streamlining, U.N. officials said. One now earns about $18,000 a month, double his previous U.N. salary, the sources said.

The U.N. rules on consultancy payments are "violated all over the place," one official said. The latest cases, he said, are "the tip of the iceberg."

"If they're going to reform this place, they shouldn't just go after these hungry Third Worlders," another U.N. official said. They should also go to the top."

LACK OF OVERSIGHT

Policing the top echelon of the United Nations has always been difficult. In the ranks of executive directors of specialized agencies, undersecretaries general and assistant secretaries general, "the incumbents are not accountable to a monitoring body of any kind," said a 1990 study on U.N. reform by Urquhart, the British former undersecretary general, and Erskine Childers, a retired U.N. senior official. Unlike most governments, they added, "the U.N. system has no uniform provision for gross inadequacy or malfeasance in office."

Nor does it have, up to now, an inspector general empowered to audit finances, assess programs, ferret out wrongdoing and act as an independent check on the system.

One proposed reform, recommended by the United States, is to replace the Geneva-based Joint Inspection Unit and the Internal Audit Division at New York headquarters with such an office, combining their functions into a stronger, more coordinated inspectorate.

A key figure in this and other reform efforts is Undersecretary General Richard Thornburgh, a former U.S. attorney general and Pennsylvania governor who was appointed by Boutros-Ghali in March to head the Secretariat's Department of Administration and Management. He has been battling to eliminate some professional positions and shift others into relatively understaffed areas such as peace-keeping.

"Unfortunately, we've got a bad situation around here," said one official involved in the effort. "There are some cases of employees who haven't done a stitch of work in years," but they are hard to get rid of because they have permanent contracts and none of their failings has been documented by management, he said.

"The status quo here is something that people truly want to protect," he said. "When you want to take away a position, it's like taking away a first-born child."

Historically, staff cuts in the United Nations have been hard to make—and tough to check. In the 1980s, the United Nations agreed under U.S. pressure to reduce staff by 15 percent, an objective it says has been largely accomplished. However, according to U.S. officials, some U.N. offices use various ruses, such as hiring employees on a contract basis for 11 months of the year, to keep them off staffing charts and conform to the requirements.

Besides his proposal to install an inspector general, Thornburgh is recommending a "strict code of conduct" for Secretariat members, a coordinated procurement system, the "tightening of disciplinary and termination procedures" and closer supervision of field operations and official travel as part of an overall plan to "increase control and upgrade integrity" in U.N. operations.

He also suggests a review of procedures used to prepare budgets for peace-keeping missions and a "moratorium" on further worldwide or regional conferences before 1995.

"Clearly, his [Boutros-Ghali's] desire is to streamline the organization, eliminate redundant activities and positions, and to reduce the number of duplicative activities and turf battles that are alleged to characterize the organization," Thornburgh said in an interview. Regarding mismanagement, waste and corruption in the U.N. system, he said that "to the extent those problems exist, the initiatives that have been undertaken for restructuring and reform are designed to address them."

Whether Boutros-Ghali succeeds in his reform plans depends largely on the General Assembly, which must approve the abolition of senior positions. According to U.N. officials, such reductions set a worrisome precedent for developing countries, which generally favor the "strengthening"—that is, expansion—of U.N. programs and funding.

They may have little to worry about in view of the latest budget estimates for the two-year period ending in 1994. According to a U.S. analysis, the budget provides for about 50 new jobs and real budget growth of about $19 million.

Although this increase is relatively small, it represents a symbolic departure from the "zero real growth" U.N. budgeting insisted upon by the U.S. government as a condition for paying assessments in full. At present, U.S. law allows the administration to withhold 20 percent of assessed U.N. contributions if budgets are not reached by an adequate "consensus"—meaning with U.S. approval.

REDUNDANCIES REMAIN

The next major challenge in U.N. reform, experts say, is to eliminate worthless or redundant activities and get rid of entire entities that have outlived their usefulness.

"There is no question of a need to pull this system together," said Urquhart, who is now with the Ford Foundation after a 41-year U.N. career. But overhauling the wider U.N. system, notably the specialized agencies, presents tremendous problems, he cautioned. "There are huge vested interests there."

Indeed, abolishing components of the system is one thing that the United Nations has proved chronically unable to do.

Siegfried Schumm of Germany, a member of the United Nations' Geneva-based joint inspection Unit, noted in a 1988 report that the General Assembly in a series of resolutions in the 1970s had called on the secretary general to identify "marginally useful activities" for termination "without further delay" so that resources could be channeled into higher-priority areas.

In 1981, after what was termed an "indepth high-level review," the secretary general's office identified less than $25 million worth of low-priority activities. But action was postponed until the next year, when a new report proposed actual cuts of less than $4 million.

Equally disappointing, Schumm's report said, were repeated efforts over nearly 40 years to get the United Nations to evaluate the results of its programs in a meaningful way to find out what was actually accomplished. In 1986, after a decade of work, the Secretariat unveiled "a new built-in self-evaluation system," the report said, but even that was never fully implemented.

In an update in May this year, Schumm told two U.N. committees concerned with programs and budgets that, essentially, nothing had changed. The latest evaluation reports "appear to maintain the status quo in almost all respects," he said. Noting that his 70-page 1988 study was the eighth one by the joint Inspection Unit dealing with program evaluation, Schumm, evidently frustrated, told the committees not to bother asking for any more reports.

The inspection unit itself has come in for its share of criticism. In fact, according to officials who monitor U.N. management, Schumm is the only current inspector whose reports have been of any real value.

Established in 1968, the unit has 11 autonomous inspectors with broad investigative powers. Its mandate is to check on efficiency in the U.N. system and the proper use of resources. But it hasn't been an aggressive watchdog, critics say.

"It was one of those American ideas that went bad," said a U.N. delegate who monitors the group. It was originally intended to be like the U.S. General Accounting Office, he said, but ended up as a body of mostly elderly retired diplomats or political appointees with "no special skills for the job."

The inspectors, nominated by their governments, represent different regions, earn $110,000 a year and serve in a personal capacity, which means that "they can do anything they want," the delegate said.

The unit currently has 29 employees and a two-year budget of $7 million. Last year, it issued four reports. One of them concerned "grade overlap" in Geneva, a problem of currency-exchange rates that basically means that some secretaries paid in Swiss francs earn more than professionals paid in U.S. dollars. Another study, currently being prepared by a Polish inspector, examines how the U.N. Secretariat takes care of its artwork.

In a telephone interview, Schumm acknowledged criticism that "we're not very efficient" and said a U.N. cost-benefit analysis of the unit was "disastrous for us." He said it was up to member states to put forward better-qualified and younger candidates.

"I have nothing against ambassadors and such people, but I have serious doubts whether they're equipped to deal with technical problems," said Schumm, 63, a former German treasury official. "You can't ask some people who are over 70 to do highly technical jobs."

In a meeting with U.N. budget analysts in June, participants said, the inspectors lobbied for a salary increase.

REFORMS: NORTH VS. SOUTH

Most countries agree that the United Nations needs reform, but leaders of the industrialized Northern Hemisphere and the developing lands of the South hold diametrically opposite views of what changes should be made and how they should be implemented. The Cold War conflict of East and West may be over, but in the "new world order," an intensified North-South struggle is developing, and U.N. reform may become a casualty on the ideological battleground.

THE SOUTH'S AGENDA

For the developing states, which make up two-thirds of the United Nations' membership, reform means:

Upgrading the authority of the General Assembly.

Gaining increased representation on the Security Council.

Curtaining the veto rights of the five permanent members of the council—the United States, Russia, China, Britain and France.

Expanding economic and social programs.

THE NORTH'S AGENDA

For these countries, including the United States, priorities include:

Reforming the 179-member General Assembly, which is viewed as being captive to an unwieldy annual agenda, time-consuming debates and repetitive resolutions.

Streamlining the bureaucracy.

Eliminating waste, duplication and mismanagement.

Rooting out corruption.

Curbing U.N. economic and social programs.

[From the Washington Post, Sept. 23, 1992]

THE U.N. EMPIRE: 17-YEAR REIGN OF CHAIRMAN OF WATCHDOG PANEL QUESTIONED

(By William Branigin)

UNITED NATIONS.—The Advisory Committee on Administrative and Budgetary Questions is a little-known but highly influential appendage of the U.N. General Assembly. It serves as the watchdog for the U.N. system, and its chairman, Conrad S.M. Mselle of Tanzania, ranks as one of the most powerful men in the organization.

But who watches the watcher?

In 18 consecutive years on the committee, 17 as its chairman, Mselle has built a comfortable niche for himself. What started out as an honorary position has evolved during his tenure into a highly lucrative one with the pay grade, if not the title, of an undersecretary general. Nominally answerable to the General Assembly, rather than the U.N. Secretariat, he has campaigned over the years to ensure his repeated reelection to the post, which is virtually immune from oversight of its compliance with the Secretariat regulations it is supposed to monitor.

Established in 1946, the committee examines and reports on the budgets of the United Nations and all its agencies. It also oversees promotions of U.N. employees, the creation of new posts and the establishment of pay grades, It reviews the budgets of peacekeeping operations, in addition to those of the U.N. specialized agencies. Unlike most other U.N. committees, the 16-member group meets in closed sessions.

"The [committee] is the body that enforces that discipline there is," said a former U.S. member.

"It is becoming more and more powerful," a current member said, adding that nearly all of its recommendations "are accepted as they are proposed."

Mselle now receives a salary of more than $120,000 a year. In addition, he gets a special annual allowance of $8,000, a U.N.-paid trip home to Tanzania every year, and U.N. pension and health benefits. Concurrently, he ranks as an unpaid ambassador in the Tanzanian every year, and U.N. pension and health benefits. Concurrently, he ranks as an unpaid ambassador in the Tanzanian delegation to the United Nations and has represented his country in General Assembly debates.

When Mselle became committee chairman in 1975, the post paid an annual honorarium of $25,000. Two years later, the stipend doubled. A year after that, it turned into a U.N. salary, with benefits, that has risen sharply. None of the other committee members is paid by the United Nations.

"Mr. Mselle presides over discussions" of his own salary and benefit package, which is sent on to the General Assembly for formal approval, said one delegate who has served on the committee for several years. "Nobody dares to try to reduce his benefits, because we have the person in front of us who is the beneficiary."

After years of being reelected by the committee to one-year terms as chairman, Mselle pushed through a new rule providing for a three-year term in 1988 and was reelected late last year. Amid some dissatisfaction about his efforts to keep the chair indefinitely, the committee has since moved to impose a six-year term limitation.

In an interview, Mselle stressed the committee's independence from the Secretariat and likened his position to that of U.S. congressmen in terms of immunities and separation of powers. Defending his long tenure, he said, "The tradition is that you don't change the chairman too quickly, otherwise you lose your institutional memory."

RELATIONSHIP WITH ASSISTANT

Especially controversial among some committee members is Mselle's relationship with his assistant, Mary Elizabeth Browne, originally of Barbados. Committee staff members and others said that the two have lived together for years as a couple and have a son, although Mselle said they are not married.

Browne joined the committee's small permanent staff before Mselle became chairman, according to committee staff members. She now serves as a personal assistant to the chairman. In a 1987 promotion, U.N. personnel records show, she reached the United Nations' highest nonprofessional rank of G7, which pays her about $54,000 a year.

According to U.N. staff rule 104.10, a spouse, among other close relatives, "shall not be assigned to serve in a post which is superior or subordinate in the line of authority to the staff member to whom he or she is related" and must not participate in administrative decisions "affecting the status or entitlements" of the related staff member. The rule makes no mention of common-law marriage or a non-marital relationship.

Asked about the issue, Mselle said: "The chairman of the advisory committee is not a staff member of the United Nations, so he is not governed by the staff rules. I'm not a staff member, and I'm not governed by it."

He denied any nepotism, or that he even supervises Browne.

In a meeting in May, a participant said, Mselle told the committee that, unlike its other employees, Browne "works exclusively for the chairman."

Several U.N. officials and delegates said that the relationship between the chairman and Browne violates the spirit, if not the letter, of the staff rule and thus raises questions about the committee's credibility as the main oversight body for the U.N. system.

Jules Corwin, the committee's executive secretary since 1985 and a committee staffer since 1973, said he had concluded after reviewing Mselle's personal situation that there was "no violation of the spirit or the letter of staff rules" because he—not Mselle—took responsibility for all decisions about Browne's status. "Her pay, her promotions, her leaves are all reviewed by me," Corwin said.

Anthony Mango, who served as the committee's executive secretary from 1970 to 1985 said he was responsible for hiring Browne.

Later, he said, he became "aware of rumors there was a personal relationship between them."

"Whilst I was executive secretary, the chairman never did anything that would have interfered with propriety or the behavior of people in the office," Mango said. He added that during this tenure as executive secretary, "there was a consensus among the members [of the committee] that there was nothing wrong with what was happening."

A European delegate who serves on the committee said that, at least in recent years, the situation has been the subject of "all kinds of informal discussions" among committee members. "Personally, there are many of us who have been trying to do something about this for many years," the committee member said.

"PUZZLED" BY TRAVELS

Members of the committee also have questioned some of its recent travels. In its latest trip, most of the committee, led by Mselle, and three staffers, including Browne, flew to the Netherlands, Denmark and Switzerland in May. The official purpose of the three-week trip was to visit the World Court in The Hague and a U.N. Children's Fund warehouse in Copenhagen before attending meetings in Geneva with representatives of various U.N. agencies.

Corwin said the visit to The Hague was requested by the court. But one delegate said some members of the committee were "very puzzled" about the need to go there to discuss pension benefits for retired judges. Another called the first two legs of the trip "a nice little junket." Several members complained in meetings about the itinerary, the timing and a failure to consult them before planning the trip, participants said.

The journey by 14 committee members and three staff employees, including business-class air fare and U.N. per diem payment of up to $302 a day, cost more than $100,000—at a time when the United Nations is in a financial crisis.

The chairman and his spokesman vigorously defended the utility of the trip and described all the committee's travels as cost-effective.

According to U.N. officials and delegates, Mselle has a strong hold on the powerful committee, and U.N. officials have been reluctant to challenge him about perceived improprieties.

"Everyone looks the other way. * * * He should be held to a higher standard," said a committee member.

The United States also has not confronted Mselle, in part because Washington has regarded him as highly knowledgeable about budgetary matters and generally responsive to U.S. concerns about reining in U.N. spending, according to U.S. officials.

Mselle and other top U.N. officials "don't think the rules are meant for them," a committee member said. "That really in a nutshell is what's wrong with the United Nations."

[From the Washington Post, Sept. 22, 1992]

The U.N. Empire: Length, Style of Long Reign at Issue

AGENCY HEADS DRAW CRITICISM

ROME.—In the United Nations system, the heads of autonomous agencies often wield enormous power and heavy checkbooks. When they travel, especially in countries that receive their aid, they are usually treated like visiting chiefs of state.

Sometimes, however, they give the impression that their power, perks and privileges have gone to their heads. According to officials of U.N. agencies, member governments and private organizations, problems in the U.N. system often start at the top.

Here are some examples.—WILLIAM BRANIGIN.

At the Rome-based Food and Agricultural Organization, the U.N. system's biggest specialized agency with a total payroll of more than 7,700 people and biennial spending of $1.3 billion, Director General Edouard Saouma of Lebanon has ruled with an iron hand for 17 years.

It has been a reign marked by accusations—from the United States and other Western governments—of mismanagement, patronage and abuse of power. Since the FAO was founded in 1945, it has spent about $10 billion on programs to end world hunger, with mixed results. Critics say that more than half the budget is spent in Rome, where the FAO occupies a six-story marble building and annex near the Colosseum. The headquarters once housed dictator Benito Mussolini's ministry in charge of his African colonies.

Soon after taking office in 1975, Saouma began lobbying to change FAO statutes that limited the director to one six-year term. Now nearing the end of a third term, Saouma has been accused by former FAO officials of dispensing FAO jobs and project funds, especially from a murky Technical Cooperation. Program at the director's discretion, to help ensure his reelection. Saouma's spokesmen deny the charge.

Saouma's critics describe him as imperious and sometimes petty, behaving in ways that have affected the agency's operations. He engaged in a running feud with the director of the World Food Program, James Ingram of Australia, who retired earlier this year.

This institutionalized bickering, as former Ethiopian relief commissioner Dawit Wolde Giorgis has called it, reached disastrous proportions in 1984 during the Ethiopian famine over an urgent request from the World Food Program for 26,000 metric tons of food to feed more than 700,000 starving people. The shipment required Saouma's approval.

According to a book by Dawit and other published accounts, which were confirmed by U.N. sources, Saouma withheld his approval for 20 days while demanding that Ethiopia recall its assistant delegate to the FAO, Tessema Negash, over alleged personal slights. In a meeting with Dawit, Saouma accused Tessema of "conspiring" with the World Food Program and African officials to "defame" him, and he approved the emergency food aid only when Ethiopia agreed to withdraw the delegate, Dawit wrote in his 1989 book, "Red Tears."

During the delay, at least 34,000 people died at shelters and distribution centers, Ethiopian relief officials estimated. Saouma declined to be interviewed for this story. A spokesman for Saouma, Richard Lydiker, called the charge "completely fallacious" and said it has been denied by the director general and other involved officials.

UNHCR: TAKEN TO TASK OVER TRAVEL

The United States High Commissioner for Refugees, Jean-Pierre Hocke of Switzerland, resigned in late 1989 amid accusations by the Danish government and U.N. officials that he had misused more than $300,000 in refugee education funds for entertainment and first-class air travel for himself and his wife.

Hocke, a former top official of the International Committee of the Red Cross, denied any wrong-doing.

But there was little doubt that his allegedly high-handed stewardship of the agency had alienated many staffers and prompted leaks of damaging documents that led to his downfall.

In 1988, he had caused a furor by ordering the burning of all 139,000 copies of the agency's magazine "Refugees," because of an article that criticized the refugee asylum commitment of West Germany, a major donor.

One of Hocke's problems was inherited from his predecessor, Poul Harting of Denmark, whose tenure was marked by the emergence of what some insiders termed a "Danish mafia."

A fellow Dane who ran a travel agency in Copenhagen was brought on board to handle Hartling's travel at UNHCR and later became the chief procurement officer. Questionable deals that resulted in losses to the agency prompted an investigation of his sudden unexplained wealth, agency officials said.

The travel specialist subsequently stopped coming to work from his home across the border in France and was fired for "abandonment of post," agency officials said. Another high-ranking Dane was accused of falsifying an education grant claim and was eventually dismissed, officials said.

NATIONS OBJECT TO SPENDING

In Paris, the controversial tenure of Amadou Mahtar M'Bow, of Senegal as director general of the United Nations Educational, Scientific and Cultural Organization prompted the United States to withdraw from the agency in 1984 and Britain and Singapore to follow suit in 1985.

Citing "excessive politicization, poor management and long-term lack of budgetary restraint," Washington noted at the time that about 80 percent of the organization's regular budget was spent at its plush Paris headquarters, where M'Bow maintained a penthouse apartment. Before the American withdrawal, a team of U.S. auditors received permission to examine agency records. But a week before its scheduled arrival, a fire at the headquarters destroyed tons of documents. French police ruled it arson but never found who was responsible.

M'Bow withdrew a reelection bid in 1987 after 13 years at the agency's helm, but the United States has declined to rejoin, citing a lack of significant reform under his successor, Federico Mayor of Spain. A senior agency official disputed that assessment, saying the agency has "had no choice but to reform" because of budget constraints and that management now "is in much better shape." He noted, however, that "whenever we try to eliminate something, there's a constituency that cries foul."

Washington maintains that mismanagement, wasteful spending and perks continue, with little to show for the agency's total biennial budget of $720 million, and that Mayor spends too much time traveling. During his first four years in office, he chalked up 168 official visits totaling more than 16 months of travel, agency records show.

An aide to Mayor, Tom Forstenzer, denied that he travels excessively. "That's the nature of the job," he said.

MANAGEMENT CRITICIZED

World Health Organization Director General Hiroshi Nakajima of Japan came under fire in August after he abruptly dismissed his deputy, Mohammed Abdelmoumene of Algeria. A spokesman for Nakajima said a letter from the director to the agency's staff attributed to move to Abdelmoumene's announcement that he intends to challenge Nakajima for the agency's top post in an election next year.

It was the latest example of what U.N. sources and U.S. officials have called an autocratic leadership style that has disrupted the organization and prompted the United States, among other countries, to back Abdelmoumene. U.S. officials charge that Nakajima has mismanaged the agency, isolating himself from its professional staff. With more than 6,000 employees and consultants, WHO spends upwards of $1.4 billion biennially.

In June, the Russian government-run newspaper Rossiskaya Gazeta reported that Nakajima, an avid art collector, had been caught trying to smuggle six valuable icons out of the country. Yuri Bulakh, the head of the Customs Anti-Contraband Division at Moscow's Sheremetevo Airport, said customs officers confiscated the six icons in July 1991 but let Nakajima go because he had diplomatic status. The icons were returned to the Russian Orthodox Church, Bulakh said.

In a brief statement issued Aug. 24, the health agency quoted two Russian officials as calling the case "an unintentional misunderstanding of customs regulations." It said Nakajima had "legally purchased" the icons in rubles "at a total cost of $150" and was "neither questioned nor searched nor detained" when customs officials confiscated them.

Littaua, Nakajima's spokesman, said, "I don't think there was any intention of smuggling."

[From the Washington Post, Sept. 20, 1992]

ONCE CREATED, AGENCIES REFUSE TO JUST FADE AWAY

UNITED NATIONS.—When Ronald I. Spiers first came to the United Nations in 1955 as a young officer in the U.S. delegation, he initiated a study on a hot topic of the day. Thus was born the U.N. Scientific Committee on the Effects of Atomic Radiation.

Spiers thought the group would do its study, issue a report and disband. So when he returned to the United Nations in 1989 as an undersecretary general, he was, in his words, both "amused and outraged" to find the committee still in business after 34 years. Based in Vienna with a small permanent staff and budget, it continues to hold annual conferences of scientists from 21 countries.

"It still issues a report every year, and every year the General Assembly commends its report," Spiers said. "I asked my colleagues what it does, and not one had the slightest idea." He added, "I never thought it would go on so long. It was just kind of a self-perpetuating thing."

Called UNSCEAR (pronounced "unscare"), the radiation committee essentially summarizes and evaluates reports by U.N. member states and agencies. It defends its relevance and opposes proposals to fold it into the International Atomic Energy Agency, another U.N. agency based in Vienna. This would "compromise the mandate of UNSCEAR," said Burton Bennett, the committee's secretary. He argues that the IAEA's job is to promote the peaceful use of nuclear energy, while his group studies the dangers.

The committee is one tiny facet of a U.N. system in which, over the years, hundreds of permanent agencies, commissions, conferences, committees, programs and other entities have been tacked onto the world body. In the United Nations, it seems, old committees never die. But they don't fade away, either. Even after they have served their purpose, they keep soldiering on.

DOTTING THE GLOBE

Many U.N. organs perform vital functions. But others, sustained chiefly by bureaucratic vested interests, have become mired in what U.N. critiques euphemistically call "marginally useful activities." Often, they measure success by the number of conferences they hold or reports they produce.

These bodies defend their endeavors as "very effective, necessary and unique," as one reform study noted dryly. And they continue to employ staff, consume budgets and occupy offices around the globe because U.N. members cannot agree to get rid of them.

Some entities seem geared to giving member states a U.N. office to call their own.

Among the outposts in the far-flung U.N. empire are "regional centers for peace and disarmament" in Nepal, Togo and Peru; a U.N. International Research and Training Institute for the Advancement of Women in the Dominican Republic; a United Nations University in Tokyo; a University for Peace in San Jose, Costa Rica; and an office of the U.N. special representative for the Law of the Sea in Kingston Jamaica.

Regional "economic commissions" also fly the U.N. flag in Addis Ababa, Ethiopia; Amman, Jordan; Santiago, Chile; Bangkok, and Geneva. They employ more than 2,700 people and spend more than $286 million biennially in assessed contributions, yet auditors regularly have criticized some of their programs as ineffectual.

Some bodies, such as those created to work toward the independence of Namibia or the eradication of apartheid in sports, persist even when their reason for being evaporates. Others promote "decades" or "years" to stay in business. All of it costs money.

This year, for example, is International Space Year, brought to you by the Outer Space Affairs Division at U.N. headquarters in New York. No fewer than a dozen "decades" are also in progress.

The International Decade for Natural Disaster Reduction, now in its second year, has already been dubbed the "disaster decade" by critics who accuse its secretariat of waste, mismanagement and lack of productivity. Last year, organizers took in more than $2 million in pledges, spent half on salaries and travel and banked most of the rest, records show. The United States donated $250,000, and Marilyn Quayle is among the dignitaries on the decade's "special high-level council" of advisers.

Some once-vital cogs in the U.N. machinery have become anachronisms. The U.N. department responsible for trusteeship and decolonization, for example, has been rendered largely irrelevant by its own success; more than 80 former colonies have been admitted to the United Nations since 1945. Of 11 "trust territories" originally administered by states with U.N. supervision, only a fraction of the last one is left. The tiny Pacific island of Palau has been unable to decide its fate and remains under U.S. jurisdiction.

But the department still employs at least 56 staffers and accounts for $9.5 million in the 1992-93 U.N. budget, including more than $114,000 to send up to nine persons on "visiting missions" to Palau for two weeks a year.

A special committee still oversees 18 "non-self-governing territories," including Bermuda, the U.S. and British Virgin Islands, Guam, American Samoa and Pitcairn Island. It spends nearly 88 percent of its $618,000 biennial budget to visit the territories and attend various "consultations," then issues annual reports based largely on press clippings and passes polemical resolutions.

"To read their stuff, you'd think half the world was still under colonial rule," one U.S. official said.

Also clinging to bureaucratic life despite the demise of their mandates are two bodies devoted to studying and regulating multinational companies. Earlier this year, the U.N. Center on Transnational Corporations, with a biennial budget of $12.8 million, was downgraded to a division and lost its director but otherwise has remained largely intact. The center and an intergovernmental commission have spent 15 years drafting a still-unfinished "code of conduct" for transnational corporations. Critics say the project has tended to discourage foreign investment.

Another outfit, the 26-year-old U.N. Institute for Training and Research (UNITAR), has been financially strapped for years because of dwindling voluntary contributions for its troubled program. The United States, which put nearly $8 million into the agency, stopped donating in 1985. Now the institute has a Manhattan building that it cannot sell, offices in Geneva, Rome and Nairobi, and U.N. debts of $10 million—of which more than $9 million were never authorized by the General Assembly. But it gets a hefty U.N. subsidy for its $2 million-a-year budget.

"Our idea is that it should just end," a U.S. official said. "It doesn't really do anything and has no particular value. Of course, nothing ever ends in the U.N."

TALK-SHOP EXCESSES

One of the most controversial bodies has been the U.N. Conference on Trade and Development, known as UNCTAD. First convened in 1964, it became a permanent Geneva-based organization aimed at promoting international trade, especially the exports of developing countries. Its assessed budget for 1992–93 stands at $90.5 million.

The organization says it has reformed itself to curtail what it now acknowledges were talk-shop excesses in the past. But some critics say it remains little more than a costly debating society.

"If UNCTAD were to go out of business tomorrow, nobody except the people who work for it would know the difference," said Dennis Goodman, a former deputy assistant secretary of state who headed the U.S. delegation to UNCTAD's 1987 conference.

The same could probably be said of the U.N. University (UNU), whose 63 staffers occupy a new 14-story, $100 million building put up by Japan on donated land in Tokyo worth up to $2 billion—nearly enough to cover the current regular budget of the U.N. Secretariat. Lately, the university has been the target of accusations—rejected by its directors—that it lacks accountability and spends most of its money on its own self-contained bureaucracy, with little left over for research and training.

"I've never seen any sign of the UNU having a palpable impact on the outside world," said Leslie Schenk, an American who was the university's chief personnel officer for seven years. He called the university's output "a lot of hot air."—WILLIAM BRANIGIN.

[From the Washington Post, Sept. 20, 1992]

COSTLY PUBLICATIONS RAISE CONCERNS ABOUT RED INK

UNITED NATIONS.—The U.S. government had long been leery about U.N. printing expenses. But it took the arrival of some glossy, 24-page brochures to egg Ambassador Thomas Pickering into action. Washington's envoy to the United Nations fired off a cable asking how much it cost to publish them.

Titled "Standard for Eggs-in-Shell," the brochure issued by the United Nations in Geneva was printed last year on high-quality paper with color photographs of good eggs, rotten eggs, cracked eggs, all manner of eggs. Although it became an object of some derision in diplomatic circles, the publication—nearly 3,000 copies of which were printed in English—was, as Pickering's cable put it, "no yolk."

"It is appalling that the U.N. would waste its resources by distributing items of limited value to the diplomatic community," the cable said. It noted that the United States repeatedly has urged the United Nations to curtail such "specialized publications," or at least focus their distribution.

Pickering, who completed his three-year posting to the United Nations this year, never got an answer to his question. And, apparently undeterred, the brochure's authors went on to issue sequels on standards for chilled eggs and preserved eggs.

According to U.N. officials and those of its member governments, some of the greatest waste in the United Nations stems from publishing mountains of material of negligible value. A propensity for holding conferences and churning out endless reams of reports has given United Nations a reputation as a huge talk shop and paper mill.

In its current two-year regular budget of $2.4 billion for 1992–93, U.N. headquarters in New York lists nearly $101 million for "public information" and more than $422 million for "conference services." Costs of U.N. publications are paid largely—by not exclusively—out of these two funds.

"The U.N. not only talks a lot, but prints a lot," said David Arnold, a former U.N. official.

Some critics see the blizzard of paper as symptomatic of larger problems: a swollen U.N. bureaucracy and, often, a lack of genuine productivity in which issuing reports becomes an end in itself. U.N. bodies often will spend a year doing a report that hardly anybody ever reads—in any of the organization's six official languages.

"They can produce papers that thick overnight in translation," said Dennis Goodman, a former State Department official and U.S. delegate to the United Nations, gesturing to indicate a sizable stack of paper. "The problem is, they shouldn't be doing it. It's an industry, and they're very good at it. But it doesn't put another meal on anybody's table in the Third World."

The United Nations defends its reports by arguing that member governments constantly request them. However, critics say that many publications are never solicited but seem to be cranked out to justify the existence—and budget—of the offices that issue them.

Despite repeated recommendations to cut back, the U.N. paper flow continues unabated. During a two-year period ending in 1991, the U.N. headquarters and its offices in Geneva and Vienna produced 164.1 million documents totaling 2.12 billion pages, according to U.N. statistics. Printing these tons of documents cost $275 million, a figure that excludes the cost of writing them in the first place and does not account for the millions of other documents put out by the various U.N. agencies.

Even more documents are projected for 1992–93, including some 2,500 technical publications like the egg standards brochure.

Among the costliest publications are the U.N. yearbooks, tomes of more than 1,000 pages that are invariably out of date. Now in production for the 1992–93 biennium, for example, is the issue for 1988–89. "It's the running joke of the organization," a U.N. source said.

Hot off the presses is the latest volume of the "Yearbook of the Human Rights Committee," a 657-page compilation of reports submitted by U.N. member states. The trouble is, it covers the years 1983–84, and a number of the governments—not to mention countries—it deals with have since disintegrated.

THE LAST WORD ON DRIED FRUIT

Then there is the latest page-turner from the U.N. Economic Commission for Europe, a 130-page booklet titled "Standards for Dry and Dried Fruit." A successor to the egg standards series, it contains, among other minutiae, everything you never thought to ask about nuts.

Sample definitions for pistachios: "Shriveled—Kernel which is seriously shrunken, wrinkled and tough. Rancid—Oxidation of lipids producing a disagreeable flavor. Insect damage—Visible damage by insects or animal parasites, or the presence of dead insects or insect debris. Clean—Practically free from plainly visible adhering dirt or other extraneous matter."

A U.S. official who monitors the United Nations said the commission's egg, fruit and other standards are not mandatory and are largely ignored in international trade.

A senior adviser at the commission, Cynthia Wallace, seemed taken aback when asked about the booklets. "I'd never heard of these reports," she said. "That's not what we specialize in here. There are other projects that go beyond dried fruit."

Among the commission's more significant achievements, she said, are a computerized trading system known as "Edifact," a conference of European statiticians and an international transportation accord.

Of the dried fruit booklet, she added, "For some people, that's life and death. For some people, that's a livelihood."—WILLIAM BRANIGIN.

[From the Washington Post, Sept. 21, 1992]

Refugee Official Kept Job for Years Despite Allegations, Inquiries

(By William Branigin)

UNITED NATIONS.—Shinga-Vele Lukika is something of a non-person these days at the Geneva headquarters of the U.N. High Commissioner for Refugees. The personnel department will not talk about his 17-year career with the agency or the reason for his sudden resignation in October 1991. The institution as a whole, it seems, would rather forget him.

But many U.N. officials know parts of his story, which is pieced together here for the first time.

Lukika's colleagues say his story illustrates how mismanagement, waste and apparent graft can cost donors millions of dollars in funds and relief supplies. It shows how an official can survive and advance in the United Nations, protected by powerful patrons, despite evidence of malfeasance that would be intolerable in a normal bureaucracy.

Lukika, the son of an evangelical Baptist pastor from Zaire, is described by acquaintances as "affable" and "charming." In a telephone interview from Ottawa, where be now lives, be denied any wrongdoing, admitting only to "some weakness in management control."

According to UNHCR officials, he became something of a legend in the agency in the early 1980s when colleagues said that he was running a call-girl ring of African women at headquarters in Geneva.

Lukika called the charge "completely untrue." He added, without elaborating, that "it was a situation created by one of my colleagues. I was a very social person . . . I was too friendly with people."

In any case, Lukika was sent to Uganda in June 1983 as the chief UNHCR representative. Before long, problems began to emerge in the handling of relief, especially food, meant for Sudanese refugees in the north and Ugandans displaced by civil war in other parts of the country. Financial and audit reports in 1984 and 1985 cited, among other problems, the "poor administration" of the Uganda office.

In September 1986, an internal investigation was launched.

The inquiry found that Lukika had ordered the release to private merchants of more than 260 tons of commodities from a UNHCR warehouse. The food, worth more than $400,000, had been donated by foreign governments for delivery to needy refugees. Instead, it was often sold to buyers right at the warehouse and ended up in shops in the Ugandan capital, Kampala.

In addition, nearly 2,000 metric tons of Belgian-donated wheat worth more than $240,000 was sold to a Ugandan milling company at a cut-rate price as part of a murky "commodity exchange" agreement. No such exchange materialized, and the deal ultimately benefited a company with which Lukika was allegedly involved, investigators reported.

In messages to headquarters, Lukika sought to explain the losses by citing incidents of alleged looting at the warehouse. In one such incident, goods worth more than $1 million were reported lost. But the inquiry noted discrepancies between Lukika's explanation and evidence regarding goods transfers.

Hundreds of tons of donated maize and other commodities sat in the warehouse for months instead of being delivered urgently to the refugees. Much of it spoiled, and some was eventually sold as chicken feed, records showed.

At Lukika's instruction, the UNHCR in Uganda purchased large quantities of tools, blankets and other items for refugees at inflated prices from a supermarket in Kenya, instead of obtaining them from a U.N. procurement office in Nairobi, the investigations showed. The added cost from one such transaction came to more than $46,000.

"MIXED" RECORD

Other irregularities involved the disappearance of more than $670,000 worth of agency vehicles, which were apparently sold or given away, the construction of a UNHCR house at more than three times the originally agreed cost and the use of a leased airplane for private purposes, investigators reported.

While the investigation dragged on from October 1986 to the spring of 1987, Lukika lived in Geneva on suspension with full pay.

During this period, the Internal Audit Division at U.N. headquarters in New York told the UNHCR in a confidential memo that Lukika's "gross negligence . . . may have resulted in assets valued at some $400,000 being either lost or unaccounted for." It suggested disciplinary action against him, but noted that the agency's "generally lax enforcement" of rules may have contributed to the situation. The memo also cited Lukika's previous "mixed" record and said he "may not have been a suitable person" to send out as a representative.

A U.N. official familiar with the case said investigators calculated that losses attributable to Lukika came to at least $2.4 million.

Lukika blamed the problems in Uganda on chaotic civil-war conditions, poor record-keeping and what he referred to at one point during his tenure as the "deplorable understanding" of the office there.

Asked in the telephone interview whether goods had been sold out of the UNHCR warehouse, he said, "In which country today don't you have that?" But he denied benefiting from any irregularities and said he was "totally cleared" by the investigation and reinstated as a U.N. official.

According to U.N. sources, ranking officials in what is widely known as the organization's "African mafia" closed ranks around Lukika, pressing then-High Commissioner Jean-Pierre Hocke to stop the investigation and reinstate him. Two sources said that Antoine Noel, an Ethiopain who then headed the UNHCR office in New York and ranked as a leading patron of the agency's Africans, personally warned the American deputy high commissioner at the time, Arthur E. Dewey, over a lunch in Geneva that he could be killed if he pushed the investigation too far. Asked if he had made such a statement, Noel, contacted in Paris where he now serves as UNHCR representative, said, "Never in my life."

NEW JOB, NEW ALLEGATIONS

Lukika was reinstated in May 1987 and given what one source described as a "make-work" job in Geneva while waiting for his patrons to land him a new assignment. Eventually, officials said, the UNHCR ruled that it could prove only "mismanagement" in Uganda, which was not enough grounds for U.N. headquarters to fire him. In 1989, he was posted to Djibouti as the agency's representative.

"I was utterly shocked," said a U.N. official familiar with the Uganda investigation. "For this case alone he could have been summarily dismissed with five minutes' notice." He said the agency soft-pedaled the affair to cover its own failings and avoid an uproar among donors.

Soon, however, the pattern of irregularities began to repeat itself when Djibouti, a sleepy former French colony in the Horn of Africa, suddenly became the focal point of a major aid program for refugees from civil wars in neighboring Somalia and Ethiopia in early 1991.

Large amounts of food aid failed to reach severely malnourished refugees, who languished in poorly run camps with practically nothing. Western ambassadors in Djibouti complained about the situation as the crisis became more acute. Auditors flew in and gathered enough evidence to force Lukika's resignation in October 1991.

In a typically circumspect report on UNHCR scheduled for release this month, the U.N. Board of Auditors said the agency informed it of "a case of mismanagement and misappropriation of a total of $689,359 in a branch office." An auditor and two senior UNHCR officials confirmed that the reference was to the Lukika case in Djibouti.

The board said the UNHCR's losses included seven payments to "fictitious companies" for food and services totaling more than $346,000. It said the representative blamed "inadequate professional staff resources," which meant that he "had to perform both administrative and financial duties" and "was therefore not able to take his annual leave."

In the telephone interview, Lukika charged that local staff members and top officials of Djibouti's refugee relief organization, known as ONARS, were responsible for the irregularities and that he was merely a "scapegoat." He denied any impropriety. "I didn't even really have time to think about personal gain," he said.

The UNHCR is currently withholding Lukika's "separation payment," but his pension is untouchable under U.N. staff rules. Prospects for recovering the losses are "almost nil," an auditor said, adding, "It's a very unfortunate situation."

"As much as a lot of people would like to take him to court, it's just not worth it," an agency spokeswoman said. "We would have to reinstate him with full pay. . . . It takes an enormous amount of money and time."

She appealed for understanding, noting that every big organization has its misfits. "At least we got rid of him," she said. "It took too long, but we got rid of him."

EXHIBIT 2

STATEMENT OF HON. LARRY PRESSLER, U.S. REPRESENTATIVE TO THE 47TH SESSION OF THE U.N. GENERAL ASSEMBLY, IN THE FIFTH COMMITTEE, ITEM 102, FINANCIAL REPORTS AND AUDITED FINANCIAL STATEMENTS AND REPORTS OF THE BOARD OF AUDITORS, OCTOBER 15, 1992

Mr. Chairman, it is a great pleasure for me to be here today. As a member of the United States Senate Foreign Relations Committee, I am also pleased to serve as a Congressional Delegate to the 47th General Assembly. I came before you today to present the United States position with regard to United Nations audit reports.

The United States delegation believes the United Nations must be held to the highest standards of competence and integrity in the management of its programs and resources. We believe the interests of member states are best served when there are assurances that funds provided to the organization are used in the most effective and efficient manner possible. Unfortunately, serious problems in the management of United Nations programs and finances are common. Over the years, the Board of Auditors reports on United Nations accounts have revealed continuing instances of mismanagement, waste, abuse and in some cases fraud. The General Assembly has made concerted efforts to address these problems. However, the secretariat, which is mandated with the responsibility for taking the necessary corrective actions, has not made significant progress toward that end.

Funds and assets managed by the United Nations have grown rapidly, particularly with the expansion of United Nations peacekeeping operations. In light of the significant resources available to the secretariat, the adequacy of existing oversight mechanisms to assure proper administration to the United Nations must be seriously examined. Within their respective mandates, the Board of Auditors, the Joint Inspection Unit, the Advisory Committee on Administrative and Budgetary Questions, and the Internal Audit Division, are charged with these responsibilities.

At the 46th session, the United States delegation underscored the need for enhanced measures to ensure appropriate financial and program oversight. The audit report on the United Nations now before the Fifth Committee leads us to conclude that existing mechanisms alone are unable to administer and safeguard funds entrusted to the organization.

The Board's report on United Nations accounts for the biennium 1990–1991 (A/47/5) identifies serious deficiencies and abuses in program management, use of staff resources, the payment of staff allowances and benefits, and in procurement and property management. Unfortunately, many of the findings in this audit are similar to those reported in the past. We were disappointed that the Advisory Committee could not agree on stronger recommendations aimed at correcting these problems. We do not share the Advisory Committee's belief and trust that the secretariat alone will address these matters in a meaningful way.

In the absence of significant progress, and given the uncertainty which we have about the extent of these problems, the United States recommends that the General Assembly request the Board of Auditors to undertake an expanded audit of the 1990–1991 accounts aimed at a further investigation of the issues raised in the current report. This audit also should take into account recent public revelations concerning mismanagement and corruption in specific United Nations programs, departments and expert bodies. Until such an examination is undertaken, and the results are submitted to the next session, the United States does not believe the General Assembly should approve the results of the audit of the accounts of the United Nations for the biennium 1990–1991.

As a member of the U.S. Senate Foreign Relations Committee, I can assure you that Congress shares the concerns of the U.S. delegation. Without improved performance and measurable progress toward accountability and efficiency, Congress will find it more and more difficult to fund UN programs.

Given the number of significant problems reported by the Board, my delegation will address only those departures from acceptable management standards which we believe should be included in the expanded audit.

Salaries and benefits account for nearly three-quarters of the United Nations regular budget. Abuses in these areas could result in a *significant* loss of resources. The secretariat has acknowledged that existing systems for controlling such expenses are ineffective, but we are told that improvements can be expected only after the integrated management information system becomes operational. This is not a useful rationalization. While a modern computer system can improve financial controls, the absence of such technology does not absolve the secretariat from the responsibility of proper administration of these resources.

At the 42nd session, the Board issued a special report on the adequacy of measures to prevent fraud and abuse in the payment of staff entitlements. The General Assembly endorsed recommendations made by the Board aimed at strengthening existing systems. Member states expected these recommendations to be implemented by the secretariat.

Unfortunately, this does not appear to have occurred. The Board reports serious weaknesses in the administration of education grant and dependency allowance payments. Six years ago, a number of instances of fraud were reported in the payment of these benefits. Although the report does not indicate whether similar cases were identified in 1990–1991, the serious deficiencies which are evident suggest the potential for widespread fraud and abuse. In the absence of full documentation to justify such payments, the U.S. believes that neither the Board nor the secretariat are in a position to confirm that fraud and abuse have not been committed by some United Nations staff.

In view of the serious shortcomings identified, the U.S. believes the expanded audit should include a 100 percent audit of education grant, dependency allowance, housing subsidies and tax reimbursement payments.

As part of this process, the secretariat should obtain from all staff members the documentation required to support payments made during the 1990-1991 biennium. Staff currently receiving these allowances and benefits should be given 30 days to provide the required documentation. If this information is not provided, or if it cannot be verified for its accuracy, payments of these allowances and benefits should be suspended immediately.

The Board reports numerous instances of abuse and poor judgment in personnel management. The most serious example relates to the decision to maintain on the payroll of the International Decade for Natural Disaster Reduction the former director of the Decade despite his dismissal from the post. We would like to know the justification for this arrangement and whether it is continuing.

Violations of established procedures governing employment of individuals on short-term contracts and consultancies also are reported.

Another area subject to abuse involves the employment of former staff members receiving U.N. pensions who are now employed by the organization with earnings in excess of the $12,000 ceiling established under General Assembly resolution 37/237. At a minimum, we request the secretariat to provide a list of all such individuals employed by the organization during the past year—including those serving as consultants—with an indication of the nature of work performed and the amount of compensation received. In addition, the expanded audit should investigate all contracts involving retired staff with a view toward identifying any violations of the provisions of resolution 37/237.

The audit also reveals serious defects in the organization's staffing control system. This problem is detailed in paragraphs 169-171 of the report. It would appear from the audit report that the secretariat cannot match personnel and payroll records with the approved staffing table. As a result, the actual number of staff on the payroll may exceed approved levels. Paragraphs 193-196 indicate that a number of supernumary staff were on the payroll of the United Nations Office in Vienna. In the Board's view, maintaining such staff on the payroll undermines the staff cut mandated in resolution 41/213. It is not clear from the Board's report whether this is an isolated incident or a widespread practice. We believe the expanded audit should examine the use of supernumary staff and other measures—such as the long-term employment of certain individuals on short-term contracts—the secretariat might have used to offset the staff reduction required by resolution 41/213.

The Board's numerous findings with respect to procurement practices are of serious concern to my delegation. The Board observes the continuation of the practice of excluding most contracts from competitive bidding. Less than 20 percent of purchase orders at headquarters were subject to competitive bidding, a serious violation of United Nations financial regulations and rules. The Board also observes that contracts in many cases did not provide adequate specifications for the products or services required. As a result, the organization is likely to be paying higher prices for such goods and services.

Of greater concern, is the possibility that in the absence of competitive bidding, and properly defined requests, significant abuse and fraud could be occurring. As I mentioned before, continuation of such non-competitive practices absent a pressing emergency need will inevitably make it more difficult for supporters of the United Nations, like myself, to defend UN funding. The expanded audit should review procurement practices and decisions, including those relating to peacekeeping operations.

The 46th General Assembly again urged the Secretary General to institute strict procedures to control non-expendable property. Such procedures are absolutely essential as the organization purchases large numbers of vehicles, as well as expensive telecommunications and office equipment. Unfortunately, the secretariat has not responded seriously to this request. The secretariat's new standards for managing non-expendable property exclude 99 percent of all such property from inventory counts. The U.S. supports the Board's recommendation that the definition of non-expendable property be revised to increase the amount of property subject to annual physical counts. Without strict controls, member states cannot be certain that valuable property purchased by the organization is being adequately safeguarded. The expanded audit should report on corrective actions taken by the secretariat to improve property management, as well as property losses not yet fully documented.

Other established financial regulations of the organization continue to be ignored by the secretariat's. The most serious example reported by the Board relates to the secretariat's decision to provide UNITAR with nearly $9 million in cash advances without the authorization of the General Assembly. We are unconvinced that UNITAR provides tangible benefits to all member states. The U.S. and other delegations have repeatedly called for the closure of the Institute. Therefore, authorization of these funds should be considered in the context of the 47th session's decision to abolish the Institute as presently constituted.

In addition to the financial problems identified in its report, the Board makes a number of observations concerning the ineffectiveness of U.N. programs, fragmented organizational structures, and the absence of work load standards for determining staffing levels. We are pleased to see the Board's recommendation that the build-up of unnecessary administrative functions should be avoided when establishing new institutions. This recommendation is consistent with our Unitary UN concept that seeks to avoid unnecessary overlap and duplication of existing activities. To date, the secretariat has been unable, or is unwilling, to undertaketh necessary corrective actions. In view of the ongoing process of restructuring, the expanded audit should more thoroughly examine these matters and provide timely and specific recommendations for implementation in the course of future stages of the reform process.

We also were pleased to see the Board's findings and recommendations on peacekeeping grouped together to bring such activities into sharper focus. We encourage the Board to continue this practice and expect future reports to devote greater attention to peacekeeping operations and management.

The Board's findings with respect to the Internal Audit Division suggest that the secretariat does not take seriously the need to enforce strict financial controls. The Board observes that the secretariat ignores internal audit findings and does not ensure that corrective actions are implemented. My delegation was particularly troubled by the Board's observation that the recurring nature of some of these problems was due to "the lack of determination to enforce regulations and rules and making the heads of units of the organization accountable for their decisions and actions."

The United States believes that fundamental changes are needed in the approach taken by the secretariat with respect to the internal audit function. I am convinced this is also a priority of the U.S. Congress. First, recommendation 39 of the Group of High-Level Intergovernmental Experts should be implemented immediately. This would allow the director of internal audit to report directly to the Secretary General. Second, additional resources should be provided to the Division through redeployment so that qualified auditors can be hired as soon as possible. Finally, the reports of the Internal Audit Division should be made available to the ACABQ which would permit independent monitoring of the implementation of the Division's recommendations.

Another interim step which should be taken to improve oversight concerns the availability of management letters submitted by the Board to the secretariat. At present, these letters are not available to the ACABQ. However, it is our understanding that the findings contained in the management letters are far more critical than those reported to the General Assembly. We propose that these letters be made available to all members of the Advisory Committee throughout the years so that a continuing dialogue can be established between members, the secretariat and the Board.

These changes will provide only a short-term solution toward ending widespread financial and program mismanagement. More fundamental and far-reaching steps must be taken to ensure that funds are being used efficiently, effectively and honestly. In view of the gravity of the current situation, we believe the secretariat should present comprehensive proposals to ensure effective oversight of the organization's programs, operations and finances. Such changes are urgently needed in order for member states to justify to their respective legislatures the resources required to finance the expanding mandates of the organization. In this regard, we welcome the Secretary General's intention to submit to the 47th session a proposal to establish an Inspector General for the United Nations and urge its speedy implementation.

The United States has reviewed the other reports under this agenda item and will make detailed comments on them during the committee's review of individual organizations and programs. At this time, we would like to place on the record our serious concerns regarding the problems identified in the audit report on the United Nations Development Program. Many of the findings of the Board have been reported in the past. Despite repeated assurances from management, progress toward resolving the outstanding issues has been limited or non-existent.

The United States also was troubled deeply by the case of fraud committed by staff members of the United Nations High Commissioner for Refugees. We look forward to receiving further information from the secretariat regarding steps being taken to recover the stolen funds, including from pension contributions, and to institute legal action against the perpetrators of this fraud on a timely basis. We also would like to know whether the administration of UNHCR is investigating the possibility that these individuals were involved in other cases of fraud or presumptive fraud.

Mr. Chairman, the executive branch and the Congress of the United States take very seriously the findings in these reports and assess very closely the corrective actions taken by the respective secretariats. Future funding levels for each of these organizations and programs will take into account the progress achieved toward the goal of sound program and financial management.

Given the increasing prominence of the organization in world affairs, and the level of its resources, the public and news media have become more aware of and concerned about the management shortcomings of the secretariat. The high expectations which governments and people throughout the world have in the United Nations make it absolutely essential for it to manage its resources responsibly. Thus, the secretariat must respond in a serious manner to the serious deficiencies identified in the U.N. audit report for 1990–1991. We expect the results of the expanded audit, and the actions taken by the secretariat, to provide member states with an opportunity next year to determine whether the secretariat has committed itself to full accountability for the funds it manages and to describe what specific actions are being taken to remedy problems. In these difficult economic times, waste, fraud, corruption and mismanagement will not be tolerated.

Finally, we would like to express to the Chairman of the Board of Auditors, and through him the participating national audit services, our appreciation for the reports before this committee and to assure the Board of the great importance the United States attaches to the audit process.

Thank you, Mr. Chairman.

EXHIBIT 3

STATEMENT OF HON. LARRY PRESSLER, U.S. REPRESENTATIVE TO THE 47TH SESSION OF THE U.N. GENERAL ASSEMBLY, IN THE FIFTH COMMITTEE, ON ITEM 102, FINANCIAL REPORTS, NOVEMBER 6, 1992

Mr. Chairman, I appreciate your giving me this opportunity to make a few brief remarks to the Committee concerning U.N. audit reports.

In my earlier statement, I underscored the serious concerns of the United States delegation with respect to the audit findings on the United Nations.

At the two informal sessions, one of which I had the opportunity of attending, sincere efforts are being made to ensure that the Secretariat responds in a serious manner to the Board's findings. We are greatly encouraged by the commitment of a number of delegations toward eliminating instances of waste, mismanagement and corruption. While the process is not yet complete, we trust that a resolution requiring full compliance with the Board's recommendations will be adopted by consensus. These issues must be addressed by the Secretariat as quickly as possible and in an objective manner. Failure to do so will only undermine the capacity of this great Organization to respond to global problems, and the capacity of its supporters to provide the resources needed for the Organization to meet these problems.

As U.S. Senator and having served in Congress for sixteen years, I can give you my friendly assessment that the impact of the Washington Post series has been enormous on Congress and senior officials in Washington. You should also know that U.N. funding will be more difficult under a Democratic President because a Republican President can automatically bring along Conservative Republican Senators and Representatives who might be more likely to oppose U.N. funding. It is not enough just to say that we will study the problem some more—specific action is needed, and needed now.

An important part of the audit process is to require the Organization to respond to identified weaknesses in its management structure. A concrete action plan is needed now to ensure that the Secretariat addresses these problems on an urgent basis. The U.S. delegation has laid out some actions which we believe the Secretariat and the Board could take to remedy this situation and we have listened closely to the views of other delegations. It is clear to the U.S. that greater testing of internal controls is required. Rather than ask the Board to provide more information on specific cases of mismanagement and abuse, the Board can undertake a complete review and assessment of internal controls to determine their adequacy and whether they are being adhered to in the United Nations.

Even more important than such further contributions by the Board, we must ensure a serious response by the Secretariat to the problems already identified. We are encouraged that Secretary General Boutros-Ghali, and his staff in the Department of Administration and Management, are committed to addressing these longstanding issues. Member states can help the United Nations by passing a resolution that requires an immediate response from the administration. Specifically, the General Assembly should require the Secretariat to provide, at a resumed 47th session, a detailed action plan—indicating the nature of corrective actions to be taken and a timetable for full implementation. This report should include explanations where it does not agree with the Board's recommended solution, and in these cases we expect the Secretariat to provide an alternative proposal. The Board should also be requested to analyze the efficacy of the measures taken and proposed by the Secretariat and submit their findings to the General Assembly.

Unless this body takes a series of specific steps to address these very real issues of mismanagement of the Organization's programs and resources, it will be abdicating its responsibility and placing its credibility in jeopardy. This is said as a supporter of the UN who wants to avoid giving advantage to the critics of the UN.

Thank you, Mr. Chairman.

EXHIBIT 4

[From the Washington Post, Oct. 16, 1992]

U.S. WARNS U.N. IT MAY CUT FUNDS

(By Trevor Rowe)

UNITED NATIONS, October 15.—The United States today accused the U.N. secretariat of having failed to make significant progress toward ending mismanagement, waste, abuse and fraud and warned that it might slash funding of the world body.

Speaking on behalf of the U.S. delegation to the General Assembly, Sen. Larry Pressler (R-S.D.) charged that the secretariat, which administers the U.N. organization, had been "unable, or is unwilling" to take necessary corrective measures.

Pressler cited instances of wrongdoing contained in a series published by The Washington Post last month and in a report by the U.N. Board of Auditors.

He also noted that less than 20 percent of purchase orders at U.N. headquarters were subject to competitive bidding and called the practice a "serious violation" of U.N. financial regulations, adding that "significant abuse and fraud could be occurring."

"Continuation of such noncompetitive practices . . . will inevitably make it more difficult for supporters of the United Nations, like myself, to defend U.N. funding," Pressler said.

"As a member of the U.S. Senate Foreign Relations Committee, I can assure you that Congress shares the concerns of the U.S. delegation. Without improved performance and measurable progress toward accountability and efficiency, Congress will find it more and more difficult to fund U.N. programs," he warned.

The speech was generally critical of audit procedures throughout the U.N. system and Pressler called for an expanded audit of the two-year 1990–1991 period, in which serious abuses had been cited by the U.N. Board of Auditors' report.

A U.S. official said Pressler's speech, which was approved in advance by the State Department, was not intended as a specific personal criticism of Secretary General Boutros Boutros-Ghali, who heads the secretariat. Rather, the official said, it was aimed at the U.N. bureaucracy as a whole.

An immediate reduction in U.S. funding is reportedly not under active consideration at this time. Rather, the threat appears intended to pressure Boutros-Ghali to continue his reform efforts. Pressler said actions taken by the secretariat will be weighed next year by the General Assembly.

"In these difficult economic times, waste, fraud, corruption and mismanagement will not be tolerated," Pressler said.

In his speech, delivered to the General Assembly committee responsible for administrative and budgetary matters, Pressler welcomed an announcement Tuesday that Boutros-Ghali will propose creation of a system-wide inspector general to deal with waste and abuse. But he said more is needed.

He cited a number of cases of possible waste, abuse and fraud. Among them was one documented by The Washington Post involving Shinga-Vele Lukika, an official in the office of the U.N. High Commissioner for Refugees. He was forced to resign after allegations that he had misused U.N. supplies for his own enrichment.

"We look forward to receiving further information from the secretariat regarding steps being taken to recover the stolen funds, including from pension contributions and to institute legal action against the perpetrators of this fraud on a timely basis," Pressler said.

The United States also has criticized the U.N. Development Program for lax auditing procedures as well as for what it considers overpayment of consultants.

Citing from the Board of Auditors' report, Pressler charged that "the secretariat ignores internal audit findings and does not ensure that corrective actions are implemented."

"My delegation was particularly troubled by the board's observation that the recurring nature of some of these problems was due to the 'lack of determination to enforce regulations and rules and making the heads of units of the organization accountable for their decisions and actions,'" he said.

Pressler said that salaries and benefits account for nearly three-quarters of the U.N. budget and that abuses could have resulted in a significant loss of resources. But the secretariat, he said, insists that improvements in oversight systems can be expected only after a new computer system is ready.

"This is not a useful rationalization," Pressler said "While a modern computer system can improve financial controls, the absence of such technology does not absolve the secretariat from the responsibility of proper administration of these resources."

In its report, the Board of Auditors had cited instances of "abuse and poor judgment" in personnel management, including a decision of the International Decade for Natural Disaster Reduction to keep its former director on the payroll although he had been dismissed from his post.

Pressler also called for a list of former U.N. staff members who, while receiving pensions, have been rehired and are being paid more than the $12,000 limit set by the organization for its retirees.

EXHIBIT 5

DECEMBER 2, 1992.

Secretary General BOUTROS BOUTROS-GHALI,
The United Nations,
New York, NY.

DEAR MR. SECRETARY GENERAL: This letter is in regard to the United States assessed financial commitment for Somali aid. I am disturbed by the U.N.'s altered position on the financial assessment for protectorate costs, food aid, and long-term Solmali aid commitments. Recent proposals have targeted the United States as the primary financial supporter of the project. Without the financial involvement of other countries, the United States could be assessed as much as 80 percent of the protectorate costs and the military assistance. There is absolutely no reason for the United States to pay the lion's share of the cost for relief in Somalia.

I ask that you formally request monetary support from Japan, the oil rich Arab nations, wealthy European and Asian countries, and other nations with financial stability. Because this project is largely humanitarian, more countries than just the United States should be involved. Before the United States is stuck with the majority of the costs to aid Somalia, at the very least other wealthy nations should be formally asked to contribute.

I propose the following percentage cost break-down for country to country financial assessments:

	Percent
United States	15
Japan	10
Arab Oil Nations	20
European Nations	40
Asian Nations	15
Total	100

Other countries besides the United States should pledge monetary support for any troop intervention in Somalia. The United States should not be forced to foot a large portion of the bill. Before the United States spends one cent for the Somali project, a full cost estimate should be refunded. The American people deserve that much.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

EXHIBIT 6

DECEMBER 8, 1992.

Secretary General BOUTROS BOUTROS-GHALI,
The United Nations,
New York, NY.

DEAR SECRETARY GENERAL: In letters to you, President Bush, and President-Elect Clinton last week, I asked for a re-assessment of the U.S. role in the Somali aid project. I also wrote to Richard Darman urging the U.S. Office of Management and Budget to conduct a complete financial study of the best case and the worst case scenarios concerning Somali aid projections. My pleas for information have been ignored.

Once again, I request you to re-evaluate the U.S. role in Somalia. To this date, I have seen no cost projections for troop intervention and protectorate aid costs in Somalia. Without an adequate cost assessment and without the economic involvement of more countries, the United States will be assessed an unfair burden of the costs.

Does the United States have a moral obligation to intervene in Somalia? The answer is yes! However, the United States also has a moral obligation to the war-ravaged Liberians, the "ethnically-cleansed" Yugoslavians, and the economically disadvantaged youth of our own nation's inner cities. The precedent set by U.S. aid to Somalia surely will affect the U.S. position in future international struggles.

I reiterate my position that the United States should not fund this project without a complete cost assessment. Why pay for the intervention of U.S. troops when troops from other nations may be more effective? Egyptian or Nigerian troops, for example, would have more in common linguistically and religiously than any U.S. force. With the financial burden of the Somali aid plan placed primarily on the United States, taxpayers in my country deserve the assurance that intervention will be cost effective, and that it will fulfill its humanitarian objectives.

Again, I urge you to reconsider the logistics and the financial responsibilities of the Somali aid operation. The moral obligation is clear. However, the economics and the long-term ramifications of the operation remain cloudy. Until a clarified plan is devised, I believe the United States should remain cautious in its commitments.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

EXHIBIT 7

STATEMENT BY HON. LARRY PRESSLER, U.S. REPRESENTATIVE TO THE 47TH SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY, IN PLENARY, ON THE SITUATION IN CENTRAL AMERICA, DECEMBER 8, 1992

Mr. President, we are pleased to be a cosponsor of the resolution before this assembly recognizing the progress towards peace, democracy, and economic development in Central America. We commend the Secretary-General for his leadership in promoting the regional peace process, particularly in support of fulfillment of the peace accords in El Salvador. We likewise applaud the constructive participation and support of the Governments of Colombia, Mexico, Spain and Venezuela.

We are now nearing completion of the ceasefire phase of the process, marking the formal end of the armed confrontation. The parties are close to implementing the major security-related aspects of the peace accords, with full demobilization of the Farabundo Marti Liberation Front set for December 15. We have every expectation that all the precursor steps to be taken by the government and military on the one hand and the FMLN on the other—together with those actions that flow from it—will take place as scheduled.

With the successful conclusion of the ceasefire, the peace process enters a new, more promising phase. Immediately following demobilization, the FMLN will enter the democratic arena as a political party formally recognized by the proper Salvadoran authorities. Reforms to strengthen and broaden democracy—from judicial and electoral reform to the fielding of the new national civilian police force—can receive the full attention of the parties, interested governments and the international donor community in general. We pledge our support to this reform effort.

El Salvador's economy and society are in a difficult transition from conflict to reconstruction. El Salvador has pressing needs in both the near- and longer-term. Pledges made at last March's World Bank Consultative Group meeting went a long way toward meeting the longer-term requirements. But short-term obligations flowing from the peace accords—to carry out a huge land transfer program, to build a new national civilian police and to enact the electoral and judicial reforms—have created acute short-term financial exigencies. We ask that, wherever possible, governments wishing to assist the reconstruction program examine the possibility of providing quick-disbursing assistance.

Mr. President, this assembly may be aware that my government last week released 54 million dollars of assistance that had been withheld from the Government of Nicaragua for several months. We are acting quickly to have the cash transfer portion of that aid (40 million dollars) disbursed quickly. We fully support the goals of the Chamorro administration and have acted now to help restore confidence that those goals will be achieved. At the same time we believe that, to attract investment, promote growth and help consolidate democratic institutions, Nicaragua itself must do more to establish the rule of law and civilian control over military and police authorities and to fully protect human and property rights.

The United States supports the process of national reconciliation underway in Guatemala and urges the parties involved to redouble their efforts to reach a peaceful settlement. We share the Secretary General's hope for, and dedication to fostering, a political settlement to this long-running civil conflict. We applaud the willingness of both sides to contemplate United Nations involvement in monitoring and verification of an eventual agreement. We urge the parties to do their utmost to conclude a human rights agreement promptly.

Mr. President, with Central America so close to ending all the internal conflicts within the region, the stage is set for further, rapid progress in other areas: Reduction in the size of military budgets and forces, regional integration on the basis of free and open trading regimes and structural reforms that will free up national resources for productive investment. These and other objectives are being addressed in the esquipulas process by the Central American Presidents. We wish them success at the meeting that begins December 11 in Panama.

Many of these goals are also the focus of attention of the partnership for development and democracy (PDD), which brings the Central American governments together with three Latin American neighbors, the OECD nations and various international organizations into a single forum dedicated to supporting the process of democratization and development in the region. The PDD completed a very successful meeting October 15–16 in San Salvador, meets next in Tokyo in March. We are pleased by the progress made in this forum to date and invite the international community's attention and support to its important work.

The nations of Central America are rapidly approaching a day when the entire region is at peace thanks in large part to the commitment and dedication of the United Nations and the parties. It has been a long and arduous task, but the end result serves as a testament to the important role of the United Nations and as a tribute to the men and women who never lost sight of their goal: Peace. Thank you, Mr. President.

EXHIBIT 8

STATEMENT BY HON. LARRY L. PRESSLER, U.S. REPRESENTATIVE TO THE 47TH SESSION OF THE U.N. GENERAL ASSEMBLY, IN PLENARY, OPENING CEREMONIES FOR THE INTERNATIONAL YEAR OF THE WORLD'S INDIGENOUS PEOPLE, DECEMBER 14, 1992

Thank you, Mr. President. I have the honor to speak for the United States of America on the occasion of the launching of the International Year of the World's Indigenous People, to be celebrated in 1993. It has been enlightening to listen to the diverse voices of indigenous people from around the world. My government hopes that the International Year will serve its cause in concrete, constructive ways.

Mr. President, fellow delegates, my government respects and protects the rights of all its citizens. We are committed to ensuring that members of indigenous groups are fully able to exercise their human rights. Nevertheless, we are aware that there are many obstacles that sometimes complicate our efforts to guarantee complete enjoyment of these rights. We recognize particularly the social problems that plague some members of the world's indigenous groups. Although in principle the United States does not support the establishment of international days, years, and decades—since we believe scarce UN resources can be better directed to concrete programs—we hope that the International Year of the World's Indigenous People will serve as an impetus for greater attention to the unique problems of the indigenous people. We pledge to continue to work with various indigenous groups toward overcoming these problems and obstacles together.

Mr. President, I would like to call to the Assembly's attention a few of my government's efforts to work with indigenous people in making sure their rights are fully protected. We know our efforts are not perfect, but we believe they are a good beginning.

For example, my government is committed to upholding the ideals of Native American Self-Governance. To promote these ideals, the United States Government has carried out the following actions:

In the past four years, working directly with tribal leadership and through their direction, we have implemented the Self-Governance Demonstration Project Initiative. Under Self-Governance, the tribes have more flexibility to determine their own priorities and use government resources they receive to address those priorities as they see fit;

We have signed landmark self-governance compacts with 17 tribes, enabling them to administer their own budget and program operations with a minimum of federal participation. There are currently 17 tribes operating under negotiated agreements with the Department of Interior; this number is expected to expand to 30 by 1994;

We have a new policy to govern the protection and treatment of sacred objects and human remains on federal lands. This policy affirms the right of tribes and other American Indian groups to determine the treatment of Indian remains.

The United States government has made education a top priority. In pursuit of our goal of a better education for every Native American child, we have:

Established an early childhood/parental involvement pilot program in government-financed schools;

Provided funds for a comprehensive review of each school every four years to improve accountability to parents, school boards, and tribes;

As a result, in the past four years, through specific goals and objectives, achievement test scores of students in government-run schools have increased by 10 percentage points.

Some problems affect all segments of our society. Native Americans are not immune. Therefore we have moved to further curb child abuse and neglect in Native American communities by:

Initiating a mandatory policy for all employees of the Bureau of Indian Affairs to report suspected incidents of child abuse or neglect;

Starting a program to train line supervisors and school principals in the detection to child abuse;

Developing clear, strong guidelines on how to respond to child abuse reports.

We have taken additional steps in other important areas that affect the social well-being and health of our Native American citizens.

For example: We made grants in 1990 ranging from $11,000 to $50,000 to each of 15 tribes and Alaska native groups for cultural heritage preservation projects;

We signed an agreement to coordinate actions of U.S. government agencies and the Indian Health Service to enhance protection of the environment and human health through pollution control on Indian lands;

We established 14 departmental negotiating teams to resolve water rights claims of Indian tribes. Thus, in the last four years, we have made major strides in the negotiation of Indian water resources disputes. Through the establishment of the water rights negotiation teams, which bring all parties to the table, we reached a significant number of agreements aimed at protecting and enhancing Indian water rights and resources.

Mr. President, my government believes these and other actions demonstrate the strong commitment of the United States to the goals of the International Year. In the words of the Honorable Joc De La Cruz, Chairman of the Quinault Nation: "For the first time in the history of communication between Indian tribes and the United States Government, we have a real bilateral relationship on important issues of national policy! The fundamental principle of democracy, the consent of the governed, has finally been applied in practice to Indian Country. Certainly [this] . . . is not a perfect process, but it has provided that bilateral decision-making can work between tribes and the United States."

Thank you, Mr. President.

EXHIBIT 9

[From the Argus Leader, Dec. 14, 1992]

PRESSLER SEEKS U.N. SHAKE-UP

(By Chet Lunner)

The towering U.N. complex in New York conjures up powerful symbols of peacekeepers, noble causes, a sacrosanct haven in a world of conflict and wars.

But to South Dakota Sen. Larry Pressler, a 1992 congressional member of the U.S. Mission here, the United Nations can seem a thoroughly frustrating place, a bottomless bureaucratic pork barrel bursting with U.S. tax dollars.

"One's blood pressure can go up around here," Pressler said in an interview in the delegates' lounge. "I could not survive in this environment."

Pressler and Sen. Paul Sarbanes, D-Md., are the two members of Congress currently posted to the United Nations. A bipartisan pair is sent by the president each year, with the House and Senate taking turns. They operate as permanent delegates, give speeches and generally represent the U.S. position in the nearly non-stop diplomatic whirl of meetings, lunches, dinners and receptions.

After about a month's service as a delegate, Pressler, a member of the Senate Foreign Relations Committee, clearly does not expect to pursue diplomacy as a career.

As a delegate, he has given official U.S. speeches—cleared word-for-word by the State Department—on the rights of indigenous peoples, issues in Latin America and Central America. But Pressler-as-senator has also issued harshly critical statements blasting what he sees as massive U.N. mismanagement and an unfair reliance on the United States for financial support.

Pressler knows that his brief visit, complaints or otherwise, is unlikely to make a difference with an entrenched bureaucracy.

"I don't want to claim that I've made any great differences. But I've gotten firsthand information on just how bureaucratic this place is," he said. "There are people who retire from the U.N. at age 50 with full retirement, and then become a consultant for $140,000 a year. There's a Third World system around here. Once you're in it, you're taken care of. It's stealing."

He attributes many of the U.N. problems to cultural differences.

"In their countries, frequently government service is a chance to get rich," Pressler said of the officials from the smaller, undeveloped countries. "So, once they get on the U.N. payroll they usually forget about their home country. And, there's no way that anybody can get fired around here, that's another thing . . . and the retirement program and the salary structure of the U.N. are higher than our Civil Service."

Pressler has written letters, made speeches, complained to Secretary General Boutros Boutros-Ghali, and said he will offer amendments to foreign aid bills in the upcoming Congress to seek audits of U.N. operations, creation of an effective inspector general's office and other oversight measures.

"Overall, some good things do happen. A lot of children in the world are inoculated because of U.N. programs. That's one thing that works," Pressler said. "A lot of programs don't work. But we've got to make it better somehow."

TRIBUTE TO JOE SWEAT

Mr. SASSER. Mr. President, I rise today to pay tribute to my friend Joe Sweat of Nashville. Joe is the executive director of the Tennessee Municipal League, an office in which he has served since 1982. In addition, Joe is a member of the board of directors of the Tennessee Chapter of the American Civil Liberties Union and is the executive secretary of the Catholic Public Policy Commission of Tennessee.

Since the fall of communism in Eastern Europe, and what was once the Soviet Union, Joe Sweat has been a missionary of Democracy. Beginning in 1990, he volunteered his expertise in democratic local government to the Bulgarian Parliament as it framed a constitution for a newborn democracy.

In Poland, Romania and Hungary he has promoted democracy, fair elections and civil rights.

Joe Sweat's efforts to sow democracy in Eastern Europe continue to this day, Mr. President, as he has recently lectured throughout the newly independent Ukraine. Working with the National Democratic Institute for International Affairs—the NDI—Joe taught local officials about democratic local government and political parties. As a journalist, Joe reported on the mission of the NDI in the Tennessee Town and City. Mr. President, I am pleased to present this inspiring article to the Senate today for inclusion in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Tennessee Town and City, Dec. 21, 1992]

NEW FREEDOM FIGHTERS ARE YOUNG PEOPLE WITH IDEAS ON MAKING DEMOCRACY

(By Joseph Sweat)

KIEV, UKRAINE.—The United States is involved in another world war this Christmas. Once again, young Americans are on the front lines, fighting for freedom. But this time, ideas are the ammunition.

These young American freedom fighters are people like Sarah Farnsworth. While many women her age are preparing for the fancy holiday parties back in the states, Sarah each day will leave her small apartment here in Kiev, to spend long hours promoting democratic government.

"It was a once in a lifetime chance," Sarah said recently, without the slightest bit of hesitation in her voice. "I have not regretted making the decision to come here."

She says that despite the fact that Kiev, during the holidays, is a far cry from what we have come to expect in the United States. This city is not awash in tinsel, bright lights, bells ringing and recorded carols blaring from loud speakers.

In fact, one does not see any sign of a neon light in Kiev any time during the year. The streets are dark at night, and drab all the time. And the economy is too much in a state of collapse to allow much singing.

But these young Americans don't seem to mind. Their joy seems to flow from something far more important than tinsel and lights. Sarah Farnsworth is the Ukrainian Field Program Officer for the National Democratic Institute For International Affairs (NDI), a Washington, D.C., agency with one major goal: promoting democracy around the world.

"The NDI program here in the Ukraine," Sarah Farnsworth said, "offered me an opportunity to work with young and emerging political parties in a country that has just become free from the Communist system."

NDI is active throughout Eastern Europe, working feverishly to grow democratic government in the withered, barren fields of collapsed Communism. Typical of NDI's work is the recent seminar here in KIEV on "Local Governance and Local Politics."

The staff assembled for this seminar was typical of the type of dedicated, bright, well-educated young Americans working for NDI. In addition to Sarah Farnsworth, they included Josh Freeman from NDI's Moscow office, and Janna Moskin and Matthew Tiedemann from the NDI Washington office. All of them speak fluent Russian, and some have added Ukrainian.

Overseeing this energetic pack of democracy missionaries is Ambassador Nelson C. Ledsky, a seasoned U.S. State Department veteran. He has retired after many years of service throughout the world to become NDI's Senior Advisor and Program Manager for the former Soviet Union.

The international team assembled to conduct the Kiev seminar also was typical of the way NDI uses experienced experts in government and politics. Each participant brought his own experiences to share with the Ukrainian local government and political party officials. The participants included:

Roger Appleton, head of the Policy Unit of the Wandsworth Borough Council in London, England.

Peter W. Kohnert, Division Chief and Assistant Director of the Ministry of Finance in Germany's Brandenburg region.

John L. Krauss, former deputy mayor of Indianapolis, and now senior fellow at the Center for Urban Policy and Environment in the School of Public and Environmental Affairs at Indiana University.

Paul Offner, senior legislative assistant for humans services in Sen. Patrick Moynihan's office.

Wallace Rogers, former chairman of the Eau Claire, Wisc., city council and now a community development consultant.

Joseph Sweat, executive director of the Tennessee Municipal League.

Gerard Woertman, member of executive committee of the Christian Democratic Appeal in Holland.

Thomas Volgy, former mayor of Tucson, Ariz., and acting head of the political science department at the University of Arizona.

These participants worked for four days with the Ukrainian local officials, political party leaders and journalists. The subjects included:

1. Functions and responsibilities of local elected officials and local political parties.
2. Structures of local government.
3. Local government and citizen participation.
4. The politics of privatization.

The seminars were long and there were many questions. The language barrier made the days even longer, although NDI typically used translators so expert that they translated simultaneously through earphones as each person spoke.

However, the driving force of the program was the spirit of ambassador Ledsky and his young charges.

"It is an historic time to be here as Ukrainians struggle to dismantle a system and overcome incredible obstacles set in place for over 60 years," Sarah Farnsworth said. "The Communist system, quite frankly, ruined their economy, suffocated their national identity and spirit.

"Observing what is happening here, I have gained a new appreciation for our country's democratic processes and the parties which I had always taken for granted."

The Kiev airport terminal is a colorless, dilapidated, hulk of a building with about as much cheer as a shelter for the homeless. But as we flew away from it recently, many of us saw it as a gateway of hope.

We knew that through it, and the other crumbling capitols of the old order, would continue to pass wise men like Nelson Ledsky and young Americans like Matthew Tiedemann, Janna Moskin, Josh Freeman and Sarah Farnsworth.

That was enough to convince us the United States would win this new war, this war where ideas fly and tear into minds made hungry for a better life. It also convinced us that in this season, in particular, we could look forward to peace on earth.

CHARLES A. MACHEMEHL, JR., RECEIVES REBUILDING AMERICA AWARD

Mr. HEFLIN. Mr. President, I rise today to pay tribute to Charles A. Machemehl, Jr., who was recently awarded the CIT Group/Industrial Financing Rebuilding America Award, for his lifelong contributions to the repair and maintenance of America's infrastructure. I have known Charles Machemehl for many years. I have worked with him over the years on a variety of infrastructure-related matters of great importance to our country. He has been an effective and tenacious advocate for increased Federal investment in our infrastructure.

Charles Machemehl has served as chairman of the American Road & Transportation Builders Association; a member of the executive committee of the National Aggregates Association; a member of the board of trustees of the National Stone Association's Center for Aggregate Research; a member of the Federal Highway Administration's National Research Council/Transportation Research Board; a member of the board of directors of the American Concrete Pavement Association; and chairman of the highway division of the American Society of Civil Engineers. These are just a handful of the leadership positions Mr. Machemehl has held in the infrastructure sector.

Mr. Machemehl has had a long and distinguished career at Vulcan Materials Co., one of my State's largest corporations, where he currently serves as vice president of marketing and business development. I have also known Mr. Machemehl through his service to our country in another area. Mach, as his friends call him, was also a brigadier general in the Air National Guard.

Mr. President, I ask unanimous consent that an article which reviews some of Mr. Machemehl's many accomplishments and his numerous contributions to the advancement of surface transportation in our Nation be inserted into the RECORD. I know my colleagues join me in congratulating Mr. Machemehl on receiving the "Rebuilding America Award."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ARTBA'S NEW CHAIRMAN: CHARLES A. MACHEMEHL, JR.

When Charles Machemehl, Jr., ARTBA's 1990 chairman, commits to something, he commits for the long haul. He reaches the upper echelons of whatever he attempts. For example, Machemehl has turned an Air Force ROTC commission into the silver star of an Air National Guard brigadier general.

Mr. Machemehl's tendency to reach for the heights started in high school, where he graduated as valedictorian. Later at the University of Texas, he played on the

Longhorns' football team for three years, served as class secretary, and graduated in 1957 with a B.S. in civil engineering.

Today, as vice president, marketing and business development of the Construction Materials Group of Vulcan Materials, Charles Machemehl remains committed to the highest goals in his field.

After his tour of duty in the Air Force, he earned a M.S. in civil engineering at the University of Texas while working as the pavement engineer for the Air Force in a civil service position at Bergstrom AFT in Austin, "In 1964, he joined the Portland Cement Association as an engineer, advising engineers and architects on the uses of portland cement in concrete pavements and water resource facilities. In 1968, he joined Vulcan Materials Company as construction materials engineer in the research and development laboratory, again advising engineers, architects and contractors on the uses of stone, slag, sand, gravel, asphalt and other construction materials.

Machemehl soon moved up Vulcan's organizational ladder as assistant to the vice president of sales, then sales manager for Georgia, and finally to his present position, which he has held since 1980.

For the two preceding his retirement from the Air Force, Machemehl served as assistant adjutant general for the Alabama Air National Guard. He is also the recipient of a number of military awards, including the Air Force Meritorious Award (1983), and the Legion of Merit (1988). In 1982, the 117th Air National Guard Wing, which he commanded, was selected the number one civil engineering unit in the Air National Guard.

He has been a Jefferson County deputy sheriff and a member of Toastmasters, Green Valley Country Club, Dunwoody Country Club, and St. Luke's Episcopal Church in Birmingham.

A familiar face in the road and transportation construction materials industry, Mr. Machemehl has made dozens of speeches and presentations to industry groups. He has also published articles in trade magazines, such as Stone News, and in National Crushed Stone Association manuals. Over the years, Mr. Machemehl has been an activist in his profession, holding membership in a number of national and state engineering societies and surveying associations, including ARTBA, where he has served as a director and, most recently, as vice chairman.

Machemehl is a registered professional engineer in the states of Texas, Alabama, Georgia, Florida, Louisiana, and Mississippi. He is a registered surveyor in three states.

In spite of his many professional and military commitments, Mr. Machemehl has found the time to be a family man. He is married to the former Sonya Ray Clark and has one son, Dr. Charles A. Machemehl, III, an Atlanta orthodontist. As is fitting for the father of a boy, Mr. Machemehl has been a scoutmaster in the Boy Scouts and a Little League baseball coach.

Mr. Machemehl sees his term as ARTBA chairman at a critical time for the road and transportation building industry. The transportation industry is part of a larger network, including automobile manufacture, that accounts for about 20 percent of this country's Gross National Product. In view of the staggering number of jobs provided by transportation-related industries, ARTBA intends to continue and to strengthen its role in influencing the allocation of funds for transportation concerns.

"We would like to see the federal government's share of the funds allocated for road building and transportation raised considerably, but the president and his advisors want state and local governments to contribute a larger share," Machemehl says. "Of course, the federal government's primary concern these days is reducing the budget deficit, so the two needs, highway funding and deficit reduction, are in direct conflict. ARTBA will try to influence the federal government to increase funding through user fees. If the user fee trust fund is removed from the budget process, funds earmarked for transportation-related industries will have no effect on the budget deficit.

"The need for more funding is crucial. Even if the federal government increased its share from the present level of $14 billion to as much as $40 billion annually, it would only be enough to maintain our roads and transportation facilities at their present level.

"This new funding legislation is extremely important. To leave the major share of funding to the states is not the best way to go. If we're going to have the safest highways and transportation facilities we possibly can, the federal government needs to become the major provider of funds."

Mr. Machemehl sees a benefit to the latest budgetary debate facing the federal government.

"Senator Moynihan from New York has called attention to the use of the Social Security Trust Fund to make the federal deficit seem smaller than it really is. I think we'll see that trust fund removed from the deficit reduction picture, along with funds that are earmarked for the Highway Trust Fund.

"I don't think we should rely on the so-called "Peace Dividend" to provide the additional funding we'll need for transportation in the years to come. As a military man, I would say we need to maintain a strong defense in this country until there is concrete evidence that the Russians have begun to dismantle some of their strategic as well as their conventional forces.

"And even if that were to happen soon, I believe much of the savings that could be realized from a reduced military budget would be spent in other ways, such as reducing the federal budget deficit."

Funding for transportation is ARTBA's number one concern in the upcoming year, but Machemehl also lists two other pressing issues: environmental concerns and labor relations.

"There are so many new regulations that affect how contractors build highways and transportation facilities. We have to work hard to make sure those rules and regulations remain fair, and to communicate these regulations to our members. And, of course, the increasing level of regulation directly affects the cost of transportation-related construction."

In the area of labor relations, Mr. Machemehl and ARTBA will continue to recommend methods by which contractors can establish drug-control programs.

"We're also very concerned with the labor supply for the next decade. We've got to train more minorities and women for jobs in our industry. ARTBA can be instrumental in helping its member companies design recruitment and training programs that will ensure the workforce we will need to accomplish the tremendous increase in transportation facilities for the 1990's is available."

DEATH OF JOHN MARTIN O'CONNOR

Mr. LIEBERMAN. Mr. President, Connecticut has suffered a terrible loss this week with the death of John Martin O'Connor, a 35-year veteran firefighter in New London, who died in the line of duty.

He was respected and loved by the people of New London, and all of us owe him a great debt of gratitude. He was a quiet hero and family man who loved his work and served as an example for many who followed in his footsteps.

John O'Connor gave his life in the line of duty, and it is a tragic reminder of the risks involved in being a firefighter. It is reported that the fire he was fighting when he died was allegedly set by a drug addict who was upset with an elderly man who refused to give him money for drugs. Three other people also lost their lives in the fire. Every day, men and women like John O'Connor put their lives on the line, with tremendous and selfless courage, to protect all of us.

Mr. President, I ask that the following article, written by Stan DeCoster of The Day of New London, be printed in its entirety in the RECORD. It illustrates how the life of John O'Connor touched the lives of so many others in their community. Somehow, our sadness over the passing of this brave man is eased by reading about his good works.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The Day of New London (CT), Feb. 3, 1993]

FALLEN FIREFIGHTER WAS "GENTLEMAN" AND "HERO"

(By Stan DeCoster)

NEW LONDON.—John O'Connor walked into Jack's Place on Montauk Avenue at 10 a.m. Monday and ordered the usual—an English muffin and a coffee. Then he pulled out a picture of newborn Jerry John Theiler—his seventh grandchild—and showed it off to waitresses and anyone else who would look.

Slightly more than 12 hours later, O'Connor was dead, believed to be the first New London firefighter ever to die in the line of duty.

"He was quite guy," said Joe Caulfield, working the grill at Jack's Place during Tuesday's noon rush. "He would sit right over there. You couldn't ask for a better gentleman. What a down-to-earth guy."

O'Connor, widely regarded as a dedicated firefighter and family man, collapsed at the scene of the Monday night fire that claimed the lives of three others inside a Truman Street apartment building. An autopsy conducted Tuesday at the chief medical examiner's office in Farmington concluded that O'Connor, 63, had died of a heart attack.

John Martin O'Connor established a reputation during his 35 years as a paid New London firefighter as a steady worker who frequently served as a role model for younger members of the department, according to Fire Chief Ronald Samul.

O'Connor, in fact, had helped break Samul in 23 years ago.

"I'll remember him as a professional firefighter who I wanted to emulate," Samul said. "And that's how I'll remember him—as a professional."

O'Connor had a minor heart problem but had passed a physical within the last year and had done a number of things to stay in good shape, including giving up smoking and changing his diet, the chief said. He would munch on carrots, broccoli and other "rabbit food" while his fellow firefighters would eat greasy grinders, Samul added.

Firefighters may retire at 57 or 60, depending on their pension plan, or they may seek an extension to work to 65, Samul said.

TO SOME, A HERO

"He was a very strong, rugged guy who didn't look his age and would always be in the thick of things," said Mike Myshka, a 39-year-old firefighter, as he scrubbed down O'Connor's truck, Engine 11, at fire headquarters.

"He is definitely a hero in my book," Myshka said.

Those who knew him best said O'Connor didn't particularly stand out in a crowd. They said he simply reported to work regularly, worked hard, and then returned to his home at 36 Parkway South to be with his family. He loved the New York Giants, Guthrie Beach in the summer, attending theatrical productions at the Garde Arts Center, and working in his yard.

A daughter-in-law, Suzanne O'Connor, said that every summer he had a green expanse of weedless lawn and a vegetable garden that were the envy of the neighborhood.

"And he was always sweeping the driveway," she said. "In the summer, he would get on me for shaking the beach towel all over the driveway."

She said he also kept delaying retirement because he loved his job and the camaraderie of the firehouse. "We kept teasing him about when he was going to retire. He kept saying, 'In a couple of years, a couple of years . . .'"

She said that O'Connor and his wife, the former Florence Pearson, were scheduled to fly to Paradise Island in the Bahamas next week for a vacation.

Grace Chapman, a niece who lives in New London, heard the sirens Monday night. Later, about midnight, the telephone rang.

"I heard the sirens about 10:30 and I wondered if Uncle Jack's working, stuff like that," said Ms. Chapman, who was O'Connor's godchild. ". . . Then when the phone rang, I knew something was wrong."

At 1 a.m. Tuesday, Ed Hallissey, the battalion chief who had watched O'Connor fall to the ground, found a moment in his truck outside Bank Street headquarters. Visibly upset, he shook his head from side to side, unable to talk.

"I didn't want it to be," Hallissey said several hours later. "I knew what it was and I just didn't want it to be."

Still Hallissey said O'Connor was fortunate in one respect. "If you have to go, that's the way to go—fast," he said. "I wouldn't want John to linger on and suffer. In that respect, God was good to him."

O'Connor, who usually worked out of the South End Firehouse on Lower Boulevard, was moved up to serve as an acting lieutenant Monday night at Bank Street headquarters.

CIRCUMSTANCES UNCLEAR

There was some confusion regarding the exact circumstances surrounding his death. Initial reports suggested O'Connor had been hit by a live electrical wire. The autopsy, however, found that he had died of natural causes, from "atherosclerotic cardiovascular disease."

"He was out on the street and he was just starting to set up," said Samul. "It doesn't appear that he was struck by a wire."

But Gary Batch, president of the city firefighters' union said reports persisted that a live wire may have hit O'Connor or near where he had been standing.

"Whether it (the heart attack) was brought on by the electrical wires or not is an open question," Batch said. "The autopsy shows a heart attack; it doesn't say what caused it."

Batch said he expects 1,000 or more firefighters, some from as far away as Portland, Maine, will attend O'Connor's funeral on Friday.

O'Connor started working as a part-time substitute in 1953. Five years later, he joined the force as a paid professional.

"He was a very quiet, very nice person," said retired City Manager C. Francis Driscoll. "He was Mr. Dependable. He was a good, solid employee and a good, solid firefighter.

"John O'Connor did his job and he did it well."

The mood at the city's firehouses was understandably subdued Tuesday. At the Lower Boulevard station. Peter Gilmore and John Weigel—firefighters with more than 30 years of service each—sat quietly.

"I'm sure that pulling up to that fire his heart was pumping 10 times faster than normal," Gilmore said.

Samul said news of O'Connor's death is still sinking in.

"We've all read the stories and watched the tapes of firefighters in other cities dying in the line of duty," he said. "Still, when it strikes home, it's hard to accept."

RAPE OF BOSNIA AND HERZEGOVINA

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that a copy of a letter that was sent on February 1 to Madeleine Albright, U.S. Ambassador to the United Nations, regarding the systematic use of rape in Bosnia and Herzegovina be inserted in the RECORD. The letter was signed by myself, Senators DOLE, MIKULSKI, LEAHY, KENNEDY, AKAKA, PRESSLER, SASSER, BRYAN, D'AMATO, BRADLEY, JEFFORDS, DURENBERGER, KRUEGER, FEINGOLD, PELL, RIEGLE, MURRAY, Congresswoman PELOSI, and Congressman GEORGE MILLER.

The letter lays out a series of recommendations for action at the United Nations. It calls for the establishment of an international war crimes tribunal to prosecute rape as a war crime and a crime against humanity under international law. It asks Ambassador Albright to ensure that the U.N. Commission of Experts is adequately funded, thoroughly investigates the perpetrators of rape, and that its membership will be expanded to include a woman.

It also asks Ambassador Albright to work toward the goal of explicitly recognizing rape as a violation of human rights, that perpetrators must be held accountable, and that the U.N. World Conference on Human Rights will include violations of women's rights in its proceedings.

Mr. President, this letter is in line with a resolution that I along with Senator DOLE and 14 Members of the Senate introduced last week. That resolution, Senate Resolution 35, currently has 28 cosponsors and has been referred to the Senate Foreign Relations Committee. I urge all my colleagues to join us as cosponsors.

Mr. President, the systematic rape of women in Bosnia is a war crime and a crime against humanity. The perpetrators of these crimes should be prosecuted in an international war crimes tribunal. I hope that Ambassador Albright will make this issue a high priority at the United Nations.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, February 1, 1993.

Hon. MADELEINE K. ALBRIGHT,
U.S. Representative to the United Nations, New York, NY.

DEAR AMBASSADOR ALBRIGHT: As you take on your new responsibilities as the United States Ambassador to the United Nations, we would like to take this opportunity to express our deep concern about systematic rape in Bosnia.

It is our hope that you will work vigorously in the United Nations to advance the following recommendations. First, we hope that you will work with the United Nations to ensure that rape as a tactic of warfare—a war crime and a crime against humanity under international law—will be prosecuted under an international war crimes tribunal established by the United Nations. Second, we hope you will work to ensure that the United Nations Commission of Experts is adequately funded, thoroughly investigates the perpetrators of rape, and that the commission membership is expanded to include a woman with relevant expertise among its membership. Third, we hope you will urge the United Nations humanitarian efforts to include medical and psychological treatment for rape victims. finally, we hope you will work with the United Nations Commission on Human Rights toward the goal of explicitly recognizing that rape is a violation of human rights, that perpetrators must be held accountable, and that the United Nations World Conference on Human Rights will include violations of womens rights in its proceedings.

As you are no doubt aware, thousands of women and girls have been raped in the conflict in the former Yugoslavia. According to a wide range of investigators, while some abuses have been committed by all sides in the conflict, the vast majority of these crimes have been committed by Bosnian Serb soldiers against Bosnian Muslim women and young girls. In many cases, after raping these women, Serb soldiers allegedly brutally murdered them. Other Muslim women reportedly have given birth to or are pregnant with the children of their Serb rapists, and will bring these children into a society that sees them as permanent outcasts. Still countless other Muslim women and girls face a future tortured by their memories of violence.

These rapes cannot be brushed aside as an incidental effect of total warfare. An interim report on rape commissioned by the European Community concluded that "rape cannot be seen as incidental to the main purposes of the (Serb) aggression but as serving a strategic purpose in itself." The recently released State Department Report on Human Rights for 1992 also said that "massive systematic rape, committed by Bosnian Serb military units and prison guards, was used as an extension of 'ethnic cleansing' to terrify the population.''

Therefore, the perpetrators of rape in the former Yugoslavia should be tried in an appropriate international war crimes tribunal established by the United Nations. We hope you will press the United Nations to establish such a tribunal to ensure that war crimes and crimes against humanity, including rape, will be prosecuted.

As you know, on October 6, the United Nations Security Council approved a resolution requesting the Secretary General to establish an impartial commission of experts to examine and analyze information relevant to violations of international humanitarian law in the former Yugoslavia. Secretary General Boutros Boutros-Ghali established a commission, and, on October 26, appointed 5 members to that commission. This commission will gather evidence that could be used to prosecute those responsible for crimes against humanity in an international war crimes tribunal. A separate Security Council resolution, 798, specifically denounced the rape of Muslim women by Bosnian Serb soldiers.''

While we are pleased that a commission has been established, we are dismayed by reports from representatives of the United Nations that the commission has not been funded. We do not see how the United Nations can take the necessary steps to ensure that justice will be served if the United Nations commission charged with the mission of providing information and evidence about potential war crimes has not been adequately funded. To that end, we urge you to work to ensure that funding will be provided for this commission.

We also urge you to ensure that commission members give a high priority to investigating the perpetrators of rape. While all war crimes and crimes against humanity must be prosecuted, rape is a brutal, hateful crime that is often ignored despite its terrifying effect as a tool of war and terror.

To facilitate this investigation, we believe it would be appropriate for qualified women with relevant experience to be appointed to this commission and would urge you to press this issue at the United Nations. U.N. Secretary General Boutros-Boutros Ghali has appointed five men with significant international experience to the U.N. Commission of Experts. In light of the unique perspective that women bring to the issue of rape and the extreme sensitivity of this issue, however, we believe it would be appropriate for women to be appointed to the Commission. Regardless, qualified women experts should be integrally involved in the commission's work.

In addition, as we have called for in Senate Resolution 35 and House Resolution, 32, we ask that you use your office to ensure that, to the best of its ability under the circumstances, United Nations humanitarian efforts in the former Yugoslav Republic include adequate medical and psychological treatment for rape victims in this war. Reports indicate that women and girls who have been raped and beaten are not receiving adequate attention from relief workers.

Finally, we urge you to work with the United Nations Commission on Human Rights for the passage of a resolution explicitly recognizing that rape is a violation of human rights and calling on the United Nations World Conference on Human Rights to include violations of womens rights in its proceedings. We understand that the next meeting of the United Nations Human Rights Commission is in February. This type of U.N. resolution would send an additional and important signal about the sentiment of the international community against the systematic violations of human rights.

We wish you luck in your endeavors at the United Nations and hope you will make the issues we have raised a high priority. We look forward to working with you on these and other matters in the future.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business?

If not the Senate will now resume consideration of S. 5.

FAMILY AND MEDICAL LEAVE ACT OF 1993

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 5) to grant family and temporary medical leave under certain circumstances.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Republican leader is recognized.

AMENDMENT NO. 15

(Purpose: To limit the period for which a public employer may be required to provide family and medical leave)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. Dole] proposes an amendment numbered 15.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, between lines 4 and 5, insert the following:

(g) Limitation on Leave Above Calculated Cost.—

(1) Limitation.—Notwithstanding any other provision of this Act, no employer shall be required to provide a greater period of leave than the period calculated under paragraph (2)(B) to any eligible employee of the employer during the applicable calendar year.

(2) Calculation.—Each employer shall calculate, for the 1993 calendar year and for each subsequent calendar year—

(A) the average cost to the employer of providing leave in accordance with this title over such calendar year to an eligible employee who takes such leave; and

(B) based on such average cost, the period of such leave that the employer can provide for $7.30 per eligible employee taking such leave during such calendar year.

(3) Adjustment.—In the case of any calendar year beginning after 1993, the dollar amount contained in paragraph (2)(B) shall be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code of 1986 for the calendar year, by substituting "calendar year 1992" for "calendar year 1989" in subparagraph (B) thereof.

On page 40, between lines 21 and 22, insert the following:

"(g)(1) Notwithstanding any other provision of this subchapter, no employing agency shall be required to provide a greater period of leave than the period calculated under paragraph (2)(B) to any employee of the employing agency during the applicable calendar year.

"(2) Each employing agency shall calculate, for the 1993 calendar year and for each subsequent calendar year—

"(A) the average cost to the employing agency of providing leave in accordance with this subchapter over such calendar year to an employee who takes such leave; and

"(B) based on such average cost, the period of such leave that the employing agency can provide for $7.30 per employee taking such leave during such calendar year.

"(3) In the case of any calendar year beginning after 1993, the dollar amount contained in paragraph (2)(B) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-off-living adjustment determined under section 1(f)(3) of the Internal Revenue Code of 1986 for the calendar year, by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof.

Mr. DOLE. Mr. President, this amendment is a simple amendment. It is one I think both sides are familiar with.

My colleagues on the other side of the aisle say their legislation costs very little. I have heard numbers ranging from the assertion that S. 5 is a money maker for business to assertions that it costs about $7.30 per employee per year, or 2 cents per day.

Whatever the actual numbers, the other side of the aisle continually stresses the costs are modest; the bill will not force one job to be cut or one other fringe benefit to be reduced.

My personal opinion is the legislation costs much more; that, in fact, it will force employers to cut many jobs or other more desirable employee benefits, such as cost-of-living increases or part of the employer-paid contribution for health insurance, to pay for this mandate from Washington.

The point is, contrary to what my colleagues on the other side of the aisle think, not all businesses are the same. I readily acknowledge for some businesses S. 5 may not be a big deal to comply with. There are a lot of big corporations that already provide such benefits; in many cases, better benefits. But for many other companies, particularly smaller ones in the 50 to 100 employee range, this legislation could make the difference between keeping their doors open and competing in a tough marketplace, and having to cut staff and operations.

Because of this, I believe it is important to put a cap on the amount that business must spend in complying with S. 5. It is only fair. And it is an approach consistent with the fact that my colleagues on the other side of the aisle have insisted for 7 years that the cost of their mandate is minimal.

Accordingly, my amendment provides that businesses subject to the act's requirement are only required to provide leave of up to $7.30 per employee taking leave in any calendar year. That is 2 cents per day. This number comes from the sponsors of the legislation, who like to rely on discredited studies, so there should be no objection to its use and no objection to this amendment. This amendment merely codifies some of the statements that have been made on the floor. It seems to me it would give the employer some assurance, and would also give the employee some assurance that they might still have a job.

If there is a willingness to go up as high as $9.50—there have been more recent studies—certainly, I would be happy to modify my amendment. But I also would be interested in exploring with anybody whether or not we could get an exemption for companies that are losing money. If they are losing money, or if they are being forced to lay workers off, I do not know why we want to add additional costs.

We just met with the President of Boeing Corp. They are about to slash, nobody knows for certain, maybe up to 20,000 jobs. Some of those, many of those, would be in the State of Kansas. Most of those would be in the State of Washington.

So we have a lot of workers who are worried about their jobs at Boeing and Beech and Sears. They are the latest casualties of job cuts.

The key point is if we are going to pass a one-size-fits-all mandate on American business, then we ought to acknowledge and cap the amount that such businesses are required to spend in complying with the law.

I met with the Governors this week, Democrats and Republicans, and one thing they complained about, the Presiding Officer has been a Governor, are all these mandates we pass in Congress. We do not send any money. We just say the States ought to do this; let them figure out how to pay for it.

The States do not, in most cases, have a financial surplus. We know we do not have a financial surplus. Now, we are going to say to businessmen and women: We are going to mandate this program. One size fits all; it all comes from Washington. Much of the work force does not benefit.

In my State, I think 44 percent of the employees work for companies with 50 or fewer employees. So half the employees are not going to benefit, in any event.

We have 71 companies in our State with 50 employees. I will bet when this bill passes there will be 71 companies with 49 employees, so they are not going to be subject to the act. Somebody is going to lose their job. We have about 580 companies in my State with 50 to 60 employees. I would guess, with all the pressure business is facing, they may want to reduce below 50 so they are not subject to the act.

So there may be some ways to game this legislation, and not in the sense of taking advantage, but to stay in business, and not to lose money. So it would seem to me we ought to be doing something for American business. That is what this is for, as well as the employees. And to make certain we are going to have some idea of what it is finally going to cost the American businessman or businesswomen, and what it may ultimately cost many of the employees who may lose their jobs because this legislation passes.

Mr. President, I am aware of the fact that I probably do not have a majority for this amendment. So I will be pleased to accept a voice vote on this amendment.

I have one additional amendment where I will ask for a rollcall vote.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I tried to buy off the minority leader earlier with 2 cents, but he rejected that bribery, so he might not offer this amendment. Let me briefly, in response to it, I see my colleague, the junior Senator from Kansas, is on the floor as well. Senator KASSEBAUM and I went back and forth for the good part of a day, dueling over studies and costs.

There have been a number of studies done by the General Accounting Office and by private organizations and consultant groups, by Cornell University, the Small Business Administration, and Buck Consultants, to name three that come to my mind immediately, without having the names of all of the organizations that have tried to assess this.

The Senator from Kansas, the junior Senator from Kansas [Mrs. KASSEBAUM], rightfully points out that there are different cost estimates in all of these.

We have had studies and testimony from private industry—from AT&T, for instance, and the Aetna Insurance Co.—who made an analysis on what the impact would be for their own companies.

Their conclusions were, in the case of Aetna, that recently adopted family leave policy, that it actually saved them $2 million a year in reduced hiring costs and retraining costs. AT&T estimated the savings for them was something in the neighborhood of $15 million a year for the same reasons.

Other studies have indicated, the Small Business Administration said that the cost of this proposal is always substantially less than the cost of firing someone, hiring someone new, and retraining him.

The General Accounting Office came back a year or two ago and said it was $6.70, I think, per covered worker per year. They recently changed that number the other evening to $9.50 per covered worker per year. They identified that increase having to do with the increased cost of health care as well as the number of increased people in the work force.

What we have merely tried to point out with these numbers is not to try to fix some absolute number, but merely to try and demonstrate as part of the debate that the cost of this is marginal and that the benefits are significant. But I have never attempted to suggest that there is an absolute number upon which I am convinced there is an absolute impact, either in terms of what it would cost the employer within those ranges or whatever benefits would accrue to the employer as a result of studies that have been done by industries which have adopted these policies and who have no interest in necessarily promoting a piece of legislation but merely trying to determine what the impact has been on their bottom line through the independent studies done by industries who adopted these policies.

Last, I will point out there was a study done of some four States which adopted family and medical leave policies. They had been in place, I think, 2 or 3 years, when a study was done of the businesses in those States to determine whether or not the family and medical leave policies in those States had been, one, difficult to implement and, two, what sort of costs had been levied on the businesses as a result of those statutes being passed. The overwhelming majority, and I am talking in the neighborhood of 90 to 95 percent of the businesses, said there was little difficulty in implementation and little to no cost at all.

Again, one can go back and forth on the numbers, and I appreciate immensely the Republican leader's point he is trying to make. I must say I think it would be a mistake for us in any way to try to absolutely affix a permanent number on this. I appreciate the amendment, and I hope this amendment will be defeated. I appreciate the Republican leader's willingness to have a voice vote on this particular proposal.

The PRESIDENT pro tempore. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 15) was rejected.

Mr. DODD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDENT pro tempore. The Republican leader is recognized.

AMENDMENT NO. 16

(Purpose: To limit the period for which an employer may be required to provide family and medical leave)

Mr. DOLE. Mr. President, I send another amendment to the desk and indicate this probably will be the last amendment with reference to family leave. There may be another amendment offered, based on the conversation I had with Senator MITCHELL, the majority leader. We will know definitely within 1 hour. In any event, with reference to this amendment, I think this amendment goes to the heart of the problem of S. 5.

The PRESIDENT pro tempore. Will the Republican leader allow the clerk to state the amendment?

The clerk will state the amendment.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself and Mr. WALLOP, proposes an amendment numbered 16.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 53, strike line 1 and insert the following:

SEC. 405. LIMITATION.

(a) IN GENERAL.—Notwithstanding any other provision of this Act or any amendment made by this Act, no employer shall be required to comply with any requirement of this Act in any period for which the employer fails to receive—

(1) Federal financial assistance or a reduction in Federal tax obligations that is sufficient to pay for the cost to the employer of compliance with all applicable requirements of this Act for such period; or

(2) a certification from the appropriate entity of the Federal Government that compliance with such requirements will not increase the expenses of the employer during such period.

(b) DEFINITION.—As used in this section, the term "employer" means—

(1) an employer, as defined in section 101(4);

(2) an employing agency, within the meaning of subchapter V of chapter 63 of title 5, United States Code, as added by section 201;

(3) an employing office, as defined in section 501(h)(1); and

(4) an employing authority, within the meaning of section 502.

SEC. 406. EFFECTIVE DATES.

The PRESIDENT pro tempore. The Republican leader is recognized.

Mr. DOLE. Mr. President, I am advised there could be one additional technical amendment, I say to the manager of the bill, by the distinguished Senator from Colorado [Mr. BROWN]. I am not sure that will be accepted.

Mr. DODD. I do not know what the amendment is. Mr. President, there are some technical amendments we agreed to earlier. I am not aware of any amendment by Senator BROWN.

Mr. DOLE. Mr. President, I have a very brief statement—I do not know how long the Senator from Connecticut may take—I hope we might have consent at some later time, propounded by the manager of the bill, that we have this vote, either up or down or a tabling motion on my amendment, at 1:30, but that would be up to the manager.

Mr. DODD. Mr. President, if the Republican leader will yield, I certainly agree with that. I do not have a long statement to make. But in order to make our colleagues aware, I will at the appropriate time, once the debate is concluded, move to table that amendment. I will ask for the yeas and nays. I am amenable to at 1:30 that vote occurring.

Mr. President, I ask unanimous consent that a vote on or in relation to Senator DOLE's amendment occur at 1:30 p.m., with no second-degree amendments in order thereto.

The PRESIDENT pro tempore. Is there objection? The Chair hears no objection. It is so ordered.

The Senator from Kansas, the Republican leader.

Mr. DOLE. I thank the Presiding Officer.

Mr. President, I do think this amendment goes to the heart of what some of us see to be the problem with S. 5. And whether we like it or not, S. 5 is a mandate. It is a tax on business. In this particular bill, a tax on business that employs 50 or more employees.

There are a lot of businesses in America that are having difficulty right now. We are even hearing talk about an economic stimulus package to create jobs, at the same time we are passing a bill that, in my view, is going to cost jobs. Let me restate what I just stated. I am not sure how many Senators checked with their State labor departments to see how many businesses in the State of Kansas or West Virginia or some other State, Connecticut or New Hampshire have 50 or fewer employees.

In our State, the number is substantial. In fact, about 44 percent of the employees are employed by businesses with fewer than 50 employees, which means they do not get any benefit from this bill. The men and women who are working for a small business are excluded from this bill. I do not fault the manager because I think he would have been agreeable early on to make it lower, but then that gets into whether or not the bill would pass.

But there are a lot of businesses in my State, a small State. We have 71 businesses with 50 employees. In my view, there would be a lot of pressure on employers to reduce their numbers by one so they are not covered by this bill, so they would have 49 employees. We have about 580 businesses in Kansas with 50 to 60 employees and again there is going to be enormous pressure on employers in this day of cost cutting and downsizing businesses to reduce the number somehow to avoid the impact of this legislation because this is a tax on business. This is the first new tax passed in the Clinton administration. We may as well call it a tax; it is a mandate, you have to pay for it, you have to dig it up, you have to borrow it, somehow you have to deal with it. If that is what Congress wants to do, that is how the administration wants to start off with the first piece of legislation being a major tax on business, the businessmen and businesswomen, then I think those who support this bill are probably correct.

We do not have any idea how much harm or how much good this will cause. It sounds good. Watch the television and they put up there 12 weeks of unpaid leave, continue your health coverage, but nobody addresses the other side. What about the businessman or what about the businesswoman who is trying to keep the door open, trying to meet the payroll, trying to create more jobs, what is this going to do? Is this going to be a damper? Let us say somebody has 49 employees and they are thinking of expanding. Why would they expand in the face of this bill? If they get to 55, 65, 75, employees they are covered. Talk about growth, it is not going to happen. Talk about maybe employees losing their jobs, that is a big one. A lot of employees are losing their jobs right now.

As I indicated in the last amendment, in our small State, in Wichita, KS, we can lose up to 6,000 jobs with Boeing very soon.

We have lost 1,700 with Sears, 400 with Beech Aircraft. That is a big, big hit in the Wichita community.

So we believe this is going to cost something. It is going to cost billions of dollars and will cause job cuts or benefit cuts to pay for it.

Now, if we believe the estimates of the Small Business Administration, we are talking about billions of dollars. We are talking about tens of thousands of jobs being lost or not created because of this bill. Remember, losing jobs on the one hand, not creating jobs on the other hand, is going to make a big difference.

If you look to the Joint Tax Committee, not a partisan committee, for the cost of a tax credit to pay for S. 5, then we are told S. 5 will cost $8.8 billion over the next 5 years. That is the tax on business, $8.8 billion. So I guess if you give employees a choice between their jobs and family leave benefits, they are going to pick their jobs.

So it is the view of this Senator we should not be legislating in the dark. Nobody can tell us what this bill is going to cost. Nobody can tell us how many jobs are going to be lost. Nobody can tell us how many jobs are not going to be created. And nobody can tell us the real economic impact of this legislation.

So, as I have indicated—there are about 580 businesses in my State with between 50 and 60 employees, and, as I said, about 71 with 50 employees, and for all those reasons I think there is going to be enormous pressure on management to try to avoid the trigger of this legislation.

It creates a perverse incentive for the employers of those companies to reduce the size of their work force without even considering how much this legislation will cost them. And as we all know, it also creates an incentive to cut costs through staff and benefit reductions to pay for the mandate.

So I just wonder—I probably should have had the information; maybe it has already been included in the RECORD. Maybe every Senator who is going to vote on this knows precisely how many employers in their States have 50 or fewer employees who get no benefit, how many have 50 employees, how many have 50 to 60 or 50 to 75. I think if that information were available, there would be great concern on what might happen to these employees if they were cut from the payroll in order to avoid compliance with this bill.

So it seems to me that one thing we can do is to make certain that nobody is going to be hurt, particularly the employee, and until such time as we can answer all of these questions regarding the effects of this legislation, we should either confirm that this bill costs nothing to each business subject to the mandate or provide a way for the legislation to be paid for without saddling business with a new tax.

So this is all this amendment does. In fact, it was called to my attention—I addressed the Governors last week, met with Democratic and Republican Governors, and one of the Governors suggested this might be a good idea because they are up to their ears in mandates. They know what mandates mean to the States. They know what mandates mean to business people in their States.

So what this amendment provides is that the leave program in S. 5 is optional. It is optional for each business, not mandatory, until such time as the Federal Government either, one, certifies that compliance with this legislation will provide no new added cost to the business subject to the mandate or two, provides Federal financial assistance or reduction in Federal tax obligations sufficient to pay for the cost to the employer for compliance.

That seems to be a pretty fair amendment. In other words, this is going to be optional until we certify it does not cost anything or until we pay for the cost either through some assistance or some tax benefit. That way we are not going to lose anybody's job, we are not going to cause any adverse impact, and we are not going to make the unemployment picture—which looks pretty good today but is still unsteady—any worse.

So I just say to my colleagues, if we pass this amendment, it is going to be a signal and a fact that not one single American will wake up when this legislation becomes law and find a pink slip waiting for him or her because the Congress and the administration decided to mandate family leave.

I think that is fairly important, notwithstanding all of the good things that this may do. It is hard to explain to somebody in my State, some businessman or businesswoman who is out there trying to create jobs and opportunities for a lot of people, why the Federal Government, why Washington, DC, reaches down into Russell, KS, or some other small community in Kansas, or any other State for that matter, and says this will be your policy; we will determine it; the Federal Government will determine it.

As I look back to the past election, if there was any message from the American voters, they said they were tired of the Federal Government telling them what to do. They wanted change. They are not getting change with this legislation. It seems to me this is an idea which would at least neutralize that, at least give business men and women a chance, and, if they cannot certify no cost, then we ought to provide some tax relief or some other relief for businesses so, in the final analysis, the employee does not lose his or her job.

I ask unanimous consent that the distinguished Senator from Wyoming [Mr. WALLOP] be added as a cosponsor of this amendment.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Connecticut [Mr. DODD].

Mr. DODD. I thank the Chair.

This amendment being offered by the distinguished senior Senator from Kansas goes right to the heart, obviously, of the legislation in that nothing would be required to be done unless there is a certification by the Government or a tax cut or a direct appropriation. Obviously, certifications are not possible. We are talking about potentially adding to the deficit.

I point out that in the period of the last 3 days, as we have debated this issue, Mr. President, I have continuously made the point that what we are talking about now is a minimum labor standard, and have compared it, as we have since the legislation was initiated, to basic law, Social Security, occupational safety, and health.

I would point out that recently we passed the Americans With Disabilities Act, with which the distinguished minority leader was intimately involved and played a significant role in securing passage of that particular amendment.

There were arguments made on the floor of this body during the consideration of that legislation that parallel exactly the statement just made by the distinguished minority leader. In fact, the distinguished senior Senator from Utah offered an amendment to waive the Budget Act specifically for the purpose of allowing, or requiring the Government to subsidize or to provide tax relief for businesses that incurred costs as a result of implementing the Americans With Disabilities Act.

In fact, we had a vote in this body, Mr. President, on that very measure because the Senator from Utah, to quote him in that debate, said at that time after the vote occurred:

> I think we made a terrible mistake. What we have done is left the public accommodations section alive, without any protection to the small business person. It is just typical of the work we do here in the U.S. Congress. I do not blame the Senator from Iowa
>
> * * *
>
> Why do we do it by loading them up with Federal Government burdens in so many ways? This is not an insignificant way. I can see many mon-and-pop stores; I can see many sole proprietorships; I can see many small businesses with just a few employees, who are going to get rid of these employees, add additional costs and burdens.

He goes on. The statement is in the RECORD as of September 7, 1989, when that motion was made. And the motion to amend the Budget Act failed, Mr. President, failing to secure the necessary 60 votes.

I just note that one of those Members who voted against waiving the Budget Act and allowing for the amendment of the senior Senator from Utah to prevail was the distinguished minority leader, who at that time supported the Americans With Disabilities Act, where arguably cost would be similar here. There may be some costs involved.

Again, I do not necessarily agree with that, because I think we have made an effort over the years to point out where we think the benefits are here, based on similar experiences with State legislatures and local municipalities that have adopted family and medical leave legislation.

I do not know specifically, but I am confident that similar arguments were made with OSHA legislation. I presume that when we abolished child labor laws, somebody made the argument there is going to be a financial burden on certain industries as a result of having to replace children in the workplace with adults who would demand more money. You could go down the list of those minimum labor standards that we have collectively determined are in the best interests of this country, everyone's best interest.

We have in the past on two different occasions successfully passed this legislation making the case that this legislation was not a benefit per se but a minimum labor standard, recognizing the demographic changes that have occurred in this country and the absolute necessity not to place working families in the position where they must choose between the family that they want to take care of during a time of crisis and the job they need, unpaid leave, maintaining health benefits so that they can have job security when the family crisis is over with. The fact of the matter is every single day in this country there are people who are placed in that position.

For 7 years with bipartisan efforts we have tried to put together a bill here that would enjoy the support not only of our colleagues in this body, in the other body, but the President as well. Unfortunately, two vetoes have brought us to the position we are in today. Senator COATS, Senator BOND, worked so diligently with me on this legislation, and many others, including the National Federation of Retailers representing a million employers in the country, endorsed fully the legislation just a few days ago.

I believe they would not have done so, Mr. President, had they felt that this was going to impose onerous burdens or onerous costs on the employers in this country.

I do not want to repeat myself but during the course of the previous amendment I made the point that there have been numerous studies done, including a study concluded by the Small Business Administration under the Bush administration, where they analyzed this legislation specifically for costs to employers.

Mr. President, I will quote directly from that report. That report says:

> It is always substantially less costly for an employer to have leave policies and provide job security than it is to go out and hire a new person and retrain them.

That was the Bush administration's analysis of this legislation—"always less costly." I cannot say absolutely they are correct any more than I can say that the GAO is correct.

But we have made a concerted effort, Mr. President, over the years, in working with employer groups and others to minimize the cost here so we would not place burdens on employers. But we have also steadfastly determined and tried to pass a piece of legislation that would be nothing more than trying to achieve some human decency so that that working family today when faced with a crisis will know there is a job waiting when they go back and that their health insurance be maintained. That is not too much to ask.

Hundreds of businesses in this country, regretfully not enough, have adopted leave policies, numerous States have adopted leave policies—municipalities have. There has been substantial analysis of what the cost has been. Without exception the cost analysis of this legislation or similar legislation has been minimal.

So, Mr. President, with all due respect to the minority leader, I have a great regard for him and his efforts in the numerous other areas of legislation, this is not the time to be saying that we are going to gut this legislation. Of course, the first language, notwithstanding any of the provisions of this act, no employer shall be required to provide leave than is included in this legislation unless of course that these provisions requiring for some tax break or a direct appropriation.

The Presiding Officer chairs the Appropriations Committee. We are under a lot of pressure here today to reduce the deficit, to require a direct appropriation in the Congress to businesses, and in order to provide leave for people is something most of us would say is not necessary any more than it was to provide a direct appropriation necessarily for the businesses to clean up the worksites so the workers of West Virginia or Connecticut could have a safe workplace. That is something people ought to be doing. This is something that ought to happen for people.

To say to a family or worker if your child is in the emergency room, intensive care unit, you ought to spend the time with that child, we are not going to pay you during that period, but the job is here, we will maintain the health benefits so you are not financially ruined—as many people have been—or if you have a new child that is arriving, take the time to be with that new child, make that family stronger, come back to the job when you are through. The same would be true of course with a spouse or a parent that you are caring for.

One hundred and twenty-seven nations that are major competitors have moved in this direction and the overwhelming testimony from employers of this country, from businesses who have adopted these policies, have told our committee through 20 hearings, Mr. President, that this legislation was a good idea, and that it helped them, not just their employees, in higher productivity rates, lower absenteeism, higher retention rates.

It would be a great pity as a last effort after 7 years—and I believe this to be the last amendment to be considered on this other than the legislation involving the homosexuals in the military question—that at this last moment after 7 long years and so many fights that we would gut this legislation by requiring tax expenditures or appropriations for something which there is no evidence that substantiates the need for such relief.

So, Mr. President, I yield to my colleague.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas [Mr. DOLE] the Republican leader.

Mr. DOLE. If I may make one point, the Senator is correct. The Americans with Disabilities Act is a mandate. But in that legislation, recognizing the distress it might cause small business, we did provide for tax credits for construction and things of that kind because we recognize again it was another tax on business.

So there was a difference. I will include in the RECORD precisely what the tax relief was for businesses. But there was a recognition, notwithstanding the budget waiver, because we had already had in the legislation, I think it was a bipartisan amendment, adopted which provided relieve through the Tax Code certain businesses who had to comply with construction—installing elevators, ramps whatever it took—with the Americans with Disabilities Act. I will include that in the RECORD in more detail.

But there was a distinction made for that very reason that the Senator from Connecticut pointed out. I would be happy to yield to the Senator from New Hampshire.

Mr. GREGG. I recognize we are running down our time. But I wanted to support the Senator's amendment and say that one of our primary concerns with the Federal Government was unfunded mandates. This clearly is an unfunded mandate bill on especially businesses. Those costs are going to have to be borne by those businesses and we are going to make those businesses not be productive and in the long run it will cost us jobs in this country.

I simply say to the Senator from Connecticut who I have great regard for that if his presentation is accurate that he just made that has no cost, this is a minimal effect, then why not allow this amendment to go forward because as I understand this amendment it states if there is a minimal effect, then the bill can go forward. This is a minimal cost effect if this bill goes forward.

So I think the Senator from Connecticut made a pretty good case for this amendment in saying that this was a minimum cost in this bill.

Mr. DODD. On my own time, Mr. President, if we could use all the time legislating here. We made the case based on the "necessary." There is no reason to include something not necessary. I point out to my friend that a number of States have adopted a number of family medical leave policies and governments know those States have testified in support of this legislation as they have seen it work in their own States.

We have had numerous letters endorsing support from State officials in numerous jurisdictions where many of the concerns were raised about this. But as I said earlier, there is no evidence whatsoever to support this. But the language in the legislation just invites certifications, a whole level of bureaucracy to go forward in these matters. Every time we do something here, we do that, we delay the implementation, create a whole new debate. This is a question of whether or not there is impact.

I think we have demonstrated a bipartisan way—significant work by a lot of people on both sides, one-third of the Republican side of this aisle supports and endorses this legislation. They have some difference on various pieces of it, but they have indicated their support for this, and working with employer groups, National Retail Federation—there is 1 million employers, 20 million workers represented by that organization. It is the largest organization of its kind in the country. They did not endorse this unanimously by the way. There was not a dissenting vote among the executive board. They looked at that legislation very carefully. They did not feel the need for this.

So to have the suggestion sort of, as I say, later than the 11th hour all of a sudden that this kind of provision is needed I think is merely just one more effort here to try to derail.

I respect those that disagree with the legislation or those who do not like the bill. That is a perfectly legitimate position. I would rather hear that than an effort to say we like the legislation, but here is a little idea which we all know the net effect would be, of course, to destroy the bill.

Let us not delude anybody here. At this 11th hour, those who have tried in the last 3 days, and over the last 7 years, are making a last effort to take the legs out from under this bill. That is what it would do. It would be a great tragedy at this hour for us to do that, in my view, and I think in the view of those who have worked so long and diligently on this legislation.

Mr. DOLE. Mr. President, as I said earlier, I would like to clarify the tax provisions included in the ADA to help business comply with the act. I did and do support the Americans with Disabilities Act. But there is one big difference: S. 5, the pending bill, does not provide relief for businesses; it's a mandate. In the case of the ADA, small businesses may elect a credit in an amount equal to 50 percent of the eligible access expenditures that exceed $250. Small businesses have limited resources and require technical and financial assistance to comply with mandates. We helped them in the ADA. I don't see what help we're providing in this bill.

The PRESIDENT pro tempore. The hour of 1:30 has arrived.

Mr. DODD. Mr. President, I move to table the Dole amendment and ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The question is on a motion to table amendment No. 16. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. COATS. Mr. President, on this vote I have a live pair with the Senator from South Carolina [Mr. THURMOND]. If he were here, he would vote "no." If I were permitted to vote, I would vote "yes." Therefore, I withhold my vote.

Mr. SIMPSON. I announce that the Senator from South Carolina [Mr. THURMOND] is absent due to a death in the family.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 67, nays 31, as follows:

[Rollcall Vote No. 7 Leg.]

YEAS—67

Akaka
Baucus
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Krueger
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Simon
Specter
Wellstone
Wofford

NAYS—31

Bennett
Brown
Burns
Cochran
Coverdell
Craig
Dole
Domenici
Faircloth
Gramm
Grassley
Gregg
Hatch
Hatfield
Helms
Kassebaum
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Shelby
Simpson
Smith
Stevens
Wallop
Warner

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Coats, for

NOT VOTING—1

Thurmond

So the motion to table the amendment (No. 16) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon [Mr. PACKWOOD].

CHANGE OF VOTE

Mr. PACKWOOD. Mr. President, yesterday, by mistake, I voted "no" when I meant to vote "yes" on an amendment of Senator GRASSLEY from Iowa. I have checked with the majority leader—it will not change the vote—and I ask unanimous consent that I be permitted to change my vote on the motion to table amendment No. 3, the Grassley amendment to S. 5, the family and medical leave bill. I wish to change my vote to "aye." As I say, this will not change the outcome of the vote.

The PRESIDENT pro tempore. Is there objection? Hearing no objection, it is so ordered.

Mr. PACKWOOD. I thank the Chair.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 5, the Family and Medical Leave Act of 1993. I strongly support this bill because I believe that parents should not have to choose between staying home with their new or sick babies and their economic livelihood. I am an original cosponsor of this legislation and have cosponsored similar legislation in previous Congresses. Despite the support of overwhelming majorities in the House and Senate during the 102d Congress, President Bush twice vetoed this legislation and the Congress failed to override his veto by a narrow margin. However, this is a new era in Washington and President Clinton has pledged to sign this legislation when it reaches his desk. I am hopeful that this will be the beginning of the end of gridlock in Washington.

It is about time that Americans have a Family and Medical Leave policy. At least 75 countries all over the world have already enacted family leave laws, including all Western industrialized countries. Most of these countries provide paid leave ranging from 12 weeks to 38 weeks. Compared with these laws, this proposal before us is a modest one.

Mr. President, we need this legislation because we live in a new world. Recent data show that over 80 percent of working women are in their prime childbearing years. In addition, less than 10 percent of all families are two parent families where the father is the breadwinner and the mother stays at home to care for the family. The Congress needs to recognize these remarkable changes in our society and pass this legislation to provide minimal job security to new parents and people who are forced to deal with family medical emergencies.

I know there are those who say that this bill will cripple business. As a former CEO of a major U.S. corporation, I can say that this is not true. This bill will put all competitors on the same footing in the United States and with our major foreign competitors. In fact, this bill also exempts small businesses of less than 50 from the provisions of this bill. This exemption applies to 95 percent of all employers. Finally, a recent survey of business executives by the Small Business Administration found that granting an employee unpaid family and medical leave costs less than terminating an employee. The study showed that the cost to a business of granting a worker leave ranged from 97 cents per week to $97.78 per week compared to a total of $1,131 to $3,152 to replace a terminated employee.

Many States have already seen the need for family leave legislation and have enacted such laws, including New Jersey. However, the 1974 ERISA law prevents a State like my own from requiring employers to continue to provide health benefits to employees during their leave. I am happy to say that this legislation will remedy this situation and working people in my State will be able to take unpaid leave for family emergencies without the fear of losing their health insurance.

Mr. President, I urge my colleagues to support this profamily legislation.

Mr. KERRY. Mr. President, I rise to express my support for S. 5, the Family and Medical Leave Act—legislation long overdue in this country. I am proud to be a cosponsor of this bill because I believe the Family and Medical Leave Act will enable employees to care for a child upon his or her birth or adoption, to care for a child, spouse, or parent who is suffering from a serious health condition or to use the leave when they themselves are ill. The Family and Medical Leave Act also will enable employees to focus on providing needed help, rather than worrying about keeping their jobs. Mr. President, the Family and Medical Leave Act is an example of what we ought to mean when we talk about helping families help themselves.

We should be clear about what the Family and Medical Leave Act will not do. This bill will not encourage employees to leave their jobs because they want a reduced work schedule. Nor will it undermine the ability of an employer to have a stable work force or successfully conduct business operations because employees will frequently take leave. After all, under this bill, workers are being given the ability to use unpaid leave. It is doubtful that workers who are struggling to make ends meet will choose not to receive compensation for a period of time, whether a few days or 12 weeks unless there is a strong need to do so. The workers taking unpaid leave will do so because their family responsibilities necessitate it. And because they will know that they can properly care for their families, it is likely that workers taking leave will be more productive workers before they leave and after they return. Taking leave from a job to care for an ill parent or child is not something that most workers anticipate. Few of us think about adjusting our work schedules for medical emergencies, chronic illnesses, or the addition of a child to a family until that situation is upon us. At that point, all we know is that our child or our spouse or our parent needs us and we must respond. Instead of feeling anxiety over what may happen to a job in the event of a birth or adoption of a child or medical crisis, employees should feel confident that they now will be able to maintain their jobs without sacrificing their families. It is my hope that with the passage of this bill, uniform minimum leave standards will bring the United States in line with the practices of more than 75 other countries that offer family-related leave.

Mr. President, it is important also to note that with the passage of the Family and Medical Leave Act, the first bill passed by the Senate in the 103d Congress, the gridlock that has paralyzed the legislative agenda for years will be broken at least for now and hopefully for the foreseeable future. It is fitting that the bill that breaks the gridlock and demonstrates to the American people that the Congress is serious about addressing the issues affecting the Nation is a bill that will permit millions of employees to be responsive to the needs of their families and productive in the workplace. I congratulate the Senator from Kansas [Mrs. KASSEBAUM] and my colleague, the senior Senator from Massachusetts [Mr. KENNEDY] for their tireless efforts to bring this bill before the Senate quickly in the 103d Congress. I particularly want to express my appreciation to the senior Senator from Connecticut [Mr. DODD]. It is a testament to his persistence that the debate no longer focuses on whether family and medical leave should be guaranteed to employees but how it can best be offered to employees. Mr. DODD is to be commended for his commitment over many years to bringing family and medical leave to workers throughout our Nation.

Mr. LEVIN. Mr. President, I am pleased to be an original cosponsor of the Family and Medical Leave Act of 1993 which would provide up to 12 weeks of unpaid leave for the birth or adoption of a child, or the serious illness of the employee or an immediate family member. This balanced proposal will help our Nation stay in step with the changing needs and structure of the American family.

The sponsors of this legislation have taken great care to incorporate provisions which protect business interests while still providing for family leave, seeking to lessen the burden on businesses, and make implementation of this leave a smoother procedure. This bill exempts businesses with less than 50 employees, or 95 percent of the employers in the United States. For businesses employing over 50 workers, the Family and Medical Leave Act includes a key employee exemption which would allow businesses to exempt the highest paid 10 percent of their work force. This provision would decrease the odds of businesses, particularly smaller ones, from losing upper level employees whose absence could greatly disrupt the flow of business. This bill also defines eligible employees as those who have worked 25 hours per week over the previous 12 months.

The bill also includes provisions to limit damage remedies to double actual losses, and contains good faith exception for employers with reasonable grounds for believing that they have not violated the act. It would also ensure the accountability of employees opting for family leave by requiring medical certification justifying the need for leave for the employee's own illness or illness of a family member. The bill also would require the employee to provide 30 days notice to his or her employer for a birth, adoption, or foreseeable medical procedure. As a member of the Senate Small Business Committee, I am particularly supportive of these proposals.

It has been reported that the Family and Medical Leave Act would impose minimal cost to the businesses it covers. The General Accounting Office [GAO] has estimated that the annual cost would be $9.50 per covered employee resulting exclusively from the continuation of health care benefits during the time the employee is on his or her leave. In a similar study, the Small Business Administration [SBA] has stated that "the net cost to employers of placing workers on leave is always significantly smaller than the cost of terminating an employee." The SBA has concluded that the costs to small businesses would be relatively small. Studies conducted in States which have already enacted family leave laws have shown that employers in these States have been able to adhere to these laws at minimal cost with few problems in implementation.

In the last 25 years, there have been dramatic changes in the composition of the American work force which has increased the need for family leave legislation. Most notable is the significant increase in two-earner and single-parent families. Currently, there are nearly 29 million two-earner families in the United States and 7.7 million single-parent families. This shift in work trends make today's families particularly in need for family leave protection when a parent is needed because of a family illness or the birth of a child.

Similarly, the bill provides leave for employees needing to care for the serious health condition of an elderly parent. Currently, two-thirds of the nonprofessional caregivers for older, chronically ill, or disabled persons are working women. Informal, unpaid caregiving by family members and friends provides 80 to 90 percent of the care for the elderly. Only 5 percent of our Nation's elderly reside in nursing home facilities. As the population of Americans over the age of 65 continues to grow, family caregivers will be more able to provide care at the most critical stages of an aging parent's illness as a result of this legislation.

Mr. President, employees should not be punished because they need time to take care of their families. Children are born. Family members get sick. This legislation provides workers with limited job security in order to deal with the inevitable, unpreventable family occurrences of birth, illness, and death. It is time to support public policies which promote the interest of family. This bill strikes the appropriate balance between the humanitarian needs of the family and the business needs of the employer.

Mr. SMITH. Mr. President, I rise in opposition to S. 5, the Family Medical Leave Act of 1993. Although I laud the intentions of my colleagues who wish to provide family leave for such events as childbirth, adoption, and serious illness, I cannot support a Federal mandate on this issue. The senior Senator from Massachusetts [Mr. KENNEDY] has stated that this legislation will help the employee, the employer, and the taxpayer, creating a win, win, win situation. From my perspective, however, all three of these groups stand to lose very important freedoms if this legislation is adopted. This is not win, win, win—it is lose, lose, lose.

First, employees are the primary group harmed by family leave legislation. It is ironic that by providing federally mandated family leave, S. 5 will impair the ability of employees to choose for themselves what other benefits they will receive, if any. This Federal mandate comes without any related Federal funding; thus, it is likely that this benefit will come at the expense of others. Some employees would rather have better health plans or pension policies, but may not be able to have that choice because of this Federal intervention. The greatest irony, however, is that while this legislation purports to provide leave benefits to the less advantaged employees who have not had such opportunities previously, only those who can actually afford to go 3 months without a paycheck will be able to take full advantage of the benefit. Since a great number of the companies that fall into the reach of this new law already provide family benefits voluntarily, the benefits to the employee have been greatly exaggerated.

Second, employers will be harmed by this act. The proponents of family leave legislation have had to strain logic to explain how business owners will benefit from these new measures. Employers may have to cut overhead or raise prices so that they can budget for the possibility of providing 3 months of leave to each and every eligible employee. Supporters have noted that money normally spent on finding and training replacements will be saved with family leave legislation. This might be true if the company can simply do without a given worker for the duration of their leave. If, however, a temporary replacement worker must be found, any savings on training are quickly lost on a worker who will only stay for 3 months. Not all businesses can afford this additional burden, and the Family Medical Leave Act will put those businesses in danger.

The most specious of the bill sponsors' assertions is the claim that family leave legislation will save taxpayers dollars by keeping people off unemployment lines. FMLA may add some measure of job security for existing positions, but it will also add to the cost of each new hire and make employers even more cautious about adding new personnel. Contrary to the proponents' beliefs, this mandate will cost jobs. Any expectations of decreased unemployment figures based on the advent of family leave requirements are misplaced.

The provision of family leave should be encouraged, but not in the context of a Federal mandate. I would have preferred to see the passage of the Flexible Family Leave Tax Credit Act that was recently introduced by Senator CRAIG. The flexible family leave bill proposed a refundable tax credit of up to 20 percent of total compensation for businesses that choose to provide their employees with up to 12 weeks of leave. The essential difference is that the Family Medical Leave Act provides mandates; flexible family leave offers incentives. This is an extremely important distinction.

Clearly, the passage of the Family Medical Leave Act of 1993 is a losing proposition. Unfortunately, it seems that we may soon have the opportunity to prove ourselves even bigger losers. Although the passage of this law was a fragile compromise among factions that agreed upon family leave regulation in principle, the books have not been closed on the issue. Some supporters of the bill are congratulating themselves for their accomplishment while others are restlessly insisting that this bill is only a first step. Demands for legislation such as this to cover all businesses and to provide paid leave benefits instead of unpaid leave are on the horizon. Indeed, the FMLA is just one step—one step in the wrong direction, to be sure. Let the record show my opposition to this sort of unnecessary governmental intervention in the free markets of our society, and my hope that Americans will soon realize the implications of the misguided policies of our Democratic majority.

Mr. KERREY. Mr. President, I am pleased to rise today in support of the Family and Medical Leave Act. I am a cosponsor of this legislation and firmly believe in the need for this reform. I support family leave both as a parent and as an employer and small businessowner.

As a parent, I feel the pull, as do many people, between the demands of work and needs of family. My support for family leave legislation reflects an appreciation of the changing realities of a workplace which must accommodate increasing numbers of working families. Women today, including millions of mothers with small children, are entering the work force in ever increasing numbers.

Nationwide, less than 10 percent of families are made up of married couples with children where the husband is the sole provider. In fact, the work force in the 1990's is 45.5 percent female, and women with young children comprise the majority of new entrants. In my own State of Nebraska, 71.1 percent of all mothers with children younger than 6 are in the work force. Nebraska, in fact, has the highest percentage of any State, of working parents caring for children younger than 6. This amounts to 85,000 children ages birth to 5 with mom and dad working.

In addition to their children, millions of working people must also assume responsibility for their parents. According to the American Medical Association, for every patient in a nursing home, there are three more severely impaired patients being cared for at home. In light of this country's lack of long-term care policy, supporting family members who must temporarily care for the elderly or disabled is critical.

As a businessowner, I understand that healthy small companies are an essential part of our Nation's economy. Because small companies comprise 94.2 percent of Nebraska's business community, they are especially important to the health of Nebraska's economy. In the midst of recession, small business acted as a driving force behind the limited economic growth we experienced. Between 1988 and 1990, 100 percent of the net new jobs in Nebraska were created by small businesses. For these reasons, I have supported flexibility in the implementation of the Family and Medical Leave Act.

The legislation we are currently considering contains numerous provisions to ease the impact on small business. For example, it covers only those employers with 50 or more employees. This provision alone exempts 95 percent of U.S. business and half of all workers. In addition, this bill covers only those employees who have worked for over 1 year and who work an average of more than 25 hours per week. Further, the bill allows employers to exclude their highest paid 10 percent of employees.

Despite the limited scope of this bill, I believe its passage is crucial for one very important reason: The United States has a responsibility to promote the values we hold in common as a Nation. It is clear that we have been neglecting the very people who comprise the backbone of this country, our working families. Our greatest competitors, Germany and Japan both legislate parental leave. Japan provides 12 weeks during which workers are paid 60 percent of their normal salary. Germany provides up to 26 weeks and for workers taking 14–19 weeks, pays them full salary during that time.

I am very concerned, however, that the act be implemented in a responsible fashion. Good intentions become meaningless when Government, in determining regulations, turns intended benefits into unintended burdens. The family and medical leave policy is a straight forward proposition and I will work to ensure that the implementing regulations be clear, simple, and not burdensome in order to mirror this directness.

Through the Family and Medical Leave Act, we can support our American values. We can nurture our entrepreneurial spirit and support our family structure. America will prevail and continue to lead the world in economic strength, not in spite of the support we provide our working families, but because of it. I am pleased to support a bill that can protect the integrity of the family while protecting the vitality of small business.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I ask unanimous consent that I may speak as in morning business for no more than 10 minutes.

The PRESIDENT pro tempore. Is there objection? Hearing no objection, the Senator from Montana [Mr. BURNS] is recognized for not to exceed 10 minutes.

(The remarks of Mr. BURNS pertaining to the introduction of S. 325 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. ROBB). Who seeks recognition?

Mr. BURNS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. SPECTER. Mr. President, I ask unanimous consent to proceed for up to 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 332 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

FAMILY AND MEDICAL LEAVE ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. SPECTER. Mr. President, I note my colleagues have come onto the floor since I started this presentation. So I will not suggest the absence of a quorum because I think other colleagues will seek the floor at this time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the Dole amendment No. 17, and the Mitchell amendment No. 18 in the second degree to the Dole amendment; that there be 4 hours of debate on the Mitchell and Dole amendments, concurrently, equally divided and controlled between the two leaders or their designees; that at the conclusion or yielding back of time, Senator DOLE be recognized to move to table the Mitchell amendment No. 18; that if the amendment is not tabled, the Senate proceed to vote, without any intervening action or debate, on the Mitchell amendment; that Senator DOLE then be recognized to offer an additional amendment in the second degree to the Dole amendment No. 17, as then amended by the Mitchell amendment No. 18, that will be identical to the text of the Dole amendment No. 17; that Senator MITCHELL, or his designee, then be recognized immediately to move to table the Dole amendment No 19; that if the Dole second-degree amendment No. 19 is not tabled, the Senate proceed to vote immediately, without any intervening action or debate, on the Dole second-degree amendment No. 19; that if the Dole second-degree amendment No. 19 is tabled, the Senate then proceed to vote, without any intervening action or debate, on the Dole amendment No. 17, as amended by the Mitchell amendment No. 18; that the bill then be read for the third time; that the Senate then proceed to the House companion, H.R. 1; that all after the enacting clause be stricken and the text of S. 5, as amended, be substituted in lieu thereof, the bill read a third time, and a vote on final passage occur, without any intervening action or debate; and that no amendment, bill, or resolution that relates to the issue of homosexuals serving in the military be in order prior to the earlier of the following: First, July 15, 1993, or second, the conclusion of the hearings that the Senate Committee on Armed Services will hold on the current policy with respect to the service of homosexuals in the military services, as described in paragraph (d)(1) of the Mitchell amendment No. 18; or third, the receipt from the House of a measure dealing with the issue of homosexuals in the military; or fourth, the issuance of any directive by the President on this subject prior to July 15, 1993, which significantly alters the policy as set forth in the White House statement of Department of Defense policy regarding homosexuals in the military, dated January 29, 1993.

Further, notwithstanding this agreement, a relevant amendment by Senator BROWN subject to relevant second-degree amendments, a Pressler technical amendment, and a manager's amendment remain in order prior to third reading of S. 5; and further, that the three amendments listed—that is, an amendment by Senator BROWN subject to relative second-degree amendments, a Pressler technical amendment, and a manager's amendment—be the only amendments in order pursuant to this agreement.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the majority leader.

Mr. DOLE. Mr. President, reserving the right to object, and I shall not object. I have had a conversation with the distinguished majority leader, and it is our hope—although we cannot put it in the agreement—that there will be two rollcall votes in this agreement. One will be on my motion to table amendment No. 18, the Mitchell amendment, and then there will be a rollcall vote on the motion of the majority leader to table amendment No. 19. Beyond that, we would hope there would be no rollcall votes, except maybe on final passage of the family leave bill.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. That is correct, and it is my intention and understanding.

Just so Senators would be aware, what we are talking about here is that Senator DOLE will offer an amendment that has already been at the desk. I will offer a second-degree amendment to it. We will have a period of debate of up to 4 hours. I hope we can conclude it in less than 4 hours, and I have already suggested to the Republican leader that we agree on both sides to reduce the time, and we will attempt to do that.

At the conclusion of the debate, Senator DOLE will move to table my amendment, and there will be a rollcall vote on that. If the motion to table does not carry, then my amendment will be adopted by voice vote as an amendment to the original Dole amendment.

Subsequent to that, Senator DOLE will reoffer the same amendment in the first degree. It will be identical. I will then move to table that amendment.

If my motion to table prevails, that ends the matter and we go to final passage. If my motion to table does not prevail, then Senator DOLE's amendment No. 19 will be adopted by voice vote and then we will go to final passage.

I think I have stated our understanding correctly.

Mr. DOLE. The majority leader is correct. We will do our best on our side to reduce the debate, because of a number of conflicts that are going to be starting at about 6 or 6:30.

I thank the majority leader, and we are prepared to proceed.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the majority leader, as amplified by the two leaders?

If not, that will be the order of the Senate.

Under the previous order, the Chair now recognizes the Republican leader for the purpose of offering an amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that the time start running at 2:30.

The PRESIDING OFFICER. Is there objection? Without objection, the time will be deemed to have begun running at 2:30.

Mr. MITCHELL. Mr. President, I do want to clarify to make absolutely certain that everyone understands, that the other amendments by Senator BROWN, Senator PRESSLER, and the manager's amendment are debatable and we do not have time agreements on them. It is our hope that those can be completed promptly. But for Senators planning with respect to their schedule, under the agreement, those remain to be disposed of. We hope they will be done promptly, but we do not have time agreements on them yet.

The PRESIDING OFFICER. Under the previous order, the time will be deemed to have begun at 2:30 for the purpose of offering an amendment. The Republican leader is recognized.

AMENDMENT NO. 17

Mr. DOLE. Mr. President, I believe my amendment is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. THURMOND, Mr. COATS, Mr. GRAMM, Mr. SMITH, Mr. FAIRCLOTH, Mr. KEMPTHORNE, Mr. WARNER, Mr. LOTT, Mr. MCCAIN, and Mr. HELMS, proposes an amendment numbered 17.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SECTION 1. REVIEW OF DEPARTMENT OF DEFENSE POLICY CONCERNING SERVICE OF HOMOSEXUALS IN THE ARMED FORCES.

A thorough review of all Executive orders, Department of Defense directives, and regulations of the military departments concerning the appointment, enlistment, and induction, and the retention, of homosexuals in the Armed Forces of the United States, shall be conducted by the Congress before July 15, 1993.

All Executive orders, Department of Defense directives, and regulations of the military departments concerning the appointment, enlistment, and induction, and the retention, of homosexuals in the Armed Forces of the United States, as in effect on January 1, 1993, shall remain in effect until the completion of this review with respect to the Army, Navy, Air Force, and Marine Corps and unless changed by law.

Any proposed change in this policy shall be submitted by the President in the form of a bill and shall be introduced in each House of Congress by the majority leader in each House. The bill introduced in the Senate, placed on the calendar, be amendable with germane or relevant amendments, and shall be voted on no later than the close of business three days of session after its introduction.

The bill introduced in the House shall also be voted on no later than the close of business three days after its introduction. If both Houses agree to their separate bills, upon receipt of the House bill, if it is identical, the Senate shall be deemed to have passed the House bill in lieu of its own bill and the same shall be transmitted forthwith to the President.

Any conference report shall be nondebatable.

AMENDMENT NO. 18 TO AMENDMENT NO. 17

(Purpose: Military policy with respect to homosexuals)

Mr. MITCHELL. Mr. President, I offer my amendment now at the desk as a second-degree amendment to the Dole amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] proposes an amendment numbered 18 to amendment No. 17.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Strike all after section 1 and insert in lieu thereof the following:

It is the Sense of Congress that:

(a) The Secretary of Defense shall conduct a comprehensive review of current Departmental policy with respect to the service of homosexuals in the Armed Forces;

(b) Such review shall include the basis for the current policy of mandatory separation; the rights of all service men and women, and the effects of any change in such policy on morale, discipline, and military effectiveness;

(c) The Secretary shall report the results of such review and consultations and his recommendations to the President and to the Congress no later than July 15, 1993;

(d) The Senate Committee on Armed Services shall conduct—

(i) comprehensive hearings on the current military policy with respect to the service of homosexuals in the military services; and

(ii) shall conduct oversight hearings on the Secretary's recommendations as such are reported.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I will be making a statement later in the afternoon, maybe within an hour or so.

In the absence of Senator THURMOND, who is necessarily absent because of the death of his brother, I am going to designate the distinguished Senator from Indiana [Mr. COATS], to manage the bill on this side and also the time on this side.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana as controlling time on that side of the aisle.

Who yields time?

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana [Mr. COATS].

Mr. COATS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized accordingly.

Mr. COATS. Mr. President, it seems like we have traveled a long road. It has not been all that long, but it has been very intense. The debate has been intense, the negotiations have been intense.

I appreciate the majority leader and the minority leader's efforts in working out a situation here today whereby each side can present their argument and a vote can be held on the substance or the merits of the issue before us. On an issue of this controversy and one which has so ignited public opinion, I think it is important that the Senate have an opportunity to debate and vote on the merits of the issue.

We all know that there are a number of procedural ways in which a direct vote can be avoided in the Senate. Those of us who are in opposition to the President's stated change in policy relative to the service of homosexuals in the military believe very strongly that the U.S. Senate and the American people, through their elected representatives, have the opportunity to state their case as to why they do not believe this policy should change, why there should be, before any consideration of a policy change, consultation with the military, hearings before the U.S. Senate, ample opportunity for both sides to state their position on the issue and to explain why or why not the current policy is defective.

When distinguished military leaders, such as General Powell and General Schwarzkopf and many others, have so clearly indicated that this contemplated policy change is absolutely critical to our ability to field the kind of effective national security and military operation to secure the defense of the United States now and in the future, when it is absolutely essential that we examine it carefully before we move forward; we who support the current policy wanted to make sure we had ample opportunity to make our case.

We will have that opportunity. In the next 4 hours of debate, and in the two votes which will follow immediately after completion of that debate, Members of the Senate will have an opportunity to determine whether or not they support President Clinton's intention, as now implemented under agreement with the Joint Chiefs, to reverse decades of policy which, in effect, have excluded homosexuals from serving in the military or whether that policy is justified on the basis of 200 years of military experience and on the basis of those who have studied the issue thoroughly and on the basis of the testimony that has been received from those who are charged with implementing that policy.

Many of us here in this body have participated in the rebuilding of our military. We watched in the late sixties and seventies as a number of factors undermined the morale of our military, the esprit de corps, our fighting effectiveness. We watched as our Nation's military lost the respect of both friend and foe alike and we joined in an effort, beginning in 1980, to significantly rebuild our military. That effort came to fruition in the Persian Gulf and we saw the remarkable combination of quality people, quality training, and quality equipment brought together in a way that minimized loss of life to American men and women serving in the armed services as well as allied nations who joined us in that effort and remarkable success on the battlefield. This was no accident. This was the result of an extraordinary commitment, bipartisan I might say, commitment to rebuild our military, led by our President, supported by the Congress.

Mr. President, I ask to yield myself 5 more minutes of time.

The PRESIDING OFFICER. The Senator is recognized for an additional 5 minutes.

Mr. COATS. In that effort, we have achieved what most experts and observers claimed is perhaps the most efficient, effective military force in the history of the world. We take great pride in that. Americans take great pride in that. Any policy which our military commanders and leaders say will undermine that effectiveness and that efficiency, we are concerned about any change in that kind of a policy.

I think I could summarize the argument fairly quickly and then save time for my colleagues and hopefully myself to respond to other charges or questions as they arise during the course of this debate. I think I can summarize it best by stating just three essential points.

Many people who serve in the military today share a viewpoint that allowing homosexuals to serve in the military goes against their religious beliefs or moral convictions. Many of our young soldiers entering the military today are from families who hold very strong moral traditions, beliefs and convictions, and strong religious beliefs. Many military people have stated that a change in this policy will, over time, significantly affect our ability to retain many of the people whom we look to today for leadership in the military and will affect seriously our ability to recruit the needed people for the decade ahead to continue to supply the quality of people that we need in our military. Because, on the basis of their own personal religious convictions or their moral convictions, they see this change as creating an atmosphere in which they do not want their sons or daughters to serve, or which they themselves do not feel comfortable serving in.

Second, we fear that the change in policy will significantly reduce our ability to field an effective military force. Perhaps the most essential ingredient in an effective military force, as our military leaders tell us and as sergeants and captains and colonels and generals throughout the ages have said, is an intangible aspect that some define as morale, some define as esprit de corps, unit cohesiveness, discipline. General Powell has spoken to this. General Powell has indicated that change in this policy will undermine good order and discipline.

General Schwarzkopf said it will destroy the military. These are strong words. They need to be heeded. They need to be listened to. That intangible quality say, our field commanders, our sergeants, our platoon leaders, our battalion leaders—that quality is something that is fashioned in an extraordinary way through intense discipline, training, and it is derived on the basis of a unit cohesiveness that is critical to our effectiveness. It is important that we listen to our military leaders when they tell us that this change in policy will affect that in a very dramatic way.

Now, why? Why? Why does allowing homosexuals in the military affect that ability to field an efficient, effective military? Have not homosexuals served in the military, served as good patriots, served with courage, made positive contributions? Absolutely, they have. But there is an essential element here present that is difficult to talk about, no one really wants to talk about, but it must be talked about for us to understand what is at stake. It is a three-letter word called sex.

For the same reason we do not put men and women together in the enforced intimate living situations that we find in our military which is different from every aspect of life—where people live together in barracks, sleep together in tents, shower together in makeshift showers in the desert sands of the Persian Gulf, dress and undress with each other—for the same reason we do not put men and women together in a situation like that because of the sexual attraction element which is one of the most basic of all human instincts and really does not need to be explained in a whole lot of detail—I think everyone understands that——

Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. COATS. That is a tension-creating, conflict-creating, consequence-creating element that destroys morale, that undermines unit cohesiveness and effectiveness.

So we separate men and women. It is a problem but it is not an insurmountable problem.

When we are dealing with homosexuals who by definition have a sexual preference for someone of the same sex and put them in those same intimate enforced living conditions, we reach an insurmountable problem. It is a problem that unit and field commanders cannot overcome.

If the rationale is that we just simply have a behavioral code, then there is no justification or rationale to separate men and women. Because if the orders are simply everyone will be a professional, everyone must restrain their behavior or their conduct and it simply is bad conduct that results in disciplinary action, then there is no basis on which to say that men and women should not be put in the same situation.

The reality that we are facing is that the sexual instinct is inherent in all of us and we are simply tempting beyond individuals' ability to cope with situations—not all individuals but some individuals—when we set up a situation where that sexual attraction element is so present in those enforced 24-hour-day military-living situations.

For that reason, we need to closely examine the consequences of this, the implications of this, the way all of this will affect our military before we change the policy. Our objection is that President Clinton, instead of first getting the evidence and then making a determination about the policy, has insisted on a policy change. And the policy has now changed. And that is the issue before us. I hope we can develop that as we move along.

At this point I believe my time has expired.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I yield 10 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire [Mr. SMITH] is recognized for up to 10 minutes.

Mr. SMITH. Mr. President, during the recent Presidential campaign, candidate Clinton repeatedly criticized the vigilance of President Bush in defense and foreign policy issues and promised that, if elected, he would focus like a laser beam on economic issues.

But, ironically, shortly after taking office, this beam is being focused by President Clinton at our Armed Forces and it is igniting a blaze of controversy and dissent throughout the Nation.

By acting to overturn the ban on homosexuals in the military, the President I believe has embarked on a very dangerous course, a course which jeopardizes the readiness and the morale of the U.S. military: the best military in the world.

From the outset, let me say I believe it is a grave mistake, both substantively and procedurally. From a procedural standpoint, the President is acting unilaterally, without proper consultation with Congress and against the strong objections of his military advisers, including the Joint Chiefs. In fact, it has been widely reported that President Clinton strategized with gay rights advocates before consulting his own Joint Chiefs as to how to approach this volatile issue.

I find it extremely troubling that someone with no military experience and a controversial record of opposition to past military campaigns can so casually dismiss the input of our Nation's most trusted and experienced military commanders.

The substance of the President's initiative is even more objectionable. The existing policy embodied in Department of Defense directives is based on the concept of military necessity. It states that homosexuality is incompatible with military service, and that the presence in the military environment of persons who engage in homosexual conduct or who, in their statements, demonstrate a propensity to engage in homosexual conduct seriously impairs the accomplishment of the military mission.

Military necessity is and should be the driving issue here and the Federal courts have traditionally accepted the argument that national security concerns demand wide latitude in military personnel policies.

Mr. President, in his attempt to overturn this policy, President Clinton is shifting the focus away from military necessity toward equal opportunity. However, this approach is inherently and fatally flawed. The U.S. military is not designed to be a mirror of society as a whole. It is a unique community of individuals who possess the mental and physical discipline required to excel in an extremely demanding environment, sometimes a life-threatening environment. Civilian standards of equal opportunity are simply not compatible with the military regime. Whether it be rules about weight or hair length, curbs on free speech, or off-duty behavior, the military discriminates in ways that would not be tolerated in civilian society, and it must. This long accepted practice is necessary and appropriate given the unique circumstances which accompany military service. Where the defense of our Nation is concerned, the rights of the individual should never take precedence over the mission and duty of the unit.

There are many compelling reasons to maintain the existing Defense Department policy. Unlike civilian society, military service entails forced association, often in very close, cramped quarters such as on ships, submarines, barracks, or in crude field conditions. Military personnel eat together, sleep together, shower together, and share the same latrines. Privacy and modesty are unaffordable luxuries. Opening the ranks to homosexuals would exacerbate this hardship and transgress upon the legitimate privacy rights of heterosexual soldiers who may find homosexuality offensive and corrupt.

One thing is for certain, by legitimizing homosexuality in the Armed Forces, the President is ensuring that homosexual behavior will, inevitably, become more brazen and prevalent. Promiscuity, already a major health problem in the homosexual community, will likely increase in on-base clubs, local nightclubs, and throughout forces deployed worldwide. While some may dismiss this threat as exaggerated, the reality is that such promiscuity could have a very direct impact on the incidence of sexually transmitted diseases within the Armed Forces.

According to the British Journal of Medicine, the probability of homosexuals contracting sexually transmitted diseases is 20 to 50 times greater than heterosexuals. Lifting the ban on homosexuals will almost certainly increase the incidence of these diseases, including HIV infections, which are the precursor to AIDS. And since soldiers must be available to provide life-saving transfusions in combat, the military's walking blood bank would be endangered.

Perhaps most importantly, the presence of openly gay personnel will undermine morale and unit cohesion. Although today's U.S. military is the best trained, best equipped fighting force in the world, morale is already suffering from massive, ongoing personnel reductions. In addition, the President intends to eliminate 200,000 more personnel in the coming years, which will necessitate widespread involuntary separations. Consequently, morale within the All-Volunteer Force is plummeting, Mr. President, as loyal soldiers with distinguished records of achievement are being forced out of service to meet arbitrary budget reductions. Now, those who survive the downsizing are confronted with what, for many, is the abhorrent prospect of serving in an environment where open homosexuality is tolerated and, indeed, legitimized.

What kind of message is the new Commander in Chief sending to our Armed Forces? While candidate Clinton vowed to be a different kind of Democrat, President Clinton is rapidly establishing himself as a traditional antidefenese liberal. His radical military agenda, featuring meat-ax budget cuts and legitimization of homosexuality, I believe is reckless. And although the Joint Chiefs, rank and file service personnel, and every major veterans organization oppose lifting the ban, the President is callously disregarding their input in favor of the special interests of one community.

Mr. President, simply put, this process is a sham. Although the President has decided to defer final action for 6 months, it is a foregone conclusion that he will, in fact, overturn the ban. He said it. Thus, the so-called comprehensive hearings on this issue which Senator NUNN will chair are nothing more than a formality that will have no impact on the outcome. The President has made up his mind and no sage wisdom or testimony to the contrary will be considered. I, for one, object to it. And judging by the abundance of phone calls, faxes, and letters raining in on Capitol Hill, the American people do, as well. From the State of New Hampshire alone, phone calls are running more than 5-to-1 in opposition to lifting the ban.

As public servants and American citizens, all of us hope that the President succeeds in improving America. But the portrait of the New Commander in Chief that emerges today is disturbing. Instead of approaching this fundamental national security issue in a balanced, statesmanlike manner, the President is acting brashly to advance the radical agenda of one community. His decision to recklessly overturn 40 years of personnel policy is nothing short of arrogant. The consequences may be devastating, yet the President apparently is not giving it a second thought.

What should the American people infer from President Clinton's action? While candidate Clinton was quick to dismiss concerns over his antiwar activities and lack of military service as political hype, the fact remains that, in his first military initiative as Commander in Chief, President Clinton has declared war on his own Armed Forces. This ill-conceived, poorly timed battle hardly assuages concerns over the President's moral authority and leadership qualities. To the contrary, it can only rekindle and amplify lingering concerns from the campaign.

Mr. President, setting aside all of the media hype and competing special interest agendas, this issue boils down to one of military readiness. War is not a game. It is not about what is fashionable, it is not about what is politically correct. It is an ugly, brutal business in which success has no substitute.

Men and women die in war. Fathers and mothers and brothers and sisters and parents and families send these young men and women into combat and many times they die.

Those of us who have served in the military and gone to war know that unit cohesion, discipline, and morale are indispensable components of readiness. Anything that erodes these elements undermines the capability and effectiveness of the force.

If President Clinton would listen to those who are most qualified to comment on this issue, he would know that lifting the ban will open a Pandora's box of trouble. Take for instance, Gen. Norman Schwartzkopf, whose stewardship of Desert Storm earned him a distinguished place in military history. When questioned about lifting the ban, General Schwartzkopf replied that "allowing homosexuals into the military will destroy the military." There is certainly no ambiguity there, and that same sentiment has been echoed throughout the country by the Joint Chiefs of Staff, active and retired military personnel, and a plethora of veterans organizations. It is a sad statement, indeed, that the Joint Chiefs had to specifically request a meeting with the new Commander in Chief in order to have any opportunity to convey the services viewpoint on the issue.

In closing, Mr. President, I urge my colleagues to support the Dole amendment. Allowing homosexuals to serve in the military is prejudicial to good order and discipline, and will undermine morale and unit cohesion. Those who have served in the Armed Forces understand that, in the military regime, homosexuality is not just another lifestyle choice. It is an orientation that is simply incompatible with military service. The Armed Forces oppose lifting the ban. The American people oppose lifting the ban and if the President will not respect the will of the American public and heed their call, Congress must. I urge the adoption of the Dole amendment and yield back the remainder of my time.

The PRESIDING OFFICER (Mr. KERRY). Who yields time? The Senator from Georgia.

Mr. NUNN. Mr. President, first let me state again, as I have often in the last 8 to 10 days, that I do not support the original announced policy of President Clinton. I do, however, support the compromise announced on Friday by President Clinton regarding the Defense Department's policy excluding homosexuals from military service. I am also cosponsoring the second-degree amendment today offered by the majority leader, Senator MITCHELL.

I think everyone ought to be clear what this second-degree amendment does and what it does not do, and everyone ought to be clear about what President Clinton's directive that was announced last Friday does as opposed to his original plan for the Executive order.

Mr. President, the Mitchell amendment does not change the existing policy of the Defense Department excluding homosexuals from serving the Armed Forces. A vote for this amendment is not a vote to permit homosexuals to serve in the Armed Forces.

What the Mitchell amendment does is endorse the 6-month review period of this entire issue which was announced last Friday by President Clinton. What it does is say that neither the Congress nor the executive branch is going to take any final, determinative action on this issue at this time. Instead, both the Congress and the executive branch are going to spend the next 6 months carefully reviewing the basis for the current policy and the consequences of potential changes to that policy.

So my disagreement with my colleagues who have already spoken today and others who may speak on behalf of the Dole amendment is not a disagreement on substance. My strong feeling is we do not need any amendment at this time, and I will enumerate both why I am in favor of the second-degree amendment sponsored by the majority leader and why I do not support the Dole amendment.

Mr. President, the amendment sponsored by the majority leader directs the Secretary of Defense, in close consultation with the civilian and military leadership of the Department of Defense, to conduct a comprehensive review of the current Defense Department policy with respect to the service of homosexuals in the Armed Forces. The Secretary will report the results of his review and consultations to the President and to the Congress no later than July 15, 1993.

The majority leader's amendment also directs the Armed Services Committee to conduct comprehensive hearings on the issue of homosexuals in the Armed Forces, and on any recommendations in this area made by the Secretary of Defense.

If this amendment passes, Mr. President, the Senate will have 6 months to carefully review the Defense Department's policy on excluding homosexuals from the Armed Forces. Frankly, my hope is that once the Senate debates this issue and once we dispose of this issue this afternoon, we will be able to shift Congress' and the Nation's attention for the next several months to the truly important issues that face our country—the issue of economic growth, the issue of jobs, the issue of savings, the issue of deficit reduction, the issue of investment, the issue of health care, and the issue that we now have pending of family leave policy, so important to our children.

Mr. President, let me take a few minutes to discuss what I believe the compromise by President Clinton clearly set forth last week.

First, and most importantly, for the average officer or noncommissioned officer in the field who works directly with our troops, the compromise announced by President Clinton will not make a single change in the way that commander operates in the next 6 months. When there is an accusation or admission of homosexuality, a commander in the field will process the case in exactly the same manner that it was handled before last Friday's announcement.

Under the compromise, commanding officers will continue to process cases for discharge under the current laws and regulations relating to homosexuality. Cases involving homosexual conduct will be processed through actual separation and discharge, in accordance with current policy.

Cases involving only homosexual status—that is, those cases not involving any homosexual acts or conduct, where someone simply indicates they are homosexual—will be processed through all the administrative proceedings: Notice of the allegation; a hearing before a board of officers; review by the separation authority; and approval by separation authority. If the separation action is approved, the person will be separated from active duty.

Let us be clear on this important point. No member of the Armed Forces in the next 6 months who is found to be a homosexual will be retained on active duty under the compromise directive just put into effect.

If the Attorney General suspends the discharge of a person that is engaged only in a status case, if that happens, then that person will be placed in the Standby Reserve—not in a Reserve unit, but in the Standby Reserve—without pay until such time as this policy is concluded one way or the other. Then that individual, if the policy is reversed later, then at that stage that person in the Standby Reserve will be able to apply to return to active duty.

The Standby Reserve includes individuals in a nonpay status who are not affiliated with any unit or position designated for mobilization in the Ready Reserve. Individuals in the Standby Reserve would have the option, upon request, to return to active duty if the policy is change. If the policy is not changed, these persons would be discharged.

In all cases involving homosexual conduct and status, the compromise makes it clear that commanding officers may direct changes in the assignment of personnel during the course of separation proceedings if they determine that such changes are in the best interests of the individual or the unit concerned.

The second major element of the compromise, Mr. President, is that the Defense Department will no longer ask incoming recruits about their sexual orientation. This is really the only significant change in policy that has taken place. However, the compromise places renewed and appropriate emphasis on informing all military members of the laws and regulations on sexual conduct which apply to them, not just on homosexual conduct but on important issues like sexual harassment. The briefings on military justice, which all recruits are required to receive when they join the military and periodically thereafter, will include a detailed explanation of the applicable laws and regulations governing sexual conduct by members of the Armed Forces.

Under the final component of the compromise, the Department of Justice will seek continuances in pending court cases involving former military members who have already been discharged on the basis of homosexuality and who are seeking reinstatement. The continuances will simply freeze those cases, which means they will not get back into the military until the completion of the review directed by the President.

Mr. President, the Armed Services Committee's hearings on this issue will begin next month. As Members will recall from the debate on the defense authorization bill last year, our committee would have held these hearings even without the events of the last 2 weeks. Even if President Bush had been reelected, we would have held these hearings, because I made a firm commitment to Senator METZENBAUM on the floor of the Senate last year, when he had a proposal which would have lifted the ban on homosexuals in the military. I opposed that provision on the floor last year. But I did state to my colleague from Ohio that we would have hearings this year. And we will.

Mr. President, I hope that our hearings will be thorough, fair, and comprehensive. We will receive testimony from the senior civilian and military leadership of the Department of Defense. I also think we ought to hear directly from the people who will be most affected by any change in the current policy, that is, the men and women in our military uniforms who serve in the ranks of our services throughout this country and the world. We will make every effort to hear from those who support a change in the current policy, as well as those who favor retention of the current policy. We will not simply hear from the top-ranking officials, but we will hear from those who will be most vividly affected. We will hear from our enlisted personnel, as well as our young officers.

Mr. President, I start—as I have said many times—from the premise that we should encourage every American to serve his or her country in some capacity. I am a strong supporter of national service. I applaud the patriotism of all persons, including homosexuals, who desire to serve our Nation in the military.

I have no doubt that homosexuals have served and are today serving in the Armed Forces with distinction. But most of them—and this is very important—are not today openly disclosing that sexual orientation.

I also believe, however, that we must give careful consideration to the advice of our military commanders on this subject. Gen. Colin Powell, Chairman of the Joint Chiefs of Staff, has stated that in view of the unique conditions of military service, active and open homosexuality by members of the armed services will have a very negative effect on the military morale and discipline.

I have said for many months now that I agree with General Powell's assessment. I also believe, however, that we have to listen to other points of view, and that is what we will be doing in the Armed Services Committee. I hope all of us on both sides of this issue will be willing to listen to both sides.

Mr. President, every man and woman in this country has a right to be respected. Our Constitution enshrines individual rights and liberties. Our Constitution also underscores the essential role of the U.S. Government in providing for our common defense. When the interests of some individuals bear upon the cohesion and effectiveness of an institution on which our national security depends, we must be very cautious and careful and prudent.

If there is one thing I have learned on military matters in 20 years in the Senate, it is that our Armed Forces will function extremely well if we respect and support their basic requirements for cohesion and effectiveness. Resolving this conflict between individual rights and the basic needs of our military is difficult, but our Nation has had an effective military because we have achieved an acceptable balance. This balance must be maintained.

All of us must recognize the military is not like every other walk of life. Most people—in fact, almost everyone in the military, at one time or another, is called to give up some of their constitutional rights that they would have if they were in society. They do not have full first amendment rights. Anyone who walks in as a private and tells a sergeant what he thinks, fully and completely, everything on his mind, will find out very quickly that the first amendment of the U.S. Constitution does not fully apply in the military.

Anyone who says to the sergeant or chief petty officer at night, when they come into the barracks and ask for an inspection, that they are exercising their rights under the fourth amendment of the Constitution against search and seizure will carefully and quickly be disabused of that full constitutional protection.

And everyone who has served in the military, or even observed, knows that the military gives up a tremendous right of privacy that all of us exercise on the outside. I think all of us have to understand that. And we have to maintain the balance between the constitutional requirements protecting individuals, and the constitutional requirement that we in the Congress maintain armies and navies and protect our national security.

I would like to make this clear: The Joint Chiefs, every member of the Joint Chiefs supports the statement that President Clinton made last Friday. That is the statement that would be overturned by the Dole amendment. But every single member of the Joint Chiefs—to the best of my knowledge, as reflected by General Powell's clear statement—supports the statement that President Clinton made last Friday, which was the compromise.

In General Powell's words, the Joint Chiefs "* * * believe that the 6-month period of time that we have been given to work this issue, to study it, to hear the views of all concerned, and to work with the Congress will give us the time to do this without the press of the current situation on us."

Mr. President, this is a difficult and emotional issue. None of the debate on this issue should be taken as an excuse by anyone in our military services—or, indeed, anyone in our entire country—to engage in unacceptable behavior.

We have the most capable military in the world today because of the strong military leaders who instill good order and discipline throughout the ranks of our military services. Members of the Armed Forces know that violence against people in their own ranks or in the civilian community is incompatible with good order and discipline, and is completely incompatible with expectations of our military men and women.

Physical abuse of homosexuals by members of the Armed Forces cannot and should not be tolerated at any time, any place, by any commander. A strong signal must go out from every military commander from the very highest levels right down through the ranks making sure that every individual in our Armed Forces knows that we in this country condemn any instances of this kind of behavior.

Mr. President, in the coming months I hope that all of the interested parties will participate in a constructive and a deliberate discussion of all the questions raised by potential changes to the current Defense Department policy of excluding homosexuals from military service. I outlined a long series of questions in a speech on the Senate floor last week concerning the consequences of changing the policy in the way the President originally indicated he planned to make the changes.

In a few moments I will outline the questions that will come up if, indeed, we pass the Dole amendment. I have urged from the very beginning that the

President basically be cautious in moving forward, and that he think carefully about these questions before he issues an Executive order.

I also urge my colleagues in the Senate to listen carefully to the remarks I will make in a few minutes outlining the questions which I do not believe have been thought about that would ensue if the Dole amendment passed and became law.

Mr. President, it is up to all of us on both sides of this issue to look before we leap and to make sure we are not guilty of the old saying, ready, fire, aim. We need to aim before we fire.

I believe that the amendment today that is being proposed—I will go over that in detail in a few minutes—if we pass it, we would be guilty of the old saying, ready, fire, aim. We would not know what we are doing. There are just about as many questions that come up that relate to this amendment as there are questions that would have come up if the Executive order had been issued as it was originally envisioned.

Mr. President, I retain the remainder of the time and yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. I yield myself 5 minutes of Senator COATS' time.

Mr. President, first let me commend the chairman of the Armed Services Committee for his statement and for the work he has done. Were it not for Senator NUNN, were he not able to slow down or stop the train, I think we would be in a far more difficult position than we are today.

We were initially under the impression that President Clinton did not consult with Senator NUNN or anyone else in the Senate on this issue. However, Senator NUNN has had several meetings with President Clinton regarding this matter but was simply not able to persuade him to defer any Executive action until hearings have been held. In fact, President Clinton has moved ahead despite Senator NUNN's recommendations.

I am not certain that every member of the Joint Chiefs of Staff agrees completely with the position articulated by the President last week. I have tried to contact at least one member, if not more, of the Joint Chiefs of Staff, and they have been, in essence, muzzled. They are not in a position to speak about this issue to anyone. I am not prepared to say they fully support the position of the President, but, nonetheless, he is Commander in Chief. They will either salute him and proceed with his policy or consider resigning in opposition.

Mr. NUNN. Will the Senator yield for a brief observation? I do not mean to say the Joint Chiefs agree with the President's position, including his statement that he planned at some point to move forward with the Executive order. They disagree with that. They do not want the policy changes.

What I intended and hope I indicated was that what they agreed with was the carefully worded directive the President handed down for what would happen over the next 6 months.

Mr. COHEN. I thank the Senator for his clarification. I think we have to be very careful in how this vote is characterized. On one hand, some say that those who support Senator DOLE's amendment are antigay. If you follow that argument, then you would also say that those who support Senator NUNN's or Senator MITCHELL's position are completely for gays in the military. Neither conclusion is warranted. I think that we have to address this as a procedural matter. This is a debate over what is the proper procedure. The President's position has been, or at least perceived by many of us as, you go ahead and hold your hearings; I intend to move forward in July.

That, to me, is not an acceptable position. Frankly, I think we ought to hold hearings first and then decide how to proceed.

President Clinton and I have one thing in common. Neither one of us has ever served in the armed services. For that reason, I think we have to proceed carefully. The President and Congress have an equal responsibility and an equal power in deciding this issue, and must proceed with caution.

The President and I have something else in common. We feel we must root out discrimination wherever we find it. We both know that our society has historically and, to a great degree, continues to discriminate based upon race, sex, age, and religion. We both believe discrimination based on these factors is intolerable and unconstitutional.

At issue here is whether it is permissible to discriminate based upon sexual orientation. This matter is unclear. As Senator NUNN has pointed out, homosexuals have served in the military for years. They are equally patriotic, equally courageous, and equally capable to any heterosexual soldier. That is a given.

As we all know, there is no rational basis for discriminating based on race, sex, age, or religion. Is there a rational basis to exclude gays from the military?

I do not know the answer to this question. I have not served in the Navy or the Marine Corps. I do not know what the living conditions would dictate under those circumstances. I do not know if lifting the ban would have a negative impact upon morale, unit cohesion, and discipline. Maybe we can formulate policies to minimize, if not eliminate, anything that undermines these three very important factors.

During the next several months of hearings I will keep an open mind about whether we can change our policies to accommodate gays in the military without undermining morale, unit cohesion and discipline.

I hope that we will consider the entire spectrum of this issue. During the hearings, we expect to call the Joint Chiefs of Staff and General Powell, who stand in opposition to changing the ban. However, there are other individuals who favor lifting the ban. I hope that they will be included among the witnesses, as well as those who currently serve in the military and those who will serve in the future.

As I have indicated before, I intend to support Senator DOLE but with the forewarning that I am completely open to lifting the ban. I am open to the idea if I can be persuaded that it can be done without compromising the readiness, effectiveness, efficiency and morale of the military.

I yield 5 minutes to the Senator from Wyoming.

Mr. WALLOP. Mr. President, let me echo the comments of Senator COHEN, that the Senate, the Congress, and the country owes the distinguished chairman of the committee for giving us the time and ability to make judgments on this.

Mr. President, there is one thing that many who have not served in the military, and many who maybe even have served in the military, seem to drop in their consideration of this argument. This is not a gay bashing question. This is not a social issue. This is a military policy issue.

Mr. President, I say that among the most important considerations for most Americans in this is to understand that the military of the United States is America's last pure meritocracy. Therefore, it is not the same kind of issue as was—as many have stated—bringing blacks into coequal service in the military.

This is quite different than that. That is unchangeable by the participants. All of us in this country—black, white, Hispanic, and Asian—took tremendous pride in the achievements of the military in the gulf. Since that time, we have commented to each other not how well blacks have performed or Asians, but how well our military performed.

Why do we say that? It is because those in the military are promoted, are maintained in military service on one basis, and one basis alone, and that is their merit, achievement as soldiers, sailors, airmen, male or female; they are kept in service and advanced and promoted solely on the basis of how well they perform. They do not have the Office of Economic Opportunity. They do not have the Justice Department. They do not have anybody else overlooking who gets promoted, who is permitted to reenlist, who is not promoted or is passed over for promotion. It is a judgment, albeit from time to time probably unfair, but mostly not, because the demonstrated capability of the men and women of the armed services of the United States is based solely on their ability to perform jobs and duties for which they have been enlisted and enrolled.

Mr. President, if you take a behavioral issue and insert it into that equation, and if one is able to claim that one has not been promoted, or one has been passed over for promotion, or one has in fact not be permitted to reenlist, on the basis that one is gay, and we go to the courts and we determine in the courts that that may have been part of the judgment, and all of a sudden merit leaves the whole performance standard of the Armed Forces of the United States, instantaneously that happens. Commanders no longer dare make judgments as to who in their unit is most able and most worthy of promotion. Commanders will suddenly have to make a judgment based on other elements than performance.

Mr. President, this would be catastrophic for a nation downsizing its military forces, for a nation choosing to be capable, but smaller, and the farther we remove capability from the judgment of those who get to say who stays, who advances and who performs what job, the less capable, the less certain America becomes of the Armed Forces that serve it, protect it and project it.

Mr. President, that is fundamentally the issue. It is the issue of being able to promote solely on the basis of performance and not to be able to be challenged in court on the basis of other lifestyle projections.

Mr. President, I want to express my dismay and surprise at the confrontational and uninformed way in which President Clinton has chosen to deal with the issue of homosexuals in the military. This is a curious arena in which to make his first major national security decision; with pressing crises around the world and our forces deployed on missions in Iraq and Somalia, President Clinton has decided to ignore the advice of his uniformed military advisers and perform politically motivated social experiments with the American military. I find it hard to believe that a man with no military experience would so carelessly dismiss the 200 years of combined military experience possessed by the Joint Chiefs of Staff.

In addition to ignoring the Joint Chiefs of Staff, the President also has attempted to usurp Congress' role in regulating the Armed Forces. As article I, section 8 of the Constitution clearly states, the Congress shall have the power to, "make Rules for the Government and Regulation of the land and naval Forces." We should not relinquish that duty to a new imperial Presidency. This is not a simple housekeeping question. Lifting the ban on homosexuals would fundamentally alter military conduct and threaten discipline, morale, and effectiveness.

Congress must be involved in deciding the merits of such a dramatic change before it is implemented. Since the President has already taken preliminary action that amounts to a partial lifting of the ban, it is only appropriate for Congress to now consider this issue.

Under the banner of a compromise within his own party, the President, says he has delayed for 6 months making any changes; but this just isn't so, he has changed the rules, and has no intention of listening to the results of any hearings. If President Clinton assumes that he can simply suspend existing policy while Congress waits patiently he is seriously misguided.

I will support the Republican leader's amendment since, unlike the President's action, it does not prejudge the outcome of congressional hearings and it permits an unbiased 6-month review. I also support the Dole amendment since it requires that any changes to current policy be undertaken in as a change in law. This issue must ultimately be decided by a vote in Congress.

Mr. President, before we vote on this issue, let me express my own views. Homosexuals have the same rights as all citizens in this county, as is proper and just. That is not the issue.

The military is not just another American organization or place of employment. It is governed with a clear goal of providing a means of projecting and protecting American's interests. It is in the business of fighting and winning wars. Federal courts have rejected any constitutional right to serve in the Armed Forces or any right to a military career or to continued service. Service in the military is a privilege that can be ended at any time based on the changing needs of the military.

The core of the argument, supported by the supreme court, is that the military is a specialized form of society drawn from civilian society, and must be free to accomplish its mission. Mr. Aspin has no basis to suggest that the courts will somehow step in and make the change. The district court ruling in California is only a ploy; it will be overturned when it arrives at the Supreme Court as have previous cases for judicially changing military regulations. Supreme Court opinions in the area of military necessity versus individual rights have been clear and consistently in favor of military necessity as the overriding consideration. My colleague, Senator NUNN was right to recall the differences in military and civilian life in his recent statement, when he reminded us that requirements of discipline supersede the rights of free association and some of the rights included in the first amendment.

The High Court has repeatedly sustained the argument that the military must be free to accomplish its mission. Chief Justice Rehnquist's opinion in the Goldman case sums it up well:

> The military need not encourage debate or tolerate protest to the extent that such tolerance is required of the civilian state by the First Amendment: to accomplish its mission the military must foster instinctive obedience, unity, commitment, and esprit de corps.

So, Mr. President, Mr. Aspin should know better than to assume that the courts will somehow lift the burden from the administration to make its case.

The key point here is that military necessity requires stricter standards of behavior and lifestyle. Military readiness is the correct reference in the present debate unless changed by Congress.

Those who favor lifting the ban on homosexuals in the military have sought to shift the frame of reference, from military necessity to equal opportunity. We should not confuse the two concepts or attempt to apply one in a context where it does not fully apply. To do so would undermine the military's long supported right, if not duty, to regulate its society to provide for combat effectiveness.

As Senator COATS recently pointed out in the New York Times:

> Lifting the ban will inevitably mean privileged treatment. Will a base have to provide housing for homosexual couples as it does for families: Will same-sex "dependents" receive medical benefits? Will quotas be required in hiring and promotion?

It this sounds hysterical, consider this portion of a letter to the Superintendent of West Point by an ACT UP member who was a Clinton volunteer:

> Lifting the ban is not enough. * * * We intend to sue in Federal Court as soon as the ban is lifted to insure compensatory representation in the service academies. In particular we intend to get a ruling mandating a set number of places for homosexuals in the Air Force Academy, the Naval Academy, and West Point.

Homosexuals argue that it's not a matter of integrating them into the military since they are already there. Much is made of the apparently distinguished service of selected individuals who came out of the closet. This misses the point: Sure, there are some gays who fit in, but the exception does not prove the rule. Once the sanctions are lifted, they will be free to conduct themselves as they see fit. Even if sodomy is still proscribed, obvious gay behavior will undermine privacy, morale, and discipline.

Nor is the fact that other countries allow homosexuals in the military reason for us to follow suit. In fact, those countries that permit homosexuals to serve in the military have serious problems. Most of them must severely discriminate against them to protect privacy, cohesiveness, and morale. Some do not allow gays to possess security clearances or become officers. Promotion opportunities are limited. Even extremely liberal countries like Holland face serious problems of morale.

Mr. President, the Congress has a duty to the people in the armed services to guarantee policies that protect them and acknowledge the unique nature of the society they voluntarily entered into in order to protect us. As Senators, we have a duty to listen to our constituents, and we have a duty to the Constitution to govern and regulate the Armed Forces.

The existing policy is comprehensive in its reasoning and stands on its own as a tried and tested guarantor of military effectiveness. This policy must be reaffirmed, in my view, in a statutory form, not to condemn anyone or to restrict anyone's rights, but rather to provide for the common defense.

Mr. President, we must be clear about one thing: Military service is a privilege not a right. Access to the military has never been fair. Because victories in combat are achieved by cohesive units, the Armed Forces routinely sacrifice individual interests to ensure unit cohesion. Military service is legally restricted or denied entirely to patriotic Americans who are too tall, too short, too fat, color blind, flat footed, and mentally or physically handicapped in any way. In the civilian world we aggressively seek to protect the civil rights of these groups, but in the military, they simply do not belong.

There are other restrictions; single parents, for example, are not allowed to enlist. This is no reflection on the inherent worth of these people as human beings; they are simply not suited for military service. Professional military judgment and experience indicate that mixing known homosexuals and heterosexuals degrades cohesion and combat effectiveness. It is not the individual qualities of the homosexual, but rather homosexuality itself, which is incompatible with military service.

Mr. President, the administration has tried to cloud the discussion by referring to this as a matter of status versus behavior; that somehow homosexuals can be integrated into service life as long as their behavior isn't against regulations. Mr. President, this explanation is foolish at best, and can be explained by the simple analogy of requiring military men and women to share the same showers and open barracks, yet promising to punish only those who trouble others or misbehave. Status versus behavior is high sounding foolishness, and intentionally confuses the discussion.

If the President feels he can just sign an order and end the problem, he is wrong. Military effectiveness rests on more than commands from above. Men and women risk their lives, but only because they trust their commanders and their comrades—and their commander in chief. Most Americans are uncomfortable with homosexuality in the military; in a September 4, 1992, USA Weekend survey, 67 percent of the respondents wanted the ban to continue. No change in Pentagon policy can change these feelings. A commanding officer who is known to be gay will encounter so much mistrust, if not hostility, that his ability to lead his unit will be severely compromised. All kinds of orders and punishments will not make men and women willingly put their lives in his hands.

And finally, there is the President's clarification on the issue. He now tells us that he doesn't see why homosexuals can't be allowed to serve, it's just that they can't behave badly or act contrary to the law.

I believe this administration has the burden of proof to convince this Nation that the actions they propose would not impair military effectiveness.

Since no one in the administration is willing to listen to any but themselves, Congress must act now to codify the current policy. Any meritorious changes to this standard can then be reviewed and debated in the normal manner of hearings and floor debates and votes on specific changes. In the meantime, we should assure our service personnel that there will be no suspension of the policy or other modification not based on a thorough review and fully debated approach.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I think the question of sanctioning the presence of homosexuals in the military is certainly one that this body recognizes is a difficult and very diverse issue. I think it is an issue that can only be fully addressed with the passage of time and careful deliberation by this body.

At the outset of a new administration, in a Nation beset with a variety of vexing problems, this is certainly not the issue that should have emerged at the top of our collective priority list. Yet, here we are, engaged in a debate today that most of the Members of this body did not seek.

Make no mistake about it, President Clinton, in choosing this issue as his first foray into the defense area, is the one responsible for filling our mailrooms, jamming our switchboards, and overburdening our fax machines with expressions of public opinion and outrage opinion.

I can understand how President Clinton, sensing his miscalculation, would prefer to place the issue on the back burner for 6 months. But the pot was already been brought to boil, so we are forced to deal with it and deal with it now.

In most instances, an individual's private behavior and his or her own private life should certainly not be a Government concern. But when a particular behavior has the ability to adversely affect good order and discipline in our armed services, it suddenly has an impact on one of the Government's principal obligations and constitutional duties, to provide for the common defense.

Mr. President, over the past several weeks, I have listened intently to a number of my constituents, many of whom have served, or are serving, in our Armed Forces. By an overwhelming margin, Alaskans oppose a policy of reversal.

Those who have personally led troops in combat are most adamant in their opposition to lifting the ban. They are alarmed that a President with no military experience has reaffirmed his desire to eventually reverse the current policy, notwithstanding the advice of the Joint Chiefs of Staff based on some 200 years of combined military service.

Mr. President, my position is clear. It is not an issue of rights. I am certainly not critical of those who choose a lifestyle. I think individuals have a right to choose their lifestyle. But serving in the military, Mr. President, is not a right, it is a privilege. Not everybody can serve in the military. One gives up certain rights in going into the military, and I think that is the basic difference, Mr. President. Military service is a privilege, not a right.

I have a great deal of confidence in my colleagues on the Armed Services Committee to examine matters. The hearings that they will be holding clearly will bring to light a vast variety of specifics with regard to this issue.

But as the ranking member on the Veterans' Affairs Committee, I have asked the chairman, Chairman ROCKEFELLER, to convene a hearing on this issue as it impacts the Department of Veterans Affairs, and its ability to serve our Nation's veterans.

I think this is an area that has been overlooked, Mr. President. VA has an obligation to provide health care of our veterans, and this proposal would supply an additional burden.

Hearings before the Veterans' Affairs Committee would give the veterans of this Nation the opportunity to be heard, since this change could well affect them and the level of benefits that they might receive in the future.

For example, Newsweek reported that homosexual men account for over two-thirds of all reported AIDS cases. The AMA, American Medical Association, advises us that 50,000 Americans will die of AIDS this year. If homosexuals have a higher incidence of sexually transmitted disease than heterosexuals, what will be the effect on the VA medical centers as larger numbers of newly eligible homosexual veterans seek care in the VA Health Care System?

Mr. President, we simply do not know.

Under current conditions, VA projects that the costs of AIDS treatment will increase 20 percent per year. If the costs of VA AIDS treatment are further increased by the addition of a high risk population to the veteran population, the Congress will be faced with a choice of making substantial increased appropriations for veterans' health care, or requiring VA to absorb the costs.

Mr. President, there is only one way the VA could absorb the costs—by reducing treatment to other veterans or providing more dollars.

A decision to admit gays to the military will not be a free one. That decision will be paid for in increased funding for VA, or by the veterans VA must turn away in order to care for the new AIDS cases the decision will bring.

I submit that no matter which option we take, the cost will be high.

If additional funding for veterans' health care is available, there is no shortage of urgently needed and unmet needs within the VA Health Care System right now.

According to the CDC 60 percent of the AIDS cases in adult men reported in fiscal year 1992 were the result of men having sex with men. If gay men represent 10 percent to 15 percent of the male population and have 60 percent of the new cases reported, it is clear that the gay population still brings an increased risk of AIDS to the table.

In comparison, 48 percent of the AIDS cases treated by VA have been the result of homosexual contact. VA has treated over 12,000 veterans with AIDS, 6 percent of all AIDS treatment in this country. VA spent $233 million treating veterans with AIDS in 1990. By 1995, that amount is projected to increase to $581 million.

If gays are openly admitted to the uniformed services, we can expect the profile of transmission for AIDS cases in the veteran population to take on the same characteristics as transmission in the male population as a whole.

That is, the percentage of cases due to gay sex will likely increase over time from the 48 percent currently found in the veteran population to the 60 percent found in the general adult male population.

Mr. President, that is a 12-percent increase, and it is reasonable to expect that it would bring with it a 12-percent increase in cost.

If more funding is not available, I do not want to see VA health care professionals in the position of having to decide whether to turn away new AIDS patients or to turn away other veterans because the resources are not available to treat both.

There are other issues as well:

Mr. President, this body does not yet know precisely the effect of AIDS on veterans' insurance programs, but I am developing that information. I predict we will find that the impact is substantial, and that if gays are allowed to serve openly in our Armed Forces the impact will increase. The Senate, the President, and America's veterans should have hard data on this question before a decision on admitting gays to the military is made.

Would the VA become mired in controversy and litigation to determine if gay soldiers' partners are dependents or survivors for purposes of VA benefit programs?

Under the current policy, HIV infections contracted in the military are now considered service-connected disabilities for which compensation is paid. Gladly, there have been relatively few cases. What would be the effect of an open military admission policy for gays?

I would hope that the Veterans Affairs' Committee can hold open, frank hearings on these and other matters, and I trust that our committee chairman and my good friend, JAY ROCKEFELLER, will agree with me and other Members that such hearings for veterans are important in the resolution of this matter of military policy.

Mr. President, it is noteworthy that the American Legion, the Veterans of Foreign Wars, and AMVETS—three of the Nation's largest and most influential veterans organizations—oppose a change in current military policy on homosexuals. Moreover, the Association of the U.S. Army, the Navy League, the Air Force Association, the National Guard Association, the Marine Corps League, the Reserve Officers Association, and the Retired Officers Association are united with veterans organizations on this matter.

Mr. President, it is a certainty that our military forces will be tasked to perform diverse missions in the future, ranging from peacekeeping and humanitarian relief to rapid deployment response and engagement. We cannot risk military capability for the sake of a well-intentioned but misguided notion of social engineering. In a similar vein, we should not take an action that undermines the range of veterans benefits that Congress has so carefully crafted through the years, intended to reward for faithful service those injured in harm's way, and to restore those who sacrificed life and limb for country.

I am pleased to be a cosponsor of the pending amendment with Senator DOLE.

Mr. President, I ask unanimous consent that a list of organizations supporting the ban on homosexuals in the military be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS SUPPORTING THE BAN ON HOMOSEXUALS IN THE MILITARY

National Guard Association.
Naval Reserve Association.
The Retired Officers Association.
Retired Enlisted Association.
Non Commissioned Officers Association.
Marine Corps League.
Association of the U.S. Army.
Marine Corps Reserve Officers Association.
Enlisted Association of the National Guard.
U.S. Army Warrant Officer Association.
Fleet Reserve Association.
Jewish War Veterans.
Air Force Association.
Military Chaplains Association.
National Association of Uniformed Services.
Veterans of Foreign Wars.
The Military Coalition.
Air Force Sergeants Association.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I yield 10 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair, and I thank my friend and colleague, the chairman of the Armed Services Committee.

Mr. President, I am not going to take much of the Senate's time today on this matter. I would simply start out by referencing a statement that I made immediately following the very thoughtful, very detailed and reasoned statement made by the chairman of the Armed Services Committee, Senator NUNN. I would reference anyone who is interested to the RECORD of January 27, starting on page S. 757, a statement that I made at that time.

I have had the privilege to serve my country in the armed services and I alluded to that service and some experience that I have had in this particular area. I would simply appeal to all involved to comment on whatever they think are the legitimate merits of the situation, but let us try and keep away from the emotionalism as much as we can.

I want to start out by saluting Senator NUNN, the chairman of the Armed Services Committee, once again working in conjunction with the majority leader, for putting together what I think is a proposal that can go a long ways in solving the problem that exists. And I do not for a minute indicate that there is not a problem.

I would simply say, Mr. President, that since I have had the privilege of serving my country, that does not make me any more of an expert on this, I guess, than any other. So I simply say that I hope that all of us would think back to our experiences, the experience of others, the compassion that I think we have to look to for all involved in this controversy, but, above all else, let us do as we usually do to conduct he business of the U.S. Senate as best we can on factual debate and thought and reason together and not try to inflame people with comments and suggestions that would take this beyond what I think is the responsibility of the Senate, and that is to come and reason together to try and work out a compromise.

Mr. President, the prospect of lifting the ban on homosexuals in the military has set off a firestorm of controversy. We can all agree on that. Since President Clinton announced his intention to keep his commitment, the matter has consumed the media's attention and touched a nerve in the American public like few issues before it.

As a World War II veteran and a 14-year member of the Senate Armed Services Committee, I hope I bring an informed perspective to this debate on the implications of a change. Still, I have approached the issue with compassion for all those affected, directly or indirectly, one way or the other, on the issue.

Over the last 2 weeks, I have listened closely to the arguments made by both proponents and opponents. I have listened to the concerns expressed by servicemen and women, officers and enlisted. I have taken into account the opinions of heterosexuals and homosexuals, veterans and civilians. I have discussed the pros and cons of the reform with the President himself and other Senators. Like my colleagues, my office has been deluged by hundreds of phone calls and letters from constituents. This outpouring of views from Nebraskans has been a valuable counsel to me as I have considered the advisability of making a change in this area.

Although I must say that, contrary to what some of my constituents have felt, I have never, ever advanced a proposal, nor have I seriously considered, to this moment, at least, and probably will not in the future, the permanent and total lifting of the ban. But there is a lot of reasonable ground in between, I suggest.

The agreement reached between the President and Members of this body, including Senator NUNN and Senator MITCHELL, to postpone the final decision until hearings can be held on the implications and consequences of the change is a wise one. We need to be slow and deliberate about the President's wishes. This study time will provide us with a much-needed cooling off period to better address objectively the concerns raised to date. Similarly, a temporary moratorium on asking new recruits about their sexual orientation and halting final discharge action of those homosexuals currently in the military is in keeping with the President's belief that conduct, not status, should be the determining factor when it comes to military service to your country. I can support this interim policy because it does not limit the existing authority of a commander to reassign any individual service person, heterosexual or homosexual, from a unit who may be a disruptive force to the unit's morale or operation for any reason.

In retrospect, the President in my view should have acted with more deliberation and consultation with the men and women in the services and the Congress. There are many questions to get answered on this subject before a final decision on a change should be made. The first priority of the Armed Forces is the national security of the United States. The military is not designed and should not be used as a laboratory for volatile social change. Congress has a special obligation to those in uniform to fully examine the implications of change on personal privacy and unit cohesion. Our chief concern must always be what is best for the Armed Forces as a whole, not necessarily what is best for the individual. I believe the hearings scheduled next month in the Armed Services Committee will be helpful in sorting out these very complex and complicated matters.

Amid all the emotion that this debate has generated and all the sensationalistic speculation over what changes may mean to our Armed Forces, I worry that less and less attention is being paid to the fundamental pillar of service in the military: the conduct of the individual. Is the essential ingredient. I repeat: The conduct of the individual, regardless of their sexual persuasion. In my view it is premature to draw the conclusions the President has reached. Likewise, opponents of the President's wishes are in error when they elevate an individual's status above his or her conduct and ability to serve in our Armed Forces.

The facts of the matter are that somewhere between 100,000 and 300,000 people now serving in the military are homosexuals. I think we should recognize that whether you are a heterosexual or a homosexual, you do not fit a type that has been so prominently displayed and offered so very often for homosexuals.

For these reasons, I oppose the Dole amendment and support the second-degree amendment before the body. The Congress needs time to work with the President on this complex and emotional issue, and explore in depth the consequences of what we are about.

Codifying now the ban on homosexuals in the military prejudges this study period and, in my view, is inappropriate at this time. There is clearly a time to get things done. There is clearly a time for constructive evaluation.

This is clearly a time for constructive evaluation. This is clearly a time not to rush to emotional judgment. Let us proceed in an orderly fashion, with the Congress not further challenging the President at this juncture, nor the President further challenging the Congress.

Prudent hearings and reasoning together may produce a workable compromise.

I thank the chairman of the committee. I thank the Chair.

Mr. President, I yield the floor.

Mr. COATS. Mr. President, I yield 3 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 3 minutes.

Mr. HEFLIN. Mr. President, I rise today to address the issue of the military's right to make homosexuality a disqualification to serve in the Armed Forces. I do not think that anyone questions the premise that the personnel in military services occupy a different status from the status accorded American nonmilitary citizens. The military is not a democratic institution. The military must operate from an authoritative basis, where discipline and command prevail over a large number of individual rights. Many constitutionally protected rights are not available to its members. It involves a quasi-caste system. An individual's right to freedom of speech, freedom of assembly, freedom of protest, and other fundamental rights are greatly curtailed because of the unique demands of national security.

There is a large body of law that has developed under the provisions of section 8 of article 1 of our Constitution. Because of this body of law, I would like to approach this issue through a discussion of relevant judicial decisions. In my review of the legal history, I am convinced that it confirms my position that the ban on homosexuals in the military should remain in place.

The courts have long recognized the uniqueness of the military. In the case of *Parker* v. *Levy*, 417 U.S. 733 (1974), the Supreme Court noted that it has long recognized that the military is, by necessity, a specialized society separate from civilian society. This difference has led the military to develop laws and traditions of its own during its long history. The Court points out that these differences between the military and civilian communities result from the fact that it is the primary business of armies and navies to fight or be ready to fight wars should the occasion arise.

Much of the debate on this issue lately has failed to take this distinction between the military sector and the civilian sector into account. Any thoughtful discourse on the matter must give this distinction the utmost consideration. Although the Parker decision was not one concerned with homosexuals in the military, it directly addressed the issue of the rights of the individual in the military, thereby establishing a framework the Court has subsequently used to examine a number of cases involving constitutional claims brought by service personnel.

In the 1981 case of *Rostker* v. *Goldberg*, 453 U.S. 57, the Supreme Court heard arguments from several males challenging, on fifth amendment grounds, the Military Selective Service Act that required registration for males but not females. The Court ruled that the provision did not violate the fifth amendment, and that Congress acted within its constitutional authority to raise and regulate armies and navies.

For our discussion here today, this opinion provides some helpful insight into Congress' role in this matter. Justice Rehnquist, in delivering the opinion of the Court, noted that a case of this nature was not merely a case involving the customary deference accorded congressional decisions, but rather this case arose in the context of Congress' authority over National defense and military affairs, and perhaps in no other area has the Court accorded Congress greater difference.

This deference to Congress was brought out again in the 1983 Supreme Court decision, *Chappell* v. *Wallace*, 462 U.S. 296. The Court confirmed its earlier position recognizing the unique disciplinary structure of the Military Establishment.

Writing for the Court, Chief Justice Burger noted that many of the Framers of the Constitution had recently experienced the rigors of military life and were well aware of the differences between it and civilian life. In drafting the Constitution they anticipated the issues raised in this case. Their response was an explicit grant of plenary authority to Congress to raise and support armies; to provide and maintain a Navy; and to make rules for the Government and regulation of the land and naval forces.

This framework has been followed in several circuits on matters more directly on point. In *Rich* v. *Secretary of the Army*, 735 F.2D 1220 (1984), the tenth circuit affirmed a district court decision which upheld an Army regulation that discharged petitioner for fraudulent enlistment when Army learned that in enlistment process, the soldier had falsely represented that he was not homosexual.

The court, in its opinion, clearly stated that they did not accept plaintiff's contention that the Army's policy of excluding homosexuals violated his rights under the equal protection component of the fifth amendment. The court noted that—

> A classification based on one's choice of sexual partners is not suspect * * * and even if heightened scrutiny were required in reviewing the Army regulations because they restrict a fundamental right, the classification is valid in light of the Army's demonstration of a compelling governmental interest in maintaining discipline and morale of the Armed Forces.

The seventh circuit came to a similar conclusion in the case of *Ben-Shalom* v. *Marsh*, 881 F.2D 454 (1989). In that case, the court ruled that plaintiff's constitutional rights were not violated by the application of Army regulation making homosexuality or admitted homosexuality a nonwaivable disqualification to service in the military.

This case was directly on the issue of status. The court found that a rational basis standard of review was the correct test to be used in an equal protection analysis, and that the Army satisfied that standard without any difficulty.

Many point to the recent district court decision in California finding the Army's policy unconstitutional. This case, however, appears to be an aberration that will have difficulty on appeal. The judge in that case cites the ninth circuit case of *Pruitt* v. *Cheney*, 963 F.2D 1160, as authority for his decision. The Pruitt case, a case which concentrates on the issue of a summary judgment ruling, only restates the position of other circuits in pointing out that under an equal protection claim regarding a discharge based on status, the correct standard of review is a rational basis test.

The court, in the same opinion, went on to strongly acknowledge that military decisions by the Army are not lightly to be overruled by the judiciary.

Thus, contrary to years of legal precedent, the district judge in California found that the Army had no rational basis, in essence, no legitimate reason for the Army's policy. It is my estimation that the court of appeals will not so easily dismiss the Army's reasons for the regulation.

Mr. President, the military runs on a different system than the civilian sector. We, as a nation, entrust our security to the men and women who serve in our Armed Forces. In their service, they subordinate the rights of the individual in order to serve the whole. It is a system that has served this Nation well for many years.

My opposition to changing the military policy comes from a deference to the opinion of those who work so hard for the interests of our Nation's security. I believe a change in the policy regarding homosexuals in the military would be an error and go against the legal precedent as well as the carefully considered decisions of our military leaders.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I yield 10 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Mr. President, few matters are more vital to America's security than the readiness of the military forces who defend the values which we all cherish.

One of those values, Mr. President, is the protection of individual rights.

Yet even as our new President and Commander in Chief seeks to advance those rights by removing the unfair and outdated ban on gays and lesbians in the military, we hear disturbing voices across the land.

As we listen to those who tell us that gays and lesbians will destroy the military, the simple truth is that this debate is not about military capability at all. It is about irrational fears and prejudices. It is about civil rights and leadership in a democratic society.

The issue today, Mr. President, is simple: Do we move forward as a society, recognizing the talents and dignity of all of our citizens? Or do we allow our differences to pit one American against the other and take this country down a painful road we have traveled before?

The Pentagon tells us flatly that homosexuality is incompatible with military service. As a military leader, the Commandant of the Marine Corps, asked in defending the ban presently:

> How would you react if your son called and informed you that his roommates for the next 2 years were two homosexuals * * *?

This is not the first time the military has had such concerns. I want to quote a 1942 Navy memorandum.

"Men on board ship live in particularly close association," warned a 1942 Navy memorandum. "In their messes one man sits beside another; their hammocks or bunks are close together; in their common tasks they work side by side. * * *"

"How many white men would choose, of their own accord, that their close associates in sleeping quarters, at mess and in a gun's crew should be of another race?" the Navy's top admirals asked.

In 1948, speaking in favor of a measure to guarantee to any American the right to serve in a military unit comprised exclusively of members of his own race, one Member of this body said:

> I know that perspectives are often blurred by the desire to capture the votes of a highly organized and vocal minority.

Some Senators of that era feared that allowing negroes and whites to serve together would have grave public health consequences. "The mandatory intermingling of the races" one said, would be "sure to increase the number of men who will be disabled through communicable diseases."

And Senators in opposition to President Truman's directive insisted that they were in no way opposed to basic civil rights for all. They simply felt duty-bound, Mr. President, to defer to the Pentagon's expert judgment on the issue.

How many of those very same arguments have we heard repeated this year with regard to President Clinton's proposed directive to integrate gay and lesbians in the military?

While the discrimination faced by African-Americans often takes different forms from that faced by gay and lesbian Americans, this much we can say with absolute certainty: The military has no more of a rational basis for banning gays and lesbians in 1993 than it did for segregating African-Americans in 1943.

Old beliefs die hard, Mr. President. But when they stand in the way of equal opportunity for any American, die they must.

Gay and lesbian Americans love their country as much as any other Americans. And like any other Americans, they deserve the choice to be judged on their conduct, character, and capabilities—not persecuted because of their status alone.

Today, Mr. President, those who would keep gays and lesbians out of the military desperately cling to one last straw: the privacy argument.

It is unthinkable, they tell us, that straight men and women could properly function if occasionally forced to share a shower or a bunk with a gay or a lesbian. This last issue, they insist, goes to the very heart of an individual's most personal beliefs.

I can remember when it was just as unthinkable to ask a white American to drink from the same water fountain or swim in the same pool as a black American.

The issue is not privacy, the issue is the invasion of privacy or any other conduct on the part of any soldier or sailor, whether homosexual or heterosexual, that constitutes sexual harassment. If the U.S. military is truly concerned about the environment created by sexual harassment in the ranks, this Senator suggests that the Pentagon start by bringing to full justice those involved in the Tailhook affair and by implementing immediate measures to ensure that standards for sexual conduct and behavior are fairly applied without regard to gender.

But let us for a moment take the Joint Chiefs of Staff at their word—that the presence of openly gay and lesbian soldiers and sailors would destroy the morale and unit cohesion which allow the military to effectively carry out its mission.

We would expect, then, that in wartime—when unit cohesion can literally mean the difference between life and death—the military would be especially vigilant in ferreting out and discharging gay soldiers. But in fact, Mr. President, the record clearly demonstrates that precisely the opposite is true. From World War II through Operation Desert Storm, whenever American Forces have gone into battle the Pentagon has always found a way to keep suspected or acknowledged homosexuals in uniform.

And when in harm's way, incidents like the one related in this week's Newsweek magazine represent the real story of gays in the military:

> On the first night of the Scud missile attacks on American troops in the Persian Gulf, an Army Specialist Fourth Class found himself cramped in a foxhole with three other men. Like many young enlisted men, the specialist had previously confided to the other men, his friends, that he was gay.
>
> During that night in the foxhole, the men huddled together in their suffocating chemical warfare suits. They could not see one another, but to reassure themselves that they were all still alive, each man kept one hand on the other. No one seemed to mind that one of those hands belonged to a homosexual, the soldier remembers—they all had more important things to think about.

Mr. President, we need to think about the important things. It is time for each and every American to ask himself or herself—is it fair to open the closet door in wartime and ask our gay and lesbian sons and daughters to die in their country's uniform, yet in times of peace relentlessly hound them back into the closet and strip away the same uniform they once so bravely donned?

In 1948, the military leadership felt that black and white could not and would not serve together. We now know, Mr. President, that since 1948 millions of white Americans have made such a choice. They have fought, eaten, and slept side by side with African-Americans with no impairment of military readiness whatsoever.

And from those experiences, Mr. President, they have forged an America that is stronger now than at any time in its history. Stronger now because its people are more unified and more respectful of their glorious diversity than ever before.

Despite my disagreement with the Joint Chiefs of Staff on this issue, I have confidence in our military leadership's ability to carry out the orders of their Commander in Chief.

I can even appreciate General Powell's dilemma when he said:

> I've got to consider what you say to a youngster who might come and say, General, in the most private of my accommodations, I prefer to have heterosexuals around me than homosexuals.

This is what you say to that youngster, General Powell. Tell him that he's in our Armed Forces now. Tell him that he's a proud member of the greatest fighting forces in the world.

Remind him that his homosexual platoonmates have also volunteered to give their lives for their country and the values we all hold dear. Remind him that they, like all members of our military, will be held to the strictest codes of conduct and behavior.

But most importantly, General Powell, tell him that the greatest danger he faces is not in his private accommodations. It is from the forces of hate and fear in this country that 40 years ago would have denied to you the opportunity to lead.

Tell him that if he can defeat the enemy within himself he will be ready to confront any enemy abroad. Wish him a long and distinguished career in the service, and tell him that by the end of his 40 years in uniform you hope he will have seen as many changes for the better in our military and the imperfect society it defends as you have in yours.

Mr. President, I stand in support of President Clinton on this issue, and I do not need 6 months or even 6 days to make up my mind. I want to end this baseless discrimination. I would like to see it end now. However, I am prepared to support the amendment that is before us.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I yield 5 minutes to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Mr. President, I want to thank the distinguished Senator from Indiana for yielding me this time and also for the very fine and thoughtful statement he has made both today and in the past on this subject. He has done a good job, and we appreciate his leadership on this issue.

As we listen to this debate across America, one of the things that comes to my mind is who should we really be listening to? There are many elected officials and there are many military men and women who certainly are going to be very thoughtful in their remarks. But who should we listen more to than the most respected military leaders we have in America today? We have a national hero in Gen. Colin Powell, the Chairman of the Joint Chiefs of Staff. We have all admired him for the job he has done, for the things that he stands for, the job he has done in that position. Let us listen to just two of his quotes on the subject:

> It's my judgment, the judgment of the Joint Chiefs, that homosexual behavior is inconsistent with maintaining good order and discipline.

With regard to the question of race, and certainly he feels especially sensitive to this question, he said in the text of a letter to Representative PAT SCHROEDER in 1992 this:

> Skin color is a benign, nonbehavioral characteristic. Sexual orientation is perhaps the most profound of human behavioral characteristics. Comparison of the two is a convenient but invalid argument.

Gen. Carl Mundy, Commandant of the U.S. Marine Corps, said just in December 1992:

> I do support the ban against homosexuals in the military. I believe that homosexual conduct, that the gay lifestyle embodies those things that are contrary to good order and discipline in the military.

That is what two of the most respected military men in the world today had to say on this issue.

Before I get into some more substance, I want to emphasize one point, and I am sure our distinguished leader, BOB DOLE, will emphasize this later on. A lot of people are going to look at this debate and look at the procedure and they are going to say what is really going on? Let me make it clear. After 3 days of struggling, the Republicans have secured from the Democratic leader an opportunity to have a vote on this issue. But let us make clear what that vote is.

If you as a Senator think that homosexuals and lesbians should receive special status in the military, then you need to vote to table the Dole amendment. If, on the other hand, you think that allowing homosexuals in the military will reduce military readiness and effectiveness, you should vote no on the motion to table the Dole amendment. Make no mistake about it, the vote on the question of whether or not to allow homosexuals in the military is a vote that you will cast on the Dole amendment. It will be on a motion to table, but clearly that is where the issue will be decided today. So that the people here in the Chamber and so that those listening and watching will understand, that is the vote, and it will occur today.

Another thing that I have some people say to me when they call is, you are right, have a vote on this issue, make a statement, take a stand but why are you doing it now? Let us not mistake it at all. The Senators did not ask for this, Democrat or Republican. We thought we would be focused on the economy, on economic growth, on the creation of jobs and on how to reduce the deficit and on welfare reform, all very needed, necessary, important things, and yet here we are today voting on the question of homosexuals in the military. Why? It is because the President decided for reasons I do not understand to move immediately on this issue, to take a peremptory action.

Thanks to the efforts of the Senator from Georgia, there were some modifications, but make no mistake about it, the President said, you can have your hearings, but we are going forward; this is a done deal, I am going to remove the ban on homosexuals in the military. He did not consult with his Joint Chiefs of Staff until after he made that decision. He did not really consult with the Armed Services Committee and many others who would like to be heard on this issue on both sides. No, he went forward and said I am going to do it. He modified it a little, but in the end he said, no, July 15, I have my mind made up. This issue is over.

Well, I have a surprise for him. The Congress is involved in this issue.

The PRESIDING OFFICER (Mr. BRADLEY). The Senator's 5 minutes have expired.

Mr. LOTT. Will the Senator yield 3 minutes?

Mr. COATS. I wonder if I could talk the Senator into 2.

Mr. LOTT. I will try 2 and, if I need another one, I will hit the Senator again.

Mr. COATS. All right.

Mr. LOTT. Section 1, article VIII of the Constitution says Congress has the responsibility and obligation to set laws and regulations governing the military. We should be heard on this issue, and we will be heard on this issue.

We are here today voting on this because the President insisted on going forward. This is the wrong thing to do. It is prejudicial; it is before consultation and before hearings. We should lock into place the ban on homosexuals in the military that existed January 1, 1993. Let us have hearings. Let us have discussions. Then let us make a decision, talking with the President, and let us have a vote on it if any modification is justified after July 15. But to make the decision and then have the hearings, the American people do not understand that. I do not understand that.

There are many questions unanswered. You have heard some of them today: Family housing. What do you do about gay partners in the military, health care, blood supply, public displays of emotion in uniform, changes that may be required or requested by homosexuals and lesbians in the Uniform Code of Military Justice, not to mention recruitment, retention, readiness, and all the other military questions that are involved.

We have not thought this through, I say to my colleagues. The President moved too quickly. Let us say, time out; keep in place the law that existed January 1; have the hearings; consider this matter; and then decide with a vote of the Congress on what the final verdicts will be. We have bigger, more important fish to fry. Let us have this vote. Let us lock in the ban now. Let us debate and then decide in July the final decision.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NUNN. Mr. President, I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER. The distinguished Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair. I rise in support of the Mitchell amendment. I agree with President Clinton's plan to end the policy that prohibits gay men and lesbians from serving in our country's armed services.

As the five Democratic women of this body said in a joint statement last week, "The United States military is filled with brave men and women who risk their lives to defend their country. Competence, courage, willingness to serve one's country—not sexual orientation—should be the criteria for those wishing to enlist."

I note that at least one Federal judge agrees. Judge Terry J. Hatter, in the Central District of California, recently held, in the case of CPO Keith Meinhold, that:

> Gays and lesbians have served, and continue to serve, the United States military with honor, pride, dignity, and loyalty.

He goes on to say in his opinion:

> The Department of Defense's justifications for its policy banning gays and lesbians from military service are based on cultural myths and false stereotypes. These justifications are baseless and very similar to the reasons offered to keep the military racially segregated in the 1940's.

The simple question is: Should everyone have an opportunity to serve our country in the Armed Forces without fear of discrimination, without blind prejudice? I answer that question with a strong "yes."

Incidents such as the Tailhook scandal illustrate an obvious need for strict enforcement of strong rules of conduct. Clearly, after Tailhook, a reexamination of conduct is in order. Strong rules should be in place and enforced across the board. Therefore, I support Senator MITCHELL's amendment, which allows time to work on a code of conduct which can, hopefully, be applied to all.

In his decision, Judge Hatter also points out that "of all the countries in the North Atlantic Treaty Organization, only the United States and Great Britain ban gays and lesbians from their Armed Forces. On October 27, 1992, Canada's military leaders rescinded Canada's policy of banning gays and lesbians from the Canadian forces."

Heroism, I believe, is a trait that does not know race, color, creed, sex, or sexual orientation. Take, for example, an incident which occurred in San Francisco while I was mayor when a women named Sarah Jane Moore attempted to assassinate President Gerald Ford. She fired one shot, and a man stepped forward and saved the President's life before she could fire a second. That man was a gay man. That man was also a former marine.

It is time, Mr. President, to see that all who qualify can serve in our Armed Forces. Even before repeal of the ban, we know there are thousands of gay men and lesbians who wish nothing more than to serve their country and who are today in the military willing to give their lives.

I remain firm in the belief that America's military is a great fighting force and will be even greater in the days to come.

Thank you very much, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I will be glad to yield 10 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I rise in support of Senator MITCHELL's amendment. We have heard a lot of talk on the floor about different aspects of this particular problem. I was asked a few days ago by another Senator—or it came out in one of our meetings—as to just why the military objects to what the President is proposing and what effect it would have. I responded with something I would like to repeat here today, that it is not just about civil rights.

Let me repeat, I back Senator MITCHELL's proposal. I think we do have to study this. I think the time has come to study it. And what our investigation in these hearings will result in I, frankly, do not know.

But I think when we take the attitude that the military and the Chairman of the Joint Chiefs of Staff and all the service chiefs are just obstructionist in nature when they object to something like this, that is just not the case.

I used as an example some of my own experience of some 23 years in the Marine Corps. I do not want anybody to interpret that these hearings are going to be slanted in a certain way, or that I will come down a certain way. I am clearly looking for the truth as to what we can do with regard to this problem, and in the extensive hearings we plan to hold we should be able to bring the facts out and decide the direction we need to go.

But let me say this. In preparing people for combat military training prepares people to do some absolutely stupid things, things that just in the interest of self-preservation, nobody in their right mind would normally do. That is what combat is all about. We can talk all day about civil rights and about whether people are capable of doing this or capable of doing something else. Of course, from a civil rights standpoint, if that was all it was, there is not any question about how this would be decided. But is there a civil right for everybody to be in the military? Do we exclude people for certain reasons? Yes, we do. Whether we are in a time when we overcome some of that right now, I do not know. But military training basically teaches people to do things they would not otherwise be able to do just from their own instincts of self-preservation.

How do we make people do that? Well, we do it by a rather circuitous route. We send people to boot camp or recruit training, and what do you do? The first thing you do is you take every civilian vestige away from them, as much as you possibly can. You shave their heads and you take their civies and send them back home or burn them on the spot, and you put them through training where they are degraded as much as they possibly can be without just losing all sense of propriety, the drill sergeant yelling in their faces. Movies are not exaggerating the situation when they show things like that. What you try to do is take people down to a common denominator of that person's body, mind, and psyche and try to divest that person of all civilian retention of the idea of rights, and freedom of speech, and freedom of assembly.

Unheard of. You give up those rights in the interest of what? In the interest eventually, you hope, of winning battles. And what do you do then? Once you have that squad there—and you are with those few people, you start trying to rebuild these people. You remold them along certain lines. You remold them along the lines where hopefully, when they come out of recruit training, they have more loyalty to the people they are with in that squad than anything else, and it even transcends their fear of being hurt, their fear of being wounded, their fear of being killed.

I do not know how many of my colleagues have read the book by James Webb, who was Secretary of the Navy a few years ago, a very decorated combat veteran from Vietnam.

He wrote a book called "Fields of Fire." I was quite taken with it. I sat down to read it several years ago. It is one book I did not put down. I read it straight through until about 4 or 5 in the morning. I think it is the only book that I read straight through in a long time.

His theme in that book was that when people go off to war, they go off, the flags fly, the bunting is out there, the people march, the bands play, they are off to preserve freedom for democracy—all these great thoughts, great things.

It is fine to be dedicated that way. Then you come home from war, and it is the same thing, flags, you hope the parades are there, people appreciate what you have done—"I fought for freedom, democracy," all these sorts of things. But in combat—what did you do in combat?

Jim Webb's theme in that book is that when you are in combat in the infantry in that jungle situation your whole universe is brought down to not great theories of freedom, democracy, things like that. Does a person jump out of a foxhole and take some grenades over to the next foxhole when he is being shot at, think "I will preserve freedom forever?"

I'll tell you what he is interested in. He is interested in survival. He is interested in whether or not the other guys are going to cover him; whether somebody got shot; if he gets wounded, will they come and pull him out of there.

In other words, the whole universe of combat narrows down to a very, very few. You and a few. That is what military training trains people to do.

My first commanding officer in the Marine Corps when I got out of flight training as a brand new 2d Lieutenant in World War II days was Pete Haines. I joined the squadron which was about to get Corsairs and we were training in southern California. Pete, who later became one of my very best friends, was my CO at that time as a marine major.

We were joking in his office one day waiting for a meeting to start, joking a little about the people who were coming back from Guadalcanal—much in the news at that time, how they had done great things; some real heroic activities out there. I was sitting there waiting for the other people to arrive. I said, "what makes Marine training any better than any other?" I was sort of half joking about it. He got very serious. He pointed his finger and said, "Lieutenant, marine training makes a man more afraid of letting his buddies down than he is getting hurt himself." I always remembered that.

I do not mean to restrict it to the Marine Corps here. All training in the military that puts people through recruit training, whether it is Army, Navy, Marine Corps, Air Force, tries to instill in people the kind of camaraderie where people are more afraid of letting their buddies down than they are of getting hurt themselves.

That is stupid by any normal civilian measurement; absolutely 100 percent stupid. Yet that is the very basis of military training.

I think that is why when the Joint Chiefs have some honest concerns, we should listen carefully. I do not know whether I will eventually vote with the Joint Chiefs at the end of all of this or not, or whether at the end of hearings where we really investigated all of this, that the Joint Chiefs may in fact be willing to say, well, OK, maybe times have changed. Maybe we have a new day now in the military; maybe we should consider some of these things that we could not consider back a decade or two decades or four decades ago.

Now, maybe, is a time when we can consider some of these things. We have to look into all aspects of this.

Is it something that I think we should just ignore and say do not worry about it, we will just do it, it is a civil right and that is that? No, because we still need a military, and a military bases its ability to perform on training, small unit training, whether in an infantry squad, or in a squadron with one pilot looking out for another, people diving back in to distract antiaircraft fire—stupid, crazy. I have seen people do that.

That is the kind of loyalty that you are trying to engender.

We have advanced a lot in this area in the last few years. I believe—over the last 15 or 20 years we see people openly gay or lesbian being accepted in jobs and positions. We are not thinking of firing them from those positions. There are people in some top civilian positions in the military who we do not question as to their loyalty, and they are admittedly gay. They do not get fired. We accept that now.

So maybe our attitudes are changing. That is what these hearings have to bring out.

Mr. President, I think I have made most of the points I want to make here. I do think that we have to consider the changing civilian attitude. There have been times in the past when the military was able to lead in some areas like this, and get an acceptance throughout the whole Nation.

But this is a different thing than, say, color of skin, as I see it. This deals with one of the most basic urges, one of the most basic drives that human beings have.

So I think it is good that we are going to have this series of hearings, where we can have people in to discuss this. Our NATO allies have already been mentioned. Many of them have different procedures on this, different restrictions for people who serve in the military with regard to being gays or lesbians.

I think we need to know other nations' experiences and perhaps then we can better judge on opening up our own situation in this country. A matter of concern is what happens on the bases? I do not want every base commander making his or her own decisions about how to deal with gay and lesbian situations on a base.

For example, some cities now have moved to recognize, in effect to legitimize, gay and lesbian marriages, male to male, female to female. What happens if on a base those people decide that they—since they see themselves as being legally married—claim spousal rights on the base? And do we have retirement benefits then to be passed on to other people? Do they get base housing then? If they have been on the base longer, do they go ahead of other people?

These are things that cannot be left up to base commanders. Policies have to be servicewide, Department of Defense-wide decisions that apply to everybody, as I see it. If we do not do that, we are going to wind up with 50 court cases in Federal courts all over the country.

These are the kinds of things that we need to look into. I think we need to go into this issue with an open mind. My mind in this area is not closed by any means. I want to get the full gamut of people that we can that have a view on this to testify before the committee. It should not be a 1-day or 2-day hearing. We have to take it on and do the best job we possibly can in this area, including seeing how it affects our NATO allies; talking to groups, and training people to see whether in this day and age we really feel we can have unit cohesion with declared gays in the military. Cohesion—that is the military word for this bonding of one combat warrior to another. Can that now apply just as well to a gay as it does to anybody else? Perhaps it can.

I know our time is short. I will not ask for additional time this afternoon, but I will have additional things to say on this as time goes on, and as we get to our hearings.

I thank the Chair.

Mr. COATS. Mr. President, I yield 5 minutes to the Senator from Washington.

Mr. GORTON. Mr. President, the Nation and the Congress of the United States owe a great debt of gratitude to the senior Senator from Georgia [Mr. NUNN].

The President of the United States almost as his first act as President, attempting to keep a campaign promise, unilaterally, without consultation with either the Congress or the armed services, attempted a profound change in the composition, the attitude, and the morale of the Armed Forces of the United States.

The Senator from Georgia stopped that runaway train and has gained for the Nation and for this body a period of almost 6 months in which to examine the profound potential consequences of that proposed action.

This Senator had the good fortune to be in the Senate anteroom when the Senator from Georgia came to report to several of his colleagues, with some elation, the results of his negotiation with the President.

Ironically, during the very time that the Senator from Georgia was reporting on that agreement, the President was announcing that, notwithstanding anything which might take place during the course of that 6-month study, his course of action was already determined. The President announced that it did not matter what people in the military said, what Members of Congress said, what general public opinion was; he was bound and determined to go forward.

It is for that reason, in spite of the very real success of the Senator from Georgia in keeping to a minimum immediate changes and causing the more profound ones not to take place for several months, it is for exactly that reason that it is important for the Senate of the United States to pass the Dole amendment.

The Dole amendment is in strict accordance with the Constitution of the United States, which states:

> The Congress shall have power to make rules for the Government and regulation of the land and naval forces.

The Dole resolution, by codifying the rules with this respect as of January 1, 1993, takes that power now and retains that power in the hands of the Congress. But it gives the President the ability to propose any change he wishes after this period of hearings and requires that we vote both here and in the House of Representatives on those proposed changes—without filibusters, without extended additional hearings—very, very promptly to settle this question. It gives us the 6 months to have the national debate and the hearings on an issue of such importance.

Since the President regards these hearings as hollow, it seems to me imperative, even in seeking the goal that the Senator from Georgia himself seeks, that we pass this particular amendment. This is not an open and shut case or debate in the mind of this Senator.

There have been profound changes in attitudes and customs in the United States as a whole. It is certainly possible that some changes are in order, but they should be changes which are debated in the context of their impact on the Armed Forces of the United States. They should be decided with respect to whether or not he will retain an effective and efficient and a high-morale Military Establishment. It is an issue of which I think the views of all Americans are appropriate, and all Americans should be given a chance to express those views before the decision is made.

But for this Senator, at least, it is an issue to which he will listen with the greatest degree of respect and will grant the greatest weight to the views of the men and women who are in uniform serving in the armed services of the United States, whose lives will be most profoundly affected. This Senator will pay a great deal of attention to the views of General Powell, General Schwarzkopf, and others, including veterans of the United States. But it is the rank and file of the military who will have to live with this decision and whose own personal decisions will determine how effective our military is, and who should be granted the greatest weight in the course of this debate.

But their views can be granted weight, Mr. President, only if we do not make the decision before those views are heard. The President has said he has made his decision. We should, in the exercise of our constitutional responsibility, see to it that he cannot make that decision alone, and we can do that only by passing into law the amendment before us.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I yield 5 minutes to the Senator from California.

Mrs. BOXER. Mr. President, I thank the chairman of the Armed Services Committee for yielding to me.

I rise in support of Senator MITCHELL'S amendment. I feel I must comment on a statement that was made by the Republican Senator from Mississippi [Mr. LOTT] when he said "the only reason this is before us is because President Clinton put it before us." Well, the truth is that, today, we want to vote on the Family and Medical Leave Act, Mr. President, and this whole issue was raised today, even though there has been a compromise already reached on the subject by the President, the leaders of the Senate, and the Joint Chiefs of Staff. So I think anyone who says it is the President who brought this amendment before us today simply is misstating what I consider to be the facts here.

We are ready to pass the Family and Medical Leave Act, and we are ready to get on with the business that affects the American people, and I think the American people understand, even though they may not all agree with the President on this issue, that this debate should not be raised around the passage of this very important bill. But, in fact, it is here, and I am honored to be part of the debate.

I personally believe that the gay ban continues the policy of deceit. It forces honest men and women to lie about a very fundamental question. Question 27, which asks a potential recruit about his or her sexual orientation, confirms that the policy is a living lie, because thousands of men and women will not answer that honestly, because then they cannot serve their country. And they want to serve their country, Mr. President.

The San Francisco Chronicle, which endorsed George Bush for President, wrote on January 28 of this year:

> For the past 50 years or so, gays have had to play an unreasonable and un-American charade. * * * Living with the truth is surely better for morale than fostering secrecy and prejudice.

Mr. President, I would like to share with you and my colleagues a little story. I was visited by a physician who is one of my constituents; a heterosexual, who served very proudly in World War II. And I asked him: "You are a brave man. You fought on the front lines against the Nazis. What is your view on this issue?"

And he said to me very clearly:

> Senator, when I was on the front lines, fighting against the Nazis, I did not care if the guy next to me was straight, as long as he could shoot straight.

I think that is the issue that we should be concerned about. We need every qualified man and woman who wishes to serve us. We need them to serve us.

And behavior is the issue, Mr. President, not status. And where else can you control behavior better than in the military, where discipline is a way of life.

I think it is very important to point out that President Clinton has talked very clearly about the need for discipline and a code of conduct that applies across the board.

Mr. President, I think that we waste a lot of money on this issue, $27 million a year, rooting out homosexuals from the military. We need that money elsewhere, or we could save that money.

I also think it is interesting to point out that records show that, in wartime, the military seems less interested in expelling homosexuals. If you look at the numbers, very few are dismissed during wartime. What do we learn from that? When bullets are flying, the military becomes less discriminatory? Mr. President, that is a sad thought. So I think that we must base military service on performance and behavior, not on a person's sexual orientation.

My last point is this, Mr. President: The United States should no longer stand as one of the few allied countries that prohibits homosexuals from serving in their armed forces. We should look to countries like Israel, which allow homosexuals to serve their nation proudly in uniform. Would anyone in this Chamber question the effectiveness of the Israeli military, which faces a daily struggle to protect Israel's borders from attack? If Israel, which faces danger every minute can do it—we can do it.

I am struck by the comparison of some of the comments of my good friends and colleagues in this Chamber, to some of the comments made in 1948 when President Truman decided to end discrimination against African-Americans in the military.

On July 27, 1948, one Representative said:

> I predict this (integration) will do more to add to the existing turmoil in our country than anything else that has occurred since 1861. In my opinion it not only will greatly increase tension, strife, and turmoil, but it will diminish the efficiency of our armed services. * * *

On the same day another Representative said:

> It is a mistake to attempt to make of the Army, Navy, and the Air Force a means of providing social reforms. Such action cannot do other than injure the high standard of efficiency of this organization.

He added:

> In these times of major crises throughout the world it is a mistake to try to provide social reforms for the armed services. The result may be to seriously cripple and impair the full value of these forces. The result may be to injure them at a time when the world looks to us for strength and courage.

They talked then about the chaos that would come about if African-Americans were allowed in the military. They talked about the military not being the place for social experimentation. And yet we know that was the right decision.

So Mr. President, I appreciate the opportunity to participate in this debate. The debate is not over. We will have it again in July. I hope we can get on with it, get on with the problems facing our country.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President I yield 8 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I thank our dear colleague from Indiana for yielding, and I thank him for his leadership on this issue, which I think is vitally important.

I would just like for the record to show that the Israeli military is one of the most restrictive militaries on the planet in terms of the promotion and participation of avowed homosexuals.

Mr. President, what I want to talk about today is the choice that is before us. Let me begin by talking about what brought us here.

Our President, in the campaign, made a commitment to a special interest group, and that commitment had to do with changing the policy of the military with regard to avowed homosexuals. What the President has said in the first week of his administration is that his first defense priority is forcing the military, against its will, to admit avowed homosexuals.

I believe our first priority should be to the young men and women of the military services who have made us proud and who have kept us free. And that is what the two amendments before us are really all about.

In the case of the amendment offered by Senator MITCHELL, what we have is a figleaf, and a figleaf that will not cover very much. It is a simple sense-of-the Senate resolution that dose absolutely nothing about the policy that the President has put into effect, nor does it in any way restrict the policy that the President may put into effect in the future, nor does it in any way change anything in terms of the policy that we in Congress may carry out, no matter what happens on these votes.

So we have one resolution that is simply a figleaf for those who want to appear to be doing something but who really do not want to do anything.

On the other hand, we have a resolution that seeks to establish a process. It does not seek to judge the decision before the hearings have been held. The major reason we are here is that the President has said not only is he going to change the policy of the military with regard to induction—something he has already done against the expressed will of the Joint Chiefs and the entire commissioned and noncommissioned officer corps leadership of the military—but that we can have a debate, that we can hold hearings, but that no matter what that debate concludes, no matter what those hearings find, that he is going to change the policy.

In short, our President, has said:

> Debate and hold hearings, but do not confuse me with the facts, because I have made a campaign commitment and I am going to fulfill it. I have promised a special interest group I will act without regard to the public interest.

What our amendment does is establish in law the policy that existed as of January 1. It then sets up a procedure where we have a real debate—not a phony debate, a real debate—where we have real hearings—not sham hearings—where we gather the facts, where we hear from all sides, and then we set up a procedure whereby the President will make a concrete proposal—not a campaign slogan, not a political statement, but a concrete proposal—as to how to put his policy into effect.

We will then have a debate about that policy. We will bring it to the floor of the Senate. We will have 3 days of debate. It will be amendable. We will all have an opportunity to have our input, and then the President will get his vote. If he has the votes to change policy, he will prevail. If he does not have the votes to change policy, he will not prevail. But in my opinion, Mr. President, the public interest will be served.

What is our objective here? Well, it seems to me, the two amendments offer two objectives. The objective of the amendment offered by Senator MITCHELL is to put the Congress in a position where we are saying: Do nothing; though we know the President has decided what he is going to do, though we know that our debate is phony, though we know the hearings are a sham, do nothing.

Our proposal is: Set out in law the procedure that the military supports. Have a real hearing, have a real debate, have the President submit not a simple statement of policy but a concrete proposal that deals with the very real problems of forcing the military to induce avowed homosexuals and address the impact it will have on morale, readiness, retention, recruitment—all the things we should be concerned about.

Do not allow a determined minority to prevent the President from having a vote. Set up a procedure where the President will get an opportunity to make the proposal and where Congress will have to vote yea or nay. It is a choice between a policy that takes Congress, and therefore the voice of the American people, out of the debate and a policy that puts Congress in the debate, that guarantees that we will look at the facts, that guarantees that we will have an informed decision, that guarantees that the President and the Congress will hammer out a policy.

Mr. President, that is what this issue is about. There is no doubt about the fact that the President has worked very hard to induce people to vote against this amendment. The basic promise has been that we will hold hearings. But anyone who has read the statements of the President has to be struck by the fact that the President has said, in the clearest possible terms, that his mind is made up and that his mind is not going to be changed.

Our amendment establishes a proceduer whereby we have an opportunity to look at the facts, hold a debate, and make an informed decision. I believe this is the enlightened path. I believe those who are concerned about the finest military the world has ever known, those who believe the burden of proof ought to be on those who would change a policy that is uniformly supported by the leadership in the military, will vote for this amendment.

Certainly, no one can vote against this amendment and say they were undecided on this issue. Everyone in the Senate believes any informed American knows that, unless we act now, no matter what happens in the hearings, no matter what happens in the debate, the President is going to force the military against their will to induct homosexuals.

At that point, if a sizable number of Members of the Senate or House decide to try to override it, we will be in a position where we have to pass a law which can then be vetoed.

So if we want a rational debate, the way to guarantee it is by adopting the Dole amendment which is before us.

I urge my colleagues to look at it and to vote for it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I thank the Senator from Texas for his statement and support on this issue.

I yield 5 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I would like to thank and compliment my friend and colleague, Senator COATS from Indiana, for his leadership on this issue, as well as Senator DOLE. And I will include Senator NUNN, for I think he has played an important role in stopping President Clinton from making a very significant mistake.

Quoting several military leaders, and quoting Admiral Stockdale, saying: Why am I here? What are we doing? I question why we are debating this particular provision at this time.

The only reason why we are debating this issue is because President Clinton has decided to move forward on it aggressively to fulfill a campaign promise to a special-interest group, without consulting the military and without consulting Congress. I think it is a serious mistake.

The President has overruled the Joint Chiefs who have over 200 years of combined experience. Yet, his first action as Commander in Chief is to totally disregard the statements that were made by the combined Joint Chiefs. I think that is a serious mistake.

I remember during the campaign that President Clinton was saying,

> It's the economy, stupid. The economy is first. We are going to be first in line. We are going to have a laser beam on the issue. That is the issue. And then health care and welfare reform. Those are the real issues that affect America.

But now as President, the real issues he is pushing are parts of a very aggressive agenda to appease the special-interest groups that he made promises to; the special interests that contributed millions of campaign dollars—and I am sure lots of votes—to his election.

I am delighted—I complimented Senator NUNN and Senator COATS—I also want to compliment the American people, because they are the reason why this Executive order is not already totally complete. They are the reason why it slowed down. The American people have spoken against this change in policy, and they have spoken by the millions all across the country.

I can say in my office, we have had thousands of phone calls. Our office has not had phone calls like this—I am not sure in my 12-plus years in the Senate that we have had contacts by our constituents to the degree we have had just in the last week or so.

What about this mistaken policy's impact on the military? What does this do to unit cohesion? What does this do to morale?

Let us look at what some of the military leaders have to say. General Schwarzkopf; he was a hero 2 years ago. He led us to victory in the Persian Gulf war. Here is a quote that he made on September 25, 1992.

> The experience in the Army has been * * * when you have an open, out of the closet, gay or gays within your organization, and that freely admit that, within your organization it tends to break down the cohesion. So it is not a question of a personal sexual expression, it is a question of cohesion within the organization and that is what makes organizations fight.

Gen. Colin Powell, Chairman of the Joint Chiefs of Staff, said:

> It's just my judgment, the judgment of the Chiefs, that homosexual behavior is inconsistent with maintaining good order and discipline.
>
> What do I mean by that? I mean that it's difficult in a military setting, where there is no privacy, where you don't get choice of association, where you don't get choice of where you live, to introduce a group of individuals who are proud, brave, loyal, good Americans but who favor a homosexual lifestyle and put them in with heterosexuals who would prefer not to have somebody of the same sex find them sexually attractive, put them in close proximity, ask them to share the most private of their facilities together—the bedroom, the barracks, the latrines, the showers. I think it would be prejudicial to good order and discipline to try to integrate that into the current military structure, and I think that's the significance.

That is the Chairman of the Joint Chiefs. And I will add one or two others quickly. Gen. Carl E. Mundy, Commandant of the U.S. Marines says:

> I do support the ban against homosexuals in the military * * * I believe that homosexual conduct, that the gay lifestyle, embodies those things that are contrary to good order and discipline in the military.

Finally, one last quote. This is by Adm. Frank Kelso, Chief of Naval Operations:

> I believe the current Department of Defense policy on homosexuality is best for the readiness of our Armed Forces.

That was January 9, 1993.

So the Joint Chiefs have not agreed to the grand compromise. The Joint Chiefs have stated they believe we should maintain present policy.

We have two amendments that are before us. One is the sense-of-the-Senate resolution by Senator MITCHELL that says we are going to study the issue. It does not say what else we are going to do. And it also changes the policy that we had January 1, because on January 1, we did ask a question that would prohibit gays from serving in the military. So we are already talking about a significant change in policy.

What about the Dole amendment? It is amendment; it is law. It says: Let us go back to January 1. It is a time-out amendment. Let us not change our policy. Let us have at least 6 months. Let us have congressional hearings. Then if we decide after having the hearings we should make a change, then let us make the change and make the change and make it statutorily.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NICKLES. Mr. President, I ask my colleague if I may have an additional 2 minutes.

Mr. COATS. I will be happy to yield to the Senator from Oklahoma an additional 2 minutes.

Mr. NICKLES. I thank my friend, Mr. President.

After we have the hearings, then let us decide what changes should be made. As my colleagues have pointed out, we have constitutional responsibility to the Armed Forces. And so, in the Dole amendment, we provide that Congress will act. We put in expedited procedures. We will act hurriedly. We will take the President's proposal, we will act on it within just a few days.

So the Dole provision says: Yes, Congress; you are going to be consulted. We are going to listen. We are not going to make changes until we hear all the facts, until we hear from all the interest groups on both sides of the issue. And then Congress will act.

Unfortunately, under the Mitchell compromise, President Clinton can make an Executive order. And, unfortunately, he has already stated that is exactly what he wanted to do.

A reporter asked President Clinton on January 29, 1993:

> * * * July 15, this happens, period, regardless of what comes out of these hearings? Is that correct? The ban will be lifted?

President Clinton said:

> That is my position. My position is I still embrace the principle, and I think it should be done. I do not expect to change my position, no.

President Clinton plans on letting the hearings go forward. Then he plans on completing his Executive order, really in total violation of the spirit of listening to Congress, listening to the military, and listening to others with the valued experience who say this might be a serious mistake; that it would seriously jeopardize the quality of our Armed Forces. I do not think we should make that mistake.

The only way we can stop that mistake is by agreeing to the Dole amendment. I urge my colleagues to vote for Senator DOLE's amendment.

To reiterate, Mr. President, over the last week, my office has been flooded with hundreds of phone calls regarding the issue of homosexuals in the military. The majority of my fellow Oklahomans feel the way I do—that the ban on homosexuality in the military must stand.

I feel it is the obligation of the Senate to take a strong stand against President Clinton's unilateral action to repeal the ban on homosexuality in the military. Congress' role in regulating our Armed Forces is set forth in our Constitution. We cannot allow this President to ignore the Constitution and the will of the majority of the American people.

And let's make one thing clear. It is not the Senate who made this an issue. President Clinton chose to make this his issue. From the early days of his campaign, Bill Clinton pledged to repeal the ban on homosexuality in the military. And despite calls from a majority of the American people opposing the lifting of the ban, despite the Joint Chiefs of Staffs' warnings, President Clinton decided this issue should take precedence over the economy, health care, education, or the deficit. To him, keeping his promise to a special-interest group became a matter of principle.

Well, Mr. President, I say President Clinton has chosen the wrong issue. What he calls a compromise is a fraud. The President's announced changes are real and far-reaching. In fact, they predetermine the outcome by assuring that homosexuals will be allowed in the military. The President should have allowed for a 6-month time out with no change at all to the current policy that has worked so well for so long. This would have given Congress time to evaluate and analyze whether changes to the policy were prudent. The President refused to listen to us, just as he failed to listen to the majority of the American people. Which is why we must act now.

There are several reasons why I support the ban on homosexuality in the military. First, I believe that the mission of our military should be, first and foremost, to maintain an unparalleled fighting force. The armed services should not be used as an agent of social change. Second, serving in the military is not a civil right, it is an honor reserved for the select few who contribute to military cohesion and effectiveness. Third, repealing the ban could lead to the creation of a class and culture that would jeopardize the common values and goals so important to mutual trust and unity within a fighting force. For all of these reasons, I support the Dole amendment before the Senate.

I think former Secretary of Defense Dick Cheney stated it best when he said that:

> It is important for us to remember that what we are asked to do here in the Department of Defense [DOD] is to defend the Nation. The only reason we exist is to be prepared to fight and win wars. We're not a social welfare agency. This is a military organization. Decisions we make have to be based upon those kinds of considerations and only those kinds of considerations.

Those who support President Clinton say the military should live by the same rules as those set out for civil society. But history reveals that an effective military should be a culture largely unto itself. The military has its own standards of admission and conduct. The military also has its own legal and judicial system.

Some of these laws would be considered authoritarian and unconstitutional by civilian standards. The military's culture, seen as so strange by civilians in peacetime, provides the necessary foundation to enable our soldiers to fight and win in the chaos, fire, and blood of war. The mission of the military is to maximize efficiency and readiness. How could it be otherwise, because compromising military efficiency could result in the loss of our soldiers on the battlefield. We have to ask ourselves: Is such a risk worth the price?

Others who support President Clinton seem to think that military service is a civil right. They are wrong. There is no right to serve in the military—military service is a privilege for some. Not all people are lucky enough to serve in the military—some are too old, some have health problems, some are too short or have poor vision. Some have mental or physical disabilities.

Many of my fellow Oklahomans and I are not the only ones who believe that the current policy banning homosexuals from the military is reasonable. With their over 200 years of combined military experience, the Joint Chiefs of Staff, or JCS, also agree that the current ban should be maintained. It is disturbing that the President's first policy action as Commander in Chief is contrary to the counsel of his Joint Chiefs.

President Clinton has said on many occasions that status alone in the absence of some destructive behavior should not disqualify people from military service. The President maintains that sexual orientation and sexual behavior are separate issues. But let's examine this argument. Take, for example, the current situation regarding showering and living arrangements.

Female soldiers shower and largely live separately from men. But President Clinton argues that behavior is the only measure of untoward social conduct. By this logic a heterosexual soldier could argue that he should be allowed to shower with female soldiers while promising to keep his behavior in check.

The problem we face here is not the presence of homosexuals in the military. Many homosexuals who have served in the military have performed no worse or no better than heterosexuals. The problem is that the creation of an open homosexual class and culture in the military would wreck the close knit military bonds, that is the foundation of military strength in which the taxpayers of this country invest over $280 billion of their hard-earned money every year.

President Clinton's proponents say that our effort to maintain the ban on open homosexuality is the same as attempts made 40 years ago to maintain the noxious policy of racial segregation. This comparison is invalid. Gen. Colin Powell, a soldier who likely saw the worst of our segregated military stated that "skin color is a benign, nonbehavioral characteristic. Sexual orientation is perhaps the most profound of human behavioral characteristics. Comparison of the two is a convenient but invalid argument." While race is a question of the color of a person's skin, the different sexual identities of homosexual and heterosexuals enforce different lifestyles. Lifting the ban would create numerous practical and legal questions. Would homosexuals in the military be afforded spousal rights, such as housing, as a couple? What about military pensions and family health care.

What about the complications in combat resulting from avowed homosexuality? What about its effect on the emergency blood supply, and the apparent or perceived favoritism among homosexual partners in life or death situations on the battlefield?

Not only do the ranking military officers believe the ban must be maintained, so do a number of military personnel and retired military groups. Twenty-seven military and veterans service organizations support the ban on homosexuals in the military, included among these are: The Retired Officers Association; the Association of the U.S. Army; the Veterans of Foreign Wars; the Marine Corps Reserve Officers Association; the American Legion; the Fleet Reserve Association; and the Air Force Association.

It appears that President Clinton has turned a deaf ear not only to the top military brass but also to those who have served in the ranks.

Finally, some have claimed that it should be no surprise that President Clinton has decided to keep his campaign promise and overturn current policy. But I, for one, am indeed surprised, that President Clinton has failed to deliver on a number of campaign promises he made to the American people—ones that I think mean quite a lot to the majority of the population, including a middle-class tax break, providing an economic plan for putting people first, and cutting the deficit.

This mistaken change in military policy should not go forward. We, in the Congress, cannot jeopardize the quality of our armed services. Again, I urge my colleagues to vote for Senator DOLE's amendment.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I have already made a few comments today about why I favor the Mitchell amendment. I have also explained—I hope rather carefully—what the President's directive that he issued for the interim 6 months while a review is going on does and what it does not do. I will repeat only one important point before I talk about the Dole amendment.

For the next 6 months, every military commander in the field anywhere in this country or elsewhere in the world will proceed exactly as they did a week ago in terms of how they would process the discharge of anyone who is either accused of homosexual conduct or of homosexual status. The President's directive does not change that.

Anyone who stands up and says, "I am homosexual," will be processed, just as they would have been before. They will no longer be on active duty. The only difference is that they will be separated from active duty and placed in the Standby Reserve if it is status only; if it is conduct, they will be discharged completely from all military status as previously existed.

Mr. President, I will oppose the amendment offered by the distinguished minority leader, Senator DOLE. I do so even though there is much that has been said on the other side of the aisle that I agree with. And I certainly appreciate all the kind comments I have had from my colleagues about the efforts I made to really slow the President down and to warn him that there are serious questions here.

I also think that everyone in the Senate ought to realize there are serious questions regarding the Dole amendment. Even though many of these consequences are not intended, I think that the examples I am going to give demonstrate why we need to slow down; why we all need to say that this is a complicated matter; why we all need to say: Let us have some hearings. Let us have legislative counsel look carefully at whatever we decide is going to be the policy. Let us examine the Executive orders, rules, and regulations, and really know what we are doing before we act either legislatively here in the Congress or through Executive order by the President.

In my view, first of all, the minority leader's amendment is not necessary. Most important, though, I believe the amendment could have some serious and unfortunate consequences, most of which the sponsors of this amendment, in my opinion, do not intend.

There are just a few things I want to say about that. There are some serious questions we must ask, and some serious consequences which would occur if this amendment were to be adopted and if it were to become law. I hope everyone will pay heed to exactly what the amendment says. The amendment states:

> All Executive orders, Department of Defense directives, and regulations of the military departments concerning the appointment, enlistment, and induction, and the retention, of homosexuals in the Armed Forces of the United States, as in effect on January 1, 1993, shall remain in effect until the completion of this review with respect to the Army, Navy, Air Force, and Marine Corps, and—

not or—and—

> and unless changed by law.

As we have heard many times today, everything, in effect, that concerns homosexuals—appointment, enlistment, induction, and retention, everything relating to that—is frozen as of January 1, 1993. No changes unless done by law—unless done by an act of Congress.

That sounds easy and simple, Mr. President. But it has far-reaching consequences. Let us look at the precise meaning of the amendment.

First, the amendment concerns three classes of rules: The Executive orders issued by the President, the directives issued by the Department of Defense, and the regulations issued by the military departments. That is the way we proceed beyond the law: Executive orders by the President, directives by the Department of Defense, and regulations by the military departments.

Second, the amendment states that it applies to "all" such rules "concerning the appointment, enlistment, and induction, and the retention of homosexuals in the Armed Forces." This means that any Executive order, DOD directive, or military department regulation which contains material concerning entry, retention, or separation of homosexuals is covered by the amendment and is frozen into law unless changed by law.

Third, the amendment does not say that it applies only to the specific portion of an Executive order, DOD directive, or military department regulation concerning homosexuals. It does not say that it covers only the chapters, sections, or paragraphs of an Executive order, DOD directive, or military department regulation dealing with homosexuality. The fact is that the amendment on its face, applies to all Executive orders, DOD directives, and military department regulations concerning appointment, enlistment, induction or retention in the Armed Forces if any material in the applicable rule—no matter how brief—deals with entry, retention, or separation of homosexuals.

Fourth, the amendment states that "all" of the Executive orders, DOD directives, and military department regulations covered by the amendment "shall remain in effect." The amendment does not say "a part" or "a portion" of such rules shall remain in effect; it says "all" such rules "shall remain in effect." This means that if there is any portion of an Executive order, DOD directive or military department regulation "concerning" homosexuality, then the entire Executive order, the entire DOD directive, or military department regulation will be frozen and can only be changed in the future by an act of Congress.

Mr. President, Members need to understand a key point here: There is no single Executive order, DOD directive, or military department regulation concerning homosexuality in the Armed Forces. It is not tied up in one little bundle. The Executive orders, DOD directives and military department regulations that deal with homosexuality do so only in the context of much broader issues and there are many such issues. There are separate rules on recruiting; there are separate rules on retention; there are separate rules on military justice. Homosexuality is addressed in the context of each one of these broad personnel policy directives, not in a single directive. The amendment does not freeze only those portions of the Executive orders, DOD directives, and regulations that specifically address homosexuality. The amendment freezes the entire text of the Executive orders, DOD directives, and military department regulations in question.

When you freeze all of the rules concerning the appointment, enlistment and induction, and retention of military personnel, you freeze virtually all military personnel management policies from now on, unless changed by law. Under this amendment, every change in these policies from now on—no matter how minor—would have to be considered by Congress. If anyone thinks we have had gridlock around here in the recent past, wait and see what would happen if this amendment becomes law.

Let us look at some specific examples of what this amendment would do.

One of the Executive orders that would be frozen in place by this amendment is the Manual for Courts-Martial. The Manual for Courts-Martial was issued as one Executive Order, No. 12473, in 1984. This Executive order implements the Uniform Code of Military Justice.

The manual sets forth the rules that govern the power of our military commanders to discipline their troops. Every order issued by a commander; every barracks inspection; every fraud, every act of waste, every act of abuse, every nonjudicial punishment proceeding; every court-martial; and every appeal is governed by this manual.

As my colleagues can see, this is the manual. It weighs 7 pounds. It has hundreds of pages. It covers virtually everything that I have said plus hundreds of other items relating to sentencing, relating to commission of an offense, and relating to nonjudicial punishment procedure. It relates to every single thing that you can imagine in implementing the Uniform Code of Military Justice. It has hundreds of pages and detailed text covering every aspect of the court-martial process from investigations through appellate review.

Since the Manual of Court-Martial is an Executive order authorizing a dishonorable discharge for persons who commit homosexual acts, the freeze amendment, as I read it, means that any future changes in the manual would have to be authorized by a new statute. I do not think we want to take that step. For example, the freeze amendment would preclude the President from amending the manual to increase the disciplinary powers of commanders—such as the power to conduct searches, seizures, and inspections—even if our military commanders recommended those changes as necessary to ensure good order and discipline in the Armed Forces. No changes in the manual's rules could be made without a new statute.

I do not believe that is really what the authors of this amendment intend, but I think that is what this amendment does.

Mr. President, there are many other questions about the effect of the amendment freezing all Executive orders, DOD directives and military department regulations on military personnel policy which I do not believe the sponsors of the amendment have fully considered.

The enlistment and appointment regulations set forth standards on critical factors such as education, mental ability, and physical condition for new recruits. If our military commanders determine that military effectiveness requires that any of these standards be raised or lowered, then DOD, as I read the amendment, would be prohibited from amending current rules to change those standards unless they are changed by law.

Separation regulations set forth the criteria for administrative discharges on subjects such as misconduct, drug-related offenses, and civilian convictions. If our military commanders believe that military readiness requires that any of these standards be raised, then DOD, as I read the amendment, would be prohibited from amending current rules to change these standards, unless it is changed by Congress.

What if, for instance, after review of the Tailhook report our Secretary of Defense, in terms of revising the sexual harassment rules and regulations in the Department of Defense, recommends that the President revise the Manual for Courts-Martial to establish sexual harassment as a specific offense and prescribe a penalty for that offense? What if they believe they need to revise DOD's retention and separation regulations to expressly address the problems of sexual harassment? Is this covered by the amendment? In my opinion, it would be.

Mr. President, it has just come to my attention, and I have not read every word of this, but the Navy, for instance, on January 6, 1993, less than a month ago, issued a Department of Navy regulation entitled "Department of Navy Policy and Sexual Harassment." It is dated January 6, 1993—after this freeze—which by statute under this amendment would be January 1.

These are some of the things that this Navy directive covers, which is stated on page 5: Actions, threats or attempts to influence another's career or job in exchange for sexual favors. I ask the authors of the amendment, what about sexual favors requested by a homosexual—would that be covered by the amendment and frozen out? As I read the amendment, there is serious question about whether this whole directive on sexual harassment, that is the Navy's response thus far to Tailhook, would be thrown in the trash can and put out of business by the amendment because it would be a change after the January 1, 1992, date in the amendment which freezes out all new rules. To be absolutely sure you would have to read this new rule and the old rule very carefully to determine the effect of the amendment. The Navy's January 6, 1993, rule also covers physical contact of a sexual nature which, if charged as a violation of the Uniform Code of Military Justice, could result in a punitive discharge. The way I read this, the Navy's January 6, 1993 directive would cover homosexual acts as well as heterosexual and, therefore, this directive could very well be out the window because it would be frozen out by the January 1, 1993 date in the amendment.

Mr. President, I know that is not what the authors intend, but what I am saying to everyone here is what I said to the President last week. Let us examine what we are doing and know what we are doing on this subject and then legislate rationally if we choose to legislate.

Mr. President, even if this amendment were viewed very narrowly, even if my interpretation in the reading of it is too broad—but I do not believe it is and I think most lawyers would agree with my interpretation—but even if we give it a narrow reading, even if every word had been put in this amendment that narrowed it down to absolutely nothing in an Executive order, or nothing in a directive or nothing in a policy except the very narrow term concerning homosexual conduct, we would still have some major problems with this amendment.

Let me just give a few examples in that regard.

This freeze amendment would preclude the President from changing the

Manual for Courts Martial if military commanders, for instance, recommended that the President, the Commander in Chief, deal more severely with homosexual rape and homosexual acts involving service members and minors. After his military commanders reviewed this situation and decided the existing code is not strict enough, if they said, "Mr. President, we want to make it stricter," then he would be precluded unless he came in and changed the law.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NUNN. I yield myself 5 more minutes.

Mr. NUNN. Mr. President, let me give another example. For example, the Manual for Courts-Martial currently authorizes a dishonorable discharge and 20 years confinement as the maximum punishment if a service member is guilty of forcible sodomy. Under the freeze amendment, the Dole amendment, even if our military commanders recommended to the President that a greater punishment is warranted for homosexual rape, he could not authorize any increase in the maximum punishment without a change in the law. I do not think that is really what we want to do here.

Another example: The Manual for Courts-Martial currently authorizes a dishonorable discharge and 20 years confinement if a service member is guilty of sodomy with a minor.

Under the freeze amendment, even if our military commanders recommended to the President that a greater punishment is warranted for service members who commit homosexual acts with minors, he could not do that because he would be frozen in with this amendment if it passed and became law. I do not think that the proponents of this freeze would want to limit the jail time of persons who take advantage of children if the Defense Department determines that a more serious punishment is warranted. I do not believe that is the intent, but that is what this amendment does.

The Manual for Courts-Martial currently provides that the 20-year maximum for sodomy with a minor applies only where the person is under 16 years of age. In other words, the sodomy provision of a 20-year punishment does not apply if it is committed with a 16-year-old. A 15-year-old, 14-year-old, 13-year-old, yes, but not a 16-year-old. If a service member is guilty of committing a homosexual act with a 16-year-old, then the 20-year maximum does not apply.

Under the freeze amendment, even if our military commanders recommended to the President that the 20-year maximum is warranted also for service members who commit sodomy with 16-year-old children, he could not authorize any increase. It would be subject to having to come back to Capitol Hill for a change in the law.

I really do not believe that is what is intended but that is what this amendment does. The freeze amendment also would preclude the executive branch from making any drafting changes that might be needed to improve the likelihood that the current rules on homosexuality in the military could survive legal challenges.

In this court case in California, if it on appeal looks to the DOD lawyers as if we have some problems with some of the existing rules and that they better change those Executive orders and rules and directives, if they decide they want to change those rules so we can survive a court case, this keeps them from doing so.

I can tell everybody here I have seen that happen time after time, where they have to change rules and regulations in order to be able to survive a court case. The Dole amendment, if we pass it, would block that out, making it much more likely that an appellate court would kick out the existing practice which I know the proponents of the Dole amendment would like to keep in the law.

Mr. President, I could go on and on, but I have used up an awful lot of time. Let me just close by saying that it is not an easy task to deal with this subject. That is what I have been saying to President Clinton. I have said slow down, Mr. President. Let us be prudent; let us be cautious. There are a lot of questions that I do not believe the executive branch has thought about.

Now I am saying to my colleagues in the Senate let us not legislate this. We do not know what we are doing here today in terms of the effect of this amendment. I do know that by reading the amendment there are an awful lot of unintended consequences. The very policy you are trying to protect with this amendment may very well be kicked out of court because the executive branch will not be able to make any changes even if those changes are needed to strengthen the directives.

Mr. President, I urge our colleagues to do the same thing I urged President Clinton to do last week, and that is before we fire, let us aim. Let us get ready, let us aim, and then decide what to do. Let us not jump the gun and legislate something we do not know much about and then cause the whole military department to be basically in gridlock in dealing not just with homosexual conduct but with thousands of other things that are in these executive orders and rules and regulations.

Mr. GLENN. Mr. President, will the Senator yield for a question.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, will the Senator yield for a question.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Georgia has 35 minutes remaining.

Mr. NUNN. I will be glad to yield.

Mr. GLENN. Mr. President, with regard to the first paragraph of Senator MITCHELL's second-degree amendment where it says, "review of current departmental policy," would it be the opinion of the distinguished floor manager that the Uniform Code of Military Justice would also be included in that review? Because, after all, that is the law that the military lives under when they give up some of their civilian rights.

Mr. NUNN. That is certainly the way I would interpret it as chairman of the committee dealing with it. We would have to look at the law because the law is on the books; it cannot be changed and it is a very material part of it.

Mr. GLENN. It would be the Senator's opinion that a review of departmental policy should include the UCMJ?

Mr. NUNN. That is correct, because policy flows from the law and we have to consider the law if we are going to consider the policy.

Mr. GLENN. A second area. Where it says with respect to the service of homosexuals in the Armed Forces, would it also be the consideration of the floor manager that this would include the Coast Guard, because the Coast Guard is not part of the Department of Defense normally except in times of stress or times of war. That, of course, would come under the Department of Transportation, and they should certainly be considered in that. The Coast Guard is a combat unit when we are at war, as they were in the Persian Gulf in Desert Storm.

Mr. NUNN. I would agree completely with the Senator from Ohio. And he will be helping me chair these hearings as chairman of the manpower subcommittee. We certainly would consider the Coast Guard. They in wartime would be included in the Department of Defense and in peacetime they are included under the Transportation Department. That certainly will be considered.

As a matter of fact, I served in the Coast Guard and the Coast Guard—a lot of people do not know—I am told, had the greatest number of casualties in World War II, more than any other branch of the service. They were very much part of our Armed Forces.

Mr. GLENN. I hope with the colloquy we have had here the Secretary of Defense will consult very carefully with the Secretary of Transportation and with Coast Guard officials to make sure we are including them in any consideration here also, and I thank the floor manager.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time? The Senator from Indiana controls 40 minutes 20 seconds.

Mr. COATS. Mr. President, I yield myself 1 minute and then I would like to yield some time to the Senator from Texas.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. COATS. Mr. President, I understand that the Senator from Georgia shares concerns that we have on this side relative to the impact of this change in policy, and that it ought to be studied carefully before policy changes are made. He said let us do nothing hasty; before we fire, let us aim; let us get the answers to the questions that are not answered as of yet; let us make sure we know what the unintended consequences are.

That is exactly what we are trying to do with the Dole amendment. That is exactly what we are asking the President of the United States to do. We are saying to the President of the United States before he takes action, because this is complex, because this has potentially unintended consequences, because this goes to the effect of our military for the future, let us make sure we know all the answers, and let us get Congress involved and let us get the military involved. That is all we are asking the President to do. Hold back on making this policy change on allowing homosexuals in a 6-month period of time to enter the military without reservation before we know what the consequences of that are going to be.

The Senator from Georgia has raised a serious question relative to the impact of this on existing Executive orders or potential changes in Executive orders.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. COATS. I would like to yield 3 minutes to the Senator from Texas to respond.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. GRAMM. Mr. President, I have heard a lot of arguments on the floor before. This is a very interesting one. If we listened to our dear colleague from Georgia, he would say that if we adopt this amendment we are fixing the policy of the Defense Department and creating all of these unintended effects. In fact, let me quote from the President's defense policy regarding homosexuals in the military:

> The current Defense Department personnel policies related to this issue will remain in effect at least through July 15, 1993.

Mr. President, we can always try to come up with ways to argue that problems exist, but I just ask my colleagues to read the amendment. The amendment addresses appointment, enlistment, induction, and retention of gays in the military.

Our dear colleague from Georgia talks about punishment. I see no punishment in appointment, enlistment, induction, and retention. The truth is that the entire fabric of the debate is prefaced on the fact that the President has made a change in policy concerning induction and has frozen that policy into effect until July 15. The real debate is, are we going to continue on a path where a decision is already made, where the debate is phony, where the hearings are a sham, or are we going to establish an orderly procedure to look at the facts and then have Congress participate in the decision?

That is what this amendment is about. That is what the issue is. I am confident that the American people are not going to be confused on that issue.

I yield the reminder of my time.

Mr. COATS. Mr. President, could I get an assessment of what time is remaining?

The PRESIDING OFFICER. The Senator from Indiana controls 36 minutes, 46 seconds; the Senator from Georgia, 32 minutes, 51 seconds.

Mr. NUNN. Mr. President, in response to my friend from Texas, the President can change the directive he issued last Friday at any time. He is not going to change it. But under the rules and regulations he is not freezing this in law. He will be able to make changes and make exceptions if it is warranted in all of these other areas.

The second thing I say to my friend from Texas, the retention section has the sanctions because that is where you have the dishonorable discharge. That is dealing with the retention section that is spelled out clearly in the amendment.

I yield 5 minutes to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, thank you.

Let me just state at the outset that I intend to support the Mitchell amendment and oppose the Dole amendment. I would like to talk about what I think is at issue in the most fundamental sense. That has to do with whether or not gay and lesbian persons in the United States of America will be accorded equal protection against discrimination, discrimination based upon who they are.

Mr. President, I have talked to a lot of people in Minnesota, veterans organizations, military people, many of whom are very nervous about all this. We are going through changes in our country. Even if I disagree with them, I deeply respect what they are saying to me because I think they are saying it in very good faith and very good conscience. But I do object to an effort, I think unfortunately, by some to—I think—push the wrong buttons and to—I think—really represent a politics of hatred.

Sometimes we can be very generous with the suffering of other people. I have heard people say to me, "Why this issue? Let us get on with the economy, let us get on with health care." Believe me, I know those issues are important. But on the other hand, if we were talking about someone's son or daughter or brother or sister or father or mother, they might feel differently about this.

I think the fundamental question, the subtext of much of this debate and discussion, is whether or not we are going to treat a group of citizens, based upon their sexual orientation, as if they are less than fully human. I want to make it clear as an American Jew that for all too many years Jewish people were treated as if they were less than fully human. I want to make it clear as someone who played a small part in the civil rights movement that for all too many years people of color were treated as if they were less than fully human.

But it is very difficult to quench the fires of human dignity. We will reach a day in our country, and maybe it is going to take an educational effort, but we will reach a day where we do afford equal and fair treatment to all citizens.

That is what this is all about. You know, Mr. President, we are playing with people's lives. It can be a very cruel thing.

Let me just talk about Pam Mindt, from Minnesota. Pam Mindt is a member of the National Guard, also served in the Reserve. Ten medals of honor she has received, written up in the advertisements for the Guard. But she felt not too long ago that she had to step forward and be honest and say she was a lesbian. She could not live with this schizoid existence about not being honest about who she was. As a result, she is faced with the prospect of dismissal.

Mr. President, I want to say this to each and every Senator on the floor. This is my own view and we all have our own view.

I went to the service for Thurgood Marshall. I heard some very stirring words at that service. Those words said sometimes you have to take positions, and sometimes it is not easy, and sometimes it is very difficult, but leadership is not appealing to the fears of people, leadership is not dividing people, leadership is not using people for politics, leadership is not about polarization. Leadership is about calling on people to be their own best selves.

By supporting the Mitchell amendment and defeating the Dole amendment, we take but a small step in that direction. I do not think that is too much to ask of the U.S. Senators when it comes to a basic question of civil rights and human dignity for people in the United States of America—all people, I might add.

Mr. NUNN. Mr. President, I yield to the Senator from Rhode Island 5 minutes and 55 seconds.

Mr. WARNER. Mr. President, is it possible we could rotate from one side to the other? I would thank the distinguished managers if that were possible.

Mr. NUNN. We would be glad to do that. I say to the Senator from Virginia we have been doing that all afternoon. In fact, the Senator from Indiana asked me two or three times to go ahead and use 2 or 3 because nobody was on the floor.

Mr. COATS. Mr. President, I yield to the Senator from Virginia 5 minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 5 minutes.

Mr. WARNER. Mr. President, I thank the managers. I thank my good friend and former boss, the Secretary of the Navy.

Mr. NUNN. Would the Senator from Virginia hold for just one moment? After the Senator from Virginia, I yield to the Senator from Rhode Island.

Mr. WARNER. Mr. President, in September, last fall, the distinguished Senator from Georgia and I in the capacity of managing the annual authorization bill of the Armed Forces, first addressed this issue on the floor of the Senate. At that time, I said—and it was concurred in by the distinguished chairman, Senator NUNN—that this issue is of great importance. It demands the full and careful attention of the Senate and of the House because the issue is very, very important today and will be a decade hence. Whatever decision is made by the Congress will shape the Armed Forces of the United States for a decade hence, beginning from the first day of that decision by the Congress, if the Congress—and I hope it will not—changes the current law.

There may be some modifications. From the very beginning, in my first speech in September, I said the importance justifies our consideration, and there may be some modifications made. But we should go about it in a very slow and deliberate manner. It is for that reason that I support the amendment of the distinguished Republican leader.

ORDER OF PROCEDURE

Mr. President, regrettably, today we have the absence of the ranking member of the Armed Services Committee, Senator THURMOND. He is attending his brother's funeral. Therefore, I would like to read from his prepared remarks and ask unanimous consent that they be printed in the RECORD in full, and that my remarks follow thereafter, and likewise be included in the RECORD in full.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Senator THURMOND, were he here, would say: "Mr. President, many in the Congress are troubled with the manner in which the President has dealt with such an important issue which potentially impacts the effectiveness of our Armed Forces. I recognize and respect the role of the President as Commander-in-Chief of the Armed Forces. I also recognize and respect the constitutional role of the Congress to make all laws necessary to raise and support armies and to provide for and maintain the navy. Accordingly, we have both a role, and we"—the Congress—"should both work together to develop a policy"—with our President—"which has as its goal the readiness and effectiveness of our fighting forces." Underline "fighting forces."

Senator THURMOND crossed the beaches of Normandy. More than any other Member of this body, with his long service here in the Senate, he has had a very, very strong and long identity with the men and women of the Armed Forces. Therefore, I believe his words, should be taken and considered very carefully by all.

I ask unanimous consent that the remainder of his remarks be placed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR STROM THURMOND—REFERENCE AMENDMENT TO MAINTAIN THE CURRENT DEPARTMENT OF DEFENSE POLICY REGARDING GAYS IN THE MILITARY

Mr. President, I rise today in support of the amendment to maintain the current Department of Defense policy regarding homosexuals in the military. I regret that the President has chosen to move forward at this time notwithstanding the request of many Congressional leaders, to hold in abeyance any change in the policy until hearings and study could be completed on this complex and emotional issue. His actions last Friday, directing the Department of Defense and the military services to stop asking new recruits if they are homosexual and suspending discharge actions against those who claim to be homosexuals, have set the wheels in motion for the total revocation of the ban. In fact, President Clinton has said he fully intends to issue the Executive Order on July 15 of this year.

If consultation and cooperation are to be effective, they must take place prior to action, not subsequent to it. The President has already acted.

The amendment offered today will only return our Nation to the status quo so that—through hearing, study, and contemplation—the Senate, the President and the Nation can take informed action this summer.

To approve the amendment is to respect the role of the legislative branch as a partner in public policy. To reject the amendment is to reduce the hearings and debate of this body to a sham. We will talk, but the decision will already have been made.

The President's executive order has turned the policy process on its head. In my view, this amendment would only set it right again.

Mr. President, many in the Congress are troubled by the manner in which the President has dealt with such an important issue which potentially impacts the effectiveness of our Armed Forces. I recognize and respect the role of the President as Commander-in-Chief of our Armed Forces. I also recognize and respect the Constitutional role of the Congress to make all laws necessary to raise and support Armies and to provide for and maintain the Navy. Accordingly, we both have a role and we should both work together to develop a policy which has as its goal the readiness and effectiveness of our fighting forces.

Mr. President, this issue is not about the morality of one's lifestyle. This issue is not about civil rights. The issue before us is National Defense. This debate is about the unique aspects of the military environment and the effect changing that environment will have on victory or defeat. We are talking about the lives of our men and women in uniform. There is no greater responsibility on the President and the 535 members of the Congress than to promote the national defense and the well being of the young people who answer their nation's call. If change is to be made with regard to homosexuals in the military, then it should come about only after thoughtful consideration and consultation, and not simply on the basis of a campaign promise. Campaign promises are part of the process. However, there are times when you just have to step back and remember that the responsibility of leadership to this Nation and its 1.7 million servicemen and women supplant what may have occurred on the campaign trail.

Mr. President, I welcome and fully support Senator Nunn's call for hearings on this issue. We need to hear from the military leaders who have dedicated their lives to this country and possess a unique insight into the working of the military. We need to hear from the non-commissioned officers who are the backbone of our Armed Forces and to whom we look for unit cohesion and discipline. We need to hear from the new recruits whether a change in the current policy would have affected their decision to enlist. We also need to hear from those who support a change in the policy. I am willing to listen to all sides and keep an open mind. Perhaps there are some changes that can be made. However we do not know what those changes should be, because we have not had the opportunity to explore the issue. We are dealing with the policy that has been in effect for 50 years. 50 years, Mr. President. A policy that has been accepted by military and civilian leaders of both parties. Before we take the first step on this uncharted course, I submit that prudence dictates we go slowly or we will run the risk of destroying the finest military in the world.

Mr. President, we all know that many gay men and women have been in uniform and have served their Nation with distinction. I am confident that they would continue to do so with or without a change in policy. However, we need to look beyond the individual to the greater whole. Successful military leaders have always emphasized the importance of trust and cohesion as an element of readiness and combat effectiveness. Our military leaders and training instructors—both officers and enlisted—have worked long and hard to create tight bonds among those who must face tough combat situations and meld individuals into the tightly knit teams necessary to accomplish their mission. In view of the antipathy that often exists between heterosexuals and homosexuals in our culture, will the trust, cohesion and spirit of teamwork that currently exists in the ranks suffer if open homosexuality is allowed? Will recruitment and retention suffer as a result of the change in policy? Will the prevalence of AIDS in the gay community create unforeseen risks on the battlefield? Will a medic refuse or hesitate to treat a wounded gay servicemember because of the fear of AIDS? Is privacy aboard a ship or submarine an issue? Should we provide military housing and benefits to a married gay couple? How does the unit commander deal with these issues? These are a few of the tough questions that need to be addressed. Frankly, Mr. President, I do not know the answers to these and other such questions. I do not believe the policy of the Department of Defense should be changed until the members of this body have had a chance to ask, and consider the answers to the many questions we face.

Let us remember that it is easy for politicians to proclaim policy from the comfort of their chambers. It is an entirely different matter for the young lieutenant who has to implement that policy from the spartan and dangerous environment of the battlefield or the close quarters of a nuclear submarine submerged for 90 days. These are the kinds of situations we have a responsibility to review prior to making any changes. Not to do so is a dereliction of our duty to the people who have to live by the rules we make.

Mr. President, in closing, I would like to remind President Clinton that he made another promise to the American people. He committed himself to working closely with the Congress—Democrats and Republicans alike. He wanted to end the divisiveness that he said hindered progress on many issues of importance to the American people. He called for cooperation and not confrontation. Mr. President, there was no initial consultation or cooperation with the Congress on this important issue. This is not a good way to start. If the President is serious about working together on the critical issues facing America—the economy, jobs, health-care reform and the deficit—then I urge him to maintain the present policy on this matter, get on with the hearings and then come together with the Congress and the military to fashion a policy that meets the goal of all Americans—a military force that is prepared to meet the challenges of the 21st century.

Mr. WARNER. Now, with respect to my own remarks, Mr. President, I have spoken to the distinguished chairman of our committee, Mr. NUNN, on several occasions about this issue. I commend him for the courage that he has displayed in the handling of this tough issue, both in consultation with the President and in consultation with leadership of the Senate.

It is not often that the Senator from Georgia and I are on different sides of an issue, but we are on this one. But I told him that it was imperative that a very careful study be undertaken respecting how other nations have dealt with this issue.

I have done my very best in the short period of time we have had to try and gain information about other nations policies and experience on this issue, and I will put in the RECORD a very brief summary of some dozen nations.

This is the best I could obtain, because not much information has been gained; although the Department of Defense has tried. This is not official. But it is the best we can learn. I have spoken with those members of the Department of Defense who have traveled to other nations, who have consulted with the military leaders of other nations with respect to the experience they have had on this issue. They are not forthcoming in terms of the information regarding their learning curve. There are nine nations that prohibit enlistment, and there are some 12 that do not ask questions. But the general theme that I have been able to determine thus far, is that of those nations that do not ask questions, they treat these individuals very differently from the other members of their Armed Forces. Many nations will not give them security clearances. Many nations will not put them in combat units.

I have recommended to the chairman that our committee delegate to several members the task of going abroad to try to learn for ourselves firsthand what the experience of other nations have been, so that when Senators wish to refer to the experience of other nations—and a Senator today has referred to the experience of another nation—we have some hard facts to help guide the ultimate decision of this body.

Mr. President, I ask unanimous consent that two articles from the January 11, 1993, edition of Army Times, along with a summary of policies of NATO nations, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Army Times, Jan. 11, 1993]

IN ISRAEL: THE HARD REALITY

(By Tom Philpott)

HAIFA, ISRAEL.—Yaron, a 30-year-old reserve lieutenant in the Israeli navy, stares thoughtfully at his coffee cup, considering the question.

English is his second language, so he must choose his words carefully. But the greater challenge is sorting out his feelings on the topic raised: his experience as a homosexual in the Israeli military.

Thirty to 60 days each year, Yaron, who would not reveal his last name, commands a Dvora class fast-attack boat, patrolling Israel's coastline with a crew of five active-duty sailors and four to five reservists. "Ten beautiful men," is the way Yaron describes them.

The crew members train to keep their skills sharp and guard against terrorism from the Mediterranean Sea. But how does a homosexual like Yaron handle his duties? How does the crew react: How does the Israeli military accommodate gays in operational assignments?

The questions are keenly relevant given President-elect Clinton's vow to lift the ban on gays serving openly in the U.S. military. Those who support the change answer critics, in part, by pointing to countries like Israel, France and Germany and their perceived success in assimilating gays into the armed forces.

Israel often is cited not only because gays legally can serve openly here, but because the Israeli military is widely viewed as one of the best in the world. Its battle skills have been tested often.

So how do Israel and some of the major NATO countries manage this volatile issue?

A closer look reveals that supporters and opponents of the gay ban alike are clouding the debate with misleading statements. Citing laws and regulations alone is not enough to understand the situation. In many countries, there is a vast difference between what is written and what is day-to-day reality.

THE ISRAELI MYTH

The situation in Israel, a religiously conservative country, might be the most misunderstood. In a recent editorial, The New York Times wrote, "Homosexuals [in Israel's armed forces] are not denied promotion because of their sexual orientation; they are allowed to become career soldiers; they serve in even the most elite fighting units, on critical frontiers."

Reality is quite different. In theory, homosexuals serve here openly without fear of harassment or discrimination. In practice, people like Yaron face many of the same pressures as their counterparts in the United States. Consequently, they are afraid to reveal their sexual preference.

Those found to be gay, or who proclaim their homosexuality, must undergo psychological testing to remain in service. Their files are flagged. They usually are barred from positions requiring top security clearances. Known gays rarely are assigned to combat units and do not serve without stigma regardless of the position they hold. Homosexuality, while no longer legally banned in Israel, still is viewed as abnormal both in the military and Israeli society.

Yet, the Israeli military handles homosexuals delicately compared with the U.S. military, where gays face immediate discharge regardless of assignment, specialty or overall performance. Many here consider such a blanket ban unnecessarily harsh. Homosexuals in the Israeli military do not fear criminal investigation, court-martial or abrupt dismissal. And "gay bashing"—physical attacks against homosexuals—is seen here as a violent American phenomenon.

THE MASQUERADE

Yaron's experience in a close-knit operational unit provides ammunition to both sides in the gay debate. He remains in the closet, even after six years of active duty and six more in the reserves. The masquerade, he says, said, is painful, but necessary. If he reveals his homosexuality, not only would it bother some crewmen, particularly the younger ones who don't know him, but it might upset his squadron commander. The navy has too many reserve officers for too few seagoing billets, so Yaron likely would get a quick transfer to a desk job.

Hiding his homosexuality, Yaron says, he receives excellent fitness reports and considers himself an effective boat captain. Still, he's concerned about the "sexual tension" and how his homosexuality plays off the crew.

"[Navy officials] think if I'm gay that, in an emergency, some of my subordinates won't take my orders . . . that they will be insubordinate. I feel you must trust everyone. It doesn't depend on sexual orientation. I'm very efficient," he says.

But, "you live with the crew 24 hours a day, sometimes away from the beach for a long time. And sailors, they talk all the time about sex."

As a homosexual, he says, "it's very difficult to separate the sexual stress from the special relationship with crew. There are close quarters and sometimes even touching. Lots of times sailors go naked and that is a problem for me. They laugh a lot about opportunities for sex among the crew and, sometimes, for a gay, it's very hard. I can't say, "Stop laughing at homosexual relationships!'"

His situation is different, he concedes, than it would be for a heterosexual officer. He's uncomfortable, for example, with some of the horseplay between crew members. He's bothered that the crew uses slang for homosexual to curse one another. He wonders if some sailors who joke about homosexual relations actually are interested in them. And he fears showing favoritism toward crewmen he finds physically attractive.

"I can't ignore if I like someone very much. If I'm very attracted or [have] a special relationship, I'll act different. . . . Sometimes they can be confused and don't know the meaning of this connection."

But Yaron emphatically says he would never have sexual relations with a crewman.

"I separate [my] civilian life when I come into the Navy. I act like I'm straight. But sometimes that may cause some trouble because I'm only a human being. I can do my job very good although I feel sexual attraction too."

Asked if all these feelings don't affect his ability to command, Yaron says they make it "very difficult to serve. But they have to give me the opportunity."

Listening to this conversation is Tal Weisberg, a gay reservist in the Israel army and Yaron's friend.

"I switch off my sexuality [on active duty]," Weisberg says. "Not because I want to, but because I am afraid."

Staying in the field for long periods is not much different than being at sea, says Weisberg, who serves in a front-line maintenance unit. When he feels attracted to another soldier, in a group shower for example, he has learned to check his feelings.

"It depends on the character of the person," Yaron says. "If he has a weak character, it's a problem."

WE DON'T HAVE A PROBLEM

Israel has fought five major wars in its 45-year history. Today it faces real or potential enemies on every border and is dealing with the sixth year of civil unrest in the occupied Arab territories. Against this backdrop, the issue of gays in the military is seen as relatively insignificant. And as far as the government is concerned, the less attention paid to it the better.

"We don't have a problem," one government official says, "and we don't want one."

While some Clinton supporters see Israel as an archetype for integrating gays, the government here is uncomfortable in that role.

"It's true that the Israeli army does not discriminate against gays. But it has to be put into a proper context," says Lt. Col. Moshe Fogel, spokesman for the Israeli Defense Force.

That context begins with Israeli society, where the emphasis is on family values and the government is a democratic theocracy. Judaism and religious leaders play a prominent role in setting the nation's agenda. There's no concept here, as in the United States, of separation of church and state.

"We struggle to strike a balance between a modern, pluralistic, secular society and, at the same time, a Jewish state," says Uri Dromi, director of the government press office. Judaism considers homosexuality as "an aberration, something that should not be done and should not be endorsed or acknowledged or credited with the same status as straight people."

Perhaps because these societal pressures are so strong, the Israeli military sees no need to paint homosexuality as a readiness issue. It already has the authority to restrict homosexual assignments and promotions.

A DIFFERENT CONTEXT

This approach to homosexuality fits in well with Israel's concept of universal service. At age 18, all Israeli men and women are drafted. Some exemptions are granted for ultraorthodox Jews and the physically handicapped. But many youths found physically unfit, including the severely handicapped, routinely appeal to a voluntary service board and win spots somewhere in the Israeli Defense Force. Throughout the process, the issue of sexual orientation never is raised.

"If you don't let someone in the Army here, it is a very cruel thing to do," says David Kreizelman, deputy director of the government press office. "Not only do people assume something's wrong with you . . . you're immediately bringing on yourself all kinds of problems."

Military service is a springboard to a successful civilian career here. Military experience is among the first questions asked of job applicants. Those who have progressed steadily or have served in critical positions have an advantage over their peers, particularly for jobs in government or Israel's bustling defense industry. Conversely, young people with no military experience face limited job prospects.

Male draftees must serve three years on active duty. At age 21, a relatively small number enter the small Israeli professional military and the others transfer to the reserves. Reservists drill one to two months annually until age 51. Women must serve two years on active duty. Their reserve obligation ends at age 24.

QUALITY SENT TO COMBAT

Draftees can say where they would like to be assigned, but the military makes final decisions based upon qualifications and service needs. Only top-quality recruits are sent to combat units. The definition of "quality" is based on intelligence, motivation, psychological fitness, education and physical fitness.

Every Israeli soldier begins service as a draftee. There are no service academies or ROTC programs. Eighteen months into mandatory service, standouts can apply to attend a six-month officer course. If accepted, their active-duty obligation is extended another year.

Inductees never are asked if they are homosexual and it is rare that they would volunteer the information, officials say. For one thing, many gay men and women still are unsure of their sexual orientation at 18. Also, because Israel is a religious, family-oriented society, young people who reveal their homosexuality bring enormous pressure on themselves and their families.

"There is a tremendous difference between public acceptance of gays in the U.S. and in Israel," says Reuven Gal, former chief psychologist for the Israeli Defense Force. "Where we stand today is still far, far behind where the U.S. stood even in the early '70s, not to mention where it stands now."

PSYCHOLOGICAL TESTING

While no conscript is asked about sexual preference, anyone who says he or she is gay, or anyone suspected of being gay, is referred to a mental health officer for psychological testing.

Dan Yakir, a lawyer with the Association for Civil Rights in Israel, says the official policy toward gays was set down in a 1983 military order that concludes homosexuality is not a mental disorder, but might pose a security risk.

The aim of the psychological exam is to determine if a soldier's homosexuality is an isolated phenomenon, or whether it's associated with deviant behavior. The test also attempts to measure the "mental strength of the soldier and the ability to cope with stress," Yakir says.

After testing, most homosexuals are permitted to remain in service. But, says Gal, "there will be an indicator in his file that limits him from serving with specific units such as intelligence . . . or in small units where the closeness of living accommodations are so tight and limited it may create problems. They won't send him to a submarine, for example. Other than that, they won't discriminate."

Gal, now director of the Israeli Institute of Military Studies, suggests that, structurally, the Israeli military might be better suited to accommodate gays than is the U.S. military. There is no evidence that homosexuals are less effective in combat than heterosexuals, he contends. Lawrence of Arabia, for example, was one of the most charismatic and dynamic military leaders to serve in the Middle East. The real issue, Gal says, is how openly homosexual members affect the group. In that regard, the Israeli military has an advantage over the U.S. military because it has a smaller and far more stable force.

"The very same group [of recruits] that came in together in August 1989 walks out together three years later," Gal says. "The same four guys in a tank crew will serve together through several wars. They know each other to the guts."

"Suppose you had an Israeli combat unit that has been together two or three years. If suddenly a guy comes out and discloses he is a homosexual, I don't think it would affect unit cohesion. He will be considered based on how good he is as a tanker or as an infantryman," Gal says.

Even making these allowances, gays in the IDF are swimming against strong currents. In December, a gay magazine in Tel Aviv reported a story that reinforced what a stigma homosexuality carries in the top ranks of the Israel military. According to the report, several years ago a top Army officer tried to derail the appointment of Dan Shomron as army chief of staff by alleging that Shomron was a homosexual. Shomron denied the allegation and won the chief of staff position. But he also demanded a full government investigation to clear his name. Military officials confirmed the story, including that investigation found the allegation against Shomron to be groundless.

"The Israel image of a military man, especially a combat officer, is still very much a macho image," says Gal.

FIGHTING FOR CHANGE

The social customs that accompany that warrior image are under attack from some quarters. Liora Moriel, who chairs the Society for Protection of Personal Rights, Israel's only gay rights orgaization, contends the situation for homosexuals in the Israeli military and society is improving.

In December 1991, the Knesset passed a law making it illegal to discriminate against homosexuals in the workplace. Although only elected to the Knesset this past summer, Yael Dayan, daughter of the late Israeli defense minister and soldier Moshe Dayan, already has gotten a subcommittee established to weed out discrimination based on sexual preference.

Despite their strong bias against homosexuality, many Israelis express surprise that the United States, with its reputation for protecting personal freedoms, would ban homosexuals outright from all military assignments.

"I know an officer who visited with Americans units," one Israeli defense official says. "And what did he see? In Marine [Corps] combat units, he saw women getting the same training as men. He saw every type of ethnic background you could ever imagine, people from walks of life about as different as they could be.

"We see that and we say, 'What problem could you have with homosexuals?'"

[From the Army Times, Jan. 11, 1993]

NATO ACCEPTANCE OF GAYS RUNS FULL SPECTRUM

BONN, GERMANY.—"In working with allies," wrote Winston Churchill, "it sometimes happens that they develop opinions of their own."

The United States' NATO allies certainly have opinions of their own on the issue of homosexuals in military service; these opinions are about as diverse as can be. If the U.S. Army changes its policies from preventing gays to fight to permitting them to do so, it will still remain well within the bounds of accepted allied practice, which ranges from that of the Dutch—where gays in the army are represented by a union—to that of the Greeks—who flatly ban gays from service.

Most U.S. officers who work closely with NATO allies here prefer to avoid confronting the disparate policies directly. Typical was the reaction of NATO military commander Gen. John Shalikashvili, who favors retaining the U.S. ban. Asked to comment recently on the lack of problems reported by the German military, he said, "It's an issue that each nation will have to deal with within its own context, so I would not want to make comparisons."

But another senior American officer added an equally typical comment, "The Germans, the Dutch, the Belgians—they ain't been in a fight lately."

Despite policies that generally are more liberal than the current U.S. ban, nations that allow homosexuals to serve openly have not resolved the problem of fully integrating them into their armies. For example, gays are allowed to serve in the German armed forces, or Bundeswehr. Nor does homosexuality exclude young men from the draft.

And the treatment of gays does not come close to the full equality that homosexuals in the United States are demanding. Gay German officers find paths to promotion blocked, and in some cases have been blocked from access to classified material, according to officials interviewed there. Gay conscripts often find life in the Bundeswehr unpleasant.

Still, German officers said, the sky has not fallen. Problems feared by U.S. commanders have not materialized, and the question rarely has been a major issue in the military of one of the United States' key NATO allies.

From a practical standpoint, the *Bundeswehr*'s prohibition on gays ended in 1969, when West Germany removed homosexuality from its list of criminal offenses. While some military regulations against homosexuality survived for years, in practice, gays have been left undisturbed except in rare cases where they make advances toward subordinates.

TREATED THE SAME WAY?

"Heterosexuals and homosexuals are treated the same way," said Cmdr. Walter Reichenmiller, a spokesman for the Defense Ministry in Bonn.

But the *Bundeswehr* withholds promotions from gay officers on the grounds that they cannot command adequate respect from soldiers, according to Volker Beck, a spokesman for the German Gay League, who added court challenges to the practice have not been successful to date.

Military officials acknowledged that an officer's career can be damaged by open homosexuality.

"It might be affected where they are behaving in a way it becomes obvious," Reichenmiller said. "The respect a military superior needs to lead soldiers might keep him from further promotion, but he wouldn't be degraded."

"What happens practically is that when someone is open about their homosexuality they won't be promoted," Beck said.

Anti-gay violence, lowered readiness, and discipline problems have not been the result in Germany, officials said. "We haven't noticed any problems like that," said Friedrichs, a 30-year veteran. "There were no problems that caused the military leadership any headaches."

"I really have never heard of such a case in my 29 years of military service," said an army pilot, who added he would prefer not to have gays in his unit.

"Morale might be touched a little, but not readiness. I can't imagine that," he said.

OUT OF THE CLOSET, OUT OF THE ARMY

Britain's policy on gays in the military is simple. "When you come out of the closet, you also come out of the army," said Chris Pengelly, a spokesman at the British Embassy here.

And although policies on homosexuals in the military are being challenged and changed in other countries, Britons interviewed in Washington and London said there is little if any sentiment for change in Great Britain.

The question of permitting gays to serve in the British military simply is not a matter of debate, they said. And the fact that Canada and Australia recently lifted bans on letting homosexuals serve, and the possibility that the United States may follow suit, has not prompted the British to question their own policy, they added.

"We think we've got it right," Pengelly said.

The only recent military action on the homosexual front in Britain came this past June, when the British military adopted the policy that homosexual acts that are not against civil law no longer will be against military law. The change means, in Pengelly's words, "They used to be kicked out and prosecuted. Now they are just kicked out."

Actually, the practice of prosecuting gays simply for being gay was abandoned unofficially years ago, said Andre Silverman, a spokesman for the British Defense Ministry. Most homosexual activity among consenting adults was decriminalized in Britain in 1967, he said.

But beyond making current practice into official policy, there has been no move by the British military to embrace homosexuals.

Britain's military leadership contends, much like its U.S. counterpart, that allowing homosexuals to serve would hurt the military.

John Keegan, military editor of *The Daily Telegraph* in London, recently wrote that in the wake of Australia's decision to lift its gay ban, "The moment for experimentation with homosexual military rights is not yet with us, and probably never will be."

According to Keegan, in British army regiments, men serve together for an entire career and homosexuality in such a regiment would be devastating to unit cohesion.

NORWAY: 'NOT AN ISSUE'

Ask Norwegians about what problems result from gays serving in the military and the response is either a puzzled look or surprise at being asked the question.

In a country where women and men serve side by side aboard submarines or roll around naked in the snow to get clean during wintertime military exercises, Norwegians are matter-of-fact about their integrated defense force. That includes the presence of gays and lesbians, who have been allowed to serve openly in the armed forces for the past 14 years.

"Basically, the difference between the United States and Norway is that in Norway, it's not an issue," said Air Force Lt. Col. Ragnar Haugholt, the assistant Army, Navy and Air Force attache for the Norwegian Embassy here. "A lot of what is going on in the United States is based on believing not knowing."

But despite the absence of debate on homosexuals serving in the Norwegian military, the status of homosexual partnerships is currently in flux. A proposal by the ruling minority Labor Party government to allow gay and lesbian couples to marry is expected to pass before spring, officials said. That would make Norway the second country in the world to officially recognize homosexual unions.

With its passage, Norwegian gays on active duty will be able to get living allowances and other benefits for their partners, officials said. Military housing allowances for married couples run about $500 to $600 a month, said Navy Capt. Thor Hallin, naval attache at the Norwegian Embassy here.

There is some concern over the homosexual union proposal, however.

Arne Dahl, the armed forces judge advocate general, said the new law singles out homosexuals and could fuel resentment among Norwegians who may see it as unfairly advantageous treatment.

By contrast, there was little debate over ending the ban in 1979 on homosexuals serving openly in the Norwegian military, said Gro Lindstad, who chairs the National Organization of Lesbian and Gay Liberation in Norway.

FRANCE: A DRAFT DODGE

While homosexuals in the United States fight for the right to serve in the all-volunteer military, gays in France prefer to use their sexual preference to avoid mandatory service, according to government officials there.

"There is no official discrimination against gay men and women as long as they obey the rules of the French armed forces," said Capt. Phillipe Hunter, a spokesman for the minister of defense. "For example, it is not possible to punish somebody because of his sexual life. But if this person makes some sexual harassment upon other members of his unit, he will be in trouble."

Other government sources said the more common practice for French homosexuals is to avoid the 10-month mandatory service required of draft-age youths by claiming their lifestyle is incompatible with service.

"If a young man claims to be a gay in hope of not being drafted, it won't work," Hunter said. "But if his sexual life causes him psychological troubles, he won't be drafted."

Other French officials said homosexuals routinely dodge service that way. "Of people eligible for duty under the conscription law, only about three-quarters of those are medically exempted. And a well-known way of being exempted is declaring you are a homosexual," one official said. "It will not appear on paper that you were exempted for that reason. . . . Everybody is happy."

NATO POLICIES ON GAYS IN UNIFORM

Belgium: Not acknowledged as a relevant issue. Neither conscripts nor volunteers are asked about their sexual orientation. Homosexuality itself does not exempt Belgians from the draft unless there are accompanying psychological disorders as determined by clinical evaluation. Homosexual conduct between consenting adults off-duty is not punished, but inappropriate homosexual and heterosexual behavior can lead to dismissal from military duty or exclusions from certain units and jobs.

Britain: Homosexuals are officially barred from service, but unofficially the British Defense Ministry says the practice of prosecuting gays simply for being gay is rare. Homosexual acts among consenting adults has been decriminalized in military as well as civilian law as long as it is off-duty.

Canada: Was ordered by the Federal Court of Canada to drop its ban on gays in the Canadian Forces in October 1992. Canadian service members were not required to certify they were heterosexual when they enlisted, but openly gay persons were often discharged or had their transfer or promotion opportunities limited. The files of service members who were either discharged or denied promotion because of their sexual orientation are being reviewed for reconsideration by military authorities.

Denmark: No law or policy. Neither conscripts nor volunteers are asked about sexual orientation. Treated as a personal, private matter.

France: No legislation or written codes. Gays are allowed to serve in the French military as long as they do not harass other members of their units. But gays and lesbians can avoid being drafted by claiming their homosexuality is incompatible with service life.

Germany: Homosexuality cannot be used as a reason not to be drafted, although potential gay conscripts who claim service would be psychologically injurious are evaluated and frequently given alternative mandatory service. Career members of the military who are openly gay do face discrimination, frequently finding promotions blocked and access to top-level classified information denied.

Greece: Homosexuals are banned from military service.

Italy: Homosexuals are deemed unsuitable for military service. During medical examinations, homosexual conscripts will be declared ineligible if found to have behavioral "anomalies" caused by sexual deviations.

Luxembourg: Homosexuals are not precluded from service. Military service is voluntary and enlistees are not asked about sexual orientation. Improper conduct—whether homosexual or heterosexual—is punishable by discharge or court martial.

Netherlands: Basic law prohibits all discrimination, for any reason. A union represents homosexuals in the military. Unwanted advances are treated as improper behavior. Courses in human relations are conducted for commanders and include homosexual issues. Legislation is pending for homosexual survivor benefits.

Norway: Not considered a relevant issue and no one entering the service is asked about their sexual orientation. Unwanted advances by either homosexual or heterosexual service members are treated as improper behavior contrary to good order and discipline.

Portugal: Not seen as a relevant issue. Homosexuals may serve in the armed forces, although conduct may be punishable.

Spain: There are no codes regulating homosexuals in the military. Like religion, sexual orientation is considered a person's own choice.

Turkey: Homosexuals are not permitted to serve openly in the armed services, although they are not asked about their sexual orientation upon entering the service.

Source: Military and embassy officials of each country.

HOMOSEXUAL POLICY MATRIX

	Prohibits enlistment	Does not ask questions	Discharged if found in the service	Does not discharge but discriminates	Permits homosexuals to serve
Belgium		X		X	
Canada		X			X
Denmark		X			X
France		X			X[1]
Germany		X		X[1]	
Greece	X[2]		X		
Italy	X		X		
Luxembourg		X			X
Netherlands		X			X
Norway		X			X
Portugal	X		X		
Spain		X			X
Turkey	X		X		
United Kingdom	X		X		
Australia		X			X
Egypt	X				
Israel		X		X	
Japan		X			X
New Zealand	X		X		
Republic of Korea	X		X		
Saudi Arabia	X				

[1] But may be discharged if inappropriate behaviors are displayed.

[2] Prohibited in "regular" forces.

BELGIUM

Conscripts are not asked about their sexual orientation.

Homosexuality is not a reason for exclusion from the draft unless a significant "psychopathology," determined by a clinical evaluation, exists.

If a serving homosexual is exposed publicly, the member is referred to the medical community to determine if the member should be continued on active duty.

Serving homosexuals may have limited access to confidential documents and excluded from certain tasks and units.

Open homosexual behavior among members of the Armed Forces will not be tolerated and will lead to neuropsychiatric evaluation.

CANADA

Criminal Sodomy laws were repealed in 1969.

Armed Forces was one of the last institutions to maintain a discriminatory practice regarding homosexuals serving in the military.

Government ended the military's policy condoning homosexuals in October 1992.

Previous to policy change, questions were not asked to determine homosexual orientation but when discovered, homosexuals were discharged.

Armed forces have developed an instruction outlining inappropriate sexual behavior prohibited under civil law; not based on specific gender or orientation.

DENMARK

No law or policy regarding homosexuals in the military.

No questions are asked concerning sexual orientation.

Sexual preference is treated as a private, personal matter and is not considered a matter relevant to military service.

FRANCE

No formal, established policy.

No questions asked.

Sexuality is considered a private matter; it is considered rare in French society for homosexuals to declare their status.

Homosexuals may be medically exempted from conscription if they believe that their sexual proclivity causes psychological problems.

Commanders can separate a serving homosexual if the behavior is incompatible with military life.

An avowed homosexual may be allowed to serve if he or she is not causing problems.

May be a problem if an avowed homosexual is serving in a job linked with national security.

GERMANY

Homosexuality was decriminalized in 1969.

No written policy regarding homosexuals serving in the Armed Forces.

No questions asked as part of the conscription or enlistment process; however if a doctor discovers homosexual orientation during the medical exam, the inductee will be eliminated from entry if declared psychologically unfit.

Potential homosexual draftee may be exempted from military service if he states that he cannot control his sexual urges.

Discrimination against serving homosexuals exists.

Practicing homosexuals: Not electable to officer or petty officer ranks on the grounds that homosexuals cannot command adequate respect from soldiers; denied security clearances; and can be removed from the Service, subject to a court decision, if behavior disturbs the military.

Non-practicing homosexuals are not discharged, but are watched and their career advancement is blocked.

GREECE

Homosexuals are not allowed to serve in the "regular" Armed Forces.

Homosexual conscripts who want to serve may do so if they do not "misbehave" but are denied certain duties such as service aboard a warship.

Serving homosexuals who display inappropriate behaviors are discharged.

Homosexual conscripts or enlistees who display "strong homosexual tendencies" during the entry process are not allowed to serve.

ITALY

An administrative policy is in place regarding homosexuals serving in the Armed Forces.

Homosexuality is considered incompatible with military service.

The question of orientation is asked during the induction process.

Homosexual conscripts are medically evaluated and, if found psychologically "normal" they are declared eligible but not desirable, put on a special profile and sent home.

Serving homosexuals, once discovered, are discharged under an administrative procedure.

LUXEMBOURG

Homosexuals are not precluded from military service.

Sexual orientation is not questioned during the entry process.

Sexual orientation is considered a private, personal matter; serving homosexuals are advised to keep it a private concern.

Inappropriate sexual behavior, homosexual or heterosexual, is punishable by discharge or court martial.

THE NETHERLANDS

Since 1974, government prohibits all forms of discrimination within all governmental institutions.

Homosexuals in the military are represented by a union.

Human relations training for military commanders includes homosexual issues.

Unwanted advances, of any kind, are treated as improper behavior.

Per a 1990 study by the Netherlands Navy, intolerance toward homosexuals still exists in the Armed Forces.

Homosexual lifestyle is not accepted by many heterosexual military members.

Baiting, fear, and "unprovable forms of discrimination" still exist.

Many homosexual military members still stay "in the closet."

NORWAY

Regulations and laws do not exist regarding homosexuals in the Armed Forces.

Conscripts are not asked about their sexual orientation.

Homosexuality is not a reason for discharge.

Persons displaying unwanted aggressive behavior are transferred to another unit or Service.

Unwanted behaviors are treated as improper behavior which is contrary to good order and discipline, but homosexuality is not the main issue.

PORTUGAL

Official policy not available; unofficially, the policy is to not allow homosexuals to serve in the military.

Homosexual enlistees and/or conscripts are not accepted into active duty.

If discovered, serving homosexuals are discharged.

SPAIN

The policy to exclude homosexuals from military service was changed within the last two years.

No questions are asked concerning sexual orientation.

Homosexual orientation is no longer a reason for discharge.

Homosexuals discovered engaging in behaviors considered inappropriate are adjudged as would be any offender of the military's Uniform Code of Military Justice.

TURKEY

Homosexuality is forbidden in the Armed Forces.

Homosexual conscripts or volunteers are not allowed to serve.

If discovered, serving homosexuals are discharged and, dependent upon the circumstances, may be charged with the military justice article addressing "disgrace."

UNITED KINGDOM

Britain lawmakers are planning to introduce legislation to decriminalize homosexual activity in the British Armed Forces but will not challenge the policy barring homosexuals from serving.

Avowed homosexuals are not enlisted.

If discovered, serving homosexuals are discharged:

Homosexuals who engaged in activity with a member of the same rank over 21 are involuntarily administratively discharged.

Homosexuals who engaged in activity with someone under 21 or of a different rank are court martialed, then discharged.

AUSTRALIA

Government ended the policy disallowing homosexuals to serve in the Australian Defense Force (ADF) in November, 1992.

Service Personnel are required to refrain from conduct damaging to group morale or professional capability and cohesion.

Unacceptable, rather than unlawful, sexual behavior may be grounds for administrative separation.

ADF has developed an instruction to state ADF policy regarding unacceptable behavior by ADF members and the service action which may be taken as a result.

ISRAEL

The Armed Forces do not exclude based on sexual orientation.

No questions are asked regarding sexual orientation.

Admitted homosexuals can enter the military, but are not accepted for entry into highly classified units.

Although officially accepted, many homosexuals stay "in the closet" due to fears of stunted career growth and social stigma.

JAPAN

No policy, written or otherwise, to prohibit entrance of homosexuals into the military.

Few, if any cases, have been found.

If a homosexual was discovered in the service, he would be disciplined but not discharged.

Homosexuality is contrary to the ethics and mores of the Japanese society.

NEW ZEALAND

Homosexuals are not allowed to enter the military.

If discovered, practicing homosexuals, or those charged with indecent acts, are discharged.

Current policy is under review.

REPUBLIC OF KOREA

Armed Forces are conscript.

Homosexuals are not allowed to enter the military.

Self-proclaimed homosexuals serving in the military are psychologically evaluated and discharged.

Homosexual activity is against the penal code, military members are discharged if found guilty of homosexual acts.

SAUDI ARABIA

Homosexuality is again against Muslin law and is punishable by death.

Existence of homosexuality is not acknowledged since it is contrary to the prevailing religion.

No regulation or policy regarding homosexuality exists for the military since this would acknowledge its existence.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senator from Rhode Island [Mr. CHAFEE] is recognized for 5 minutes.

Mr. CHAFEE. Mr. President, as the Senate debates the matter of whether homosexuals should be admitted into the Armed Forces of the United States, I would like to offer a few thoughts, if I might. I approach this debate with the experience of having served as an enlisted man—2½ years on active duty as a marine and then 3½ years on active duty as a marine officer, where I had the privilege of commanding a rifle company, and 3½ years as Secretary of the Navy.

Just as I do not think one needs to have experienced poverty in order to discuss poverty, I do not believe that one has to have served in the military in order to discuss this subject before us. Nonetheless, I do find that my experiences are helpful to my thinking on whether homosexuals should serve in the military.

Mr. President, as a nation, we have accepted the goal of making our armed services reflective of American society. All who are able-bodied and qualified, men and women, people of all races and creeds, may serve. And having served, there are certain benefits that come with that, which they are entitled to. For example, as we all know, having served in the military, one is entitled to additional points on a civil service exam, or is able to receive a VA pension.

It is not totally accurate, as sometimes is suggested, that our sole goal should be a more efficient military. For example, the integration of women into the Armed Forces has required adjustments to be made, adjustments which have taken time, attention, and money. It would have been more efficient, Mr. President, and less expensive for the military not to make the effort to be more inclusive. But the country made the decision that women should be given the opportunity to serve, and that, I believe, is a correct decision. Gender is no longer an issue, but talent, skill, brain power, fitness, and dedication are the criteria.

Now we are confronted with the question of whether homosexuals should continue to be excluded from military service because of their sexual preference. Note, we are not talking about behavior, but we are talking about sexual preference. It turns out that we were excluding a substantial percentage of our population, perhaps 8 percent, perhaps 10 percent, who knows.

I am one who strongly believes that any problems attendant to allowing homosexuals to serve in the military can be minimized. I am certain there would be no noticeable deterioration in the quality or readiness level of the Armed Forces of the United States. In fact, as we all know, there are already many homosexuals who have been private about their sexual orientation, who now serve in the military, and have compiled records of valor. I have seen that myself in my experience. Now those homosexuals serving in the military service should be allowed to come out in the open and, as citizens of this country, be given the opportunity and the privilege to serve their country.

What should be the standard of conduct? It should be the same as for all other men and women in the military. There should be nothing offensive in their conduct. For example, we cannot tolerate the retention of men who harass or molest their female peers. Likewise, the military will not be able to tolerate homosexuals whose behavior intimidates or harasses others. Any kind of untoward sexual behavior, no matter from whom it comes, must not be permitted.

It seems to me, Mr. President, much distortion about homosexuals in the military has crept into this discussion. Some suggestions have railed about and really have reached the preposterous level. I will give you a couple of examples. The idea that there is suddenly going to be a stampede of gays to enter the military force is ludicrous. So is the implication that the military will find itself battling an epidemic of AIDS, a disease that also hits, as we know, heterosexuals. That assertion makes no sense.

Should there be a careful process of admitting gays and lesbians into the armed services? Of course, there should be. Congressional hearings should go forward as planned, but the purpose of the hearings should not be to determine whether homosexuals should be allowed to enter the military but, instead, how we can go about integrating them in the smoothest way.

Can such integration take place overnight? Of course, it can. But it will have to take place gradually. There will have to be a vigorous effect to sensitize soldiers, sailors, officers, enlisted men, about the kind of behavior that will be expected.

To my mind, this effort is not unlike the aftermath of the Tailhook scandal, whereas, as many will recall, the entire Navy stood down for a day—the entire Navy—so that it could be made clear to all in the military, to all in the Navy, every man, that they cannot harass their female counterparts.

Without question, Mr. President, removing the ban on gays in the military is going to require the support of senior officers. If they are unsupportive of the new policy, then get out. It seems to me we have to all remember we have only one Commander in Chief. My experience has been, however, that when a discussion has taken place on a matter of import in the Navy, and a decision has been reached, that those in command follow the decision. They may not be wildly enthusiastic about it, but they carry it out—in exemplary fashion.

Mr. President, I have great faith in the military leadership of our country, that they will accept the directives of this President with grace.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COATS. Mr. President, I yield 10 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. HELMS. I thank the distinguished Senator and I thank the Chair.

Mr. President, let us get right to the point—no more mumbo jumbo, no parliamentary slight-of-hand. The only amendment before the Senate today that will prevent homosexuals overt entry into the Armed Forces of the United States is the Dole amendment. Any other suggestion is inaccurate.

So, the choice is clear: By supporting the Dole amendment you will be standing with the Joint Chiefs of Staff, with every major veterans' organization, and with literally millions of Americans who understand that anything short of the current ban is a threat to national defense and a surrender to a repugnant and arrogant political movement.

On the other hand, by supporting only the Mitchell amendment, while opposing the Dole amendment, you will be engaging in eyewash by supporting what is called a "nothing amendment" around this place. You will be standing with those who are ready to sacrifice the morale and effectiveness of the world's finest military in the name of a crash campaign and special interest politics.

Do not be misled by all of the talk about waiting around for this hearing or that study. The President of the United States has made clear that he is bound and determined to allow the followers of ACT-UP and Queer Nation to invade the U.S. military. He has said that no matter what this Senate does, no matter what these hearings conclude, he will lift the ban.

Mr. President, as I said in my Tuesday remarks in the Senate, President Clinton is on record, in writing, as "loathing the military." The reasons for his refusal to serve his country in uniform are well known. He has never been through basic training and his only experience with soldiers and sailors is watching them march down the street in a parade.

His determination to invite homosexuals into the armed services can certainly be taken by America's soldiers, sailors, and airman as proof positive that the President is at best insensitive and at worst contemptuous of the military way of life.

President Clinton and his advisers—many of whom have never gone near the uniform and are proud of that fact—have ignored the warnings of General Powell and his service chiefs. Thousands of Americans saw the widely circulated January 18 memo from the new Secretary of Defense to the President. It called for the advice and help of homosexual activists and politicians and disparaged the views of our Nation's highest military leaders. Obviously, the many years of combined combat experience of the Joint Chiefs count for nothing in the face of the radical minority of homosexuals and their allies in the White House.

What is underway here is the governmental stamp of approval on the homosexual lifestyle and that means making sexual orientation a protected class, sanctioning quotas in hiring and promotion, benefits for same-sex spouses and on down the line. Transforming the U.S. military into the radical's social laboratory is the most important first step in the transformation of all of American society.

In conclusion, let me repeat: The choice is clear. By supporting the amendment of the distinguished Senator from Kansas, the Republican leader, Mr. DOLE, you will be standing with the Joint Chiefs of Staff, you will be standing with every major veterans' organization, you will be standing with millions of Americans who have made clear that they understand that any thing short of the current ban is a threat to national defense and surrender to repugnant and arrogant political forces in our land.

Mr. President, I yield back the remainder of my time, and ask unanimous consent that a series of newspaper articles be placed in the RECORD at the conclusion of my remarks

I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Feb. 2, 1993]

BLOOMING OF THE FLOWER CHILDREN

(By Richard Grenier)

Wellington said of Napoleon that his presence on the battlefield was worth 40,000 men. And of Waterloo, where he faced a sick Napoleon with an army half his own, he remembered grimly: "It was the most desperate business I ever was in. A damn close-run thing."

The age of warfare and battlefields is over, some say, ignoring Serbs, Croats, Bosnians, Azeris, Georginas, Kurds, Iraqis, Somalis, Cambodians, Angolans * * *. But one can't help but wonder how many men our own commander in chief would be worth on the battlefield. And the grim suspicion comes back: zero. And he might even be worth 40,000 men to the enemy.

Thucydides wrote: "Fix your eyes on the greatness of Athens, and remember that this greatness was won by men of courage, who did not stand idly by when the enemy attacked." And the answer to what men would most want to be has for hundreds and hundreds of years been: brave. Civilizations have come and gone—with widespread worldly desires to be rich, handsome, intelligent, witty, sometimes kind—but in most men's heart of hearts the answer is still: brave.

President Clinton is not a "baby boomer" president (a term rapidly approaching worthlessness), he's our first flower-child president. In his formative years, the "flower power" mind-set at elite universities was at its most pervasive. And this country's flower children, although given to egregious imitations of courage under embarrassingly safe conditions, have never entirely gotten over the virulent antipathy they felt for the men—working class and their educational inferiors—who fought for their country in Vietnam.

These flower children had the most immaculately idealistic reasons for opposing the war. In their mind they were humanitarians, agrarian Socialists, even Mahatma Gandhi. But the suspicion of cowardice lingers, gnawing at them, too. Others fought for their country. They, children of privilege, took educational deferments or fled. And many display to this day an invidious attitude toward the military, which they consider, at best, an alien culture.

During the Gulf war, one had only to hear the press-conference "questions" in plummy Ivy League accents expressing horror that we were bombing a retreating enemy (didn't we bomb retreating Germans in Normandy?), or that our ordnance was only 25 percent accurate (to hit a single target in World War II we had to drop 6,000 bombs).

I submit that President Clinton, who equivocated shamelessly at the outset of the

Gulf war and gave it his wholehearted support only after we'd won, remains a typical flower child, and that in a remote corner of his heart, out of envy mixed with self-justification, he seeks to demean his own military.

In my London days I knew a distinguished English homosexual actor who, drafted into the Royal Air Force at the hour of greatest peril in World War II, burst into tears at the induction center. When he'd not stopped sobbing a week later, the RAF discharged him as plainly unfit to fly out on the great bombing runs over Germany. An intelligent, fair-minded person in other respects, this man could never stop himself from denigrating the course, uneducated Britons whose grim determination to fight for their country had saved him from a Nazi concentration camp. My point being not his homosexuality but his strange ingratitude.

Bill Clinton, I suspect, is such a man. Would he have burst into tears at boot camp if the military had grabbed him during the Vietnam War? I have no idea. But I accuse him, after what is already a record number of broken electoral promises, of sticking to his position on homosexuals in the military out of a probably unconscious urge to demean men in a far rougher profession that his, and who've shown the physical courage he has never shown.

If there's anything to opinion polls, they show Bill Clinton's lifting of the ban on homosexuals supported by many women (not exactly the warrior class), opposed overwhelmingly by men (particularly those who've served), and opposed quite fiercely by the military itself. The armed forces, for those like Bill Clinton who see them only at parades, are not a democracy. Military men are not just another fraction of American society. When the nation is in danger, their mission, at risk of their lives, is to kill and destroy. They are not like other people.

Bill Clinton has never heard a shot fired in anger. He's never spent a day in uniform, never been through basic training or boot camp. These experiences are quite unlike the cheap bonhommie of an MTV party to the music of flower-child Bob Dylan's "The Times They Are A-Changing'." They might horrify him. Bill Clinton claimed in New Hampshire that he could "take a punch." But, given his flower-child predilections, it was an odd metaphor. Can Bob Dylan take a punch? Would Saddam Hussein be frightened if we told him we were sending Bob Dylan after him?

Winning a Rhodes Scholarship was very important to Bill Clinton's political career. In stipulating the qualifications for Rhodes Scholars, Cecil Rhodes cited, immediately after scholastic achievement, "manly outdoor sports." But Bill Clinton, who jogs like an old lady, has never played manly sports.

And those who find it unthinkable that a president demoralize his own military might contemplate the likely behavior as commander in chief of Bill Clinton's soulmate Barbara Streisand (who nourishes senatorial ambitions). Forget Hilary. Think kiss-kiss Hollywood. Think Barbara Streisand.

[From the Washington Post, June 28, 1992]

THE CASE FOR A MILITARY GAY BAN

(By David Hackworth)

Rep. Pat Schroeder of Colorado wanted to give women "equality and opportunity" by making them rucksack-toting grunts. Now she aims at putting homosexuals in the foxholes to "end the final bastion of discrimination."

I cannot think of a better way to destroy fighting spirit and gut U.S. combat effectiveness. My credentials for saying this are over four decades' experience as a soldier or military reporter.

Despite the ban on service by homosexuals, gays have long served in the armed forces, some with distinction. Many perhaps felt no sexual inclination toward their heterosexual fellow soldiers. If they did, they had their buddies' attitudes and the Uniform Code of Military Justice hanging over their heads. Still, I have seen countless examples of inappropriate and morale-busting behavior.

In Italy, for example, in the postwar occupation, a gay soldier could not keep his hands off other soldiers in my squad. He disrupted discipline, mangled trust among squad members and zeroed out morale. In the same unit, the personnel major was gay. He had affairs with ambitious teenage soldiers in exchange for kicking up their test scores. This corrupted the command's promotion system and led to the commissioning of William Calley-like lieutenants not fit to lead combat soldiers.

During my second tour in the Korean War, a gay commanding officer gave combat awards to his lovers who had never been on the line. IN Vietnam, a young captain in my unit was asked by the commander to go to bed with him. This almost destroyed the esprit of a fine parachute unit.

These are not isolated incidents: During my Army career I saw countless officers and NCOs who couldn't stop themselves from hitting on soldiers. The absoluteness of their authority, the lack of privacy, enforced intimacy and a 24-hour duty day made sexual urges difficult to control. The objects of their affection were impressionable lads who, searching for a caring role model, sometimes ended up in a gay relationship they might not have sought.

A majority of American citizens, according to polls, support Schroeder's bill. Many people look at the armed forces as they do the post office, the Bank of America or General Motors—an 8-to-5 institution where discrimination on the basis of sexual orientation is against basic freedom, human rights and the American way of life. If these polls are true, a lot of people don't understand what war is about.

Sure, banning gays from defending their country is discriminatory. But discriminations are necessary when a larger public purpose is being served. Civilian standards of fairness and equality don't apply down where the body bags are filled.

On the battlefield, what allows men to survive is combat units made up of discipline team players, who are realistically trained and led by caring skippers who set the example and know their trade. When all of these factors are in synch, a unit has the right stuff. It becomes tight, a family, and clicks like a professional football team. Spirited men who place their lives in their buddies' hands are the most essential element in warfare. The members of such combat teams trust one another totally.

One doesn't need to be a field marshal to understand that sex between service members undermines those critical factors that produce discipline, military orders, spirit and combat effectiveness. Mix boys and girls, gays and straights in close quarters such as the barracks or the battlefield, and both sexual contact and the consequent breakdown of morale are inevitable.

Many bright people are pushing for the ban to be lifted. I suspect that few if any have been down in the trenches, but I have no doubt their psychological political clout will have considerable influence even if they don't have a clue what combat is about.

Unfortunately, most of the top brass won't sound off. They duck and weave and offer hollow and spurious Pentagonese double-talk reasons for continuing the ban—reasons that only fuel the pro-gay argument. But they have told me in the "G" ring of the Pentagon that they're against it, but sounding off would be the kiss of death, like opposing women in combat—a career killer, you know.

I hope that our lawmakers will visit Quantico and Fort Benning before they vote, and ask Marine gunnery sergeants and Army platoon sergeants what a few gays would do to the fighting spirit of units. These pros told me: Gays are not wanted by straight men or women in the showers, toilets, foxholes or fighting units. They say that in combat young men face death constantly, and what allows them to make it through the hell of it all is a feeling of toughness, invincibility and total trust in their buddies.

My experience with warriors in over eight years of roaming the killing fields in seven wars confirms what these old salts are saying.

A serving lieutenant general recently wrote to me, "Ask Pat Schroeder if she'd like her kids under a gay first sergeant who might use his rank and authority to demand sexual favors from his subordinate 18-year-old kids. We just had that occur in my command."

No doubt advocates of gays in combat units will argue that they don't approve of demanding sexual favors and that the first sergeant deserved what he got—a court-martial. The problem is, all the court-martials and regulations in the world can't prevent the kind of morale problems that a change in the law is bound to create. Sure, the first sergeant is serving hard time at Fort Leavenworth, but Pat Schroeder and the two dozen lawmakers who support her bill must also ask themselves what happened to the morale and fighting spirit of his unit.

[From the Wall Street Journal, Nov. 16, 1992]

SEX AND SAILORS

For someone whose mantra was "it's the economy, stupid," President-elect Clinton has been making a lot of headlines about the issue of sex in the military services. This promises to continue today, with the release of the long awaited report of the Presidential Commission on the Assignment of Women in the Military. Some of Mr. Clinton's political allies are upset by its recommendation against expanding women's combat role.

The President-elect, of course, has already announced his intention of overturning the traditional military ban on homosexuals, and a court has already reinstated a gay sailor. We don't get very excited about this issue; since the services include gays and always have, there are humanitarian reasons for overturning the ban. Given today's climate repeal might conceivably tend to protected gays from normal discipline, but we trust the services could avoid that. Many senior officers are hotly opposed, though, and it would have been a good idea for the commander in chief to consult with them before announcing the change, rather than after.

It's evident that the armed forces have problems with heterosexual issues as well, as the Tailhook incident shows. And a survey sponsored by the presidential commission found that two-thirds of the troops who served in co-ed units say men and women were sexually intimate. It's hard to know what to make of this. Human nature being what it is, men and women who think they may die tomorrow are going to be vulnerable. The commission wisely steered clear of this tricky subject, but the services clearly have some thinking to do.

The Gulf War, in which 35,000 women served, has naturally weighed heavily on the commission's investigations over the past eight months. It was during a commission hearing in the spring that Major Rhonda Cornum, a flight surgeon and one of the two American female POWS, testified that she was sexually assaulted by an Iraqi during her captivity. The Army has said that the other woman POW was also sexually assaulted.

As the commission deliberations make clear, the question of women in combat is far more than a simple issue of women's rights. In terms of ability, women could easily perform many of the combat jobs in a modern military, which can require more mental acuity than physical strength. Instead, it is a complex question that involves children, unit readiness and military and national morale.

For the most part, the commission makes a sensible case for the status quo. It recommends that women continue to be barred from both ground fighting and combat air missions, but says that they should be allowed to serve on some warships, which would be a first for the Navy. It urges that women not be eligible for the draft.

The commission also takes on the difficult issue of military children, and again its findings are infused with common sense. It recommends that single parents of preschoolers not be allowed to deploy with units going into action or exercises, and urges a policy requiring single parents of children under the age of two to accept assignment to nondeployable positions. It recommends that spouses of military parents not be allowed to enlist. The recommendations apply to men as well as women, though most single parents are of course mothers.

While polls consistently show that Americans are reluctant to put women in combat, many Democratic leaders favor it. Vice President-elect Al Gore wants an increased role for women in the military. Colorado Rep. Patricia Schroeder, who has led the fight for women in combat, has derided the presidential panel as a "political circus." Mr. Clinton has yet to articulate a position on women in combat. He would be wise to heed the recommendations of this commission.

[From Forbes magazine]

HOMOSEXUALS IN THE MILITARY

(By Thomas Sowell)

Controversies over official policies toward homosexuals in the military are not only serious in themselves, but are also painfully revealing as to the kind of thinking—or lack of thinking—by advocates of accepting gays into the armed forces.

Many arguments run along the line that all that legitimately matters is the individual's own job performance. It is one of the signs of the utter unreality of our times that adult human beings could seriously apply this atomistic view of the world to an organization which is the very antithesis of individualism, and in which the stakes are life and death.

Military success or failure—which is to say, the fate of nations—does not depend on individual performance but on group coordination and group morale. Whatever policies emerge in the military must recognize that central fact if they are to deal responsibly with the lives of young people who are put in harm's way for the sake of their country.

It is hard to imagine how anyone who has ever lived in a military barracks can seriously suggest that open homosexuality there will do anything positive for group morale.

No doubt there have been homosexuals in the military before, as there have been homosexuals in many other walks of life. But no one is concerned about what people do privately. It is official acceptance of homosexuality that would make it an intrusion into the lives of other people, as part of everyday barracks life.

Privacy is not to be found in military barracks. Nor are military relations egalitarian relations. Given the rigid hierarchy and the degree of subordination inherent in military life, any form of sexual activity between military personnel is fraught with explosive dangers, even in peacetime.

In combat, when members of a platoon under fire have to depend on each other for survival, what does it do to that unit's cohesion when soldiers know that some of their comrades are lovers, who are likely to look out for each other, rather than the platoon?

Does anyone doubt for a moment that official acceptance of homosexuality will be only a prelude to demands that homosexuals not be "discriminated" against—which is to say, that any adverse decision regarding an individual who happens to be homosexual will be a potential lawsuit?

And does anyone expect either military discipline or morale to be unaffected by all that? Without discipline and morale, what is a military unit but a disaffected mob?

We need not limit ourselves to speculation. As homosexuality has become increasingly accepted on many of our leading college campuses, gays have become another privileged class.

Students have been punished merely for daring to criticize the homosexual lifestyle. On some college campuses, men's toilets have become rendezvous centers for homosexual activity to such an extent that gay activists have published annually updated guides to the best places for such encounters.

Toilets in libraries at Georgetown University, Howard University and the University of Maryland, for example, have made that list. Holes have been drilled in the toilet stalls to facilitate anonymous homosexual activity from Dartmouth to Georgetown to the University of Florida and the University of California at San Diego.

Concentrations of young males in institutions that accept homosexuality have proven to be magnets for gays. Toilets at the University of Florida have attracted gay men from as far as 40 miles away. Are we now to turn the military into another concentration of young males in an institution that accepts homosexuality?

When you can't even go to the toilet without being a witness to or a target of homosexual activity, we are no longer talking about how someone does his individual job. Can anyone imagine how soldiers, Marines or paratroopers are going to react to such situations?

The last refuge of the advocates of admitting gays into the military is to analogize the military's resistance to their past resistance to the racial desegregation of the armed forces. But such analogies are strained, and they certainly do not prove that military leaders are always wrong and politicians are always right.

Are we prepared to bet young people's lives, or the effectiveness of our armed forces, on the presumption that Pat Schroeder knows better than Colin Powell?

No small part of the social problems of this country today derive from three decades of blithe disregard of factors which transcend the individual. Social norms have been waved aside as mere superstitions and public decency has become something regarded as quaint, if not oppressive.

After a chilling string of failures of the 1960s social philosophy in civilian life—deteriorating education, soaring crime rates, disintegrating families, growing drug addiction—zealots are now ready to apply it to the military.

[From the Washington Post, Jan. 31, 1993]

SOLDIERING: IT'S A JOB, NOT AN ADVENTURE IN SOCIAL CHANGE

(By Charles Moskos)

Once thought of as the institution through which citizens—at least male citizens—discharged their basic civic obligation, the military is now coming to be seen as a vast and potent laboratory for social experimentation, in which charged debates over gender roles, homosexuality and national service can not only be addressed but possibly resolved. This lack of clarity about the military's primary function is potentially harmful to the long-term security interests of the nation.

The military's potential role as a vanguard of social progress was established by its successful integration of the armed forces in the years since World War II. Thanks to decisions made by the military leadership in the "time of troubles"—the Vietnam era and the early years of the all-volunteer force—the Army is now rivaled by few civilian institutions in terms of black achievement. The army is still no racial utopia; beneath the cross-race bantering, an edge of tension often lurks. But under the grueling conditions of the Gulf War not one racial incident was brought to the attention of the military police. Certainly the racial climate is more positive than that found on most college campuses today.

It is important to remember, however, that the driving force behind integration of the armed forces was not social improvement or racial benevolence but necessity (notably manpower shortages in World War II and the Korean War) and the belated recognition of the military superiority of an integrated force. Put another way, it was the imperative of military effectiveness that led to equal opportunity, not the imperative of equal opportunity that led to greater military effectiveness.

The issue of women in the military—and particularly in fighting roles—is a more complicated one. Following World War II—in which some 350,000 women performed duties ranging from shuttling aircraft across the Atlantic to breaking enemy secret codes—a 2 percent ceiling on the number of women was set, and most served in administrative, clerical and health-care jobs. This situation remained basically unchanged until the advent of the all-volunteer force in 1973. Finding it difficult to recruit more than a few good men, the military allowed good women to fill the ranks. Today, women make up about 12 percent of the total armed forces and hold virtually all assignments except direct combat roles.

The combat exclusion rule, already opposed by feminist leaders and many women officers, came under renewed attack in the wake of the Gulf War. The performance of the 35,000 women who served in that conflict received high praise from both the media and Pentagon officials. But surveys of soldiers who served in the gulf yield a murkier picture. Forty-five percent of those who were in mixed-gender units reported that "sexual activity had a negative impact" on unit morale. Over half rated women's performance as fair or poor, while only 3 percent gave such ratings to men. Nevertheless, Congress lifted the ban on women in combat planes, though service regulations effectively maintained the ban.

The usual response to a thorny social impasse is a presidential commission, and, true to form, one was established late in 1991. The 15-member panel (on which I served) took up three areas of consideration. The first was primarily factual. What, for example, were women's physical capabilities, and what would be the cost of modifying equipment or quarters to accommodate a woman's size or need for privacy?

A trickier area concerned questions of how mixed-gender groups would perform in combat. Here definitive answers are harder to come by, because apart from the defense of the homeland, no military force has ever used women in combat roles. Just as difficult to determine were matters related to the last area of concern: culture and values.

In addition to hearing opposing arguments, the commission sponsored a poll to determine whether the American public was willing to accept women in combat roles. Three findings deserve mention. First, the public was split pretty much down the middle on the question of whether the combat-exclusion rule should be lifted. A large majority favored giving women the option to volunteer for combat arms, as long as no woman was ever compelled to assume a combat role. Second, most people believed women already served in combat roles. Third, most respondents were more concerned with family status than with gender limitations. Three-quarters opposed mothers serving in combat; 43 percent felt the same way about fathers doing so.

By contrast with the general public, army women are much more wary about women in combat roles. One 1992 survey found that only 4 percent of enlisted women and 11 percent of female officers said they would volunteer for combat. But like the larger population, most military women favored a voluntary option.

The same survey disclosed that almost all army women—by a margin of 15-to-1—opposed the adoption of uniform physical standards for men and women. Ironically, both feminist and conservatives supported such standards, the former on egalitarian grounds, the latter because they believed uniform standards would reduce the number of women in the military across the board. Focusing on the strength definition of capability, both groups scanted the social and psychological problems that would likely arise with men and women fighting together in life-or-death situations.

Less dogmatic opponents of the combat exclusion rule favor trial programs. Yet even the most carefully prepared trials would not address the biggest question: Should every woman soldier be made to take on the same combat liability that every male soldier does?

True equality should mean that both genders incur the same liability. To allow only women the option of entering or avoiding combat would not only cause resentment among men, it would be hard to defend in a court of law. To allow both sexes to choose whether or not to go into combat would be the end of an effective military.

By a one-vote margin last November, the presidential commission arrived at a surprisingly conservative recommendation: While approving of women's service on most warships (except submarines and amphibious vessels), it advised keeping women out of combat planes and ground combat units. President Clinton has said that he will take the recommendation under consideration, but debate will surely continue.

The vexed issue of homosexuals in the armed forces draws the postmodern military into another heated social controversy. And some of the solutions proposed would present just as great a problem to the military's combat effectiveness as do those proposed in the gender arena.

Up to World War II, the military treated homosexuality as a criminal act, punishable by imprisonment. During the war, service leaders came to adopt a psychiatric explanation of homosexuality: Discovered gays were either "treated" in hospitals or given discharges "without honor." From the 1950s through the 1970s, gays—defined almost always as people who had engaged in homosexual activity—were discharged under less than honorable circumstances. In 1982, in an effort to bring about a more uniform policy, the Department of Defense issued new guidelines that stipulated that service members who declared they were gay would receive an honorable discharge if their records were otherwise unsullied. Those caught in a compromising situation might still receive a less than honorable discharge.

Public opinion polls show that the number of Americans favoring the admission of gays into the armed forces has been creeping upward. A Washington Post poll last week showed the public evenly split on the question but 64 percent of veterans opposed to lifting the ban. A December 1992 poll that I conducted found 78 percent of currently serving soldiers opposed with an astounding 90 percent saying they would be "uncomfortable" sharing a room with a homosexual.

Support for repeal of the ban is strongest among women and whites, and weakest among males and minorities. Without a question, the growing support for ending the ban reflects a generally more tolerant attitude among the general public, but it may also be a sign of how distant most of the citizenry has become from the realities of military service.

Certainly, some of the reasons for excluding gays do not stand up to scrutiny. No evidence exists that homosexuals, under present rules, have been greater security risks than anyone else. If there were no ban, the argument that a gay service member could be blackmailed by threat of exposure would evaporate. Furthermore, no one can prove that homosexuals are any less effective than heterosexual as soldiers, sailors, airmen or marines.

What is at issue today, however, is whether or not declared gays should be allowed to serve in the military. This is different from the question of tolerating the service of discreet homosexuals in uniform (though with some 1,000 gays being discharged each year, it is clear that not all are discreet). To condone discreet homosexuality in the services while opposing the official acceptance of declared homosexuals is to set oneself up for the charge of hypocrisy. And it probably does no good to say that a little hypocrisy may be the only thing that allows imperfect institutions to function in an imperfect world.

Whatever is done, policymakers should think twice before invoking a misleading analogy between the dynamics of racial integration and the proposed acceptance of overt homosexuality. Racial integration increased military efficiency; the acceptance of declared homosexuals will likely have the opposite effect, at least for a time.

At the very least, the lifting of the ban will create a controversy over the issue of privacy, which in turn could make recruitment (particularly among minorities) even more difficult than it is today. Just as most men and women dislike being stripped of all privacy before the opposite sex, so most heterosexual men and women dislike being exposed to homosexuals of their own sex. The solution of creating separate living quarters would be not only impractical but an invitation to derision, abuse and deep division within the ranks.

There is also the problem of morale and group cohesion. Foes of the ban point to the acceptance of homosexuals in the armed forces of such countries as the Netherlands, Sweden, Denmark and Israel. In the Netherlands, an alleged 10 percent of the military is gay (though nine out of 10, studies say, remain undeclared) and a four-day seminar stressing sensitivity toward minorities, including gays, is mandatory in all Dutch services. Harmony is said to reign throughout the tolerant ranks of the Dutch army.

Those who object to the validity of national comparisons charge that the Dutch and Scandinavian cultures are far more tolerant than is mainstream American culture. Furthermore, they say, neither the Dutch nor Scandinavian armies have been in the thick of combat in recent decades.

These objections are partially validated by the example Israel's military, which inducts declared homosexuals. While it is true that gays in Israel are expected to fulfill their military obligation, it is also true that they receive de facto special treatment. For example, gays are excluded from elite combat units, and most sleep at their own homes rather than in barracks.

Despite widespread resistance within the U.S. military, Clinton has committed himself to rescind the gay ban. One can of course argue that the United States now as such a decisive strategic advantage over any potential enemy that it can well afford to advance the cause of equal opportunity at possible cost to military effectiveness. Still, such a risk must be acknowledged. We must decide, for example, whether we will be willing to restore compulsory national service if dropping the gay ban makes recruitment even more difficult than it now is. (Most nations without such a ban do have obligatory national service, the military being an option in many cases.) Unless such realities are faced, we can only hope that our postmodern military never has to face the uncivil reality of war.

[From the Washington Times, Jan. 1, 1993]

New Military Way of Life and Strife

Matters of Law

(By Terry Eastland)

President Clinton initially seemed to think that lifting the ban on gays in the military would be a strictly presidential matter, achieved through an executive order premised on his constitutional authority as commander in chief. Then his White House discovered that another branch of government, Congress, also has constitutional authority—that of making (as Article I provides) "rules for the government and regulation of the land and naval forces." Thus did Mr. Clinton come to learn that whatever he does on the issue Congress may alter, even totally undo, assuming strength to override a veto.

The prospect of such an early, major political defeat in part explains the president's decision to postpone for six months an executive order. That decision shifts the balance of power on the issue to Congress, and in particular to Sen. Sam Nunn, Georgia Democrat, who had opposed lifting the ban on gays in the military but now is open to at least some change, and who plans to commence hearings on the matter next month. As Mr. Nunn goes, so goes the Senate and probably the Congress: If Mr. Clinton and Mr. Nunn can agree on a new policy, Republicans in Congress who prefer the old one will have a much diminished chance of legislative success.

In the context of gays in the military the White House's ongoing seminar in separation of powers now must include, thanks to last Thursday's decision by U.S. District Judge Terry Hatter, reference to the third branch of government. It is Judge Hatter who intruded into the debate by striking down the ban on gays in the military and ordering the reinstatement of a Navy petty officer discharged after disclosing his homosexuality on national television.

If the Navy does as the armed forces have in previous cases, it will now ask the Justice Department to appeal Judge Hatter's opinion. But the president is no longer George Bush but Mr. Clinton; he could tell the Navy not to appeal. Consistent with his statements Friday on how he intends to proceed on changing the inherited policy, Mr. Clinton might want to do just that. Still, he cannot be entirely happy with the decision rendered in the Central District of California.

In his remarks Friday, Mr. Clinton said he had not read Judge Hatter's decision. He should. Judge Hatter was a Jimmy Carter appointee, and his opinion fairly invites the new president to reflect on the kind of judges he cannot possibly want to appoint. The opinion distinguishes between homosexual "status" and "conduct"—a distinction Mr. Clinton of course endorses. But consider what else the opinion does.

In holding that the Defense Department's policy banning gays and lesbians, when based "merely on status and conduct" violates the Constitution's guarantee of equal protection, Judge Hatter asked whether the policy is "rationally related to [the military's] permissible goals." In several too brief paragraphs, he concluded it was not. Declaring no "factual basis" for the Pentagon policy, the judge was unwilling to defer—as courts historically have—to military judgment, based on decades of experience, on the advisability of having gays in the armed forces.

Whatever one thinks policy in this area should be, Judge Hatter's decision is a regrettable piece of judicial activism. The decision usurps Mr. Clinton's authority as commander in chief and the military's subordinate power to determine rules necessary for good order and discipline. By implication, the decision also denies the Article I authority of Congress to determine rules for governing the armed forces.

In sum, the problem with the opinion is that it seeks to declare the nation's policy on gays in the military. "Gays and lesbians," as Judge Hatter put it, "should not be banned from serving our country in the absence of conduct which interferes with the military mission." "Hopefully," he added, as though he held both the executive and legislative powers, "our military leaders will come to realize the '[w]e are not an assimilative, homogeneous society, but a facilitative, pluralistic one, in which we must be willing to abide someone else's unfamiliar or even repellent practice because the same tolerant impulse protects our own idiosyncrasies.'" This language, which settles one of today's "culture wars" in a most debatable way, comes from a dissenting opinion in a 1989 case by Justice William Brennan.

Mr. Clinton seems close to grasping that the federal courts should not be making policy in this area. On Friday he said, correctly enough, that there is a "not insignificant chance" the courts might impose the kind of policy Judge Hatter has articulated, and that the courts might do so before "a whole range of practical issues" have been adequately dealt with. Those practical issues, apparently, are the ones Mr. Clinton now wants addressed, with Mr. Nunn's help.

Policy on gays in the military is properly the province of the elective branches. Mr. Clinton's education in separation of powers will be complete when he takes issue, rhetorically if not in litigation, with the activism of such opinions as those of Judge Hatter.

[From the Washington Times, Jan. 1, 1993]

NEW MILITARY WAY OF LIFE AND STRIFE

CIVILIAN ANXIETIES

(By Suzanne Fields)

Maria, a beautician who was born in Bolivia (she's an American now), worries about lifting the ban on homosexuality in the military.

"I wouldn't want my son to enter the service under those conditions," she says with an appeal to euphemism. Maria voted for Bill Clinton. She didn't focus on that issue back then. Not many people did.

Sarah, a sophisticated widow in her 80s, also voted for Bill Clinton. "Why is it that every time I turn on the television, the commentators are talking about sodomy?" she asks. "Must we now be bombarded with all these intimate sexual references all over the news? I thought that was restricted to soaps and sitcoms."

Maria and Sarah are neither homophobes nor bigots. They're not particularly religious or even Republicans. They can't be fairly accused of gay bashing or political expediency. They just don't want to know about the private sex lives of homosexuals or heterosexuals. They're offended by the vulgarity of this public discussion.

Maria, who assumes her son, now 8, would answer proudly if his country calls, believes that open admission of homosexuality in the armed forces undercuts the pride of military service and will hurt recruitment. Sarah thinks everyone got along all right when everyone was less interested in the private sexual habits of men and women everywhere (or at least restrained their curiosity.)

Rep. Barney Frank, one of two Democratic congressmen who openly declares his homosexuality, declares it often on television to answer questions by other women (and men) like Maria and Sarah. He insists the discussion is not about walking in Gay Pride parades, or men dancing together at the Officers Club or the Enlisted Men's Club.

But isn't it? If the issue is civil rights and discrimination, then shouldn't homosexual men and women expect the same rights and perks as heterosexuals? Defenders of homosexuals in the military readily invoke comparisons to the integration of blacks in the military. Can anyone imagine Harry Truman saying blacks could serve side by side with whites, but they couldn't march together or dance together?

The homosexual analogy to blacks, of course, is false, as Gen. Colin Powell, chairman of the Joint Chiefs of Staff, frequently points out. The issue is one of behavior, not skin color—military readiness, not prejudice. Readiness includes issues of morale, discipline, recruitment, personal privacy, concerns of deeply religious servicemen and not least the increased risk of AIDS. If randiness is not part of homosexual notions of readiness, why the eagerness to flaunt sexual preference?

Sen. Sam Nunn insists the rights of those in the armed services who find overt homosexuality offensive are being ignored, and he's right. Will "straights" require therapy to cure them of their religious faith and teachings?

The debate about homosexuality in the military, like so many other debates in the United States today, is conducted in two voices. One is the voice of the Politically Correct, which believes that tolerance must be replaced with celebration, that not only should homosexuals be free to practice what they wish, but the rest of us should accord homosexuality the respectability of heterosexuality, including rights (and rites) of marriage. The other is the voice of the ages that commands us not to throw away common sense in the pursuit of decency and tolerance.

"Though men be much governed by interest, yet even interest itself and all human affairs are entirely governed by opinion," wrote Scottish philosopher David Hume.

Such opinion will be heard in the hearings Sen. Nunn will conduct. That opinion might surprise the president. He could even change his mind. He changed it on Zoe Baird, on Haiti and on a tax cut for the middle-class. But I doubt it, and that's too bad for all of us.

[From the Washington Times, Jan. 1, 1993]

NEW MILITARY WAY OF LIFE AND STRIFE

CULTURAL BASICS

(By Joseph Sobran)

Suddenly Slick Willie has become Thick Willie. Supposedly a smart politician, he has begun his presidency by picking a fight he can't win over a red-hot cultural issue.

His stand on gays in the military has embarrassed his own allies in Congress. The Democrats know they can sneak almost anything through, as long as Rush Limbaugh doesn't find out about it. This was definitely an item that called for furtive midterm treatment. But the commander in chief decided to tell it to the Marines.

Liberals—those broad-minded people who define a bigot as anyone who disagrees with them—have decided that homosexuals are to be officially defined as a victimized group. It's now nearly taboo to suggest in public that there is anything wrong with homosexuality, when everyone knows otherwise, as the popular reaction shows. The media's hypocrisy about sex would amaze the Victorians.

Like impotence and many other disorders, homosexuality is a disability for marital life. No decent person would torment anyone for it, but no sane person would think it's normal. Despite all we hear of gay "pride," nobody wishes the condition on those they love. It's bizarre to imagine even the most liberal expectant parents hoping their child will be homosexual. People never say: "Susan and I don't care whether it's a boy or a girl, as long as it's gay or lesbian."

Yet the liberal chorus insists that Mr. Clinton's action is the equivalent of Harry Truman's decision to integrate the armed forces. This strained analogy is a clue to what's really going on. Today's liberals want to re-enact the civil rights struggle, and they are using the gay rights movement as an opportunity to strike virtuous poses. See how tolerant we are! See how nobly we stand in contrast to our benighted opponents!

Liberals fear nothing more than being on the Wrong Side of History. They presume, of course, that History will ultimately be written by moralizing liberals like the people who write editorials in the New York Times. It never occurs to them that their moral fads may blow over in a few years, as nature inexorably reasserts herself, and that their views won't necessarily constitute the perspective by which future historians judge us. Let's not dismiss the possibility that future historians, surveying our age, will die laughing.

Gays and feminists, cognate political activists, hold pretty much the same ideology—one that belittles the centrality of the family. Those who don't share that ideology can see what the decline of the family has brought us: a social dissolution whose most volatile element is fatherless boys.

Yet liberals, of whom gays and feminists are merely two denominations, insist on asserting the same old precedents, which have lost their relevance and now can only mislead. And instead of offering evidence for their views—of which there is precious little—they condemn anyone who is reactionary enough to disagree with them.

The result is a severe reactionary shortage. Progressives have a terrible record of predicting the future: Remember the Soviet experiment and the great Society? But the reactionaries who saw only a dark future, though they had more sense, fell short. They had no idea how bad things were going to be.

Just as no monarchist or capitalist predicted that communism would kill tens of millions of people, no Goldwater Republican or Bircher foresaw the rates of crime, disease and abortion that now degrade and depopulate American society. And who, back in sunny 1964, prognosticated AIDS? Never mind what History will say. We can't even draw the right lessons from our own experience.

No, our gloomiest conservatives turned out to be utopian optimists. This is History speaking, folks. Absolutely nobody a generation ago had any inkling of what was to issue from social reform and experimentation and welfare and liberation—all those hot tickets of the '60s.

Throughout this progressive century, only the pessimists have been prophetic. But not prophetic enough. If any segment of our society deserves to be nurtured and cherished and encouraged (I won't say subsidized), it's the doomsayers. The more hysterical they sound, the more respectfully we should listen to them. That's what recent history teaches.

[From the Washington Times, Nov. 16, 1992]

PICKING UP THE PROMISSORY INVOICES

(By William Murchison)

The military—whose call Bill Clinton conspicuously spurned in the 1960s—can't be greatly surprised when the commander in chief-elect discloses plans to incorporate homosexuals into its ranks.

The election is over, the inauguration impends. The time for presenting bills has come. Here's the homosexual-rights lobby's invoice.

Top military officers, starting with Gen. Colin Powell, don't want the homosexual ban lifted, for reasons of order and discipline, but that's not the point where Mr. Clinton is concerned. The point is accommodating a numerous, active, well-heeled and ever-more-clamorous element of the Democratic constituency.

The Clinton victory on Nov. 3 comes near to guaranteeing homosexuals that social and political legitimacy toward which they have aspired. The military ban will go—though only after consultation with military officials, Mr. Clinton promises. The administration will have an AIDS advocate of some sort. (No cancer or heart advocates, last time I checked.) At a minimum, no one in the Clinton administration is going to hurt homosexuals' feelings deliberately.

The U.S. military becomes an unwilling pawn in this power game. The imperatives of order and discipline, cited by the likes of Gen. Powell, don't seem so imperative, weighed against the need to deliver on promises to constituents.

True, homosexuality in military ranks isn't exactly an innovation or, in every circumstance, a hindrance to success. I believe it was Lord Nelson who said the Royal Navy was sustained by rum, sodomy and the lash.

Well, at least they called it sodomy. No one back then pretended that homosexuality was just a life-style choice: no better, no worse than any other; as morally neutral as a birthmark.

The homosexual-rights lobby today takes a very different view of things. It demand validation. This means all doors must swing wide open, so that members of the lobby may enter at will. A ban on homosexual soldiering is, to the lobby, mere job discrimination. Away with it!

Bill Clinton finds such a demand easy to comply with, in part because he never wore a uniform. He doesn't know the military. What is often referred to as the military's non-homosexual "tradition"—as if it had no more moral standing than a school fight song or squash casserole at Thanksgiving—makes sense in terms of instilling unit cohesiveness. Unwanted sexual attentions from a barrack mate or mates don't build the kind of community spirit on which military effectiveness depends. "It is difficult," says Gen. Powell, "in a military setting where there is no privacy, where you don't get choice of association, where you don't get choice of where you live, to introduce a group of individuals who are proud, brave, loyal, good Americans but who favor a homosexual lifestyle." Don't forget that the service is an authority structure. The possibilities for abusing authority in quest of sexual dominance are endless.

Odd and disturbing things go on in late 20th century America. We the people put our various institutions at the service of subgroups with gnawing anxieties—racial, sexual, whatever kind. The functioning of the institution—even one so essential as the military—becomes secondary to the massaging of those anxieties. This is as true of the outcry to open up military combat roles to women as it is true of the agitation to allow uniformed homosexuals.

Of course the line one hears is that actually we're making the institution better than ever, by bringing in people/viewpoints hitherto shut out. Pluralism becomes the acid test.

Actually, it's the only test one hears about anymore. Tests of worth and efficiency, right and wrong, truth and falsehood, don't matter. It's nothing but look-how-inclusive-we're-becoming. Look how many "outcasts" we're rescuing. America as one giant therapeutic enterprise, designed not to maximize liberty and virtue but to make people Feel Good About Themselves—isn't that increasingly our national vision? If you call it "vision."

WASHINGTON, DC,
May 8, 1992.

Hon. PATRICIA SCHROEDER,
House of Representatives, Washington, DC.

DEAR PAT: Thank you for your recent letter concerning the position I took before Congress in February concerning homosexuals serving in the Armed Forces. I have given a great deal of thought to my position and continue to hold the view that the presence of homosexuals in the military is prejudicial to good order and discipline.

This is the policy of the Department of Defense and is supported by all of the Joint Chiefs of Staff. It is also a view held by experts who have studied the sociology of the military for many years. I am including a recent article by Charles Moskos on the subject.

I am well aware of the attempts to draw parallels between this position and positions used years ago to deny opportunities to African-Americans. I know you are a history major, but I can assure you I need no reminders concerning the history of African-Americans in the defense of their Nation and the tribulations they faced. I am a part of that history.

Skin color is a benign, non-behavioral characteristic. Sexual orientation is perhaps the most profound of human behavioral characteristics. Comparison of the two is a convenient but invalid argument. I believe the privacy rights of all Americans in uniform have to be considered, especially since those rights are often infringed upon by the conditions of military service.

As Chairman of the Joint Chiefs of Staff, as well as an African-American fully conversant with history, I believe the policy we have adopted is consistent with the necessary standards of good order and discipline required in the Armed Forces.

Sincerely,

COLIN L. POWELL,
Chairman of the Joint Chiefs of Staff.

The PRESIDING OFFICER. The Senator yields the floor.

Who yields time?

The Senator from Indiana controls 25 minutes.

Mr. COATS. Mr. President, I yield 5 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 5 minutes.

Mr. MCCAIN. Mr. President, I ask unanimous consent that my full text of my statement and accompanying materials be entered into the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ALL-VOLUNTEER MILITARY

Mr. MCCAIN. Mr. President, the American armed forces are not a social laboratory. There are approximately 1.5 million men and women in uniform who volunteered to serve their country in extraordinary circumstances and risk their lives when ordered to so by their Commander in Chief. Even during peacetime, they give up certain rights and privileges accorded civilians because of conditions of military service.

Our men and women in uniform have little choice about their jobs, they must live where they are assigned, and they must give up their privacy—often without warning and for months at a time. Deployments in areas like Panama, Somalia, and the Persian Gulf involve living in close proximity, with little personal space, and with no choice of associates. The ship, the battalion, and the squadron become the center of every moment of military life. Survival is often based on the cohesion of small groups of men and women who literally must live in each other's shoes.

The issue of allowing open gay life styles in the military is completely different from the kind of changes taking place in civil life. The whole structure of military life involves wide ranging sacrifices of individual perogatives. Any changes to that structure can rapidly erode morale, efficiency, and unit cohesion—the three critical factors that determine survival and victory.

America's uniformed military leaders are not being reactionary by objecting to the open admission of gays into the military before our society has fully resolved questions about their involvement in many other walks of life where a gay life style may be perceived as more than a matter of personal choice.

A broadly respected national figure like Gen. Colin Powell, who exemplifies the progress we are making in civil rights, is not reacting out of prejudice, but out of concern for the practical implications which the open admission of homosexuals poses for his profession. He is charged with considering the impact of such policies on the safety of our nation.

This is not a civil rights issue. No one supports prejudice and discrimination. The issue is what policy best promotes the effectiveness and strength of our military. Comparison to racial discrimination is misplaced and inappropriate. Homosexuality is a behavioral trait, unlike skin color. Gen. Colin Powell has eloquently stated:

> I have given a great deal of thought to my position and continue to hold the view that the presence of homosexuals in the military is prejudicial to good order and discipline. I am well aware of the atempts to draw parallels between this position and positions used years ago to deny opportunities to African-Americans . . . skin color is a benign, non-behavioral characteristic. Sexual orientation is perhaps the most profound of human behavioral characteristics. Comparison of the two is a convenient but invalid argument.
>
> I believe the privacy of all Americans in uniform has to be considered, especially since those rights are often infringed upon by the conditions of military service. As Chairman of the Joint Chiefs of Staff, as well as an African-American fully conversant with history, I believe the policy we have adopted is consistent with the necessary standards of good order and discipline required in the Armed Forces.

I think it is also important to point out other statements by senior uniformed leaders who are well-known, well respected, and modern-day heroes because of their great service to our country.

Gen. H. Norman Schwarzkopf has stated: "once a homosexual comes out of the closet and publicly avows their homosexuality, all unit cohesiveness is lost."

Gen. Al Gray has said: "the presence of homosexuals would adversely affect our ability to maintain good order, discipline, and morale; foster mutual trust and confidence; and ensure the integrity of the system of rank and command. We cannot afford homosexual suspicions, which would threaten our mission by degrading unit cohesion, morale, and esprit de corps."

We need to preserve the trust that is the core of military life. We cannot do this by telling over 1 million people who have already sacrificed many of their rights on our behalf that in addition to their loss of privacy and choice they must now accommodate in close quarters a life style they rejected when they enlisted and continue to reject in every opinion poll taken on the subject.

Last week, Adm. George Kinnear and Vice Adm. Tom Kilcline from the Retired Officers Association briefed me on a Gallup poll that they had commissioned to determine the attitudes and opinions among active and retired military members with regard to the issue of allowing homosexuals in the military. I found the information interesting and in stark contrast to some of the other polls I have noticed in the press.

For instance, 83 percent were strongly opposed to lifting the ban on homosexuals in military. Eighty-five percent of those respondents who had recommended the military as a career to either a family member or friend were particularly oposed to allowing homosexuals in the military and would tell the person who they had given the advice to, to reconsider. Also, 77 percent of the respondents who opposed allowing homosexuals in the military cited a disruptive negative effect on morale, on discipline, combat readiness, and lack of acceptance as reasons for their opposition.

The day may come when society as a whole accepts gay life styles as a fully integrated part of our national life. At that point, military life may change as well. Until that day arrives, the U.S. military should not be used for legal tests and social experiments that threaten its ability to preserve our national security.

In preparation for 6 months of study that this body will engage in, I asked the Congressional Research Service to put together a series of studies on the issue of homosexuals in the military.

The first is a study by the American Law Division of the Congressional Research Service summarizing the legal challenges to the Department of Defense policy regarding homosexuals in the military.

The second is a collection of major articles, opinions, and speeches regarding homosexuals in the military.

The third is a socioeconomic study.

The fourth is a background study on homosexuals in other areas of Federal service.

Mr. David Burelli of the Congressional Research Service has done a fine job in bringing the results of this research together. His report is a must read for anyone interested in an objective examination of the issue of gays in the military. I urge my colleagues to review it in its entirety.

In addition to this extensive research I have requested letters from Veterans organizations, letters from the veterans of my State, relevant statements by public officials, and a Gallup poll of the members of the Retired Officers Association.

I ask unanimous consent that all of these documents be included in the RECORD at this point.

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, December 21, 1992.

AMERICAN LAW DIVISION MEMORANDUM

Subject: Legal Challenges to the Department of Defense Policy Regarding Homosexuals in the Military.

Author: Charles V. Dale.

Current Department of Defense policy states that "[h]omosexuality is incompatible with military service."[1] Homosexuals, therefore, are barred from enlisting or serving in the military service, and if their sexual orientation becomes known, they are subject to discharge with or without proof of actual homosexual conduct on their part. In addition, the Uniform Code of Military Justice, article 125, provides criminal penalties for both homosexual and heterosexual sodomy.

The military policy of excluding homosexuals had been judicially challenged, largely without success, on a variety of legal and constitutional grounds. Most of the early cases involved personnel suspected of homosexual conduct who argued that the policy violated the constitutional right of privacy;[2] that it was prohibited by the Equal Protection Clause because only homosexual sodomy was persecuted while similar heterosexual conduct was not;[3] or that the procedure applied by the service to effect discharge did not conform to procedural due process requirements.[4] Later cases also raised First Amendment free speech claims when brought by admitted homosexuals who had been discharged not for alleged sexual conduct but rather because of their "status" as revealed by voluntary statements to colleagues, or in the press and other public fora.[5]

Due process challenges predicted on the right of privacy have been uniformly rejected by the courts in these cases, particularly after the U.S. Supreme Court in *Bowers v. Harwick*[6] sustained a Georgia statute criminalizing sodomy as applied to consenting adults in the privacy of the home of one of them. The Court there expressed the view that homosexual sodomy was neither a fundamental liberty "implicit in the concept of ordered liberty" nor is it "deeply rooted in the Nation's history and tradition."[7] On parallel reasoning, the courts generally have refused to apply heightened scrutiny to the equal protection claims of discharged homosexuals according to the constitutional standards traditionally applied in cases of governmental discrimination based on race, ethnicity or other "suspect" classifications.[8] First Amendment challenges to the military policy have fared little better. Thus, open acknowledgment by a service person of his/her homosexual orientation, whether in the media or otherwise, has not generally been accorded First Amendment protection since it does not implicate the exchange of information and ideas on homosexuality as a matter of "public concern."[9] An important element in each of these decisions was the history of judicial deference to military judgments that is now firmly entrenched in our legal tradition.[10]

Accordingly, to date, successful judicial challenges to the military's exclusionary policy regarding homosexuals have been few in number and of relatively narrow legal significance. For example, *Matlovich v. Secretary of the Air Force*,[11] involved an admitted homosexual with an "outstanding" 12-year record of military service who had not been charged with any homosexual activity on base or with other servicemen. Neither the court of appeals nor the federal district court on remand ever decided the main constitutional challenge asserted by the petitioner based on the right to privacy. Instead, the Air Force policy, which at that time permitted retention of homosexual personnel in "unusual circumstances," was held procedurally defective for its lack of fair and objective standards governing discharge. In other words, the petitioner was entitled to an explanation of why the exception did not apply to him. Subsequent to this decision, and a similar one concerning Navy regulations,[12] the Department of Defense issued revised regulations clarifying the exceptions to the policy of mandatory discharge of homosexual servicemembers which effectively preempted any defense based on quality of performance in future cases.

In a more recent and highly publicized decision, *Watkins v. United States Army*,[13] the Ninth Circuit *en banc* vacated a panel's constitutional condemnation of the DOD policy as violative of the Fifth Amendment right to equal protection and instead ordered reinstatement of a homosexual 16-year veteran on equitable estoppel grounds. The earlier panel ruling had determined that lesbian and homosexual persons constitute a "suspect class" and employed heightened equal protection scrutiny to invalidate the Army policy. On rehearing, however, the full court held that the Army could not refuse reenlistment to a highly rated serviceman who had openly acknowledged his homosexuality at the time of initial enlistment and who had consistently been reenlisted despite the Army's awareness of his sexual orientation. Because it disposed of the case of equitable estoppel grounds, based on the specific factual circumstances before it, the *en banc* court avoided making any determination of the constitutional issues raised. Consequently, the decision is likely to have minimal impact upon current military policy.

Judicial analysis of federal equal protection claims fall into three basic modes. First is the traditional "rational basis" standard that will uphold most legislative or executive action that classifies individuals as long as the classification is reasonable and rationally related to a legitimate governmental objective. Certain classifications are deemed "suspect" or "quasi-suspect," however, and governmental actions based on such classifications will be subjected to rigorous or "searching" judicial scrutiny.[14] Governmental actions that burden members of a suspect or quasi-suspect class call for a higher level of justification both in terms of the weight of the government's interest[15] and the degree of relationship to the interest served.[16] The federal courts of appeals to date have generally refused to apply the so-called "strict scrutiny" test, or other heightened equal protection standard of judicial review, to the military policy regarding homosexuals.

Applying the more lenient equal protection standard, the courts have usually had little difficulty accepting as "rational" the military's justifications for its homosexual policy.[17] In *Beller* v. *Middendorf*,[18] the Ninth Circuit accepted all of the military's justifications and upheld the Navy policy as applied to the discharge of three enlisted personnel who had engaged in homosexual acts. Judge (now Justice) Kennedy wrote that:

> The Navy can act to protect the fabric of military life, to preserve the integrity of the recruiting process, to maintain the discipline of personnel in active service, and to insure the acceptance of men and women in the military, who are sometimes stationed in foreign countries with cultures different from our own.

Furthermore, although he felt the policy was "perhaps broader than necessary to accomplish some of its goals," Judge Kennedy concluded that it "represents a reasonable effort to accommodate the needs of the Government with the interests of the individual."[19] In *Dronenburg* v. Zech[20] Judge Bork wrote for the D.C. Circuit in another case involving homosexual conduct that "[t]he effects of homosexual conduct within a naval or military unit are almost certain to be harmful to morale and discipline." Finally, in *Ben-Shalom* v. *Marsh*,[21] a status (not conduct) case, the Seventh Circuit ruled that military discharge due to a declaration of lesbianism did not violate the First Amendment, and that the Army regulation barring homosexuals passed rational basis equal protection review.

A recent judicial development that may forecast invigorated scrutiny into the military's justifications for excluding homosexuals is the Ninth Circuit decision in *Pruitt* v. *Cheney*.[22] Pruitt was an officer in the U.S. Army Reserve with an "outstanding" record in both active and reserve duty. Although it had no evidence of homosexual acts on her part, the Army moved to revoke Pruitt's security clearance and discharge her after she revealed, in a *Los Angeles Times* interview, that she was a lesbian and had twice participated in ceremonies of marriage to other women. Pruitt thereafter challenged the Army's actions, which were based solely on her own admissions of homosexuality, as a violation of free speech rights. This First Amendment claim was rejected by both the district and appellate court on the rationale that Pruitt's admission of her homosexual status was not protected speech.[23] The appeals court did hold, however, that the Army had not demonstrated the rational basis for its regulation and that Pruitt had the right to a hearing on the equal protection claim. Moreover, the decision departs from *Beller* and related precedent by relying on two Supreme Court rulings which stand for the principle that governmental denial of equal protection is never justified by the antipathy of others towards the group adversely affected.

In the more recent of these, *City of Cleburne* v. *Cleburne Living Center, Inc.*,[24] the Court invalidated under rational basis equal protection analysis the refusal of a city to permit construction of a group home for the mentally retarded. Although neither a suspect nor quasi-suspect class was involved, the city's justifications for denying a permit were rejected. The desire to avoid negative reactions of neighbors was found to be an unacceptable basis for discriminatory treatment,[25] and even the legitimate goal of relieving congestion could not be achieved by prohibiting only certain types of group homes while allowing others. *Palmore* v. *Sidoti*[26] was an earlier case which struck down a denial of child custody based upon social disapproval of the interracial marriage of the mother. The Supreme Court declared that "[t]he Constitution cannot control such prejudices but neither can it tolerate them. Private biases may be outside the reach of the law, but the law cannot, directly or indirectly, give them effect."[27]

The Court's refusal in these cases to accept asserted governmental goals as legitimate, and its more than perfunctory scrutiny of the means by which the governmental body pursued its legitimate goals, may have important implications for future judicial review of military policies regarding homosexuals. At the very least, if applied in this context, it could mean that the military faces a weightier burden than heretofore in terms of justifying its policies as rational and reasonable based on factual evidence presented to the court. In this regard, the courts may be less willing to accept as rational the offer of any proof which reflects popular antipathy toward or stereotypical views concerning homosexuality.

FOOTNOTES

[1] DOD Directive 1332.14 (Jan. 28, 1982).

[2] *E.g., Matlovich v. Secretary of the Air Force*, 591 F.2d 852 (D.C. Cir. 1978); *Dronenburg v. Zech*, 741 F.2d 1388 (D.C. Cir. 1984) and *Beller v. Middendorf*, 632 F.2d 788 (9th Cir. 1980), *cert. denied sub nom. Miller v. Weinberger*, 454 U.S. 855 (1981).

[3] *E.g., Hatheway v. Secretary of the Army*, 641 F.2d 1376 (9th Cir.), *cert. denied*, 454 U.S. 864 (1981).

[4] *See, e.g., Matlovich (supra)* n. 2.

[5] *E.g., Ben-Shalom v. Marsh*, 881 F.2d 454 (7th Cir. 1989). *cert. denied sub nom. BenShalom v. Stone*, 494 U.S. 1004 (1990); *Pruitt v. Cheney*, 963 F.2d 1160 (9th Cir. 1991), *cert denied 61 U.S.L.W. 3413 (S.Ct 12-8-92)*.

[6] 478 U.S. 186 (1986).

[7] *Id.*, at 191–92.

[8] *See, e.g., Woodward v. United States*, 871 F.2d 1068, 1075–76 (Fed. Cir. 1989), *cert denied*, 494 U.S. 1003 (1990) where the appeals court noted that *Hardwick* permitted the criminalization of "the most common sexual practices of homosexuals." Because "there can hardly be more palpable discrimination against a class than making the conduct that defines the class criminal," the *Woodward* court reasoned that, under *Hardwick*, the military's discrimination against homosexuals is constitutional.

[9] In *Ben-Shalom v. Marsh*, 881 F.2d 454, 462 (7th Cir. 1989), *cert. denied*, 494 U.S. 1004 (1990), the federal appellate tribunal stated the proposition:

> [Appellant] is free under the regulation to say anything she pleases *about* homosexuality and about the Army's policy toward homosexuality. She is free to advocate that the Army change its stance; she is free to know and talk to homosexuals if she wishes. What [appellant] cannot do, and remain in the Army, is to declare herself to *be* a homosexual. Although that is, in some sense, speech it is also an act of identification. And it is the identity that makes her ineligible for military service, not the speaking of it aloud. *(emphasis in original)*.

See also Johnson v. Orr, 617 F.Supp. 170 (E.D.Cal. 1985) (finding for the military), *aff'd mem.*, 787 F.2d 597 (1986); *Pruitt v. Cheney, (supra)* n. 5. (same).

[10] *See, e.g., Ben-Shalom v. Marsh*, 881 F.2d 454, 461 (7th Cir. 1989)("The Commander-in-Chief, the Secretary of Defense, the Secretary of the Army, and the generals have made the determination about homosexuality, at least for the present, and we, as judges, should not undertake to second-guess those with direct responsibility for our armed forces. If a change of Army policy is to be made, we should leave it to those more familiar with military matters than are judges not selected on the basis of military knowledge."); *Goldman v. Weinberger*, 475 U.S. 503, 507–510 (1986)(Court deferred to the "professional judgment of military authorities" that Jew-

ish officer's wearing of yarmulke justified a court martial for noncompliance with dress code); *Rostker v. Goldberg*, 453 U.S. 57, 70–71 (1981)("[J}udicial deference to such congressional exercise of authority is at its apogee when legislative action under the congressional authority to raise and support armies and make rules and regulation for their governance is challenged."). *Also, Gilligan v. Morgan*, 413 U.S. 1, 10 (1973); *Orloff v. Willoughby*, 345 U.S. 83, 93–94 (1953).

[11] Supra n. 2.

[12] Berg v. Claytor, 436 F. Supp. 76 (D.D.C. 1977), vacated and remanded, 591 F.2d 849 (D.C.Cir. 1978).

[13] 875 F.2d 699 (9th Cir. 1989), aff'g en banc on other grounds, 847 F.2d 1328 (9th Cir. 1988), cert. denied 111 S. Ct. 384 (1990).

[14] The Supreme Court has found that classifications based on race, national origin, and in some cases, alienage constitute suspect classifications. See Cleburne v. Cleburne Living Center, Inc., 473 U.S. 432, 439–42 (1985). In addition, classifications based on gender, e.g. Craig v. Boren, 429 U.S. 190 (1976), and illegitimacy, Trimble v. Gordon, 430 U.S. 762 (1977), are considered "quasi-suspect" and trigger a form of "intermediate scrutiny" that is more rigorous than basic rational relationship review. In addition to subjecting suspect or quasi-suspect classification to strict scrutiny, courts will apply strict scrutiny to classifications that burden "fundamental interests."

[15] These classifications must be supported by more than merely a "legitimate" interest: governmental actions that burden a quasi-suspect classification must be based on an "important" interest, Craig v. Boren, supra n. 13, while actions that burden a suspect classification must serve a "compelling" governmental goal. Cleburne, supra n. 14.

[16] The connection between the discriminatory action and the governmental goal must be more than merely "rational": for quasi-suspect classifications the relationship must be "substantial," Craig v. Boren, supra n. 13, and for suspect classifications the discriminatory action must be "precisely tailored" to the governmental interest at issue. Plyler v. Doe, 457 U.S. 202, 217 (1981).

[17] As it appears from the decided cases, the justifications asserted by the government are several. First, it is argued that the presence of homosexual personnel arouses "tensions and hostilities" and inspires a lack of confidence and respect for homosexual officers. The military has also contended that homosexuals would be unable to effectively perform their duties as a consequence of their emotional involvement with other homosexuals and fear of disclosure. Other factors relate to anticipated disruption of the command structure that could result from homosexual relationships with subordinates, the possibility that heterosexuals would be discouraged from enlisting, and the threat of adverse foreign reaction to homosexual military personnel stationed abroad. Finally, one court has opined that "toleration of homosexual conduct, as expressed in a less broad prohibition, might be understood as tacit approval." See, e.g., Beller v. Middendorf, 632 F.2d 788, 811 (9th Cir. 1980); Dronenberg v. Zech, 741 F.2d 1388 (D.C.Cir. 1984).

Most recently, the federal district court in Steffan v. Cheney, 780 F. Supp. 1 (D.D.C. 1991), upheld the forced resignation of a Naval Academy midshipman who though not charged with homosexual behavior had admitted his homosexual orientation just weeks before graduation. Judge Oliver Gasch ruled that the regulations were rationally related to the military interest in protecting soldiers and sailors from AIDS.

Since Congress is empowered to raise and support armies, it may do whatever is necessary to protect the health and welfare of those armies. . . . The power to protect the armed forces from venereal disease is ample to sustain the power to protect them from what is now known to be a fatal and incurable virus.

[18] *Supra* n. 17.

[19] *Id*. at 812.

[20] *Supra* n. 17 at 1398.

[21] *Supra* n. 5.

[22] 963 F.2d 1160 (9th Cir. 1992), *cert. denied* 61 U.S.L.W. 3413 (S. Ct. 12–8–92).

[23] The gist of the Ninth Circuit reasoning is revealed in the following passage:

The Army did not discharge Pruitt because she spoke candidly about her sexuality to a newspaper. Nor did it discharge her for publicly expressing her views on a timely and controversial subject, or for demonstrating compassion for and association with homosexuals. The Army discharged Pruitt because she admitted to being homosexual. . . . Pruitt's admission, like most admissions, was made in speech, but that does not mean that the first amendment precludes the use of the admission as evidence of the fact admitted. . . . The question is not whether the Army is free to discharge her for her speech, because it did not do so. The question is whether the Army is entitled to discharge her for her homosexuality—an issue not encompassed by Pruitt's first amendment claim. 963 F.2d at 1163–64.

[24] 473 U.S. 432 (1985).

[25] The Court ruled in this regard that "mere negative attitudes, or fear, unsubstantiated by factors which are properly cognizable in a zoning proceeding, are not permissible bases for treating a home for the mentally retarded differently from apartment houses, multiple dwellings, and the like." 473 U.S. at 450.

[26] 466 U.S. 429 (1984).

[27] *Id*. at 448. *See also United States Dep't of Agriculture v. Moreno*, 413 U.S. 528 (1973) (invalidating under the rational basis test a provision of the Food Stamp Act that excluded households containing unrelated individuals because motivated by congressional dislike for "hippies").

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, DC, January 26, 1993.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express the support of the Veterans of Foreign Wars of the U.S. for your position opposing the removal of the ban on homosexuals serving in the Armed Forces, and for your decision to hold public hearings on this issue.

We believe the President's stated intention to lift the existing ban on homosexuals was made without due consideration for its impact on the Armed Forces and without proper consultation with military and Congressional leaders.

We support the current ban and we support your courageous decision to convene Senate hearings on this issue. The hearings will give the Service Chiefs and others the opportunity to describe the impact of the proposed policy change and to openly discuss their concerns before the Congress and the American people. Moreover, your decision will remind all that the Congress shares in the authority and formulation for such a major policy change affecting our Armed Forces.

Senator Nunn, you have our strong support on this issue and all your efforts directed toward maintaining a strong national defense.

Sincerely,

JOHN M. CARNEY
Commander-in-Chief.

VFW Remains Opposed to Lifting Military Ban on Homosexuals

WASHINGTON, DC, January 21, 1993.—Upon hearing reports that President Clinton planned to act quickly to lift the ban on homosexuals serving in the Armed Forces, the Commander-in-Chief, Veterans of Foreign Wars, John M. Carney of Melbourne, Fla., issued a statement reiterating VFW opposition.

"The VFW, an organization of 2.2 million wartime veterans, opposes lifting the current Defense Department ban on homosexuals serving in the Armed Forces. Last August, delegates assembled at our National Convention reexamined this issue and again concluded that homosexuality is incompatible with military service.

"This issue is a very serious matter. Our military leaders are gravely concerned about the impact such a change would have on our Armed Forces at this critical time. It is our hope that President Clinton will listen to the wise counsel of the Chairman of the Joint Chiefs of Staff, General Colin Powell and other military leaders on this issue. If he does so we believe he will conclude, as we have, that the ban should remain in place."

Resolution No. 416 as Amended

Whereas, because of the past experience of many veterans, we urge opposition to the effort of homosexual organizations, both male and female, to force the military services to accept and retain homosexuals; and

Whereas, the policy of the Department of Defense states that homosexuality is incompatible with military service and that the presence of homosexuals in such an environment seriously impairs the accomplishment of the military mission; and

Whereas, the Uniformed Code of Military Justice, Article 125, 10 USC, Section 925 (1976), specifies that sodomy is a crime in the military and the exclusion of homosexuals is a practical means of preventing violations of this Code; and

Whereas, this policy has been subjected to judicial challenge in numerous federal lawsuits with the goal of permitting homosexuals into the Armed Forces; now, therefore

Be it resolved, by the 93rd National Convention of the Veterans of Foreign Wars of the United States, that we express our deep concern over the impact this change of policy would have on our Armed Forces; and

Be it further resolved, that we unequivocally oppose the efforts of homosexual organizations to force the military services to accept or retain homosexuals and urge the Departments of Defense and Justice to take this matter before the Supreme Court to seek final judicial reaffirmation of the homosexual exclusion policy; and

Be it further resolved, that the aforementioned Codes should be rewritten in an effort to dismiss any possible question of the denial of civil rights based on moral, religious or ethical behavior, as it is not the intent to inflict that upon said persons, rather a just concern for the solid stability of our Armed Forces and its operation.

THE AMERICAN LEGION,
Washington, DC, January 29, 1993.

DEAR SENATOR: The American Legion remains steadfast in its opposition to lifting the ban on homosexuals in the military. Now is not the time for procrastination. The choice is clear. The decision should be made "to stay the course". This is not a matter of patriotism, loyalty or one's ability to do a job. This is a matter of choosing a lifestyle that is disruptive in a military environment. As wartime veterans, our members understand the necessity for cohesiveness and conformity, leaving no room for alternative behavior.

If the Administration insists on a change, then the decision should be made by means of the legislative process. Enclosed is a copy of The American Legion's most recent press release on this issue.

Sincerely,

ROGER A. MUNSON,
National Commander.

THE MILITARY COALITION,
Alexandria, VA, December 22, 1992.

Hon. JOHN MCCAIN,
Senate Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: The Military Coalition, comprised of nationally prominent military and veterans associations, representing 3.5 million members—active, reserve, retired and veterans—of the seven uniformed services, wishes to inform you that on December 8, 1992 we sent the enclosed letter to President-Elect Clinton concerning the issue of allowing acknowledged homosexuals to serve in our nation's armed forces.

For the reasons expressed in the letter, this issue is of grave concern to us. As we suggested to President-Elect Clinton, such a departure from a long-standing policy banning service by avowed homosexuals should not be made without a careful, extensive and considered examination by the appropriate committees of Congress following a course of hearings. We further recommended that only then, after their recommendations are presented, should a final decision be made.

We urge you to support this recommendation to hold hearings and then make appropriate recommendations to the President. We further request that during your deliberations you solicit testimony from the service Chiefs as well as from the Military Coalition, and other appropriate groups.

Sincerely,

PAUL W. ARCARI,
Colonel, USAF Retired, The Retired Officers Association, Co-Chairman.
C.A. (MACK) MCKINNEY,
Sgt. Maj. USMC Retired, Non Commissioned Officers Association, Co-Chairman.

THE MILITARY COALITION,
Alexandria, VA, December 8, 1992.
President-Elect BILL CLINTON,
Governor's Mansion, Little Rock, AR.

DEAR PRESIDENT-ELECT CLINTON: The Military Coalition, a consortium of military and veterans' associations is deeply concerned over the probability of your fulfilling the promise to allow acknowledged homosexuals to serve in the Armed Forces of the United States. The Coalition, representing 3.5 million members of the military community, opposes such a demoralizing move on the part of the Commander-in-Chief of the nation's uniformed services.

Service in the armed forces is a unique calling. Military men and women must be prepared to live anywhere, fight anywhere, and maintain high morale and combat efficiency under frequently adverse and difficult conditions. They are asked to undergo frequent exposure to risk, long hours, periodic relocations and family separations. Additionally, they willingly accept some abridgment of their freedom of speech, their right to privacy, and control over their living and working conditions. These are all part of the very personal price our military personnel pay on a daily basis.

Your pledge, if fulfilled, would strike at the very things which compromise the core of combat efficiency—high morale and discipline. What little privacy now exists for most personnel would be further jeopardized. The result can only be a diminution of their ability to carry out their mission—the defense of our nation.

The Coalition respectfully urges you to accept the sage advice of your military service chiefs and retain the current ban on military service by acknowledged homosexuals. Our top military leaders collectively possess years of experience in handling morale and disciplinary problems. Their knowledge and opinions on what is best for our nation's uniformed services require your careful consideration.

The Coalition, furthermore, strongly suggests that Congress be requested to conduct extensive hearings on this issue and then provide its counsel on a matter with potentially long-term detrimental effects on the All-Volunteer Force. It has taken this action a good many years to develop a well educated quality force of dedicated men and women that comprise the best military organization in the world. Let us keep it the best.

THE MILITARY COALITION.

THE RETIRED OFFICERS ASSOCIATION,
Alexandria, VA, December 15, 1992.
Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: The Retired Officers Association, representing 322,000 commissioned and warrant officers (over two-thirds of the nation's retired military officer community) recently sent a letter to President-Elect Clinton expressing our concern over the issue of military service by avowed homosexuals.

This letter is based on the sentiments of our membership as compiled by the Gallup Organization at the behest of the TROA Board of Directors. The survey results reveal that over 83% of our membership oppose Mr. Clinton's campaign promise to allow avowed homosexuals to serve in the military.

I have taken the liberty of enclosing a copy of the editorial page from our January 1993 edition of The Retired Officer Magazine as well as a copy of the results of the Gallup survey we commissioned. The editorial contains a letter jointly written by TROA's Chairman of the Board, G. E. R. Kinnear, Admiral, USN-Ret. and me, the original of which was sent to President-Elect Clinton.

As we did with the President-Elect, we urge you to seriously consider the impact of Mr. Clinton's promise and the effect it can and will have on our nation's military forces. Additionally, we urge you and your colleagues to hold hearings on this issue; to hear arguments from all sides and then make an informed decision. Our nation's military forces who have long and faithfully served the defense needs of our great nation should expect no less from its elected representatives.

Sincerely,

T.J. KILCLINE,
President.

THE RETIRED OFFICERS ASSOCIATION,
Alexandria, VA, December 11, 1992.
President-elect BILL CLINTON,
The Governor's Mansion, Little Rock, AR.

DEAR MR. CLINTON: On behalf of The Retired Officers Association (TROA), we want to congratulate you on your election as president of the United States.

TROA is an organization of 322,000 members who have served as commissioned or warrant officers and 60,000 surviving spouses. We look forward to working with you in maintaining the United States combat-ready armed forces capable of defeating all foreign threats to our national interests and security.

It is from this perspective that we express our profound concern about your reported interest in repealing the current Department of Defense policy on homosexuals in the armed forces. Military service is unique and vastly different in both working and living conditions from private and public sector occupations where employees are free to come and go as they please. The military institution, with its sea duty, field deployments and combat operations, necessarily infringes upon personal privacy and forces intimate living conditions unlike those experienced in any other community or profession. Our years of military leadership experience confirm that when avowed homosexuals are thrust into this environment, the impact undermines morale and discipline to the detriment of the essential mission. This is an even more significant factor at a time when we are undergoing a massive drawdown of the fighting force. The result of this kind of social engineering within our all-important defense community can be nothing but disastrous.

Further, the military institution must act in loco parentis for the young men and women entrusted to its care. Service recruiting efforts to maintain the required vitality and quality of the force can only suffer. Many parents will discourage their sons and daughters from joining an armed service forced to accommodate to the gay lifestyle.

We strongly recommend that you heed the advice of your senior military advisors to retain the long-standing and logically-conceived policy to ban homosexuals from the military and not make a precipitous decision that would seriously impair national security.

G.E.R. KINNEAR II,
Admiral, USN (Ret.), Chairman of the Board.
T.J. KILCLINE,
Vice Admiral, USN (Ret.), President.

NON COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA,
Alexandria, VA, August 21, 1992.
Hon. JOHN MCCAIN,
U.S. Senator, Subcommittee on Manpower and Personnel, Russell Senate Office Building, Washington, DC.

DEAR MR. MCCAIN: Over the years, the Non Commissioned Officers Association of the United States of America (NCOA) has opposed every legislative attempt to change the policy of denying service in the U.S. Armed Forces to homosexuals and bisexuals. The association has and will continue to be strong in its support of the Department of Defense (DoD) position in the matter. If DoD should, by chance, succumb to public pressure on the issue, NCOA will not alter its position.

In an effort to demonstrate the association's resolve on the homosexuality issue, a copy of a Resolution has been enclosed for your information. This Resolution was approved by NCOA members during the Business Meeting held in conjunction with the association's 31st Annual Convention in Reno, Nevada, in July 1992.

Should public hearings be held on any legislation intended to open the ranks of the military services to homosexuals, NCOA would welcome the opportunity to offer a representative to express opposing views to such legislation. In this regard, invitation may be sent to me at the above address.

NCOA firmly believes that this is a social issue and not one of discrimination as some would lead us to believe.

Sincerely,

MICHAEL F. OUELLETTE,
Sgt. Maj., US Army, (Ret), Deputy Director of Legislative Affairs.

HOMOSEXUALS IN THE ARMED FORCES

Whereas, it has been a long-standing policy of the Armed Forces of the United States to deny service to homosexuals in the uniformed components of the Army, Navy, Marine Corps, Air Force, and Coast Guard;

Whereas, there is currently an organized effort with segments of the public and in the Congress of the United States to have the Armed Forces to amend its policy and authorize the enlistment and retention of homosexuals;

Whereas, the enlistment and retention of homosexuals, is not in the best interest of preserving high morale and good discipline in the Armed Forces of the United States, and is incompatible with maintaining good order among uniformed members of the military services,

Whereas, homosexual conduct is an offense under the Uniform Code of Military Justice;

Therefore, be it

Resolved, That the membership of the Non Commissioned Officers Association of the United States of America, hereby declares its unanimous support for the current Department of Defense policy, DOD DIRECTIVE 1332.14 January 1982, which reads in part:

"Homosexuality is incompatible with Military Service. The presence in the military environment of persons who engage in homosexual conduct or who, by their statements, demonstrate a propensity to engage in homosexual conduct, seriously impairs the accomplishment of the military mission. The presence of such members adversely affects the ability of the military services to maintain discipline, good order and morale; to foster mutual trust and confidence among service members; to ensure the integrity of the system of rank and command; to facilitate assignment and worldwide deployment of service members who frequently must live and work under close conditions affording minimal privacy to recruit and retain members of the Military Services; to maintain public acceptability of military service; and to prevent breaches of security."

Be it further

Resolved, the Association shall actively oppose legislation or regulation directing the recruitment or retention of homosexuals in the Armed Forces.

THE RETIRED ENLISTED ASSOCIATION,
GOVERNMENT AFFAIRS OFFICE,
Alexandria, VA, June 29, 1992.

Hon. JOHN MCCAIN,
Ranking Minority Member, Subcommittee on Manpower and Personnel, Senate Committee on Armed Services, Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the more than 58,000 members of The Retired Enlisted Association (TREA), I am writing to express our strong opposition to S. Res. 236, a Resolution "expressing the sense of the Senate that the President rescind DOD Directive 1332.14, section H.1, which bans gay, lesbian, and bisexual Americans from serving in the Armed Forces of the United States."

It is obvious the sponsors have never lived for years aboard a man-o-war, as so many enlisted Navy personnel do, for example.

Proponents of S. Res. 236 site the costs to DOD when involuntarily separating homosexuals from the Armed Forces. What all neglect to mention is that homosexuals enlisting or receiving a commission have misrepresented themselves and entered into a fraudulent enlistment.

Overlooked, is the potential impact on recruiting. Each year the services recruit tens of thousands of high school seniors into the Delayed Entry Program (DEP). The DEP program allows the service to guarantee a specific school months ahead of graduation from high school. Many of these same high school seniors are 17 years old and thereby require parental consent. This makes one wonder, how many heterosexual parents are going to consent or encourage their young sons and daughters to join the service should S. Res. 236 become law.

We respectfully urge you to offer your strongest opposition to S. Res. 236.

Very respectfully,

JOHN M. ADAMS,
MCPO, USN (RET.),
Director of Government Affairs.

P. RESOLUTION No. 93–7

Reserve Officers Association of the United States

UNIFORMED SERVICES POLICY REGARDING HOMOSEXUALS

Whereas, allowing acknowledged homosexuals to serve in the military will impair the Department of Defense's capability to provide adequate national security; and

Whereas, the Uniform Code of Military Justice, an Act of Congress, prohibits sodomy and other deviant behavior on the part of service personnel; and

Whereas, the special conditions and operational demands related to military service, especially in wartime, are unique to serving in the military and must not be confused with conditions prevailing in society as a whole; and

Whereas, heterosexual personnel experience significant stress when forced to associate with overt homosexuals in close quarters, lacking privacy and during life and death situations; and

Whereas, forcing heterosexual military personnel to serve with overt homosexuals threatens morale, discipline, and esprit de corps, that which is at the core of combat effectiveness; and

Whereas, service in the armed forces is not a right but a unique calling, entered into by those who meet stringent physical and mental requirements; and

Whereas, discrimination related to behavior and lifestyle must not be confused or equated with that based on gender, race or religion; Now, therefore, be it

Resolved, That the Reserve Officers Association of the United States, chartered by Congress, urge the Congress and the uniformed services to sustain policies excluding homosexuals from the uniformed services.

This supersedes Resolution No. 91–57.

Note: This is not an official ROA resolution until adopted by the National Council/Convention.

AMERICAN SECURITY COUNCIL,
Washington, DC, January 29, 1993.

Hon. JOHN MCCAIN,
Russell Senate Office Building, Washington, DC

DEAR SENATOR MCCAIN: We are writing to strongly urge you to vote in favor of the amendment that will be offered by Senators Bob Dole, Strom Thurmond, and Dan Coats in support of the current ban on homosexuals in the armed forces. We have been in contact with ASC members and supporters throughout the nation, and we can tell you they are vigorously opposed to President Clinton's decision.

For 37 years the American Security Council and its members have worked to safeguard U.S. national security interests while promoting a world of free nations at peace. Today, we are focusing our efforts on developing a bipartisan strategy for the 21st Century—a strategy for "winning the peace" in a post-Cold War world. We believe a key element to our success in the Cold War, and a critical element in maintaining peace in the future, is the readiness, morale, and professionalism of our armed forces.

Because of this, we were very dismayed by President Clinton's decision to issue an Executive Order repealing the current ban on homosexuals in the armed forces. We strongly urge you to weigh carefully the concerns and difficulties which have already been expressed to you by the entire national security community. These are thoughtful men and women whose professional lives have been devoted to improving the quality of our fighting forces. They are open-minded and compassionate, and they have the best interests of the country and military at heart.

As you may know, the American Legion, the Veterans of Foreign Wars, the Association of the U.S. Army, the Navy League, the Air Force Association, the National Guard Association, the Marine Corps League, the Reserve Officers Association and the Retired Officers Association have all joined ASC in going on record in support of the ban. Letters, statements and resolutions from all of these groups have already been sent to your office.

Our nation's veterans groups urged President Clinton not to issue this Executive Order before the men and women most affected by this proposal had an opportunity to be heard and their concerns addressed. This is a major policy change with far-reaching implications, and we regret that the President acted so suddenly.

Military service is unique and vastly different in both working and living conditions from private and public sector occupations where employees are free to come and go as they please. The military institution, with its mandatory sea duty, field deployments and combat operations, necessarily infringes upon personal privacy and forces intimate living conditions unlike those experienced in any other community or profession.

Years of military experience suggest that when homosexuals are thrust into this environment, the impact undermines morale and discipline to the detriment of the essential mission. This is an even more significant factor at a time when we are undergoing a massive drawdown of the fighting force. The result of this kind of social engineering within our all-important defense community can be nothing but disastrous.

Further, the military institution must act in loco parentis for the young men and women entrusted to its care. Recruiting efforts can only suffer, risking the vitality and quality of the forces. Many parents will discourage their sons and daughters from joining an armed service forced to accommodate gay lifestyles.

The basic issue addressed by the Dole/Thurmond/Coats amendment is national security, not the alleged "rights" of any group of citizens. We strongly recommend that you respect the advice of our senior military officers and all of the nation's veterans groups. We hope you will not vote for a policy that would put our national security at risk.

ROBERT H. SPIRO, JR., PH.D.,
Vice President, Former Under Secretary of the Army, Carter Administration,
JOHN M. FISHER,
Chairman and Chief Executive Officer.

NAVY LEAGUE OF THE UNITED STATES—BOARD OF DIRECTORS' MEETING

MINUTES

The meeting was called to order at 8:30 a.m. by the National President, William C. Kelley, Jr.

The following National Directors were present:

NEW ENGLAND REGION

Charles L. Cashin, Jr., Raymond R. Couture, Daniel D. Gallagher, William C. Kelley, Jr., Harry W. Konkel, Ivan R. Samuels, Robert W. Saul, Jr., and Robert W. Selle.

EMPIRE REGION

Earnest G. Campbell, Kenneth A. Deegan, John H. Reilly, Jr., Richard W. Scheuing, Austin N. Volk, Arthur D. Ward, and William E. Weisert.

LIBERTY REGION

Ludevit Cerven, William H. Cowper, John Dalton, Timothy O. Fanning, John D. Faulds, Richard Herb, Edwin E. Kraft, Janet F. MacInnes, Donald R. Misura, Robert Mulford, Albert S. Ogden, John Rogge, John J. Sweeney, Elizabeth W. Trimble, George J. Trimble, and E. Howard York.

MID-ATLANTIC REGION

Donald F. Bartley, Calvin H. Cobb, Jr., Winifred Q. Collins, Burton L. Doggett, Albert H. Friedrich, Larry D. Hamilton, Steven L. Hammer, Michael J. Hutter, Billy Kellum, Lou Kriser, Jerome Rapkin, Stewart E. Reuter, William G. Sizemore, Jacquelyn C. Smith, Ralph Solberg, and Suzanne B. Williams.

SOUTH ATLANTIC COAST REGION

Edith E. Calliham, Gerald F. Corcoran, Dale Lewey, Hugh H. Mayberry, Arlie McNeil, Owen W. Siler, and Robert Van Nuise.

FLORIDA REGION

Herbert A. Jordan, Jr., Robert C. Morrison, Henry C. Petri, G. Rodman Porter, Jr., John J. Spittler, and Stewart R. Sprung.

SOUTHERN REGION

Boykin R. Dodson and Walter H. Reese.

SOUTHWEST REGION

Ronald W. Bradley, Carter B. Conlin, Raymond L. Nelson, J. Wayne Trimmer, J. Frank Williams, and Tommy C. Wimberly.

GREAT LAKES REGION

George E. Burlingame, Fred D. Carl, Margaret D. Christie, John D. Crawford, Howard R. Doud, Rosalind K. Ellis, Morgan L. Fitch, Jr., James A. Hotham, Robert W. Mitchler, Sarah J. Whitlock, and Roycealee Wood.

UPPER MIDWEST REGION

Gordon E. Loffhagen.

CENTRAL MIDWEST REGION

Charles W. Boswell.

ROCKY MOUNTAIN REGION

Joseph Y. Miller IV and Paul R. Streich.

CARIBBEAN REGION

Joseph S. Galbraith and Wallace Valencia.

PACIFIC SOUTHWEST REGION

Pamela K. Ammerman, John R. Anderson IV, Mary E. Barrett, Jewell H. Bonner, Patricia Ann Brill, James C. Cecil, Jr., John R. Fisher, Walter F. Heisey, Frances Z. Heppe, Herbert Hirsch, Glen J. Huber, Seymour Knee, Donald A. Lambe, Raymond W. Lusby, K. A. Moras, Jack H. Morse, Robert L. Murphy, Anthony Pearson, Dwight D. Perry, Edna M. Ralston, John M. Rau, Katherine O. Rogerson, William R. Sammons, Mildred A. Talley, and Charlotte Thompson.

PACIFIC CENTRAL REGION

David M. Albin, Evan S. Baker, Charles J. Beasley, Leonard H. Bregman, Genie Cancellier, William N. Durley, Stanley E. Ellexson, William R. Gaynor, T. Cole Hackley, Paul E. Hazelrig, Sr., Ralph P. Hill, Lorraine D. Hughey, Josephine M. Hutchinson, Willis E. Reed, John H. Roscoe, Henry J. Warren, Robert C. Whitten, Jr., and Jacquelin G. Wilson.

NORTHWEST REGION

Robert E. Bateman, Marilynn E. Crist, Steven D. Gann, Hubert Glenzer, Dewitt James Griffin, Charles E. Krischano, Jean Look-Krischano, Henry M. Robinett, and Harold H. Vlist.

PACIFIC AREA REGION

Pasha Baker, Ted M. Damron, Harold B. Estes, Alexander Gaston, J. Walsh Hanley, Myron Haynes, Jonathan Hodkinson, Alan S. Lloyd, and Paul A. Nelson.

EUROPEAN AREA REGION

Guy M. Newland and Robina Townes-Cornille.

The President stated that a quorum was present.

"Now therefore be it resolved, by the National Directors of the Navy League of the United States at their meeting on November 16, 1992, that the Navy League of the United States supports the statement of the Chairman of the Joint Chiefs of Staff who said 'The Joint Chiefs of Staff and the senior commanders continue to believe strongly that the presence of homosexuals within the armed forces would be prejudicial to good order and discipline.'"

LINDA TRUMP,
Director, Executive Services.
WILLIAM G. SIZEMORE,
Corporate Secretary.

ALEXANDRIA, VA,
November 24, 1992.

President-elect BILL CLINTON,
Governors' Mansion, Little Rock, AR.

DEAR PRESIDENT-ELECT CLINTON: I am writing you to express my deep concern over your pledge to lift the current order which bans homosexuals from serving in the military.

I am a 1974 graduate of the U.S. Military Academy at West Point. I served for 5 years in the Army in various assignments as a combat arms officer. These assignments included Korea and the 3rd U.S. Infantry, otherwise known as the Old Guard of the Army. I currently reside in the Northern Virginia area and work as a consultant within the information technology field.

My concern over your pledge goes to the very core of the future readiness of our nation's defense as well as to the moral climate within our nation. I can best reflect my concerns by raising other questions which you as the Commander-in-Chief and other military commanders will be faced with:

1. Recognizing that the sexual drive within us is one of the strongest (if not the strongest), how will soldiers feel when they are faced with the prospect of sharing the most intimate of environments with people who potentially could find them sexually attractive?

2. Given these attractions, how will units function properly when such attractions lead to unwanted sexual overtures by one soldier towards another, thus breaking down the trust that is so critical for a unit to function during combat?

3. How will the military address the likely prospect of homosexuals seeking such privileges as dependent medical and dental care for their partners in much the same way as cities such as San Francisco have mandated within 'domestic partner' programs?

4. Once homosexuals are given the privilege to serve within our nation's military, how will the military respond to the requests of bisexuals to be given the same privilege?

5. How will the service academies handle openly homosexual students?

This list goes on and on. I know I speak for many when I say that lifting the current ban will be tantamount to destroying the cohesiveness that is vital for our nation's defense personnel.

I would like to add one more point: As a black American, I find it extremely offensive and disparaging for anyone to compare the lifting of this ban to that of the racial integration of the services which began in the late 40's. It indeed tarnishes the valor and memory of all those brave soldiers who served under conditions that I never had to experience in order to pave the way for me to attend one of the most prestigious schools in America.

I strongly urge you to re-consider this pledge for the good of our military, its readiness, and for the good of our nation.

Sincerely,

——— ———.

BRANDYWINE, MD,
January 12, 1993.

Hon. JOHN MCCAIN,
Washington, DC.

DEAR SENATOR MCCAIN: I am an Army Captain, and I want to encourage you to do everything possible to stop President-Elect Clinton's proposal to lift the ban on homosexuals in the military. I believe this action would have a dramatically negative effect on military morale, discipline and readiness as well as undermining public confidence in our armed forces.

Everyone has rights, but not everyone has the right to serve in the military. The military discriminates against the handicapped, drug users, and criminals, with good reason. Imagine the consequences of nearsighted pilots, chemically dependent tank drivers or soldiers who are forced to depend on the actions of a known criminal. They do not belong in the military and neither do homosexuals.

In ten years I have seen hundreds of training hours lost to sexual discrimination cases. If the ban on homosexuals is lifted the number will increase ten fold. Every time a homosexual soldier receives even a slightly negative report he will be able to claim sexual preference discrimination. This will only further detract from training and add to an already burdensome amount of paperwork.

Heterosexual male soldiers will not follow homosexual leaders. I base this claim, not just on hypothesis but examples in units in which I have served. Soldiers, especially those in combat arms, will not tolerate known homosexuals in their unit. It is detrimental to morale and order to have soldiers worry about their bunkmates' sexual preferences. The result of such situations is usually violence. Comrades of mine in the Navy are particularly worried about their rights as heterosexuals, when they are forced to share crowded ship-board quarters with known homosexuals.

The military is aware that there are homosexuals presently serving and this has already created unit disruptions. My wife served for four years in the Marines and was approached by lesbians several times. One even threatened to kill herself if my wife did not give in to her advances. That did not improve the morale of her unit. The trust that creates cohesion and fighting spirit is lost. How much more common will this scene become when homosexuality is condoned?

I believe the military is supposed to represent the finest ideals of American society not the opinions of a deviant minority. Basic biology demonstrates that homosexuality is unnatural. If the military is not allowed to discriminate against "sexual preference," will homosexuality be the limit or will other sexual preferences like bestiality and pedophilia be accepted as well? Will they soon be considered normal behavior too? Will the military soon be unable to discriminate against anyone? Like dozens of other officers I have spoken with, I will seriously consider resigning if this new measure is put into effect.

I adamantly urge you to do everything you can to stop this proposed measure. If you do not believe me, believe General Powell, this is not a good idea.

Sincerely,

S.A. UNDERWOOD,
Captain, U.S. Army.

PHOENIX, AZ,
January 25, 1993.

Mr. LES ASPIN,
Secretary, DOD, The Pentagon, Washington, DC.

DEAR MR. SECRETARY: I write with the strongest of objection to the fact the President wishes to change the Military's rules re gay individuals.

I served as an enlisted man with World War II and Korean service. I have watched the great improvement in our services the past decade.

It is simply wrong to create special rules or circumstances for the gay. These people choose their life style. Will we see special Army units exclusively of gays or perhaps an air force wing manned by gays? How do you expect our military leaders to develop pride, morale and teamwork with their officers and men with special rules and or treatment?

Homosexuality is immoral. It contributes to the present problem of AIDS in our country. As a person I would not want to serve in a military that has special rules for gays. I would not want my children to serve either. Aboard ship the quarters are close. In training, work and combat our men and women must depend on one another to perform duties. I would not want to rely on an individual or group that I knew to be gay.

It is just as shameful that apparent political expediency results in such requests. I am saddened to think our nation must stoop to such low depths. Please remember our military is vital and should be treated honorably, not shabbily. Also, I remind you New York, San Francisco and the Washington beltway are just part, not all of America.

Cordially yours,

RICHARD WAGNER.

[From the Wall Street Journal, Dec. 2, 1992]

GAYS IN THE MILITARY? A CAUTIONARY TALE

(By Kevin M. McCrane)

Bill Clinton's desire to lift the ban on homosexuals in the military brings to mind a troubling incident from my own military experience more than a generation ago.

When I turned 18 late in 1945 I discovered that I had missed the war but not the draft. After five weeks of boot camp, I was shipped to San Francisco's Treasure Island, the Navy base where new recruits waited to receive their orders.

It was dark and raw as only San Francisco can be in January when five of us mustered on a pier to await a ship's boat from the USS Warrick. The new recruits were told the Warrick was an Attack Cargo Auxiliary, which sounded promising. We soon discovered this was a fancy name for a cargo carrier. Even so, we were excited at the prospect of shipping out. Lugging our bags, we arrived on board late at night. We unhooked our berths from their vertical positions and settled down to sleep.

The awakening was sudden, panic-filled. A hand was caressing my leg, running up the inside of my thigh. A dim figure ducked away as I lashed out, kicking, swinging a fist and striking air. There was no more sleep that night.

Our voyage began the next day, our destination Honolulu. But the excitement was gone, at least for me. At the end of a long day riding the sea's rolling swells, I took a 12-inch box end wrench from the engine room and retreated to my berth. Hanging on to the wrench under my pillow, I slept.

My sense of unease did not go away even when the seasickness passed. On the fourth day at sea I visited the ship's post office. The second-class petty officer manning the tiny cubicle greeted me warmly. Grinning broadly, he stepped back from the counter, dropped his dungarees, fondled himself and made an obscene invitation. I walked away.

Whom do you tell? I chose a third-class petty officer on my watch. He laughed at what I told him. "You're on a French cruiser, kid." He told me to watch out.

It was in the open now, a subject for discussion among the new recruits. Each of us had been accosted, patted, propositioned. Though we were in different divisions, we flocked together for meals, averting our eyes when one of "them" leered in our direction.

There were five such aggressive homosexuals that we knew of on board this ship with almost 250 men. They were all petty officers. Their actions were enough to poison the atmosphere on the Warrick. Meals, showers, attendance at the movies, decisions about where you went on the ship alone—all became part of a worried calculation of risk.

After two weeks at sea, I received the whispered news that the smallest and most vulnerable of our "team" had been sodomized in the paint locker. When I looked at the bearer of this news, I saw that there were tears in his eyes. "Why are they doing this to us?" he asked.

It was a good question. The comments of some petty officers suggested that the rapid discharge of so many veterans at the end of the war had brought with it a slackening of discipline. On board the Warrick this disciplinary neglect had loosened the restraints on homosexual behavior—the threat of discharge was the surest of these—and created an atmosphere where exhibitionism and lewd action were commonplace.

All homosexuals aren't rapists. But in this closed male society, with its enforced communal living, unchecked homosexual appetites wrought havoc. The atmosphere on the USS Warrick in January of 1946 does have a present-day parallel—the atmosphere of fear that rules in today's prisons.

Is there a lesson here for Mr. Clinton? I think so. The U.S. Navy certainly won't turn into a collection of horror ships like the Warrick if he succeeds in ending the ban on homosexuals in the military. But my experience does suggest that military officials are right to worry that "good order and discipline of the services will be impaired" if the ban is lifted.

A postscript: When the Warrick reached Pearl Harbor in that long-ago winter, a new executive officer reported aboard. On the sixth day in port the PA system blared a summons "for all those personnel being transferred to assemble at the quarterdeck."

I joined the rush topside to see who was going ashore. The ship's rail was lined with crewmen cheering as five petty officers debarked into a P-boat.

I went below decks and ran back up. When the P-boat cleared the side, I dropped my box-end wrench in to the blue waters of Pearl Harbor.

TUCSON, AZ,
January 22, 1993.

Hon. JOHN MCCAIN,
U.S. Senator, Tucson, AZ.

DEAR SENATOR MCCAIN: I am writing this letter to urge you to oppose the proposed action of President Clinton that would allow known homosexuals to remain in or be allowed to join the United States Military.

I am a military wife. My husband has proudly served this nation for 21 years. I am a registered voter in the state of Arizona, and we are stationed at Davis-Monthan AFB. However, my husband has recently been sent to Saudi Arabia.

Through the Uniformed Code of Military Justice [UCMJ], active duty personnel may not strike, organize protests, or any other such activity that is the normal right of the American population. This is the very code of laws enacted by Congress that an Executive Order allowing homosexuals in the military would violate. We have only our representatives in Congress to help us fight our political battles.

Although we feel that there should be supportive government programs to help rehabilitate the people who suffer from this very sad physiological psychological illness, remaining in the military should not be allowed. If we had effective rehabilitating programs, these patients could then take their rightful place in any society.

We have programs to rehabilitate substance abusers and child abusers, in the hope that these programs would allow people to be rehabilitated and stop the cycle of these problems. So to with the homosexual. If we can control this illness and break the cycle, we will then be able to get an upper hand on other illnesses, such as AIDS.

By the very nature of the military lifestyle (i.e. barracks living, combat living arrangements, etc.), this is not an environment that would benefit the homosexual.

Senator McCain, I urge you to help fight this proposed violation of the Uniform Code of Military Justice that our military personnel must be ruled by. Please seek alternative measures to help the victims of this illness.

Sincerely,

CARLA S. DUPUY.

JANUARY 29, 1993.

Hon. JOHN MCCAIN,
Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: As a World War II veteran, decorated for valor, authorized to wear the Purple Heart with a cluster, a former rated military paratrooper and pilot, who has served in virtually all enlisted and officer grades from Private to Lieutenant Colonel, I urge you and your colleagues in the Senate not to allow a naive, draft-dodger President to over rule the wisdom of the Joint Chiefs of Staff of the United States on the matter of "gays."

My personal philosophy allows me to believe that any relationship between two consenting adults is acceptable. However, this liberal philosophy does not allow me to accept the arbitrary imposition of "gays" on the finest military establishment in the world, against the advice of the Joint Chiefs of Staff, by a President whose qualifications to make such a decision are totally absent in the face of his experience.

It is not the rights of "gays" that are at issue, but the rights of "non-gays." Moreover, beyond the issue of "gays" entitlements to serve are a myriad of other related and associated issues which ought to be fully examined prior to the proposed decision of an inexperienced President.

Therefore, I urge that you and your colleagues in the Senate move to prevent the President from making a premature judgement, one that could have a significant impact on the morale and attitude of the national military establishment, without a comprehensive examination of the matter and the full support of the Joint Chiefs of Staff.

Respectfully yours,

STANLEY C. WALDNER.

PARADISE VALLEY, AZ,
January 19, 1993.

President WILLIAM J. CLINTON,
The White House, Washington, DC.

DEAR PRESIDENT CLINTON: On the eve of your inauguration I am saddened by the thought that I may no longer be able to encourage my grandchildren to follow in my footsteps by seeking appointments as cadets at the country's military academies. That change in my position will certainly occur if homosexuals are knowingly allowed in the military.

Having served this country in ranks from private to colonel of infantry and commanded all units from squad through brigade, I have a pragmatic understanding of the trauma which can be inflicted upon young men who are naive and/or physically, mentally, or morally weaker than others. I offer three examples of which I have personal knowledge.

While attending officers candidate school at Fort Benning in 1946-1947 I was in a company in which more than twenty young men (mostly 18 to 20 years old) were first invited singly and in pairs to parties in the local community. After they consumed copious amounts of alcohol they were inducted into homosexual activities. The civilian homosexual organizers of the party photographed them, then threatened the photos would be sent to the soldiers' commanding officer if they did not bring more of their unsuspecting barrack mates to the next round of parties. Fortunately, one young man did not comply. Instead he informed his commander and the Georgia Bureau of Investigation. The lives of the more than twenty men who were discharged from OCS were undoubtedly negatively affected. Whether any went on to practice homosexuality and lure more young men into that practice, I do not know. However, it is fair to say that all those young men were negatively impacted by the events described. I believe that many suffered from changes in self-image and loss of self-esteem. If you want to verify that story, check the Infantry School's archives for OCS Class 536, graduated March 28, 1946.

A second threat to young military men is persuasion or coercion by a homosexual officer into accepting his sexual advances. I personally saw that type of mistreatment in my first troop assignment out of West Point. My company commander always had two or three specially selected recruits as his messengers or aides. When the unit went to the field for training, he and his young group would stay in barracks. When unable to avoid field duty, he had a large tent set up where he and his "aides" stayed. At the time I was too naive to realize what was happening. It was only after leaving that assignment that I read the commander had been discharged as a homosexual. I suppose one of his aides objected to the inappropriate personal attention. Or perhaps one of them reported him in a rage of jealous spite. Whatever the reason, hundreds of young recruits passed through that unit for training every eight weeks, so the homosexual company commander had a wide selection of young men to prey upon while neglecting his duties to the rest of his men and to his country. Command authority over others is very persuasive and can be intimidating. To misuse it is a grave disservice to all involved.

A third and different kind of episode occurred much later in my career. This was a typical case of the barracks bully. It seems that when men are placed in close quarters, as they are in a 40 to 60 man barrack, there is often a struggle to determine who is strongest, toughest and meanest. When that has been determined, that barracks bully often dominates all others in every way. He selects a few other toughs and rules the barrack when the non-commissioned officers are not there. So it was when I commanded a battalion at Fort Lewis. It was reported to me that such a bully and his henchmen were pulling young soldiers out of bed at night, taking them to the latrine and forcing them into sodomy and oral sex acts. When told of this, I immediately had the bully arrested. Subsequently it was learned he had murdered his brother and so was returned to his home town for prosecution. Although the bully was gone, he had left some shattered, shamed and forever changed young men in his wake.

I know these examples are unsavory and perhaps gross; but they are real stories of the kind of things that happen when people with unnatural and unfettered sex drives are placed in a position to be able to influence, coerce and bully young, immature and often innocent men. I believe strongly that we are obligated to protect our young servicemen from unwanted attentions similar to those described above. Placing them under command of homosexuals, or in barracks, foxholes, ship berths, or other close quarters with other men who seek sexual pleasure with other men is to purposely expose them to sexual advances which negatively and severely impact their lives, and those of their loved ones, forever. We certainly would not allow men who are naturally sexually attracted to females to live in open barracks with them.

On the battlefield soldiers often mix their blood as they tend their fallen comrades, or are tended by them. How will their exposure to long-term death from AIDS be rationalized if homosexuals are allowed to serve? Since it is well known that male homosexuals are the largest population of AIDS carriers in the country, it would seem extremely injudicious, if not reckless, to expose servicemen to their blood. The battlefield is not a neat place where gloves and masks can be worn.

If homosexuals are accepted in the armed services and their lifestyle accepted as an "alternative", how does a commander prevent open sexual coercion by subordinate commanders of their subordinates? How do commanders control open homosexual acts in barracks, since they would then be accepted as an "alternate lifestyle"? How do commanders get rid of barracks bullies who force themselves on others and then coerce them into silence?

The young servicemen who are affected by your decision may one day fight, be maimed, and die as a result of world events and your decisions. If they are expected to make those sacrifices, let them understand you respect them and their right to security in what little private life they have, that they need not fear sexual harassment by their officers, nor fear undue exposure to AIDS in peacetime, or on the battlefield.

It has been a great privilege for me to serve with and fight alongside our magnificent American infantrymen. They are tough, dedicated and skilled soldiers, on whom we place onerous burdens of killing and being there when their friends fall in combat. They will carry those burdens born of battle with them for the rest of their lives. The scars can never heal. I implore you not to add further burdens and scars on their psyches by exposing them to homosexuality as an acceptable lifestyle in our armed services.

Sincerely,

ROBERT L. SEARS,
Colonel, Infantry, U.S. Army, retired, U.S. Military Academy, class of 1952.

P.S.—It is with great sadness that I just read of your decision to implement a two phase plan for integration of homosexuals into our armed services. By that act you have diminished greatly the effectiveness of our armed services as effective implements of the extension of political power. You have already demonstrated quite clearly that you are unworthy of being Commander in Chief of our armed services.

I, and others who proudly served are saddened and dismayed by your decision.

JANUARY 29, 1993.

From: Dennis Roos, Hewitt, NJ.
To: Senator John McCain, Washington, DC.

DEAR SIR: I am a proud veteran of the US Army. I had the distinct privilege to serve while President Reagan was the Commander in Chief. I come from a family that believes very strongly in the American ideals of God, country & family. That the American dream is alive for all who will work for it, it was not something for the government to hand out to everyone.

My father instilled all this into us as well as the ideals of the Republican Party. Having served in the military, as you have, I am offering you my support in your fight against lifting the ban on homosexuals in the armed forces. I firmly believe what Mr. Clinton wants to do with this ban will have the most adverse affect on the moral, discipline, & cohesiveness of our armed forces.

I do not believe that the homosexuals constitutional rights are being infringed upon. If a person was joining the military and is either over weight, or a single parent, or does not have a highschool diploma, these are grounds for not being admitted to the military. Are their rights not being infringed upon also? Of course not. It is being done for the betterment of the armed forces.

I only hope your leadership, as well as the leadership of the other Republican Senators and Congressman will be enough to stem this social experimentation madness with the military. I wish that I had a Congressional Representative of your caliber instead of the Liberal Democrats that do represent the State of New Jersey. God help this country if Mr. Clinton and the other liberals that did not have the guts to serve his country when they were called upon, but now think they understand how the military should be run, get their way. If there is anyway that I may be of service to you to help thwart the democrats shenanigans on lifting the homosexual ban in the military, I would only be to happy to assist you. Good luck and Godspeed to you.

A great admirer of yours.

Sincerely,

DENNIS ROOS.

TUCSON, AZ,
January 26, 1993.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: If you think well of the enclosed letter, would you be kind enough please to enter same in the Congressional Record in order that it might be seen by every member of the U.S. Congress?

Thank you ever so much.

Respectfully,

J.B. CHICKERING.

TUCSON AZ,
January 26, 1993.

Hon. WILLIAM JEFFERSON CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: Please allow me to add my voice to the legions beseeching you to reconsider your plan to admit homosexual people into the Armed Forces of our blessed nation.

On January 25, 1993, your distinguished Communications Director Mr. George Stephanopoulos referred to your plan as "progress in civil rights, in ending discrimination." Civil rights are vital, to be sure. However, Mr. Stephanopoulos' expression misses the mark in two vital respects: (1) there is crucial distinction between civilian life and military life, which will be ignored, through ignorance or otherwise, to our national peril; and (2) U.S. Constitutional law does not prohibit "discrimination" but prohibits "unreasonable discrimination." Indeed, reasonable discrimination abounds, lest anyone could practice medicine or play pro football or drive a car, etc. etc. The issue at hand is not whether it would be discriminatory to bar "gays" from the Armed Forces, but whether it would be "reasonably" or "unreasonably" discriminatory to do so. And intelligent resolution of the issue is manifest in the lessons of history, religion, experience and morality.

The secular lessons of history record that each and every nation or civilization which has ascended to world leadership throughout all time has ultimately declined and fallen therefrom via moral devaluation. The British historian Arnold Joseph Toynbee, in referring to this phenomenon as "psychological indolence," aligned his thesis with the decay theory of the German Philosopher of history Oswald Spengler, author of "The Decline Of The West." Like Spengler, Toynbee saw the development of historical happenings in terms of civilizations rather than nations per se; but unlike Spengler, Toynbee did not see such civilizations as organically doomed, but with destinies dependent upon their reactions to certain challenges, i.e. their ability, or their inability, to strike a healthy balance between the extremes of excess; (Nazism is an apt illustration of one such extreme; Sodom and Gomorrah's exaggerated emphasis upon "rights," to the exclusion of responsibilities, illustrates another).

What do religion and its moral correlatives teach? Without belaboring the entire Old and New Testaments, as I believe that you stand four-square with our Judeo-Christian heritage and ethic, may I simply cite one passage from each:

"* * * if a man also lie with mankind, as he lieth with a woman, both of them have committed an abomination* * *" (Leviticus 20:13)

"And likewise also the men, leaving the natural use of the women, burned in their lust one toward another; men with men working that which is unseemly * * * they which commit such things are worthy of death." (Romans 1:27–32)

Nor do I find a single passage of Scripture contrariwise.

What about the lessons of experience? To those of us who have experienced the military, those who fought in the trenches via five-decker bunks sardined within the holds deep in the bowels of a troopship in submarine-infested waters, those who huddled together in the mud dodging bullets, bombs and mortar fire, those who barracked in miserably close quarters at sea or on makeshift airstrips, and indeed those who kept the faith at home even as they coveted the opportunity to fight abroad for Old Glory, to all of these and many more, it is inconceivable that any experienced and knowledgeable military commander would break faith with his charges and countenance such perversion as your plan envisions vis-a-vis the unique military force structure requirements, demands and mission.

It appears that the Hon. Secretary of Defense Les Aspin has followed your lead, but question marks appear even here as each time Mr. Aspin presented himself on television and refers to nuclear weapons, he cites same as "new-kew-ler" (phonetic) weapons instead of "new-klee-er" weapons.

Just so, some television "anchors" and reporters are wont to opine that there are "tens of thousands of gays already in the military." None of these reporters, however, has ever presented even unsupported evidence to reinforce their allegations, let alone credible evidence documenting same. I can only say that in my decades of military service (prior to my years in academia, in the practice of law, and as an Administrative Law Judge), I never once encountered a single one of these "tens of thousands of gays," nor, to my knowledge, did any of my many military friends, classmates and colleagues.

I respect the fact that you have made a pledge, but surely you will agree that upholding a pledge simply for the pledge's sake, and without a cogent underpinning rationale therefor, is risky at best. Nor is there any germane rationale to support the subversion of military imperatives for the sake of someone's demented social agenda, particularly one supported by far less than a majority of the American electorate. Moreover, what more disastrous and grotesque signal could be sent to our American youngsters, the very fabric of America's future. Have we not even yet reached the bottom of the barrel in our callous and negligent treatment of and regard for our young people? (Cf. William J. Bennett's "The De-Valuing Of America—The Fight For Our Culture And Our Children," Summit Books, Simon and Schuster Bldg., Rockefeller Center, NYC, 1992)

I pray that you might reconsider your above-identified plan, just as you have had the wisdom to reconsider other campaign plans and appointments, in the light of seasoned reflection and competent counsel by those who have "been there" in the military leadership that has served America so well and throughout her history; that you might heed America's history under the tested and proven leadership of Washington, Lincoln, Roosevelt, Truman, Kennedy, and Bush; at Valley Forge, Gettysburg, on the beaches of Normandy and Iwo Jima, at Coral Sea and Inchon, in Indochina and the Persian Gulf; and that you will answer the call of the majority of Americans, who would appeal to reason and would have you do so, and to reasonable discrimination, at this turning point, up or down, in American history. Where and when otherwise are we to ever to draw the line in our ongoing abdication of our better natures?

Respectfully,

J.B. CHICKERING.

TUCSON, AZ,
January 22, 1993.

Hon. JOHN S. MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: I am extremely concerned about the President's stated view on lifting the ban for homosexuals in the military. Having spent 21 years as an Air Force pilot, I assure you that this action will be devastating to the military. I realize that there are jobs and situations that could probably be conducted with little consequence to morale and performance. Unfortunately, national emergencies (times of increased readiness that require temporary quarters with high stress levels and nonexistent privacy) based on my experience, would be an untenable situation. The President's proposal will result in severe degradation of the Armed Forces. I urge you to use any and all measures available to you to see that the President doesn't pursue this potentially disastrous action.

Sincerely,

BILLY TOWLES.

JANUARY 15, 1993.

DEAR SENATOR MCCAIN: Sir, I am not from Arizona. I am from Florida and I am a Sailor. I have written Senator Mack from my state and also to Senator Nunn on the Armed Services Committee along with my Congressman from my district.

I am going to share some of this information with you because you are also on the Armed Services Committee and you have served in the Navy, and now it looks like they are going to name a Burke class destroyer after you.

I feel that you of all people can understand the feelings of myself and a lot of other sailors out there that don't want homosexuals in our Navy. I can't foresee myself having to live under conditions that have been forced on me by a President that has no comprehension of what it is like to serve in the close confines of a ship that both you and I know about quite well. Secondly, why do I have to put up with this new and ungodly lifestyle. Senator, I am going to tell you what I am going to do. I'm not! Recall that 15 year retirement that Senator Nunn proposed? Looks like President elect Clinton likes it, and I am going to take it and go.

The Navy has changed a lot in the past 14 years since I joined up at 18 but, this is one change that I am not going to put up with. It is not just me. There is a whole lot of Sailors and Marines that I have talked to over at the Pentagon where I work at that are going to either get out or take the 15 year retirement offer. If Mr. Clinton wants to reduce the size of the forces putting homosexuals among our ranks is one way to do it.

What I can see happening is a mass exodus of personnel leaving the service that it will put us below the force manning requirements. This is just the way that I see it starting to shape up. God only knows what they are saying out in the fleet.

Senator, there are a lot of Sailors out there that do think the same way that I do but they won't write to their Congressmen and Senators. So I am kind of writing this for a lot of them too. I am urging you to please do just like what you have done in the past and stand up for us. You have been there, and you know that we don't want this executive order pushed on us.

Thank you for your time and keep the wind at your back and one hand on starboard rail.

Very Respectfully,

MICHAEL F. ALLINDER, RMI (SW).

LIFTING THE BAN ON HOMOSEXUALS IN THE MILITARY: WHAT MILITARY LEADERS SAY

In the debate on whether to allow the President's lifting of the ban on homosexuals in the military to stand, it is important to consider the opinion of current and former military commanders.

General H. Norman Schwarzkopf, U.S. Central Command (Ret.):

"It has nothing to do with sexual preference. It has nothing to do with discrimination against someone because they're gay * * * [W]e learned a long time ago that when gays openly are in small organizations, it tends to polarize that organization completely. Yet, we know that when you go into battle, the most important thing that holds you is the cohesion in the unit, fighting for the buddy on your left or right. So, polarization in units is not in the best interests of the unit." [Larry King, 9/30/92]

"The experience in the Army has been * * * when you have an open, out of the closet, gay or gays within your organization, and that freely admit that, within your organization it tends to break down the cohesion. So it is not a question of a personal sexual expression, it is a question of cohesion within the organization and that is what makes organizations fight." [ABC, "20/20", 9/25/92]

"[W]hen men go into battle and fight, they don't fight for God, country, mom, and apple pie. That's maybe what got them into the battlefield, but generally, it is the unit cohesion, it's your buddy on your left and your right, and you're not wanting to let the unit down, that causes you to really end up fighting the enemy." [ABC, "20/20", 9/25/92]

"We have always discriminated and surrendered civil rights as members of the armed force * * * We discriminate on the basis of age and sex." [Associated Press, 1/29/92]

General Colin Powell, Chairman, Joint Chiefs of Staff:

"It's just my judgment, the judgment of the Chiefs, that homosexual behavior is inconsistent with maintaining good order and discipline.

"What do I mean by that? I mean that it's difficult in a military setting, where there is no privacy, where you don't get choice of association, where you don't get choice of where you live, to introduce a group of individuals who are proud, brave, loyal, good Americans but who favor a homosexual lifestyle and put them in with heterosexuals who would prefer not to have somebody of the same sex find them sexually attractive, put them in close proximity, ask them to share the most private of their facilities together—the bedroom, the barracks, the latrines, the showers. I think it would be prejudicial to good order and discipline to try to integrate that into the current military structure, and I think that's the significance." [Hearing of the House Budget Committee on the FY 1993 Budget, 2/5/92]

"Skin color is a benign, nonbehavioral characteristic. Sexual orientation is perhaps the most profound of human behavioral characteristics. Comparison of the two is a convenient but invalid argument." [Text of letter to Representative Pat Schroeder, Reprinted in Army Times, 5/25/92]

"It is a very big problem for us, and it is not just the generals and the admirals who are saying it. We're hearing it throughout the force." [Washington Times, 11/19/92, p. 3]

"Gays now exist in the military but they are not openly practicing—they're not openly gay. They have not come out of the closet and that's quite different from them being openly gay * * * With respect to gays—when you're putting two people who have different sexual orientations into that kind of close environment, can you make it, should you make it involuntary? And which case is that closer to? The racial case or the case of sexual difference?

"I submit that it is somewhere closer to sexual difference and we have to think through very carefully the situation where you are going to place a heterosexual male or female serviceperson into an involuntary intimate arrangement, in terms of privacy, with somebody who is gay." ["Newsmaker Saturday", 12/5/92]

General Carl E. Mundy, Commandant, U.S. Marines

"I do support the ban against homosexuals in the military * * * I believe that homosexual conduct, that the gay lifestyle, embodies those things that are contrary to good order and discipline in the military." ["This Week with David Brinkley", 12/6/92]

Admiral Frank Kelso, Chief of Naval Operations

"I believe the current Department of Defense policy on homosexuality is best for the readiness of our Armed Forces." [LA Times, 1/9/93]

WASHINGTON, DC,
May 8, 1992.

Hon. PATRICIA SCHROEDER,
House of Representatives, Washington, DC.

DEAR PAT: Thank you for your recent letter concerning the position I took before Congress in February concerning homosexuals serving in the Armed Forces. I have given a great deal of thought to my position and continue to hold the view that the presence of homosexuals in the military is prejudicial to good order and discipline.

This is the policy of the Department of Defense and is supported by all of the Joint Chiefs of Staff. It is also a view held by experts who have studied the sociology of the military for many years. I am including a recent article by Charles Moskos on the subject.

I am well aware of the attempts to draw parallels between this position and positions used years ago to deny opportunities to African-Americans. I know you are a history major, but I can assure you I need no reminders concerning the history of African-Americans in the defense of their Nation and the tribulations they faced. I am a part of that history.

Skin color is a benign, non-behavioral characteristic. Sexual orientation is perhaps the most profound of human behavioral characteristics. Comparison of the two is a convenient but invalid argument. I believe the privacy rights of all Americans in uniform have to be considered, especially since those rights are often infringed upon by the conditions of military service.

As Chairman of the Joint Chiefs of Staff, as well as an African-American fully conversant with history, I believe the policy we have adopted is consistent with the necessary standards of good order and discipline required in the Armed Forces.

Sincerely,

COLIN L. POWELL,
Chairman of the Joint Chiefs of Staff.

DON'T IGNORE GOOD REASONS FOR HOMOSEXUAL BAN

The military's ban on homosexuals is under assault. The pressure comes not only from gay rights groups but from civil libertarians and organizations such as the American Council on Education, the American Psychological Association, the Association of American Universities and the Unitarian Church. The exclusion of homosexuals from ROTC commissioning programs has become the new cause on many college campuses. A threshold was crossed in the current Congress with the introduction of House Resolution 271, which calls for the Defense Department to rescind the ban.

Lawrence Korb raised doubts on maintaining the ban against homosexuals in this space ("Cheney remains silent on thorny social issues," Commentary, Feb. 17). To be sure, Korb argues for "empirical research" to ascertain if homosexuals can function in military units. Like all opponents of the ban, Korb holds that judgments about individuals should be based on performance, not sexual orientation. When a former assistant secretary of defense for manpower brings the ban into question, something is indeed in the air.

Certainly some of the reasons for excluding homosexuals do not stand up to scrutiny. The assertion that AIDS will be a greater threat if homosexuals are allowed in the military is a facade argument. HIV testing in the military makes the health argument untenable. Further, what if a cure or prevention for AIDS were to be discovered tomorrow? Is the way then clear for homosexuals in the military?

The argument that homosexuals are susceptible to blackmail is logically inconsistent. If one's sexual proclivities do not have to be concealed, they can hardly be the basis for extortion. No evidence exists, moreover, that homosexuals, even under the present rules, have been greater security risks than anyone else. As Defense Secretary Dick Cheney put it, in his now famous words, the blackmail argument is indeed "an old chestnut."

Further, no one can seriously argue that homosexuals across the board are ineffective soldiers, sailors, airmen or Marines. Any neutral observer would agree that not only have hundreds of thousands of homosexuals served in the armed forces, but many have done so with distinction. Likewise, no one can deny that some number of homosexuals are serving in the military.

What is at issue is allowing declared gays and lesbians into the military. This is an entirely different kettle of fish from the service of discreet homosexuals in uniform. (Though all are not that discreet, since nearly 1,000 homosexuals are discharged from the military each year.)

Proponents of lifting the gay ban are quick to draw an analogy between the current exclusion of homosexuals and the earlier resistance to racial integration in the armed forces. This is a nice debating point, but the comparison does not stand. A racial category is not a behavior category. Indeed, to lump blacks with homosexuals is an affront to most African-Americans.

The proper analogy between homosexuals and heterosexuals is that between men and women. Sexual orientation is, after all, sexual orientation. Erotic urges are powerful human drives and recognized as such.

Sex between service members does undermine order, discipline and morale. So does invasion of sexual privacy. That is why the military separates the living quarters of men and women. Even in field conditions, the privacy of men and women is maintained to the maximum degree possible.

Nowhere in our society are the sexes forced to endure situations of undress in front of each other. Should we have "empirical research" on the effects on military efficiency of mixed male/female bathing? Most women—and many men—dislike being stripped of all privacy before the opposite sex. Similarly, most heterosexual men and women dislike being exposed to homosexuals of their own sex. If feelings of privacy for women are respected regarding privacy from men, then we must respect those of straights with regard to gays.

Anybody who wants to allow homosexuals into the military must make the same argument for breaking down privacy barriers between the sexes. If members of the armed forces were able to go their own way off duty, as in the case with most civilian occupations, there would be no serious argument against incorporating open homosexuals in the armed forces. But the military is different. It is an institution that requires enforced intimacy and lack of privacy.

Of course there are concealed homosexuals in the military who function just fine. But that is the point. Closet gays do not cause feelings of invasion of privacy precisely because they are covert. One could argue that homosexuals can be accommodated in today's military by rearranging living areas as we already do for men and women. We could have separate homosexual and heterosexual living quarters. Whatever such arrangements might do in the name of abstract individual rights, they raise more problems than they solve. It boggles the mind to think of the stigmas and nicknames that would accrue to all-homosexual groups. In any event, gay rights advocates have never seriously pushed for this option. Separate living arrangement for homosexuals is clearly a non-starter.

So where does this leave us? Because there are foolish reasons for excluding gays from the armed forces should not let us ignore the good ones. Most feminists would not advocate forced intimate living between the sexes. Likewise, enlightened gay advocates should not argue for compulsory intimacy among persons of openly different sexual orientations. The military's ban on homosexuals still makes good sense.

[From the Washington Post, Feb. 6, 1992]

POWELL SAYS DISCIPLINE IS BASIS OF MILITARY HOMOSEXUAL BAN

The chairman of the Joint Chiefs of Staff said yesterday the military maintains its ban on homosexuals because of potential problems of discipline and morale.

Gen. Colin L. Powell told the House Budget Committee he agrees with Defense Secretary Richard B. Cheney's view that the ban is not justified by the department's onetime contention that homosexuals pose a greater security risk.

Rather, Powell said that homosexual behavior "is inconsistent with maintaining good order and discipline."

"It's difficult in a military setting where there is no privacy * * * to introduce a group of individuals—proud, brave, loyal, good Americans, but who favor a homosexual lifestyle—and put them in with heterosexuals who would prefer not to have somebody of the same sex find them sexually attractive." Powell said.

"I think it would be prejudicial to good order and discipline to try to integrate that into the current military structure," Powell told the panel.

All branches of the military ban homosexuals.

Last July, Cheney said he had "inherited a policy that has been in the department now for many years" and that the policy was "based upon the proposition that a gay lifestyle is incompatible with military service."

[From the Washington Post, June 28,1992]

THE CASE FOR A MILITARY GAY BAN

(By David Hackworth)

Rep. Pat Schroeder of Colorado wanted to give women "equality and opportunity" by making them rucksack-toting grunts. Now she aims at putting homosexuals in the foxholes to "end the final bastion of discrimination."

I cannot think of a better way to destroy fighting spirit and gut U.S. combat effectiveness. My credentials for saying this are over four decades' experience as a soldier or military reporter.

Despite the ban on service by homosexuals, gays have long served in the armed forces, some with distinction. Many perhaps felt no sexual inclination toward their heterosexual fellow soldiers. If they did, they had their buddies' attitudes and the Uniform Code of Military Justice hanging over their heads. Still, I have seen countless examples of inappropriate and morale-busting behavior.

In Italy, for example, in the post-war occupation, a gay soldier could not keep his hands off other soldiers in my squad. He disrupted discipline, mangled trust among squad members and zeroed out morale. In the same unit, the personnel major was gay. He had affairs with ambitious teenage soldiers in exchange for kicking up their test scores. This corrupted the command's promotion system and led to the commissioning of William Calley-like lieutenants not fit to lead combat soldiers.

During my second tour in the Korean War, a gay commanding officer gave combat awards to his lovers who had never been on the line. In Vietnam, a young captain in my unit was asked by the commander to go to bed with him. This almost destroyed the esprit of a fine parachute unit.

These are not isolated incidents: During my Army career I saw countless officers and NCOs who couldn't stop themselves from hitting on soldiers. The absoluteness of their authority, the lack of privacy, enforced intimacy and a 24-hour duty day made sexual urges difficult to control. The objects of their affection were impressionable lads who, searching for a caring role model, sometimes ended up in a gay relationship they might not have sought.

A majority of American citizens, according to polls, support Schroeder's bill. Many people look at the armed forces as they do the post office, the Bank of America or General Motors—an 8-to-5 institution where discrimination on the basis of sexual orientation is against basic freedom, human rights and the American way of life. If these polls are true, a lot of people don't understand what war is about.

Sure, banning gays from defending their country is discriminatory. But discriminations are necessary when a larger public purpose is being served. Civilian standards of fairness and equality don't apply down where the body bags are filled.

On the battlefield, what allows men to survive is combat units made up of disciplined team players, who are realistically trained and led by caring skippers who set the example and know their trade. When all of these factors are in synch, a unit has the right stuff. It becomes tight, a family, and clicks like a professional football team. Spirited men who place their lives in their buddies' hands are the most essential element in warfare. The members of such combat teams trust one another totally.

One doesn't need to be a field marshal to understand that sex between service members undermines those critical factors that produce discipline, military orders, spirit and combat effectiveness. Mix boys and girls, gays and straights in close quarters such as the barracks or the battlefield; and both sexual contact and the consequent breakdown of morale are inevitable.

Many bright people are pushing for the ban to be lifted. I suspect that few if any have been down in the trenches, but I have no doubt their psychological/sociological/political clout will have considerable influence even if they don't have a clue what combat is about.

Unfortunately, most of the top brass won't sound off. They duck and weave and offer hollow and spurious Pentagonese double-talk reasons for continuing the ban—reasons that only fuel the pro-gay argument. But they have told me in the "G" ring of the Pentagon that they're "against it, but sounding off would be the kiss of death, like opposing women in combat—a career killer, you know."

I hope that our lawmakers will visit Quantico and Fort Benning before they vote, and ask Marine gunnery sergeants and Army platoon sergeants what a few gays would do to the fighting spirit of units. These pros told me: Gays are not wanted by straight men or women in their showers, toilets, foxholes or fighting units. They say that in combat young men face death constantly, and what allows them to make it through the hell of it all is a feeling of toughness, invincibility and total trust in their buddies.

My experience with warriors in over eight years of roaming the killing fields in seven wars confirms what these old salts are saying.

A serving lieutenant general recently wrote to me, "Ask Pat Schroeder if she'd like her kids under a gay first sergeant who might use his rank and authority to demand sexual favors from his subordinate 18-year-old kids. We just had that occur in my command."

No doubt advocates of gays in combat units will argue that they don't approve of demanding sexual favors and that the first sergeant deserved what he got—a court-martial. The problem is, all the court-martials and regulations in the world can't prevent the kind of morale problems that a change in the law is bound to create. Sure, the first sergeant is serving hard time at Fort Leavenworth, but Pat Schroeder and the two dozen law-makers who support her bill must also ask themselves what happened to the morale and fighting spirit of his unit.

[From the Wall Street Journal]

WILL COURTS UPHOLD MILITARY BAN ON GAYS?

(By Junda Woo)

Are the courts likely to overturn the ban on gays in the military if Congress doesn't let the Clinton administration do so?

Defense Secretary Les Aspin said Sunday that he warned the Joint Chiefs of Staff that the courts would, indeed, get around to it "sooner or later" and that the military would be better off cooperating now with the president's proposal to lift the ban.

But gay-rights lawyers say the history of such cases in the courts so far suggests no such legal outcome is imminent. "It's absolutely not true that the courts are on the verge of striking down this policy," said Paula Ettelbrick, legal director of the Lambda Legal Defense and Education Fund, a gay-rights legal group.

Only once has a court overturned a military discharge for homosexuality, and that case was decided on narrow grounds. The

Ninth U.S. Circuit Court of Appeals ruled in 1989 that equitable rules of fairness barred the Army from discharging a man whom the Army knew was gay when he was drafted. The man had passed several reviews despite the Army's knowledge of his homosexuality.

Attorneys for lesbians and gay men have won some cases in lower courts but have lost on appeal. The courts of appeals in Washington and Chicago have said outright that the military's ban is constitutional, said John I. McGuire, a Los Angeles attorney representing a 12-year Navy veteran discharged in May after publicly declaring his homosexuality.

Ms. Ettelbrick said many military-discharge lawsuits were put on hold in the hope that President Clinton will lift the ban. But if there is a delay, "we have to think about whether we want to push these in the courts," she said. "We don't want to, because we don't think we're going to win."

One new variable, though, could affect future cases, lawyers say. If the Clinton administration asserted in court that the executive branch no longer wanted the ban, and started making constitutional arguments against it, some judges might change their own analyses of the issues, the lawyers suggest.

Attorneys for lesbians and gay men generally have argued in the court cases that the 14th Amendment's equal-protection clause bars the military from treating homosexual service members differently. The government thus far has always responded that it has legitimate reasons to do so because allowing open homosexuals in the military would harm morale and good order and would allow security breaches. Openly lesbian and gay service members also would face prejudice and even violence, the government has said.

Even outside the military context, gays as a group typically haven't been afforded special protection under the equal-protection clause, unlike, for example, racial or religious groups.

Lawyers for lesbians and gay men are pinning their hopes on Pruitt vs. Cheney, a lawsuit in which the Ninth Circuit ruled in 1991 that the government must prove that its arguments on the impact of lifting the ban are grounded in fact. The case, involving a former Army captain discharged after revealing that she is a lesbian, is awaiting trial in California.

The Canadian government, after facing a similar ruling in a Toronto lawsuit last year, opened its military to lesbians and gays just before the case was set to go to trial. The Canadian government, in a decision noted by Mr. Aspin on CBS's "Face the Nation" program, said it didn't have the facts to back up its arguments. "You can object and stonewall," Mr. Aspin said, "but one of these days we're going to have, like it happened in Canada, where the court suddenly comes in and says, 'You have to, that this is unconstitutional.'"

In the Pruitt case, gay-rights lawyers plan to counter government arguments about morale with the Ninth Circuit's statement that it won't accept prejudice within the military as a rationale for a ban. But even if Ms. Pruitt prevails, gay-rights lawyers fear that she would ultimately lose on appeal.

"The Supreme Court is a serious obstacle," said Kathleen M. Gilberd, co-chair of the Military Law Task Force, a San Diego advocacy group for lesbians and gay men in uniform. The high court has never addressed the issue directly, but gay-rights attorneys believe it won't be sympathetic.

[The Retired Officers Association, Alexandria, VA, December 1992]

HOMOSEXUALS IN THE MILITARY RESEARCH STUDY

(Prepared by Scott S. Ahlstrand, Senior Analyst, The Gallup Organization, Princeton, NJ)

INTRODUCTION

The Gallup Organization of Princeton, New Jersey conducted market research for The Retired Officers Association (TROA) of Alexandria, Virginia. The overall purpose of this market research was to determine, among current TROA members, their attitudes and opinions with regard to the issue of allowing homosexuals in the military.

METHODOLOGY

To accomplish the objectives of this study, The Gallup Organization interviewed 1,013 current TROA members across the continental United States. TROA members were randomly selected from a list of current TROA members provided by the organization.

Respondents were interviewed by telephone between November 27 and December 1, 1992. The Gallup Organization used a multiple-callback methodology in which up to five callbacks were made to the same telephone number in order to eliminate bias in favor of those respondents easy-to-reach. Gallup provided experienced, professionally trained interviewers under the exclusive employment of Gallup. All interviewers involved in this project were briefed specifically as to the objectives and methodology of the study.

All field work was validated at the 10% level by supervisory callbacks. Telephone interviews were monitored internally as part of the ongoing Gallup process for evaluating interviewers. Completed questionnaires were edited and coded independently as a quality-control measure.

SURVEY INSTRUMENT DEVELOPMENT

Items included in the questionnaire were mutually agreed upon by The Gallup Organization and TROA. TROA had responsibility for identifying question areas and information desired. Gallup had responsibility for ensuring that all items were written technically correct and without bias.

STABILITY OF RESULTS

At the 95% level of confidence, the maximum expected error range for a sample of 1,013 TROA members is ±3.1%. Stated more simply, if 100 different samples of 1,013 TROA members were chosen randomly from a national sample of TROA members, 95 times out of 100 the results obtained would vary no more than ±3.1 percentage points from the results that would be obtained if the entire population of TROA members were interviewed.

REPORTS PREPARED

TROA has been provided a complete set of tabular results by frequency and percentage for each of the major classifications. These tabular results should serve as reference material and be consulted before important decisions are made. This narrative report focuses on what are felt to be the most meaningful findings of this study.

"How familiar are you with the issue of allowing homosexuals in the military? Are you very familiar, somewhat familiar, not too familiar, or not at all familiar with this issue?"

Table 1.—Familiarity With Issue of Homosexuals Being Allowed in the Military (n=1,013)

Response:	Percent
Very familiar	58
Somewhat familiar	36
Not too familiar	4
Not at all familiar	1
Don't know	1

In general, the respondents showed a high degree of familiarity with the issues of homosexuals being allowed in the military. More than nine-tenths (94%) of the retired officers said they were either very familiar (58%) or somewhat familiar (36%) with the issue of allowing homosexuals in the military.

"Currently, homosexuals are not allowed to serve in the military and an admission of homosexuality is sufficient evidence for discharge. President-elect Bill Clinton has said that he will lift the ban and open the military ranks to homosexuals. In general, would you say that you favor or oppose allowing homosexuals in the military?"

Table 2.—Favor/oppose allowing homosexuals in the military

Response:	Percent
Strongly favor	3
Favor	10
Net (strongly favor/favor)	13
Oppose	16
Strongly oppose	67
Net (strongly oppose/oppose)	83
Don't know	2
Refused	2

The great majority (83%) of retired officers said they either strongly opposed (67%) or opposed (16%) allowing homosexuals in the military. Respondents in the Navy (85% strongly opposed/opposed), respondents who did not have postgraduate education (85%) and respondents who had recommended the military as a career to either a family member or friend were particularly opposed to allowing homosexuals in the military.

Less than one-seventh (13%) of the respondents said they either strongly favored (3%) or favored (10%) allowing homosexuals in the military.

It should be noted, for the most part, that most respondents had a set opinion with regard to the issue of allowing homosexuals in the military. Only two percent (2%) of the respondents said they did not know whether they favored or opposed allowing homosexuals in the military.

"Currently, homosexuals are not allowed to serve in the military and an admission of homosexuality is sufficient evidence for discharge. President-elect Bill Clinton has said that he will lift the ban and open the military ranks to homosexuals. In general, would you say that you favor or oppose allowing homosexuals in the military?"

TABLE 3.—FAVOR/OPPOSE ALLOWING HOMOSEXUALS IN THE MILITARY—BY KEY GROUP—Continued

[In percent]

	Strongly favor/favor	Strongly oppose/oppose
Branch of Service:		
Army (n=391)	14	82
Air Force (n=326)	16	80
Navy (n=234)	11	85
Education:		
Less than college degree	13	84
College graduate	11	85
Postgraudate work/degree	15	81
Total (n=1,013)	13	83

"Why do you oppose allowing homosexuals in the military?"

Table 5.—Reasons for opposing allowance of homosexuals in the military (n=836; those who strongly oppose or oppose allowing homosexuals in the military)

Response:	Percent
Could have a negative effect on morale	20
Could have a negative effect on discipline	11
Close living quarters	7
Don't fit/don't belong	6
I oppose the lifestyle	6
Causes problems we don't need	5
Bad past experience with homosexuals	5
Disruptive	4
Will not work	4
Could affect combat readiness	3
Don't like homosexuals	3
Wouldn't be accepted by other soldiers	3
Don't think it is right	3
Other	20
Don't know	(1)

[1] Less than 1 percent mention.

Respondents tended to cite a wide variety of reasons for opposing allowing homosexuals in the military. In fact, they cited so many different reasons, that only two—could have a negative effect on morale (20%) and could have a negative effect on discipline (11%)—received more than seven percent (7%) mention.

In general, respondents who opposed allowing homosexuals in the military tended to cite a disruptive negative effect (on morale, on discipline, combat readiness, lack of acceptance, etc.) as being the primary reason why they opposed allowing homosexuals in the military.

Have you ever personally recommended a military career to a friend or family member? (n=1,013).

Yes—85 percent.

Don't know—12 percent.

No—13 percent.

Approximately five-sixths (86%) of the respondents said they had personally recommended a military career to a friend or family member. This level of recommending military service was consistent across all branches of service and officer types.

If homosexuals were allowed to serve in the military, do you think you would be more likely or less likely to recommend a military career, or would it make no difference on your likelihood to recommend a military career to a friend or family member?

Less likely—51 percent.

Refused—1 percent.

Don't know—4 percent.

No difference—44 percent.

Total population, (n=1,013).

Less likely—53 percent.

Refused—1 percent.

Don't know—4 percent.

No difference—42 percent.

Those who have recommended a military career (n=874).

Approximately one-half (51%) of the respondents said they would be less likely to recommend a military career to a friend or family member if homosexuals were allowed to serve in the military. Slightly less than one-half (44%) said that it would make no difference in their recommendation of a military career, while only three respondents (less than 1%) said that allowing homosexuals in the military would make them more likely to recommend a military career.

Among respondents who had previously recommended a military career to someone, 53% said they would be less likely to recommend a military career in the future if homosexuals were allowed in the military.

"If the ban on homosexuals in the military was lifted, do you think it would have a positive effect, a negative effect, or make no difference for the following? How about ( )?"

TABLE 6—EFFECT ON ALLOWING HOMOSEXUALS IN MILITARY ON VARIOUS FACTORS (N=1,013)

[In percent]

Factor	Positive effect	Make no difference	Negative effect	Net difference (positive minus negative)	Don't know
The morale of the military	3	17	78	−75	2
Military pride	3	22	72	−69	2
The level of trust of troops for one another	4	20	73	−69	3
The discipline of the military	4	22	70	−66	3
The United States' Combat Capabilities	3	26	66	−62	4
The number of individuals signing up for military service	4	29	58	−54	8
The right of privacy of individuals on active duty	7	29	53	−46	9
The number of resignations from military service	10	29	49	−39	11

Respondents were asked to indicate whether or not they thought allowing homosexuals in the military would cause a positive effect, a negative effect or make no difference on various factors involving the military. By taking the number of respondents who said that allowing homosexuals in the military would cause a positive effect on the factor and subtracting out the respondents who said that such an allowance would cause a negative effect, we generate a "net difference." All eight of the tested factors in this study had a negative "net difference" (indicating that for each one, the number of respondents saying that allowing homosexuals in the military would cause a negative effect was greater than the number of respondents saying it would cause a positive effect). Those factors that were most negatively affected (according to the respondents) by the allowance of homosexuals in the military were: the morale of the military (−75% net difference), military pride (−69%), the level of trust of troops for one another (−69%), and the discipline of the military (−66%).

Those factors that respondents believed would be least negatively affected by allowing homosexuals in the military were: the number of resignations from military service (−39%), the right of privacy of individuals on active duty (−46%), and the number of individuals signing up for military service (−54%).

Only one of the eight tested factors—the number of resignations from military service—had at least ten percent (10%) of the respondents say that allowing homosexuals in the military would have a positive effect on that factor.

EFFECTS OF ALLOWING HOMOSEXUALS IN THE MILITARY ON VARIOUS FACTORS (N=1,013), NET DIFFERENCE.

The number of resignations from military service, −39 percent.

The right of privacy of individuals on active duty, −46 percent.

The number of individuals signing up for military service, −54 percent.

The United States' combat capabilities, −62 percent.

The discipline of the military, −66 percent.

The level of trust of troops for one another, −69 percent.

Military role, −69 percent.

The morale of the military, −75 percent.

[CRS Report for Congress, Jan. 14, 1993]

HOMOSEXUALS AND U.S. MILITARY PERSONNEL POLICY

(By David F. Burrelli, Analyst in National Defense, Foreign Affairs and National Defense Division)

SUMMARY

Department of Defense policies concerning homosexuals in military service have recently been the subject of increasing scrutiny and debate. In the 1992 presidential campaign, candidate Clinton indicated that as President he would rescind or modify the military policy excluding homosexuals from military service while maintaining strict limits on the behavior of those who serve.

Current military personnel policy bars homosexuals from entering or serving in the armed forces. Under this policy, individuals who state they are homosexual, engage or intend to engage in homosexual behavior or attempt to marry someone of the same sex are administratively discharged from the military service. In addition, homosexual or heterosexual acts of sodomy or "disorders and neglects to the prejudice of good order and discipline in the armed forces" are punishable by court-martial.

Advocates for removing the policy view it as a violation of civil rights and fair treatment. They contend that it is unfair to separate individuals from the armed services merely as a result of their "sexual orientation." Proponents of the policy cite the need to maintain cohesion, discipline and morale within the working and living conditions imposed as a result of military service. They contend that allowing homosexuals into the service would prove disruptive to unit cohesion and, ultimately, to military readiness.

While an undetermined number of homosexuals have served in the military, such service has been performed without an open acknowledgement of their homosexuality. The question confronting policy makers remains, "To what extent, if any, would open homosexuality be disruptive to morale, cohesion and readiness in the ranks, and to what extent does any disruption justify discrimination?" Many military leaders, familiar with the military society and its rules believe that the presence of open homosexuality would prove sufficiently disruptive to justify continuing the policy. Homosexual rights advocates, many of whom have also served in the military, believe that not only will disruptions be minimal but that the overall effectiveness and readiness of the force will improve by allowing homosexuals to serve.

Advocates for repealing the policy have generally held that restrictions should be maintained on behavior but that a homosexual "orientation" alone should not be grounds for dismissal. Distinctions between orientation and behavior, seemingly clear in the abstract, may prove difficult to make in the complex realities of everyday life.

In addressing this issue, President-elect Clinton has suggested that he will consult with a "committee" and military leaders. Senator Nunn has suggested that hearings will be held on the issue. Congress may also consider other options including the formation of a commission or the enactment of specific legislation. Some observers believe that such military personnel policy changes may be made by President Clinton via either an executive order or what has been termed a "memorandum of understanding."

EXECUTIVE SUMMARY OF KEY OBSERVATIONS

Context

The Department of Defense (DoD) policy excluding homosexuals from serving in the armed forces has recently been the subject of increasing scrutiny and debate. This issue has been addressed in a number of fora including the media, college campuses, the courts, Congress, within the Executive branch itself, among military members, veterans and civil rights organizations, and as an issue in the 1992 presidential campaign. In the 1992 presidential campaign, the Democratic candidate for President stated that, if elected, he would rescind the policy on homosexuals in the military.[1] Following his election in November, President-elect Clinton has maintained his position on rescinding the policy while considering strict limits on behavior.

Current military personnel policy (see Appendix) excludes homosexuals from entering or serving in the armed forces. Under this policy, persons identified as homosexuals (either through the individual's own statements, attempts to marry someone of the same sex or, by engaging or attempting to engage in homosexual acts as defined) are administratively discharged from the military. Four bills were introduced in the 102d Congress that would eliminate, or encourage the President to rescind, the military policy on homosexuals. While efforts to abolish the policy against homosexuals serving in the military have increased, previous efforts to change the policy have been unsuccessful in Congress. However, it appears that hearings may be held to address the issue in the 103d Congress.[2]

Advocates for rescinding the policy view it as a violation of civil rights and fair treatment. They contend that it is unfair to separate individuals from the armed services merely as a result of their sexual orientation. They note that many homosexuals have served with distinction but must live under the constant threat to being exposed and removed from the service. Proponents of the policy cite the need to maintain cohesion, discipline, and morale within the unique environment of military service. They contend that allowing homosexuals into the service would prove disruptive to unit cohesion and, ultimately, to military readiness.

Purpose and scope

This report examines the historical background of laws and DoD policy on homosexuals. Current Defense Department regulations and articles under the Uniform Code of Military Justice are discussed. Next are analyzed various important aspects of the issue including: origins of homosexuality, prevalence of homosexuality, homosexual orientation v. behavior, open v. covert homosexuality, fairness and discrimination, military readiness, sexual harassment, and foreign military experiences with homosexuality.

Other issues of immediate effect relating to the homosexual policy are also analyzed. These include: public opinion, effects on ROTC and recruitment advertising, the use of homosexuality as a means of avoiding service, and the deployment of homosexuals during time of war or crisis.

Finally, this report considers and discusses the issues confronting Congress in the context of a presidential pledge to rescind or modify the military policy excluding homosexuals.

In addition to the sources cited throughout this report, a large number of interviews were conducted with knowledgeable sources, including individuals for and against the current policy. This report considers and analyzes the various issues raised and arguments in favor of or against particular policy positions. However, their inclusion and subsequent analysis should not be considered, in this context, as evidence of congressional support or opposition. Instead, this report is intended to provide a range of views on competing perspectives regarding proposals to change or maintain the current policy on homosexuals in the military.

HISTORICAL BACKGROUND

Prior to World War I, U.S. military law did not address homosexuality. Although commanders had great discretion in the control and disciplining of their troops, specific laws, regulations or policies addressing homosexuality did not exist. The Articles of War of 1916 (effective March 1, 1917) restricted consideration of sodomy to cases of assault with the "intent to commit" sodomy.[3] In 1951, the Uniform Code of Military Justice introduced Article 125 specifically banning sodomy (between members of the same or opposite sex) itself. Cases of assault with the intent to commit sodomy were charged under Article 134, or the General Article.

Despite a lack of laws specifically addressing the issue, numerous policies and regulations allowed for differential treatment of homosexuals or those who manifested homosexual behavior. Prior to World War II, homosexuals were admitted into the services and, in the case of those who evidenced cross-gender mannerisms, often assigned tasks deemed relevant to the individuals' behavior and lifestyle. ("Effeminate" men were assigned away from the combat arms) for example, and placed in jobs not considered to require particularly masculine qualities, such as clerk, hospital corpsman, chaplain's assistant or camouflage specialties.[4]

During World War II, psychiatrists, who at the time tended to view homosexuality as a mental illness, attempted to identify and "treat" homosexuals in uniform. Numerous efforts to identify and treat homosexuals had mixed results. Failure to respond to treatment often resulted in a Section VIII discharge ("inaptness or undesirable habits"). With the social taboo against homosexuality (resulting in its concealment), the relative flexibility of personnel regulations, the need for personnel during wartime, and the inability of psychiatrists to determine who was homosexual (especially in an era of rushed wartime medical entrance examinations), meant that an undetermined number of homosexuals passed through the services without difficulty.

The policies concerning homosexuality shifted gradually from the 1940s to the 1970s. Early policies were based on a treatment and retention model. Later policies continued to accept treatment but moved increasingly toward separation (and in certain cases, punishment) of known homosexuals. Flexibility was maintained to the extent that certain homosexuals could be retained in situations involving "heroic service." Nevertheless, until the mid-1970s, efforts to address the issue remained under a medical model of illness, treatment, and integration into or, later, exclusion/separation from the services.

"In 1966, for example the Army required a psychiatric examination prior to separation for homosexuality. In 1970 the homosexuality regulation was superseded and was integrated into regulations that covered all types of unfitness and unsuitability. Unsuitability could be demonstrated by evidence of homosexual "tendencies, desires, or interests * * * ."

"The regulatory scheme was significant because separation boards * * * generally had the authority to recommend retention of soldiers being processed for elimination, and commanders could disapprove a board's recommendation to separate * * *. Indeed, prior to February 1977, the Army's posture was that there was discretion to retain homosexuals."[5]

In the late-1970s, the Report of the Joint Service Administration Discharge Study Group was completed.

Two of the study group's recommendations concern homosexual behavior. One recommendation [was] to reaffirm the long-established ban on gays in the military. Specifically, the study group [had] proposed that the phrase "homosexuality is incompatible with military service" and "processing (for separation) is mandatory unless * * * the allegations are groundless" be included in all subsequent DOD directives on personnel separations. The second recommendation [was] that, in cases of "unsuitability," i.e., those involving homosexual tendencies or homosexual acts between consenting adults, individuals receive an *honorable* discharge.[6]

Created in a period of legal challenges to its policies on homosexuality (see court section below), the recommendations of this study group were used as the basis of current DoD policy.

Summary of Key Observations

The military has generally been characterized as a separate institution governed by rules that may or may not be acceptable in civilian society. Differential treatment of military personnel has generally been justified on the basis of the uniqueness of the military mission. Discrimination on the basis of this mission and the unique nature of military society has been upheld, generally, in the courts. Discrimination on other basis has generally not been justified.

While many homosexuals have served in the military, such service has been performed in most instances without open acknowledgement of their homosexuality. The question confronting policy makers remains: "To what extent, if any, would open homosexuality be disruptive to morale, cohesion and readiness in the ranks, and to what extent does any such disruption justify discrimination?" Many military leaders, familiar with the military society and its rules believe that the presence of open homosexuality would prove sufficiently disruptive to justify continuing the policy. Homosexual rights advocates, many of whom have also served in the military, believe that not only will disruptions be minimal but that the overall effectiveness and readiness of the force will improve.

Advocates for repealing the policy have generally held that restrictions should be maintained on "behavior" but that a homosexual "orientation" alone should not be grounds for dismissal. However, distinctions between orientation and behavior, seemingly clear in the abstract, may prove difficult to make in the complex realities of everyday life.

Issues of privacy for heterosexuals, whether real or perceived, remain contentious.

Comparisons to foreign military policies appear informative, inconsistent and of problematic application.

Historically, the U.S. military has been in the forefront of some major social changes. The successful integration of blacks is widely viewed as a positive indication of the military's ability to make important social changes. However, some have questioned using the military as a vehicle of social change (see Project 100,000[7]). Among the question policy makers may consider is not whether the military can or should be forced to change, but whether society as a whole supports this change and whether the military is the appropriate vehicle for such a change? What impact, if any, would this change have on military readiness? Indeed, issues concerning civil rights and the definition of acceptable behavior may be raised both inside and outside of the military.

Under the Constitution, Congress has the authority "to make rules for the government and regulation for the land and naval forces." Congress, subject to Presidential veto, has authority to create military rules and laws. Changes concerning repealing or modifying DoD policy on homosexuals in the military might also be made by executive order of the President, but in any case would likely present Congress with a range of legislative considerations including: Equal opportunity/anti-discrimination issues; questions concerning military compensation and benefits particularly with regard to homosexual "partnerships" and definitions of dependency and family; issues concerning the separation of church and state; and, questions of fairness in maintaining morale and discipline under rules regulating conduct.

DEPARTMENT OF DEFENSE POLICY

The DoD policy addressing homosexuals is dealt with in three directives (on 1. Enlisted Administrative Separations, 2. Separation of Regular Commissioned Officers for Cause, and, 3. Physical Standards for Enlistment, Appointment, and Induction). In addition, the Uniform Code of the Military Justice regulates behavior concerning sodomy and general disorders and neglects to the prejudice of good order and discipline. Each of these is discussed below.

Administrative Regulations

The January 1982 directive on Enlisted Administrative Separations (discharges) establishes the DoD policy for enlisted administrative separations and is, therefore, the most often cited and disputed statement of this policy:

Homosexuality is incompatible with military service. The presence in the military environment of persons who engage in homosexual conduct or who, by their statements, demonstrate a propensity to engage in homosexual conduct, seriously impairs the accomplishment of the military mission. The presence of such members adversely affects the ability of the Military Services to maintain discipline, good order, and morale; to foster mutual trust and confidence among servicemembers; to ensure the integrity of the system of rank and command; to facilitate assignment and worldwide deployment of servicemembers who frequently must live and work under close conditions affording minimal privacy; to recruit and retain members of the Military Services; to maintain the public acceptability of military service; and to prevent breaches of security.[8]

Based on this policy, individuals who engage in homosexual conduct or exhibit an intention of engaging in such conduct are deemed to affect adversely the ability of the military to accomplish its mission. Such conduct is considered a threat to morale, good order, discipline, mutual trust, privacy, the ability of the services to attract and retain members, and public acceptability of military service.

As used in DoD policy, homosexual means "a person who engages in, desires to engage in, or intends to engage in homosexual acts" (or homosexual and heterosexual acts in the case of bisexuals). A homosexual act is defined as "bodily contact, actively undertaken or passively permitted, between members of the same sex for the purpose of satisfying sexual desires." (See Appendix). In order for an individual to be subjected to administrative discharge procedures, at least one of the following findings (with certain exceptions) must be made:

(1) The member has engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts;

(2) The member has stated that he or she is a homosexual or bisexual unless there is a further finding that the member is not a homosexual or bisexual.

(3) The member has married or attempted to marry a person known to be of the same biological sex (as evidenced by the external anatomy of the persons involved) unless there are further findings that the member is not a homosexual or bisexual and that the purpose of the marriage or attempt was the avoidance or termination of military service.

This directive addresses homosexual administrative discharges from a behavioral perspective, or 'behavioral intent,' perspective. In other words, "persons who *engage in homosexual conduct* or who, *by their statements, demonstrate a propensity to engage in homosexual conduct*" are considered, under this directive, eligible for separation. From a technical point of view, an individual must have engaged in, or stated a desire or intention to engage in, homosexual behavior. Statements that acknowledge an individual's homosexuality are considered reasonable grounds of intention but may not be sufficient to warrant a discharge, i.e., the member may be attempting to avoid service. To this end, an investigation is required. Such an investigation would need to determine if an individual had engaged, or intends to engage, in such behavior, or if such a statement is being used solely as a means of avoiding military service. Thus, the admission of being a homosexual is not treated as an *ipso facto* indication of a propensity to engage in homosexual behavior. Rather it is considered a reasonable cause for conducting an investigation. (It remains possible that an individual is both homosexual and attempting to avoid service.)

This directive provides exceptions to this policy including provisions that allow a member to remain in the service when it is in the service's interest and when it can be found that the member does not desire or intend to engage in homosexual behavior.

Generally speaking, when an individual is administratively discharged for homosexuality alone, an Honorable or General Discharge is issued. This directive lists those instances in which certain homosexual behaviors would result in a discharge Under Other Than Honorable conditions.[9] These conditions include the use of force, homosexual acts with a minor, and fraternization that is deemed sufficiently disruptive to good order.

Lastly, this directive provides direction concerning the procedure for such separations. In each of these, there needs to be a "finding," "probable cause," or "circumstances authorizing" such a separation. Without such, an administrative board is directed to retain the member. Under these rules, an individual may be separated with a finding of conduct or intended conduct (including self-made statements) consistent with the definition of homosexual, bisexual and/or homosexual act as provided in this directive. Furthermore, "[T]he burden of proving that retention is warranted under the limited circumstances * * * rests with the member except in cases where the member's conduct was solely the result of a desire to avoid military service." Therefore, the service concerned must provide findings of probable cause of homosexual behavior or intended behavior, or determine that such statements or behavior are being used as a means of avoiding service. With the finding of such behavior or intention of behavior, the member must prove that retention in the service is warranted.[10]

While the above pertains to enlisted personnel, officers may also be separated (see the text of the directive on the Separation of Regular Commissioned Officers for Cause in the Appendix). The rules that apply to officers generally reflect the policy on homosexuality. However, these regulations are somewhat different than those pertaining to enlisted personnel due to procedural differences in the separation of officers.

Under the third directive, on Physical Standards for Enlistment, Appointment, and Induction (see Appendix), prospective service members may be denied entry into the service for homosexual activity. During the screening process, individuals are asked if they are homosexual. An affirmative answer, technically, is sufficient grounds to deny entry into the service. Thus, a recruit who states that he is a homosexual is reasoned to have been engaged in, or to have intended to engage in homosexual behavior. It is important to remember that under the 'separation directive' the burden of proof lies with the service member, or in this case with the recruit, once homosexuality is acknowledged. It may be impossible to prove that an individual has not and will not engage or intend to engage in homosexual activity. It should also be noted that neither of the above two directives require "proof beyond a reasonable doubt" but are based on the less restrictive standards of an administrative finding of fact.

Statutes

The Uniform Code of Military Justice (UCMJ), as enacted by Congress, lists sodomy and "disorders and neglects to the prejudice of good order and discipline" as grounds for conducting a court-martial proceeding (see Appendix). As such these regulations of behavior, in theory apply to both homosexuals and heterosexuals. Under these articles, legal rules of evidence apply. Unlike the directives described earlier, the results of findings by a court-martial may entail punitive sanctions. The threat of punitive actions under these articles may be used as leverage in getting service members to divulge homosexual activities. In other words, individuals apprehended under one of these articles, or acknowledged homosexuals who, subject to an investigation, are found to have fraternized with subordinates in such a manner as to endanger good order or morale, may be offered an administrative discharge (rather than court-martial and punishment) if they cooperate in providing evidence against themselves or other service members. Investigations of criminal behavior often require seeking confessions, or corroborating testimony. To this end, plea bargaining a punishable offense under the UCMJ to an administrative discharge, for example, is a legal tool for gaining evidence and expediting cases. As noted above, since certain individuals may resign from the military and thereby avoid prosecution, the manner and extent to which these statutes are used is not clearly known.

Under the above DoD directives, homosexuals are excluded from enlistment, appointment, and induction into the armed forces. Such individuals found to be serving in the forces may be administratively separated. Under the UCMJ, individuals (whether homosexual or heterosexual) found guilty of violating either of the above articles may be punished as the court martial may direct.

Under current practice, individuals who admit a homosexual orientation, admit past behavior of a homosexual nature, or who have been apprehended for behavior related to homosexual acts as described may be denied entry into the armed forces or separated from the armed forces. Thus, under current practice, merely stating one's homosexuality or having a homosexual orientation is sufficient grounds for denying enlistment to or removing a person from the armed forces.

BROAD POLICY ISSUES AND ARGUMENTS

The following discussion of military policy on homosexuals is divided into two major sections. The first one addresses the general context and broadly relevant aspects of the issue. The second major section addresses specific issues of more immediate effect. Such a distinction is not perfect nor mutually exclusive and, therefore, a certain degree of overlap between the two sections is unavoidable. In this first section, policy issues considered and analyzed include: the origins of homosexuality, estimates of the prevalence of homosexuality, orientation v. behavior, covert and overt homosexuality, social legitimacy considerations as well as consideration of fairness, and policies of other nations.

The origins of homosexuality

Attempts to ascertain the origins of homosexuality have proven inconclusive and no generally agreed causality has been established. Numerous research endeavors have been undertaken to determine factors that cause homosexuality or heterosexuality including genetic/biological, psychological and socio-cultural.[11] Difficulties in methodology, experimental controls and sampling have complicated these efforts. While each academic discipline has made certain "discoveries" or observations concerning the differences between homosexuals and heterosexuals, such findings 1) are not universal (or statistically significant), 2) can be explained by various factors or phenomena, and or 3) are unable to discern temporal considerations (i.e. which came first: the associated factor or homosexuality).

Since no one area appears to adequately explain the entire range of sexual behaviors (including homosexuality), many researchers have assumed a more expansive explanation: "* * * the diversity among sexual orientations is likely to be understood from a combination of sociological, cultural and biological factors.[12]

Efforts to discern "causes" for homosexuality or heterosexuality have been further complicated by one additional reality: the existence of bisexuality.[13]

Findings of a link between genetics and sexuality have been used by some to argue that homosexuals represent a class meriting protection under the law, or that homosexuality is an immutable characteristic (as is race, for example). These arguments are made in pursuit of legal protection as a legitimate minority but are based on scientifically disputed theses and courts have been generally unwilling to grant special protection for homosexuals (see Court section below).

Estimates of the prevalence of homosexuality

The number of homosexuals in society or the military at any given time has not been reliably measured. Reports in the media have assumed that the proportion in the military is roughly equivalent to the number in society. (The validity of such an assumption cannot be measured.) Estimates of the numbers of homosexuals in society tend to be based on definitional considerations of who is homosexual. The most commonly cited number is 10 percent of the population. This number is based on one datum supplied by the 1948 Kinsey study. According to Berube:

"Kinsey found 4 percent of the white males he surveyed to be "exclusively homosexual throughout their lives" after the onset of adolescence, and 10 percent to be 'more or less exclusively homosexual' for at least three years between the ages of sixteen and fifty-five.[14]'"

Although it can be argued that 4 percent is as relevant a finding as 10 percent, media sources and homosexual rights groups tend to cite the higher figure. (Kinsey's data have been criticized for various reasons, including the "unrepresentativeness" of his sample.) More recent data provided by Smith found the percentage of a national sample of sexually active adults to be somewhat smaller: "* * * results show that 98.4 percent of sexually active adults reported that they were exclusively heterosexual during the year preceding the survey. * * * This percentage is substantially higher than the commonly cited level of 90 percent, but concurs with the best available estimates.[15]"

Using the definitions and data obtained by Smith, fewer than two percent of those men and women sampled could be considered homosexual or bisexual.

The proportion of military personnel who are homosexual remains unknown in part because of the policy excluding homosexuals from service. As a result of the policy, individuals in uniform who are homosexual are less likely to acknowledge their orientation or behavior. It can also be argued, however, that the policy discourages homosexuals from joining in the first place. Conversely, certain aspects of military service, including sexual segregation, physical aggressiveness, authoritarian atmosphere, may appeal to both men and women as well as to certain heterosexuals and homosexuals.[16]

The extent to which homosexuality exists in the military is, in part, dependent upon the definition of who is homosexual or what behavior constitutes homosexuality. The Department of Defense has outlined specific definitions as a part of its policy. Since this definition is likely to be different from others in use, it is unlikely that there will be agreement on the proportion of military personnel who are homosexual. (In the context of discussing the military's policy on homosexuals, the definition used by DoD applies.)

Homosexual orientation and homosexual behavior

"Orientation" is defined as "the act of determining one's bearings or settling one's sense of direction, * * * the settling of one's sense of direction or relationship in moral or social concerns or in thought or art, * * * awareness of the existing situation with reference to time, place, and identity of persons."[17] "Behavior" is associated with the particular action or reaction of an individual. Thus, homosexual orientation implies only that an individual has determined him-self/herself to be homosexual without necessarily entailing a homosexual act. Interestingly, DoD policy concerning enlistment, while generally excluding homosexuals from entering the military, does allow certain individuals to enter the service who have committed or been a party to a homosexual act.[18] An admitted homosexual is also barred from the service despite the fact that such an individual may not have participated in such an act. In the case of *Shalom v. Marsh*, the court upheld the Army's right to administratively discharge an acknowledged lesbian based only upon her statement that she was a lesbian.

Plaintiff's lesbian acknowledgement, if not an admission of its practice, at least can rationally and reasonably be viewed as reliable evidence of a desire and propensity to engage in homosexual conduct. * * * [T]he regulation does not classify the plaintiff based merely upon her status as a lesbian, but upon reasonable inferences about her probable conduct in the past and in the future. * * * Plaintiff has admitted that she has a homosexual desire, but not necessarily that she intends to commit homosexual acts. The Army need not try to fine tune a regulation to fit a particular lesbian's subjective thoughts and propensities.[19]

"In the Closet" and "Out of the Closet"

Social taboos, legal restrictions and moral intolerance have historically forced individuals to hide or deny their homosexuality (i.e., keep their homosexuality "in the closet"). With increasing efforts toward gaining civil rights and social acceptance, increasing numbers of homosexuals are "coming out of the closet" or publicly proclaiming their identity. Definitions of "in the closet" or "out" are somewhat situational in actual practice. Individuals may "come out" with close friends or siblings but remain in the closet with employers, a spouse, parents or more distant relatives. "Outing" can be personal (i.e., a proclamation of self-identification), or forced by others (i.e., activists may proclaim a public figure to be homosexual without his or her consent). While military discharges have arguably "outed" thousands of homosexuals, many have simply been allowed to resign, in effect, protecting the individual's privacy by allowing him/her to "stay in the closet." Conversely, the decision to be "out of the closet" often is both personal and political (particularly in those instances where homosexuals seek to challenge the military's policy on homosexuals—see Court section in Appendix).

The concept of "in" or "out" of the closet should not be confused with issues relating to orientation or behavior. Consider the heuristic diagram 2 x 2 diagram below:

HEURISTIC FIGURE 1.

Status	Orientation	Behavior
"In the Closet"	A	B
"Out of the Closet"	C	D

Individual homosexuals may find themselves to be exclusively in one cell or, given particular circumstances, in more than one cell. For example, certain individuals may have a homosexual orientation and choose to be "in the closet" with employers (cell A), but "out" with close friends (cell C). Still others may wish to remain behaviorally in the closet (cell B, but remain, de facto, "out" with partners). Finally, cell D represents those who not only have "come out" but who also manifest public behaviors (including, for example, marching in homosexual rights parades, "marriage" to a same sex partner, political "street theater" protests, or certain illegal behaviors). It is those individuals in cell C that homosexuals acknowledge most often in attacking the military's policy on homosexuals.

In the military context, most homosexuals are in cells A and B. Due in part to military restrictions, these individuals are forced to keep their homosexuality largely secret. Efforts to change the policy have, in most cases, concentrated on allowing individuals to acknowledge, through statements, their orientation without prejudicial action resulting. Other advocates claim that on orientation alone (cells A and C) or private sexual acts between consenting adults (cell B) should not be grounds for discharge. Certain advocates have argued that sodomy laws should be revised.

(Some observers have claimed that the military, technically, does not have a "ban" on homosexuals since individuals who would fall into cell A or B are allowed to serve. These claims, however, have been attacked as being disingenuous since the military requires statements to be made about a recruit's sexuality. In addition, those in certain pre-commissioning programs must sign statements that they are not homosexuals—see ROTC section below. Also, those subject to review for security clearances are also asked about their sexuality. From this perspective, individuals are "allowed" to serve provided that they are willing to deny their homosexuality and thereafter live under threat of discovery.)

Although presented for analytic purposes, the above chart can be misleading. Homosexuals who only have an orientation but participate in political debates on homosexual rights or "street theater,"[20] could be placed in cell D. (It is important to note that many of the participants in political debates include heterosexuals as well.) As such the distinction between orientation and behavior is, at best, subjective, and at worst, a rhetorical obfuscation. Indeed, definitions of "acceptable behavior" remain a contentious issue for policy makers and those charged with enforcing laws, rules and regulations.

Advocates for removing or modifying the policy on homosexuals in the armed forces state that those who have a homosexual orientation should not be discriminated against based on their orientation alone. They argue that sexual orientation is non-threatening and to force individuals to divulge their private thoughts and emotions on such matters represents an invasion of the individuals' rights to privacy. In essence, since the services prevent those with such an orientation from entering the military, those so prevented are judged not on their behavior but on their very existence. Such individuals are, it is argued, "found guilty" without having performed an act beyond stating their sexual orientation. Many advocates state that it is not their intention to change those rules, regulations and laws regarding behavior.[21] In other words, some advocates have stated that homosexuals, and others, should be judged on the basis of what they do, not who or what they are. Those individuals who have proclaimed an "orientation" and are otherwise fit for duty should not be discriminated against. It is believed that such a reform would prevent many otherwise outstanding service members from being forced out of the service merely as a matter of their sexual orientation.

Other advocates believe that once the policy on homosexuality is modified to recognize or tolerate orientation, other related policies may also be modified. As discrimination against homosexuals is eliminated, these advocates believe that legal restrictions pertaining to certain sexual acts of consenting adults, now termed sodomy, will be eliminated.

Finally, certain advocates have supported overturning the statutory language pertaining to behavior as the first step to eliminating discrimination against homosexuals.

"* * * [G]ay rights activists say the military's chief weapon to force out homosexuals is not the regulations [administrative discharge directive], but the threat of criminal prosecution under a 1956 military sodomy law.

"Such pressure tactics in military investigations create a climate of fear that make it easy for the military to separate anyone suspected or even rumored to be homosexual, the activists say. And no service member is safe, they say, as long as the military has the power to make intimate acts between consenting adults a crime."[22]

From this point of view, once privacy is recognized and non-intrusive behavior (including sodomy) between consenting adults is decriminalized or afforded privacy protection, the arguments for maintaining the policy will be insupportable.

Proponents of maintaining the current policy state that "allowing declared and open homosexuals to join and remain in the military * * * would be quite a different kind of social chemistry than the present situation, where homosexuals who do serve in the military are discreet about it."[23] Formally recognizing homosexuals would allow many "to come out of the closet" so long as they did not engage in homosexual behavior. Rescinding the policy on the basis of orientation alone would allow homosexuals legitimacy while maintaining the illegal nature of their sexual behavior. (Also, it is not clear what effect changing the policy would have on homosexual "political behavior" in the services—such as forming organizations to advocate homosexual rights.) Under the first proposal, gays and lesbians would be permitted to join and stay in the military so long as they remain sexually inactive, "celibate," or, behaviorally "in the closet." This places homosexuals in the position of being recognized for their orientation and punished for the behavior that orientation may entail. (Some advocates of homosexual rights also acknowledge that once the homosexual orientation is officially accepted, restrictions on relevant behaviors will also be challenged.)

Thus, critics view the focus on orientation as a deception that would recognize homosexuality and lead to the inevitable recognition of homosexual behavior as "normal." These critics contend that the sexual drive is perhaps one of the most innate and profound human characteristics and that it would be foolhardy to acknowledge the homosexual orientation and continue to deny the ensuing behavioral manifestations.

H.R. 5208 and S. 3084

The "distinction" between orientation and behavior has been incorporated into proposed legislation. H.R. 5208 and S. 3084[24] would remove discrimination against homosexuals based on orientation while maintaining restrictions on certain unspecified behaviors (see Appendix). In other words, this proposed legislation would require the services to remove any prohibitions barring an individual from remaining in the service or seeking to join the military on the basis of sexual orientation. Also, this language would maintain standards in law, regulation or policy preventing sexual misconduct (i.e., rape, harassment, sodomy, sex with minors, relations on duty as prescribed, etc.). These rules may not be applied, under this language, in a manner that discriminates on the basis of sexual orientation. Thus, homosexual conduct would be permitted provided that rules and regulations pertaining to conduct apply equally to heterosexuals. In other words, nothing in this language would permit sexual relations aboard a ship, for example, since such behavioral restrictions would apply to both heterosexuals and homosexuals. In fact, nothing in this language would allow "unnatural carnal copulation with another person of the same or opposite sex" as prescribed under article 125 of the UCMJ. Presumably, any undefined conduct, as considered by a court martial which violates the customs and traditions of the armed services, deemed to be "prejudicial to good order and discipline" remains illegal provided that such standards would apply equally to heterosexuals and homosexuals. (Without a clear definition of acceptable behavior, certain problems may arise. For example, asking for a date may be protected, arguably, unless a fight broke out. Harassment and solicitation would not be protected.) Instances of fraternization sufficient to threaten discipline, whether homosexual or heterosexual, may be resolved by court martial and/or discharge.

Proponents of this proposed legislation note that this language would remove discrimination and unfair treatment based on sexual orientation while keeping in place those rules, policies and laws pertaining to behavior. Under this language, discipline and good order would be maintained since behavior would be controlled. Court martial and discharge options remain available in those instances, heterosexual and homosexual, involving violations of rules, regulations and laws pertaining to conduct. Proponents point out the success that has resulted in those instances where restrictions against homosexuals have been removed (i.e., in the civilian workplace). It can also be argued that although some personnel, homosexual and heterosexual, will behave in a manner that is deemed inappropriate, these cases will be more than offset by the increase in the number of professional and dedicated service members who would be allowed to enter the military and remain on active duty. That is, a homosexual orientation alone should not be considered an adequate indication of a behavior problem. Under current policy, many of those forced from the service "involve a soldier, sailor or airman who but for being homosexual, is outstanding in every respect."[25] Such a change, advocates believe, would ultimately enhance military readiness.

Critics view this language (H.R. 5208 and S. 3084) as going beyond efforts to merely protect those with a homosexual orientation. Narrowly interpreted, most, if not all, homosexual activity, critics argue, has been and will likely continue to be defined as "unnatural." This proposed language allows homosexuals into the service provided that they remain, for the most part behaviorally asexual. Such a situation places homosexuals in a position of being able to "come out of the closet," acknowledge their sexual orientation and then refrain from acting on that orientation. Critics note that given studies of male homosexual behavior and given the sexual segregation of the services, instances of such behavior will increase substantially if this legislation were to be enacted.[26] In other words, removing the stigma of homosexuality or rules that exclude homosexuals from the military will increase instances of and opportunities for such behavior in the services, leading to morale and discipline problems and disruptive of good order.

Broadly interpreted, this "same treatment standard" could be construed to allow for homosexual co-habitation in the receipt of military housing benefits, homosexual marriages performed by military chaplains, co-location of homosexual military couples, and the extension of military benefits such as health care, survivor benefits and adoption to a homosexual couple. In other words, although proponents suggest that this legislation focuses only on orientation, broader issues involving behavior and definitions of family or dependents may be involved. The ability of commanders to maintain discipline and morale under this language could, it is argued, prove onerous.

While it can be asserted that removing such restrictions in civilian society have not brought about many problems, critics note that the military institutional environment (including geographic isolation, sexual segregation, and the lack of privacy) is very different and will intensify the likelihood of both homosexual acts and violent clashes with heterosexuals. Others believe that this language is the first step to repealing restrictions against not only homosexuality but also homosexual behavior. Finally, critics argue that in the interest of protecting homosexuals, the privacy and morality of heterosexuals, as well as readiness, would be sacrificed by this language.

Military service and the social legitimacy of open homosexuality

It is said that efforts to eliminate or modify the military policy are but one part of a larger effort to gain a more universal acceptance of homosexual rights. From this perspective, proponents and critics alike contend that the movement for equal rights in the military (as with the civil rights movement) is a stepping stone to gaining greater acceptance in other fora including Federal and state courts, and legislative bodies. The argument is based on the concept that recognition by a major Federal institution, i.e., the military, would enhance and provide support for greater recognition of homosexuals' rights. According to some observers, this claim is similar to arguments pressed during the civil rights movement that it is unfair to allow blacks and other minorities to bear the burden of citizenship (i.e., military service, paying taxes, etc.) without allowing them to share equally in the benefits such citizenship has to offer. Such recognition would provide support for "partnership legislation"[27] and other issues of interest to the homosexual rights community and civil libertarians. As such, removing the military policy on homosexuality would represent a step toward the attainment of equal rights and opportunities as well as equal responsibilities for homosexuals.

There are indications that social acceptance of homosexuality has increased in recent years. Some consider rescinding the military policy a natural extension of these changes. Others view rescinding the military policy as a means of allowing or forcing the military to take the lead on this issue, i.e., using the military as the engine for social change. In this latter sense, removing the policy is criticized as the means and not necessarily the result of the "homosexual rights agenda." The military has been the means of social change in the past.[28] In contrast, military leaders believe that such changes should be justified on the basis of military needs and readiness. Critics view the use of the military as a vehicle for social change without consideration of readiness issues as feckless and unwise. As stated by Gabriel: "It will avail us little if the members of our defeated force are all equal. History will treat us for what we were: a social curiosity that failed.[29]"

Not surprisingly, arguments against the policy focus on its unfairness and discriminatory basis. The denial of homosexuals the option to serve is arguably a prejudicial self-fulling prophecy which makes it impossible for homosexuals to prove their military value. While many homosexuals have served, the scenario of homosexuals openly serving can not be evaluated unless the policy is removed. Removing the policy may allow homosexuals to prove their military worth and gain greater social legitimacy. However, should presumed problems of discipline and morale prove to be true, it may be politically impossible to reinstate the current policy. Nevertheless, removing the policy in the military context may create a sense of increased social legitimacy for homosexuality generally and, thereby, foster changes in other areas.

The relevance of "fairness" and "readiness"

As described above, arguments for and against the policy on homosexuals are often considered on the basis of their effects on the military and on issues of fairness. Proponents of maintaining the military policy on homosexuals are concerned with the extent to which acknowledged homosexuality (whether orientation or behavior) would prove disruptive to unit cohesion, morale and discipline. Studies of soldiers in battle have shown that the existence of close and interpersonal relationships are of equal or greater importance (for military effectiveness) than training, physical conditioning, leadership, etc. S.L.A. Marshall states:

"* * * [I]t is far more a question of the soldier's need of physical support from other men. He must have at least some feeling of spiritual unity with them . . . Should he lack this feeling for any reason, whether it be because he has lost physical contact or because he has been denied a chance to establish himself with them, he will become a castaway in the middle of a battle and as incapable of effective offensive action as if he were stranded somewhere without weapons.[30]"

Shils and Janowitz found interpersonal relationships to be a critical factor in a unit's ability to fight. Once these relationships have been disrupted, unit effectiveness disintegrated leading to desertion, surrender, and/or death.[31] Military leaders' concerns over the potentially disruptive effects of homosexuality relate, in large measure, to its effects on the development of these interpersonal relationships. While it is true that many homosexuals have served ("in the closet") in the military without incident, there are individual and legal accounts in which the effect of homosexuals in the ranks has proven disruptive.[32] The extent to which open homosexuality in the ranks would prove sufficiently disruptive to justify continued discrimination is not known.

Efforts to rescind the policy are rooted in a number of convictions, civil rights concerns, and social movement objectives. These efforts either ignore concerns over effectiveness or argue that there will be relatively little change in effectiveness. The most common source of objections to the policy is its perceived basic unfairness. According to Snyder and Nyberg:

"* * * [E]xisting policies [concerning homosexuality] are not being applied consistently; [closeted] gays continue to serve in the armed forces, apparently quite satisfactorily, despite the ban on their service (Lester, 1974: 5–13). This inconsistency creates the basis for a legal or political challenge to existing policies."[33]

In addressing this issue, the military has taken the approach of excluding all admitted homosexuals, even if this means excluding some individuals who would otherwise make good soldiers, airmen, sailors or marines. Such exclusion is justified by the services as being directly related to national defense considerations.

The military policy has been attacked variously on the issues of "fairness." These include the arguments that the policy (1) leads to "witch hunts," (2) is similar to the prejudice that kept blacks out of the service, (3) allows for differing treatment of civilian and military DoD employees, and (4) encourages the harassment of women. Each of these is considered and analyzed.

"Witch hunts"

While DoD policy is explicit in terms of conducting investigations and providing for administrative discharges, actual practices may vary. According to some observers, the decision to investigate and discharge individuals for homosexuality can be discretionary and, therefore, arbitrary. Commanding officers who find such behavior problematic in terms of unit morale, or who have a personal or moral philosophy against such behavior, may choose to aggressively pursue the removal of homosexual service members from their units. Conversely, commanding officers may be more concerned with the day-to-day operation and welfare of their units, including administrative functions, training activities, other disciplinary issues, as well as their own personal, career and family needs, and chose not to spend much, if any, free time searching for "suspected homosexuals." Commanders and investigators who do discharge homosexuals out of the service are often charged with conducting "witch hunts."[34] Commanders who fail to maintain discipline or follow DoD directives may be charged with dereliction of duty. During an investigation of homosexuality other individuals may be named as homosexuals (regardless of their sexual orientation, service record, or behavior) and may face the intimidation of an investigation, stigma of being labelled, possible court-martial and discharge.

The use of the term "witch hunt" has been applied by some to any attempt to discharge homosexual members whether or not the behavior at issue is flagrant or illegal. When such behavior comes to the attention of a commanding officer or investigators, it is nearly impossible for them to ignore it without being held accountable for dereliction of their duties. Such commanders may find themselves forced to conduct such investigations or bring their own careers into question.[35]

It can be argued that removing the policy would eliminate the exclusion of individuals who are otherwise performing their jobs, eliminate the unfair and disruptive effects of "witch hunts," and remove the threat to commanders' careers. Conversely, it can be argued, removing the policy would shift the unfairness to those who find their sense of morality (based on social, cultural or religious beliefs) and emotional and physical privacy violated by the presence of homosexuals in the close confines imposed by military service.

The services recruited, appointed, or commissioned approximately 330,000 people each year during the period 1980 to 1990. If the ten percent figure for homosexual prevalence widely reported in the media is accepted, approximately 33,000 homosexuals were included in that number. If so, it can be estimated that the service brought 330,000 over a ten-year period. According to the General Accounting Office,[36] during this ten-year period, the services discharged approximately 17,000 service members under the category of homosexuality. This represents approximately five percent of a presumed (if disputed) number of homosexual accessions. Numerous conclusions may be reached: (1) homosexuals are extremely adept at avoiding detection, (2) notions of a "witch hunt" are greatly exaggerated, (3) the services are doing a poor job of eliminating homosexuals from the ranks, (4) in most cases, the presence of homosexuals in the ranks does not constitute a problem requiring formal action, (5) estimates of the existence of homosexuality in society and the services are inflated, and/or (6) homosexuals may be discharged, denied reenlistment, allowed to resign for other reasons, including to avoid an investigation of suspected homosexuality. (If a lower estimate of the prevalence of homosexuality is used, say 1.6 percent, arguably 52,800 homosexuals would have been brought into the service, or over three times the number discharged during this same period.)

Analogies to the treatment of blacks

Numerous claims have been made that the military policy on homosexuals parallels the prejudice that kept the services racially segregated. Proponents of rescinding the policy view the successful integration of blacks in the military as an example of how the services are capable of overcoming preconceived prejudices and include all members of society as full members. According to the National Gay and Lesbian Task Force: "The rational for the exclusion of gays and lesbians is almost identical to the rationale used by the Department of Defense for maintaining a racially segregated Armed Services through 1948."[37] From this point of view, the policy itself supports and perpetuates prejudices against homosexuals. Once the policy is abandoned, it is argued, the services would integrate gays and lesbians in much the same manner as blacks and women have been integrated. Since DoD policy prevents homosexuals from joining the service and allows for the discharging of known homosexuals, continuing the policy is the same as keeping minorities out for who they are, rather than on the basis of their behavior.

Conversely, the Chairman of the Joint Chiefs of Staff, Gen. Colin L. Powell, responding to a letter from Representative Schroeder encouraging him to support efforts to rescind the policy, stated:

"I am well aware of the attempts to draw parallels between this position [excluding homosexuals from the service] and positions used years ago to deny opportunities to African-Americans. I know you are a history major, but I can assure you I need no reminders concerning the history of African-Americans in the defense of their Nation and the tribulations they faced. I am a part of that history.

"Skin color is a benign, non-behavioral characteristic. Sexual orientation is perhaps the most profound of human behavioral characteristics. Comparison of the two is a convenient but invalid argument."[38]

While the letter arguably can be criticized for erroneously presuming that sexual orientation usually has behavioral manifestations, it notes that race and behavioral manifestations are independent[39] and that by attempting to equate the behavioral consequences of race with sexual orientation such comparisons can become problematic. Such comparisons can be viewed as insulting to minorities and women. Critics contended that if the two are similar, homosexual rights advocates are presuming that merely being black or a women is the same as having a specific and identifiable "orientation."

In at least one way, the integration of homosexuals would well parallel the experience of expanding the numbers of women in the services: increasing opportunities for fraternization.[40]

Differing standards for DoD uniformed and civilian employees

Differing treatment of military and civilian personal has been cited as justification for rescinding the policy. During the Persian Gulf War, a highly placed civilian official at the Department of Defense was "outed."[41] No effort was made to remove this individual from his post.[42] Critics of the policy cite this as a double standard. In other words, DoD "plays by two sets" of rules when it suits their purposes. It is blatantly unfair, critics contend, for gays to be forced from the serving their country in uniform, and in some cases rehired by the Department of Defense or one of the services immediately after discharge.

Comparisons of civilian working environments to the military sometimes overlook the distinctive nature of the military. According to scholars, the military has traditionally been viewed in the framework of an institutional model.

"(A)n institution is legitimated in terms of values and norms, i.e. a purpose transcending individual self-interest in favor of a presumed higher good. Members of an institution are often viewed as following a calling; they generally regard themselves as being different or apart from broader society and are so regarded by others."[43]

This unique institutional environment, resulting in part from the peculiar mission of the military—to prepare for and to fight wars, is recognized as a legitimate basis for differentiated treatment of military personnel from civilian employees. In *Orloff* v. *Willoughby*, the Court states "The military constitutes a specialized community governed by a separate discipline from that of the civilian."[44]

Thus, proponents of the policy note that it only pertains to military personnel for reasons that have to do with the peculiar nature of the military environment and mission. The differences between the military and civilian society are recognized by the courts, Congress and the Executive branch. Civilians are not subject to the same deprivations as military personnel (including privacy) and are not subjected to the need to maintain the same levels of morale, cohesion and discipline under war-time conditions. Thus, the very purpose of the policy is not relevant to civilians. It would arguably be unfair to subject civilians to a similar policy for reasons that only apply to military personnel.

The homosexual policy and sexual harassment of women

Critics of the policy have posited that the current policy encourages the harassment of women in uniform. They argue that women who refuse sexual advances by their male counterparts are labelled, or threatened to be labelled, lesbians. In one case, an Army staff sergeant finally confided to a friend that she was a lesbian in an attempt to deflect his sexual advances. This revelation was turned over to the "Criminal Investigation Command which launched a three-month investigation * * * into [the staff sergeant's] sex life that those involved say included telephone taps and hostile interrogations" resulting in the staff sergeant's administrative discharge.[45] In other reported incidents, lesbians in uniform have "married" men in an effort to protect themselves from sexual advances or suspicious investigators.[46]

In rebuttal, it has been argued that sexual harassment, for whatever purpose, is against military regulations. While the services have been under vigorous scrutiny following revelations of incidents concerning sexual harassment,[47] the contention that a women can be harassed via threats of exposing her as a homosexual (i.e., lesbian-baiting) have been made. In these instances, DoD policy excluding homosexuals is viewed as a vehicle for sexual harassment.

Critics claim that lecherous individuals may use threatened revelations of drug use or other illegal behavior in an attempt to extort sexual favors. However, no one has argued that drug use should be made legal in order to avoid any chance that it could be used as a means of sexual harassment. The problem, it can be argued, is sexual harassment. Changing the policy on homosexuality (or drug abuse) will not "fix" the problem of harassment. It can also be argued that changing the policy may actually expand the problem for women and men. According to these claims, problems of harassment disproportionately involve women as victims. Removing the policy does nothing to limit and may actually make possible although not sanctioned) the opportunity for broader incidents of harassment. Such harassment could include the harassment of male and female homosexuals by heretosexuals (gay bashing),[48] unwanted sexual advances by gays and lesbians toward heterosexuals,[49] and/or sexual harassment of homosexuals by other homosexuals in uniform. From this point of view, eliminating the policy on homesexuals would not end harassment and may actually broaden the number of forms it can take.

The relevance of foreign-military comparisons

Lastly, proponents of rescinding the policy note that many nations do not exclude homosexuals from entering the military service. GAO reviewed the policies of 17 nations.

"These nations had various, sometimes diametrically opposed approaches to and legislation affecting the presence of homosexuals in their armed forces. The attitudes ranged from the view held by the United States to less strict ones in other countries. Some, in fact, do not view homosexuality as a legal or military issue. Four of the 17, or 24 percent, had policies that specifically exclude homosexuals from serving in the armed forces. Four of the remaining 13 restricted homosexuals' duties or relieved them from duty for disruptive behavior. Seven of the 17, or 41 percent, had no written policy addressing homosexuality. Two of the 17, or 12 percent, stated that during the recruiting process, the question regarding the individual's sexual orientation was not asked.[50]"

Davis, citing Tielman and de Jonge,[51] notes that in 60 countries, homosexual behavior is not illegal (although it may be regulated to some extent) and that in 55 countries, homosexual behavior is illegal.

"A number of countries have tackled the issue of whether homosexuals should be allowed in the military. Many countries do not allow homosexuals to serve, in spite of the fact that they consider homosexual acts between consenting adults to be legal. These countries include Canada, Peru, Venezuela, New Zealand, Italy, Great Britain, and Northern Ireland.[52]"

In fact, many nations do not have formal policies on homosexuals in the military. In other cases, policies differ widely in that some nations may allow certain homosexuals to serve, but only in limited ways or subject to certain, arguably discriminatory, career restrictions. In certain nations, homosexuality that proves disruptive may or may not be dealt with administratively by commanding officers. It is possible, therefore, for different individuals to look at these foreign military situations and arrive at different conclusions as to whether they allow or prohibit homosexuality in the ranks.[53]

Comparisons of the U.S. policy to foreign military policies is based on qualitative comparisons that must consider differences in culture (particularly with regard to historic considerations of sexuality and varying definitions of what constitutes homosexuality[54]), military policies overall (internal force versus a force that is routinely sent or stationed overseas in countries that may or may not have similar views concerning homosexuality), as well as the considered opinions and judgments of those in charge of the military. These "analyses" of other nations' policies generally do not consider the effect open homosexuality has on the fighting capabilities of their armed forces nor do they consider what problems, if any, have occurred as a result of open homosexuality in the ranks.[55] Generally speaking, no effort is made to make an argument based on comparisons for strategic or national security purposes. Arguably, a more in-depth study of foreign experiences could prove instructive, but given differing cultural and social norms, its direct relevance might be scant or considerable.

One observer has concluded that when considering the policies of foreign nations, "(A) closer look reveals that supporters and opponents of the gay ban alike are clouding the debate with misleading statements. Citing laws and regulations alone is not enough to under the situation. In many countries there is a vast difference between what is written and what is day-to-day reality."[56]

CURRENT ISSUES CONCERNING THE HOMOSEXUALITY POLICY

In this section of the report, specific issues concerning the military's policy on homosexuals are considered. These include court challenges, public opinion surveys and polls, health issues, and the effects the policy has had on educational institutions vis-a-vis Reserve Officer Training Corps and recruiting. Also, the current policy is analyzed and scrutinized with regard to its use to avoid service and the deployment of homosexuals during war or crisis.

DOD policy and the courts

The military policy of excluding homosexuals has, generally speaking, survived legal challenges in the courts. Challenges to this policy have been made on constitutional grounds including: due process, equal protection, free speech, and right to privacy. In one unusual instance, the court disposed of the case on equitable estoppel[57] grounds without making any determination of the constitutional issues raised. For a more thorough and detailed discussion, see the legal analysis "DoD Policy and the Courts—Legal Analysis," by Charles Dale, in the Appendix.

Public opinion and the policy

Some polls have shown an increasing social acceptance of homosexuality. GAO reported the findings of a national Gallup poll showing the percentage of the public who believe that homosexuals should be hired for various jobs.[58]

GALLUP POLL, PERCENT WHO BELIEVE HOMOSEXUAL HIRING IS ACCEPTABLE FOR VARIOUS JOBS BY YEAR

Job/year	1977	1982	1985	1987	1989	1991
Salesperson	68	70	71	72	79	89
Armed forces member	51	52	55	55	60	69
Doctor	44	50	52	49	44	54
Clergy member	36	38	41	42	44	54
Elem. school teacher	27	32	36	33	42	52
High school teacher	([1])	([1])	([1])	([1])	47	60

[1] The poll did not address this category between 1977 and 1987.

Another poll conducted in 1991 (cited by GAO) found that 81 percent of Americans believed that homosexuals should not be discharged from the military based solely on their sexual orientation while 14 percent believed homosexuals should be discharged.[59]

These data show that from 1977 through 1991, a growing majority of Americans believe that homosexuals should be allowed to serve in the military. The level of support among Americans has increased by 18 percent. Given the increasing level of support as reflected by polling data and public ordinances, many argue that refusing to allow homosexuals to serve runs against popular sentiments and, therefore, is not supported as being the "will of the people."

However, according to a recent telephone poll conducted by USA Weekend, only 33 percent of the respondents were in favor of repealing the current military policy.[60] Of arguably greater importance is the issue of how those in the military view such a change, since it is, after all these very individuals who will be directly affected. "All the service chiefs oppose lifting the ban."[61] In a speech at the Naval Academy, Secretary of Defense Cheney defended the policy of discharging homosexuals from the military. "Four thousand midshipmen gave him a standing ovation."[62] Finally, the Air Force Times published an editorial is support of eliminating the policy. In response, the Air Force Times published letters to the Editor (under the title "Readers strongly oppose accepting gays in service.")[63] While not a valid survey of military opinions, (perhaps only those who write are those against the position taken by the A.F. Times), it does at least suggest that military members have strong opinions on the issue. The Air Force is currently conducting a survey to find out what its enlisted personnel and officers think of "serving alongside openly gay men and women * * *[64]

A November Newsweek poll suggested that public support for overturning the policy is "softer" than originally reported. When asked: "Should Clinton delay lifting the military restrictions on gays if there are strong arguments that it will produce serious morale and readiness problems?, "61 percent state "Should delay (28 percent stated "Should not").[65]

By the middle of December, 1992, polls showed that Americans are split over lifting the policy. According to the Associated Press, "forty-five percent said lesbians and gay men should be forbidden from joining, while 44 percent said they should be allowed into the military. The rest were not sure or would not answer the question."[66]

According to a Gallop telephone survey commissioned by the Retired Officers Association (conducted among the association's members from Nov. 27 through December 1, 1992), 83 percent opposed allowing homosexuals into the service. Although 86 percent said they had recommended a military career to a friend or family member.

"53 percent said they would be less likely to do so if homosexuals were allowed to join. Some 42 percent said it would make no difference. Slightly more than a third of the respondents said they had to deal administratively with a homosexual incident during a tour of duty. Of these, 50 percent said the experience was a major disruption to normal operations of their command, 34 percent considered it a minor disurpiton while 14 percent said it was not a disruption.[67]"

In part, the variations in responses are somewhat affected by the type of question that is asked. A survey that considers the military policy (as cause for administrative separation: same-sex marriage, statements or behavior) may prove instructive.

Homosexuality and health

Critics of admitting homosexuals into the armed forces cite the high incidence of sexually transmitted illnesses, particularly AIDS,[68] as a reason for the policy. Critics contend that the incidence of transmittable illnesses will affect morale and threaten the military's "walking blood bank." In addition, these critics argue that the spread of such illnesses ultimately threatens military readiness. In part, these concerns are based on the reported levels of male homosexual promiscuity[69] and some have argued that given the high incidence of venereal diseases, in general, and HIV-1, in particular, among male homosexuals, the current policy should be expanded to include considerations of the health of the force as a reason for excluding homosexuals from the military. (In one case, a judge cited the need to protect military personnel from HIV-1/AIDS as a justification for the policy—an argument not made by the military.[70])

The military policy excluding homosexuals is not predicated on health care issues. Health care is generally treated as a medical concern and not necessarily a personnel issue.[71] Individuals are screened for health problems to ensure readiness. Health care is dependent upon illness, not the probability that an individual may become ill. (It would be equally inappropriate to refuse to enlist smokers on the basis that they, as a group, have a higher incidence of certain illnesses.) Thus, individuals who are unfit for service (or who have a history of certain illness with a substantial rate of reoccurrence) may be barred from entering the military.

Arguments concerning the military's homosexual policy and AIDS provide examples of the confusion brought about by combining these two issues. Generally speaking, in the United States, male homosexuals have a much higher incidence of human immunodeficiency virus (or HIV-1, the virus that causes Acquired Immune Deficiency Syndrome). Conversely, lesbians have a much lower incidence of HIV-1 infection rates than male homosexuals or heterosexuals. On the basis on limiting HIV-1, as argued by the above critics (and something that is not being considered here), the service could consider attracting more lesbians. "Only one case [of HIV infection] has been described as being transmitted by female homosexual contact."[72]

In order to prevent the spread of HIV-1, the military has introduced one of the most comprehensive screening and educational campaigns. Under this policy, individuals who show evidence of HIV-1 infection are not allowed to join the armed forces. Uniformed personnel are provided educational information on how to avoid infection. HIV-1 infected individuals in the military are counseled, provided health care and monitored. For this reason, the risk of contracting HIV-1 is reportedly better controlled in the military environment than elsewhere. (Ironically, for this reason, the military is perhaps one of the safest places to participate in "high-risk" behaviors—such as sodomy.)[73]

AIDS, HIV-1 and other sexually transmitted diseases are medical issues. As such, for the services they remain unrelated to policies concerning homosexuality. Contracting HIV-1 or any other illness is not based on whether an individual is homosexual or heterosexual, but the risks of infection to which the person is exposed (i.e. the nature of sexual activity and the level of promiscuity). Some argue that keeping homosexual behavior illegal or punishable (or making heterosexual promiscuity punishable) under regulations may increase the chances for infection because such behavior (and the subsequent illness) is forced "underground" and therefore not subject to medical surveillance.[74] Under such a scenario, infected individuals are unlikely to seek medical care for fear of reprimand. (It is occasionally argued that should AIDS or other such illnesses be cured, it is unlikely that critics who cite these arguments would change their minds on allowing homosexuals to join the military.)

The homosexual policy, ROTC, military recruiting, and educational institutions

With increasing calls for increased civil rights for homosexuals, numerous colleges and universities have sought to challenge the Department of Defense policy excluding homosexuals. These challenges have occurred as college and university (and in some cases, high school) deliberative bodies have sought to include rights and protection for those with homosexual orientations on the same basis as are provided racial and ethnic minorities, disabled, women, etc. Such changes have brought about conflicts on those campuses that maintain Reserve Officer Training Corps (ROTC) units. ROTC prohibits homosexuals from receiving scholarships (that inherently include an obligation to serve in the military).[75] Individuals applying for ROTC are required to sign documents stating that they are not homosexuals. Thus, certain campuses have recognized or supported homosexual rights that are at odds with ROTC policies.

On a number of occasions, campus administrators have been urged to remove ROTC units from the campus; and in one case they have done so.[76] Advocates of the removal of such units argue that it is improper to allow outside agencies to dictate campus policy or to conduct business (such as research or recruitment[77] or training) with agencies whose policies are antithetical to campus policy with regard to discrimination. In a number of instances, efforts have been made to ban military recruitment advertising from campus newspapers and other publications.

Such challenges to DoD policy have had relatively little impact on military recruiting or ROTC enrollment. (This is especially the case given the recent drawdown in force size and efforts to reduce inductions—including commissions via ROTC.) It has been argued that the only individuals harmed by removing these units from campus are those who sought ROTC training in the first place, including minorities, as well as the campus bursars. For example, the University of Wisconsin brings in more than $2 million in ROTC scholarships and salaries. "ROTC scholarships are strong incentives for attracting minority students, a perpetual problem for Midwestern schools. Added to this are the millions the Pentagon provides universities in research grants, which might be spoiled by sour relations with ROTC. * * * And there's another problem. Land grant universities such as Wisconsin and Minnesota are required by law to offer military instruction."[78] Given these circumstances, it is easy to see why university administrators feel caught between the competing demands of student relations, economic necessity, equal opportunity enrollment, and law (specifically with regard to states interfering with Federal interests).[79]

The issue of homosexuality and ROTC recently surfaced with regard to a student who had participated in ROTC (including the receipt of an ROTC scholarship) and then announced that he was homosexual. After investigating, the Army determined that the student was not making such a claim to avoid a service obligation. The service initially sought to recoup its scholarship payments from the student (approximately $25,000). Army officials ultimately decided to discharge the cadet from ROTC, deny him a commission, and not seek recovery of his scholarship. Army officials stated that the decision not to seek recoupment was particular to the circumstances surrounding this case.[80] Such a decision created debate in the sense that any student could receive a scholarship and later acknowledge being a homosexual and free himself/herself from any service obligation. It appears likely, however, that should this situation occur again, the service involved would seek recoupment of scholarship funding and continue to deny commissioning.

What effects, if any, lifting the policy will have on military recruiting remains unknown. Some have suggested that heterosexual young people will be discouraged from joining the military if such service means living and working with openly homosexual personnel. Others argue that the willingness to serve will depend on how well the military (and those serving) maintain discipline and restrictions on behavior. Lastly, there is no known indication of the number of otherwise qualified homosexuals who will join should the policy be removed.

Homosexuality as an excuse to avoid military service

Under current policy, homosexuality may be used as a means of avoiding service. Individuals may join the service, and then at some later point decide to leave by acknowledging or claiming to be homosexual. The ability to use the homosexual policy as means of avoiding service, whether the claim of being a homosexual is legitimate or a ruse, is documented in other areas. During the draft era, for example, Baskir and Strauss cite incidents where young men were instructed on how to receive an exemption during the psychiatric interview at the induction station. The ability of psychiatrists who were at least somewhat suspicious of such behavior led to unexpected results. According to Baskir and Strauss:

"Homosexuality was a common ground for a psychiatric exemption and [one] antidraft pamphlet advised how to fake it[.] [Indeed,] San Francisco draft counselor Paul Harris recalled that 'all clients who faked it got their exemptions, but they drafted the one fellow who really was gay.'"[81]

Even though the current policy is intended to prevent individuals from using homosexuality to avoid service, it may not necessarily work out that way. Under current policy, homosexuals can and do serve provided that they do not violate military regulations. Indeed, any change in the policy on homosexuality that maintains restrictions on behavior will allow certain individuals to avoid service (see also the French, German and Italian policies presented in the Appendix). Homosexuals need only admit to violating these restrictions; heterosexuals must bluff or violate these restrictions in order to seek the same escape.

Deployment of homosexuals during a war or crisis

Instances have been cited during the mobilization for the Persian Gulf War, wherein suspected or acknowledged homosexuals were sent to the Gulf only to be discharged upon their return.[82] In these cases, the individuals involved may have been under investigation or had acknowledged their homosexuality. On going personnel actions were placed on "hold" until their return. Many have concluded that DoD's position is that homosexuals can fight and possibly die when DoD needs them, but that they are otherwise to be treated with prejudice and forced out of the service once the crisis has passed.

DoD argues that its primary mission is to be prepared for and to fight wars. Once a conflict has begun, it is necessary for the Department to treat national security concerns as paramount relative to personal issues. For this reason, individuals who claim to be, or are under investigation as, homosexuals are deployed first while the issue of their homosexuality is investigated under proceeding prescribed. As such, this policy discourages service members from using homosexuality as a means of avoiding service.

During the mobilization for Desert Shield/Desert Storm, President Bush invoked a "stop-loss" order.[83] Under these provisions, administrative procedures deemed to be at cross-purpose with national defense may be suspended. To some extent, discretionary decisions are involved. Consequently, some individuals covered under the Secretary of Defense's Memorandum may have certain administrative actions (including separation for homosexuality) put on hold. Under this law, the President is provided with the authority to override various personnel actions. The practice can prevent individuals, who are about to be deployed, from using certain administrative polices (such as the policy on homosexuality) from avoiding military service during a time of crisis. Once the crisis has passed, administrative procedures involving promotion, retirement and separation will be put back in place.

It has been argued that allowing individuals to avoid their service obligation at a time of crisis (whether they are homosexuals or merely making such a claim to avoid service) may wreak havoc on the morale, cohesion and ability of certain units to function. In addition, it is considered unfair to the taxpaying citizens to train and pay service personnel and then allow them to walk away when their services are most required. Thus, it is argued that the deployment of personnel who are under investigation as, or claim to be, homosexuals need not necessarily imply that the services condone homosexuality. Instead, these policies demonstrate that homosexuality cannot reliably be used as a means of being excused from an active duty commitment made under voluntary circumstances during a time of crisis. These policies ultimately maintain DoD's commitment to national security as its first priority.

However, the situation that arises during time of deployment because of the homosexual policy arguably places homosexual service members in a no-win situation. They are allowed or ordered to serve at the risk of their own lives with the probability of a forced discharge when hostilities end. Perhaps no other scenario subjects the policy of excluding homosexuals to greater scrutiny. By deploying homosexuals with their units, the services bring into question their own argument that the presence of homosexuals "seriously impairs the accomplishment of the military mission."[84] In no other situation are a lack of privacy, the need for cohesion and morale, and the integrity of the system of rank and command more compelling than in time of war. If homosexuals pose such a threat, it seems fair to argue that they should not be deployed. Nevertheless, DoD has deployed them and has raised no questions on their abilities to serve. It can be argued that DoD's actions of investigating and/or threatening to remove these individuals does more harm to morale and cohesion then would be the case had they been left alone in the first place. It remains unknown whether eliminating known homosexuals would have improved service performance or lead to a reduction in discipline problems.

It is possible that, if the policy on homosexuality is altered, homosexuals and others may continue to use homosexual *behavior* as a means of getting out of the service. Again, assuming certain restrictions remained on behavior, those seeking to avoid military service, say at times of mobilization, need only "disclose" such acts and seek a discharge. Such a confession, however, may in some cases, risk more severe sanctions via court-martial.

ISSUES FOR CONGRESS

With President-elect Clinton's stated support for rescinding the policy on homosexuals in the military, Congress is likely to be confronted with a number of direct and associated issues. Depending on the nature of the alteration of policy made or proposed, Congress may need to consider: laws and legislation regulating behavior and misconduct, and military compensations as they relate to homosexuals and their partners.

Given past experiences on integration, base closures, and women in combat, it is possible that hearings will be held and/or a committee or commission will be formed to consider these issues. The formation, direction and scope of such deliberations may entail congressional oversight or direct participation. This section discusses each of these after first considering how the policy may be repealed.

An executive order repealing the policy

Following the election, President-elect Clinton reiterated his campaign commitment to repeal the military policy on homosexuals in the military. Such a repeal could be made via an executive order.[85] Under this authority, a President has the discretion to issue orders that would rescind or modify the policy (including modifications that may increase restrictions). For example, in 1948, President Harry Truman issued an executive order terminating racial segregation in the military. With minor modifications, similar language could be used to repeal, modify or strengthen the policy on homosexuals. (For the text of President Truman's Executive Order, see the Appendix.) The effective implementation of any hypothetical executive order could be made contingent (as was the case with Truman's executive order) upon the actions of a committee created for that specific purpose.

Beyond an executive order explicitly rescinding the policy, the Secretary of Defense could modify DoD directives that effectuate any changes. These changes could involve administrative procedures concerning investigations, discharges, administrative review boards, etc. Any changes made by these subordinates would require at least tacit approval of the President.

Any such change brought about by a President or appropriate subordinate would be subject to congressional oversight.[86] It is possible for a President or Secretary of Defense to modify current policy, only to have such a modification, itself, modified, enhanced, or rescinded by legislation. An attempt to rescind the policy against homosexuals, to make it more restrictive, or otherwise change it, could hypothetically prompt Congress to exercise its constitutional responsibility to make rules and regulations for the armed forces. Such legislation, of course, would be subject to presidential veto. For example, the President could issue an executive order rescinding the policy. Congress could consider legislation that would block the executive order by refusing the use of appropriated funds for its implementation, or reinstate the policy, in whole or in part, or as modified. If passed by both houses of Congress, this new language would be sent to the President to be signed into law. The President could sign or veto the bill. If vetoed the legislation would then be returned to Congress. To override the veto, both the House of Representatives and the Senate would need to pass the legislation again with a two-thirds majority in each chamber. Failure to gain such a majority in both chambers would mean defeat for the bill. Attaining such a majority would pass the bill into law over a presidential veto.

As a tactical matter, should such a scenario occur, it is likely that congressionally preferred modifying language would be incorporated in a larger bill (such as the annual National Defense Authorization Act of the DoD Appropriations Act). The President (lacking a line-item veto) would have to veto the entire bill (leaving the Department of Defense without authorization or funding) or accept the congressional language.

Whatever the outcome (i.e., passed, vetoed, rejected), the legislation can be further modified by Congress and, subsequently, reconsidered. Unlike legislation, executive orders may only make modifications to the extent that such modifications do not conflict, or at least are consistent, with existing law. Thus, the ultimate oversight responsibility rests with Congress. The President may modify the current language regarding homosexuals and military service, but such modifications remain subject to congressional oversight and constitutional challenges.

Law regulating behavior and misconduct

Articles 125 (Sodomy) and 134 (General Article) of the Uniform Code of Military Justice may or may not be directly at issue. Explicit congressional action is required for these to be modified or struck from title 10, United States Code and the President alone cannot modify these articles. However, the enforcement of these articles remains under executive (presidential) control. Such enforcement is expected to be conducted in conformance with congressional intent. Failure to regulate conduct, consistent with congressional intent, could invite congressional action.

Military compensation and homosexual partnerships

The issue of "partnership" recognition may have more far reaching effects than generally recognized. The laws concerning domestic relations, including marriage or partnership, for example, are usually under state domain. Federal laws and regulations consider domestic relationships in terms of providing Federal employment benefits. Under Federal law,[87] familial relations or definitions of dependency are used to determine eligibility for Federal benefits including military health care, commissary and exchange privileges, housing and subsistence allowances, life insurance, survivor and death benefits, moving and transportation allowances, separation pay, adoption benefits, former spouse benefits, and Dependency and Indemnity Compensation and other veterans' benefits. Should the DoD policy on homosexuality be lifted, it is not clear how Federal regulations would be interpreted in situations where a state or municipality recognizes a homosexual partnership for the purposes of providing employer benefits. State regulations do not normally supersede Federal laws. Clearly, conflict and confusion may result if a state recognizes such a relationship and the Federal government does not. Congress may well be lobbied to reconsider family or dependency benefits for homosexuals. Failing this, it is possible that should the policy be lifted, limiting benefits to only heterosexual partners (marriages) or dependents would be challenged in court as unfair to those homosexual relationships that are recognized under other ordinances, regulations or laws.[88]

Changing the policy may also involve congressional or administrative consideration in other areas. For instance, should the Department of Defense Dependent Schools provide information on homosexuality in its curricula?[89] And, if so, at what age? How should benefits be taxed under "partnership" situations? Should partners receive employment preferences on the same basis as heterosexual spouses? Could military chaplains be compelled to perform homosexual weddings? These questions suggest the scope of the issues that are likely to arise.

Commissions, committees, hearings and studies

Although it appears likely that President-elect Clinton will make some modifications, there are indications that he may consult with, or form, a committee or commission to study the issue.[90] Congressional leaders have urged Clinton to proceed with caution.[91] Senator Nunn (chairman of the Senate Armed Services Committee), has agreed to hold hearings on the issue. Members of the Joint Chiefs of Staff have reportedly had input: "working through retired Adm. William J. Crowe Jr. and Rep. Dave McCurdy (D-Okla.), to convince Clinton that he will face serious repercussions in military ranks if he makes the change. Army Gen. Gordon R. Sullivan and other chiefs are urging Clinton 'to study it for a year or two,' * * *"[92]

The use of a commission remains an option (given the recent precedents including one on the role of women in the military and another on base closures). However, choosing commission members is, itself, a political issue. Members for the base closure commission were selected by the President subject to House of Representatives and Senate advice. Members of the commission on women were also selected by the President. The latter commission was criticized because of this method before it finished its work or filed a report.[93]

In the final analysis, whatever approach is taken to consider or actually make any changes in DoD policy, including committees, commissions, hearings, executive order, legislation, it appears likely that both the executive and legislative branches of government will share responsibility for the final outcome.

APPENDIX

TEXT OF CURRENT DIRECTIVES RELATED TO HOMOSEXUALITY

Directive on enlisted administrative separations

This Directive provides the policy rationale concerning homosexuals and military service. This Directive is divided into three main parts. Part 1 gives the Basis for providing administrative discharges; part 2 provides guidance concerning the characterization and description of such discharges; and, part 3 outlines the procedures that are to be followed to administer or execute such discharges.

According to the Department of Defense Directive[94] on providing enlisted administrative separations (section H, cited verbatim except those parts enclosed by brackets-[ ]-for clarification purposes):

1. Basis

a. Homosexuality is incompatible with military service. The presence in the military environment of persons who engage in homosexual conduct or who, by their statements, demonstrate a propensity to engage in homosexual conduct, seriously impairs the accomplishment of the military mission. The presence of such members adversely affect the ability of the Military Services to maintain discipline, good order, and morale; to foster mutual trust and confidence among servicemembers; to ensure the integrity of the system of rank and command; to facilitate assignment and worldwide deployment of servicemembers who frequently must live and work under close conditions affording minimal privacy; to recruit and retain members of the Military Services; to maintain the public acceptability of military service; and to prevent breaches of security.

b. As used in this section:

(1) Homosexual means a person, regardless of sex, who engages in, desires to engage in, or intends to engage in homosexual acts;

(2) Bisexual means a person who engages in, desires to engage in, or intends to engage in homosexual and heterosexual acts; and

(3) A homosexual act means bodily contact, actively undertaken or passively permitted, between members of the same sex for the purpose of satisfying sexual desires.

c. The basis for separation may include preservice, prior service, or current service conduct or statements. A member shall be separated under this section if one or more of the following approved findings is made:

(1) The member has engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts unless there are approved further findings that:

(a) Such conduct is a departure from the member's usual and customary behavior;

(b) Such conduct under all the circumstances is unlikely to recur;

(c) Such conduct was not accomplished by the used of force, coercion, or intimidation by the member during a period of military service;

(d) Under particular circumstances of the case, the member's continued presence in the service is consistent with the interest of the Service in proper discipline, good order, and morale; and

(e) The member does not desire to engage in or intend to engage in homosexual acts.

(2) The member has stated that he or she is a homosexual or bisexual unless there is a further finding that the member is not a homosexual or bisexual.

(3) The member has married or attempted to marry a person known to be of the same biological sex (as evidenced by the external anatomy of the persons involved) unless there are further findings that the member is not a homosexual or bisexual and that the purpose of the marriage or attempt was the avoidance or termination of military service.

2. Characterization or description. Characterization of service or description of separation shall be in accordance with the guidance in section C. of Part 2 [Characterization of Service or Description of Separation]. When the sole basis for separation is homosexuality, a characterization Under Other Than Honorable Conditions may be issued only if such a characterization is warranted under section C. of part 2 and there is a finding that during the current term of service the member attempted, solicited, or committed a homosexual act in the following circumstances:

a. By using force, coercion, or intimidation;

b. With a person under 16 years of age;

c. With a subordinate in circumstances that violate customary military superior-subordinate relations;

d. Openly in public view;

e. For compensation;

f. Aboard a military vessel or aircraft; or

g. In another location subject to military control under aggravating circumstances noted in the finding that have an adverse impact on discipline, good order, or morale comparable to the impact of such activity aboard a vessel or aircraft.

3. Procedure. The Administrative Board Procedure (section C. of Part 3) shall be used, subject to the following guidance:

a. Separation processing shall be initiated if there is probable cause to be separation is warranted under H.1.c., above.

b. The Administrative Board shall follow the procedures set forth in subsection C.5. of Part 3, except with respect to the following matters:

(1) If the Board finds that one or more of the circumstances authorizing separation under paragraph H.1.c., above, is supported by the evidence, the Board finds that retention is warranted under the limited circumstances described in that paragraph.

(2) If the Board does not find that there is sufficient evidence that one or more of the circumstances authorizing separation under paragraph H.1.c. has occurred, the Board shall recommend retention unless the case involves another basis for separation of which the member has been duly notified.

c. In any case in which characterization of service Under Other Than Honorable Conditions is not authorized, the Separation Authority may be exercised by an officer designated under paragraph B.4.a. of Part 3.

d. The Separation Authority shall dispose of the case according to the following provisions:

(1) If the Board recommends retention, the Separation Authority shall take one of the following actions:

(a) Approve the finding and direct retention; or

(b) Forward the case to the Secretary concerned with a recommendation that the Secretary separate the member under the Secretary's authority (section O of this Part [Secretarial Plenary Authority]).

(2) If the Board recommends separation, the Separation Authority shall take one of the following actions:

(a) Approve the finding and direct separation; or

(b) Disapprove the finding on the basis of the following considerations:

(1) There is insufficient evidence to support the finding; or

(2) Retention is warranted under the limited circumstances authorizing separation under paragraph H.1.c. has occurred, the member shall be separated unless retention is warranted under the limited circumstances described in paragraph H.1.c., above.

(3) If there has been a waiver of Board proceeding, the Separation Authority shall dispose of the case in accordance with the following provisions:

(a) If the Separation Authority determines that there is not sufficient evidence to support separation under paragraph H.1.c., the Separation Authority shall direct retention unless there is another basis for separation of which the member has been duly notified.

(b) If the Separation Authority determines that one or more of the circumstances authorizing separation under paragraph H.1.c. has occurred, the member shall be separated unless retention is warranted under the limited circumstances described in that paragraph.

e. The burden of proving that retention is warranted under the limited circumstances described in paragraph H.1.c. rests with the member, except in cases where the member's conduct was solely the result of a desire to avoid military service.

f. Findings regarding the existence of the limited circumstances warranting a member's retention under paragraph H.1.c. are required only if:

(1) The member clearly and specifically raises such limited circumstances to justify the member's retention.

g. Nothing in these procedures:

(1) Limits the authority of the Secretary concerned to take appropriate action in a case to ensure that there has been compliance with the provisions of this Directive;

(2) Precludes retention of a member for a limited period of time in the interests of national security as authority by the Secretary concerned;

(3) Authorizes a member to seek Secretarial review unless authorized in procedures promulgated by the Secretary concerned;

(4) Precludes separation in appropriate circumstances for another reason set forth in this Directive; or

(5) Precludes trial by court-martial in appropriate cases.

Under this same Directive, Part 2(C)2(b) provides the following description of each type of discharge:

Honorable. The Honorable characterization is appropriate when the quality of the member's service generally has met the standards of acceptable conduct and performance of duty for military personnel, or is otherwise so meritorious that any other characterization would be clearly inappropriate.

General (under honorable conditions). If a member's service has been honest and faithful, it is appropriate to characterize that service under honorable conditions. Characterization of service as General (under honorable conditions) is warranted when significant negative aspects of the member's conduct or performance of duty outweigh positive aspects of the member's military record.

Under other than honorable conditions. (a) This characterization may be issued in the following circumstances:

1. When reason for separation is based upon a pattern of behavior that constitutes a significant departure from the conduct expected of members of the Military Services.

2. When the reason for separation is based upon one or more acts or omissions that constitute a significant departure from the conduct expected of members of the Military Services. Examples of factors that may be considered include the use of force or violence to produce serious bodily injury or death, abuse of a special position of trust, disregard by a superior of customary superior-subordinate relationships, acts or omissions that endanger the security of the United States or the health and welfare of other members of the Military Services, and delib-

erate acts or omissions that seriously endanger the health and safety of other persons.

(b) This characterization is authorized only if the member has been afforded the opportunity to request an Administrative Board, except as provided in section L. of Part 1. (Separation in Lieu of Trial by Courts-Martial.)

(Other discharge characteristics include Bad Conduct and Dishonorable. Both of these require a finding of unlawful behavior by a court-martial and are not therefore included in the directive or administrative separations. Generally speaking, those discharged under the characterization of General, retain eligibility for many of the same benefits as those discharged under the characterization of Honorable.)

Directive on the separation of commissioned officers for cause

According to the DoD Directive on the Separation of Commissioned Officers for Cause.[95]

B. ACTS OF MISCONDUCT OR MORAL OR PROFESSIONAL DERELICTION

A commissioned officer may be separated from a Military Service, under regulations prescribed by the Secretary of the Military Department concerned, when he or she is found to have committed an act or acts of misconduct or moral or professional dereliction, which include (but are not limited to):

4. Homosexuality. The basis for separation may include preservice, prior service, or current service conduct or statements. A commissioned officer shall be separated under this provision if one or more of the following findings is made:

a. The officer has engaged in, has attempted to engage in, or has solicited another to engage in a homosexual act or acts, unless there are further findings that:

(1) Such conduct is a departure from the officer's usual and customary behavior.

(2) Such conduct under all the circumstances is unlikely to recur.

(3) Such conduct was not accomplished by use of force, coercion, or intimidation by the officer during a period of military service.

(4) Under the particular circumstances of the case, the officer's continued presence in the Service is consistent with the proper discipline, good order, and morale of the Service.

(5) The officer does not desire to engage in or intend to engage in further homosexual acts.

b. The officer has stated that he or she is a homosexual or bisexual unless there is a further finding that the officer is not a homosexual or bisexual.

c. The officer has married or attempted to marry a person known to be of the same sex (as evidenced by the external anatomy of the persons involved), unless there are further findings that the officer is not a homosexual or bisexual and that the purpose of the marriage was the avoidance or termination of military service.

Directive on physical standards for enlistment, appointment, and induction

Although the above Directives only address separations from the armed forces, this third Directive (Physical Standards for Enlistment, Appointment, and Induction) includes among the causes for rejection for appointment, enlistment and induction:

a. Homosexual Behavior. This includes all homosexual activity except adolescent experimentation or the occurrence of a single episode of homosexual behavior while intoxicated.[96]

TEXT OF UNIFORM CODE OF MILITARY JUSTICE PROVISIONS RELATED TO HOMOSEXUALITY

Title 10 United States Code (U.S.C.) contains two sections under the Uniform Code of Military Justice (UCMJ) under which certain behaviors may be prosecuted.[97] In other words, there is no law against being a homosexual. However, certain behaviors may be proscribed by law.

A. Article 125. Sodomy

(a) Any person subject to this chapter who engages in unnatural carnal copulation with another person of the same or opposite sex or with an animal is guilty of sodomy. Penetration, however slight, is sufficient to complete the offense.

(b) Any person found guilty of sodomy shall be punished as a court-martial may direct. (Aug. 10, 1956, ch. 1041, 70A Stat. 74.)

B. Article 134. General article

Though not specifically mentioned in this chapter, all disorders and neglects to the prejudice of good order and discipline in the armed forces, all conduct of a nature to bring discredit upon the armed forces, and crimes and offenses not capital, of which persons subject to this chapter may be guilty, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court. (Aug. 10, 1956, ch. 1041, 70A Stat. 76.)

The current definition of sodomy (above) differs from that used in 1917. According to the Manual for Courts-Martial (United States, 1917, para. 443): "Sodomy consists in sexual connection with any brute animal, or in sexual connection, per anum, by a man with any man or woman. . . . Penetration of the mouth of the person does not constitute this offense. Both parties are liable as principals if each is adult and consents; but if either be a boy of tender age the adult alone is liable, and although the boy consent the act is still by force. Penetration alone is sufficient. An assault on a human being with intent to penetrate his or her person per anum." (See Davis 1991.)

DOD policy and the courts—legal analysis[98]

The military policy of excluding homosexuals has been judicially challenged, largely without success, on a variety of legal and constitutional grounds. Most of the early cases involved personnel suspected of homosexual conduct who argued that the policy violated the constitutional right of privacy;[99] that it was prohibited by the Equal Protection Clause because only homosexual sodomy was prosecuted while similar heterosexual conduct was not;[100] or that the procedure applied by the services to effect discharge did not conform to procedural due process requirements.[101] Later cases also raised First Amendment free speech claims when brought by admitted homosexuals who had been discharged not for alleged sexual conduct but rather because of their "status" as revealed by voluntary statements to colleagues, or in the press and other public fora.[102]

Due process challenges predicated on the right of privacy have been uniformly rejected by the courts in these cases, particularly after the U.S. Supreme Court in *Bowers v. Hardwick*[103] sustained a Georgia statute criminalizing sodomy as applied to consenting homosexual adults in the privacy of the home of one of them. The Court there expressed the view that homosexual sodomy was neither a fundamental liberty "implicit in the concept of ordered liberty" nor is it "deeply rooted in the Nation's history and tradition."[104] On parallel reasoning, the courts generally have refused to apply heightened scrutiny to the equal protection claims of discharged homosexuals according to the constitutional standards traditionally applied in cases of governmental discrimination based on race, ethnicity or other "suspect" classifications.[105] First Amendment challenges to the military policy have fared little better. Thus, statement by a service person of his/her homosexuality, whether in the media or otherwise, has not generally been accorded First Amendment protection since it does not implicate the exchange of information and ideas on homosexuality as a matter of "public concern."[106] An important element in each of these decisions was the history of judicial deference to military judgments that is now firmly entrenched in our legal tradition.[107]

Accordingly, to date, successful judicial challenges to the military's policy regarding homosexuals have been few in number and of relatively narrow legal significance. For example, Matlovich v. Secretary of the Air Force,[108] involved an admitted homosexual with an "outstanding" 12-year record of military service who had not been charged with any homosexual activity on base or with other servicemen. Neither the court of appeals nor the federal district court on remand ever decided the main constitutional challenge asserted by the petitioner based on the right to privacy. Instead, the Air Force policy, which at that time permitted retention of homosexual personnel in "unusual circumstances," was held procedurally defective for its lack of fair and objective standards governing discharge. In other words, the petitioner was entitled to an explanation of why the exception did not apply to him. Subsequent to this decision, and a similar one concerning Navy regulations,[109] the Department of Defense issued revised regulations clarifying exceptions to the policy of mandatory discharge of homosexual service members which effectively preempted any defense based on quality of performance in future cases.

In a more recent and highly publicized decision, Watkins v. United States Army,[110] condemnation of the DOD policy as violative of the Fifth Amendment right to equal protection and instead ordered reinstatement of a homosexual 16-year veteran on equitable estoppel grounds. The earlier panel ruling had determined that lesbian and homosexual persons constitute a "suspect class" and employed heightened equal protection scrutiny to invalidate the Army policy. On rehearing, however, the full court held that the Army could not refuse reenlistment to a highly rated serviceman who had openly acknowledged his homosexuality at the time of initial enlistment and who had consistently been reenlisted despite the Army's awareness of his sexual orientation. Because it disposed of the case on equitable estoppel grounds, based on the specific factual circumstances before it, the enbanc court avoided making any determination of the constitutional issues raised. Consequently, the decision is likely to have minimal impact upon current military policy.

Judicial analysis of federal equal protection claims fall into three basic modes. First is the traditional "rational basis" standard that will uphold most legislative or executive action that classifies individuals as long as the classification is reasonable and rationally related to a legitimate governmental objective. Certain classifications are deemed "suspect" or "quasi-suspect," however, and governmental actions based on such classification will be subjected to rigorous or "searching" judicial scrutiny.[111] Governmental actions that burden members of a suspect or quasi-suspect class call for a higher level of justification both in terms of the weight of the government's interest[112] and the degree of relationship to the interest served.[113] The federal courts of appeals to date have generally refused to apply the so-called "strict scrutiny" test, or other heightened equal protection standard of judicial review, to the military policy regarding homosexuals.

Applying the more lenient equal protection standard, the courts have usually had little difficulty accepting as "rational" the military's justifications for its homosexual policy.[114] In Beller v. Middendorf,[115] the Ninth Circuit accepted all of the military's justifications and upheld the Navy policy as applied to the discharge of three enlisted personnel who had engaged in homosexual acts. Judge (now Justice) Kennedy wrote that:

"The Navy can act to protect the fabric of military life, to preserve the integrity of the recruiting process, to maintain the discipline of personnel in active service, and to insure the acceptance of men and women in the military, who are sometimes stationed in foreign countries with cultures different from our own."

Furthermore, although he felt the policy was "perhaps broader than necessary to accomplish some of its goals," Judge Kennedy concluded that it "represents a reasonable effort to accommodate the needs of the Government with the interests of the individual."[116] In Dronenburg v. Zech[117] Judge Bork wrote for the D.C. Circuit in another case involving homosexual conduct that "[t]he effects of homosexual conduct within a naval or military unit are almost certain to be harmful to morale and discipline." Finally, in Ben-Shalom v. Marsh,[118] a status (not conduct) case, the Seventh Circuit ruled that military discharge due to a declaration of lesbianism did not violate the First Amendment, and that the Army regulation barring homosexuals passed rational basis equal protection review.

A recent judicial development that may forecast invigorated scrutiny into the military's justifications for excluding homosexuals is the Ninth Circuitdecision in *Pruitt v. Cheney*.[119] Pruitt was an officer in the U.S. Army Reserve with an "outstanding" record in both active and reserve duty. Although it had no evidence of homosexual acts on her part, the Army moved to revoke Pruitt's security clearance and discharge her after she revealed, in a Los Angeles Times interview, that she was a lesbian and had twice participated in ceremonies of marriage to other women. Pruitt thereafter challenged the Army's actions, which were based solely on her own admissions of homosexuality as a violation of free speech rights. This First Amendment claim was rejected by both the district and appellate court on the rationale that Pruitt's admission of her homosexual status was not protected speech.[120] The appeals court did hold, however, that the Army had to demonstrate a rational basis for its regulation and remanded the cases for appropriate proceedings. Moreover, the decision departs from *Beller* and related precedent by relying on two Supreme Court rulings which stand for the principle that governmental denial of equal protection is never justified by the antipathy of others towards the group adversely affected.

In the more recent of these, *City of Cleburne v. Cleburne Living Center, Inc.*,[121] the Court invalidated under rational basis equal protection analysis the refusal of a city to permit construction of a group home for the mentally retarded. Although neither a suspect nor quasi-suspect class was involved, the city's justifications for denying a permit were rejected. The desire to avoid negative reactions of neighbors was found to be an unacceptable basis for discriminatory treatment,[122] and even the legitimate goal of relieving congestion could not be achieved by prohibiting only certain types of group homes while allowing others. *Palmore v. Sidoti*[123] was an earlier case which struck down a denial of child custody based upon social disapproval of the interracial marriage of the mother. The Supreme Court declared that "[t]he Constitution cannot control such prejudices but neither can it tolerate them. Private biases may be outside the reach of the law, but the law cannot, directly or indirectly, give them effect."[124]

The Court's refusal in these cases to accept asserted governmental goals as legitimate, and its more than perfunctory scrutiny of the means by which the governmental body pursued its legitimate goals, may have important implications for future judicial review of military policies regarding homosexuals. At the very least, if applied in this context, it could mean that the military faces a weightier burden than heretofore in terms of justifying its policies as rational and reasonable based on factual evidence presented to the court. In this regard, the courts may be less willing to accept as rational the offer of any proof which reflects popular antipathy toward or stereotypical views concerning homosexuality.

SUMMARIES AND SUMMARY CRITIQUES OF PREVIOUS STUDIES ON HOMOSEXUALITY AND THE MILITARY

The U.S. General Accounting Office recently released a report entitled "Defense Force Management: DoD's Policy on Homosexuality."[125] Some of these findings have been considered in the text of this report. The general findings are presented and discussed below. GAO states:

"On the basis of its policy of excluding homosexuals from the military, DOD annually expelled an average of about 1,500 men and women between 1980 and 1990 under the separation category of "homosexuality." These expulsions reached a high of about 2,000 in 1982 and a low of about 1,000 in 1990. Separations for homosexuality do not require a determination that an individual's behavior affects the military's mission. In terms of rank, gender, and race/ethnicity, the majority of those expelled were enlisted personnel; most were men (about 78 percent); and most were white. When challenged, these discharges have been routinely upheld in the military adjudication and civil court systems.

"DOD does not maintain records of the costs associated with administering its policy; nor does it record the costs of investigating alleged cases of homosexuality. Accordingly, our analysis was limited to estimates of the costs of recruiting and training individuals to replace personnel discharged for homosexuality.

"Major psychiatric and psychological organizations in the United States disagree with DOD's policy and believe it to be factually unsupported, unfair and counterproductive. In addition, two DOD/service-commissioned study efforts have refuted DOD's position on the potential security risk associated with homosexual orientation as well disclosed information that raised questions about the basic policy. Further, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff have recently acknowledged that homosexual orientation is no longer a major security concern."

GAO also found that: Recent polls suggest that the public has become more accepting of homosexuality and homosexuals' serving in the military; Some U.S. allied nations have policies similar to that of the United States, and others have policies that permit homosexuals to be members; and, police and fire departments in several major U.S. cities have removed employment restriction without adverse effects on mission.[126]

Based on these findings, the GAO report has been cited by opponents of the policy to support their contention that the policy should be rescinded. Some have argued that the costs involved do not justify the policy. This report has not escaped criticism. First, it should be noted that the DoD policy is not predicated on economic issues. Critics contend that it is difficult to make an economic argument for keeping certain individuals on active duty (such as sodomists or those who prove disruptive to good order and discipline). Second, it has been noted that the reports cited by GAO (including the Crittenden Report[127]) actually support the DoD policy, or were dismissed because the "analysis" was flawed, uninformed and represented the opinions of the authors only (PERSEREC[128]).

While it stresses the high cost of replacing discharged homosexuals, critics note that GAO fails to consider the costs imposed on the service by rescinding the policy. Costs associated with discipline problems, fraternization, court-martials for sodomy (unless that too is rescinded) reduced morale, invasions of privacy, recruiting and retention difficulties and image problems.[129]

GAO has noted that the American Psychological Association, American Psychiatric Assoication and American Sociological Association have stated their opposition to the policy. This opposition is based on medical/clinical questions concerning the medical status of homosexuals and social equity issues. Critics contend that these positions are not based upon needs for discipline or good order, or on consideration based on combat effectiveness—the very basis for the policy.[130]

GAO also noted that among selected police and fire departments officials state that the elements of unit/team cohesiveness, discipline and good order and morale, trust and confidence, and a system of command rank and respect are important to their overall mission.[131]

The issue of comparing police and fire departments to military organizations has been raised as the only viable way to gain a perspective into the operation of 'para-military-type' organizations and their response to homosexuals in the ranks. Critics contend that this is a false comparison. The living environment, stresses, and issues of privacy available to fire fighters and police officers strain comparison when viewed from a military perspective. (See section above on "Differing standards for DoD uniformed and civilian employees.") While the military has police and fire fighting units, few civilian organizations are deployed for long periods under military conditions.

NATO POLICIES

The following is reproduced from an Army Times report (see NATO policies on gays in uniform, January 11, 1993, p. 22). These findings are based on information provided by military and embassy officials of each country.

Belgium

Not acknowledged as a relevant issue. Neither conscripts nor volunteers are asked about their sexual orientation. Homosexuality itself does not exempt Belgians from the draft unless there are accompanying psychological disorders as determined by clinical evaluation. Homosexual conduct between consenting adults off-duty is not punished, but inappropriate homosexual and heterosexual behavior can lead to dismissal from military duty or exclusions from certain units and jobs.

Britain

Homosexuals are officially barred from service, but unofficially the British Defense Ministry says the practice of prosecuting gays simply for being gay is rare. Homosexual acts among consenting adults has been decriminalized in military as well as civilian law as long as it is off-duty.

Canada

Was ordered by the Federal Court of Canada to drop its ban on gays in the Canadian Forces in October 1992. Canadian service members were not required to certify they were heterosexual when they enlisted, but openly gay persons were often discharged or had their transfer or promotion opportunities limited. The files of service members who were either discharged or denied promotion because of their sexual orientation are being reviewed for reconsideration by military authorities.

Denmark

Now law or policy. Neither conscripts nor volunteers are asked about sexual orientation. Treated as a personal, private matter.

France

No legislation or written codes. Gays are allowed to serve in the French military as long as they do not harass other members of their units. But gays and lesbians can avoid being drafted by claiming their homosexuality is incompatible with service life.

Germany

Homosexuality cannot be used as a reason not to be drafted, although potential gay conscripts who claim service would be psychologically injurious are evaluated and frequently given alternative mandatory service. Career members of the military who are openly gay do face discrimination, frequently finding promotions blocked and access to top-level classified information denied.

Greece

Homosexuals are banned from military service.

Italy

Homosexuals are deemed unsuitable for military service. During medical examinations, homosexual conscripts will be declared ineligible if found to have behavioral "anomalies" caused by sexual deviations.

Luxembourg

Homosexuals are not precluded from service. Military service is voluntary and enlistees are not asked about sexual orientation. Improper conduct—whether homosexual or heterosexual—is punishable by discharge or court martial.

Netherlands

Basic law prohibits all discrimination, for any reason. A union represents homosexuals in the military. Unwanted advances are treated as improper behavior. Courses in human relations are conducted for commanders and include homosexual issues. Legislation is pending for homosexual survivor benefits.

Norway

Not considered a relevant issue and no one entering the service is asked about their sexual orientation. Unwanted advances by either homosexual or heterosexual service members are treated as improper behavior contrary to good order and discipline.

Portugal

Not seen as a relevant issue. Homosexuals may serve in the armed forces, although conduct may be punishable.

Spain

There are no codes regulating homosexuals in the military. Like religion, sexual orientation is considered a person's own choice.

Turkey

Homosexuals are not permitted to serve openly in the armed services, although they are not asked about their sexual orientation upon entering the service.

TEXT OF 102D CONGRESS LEGISLATION ON HOMOSEXUALITY AND THE MILITARY

Four bills were introduced in the 102d Congress concerning the issue of homosexuality and military service. Two bills, H.R. 5208 and S. 3084, contain identical language:[132]

A bill to prohibit discrimination by the Armed Forces on the basis of sexual orientation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Prohibition on discrimination in the military on the basis of sexual orientation.

(a) In General.—No member of the Armed Forces, or person seeking to become a member of the Armed Forces, may be discriminated against by the Armed Forces on the basis of sexual orientation.

(b) Preservation of Rules and Policies Regarding Sexual Misconduct.—Nothing in subsection (a) may be construed as requiring the Armed Forces to modify any rule or policy regarding sexual misconduct or otherwise to sanction or condone sexual misconduct, but such rules and policies may not be applied in a manner that discriminates on the basis of sexual orientation.

On September 18, 1992 Senator Metzenbaum introduced the above language as an amendment to the FY 1993 National Defense Authorization Act.[133] After a brief debate, the Chairman of the Senate Armed Services Committee, Senator Sam Nunn, stated:

"* * * I think the subject [homosexuality and military service] ought to be heard before we complete our markup of the [FY 1994 defense authorization] bill. That markup is completed in either May or June of next year. I think before that time we ought to have hearings because this [homosexual policy] ought to be the subject of that [hearing]. I assure [Senator Metzenbaum] we will have hearings on the subject before we mark up our bill."[134]

Following the above statement, Senator Metzenbaum withdrew this amendment.

Two other resolutions, H. Res. 271 and S. Res. 236, were introduce.[135] Although differing in text and scope from the above bills and amendment, both the House and Senate version of this resolution were identical:

Resolution

Expressing the sense of the [House of Representatives/Senate] that the President should rescind Department of Defense Directive 1332.14 section H.1, which bans gay, lesbian and bisexual Americans from military service.

Whereas the effectiveness of the military's mission is hindered when competent and qualified personnel are denied the opportunity to give their services to the armed services of the United States;

Whereas an estimated 1,000 men and women are discharged from the armed services each year simply because of their sexual orientation, costing American taxpayers millions of dollars per year;

Whereas Secretary of Defense Richard Cheney acknowledged that the men and women banned from military service under Department of Defense Directive 1332.14 section H.1 are currently allowed to serve in sensitive civilian jobs at the Department of Defense;

Whereas studies authorized by the Department of Defense have shown that there is no correlation between successful military service and sexual orientation;

Whereas the men and women banned under 1332.14 section H.1 have, in fact, served in the Armed Forces of the United States throughout our history when our Nation has been at peace and at war;

Whereas the men and women banned under 1332.14 section H.1 have, in fact, served in the Armed Forces of the United States and fought in the Persian Gulf War;

Whereas the men and women banned under 1332.14 section H.1 have, in fact, been decorated for their valor and service to our country;

Whereas Secretary of Defense Richard Cheney testified that Department of Defense testified that Department of Defense Directive 1332.14 section H.1 is one that he "inherited";

Whereas Secretary of Defense Richard Cheney admitted that the security risk rationale for 1332.14 section H.1 is "a bit of an old chestnut"; and

Whereas all Americans who meet the criteria for service in the Armed Forces, regardless of sexual orientation, deserve an equal opportunity to serve in the defense of our country: Now, therefore, be it

Resolved, That the [House of Representatives/Senate] urges the President to rescind Department of Defense Directive 1332.14 section H.1 so that all Americans, regardless of sexual orientation, currently serving their country in the armed services, and those who want to serve, will not be prevented from, or punished for, doing so.

TEXT OF 1948 TRUMAN EXECUTIVE ORDER ON RACIAL DESEGREGATION[136]

EXECUTIVE ORDER 9981

Whereas it is essential that there be maintained in the armed services of the United States the highest standards of democracy, with equality of treatment and opportunity for all who serve in our country's defense:

Now, therefore, by virtue of the authority vested in me as President of the United States, and as Commander in Chief of the armed services, it is hereby ordered as follows:

1. It is hereby declared to be the policy of the President that there shall be equality of treatment and opportunity for all persons in the armed service without regard to race, color, religion or national origin. This policy shall be put into effect as rapidly as possible, having due regard to the time required to effectuate any necessary changes without impairing efficiency or morale.

2. There shall be created in the National Military Establishment an advisory committee to be known as the President's Committee on Equality of Treatment and Opportunity in the Armed Services, which shall be composed of seven members to be designated by the President.

3. The Committee is authorized on behalf of the President to examine into the rules, procedures, and practices of the armed serv-

ices in order to determine in what respect such rules, procedures and practices may be altered or improved with a view to carrying out this order. The Committee shall confer and advise with the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force, and shall make such recommendations to the President and to the Secretaries as in the judgment of the Committee will effectuate the policy hereof.

4. All executive departments and agencies of the Federal Government are authorized and directed to cooperate with the Committee in its work, and to furnish the Committee such information or the services of such persons as the Committee may require in the performance of its duties.

5. When requested by the Committee to do so, persons in the armed services or in any executive departments and agencies of the Federal Government shall testify before the Committee and shall make available for the use of the Committee such documents and other information as the Committee may require.

6. The Committee shall continue to exist until such time as the President shall terminate its existence by Executive Order.

HARRY S TRUMAN.

THE WHITE HOUSE, *July 26, 1948*.

FOOTNOTES

[1] The degree to which President-elect Clinton intends to modify current policy is not clear. According to reports quoting Clinton:

"The difficulty, it seems to me," [Clinton] said, "is to get people to focus on what I believe the real issue is, to say that we don't have a person to waste. By the way, it's not as simple a question as it seems," he said, "because the sexes are segregated in the services to guarantee a certain level of security against sexual overtures, a certain level of cohesion, you know. So it's not a simple issue. But what I think the rule ought to be is in the absence of some inappropriate behavior, if someone has been in service and they're serving well, that alone should not be grounds for dismissal. I want to be very clear about this, because it is not a totally simple issue. There would have to be something besides the simple statement of status. But I think everybody understands that any kind of inappropriate behavior would be grounds for dismissal." Schmalz, Jeffrey, Difficult First Step, New York Times (News Analysis), Nov. 15, 1992: 22.

This statement, and others, have been subjected to interpretations as to what actions the President-elect may ultimately take, and what may be the political ramifications of these actions. See also, Lift the Ban on Gay Soldiers, New York Times, November 15, 1992: IV–18; Evans, David, Clinton's Promise on Gays could Cloud the Military's Future, Chicago Tribune, October 20, 1992: 25; Matthews, William, Navy Times, Clinton's Stance on Gay Ban Angers Many, October 5, 1992: 18.

[2] Kenworthy, Tom, Nunn, Dole Urge Caution on Military Gay Policy, Washington Post, November 16, 1992: A12.

[3] Davis, Maj. Jeffrey S., Military Policy Toward Homosexuals: Scientific, Historical, and Legal Perspectives, Military Law Review, Vol. 131, Winter 1991: 115. (Hereafter referred to as Davis 1991.) For the definition of sodomy in the Manual for Courts-Martial (1917), see Appendix section "Text of Uniform Code of Military Justice * * *"

[4] Berube, Allan, Coming Out Under Fire: The History of Gay Men and Women in World War II, New York: Penguin Books (Plume), 1991.

[5] Davis, 1991: 76–77. Although Davis notes that Army language concerning "tendencies, desires, or interests" was later "found to be unconstitutional" (see p. 77), he provides no court citation. Efforts to locate such a ruling have proven unsuccessful. In addition, in 1973, the American Psychiatric Association voted to remove homosexuality from its list of abnormalities.

[6] Snyder, William P., and Kenneth L. Nyberg, Policy Paper Gays and the Military: An Emerging Policy Issue, Journal of Political and Military Sociology, Vol. 8, No. 1, Spring 1980: 74.

[7] According to Laurence, Janice H., and Peter F. Ramsberger, "Beginning in 1966, under Project 100,000, some 300,000 low-aptitude men enlisted or were drafted into the rank and file as part of a social welfare program. Responding to President Lyndon Johnson's War on Poverty, then-Secretary of Defense Robert S. McNamara launched this project with the hopes of equalizing the burden of wartime service, while turning the lives of the disadvantaged around through a tour of military duty." (Low-Aptitude Men in the Military: Who Profits, Who Pays?, New York: Praeger, 1991: 1.)

[8] U.S. Department of Defense, Directive No. 1332.14, Enlisted Administrative Separations, January 28, 1982: 1-9 through 1-13. For the complete text of this directive, see Appendix.

[9] See Appendix for an explanation of discharge characterizations.

[10] Under DoD regulations and the UCMJ, a person can not be prosecuted for merely being homosexual. Although a person can be administratively discharged, with an Honorable or General discharge—which is substantively different from prosecution—for making statements confirming that he or she is homosexual, such statements are viewed as acts (see *Ben-Shalom v. Marsh*, 881 F.2d 454, 462 (7th Cir. 1989) as discussed in the Appendix). Merely making a statement, however, is likely to lead to an investigation under the foregoing policy. For example, in one case, a sailor became president of the San Diego Veterans Association—whose membership is largely homosexual—and who advocates changing the military policy but who has not violated any of the provisions of the DoD regulation may be subject to investigation but can not be administratively discharged without a finding of homosexuality based on DoD definitions (see Reza, H.G., Sailor at Odds With the Navy's Anti-Gay Policy, Los Angeles Times (Washington, D.C. Ed.), April 1, 1992: B–2). While such an investigation, and perhaps an ensuing discharge, is not a form of prosecution, these processes have been seen by some as a form of persecution of homosexuals.

[11] LeVay, Simon, A Difference in Hypothalamic Structure Between Heterosexual and Homosexual Men, Science, 258, 1991: 1034–1037; Bailey, J.M., and Pillard R.C., A Genetic Study of Male Sexual Orientation, Archives of General Psychiatry, 48, 1991: 1089–1096; Gelman, David, et al., Born or Bred?, Newsweek, Feb. 24, 1992: 6; Kinsey, A, W. Pomeroy, and C. Martin, Sexual Behavior in the Human Male, cited in Davis, 1991; Voeller, Bruce, Some Uses and Abuses of the Kinsey Scale, in Homosexuality, Heterosexuality: Concepts of Sexual Orientation, The Kinsey Institute Series, June Machover Reinisch, ed., Oxford University Press, 1990: 35; Diamant, Louis, (Ed.), Male and Female Homosexuality: Psychological Approaches, Washington: Hemisphere Publishing Corp., 1987; Marmor, Judd, (Ed.), Homosexual Behavior: A Modern Reappraisal, New York: Basic Books, 1980; and, Pattullo, E.L., Straight Talk About Gays, Commentary, Vol. 194(6), December 1992: 21. A number of religion-based organizations exist to help "homosexuals" in "going straight," including Regeneration of Baltimore, MD, and Exodus International of San Rafael, CA., leading some to believe that homosexuality may be based on choice. According to Davis, 1991: 62–63, "The vast majority of homosexuals never seek treatment. Of those who have, there have been some reports of successfully changing homosexuals into heterosexuals, but the criteria for success often have been "either vague or considerably less than exclusive heterosexual behavior." * * * At any rate, the reports on treatment of homosexuality seem consistent with the hypothesis that efforts to change sexual orientation should be minimally effective."

[12] Gladue, Psychological Contributions, in L. Diamant (Ed.), Male and Female Homosexuality: 130.

[13] Toufexis, Anastasia, Bisexuality: What is it?, Time, August 17, 1992: 49–51.

[14] Kinsey, Alfred C., Sexual Behavior in the Human Male, Philadelphia: W.B. Sanders, 1948: 650–51; cited in Allan Berube, Coming Out Under Fire: The History of Gay Men and Women in World War Two, New York: Penguin Books (Plume), 1991: 289.

[15] Smith, Tom W., Adult Sexual Behavior in 1989: Number of Partners, Frequency of Intercourse and Risk of AIDS, Family Planning Perspectives, Vol. 23, No. 3, May/June 1991: 104. (These data were collected as part of the General Social Survey, 1988 and 1989, by the National Opinion Research Center, University of Chicago. Smith's study was funded by the National Science Foundation.) See also, R.E. Fay et al., Prevalence and Patterns of Same-Gender Sexual Contact Among Men, Science, 243, 1989: 338. For a critique of Kinsey's work, see Reisman, Judith, and Edward W. Eichel, Kinsey, Sex and Fraud: The Indoctrination of a People, Huntington House Publishers, Lafayette, LA, 1990; Really Dr. Kinsey?, 337 The Lancet (British Medical Journal, 547, 1991; and, Kinsey Sex Reports: Dubious, Misleading, Fraud?, German Medical Tribune, July 19, 1991 (Jurgen Benning Trans.) cited in *Steffan v. Cheney*, 780 F. Supp. 1, (D.C. Cir. 1991).

[16] Berube, 1991: 32, 56–57.

[17] Webster's Third New International Dictionary of the English Language, Unabridged, Philip Babcock Gove (Ed.), Springfield, Massachusetts: G. & C. Merriam Company, 1971: 199, 1591. For a discussion of this issue in the civilian context, see Eddy, Mark, Prohibiting Discrimination on the Basis of Sexual Orientation: Arguments For and Against Proposed Legislation, Congressional Research Service Report 89–222 Gov, April 10, 1989. Under current DoD policy, no distinction is made on the basis of orientation versus behavior.

[18] For example, instances of youthful experimentation or sexual assault victimization may not be considered as grounds for denying an enlistment if there are reasons to believe that these instances do not represent a desire or intent to engage in future homosexual activities. Discretion, therefore, is involved.

[19] *Ben-Shalom v. Marsh*, 881 F.2d 464 (7th Cir. 1989). In addition, the Supreme Court held that there was no fundamental right of homosexuals to engage in consensual sodomy and upheld the Georgia statute criminalizing sodomy (*Bowers v. Hardwick*, 478 U.S. at 194–195, 106 S.Ct. at 2846).

[20] Dewar, Helen, Nunn Assailed by Gay Rights Groups for Firing of Two Aides, The Washington Post, Dec. 8, 1992: A11. "About a dozen members of the gay rights group Queer Nation conducted a small demonstration—a "kiss-in—at Nunn's office on Capitol Hill yesterday to protest what the group's spokesman, Mike Petrelis, called Nunn's 'known homophobia.'"

[21] Rep. Schroeder, ABC News Nightline, Show #2867, Air Date: May 19, 1992.

[22] Willis, Grant, Gay Activists Target Repeal of Sodomy Law, Navy Times, August 24, 1992: 21.

[23] Charles C. Moskos, Jr. ABC News Nightline, May 19, 1992. General Colin L. Powell, chairman of the Joint Chiefs of Staff: "I have never been of the view that this would break the armed forces of the United States if we [allowed homosexuals to serve openly in the military]. I'm also not of the view [as] some newspapers are, that there will be mass resignations. I am of the view, and continue to be of the view that it will be prejudicial to good order and discipline because (it will) introduce this added very complex social dimension into [this] institution * * *." Powell: 'Gays in the Military Far More Complicated Issue,' Air Force Times, December 14, 1992: 12.

[24] H.R. 5208, Rep. Patricia Schroeder, May 19, 1992; S. 3084, Sen. Howard Metzenbaum, July 28, 1992.

[25] See, e.g., *Watkins v. United States Army*, 875 F.2d 699, 702–04 (9th Cir. 1989) (en banc); *Matlovich v. Secretary of the Air Force*, 591 F.2d 852, 854 (D.C. Cir. 1978); cited in Davis, Major Jeffrey S., Military Policy Toward Homosexuals: Scientific, Historical, and Legal Perspectives, Military Law Review, Vol. 131, Winter 1991: 55.

[26] Based on research conducted at the University of Indiana, 75 percent of white male homosexuals reported to have had 100 or more partners, and 28 percent reported 1000 or more. None of the respondents reported fewer than three partners. Bell, Alan P., and Martin S. Weinberg, Homosexualities: A study of Diversity Among Men and Women, New York: Simon & Schuster, 1978: 312. According to a University of Chicago survey (Smith, Tom W., Adult Sexual Behavior in 1989: Number of partners, Frequency of Intercourse and Risk of AIDS, Family Planning Perspectives, Vol. 23(3), May/June 1991: 104.) "Adults reported an average of 7.15 sexual partners since age 18."

[27] "Partnership legislation" refers to proposals to have employers (including the government) recognize a gay partnership for the purposes of receiving health care and other employer-offered benefits. While a few employers and a small number of municipalities or other jurisdictions already recognize and/or provide limited benefits to "partners," most do not.

[28] The integration of blacks is generally viewed as a success. (See Moskos, Charles, The Army's racial success story. How do they do it? The New Republic, August 5, 1991:16.) The integration of women remains debated today (Collier, Ellen, Women in the Armed Forces, CRS Issue Brief, IB92008, updated regularly;

The Presidential Commission on the Assignment of Women in the Armed Forces, Report to the President, Washington, D.C., U.S. Government Printing Office, November 15, 1992). The attempt to use the military as a means of social mobility for individuals of low-aptitude has been criticized by a number of observers as a failure that perhaps did more damage to those it was intended to help in the first place. (Laurence, Janice H., and Peter F. Ramsberger, Low-Aptitude Men in the Military: Who Profits, Who Pays?, Praeger, New York: 1991.) The services of women and blacks in various forms are not new to the military. Blacks served openly in every war (including as "Buffalo soldiers" during the Indian Wars) and were in segregated units at least since the Civil War (including Confederate units). By World War II, such segregation was recognized as problematic in terms of effectiveness and efficiency. The integration of women (including the opening of non-stereotypical military occupational specialties), particularly in the 1970s, was in part a result of a need for qualified personnel created during the transition to the All-Volunteer Force. Homosexuals, generally speaking, have not served "openly" in the military. Critics contend that, although the integration of the military and the expansion of opportunities had social and political underpinnings considering the history of blacks and women in uniform, these changes were justified on military needs. Homosexual rights advocates, critics contend, have not shown a military need or justification for changing the current policy.

[29] Gabriel, Richard A., Women in Combat? Two Views, Army, March 1980:

[30] Snyder, William P., and Kenneth L. Nyberg, Policy Paper Gays and the Military: An Emerging Policy Issue, Journal of Political and Military Sociology, Vol. 8, No. 1, Spring 1980: 72–73

[31] Shils, Edward and Morris Janowitz, Cohesion and Disintegration in the Wehrmacht, Public Opinion Quarterly, 12 (Summer 1948); 280–315.

[32] McCrane, Kevin M. Gays in the Military? A Cautionary Tale, Wall Street Journal, Dec. 2, 1992: A10; Hackworth, David, The Case for a Military Gay Ban: My Combat Experience Tells Me It's the Only Sensible Policy, Washington Post, June 28, 1992: C5.

[33] Snyder, William P., and Kenneth L. Nyberg: 72.

[34] For example, homosexuals who come to the attention of investigators by being caught in homosexual acts may "plea bargain" to an administrative discharge (rather than face a court-martial) provided that they turn over the names and incriminating evidence against other homosexuals in the service. Providing information on "partners" needed in part to remove other homosexuals from the service as well as to determine whether the individual is trying to avoid military service necessarily broadens the scope on an investigation.

[35] In a recent incident, a vice admiral was censured and was retired at the reduced rank of rear admiral following accusations that he protected a member of his own personal staff "from disciplinary action resulting from alleged homosexual advances to other staff members." Burlage, John, The Fetterman Saga: Witch Hunt or Justice?, Navy Times, August 10, 1992: 14.

[36] U.S. General Accounting Office, Defense Force Management: DOD's Policy on Homosexuality, B–247235, June 12, 1992, (referred to hereafter as U.S. GAO–1); see also, U.S. GAO, Defense Force Management: Statistics Related to DOD's Policy on Homosexuality, B–247235, June 12, 1992.

[37] NGLTF, Policy Institute, Press Kit, Gays and Lesbians in the Military, Department of Defense, Robert Bray, Communications Director, 1734 Fourteenth Street, NW, Washington, D.C. 20009–4309, undated.

[38] Powell, Gen. Colin L., Letter to Representative Patricia Schroeder, May 8, 1992.

[39] While race is not an indication of behavior nor is behavior an indication of race, the same can not be said of sexual orientation—sexual orientation is not necessarily an indication of sexual behavior (individuals can remain abstinent, for example), sexual behavior is an indication of orientation. It is difficult for someone who has voluntarily participated in homosexual acts to deny being homosexual or bisexual.

[40] Swasy, Alecia, Navy Babies, The Wall Street Journal, October 3, 1991, A1. "Kathleen was one of 36 Navy women who returned home pregnant from their tour on the [U.S.S.] Acadia. The ship was dubbed 'The Love Boat' in a newspaper cartoon.* * * 'Hanky-panky—hetero or homo—is a problem' says Charles Moskos, a military sociologist at Northwestern University. 'Propinquity breeds romance.'"

[41] "Outing" refers to the involuntary revelation that an individual is homosexual.

[42] Suplee, Curt, Pentagon Ban on Homosexuals Exempts Civilians, Cheney Says, The Washington Post, August 5, 1991: A6.

[43] Moskos, Charles C., From Institution to Occupation: Trends in Military Organization, Armed Forces and Society, 4(1), 1977: 41–50.

[44] 345 U.S. 83, 93–94, 73 S. Ct. 540, 97 L.Ed. 842 (1953). Indeed, other courts have noted that restrictive rules demanding conformity, discipline and sacrifice required as a result of military service would not necessarily be viewed as constitutional in the civilian context. In upholding the discharge of homosexuals by the Navy, the court wrote: "It should be plain from our opinion that the constitutionality of the regulations stems from the needs of the military, the Navy in particular, and from the unique accommodations between military demands and what might be constitutionally protected activity in some other context." *Beller v., Middendorf*, 632 F.2d 812 (9th Cir. 1980).

[45] McIntire, Katherine, Fair Game? Lesbians Protest Army Investigations, Army Times, October 14, 1991: 12. According to a Congressional Caucus for Women's Issues letter (April 24, 1992) to Jean Appleby Jackson (Chair, Defense Advisory Committee on Women in the Service-DACOWITS), "DACOWITS heard testimony of lesbian-baiting, the practice of harassing and blackmailing service women by threatening to force their discharge by calling them lesbians."

[46] Risser, David, Gays Protest Policy, Daily Press, June 16, 1991, E3.

[47] See Smolowe, Jill, An Officer, Not a Gentleman, Time, July 13, 1992: 36.

[48] Seigle, Greg, In the U.S.: Fear and loathing, Army Times, January 11, 1993: 11; "Troops say if gays are allowed in the military, 'they'll get their asses kicked.' "

[49] Del Maris, James, How to Seduce a straight Man, The Advocate, March 28, 1989: 38.

[50] GAO–1: 40.

[51] Country by Country Survey, in Second ILGA Pink Book 186, 1988.

[52] On Oct. 27, 1992, Canada rescinded its policy on homosexuals serving in the military. (See Lancaster, John, Many Allies Allow Gays in the Military, Canada, Australia are Latest to Drop Exclusionary Policy, Washington Post, Nov. 30, 1992: 1.) It should be noted that GAO concluded that Italy allows homosexuals to serve while Davis lists Italy among those countries that bans homosexuals from the military. See Davis: 79–80.

[53] Philpott, Tom, In Israel: The Hard Reality, "Gays are allowed to serve in the military but they are not fully accepted" Army Times, January 11, 1993: 11; see related stories in same edition, Israeli's Invisible Soldiers, Gay Israelis avoid ridicule, get ahead by staying in closet (p. 18), and, NATO Acceptance of gays runs full spectrum (p. 20). See Appendix for a reproduction of these findings.

[54] "In many Latin societies, men do not consider themselves bisexual or gay unless they take the passive-receptive role during sex." Toufexis, Anastasia, Bisexuality What is It?, Time, August 17, 1992: 50.

[55] Maze, Rick, Study: Integration of Dutch navy not without problems, Army Times, Nov. 30, 1992: 4.

[56] Philpott, Tom, In Israel: The hard reality, Army Times, January 11, 1993: 11.

[57] In *Watkins* v. *U.S. Army* 875 F.2d 701 (9th Cir. 1989), the court held that the "Army was estopped from barring reenlistment (of Watkins) solely because of the serviceman's acknowledged homosexuality; service man had been completely candid about his homosexuality from the start of his Army career, and the Army, with full knowledge of his homosexuality, had repeatedly permitted serviceman to reenlist in the past, despite its long-standing policy that homosexuality is a nonwaivable disqualification for reenlistment." Thus, the Army's continued violation of its own rules in the Watkins case lead to the estoppel ruling requiring the Army to reenlist Watkins and thereby preventing injury to him (i.e. loss of retirement and other benefits) on the basis of the Army's actions.

[58] GAO–1: 39.

[59] April, 1991, Penn and Schoen Associated, Inc., conducted this poll for the Human Rights Campaign Fund—a group dedicated, in part, to overturning the ban.

[60] How you voted: Keep gays out of the military, readers say, USA Weekend, September 4–6, 1992: 9.

[61] Wolffe, Jim, McPeak, Others Split on Handling Gay Ban, Air Force Times, December 14, 1982: 14.

[62] Cheney defends Pentagon's Anti-Gay Policy; Midshipmen Applaud, New York Native, October 21, 1991: 10; cited in Family Research Council, "In Focus," Homosexuals in the Military: Talking Points, INF29*5/92: 3.

[63] Air Force Times, September 21, 1992: 31.

[64] Air Force Surveys Itself on Attitudes about Gays, Baltimore Sun, December 4, 1992: 4.

[65] Newsweek Poll 19–20, 1992; cited in Newsweek, Nov. 30, 1992: 29.

[66] Goldberg, Harold, Poll Shows Country Splits on Gays in the Military, Associated Press wire service, December 17, 1992. In addition, this poll stated that the "same split occurred when Americans were asked how to treat those already in uniform who are discovered to be homosexual: 44 percent said the military should continue discharging homosexuals, 46 percent said that practice should stop."

[67] Leigh, Julia Hood, TROA Members Nix Homosexuals in Service, The Retired Officer Magazine, January 1993: 21.

[68] Jaffee, Keewhan, et al., National Case-Control Study of Kaposi's Sarcoma, etc. in Homosexual Men; Part 1, Epidemiological Results, Annals of Internal Medicine, 99(2), 1983: 145–157.

[69] See Bell and Weinberg, 1978.

[70] See DoD and the Courts—Legal Analysis, *Steffan* v. *Cheney*, 780 F. Supp. 1 (D.C. Cir. 1991), in the Appendix.

[71] For example, see Burrelli, David F., HIV–1/AIDS and U.S. Military Manpower Policy, Armed Forces and Society, Vol. 18(4), 1992: 452–475.

[72] According to Zajdowicz, R., et al., The Truth on AIDS & HIV, Proceedings, December, 1987: 83.

[73] Davis, 1991: 70.

[74] In recognition of this, under DoD policy, "information gained as a result of testing [for HIV–1] may not be used as the independent means for an adverse administrative action." (Burrelli, 1992: 459.)

[75] Although ROTC does not discriminate against those who wish to enroll in classes offered, receipt of a scholarship or enlisting as a senior cadet or midshipman is contingent upon being eligible to receive a military commission upon graduation. Those who fail to be eligible for a commission are required to repay their scholarships or serve for a specified period of time in the enlisted ranks—the latter option is unavailable to homosexuals.

[76] The National Lesbian, Gay & Bisexual Student Caucus, an affiliate of the United States Student Association, states that Rutgers University was the first school to remove four-year ROTC scholarships "in protest of anti-gay discrimination." According to an ROTC official at Rutgers, however, the program is still in place. John Jay University in New York, an ROTC extension center was closed. Other campuses listed as having some form of activities on this issue include: University of Wisconsin at Madison, University of Texas at Austin, University of Arizona (Tucson), University of Connecticut at Storrs, University of Oregon at Eugene, and state-wide activities at USSA-member groups in Wisconsin, Texas, New York and Oregon.

[77] Farrish, Katherine, Military Recruiter Barred at UConn Law, The Hartford Courant, October 15, 1992: 1.

[78] Kosova, Weston, ROTC Ya Later, The New Republic, February 19, 1990: 24.

[79] Pyle, Amy, Ouster of ROTC Program Rejected at Northridge, Los Angeles Times, April 17, 1990: B1.

[80] Roth, Margret, Gay ex-ROTC cadet wins $25,000 battle, Army Times, June 4, 1990: 22. More recently, the military has instituted a policy of requiring ROTC cadets to declare that they are not homosexual. Maze, Rick, Forcing ROTC Applicants to Sign Non-Gay Affidavit Protested, Air Force Times, December, 14, 1992: 11; "Since 1986, 28 ROTC candidates have been dismissed because of their sexual orientation * * *. Nine were forced to repay their scholarship money, a decision made on a case-by-case basis * * *."

[81] Baskir, Lawrence M., and William A. Strauss, Chance and Circumstance: The Draft, The War and The Vietnam Generation, New York: Knopf, 1978: 45–46.

[82] Lambert, Wade, U.S. Military Moves to Discharge Some Gay Veterans of Gulf War, The Wall Street Journal, July 30, 1991: B6.

[83] 10 USC 673c. Authority of President to suspend certain laws relating to promotion, retirement, and separation; Executive Order 12728, August 22, 1990; and, Office of the Secretary of Defense, Memorandum, Delegation of Authority to Suspend Provisions of Law Relating to Promotion, Retirement or Separation:

1. Delegation. * * * I hereby delegate to the Secretaries of the Military Departments for the armed forces within their respective Department author-

ity, within the limitations set forth * * * to (b) determine, for purposes of Section 673c, that members of the armed forces are essential to the national security of the United States.

2. Coverage. The authority granted by paragraph 1 may be exercised only with respect to members of the armed forces who: (a) are, or are about to be, engaged in the conduct of operation in or around the Arabian Peninsula; (b) are, or are about to be, engaged in the direct support of operation in or around the Arabian Peninsula; (c) possess critical skills associated with operations in or around the Arabian Peninsula; or (d) possess skill in short supply in the armed forces.

[84] DoD Directive 1332.14.

[85] Some Clinton aides suggest that as President he may issue a "memorandum of Understanding." Although not clearly defined, it is suggested that such a memorandum would have the "same legal force as an executive order * * *, but does not carry with it the same historic significance." Healy, Melissa, Clinton Aides Urge Quick End to Military Ban on Gays, Los Angeles Times (Washington edition), January 8, 1993: 1.

[86] U.S. Constitution, Article I, Section 8, provides Congress with the power to "make rules for the Government and Regulation of the land and naval Forces." Under Article II, Section 2, the Constitution states "[T]he President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States."

[87] 10 U.S.C. 1072 et seq., 1447 et seq., and 38 U.S.C. 410 et seq., for example.

[88] San Francisco, CA has an ordinance recognizing homosexual marriages. Numerous other municipal and state regulations recognize certain benefits for domestic partners. Recently the District of Columbia passed a domestic partnership bill that would allow city workers to purchase health insurance for his or her same-sex partner. An amendment (no. 2799) included in the District of Columbia Appropriations, 1993 (H.R. 5517), blocked such provisions (see Congressional Record, July 30, 1992: S10902–S10907).

[89] E.g. Lacayo, Richard, Jack and Jack and Jill and Jill, Time, December 14, 1992: 52, "In the quest to instill tolerance, schools are increasingly instructing children about homosexuality, What should they be taught—and when?"

[90] Clinton stated, "On the issue of Gays in the military, I have made no decision on a timetable except that I want to firmly proceed and I want to do it after consulting with military leaders." Chibbaro, Lou, Debate over ban ignites, The Washington Blade, November 20, 1992: 1, 15. Others expect that any change short of lifting the ban will involve a political problem for Clinton. Commentator Evan Thomas (same cite) stated "I think in the end, [Bill Clinton] will [lift the ban]. He's got to. I think his fourth largest contributor group was Gays. * * *."

[91] Kenworthy, Tom, Nunn, Dole urge caution, Washington Post November 16, 1992: A12.

[92] Gellman, Barton, Clinton Says He'll 'Consult' on Allowing Gays in Military, Washington Post, Nov. 13, 1992: A1.

[93] Anton, Genevieve, Panel studying women in armed forces rapped, Gazette Telegraph (Colorado Springs, March 14, 1992: 1.

[94] U.S. Department of Defense, Office of the Assistant Secretary of Defense (formerly MRA&L, now FM&P), Directive No. 1332.14, Enlisted Administrative Separations, January, 28, 1982: 1–9 through 1–13.

[95] U.S. Department of Defense, Office of the Assistant Secretary of Defense (FM&P), Directive, Separation of Regular Commissioned Officers for Cause, No. 1332.30, February 12, 1986, section 2: 2–1, 2–2.

[96] U.S. Department of Defense Directive, Office of the Assistant Secretary of Defense (HA), Directive No. 6130.3, Physical Standards for Enlistment, Appointment, and Induction, March 31, 1986: Sec. XVI. Mental Disorders, para. 2–34. Psychosexual Conditions, p. 1–36. The other two subsections cite as reasons for rejection: (b) Transsexualism and Other Gender Identity Disorders, and, (c) Exhibitionism, Transvestism, Voyeurism and Other Paraphilias. It remains a contentious point of fact that DoD and certain foreign countries continue to treat homosexuality as a "Mental Disorder" despite statements to the contrary by the American Psychiatric Association and the American Psychological Association.

[97] 10 U.S.C. secs. 925 and 934, respectively.

[98] The author of this section, Charles V. Dale, is a Legislative Attorney with the American Law Division, Congressional Research Service.

[99] *E.g., Matlovich v. Secretary of the Air Force*, 591 F.2d 852 (D.C. Cir. 1978); *Dronenburg v. Zech*, 741 F.2d 1388 (D.C. Cir. 1984); and *Beller v. Middendorf*, 632 F.2d 788 (9th Cir. 1980), *cert. denied sub nom. Miller v. Weinberger*, 454 U.S. 855 (1981).

[100] *E.g., Hatheway v. Secretary of the Army*, 641 F.2d 1376 (9th Cir.), *cert. denied*, 454 U.S. 864 (1981).

[101] *See, e.g., Matlovich.*

[102] *E.g., Ben-Shalom v. Marsh*, 881 F.2d 454 (7th Cir. 1989), *cert. denied sub nom. Ben-Shalom v. Stone*, 494 U.S. 1004 (1990); *Pruitt v. Cheney*, 963 F.2d 1160 (9th Cir. 1991), *cert. denied.*

[103] 478 U.S. 186 (1986).

[104] *Id.*, at 191–92.

[105] *See, e.g., Woodward v. United States*, 871 F.2d 1068, 1075–76 (Fed. Cir. 1989), *cert. denied*, 494 U.S. 1003 (1990) where the appeals court noted that *Hardwick* permitted the criminalization of "the most common sexual practices of homosexuals." Because "there can hardly be more palpable discrimination against a class than making the conduct that defines the class criminal," the *Woodward* court reasoned that, under *Hardwick*, the military's discrimination against homosexuals is constitutional.

[106] In *Ben-Shalom v. Marsh*, 881 F.2d 454, 462 (7th Cir. 1989), *cert. denied*, 494 U.S. 1004 (1990), the federal appellate tribunal stated the proposition: "[Appellant] is free under the regulation to say anything she pleases *about* homosexuality and about the Army's policy toward homosexuality. She is free to advocate that the Army change its stance; she is free to know and talk to homosexuals if she wishes. What [appellant] cannot do, and remain in the Army, is to declare herself to *be* a homosexual. Although that is, in some sense, speech it is also an act of identification. And it is the identity that makes her ineligible for military service, not the speaking of it aloud" *(emphasis in original).*

See also Johnson v. Orr, 617 F.Supp. 170 (E.D. Cal. 1985) (finding for the military), *aff'd mem.*, 787 F.2d 597 (1986); *Pruitt v. Cheney, (supra)* n. 5 (same).

[107] *See, e.g., Ben-Shalom v. Marsh*, 881 F.2d 454, 461 (7th Cir. 1989) ("The Commander-in-Chief, the Secretary of Defense, the Secretary of the Army, and the generals have made the determination about homosexuality, at least for the present, and we, as judges, should not undertake to second-guess those with direct responsibility for our armed forces. If a change of Army policy is to be made, we should leave it to those more familiar with military matters than are judges not selected on the basis of military knowledge."); *Goldman v. Weinberger*, 475 U.S. 503, 507–510 (1986) (Court deferred to the "professional judgment of military authorities" that Jewish officer's wearing of yarmulke justified a court martial for noncompliance with dress code); *Rostker v. Goldberg*, 453 U.S. 57, 70–71 (1981) ("[J]udicial deference to such congressional exercise of authority is at its apogee when legislative action under the congressional authority to raise and support armies and make rules and regulation for their governance is challenged."). *Also, Gilligan v. Morgan*, 413 U.S. 1, 10 (1973); *Orloff v. Willoughby*, 345 U.S. 83, 93–94 (1953).

[108] *See Matlovich v. Secretary of the Air Force; Dronenberg v. Zech; Beller v. Middendorf; and, Miller v. Weinberger.*

[109] *Berg v. Claytor*, 436 F.Supp. 76 (D.D.C. 1977), *vacated and remanded*, 591 F.2d 849 (D.C. Cir. 1978).

[110] 875 F.2d 699 (9th Cir. 1989), *aff'g en banc on other grounds*, 847 F.2d 1328 (9th Cir. 1988), *cert. denied* 111 S. Ct. 384 (1990).

[111] The Supreme Court has found that classifications based on race, national origin, and in some cases, alienage constitute suspect classifications. *See Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432, 439–42 (1985). In addition, classifications based on gender, *e.g. Craig v. Boren*, 429 U.S. 190 (1976), and illegitimacy, *Trimble v. Gordon*, 430 U.S. 762 (1977), are considered "quasi-suspect" and trigger a form of "intermediate scrutiny" that is more rigorous than basic rational relationship review. In addition to subjecting suspect or quasi-suspect classification to strict scrutiny, courts will apply strict scrutiny to classifications that burden "fundamental interests."

[112] These classifications must be supported by more than merely a "legitimate" interest: governmental actions that burden a quasi-suspect classification must be based on an "important" interest, *Craig v. Boren, supra* n. 14, while actions that burden a suspect classification must serve a "compelling" governmental goal. *Cleburne, supra* n. 14.

[113] The connection between the discriminatory action and the governmental goal must be more than merely "rational": for quasi-suspect classifications the relationship must be "substantial," *Craig v. Boren, supra* n. 13, and for suspect classifications the discriminatory action must be "precisely tailored" to the governmental interest at issue. *Plyler v. Doe*, 457 U.S. 202, 217 (1981).

[114] As it appears from the decided cases, the justifications asserted by the government are several. First, it is argued that the presence of homosexual personnel arouses "tensions and hostilities" and inspires a lack of confidence and respect for homosexual officers. The military has also contended that homosexuals would be unable to effectively perform their duties as a consequence of their emotional involvement with other homosexuals and fear of disclosure. Other factors relate to anticipated disruption of the command structure that could result from homosexual relationships with subordinates, the possibility that heterosexuals would be discouraged from enlisting, and the threat of adverse foreign reaction to homosexual military personnel stationed abroad. Finally, one court has opined that "toleration of homosexual conduct, as expressed in a less broad prohibition, might be understood as tacit approval." *See, e.g., Beller v. Middendorf*, 632 F.2d 788, 811 (9th Cir. 1980); *Dronenberg v. Zech*, 741 F.2d 1388 (D.C.Cir. 1984).

Most recently, the federal district court in *Steffan v. Cheney*, 780 F. Supp. 1 (D.C.Cir. 1991) upheld the forced resignation of a Naval Academy midshipman who though not charged with homosexual behavior had admitted his homosexual orientation just weeks before graduation. Judge Oliver Gasch ruled that the regulations were rationally related to the military interest in protecting soldiers and sailors from AIDS. "Since Congress is empowered to raise and support armies, it may do whatever is necessary to protect the health and welfare of those armies * * *. The power to protect the armed forces from venereal disease is ample to sustain the power to protect them from what is now known to be a fatal and incurable virus."

[115] *Beller v. Middendorf* at 811.

[116] *Id.* at 812.

[117] *Supra* n. 17 at 1398.

[118] 881 F.2d 454 (7th Cir. 1989).

[119] 963 F.2d 1160 (9th Cir. 1992), *cert. denied* 61 U.S.L.W. 3413 (S.Ct. 12–8–92).

[120] The gist of the Ninth Circuit reasoning is revealed in the following passage: "The Army did not discharge Pruitt because she spoke candidly about her sexuality to a newspaper. Nor did it discharge her for publicly expressing her views on a timely and controversial subject, or for demonstrating compassion for and association with homosexuals. The Army discharged Pruitt because she admitted to being homosexual, * * * Pruitt's admission, like most admissions, was made in speech, but that does not mean that the first amendment precludes the use of the admission as evidence of the fact admitted. * * * The question is not whether the Army is free to discharge her for her speech, because it did not do so. The question is whether the Army is entitled to discharge her for her homosexuality—an issue not encompassed by Pruitt's first amendment claim. 963 F.2d at 1163–64."

[121] 473 U.S. 432.

[122] The Court ruled in this regard that "mere negative attitudes, or fear, unsubstantiated by factors which are properly cognizable in a zoning proceeding, are not permissible bases for treating a home for the mentally retarded differently from apartment houses, multiple dwellings, and the like." 473 U.S. at 450.

[123] 466 U.S. 429 (1984).

[124] *Id*, at 448. *See also United States Dep't of Agriculture v. Moreno*, 413 U.S. 528 (1973) (invalidating under the rational basis test a provision of the Food Stamp Act that excluded households containing unrelated individuals because motivated by congressional dislike for "hippies").

[125] U.S. General Accounting Office, Defense Force Management: DOD's Policy on Homosexuality, B-247235, June 12, 1992; see also, U.S. GAO, Defense Force Management: Statistics Related to DOD's Policy on Homosexuality, B-247235, June 12, 1992.

[126] GAO estimated that in FY 1990, recruiting and initial training costs associated with the replacement of those discharged for homosexuality was $28,772 for each enlisted number and $120,772 for each officer.

[127] Officially, the Report of the Board Appointed to Prepare and Submit Recommendations to the Secretary of the Navy for the Revision of Policies, Procedures and Directives Dealing With Homosexuals, March 15, 1957.

[128] GAO recognizes that this study went beyond its directed task, but does not believe the information should be discounted for that reason alone. Critics have questioned the level of scrutiny GAO applies to the PERSEREC reports, particularly the earlier drafts.

[129] Hackworth, David, The Case for a Military Gay Ban, Washington Post, June 28, 1992: C5; Matthews, William, Clinton's Stance on Gay Ban Angers Many, Navy Times, October 5, 1992: 18.

[130] Historically, the American Psychiatric Association was a major influence in creating the policy excluding homosexuals from the service. At one time, homosexuality was considered a mental illness by this group and the American Psychological Association. Although homosexuality was dropped from the list of mental disorders in the 1970s, critics contend this change represented a change in these associations' political stance and was based not on scientific or medical concerns but rather on political activism. In addition, it is charged that the protests of these groups is based on medical or sociological opinions and considerations which do not take into account military considerations. These groups (the two APAs and ASA), however, deny these charges and note that efforts to link homosexuality to mental illness have failed. See Hooker, Evelyn, The Adjustment of the Male Overt Homosexual, Journal of Projective Techniques, 21, 1975: 18–31; Male Homosexuality in the Rosrschach, Journal of Projective Techniques, 22, 1958: 33–54; and, A Preliminary Analysis of Group Behavior in Homosexuals, Journal of Psychology, 42, 1956: 217–225.

[131] GAO noted that one of the eight departments visited did not have a policy dictating nondiscrimination on the basis of sexual orientation or allowing the employment of homosexuals. GAO made no mention of their findings at this department.

[132] H.R. 5208, Rep. Patricia Schroeder, May 19, 1992; S. 3084, Sen. Howard Metzenbaum, July 28, 1992.

[133] Amendment no. 3047, S. 3114, Congressional Record, Vol. 138, no. 128, September 18, 1992: S13984–S13987.

[134] Congressional Record, September 18, 1992: S13897.

[135] H. Res. 271, Rep. Barbara Boxer, November 6, 1991; S. Res. 236, Sen. Brock Adams, November 26, 1991.

[136] Cited in MacGregor, Morris, J., Jr., Integration of the Armed Forces 1940-1965, Center of Military History, United States Army, Washington, D.C., 1981: 312.

Mr. McCAIN. Mr. President, although it appears that the President has already made up his mind on this issue, regardless of what the 6 months of study disclose, I sincerely hope that my fellow colleagues in Congress will come to the debate with an open mind, and a willingness to understand the many difficult and complex issues involved.

Mr. President, I want to just make three points in this debate. Most of the aspects of this argument on both sides has already been fairly well ventilated.

I would like to talk about the process of this debate and what this vote means to the American people. The process under the rules that we go through in this body is a process of collecting information, holding hearings, reporting legislation out of committees with the proper oversight, and finally debating the legislation here on the floor of the U.S. Senate.

However, this vote today will short-circuit that process; in effect, it will determine the verdict before the trial. It forces a major and fundamental decision, concerning one of the most emotional and diversive issues that has come before this body in many, many years, before we have properly understood, examined, and scrutinized this longstanding policy.

Do not believe as you have heard here today that before 1982 there was no policy against homosexuals in the military. That is simply not the case. This longstanding policy will be fundamentally changed by the President of the United States on July 15, without the partnership, the association with, and indeed, the constitutional obligation of, the Senate of the United States.

A vote in favor of the Dole amendment is not for or against homosexuals in the military. A vote for the Dole amendment is indeed an affirmation of the process that we have in an obligation to go through, as elected representatives, to uphold the process as I have described earlier. I was very disappointed by the statement of the Senator from Rhode Island, my friend, who said if the Joint Chiefs of Staff do not agree with lifting the ban on homosexuals in the military then let them leave the military service. That is an incredible, callous, and cavalier attitude toward the brave men and women who volunteered to serve this country and put their lives on the line in defense of peace and freedom.

Let me say, Mr. President, that the Joint Chiefs have an obligation—the Chairman of the Joint Chiefs statutorily has an obligation to provide advice and counsel on military issues to the President of the United States. And I say that when you ignore, in fact, not even take into consideration as was the case in this particular scenario, the advice and counsel of the leaders who place the lives of the young men and women who volunteer to join the military, you are making a deep and serious mistake of which I will not be a part of.

The Joint Chiefs have a unique responsibility that we do not place on anyone else, on any other public, elected, or appointed official, and that is the very lives of the young men and women who volunteer to serve their country. This brings me to my final point.

These brave men and women in the military today are not conscripted. We have done away with the draft in this country. We are dependent upon the willingness and the desire of young men and women to join the military as a way of maintaining in what we are all proud to describe as the finest and highest quality Military Establishment in the world. Before we enact a fundamental change in policies toward personnel—and believe me Mr. President, it is the personnel, especially the young enlisted, that are the backbone of our great military forces—we had better find out what the effect on the All-Volunteer Force will be. What do the parents of these young men and women think? What do the young men and women who are considering joining the military think? Will they have been more motivated to join the military and serve this country or will they be less so?

I will tell you—that the initial responses that I am getting are that mothers and fathers all over this country are seriously concerned about the effect on the safety and lifestyle of their sons and daughters who serve in the military because of the policy change that the President of the United States has initiated.

Also, the young men and women themselves are concerned. They are concerned about the protection of their privacy and they are concerned about many other serious issues. Issues that are serious to me.

In summary, I ask my fellow colleagues to assess the impact on the All-Volunteer Force and our ability to keep the finest men and women that our military has ever known. That is why I urge my colleagues to maintain the present policy in place until we hold thorough and in-depth hearings, which I know will be conducted in a fair and evenhanded manner by the distinguished chairman of the Armed Services Committee. I most strongly urge a vote in favor of the Dole amendment.

The PRESIDING OFFICER. The Senator's time has been consumed. Who yields time?

Mr. COATS. How much time is left on this side?

The PRESIDING OFFICER. The Senator controls 15 minutes, the Senator from Georgia controls 20 minutes.

Mr. COATS. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. COATS. Mr. President, shortly the U.S. Senate will be faced with two votes. The first vote is a vote that will support the decision by President Clinton to change current military policy and change it now. It will change it in respect to recruitment of homosexuals into the military, a policy that our Joint Chiefs of Staff and virtually the entire military says will fundamentally alter the way the military functions. That first vote will be on the amendment that says we will accept that immediate change but we will study it over the next 6 months.

We can be forgiven for opposing that, when you realize that the President has already said that, regardless of what the study shows, it is not going to change his mind about making the change. I want to quote from his statement. He said:

> Well, I haven't given up on my real goals. I think this is a dramatic step forward. I can only tell you that I still think I am right. I feel comfortable about the way we have done this and I am going to maintain the commitment that I have.

Senator DOLE has offered an amendment. It will be the second vote. That amendment says that we should hold DOD policy relative to homosexuals in the military as it was before President Clinton ordered the change. Then we should take a 6-month period of time and have a real study and listen to the

Joint Chiefs and to sergeants and to privates and to those in the military most affected by any change in this policy. And gather all the evidence that we can and involve Congress, which is constitutionally guaranteed the right to be involved in setting policy, in a final decision as to whether or not such a change is in the benefit of our national security, in the benefit of providing the American people with the most effective military that we can provide them.

This is not an effort to discriminate against any class of citizens. This is an effort to say that the policy that has been upheld by the courts for many, many years and the policy that has been followed by our military for the 200 years of its existence in this country is a wise policy, is a policy that is fashioned on the basis of what is needed to form an effective fighting unit; that morale, good order, discipline, espirit de corps, is an essential element, essentially necessary to provide what is necessary to have an effective military.

Mr. President, I yield myself an additional 2 minutes.

We believe that before any policy change of this magnitude is made, that the Congress ought to study this thoroughly and carefully and wisely and then come to a decision about whether or not a change should be made. Only a vote for the Dole amendment allows this to go forward in the way that we believe is the correct process, in the way we believe will allow our military and those most affected to have input as to whether or not we should go forward with the President's decision.

So Senators have a very clear choice. They could either accept President Clinton's decision to change the policy now and study later or they can vote for the Dole amendment which will say let us keep the policy as it is. It has worked all these years. We are willing to take a look at it and hear the evidence and study it and then make a final decision. That way the American people, the American military, the Congress can have a say and have a role in determining whether or not this is a wise course to take.

I urge my colleagues to follow what I believe is a sensible course of action, and that is let us leave what is in place and was in place before the President's decision, let us leave that in place, study this, and then make a decision. We are jeopardizing and putting too much at stake by simply going forward with a decision I believe was not well thought out and not designed to provide the American people what they deserve, and that is the most effective military that we can possibly muster.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator reserves the remainder of his time. The Senator from Georgia controls 20 minutes, 35 seconds.

Mr. NUNN. Mr. President, I yield 10 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia, Senator BYRD, is recognized for 10 minutes.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Georgia.

Mr. President, I shall vote for both tabling motions offered by the two leaders on this matter, as there are elements of both amendments with which I disagree. I ask unanimous consent at this point, to use an old House expression, to revise and extend my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. The amendment by Mr. MITCHELL allows for a change in policy on this issue at the same time that it calls for a policy review. I do not think we can have it both ways. The President issued an Executive order on January 29, 1993 which removes from "future versions of the induction application" the "question regarding sexual orientation." This is a major change in policy on this matter. It prejudges the policy review, and anticipates a change in the policy which might not be supported by the findings of the 6-month review which it provides for. Therefore, while I do support a full review of the policy and hearings by the Armed Services Committee, I do not at this time support the change introduced by the President's direction of January 29, and therefore I cannot vote for the Mitchell amendment.

But I want to address my comments at this time to the Dole amendment. Everyone here, every Senator, knows of my great respect for my friend, BOB DOLE. I do not believe that he has read his amendment. This is a phenomenal amendment. It is extraordinary, to the point of its being bizarre.

I hold a copy of the Dole amendment and I am just astounded as I read it. I have never seen anything quite like it.

This printed text should be shown to a good grammar teacher. It proposes to trash the Senate rule book and the Constitution of the United States on one piece of paper, and in broken English. It provides that in certain circumstances, on legislation on this matter, the Senate shall be "deemed" to have passed the House bill in lieu of its own bill and the same shall be transmitted forthwith to the President.

Let us see what the Constitution says. Section 7 article I, paragraph 2.

> Every bill which shall have passed the House of Representatives and the Senate shall, before it become a Law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it—

And so on.

So what we are saying here is, if the House has passed the bill with the number H.R. 100 on it, the Senate has passed a bill with the number S. 150, the Senate shall be deemed to have passed H.R. 100 when, indeed, no such thing really happened. The same bill has to pass both houses—under the presentment clause of the Constitution—before it goes to the President.

We in the Senate sometimes use such language of "deeming" something as having passed. It is messy language. But at least it is done by unanimous consent.

This is not being done by unanimous consent in the Dole amendment. Instead, we are "deeming"—sight unseen—the passage of legislation by a majority vote. And I question, I seriously question the constitutionality of this approach.

Moreover, suppose that after passing the Senate bill, I decide I want to change my vote, I want to vote on that House bill. By the Dole amendment, I would be deprived of the opportunity of even asking for a vote. The Constitution says that any time one-fifth of the Senators present ask for the yeas and nays, a rollcall vote must occur. But this amendment would deprive me and any other Senator of that privilege.

This is a very unusual procedure.

What is "deem" to mean in this context? Are we to cease to be Senators and become deemers? Are deemers dreamers? This is not dreamland. It is a legislative body and I hope it is sober.

We are responsible for the words and clauses and measures that we pass. Each Senator's voting on each item that moves to the President's desk is the ultimate responsibility for which we are elected.

I cannot support an amendment that allows a bill to be deemed passed, rather than actually voted upon and actually passed by a majority.

Also, Mr. President, there is a hole in this thing big enough for the star Betelgeuse to go through, and that star, as Senators know, is so huge that it cannot pass between the Earth and the Sun, the Sun being 93 million miles away.

Well, here is the huge hole in this amendment. "Any proposed change in this policy," it says, "shall be submitted by the President in the form of a bill and shall be introduced in each House of Congress by the majority leader." It does not say how much time the majority leader has in which to offer it. He can take a week. He can take 2 weeks. He can take 6 months. It does not say he has to do it immediately. But everything else in the amendment is triggered off the time of his introducing the bill. The 3 days begin to run after he introduces that bill. Nothing will ever happen if the leader does not introduce that bill. What legislative craftsman would write an amendment of this kind?

I do not have enough time, Mr. President, to fully go into this, but let me say one or two other things. There is no provision in here for sending measures to conference. Who is going to make the multiple motion?

I will content myself with one other item. Read this: "Any conference report shall be nondebatable." Now, why do bills go to conference? They go to conference because there are differences in the bills passed by the two Houses, and the conferences are for the purpose of resolving the differences between the two Houses. So, under the Dole amendment, if there is something in that conference report that I would like to attack, the conference report is not debatable.

Suppose the conferees do not act in good faith, suppose they put something in that conference report that is not relevant, not germane, and conferees have been known to do that. When it comes back to this body, it would be nondebatable. Suppose I raise a point of order. "Mr. President, I make a point of order that this provision is not germane, the conferees put it in." Suppose the Chair upholds my point of order. Suppose another Senator says, "I appeal the ruling of the Chair." We have no time to debate the appeal. By a majority vote, the Chair would be overruled.

Suppose the House, with its different rules, however, takes that same conference report back and a House Member says, "Here is a provision that is not germane." Well, they can send it to the Rules Committee. They have a different kind of Rules Committee than in the Senate, which is so ably chaired by the Senator from Kentucky [Mr. FORD]. They can get a special rule waiving points of order.

So here the House passes a bill that has a nongermane provision in it—line-item veto, enhanced rescission, term limits, not relevant, but the House conferees and the Senate conferees were not loyal to their faith. Senate conferees do not have to pay any attention to instructions of the Senate, but it comes out with any kind—you name it—of nongermane amendment. The House can get a rule waiving all points of order, and it goes sailing through and then comes over here, and we cannot debate it. We cannot even debate it.

Why, Cato the Philosopher conducted a successful filibuster 2,053 years ago when Julius Caesar wanted to be a candidate for the office of consul. The Roman Senate had voted Caesar a triumph. But a general could not enter the city of Rome and go back out and then return to the city to receive his triumph. But in the meantime, the elections for the office of consul were about to be held, and Caesar wanted to be a candidate for consul. Through his friends in the Senate, he hoped that they would be able to get legislation through the Senate that would allow him to run for consul while absent from the city so he could be elected consul and also receive his triumph.

Cato the Younger held the Senate floor and spoke against the proposition until the time ran out and Caesar had to settle for one thing: He had to either give up his triumph or not run for consul. He gave up his triumph. Cato was successful in that ancient filibuster.

The Dole amendment says that the conference report would be nondebatable—even though it may be injurious to my people in West Virginia the people of Maine, and the people of Kentucky. The Senators from those States would not be able to filibuster the conference report. Two of the things that make this institution so unique are: Unlimited debate and the ability to amend. The Dole amendment would trash the institution.

Mr. President, I close with those lines by Hughes Mearns.

As I was going up the stair.
I met a man who wasn't there.
He wasn't there again today.
I wish, I wish he'd go away.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I do not want to monopolize the time on this side. Would the Senator from Indiana like to yield at this time and then I will yield to the Senator from Washington some time? How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. Nine minutes and thirty-five seconds for Senator NUNN.

Mr. NUNN. How about the Senator from Indiana?

The PRESIDING OFFICER. Fourteen minutes.

Mr. COATS. I have one more speaker before the Republican leader.

Mr. NUNN. I will yield to the Senator from Washington 3 minutes at this point.

Mr. COATS. That is fine.

Mr. NUNN. I yield to the Senator from Washington 3 minutes.

Mrs. MURRAY. Mr. President, I rise today out of a deep sense of frustration, frustration that the most important piece of legislation, the Family and Medical Leave Act, has been delayed today by politics because so many of us are waiting for its passage. But I am also frustrated by the debate this afternoon because most of this debate has been in the abstract.

I want to share with my colleagues the experience of a real person, Col. Greta Cammermeyer of Washington State whose courage helped define this issue for me. Colonel Cammermeyer was the chief nurse of the Washington National Guard. She was a decorated Vietnam war veteran with the highest professional awards from the Surgeon General and she was on her way to becoming chief nurse of the U.S. National Guard.

During a routine security interview, she was asked a question required by regulation about her sexual orientation. She answered honestly and discharge proceedings began immediately. For Greta Cammermeyer, her distinguished military career of 26 years was summarily ended. For the National Guard and the Nation, the services and combat experience of the most distinguished nurse in the National Guard were lost, lost not because she had done anything wrong, but because she did what we tell our kids to do: Tell the truth no matter the consequences.

Mr. President, I believe it is time to move on.

Mr. President, I believe that President Clinton's decision to seek an end to the policy barring gay men and lesbians from the military is a sound one. It was a commitment made by every Democratic candidate for President last year. It has received the editorial endorsement of major newspapers in my State and throughout our Nation. It is long overdue.

The proposal to implement this decision, offered by Senators MITCHELL and NUNN, is a good first step toward this goal. The President is the Commander in Chief. The strength of our democracy lies in civilian authority over the military. He is acting on principle and, after considerable deliberation, on what he believes is best for our Nation. We should respect his decision.

The policy barring gays from the military is based wholly and simply on stereotypes and prejudice. It is bigoted. It wastes some 27 million American taxpayers' dollars every year, and hurts people and destroys careers. It springs from intolerance, myth, and discrimination.

The Republican administrations defended this policy with the same arguments used to deny African-Americans the right to serve their country. I am truly disappointed that Gen. Colin Powell has so vocally opposed his Commander in Chief on this matter. The same arguments were raised against women joining the services. The United States has the most modern military in the world, and an antiquated personnel policy. The President has correctly decided to discard this policy. It is time to do so.

The question is not whether there are or should be gays in the military. There are. One should not have to lie to serve his or her country. The ban encourages harassment of gays, compromises national security, and denies our Nation the service of some of our best soldiers and sailors. Soldiers like Col. Greta Cammermeyer, a Bronze Star Vietnam vet, and sailors like Joe Steffan, top of his class at Annapolis.

Most of the discussion about gays in the military deals with abstractions. People have expressed fears about disruptions in morale based on all sorts of supposed horrors. I would like to share with my colleagues the experience of a real person, Col. Greta Cammermeyer, of Washington, whose courage has helped define the issue for me.

Colonel Cammermeyer was the chief nurse of the Washington National Guard. A decorated Vietnam war veteran with the highest professional awards from the Surgeon General, she was on her way to becoming chief nurse of the U.S. National Guard. During a routine security interview, she was asked a question required by regulation about her sexual orientation. She answered honestly, and discharge proceedings began immediately.

In one fell swoop, two terrible things happened. For Greta Cammermeyer, her distinguished military career of 26 years was summarily ended. For the National Guard and the Nation, the services and combat experience of the most distinguished nurse in the National Guard were lost. Not because she had done anything wrong. But because she did what we tell our kids to do: tell the truth, no matter the consequences.

Greta Cammermeyer is what I have defined to my kids as a hero. A profile in courage. She told the truth about her sexual orientation, knowing the military's policy would cost her a 26-year career and a promotion to a lifelong goal of being the National Guard's highest ranking nurse. It is time to change that policy and lift the ban against gays in the military.

The President is right. The military's standard for service should be conducted. This was unfortunately not the case in the infamous Tailhook incident. That was a double standard, and so is the policy banning gay men and lesbians from the armed services. One should not have to lie to serve his or her country. It is time to move forward and lift the ban.

I ask unanimous consent to print in the RECORD, several items that I have found persuasive on this question. Editorials from the Seattle Times and Tacoma News Tribune, and an op-ed piece from last Sunday's Washington Post by Lisa Keen in which she succinctly lays out the case to end the ban on gays in the military.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CLINTON SHOULD ACT NOW TO CHANGE ANTI-GAY RULES

President Bill Clinton has the authority to reduce the harassment of gays in the military and pave the way toward full acceptance of homosexuals in the armed services. He should use his authority quickly and decisively.

Clinton is having hard going fulfilling his campaign promise to integrate gays into the services. The military brass is against him and so are some powerful members of Congress. Even his own secretary of defense is urging a six-month cooling off period to work out the details.

That's fine, but not before firm action is taken by the president to stop the military from asking potential recruits their sexual preference and halt the automatic prosecution and discharge of gays and lesbians now in military.

Clinton's obligation is not to the Joint Chiefs of Staff or the Congress but to the American electorate. If he delays action or tries to reach compromise, the effect will be harmful to his public standing in the short run and weaken the strength of his presidency on other, tougher decisions in the future.

The foundation of American military hierarchy is civilian control. In large measure, the debate over the acceptance of gays in uniform was concluded in the results of the election, which handed Clinton the authority of commander in chief.

Reducing the ban on gays in the military will not be popular in every corner of the country or the Congress, but Clinton cannot hesitate now if he is going to lead.

He must not let the momentum and this issue slide away to an equivocating Congress or allow military commanders to tarnish his compact with voters.

[From the Morning News Tribune January 27, 1993]

FIND COMPROMISE ON MILITARY GAYS

President Clinton made it clear to his unhappy top military brass Monday he has no intention of backing down from his campaign pledge to end discrimination against gays in the military.

Clinton was right to do so. It is time to end the U.S. military's unjustified practice of discharging gays who have served their country honorably, for no other reason than their sexual preference.

But Clinton must tread carefully. Although it is his prerogative as president and commander-in-chief to order the Joint Chiefs of Staff to fall in line, Clinton should recognize the danger of acting precipitously.

Clinton is now well aware he risks a politically disastrous uprising in Congress—among Republicans and Democrats alike—if he moves too fast. There is no way to completely defuse such a politically volatile issue, but a well-considered strategy of consultation and compromise would improve the new policy's chances of success.

That is precisely what Defense Secretary Les Aspin recommends. Aspin suggests Clinton begin with an adminsitrative directive allowing Aspin to halt action against gays being ousted because they admitted their homosexuality. The military would also stop asking recruits about their sexual orientation. The second step, which carries more symbolic weight, would be a formal executive order by Clinton some months later repealing the ban on homosexuals in the military.

Aspin's proposal is sound. It would give the president time to allay fears in the military and Congress by showing the new policy will be implemented with respect for the military's need for discipline. Rules based strictly on conduct are fair and reasonable. Gay soldiers' clubs, spousal benefits for gays and open displays of sexual preference are not.

The administration and Congress should head for the middle ground between the two extremes on this issue—the gay activists who seek a governmental "blessing" of homosexuality on one side and outright homophobes on the other. There's a place in America's armed services—just as there always has been unofficially—for responsible homosexuals who simply want to serve their country and do their jobs.

[From the Washington Post, January 31, 1993]

THE FEARS ARE UNJUSTIFIED

(By Lisa Keen)

Should gay people in the military get better treatment than heterosexuals, worse treatment or the same?

This is really the basic question in the debate about President Clinton's proposal to repeal the Defense Department's regulations barring gays. But media reports on who says what often make it seem much more complicated than that.

It's no surprise: The media are not accustomed to covering gay issues and are unfamiliar with the details. That has given opponents of Clinton's plan an advantage, which they are using—along with some ever-so-effective scare tactics—to stir up hostility to the idea of ending a form of discrimination. In psychobabble, this is known as "fogging"—keeping people from seeing the key issue by clouding it over with a swirl of smaller and less important matters. Some examples:

(1) With big changes like this, it's better to study the idea first.

The Pentagon has already studied it numerous times and discovered from its own research that gay recruits perform as well or better than their heterosexual counterparts.

(2) If gays are allowed into the military, Congress will have to change military law, which currently prohibits sodomy.

Military law prohibits sodomy with a person of the same sex and opposite sex. Since many studies have shown that more than 90 percent of heterosexual couples engage in oral sex, the military might as well either change the code for everybody or retain it for everybody.

(3) Gays in the military will threaten the privacy of heterosexuals.

The truth is that many service members live off-base in their own apartments, and those who rely on base housing share a dorm-like room and a bathroom that has a door. The only place where service members must rely on group shower facilities is in basic training. If privacy is such a concern, perhaps the military could consider upgrading the facilities at boot camp.

(4) Gays in the military will openly lust after their colleagues.

If gays did this, their actions would constitute sexual harassment, as in the Tailhook scandal. Sexual harassment is already prohibited under military regulations. As long as the military is willing to enforce those regulations, the solution to any such problem with gays is already in place.

Furthermore, there is no evidence that the danger of gays openly expressing lust for their same-sex colleagues would be greater than straights openly expressing lust for their opposite-sex colleagues.

(5) Discrimination based on race is different from discrimination based on sexual orientation—race is an immutable characteristic. Gays can choose to have sex with a person of the opposite sex if they want to. We should not protect people against discrimination based on characteristics that they freely choose and could change.

A person's religion is a matter of choice, too. A person may be born into a Baptist family, but he or she is free to become Catholic and can choose to do so. But that "choice" was considered so precious that the founders of this nation made its protection a part of the constitution's Bill of Rights.

But the implication that sexual orientation is a choice has become a favored argument of the uninformed and the willfully ignorant. Numerous recent studies have all pointed to evidence that sexual orientation is genetic or biological in origin—it is immutable.

(6) Gays in the military will mean more members of the service will have AIDS and spread it to other members.

Again, the DOD already has an HIV antibody testing policy that provides as much insurance as possible that new recruits with HIV infection are barred. The argument that battlefield blood transfusions require this kind of scrutiny are also unfounded, since the military acknowledges that it stores blood transfusions for use in battle. It does not perform person-to-person blood transfusions on the battlefield.

The overall AIDS argument is based on the belief that only gays get AIDS. But more and more, the new infections are occurring among heterosexuals.

(7) U.S. servicemen and women are sometimes deployed in countries where homosexuality is considered an abomination. That could hurt America's image.

Those same countries and many others also consider adultery and sex out of wedlock to be abominations. But male heterosexual U.S. service members, who have gotten thousands of women pregnant overseas, are still allowed to serve in the U.S. military.

(8) President Clinton's proposed executive order would allow gays into the military for the first time, requiring the military to figure out how to accommodate them.

Gays are already in the military, always have been, and both military leaders and Senate opponents of Clinton's plan have already acknowledged that. The executive order would ensure that gays are treated the same as heterosexuals are treated now.

Under current policy, a heterosexual member of the service cannot be discharged from the military simply because of his or her sexual orientation. Under Clinton's executive order, that would apply to service members with a homosexual or bisexual orientation as well.

(9) Clinton's decision to talk with military and congressional leaders about how best to implement the executive order is his way of backing off the executive order idea.

President Harry Truman did the same thing in 1948 when he issued an executive order to end the military's policy of racial segregation. The Truman executive order itself established an advisory panel and ordered that panel to determine how best to implement the executive order and time its implementation without jeopardizing the military's ability to perform its duty.

(10) Gays in the military would hurt morale and jeopardize our military's readiness.

The public counts on the Department of Defense to train its servicemen and women well. It is an unsettling idea that this country's highly trained fighting forces would be so easily demoralized by acknowledging the reality that there are gay troops among them.

The country's military leaders are not elected officials. Bill Clinton is, and during the campaign, he was up front with the American people in saying that he would seek to end discrimination based on orientation in the military. The American public voted him into office, and now he is keeping his word. That's how democratic government works.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. I yield 3 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise in strong support of the amendment offered by the majority leader and the chairman of the Armed Services Committee, and in opposition to the alternative presented by the Senator from Kansas.

The action taken last week by President Clinton was a first essential step toward ending the discrimination against gay men and lesbians in the Nation's Armed Forces. It is now time to move forward and not to turn back.

This action is the latest chapter in the unfinished business of America. This country was founded on the principle of equal justice under law and opportunity for all. If we do not end discrimination wherever it exists in our society—then America is not America. We have been here before, and we will surely be here again.

I agree with President Clinton. America does not have a person to waste. The issue is not whether there are gays in our Armed Forces, there are, and they serve with great distinction. The question is whether we will continue to force them to lie about who they are—in order to serve their country.

The real issue is how we can make progress with this important policy change, in a sound and effective manner, in consultation with all affected parties, and reach the goals of equality and efficiency.

We know that we cannot change hearts and minds overnight. But if we have learned anything from the long and painful experience of our Nation's history, it is that changing the law is an essential step in breaking down barriers and fundamentally changing attitudes. It has been done before. And it must now be done again.

It was once thought that black and white soldiers could not serve together. In fact, in 1948 we heard in this very chamber, and read in the pages of major newspapers across this country that "One of the surest ways to destroy the efficiency of the Army" was to integrate blacks and whites.

I am sure that my colleagues would be shocked to review the Senate floor debate of a half century ago, and see just how little the arguments for bigotry have changed. We were told in 1948 that integrating black and white members of the Armed Forces would raise insurmountable issues of cleanliness, health, and morale.

Nevertheless, despite strong resistance and threats of mass resignations, we integrated our Armed Forces—and proudly, America moved forward.

As stated by the Federal district court in California in its recent opinion ordering that petty officer Keith Meinhold be reinstated in the Navy:

> The Department of Defense's justifications for its policy banning gays and lesbians from military service are based on cultural myths and false stereotypes. These justifications are baseless and very similar to the reasons offered to keep the military racially segregated in the 1940's.

A 1991 report commissioned by DOD and undertaken by the Defense Personnel Security Research and Education Center stated, and I quote:

> The order to integrate blacks was first met with stout resistance by traditionalists in the military establishment. Dire consequences were predicted for maintaining discipline, building group morale, and achieving military organizational goals. None of these predictions of doom has come true. It would be wise to consider applying the experience of the past 40 years to the integration of homosexuals.

More recently we were told that if women serve alongside men, the integrity of the military system will be seriously diminished. Once again, adopting a policy of inclusion, we improved our armed services, and our society as a whole.

We must not be deterred now from taking this next important step. It is time to shift the focus from status to conduct. If the Armed Forces have their priorities right, they should deal with the festering epidemic of harassment of women in the military, instead of squandering talent and resources by denying gay and lesbian Americans the opportunity to serve their country.

According to the General Accounting Office, the Federal Government has spent nearly $500 million over the past 10 years investigating more than 15,000 homosexuals and discharging them. In the same 10-year period, more than 100,000 cases of sexual assaults on women were committed by heterosexual servicemen—100,000 cases.

It is long past time for the Armed Forces to start dealing with people's conduct, and stop discriminating against anyone because of who they are.

Last week's action is a first step. Recruits will no longer be questioned about their sexual orientation, and discharges and court cases will be put on hold pending a comprehensive review of this policy, and further action by the President.

I hope that we can work closely with the administration and our colleagues in Congress to ensure complete implementation of a nondiscrimination policy as rapidly as possible. Whatever name discrimination takes—racism, sexism, homophobia, apartheid, ethnic cleansing—it ought to be exposed and rooted out.

Change is never easy, but it can be done. Canada, one of the few countries in the NATO alliance which had a policy similar to ours, lifted its ban on gays in the military 3 months ago under court order. According to the Canadian Department of National Defense, they have had no resignations, no reports of gay bashing, and no one standing up to declare their sexual orientation. The implementation was without incident. This was the experience of the Australian government that also recently lifted its ban.

President Clinton's decision to delay final action on an Executive order lifting the ban will allow ample time to understand concerns and develop appropriation implementation plans. The Joint Chiefs of Staff, servicemen and women, the gay and lesbian community, and other interested parties will all be heard.

Senator NUNN plans to schedule hearings on this issue in March, and as a member of the Armed Services Committee, I look forward to those hearings. I think that we can all learn something.

I wish we could have moved more swiftly— and I recognize that some wish we would not move at all. We have all compromised—on both policy and process.

The President has responded wisely and created an opportunity for dialogue and debate. I hope that all Senators will respond positively to this gesture of cooperation and resist any attempt to end-run this constructive compromise, and undermine our Commander in Chief.

Progress has never been easy. But it has always been worth the effort. I look forward to a day when the nation's military, and our society as a whole, will base its judgments on character and conduct, not orientation. It will be a better day for all Americans, and we will have a stronger and fairer country.

In the interim, I urge my colleagues to support the Mitchell-Nunn amendment and oppose the Dole amendment, so that we can dispose of this matter—and return to our efforts to provide family and medical leave for the working men and women of America.

Mr. President, I join others in wanting to move ahead toward the completion of this legislation, which is so important for families all across this country.

But with the issue that is before us, I want to join these expressing support for the Nunn proposal. Change comes slowly in society, and change with regard to racism, ethnicity, religious intolerance, sexism, apartheid, and homophobia has come extremely slow over the history of this country.

This proposal will permit the process to move forward in the manner that has been outlined by those who have spoken already. My own sense is that we ought to move forward, as have other countries. The debate and statements we have heard on the floor have a remarkable resemblance to the kinds of statements that were made some 40 years ago, when this Nation was debating whether those whose skin was a different color could serve this country with distinction and honor.

The words could basically be exchanged.

I welcome the day, Mr. President, when we are going to root out that kind of discrimination in our society and in the Armed Forces.

I think what has been outlined here is an extremely reasonable way to proceed. Many of us wish the steps would be taken more rapidly; others not at all. This is a fair compromise. I hope that it will be supported.

Mr. COATS. Mr. President, I yield 3 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I rise today in support of the Dole amendment regarding the issue of service of homosexuals in the military.

Many of us in the Senate and those of us sponsoring this amendment feel this matter should be decided by the military experts and leaders—after considerable debate and hearings on the subject—along with a vote by the Congress. I for one, support this course of action. I do not advocate any form of gay bashing, or homophobia. That is not the intent here.

However, there are several tough issues involved here, ranging from health care of service members, to same sex marriages, to benefits for homosexual partners, to the morale, discipline, and welfare of the members of the armed services.

It is an extremely controversial area which must be thoughtfully and carefully considered. That is why we must proceed in an orderly and prudent fashion. It is important that we conduct hearings on this issue and listen so very closely to what the military experts and others, including representatives of the gay community, and the health care community, are saying before making any decisions to change existing policy.

Before rushing to approve policy changes arising out of campaign promises that were made without consultation with the Congress responsible for these issues or our respected military leaders, it is now our responsibility to hear and consider the opinions of our senior military leaders and other experts—and then to vote on this matter.

I have received many calls and letters from people who feel very strongly about this issue.

I understand the depth of feeling on the issue and I am continuing to listen. That is what this amendment advocates. Let us call a time out and listen to the experts. After a thorough policy examination—Congress is entitled to vote on such a major potential change in military policy.

The Dole amendment does the following: First, it allows for a thorough review of the issue regarding the service of homosexuals in the military.

Second, the policy that was in effect on January 1, 1993, regarding the service of homosexuals in the military will be reinstated during this review and shall remain in effect until the completion of this review.

Third, any proposed changes to the policy will be presented to both Houses of Congress by the President in the form of a bill which shall be amendable and which shall be voted on by Congress before becoming law.

I believe this is the most thoughtful approach possible and that it ought to be adopted by the Senate.

Finally, I think there has been some unfortunate and erroneous interpretation of my activities in this matter. I have always favored an up-and-down vote on this issue or a motion to table directly on our amendment. I have never waivered from that. I want that to be absolutely clear. There has been some remarkable distortion of that.

Remember also that the military is not a social organization; it is a killing machine, and designed to protect our national health and safety. We must keep that distinction in mind as we deal with this issue which is totally different than anything we have dealt with regard to civil rights or other rights in this society.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, given the time limitations we have had, a number of Members have not been able to speak, or have reduced their statements.

I ask unanimous consent that I be allowed to submit a full statement of my remarks on this issue, and that other Members may be allowed to do so also.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I yield 5 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, I thank the Chair.

What is it that makes an excellent soldier? I submit to you that it is five basic virtues: Devotion to duty; loyalty to country, commanders, and comrades; skill in military arts; personal integrity; and courage. If you have these qualities, you can be an excellent soldier, whether your name is Manursky or Jefferson, Goldberg or Nguyen, Warner, Dole, Kerrey, or McCain.

A number of Americans who have these qualities, however, are being excluded from serving their country in the military for reasons beyond fitness or performance.

People have told me for some time that they cannot understand how someone who thinks of himself as a gung-ho marine can march to the music of a drummer that I do not hear.

Mr. President, the drummer I hear plays the Marine Corps Hymn. It still gives me a chill, and I still stand when it is played. I certainly do not want to detract in any way from the military's effectiveness or performance.

Because of that, I cannot stand by and let a policy that I consider less than perfect keep our services from attracting the best and most competent people. The issue should be not what kind of person you are but what kind of soldier, sailor, airman, or marine you are.

As a former marine who considers his 34-plus years in uniform and in the reserve to be the proudest affiliation of my life, I well understand those who argue the importance of maintaining morale and good discipline in the ranks.

But I would suggest to you, Mr. President, morale is in the heart of each service person. The threat to morale comes not from the orientation of a few but from the closed minds of many. President Truman recognized that when he ordered the services to be integrated by race despite the racial animosity of many then in service.

Do some of today's soldiers fear what they do not understand? Certainly, they do. Obviously. But should America's policy be guided by fear, or should we work to overcome prejudice by showing that merit and behavior, not orientations, are what counts in the military?

I have spent a great deal of time discussing this with a number of friends, including the Chairman of the Joint Chiefs, Gen. Colin Powell. Some think that I am simply on the wrong side of this issue, and I understand this and other objections to the proposal.

General Powell recently drew a difference between discrimination based on sexuality, which he called a behavior, and that based on race, which he called a benign characteristic. But I summit to you that race is obvious, while sexual preference is not. It is an even more benign characteristic; indeed, an invisible one, until and unless it is expressed in conduct. And if that sexuality is expressed, it is no longer benign. Then it will run into the existing regulations of the Uniform Code of Military Justice.

The code offers sufficient protections against much of the conduct that supporters of this amendment fear. And it can certainly be expanded to prevent other breaches of decorum or good order.

The specter of drill sergeants dancing together is unsettling, to say the least, Mr. President. But some of the amendment's supporters fail to note it is just the kind of behavior already prohibited by the Uniform Code, as is almost all of the conduct presented as a concern by those who are in favor of this particular amendment.

The President is the Commander in Chief of the Armed Services, and he sets the goals. Just as many military men were given the goal of ejecting Iraqi forces from Kuwait, and led the plan and implemented that goal, I believe that the military should also be cast with making the President's goal a reality.

As a former military commander, I can tell you that if the goal of truly equal access to military service is to be reached, I believe that the military itself will have to come to terms with it.

That will best be done if given the proper role of implementing the President's directive. The hearings announced actually last year by the distinguished chairman of the Armed Services Committee will add information and understanding to that process and will let us fulfill the Congress' proper role of ensuring that readiness is maintained while achieving the President's goal. But I ask we not let fear govern our actions. While we may not perfectly understand what motivates individual sexuality, we cannot allow that lack of understanding to block deserving patriotic Americans from service.

Mr. President, I hope that my colleagues will oppose the amendment offered by my distinguished and very respected colleague, the Republican leader, in this particular instance.

I yield the floor.

Mr. DOLE. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. Ten minutes, eighteen seconds.

Mr. DOLE. Mr. President, I make one suggestion to the majority leader either before or after we close debate, if we could have the second vote maybe limited to 10 minutes.

Mr. MITCHELL. That certainly is agreeable with us.

Mr. DOLE. That would be back-to-back votes. I understand there still may be another amendment offered. There is an effort being made to work that out. I hope that can be done. There is no limited debate on that particular amendment.

Mr. JEFFORDS. Mr. President, few issues have generated as much debate and emotion over the last few months as the question of whether to lift the ban on service by homosexuals in the U.S. military. My office has received many, many calls over the past weeks from people on both sides of this issue. While we have a reasonable compromise before us today, it will be quite some time before this issue is finally resolved.

As my colleagues know, there have always been gays in the military and there are many homosexuals proudly serving their country today. In spite of the current ban that prohibits their serving, these men and women have chosen to do so and many will stay, no matter what legislation we might enact today. As our society's concept of individual rights has evolved, I do not believe we can demand that all homosexuals be forced out of the military. And it would not benefit our national security to do so. Rather, our task is to determine how we can best confront the reality of military service by homosexuals and manage the transition to a more stable and just policy.

Having served over 3 years on active duty in the U.S. Navy on board ship and over 25 years in the U.S. Naval Reserves, I am well aware of the concerns that many people have raised about the conduct of military personnel. And I share some of those concerns. No serviceman or servicewoman should have to worry about his or her privacy or safety. But this is primarily a question of conduct, Mr. President. Sexual harassment, no matter what the orientation or motivation of the individual, must not be allowed.

Similar concerns were raised when the decision was made to desegregate the military and to integrate women into the Armed Forces. These concerns had to be dealt with and behavioral regulations clearly articulated to prevent such fears from being realized. The same will have to happen now to ease this transition to a new policy. This type of change cannot happen overnight. Hearings must be held, rules of conduct re-evaluated and military procedures reviewed. The concerns of military personnel at all levels must be listened to and taken into account. It is critical that this change, as with any substantive change in the Armed Forces, not result in any drop in the morale or effectiveness of our military.

Mr. LEVIN. Mr. President, I rise in opposition to the Dole amendment. The country needs to consider this issue in a dispassionate manner—not with emotional, extreme, and uncompromising rhetoric. Changing a part of the institutional culture of the armed services is serious business which requires sober, rational, and reasonable consideration. Our Nation's safety, as well as the well-being of our men and women in uniform, depend upon our efforts to forge intelligent answers to the questions which are raised by the President's plan.

While I believe that the ban against gays and lesbians should be lifted, there are complex issues with regards to such a policy change which must be carefully looked at. The President's plan of allowing for 6 months for the Joint Chiefs of Staff to put together recommendations on how to implement these changes is a wise one—one that will ensure that all pertinent aspects of this issue are considered. Congressional hearings should also provide an opportunity for lawmakers and the public to study the issue in greater depth from a balanced set of witnesses. The hearings should carefully examine how most of our allies in NATO, who have already lifted the ban, have addressed this issue in their own armed services.

The Dole amendment takes a step backward. I urge my colleagues to reject it.

Mr. CAMPBELL. Mr. President, I rise today to address the compromise agreed to by the leadership and President Clinton as we address the current ban on gay and lesbian Americans serving in the United States military.

As a person who knows the sting of discrimination, I do not support this ban. I believe discrimination based exclusively on sexual orientation has no place in our military any more than ethnic discrimination has a place in our military. I support elimination of this ban combined with strict sexual conduct codes for all soldiers, sailors, airmen and marines—gay or straight, as defined in the Uniform Code of Military Justice.

I believe pragmatism, fairness, and common sense—not unfounded fears or old wives' tales of gay behavior should drive this debate.

As all military commanders freely acknowledge, there are about 180,000 homosexuals who currently serve in the Armed Forces ably and honorably. These individuals have displayed the same acts of heroism, courage, determination, and sacrifice for their fellow soldiers and country as heterosexual soldiers. Many of these individuals have distinguished records and careers that would be the envy of any soldier.

Our Armed Forces wasted over $27 million last year hunting and discharging gay and lesbian soldiers.

So the real question is not, should lesbian and gay Americans be allowed to serve in the Armed Forces?—they already are serving. The question is, how will we treat them? I believe that we should treat these soldiers as we treat all others. Let's make a distinction between their sexual orientation and their personal conduct.

This change may seem difficult right now. There are many emotional arguments against equality, but they are unwarranted. We cannot live by unjustified fears of change. We must have the courage to eliminate this ban because it is the right thing to do.

In 1862, Abraham Lincoln was vilified for allowing black soldiers to fight for the Union, but he took the heat and he did the right thing.

In 1951, Harry Truman was vilified for integrating our military. This was 3 years before Thurgood Marshall argued Brown versus the Board of Education to integrate the public schools, but Truman took the heat and he did the right thing.

By trying to address this inequity in the military, President Clinton is doing the right thing.

This discussion is not about lifestyles or choices, it is about discrimination, and in my opinion should be separate issue and not attached to the Family Medical Leave Act. I applaud Senator MITCHELL and Senator NUNN for their efforts to find an equitable solution to this debate and look forward both as a Member of this body, and a veteran of the Korean conflict to helping resolve this issue.

Mr. DODD. Mr. President, this amendment embodies everything that the American public dislikes about the way our Government is run. As far as they are concerned, the gridlock in Washington has picked up right where it left off.

And the public has every right to feel that way, Mr. President. This issue has absolutely nothing to do with the Family and Medical Leave Act. Nothing. Yet some Members on the other side of the aisle have seen fit to bring this issue before this Chamber.

While we stand here and argue the germaneness of the underlying amendment, American families continue to suffer. Thousands of unemployed aerospace workers are lining up for unemployment applications. Just last week in my home State of Connecticut, Pratt & Whitney workers were notified that another 6,700 layoffs were coming. Three months ago, it was 1,400 Textron workers. And 10 months ago, it was 700 welders and pipefitters at the Electric Boat Shipyard. The people of this country are hurting Mr. President—and they are looking to us for relief.

They are looking to us to provide them with some sense of security in their jobs, in their homes, and in their families. This bill is the first step in addressing the real needs of American families.

Yet, if it were not for these delaying tactics—we could today pass this legislation assuring working Americans that they can be there when their families need them.

Mr. President, I believe that men and women should be permitted to serve their country based upon their qualifications, not their orientation. Conduct, and personal integrity, should be our benchmarks for determining who should continue to serve.

In a Nation that prides its very existence on the promise of equal opportunity for all, I find the current prohibition policy to be baseless. And just as our country dealt with the difficult issue of integration in the military during World War II, the time has come to remove this final, pointless barrier from our military personnel regulations.

I am not suggesting that this will be a simple change, or one that could be accomplished overnight. President Clinton has worked hard to address the concerns of many, both inside and outside of the services, regarding this difficult transition. He has proposed 6 months of study on how best to implement this measure.

I believe that is a fair and equitable approach to the matter.

Mr. President, many of us have no doubt visited Arlington National Cemetery at one time or another. Each time I visit that quiet resting place for our Nation's veterans, I can not help but be moved by the clear evidence of so many who have laid down their lives for this country. Yet, as I gaze down row after row of fallen service members—I see no distinction. I see no separation. I see no isolation. Each and every tombstone from the modern era is equal. No mention of race, no mention of religious affiliation, no mention of sex, no mention of sexual preference, just a name and a date. Equals in the sight of their peers.

Mr. President, our Nation is waiting. We have so much to do and for the first time in 12 years we possess the mechanism to implement meaningful and lasting change.

Our Nation is waiting for Washington to cast aside the shackles of gridlock and to begin working in earnest on the problems facing our country. Health care, job creation, and a solid family leave policy are the issues the American people have told us they care most about.

We simply can not afford to continue this foolish game. Our future and the future of our children is literally in the balance. We must begin to move this country forward if we are to have any hope for renewal. This underlying amendment has no place on this bill and it has no place in our society. I urge my colleagues to reject the underlying amendment and adopt the more moderate proposal as offered by Senators MITCHELL and NUNN.

Mr. GLENN. Mr. President, as a cosponsor, I rise in support of S. 5, the Family and Medical Leave Act of 1993 and urge my colleagues to pass this legislation.

Twice before, the Family and Medical Leave Act was passed by the Senate and then vetoed by President Bush. We now have the opportunity to get this legislation signed into law.

We stand at an economical crossroads in America. Our families are being torn apart by the rising cost of health care, layoffs, and unemployment. Our economic competitors in Europe and in Asia have family and medical leave programs. They have struck a balance between the needs of one's family and the needs of the work place. The Family and Medical Leave Act of 1993 will do just that for working people across America.

This legislation will provide up to 12 weeks of unpaid, job-protected leave per year for the birth of a child or the serious illness of the employee or an immediate family member. However, S. 5 will exempt businesses with 50 or fewer employees, protecting small businesses from extraordinary costs. Thus, claims that this legislation will hurt American competitiveness are not well founded. In fact, S. 5 will help companies retain some of their best employees, and foster a sense of family among employers and their workers. Testimony from CEO's of companies that already have some type of family and medical leave policy has illustrated this point. And this sense of loyalty and family will lead to increased productivity, and therefore, increased American competitiveness in the global economy.

Additional safeguards for businesses are included in the Family and Medical Leave Act. Employees will be required to provide adequate medical certification to the employer justifying the leave. Employers may get a second opinion. Also, employees must provide 30 days notice for birth of a child, or imminent medical treatments. Furthermore, employers will be permitted to exempt key employees from coverage—the highest paid 10 percent of their work force.

This bill is about family values—about letting families help each other in a time of need. People should not have to decide between caring for one's children or family members and keeping their job.

I urge my colleagues to pass S. 5, the Family and Medical Leave Act of 1993.

AMENDMENT NO. 17

Mr. DURENBERGER. Mr. President, I rise reluctantly to oppose the measure offered by the distinguished minority leader. Although it is a sound response to the Clinton administration's policy adjustments regarding gays in the military, I believe the compromise arranged between Senator NUNN and President Clinton is a responsible, reasonable approach to take for the next 6 months, particularly when one considers that the compromise, in reality, does not change the current policy in any major way.

I believe we must use this coming period to develop a greater understanding and appreciation for the many issues involved in this matter. It is not a single question of just lifting the ban or maintaining it. There is more to it than that, and this Senator wants to learn a great deal more before making a final decision.

President Clinton has already predetermined the outcome of this 6 month deliberations process. He has stated that he will lift the ban in July, irrespective of what the Senate and the public learn between now and then.

I want to emphasize for my colleagues and constituents, however, that this Senator has not predetermined the outcome. I have come to no decision at this point about what policy is best for America's armed services. I enter this debate with an open mind, anxious to learn from both the opponents and proponents of lifting the ban.

It is incumbent upon each side to make the strongest case for their respective positions. The burden of proof, so to speak, falls equally to the opponents and proponents.

Mr. President, I also wish to emphasize my view that in accepting the Nunn-Clinton compromise, the Congress does not forfeit its constitutional role in making policy in this matter. In 6 months time, we will return to this debate—better informed and better prepared—to make principled, thoughtful decisions. The Senate is not now predetermining the outcome of our own deliberations. That opportunity to decide will come in due time.

Mr. President, I ask unanimous consent that an updated version of a statement I offered yesterday on this subject be included in the RECORD at this point.

GAYS IN THE MILITARY

Mr. DURENBERGER. Mr. President, I rise today to address the question of homosexuals in the military. The specific question before us is: Will we approve the Clinton-Nunn proposal and allow a 6-month period of study on the complex moral, legal, and administrative issues involved? I support the option that will do us the most credit as a deliberative body.

What we are addressing today is not the simple question of whether we approve or disapprove of the sexual orientation of certain individuals. We are discussing whether we have the right to deny some of these individuals the right to serve in the U.S. Armed Forces because of that private matter.

It is a fundamental principle of American Government that we must not discriminate against an individual for having a certain status—a certain gender, religion, sex, race, disability or age. In civilian life, the Government can only legitimately prevent or punish conduct—behavior that society views, rightly or wrongly, as harmful to its own interests.

The military is recognized, appropriately in my view, as a special case. Military service does in fact require certain forms of discrimination—like restrictions on the role of women in combat, and the exclusion of some disabled persons.

In the present case, homosexuals have been expelled from the military absent any demonstration that they have actually engaged in homosexual conduct. What we have to determine is whether the status of being a homosexual—in and of itself—is sufficiently harmful in a potential serviceman to warrant an exception to the rule that in civilian life we do not discriminate on the basis of status.

Is this a decision we have to make now? Yes and no. For each gay person facing disciplinary proceedings in the military, the answer is yes. For those who are investigating the tragic death of Seaman Allen Schindler in Japan, again, the answer is yes. But for the Americans who are desperately concerned about the economy, the budget deficit, and fixing health care and education, the answer is no.

But the issue will not go away. The President has put us on the track toward a date certain for the resolution of this problem. We can not duck it—so let us get to work on making the best decision we can.

It is in the interest of the armed forces of this country that we make a decision, but not an unconsidered decision. This issue affects the lives of millions of men and women currently in uniform, and also those we will need to attract to service in the future. We need to examine the potential consequences in detail—and come to a principled decision.

This Senator is not prepared to decide today. We are nowhere near that stage yet. When any major change is contemplated in a huge organization of people, there needs to be an intelligent analysis of the real disruptions that are going to result—and whether they are so great that to risk them would be unwise.

This sort of analysis is precisely what we have lacked so far in the national discussion on gays in the military.

We also need to understand that in recent years, we have repudiated laws that discriminate against individuals in employment or public accommodation on the basis of their status—on the basis of stereotypes that relegate every individual to a pigeonhole. We have repudiated the spurious logic that goes, "All Polish people are stupid, I am Polish. Therefore I am stupid. Therefore, do not hire me."

The days of Jim Crow—the days when it was acceptable to put up signs reading "No Irish Need Apply"—are over. Employment law now protects individuals from this kind of pigeonholing by status.

Again, we recognize that the military has the right to discriminate in certain cases. In some areas of discrimination, the military has reversed its opinion—in other areas, it has not. And for the next 6 months we will be examining whether the policy on homosexuals ought to be reversed.

What we need to determine is whether the status of homosexuality standing alone bestows on everyone in that category a set of behavior patterns that cannot be modified by conduct regulation. Then—and only then—should status classification lead to blanket exclusion.

It is objected that having gays in the military would pose a serious threat to morale—that it would reduce the camaraderie, the bonding, and the trust that are necessary if soldiers are going to be an effective fighting team in combat. But it is acknowledged even by those who advance this line of argument that there are gays currently serving in the military, and I have yet to see any evidence suggesting that these gays have in any way impaired the morale or fighting effectiveness of our armed forces.

I am not saying that there is no evidence proving this. I am merely saying that I have not seen it—yet. That is another reason why I think this 6-month delay will be extremely valuable—we need to find out if their acknowledged presence will reduce our military effectiveness.

It has also been objected that gays in the military might abuse positions of authority to engage in sexual harassment. Again, no evidence has been presented to demonstrate that these cases would be any more disruptive than the cases of heterosexual harassment that we already have to confront. It would be truly perverse to draw the conclusion from the "Tailhook" scandal that heterosexual men or women ought to be excluded from the military. It would seem to me that if this were the sole objection, the appropriate solution is not to exclude people from the armed services, but to have a code of conduct and enforce it.

I recognize that there is undoubtedly more to this argument than I currently know. And I want to learn about it over the next 6 months.

I join my distinguished colleague, the senior Senator from Georgia, as well as the no less distinguished Chairman of the Joint Chiefs of Staff, General Powell, in hoping that the proposed 6 months of investigation will give us a better understanding of the serious objections that no doubt exist to the lifting of the ban.

Like Senator NUNN, I am making no commitment to support the full lifting of the ban when the 6-month investigation is over. In 6 months, I expect that we will have a better understanding of the real facts and issues involved—and thus be able to make that decision intelligently. In the meantime, I would modestly suggest that it would be appropriate for us to address other issues of national importance—such as economic growth and job creation, the Federal budget deficit, and the fundamental reform of U.S. health care.

Thank you, Mr. President, I yield the floor.

Mr. DORGAN. Mr. President, today, I will cast my vote in opposition to an amendment to the Family and Medical Leave Act that would prohibit lifting the current ban on homosexuals in the military. But I cannot do so without expressing my great frustration at the amount of time spent on this issue.

The American people have told us in no uncertain terms that they are interested in finding solutions to the economic problems of this country, reforming our inadequate health care system, and addressing important issues like the education of our children and the future of the Social Security trust fund. These are their priorities, and they expect us—their elected representatives—to get to work on them.

And yet we and the media have spent several days discussing the issue of gays in the military. By focusing on these controversial issues, we are ignoring the central challenges that face our Nation.

That being said, I want to be clear that I agree that we should lift the ban on gays in the military carefully over time, and in close consultation with U.S. military leaders. The President has reached an agreement with the Joint Chiefs of Staff about the most appropriate way to do this, and I think we should support these leaders in their efforts to work together to address this problem.

And in the meantime, I think Congress should get down to the business of solving the pressing economic problems facing our Nation as a whole.

Mr. MACK. Mr. President, I agreed with President Clinton last week when he acknowledged that, fundamentally, military society is different from civilian society. Ideally, a military force will never be used, but in a time of crisis there is often nowhere else to turn. A society looks to its military for insurance against catastrophe. No excuses can be tolerated when lives are in jeopardy.

The Armed Forces are like no other organization in the Government, in society for that matter. Discrimination is an everyday affair in the military: height, weight, hair length, visual acuity, dexterity, physical disability, disease, alcoholism, casual drug use, even attitude have legitimate standards to which servicemembers are held, and which would be considered well out of bounds in the civilian sector. Such discrimination is only tolerable because it advances the necessary readiness and warfighting capability of that military.

America's armed services have the responsibility to select from the available talent pool only those who will help strengthen the team. The good of the whole is more important than the demands of the individual. Just ask the next servicemember you see whether it is a right or a privilege to wear the uniform of the United States of America.

I am gravely concerned by the apparent disregard for the readiness of our armed services. The informed counsel of General Powell and the Joint Chiefs of Staff, of every major veterans' organization, of the Republican leadership, and even the groundswell which has swept America in opposition to lifting the ban have been ignored. I fear that we face a proposal to change a successful and longstanding personnel policy simply in order to meet a given social agenda.

Still, it is not too late. I urge my colleagues to support the Dole amendment which makes meaningful the hearings and studies proposed for the next 6 months, and does not presuppose the end result of those investigations, by codifying the present policy in law until Congress has the information to make an informed decision in July.

Mr. PELL. Mr. President, I rise today to express my full support for the amendment offered by the majority leader which would let stand the compromise agreement announced by President Clinton on January 29, 1993, regarding the ban on homosexuals from serving in the military.

The agreement provides a 6-month period to carefully and thoroughly review the current Department of Defense policy excluding homosexuals from serving in the Armed Forces. My own view, Mr. President, is that men and women should not be prohibited from serving in the Armed Forces solely because of their sexual orientation. Like the President, I believe such a prohibition is discriminatory and is just as inappropriate as discrimination based on race, gender, or religion.

I believe all our service personnel should be judged on performance and behavior and held accountable to the strict code of conduct which is necessary for the effective operation of military units.

The implementation of policies based on these views will require time and sensitivity, and I applaud the President's determination to seek a broad range of advice on this vexing issue.

Mr. President, I am confident that, in the end, the President, after full consultation with congressional and military leaders, will reach a resolution that is positive, fair, and equitable.

Mr. COATS. Mr. President, I want to be clear what this amendment is about. It is a freeze in current policy on homosexuals in the military—for a limited period of time—for a specific purpose. That purpose is to carefully study the issues involved before we begin a change.

The military argues that our military effectiveness is at stake. If their case is even remotely plausible, we have a duty to consider it fully and fairly before we act.

So, though there are countless questions about procedure and politics—I want to focus on the substance of this debate.

Many of us had a part in an extraordinary effort to raise our military from the low point of the 1970's. If you ask military leaders, they will tell you what has made the difference: It is our people. In spite of all the new weapons and new training, our strength is in our soldiers. The services now attract some of the very best men and women in our Nation.

These same commanders will also tell you that many of these soldiers hold strong religious beliefs and moral convictions. Many come from families with strong moral traditions. R.D. Adair and Joseph Myers, two military experts, have written:

> Military courses in ethics and professionalism teach a lengthy process of reasoning one's way through moral dilemmas. But the decisions of junior commanders reflect less of what they have been taught as soldiers and more of the moral characteristics they brought with them into the Army from their teachers, parents, and childhood environment. Our leadership must understand that simply declaring a new morality by executive or legislative fiat does not automatically imbue soldiers and officers with a new professional ethic concerning issues of right and wrong. Particularly if it is seen as an overtly political act.

This kind of moral principle is valued in military life. Adm. James

Stockdale, while president of the Naval War College, wrote:

> If anything has power to sustain an individual in peace or war, it is one's conviction and commitment to defined standards of right and wrong.

Many of the people who train these young men and women have real fears that lifting military policy on homosexuality will cause good soldiers to leave, or not renew. They are worried about retention. They are worried about recruitment. They are worried about how the Armed Forces will look in 5 or 10 years. Gen. Colin Powell told midshipmen at the Naval Academy: "If it strikes at the heart of your moral beliefs, then you to have to resign."

Recently, a high ranking naval official visited a ship to talk, in assembly, with the entire crew. One sailor rose to say that he had 2 years left on his contract, but if the President acted to lift the ban he wanted to know how he could leave. That sailor got a standing ovation from every crewmember.

I've had a number of letters. One from Anderson went:

> My husband comes from a family of six siblings; of that six, five were marines. Four of the five married marines * * * we would say that if this ban were to be lifted, we would advise our son, son-in-law, and many young people not to join the military.

Another letter read:

> We have a son serving in the Army in Wurzburg, Germany, and he has shared his concerns over this matter. He said the entire base was upset and knows this reckless action would jeopardize military effectiveness, as you have stated. He will look to get out as soon as he can as I'm sure many others will do.

Some homosexual activists are arguing they have the right to serve. But military service has never been a right. There have always been restrictions—limits on who could be recruited. There is only one goal: To get the type of soldier that will form one part of an effective fighting unit.

For instance, a disabled person might want to serve in the military—or someone too old or too weak. They would be denied, not out of discrimination, but to do something specific and limited—to fit a mission.

An editorial in the Washington Times made this case:

> Many groups are excluded based not on bigotry but on characteristics found incompatible with military service. Examples include young people, old people, short people, single parents, undocumented aliens, and many others. Indeed, all of these people enjoy civil rights because a strong military protects the freedoms of all Americans.

Maj. Melissa Well-Petri, in a new book titled "The Power To Raise and Support Armies," writes:

> Military personnel policies are designed to effect decisions on how best to compose America's fighting force. They are designed to discriminate between those in the judgment of the Army's senior military and civilian leadership, is strong and those whose potential is weak. Military personnel policies are not anti-any individual. They are simply pro-Army.

Should homosexuals fit in the category of the excluded? The military has argued for decades that they should. To understand why, we need to open our minds and listen to what makes a fighting unit effective. It is unlike anything we encounter in civilian life.

An effective fighting unit depends on something intangible—something you cannot quantify. It is described as morale, Esprit de Corps, good order. Throughout history, commanders have argued it is the essence of military success—from the platoon to the battalion. David Hackworth, America's most decorated veteran, writes:

> On the Battlefield, what allows men to survive is combat units made up of disciplined team players * * * when these factors are in synch, a unit has the right stuff. It becomes tight, a family, and clicks like a professional football team. Spirited men who place their lives in their buddies' hands are the most essential element in warfare. The members of such combat teams trust one another totally.

Those who have been in the military know what this is. Those who have not need to try to understand—before they make a decision. This is why we need to wait—to listen to the people who will live with that decision.

What is it about the presence of open homosexuals in the military that would cause General Schwarzkopf to say it would "destroy the military"? Or General Powell to comment it is "inconsistent with maintaining good order and discipline"?

The problem is a simple three letter word: Sex. Why should we be afraid to address it? Common sense and thousands of years of human experience teach that sexuality is powerful, especially among the young. In the case of Baker versus Wade, the judge found that "sex next to hunger and thirst, is the most powerful drive that human beings experience, and it is unrealistic to think that laws will force total abstinence." I don't think that we needed a judge to tell us that.

Managing sexual tension among young people is hard, in the best circumstances. In military life it is even more difficult. The challenges are unique—enforced, close living where people often share intimate situations. Not just for 8 hours day, but for 24 hours a day. The military mission dictates intimacy, from close bunks to communal showers. On submarines, that closeness can be measured in inches.

Many recruits are just 18 years old—the age of high school seniors. This, to say the least, is a tender age sexually. We are not always talking about mature professionals.

I had one letter from Lebanon, IN, that reads:

> The first thing you notice in the military is the loss of privacy. It starts in boot camp with an 88 man barracks. You eat, sleep, shower, shave, march, go to classes, learn how to care for a weapon as a group. No one has any secrets. You just aren't physically able to get away from the others.

The unity that causes soldiers to sacrifice for each other is eroded when there are sexual undercurrent in the barracks. Again, listen to David Hackworth:

> One doesn't need to be a field marshall to understand that sex between service members undermines those critical factors that produce discipline, military order, spirit and combat effectiveness. Mix boys and girls, gays and straights in close quarters such as the barracks or the battlefield, and both sexual contact and the consequent breakdown of morale are inevitable.

Sometimes the ban on homosexuals in the military is compared to its dead, discredited color bar. But practical concerns about controlling sexual tension are not the same as racism. We are talking about sexual tension, conflict, and consequences in close quarters. Colin Powell addressed this issue as follows:

> Skin color is a benign, nonbehavioral characteristic. Sexual orientation is perhaps the most profound of human behavioral characteristics. Comparison of the two is a convenient but invalid argument.

The proper analogy here is to the tension between the sexes. No one would put young men and women together in the same barracks and then try to regulate behavior. So they are separated. Charles Krauthammer argues:

> Consider the behavioral implications of gender differences: Men and women are sexually attracted to each other, and sexual attraction engenders feelings not just of desire but shame and a wish for privacy. That is why segregating bathroom facilities by sex makes sense, whereas segregating them by race is pure prejudice.

Homosexuals cannot be treated the same way. An all-gay barracks would concentrate sexual conflict. Yet putting open homosexuals with heterosexuals would spread sexual tension throughout the force and undermine morale.

This is not, like I've sometimes heard, like a health club. In many cases, it is 24-hour, forced intimacy. You can't just politely ignore matters of sex. Sean O'Keefe, former Secretary of the Navy, has written:

> This is not a case of trying to be belligerently discriminatory. It's a circumstance where we're trying to apply a 9 to 5 social tolerance to an environment in which we're asking people to operate that bears no resemblance to a 9 to 5 environment at all.

Heterosexuals have a right to privacy, just as women do with men. Wouldn't a woman, placed in this situation with men, feel shamed and harassed? Sociologist Charles Moskos at Northwestern University says:

> Sex between service members does undermine order, discipline and morale. So does invasion of sexual privacy. This is why the military separates the living quarters of men

and women. Even in field conditions, the privacy of men and women is maintained to the maximum degree possible. If feelings of privacy for women are respected regarding privacy for men, then we must respect those of straights with regard to gays.

Commanders need to be realists about human nature. They try to manage the sexual energy of young people in an intimate living place, while building morale and unit cohesion. Open homosexuality in the barracks, on their testimony, would make that job impossible.

If you say the real issue is not status but behavior, then you have taken away the rational justification for separating men and women. They are prevented from living together because sexual status is directly related to behavior.

The issue here is not if a homosexual can be a good soldier—many have been. The issue is this: Will units fight and die together if they are divided by sexual conflict and tension? Will unit effectiveness be dangerously compromised?

That is a serious enough prospect to justify a call for patience and study. With so much at stake, I believe we have no other choice. That is what this amendment is about—a temporary freeze in current policy for a limited purpose: To give a change in policy the scrutiny it demands.

In 6 months, we will be involved in a final choice on this question—after hearings and a renewed national debate. This is just the first shot in a siege.

I hope we win today, but we will gather strength as time passes, as our case is made, and as the political fog begins to lift. We are committed to this fight, and we will see it to its end.

LISTEN TO THE EXPERTS: TIME OUT NEEDED FOR GAYS IN THE MILITARY QUESTION; PRESIDENT CLINTON'S HUGE BLUNDER

Mr. DOLE. Mr. President, the phones are still ringing off the hook on Capitol Hill. President Clinton's determination to lift the ban on homosexuals in the military has whipped up a fire storm of outrage—and that is an "understatement." Calls to my offices are running 10-to-1 against Bill Clinton's mission to "open the barracks" to gays. I must confess that I do not understand why the President has chosen this particular moment to make good on this particular campaign promise, especially after reneging on so many others, such as the middle-class tax cut, and cutting the deficit in half within 4 years.

With U.S. troops in Somalia—with our forces engaging a still dangerous and hostile Saddam Hussein—with the powder keg in Bosnia about to explode—and with thousands of military men and women facing the unemployment line because of Defense cutbacks—Americans just do not get it: Why has the President made lifting the ban on homosexuals his top Defense priority???

Americans are also wondering just who is demanding this immediate change in policy. Outside of gay activist groups, liberal cheerleaders in the media, and all of Bill Clinton's Hollywood elitists who showered his campaign with big ticket contributions, mainstream America just does not understand the rush.

But mainstream America does understand bad policy. That is why in history-making numbers, Americans are calling Washington to tell Congress and the White House to back off.

Americans are telling us that they don't care what happens in the French Army. They do not care what the Dutch, or any other country does with its armies. But Americans do care about America's Armed Forces. And they trust Gen. Colin Powell, and Gen. Norman Schwarzkopf, and just about every veterans' group when they tell us that gays in the military will compromise esprit de corps and discipline.

Let me be clear. I recognize that this is a sensitive issue, because we are talking about human beings and real lives. And no one is very comfortable discussing the "gay issue," but we must. Now, I condemn discrimination. I do not like it. It is wrong. And I condemn violence against gays, just as I condemn it against any other group.

But serving in the military is not a right, it is a privilege. Every day, Americans are denied entrance because of height, weight, age, and physical conditioning, or lack thereof.

They can be turned away because of behavior deemed to be a threat to discipline, including prior criminal records, bad credit, alcohol and drug abuse, and other kinds of potentially disruptive behavior.

Those are the realities of military service. Some critics may not like it, but those are the facts, and those are the standards which have helped make America's Armed Forces second to none.

So when I hear General Powell, and the service chiefs state that dropping the ban on gays will destroy unit cohesion and morale, it is time to listen.

When I hear Gen. Norman Schwarzkopf say that gays in the barracks will cause a breakdown in order, it is time to listen.

When the distinguished chairman of the Armed Services Committee says "slow down, let's have some hearings, President Clinton," It's time to listen.

When I get a call from a sergeant in Kansas saying she will quit the Army if gays are welcomed into the force, then it is time to listen.

And when all these experts tell us that this policy change could well have a dramatic impact on national security, it's time to call "time out."

Unfortunately, there is one person who is not an expert who doesn't want a "time out." He has decided that the policy on gays must be, and will be changed. That nonexpert is the President of the United States. Unfortunately, Bill Clinton has already made up his mind on this issue, before he ever consulted with the experts. It has been a huge blunder. If the President is looking for blame, if he is having trouble dealing with the national outrage, then he has no one to blame but himself. If special interest groups, and the President's Hollywood elite know more about national security than Colin Powell, Norman Schwarzkopf, the Joint Chiefs, the American Legion and the VFW, and our men and women in uniform, then the President should explain it all to the American people.

Let us also set the record straight on another point. Congress did not set the timing of this debate. It was not Republicans, either, despite the desperate "damage control" being offered up in the White House briefing room these days. It is a Clinton campaign promise that has pushed its way right past the deficit, the economy, health care and jobs. Already it is tying up legislation. For some reasons, Bill Clinton's first major initiative since taking the oath of office has to be opening the barracks to gays. Yes, he is the Commander-in-Chief, but the last time I checked, the constitution calls for "checks and balances." That is what Congress is all about, and on this issue, Bill Clinton needs "checks and balances."

I am not certain who President Clinton has been consulting on this issue, but I can tell you Senate Republicans had meaningful consultations with representatives of more than 25 veterans groups, representing millions of American men and women, They raised several legitimate concerns, issues that apparently the President hasn't focused on. These issues include:

G.I. benefits: We must ask, will gay spouses be entitled to taxpayer-funded health care benefits, taxpayer-funded military retirement benefits, and taxpayer-funded housing?

Gay marriages: Military chaplains are concerned they may be required to marry gay couples in military chapels.

Combat wounds and AIDS: Remember that on the front lines, the blood supply is a walking bloodbank, where blood transfusions come from your fellow soldiers.

Recruiting: What will the effect be on the All Volunteer Army?

Retention: Will there be a revolt in the ranks? How many other men and women in uniform will feel uncomfortable remaining in the service?

And the list of concerns—the concerns of people who are, and have been in the Armed Forces—goes on and on.

In his floor speech last Tuesday, Senator NUNN outlined the many important considerations that must precede any change in policy. And he rightly noted that article 1, section 8 of the Constitution places this responsibility with the Congress.

I applaud Senator NUNN's commitment to hold hearings on this subject. And I know that he and the Armed Services Committee will give this matter the full and serious consideration it deserves.

But my question, and the question the American people are asking is whether there should be any change in the policy of the Department of Defense regarding homosexuals serving in the military before we understand the full implications of this action. It is clear that President Clinton wants to shoot first and ask questions later. But I believe that we should study the facts and then decide. I believe that Congress has an important role to play. And so, I offer this amendment which is designed to do three things:

First, it directs the Congress to conduct a thorough review of all executive orders, Department of Defense directives and regulations concerning the appointment, enlistment, and induction, and retention of homosexuals in the Armed Forces for a period of 6 months. I acknowledge that Senator NUNN has already announced his intentions to conduct hearings to study this matter, and I applaud his initiative. However, I believe that placing this into law sends the right signal—that Congress views this matter seriously, and is fully committed to a complete and thorough review.

Second, it directs that there be no change in the policies which were in effect as of January 1, 1993, until Congress has had the opportunity to have its say. Simply put, this is the time out America is calling for.

Third, this amendment calls for "expedited action" on Capitol Hill for any changes the President may recommend, which would be sent to Congress in a legislative package that would be voted on within 3 days upon arrival.

It would be my preference to have a separate bill on this issue, so that the Senate could have a clean up-and-down vote and not interfere with the pending legislation.

We have asked for such a "free standing" opportunity, but we could not get "unanimous consent," so therefore I am offering this amendment.

It is clear that President Clinton has already made up his mind. And he has already acted without congressional approval. I am convinced that he will continue down this road, regardless of the evidence, regardless of outcome of hearings—and against the advice of our military leaders. Only by making this a question of law can the Congress ensure our ability to meet our constitutional responsibilities.

In my view, this amendment puts things back into balance. This issue that President Clinton believes to be so important would get the attention it deserves; the President would receive expedited procedures to change the policy; Congress would get to vote; and the American people will have broken through the steel curtain currently surrounding the White House.

So let us be clear about today's vote: no matter how anyone tries to fuzz it up, or put some "teflon" on one of the most controversial issues we will debate all year, a vote against this amendment is a vote to put homosexuals in the military.

I thank my colleagues and urge the adoption of this amendment.

I want to say to those who say we are holding up the family leave bill, let us not kid ourselves. It is not effective for 6 months from date of enactment. So, in fact, if we do not pass it this evening, I do not think it is going to bring the country to a stop.

Second, let me suggest to those who have been nit-picking the amendment, that is an indication of how weak their case is.

There is a clear choice here. You can vote for a sense-of-the-Senate amendment, which, in effect, says we shall have hearings. I see no problem with it. In fact, I assume nearly everyone would support that amendment. Or you can vote for this amendment, which calls, in effect, for time out, does not change current practices, and that is the key vote. That is the key vote. This is statutory language, not a sense-of-the-Senate resolution.

This is a very sensitive issue. I hope we are not debating it every week or every month. I know we are not going to be taking action, but it does not prevent debate.

I know there have been a lot of efforts made to sort of downplay phone calls. They were great during the campaign, but now the campaign is over, we are told a bunch of kooks are calling in from my State and other States. Do not believe it. These are real people. These are not the Hollywood elite. These are not the big contributors. These are not the gay activists. These are people who live in my State, your State, every other State, and they are frustrated and they are disgusted and are calling us. It is about a 10-to-1 ratio, or more. They do not understand why we are doing this. We have troops in the gulf, in Somalia. We have problems in the military. We are discharging good men and women who want to stay and cannot stay.

What is the first national security issue? Whether we ought to relax rules on gays in the military? We are here tonight because President Clinton made the first move. I know that Mr. Stephanopoulos, his spokesman, said we are here because of the Senate. We are not debating this because of the Senate. Congress was ignored. As pointed out by the distinguished chairman of the Armed Services Committee, Congress does have a role to play, and we are going to continue to have a role to play.

Mr. President, I think this is a pretty important vote. We are going to lose. We do not have enough votes. We are going to lose on the Senate floor, only on the Senate floor, because with the American people, and with veterans groups, I think with a great majority of American people, we are going to win on this issue if not today, then 6 months from now, or 8 months or whenever it might be.

I happen to believe mainstream America—probably some in everybody's State—recognize it is bad policy when they see it. That is why in history making numbers Americans are calling Washington to tell Congress and the White House to back off, back off, do as earlier suggested by the chairman of the Armed Services Committee and many others, let us just have a time out, let us have the hearings.

There may be some room for accommodation. Nobody wants to discriminate in this body that I know of. The American people are calling us, telling us they do not care what happens in the French Army, they are not going to be in the French Army. They do not care what happens in the Dutch Army. They are not going to be in the Dutch Army. What some other country does with its armies, that is their business. But what Americans care about is America's Army and America's Armed Forces. They trust Gen. Colin Powell, and they trust Gen. Norman Schwarzkopf and just about every veterans group, and they tell us that gays in the military will compromise esprit de corps and discipline.

We have all said this is a sensitive issue because we are talking about human beings who may be different. So nobody is very comfortable in discussing this gay issue. We all condemn discrimination. It is wrong. But serving in the U.S. Army is not a right. It is not a right; it is a privilege. You might be too old, you might be disabled, you might be overweight, there are a lot of reasons you can be excluded. If you read this questionnaire, that covers a lot of areas. Everyday Americans are denied the opportunity to serve in our Armed Forces. Every day somebody is denied because of age, because of overweight, because of lack of conditioning, and all the other reasons that I have stated. You can be turned away for behavior deemed to be a threat to discipline, including if you have bad credit; you cannot get in the service. Or, if you have potentially disruptive behavior, you cannot get in the service.

These are the realities of military service. Some critics do not like it, but they have never been in the military probably. But these are the facts and those are the standards which have helped make America's Armed Forces second to none.

So when I hear General Powell and the service chiefs state that dropping the ban on gays will destroy unit cohesion and morale, it is time to listen. Maybe they are wrong. The Joint Chiefs have been wrong before. When General Schwarzkopf, who the last time I checked was an American hero, says that this will cause a breakdown in order, I think it is time to listen. When they say it is time to slow down, let us have some hearings, I think it is time to listen. When I get a call from the sergeant in Kansas who says she will quit the Army if gays are welcomed into the force, then it is my view it is time to listen. That was a Kansan.

We can all find exceptions, and I have noted speeches that talked about exceptions. These are experts. But we have been trying, in the past several days, to just get a vote. We are going to get a vote. We are going to have a vote, very clear cut. You can vote for a sense-of-the-Senate resolution, which says let us have hearings. I will move to table that, and then I will vote against my motion to table. And then the Senator from Maine will move to table my amendment, which is the real amendment, which is statutory, and we will lose. We will not have the votes. But we will have the vote. I do not think it is going to be a party line vote. Some will support my amendment and some will not support my amendment on this side, and the same is true on the other side.

The President of the United States made up his mind on this issue before he ever consulted anybody. He never consulted the experts, never consulted Congress, and it has been a huge blunder. So if somebody is looking for blame down at the White House, saying it is the Senate's problem, we did not start this debate, we did not raise it. We were ready to deal with the economy, jobs, and health care. But if special interest groups and the President's Hollywood elite know more about national security than Colin Powell, and Norman Schwarzkopf, and our men and women in uniform, then the President should explain it to all of the American people.

Let us also set the record straight on another point. As I said, we did not set the timing of this debate. That was all because of actions taken by the President of the United States.

So it seems to me that for all of the reasons I can think of, my amendment should not be tabled. My amendment does not do anything except keep everything just as it is, just as it was on January 1.

There are a number of questions that must be answered. We must ask, will gay spouses be entitled to taxpayer-funded benefits, such as military retirement benefits, and taxpayer-funded housing? Military chaplains have complained to us that they are concerned they may be required to marry gay couples in military chapels. We have had veterans tell us—and we are repeating what they told us—the frontlines of blood supply is a walking blood bank where blood transfusions come from your fellow soldiers. What happens to recruiting? What happens to retention? And there are a lot of concerns expressed by a number of my colleagues on both sides of the aisle. The chairman of the Armed Services Committee raised some of these concerns, and many others.

So I suggest that the hearings are a good step. We need the hearings. But why should we change the policy? Normally around this place, we have the hearings before we make a judgment. Here, the judgment was made, and now we are going to have the hearings. I am not certain whether there will be any ultimate benefit or not.

Mr. President, I noted that my good friend and parliamentary expert, the distinguished Senator from West Virginia, Senator BYRD, takes issue with the amendment. But there is no quarrel about one thing. If you want gays in the military, then you oppose the amendment. That is the issue. That is it. If you want to keep everything just as it is, until after the hearings, and maybe some accommodation will be made, then you vote not to table the amendment.

We prefer to have a freestanding bill that would not interfere with family leave. We were not able to work that out. But I think we have an accommodation here that will give us at least an indirect vote, but also I think a very direct vote on this issue.

Nobody is going to be confused about this vote. The people back in all of our States are going to understand precisely where we were on this issue. You cannot fuzz it up, you cannot cover it up. You cannot say I voted for something else.

So it seems to me that, for the time being, I am going to stick with General Powell and General Schwarzkopf. The last time I checked, they were pretty good men, they were dedicated Americans, and they were concerned about our country. They were concerned about the armed services. Then we will have the hearings chaired by Senator NUNN, who will do an outstanding job—there is no question about that—with the help of Senator THURMOND and other Senators on both sides of the aisle. Then, hopefully, we will take some appropriate action at that time.

So it has been our effort from the start to have a vote. I want to thank my colleagues, the 41 or 42 Republicans, some of whom are cosponsors of the family leave bill, who said: OK, if we are going to have any influence in this Chamber, in the minority, we have to stick together. So 42 out of 43 said: OK, I will stick with you on a cloture vote. That is very important.

It is very important not only to this side of the aisle, but to the other side of the aisle, too, because we want to have some influence in this body. We want to have input. We want to be constructive, and we believe we are being constructive in this instance. So the issue is very clear. We will first vote to table the amendment of the distinguished majority leader, and without any further debate, we will go to my amendment, and there will be a motion to table, and there will be two rollcall votes. If you want the people back home that have been calling you to understand precisely where you stand, then vote not to table the Dole amendment.

Mr. MITCHELL. Mr. President, let us be clear about one thing. We are here tonight debating, and about to vote on, the question of homosexuals in the military services for one reason, and one reason only. That is because the sponsors of the underlying amendment insisted on bringing it before the Senate at this time.

This has nothing to do with the bill that is being considered. The Family and Medical Leave Act is important to millions of Americans, and we have wanted to pass that bill. There is nothing in the Senate rules, or in the Constitution, that requires an amendment to be offered regarding homosexuals in the military service. It is the sponsors of this underlying amendment who have insisted on bringing the issue here, who have demanded that this issue, above all other issues, be before us first and foremost.

This amendment sends a very clear signal to the American people of the priorities of its supporters. It would establish a special and extraordinary legislative rule, disregarding all of the rules of the Senate, just for the consideration of this one issue—homosexual service in the military—not for health care, not for economic growth, not for job creation, not for deficit reduction, not for education. Nothing else is as important to the sponsors of this amendment than getting up here and talking about homosexuals in the military.

If I, the majority leader, were to propose that a conference report on health care, or on economic growth, or on the budget be nondebatable, our colleagues would erupt with indignation and opposition. Yet, that is what they have proposed for this measure. If I, the majority leader, were to propose a bill I introduced on health care, or a bill I introduced on economic growth, or a bill I introduced on job creation, or a bill I introduced on dealing with the budget and the deficit, that had to be voted on within 3 days after introduction, our colleagues would erupt with opposition and indignation. Yet that is what they have proposed on this bill—a new and different and unprecedented and extraordinary legislative procedure, disregarding all of the established rules of the Senate on this one issue. That tells us where their priorities are. Those are not my priorities, nor do I believe they are the priorities of a majority of the Members of the Senate.

A second reason this amendment should be rejected is that, by its very language, it extinguishes every Executive order, Defense Department directive, military regulation issued since January 1 that concerns, in any way, this subject matter, no matter how well-founded the regulation, if any small part of it affects this subject. That means that actions taken by the Defense Department to combat sexual harassment would be negated.

A vote for the underlying amendment is a vote against the efforts of the Defense Department to deal with the problem of sexual harassment. It sets back military efforts. It says that someone who votes for this underlying amendment is saying to his or her constituents: We want to roll back the Defense Department's efforts to deal with sexual harassment. We do not want to let the Defense Department deal with these issues. The Navy Department's regulation of January 6 would fall.

I agree with the minority leader on one thing—this is a clear vote. I do not think a Senator here really should want to be on record as saying we do not care about sexual harassment in the Defense Department, and we are going to roll back the efforts made by the Defense Department to deal with it; but that is what a vote for the underlying amendment would cause.

This amendment is not necessary. Nobody had to introduce this amendment. Nobody had to bring this issue up here. This is an effort to gain political advantage on a controversial issue. Let us all recognize it for what it is.

The President, the Secretary of Defense, the chairman of the Senate Armed Services Committee, the chiefs of the military services all agreed on a procedure. The amendment does not do anything to improve that agreement. To the contrary, the amendment may bring unprecedented disruption.

Let me get to the substance of the issue. There has been a lot of talk in this debate about the disruption caused by a change in policy.

My fellow Senators, all change threatens to bring disruption. The question is not whether a change will cause some disruption. The question is: Do we gain by making a change in a way that is sufficient to offset the disruption?

Let us look at our history. For 90 long years after our Nation declared its independence, black Americans were not citizens. They could be—and they were—bought and sold like property. They were enslaved.

It took the bloodiest war in the history to change that. That was disruption. But the result was expanded freedom, greater equality, a better America.

More than 150 years after America became a nation, American women could not vote. Decades of ridicule directed at women passed before the 20th amendment was ratified. That caused disruption. But the change meant greater democracy, greater freedom, a voice in the democratic process for half of our population—a better America.

More than 80 years after the Civil War ended—80 years during which black American men and women served in the Armed Forces, wore the uniform, took the bullets and died for their country, and were buried alongside white Americans in some places—80 years later, President Truman made the determination to integrate the American Armed Forces.

That was disruptive. But the result was greater freedom, more equality, a better America. And today, our military stands as the most fair, the most color blind, the most open institution for competition based on talent and skill and effort and not on prejudice of any institution in our country.

All change asks us to adapt. In every society there are some who fear and resist change. Change is not easy. It is demanding. But American history is a history of people changing with the times and always in the direction of greater freedom, more equality, more opportunity for all.

I say to my colleagues, let us lift our sights and our hopes and our votes above appeals to division, above appeals to the worst that is in our people, above all of the discrimination and the prejudice and the anxiety and the fear that is being created in this debate. Let us lift our debate, let us lift our votes, let us lift our country to what is best in humans, what is best in Americans, and what is best in this great country.

This amendment is completely unnecesary. It has nothing whatsoever to do with this bill. We could have passed this bill last night but for the insistence of the sponsors of presenting and pushing and demanding a vote on this amendment.

That has already been stated. And so let us get this behind us and let us pass the important legislation which this has delayed. And when we get back to this subject, let us remember: We are all Americans; we are all children of the same God; and let us lift our country above what we have heard during some of this debate.

Mr. President, I yield back the remainder of my time and I am prepared now for the vote.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. CONRAD). The question occurs on the motion to table amendment No. 18 offered by the majority leader. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMPSON. I announce that the Senator from South Carolina [Mr. THURMOND] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 1, nays 98, as follows:

[Rollcall Vote No. 8 Leg.]

YEAS—1

Byrd

NAYS—98

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Krueger
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Wallop
Warner
Wellstone
Wofford

NOT VOTING—1

Thurmond

So the motion was rejected.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment (No. 18) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The Republican leader.

AMENDMENT NO. 19 TO AMENDMENT NO. 17, AS AMENDED

Mr. DOLE. Mr. President, under the agreement, I ask that amendment No. 19 which is at the desk be reported by the clerk.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. THURMOND, Mr. COATS, Mr. GRAMM, Mr. SMITH, Mr. FAIRCLOTH, Mr. KEMPTHORNE, Mr. WARNER, Mr. LOTT, Mr. MCCAIN, Mr. HELMS, Mr. NICKLES, Mr. MURKOWSKI, Mr. WALLOP, Mr. COVERDELL, Mr. SIMPSON, Mr. GREGG, Mr. MACK, and Mr. CRAIG, proposes an amendment numbered 19 to the Amendment No. 17, as amended.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in amendment No. 17 (as amended) add the following:

SECTION 1. REVIEW OF DEPARTMENT OF DEFENSE POLICY CONCERNING SERVICE OF HOMOSEXUALS IN THE ARMED FORCES.

A thorough review of all Executive Orders, Department of Defense directives, and regulations of the military departments concerning the appointment, enlistment, and induction, and the retention, of homosexuals in the Armed Forces of the United States, shall be conducted by the Congress before July 15, 1993.

All Executive Orders, Department of Defense directives, and regulations of the military departments concerning the appointment, enlistment, and induction, and the retention, of homosexuals in the Armed Forces of the United States, as in effect on January 1, 1993, shall remain in effect until the completion of this review with respect to the Army, Navy, Air Force, and Marine Corps and unless changed by law.

Any proposed change in this policy shall be submitted by the President in the form of a bill and shall be introduced in each House of Congress by the Majority Leader in each House. The bill introduced in the Senate, placed on the calendar, be amendable with germane or relevant amendments, and shall be voted on no later than the close of business three days of session after its introduction.

The bill introduced in the House shall also be voted on no later than the close of business three days after its introduction. If both houses agree to their separate bills, upon receipt of the House Bill, if it is identical, the Senate shall be deemed to have passed the House bill in lieu of its own bill and the same shall be transmitted forthwith to the President. Any conference report shall be non-debatable.

Mr. MITCHELL. Mr. President, pursuant to the prior agreement, I move to table the Dole amendment No. 19 and I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, as Senators were earlier placed on notice, this will be a 10 minute rollcall vote.

The VICE PRESIDENT. The question is on agreeing to the motion to lay on the table amendment No. 19. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from South Carolina [Mr. THURMOND] is absent due to a death in the family.

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 37, as follows:

[Rollcall Vote No. 9 Leg.]

YEAS—62

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Conrad
D'Amato
Daschle
DeConcini
Dodd
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Krueger
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Simon
Specter
Wellstone
Wofford

NAYS—37

Bennett
Bond
Brown
Burns
Coats
Cochran
Cohen
Coverdell
Craig
Danforth
Dole
Domenici
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Kassebaum
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Shelby
Simpson
Smith
Stevens
Wallop
Warner

NOT VOTING—1

Thurmond

So the motion to lay on the table the amendment (No. 19) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD addressed the Chair.

The VICE PRESIDENT. The Senator from Connecticut.

Mr. DODD. Mr. President, I am submitting two technical amendments——

The VICE PRESIDENT. If the Senator will withhold, the question is now on agreeing to the underlying Dole amendment, as amended.

The amendment (No. 17), as amended, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The Republican leader.

Mr. DOLE. Let the record reflect that Senator THURMOND, had he been here—he is absent because of a death in the family—would have voted no.

AMENDMENT NO. 20

(Purpose: To revise the duties and membership of the Commission on Leave)

Mr. DODD. On behalf of Senator PRESSLER and myself, I send an amendment to the desk and ask for its immediate consideration.

The VICE PRESIDENT. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mr. PRESSLER (for himself and Mr. DODD) proposes an amendment numbered 20.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

The amendment is as follows:

Strike section 302(1) of the bill and insert the following:

(1) conduct a comprehensive study of—

(A) existing and proposed mandatory and voluntary policies relating to family and temporary medical leave, including policies provided by employers not covered under this Act;

(B) the potential costs, benefits, and impact on productivity, job creation and business growth of such policies on employers and employees;

(C) possible differences in costs, benefits, and impact on productivity, job creation and business growth of such policies on employers based on business type and size;

(D) the impact of family and medical leave policies on the availability of employee benefits provided by employers, including employers not covered under this Act;

(E) alternate and equivalent State enforcement of title I with respect to employees described in section 108(a);

(F) methods used by employers to reduce administrative costs of implementing family and medical leave policies;

(G) the ability of the employers to recover, under section 104(C)(2), the premiums described in such section; and

(H) the impact on employers and employees of policies that provide temporary wage replacement during periods of family and medical leave.

In section 303(a)(1) of the bill, strike "and 2" and insert "and 4".

In section 303(a) of the bill, strike paragraph (1)(C)(ii) and all that follows through paragraph (2) and insert the following:

(ii) EXPERTISE.—Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor management issues. Such members shall include representatives of employers, including employers from large businesses and from small businesses.

(2) EX OFFICIO MEMBERS.—The Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Commerce, and the Administrator of the Small Business Administration shall serve on the Commission as nonvoting ex officio members.

Mr. DODD. Mr. President, the senior Senator from South Dakota, Senator PRESSLER and I worked together to develop this technical amendment. I see the Senator from South Dakota on the floor now, and I will yield to him so that he can address, for the benefit of our colleagues, what this technical amendment will do.

Mr. PRESSLER. I thank my colleague from Connecticut for yielding and affording me the opportunity to address this amendment. Mr. President, as currently written, S. 5 establishes a Commission on Leave to study existing and proposed policies relating to leave and the potential costs, benefits, and impact on productivity of such policies on employers. The amendment provides more specific reporting requirements of the Commission. For example, the amendment I authored would require the Commission to include an analysis of an employer's ability to collect premium payments from employees who do not return from leave. Also, the Commission will analyze the differences in costs and benefits of leave policies on businesses based on size. It is essential to determine if small businesses are adversely impacted by this legislation or if in fact, there is a net benefit for job creation and economic growth.

Mr. President, a number of us in this body remain concerned over the possible impact of S. 5 on business operations. A thorough analysis of the costs and benefits of this legislation is imperative. This amendment will ensure that the Commission on Leave takes a thorough look at this legislation's impact.

Mr. President, the amendment also adds the Secretary of Commerce and the Administrator of the Small Business Administration as ex officio members of the Commission on Leave, and ensures that leaders from both large and small businesses are represented on the Commission on Leave.

As my colleagues know, most American businesses are small businesses. That is more than true in my home State of South Dakota. Though most of these businesses are not covered under the family leave bill, they fear that it is only a matter of time before this legislation applies to them. Similarly, those small businesses that are covered under this bill are concerned that more restrictive mandates may be imposed. Small businesses need a voice in the process. Small businesses need to be represented on the Commission tasked to oversee and analyze this bill's implementation. This amendment ensures that the concerns of small businesses are heard and considered should Congress revisit the issue of mandated leave. I thank my colleague from Connecticut for his leadership and cooperation in the drafting of this technical amendment.

Mr. DODD. Mr. President, I commend the senior Senator from South Dakota for his commitment to the concerns of our Nation's small businesses. The amendment we developed is a testament to that commitment. I appreciate Senator PRESSLER's willingness to work with me to improve this legislation for the benefit of small business.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment (No. 20) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 21

Mr. DODD. Mr. President, I send a technical amendment which includes conforming section references, a technical amendment offered by Senator NICKLES, and a technical amendment offered by Senator BOND to strengthen employee protections.

The VICE PRESIDENT. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 21.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

The amendment is as follows:

In section 101 of the bill, add at the end the following:

(13) SPOUSE.—The term "spouse" means a husband or wife, as the case may be.

In section 102(b)(1) of the bill, in the first sentence, strike "paragraph (1)" and insert "subsection (a)(1)".

In section 102(b)(1) of the bill, in the second sentence, strike "subparagraph (B)" and insert "paragraph (2)".

In section 102(b)(1) of the bill, in the second sentence, strike "paragraph (1)" and insert "subsection (a)(1)".

In section 102(b)(2) of the bill, strike "paragraph (1)" and insert "subsection (a)(1)".

In section 103(b)(4)(B) of the bill, strike "and".

In section 103(b)(5) of the bill, insert ",or leave on a reduced leave schedule," after "leave".

In section 103(b)(5) of the bill, strike the period and insert a semicolon.

In section 103(b) of the bill, add at the end the following:

(6) in the case of certification for intermittent leave, or leave on a reduced leave schedule, under section 102(a)(1)(D), a statement of the medical necessity for the intermittent leave or leave on a reduced leave schedule, and the expected duration of the intermittent leave or reduced leave schedule; and

(7) in the case of certification for intermittent leave, or leave on a reduced leave schedule, under section 102(a)(1)(C), a statement that the employee's intermittent leave or leave on a reduced leave schedule is necessary for the care of the son, daughter, parent, or spouse who has a serious health condition, or will assist in their recovery, and the expected duration and schedule of the intermittent leave or reduced leave schedule.

In section 104(c)(3)(C)(i) of the bill, strike "(A)(i)" and insert "(A)(ii)".

In section 104(c)(3)(C)(ii) of the bill, strike "(A)(ii)" and insert "(A)(i)".

In section 108(c) of the bill, in the heading, insert "OR LEAVE ON A REDUCED SCHEDULE" before "FOR INSTRUCTIONAL".

In section 6383(b)(5) of title 5, United States Code, as added by section 201 of the bill, insert ", or leave on a reduced leave schedule," after "leave".

In section 6387 of title 5, United States Code, as added by section 201 of the bill, strike "under" and insert "to carry out".

In section 303(a)(1)(C)(i) of the bill, strike "Members" and insert "members".

In section 502, in the heading, strike "CONGRESSIONAL EMPLOYEES" and insert "HOUSE EMPLOYEES".

In section 502(c) of the bill, strike "the resolution in".

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment (No. 21) was agreed to.

Mr. DODD. Mr. President, I believe under the previous unanimous-consent agreement now Senator BROWN is to be recognized.

The VICE PRESIDENT. The Senator from Colorado.

AMENDMENT NO. 22

(Purpose: To modify provisions relating to intermittent leave and leave on a reduced leave schedule)

Mr. BROWN. Mr. President, I send an amendment to the desk.

The VICE PRESIDENT. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN], for himself and Mrs. KASSEBAUM, proposes an amendment numbered 22.

Mr. BROWN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

The amendment is as follows:

On page 10, strike line 22 and all that follows through page 11, line 24, and insert the following:

(3) INTERMITTENT LEAVE.—

(A) IN GENERAL.—Leave under subparagraph (A) or (B) of paragraph (1) shall not be taken by an employee intermittently unless the employee and the employer of the employee agree otherwise. Subject to subparagraph (B), subsection (e), and section 103(b)(5), leave under subparagraph (C) or (D) of paragraph (1) may be taken intermittently when medically necessary.

(B) ALTERNATIVE POSITION.—If an employee requests intermittent leave under subparagraph (C) or (D) of paragraph (1) that is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that—

(i) has equivalent pay and benefits; and

(ii) better accommodates recurring periods of leave than the regular employment position of the employee.

(b) REDUCED LEAVE.—On agreement between the employer and the employee, leave under subsection (a) may be taken on a reduced leave schedule. Such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.

Mr. BROWN. Mr. President, this amendment is familiar to all the Members of the Senate. It is simply what we have passed for 7 years in a row or had before us for 7 years in a row. It is the so-called Goodling amendment. It involves the reduced leave schedule. It is exactly what this body has had before it all 7 years. It is exactly what the House of Representatives adopted on this bill by passing this. It should avoid conference problems in this area. I do not believe it needs debate. I would be happy to agree to limitation.

Mr. DODD. Mr. President, we do not have unanimous agreement. This is very different. The Senate bill, including the technical amendments that were just offered, strengthen employer protection substantially. Senator BOND of Missouri, Senator COATS, and I have worked on this language.

What is being offered here is different from what was in the House bill. Unfortunately, we are not able to work out the differences and so I would ask my colleagues to reject this amendment and stick with what we have worked on over these past number of weeks to try to craft strong protection amendments.

I would be glad to yield to Senator BOND of Missouri.

Mr. BOND. Mr. President, I do not believe a return to last year's language will solve the problem. I do not believe the business community ever had the right which it now claims to have lost; namely, unilaterally to keep an employee from taking leave when that employee had met the battery of requirements needed to obtain medical leave for herself or for a family member.

In the 1992 conference report vetoed by President Bush, we retained a section of the bill from years past which states that an employee who desires to take leave on a reduced leave schedule—defined as "a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee—must negotiate that schedule with her employer."

However, the conference report also contained a provision which entitled an employee to intermittent leave whenever medically necessary—in other words, it was not necessary to negotiate the leave with the employer if the leave was medically necessary and the employee met all of the certification requirements. The provisions were, then, contradictory.

At the urging of the Clinton Labor Department, the language was clarified to reflect the longstanding intent of Congress that medically necessary leave to care for an ill family member or to recover from one's own illness could not be unilaterally denied by an employer.

However, I stress that the rights and responsibilities of employers and employees are nearly identical under both versions. If we walk through the steps an employee must take before being entitled to take leave for his own or a family member's illness, we will see that nothing has really changed. Employers and employees have the same rights and responsibilities they had before.

Under the Bond-Ford-Dodd amendment:

Any employee wanting unpaid leave, whether for the full 12 weeks or on an intermittent basis, to care for a family member or for his own condition had to:

First, prove that she or the family member had a serious health condition;

Second, provide certification from a health care provider that she was unable to perform the functions of the job, or that she was needed to care for the ill family member;

Third, obtain a second or even third opinion if the employer requested it;

Fourth, in the case of intermittent leave, take the responsibility to schedule it in such a way that it did not disrupt the employer's operations.

If the employee met those strict standards, she was eligible for leave.

We further protected the employer under the Bond amendment by allowing him to transfer an employee to an equivalent position that better accommodated the periods of leave.

Under the new S. 5:

Any employee desiring medical leave or leave to care for a family member still has to meet the strict tests:

First, there must be serious health condition;

Second, there must be certification;

Third, there must be a second or even a third opinion if the employer requests it;

Fourth, leave must be scheduled so that it does not disrupt an employer's operations. And employers still have the right to transfer people on reduced or intermittent leave.

The change in language was necessary to clarify the long-standing intent of Congress that employers would not unilaterally have the power to deny leave to, for instance, a woman whose son needed chemotherapy treatments 2 afternoons a week when that woman had provided all of the necessary documentation and certification.

That is the case for retaining the current language. The technical amendment just passed contains an additional employer protection: We require that the doctor of an employee seeking leave on a reduced or part-time schedule state specifically on the certification the need for that part-time schedule, and its expected duration.

We have worked for over 2 years to implement protections for the employers under this bill, and this amendment also helps to guard against the potential for abuse of the leave.

A return to the old language would put us in the bizarre position of telling a mother whose child needed chemotherapy that if she wanted 2 afternoons off per week she would have to negotiate that with her employer, while if she was willing to take an entire 6-week period off while her son underwent treatments 2 afternoons a week, that would be allowed. Clearly that was never our intent, and the language simply clarifies that.

Mr. President, I recognize the confusion over this issue. Are intermittent and reduced leave synonymous? Are they different? But too often, as we quibble over the letter of the law, the intent gets lost.

That is where we are today. The amendment I offered last year specifically gave employers the option to transfer an employee to another position during the period intermittent leave was taken, in order to limit the disruptions. Obviously, we all believed that intermittent leave could be the twice a week afternoon trips for follow-up treatment—otherwise, we wouldn't have pushed for the flexibility.

So I can certainly state that as the author of the substitute, our intent was clear—all medically necessary leave.

Unfortunately, now that the Department of Labor has changed the interpretation of intermittent—must be over 1 week, but under 12 weeks—the change in this bill is required to stick with our intent.

Thus, I oppose this amendment.

I merely want to assure my colleagues that we will work long and hard to straighten out some very difficult technical language. Were we to accept the Goodling amendment, we would be in the very weird position where a mother with a child who needed chemotherapy would not be able to take off the so-called reduced leave of two afternoons a week to get that child to chemotherapy, unless her employer explicitly agreed she would not be entitled to it. But she would be entitled to take off 6 full weeks just to get those two-times-a-week chemotherapy treatments.

There is very great confusion that we worked to alleviate, based on the Department of Labor's interpretation of the language in this bill. The language that is now in as a result of the technical amendment solves the problem. And I assure my colleagues that moving back to the Goodling version would simply add a great deal of confusion and uncertainty.

Thus, I will join with my colleague from Connecticut in urging that this amendment be tabled.

Mrs. KASSEBAUM. Mr. President, I speak in strong support of the language that Senator BROWN has offered. It is the exact language that was approved last night by the House. It is the Goodling amendment, and it was approved by the House. I believe it increases significantly the employer's ability to plan when an employee knows in advance that he or she will have to be gone.

I realize that this is the last minute. But I think it is important for us to address this amendment.

I urge its support.

Mr. DODD. Mr. President, if there is no further debate on this, I move to table the Brown amendment, and I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, we are trying to accommodate several Senators who have other commitments.

I ask that Senators remain in the Chamber so that we can complete this vote in 10 minutes, and then have the vote on final passage immediately thereafter; and try to do that one in 10 minutes, as well, to accommodate several Senators who have travel schedules that require them to leave shortly.

I thank my colleagues.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Connecticut to lay on the table the amendment of the Senator from Colorado.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Wyoming [Mr. WALLOP] is necessarily absent.

I further announce that the Senator from South Carolina [Mr. THURMOND] is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The VICE PRESIDENT. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 59, nays 39, as follows:

[Rollcall Vote No. 10 Leg.]

YEAS—59

Akaka
Baucus
Biden
Bond
Boxer
Bradley
Breaux
Bryan
Byrd
Campbell
Coats
Cohen
Conrad
Danforth
Daschle
DeConcini
Dodd
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Krueger
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Simon
Wellstone
Wofford

NAYS—39

Bennett
Bingaman
Boren
Brown
Bumpers
Burns
Chafee
Cochran
Coverdell
Craig
D'Amato
Dole
Domenici
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield
Helms
Kassebaum
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Pryor
Roth
Shelby
Simpson
Smith
Specter
Stevens
Warner

NOT VOTING—2

Thurmond
Wallop

So the motion to table, the amendment (No. 22) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WELLSTONE. I rise in support of S. 5, the Family and Medical Leave Act of 1993, which President Clinton, the Democratic leadership and the Labor and Human Resources Committee on which I serve have given first priority in the new Congress.

I am delighted that we are about to take this critical first step toward a comprehensive family support policy in this country. There are few measures currently before Congress that so richly deserve a fast track approach as does the family and medical leave bill.

Despite persistent efforts by the minority to derail this modest measure—or to gut it with damaging amendments—our persistence and the support of President Clinton is about to pay off for American workers. I commend Chairman DODD, Chairman KENNEDY, and Majority Leader MITCHELL for their tenacity and skill in bringing this bill to the Senate floor for consideration as the first major legislation of the 103d Congress.

I am very hopeful that this year we will finally be able—after almost a decade of struggle over this issue here in Congress—to enact this legislation and immediately get it signed into law by President Clinton. I hope that next week it will be the law of the land—a testament to our ability to get things done quickly and cooperatively with the new administration. The polls consistently show that over 80 percent of Americans from all different backgrounds support family and medical leave; we ought to have provided this modest benefit years ago. I am glad that we are finally moving toward enactment of this bill.

The Family and Medical Leave Act is designed to protect the jobs of American workers when they are faced with a family crisis. It establishes a policy that says that Americans should not have to choose between having a family and having a job. It says that we believe in families in America, that as a nation, we are willing to pay the small price necessary to make families possible for people who work.

I want to make it clear, Mr. President, that I consider this legislation to be just a beginning, a modest start toward a more comprehensive family policy. The legislation provides 12 weeks of unpaid, job-protected leave per year for employees who are faced with the birth or adoption of a child, or who need to take care of an immediate family member who has fallen seriously ill. This policy is very modest and it comes very late—most of our Western European competitors have had similar policies for years. It is long past time to adopt our own, modest plan.

This bill comes at a critical time for this country. More and more, we are a country of working families. Currently, 96 percent of all fathers and 66 percent of all mothers with school-aged children are in the work force. Over half of all women with infants work outside the home. With the rise in two-earner families, we must make it possible for at least one family member to take some time out of work in case of emergencies.

But let us not rest too long with this important first step. Over the years, numerous compromises have been made to ensure that this legislation would be enacted into law. Originally designed to cover virtually all employers almost a decade ago, the bill before us will exempt all those employers with less than 50 employees. With this change, it only covers 5 percent of all employers. While it is true that according to 1990 census figures this translates into coverage for about 60 percent of American workers, we can do better.

Further, the bill restricts eligibility to those who have worked at least 1,250 hours over the previous 12 months and allows employers to exempt certain key employees from coverage. All of these changes, and others, were made to accommodate certain categories of employers along the way in order to ensure prompt enactment. I am hopeful that we will be able to strengthen and expand this legislation to cover all working Americans as soon as possible.

While I would support expanding this measure to cover more employees, I think it is important that the bill be enacted and signed into law as soon as possible, to protect the approximately 150,000 employees per year who lose their jobs because they have no medical leave—not to mention family leave. We must not delay further.

I am delighted that the bill provides for a study commission to assess the real effects of this bill on our economy. The work of this commission, including its recommendations for any changes that might be needed in the law after it is implemented, will be especially important to the work of the Labor and Human Resources Committee in our ongoing oversight efforts.

I urge my colleagues to support this important step forward, and to oppose any additional weakening amendments. I thank all those who have worked so patiently for so many years to bring us to this point. Americans have waited for a long time for a government that works, that is sensitive to their needs, and that generates policies relevant to their daily lives. This bill is an important example of our renewed commitment to those goals.

Mr. GORTON. Mr. President, last November, people in Washington State and people across the Nation sent an unmistakable message that they want us to revitalize the economy; to create new jobs for the unemployed and better jobs for workers in low-wage jobs with few benefits. On the wall of candidate

Clinton's campaign headquarters was posted the poignant message, "It's the economy, stupid."

It's still the economy, Senators.

In poll after poll, the economy remains the No. 1 concern of Americans. Until we get our economy rolling again, other issues are secondary.

Yet, we stand here today, 1 month into a new Congress, elected to tend to the growing of the economy, as ready as ever to impose more and more regulations on struggling businesses.

Our intentions are, as ever, sterling: Families do need help. When children are sick, when babies are born or children adopted, when aging parents fall ill, families need help. That the Family and Medical Leave Act is a good and beneficial attempt to provide that help is beyond debate—if we look at it in a vacuum. But we haven't been in a vacuum, we've been in a recession, and the first order of business should be to provide people with jobs.

In my home State of Washington, the effects of the recession are particularly apparent. Just yesterday, the Seattle Post Intelligencer ran an article headlined, "Jobless Rate in State Hits 6-Year High." The accompanying story read, in part:

> Unemployment in Washington hit 8 percent in December, the highest level since April 1987. That was a full percentage point higher than the seasonally adjusted 7 percent recorded nationally during December and in the State in the same month in 1991.

The article continues with a grim report that in 1992 Washington lost 7,500 aerospace jobs and hundreds of positions were eliminated by bank mergers. Two major pulp and paper processing plants closed, as did several retailers, including the Seattle based "Frederick and Nelson" and "Pay 'N Pack." In 1993, Boeing, the largest employer in Washington, may have to eliminate from 10,000 to 20,000 more positions. That would be an 18-percent reduction in Boeing's work force in just 4 years.

The P-I article continues, "The economy [of Washington State] will also be coping with the indirect effects of last year's Boeing cuts. * * *" The effects are dire, Mr. President. For every Boeing job lost, it is estimated that 3 other jobs will also be lost—a net loss of 40,000 to 80,000 jobs.

When people lose their jobs, they don't buy new cars. They don't go out for dinner. They don't take a vacation. They put off having the house painted. They continue to rent a home instead of buying one. In effect, Mr. President, unemployed people simply are not able to trigger a growing economy.

Washington State is not alone. Nationally, even as economic indicators show that the recession is over, new jobs are not being created. More than 9 million people are out of a job or looking for better employment. Six million people are working part-time jobs and would like to move up to full time.

And now, with the jobless rate in my home State of Washington at 8 percent, and looking at losing a possible 40,000 to 80,000 more jobs in the coming year, and with the national economy still faltering, the first bill the U.S. Senate will pass is one more mandate on top of dozens on the businesses that provide the jobs people need.

At the same time the Senate talks about creating new job opportunities, it is imposing still more regulations on the businesses that it calls upon to provide these new opportunities. If a company goes bankrupt, it is not only the business owner who loses his job, but the employees as well. In the real world employers and employees work side-by-side toward a common goal. Each is dependent on the other in order to succeed.

Contrary to this reality, some of my colleagues portray business as a great purveyor of evil. They talk about the need to protect employees from the diabolic plotting of employers. As former Senator Tsongas wryly pointed out last year, "Democrats love employment, they just hate employers." But good or bad, there can be no argument that without employers there are no jobs.

After listening to the people of my State, it is overwhelmingly clear that small- and medium-sized businesses, the heart of the economy of the United States, are almost universally opposed to this bill. Not because of any adversarial feeling toward their employees; in fact, just the opposite is most often true. The people I have heard from feel that the Family and Medical Leave Act, as proposed, adds one more burden, one more inhibition to their ability to grow, to make appropriate management decisions, and, ultimately, to provide the jobs which, after all, are the basis for any benefits at all. The business people I have heard from do not display the miserly motives often attributed to them, rather, they feel overwhelmingly responsible for their employees. Many are wracked with fear that they will have to lay off employees—often lifelong friends—whose families depend on them.

From Spokane to Seattle, from Bellingham to Kennewick, employers with more than 50 employees have urged me to recognize their contribution to our economy and not to impose further unreasonable Government regulations—because jobs will be lost when their businesses fail.

The Senator from Connecticut, Mr. DODD, has admitted that the real costs of this bill to American businesses, as reported by the General Accounting Office, is about $2.4 billion per year. Other estimates go as high as $8 billion per year. When we add these numbers to the billions of dollars that other regulations are costing American businesses from legislation that is well meaning and important when considered along—it is little wonder that we face a dragging recovery.

No, Mr. President, there will indeed be real human costs to this legislation and the volumes of regulations that will follow. While we argue in the abstract about "cost-free, mandated benefits", we neglect or choose to ignore the real-life impact of our actions. To begin with, this legislation only encourages the pervasive bias by employers against hiring women of child-bearing age. Professor Maria O'Brien Hylton argues persuasively in the Winter 1991 volume of the University of Pittsburgh Law Review, that—

> The debate about parental leave has ignored the possibility that the cost of this mandated benefit is likely to be borne by poor, low-skilled working women who will find their job opportunities narrow as employers try to shift women of the costs of the benefit to employees.

Professor Hylton's detailed analysis amounts to what this Senate should realize is just common sense in the real world: This legislation will hurt people who are most in need of work.

I fear the Family and Medical Leave Act is a flawed bill, attempting to achieve a noble goal through means that will produce unwanted consequences. Nonetheless, it is the only bill before us that addresses this very real problem, and it therefore has been our task to evaluate its merits, with an eye toward achieving an acceptable compromise. I have done so by comparing it to a similar law passed 4 years ago in Washington State.

Washington's law, thoughtfully studied and carefully crafted to respond to the needs of working families without unduly burdening the businesses that provides their jobs, has worked well and yielded few violations since its inception.I regret to say that its Federal counterpart, the bill before us today, does not fare well in comparison.

In particular, the Washington State law directs businesses with more than 100 employees to provide up to 12 weeks of unpaid parental leave to care for a new or adopted child. The difference between a 100-employee threshold and a 50-employee threshold is significant. According to the Washington State Department of Employment Security, in 1990, the number of businesses in Washington with 100 or more employees was 2,830, with a combined employee payroll of 1,009,382 employees. The number of businesses with 50 or more employees is 6,512, with a combined payroll of 1,262,093 employees. Lowering the threshold for family leave from 100 to 50 employees would affect an additional 3,682 businesses—a 130 percent expansion in the number of companies now covered in Washington State.

Even so, in the spirit of bipartisan cooperation, I was prepared to agree to the lower threshold of 50 employees, had that been my only concern with the bill before us. But it was not. There are several substantive provisions which differ dramatically from Washington State's law.

One provision, key to the Washington law's success, requires an employee to provide 30 days written notice prior to taking foreseeable leave. The FMLA does not require written notice, an omission that is sure to provide fertile new ground for litigation.

Another of the Washington law's provisions expands the instances in which an employee can provide less than 30 days notice to include the situation in which a pregnant mother is unable to care for her children.

Finally, Washington's law allows employers to determine the key personnel who may be denied reinstatement after leave, while the Federal family leave proposal stipulates that the highest paid 10 percent of an employer's work force must constitute the designated key personnel. While I support the 10 percent provision, the concept would be enhanced by allowing employers to decide who is most vital to their businesses, rather than relying on the capricious standard of pay—which may vary widely from year to year and have more to do with seniority than critical value to the company.

I offered two amendments incorporating these reasonable changes, and both were rejected. Some members alluded to the potential for abuse by employers. But according to the Washington State Department of Labor and Industries, there have been no violations of these provisions. Despite the real world success of these measures in preventing misunderstandings and litigation, the majority was unwilling to listen to reasonable proposals.

The major question facing me today, then, is this: As a representative of the people of Washington State, can I vote for a Federal mandate that usurps Washington's own successful policy? Washington's law has worked so well and with few violations because of the specificity in its statutes, and the flexibility provided to employers. The bill before us lacks those attributes, and is an inferior substitute to the law already in effect in Washington State.

Mine were not the only proposals discarded without reason. Other Senators also put forward beneficial amendments.

The Senator from Kansas [Mrs. KASSEBAUM] offered a proposal that would have mitigated some of the excess costs to businesses and detrimental effects on employees by providing that any business which offers a cafeteria of benefit options, one of which is family and medical leave at least as generous as provided for in this legislation, would then fulfill the requirements of the act. This would allow employees to choose the benefits most valuable to them. A single woman with no dependents may choose educational assistance or greater health benefits. A working father may choose the family leave option. The key is that it is the employees who decide what is best for them—not a distant and inflexible Government decree.

Unfortunately, despite its obvious merits, this amendment was also rejected.

Finally, Senator GRASSLEY offered an amendment which would have reduced litigation by allowing employees and employers to settle their disputes through arbitration rather than protracted court battles. In other situations, arbitration has resolved conflicts years earlier than litigation would have.

Once again, this reasonable amendment was rejected.

So I am left to consider my vote on a bill that does not measure up to the law already in effect in my home State. The bill before us today places enormous costs on mid-sized businesses already struggling for survival in today's economy; and whose proponents have steadfastly refused to consider reasoned amendments to the act, regardless of the benefit to American citizens.

I will not vote for the Family and Medical Leave Act in its present form.

In our struggling economy, I cannot vote for another edict to business that will further limit growth. We continue to suffer the effects of a recession caused and still driven by debt and regulation, both of which divert businesses' time and money from the creation of new jobs.

The driving force behind the economy is not Government; it is jobs. I am disappointed that the first move of the new administration and the first move of the Congress was not to live up to their promise of focusing on economic growth, but to develop new mandates—new obstacles to growth—on the creators of jobs.

Before they cast their vote on this legislation, I ask each of my colleagues, to consider the effects of this legislation.

Envision yourself as an employer, responsible for meeting a payroll that supports families and even communities. Would you welcome this law? Would you consider adding more employees in its wake, or would you stay as lean as possible?

Since very few of us in this Chamber have actually been in that position, I would like to close my remarks by quoting from someone who has been. This person paints an eloquent and powerful portrait of the effect of our good intentions. His story appeared last year in the Wall Street Journal.

On retirement from a nonbusiness career, the author purchased an inn in Connecticut, fulfilling a lifelong entrepreneurial dream. Describing his tenure as a businessman, he says:

> * * * my business associates and I * * * lived with Federal, State and local rules that were all passed with the objective of helping employees, protecting the environment, raising tax dollars for schools, protecting our customers from fire hazards, etc. While I never doubted the worthiness of any of these goals, the concept that most often eludes legislators is: Can we make consumers pay the higher prices for the increased operating costs that accompany public regulation and Government reporting requirements?

In his case, he could not charge his consumers that higher price and still stay in business. His inn—and his dream—went bankrupt. He concluded that—

> * * * "one-size-fits-all" rules for business ignore the reality of the marketplace. And setting thresholds for regulatory guidelines at artificial levels—e.g., 50 employees or more, $500,000 in sales—take no account of other realities, such as profit margins, labor intensive versus capital intensive businesses, and local market economics.

This businessman who saw his dream buried is former Senator and 1972 Democratic Presidential candidate George McGovern. To his credit, he has shown remarkable courage in coming forward publicly with this new position. He opened his article with this quote from Justice Felix Frankfurter:

> Wisdom too often never comes, and so one ought not to reject it merely because it comes late.

Were he before us today, I suspect that Senator McGovern might tell us this: it's always been the economy, Senators.

And I would not be surprised if he joined this Senator in voting against the well-intentioned but flawed Family and Medical Leave Act.

Mr. JEFFORDS. Mr. President, I think we should begin by putting this debate in context. We are talking about unpaid leave.

Are employee's really going to beat down the doors to have their pay docked? I think not.

But let us take the case of the disgruntled employee who is out to make life difficult for his boss. What must he do?

First, as I have said, the employee must decide to cut off his nose to spite his face, taking money out of his wallet to get at his employer.

Second, the employer can require that a health care provider certify to the illness. If the employer doubts the first opinion, it can secure another, and then a third. It can request periodic recertification for a continuing illness. And it can request certification for every continuous period of leave or episode of illness.

Third, if the employer, chooses, it can transfer the employee to another, less disruptive position.

Fourth, if the employer suspects the employee is simply taking vacation time, it can substitute any paid leave the employee may have for the time the employee is absent.

Finally, if an employee takes leave for a purpose other than intended under the bill, that employee loses his entitlement to reinstatement.

So I hope it is clear to my colleagues that even the disgruntled employee has several hoops to jump through if he wants to make life miserable for his employer. I don't think there are very many employees who will go to these lengths.

But there are some, and we should be open to any proposal that would protect employers without undermining the purposes of the bill.

This amendment is not such a proposal. Instead of fixing a drafting problem that is universally acknowledged, it would codify it. And by doing so, instead of protecting employers, it would leave ambiguous language in the bill that would befuddle the regulators and send business to the litigators.

A bit of history may be in order. Reduced leave began as a unilateral right for the employee that applied to birth, adoption, or a family illness. Intermittent leave, also a unilateral right, applied to family illness as well as the employee's own illness.

MARGE ROUKEMA and I convinced BILL CLAY to make reduced leave a matter of mutual agreement. But that mutual-consent provision did not apply to medical leave. I think it was probably the merging of the family and medical leave sections that in part created the drafting problem we now face.

There has always been some tension between the concept of reduced leave, which is defined by the statute, and intermittent leave, which is not. In fact, although I know my colleague from Colorado is well intentioned, I think he would be hard pressed to provide a definition of intermittent leave that comports with both his amendment and the purposes of this bill.

Here is the problem. A reduced leave schedule is defined as a leave schedule that reduces the usual number of hours per workweek, or hours per workday. No problem there, especially since it is agreed upon by employer and employee.

Intermittent leave, as I mentioned, is undefined. The problem comes in that a court might very well conclude that intermittent leave is something entirely different from reduced leave, a strained interpretation I think but one that could be drawn from the text.

In fact, I think even my colleague from Colorado and other proponents of the amendment must concede that intermittent leave overlaps with the definition of reduced leave. And since it does overlap, we have to fix last year's language.

Let me give two examples, familiar to those who have been debating the issue.

First, an employee who must undergo continuing treatment, chemotherapy every Friday for example, is without question entitled to intermittent leave for such treatment and no employer veto may be exercised. If it's foreseeable, there must be notice to the employer, and the employee must make a reasonable effort to work with the employer to schedule the leave.

Second, if an employee is afflicted with an unpredictable, episodic illness, like migraines, he is clearly entitled to leave subject to the requirements of the bill.

I do not think it could be argued that the sponsors have ever intended otherwise. And yet each of these categories of intermittent leave would entail leave of less than a day or less than a week—exactly the definition of reduced leave. One is scheduled, one is not, but neither should be subject to an employer veto.

This is unfortunately exactly the result of the Brown amendment. Because of the legislative history we have created here, if we adopt the Brown amendment we rise the distinct possibility that an employer may be able to wield veto power over an employee who seeks treatment of his cancer, or who is afflicted with a crippling illness.

I doubt that is the intention of my colleague, but it might well be the result of his efforts. It is imperative that this amendment, which runs so contrary to the purposes of this legislation, be defeated.

Mr. McCAIN. Mr. President, I am pleased to support S. 5, the Family and Medical Leave Act.

S. 5 would do the following:

Establish a reasonable, fair minimum labor standard. This bill is not a mandate, it is a minimum labor standard, such as minimum wage, child labor laws, and safety standards.

Requires only unpaid leave.

Exempts all small business, defined as businesses with 50 employees. This effectively exempts 95 percent of all employers in America.

Limits employee eligibility to those who have worked at least 1 full year and worked at least 25 hours per week.

Exempts key employees from the leave provision, defined as the highest paid 10 percent of the employees.

Requires 30 days notice for foreseeable leave.

Requires medical certification of illness and permits the employer to require a second opinion.

Allows employers to transfer employees taking intermittent leave to less disruptive, equivalent positions.

Allows men and women to take up to 12 weeks leave for illness, birth or adoption of a child, or care of an ill child, spouse or parent.

Mr. President, when S. 5 becomes law, it will allow for families to take care of their own without risking the loss of their job. If we are to successfully promote the family in light of the reality that more fathers and mothers and more daughters and sons who must take care of loved ones may be working, we must pass the Family and Medical Leave Act.

Mr. President, for those who are concerned about mandated paid leave, let me again emphasize that this bill only establishes criteria for unpaid leave. In addition, the bill expressly exempts all small businesses with 50 or less employees. I would also note that the bill contains necessary protections to prevent abuses of these provisions by employees.

Small businesses are the backbone of our economy and the Congress has an obligation to protect our Nation's small business men and women. If this bill had adversely affected small businesses in any way, I would have led the fight against S. 5. Further, if S. 5 had called for paid leave, I also would have opposed it.

In the past, previous versions of S. 5 did not offer protections for small businesses. Versions of this bill were inflexible, did not have sufficient safeguards against abuse of the law by employees, and did not require enough accountability on the part of the employee. It is for those reasons that I opposed such early versions of family and medical leave.

Over the course of the last 2 years, it became clear that this legislation was changing. Many of my colleagues and I negotiated with the current sponsors of S. 5 and convinced the sponsors to trim the bills excesses, limit its reach, and mirror other minimum labor standards that govern the work place.

Mr. President, I have always believed that the government must play a minimal, hands-off role in the area of business. Business owners and consumers know what is best for American industry, not the government. Government mandates and harsh regulations that bind the hands of business are wrong. I have always opposed these kinds of measures and will continue to do so.

However, for the reasons I have stated, this bill is different. It sets a reasonable minimum standard that encourages strong, self-sufficient families and is at the same time business friendly. I yield the floor.

Mr. DORGAN. Mr. President, today we will have the opportunity to vote on landmark legislation to strengthen families across our Nation.

The Family and Medical Leave Act will provide up to 12 weeks of unpaid leave to employees to care for a seriously ill family member, a new baby, or their own serious illness. It's an important labor issue, because it gives working men and women more flexibility in balancing the competing demands of work and family.

But more importantly, this legislation is an investment in our Nation's future. No longer will parents have to choose between their jobs and caring for a new baby. No longer will workers have to choose between their jobs and caring for a dying parent. With the passage of the Family and Medical Leave Act, we will be sending the message that Americans shouldn't have to choose between financial independence and coping with family emergencies. And by emphasizing the importance of families to our Nation's social and financial framework, we are ensuring a strong future for ourselves and our children.

However, I agree with those who say that we have to be careful that our investment in the future doesn't become a financial or administrative drag on the very businesses that are our employers and our livelihoods. As in all things, Congress needs to approach this issue with a generous dose of common sense.

That's why, in past years, I have opposed initial proposals for family and medical leave that would have applied stringent leave requirements to small businesses. A business with 5 or 10 employees depends fully on every employee every day, and doesn't have the flexibility that larger companies do to provide extended leave benefits. And no one would benefit from requirements so burdensome that businesses couldn't function effectively.

The Family and Medical Leave Act that I'm voting for today has an exemption for small businesses, and imposes leave requirements only on employers with 50 or more employees. In addition, the legislation has a "key" employee exemption for businesses of all sizes to make sure that no business is unduly burdened by this law.

The GAO has estimated that the cost to businesses of providing health insurance while an employee is on unpaid leave is about $5.30 per year, a fraction of the typical annual fringe benefits package. And, in fact, several studies have found that it is far less expensive for employers to accommodate unpaid family and medical leave than it is for them to terminate and replace employees.

I wouldn't vote for this bill if I didn't think it made good sense both for families and for businesses. This Family and Medical Leave Act is both pro-family and pro-business, and it's the right investment for our country.

Mr. ROCKEFELLER. Mr. President, I want to join my other colleagues in commending Senator DODD for his extraordinary leadership over the past 7 years in advancing the issue of family and medical leave. I also want to recognize the bipartisan efforts of Senators FORD, BOND, and COATS to reach a strong compromise on this issue. I am proud to be an original cosponsor of this historic legislation.

As chairman of the National Commission on Children, and as an individual who cares passionately about children and families, I am thrilled that this bill is slated to be the first piece of legislation from the 103d Congress signed by President Clinton and enacted into law.

Enactment of family and medical leave signals that gridlock is broken. It also signals that children and families are a priority in our country.

This historic legislation will provide fundamental support for families. Thanks to this bill, fathers and mothers in the workforce will have real job protection when they must take time off for the birth or adoption of a child, or to respond to a serious medical crisis in their immediate family.

Despite what opponents have said during the debates, family and medical leave should not be treated as an optional benefit. It should be a minimum labor standard for workers, like minimum wage, child labor regulations, and OSHA standards. The bill provides needed job protection for workers who face the challenge of balancing parental and family obligations against the needs to earn a living and support their families. At the time of birth or an adoption, or during a family medical emergency, it's impossible for workers to do it all.

This bill is a compassionate response to the pressures facing families and a reasonable request of American employers. Great efforts were made to accommodate the concerns of every employer, and especially small businesses. Companies who have already implemented family leave policies report gains in productivity and morale.

Family and medical leave is a "win-win" situation for employees and their families, and for employers as well.

Enactment of this historic bill is also a "win" for American voters. It signals that we have heard their message. I know they expect action on the priority issues facing American families. It's time for government to respond to the problems facing workers, children, and families. Passage of the Family and Medical Leave Act is a major step in the right direction.

Mr. KERRY. Mr. President. I rise to express my support for S. 5, the Family and Medical Leave Act. I am proud to be a cosponsor of this bill because I believe the Family and Medical Leave Act will enable employees to care for a child upon his or her birth or adoption; to care for a child, spouse, or parent who is suffering from a serious health condition; or to use the leave when they themselves are ill. The Family and Medical Leave Act also will enable employees to focus on providing needed help, rather than worrying about keeping their jobs. Mr. President, the Family and Medical Leave Act is an example of what we ought to mean when we talk about helping families help themselves.

We should be clear about what the Family and Medical Leave Act will not do. This bill will not encourage employees to leave their jobs because they want a reduced work schedule. Nor will it undermine the ability of an employer to have a stable workforce or successfully conduct business operations because employees will frequently take leave. After all, under this bill, workers are being given the ability to use unpaid leave. It is doubtful that workers who are struggling to make ends meet will choose not to receive compensation for a period of time, whether a few days or 12 weeks unless there is a strong need to do so. The workers taking unpaid leave will do so because their family responsibilities necessitate it. And because they will know that they can properly care for their families, it is likely that workers taking leave will be more productive workers before they leave and after they return. Taking leave from a job to care for an ill parent or child is not something that most workers anticipate. Few of us think about adjusting our work schedules for medical emergencies, chronic illnesses, or the addition of a child to a family until that situation is upon us. At that point, all we know is that our child or our spouse or our parent needs us and we must respond. Instead of feeling anxiety over what may happen to a job in the event of a birth or adoption of a child or medical crisis, employees should feel confident that they now will be able to maintain their jobs without sacrificing their families. It is my hope that with the passage of this bill, uniform minimum leave standards will bring the United States in line with the practices of more than 75 other countries that offer family-related leave.

Mr. President, it is important also to note that with the passage of the Family and Medical Leave Act, the first bill passed by the Senate in the 103d Congress, the gridlock that has paralyzed the legislative agenda for years will be broken. It is fitting that the bill that breaks the gridlock and demonstrates to the American people that the Congress is serious about addressing the issues affecting the Nation is a bill that will permit millions of employees to be responsive to the needs of their families and be productive in the workplace. I congratulate the Senator from Kansas [Mrs. KASSEBAUM] and my colleague, the senior Senator from Massachusetts [Mr. KENNEDY] for their tireless efforts to bring this bill before the Senate quickly in the 103d Congress. I particularly want to express my appreciation to the senior Senator from Connecticut [Mr. DODD]. It is a testament to this persistence that the debate no longer focuses on whether family and medical leave should be guaranteed to employees but how it can best be offered to employees. Mr. DODD is to be commended for his commitment over many years to bringing family and medical leave to workers throughout our Nation.

Mr. DOLE. Mr. President, there has never been any real question that this bill will pass and that the president will sign it. We have known it from the start.

I had hoped that some of the amendments offered by this side of the aisle would have passed but that did not occur.

I had very much hoped that the Republican alternative, S. 10, offered by Senator CRAIG, myself, and others, would have passed but I knew it was a long shot.

While we all support family leave and while we all want to do everything we can so that working Americans do not have to choose between their jobs, on the one hand, and their families on the other—S. 5 is not the solution.

It is a bad fit to an important problem. It is the easy way out that will ultimately do more harm for working Americans than good.

S. 5 is a mandate; the democrats like mandates.

With the country broke and States broke, my colleagues on the other side of the aisle have decided that the best way to get their programs enacted is to spend other people's money.

Not having the guts to raise taxes directly to pay for this bill, the proponents of this legislation have opted for a hidden tax approach. In short, S. 5 dips into the pocketbooks of small and large businesses and ultimately, their employees.

In my opinion, this approach is dishonest.

It is Washington, DC telling everyone what is best for them—that we inside the beltway know best how to spend their benefit dollars. That we inside the beltway are going to mandate that you do this—but when it comes time to pay for it, don't look to the U.S. Congress. We're too irresponsible to pay for anything or to even acknowledge that this legislation has a cost.

But we all know that there is no free ride. The cost of S. 5 is in the billions of dollars and thousands of jobs.

Contrary to what my colleagues on the other side of the aisle think, not all companies are the same.

Some businesses will easily absorb the costs of this legislation. But others will not and their workers will pay dearly for this benefit—a benefit that a Gallup Poll found only 1 percent of 1,000 respondents willing to list as their most valuable.

It goes without saying that this mandate legislation creates enormous pressures on—and incentives for—employers to cut staffs and benefits.

Indeed, I wouldn't be surprised to see a lot of companies in the 50 to 60 person range cut enough jobs or reduce the hours of certain workers to fall below the mandate trigger level.

In my State of Kansas, there are almost 580 companies that employ between 50 and 60 people. There are about 71 companies that employee 50 persons.

If I were a worker in one of these companies, I would be scratching my head wondering why the U.S. Congress—which should be working to create jobs, is putting expensive mandates on employers and encouraging them to cut jobs.

The new administration had better get cracking on their jobs creation bill because it will be needed just to mitigate the long-term effects of this legislation.

Already, my State is reeling from the effects of recent job cut announcements. Kansas is looking to lose 1,700 jobs from Sears, as many as 6,000 jobs from Boeing, and 400 jobs from Beech.

And this legislation—which will only add to job losses—is the first major piece of legislation we send to the President. I don't get it.

And so Mr. President, at this point, all I ask for is a little honesty in what we are doing.

We can honestly say that we all support family and medical leave. It is an important benefit—as are health insurance, retirement, and sick leave benefits.

We can also honestly say that we do not know how much this bill will cost business.

We do not know how many jobs will be lost because of this bill.

We do not know how many other employee benefits will be cut because of this bill.

In fact, when it comes right down to it, we do not know a whole lot about many of the potentially harmful effects of this bill.

For these reasons, I had hoped we would adopt an incentive tax credit approach for business—a tax credit that is paid for so that we know exactly the cost on the economy of the program we are enacting.

But perhaps such an approach does not satisfy the political spin and political gamesmanship that unfortunately has governed the debate on this issue.

I urge my colleagues to vote against S. 5.

Mr. RIEGLE. Mr. President, I come to the floor once again to talk about problems people in my State of Michigan are facing because of the health care crisis in this country.

Kathy Thomas, of Muskegon, MI, is an example of how the loss of a job can mean the loss of health insurance. Kate attended a forum I held in Muskegon last October where we heard from people who are having problems with the health care system.

Kate is a single parent of a 16-year-old daughter, Jennifer. For 4½ years, Kate and Jennifer had Blue Care network insurance through Kate's employer. Unfortunately, Kate was laid off last May from the Muskegon Regional Center for the Developmentally Disabled. The center was subsequently closed permanently, so Kate has no hope of going back to her job. Kate's union continued to pay the insurance premiums of $400 per month through last September. However, that coverage was temporary, so the Thomases have been uninsured for the past 4 months.

Kate has been offered extended coverage under her previous employer's plan but she cannot afford to pay the $400 month premium. She has looked for a more affordable private plan but has found that she would still have to pay $380 per month, and would not have coverage for prescriptions, office visits, and there would be major limitations on hospital and emergency care coverage. At this time, she cannot afford this expense.

Kate has applied for Medicaid and has been denied because she is receiving unemployment benefits of $566 every 2 weeks. Kate is in a catch-22 situation: Her income is not enough to afford health care coverage but too much to qualify for Medicaid. To supplement her income she has resorted to using her retirement funds which will quickly run out, leaving her with no protection in her old age.

Mr. President, Kate doesn't want to be in this situation. She is searching hard for employment which will provide health care coverage for herself and her daughter. But because she was laid off, through no fault of her own, she is now put at risk for huge medical expenses should she or her daughter become ill or injured.

Kate has already had to put off treatments for herself and Jennifer. She has a thyroid condition which requires daily prescription drug medication and since she lost her job last fall, she has discontinued using the medication because of the cost.

Last September, Jennifer fell and injured her leg and did not obtain medical care. Recently, Jennifer has complained that her leg is still bothering her especially when she kneels. Kate has stated that if she had health care coverage she wouldn't hesitate to take her to the doctor, but the costs make doing this impossible at this time. This week, after Jennifer complained of a chronic stomach pain for some days, Kate decided to make an appointment, but without insurance, Kate is worried about the costs.

Kate struggles with the dilemma facing many who have no health insurance; putting off treatment now may result in bigger problems and high costs later. She is understandably worried about what's in store for her and her daughter. She says, "I'm afraid of the future. I'm afraid for the future that my daughter inherits, and I'm afraid of any illness that could impact our lives financially."

The loss of a job and the high cost of health care coverage have caused Kate and her daughter to lose not only their health care coverage but also their peace of mind. We need comprehensive reform of the health care system now to guarantee access to a full range of health services. I will do everything I can to guarantee health care coverage for every American, including those who are between jobs, so that everyone will be able to get the health care they need, when they need it, and end the fear that an illness or injury could result in financial devastation.

Mr. NICKLES. Mr. President, the Family and Medical Leave Act imposes a whole series of requirements on employers. The bill requires them to give employees up to 12 weeks unpaid leave when they become parents through childbirth, adoption or foster care. It requires them to give similar time off to employees with serious health conditions. And it requires them to give unpaid leave to care for family members and spouses who have serious health conditions.

It is no secret that I object to imposing these mandates on employers. But it is also no secret that this bill will pass and that the President will sign it into law. For that reason, it is especially important that we leave no doubt about what we are requiring of employers and what rights we are granting employees, because any doubts will end up being resolved in the courts.

That's why I am grateful to the managers of this legislation for including in their package of technical amendments a definition of the term "spouse." The bill as reported clearly defines other terms like "parent" and "eligible employee" and "son or daughter," but it did not define "spouse."

My technical amendment accepted by the managers fills this gap. The definition it supplies is brief, simple and clear. It reads: "The term 'spouse' means husband or wife, as the case may be." This is the same definition that appears in Title 10 of the United States Code (10 U.S.C. 101).

Under this amendment, an employer would be required to give an eligible female employee unpaid leave to care for her husband and an eligible male employee unpaid leave to care for his wife. No employer would be required to grant an eligible employee unpaid leave to care for an unmarried domestic partner.

This simple definition will spare us a great deal of costly and unnecessary litigation. Without this amendment, the bill would invite lawsuits by workers who unsuccessfully seek leave on the basis of the illness of their unmarried adult companions.

Mr. President, this amendment supplies a definition that is essential to the bill. It is a clear definition, one that already is in effect in Federal law, and one that captures what I'm sure the bill's sponsors had in mind when they wrote the term "spouse" into this legislation.

I commend the distinguished managers of the bill for including this definition in their technical amendment.

Mr. KOHL. I thank the Senator from Connecticut, the chief Senate sponsor of this bill regarding family and medical leave, for his willingness to clarify the intent of this Federal legislation. As he is aware, the State of Wisconsin already has in place the Wisconsin Family and Medical Leave Act and agency rules, section 103.10, Wisconsin Stats., and Wisconsin Administrative Code Ch. 86. There is some concern with the way in which this and other Federal legislation impacts that law and Senator FEINGOLD and I would appreciate the Senator's understanding of that.

Mr. DODD. Wisconsin has certainly been a pioneer in providing these benefits to employees and I would be happy to respond to the questions of the Senators from Wisconsin.

Mr. FEINGOLD. A few years ago a Wisconsin administrative law judge concluded that the provision of the Wisconsin FMLA enabling employees to substitute accrued paid leave for unpaid family leave was preempted by ERISA to the extent it impacted an employer's ERISA plan that paid out sick leave. Is it the intent of the sponsors of this bill that the provisions of the Employee Retirement Income Security Act of 1974, as amended, shall not prevent the substitution of accrued paid leave, regardless of the source of funding for the paid leave?

Mr. DODD. Yes. This Federal legislation provides that either an employer or an employee may elect to substitute accrued paid leave for unpaid family and medical leave, although the scope of an employee's rights in that regard are more generous under the Wisconsin law. The provisions of this Federal Family and Medical Leave Act are intended to supersede ERISA and any Federal law. The authors of this legislation intend to prevent ERISA and any other Federal law from undercutting the family and medical leave laws of States that currently allow the provision of substitution of accrued paid leave for unpaid family leave, regardless of the nature of the family leave, so long as those State law provisions are at least as generous as those of this Federal legislation. Certainly, if Wisconsin law allows either an employer or an employee to substitute accrued paid leave to care for a newly born or adopted child on terms at least as generous as in this legislation, it is our intent that no Federal law prevent Wisconsin law from making this allowance.

Mr. KOHL. A decision by a New Jersey lower court held a few years ago that the provision of New Jersey's leave legislation requiring employers to continue their contributions to workers' health insurance coverage during leave is preempted by ERISA. Is it the intent of the sponsors of this bill that the provisions of the Employee Retirement Income Security Act of 1974, as amended, shall not prevent the continuation of employers' contributions to workers' health insurance coverage during family or medical leave available under State laws on terms at least as generous as provided under this Federal legislation?

Mr. DODD. Yes. The Federal Family and Medical Leave Act also requires that employers continue their contributions to workers' health insurance coverage during leave. It is the intent of the sponsors of this bill that the provisions of this legislation serve as a floor, not a ceiling. If the study of the Commission on Leave which is being created by this Federal legislation is to be meaningful, it is vital for States to be experimenting, without Federal constraints, in their various efforts to provide leave on terms at least as generous as those provided by this Federal legislation.

Mr. FEINGOLD. Is it the intent of the bill sponsors that the provisions of neither ERISA nor any other Federal law would preempt any provisions of any State family or medical leave law to the extent those provisions are at least as generous as the provisions in this Federal legislation?

Mr. DODD. Yes; it is certainly our intent that, as Federal legislation enacted subsequent to ERISA, the Federal Family and Medical Leave Act supersedes ERISA to the extent ERISA preempts any State leave law provisions which are at least as generous as the provision of the Federal Family and Medical Leave Act. The same principle applies to any other previously enacted Federal law. Enactment of the Federal FMLA allows States to provide leave on terms as generous or beneficial, or even more generous or beneficial, to workers. Both ERISA and all other Federal laws which would interfere with this intent in any way are clearly superseded to that extent. The Federal FMLA makes clear that any provisions of any State leave laws that are at least as generous or beneficial to workers as those in the Federal FMLA will not be preempted by ERISA or any other Federal law.

Mr. KOHL. If only some of the provisions of a State law are at least as generous or beneficial to workers as the Federal FMLA, is it the intent of the sponsors that those provisions are not preempted by this or any other Federal law?

Mr. DODD. Yes.

Mr. KOHL. Senator FEINGOLD and I thank the colleague of Connecticut. I understand from his remarks that, should any provision of any State law allow leave on terms at least as generous or beneficial to workers as the Federal FMLA, neither this nor any other Federal law will prevent that State law from making that allowance to workers.

Mr. BOND. A number of businesses have contacted my office over the last few days to express concern about what they perceive as a substantive change to the family and medical leave bill prior to introduction.

I believe we must clarify that the changes were necessary to clarify the intent of Congress and do not have a substantive effect. I believe we can best do that by walking through the steps an employee must take before being entitled to take leave for his own or a family member's illness. An examination of the rights and responsibilities of both employers and employees under both the conference report of last year and S. 5 now before us will show that nothing has changed.

Employers and employees have the same rights and responsibilities they had before.

Under the Bond-Ford-Dodd amendment:

Any employee wanting unpaid leave, whether for the full 12 weeks or on a reduced or intermittent basis, to care for a family member or for his own condition had to:

First, prove that he or the family member had a serious health condition;

Second, provide certification from a health care provider that he was unable to perform the functions of the job, or that he or she was needed to care for the ill family member;

Third, obtain a second or even third opinion if the employer requested it.

Fourth, in the case of intermittent leave, take the responsibility to schedule it in such a way that it did not disrupt the employer's operations.

If the employee met those strict standards, he was eligible for leave.

We further protected the employer under the Bond amendment by allowing him to transfer an employee to an equivalent position that better accommodated the periods of leave.

Nothing has changed. Under the new S. 5:

Any employee desiring medical leave or leave to care for a family member still has to meet the strict tests:

First, there must be serious health condition;

Second, there must be certification;

Third, there must be a second or even third opinion if the employer requests it;

Fourth, leave must be scheduled so that it does not disrupt an employer's operations. And employers still have the right to transfer people on reduced or intermittent leave.

The change in language was necessary to clarify the long-standing intent of Congress that employers would not unilaterally have the power to deny leave to, for instance, a woman whose son needed chemotherapy treatments two afternoons a week when that woman had provided all of the necessary documentation and certification.

Mr. DODD. I thank the Senator from Missouri for making that clarification. In addition, at the request of you and Senator COATS, we have taken yet another step to guard against potential abuse of the unpaid leave policy. We have amended the certification section of the bill to include the requirement that the health care provider indicate the necessity of reduced and intermittent leave; the amount of time needed; and a schedule.

Mr. BOND. I appreciate your willingness to work with us on this.

Mr. President, I commend my colleague from Connecticut on clearing another hurdle towards enactment of this bill.

I can testify to the long hours he has put in, and to his willingness to negotiate with us in an effort to make the bill better, and more workable.

I am proud to have been a part of this great effort. I believe the final bill strikes exactly the right balance between the needs of employees to attend to family emergencies, and the legitimate needs of their employers to ensure that their businesses continue to run smoothly. I would also like to thank Senator COATS, as he has been key in our effort to help American families without burdening businesses.

As I have said many times before, I believe this modest job protection while employees attend to family needs is an essential part of keeping families together.

And family preservation, in turn is crucial to our long term economic health.

So I congratulate the Senator from Connecticut, and would like to extend a special thanks to Rich Tarplin of his staff and to Julie Dammann and Leanne Jerome of my staff for their hard work.

Mr. HARKIN. I would like to enter into a colloquy with the distinguished author of the pending legislation.

It is my understanding that under S. 5, the Family and Medical Leave Act of 1993, the term "serious health condition" means an illness, injury, impairment, or physical or mental condition. It is also my understanding that the term includes those conditions that require inpatient care in a medical care facility or continuing treatment by a health care provider.

In addition, is my understanding that the term is intended to cover conditions that affect an employee's health to the extent that he or she must be absent from work, as well as conditions that affect the health of an employee's family member such that he or she is similarly unable to participate in school or in his or her regular daily activities. Examples of such serious health conditions include but are not limited to heart attacks, most cancers, back and other conditions requiring therapy, strokes, secondary conditions which accompany certain disabilities, appendicitis, pneumonia, nervous disorders, and injuries caused by accidents on and off the job.

It is also my understanding that this definition of "serious health condition" is intended to include emergency health conditions that require immediate short-term treatment to prevent serious aggravation of the condition or to minimize the likelihood of longer-term illness or injury, or a more severe disability. Severe concussions, which often require a brief but immediate medical treatment to ensure against long-term damage provide an example of such conditions as does the treatment of decubitus ulcers—pressure sores—in people with physical disabilities. I would like to ask the Senator from Connecticut, is it the intent of S. 5 to cover such conditions?

Mr. DODD. As the Senator stated, leave is not limited to just cases of injury or illness, but extends also to "* * * a physical or mental condition." It is the intent that if such conditions otherwise meet the requirements of the bill, leave should be granted.

Mr. HARKIN. It is also my understanding that the definition of serious health condition under S. 5 includes conditions that require intermittent visits to a health care provider for treatment, such as periodic chemotherapy treatments for a cancer patient or periodic speech and other therapies for children with hearing impairments or other disabilities. Is that understanding correct?

Mr. DODD. Yes, intermittent care is provided under the bill for qualifying serious health conditions.

Mr. HARKIN. Another question please. Sometimes parents of children with disabilities need to take time off so that they can do such things as monitor and regulate medication levels before their child can safely return to school. Additionally, people with physical and mental disabilities sometimes experience certain conditions which may limit their abilities and require some time off from work to get the condition under control. Is it the intent of S. 5 to cover such conditions?

Mr. DODD. As I pointed out, it is the intent that such qualifying conditions be covered.

Mr. KENNEDY. The family and medical leave bill, S. 5, states that in order to take leave in case of illness, the employee or his family member must be under the care of a health care provider as defined in the bill and as determined by the Secretary under section 101(6). Am I correct?

Mr. DODD. Yes, the gentleman is correct.

Mr. KENNEDY. Mr. President, we have had a well-established principle of religious tolerance for those who provide spiritual treatment through prayer alone. Is it the Senator's intent that the term "health care provider" be defined by the Secretary of Labor to include Christian Science practitioners, when they are properly accredited by their national organization, and have received appropriate training?

Mr. DODD. Yes it is.

The VICE PRESIDENT. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and read the third time.

The bill was read a third time.

Mr. WELLSTONE. Mr. President, may we have order in the Chamber?

The VICE PRESIDENT. The Senate will be in order.

Does the majority leader seek recognition?

Mr. MITCHELL. Yes.

The VICE PRESIDENT. The majority leader.

Mr. MITCHELL. Mr. President and Members of the Senate, this will be the last rollcall vote. The Senate will not be in session tomorrow. The Senate will return to session following the Lincoln Day recess.

Mr. President, in the early weeks of each new Congress, the majority and minority leaders put on a reception and dinner honoring the new Members of Congress. That reception and dinner is being held this evening in the Great Hall of the Thomas Jefferson Building of the Library of Congress just a few feet from here.

I have been advised that, through some mixup, some Senators did not receive invitations to this. I do not know how it happened, but I apologize for it. In any event, I hope that all Senators who can do so will attend. We will obviously be a little late now—the dinner started at 7:30—but we are going to proceed as soon as we can upon the completion of the business here before the Senate.

The VICE PRESIDENT. The clerk will report H.R. 1.

The assistant legislative clerk read as follows:

A bill (H.R. 1) to grant family and temporary medical leave under certain circumstances.

The VICE PRESIDENT. All after the enacting clause of H.R. 1 is stricken and the text of S. 5, as amended, is inserted in lieu thereof.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The VICE PRESIDENT. The question is on passage of the bill.

Mr. PRYOR. I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The bill having been read the third time, the question is, shall the bill pass?

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Wyoming [Mr. WALLOP] is necessarily absent.

I further announce that the Senator from South Carolina [Mr. THURMOND] is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The result was announced—yeas 71, nays 27, as follows:

[Rollcall Vote No. 11 Leg.]

YEAS—71

Akaka
Baucus
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Krueger
Lautenberg
Leahy
Levin
Lieberman
Mathews
McCain
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Specter
Stevens
Wellstone
Wofford

NAYS—27

Bennett
Brown
Cochran
Coverdell
Craig
Dole
Domenici
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hollings
Kassebaum
Kempthorne
Lott
Lugar
Mack
McConnell
Nickles
Pressler
Simpson
Smith
Warner

NOT VOTING—2

Thurmond
Wallop

So the bill (H.R. 1), as amended, was passed; as follows:

Resolved, That the bill from the House of Representatives (H.R. 1) entitled "An Act to grant family and temporary medical leave under certain circumstances", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family and Medical Leave Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
TITLE I—GENERAL REQUIREMENTS FOR LEAVE
Sec. 101. Definitions.
Sec. 102. Leave requirement.
Sec. 103. Certification.
Sec. 104. Employment and benefits protection.
Sec. 105. Prohibited acts.
Sec. 106. Investigative authority.
Sec. 107. Enforcement.
Sec. 108. Special rules concerning employees of local educational agencies.
Sec. 109. Notice.
TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES
Sec. 201. Leave requirement.
TITLE III—COMMISSION ON LEAVE
Sec. 301. Establishment.
Sec. 302. Duties.
Sec. 303. Membership.
Sec. 304. Compensation.
Sec. 305. Powers.
Sec. 306. Termination.
TITLE IV—MISCELLANEOUS PROVISIONS
Sec. 401. Effect on other laws.
Sec. 402. Effect on existing employment benefits.
Sec. 403. Encouragement of more generous leave policies.
Sec. 404. Regulations.
Sec. 405. Effective dates.
TITLE V—COVERAGE OF CONGRESSIONAL EMPLOYEES
Sec. 501. Leave for certain Senate employees.
Sec. 502. Leave for certain House employees.
TITLE VI—SENSE OF CONGRESS
Sec. 601. Sense of Congress.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of single-parent households and two-parent households in which the single parent or both parents work is increasing significantly;

(2) it is important for the development of children and the family unit that fathers and mothers be able to participate in early childrearing and the care of family members who have serious health conditions;

(3) the lack of employment policies to accommodate working parents can force individuals to choose between job security and parenting;

(4) there is inadequate job security for employees who have serious health conditions that prevent them from working for temporary periods;

(5) due to the nature of the roles of men and women in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects the working lives of women more than it affects the working lives of men; and

(6) employment standards that apply to one gender only have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender.

(b) PURPOSES.—It is the purpose of this Act—

(1) to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity;

(2) to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition;

(3) to accomplish the purposes described in paragraphs (1) and (2) in a manner that accommodates the legitimate interests of employers;

(4) to accomplish the purposes described in paragraphs (1) and (2) in a manner that, consistent with the Equal Protection Clause of the Fourteenth Amendment, minimizes the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis; and

(5) to promote the goal of equal employment opportunity for women and men, pursuant to such clause.

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

SEC. 101. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include "commerce" and any "industry affecting commerce", as defined in paragraphs (1) and (3) of section 501 of the Labor Management Relations Act, 1947 (29 U.S.C. 142 (1) and (3)).

(2) ELIGIBLE EMPLOYEE.—

(A) IN GENERAL.—The term "eligible employee" means an employee who has been employed—

(i) for at least 12 months by the employer with respect to whom leave is requested under section 102; and

(ii) for at least 1,250 hours of service with such employer during the previous 12-month period.

(B) EXCLUSIONS.—The term "eligible employee" does not include—

(i) any Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code (as added by title II of this Act); or

(ii) any employee of an employer who is employed at a worksite at which such employer employs less than 50 employees if the total number of employees employed by that employer within 75 miles of that worksite is less than 50.

(C) DETERMINATION.—For purposes of determining whether an employee meets the hours of service requirement specified in subparagraph (A)(ii), the legal standards established under section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) shall apply.

(3) EMPLOY; EMPLOYEE; STATE.—The terms "employ", "employee", and "State" have the same meanings given such terms in subsections (c), (e), and (g) of section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203 (c), (e), and (g)).

(4) EMPLOYER.—

(A) IN GENERAL.—The term "employer"—

(i) means any person engaged in commerce or in any industry or activity affecting commerce who employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;

(ii) includes—

(I) any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer; and

(II) any successor in interest of an employer; and

(iii) includes any "public agency", as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)).

(B) PUBLIC AGENCY.—For purposes of subparagraph (A)(iii), a public agency shall be considered to be a person engaged in commerce or in an industry or activity affecting commerce.

(5) EMPLOYMENT BENEFITS.—The term "employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an "employee benefit plan", as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

(6) HEALTH CARE PROVIDER.—The term "health care provider" means—

(A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

(B) any other person determined by the Secretary to be capable of providing health care services.

(7) PARENT.—The term "parent" means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter.

(8) PERSON.—The term "person" has the same meaning given such term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(9) REDUCED LEAVE SCHEDULE.—The term "reduced leave schedule" means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

(10) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(11) SERIOUS HEALTH CONDITION.—The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves—

(A) inpatient care in a hospital, hospice, or residential medical care facility; or

(B) continuing treatment by a health care provider.

(12) SON OR DAUGHTER.—The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

(13) SPOUSE.—the term "spouse" means a husband or wife, as the case may be.

SEC. 102. LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—Subject to section 103, an eligible employee shall be entitled to a total of 12 workweeks of leave during any 12-month period for one or more of the following:

(A) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.

(B) Because of the placement of a son or daughter with the employee for adoption or foster care.

(C) In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.

(D) Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.

(2) EXPIRATION OF ENTITLEMENT.—The entitlement to leave under subparagraphs (A) and (B) of paragraph (1) for a birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement.

(b) LEAVE TAKEN INTERMITTENTLY OR ON A REDUCED LEAVE SCHEDULE.—

(1) IN GENERAL.—Leave under subparagraph (A) or (B) of subsection (a)(1) shall not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the employer of the employee agree otherwise. Subject to paragraph (2), subsection (e)(2), and section 103(b)(5), leave under subparagraph (C) or (D) of subsection (a)(1) may be taken intermittently or on a reduced leave schedule when medically necessary. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.

(2) ALTERNATIVE POSITION.—If an employee requests intermittent leave, or leave on a reduced leave schedule, under subparagraph (C) or (D) of subsection (a)(1), that is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that—

(A) has equivalent pay and benefits; and

(B) better accommodates recurring periods of leave than the regular employment position of the employee.

(c) UNPAID LEAVE PERMITTED.—Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave. Where an employee is otherwise exempt under regulations issued by the Secretary pursuant to section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)), the compliance of an employer with this title by providing unpaid leave shall not affect the exempt status of the employee under such section.

(d) RELATIONSHIP TO PAID LEAVE.—

(1) UNPAID LEAVE.—If an employer provides paid leave for fewer than 12 workweeks, the additional weeks of leave necessary to attain the 12 workweeks of leave required under this title may be provided without compensation.

(2) SUBSTITUTION OF PAID LEAVE.—

(A) IN GENERAL.—An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or family leave of the employee for leave provided under subparagraph (A), (B), or (C) of subsection (a)(1) for any part of the 12-week period of such leave under such subsection.

(B) SERIOUS HEALTH CONDITION.—An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or medical or sick leave of the employee for leave provided under subparagraph (C) or (D) of subsection (a)(1) for any part of the 12-week period of such leave under such subsection, except that nothing in this title shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.

(e) FORESEEABLE LEAVE.—

(1) REQUIREMENT OF NOTICE.—In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or placement, the employee shall provide the employer with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the birth or placement requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

(2) DUTIES OF EMPLOYEE.—In any case in which the necessity for leave under subparagraph (C) or (D) of subsection (a)(1) is foreseeable based on planned medical treatment, the employee—

(A) shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee, as appropriate; and

(B) shall provide the employer with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

(f) SPOUSES EMPLOYED BY THE SAME EMPLOYER.—In any case in which a husband and wife entitled to leave under subsection (a) are employed by the same employer, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period, if such leave is taken—

(1) under subparagraph (A) or (B) of subsection (a)(1); or

(2) to care for a sick parent under subparagraph (C) of such subsection.

SEC. 103. CERTIFICATION.

(a) IN GENERAL.—An employer may require that a request for leave under subparagraph (C) or (D) of section 102(a)(1) be supported by a certification issued by the health care provider of the eligible employee or of the son, daughter, spouse, or parent of the employee, as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the employer.

(b) SUFFICIENT CERTIFICATION.—Certification provided under subsection (a) shall be sufficient if it states—

(1) the date on which the serious health condition commenced;

(2) the probable duration of the condition;

(3) the appropriate medical facts within the knowledge of the health care provider regarding the condition;

(4)(A) for purposes of leave under section 102(a)(1)(C), a statement that the eligible employee is needed to care for the son, daughter, spouse, or parent and an estimate of the amount of time that such employee is needed to care for the son, daughter, spouse, or parent; and

(B) for purposes of leave under section 102(a)(1)(D), a statement that the employee is unable to perform the functions of the position of the employee;

(5) in the case of certification for intermittent leave, or leave on a reduced leave schedule, for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment;

(6) in the case of certification for intermittent leave, or leave on a reduced leave schedule, under section 102(a)(1)(D), a statement of the medical necessity for the intermittent leave or leave on a reduced leave schedule, and the expected duration of the intermittent leave or reduced leave schedule; and

(7) in the case of certification for intermittent leave, or leave on a reduced leave schedule, under section 102(a)(1)(C), a statement that the employee's intermittent leave or leave on a reduced leave schedule is necessary for the care of the son, daughter, parent, or spouse who has a serious health condition, or will assist in their recovery, and the expected duration and schedule of the intermittent leave or reduced leave schedule.

(c) SECOND OPINION.—

(1) IN GENERAL.—In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a) for leave under subparagraph (C) or (D) of section 102(a)(1), the employer may require, at the expense of the employer, that the eligible employee obtain the opinion of a second health care provider designated or approved by the employer concerning any information certified under subsection (b) for such leave.

(2) LIMITATION.—A health care provider designated or approved under paragraph (1) shall not be employed on a regular basis by the employer.

(d) RESOLUTION OF CONFLICTING OPINIONS.—

(1) IN GENERAL.—In any case in which the second opinion described in subsection (c) differs from the opinion in the original certification provided under subsection (a), the employer may require, at the expense of the employer, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (b).

(2) FINALITY.—The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employer and the employee.

(e) SUBSEQUENT RECERTIFICATION.—The employer may require that the eligible employee obtain subsequent recertifications on a reasonable basis.

SEC. 104. EMPLOYMENT AND BENEFITS PROTECTION.

(a) RESTORATION TO POSITION.—

(1) IN GENERAL.—Except as provided in subsection (b), any eligible employee who takes leave under section 102 for the intended purpose of the leave shall be entitled, on return from such leave—

(A) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(B) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) LOSS OF BENEFITS.—The taking of leave under section 102 shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

(3) LIMITATIONS.—Nothing in this section shall be construed to entitle any restored employee to—

(A) the accrual of any seniority or employment benefits during any period of leave; or

(B) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(4) CERTIFICATION.—As a condition of restoration under paragraph (1) for an employee who has taken leave under section 102(a)(1)(D), the employer may have a uniformly applied practice or policy that requires each such employee to receive certification from the health care provider of the employee that the employee is able to resume work, except that nothing in this paragraph shall supersede a valid State or local law or a collective bargaining agreement that governs the return to work of such employees.

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an employer from requiring an employee on leave under section 102 to report periodically to the employer on the status and intention of the employee to return to work.

(b) EXEMPTION CONCERNING CERTAIN HIGHLY COMPENSATED EMPLOYEES.—

(1) DENIAL OF RESTORATION.—An employer may deny restoration under subsection (a) to any eligible employee described in paragraph (2) if—

(A) such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer;

(B) the employer notifies the employee of the intent of the employer to deny restoration on such basis at the time the employer determines that such injury would occur; and

(C) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.

(2) AFFECTED EMPLOYEES.—An eligible employee described in paragraph (1) is a salaried eligible employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed.

(c) MAINTENANCE OF HEALTH BENEFITS.—

(1) COVERAGE.—Except as provided in paragraph (2), during any period that an eligible employee takes leave under section 102, the employer shall maintain coverage under any "group health plan" (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.

(2) FAILURE TO RETURN FROM LEAVE.—The employer may recover the premium that the employer paid for maintaining coverage for the employee under such group health plan during any period of unpaid leave under section 102 if—

(A) the employee fails to return from leave under section 102 after the period of leave to which the employee is entitled has expired; and

(B) the employee fails to return to work for a reason other than—

(i) the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under subparagraph (C) or (D) of section 102(a)(1); or

(ii) other circumstances beyond the control of the employee.

(3) CERTIFICATION.—

(A) ISSUANCE.—An employer may require that a claim that an employee is unable to return to work because of the continuation, recurrence, or onset of the serious health condition described in paragraph (2)(B)(i) be supported by—

(i) a certification issued by the health care provider of the son, daughter, spouse, or parent of the employee, as appropriate, in the case of an employee unable to return to work because of a condition specified in section 102(a)(1)(C); or

(ii) a certification issued by the health care provider of the eligible employee, in the case of an employee unable to return to work because of a condition specified in section 102(a)(1)(D).

(B) COPY.—The employee shall provide, in a timely manner, a copy of such certification to the employer.

(C) SUFFICIENCY OF CERTIFICATION.—

(i) LEAVE DUE TO SERIOUS HEALTH CONDITION OF EMPLOYEE.—The certification described in subparagraph (A)(ii) shall be sufficient if the certification states that a serious health condition prevented the employee from being able to perform the functions of the position of the employee on the date that the leave of the employee expired.

(ii) LEAVE DUE TO SERIOUS HEALTH CONDITION OF FAMILY MEMBER.—The certification described in subparagraph (A)(i) shall be sufficient if the certification states that the employee is needed to care for the son, daughter, spouse, or parent who has a serious health condition on the date that the leave of the employee expired.

SEC. 105. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—

(1) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this title.

(2) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this title.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because such individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this title;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(3) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this title.

SEC. 106. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—To ensure compliance with the provisions of this title, or any regulation or order issued under this title, the Secretary shall have, subject to subsection (c), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(b) OBLIGATION TO KEEP AND PRESERVE RECORDS.—Any employer shall make, keep, and preserve records pertaining to compliance with this title in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) and in accordance with regulations issued by the Secretary.

(c) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary shall not under the authority of this section require any employer or any plan, fund, or program to submit to the Secretary any books or records more than once during any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order issued pursuant to this title, or is investigating a charge pursuant to section 107(b).

(d) SUBPOENA POWERS.—For the purposes of any investigation provided for in this section,

the Secretary shall have the subpoena authority provided for under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

SEC. 107. ENFORCEMENT.

(a) Civil Action by Employees.—

(1) Liability.—Any employer who violates section 105 shall be liable to any eligible employee affected—

(A) for damages equal to—

(i) the amount of—

(I) any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or

(II) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to 12 weeks of wages or salary for the employee;

(ii) the interest on the amount described in clause (i) calculated at the prevailing rate; and

(iii) an additional amount as liquidated damages equal to the sum of the amount described in clause (i) and the interest described in clause (ii), except that if an employer who has violated section 105 proves to the satisfaction of the court that the act or omission which violated section 105 was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of section 105, such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under clauses (i) and (ii), respectively; and

(B) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(2) Right of Action.—An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of—

(A) the employees; or

(B) the employees and other employees similarly situated.

(3) Fees and Costs.—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(4) Limitations.—The right provided by paragraph (2) to bring an action by or on behalf of any employee shall terminate—

(A) on the filing of a complaint by the Secretary in an action under subsection (d) in which restraint is sought of any further delay in the payment of the amount described in paragraph (1)(A) to such employee by an employer responsible under paragraph (1) for the payment; or

(B) on the filing of a complaint by the Secretary in an action under subsection (b) in which a recovery is sought of the damages described in paragraph (1)(A) owing to an eligible employee by an employer liable under paragraph (1),

unless the action described in subparagraph (A) or (B) is dismissed without prejudice on motion of the Secretary.

(b) Action by the Secretary.—

(1) Administrative Action.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of section 105 in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(2) Civil Action.—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in subsection (a)(1)(A).

(3) Sums Recovered.—Any sums recovered by the Secretary pursuant to paragraph (2) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee affected. Any such sums not paid to an employee because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) Limitation.—

(1) In General.—Except as provided in paragraph (2), an action may be brought under this section not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

(2) Willful Violation.—In the case of such action brought for a willful violation of section 105, such action may be brought within 3 years of the date of the last event constituting the alleged violation for which such action is brought.

(3) Commencement.—In determining when an action is commenced by the Secretary under this section for the purposes of this subsection, it shall be considered to be commenced on the date when the complaint is filed.

(d) Action for Injunction by Secretary.—The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Secretary—

(1) to restrain violations of section 105, including the restraint of any withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to eligible employees; or

(2) to award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(e) Solicitor of Labor.—The Solicitor of Labor may appear for and represent the Secretary on any litigation brought under this section.

SEC. 108. SPECIAL RULES CONCERNING EMPLOYEES OF LOCAL EDUCATIONAL AGENCIES.

(a) Application.—

(1) In General.—Except as otherwise provided in this section, the rights (including the rights under section 104, which shall extend throughout the period of leave of any employee under this section), remedies, and procedures under this title shall apply to—

(A) any "local educational agency" (as defined in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12))) and an eligible employee of the agency; and

(B) any private elementary or secondary school and an eligible employee of the school.

(2) Definitions.—For purposes of the application described in paragraph (1):

(A) Eligible Employee.—The term "eligible employee" means an eligible employee of an agency or school described in paragraph (1).

(B) Employer.—The term "employer" means an agency or school described in paragraph (1).

(b) Leave Does Not Violate Certain Other Federal Laws.—A local educational agency and a private elementary or secondary school shall not be in violation of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), solely as a result of an eligible employee of such agency or school exercising the rights of such employee under this title.

(c) Intermittent Leave or Leave on a Reduced Schedule for Instructional Employees.—

(1) In General.—Subject to paragraph (2), in any case in which an eligible employee employed principally in an instructional capacity by any such educational agency or school requests leave under subparagraph (C) or (D) of section 102(a)(1) that is foreseeable based on planned medical treatment and the employee would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, the agency or school may require that such employee elect either—

(A) to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or

(B) to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified, and that—

(i) has equivalent pay and benefits; and

(ii) better accommodates recurring periods of leave than the regular employment position of the employee.

(2) Application.—The elections described in subparagraphs (A) and (B) of paragraph (1) shall apply only with respect to an eligible employee who complies with section 102(e)(2).

(d) Rules Applicable to Periods Near the Conclusion of an Academic Term.—The following rules shall apply with respect to periods of leave near the conclusion of an academic term in the case of any eligible employee employed principally in an instructional capacity by any such educational agency or school:

(1) Leave More Than 5 Weeks Prior to End of Term.—If the eligible employee begins leave under section 102 more than 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of at least 3 weeks duration; and

(B) the return to employment would occur during the 3-week period before the end of such term.

(2) Leave Less Than 5 Weeks Prior to End of Term.—If the eligible employee begins leave under subparagraph (A), (B), or (C) of section 102(a)(1) during the period that commences 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of greater than 2 weeks duration; and

(B) the return to employment would occur during the 2-week period before the end of such term.

(3) Leave Less Than 3 Weeks Prior to End of Term.—If the eligible employee begins leave under subparagraph (A), (B), or (C) of section 102(a)(1) during the period that commences 3 weeks prior to the end of the academic term and the duration of the leave is greater than 5 working days, the agency or school may require the employee to continue to take leave until the end of such term.

(e) Restoration to Equivalent Employment Position.—For purposes of determinations under section 104(a)(1)(B) (relating to the restoration of an eligible employee to an equivalent position), in the case of a local educational agency or a private elementary or secondary school, such determination shall be made on the basis of established school board policies and practices, private school policies and practices, and collective bargaining agreements.

(f) Reduction of the Amount of Liability.—If a local educational agency or a private elementary or secondary school that has violated this title proves to the satisfaction of the court that the agency, school, or department had reasonable grounds for believing that the underlying act or omission was not a violation of this title, such court may, in the discretion of the court, reduce the amount of the liability provided for under section 107(a)(1)(A) to the amount and interest determined under clauses (i) and (ii), respectively, of such section.

SEC. 109. NOTICE.

(a) In General.—Each employer shall post and keep posted, in conspicuous places on the *premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, to be prepared or approved by the Secretary, setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertaining to the filing of a charge.*

(b) PENALTY.—Any employer that willfully violates this section may be assessed a civil money penalty not to exceed $100 for each separate offense.

TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

SEC. 201. LEAVE REQUIREMENT.

(a) CIVIL SERVICE EMPLOYEES.—

(1) IN GENERAL.—Chapter 63 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—FAMILY AND MEDICAL LEAVE

"§6381. Definitions

"For the purpose of this subchapter—

"(1) the term 'employee' means any individual who—

"(A) is an 'employee', as defined by section 6301(2), including any individual employed in a position referred to in clause (v) or (ix) of section 6301(2), but excluding any individual employed by the government of the District of Columbia and any individual employed on a temporary or intermittent basis; and

"(B) has completed at least 12 months of service as an employee (within the meaning of subparagraph (A));

"(2) the term 'health care provider' means—

"(A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; and

"(B) any other person determined by the Director of the Office of Personnel Management to be capable of providing health care services;

"(3) the term 'parent' means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter;

"(4) the term 'reduced leave schedule' means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee;

"(5) the term 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves—

"(A) inpatient care in a hospital, hospice, or residential medical care facility; or

"(B) continuing treatment by a health care provider; and

"(6) the term 'son or daughter' means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

"(A) under 18 years of age; or

"(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

"§6382. Leave requirement

"(a)(1) Subject to section 6383, an employee shall be entitled to a total of 12 administrative workweeks of leave during any 12-month period for one or more of the following:

"(A) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.

"(B) Because of the placement of a son or daughter with the employee for adoption or foster care.

"(C) In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.

"(D) Because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

"(2) The entitlement to leave under subparagraph (A) or (B) of paragraph (1) based on the birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement.

"(b)(1) Leave under subparagraph (A) or (B) of subsection (a)(1) shall not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the employing agency of the employee agree otherwise. Subject to paragraph (2), subsection (e)(2), and section 6383(b)(5), leave under subparagraph (C) or (D) of subsection (a)(1) may be taken intermittently or on a reduced leave schedule when medically necessary. In the case of an employee who takes leave intermittently or on a reduced leave schedule pursuant to this paragraph, any hours of leave so taken by such employee shall be subtracted from the total amount of leave remaining available to such employee under subsection (a), for purposes of the 12-month period involved, on an hour-for-hour basis.

"(2) If an employee requests intermittent leave, or leave on a reduced leave schedule, under subparagraph (C) or (D) of subsection (a)(1), that is foreseeable based on planned medical treatment, the employing agency may require such employee to transfer temporarily to an available alternative position offered by the employing agency for which the employee is qualified and that—

"(A) has equivalent pay and benefits; and

"(B) better accommodates recurring periods of leave than the regular employment position of the employee.

"(c) Except as provided in subsection (d), leave granted under subsection (a) shall be leave without pay.

"(d) An employee may elect to substitute for leave under subparagraph (A), (B), (C), or (D) of subsection (a)(1) any of the employee's accrued or accumulated annual or sick leave under subchapter I for any part of the 12-week period of leave under such subsection, except that nothing in this subchapter shall require an employing agency to provide paid sick leave in any situation in which such employing agency would not normally provide any such paid leave.

"(e)(1) In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or placement, the employee shall provide the employing agency with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the birth or placement requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

"(2) In any case in which the necessity for leave under subparagraph (C) or (D) of subsection (a)(1) is foreseeable based on planned medical treatment, the employee—

"(A) shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employing agency, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee, as appropriate; and

"(B) shall provide the employing agency with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

"§6383. Certification

"(a) An employing agency may require that a request for leave under subparagraph (C) or (D) of section 6382(a)(1) be supported by certification issued by the health care provider of the employee or of the son, daughter, spouse, or parent of the employee, as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the employing agency.

"(b) A certification provided under subsection (a) shall be sufficient if it states—

"(1) the date on which the serious health condition commenced;

"(2) the probable duration of the condition;

"(3) the appropriate medical facts within the knowledge of the health care provider regarding the condition;

"(4)(A) for purposes of leave under section 6382(a)(1)(C), a statement that the employee is needed to care for the son, daughter, spouse, or parent, and an estimate of the amount of time that such employee is needed to care for such son, daughter, spouse, or parent; and

"(B) for purposes of leave under section 6382(a)(1)(D), a statement that the employee is unable to perform the functions of the position of the employee; and

"(5) in the case of certification for intermittent leave, or leave on a reduced leave schedule, for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment.

"(c)(1) In any case in which the employing agency has reason to doubt the validity of the certification provided under subsection (a) for leave under subparagraph (C) or (D) of section 6382(a)(1), the employing agency may require, at the expense of the agency, that the employee obtain the opinion of a second health care provider designated or approved by the employing agency concerning any information certified under subsection (b) for such leave.

"(2) Any health care provider designated or approved under paragraph (1) shall not be employed on a regular basis by the employing agency.

"(d)(1) In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employing agency may require, at the expense of the agency, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employing agency and the employee concerning the information certified under subsection (b).

"(2) The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employing agency and the employee.

"(e) The employing agency may require, at the expense of the agency, that the employee obtain subsequent recertifications on a reasonable basis.

"§6384. Employment and benefits protection

"(a) Any employee who takes leave under section 6382 for the intended purpose of the leave shall be entitled, upon return from such leave—

"(1) to be restored by the employing agency to the position held by the employee when the leave commenced; or

"(2) to be restored to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment.

"(b) The taking of leave under section 6382 shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

"(c) Except as otherwise provided by or under law, nothing in this section shall be construed to entitle any restored employee to—

"(1) the accrual of any employment benefits during any period of leave; or

"(2) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

"(d) As a condition to restoration under subsection (a) for an employee who takes leave under section 6382(a)(1)(D), the employing agen-

cy may have a uniformly applied practice or policy that requires each such employee to receive certification from the health care provider of the employee that the employee is able to resume work.

"(e) Nothing in this section shall be construed to prohibit an employing agency from requiring an employee on leave under section 6382 to report periodically to the employing agency on the status and intention of the employee to return to work.

"§6385. Prohibition of coercion

"(a) An employee shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with the exercise of any rights which such other employee may have under this subchapter.

"(b) For the purpose of this section—

"(1) the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or taking or threatening to take any reprisal (such as deprivation of appointment, promotion, or compensation); and

"(2) the term 'employee' means any 'employee', as defined by section 2105.

"§6386. Health insurance

"An employee enrolled in a health benefits plan under chapter 89 who is placed in a leave status under section 6382 may elect to continue the health benefits enrollment of the employee while in such leave status and arrange to pay currently into the Employees Health Benefits Fund (described in section 8909), the appropriate employee contributions.

"§6387. Regulations

"The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary of Labor to carry out title I of the Family and Medical Leave Act of 1993.".

(2) TABLE OF CONTENTS.—The table of contents for chapter 63 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER V—FAMILY AND MEDICAL LEAVE

"6381. Definitions.
"6382. Leave requirement.
"6383. Certification.
"6384. Employment and benefits protection.
"6385. Prohibition of coercion.
"6386. Health insurance.
"6387. Regulations.".

(b) EMPLOYEES PAID FROM NONAPPROPRIATED FUNDS.—Section 2105(c)(1) of title 5, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (C); and

(2) by adding at the end the following new subparagraph:

"(E) subchapter V of chapter 63, which shall be applied so as to construe references to benefit programs to refer to applicable programs for employees paid from nonappropriated funds; or".

TITLE III—COMMISSION ON LEAVE

SEC. 301. ESTABLISHMENT.

There is established a commission to be known as the Commission on Leave (referred to in this title as the "Commission").

SEC. 302. DUTIES.

The Commission shall—

(1) conduct a comprehensive study of—

(A) existing and proposed mandatory and voluntary policies relating to family and temporary medical leave, including policies provided by employers not covered under this Act;

(B) the potential costs, benefits, and impact on productivity, job creation and business growth of such policies on employers and employees;

(C) possible differences in costs, benefits, and impact on productivity, job creation and business growth of such policies on employers based on business type and size;

(D) the impact of family and medical leave policies on the availability of employee benefits provided by employers, including employers not covered under this Act;

(E) alternate and equivalent State enforcement of title I with respect to employees described in section 108(a);

(F) methods used by employers to reduce administrative costs of implementing family and medical leave policies;

(G) the ability of the employers to recover, under section 104(c)(2), the premiums described in such section; and

(H) the impact on employers and employees of policies that provide temporary wage replacement during periods of family and medical leave.

(2) not later than 2 years after the date on which the Commission first meets, prepare and submit, to the appropriate Committees of Congress, a report concerning the subjects listed in paragraph (1).

SEC. 303. MEMBERSHIP.

(a) COMPOSITION.—

(1) APPOINTMENTS.—The Commission shall be composed of 12 voting members and 4 ex officio members to be appointed not later than 60 days after the date of the enactment of this Act as follows:

(A) SENATORS.—One Senator shall be appointed by the Majority Leader of the Senate, and one Senator shall be appointed by the Minority Leader of the Senate.

(B) MEMBERS OF HOUSE OF REPRESENTATIVES.—One Member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one Member of the House of Representatives shall be appointed by the Minority Leader of the House of Representatives.

(C) ADDITIONAL MEMBERS.—

(i) APPOINTMENT.—Two members each shall be appointed by—

(I) the Speaker of the House of Representatives;

(II) the Majority Leader of the Senate;

(III) the Minority Leader of the House of Representatives; and

(IV) the Minority Leader of the Senate.

(ii) EXPERTISE.—Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor management issues. Such members shall include representatives of employers, including employers from large businesses and from small businesses.

(2) EX OFFICIO MEMBERS.—The Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Commerce, and the Administrator of the Small Business Administration shall serve on the Commission as nonvoting ex officio members.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the manner in which the original appointment was made. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson and a vice chairperson from among the members of the Commission.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when performing duties of the Commission.

SEC. 305. POWERS.

(a) MEETINGS.—The Commission shall first meet not later than 30 days after the date on which all members are appointed, and the Commission shall meet thereafter on the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title, if the information may be disclosed under section 552 of title 5, United States Code. Subject to the previous sentence, on the request of the chairperson or vice chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(d) USE OF FACILITIES AND SERVICES.—Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency.

(e) PERSONNEL FROM OTHER AGENCIES.—On the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to serve as an Executive Director of the Commission or assist the Commission in carrying out the duties of the Commission. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(f) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Commission may accept for the Commission voluntary services provided by a member of the Commission.

SEC. 306. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of the report of the Commission to Congress.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTIDISCRIMINATION LAWS.—Nothing in this Act or any amendment made by this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability.

(b) STATE AND LOCAL LAWS.—Nothing in this Act or any amendment made by this Act shall be construed to supersede any provision of any State or local law that provides greater family or medical leave rights than the rights established under this Act or any amendment made by this Act.

SEC. 402. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE.—Nothing in this Act or any amendment made by this Act shall be construed to diminish the obligation of an employer to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater family or medical leave rights to employees than the rights established under this Act or any amendment made by this Act.

(b) LESS PROTECTIVE.—The rights established for employees under this Act or any amendment made by this Act shall not be diminished by any

collective bargaining agreement or any employment benefit program or plan.

SEC. 403. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this Act or any amendment made by this Act shall be construed to discourage employers from adopting or retaining leave policies more generous than any policies that comply with the requirements under this Act or any amendment made by this Act.

SEC. 404. REGULATIONS.

The Secretary of Labor shall prescribe such regulations as are necessary to carry out title I and this title not later than 120 days after the date of the enactment of this Act.

SEC. 405. EFFECTIVE DATES.

(a) TITLE III.—Title III shall take effect on the date of the enactment of this Act.

(b) OTHER TITLES.—

(1) IN GENERAL.—Except as provided in paragraph (2), titles I, II, and V and this title shall take effect 6 months after the date of the enactment of this Act.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a collective bargaining agreement in effect on the effective date prescribed by paragraph (1), title I shall apply on the earlier of—

(A) the date of the termination of such agreement; or

(B) the date that occurs 12 months after the date of the enactment of this Act.

TITLE V—COVERAGE OF CONGRESSIONAL EMPLOYEES

SEC. 501. LEAVE FOR CERTAIN SENATE EMPLOYEES.

(a) COVERAGE.—The rights and protections established under sections 101 through 105 shall apply with respect to a Senate employee and an employing office. For purposes of such application, the term "eligible employee" means a Senate employee and the term "employer" means an employing office.

(b) CONSIDERATION OF ALLEGATIONS.—

(1) APPLICABLE PROVISIONS.—The provisions of sections 304 through 313 of the Government Employee Rights Act of 1991 (2 U.S.C. 1204–1213) shall, except as provided in subsections (d) and (e)—

(A) apply with respect to an allegation of a violation of a provision of sections 101 through 105, with respect to Senate employment of a Senate employee; and

(B) apply to such an allegation in the same manner and to the same extent as such sections of the Government Employee Rights Act of 1991 apply with respect to an allegation of a violation under such Act.

(2) ENTITY.—Such an allegation shall be addressed by the Office of Senate Fair Employment Practices or such other entity as the Senate may designate.

(c) RIGHTS OF EMPLOYEES.—The Office of Senate Fair Employment Practices shall ensure that Senate employees are informed of their rights under sections 101 through 105.

(d) LIMITATIONS.—A request for counseling under section 305 of such Act by a Senate employee alleging a violation of a provision of sections 101 through 105 shall be made not later than 2 years after the date of the last event constituting the alleged violation for which the counseling is requested, or not later than 3 years after such date in the case of a willful violation of section 105.

(e) APPLICABLE REMEDIES.—The remedies applicable to individuals who demonstrate a violation of a provision of sections 101 through 105 shall be such remedies as would be appropriate if awarded under paragraph (1) or (3) of section 107(a).

(f) EXERCISE OF RULEMAKING POWER.—The provisions of subsections (b), (c), (d), and (e), except as such subsections apply with respect to section 309 of the Government Employee Rights Act of 1991 (2 U.S.C. 1209), are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate. No Senate employee may commence a judicial proceeding with respect to an allegation described in subsection (b)(1), except as provided in this section.

(g) SEVERABILITY.—Notwithstanding any other provision of law, if any provision of section 309 of the Government Employee Rights Act of 1991 (2 U.S.C. 1209), or of subsection (b)(1) insofar as it applies such section 309 to an allegation described in subsection (b)(1)(A), is invalidated, both such section 309, and subsection (b)(1) insofar as it applies such section 309 to such an allegation, shall have no force and effect, and shall be considered to be invalidated for purposes of section 322 of such Act (2 U.S.C. 1221).

(h) DEFINITIONS.—As used in this section:

(1) EMPLOYING OFFICE.—The term "employing office" means the office with the final authority described in section 301(2) of such Act (2 U.S.C. 1201(2)).

(2) SENATE EMPLOYEE.—The term "Senate employee" means an employee described in subparagraph (A) or (B) of section 301(c)(1) of such Act (2 U.S.C. 1201(c)(1)) who has been employed for at least 12 months on other than a temporary or intermittent basis by any employing office.

SEC. 502. LEAVE FOR CERTAIN HOUSE EMPLOYEES.

(a) IN GENERAL.—The rights and protections under sections 102 through 105 (other than section 104(b)) shall apply to any employee in an employment position and any employing authority of the House of Representatives.

(b) ADMINISTRATION.—In the administration of this section, the remedies and procedures under the Fair Employment Practices Resolution shall be applied.

(c) DEFINITION.—As used in this section, the term "Fair Employment Practices Resolution" means rule LI of the Rules of the House of Representatives.

TITLE VI—SENSE OF CONGRESS

SEC. 601. SENSE OF CONGRESS.

It is the sense of the Congress that:

(a) The Secretary of Defense shall conduct a comprehensive review of current departmental policy with respect to the service of homosexuals in the Armed Forces;

(b) Such review shall include the basis for the current policy of mandatory separation; the rights of all service men and women, and the effects of any change in such policy on morale, discipline, and military effectiveness;

(c) The Secretary shall report the results of such review and consultations and his recommendations to the President and to the Congress no later than July 15, 1993;

(d) The Senate Committee on Armed Services shall conduct (i) comprehensive hearings on the current military policy with respect to the service of homosexuals in the military services; and (ii) shall conduct oversight hearings on the Secretary's recommendations as such are reported.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DODD. I move to lay that motion on the table. The motion to lay on the table was agreed to.

FAMILY AND MEDICAL LEAVE ACT

Mr. MITCHELL. Mr. President, this family leave legislation is the result of years of hard work by a large number of people, but no individual deserves greater credit than does the distinguished Senator from Connecticut [Mr. DODD]. Senator DODD had enormous help from Senator BOND, who acted courageously and with foresight, and from Senator KENNEDY, the chairman of the committee; but it was Senator DODD'S perseverance, commitment and leadership that led the way to passage of this important measure.

I commend Senator DODD on his initiative and his endurance.

While millions of Americans will benefit from this Family and Medical Leave Act, it is primarily American women who will benefit the most.

Over the past decade, the United States has witnessed an ever increasing number of women entering the work force. Many have very young children. Many seek to rejoin the work force shortly after the birth of their children.

These women are working out of economic necessity. They need to work to raise their family's income to a level that will provide them with decent and safe housing, utilities, food, and other basic necessities.

This legislation is as much about giving women an equal economic opportunity as it is about providing a national policy to protect jobs during times of family crises.

The General Accounting Office estimates that over the past 40 years, the female civilian labor force has grown by nearly a million workers per year. By the year 2000, it is predicted that women will comprise two out of every three new entrants to the work force.

Despite the changing demographics of the work force, over the last several years the Family and Medical Leave Act has been a legislative exercise only.

At the same time, millions of women have been forced to make a painful choice between the economic imperative of working to supplement their families' income and the anxiety of caring for a seriously ill child.

The facts are clear. Well over a majority of women do not have maternity leave. Well over the majority of parents do not have leave to care for seriously, or for that matter, terminally ill children. Very little consideration is given to those working adults, primarily women, who are also caring for their aging parents.

We ought not force women to choose between job and their families. As the composition of the American work force changes, those changes ought to be reflected in our Nation's labor policies.

Enactment of this legislation will give women an equal economic opportunity. It will give parents, particularly women, the flexibility to take care of a newborn child or take care of an ailing parent without the fear of losing a job.

Equally important, this legislation will give workers the flexibility and job protection to take care of their own serious health condition.

In November, Americans called for change. The Family and Medical Leave Act delivers on that call. The United States will no longer be the only Western nation without a family leave policy in place.

THANKS TO SENATE PAGES

Mr. MITCHELL. Mr. President, I would like to take this opportunity to recognize and thank the Senate pages. Tomorrow marks the end of service for our current group of pages. I cannot overstate how important their work has been to the Senate.

The pages have ensured that necessary information about amendments and pending legislation has been available to all Senators. Whether that has required making copies or bringing the information directly to Senators' offices, the pages have performed their jobs quickly and responsibly.

They have always been available to attend to Senators' needs on the Senate floor. Whether this has involved finding a podium, tracking down a copy of an amendment or delivering a bill to a Senator, the pages have gladly assisted.

I am impressed with the ambition and drive of our pages. These young people have chosen to leave home for a semester, to work long and erratic hours while attending school full time. That is an extraordinary commitment. Their energy and idealism are inspiring.

This group of young people were of tremendous assistance to all members during the rush to sine die adjournment last October. They never complained about late nights or the amount or work that was required to assist members and their staff. I applaud them for the fine work in helping to bring the 102d Congress to a close.

Their tenure involved the swearing in of a new administration and confirmation of the President's Cabinet. This has been an exciting time of change and opportunity. Their service has given them a rare firsthand look at the workings of their Government. This is an experience few high school students have. It is an experience I hope the pages have found rewarding.

We, in the Senate, have appreciated their service and wish them well as they return home.

I would now like to read the names of those pages who have served so diligently.

DEMOCRATIC PAGES

Sarah J. Adams (Falmouth, Massachusetts);
Julie E.M. Burke (Canaan, Maine);
Rachel E. Crawford (West Burke, Vermont);
Kate L. Fernald (Farmington, Maine);
Daniel L. Goldberg (Janesville, Wisconsin);
Meghan A. McCormick (Dubuque, Iowa);
R. Jarrett Patterson (Texarkana, Texas);
Erin E. Potter (Wilmington, Delaware);
Mary M. Sheridan (Spokane, Washington);
Ashley M. Slinkard (Rogers, Arkansas); and
Cara N. Stillings (Canton, Michigan).

REPUBLICAN PAGES

Steve Tolifson (Benson, Minnesota);
Melissa McGuinn (Smithfield, Rhode Island);
Ray Joiner, III (Meridian, Mississippi); and
Sabrina Sorenson (Charlotte, North Carolina).

COMMENDATION TO THE PAGES

Mr. SIMON. Mr. President, let me also commend the pages who have just been consistently terrific. We do not thank the people around here enough. The pages have been absolutely superb, as well as the others, those who have to transcribe what we say, those who are in the front, who, in addition to everything else, have to listen to what we say day after day. We are grateful to them all.

Mr. KENNEDY. Mr. President, just a few moments ago, the Senate passed what I am sure will be one of the more important pieces of legislation of this Congress. As has been mentioned by the majority leader, I think all of us in the body, particularly those of us on the Human Resources Committee, want to acknowledge in a very personal way the extraordinary legislative achievement of our good friend and colleague, the Senator from Connecticut [Mr. DODD]. I acknowledged at the outset of our consideration of this legislation the strong work of Senator BOND and others in helping to bring us to where we are.

Over the years, it has been his perseverance and persistence on this issue in raising it not only in committee but also here on the floor that really helped to develop the national consensus in favor of this legislation. A number of votes have been taken here over the years on this issue and on each and every occasion the support for this legislation has increased and strengthened. In 1988, we were able to get just 50 votes for cloture to break a filibuster on the bill. In 1991, we had 65 votes for passage, and then 68 votes to override President Bush's veto. And tonight, 71 votes were cast in favor of final passage of this bill. Support for this bill has grown and grown because the American people have understood what Senator DODD and parents and families have understood—that this is basically an issue of fairness for working families in this country. I think the overwhelming support of the Members of this body is a clear indication of that.

So, Mr. President, I want to thank as well the majority leader and the Clinton administration. The majority leader indicated to our committee that because of his own strong support of this program, he wanted early action; he wanted the committee to give consideration to it and then have early action. It has really been because of his scheduling and his support for this legislation all the way through that we were able to achieve the outcome we achieved tonight.

President Clinton, in his visits up here with the Members urging the House of Representatives and the Senate to take this action as well as in his public statements strongly in support of this legislation during the course of the campaign demonstrated his own commitment to putting people first, putting families first, putting working families first in this country.

So tonight there will be scores of families, working families, that will give a sigh of relief. The President, as I understand, will sign this legislation tomorrow. What a difference an election makes. It will take a few months to have the legislation actually implemented, but our action tonight is a clear indication to families, working families across this country that we are prepared to take action to give them the kind of support that they very richly deserve. It is a small downpayment on what I hope and believe will be action by this body and by the administration on a wide range of issues to give a greater sense of hope to working families in this country.

I want to particularly thank Sarah Fox of my staff who has done so much work in behalf of the Labor and Human Resources Committee in helping and assisting the committee in moving this legislation along. I know Rich Tarplin of Senator DODD's staff has been an extraordinary help to all of us on the committee, as he has been to Senator DODD over a long period of time. All of us in this body are grateful, again, for the leadership that has been provided by Senator DODD.

Mr. DODD. Mr. President, I will not take a great deal of time.

But I am, first of all, deeply appreciative to my colleagues in this body, those who voted with me and those who voted against me, for their patience and tolerance over these many years in grappling with the family and medical leave legislation. I am obviously greatly appreciative of those who supported me, as well as those who did not. It does not mean they totally disagree, as the distinguished Senator from Kansas said on numerous occasions over the past several years. They merely disagree with parts of the legislation and how it would work. So I am deeply appreciative to them.

I want to begin by thanking my chairman. I know that people expect you to do that if you are a subcommittee chairman, but in this case, Mr. President, it is not fulfilling some perfunctory responsibility. We would not have passed this bill had Senator KENNEDY not worked with me, for me, by my side, guiding and assisting through this process. He deserves a tremendous amount of the credit.

I got tremendous advice from him on how to proceed. I remember about 5 years ago when I lost the first time on this matter and was feeling down about it, he pulled me aside and said let me tell you, first of all, a good idea takes time and, second, it is not uncommon for a good piece of legislation to take 5 or 6 years. He depressed me at the time when he said 5 or 6 years, but he turned out to be extremely knowledgeable, almost to the year. So I begin with thanking him for a tremendous effort on so many issues, but particularly on this one. Without him, we would not have been able to achieve our success.

I want to thank the majority leader, obviously, for working with us over the years—this is the third time now we have passed this legislation—and his team. I will get to Senator FORD and his staff on what a critical role they played here.

Senator BOND, of course, Senator SPECTER, Senator DAN COATS were principally involved among my colleagues on the other side. But again—and I do not want to repeat myself—without their input, without bringing some tremendous ideas on strengthening the employer protection provisions of the legislation, I do not think we would have had as good a bill or done as well with it.

The best pieces of legislation, in my view, that have passed this body in my experience here over the past 12 years have been pieces of legislation which have truly been bipartisan. That was my experience on this bill. The best legislation brings the best ideas together under one topic or heading, in this case, family and medical leave. I think it was a good idea to begin with and became a better idea because of the input and involvement of my colleagues on the other side of the aisle.

I want to thank the minority leader as well. He disagreed with me on the bill. He showed great humor and patience with me over the years, constantly teasing me about when I was going to get through with this bill. I presume, even though he disagreed with it, Mr. President, he is almost as happy as I that it is done. While he is not on the floor this evening, I want to thank him for his patience and understanding.

My staff, Mr. President—they are not just mine but those of other Members. Senator KENNEDY properly has recognized Rich Tarplin for the tremendous work he did on this bill and on so many other pieces of legislation; the child care legislation, countless other ideas that have come out of the Subcommittee on Children and Families.

Rich Tarplin will be leaving shortly. This is his last involvement with any kind of legislation. But he has done a great job, not only for this Member but I think for this institution. I would like the record to reflect that staff do not always get their names on bills, they do not get to make speeches on the floor, they do not get to go on television or appear on radio programs and there is a lot of criticism from time to time about staff on Capitol Hill, but if anyone wants a model of an ideal staff person in making a constructive and positive contribution to the history of this country, then they can look no further than to the name of Richard Tarplin who has contributed greatly.

Patty Cole, Anne Ford, Evvie Becker-Lausen, and Judy Ezzell of the committee staff, Jackie Ruff, who left in November but played a critical role over the years, all of these people have been involved on the committee staff and I am deeply grateful to each one.

Patty Cole has been on the floor during the consideration of this bill and has provided help; Anne Ford as well. I am grateful to all. Sarah Fox, of Senator KENNEDY's staff, and Nick Littlefield have done a great job and again been extremely helpful.

Julie Dammon and Lee Anne Jerome of Senator BOND's staff deserve great credit for their efforts and support; Grace Reef from Senator MITCHELL'S staff; Stephanie Monroe of Senator COATS' staff, I am also deeply grateful to them. And Gary Slayman and Greg Watchman of Senator METZENBAUM's staff did a tremendous job as well; Marsha Olmiller of Senator PACKWOOD's staff.

Senator PACKWOOD was early involved in this legislation. In fact, he was reminding me of my door-to-door lobbying on this bill, going back a number of years ago when I brought a pile of charts to his room and sat there going down all the various ideas and solicited his comments. I think that was 5 years ago, but he became a strong supporter and backer of the legislation, and I am grateful to him.

Mark Powden, from Senator JEFFORD's staff, did a great job. Kennie Gill from Senator FORD's staff was tremendously helpful. Senator FORD, along with Senator BOND and Senator COATS at a very critical moment in the history of this legislation brought together a substitute idea which I think made it a stronger and a better bill and certainly increased its chances of passing the political test of our colleagues in the Senate. I am deeply grateful to my colleague, the majority whip, for his guidance and support and for his staff as well over the years. I appreciate it.

Mr. President, I will submit the names of the various groups, 1,240 organizations from across this country, the last of which was the National Retail Federation, for their support. Just to name a few, the Women's Legal Defense Fund, Judith Lichtman has been a tremendous help on so many pieces of legislation. She is well known to our colleagues. She has a deep commitment to this country and she did a great job; Donna Lenhoff and Helen Norton, also from the Legal Defense Fund, were terrific assets and supporters in this particular effort. I would not want the RECORD to end without referencing and mentioning them for their support and backing.

Mr. President, I look forward to a ceremony tomorrow that I have long anticipated, and that is a bill-signing ceremony now that this legislation has passed both Chambers. My hope is that the legislation will work well—what, of course, none of us know until it actually ends up in practice.

I want to let my colleagues know this evening that we intend to hold hearings down the road and invite the business communities and others to come in and to testify about how this legislation is working, what the impact is, and any ideas and suggestions that can strengthen this, make this a better piece of legislation. I will welcome it and hopefully in the years to come, we will find the legislation is working well. But if changes are needed, I want the record to show this evening, that I am prepared to make those exchanges, to make this work because I think it is a great asset for families.

While it will be 6 months before it is actually enforced to giving time for the regulations to be developed, I hope, many people in this country tonight have been through the agony of wondering how they would tell their employees they needed time to be with a family member during a critical crisis, employers wondering how they can accommodate people in the past, will now know we have a law in the United States that says you will never ever have to again if you are employed by someone who employs more than 50 people have to be in a situation where you face a serious medical crisis with a new birth of a child, an adoption, where you will have to lose your job or lose health care if your employer provides it while you take care of that family member. To me that is something as basic as anything else I can think of.

Tonight by an overwhelming vote in this body, a strong vote in the other, with the signing tomorrow by the President of the United States, we will make that idea a reality.

I am very proud to have been a part of it. I am deeply grateful to my colleagues for their support. I look forward to seeing this legislation actually be implemented.

Mr. President, I ask unanimous consent to add some additional remarks for the RECORD.

I know there are other matters that you want to discuss this evening.

Mr. President, I ask unanimous consent that a list of organizations that have endorsed the Family and Medical Leave Act be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS THAT HAVE ENDORSED THE FAMILY AND MEDICAL LEAVE ACT

OVERALL CHAIR

Women's Legal Defense Fund.

ORGANIZATIONS

Nine to Five, National Association for Working Women.
ACORN, Association of Community Organizations for Reform Now.
Adoptive Families of America.
AFL–CIO.
Aid to Adoption of Special Kids—Oklahoma.
Amalgamated Clothing & Textile Workers Union.
American Academy of Child and Adolescent Psychiatry.
American Academy of Pediatrics.
American Adoption Congress.
American Association for Counseling and Development.
American Association of Retired Persons.
American Association of University Professors.
American Association of University Women.
American Bar Association.
American Civil Liberties Union.
American Federation of Government Employees.
American Federation of State, County, and Municipal Employees.
American Federation of Teachers.
American Home Economics Association.
American Jewish Committee.
American Jewish Congress.
American Life League.
American Medical Women's Association.
American Nurses Association.
American Occupational Therapy Association.
American Postal Workers Union.
American Psychological Association.
American Psychiatric Association.
American Society on Aging.
American Speech-Language-Hearing Association.
Americans for Democratic Action.
Archdiocese for St. Louis, Commission on Human Rights.
Arkansas Women's Project.
Association Nacional pro Personas Mayores.
ASPO/Lamaze.
Association for Children and Adults with Learning Disabilities.
Association for Gerontology in Higher Education.
Association for Retarded Citizens.
Association of Flight Attendants.
Association of Junior Leagues International.
Association of Professional Flight Attendants.
B'nai B'rith Women.
Black Professional Women of Dallas.
California Family Action.
Cancer Care, Inc.
Candlelighters Childhood Cancer Foundation.
Catholic Charities USA.
Catholic Golden Age.
Center for Law and Social Policy.
Center for Women's Policy Studies.
Child Care Action Campaign.
Child Welfare League of America.
Children's Defense Fund.
Church of the Brethren.
Church Women United.
Citizen Action League.
Clearinghouse on Women's Issues.
Coal Employment Project.
Coalition of Labor Union Women.
Colorado Coal Mining Women.
Colorado Psychiatric Association.
Commission on Human Rights.
Committee for Children.
Committee of Interns and Residents.
Communication Workers of America.
Communications Consortium.
Council for Children, Inc.
County of Santa Clara Commission on the Status of Women.
Disability Rights Education and Defense Fund, Inc.
Displaced Homemakers Network.
Eastern Kentucky Coal Mining Women's Support Team.
Economic Policy Counsel, United Nations Associations.
Employment Law Center.
Equal Rights Advocates.
Epilepsy Foundation of America.
Evangelical Lutheran Church in America.
Families for Private Adoption.
Families USA.
Fathering Support Services.
Federally Employed Women.
Federation of Organizations for Professional Women.
Feminists for Life of America.
Food and Allied Service Trades Department, AFL–CIO.
Georgetown University Sex Discrimination Clinic.
Gray Panthers.
Hawaii Women's Political Caucus.
Highlander Research and Education Center.
Hollywood Women's Political Committee.
Human Rights Campaign Fund.
Illinois Coal Mining Women's Support Team.
Independent Federation of Flight Attendants.
Independent Union of Flight Attendants.
Indiana Coal Mining Women's Support Team.
Industrial Union Department of the AFL-CIO.
Institute of Child Mental Health.
Institute for Peace and Justice.
Institute for Women's Policy Research.
International Association of Fire Fighters.
International Association of Machinists.
International Brotherhood of Teamsters.
International Federation of Professional and Technical Engineers.
International Ladies' Garment Workers Union.
International Longshoresman's & Warehouseman's Union.
International Union of Electronic, Electrical, Salaried Machine and Furniture Workers.
Jewish Labor Committee.
JustLife.
Lady Miners of Utah.
Lambda Legal Defense Fund.
Latin American Parents Association—National Capital Region.
Lawyers of Alternative Work Schedules.
Leadership Conference on Civil Rights.
League of Women Voters of the United States.
Longshoreman's and Warehouseman's Union, International.
Lutheran Office for Government Affairs.
Maine Commission on Women.
Maine People's Alliance.
March of Dimes.
Men's Rights, Inc.
Mennonite Central Committee, U.S. Peace Section, Washington, DC.
Mental Health Law Project.
Mexican American Business and Professional Women's Clubs of San Antonio.
Mexican American Legal Defense and Education Fund.
Mothers at Work.
Mothers Matter.
NA'AMAT USA.
NAACOG: The Organization for Obstetric, Gynecologic and Neonatal Nurses.
National Abortion Rights Action League.
National Adoption Center.
National Alliance for the Mentally Ill.
National Assembly of Volunteer Organizations.
National Association for the Advancement of Colored People.
National Association for the Education of Young Children.
National Association of Area Agencies on Aging.
National Association of Commissions for Women.
National Association of Developmental Disability Councils.
National Association of Foster Grandparents Program Directors.
National Association of Letter Carriers.
National Association of Mature People.
National Association of Pediatric Nurse Associates and Practitioners.
National Association of Older American Volunteer Programs.
National Association of Oncological Social Workers.
National Association of Protection and Advocacy Systems.
National Association of Retired Federal Employees.
National Association of RSVP Directors, Inc.
National Association of Senior Companion Project Directors.
National Association of Social Workers, Inc.
National Association of State Units on Aging.
National Black Child Development Institute.
National Coalition for Cancer Survivorship.
National Coalition of 100 Black Women.
National Committee to Preserve Social Security and Medicare.
National Conference of State Legislatures.
National Conference of Women's Bar Associations.
National Congress for Men.
National Consumers Union.
National Council for Children's Rights.
National Council for Research on Women.
National Council of Catholic Women.
National Council of Churches.
National Council of the Churches of Christ in the USA.
National Council of Jewish Women.
National Council of Negro Women.
National Council Senior Citizens.
National Council on the Aging, Inc.
National Council on Family Relations.
National Down's Syndrome Congress.
National Education Association.
National Federation of Business and Professional Women's Clubs.
National Federation of Federal Employees.
National Federation of Temple Sisterhoods.
National Interfaith Coalition on Aging.
National Jewish Community Relations Advisory Council.
National Multiple Sclerosis Society.
National Organization for Women.
National Parent Teacher Association.
National Perinatal Association.

National Tay Sachs and Allied Diseases Association, Inc.
National Treasury Employees Union.
National Union of Hospital and Health Care Employees.
National Woman's Party.
National Women's Business Enterprise Association.
National Women's Law Center.
National Women's Political Caucus.
NETWORK: A Catholic Social Justice Lobby.
New Jersey Coalition for Family and Medical Leave.
New Ways to Work.
Newspaper Guild.
North American Council on Adoptable Children.
North Carolina Council of Churches.
North Carolina Center for Laws Affecting Women.
North Carolina Equity.
North Carolina Women's Legislative Agenda.
North Carolina Women's Resource Center.
Northeastern Gerontological Society.
Northern West Virginia Coal Mining Women's Support Team.
Northwest Women's Law Center.
NOW Legal Defense and Education Fund.
Office and Professional Employees International Union.
Oil, Chemical, & Atomic Workers International Union.
Older Women's League.
OURS, Inc.
Pennsylvania Coal Mining Women's Support Team.
Pension Rights Center.
Planned Parenthood Federation of America.
Public Employee Department of AFL–CIO.
Religious Network for Equality for Women.
Retired Members Department of UAW.
Service Employees International Union.
Southern West Virginia Coal Mining Women's Support Team.
Southwestern Virginia Coal Mining Women's Support Team.
Spina Bifida Association.
Stepfamily Association.
Texas Coalition for Nontraditional Professions.
Union of American Hebrew Congregations.
Union of Flight Attendants/IAM.
United Auto Workers.
United Cerebral Palsy Association, Inc.
United Church Board for Homeland Ministries.
United Church of Christ, Office for Church in Society.
United Electrical, Radio and Machine Workers of America.
United Food and Commercial Workers.
United Methodist Church, General Board of Church and Society.
United Mine Workers of America.
United States Catholic Conference.
United Steel Workers of America.
United Women Fire Fighters of New York.
Washington Council of Lawyers.
Western Kentucky Coal Mining Women's Support Team.
Wider Opportunities for Women, Inc.
Women Employed.
Women in Communications, Inc.
Women in the Fire Service.
Women Lawyers' Association of Michigan.
Women for Racial and Economic Equality.
Women on the Job.
Women to Women.
Women's Bar Association of D.C.
Women's Center of Southeastern Connecticut.
YWCA of the USA, National Board.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. I would like to add, too, Mr. President, my admiration and support for the tributes that have been paid to the Senator from Connecticut.

Senator DODD has provided extraordinary leadership on the passage of this family and medical leave legislation with perserverance and dedication through the years, with great good humor, which has assisted in the efforts for those of us both for and against it, to work well together and achieve the success that he has. All of us, I think, agree on the ends. There were those of us who disagreed on the means to reach those ends. I would just like to suggest that I, too, and I think I speak for all of my colleagues who voted in opposition, wish success for this legislation.

It is important. It will mean a great deal to many who have worried about the ability to feel comfortable in meeting family needs as they are in the workplace and this holds great potential for them.

I would like to thank Richard Tarplin. He has been very supportive to those of us who have argued against various aspects of the bill. But whether we were for or against, he has been very helpful, as has Ted Verheggen of my staff; and Steve Sola, Carla Widener, and Dan Bolen; Senator BROWN: Peggy Walker and Roxie Burris; Senator COCHRAN: Jim Lofton; Senator GREGG: Pat Rich; Senator HATCH: Kris Iverson; Senator GORTON: John Kelly and Stan Bowman; Senator CRAIG: Damon Tobias; Senator PRESSLER: Ann Begeman and Robert Hoffman; and Senator WALLOP: Jodi Brayton.

Thank you, Mr. President.

I salute those who have won on this, and wish every success to this legislation.

I yield the floor.

Mr. SIMON. Mr. President, I want to join in commending Senator DODD for his leadership on this bill.

MORNING BUSINESS

LAWRENCE WALSH: THE RIPOFF GOES ON AS TAXPAYERS PICK UP THE TAB

Mr. DOLE. Mr. President, for the past several years, I have been a frequent critic of Special Prosecutor Lawrence Walsh. And I have got to say that it's been an easy job, because Mr. Walsh's record has always left much to criticize. Let me list just a few of his failings:

The ever-increasing bill he's charged the taxpayers for his endless 6-year investigation—now somewhere in the $30–$40 million range.

The frequent reversals of the few convictions he managed to obtain.

His violation of Washington, DC, tax laws.

His taxpayer-paid suite at the Watergate, and the countless taxpayer-paid first-class air trips between his home in Oklahoma City and Washington, DC.

All of these have been topics of mine in remarks delivered here on the Senate floor. But as detailed today in an article by Michael Ledeen in the Wall Street Journal, there is a complete category of abuses by Mr. Walsh that I have not peviously called to the Senate's attention: and those abuses involve his obvious disdain for and frequent violation of America's national security regulations.

According to Mr. Ledeen: CIA cables, complete with highly sensitive markings, were publicly released as exhibits during trials, in violation of security requirements.

During a discussion of a motion to quash a subpoena, Mr. Walsh's minions identified a covert agent by name.

Pleadings from Mr. Walsh have contained classified information that should have been deleted.

Highly sensitive documents were delivered to receptionists at defense counsels' offices, instead of being placed in special secure facilities.

And finally, and most egregiously, Mr. Walsh violated every known security regulation by giving his luggage—which included a satchel of classified documents—to his staffers and asking them to check it for him at the airport for a flight back from Los Angeles to Washington.

Not only did the satchel never arrive at its destination, but Mr. Walsh did not report its loss for several weeks—in violation of regulations requiring the immediate reporting of any such loss.

It goes without saying that if any Government employee so consistently violated national security regulations, they would be in deep legal trouble.

But Mr. Walsh has only dug deeper into the wallets of America's taxpayers.

President Clinton campaigned for office promising that the highest ethical standards would be a hallmark of his administration. These standards will never be achieved as long as Mr. Walsh continues his one-man vendetta.

BUSH RECOVERY STEAMS AHEAD

ECONOMIC INDICATORS UP AGAIN; PRESIDENT CLINTON SHOULD RESIST TAX HIKES AND HIGHER DEFICITS

Mr. DOLE. Mr. President, the good news on the national economic front continues to pour in. The Commerce Department's latest report on the index of leading indicators rose 1.9 percent in December. Growth was up 3.8 percent in the fourth quarter of 1992—the largest increase in 4 years and the seventh consecutive quarterly gain. No doubt about it, the Bush recovery that left the station last fall is continuing to pick up steam.

America boasts the finest workers in the world, and today, the Labor Department reported that the productivity of American workers jumped 2.7 percent in 1992—the biggest annual increase in 20 years.

Through the third quarter of 1992, the U.S. outperformed all of our major trading partners. Our economy grew faster than Japan, Germany, Canada, France, the United Kingdom, or Italy. And, U.S. economic growth was even stronger in the fourth quarter.

American car sales hit a 2-year high. Housing starts are up more than 16 percent from a year ago, and single-family unit starts are at the highest level since 1987. Factory orders for durable goods rose 9.1 percent in December, the biggest surge in more than 18 months.

In the markets, Standard & Poor's 500-stock index and the NASDAQ Composite Index are at record levels.

But, there are still some problems. A number of economists have pointed out that job creation has lagged behind other economic indicators. Most people in the private sector—the ones who create the jobs—know why. When faced with rising health care costs and more Government redtape, they can't afford to hire new workers.

Higher taxes and more Government mandates will not create jobs. More Government red ink will hurt our ability to compete in the long run.

We are all looking forward to the President's announcement on February 17th. But, I'm not sure that a stimulus package—whether it is $15 billion, $20 billion or $25 billion—can do much to help a $6 trillion economy. But, one thing is for certain—it will add to our $300 billion deficit.

SENATOR CHAFEE'S ADVICE TO PRESIDENT CLINTON

Mr. PELL. Mr. President, in this time of change and challenge in our national political life, it is refreshing and helpful indeed when constructive ideas come from both sides of the aisle.

Such advice came recently from my distinguished colleague from Rhode Island, Senator CHAFEE, who recently offered for publication an adaptation of a letter he sent to President Clinton prior to the inauguration.

In addition to indicating support for the President's priorities, Senator CHAFEE recommended several specific actions, many of which are of special interest to our State and the surrounding region.

His suggestions are constructive and worthy of serious consideration and I commend them to the attention of the Senate.

I ask unanimous consent that the article entitled "Dear Mr. President * * *" from the Providence Business News of January 26, 1993, be reprinted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Providence Business News, Jan. 26, 1993]

DEAR MR. PRESIDENT * * *

(Editor's note: The following is adapted from Sen. Chafee's letter to Bill Clinton delivered several days before the president was inaugurated.)

Dear Mr. Clinton: In my view there are three pressing domestic challenges facing our nation today, and they are all interrelated: the deficit, the rising cost of health care and our sluggish economy. I applaud your pledge to address these issues in a comprehensive and speedy manner.

The rising cost of health care and the number of individuals without access to basic services is an urgent problem confronting our nation. Managed Competition has much to offer in reforming our system. Refining this theory so that it will work in practice will take much thought and creativity. As chairman of the Senate Republican Health Care Task Force, I look forward to working with your administration on this challenge.

Although the condition of the national economy shows signs of recovery, New England—and in particular my home state of Rhode Island—is still in the grips of recession. Many economists believe that Rhode Island's economic problems will be prolonged due to the continuing shrinking of the defense industry. I welcome your commitment to preserving the vitality of our nation's submarine industrial base, and I hope that you will support the construction of the third Seawolf submarine.

Job creation must be the first goal of any recovery package. I recommend strongly several proposals that enjoy popular support in Congress and would create new employment opportunities for thousands of American workers:

Credit availability: I urge you to review all appropriate federal regulations that could increase lending to the nation's small-business community. In my view, it is possible to promote responsible lending while ensuring the safety and soundness of the nation's banking system.

Investment tax credit: A targeted investment credit is the most cost-effective way to encourage businesses to expand and modernize. Limiting the credit to productive equipment and making it available only on an incremental basis is not only good policy, it is essential, given our obvious budget constraints.

Mortgage Revenue Bond program: In Rhode Island, the availability of Mortgage Revenue Bond financing was responsible for 25 percent of all homes purchased in 1991.

Small Issue Bond Program: This program allows state and local governments to issue tax-exempt bonds and use the proceeds to provide capital to these small businesses. It is imperative that this program be continued if we are to meet our goal of creating jobs.

Repeal the luxury tax on boats: The nation's boat-building industry has been devastated by the luxury tax imposed as part of the 1990 budget agreement. More than 19,000 boat-building jobs have been lost in the past two years, and Rhode Island's once-profitable industry has been all but wiped out.

On the environmental front, I also have a number of suggestions. As the Ranking Member on the Senate Committee on Environment and Public Works. I offer the following thoughts:

First, any infrastructure investment proposal in your economic recovery plan should not be limited to the construction or repair of highways. Environmental infrastructure, such as safe drinking water supply systems and support for the extension and expansion of the Clean Water Act's State Revolving Fund, could be key components.

Second, as soon as possible, the United States should sign the treaty on biological diversity that was negotiated last spring and, in the interim, an Executive Order on immediate implementation of the treaty's conservation provisions would be helpful.

Third, all agencies, especially the Environmental Protection Agency, the Department of Transportation, the Department of Energy and the Department of Defense, should be directed to implement immediately and aggressively legislation such as the recently enacted Federal Facilities Compliance Act, the Intermodal Surface Transportation Efficiency Act, the Clean Air Act and the Residential Lead-Based Paint Hazard Reduction Act.

Fourth, Executive Order 12630 on interference with constitutionally protected property rights needs to be reviewed to determine whether implementation of this overly broad order is having a chilling effect on the development or implementation of environmental, health and safety regulations.

Fifth, the Treasury Department should be directed to examine and comment on S-2957, a bill I introduced last year to provide tax incentives for the preservation of open space, wildlife habitat and family farms. The tax code may hold the greatest promise as a source of market incentives to achieve environmental goals.

I look forward to working with you in the coming months to address the many challenges facing our nation.

SCHOOL REFORM BEGINS IN CLASS

Mr. PELL. Mr. President, I would like to bring to the attention of my colleagues a recent opinion piece which appeared in the Providence Journal last week. Ms. Barbara Tucker Cervone rightly points out that no matter what we do with respect to national policy in education, it is in the classroom that rubber meets road.

Last Congress, we took significant steps in the Higher Education Act reauthorization to strengthen Federal support for professional development. Title V only needs adequate funding in order for the programs to begin.

I urge my colleagues to read Ms. Cervone's article in preparation of our work this Congress on the Elementary and Secondary Education Act of 1965 reauthorization. So much of what we do in education begins and ends with the relationship between the student and the teacher.

Mr. President, I ask that the full text of Ms. Cervone's article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Providence Journal, Jan. 28, 1993]

SCHOOL REFORM BEGINS IN CLASS

(By Barbara Tucker Cervone)

Never before in the history of U.S. education has there been so much talk about school reform. Yet the notion that our schools need fixing is long-standing. Each decade of the 20th century has produced pleas to change something about the way American schools do business, bolstered by dire predictions of what would happen to children—or the nation—if the desired reforms were not adopted. Like the dieter who has tried one "weight loss reduction plan" after another with meager results, however, schools have remained largely impervious to attempts to change their shape.

Perhaps today's calls for reform will succeed. If so, the education buzz words of the 1980s and '90s—"site-based management," "school choice," "performance-based assessment," etc.—may truly change the contours of American education. But, alone, they won't fix the day-to-day problems many teachers and students face, such as discipline, teacher isolation, low attendance, racial tension or plain boredom.

What many reform plans, old and new, fail to address fully are two truths of how schools work. First, it is in the classroom—not at the state, school district, or even "building" or school level—that teaching and learning happen. Second, it is the relationships among students, parents and faculty—the degree of trust and respect—that hold a school together or tear it apart.

These assertions are bolstered by a growing body of research. One of its most consistent findings is that students' achievement is determined by the classroom to which they belong and what happens there daily. A 1989 Rand Corp. study of student achievement among 6,300 students, for example, found that classroom differences substantially influenced student achievement, while policy differences did not.

Research on relationships within schools is far less extensive, but compelling nonetheless. A recent, year-long study of four Southern California schools found unsatisfactory relationships among students and staff the most troubling underlying problem. "If the relationships are wrong between teachers and students, for whatever reason," commented one of the researchers, "you can restructure until the cows come home, but transformation will not take place." And in a new survey of 1,000 public school teachers completing their second year of teaching, 40 percent of those who said they intended to leave teaching cited poor relations with parents as the main reason.

So what does this mean for current school reform efforts? It means quite simply that new reforms, if they are to reach deep into schools, must include policies that directly strengthen classrooms.

What might some of these policies be? Topping the list are policies that affect who ends up in a particular classroom. Teacher recruitment and selection, transfers for tenured teachers, assignments of new teachers to specific schools, and other personnel policies must be revised so as to attract and retain the most effective teachers, to match teachers with schools, and to maintain consistent leadership in individual classrooms. Policies that invite the input of teachers and parents in assigning students to classrooms also merit attention. Students should be placed where they might learn best.

Equally critical are policies that support teachers and help them solve problems in their own classrooms. Heading the list here, certainly, is sustained teacher training on topics that teachers, themselves, select. Too often "in-service" training is a one-shot affair on a subject chosen by administrators in offices (pressured to meet the latest curriculum mandate) and not by teachers in classrooms. But just as critical is a process for identifying teachers who are struggling and, through classroom observation and ongoing counseling, devising ad hoc strategies to strengthen their skills.

Principals are obvious candidates for undertaking this supportive intervention. Policies that support classrooms might also include such seemingly farfetched notions as keeping a group of students and teachers together for several years, allowing them the time and space to adjust to one anothers' styles.

And how might one alter the unsatisfactory relationships that weaken not just individual classrooms but whole schools? Team teaching, teacher visits to other classrooms, and more collegial sharing among school staff are a place to start. Also helpful would be opportunities for teachers and small groups of students to explore racial differences, air complaints, build trust or work side-by-side on a community service project. Stimulating more informal, positive communication between parents and teachers (rather than talking only when there is a problem) could introduce warmth into this often adversarial relationship. Indeed, there are countless ways to begin addressing the issue of poor relationships.

In sum, of the various reform plans swirling around schools today, the most promising include strategies that breathe hope and purpose into the daily lives of teachers and students. Failure to do so will surely fall short. As Edward Pauly, the author of a recent book on the role of classrooms in school reform, notes: "In the end, we must rely on the people in classrooms to carry out the work of education—not because they will always do it perfectly, but because they are the only ones who can do it all."

TRIBUTE TO DR. ALLAN GEORGE THURMOND

Mr. SIMPSON. Mr. President, I have said on many occasions that the Senate is more than just a collection of individuals trying to do their jobs. No matter what one's position is in the Senate, all of us share an incredibly unique sense of family. That sense of family extends to our Members when he or she suffers the loss of a loved one. On Tuesday morning, February 2, Dr. Allan George Thurmond, the brother of our dear friend, Senator STROM THURMOND, passed away.

Senator THURMOND is one of the most cherished and loved Members of the Senate family. He inspires us all and has contributed so much to his Nation, and to his State, by virtue of his service in this body since he was elected in 1954.

His brother, Dr. Allan George Thurmond, chose a different, yet very important, avenue of providing service to the public. Dr. Thurmond was a much beloved physician for over half a century. He was born on September 4, 1907, in Edgefield, SC. He was the son of the late Eleanor Gertrude Strom and John William Thurmond. He graduated from Edgefield High School, attended Clemson College, and received his medical degree from the Medical College of Georgia in 1933.

He was an Army veteran of World War II and practiced medicine in Waynesboro, GA, Augusta, GA, and North Augusta, SC. He was affiliated with the University Hospital in Augusta, GA, and specialized in the practice of obstetrics and gynecology. He retired in 1984 after a long and illustrious career in which he provided health care to many families, regardless of socioeconomic background.

Dr. Thurmond was a member of the First Baptist Church in North Augusta, SC, and belonged to the American Medical Association and the Medical Association of Georgia. Other survivors include his sisters, Miss Anna Gertrude Thurmond of Columbia, SC, Mrs. Walter G. Bishop, Sr.—Martha—of Greenwood, SC, and Mrs. J. Robert Tompkins—Mary—of Edgefield, SC.

The Thurmond family has every right to be so fiercely proud of their family's accomplishments and contributions—including the outstanding contributions to society which Dr. Thurmond made. All of those who knew him held Dr. Allan George Thurmond in the very highest esteem.

We in the Senate extend our deepest sympathies to the Thurmond family and especially to our beloved colleague and friend, STROM. Our thoughts and our prayers go winging out to our dear friend during this difficult time.

LARRY BIRD—THE MAN AND THE LEGEND

Mr. KENNEDY. Mr. President, tonight, at the Boston Garden, the people of Boston are honoring the Hoosier who won the hearts of Boston, one of the greatest basketball players of all time, the incomparable Larry Bird, who is retiring from the Boston Celtics. It is Larry Bird Night in Boston, and his famous No. 33 Jersey will be enshrined in the rafters of the Garden.

Since October 12, 1979, the night of his first game with the Boston Celtics, Larry Bird has been dazzling basketball fans, and even nonfans, with his amazing skill. One month after his professional debut, he recorded his first triple-double—23 points, 19 rebounds, and 10 assists. He went on to even greater heights that year and he was named NBA Rookie of the Year.

Between 1981 and 1986, he led the Celtics to the first of the three Bird-era world championships. At the end of the 1986 season, the NBA named him "Most Valuable Player" for the third season in a row, an achievement previously attained only by Bill Russell and Wilt Chamberlain.

And, as we all remember last summer, Larry Bird and other members of the U.S. Dream Team brought home Olympic gold. He was recognized by the entire world as the champion he has always been to us.

There is so much about Larry Bird that all the trophies, medals, and championship rings do not tell. The incredible statistics—a free-throw percentage of .896, a 3-point shooting percentage of .423, an overall scoring record of 25.8 points a game, 10.4 rebounds, and 2 steals a game—barely begin to measure his achievement.

His extraordinary ability was always matched by hard work. He is legendary for always being the first one at the Garden, warming up for every game. He has played brilliantly even when hurt, without complaining, inspiring his teammates to do the same.

Most of all, Larry Bird is a team player, always crediting fellow players for their success—and for their indispensable role in his own achievements. He is a shining inspiration to the youth of America and to all Americans, and I am proud to join millions of his fans on this special night as we wish him well in his retirement.

RURAL RAIL INFRASTRUCTURE

Mr. PRESSLER. Mr. President, when the Senate returns from its February recess, I intend to introduce the Rural Rail Infrastructure Act of 1993. Today, I will offer a general outline of this important policy issue. I urge my colleagues to review my remarks, and I welcome their thoughts and ideas.

Rural America has suffered a decline that has been accelerated by Government policy, or to be frank, the lack of a policy. This is particularly true with respect to rural transportation. Transportation companies have divested in rural America because business and capital have not been there to support the infrastructure. Deregulation has accelerated this decline with a severe loss of air, rail, and bus service.

In other areas involving basic infrastructure, Congress has moved boldly to address the needs of small States. The Rural Electric Administration provides power and telephone service to the most remote regions of America. The Interstate Highway System connects our small cities and towns, and continues to be the lifeline of our freight trucking industry. The Essential Air Service Program is a modest but vital component of small city air service. We also are seeing efforts to reestablish small city bus links.

Rail, however, is the transportation mode that was left behind. The abandonment of small State rail service has been massive. As a result, economic development options are reduced, and entire communities lose industrial opportunities. In areas like my home State of South Dakota, it is becoming more and more difficult to move our bountiful harvests from the field to the American table and markets abroad. President Clinton has called on Congress to reinvest in America. I believe it's time we reinvest in America's rural rail service.

This commitment to small State rail service is shared by a number of my colleagues. The senior Senator from Nebraska [Mr. EXON] and the Senator from Iowa [Mr. HARKIN] and others have worked diligently in the U.S. Senate to restore quality rail service to small States. We reestablished the Local Freight Assistance Program, after it was killed in the early 1980's. That program provides modest but vital help at a level of about $10 million each year. On two occasions, the Senate approved as much as $100 million in Federal loan guarantees for light density lines. However, House-Senate conference committees dramatically reduced the Senate's recommendations.

The 40,000 miles of local and regional railroads are America's most vulnerable transport infrastructure. Meanwhile, we are making funding to our highways that will total $130 billion over the next few years.

We are making commitments to mass transit. We are making commitments to Amtrak. High-speed rail is a high priority. I support all of these initiatives. All reflect our desire to reinvest in America. However, reinvesting in America means reinvesting in rural America. It means reinvesting in South Dakota, and other States from Montana to Maine.

Mr. President, it is time for our Nation to make an equal commitment to rural rail infrastructure. My proposed legislation is based on existing law. My legislation will not create any new programs or layers of bureaucracy. Instead, it combines and builds on current statutes. My legislation will consist of the following:

I. LOCAL RAIL FREIGHT ASSISTANCE

One hundred million dollars per year for 4 years. Funds would be concentrated on small railroads and light density lines. Safety and bridge projects will have priority.

II. AUTHORIZE RAILROAD LOAN GUARANTEES

Section 511 of the Rail Revitalization and Regulatory Reform Act authorized $1 billion in Federal loan guarantees to assist railroads. Almost the entire amount remains available for commitment. My proposed legislation would modify the program to make it more workable and easier to get the funds out quickly. My bill would authorize a funding commitment of $500 million.

III. INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT [ISTEA] ELIGIBILITY

States would be given the flexibility to commit ISTEA surface transportation funds to rail projects that the FRA certifies would otherwise be eligible for Local Rail Freight Assistance funding. This will give the States an expanded ability to participate in rail projects that are in the public interest.

IV. SOUTH DAKOTA-MINNESOTA-NEBRASKA RURAL RAIL DEMONSTRATION PROJECT

The bill will earmark $15 million a year for 4 years for a rail project that will demonstrate the benefits of bringing rural rail infrastructure to a safe and viable condition.

The Regional Railroads of America [RRA] recently presented me with a policy proposal entitled the "Green Map." The RRA Green Map provides excellent justification for the legislative package I am developing for rural America. I bring it to the attention of each of my colleagues and ask that it be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REGIONAL RAILROADS OF AMERICA, THE GREEN MAP PROGRAM

INTRODUCTION

Railroads safely move people and freight using less energy, relieving highway congestion and lowering pollution. If 10% of the freight moving by truck were diverted to rail we would reduce emissions of carbon dioxide by 2.46 million tons, save 200 million gallons of fuel and eliminate 220 highway fatalities a year.

Highway congestion today wastes two billion hours and costs $100 billion in lost wages and excess fuel consumption each year. Air passengers sit through 20,000 hours of flight delays, costing us some $5 billion in wasted time and fuel. Over 100 suburban areas fail to meet Clean Air standards. Sixty eight cities fail pollution goals for ozone. Almost as many can't meet carbon monoxide guidelines. Some 150 million Americans live where the air quality in unacceptable.

Unlike our gridlocked highways and airports, the existing rail system can carry four times today's traffic. Railroads could in fact, take 10 million trucks off the highways without laying another mile of track. With a modest investment, high speed rail service could be initiated over existing rights of way between city pairs of 400 miles or less. This could eliminate the need for thousands of daily flights between near-by metropolitan areas.

Taken together, the rail commuter and rail freight lines of this country comprise a Green Map that can make a major contribution to the environmental, energy and transportation goals of this country.

Unfortunately, the totality of federal transportation policy and the federal funding that supports that policy enhances the Grey Map of highways.

The basis of that federal policy is an enormous Tax Gap between railroads and their modal competitors. The Tax Gap is created by two factors. First, the government undercharges the trucking and barge industries for the construction and repair of their rights of way. Second, the government overcharges the railroad industry by imposing billions of dollars in unique costs for federally mandated railroad retirement, FELA and labor protection.

The Federal Tax Gap is the fundamental problem for our industry. It is the reason railroads continue to lose market share as measured by revenue. It is the reason railroads rank near the bottom among 21 industry groups when measuring return on investment. It is the reason rail industry jobs have shrunk by half in a decade.

For regional railroads this problem is particularly acute. Regional Railroads are small start-up companies that cannot absorb the financial penalties imposed on it by bad public policy.

Regional Railroads of America is proposing a new program to the Clinton Administration and the 103d Congress. RRA's program eliminates the inequities in current law, and it establishes programs that maximize the transportation and environmental advantages inherent in the rail mode.

THE COST GAP

The rail industry absorbs billions of dollars in Cost Gap charges through railroad retirement, FELA, labor protection, FRA safety user fees. These are not unquantifiable expenses assumed by fuzzy headed economists as the cost of regulation. They are actual dollars that can be quantified. The first part of our Tax Gap Agenda is to repeal or modify those laws to make us more competitive with truck and barge.

The non-partisan arm of Congress, the General Accounting Office (GAO) agrees. GAO found Railroad Retirement imposes a $1 billion extra burden on the rail industry, the equivalent of approximately 25,000 jobs.

Likewise, the GAO determined that railroads pay $1.51 in FELA costs, while their competitors average $0.27 per hour under workers' compensation. FELA adds at least $608 million to the railroad's costs, or the equivalent of approximately 15,200 jobs.

According to a National Railway Labor Conference estimate (based on a 1985 survey), federally imposed labor protection for routine transactions adds $380 million in annual costs, the equivalent of 9,505 jobs.

The Safety User Fee will cost railroads some $34 million this year, the equivalent of 850 railroad jobs.

While trucks and barges operate on subsidized infrastructure, railroads pay out more than $300 million in property tax to state and local government for the privilege of owning and maintaining rights of way. While not a federal policy, this adds to the Tax Gap in a way that makes it difficult to compete.

THE MODAL SUBSIDY GAP

The Association of American Railroads (AAR) estimates that the taxpayers give other modes of transportation (highway, airports and waterways) up to $7 billion in rights of way subsidies annually. In 1991, the federal government reauthorized the Highway Trust Fund, providing over $125 billion to be spent exclusively on highways over six years. While this legislation acknowledged the need to consider other modes of transportation, it still puts all the federal financial resources at the disposal of the trucking industry.

Netted against this huge investment in the Grey Map, the federal government's annual expenditure on the Green Map totals some $500 million for Amtrak, and some $8 million for the Local Rail Freight Assistance program. The disparity is overwhelming, and it creates a competitive barrier that is equal to more than 25% of the entire gross revenue of the rail industry. It is unlikely the rail industry's competitors could survive a similar disparity.

THE GREEN MAP PROGRAM

The Green Map comprises the freight and passenger rail lines that can help relieve highway congestion, reduce pollution, save energy and reduce highway repair costs. These benefits are public benefits and they should be considered as such by the federal government. Preserving and enhancing the Green Map should become an important consideration of the federal government.

RRA is proposing a five point program that will help move federal policy in that direction.

1. A targeted investment tax credit for eligible Green Map track and equipment rehabilitation.

2. An expansion of the Local Rail Freight Assistance Program (LRFA) to $100 million annually over four years, and the funding of the current Section 511 Loan Guarantee Program at $200 million annually over four years.

3. Adding "rail" as an eligible category in the Surface Transportation Fund of ISTEA.

4. Creation of a dedicated trust fund to finance: Amtrak capital needs, high speed rail equipment, technology and corridor development, safety improvements of track, bridges and grade crossings; and the FRA safety program.

A TRIBUTE TO SMYRNA, DE

Mr. ROTH. Mr. President, I rise today to pay tribute to Smyrna, DE, the only town in the First State to be ranked among the top 100 towns in the country, as stated in a recent book by Norman Crampton, "The 100 Best Small Towns in America." Smyrna ranks 31st overall, for towns with populations between 5,000 and 15,000.

Mr. Crampton based his comparison by using eight main factors. Those included: growth rate; per capita income; proportions of residents age 25–34; population diversity; crime rate; number of physicians in the area; proportion of residents with a college education; and expenditures for public education. He also looked at the town's climate, cost of living, availability of employment, schools, churches, health care, libraries, recreation areas and radio and television stations. And, Smyrna passed the test.

Smyrna is located one half-hour from Wilmington, the largest city in Delaware, and it is just a stones throw from Dover, our State capital. It is recognized as being a progressive community, with an independent spirit and a charm that is reflected by its 5,500 residents. When the rating was released, several State papers asked Smyrna's mayor, George Wright, for comment, to which he simply responded: "This is quite an honor; but it really doesn't surprise me."

To give you a brief history, Smyrna was named by the Delaware Assembly in 1806 and, just 70 years later, it was a distinguished transportation center noted for its grain, lumber, and peaches. The town has survived two world wars and a depression, and its land area has quadrupled since 1955. Smyrna's downtown historic district—Four Corners—reflects 200 years of architecture and enterprise.

Today, Smyrna is a thriving community, with recreational activities that include fishing, crabbing, boating, swimming, and hunting. Smyrna also has an active retail center and there are several industrial and light manufacturing businesses within its limits. Many Smyrna residents are employed by the State of Delaware and they work in government offices there.

We are proud to have Delaware well represented by Smyrna among the top 100 small towns in the Nation. So, Mr. President, let us honor this town and the other top 99 towns in America—and let us tell them all to keep up the good work.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the News Journal (DE), Feb. 3, 1993]

SMYRNA RANKED AMONG TOP U.S. TOWNS

(By Al Mascitti)

SMYRNA.—To most Delawareans, especially upstate who vacation in Sussex County, Smyrna is a bottleneck on U.S. 13, best known as the location of a rest stop, a diner and the state prison (which is not really in town, residents are quick to point out).

But those passing through might be surprised to learn that Smyrna ranks as the best small town in Delaware.

In fact, Smyrna is not only first in the First State, it's No. 31 in the nation, according to author Norman Crampton's new book, "The 100 Best Small Towns in America" (Prentice Hall, $12). Elko, Nev., ranks No. 1 in the country.

Crampton, a waste management specialist at Indiana State University in Greencastle Ind., (No. 97 on the list) based his rankings on several statistical criteria. He considered only places with populations between 5,000 and 15,000 that lie outside the federal government's metropolitan statistical areas. Some of the factors he considered were population growth and diversity, local government spending for education, crime rate and health care.

When the numbers were crunched, Smyrna was No. 31 in the country.

"It's no surprise," said town councilman Kenneth Brown.

"It's something we know, but other people don't," said his wife, Regina.

"And we're not so sure we want other people to know," added Bettielou Wagner.

While it rates No. 1 in Delaware, Smyrna isn't tops on the Delmarva Peninsula. That honor went to Easton, Md., which ranked No. 26.

[From the Smyrna (DE) Sun, Feb. 3, 1993]

WE'RE NO. 1

(By Ben Mace)

Residents of Smyrna, if you've always thought you lived in a special town, you're right.

Smyrna has been named in the new book, "The 100 Best Small Towns in America," a ranking of towns with populations between 5,000 and 15,000, by Norman Crampton.

Smyrna was the only town in Delaware selected for the book, which is published by Prentice Hall and sells for $12 in book stores.

"It's quite an honor, but it really doesn't surprise me," said Smyrna Mayor George C. Wright Jr.

"I don't know if people realize this or not, but Smyrna is recognized throughout Delaware as being quite a progressive little town," said Wright, who is executive director of the Delaware League of Local Government.

"A lot of the things we've done have been followed by other towns and larger cities like Dover," he said.

Smyrna ranked 31st overall out of the 100 towns selected for the book.

The nearest municipalities also named in the 100 best were Easton, Md., ranked 26th, and Shippensburg, Pa., 19th.

The author's goal was to identify towns "where the traditional values of family, community, faith, hard work, and patriotism remain strong. . . . [towns] that are helping to preserve the American dream."

Crampton has chosen towns that are ideal places to live, work, and raise families.

He used eight main factors to rank the towns:

Growth rate from 1980-90 (Smyrna was tied for 30th at 9 percent; the leading town was Plymouth, New Hampshire with 45 percent).

Per capita income, as of 1988 (Smyrna was 75th at $8,535; the leader: Essex, Connecticut with $17,593).

Proportion of residents age 25-34 in the town's county, as of 1988 (Smyrna was 21st with 17.5 percent; the leader: Glenwood Springs, Colorado, 24.6 percent).

Percentage of non-white population in the town's county, as of 1988 (Smyrna was 15th with 19.3 percent; the leader: Cleveland, Mississippi, 64.6 percent).

Crime rate in the town's county, as of July, 1985 (Smyrna was 86th with 4,674 serious crimes per 100,000 people. The leader was Bolivar, Missouri with just 341 serious crimes in its county per 100,000 people).

Number of physicians in the town's county, as of 1988 (Smyrna was 19th with 157 per 100,000 people. The leaders: three New Hampshire towns with 683 physicians per 100,000 people in their respective counties).

Proportion of residents with a college education in the town's county (Smyrna was 23rd with 16.6 percent; the leader: Nevada, Iowa with 33.9 percent in its county).

Expenditures for public education in the town's county (Smyrna ranked 62nd with $410 per person. The leader was Douglas, Wyoming with $1,012 per person in its county).

Other questions which weighed in the selections were:

Is the town a county seat?

Does the town have a newspaper?

Is there a college in the town?

What's the scenery like?

Is it close to a large metropolitan area without being a suburb?

The book also notes each town's climate, cost of living, availability of employment, schools, churches, health care, libraries, recreational areas, and television and radio stations.

The final step was interviewing town residents, leaders, and business people so the author would have a better idea about the town's personality.

For the section on Smyrna, the author used excerpts of interviews from Mayor Wright; Smyrna Councilman Ken Brown; Smyrna resident George Caley, "unofficial" town historian; the Rev. Frank Wismer, pastor of St. Peter's Episcopal Church; Bettelou Wagner, director of Loving Care Nursery and Pre-school; and Nancy Vodvarka, co-owner of Tully's Ale House.

AUTHORIZING THE USE OF THE UNITED STATES ARMED FORCES IN SOMALIA

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of an original joint resolution introduced by Senators MITCHELL, DOLE, PELL, and HELMS, relating to the situation in Somalia and authorizing the use of United States Armed Forces in Somalia; that no amendments of motions with respect to the joint resolution be in order; that debate on the joint resolution be limited to 10 minutes, equally divided and controlled between the two leaders or their designees; and that at the conclusion or yielding back of time on the joint resolution, the joint resolution be deemed read for the third time and passed; the preamble be considered agreed to; and the motion to reconsider these actions, en bloc, be laid upon the table.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 45) authorizing the use of United States Armed Forces in Somalia.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I do not rise to object to the passage of this joint resolution but I think the point ought to be made, and emphasized, that the United States has done a commendable job, a tremendous job of securing control of that region to ensure that food assistance could be made available to those who are in need, those who are desperate.

Were it not for the leadership of the United States, this would not have been possible. But it was with the understanding that the U.N. Security Council would assume responsibility at the earliest possible time for this peacekeeping operation. It is my firm view and hope that we will be able as a Government to get the United Nations, the Secretary General, and the U.N. Security Council to proceed as quickly as possible to make a decision, to organize an international force for peacekeeping in that region so that the United States is not required to continue to provide, virtually by itself, the sole military force and the responsibility for that operation.

I am glad we were able to react as we did. I commend the military, and we will continue to support the effort there, but as a part of a multinational force, not solely exercising the responsibility in that region.

The time has come for an agreement to be reached. There have been meetings; there have been discussions. I understand negotiations continue with our Secretary of State and with the Secretary General of the United Nations. I hope that we can put some pressure to move those negotiations to the point of an agreement so that our Marine Corps personnel can be brought home and that we can participate instead in a multilateral peacekeeping force.

The PRESIDING OFFICER. Has all time been yielded back on Senate Joint Resolution 45? The Senator from Illinois was seeking the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, before Senator KASSEBAUM leaves the floor, let me also express my gratitude to her for her interest in Somalia, that goes way back.

Interestingly, on January 15, Senator KASSEBAUM and I sent a letter to the Secretary of State, Jim Baker, saying we are going to have to pay more attention to Somalia. There is an impending disaster. She has been absolutely superb. She has been the ranking minority of, the former chair of the African Subcommittee. I regret that she is no longer going to be the ranking member. She shifted to another subcommittee. But I am pleased she is continuing to serve on that subcommittee. I am grateful for her continuing interest.

Mr. President just very briefly, I think this resolution is the proper thing. I am pleased to a have strong bipartisan support. I have seen a lot of grim things around the world. I have been to refugee camps in Asia, Africa, everywhere else. I have never seen anything like I saw in Somalia when Senator METZENBAUM and I took a trip there in early November.

I hope I never see anything like it again.

We were faced with the probability of an additional 2 million deaths; about 350,000 people did die. Had nothing happened, the deaths in Somalia would have been the greatest single number of deaths in any nation due to starvation since the Irish famine of the 1840's.

To the credit of President Bush, Secretary of State Eagleburger, Secretary of Defense Dick Cheney, Gen. Colin Powell, and the others, they made a decision to move ahead. Eleven days after that decision was made, our first troops were there. It is something that, frankly, every American can be proud of.

I heard our colleague, Senator COCHRAN, express the wish that American troops can be out very shortly. I think that can be worked out for the bulk of the troops. There will be a residual force that will have to stay to help on technical problems like water, and some of the other things. Twenty-one nations have committed to be of assistance there. I think we can move very, very quickly.

I commend our President, who was then President elect, who made it very clear when this matter came up that it had his strong support also.

Here is an action where we are using 5 percent of the troops that we used in Desert Storm to save lives, not to save real estate, not to save oil, but to do a humanitarian gesture. In addition to the humanitarian gesture, I think it helps the United States politically. Had we not acted, had the most powerful nation in the world militarily and economically not acted, I think it would have looked terrible to the rest of the world.

President Bush deserves great credit. Those in both parties in Congress who were consulted, and to the credit of President Bush, he did consult with many of us, everyone I think can take pride, and every American citizen can take pride in what our Armed Forces are doing over there.

Mr. President, I should like to take this occasion to express my wholehearted support for the Joint Resolution recently submitted in the Senate by my friend and colleague, Majority Leader George Mitchell, concerning the authorization of U.S. Armed Forces in Somalia. In short, what the resolution does is to authorize the use of U.S. Armed Forces in Somalia pursuant to United Nations Security Council Resolution 794, which called for the use of "all necessary means to establish a secure environment for humanitarian relief operations in Somalia." I think we can all agree that the U.S. Armed Forces, working also with military contingents from many other nations, have done an exemplary job so far in fulfilling the Security Council mandate and that their efforts should be explicitly authorized by the Congress.

I believe most of my colleagues would agree that in modern times, there has hardly been a more desperate humanitarian situation than in Somalia, where the majority of an entire country was threatened with extinction due to starvation. Indeed, an estimated 300,000 Somalis have died in the past 2 years of starvation, and a further two million people—out of an estimated national population of about six million—were in danger of imminent starvation when President Bush established Operation Restore Hope in early December of last year. I applauded President Bush's decision then to offer to the United Nations U.S. troops to serve as part of a multinational force to bring humanitarian relief to Somalia. We can all take great pride in what the U.S. troops have done in Somalia. Food is getting to those who desperately need it, and order is being restored on the streets.

The previous administration's decision to offer troops to the United Nations for use in Somalia, of course, was not made in a vacuum. The Africa Subcommittee I chair had urged the President for over a year to take more responsibility for Somalia, especially within the U.N. context. Following my trip to Somalia in November, I once again called for redoubled U.S. and U.N. efforts in Somalia, particularly for the deployment of armed U.N. security forces to aid in the distribution of relief assistance. My colleague on the subcommittee, Senator NANCY KASSEBAUM, had also vigorously made such recommendations, especially following her trip last July to Somalia.

I should like to draw the attention of my colleagues to the proposed joint resolution's final paragraph, which calls on the President to consult with the U.N. Secretary General and the Security Council to ensure that U.N. peacekeeping forces are deployed to Somalia to maintain a secure environment and to allow the withdrawal at the earliest date of U.S. forces. This section of the proposed resolution is vitally important, because without sufficient United States consultation and leadership, the United Nations will find it harder to put together the kind of peacekeeping forces necessary to keep the momentum that United States forces have already established in Somalia.

The United Nations has already taken several important steps in helping to facilitate a political reconciliation among Somali leaders. Under United Nations leadership, the major factional leaders, meeting in Addis Ababa in early January, agreed to a cease-fire and to hold a more comprehensive conference on national reconciliation in March in Mogadishu. It will be a long and difficult effort to work with all Somali leaders, including clan elders, to put together a functioning local authority again in Somalia. It is something only Somalis can do for themselves.

In the meantime, most United States forces should be brought back from Somalia as quickly as is prudent. I am pleased that some units have, indeed, already been withdrawn. We can all be thankful that there have been very few American casualities, but unfortunately, there have been several deaths of Americans serving in Somalia. Our hearts go out to the families of those who gave their lives so that desperate Somalis could live. These Americans are true heroes. We fervently hope that a withdrawal of U.S. forces can be achieved quickly and without further loss of life.

Thank you, Mr. President, for this opportunity to speak on behalf of this important resolution on Somalia now before the Senate.

Mr. MITCHELL. Mr. President, I am pleased to join the distinguished Republican leader in offering a joint resolution to authorize the deployment of United States troops to Somalia.

I consider it important that the Congress express its views regarding this deployment under Operation Restore Hope.

The joint resolution is straightforward. It begins by stating that an estimated 300,000 Somalis have died since 1991 and that relief organizations have had great difficulty delivering assistance to that conflict-ridden nation.

It notes the United Nation's authorization of multilateral action in Somalia and America's leading role in helping to create a secure environment for humanitarian relief operations.

The joint resolution then authorizes the President to use U.S. Armed Forces pursuant to U.S. Security Council resolutions to establish as soon as possible a secure environment for humanitarian relief operations in Somalia.

It spells out that this constitutes specific statutory authorization within the relevant section of the War Powers Resolution.

Finally, the resolution expresses the sense of the Senate that the President should consult with the Secretary General of the United Nations and other Security Council members to ensure that the United Nations can swiftly assume primary responsibility for the operation in Somalia.

As a practical matter, this vote could be considered pro forma.

Over 20,000 American servicemen and women already are on the ground in Somalia, helping to establish a secure environment for relief efforts. Operation Restore Hope has received widespread praise both at home and abroad. Most Members of Congress already are on record in support of this effort.

But this vote has legal, constitutional, and political significance.

The Constitution states that only Congress has the power to declare war. The 1973 War Powers Resolution was written to prevent the President from deploying troops to situations that could lead to war without first obtaining consent of the Congress.

But the deployment of troops into situations short of war is likely to become common in the decades ahead.

The frequency of U.S. participation in multilateral humanitarian or peacekeeping actions was not foreseen by the Founding Fathers when they drafted the Constitution.

Nor could those who wrote the War Powers Resolution have known that American troops deployed in such operations could face hostilities but not what commonly would be considered war.

But the changing nature of the deployment of U.S. troops abroad does not render Congress irrelevant.

U.N. Security Council resolutions are no substitute for congressional authorization.

The support of foreign countries cannot substitute for the support of the American people, and the support of the American people is critical for any role the United States plays abroad.

We may find ourselves on increasingly murky legal and constitutional terrain with respect to future deployments under the auspices of multilateral humanitarian or peacekeeping operations.

But this murkiness does not obviate the clear political necessity of obtaining congressional consent for military operations overseas—even those conducted for humanitarian or peaceful purposes, even those conducted under the auspices of an international body.

The nature of Congress' role, like the role of American troops overseas, may well be forced to adjust to the new realities of the post-cold war world.

But Congress must continue to share war powers in the broadest sense.

Congress has a political responsibility to express its view on major troop deployments overseas, whether they seek war or enforce peace, whether they are unilateral or under the auspices of the United Nations, whether they last 3 months or 3 years.

There are more than 20,000 American men and women in the Armed Forces currently serving in Somalia. These committed and courageous servicemen and women deserve to know that the American people, not just an American President or members of the U.N. Security Council, believe in an fully support their mission.

American troops have, by all accounts, done an outstanding job in Somalia. Their mission is a compelling one: secure transport and food distribution points and ensure free passage and security for the delivery of relief supplies. There is little doubt that their action has saved tens if not hundreds of thousands of lives.

American forces have completed the first two phases of their operations: securing the airfield and seaport in Modagishu and expanding security operations into Baidoa and central Somalia. Executing phase 3 of the operation, expanding security operations to the south, our forces have been able to make a significant difference in stemming the widespread starvation that faced these areas of Somalia as well.

As successful as the United States operation has been to date, I consider it important that we begin the last phase of Operation Restore Hope as soon as possible, and start turning over the bulk of responsibility in Somalia to the U.N. force.

The United States will remain a critical catalyst for action in international institutions, but we cannot and must not unilaterally assume responsibilities that more properly belong to the collective whole of nations. Somalia is an illustrative example.

The United States had the capability and the will to move decisively to halt the continuing chaos and starvation in Somalia. We offered this capability to the United Nations, which agreed to assume responsibility for Somalia once a secure environment had been established.

I have strongly supported American involvement in international relief and peacekeeping operations. I have urged the United States to fully meet its assessed contribution to U.N. peacekeeping by transferring funding responsibility to the Defense Budget. I have urged the United States to support an expanded concept of the duty to intervene, precisely as was done in the case of Somalia.

I believe it is significant that U.N. Resolution 794 established some types of constraints on U.S. military action: It established a multinational command that must consult with the U.N. Secretary-General throughout operations and gives the Secretary-General the right to decide whether the American-commanded force has achieved its objectives.

But disagreements with the Secretary-General about the precise nature of American engagement—such as whether to disarm Somalis—and the timing of the transition to UNOSOM raise important questions.

It is obvious that such issues must be more clearly adjudicated in advance of another United States-led international humanitarian mission. This will result in less confusion and miscommunication at a later date.

It will also help preclude the possibility of Americans becoming resentful about participating in the first place.

This is my major remaining concern about Operation Restore Hope.

The Secretary General must identify clear criteria for determining the end of the U.S. operation, and he should make the United Nations assumption of this mission a higher priority.

If Americans believe that the United Nations has stuck them with a continuing leading role in Somalia, they will be less supportive of participating in future missions.

And this, I believe, would be a tragedy. Many Americans believe that our Nation can and should assist in helping avert catastrophe and preserve peace overseas. Many Americans believe that this should be done in an international or multilateral context, not on our own. And many Americans support a stronger United Nations.

Building on these positive sentiments, transforming and institutionalizing them, is a great and inspiring challenge for the United States and the international community in the years ahead.

I hope that Operation Restore Hope will be a positive step in this direction, an adumbration of America's future role abroad.

I am pleased to join Senator DOLE in offering and supporting this resolution to authorize the deployment of American troops to Somalia. I wish our troops well, and look forward to their speedy return home to savor a job well done.

MITCHELL RESOLUTION ON SOMALIA

Mr. PELL. Mr. President, I am pleased to join the distinguished majority leader in cosponsoring this resolution which authorizes the use of American Armed Forces in Somalia. The situation in Somalia turned into chaos after the fall of Somali President Siad Barre in January 1991. Fighting erupted between and within clans and subclans. Armed bandits roamed the cities and the countryside. The economy ceased to function and famine set in. As civil authority evaporated at the point of a gun, the people of Somalia became helpless victims of famine and civil war. International relief efforts were thwarted and ultimately halted by banditry and lawlessness. The tragic result of this chaotic situation is the death of an estimated 300,000 Somalis over the last 2 years.

In response to this heart-wrenching situation, the U.N. Security Council, on December 3, 1992, enacted Resolution 794 authorizing the use of all necessary means to establish as soon as possible a secure environment for humanitarian relief operations in Somalia. After this, President Bush met with congressional leaders to discuss the deployment of American Armed Forces pursuant to the U.N. resolution. At my request, Senator SIMON, chairman of our Subcommittee on African Affairs, attended that meeting. On December 9, American troops began to be deployed to Somalia under Operation Restore Hope in support of the Security Council's decision to intervene in that country. The following day the President made a formal report to Congress on the U.S. deployment.

The resolution now pending before the Senate authorizes the use of United States Armed Forces in Somalia consistent with the War Powers Resolution. The authorization set forth in section 2(a) of this resolution is intended to constitute specific statutory authorization within the meanings of section 5(b) of the War Powers Resolution (PL 93–148).

Mr. President, Operation Restore Hope is an historic undertaking because it represents one of the first times that American military forces have intervened in another nation solely for humanitarian reasons. Some have argued that this deployment will drag us into the quagmire of Somalia and that it will be difficult to get out. As one who has had a chance to see our forces at work in Somalia, I strongly believe that the decision to send them there was the right one.

As chairman of the Foreign Relations Committee, I went to Somalia 2 months ago with Senator BOREN, then chairman of the Intelligence Committee, and Senator LEVIN. The devastation that had been perpetrated against the Somali people was dramatically brought home to me in the eyes of painfully thin men, women, and children. That sight reinforced my view that we have a moral and humanitarian obligation to help the people of Somalia. I was impressed by the dedicated spirit and good will of our troops. I am convinced that this kind of mission brings out the best not only in our military but in the American people.

Mr. President, the authorization provided for in the resolution before us reaffirms the support of Congress and the American people for Operation Restore Hope. We all hope and expect that the good work of our troops will be completed expeditiously and that their mission will be carried on by other forces under U.N. auspices.

SOMALIA RESOLUTION

Mr. GORTON. Mr. President, there is no debate in this body about the efficacy, to date, of Operation Restore Hope. The United States has saved hundreds of thousands of lives and created an environment in which productive talks to create a government in Somalia can begin. Former President Bush, President Clinton, and especially America's troops, should be commended.

As the U.S. Congress authorizes this use of force, I do, though, wish to express some of my concerns with the stated goals of this operation, and to support the resolution's language which will clarify those goals and help the United States better understand when its troops will return home and when we can expect its armed services to become involved in future operations.

I have misgivings about any humanitarian effort which does not solve the core problems creating the suffering. Our stated goal in Somalia is to secure an environment in which food can be safely delivered. In the view of our military, fulfilling this goal includes disarming bandits posing an immediate threat to our soldiers; it does not—and for good reason—include a systematic disarming of the gangs now posing a threat to our soldiers. Such an effort would clearly require of our Armed Forces a considerably larger and more dangerous commitment.

Unfortunately, without disarming these bandits, we have not attacked the core problem of the manmade portion of this tragedy. Guns remain rife in Somalia, and while we hope that the United Nations presence in Somalia will create a deterrence and eventually a lasting goodwill, the same people will likely have those guns upon the United States withdrawal. I fear we have initiated a humanitarian operation without clearly understanding how we will change the nature of the problem.

We hope that once the United States has withdrawn, the United Nations can maintain peace while brokering peace talks. This effort attempts to preclude the need to disarm the Somalis who bear most of the responsibility for Somali's problems.

I hope that this effort will be successful. There are, though, a number of crucial issues which must be resolved if our effort in Somalia is to have a longlasting worth. What will be the composition of the U.N. forces that will secede our efforts and, more importantly, what will be these troops' rules of engagement? How will they respond if armed banditry reemerges? And what will be required of the United Nations to create a peace in Somalia that survives its withdrawal?

The only long-term solution to this tragedy is a pacification and reconstruction of Somalia. The U.N. operation in Somalia therefore will, more so any prior peacekeeping effort, rely on the blue helmets' ability to make rather than keep peace. The U.N. soldiers forced to hunker down in the midst of fighting in Sarajevo will not suffice in Somalia. Peace in Somalia will require a definitive military presence of a U.N. force with an unprecedented ability to fight.

Mr. President, while I have some misgivings about this operation, I nonetheless support this resolution because I hope that we can use it as an opportunity to reaffirm our commitment to understanding clearly the goals of any U.S. operations abroad. I wish to thank Senator BROWN for his work to include language in this resolution which will require that the President report on the status of our operation in Somalia, that he restate our goals there, and that he submit a list of criteria for future U.S. commitments. This report, I hope, will help us better pursue humanitarian missions.

SOMALIA: ASSESS THE COSTS

Mr. PRESSLER. Mr. President, from the time former President George Bush deployed United States troops to Somalia as a part of the global humanitarian aid effort, Operation Restore Hope, I have stood strongly against the unfair burden-sharing of this project. Let there be no misunderstanding: I support the international relief effort in Somalia. My concerns are with the need for a more equitable cost-sharing effort.

From the outset of the aid project, the United States has been assessed the majority of Operation Restore Hope's costs. With the primary financial burden, our taxpayers deserve assurances that the intervention has been cost-effective and that it has fulfilled its humanitarian objectives. For this reason, I authored language that is included in the joint resolution authorizing United States troops to Somalia. My language expresses the sense of the Congress that the President provide Congress with an assessment of Operation Restore Hope, indicating the costs assessed to the United States, the United Nations, and other countries and related organizations involved in the operation.

We have a moral obligation to the starving Somalis. However, other countries in addition to the United States must share in this humanitarian obligation. The burdens should be shared equitably among more of the world's wealthy nations. The precedents the United States sets regarding payments for operations like the Somali aid project will set the stage for United States' future financial obligations. We must be wary of setting just such a precedent.

Mr. President, I ask unanimous consent that letters I wrote to President Bush and Richard Darman and two articles from the Sioux Falls, SD, Argus Leader regarding the burden sharing of Operation Restore Hope be placed in the RECORD.

I thank the Republican leader and the majority leader for their leadership and cooperation in the preparation of the joint resolution.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, December 2, 1992.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: This letter is in regard to the United States assessed financial commitment for Somali aid. I am disturbed by the U.N.'s altered position on the financial assessment for protectorate costs, food aid, and long-term Solmali aid commitments. Recent proposals have targeted the United States as the primary financial supporter of the project. Without the financial involvement of other countries, the United States could be assessed as much as 80 percent of the protectorate costs and the military assistance. There is absolutely no reason for the United States to pay the lion's share of the cost for relief in Somalia.

I ask that you formally request monetary support from Japan, the oil rich Arab nations, wealthy European and Asian countries, and other nations with financial stability. Because this project is largely humanitarian, more countries than just the United States should be involved. Before the United States is stuck with the majority of the costs to aid Somalia, at the very least other wealthy nations should be formally asked to contribute.

I propose the following percentage cost break-down for country to country financial assessments:

	Percent
United States	15
Japan	10
Arab Oil Nations	20
European Nations	40
Asian Nations	15
	100

Other countries besides the United States should pledge monetary support for any troop intervention in Somalia. The United States should not be forced to foot a large portion of the bill. Before the United States spends one cent for the Somali project, a full cost estimate should be refunded. The American people deserve that much.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

U.S. SENATE,
Washington, DC, December 4, 1992.

Mr. RICHARD G. DARMAN,
Director, Office of Management and Budget, Washington, DC.

DEAR RICHARD: This letter is in regard to United States assessed financial commitment for Somali aid. Before the United States spends one cent for the Somali project, a full cost estimate should be conducted. To this date, I have seen no cost projections for troop intervention and protectorate costs in Somali. I request that the Office of Management and Budget conduct a study of the best case and the worst case scenarios concerning Somali aid projections.

I am disturbed by the U.N.'s altered position on the financial assessment for protectorate costs, food aid, and long-term Somali aid commitments. The position has changed, leaving the United States as the primary financial supporter of the project. Other countries besides the United States should pledge monetary support for troop intervention in Somalia. The United States should not be forced to foot the whole bill. The American people deserve to know what we are getting into.

Without the financial involvement of more countries, the United States could be assessed as much as 80 percent of the protectorate costs and the military assistance. There is absolutely no reason for the United States to pay the lion's share of the cost, particularly without a full assessment of the projects cost. I believe that, at the very least, a cost assessment should be prepared.

I would appreciate it if you could contact me concerning my request as soon as possible. Should you have any questions or comments, please do not hesitate to contact Ann Waltner of my staff at 224-5842.

Thank you very much for your consideration of this matter.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

[From the Argus Leader, Dec. 14, 1992]

SENATOR QUESTIONS FINANCING OF SOMALIAN RELIEF OPERATION

Sen. Larry Pressler has loudly opposed the U.S. role in Somalia, asking a reputation as what he calls "the Christmas Grinch." His opposition stems from what Pressler feels is the unfair burden the United States is made to pay for such operations.

Under current United Nations rules, the United States will be charged $326 million of the $1.3 billion budget in 1993, or about 25 percent. For all peacekeeping costs in the coming year, projected at $1.4 billion, this country will be assessed another $480 million, or about 30 percent.

"Nobody can be against feeding hungry people, and I'm not," Pressler explains. "But it depends on which ones, where, where the national interests are and so forth. I think we could have gotten an agreement to collect a lot of the money back (for the Somalia effort)—3 percent from each oil-rich country, 3 percent from each of 12 rich European countries, 15 percent from Japan, and we maybe would do the rest. But we're doing it all now."

". . . God, we spend a lot of money," he said, shaking his head.

"I want them helped, but it should have been done by regional forces," he adds of the Somalis.

Pressler has also called for a congressional investigation into the cost of the Somalia operation.

"Unless the good ol' U.S.A. does it, why, nobody does it," he complained. "As a senator, I'm really getting weary of how much everybody wants us to give aid. Like the African ambassadors this morning (who requested more aid). I told them, you know, we have a deficit. I don't hear anything about Europe doing more, or Japan doing more. They're just kind of beating me down. Everybody expects us to have the troops, us to pay the bills . . . so, it is wearisome around here sometimes."—CHET LUNNER.

[From the Argus Leader, Dec. 27, 1992]

COST OF FEEDING SOMALIA SHOULD BE SHARED

(By Larry Pressler)

With the collapse of Soviet-style communism, an end to the Cold War, and the opening of free market economies in many formerly state-run countries, a new global order has emerged with the United States as the preeminent power. In this unfolding global drama, the role the United States chooses to play in current international struggles will set a precedent for future U.S. actions. This is true whether the United States opts to play the lead role as the top global policeman or a supporting role as an interested, morally-obliged deputy.

The role chosen by the United States in providing aid to Somalia surely will influence future U.S. involvement on the international stage. It is an international precedent with serious domestic implications. With a huge federal budget deficit, serious small town and urban problems, senior citizen concerns, and countless other domestic needs, there is no reason the United States should be held responsible for the lion's share of Operation Restore Hope in Somalia. Unless the United States takes a strong stand urging other capable nations to assist in such international humanitarian projects, the world stage will be set for the United States to continue taking primary, if not full, economic responsibility in future world crises.

The United States and other countries have a moral obligation to help feed the starving people in Somalia, then they also have a moral obligation to help the war-ravaged Liberians, the "ethnically-cleansed" Yugoslavians, Haitian refugees, the thousands of economically disadvantaged youth in our inner cities and, closer to home, on our Indian reservations. Other countries besides the United States should step forward and pledge monetary support for the current military intervention in Somalia. The United States should not be forced to foot most of the bill.

With the primary financial burden of Operation Restore Hope currently placed on the United States, we as taxpayers, deserve assurances that the intervention will be cost-effective and will fulfill humanitarian objectives. Why pay for U.S. military intervention when troops from other nations may be more effective? Egyptian or Nigerian troops, for example, have more in common linguistically and religiously with the Somalis than any U.S. force.

In recent letters to President Bush, President Clinton, Office of Management and Budget (OMB) Director Richard Darman, and U.N. Secretary General Boutros Boutros-Ghali, I have asked these officials to carefully review the Somali aid costs assessed to individual countries. Without increased financial assistance from our neighbors, the United States could be assessed as much as 80 percent of the costs of establishing a protectorate, and for military operations and humanitarian aid. The United States does not possess 80 percent of the world's wealth. Thus, I see no reason for the United States to operate as Somali's major financier.

I have suggested to these officials that the following percentages be used as a starting point for more equitable Somali aid burden sharing: United States—15 percent, Japan—10 percent, OPEC Nations—20 percent, European Nations—40 percent, and Other Nations—15 percent.

I don't want to be the "Scrooge" or the "Grinch" in this situation. There is no question that we have made a heartfelt commitment to end the famine and anarchy faced by the people of Somalia. I strongly support humanitarian relief efforts. However, we have serious economic problems of our own. There is no reason the American taxpayer should play 80 percent of the "Santa" role in providing military and economic assistance to Somalia. Before Somalia becomes a precedent for future disproportionately U.S.-led relief efforts, at the very least, other wealthy nations should be asked formally to contribute.

President Bush and President-Elect Clinton should call for a stronger European and Japanese presence in global crises. The United States, although it remains the world's sole superpower, should not be held responsible for providing the bulk of financial and military assistance to the world war-torn regions. Japan, the rich oil producing countries and the wealthy European nations are fully capable of providing additional assistance for Somalia and other trouble spots. They, too, have moral obligations to assist in the war against hunger, disease and tyranny.

In his last days as President, George Bush could establish a precedent for future efforts to alleviate plagues of violence and famine, one that is based on the multinational strategy he successfully employed in Operation Desert Shield and Desert Storm.

The moral obligation in Somali is clear—the outside world must help. However, the economics and the long-term ramifications of this operation remain cloudy. I believe the United States should remain cautious in its world commitment. Can we really afford to accept far more than our proportionate share of world responsibilities?

The PRESIDING OFFICER. Is there further debate on Senate Joint Resolution 45?

If not, the joint resolution is passed and the preamble is agreed to.

The joint resolution (S.J. Res. 45), with its preamble, reads as follows:

S.J. RES. 45

Whereas an estimated 300,000 Somalis reportedly have died of hunger or as casualties of widespread violence since the fall of Siad Barre in January 1991;

Whereas international relief agencies had been unable to deliver adequate assistance to those most in need due to increasingly difficult and dangerous security conditions, including pervasive banditry and looting;

Whereas Congress has expressed its support for a greater United Nations role in addressing the political and humanitarian situation in Somalia through Senate Resolutions 258 and 132 and House of Representatives Resolution 370;

Whereas the United Nations Secretary General and United States officials had concluded that massive intervention in Somalia would be necessary to avert further starvation on this scale;

Whereas the United Nations Security Council on December 3, 1992, enacted Resolution 794, authorizing the use of "all necessary means to establish as soon as possible a secure environment for humanitarian relief operations in Somalia";

Whereas President Bush began deploying United States armed forces on December 8, 1992, in response to United Nations Resolution 794;

Whereas more than 20,000 American servicemen and women are now in Somalia under Operation Restore Hope and have been joined by troops from many other nations;

Whereas President Bush has emphasized that United States Armed Forces will be withdrawn and that the security mission will be assumed by the United Nations' UNOSOM operation as soon as a "secure environment" for the delivery of food has been created; and

Whereas, on December 10, 1992, President Bush formally reported to Congress on the deployment of United States Armed Forces in Somalia: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the "Authorization for Use of United States Armed Forces in Somalia".

SEC. 2. AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES.

(a) AUTHORIZATION.—The President is authorized to use United States Armed Forces pursuant to United Nations Security Council Resolution 794 in order to implement the Resolution, which authorizes the use of "all necessary means to establish as soon as possible a secure environment for humanitarian relief operations in Somalia".

(b) WAR POWERS RESOLUTION REQUIREMENTS.—Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that this section is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.

SEC. 3. SENSE OF CONGRESS.

(a) UNITED NATIONS PEACEKEEPING FORCES.—It is the sense of Congress that the President should consult with the Secretary General of the United Nations and with the other member countries of the United Nations Security Council to ensure that peacekeeping forces from other countries of the United Nations continue to be deployed in Somalia to maintain a secure environment and to allow United States Armed Forces to transfer the mission to a United Nations-led force at the earliest possible date.

(b) MEASURES OF SELF-PROTECTION.—It is the sense of Congress that the President should make every effort to ensure that United States Armed Forces serving in Somalia as part of a United Nations-led force are permitted to take all reasonable measures to protect themselves.

(c) ASSESSMENT OF COSTS.—It is the sense of Congress that the President should submit a report to Congress providing an assessment of the costs of Operation Restore Hope, indicating the costs assessed to the United States, the United Nations, and other countries and related organizations involved in the operation.

SEC. 4. REPORTING REQUIREMENT.

Not later than September 1, 1993, the Secretary of State and the Secretary of Defense shall jointly submit to Congress a report on the introduction and commitment of United States Armed Forces into combat situations. This report shall include—

(1) a specific review of the goals of United States policy in Somalia and an outline of objective criteria which will enable the United States to evaluate when those goals are achieved;

(2) a review of all actions taken to ensure that United States material contributions to United Nations forces in Somalia are counted against United States assessments in Somalia;

(3) a review of United States international interests and their correlation to the commitment of United States Armed Forces;

(4) a description of the factors to be used in evaluating future commitments of United States combat forces;

(5) specifically, a review of the many situations in the world where there are intense humanitarian needs and a means of evaluating what elements, when present, would permit these situations to rise to a level of importance necessary for the commitment of United States combat forces; and

(6) considerations which will affect whether United States Armed Forces will be permitted to be engaged as a portion of an international peacekeeping force, including—

(A) United States command of United States troops;

(B) equitable financial contributions of nations so engaged; and

(C) the right of United States combat forces to defend themselves throughout all levels of conflict.

The PRESIDING OFFICER. Without objection, a motion to reconsider is laid on the table.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

CONDITIONAL RECESS OR ADJOURNMENT

Mr. FORD. Mr. President, I send a Senate concurrent resolution to the desk and ask for its immediate consideration.

Mr. SIMON. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator will please state the question.

Mr. SIMON. Have we adopted the Somalia resolution?

The PRESIDING OFFICER. We have not adopted it. We will do it shortly. The clerk will report the resolution.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 10) providing for a conditional recess or adjournment of the Senate from Thursday, February 4, 1993, or Friday, February 5, 1993, until Tuesday, February 16, 1993, and a conditional adjournment of the House from Thursday, February 4, 1993, or Friday, February 5, 1993, until Tuesday, February 16, 1993.

Mr. FORD. Mr. President, this is the adjournment resolution we need to adopt and get over to the House.

Mr. CRAIG. I have no objection.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 10) was agreed to, as follows:

S. CON. RES. 10

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, February 4, 1993, or Friday, February 5, 1993, pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, it stand recessed or adjourned until 12 noon, or until such time as may be specified by the majority leader, or his designee, in the motion to adjourn or recess, on Tuesday, February 16, 1993, or until 12 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first; and that when the House of Representatives adjourns at the close of business on Thursday, February 4, 1993, or Friday, February 5, 1993, pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, it stand adjourned until 12 noon on Tuesday, February 16, 1993, or until 12 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

SEC. 2. The majority leader of the Senate and the Speaker of the House, acting jointly after consultation with the minority leader of the Senate and the minority leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

Mr. FORD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 20, the nomination of Laura Tyson to be a member of the Council of Economic Advisers. I further ask unanimous consent that statements appear in the RECORD as if read; that the nominee be confirmed; that the motion to reconsider be tabled; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

EXECUTIVE OFFICE OF THE PRESIDENT

Laura D'Andrea Tyson, of California, to be a member of the Council of Economic Advisers.

STATEMENT ON THE NOMINATION OF LAURA TYSON

Mr. RIEGLE. Mr. President, I strongly support the nomination of Laura Tyson for the position of Chairman of the Council of Economic Advisers. This is an extremely important position. No issue is more important to the future of our Nation than the design and implementation of our national economic policies. The Council has the critical job of providing the analysis underlying that process. This nominee brings excellent qualifications, and she will bring fresh, strong leadership at a critical time in our national history.

The Banking Committee held a hearing on her nomination January 21. Her testimony was articulate, knowledgeable over the broad range of issues she must confront, and insightful with regard to possible remedies. On Wednesday, February 3, the committee voted unanimously to report her nomination favorably to the Senate.

The seriousness of our current economic weakness is clear. We have now gone 4 years without any meaningful economic growth. In fact, real per capita gross domestic product for last quarter was below its level at the end of the Reagan administration. Unemployment remains at 7.3 percent, half a percentage point higher than where it was when the National Bureau of Economic Research told us the recession ended. And the number of Americans with jobs is still below the level it was before the recession began 2½ years ago. That is not a recovery, that's long-term stagnation and a sign of failed economic strategies.

Recent economic indicators have shown slight improvement, but the underlying trend lines are headed the wrong way. Consumer debt is high and consumer saving rates are extremely low, so we can't expect to see consumer led growth. Debt levels of our corporations remain very high. Commercial real estate markets remain overbuilt. Weakening foreign economies are depressing U.S. exports. Defense spending will continue to decline and jobs vanish. Real interest rates remain high, especially on long-term debt, and money growth has persistently fallen short of the Fed's targets. Many of the major layoffs and plant closings announced by companies have not yet actually taken place. When these announced layoffs occur it will add to the future unemployment rate.

Over the longer term, the outlook is even more worrisome. We are not investing in the future adequately. Net business investment over the past 4 years has fallen to about 1½ percent of net domestic product, down by half from the levels of the 1960's and 1970's. What investment we have had has depended heavily on foreign capital inflows. That has transformed us from the world's largest creditor to the world's largest debtor. That meant that many of the benefits of that meager investment will be sent overseas to foreign owners.

We have also cut back sharply on public investment in infrastructure and as a result our cities continue to decline. And the condition of our schools, where we develop human capital, has deteriorated markedly. On top of all that, over the last 20 years we've lost many of our high-technology industries, essential to America's future growth and prosperity, to foreign competitors.

At her hearing, Ms. Tyson expressed her concerns about these trends, and I would like to quote from her opening statement to the committee. She said:

> The competitiveness of the American economy has exhibited continuing and disturbing signs of erosion—during the last decade our trade imbalances have totaled over a trillion dollars, our producers have lost market shares in several key international markets, like computers, commercial aircraft, telecommunications products, and machine tools. At the same time, our gross domestic product per capita has grown more slowly than that of any other advanced market economy, real wages have stagnated for most American workers for more than two decades, and our investment rate has persistently lagged behind that of our competitors in plant and equipment, in worker training, and in civilian technology. Many statistics can be used to tell the story of our eroding competitiveness, but perhaps most disturbing is the fact that since 1980, the proportion of full-time workers with annual incomes below the poverty rate for a family of four increased from 12 percent to nearly 20 percent. In short, full-time work in the United States no longer secures a bright future for our children.

Clearly, powerful new economic strategies are needed. The President has said that we need 8 million new private sector jobs in the next 4 years. Our nominee understands this need and recognizes the vital importance of our strategic industries to our national well being and the growth of the U.S. job base. She has argued for tough positions on critical trade issues to help ensure the survival of such industries. She understands that our trade policy must be part of a coordinated and integrated national economic strategy, and supports innovative—and responsible—fair trade policies to spur investment and growth in our economy.

She comes with superb credentials for the job. She graduated summa cum laude from Smith, received her Ph.D. from MIT, has taught at Princeton, and at the Harvard Business School. She is now a full professor at the University of California at Berkeley. She has written 3 books, edited 5 others, and authored more than 40 articles. I have a large number of letters of support for Professor Tyson from leading economists, including Nobel Prize winners Lawrence Klein of the University of Pennsylvania and Robert Solow of MIT, and if there is no objection I will place some of them in the RECORD. I expect Laura Tyson will play a critical role in helping the President design an economic program to resuscitate our economy in the near term and to reshape our long-range strategies for competing effectively in world economic markets and reestablishing healthy growth in family living standards. I urge my colleagues to confirm her expeditiously.

I ask unanimous consent that the materials to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNIVERSITY OF CALIFORNIA
AT BERKELEY,
January 13, 1993.

Senator DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR RIEGLE: I am pleased to have the opportunity to write in support of the nomination of Laura D'Andrea Tyson to be Chair of the Council of Economic Advisors. I have known her as a valued colleague and fellow administrator at the University of California, Berkeley over the past fourteen years. She clearly possesses the economic capacities and skills requisite for this important position, but goes beyond to have the qualities of political and public leadership equally required.

Her purely academic pursuits are impressive. She has basically focused on two large subject matters over her career. In the first instance are her earlier interests related to the economic structure and future prospects of Yugoslavia and Eastern Europe more generally. Her publications in this arena have been notable for their ability to combine state of the art technology with a clear sense of what changing political conditions were beginning to make possible. I simply cite one sentence she wrote in 1985: "In the countries of Eastern Europe there are signs that the experience of austerity is promoting a rethinking of development strategy and, in some countries, a renewed interest in reform of the economic structure as well." Her sense of the changes that began to emerge clearly some years later is tribute to her skills as economist as well as her political instincts.

The second area of Ms. Tyson's particular specialization has been the broad issue of American responsiveness to economic policies pursued by competitors in Europe and Japan. She has been among the leaders in asserting that trade policies followed by our competitors matter, but at the same time, she has avoided the excesses sometimes associated with this view. Thus she has been opposed to simple United States protectionism as a solution, and has advocated more leadership in policies like encouraging expenditures in research and development. What is clear is, that once more, her innovative positions have gradually emerged into broad consensual professional stands. Attitudes about trade policies have been much influenced by her research and her clearly written conclusions.

As Chair of the Council of Economic Advisors, Ms. Tyson will bring such unique skills with her. But she brings much more. She has a high degree of competence as a general professional economist. As such, she has full ability to oversee and respond to general macroeconomic projections of activity as well as sectoral microeconomic issues in the important policy arenas of health, environment, education, etc. Her personal talents in utilizing the opinions and abilities of her coworkers and assistants are quite important aids to this essential task. She has the capacity to understand the broad consequences of economic policy, and to work extraordinarily well with others in developing a consensus position.

A final word should also be said of her considerable competitence to communicate effectively. She does so over the widest gamut, ranging from the most skillful of economists to those active politically to those only casually interested in economic matters. This extraordinary talent will permit her to play a position of considerable importance in the discussion of economic policy to be carried out by the Clinton administration.

In sum, I heartily endorse her appointment and recommend her confirmation. The nation gains immensely from her commitment to public service, as we will all soon become aware.

Sincerely,

ALBERT FISHLOW,
Dean, International and Area Studies.

UNIVERSITY OF CALIFORNIA,
BERKELEY,
January 15, 1993.

Senator DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR RIEGLE: I have known Laura Tyson as a professional economics colleague for over twenty years. We were first fellow graduate students at MIT. We then taught together in the economics department at Princeton University and are now colleagues at the University of California at Berkeley.

My overall assessment of Laura Tyson is extremely positive. She is an outstanding teacher and scholar on applied economics topics. She is without question the best teacher of economics at Berkeley. Her research on mixed economies, international trade, and competitiveness issues is pragmatic and of the highest quality. Laura Tyson is not an economic theorist and so should not be judged on that basis (some of the negative comments in the press are implicitly making this type of judgement.) She combines common sense and good economic judgement to attack policy problems. Her prescriptions, at times, challenge the mainstream prescriptions of orthodox economists. I view that as a great virtue which makes her policy input more valuable. Any economist can mouth the orthodox economics policy solutions but few can define new activist policies as well as Laura Tyson.

On a personal basis, Laura Tyson is an easy person to work with. She forcefully represents her views, but is willing to compromise and listen to all sides of an issue. She is ideal for the role of Chairman of the Council of Economic Advisors.

I recommend her in the strongest way for the position.

Sincerely,

KENNETH T. ROSEN,
Professor, Economic Analysis and Policy, Chairman, Center for Real Estate and Urban Economics.

UNIVERSITY OF CALIFORNIA,
BERKELEY,
January 15, 1993.

Senator DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR RIEGLE: I write in support of the nomination of Dr. Laura D'Andrea Tyson as Chair of the Council of Economic Advisers (CEA). I have been a colleague of Professor Tyson's at the University of California, Berkeley, for over 13 years. I worked at the CEA in 1983–84, as Senior Staff Economist under Martin Feldstein. In addition to my position at Berkeley, I am Associate Director for International Finance and Macroeconomics at the National Bureau of Economic Research of Cambridge, MA.

Professor Tyson is an outstanding economist. Like many successful academics, her career thus far could be viewed in two stages. First, she proved her worth within the profession by means of scholarly publications in a specific area of expertise, Eastern European economies. Then, more recently, she branched out to address broader issues of policy concern for the benefit of broader audiences, largely in the area of international trade policy. Her communications skills are spectacular, whether as an expositor to the public, as a participant in high-level meetings, or as one of the most popular teachers we have ever had at Berkeley.

Some mainstream academic economists have been quoted in the press as expressing skepticism regarding Professor Tyson's nomination. She has no lack of defenders, who point out correctly that the skills desirable for CEA chairperson are not identical to these skills desirable for maximum academic publication, that some critics are jealous, that she is indeed a bit of a "West Coast outsider," and that the American people elected Bill Clinton President in anticipation that he would bring in new ideas. I am concerned that such defense, coming from non-economists, may confirm in the minds of my fellow economists, most of whom do not know Professor Tyson as well as I, the notion that she is not a "real economist." Perhaps my concern is needless, because the American people are as likely in any case to heed these defenders as to heed the views of academic economists, probably more likely. Nevertheless, I would like to try to set the record straight.

Laura Tyson is a real economist. She is not one of those social commentators who publicly opines on "managed trade" and other questions of economic policy without first deeply investigating, pondering, and understanding the issues involved. She is, indeed, a careful scholar who checks her facts, consults the published wisdom, and thinks analytically. I recommend to anyone her November book on recent trade issues in high-tech sectors, particularly to those who say she believes in protectionist managed trade without having read anything she has written. Who's Bashing Whom?, published by the Institute for International Economics, is well-written, informative, thoughtful and well-balanced. I say this as a strong free-trader myself.

One measure of Professor Tyson's academic repute is that for the last five years U.S. Berkeley and the Harvard Business School have been fighting a prolonged tug-of-war over her.

The charge of the Council of Economic Advisers is to argue for good economics. When other cabinet agencies promote regulations, tax breaks, and spending for special interests, the Council member is typically the only one at the table to defend the economic interests of the average citizen. This is true regardless of political party, regardless of who is President, and regardless who is Chairperson of the Council. It will continue to be true with Laura Tyson, a highly knowledgeable and skilled economist, as Chair. The CEA will be in good hands.

Sincerely,

JEFFREY A. FRANKEL,
Professor of Economics.

UNIVERSITY OF CALIFORNIA,
BERKELEY,
January 15, 1993.

Hon. DONALD RIEGLE,
Senate Banking Committee,
U.S. Senate, Washington, DC.

DEAR SENATOR RIEGLE: This is a letter in support of the confirmation of Professor Laura D'Andrea Tyson, who has been nominated to be the Chairperson of the Council of Economic Advisers.

This is a very important position. The Council of Economic Advisers, in addition to OMB, serves as a watchdog over governmental policy. I am happy to say that I can think of no one who could fill this job better than Ms. Tyson. She has that unique combination of economic ability, intelligence, personal tact and persuasiveness which will, I believe, make her the best Chairperson in the history of the Council. Her already brilliant choices for other members of the Council and for economic positions elsewhere in the government, which have been leaked to the press, confirm that she can assemble and lead the best possible team to head the government's economic policy.

Let me first say a few words about Professor Tyson's intellectual accomplishments. She has a reputation for being the leading economist of her generation in one area, socialist economics, and within a very short period of time has established her reputation as a leading economist in another very significant area, trade policy. Her early papers on Yugoslavia established a very interesting finding: that inflation in Yugoslavia was not due to the unusual demands of the worker managed firms, but rather were the results of macroeconomic policies which had simply gotten out of control. Fifteen years later this Milton Friedman style analysis, if we wish to call it that, of a socialist society seems exactly right, if not obvious. But at the time Tyson's analysis was very novel and it immediately made her one of the leading authorities on socialist economies. Indeed to this very day her analysis of the behavior (we should say misbehavior) of socialist and emerging socialist economies exactly hits the mark. It has been the socialist governments' inability to control their macroeconomics policies which has caused the inflation which almost everywhere has been their undoing.

Professor Tyson's research on Yugoslavia was indeed nothing but common sense, which was however, not so common. This of course is one of the most marked features of all of her writings, and one of her qualities which will make her a superb Chairperson of the Council of Economic Advisers. In this regard I refer you to her next major contribution, her work on trade policy, which is summarized in her magnificent book Who's Bashing Whom? In this book Professor Tyson gives a very detailed picture of the trade issues facing America's high technology industries. Indeed this is the very best account any where of the complex problems facing these industries. It gives the facts. It is aware of the economic theory. And it does not simplify or distort the issues. This book is a "must read" for everyone who is interested in these important topics. Everywhere it conveys the sound judgement of its author. These are talents which I stress because they are so apparent in her work and also because they are so needed by a Chair of the Council of Economic Advisers.

So far I have been reviewing Professor Tyson's intellectual accomplishments. They are indications of her intelligence which is a necessary qualification for her proposed job. But she also has in very high degree those other talents which are needed to be a superb Chairperson. She has an ability to explain economics to others. Her first-year economics classes were the best taught classes on campus. With 600 to 800 students she received course ratings which would make instructors teaching just ten people envious. Indeed her courses have been almost impossibly well taught. Furthermore, whatever the occasion, I have never seen Laura in any way lose her cool. She is indeed unflappable. And she listens to others. In sum, with all these qualities, in such high degree, there is no one better to lead the new administration's economic team.

In sum, a new day is dawning. And under the leadership of Laura Tyson I expect U.S. economic policy to again be restored to the world's best.

Yours sincerely,

GEORGE A. AKERLOF,
Professor.

UNIVERSITY OF CALIFORNIA
AT BERKELEY,
January 15, 1993.
Senator DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Senate Dirksen Building, Washington, DC.

DEAR SENATOR RIEGLE: I am writing in support of the nomination of Professor Laura d'Andrea Tyson to serve as Chair of the President's Council of Economic Advisers. I have had the pleasure of working with Professor Tyson on a number of projects during the past 4 years and am confident that she will uphold the tradition of integrity, intellectual honesty, and effectiveness established by such predecessors as Walter Heller, Gardner Ackley, and Charles Schultze.

Improvements in U.S. economic performance require new policies that acknowledge the limits of the laissez-faire economics of the past 12 years and the theories underlying many of them. Professor Tyson is well suited to the task of advising President Clinton on these policies. She will also be extremely effective in another critical function of the CEA Chair, communicating these policies to Congress, industry, and the American public.

Professor Tyson's research acknowledges the strengths of market-based mechanisms for resource allocation, while underlining their occasional limitations in supporting innovation and investment in the assets that are essential to U.S. competitiveness in a global economy. I interpret her "cautious activism" as a presumptive preference for market-based solutions, subject to the caveat that markets are known to fail. Professor Tyson correctly notes that the postwar development of such economies as Japan did not rely exclusively on the market. Instead, government policies supported investments in the skills, assets, and institutions needed to complement and support market forces. The impressive productivity and innovative performance of such U.S. industries as agriculture and commercial aircraft also has rested on a mix of robust market institutions and public programs. In refreshing contrast to many of her professional peers, Professor Tyson bases these conclusions on observation of the real world, rather than derivations of mathematical formulae in her study. But her analytic and methodological skills are strong, as one would expect in a scholar with a Ph.D. from M.I.T. holding appointments as a full professor in both the Economics Department and the Haas School of Business at U.C. Berkeley, and will enable her to serve this Administration with distinction.

The policy agenda of the Clinton Administration and the prospects for improvements in the living standards of the U.S. population require policies that recognize the need for open markets for international trade and investment, along with policies that create a strong U.S. economic infrastructure of human skills, technology, and public investment. Professor Tyson's background has prepared her to meet this challenge and oversee the coordination and consistency of trade and technology policies. I urge you to support her confirmation as Chair of the Council of Economic Advisers.

Sincerely,
DAVID C. MOWERY,
Associate Professor.

MASSACHUSETTS INSTITUTE
OF TECHNOLOGY,
Cambridge, MA, January 13, 1993.
Senator DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Senate Dirksen Building, Washington, DC.

DEAR SENATOR RIEGLE: It is my privilege to write a letter in support of Laura Tyson's nomination by President Clinton to be Chairman of his Council of Economic Advisers. I am writing you both as the 1993 Vice President of the American's Economics Association and as the Dean of MIT's Sloan School of Management.

I have known Laura Tyson since she was a student here at MIT in our Ph. D. Program and worked with me on a project looking at the banking systems and the activities of central banks in a number of different industrial countries. She is well trained and on top of the major developments in all major fields of economics, including macro-economics which everyone must present as a field of study. I found it a pleasure to work with her then.

Since then I have followed her intellectual activities closely and she has been a visiting professor here at MIT. The good qualities she demonstrated as a student have remained with her. She does her homework, she is on top of the analysis required to make good judgments, she listens to contrary arguments, and it is still a pleasure to work with her—as I have from time to time done in jointly authored articles.

Perhaps the highest recommendation that I can give to her is that both the MIT Management School and the Harvard Business School have been trying to lure her away from Berkeley and the University of California. I wanted to have her here at MIT and thought she would have been a great addition to my faculty. In the same mode, she will be a great addition to President Clinton's official family.

Intellectually her work in recent years has focused on industrial economics. Professor Tyson thoroughly understands macro-economics but I think that an understanding of industrial economics is even more important for today's Chairman of the President's Council of Economic Advisers. As severe as our macro problems are, the major economic problems facing the United States are not how do you get macro-economic policies right. That can be done perfectly and the United States will still fail economically.

The central problem is how do you restore productivity growth and make American industry more competitive in international markets. If we do this, Americans' real wages can start rising after a 20 year period of decline. If we cannot, Americans' real wages will continue to fall.

Laura Tyson's intellectual strengths match America's long run economic needs.

I urge you to confirm her and support her strongly

Sincerely yours,
LESTER C. THUROW,
Dean, MIT Sloan School of Management; Vice President, American Economics Association.

MASSACHUSETTS INSTITUTE
OF TECHNOLOGY,
Cambridge, MA, January 14, 1993.
Senator DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Senate Dirksen Building, Washington, DC.

DEAR SENATOR RIEGLE: I am jumping at the chance to offer to your Committee a very strong endorsement of Dr. Laura D'Andrea Tyson, who has been nominated to be the Chairman of the Council of Economic Advisors. I have known Dr. Tyson since she was a first-year graduate student at M.I.T. about twenty years ago, and I have followed her work ever since.

We are proud of running a tough, highly-competitive Ph.D. program at M.I.T. I can tell you that Dr. Tyson got an A from me (in a course in macroeconomic theory, by the way) and came through as one of the ablest graduate students of her cohort. She has had first-rate training and has profited from it.

Dr. Tyson is an excellent economist. Her work has built on the latest developments in our understanding of international trade, and has argued from them to important conclusions about commercial policy. These are always worth listening to; she argues them forcefully and well.

In one of her papers she has described herself as "a cautious activist" in trade policy. That sounds to me like a fair description. It is not a bad category to be in. I would not want any other sort of person on the job, and I hope you feel the same.

My summary view is that Dr. Tyson will be an able, knowledgeable and effective Chairman of the Council. She will be able to bring the best economic knowledge of the country to the service of President Clinton. It is an excellent nomination, and should be confirmed with enthusiasm.

Sincerely yours,
ROBERT M. SOLOW.

HARVARD UNIVERSITY,
Cambridge, MA, January 15, 1993.
Senator DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Senate Dirksen Building, Washington DC.

DEAR SENATOR RIEGLE: It is a pleasure for me to support the nomination of Laura D'Andrea Tyson as Chairman of the Council of Economic Advisors. Her knowledge, intellect, communication skills, and character combine to make her a superb selection.

Dr. Tyson has been a major contributor to the academic and the public debates on how to make the U.S. economy more competitive. As a participant in the field, I have always found her research insightful, well-written, provocative and firmly grounded in the real world. Indeed, when Charles L. Schultze of the Brookings Institution and I were looking for the best protagonists of the case for a new strategy for US trade we naturally chose Laura Tyson to write one of the three key papers in our book An American Trade Strategy: Options for the 1990s (Brookings Institution; 1990).

When presenting her views in person, Laura Tyson is highly articulate. I also admire her integrity. She has never flinched from stating her views, even when they differed from many of her colleagues. Both the President and the country will benefit greatly from her leadership and her commitment to improving America's economic performance.

Sincerely yours,
ROBERT Z. LAWRENCE,
Albert L. Williams Professor of International Trade & Investment.

HARVARD UNIVERSITY,
Cambridge, MA, January 6, 1993.
Professor LAURA D. TYSON,
Department of Economics, University of California, Berkeley, CA.

DEAR PROFESSOR TYSON: With others, I am sure, I was more than slightly appalled, even disgusted, by the suggestion, prominently featured in the press, that your economic work and views do not extend competently to the larger range of economic policy. Of course they do. Suggestions to the contrary carry over from academic life and the refined division of labor of the university world. No one can suppose, as to Washington, that you will be so confined.

You will not be distressed by having Alan Blinder on the Council. But his appointment in no way suggests any inadequacy on your part. That no one who knows you work and interests—and the post to which you move—will believe. Your arrival in Washington will be a great step up for the profession, as I will certainly tell anyone who happens to ask.

Yours faithfully,

JOHN KENNETH GALBRAITH.

HARVARD UNIVERSITY,
Boston, MA, January 14, 1993.
Senator Donald W. Riegle, Jr.,
Chairman, Committee on Banking, Housing & Urban Affairs, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR RIEGLE: Laura D'Andrea Tyson is extremely well-qualified to serve as Chair of the Council of Economic Advisers, and I am happy to give her my strongest endorsement.

Professor Tyson's accomplishments as an international institutional economist are vital resources for the U.S. at this time when many of the important debates center around U.S. industrial competitiveness, national technology policy, and trade relations, especially with Japan. It is important to have leadership from an economist like Professor Tyson who has contributed outstanding scholarship to these debates—especially Dr. Tyson's new book on high tech trade with Japan, published by the prestigious Institute—and who connects the abstract and theoretical field of economics to practical policy concerns. Professor Tyson possesses a shrewd intellect and stunning knowledge of the application of economic models and principles to the key policy choices facing America.

It is to her credit that many of her publications appear in journals that are interested in practice and policy as well as theory. She wants to delve into the meaning of economic facts and statistics and use them to build strategy. She was one of the early economists to warn that the U.S. was losing our manufacturing edge and under-investing in new technology. She has marshalled the evidence on the impact of foreign investment on the U.S. economy to show why domestic ownership of assets matters for America. She has examined with depth and great insight the way that economic outcomes were shaped by political choices, especially in the case of Japan. And her book is the best discussion yet of how to ensure that free trade means fair trade. The focus of her recent book has been on the high tech industries essential for America's future, and their prospects in light of Japanese strength and political policy. Yet she is also an expert on Eastern Europe, an area that interests American business as an opportunity for expansion.

Her considerable academic and professional skills and achievements were recognized by Harvard University. In 1989-90 she was offered tenure in the Harvard Graduate School of Business Administration after a highly rigorous selection process in which about 90 distinguished senior faculty members reviewed all of her academic work and discussed her credentials. She is considered the leading economic scholar on trade policy and has been invited to contribute to nearly every major forum or national committee on these issues.

I urge you to confirm this appointment.

Sincerely,

ROSABETH MOSS KANTER.

KARL F. LANDEGGER PROGRAM IN INTERNATIONAL BUSINESS DIPLOMACY, SCHOOL OF FOREIGN SERVICE, GEORGETOWN UNIVERSITY,
Washington, DC, January 14, 1993.
Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Senate Dirksen Building, Washington, DC.

DEAR SENATOR RIEGLE: I am writing with great enthusiasm on behalf of Dr. Laura D'Andrea Tyson's nomination to be Chairman of the Council of Economic Advisers in the Clinton Administration.

Dr. Tyson's chairmanship greatly expands and enhances the traditionally rather narrow focus of the Council on aggregate macroeconomic analysis. Her particular expertise comes from looking closely at the international context in which high technology industries are created, rise, struggle with competition across borders, and (if successful) expand to new heights. The outcome is particularly important because such industries typically offer great positive spill-overs for the countries where they are located and generate high skilled, high wage jobs in the communities where they are found.

The kind of detailed knowledge that Dr. Tyson possesses about competition in high tech industries has been alarmingly rare within the ranks of prior Chairmen of the Council of Economic Advisers. Yet it is precisely this kind of background that will be vital in making the policy decisions we need to enhance American competitiveness as we approach the twenty-first century.

The issues that Dr. Tyson has established her reputation addressing are particularly sensitive, since they deal with sectors where many governments have kept markets closed by subsidizing as well as protecting their own national firms. Given the publicity that Dr. Tyson's nomination has generated in the press, I would urge the Members of the Committee to go ahead and question her closely on matters concerning managed trade and public sector targeting. What the Members will discover is that Dr. Tyson is extraordinarily careful and precise in delineating the exceptional circumstances in which intervention on the part of the U.S. government might be warranted. When she describes herself as a "cautious activist," I believe she will place emphasis on the "cautious." Overall, her commitment to enhance the working of markets is no less firm than her predecessors in the Chairmanship of the Council. But she is acutely sensitive to the dangers of ignoring protectionism and intervention on the part of other governments in high tech industries where the economies of scale are large and the pace of change in extremely rapid.

Finally let me make a few observations about Dr. Tyson's personal qualities. She is open, engaging, approachable, frank, persuasive, and honest. I mention these personal qualities because, given the legacy of aloof disdain toward Congress on the part of several senior officials of the previous administration, the Members of the Committee will find, I am sure, that they will come to look forward to exchanging ideas with Dr. Tyson and working together with her in addressing the major economic challenges that confront our nation.

I hope that these remarks are helpful to your deliberations.

Respectfully,

THEODORE H. MORAN.

UNIVERSITY OF PENNSYLVANIA,
Philadelphia, PA, January 13, 1993.
Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Senate Dirksen Building, Washington, DC.

DEAR SENATOR RIEGLE: The designation of Professor Laura Tyson as Chairperson of the Council of Economic Advisers is a very thoughtful selection. I enjoyed participating with her for several years (2 rounds) on the Cuomo Commission, dealing with matters of competitiveness and growth of the US economy.

I found her to be an excellent committee participant who consistently did the appropriate homework and had much to contribute. I sympathize a great deal with her position on our country's trade and the need to advance our position both through vigorous market competition and associated policies at all levels of government. Her latest book on this subject, Who is Bashing Whom?, shows strong professional competence, as well as an ability to see through trade problems from various sides—business, government, multilateral agencies.

At an earlier stage of her career, she participated very constructively in lively discussions on the building of statistical models of the Soviet economy. Her economics background on the economies of Eastern Europe showed up clearly in the interchanges among specialists, and she impressed me as one who has certainly mastered the technical details.

Without hesitation, I support Professor Tyson's selection for appointment as head of the Council of Economic Advisers.

Sincerely,

LAWRENCE R. KLEIN.

COUNCIL ON COMPETITIVENESS,
Washington, DC, January 15, 1993.
Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR RIEGLE: I am writing to strongly endorse the nomination of Professor Laura Tyson to be the Chair of the President's Council of Economic Advisers.

She brings to the position solid academic credentials and a growing body of scholarly work. In her latest volume, she explores the question of international trade in a range of industries where markets are imperfect and there is, as well, an active government role. The Council's current project on trade, technology and investment is building on Professor Tyson's work and insights.

In addition to her research, Professor Tyson brings several other very important qualities to the position. She has taught in business schools as well as departments of economics which has given her a heightened sense of a world in which risk and uncertainty are common elements. She will bring that added perspective to her advice for a President who, like the private sector, faces an uncertain economic future.

As the country enters the post-Cold War era, we are adding a growing concern about our long-term economic prospects to a decade-long preoccupation with a geopolitics of containing international communism. Professor Tyson and her colleagues at the Berkeley Roundtable on International Economics have been among the leaders in thinking about the long term road strategy for an America that is very much part of the global economy. Several of her colleagues contributed to the report of President Reagan's Commission on Industrial Competitiveness, better known as the Young Commission after its chairman John Young, just retired CEO of Hewlett Packard.

I am sure that Professor Tyson will be an effective and creative voice in the Clinton Administration. Out economic policy will be the better for her advice. It is with real enthusiasm that I can speak on her nomination.

Sincerely,

KENT H. HUGHES,
President.

INSTITUTE FOR
INTERNATIONAL ECONOMICS,
Washington, DC, January 14, 1993.

Senator DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Dirksen Building, Washington, DC.

DEAR MR. CHAIRMAN: I write in support of the appointment of Dr. Laura D'Andrea Tyson to the position of Chairman of the Council of Economic Advisers.

I first became acquainted with Dr. Tyson's work seven or eight years ago. At that time I was working for a high-technology American company with growing business interests overseas. I also chaired a working group on Japan at the National Association of Manufacturers. Dr. Tyson's analysis of what other governments do to promote their own industries struck me as extremely well-informed and realistic.

Here at the Institute I'm working on a book about what to do with the post-Cold War global defense industry. I continue to draw inspiration from Dr. Tyson's work, especially her clear, rigorous and well thought out discussion of "strategic" industries.

Dr. Tyson combines many virtues: intelligence, modesty, tough-mindedness and warmth. She is a well trained economist with "mainstream" credentials, but she has had the courage to depart from conventional economic thinking. She will bring fresh perspectives to what may well be a critical turning point for the U.S. economy. I strongly support her confirmation.

Sincerely,

ELLEN L. FROST,
Senior Fellow.

JANUARY 15, 1993.

Senator DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate.

DEAR SENATOR RIEGLE: I would like to endorse in the strongest possible terms the candidacy of Laura D'Adrea Tyson for the position of chairwoman of the Council of Economic Advisors.

I have known Ms. Tyson for over five years, and, in my view, she is an excellent economist, an extremely astute and balanced policy analyst, an extraordinary team player. You will not find anyone else who has given more thought—and original thought—to national and international problems, nor someone with a greater gift for articulating her ideas to experts and laymen alike. You will not find anyone who is more capable of making a valuable contribution to heated debates where the "right" answer is not black or white but painted in shades of gray.

Without question, her contributions to deliberations in the Executive Branch will be enormous, and I predict that she will elevate the CEA's position in all the arenas of national policy. But I also believe that she will become one of the Congress' most sought after officials to exchange views privately and in public hearings, so powerful is her ability to explain the complicated intersection of economics and public policy, to separate the real choices, and to put forward thoughtful recommendations.

I hold these views not just as someone who has one foot in the academic world, being as I am a professor at the Columbia Graduate School of Business. In addition, I have spent the past fourteen years on Wall Street, and prior to that I held a variety of senior economic policy posts in the Nixon, Ford and Carter administrations. I have also had the privilege, I might add, to testify before your committee on such subjects as third world debt, competitiveness, and Japan. In all these experiences I have had the chance to interact with a broad range of the nation's most accomplished economists.

I can put it simply. Ms. Tyson represents the very best that America has to offer.

Sincerely,

JEFFREY E. GARTEN.

ECONOMIC STRATEGY INSTITUTE,
Washington, DC, January 14, 1993.

Senator DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Senate Dirksen Building, Washington, DC.

DEAR DON: I am writing concerning the nomination of Laura Tyson as Chairman of the Council of Economic Advisors.

I believe she is an outstanding choice. She brings a knowledge of the real world that has been sorely missing at the CEA for a long time.

I urge her speedy confirmation.

Best regards,

CLYDE V. PRESTOWITZ, Jr.,
President.

MICROELECTRONICS AND
COMPUTER TECHNOLOGY CORP.
Austin, TX, January 14, 1993.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Senate Dirksen Building, Washington, DC.

DEAR SENATOR RIEGLE: I am pleased and honored to support the nomination of Dr. Laura Tyson for the Chair of the President's Council of Economic Advisors. I have known and worked with Dr. Tyson for several years, when I was Director of the Defense Advanced Research Projects Agency (DARPA) and currently as Chairman and CEO of the Microelectronics and Computer Technology Corporation (MCC) consortium of information technology and aerospace companies. Dr. Tyson has assumed a leadership role in focusing, most effectively, on U.S. economic competitiveness, productivity and growth.

Dr. Tyson has superb training and experience in classical economics. She has such deep command of her craft and science that she is able to innovate in light of changing circumstances and environment for the U.S. Changes include a U.S. economy increasingly driven by worker and management skills and training, rather than natural resources or geography; globalization of corporations, finance and markets; and, high technology as a key to success not only in "high tech" industry but in all industry, large corporations and small businesses alike. Anybody with a lesser background would be adrift, applying textbook lessons by rote rather than reason.

Dr. Tyson's sphere of experience extends well beyond academia. She has had sufficient engagement with Federal and state government to realistically understand what can and cannot be done. She has strong and long standing relationships with industry, appreciating the problems and prospects for the U.S. business and labor communities. When her nomination was announced there was uniform support from the industry segments in my consortium, electronics and aerospace—two of the industries providing the most medium- and high-value-added jobs for the Nation. He understanding of and constructive relationships with industry means that she is trusted. That trust can be an invaluable asset for the new Administration as it seeks to build a partnership between industry and government.

On a personal level Dr. Tyson is warm, open and easy to work with. When she makes a decision everyone is sure they have had their fair opportunity to express their views. She is one of the fastest learners I have ever encountered, and is open to new ideas. She can play an important role in building consensus on the Nation's economic future among departments in the government and with committees of the Congress.

History will show that Dr. Tyson's nomination is one of the wisest of President-Elect Clinton, and I have every confidence she will be confirmed by, and fully supported by, the Senate.

Sincerely,

CRAIG FIELDS,
Chairman and CEO.

MOTOROLA, INC.,
Schaumburg, IL, January 18, 1993.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Senate Dirksen Building, Washington, DC.

DEAR SENATOR RIEGLE: I am delighted to support Laura Tyson's nomination as Chair of the Council of Economic Advisors. Dr. Tyson has been in irregular contact with Motorola throughout her involvement in the Berkeley Roundtable for International Economy. She also has been advisor to and facilitator for Motorola University. In all of these interactions, Dr. Tyson has demonstrated superb intellectual skills, excellent judgment, and outstanding communications abilities.

Based on her extensive knowledge of the trade distorting practices often used by our global economic competitors, I believe Dr. Tyson would bring a much needed dimension of realism to the economic policies of this country. I believe Laura Tyson is eminently qualified to Chair the Council of Economic Advisors, and I wholeheartedly support her nomination.

Regards,

GEORGE FISHER.

HARVARD UNIVERSITY,
Cambridge, MA, January 15, 1993.

Senator DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Senate Dirksen Building, Washington, DC.

DEAR SENATOR RIEGLE: Laura D'Andrea Tyson has my highest recommendation and endorsement for the position of Chairman of the Council of Economic Advisors. Professor Tyson played a major role in the development of issues and action programs relating to competitiveness in the United States—first with the Young Commission, then the Cuomo Commission, and then the Conference at the Carter Center.

As Chairman of Scientific-Atlanta, Inc., a global manufacturer of telecommunications and instrumentation equipment, and as chair of the EIA/ATV Committee, I had the opportunity to work closely with Laura Tyson. Professor Tyson prepared a thorough review of a national position on high-definition television.

My recommendation of Laura Tyson comes from the perspective of a CEO of a major high-tech company. I have always found that her viewpoints combine a scholarly background with the deep knowledge of the realities of the corporate world, global market place and the nation-at-large. Professor Tyson articulates her positions in a thoughtful and persuasive manner. The nation is fortunate indeed to have a distinguished woman of her stature to represent us and chair the Council.

I appreciate the opportunity to present this letter of endorsement.

SIDNEY TOPOL,
Retired Chairman and CEO, Scientific-Atlanta, Inc., Atlanta, GA.

TRW INC.,
January 13, 1993.

Senator DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Senate Dirkson Building, Washington, DC.

DEAR CHAIRMAN RIEGLE: It is my understanding that your Committee will be holding a confirmation hearing on January 21st for Laura D'Andrea Tyson as Chairman of the Council on Economic Advisors. I am writing to support her nomination.

I have worked with Laura during the last several years, first during 1990 and 1991 when I served as Chairman of the Manufacturing Forum of the National Academies of Science and Engineering, and then during 1992 as Chairman of the Manufacturing Subcouncil of the Competitiveness Policy Council. She was a member of the Subcouncil.

As you know, Laura has been in a leadership position at the Berkley Roundtable on International Economics at the University of California at Berkley for a number of years and has done extensive personal research and writing on issues and policies related to economic growth, international trade, technology development, industrial productivity, and competitiveness. She has participated in a wide variety of public policy study groups related to these subjects.

Her high integrity and distinguished relevant experience qualify her for confirmation. She will serve the nation well.

With best regards.

Sincerely,

RUBEN F. METTLER,
Retired Chairman and CEO, TRW Inc.

DAVIS POLK & WARDWELL,
New York, NY, January 15, 1993.

Senator DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Senate Dirksen Building, Washington, DC.

DEAR SENATOR RIEGLE: I write to urge your favorable consideration of the nomination of Laura D'Andrea Tyson to head the Council of Economic Advisers. As Chairman of Governor Cuomo's Commission on Competitiveness, I have worked closely with Laura Tyson during the past six years on our studies of national economic policy. This experience convinces me that she is an outstanding choice to lead the Council.

It should be evident that Laura Tyson has the academic and intellectual credentials for the task. Her work has demonstrated that she has a realistic understanding about the economy and the many factors that influence economic performance. Just as significant, Laura Tyson has the personal qualities and skills to make an important contribution to the President-elect's economic team. Throughout our work together on the Cuomo Commission, she has been an outstanding team player, advocating her position effectively and at the same time helping form a consensus and responding with grace and style to the positions advocated by others.

On Sunday, the New York Times Business Section will publish an op-ed piece by Lee Smith and myself on Laura Tyson's appointment. I am enclosing a copy of that article. It makes the argument, which I would like to repeat to the members of your Committee, that the challenge of global competition makes it important that the head of the CEA be able to articulate not only the options available for macroeconomic policy, but also the initiatives needed to address long term structural problems that influence economic performance and the standard of living for all Americans. America's competitiveness determines how well Americans live. Our economic performance turns not just on macroeconomic factors but also on such factors as technology, trade, education, training, corporate governance and public investment. During the campaign the President-elect spoke of a realistic and aggressive program to deal with the underlying structural issues that have contributed to stagnating standards of living and sub-par performance of America's economic system. Laura Tyson's expertise on these issues as well as her understanding of macroeconomics gives the new Administration a leader for the Council of Economic Advisers capable of participating with other members of the economic team in shaping a long-term program to rebuild America's economic strength.

In addition to these important qualifications, Laura Tyson is a terrific person, who will bring to the job personal qualities of openness, integrity and candor that will help all of you as you tackle the serious challenges confronting our economy.

For all these reasons, I commend Laura Tyson to you and your colleagues. I hope that your consideration of her nomination will convince you, as my experience with her has convinced me, that she will be a distinguished leader of the Council of Economic Advisers.

Very truly yours,

LEWIS B. KADEN.

TYSON'S A TERRIFIC CHOICE

(By Lewis Kaden and Lee Smith)

A few disgruntled economists have criticized the appointment of Laura Tyson, suggesting that she lacked sufficient background in quantitative theory to head the Council of Economic Advisers (CEA). We know Laura Tyson well, having worked closely with her for the past six years on the development of new national economic policies. We believe that her far-ranging knowledge, her realism about the global economy, and her consensus-building skills make her an outstanding choice to chair the CEA.

By tradition, past presidents have given the top job at the CEA to economists with reputations in macroeconomics—experts on how government monetary and fiscal policies influence the level of demand, hence the rate of growth and level of unemployment. For most of the post-World War II era, we could afford to worry just about managing the business cycle. With little global competition and the world's most modern factories. American industry achieved the high levels of productivity growth necessary for a steadily rising standard of living.

Starting in the late 1970s America's economic problems spread beyond the cyclical problem of growth and recession to the long-term structural problem of a declining standard of living caused by diminishing competitiveness. The conventional view was that our competitiveness problem was due to an overvalued dollar, which would be corrected by the proper macroeconomic policy—dollar devaluation. Yet despite a cheaper dollar for the past five years, our trade deficits remain huge, and American standards of living continue to stagnate.

Tyson, like our Commission,has argued that a purely macroeconomic response to competitiveness problems, primarily by lowering the value of the dollar, was too narrow a policy. How well we produce determines how well we live. Excellence in production in turn depends on factors such as technology, trade policy, public investment, education, employee participation, and corporate governance. These concerns are now widely understood, in and outside academia, to be critical to economic performance.

To address these problems, the president-elect is seeking a more realistic, structural approach to economic policy that will hasten the needed reforms in America's economic system. One element of the strategy is a new macroeconomic policy to increase private and public investment, thus spurring demand to strengthen the current recovery, as well as to make industry more competitive and to achieve major deficit reduction over the course of the next five years.

But we should not stop with investment and long-term deficit reduction. The second element is structural reform of schools, training systems, corporate governance, and the policy-making process. The shortcoming of America's institutions—from labor markets to inner-city schools—are holding Americans back. While managers, workers, investors, parents and educators will have to take the lead in most of these reforms, Washington can help enormously if policymakers understand the institutions that make for excellence in production and the role for positive government action.

The president's chief economist has to be able to articulate the administration's structural economic policy. That is one of the reasons that Tyson is such an excellent choice for CEA. She will provide the economic realism and expertise in trade, investment, industrial structures, technology as well as macroeconomics needs to help the president-elect shape a long-term program of economic renewal.

DEWEY BALLANTINE,
Washington, DC, January 15, 1993.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate.

DEAR SENATOR RIEGLE: I am writing in support of the nomination of Laura D'Andrea Tyson to be Chairman of the President's Council of Economic Advisors. Ms. Tyson is a superb choice whom I believe will serve with great distinction in this position.

The choice of Laura Tyson represents an obvious departure from past Presidential appointments to chair the CEA in one significant respect. Laura Tyson's published work, her extensive experience, and her interest emphasize the importance of the composition of the American economy as well as aggregate levels of activity. This is a profound difference that is vital to our country's interests as we enter the Post Cold War Era. U.S. manufacturing and high value-added services have been ignored by much of the academic economic profession and by many of the economists who have served in government. The United States can no longer afford to be indifferent.

The time has come for the Executive, Congress, industry and labor to work together to improve American competitiveness. I know that the Semiconductor Industry Association, with whom I have worked for the last 13 years, is very favorably impressed with Ms. Tyson and her work. Basic industries can benefit equally from the fresh approach and interest which Ms. Tyson brings to this field. Many in industry believe that she can help formulate public policies that will support America's maintaining and enhancing its position in world industry. The Committee should recognize that the appointment of Ms. Tyson is clearly part of the mandate which the President-elect received for change.

I urge prompt and favorable action on Ms. Tyson's nomination.

Very truly yours,

ALAN WM. WOLFF.

NEW YORK, NY,
January 14, 1993.

Senator DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Senate Dirksen Building, Washington, DC.

DEAR DON: I know that you will be holding hearings on the confirmation of Laura Tyson for Chairman of the Council of Economic Advisors. I have had the pleasure of knowing and working with Ms. Tyson, most recently as a member of the Cuomo Commission which did extensive work on the economy over a period of two years or so. I have the highest regard for Ms. Tyson as an economist and I have found her a pleasure to work with and to know personally.

I support her confirmation without any hesitation whatsoever.

Kindest regards.

Sincerely,

FELIX G. ROHATYN.

WASHINGTON, DC.,
January 14, 1993.

DEAR SENATOR RIEGLE: I am writing to express enthusiastic support for the nomination of Laura Tyson to the chair of Council of Economic Advisors. In my view, the choice of Ms. Tyson for this post is the single best selection President-elect Clinton made in naming his senior appointees. I hope, and assume, that your committee will approve her easily.

I am sure that you are aware of Ms. Tyson's professional background. She has written for more than a decade about the very issues that have concerned your committee and that President-elect Clinton has said he will emphasize strategies for raising the national growth rate, the ingredients of national competitiveness, the proper conditions to foster high-tech industries, and the right interaction between government policy and private industrial growth. Her new book, *Who's Bashing Whom,* considers these issues and many others in a thoughtful and practical-minded way.

You are aware that the selection of Ms. Tyson initially provoked grumbling from a number of other economists. Some of this was pure sour grapes, from young men who had felt entitled to the job. More of it reflected a difference within the profession—and a difference that reflects entirely to Ms. Tyson's credit. The CEA has often been considered a redoubt for theoretically-oriented macroeconomists, whose main specialty was abstract modeling of the economy. Ms. Tyson's specialty has been a much more realistic, detailed analysis of how the modern economic world actually functions. In my view, at least, the time is certainly right for her approach. (I attach a commentary I did for National Public Radio on this subject.)

For purposes of identification, I should disclose that I am the Washington Editor of the *Atlantic Monthly* magazine, and a regular commentator for National Public Radio. This is, however, a personal letter of support for Ms. Tyson, based on having followed her work for several years. Naturally the organizations for which I work are not taking any position on this issue.

Again, I hope very much that you recommend Ms. Tyson for confirmation. I am sending a signed copy of this letter by regular mail.

Sincerely,

JAMES FALLOWS.

NPR COMMENTARY, JANUARY 6, 1992

Another of President-elect Clinton's nominations is expected to encounter very little resistance in Congress: that of Laura Tyson, an economist from the University of California at Berkeley, to head the Council of Economic Advisors. But other economists have been loudly criticizing the choice in the press. Commentator James Fallows says that the complaints say more about the deficiencies of the profession than those of the nominee.

Laura Tyson has spent the last decade on subjects that would seem quite relevant in the Clinton age—shifts in national competitiveness, how high-tech industries rise and fall. But when her appointment was announced squeals of wounded pride went up from the economics establishment. Robert Lawrence of Harvard, for instance, said the choice must mean that Clinton wanted to advise himself. Paul Krugman of MIT, an early favorite for the job, pointed out that the established "pecking order" among economists had been ignored. There were many similar complaints.

Why should economists be such sore losers, compared, say, to disappointed candidates for secretary of state? The dispute has less to do with Tyson than with the conflict between two approaches to economics; hers, with its look at specific bureaucracies and policies and firms, and the highly theoretical economics now in academic vogue.

In the days of Adam Smith or even John Maynard Keynes, economists wrote mainly with words, not graphs or numbers, and they knew that their real subject was human behavior, which followed certain patterns but was not subject to hard scientific proof. After World War II university economics, especially in America, became much more math-bound and abstract. Its big names, the macroeconomic analysts, rose above the details of how factories or government agencies actually behaved—the kind of details Tyson has emphasized. They specialized instead in theoretical models of how economies should behave. The creation of a Nobel Award in economics in 1969 reinforced the idea that economics was a branch of pure science, a kind of physics that happened to deal with the velocity of money rather than the speed of light.

In reality economics remained about as precise as political science. That is, it used mathematical tools and constantly refined its understanding but was completely in the dark about many big questions. Since the Nobel Award was established, American economists have virtually monopolized it, and Japanese, Koreans, and Germans have been shut out. During that same period, of course, the dollar lost two thirds of its value against the yen. Good theoretical economists and a good economy remain two different things.

Nonetheless, theoretical economics retained its glamour, and its scientific aura—and, to bring us back to Laura Tyson, its view of the Council of Economic advisors as the entitlement for its brightest math-genius stars. Many of these same high-flyers, as the columnist Robert Kuttner has pointed out, display a Bobby Fischer-like imbalance between their analytical and their social skills. And so when Tyson—a woman who wrote about history and semiconductor policies and was perhaps not as "good at math"—took the job that was rightfully theirs, their sense of basic justice was outraged, and they let out their primal cry.

As we wait for the din to die down, the rest of us know how we'll judge Laura Tyson: not on the elegance of her models but by whether her ideas work.

WEIL, GOTSHAL & MANGES,
New York, NY, January 18, 1993.

Senator DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Senate Dirksen Building, Washington, DC.

DEAR SENATOR RIEGLE: I write on behalf of Laura Tyson to Chair President-Elect Clinton's Council of Economic Advisers.

I have known Dr. Tyson, professionally and socially, since the early 1980's, when I met her at the Berkeley Roundtable on the International Economy. My professional and academic interests were, and have been, largely focused on competition issues, and increasingly on our corporate sector's capacity to meet international competition in global markets. Accordingly, I had, and have, a real interest in Dr. Tyson's works and writings, and have read much of them. I have, moreover, participated in professional meetings with her, and served with her as a member of Governor Cuomo's Commission on Competitiveness.

I believe, therefore, that I am qualified to speak of her competence as an economist, and as the potential Chairperson of the Council.

I enclose a copy of an Op-Ed piece from the New York Times of January 17, 1993. I concur totally with the views expressed by the Chairman and Executive Director of Governor Cuomo's Commission, with whom Dr. Tyson and I served. I could not say it any better.

Of equal importance to me, however, are two more of Dr. Tyson's characteristics: she is articulate, and can communicate complex concepts in an understandable manner. While I hesitate to say this is uncharacteristic of some in her field, it surely is a useful and desirable characteristic for someone who will need to articulate complex economic concepts; and, she has, additionally, a capacity to listen patiently, and to understand many points of view. I have never found her to be doctrinaire or unwilling to listen meaningfully to all sides of an issue being considered. Indeed, at close hand, in earlier work with her on the Governor's Commission, I observed her ability to bring consensus out of some highly divergent views on the trade issue.

In short, I believe Dr. Tyson will bring to her new position high intelligence, outstanding integrity, and leadership qualities, in addition to the qualities described in the enclosed Op-Ed piece.

Very truly yours,

IRA M. MILLSTEIN.

Ira M. Millstein is Chairman of the Board of Advisors of Columbia University School of Law's Institutional Investor Project, the Lester Crown Visiting Faculty Fellow at the Yale School of Organization and Management, and Senior Partner at the law firm of Weil, Gotshal & Manges. In 1989, he served as Chairman of the New York State Pension Investment Task Force. He recently served on the Project Advisory Committee of the Council on Competitiveness and as a member of the Corporate Governance & Financial Markets Subcouncil of the Competitiveness Policy Council, and the Cuomo Commission on Competitiveness.

JUST LEAVE LAURA TYSON ALONE

(By Lewis B. Kaden and Lee O. Smith)

A few disgruntled economists have criticized the appointment of Laura Tyson, the University of California at Berkeley economics professor, to head the President's Council of Economic Advisers. We know Laura Tyson well, having worked closely with her for the past six years on the development of new national economic policies. We believe that her far-ranging knowledge and her realism about the global economy make her an outstanding choice for the job.

By tradition, past Presidents have given the top job at the council to economists who were experts on how the Government's monetary, and fiscal policies influence the level of demand; the rate of growth and the level of unemployment.

For most of the post-World War II era; this was enough. With little global competition and the world's most modern factories; American industry achieved the high levels of productivity growth necessary for a steadily rising standard of living.

But beginning in the last 1970's; America's economic problems spread beyond the cycles of growth and recession to the long-term structural problem of a declining standard of living caused by diminishing competitiveness. The conventional view among economists was that the competitiveness problem was due to an overvalued dollar, curable by devaluation. Yet despite five years of a cheaper dollar, our trade deficits remain huge and our standard of living continues to stagnate.

Ms. Tyson's approach to the problem is different. She has argued that a purely macroeconomic response to competitiveness problems—primarily, lowering the value of the dollar—is inadequate. She has argued that how well we produce determines how well we live and she recognizes that excellence in production in turn depends on factors such as technology, trade policy, public investment, education, employee participation and corporate governance.

To hasten the reform of the nation's economic system, President-elect Clinton is seeking to create a realistic, structural approach to economic policy. One element of the strategy is a new macroeconomic policy to increase private and public investment, thus spurring demand to strengthen the current recovery, as well as to make industry more competitive and to achieve major deficit reduction in the next five years.

But we should not stop with investment and long-term deficit reduction. The shortcomings of many of America's most important institutions—from our labor markets to our inner-city schools—are holding us back. While managers, workers, investors, parents and educators will have to take the lead in most of these reforms, Washington can help enormously if policymakers understand the institutions that make for excellence in production and the role for positive government action.

Rather than produce narrow forecasts of growth, the President's chief economist has to be able to articulate the Administration's far-reaching structural economic policy. That is one of the reasons that Ms. Tyson is such an excellent choice to head the council. She will provide economic realism and expertise in trade investment, industrial structures and technology as well as the macroeconomics needed to help Mr. Clinton shape a long-term program of economic renewal.

ECONOMIC POLICY INSTITUTE,
Washington, DC, January 15, 1993.
Senator DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR RIEGLE: It is with great pleasure that I write to support President-elect Clinton's choice of Laura D'Andrea Tyson to be the Chair of the Council of Economic Advisers and to urge the Senate to confirm her nomination.

Laura Tyson will bring to the leadership of the Council an impressive academic background and strong expertise in economic research which will enable her to lead the Council in its traditional role of providing macroeconomic analysis and advice to the President. In addition, her work on international competitiveness and trade, and on the link between technology and manufacturing will help the President and his Administration promote the national interest in this new era in which other nations are using government policy to create comparative advantage in industries which are crucial to economic success.

Dr. Tyson's academic career of scholarship, research and teaching at MIT, Princeton, and at the University of California at Berkeley have put her at the forefront of the economics profession. Her work as a founder of the Berkeley Roundtable on the International Economy, as a member of the Economic Policy Institute's Economic Advisory Board, as a member of the Cuomo Commission, and as an active participant in policy fora in Washington and around the country has made her a leading voice in the debate about what government can and cannot do to build a strong economy. Her work has also given her a systematic exposure to the problems faced by government, business and labor in trying to devise policies to build successful firms and high performance (and high-wage) workforces.

When he announced this nomination, President-elect Clinton indicated that "the Council of Economic Advisers will be more central to my administration than in any since the administration of President Kennedy." In Laura Tyson he made the perfect choice of someone who can lead the Council, advise him and his Administration, and work in a collegial fashion with the other members of his National Economic Commission to forge the policies to rebuild the American economy and economic opportunity for Americans.

I highly recommend Dr. Tyson for this position and urge you to approve her nomination.

Sincerely,

JEFF FAUX,
President.

UNIVERSITY OF CALIFORNIA,
BERKELEY,
January 15, 1993.
Hon. DONALD RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Senate Dirksen Building, Washington, DC.

DEAR SENATOR RIEGLE: I am pleased to write in support of the appointment of Professor Laura Tyson to the chair of the President's Council of Economic Advisers. I believe she will make a brilliant appointment.

Laura Tyson is a colleague of mine at Berkeley, where she has dual appointments in both the Department of Economics and the Haas School of Business. I have known Laura since I accepted an appointment at Berkeley in 1982. Like her, my Ph.D is in economics; my fields of study include industrial organization, technological change, and international business. Overall, my philosophy is one that supports minimalist government where possible and desirable, incentives that favor investment over consumption, an open and liberal international order, and the rebuilding of American competitive strengths through private and public sector restructuring.

My enthusiastic support for Laura's appointment is based on my respect for her intellect, my understanding of her views and economic thinking, and my great confidence in her character and values. Let me briefly deal with each.

Laura has impeccable academic credentials: a BA from Smith, and a Ph.D from MIT. She has had appointments at top level institutions throughout her academic career. Her interests have migrated from the study of comparative economic systems to the study of trade, technology and competitiveness.

Laura is clearly a reformist. She notes in her book that "the policies and institutions that served the nation well when we were the world's unquestioned technological leader require overhaul now that Japan and Europe have emerged as our economic equals" (p. 296). I suspect she will bring fresh insight to bear on many issues.

For several years she hasn't been quite in the mainstream of economic thinking. That's mainly because while we have had a competitiveness problem for almost two decades, the mainstream of the profession has wanted to deny its existence until quite recently. The reason Laura has so much to say about many contemporary policy questions is that the profession swept many of them under the rug, or simply couldn't deal with complex institutional policy questions. Indeed, use of the word "competitiveness" was said to signal woolly thinking.

Laura's approach to problems is to bring economic and institutional analysis and behavioral evidence to bear on policy questions. Unlike many of her colleagues, she is less inclined to accept the conventional wisdom when the evidence flatly contradicts it. Her courage to advance new ideas, modify them when necessary, and learn from the ensuing debate is one that will serve her and the nation well. Her willingness to challenge orthodox presumptions is not motivated by political tastes but by the desire to clear out a good deal of economic religion which protects the sacred cows of the status quo. I am very confident that Laura's deepest passion is to improve the long run competitive performance of the American economy and its people. The quote from Abraham Lincoln which adorns the introduction to her latest book Trade Conflict in High Technology Industries captures the spirit behind her concerns about how the nation is dealing with problems of US competitiveness:

The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise to the occasion. As our case is new, so we must think anew and act anew. We must disenthrall ourselves and then we shall save our country.

Some of Laura's views on current policy questions are contained in her writings. Significantly, Laura believes "that what we as a nation make and what we trade matters. The composition of our production of trade does influence our economic well being"—p. 11–12 of "Who's Bashing Whom?" This is obviously correct, but her position irks more stolid economic theorists. The proposition helps undergird Laura's leanings towards a more activist trade policy, because she's worried that the industries the US gets to own is in part the consequence of other nations' industrial policies. That is, to the extent that industrial policies expand high technology activities abroad, US industry is impaired in its ability to export, and may simultaneously lose market share in the US to foreign firms which are supported by their governments. To the extent that existing multilateral rules don't adequately regulate such policies, Laura favors modifications to US law to deter or compensate for foreign practices. Otherwise our own industrial structure will be dictated by foreign governments. Put differently, complete laissez faire approaches are problematic especially if other countries are playing by different rules. Laura also favors a more determined technology policy to support industries with positive spillovers.

Laura's views on other matter of policy are not so apparent from her writings, though I'm sure you will ferret them out. I suspect when you probe you will find that her positions are quite pragmatic. I believe she favors deficit reduction and policies which favor investment in education and infrastructure over consumption. On macro policy issues, which haven't been her primary academic interest, she has a firm understanding of foundations, and is capable of listening to others when appropriate. She is keenly aware of her own areas of relative strength and weakness, and has the courage and capacity to reach out for specialized expertise when needed.

Finally, let me point out that Laura is of the finest moral caliber. She is extremely honest, and has the highest ethical standards. She has gained great respect in the academic world for her ability to establish consensus and move the enterprise forward. These qualities will be much needed in Washington, and I look forward to observing her help shape the policies that are needed to help improve the nation's prosperity and well being.

Sincerely yours,

DAVID J. TEECE.

AMERICAN ELECTRONICS ASSOCIATION,
Santa Clara, CA, January 19, 1993.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking Housing & Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As members of the Advanced Technology Coalition (ATC), we wish to express our strong support for the confirmation of Dr. Laura D'Andrea Tyson as Chair of the Council of Economic Advisors.

As you may know, the ATC is a broad coalition of high-tech companies and associations, traditional manufacturing industries, labor, professional societies, and research consortia that have a common goal of ensuring America's industrial and technological leadership. The Coalition includes organizations which represent 5 million U.S. workers, 3,500 electronics firms, 325,000 engineers and 13,500 companies in other manufacturing sectors.

We believe that Laura Tyson will be an exceptionally influential and imaginative Chair of the CEA. Dr. Tyson's work has concentrated on some of the most important policy issues that face the United States economy. Her recent book (Who's Bashing Whom? Trade Conflict in High-Technology Industries) is based on exhaustive research of key high-tech industries and a sophisticated understanding of the global environment in which American firms and workers compete. Her policy recommendations are thoughtful and balanced, and firmly grounded on first-rate empirical research.

If America is to maintain its industrial and technological leadership, our top economic decision makers must have a thorough understanding of the realities of the global economy, and have innovative ideas for strengthening America's economic competitiveness. America's standard of living and economic and geopolitical strength will increasingly be determined by its ability to commercialize new technologies. We believe that Dr. Tyson's insights into trade and technology policy will be invaluable as the United States seeks innovative solutions to the challenges of the post-Cold War era, and we urge you to join us in supporting her confirmation.

Sincerely,

J. Richard Iverson, President & CEO, American Electronics Association; Edward A. Miller, President, National Center for Manufacturing Sciences; Jack Russell, President, The Modernization Forum; Luanne James, President, Information Technology Association of America; Kent Hughes, President, Council of Competitiveness; Arvid Larson, Chairman, IEEE-USA Technology Policy Council; James W. Bishop, Executive Director, Southeast Manufacturing Technology Center; Albert W. Moore, President, AMT-The Association for Manufacturing Technology.

UNIVERSITY OF CALIFORNIA,
BERKELEY
January 14, 1993.

Hon. DONALD RIEGLE,
Senate Banking Committee

DEAR SENATOR RIEGLE: I should like to add my voice to that of other professional economists supporting Laura Tyson for appointment as Chair of the Council of Economic Advisors.

I have known Laura Tyson for over 20 years. I first met her when she was a third year graduate student at MIT. At the time, I was a Senior Economist at the World Bank, charged with initiating a study to explore the relationship between economic development patterns and income distribution and poverty. The study involved two countries: South Korea and Yugoslavia. I asked Laura to work with me on the Yugoslavia portion of the study. During my collaboration with her, I became impressed with her, both as an economist and as a person. Since then, I have followed her career closely. Indeed, I served on the University of California committee which reviewed (and endorsed) the economics department's recommendation to promote Laura to full professor. This forced me to familiarize myself in detail with all of Laura's professional writings.

Over the last ten years or so, Laura has shifted from an interest in Eastern European economies to an interest in industrial policy and economic competitiveness in the United States. Her writings in this area are unique in that they meld a first rate understanding of trade and macroeconomic theory with good policy judgment. She has become one of the top half dozen analytic economists in the World working in the area of international trade policy. Among them, she is the only one with good policy sense.

Laura is a talented economist, with sound judgment, good analytic training and substantial familiarity with key industries in the United States and abroad. She is an excellent administrator, concerned with the welfare of her staff and colleagues, and able to run a well managed ship while commanding loyalty and respect. Her ability to communicate her views is superior, and she can engage in professional debate in a manner which puts forth her position without antagonizing the opposition and without losing her cool.

I believe she is an inspired appointment as Chair of the Council of Economic Advisers. Indeed, my confidence in her (and other members of President Clinton's economic team) is reflected in the switch I have recently made in my portfolio from primarily Treasuries to primarily stocks, for the first time since August 1987.

Sincerely yours,

IRMA ADELMAN,
Fellow Royal Society of Arts and Commerce, Thomas Forsyth Hunt Chair.

STATEMENT ON THE NOMINATION OF LAURA TYSON

Mr. D'AMATO. Mr. President, I support the nomination of Laura D'Andrea Tyson to be the Chairperson of the Council of Economic Advisers.

Dr. Tyson clearly has the qualifications to serve in this important position. She is a professor of economics and business administration at the University of California and has taught at Princeton, MIT, and the Harvard Business School. Laura Tyson has received a bachelor of arts degree, summa cum laude, from Smith College and a Ph.D. degree in economics from the Massachusetts Institute of Technology. Dr. Tyson is also a prolific author in the area of trade, international competitiveness, and the economics of Eastern Europe.

During her confirmation hearing, Dr. Tyson demonstrated a considerable understanding of the economic issues confronting our Nation. I was pleased that she appreciates the importance of reducing our Government's budget deficit and the need to revitalize our stagnant economy. Dr. Tyson also made clear her strong support for fair and free trade as a means of opening markets and expanding economic opportunity for our country. At the same time, she recognizes, and is committed to correcting, those trade practices that create competitive inequality in global markets.

In confronting the economic challenges facing our country, President

Clinton is going to need strong pragmatic advice. I believe that Laura Tyson is well suited to this task. I wish her well as she fulfills her responsibilities as the next Chairperson of the Council of Economic Advisers.

STATEMENT ON THE NOMINATION OF LAURA TYSON

Mr. BOND. Mr. President, I want to spend a few minutes of the Senate's time today to discuss the nomination of Laura Tyson to be the Chairman of the Council of Economic Advisers.

As the economy was the No. 1 issue in the campaign, and remains the No. 1 issue for most Americans today, I believe the Senate should take a little time to review the record of the nominee for the Nation's No. 1 economic adviser.

Over the past month I have had the opportunity to read much of Ms. Tyson's writings. I have had a good discussion with her in my office, and I have had the chance to question her at her confirmation hearing before the Senate Banking Committee.

The results of this review of her record I wish to share with the Senate today.

As the chief economic adviser to the President, Ms. Tyson's role will be to give the Clinton administration frank advice on policy options and proposals. As the lone adviser without a specific constituency—unlike the Departments of Labor, Commerce, Agriculture, et cetera—it will be her job to look at the big picture.

In fact, some economists argue this aspect of the job is so important that unless the CEA Chair is a big picture person they shouldn't have the position.

Herb Stein's article of December 21, 1992, in the Wall Street Journal best makes the case for the need for someone to be a "spokesman for the market" as he believes that the pressures always exist for special treatment or policies for select industries—and someone has to be the one to stand up for market principles.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 21, 1992]

WHO SPEAKS FOR THE MARKET?

(By Herbert Stein)

I plan to resume wearing my Adam Smith necktie on Jan. 20. I stopped wearing it about 10 years ago in protest against the tendency of some people to wrap themselves in the mantle—or necktie—of Adam Smith to justify their neglect of the proper functions of government. I will resume wearing it in protest against what I fear will be the tendency of the new administration to use government to suppress or supplant the proper functions of the market.

This sartorial note is prompted by the naming of Mr. Clinton's economic team—composed, so far, of Lloyd Bentsen, Leon Panetta, Laura Tyson, Robert Rublin, Roger Altman, Alice Rivlin, Robert Reich and Ron Brown. This team has been described, and in some cases hailed, by the media as an artful balancing of moderates and liberals; politics, business and academia; deficit hawks and big spenders; men and women. I have not seen it described as two teams, one defensive and one offensive, although I suppose those words have been used somewhere.

This description of the team probably conveys some information. But it misses an important point. There does not seen to be anyone on the team who will reliably speak for the market. When I refer to the market I do not, of course, refer either to the stock market or to my local supermarket. I refer to the pervasive system of free exchange that coordinates economic activity to yield outcomes in production and distribution that are, with some exceptions, better than can be achieved by other methods. The fact that members of the president's team may be "conservative" or have backgrounds in business and finance does not necessarily mean that they will understand, appreciate and represent that function of the market.

WHAT CLINTON NEEDS

There are always many private interests and government agencies that make claims for government promotion of particular industries, by tax preferences, subsidies, expenditures, loans or loan guarantees, regulations, or protection against foreign competition. There will probably be more of these claims under the Clinton administration even than in the past, because Mr. Clinton gives the impression of being more receptive to them than past presidents have been. Mr. Clinton needs someone around him who will say:

"We have a system, the free market, that in general makes good determinations about the behavior of the economy. There may be exceptional cases in which this is not true and a better result can be obtained by government intervention. But claims for such exceptions need to be objectively analyzed by people who understand in general how markets work. If the claims do not clearly and strongly withstand such analysis they should be rejected."

For the past 40 years the president's Council of Economic Advisers has been the most consistent advocate of this position. From time to time other officials—from Treasury, Budget or the White House—have also represented this position, but the CEA has always been there. That is perfectly natural, because understanding and appreciation of the market is the unique quality that economists possess and can bring into government deliberations.

The role of the CEA as defender of the market was formalized about 30 years ago when the president gave instructions that the Agriculture Department should make no decisions about price supports or acreage restrictions without consulting the CEA. This did not, of course, give the CEA a veto, but it enabled the CEA to appeal to the president if it had strong disagreement with the proposals of the Secretary of Agriculture. Since then, the CEA has been regularly involved in analyzing major proposals for government intervention in the market and offering recommendations about them. The CEA did not always get its way. Perhaps it did not get its way most of the time. But the president certainly gained from being aware of its views.

One may say that this pro-market attitude of the economists who have constituted the CEA is a bias, a kind of "professional deformation." I do not think so, any more than the presumption of geographers that the earth is round is a bias. But that is not the point. The arguments the president hears will be full of ideological bias, self-interest and misinformation. It is important that he should also hear the views of economists, even if they reflect a kind of bias.

I have two worries—they are no more than that—about the role of the CEA in the Clinton administration as champion of the case for reliance on the market.

One worry relates to the possible operation of the interagency committee on economics, now to be called the National Economic Council with a director of its own, Mr. Rubin. Presumably the chairman of the CEA will be a member of the National Economic Council. The existence of the National Economic Council does not necessarily prevent the CEA from serving its function. It can do that if the CEA is recognized as having a special point of view, method of analysis and body of knowledge—not more important than those of other agencies, but different and deserving of serious consideration. But if the chairman of the CEA is just one fish in a pool of 10 cabinet secretaries, all with more resources and constituents than the CEA has, the CEA could be swallowed up and the voice for the market could be left unnoticed. Much will depend, therefore, on the degree to which Mr. Clinton and Mr. Rubin want to hear what economics has to say.

My second worry is about the attitude of the new chairman of the CEA, Mrs. Tyson. She undoubtedly knows the classical theory of the virtues of the market. But she certainly does not wear the Adam Smith tie. Aside from her research on Yugoslavia, her professional career has been mainly devoted to arguing that there are many important cases in which more government intervention would improve the working of the economy and that she is able to identify those cases. Although this argument sets my teeth on edge I would, as they say, defend her right to say it—as a professor writing one of the hundreds of journal articles that professors write every year. But I do not think it is a good position for the president's only economist adviser.

There will be plenty of people in and out of government making the case for specific government interventions. It should be the responsibility of the chairman of the CEA to represent what economists uniquely know: that markets work; that while there are exceptions to that general proposition, the exceptions are truly exceptional; and that most claims for the existence of an exception are self-serving and must be regarded with great skepticism.

A LOSING APPROACH

If the chairman abandons that position, and becomes only one more claimant on behalf of targeted expenditures, tax preferences, protectionism, subsidies, regulations and loans and loan guarantees, in competition with all the other departments, she is going to lose. If she accepts the proposition that the cases for and against intervention have equal probability of being valid, she will lose to other claimants who have just as sophisticated analysts and much more political clout than she.

While I worry about this, I have a feeling that is not going to happen. When Mrs. Tyson gets in the meeting room with a secretary of agriculture who wants to protect potato chips and a secretary of commerce who wants to protect computer chips and a secretary of transportation who wants an electric automobile and a secretary of education who wants more fellowships for chiropodists, etc., she may see the wisdom of re-

> lying on the general proposition that markets work. And if she then wants an Adam Smith tie, I will be happy to send her one.

Mr. BOND. Mr. President, Herb Stein is a former Chairman of the CEA, so he knows of what he speaks, but he has couched his views in terms of advice, not opposition to Ms. Tyson's nomination—a course I intend to follow today.

Thus, while I do not see anything in her record indicating a strong interest or complete understanding of the big picture, I respect the right of the President to choose who he wishes as his chief economic adviser. But that will not keep me from criticizing or critiquing her ideas and performance. For example, I am not convinced her consistent approach of targeting, narrowing the scope, and defining as strategic various industries and sectors is the area of expertise we need at the CEA.

Of course, her supporters have pointed out that her work in comparative economics is by nature a "small picture" effort. And that her focus on real world business or trade policies by studying real world cases is one of her major strengths—namely an understanding of the real problems facing business and industry in the international marketplace.

However, it is one thing to undertake a case study; it is another to understand an industry, accurately identify its problems, and then prescribe the correct solutions.

Two descriptive phrases are repeated time and time again by her supporters and reporters—"cautious activist" and "real world economist." These terms are also often used by Ms. Tyson to describe herself. Although in this city it is always better to define yourself rather than allow your components to do so, I must admit the two terms were jarring when I first heard them, and now, after much review of Ms. Tyson's record, they are even more so.

I must admit that I have some difficulty accepting the phrase "a real world economist" when she spent her first 10 years of academic life studying the Yugoslavian and Romanian economies, and based on information provided by those Governments, dutifully reported on their progress. This does not meet my definition of the real world.

Ms. Tyson is also an economist who, since the mid-1980's has done a series of studies of various U.S. industries, and while she eloquently describes their plight, can provide no evidence that her policy prescriptions would have led to better results than what occurred. What is "real world" about that? Her approach is typical economics—boldly define a problem, lay out a proposed solution—but provide no evidence that your solution has worked or will ever work. Mr. President, put me in the category of unconvinced as to her real world credentials.

But what about the cautious activist? Is that an activist who believes Government can solve all, or that Government can create a better, freer market—but is cautious in the actual application of the theory?

Or is it a cautious economist who wants to be right, is not sure what to do, so talks generally about the need to be an activist?

Mr. President, regardless of what I believe, it is clear to me what Ms. Tyson's strongest supporters see—an activist who will intervene in the market to protect or encourage certain key industries.

A quick review of comments made at the hearing by her supporters tells the tale.

"Tough positions on trade";

"Outlines a progressive trade policy to assist American companies";

"Understands we live in a world of imperfect competition and does not worship at the alter of free markets as many do";

"Has stated that we need to formulate effective programs and policies to assist American companies to compete overseas";

"Look forward to working with you on education, trade, competitiveness, industrial policy, and a whole range of issues where reform is so greatly needed * * *."

These supporters do not want to quibble over the details; they simply are pleased to know they have an ear for their save-our-industry industrial policy proposals.

Of course, if they had listened carefully to the testimony, perhaps they wouldn't be so sanguine.

Mr. President, knowing of Ms. Tyson's work on the need for a nation to define its strategic industries and then first, to avoid policies which would harm these industries, and second, to pursue policies which would help, I asked Ms. Tyson if she felt "the Council of Economic Advisers should help us identify strategic industries?

Her response? "No. I don't think that the Council of Economic Advisers should do that. And it will not do that."

Now, Mr. President, does this mean that her supporters have got it all wrong? That she's really a Michael Boskin clone?

In 15 seconds she disavowed and tossed away her entire academic career, which was built on the promise—her words, not mine—certain activities and industries are measurably more important than others to the Nation's well-being." and "strategic thinking requires that we assess policies in terms of their implication for such activities or industries over the long run."

That is what her supporters like about her. that's the real world economist who's book, "Who's Bashing Whom," adorns their coffee table.

So why did she testify at the Banking Committee,

> It is definitely not an active policy of setting up lists of * * * these are the industries we should promote. * * * I haven't advocated that in any place.

Except, Mr. President, in her writings, most recently her book "Who's Bashing Whom," chapter 7, subheading "The Need for Complementary Technology and Industrial Policies." In it she writes:

> The U.S. Government must develop an institutional mechanism for assessing industries on an ongoing and timely basis. The Government should either designate an existing agency or create a new one to perform several related tasks, including evaluating the likely course of key American industries * * * and monitoring the activities of foreign government and firms in these industries to provide an early warning of competitive problems in the future.

I presume the key American industries would be divinely discerned, or so intuitively obvious that no effort would need to be made to develop or set up the list?

And, of course, this raises yet another question: Do we want Government agencies keeping close track of competitive problems caused by foreign firms—even if foreign governments are not involved, so we can, in Ms. Tyson's words, "make wise decisions on a variety of trade policy questions."

Mr. President, who is kidding whom? President Clinton's nominee for his chief economic adviser is cautious only when discussing her positions in her confirmation hearing; she is an industrial policy interventionist the rest of the time.

And that is why her supporters like her so much.

And that is why most of the rest of us are skeptical. Picking winners and losers is tough enough from the safety of the ivy-coated walls of academia—it's impossible when politics and bureaucrats get involved.

Thus, I hope it is Ms. Tyson's strong supporters who are disappointed and her skeptics who are surprised that it is the adviser who said "no" to list-making and picking strategic industries who shows up to work, rather than the prolific writer of the past decade.

I, for one, will be watching.

But, Mr. President, what about the rest of the economy—interest rates, savings, M-2 growth, budget deficit, exchange rates, tax policy? Shouldn't the President's chief economic adviser be involved in these issues as well—or will the Council of Economic Advisers become known as the White House outpost for the Special Trade Representative?

Part of the concern many have over the selection of Ms. Tyson is that, while important, trade is only a piece of our economic puzzle. Sears laying off thousands has nothing to do with the

Japanese or the EC—it has everything to do with new competitors such as Wal-Mart and Home Depot beating it in the market place.

High labor costs, inefficient inventory management, coupled with aggressive competitors and a weak retail market these past few years have put Sears in the spot its now in.

Sears is not a key industry. It is not strategic. So what does Ms. Tyson have to say about its fate? Is competition good only when it is U.S. products beating foreign products, but bad when new U.S. companies beat other U.S. companies?

IBM is another example. Failing to understand the mood and desires of their market have let newer companies eat into their marketplace. Is IBM strategic? Should the Clinton team prepare a strategy to preserve it?

Robert Samuelson's op-ed in Wednesday morning's Post makes the point better than I that competition is not pretty, but it works. Thus, I ask unanimous consent to insert his article in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SURVIVAL OF THE FITTEST

(By Robert Samuelson)

"We must reverse the slide that brings us headlines like Sears cutting 50,000 jobs and IBM taking out nearly 75,000 jobs."—Treasury Secretary Lloyd Bentsen.

Bentsen's got it backward. The convulsions shaking some of America's biggest companies—IBM, Sears, General Motors—are actually a sign of vitality. Our economy adapts to change. Companies that have grown inefficient or whose products are in decline give way to more productive enterprises. It is precisely this process that ultimately raises, incomes and living standards. We would not want an economy stuck in the past.

There is a great contradiction here. Almost no one likes to admit that the hardships of the few (which everyone deplores) lead to benefits for the many (which everyone applauds). But this is undeniably true. The harsh disciplines of recessions, fierce competition and new technologies help make the economy more efficient, even while creating layoffs and bankruptcies. Companies are forced to cut costs. Weaker firms shrink or vanish.

Grasping this provides some perspective on the latest economic gripe: The recovery isn't generating jobs. Strictly speaking, this isn't true. There are two government job surveys. One shows a gain of 1.6 million jobs over the past year; the other indicates 560,000. Either way, the increase is modest. But the explanation is not that the economy can't create jobs. Rather, the rapid growth of some companies is being offset by the deep cuts of firms struggling to improve profitability.

Everyone knows about the Sears cuts. But you don't hear much about the job increases at Wal-Mart (up 142,000 since 1990) or Home Depot (up 16,500 since 1990). In 1985, Sears was the nation's biggest retail chain with $21.5 billion in sales. Since then, it's stagnated—1992 sales totaled roughly $25 billion—while Wal-Mart became the largest chain. From $8.5 billion in 1985, its sales have grown to an estimated $54 billion in 1992. Sales at Home Depot, a hardware and lumber chain, have nearly doubled to $7 billion since 1990.

These chains and others like them have simply undersold Sears. In 1991, overhead costs at Sears (wages, rent, advertising, utilities etc.) came to 29 percent of sales. By contrast, over-head at Wal-Mart and Home Depot ranges between 19 and 21 percent of sales. These chains have been more skillful at using computers to minimize inventories and to stay stocked with popular items. They consistently keep prices low and avoid sales. This cuts advertising and the expense of constant price changes.

The same thing is occurring in countless industries. In 1980, U.S. shipments of mainframe computers were worth about six times the shipments of personal computers. By 1984, they were about equal, and now personal computers are about 40 percent higher. IBM underestimated the speed of this change and also is being underpriced by younger companies with lower costs—companies like Compaq and Dell. In 1992, these two firms' share of the global personal computer market (10.1 percent) nearly matched IBM's (12.4 percent), according to Dataquest, a market research firm.

Shakeouts don't last forever. Sooner or later, older companies either adapt to new competition or disappear. Sales and job growth become concentrated in more efficient firms. But the adjustment is traumatic while it's happening. The trauma is now being compounded by the aftershocks of the 1980s boom. Perversely, booms can breed inefficiency. The longer they last, the more people think they will never end. Toward its end, the 1983–90 expansion lapsed into this sort of mindless optimism.

Entire industries acted as if a recession would never again occur. Take airlines. Between 1985 and 1990, U.S. air carriers increased employment 54 percent while passenger traffic rose only 36 percent. Hundreds of new planes were ordered and delivered. Everyone assumed that travel would continue to expand rapidly. When it didn't, the industry found itself saddled with enormous costs. Not surprisingly, it has suffered massive losses (more than $10 billion since 1990), bankruptcies and job cuts.

In a perfect world, mistakes would never happen. But in our imperfect world, they need to be corrected. Competition and recessions do that. This sometimes brutal process has nothing to recommend it except that the alternative is worse: letting the mistakes persist. What we now regard as unwholesome turmoil probably portends improved income gains later in the decade, as economist Stephen Roach of Morgan Stanley, the investment banking firm, argues. The vast service sector—stores, banks, airlines, restaurants, utilities—is being pressured to be more productive.

This is crucial. Services account for about 60 percent of the economy's output. But their productivity growth has been meager, less than one percent annually. By contrast, productivity growth in manufacturing (a fifth of output) has averaged about 3 percent annually. Some of the service sector's poor performance may be a statistical fluke, as economist Robert Gordon of Northwestern University points out. When more people shop at discount stores, the statistics don't indicate that average prices are dropping. Still, higher living standards require a productive service sector that can either raise wages or cut prices.

Once, Sears, IBM and other ailing giants were upstarts. They dislodged entrenched enterprises and pushed down prices. A century ago, the Sears mail-order business gave farmers an alternative to high-priced local stores. The 1899 Sears catalogue warned its readers: "This book tells you just what your storekeeper pays for everything he buys—and will prevent him from overcharging you." The company's early success was as astounding as Wal-Mart's is today. Between 1894 and 1905, Sears sales jumped from $785,000 to $38 million.

Our economy is operating as it has in the past. It's survival of the fittest. We should keep the concern for jobs in perspective. They will come in time. By contrast, a quick explosion of unproductive jobs won't make a more productive economy. Survival of the fittest seems heartless, and it is. Competition and change are scary and unsettling. They also inspire creativity and impose discipline. Without them, we face stagnation. Does anyone really favor survival of the unfittest?

Mr. BOND. Mr. President, it is questions like this that are unsettling. For every easy choice to protect an industry—"Who's Bashing Whom" discusses Boeing; Motorola; Cray—there exist 10 others with equally compelling cases to be made.

So where is the line drawn? And who draws it? Congress, the most protectionist force in government? The Special Trade Representative? The CEA? The Department of Commerce? A new special bureaucracy in charge of keeping tabs on key industries as advocated by Ms. Tyson in her book.

Both the New Republic and the Economist have made these points in recent articles. I would ask they too be inserted in the RECORD and would commend them to my colleagues. All of us would like to know who will make the case that the fate of one company may be less important to the Nation than the cost of propping it up?

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New Republic, Feb. 1, 1993]

ECONOCLAST

(By Michael Lewis)

Like most economic controversies, the one over the appointment of Laura Tyson to chair the Council of Economic Advisers has something of the flavor of a theological dispute. Just about everyone qualified to pronounce on her suitability for the job is partisan, especially within her profession. Paul Krugman of MIT has said that Bill Clinton's selection ignores the "pecking order" in academic economics. Robert Lawrence of Harvard says the choice can only mean that Clinton wants to advise himself.

There is, of course, an element of jealousy in objections of this sort, but there may be more to it than that. Among many economists there is the feeling that Tyson has abandoned the profession. It isn't that she lacks book learning. She's got plenty of credentials: summa cum laude from Smith, Ph.D. from MIT—the high church of mathematical economics—early tenure at Berkeley, a forest of publications with bodice-ripping titles such as "Incentives," "Income sharing and Institutional Innovation in the Yugoslav Firm" and "Modelling Structural Adjustments: Micro and Macro Elements in a General Equilibrium Framework." It is what she had done with her credentials that so unsettles many university economists. Now 46, Tyson has spent the last ten years ignoring some of the most sacred assumptions about international trade. As Herbert Stein, who chaired Richard Nixon's Council of Economic Advisers, says, "The role of the White House economist is largley to explain that markets work. She starts with more of a predisposition toward government intervention in the market than most past chairmen of the council, and then most economists."

That's putting it mildly. The essence of the neoclassical comparative advantage trade theory, which has guided American policy since the end of World War II, is that it always pays for a country to keep its markets open and free of government interference, even if other countries do not. But the essence of the better part of Tyson's academic work is that government should interfere, especially in high-tech industries,which she accords a special place in our economic future. Left to their own devices, American high-tech industries invest too little in themselves, she argues, especially in the face of heavily subsidized foreign competition. In many cases companies are constrained by high start-up costs. And all companies fail to account for the other spill-over benefits—externalities, in economics jargon—from high technology. "Exporting a dollar's worth of oranges may have the same effect on the trade balance as exporting a dollar's worth of computers," she writes in her newly published book, "Who's Bashing Whom?," "but the two have radically different effects on other crucial determinants of economic health, including employment, productivity, wages, skill formation and investment in research and development."

The book is an extension of Tyson's faith in government activism. The problem with the argument, however, is that neither she nor anyone else has proved that the benefits justify the costs. Tyson's work, including the work she has overseen at the Berkeley Roundtable of International Economics, has consisted largely of assembling case studies. These show persuasively that foreign governments have intervened successfully on behalf of their high-tech industries to tip the markets in their directions. They also show how foreign governments have played a role in putting American companies out of business, in some cases—as with the semiconductor industry—costing our producers more than it benefits our consumers.

Nowhere do they show that the interventionist policies actually benefit the country that puts them in place. Studies of both the $26 billion spent by a consortium of European governments to get Airbus off the ground and of the Japanese semiconductor industry confirm what the free trader theorists would expect; that the policies actually decreased social welfare. As Krugman has put it, "There just isn't any evidence that an aggressive strategic trade policy can produce large gains."

As a result, one feels that the prevailing trade theory is being chucked out of the White House without an intellectually respectable replacement. The argument that markets don't work comes along at a suspiciously convenient time, when everyone is looking to explain the perceived market failure of American companies. In view of the obvious gap in Tyson's argument—the absence of persuasive quantitative evidence of the welfare gains of government intervention—it is also a little suspicious that she has made no attempt herself to fill it with measurements. A cynic might say there is no place for science in Tyson's work: because her theories aren't couched in such a way that they can be tested, they can't ever be proved wrong. Evidence that Japan actually would have been better off had it not intervened in its semiconductor industry, for example, can be dismissed in a variety of ways: that the measurement of the benefits are too narrow; that only time will reveal the full benefits to the economy of a thriving trade in semiconductors; that the Japanese spent more money intervening than was needed.

But this sort of positivist talk—so central to academic economics—is suddenly even less pertinent than ever. The conceit that economics should be subjected to the same standards as physics has no place either in Tyson's thought or in the Clinton administration. There wasn't anyone at the December economic conference in Little Rock who stood up for the scientifically correct free trade ideology. At the heart of Clinton's choice of economic advisers is the view, seconded by Tyson's writings, that economic policy-making is less like science than like cooking. From now on we'll be adding our subsidies to taste, or as Tyson puts it, "We need to improvise in a world that provides no ideal models."

It's hard to say exactly what this means in practice. No doubt everyone will agree on Tyson's proposal to intensify the demands for access to foreign markets, especially the technology markets of Japan. The Clinton economic team may also agree on a set of subsidies for research and development in high-tech industries that may be labeled industrial policy. In the past, one of the main political brakes on government intervention in the market has been the State Department's fear of alienating allies, which is much weaker in the aftermath of the cold war. And if it happens, depending upon how our trading partners respond, we may end up in a trade war fought with arms race logic, with each trading bloc trying to outsubsidize the others in order to acquire the comparative advantage.

If there are risks that come with Tyson's appointment, though, there are also some spillover benefits. A clear-eyed view of what is important within our economy implies a view of what is not, such as the subsidy to honeybee farmers. Tyson describes herself as a "cautious activist," one who "supports general policy measures such as a more generous R&D tax credit and increases in public funding for civilian R&D and education." Nowhere in her writing is she anything but hostile to simple protection—quotas and tariffs—even for high-technology industries. Her lack of free market dogmatism may make her more credible when it comes time to discuss the self-defeating protectionism that is now routinely endorsed in Washington because we lack any coherent view of how government should relate to industry.

The second side effect is that we may, for a change, have a White House economist with a bit of integrity. There has been a disturbing tendency for CEA economists to abandon their science the moment they are hired, at which point they become economic hucksters waving cheery forecasts of higher employment and lower inflation. One vice to which Tyson is not prone is the intellectual dishonesty born of cowardice. There are a number of ways she could have couched her views on trade so that they seemed more mainstream than they are. For instance, she could have advocated the same blend of policies in the interest of national security. So she deserves some credit for having the nerve to break explicitly with the catechism of her profession. She was also willing to jeopardize her political future with a negative review of Robert Reich's recent book, "The Work of Nations, in The American Prospect." In any case, it will be refreshing on the heels of Michael Boskin to have a White House economist who will do something other than promise that the recovery is right around the corner.

[From the Economist, Jan. 9, 1993]

SELECTIVE REALISM

Of the senior people whom Bill Clinton has appointed to his new administration, Laura D'Andrea Tyson is one of the most intriguing. The next head of the president's Council of Economic Advisers comes from the "liberal" (ie, illiberal) end of America's economic spectrum; she has been one of the country's leading advocates of active trade and industrial policies. Unlike many others of that group, though, she is not merely a professional economist—and therefore schooled in the arguments against that sort of state intervention—but also a very accomplished one, who commands wide respect among her academic peers. If anybody is going to make the case for trade-policy activism convincing, it is Ms. Tyson.

Washington's Institute for International Economics published Ms. Tyson's new book[1] on the subject just days before the news of her next job became public, confirming the institute's remarkable knack of being in the right place at the right time. For its subject (which is of pressing importance), for the standing of its author, and for its topicality, "Who's Bashing Whom?" deserves to be widely read. For its conclusions, however, one can only hope it will be ignored.

The book begins with a sketch of international trade in high-technology industries—computers, electronics, drugs, aircraft and so on. Ms. Tyson's premise is that such trade is everywhere strongly influenced by government policy of one sort or another: industrial policies (subsidies, regulatory regimes, international collaboration on standards and so on), trade barriers (tariffs, quotas, procurement policies for state-owned industries, etc) and assorted other policies that create or permit "structural impediments" to trade (especially tolerance of restrictive practices). In other words, trade in these industries is anything but "free".

Ms. Tyson next argues that high-technology industries are especially valuable to an economy; they are, in the current jargon, "strategic". This is true, Ms. Tyson argues, in two ways. First, high-tech industries typically have formidable barriers to entry, because the costs of research and development, and of creating manufacturing capacity, are often high. This means that firms already in the industry will enjoy a degree of monopolistic power; with that go monopolistic profits, or "rents". Second, high-tech industries shower a variety of external benefits on the rest of the economy—for example, by training a pool of highly skilled labour, and by creating a demand for intermediate goods that local producers may have a competitive advantage in meeting.

Of course, Ms. Tyson argues, it is no coincidence that high-tech industries are both especially valuable and subject to lots of government interference. Outside America, governments have realised that with a subsidy here, a trade barrier there, and a structural impediment to be on the safe side, they can gather for their own economies a bigger share of those monopolistic rents and economic benefits. America, which is keener than other countries on freeish trade and little industrial intervention, has put itself at a disadvantage—and its lead in critical industries is disappearing.

Ms. Tyson acknowledges that trade and industrial policies are easily "captured" by producer-interests, and that a policy which makes a producer better off may not make the economy as a whole better off. She also says that she is a multilateral free-trader at heart—i.e., she believes in the Gatt and all that. As a "cautious activist", however, she wants to intervene in cases where trade and industrial policies can do most good. For instance, she wants to use measures such as section 301 of America's trade law to force foreigners to open their markets, by threatening to raise new barriers against their exports to America. Reviewing the recent history of American "aggressive unilateralism" on trade, she finds it, by and large, a success.

Ms. Tyson is not so much a "cautious activist" as a "selective realist". She is realistic about markets: sometimes they do, indeed, fail. But she is unrealistic about governments; they fail too—and how. Although the book agrees that intervention can be captured by producers, and that helping those who lobby successfully may not make the economy better off, these points, once made, are soon forgotten. In the case studies that make up the bulk of the book, the reader is nearly always invited to identify the producer interest with the public interest. Where there is evidence to the contrary—e.g., studies have shown that Europe's subsidies for the Air-bus programme reduced Europe's overall welfare—Ms. Tyson is content to pick holes in the researchers' methods, without offering quantified evidence to support her own position.

Since most such evidence, one way or the other, is likely to be inconclusive, a lot depends on where the burden of proof is placed. Ms. Tyson implicitly puts it on America's non-interventionists; they must explain why they want to be different. But this is surely incorrect. What is certain about most sorts of intervention is that, in the first place, they impose costs (a subsidy requires higher taxes, a trade barrier raises prices to consumers). The burden of proof must be on those who claim that there are benefits to offset these costs. Ms. Tyson offers no such proof.

You could argue that section 301 actions are an exception to this—that no proof is needed. Such measures arguably impose no costs on America: the mere threat of trade barriers is enough to open foreign markets. That may seem true, as long as the threat succeeds—which, so far, it usually has. But in this case the eventual cost may be greatest of all. Such actions erode the mainly liberal trading system that Ms. Tyson insists she wants to uphold: an agreement to expand imports by decree (the typical outcome of a section 301 action) is a victory for managed trade, not liberal trade.

America retains enormous economic clout, as Ms. Tyson agrees—for if it did not, the trade measures she favours could never succeed. It can use this clout to lead the world to freer trade, as it has for nearly 50 years; or to lead it somewhere else, enriching lobbyists and hobbling itself and the world in the process. Ms. Tyson urges the latter course.

[1] "Who's Bashing Whom?" By Laura D'Andrea Tyson, Institute for International Economics, Washington, DC. Price $40.

[From the Economist, Jan. 9, 1993]

WHEN THE STATE PICKS WINNERS

During his election campaign Bill Clinton promised to put the American economy back on its feet. Lately it has shown signs of reviving without his help, so the new president will have to be quick if he is to win any credit. One group of advisers offers the answer: trade and industrial policies should be used more ambitiously. Instead of trusting in the market, as naive Republicans are said to have done, these advisers want to bolster American competitiveness by helping the country's critical industries—with subsidies, trade protection and in other ways. To show he means business, Mr. Clinton has appointed one such economist, Laura D'Andrea Tyson, to be the head of his Council of Economic Advisers.

The idea could catch on. Mr. Clinton will hear no complaints from companies that stand to gain from an industrial policy. And few that stand to lose will object, because they are largely unaware of the fact. In other countries, trade and industrial policies have been more common than in the United States; because they failed, many governments spent much of the 1980s paring them back. But the advocates of this approach remain keen. Nothing would cheer them more than to see Mr. Clinton take up their cause.

If the new interventionists get their way, it will be, at best, a setback for Anerica. At worst, if such policies were allowed to undermine the global trading system, they could cripple the world economy. For everybody's sake, Mr. Clinton should satisfy his activist appetites in safer and more useful ways—of which, as it happens, there are plenty.

ASSUME GOOD GOVERNMENT

The first refuge of a policy scoundrel is "realism". Free enterprise, the new interventionists say, is fine in theory: in a world of perfect competition, firms could be left to get on with it. In practice, they point out, competition is far from perfect, so none of the theoretical benefits of free enterprise may come about and intervention therefore makes sense. In short, the new interventionists present themselves as hard-headed realists, pitted against free-market dreamers.

The opposite is closer to the truth. Market-minded thinkers since Adam Smith have acknowledged that the case for intervention by governments is strong—in theory. That is because "market failure" (caused, for instance, by too few producers of any given product) is indeed common and because—again in theory—governments are wise, disinterested and technically competent. In practice, as you may have observed, governments rarely measure up to those standards, least of all when trying to spur growth by intervening. That is why, in the real world, government failure has done more harm than market failure. Interventionists have been allowed their propaganda advantage too long. It is they who are the sellers of textbook theories. Those who favour markets are the pragmatists.

That settled, the task is to understand more precisely why these texbook theories go wrong. Interventionists say that some industries are "strategic", meaning one of two things: either profits are higher than they would be under pure competition (because of barriers to entry, for instance), or social gains from the industry exceed private gains because of "external benefits" (for example, the industry may train workers who later raise productivity elsewhere). A subsidy, or protection from competition, may serve the public interest if it enables such an industry to stay in business.

This interventionist argument has many awkward corners. For a start, which industries are strategic? On the vague criteria of "abnormal profits" and/or positive externalities, it is hard to think of any that would not be candidates. But industrial policy is intended to discriminate, to favour certain industries at the expense of others; you cannot favour them all.

To meet this objection, many new interventionists narrow their case to high-tech industries—aircraft, drugs, computing and electronics. This, too, is not as obvious as it sounds. Wages are higher in high-tech industries than in others, but this many be due to differences in skills rather than to abnormal profits—i.e., the market may be working well. And Paul Krugman of MIT, though a pioneer of the new theories, says the claim that the social returns to high-tech industries significantly exceed the private returns is "at best unsupported by the evidence".

Unimpressed by such nit-picking, the new interventionists call for vision. Surely, they argue, it is better to risk supporting the odd industry that is falsely reckoned to be strategic than to allow the collapse of others that are falsely reckoned not to be. It might be so, if support cost very little. Actually, it costs a lot. The direct cost of any subsidy or trade barrier is merely the downpayment. The possibility of such help causes firms to invest resources in lobbying for it. And the political character of this competition makes it all the harder to ensure that aid is well spent. Europe's efforts to promote its high-tech industries illustrate the risks and difficulties only too well (see pages 19–21).

America's new interventionists see such evidence in a different light. Everybody else is intervening, they say, so America needs to. But must America really copy other countries' mistakes? Interventionists point to Japan, whose government has arguably used trade and industrial policies successfully; but they ignore or misunderstand the scores of other countries, rich and poor alike, that have wasted billions on such initiatives. Many cite Europe's state-financed Airbus programme as a success story. Undeniably, from America's point of view, the venture has hurt Boeing, America's biggest aircraft producer. So much so, indeed, that Boeing is trying to undermine Airbus by drawing some of the consortium's members into a new transatlantic alliance (see page 57). Some Americans conclude that their government should help Boeing as European governments help Airbus. What they forget is that Airbus has cost Europe's taxpayers dear. Its aircraft makers have gained, but the project has left Europe as a whole worse off.

AN ACTIVISTS' CHARTER

Governments need not, and should not, be idle. There is much they can do to spur competitiveness and economic growth. Choosing the right policies is a matter of cost-effectiveness: do what costs little and is sure to work well; avoid what costs a lot and probably will not work at all.

One highly cost-effective policy, especially in America, would be to curb public borrowing. By reducing the government's call on the supply of capital, a smaller budget deficit would lower the long-term cost of finance. That would directly spur investment of all sorts, with no need for fallible governments to decide what is or is not strategic. The other top priority would be to deal with aspects of the tax system that favour debt over equity; reducing that bias, especially powerful in America, would encourage firms to think, and invest, for the long term.

Next come policies whose cost-effectiveness is less clear-cut, but which are probably worth undertaking so long as they can be reconciled with prudent public finance. In descending order of merit, increase public investment in education, in infrastructure and

> in certain sorts of research and development. The first two are expensive commitments; but there are good reasons for thinking that firms and consumers will spend too little on them if left alone, and the evidence that such investment promotes growth is strong. Greater public support for R&D (in the firm, say, of grants to universities and firms working together on pre-competitive research) is tricky to administer, but need not be expensive; again, the evidence suggests that this can foster growth.
>
> At the bottom of the list come the policies that are best avoided: policies that seek to pick and protect winners. With much better ideas waiting to be acted on, it is a pity that these are even being discussed—but they are. A new book by Ms Tyson, Mr. Clinton's top economic adviser, advocates them (see page 59). For the world economy's sake, it must therefore be hoped that the new president will follow his chief economist's advice as closely as his predecessors did.

Mr. BOND. Interestingly, Ms. Tyson makes this argument herself in her opposition to the McDonnell Douglas Taiwan aerospace deal. She states:

> The American government has not asked the hardest question of all * * * would the entry of this new aircraft into a global market already suffering from substantial excess capacity be in the national interest?

But then goes on to say:

> The McDonnell Douglas case clearly demonstrates that a civilian industrial policy is sorely needed to guide the American aircraft industry through the difficult days of conversion, restructing, and intensified foreign competition that lie ahead.

Mr. President, reading this one can only conclude that without an activist government helping, Ms. Tyson believes an industry she calls strategic will fail. Unfortunately, she does not describe her prescription for the cure, thus giving us no opportunity to assess whether her treatment is worse than the illness. And as Michael Lewis notes in his article in the New Republic: "A cynic might say there's no place for science in Tyson's work because her theories aren't couched in such a way that can be tested, they cannot ever be proved wrong."

So what are Ms. Tyson's views on the other issues facing the economy?

On the Federal Reserve's recent policies, she told me that she felt they had done about as much as possible, and that a real threat of rekindling inflation expectations did exist if they were to cut the discount rate further. This, of course, would drive long-term rates up, and could choke off some new investment.

She stated she believed that M-2 was too diverse and variable to really be controlled by policymakers, seeming to imply that the recent concern over low growth in M-2 was over blown.

I would recommend to her Chairman Greenspan's recent comments that M-2 may no longer be a good determiner as to what the financial system as a whole is doing. He noted that a substantial amount of M-2 deposits have apparently moved out into mutual funds as interest rates have stayed low for savings. What is not clear is if this is a temporary phenomenon or a permanent shift. I would hope Ms. Tyson would keep an eye on this issue.

I would also hope she would be willing to articulate a series of basic principles that policies would be measured against.

As a nation who's cost of capital as well as cost of labor are becoming uncompetitive against international competitors, all policies should be weighed as to how they affect these two costs.

Mr. President, the role of the CEA will change dramatically under Ms. Tyson if she acts as her supporters devoutly wish. I can only repeat that I, and I hope, many others in this body will be watching with great interest to see which of the Laura Tyson's shows up for work.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MESSAGES FROM THE HOUSE

At 10:17 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1. An act to grant family and temporary medical leave under certain circumstances.

The message further announced that pursuant to the provisions of section 2(b) of Public Law 98-183, the Speaker reappoints Ms. Mary Frances Berry from private life to the Commission on Civil Rights on the part of the House.

The message also announced that pursuant to section 1 of House Concurrent Resolution 192, 102d Congress, as enacted by section 317 of Public Law 102-392, the minority leader designates Mr. DREIER to serve as Vice Chairman of the Joint Committee on the Organization of the Congress; and appoints Ms. DUNN to said committee, to fill an existing vacancy thereon.

The message further announced that pursuant to the provisions of sections 5580 and 5581 of the revised statutes (20 U.S.C. 42-43) and the order of the House of Wednesday, January 27, 1993, authorizing the Speaker and the minority leader to accept resignations and to make appointments authorized by law or by the House, the Speaker on January 27, 1993, did appoint as members of the Board of Regents of the Smithsonian Institution the following Members on the part of the House: Mr. NATCHER, Mr. MINETA, and Mr. MCDADE.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-499. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 9-337 adopted by the Council on December 1, 1992; to the Committee on Governmental Affairs.

EC-500. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 9-336 adopted by the Council on December 1, 1992; to the Committee on Governmental Affairs.

EC-501. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 9-335 adopted by the Council on December 1, 1992; to the Committee on Governmental Affairs.

EC-502. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 9-334 adopted by the Council on December 1, 1992; to the Committee on Governmental Affairs.

EC-503. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 9-340 adopted by the Council on December 1, 1992; to the Committee on Governmental Affairs.

EC-504. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 9-341 adopted by the Council on December 1, 1992; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. Res. 65. An original resolution to authorize expenditures of the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEAHY (for himself, Mr. PRYOR, Mr. BOREN, Mr. DASCHLE, Mr. CONRAD, Mr. FEINGOLD, Mr. SHELBY, Mr. WELLSTONE, Mr. ROCKEFELLER, Mr. KOHL, Mr. SIMON, Mr. AKAKA, Mr. HARKIN, Mr. HEFLIN, and Mr. BREAUX):

S. 309. A bill to make emergency supplemental appropriations to provide a short-term stimulus to promote job creation in rural areas of the United States, and for other purposes; to the Committee on Appropriations.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 310. A bill to amend title V of Public Law 96-550, designating the Chaco Culture Archaeological Protection Sites, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BUMPERS:

S. 311. A bill to amend section 2511 of Title 18, United States Code, to make lawful the interception of an oral, wire, or electronic communication that is made with the consent of all parties to the communication; to the Committee on the Judiciary.

By Mr. DOMENICI:

S. 312. A bill to suspend temporarily the duty on rifabutin (dosage form); to the Committee on Finance.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 313. A bill to amend the San Juan Basin Wilderness Protection Act of 1984 to designate additional lands as wilderness and to establish the Fossil Forest Research Natural Area, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SARBANES (for himself, Mr. PELL, and Mr. HATFIELD):

S. 314. A bill to authorize appropriations for the National Historical Publications and Records Commission for fiscal year 1994 through fiscal year 1999; to the Committee on Governmental Affairs.

By Mr. GRAMM:

S. 315. A bill to authorize negotiation of free trade agreements with the countries of the Americas, and for other purposes; to the Committee on Finance.

By Mr. DECONCINI (for himself and Mr. MCCAIN):

S. 316. A bill to expand the boundaries of the Saguaro National Monument, and for other purposes; to the Committee on Energy and Natural Resources..

By Mr. DECONCINI:

S. 317. A bill to reform Customs Service operations, and for other purposes; to the Committee on Finance.

By Mr. JOHNSTON (for himself and Mr. KRUEGER):

S. 318. A bill to provide for the energy security of the Nation through encouraging the production of domestic oil and gas resources in deep water on the Outer Continental Shelf in the Gulf of Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WOFFORD:

S. 319. A bill to require the Secretary of Defense and the Defense Base Closure and Realignment Commission to make recommendations in 1993 and 1995 for the termination and reduction of United States military operations at military installations outside the United States; to the Committee on Armed Services.

S. 320. A bill to provide for certain reforms with respect to unemployment programs; to the Committee on Finance.

By Mr. DECONCINI:

S. 321. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide on-site daycare facilities for dependents of their employees, and for other purposes; to the Committee on Finance.

S. 322. A bill to amend the Land and Water Conservation Fund Act of 1965 to ensure sufficient funding for Federal and State projects and for maintenance and security needs, to encourage multipurpose acquisitions, and for other purposes; to the Committee on Energy and Natural Resources.

S. 323. A bill to establish an Office of Hispanic American Affairs in the Executive Office of the President, and in various Federal departments and agencies, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BAUCUS:

S. 324. A bill to improve monitoring of the domestic uses made of certain foreign grain after importation, to use the export enhancement program to promote the export of wheat to Mexico, and for other purposes; to the Committee on Finance.

By Mrs. KASSEBAUM (for herself, Mr. DANFORTH, and Mr. BURNS):

S. 325. A bill to provide for comprehensive health care access expansion and cost control through reform and simplification of private health care insurance and other means; to the Committee on Finance.

By Mr. WARNER (for himself and Mr. ROBB):

S. 326. A bill to revise the boundaries of the George Washington Birthplace National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI (for himself, Mr. BUMPERS, Mr. DURENBERGER, Mr. GLENN, and Mr. HATFIELD):

S. 327. A bill to amend the Internal Revenue Code of 1986 to permit rollovers into individual retirement accounts of separation pay from the Armed Services; to the Committee on Finance.

By Mr. BRADLEY:

S. 328. A bill to provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway National Recreation Area in the State of New Jersey, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DANFORTH (for himself, Mr. HOLLINGS, and Mr. INOUYE):

S. 329. A bill to amend section 315 of the Communications Act of 1934 with respect to the purchase and use of broadcasting time by candidates for public office, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL:

S. 330. A bill amend section 101 of title 11, United States Code, relating to eligibility to serve on chapter 11 committees; to the Committee on the Judiciary.

By Mr. KENNEDY:

S. 331. A bill to amend the Federal Food, Drug, and Cosmetic Act to revise the authority under that Act to regulate pesticide chemical residues in food; to the Committee on Labor and Human Resources.

By Mr. SPECTER:

S. 332. A bill to amend the Unfair Competition Act and Clayton Act to provide for private enforcement of the Unfair Competition Act in the event of unfair foreign competition, and to amend title 28, United States Code, to provide for the enforcement of the customs fraud provisions; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mr. DANFORTH, and Mr. INOUYE):

S. 333. A bill to clarify the congressional intent concerning, and to codify, certain requirements of the Communications Act of 1934 that ensure that broadcasters afford reasonable opportunity for the discussion of conflicting views on issues of public importance; to the Committee on Commerce, Science, and Transportation.

S. 334. A bill to amend the Communications Act of 1934 regarding the broadcasting of certain material regarding candidates for Federal elective office, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE (for himself, Mr. STEVENS, Mr. DANFORTH, Mr. KERRY, and Mr. BURNS):

S. 335. A bill to require the Secretary of Commerce to make additional frequencies available for commercial assignment in order to promote the development and use of new telecommunications technologies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN:

S. 336. A bill to amend the Stock Raising Homestead Act to resolve certain problems regarding subsurface estates, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN (for himself and Mr. METZENBAUM):

S. 337. A bill to amend the Public Health Service Act to prohibit physicians from referring patients to health entities in which they have a financial relationship and for other purposes; to the Committee on Labor and Human Resources.

By Mr. FORD (for himself and Mr. KRUEGER):

S. 338. A bill to amend the Petroleum Marketing Practices Act to clarify the Federal standards governing the termination and nonrenewal of franchises and franchise relationships for the sale of motor fuel, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS:

S. 339. A bill to amend the Internal Revenue Code of 1986 to extend for 6 months the deduction for health insurance costs of self-employed individuals; to the Committee on Finance.

By Mr. HEFLIN (for himself, Mr. PRESSLER, Mr. SHELBY, Mr. DASCHLE, Mr. CONRAD, Mr. CAMPBELL, Mr. BROWN, Mr. DECONCINI, Mrs. KASSEBAUM, Mr. DANFORTH, Mr. MACK, Mr. COATS, Mr. DORGAN, Mr. ROTH, Mr. HOLLINGS, Mr. WARNER, Mr. WOFFORD, Mr. FEINGOLD, Mr. INOUYE, Mr. CHAFEE, Mr. MCCONNELL, Mr. BOREN, Mr. PRYOR, Mr. KEMPTHORNE, Mr. CRAIG, Mr. EXON, Mr. REID, Mr. NICKLES, Mr. COCHRAN, Mr. JOHNSTON, Mr. BOND, Mr. DODD, and Mr. GRASSLEY):

S. 340. A bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the Act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CAMPBELL (for himself and Mr. BROWN):

S. 341. A bill to provide for a land exchange between the Secretary of Agriculture and Eagle and Pitkin Counties in Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BOREN (for himself, Mr. PACKWOOD, Mr. DANFORTH, Mr. BRYAN, and Mr. HARKIN):

S. 342. A bill to amend the Internal Revenue Code of 1986 to encourage investment in real estate and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mrs. BOXER, Mr. DODD, Mr. FEINGOLD, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. LIEBERMAN, Mr. SARBANES, and Mr. SIMON):

S. 343. A bill to amend the Comprehensive Environmental Response, Compensation and Liability Act of 1980 to provide relief to local taxpayers, municipalities, and small businesses regarding the cleanup of hazardous substances, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 344. A bill to direct the Secretary of the Interior to conduct a study to determine the suitability and feasibility of designating the Fox and Lower Wisconsin River corridors in the State of Wisconsin as a National Heritage Corridor, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PELL (for himself, Mr. STEVENS, Mr. DECONCINI, Mr. MOYNIHAN, and Mr. HATFIELD):

S. 345. A bill to authorize the Library of Congress to provide certain information products and services, and for other purposes; to the Committee on Rules and Administration.

By Mr. AKAKA:

S. 346. A bill to amend the Internal Revenue Code of 1986 to adjust for inflation the dollar limitations on the dependent care credit; to the Committee on Finance.

By Mr. RIEGLE:

S. 347. A bill to amend the Internal Revenue Code of 1986 to promote long-term investment and economic growth in the manufacturing sector, restore capital gains incentives, encourage research and experimentation, restore and make permanent the exclusion for employer-provided educational assistance, and for other purposes; to the Committee on Finance.

By Mr. RIEGLE (for himself, Mr. CHAFEE, Mr. MITCHELL, Mr. AKAKA, Mr. BAUCUS, Mr. BOREN, Mr. BRYAN, Mr. CAMPBELL, Mr. COHEN, Mr. CONRAD, Mr. DANFORTH, Mr. DASCHLE, Mr. DECONCINI, Mr. DURENBERGER, Mr. GRASSLEY, Mr. HATCH, Mr. HOLLINGS, Mr. JEFFORDS, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. SARBANES, Mr. THURMOND, and Mr. WOFFORD):

S. 348. A bill to amend the Internal Revenue Code of 1986 to permanently extend qualified mortgage bonds; to the Committee on Finance.

By Mr. LEVIN (for himself, Mr. COHEN, Mr. GLENN, Mr. ROTH, and Mr. BOREN):

S. 349. A bill to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 350. A bill to amend the Federal Water Pollution Control Act to require the Administrator of the Environmental Protection Agency to make grants to the Massachusetts Water Resources Authority for construction of wastewater treatment; to the Committee on Environment and Public Works.

By Mr. STEVENS:

S. 351. A bill to exclude deposits into a capital construction fund account under section 607(d) of the Merchant Marine Act from net earnings from self-employment; to the Committee on Finance.

S. 352. A bill to provide for the self-employment tax treatment of qualified withdrawals from a capital construction fund account under section 607(d) of the Merchant Marine Act; to the Committee on Finance.

S. 353. A bill to provide Alaska Native Corporations, through an election process, standing to contest the disallowance of certain tax losses by the Internal Revenue Service if the purchasers of the losses agree; and to offset any associated revenue losses by increasing the interest rate on certain related tax deficiencies; to the Committee on Finance.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 354. A bill to section 108(f) of the Internal Revenue Code of 1986 to clarify the tax treatment of discharges of indebtedness under certain student loans; to the Committee on Finance.

By Mr. SIMON (for himself, Mr. HATCH, Mr. DECONCINI, Mr. THURMOND, Mr. HEFLIN, Mr. GRASSLEY, Mr. KOHL, Mr. BROWN, Ms. MOSELEY-BRAUN, Mr. COHEN, Mr. DASCHLE, Mr. PRESSLER, Mr. BRYAN, Mr. CRAIG, Mr. SHELBY, Mr. BENNETT, Mr. KRUEGER, Mr. SMITH, Mr. MATHEWS, Mr. KEMPTHORNE, Mr. CAMPBELL, Mr. NICKLES, Mr. GRAHAM, and Mr. LUGAR):

S.J. Res. 41. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget; to the Committee on the Judiciary.

By Mr. BUMPERS (for himself, Mr. BROWN, Mr. BRYAN, Mr. COATS, Mr. D'AMATO, Mr. DODD, Mrs. FEINSTEIN, Mr. FORD, Mr. HATCH, Mr. HEFLIN, Mr. HELMS, Mr. JOHNSTON, Mr. KOHL, Mr. LIEBERMAN, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. NUNN, Mr. PELL, Mr. PRYOR, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SIMON, Mr. SPECTER, Mr. STEVENS, and Mr. WARNER):

S.J. Res. 42. A joint resolution to designate the month of April 1993 as "Civil War History Month"; to the Committee on the Judiciary.

By Mr. LIEBERMAN (for himself, Mr. DODD, Mr. MOYNIHAN, Mr. D'AMATO, and Mr. LAUTENBERG):

S.J. Res. 43. A joint resolution designating the week beginning June 6, 1993, and June 5, 1994, as "Lyme Disease Awareness Week"; to the Committee on the Judiciary.

By Mr. LIEBERMAN (for himself, Mr. DODD, Mr. D'AMATO, and Mr. COHEN):

S.J. Res. 44. A joint resolution designating the week beginning April 18, 1993, as "Primary Immune Deficiency Awareness Week"; to the Committee on the Judiciary.

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. PELL, Mr. HELMS, Mr. NUNN, Mr. DECONCINI, Mr. DASCHLE, Mr. MURKOWSKI, Mr. WELLSTONE, Mr. GORTON, Mr. BUMPERS, Mr. D'AMATO, Mr. INOUYE, Mr. SIMPSON, Mr. DORGAN, Mr. LUGAR, Ms. MIKULSKI, Mr. MCCAIN, Mr. CAMPBELL, Mr. DURENBERGER, Mr. FORD, Mrs. KASSEBAUM, Mr. KERRY, Mr. WARNER, Mr. ROBB, Mr. JOHNSTON, Ms. MOSELEY-BRAUN, Mr. SIMON, Mr. SARBANES, Mr. LEAHY, Mr. MATHEWS, Mr. COHEN, and Mr. GLENN):

S.J. Res. 45. A joint resolution authorizing the use of United States Armed Forces in Somalia; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LUGAR (for himself, Mr. DOLE, Mr. LOTT, Mr. BOND, Mr. GRASSLEY, Mr. SMITH, Mr. PRESSLER, Mr. KEMPTHORNE, Mr. GORTON, Mr. MCCAIN, Mr. HATFIELD, Mr. DANFORTH, Mr. WALLOP, Mr. BURNS, Mr. ROTH, Mr. THURMOND, Mr. COCHRAN, Mr. COATS, Mr. GRAMM, Mr. NICKLES, Mr. COVERDELL, Mr. SIMPSON, Mr. D'AMATO, Mr. SHELBY, and Mr. BROWN):

S. Res. 64. A resolution expressing the sense of the Senate that increasing the effective rate of taxation by lowering the estate tax exemption would devastate homeowners, farmers, and small business owners, further hindering the creation of jobs and economic growth; to the Committee on Finance.

By Mr. BIDEN:

S. Res. 65. An original resolution to authorize expenditures of the Committee on the Judiciary; from the Committee on the Judiciary; to the Committee on Rules and Administration.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. Res. 66. A resolution expressing the opposition of the Senate to the imposition of an import fee on crude oil and refined petroleum products; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. MCCAIN):

S. Res. 67. A resolution to remove "Select" from the title of the Select Committee on Indian Affairs and to designate room 485 in the Richard Brevard Russell Senate Office Building as the "Room of the First Americans; to the Committee on Rules and Administration.

By Mr. MITCHELL (for himself, Mr. HATFIELD, Mr. EXON, Mr. LEAHY, Mr. PELL, Mr. BIDEN, Mr. JEFFORDS, Mr. KENNEDY, Mr. DASCHLE, Mr. LEVIN, Mr. ROCKEFELLER, Mr. FORD, Mr. WELLSTONE, Mr. HARKIN, Mr. DODD, Mr. FEINGOLD, Mr. KOHL, Mr. SARBANES, Mr. CAMPBELL, Mr. AKAKA, Mr. KERRY, and Mr. SASSER):

S. Con. Res. 9. A concurrent resolution urging the President to negotiate a comprehensive nuclear weapons test ban; to the Committee on Foreign Relations.

By Mr. FORD (for Mr. MITCHELL):

S. Con. Res. 10. A concurrent resolution providing for a conditional recess or adjournment of the Senate from Thursday, February 4, 1993, or Friday, February 5, 1993, until Tuesday, February 16, 1993, and a conditional adjournment of the House from Thursday, February 4, 1993, or Friday, February 5, 1993, until Tuesday, February 16, 1993; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Mr. PRYOR, Mr. BOREN, Mr. DASCHLE, Mr. CONRAD, Mr. FEINGOLD, Mr. SHELBY, Mr. WELLSTONE, Mr. ROCKEFELLER, Mr. KOHL, Mr. SIMON, Mr. AKAKA, Mr. HARKIN, Mr. HEFLIN, and Mr. BREAUX):

S. 309. A bill to make emergency supplemental appropriations to provide a short-term stimulus to promote job creation in rural areas of the United States, and for other purposes; to the Committee on Appropriations.

RURAL JOBS AND INVESTMENT ACT OF 1993

Mr. LEAHY. Mr. President, in a few weeks President Clinton will unveil an economic program which will create jobs, promote economic growth through job-creating investments—and reduce the deficit.

The economy will not turn around until there are more jobs. I know that. President Clinton knows that. Secretary Reich knows that. Rural America has known that for a decade.

Mr. President, the theme of this bill is very simple. There is no future in rural America if there are no jobs.

That is why today I am introducing the Rural Jobs and Investment Act of 1993. This bill—an investment in rural America—is an essential part of any national economic package.

Rural America has suffered from a decade of neglect. The gains of the 1970's in combating rural poverty, unemployment, and population loss were reversed in the 1980's.

In 1992, 1 in 10 rural Americans was unemployed. One out of four rural children live in poverty. While economic reports show improvement in our economy, large layoffs continue. The adjusted unemployment number remains at a rate of over 10 percent.

Many of these Americans that are back at work are in part-time jobs. But this is nothing new for rural communities—persistent unemployment is a serious problem for our rural areas. If we are going to provide an economic stimulus package for the Nation, we must not neglect rural America.

While the most recent rural unemployment numbers appear to be closing the gap with our urban counterparts, they also highlight a persistent unemployment problem in our rural areas. Urban unemployment shifted dramatically during the recession while rural unemployment remained basically static. Adjusted figures show that urban unemployment rates swung from a low of 7.4 in 1990 to a high of 10.7 in the second quarter of 1992, whereas in rural areas during the end of the 1980's the unemployment rate hovered around its average adjusted rate of 10.9 percent—its low in 1990 was only 8.9 percent.

Declining population is an alarming problem for rural America as well. Nearly half of all rural counties lost population during the mid-1980's.

Too often, the best and brightest of our young people are leaving rural America. Not because they want to, but because they have to.

There is no future in rural America if our children are forced to move away in search of economic opportunity. There will be no future for rural America if there are no new jobs.

That is why I am introducing today the Rural Jobs and Investment Act of 1993.

The Rural Jobs and Investment Act of 1993 is built on the premise that we must provide the capital that new and expanding businesses need to create new jobs and revitalize rural America. We must invest in our infrastructure to attract businesses and investment and improve the quality of life.

This legislation is simple. It throws a life preserver to our rural economy. The bill will create an estimated 160,000 jobs quickly. It is an investment that will make rural America more competitive in the future.

The key to the success of this initiative is to create jobs and to do it quickly. There are no gimmicks here—this is an investment that will help rural Americans.

Instead of creating new Federal programs, this bill supplements 1993 funds that Congress already approved last fall. OMB Director Leon Panetta stated last week that one piece of the President's economic program would target "quick 'spend out' projects" to create jobs. This bill specifically targets money to programs that have proven records and to those that have backlogs of unfunded projects.

This will help speed up the process of getting the money out to communities so projects can begin and workers can be hired now. These projects include affordable housing, water, and sewer construction and repair, electric power transmission, and business expansion.

During the 1980's, while we spent billions of taxpayer's dollars on defense, S&L bailouts, and foreign aid, the needs of rural America were ignored. In a void created by a decade of neglect, rural America needs help now.

We can build strong rural communities that remain proud of their rural heritage. We can reclaim our American dream of prosperity and progress in Vermont and across America. We need to invest in our communities, invest in our people, and invest in our future.

President Clinton recognizes the importance of investing in our future. This bill is a clear message that rural America will be a partner in our Nation's economic future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Rural Jobs and Investment Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. General appropriation authority.

TITLE I—AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES

SUBTITLE A–FARMERS HOME ADMINISTRATION

Sec. 101. Rural housing insurance fund program account.
Sec. 102. Rental assistant program.
Sec. 103. Rural development insurance fund program account.
Sec. 104. Rural development loans program account.
Sec. 105. Rural water and waste disposal grants.
Sec. 106. Very low-income housing repair grants.
Sec. 107. Supervisory and technical assistance grants.
Sec. 108. Rural housing preservation grants.
Sec. 109. Rural development grants.
Sec. 110. Local technical assistance grants.

SUBTITLE B—RURAL ELECTRIFICATION ADMINISTRATION

Sec. 121. Rural electrification loans program account.

SUBTITLE C—OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

Sec. 131. Alternative agricultural research and commercialization.

TITLE II—INTERIOR

Sec. 201. Energy conservation.

TITLE III—VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT

Sec. 301. Community development and planning.
Sec. 302. EPA construction grants and state revolving loan fund.

TITLE IV—COMMERCE, JUSTICE, AND STATE

Sec. 401. Microloan Demonstration Program.

SEC. 2. GENERAL APPROPRIATION AUTHORITY.

(a) IN GENERAL.—Subject to subsection (b), the sums described in this Act are appropriated, out of any money in the Treasury not otherwise appropriated, to provide emergency supplemental appropriations for the fiscal year ending September 30, 1993.

(b) OFFSETTING REDUCTIONS.—Funds under this Act are available only to the extent that there is an offsetting rescission in the budget authority available for carrying out budget function 050 (National Defense) or budget function 150 (International Affairs), or both.

TITLE I—AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES

SUBTITLE A—FARMERS HOME ADMINISTRATION

SEC. 101. RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT.

(a) GROSS OBLIGATIONS.—For additional gross obligations for direct loans as authorized under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.), to be available from funds in the Rural Housing Insurance Fund, as follows:

(1) $500,000,000 for loans to borrowers made under section 502 of such Act (42 U.S.C. 1472), as determined by the Secretary.

(2) $50,000,000 for housing repair loans made under section 504 of such Act (42 U.S.C. 1474).

(3) $250,000,000 for rental housing loans made under section 515 of such Act (42 U.S.C. 1485).

(b) COST OF LOANS.—For an additional amount for the cost, as defined in section 502(5) of the Congressional Budget Act of 1974 (2 U.S.C. 661a(5)), including the cost of modifying loans, of direct loans, as follows:

(1) $121,750,000 for low-income housing loans under section 502 of the Housing Act of 1949 (42 U.S.C. 1472).

(2) $20,090,000 for housing repair loans under section 504 of such Act (42 U.S.C. 1474).

(3) $132,500,000 for rental housing purposes under section 515 of such Act (42 U.S.C. 1485).

SEC. 102. RENTAL ASSISTANCE PROGRAM.

For additional rental assistance agreements entered into under or renewed under section 521(a)(2) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(2)), $70,000,000.

SEC. 103. RURAL DEVELOPMENT INSURANCE FUND PROGRAM ACCOUNT.

(A) GROSS OBLIGATIONS.—For additional gross obligations for the principal amount of direct loans as authorized by sections 308, 309A, 310A, and 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1928, 1929A, 1931, and 1932), to be available from funds in the Rural Development Insurance Fund, as follows:

(1) Water and sewer facility loans, $600,000,000.

(2) Community facility loans, $250,000,000.

(b) COST OF LOANS.—For an additional amount for the cost, as defined in section 502(5) of the Congressional Budget Act of 1974 (2 U.S.C. 661a(5)), including the cost of modifying loans, of direct loans, as follows:

(1) $87,360,000 for water and sewer facility loans.

(2) $21,025,000 for community facility loans.

SEC. 104. RURAL DEVELOPMENT LOANS PROGRAM ACCOUNT.

(a) Cost of Loans.—For an additional amount for the cost, as defined in section 502(5) of the Congressional Budget Act of 1974 (2 U.S.C. 661a(5)), including the cost of modifying loans, of direct loans from the Rural Development Loan Fund established under section 623(a) of the Community Economic Development Act of 1981 (42 U.S.C. 9812(a)), $50,000,000.

(b) Principal Amount of Loans.—The funds made available under subsection (a) shall be available to subsidize gross obligations for the principal amount of direct loans of not to exceed $100,000,000.

SEC. 105. RURAL WATER AND WASTE DISPOSAL GRANTS.

(a) In General.—For additional grants pursuant to paragraphs (2) and (6) of section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)), $500,000,000, to remain available until expended, pursuant to section 306(d) of such Act.

(b) Purposes.—The funds made available under subsection (a) shall not be used for any purpose not specified in section 306(a) of the Consolidated Farm and Rural Development Act.

SEC. 106. VERY LOW-INCOME HOUSING REPAIR GRANTS.

For additional grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949 (42 U.S.C. 1474), $50,000,000, to remain available until expended.

SEC. 107. SUPERVISORY AND TECHNICAL ASSISTANCE GRANTS.

For additional grants pursuant to section 525 of the Housing Act of 1949 (42 U.S.C. 1479 and 1490e), $10,000,000, to remain available until expended.

SEC. 108. RURAL HOUSING PRESERVATION GRANTS.

For additional grants for rural housing preservation as authorized by section 533 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 1490m), $50,000,000.

SEC. 109. RURAL DEVELOPMENT GRANTS.

(a) In General.—For additional grants authorized under section 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)) to any qualified public or private nonprofit organization, $100,000,000.

(b) Limitations.—Effective for fiscal year 1991 and thereafter, grants made pursuant to subsection (a) shall not be subject to any dollar limitation unless the limitation is set forth in law.

SEC. 110. LOCAL TECHNICAL ASSISTANCE GRANTS.

For additional local technical assistance grants authorized under section 306(a)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)), $15,000,000.

Subtitle B—Rural Electrification Administration

SEC. 121. RURAL ELECTRIFICATION LOANS PROGRAM ACCOUNT.

(a) Insured Loans.—For additional insured loans pursuant to section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) for rural electrification loans, $700,000,000, to remain available until expended.

(b) Cost of Loans.—For the additional cost, as defined in section 502(5) of the Congressional Budget Act of 1974 (2 U.S.C. 661a(5)), including the cost of modifying loans, of direct rural electrification loans authorized by section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935), for the additional cost of direct rural electrification loans, $131,000,000.

Subtitle C—Alternative Agriculture Research and Commercialization

SEC. 131. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION.

For an additional amount for necessary expenses to carry out the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901 et seq.), $20,000,000.

TITLE II—INTERIOR

SEC. 201. ENERGY CONSERVATION.

For additional amounts to enable the Secretary of Energy to make grants under title III of the Energy Conservation and Production Act (42 U.S.C. 6831 et seq.)—

(1) $150,000,000 to be used for the weatherization assistance program for low income persons; and

(2) $150,000,000 to be used for the Institutional Conservation Program and the State Energy Conservation Program.

TITLE III—VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT

SEC. 301. COMMUNITY DEVELOPMENT AND PLANNING.

(a) In general.—For an additional amount to carry out a community development grants program under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.), $1,000,000,000, to be obligated for making grants to States and units of local government under such Act.

(b) Limitation.—For purposes of applying the limitation contained in section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) to amounts made available under this section, the maximum percentage of funds received by a unit of general local government under this section that may be used for the provision of public services shall be 20 percent.

SEC. 302. EPA CONSTRUCTION GRANTS AND STATE REVOLVING LOAN FUND.

For an additional amount to carry out the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and the Water Quality Act of 1987 (33 U.S.C. 1251 et seq.), $1,000,000,000, of which—

(1) $500,000,000 shall be made available for grants under title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.); and

(2) $500,000,000 shall be made available for State water pollution control revolving funds established under title VI of such Act (33 U.S.C. 1381 et seq.).

TITLE IV—COMMERCE, JUSTICE, AND STATE

SEC. 401. MICROLOAN DEMONSTRATION PROGRAM.

(a) Technical Assistance Grants.—For an additional amount for necessary expenses, not otherwise provided for, of the Small Business Administration for making technical assistance grants under the Microloan Demonstration Program established by section 7(m) of the Small Business Act (15 U.S.C. 636(m)), $3,000,000.

(b) Business Loans Program Account.—For the cost, as defined in section 502(5) of the Congressional Budget Act of 1974 (2 U.S.C. 661a(5)), including the cost of modifying loans, of direct loans for carrying out not more than 50 microloan programs under the Microloan Demonstration Program, $2,600,000, to be made available until expended for the subsidy cost of $15,000,000 in direct loans for the Microloan Demonstration Program.

Mr. FEINGOLD. Mr. President, I am pleased to cosponsor S. 309, the Rural Jobs and Investment Act of 1993, introduced today by my friend the senior Senator from Vermont [Mr. LEAHY]. He properly signals, with this legislation, the need to include rural America in our efforts to stimulate economic growth and the creation of new jobs.

The legislation also demonstrates an appreciation for the larger, longer term economic problem we face, the Federal budget deficit, by providing for full funding of the proposed legislation with spending cuts.

That feature is key and essential.

If we are ever to make progress in reducing our budget deficit, new appropriations must be funded by equal or greater cuts in spending or increased revenues or both.

Mr. President, I want to emphasize that I fully support this legislation with its offsetting cuts from existing programs. I also want to underscore my own strong feeling that we need to proceed with deficit reduction.

Indeed, I strongly prefer, and may at some point offer, language which requires additional deficit reduction as a condition of the new spending in any economic stimulus legislation. Beyond what is accomplished in this bill, namely funding the spending levels outlined in it, such a provision would require additional deficit reduction through either spending cuts or revenue increases.

Mr. President, we must proceed with deficit reduction at the same time we pursue efforts to stimulate the economy. Failure to do so dooms the short-term effort, and makes the longer term problem that much more difficult.

Recent economic forecasts indicate that the deficit is even worse than it was through to be just a few months ago. Our economy suffers under its weight. It diverts needed private capital away from job-creating investment into Government debt; it restricts growth in national productivity; it denies future generations the ability to shape their Government and their economy.

Fully funding new appropriations may not worsen the deficit, but neither does it reduce it, and being deficit neutral is not enough.

Mr. President, as the body considers various packages to stimulate the economy, I will support efforts that fully fund those packages, and that go beyond that to lower the Federal deficit. In addition, though, I will support and join in efforts that seek to lower the deficit directly.

In recognizing that the economy needs targeted stimulation, we must also be mindful that the deficit is the overriding problem facing our economy.

Mr. President, having said that, we must also note that much of rural America is suffering. One out of every four children living in our rural communities lives in poverty and 1 out of 10 rural Americans is unemployed. Rural Americans and their communities cannot and should not be ignored if we are to revitalize our Nation's economy, accordingly, any effort to stimulate the economy must include a significant rural component.

I am proud to support this needed catalyst for the rural economy.

Mr. WELLSTONE. Mr. President, the needs and troubles of rural Americans have received less attention than has been warranted in recent years. But those of us who have lived in nonmetropolitan areas for much of our lives, or who represent States with large nonmetropolitan populations, know that those troubles have been great. I have spoken many times here on the subject.

I will have many more opportunities to address this topic, especially since, I am proud to announce, I have just this week been named chairman of the Senate Small Business Committee's Subcommittee on Rural Economy and Family Farming. I will not, therefore, spend time today cataloguing our heartland's problems. I am committed to making sure that rural revitalization is part of any national economic recovery program.

I am pleased to join the chairman of the Agriculture Committee, my friend Senator LEAHY, in cosponsoring the Rural Jobs and Investment Act of 1993. I was an original cosponsor of the same bill last year.

The bill takes immediate and concrete steps to address the economic difficulties of rural America. It mobilizes Federal Government resources immediately to build and maintain necessary economic infrastructure in rural communities. It will create new jobs right away, when jobs are exactly what those communities most urgently need. The programs for this measure already exist, and the administrative structure is in place. Implementing this bill will not add to the deficit because funds would be provided by offsets in defense spending.

I hope that this bill, which will provide an immediate infusion of $5.6 billion for backlogged projects that meet urgent needs in rural housing, sewer and water, energy conservation and weatherization, electrification, and other infrastructure categories, will become part of a comprehensive economic recovery package soon to be considered by the Senate.

In addition to funding for infrastructure, the measure also promotes rural economic development through community development block grants, Small Business Administration microloans and the Alternative Agricultural Research and Commercialization Program. I have a particularly strong commitment to these latter two items, which I will continue to support through my actions in the Small Business Committee.

This bill will give people jobs quickly doing needed work. In Minnesota there is a great deal of outstanding demand for such projects. There is a backlog of rental housing applications which, if fully funded, could bring nearly $10 million to Minnesota in direct construction spending. Similarly, Minnesota has over 600 applications outstanding for single-family housing loans, loans which nationally average over $45,000 apiece. There is clearly a strong need for more housing in rural Minnesota.

Thirteen Minnesota rural electrical cooperatives also have outstanding applications for loans that would be guaranteed or insured under the provisions of this bill, to the total tune of over $30 million. In addition, the backlog for sewer and water projects in rural Minnesota totals over $50 million in loans and grants.

Funding for projects such as these will directly benefit my State, as it will every other State with rural project backlogs in these program areas. We estimate that this measure will create over 160,000 jobs nationwide. Rural jobs and infrastructure have been too long neglected in our economic policy, and we as a Nation are suffering the consequences. I urge my colleagues to support this legislation.

Mr. HARKIN. Mr. President, this legislation represents the kind of investment in economic growth and quality of life for rural America that has been neglected for too long. I am pleased to be a cosponsor of this important legislation, and I am hopeful that it can be substantially included in the stimulus economic package that is now being crafted.

This bill is designed to create over 160,000 jobs quickly, putting people in rural America to work on useful jobs. But it is not a make-work bill. It will put people to work on the kinds of projects that constitute investments in the economic growth and competitiveness of rural America, building a future of opportunity instead of decline for rural America. No one who knows rural communities are going to continue the wrenching decline that has become so acute in recent years. This bill will go a long way in turning our policy in the right direction.

Our country has paid a steep price for failing to make the necessary investments that promote economic growth and competitiveness. Net public investment in the United States in basic infrastructure, as a percentage of total economic output, is the lowest of all major industrial nations. Overall capital investment in the United States as a percentage of GDP also lags that of other countries. And as our investment has declined so has our economic growth and our competitiveness. In the 1960's, productivity grew at annual rate of 1.8 percent in the United States. That rate had fallen to 0.7 percent during the early 1980's.

The legislation would provide money for a range of programs that are vital to economic recovery in rural America: rural housing, rural electrification and telecommunications, water and sewer projects, rural development revolving loans, energy conservation and weatherization, community development block grants, waste water treatment, and small business microloans. In addition, I am pleased that Chairman LEAHY has included in the bill $20 million for the Alternative Agricultural Research and Commercialization Program. I have long stressed the importance of developing new markets for farm commodities—while also promoting economic development in rural areas—through research and commercialization of alternative agricultural products. In addition, I am hopeful that the economic stimulus package will include critically needed investments in agricultural research facilities.

This legislation will put $5.58 billion into overdue, vital investments in the future America. Yet it will do so without increasing the Federal budget deficit, since the spending would not occur without reductions in defense and other spending. In any event, the investment provided in this legislation is the kind of spending that will help us reduce the Federal budget deficit by lowering Federal assistance costs and by increasing employment, tax revenues, and economic growth.

Mr. President, this legislation will put us on the right track in reversing the decline that has blighted rural America. I hope that my colleagues will support this bill and that its provisions will soon be enacted as part of a comprehensive economic stimulus package.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 310. A bill to amend title V of Public Law 96-550, designating the Chaco culture archaeological protection sites, and for other purposes; to the Committee on Energy and Natural Resources.

CHACOAN OUTLIERS PROTECTION ACT

Mr. DOMENICI. Mr. President, I rise today to introduce the Chacoan Outliers Protection Act of 1993. This legislation will expand the Chaco culture archaeological protection sites to include an additional 5,516 acres containing structures and artifacts associated with the Chacoan Anasazi Indian culture of the San Juan Basin of New Mexico.

I am pleased to have the support of Senator BINGAMAN on this legislation, which will preserve sites of major cultural significance for future generations and assure that the sites are protected from further degradation.

The San Juan Basin is an area of major significance to the cultural history of North America. It is estimated that the first human occupation of the area dates as far back as 10,000 years ago, when Paleo-Indian hunters entered the area.

The culture of these hunter-gatherers evolved quickly. Within the period spanning from 500 to 900 A.D., the culture of the people of the San Juan Basin, part of a larger culture known as the Anasazi, a Navajo term meaning "the ancient ones," had developed more quickly than nearby Anasazi communities and cultures.

While modern-day Chaco Canyon is a remote and barren site, ancient Chaco Canyon was the center of the Anasazi civilization. The Anasazi flourished, building many pueblos and structures around Chaco Canyon and establishing a large network of outlying communities, which are what we now refer to as the Chacoan outliers. These outliers were spread over an area of more than 30,000 square miles and linked by an extensive system of roads.

As suddenly as the Anasazi evolved and thrived in the San Juan area, by A.D. 1300 the culture had quickly disappeared, lasting only a brief 400 years. The sudden evolution and disappearance of the Anasazi, as well as the purpose of Chaco Canyon and its outliers, are two of archeology's more intriguing mysteries.

It is traditionally believed that Chaco was a trade center for as many as 75 outlying communities in the area. Others maintain that Chaco was a religious and ceremonial site. While no one is certain exactly what function Chaco served in its time, all agree that it remaining sites must be preserved and protected.

Chaco Canyon has long been recognized as a nationally and internationally significant site. In March 1907, a Presidential proclamation established Chaco Canyon as a national monument. The monument was further enlarged in 1928 by another Presidential proclamation.

In 1980, I introduced and the Congress passed the Chaco Culture National Historical Park Establishment Act, which became Public Law 96-550. This act enlarged the park and reestablished it as the Chaco Culture National Historical Park, consisting of the main body of the park and three noncontiguous units. The act also mandated procedures for the protection, preservation, and administration of archeological remnants of the Chacoan culture.

When Chaco Canyon was first afforded Federal protection in 1907, numerous archeological sites were known to exist outside the boundaries of the national monument. Their relationship to Chaco Canyon, however, was unclear. Archeologists subsequently determined that many of these sites—some as far as 100 miles from Chaco Canyon—were part of the Chacoan culture.

To the untrained eye, the physical remains of the Chacoan outliers are difficult to discern. At some of the sites, walls still stand. At most sites, however, the magnificent structures of the Anasazi people have collapsed into a mound of rubble, which over the years have been buried by the desert sands and eroded by sand and wind. Unfortunately, many of these sites were further vandalized by unscrupulous pot-hunters or degraded by development activities.

In order to protect these outliers, the Chaco Culture National Historical Park Establishment Act designated 33 sites as Chaco culture archeological protection sites. The Secretary of the Interior is charged with managing these sites in order to preserve them and provide for their interpretation and study. Activities that would endanger the cultural values of the sites are prohibited.

Ownership of the lands containing the archeological protection sites is a checkerboard of private, State, Federal, and Indian interests. The Indian interests include trust, allotted, and fee parcels. In addition, some surface and subsurface ownerships are divided between two or more entities. Therefore, the act mandated that these lands be protected by cooperative agreements, rather than Federal acquisition, where possible.

The Chacoan outliers are not included in the National Park System. Rather, they are managed primarily by the Bureau of Indian Affairs and the Bureau of Land Management. These entities are responsible for resource protection and preservation at the sites.

This legislation will expand the existing Chaco culture archeological protection sites system to add a total of 8 new sites to the 33 existing sites in the Chaco cultural archeological protection sites system. Those sites are: Casamero; Chimney Rock; Dittert; Guadalupe; Manuelito-Atsee Nitsaa; Manuelito-Kin Hochoi; Navajo Springs; and Salmon Ruins.

Included in these new archeological protection sites is the first Forest Service site, Chimney Rock in southern Colorado. The Manuelito sites have been designated as "Priority 1 National Historic Landmarks" because severe erosion has damaged the sites.

The bill also will expand the boundaries of 13 of the existing protection sites by a total of 2,368 acres. The sites to be expanded are: Allentown; Andrews Ranch; Bee Burrow; Coolidge; Dalton Pass; Great Bend; Grey Hill Spring; Haystack; Hogback; Jacques; Newcomb; Peach Springs; San Mateo; and Standing Rock.

Three sites—Las Ventanas, Morris 41, and Squaw Springs—would be deleted from the system, and four sites—Muddy Water, section 8, and Skunk Springs/Crumbled House—would be reduced by a total of 205 acres.

The net results of the changes to be made by the Chacoan Outliers Protection Act would be to increase the number of Chaco culture archeological protection sites from 33 to 38 and to increase the acreage of the system by 5,516 acres to 14,287 acres.

The bill also includes technical changes to the Chaco Culture National Historical Park Establishment Act to clarify that some sites lie outside the San Juan Basin, to correct the spelling of the name of the Jacques site, and to direct that maps of the sites be filed with various agencies that have management responsibility for the sites. We have also directed the Secretary to assist the Navajo Nation in the protection and management of the sites located on lands under the Navajo Nation's jurisdiction.

These changes, which are the result of dedicated years of research by Federal, State, and Indian archaeologists, were recommended by the Interagency Management Group for the Chaco culture archeological protection sites, consisting of the National Park Service, the Bureau of Indian Affairs, the Bureau of Land Management, the Forest Service, the Navajo Nation, and the State of New Mexico. They also are in accordance with the 1983 joint management plan for the Chaco culture archeological protection sites.

This bill is similar to the amended version of S. 772 from the 102d Congress, which was approved unanimously in committee and by the Senate in 1991. Unfortunately, it was not acted upon by the House. I am hopeful we will be more fortunate during the 103d Congress. These sites are part of the cultural heritage of all Americans and we must act quickly to preserve them. Cultural resources, once lost, can never be restored or regained.

I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 310

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chacoan Outliers Protection Act of 1993".

SEC. 2. CONFORMING AMENDMENT.

(a) Section 501 of Public Law 96-550 (16 U.S.C. 410ii) is amended in the title by striking "Congressional findings" and inserting in lieu thereof "Congressional findings and purpose".

(b) Section 501(b) of Public Law 96-550 (16 U.S.C. 410ii(b)) is amended by striking "San Juan Basin;" and inserting in lieu thereof, "San Juan Basin and surrounding areas;".

SEC. 3. ADDITIONS TO CHACO CULTURE ARCHEOLOGICAL PROTECTION SITES.

Subsection 502(b) of Public Law 96-550 (16 U.S.C. 410ii-1(b)) is amended to read as follows:

"(b)(1) Thirty-eight outlying sites as generally depicted on a map entitled "Chaco Culture Archeological Protection Sites", numbered 310/80,033-B and dated September 1991, are hereby designated as 'Chaco Culture Archeological Protection Sites'. The thirty-eight archeological protection sites totalling approximately 14,287 acres identified as follows:

Name:	Acres
Allentown	380
Andrews Ranch	950
Bee Burrow	480
Bisa'ani	131
Casa del Rio	40
Casamero	160
Chimney Rock	3,160
Coolidge	450
Dalton Pass	135
Dittert	480
Great Bend	26
Greenlee Ruin	60
Grey Hill Spring	23
Guadalupe	115
Halfway House	40
Haystack	565
Hogback	453
Indian Creek	100
Jacques	66
Kin Nizhoni	726
Lake Valley	30
Manuelito-Atsee Nitsaa	60
Manuelito-Kin Hochoi	116
Muddy Water	1,090
Navajo Springs	260
Newcomb	50
Peach Springs	1,046
Pierre's Site	440
Raton Well	23
Salmon Ruin	5
San Mateo	61
Sanostee	1,565
Section 8	10
Skunk Springs/Crumbled House	533
Standing Rock	348
Toh-la-kai	10
Twin Angeles	40
Upper Kin Klizhin	60.

"(2) The map referred to in paragraph (1) shall be kept on file and available for public inspection in the appropriate offices of the National Park Service, the office of the State Director of the Bureau of Land Management located in Santa Fe, New Mexico, the office of the Area Director of the Bureau of Indian Affairs located in Window Rock, Arizona, and the offices of the Arizona and New Mexico State Historic Preservation Officers.".

SEC. 4. ASSISTANCE TO THE NAVAJO NATION.

Section 506 of Public Law 96-550 (16 U.S.C. 410ii-5) is amended by adding the following new subsection at the end thereof:

"(f) The Secretary is directed, subject to appropriations, to assist the Navajo Nation in the protection and management of those Chaco Culture Archeological Protection Sites located on lands under the jurisdiction of the Navajo Nation through a grant, contract, or cooperative agreement entered into pursuant to the Indian Self-Determination and Education Act (Public Law 93-638), as amended, to assist the Navajo Nation in site planning, resource protection, interpretation, resource management actions, and such other purposes as may be identified in such grant, contract, or cooperative agreement.".

Mr. BINGAMAN. Mr. President, I am pleased to cosponsor this legislation which will insure the protection of an additional seven Chacoan outlier sites. The historical importance of Chaco Canyon is well documented. It is a national monument and has been designated by the United Nations as a world cultural heritage property. Chaco Canyon was the center of the Anasazi culture which flourished in the San Juan Basin of northern New Mexico and southern Colorado from 900 A.D. to 1300 A.D. The Anasazi had an extensive road network that linked the numerous surrounding pueblos and other structures to Chaco Canyon. These sites are known as Chacoan outliers and are integral to the study of Chacoan culture. They often range 100 miles from Chaco Canyon and are in varying states of decay. Immediate action is needed to preserve them from further degradation by erosion and acts of vandalism.

This legislation will protect a further seven sites under the Chaco Culture Archeology Protection Sites Act. Though many of the sites do not have much impact on the untrained eye; they are irreplaceable to the archeologist. If these physical signs of the Anasazi culture are allowed to further deteriorate, scientists will not have sufficient evidence to solve the many riddles that still remain regarding the Anasazi.

The bill will also expand the boundaries of 13 of the existing protection sites by a total of 2,328. Three sites are to be deleted—Las Ventanas, Morris 41, and Squaw Springs. Reductions in acreage will be made to four sites—Jaquez, Muddy Water, section 8, and Skunk Springs/Crumbled House. The net result of the act would be to increase the number of protected sites from 33 to 37 and to increase the acreage of the system from 4,996 to 13,767.

This bill was passed in the Senate last Congress, but action was not taken in the House before adjournment. I hope my colleagues will join with me in supporting the protection of this internationally renowned archeological treasure. I ask that my remarks be printed in the RECORD.

By Mr. BUMPERS:

S. 311. A bill to amend section 2511 of title 18, United States Code, to make lawful the interception of an oral, wire, or electronic communication that is made with the consent of all parties to the communication; to the Committee on the Judiciary.

ELECTRONIC COMMUNICATIONS ACT OF 1993

Mr. BUMPERS. Mr. President, I rise to announce to the Senate that I am today introducing a bill dealing with the interception of telephone conversations. I introduced this bill about 10 years ago but it was not passed.

I daresay that there are very few people in the Senate and across the country who know that a constituent can call you and talk to you as long as he wishes, and he can record the entire conversation without your knowledge and do so quite legally. There is absolutely no prohibition against intercepting and recording a telephone conversation between two people as long as one of the parties to the conversation knows it is being recorded, namely, the party who is doing the recording or has given consent to another person to do the recording.

The thing that piqued my interest in this matter may years ago was a man named Charles Wick, who was head of USIA. It was revealed that he had a real penchant for recording telephone conversations. He freely admitted that he had recorded conversations with President Reagan, who has appointed him, with President Reagan not even knowing the conversation was being recorded. He had recorded former President Jimmy Carter, and when the investigation was finished, he had recorded something like 85 telephone conversations with the President, a former President, Cabinet members, everybody.

Now, I was absolutely appalled, and I quickly introduced a bill to stop that. And for the life of me, Mr. President, to this very moment I do not know why I was not able to get that bill passed.

I want to make this point. It is against the law to record a conversation where you have tapped into somebody's telephone, where neither of the conversants know you are taping them. It is against the law to record the conversation, and it is against the law to distribute a taped conversation, but it is not a crime of any kind, not even a misdemeanor, for one person to tape a telephone conversation with another. It is what I call telecommunications peeping toms, where only one party to the call knows he is peeping.

Now, Mr. President, when I introduced this bill before, people in the Senate came to me and said to me, "Dale, that is a wonderful bill. I had no idea that was the law."

I remember New York Times writer Bill Safire wrote two or three columns about it. He was firmly in my corner. We talked several times on the phone about it.

When I first introduced this bill in 1984, people said, "You have not sufficiently protected law enforcement." I have protected law enforcement in this Bill. I have said that this bill has nothing to do with surveillance by law enforcement officers carrying out their official duties.

So the FBI and the sheriffs and police departments of this country and those involved in foreign intelligence activities should, have no fear, the bill does not apply to them. They can continue to operate precisely as you have in the past. In fact, my bill leaves undisturbed all the existing exceptions to the law.

To people like the airlines or the telephone companies or other employers whose employees carry out their duties by telephone where a supervisor listens in on a conversation with a telephone operator who is making reservations for the airline, or who is an information operator, or selling items from a catalog, and the supervisor wants to know how well that person is performing his or her duties on the telephone, this bill does not disturb the current situation. Incidentally, that is often a contractual arrangement. If you go to work at the telephone company as an operator, and if you are an information operator, occasionally the supervisor will monitor your conversation to make sure you are not being rude or impolite, indeed, to make sure you are carrying out your duties as you are supposed to. This bill does not disturb that. I wish I could get at all the people that call my house at night trying to sell me bonds and aluminum siding and everything else. I would like to stop that. But this bill does not do that. Their employers would still be permitted to monitor their calls.

This bill is very narrowly drawn to fill what I consider to be one of the most egregious loopholes in the law of this Nation. There are some people who are very circumspect, who know about this gap in the law, and when they are talking on the telephone, they are very circumspect. They do not use profanity, tell dirty jokes, reveal personal information, but sometimes they are being called by somebody that is a good friend, they do not think much about it and they do not know, but the telephone conversation is being intercepted, monitored or even recorded.

Mr. President, this bill has been carefully crafted. We have worked on it in our office for 2 months. We have made sure that this will not be a labor issue. We do not want to get into that. We do not want to change the law regarding caller ID. All I want to do is to stop this practice of interception of an electronic communication between or among two or more parties without the consent of all parties to that communication, which is much more pervasive than the Members of this body would ever dare believe.

Mr. President, I ask unanimous consent that this bill be reported in the RECORD immediately after the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. I urge my colleagues, when they see this bill in the RECORD tomorrow, to join me as a cosponsor. I have done my very best to eliminate all of the problems I had 10 years ago in trying to get this done. I have drawn it very narrowly just to stop one practice, which as I say is much more pervasive than Members of this body would believe, and a practice which everybody on the face of it would certainly agree should be stopped.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "The Telephone Privacy Act of 1993".

SEC. 2. CONSENT TO INTERCEPTION OF AN ORAL, WIRE, OR ELECTRONIC COMMUNICATION.

Subsection 2(d) of Section. 2511 of title 18, United States Code, is amended to read as follows:

"2(d) It shall not be unlawful under this chapter for a person not acting under color of law to intercept a wire or oral communication where

(i) all parties to the communication have given prior consent to such interception, unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States; or

(ii) such person is an employer, or the officer or agent of an employer, engaged in lawful electronic monitoring of its employees' communications made in the course of the employees' duties.

By Mr. DOMENICI.

S. 312. A bill to suspend temporarily the duty on rifabutin (dosage form); to the Committee on Finance.

RIFABUTIN DUTY SUSPENSION ACT

Mr. DOMENICI. Mr. President. I am pleased to reintroduce legislation from the 102d Congress that will provide a temporary duty suspension for the AIDS drug rifabutin in dosage form.

Rifabutin is a product used in the treatment of AIDS patients to prevent or delay the onset of the life-threatening infection mycobacterium avium complex [MAC]. MAC is believed to be a major cause of the wasting syndrome suffered by AIDS patients. Individuals with the MAC infection experience chronic, debilitating symptoms affecting many parts of the body. Fever, weight loss, fatigue, and gastrointestinal problems are common and, frequently, fatal.

Rifabutin is produced by a single Italian company worldwide. Once imported into the United States, the product will be bottled, packaged and distributed by Adria Laboratories, a major United States manufacturer of oncological and immunological products. Actual work will be accomplished in Adria's New Mexico facility, Adria S.P., Inc., located in Albuquerque.

Recently approved for use by the Food and Drug Administration, under current law rifabutin is subject to a 3.7 percent duty. My bill to suspend this tariff temporarily will facilitate the distribution of a potentially important AIDS treatment in the United States by helping to hold down its cost.

I hope that the Senate will consider this measure on an expeditious basis.

I ask unanimous consent that a copy of the bill be printed in the CONGRESSIONAL RECORD along with this floor statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 312

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RIFABUTIN (DOSAGE FORM).

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

9902.31.12	(Rifabutin-dosage form) (CAS No. 72559–06–9) (provided for in subheading 3004.20.00)	Free	No change	No change	On or before 12/31/94

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 313. A bill to amend the San Juan Basin Wilderness Protection Act of 1984 to designate additional lands as wilderness and to establish the Fossil Forest Research Natural Area, and for other purposes; to the Committee on Energy and Natural Resources.

BISTI AND DE-NA-ZIN WILDERNESS EXPANSION AND FOSSIL FOREST PROTECTION ACT

Mr. DOMENICI. Mr. President, I am pleased to rise today, along with the other Senator from New Mexico, Senator BINGAMAN, to introduce legislation that will amend the San Juan Wilderness Protection Act of 1984, to designate the additional lands as wilderness, and to establish the Fossil Forest Research Natural Area.

In December 1991, approximately 10,750 acres between the Basti Wilderness and the De-Na-Zin Wilderness were exchanged to the Bureau of Land Management with the Bureau of Indian Affairs, acting in trust for the Navajo Tribe. These lands are included in the approximately 16,674 acres that will join the Basti and De-Na-Zin wilderness areas into one wilderness area.

These newly acquired lands are immediately adjacent to the existing boundaries of the Basti and De-Na-Zin Wilderness areas and are of high wilderness quality. The area appears to have been affected primarily by the forces of nature with the imprint of human activity substantially unnoticeable.

This bill includes additional lands that will require further exchanges with the State of New Mexico and the Navajo Tribe. Both parties indicate that they are willing to enter into agreements to consummate the exchange of lands.

Together with recently acquired lands and the two wilderness areas previously designated, this proposal will create one wilderness with official, manageable boundaries that will enhance the wilderness experience for visitors and help insure continued protection of this resource for future generations of Americans.

The scenic eroding badlands that dominate this area, the neighboring Bisti Wilderness and the western portion of the De-Na-Zin Wilderness, provide an outstanding opportunity for solitude as well as primitive and unconfined hiking, backpacking, photography, and geological/palentological sightseeing. The badlands topography of the acquired lands naturally bridges the two wilderness areas into a picturesque expanse with a wide variety of rich colors and landform.

The Fossil Forest Research Natural Area is named for the abundant petrified tree stumps and logs which lie exposed on its surface. Many of these stumps are preserved in place with root systems still intact. A wealth of data and fossil material have been collected in the fossil forest over the past 10 years.

Four major dinosaur bone quarries and several micro-vertebrate and invertebrate localities have been excavated during this period, including a critically important Cretaceous Age, 75 million years ago, mammal quarry. The occurrence of this diverse assemblage of fossil fauna and flora provides a unique opportunity to peek through a small window of time, 70 to 80 million years ago, to examine an important episode of geological and biological change.

Mr. President, I urge the Senate to move rapidly on this important legislation in an effort to improve the National Wilderness Preservation System and to conserve a unique palentological area that represents an important period of time and space in our country's natural history.

Mr. President, I ask unanimous consent that this bill be printed for the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 313

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bisti/De-Na-Zin Wilderness Expansion and Fossil Forest Protection Act".

SEC. 2. BISTI/DE-NA-ZIN WILDERNESS.

(a) WILDERNESS DESIGNATION.—Section 102 of the San Juan Basin Wilderness Protection Act of 1984 (Public Law 98-603) is amended—

(1) in subsection (a)—

(A) by striking "wilderness, and, therefore," and all that follows through "System—" and inserting "wilderness areas, and as one component of the National Wilderness Preservation System, to be known as the 'Bisti/De-Na-Zin Wilderness'—";

(B) in paragraph (1), by striking ", and which shall be known as the Bisti Wilderness; and" and inserting a semicolon;

(C) in paragraph (2), by striking ", and which shall be known as the De-na-zin Wilderness." and inserting "; and"; and

(D) by adding at the end the following new paragraph:

"(3) certain lands in the Farmington District of the Bureau of Land Management, New Mexico, which comprise approximately 16,674 acres, as generally depicted on a map entitled 'Bisti/De-Na-Zin Wilderness Amendment Proposal', dated May 1992.";

(2) in the first sentence of subsection (c), by inserting after "of this Act" the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and as soon as practicable after the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)";

(3) in subsection (d), by inserting after "of this Act" the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and where established prior to the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)"; and

(4) by adding at the end the following new subsection:

"(e)(1) The lands described in subsection (a)(3) are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, geothermal leasing, and mineral material sales.

"(2) To satisfy valid existing rights, the Secretary of the Interior may follow the lease exchange procedures specified in sections 3430.5 and 3435 of title 43, Code of Federal Regulations, on any coal preference right lease application for lands within the area described in subsection (a)(3) if the applicant demonstrates that coal exists in commercial quantities on the lands that are the subject of the application.

"(3) Operations on oil and gas leases issued prior to the date of enactment of subsection (a)(3) shall be subject to the applicable provisions of Group 3100 of title 43, Code of Federal Regulations (including section 3162.5-1), and such other terms, stipulations, and conditions as the Secretary of the Interior considers necessary to avoid significant disturbance of the land surface or impairment of the ecological, educational, scientific, recreational, scenic, and other wilderness values of the lands described in subsection (a)(3) in existence on the date of enactment of subsection (a)(3).".

(b) EXCHANGES FOR STATE LANDS.—Section 104 of the Act is amended—

(1) in the first sentence of subsection (b), by inserting after "of this Act" the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and not later than 120 days after the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)";

(2) in subsection (c), by inserting before the period the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and as of the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)"; and

(3) in the last sentence of subsection (d), by inserting before the period the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and not later than 2 years after the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)".

(c) EXCHANGES FOR INDIAN LANDS.—Section 105 of the Act is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of the Interior shall exchange any lands held in trust for the Navajo Tribe by the Bureau of Indian Affairs that are within the boundary of the area described in subsection (a)(3).

"(2) The lands shall be exchanged for lands approximately equal in value that are selected by the Navajo Tribe.

"(3) After the exchange, the lands selected by the Navajo Tribe shall be held in trust by the Secretary of the Interior in the same manner as the lands described in paragraph (1).".

SEC. 3. FOSSIL FOREST RESEARCH NATURAL AREA.

Section 103 of the San Juan Basin Wilderness Protection Act of 1984 (Public Law 98-603) is amended to read as follows:

"SEC. 103. FOSSIL FOREST RESEARCH NATURAL AREA.

"(a) ESTABLISHMENT.—To conserve and protect natural values and to provide scientific knowledge, education, and interpretation for the benefit of future generations, there is established the Fossil Forest Research Natural Area (referred to in this section as the 'Area'), consisting of the approximately 2,770 acres in the Farmington District of the Bureau of Land Management, New Mexico, as generally depicted on a map entitled 'Fossil Forest', dated June 1983.

"(b) MAP AND LEGAL DESCRIPTION.—

"(1) IN GENERAL.—As soon as practicable after the date of enactment of this paragraph, the Secretary of the Interior shall file a map and legal description of the Area with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

"(2) FORCE AND EFFECT.—The map and legal description described in paragraph (1) shall have the same force and effect as if included in this Act.

"(3) TECHNICAL CORRECTIONS.—The Secretary of the Interior may correct clerical, typographical, and cartographical errors in the map and legal description subsequent to filing the map pursuant to paragraph (1).

"(4) PUBLIC INSPECTION.—The map and legal description shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior.

"(c) MANAGEMENT.—

"(1) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall manage the Area—

"(A) to protect the resources within the Area; and

"(B) in accordance with—

"(i) this Act;

"(ii) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

"(iii) other applicable provisions of law.

"(2) MINING.—

"(A) WITHDRAWAL.—The lands within the Area are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, geothermal leasing, and mineral material sales.

"(B) COAL PREFERENCE RIGHTS.—To satisfy valid existing rights, the Secretary of the Interior may follow the lease exchange procedures specified in sections 3430.5 and 3435 of title 43, Code of Federal Regulations, on any coal preference right lease application for lands within the Area if the applicant demonstrates that coal exists in commercial quantities on the lands that are the subject of the application.

"(C) OIL AND GAS LEASES.—Operations on oil and gas leases issued prior to the date of enactment of this paragraph shall be subject to the applicable provisions of Group 3100 of title 43, Code of Federal Regulations (including section 3162.5–1), and such other terms, stipulations, and conditions as the Secretary of the Interior considers necessary to avoid significant disturbance of the land surface or impairment of the natural, educational, and scientific research values of the Area in existence on the date of enactment of this paragraph.

"(3) GRAZING.—Livestock grazing on lands within the Area may not be permitted.

"(d) INVENTORY.—Not later than 3 full fiscal years after the date of enactment of this subsection, the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall develop a baseline inventory of all categories of fossil resources. After the inventory is developed, the Secretary shall conduct monitoring surveys at intervals specified in the management plan developed for the Area in accordance with subsection (e).

"(e) MANAGEMENT PLAN.—

"(1) IN GENERAL.—Not later than the last day of the 5th fiscal year that begins after the date of enactment of this subsection, the Secretary of the Interior shall develop and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a management plan that describes the appropriate uses of the Area consistent with this Act.

"(2) CONTENTS.—The management plan shall include—

"(A) a plan for the implementation of a continuing cooperative program with other agencies and groups for—

"(i) laboratory and field interpretation; and

"(ii) public education about the resources and values of the Area (including vertebrate fossils);

"(B) provisions for vehicle management that are consistent with the purpose of the Area and that provide for the use of vehicles to the minimum extent necessary to accomplish an individual scientific project;

"(C) procedures for the excavation and collection of fossil remains, including botanical fossils, and the use of motorized and mechanical equipment to the minimum extent necessary to accomplish an individual scientific project; and

"(D) mitigation and reclamation standards for activities that disturb the surface to the detriment of scenic and environmental values.".

Mr. BINGAMAN. Mr. President, I am pleased to cosponsor this legislation with Senator DOMENICI to expand the Bisti and De-Na-Zin Wilderness and establish the Fossil Research Natural Area.

This proposal will add great value to the existing Bisti and De-Na-Zin wilderness area by including the stark beauty of the surrounding badlands. These adjacent lands are of high wilderness quality and will permit visitors the rare opportunity for solitary hiking, backpacking, and geological study. The inclusion of these lands under a wilderness designation will create one wilderness area enabling the Bureau of Land Management to manage the lands more effectively. This in turn will enhance the wilderness experience for visitors and ensure the continued protection of this unique area.

The Fossil Forest Natural Area contains a rich display of petrified trees and fossils dating from 70 to 80 million years ago. There are four major dinosaur quarries where several microvertebrates and invertebrates have been identified. In addition, there is a cretaceous, 75 million year old, mammal quarry known to be of critical importance.

I hope my colleagues will join with me in supporting this legislation and I request that this statement appear in the RECORD.

By Mr. SARBANES (for himself, Mr. PELL, and Mr. HARTFIELD):

S. 314. A bill to authorize appropriations for the National Historical Publications and Records Commission for fiscal year 1994 through fiscal year 1999; to the Committee on Governmental Affairs.

NATIONAL HISTORICAL PUBLICATIONS APPROPRIATIONS AUTHORIZATION

• Mr. SARBANES. Mr. President, for the last 5 years, it has been my privilege to serve as the representative of the U.S. Senate on the National Historical Publications and Records Commission. I am introducing legislation today to reauthorize the Commission for another 6 years.

The NHPRC's statutory mandate is to promote the preservation and use of America's historical legacy. Recently, the Commission completed an extensive review of its operations and its future goals and adopted a strategic plan entitled "To Protect a Priceless Legacy." The plan proposed broad goals and specific objectives for the operation of the Commission from now until the end of the century. It is a realistic and challenging document, and I enthusiastically support its adoption. Absent the increased funding sought in this reauthorization bill, the Commission would be hard pressed to undertake work toward more than the top half-dozen objectives in its comprehensive plan.

NHPRC grants are producing valuable results. We recently saw the publication of the first volume of the papers of Martin Luther King, Jr., and the completion of the papers of Woodrow Wilson, Henry Clay, and the congressional series of the papers of James Madison—all assisted by NHPRC grants.

We have seen States and local governments across the country, with advice and assistance from the Commission, begin to establish archival programs. We have seen the Commission launch several projects to deal with the enormous problems facing archivists in controlling and making accessible valuable electronic records.

It is important that the Commission continue its respected work in preserving this Nation's heritage, and I believe this authorization legislation is a practical step in ensuring continuity of the Commission's programs.•

By Mr. GRAMM:

S. 315. A bill to authorize negotiation of free trade agreements with the countries of the Americas, and for other purposes; to the Committee on Finance.

FREE TRADE IN THE AMERICAS ACT

Mr. GRAMM. Mr. President, this is a bill titled "Free Trade in the Americas." It is an effort to build on what I hope will be successful effort for Congress to act approving the North American Free-Trade Agreement, expanding our ability to engage in free trade throughout the Americas.

What this bill does, in essence, is that it empowers the President to begin immediately to negotiate with all the countries in the Americas to form a free trade agreement that would go from the Arctic to the Antarctic and would assure that any person working in any hut or any village in the Americas could produce goods and services and sell those goods and services anywhere else in the Americas.

I think America is the country that should lead this effort. I think it will produce the prosperity and democracy we all seek. I hope my colleagues will look at this bill and decide to support it. I think it is worthy of their support.

Mr. President, the Americas constitute a very large market, and it is our neighborhood market. There are 35 nations in the Western Hemisphere, with a population of 774 million people. The gross domestic product [GDP] of the Western Hemisphere is $6.8 trillion, approaching one-third of world total. While there is a wide variety in living standards in the Americas, the per capita GDP is $9,200, twice world average of $4,600. There is potential for tremendous export growth in this market. While the nations of the Western Hemisphere have exports of $678 billion, but that is only about 10 percent of GDP.

Mr. President, today, democracy in the Western Hemisphere is almost universal. Only Cuba and Haiti are ruled by unelected regimes. But in many cases, the democracies of the Americas are fragile, mostly because their economies are fragile.

Strong economic growth can best be stimulated through trade. Trade rewards the most competitive, and reinforces economic efficiency. Trade expands economic opportunity because it expands markets.

Mr. President, one of the chief causes of social unrest in Latin America is the tremendous disparity in wealth. At the top are those who have been made fabulously wealthy from the crony capitalism that thrives on protectionism and Government favor, while the poor at the bottom are desperately poor. Free trade destroys monopoly and increases economic opportunity. It erodes crony capitalism and reinforces the free enterprise that lies at the heart of true capitalism.

Free trade agreements are not trade blocs. They will not raise a single tariff nor impose a single quota. In fact, they achieve fair trade, by lowering tariffs, quotas, and other trade barriers for everyone participating in the agreement.

Mr. President, protectionists in this country say we cannot compete with the labor of Latin America. Protectionists in Latin America say that they cannot compete with American capital. This is almost the text book case of where the gains from trade are the greatest, each of us benefiting from one another's strength. Our strength, capital—which means high wage jobs—is rewarded by trade. At the same time, wages and living standards in the Latin American countries, the goal of all of our foreign aid programs, are raised in a major way.

Mr. President, the ratification of the North American Free-Trade Agreement [NAFTA] will be the launching point for extending the benefits of trade throughout the Western Hemisphere.

Mr. President, I am not a new convert to the tremendous benefits that come to American consumers and producers from expanding our trade opportunities. On February 26, 1987, I called for following up our FTA success with Israel with free trade agreements with other countries. On that day I introduced the American Trade, Growth, and Employment Promotion Act, providing authority for the President to negotiate free trade and expanded trade agreements throughout the world.

On June 26, 1987, the Senate adopted an amendment that I offered, cosponsored by Finance Committee Chairman and now Treasury Secretary Lloyd Bentsen, to the omnibus trade bill, directing the President to enter into negotiations to achieve a free trade agreement with all of the countries of North America and the Caribbean. On February 7, 1989, I reintroduced the American Trade, Growth, and Employment Promotion Act. At that time I stated, "I look forward to the day when the United States is part of a free trade area extending from Point Barrow, AL, to Cape Horn."

Mr. President, at that time I also reemphasized my support for a free trade agreement with Mexico, which many at the time scoffed at. Now free trade with Mexico is on the verge of reality.

Mr. President, our fault in this process has not been dreaming too greatly, but rather not dreaming greatly enough.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 315

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Free Trade In the Americas Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The countries of the Western Hemisphere have enjoyed more success in the peaceful conduct of their relations among themselves during this century than have the countries on the other continents of the world.

(2) The economic prosperity of the United States and its trading partners in the Western Hemisphere is increased by the mutual reduction of trade barriers.

(3) The successful establishment of a North American Free Trade Area will set the pattern for the promotion of the mutual reduction of trade barriers with countries throughout the Western Hemisphere, initiating a process of removing trade barriers and enhancing prosperity instead of the cycle of increasing trade barriers and deepening poverty likely to result from a resort to protectionism and trade retaliation.

(4) Trade protection endangers economic prosperity in the United States and throughout the Western Hemisphere and undermines civil liberty and constitutionally limited government.

(5) The reduction of government interference in the foreign and domestic sectors of a nation's economy and the concomitant promotion of economic opportunity and freedoms promote civil liberty and constitutionally limited government.

(6) Countries that observe a consistent policy of free trade, the promotion of free enterprise and other economic freedoms (including protection of private property), the removal of barriers to foreign direct investment, in the context of constitutionally limited government and minimal interference in the economy, will follow the surest and most effective prescription to alleviate poverty and provide for economic, social, and political development.

SEC. 3. FREE TRADE AREA FOR THE WESTERN HEMISPHERE.

(a) IN GENERAL.—The President shall take action to initiate negotiations to obtain trade agreements with the sovereign countries located in the Western Hemisphere, the terms of which provide for the reduction and ultimate elimination of tariffs and other nontariff barriers to trade, for the purpose of promoting the eventual establishment of a free trade area for the entire Western Hemisphere.

(b) RECIPROCAL BASIS.—An agreement entered into under subsection (a) shall be reciprocal and provide mutual reductions in trade barriers to promote trade, economic growth, and employment.

(c) BILATERAL OR MULTILATERAL BASIS.—Agreements may be entered into under subsection (a) on a bilateral basis with any foreign country described in that subsection or on a multilateral basis with all of such countries or any group of such countries.

SEC. 4. IMPLEMENTATION OF TRADE AGREEMENTS.

The provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) apply to implementing bills submitted with respect to trade agreements entered into pursuant to the provisions of this Act.

By Mr. DECONCINI (for himself and Mr. MCCAIN):

S. 316. A bill to expand the boundaries of the Saguaro National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

SAGUARO NATIONAL MONUMENT PROTECTION ACT OF 1993

• Mr. DECONCINI. Mr. President, today I am reintroducing, along with my colleague Senator MCCAIN, the Saguaro National Monument Protection Act of 1993. This bill will give the Park Service the capabilities and resources to protect the Tucson Mountain unit of the Saguaro National Monument by authorizing the expansion of the boundaries to include an adjacent 160-acre parcel of land administered by the Bureau of Land Management.

Mr. President, the Saguaro National Monument is situated in Pima County, AZ. It is comprised of two management units separated by the city of Tucson—the Tucson Mountain District and the Rincon Mountain District. The Saguaro National Monument offers a unique wilderness experience in an urban setting.

In order to fully appreciate the values that will be protected by this legislation, one can look to President Kennedy's comments when he established the Tucson Mountain unit in 1961:

> It is in the public interest to add to the Saguaro National Monument the Tucson Mountain Park which contains a remarkable display of relatively undisturbed lower Sonoran desert vegetation, including a saguaro stand which equals or surpasses saguaro stands elsewhere in the world.

Those that have seen this area can understand and appreciate what President Kennedy was talking about and can be thankful for his foresight.

However, development pressures on the boundary of the west unit are adversely impacting the natural resource values mentioned by President Kennedy. The Tucson Mountain unit is located in a fragile and biologically sensitive ecosystem which is being threatened by encroaching development pressures from the neighboring Tucson metropolitan area as well as other activities on land immediately adjacent to the park boundaries.

Mr. President, in response to these threats facing the Tucson Mountain unit, I was successful in having $100,000 included in the fiscal year 1992 Interior appropriations bill. This funding will enable the Park Service to undertake a comprehensive boundary study to identify which lands will be appropriate for possible inclusion in the monument. The inclusion of these parcels within the monument boundary will provide a buffer to protect the aforementioned resources of the Tucson Mountain unit. It is estimated that this study is expected to take 18 months to complete. The study has not yet been completed but should be finalized within the month. Any findings in the study that may necessitate a change in this proposed legislation may be examined for incorporation into the bill during the hearing and markup process.

The question may be raised as to why introduce a bill that will expand the boundaries to include only the 160-acre parcel of land administered by the Bureau of Land Management. Also, what is the reason for introducing it prior to the completion of the boundary expansion study. The answer lies in the fact that a proposal was recently submitted to the BLM to reopen a gold mine on this parcel before the Park Service had an opportunity to consider it as part of the boundary expansion study. If the BLM would have approved this proposal, there would have been an operating mine on the boundary of the Saguaro National Monument. Also, the possibility of this parcel ever being included in the monument could have been precluded. I think that it is safe to say that either of these situations are less than desirable for the protection of the monument.

Responding to the urgency of this situation, Congressman PASTOR and I wrote to the BLM expressing our concerns about the adverse consequences that would result if the BLM would approve the proposal to reopen the Old Yuma mine. Also, I stated my intention to introduce the Saguaro National Monument Protection Act of 1993, which will expand the boundaries of the Monument to include the parcel of BLM land containing the Old Yuma mine site. Fortunately, in a demonstration of real leadership, the BLM denied the proposal to reopen Old Yuma mine.

Notwithstanding the BLM's actions to reject the proposal to open Old Yuma mine, I still feel compelled to move forward with this legislation. The introduction of this legislation combined with the action taken in the fiscal year 1992 Interior appropriations bill, will demonstrate a real commitment on the part of Congress to protect the Tucson Mountain unit of the Saguaro National Monument.

In closing, I want to say that I look forward to working with the Park Service as they proceed with the boundary expansion study so that when it is completed, we can incorporate their results into the Saguaro National Monument Protection Act of 1993. By doing this, we will ensure that future generations will continue to enjoy and appreciate the resources of this truly outstanding Park Service unit.

Mr. President, I ask that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 316

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Saguaro National Monument Protection Act of 1993".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Tucson Mountain Unit of the Saguaro National Monument continues to be exposed to threats to the integrity of the natural resources, scenic beauty, and natural processes upon which its establishment was based in 1961;

(2) these threats also impede opportunities for public enjoyment, education, and safety within the monument in general, as well as opportunities for natural solitude within the wilderness area of the monument as designated by Congress in 1976;

(3) these threats are, in large part, due to land use and development practices on private, State, local, and other Federal lands immediately adjacent to the monument boundaries; and

(4) the monument boundaries in effect on the day before the date of enactment of this Act are no longer appropriate within the context of the continuing residential and commercial growth of the greater metropolitan area of Tucson, Arizona.

(b) *Purpose.*—The purpose of this Act is to authorize the addition of approximately 160 acres to the Tucson Mountain Unit of the Saguaro National Monument in order to protect, preserve, and interpret the monument's resources, and to provide for the education and benefit of the public.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) EXPANSION AREA.—The term "expansion area" means the approximately 160 acres added to the monument by this Act.

(2) MONUMENT.—The term "monument" means the Saguaro National Monument.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. EXPANSION OF MONUMENT BOUNDARIES.

(a) IN GENERAL.—The monument boundaries are revised to include the approximately 160 acres of lands and interests in lands as generally contained within Township 13 South, Range 12 East, Southeast ¼ of Section 9 of the Gila and Salt Rivers Meridian.

(b) ACQUISITION OF LANDS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may acquire lands and interests in lands within the monument boundaries by donation, purchase with donated or appropriated funds, exchange, or transfer from another Federal agency.

(2) EXCEPTION.—Lands and interests in lands owned by the State of Arizona or any political subdivision of the State may be acquired only by donation or exchange.

(c) ADMINISTRATION.—Lands and interests in lands acquired pursuant to this Act shall be administered as part of the monument and shall be subject to laws applicable to the monument.

(d) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the expansion area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and all amendments thereto.

(e) AMENDMENT TO THE GENERAL MANAGEMENT PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall review, and if necessary amend, the monument's general management plan with respect to the use and management of the expansion area.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.●

By Mr. DECONCINI:

S. 317. A bill to reform Customs Service operations, and for other purposes; to the Committee on Finance.

CUSTOMS INSPECTOR BENEFIT REFORM ACT OF 1993

● Mr. DECONCINI. Mr. President, I rise to introduce the Customs Inspector Benefit Reform Act of 1993.

The uniformed inspectors of the U.S. Customs Service are at the forefront of the Nation's efforts to interdict and prevent the smuggling of drugs and other contraband into this country. On a daily basis they face the multiple challenges of confronting drug criminals, organized crime figures, and a broad array of unpredictable and often dangerous persons. They also are responsible for representing the United States of America to millions of international travelers each year.

I would like to spend a few minutes explaining the conditions and challenges under which these fine public servants perform their jobs. Mr. President, as chairman of the Treasury, Postal and General Government Appropriations Subcommittee, the Customs Service falls within my appropriations responsibilities. As such, I have the opportunity to experience first hand the operations of the Customs Service and its approximate 6,000 uniformed customs inspectors.

The responsibilities which Congress has vested in these people are awesome. They face multiple challenges: They must confront leading criminals and organized crime figures in the drug war, be prepared to thwart terrorist attacks and detect increasingly sophisticated white-collar criminals. During fiscal year 1992, the customs inspector was responsible for making 17,274 criminal arrests, which represent 68 percent of all customs arrests. Inspectors must carry firearms and maintain the highest degree of proficiency with these weapons as a condition of their employment. Whether a customs inspector is searching a suitcase at an airport, inspecting a shipment of liquefied natural gas, or reviewing export documents on missile technology, we expect them to handle all of these responsibilities in an experienced and professional manner.

Over the years, customs inspectors have aided in the interdiction of millions of tons of cocaine, marijuana, and other drugs too numerous to mention. These drugs have been seized and destroyed before the contraband could make its way onto our streets and into our Nation's schools. During 1992, the customs inspectors seized 130,254 pounds of cocaine: 53 percent of the customs total: 1,976 pounds of heroin: 89 percent of the customs total, and 221,494 pounds of marijuana: 48 percent of the customs total. In addition, believe it or not, it is the customs inspector who helps ensure that tyrants such as Mu'ammar Qadhafi and Saddam Hussein do not get their hands on critical weapons technology. The customs inspector forms the core of people who make it very expensive and difficult for the international criminal element to operate.

There is very little glamour in these positions. Inspectors work long and irregular hours, constantly being exposed to a wide variety of occupational and environmental hazards such as toxic chemicals and exhaust fumes, adverse and extreme weather conditions, and a myriad of other less than desirable working conditions. Duties range from staffing a one-person border crossing at a remote and frozen northern port of entry to inspecting the bilge of a filth-infested foreign freighter along the Miami River.

For the last 210 years, 24 hours a day, 365 days a year there have been hundreds of U.S. customs inspectors vigilantly enforcing the trade and tariff laws of the United States. These men and women are required to enforce not only the U.S. customs laws but the approximately 1,600 laws and regulations of 60 other Government agencies. In addition, Mr. President, these men and women have also been charged with enforcing hundreds of separate State and local trade laws. A significant area of their work is in the enforcement of international trade laws which involves the collection of over $20 billion in duties and fees from foreign entities; protection of domestic industries and the prevention of illegal importations which lead to a loss of jobs in the United States.

The bill I am introducing today will significantly reform the way the Customs inspector is paid. The present overtime system for these valuable employees was instituted back in 1911. There has been no significant change in their pay system since that time. Moreover, the evolution of the Customs inspector's duties and responsibilities has caused the position to become increasingly complex. Inspectors are now confronted with highly sophisticated narcotics smuggling techniques, terrorism threats, automated systems and highly specialized inspection functions, at the same time that this country has experienced a virtual explosion in commercial and passenger traffic. These changes have not been recognized in their pay structure.

It is very difficult to imagine how tangled any pay system would be if it had not changed in any substantive way since 1911. In essence, you would be operating in a 21st century environment using 19th century methods. It would take me days to explain how an inspector is currently being paid—it is just that complicated. I am confident that there are very few people who know all the intricacies of the current inspector pay system. However, it is known that under certain situations inspectors could earn overtime compensation at rates which substantially exceed the actual hours worked. The first goal of the legislation I am sponsoring today is to provide a linear relationship between hours paid for hours worked.

Mr. PICKLE has introduced H.R. 22 which includes title II—Customs Officer Pay Reform. By and large, this bill adopts the House Ways and Means Committee's proposal, from the 102d Congress, to revise the overtime pay system for Customs inspectors. Under this bill, the overtime pay system will be calculated on a double-time system, with premium pay for designated shifts and commuting costs when the Customs inspector is required to return back to work. I understand that the House Ways and Means Committee adopted these changes because the Members believed they would correct the anomalies in the current inspector pay program and provide for a fair overtime system. This bill recognizes the adverse effect on the quality of life of Customs officers who are required to work all hours of the day.

The House bill includes additional provisions relating to the compensation of United States Customs inspectors. The first section authorizes the Secretary of the Treasury to pay up to 5 percent of basic pay to any Customs inspector who possesses and makes substantial use of one or more foreign languages in the performance of his or her official duties. Many individuals whom Customs officials encounter on a daily basis do not speak English and this provision would enable Customs to recruit and retain inspectors who are proficient in a foreign language. The second provision permits a portion of overtime earnings to be included for the purposes of calculating the retirement annuities for Customs officers. This places the Customs inspector on a par with other law enforcement officers who have administratively uncontrollable overtime calculated into their retirement annuities and offsets some of the loss of compensation to the Customs inspector as a result of the changes in their existing overtime pay system.

I would like to commend my colleagues in the House for their valued efforts in attempting to bring some logic and fairness to this pay system. As I understand it, title II of H.R. 22, has been referred jointly to the Committees on Ways and Means, Energy and Commerce, and Post Office and Civil Service.

The bill I am introducing today varies from title II of H.R. 22 in three important ways. Certain Customs inspectors operate in extremely hazardous duty locations. An Inspector who is responsible for a traffic lane along the Southwest border is placing his or her life in great jeopardy each day. I have been told that one of the most hazardous parts of any policeman's daily duties is stopping vehicles for traffic violations. Where a police officer might stop a half dozen cars in any 1 day, the Customs inspector stops, questions, and often searches hundreds of cars a day. In addition, as I noted earlier, Customs inspectors are charged with inspections of all types of chemical, biological, and in all-too-frequent cases, completely unknown cargo shipments. My bill would allow the Commissioner of Customs to designate hazardous duty locations. Hazardous duty pay under current law is permitted to be paid; however, it requires a long and laborious administrative process to be undertaken. The provision in this bill will streamline those regulations and permit hazardous duty pay to be given at the discretion of the Customs Commissioner.

Second, the bill allows the Customs inspector access to the Federal law enforcement pay provisions contained in section 405 of the Federal Employees Comparability Act of 1990, Public Law 101-590. Currently, Customs inspectors are not designated as law enforcement personnel despite the fact that they perform law enforcement duties on a daily basis. This provision would correct that anomaly and permit Customs inspectors working in areas where geographic pay adjustments are in effect to be eligible for locality pay adjustments.

Finally, the bill contains an arduous duty provision which recognizes employees who provide service well beyond that of the typical Federal employee. Some Customs inspectors are assigned to special enforcement teams and perform functions which are not only strenuous and difficult, but also require above average physical standards to perform. To recognize the fact that the Customs Service has some extremely difficult functions, I have included a section in the bill which addresses the needs of these employees. Under the provisions of this bill, the Commissioner of Customs would determine which positions would be designated as arduous duty enforcement positions. Section 9 of this bill would authorize for every year served in an arduous enforcement position, an additional one-half year to be added to the inspector's service computation date for retirement purposes.

Mr. President, I began this speech extolling the virtues of the Customs inspector. It would seem incongruous that I would now recommend sweeping reform of their unusual pay system. I can tell you that I have received nothing but support and assistance for my efforts from the National Treasury Employees Union [NTEU] the exclusive representative of the approximately 6,000 inspectors which this legislation will effect. NTEU has taken the leadership position of acknowledging that it is time to change inspector overtime pay, but recognizes that these changes must be accompanied by other reforms in the inspector's pay system. This legislation presents a rational approach to this problem.

Mr. President, the last section of this bill is not a pay provision. It is an attempt to close a very large and expensive loophole in the 1985 COBRA law with regard to passenger processing fees. Currently, international air and sea travelers are required to pay a $5 passenger processing fee, added to the price of their tickets, to offset the cost associated with the Customs processing of international passengers at air and sea ports. However, under current law, travelers to and from Canada, Mexico, and the Caribbean are not required to pay this fee. This exemption may be costing the Treasury of the United States an estimated $90 million annually. Section 10 of this bill is intended to close this enormous revenue gap. Section 10 authorizes Customs to collect a $5 fee from air and sea passengers who travel between the United States, Canada, Mexico, and Caribbean. Mr. President, this is the same which is now being collected from most other international air and sea travelers. The Customs COBRA account has an established record of returning these resources to the traveling public in the form of an additional 467 Customs inspectors and the critical equipment needs for the expeditious processing of passengers at air and sea ports.

Mr. President, I ask unanimous consent that the text of the Customs Inspector Benefit Reform Act of 1993 be printed in the RECORD immediately following my remarks, and I urge its expeditious consideration by the Senate Finance Committee.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 317

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Customs Inspector Benefit Reform Act of 1993".

SEC. 2. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFICERS.

(a) IN GENERAL.—Section 5 of the Act of February 13, 1911 (19 U.S.C. 261 and 267) is amended to read as follows:

"SEC. 5. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFICERS.

"(a) OVERTIME PAY.—

"(1) IN GENERAL.—Subject to paragraph (2) and subsection (c), a customs officer who is officially assigned to perform work in excess of 40 hours in the administrative workweek of the officer or in excess of 8 hours in a day shall be compensated for that work at an hourly rate of pay that is equal to 2 times the hourly rate of the basic pay of the officer. For purposes of this paragraph, the hourly rate of basic pay for a customs officer does not include any premium pay provided for under subsection (b).

"(2) SPECIAL PROVISIONS RELATING TO OVERTIME WORK ON CALLBACK BASIS.—

"(A) MINIMUM DURATION.—Any work for which compensation is authorized under paragraph (1) and for which the customs officer is required to return to the officer's place of work shall be treated as being not less than 2 hours in duration; but only if such work begins at least 1 hour after the end of any previous regularly scheduled work assignment.

"(B) COMPENSATION FOR COMMUTING TIME.—

"(i) IN GENERAL.—Except as provided in clause (ii), in addition to the compensation authorized under paragraph (1) for work to which subparagraph (A) applies, the customs officer is entitled to be paid, as compensation for commuting time, an amount equal to 3 times the hourly rate of basic pay of the officer.

"(ii) EXCEPTION.—Compensation for commuting time is not payable under clause (i) if the work for which compensation is authorized under paragraph (1) commences within 2 hours of the next regularly scheduled work assignment of the customs officer.

"(b) PREMIUM PAY FOR CUSTOMS OFFICERS.—

"(1) NIGHT WORK DIFFERENTIAL.—

"(A) 3 P.M. TO MIDNIGHT SHIFTWORK.—If the majority of the hours of regularly scheduled work of a customs officer occur during the period beginning at 3 p.m. and ending at 12 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate.

"(B) 11 P.M. TO 8 A.M. SHIFTWORK.—If the majority of the hours of regularly scheduled work of a customs officer occur during the period beginning at 11 p.m. and ending at 8 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate.

"(C) 7:30 P.M. TO 3:30 A.M. SHIFTWORK.—If the regularly scheduled work assignment of a customs officer is 7:30 p.m. to 3:30 a.m, the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate for the period from 7:30 p.m. to 11:30 p.m. and at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate for the period from 11:30 p.m. to 3:30 a.m.

"(2) SUNDAY DIFFERENTIAL.—A customs officer who performs any regularly scheduled work on a Sunday that is not a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 100 percent of that basic rate.

"(3) HOLIDAY DIFFERENTIAL.—A customs officer who performs any regularly scheduled work on a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 100 percent of that basic rate.

"(4) TREATMENT OF PREMIUM PAY.—Premium pay provided for under this subsection may not be treated as being overtime pay or compensation for any purpose.

"(c) EXCLUSIVITY OF PAY UNDER THIS SECTION.—A customs officer who receives overtime pay under subsection (a) or premium pay under subsection (b) for time worked may not receive pay or other compensation for that work under any other provision of law.

"(d) REGULATIONS.—The Secretary of the Treasury shall prescribe such regulations as are necessary or appropriate to carry out this section, including regulations—

"(1) to ensure that callback work assignments are commensurate with the overtime pay authorized for such work; and

"(2) to prevent the disproportionate assignment of overtime work to customs officers who are near to retirement.

"(e) DEFINITIONS.—As used in this section:

"(1) The term 'customs officer' means an individual performing those functions specified by regulation by the Secretary of the Treasury for a customs inspector or canine enforcement officer. Such functions shall be consistent with such applicable standards as may be promulgated by the Office of Personnel Management.

"(2) The term 'holiday' means any day designated as a holiday under a Federal statute or Executive order.".

(b) CONFORMING AMENDMENTS.—

(1) Section 2 of the Act of June 3, 1944 (19 U.S.C. 1451a), is repealed.

(2) Section 450 of the Tariff Act of 1930 (19 U.S.C. 1450) is amended—

(A) by striking out "**AT NIGHT**" in the section heading and inserting "**DURING OVERTIME HOURS**";

(B) by striking out "at night" and inserting "during overtime hours"; and

(C) by inserting "aircraft," immediately before "vessel".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply to customs inspectional services provided on or after the date occurring 90 days after the date of the enactment of this Act.

SEC. 3. FOREIGN LANGUAGE PROFICIENCY AWARDS FOR CUSTOMS OFFICERS.

Cash awards for foreign language proficiency may, under regulations prescribed by the Secretary of the Treasury, be paid to customs officers (as referred to in section 5(e)(1) of the Act of February 13, 1911) to the same extent and in the same manner as would be allowable under subchapter III of chapter 45 of title 5, United States Code, with respect to law enforcement officers (as defined by section 4521 of such title).

SEC. 4. APPROPRIATIONS REIMBURSEMENTS FROM THE CUSTOMS USER FEE ACCOUNT.

Section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)) is amended by amending clause (i) of subparagraph (A) to read as follows:

"(i) in—

"(I) paying overtime compensation and premium pay under section 5(a) and (b) of the Act of February 13, 1911,

"(II) paying necessary expenses for agency contributions to the Civil Service Retirement and Disability Fund or the Federal Employees Retirement System to match deductions from the overtime compensation paid under subclause (I), and

"(III) providing all preclearance services for which the recipients of such services are not required to reimburse the Secretary of the Treasury, and".

SEC. 5. TREATMENT OF CERTAIN PAY OF CUSTOMS OFFICERS FOR RETIREMENT PURPOSES.

(a) IN GENERAL.—Section 8331(3) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the semicolon at the end of subparagraph (D) and inserting "; and";

(3) by adding after subparagraph (D) the following:

"(E) with respect to a customs officer (referred to in subsection (e)(1) of section 5 of the Act of February 13, 1911), compensation for overtime inspectional services provided for under subsection (a) of such section 5, but not to exceed 50 percent of any statutory maximum in overtime pay for customs officers which is in effect for the year involved;"; and

(4) by striking out "subparagraphs (B), (C), and (D) of this paragraph," and inserting "subparagraphs (B), (C), (D), and (E) of this paragraph".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of the enactment of this Act and apply only with respect to service performed on or after such date.

SEC. 6. REPORTS.

(a) CUSTOMS USER FEE ACCOUNT REPORTS.—Subparagraph (D) of section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)(D)) is amended to read as follows:

"(D) At the close of each fiscal year, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives—

"(i) containing a detailed accounting of all expenditures from the Customs User Fee Account during such year, including a summary of the expenditures, on a port-by-port basis, for which reimbursement has been provided under subparagraph (A)(ii); and

"(ii) containing a listing of all callback assignments of customs officers for which overtime compensation was paid under section 5(a) of the Act of February 13, 1911, and that were less than 1 hour in duration.".

(b) OTHER REPORTS.—

(1) GAO REPORT.—The Comptroller General of the United States shall undertake—

(A) an evaluation of the appropriateness and efficiency of the customs user fee laws for financing the provision of customs inspectional services; and

(B) a study to determine whether cost savings in the provision of overtime inspectional services could be realized by the United States Customs Service through the use of additional inspectors as opposed to continuing the current practice of relying on overtime pay.

The Comptroller General shall submit a report on the evaluation and study required under this subsection to the Committees by no later than the 1st anniversary of the date of the enactment of this Act.

(2) TREASURY RECOMMENDATION.—On the day that the President submits the budget for the United States Government for fiscal year 1994 to the Congress under section 1105(a) of title 31, United States Code, the Secretary of the Treasury shall submit to the Committees recommended legislative proposals for improving the operation of customs user fee laws in financing the provision of customs inspectional services.

(3) DEFINITION OF COMMITTEES.—For purposes of this subsection, the term "Committees" means the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 7. HAZARDOUS DUTY DIFFERENTIAL.

(a) IN GENERAL.—Notwithstanding section 5545(d) of title 5, United States Code, in the administration of such section, the Commissioner of Customs of the United States Customs Service may designate hazardous duty functions for the purpose of paying hazardous duty differentials to customs officers.

(b) DEFINITION.—For purposes of this section the term "customs officer" means an individual performing those functions specified by regulation by the Secretary of the Treasury for a customs inspector or canine enforcement officer. Such functions shall be consistent with such applicable standards as may be promulgated by the Office of Personnel Management.

(c) EFFECTIVE DATE.—This section shall take effect and apply to inspectional services provided on or after October 1, 1993.

SEC. 8. SPECIAL PAY ADJUSTMENT FOR CUSTOMS SERVICE EMPLOYEES.

(a) IN GENERAL.—Section 405 of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5305 note; 104 Stat. 1466) is amended by adding at the end thereof the following new subsection:

"(d)(1) The provisions of subsection (a) shall apply to customs officers.

"(2) For purposes of this section the appropriate agency head for prescribing regulations shall be the Secretary of the Treasury.

"(3) For purposes of this section the term 'customs officer' means an individual performing those functions specified by regulation by the Secretary of the Treasury for a customs inspector or canine enforcement officer. Such functions shall be consistent with such applicable standards as may be promulgated by the Office of Personnel Management.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to the provisions of paragraph (2), the amendment made by this section shall be effective on and after the first day of the first applicable pay period beginning on or after October 1, 1993.

(2) REGULATIONS.—The Secretary of the Treasury may prescribe regulations after the date of the enactment of this section to provide for the implementation of the amendment made by this section on or after the effective date under paragraph (1).

SEC. 9. CUSTOMS INSPECTOR AND CANINE ENFORCEMENT OFFICER CREDITABLE SERVICE FOR RETIREMENT.

(a) DESIGNATION OF ARDUOUS ENFORCEMENT POSITIONS.—The Commissioner of Customs (hereafter in this section referred to as the "Commissioner") may designate positions in the Customs Service as arduous enforcement positions. An arduous enforcement position may only be filled by an employee who—

(1) is a customs inspector or canine enforcement officer;

(2) is capable of performing duties which are sufficiently rigorous that employment opportunities should be limited to young and physically vigorous individuals, as determined by the Commissioner;

(3) is less than 57 years of age;

(4) qualifies in firearms tests conducted on a quarterly basis under regulations promulgated by the Commissioner; and

(5) qualifies in all physical fitness standards under regulations promulgated by the Commissioner that are generally applicable to all Federal law enforcement officers.

(b) REMOVAL FROM ARDUOUS ENFORCEMENT POSITION.—A customs inspector or canine enforcement officer who fails to qualify on any quarterly firearms test as required under subsection (a)(4) or fails to maintain the physical fitness standards under subsection (a)(5) shall be removed from an arduous enforcement position. Such inspector or officer may not be assigned to an arduous enforcement position for a period of no less than 6 months.

(c) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8331 of title 5, United States Code, is amended—

(A) in paragraph (25) by striking out "and" after the semicolon;

(B) in paragraph (26) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new paragraph:

"(27) 'designated customs inspector' means a customs inspector or canine enforcement officer who is serving in an arduous enforcement position as designated by the Commissioner of Customs under section 9 of the Customs Inspector Benefit Reform Act of 1993.".

(2) CREDITABLE SERVICE.—Section 8332 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(o)(1) For purposes of this chapter, and subject to the provisions of this subsection, a designated customs inspector shall receive 1½ years of creditable service for each year of actual service as a designated customs inspector. Such service shall be based on full years and twelfth parts thereof, excluding from the aggregate the fractional part of a month, if any.

"(2) The provisions of paragraph (1) shall not apply to any customs inspector or canine enforcement officer unless such inspector or officer has no less than 5 years of actual service as an employee (which is otherwise creditable service under this section).

"(3) No customs inspector or canine enforcement officer may be credited with more than 20 years of creditable service under the provisions of paragraph (1).

"(4) This subsection shall not be construed to give any customs inspector or canine enforcement officer credit for both service as such inspector or officer and service as a designated customs inspector during any specified time period.".

(3) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, is amended—

(A) in the first sentence of subsection (a)(1) by inserting "designated customs inspector," after "law enforcement officer,"; and

(B) in the table under subsection (c) by inserting after the item relating to law enforcement officers and firefighters the following new item:

"Designated customs inspector for designated customs inspector service.	7½	After September 30, 1993.".

(4) COMPUTATION OF ANNUITY.—Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(r) The annuity of an employee with creditable service under section 8332(o) retiring under this subchapter is computed under subsection (a) of this section, except the annuity of such employee is computed with respect to the service credited under section 8322(o)(1) as a designated customs inspector by multiplying 2½ percent of his average pay by the years of that service.".

(5) APPLICATION.—The amendments made by this subsection shall be effective on and after October 1, 1993, and shall apply with regard to service performed by a customs inspector or canine enforcement officer in an arduous enforcement position on and after such date.

(d) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8401 of title 5, United States Code, is amended—

(A) in paragraph (31) by striking out "and" after the semicolon;

(B) in paragraph (32) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new paragraph:

"(33) 'designated customs inspector' means a customs inspector or canine enforcement officer who is serving in an arduous enforcement position as designated by the Commissioner of Customs under section 9 of the Customs Inspector Benefit Reform Act of 1993.".

(2) CREDITABLE SERVICE.—Section 8411 of title 5, United States Code, is amended by

adding at the end thereof the following new subsection:

"(h)(1) For purposes of this chapter, and subject to the provisions of this subsection, a designated customs inspector shall receive 1½ years of creditable service for each year of actual service as a designated customs inspector. Such service shall be based on full years and twelfth parts thereof, excluding from the aggregate the fractional part of a month, if any.

"(2) The provisions of paragraph (1) shall not apply to any customs inspector or canine enforcement officer unless such inspector or officer has no less than 5 years of actual service as an employee (which is otherwise creditable service under this section).

"(3) No customs inspector or canine enforcement officer may be credited with more than 20 years of creditable service under the provisions of paragraph (1).

"(4) This subsection shall not be construed to give any customs inspector or canine enforcement officer credit for both service as such inspector or officer and service as a designated customs inspector during any specified time period.".

(3) DEDUCTIONS FROM PAY.—Section 8422(a)(2)(B) of title 5, United States Code, is amended by inserting "designated customs inspector," after "law enforcement officer,".

(4) GOVERNMENT CONTRIBUTIONS.—Section 8423(a) is amended—

(A) in paragraph (1)(B) by inserting "designated customs inspector," after "law enforcement officer,"; and

(B) in paragraph (3)(A) by inserting "designated customs inspector," after "law enforcement officer,".

(5) COMPUTATION OF ANNUITY.—Section 8415 of title 5, United States Code, is amended—

(A) in subsection (g)(2) by inserting "designated customs inspector," after "law enforcement officer,"; and

(B) by adding at the end thereof the following new subsection:

"(h) The annuity of an employee with creditable service under section 8411(h) retiring under this subchapter is computed under subsection (a) of this section, except the annuity of such employee is computed with respect to the service credited under section 8411(h)(1) as a designated customs inspector by multiplying $1\frac{7}{10}$ percent of his average pay by the years of that service.".

(6) APPLICATION.—The amendments made by this subsection shall be effective on and after October 1, 1993, and shall apply with regard to service performed by a customs inspector or canine enforcement officer in an arduous enforcement position on and after such date.

SEC. 10. APPLICATION OF CUSTOMS SERVICE FEES TO PASSENGERS.

(a) IN GENERAL.—Subparagraph (A) of section 13031(b)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(1)(A)) is amended to read as follows:

"(A) the arrival of any passenger whose journey—

"(i) originated in—

"(I) a territory or possession of the United States; or

"(ii) originated in the United States and was limited to—

"(I) territories and possessions of the United States; and

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to customs services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after the date that is 90 days after the date of the enactment of this Act.●

By Mr. JOHNSTON (for himself and Mr. KRUEGER):

S. 318. A bill to provide for the energy security of the Nation through encouraging the production of domestic oil and gas resources in deep water on the Outer Continental Shelf in the Gulf of Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

OUTER CONTINENTAL SHELF DEEP WATER ROYALTY RELIEF ACT

Mr. JOHNSTON. Mr. President, the bill I am introducing is designed to get drilling in the Gulf of Mexico off the coast of Louisiana going again in the deep water. As my colleagues know, oil imports have reached crisis proportions in this country, being almost 50 percent of the oil that the United States uses, while the drilling in the United States and while the production of domestic oil is declining also at an alarming rate. As we have pointed out to our colleagues, more jobs have been lost in the oil and gas business in the United States than in automobiles, than in steel, than in any other sector of the economy; and that, in turn, is directly reflected in the amount of domestic production.

Not only is the present amount of domestic production small and declining, but the long-term outlook for that domestic production in the United States is really terrible. We recently had a lease sale in the Gulf of Mexico, and it got record low bids from oil companies, and the reason that the bids were so low, Mr. President, is the expenses involved in drilling in the Gulf of Mexico are so high, particularly in the deep water.

What this bill does is say, with those rigs that are drilling in water of 200 meters and more, they may first recover their costs before beginning to pay royalty to the United States. It is the same kind of incentive for drilling that the U.K. gives in the North Sea, that other countries give in their drilling offshore. As I say, it is designed to make economically feasible those wells, principally off Louisiana in the central and western gulf, that are not being drilled at the present time.

We believe it will cost the United States nothing. To the contrary, it will make money, because the wells are not being drilled now. You are not getting bonuses or royalties now, because the wells are not being drilled.

Mr. President, if this measure is enough incentive—and that is an open question—it is one of the most important things we can do for the balance of payments and for the ever increasing reliance upon foreign energy which we have in this country today.

Mr. President, I am introducing, on behalf of myself and Senator KRUEGER, the Outer Continental Shelf Deep Water Royalty Relief Act. This legislation is intended to address the serious decline in oil and gas leasing and development activity in the western and central Gulf of Mexico on the Outer Continental Shelf where the program historically has been active. The legislation does not address the controversial issues of OCS leasing moratoria or lease buybacks.

Mr. President, the fact that our domestic oil and gas industry is in serious trouble was made evident to me by the disturbing results of the two most recent lease sales in the Gulf of Mexico. These sales were the worst in the history of the Federal OCS leasing program in the western and central Gulf.

Last May, the Department of the Interior conducted an OCS lease sale in the Central Gulf of Mexico, offshore Louisiana. That sale produced the lowest amount in bids in over 20 years. Out of 5,213 tracts offered for sale, only 151 actually received bids. The sale compared poorly with sales in recent years. The previous year, for example, almost five times the amount of bonus bids was received on a roughly comparable sale.

This past August, the Department conducted a lease sale in the western Gulf of Mexico. There was little industry interest, with the Government receiving only 81 bids on 61 tracts. Some $30.6 million in high bids were received, by far the lowest amount ever bid in a lease sale in the area. There was no interest in any tract in waters over 1,000 feet in depth.

The Outer Continental Shelf is an important source of oil and clean-burning natural gas. Approximately 10 percent of domestic oil and 25 percent of domestic gas is produced from the OCS. The OCS contains approximately one-fourth of all domestic estimated oil and gas reserves. The central and western Gulf of Mexico account for 90 percent of the oil and 99 percent of the gas produced from the OCS.

This alarming decrease in OCS activity coincides with signs that the oil and gas industry in this country is in serious decline. The active rotary rig count has fallen to levels not seen since 1942. Domestic exploration budgets are being slashed. The oil and gas industry has lost over 450,000 jobs over the last 10 years, more than the steel and automobile industries combined.

Mr. President, this legislation is intended to address this grave situation by encouraging development and production of resources in deep waters on the Outer Continental Shelf. The legislation provides that royalty payments will not be required on production from leases in water depths of 200 meters or more until such time as the capital costs related to the production have been recovered by the lessee out of proceeds from such lease. The provision applies to production from leases coming on-line after the date of enactment of the legislation and to production resulting from lease development activities undertaken pursuant to a development operations coordination document approved after the date of enactment. The royalty relief does not apply to the production of oil or natural gas, respectively, in any month when the average closing prices for the earliest delivery month for oil exceeds $28 per barrel or when such prices for gas exceed $3.50 per million Btu's. The legislation also clarifies existing law so that under certain circumstances royalty reductions or suspension can be granted on any OCS lease, even if there has not previously been production from the lease.

Mr. President, the deep waters of the OCS, and particularly the Gulf of Mexico, hold promise for having substantial oil and gas reserves that could prove crucial to our domestic energy security. According to Department of the Interior estimates, there are some 11 billion barrels of oil equivalent in the Gulf of Mexico in waters of a depth of 200 meters or more. At hearings conducted on a similar proposal last summer, one witness testified that there were an estimated 50 deepwater discoveries with estimated reserves of 2½ billion barrels of oil equivalent for which there are no plans for immediate development because proceeding is not economic.

The costs of producing these resources are substantial and increase significantly with water depth. One industry estimate places capital investment costs for a conventional fixed leg platform in 800 feet of water at $360 million, compared to costs of nearly $1 billion for a conventional tension leg platform in 3,000 feet of water.

This legislation should help to encourage production of important oil and gas resources in the deep waters such as those of the central and western Gulf of Mexico by allowing lessees to recover their capital costs prior to the imposition of royalty payments. The bill will provide a much-needed jump-start for the domestic industry. It will also yield much-needed oil and gas resources for our Nation at a time when imports continue to increase.

Mr. President, this bill represents one step in addressing this problem. It is a significant step, but we must also look at other initiatives, such as changes in the tax laws, that can be taken to address this serious decline in OCS activity in the Gulf of Mexico. I look forward to considering other initiatives that could complement the royalty relief proposal that I am introducing today.

I urge my colleagues to join me in supporting this important legislation to provide deepwater royalty relief in the western and central Gulf of Mexico. Mr. President, I ask unanimous consent that the text of the bill be printed following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 318

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Outer Continental Shelf Deep Water Royalty Relief Act."

SEC. 2. AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

The Outer Continental Shelf Lands Act, as amended, is amended by redesignating section 8(a)(3) (43 U.S.C. 1337(a)(3)) as section 8(a)(3)(A) and by adding at the end thereof the following:

"(B) The Secretary may, in order to promote development and new production on a producing or non-producing lease, through primary, secondary, or tertiary recovery means, or to encourage production of marginal or uneconomic resources on a producing or non-producing lease, reduce or suspend any royalty or net profit share set forth in the lease."

"(C)(i) Notwithstanding the provisions of this Act other than this subparagraph, no royalty payment shall be due on new production, as defined in clause (ii) of this subparagraph, from any lease located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico until the capital costs directly related to such new production have been recovered by the lessee out of the proceeds from such new production.

"(ii) For purposes of this subparagraph, the term—

(aa) 'capital costs' shall be defined by the Secretary and shall include exploration costs incurred after the acquisition of the lease and development costs directly related to new production. The terms "exploration" and "development" shall have the same meaning contained in subsections (k) and (l) of section 2 of this Act except the term "development" shall also include any similar additional development activities which take place after production has been initiated from such lease. Such capital costs shall not include any amounts paid as bonus bids but shall be adjusted to reflect changes in the consumer price index, as defined in section (1)(f)(4) of title 26 of the United States Code; and

(bb) 'new production' is—(I) any production from a lease from which no royalties are due on production, other than test production, prior to the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act; or (II) any production resulting from lease development activities pursuant to a Development Operations Coordination Document approved by the Secretary after the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act; and

"(iii) In any month during which the arithmetic average of the closing prices for the earliest delivery month on the New York Mercantile Exchange for Light Sweet crude oil exceeds $28 per barrel, any production of oil subject to relief from the requirement to pay royalties under clause (i) of this subparagraph shall be subject to royalties at the lease stipulated rule, and the lessee's gross proceeds from such oil production, less Federal royalties, during such month shall be counted toward the recovery of capital costs under clause (i) of this subparagraph.

"(iv) In any month during which the arithmetic average of the closing prices for the earliest delivery month on the New York Mercantile Exchange for natural gas exceeds $3.50 per million British thermal units, any production of natural gas subject to relief from the requirement to pay royalties under clause (i) of this subparagraph shall be subject to royalties at the lease stipulated rate, and the lessee's gross proceeds from such natural gas production, less Federal royalties, during such month shall be counted toward the recovery of capital costs under clause (i) of this subparagraph.

"(v) The prices referred to in clsuses (iii) and (iv) of this subparagraph shall be changed during any calendar year after 1993 by the percentage if any by which the consumer price index changed during the preceding calendar year, as defined in section (1)(f)(4) of title 26 of the United States Code.".

SEC. 3. REGULATIONS

The Secretary shall promulgate such rules and regulations as are necessary to implement the provisions of this Act within 180 days after the date of enactment of this Act.

By Mr. WOFFORD:

S. 319. A bill to require the Secretary of Defense and the Defense Base Closure and Realignment Commission to make recommendations in 1993 and 1995 for the termination and reduction of United States military operations at military installations outside the United States; to the Committee on Armed Services.

FOREIGN BASE CLOSING ACT OF 1993

• Mr. WOFFORD. Mr. President, on March 15 the Base Realignment and Closure commission will announce its next round of recommendations for base closures across the United States. Notably absent from that list will be any of the hundreds of bases the United States maintains overseas.

The legislation I'm introducing today requires that the Base Realignment and Closure Commission include overseas military bases when it makes its next recommendations in 1993 and 1995. It simply says that decisions to close bases should not be made without looking at all our bases—including those in Europe, Asia and elsewhere.

Every year, the United States spends more than $50 billion to subsidize the defense of our most prosperous and economically competitive allies. That's three time more than the Federal Government spends on the education of American children each year.

During the long years of the Cold War—when hundreds of thousands of troops were lined up against us in the East—it made sense to maintain a large system of bases in Western Europe. But the Warsaw Pact has dissolved, the Berlin Wall has fallen, the Soviet Union no longer exists. The threat of a major, surprise ground attack no longer exists. We must adjust our military to meet these new realities.

Our national security needs have changed since the fall of the Soviet Union. The crisis in Bosnia and the relief mission in Somalia reinforce the fact that American forces have new a new mission in the post—cold war world—peacekeeping, humanitarian relief and protection of minorities. To do this, we must maintain a flexible, mobile force that is capable of being integrated with the forces of our allies.

As we close bases in the United States, local economies are bearing the brunt of defense cuts while we continue to spend our defense dollars on overseas bases. Out troops and their families stationed in Europe are contributing to the local economies of Germany and England. It's time to station more of these troops at home—ready to defend their country or aid in other missions—and also contributing to and supporting our domestic economy.

Pennsylvanians know that the impact of base closings on local communities can be devastating. In 1991, the Commission's list of recommendations for base closing and realignment in the United States included the Philadelphia Naval Shipyard and Naval Station, the Naval Air Development Center at Warminster, the Letterkenny Army depot, all in Pennsylvania.

Pennsylvania includes only about one-twentieth of the Nation's population. But one-third of all direct civilian jobs lost from base closings nationally will come from our State.

As a matter of fact, in Philadelphia, at least 34,000 working men and women are facing unemployment and an uncertain future because of the proposed closing of the Philadelphia Naval Shipyard. Whey are they bearing the brunt of defense cuts while we waste our defense dollars on unnecessary troop levels and overseas bases?

It's not fair or sensible. This bill will bring fairness into the base closing process by including all our bases—not just those at home.•

By Mr. WOFFORD:

S. 320. A bill to provide for certain reforms with respect to unemployment programs; to the Committee on Finance.

UNEMPLOYMENT COMPENSATION, REEMPLOYMENT, AND FAIRNESS ACT

• Mr. WOFFORD. Mr. President, today I am reintroducing the Unemployment Compensation Reemployment and Fairness Act.

Before coming to the Senate almost 2 years ago, I served as Pennsylvania's Secretary of Labor and Industry for 4½ years. One of my responsibilities was to administer our State's unemployment compensation program. So I'm well aware of its strengths and weaknesses from the ground up.

It's an important program, and complex program, a program which I believe can be improved and strengthened. That's the purpose of the legislation I'm offering today.

In time of recession economic hardship, the Federal State Unemployment Compensation Program is essential to maintaining the well-being of millions of American families. But it's a system under real stress.

Back in 1935 when Franklin Roosevelt and the Congress together created our present Unemployment Compensation System, he wanted a program that would be flexible—a program that would reflect and adjust to changing employer and worker needs and economic circumstances. That's the idea behind this effort to continue and improve on Roosevelt's experiment in Federal-State cooperation and innovation.

Based on experience, and in close consultation with the Pennsylvania Department of Labor and Industry under my successor Tom Foley and our Governor, Robert Casey, I've developed a series of ideas of strengthening the assistance to workers and providing procedural fairness for employers.

Let me be specific: First, improvements in worker reemployment. The problems of today's continuing high-unemployment challenge American business, workers and governments to strengthen their cooperative efforts.

This bill will expand economic opportunities by allowing States to pay benefits to those who are seeking to start their own business under a State approved self-employment plan. It will also require States to review the reemployment prospects of workers soon after they have lost their jobs so that they can receive necessary services and training before they exhaust their benefits.

Second, improvements in employer fairness: under current law an employer, who has a dispute involving unemployment taxes has no right to a State administrative hearing. That is an unfair denial of due process. This bill will require States to provide for an administrative hearing.

Mr. President, our primary goal in government should be action that builds our Nation's economic vitality and creates jobs for all Americans. We should always keep our eyes on that prize.

But one of the things we must do, when millions of workers have lost their jobs, and families are in danger of losing their homes, their health and their quality of life, is to have an effective unemployment compensation system. A system that gives people the support they need to stay in the economic mainstream, to have effective retraining and to find new jobs as quickly as possible.

I'm committed to that kind of unemployment compensation system. That's why I have offered this bill to improve the reemployment prospects for working Americans and to provide fair treatment to employers.

In June 1934, President Roosevelt told Congress that "Among our objectives, I place the security of men, women, and children of the Nation first." We should still work to achieve that objective. This legislation will help us do it.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 320

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unemployment Compensation, Reemployment, and Fairness Act of 1993".

SEC. 2. INDIVIDUALS IN SELF-EMPLOYMENT PROGRAMS.

(a) IN GENERAL.—Section 3304(a)(8) of the Internal Revenue Code of 1986 (relating to requirements) is amended by striking "compensation" and inserting "(A) compensation", by striking the semicolon and inserting "; and", and by adding at the end thereof the following new subparagraph:

"(B) if the State elects to participate, compensation shall not be denied or reduced to any individual for any week because such individual is participating in a qualified self-employment program (as defined in section 3306(t)) with the approval of the State agency (or because of the application, to any such week in such program, of State law provisions relating to availability for work, active search for work, or refusal to accept work);".

(b) DEFINITION.—Section 3306 of such Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(t) QUALIFIED SELF-EMPLOYMENT PROGRAM.—For purposes of this chapter, the term 'qualified self-employment program' means a program which—

"(1) meets the requirements established by the Secretary of Labor, including requirements for State agencies to determine what constitutes a good prospect for successful, permanent self-employment,

"(2) is approved by the State agency, and

"(3) provides training for individuals attempting to become self-employed.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to compensation paid for weeks beginning on or after January 1, 1993.

SEC. 3. EARLY REEMPLOYMENT REVIEW OF UNEMPLOYED WORKERS.

(a) IN GENERAL.—Section 303 of the Social Security Act (42 U.S.C. 503) is amended by adding at the end thereof the following new subsection:

"(j)(1) The State agency charged with the administration of the State law—

"(A) shall, not later than the last day of the 5th week for which compensation is payable in an unemployed individual's benefit year, provide an early review of the individual's reemployment prospects, to the extent the State agency determines effective,

"(B) shall, to the extent the State agency determines effective, provide reemployment review information to other State employment and training program staff, including staff of State job services and service delivery areas (as described in section 101 of the Job Training Partnership Act),

"(C) shall, to the extent the State agency determines effective, provide job search and placement services, counseling, testing, occupational and labor market information, assessment, and referral to employers,

"(D) shall provide technical and training program staff to assist with reemployment services,

"(E) shall provide followup evaluation and assistance to individuals participating in reemployment activities, and

"(F) may provide reemployment reviews and, to the extent the State agency determines effective, reemployment services for workers who have received notice of permanent layoff or impending layoff, or workers in occupations which are experiencing limited demand due to technological change, impact of imports, or plant closures.

"(2) The Secretary of Labor shall prescribe such regulations as are necessary to carry out the provisions of this subsection, including regulations—

"(A) to carry out the provisions of subparagraphs (A) and (B) of paragraph (1),

"(B) to determine whether an individual should be considered temporarily or permanently laid off, and

"(C) to assist States in examining the use of computer technology to achieve the purposes of this subsection.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date that is 90 days after the date of the enactment of this Act.

SEC. 4. HEARINGS FOR EMPLOYERS.

(a) IN GENERAL.—Section 303(a)(3) of the Social Security Act (42 U.S.C. 503(a)(3)) is amended by inserting "and for all taxpayers with respect to liability to make contributions, and to pay amounts, under the unemployment compensation law of the State" before the semicolon.

(b) REGULATIONS.—The Secretary of Labor may prescribe such regulations as the Secretary deems necessary to carry out the amendment made by subsection (a) to section 303(a)(3) of the Social Security Act.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date that is 90 days after the date of the enactment of this Act.•

By Mr. DECONCINI:

S. 321. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide onsite day-care facilities for dependents of their employees, and for other purposes; to the Committee on Finance.

ON-SITE DAY-CARE FACILITIES TAX CREDIT ACT OF 1993

• Mr. DECONCINI. Mr. President, there is an urgent need in this country for child care that is safe, affordable, and available. Congress responded to this call in 1990 by passing the first national child care legislation since World War II. Despite Congress' landmark action, there is still more to be done. As the Child Care Action Campaign so forcefully points out, child care today "remains unavailable to some, unaffordable to many, and of uncertain quality for nearly all."

It has been said, and rightly so: This Nation is "in the midst of a child-care explosion." In 1950, 12 percent of America's mothers with children under 6 years of age were part of the work force. Over 40 years later, in 1993, 63 percent of mothers of children ages 3 to 5 work part or full time, according to the Bureau of Labor Statistics.

Although we have no hard data on the number of child care slots available in this country, a 1990 Children's Defense Fund survey found that America's licensed child care centers have room for 3.8 million children. Five times that number of children under 6 years of age have mothers who work. The number of working mothers is projected to increase significantly in this decade—and so are the number of children who need child care.

All of us must work together—parents, child advocates, the business community, and elected representatives—to give America's children a better chance at affordable, reliable, and safe child care. It is going to take many innovative and imaginative solutions. I believe that one of our greatest untapped resources is America's businesses. But for much of the Nation, employer-sponsored child care assistance is now the exception rather than the rule, and the landmark 1990 child care legislation provides no incentives for businesses to offer child care services to their employees.

We are a country that has almost 6 million employers, 136,000 of which have 100 or more employees. Of that number, only about 5,600 employers provide some kind of child care support to their employees, mostly in the form of child care information and referrals. Only about 1,400 corporations fund onsite or near-site child care facilities for their employees.

One of the things we can do as elected officials is to improve the system so that businesses will come on board. Our current tax incentives for employer-assisted child care have just not stimulated the development of increased child care options for working families. This is especially true in the case of employer-provided child care centers at the place of work. For the employer, start-up costs of an onsite facility can be very costly and, in some cases, prohibitively so.

Mr. President, in an effort to provide an incentive for employer onsite centers, I am today reintroducing a bill to provide a one time only tax credit of 50 percent, up to a maximum limit of $150,000, for employers to provide onsite or near-site child care for the children of their employees. The credit could be used for expenses related to the acquisition, construction, rehabilitation, or expansion of an onsite or near-site child care center.

The U.S. Government would recapture the cost, on a reducing scale, if the facility does not operate for a period of at least 10 years as a child care center. For example, if the facility remains open for only 5 years, the employer would be required to pay back 70 percent of the credits taken. Should the child care facility remain open for 6 years, the employer must pay back 55 percent of the tax credits taken.

In order for a child care facility to qualify for the tax credit, at least 30 percent of the children enrolled must be dependents of the company's employees. The center must be opened to children of all employees, regardless of their income bracket. The facility must operate in compliance with the State laws and regulations of a licensed day care center; and in the case of multiple employers, the facility must be located on the premises of one of the employers and within a reasonable distance from the premises of the other employers.

On-site child care is good for families and good for businesses. Parents can visit their children at lunch or during coffee breaks. If they work later than usual or if they work odd hours, as many hospital employees are forced to do, they have the comfort of knowing their children are well taken care of. Businesses that pay attention to the family concerns of their employees are already realizing the rewards. Study after study report that employer-provided child care services have a positive impact on turnover, absenteeism, recruitment, employee morale and productivity.

This translates into a cost savings for companies. In the most exhaustive cost-benefit study ever conducted on a corporate on-site child care center, Union Bank in Monterey Park, CA, reported an estimated savings of more than $4 for every $3 spent in the first year of its child care program (1989 study).

Mr. President, let me say that Union Bank is not the exception. The bottom line is that it is more cost-effective for businesses to provide child care assistance programs for employees than it is NOT to provide them. One 1992 study, which focused on 9,000 employees of seven companies in Arizona, California, Hawaii, and Nevada, concluded that child care problems cost the companies between $46,000 and $500,000 in 1 year due to absenteeism alone. One company reported that its employee turnover costs resulting from child care difficulties totaled $3 million, including the cost of recruiting, replacement training and inefficiency. In contrast, the study found that a company's $100,000 investment in child care assistance would pay for itself in just 1 year if it prevented seven employees with average salaries of $20,000 from leaving.

American Express, one of the most successful corporations in America, is one of the 5,600 businesses in this country which offer child care benefits to its employees. Harry L. Freeman, executive vice president of American Express, has stated the reasons behind his company's involvement in child care: "The child care problems in America have reached crisis proportions. Corporations cannot ignore their responsibility, not if they want to attract and retain productive employees, not if they want to do business in economically healthy communities. The private sector must operate as a partner with the public sector to see to it that the quality and supply of child care meet the growing needs of our nation."

Unfortunately, not all companies have seen the light, as the American Express Company has. I believe a tax credit will turn on that light, open that door, and invite employers to look at what is good for themselves, for their employees, and most importantly, for the children.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 321

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CERTAIN ON-SITE DAY-CARE FACILITIES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 45A. EMPLOYER ON-SITE DAY-CARE FACILITY CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the employer on-site day-care facility credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified investment in property placed in service during such taxable year as part of a qualified day-care facility.

"(b) LIMITATION.—The credit allowable under subsection (a) with respect to any qualified day-care facility shall not exceed **$150,000.**

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED INVESTMENT.—The term 'qualified investment' means the amount paid or incurred to acquire, construct, rehabilitate, or expand property—

"(A) which is to be used as part of a qualified day-care facility, and

"(B) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable.

Such term includes only amounts properly chargeable to capital account.

"(2) QUALIFIED DAY-CARE FACILITY.—

"(A) IN GENERAL.—The term 'qualified day-care facility' means a facility—

"(i) operated by an employer to provide dependent care assistance for enrollees, at least 30 percent of whom are dependents of employees of employers to which a credit under subsection (a) with respect to the facility is allowable,

"(ii) the principal use of which is to provide dependent care assistance described in clause (i),

"(iii) located on the premises of such employer,

"(iv) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a day-care facility, and

"(v) the use of which (or the eligibility to use) does not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)).

"(B) MULTIPLE EMPLOYERS.—With respect to a facility jointly operated by more than 1 employer, the term 'qualified day-care facility' shall include any facility located on the premises of 1 employer and within a reasonable distance from the premises of the other employers.

"(d) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified day-care facility, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified on-site day-care expenses of the taxpayer with respect to such facility had been zero.

"(2) APPLICABLE RECAPTURE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	The applicable recapture percentage is:
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

"(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified day-care facility is placed in service by the taxpayer.

"(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

"(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified day-care facility.

"(B) CHANGE IN OWNERSHIP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified day-care facility with respect to which the credit described in subsection (a) was allowable.

"(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified day-care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(e) SPECIAL ALLOCATION RULES.—For purposes of this section—

"(1) ALLOCATION IN CASE OF MULTIPLE EMPLOYERS.—In the case of multiple employers jointly operating a qualified day-care facility, the credit allowable by this section to each such employer shall be its proportionate share of the qualified on-site day-care expenses giving rise to the credit.

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(f) NO DOUBLE BENEFIT.—

"(1) REDUCTION IN BASIS.—For purposes of this subtitle—

"(A) IN GENERAL.—If a credit is determined under this section with respect to any property, the basis of such property shall be reduced by the amount of the credit so determined.

"(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under paragraph (1), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

"(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

"(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1996.".

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking out "plus" at the end of paragraph (7),

(B) by striking out the period at the end of paragraph (8), and inserting in lieu thereof a comma and "plus", and

(C) by adding at the end thereof the following new paragraph:

"(9) the employer on-site day-care facility credit determined under section 45A.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 45A. Employer on-site day-care facility credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.•

By Mr. DECONCINI:

S. 322. A bill to amend the Land and Water Conservation Fund Act of 1965 to ensure sufficient funding for Federal and State projects and for maintenance and security needs, to encourage multipurpose acquisitions, and for other purposes; to the Committee on Energy and Natural Resources.

LAND AND WATER CONSERVATION FUND AMENDMENTS OF 1993

• Mr. DECONCINI. Mr. President, last year I introduced legislation that would reorder national priorities when we spend monies produced from public resources. The need to act to correct the grave financial imbalance which makes it impossible for our State and local governments to work for basic human needs, is even greater now than then. Today, I am reintroducing legislation based upon my earlier bill.

My legislation, the Land and Water Conservation Fund Amendments of 1993, requires that we live up to the 30-year-old commitment Congress made to all of our citizens to provide outdoor recreation opportunities.

In 1958, Congress enacted legislation authorizing the Outdoor Recreation Resources Review Commission. Congress created the Commission to determine the needs of the United States for outdoor recreation through the year 2000. In 1962, the Commission issued its final report. The Commission found, among other things, that there had been a dramatic growth in demand for recreational opportunities after World War II. In analyzing the public recreation needs of the United States, the Commission found outdoor recreation opportunities to be a public health requirement. Outdoor recreation was found to be an essential public service, deserving full consideration in the budget process. The Commission determined that these essential and basic needs were not being met and that there was inadequate funding for the acquisition and development of outdoor recreational facilities.

In its final report, the Commission made recommendations to address the problems it found. One of the recommendations made by the Commission was for establishment of a Federal program of grants-in-aid to provide matching funds to States. This State grants program was intended to stimulate recreation planning and to assist in the development of facilities and land for public outdoor recreation.

In 1965, in response to the Commission's report, Congress enacted the land and Water Conservation Fund. Since 1965, this fund has become the major source of funding both for Federal land acquisitions and for the State and local grants program recommended by the Commission.

When Congress enacted the Land and Water Conservation Fund, we provided sources of funding. Originally, revenue to support the fund came from user fees and surplus property sales. Later, we amended the fund to provide what has proven its most significant and constant source of revenue: proceeds from offshore oil and gas leasing activities. By doing this, Congress intended that the depletion of one nonrenewable public resource—offshore oil and gas deposits—would be earmarked as the means by which our most important and infinitely renewable resource—our people—would receive opportunities for healthy, safe outdoor recreation.

Since 1965, public needs for outdoor recreation have grown tremendously. Public needs for safe and available recreational opportunities exceed anything foreseen by the 1958 Commission. Today, almost 30 years after Congress first passed this legislation, we are a society that spends most of its working life indoors. More and more of us perform tasks for our daily work which emphasize machines and electronics. We drive cars or take mass transit to work or school rather than walking. Today, tragically, our cities are so much more crowded and so violent that children cannot play outdoors alone, and older citizens cannot enjoy the outdoors safely.

Recreation use patterns have changed significantly since passage of the Act in 1965. Gone is the era of the 2-week family vacation. The changing work environment has created families which work more, have less free time and take shorter vacations closer to home. These changing social conditions have placed increased pressure on many of the national, State and local park facilities in close proximity to urban areas. These changing recreation use patterns further justify the provisions contained in this amendment.

Mr. President, safe, accessible public outdoor recreation is not merely desirable, it is a real necessity of life for us and for our society. Public outdoor recreation was a crying public health and social need in 1965. Today, the need is even greater. Yet, Mr. President, the available resources actually dedicated to providing locally available recreation facilities are less.

When Congress established the land and water conservation fund, we did so recognizing an essential partnership between the efforts of the Federal agencies and the State and local governments. We knew that there was a place for our great national parks and recreation areas; but, we also knew there was an equal need to ensure that small towns and big cities also had recreational facilities readily available to all people, all the time.

We have failed to support that partnership equitably over time. Instead, although through a series of amendments to the fund, we raised the authorized appropriations ceiling for the fund until it reached the current level of $900 million per year, we have not actually appropriated anywhere near that ceiling. Most of the money we do appropriate is allocated to Federal agencies for their land acquisition programs. In recent years less than 6 percent went to support the State grants program and local outdoor recreation needs.

The result is that we have not maintained funding for State and local efforts equivalent to that of Federal programs. Outdoor recreation opportunities, which are locally based and readily available to ordinary citizens, have failed to thrive as they should have under the original concept of a Federal, State and local partnership.

I do not say that State and local efforts to provide outdoor recreation alone will prove a salvation to our social dilemma in the face of drugs, depression, despair and economic need. However, we can show that cities which offer meaningful outdoor recreational opportunities for youth also have decreases in gang-related activities and instances of vandalism. Our youth need open space and recreation—and we owe it to them and ourselves to provide it. If building a park or a playground or providing a swimming pool or a basketball court will keep youngsters off street corners and involve them in something better than gangs, it is our obligation to do it.

Mr. President, other things have also changed in our communities to create the need for this amendment. Since the passage of the Act in 1965, there is an ever increasing number and diversity of private groups working creatively to conserve, manage, and interpret parklands and outdoor resources. Numerous local, State and national groups such as the Nature Conservancy or Arizona's Heritage Fund are using very creative methods to provide for recreation activities. These groups have developed new concepts such as greenways and trails, which rely on mixed public and private ownership and the purchase of less than fee interest to protect special places close to where people live. This amendment will encourage and foster the best of these important relationships to provide partnerships for State, local and private entities.

Many communities are working to protect fragile natural areas. This includes wildlife habitat and wetlands which are in close proximity and/or part of an urban environment where conventional definitions of recreation do not apply. These State and local projects to protect fragile niches of wildlife habitat in urban environments will become increasingly important in the future as we work to preserve the biological diversity of natural communities. This amendment would provide the needed resources to expand the very diverse efforts currently under way across this great country.

Almost 30 years ago, we in Congress committed to providing the public with adequate outdoor recreation. We did it then even before we knew, as we do now, how good and how necessary recreation is for human beings and for society. We can provide public recreational opportunities and meet those needs of our citizens even in tough economic times. For the foreseeable future, revenue from public oil and gas resources offshore is going to continue. As of last year, total revenues accredited to the Fund which we did not spend as we had indicated we would amounted to more than $9 billion.

Congress intended that as we produced and consumed resources which belong to the American people, we would spend money produced by that resource to provide permanent public benefits. Mr. President, I firmly believe that money produced from depletion of a resource belonging to all the people should be reinvested in outdoor recreation areas and developments which are a part of the permanent estate of this Nation. I, for one, consider this expenditure a long term capital investment in the healthy environment of our country and the health of our citizens.

An additional asset of the increased participation by State and local government, is that the Federal dollars will be matched 50-50 with State and local funds. This will, in effect, increase the amount being spent by an additional 25 percent of the total amount appropriated annually from the fund. If the full $900 million authorized was appropriated from the fund and $450 million was properly allocated to State and local interests, then an additional $225 million would be matched from State and local funds. This would provide for $1.125 billion in recreation development annually. Mr. President, I believe this was truly the intent of the original law passed by Congress in 1965.

Today, I reintroduce this legislation, the Land and Water Conservation Fund Amendments of 1993, which is intended to correct the problems I have noted. My legislation is intended to encourage national goals of protecting wildlife habitat and wilderness areas as well as enhancing recreational benefits.

Mr. President, I, for one, think that our State and local governments and the regional or other partnerships they establish can protect natural resource areas, wildlife habitat and provide appropriate public recreational opportunities. Sometimes, I think they may do it better. My legislation is intended to address the areas of recreational opportunities which have been neglected in the recent past.

In summary, the land and water conservation fund was originally created to respond to a clearly identified need to supply present and future outdoor recreational opportunities for our people. The mechanism to meet those needs was intended to be a partnership between Federal, State and local agencies. We have allowed ourselves to be diverted both from the original goals of the fund and from the partnership mechanism. We have focused almost solely on the Federal land acquisition side. That imbalance in the distribution of the funding has left the majority of our citizens with less real access to outdoor recreation than the original land and water conservation fund intended. I think we must correct that imbalance and divide the money equally.

Second, vast revenues are produced every year, primarily from depletion of the public resources in oil and gas on the Outer Continental Shelf. Literally billions of dollars have been collected from the sales or receipts of disposal of public property or resources. That money should have gone to alleviate the human needs for the public health and social benefits supplied from recreational opportunities furnished through the fund. We have not appropriated funds near the annual ceilings set for land and water conservation fund purposes. The result is that, although the Federal acquisition side received many times what the States did, neither Federal nor State agencies received what they could have—and were intended to receive—from depletion of public resources. I suggest we change that result.

Third, although our native American and Alaskan Native citizens are entitled to derive benefits from the fund, it has never been clear how tribal governments could participate in obtaining grant funding for the needs of their people. I propose we clearly set out a process by which our first citizens can receive funds for their programs without infringing on their right to express their inherent tribal sovereignty.

I want to be very clear. I am not proposing that we cease Federal land acquisition. I am not proposing that we cut funding for Federal purposes. I do say, very bluntly, that we can make the overall funding pie bigger without an adverse impact on our economy. We can be sure that all of our citizens and their representative interests have an equitable portion of that pie. My legislation requires that we divide that larger sum equally between Federal land acquisitions and the State-grants-in-aid programs.

I introduce this legislation to correct existing problems and to restore the original purpose of the land and water conservation fund. We can afford to do what we should have done for years: Give all of our citizens chances for safe and healthy lives that include outdoor recreation. The mechanisms are already in place. I hope that my colleagues will join me in passing this legislation.

Mr. President, I ask unanimous consent that letters of support for this legislation be included in the RECORD at this point.

Mr. President, I also ask unanimous consent to include in the RECORD a summary of my legislation and the full text of the bill.

Mr. President, I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 322

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Land and Water Conservation Fund Amendments of 1993".

SEC. 2. FINDINGS, PURPOSES, AND POLICY.

(a) FINDINGS.—Congress finds the following:

(1) The Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*-4 et seq.) was enacted to assist in preserving, developing, and assuring accessibility to all citizens of the United States of the present and future generations, such quality and quantity of outdoor recreation resources as are desirable for individual active participation in recreation and to strengthen the health and vitality of the citizens.

(2) In order to accomplish the purposes of such Act, Congress authorized funding to assist variously in the planning, acquisition, and development of necessary land and water areas by government agencies.

(3) The States and local governments occupy a pivotal role in accomplishing the purposes of such Act.

(4) Restoration of the existing recreation infrastructure and expansion of State and local recreation resources to meet population increases and demographic changes require a secure and predictable base of funding.

(5) In order for adequate public recreation uses to continue, Federal, State, and local resources are in need of maintenance, rehabilitation, and construction.

(6) The continuing decay of public structures and systems necessary for recreation uses has now reached emergency proportions across the United States and necessitates immediate corrective action by Congress.

(7) Congress intended that outdoor recreation investments in public lands and waters and selected facilities be funded through the Land and Water Conservation Fund from—

(A) receipts produced from those investments;

(B) revenue produced from Outer Continental Shelf leases and royalties, which reflects the depletion of a nonrenewable natural resource; and

(C) proceeds from sales of surplus Federal property.

(8) Congress intended that the revenue produced from offshore oil and gas leases and royalties and the depletion of the nonrenewable natural resource result in a legacy of public places accessible for public recreation use and benefit from resources belonging to all people, of all generations, and the enhancement of the most precious and most renewable natural resource of any nation—healthy and active citizens.

(9) The Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*-4 et seq.) originally provided an equitable proportion of funds guaranteeing the States, and through the States, local governments, 60 percent of available funds in recognition of their pivotal role in providing realistically available public outdoor recreation.

(10) The original intention of such Act has not been carried forward in practice.

(11) Subsequent amendments to such Act have resulted in a significant reduction in the proportion of funds allocated to the States relative to the proportion available for Federal purposes.

(12) The States have not received an equitable proportion of funds sufficient to encourage the public recreational partnership envisioned by Congress or consistent with the State and local pivotal roles in providing public outdoor recreation.

(13) It is necessary to rectify apportionment of available funds in order to carry forward the original intention of such Act, for States to receive their full share, and to avoid a long-term national deficit of recreation investment.

(14) Sufficient revenue is produced annually from the sources identified for the Land and Water Conservation Fund to provide for equitably proportioned funds for the Federal, State, and local outdoor recreation uses

originally intended by Congress without the need to resort to other funding or to impact one use at the expense of the others.

(15) In addition to the benefits of recreation to public health, recreation and the availability of recreation resources are effective in lowering vandalism and juvenile crime, and provide healthy environments for public accommodation, enjoyment, and exercise.

(16) Urban and land use planners urgently recommend the increased use of "green spaces" in urbanized areas in order to mitigate environmental and population impacts and to protect surface and subsurface waters and wetlands that occur in or near large populated areas.

(17) The population of the United States continues to expand while access to open space continues to decrease in many regions of the United States, especially in and near metropolitan areas.

(18) State governments and local communities are increasingly hard-pressed to provide adequate funds for recreation and for environmental protection and resource conservation.

(19) The recreation and open space needs of States and local communities represent a more dynamic and fluid environment that requires greater flexibility in the ways in which Federal funds can be used by States and communities.

(20) Sound environmental practices, urban planning and emergency preparedness, and recreation are compatible and consistent uses of public lands and resources and should be actively encouraged in the planning, development, and acquisition of lands and waters for public access and for recreation.

(b) PURPOSE.—The purposes of this Act are—

(1) to strengthen the dedication of the United States to the goal of providing adequate recreation opportunities to all citizens; and

(2) to ensure that—

(A) adequate facilities are created and maintained on public lands and waters to facilitate recreation opportunities consistent with the purposes for which the lands and waters are acquired;

(B) whenever possible multipurpose planning occurs to coordinate between the Federal Government and the States the expenditures of public funds for both wise acquisition and use of lands and waters for recreation uses and compliance with laws protecting the environment and public health; and

(C) the public lands and waters acquired for recreation are preserved, conserved, and maintained for present and future uses of citizens of the United States.

(c) POLICY.—It is the policy of Congress that—

(1) funds covered into the Land and Water Conservation Fund should to the extent possible be fully appropriated within the authorization for each fiscal year;

(2) all funds appropriated should be disbursed in accordance with the formula established in section 6(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8(b)) so that the State and local governments receive an equitable portion of funds in recognition of their pivotal role in establishing, maintaining, and preserving meaningful recreation opportunities for all citizens; and

(3) in expending funds for recreation purposes, both the Federal Government and the States should—

(A) to the greatest extent possible recognize that lands and waters appropriate for recreation can simultaneously serve other necessary and desirable environmental or public health or safety purposes; and

(B) accord a priority to the acquisition of lands and waters that serve these multipurpose uses.

SEC. 3. APPROPRIATIONS FROM AND ALLOCATION OF FUND.

Section 5 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–7) is amended—

(1) by designating the first and second sentences as subsection (a);

(2) by designating the third through last sentences as subsection (b); and

(3) by striking subsection (a) (as so designated) and inserting the following new subsection:

"(a)(1) There shall be submitted with the annual budget of the United States a comprehensive statement of the estimated requirements during the ensuing fiscal year for appropriations from the fund for land acquisition by eligible Federal agencies pursuant to section 7 and for land acquisition by States and local governments pursuant to section 6.

"(2) For each fiscal year, there shall be made available from the fund an amount that is not less than twice the amount that was made available to carry out section 7(a)(1) for fiscal year 1992.

"(3)(A) Subject to subparagraph (B), and in each fiscal year, 50 percent of the estimated requirements referred to in paragraph (1) shall be designated for, and 50 percent of the amounts made available from the fund shall be used to carry out, Federal purposes as described in section 7.

"(B) If the requirement of subparagraph (A) with respect to amounts made available from the fund is not met, funds made available for Federal purposes as described in section 7 shall be reduced and funds made available for financial assistance to States pursuant to section 6 shall be increased so that the amounts are equal.".

SEC. 4. FUNDS FOR INDIAN TRIBES.

Section 6(b)(5) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8(b)(5)) is amended—

(1) by inserting "(A)" after "(5)"; and

(2) by adding at the end the following new subparagraph:

"(B)(i)(I) For the purposes of paragraph (1), all federally recognized Indian tribes and Alaska Native Village Corporations (as defined in section 3(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(j)) (except for those tribes and Village Corporations that enter into agreements pursuant to clause (ii)) shall be treated collectively as one State and shall receive shares of the apportionment under paragraph (1) in accordance with a competitive grant program established by the Secretary by rule in accordance with subclause (II).

"(II) The rule shall ensure that in each fiscal year no single tribe or Village Corporation receives more than 10 percent of the total amount made available to all tribes and Village Corporations pursuant to the apportionment under paragraph (1).

"(III) Funds received by an Indian tribe or Village Corporation under this clause may be expended only for the purposes specified in paragraphs (1) and (3) of subsection (a).

"(ii)(I) In each fiscal year, in lieu of receiving funds under clause (i), a tribe or Village Corporation may establish by written agreement with the State in which the tribe is located the right of the tribe or Village Corporation to compete for a portion of the funds made available to the State pursuant to this section.

"(II) Each State's comprehensive statewide outdoor recreation plan shall describe any agreement entered into pursuant to subclause (I).".

SEC. 5. MULTIPURPOSE ACQUISITIONS BY STATES.

Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8) is amended—

(1) in subsection (c)—

(A) in the first sentence, by striking "Payments" and inserting "(1) Except as provided in paragraph (2), payments"; and

(B) by adding at the end the following new paragraph:

"(2)(A) Notwithstanding subsection (f)(3), payments to a State shall cover not more than 80 percent of the cost of each acquisition project undertaken by the State that—

"(i) is a multipurpose project in that the lands or waters to be protected are identified in a State or local recreation resource plan prepared pursuant to subsection (d), or a comparable public document, as appropriate for multiple public purposes in accordance with subparagraph (B); and

"(ii) is granted a high priority in the State's comprehensive statewide outdoor recreation plan prepared pursuant to subsection (d).

"(B) A project is appropriate for multiple public purposes if the project provides public recreation use and—

"(i) provides a natural or landscaped alternative transportation route;

"(ii) provides wildlife habitat;

"(iii) results in the improvement of air and water quality;

"(iv) results in increased flood control;

"(v) results in enhanced social, aesthetic, or environmental conditions in a neighborhood or community;

"(vi) provides other attributes of recreation space important to human health and welfare;

"(vii) enables the State or unit of local government to comply with a Federal, State, or local law that serves an environmental, public health, or public safety purpose; or

"(viii) meets more than one of the conditions described in clauses (i) through (vii)."; and

(2) in subsection (e)(1)—

(A) by designating the first and second sentences as subparagraphs (A) and (C), respectively; and

(B) by inserting after subparagraph (A) (as so designated) the following new subparagraph:

"(B) Notwithstanding subsection (b)(2), in providing financial assistance for acquisitions, the Secretary shall give highest priority to projects described in subsection (c)(2).".

SEC. 6. MAINTENANCE AND SECURITY NEEDS AND SHELTERED FACILITIES FOR STATES.

Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8) is amended—

(1) in subsection (a), by striking "or (3) development" and inserting "(3) development, (4) planning, (5) maintenance, or (6) security"; and

(2) in subsection (e)—

(A) in paragraph (2), by striking ": *Provided,*" and all that follows through the end of the paragraph and inserting a period; and

(B) by adding at the end the following new paragraphs:

"(3) PLANNING, MAINTENANCE, SECURITY, AND SHELTERED FACILITIES.—(A) Subject to subparagraph (B)—

"(i) for planning and maintenance of facilities acquired and developed with financial assistance provided pursuant to this section;

"(ii) for costs of law enforcement and security personnel and other security measures that are necessary to ensure safe public access to and recreation use of lands and waters acquired with financial assistance provided pursuant to this section, except that not more than 10 percent of the funds used to carry out this clause may be used for personnel costs; and

"(iii) for development of sheltered facilities for public health or safety in connection with projects otherwise eligible for assistance under this section, including facilities for swimming pools and ice skating rinks in areas where the Secretary determines that the severity of climatic conditions and the increased public use made possible by the facilities justifies the construction of the facilities.

"(B) In each fiscal year, the Secretary may allocate not more than 30 percent of the total amount of financial assistance provided to each State for the purposes described in subparagraph (A).".

SEC. 7. PAYMENTS TO PRIVATE NONPROFIT ORGANIZATIONS.

Section 6(f)(2) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*-8(f)(2)) is amended—

(1) by designating the first and second sentences as subparagraphs (A) and (B), respectively; and

(2) by adding at the end the following new subparagraph:

"(C)(i) If consistent with an approved project, the State, political subdivision, or other appropriate public agency receiving funds pursuant to this paragraph may transfer funds to be used in accordance with clauses (ii) and (iii) to a private nonprofit organization that meets the requirements of clause (iv).

"(ii) Funds received pursuant to clause (i)—

"(I) may be used for projects approved in writing by the grantor of the funds and only in association with—

"(aa) the acquisition of lands or interests in lands; and

"(bb) the development of recreation facilities; and

"(II) may not be used for administrative expenses.

"(iii) A private nonprofit organization that uses funds for acquisition shall itself hold, or shall convey in perpetuity in a timely manner, for public benefit, such interest as it may acquire to a recipient determined to be appropriate by the grantor of the funds.

"(iv) A private nonprofit organization may receive funds pursuant to clause (i) if the organization—

"(I) is qualified for exemption from income taxes under section 501(c)(3) of the Internal Revenue Code of 1986;

"(II) includes among its purposes the conservation of recreation resources or the providing of, or enhancement or protection of, outdoor recreation opportunities;

"(III) meets and complies with such guidelines for the receipt and use of the funds as are established by the Secretary; and

"(IV) provides full accountability for the use of the funds.

"(v) It is the intent of Congress that funds transferred and utilized by a private nonprofit organization pursuant to this subparagraph will result in a greater public benefit than would the utilization of the funds exclusively by a governmental entity.".

SEC. 8. MAINTENANCE OF EFFORT.

(a) STATES.—Section 6(f) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*-8(f)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may not provide financial assistance to a State under this Act unless the State agrees to maintain the expenditures of the State for purposes other than acquisition at a level equal to not less than 80 percent of the average level of the expenditures maintained for the 5 fiscal years preceding the fiscal year for which the financial assistance is provided.".

(b) FEDERAL RECIPIENTS.—Section 7 of such Act (16 U.S.C. 460*l*-9) is amended by adding at the end the following new subsection:

"(d) MAINTENANCE OF EFFORT.—In utilizing funds received under this Act, each Federal recipient shall maintain the expenditures of the Federal recipient for purposes other than acquisition at a level equal to not less than the level of the expenditures maintained for the fiscal year preceding the fiscal year for which the funds are received.".

LEGISLATIVE SUMMARY—LAND AND WATER CONSERVATION FUND AMENDMENTS OF 1993

SECTION-BY-SECTION ANALYSIS

Section 1. Section 1. is the Short Title for the legislation.

Section 2. Section 2. contains the findings which support the legislation, defines it's purpose and states the policy served by the legislation.

Section 3. Section 3. amends the Land and Water Conservation Fund (LWCF) to eliminate the current formula apportioning the funds between Federal and State participants. The legislation requires an annual report to be submitted with the budget request providing a comprehensive statement of the estimated needs and requests for appropriations from the fund. The Section enlarges the total funding available for both Federal and States entities by requiring that at least twice the total funding allocated in FY 1993 be made available annually from the LWCF. A new formula is substituted and gives 50% to the Federal and 50% to the State purposes. A special subsection requires that if the 50% division is not maintained, the amount allocated to the Federal share will be diminished by an equal amount allocated to the State apportionment until equality in the division of the total between the two purposes is achieved.

Section 4. Section 4. amends the existing legislation to clarify participation in the LWCF by Native Americans. The proposed legislation recognizes the principle of tribal sovereignty by providing a defined set of options for the participation of Native American tribal governments and Alaskan native villages and corporations in the grant process.

The legislation provides as one option a process in which Native American tribal governments and Alaskan native villages and corporations are recognized collectively on a basis equivalent to that afforded the States and receive as a collective entity a proportion of all funding allocated to grants funding for State and local purposes. The Secretary of the Interior is required to provide a method by which the National Park Service, which administers State and local grant program, will award grants to the participating Native American tribal governments or Alaskan native village or corporations.

A second option, to be used solely at the discretion of a tribe, village or corporation, allows the Native American entity to enter into an agreement with the State and to participate under State auspices on a footing similar to those of other local organizations which receive funding under the grant process within the allocation to that State. The options are exclusive alternatives and a tribe, village or corporation may not receive grant funding under both processes but must elect one or the other option when it seeks LWCF funding for its outdoor recreation programs.

Both options are subject to the preference priority in LWCF funding grants for multipurpose projects which is established by this amendment. No tribe, village or corporation when competing among themselves for collective grant funding may receive more than 10% of the total allocation for all tribes, villages or corporation in any one fiscal year.

Section 5. Section 5. amends the existing legislation to provide a second formula for apportioning grant funding for State purposes. A preference is given to multipurpose acquisitions of lands and waters and allows 80% of such acquisitions to be funded through LWCF. The proposed legislation defines multipurpose acquisitions and includes greenways, open space preserves, as well as lands and waters which have outdoor recreational potential which will meet needs established by environmental or other conservation laws passed by Federal, State or local government bodies. These areas will be afforded multi-purpose preference funding in applications under the state grant program when identified in the State Outdoor Recreation Plan.

Section 6. Section 6. amends existing law to allow agencies receiving state grant funds to use up to 30% LWCF funding for maintenance and development purposes which were previously prohibited. In addition, the legislation clarifies that the funding from LWCF, which is used for maintenance and development, may also be used for the purpose of ensuring security on the acquired lands and waters. The security may include physical structures such as fencing or lighting, pay for personnel such as policy/guards or monitors. The personnel costs can not exceed 10% of the funding used from LWCF for the maintenance, development and security purposes. Similarly, States are also specifically allowed to use LWCF funds for development of sheltered facilities for outdoor recreation when climate and increased opportunities for public use are warranted.

Section 7. Section 7 amends the existing legislation to allow private non-profit organizations which meet certain conditions to participate in obtaining matching fund grants from States which have received an allocation under the LWCF. Funds may not be used by a private non-profit organization for any administrative expenses. If the organization uses the funds for the purpose of acquiring interests in lands or waters, the interest must be conveyed in perpetuity to the State for public benefit or held by the organization for that purpose.

Section 8. Section 8 provides for implementation of the purpose and policy of the legislation by prohibiting the Secretary from granting a State LWCF financial assistance unless the State agrees as a condition of receiving the funding to maintain program expenditures at 80% of the average of the five fiscal years preceding the year for which the grant is sought. Federal agencies receiving LWCR funding to be used for maintenance, development or security purposes for land or water acquisition are required to maintain the level of expenditures budgeted for program purposes other than acquisition in the preceding fiscal year.

Office of the Governor,
Tallahassee, FL, May 4, 1992.
Hon. Dennis DeConcini,
U.S. Senator,
Ken Travous,
President, National Association of State Outdoor Recreation Liaison Officers, Double Tree Hotel, Washington, DC.

Dear Dennis: I am pleased to support your efforts to amend the Land and Water Conservation Fund Act to ensure that a greater portion of the total funds are appropriated for the stateside share. I recommend an amendment to the Act that allows the stateside share to receive 50 per cent of the total appropriation. This could be accomplished over a three-year period through incremental increases.

Over the years the stateside share of the Land and Water Conservation Fund Program has provided nearly $94 million to Florida for the acquisition and development of outdoor recreation areas at the State and local levels. Currently, Florida's entire annual appropriation is distributed to local governments.

Your effort to rebuild the stateside share is greatly appreciated.

With kind regards, I am.

Sincerely,

Lawton Chiles.

State of Arkansas,
Office of the Governor,
Little Rock, AR, May 1, 1992.
Hon. Dale Bumpers,
U.S. Senator, Dirksen Building, Washington, DC.

Dear Dale: I am writing to ask you for your help in support of an amendment to the Land and Water Conservation Fund (LWCF) Act. The proposed amendment would reestablish the formula by which annual LWCF appropriations are divided between federal and state governments. Use of this formula will help ensure larger statewide allocations.

Outdoor recreation development grants made possible through this fund have made great improvements to the quality of life enjoyed by many Arkansas communities. A higher level of allocation to the stateside portion of the fund would provide continued development of these valuable resources.

Your assistance in increasing the stateside allocation from the LWCF would be a great service to the State of Arkansas. If we can provide you with additional information or answer any questions, please call Richard W. Davies, Executive Director of the Department of Parks and Tourism at (501) 682-2535.

Sincerely,

Bill Clinton.

State of Arizona,
Executive Office,
Phoenix, AZ, May 1, 1992.
Hon. Dennis DeConcini,
U.S. Senator, Senate Hart Office Building, Washington, DC.

Dear Senator DeConcini: Last year the Western Governor's Association passed a resolution calling for Congress to amend the Land and Water Conservation Fund. The amendment would re-establish the partnership between the Federal and State governments in providing outdoor recreation opportunities across this great land.

The state stands ready to match the federal government's allocation to this program at $500 million next year. The matching dollar requirement in the act, however, is but a small part of the value of this program. The legacy of the act is found in the areas that are protected through people at many levels of government working together.

I am pleased to hear that our request is the cornerstone of your proposed legislation. I call on your fellow congressman to join in your effort.

Sincerely,

Fife Symington,
Governor.

National Recreation
and Park Association,
Arlington, VA, May 4, 1992.
Hon. Dennis DeConcini,
U.S. Senate,
Washington, DC.

Dear Senator DeConcini: We commend you for your initiative to strengthen the Land and Water Conservation Fund public partnership so critical to recreation resource investment and access. We hope that the Congress will quickly consider the imperative for recreation opportunity of the highest quality for all people.

Investment in recreation and park resources, especially in local and state systems, must be an increasing priority for resource conservation, social equity and human well-being. In the context of resource conservation, for example, despite depressed economic conditions the rapid development of land continues without full consideration of long-term recreation resource and access needs. LWCF assistance is needed now to encourage conservation. Most critical are the protection of resources in key locations in terms of recreation access and population density, and sites with specific sought-after features, including water.

In a social context, recreation opportunity is increasingly perceived—and is functioning—to alleviate stress and enhance the quality of life. In Phoenix, Arizona, for example, calls for police assistance dropped up to 17 percent while special recreation opportunities were offered in selected neighborhoods. "At risk" youth in Olympia, Washington recently urged the city council to continue its support for "street counseling" through a recreation outreach initiative. Dallas, Texas' parks and recreation "gang intervention" program is credited with important progress in reducing violence. The Administration's 1990 Health Goals for a Nation recommended improved access and greater investment in community recreation resources, including aquatic facilities and places to safely walk, to prevent disease and promote health.

In a national context, research by our organization and others has indicated that state and local governments anticipate investment needs of about $37.27 billion for park and recreation systems in the 1990-1994 period. Of the total, local systems anticipated the larger needs—about $30.4 billion.

About 25 percent of the total was needed for land conservation; 50 percent for new construction; and 25 percent for rehabilitation. It is highly unlikely that these needs have changed in the context of the present recession. What has changed, however, is local and state governments' capacity to address them.

The fiscal resources to support Land and Water Conservation Fund local, state and federal strategies have been collected and should be committed to the program. The authorized but unappropriated LWCF balance is expected to total $8,944,587,000 at the end of the fiscal year, if the Administration's fiscal year 1993 recommended level is appropriated. Further, total Outer Continental Shelf rent, bonus and royalty receipts will be about $2,370,000,000, an estimated $812,190,000 of which would be credited to LWCF.

Public debate today increasingly uses the term "prevention": In the context of juvenile justice and delinquency prevention; in personal and public health; in substance abuse strategies; and in environmental maintenance. Public recreation agencies, resources, and services are often quiet but integral parts of public and private strategies to address these issues. Your proposal will bring increased recognition to the need for enlightened policy and public investment.

We look forward to contributing to this process.

Sincerely,

R. Dean Tice,
Executive Director.

National Association of State
Outdoor Recreation Liaison Officers,
Tallahassee, FL, May 1, 1992.

Dear Members of Congress: Twenty five years ago, the federal government embarked on an incredible journey. The destination was the protection of our outdoor heritage. The fuel was the re-investment of the proceeds from the use of our depletable natural resources. The vehicle was the Land and Water Conservation Fund.

The journey was incredible because the front seat passengers included state and local governments. You decided that you wouldn't reach your destination unless these partners "chipped in" with their local resources for more fuel.

Some years ago, we made a wrong turn. State and local governments were put in the back seat. Perhaps, we went there too quietly.

The consequences were predictable. Our destination is further away and we are running out of fuel.

We applaud the DeConcini Amendment to the Land and Water Conservation Fund as the roadmap to put us back on course. We are ready to put hundreds of millions of dollars into the tank. We encourage you to join Senator DeConcini, our organization, and all of the others who seek a future that retains our heritage.

Sincerely,

Kenneth E. Travous,
President.

State of Wyoming,
Office of the Governor,
Cheyenne, WY, May 3, 1992.
Hon. Dennis DeConcini,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Dear Senator DeConcini: I am writing in support of your proposed amended to increase the state side of the Land and Water Conservation Fund. I testified on behalf of the Western Governors' Association regarding the program this past February. Support for the stateside of the program was a major focus of my presentation.

An increase in funding of the stateside of the L&WCF program will provide a direct benefit to many communities in Wyoming. The benefits will be felt in the improved quality of life enjoyed by those residents using recreation and park facilities funded by allocations from the L&WCF program. They will also be felt by he growing number of tourists who visit this state to utilize and enjoy our beautiful natural resources. The latter will serve to enhance our burgeoning tourism industry.

I appreciate your support for the program and feel that the results of positive action on your proposed amendment will serve to directly benefit the citizens of Wyoming.

With best regards, I am

Very Truly Yours,

MIKE SULLIVAN,

Governor.

DEPARTMENT OF GAME,

FISH AND PARKS,

Pierre, SD, May 4, 1992.

Hon. DENNIS DECONCINI,

Subcommittee on Interior and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI: We would like to express our enthusiastic support for your amendment seeking an increase in the Land and Water Conservation Fund appropriation for state and local assistance. Your proposal to bring the state and local project funding into balance with federal agency funding by dedicating 50% of the annual LWCF appropriation makes good sense, given that the President's Commission on Americans Outdoors found that the overwhelming majority of outdoor recreation occurs within ten miles of home.

Certainly, this is the most cost effective way to serve the greatest number of people. In many cases, local investment in recreation facilities and resources averts the necessity for federal agency action to address these issues. High quality, national caliber opportunities are often protected or provided by those who live nearby, but only if funds are available.

It is worth noting that recreation opportunities close to home serve to improve public health and fitness, and also serve to create a sense of community for our citizens, strengthening our social fabric and improving the quality of life.

Increasing the Land and Water Conservation Fund appropriation for state and local assistance is clearly a wise investment in America.

Sincerely,

RICHARD BERINGSON,

Secretary.

STATE OF RHODE ISLAND AND

PROVIDENCE PLANTATIONS,

Providence, RI, May 5, 1992.

Senator DENNIS DECONCINI,

U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI: I would like to express my strong support for an amendment to the Land and Water Conservation Act which will establish by law the proportion of funding for the state side of the program, with the state side share reaching and remaining at fifty percent in 1995. Such an amendment would insure that state and local governments, which provide the preponderance of recreational opportunities for our citizens, would have a reliable and reasonably-funded program.

Rhode Island is no different that any of the forty-nine other States, but a look at the numbers is compelling evidence of the loss of federal support for open space preservation and outdoor recreation. In 1978–1980, Rhode Island received over $2 million annually; when matched equally by state or local dollars, the state had a $4 million dollar annual program. In 1991, Rhode Island received $170,000 in Land and Water Conservation Funds, to be shared between the state and local governments. The state side share in 1991 was less than ten percent of the funds allocated to the National Park Service for the national parks.

I, therefore, urge the Congress to pass legislation to establish a more balanced program to address the outdoor recreation needs of the State and local governments as well as those of the country's national parks.

Best personal wishes.

Sincerely,

BRUCE SUNDIUM,

Governor.

STATE OF NEVADA,

Carson City, NV, May 5, 1992.

Hon. DENNIS DECONCINI,

U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI: I appreciate your efforts to amend the Land & Water Conservation Fund in order to assure that the state retain a reasonably proportion of the funds appropriated. Accordingly, I fully support your efforts on the floor of the Senate, scheduled for the morning of May 5, to introduce this amendment.

This action will once again enable the L&WCF program to reclaim its status as one of the most successful federal-state partnerships in the history of our nation. As you are probably aware, funding for this important program has decreased almost 95 percent since its peak year in 1979. The substantial increase in federal matching funds your amendment would provide will give a tremendous boost to our efforts to address the increasing need for park and recreation facilities in Nevada, the fastest growing state in the nation.

Earlier this year, a National Recreation & Parks Association survey identified some 70 state and local projects in Nevada alone, totaling an estimated $48.5 million, that could potentially benefit from an expanded L&WCF program.

For the sake of our recreating public, I wish you every success.

Sincerely,

BOB MILLER,

Governor.

STATE OF MONTANA,

OFFICE OF THE GOVERNOR,

Helena, MT, May 4, 1992.

Hon. DENNIS DECONCINI,

Doubletree Hotel, National Airport.

DEAR SENATOR DECONCINI: The State of Montana strongly supports the amendment to the Land and Water Conservation Fund Act which would increase funding for the state side of this valuable outdoor recreation program.

Montana State Parks has identified a $60 million long-range capital improvement need and the local communities, through a statewide survey, have recently identified an even greater need.

Sincerely,

STAN STEPHENS,

Governor.

STATE OF KANSAS,

OFFICE OF THE GOVERNOR,

Topeka, KS, May 4, 1992.

Hon. DENNIS DECONCINI,

U.S. Senator, Washington, DC.

DEAR SENATOR DECONCINI: This will confirm my support of the proposed amendment to the Land and Water Conservation Fund that would increase the state-side funding of the Program.

The State of Kansas and its governmental units have for years relied heavily on the Land and Water Conservation Fund Program to assist, in the development of outdoor recreation facilities as well as the acquisition of land for future park development. The stateside of the Program has decreased significantly over the past ten years, resulting in the necessity for state and local units to finance their outdoor recreation endeavors solely on their own, or forego totally any significant improvements or expansion in sorely needed facilities and the acquisition of future park sites.

We currently have applications totalling in excess of $2 million from local units of government to be considered for funding, while the state's fiscal year apportionments have averaged approximately $261,500 over the past five years. There is a genuine need for an increase in the fund for Kansas cities and counties and I wholeheartedly support your efforts in obtaining passage of the amendment that will increase the annual apportionment to the states for local park and outdoor recreational improvements.

Sincerely yours,

JOAN FINNEY,

Governor.

OFFICE OF THE GOVERNOR,

Boise, ID, June 3, 1992.

Hon. DENNIS DECONCINI,

Hart Senate Office Building, Washington, DC.

DEAR DENNIS: I recently testified before the Subcommittee on Energy and the Environment, and have written numerous letters to key individuals, including Secretary Lujan, to encourage increased funding for the state and local share of the Land and Water Conservation Fund.

The draft amendment being proposed by you would bring several improvements to the Land and Water Conservation Fund program, all of which we support.

We appreciate your effort to increase funding for the Land and Water Conservation Fund and provide for equal proportions to federal and state governments.

With best regards,

Sincerely,

CECIL D. ANDRUS,

Governor.

STATE OF GEORGIA,

OFFICE OF THE GOVERNOR,

Atlanta, GA, May 4, 1992.

Hon. DENNIS DECONCINI,

Senate Hart Office Building, Washington, DC.

DEAR SENATOR DECONCINI: The State of Georgia is pleased to be counted among the states supporting legislation which you will introduce to amend the Land and Water Conservation Fund (L&WCF) Act. It is our understanding that it will adjust the formula over the next several years for allocating L&WCF appropriations for state and federal purposes. One result is an increased proportion of the funding for states.

We appreciate your efforts and offer our support for this long overdue legislation for the benefit of state programs. It recognizes the responsibility of state and local governments as the primary provider of recreation services to the public.

With kindest personal regards, I remain

Sincerely,

ZELL MILLER,

Governor.•

By Mr. DECONCINI:

S. 323. A bill to establish an Office of Hispanic American Affairs in the Executive Office of the President, and in various Federal departments and agencies, and for other purposes; to the Committee on Governmental Affairs.

OFFICE OF HISPANIC AFFAIRS ACT OF 1993

• Mr. DECONCINI. Mr. President, I rise today to reintroduce legislation to establish an Office of Hispanic Affairs in the Executive Office of the President. The intent of this legislation is to create an office at the highest level of our government which will ensure that Federal programs are fulfilling their responsibilities to the Hispanic population and where Hispanics, one of the fastest growing constituencies in the United States, know their voices will be heard.

Since I first introduced this legislation in 1985, the number of Hispanic Americans living in the United States has increased dramatically—expanding, since 1980, at nearly five times the rate as the non-Hispanic population. Some project that by the 21st century, Hispanics will be the largest ethnic minority in the United States. In my home State of Arizona, Hispanics account for nearly 20 percent of the population. Yet, Hispanic Americans continue to be underserved in the areas of education, health care, housing and employment services. They continue to battle discrimination in the workplace and face difficulties in qualifying for home and small business loans.

The statistics demonstrating the need to create an office at the executive level to address the needs of this population are overwhelming. A 1990 survey conducted by the National Council for La Raza showed that Hispanics complete fewer years of school than any other ethnic group. More than two in five Hispanic students drop out of school before high school graduation. Economically, the median income of Hispanic households continues to be significantly lower than for non-Hispanics. The 1990 census found not only that the poverty rate was unacceptably high for all Americans—13.5 percent, but that the rate for Hispanics was almost three times as great—28.1 percent. Hispanic families were found to be more than twice as likely to live in poverty—25 percent, than non-Hispanic families—10.7 percent.

Those in the work force are challenged by an increasing incidence of discrimination by employers. A General Accounting Office report showed that Hispanic testers participating in a hiring audit were three times as likely to encounter unfavorable treatment when applying for jobs as were closely matched non-Hispanics. Yet, the Equal Employment Opportunity Commission has investigated a disproportionately small number of complaints filed on behalf of Hispanic workers.

The Federal Government is not meeting the challenge of providing equal access to information and resources to this fast growing segment of the population. The Office of Hispanic Affairs will open a door to hear, solicit and promote the interests of this significant segment of the population. I am heartened by President Clinton's emphasis on the need to have a vision for America; the needs of Hispanic Americans have to be part of that vision. The Office of Hispanic Affairs will serve as a focal point in our continuing effort to provide equal opportunities for all Americans.●

By Mr. BAUCUS:

S. 324. A bill to improve monitoring of the domestic uses made of certain foreign grain after importation, to use the export enhancement program to promote the export of wheat to Mexico, and for other purposes; to the Committee on Finance.

FAIR TRADE IN GRAIN ACT OF 1993

● Mr. BAUCUS. Mr. President, today I introduce the Fair Trade in Grain Act of 1993, in response to trade disparities which continue to batter American grain producers.

We have had a free trade agreement with Canada, the Canadian Free Trade Agreement, since 1989. From this, one might assume that we have free trade with Canada.

Actually, a very important sector—agriculture—was effectively exempted from the CFTA. Unfortunately with regard to Canada, these exemptions were essentially continued in the NAFTA. American farmers are understandably outraged.

Many of my constituents who raise wheat were told by the previous administration that they should support an extension of fast track. In return, they were led to believe that the previous administration would attempt to address their concerns with Canada in the NAFTA negotiations.

Unfortunately in the final days of the negotiations, Canada chose to essentially withdraw the entire topic of agriculture from the NAFTA negotiations. The administration consented; choosing to negotiate bilaterally with Mexico on agriculture and allowing agricultural issues with Canada to be handled by the CFTA.

WHEAT AND CANADA

Anyone who believes we have established true free trade with Canada should take a hard look at the situation faced by American wheat farmers.

First, Canada continues to provide export subsidies on all wheat exports to the United States. The CFTA includes a general prohibition on employing export subsidies on shipments to the other party. But Canada has carved out a special exemption from this provision for certain transportation subsidies. Not surprisingly, Canadian wheat exports to the United States have risen dramatically and are expected to hit 42 million bushels next year. Of course, Canada can still employ wheat export subsidies on exports to Mexico.

Earlier this month, when President Bush announced that he was expanding Export Enhancement Program sales by 1.1 billion bushels, I had hopes that the administration was finally going to counter the subsidies of the EC and Canada. Unfortunately, Mexico is not on the list of countries eligible for EEP. Mexico is still not eligible for this market expanding program.

Second, all sales of Canadian wheat are still handled by a government chartered monopoly known as the Canadian Wheat Board. The price that this board charges for export sales of wheat is generally much lower than the domestic price for the same wheat. This practice is generally known as dumping and is prohibited by U.S. law.

The United States instituted dispute settlement proceedings against Canada related to Durum wheat on the pricing practices of the Canadian Wheat Board. But these proceedings are slow and narrowly targeted. In the meantime, U.S. farmers continue to suffer. In Mexico last year, Canada captured some 76 percent of the market through these cutthroat pricing policies while the Bush administration sat on its hands.

Third, Canada is allowed to require end-use certificates on grain imported into Canada. These certificates are required to ensure that imported grain is not commingled with Canadian grain. American wheat farmers recently pressed for similar end-use certificates on imports of Canadian wheat to ensure that Canadian wheat was not mixed with U.S. wheat and slipped into American farm export program shipments. But they were told by the Bush administration that such end-use certificates would violate the CFTA. Apparently, the United States and Canada are living by a different set of rules.

Canada may be a good trading partner in many sectors, but with regard to wheat Canadian practices puts Japan to shame.

THE FAIR TRADE IN GRAIN ACT

This legislation will address my concerns with 3 provisions.

First, turnabout is fair play. This legislation will require end-use certificates on imported grains. If Canada can employ such certificates, the U.S. can too.

Second, it will direct the Secretary of Agriculture to use the Export Enhancement Program to promote wheat shipments to Mexico. This will counteract the effects of low priced, subsidized grain in the Mexico market.

Third, this legislation will mandate the initiation of unfair trade cases against Canadian wheat imports. This process is necessary if we are to end unfair pricing on United States sales by the Canadian Wheat Board.

CONCLUSION

American wheat farmers got a poor deal under the Canada FTA. Thanks to the tactics of Canada and the cooperation of the Bush administration, they were not able to improve on the deal in the NAFTA.

This is simply unacceptable. Free trade means that everyone plays by the rules, not that the United States plays by the rules and Canada ignores them.

I am determined to level the playing field for American wheat farmers.●

By Mrs. KASSEBAUM (for herself, Mr. DANFORTH, and Mr. BURNS):

S. 325. A bill to provide for comprehensive health care access expansion and cost control through reform and simplification of private health care insurance and other means; to the Committee on Finance.

BASICARE HEALTH ACCESS AND COST CONTROL ACT

Mrs. KASSEBAUM. Mr. President, I am pleased today to reintroduce comprehensive legislation for national health care reform, the BasiCare Health Access and Cost Control Act. I am joined in this effort by my Senate colleagues JACK DANFORTH and CONRAD BURNS, and in the House by Congressmen DAN GLICKMAN and DAVE MCCURDY.

Originally introduced last March, our BasiCare legislation offers a touch but sensible middle ground in the difficult debate over health reform. It is both comprehensive in expansion of access to the uninsured and binding in restraint of rising costs—and yet BasiCare achieves each of these goals without resorting either to Government micromanagement of the health care marketplace or to burdensome employer mandates.

Mr. President, our BasiCare legislation is also fundamentally compatible with the principles of market-based managed competition, as well as with President Clinton's firm intention to combine such managed competition with meaningful and binding restraint of costs. A measure of BasiCare's compromise potential is that, as yet, it is the only comprehensive reform bill to have attracted bipartisan cosponsorship—either in this Congress or in the last.

Over the past year, health care reform has vaulted to the very forefront of national concern—as well it should. This year alone, the United States will spend a staggering $939 billion on health care, up from $817 billion just last year, a rise of over 11 percent. This represents an upsurge I think is astounding. It is three times the rate of overall inflation. Such rising costs are a cause of great concern, not only to each and every American but to the business community as well.

In Kansas alone, health care spending is increasing at a rate of more than $2 million a day.

Already, rising costs have priced affordable health care out of the reach of more than 37 million Americans—and the ranks of the uninsured are now growing at an estimated rate of 100,000 people each month. Meanwhile, the medical cost explosion is also burdening American business, straining State budgets, worsening the Federal deficit, and seriously threatening the long-term good health of the U.S. economy.

That is not to say, Mr. President, that we do not have fine quality health care in this country. It is simply that we have a system that is expanding beyond our expectations as well as our means.

Mr. President, our BasiCare legislation would simplify the private health insurance marketplace around a single, uniform BasiCare benefits package, the content of which would be determined by an independent national commission patterned in part after the military base-closing commission. All private carriers would be required to sell the BasiCare package and all Americans to carry it. BasiCare policies would be subject to strict rules protecting beneficiaries against discriminatory rating and underwriting practices.

Health care costs would be contained by placing a binding overall annual limit on the allowable rate of increase in BasiCare premiums, an approach which is aimed at forcing a more integrated and efficient health care marketplace. Additional cost restraint would come from limits on the employer deduction for health benefit costs and the employee exclusion from taxation of such benefits. Under BasiCare, the current 100-percent deduction and exclusion would remain, but both would be limited to the cost of the BasiCare package.

To expand access to the uninsured, our legislation would offer low-income persons direct income-based subsidies for the purchase of BasiCare policies in the private market. In addition, Medicaid and Medicare would be assimilated into the BasiCare program over time, and coverage for basic long-term care would be included.

I have always believed, Mr. President, that the latter was very important. As our demographics are changing and we are growing more elderly in this country, long-term care needs to be addressed now before it becomes a significant problem.

The bill also includes tough malpractice reforms, a significant expansion of community-based primary care services, and measures to increase the numbers of health professionals in underserved rural and inner-city communities. A more detailed description of the bill's provisions will be included in the RECORD following my remarks.

Mr. President, as President Clinton's self-imposed, 100-day deadline for producing a comprehensive health program draws ever nearer, discussion and debate on reform strategies is escalating with palpable intensity, both inside and outside of Government.

In these evolving discussions, probably the deepest point of division is the issue of trying to marry market-oriented managed competition with some kind of binding cost restraint. Close behind, perhaps, is the thorny question of whether employer mandates will be required in order to achieve universal access.

The BasiCare legislation we are introducing today offers serious compromise alternatives on both of these divisive issues.

First, although BasiCare's premium-based cost-control structure is very firm in its restraint of rising costs, it is carefully structured to avoid Government micromanagement of the health care system through provider rate- or fee-setting.

This point is very important. I do not think we, as a Government, should get into rate and fee setting.

We believe this approach offers a potential bridge between those who insist on binding budgets on the one hand and those who oppose public regulation of the health care marketplace on the other.

Second, BasiCare is comprehensive in expanding access to the uninsured, but it achieves such expansion without resorting either to employer mandates or to government-run public programs—both of which carry significant logistical and political liabilities.

The BasiCare looks to income-based vouchers to achieve expanded access. Unlike President Bush's proposal of last year, such vouchers would not be tax based but rather would be directly redeemable for buy-in to private BasiCare plans.

I have many people out home in Kansas who will say, "Why should I pay for the uninsured if I am carrying my insurance?" The answer to that, Mr. President, is that we are paying anyway. It is far better for us to recognize what those costs are and help address them in an equitable, fair, and manageable way.

Finally, unlike many of the other major health care reform plans, my BasiCare legislation is straightforward about how it will be paid for. Importantly, it also addresses the critical issue of coverage for long-term care, which many of the others do not.

Mr. President, no issue is more important in health care reform than the need to control spiraling health care costs. As I have said in the past, I believe that health care reform without tough and comprehensive restraint of costs is really no reform at all.

Like President Clinton, I firmly believe that some kind of binding cost-containment mechanism will be needed, and that a restructuring of competition in the marketplace will not—in and of itself—be enough.

Just this week, the Congressional Budget Office issued findings backing up this conclusion, noting that managed competition without binding cost containment would have only a modest effect in holding down overall health expenditures.

This said, however, I want to stress that I also believe it is important that our health reform cost-containment strategies be structured to minimize as much as possible regulatory interference in the private health care marketplace.

Our BasiCare legislation seeks to do just this. Under our bill, rising health care costs will be contained by placing overall limits on the rate of growth in premiums. This approach will create strong motivation for new efficiency in the health care delivery system, primarily by forcing health plans to manage the risk of rising costs by negotiating with providers for the establishment of efficient, integrated networks of care.

Unlike some of the more interventionist cost-containment approaches now under consideration, the BasiCare legislation would not resort to Government micromanagement of the health care system through complicated public rate- or fee-setting mechanisms. Rather, under the BasiCare approach, it will be health care professionals, not Government bureaucracies, who will be making the day-to-day decisions of health care cost management.

Not widely known at the time we introduced this legislation last March, BasiCare's premium-based approach to cost containment has since picked up considerable attention. It is my understanding that the new administration is taking a serious look at this kind of approach, as are others in Congress.

Mr. President, our intention in reintroducing this legislation today is to reaffirm our commitment to the BasiCare approach as a promising, bipartisan compromise. However, all of us remain eager to work with the new administration and with our colleagues of both parties in pursuing what we hope can be a consensus agreement on this issue.

At some point, for example, it may be worthwhile to consider a closer integration of our BasiCare reform model with the so-called Health Insurance Purchasing Cooperatives [HIPC's] contained in the managed-competition legislation introduced by the House Conservative Democratic Forum [CDF] and others. Such purchasing cooperatives could well arise under our bill, but they are not required.

As we proceed with efforts to achieve overall reform, we also need to be very careful that important related issues do not become lost or obscured. Meeting the special health care needs of rural communities, for instance, is an area I intend to continue to work hard on as the reform debate develops. Similarly, the widening imbalance between primary care providers and specialists is a pressing problem that needs to be addressed in concert with our more general reform efforts.

Mr. President, the bill we are introducing today contains a limited number of targeted changes from last year's legislation. These revisions address logistical and technical issues in certain areas, including provider billing, insurance risk adjustment, and quality assurance. None of these revisions alters the overall structure or approach of the legislation.

In closing, Mr. President, I want to stress that successful reform will ultimately demand a bipartisan balance between competing approaches and agendas.

I am pleased to be a part of the health care task force that has been chaired by Senator CHAFEE on the Republican side of the Senate. Certainly, there have been many others, including the Presiding Officer today, Senator KERREY; Senator KENNEDY; Senator ROCKEFELLER; and many others. We all are trying to find a successful bipartisan answer to this issue.

As this process moves forward, I will urge my colleagues to take a close look at the BasiCare approach. I think it offers real opportunities for compromise. I am also encouraged that we are beginning to see a far greater consensus on some of the critical issues. As we work from that and come together, I am confident that in this next year we may achieve a significant health care reform bill.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BASICCARE HEAL ACCESS AND COST CONTROL ACT

KEY COMPONENTS

Simplifies the insurance market around a single uniform benefits package (BasiCare) that every insurer must offer and that every American will carry.

The BasiCare package will be a required offering of all private health insurance carriers and will be carried by all Americans. No insurance company will be permitted to offer any non-BasiCare plans that duplicate BasiCare benefits, although they may sell supplemental policies for persons wishing additional coverage.

The content of the BasiCare benefits package will be determined by an independent expert commission. As under the current military base-closing system, Congress will have the power to vote up or down on the commission's recommendations, but not to amend them.

BasiCare will be subject to strict rules protecting beneficiaries from discriminatory rating and underwriting based on health status.

Health care costs will be controlled by placing binding annual limits on the maximum allowable rate of increase in BasiCare premiums, as well as through administrative standardization of the single BasiCare package.

Firm limits on annual BasiCare cost growth will create strong motivation for new efficiency in the health care delivery system, primarily through expanded development of coordinated systems of care negotiated between providers and insurers.

Health care access for the uninsured will be addressed by offering low-income persons non-transferable vouchers for the purchase of BasiCare coverage. This system will replace and expand upon the current Medicaid program.

Medicare will also be gradually assimilated into BasiCare, and long-term care coverage will be included in the BasiCare package.

Financing will be obtained through (a) appropriation of existing Medicaid expenditures, (b) limiting the current 100 percent tax deduction and exclusion for employer health benefit contributions to the cost of a BasiCare package, and (c) a limited draw from the current Social Security payroll tax, not to exceed 1 percent of the tax.

The plan also includes malpractice reform, a significant expansion of low-income community health care services, and measures to increase the number of health professionals in underserved rural areas.

SUMMARY OF PROVISIONS

A. Creation of BasiCare

1. Congress will determine the broad foundations of the BasiCare package, but it will not be directly responsible for the details of the plan's composition. Among the foundations that Congress will require, however, will be:

a. Basic hospitalization coverage;

b. Basic outpatient services;

c. Protection against catastrophic out-of-pocket costs;

d. Coverage against extraordinary long-term care costs; and

e. Coverage for preventive care services of significant proven and recognized value in averting serious and costly medical conditions.

2. Actual development of the BasiCare package will be conducted by an eight-member independent, expert commission. Half of the members will be appointed by the President and the other half by the congressional leadership. All will serve on a full-time basis for staggered five-year terms.

3. The commission will define a benefit plan which, in its judgment, represents a minimum but fair coverage package. At its discretion, the commission may recommend limited variation in plan structure to accommodate delivery of BasiCare services in a managed care setting, provided that such variation does not compromise the basic uniformity of the national BasiCare package.

4. As under the current system for closing military bases, Congress will have the power to approve or disapprove the commission's recommendations, but only as an un-amendable package. The purpose of this mechanism is to help assure that the process of developing the benefit package is not unduly distorted by political pressure.

5. The BasiCare commission will have authority to make adjustments in the plan's content, as needed, to reflect changes in technology or in the nation's health needs. It will also have significant oversight responsibility for the health care system as a whole.

6. The commission will be charged with ongoing oversight of the quality of health care delivery—particularly as the system reacts to implementation of the new BasiCare structure. The commission will be required to factor findings on quality into any recommendations it makes to Congress on the content or the cost of the BasiCare package. It will also be authorized to contract with local and regional entities for the collection and dissemination of health care quality, cost-effectiveness, and patient-satisfaction data to consumers.

B. BasiCare's role in the insurance market

1. All insurers in the health insurance market will be required to offer BasiCare and to accept its conditions.

2. Insurers will be barred from selling non-BasiCare policies that duplicate BasiCare

benefits in any way. Supplemental policies, however, will be allowed (see Section F. below). Such supplemental policies will be permitted to cover only those benefits not covered by BasiCare .

3. When the program is fully implemented, BasiCare policies will be subject to strict rating and underwriting rules aimed at assuring availability and curbing risk selection. These will include:

a. Guaranteed Issue and Renewal: Insurers will be limited in applying pre-existing condition restrictions on the issuance of policies and will have to guarantee acceptance of all small groups and individuals wishing to purchase coverage. Similar standards will also be applied to policy renewal.

b. Community Rating: Insurers will be required to set rates on the same terms to all BasiCare policyholders, both group members and individuals. Adjustments in community rating will be permitted for the age of enrollee, but will be held within limits, which will narrow over time. Community rating will apply both to group and individual policies.

c. Portability: Persons will no longer have to fear lack of access to coverage due to a change in employment.

4. Insurers failing to comply with the above reforms will be subject to a federal excise tax on gross premium income.

5. All persons will be required to carry a BasiCare policy, either through a group or individually. Low-income persons will receive direct public assistance for the cost of such coverage (see Section C. below).

6. Employers will not be permitted to discriminate against employees based on health status.

7. Self-insured groups will be permitted to continue self-insuring, provided they can demonstrate that: 1) they are offering a BasiCare-equivalent benefit plan that adheres to all of BasiCare's conditions, 2) they can show that their costs do not differ substantially from those of insured BasiCare plans, and 3) they can demonstrate sufficient financial reserves to assure solvency and protection of patient benefits.

8. "Stop/loss" coverage sold to self-insured groups will also have to follow the same rating, issue, and renewal standards specified for BasiCare (see above).

9. BasiCare policies will be exempt from all current or future state benefit mandates. The federal pre-emption for BasiCare will also apply to state legislation restricting the use of managed care.

10. The health insurance tax deduction for self-employed persons will become the same as that for incorporated group plans. Currently, the group deduction is 100 percent while the self-employed receive 25 percent. Under the new program, the deduction for both categories will be the same—100 percent for the cost of the BasiCare package (see Section E.2 below).

11. Insurers will likely find it desirable to coordinate the development of insurance mechanisms (risk pools) to better accommodate the rating and underwriting changes noted above. As under current law, state governments will also be permitted to create or contribute to such pools.

12. The Commission will develop a structure for risk-adjustment among BasiCare plans. Guidelines for this structure will be developed by the commission but will be administered on a state level by state insurance authorities.

13. Timing: The above-described system for national standardization of the new BasiCare package will go into effect following congressional approval of the commission-proposed BasiCare package. This should occur three years after enactment. Preceding this will be a phase-in period, beginning at enactment, in which the small employer market will be subject to a variety of somewhat milder rating and underwriting reforms aimed at increasing fairness and availability of coverage in that market.

C. BasiCare coverage for low-income beneficiaries

1. The new BasiCare package will replace and supplant current Medicaid coverage. This will apply not only to Medicaid's acute care coverage, but to its long-term care coverage as well.

2. The low-income BasiCare assistance program will be administered through non-transferable federal vouchers redeemable directly to BasiCare carriers or employer plans. Such vouchers will indicate the applicable percentage of BasiCare costs a person or family is eligible to receive. Amounts corresponding to that percentage will be credited to the carrier by the BasiCare program.

3. To facilitate "one-stop shopping" for recipients, the process of application and approval for assistance will be coordinated with actual enrollment in a BasiCare plan.

4. This legislation specifies minimum-income levels for which voucher assistance must be provided, but it leaves the commission discretion to propose increases in these levels, as it may deem appropriate to correspond with the new BasiCare benefit package. At a minimum, persons below 100 percent of the federal poverty line will receive full voucher assistance, and persons between 100 and 200 percent of poverty will receive assistance on a sliding scale based on income. Even persons receiving full voucher assistance will be required to pay a small perservice copayment to discourage overutilization.

5. The switch from Medicaid to BasiCare will assure that medical providers are no longer reimbursed at a lower level for treating low-income patients, as they are under the current Medicaid system.

6. To provide for a smooth transition from Medicaid to BasiCare, the Medicaid program will be retained as an administrative unit for a period of five years following standardization of BasiCare. During this transition period, present Medicaid-eligible beneficiaries will continue to receive any current Medicaid benefits that may not be included in the new BasiCare package.

7. Federal matching funds for Medicaid benefits not included in the BasiCare package will be discontinued at the end of the transition period, unless the commission has recommended—and Congress has approved—an alternate plan for disposition of such benefits.

8. Most federal and state funding currently going to Medicaid will be transferred to the BasiCare low-income assistance program (see Section E.1 below).

D. Cost-containment through BasiCare

The BasiCare system will put in place several strong levers for maintaining cost-control in the health care system. These include:

1. Annual limits on the rate of increase in BasiCare premiums: Insurers will be required to limit annual increases in BasiCare premiums to a federally defined maximum percentage. More specifically, the BasiCare commission each year will set a maximum allowable percentage for such premium increases. This percentage will be binding on all insurers.

As it initiates this system of premium increase limits, the BasiCare commission will also have authority to establish an average base premium for the BasiCare package from which future allowable increases will be measured. This is to guard against the possibility of insurers setting initial rates unreasonably high in anticipation of future increase limits. The commission will be permitted to apply limited geographic variation in the base rate to reflect regional differences in the cost of providing the BasiCare package.

By establishing a single, maximum allowable percentage of increase, government will be putting insurers themselves at risk for rising costs, thereby creating a strong incentive for efficiency. The government's role will be to set the overall budget parameters; finding the best way to live within these means will be up to the health care system itself—and not to government bureaucracies. Unlike other cost-control proposals, this approach will avoid the pitfalls of government micro-management of specific insurance rates and provider fees.

It is likely that insurers will react to the new budget controls by forming organized care relationships with providers in order to share the financial risk with those providers. Under such arrangements, both insurers and providers will have a direct financial stake in keeping costs down and delivering care as efficiently as possible.

2. The benefit package itself: The BasiCare commission will be charged with defining the scope of benefits to a reasonable minimum. Recognizing that defining a core is necessarily a subjective and difficult task, the commission will nevertheless be largely insulated from the strong provider and consumer pressure that has led, for example, to expensive state benefit mandates under the current system.

3. Oversight of provider billing: It is anticipated that the BasiCare premium limits described above will create a market situation in which the only way either providers or insurers can survive financially will be to enter into organized networks of care with each other, under which provider payment would likely be limited to negotiated amounts.

However, to guard against the possibility of unreasonable provider overcharges to consumers, this plan also requires that providers shall accept as payment in full the reimbursement level (or capitated payment) they have contracted with BasiCare plans. Providers will remain free to accept or decline participation with particular BasiCare carriers, but payment for BasiCare-covered services may be received only from certified BasiCare carriers.

4. Paperwork standardization: All billing and claims paperwork associated with BasiCare will be standardized across carriers, and steps will be taken to provide for universal electronic billing.

E. Financing of BasiCare

The cost-controls noted above should create sizeable reductions in the proportion of out-of-pocket costs now paid by most Americans for health care. Unavoidably, however, these savings will be at least partially offset by new costs associated with expanding coverage to the currently uninsured (see Section C. above).

Revenue sources included in this bill are:

1. "Capturing" existing Medicaid funding: As Medicaid is replaced by BasiCare, its current funding will be redirected to the BasiCare program. At the federal level, this will be accomplished by posting existing

Medicaid expenditures to BasiCare and indexing the amount upward each year according to inflation. Similarly, the states will be required to contribute to BasiCare an amount proportionate to their current Medicaid match. This, too, will be indexed upward with inflation.

2. Limiting the tax deduction and exclusion for employer contributions to employee benefit plans: Under current law, 100 percent of employer payments to employee health plans are deductible to the employer and tax-exempt to the employee. This will be changed to allow such deduction and exemption only for contributions associated with BasiCare coverage. Additional payments for supplemental coverage will be taxable.

3. A limited draw from the current Social Security payroll tax, not to exceed 1 percent of the tax: The Social Security payroll tax is now set at a level higher than is necessary to assure adequate reserves for present and future retirees. As the consumer group Families U.S.A. and others have argued, it is appropriate that at least a modest portion of these resources be devoted to the very useful purpose of overhauling our declining health care system. Just 1 percent of the current tax would equate to $56 billion a year in 1996, and even more as time goes by.

F. Role of supplemental insurance

1. As mentioned above, BasiCare will act as the primary health insurance source for all citizens, but persons or groups will be able to purchase supplemental policies for services not covered by BasiCare.

Leaving room in the market for a supplemental insurance market will serve a dual purpose. First, it will allow persons or groups the freedom of choice to tailor coverage to their own particular needs. Second, a private supplemental market will provide greater incentives for the development of innovative treatments than might be the case were BasiCare the only available option.

2. To guard against potential abuses of the supplemental market, the BasiCare commission is given strong oversight authority to monitor behavior in the new supplemental market and to intervene with explicit consumer protection or cost controls should market abuses or unreasonable cost growth develop.

G. Assimilation of Medicare

1. The commission will be directed to develop a comprehensive proposal for integration of the current Medicare program into the BasiCare system. Such proposal, in legislative form, will be required no later than the fifth year after the new BasiCare system has been implemented. This proposal will be considered in Congress under the same terms of limited debate as the initial BasiCare package (see Section A, below).

2. CHAMPUS and FEHBP will also be assimilated into the BasiCare system.

H. Expansion of Community Health services

New federal funding will be allocated for Community Health Centers (CHCs) and for other state and local public health clinics. Such centers have a good record of providing inexpensive, cost-effective treatment to indigent and low-income persons. Authorization is $600 million annually in new funding for these programs.

I. Malpractice reform

1. Provides federal preemption for comprehensive medical liability reforms. These include: mandatory periodic payment of future awards, caps on noneconomic and punitive damage awards, mandatory offsets of awards for collateral sources of recovery, and court-determined reasonable attorneys' fees.

2. Establishes a program of grants to states to encourage implementation of alternative dispute resolution (ADR) systems, such as fault-based, no-fault, or binding arbitration. Authorization is $250 million annually for three years.

3. Establishes special demonstration projects to test implementation of no-fault systems of compensation. Authorization is $20 million annually for three years.

J. Joint use of equipment and services

1. Clarifies antitrust law regarding joint service ventures to facilitate collaboration among hospitals for the purpose of sharing expensive high technology equipment or services.

2. Specifically, this provision amends the National Cooperative Research Act to allow joint service ventures by two or more hospitals for the delivery of costly services. It will apply the rule-of-reason standard to joint service ventures that are challenged, allowing the court to consider the competitive benefits of the venture.

K. Expanding the supply of health professionals in rural areas:

1. Significantly expands funding for the National Health Service Corps, a program to place doctors and other health professionals in underserved areas in exchange for scholarship or loan repayment assistance. Authorization is $120 million for each of the next five years.

2. Physicians will be allowed to tax credit equal to $1,000 a month for practice in a rural health professions shortage area. Nurse practitioners and physician assistants will be eligible for a similar credit equal to $500 per month.

3. Provides additional tax incentives for rural practice, including deductibility of National Health Service Corps loan repayments and deductibility for the cost of basic medical equipment.

Mr. DANFORTH. Mr. President, last year Senator KASSEBAUM introduced one of the most innovative comprehensive health reform proposals, known as the BasiCare Health Access and Cost Control Act. I was pleased to cosponsor that legislation last year and again join my colleague, Senator KASSEBAUM, in reintroducing that legislation this year.

This legislation is tough in its commitment to containing health care costs. It establishes a uniform BasiCare benefits package to be determined by an independent expert commission within broad parameters set forth in the bill and it caps the deductibility of health expenditures at the cost of the BasiCare package. In addition, it applies binding annual limits on the maximum allowable rate of increase in BasiCare premiums. It sends the clear message that there are limits to what the Government will subsidize.

Importantly, it allocates responsibility for the content of the BasiCare package to an independent expert commission that will be largely insulated from the strong provider and consumer sway that could lead to an excessive and overly expensive package.

At the same time, it provides for universal access by offering to low-income persons direct, income-based subsidies for the purchase of the BasiCare package, and by mandating community-rating and prohibiting insurers from taking into account preexisting conditions. And further, along these lines, it includes a significant expansion of community health centers and other community-based primary care facilities, and it seeks to increase the numbers of health care professionals in medically underserved areas through an expansion of funding for the National Health Service Corps, and targeted tax incentives to doctors, nurses, and other health care professionals practicing in underserved rural communities.

Among other significant provisions, it seeks to aid quality by calling for the collection and dissemination of quality data. It seeks to reduce administrative costs through standardization and universal electronic billing. It requires substantial Federal reform of malpractice liability laws.

The resulting system would be a streamlined market-oriented system that encourages competition on the basis of efficiency rather than risk-selection or overutilization and that encourages consumers to take a harder look at the way they spend their health care dollars.

I applaud this measure as a significant step forward in the health reform debate and one which offers the promise to be a compromise vehicle between those who seek global caps and rate regulation on the one hand and those who oppose public regulation of the health care marketplace on the other.

Mr. BURNS. Mr. President, as we carry on the debate here on the Family Leave Act, this morning the Senator from Kansas [Mrs. KASSEBAUM] introduced her hospitalization or BasiCare Health Access Control Act for 1993.

Mr. President, I rise today in support of the BasiCare Health Access and Control Act. This proposal is a proposal with which I have been involved since its introduction last session; and which I believe deserves a very, very serious consideration by this body.

It may not have all of the answers, but it is a starting point from which we can work.

Health care is a true concern to all of us. I know I am not alone in the numbers of constituents I have heard from who are begging for some sort of reform. Costs are spiraling out of control, and that in turn leaves more and more people unable to afford the high-quality health care to which we have become accustomed in this country.

In order to address the real cost containment and expand access to health care services, we need to start talking about real solutions. I think this bill is the first practical step in that direction.

We have to start somewhere, and this is the best attempt to make a positive change that I have seen yet.

As you have heard, it establishes a single, uniform benefit package which every insurer must offer and every American must carry.

Those who cannot afford the package will be offered nontransferable vouchers to purchase BasiCare coverage.

Let me tell you, Mr. President, vouchers work. When I was a commissioner in Yellowstone County we gave housing vouchers to low-income residents. They could not use the money for anything other than housing. And we were very, very successful—better than that, they had housing. I think that is important.

You see, one of my soft places has always been kids. When you just give people cash and they spend the cash on the way to pay the rent, we find kids out in the cold. This operates under the same philosophy.

We will have a tough time finding a plan that will cover our vast and diversified Nation. What works for metropolitan areas will not necessarily work for rural America. So I think the best we may do is to find a plan for the majority and be open to special programs to solve the problems of the rest.

I think we get into the same problem when we talk about health care as when we talk about agriculture. We try to write an agriculture bill that covers the whole country. Yet agriculture practice and production is so diversified across the country in some areas it does not work. So I think we have to take a real look at this and start at a place, and then start massaging it so it fits all areas of the country.

I am particularly concerned with how rural areas may be affected. In my home State of Montana we have counties with no physicians, no hospitals, and hospitals that are closing because of the lack of in-patient days, and the next hospital may be up to as far as 50 miles away.

How do we expand access in those kinds of areas? The BasiCare package has a number of components that address the problems of rural health care. Let me tell you about a few of them. It significantly expands community-based primary care services. Specifically, it will allocate $600 million annually to support community health centers, rural health clinics, public health departments, and local hospitals in underserved communities. This is twice the funding we currently get in this area now. And, believe me, I think it will help.

The bill also expands the National Health Service Corps, a program to place doctors and other health professionals in underserved areas in exchange for scholarship or loan repayment assistance. This is crucial to the survival of some of our very rural communities. Many times these rural areas cannot support a physician, either because of low population numbers and therefore lack of business, or because of the remote location. Not many health care providers will set up a practice in an area where there is no hospital near and no support for one. If they do, they are faced with being on call 24 hours a day, 7 days a week, 52 weeks a year. There is no time for continuing their education, conferring with other colleagues, or for that matter even a weekend off.

This is not good for the physician, and it sure is not good for the patients who have to rely on him.

The National Health Service Corps places health care providers in these areas that are so difficult to staff, and they truly are a saving grace.

On top of this, though, the bill also gives tax incentives to providers who practice in rural areas. Not only would physicians be allowed a tax credit equal to $1,000 a month to practice in a rural health professional shortage area, but physician assistants, also nurse practitioners, would be available for the same tax credit. I have to tell you, Mr. President, the possibilities there are plum thrilling.

In addition to the expanded access possibilities, the bill also makes health care costs 100 percent deductible for the self-employed and this, too, will benefit the rural areas because of a large number of self-employed—the farmers, the ranchers, the small businessmen.

So we are making health care more affordable to more people. As valuable as these rural components are, I think it is important to note first that the BasiCare package itself will serve to bring down costs to all areas, rural and urban alike. And in doing so, it automatically expands access to those who cannot afford health care in its present form.

As you know, Mr. President, some plans on the books make a lot of promises and yet they have no way to fund them, or worse, fund them in a way that will be so painful to a lot of people. This bill has a financing mechanism where changes need to be made. I think, and strongly believe the BasiCare Access Cost Control Act is a terrific first step in addressing these problems. We need to keep our country healthy and strong.

We have sent a copy of this plan to President Clinton. I encourage my colleagues to take a good look at this legislation because this does not seem to me to single out any part of our population. It is not long on promises and short on funding.

Mr. President, I know we have the highest quality health care in the world, and I am proud of that. I have a daughter who is trying to enter med school and she goes for an interview at the University of Washington in 2 weeks. I only hope she will come back to Montana and practice medicine in my State and have the opportunities that I think many other people going into the medical profession should have. This kind of legislation lets us move in that direction. I believe it is a vital first step.

I thank the Chair, and I yield the floor.

By Mr. WARNER (for himself and Mr. ROBB):

S. 326. A bill to revise the boundaries of the George Washington Birthplace National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

GEORGE WASHINGTON BIRTHPLACE NATIONAL MONUMENT BOUNDARY ACT OF 1993

• Mr. WARNER. Mr. President, I rise today to introduce legislation which would expand the boundaries of the George Washington Birthplace National Monument.

The George Washington Birthplace National Monument was established by Congress in 1932 to commemorate the birthplace of the Father of our Country. George Washington was born on February 22, 1732, on his father's Popes Creek Farm. This site has been maintained by the National Park Service as a working colonial farm complete with a reconstructed homestead, recreating 18th century plantation life.

In the 102d Congress legislation was introduced to expand the birthplace and preserve its historic character by including approximately 125 acres of privately owned land. This land is sandwiched between two units of the existing park and the Potomac River.

The inclusion of the 125 acres within the monument's boundaries would prevent any adverse alteration or development of the land which could degrade the monument's setting. In addition, the land in question is of historic value being directly connected with the plantation owned by George Washington's father.

The 12-acre Horner property is an excellent example of mature loblolly pine woodlands in the area and is within 400 yards of a bald eagle nesting site. The Muse family owns the remaining 113 acres which constitute part of the first land patents issued for the northern neck of Virginia. The Muse family and their ancestors have been farming and working their land for over 200 years.

Because of the location of the Horner and Muse properties relative to the monument's boundaries and the potential for nonagricultural development, local officials, civic organizations, the Horners, the Muses, and Congressman BATEMAN recognized the value of including 125 acres within the boundaries of the birthplace monument. However, after the original legislation passed the House last Congress on September 24, 1992, several members of the Muse family contacted my office and stated their opposition to their 113 acres being included within the monument's boundaries. Because of my deep respect for the rights of private property owners and after much negotiation with the Muse family and National Park Service officials, it was decided that the Muse family's 113 acres should not be added to the monument.

Therefore, at the Senate Energy and Natural Resources Subcommittee on Public Lands, National Parks and Forests hearing on the legislation, I requested that the bill be amended to delete the Muse property. The amended bill went on to pass the full Senate by voice vote on October 7, 1992. Due to the unfortunate circumstances surrounding the adjournment of the 102d Congress, the House failed to consider the amended bill.

I am here today to reintroduce the legislation which would authorize the inclusion of the 12-acre Horner property within the monument's boundary. Due to the Senate's previous approval of this legislation, I respectfully request swift consideration and approval of the bill.

I request that the bill be printed following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 326

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GEORGE WASHINGTON BIRTHPLACE NATIONAL MONUMENT.

The Act of January 23, 1930 (46 Stat. 58, chapter 24; 16 U.S.C. 442) is amended—

(1) in section 2—

(A) by inserting after "structures thereon" the following: "(including lands described in section 3)"; and

(B) by inserting after "Secretary of the Interior" the following: "(referred to in this Act as the 'Secretary')";

(2) by redesignating section 3 as section 6; and

(3) by inserting after section 2 the following new sections:

"SEC. 3. BOUNDARIES OF GEORGE WASHINGTON BIRTHPLACE NATIONAL MONUMENT.

"The boundaries of the George Washington Birthplace National Monument shall include the area comprising approximately 12 acres and generally depicted as the 'National Monument Boundary' on the map entitled 'George Washington Birthplace National Monument Boundary Map', numbered NPS 332/80,011A, and dated September 1992. The map shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior.

"SEC. 4. ADMINISTRATION OF NATIONAL MONUMENT.

"In administering the George Washington Birthplace National Monument, the Secretary shall take such action as is necessary to preserve and interpret—

"(1) the history and resources associated with George Washington;

"(2) the generations of the Washington family who lived in the vicinity and their contemporaries; and

"(3) 18th century plantation life and society.

"SEC. 5. ACQUISITION OF LANDS.

"The Secretary may acquire lands or interests in lands within the boundaries of the George Washington Birthplace National Monument by donation, purchase with donated or appropriated funds, or exchange.".•

By Mr. MURKOWSKI (for himself, Mr. BUMPERS, Mr. DURENBERGER, Mr. GLENN, and Mr. HATFIELD):

S. 327. A bill to amend the Internal Revenue Code of 1986 to permit rollovers into individual retirement accounts of separation pay from the Armed Services; to the Committee on Finance.

MILITARY SEPARATION RETIREMENT BENEFITS ACT OF 1993

Mr. MURKOWSKI. Mr. President, on behalf of myself and Senators BUMPERS, DURENBERGER, GLENN, and HATFIELD, I rise to introduce important bipartisan legislation for the men and women of America's Armed Forces. This bill, the Military Separation Retirement Benefits Act of 1993, would give those servicepeople who have separated or who will separate from the Armed Forces under early separation incentive programs the right to roll their departure incentives into eligible retirement plans. I might add that this legislation has the support of 25 of this Nation's service organizations representing over six million currently serving personnel and veterans.

A version of this bill passed the Senate last year as an amendment to the tax bill and I was pleased to have the cosponsorship of the leadership of the Finance Committee, then-Senator Bentsen and Senator PACKWOOD. Ultimately, the vehicle for that amendment, H.R. 11, was vetoed by the President, but the need for this bill remains. This is an important bill for America's servicepeople, and I hope that my colleagues will give it their support.

THE SEPARATION INCENTIVES

Mr. President, the events of the last several years have led to a dramatic restructuring of the United States military. This restructuring has included the downsizing of the Armed Forces. To facilitate the downsizing, the military has offered its personnel certain financial benefits for leaving the military prior to their expected dates of departure. These incentives include the voluntary separation incentive and the special separation benefit. The amount of the incentive is based on the number of years served by and the rank at departure of the serviceperson.

The voluntary separation incentive operates as an annuity paid out to the departing serviceperson by the government over a period of years while the separation benefit is paid out as a lump sum. Mr. President, some 85 percent of those applying for the incentives are applying for the separation benefit. That separation benefit, under current law, is taxed in the year it is received as ordinary income. Many of those taking advantage of the separation benefit are young men and women who had planned to make the military their career and were willing to make extraordinary sacrifices for the United States. Now that their country needs them to leave the service, they are voluntarily doing so, but it should not be forgotten that they are entering a time of some economic difficulty and are sacrificing the security they had in the military.

THE ROLLOVER

The bill which I am introducing today would allow those men and women taking the separation benefit to roll their separation benefit into an eligible retirement account. It is simply not fair that the benefit paid to those in the Armed Forces who are helping this country out is presently taxed as ordinary income. It is not fair because that amount is totally disproportionate to what those men and women have been making or, in all likelihood, will be making in the immediate future. For example, a staff sergeant with 16 years of service currently earns about $24,000 a year; that same sergeant would receive over $50,000 as a separation benefit. To tax that $50,000 as ordinary income is absurd.

Further, by encouraging these men and women to put their money into eligible retirement accounts, we can help them plan for their futures. As I noted above, these men and women are voluntarily leaving careers, careers which would have provided them with excellent retirement benefits. Allowing them the right to invest in eligible retirement accounts simply returns to them something of what they are giving up, a secure future. The program I am proposing would encourage these young Americans to save for their futures and invest in their country. In that way, they can continue to make important contributions to us all.

CONCLUSION

In conclusion, Mr. President, my bill would also retroactively apply to those who have already left the service under the separation benefit plan and, importantly, would apply if the military reached the point where if forced people to leave the service with a separation benefit. Mr. President, this is a bill to help those whose plans have been changed by the greatest victory this nation has ever won. I have received calls in the last week from servicepeople in States as diverse as Alaska and California, Alabama and Washington, calls asking me whether this legislation will become law this year. I certainly hope that it will.

Mr. President, Secretary Bentsen put it best last year on this floor when he said that this bill represents nothing less than equity and fairness for America's servicepeople. I hope that my colleagues share his sentiment, and I invite their support for this legislation.

By Mr. BRADLEY:

S. 328. A bill to provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway National Recreation Area in the State of New Jersey, and for other purposes; to the Committee on Energy and Natural Resources.

SANDY HOOK UNIT ACT OF 1993

• Mr. BRADLEY. Mr. President, I rise today in support of Monmouth County, NJ, School District's efforts to maintain the right to continue to revitalize, rehabilitate and utilize Fort Hancock within the Sandy Hook Unit of Gateway National Recreation Area.

Mr. President, for more than a decade the school district and Sandy Hook have cultivated a mutually beneficial relationship. The park has allowed the school district to use several of its buildings to administer its Marine Academy of Science and Technology, and in return, the school has rejuvenated many of the park's historic, but debilitated buildings. To date, Monmouth County has completed more than $2 million worth of renovations. Clearly, this has been a rewarding arrangement for both sides.

Recently, the school and the park have been informed that legislation is required in order for them to maintain their relationship. The legislation will allow the Secretary of the Interior to enter into an agreement with the school thereby permitting the school to use certain park facilities for the purpose of development and operations, without cost to the National Park Service.

Mr. President, I am in full support of this legislation for several reasons. Over the past 10 years the Marine Academy has grown from a part-time institution into a demanding 4-year diploma granting program for boys and girls in grades 9–12. The academy is truly unique. By emphasizing marine science technology and marine trades, the school has successfully prepared hundreds of its students for work or study in the important field of marine environmental science. And the renovations that have been made to several park buildings cannot be overstated. For years scores of historical buildings at Sandy Hook have been decaying as a result of neglect caused by budgetary limitations. Monmouth County has remedied this problem by instilling life into many buildings that were on the verge of being condemned.

Mr. President, the Sandy Hook-Monmouth County partnership has benefited many people: The students who attend the Marine Academy, the tourists who visit the park and of course the State and Federal governments responsible for the maintenance and operation of the facility. It is evident that we must ensure that this relationship will continue to prosper. I urge my colleagues to join me in support of this legislation.•

By Mr. DANFORTH (for himself, Mr. HOLLINGS, and Mr. INOUYE):

S. 329. A bill to amend section 315 of the Communications Act of 1934 with respect to the purchase and use of broadcasting time by candidates for public office, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CAMPAIGN ADVERTISING AND DISCLOSURE ACT OF 1993

Mr. DANFORTH. Mr. President, today Senators HOLLINGS, INOUYE, and I are introducing a bill to restore the existing lowest unit charge requirement of the Communications Act to its original intent. This bill also requires enhanced disclosure by candidates. The Commerce Committee reported a very similar bill in the last Congress.

LOWEST UNIT CHARGE

Congress enacted the lowest unit charge requirement in 1972. Its provisions require broadcasters and cable operators to sell time to political candidates at rates no higher than those charged to the stations' most favored commercial advertisers. The application of the lowest unit charge requirement, however, is no longer working.

Commerce Committee hearings and audits of political advertising by the Federal Communications Commission [FCC] confirm that the problems with the lowest unit charge statute are significant and widespread. First, the law is unclear. Interpreting lowest unit charge is now so difficult that, during election periods, the FCC has to answer 50 to 75 daily inquiries about it.

Second, the law requires only that the candidates be afforded the lowest unit charge for each class of time. When the law was enacted, broadcast advertising was sold with rate cards. It was fairly simple to determine the lowest rate for the class of time—fixed or preemptible. But the way advertising time is sold now is more like an auction.

Third, it is very difficult for a candidate to know if he is getting the lowest unit charge. He is not entitled to look at the station's commercial records to compare his rate to those of commercial advertisers. Without access to station records, there is no way to determine whether the requirement is being met.

Fourth, the Commerce Committee hearings and the FCC's audits demonstrate that candidates usually pay a much higher rate than commercial advertisers. Witnesses at the Commerce Committee hearings told us that commercial advertisers rarely have to buy fixed time as protection against preemption, even though they sometimes need to avoid being bumped, too. And rates for fixed time can be four or more times the rates of preemptible time.

Finally, there is the potential for abuse. Hearing witnesses testified that it would be possible for a broadcaster to favor one candidate over another. One candidate might be told that, to be sure his ad will run, he must buy expensive fixed time. But the broadcaster could assure his opponent that he can buy cheap preemptible time and not be bumped. So, the first candidate A buys fixed time. His opponent buys preemptible time, but is never preempted. Hearing witnesses discussed a case in which one Senate candidate paid, on average, five times as much per advertising spot as his opponent—for spots on the same shows. The candidate buying the cheaper preemptible time was never preempted.

There is no way of determining whether one candidate should have been bumped. Stations are not required to record whether someone else sought to buy time. There is at least the potential for foul play. If it happened, it would be an illegal corporate contribution. And one candidate's dollar would have purchased four or more times as much speech as his opponent's.

Mr. President, this legislation restores the lowest unit charge provision to its original intent by making a few simple changes. It deletes the word "class" from the lowest unit charge provisions. As a result, candidates will be entitled to the lowest advertising rate, not just the lowest rate for a particular class of time, such as fixed or preemptible time. Also, the bill adds a sentence to clarify that broadcasters and cable operators are prohibited from bumping campaign ads.

This bill also shortens the periods during which the lowest unit charge requirement applies from 45 days before a primary election and 60 days before a general election to 30 and 45, respectively. It also provides that candidates' ads are preemptible until payment is made for them. And the legislation provides that, if the show in which a candidate's ad is to run is unavoidably preempted, the ad can be preempted as well.

The lowest unit charge requirement does not require free time. It merely requires that candidates be dealt with as though they had the market power of large advertisers. The deletion of the word class from the statute and the ban on preemption are not intended to alter the current FCC policy and practice with respect to the treatment of various bonus advertising spots and package plans in calculating the lowest unit charge. The FCC has established ground rules in its publication entitled, "The Law of Political Broadcasting and Cablecasting: A Political Primer," to ensure that bonus spots or package plans are included where appropriate to determine the lowest unit charge, but are excluded where they would distort the charge from being that which is provided to a broadcasting station's most favored commercial customer.

Reform of the lowest unit charge requirement will lower the cost of advertising to political campaigns significantly. By lowering costs, it will help candidates challenge incumbents. Low-

est unit charge reform will treat all candidates fairly and give them the insurance they need against preemption. And this reform will help broadcasters and cable operators avoid mistakes in applying the law.

ENHANCED DISCLOSURE

Mr. President, the bill we are introducing today also amends the existing disclosure requirement for political ads. Under current law, political ads carry a tag line stating that the ad was paid for by a candidate's authorized committee. This legislation would add to that disclosure by requiring the candidate himself to state that he has approved the ad. It will help to inform the electorate and strikes a reasonable balance among the interests of candidates, broadcast licensees and the public.

The goal of this requirement is to keep candidates from hiding behind committees. If candidates want to sling mud, that is their decision. But let the public know whose hands are dirty.

The candidate disclosure requirement does not restrict the content of the political ad itself—it is a regulation of the time, place and manner of the speech. The Supreme Court has upheld similar disclosure requirements. Rather than requiring a tag line identifying the sponsoring candidate, the new provision simply would require personal identification of the candidate.

TWO REFORMS

Two fundamental problems with our political process, the money chase and campaign mudslinging, can be remedied easily. We can attack the biggest cost of campaigns—advertising time—by requiring broadcasters and cable operators to treat candidates like major commercial advertisers. And we can put some sunshine on the mudslinging, 30-second commercials by revealing who has approved the ad. Both of these remedies are incorporated in this legislation.

I want to thank Senators HOLLINGS and INOUYE for their leadership in moving these reforms forward and I urge my colleagues to approve this measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Campaign Advertising and Disclosure Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) in the 30 days preceding a primary, and in the 45 days preceding a general election, candidates for political office need to be able to buy, at the lowest unit charge, nonpreemptible advertising spots from broadcast stations and community antenna television systems to ensure that their messages reach the intended audience and that the voting public has an opportunity to make informed decisions;

(2) since the Communications Act of 1934 was amended in 1972 to guarantee the lowest unit charge for candidates during these important preelection periods, the method by which advertising spots are sold in the broadcast and community antenna television industries has changed significantly;

(3) changes in the method for selling advertising spots have made the interpretation and enforcement of the lowest unit charge provision difficult and complex;

(4) clarification and simplification of the lowest unit charge provision in the Communications Act of 1934 are necessary to ensure compliance with the original intent of the provision;

(5) in granting discounts and setting charges for advertising time, broadcasters and operators of community antenna television systems shall treat candidates for political office at least as well as the most favored commercial advertisers; and

(6) enhancing the disclosure requirements of the Federal Election Campaign Act of 1971 will increase candidate accountability to the electorate and enhance the ability of the individual citizen to exercise informed judgment by more effectively identifying the source of political advertising and the credibility of each advocate.

SEC. 3. USE OF BROADCASTING STATIONS BY CANDIDATES FOR PUBLIC OFFICE.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) in subsection (b)(1)—

(A) by striking "forty-five" and inserting in lieu thereof "thirty";

(B) by striking "sixty" and inserting in lieu thereof "forty-five"; and

(C) by striking "class and";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting immediately after subsection (b) the following new subsection:

"(c)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to the provisions of subsection (b)(1).

"(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.".

SEC. 4. POLITICAL ADVERTISING REQUIREMENTS.

(a) Section 318(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d(a)) is amended—

(1) by striking the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(2) by adding at the end the following:

"except that in the case of any communication authorized by a candidate and made through a broadcasting station or a community antenna television system, such communication shall also meet the following requirements:

"(A) During the communication, the following shall be stated aurally in the candidate's voice: 'I, ———, A CANDIDATE FOR ———, HAVE APPROVED OF THIS AD', with the first blank space being filled with the candidate's name and the second blank space being filled with the name of the office sought by the candidate.

"(B) The statement required by subparagraph (A) shall be spoken clearly without rushing, disguising, or deemphasizing particular words.

"(C) In the case of a communication made through a television broadcasting station or community antenna television system, the background photography during the entire time the statement required by subparagraph (A) is made shall consist of an unobscured full face picture of the candidate, occupying no less than 40 percent of the television safe screen area, against a neutral background".

(b) Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended by adding at the end the following new subsection:

"(c) As used in this section, the term 'community antenna television system' has the meaning given that term under section 315 of the Communications Act of 1934 (47 U.S.C. 315).".

Mr. HOLLINGS. Mr. President, I rise today in support of legislation to improve our electoral process and ensure that the voting public is more fully informed. The bill we are introducing today achieves these goals by facilitating reasonable access for political candidates to the media and by increasing accountability. The Campaign Advertising and Disclosure Act of 1993, authored by Senator DANFORTH, Senator INOUYE, and myself, achieves these objectives by ensuring that candidates are charged the lowest unit rate for broadcast advertisements and by requiring candidates to disclose more fully and clearly their responsibility for these advertisements.

The Commerce Committee has long been concerned that political candidates have reasonable access to broadcast stations and that there is no discrimination in the rates charged for campaign advertisements. The lowest unit rate provision of the Communications Act of 1934 was adopted specifically to address that concern.

The lowest unit rate provision, adopted in 1972, requires broadcasters to charge candidates the lowest unit rate available for the time during which the advertisements are aired. Hearings held by the Commerce Committee last Congress demonstrated that the lowest unit rate provision is not being applied properly—candidates are being charged more than the lowest unit rate. These conclusions are buttressed by the Federal Communications Commission's [FCC] 1990 audit of broadcaster compliance with the lowest unit rate statute.

This bill seeks to remedy this problem. It deletes the word "class" from the lowest unit rate statute and explicitly bars broadcasters from preempting—bumping—campaign ads. Thus, there will no longer be any class distinctions for political advertisements, and broadcasters will have to sell time to candidates at the lowest rate available.

The legislation also does the following.

First, it shortens the periods during which the lowest unit rate provision applies. Presently, the lowest unit rate provision applies to the period beginning 45 days before a primary and 60 days before a general election. The bill shortens each of these periods by 15 days.

Second, it clarifies that political ads remain preemptible until they are paid for.

Third, it permits preemption of a political spot if the program in which it is to appear is preempted for reasons outside the broadcaster's control. Thus, the only time a broadcaster can preempt a candidate is if the entire show in which the candidate's ad was to appear is preempted for reasons beyond the broadcaster's control.

Finally, the bill addresses the important issue of responsibility by requiring that candidates who benefit from the lowest unit rate provision clearly state: "I, ——, a candidate for ——, have approved of this ad." If the advertisement is on television, this statement must be accompanied by a picture of the candidate filling at least 40 percent of the screen. Thus, candidates will no longer be able to get away with pictures and print so small as to be unintelligible.

In closing, I commend the broadcast industry for working with the committee on this legislation to ensure that it improves campaigns without unduly burdening broadcasters. The broadcasters recognize that current law is confusing at best and needs clarification. As a result of our joint efforts, the National Association of Broadcasters will not oppose this legislation.

In sum, I believe that this is a very important measure essential to the improvement of our electoral process, and I strongly urge my colleagues to support it.

Mr. INOUYE. Mr. President, I take the floor today to support the Campaign Advertising and Disclosure Act of 1993, legislation to change the provisions of the Communications Act concerning the purchase of broadcast time by political candidates. This bill eliminates the different classes of time for political advertisements and prohibits broadcasters from preempting political advertisements. In addition, it increases candidate accountability for the content of the advertisements.

This legislation is long overdue. In campaigns today, television advertisements are the single greatest expense. It is estimated that the average candidate for the Senate devotes between 40 and 60 percent of his campaign expenditures to television advertisements.

Section 315 of the Communications Act requires broadcasters to sell advertising time to political candidates at the "lowest unit charge * * * for the same class and amount of time". Broadcast stations offer two basic classes of time to advertisers: First, fixed or "non-preemptible" spot time; and second, preemptible spot time. Non-preemptible time is more expensive than preemptible time because the broadcast station commits to air non-preemptible spots; and, if the spot is not aired, the station has to air the spot in a similar time period as soon as possible. The difficulty facing political candidates concerns preemptible time, since there is no guarantee that the preemptible ads will be aired at the desired time. There have been cases where one candidate buys preemptible time and has all of his ads run, while another has to pay the non-preemptible rate to ensure that his ads are run. The issue is further complicated by the fact that the price of all classes of ads, but particularly for preemptible spots, vary depending on the time of day aired and when the ads are purchased.

At the hearings held by my subcommittee last Congress, the testimony presented set out three primary reasons that this legislation is needed: First, the price paid by two candidates for advertisements of the same length aired at approximately the same time and day of the week can vary significantly; second, political candidates often pay more for spots than commercial advertisers because candidates are told that they have to purchase non-preemptible time to ensure their spots will be aired, while commercial advertisers purchase preemptible time knowing that their spots are merely preempted; and third, the way time for advertising is sold has changed significantly from the method used when the law was enacted. In 1971, advertising time was sold based on rate cards which set forth the cost of ads in different classes of time. Rate cards are rarely used and the process resembles an auction—with broadcasters receiving as much as they can for each advertisement. Moreover, since advertisements are sold continuously, the rates can change by the hour.

To remedy these problems, this bill deletes the word "class", only permitting broadcasters to have one class of commercial time for candidate advertisements. It also prohibits licensees from preempting political advertisements. The effect of this bill is to require stations to sell spots for candidate ads at the lowest rate charged for any spot during the relevant time period.

This legislation also addresses another concern of the committee—candidate accountability. Although candidates are required to identify themselves in advertisements, the spirit of law is simply not being met. Most statements identifying a candidate are far too brief and unreadable, to hold a candidate accountable. To remedy this problem, under this bill voters know when they are viewing a candidate's advertisement and that the candidate has approved the ad.

This legislation represents the efforts of many Senators. I especially want to thank Senator HOLLINGS, chairman of the Commerce Committee and Senator DANFORTH, the ranking member of the committee and the author of this bill.

I believe it is critical that we address these problems now. I also want to thank the broadcast industry for its assistance on this legislation. This bill represents a compromise with the broadcast industry. While it might not address all of our concerns about the campaign process, it is a significant first step. I strongly urge all of my colleagues to support this bill.

By Mr. KOHL:

S. 330. A bill to amend section 101 of title 11, United States Code, relating to eligibility to serve on chapter 11 committees; to the Committee on the Judiciary.

STATE PENSIONS EQUITY ACT

Mr. KOHL. Mr. President, I rise today to introduce legislation amending chapter 11 of the United States Bankruptcy Code to allow State pension funds and the Pension Benefit Guaranty Corporation [PBGC] to participate as members of §1102 creditors committees in chapter 11 proceedings. I first introduced a version of this bill as S. 1716 in the last Congress. An amended version of S. 1716 was then included in S. 1985—the Omnibus Bankruptcy Act of 1991. This amended version passed both the Senate and the House at the close of the 102d Congress, but was never agreed upon in conference.

Under §1102(a)(1) of the Bankruptcy Code, the U.S. trustee appoints a committee of creditors holding unsecured claims against the debtor and appoints additional committees of creditors or equity security holders as deemed necessary. These committees consult with the trustee or debtor on the administration of a case, investigate the debtor's financial status, and participate in the formulation of a reorganization plan. Since adopting the code, creditors committees have played a vital role in assisting debtor reorganization.

The current code provides that a member of a §1102 creditors committee must be a person as defined in §101(41). However, few governmental units qualify for §1102 committee eligibility, and only under certain limited circumstances. As a result, many governmental units failing to qualify as persons under §101(41) are barred from creditors committee membership.

Public employee retirement systems [PERS], school districts, and public utility districts, are examples of governmental units whose interests are not represented in reorganization proceedings because of code definition of "persons", and are thus put at an unintended fiscal disadvantage. And while some governmental units hold tax claims which provide priority status, somewhat negating the effects of chapter 11 committee exclusion, these governmental units generally do not have tax claim priority. Consequently, committee membership is the only form of equitable representation available to these interests.

A closer look at public employment retirement systems provides valuable insight into the number of people whose interests are not being represented. PERS—existing in all 50 States—are long-term holders of an estimated 25 percent of all corporate debt and equity of publicly traded companies. For example, the California PERS—with over 650,000 members—has assets of over $60 billion, with equity ownership in over 1,400 corporations, totaling over $25 billion in market value. Given their vast fiduciary responsibility to current and future retirees, it is not surprising that PERS seek chapter 11 committee membership. Yet, the code as it is now written prohibits PERS from committee membership, except by court approval. And court decisions favoring committee membership are a rare occurrence.

In one of the few cases favoring committee membership—In re Texaco, Inc.—the court allowed unsecured creditors membership on an existing creditors committee, ruling that it had the power to change § 1102 committee membership when the U.S. trustee refused to do so. However, in both Matter of Gates Engineering Co., Inc. and In re Drexel Burnham Lambert Group, Inc.—cases more reflective of the norm—the court held it did not have the authority to change committee membership. Without clarification of the code as provided by this measure, PERS and other interests will continue to spend large sums of money on unjustified litigation for unpredictable court decisions, offering little relief and no resolution of the problem.

Mr. President, this issue may appear at first to be nothing but numbers and statistics. That is one of the drawbacks of the technical nature of bankruptcy law. But let me put a personal perspective on these figures. In my home State, the State of Wisconsin Investment Board [SWIB] acts as fiduciary and investment manager for the $22 billion Wisconsin Retirement System. That $22 billion represents the retirement funds for 360,000 participants—360,000 school teachers, policemen, firefighters, and other State employees—the very fabric of many Wisconsin communities. And although SWIB may be the largest shareholder of a company, if that company files for bankruptcy, SWIB will be denied a position on the chapter 11 creditors committee. As things stand now, there is no guarantee that a creditors committee would effectively represent SWIB's multimillion dollar investment interests. Ultimately, Wisconsin taxpayers could end up being liable for underlying pension payment obligations resulting from SWIB's committee exclusion.

There is no doubt that Congress intended creditors and equity security holders committees to be a vital component in the bankruptcy reorganization process. Excluding State pension plans and others from creditors committees hinders implementation of policy Congress intended. This bill's proposed change to § 101(41) of the Bankruptcy Code promotes congressional policy by removing an obstacle many governmental units encounter in bankruptcy reorganizations.

By Mr. KENNEDY:

S. 331. A bill to amend the Federal Food, Drug, and Cosmetic Act to revise the authority under that act to regulate pesticide chemical residues in food; to the Committee on Labor and Human Resources.

PESTICIDE FOOD SAFETY ACT OF 1993

Mr. KENNEDY. Mr. President, today I am introducing the Pesticide Food Safety Act of 1993. While pesticides have significantly improved crop yield and productivity, many chemicals known to pose health risks to humans continue to be commonly used by farmers. This legislation will improve Federal oversight of pesticide use on our Nation's food supply, and institute long overdue reforms in the Federal regulation of pesticide residues.

Two basic principles underlie this bill. The public has a right to know the health risks of any pesticide. If the risk is unacceptable, the product should be taken off the market.

Under the irresponsible state of current Federal law, residues from over 300 pesticides are permissible on the food we eat. Up to 25 percent of these residues may cause cancer in animals. In the vast majority of these cases, we have no idea what this may mean for cancer in humans.

Since 1958, the provision of Federal law known as the Delaney clause has prohibited the use of pesticides that have been shown to induce cancer in animals or humans. But this so-called zero tolerance standard is more loophole than law. In some cases, chemicals in use prior to the 1958 act were permitted to remain on the market that should no longer be permitted to do so in light of current scientific knowledge. In other cases, more sophisticated scientific techniques developed in the past 35 years are able to detect minute traces of cancer-causing residues that could not have been detected when the Delaney clause was enacted in 1958.

This legislation faces up to the many complex issues involving potential carcinogenic pesticide residues on the safety of the food supply.

In addition to cancer risks, there is growing evidence about the possible role of pesticides in birth defects and in disorders of the nervous system. Recently, a National Academy of Sciences report emphasized that the Federal Government must develop more effective models to assess this aspect of the toxic risks of pesticide residues.

Consumers need to be assured that the food supply is safe. Today, however, it takes decades, not just years, to resolve basic questions about food safety. The Environmental Protection Agency has often failed to incorporate the most up-to-date health and safety data in establishing allowable pesticide concentrations in food. One of the most glaring defects of the current system is that it favors older pesticides for which information is often incomplete or unreliable. Without adequate knowledge, the public will continue to play Russian roulette with a broad range of potentially cancer-causing and other toxic pesticides.

In addition, the regulatory regime is plagued by loopholes that permit dangerous chemicals to remain on the market because of vague cost-benefit analyses that undercut the goal of protecting public health.

The Federal Government has not been doing an adequate job of protection in this area—and the American people know it. Families deserve a more definitive response that the food on their tables is safe. We need a credible system to regulate pesticides, and we need it soon.

The legislation I am introducing today strengthens EPA's current authority under the Federal Food, Drug and Cosmetic Act to set tolerances for pesticide residues in food. The bill incorporates many of EPA's current practices, but also establishes certain fundamental reforms.

Central to these reforms is the creation of a single regulatory standard for all foods. Currently, pesticide residues in fresh fruits and vegetables are not regulated as strictly as in processed foods. The legislation remedies this inconsistency by specifying that no pesticide residues may exceed levels that pose more than a negligible risk of causing adverse human health effects.

The bill also establishes a mechanism to assure that infants and children up to the age of 5 are not exposed to more than a negligible risk from pesticides. Because of their food consumption patterns and low bodyweight, children can receive a disproportionate share of lifetime cancer risk from a pesticide at an early age. The legislation also requires the EPA to collect data on the unique risks that neurotoxins pose to children's physical and intellectual development. We cannot consider the food supply to be truly safe unless we are confident that it is safe for infants and children. This legislation takes a major step toward that goal.

In addition, the bill eliminates a dangerous loophole that has been used in the past. It prohibits EPA from allowing risky pesticides to stay on the market because they provide broadly defined economic benefits. This legislation adopts a health-based standard that cannot be nullified by administrative action.

Another important provision in the bill establishes authority for EPA to obtain adequate health and safety data on pesticides. This provision will fill an especially disturbing data gap by requiring the collection of information about possible neurotoxic as well as carcinogenic effects. Because many tolerances were set on the basis of incomplete or outdated data, authority to require additional details is essential. Even for the few tolerances which are based on current science, EPA also needs the authority to update the data as new concerns or new scientific evidence emerge. This bill ensures that tolerances will not be in place unless they are supported by scientifically sound data.

The bill also requires timely decisions about pesticide tolerances. By simplifying the procedures for removing unsafe pesticides, the legislation ensures that the status quo will no longer favor pesticides for which there is incomplete or unreliable data.

A recent Federal Appeals Court decision overturned the EPA's effort to create an administrative exception to the Delaney clause. It is clear that only Congress can sort out these issues—and it is time for us to do so.

I am pleased by the commitment of EPA's new Administrator, Carol Browner, to improved food safety laws, and I look forward to working with the new EPA and the new administration to meet this vital public health challenge. The restoration of confidence in the food supply will serve the interests of the Nation, and it deserves the high priority it is now receiving.

Congressman HENRY WAXMAN of California is introducing an identical bill in the House of Representatives. Numerous other Members of the House and Senate have advocated reforms in this area for many years. Action is clearly long overdue, and with the leadership of the Clinton administration, it is now about to happen.

I ask unamious consent that the full text of the bill appear in the RECORD after my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 331

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE, TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pesticide Food Safety Act of 1993".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title, reference, table of contents.
Sec. 2. Definitions.
Sec. 3. Tolerances and exemptions for pesticide chemical residues.
Sec. 4. Evaluation of existing pesticide chemical residue tolerances and exemptions.
Sec. 5. Review of existing methods of analysis.
Sec. 6. Fees.
Sec. 7. General definitions.

SEC. 2. DEFINITIONS.

(a) PESTICIDE.—

(1) PESTICIDE CHEMICAL.—Section 201(q) (21 U.S.C. 321(q)) is amended to read as follows:

"(q)(1) The term 'pesticide chemical' means—

"(A) any substance that is a pesticide, as defined in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136(u)); and

"(B) each active ingredient and inert ingredient, as defined in subsections (a) and (m), respectively, of section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act, of the pesticide.

"(2) The term 'pesticide chemical residue' means a residue in or on food of—

"(A) any pesticide chemical; or

"(B) any other substances that is present in the commodity or food as a result of the metabolism or other degradation of a pesticide chemical,

regardless of whether the residue may be detected.".

(2) PERSON.—Section 201(s) U.S.C. 321(s)) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following:

(1) pesticide chemical residue; or"; and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

"(gg) The term 'processed food' means any food that has been subject to processing from a raw agricultural commodity.

"(hh) The term 'Administrator' means the Administrator of the Environmental Protection Agency.".

(2) Section 402(a)(2) (21 U.S.C. 342(a)(2)) is amended—

(A) in clause (A)(i), to read as follows: "(i) a pesticide chemical residue";

(B) in clause (B), to read as follows: "(B) if it is, or it bears or contains, a pesticide chemical residue unsafe within the meaning of section 408(a);"; and

(C) in clause (C)—

(i) by striking "; *Provided*, That where a pesticide chemical" and inserting ", except that if a pesticide chemical"; and

(ii) by striking "section 406 and 409" and inserting "section 406".

SEC. 3. TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES.

(a) TOLERANCES AND EXEMPTIONS.—Section 408 (21 U.S.C. 346a) is amended to read as follows:

"SEC. 408. TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES.

"(a) REQUIREMENT FOR TOLERANCE OF EXEMPTION.—

"(1) GENERAL RULE.—Any pesticide chemical residue shall be deemed unsafe for the purpose of section 402(a)(2)(B) unless—

"(A) a tolerance for such residue is in effect under this section and the quantity of such residue is within the limits of such tolerance; or

"(B) an exemption for such residue is in effect under this section and such residue complies with such exemption.

"(2) EFFECT OF A TOLERANCE OR EXEMPTION.—While a tolerance or exemption from the requirement for a tolerance is in effect under this section for a pesticide chemical residue with respect to any food, such food shall not by reason of bearing or containing any amount of such residue be considered to be adulterated within the meaning of section 402(a)(1).

"(b) TOLERANCES.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—The Administrator may promulgate regulations establishing, modifying, or revoking a tolerance for a pesticide chemical residue—

"(i) in response to a petition filed under subsection (d)(1); or

"(ii) on the initiative of the Administrator under subsection (d)(4).

"(B) EXPIRATION DATE.—A regulation under this paragraph may provide for an expiration date for the tolerance.

"(C) SEPARATE TOLERANCES.—The Administrator may establish a separate tolerance under subparagraph (A) for a pesticide chemical residue with respect to food at each of the following times:

"(i) At the time the food is harvested.

"(ii) At the time the food is purchased at retail.

"(iii) After the food is processed.

"(2) STANDARD.—

"(A) GENERAL RULE.—Except as provided in subparagraph (F)—

"(i) a tolerance may be established for a pesticide chemical residue only if the risk to human health from dietary exposure to the pesticide chemical residue is negligible; and

"(ii) the tolerance for a pesticide chemical residue shall be revoked or modified unless the risk to human health from dietary exposure to the pesticide chemical residue is negligible.

"(B) NEGLIGIBLE RISK.—

"(i) GENERAL RULE.—For purposes of this paragraph, a risk to human health from dietary exposure to a pesticide chemical residue is negligible only if dietary exposure to the residue is reasonably certain to cause no harm to human health and the tolerance for such residue meets the requirements of clause (ii) or (iii).

"(ii) THRESHOLD PESTICIDES.—

"(I) IN GENERAL.—If the Administrator is able to identify a level at which a pesticide chemical residue will not cause or contribute to any known or anticipated harm to human health, the Administrator may establish or leave in effect a level for a tolerance for such residue only if the Administrator finds that such tolerance will provide an ample margin of safety, for each population group set out in subparagraph (E).

"(II) CONSIDERATIONS.—The level described in subclause (I) shall be based on consideration of—

"(aa) the nature of the toxic effects caused by such residue and data regarding the prevalence of the same effects caused by other chemicals;

"(bb) the validity, completeness, and the reliability of the data about the pesticide chemical residue;

"(cc) the variability of individual sensitivities and the sensitivities of population subgroups to the adverse effects from such residue; and "(dd) the possibility that human susceptibility to such adverse effects is significantly greater than that of test animals.

"(III) MARGIN OF SAFETY.—For purposes of this clause, a margin of safety for a level of a pesticide chemical residue is not ample unless human exposure per unit of body measurement, to the pesticide chemical residue and other chemicals that cause the same effect, is at least 100 times less than the no observable effect level in animals on which the pesticide chemical residue was tested, and, if human data are available, at least 10 times less than the no observable effect level in humans exposed to such residue. The no observable effect level is the level of exposure to a pesticide chemical that reliable data, derived from exposure of humans or animals to the pesticide chemical, demonstrate will cause no adverse effect.

"(iii) NONTHRESHOLD PESTICIDES.—If the Administrator is not able to identify a level at which a pesticide chemical residue will not cause or contribute to any known or anticipated harm to human health or if the Administrator finds that a pesticide chemical residue causes cancer in animals or humans, the Administrator may establish a level for a tolerance for such residue or leave a level in effect for such residue only if the Administrator finds that such level—

"(I) will not cause or contribute to, in individuals exposed to such pesticide chemical residue, a lifetime risk of an adverse human health effect that occurs at a rate of one in a million or a risk of an adverse human health effect that occurs at a rate of one in a million, divided by 70, for any single year of exposure during the first 5 years of the life of an exposed person, using conservative risk assessment models;

"(II) is the lowest level reasonably required to allow the accomplishment of the physical or other technical effect for which the use of the pesticide chemical involved is intended; and

"(III) in the case of processed food, is the lowest level that occurs if such pesticide chemical residue is removed to the extent possible in accordance with good manufacturing practice.

"(C) EXPOSURE.—Except as provided in subparagraph (D), in determining dietary exposure to a pesticide chemical residue for purposes of this paragraph, the Administrator shall—

"(i)(I) use only reliable, statistically significant data regarding the dietary exposure to persons who have consumed the food for which the tolerance for the residue is proposed or is in effect;

"(II) take into account all other tolerances in effect for the same pesticide chemical residue; and

"(III) take into account all other sources (including drinking water if data demonstrating widespread or significant regional contamination in drinking water are available) of dietary exposure to the same pesticide chemical residue; and

"(ii) consider the exposure to be the level of exposure that would occur if—

"(I) all the food, for which the tolerance for the pesticide chemical residue is proposed or in effect, has amounts of the pesticide chemical residue equal to the tolerance proposed or in effect;

"(II) all other sources of dietary exposure to such residue described in clause (i)(III) occur; and

"(III) human exposure to the pesticide chemical residue at the tolerance level occurs for a period equal to a lifetime.

"(D) SPECIAL EXPOSURE RULE.—

"(i) DATE.—The Administrator may calculate dietary exposure to a food based on reliable data that provide the Administrator with a valid statistical basis to identify the percentage of the food in which the pesticide chemical residue actually occurs.

"(ii) PERCENTAGE.—Such percentage shall be not less than the percentage of the food consumed in an appropriate locality, identified by the Administrator, which percentage represents the highest level of exposure to such residue in the United States.

"(iii) REEVALUATION.—The Administrator shall reevaluate the determination under this subparagraph every 2 years after the date of the determination. If, under such a reevaluation, the Administrator finds that the determination is not justified, the Administrator shall promptly issue a regulation requiring that the tolerance involved be set on the basis of the new determination.

"(E) POPULATION COVERED.—In determining if the dietary exposure to a pesticide chemical residue is negligible, the Administrator shall evaluate the risk to—

"(i) infants of the age 0 to 1;

"(ii) children of the age 1 to 2;

"(iii) children of the age 2 to 3;

"(iv) children of the age 3 to 4;

"(v) children of the age 4 to 5;

"(vi) children of the age 6 to 10;

"(vii) adolescents of the age 11 to 18;

"(viii) other population groups that have been identified by the Administrator to have special food consumption patterns or for which data are sufficient to demonstrate special food consumption patterns; and

"(ix) the entire population, who consume food with such pesticide chemical residue.

"(F) UNAVOIDABLE PERSISTENCE.—If a tolerance or an exemption from the requirement for a tolerance for a pesticide chemical residue is revoked and the Administrator finds the pesticide chemical residue will unavoidably persist in the environment and contaminate food, the Administrator shall establish a new tolerance under subsection (d)(4) for the pesticide chemical residue. The level permitted by the tolerance shall not be greater than the lowest level that permits only such unavoidable levels to remain in food. The Administrator shall evaluate any such tolerance at least once a year to determine whether modification of such tolerance is necessary so that the tolerance provides only for the level of the pesticide chemical residue that is unavoidable.

"(G) PRACTICAL METHODS OF ANALYSIS.—

"(i) GENERAL RULE.—A tolerance for a pesticide chemical residue shall not be established or allowed to remain in effect unless the Administrator determines, after consultation with the Secretary, that—

"(I) there is a method for detecting and measuring the levels of such pesticide chemical residue in or on a food that will detect the residue at the level established by the tolerance; and

"(II) except as provided in clause (ii), such method is the best available, practical method.

"(ii) SPECIAL RULE.—If the Administrator determines that a practical method of analysis for a pesticide chemical residue is not available, the Administrator shall identify the best available method that is designed to identify the lowest detectable amount of the pesticide chemical residue. The Administrator shall, every 2 years after the date of the determination under this clause, reevaluate the determination.

"(iii) PRACTICAL METHOD.—A method shall be considered practical for purposes of this subparagraph only if it is a multiresidue method that can be performed by the Secretary on a routine basis as part of surveillance and compliance sampling of foods for pesticide chemical residues with the personnel, equipment, and other resources available to the Secretary, or, if no multiresidue method is available, only if it can be so performed by the Secretary.

"(3) CONSISTENT APPLICATION.—The Administrator shall issue guidelines providing for the consistent application of the requirements of paragraphs (1) and (2).

"(c) EXEMPTIONS.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—The Administrator may promulgate regulations establishing or revoking an exemption from the requirement for a tolerance for a pesticide chemical residue—

"(i) in response to a petition filed under subsection (d)(1); or

"(ii) on the initiative of the Administrator under subsection (d)(4).

"(B) EXPIRATION DATE.—Such a regulation may provide for an expiration date for the exemption.

"(2) STANDARD.—

"(A) AUTHORITY AND RISK STANDARD.—

"(i) ESTABLISHMENT.—An exemption may be established for a pesticide chemical residue if such residue is not a human or animal carcinogen and otherwise presents no risk to human health, including the health of individuals in the population groups set out in subsection (b)(2)(E), from dietary exposure to such residue.

"(ii) REVOCATION.—An exemption shall be revoked unless the residue is not a human or animal carcinogen and the residue does not present any risk to human health, including the health of individuals in the population groups set out in subsection (b)(2)(E), from dietary exposure to such residue.

"(iii) TOLERANCE.—No exemption may be established or allowed to remain in effect for a pesticide chemical residue for which there is in effect a tolerance.

"(B) EXPOSURE.—For purposes of subparagraph (A), in determining dietary exposure to a pesticide chemical residue, the Administrator shall—

"(i) use only reliable, statistically significant data regarding the dietary exposure resulting from the consumption of the food for which the exemption for such residue is proposed or is in effect;

"(ii) take into account all other exemptions in effect for such residue and all other sources (including drinking water if data demonstrating widespread or significant regional contamination in drinking water are available) of dietary exposure to such residue; and

"(iii) consider the exposure to be the level of exposure that would occur if—

"(I) all the food, for which the tolerance for such residue is proposed or in effect, has amounts of such residue equal to the tolerance proposed or in effect, respectively;

"(II) all other sources of dietary exposure to such residue described in clause (ii) occur; and

"(iii) human exposure to the pesticide chemical residue at the tolerance level occurs for a period equal to a lifetime.

"(C) PRACTICAL METHODS OF ANALYSIS.—An exemption for a pesticide chemical residue shall not be established or allowed to remain in effect unless the Administrator determines, after consultation with the Secretary, that there is a method for detecting and measuring the levels of such pesticide chemical residue on a food and that such method is the best available, practical method, a defined in subsection (b)(2)(G).

"(3) CONSISTENT APPLICATION.—The Administrator shall issue guidelines providing for the consistent application of the requirements of paragraphs (1) and (2).

"(d) PETITIONS AND ACTION ON THE INITIATIVE OF THE ADMINISTRATOR.—

"(1) GENERAL RULE FOR PETITIONS.—Any person may file with the Administrator a petition proposing the issuance of a regulation establishing, modifying, or revoking a tolerance or exemption for a pesticide chemical residue.

"(2) REQUIREMENTS FOR PETITIONS TO ESTABLISH TOLERANCE OR EXEMPTION.—

"(A) CONTENTS.—A petition under paragraph (1) to establish a tolerance or exemption for a pesticide chemical residue shall contain—

"(i) an informative summary of the petition and of the data, information, and arguments submitted or cited in support of the petition, including—

"(I) a summary of the reports required under clause (iv) respecting the safety of the pesticide chemical residue; and

"(II) a characterization of—

"(aa) the exposure to the pesticide chemical residue due to any tolerance or exemption already granted for such residue; and

"(bb) the additional exposure to such residue that would result if the requested tolerance or exemption were granted;

"(ii) a proposed tolerance for such residue, if a tolerance is proposed;

"(iii) the name, chemical identity, and composition of the pesticide chemical that produces such residue;

"(iv) reports of tests and investigations made with respect to the safety of such pesticide chemical, including complete information as to the methods and controls used in conducting such tests and investigations;

"(v) data showing the amount, frequency, method, and time of application of such pesticide chemical;

"(vi) reports of tests and investigations made with respect to the nature and amount of the pesticide chemical residue that is likely to remain in or on food when ready for sale to consumers, including a description of the analytical methods used;

"(vii) a description of methods for detecting and measuring the levels of such pesticide chemical residue in or on the food, which methods meet the requirements of subsection (b)(2)(G) or (c)(2)(C);

"(viii) reports of investigations conducted on the effects of processing methods used to produce food on the level and identity of such pesticide chemical residue;

"(ix) if the petition is for a pesticide chemical residue that is described in subsection (b)(2)(B)(iii), all relevant data bearing on the physical or other technical effect the pesticide chemical involved is intended to have and the quantity of the pesticide chemical residue required to accomplish such effect; and

"(x) such other data and information (including a sample of the pesticide chemical from which the pesticide chemical residue is derived) as the Administrator may require to support the petition.

"(B) INFORMATION AVAILABLE TO ADMINISTRATOR.—If information or data required by this paragraph are available to the Administrator, the person submitting the petition, may, in lieu of submitting the information or data, cite the availability of the information or data.

"(3) ACTIONS ON PETITIONS.—

"(A) NOTICE.—

"(i) IN GENERAL.—Within 45 days of the filing of a petition under paragraph (1) for the establishment of a tolerance or an exemption, the Administrator shall determine if the petition complies with the requirements of paragraph (2). If the Administrator determines that the petition complies with such requirements, the Administrator shall publish a notice of the filing of the petition. If the Administrator determines that the petition does not comply with such requirements, the Administrator shall notify the petitioner of such determination.

"(ii) CONTENTS.—A notice published under this subparagraph shall—

"(I) announce the availability of a complete description of the analytical methods available to the Administrator for the detection and measurement of the pesticide chemical residue with respect to which the petition is filed;

"(II) include the summary required by paragraph (2)(A)(i); and

"(III) provide at least 30 days for comments on the petition.

"(B) ACTION.—The Administrator shall, within 270 days of the application of a notice under subparagraph (A) with respect to a petition, and after giving due consideration to the petition, any comments on the petition, and any other information available to the Administrator—

"(i) issue a final regulation in accordance with the petition establishing a tolerance or exemption for the pesticide chemical residue;

"(ii) issue a proposed regulation establishing a tolerance or exemption for the pesticide chemical residue, which tolerance or exemption is different from the tolerance or exemption requested in the petition; or

"(iii) issue an order denying the petition.

"(C) MODIFICATION OR REVOCATION.—

"(i) NOTICE.—Within 45 days of the filing of a petition under paragraph (1) for the modification or revocation of a tolerance or exemption, the Administrator shall publish a notice of the filing of the petition. Such notice shall contain the full petition or a summary of the petition and shall provide at least 30 days for comments on the petition.

"(ii) ACTION.—The Administrator shall, within 270 days of the publication of the notice under subparagraph (A) and after giving due consideration to the petition, any comments on the petition, and any other information available to the Administrator—

"(I) issue a final regulation in accordance with the petition modifying or revoking a tolerance or exemption for the pesticide chemical residue;

"(II) issue a proposed regulation modifying or revoking a tolerance or exemption for the pesticide chemical residue, which tolerance or exemption is different from the modification or revocation requested in the petition; or

"(III) issue an order denying the petition.

"(D) COMMENTS AND FINAL REGULATIONS.—If the Administrator issues a proposed regulation under subparagraph (B)(ii) or (C)(ii)(II), the Administrator shall allow at least 30 days for comments on such proposed regulations. The Administrator shall issue a final decision within 180 days of the date of the publication of the proposed regulations.

"(E) PRIORITIES.—The Administrator shall give priority to petitions for the establishment of a tolerance for a pesticide chemical residue that appears to pose a significantly lower risk to human health from dietary exposure than pesticide chemical residues that have tolerances in effect for the same or similar uses.

"(4) ACTION ON THE INITIATIVE BY THE ADMINISTRATOR.—

"(A) GENERAL RULE.—The Administrator may, on the initiative of the Administrator, issue a final regulation establishing, modifying, or revoking a tolerance or exemption for a pesticide chemical residue.

"(B) NOTICE.—Before issuing a final regulation under subparagraph (A), the Administrator shall issue a notice of proposed rulemaking and provide a period of not less than 30 days for public comment on the proposed regulation unless the Administrator finds that is would be contrary to the public interest to issue the notice and provide the period and states the reasons for the finding in the notice of the final regulation.

"(5) EFFECTIVE DATE.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), a final regulation issued under paragraph (3) or (4) shall take effect upon publication.

"(B) DELAY.—

"(i) GENERAL RULE.—If a regulation issued under paragraph (3) or (4) revokes or modifies a tolerance for a pesticide chemical residue or revokes an exemption for a pesticide chemical residue, the Administrator may, in accordance with clause (ii), delay the effective date of the regulation to permit the tolerance or exemption to remain in effect at the level in effect immediately before such regulation is issued only—

"(I) for foods that, on the date of the publication of the regulation, contain such pesticide chemical residue in an amount that is not more than the amount that could legally be applied on the date the Administrator acted under paragraph (3) or (4); and

"(II) if dietary exposure to the pesticide chemical residue in or on the foods described in subclause (I) meets the negligible risk standard prescribed by subsection (b)(2) during the period of delay of the effective date.

"(ii) PERIOD OF DELAY.—If the Administrator finds that delay of the effective date of such a revocation or modification is consistent with the public health, the Administrator may delay such date under clause (i), for each type of food that contains such pesticide chemical residue, for the period that is required for such food to be sold to consumers in the course of the usual practice for persons engaged in the production, processing, transportation, storage, and distribution of the type of food.

"(e) SPECIAL DATA REQUIREMENTS.—

"(1) DETERMINATION OF INADEQUATE DATA.—The Administrator shall take the action described in paragraph (2) if a tolerance or exemption is in effect for a pesticide chemical residue and the Administrator determines that data contained in the petition, which had been submitted, under subsection (d)(1) for establishment of the tolerance or exemption, or under this section, before the date of the enactment of the Pesticide Food Safety Act of 1993, are not adequate to support the continuation of such tolerance or exemption because—

"(A) based on the data contained in the petition and other data available to the Administrator, the Administrator determines that dietary exposure to such pesticide chemical residue may present a risk to human health that is greater than the standard prescribed by subsection (b)(2) or (c)(2); or

"(B) the data contained in the petition are insufficient to determine if the tolerance or exemption meets the requirements of subsection (b)(2) or (c)(2) or the requirements of subsection (d)(2).

"(2) ACTION BY ADMINISTRATOR.—When the Administrator makes the determination described in paragraph (1) with respect to a tolerance or exemption for a pesticide chemical residue, the Administrator shall—

"(A) within 30 days of a determination under paragraph (1)(A), initiate an action under subsection (d)(4) to modify or revoke the tolerance or exemption so that the tolerance or exemption meets the standard prescribed by subsection (b)(2) or (c)(2), and within 1 year of such determination issue a final regulation to complete such action; and

"(B) within 30 days of the date of a determination under paragraph (1)(B), require the submission of data to support—

"(i) the existing tolerance or exemption; or

"(ii) a new tolerance or exemption for such residue,

that meets the standard prescribed by subsection (b)(2) or (c)(2).

"(3) SUBMISSION OF REQUIRED DATA.—When the Administrator requires the submission of data under paragraph (2)(B), the Administrator shall publish an order—

"(A) requiring one or more interested persons to notify the Administrator that such person will submit the required data;

"(B) describing the type of data required to be submitted;

"(C) describing the reports required to be made during and after the collection of the data; and

"(D) establishing deadlines for the actions described in subparagraphs (A) and (C).

"(4) DEADLINES.—

"(A) GENERAL RULE.—Except as provided in subparagraphs (B) and (C), if an order is issued under paragraph (3) with respect to a tolerance or exemption and a deadline in the order is not met, the tolerance or exemption is revoked, effective 45 days after the date the deadline is not met. Immediately after such deadline is not met, the Administrator shall publish a notice of the revocation.

"(B) EXTENSION REQUEST.—

"(i) REQUEST.—Any person may request the Administrator to issue an order to extend the deadline established under paragraph (3)(D) before expiration of the deadline.

"(ii) GRANT OF REQUEST.—The Administrator may grant such a request only if—

"(I) the person submitting the request notified the Administrator pursuant to paragraph (3)(A) in compliance with the deadline established under paragraph (3)(C); and

"(II) the Administrator finds that extraordinary circumstances beyond the control of such person prevented such person from submitting the required data.

"(iii) EXTENSION.—If the Administrator issues an order extending a deadline—

"(I) the Administrator may extend the deadline for a period no longer than such time as is necessary for such person to submit the data; and

"(II) the Administrator shall establish a new deadline in accordance with paragraph (3)(D).

"(C) DELAY.—If a tolerance or exemption is revoked under subparagraph (A), the Administrator may delay the effective date of the revocation in accordance with subsection (d)(5)(B).

"(5) EVALUATION OF DATA.—Within 90 days of the date of the receipt of data under paragraph (3), the Administrator shall evaluate such data and determine whether action is required under subsection (d)(4) with respect to the tolerance or exemption for the pesticide chemical residue for which the data were submitted so that such tolerance meets the negligible risk standard prescribed under subsection (b)(2) or (c)(2). If the Administrator determines that action under subsection (d)(4) is required, the Administrator shall complete such action within 1 year of the date of such determination.

"(f) CONFIDENTIALITY OF DATA.—

"(1) GENERAL RULE.—Data submitted to the Administrator in support of a petition under subsection (d)(1), which data have not previously been made available to the public without restriction, shall, upon request of the petitioner, be considered as entitled to confidential treatment by the Administrator until publication of a regulation or order under subsection (d)(3) in response to the petition unless disclosure of such data is required by subsection (d)(3)(A)(ii)(II) or (g) or is allowed by paragraph (2).

"(2) DISCLOSURE.—Data that are entitled to confidential treatment under paragraph (1) until publication of a regulation or order under subsection (d)(3) may be revealed to—

"(A) either House of Congress or any committee or subcommittee of such House to the extent of matter within the jurisdiction of the committee or subcommittee;

"(B) any officer or employee of the United States in connection with the official duties of such officer or employee under any law for the protection of health or the environment or for specific law enforcement purposes;

"(C) any officer or employee of a State in connection with the official duties of such officer or employee under any law of the State for the protection of health or the environment or for specific law enforcement purposes; or

"(D) contractors with the United States authorized by the Administrator to examine such data in the carrying out of contracts under such statutes under such security requirements as the Administrator may provide.

"(g) ACCESS TO DATA IN SUPPORT OF PETITION.—

"(1) GENERAL RULE.—

"(A) PUBLIC ACCESS.—If data in support of a petition are submitted to the Administrator, the Administrator, before acting on such petition, shall provide, in accordance with this subsection, public access to health and safety data that are submitted or cited in support of such petition.

"(B) REQUEST.—To obtain access to such data, a person shall, not later than 30 days after the publication under subsection (d)(3)(A) of a notice of the filing of a petition, send by certified mail to the Administrator and to the petitioner a request for such access and the affirmation required by paragraph (2).

"(C) GRANT OF REQUEST.—The Administrator shall grant such request unless, within 15 days after the receipt by the Administrator of such request and affirmation, the petitioner submits to the Administrator an objection to the request asserting that the affirmation is inaccurate and other reasons for the objection.

"(D) OBJECTION.—If an objection to a request is submitted to the Administrator within such 15-day period, the Administrator shall determine whether to grant the request within 5 days after the receipt of the objection. If the Administrator determines to grant the request, access shall not be permitted until 5 days after the petitioner making the objection has been notified that access has been granted.

"(E) DENIAL OF REQUEST.—If access to data is denied, comments on the petition for which such data were submitted or cited shall be filed within 30 days after the decision of the Administrator denying access.

"(2) RESTRICTION.—

"(A) AFFIRMATION.—Data referred to in paragraph (1) may be made available only to a person who provides an affirmation (and such supporting evidence as the Administrator may require) that—

"(i) states that the person is not engaged in, and is neither employed by, nor acting (directly or indirectly) on behalf of, any other person, or affiliate of a person, engaged in, the production, sale, or distribution of a pesticide chemical;

"(ii) identifies any business, employer, or other person, if any, on whose behalf the person is requesting access to the data; and

"(iii) states that the person will not intentionally or recklessly violate this subsection.

"(B) AFFILIATE.—For purposes of this paragraph, an affiliate of a person is a person who directly or indirectly, through one or more intermediates, controls or is controlled by or is under common control with the other person.

"(C) FRAUD.—Section 1001 of title 18, United States Code, shall apply to an affirmation made under this paragraph.

"(3) COMMENTS.—

"(A) GENERAL RULE.—Data supporting a petition may be made available under paragraph (1) to a person only for the purpose of permitting the person to comment to the Administrator on such petition. Such comments may reasonably quote data submitted to the Administrator. No person, including the Administrator, may make such comments public before the decision of the Administrator on the petition for which such data were submitted or after such decision if the petition is denied.

"(B) RESTRICTIONS.—A person who obtains data (directly or indirectly) under paragraph (1) may not publish, copy, or transfer the data to any other person to obtain approval to sell, manufacture, or distribute a pesticide chemical anywhere in the world.

"(4) PROCEDURE.—

"(A) IN GENERAL.—Data made available under paragraph (1) may be examined at an office of the Environmental Protection Agency or an appropriate State agency under the conditions prescribed by this subsection and may not be removed from such office.

"(B) RECORD.—The Administrator shall maintain a record of the persons who inspect data. A copy of such record shall be sent on request to the person who submitted the data.

"(C) BASIS FOR COMMENTS.—Once access to data supporting a petition is granted, the data may be examined and notes may be taken for use in developing comments on the petition. Such comments on the petition shall be filed within 60 days after the decision of the Administrator granting access, unless the comment period is extended by the Administrator for an additional 30 days for good cause.

"(h) ACCESS TO DATA AFTER DECISION.—When the administrator takes final action on a petition submitted under subsection (d)(1) or on the initiative of the Administrator under subsection (d)(4), the Administrator shall make available to the public the administrative record of the decision, including the data relied upon for the decision.

"(i) EXISTING PESTICIDE CHEMICAL RESIDUES.—

"(1) PESTICIDE CHEMICAL RESIDUES UNDER REGULATIONS UNDER SECTION 406.—Regulations affecting pesticide chemical residues promulgated, in accordance with sections 701(e) and 406, upon the basis of public hearings instituted before January 1, 1953, shall be deemed to be tolerances issued under this section and shall be subject to modification or revocation under subsection (d) or (e).

"(2) PESTICIDE CHEMICAL RESIDUES UNDER REGULATIONS.—Regulations establishing tolerances for pesticide chemical residues under this section and section 409 or exemptions for pesticide chemical residues under this section on or before the date of the enactment of this section shall be deemed to be tolerances or exemptions issued under this section and shall be subject to modification or revocation under subsection (d) or (e).

"(3) GENERALLY RECOGNIZED AS SAFE PESTICIDE CHEMICAL RESIDUES.—

"(A) GENERAL RULE.—Pesticide chemical residues that, on the day before the date of the enactment of the Pesticide Food Safety Act of 1993, do not have tolerances or exemptions from tolerances under this section because the residues are generally recognized as safe under this section or section 409 shall, until the expiration of the period prescribed by subparagraph (C), not be considered unsafe under section 402(a)(2)(B) solely because the chemicals do not have such a tolerance or exemption.

"(B) LIST.—Not later than 90 days after the date of the enactment of such Act, the Administrator shall—

"(i) publish a list of all pesticide chemical residues that the Administrator has determined are generally recognized, on the day before the date of the enactment of such Act, as safe under this section or section 409; and

"(ii) require, by regulation, that any person who, before the date of the enactment of such Act, distributed in commerce as a pesticide chemical, a pesticide chemical that is not on the list described in clause (i), and that such person determined is generally recognized as safe under this section or section 409, shall—

"(I) report to the Administrator the identity of such pesticide chemical; and

"(II) report to the Administrator the data that supports the claim that the pesticide chemical is so safe.

"(C) DETERMINATION OF THE ADMINISTRATOR.—Not later than 270 days after such date, the Administrator shall determine if each pesticide chemical reported to the Administrator in accordance with subparagraph (B)(ii) is generally recognized as safe. If the Administrator determines, by order, that such pesticide chemical is generally recognized as safe, the residue of such pesticide chemical shall be considered a pesticide chemical residue subject to an exemption under this section, which exemption shall be subject to modification or revocation under subsection (d) or (e).

"(j) FOOD AND DRUG ADMINISTRATION MONITORING OF PESTICIDE CHEMICAL RESIDUES.—

"(1) SAMPLING.—The Secretary shall conduct surveillance and compliance sampling of food for pesticide chemical residues to determine if the pesticide chemical residues are in compliance with this section. In carrying out this paragraph, the Secretary shall give priority to foods that contain pesticide chemical residues included in a notice under paragraph (2).

"(2) NOTIFICATION.—The Administrator shall notify the Secretary of the pesticide chemical residues that the Administrator determines, in the administration of this section—

"(A) are above the standard prescribed by subsection (b)(2); or

"(B) are not above such standard but that may under certain circumstances reach or exceed such standard.

"(k) FEES.—The Administrator shall by regulation require the payment of such fees as will in the aggregate, in the judgment of the Administrator, be sufficient over a reasonable term to provide, equip, and maintain an adequate service for the performance of the functions of the Administrator under this section. Under such regulations, the performance of the services or other functions of the Administrator under this section may be conditioned upon the payment of such fees. Such regulations may further provide that the continuation in effect of a tolerance or exemption shall be conditioned upon the payment of an annual fee and for waiver or refund of fees in whole or in part when, in the judgment of the Administrator, such waiver or refund is equitable and not contrary to the purposes of this subsection.

"(l) JUDICIAL REVIEW.—

"(1) REVIEW.—Any person (including a person without an economic interest) who may be adversely affected by a final regulation or order issued under subsection (d)(3), (d)(4), (e)(4), or (i)(3) may obtain judicial review of such regulation or order by filing a petition requesting that the regulation or order be set aside in whole or in part in the United States Court of Appeals for the circuit in which such person resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, within 60 days after publication of the regulation or order under such subsection.

"(2) REVIEW OF DATA.—

"(A) IN GENERAL.—Any person (including a person without an economic interest) may obtain judicial review, of the adequacy of the data made available by the Administrator under subsection (h) to support the issuance of a tolerance or exemption for a pesticide chemical residue, by filing a petition for the review of the data in the United States Court of Appeals for the circuit in which such person resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit.

"(B) SCOPE OF REVIEW.—Review in a proceeding initiated under this paragraph shall be limited to whether the data under review are adequate to demonstrate that the tolerance or exemption supported by such data meets the standards required by subsection (b)(2) or (c)(2) and interpreted by the guidelines issued under subsection (b)(3) or (c)(3). Unless the court determines that such data are adequate, the court shall revoke the tolerance or exemption supported by such data.

"(C) BURDEN OF PROOF.—In any such proceeding the Administrator shall have the burden of proof on all issues.

"(3) COURT RESPONSIBILITY.—In any action seeking judicial review of actions under this section, the court shall have the principal responsibility for deciding issues of law.

"(4) ATTORNEY FEES.—Any petitioner who prevails in a proceeding brought under this section shall be entitled to recover reasonable attorney fees and expenses (including expert witness fees).

"(m) DEFINITIONS.—For purposes of this section, the terms 'modify' and 'modification' mean the lowering of a tolerance for a pesticide chemical residue.".

(b) CONFORMING AMENDMENT.—Section 303 (21 U.S.C. 333) is amended by adding at the end the following:

"(g) A person who violates a tolerance established under section 408(b)(2) for a food at the time the food is purchased at retail shall not be subject to any penalty under this section.".

SEC. 4. EVALUATION OF EXISTING PESTICIDE CHEMICAL RESIDUE TOLERANCES AND EXEMPTIONS.

(a) EVALUATION.—Within 1 year of the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall, for each pesticide chemical residue that has a tolerance or exemption in effect under the Federal Food, Drug, and Cosmetic Act, evaluate all available data with respect to the safety of such pesticide chemical residue and the nature and amount of such residue remaining in or on foods and determine if—

(1) the tolerance or exemption meets the requirements of subsection (b)(2) or (c)(2) of section 408 of such Act;

(2) the tolerance or exemption does not meet such requirements; or

(3) the data are insufficient to determine if the tolerance or exemption meets such requirements.

(b) SUFFICIENT DATA.—

(1) ACCEPTABLE RISK DATA.—If, with respect to any pesticide chemical residue that is evaluated under subsection (a), the Administrator finds that data for the pesticide chemical residue are sufficient to determine that the tolerance or exemption for the pesticide chemical residue meets the standard under section 408(b)(2) or 408(c)(2) of such Act, the Administrator shall publish such finding.

(2) UNACCEPTABLE RISK DATA.—If, with respect to any pesticide chemical residue that is evaluated under subsection (a), the Administrator finds that data for the pesticide chemical residue are sufficient to determine that the tolerance or exemption for the pesticide chemical residue does not meet the standard under section 408(b)(2) or 408(c)(2) of such Act, the Administrator shall, within 1 year of the date of such finding, modify or revoke the tolerance.

(3) INSUFFICIENT DATA.—

(A) GENERAL RULE.—

(i) SUBMISSION OF DATA.—If, with respect to any pesticide chemical residue that is evaluated under subsection (a), the Administrator determines that the data are insufficient to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or 408(c)(2) of such Act, the Administrator shall establish a schedule for the submission of data in accordance with the requirements of sections 408(e)(2)(B) and 408(e)(3) of such Act, which data shall be the basis for a determination by the Administrator as to whether the tolerance or exemption meets the standard prescribed by section 408(b)(2) or 408(c)(2) of such Act.

(ii) DETERMINATIONS.—The Administrator shall—

(I) within 2 years of the date of the enactment of this Act, make such a determination respecting a tolerance or exemption meeting a standard under section 408 of such Act for at least 30 percent of the tolerances or exemptions in effect for pesticide chemical residues in existence on such date;

(II) within 4 years of the date of the enactment of this Act, make such a determination for at least 60 percent of the tolerances or exemptions in effect for pesticide chemical residues in existence on such date;

(III) within 6 years of the date of the enactment of this Act, make such a determination for at least 90 percent of the tolerances or exemptions in effect for pesticide chemical residues in existence on such date; and

(IV) within 7 years of the date of the enactment of this Act, make such a determination for 100 percent of the tolerances or exemptions in effect for pesticide chemical residues in existence on such date.

(iii) DEADLINES.—Section 408(e)(4) of such Act shall apply to the deadlines established by such schedule.

(B) PRIORITIES.—In establishing such schedule, the Administrator shall give priority to the consideration of any pesticide chemical residue for which there is reason to believe that the tolerance or exemption in effect for such residue may present a risk greater than the negligible risk standard prescribed by section 408(b)(2) or 408(c)(2) of such Act.

(C) ACTION BY THE ADMINISTRATOR.—If the Administrator determines under subparagraph (A) that a tolerance or exemption does not meet the standard under section 408(b)(2) or 408(c)(2) of such Act after the submission of data in accordance with the schedule prescribed by such subparagraph, the Administrator shall take the action described in section 408(e)(2)(A) of such Act with respect to such tolerance or exemption.

SEC. 5. REVIEW OF EXISTING METHODS OF ANALYSIS.

(a) DETERMINATION.—Within 180 days of the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall determine, for each method of detecting and measuring levels of pesticide chemical residues, whether the requirements of section 408(b)(2)(G) of the Federal Food, Drug, and Cosmetic Act have been met.

(b) NOTICE.—The Administrator shall issue a notice identifying each pesticide chemical for which there is such a method that does not meet such requirements. Any such method that does not meet such requirements shall be revised so that the method meets such requirements within 3 years of the date of the issuance of the notice.

(c) REVOCATION.—If upon the expiration of such 3-year period, a method does not meet such requirements, then any tolerance or exemption in effect for the pesticide chemical residue subject to such method shall be considered revoked.

SEC. 6. FEES.

The Administrator of the Environmental Protection Agency shall by regulation require the payment of such fees as will in the aggregate, in the judgment of the Administrator, be sufficient over a reasonable term to provide, equip, and maintain an adequate service for the performance of the functions of the Administrator under this section and sections 4 and 5 of this Act.

SEC. 7. GENERAL DEFINITIONS.

As used in sections 4 and 5 of this Act:

(1) IN GENERAL.—The terms that are also used in section 408 of the Federal Food, Drug, and Cosmetic Act shall have the meanings given the terms by sections 201 and 408 of such Act.

(2) DIETARY EXPOSURE.—The term "dietary exposure" means dietary exposure as determined under section 408(b)(2)(C) of the Federal Food, Drug, and Cosmetic Act.

(3) EXEMPTION.—The term "exemption" means an exemption from the requirement for a tolerance under section 408 of the Federal Food, Drug, and Cosmetic Act.

By Mr. SPECTER:

S. 332. A bill to amend the Unfair Competition Act and Clayton Act to provide for private enforcement of the Unfair Competition Act in the event of unfair foreign competition, and to amend title 28, United States Code, to provide for the enforcement of the customs fraud provisions; to the Committee on the Judiciary.

FOREIGN COMPETITION ACT OF 1993

Mr. SPECTER. Mr. President, I am today introducing legislation to provide for a private right of action for injured parties to sue in the Federal court to stop goods from coming into this country which are subsidized or dumped or in violation of our trade laws. We have a very serious problem in many industries—steel, coal, glass, and many others—affecting the country as a whole, and particularly my home State of Pennsylvania.

We have too long sacrificed American industry and American jobs in the name of foreign policy, defense policy, without having the proper enforcement of the laws because the executive branch, whether it is a Republican administration or a Democratic administration, has made concessions for foreign policy and defense interests.

The problem is illustrated by the timetable which has been established on complaints filed by the steel industry, where finally, last month, the Commerce Department issued its initial determination that imports of certain steel products from 19 countries are being sold in the United States for less than fair value.

The details are set forth in my statement which I shall have included at the close of my extemporaneous comments.

But the fact is it will take about a year and a half for any kind of a determination, and then the determination is totally inadequate because the losses sustained by the American steel industry are not compensated.

What is necessary is that a private injured party—a company, a union, any one who is injured—have an opportunity to go into Federal court, very much as private prosecutors do in treble damage actions under the antitrust laws, and seek enforcement of America's trade laws, which are currently not being adequately enforced by the executive branch.

I believe in free trade. But free trade means the cost of production plus a reasonable profit. It does not mean that a foreign government ought to be able to subsidize a ton of steel, for example, up to $250 a ton. Free trade does not mean that foreign importers ought to be able to dump goods in the United States where that happens so frequently. Steel producers in Brazil, Japan, or Taiwan will sell steel in the United States at a price lower than the price which it is being sold in their home market.

Mr. President, this is a matter of fundamental fairness. Too often, thousands, tens of thousands, hundreds of thousands of American jobs have been lost through unfair foreign competition.

Mr. President, today I am again introducing legislation to provide a private right of action for injured parties to sue in Federal court to stop imports from coming into the United States which are subsidized or dumped. This is an issue that I have strenuously pursued throughout my career here in the Senate. Because I do not believe that foreign policy or defense policy concerns should supersede basic fairness in trade policy, I am continuing my efforts today.

I have long been concerned about the importation of subsidized or dumped goods on the U.S. market and its impact on U.S. jobs and industries. While it is encouraging to note the announcement on January 27, 1993, by the Commerce Department of their preliminary determination in favor of the U.S. steel industry, this announcement nonetheless highlights the primary problem confronted by U.S. industries seeking relief from unfair competition under U.S. trade laws—namely, that they are completely dependent on the U.S. Government, which may place other concerns, such as foreign relations, ahead of trade issues.

Even when the Government does act aggressively to enforce U.S. trade laws, the process is extremely time consuming. The U.S. steel industry is a perfect example. In April, 1992, the voluntary restraint agreements were allowed to lapse and the industry filed its dumping actions with the Commerce Department. Nearly 10 months later, on January 27, 1993, the Commerce Department issued its initial determination—a preliminary determination—that imports of certain steel products from 19 countries are being sold in the United States at less than fair value. I am advised that the Department expects to make its final determination by April 12, 1993, 1 year later, regarding six countries and by mid-June, 14 months later, for all other countries. If the final determination affirms the preliminary determination, the International Trade Commission [ITC] will then have 45 days to determine whether the imports materially injure, or threaten to injure, the U.S. steel industry. If the ITC finds injury or threat of injury, the Commerce Department will instruct the Customs Service to collect antidumping duties.

Assuming that all decisions are favorable, this means that the steel industry will have waited for more than a year before any action was taken to remedy the injury done to U.S. steel companies and their workers. And even then, the remedy will be prospective, and it in no real way will compensate them for the actual damages of lost jobs and lost revenues. Therefore, it is my strong belief that a private right of action is necessary to enable our domestic industries to counter foreign subsidies, dumping, and customs fraud in a timely manner. My bill accomplishes this by authorizing immediate injunctive relief against the offending foreign exporter to prevent the illegal import from causing further damage, and it allows for the recovery of damages incurred as a result of the illegal import.

The essence of free trade is selling goods at a price equal to the cost of production and a reasonable profit. Where you have subsidies by foreign governments, it is the antithesis of free trade. Where you have dumping—the sale in the United States of goods at prices lower than the price at which such goods are being sold by the producing companies in their own country or in some other country—that also is exactly the opposite of free trade.

We have seen a long history where American industries have been prejudiced, and American jobs have been lost, due to subsidized and dumped goods coming into this country. There is no adequate remedy at the present time to provide domestic industries with timely relief from the damage caused by such imports.

We have also seen a long history in this country where foreign policy and defense policy have superseded basic fairness on trade policy. I received a comprehensive education on this subject back in 1984 when there was a favorable ruling by the International Trade Commission for the American steel industry, but it was subject to review by the President. At that time my colleague, Senator Heinz and I visited every one of the Cabinet officers in an effort to get support to see to it that International Trade Commission ruling in favor of the American steel industry was upheld. Then-Secretary of Commerce Malcolm Baldrige was favorable, and International Trade Representative Bill Brock was favorable. We received a favorable hearing in all quarters until we spoke with then-Secretary of State Shultz and then-Secretary of Defense Weinberger who were absolutely opposed to the ITC ruling. President Reagan decided to overrule the ITC, and U.S. trade policy and workers again took second place to foreign policy concerns.

I believe the only way to handle these important issues is to see to it that there is a private right of action. This is a time-honored approach for private prosecution, illustrated by the antitrust laws where there are treble damage actions. I believe this is absolutely necessary if the specialty steel and other U.S. industries subject to foreign import competition are to have fairness and to be able to stop foreign subsidized and dumped products from coming into this country.

On March 4, 1982, I introduced S. 2167 to provide a private right of action in Federal court to enforce existing laws prohibiting illegal dumping or subsidizing of foreign imports. Hearings were held on this bill before the Judiciary Committee on May 24 and June 24, 1982. On December 15, 1982, I offered the text of this bill on the Senate floors as an amendment, which was tabled by a slim margin of 51 to 47.

During the 96th Congress, I reintroduced this legislation as S. 416 on February 3, 1983. The Judiciary Committee held a hearing on this bill on March 21, 1983. I offered the text of S. 418 as an amendment to the Omnibus Tariff and Trade Act of 1984 on September 19, 1984; the amendment was tabled.

During the 99th Congress, I reintroduced this legislation as S. 236; I expanded the scope of this bill to include customs fraud violations and introduced S. 1655 on September 18, 1985, and favorably reported the bill by unanimous voice vote on March 20, 1986. The Finance Subcommittee on International Trade also held a hearing on S. 1655 pursuant to a sequential referral agreement. Significant progress was made toward reaching a unanimous-consent agreement for full Senate consideration of S. 1655 prior to adjournment of the 99th Congress, but the press of other business prevented its coming for the floor action.

In the 100th Congress, I reintroduced comprehensive legislation, S. 361, to provide a private right of action in Federal court to enforce existing laws prohibiting illegal dumping or customs fraud.

I expanded the scope of this bill in S. 1396, which I introduced on June 19, 1987, to revise the subsidy provision to include a private right of action to allow injured American parties to sue in Federal court for injunction relief against, and monetary damages from, foreign manufacturers and exporters who receive subsidies and any importer related to the manufacturer or exporter.

This bill would have provided a comprehensive approach to address three of the most pernicious, unfair export strategies used by foreign companies against American companies: dumping, subsidies, and customs fraud.

During full Senate consideration of the Omnibus Trade and Competitiveness Act (S. 490), I filed the text of S. 1396 as Amendment No. 315 on June 19, 1987, and offered it as an amendment to the trade bill on June 25, 1987. This amendment, however, was tabled.

I again filed the text of this bill as an amendment to the Textile and Apparel Trade Act, S. 2662, on September 9, 1988, and to the Technical Corrections Act, S. 2238, on September 29, 1988.

On July 15, 1987, I joined Senator Heinz as an original cosponsor of an amendment to S. 490 to provide a private right of action in the U.S. Court of International Trade for damages from customs fraud. Although the amendment was accepted by the Senate, it unfortunately was dropped in conference.

Last year, I introduced S. 2508 because the Voluntary Restraint Agreements program was allowed to lapse in spite of the fact that no multilateral steel agreement was in place. In fact, as announced by the USTR, talks on the steel accord had broken down. I might add that this was somewhat strange, Mr. President, if not incomprehensible. There the steel industry—and this goes beyond specialty steel—had been awaiting an agreement on a multilateral steel accord which would have prevented subsidized and dumped goods from coming into the United States, and then there was a specific recognition by the Trade Representative, that that effort failed. Not to extend the voluntary restraint program at that time was, and remains today, just a bit mystifying.

In any event, the Judiciary Committee favorably reported S. 2508 by unanimous voice vote on August 12, 1992. Again, the press of other business prevented the Senate from taking up this legislation on the floor.

The bill I am introducing today provides a private right of action for injunctive and monetary relief in Federal court to individuals or corporations who have been injured by dumping, subsides, or customs fraud violations. The bill will enable industries to seek immediate relief through the Federal courts to halt the illegal importation of products.

There is nothing like the vigor of private plaintiffs when it comes to the enforcement of our trade laws. We desperately need the vigorous private enforcement this bill would spur if we are to successfully chart a course between the grave dangers of increased protectionism and the certain peril which would result from unabated illegal foreign imports.

Industry suffers the dual dilemma of completing against foreign protectionist legislation and having no forum to pursue their grievances other than the executive branch. Hank Barnette, president of Bethlehem Steel, who testified at a Judiciary Committee field hearing I conducted last year, provides a level of support for this legislation, which, I might add was typical throughout the several committee field hearings held in my State. Mr. Barnette is very familiar with the broad range of our trade issues and was appointed by President Bush to serve on his Advisory Committee on Trade Policy and Negotiations. He appeared before the Judiciary Committee to echo the support he voiced for private right of action legislation when appearing first in 1985:

> I said then, and am equally convinced today, the current prospective anti-dumping remedies provide an inadequate deterrent to dumping. We know that to be a fact. In our industry the practice of dumping has continued unabated for nearly 20 years and it is rampant today. The establishment of an effective private right of action against dumping in the United States Federal Courts would provide a much-needed remedy.

I believe the bill I am introducing would have an important deterrent effect on the practices of our foreign trading partners. Under this bill, an injured domestic business could file suit in the U.S. district court for the District of Columbia or the Court of International Trade for an injunction against the import and sales of the goods which it could preliminarily demonstrate were violating customs laws. The court's order could be modified to provide a more permanent remedy based on a more detailed finding. If dumping, subsidies, or customs fraud and injury are found, the plaintiff would be entitled to compensatory damages.

A reason to support this bill lies in its simplicity. We can enact this legislation immediately without interfering with or precluding a more complex set of initiatives. The essence of this bill is to promote enforcement of existing trade laws and agreements, and, therefore, use our existing trade laws as our best defense against unfair foreign practices. My bill will free private enterprise to pursue remedies without delay and put an immediate halt to many discriminatory trade practices.

I ask my colleagues to join me now in supporting this legislation to provide immediate relief to the unfair trade practices which constrain our Nation's industry. We are all familiar with the $1 trillion trade deficit we have incurred over the past decade and the additional impact of our currently stalled economy. We should also, however, be proud of the many improvements made by our industrial base over the past decade. Our corporations invested capital and the quality of our products has risen dramatically; but our Nation's workers have suffered significant job losses while our corporations have tried to become more lean and competitive. Clearly our business sector and each and every American has participated in and borne the burden of improving our competitive position.

Even these significant advances, however, are insufficient to truly compete in the face of illegal trade practices such as dumping, subsidies, and customs fraud. Clearly, the best way to handle these trade issues is to provide a private right of action which will allow U.S. industries the ability to stop foreign subsidies and dumping on the U.S. market in a timely fashion.

Mr. President, I ask unanimous consent at this time that my proposed legislation be included in the RECORD as if read in full.

Mr. President, I ask unanimous consent that the testimony of Mr. Robert E. Heaton, who is president and chief operating officer of Washington Steel Corp., which was introduced in hearings before the steel caucus on February 20, 1992, be introduced because it is a very important statement in support of the voluntary restraint program for specialty steel, and in the absence of that voluntary restraint program it would logically follow through to a private right of action.

Mr. President, I further ask unanimous consent that the testimony of Richard P. Simmons, chairman of the board of Allegheny Ludlum Corp., which was presented during field hearings by the Judiciary Committee which I presided over in Pittsburgh on January 13, 1992, be included in the RECORD because this statement has a comprehensive review of the surge in imports of subsidized goods where the voluntary restraint programs are not present.

Mr. President, I further ask unanimous consent that there be included in the RECORD a memorandum dated March 26, from Mr. Skip Hartquist, attorney with Collier, Shannon & Scott, to Morrie Ruffin, my staff assistant, which encloses a memorandum from the Georgetown Economic Services to Mr. Skip Hartquist of Collier, Shannon & Scott, a law firm which has been retained by Specialty Steel, together with the report by the Georgetown Economic Services which contains an expansive list of subsidies and other government-aid intervention in the specialty steel industry. This material sets forth their representations on a factual basis what other governments are doing by way of subsidy and by way of dumping.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 332

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRIVATE ACTIONS FOR RELIEF FROM UNFAIR FOREIGN COMPETITION.

(a) CLAYTON ACT.—Section 1(a) of the Clayton Act (15 U.S.C. 12) is amended by inserting "section 801 of the Act of September 8, 1916, entitled 'An Act to raise revenue, and for other purposes' (39 Stat. 798; 15 U.S.C. 72);" after "nineteen hundred and thirteen;".

(b) ACTION FOR DUMPING VIOLATIONS.—Section 801 of the Act of September 8, 1916 (39 Stat. 798; 15 U.S.C. 72) is amended to read as follows:

"SEC. 801. (a) PROHIBITION.—No person shall import or sell within the United States an article manufactured or produced in a foreign country if—

"(1) the article is imported or sold within the United States at a United States price that is less than the foreign market value or constructed value of the article; and

"(2) the importation or sale—

"(A) causes or threatens material injury to industry or labor in the United States; or

"(B) prevents, in whole or in part, the establishment or modernization of any industry in the United States.

"(b) CIVIL ACTION.—An interested party whose business or property is injured by reason of an importation or sale in violation of this section may bring a civil action in the United States District Court for the District of Columbia or in the Court of International Trade against—

"(1) a manufacturer or exporter of the article; or

"(2) an importer of the article into the United States that is related to the manufacturer or exporter of the article.

"(c) RELIEF.—In an action brought under subsection (b), upon a finding of liability on the part of the defendant, the plaintiff shall—

"(1)(A) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into or sale or distribution within, the United States by the defendant of the article in question; or

"(B) if injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained; and

"(2) recover the costs of the action, including reasonable attorney's fees.

"(d) STANDARD OF PROOF.—(1) The standard of proof in an action brought under subsection (b) is a preponderance of the evidence.

"(2) Upon—

"(A) a prima facie showing of the elements set forth in subsection (a); or

"(B) affirmative final determinations adverse to the defendant that are made by the administering authority and the United States International Trade Commission under section 735 of the Tariff Act of 1930 (19 U.S.C. 1673d) relating to imports of the article in question for the country in which the manufacturer of the article is located,

the burden of proof in an action brought under subsection (b) shall be upon the defendant.

"(e) OTHER PARTIES.—(1) Whenever, in an action brought under subsection (b), it appears to the court that justice requires that other parties be brought before the court, the court may cause them to be summoned, without regard to where they reside, and the subpoenas to that end may be served and enforced in any judicial district of the United States.

"(2) A foreign manufacturer, producer, or exporter which sells products, or for which products are sold by another party in the United States, shall be treated as having appointed the District Director of the United States Customs Service of the Department of the Treasury for the port through which the product is commonly imported as the true and lawful agent of the manufacturer, producer, or exporter, upon whom may be served all lawful process in any action brought under subsection (b) against the manufacturer, producer, or exporter.

"(f) LIMITATION.—(1) An action under subsection (b) shall be commended not later than 4 years after the date on which the cause of action accrued.

"(2) The running of the 4-year period provided in paragraph (1) shall be suspended while there is pending an administrative proceeding under subtitle B of title VII of the Tariff Act of 1930 (19 U.S.C. 1673 et seq.) relating to the product that is the subject of the action or an appeal of a final determination in such a proceeding, and for 1 year thereafter.

"(g) NONCOMPLIANCE WITH COURT ORDER.—If a defendant in an action brought under subsection (b) fails to comply with any discovery order or other order or decree of the court, the court may—

"(1) enjoin the further importation into, or the sale or distribution within, the United States by the defendant of articles that are the same as, or similar to, the articles that are alleged in the action to have been sold or imported under the conditions described in subsection (a) until such time as the defendant complies with the order or decree; or

"(2) take any other action authorized by law or by the Federal Rules of Civil Procedure, including entering judgment for the plaintiff.

"(h) CONFIDENTIALITY AND PRIVILEGED STATUS.—(1) Except as provided in paragraph (2), the confidential or privileged status accorded by law to any documents, evidence, comments, or information shall be preserved in any action brought under subsection (b).

"(2) In an action brought under subsection (b) the court may—

"(A) examine, in camera, any confidential or privileged material;

"(B) accept depositions, documents, affidavits, or other evidence under seal; and

"(C) disclose such material under such terms and conditions as the court may order.

"(i) Expedition of Action.—An action brought under subsection (b) shall be advanced on the docket and expedited in every way possible.

"(j) Definitions.—For purposes of this section, the terms 'United States price', 'foreign market value', 'constructed value', 'subsidy', and 'material injury', have the respective meanings given those terms under title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.).

"(k) Subsidy.—If—

"(1) a subsidy is provided to the manufacturer, producer, or exporter of an article; and

"(2) the subsidy is not included in the foreign market value or constructed value of the article (but for this paragraph),

the foreign market value of the article or the constructed value of the article shall be increased by the amount of the subsidy.

"(l) Intervention by the United States.—The court shall permit the United States to intervene in any action brought under subsection (b) as a matter of right. The United States shall have all the rights of a party to such action.

"(m) Nullification of Order.—An order by a court under this section is subject to nullification by the President under authority of section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(c) Action for Subsidies Violations.—Title VIII of the Act of September 8, 1916 (39 Stat. 798; 15 U.S.C. 71 et seq.) is amended by adding at the end the following new section:

"Sec. 807. (a) Prohibition.—No person shall import or sell within the United States an article manufactured or produced in a foreign country if—

"(1) the foreign country, any person who is a citizen or national of the foreign country, or a corporation, association, or other organization organized in the foreign country, is providing (directly or indirectly) a subsidy with respect to the manufacture, production, or exportation of the article; and

"(2) the importation or sale—

"(A) causes or threatens material injury to industry or labor in the United States; or

"(B) prevents, in whole or in part, the establishment or modernization of any industry in the United States.

"(b) Civil Action.—An interested party whose business or property is injured by reason of an importation or sale in violation of this section may bring a civil action in the United States District Court for the District of Columbia or in the Court of International Trade against–

"(1) a manufacturer or exporter of the article; or

"(2) an importer of the article into the United States that is related to the manufacturer or exporter of the article.

"(c) Relief.—In an action brought under subsection (b), upon a finding of liability on the part of the defendant, the plaintiff shall—

"(1)(A) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into, or sale or distribution within, the United States by the defendant of the article in question; or

"(B) if injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained; and

"(C) recover the costs of the action, including reasonable attorney's fees.

"(d) Standard of Proof.—(1) The standard of proof in an action filed under subsection (b) is a preponderance of the evidence.

"(2) Upon—

"(A) a prima facie showing of the elements set forth in subsection (a); or

"(B) affirmative final determinations adverse to the defendant that are made by the administering authority and the United States International Trade Commission under section 705 of the Tariff Act of 1930 (19 U.S.C. 1671d) relating to imports of the article in question for the country in which the manufacturer of the article is located,

the burden of proof in an action brought under subsection (b) shall be upon the defendant.

"(e) Other Parties.—(1) Whenever, in an action brought under subsection (b), it appears to the court that justice requires that other parties be brought before the court, the court may cause them to be summoned, without regard to where they reside, and the subpoenas to that end may be served and enforced in any judicial district of the United States.

"(2) A foreign manufacturer, producer, or exporter which sells products, or for which products are sold by another party in the United States, shall be treated as having appointed the District Director of the United States Customs Service of the Department of the Treasury for the port through which the product is commonly imported as the true and lawful agent of the manufacturer, producer, or exporter, upon whom may be served all lawful process in any action brought under subsection (b) against the manufacturer, producer, or exporter,

"(f) Limitation.—(1) An action under subsection (b) shall be commenced not later than 4 years after the date on which the cause of action accured.

"(2) The running of the 4-year period provided in paragraph (1) shall be suspended while there is pending an administrative proceeding under subtitle A of title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) relating to the product that is the subject of the action or an appeal of a final determination in such a proceeding, and for 1 year thereafter.

"(g) Noncompliance With Court Order.—If a defendant in an action brought under subsection (b) fails to comply with any discovery order or other order or decree of the court, the court may—

"(1) enjoin the further importation into, or the sale or distribution within, the United States by the defendant of articles that are the same as, or similar to, the articles that are alleged in the action to have been sold or imported under the conditions described in subsection (a) until such time as the defendant complies with the order or decree; or

"(2) take any other action authorized by law or by the Federal Rules of Civil Procedure, including entering judgment for the plaintiff.

"(h) Confidentiality and Privileged Status.—(1) Except as provided in paragraph (2), the confidential or privileged status accorded by law to any documents, evidence, comments, or information shall be preserved in any action brought under subsection (b).

"(2) In an action brought under subsection (b) the court may—

"(A) examine, in camera, any confidential or privileged material;

"(B) accept depositions, documents, affidavits, or other evidence under seal; and

"(C) disclose such material under such terms and conditions as the court may order.

"(i) Expedition of Action.—An action brought under subsection (b) shall be advanced on the docket and expedited in every way possible.

"(j) Definitions.—For purposes of this section, the terms 'subsidy' and 'material injury' have the respective meanings given those terms under title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.).

"(k) Intervention by the United States.—The court shall permit the United States to intervene in any action brought under subsection (b) as a matter of right. The United States shall have all the rights of a party to such action.

"(l) Nullification of Order.—An order by a court under this section is subject to nullification by the President under authority of section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(d) Action for Customs Fraud.—

(1) Amendment of title 28, United States code.—Chapter 95 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1586. Private enforcement action for customs fraud

"(a) Civil Action.—An interested party whose business or property is injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592(a)) may bring a civil action in the United States District Court for the District of Columbia or in the Court of International Trade, without respect to the amount in controversy.

"(b) Relief.—Upon proof by an interested party that the business or property of such interested party has been injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930, the interested party shall—

"(1)(A) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into the United States of the merchandise in question; or

"(B) if injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained; and

"(2) recover the costs of suit, including reasonable attorney's fees.

"(c) Definitions.—For purposes of this section:

"(1) The term 'interested party' means—

"(A) a manufacturer, producer, or wholesaler in the United States of like or competing merchandise; or

"(B) a trade or business association a majority of whose members manufacture, produce, or wholesale like merchandise or competing merchandise in the United States.

"(2) The term 'like merchandise' means merchandise that is like, or in the absence of like, most similar in characteristics and users with, merchandise being imported into the United States in violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592(A)).

"(3) The term 'competing merchandise' means merchandise that competes with or is a substitute for merchandise being imported into the United States in violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592(A)).

"(d) Intervention by the United States.—The court shall permit the United States to intervene in an action brought under this section, as a matter of right. The United States shall have all the rights of a party.

"(e) Nullification of Order.—An order by a court under this section is subject to nullification by the President under authority of section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 95 of title 28, United States Code, is amended by adding at the end the following new item:

"1586. Private enforcement action for customs fraud."

SEC. 2. ACCORDANCE WITH GATT.

It is the sense of the Congress that this Act is consistent with, and in accord with, the General Agreement on Tariffs and Trade (GATT).

TESTIMONY OF ROBERT E. HEATON, PRESIDENT AND CHIEF OPERATING OFFICER, WASHINGTON STEEL CORP.

Senator Rockefeller, Senator Specter, Members of the Senate Steel Caucus. My name is Bob Heaton. I am President & Chief Operating Officer of Washington Steel Corporation in Washington, Pennsylvania. I am also the Chairman of the Executive Committee of the Specialty Steel Industry of the United States.

On behalf of the Specialty Steel Industry of the United States, and in cooperation with the United Steelworkers of America, I am pleased to appear before this distinguished Senate body to solicit your support for the specialty steel industry's and the Union's request for a three-year extension of the voluntary restraint arrangements (VRAs) with respect to specialty steel products.

For those of you who are unfamiliar with our segment of the industry, the Specialty Steel Industry of the United States represents virtually all U.S. producers of stainless and alloy tool steels, heat-resisting steels, electrical steels, super alloys, and other high technology metals. Our industry employs approximately 35,000 people, with annual shipments of over $6 billion, although on a tonnage basis we represent less than 2 percent of annual steel production in the U.S. I would remind you that the record shows that prices of specialty steels during the VRA period have been maintained well below the growth rate in the CPI and indices for other industrial product. Consumers have not been hurt.

Specialty steels represent the high value, high technology segment of the steel industry. Because of their high alloy content, technical properties and special processing techniques, our products are used in extreme environments demanding exceptional hardness, toughness, strength, resistance to heat, corrosion or abrasion—or any combination of these characteristics. A healthy specialty steel industry is vital to the economic and industrial well-being of the United States. Indeed our society could not function without them. Specialty steels are essential for many critical applications in both the capital goods and consumer durable sectors of our economy, automotive, power generation, chemical processing, health care, marine and aerospace, to name a few areas. Moreover, the unique characteristics of specialty steels make these products essential to the production of all major weapon systems, as well as aircraft and other defense-related equipment. Our products were crucial to the success of Desert Storm, and we responded to urgent requests by the Department of Defense to supply materials on extremely short notice—as little as twenty-four hours—often halting normal commercial production schedules to meet the demands of the war effort.

The gains achieved by the specialty steel industry as a result of the VRAs are threatened by their scheduled expiration on March 31, 1992. So too, are the many thousands of jobs we directly provide for support indirectly. Worldwide capacity to produce specialty steel products has expanded dramatically during the VRA period to a level that exceeds the demands of today's global marketplace. Foreign government subsidization of specialty steel production continues unabated and dumping of specialty steel products persists, notwithstanding the disciplines of the current VRA program. Efforts to address these problems in the framework of a multilateral consensus arrangement have not borne fruit. Most compelling, however, is the fact that most specialty steel import restraint levels have been fully utilized and in many instances exceeded. Elimination of the VRAs will result in an immediate import assault that could have severe consequences for U.S. producers, their workers, and the American economy.

The VRAs have served the specialty steel industry well, and have helped control the import surges that devastated the industry during the early 1980s. The VRAs have also provided the opportunity for the industry to maintain its worldwide technological advantage through investment in research and development; construction of modern facilities; and improved productivity. Economic conditions, unique to specialty steel, are such that termination of the VRA program at this time will undermine those gains and have dire consequences for U.S. specialty steel producers, their employees and families, a number of communities, as well as the customers served by the industry. Let me briefly address these conditions. They provide compelling testimony as to why the specialty steel industry must seek an extension of the VRA program at this time, and why we are seeking your support for this effort.

First, overcapacity problems in the industry have worsened. The long-standing problem of structural overcapacity in the world's specialty steel market has not been addressed: indeed, by all accounts the excess capacity problems have worsened during the VRA period. Total worldwide capacity additions by foreign specialty steel producers, including all of the major VRA signatories, are expected to exceed 3.0 million tons by March 31, 1992—an amount far exceeding the U.S. annual consumption of specialty steel. Much of the new foreign capacity has been targeted to come on stream as the VRAs terminate—for obvious reasons.

Second, dumping and foreign subsidization continue to be a major factor in the U.S. market. And, let us be reminded that 'subsidies are fungible' so damage is pervasive. The VRAs have not prevented subsidized and dumped imports from entering the U.S. market; they have only helped control the volume of such unfair imports. The fundamental conditions of subsidization and dumping were to be addressed in the framework of the multilateral steel arrangement (MSA), a structure which, as announced by the Administration, was to in be place by the time the VRAs were being phased out.

"Let me quote the President's July 25, 1989 order:

I am also directing Ambassador Hills to seek to negotiate, through the Uruguay Round of Multilateral Trade Negotiations and complementary bilateral agreements, an international consensus to provide effective disciplines over government aid and intervention in the steel sector and to lower barriers to global trade in steel. The international consensus will contain three elements:

Strong disciplines over trade-distorting government subsidies;

Lowering of trade barriers so as to ensure market access; and

Enforcement measures to deal with violations of consensus obligations."

Unfortunately, the MSA negotiations have been characterized primarily by the efforts of other producing nations to exempt themselves from the reach of U.S. trade laws; to undermine the effectiveness of those laws; to "grandfather" past subsidy programs; and to broaden the scope of permissible subsidy programs. Furthermore, foreign producing nations have utilized the MSA effort to establish an alternative dumping regime for steel that would virtually eliminate any possibility for U.S. steel producers to obtain relief for injurious dumping. Significantly, these efforts are being mirrored in the GATT where many of our principal trading partners are insisting on a substantial weakening of U.S. trade laws as a precondition of any multilateral trade agreement. These efforts, if successful, will remove the industry's most effective weapon in its battle against unfair imports.

Third, the U.S. specialty steel market has weakened. As a result of a combination of factors—the economic downturn, structural overcapacity and continued dumping/subsidy practices—the U.S. specialty steel industry is experiencing uncertainties in its markets. Imports are up, prices are soft, and profitability has sharply deteriorated. These conditions, though typical of a cyclical industry in the recessionary phase of the business cycle, deeply concern U.S. specialty steel producers because they come at a time when the benefits of the VRA structure are about to be removed. It is precisely these depressed conditions that led to the dislocations of the early 1980s, the filing of unfair trade cases by the steel industry, and the government-initiated VRA program.

Perhaps most significantly, the VRA quotas for specialty steel products have been fully utilized. An analysis of recent import statistics reveals that VRA quota levels for most specialty steel products have been filled. Indeed, in many instances, those limits have been exceeded. For example, in 1991, the VRA ceilings on specialty steel will experience utilization rates ranging from 96 to 113 percent, which has been typical for most years during the duration of the program. For certain products and signatories, utilization rates have been even higher, which has led the Department of Commerce to require special release authorization on the entry of certain specialty steel imports from Austria and Brazil, as well as from the European Community, where authorization is required on four of the seven specialty steel categories.

These trends support the long-standing position of the industry that even where import restraints are in place, foreign producers will focus their export activities on higher value products, which are largely comprised of specialty steel products. The trends also confirm the industry's belief that imports, which have been increased steadily during the recent VRA period, will surge to unprecedented levels if the VRAs are allowed to expire.

The proposed phasing out of the VRA program was premised on a number of conditions, which, notwithstanding the sincere intentions of the Administration, have not come to pass. Global capacity still exceeds global demand for specialty steel by substantially larger margins than before the VRAs were initiated. Subsidization continues worldwide, and, despite the strong efforts by the Administration, there is no MSA in place to impose discipline on foreign governments that have been willing to support their specialty steel sectors through periods of substantial losses. Finally, dumping remains the market development tactic of choice among foreign producers who seek to inject themselves in the U.S. marketplace at any cost.

Overlying these fundamental structural problems is a recession which has shrunk worldwide demand for specialty steel products, thereby increasing the incentive for foreign producers to ship even more high valued specialty steels to the U.S. market. Sound policy in today's international steel market dictates a continuation of the VRAs for specialty steel. The VRAs have enabled the specialty steel industry to maintain its technological superiority and thereby meet the changing demands of the U.S. industrial and defense base and the demands of the global marketplace and assure jobs, both directly and indirectly, for American workers. Until fundamental international trading conditions change, or are placed under adequate control, the VRAs must be extended. We must ensure that the essential American specialty steel industry remains strong to serve the critical needs of an imperfect marketplace.

The specialty steel industry and its workers must not be held hostages to external international factors over which it cannot exert control.

TESTIMONY OF RICHARD P. SIMMONS

Senator Specter, I am pleased to be here today to discuss the U.S. speciality steel industry's longstanding struggle against unfair trade practices, and the crucial role U.S. trade legislation has played in that struggle. For more than two decades, the U.S. speciality steel industry has waged a continuous legal and political battle against injurious and unfairly traded imports. A multifaceted patchwork of trade remedies has resulted from these efforts, including VRAs, quotas, increased tariffs, antidumping and countervailing duties. These remedies have helped the industry maintain its technological superiority in the intensely competitive international market for specialty steel by providing a viable financial environment for research and development in new products and new product applications, investment in new facilities, and the development of more efficient production methods.

I want to emphasize, however, that no combination of legal remedies can eliminate the fundamental conditions of overcapacity and subsidization that have been the cause of the industry's import problems. Until these conditions are removed, the U.S. speciality steel industry, like other high-technology segments of the U.S. economy, will be vulnerable to the unfair import practices of foreign producers. The industry must, therefore, continue to rely on the effectiveness of our trade laws to mitigate the adverse impact of these practices, and the conditions that give rise to them.

I. HISTORY OF THE INDUSTRY'S STRUGGLE AGAINST UNFAIR TRADE PRACTICES

It is instructive, at the outset, to focus on the long history of the speciality steel industry's two decade long battle against unfair trade practices. The speciality steel industry's experience combatting these practices provides a compelling case history of how an industry can adapt the trade laws to its individual commercial circumstances. The history also provides a unique perspective on the strengths, as well as the limitations, of those laws.

A. 1969–1974: Voluntary Quota Programs

As a people of Western Pennsylvania are no doubt aware, steel imports into the United States increased more than tenfold over the period 1958–1968, with the great bulk of imports coming from Japan and the European Community. The surge was attributable to the same conditions we in specialty steel face today—excess foreign capacity, foreign government subsidies, and lower labor costs.

The Johnson Administration's solution to the domestic steel industry's problems was to seek voluntary quota programs with foreign producer associations. Both Japanese and European steel producers agreed to limit steel shipments to the United States to specified maximum tonnages for each of the years 1969–1971. These "voluntary quotas" were subsequently extended from 1972–1974 in response to pressure from the domestic industry and Congress.

The first voluntary quotas did not distinguish between ordinary carbon steel and specialty steel. This encouraged foreign producers to change their products mix from mostly carbon steel to an increasing proportion of specialty steel. At that time, carbon steels, were selling in the $120–200 range. In comparison, stainless was selling for over $1,000 per ton and certain tool steels were selling for more than $7,000 per ton. By increasing their exports of specialty and alloy steel products, Japanese and European producers increased their dollar value of export sales during the restraint period, even though they reduced or maintained their overall export volumes.

The sharp and sudden increases in specialty steel imports under the 1969–1974 voluntary quotas provide a compelling lesson that is relevant even to this day. Foreign producers have the willingness and capability to shift production to specialty steels, if such products are excluded from a VRA program or any other comprehensive program of import relief. Accordingly, any comprehensive initiative undertaken on behalf of the steel industry generally must take into account this shifting phenomenon and not exclude high value specialty steel products.

B. 1975–1984: Import Quotas, Tariffs, and Antidumping and Countervailing Duties

In 1975, the year after the first steel voluntary quota program expired, imports of specialty steel increased 20 percent while American consumption decreased by 40 percent. The specialty steel industry laid off 25 percent of its work force and was utilizing only one-half of its productive capacity. Given these conditions, the U.S. specialty steel producers and the United Steel Workers of America filed a Section 201 petition seeking relief from the flood of steel imports which threatened the future of the American specialty steel industry and the security of American jobs. This was one of the first such cases ever filed.

The ITC determined the specialty steel imports were a "substantial cause of serious injury" to the domestic industry. In response to this finding, President Ford set three-year quotas for imports of certain specialty steel from Sweden, Canada, France, Great Britain, Austria, and West Germany. The United States simultaneously negotiated an orderly marketing agreement with Japan. The import quotas were scheduled to expire in July 1979, but President Carter extended the quotas through February 13, 1980.

In the first five months of 1980, following removal of the quotas, specialty steel imports increased 29 percent. The pattern continued—no restraints, surges of imports. The industry again turned to the trade laws, unleashing an aggressive attack on unfair imports of specialty steel. During the period 1982–1984, the Specialty Steel Industry of the United States and the United Steel Workers of America filed and won numerous antidumping and countervailing duty petitions against specialty steel producers from around the world.

In addition to filing antidumping and countervailing duty petitions, the industry filed a Section 301 petition with the United States Trade Representative in January 1982. The 301 petition alleged that several EC countries, including Austria, France, Italy, Sweden, the U.K., and Belgium, were subsidizing specialty steel products in violation of the GATT. In November 1982, President Reagan, after confirming the industry's allegations of subsidization, directed the ITC to initiate a Section 201 investigation—like the one we filed in 1975—with respect to stainless plate, rod, bar, sheet and strip, and alloy tool steel. The ITC completed the requested investigation in May 1983, finding once again that the specialty steel industry has suffered serious injury, and that the most important factor in causing that injury was the dramatic growth in imports during the 1980–1983 period. President Reagan, accordingly, instituted in July 1983 an import relief program for specialty steel, which included a four-year series of gradually lowering tariffs on stainless steel flat-rolled products and four-year import quotas on stainless steel bar and wire rod, and alloy tool steel.

C. 1984–1989: Voluntary Restraint Agreements

Of course, there were other developments. In 1983, Bethlehem Steel and the U.S. Steelworkers filed a Section 201 case on carbon steel products. While the case resulted in an affirmative injury determination, President Reagan chose not to provide—as he had in the case of specialty steel—specific import relief. Instead, on September 18, 1984, President Reagan established a national policy for the steel industry that included the negotiation of voluntary restraint agreements with 19 countries and the European Community. The VRA program was initially designed to limit imports of carbon steel into the United States. It eventually incorporated a number of specialty steel products, which were previously covered by the 1983 section 201 import relief program.

D. 1989–1992: Renewal of the Voluntary Restraint Agreements

As it has in past restraint periods, the specialty steel industry benefited greatly from the VRAs. During the first five-years of the VRA program, the industry made tremendous increases in productivity, shipments, employment levels, exports, net sales, net operating profitability, and capacity utilization. These improvements were accompanied by increases in investment, including research and development.

The industry, however, recognized that the VRA's had not cured the endemic overcapacity and persistent unfair trade practices that led to the imposition of the import restraints in the mid-1980s. If the VRAs were dismantled prematurely, the same problems that had distorted the market in the early 80s would recur. To prevent this recurrence, domestic producers argued that the VRAs should be extended for five years.

On July 25, 1989, President Bush announced the "Steel Trade Liberalization Program," under which the VRAs were extended for 2½ years—a concession to steel consumer groups. All specialty steel products were included within the framework of the extended VRA program, despite efforts on the part of many consumer groups to exclude them altogether. Thankfully, the specialty steel industry's proven vulnerability to shifting convinced the President that the effectiveness of the VRA extension would be undermined if any specialty steel products were excluded.

II. PRESENT AND FUTURE INITIATIVES TO ADDRESS UNFAIR TRADE PRACTICES IN STEEL

I am pleased to say that we have survived this challenge. We are a modern technologically advanced industry capable of competing worldwide. The aggressive application of our trade laws has been an important factor in our survival. Still, history is not without its lessons, and I would like to point out a number of troubling aspects of this history. First, the specialty steel industry has always had to act defensively in defending its markets. Most foreign specialty steel markets have been closed to U.S. exports, either as a result of overt tariff barriers or through more subtle non-tariff measures similar to those the President addressed in his recent trip to Japan. The industry, therefore, has been unable to take the battle to foreign shores. Another troubling aspect of this history is the fact that the import relief measures granted pursuant to U.S. trade laws were always prospective in nature—that is to say, they were available only after substantial damage had been caused. There were no compensatory remedies available for the harm caused over two decades by unfair import competition. For this reason, the specialty steel industry sought passage of legislation, sponsored by Senator Specter in the 99th and 100th Congresses, which have provided a private right of actions for companies injured as a result of dumping and subsidization. The legislation made sense in 1988 when the industry urged its passage, and it continues to make sense today.

Private right of action legislation would give private parties access to the courts to seek redress from injurious unfair trade practices. The specialty steel industry is appreciative of Senator Specter's introduction of legislation not once but several times to provide a private right of action to U.S. industries facing these unfair trade problems. We support this initiative and, in particular, the pending bill (S. 986) that would provide a private right of action against customs fraud.

Perhaps most troubling in our present struggle against unfair trade practices is the fact that some interest groups believe our trade laws are too effective and have attacked those laws in a number of settings. The most recent example of this concerted effort on the part of our trading partners to undermine these important trade laws is the ongoing negotiations on the international Antidumping and Subsidies Codes that are taking place in the Uruguay Round of GATT negotiations. Unfortunately, despite valiant efforts by U.S. negotiators to achieve stricter controls on unfair trade practices in these negotiations, the "final draft" texts issued by GATT Director General Arthur Dunkel in the areas of dumping and subsidies would achieve just the opposite. Rather than strengthening U.S. trade laws as Congress had urged in 1988 by setting out issues to be achieved, the proposed text significantly weakens U.S. antidumping and subsidy laws.

The Dunkel text undermines current U.S. trade laws in virtually all areas. The proposed dumping and subsidies texts would make it more difficult to file cases initially by raising the "standing" requirements and eliminating unions as petitioners. New substantive changes in the dumping and subsidy texts would make it more difficult to impose duties offsetting the unfair trade practices, allowing greater dumping of goods sold at below the cost of production, "green-lighting" certain subsidies that are prohibited by current law, and increasing the levels of dumping and subsidies needed to obtain an order. The injury standard would also be more difficult to meet under the current draft which does not authorize cumulation of unfairly traded imports from a variety of countries in dumping cases. Finally, if a domestic industry could obtain an order, the "sunset" provision would eliminate that order after five years in most cases.

Perhaps even more important than any of these substantive issues is the change in the dispute settlement process conducted by the GATT. All U.S. dumping and subsidy orders will be subject to review by a GATT Dispute Settlement Panel, whose conclusions the United States will be required to accept. Given that there is no limitation on the standard of review to be applied by these panels, and given the predilection of past panels to interpret these laws against the country applying them, this process will effectively remove from Congress the ability to make law in this area. Instead, we will be forced to accept and abide by decisions of panels comprised of representatives of our various trading partners whose views are directly at odds with our views on these matters. I cannot stress strongly enough the concern that we have, and that the Congress should have, over this proposed relinquishment of U.S. control over our unfair trade laws.

Today is an important day because negotiators from around the world are reconvening in Geneva today to begin what may be the final negotiations in these trade talks. It is vital that the members of Congress convey to our negotiators that the United States simply cannot accept an agreement that will seriously weaken our unfair trade laws and that will vest in an international panel power to overrule the United States' interpretation and application of these laws.

I would like to conclude with some thoughts about the future. As you know, the VRAs are scheduled to expire in approximately 2½ months. The multilateral steel consensus structure, the foundation upon which the post-VRA period was to be built, has not come about—President Bush's assurances notwithstanding.

Given the softness of world demand for specialty steel at the moment, I am concerned that when the VRAs end, foreign producers will take advantage of the situation and we will experience a new flood of specialty steel imports. It is no coincidence that the VRA levels for specialty steel products have already been reached, and in many instances, exceeded. It is not blind speculation to suggest that the scenario of weak demand, excess global capacity and unfair foreign pricing will recur.

The specialty steel industry will therefore have no choice but to defend its markets through reliance on our trade laws. The Congress, in turn, must ensure that those laws are not weakened in the GATT or anywhere else. We must not abdicate the United States' ability to develop effective laws against unfairly traded imports to an international panel. Further, the serious diminishment in the effectiveness of the subsidy and dumping laws currently proposed in the GATT text will lead to an increase in unfairly traded imports and a consequent decrease in U.S. manufacturing capability and employment.

I would also recommend that every effort be made to strengthen those laws so that U.S. manufacturers are not forced to seek protection only after markets have been lost. Private right of action, both as a disincentive to unfair trade, and as a remedy for past harm, is an idea whose time has come.

Finally, I would ask the Congress, as well as the Administration, to consider how best to deal with the fundamental problems of subsidization and overcapacity. The VRAs are a good interim solution, and their continuation should be considered if we have not made progress in eliminating these problems. We must, however, be creative and seek permanent solutions to these problems.

I remain excited about the commercial opportunities available to our industry, and the contributions that our industry can make to our industrial economy. Those opportunities, however, will only be available if we can solve the fundamental problems that have plagued our industry for more than two decades. Alternatively, we must have a legal regime in place that will enable high technology industries like specialty steel to insulate themselves from the endemic practices, like dumping, that are the by-product of these problems.

COLLIER, SHANNON & SCOTT,
ATTORNEYS-AT-LAW,
Washington, DC, March 26, 1992.

To: Morrie Ruffin.
From: Skip Hartquist.
Re: Foreign government subsidies to specialty steel producers.

Per your request, enclosed is a comprehensive report prepared by Georgetown Economic Services, our economic consulting firm subsidiary, identifying subsidies provided to specialty steel producers by foreign governments. I hope this will be helpful to you in pursuing the VRA legislation and for other purposes.

GEORGETOWN ECONOMIC SERVICES,
Washington, DC, March 26, 1992.

To: Skip Hartquist.
From: Patrick J. Magrath, Director.
Re: Background Factors For Analysis of Subsidy List.

Attached please find a listing of subsidies, state aids, and government aided investments and acquisitions benefiting specialty steel producers in some 20 foreign countries. For the most part, the programs and activities listed are only those interventions from 1988 to March, 1992, and do not include benefits to foreign specialty steel makers still flowing from government aided investments of the mid and early 1980's.

Several factors are necessary to keep in mind while perusing the attached list:

COMMON OWNERSHIP OF CARBON AND SPECIALTY STEEL PRODUCTION FACILITIES

With only one or two exceptions, U.S.-specialty steel producers are distinct and independent from the larger tonnage companies producing carbon steel. The United States, however, is almost unique in this arrangement. By far the more common situation abroad is one in which the bulk of specialty steel production is carried out by a division or subsidiary of the country's dominant carbon steel producer. For example, the U.K.'s largest stainless steel producer, BSC Stainless, is a division of the country's dominant integrated carbon steel producer, British

Steel. So too, France's largest stainless producer, Ugine SA, is 95 percent owned by the integrated carbon steel giant Usinor Sacilor. Similar ownership ties between specialty and larger carbon steel concerns are also the rule in Italy, Japan, Germany and almost all other foreign specialty steel producing countries.

These ownership ties are important to the subsidy story because it is the giant integrated carbon steel firms that are state-owned and receive direct subsidies from their governments. British Steel, before it was privatized in 1986, was the recipient of massive subsidies—part of which was used to benefit BSC Stainless.

THE INHERENT FUNGIBILITY OF SUBSIDIES

Subsidies and other state aids can be directly linked to specialty steel production, even though the original recipient was the carbon steel parent, because of the inherent fungibility of subsidies. In most instances, subsidies are granted to the carbon steel parent to cover operating losses, or to forgive debt, with no stipulations as to where or in what manner the state-generated funds are to be applies. Obviously, the specialty steel making division or subsidiary benefits from the aid provided the parent, even if the specialty steel affiliate is profitable. Even if state aid comes with "strings attached"—for instance, as is the case with aid earmarked for a specific region or environmental expenditure—the monies provided for these projects frees up general corporate funds to finance capital improvements, modernization, and wages increases for all affiliated companies of the steel group, including specialty steel.

It is because a conferred subsidy is fungible that we have included in our list a variety of programs, which may or may not technically constitute a red-light subsidy under GATT, or the proposed MSA. All programs listed confer a real monetary benefit, which are used to aid the specialty steel maker director, or to free up funds generated by the specialty steel affiliate which would otherwise be earmarked for other purposes.

PAST SUBSIDIES AND GOVERNMENT SUPPORT CONFER CURRENT AND FUTURE BENEFITS

Included in this list, in appropriate cases, is a partial record of investments and acquisitions of state-owned or subsidized foreign specialty steel producers. A particularly pernicious effect of subsidies/state ownership is the luxury of being able to make ongoing investments or acquisitions regardless of the firm's financial track record, poor credit rating, or, in some cases, technical insolvency. With knowledge that subsidies and the state stand behind the firm, foreign specialty steel producers and their carbon steel parents are able to expand capacity, invest in plant and equipment, and make key acquisitions regardless of suffering financial losses year after year. U.S. specialty steel makers, on the other hand, are subject to the profit discipline and must prove their credit worthiness without recourse to government bailouts. The simple fact is that many of the U.S. industry's chief foreign competitors, including the U.K.'s BSC Stainless and ILVA of Italy, would not be in existence if it were not for the massive subsidies provided on a continued basis by their governments in the 1970's and 1980's. The universal knowledge held by international leaders—that, in the end, the host governments are committed to maintaining the viability of certain privileged steel companies—is perhaps the most valuable state "aid" of all.

LIST OF SUBSIDIES AND OTHER GOVERNMENT AIDS/INTERVENTION IN THE SPECIALTY STEEL INDUSTRY

Japan

MITI provided $5 million to a consortium of mills in 1988 to pursue an experimental smelting-reduction furnace built at Kawasaki's Chiba works. MITI is expected to pick-up the tab on roughly 70 percent of total expenditures on the project, which would amount to $60–100 million over four years. The experimental furnace would replace conventional blast furnaces for carbon steelmaking; however, most members of the consortium also produce stainless (Nippon Steel, NKK Corp., Kawasaki Steel, Sumitomo Metal Industries, Nisshin Steel and Nakayama Steel). MITT's contribution in this endeavor is more than 3 times the corresponding investment by the mills *combined*.

Korea

1992: The Trade & Industry Ministry (MTI) plans to provide $6.6 million in financial support of R&D expenditures to the iron & steel industry in 1992. In addition, the ministry will also provide "tax favors" for R&D projects to help improve the international competitiveness of Korean steel.

1991: Market research reports done for the U.S. specialty steel industry indicate that the government continues to provide favorable export financing to Sammi Steel (Korea's major specialty steel producer) for its shipments to the U.S. (Source can be provided in confidence.)

1990: MTI encouraged a consortium of mills to form the Korea New Steel Technical Research Cooperative, which is undertaking a five-year, $38 million joint R&D program. About $1 million was explicitly earmarked for developing new special steel making technology. It is uncertain how much the government is injecting into the cooperative.

In the midst of Posco's (Korea's major carbon steel producer, which also produces specialty steel) financial difficulties, it was revealed that the government is still very much involved in the timing and structure of the company's financing activities.

1989: The government was still restricting imports through licensing procedures, citing Korea's balance of payments position as justification. Since that time, Korea has continued to amass large foreign currency reserves and has become a net creditor nation.

The government has had a history of manipulating exchange rates as a policy tool for export promotion. The manipulation was achieved through currency market intervention, capital controls and other administrative mechanisms.

The American Iron and Steel Institute (AISI) has identified other state aids including preferential access to credit at preferential rates, equity infusions, infrastructure subsidies, preferential prices and terms on imported raw materials and capital goods, relatively high tariffs, export subsidies, special depreciation rates and other tax breaks.

Brazil

1991: The head of BNDES noted that prior to the privatization of Acos Finos Piratini (a stainless steel producer) the government reduced the company's debt from $92 million to $21 million. In the case of the larger privatized carbon steel mills, debt reduction was accomplished through "debt matching operations." These operations would be deemed subsidies if applied to companies which were incurring operating losses, which might be the case with Piratini. In August 1991, U.S. and Brazilian officials met to discuss apparent transfers of steel company debts to the government, as well as steel price controls and government equity infusions prior to privatization. The Brazilian officials asserted that such transactions occurred but were within the limits established when the VRAs were renewed in 1989 (i.e., the government was allowed to assume all but $6 billion in debt, which would remain the responsibility of the operating companies).

With the start of the privatization program, stainless flat-rolled producer Acesita is the only state-owned mill in which the government is still investing money. Acesita is controlled by the state bank Banco do Brasil.

1990: Unlike the flat-rolled producers, Brazilian long product producers negotiated controlled prices which were higher than prevailing international prices. As a result, exports declined, as is indicated in U.S. import statistics. Obviously, domestic prices could not have been maintained at this level without restrictions in imports.

The World Bank is providing a $400 million line of credit to BNDES, of which $300 million is targeted for modernization and technological improvements at companies following their privatization.

A private Brazilian consultant estimated that environmental clean-up costs for the Brazilian steel industry was $86 billion, as of November 1990, due to lax enforcement in the past. Given the tenuous financial condition of the country's steelmakers, these expenditures seem to be prime targets for direct or indirect subsidization.

Argentina

The Argentina National Bank is renegotiating $800 million in debt from Somisa, prior to its privatization.

Ongoing: Although the government does not control prices directly, it was reported that it attempts to keep prices low, by offering companies incentives to do so.

India

1992: Quote from a Metal Bulletin article: "Taken as a whole the public sector iron and steel industry in India is a heavily loss making enterprise." (Emphasis added). (Metal Bulletin Monthly, (MBM) January 1992).

1991: Government sanctioned the addition of a Steckel mill at Salem (a stainless steel producer) at a cost of 6 billion rupees. A second Z-mill costing 700 million rupees commissioned, doubling Salem's cold-rolled capacity.

The Steel Development Fund, was retained, and is funded via a levy on consumers. This fund accumulates resources for expansion and modernization and is charged with allocating funds to individual companies.

1990: Mukand was reportedly interested in establishing a ferro-nickel plant in Orissa. Costs are estimated at 1.5 billion rupees and scheduled for completion in 1993. Financing possibilities include joint ventures, foreign loans and money from the Orissa state government.

Steel Authority of Indian (SAIL) loses 700 rupees/tonne on pig iron it sells domestically. Since among its customers are the specialty steel industry, this would seem to constitute an upstream subsidy.

Bohler and Powmex are planning to build a powder metal plant with a capacity of 3,750 tpy of high speed steel. Cost estimated at 700 million rupees. Promoters providing 900 million rupees and Orissa (State) Industrial Promotion & Investment Corp also to provide funds.

Ongoing: Salem and Durgapur, two of India's largest stainless producers, are owned by the government through SAIL. Durgapur is reportedly the least efficient and poorest performing state-owned plant. (Jan. 1992 MBM).

The government exercised wide control over the steel industry through import licensing and price controls. Low controlled prices, as in Brazil, produced staggering losses by the Indian industry. Free market prices were often double or triple those set by the Joint Plant Committee. Largely as a result of government intervention, the Indian steel industry moved from being the cheapest world producer to one of the costliest in the 1980s.

Over the last five years, administered prices have increased rapidly to levels far higher than international prices, enabling SAIL to turn profitable (most recent reported increase=5% in 9/90). Without the performance of SAIL's Bokaro plant, however, it would not be profitable overall. The higher level of administered prices was reported to more than offset the end of government funding for investment.

South Africa

1990: South African steel exporters claim that the government cut export subsidies substantially in mid-1989 and they are currently negligible.

1991: In an apparent move to provide protection to Iscor (the largest carbon steel producer), import duties on certain "import sensitive" products were increased by 100%. The government monitors the price of imports and monitors tariffs according to whether they are above or below determined reference prices, which are based on prices prevailing in 1983 and which have not been adjusted for inflation or currency fluctuations. Critics say this reference price system is not recognized by GATT. The duty paid prices of imports are far higher than Iscor list prices, which it undersells by substantial margins in its export markets. The system effectively limits import competition to the point where it is expected to engender differential pricing by which larger domestic producers undercut the reference prices in order to pressure their smaller domestic competitors. The reference price system may also be in effect for specialty producers.

EC COUNTRIES

U.K.

Ongoing: Since its privatization, British Steel (BS) has been aggressively pursuing acquisitions:

Purchased U.S. stainless stockist TS Alloys;

Purchased U.K. stainless stockist Simpson Stainless;

Purchased Walker & Sons, U.K.'s largest independent stockist, for 330 million pounds;

Made unsuccessful bid to take over German mill Klockner.

As a result of its domestic stockholding acquisitions, British Steel controls more than 35% of the domestic market, compared to 15% prior to the acquisition.

1988: British Steel privatized, with government retaining "golden share" in order to prevent takeovers. Past subsidies noted by German mills, as well as BS' substantial cash holdings. Prior to privatization, BS added a new billet caster at Panteg works for stainless bar and rod production and ladle furnace installations at Teeside and Scunthorpe. The latter (a carbon facility) also received a new continuous caster. In addition, BS spent 30 million pounds to modernize and upgrade its stainless finishing facilities in Sheffield.

Italy

1992: British officials asked EC commission to investigate direct and indirect subsidies to Ilva, the state-owned carbon and specialty steel producer.

Government planning 650 billion lire capital injection to Ilva as final payment of its aid package. Ilva lost 400 billion lire in 1991. Includes 350 billion lire integration of financial firm Soffin into Ilva, along with a 300 billion direct injection. Ilva initially requested 1.2 trillion lire final payment and plans to raise 1 trillion through private sector and from sales of assets. The total subsidy package since Finsider's (former state-owned steel holding company) dissolution amounted to 5.2 trillion lire (2/3 paid), notwithstanding the status of the final payment. Germany initially vetoed the final payment on the grounds that it would be used to finance acquisitions rather than increase capital.

Specialty producer Falck restructuring and cutting costs, which will help fund new continuous caster at its Bolzano special steel facility. Falck is private but has a 22 percent stake in Ilva's Cogne subsidiary, which produces stainless long products.

1991: Ilva buys 30% Stake in Zanoletti Metalli, an Italian distributor of stainless and other products—60,000 tpy.

Ilva interested in privatization of Argentina's Altos Hornos Zapla mill.

1990: Ilva has earmarked $600 million through 1993 for acquisitions, joint ventures and other partnerships. Looking to expand activities in the high-value added sector of specialty steel. Government support to date reported to be $4 billion.

Finisder injected 143 billion lire into Dalmine (stainless tubing producer) in 1990 and 117 billion in 1988. The latter was determined to constitute illegal state aid by the EC Commission.

Ilva makes takeover bid for Spanish producer Acenor. Proposing to integrate w/ Bolzano-Cogne link, which would yield largest EC long products (bar, wire rod, wire) producer of stainless steel.

Ongoing: Since Finsider's dissolution, Ilva has made it a habit to delay closures to which the payment of state aid was initially linked. Moreover, Ilva continues to pursue new investments and acquisitions despite its continued reliance on government funding. Examples include interest in AHZ's privatization in Argentina, installation of new CR stainless mill at Turin, 45% stake in Falck's Bolzano plant, joint venture with Hungary Salgotarjan to establish stainless service center in Hungary and modernize Salgotarjan's CR mills.

Spain

1992: Acenor's (a stainless bar and rod producer) main shareholder, Banco Exterior de Espana, reported no longer willing to fund Acenor losses without government guarantee of firm's solvency.

EC warns Spain over subsidies to non-viable companies (carbon steel producers Ensidesa, AHV and special steel group Sidenor—holding company for Acenor and Foarsa[1]). Restructuring of Sidenor envisions closing Llodio and Hernani plants (in which 3 billion ptas have already been spent for modernization) and investing 3.2 billion ptas in Larrondo (60,00 tpy stainless long products; accounts for 30% of Acenor's overall losses), Reinosa and Vitoria. An additional 2 billion ptas are slated for "maintenance investments" in Basauri, Vitoria and Reinosa plants.

Both Larrondo and Foarsa facilities are reported to have dubious long term prospects.

1991: Costs of rehabilitating Acenor estimated at $740 million to "refloat" the company and make needed acquisitions, plus $460 million for refinancing and redundancy payments. A state-owned bank—Banco de Credito International (BCI)—is already owed 50 billion ptas and is unwilling to finance further. A regional government is expected to contribute 6 billion ptas for assistance.

1988: Acenor received 29.5 billion ptas ($254 million) to close three blooming mills. EC Commission stated that Acenor must achieve 11% operating margins in order to be deemed competitive and viable (it lost 7 billion ptas in 1988, which was higher than in both 1987 and 1988). The Spanish steel industry also received an additional 40 billion ptas ($347 million) to cover other capacity closures. These closures were in relation to Spain's entrance into the EC.

The EC Commission blocked further state aid until the Acenor companies were completely merged, citing doubts about its viability. Acenor claims to need an additional 20 billion ptas, of which the commission has approved 15 billion pending completion of the merger. The merger would give Acenor monopoly control of some specialty steel products in Spain.

France

August 1991: Eramet-SLN, a state-owned company also controlling Commentryenne, bought 85% of Sweden's Kloster Speedsteel for 800 million Skr. Kloster was the largest high-speed producer in the world. When combined with Commentryenne, it will become more than twice as large as its nearest global competitor. Speedsteel also owned Aciers de Champagnole.

July 1991: EC competition commission investigating direct or indirect transfers of public funds to Ugine, France's state-owned specialty steel producer.

Ugine suffered net loss in 1991, which the company attributed to extraordinary items, mainly closure costs. UK & German producers protesting 2.5 billion FFr ($463 million) capital injection from Credit Lyonnais (for 20% stake), alleging that it was not a reasonable and viable investment given Ugine's performance (debt = 50% of total capitalization and net loss in year). Ugine claimed that its stainless operations were profitable.

Credit Lyonnais to receive 9–10% stake directly, and additional 10% stake in exchange for giving government 3–4% additional stake in the bank. The bank is already 51% owned by the state.

State-owned carbon and specialty producer Usinor Sacilor (Ugine's parent company) has injected capital into Italian alloy steel producer Falck, becoming a significant shareholder, supplying slabs on favorable terms and discussing further joint ventures.

Ugine entered into long term nickel supply contract with state-owned SLN of France.

Ugine taking 49% stake in 6000tpy CR stainless venture Thainox in Thailand, which is expected to cost 3.1–5.0 billion baht. Ugine will supply majority of needed hot band.

SUMMARY OF UGINE ACQUISITIONS

Despite the fact that Ugine was consistently unprofitable between 1973 and 1987, it bought more than 10 companies in France, Italy, Spain and USA between 1988 and 1990. It spent more than $1 billion (7.1 billion FFr) in 1990 alone for acquisitions. It spent 2.3 billion FFr in 1989.

1991: Increased stake in Italy's Lutrix to 49% at cost of 545 million FFr. Previously gained 25% stake in 1988.

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[1] Sidenor was expected to post losses of 14 billion Ptas in 1991, requiring injection of new capital.

September: Took 100% control Aceros Inoxidables, Spain's third largest special steel distributor; had gained 42% stake in 1988.

August: increased stake in Vallourec, a stainless seamless tube maker.

November: Raised Acerinox stake from 3.1 to 5.4% for 2.2 billion Ptas and given permission to raise stake as high as 10%. Also controls special steel stockholder Coafisa in Spain.

Purchased 60% of UK's second largest stockholder (10% market share) ASD. Initially took 20% in 1990. (Already owns specialty strip stockists Hammer Steel, Altone Stainless, special steel firm James Fairley[2] and 30% stake in Howard Perry). Total UK share raised from 2.5% to 9.5%.

Aug 1991: Increased stake in Allevard subsidiary, a producer of alloy steel rounds and flats, from 72 to 78%

1991: completed takeover of Ancofer Feinstahl, a German stockholder.

Sept 1991: plans to take stake in new galvanizing line in Spain built by Sidmed.

1990: January: purchased Interstate Steel Co, a U.S. service center, for $130 million.

February: bought Techalloy, a U.S. producer of special steel bar, wire and strip (13,200 tpy).

March: bought J&L, a U.S. stainless flat-rolled producer, for 3 billion FFr.

March: short term contract to take over Cockerill's 140,00 tpy electrical sheet plant in Belgium.

April: completed takeover of U.S. stainless bar stockholder Alloy & Stainless.

Fall: set up International Specialty Tube in Chicago as US subsidiary of Le Meusienne, in association with J&L.

Bought Altone Stainless, a U.K. stainless long product stockholder.

Bought 36% stake in Paturle Aciers, a French special sheet producer.

Bought Acinoxsa, a Spanish stainless stockholder.

Purchased 20% of UK's second largest stockholder (10% market share) ASD.

1989: January: bought 30% stake in Howard Perry, a UK flat-rolled stockholder.

1st qtr: bought Nuova Sait and CP Inox, both stainless trading and distribution companies in Italy.

1st qtr: took 70% stake in Germany's Saarstahl Volklingen, now named Dillenger Hutte Saarstahl.

March: signed agreement to take 50% stake in Georgetown Steel Corp, a U.S. wire rod producer.

June: bought Tacke & Lindemann, a German steel stockholder.

Fall: took 49% stake in Alessio Tubi, an Italian producer of welded tubes.

November: bought Castelli Acciai Inossidabili, an Italian producer of tubes and part of stainless division of Castek (Castelli Inox Service), a large Italian distributor.

1988: January: 146m Ffr takeover of Le Meusienne (17,000 tpy welded stainless pipe & tube)

November: bought 42% stake in Aceros Inoxidables, Spain's third largest special steel distributor (10,000 tpy of stainless products) for 24m FFr.

November 1988: purchased 25% stake in Lutrix, a majority shareholder of Italian steel coater La Magona d'Italia (Italy's largest tinplate and galvanized sheet producer). Increased stake to 49% in 1991 at cost of 545 million FFr.

Sweden

1991: Despite stainless producer Avesta's loss the company proceeded with plans to install a new 270,000 tpy hot stainless strip facility and acknowledges that mill will run far below capacity for time being. Cost of new mill = 600 million SKr.

Finland

Outokumpu Oy is 81 percent owned by the government. It suffered net losses in 1990 and 1991, leading to further restructuring plans and further delaying any solid plans to privatize the company. It has made the following investments recently:

150m Fmk for new cut-to-length and slitting lines in the Netherlands 400m Fmk for new A/P line at its Tornio works to increase CR capacity by 100,000 tpy.

Philippines

Government offering incentives for steel-related and infrastructure projects, including financial assistance, tax concessions and tariff barriers. More specifically, companies can avail themselves of financing from the Official Development Assistance program, tax and duty exemption for capital equipment, tax credits for domestically-sourced capital equipment, tariff protection, and additional incentives available under the Omnibus Investment Code.

Taiwan

Stainless producer Tang Eng is state owned. Will double capacity by 1993 to 260,000 tpy to produce bar and rod. Included: new furnace, degassing unit, continuous billet caster and related components. Tang Eng has struggled in the mid-1980's, losing nearly NT $1 bilion between its founding in 1983 and 1985, due to strong import competition from Japan.

Government investing Krupp/Tuntex stainless project (150,000 mt/yr). First phase to cost $255 million for CR sheet facilities. Second phase involves adding additional melt capacity and continuous caster. Taiwan's quasi-governmental Investment & Development Co will invest 10% of the company's $113 million initial capital.

Evergreen Superior Alloy Corp (ESAC) spending $115 million on new melt shop and rolling facilities. The government owns a small stake in the company.

In early 1980s, government established a 50,000 tpy special steel plant to produce components for military via Taiwan Machinery and Manufacturing Corp (TMMC). TMMC lost NT $2 billion through March 1988, depleting its NT $1.5 billion initial capital.

Turkey

State producer Asil Celik to be privatized. Government-owned since 1982, due to debt insolvency, the producer's debt will have been completely repaid by the end of 1991. Most existing liabilities held by Is Bankasi and state agricultural bank. In June 1990, Asil Celik was accused of dumping special steel in the EC.

Iran

August 1990: government to allocate $200 million over next two years to build new 140,000 tpy alloy steel plant. Additional $400–500 million expected to come from export credits. Plant could be further expanded to 200,000 tpy.

Czechoslovakia

Stainless producer Poldi scheduled for privatization in 1992. Planned restructuring likely to lead to capacity cuts, although planning to install new 100-ton EF, new ladle furnace, new special steel mill and revamping continuous caster. The estimated cost of these projects is 174 million DM. Poldi has a virtual monopoly over special steels.

Hungary alleges that Czechoslovakia's steel industry receives direct export subsidies and low cost subsidized energy supplies which enable its firms to undercut domestic prices by one-third.

Poland

1992: Huta Baildon, a special steel producer, is reportedly having difficulty completing its modernization program without government guarantees of foreign credits.

East Germany

Sachsische Edelstahlwerke Freital has filed restructuring plan with the government—wants to build two new furnaces, continuous caster and revamp bar and blooming mills. Outsiders belief survival of mill may be in jeopardy if it must compete in open market. Freital produces 300,000 tpy of stainless, bearing, spring, tool and high speed steel.

Belgium

Cockerill Sambre, a state-owned producer of electrical steel as well as carbon steel, is in a dispute with the government over 500 million BFr of unpaid tax contributions from a 3% tax levy imposed beginning in 1987. The company was exempted from the levy in 1987 due to its financial difficulties. In 1988, Cockerill returned to profitability, leading the government to claim that the company must pay the levy. Cockerill is protesting the government's claim saying that although the company was profitable in 1988, its financial difficulties continued. Thus, the company claims it should be exempted for that year. Cockerill has paid the levy since 1989.

Portugal

Seeking exemption from EC ban on state aid in order to restructure its Siderurgia Nacional, as well as special bar producer Acos Tome Feteira. The former has received state aid since Portugal joined the EC in 1986, while the latter has not.

By Mr. HOLLINGS (for himself, Mr. DANFORTH, and Mr. INOUYE):

S. 333. A bill to clarify the congressional intent concerning, and to codify, certain requirements of the Communications Act of 1934 that ensure that broadcasters afford reasonable opportunity for the discussion of conflicting views on issues of public importance; to the Committee on Commerce, Science, and Transportation.

FAIRNESS IN BROADCASTING ACT OF 1993

Mr. HOLLINGS. Mr. President, I rise today to introduce the Fairness in Broadcasting Act of 1993. This legislation will reinstate the fairness doctrine as repealed by the Federal Communications Commission [FCC] in 1987. The fairness doctrine requires broadcasters to cover issues of public importance and present these issues fairly. It also requires broadcasters to provide an opportunity for opposing viewpoints when issues of public concern are presented over the public's airwaves.

I introduced similar legislation last Congress, which passed both Houses but did not become law. Since that time, the FCC has taken two actions that heighten the need for reinstatement of the fairness doctrine. First, in

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[2] In July 1990, Fairley expanded its operations to include stainless round and hollow bar, after opening a new 60,000 square foot warehouse.

KARK-TV versus Arkansas, the FCC eliminated the final applicability of the fairness doctrine as it related to coverage of ballot issues. The FCC ruled that the fairness doctrine as applied to ballot issues no longer served the public interest. This ruling is without merit or foundation. Making the airwaves available for opposing viewpoints is inherent in the public interest, especially when it comes to informing the public about issues on which they will vote.

Second, the FCC loosened the radio ownership restrictions, increasing the limits from 12 AM and 12 FM stations to 30 AM and 30 FM stations. I view this policy change with caution because our policies always have been aimed at encouraging diversity in ownership of broadcast outlets. Reinstatement of the fairness doctrine would help to minimize any impact of an increased concentration in the marketplace by ensuring an opportunity for contrasting opinions on issues of public importance.

In repealing the fairness doctrine, the FCC asserted that: First, the electromagnetic spectrum is no longer scarce; second, the increase in the number of broadcast stations and other media outlets has significantly changed the media marketplace; and third, the fairness doctrine has a chilling effect on broadcasters.

The evidence does not support the FCC's conclusions. The contention that the spectrum is no longer scarce is utterly baseless. The greatest battles at the FCC take place over spectrum, because it is in such short supply. Technology has created new demands for spectrum, and the competition for future allocations has become fierce. New technologies such as high definition television will require large allocations of spectrum while nontraditional spectrum technologies, such as cellular telephones and personal communications services, are forcing difficult choices in spectrum allocation. Without a doubt, there are far more people who desire to use the spectrum than there is spectrum available. We, therefore, must take the necessary steps to guarantee that spectrum assigned to broadcasters remains accessible for the purpose of fully informing the public.

The FCC's claims about increased competition are also not well-founded. Even though there has been a large increase in the gross number of broadcast stations, this does not necessarily indicate that competition exists, especially with an increasing concentration of ownership in radio. In fact, many communities still are served by only a single radio licensee—or AM/FM combination.

The FCC also argues that new video services create competition to broadcast entities and provide the alternative outlets for open discussion of public issues. New video services do not create sufficient competition to negate the need for the fairness doctrine. The vast majority of new video services merely retransmits other broadcast stations or, in the case of cable, provides minimal local programming on a regular basis. Of course, some cable systems have a local access channel; however, those channels, where they exist, represent only one new voice on local issues. Under the FCC's interpretation of the fairness doctrine and under this bill, the fairness doctrine would apply to locally originated programming on cable systems as well as broadcast stations. However, since the new video services do not originate any local programming, they cannot be considered new voices on local issues. The fairness doctrine was designed to give members of the local community a greater opportunity to present opposing viewpoints on issues of concern to that community.

Finally, the FCC's contention that the fairness doctrine has a chilling effect on broadcasters' speech is equally meritless. Many overlook the fact that the fairness doctrine imposes an obligation on broadcast licensees to air matters of public importance in addition to requiring broadcasters to air an opposing viewpoint when only one side of an issue is presented. The repeal of the fairness doctrine has not resulted in more coverage of controversial issues—in fact, there has been more emphasis on entertainment programming to increase profitability.

Furthermore, the FCC's argument that the fairness doctrine has a chilling effect ignores the role the fairness doctrine can play in protecting the public's first amendment right to present opposing viewpoints on controversial issues. The fairness doctrine permitted those who do not own broadcast stations to participate in important public debates. For the American people, the fairness doctrine was crucial in protecting their right to free speech, a position taken by the Supreme Court in Red Lion Broadcasting Co. versus FCC. It was the only vehicle through which members of the public could respond effectively to one-sided presentations of controversial issues by station owners. Of course, now, without the fairness doctrine, they can still get air-time but only if they can afford to purchase it and the station is willing to sell it to them, or if they can get on alternative media—if any exists—that genuinely reaches a significant audience. Clearly, the fairness doctrine enhanced speech and furthered first amendment rights.

The laws governing broadcasters and their obligations in using the public airwaves are rooted in a standard of public interest, convenience and necessity. As a public trustee of the airwaves, broadcasters have an obligation to recognize the substantial governmental interest in having an informed public. I continue to believe these policies must be based on a public trustee model to protect the public's right to use and have access to the public airwaves. We must restore our commitment to these principles. Simply put, without the fairness doctrine, broadcasters are not as accountable to their obligations as public trustees.

In conclusion, I urge my colleagues to support this important legislation to reinstate the fairness doctrine. This legislation is critical if the principle that broadcasters are licensed to serve the public is to have any meaning.

I ask unanimous consent that the entire text of the bill be included in the RECORD at the end of my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 333

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fairness in Broadcasting Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) despite technological advances, the electromagnetic spectrum remains a scarce and valuable public resource;

(2) there are still substantially more people who want to broadcast than there are frequencies to allocate;

(3) a broadcast license confers the right to use a valuable public resource and a broadcaster is therefore required to utilize that resource as a trustee for the American people;

(4) there is a substantial governmental interest in conditioning the award or renewal of a broadcast license on the requirement that the licensee ensure the widest possible dissemination of information from diverse and antagonistic sources by presenting a reasonable opportunity for the discussion of conflicting views on issues of public importance;

(5) while new video and audio services have been proposed and introduced, many have not succeeded, and even those that are operating reach a far smaller audience than broadcast stations;

(6) even when and where new video and audio services are available, they do not provide meaningful alternatives to broadcast stations for the dissemination of news and public affairs;

(7) for more than 30 years, the Fairness Doctrine and its corollaries, as developed by the Federal Communications Commission on the basis of the provisions of the Communications Act of 1934, have enhanced free speech by securing the paramount right of the broadcast audience to robust debate on issues of public importance;

(8) because the Fairness Doctrine only requires more speech, it has no chilling effect on broadcasters; and

(9) the Fairness Doctrine (A) fairly reflects the statutory obligations of broadcasters under that Act to operate in the public interest, (B) was given statutory approval by the Congress in making certain amendments to that Act in 1959, and (C) strikes a reasonable balance among the First Amendment rights of the public, broadcast licensees, and speakers other than owners of broadcast facilities.

SEC. 3. AMENDMENT TO THE COMMUNICATIONS ACT OF 1934.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) by redesignating subsections (a) through (d) as subsections (b) through (e), respectively; and

(2) by inserting before subsection (b) the following new subsection:

"(a)(1) A broadcast licensee shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

"(2) The enforcement and application of the requirement imposed by this subsection shall be consistent with the rules and policies of the Commission in effect on January 1, 1987. Such rules and policies shall not be construed to authorize the application of any criminal sanction pursuant to section 501 of this Act.".

Mr. DANFORTH. Mr. President, I am pleased to cosponsor the Fairness in Broadcasting Act of 1993 with Senators HOLLINGS and INOUYE. This bill codifies the fairness doctrine, a policy that requires broadcasters to cover controversial issues of public importance, and present differing viewpoints.

In my view, the fairness doctrine strikes a careful balance between protecting the first amendment rights of broadcasters and the first amendment rights of the public. The Supreme Court has already upheld the fairness doctrine in the face of a constitutional challenge. In the Red Lion case, the Supreme Court held that the broadcasters' rights are outweighed by the public's first amendment right to know.

Broadcast is a medium unlike any other form of communication. It reaches nearly the entire population of this country. The power of broadcasters and cable operators to influence, educate, and inform the public is unrivaled. Broadcasters have, in the words of the Supreme Court in the Pacifica case, "established a uniquely pervasive presence in the lives of all Americans."

When broadcasters are given a license to use a portion of the spectrum, a scarce and valuable resource, they are also granted a public trusteeship. That trusteeship should include a requirement that broadcasters act fairly and present both sides. That is a reasonable obligation because there are more voices—more who wish to speak—than broadcast outlets.

In 1987, the FCC repealed the fairness doctrine, a policy that it had enforced since at least 1949. In my opinion, there is little question about the need to enact the Fairness in Broadcasting Act quickly.

Mr. INOUYE. Mr. President, I rise today as a cosponsor of the Fairness in Broadcasting Act of 1993. This legislation will reinstate the fairness doctrine, a principle that served as the public interest cornerstone in broadcasting for over 40 years. It represents a specific application of the public trustee concept that enhances speech and furthers the goals of the first amendment. The fairness doctrine is a reasonable condition placed on broadcast licensees for the use of a valuable public resource, the electromagnetic spectrum.

As my distinguished colleagues are aware, the fairness doctrine requires broadcasters to afford citizens reasonable opportunities to hear and discuss issues of public importance. It requires broadcasters to, first, cover issues of public importance and, second, fairly reflect differing viewpoints on those issues. The fairness doctrine does not require that broadcasters provide every side of an issue with exactly the same amount of time in the same time period. Instead, broadcasters simply have to ensure that their programming taken as a whole presents issues of public importance and does so in a balanced fashion. Thus, in the real world, if a licensee aired only one side of a controversial issue, he has to permit, if requested, members of the public a reasonable opportunity to present an opposing viewpoint.

Mr. President, we are here today because the U.S. Court of Appeals ruled in 1986 in the Trac case that Congress had never actually codified the fairness doctrine and because the FCC subsequently repealed the doctrine. The time has thus come to make the fairness doctrine an explicit part of our Nation's communications law.

Some have suggested that the fairness doctrine violates the first amendment and chills free speech. Nothing could be further from the truth. Seventeen years ago, the Supreme Court unanimously upheld the fairness doctrine against first amendment challenge in Red Lion Broadcasting Co. versus FCC. The Court held that in the context of broadcasting, the rights of the viewing public to hear contrasting viewpoints on issues of public importance, not the rights of broadcasters, are paramount, and that the fairness doctrine is both a permissible and effective means of vindicating those rights. The continuing problem is that far more people are willing and able to engage in broadcasting than can possibly be accommodated by the limited spectrum available. Therefore, with no genuine alternatives to broadcasting for the discussion of issues of public importance justifies a regulatory scheme that requires licensees to serve as trustees and obligates them to present the views of those who are excluded from the airways. Since Red Lion, the Supreme Court has consistently reaffirmed the scarcity and public trustee rationale, while upholding regulation of broadcasters against first amendment attack.

The argument that the spectrum is no longer scarce is without any merit and is flatly contradicted by the widespread support for legislation I introduced last Congress and am introducing again today to free up more spectrum for commercial use. The spectrum scarcity problem has become so intense that there is simply no more room to accommodate new technologies, for common carrier or broadcast purposes. Even the FCC has recognized the problem of spectrum scarcity. In testifying in support of the need to find more spectrum for new technologies, then FCC Chairman Alfred Sikes stated that "radio-based innovations * * * are being slowed by an absence of available spectrum."

Supporters of the fairness doctrine accept that it may impose a mild burden on licensees. However, we believe that the burden is both necessary and minimal. While the Communications Act limits the rights of the viewers and listeners by excluding speakers from the airwaves, it mitigates this damage by enhancing speech through the fairness doctrine.

Past decisions of the Commission and the courts have carefully circumscribed the scope of the doctrine in order to minimize intrusion into the editorial discretion of broadcasters. For example, in determining whether there had been a violation of the fairness doctrine, the FCC did not monitor broadcasts. The Commission only acted if it, first, received a complaint and second, determined that the complaint presented prima facie evidence of a violation. Only a tiny portion of complaints result in any FCC action.

Thus, the doctrine can only chill broadcasters' speech when they are unwilling to air both sides of an issue. In fact, broadcasters need only fear the consequences of presenting a single side of an issue in their overall programming. A broadcaster who acts according to the standards of his or her profession, on the other hand, has nothing to fear from the fairness doctrine, since it is only applied in most egregious cases of imbalance. The chill argument is thus an attempt to clothe the first amendment language in an economically motivated refusal to fulfill the commitments they gave in return for the free grant of a valuable public resource.

Mr. President, the public interest standard ordained by Congress for broadcasting means that licensees are public trustees with unique public responsibilities. As Judge Burger stated in the 1966 United Church of Christ decision: "The Fairness Doctrine plays a very large role in assuring the public resource granted to licensees at no cost will be used in the public interest." The point is fundamental: without the fairness doctrine, there is nothing to prevent a broadcaster from grossly abusing the public trust embodied in a broadcast license. If the legal requirement that the Commission grant licensees in the public interest cannot prevent such use of a broadcast facility, the public interest concept means nothing at all.

Mr. President, the fairness doctrine is sound public policy. The time is long overdue for Congress to codify the fairness doctrine. I urge my colleagues to support this bipartisan effort.

By Mr. HOLLINGS (for himself, Mr. DANFORTH, and Mr. INOUYE):

S. 334. A bill to amend the Communications Act of 1934 regarding the broadcasting of certain material regarding candidates for Federal elective office, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE CLEAN CAMPAIGN ACT OF 1993

Mr. HOLLINGS. Mr. President, today I am introducing legislation that furthers the intent and improves the effectiveness of the political broadcasting laws. The Clean Campaign Act of 1993 seeks to ensure greater balance and accountability in political campaigns. This legislation is identical to S. 522, which I introduced last Congress and which was approved without objection by the Commerce Committee. I believe that in light of the problems that have arisen in recent political campaigns, this legislation is essential.

The Clean Campaign Act addresses two specific problems that arise in the use of broadcast stations for political campaigns. The first problem involves the use of broadcast time to attack opponents. While such attacks are not new, with the advent of sophisticated uses of electronic media, such attacks are becoming more and more insidious and are contributing less and less to the debate about candidates' qualifications for office. We all have seen and heard on the broadcast media just about every form of animal and every type of hired performer make incorrect or misleading remarks about a candidate's opponent. What's more, the very nature of the broadcast media makes these attacks difficult, if not impossible, to rebut, especially if they occur late in a campaign. Everyone who has run for office knows that rebuttals take plenty of time and are very expensive.

I know full well that we cannot limit—nor would be want to limit—a candidate's discussion of an opponent's character, record, and other qualifications to hold office. This is a fundamental part of political campaigns. On the other hand, the objective of this activity is to inform the voter so that an educated choice can be made. The voter deserves a clear and direct discussion. This discussion should not occur through surrogates who have no real responsibility. It is for these reasons that I am proposing that if a candidate wants to discuss an opponent in a broadcast advertisement, that candidate should do so in person. In this way, candidates can discuss whatever they wish about their opponents while being more responsible for what they say.

The second problem involves the use of PAC money to air advertisements on broadcast stations. We all have seen how PAC's can damage seriously the balance in a campaign through the expenditure of enormous amounts of money. In effect, a candidate budgets to fight one well-financed opponent but then ends up fighting many.

While the existing political broadcasting laws give a candidate equal opportunities vis-a-vis an opposing candidate, the laws offer far fewer protections when it comes to PAC's—and even these protections will evaporate if the FCC has its way. The current requirements for lowest unit advertising rates, or free response time, or just the ability to respond promptly do not apply with PAC's. In addition, when a candidate responds to a PAC, the candidate then triggers the equal opportunities provision of the law. In the end, the candidate finds he keeps making one statement for two or more on the other side. How can the candidate hope to compete fairly? To cure this problem, my legislation again takes a straightforward approach, which in no way limits the ability of PAC's to advertise: If a broadcaster airs PAC advertisements, the broadcaster then must give the candidate who is opposed or otherwise not supported in those ads free response time within a reasonable period.

In conclusion, the approach taken in this legislation is reasonable and infringes on no person's free speech rights. It will improve the accountability of candidates and the balance in campaigns. In the end, the public will benefit by having the best information possible on which to make an intelligent choice. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 334

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Clean Campaign Act of 1993".

SEC. 2.(a) Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) by redesignating subsection (b), (c), and (d) as subsections (d), (e), and (f), respectively; and

(2) by inserting immediately after subsection (a) the following new subsections:

"(b)(1) If any legally qualified candidate for any Federal elective office (or an authorized committee of any such candidate) who utilizes rights of access and conditions of access under the provisions of this Act uses a broadcasting station to refer, directly or indirectly, to another legally qualified candidate for that office, such reference shall be made in person by such legally qualified candidate.

"(2) If any licensee permits a broadcasting station to be used in a manner not in accordance with the requirements of paragraph (1) of this subsection, such licensee shall provide, within a reasonable period of time, to the candidate to whom reference was made the opportunity to use, without charge, the same amount of time on such broadcasting station, during the same period of the day, as was used by the legally qualified candidate (or by an authorized committee of such legally qualified candidate).

"(c)(1) If any licensee permits a person to use a broadcasting station to broadcast political advertising material which either endorses a legally qualified candidate for any Federal elective office or opposes a legally qualified candidate for that office, such licensee, shall, within a reasonable period of time, provide to any legally qualified candidate opposing the candidate endorsed (or to an authorized committee of such legally qualified candidate), or to any legally qualified candidate who was so opposed (or to an authorized committee of such legally qualified candidate), the opportunity to use, without charge, the same amount of time on such broadcasting station, during the same period of the day, as was used by such person.

"(2) For purposes of this subsection, the term 'person' includes an individual, partnership, committee, association, corporation, or any other organization or group of persons, but such term does not include a legally qualified candidate for any Federal elective office or an authorized committee of any such candidate.".

(b) Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended by striking "section" and inserting in lieu thereof "subsection".

(c) Section 315(e) of the Communications Act of 1934, as so redesignated by subsection (a) of this section, is amended—

(1) by redesignating paragraphs (1) and (2) a paragraphs (2) and (3), respectively; and

(2) by inserting immediately after "section—" the following new paragraph:

"(1) the term 'authorized committee' means, with respect to any candidate for nomination for election, or election, to any Federal elective office, any committee, club, association, or other group of persons which receives contributions or make expenditures during a calendar year in an aggregate amount exceeding $1,000 and which is authorized by such candidate to accept contributions or make expenditures on behalf of such candidate to further the nomination or election of such candidate;".

SEC. 3. If any provision of this Act or the application of it to any person or circumstance is held invalid, the remainder of this Act and the application of the provision to any other person or circumstance shall not be affected by such invalidation.

Mr. INOUYE. Mr. President, I rise today to support the Clean Campaign Act of 1993. I know that many people, both in the Congress and around the country, have been concerned about the tone of campaigns for political office. There is a strongly held view that campaign commercials are slick, superficial, and often misleading. As a result, the voter does not obtain the information necessary to reach an intelligent decision and cares little for the outcome. The low voter turnout of the past few elections lends credence to this belief.

In addition to the problem of uninformative, negative campaign commercials, a problem exists when individuals and groups unaffiliated with a candidate intervene in campaigns. These groups are often unidentifiable and well-funded. These groups have become very effective by intervening in close races late in the campaign, spending virtually all of their money airing, again and again, one or two negative broadcast advertisements.

Candidates typically raise enough money to fight one opponent, and often, toward the end of a campaign, money is short. In addition, it is very difficult to respond to advertisements made in the last week of a campaign. Thus, independent players take advantage of all of these factors and throw a campaign out of balance: A candidate now has not one, but two, potent forces to battle.

Congress has been trying for some time to deal with concerns about political campaigns. While the omnibus campaign legislation is dealt with in other committees, the Commerce Committee has jurisdiction over a vital element: the use of broadcasting stations and certain other commercial media. As we all well know, the largest percentage of campaign funds are spent on media.

The Clean Campaign Act seeks to increase accountability and balance in campaigns for Federal office by first, requiring a candidate, when discussing an opponent, to appear personally in broadcast advertisements, and second, providing a candidate with free broadcast time to respond to an advertisement opposing him sponsored by an independent party.

I believe that this legislation represents an important step in addressing the issues facing campaigns today. I urge my colleagues to support this legislation.

Mr. DANFORTH. Mr. President, today I join my colleagues, Senators HOLLINGS and INOUYE, in introducing the Clean Campaign Act of 1993. This bill does two things to improve political campaign advertising and debate in this country.

First, the bill amends the Communications Act of 1934 to require Federal candidates who refer to their opponents in broadcast or cable ads to make those references in person. If an ad is broadcast in which a candidate refers to his opponent, but does not do so in person, his opponent receives free response time. This provision does not prevent negative advertising, but its intent is to discourage negative ads. It is designed to increase accountability. If a candidate wishes to cast aspersions on his opponent's character, the public should be able to see the candidate do so personally.

Second, this legislation addresses independent political ads placed by political action committees or other third parties. The bill provides that, if a third party runs an ad opposing a Federal candidate, that candidate will get free response time. If a third party airs an ad endorsing a Federal candidate, the opponents of that candidate get free response time. This bill does not eliminate or restrict ads by third parties. It does attempt to restore balance to a campaign in which independent ads are aired. This provision will give candidates some ability to respond to messages that otherwise might be unanswerable.

The goal of this bill is to address perhaps the most troubling aspect of current American politics: the negativism of political campaigns. The use of the electronic media and the development of the independent political ad have exacerbated the problem of negative campaigns. This bill does not prohibit negative campaigns. But it does allow the public to hold accountable the candidate who runs such a campaign. Senator HOLLINGS and I have introduced this bill three times before. I think the time is right to move this legislation.

By Mr. INOUYE (for himself, Mr. STEVENS, Mr. DANFORTH, Mr. KERRY, and Mr. BURNS):

S. 335. A bill to require the Secretary of Commerce to make additional frequencies available for commercial assignment in order to promote the development and use of new telecommunications technologies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE EMERGING TELECOMMUNICATIONS TECHNOLOGIES ACT OF 1993

Mr. INOUYE. Mr. President, I rise today to join with Senator STEVENS in introducing the Emerging Telecommunications Technologies Act of 1993. This legislation is essential to the promotion of the U.S. telecommunications infrastructure. It is my hope that this legislation can be passed quickly this year.

This bill will transfer 200 megahertz of spectrum from the control of the Federal Government to the Federal Communications Commission [FCC] to make available for new technologies. The bill requires the National Telecommunications and Information Administration [NTIA] to consult with the Department of Defense, other Government users, and the private sector to determine which frequencies are most suitable to be transferred.

This bill is a slightly revised version of the bill I introduced last year, S. 218. Senator STEVENS and I have incorporated some changes to accommodate concerns of the amateur radio industry. I am happy to include these changes in order to protect the rights of amateur radio users to their spectrum.

The other major difference with last year's bill is the addition of language that would permit FCC to conduct a test of spectrum auctions. I have worked closely with Senator STEVENS to draft this provision in a way that will protect the public's interest in and ownership of the spectrum. Although spectrum auctions have been controversial in the past, I believe it is time to consider using auctions to speed up the process of issuing communications licenses. Let me also say, however, that I will continue to work with interested parties on this bill to work out any remaining problems they may have.

REALLOCATION OF 200 MEGAHERTZ

This legislation is enormously important to the future of U.S. economic development. The Chairman of the Federal Communications Commission has testified that, "the availability of spectrum also has a direct bearing on the performance and global competitiveness of one of our major, and fastest growing, manufacturing industries, industrial and commercial electronics."

Wireless communications are becoming essential to a fast-paced, on-the-move society. Businessmen and women often need to have a fax, phone, and computer available to them wherever they may be in order to respond to marketplace developments. Wireless communications also benefit residential customers, the elderly, rural citizens, and others for whom a stationary, wired link to the telephone network is either costly or unworkable. For instance, some handicapped persons find it difficult to get to a telephone and instead prefer to carry a portable telephone with them. In rural areas, wireless communications links may be the cheapest way to provide service.

The problem is that today there is not enough spectrum to make available for these new technologies. Three years ago, Businessweek magazine ran a cover story entitled, "Airwave Wars: The Communications Spectrum Is Too Crowded. So How Do We Make Room For All Those New Technologies?". According to the FCC, various applicants have already placed requests for 600 megahertz of spectrum to be allocated for new technologies.

Almost all observers agree that the Federal Government does not make full use of a substantial number of frequencies. Of course, some of these frequencies must remain clear for defense, emergency and public safety purposes. This bill in no way seeks to downgrade the importance of these essential services. Other frequencies, however, are not used for emergency services and could be used more efficiently by the commercial sector.

By transferring 200 MHZ to the FCC for new technologies, this bill attempts to address some of this demand for spectrum. The bill leaves to the Commission the important question of deciding how these new frequencies will be allocated and assigned. This bill expresses no opinion on which particular members of the public should be awarded the right to operate over these new frequencies or which particular uses should be made of new frequencies. We have deliberately avoided making any decisions concerning these matters. These decisions are precisely the kind of decisions that the FCC was created to make. I would only like to remind the Commission of the importance of recognizing the need to promote the participation of minorities and women in awarding the rights to operate over these new frequencies.

Finally, the bill recognizes that these new technologies can be made available for public safety services as well as new technologies. Any spectrum uses currently administered by the FCC will be eligible for these frequencies.

SPECTRUM AUCTIONS

The spectrum action provisions of this bill are nearly identical to the provisions that were contained in a staff draft released last summer. A few changes have been made based on comments submitted by the public. In particular, changes have been made to accommodate some of the concerns of the small telephone companies.

The Communications Act originally authorized the FCC to choose among competing applicants by means of a comparative hearing. This process requires the FCC staff to review the qualifications of each candidate for a license to determine who will best serve the public interest.

The comparative hearing process, however, often takes years to complete and has brought about undue delay in the provision of service. As a result, the Congress in 1981 authorized the Commission to employ a process of random selection, or lotteries, as an alternate method of choosing among competing applicants. The FCC used the lottery process to award about one-half of the cellular telephone licenses and has used lotteries for other services as well.

The lottery process has had its own problems, however. The FCC has been unable to distinguish between those applicants who sincerely intended to offer service and those who simply wished to speculate in the license for profit. Many of the winners of the cellular lottery, for instance, quickly sold their licenses soon after winning them.

Some analysts believe that the only solution to these problems is to auction licenses to the highest bidder. They believe that this will promote economic efficiency, reduce the administrative burden of issuing licenses, and allow the Government to receive significant revenues from the use of this public asset.

Others believe that auctions would violate the notion that the airwaves are owned by the public and should be regulated for its benefit. They believe that the FCC should repair the comparative hearing and lottery processes instead of selling spectrum rights to the rich.

I believe that it is time to give the concept of spectrum auctions a trial. Senator STEVENS and I have thus crafted a compromise auction amendment that attempts to employ auctions as a way of distributing licenses without weakening any of the public interest obligations of radio licensees. This proposal does not, however, allow auctions to be used to allocate frequencies among different service categories. Frequency allocation decisions must continue to be made by the FCC, not by the private marketplace. But this amendment would allow the FCC to use auctions to assign licenses to particular users.

I believe that the changes that have been made in this bill over the past two Congresses have ameliorated the concerns of both the U.S. Government users and the private sector. I am particularly pleased that the Department of Defense decided not to oppose this legislation as a result of the changes made in this bill. I am also pleased to be able to work together with chairmen DINGELL and MARKEY of the House of Representatives, who have also taken an active interest in making spectrum available for new technologies.

I would like to express my appreciation to all the representatives of the Department of Defense, the administration and the private sector. These parties have demonstrated a great deal of cooperation and have made honest efforts to work together in shaping this bill. The opening of additional radio frequency spectrum for new, emerging technologies will benefit all Americans and is fast becoming a necessary priority if this Nation is to remain competitive with its economic competitors.

I ask unanimous consent that the full text of the bill be printed in the RECORD as introduced.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 335

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emerging Telecommunications Technologies Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Federal Government currently reserves for its own use, or has priority of access to, approximately 40 percent of the electromagnetic spectrum that is assigned for use pursuant to the Communications Act of 1934;

(2) Many of such frequencies are underutilized by Federal Government licensees;

(3) the public interest requires that many of such frequencies by utilized more efficiently by Federal Government and non-Federal licensees;

(4) additional frequencies are assigned for services that could be obtained more efficiently from commercial carriers or other vendors;

(5) scarcity of assignable frequencies for licensing by the Commission can and will—

(A) impede the development and commercialization of new telecommunications products and services;

(B) limit the capacity and efficiency of the telecommunications systems in the United States;

(C) prevent some State and local police, fire, and emergency services from obtaining urgently needed radio channels; and

(D) adversely affect the productive capacity and international competitiveness of the United States economy;

(6) a reassignment of these frequencies can produce significant economic returns;

(7) a reassignment of Federal Government frequencies can be accomplished without adverse impact on amateur radio incenses that currently share allocations with Federal Government stations;

(8) current spectrum assignment procedures—comparative hearings and lotteries—can be expensive and time consuming, can strain the limited resources of the Federal Communications Commission, and can result in an inefficient distribution of spectrum and an unjustified windfall to speculators;

(9) competitive bidding could reduce the cost in time and money—and increase the efficiency—of the spectrum assignment process for certain radio services, discourage speculative applications, encourage the efficient use of spectrum by licensees, and fairly compensate United States taxpayers for use of a scarce public natural resource;

(10) competitive bidding should be structured to—

(A) facilitate introduction of new spectrum based technologies and services and entry of new companies into the telecommunications market;

(B) recognize the legitimate needs of rural telephone companies in providing spectrum-based, common carrier services in rural markets in which they provide telephone exchange service by wire;

(C) give appropriate consideration to small businesses that want to participate in the competitive bidding process;

(D) recognize the need to make reasonably priced mobile communications services available to businesses in rural areas; and

(E) otherwise further the public interest;

(11) competitive bidding should apply only to the granting of new spectrum licenses and should not—

(A) disrupt the operations of existing spectrum licensees;

(B) alter existing spectrum allocation procedures;

(C) apply to certain services governed by public interest regulation;

(D) diminish the existing authority of the Federal Communications Commission to regulate or reclaim spectrum licenses; or

(E) grant any right to a spectrum licensee different from the rights awarded to licensees who obtain their license through assignment methods other than competitive bidding;

(12) in appropriating revenues received from competitive bidding, priority should be given to—

(A) funding spectrum management, planning, monitoring, and enforcement and other activities of the Federal Communications Commission, the National Telecommunications and Information Administration, and other Federal agencies aimed at increasing the efficiency and effectiveness of spectrum use, facilitating the introduction of new spectrum-based technologies and services, and enhancing the international competitiveness of the United States and the ability of American companies to enter new markets; and

(B) extending the reach of public radio and television to underserved areas of the United States and underserved groups of Americans; and

(13) the Secretary of Commerce, the President, and the Federal Communications Commission should be directed to take appropriate steps to correct these deficiencies.

SEC. 3. NATIONAL SPECTRUM PLANNING.

(a) Planning Activities.—The Assistant Secretary of Commerce for Communications and Information and the Chairman of the Commission shall meet, at least biannually, to conduct joint spectrum planning with respect to the following issues:

(1) the future spectrum requirements for public and private uses, including State and local government public safety agencies;

(2) the spectrum allocation actions necessary to accommodate those uses; and

(3) actions necessary to promote the efficient use of the spectrum, including spectrum management techniques to promote increased shared use of the spectrum that does not cause harmful interference, as a means of increasing commercial access.

(b) Reports.—The Assistant Secretary of Commerce for Communications and Information and the Chairman of the Commission shall submit a joint annual report to the Committee on Energy and Commerce of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Secretary, and the Commission on the joint spectrum planning activities conducted under subsection (a) and recommendations for action developed pursuant to such activities. The first annual report submitted after the date of the report by the advisory committee under section 4(d)(4) shall include an analysis of and response to that committee report.

SEC. 4. RECOMMENDATIONS FOR REALLOCATION OF CERTAIN FREQUENCIES.

(a) Identification Required.—For purposes of reallocation, the Secretary shall identify frequencies that—

(1) are allocated on a primary basis for Federal Government use;

(2) are not required for the present or identifiable future needs of the Federal Government;

(3) can feasibly be made available, as of the date of such identification or at any time during the next 15 years, for use under the Act (other than for Federal Government stations under section 305 thereof) without resulting in costs to the Federal Government, or loss of services or benefits to the public, that are excessive in relation to the benefits that may be obtained by non-Federal licensees; and

(4) are most likely to have the greatest potential for productive uses and public benefits under the Act if allocated for commercial uses.

(b) Minimum Amount of Spectrum Recommended.—

(1) Overall recommendation.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation, for use other than by Federal Government stations under section 305 of the Act (47 U.S.C. 305), at least 200 megahertz of frequencies identified under subsection (a) that are located below 5 gigahertz. At least one-half of such frequencies shall be located below 3 gigahertz.

(2) Mixed uses permitted to be counted.—Among the frequencies recommended under this section for allocation, the Secretary may include frequencies and frequency bands that are to be partially retained for use by Federal Government stations but that are also recommended to be reallocated under the Act for use by non-Federal stations, except that—

(A) such mixed-use frequencies and frequency bands may not count toward more than one-half of the 200 megahertz minimum required by paragraph (1);

(B) such mixed-use frequencies and frequency bands may not be so counted unless the assignments of the frequencies to Federal Government stations under section 305 of the Act (47 U.S.C. 305) are limited by geographic area, by time, or by other means so as to guarantee that the potential use to be made by such Federal Government stations is substantially less (as measured by geographic area, time, or otherwise) than the potential use to be made by non-Federal stations; and

(C) such operational sharing shall be subject to coordination procedures that the Commission shall establish and implement to ensure against harmful interference.

(c) Consideration of Criteria for Identification.—

(1) Needs of the federal government.—In determining whether a frequency meets the criteria specified in subsection (a)(2), the Secretary shall—

(A) consider whether the frequency is used to provide a communications service that is or could be available from a commercial carrier or other vendor;

(B) seek to promote—

(i) the maximum practicable reliance on commercially available substitutes;

(ii) the sharing of frequencies (as permitted under subsection (b)(2));

(iii) the development and use of new communications technologies; and

(iv) the use of nonradiating communications systems where practicable; and

(C) seek to avoid—

(i) serious degradation of Federal Government services and operations;

(ii) excessive costs to the Federal Government and users of Federal Government services; and

(iii) excessive disruption of existing use of Federal Government frequencies by amateur radio licensees.

(2) Feasibility of use.—In determining whether a frequency meets the criteria specified in subsection (a)(3), the Secretary shall—

(A) assume that the frequency will be assigned by the Commission under section 303 of the Act (47 U.S.C. 303) over the course of not less than 15 years;

(B) assume reasonable rates of scientific progress and growth of demand for telecommunications services;

(C) determine the extent to which the reallocation or reassignment will relieve actual or potential scarcity of frequencies available for licensing by the Commission for non-Federal use;

(D) seek to include frequencies which can be used to stimulate the development of new technologies; and

(E) consider the immediate and recurring costs to reestablish services displaced by the reallocation of spectrum.

(3) Commercial use.—In determining whether a frequency meets the criteria specified in subsection (a)(4), the Secretary shall consider—

(A) the extent to which equipment is available that is capable of utilizing the band;

(B) the proximity of frequencies that are already assigned for commercial or other non-Federal use;

(C) the extent to which commercial users can share the frequency with amateur radio licensees; and

(D) the activities of foreign governments in making frequencies available for experimentation or commercial assignments in order to support their domestic manufacturers of equipment.

(4) Other uses.—

(A) Applicability of criteria.—The criteria specified by subsection (a) shall be deemed not to be met for any purpose under this Act with regard to any frequency assignment to, or any frequency assignment used by, a Federal power agency for the purpose of withdrawing that assignment.

(B) Mixed use eligibility.—The frequencies assigned to any Federal power agency may only be eligible for mixed use under subsection (b)(2) in geographically separate areas, but in those cases where a frequency is to be shared by an affected Federal power agency and a non-Federal user, such use by the non-Federal user shall not cause harmful interference to the affected Federal power agency or adversely affect the reliability of its power system.

(C) Definition.—As used in this paragraph, the term "Federal power agency" means the Tennessee Valley Authority, the Bonneville Power Administration, the Western Area Power Administration, or the Southwestern Power Administration.

(d) Procedure for Identification of Reallocable Bands of Frequencies.—

(1) Submission of reports to the President and congress.—

(A) Report identifying 30 megahertz for immediate reallocation.—Within 6 months after the date of enactment of this Act, the Secretary shall prepare and submit to the President and the Congress a report that recommends for immediate reallocation 30 megahertz of frequencies identified under subsection (a). None of the frequencies covered by such report may be allocated for mixed use as described in subsection (b)(2). Not less than one-half of such frequencies shall be located below 3 gigahertz.

(B) Preliminary report on other reallocable frequencies.—Within 12 months after the date of enactment of this Act, the Secretary shall prepare and submit to the President and the Congress a preliminary report that recommends for reallocation at least 170 megahertz of frequencies identified under subsection (a), other than those recommended for immediate reallocation under subparagraph (A).

(C) Final report on other reallocable frequencies.—Within 24 months after the date of enactment of this Act, the Secretary shall prepare and submit to the President and the Congress a final report that recommends the reallocation of at least 170 megahertz of frequencies as described in subparagraph (B). Not less than one-half of such frequencies shall be located below 3 gigahertz.

(D) Limitation on reallocation.—None of the frequencies recommended for reallocation in the reports required by this paragraph shall have been recommended, prior to the date of enactment of this Act, for reallocation to non-Federal use by international agreement.

(2) Convening of advisory committee.—Not later than the date the Secretary submits the report required by paragraph (1)(B), the Secretary shall convene an advisory committee to—

(A) review the frequencies identified in such report;

(B) advise the Secretary with respect to (i) the frequencies which should be included in the final report required by paragraph (1)(C), and (ii) the effective dates which should be established under subsection (e) with respect to such frequencies;

(C) receive public comment on the Secretary's report and on the final report; and

(D) prepare and submit the report required by paragraph (4).

The advisory committee shall meet at least monthly until each of the actions required by section 5(a) have taken place.

(3) COMPOSITION OF COMMITTEE; CHAIRMAN—The advisory committee shall include—

(A) The Chairman of the Commission and the Assistant Secretary of Commerce for Communications and Information, and one other representative of the Federal Government as designated by the Secretary; and

(B) representatives of—

(i) United States manufacturers of spectrum-dependent telecommunications equipment;

(ii) commercial carriers;

(iii) others users of the electromagnetic spectrum, including radio and television broadcast licensees, State and local public safety agencies, amateur radio licensees, and the aviation industry; and

(iv) other interested members of the public who are knowledgeable about the uses of the electromagnetic spectrum.

A majority of the members of the committee shall be members described in subparagraph (b), and one of such members shall be designated as chairman by the Secretary.

(4) RECOMMENDATIONS ON SPECTRUM ALLOCATION PROCEDURES.—The advisory committee shall, not later than 36 months after the date of enactment of this Act, submit to the Secretary, the Commission, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate a report containing such recommendations as the advisory committee considers appropriate for the reform of the process of allocating the electromagnetic spectrum between Federal and non-Federal use, and any dissenting views thereon.

(e) TIMETABLE FOR REALLOCATION AND LIMITATION.—The Secretary shall, as part of the reports required by subparagraphs (B) and (C) of subsection (d)(1), include a timetable that recommends dates by which the President shall withdraw or limit assignments of the frequencies specified in the reports. The recommended effective dates shall—

(1) permit the earliest possible reallocation of frequencies, taking into account the requirements of section 6;

(2) be based on the useful remaining life of equipment that has been purchased or contracted for to operate on identified frequencies;

(3) be based on the need to coordinate frequency use with other nations; and

(4) take into account the relationship between the costs to the Federal Government of changing to different frequencies and the benefits that may be obtained from commercial and other non-Federal uses of the reassigned frequencies.

SEC. 5. WITHDRAWAL OF ASSIGNMENT TO FEDERAL GOVERNMENT STATIONS.

(a) IN GENERAL.—The President shall—

(1) within 3 months after receipt of the report required by section 4(d)(1)(A), withdraw or limit the assignment to a Federal Government station of any frequency in the 30 megahertz of frequencies recommended by that report for immediate reallocation;

(2) by the effective date recommended by the Secretary under section 4(e) (except as provided in subsection (b)(4) of this section), withdraw or limit the assignment to a Federal Government station of any frequency which the report required by section 4(d)(1)(C) recommends be reallocated or made available for mixed use on such delayed effective date;

(3) assign or reassign other frequencies to Federal Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

(4) transit a notice and description to the Commission and each House of Congress of the actions taken under this subsection.

(b) EXCEPTIONS.—

(1) AUTHORITY TO SUBSTITUTE.—If the President determines that a circumstance described in paragraph

(2) exists, the President—

(A) may substitute an alternative frequency for the frequency that is subject to such determination and withdraw (or limit) the assignment of that alternative frequency in the manner required by subsection (a); and

(B) shall submit a statement of the reasons for taking the action described in subparagraph (A) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(2) GROUNDS FOR SUBSTITUTION.—Each of the following subparagraphs describes a circumstance referred to in paragraph (1):

(A) The reassignment would seriously jeopardize the national defense interests of the United States.

(B) The frequency proposed for reassignment is uniquely suited to meeting important governmental needs.

(C) The reassignment would seriously jeopardize public health or safety.

(D) The reassignment will result in costs to the Federal Government that are excessive in relation to the benefits that may be obtained from commercial or other non-Federal uses of the reassigned frequency.

(E) The reassignment will disrupt the existing use of a Federal Government band of frequencies by amateur radio licensees.

(3) CRITERIA FOR SUBSTITUTED FREQUENCIES.—For purposes of paragraph (1), a frequency may not be substituted for a frequency identified and recommended under section 4 for reallocation, unless the substituted frequency also meets each of the criteria specified by section 4(a).

(4) DELAYS IN IMPLEMENTATION.—If the President determines that any action cannot be completed by the effective date recommended by the Secretary pursuant to section 4(e), or that such an action by such date would result in a frequency being unused as a consequence of the Commission's plan under section 6(b), the President may—

(A) withdraw or limit the assignment to Federal Government stations on a later date that is consistent with such plan, except that the President shall notify each Committee specified in paragraph (1)(B) and the Commission of the reason that withdrawal or limitation at a later date is required; or

(B) substitute alternative frequencies pursuant to this subsection.

(c) LIMITATION ON DELEGATION.—Notwithstanding any other provision of law, the authorities and duties established by this section may not be delegated.

(d) COSTS OF WITHDRAWING FREQUENCIES ASSIGNED TO THE FEDERAL GOVERNMENT.—

(1) REIMBURSEMENT AUTHORIZED.—Any Federal agency, or non-Federal entity operating on behalf of a Federal agency, whose operation is displaced from a frequency pursuant to this section may be reimbursed, from revenues received pursuant to section 8, not more than the incremental costs such agency or entity incurs (in such amounts as provided in advance in an appropriations Act) that are directly attributable to the displacement from the frequency. The estimates of these costs shall be prepared by the affected agency, in consultation with the Department of Commerce.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the affected Federal agencies such sums as may be necessary to carry out the purposes of this subsection.

SEC. 6. ALLOCATION AND ASSIGNMENT OF FREQUENCIES BY THE COMMISSION.

(a) ALLOCATION AND ASSIGNMENT OF IMMEDIATELY AVAILABLE FREQUENCIES.—With respect to the 30 megahertz of frequencies made available for immediate reallocation pursuant to section 5(a)(1), the Commission, not later than 18 months after the date of enactment of this Act, shall issue rules to allocate such frequencies and shall propose rules to assign such frequencies.

(b) ALLOCATION AND ASSIGNMENT OF FREQUENCIES AVAILABLE ON DELAYED EFFECTIVE DATES.—With respect to the frequencies made available for reallocation pursuant to section 5(a)(2), the Commission shall, not later than one year after receiving notice from the President pursuant to section 5(a)(4), prepare, in consultation with the Assistant Secretary of Commerce for Communications and Information, and submit to the President and Congress a plan for the allocation and assignment under the Act of such frequencies. Such plan shall—

(1) not propose the immediate allocation and assignment of all such frequencies but, taking into account the timetable recommended by the Secretary pursuant to section 4(e), shall propose—

(A) gradually to allocate and assign the frequencies remaining, after making the reservation required by subparagraph (B), over the course of a period of not less than 10 years nor more than 15 years beginning on the date of submission of such plan; and

(B) to reserve a significant portion of such frequencies for distribution beginning after the end of such 10-year period;

(2) contain appropriate provisions to ensure the availability of frequencies for new technologies and services in accordance with the policies of section 7 of the Act (47 U.S.C. 157);

(3) address (A) the feasibility of reallocating portions of the spectrum from current commercial and other non-Federal uses to provide for more efficient use of the spectrum, and (B) innovation and marketplace developments that may affect the relative efficiencies of different spectrum allocations; and

(4) not prevent the Commission from allocating frequencies for specific uses in future rulemaking proceedings.

(c) AMENDMENTS TO THE ACT.—Section 303 of the Act (47 U.S.C. 303) is amended by adding at the end the following new subsection:

"(v) Have authority to assign the frequencies reallocated from United States Government use to non-United States Government use pursuant to the Emerging Telecommunications Technologies Act of 1993; except that any such assignment shall be made expressly subject to the right of the President to reclaim such frequencies under section 7 of such Act.".

SEC. 7. AUTHORITY TO RECLAIM REASSIGNED FREQUENCIES.

(a) AUTHORITY OF PRESIDENT.—Subsequent to the withdrawal of assignment to Federal

Government stations pursuant to section 5, the President may reclaim reassigned frequencies for reassignment to Federal Government stations in accordance with this section.

(b) PROCEDURE FOR RECLAIMING FREQUENCIES.—

(1) UNALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have not been allocated or assigned by the Commission pursuant to the Act, the President shall follow the procedures for substitution of frequencies established by section 5(b) of this Act.

(2) ALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have been allocated or assigned by the Commission, the President shall follow the procedures for substitution of frequencies established by section 5(b) of this Act, except that the notification required by section 5(b)(1)(B) shall include—

(A) a timetable to accommodate an orderly transition for displaced licensees to obtain new frequencies and equipment necessary for its utilization; and

(B) an estimate of the cost of displacing spectrum uses licensed by the Commission.

(c) COSTS OF RECLAIMING FREQUENCIES; APPROPRIATIONS AUTHORIZED.—The Federal Government shall bear all costs of reclaiming frequencies pursuant to this section, including the cost of equipment which is rendered unusable, the cost of relocating operations to a different frequency, and any other costs that are directly attributable to the reclaiming of the frequency pursuant to this section. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(d) EFFECTIVE DATE OF RECLAIMED FREQUENCIES.—The Commission shall not withdraw licenses for any reclaimed frequencies until the end of the fiscal year following the fiscal year in which the President's notification is received.

(e) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to limit or otherwise affect the authority of the President under section 706 of the Act (47 U.S.C. 606).

SEC. 8. COMPETITIVE BIDDING.

(a) COMPETITIVE BIDDING TEST.—

(1) IN GENERAL.—

(A) THREE-YEAR AUTHORIZATION.—Subject to further authorization in an Act making appropriations for the Commission, the Commission shall, during fiscal years 1994 through 1996, use the competitive bidding process authorized under the amendment made by subsection (b) to grant radio spectrum licenses encompassing not more than 30 megahertz of frequencies in up to three different services.

(B) WAIVER OF REQUIREMENT.—The Commission may waive the competitive bidding requirement set forth in subparagraph (A) on a case by case basis if it determines that a waiver is necessary to further a fundamental policy objective of the Act.

(C) REPORT TO PRESIDENT AND CONGRESS.—The Commission shall prepare, in consultation with the Assistant Secretary of Commerce for Communications and Information, and submit, not later than March 31, 1997, to the President and the Congress a report on the use of competitive bidding under subparagraph (A). Such report shall examine, in addition to any other matters deemed appropriate by the Commission, whether and to what extent—

(i) competitive bidding significantly improved the efficiency and effectiveness of the process for granting radio spectrum licenses;

(ii) competitive bidding facilitated the introduction of new spectrum-based technologies and the entry of new companies into the telecommunications market;

(iii) the needs of rural spectrum users were adequately addressed in the competitive bidding process;

(iv) small businesses were able to participate in the competitive bidding process; and

(v) statutory changes are needed to improve the competitive bidding process.

(2) LIMITATION.—Notwithstanding any other provision of this Act or other law, the Commission shall not use competitive bidding, prior to September 30, 1997, to grant radio spectrum licenses except as required in paragraph (1)(A).

(b) COMPETITIVE BIDDING AUTHORIZATION.—Section 309 of the Act (47 U.S.C. 309) is amended by adding at the end the following new subsection:

"(j)(1) Subject to the exemptions and conditions set forth in the other provisions of this subsection and to a further authorization in an Act making appropriations for the Commission, the Commission shall have authority to use competitive bidding in the granting of new construction permits or initial licenses.

"(2)(A) The Commission shall, within 18 months after the date of enactment of the Emerging Telecommunications Technologies Act of 1993 and following public notice and comment proceedings, issue rules establishing competitive bidding procedures under this subsection.

"(B)(i) In the rules issued pursuant to subparagraph (A), the Commission shall require potential bidders to file a first-stage application indicating an intent to participate in the competitive bidding process and containing such other information as the Commission finds necessary. After conducting the bidding, the Commission shall require the winning bidder to file a second-stage application. After determining that such application is acceptable for filing and that the winning bidder is qualified as described in clause (ii), the Commission shall grant the permit or license to the winning bidder.

"(ii) No permit or license shall be granted to a winning bidder pursuant to clause (i) unless the Commission determines that such winning bidder is qualified pursuant to section 308(b) and subsection (a) of this section, on the basis of the information contained in the first-stage and second-stage applications submitted pursuant to clause (i).

"(iii) Each participant in the competitive bidding process shall be subject to the schedule of charges contained in section 8.

"(C) In the rules issued pursuant to subparagraph (A), the Commission shall, in addition to other actions it finds necessary to implement competitive bidding fairly and effectively—

"(i) establish minimum acceptable competitive bids;

"(ii) establish the method of bidding (including but not limited to sealed bids) and the basis for payment (such as lump-sum or installment payments, a combination thereof, or other reasonable forms of payment); and

"(iii) establish other appropriate conditions on such permits and licenses that serve the public interest.

"(3)(A) If the Commission decides to use competitive bidding to grant two or more national, regional, or local licenses in a terrestrial service that will compete with telephone exchange service provided by wire by a common carrier in a rural area, the Commission shall designate one license in such rural area as a rural program license.

"(B)(i) Except as provided in subparagraph (D), the Commissioner may only grant a rural program license to the qualified common carrier or carriers providing telephone exchange service in the rural area covered by such license.

"(ii) If the geographic service area of a license awarded by competitive bidding overlaps the service area of more than one qualified common carrier, the Commission shall grant a rural program license to each qualified common carrier or a consortium of such carriers for that portion of the geographic area served by a license awarded by competitive bidding that is congruent to the geographic area served by such qualified common carrier or carriers.

"(iii) No qualified common carrier that receives a rural program license in a rural area shall be eligible to—

"(I) receive any other license to provide the same service in such area; or

"(II) own any equity interest in, become a creditor of, or otherwise become affiliated with any entity that holds a license to provide the same service in such area.

"(iv) Any qualified common carrier that receives a rural program license in a rural area shall provide to all other licensees providing the same service in such area the same quality of access to its wire network that it provides itself.

"(v) The Commission may establish other rules or conditions for the award of a rural program license.

"(C) Upon the grant of a rural program license to a qualified common carrier in a rural area, such carrier shall pay a fee (in lump-sum or installment payments or a combination thereof or on any other reasonable basis specified by the Commission) equal to the value of such license. The value of such license shall be the average of the amounts paid by persons granted licenses through competitive bidding to provide the same service in such area, except that the Commission shall determine the value of such license by any reasonable means when the geographic area served by the rural license is not congruent with the geographic area served by the other license or licenses.

"(D) If no qualified common carrier applies for a rural program license, the Commission shall grant such license to any other qualified applicant by any other means authorized under this Act.

"(E) For purposes of this paragraph—

"(i) the term 'rural area' means a geographic area that does not include either—

"(I) any incorporated place of 2,500 inhabitants or more, or any part thereof; or

"(II) any territory, incorporated or unincorporated, included in an urbanized area (as defined by the Bureau of the Census as of the date of enactment of the Emerging Telecommunications Technologies Act of 1993); and

"(ii) the term 'qualified common carrier' means a common carrier that—

"(I) provides telephone exchange service by wire in a rural area; and

"(II) submits an application for a rural program license in such area that meets the standards established by the Commission to determine ability to provide the service covered by the license.

"(4) The competitive bidding authority provided to the Commission in paragraph (1) shall not extend to—

"(A) license renewals and modifications;

"(B) the United States Government and State or local government entities;

"(C) amateur operator services, over-the-air terrestrial radio and television broadcast services, public safety services, and radio astronomy services;

"(D) private radio end-user licenses, such as Specialized Mobile Radio Service (SMRS), maritime, and aeronautical end-user licenses;

"(E) any license grant to a non-Federal licensee being moved from its current frequency assignment to a different one by the Commission in order to implement the goals and objectives underlying the Emerging Telecommunications Technologies Act of 1993; and

"(F) any other service, class of services, or assignments that the Commission determines, after conducting public notice and comment proceedings, should be exempt from competitive bidding because of public interest factors warranting an exemption to the extent the Commission determines the use of competitive bidding would jeorpadize appropriate treatment of those factors.

"(5) No provision of this subsection or of the Emerging Telecommunications Technologies Act of 1993 shall be construed, in any way, to—

"(A) alter spectrum allocation criteria and procedures established by the other provisions of this Act;

"(B) diminish the authority of the Commission under the other provisions of this Act to regulate or reclaim spectrum licenses; or

"(C) grant any right to a spectrum licensee different from the rights awarded to licensees who obtained their license through assignment methods other than competitive bidding.

"(6) Moneys received from competitive bidding pursuant to this subsection shall be deposited in the general fund of the Treasury.".

(c) FURTHER AUTHORIZATION DEFINED.—For purposes of this section and section 309(j) of the Act, as amended by this Act, the inclusion of the following language in an Act making appropriations for the Commission shall be sufficient to meet any requirement that action by the Commission be further authorized: "The authority of the Federal Communications Commission to use competitive bidding in the granting of radio spectrum licenses in conformance with the procedures set forth in the Emerging Telecommunications Technologies Act of 1993 is hereby reconfirmed.".

SEC. 9. DEFINITIONS.

As used in this Act:

(1) The term "allocation" means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunication services.

(2) The term "assignment" means an authorization given to a station licensee to use specific frequencies or channels.

(3) The term "commercial carrier" means any entity that uses a facility licensed by the Federal Communications Commission pursuant to the Communications Act of 1934 for hire or for its own use, but does not include Federal Government stations licensed pursuant to section 305 of the Act (47 U.S.C. 305).

(4) The term "Commission" means the Federal Communications Commission.

(5) The term "Secretary" means the Secretary of Commerce.

(6) The term "the Act" means the Communications Act of 1934 (47 U.S.C. 151 et seq.).

Mr. DANFORTH. Mr. President, I am pleased to be a cosponsor of the Emerging Telecommunications Technologies Act of 1993, introduced today by Senators INOUYE and STEVENS.

The bill establishes detailed guidelines under which the Secretary of Commerce must identify 200 megahertz of spectrum currently used by the Federal Government, to be transferred to commercial and public safety users. The Federal Government has exclusive use of a significant portion of the spectrum. At the same time, the demand for spectrum in the United States far exceeds the supply. The short supply of spectrum in the United States may delay the introduction of new technologies and reduce our international competitiveness. The transfer of Government spectrum to the commercial sector authorized by this bill will allow new wireless technologies to be introduced more rapidly into the market, spurring economic development.

This bill differs from the bill introduced by Senator INOUYE last Congress by authorizing the FCC to award licenses by means of competitive bidding. I support the use of competitive bidding by the FCC and applaud the diligent efforts to Senators INOUYE and STEVENS to arrive at this important agreement.

The competitive bidding authority granted to the FCC by this bill will not jeopardize the existing public interest regulation of the spectrum and will not bestow ownership of the spectrum on the successful bidders. Winners will have the right to use the spectrum as long as they abide by all the FCC's obligations. No one will be forced off their spectrum and no one will be required to pay for the spectrum they already use. The competitive bidding authority will only apply for assignments of new spectrum and the FCC may exercise its authority at its own discretion; competitive bidding is not required.

There are important public interest reasons for allowing the FCC to use competitive bidding in assigning licenses. Competitive bidding avoids the administrative delays associated with comparative hearings, thereby speeding service to the public. It will also eliminate the unqualified speculators who have previously applied in the FCC's lotteries, for example, in the cellular license lotteries. Finally, as we have seen in the cellular industry, there is already an auction taking place in the marketplace today; most speculators who win licenses are turning around and selling them for enormous profits. The Government may as well hold the auction and reap the benefits.

As introduced, this bill will only allow the FCC to use its competitive bidding authority on a trial basis in fiscal years 1994 through 1996 to assign radio spectrum licenses encompassing not more than 30 megahertz of frequency bands in up to three different services. At that time, the FCC will report to Congress and the President on the results of its competitive bidding test. The FCC's authority to use competitive bidding would be suspended while Congress reviewed the FCC's report. Unless Congress took further action, the FCC would automatically receive general authority to use competitive bidding on October 1, 1997.

I believe that Congress would be better able to assess the effectiveness of competitive bidding if a greater amount of spectrum was authorized to be assigned by competitive bidding. Thirty megahertz of spectrum may be inadequate to show us if competitive bidding does, in fact, speed the delivery of service to the market and what effect, if any, it has on potential market entrants and various users of the spectrum. For this reason, I intend to work with Senators INOUYE and STEVENS and the other members of the Commerce Committee over the coming months to seek an increase in the amount of spectrum designated in this bill for FCC assignment by competitive bidding.

I want to thank Senators INOUYE and STEVENS for their outstanding efforts to advance this legislation and I look forward to working with them in the Commerce Committee on this important measure.

Mr. STEVENS. Mr. President, radio spectrum is one of the most important natural resources controlled by the Federal Government. Spectrum is not tangible—our senses can't perceive it—but it affects our daily lives in a profound way. The morning television news programs we watch before coming into work, the nationwide telephone system we access in our offices, the mobile communications used by the police and other public safety agencies, any many other important services are all spectrum based.

The demand for radio spectrum—both for expansion of existing services and for introduction of new services—has risen dramatically over the past decade. We now face a potential spectrum shortage that could sap the creativity and vitality of the American telecommunications industry, which currently leads the world. We can't create more spectrum. To deal with a potential shortage, we must make our current spectrum use more efficient and develop underutilized portions of the spectrum.

I am pleased to be joining my good friend, the senior Senator from Hawaii, who chairs the Commerce Committee's Communications Subcommittee, in introducing this spectrum bill. This bill builds on the legislation Senator INOUYE introduced in the last Congress (S. 218), and the amendment that I proposed to allow the use of competitive bidding. The bill we are introducing today would establish a national spectrum planning process to ensure that we are anticipating future spectrum needs and taking the steps necessary to provide for them. This bill would also take the unprecedented step of directing the Federal Government, one of the largest spectrum users, to identify at least 200 megahertz of frequencies assigned to the Federal Government that are in excess to Federal needs. These frequencies would then be reallocated to non-federal uses by the Federal Communications Commission [FCC].

At the same time, this bill addresses another serious problem—the deterioration of the spectrum assignment process. The bill does this by granting the FCC the authority to conduct a test of competitive bidding for the assignment of up to 30 megahertz of reallocated spectrum prior to March of 1996. At that time the FCC would submit a report to Congress on the results of that test. In addition, the bill grants the FCC the authority to use competitive bidding for the assignment of certain spectrum uses after September 30, 1997, subject to the proviso that Congress must reaffirm that authority on an annual basis in an Act making appropriations for the FCC.

Mr. President, the time has come for Congress to enact competitive bidding as a spectrum assignment procedure. Competitive bidding will reduce the cost—in time and money—of spectrum assignment by discouraging frivolous or speculative applications. It will increase the efficiency and effectiveness of the assignment process by granting the spectrum license in the first instance to the applicant with the greatest desire to provide the service. In addition, competitive bidding will encourage the efficient use of spectrum by licensees and fairly compensate Federal taxpayers for use of a scarce public resource.

I agree with Senator INOUYE that competitive bidding is not appropriate for every spectrum assignment. For that reason the bill would exempt license renewals and modifications and several categories of telecommunications services where competitive bidding would not be appropriate. The bill also requires the FCC to ensure that the needs of rural America are not slighted in a competitive bidding system. Most importantly, this bill would give the FCC the flexibility to devise competitive bidding procedures that would encourage the development of new telecommunications services and ensure that all bona fide parties are able to participate in the competitive bidding process.

Mr. President, I would like to note two things that this bill would not do. First, it would not change the FCC's existing spectrum allocation procedures. The FCC would continue to consider a broad range of public interest and technical factors in determining to what use a particular block of spectrum would be allocated. Second, it would not expand, in any way, the rights granted to a licensee. Licenses would still be issued for a limited term subject to the jurisdiction of the FCC. No one would be buying a property right when assigned frequencies through the competitive bidding process.

Mr. President, in a sense, competitive bidding for spectrum licenses already exists. In the post-lottery market, licenses change hands for money every day. The only problems is that the beneficiaries are lottery speculators—not the consumers who depend on spectrum-based services or the general public that ultimately owns the spectrum. With this bill, congress will put in place the mechanism to change this sorry state of affairs.

I ask unanimous consent, Mr. President, that a summary of the competitive bidding portion of this bill be printed in the RECORD after my statement.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF COMPETITIVE BIDDING PROVISIONS

(1) *Competitive Bidding Test:* The Federal Communications Commission would use competitive bidding in fiscal years 1994 through 1996 to assign spectrum licenses encompassing not more than 30 megahertz of frequency bands in up to three different services. The FCC would be free to choose frequencies for the test.

(2) *Report to Congress:* After conducting the competitive bidding test, the FCC would report to Congress and the President on the results. The report, which would have to be submitted no later than March 31, 1997, would examine, among other things, the impact of competitive bidding on the efficiency and effectiveness of the spectrum license assignment process, the introduction of new spectrum-based technologies and the entry of new companies into the telecommunications market, and rural and small business spectrum users.

(3) *General Competitive Bidding Authority:* After conducting the competitive bidding test, the FCC's authority to use competitive bidding would be suspended while Congress reviewed the FCC's report on the test. The FCC would automatically receive general authority to use competitive bidding on October 1, 1997, subject to the requirement that the Congress reaffirm the FCC's authority to use competitive bidding on an annual basis in an appropriations act.

(4) *Parameters of General Competitive Bidding Authority:* The Communications Act would be amended to authorize, but *not* require, the FCC to use competitive bidding to assign spectrum licenses. The FCC would have the authority to specify any reasonable form of payment, including an installment payment schedule.

The following would be exempt from the FCC's competitive bidding authority: (a) license renewals and modifications; (b) federal, state, and local government entities; (c) amateur operator, over-the-air television and radio, public safety, and radio astronomy services; (d) private radio end-user licenses, and (e) any other service or assignments that the FCC determines should be exempt.

(5) *Rural Program:* If the FCC decides to use competitive bidding to issue two or more licenses for a service that competes with wireline telephone service in a rural area of less than 2500 persons, it shall reserve one license for the rural telephone company in that area. The rural telephone company will automatically receive that license if it pays a fee (on any reasonable basis specified by the FCC) equal to the average of the amounts paid for the licenses assigned by competitive bidding.

(6) *Continuing Congressional Oversight:* Each fiscal year, the FCC's competitive bidding authority would have to be reconfirmed in the Appropriations Act making appropriations for the FCC. This requirement provides for regular Congressional review of the FCC's competitive bidding efforts and ensures that any revenues from competitive bidding would be available in the appropriations process for spectrum management and other telecommunications purposes.

By Mr. BINGAMAN:

S. 336. A bill to amend the Stock Raising Homestead Act to resolve certain problems regarding subsurface estates, and for other purposes; to the Committee on Energy and Natural Resources.

STOCK RAISING HOMESTEAD ACT AMENDMENTS OF 1993

• Mr. BINGAMAN. Mr. President. Today I am introducing legislation to ensure that the rights of surface owners and miners are appropriately balanced on lands patented under the Stock Raising Homestead Act.

We have been working on this legislation for two Congresses now. It is a sensitive issue that deals with conflicts arising where the mineral estate is federally owned and the surface estate was patented under the Stock Raising Homestead Act for ranching and grazing purposes.

Last year, we came very close to enacting legislation on this issue, but unfortunately did not due to procedural problems at the end of the last Congress.

In 1916, Congress passed legislation popularly known as the Stock Raising Homestead Act [SRHA]. This Act made available unappropriated public lands for stock raising homestead entries. Patents issued pursuant to SRHA reserved to the United States the mineral estate, thus creating split estates where ownership of the surface and the mineral estate differs. Conflicts arise between those interested in exploring for, and developing, the Federal mineral estate, and surface owners engaged in raising livestock.

Approximately 70 million acres of land were patented under SRHA prior to repeal of the entry provision in 1976. The Bureau of Land Management [BLM] estimates that there are approximately 17,000 unpatented mining claims recorded on SRHA lands. BLM estimates that roughly 50 prospecting or mining operations are being conducted on these 17,000 claims.

Current law regulates mineral activity on SRHA lands in two stages. During the prospecting phase, compensation is required for damage to crops from mining, and provides that permanent improvements on the lands may not be damaged. For mining operations, if a miner does not have the surface owners' consent to mine, a bond to the United States may be executed to secure payment of any damages.

The bill I am introducing today would provide additional procedures for gaining access to, and undertaking mining activities on, stock raising homestead lands. The bill would require notice to both the surface owner and the Secretary of the Interior prior to entry for exploration purposes. Such notification triggers an exploration period, whereby the person filing the notice has exclusive exploration rights for the authorization period.

Any person interested in going forward with development and production must obtain consent from the surface owner. Absent such consent, the miner must submit a plan for operations to the Secretary for approval, pay a surface use fee to the surface owner, and post a bond prior to conducting mineral activities to guarantee reclamation of the surface.

The bill also provides for inspections by the Secretary if a surface owner believes that he or she will, or may be, adversely affected from any violation of the plan of operations, and establishes a cause of action for damages under certain circumstances. In addition, the Secretary of the Interior is directed to take such actions as may be necessary to simplify the procedures to be complied with by surface owners who apply to obtain title to the mineral estate.

It is my hope that the bill will be considered and enacted early in this Congress and I urge Members' support of the legislation.●

By Mr. BINGAMAN (for himself and Mr. METZENBAUM):

S. 337. A bill to amend the Public Health Service Act to prohibit physicians from referring patients to health entities in which they have a financial relationship and for other purposes; to the Committee on Labor and Human Resources.

ETHICS IN REFERRALS AND BILLING ACT

Mr. BINGAMAN. Mr. President, one of the most important tasks facing the 103d Congress and the Nation is gaining control of health care costs. If we are ever to achieve comprehensive health care reform, cost containment needs to be our highest priority. I am therefore pleased to join with my distinguished colleague, Senator METZENBAUM, in reintroducing the Ethics in Referrals and Billing Act.

This important initiative will help us begin to slow rapidly escalating health care costs by putting manageable, commonsense controls on a significant source of health cost inflation: physician self-referral.

The trends in U.S. health care spending are well known: Since 1980, we have increased spending an average of 10 to 12 percent every year. If that rate continues, we will double our spending every 7 years. This year, we will spend an estimated $800 billion—a figure that exceeds the entire budgets of most of the world's economies. Little imagination is needed to envision the day when only the richest among us will be able to afford health care if we do not begin taking action today.

Gaining control of health care spending is not easy. A number of complex, interrelated factors are involved. Inflation in the general economy is amplified in the health sector. A growing population and an aging population increase overall costs. The Health Care Financing Administration estimates that nearly one-third of the increases in cost in recent years are attributable to the intensity and volume of health services due to population growth and demand for upgraded, higher intensity services. This includes clinical tests and procedures that do not increase the specificity or sensitivity of diagnosis or the efficacy of treatment.

A particularly onerous example of increased intensity and volume occurs when a physician enters into a health services joint venture arrangement, thereby gaining a financial interest in an independent health care facility. Joint venture arrangements come in a variety of forms, the most common occurring when a physician makes an investment in a facility that provides physical therapy or rehabilitation programs, diagnostic imaging, radiation therapy, or another type of service to which he or she may refer patients. The benefit to the physician, in terms of income and tax advantages, ranges from small sums to thousands of dollars per year. But one thing remains constant: The success or failure of the joint venture depends on the physician's ability to make patient referrals.

A number of studies have documented the relationship between physician joint ventures and increased health facility use rates. Most recently, the Journal of the American Medical Association reported on a 1991 survey commissioned by the Florida Health Care Cost Containment Board. The Florida study found that 40 percent of Florida physicians involved in direct patient care had an investment interest in some type of health care business to which they referred patients. More than 90 percent of the physician owners were concentrated in specialties likely to require special services, such as internal medicine, surgery, or general practice. Based on their findings, the researchers concluded that the percentage of physicians participating in joint ventures is much higher than the 12 percent of physicians billing Medicare estimated by the inspector general of Health and Human Services in 1989.

In his 1989 study, the inspector general reported that patients of physicians who own or invest in clinical laboratories receive 45 percent more clinical laboratory services than all Medicare patients, regardless of place of service. The Florida Health Care Cost Containment Board found that physician ownership led to 27 percent more home health visits per patient and between 35 and 43 percent more physical therapy visits per patient, depending on the extent of the facility's services.

The Florida study evaluated the use of magnetic resonance imaging and computed tomographic scanning services by contrasting three metropolitan statistical areas in Florida—Jacksonville, Miami, and Orlando—with Baltimore, MD. Residents of the Florida cities received 14, 65, and 35 percent more scans, respectively, than residents of Baltimore. Using this methodology, the Florida Board determined that residents of that State used computed tomographic scans 5.4, 27.9, and 14.3 percent more, respectively, than residents in Baltimore.

These findings lead to an obvious conclusion: when a physician has a financial interest in a referral service, the physician is more likely to refer to that service. This fundamental principle has been recognized by many physicians, including members of the American Medical Association. In March 1992, the AMA's Council on Ethical and Judicial Affairs issued a statement concluding:

> * * * in general, physicians should not refer patients to a health care facility outside their office practice at which they do not directly provide care or services when they have an investment interest in the facility. Physicians may invest in and refer to an outside facility if there is a demonstrated need in the community for the facility and alternative financing is not available.

Unfortunately, the advice of the Council on Ethical and Judicial Affairs was initially rejected by the general membership of the American Medical Association. Last June, delegates to the AMA's annual meeting voted to significantly weaken a previously approved ethical behavior standard for self-referral. By December 1992, the AMA had reversed its stand, supporting the Ethics Committee recommendation that self-referral constituted unethical medical practice. In the absence of sustained commitment, the need for this legislation is clear.

Fundamentally, this is a consumer protection measure. In my view, visits to the doctor should not require detailed questioning of his or her financial interests. Our health care system should reward innovation, hard work, and diligence. Care should be delivered because it serves the needs of the patient, not because it provides additional income to the physician. To achieve these goals, it is imperative that physicians cease to invest in joint ventures created solely to increase health care use. The Ethics in Referrals and Billing Act protects consumers and serves as a reminder to health providers that they have a sacred trust to serve their patients above and beyond personal financial interests.

Self-referral is a complex issue. In some situations, and in rural areas particularly, self-referral may benefit communities and patients. Our bill permits self-referral that benefit consumers, but it prohibits monopolistic acts of self-referral that inhibit competition.

Mr. President, we need to control health care costs. We need to make health care affordable for all Americans. We need to balance the ability of markets to create competitive prices with effective regulation. We need to stop health care profiteering. Through legislation such as the Ethics in Referrals and Billing Act we can achieve these critical objectives.

Mr. METZENBAUM. Mr. President, I rise today to join my distinguished colleague Senator BINGAMAN in reintroducing a bill to prohibit doctors from referring patients to a medical facility solely because they have a financial interest in that facility. Passage of this bill will make an important contribution to health care reform because it will reduce health care costs and improve the quality of care for patients.

The Congress has already taken the first step to address the problem of doctor self-referral by limiting doctors' ability to refer their Medicare and Medicaid patients to clinics in which they have a financial interest. However, we need to go even further to eliminate these costly and abusive practices by making it unlawful for a doctor to refer any patient to a health care facility in which he or she has a financial interest, unless there is a good reason to do so. The ban should apply regardless of whether the doctor's financial interest is in the form of a limited partnership, joint venture, general partnership, or stock ownership interest, and whether the Government, a private insurer or a patient pays the bill.

I am deeply concerned that self-referral invites doctors to profiteer at the expense of their patients. In November 1992, the respected "New England Journal of Medicine" reported that in Florida, doctor-owned radiation therapy joint ventures "appear to have adverse effects on patients' access to care. They also appear to increase the use of services and costs substantially." Moreover, the quality of care provided by these joint ventures was reported to be lower than that provided by their independent competitors.

A similar study in California found that doctor joint ventures increased the cost of physical therapy services, psychiatric care and MRI scans for patients covered under workers' compensation.

Doctor-owned joint ventures have also created problems for our federal antitrust agencies because they foster unfair competition and high prices for medical care. Currently, the Federal Trade Commission [FTC] has about a dozen investigations underway into doctor joint ventures that may be unfairly eliminating competition and charging high prices.

The FTC's concern is that independently owned facilities can be driven out of business and competition eliminated when a group of specialists agree to send all their patients to their jointly owned medical facility. Without competition from independents, the specialist's medical facility can easily become a monopoly that has little or no incentive to offer patients high quality health care at reasonable rates.

Self-referral has also spawned a disturbing partnership between doctors and the business community that is turning doctors into deal-makers at the expense of their patients. T2—T-squared—is a perfect example of a company that has made millions of dollars by promoting self-referral through joint ventures with doctors.

Specifically, T2 uses low-priced stock as a sales tool to establish joint ventures with doctors who have patients to refer to T2 centers. To date, more than 1,700 doctors have invested in over 100 T2 infusion-therapy centers that provide intravenous medication and nutrition to patients in their homes.

Because they are part owners of the medical centers, T2's doctor-investors have strong financial incentives to refer all their patients to T2 and to charge them high prices. For example, a T2 infusion therapy center in Atlanta charges almost four times more for a 2-week treatment with the AIDS drug cytovene than its independent cross town rival—$4,000 versus $1,100.

An offshoot of T2, radiation care, is using the same low-priced stock strategy to corner the market on outpatient radiation centers to treat cancer patients. This company also selects doctor-investors based solely on their ability to refer patients to its clinics. Not surprisingly, almost all the company's revenues come from referrals by physicians who own their stock.

Our bill would stop doctors from getting the kind of sweetheart deals that T2 and radiation care are cashing in on. Under our bill, self-referrals would be banned if doctor-investors could buy stock in a medical facility on terms not similarly available to the public.

The health care offered by doctor joint ventures can also be dangerously slipshod. Last year, Newsweek reported that a young mother of two was misdiagnosed having a breast tumor at a diagnostic imaging clinic in which, unbeknownst to her, the treating doctor had a financial stake. Not surprisingly, this young woman "believed that she was sent to an inferior clinic and put through a terrifying ordeal just to line her physician's pockets." Likewise, The New England Journal of Medicine reported that radiation therapists at doctor-owned joint ventures in Florida "spent 18 percent less time with each patient over the course of treatment than did their counterparts at free-standing facilities that were not joint ventures."

I believe that legislation is needed to protect vulnerable and unsuspecting patients from costly and inappropriate doctor self-referral. Voluntary guidelines are simply not sufficient to deal with this problem. In my view, nothing illustrates this better than the fact that over the past 2 years the American Medical Association [AMA] has adopted several different and conflicting positions on banning self-referral. Although the AMA now appears to be opposed to self-referral, it could easily change its position, just as it did last June when it reversed the ban on self-referral that it had adopted 6 months earlier.

I expect critics to argue that our bill is unfair because we are treating doctors differently than other professional entrepreneurs. The fact is that medicine is not like the services delivered by other professionals, and therefore should be treated differently. In medicine, doctors make virtually all the decisions that dictate how much demand there is for a particular kind of health care service, and, ultimately, its cost. By allowing the same professionals who create the demand for a service to profit from its delivery we invite overuse and abuse. By banning self-referral, our bill will assure that a patient's well-being is a doctor's only consideration in prescribing a course of treatment.

The bill also contains provisions requiring that a patient be billed directly by a health care facility for the services delivered there. This proposal will also save precious health care dollars.

I urge all Senators to join us in sponsoring this bill. We cannot afford to let the cost of health care escalate and patient care suffer because of inappropriate doctor self-referral. This bill will bring a halt to these costly and abusive practices.

By Mr. FORD (for himself and Mr. KRUEGER):

S. 338. A bill to amend the Petroleum Marketing Practices Act to clarify the Federal standards governing the termination and nonrenewal of franchises and franchise relationships for the sale of motor fuel, and for other purposes; to the Committee on Energy and Natural Resources.

PETROLEUM MARKETING PRACTICES ACT AMENDMENTS OF 1993

Mr. FORD. Mr. President, I am pleased to introduce today the Petroleum Marketing Practices Act amendments of 1993.

It is my hope that this bill will provide a small but important example of the loosening of gridlock, and the reduction of the special interest stranglehold on our legislative process. This compromise legislation was overwhelmingly supported by all interested parties during the last Congress. It passed the House and Senate Energy Committees unanimously. It was strongly supported by all elements of the petroleum marketing industry. And it should have become law last year. Only a lack of time and the concerted efforts of a single, large oil company to strangle the normal legislative process prevented this legislation from passing last year. I am determined, along with many of my Senate colleagues and Chairman DINGELL and others in the House, to prevent this narrow interest from standing in the way this year.

The Petroleum Marketing Practices Act was enacted in 1978 as a dealer's day in court bill, to provide fairness and balance in negotiations between franchisors and franchisees involved in gasoline marketing. I have had an interest in this issue for several years now. It took nearly a decade to negotiate the original 1978 legislation. Since that time, a complex series of judicial decisions have led many to believe that the original statute is in need of fine tuning. In each of the last three Congresses, bills were introduced and hearings were held to reform the PMPA.

Last year, a series of negotiations took place between all interested parties on this issue, including service station dealers, jobbers, and oil companies. A new compromise was negotiated, and that is reflected in the bill which I am introducing today.

The Petroleum Marketing Practices Act Amendments of 1993 essentially has four components. First, the legislation clarifies the grounds for nonrenewal of a franchise relationship. Current law sets forth the only permissible grounds for termination or nonrenewal of a gasoline marketing franchise agreement. Nonrenewal may occur if there is a failure to agree to changes or additions to the franchise, so long as the new conditions are negotiated in good faith and not for the purpose of preventing the franchise renewal. The interpretation of this section of current law has been somewhat subjective and confusing. The legislation which I introduced today clarifies one major area of uncertainty. It makes explicit that preventing renewal includes situations where new conditions are proposed for the purpose of converting a franchisee operation into one operated by a francisor's employees. In other words, a gasoline marketer cannot force conditions upon an independently operated service station for the purpose of converting it into a company-owned station. This is an important clarification to existing law.

Second, the legislation tightens the current definition of preemption to make clear that Federal law is limited in scope. The grounds for nonrenewal or termination of a franchise specified in the PMPA are exclusive, and current law preempts States from imposing additional grounds or modifying those set forth in the Act. However, States are still free to pass laws regulating the underlying contract provisions. State law may still have a direct bearing on which contract terms are reasonable or negotiated in good faith under the PMPA.

Third, the bill clarifies current law in situations where a franchisor leases the underlying premises from a third party, and the terms of the underlying lease may prevent the continuation of the franchise arrangement. The legislation makes clear that where a franchisor has an option to continue to lease or to buy the marketing premises but does not wish to do so, the franchisor must offer to assign the option to the franchisee. In other words, failure to exercise a lease option with a third party cannot be used to terminate a gasoline dealer. The dealer will receive the same option and may choose to continue the franchise relationship.

Fourth, the legislation clarifies that a franchisor cannot demand that any rights granted by a Federal or State law be waived as a condition for entering into or terminating a franchise relationship.

While many of these changes are technical in nature, I believe that they will serve to bring a balance to the operation of the PMPA which will assure fairness in bargaining in the future. I am pleased by the support this legislation enjoys from all affected parties in the gasoline marketing industry, and look forward to working with my colleagues on the House side in enacting this measure during the current Congress. The efforts to achieve meaningful PMPA reform have been in motion for several years, and I believe we now have a compromise which will serve in the best interests of the entire industry.

Mr. President, I ask unanimous consent that the text of the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 338

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Petroleum Marketing Practices Act Amendments of 1993".

SEC. 2. CONVERSION TO COMPANY OPERATION.

Section 102(b)(3)(A)(ii) of the Petroleum Marketing Practices Act (15 U.S.C. 2802(b)(3)(A)(ii)) is amended by inserting after "purpose of" the following: "converting the leased marketing premises to operation by employees or agents of the franchisor for the benefit of the franchisor or otherwise".

SEC. 3. UNDERLYING LEASES.

Section 102(c)(4) of the Petroleum Marketing Practices Act (15 U.S.C. 2802(c)(4)) is amended—

(1) by striking "lease, if" and all that follows through "(B) of" and inserting the following: "lease, if—

"(A) the franchisee was notified in writing, prior to the commencement of the term of the then existing franchise—

"(i) of the duration of the underlying lease; and

"(ii) of"; and

(2) by adding at the end the following new subparagraphs:

"(B) during the 90-day period after notification was given pursuant to section 104, the franchisor offers to assign to the franchisee any option to extend the underlying lease or option to purchase the marketing premises that is held by the franchisor, except that the franchisor may condition the assignment upon receipt by the franchisor of—

"(i) an unconditional release executed by both the landowner and the franchisee releasing the franchisor from any and all liability accruing after the date of the assignment for—

"(I) financial obligations under the option (or the resulting extended lease or purchase agreement);

"(II) environmental contamination to (or originating from) the marketing premises; or

"(III) the operation or condition of the marketing premises; and

"(ii) an instrument executed by both the landowner and the franchisee that ensures the franchisor and the contractors of the franchisor reasonable access to the marketing premises for the purpose of testing for and remediating any environmental contamination that may be present at the premises; and

"(C) in a situation in which the franchisee acquires possession of the leased marketing premises effective immediately after the loss of the right of the franchisor to grant possession (through an assignment pursuant to subparagraph (B) or by obtaining a new lease or purchasing the marketing premises from the landowner), the franchisor (if requested in writing by the franchisee not later than 30 days after notification was given pursuant to section 104), during the 90-day period after notification was given pursuant to section 104—

"(i) made a bona fide offer to sell, transfer, or assign to the franchisee the interest of the franchisor in any improvements or equipment located on the premises; or

"(ii) if applicable, offered the franchisee a right of first refusal (for at least 45 days) of an offer, made by another person, to purchase the interest of the franchisor in the improvements and equipment.".

SEC. 4. WAIVER OF RIGHTS.

Section 105 of the Petroleum Marketing Practices Act (15 U.S.C. 2805) is amended by adding at the end the following new subsection:

"(f)(1) No franchisor shall require, as a condition of entering into or renewing the franchise relationship, a franchisee to release or waive—

"(A) any right that the franchisee has under this title or other Federal law; or

"(B) any right that the franchisee may have under any valid and applicable State law.

"(2) No provision of any franchise shall be valid or enforceable if the provision specifies that the interpretation or enforcement of the franchise shall be governed by the law of any State other than the State in which the franchisee has the principal place of business of the franchisee.".

SEC. 5. PREEMPTION.

Section 106 of the Petroleum Marketing Practices Act (15 U.S.C. 2806) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraphs:

"(2) Nothing in this title shall limit the ability of a State or any political subdivision of a State to regulate any specific provision of a franchise.

"(3) No State or political subdivision of a State may adopt, enforce, or continue in effect any provision of law (including a regulation) that requires a payment for the goodwill of a franchisee on the termination of a franchise or nonrenewal of a franchise relationship authorized by this title."; and

(2) in subsection (b)—

(A) by inserting "(1)" after "(b)"; and

(B) by adding at the end the following new paragraph:

"(2) Nothing in this title shall prohibit any State from specifying the terms and conditions under which any franchise or franchise relationship may be transferred to the designated successor of a franchisee upon the death of the franchisee.".

Mr. KRUEGER. Mr. President, I am delighted to add my name as a cosponsor to Senator FORD'S bill amending the Petroleum Marketing Practices Act [PMPA]. This well-balanced bill incorporates an agreement reached by the Service Station Dealers of America, the Petroleum Marketers Association of America, the Society of Independent Gasoline Marketers, and the American Petroleum Institute. These industry groups met together at the invitation of House Energy and Commerce Committee Chairman DINGELL, and with the assistance of his staff, they worked for 16 months to reach compromise.

The proposal addresses questions which have arisen since the passage of the Petroleum Marketing Practices Act in 1978. It attempts to resolve issues regarding the legality of termination and nonrenewal of service station dealers pursuant to that act. Essentially, it states that dealers may not be terminated or nonrenewed for the purpose of conversion of the premises to company operation; it clarifies the lessor's responsibilities to the lessee in third-part lease situations; it says that dealers cannot be required to waive legal rights under State and Federal law as a condition for receiving a new or renewed lease; and it attempts to address questions which have arisen regarding the breadth of the preemption clause of the current PMPA.

I think we should act quickly to pass this proposal. Although it may not be everything which each part of the industry would have wished, it represents a compromise for which all segments of the industry were able to muster support. I salute Senator FORD, Chairman DINGELL, and the supporting organizations for their efforts to reach and enact this compromise. It is never easy to agree upon solutions to problems on which disagreement exists within an industry. Still, we must settle such questions about the interpretation of commercial statutes which govern common business situations.

The approach agreed upon by the negotiators recognizes and balances the concerns of small and larger businesses. It also strikes a balance between the need for Federal uniformity and the concerns of individual States. I am pleased to cosponsor the proposal and hope for its speedy enactment by the Senate.

By Mr. BAUCUS:

S. 339. A bill to amend the Internal Revenue Code of 1986 to extend for 6 months the deduction for health insurance costs of self-employed individuals; to the Committee on Finance.

EXTENSION OF THE 25 PERCENT TAX DEDUCTION OF HEALTH INSURANCE FOR THE SELF-EMPLOYED

• Mr. BAUCUS. Mr. President, I rise today to introduce a bill that will insure that the self-employed individuals of this country will receive a tax deduction for the health insurance premiums they paid through the end of 1992.

Under current law, the 25-percent deduction of health insurance premiums for self-employed individuals expired for taxable years beginning after June 30, 1992. H.R. 11, which passed the Congress last year, would have extended the deduction through June 30, 1993. Unfortunately, this bill was vetoed by President Bush.

The legislation I introduce today would allow the self-employed to continue to deduct 25 percent of their health insurance through 1992. Without this retroactive extension, many taxpayers will face an unexpected rise in their taxes when they file their 1992 tax returns. This could mean that 8.5 million self-employed individuals would owe Uncle Sam up to $200 more in 1992 than they anticipated.

Since President Clinton has promised to make health reform one of his top priorities, I believe that the future of this provision will be decided once and for all this Congress. I strongly believe that it's unfair that large businesses are allowed to deduct 100 percent of their employees' health insurance costs, while the self-employed can only deduct 25 percent. Health insurance is treated as an ordinary and necessary cost of doing business for large businesses. Well, it is no less a cost of doing business for self-employed farmers and other entrepreneurs that are the key to our Nation's growth.

I plan to work closely with President Clinton on health reform issues and will strongly urge that he increase the deduction to 100 percent and make this 100 percent deduction permanent. In the meantime, this is a necessary extension that should be acted on immediately.•

By Mr. HEFLIN (for himself, Mr. PRESSLER, Mr. SHELBY, Mr. DASCHLE, Mr. CONRAD, Mr. CAMPBELL, Mr. BROWN, Mr. DECONCINI, Mrs. KASSEBAUM, Mr. DANFORTH, Mr. MACK, Mr. COATS, Mr. DORGAN, Mr. ROTH, Mr. HOLLINGS, Mr. WARNER, Mr. WOFFORD, Mr. FEINGOLD, Mr. INOUYE, Mr. CHAFEE, Mr. MCCONNELL, Mr. BOREN, Mr. PRYOR, Mr. KEMPTHORNE, Mr. CRAIG, Mr. EXON, Mr. REID, Mr. NICKLES, Mr. COCHRAN, Mr. JOHNSTON, Mr. BOND, Mr. DODD, and Mr. GRASSLEY):

S. 340. A bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes; to the Committee on Labor and Human Resources.

ALTERNATE USES OF NEW ANIMAL DRUGS

Mr. HEFLIN. Mr. President, I rise today to introduce a bill that will rectify a serious problem facing America's veterinarians and the animals they treat. If the FDA were to strictly enforce the Federal Food, Drug, and Cosmetic Act as it is written today, the act would prevent the relief of pain and the prevention of suffering in a host of animal species from cattle to pet birds for which there are no FDA approved drugs for these purposes. The legislation I am introducing today would correct this problem by codifying current veterinary practices.

Unique to the practice of veterinary medicine is the abundance of species that the veterinarian encounters in the clinical setting. New animal drugs have been approved for only the most common of domestic species. Few, if any, new animal drugs are approved for species of animals which are used extensively in most of the Nation's research facilities such as mice, rats, hamsters, gerbils, guinea pigs, and rabbits. No other profession is forced to practice under a law which is contrary to and defeats the purpose of the professional's oath.

Current veterinary practices permit extra-label drug use because insufficient therapies are approved to treat the conditions that veterinarians routinely face in practice. Examples for companion animals include insulin to treat diabetes, cardiac and chemotherapeutic drugs that bear a human drug label; anesthetic, analgesic and sedative agents for food animals; and effective antibiotics for food and companion animals to name just a few.

Veterinarians use drugs in an extra-label manner to save animal lives, prevent suffering, and to protect human health. Treatment of sick food-producing animals results in increased levels of food safety because sick animals will not be shipped to market. If legal therapies are not available to veterinarians, producers may feel compelled to ship sick animals to market, rather than watch them suffer and perhaps die, or take a chance that they may infect the remainder of the herd.

This legislation which would permit extra-label drug use will transform this section of the FD&C Act from a nonenforceable, confusing law into a clear and easily enforceable statute. Violators who cause the presence of illegal residues in food can then be prosecuted appropriately.

This bill codifies current FDA policy and authorizes extra-label drug use by veterinarians only, under carefully controlled supervision and will not result in increased violative residues in food products. It will not increase or alter overall patterns of drug usage by veterinarians.

The law as it exists today is contrary to its own basic purpose of protecting the public health. For example, chlamydiosis—a disease which is transmitted from birds to man—is most effectively treated in birds with an antibiotic known as doxycycline. This drug presently is only approved for use in humans. The only FDA approved animal drug for the treatment of chlamydiosis in birds is no longer marketed. Without the ability of the veterinarian to use a human label drug on a nonfood producing animal, there will be an increased risk of transmission of this disease between bird and man.

Mr. President, I urge my colleagues to move expeditiously on this urgently needed legislation. Mr. President, I would also ask unanimous consent that the following Senators be added as original cosponsors: Senators PRESSLER, SHELBY, DASCHLE, CONRAD, CAMPBELL, BROWN, DECONCINI, KASSEBAUM, DANFORTH, COATS, DORGAN, ROTH, HOLLINGS, MACK, WARNER, WOFFORD, FEINGOLD, INOUYE, CHAFEE, MCCONNELL, BOREN, PRYOR, KEMPTHORNE, CRAIG, EXON, REID, NICKLES, COCHRAN, JOHNSTON, BOND, DODD, and GRASSLEY.

Mr. PRESSLER. Mr. President, today, I join with Senator HEFLIN and others in reintroducing legislation clarifying Food and Drug Administration [FDA] procedures regarding extra-label use of animal drugs. The bill is a simple, straightforward approach to resolving the current conflict between modern veterinary medicine and the law.

During the 102d Congress, an identical bill was cosponsored by 50 of my colleagues. I will do all I can to see that today's legislation becomes law during the 103d Congress.

The issue is extra-label drug use of animal drugs. This is an important subject for South Dakota's 35,000 farmers and ranchers and my home State's veterinarians and consumers as well. After visiting with several veterinarians and discussing their daily routines and practices, I became convinced that extra-label drug use is necessary. This is because currently approved therapies are insufficient to treat the conditions veterinarians routinely face in the real world. All too often, veterinarians face situations in which an animal's health is immediately threatened and suffering or death would result from failure to provide prompt and effective treatment.

The problem with existing law is that it prohibits the use of an animal drug for purposes other than those listed on the drug's label. The reality is that it is not economically feasible under the present animal drug approval process to seek an approved label for all species and uses for which a drug is beneficial and safe. If a veterinarian is working to save the life of a cow or calf and the only effective treatment is a drug labeled only for horses, the letter of the law states that a veterinarian cannot use the drug to save the cow or calf. This bill rectifies this dilemma and allows the veterinarian to save the life of the animal without violating the law.

Mr. President, the FDA recognizes the fact that a veterinarian, on occasion, will find it necessary to use an approved drug in a manner that does not appear on the label. In fact, the FDA has gone so far as to state it will not institute regulatory action against licensed veterinarians for using or prescribing any drugs legally obtained. Thus, this bill simply codifies existing FDA practice.

Our Nation's veterinarians use drugs in an extra-label manner to save animals' lives, prevent suffering, and protect human health. This bill would provide the FDA a clear, easily enforceable statute, enhancing its ability to define violations of the Food, Drug, and Cosmetic Act. Finally, it would resolve existing conflicts between modern veterinary medicine and Federal law.

Mr. President, I urge my colleagues who cosponsored identical legislation in the last Congress to join with us once again in support of this bill. I urge all others to take a close look at this bill and support its passage. The bill has the support of veterinarians in South Dakota and the American Veterinary Medical Association [AVMA].

Mr. SHELBY. Mr. President, so often the smallest and simplest measures have tremendous results. Such is the case with the extra-label animal drug use bill that Senator HEFLIN has introduced today. The aim of this legislation is simple: To codify existing FDA practices regarding the extra-label use of animal drugs. The result of its passage will be tremendous: the decriminalization of a common and humane procedure in the practice of veterinary medicine. Current Federal law prohibits the use of any animal drug in a species for which that drug has not been approved. As a result, the drug manufacturer's incentive for developing and bringing to market separate drugs for each species of animal is nonexistent. Therefore, there are very few species specific animal drugs on the market.

Because of this situation, veterinarians must violate the law on a daily basis in order to uphold their oath. The knowledge of this situation walks daily with every veterinarian in the Nation. The extra-label drug problem is simply an absurd fact of life that every veterinarian learns to live with. From the moment a young man or woman first treats a family farm animal or from his or her first classes in veterinary medical school, he or she learns the practice of extra-label drug use. They learn that certain drugs are useful for numerous animal species. They also learn the safe and effective use of these nonbreed specific drugs. The extra-label use of animal drugs has been practiced for decades with no ill effects upon the animal population or the general public. The FDA recognizes this situation and does not currently enforce the statute as it is written. To do so would effectively shut down the practice of veterinary medicine.

Simple codification of current policy is absolutely necessary to decriminalize extra-label drug use and to facilitate new animal drug research. Without such a codification, we will perpetuate a silly and unnecessary situation within the practice of animal medicine. I am proud to be an original cosponsor of this legislation and to have been a part of the creation and introduction of last year's legislation. This measure garnered excellent support last year despite its being introduced late in the Congress. I hope that we can pass this measure early in this Congress. I would like to thank the American Veterinary Medical Association, the veterinary medical colleges, and the animal producer groups who have vigorously supported this legislation. and I would like to thank my colleagues Senator HEFLIN and Senator PRESSLER for again bringing this measure before the Senate. I urge my colleagues to join us in support of this measure.

By Mr. CAMPBELL (for himself and Mr. BROWN):

S. 341. A bill to provide for a land exchange between the Secretary of Agriculture and Eagle and Pitkin Counties in Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

MOUNT SOPRIS TREE NURSERY LAND EXCHANGE

• Mr. CAMPBELL. Mr. President, I rise today to ask unanimous consent to send to the desk legislation to facilitate a land transfer between two Colorado counties and the U.S. Forest Service.

As a Member of the House, I worked tirelessly along with my colleagues in the Colorado congressional delegation, to pass legislation to allow Pitkin and Eagle Counties to acquire 132 acres of the Mount Sopris Tree Nursery in exchange for 1,307 acres of patented mining claims which are owned by the counties.

The Forest Service several years ago decided the entire Mount Sopris Tree Nursery property was no longer needed and reached agreement with the counties that would allow the counties to accommodate local public needs.

In exchange, the Forest Service would receive nearly 10 times as much land in the White River National Forest. Over half of the lands the Forest Service would acquire lie within designated wilderness areas. If these lands are not acquired by the Forest Service they have the potential of becoming a severe management problem. In fact, the Forest Service could be potentially responsible for the enormous expense of building roads and supplying utility corridors into many of Colorado's most sensitive areas.

The Forest Service and the counties attempted to complete this exchange administratively for many years. Unfortunately, the cost of clearing the title on every acre of the counties offered land on a timely basis makes an administrative exchange impossible. Therefore, the bill establishes a process for dealing with claims that might be filed to prevent the United States from gaining quiet title to the patented mining claims it will receive from the counties pursuant to the provisions of the bill. The counties will share in the burden of paying to defeat challenges, if there are any.

Last year, my bill, H.R. 1182, was reported from the Agriculture Committee, reported from the Interior Committee, passed both the House and the Senate with bipartisan support, but could not be passed on the last day of the 102d Congress because of the failure to get a quorum. The bill Senator BROWN and I are introducing today is the same bill that passed last year with several minor improvements, changes suggested by the Forest Service.

The bill has widespread support, ranging from the Colorado Association of Commerce and Industry to the Sierra Club. It is also supported by both Colorado Senators. This bill deserves the subcommittee's approval and needs to be enacted to save both the Federal Government and the local communities enormous amounts of money. I look forward to its speedy passage.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Eagle and Pitkin Counties in the State of Colorado (hereinafter in this Act referred to as the "Counties") are offering to convey to the United States approximately one thousand three hundred and seven acres of patented mining claim properties owned by the Counties within or adjacent to the White River National Forest (hereinafter in this Act referred to as the "National Forest inholdings"), including approximately six hundred and sixty nine acres of inholdings within the Holy Cross, Hunter-Fryingpan, Collegiate Peaks, and Maroon Bells-Snowmass Wilderness Areas:

(2) the properties identified in paragraph (1) are National Forest inholdings whose acquisition by the United States, would facilitate better management of the White River National Forest and its wilderness resources; and

(3) certain lands owned by the United States within Eagle County comprising approximately two hundred and seventeen acres and known as the Mt. Sopris Tree Nursery (herinafter in this Act referred to as the "nursery lands") are available for exchange and the Counties desire to acquire portions of the nursery lands for public purposes.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide the opportunity for an exchange whereby the Counties would transfer to the United States the National Forest inholdings in exchange for portions of the nursery lands;

(2) to provide an expedited mechanism under Federal Law for resolving any private title claims to the National Forest inholdings if the exchange is consummated; and

(3) after the period of limitations has run for adjudication of all private title claims to the National Forest inholdings, to quiet title in the inholdings in the United States subject to valid existing rights adjudicated pursuant to this Act.

SEC. 2. OFFER OF EXCHANGE

(a) OFFER BY THE COUNTIES.—The exchange directed by this Act shall be consummated if within ninety days after enactment of this Act, the Counties offer to transfer to the United States, pursuant to the provisions of this Act, all right, title, and interest of the Counties in and to approximately—

(1) one thousand two hundred fifty eight acres of lands owned by Pitkin County within and adjacent to the boundaries of the White River National Forest, Colorado, and generally depicted as parcels 1-53 on maps entitled "Pitkin County Lands to Forest Service", numbered 1-11, and dated April 1990, except for parcels 20 (Twilight), 21 (Little Alma), the Highland Chief and Alaska portions of parcel 25 depicted on map 7, and parcel 52 (Iron King) on map 11, which shall remain in their current ownership; and

(2) forty-nine acres of land owned by Eagle County within and adjacent to the boundaries of the White River National Forest, Colorado, and generally depicted as parcels 54-58 on maps entitled "Eagle County Lands to Forest Service", numbered 12-14, and dated April 1990, except for parcel 56 (Manitou) on map 14 which is already in National Forest ownership.

(b) EXCHANGE BY THE SECRETARY.—Subject to the provisions of section 3, within ninety days after receipt by the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") of a quitclaim deed from the Counties to the United States of the lands identified in subsection (a) of this section, the Secretary, on behalf of the United States, shall convey by quitclaim deed to the Counties, as tenants in common, all right, title, and interest of the United States in and to approximately one hundred and thirty-two acres of land (and water rights as specified in section 7 and the improvements located thereon), as generally depicted as tract A on the map entitled "Mt. Sopris Tree Nursery", dated October 5, 1990.

SEC. 3. RESERVATIONS AND CONDITIONS OF CONVEYANCE

(a) RESERVATIONS.—In any conveyance to the Counties pursuant to section 2, the Secretary shall reserve—

(1) all right, title, and interest of the United States in and to approximately eighty-five acres of land (and improvements located thereon), which are generally depicted as tracts B (approximately twenty-nine acres) and C (approximately fifty-six acres) on the map referred to in section 2(b);

(2) water rights as specified in section 7(a); and

(3) any easements, existing utility lines, or other existing access in or across tract A currently serving buildings and facilities on tract B.

(b) REVERSION.—It is the intention of Congress that any lands and water rights conveyed to the Counties pursuant to this Act shall be retained by the Counties and used solely for public recreation and recreational facilities, open space, fairgrounds, and such other public purposes as do not significantly reduce the portion of such lands in open space. In the deed of conveyance to the Counties, the Secretary shall provide that all right, title and interest in and to any lands and water rights conveyed to the Counties pursuant to this Act shall revert back to the United States in the event that such lands or water rights or any portion thereof are sold or otherwise conveyed by the Counties or are used for other than such public purposes.

(c) EQUALIZATION OF VALUES.—(1) Within one hundred and twenty days after the date of enactment of this Act, the Secretary of Agriculture shall complete appraisals of the lands to be exchanged pursuant to subsections (a) and (b) of section 2 of this Act, taking into account any effects on the value of such lands resulting from the use restrictions and reversionary interest imposed by subsection (b) of this section and any other factors that may affect value. The sum of $120,000 shall be deducted from the value of the Counties' offered lands to reflect any adverse claims against such lands which may be adjudicated pursuant to section 5 of this Act.

(2) The appraisals shall utilize nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition.

(3) On the basis of such appraisals, the Secretary shall make a finding as to whether the values (after the deduction described in paragraph (1)) of the lands to be exchanged are equal and shall immediately notify the Counties as to such finding. If the values are not equal, any cash equalization which would otherwise be owed to the Counties by the United States shall be waived. Any equalization amount which may be owed to the United States by the Counties shall be satisfied through conveyance to the United States, within five years of the date of transfer of the nursery lands to the Counties pursuant to section 2(b) of this Act, of additional lands or interests in lands, acceptable to the Secretary, which the Counties own on the date of enactment of this Act or may ac-

quire after such date. Such additional lands shall have a value as approved by the Secretary at least equal to the amount owed plus annual interest on such amount or unconveyed portion thereof, as applicable, at the standard rate determined by the Secretary of the Treasury to be applicable to marketable securities of the United States having a comparable maturity. Interest shall accrue beginning on the date the nursery lands are transferred to the Counties pursuant to section 2(b) of this Act.

(d) RIGHT OF FIRST REFUSAL.—The Secretary may convey any or all of the nursery lands reserved pursuant to subsection (a) of this section for fair market value under existing authorities, except that the Secretary shall first offer the Counties the opportunity to acquire the lands. This right of first refusal shall commence upon receipt by the Counties of written notice of the intent of the Secretary to convey such property, and the Counties shall have sixty days from the date of such receipt to offer to acquire such properties at fair market value as tenants in common. The Secretary shall have sole discretion as to whether to accept or reject any such offer of the Counties.

SEC. 4 STATUS OF LANDS ACQUIRED BY THE UNITED STATES.

(a) NATIONAL FOREST SYSTEM LANDS.—The National Forest inholdings acquired by the United States pursuant to this Act shall become a part of the White River National Forest (or in the case of portions of parcels 39, 40, and 41 depicted on map 9, and a portion of parcel 54 of map 12, part of the Gunnison and Arapahoe National Forests, respectively) for administration and management by the Secretary in accordance with the laws, rules, and regulations applicable to the National Forest System.

(b) WILDERNESS.—The National Forest inholdings that are within the boundaries of the Holy Cross, Hunter-Fryingpan, Collegiate Peaks and Maroon Bells-Snowmass Wilderness Areas shall be incorporated in and deemed to be part of their respective wilderness areas and shall be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness.

SEC. 5. RESOLVING TITLE DISPUTES TO NATIONAL FOREST INHOLDINGS.

(a) QUIET TITLE ACT.—Notwithstanding any other provisions of law and subject to the provisions of subsection (c) of this section, section 2409a of title 28, United States Code (commonly referred to as the "Quiet Title Act") shall be the sole legal remedy of any party claiming any right, title, or interest in or to any National Forest inholdings conveyed by the Counties to the United States pursuant to this Act.

(b) LISTING.—Upon conveyance of the National Forest inholdings to the United States, the Secretary shall cause to be published in a newspaper or newspapers of general circulation in Pitkin and Eagle Counties, Colorado, a listing of all National Forest inholdings acquired pursuant to this Act together with a statement that any party desiring to assert a claim of any right, title, or interest in or to such lands must bring an action against the United States pursuant to such section 2409a within the same period described by subsection (c) of this section.

(c) LIMITATION.—Notwithstanding section 2409a(g) of title 28, United States Code, any civil action against the United States to quiet title to National Forest inholdings conveyed to the United States pursuant to this Act must be filed in the United States District Court for the District of Colorado no later than the date that is six years after the date of publication of the listing required by subsection (b) of this section.

(d) VESTING BY OPERATION OF LAW.—Subject to any easements or other rights of record that may be accepted and expressly disclaimed by the Secretary, and without limiting title to National Forest inholdings, conveyed by the Counties pursuant to this Act, all other rights, title, and interest in or to such National Forest inholdings if not otherwise vested by quitclaim deed to the United States, shall vest in the United States on the date that is six years after the date of publication of the listing required by subsection (b) of this section, except for such title as is conveyed by the Counties, no other rights, title, or interest in or to any parcel of the lands conveyed to the United States pursuant to this Act shall vest in the United States under this subsection if title to such parcel—

(1) has been or hereafter is adjudicated as being in a party other than the United States or the Counties; or

(2) is the subject of any section or suit against the United States to vest such title in a party other than the United States or the Counties that is pending on the date six years after the date of publication of a listing required by subsection (b) of this section.

(e) COSTS AND ATTORNEY'S FEES.—(1) At the discretion of the court, any party claiming right, title, or interest in or to any of the National Forest inholdings who files an action against the United States to quiet title and fails to prevail in such action may be required to pay to the Secretary on behalf of the United States, an amount equal to the costs and attorney's fees incurred by the United States in the defense of such action.

(2) As a condition of any transfer of lands to the Counties under this Act, the Counties shall be obligated to reimburse the United States for 50 percent of all costs in excess of $240,000 not reimbursed pursuant to paragraph (1) of this subsection associated with the defense by the United States of any claim or legal action brought against the United States with respect to any rights, title, and interest in or to the National Forest inholdings. Payment shall be made in the same manner as provided in section 6 of this Act.

SEC. 6. REIMBURSEMENT TO THE UNITED STATES.

(A) IN GENERAL.—As a condition of any transfer of lands to the Counties under this Act, in addition to any amounts required to be paid to the United States pursuant to section 5(e), in the event of a final determination adverse to the United States in any action relating to the title to the National Forest inholdings, the United States shall be entitled to receive from the Counties reimbursement equal to the fair market value (appraised as if they had marketable title) of the lands that are the subject of such final determination.

(b) AVAILABILITY OF FUNDS.—Any money received by the United States from the Counties under section 5(e) or subsection (a) of this section shall be considered money received and deposited pursuant to the Act of December 4, 1967, as amended (and commonly known as the Sisk Act, 16 U.S.C. 484a).

(c) IN-KIND PAYMENT OF LANDS.—In lieu of monetary payments, any obligation for reimbursement by the Counties to the United States under this Act can be fulfilled by the conveyance to the United States of lands having a current fair market value equal to or greater than the amount of the obligation. Such lands shall be mutually acceptable to the Secretary and the Counties.

SEC. 7. WATER RIGHTS.

(a) ALLOCATION AND MANAGEMENT.—The water rights in existence on the date of enactment of this Act in the Mt. Sopris Tree Nursery, which comprise well water and irrigation ditch rights adjudicated under the laws of the State of Colorado, together with the right to administer, maintain, access, and further develop such rights, shall be allocated and managed as follows:

(1) The United States shall convey to the Counties as undivided tenants in common all rights associated with the five existing wells on the properties.

(2) If the Secretary determines that water from the five existing wells is necessary to meet culinary, sanitary, or domestic uses of the existing buildings retained by the United States pursuant to section 3(a), the Counties shall make available to the United States, without charge, enough water to reasonably serve such needs and shall additionally, if requested by the United States, make every future effort to cooperatively provide to the United States, without charge, commensurate with the Counties own needs on Tract A, water to serve reasonable culinary, sanitary and domestic uses of any new buildings which the United States may construct on its retained lands in the future.

(3) All federally owned irrigation ditch water rights shall be reserved by the United States.

(b) MODIFICATION OF ALLOCATION.—If the Secretary and the Counties determine the public interest will be better served thereby, they may agree to modify the precise water allocation made pursuant to this section or to enter into cooperative agreements (with or without reimbursement) to use, share, or otherwise administer such water rights and associated facilities as they determine appropriate.

SEC. 8. MISCELLANEOUS PROVISIONS

(a) TIME REQUIREMENT FOR COMPLETING TRANSFER.—If the Counties make a timely offer, pursuant to section 2(a), the transfers of lands authorized and directed by this Act shall be completed no later than one year after the date of enactment of this Act.

(b) BOUNDARY MODIFICATIONS.—The Secretary and the Counties may mutually agree to make modifications of the final boundary between tracts A and B prior to completion of the exchange authorized by this Act if such modifications are determined to better serve mutual objectives than the precise boundaries as set forth in the maps referenced in this Act.

(c) TRACT A EASEMENT.—The transfer of tract A to the Counties shall be subject to the existing highway easement to the State of Colorado and to any other right, title, or interest of record.

(d) VALIDITY.—If any provision of this Act or the application thereof is held invalid, the remainder of the Act and application thereof, except for the precise provision held invalid, shall not be affected thereby.

(e) FOREST HEADQUARTERS AND ADMINISTRATIVE OFFICES.—The White River National Forest Headquarters and administrative office in Glenwood Springs, Colorado, are hereby transferred from the jurisdiction of the United States General Services Administration to the jurisdiction of the Secretary, who shall retain such facilities unless and until otherwise provided by subsequent Act of Congress.●

By Mr. BOREN (for himself, Mr. PACKWOOD, Mr. DANFORTH, Mr. BRYAN, and Mr. HARKIN):

S. 342. A bill to amend the Internal Revenue Code of 1986 to encourage investment in real estate and for other purposes; to the Committee on Finance.

REAL ESTATE STABILITY AND RECOVERY AMENDMENTS OF 1993

• Mr. BOREN. Mr. President, I am pleased today to join with two of my colleagues, Mr. PACKWOOD and Mr. DANFORTH, in introducing legislation designed to enhance economic growth in this country by increasing real property values. Real estate is a major section of the U.S. economy and is a principal asset of banks, insurance companies, and pension funds. When the asset base is in trouble, so are these financial institutions. Therefore, it is clearly in the best interest of our Nation's economy to have a fundamentally sound real estate market.

The three provisions contained in the Real Estate Stability and Recovery Amendments of 1993 were included in H.R. 11, the comprehensive tax and economic growth bill that we passed last session. Unfortunately, this legislation was vetoed by President Bush, so the Congress must act again to revitalize the real estate market. The provisions that we introduce today are: First, a modification of the passive loss rules for real estate investments; second, a provision relating to the tax treatment of the discharge of indebtedness; and third, provisions facilitating prudent pension investment strategies in real estate.

PASSIVE LOSS RELIEF

The passive loss rules enacted by the so-called Tax Reform Act of 1986 treat people in the rental real estate business differently than professionals in all other businesses. Generally, taxpayers may offset losses incurred in activities in which they materially participate against active income. An exception to this rule is made for all taxpayers engaged in rental activities, including rental real estate. Such taxpayers are treated as passive investors regardless of the extent of their involvement in a rental real estate activity. Accordingly, they are taxed on their overall gross income, rather than their net income.

This inequitable situation has had dramatic negative economic effects. It has exacerbated the crisis in our financial industry by discouraging real estate professionals from holding on to troubled properties, thereby discouraging workouts of distressed properties. In addition, the unfavorable treatment of losses from rental real estate has decreased the willingness of entrepreneurs to purchase property held by the Resolution Trust Corporation,thus increasing the long-term exposure to all taxpayers. Finally, the downward pressure on real property values has seriously eroded local property tax bases.

The legislation that we introduced today would remedy these problems without allowing a return to tax sheltering through real estate investments. The Mortgage Bankers Association has estimated that adoption of this legislation could increase real property values by three to seven percent. Under our proposal, once an individual meets a threshold test that establishes that she be "engaged in the real property business, then the taxpayer would be allowed to prove that she materially participated in the rental activity under the same test that all other taxpayers use to prove material participation in a business. An individual would be engaged in the real property business if she spends at least 50 percent of her annual working time in real property trades or businesses.

Mr. President, let me make very clear that tax shelter investors in real estate and others whose principal occupation is not the real property business would receive no benefit from this provision.

DISCHARGE OF INDEBTEDNESS

Last year, Senator PRYOR, along with others, introduced the Discharge of Indebtedness Reform Act. His proposal was included in H.R. 11 and is a crucial part of our legislation to rejuvenate the real estate sector of the economy. passage is vital if our financial institutions are to continue on the long and difficult path to economic recovery.

One of the biggest obstacles to economic recovery in the Southwest is the number of properties that cannot support their debt load. Financially-strapped owners usually have three options: declare bankruptcy, dump the property on the financial institution, or renegotiate the loan with the financial institution. Since 1986, taxpayers who chose the latter option are immediately subject to taxation on the amount of debt reduced under the restructuring agreement. Many times this tax would be significantly lower if the owner simply deeded the property back to the lender. Moreover, the owner may completely avoid tax under the bankruptcy or insolvency rules, although recourse to this protection removes property from the market, results in costly legal fees, and generally inhibits overall economic activity.

The provision we include today would reinstate the pre-Tax Reform Act tax treatment for individuals who own real property. Because the discharge of indebtedness results in only phantom income for solvent taxpayers, this legislation would allow owners to defer the payment of taxes until the sale of the property, when they are more likely to have cash in hand to pay the additional taxes.

By requiring the property owner to lower the basis in the property by the amount of the discharge of indebtedness, we would not allow the taxpayer to avoid taxation. The taxes would be paid to the government over time through lower depreciation deductions and ultimately would be fully paid when a sale occurs.

The benefits of the provision are obvious. By encouraging loan workouts, the proposal would help ease pressure on financial institutions and moderate the credit crunch. Indeed, the rationale in 1986 for maintaining such a discharge rule for farm debt was the recognition of a credit and land rules crisis in the agricultural sector of the economy. Moreover, properties taken back by a financial institution require bank capital reserves of 10 to 20 percent, unlike restructured loans that require de mimimas capital reserving. High capital reserves, such as those required for foreclosed real estate, reduce the capital available for business investment and may ultimately increase the chance of more bank and thrift closures.

PENSION INVESTMENT

H.R. 11 included a variety of provisions designed to facilitate prudent investment in real estate by pension funds. Pension funds, with their long-term liabilities, are a logical source of capital and credit for long-term real estate. Indeed, many pension fund managers recommend a 5 to 15 percent allocation of the investment portfolio to real estate. Unfortunately, several current tax policies create undesirable and unnecessary obstacles to the expansion of such investment.

We have included in the Real Estate Stability and Recovery Amendments several of these provisions that enlarge the role of pension funds in real estate investment, while maintaining the significant protections against undue risk. These provisions include:

Application of a look-through rule, similar to that applied to foreign pension funds, to domestic pension funds investing in real estate assets through REIT's.

Revision of rules that unduly restrict pension fund investments in debt-financed real estate.

Mofification of the treatment of cash-flow or participating loans, of sale-leasebacks, and of nonabusive seller-financing arrangements.

CONCLUSION

Mr. President, after long consideration, we passed all of these measures last year. We were committed to their enactment as a vital part of any economic growth package. President Clinton has made the revitalization of our economy a priority for the first months of his term. I therefore urge my colleagues and the administration to study this legislation and join us in enacting it into law. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 342

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Real Estate Stability and Recovery Amendments of 1993".

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—MODIFICATION OF PASSIVE LOSS RULES

SEC. 101. APPLICATION OF PASSIVE LOSS RULES TO RENTAL REAL ESTATE ACTIVITIES.

(a) RENTAL REAL ESTATE ACTIVITIES OF PERSONS IN REAL PROPERTY BUSINESS NOT AUTOMATICALLY TREATED AS PASSIVE ACTIVITIES.—Subsection (c) of section 469 (defining passive activity) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR TAXPAYERS IN REAL PROPERTY BUSINESS.—

"(A) IN GENERAL.—If this paragraph applies to any taxpayer for a taxable year—

"(i) paragraph (2) shall not apply to any rental real estate activity of such taxpayer for such taxable year, and

"(ii) this section shall be applied as if each interest of the taxpayer in rental real estate were a separate activity.

Notwithstanding clause (ii), a taxpayer may elect to treat all interests in rental real estate as one activity. Nothing in the preceding provisions of this subparagraph shall be construed as affecting the determination of whether the taxpayer materially participates with respect to any interest in a limited partnership as a limited partner.

"(B) TAXPAYERS TO WHOM PARAGRAPH APPLIES.—This paragraph shall apply to a taxpayer for a taxable year if more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property trades or businesses in which the taxpayer materially participates.

"(C) REAL PROPERTY TRADE OR BUSINESS.—For purposes of this paragraph, the term 'real property trade or business' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.

"(D) SPECIAL RULES FOR SUBPARAGRAPH (B).—

"(i) CLOSELY HELD C CORPORATIONS.—In the case of a closely held C corporation, the requirements of subparagraph (B) shall be treated as met for any taxable year if more than 50 percent of the gross receipts of such corporation for such taxable year are derived from real property trades or businesses in which the corporation materially participates.

"(ii) PERSONAL SERVICES AS AN EMPLOYEE.—For purposes of subparagraph (B), personal services performed as an employee shall not be treated as performed in real property trades or businesses. The preceding sentence shall not apply if such employee is a 5-percent owner (as defined in section 416(i)(1)(B)) in the employer."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 469(c) is amended by striking "The" and inserting "Except as provided in paragraph (7), the".

(2) Clause (iv) of section 469(i)(3)(E) is amended by inserting "or any loss allowable by reason of subsection (c)(7)" after "loss".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

TITLE II—PROVISIONS RELATING TO REAL ESTATE INVESTMENTS BY PENSION FUNDS

SEC. 201. REAL ESTATE PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new subparagraphs:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—Except as otherwise provided by regulations—

"(i) SMALL LEASES DISREGARDED.—For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in such clause (iii) or (iv) shall be disregarded if no more than 25 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

"(ii) COMMERCIALLY REASONABLE FINANCING.—Clause (v) of subparagraph (B) shall not apply if the financing is on commercially reasonable terms.

"(H) QUALIFYING SALES BY FINANCIAL INSTITUTIONS.—

"(i) IN GENERAL.—In the case of a qualifying sale by a financial institution, except as provided in regulations, clauses (i) and (ii) of subparagraph (B) shall not apply with respect to financing provided by such institution for such sale.

"(ii) QUALIFYING SALE.—For purposes of this clause, there is a qualifying sale by a financial institution where—

"(I) a qualified organization acquires property described in clause (iii) from a financial institution and any gain recognized by the financial institution with respect to the property is ordinary income,

"(II) the stated principal amount of the financing provided by the financial institution does not exceed the amount of the outstanding indebtedness (including accrued but unpaid interest) of the financial institution with respect to the property described in clause (iii) immediately before the acquisition referred to in clause (iii) or (v), whichever is applicable, and

"(III) the value (determined as of the time of the sale) of the amount pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property does not exceed 30 percent of the value of the property (determined as of such time).

"(iii) PROPERTY TO WHICH SUBPARAGRAPH APPLIES.—Property is described in this clause if such property is foreclosure property, or is real property which—

"(I) was acquired by the qualified organization from a financial institution which is in conservatorship or receivership, or from the conservator or receiver of such an institution, and

"(II) was held by the financial institution at the time it entered into conservatorship or receivership.

"(iv) FINANCIAL INSTITUTION.—For purposes of this subparagraph, the term 'financial institution' means—

"(I) any financial institution described in section 581 or 591(a),

"(II) any other corporation which is a direct or indirect subsidiary of an institution referred to in subclause (I) but only if, by virtue of being affiliated with such institution, such other corporation is subject to supervision and examination by a Federal or State agency which regulates institutions referred to in subclause (I), and

"(III) any person acting as a conservator or receiver of an entity referred to in subclause (I) or (II) (or any government agency or corporation succeeding to the rights or interest of such person).

"(v) FORECLOSURE PROPERTY.—For purposes of this subparagraph, the term 'foreclosure property' means any real property acquired by the financial institution as the result of having bid on such property at foreclosure, or by operation of an agreement or process of law, after there was a default (or a default was imminent) on indebtedness which such property secured.".

(b) CONFORMING AMENDMENT.—Paragraph (9) of section 514(c) is amended—

(1) by adding the following new sentence at the end of subparagraph (A): "For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.", and

(2) by striking the last sentence of subparagraph (B).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to acquisitions on or after January 1, 1993.

(2) SMALL LEASES.—The provisions of section 514(c)(9)(G)(i) of the Internal Revenue Code of 1986 shall, in addition to any leases to which the provisions apply by reason of paragraph (1), apply to leases entered into on or after January 1, 1993.

SEC. 202. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) MODIFICATION TO ANTI-ABUSE RULES.—Paragraph (9) of section 514(c) (as amended by section 201) is amended by adding at the end thereof the following new subparagraph:

"(J) PARTNERSHIPS NOT INVOLVING TAX AVOIDANCE.—

"(i) DE MINIMIS RULE FOR CERTAIN LARGE PARTNERSHIPS.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) interests in such partnership were offered for sale in an offering registered with the Securities and Exchange Commission,

"(II) at least 50 percent of each class of interests in such partnership is owned by individuals who are not disqualified persons, and

"(III) the principal purpose of partnership allocations is not tax avoidance.

The Secretary may disregard inadvertent failures to meet the requirements of subclause (II). For purposes of subclause (II), interests owned by individual retirement plans (as defined in section 7701(a)(37)) shall not be taken into account.

"(ii) DISQUALIFIED PERSONS.—For purposes of this subparagraph, the term 'disqualified person' means any person described in clause (iii) or (iv) of subparagraph (B) and any person who is not a United States person.".

(b) REPEAL OF SPECIAL TREATMENT OF PUBLICLY TRADED PARTNERSHIPS.—Subsection (c) of section 512 is amended—

(1) by striking paragraph (2),

(2) by redesignating paragraph (3) as paragraph (2), and

(3) by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership years ending after December 31, 1992.

SEC. 203. TITLE-HOLDING COMPANIES PERMITTED TO RECEIVE SMALL AMOUNTS OF UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Paragraph (25) of section 501(c) is amended by adding at the end thereof the following new subparagraph:

"(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any otherwise disqualifying income which is incidentally derived from the holding of real property.

"(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 501(c) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 204. EXCLUSION FROM UNRELATED BUSINESS TAX OF GAINS FROM CERTAIN PROPERTY.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

"(16)(A) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property described in subparagraph (B) if—

"(i) such property was acquired by the organization from—

"(I) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

"(II) the conservator or receiver of such an institution (or any government agency or corporation succeeding to the rights or interests of the conservator or receiver),

"(ii) such property is designated by the organization within the 9-month period beginning on the date of its acquisition as property held for sale, except that not more than one-half (by value determined as of such date) of property acquired in a single transaction may be so designated,

"(iii) such sale, exchange, or disposition occurs before the later of—

"(I) the date which is 30 months after the date of the acquisition of such property, or

"(II) the date specified by the Secretary in order to assure an orderly disposition of property held by persons described in subparagraph (A), and

"(iv) while such property was held by the organization, the aggregate expenditures on improvements and development activities included in the basis of the property are (or were not) in excess of 20 percent of the net selling price of the property with respect to such property.

"(B) Property is described in this subparagraph if it is real property which—

"(i) was held by the financial institution at the time it entered into conservatorship or receivership, or

"(ii) was foreclosure property (as defined in section 514(c)(9)(H)(v)) which secured indebtedness held by the financial institution at such time.

For purposes of this subparagraph, real property includes an interest in a mortgage."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property acquired on or after January 1, 1993.

SEC. 205. EXCLUSION FROM UNRELATED BUSINESS TAX OF CERTAIN FEES AND OPTION PREMIUMS.

(a) LOAN COMMITMENT FEES.—Paragraph (1) of section 512(b) (relating to modifications) is amended by inserting "amounts received or accrued as consideration for entering into agreements to make loans," before "and annuities".

(b) OPTION PREMIUMS.—The second sentence of section 512(b)(5) is amended by inserting "or real property" before the period.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received on or after January 1, 1993.

SEC. 206. TREATMENT OF PENSION FUND INVESTMENTS IN REAL ESTATE INVESTMENT TRUSTS.

(a) GENERAL RULE.—Subsection (h) of section 856 (relating to closely held determinations) is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF TRUSTS DESCRIBED IN SECTION 401(a).—

"(A) LOOK-THRU TREATMENT.—

"(i) IN GENERAL.—Except as provided in clause (ii), in determining whether the stock ownership requirement of section 542(a)(2) is met for purposes of paragraph (1)(A), any stock held by a qualified trust shall be treated as held directly by its beneficiaries in proportion to their actuarial interests in such trust and shall not be treated as held by such trust.

"(ii) CERTAIN RELATED TRUSTS NOT ELIGIBLE.—Clause (i) shall not apply to any qualified trust if one or more disqualified persons (as defined in section 4975(e)(2), without regard to subparagraphs (B) and (I) thereof) with respect to such qualified trust hold in the aggregate 5 percent or more in value of the interests in the real estate investment trust and such real estate investment trust has accumulated earnings and profits attributable to any period for which it did not qualify as a real estate investment trust.

"(B) COORDINATION WITH PERSONAL HOLDING COMPANY RULES.—If any entity qualifies as a real estate investment trust for any taxable year by reason of subparagraph (A), such entity shall not be treated as a personal holding company for such taxable year for purposes of part II of subchapter G of this chapter.

"(C) TREATMENT FOR PURPOSES OF UNRELATED BUSINESS TAX.—If any qualified trust holds more than 10 percent (by value) of the interests in any pension-held REIT at any time during a taxable year, the trust shall be treated as having for such taxable year gross income from an unrelated trade or business in an amount which bears the same ratio to the aggregate dividends paid (or treated as paid) by the REIT to the trust for the taxable year of the REIT with or within which the taxable year of the trust ends (the 'REIT year') as—

"(i) the gross income (less direct expenses related thereto) of the REIT for the REIT year from unrelated trades or businesses (determined as if the REIT were a qualified trust), bears to

"(ii) the gross income (less direct expenses related thereto) of the REIT for the REIT year.

This subparagraph shall apply only if the ratio determined under the preceding sentence is at least 5 percent.

"(D) PENSION-HELD REIT.—For purposes of subparagraph (C)—

"(i) IN GENERAL.—A real estate investment trust is a pension-held REIT if such trust would not have qualified as a real estate investment trust but for the provisions of this paragraph and if such trust is predominantly held by qualified trusts.

"(ii) PREDOMINANTLY HELD.—For purposes of clause (i), a real estate investment trust is predominantly held by qualified trusts if—

"(I) at least 1 qualified trust holds more than 25 percent (by value) of the interests in such real estate investment trust, or

"(II) 1 or more qualified trusts (each of whom own more than 10 percent by value of the interests in such real estate investment trust) hold in the aggregate more than 50 percent (by value) of the interests in such real estate investment trust.

"(E) QUALIFIED TRUST.—For purposes of this paragraph, the term 'qualified trust' means any trust described in section 401(a) and exempt from tax under section 501(a)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1992.

TITLE III—DISCHARGE OF INDEBTEDNESS

SEC. 301. EXCLUSION FROM GROSS INCOME FOR INCOME FROM DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.

(a) IN GENERAL.—Paragraph (1) of section 108(a) (relating to income from discharge of indebtedness) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by adding at the end the following new subparagraph:

"(D) in the case of an individual, the indebtedness discharged is qualified real property business indebtedness."

(b) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—Section 108 is amended by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—

"(1) BASIS REDUCTION.—

"(A) IN GENERAL.—The amount excluded from gross income under subparagraph (D) of subsection (a)(1) shall be applied to reduce the basis of the depreciable real property of the taxpayer.

"(B) CROSS REFERENCE.—For provisions making the reduction described in subparagraph (A), see section 1017.

"(2) LIMITATIONS.—

"(A) INDEBTEDNESS IN EXCESS OF VALUE.—The amount excluded under subparagraph (D) of subsection (a)(1) with respect to any qualified real property business indebtedness shall not exceed the excess (if any) of—

"(i) the outstanding principal amount of such indebtedness (immediately before the discharge), over

"(ii) the fair market value of the real property described in paragraph (3)(A) (as of such time), reduced by the outstanding principal amount of any other qualified real property business indebtedness secured by such property (as of such time).

"(B) OVERALL LIMITATION.—The amount excluded under subparagraph (D) of subsection (a)(1) shall not exceed the aggregate adjusted bases of depreciable real property (determined after any reductions under subsections (b) and (g)) held by the taxpayer immediately before the discharge (other than depreciable real property acquired in contemplation of such discharge).

"(3) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—The term 'qualified real property business indebtedness' means indebtedness which—

"(A) was incurred or assumed by an individual in connection with real property used in a trade or business and is secured by such real property,

"(B) was incurred or assumed before January 1, 1993, or if incurred or assumed on or after such date, is qualified acquisition indebtedness, and

"(C) with respect to which such taxpayer makes an election to have this paragraph apply.

Such term shall not include qualified farm indebtedness. Indebtedness under subparagraph (B) shall include indebtedness resulting from the refinancing of indebtedness under subparagraph (B) (or this sentence), but only to the extent it does not exceed the amount of the indebtedness being refinanced.

"(4) QUALIFIED ACQUISITION INDEBTEDNESS.—For purposes of paragraph (3)(B), the term 'qualified acquisition indebtedness' means, with respect to any real property described in paragraph (3)(A), indebtedness incurred or assumed to acquire, construct, reconstruct, or substantially improve such property.

"(5) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this subsection, including regulations preventing the abuse of this subsection through cross-collateralization or other means."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 108(a)(2) is amended by striking "and (C)" and inserting ", (C), and (D)".

(2) Subparagraph (B) of section 108(a)(2) is amended to read as follows:

"(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED FARM EXCLUSION AND QUALIFIED REAL PROPERTY BUSINESS EXCLUSION.—Subparagraphs (C) and (D) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent."

(3) Subsection (d) of section 108 is amended by striking "Subsections (a), (b), and (g)" each place it appears in the heading thereof and in the text and headings of paragraphs (6) and (7)(A) and inserting "Subsections (a), (b), (c), and (g)".

(4) Subparagraph (B) of section 108(d)(7) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any discharge to the extent that subsection (a)(1)(D) applies to such discharge."

(5) Subparagraph (A) of section 108(d)(9) is amended by inserting "or under paragraph (3)(B) of subsection (c)" after "subsection (b)".

(6) Paragraph (2) of section 1017(a) is amended by striking "or (b)(5)" and inserting ", (b)(5), or (c)(1)".

(7) Subparagraph (A) of section 1017(b)(3) is amended by inserting "or (c)(1)" after "subsection (b)(5)".

(8) Section 1017(b)(3) is amended by adding at the end the following new subparagraph:

"(F) SPECIAL RULES FOR QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—In the case of any amount which under section 108(c)(1) is to be applied to reduce basis—

"(i) depreciable property shall only include depreciable real property for purposes of subparagraphs (A) and (C),

"(ii) subparagraph (E) shall not apply, and

"(iii) in the case of property taken into account under section 108(c)(2)(B), the reduction with respect to such property shall be made as of the time immediately before disposition if earlier than the time under subsection (a)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges after December 31, 1992, in taxable years ending after such date.•

• Mr. PACKWOOD. Mr. President, today I am pleased to join my colleagues in introducing the Real Estate Stability and Recovery Amendments of 1993. It is a particular pleasure to join forces with Senators BOREN and DANFORTH, who have long championed policies to ensure a healthy, vigorous real estate industry.

While there are signs that our economy is now on the rebound, commercial real estate remains weak and unstable. The legislation we are introducing today will go a long way to helping this important industry get back on firm ground.

Our bill reintroduces three proposals from the last year's second vetoed tax bill (H.R. 11):

First, my proposal to change to the passive loss rules to make them more equitable for real estate.

Second, a change to the debt forgiveness tax rules to make it easier to restructure troubled real estate loans.

Third, various changes to make it easier for pension funds to invest in real estate.

Let me spend a moment on the passive loss proposal in this bill. When we drafted the passive loss rules in 1986, we were trying to eliminate tax shelters and, I might add, for the most part we succeeded. However, we did not intend to hit bona fide losses of someone actively running a business. Unfortunately, that was the effect of the passive loss rules on certain owners of rental real estate.

Back in November 1991, I introduced a bill to correct this inequity by allowing those whose primary business is real estate to prove they materially participate in rental real estate activities and therefore deduct losses generated by such activities. My proposal was adopted by Congress last year, but regretfully did not get signed into law. I hope we can act quickly to get this much-needed change enacted.

Finally, I would like to thank Senator PRYOR for his leadership on the debt forgiveness proposal in the bill. This proposal will pave the way for much-needed restructuring of commercial real estate loans, thereby avoiding unnecessary bankruptcies and financial problems for banks.

I urge my colleagues to cosponsor this important legislation.•

• Mr. DANFORTH. Mr. President, I join today with Senators BOREN and PACKWOOD to introduce the Real Estate Stability and Recovery Amendments Act of 1993.

This bill comprises three provisions that follow the real estate investment section of H.R. 11, which passed the Senate last year but was vetoed for other reasons. I believe these provisions will help the real estate industry fulfill its historic role of leading the Nation's economy to more jobs and solid prosperity.

The story of the real estate industry in recent years is by now familiar. In the early 1980's, structural changes in the banking system and the Tax Code joined to direct substantial amounts of capital to the commercial real estate sector. Problems began when restrictions on bank real estate lending were removed by the Garn-St. Germain Act in 1982, and the 1981 Tax Act's incentives to invest in real estate took effect. These measures caused heavy investment in real estate based on tax benefits and sheltering, as opposed to economic fundamentals.

In 1986, Congress attempted to respond to these problems. In doing so, Congress passed legislation that swung the pendulum too far in the other direction, stifling real estate markets and suddenly reducing the values of existing real estate. Legislation we introduce today will mitigate some of the harsh effects of those 1986 changes.

We have no illusion that our bill will be a panacea for all of the difficulties in the commercial and investment sector of real estate. To ensure a continued healthy real estate market, Congress must look to reduce long-term interest rates by demonstrating fiscal responsibility. Nonetheless, the changes are critical and are fair. They include passive loss relief, relief for certain debt restructuring involving troubled real estate, and the removal of barriers that currently keep pension funds from investing in real estate and real estate investment trusts.

When property values decline, as they have, it affects every part of the economy. Real estate holdings represent approximately two-thirds of the Nation's wealth and a quarter of our GNP. Moreover, real estate assets account for a third of household net worth. According to the National Realty Committee, real estate contributes to up one-fourth of all governments' tax revenues and 70 percent of local tax revenues for schools, roads, public safety, and other essential services.

Since 1986, some locations around the country have experienced as much as a 30-percent decline in the value of real estate in their markets. Imagine the effect on the tax base of that decline. Local governments are forced to cut back on schools, safety, and services. Imagine, too, the effect on the owners of those properties. Many of these owners are regular folks: retirees, working people, owners of small commercial and residential units who are affected in dramatic ways by the fall in property values. Federal Reserve data shows that fairly significant amounts of commercial real estate are held by households in income groups below $50,000. These individuals are adversely affected when real estate values fall. Retirement incomes are reduced, improvements are delayed, and family savings plans are eroded. The decline in property values reaches well beyond the glass see-through towers built in the 1980's.

To stop the continuing decline in real estate values, we must revise some Federal tax policies that have a negative impact on real estate markets. The provisions in our bill will do that.

The passive loss provisions are designed to restore fairness to owners and operators of real estate businesses. Our bill would modify the passive loss rules to ensure that those who materially participate in rental real estate businesses are treated in the same manner as individuals who materially participate in other businesses. This provision should be the centerpiece of any real estate package we might undertake.

The debt restructuring provisions address an anomalous timing problem created by current law. Today, if existing commercial real estate debt is restructured as part of an agreement between the lender and the borrower, the borrower must pay tax immediately on any forgiven debt, even though no cash income is generated. Our proposal would permit the borrower to reduce the basis of depreciable real estate property by the amount of the discharged debt. Thus, any tax liability from the discharged debt would ultimately be satisfied through lower depreciation deduction and by a greater capital gain at the time the property was sold. The provision is identical to current law treatment for farmers, and is the same as pre-1986 act law.

The pension investment provisions modify a number of technical provisions related to pension investment to real estate and real estate trusts. The provisions are carefully crafted to enhance investment options for fund managers while retaining all the current safeguards that protect fund beneficiaries.

There are many other proposals I favor to strengthen the real estate industry. I believe that a reduction in the tax on the sale of capital assets, including real estate, would significantly boost the value of real estate holdings. Moreover, I continue to work for a permanent and expanded low-income housing tax credit. I also believe that we should make permanent the mortgage revenue bond provision which expired last year will the other expiring provisions. I will separately continue to work on these efforts.

Mr. President, it is most important that we act on this package quickly. I urge Secretary Bentsen and the Clinton administration to include these provisions in any economic package submitted to Congress.•

By Mr. LAUTENBERG (for himself, Mrs. BOXER, Mr. DODD, Mr. FEINGOLD, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. LIEBERMAN, Mr. SARBANES, and Mr. SIMON);

S. 343. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide relief to local taxpayers, municipalities, and small business regarding the cleanup of hazardous substance, and for other purposes; to the Committee on Environment and Public Works.

RELIEF FOR LOCAL TAXPAYERS AND SMALL BUSINESS IN CLEANUP OF TOXIC WASTE SITES

• Mr. LAUTENBERG. Mr. President, today I am introducing the Toxic Cleanup Equity and Acceleration Act of 1993. This legislation addresses an issue that is of critical importance not only to my home State of New Jersey but to literally thousands of towns and small businesses across the country.

Under the Federal Superfund law, polluters are held responsible for cleaning up the toxic waste sites that they created. But we are now seeing a perversion of that law. Some industrial polluters, seeking to avoid full liability, have turned around and sued towns and small businesses. These companies and their insurers have sought to shift to local taxpayers, nonprofits, and small businesses—including the Girl Scouts, churches, pizza parlors, and nursing homes—the burden of cleaning up industrial waste.

Over 450 municipalities and a thousand small businesses and nonprofits across the country have become the innocent victims of this litigation. In my own home State of New Jersey, dozens of towns and small businesses have been caught in the web of threatened liability. Two-table pizza parlors, flower shops, and churches are being asked to pay millions of dollars of potential liability. Yet these nonprofit groups, towns, and small businesses sent no more than ordinary household garbage and trash to a landfill. These people were never meant to bear the brunt of Superfund cleanups.

But why is this really happening? It is not just that industrial polluters are trying to dump their costs onto other parties. Some of them also hope, by bringing suits which EPA would never have brought, to undermine the Superfund Program and permanently shift cleanup costs to the taxpayers when the Superfund law comes up for renewal during this Congress.

We shall not let this happen. Eighteen months ago, I introduced a bill to clarify that towns and small businesses were never intended to bear these cleanup costs. I chaired hearings on this issue, at which public officials and businessmen from around the country testified.

Last June, Mr. President, the Senate on two separate occasions approved my legislation. These provisions had the support of numerous major national environmental and municipal groups. Unfortunately, companion legislation introduced in the House of Representatives was never brought out of committee or considered by the House.

Therefore, as we begin a new Congress, I am reintroducing legislation to provide relief to local taxpayers and businesses that have sent ordinary household trash to Superfund sites. This bill will stop all lawsuits against parties who sent only ordinary household trash or its equivalent to a site and relieve them of the burden of litigation costs, consistent with EPA's policies in this area.

This legislation applies to big business, small business, nonprofits, and towns that may have sent municipal solid waste or sewage sludge or its equivalent to a Superfund site. However, this bill does not let polluters off the hook, no matter who they are. It does not apply in cases where toxic wastes were involved. It is fair to all parties involved, and consistent with Congress's original intent to have polluters pay for cleanup but not to hold generators and transporters of ordinary household garbage liable.

I am joined in introducing this bill by Senators BOXER, DODD, FEINGOLD, LIEBERMAN, KENNEDY, KERRY, KOHL, SARBANES, and SIMON. This bill also has the strong support of major environmental and municipal groups, including the Sierra Club, Clean Water Action, Natural Resources Defense Council, U.S. Public Interest Research Group, Environmental Defense Fund, U.S. Conference of Mayors, National Association of Counties, National School Boards Association, National Association of Towns and Townships, American Communities for Cleanup Equity, and State organizations such as the New Jersey School Boards Association.

As chairman of the Subcommittee on Superfund, Recycling, and Solid Waste Management, I will be scrutinizing the overall Superfund Program during this session of Congress. I will continue to place a very high priority on getting relief to the local taxpayers and small businesses who are threatened by the burden of inappropriate lawsuits.

Mr. President, I ask unanimous consent to print in the RECORD a brief section-by-section analysis of the legislation and a copy of the bill itself.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 343

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Toxic Cleanup Equity and Acceleration Act of 1993".

SEC. 2. MUNICIPAL SOLID WASTE AND SEWAGE SLUDGE.

(a) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9601) is amended by adding the following new paragraphs at the end thereof:

"(39) The term 'municipal solid waste' means all waste materials generated by households, including single and multiple residences, and hotels and motels. The term also includes trash generated by commercial, institutional, and industrial sources (a) when such materials are essentially the same as waste normally generated by households, or (b) when such waste materials were collected and disposed of with other municipal solid waste or sewage sludge and, regardless of when generated, would be considered conditionally exempt small quantity generator waste under section 3001(d) of the Solid Waste Disposal Act. Examples of municipal solid waste include food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, school science laboratory waste, and household hazardous waste (such as painting, cleaning, gardening, and automotive supplies). The term 'municipal solid waste' does not include combustion ash generated by resource recovery facilities or municipal incinerators, or waste from manufacturing or processing (including pollution control) operations not essentially the same as waste normally generated by households.

"(40) The term 'sewage sludge' refers to any solid, semisolid, or liquid residue removed during the treatment of municipal waste water, domestic sewage, or other waste waters at or by a publicly-owned treatment works.

"(41) The term 'municipality' means any political subdivision of a State and may include cities, counties, villages, towns, townships, boroughs, parishes, schools, school districts, sanitation districts, water districts, and other local governmental entities. The term also includes any natural person acting in his or her official capacity as an official, employee, or agent of a municipality.".

(b) Section 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsections at the end thereof:

"(m) Contribution Actions for Municipal Solid Waste and Sewage Sludge.—No municipality or other person shall be liable to any person other than the President for claims of contribution under this section or for other response costs, penalties, or damages under this Act for the generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge.

"(n) Public Right-of-Way.—In no event shall a municipality incur liability under this Act for the acts of owning or maintaining a public right-of-way over which hazardous substances are transported, or of granting a business license to a private party for the transportation, treatment, or disposal of municipal solid waste or sewage sludge. For the purposes of this subsection, 'public right-of-way' includes, but is not limited to, roads, streets, flood control channels, or other public transportation routes, and pipelines used as a conduit for sewage or other liquid or semiliquid discharges.".

(c) Section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsection at the end thereof:

"(n) Settlements for Generators and Transporters of Municipal Solid Waste or Sewage Sludge.—

"(1) Eligible persons.—The term 'eligible person' under this subsection means any person against whom an administrative or judicial action is brought, or to whom notice is given of potential liability under this Act, for the generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge. An eligible person who may be liable under section 107(a)(1) or 107(a)(2) of this Act or for substances other than municipal solid waste or sewage sludge is covered by the Toxic Cleanup Equity and Acceleration Act of 1993 and the amendments to this Act made by the Toxic Cleanup Equity and Acceleration Act of 1993 to the extent that the person is liable for the generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge.

"(2) Negotiation of settlements; moratorium.—Eligible persons under this subsection may offer to settle their potential liability with the President by stating in writing their ability and willingness to settle their potential liability in accordance with this subsection. Upon receipt of such offer to settle, neither the President nor any other person shall take further administrative or judicial action against the eligible person, unless the President determines that the eligible person's offer or position during negotiations is not in good faith or otherwise not in accordance with this subsection or that the matters addressed include liability not related to the generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge. Nothing in this subsection shall limit or modify the President's authority under section 104(e) (42 U.S.C. §9604(e)).

"(3) Timing.—Eligible persons may tender offers under this subsection within 180 days after receiving a notice of potential liability or becoming subject to administrative or judicial action, or within 180 days after a record of decision is issued for the portion of the response action that is the subject of the person's settlement offer, whichever is later. If the President notifies an eligible person that he or she may be a potentially responsible party, no further administrative or judicial action may be taken by any party for 120 days against such person.

"(4) Expedited final settlement.—The President shall make a good faith effort to reach final settlements as promptly as possible under this subsection and such settlements shall—

"(A) allocate to all generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge a combined total of no more than four percent (4%) of the total response costs for the facility; *provided, however*, That the President shall reduce this percentage when the presence of municipal solid waste and sewage sludge is not significant at the facility;

"(B) require an eligible person under this subsection to pay only for his or her equitable share of the maximum four percent (4%) portion of response costs described in subparagraph (A);

"(C) limit an eligible person's payments based on such person's inability to pay, litigative risks, public interest considerations, precedential value, and equitable factors;

"(D) permit an eligible person to provide in-kind services with regard to the response action in lieu of cash contributions and to be credited at market rates for such services;

"(E) limit a publicly owned treatment works' payments if it has promoted the beneficial reuse of sewage sludge through land application when the basis of liability arises from sewage sludge generated 36 months after the date of enactment of this subsection or thereafter; and

"(F) be reached even in the event that an eligible person may be liable under sections 107(a)(1) or 107(a)(2) of this Act or for substances other than municipal solid waste or sewage sludge.

"(5) Covenant not to sue.—The President may provide a covenant not to sue with respect to the facility concerned to any person who has entered into a settlement under this subsection unless such a covenant would be inconsistent with the public interest as determined under subsection (f) of this section.

"(6) Effect of agreement.—A person that has resolved his or her liability to the United States under this subsection shall not be liable for claims of contribution or for other response costs, penalties, or damages under this Act regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially responsible parties unless its terms so provide, but it reduces the potential liability of the others by the amounts of the settlement.

"(7) De minimis settlements.—Nothing in this subsection shall alter or diminish a person's ability to reach a settlement with the President under subsection (g) of this section.

"(o) Future Disposal Practices.—This subsection applies only to the generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge occurring 36 months after the date of enactment of this subsection. Beginning at such time and with regard to such future municipal solid waste or sewage sludge, eligible persons who are municipalities or operators of publicly owned treatment works may assert the provisions of section 122(n) only under the following circumstances:

"(1) if liability arises from municipal solid waste collected and disposed of 36 months or later after the date of enactment of this subsection and the eligible person is a municipality, a qualified household hazardous waste collection program must have been operating while the municipal solid waste was collected and disposed; or

"(2) if liability arises from sewage sludge generated 36 months or later after the date of enactment of this subsection and the eligible person is an owner or operator of a publicly owned treatment works, a qualified publicly owned treatment works must have been operating while the sewage sludge was generated at such treatment works.

"(3) The term 'qualified household hazardous waste collection program' means a program that includes—

"(A) at least semiannual, well-publicized collections at conveniently located collection points with an intended goal of participation by ten percent of community households;

"(B) a public education program that identifies both hazardous household products and safer substitutes (source reduction);

"(C) efforts to collect hazardous waste from conditionally exempt small quantity generators under section 3001(d) of the Solid Waste Disposal Act, with an intended goal of collecting wastes from twenty percent of such generators doing business within the jurisdiction of the municipality; and

"(D) a comprehensive plan, which may include regional compacts or joint ventures, that outlines how the program will be accomplished.

"(4) A person that operates a 'qualified household hazardous waste collection program' and collects hazardous waste from conditionally exempt small quantity generators under section 3001(d) of the Solid Waste Disposal Act must transport or arrange to transport such waste in accordance with the Solid Waste Disposal Act and must dispose of such waste at a hazardous waste treatment, storage or disposal facility with a permit under section 3005 of the Solid Waste Disposal Act (42 U.S.C. §6925), but such person is otherwise deemed to be handling only household waste under the Solid Waste Disposal

Act when it operates a qualified household hazardous waste collection program.

"(5) Nothing in this Act is intended to prohibit a municipality from assessing fees to persons whose waste is accepted during household hazardous waste collections, or shall prohibit a municipality from refusing to accept waste that the municipality believes is being disposed of in violation of the Solid Waste Disposal Act.

"(6) The term 'qualified publicly owned treatment works' means a publicly owned treatment works that complies with section 405 of the Federal Water Pollution Control Act (33 U.S.C. §1345).

"(7) The President may determine that a household hazardous waste collection program or a publicly owned treatment works is not qualified under this subsection. Minor instances of noncompliance do not render a household hazardous waste collection program or publicly owned treatment works unqualified under this subsection.

"(8) If the President determines that a household hazardous waste collection program is not qualified, the provisions of section 122(n) shall not apply, but only with regard to the municipal solid waste disposed of during the period of disqualification.

"(9) If a municipality or operator of a publicly owned treatment works is notified by the President or by a State with a program approved under section 402(b) of the Federal Water Pollution Control Act (33 U.S.C. §1342(b) that its publicly owned treatment works is not in compliance with the requirements of paragraph (6) of this subsection, and if such noncompliance is not remedied within twelve months, the provisions of section 122(n) shall not apply, but only with regard to the sewage sludge generated or disposed of during the period of noncompliance.".

(d) Section 122(g)(1)(A)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting the following sentence at the end thereof: "The amount of hazardous substances in municipal solid waste and sewage sludge shall refer to the quantity of hazardous substances which are constituents within municipal solid waste and sewage sludge, not the overall quantity of municipal solid waste and sewage sludge.".

(e) Nothing in this section shall modify the meaning or interpretation of the Solid Waste Disposal Act.

(f) Nothing in this section shall modify a State's ability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to carry out actions authorized in such Act and to enter into a contract or cooperative agreement with the President to carry out such actions.

(g) The settlement procedures and bar on judicial and administrative proceedings addressed in this section shall apply even if any constituent component of municipal solid waste or sewage sludge may be considered a hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 when the constituent component exists apart from municipal solid waste or sewage sludge.

(h) This Act and the amendments made by this section shall apply to each municipality and other person against whom administrative or judicial action has been commenced before the effective date of this Act, unless a final court judgment has been rendered against such municipality or other person or final court approval of a settlement agreement including such municipality or other person as a party has been granted. If a final court judgment has been rendered or court-approved settlement agreement has been reached that does not resolve all contested * * *

SECTION-BY-SECTION ANALYSIS OF THE TOXIC CLEANUP EQUITY AND ACCELERATION ACT OF 1993

SECTION 1

This section entitles this legislation as "The Toxic Cleanup Equity and Acceleration Act of 1993."

SECTION 2

Subsection (a)—Additional Definitions

The legislation adds three new definitions to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§9601 *et seq.* Any reference to "CERCLA" or "Superfund" should be construed as a reference to that act. The subsection does not alter any existing definitions under CERCLA and thus, for example, does not affect current law's definition of "person" as virtually any public or private entity or natural person, including federal, state, and local governments.

The subsection defines "municipal solid waste" (MSW) as including all waste materials generated by households and multiple residences, as well as waste from other sources when it is essentially the same as household waste. The definition also includes small amounts of hazardous waste that can legally become part of the municipal waste stream under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §6921(d). The term does not include incinerator ash or waste from industrial processes not essentially the same as household waste but also regulated under Subtitle D of RCRA.

The subsection defines "sewage sludge" as essentially any residue removed during the treatment of waste water at a publicly-owned treatment works.

The subsection defines "municipality" to include any political subdivision of a state and includes individuals who act in an official capacity on behalf of a municipality.

Subsection (b)—Third-part Suits for MSW or Sewage Sludge

Under CERCLA, "potentially responsible parties" (PRPs) who have been notified by EPA that they may be liable for cleanup costs have the right to sue other parties who may also be responsible for the hazardous waste site. Such "third-party" or "contribution" suits provide PRPs a mechanism for making other polluters share the cleanup costs.

This subsection modifies CERCLA to prohibit third-party suits for contribution or for other response costs, penalties, or damages against any persons if the actions challenged were related to the generation or transportation of MSW or sewage sludge. As used herein, "generation" or "generators" is meant to refer to actions or persons described by section 107(a)(3) of CERCLA and may include arranging for the transportation, treatment, or disposal of hazardous substances. "Transportation" or "transporters" is meant to refer to actions or persons described by section 107(a)(4). To the extent municipalities or other persons owned or operated a facility, or generated or transported waste materials that do not meet the definitions of municipal solid waste and sewage sludge, the block on third-part suits does not apply.

The subsection defines two situations in which a municipality will not be liable under Superfund for exercising its regulatory power: when it owns a public right-of-way, such as a road or sewage pipeline, over which hazardous substances are transported, or when it grants a business license to a private party to transport or dispose of municipal solid waste or sewage sludge.

Subsection (c)—Settlements

The subsection creates a special settlement opportunity for any person alleged to be a generator or transporter of MSW or sewage sludge in an administrative or judicial action. Such persons may offer to settle their potential liability with the President by stating in writing their ability and willingness to pay their share of cleanup costs in accordance with this subsection. Upon receipt of such a good faith offer to settle, all further administrative or judicial action against such party is stayed pending negotiations with the President, unless the President determines that the party is not negotiating in good faith or that the settlement offer addresses liability not related to the generation or transportation of MSW or sewage sludge.

Eligible persons may tender offers either (1) within 180 days after receiving a notice of potential liability or becoming subject to administrative or judicial action or (2) within 180 days after a record of decision is issued for the portion of the response action for which the person may have liability, whichever is later. In any event, neither the President nor any other person may pursue administrative or judicial action against any eligible party for 120 days after such party receives a notice of potential liability from the government.

In negotiating final settlements with persons eligible to tender offers under this subsection, the President shall (1) make a good faith effort to reach such settlements expeditiously; (2) allocate to all generation and transportation of MSW or sewage sludge a combined total of no more than four percent of total cleanup costs; (3) reduce such percentage share when the presence of MSW or sewage sludge is not significant at the facility; (4) require each individual eligible party to pay no more than his or her fair share of the total MSW or sewage sludge share; (5) limit an eligible person's contribution based on such person's inability to pay, public interest considerations, and other equitable factors; (6) permit eligible persons to provide in-kind services credited at market rates in lieu of a cash contribution; and (7) beginning 36 months following the date of enactment, for disposal of sewage sludge occurring after the date, limit a publicly owned treatment works' payments if it has promoted the beneficial reuse of sewage sludge through land application.

The subsection provides further that eligible parties shall be able to negotiate settlements under its terms even if they have committed acts that could give rise to potential liability under other sections of the statute by, for example, acting as the owner or operator of a site.

The subsection states that the President may provide a covenant not to sue with respect to the facility concerned to any person who has entered into a settlement under the subsection and that any such settlement blocks all future claims of contribution or other cost recovery, penalties, or damages regarding matters the settlement addresses. Such a settlement does not discharge the liability of any potentially responsible parties who do not participate in it, although such parties' liability shall be reduced by the amount paid under the settlement.

This subsection further provides that beginning three years after the date of enactment of the legislation, for disposal of MSW or sewage sludge that occurs at such time or later, municipalities wishing to take advantage of the settlement provisions of the subsection must take the following affirmative steps.

For potentially responsible municipal parties allegedly liable for the generation or transportation of MSW, eligible municipalities must establish a "qualified household hazardous waste collection program" that includes at least (1) semiannual, well-publicized collections at conveniently located collection points with the intended goal of participation by ten percent of community households; (2) a public education program that identifies both hazardous products and safer substitutes; (3) efforts to collect hazardous waste from conditionally exempt generators; and (4) a comprehensive plan, which may include regional compacts or joint ventures, outlining how the program will be accomplished.

For potentially responsible owners or operators of publicly owned treatment works whose liability allegedly arises out of the generation or transportation of sewage sludge, eligible parties must comply with section 405 of the Federal Water Pollution Control Act regulating the disposal of sewage sludge.

The subsection further provides that the President may determine that a household hazardous waste collection program or a publicly owned treatment works is not qualified under the subsection, but that minor instances of noncompliance do not render such programs or facilities unqualified. It states that when a municipality is notified that its publicly owned treatment works may not comply with the requirements of the subsection, the municipality shall have 12 months to rectify the identified problems. If such noncompliance is not remedied within 12 months, or if the President determines that a household hazardous waste collection program is not qualified for some period, the municipality shall lose its ability to use the settlement provisions of the subsection, but only with respect to waste materials disposed of during the period of noncompliance.

Subsection (d)—Volume of Municipal Solid Waste and Sewage Sludge

The subsection states that in determining eligibility for de minimis settlements under section 122(g)(1)(A)(i) of CERCLA, the amount of hazardous substances in MSW or sewage sludge shall refer to the quantity of hazardous substances which are constituents within the MSW or sewage sludge, not the overall quantity of such waste materials.

Subsection (e)—Effect on Other Law

The subsection states that the legislation does not modify the meaning or interpretation of the Solid Waste Disposal Act.

Subsection (f)—State Enforcement

The subsection states that the legislation does not modify the states' ability to carry out actions authorized by Superfund or through cooperative agreements with the President.

Subsection (g)—Constituent Components of MSW and Sewage Sludge

The subsection makes clear that the legislation shall apply to municipal solid waste and sewage sludge as defined, even though these materials may contain constituent components that are considered hazardous substances under Superfund when they exist apart from MSW or sewage sludge.

Subsection (h)—Retroactivity

This subsection provides that the legislation applies to all administrative or judicial actions that began before the effective date of the legislation, unless a final court judgment has been rendered or a court-approved settlement agreement has been reached.●

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 344. A bill to direct the Secretary of the Interior to conduct a study to determine the suitability and feasibility of designating the Fox and Lower Wisconsin River corridors in the State of Wisconsin as a National Heritage Corridor, and for other purposes; to the Committee on Energy and Natural Resources.

THE FOX-WISCONSIN RIVER NATIONAL HERITAGE CORRIDOR STUDY ACT OF 1993

● Mr. KOHL. Mr. President, I rise today to introduce the Fox-Wisconsin River National Heritage Corridor Study Act of 1993, and I welcome my colleague Senator FEINGOLD as an original cosponsor of this legislation. While identical legislation passed the Senate last year, it did not pass the House of Representatives before the conclusion of the 102d Congress.

The purpose of this legislation is to establish a process for determining the suitability and feasibility of designating the Fox and Lower Wisconsin River corridors as a National Heritage Corridor. The National Heritage Corridor designation could provide for the revitalization of this historic transport artery, and link together the significant tourist attractions of this region.

Stretching from Lake Michigan's Green Bay to the Mississippi River, the Fox-Wisconsin River Corridor has played a major role in the exploration and settlement of North America. Following this route, 17th century explorers Marquette and Joliet traveled down the Mississippi River and into the Gulf of Mexico, opening what became the Northwest Territory.

Throughout the 19th and 20 centuries, the Fox River played a significant role in the industrial development of this Nation. The Fox River boasts the country's oldest continuously operated manual lock system. It was also the site of the world's first hydroelectric plant. John Muir came to America as a Scottish immigrant and settled with his parents on the farm near the Fox River. Muir, who became perhaps America's foremost conservationist, learned his love of nature during his boyhood on the river. As an adult, he moved west and is credited with helping to establish Yosemite and Sequoia National Parks, along with the Sierra Club.

The Lower Wisconsin's sandy banks are also replete with history. Aldo Leopold was a leading scholar of conservation in the earlier part of this century. At his River Bottom farm on the banks of the Wisconsin River, he wrote A Sand County Almanac, which became a bible of the environmental movement in the sixties and seventies. Just downstream, Frank Lloyd Wright designed and built his school of architecture, Taliesin, 100 yards from the banks of the Wisconsin River. Just 2 weeks ago, I introduced the Taliesin Preservation Act of 1993, to make this internationally significant site an affiliate of the National Park Service and to authorize Federal funds to match restoration funds raised from State and private sources.

The Fox-Wisconsin Corridor contains hundreds of historical sites such as these, all of them well documented. The East-Central Wisconsin Regional Planning Commission produced an in-depth survey of historical landmarks along the Fox River. The Lower Wisconsin State Riverway Board, an office of the State government, has cataloged historical attributes of the Wisconsin River. In 1979, under the Wild and Scenic Rivers Act, the National Park Service produced a report on the Lower Wisconsin River, advocating that this natural resource be protected. Finally, the State historical society and the Department of Natural Resources have compiled extensive scientific, cultural, and historical data on both the Fox and Wisconsin Rivers.

While I believe that the designation of the corridor as a National Heritage Corridor would be beneficial to the people and the resources of the region, this legislation does not seek to make that designation at this time. Instead, this legislation would establish a 2-year study, to solicit strong input from local residents, to help in making a determination as to whether or not such a designation would be suitable. Local involvement at the planning stages of this effort will be critical if the Fox-Wisconsin River National Heritage Corridor is to be successfully established in the future.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 344

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fox-Wisconsin River National Heritage Corridor Study Act of 1993".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Fox-Wisconsin waterway is famous as the discovery route of Marquette and Joliet;

(2) as the connecting route between the Great Lakes and the Mississippi River, the waterway was critical to the opening of the Northwest Territory, and served as a major artery in bringing commerce to the interior of the United States and providing a vital communication link for early explorers, missionaries, and fur traders;

(3) within the Fox and Lower Wisconsin River corridors are an abundance of historic and archaeological sites and structures representing early Native Americans, European

exploration, and 19th-century transportation and settlement; and

(4) the unique aspects of the waterway, from the heavily developed portion of the Fox River to the pristine expanses of the Lower Wisconsin River, should be studied to determine the waterway's suitability and feasibility for designation as a National Heritage Corridor.

SEC. 3. STUDY OF FOX-WISCONSIN RIVER CORRIDORS.

(a) IN GENERAL.—Not later than 2 years after the date funds are made available to carry out this Act, the Secretary of the Interior (referred to in this Act as the "Secretary") shall prepare a study on the suitability and feasibility of designating the Fox and Lower Wisconsin River corridors in the State of Wisconsin as a National Heritage Corridor.

(b) REPORT TO CONGRESS.—On completion of the study referred to in subsection (a), the Secretary shall submit a report describing the results of the study to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives.

SEC. 4. FOX-WISCONSIN RIVER STUDY ADVISORY COMMISSION.

(a) IN GENERAL.—There is established the Fox-Wisconsin River Study Advisory Commission (referred to in this Act as the "Commission") to advise the Secretary with respect to the preparation of the study required under section 3(a).

(b) MEMBERSHIP.—The Commission shall consist of 16 members, appointed by the Secretary, of whom—

(1) 4 members shall be made from recommendations submitted by the Governor of the State of Wisconsin, to represent affected State agencies;

(2) 4 members shall represent local governments from affected communities along the Fox and Lower Wisconsin River corridors; and

(3) 8 members shall be made from the general public, who shall have knowledge and experience in appropriate fields of interest relating to the preservation, use, and interpretation of the Fox and Lower Wisconsin River corridors, of whom—

(A) 4 members shall be residents of the Fox River region; and

(B) 4 members shall be residents of the Lower Wisconsin River region.

(c) CHAIRPERSON.—The members of the Commission shall elect a Chairperson from among the members of the Commission.

(d) VACANCIES.—Vacancies on the Commission shall be filled in the same manner in which the original appointment was made.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(f) COMPENSATION.—Members of the Commission shall receive no compensation as a result of their service on the Commission. While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(g) FEDERAL ADVISORY COMMITTEE ACT.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Commission.

(h) ANNUAL REPORTS.—The Commission shall publish and submit to the Secretary and the Governor of the State of Wisconsin an annual report concerning the activities of the Commission.

(i) TERMINATION.—The Commission shall terminate on the completion of the study required under section 3(a).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.●

By Mr. AKAKA:

S. 346. A bill to amend the Internal Revenue Code of 1986 to adjust for inflation the dollar limitations on the dependent care credit; to the Committee on finance.

WORKING FAMILIES TAX RELIEF ACT OF 1993

Mr. AKAKA. Mr. President, today I am introducing legislation to provide a measure of tax relief to working families throughout America. My bill would restore value to the child and dependent care credit by requiring an annual adjustment of the credit for inflation.

Mr. President, recent events focused public attention on the problems faced by working Americans seeking affordable, quality child-care services for their children. The availability and affordability of adequate child care are the principal concerns expressed by an increasing number of middle-class working parents. Many parents are forced to patch together a network of child care providers to secure care for their children.

The evidence in support of improving the child and dependent care credit is clear. More than 56 percent of all mothers with children under 6 years work outside the home, and over 70 percent of women with children over age 6 are in the labor market. The number of single mothers working outside the home has dramatically increased in recent years.

The percentage of Hawaii households in which both parents work outside the home is even higher than the national average. According to projections developed by the Bank of Hawaii based on the 1990 census, 61.8 percent of all Hawaii families have both parents employed, and 71.3 percent of all households have at least two individuals in the work force.

The increased participation of single mothers in the labor market and the large number of two-parent families in which both parents work outside the home have made the dependent care credit one of the most popular and productive tax incentives ever enacted by Congress. Unfortunately, the value of the credit has declined significantly over the years as inflation has slowly eaten away at the value of this benefit. Measured in constant dollars, the maximum credit of $2,400 has decreased by 45 percent since it was enacted in 1981.

The maximum amount of employment-related child care expenses allowed under current law—$2,400 for a single child and $4,800 for two or more children—has simply failed to keep pace with escalating care costs. Unlike the earned income tax credit [EITC], the standard deduction, the low-income housing credit, and a number of other sections of our tax code, the dependent care credit is not adjusted for inflation.

The purpose of this credit is to partially offset the expense of dependent and child care services incurred by parents working outside the home. Yet, while the cost of quality child care has increased as demand exceeds supply, the dependent care credit has failed to keep up with the spiraling costs. The bill I introduce today corrects this chronic problem by automatically adjusting the dependent and child care credit for inflation. Under this legislation, both the dollar limit on the amount creditable and the limitation on earned income would be adjusted annually.

Mr. President, in the past 12 years, the average middle-class family with children has seen its income fall 5 percent, almost $1,600 after inflation. A family of four earning $35,000 a year has seen its tax burden increase since 1981. In part, this is due to the diminished value of the child and dependent care credit. In 1981, the flat credit for dependent care was replaced with a scale to give the greatest benefit of the credit to lower income working families. Since that time, neither the adjusted gross income figures employed in the scale, nor the limit on the amount of employment-related expenses used to calculate the credit, has been adjusted for inflation. Our bill provides a measure of much needed relief to working American families. It would index the child and dependent care credit and restore the full benefit of the credit.

The average cost for out-of-home child care exceeds $3,500 per child, per year. Child care or dependent care expenses can seriously strain a family's budget. This burden can become unbearable for single parents, almost invariably single mothers, who must balance the need to work with their parental responsibilities.

Numerous economic studies have shown that the economic policies of the 1980's had a disastrous impact upon the incomes of middle-income families. Inflation adjusted wages for the median worker fell 7.3 percent from 1979 to 1991. Working Americans have been losing ground in their struggle to preserve their standard of living. To compensate, American families have been forced to work longer hours, deplete their life savings, and go deeper into debt. There is an urgent need to enact changes in our tax code that are pro-family and pro-children. The Working Families Tax Relief Act meets both of these goals.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 346

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Working Families Tax Relief Act".

SEC. 2. INFLATION ADJUSTMENT OF DEPENDENT CARE CREDIT.

"(a) IN GENERAL.—Subsection (e) of section 21 of the Internal Revenue Code of 1986 (relating to expenses for household and dependent care services necessary for gainful employment) is amended by adding at the end thereof the following new paragraph:

"(10) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1993, each dollar amount contained in subsections (c) and (d)(2) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof."

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1993.

By Mr. PELL (for himself, Mr. STEVENS, Mr. DECONCINI, Mr. MOYNIHAN, and Mr. HATFIELD):

S. 345. A bill to authorize the Library of Congress to provide certain information products and services, and for other purposes; to the Committee on Rules and Administration.

LIBRARY OF CONGRESS FUND ACT OF 1993

• Mr. PELL. Mr. President, in my capacity as Chairman of the Joint Committee on the Library, I am again introducing legislation requested by the Librarian of Congress, Dr. James H. Billington, to authorize the Library to charge fees for specialized services to noncongressional users, to establish a separate revolving fund for the provision of certain information products and services and for other purposes. I am introducing this bill on behalf of myself and the other Senate members of the joint committee, Senators STEVENS, DECONCINI, MOYNIHAN, and HATFIELD.

The Senate Committee on Rules and Administration held a hearing on an earlier version of this legislation on July 22, 1992, and witnesses from the library community and from the information industry had an opportunity to present their views. Following the hearing, Library officials, with Senate Rules and Administration Committee staff, held an extensive series of discussions with representatives of the American Library Association, the Special Library Association, the Association of Research Libraries, the American Association of Law Libraries, as well as the American Association of Publishers and the Information Industry Association in an effort to resolve some of their concerns about the proposal. The cooperation and efforts of these groups are much appreciated by the committee.

The bill that I am introducing today reflects those extensive negotiations and thus is different in some important respects from S. 2748 that I introduced last May. I think it is a reasonable measure, in that it still accomplishes the Library's objectives in establishing a revolving fund to update its 1902 authority to recover the production and distribution costs of certain special services, but also goes a long way toward mitigating the objections of other interested parties in the library community as well as the publishing and information industries. The measure clearly establishes that the Library's current core services to the Nation's libraries and the public will remain free of charge.

The legislation is responsive to a draft General Accounting Office report that recommended that the Library seek legislation to authorize revolving fund accounts already in existence. In addition, the bill would authorize the Library to provide specialized fee-based services to business and industry and to the educational and information communities.

The Librarian of Congress has requested the legislation to accomplish three basic purposes:

First, to update limited authority given in a 1902 law under which the Library of Congress provides bibliographic products and services to the Nation's libraries, a service that saves these libraries some $360 million every year because they don't have to prepare original cataloging for every book they acquire.

Second, to make specialized library information products and services more readily available, for fee, to Federal, State, and local government agencies, foreign governments, as well as other libraries, schools, businesses, and industries. These specialized, tailored services would go far beyond the core services that the Library provides using appropriated funds.

Third, to create the modern administrative mechanism—a revolving fund—through which the Library can establish and recover its costs for providing new products and services designed to meet the specialized information needs of individuals or discrete groups and to protect the provision of core services.

Mr. President, I want to assure my colleagues that there are safeguards in the bill to ensure that: The first priority of the Library of Congress continues to be to serve the information and research needs of the Congress; core Library of Congress services shall continue to be provided at no additional cost to the Congress, Library of Congress users, and the Nation's libraries; the Library of Congress shall continue to make available to the Government Printing Office, for distribution to the depository library program, products and services when they become publications as defined by title 44; and the Library shall comply with all existing provisions of law that afford protection to copyrighted materials under the Copyright Act.

Language in a preliminary draft of the bill concerning copyright has been removed on the advice of the Senate Counsel, on the grounds that it would have replicated existing statutory language and thus was not needed.

In addition, Mr. President, the legislation provides strong fiscal controls for the operation of the Library of Congress revolving fund authorized by the bill. Obligations for fund service activities are limited to the total amounts specified in the appropriations process. The bill directs the Librarian to report on fund activities and financial transactions annually and provides for a General Accounting Office audit. The Librarian of Congress will notify the Joint Committee on the Library and publish notice of new fund service activities in the Federal Register, providing an ample period for public comment.

Mr. President, this legislation is necessary if the Library of Congress is to assist the Nation's businesses and educational institutions in obtaining the specialized information they need in order to remain competitive and productive. The purpose of this measure is to extend services that cannot be supported by appropriations or philanthropy. The Library of Congress is a national treasure that needs to be made more accessible to everyone. This bill helps to accomplish that goal.

Mr. President, I ask unanimous consent that a section by section analysis of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF S. 345, THE LIBRARY OF CONGRESS FUND ACT OF 1993

S. 345 is a bill to authorize the Library of Congress to establish a separate revolving fund for the provision of certain information products and services and for other purposes as described below. It is sponsored by Senator Claiborne Pell at the request of the Librarian of Congress and is under the jurisdiction of the Senate Committee on Rules and Administration.

SUMMARY

The legislation is remedial in that it addresses GAO concerns to establish a better statutory basis for existing gift revolving fund activities; modernizes the authority given in the 1902 law under which the Library provides bibliographic information services and products; defines distribution costs for these products and services; makes funds available until expended; and expressly authorizes the Library to extend the range of products and services it can offer and thus expand its community of users without diminishing products and services funded through appropriations. The legislation also affirms the Library's role as the national library and assures that the Library will continue to provide and expand its free core services to the Nation.

SECTION 1. SHORT TITLE

The act may be cited as the "Library of Congress Funded Act of 1993."

SECTION 2. FINDINGS AND PURPOSES

Findings

Established in 1800 to serve the Congress, the Library of Congress also serves the Nation by providing access to its collections and reference services in several ways: for example, on site to visitors and researchers; through interlibrary loan; and through acceptance of telephone and mail inquires. The legislation affirms that the Library of Congress, through appropriated funds, continues to provide core services at no cost to the Congress, to Library of Congress users and to the Nation.

Intent of Congress

In order to provide assurance that the legislation will not diminish the Library's core and national services, or affect the Library's responsibilities under Titles 17 and 44, this section makes explicit the Congress's intention that the Library continue to provide core and national library services, to support the depository library program under Title 44, to comply with the Copyright Act, Title 17 of the United States Code, and to provide specialized services for a fee. The Congress also intends that the Library consider a variety of sources in developing such specialized services.

Purposes

In 1902, the Library of Congress was first authorized to serve the Nation's libraries by producing and distributing catalog cards. These cards establish and describe the author, title, and physical characteristics of a book and contain subject headings and a classification number to enable researchers to locate books by author, title, or topic. Over the years, the Library of Congress has expanded its catalog card service by producing and distributing additional bibliographic and technical information products and services. In addition to the print format, the Library has utilized other formats to make cataloging data available, e.g., magnetic tape and CD-ROM, and has recovered the distribution costs for providing these products. The legislation modernizes the authority given in the 1902 law under which the Library provides these bibliographic information services and products; defines distribution costs for these products and services; and makes funds available until expended. As an indication of the importance of this centralized cataloging activity, the Library of Congress estimates that in FY 1992 it saved the Nation's academic and public libraries saved over $370 million in cataloging costs they would otherwise have expended by being required to create their own cataloging records.

Another purpose is to make library information products and services more readily available by clarifying and defining the Library's authority to be compensated for these information services and products. For example, the Law Library is often asked to provide analytical research reports; because the work would require an expenditure of time and effort far beyond what is possible on appropriated funds for core services, and because no administrative mechanism now exists for the Library to be compensated, such requests must be refused.

To remedy this problem, the legislation provides an administrative mechanism—a revolving fund—through which the Library may establish and recover its costs for providing new library products and services designed to meet the specialized information needs of individuals, groups, or entities. A fundamental reason to establish a revolving fund is to provide for the systematic disclosure of the relationship between program income and costs for products and services, thereby providing a firm basis for decisions regarding services to be undertaken and prices to be charged. Thus, the revolving Fund will improve accountability to the Congress, as recommended by the GAO, another stated purpose of the legislation.

SECTION 3. DEFINITIONS

The legislation defines three categories of information products and services provided by the Library of Congress as follows:

(1) "core library products and services" means domestic interlibrary loan and information products and services in any format customarily provided by libraries to users at no charge; the definition ensures that core services will not be frozen in time and can include electronic access to the contents of the collections and products and services resulting from future technologies.

(2) "national library products and services" means information products and services, in any format, including bibliographic, technical, and Library-created databases used by libraries and library organizations, which play a role in maintaining and improving library services throughout the Nation.

(3) "distribution costs" mean costs sustained by the Library of Congress, over and above the costs of services funded by appropriations, to package and distribute national library products and services. Consistent with current law, costs for acquiring and cataloging the Library's collections are excluded from distribution costs. Furthermore, the existing requirement to charge an additional ten percent over the above distribution costs is excluded in this legislation.

(4) "specialized library products and services" means customized information products and services which exceed core services, which are not national library products and services, and which are created to respond to the information needs of individuals or discrete groups of persons or entities. Some examples are: an analytical report on the ramifications of "Europe 1992" on international law done at the request of a law firm; gift shop items based on the collections; translations of materials in the collections; expedited document location, copying, and delivery; public use of commercial databases not available on appropriated funds; centralized acquisitions and services for Federal libraries; centralized acquisition of foreign materials for other libraries; training in research methods or special materials cataloging; conservation of a family keepsake book; consultant services in preservation activities; use of Library space for special events and programs; and electronic access to the contents of the collections.

Some products and services may be core, national, or specialized. A current (1992) example is American Memory, a pilot program which uses advanced technologies to disseminate copies of Library of Congress collections to remote locations throughout the United States. The program converts archival and primary-source material relating to American culture and history into electronic form. The first collections prepared include a collection of 1,000 Civil War photographs, a group of nearly 400 rare pamphlets written by African Americans between 1820 and 1920, and a set of printed broadsides from the Continental Congress. In time, these electronic collections may become an online resource, but currently the material is on laser videodisc and compact disc (CD-ROM disc format) for use with stand-alone microcomputers. American Memory is currently funded in part through appropriated monies and in part through nonappropriated monies. When the Library expands this product/service beyond the pilot phase, the costs to be recovered will include the packaging, distribution, and production costs that are not funded by appropriations.

(5) "production and distribution costs" are defined to mean full cost recovery of specialized products and services and also cover the research, development, production and distribution costs, including salaries and benefits, materials and supplies, inventory obsolescence, travel, operation and maintenance, depreciation, and related administrative costs.

TITLE I—LIBRARY PRODUCTS AND SERVICES

Section 101. National library products and services

In addition to clarifying the authority of the Librarian of Congress to recover the distribution costs associated with furnishing national library products and services, this section repeals the antiquated 1902 authority for the sale of catalog cards and other bibliographic information and makes funds available until expended.

Section 102. New fund service activities

Section 102(a) allows the Library to establish collaborative relationships with private sector or other entities to develop, produce, and distribute specialized products and services. However, no collaborative relationship will be permitted to interfere with the timely, equal, and equitable access by the public to materials in the Library's collections.

Section 102(b) directs the Library to publish a notice in the Federal Register each time significant new Fund service activities are proposed, given the public at least 45 days to comment, and publish the Library's final decision on a new specialized library product or service in the Federal Register. To provide guidance for public comments, the notice is to include information about the objective of the proposed activity, its cost, its intended audience, its benefits to the public, and the reason for Library of Congress participation. This section mandates that any new Fund service activity will be established only according to the provisions in section 202(d).

The phrase "Each time significant" new Fund service activities is included to make explicit that, once the Fund is established, the notice provision applies to significant changes in existing services now operated on nonappropriated funds, as well as to the five wholly new services. For example, the Library now operates the Photoduplication Service under a gift revolving fund authority. When the Photoduplication Service is transferred into the Fund, if an expedited document delivery component is added, that would represent a change significant enough to trigger the notice provision.

The effect of the provision overall is to improve accountability, to ensure that the public is informed in detail of the Library's specific plans to engage in specific fee-based services, and to assure that the public is given the opportunity to comment on the provision of such services.

Section 102(c) strengthens oversight of the Fund by the Joint Committee on the Library by mandating that the Library provide a detailed report on each of the five proposed new services before each is undertaken, and publish a notice in the Federal Register that includes the date of the report's submission to the Joint Committee and the fact of its availability from the Library. This provision offers interested parties an independent forum to address its concerns over a proposed new Fund service should they disagree with the Library's proposal.

Section 102(d) augments the oversight role of the Joint Committee on the Library in relation to proposed new Fund services—in addition to the notice and reporting requirements in sections 102 (c) and (d), section 102(d) provides that the Committee may disapprove a request or request a delay in implementation should it so choose within thirty days after submission of the report by the Librarian.

Section 103. Movement of specialized products and services to another service category

This section ensures that specialized products and services can be shifted to the core or national library service categories if they meet the requirements of section 101.

TITLE II—LIBRARY OF CONGRESS REVOLVING FUND FOR SPECIALIZED PRODUCTS AND SERVICES

The legislation establishes full cost recovery for the production and distribution of specialized library products and services sold via a Library of Congress Revolving Fund. This practice embodies the principles of 31 U.S.C. 9701: "It is the sense of Congress that each service or thing of value provided by an agency to a person is to be self-sustaining to the extent possible." In the case of specialized services, the production and distribution costs are not paid from appropriated funds.

The Library currently provides a variety of these types of services via "Gift Revolving Funds," the most notable of which, the Photoduplication Service, has existed since 1938. However, the General Accounting Office in its August 1991 report, First Audit of the Library of Congress Discloses Significant Problems, recommended the establishment of a separate revolving fund to handle these types of activities. This legislation enables the Librarian to implement that recommendation.

Section 201. Definitions

Section 201 defines the "Library of Congress Revolving Fund" as that fiscal resource established in the United States Treasury to enable the Library of Congress to conduct a cycle of operations in which expenditures generate income, which is then credited directly to that resource. "Fund service activities" means the specialized library information products and services authorized by this Act, e.g., gift shop items and training in preservation methods, in addition to any other activities lawfully assigned by the Librarian of Congress to the Fund service units section 103 of this Act.

"Fund service units" means those organizational entities that, at the direction of the Librarian of Congress, are partially or fully sustained through the collection of fees credited to the Fund.

Section 202. Library of Congress revolving fund

Section 202 establishes the Library of Congress Revolving Fund in the Treasury as a "no year" fund to carry out Fund service activities; this means that money remains available in the Fund until expended. However, obligations for Fund service activities are limited to the total amounts specified in the appropriations act for any fiscal year. The section also sets forth the sources of the Fund capital, authorizes the Librarian to furnish specialized library products and services and to set fees to recover the costs of same.

It also prohibits commingling of Fund service unit accounts and gives the Librarian authority to invest available portions of the Fund in U.S. public debt securities; provides for the deposit of unobligated and unexpended balances into the Treasury; provides for biennial General Accounting Office audits of revolving fund activities; directs the payment of an annual interest charge by the Fund to the general fund of the Treasury for appropriations made to provide capital for Fund service units that predominantly sell library products and services to nonfederal customers, and directs the Librarian of Congress to report on Fund activities and financial transactions annually.

Section 202(l)(2) establishes a review process designed to improve accountability to the Congress and the Library's user communities, to obtain, in an organized and collaborative manner, public views on the Library's operations under the Act and to provide a specific opportunity to recommend legislative or other adjustments if warranted. These five-year reviews will augment the Fund that the legislation mandates the Librarian to make to the Congress as part of his Annual Report.

TITLE III—GENERAL STANDARDS AND LIMITATIONS

Section 301. Preservation of security classification

Through its Federal Research Division, the Library undertakes to supply information products and services on a cost-reimbursable basis to Federal agencies, among them defense-related agencies. This section ensures that the Librarian of Congress will respect and preserve the security classification of any information certified as being essential in the interest of national defense. Nothing in this legislation will modify or limit any statute pertaining to the classification of information.

Section 302. Application of act

This section sets out the exceptions: the legislation does not modify or otherwise change copyright law nor does it apply to the operations of the Congressional Research Service; neither does it permit the Library to impose redistribution fees on domestic use of core and national library products and services.

Section 303. Construction of act

This section provides that the Library is not required to charge fees for services and products acquired through reciprocal exchange agreements, and that the Library is not required to levy redistribution fees. This section also makes it clear that the legislation does not in any way modify the Library of Congress distribution of publications to Federal depository libraries as required by Chapter 19 of Title 44.

Section 304. Regulations

This section institutes a strong review process for establishing new Fund service activities. While the Library of Congress is not subject to the Administrative Procedure Act, it will hereafter follow the rule-making notification procedure of the Administrative Procedure Act for any new Fund service activities it proposes to undertake following enactment of this Act.•

By Mr. RIEGLE:

S. 347. A bill to amend the Internal Revenue Code of 1986 to promote long-term investment and economic growth in the manufacturing sector, restore capital gains incentives, encourage research and experimentation, restore and make permanent the exclusion for employer-provided educational assistance, and for other purposes; to the Committee on Finance.

MANUFACTURING REVITALIZE TAX ACT OF 1993

• Mr. RIEGLE. Mr. President, last month we marked a major turning point in our history with the inauguration of William Jefferson Clinton as the 42d President of the United States. We now have a President who shares the beliefs of many of us in this Chamber—specifically, that the United States needs a new strategy to ensure a growing and strong economy. These shared beliefs lead to the conclusion that we can change the failed policies of the last 12 years by taking those steps necessary to strengthen the critical sectors of our economy and create jobs for the millions of Americans who have begun to doubt in America's future.

We must think long-term and act immediately. Over the long-term our economy will grow to the extent that we actively spur innovation and productivity. We need to create an investment-led growth strategy. We must return our nation to the path of long-term sustainable growth where investment in human resources, physical infrastructure, technology, and productive capacity leads to higher value added and higher income and national wealth. Higher incomes and national wealth must then be plowed back into investment.

Our long-term strategy will require a number of elements. We must have sound macroeconomic policies that stimulate demand and promote price stability. We must have a capital formation policy that promotes savings and investment, without lowering our standard of living. We need policies to channel public and private investment into new products, services, processes, and markets and into the factors which promote innovation and productivity, including human resources, physical infrastructure, and technology development.

We must also have a strong trade policy and other policies that affect how our domestic market is organized to insure that American products and services can be sold to customers, both at home and abroad, on a competitive basis. This is crucial so that American businesses and workers can reap the benefits of their investments in productivity and innovation.

A long-term strategy also means paying close attention to productivity and innovation in our strategic industries. A general growth strategy is not enough. Without attention to specific industries, the overall economy could grow but the specific goals of high value-added, high standard of living, and economic and national security may not be met.

Key to any successful long-term economic strategy must be the revitalization of our manufacturing base. Manufacturing is the heart of our economy;

it keeps the lifeblood of the economy flowing. In formulating economic policy during the last decade, some believed that we could thrive with only the service sectors of the economy. This was a myth. It is true that the majority of jobs in a modern economy are in what is loosely defined as the service-producing sectors—transportation and communications, wholesale and retail trade, financial, general services, government. However, a strong manufacturing base supports a strong service economy—and vice versa. Services are important, but manufacturing matters.

Manufacturing matters for our national security—our ability to produce the products we need to defend ourselves. Manufacturing matters for international commerce—to produce goods to sell abroad to pay off our huge foreign debt. Manufacturing matters for the incomes and benefits of our citizens—service-producing jobs are on average lower paying than goods-producing jobs and frequently do not provide health care or retirement benefits. The growth of manufacturing jobs earlier this century helped many Americans move into the middle class—and the loss of manufacturing jobs threatens to move them out. Finally, manufacturing matters because services and manufacturing are intertwined—an economy the size of the United States must have both.

We must begin immediately to develop a long-term growth strategy. One of our first steps must be to address tax provisions needed to revitalize manufacturing. With that in mind, today I am introducing the Manufacturing Revitalization Incentive Act of 1993.

LEGISLATIVE PROVISIONS

The cornerstone of my proposal is a 15-percent permanent incremental investment tax allowance targeted to new manufacturing equipment. Coupled with this is alternative minimum tax relief so that those manufacturers who need this allowance the most will be able to use it. These provisions are similar to those I proposed last year in the Investment-led Growth Incentives Act of 1992.

One of the most distressing problems over the past two decades has been our relatively low levels of investment in new plant and equipment. The United States invests less than the average of the other group of seven industrialized nations as a percent of GDP and less than Japan in absolute terms. We cannot compete with Japan if they out-invest us. This provision attempts to change that by providing an incentive for business to invest in new manufacturing equipment.

For this same reason, the bill alters the depreciation allowances for taxpayers subject to the alternative minimum tax [AMT]. The overriding objective of the AMT, as stated in the legislative history to the Tax Reform Act of 1986, is, and I quote

> to ensure that no taxpayer with substantial economic income can avoid significant tax liability by using exclusion, deductions and credits. Although these provisions may provide incentives for worthy goals, they become counterproductive when taxpayers are allowed to use them to virtually eliminate all tax liability.

I largely agree with this goal. Yet our experience with the AMT has yielded some unexpected results. Recent studies indicate that the AMT may have a significant, negative impact on the ability of U.S. companies to compete internationally by raising the cost of capital. Further, during this recession, the AMT created perverse incentives against investment. When the AMT was enacted, Congress allowed a corporation to credit the amount of excess AMT paid—over the amount that would have been paid under the ordinary tax system—in future years when the taxpayer reverted to the ordinary tax system. Increasingly, however, we are seeing corporations that will be paying taxes under the AMT for years into the future, raising questions about the value of this credit. As our distinguished colleague Senator Boren said during a hearing before the Subcommittee on taxation

> [W]e are in essence penalizing those companies that are making the largest capital investments to make themselves productive—the very thing we want to encourage in this country.

This situation cannot be allowed to continue.

The bill corrects this flaw by providing improved cost recovery under the AMT. A new AMT depreciation system would be operative for assets purchased in 1993 and beyond which allows a faster method and a slightly shorter recovery period than provided by current law. This proposal would continue to ensure that taxpayers with substantial economic interests continue to pay taxes because the ordinary tax system depreciation system is faster and shorter, but it would also allow a more realistic deduction for depreciation expenses. The basic structure of this depreciation system for AMT taxpayers is simple and one with which taxpayers have some familiarity.

Further, as the Congress included in H.R. 4210 and H.R. 11 last year, both vetoed by then President Bush, the bill repeals the adjusted current earnings depreciation adjustment to the AMT for new property placed in service after 1993.

The bill also alters the depreciation schedule for autos and light trucks. Under current law, autos and light trucks have a 5-year depreciation schedule even though a Treasury study indicates the useful life of a business vehicle is 3.5 years. Prior to 1984, vehicles were eligible to be fully depreciated over a 3-year period. The bill returns the depreciation schedule to 3 years. In addition, under current law, no more than $12,060 may be taken in depreciation over 5 years. Autos and light trucks are currently the only business subject to such a cap. The Manufacturing Revitalization Tax Act raises this cap to $17,100.

Changing the auto depreciation in this manner, advocates claim, will reduce the cost of the business vehicle by 5.5 to 8.5 percent, increase annual sales by 230,000 to 350,000 units, and increase employment among auto manufacturers and suppliers by 52,000 people.

The legislation includes the capital gains provisions similar to those adopted by Congress last year in H.R. 4210, which was vetoed by then President Bush. The only change I have made is to lengthen the holding period required from 2 to 5 years. I have done so because of my view that it is critical that we encourage a longer-term view within our investment system. I strongly favor tax incentives for venture and seed capital formation, which is critical for long-term growth. We do not need a broad-based capital gains tax cut. We need targeted incentives to channel capital into the areas where it is needed—like starting new businesses. I have incorporated the provisions of H.R. 4210 since they are likely to be acceptable to a majority in Congress, having been previously adopted.

To increase our investment in research and development, the bill includes a permanent research and experimentation tax credit and permanently establishes the rules for the proper allocation of the R&E credit. Research and development is one of the engines of economic growth and is vital in order to ensure that we are able to compete in the global marketplace. These provisions are needed to maintain that engine and allow us to compete.

Finally, the bill contains a permanent extension of tax credit for employer-provided educational assistance. While there are many expired tax credits that should be extended, I believe that the employer-provided educational assistance is critical to strengthening the industrial base of this country. Without a well-trained work force, we cannot expect to succeed in today's economy. The bill makes this tax credit permanent and raises the amount an employer may spend per employee.

CREATING AN ECONOMIC STRATEGY

Mr. President, it is my hope that this legislation will begin the debate on this critical area of revitalizing our manufacturing base. Obviously, tax policy is only one part of an overall manufacturing strategy. This bill is only the first step. I am currently working with business and labor leaders, as well as many of my colleagues, on a comprehensive trade bill that will establish the rules of a fair trading system. We must take those steps necessary to ensure that U.S. manufacturers have fair access to foreign markets. For example, as the original author of Super-301, I will work to see that this section is re-authorized and, where appropriate, strengthened.

In the months and years ahead we will need to focus our attention on creating policies to insure long-term investment-led economic growth. It must be growth that benefits all Americans—not like the so-called growth of the 1980's, which benefitted only a few. To return long-term sustained economic growth, all of us must play our part and work together to build our common future.

I look forward to working with the new Clinton Administration, business, labor, and my colleagues here in the Senate in both refining this legislation and introducing additional legislation with an eye toward creating a stronger and healthier manufacturing base. I ask unanimous consent that a copy of the legislation be included in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 347

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Manufacturing Revitalization Incentives Act of 1993".

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—PROMOTION OF ECONOMIC GROWTH IN THE MANUFACTURING SECTOR

SEC. 101. SPECIAL ALLOWANCE FOR MANUFACTURING EQUIPMENT.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end thereof the following new subsection:

"(j) SPECIAL ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED AFTER 1992.—

"(1) ADDITIONAL ALLOWANCE.—In the case of any qualified equipment—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such equipment is placed in service shall include an allowance equal to 15 percent of the adjusted basis of the qualified equipment, and

"(B) the adjusted basis of the qualified equipment shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) QUALIFIED EQUIPMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified equipment' means property to which this section applies—

"(i) which is section 1245 property (within the meaning of section 1245(a)(3)),

"(ii) the original use of which commences with the taxpayer on or after February 1, 1993, and

"(iii) which is acquired by the taxpayer on or after February 1, 1993, but only if no written binding contract for the acquisition was in effect before January 1, 1993.

"(B) SPECIAL RULE FOR COMPUTER SOFTWARE.—Computer software which—

"(i)(I) is used to control or monitor a manufacturing process, or

"(II) is an integral part of the design or manufacturing process, and

"(ii) with respect to which depreciation (or amortization in lieu of depreciation) is allowable,

shall be treated as qualified equipment.

"(C) EXCEPTIONS.—

"(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified equipment' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(iii) REPAIRED OR RECONSTRUCTED PROPERTY.—Except as otherwise provided in regulations, the term 'qualified equipment' shall not include any repaired or reconstructed property.

"(D) SPECIAL RULES RELATING TO ORIGINAL USE.—

"(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after January 31, 1993.

"(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

"(I) is originally placed in service on or after February 1, 1993, by a person, and

"(II) is sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II)."

(b) EFFECTIVE DATE.—The amendment made by this section applies to property placed in service on or after February 1, 1993.

SEC. 102. ADJUSTMENT IN COMPUTING ALTERNATIVE MINIMUM TAXABLE INCOME.

(a) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation) is amended by inserting immediately after clause (ii) the following new clauses:

"(iii) ADDITIONAL ALLOWANCE UNDER SECTION 168(j).—The additional allowance for qualified equipment under section 168(j) shall be allowed.

"(iv) DEPRECIATION METHODS FOR CERTAIN PROPERTY PLACED IN SERVICE AFTER JANUARY 31, 1993.—In the case of property placed in service after January 31, 1993 (other than property with respect to which section 168(b) (2), (3), or (5) applies or property for which depreciation is determined under section 168(g)), clause (ii) shall be applied by substituting '200 percent' for '150 percent'."

(b) CONFORMING AMENDMENTS.—

(1) Section 56(a)(1)(A)(i) (relating to depreciation adjustments) is amended by inserting "(iii), or (iv)" after "clause (ii)".

(2) The flush sentence at the end of section 56(a)(1)(A) is amended—

(A) by striking "The preceding sentence" and inserting "Clauses (ii), (iii), and (iv)", and

(B) by adding at the end thereof the following: "For purposes of clause (iv), the applicable recovery period shall be 80 percent of the recovery period determined under section 168(g) (rounded to the nearest half year), but shall not be less than the applicable recovery period determined under section 168(c). If for purposes of the regular tax, depreciation is determined under section 168(g), the preceding sentence shall not apply."

(3) Section 56(a)(1) is amended by adding at the end the following new subparagraph:

"(E) Rules similar to the rules of section 168(f)(5) shall apply with respect to property described in subparagraph (A)(iv)."

(c) ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to property placed in service on or after February 1, 1993, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A)."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service on or after February 1, 1993, in taxable years ending after such date.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by subsection (c) shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) of such paragraph (1).

SEC. 103. ADJUSTMENTS TO AUTOMOBILE DEPRECIATION.

(a) IN GENERAL.—Clause (i) of section 168(e)(3)(B) (relating to 5-year property) is amended to read as follows:

"(i) any light general purpose truck which is rated at more than 6,000 pounds gross vehicle weight,".

(b) LIMITATION ON DEPRECIATION.—

(1) IN GENERAL.—Subparagraph (A) of section 280F(a)(1) (relating to limitations on depreciation) is amended by striking clauses (i), (ii), (iii), and (iv), and inserting the following:

"(i) $6,000 for the 1st taxable year in the recovery period,

"(ii) $8,000 for the 2nd taxable year in the recovery period, and

"(iii) $3,100 for each succeeding year in the recovery period."

(2) CONFORMING AMENDMENTS.—

(A) Section 280F(a)(1)(B)(ii) is amended by striking "$1,475" each place it appears in the text and heading and inserting "$3,100".

(B) Section 280F(d)(7) is amended—

(i) by striking "1988" and inserting "1994" in subparagraph (A), and

(ii) by striking "1987" and inserting "1993" in subparagraph (B)(i)(II).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service in taxable years beginning after December 31, 1993.

TITLE II—PROGRESSIVE CAPITAL GAIN RATES

SEC. 201. PROGRESSIVE CAPITAL GAIN RATES.

(a) IN GENERAL.—Section 1(h) (relating to maximum capital gains rate) is amended to read as follows:

"(h) PROGRESSIVE CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has qualified capital gain for any taxable year, then the tax imposed by this section shall be equal to the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on taxable income reduced by the amount of qualified capital gain, plus

"(B) the excess (if any) of—

"(i) a tax computed under the substitute table on taxable income, over

"(ii) a tax computed under the substitute table on taxable income reduced by the amount of qualified capital gain.

"(2) SUBSTITUTE TABLES.—

"(A) IN GENERAL.—In the case of any taxable year ending after January 31, 1993, the Secretary shall prescribe a substitute table for each of the tables under subsections (a), (b), (c), (d), and (e).

"(B) METHOD OF PRESCRIBING TABLES.—The tables under subparagraph (A) for any taxable year shall be the tables in effect without regard to this subsection, adjusted by—

"(i) substituting the capital gain rates for the rates of tax contained therein, and

"(ii) modifying the amounts setting forth the tax to the extent necessary to reflect the adjustments under clause (i).

"(C) CAPITAL GAIN RATES.—For purposes of subparagraph (B)(i), the capital gain rates shall be determined as follows:

"If the rate of tax is:	**The capital gain rate is:**
15 percent	0 percent
28 percent	14 percent
31 percent	21 percent
More than 31 percent	28 percent.

"(3) QUALIFIED CAPITAL GAIN.—For purposes of this subsection—

"(A) IN GENERAL.—The term qualified capital gain means net capital gain determined without regard to any gain taken into account in computing the exclusion under section 1202 (relating to gain from sale of small business stock).

"(B) TRANSITION RULE.—In the case of any taxable year beginning before February 1, 1993, and ending on or after such date, qualified capital gain shall be equal to the lesser of—

"(i) net capital gain, or

"(ii) net capital gain determined by taking into account only gain or loss properly taken into account for the portion of the taxable year after January 31, 1993.

If the amount under clause (i) exceeds the amount under clause (ii) for such taxable year, the rate of tax under this section shall not exceed 28 percent with respect to such excess.

"(C) SPECIAL RULE FOR PASS-THRU ENTITIES.—

"(i) IN GENERAL.—In applying subparagraph (B) with respect to any pass-thru entity, the determination of when gain is properly taken into account shall be made at the entity level.

"(ii) PASS-THRU ENTITY DEFINED.—For purposes of clause (i), the term 'pass-thru entity' means—

"(I) a regulated investment company,

"(II) a real estate investment trust,

"(III) an S corporation,

"(IV) a partnership,

"(V) an estate or trust, and

"(VI) a common trust fund."

(b) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 (defining other terms relating to capital gains and losses) is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall be applied only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term collectible means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years ending after January 31, 1993.

(2) COLLECTIBLES.—The amendments made by subsection (b) shall apply to dispositions after January 31, 1993.

SEC. 202. INCREASE IN HOLDING PERIOD REQUIRED FOR LONG-TERM CAPITAL GAIN TREATMENT.

(a) IN GENERAL.—

(1) CAPITAL GAIN.—Paragraphs (1) and (3) of section 1222 (defining other terms relating to capital gains and losses) are each amended by striking "1 year" and inserting "5 years".

(2) CAPITAL LOSSES.—Paragraphs (2) and (4) of section 1222 are each amended by striking "1 year" and inserting "5 years".

(b) CONFORMING AMENDMENTS.—The following provisions are each amended by striking "1 year" each place it appears and inserting "5 years":

(1) Section 166(d)(1)(B).

(2) Section 422(a)(1).

(3) Section 423(a)(1).

(4) Section 584(c).

(5) Subsections (a), (b), and (c) of section 631.

(6) Section 642(c)(3).

(7) Paragraphs (1) and (2) of section 702(a).

(8) Section 818(b)(1).

(9) Section 852(b)(3)(B).

(10) Section 856(c)(4)(A).

(11) Section 857(b)(3)(B).

(12) Paragraphs (11) and (12) of section 1223.

(13) Subsections (b), (d), and subparagraph (A) of subsection (e)(4) of section 1233.

(14) Section 1234(b)(1).

(15) Section 1235(a).

(16) Subsections (b) and (g)(2)(C) of section 1248.

(c) TECHNICAL AMENDMENTS.—

(1) Section 7518(g)(3)(B) is amended by striking "6 months" and inserting "5 years".

(2) Section 1231(b)(3)(B) is amended by striking "12 months" and inserting "24 months".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 203. RECAPTURE UNDER SECTION 1250 OF TOTAL AMOUNT OF DEPRECIATION.

(a) GENERAL RULE.—Subsections (a) and (b) of section 1250 (relating to gain from disposition of certain depreciable realty) are amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

"(1) the depreciation adjustments in respect of such property, or

"(2) the excess of—

"(A) the amount realized (or, in the case of a disposition other than sale, exchange, or involuntary conversion, the fair market value of such property), over

"(B) the adjusted basis of such property, shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(b) DEPRECIATION ADJUSTMENTS.—For purposes of this section, the term depreciation adjustments means, in respect of any property, all adjustments attributable to periods after December 31, 1963, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 168 (as in effect before its repeal by the Tax Reform Act of 1976), 169, 185 (as in effect before its repeal by the Tax Reform Act of 1986), 188 (as in effect before its repeal by the Revenue Reconciliation Act of 1990), 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed."

(b) MAXIMUM RATE ON RECAPTURE AMOUNT.—Section 1 (relating to tax imposed) is amended by adding at the end the following new section:

"(i) MAXIMUM RATE OF TAX ON SECTION 1250 RECAPTURE AMOUNTS.—If a taxpayer has any amount treated as ordinary income under section 1250 for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(1) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(A) taxable income reduced by the amount treated as ordinary income under section 1250, or

"(B) the amount of taxable income taxed at a rate below 28 percent, plus

"(2) a tax of 28 percent of the amount of taxable income in excess of the amount determined under paragraph (1)."

(c) LIMITATION IN CASE OF INSTALLMENT SALES.—Subsection (i) of section 453 is amended—

(1) by striking "1250" the first place it appears and inserting "1250 (as in effect on December 31, 1992)", and

(2) by striking "1250" the second place it appears and inserting "1250 (as so in effect)".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 1250(d)(4) is amended—

(A) by striking "additional depreciation" and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(2) Subparagraph (B) of section 1250(d)(6) is amended to read as follows:

"(B) DEPRECIATION ADJUSTMENTS.—In respect of any property described in subparagraph (A), the amount of the depreciation adjustments attributable to periods before the distribution by the partnership shall be—

"(i) the amount of gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied."

(3) Subsection (d) of section 1250 is amended by striking paragraph (10).

(4) Section 1250 is amended by striking subsections (e) and (f) and by redesignating subsections (g) and (h) as subsections (e) and (f), respectively.

(5) Paragraph (4) of section 50(c) is amended to read as follows:

"(4) RECAPTURE OF REDUCTION.—For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation."

(6) Clause (i) of section 267(e)(5)(D) is amended by striking "section 1250(a)(1)(B)" and inserting "section 1250(a)(1)(B) (as in effect on December 31, 1992)".

(7)(A) Subsection (a) of section 291 is amended by striking paragraph (1) and redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Subsection (c) of section 291 is amended to read as follows:

"(c) SPECIAL RULE FOR POLLUTION CONTROL FACILITIES.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(4)."

(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(D) Paragraph (2) of section 291(d) (as redesignated by subparagraph (C)) is hereby repealed.

(E) Subparagraph (A) of section 265(b)(3) is amended by striking "291(e)(1)(B)" and inserting "291(d)(1)(B)".

(F) Subsection (c) of section 1277 is amended by striking "291(e)(1)(B)(ii)" and inserting "291(d)(1)(B)(ii)".

(8) Subsection (d) of section 1017 is amended to read as follows:

"(d) RECAPTURE OF DEDUCTIONS.—For purposes of sections 1245 and 1250—

"(1) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

"(2) any reduction under this section shall be treated as a deduction allowed for depreciation."

(9) Paragraph (5) of section 7701(e) is amended by striking "(relating to low-income housing)" and inserting "(as in effect on December 31, 1992)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after January 31, 1993, in taxable years ending after such date.

TITLE III—RESEARCH AND EXPERIMENTATION

SEC. 301. CREDIT FOR RESEARCH AND EXPERIMENTATION.

(a) PERMANENT CREDIT.—Section 41 (relating to the credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 28(b) is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1992.

SEC. 302. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) EXTENSION.—Paragraph (5) of section 864(f) (relating to allocation of research and experimental expenditures) is amended to read as follows:

"(5) YEARS TO WHICH RULE APPLIES.—This subsection shall apply to taxable years beginning after August 1, 1989."

(b) EFFECTIVE DATE.—The amendment made by this section applies to taxable years beginning after August 1, 1989.

TITLE IV—EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE

SEC. 401. EMPLOYEE EDUCATIONAL ASSISTANCE.

(a) EXTENSION.—

(1) IN GENERAL.—Section 127 (relating to educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 103(a) of the Tax Extension Act of 1991 is hereby repealed.

(b) INCREASE IN, AND INDEXING OF, MAXIMUM EXCLUSION.—

(1) IN GENERAL.—Paragraph (2) of section 127(a) is amended by striking "$5,250" each place it appears and inserting "$6,000".

(2) ADJUSTMENT FOR INFLATION.—Subsection (a) of section 127 is amended by adding at the end thereof the following new paragraph:

"(3) COST-OF-LIVING ADJUSTMENT OF MAXIMUM EXCLUSION.—In the case of any taxable year beginning in a calendar year after 1993, the dollar amount contained in paragraph (2) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1992.

(2) EXTENSION OF SECTION 127.—The amendments made by subsection (a) shall apply to taxable years ending after June 30, 1992.•

By Mr. RIEGLE (for himself, Mr. CHAFEE, Mr. MITCHELL, Mr. AKAKA, Mr. BAUCUS, Mr. BOREN, Mr. BRYAN, Mr. CAMPBELL, Mr. COHEN, Mr. CONRAD, Mr. DANFORTH, Mr. DASCHLE, Mr. DECONCINI, Mr. DURENBERGER, Mr. GRASSLEY, Mr. HATCH, Mr. HOLLINGS, Mr. JEFFORDS, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. SARBANES, Mr. THURMOND, and Mr. WOFFORD):

S. 348. A bill to amend the Internal Revenue Code of 1986 to permanently extend qualified mortgage bonds; to the Committee on Finance.

PERMANENT EXTENSION OF QUALIFIED MORTGAGE BONDS

• Mr. RIEGLE. Mr. President, I rise today to introduce a bill to make Mortgage Revenue Bonds [MRBs] and Mortgage Credit Certificates [MCCs] a permanent provision of the Internal Revenue Code. I am pleased to be joined in offering this legislation by my colleagues Senators CHAFEE, MITCHELL, AKAKA, BAUCUS, BOREN, BRYAN, CAMPBELL, COHEN, CONRAD, DANFORTH, DASCHLE, DECONCINI, DURENBERGER, GRASSLEY, HATCH, HOLLINGS, JEFFORDS, PACKWOOD, PELL, PRESSLER, SARBANES, THURMOND, and WOFFORD.

This bill will permanently extend the tax-exempt status of MRB's. The tax-exempt status of MRB's have enabled State and local housing agencies to finance home mortgages for first time buyers at rates below the market—sometimes as much as 2.5-percent below conventional rates. This means that a low or moderate income family can save up $100 on their monthly mortgage payment than if they had obtained conventional financing. This cost differential enables buyers, who otherwise might not be able to get mortgage financing, to obtain a loan at an affordable rate.

MRB's are targeted to families with the greatest need. MRB's are only available to buyers who have not owned a home within the past 3 years, earn 100 percent or less of the applicable median income, and buy a principal residence that does not exceed 90 percent of the average home purchase price. In 1991, the average income of an MRB borrower was 76 percent of median income. Furthermore, the National Council of State Housing Agencies reported that the average purchase price on an MRB-assisted home was approximately $63,000 as compared to a conventional first time buyer average of $136,000.

Prior to its expiration in June, MRB's were the only Federal assistance targeted to first-time home buyers. During the past 15 years, MRB's have financed more than 2 million home purchases and accounted for 1 out of every 12 mortgages made to first-time buyers. In 1991 alone, MRB's financed 120,000 new loans.

In my home State of Michigan, MRB's and MCC's have enabled more than 50,000 families to buy homes. Furthermore, 57 percent of all MRB loans in Michigan were made in distressed inner city neighborhoods. The average income of persons assisted under the MCC program is $25,000 and the average income of persons assisted under the MRB single family program is $23,000. I am proud to say that Michigan has been an innovator in using these programs to assist thousands of families realize the dream of home ownership.

MRB's are also powerful job-generating tools. In 1991, new homes financed with MRB loans produced 40,000 jobs and generated over $1.1 billion in wages and tax revenues. The National Association of Home Builders estimates that if MRB's are not extended, as many as 37,000 jobs will be lost in 1993 and 63,000 jobs lost each year after. Recently, Housing Subcommittee Chairman PAUL SARBANES and I sent a letter to President Clinton urging him to include MRB's and other housing finance tools as part of an economic stimulus package.

I have been a long-time supporter of MRB's. Last Congress, I introduced S. 167, a bill which would have made the program permanent. This bill enjoyed the strong support of many of my colleagues and was cosponsored by 89 Senators, including three-quarters of the Finance Committee.

In the last decade, MRB's have been scheduled to sunset 7 times, making administration and timing of bond issues extremely difficult and costly. The MRB program lapsed on June 30, underscoring the need for permanent extension. Permanent extension was passed by Congress as part of the Revenue Act [H.R. 11], but this legislation was vetoed by then-President Bush. The legislation I am introducing today will make these vitally important programs permanent.

This bill will also permanently extend the Mortgage Credit Certificate [MCC] program, which is part of the MRB program. Like MRB's, MCC's are also issued by State and local housing agencies to provide financial assistance to first time home buyers. With an MCC, a home buyer may take a credit each year against his or her tax liability for a portion of mortgage interest paid.

I urge my colleagues in the Senate to support this bill and retain two valuable programs that promote first time home ownership throughout the Nation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT EXTENSION OF QUALIFIED MORTGAGE BONDS.

(a) PERMANENT EXTENSION.—

(1) MORTGAGE BONDS.—Paragraph (1) of section 143(a) of the Internal Revenue Code of 1986 (relating to qualified mortgage bonds) is amended to read as follows:

"(1) QUALIFIED MORTGAGE BOND DEFINED.—For purposes of this title, the term 'qualified mortgage bond' means a bond which is issued as a part of a qualified mortgage issue.".

(2) MORTGAGE CREDIT CERTIFICATES.—Section 25 of such Code (relating to interest on certain home mortgages) is amended by striking subsection (h) and redesignating subsection (i) as subsection (h).

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a)(1) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (a)(2) shall apply to elections for periods after June 30, 1992.•

• Mr. CHAFEE. Mr. President, I am pleased to once again join Senator RIEGLE in introducing legislation permanently extending the authorization for the Mortgage Revenue Bond program.

The dream of home ownership continues to become more and more difficult to achieve for many Americans. The Nation's home ownership rate is at its lowest level in almost two decades. This decline has occurred at a time when members of the baby boom were at the prime homebuying age and during one of the most sustained and vigorous housing recoveries on record.

Home ownership is an important part of the American dream and I believe we must continue to provide tax incentives for programs that assist low-income Americans in acquiring their first home. We must reverse the declining home ownership trend that has existed in this country since 1980. In many States, such as Rhode Island, where housing is very expensive when compared to median incomes, we must provide tax incentives for programs that assist low-income Americans in acquiring their first home.

The Mortgage Revenue Bond [MRB] program authorizes States to issue tax-exempt mortgage revenue bonds to provide below market-rate financing for the purchase of homes by citizens in those States. This below market-rate financing allows first-time homebuyers to purchase a home, when they would not be able to buy a house with any of the conventional financing methods.

In 1986, we adopted a State volume cap which placed a limit on the total amount of private purpose tax-exempt bonds that could be issued by a State. The MRB program expands the types of private-purpose bonds that can be issued by a State within its volume cap. I believe it is vitally important that we allow States to utilize the volume cap in the most beneficial way for each State's citizens.

The mortgage revenue bond program is an important part of the State housing program in my home State and its efforts to address the large affordability gap that exists in Rhode Island. Rhode Island Housing, the manager of our MRB program, utilizes State resources to provide second mortgages and interest rate buydowns combined with the MRB program to assist citizens of Rhode Island in the purchase of a home.

Since 1977, the Rhode Island Housing and Mortgage Finance Corporation [RIHMFC] has financed the purchase of more than 40,000 homes utilizing mortgages from the MRB program totaling almost $2.3 billion. The managers of the MRB program have calculated that approximately 80 percent of the families served by the MRB program would not have been able to qualify for a conventional mortgage.

In 1992, RIHMFC assisted over 2,600 Rhode Island families with the purchase of a first home. The median family income of the participants in the Rhode Island MRB program last year was $30,520—about 75 percent of Rhode Island's statewide median income for 1992. The average loan amount issued to these participants was $87,864 on an average purchase price of $98,251 compared to a statewide average sales price of $117,000 for all homes sold in Rhode Island.

The average age of all the recipients who have received mortgages provided by RIHMFC is 31.9 years, which indicates that the program is not assisting only young people right out of college. In fact, it is helping young families who may have been in the workforce for 10 or more years before they could afford to buy a first home.

The experiences of Rhode Island Housing illustrate the vital importance of this program to fulfilling the home-ownership dreams of low-income Americans. It is imperative for us to permanently extend the authority of the States to issue tax-exempt bonds to provide Mortgage Revenue Bond financing to our young families who would not otherwise be able to fulfill the American dream by purchasing a first home.•

By Mr. LEVIN (for himself, Mr. COHEN, Mr. GLENN, Mr. ROTH, and Mr. BOREN):

S. 349. A bill to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

LOBBYING DISCLOSURE ACT OF 1993

• Mr. LEVIN. Mr. President, today I am pleased to introduce with the strong support of President Clinton and Vice President GORE and the bipartisan leadership of the Governmental Affairs Committee, the Lobbying Disclosure Act of 1993. This bill will close the loopholes in lobbying disclosure laws, for the first time cover lobbying of the executive branch, and create a reasonable enforcement program for addressing disclosure violations.

Mr. President, I am pleased to include as cosponsors of this bill, Senators COHEN, GLENN, ROTH, and BOREN, and to announce that Congressman JOHN BRYANT, chairman of the Judiciary Subcommittee in the House with jurisdiction over this legislation, will be introducing the same bill in the House of Representatives today. With this strong base of support we are hoping for very prompt consideration of this legislation and speedy passage. We approved the bill in the Governmental Affairs Committee last year.

With the election of a new President committed to political reform, we have our best chance in years to clean up one of Washington's oldest problems—the patchwork of loopholes and exceptions that currently pass for lobbying disclosure laws.

We hear again and again that the American people have lost confidence in their elected officials. There is a widespread belief that Government today is too susceptible to the influence of well-connected and well-heeled lobbyists. In one recent poll more than

70 percent of Americans said they believe that our Government is controlled by special interests, rather than the public interest. Part of the gridlock so prevalent in Washington is attributed to special interests and their ability to block needed legislation.

Lobbying—that is, seeking to influence legislation and Government policy—is not bad. Far from it. It is a vital part of our participatory democracy. We deal every day with lobbyists for cities, counties, and States; lobbyists for public hospitals and private relief groups; lobbyists for police organizations and lobbyists for the Girl Scouts. Some lobbyists try to protect the jobs and benefits of our workers; others seek to improve the competitiveness of our industry. Some lobbyists work to keep our streets safe; some want to keep our air and water clean; others seek to reduce taxes.

The fact that we cannot and would not want to ban lobbying does not mean that general information about paid lobbying activities shouldn't be disclosed. Effective public disclosure of lobbying activities can ensure that the public, Federal officials, and other interested parties are aware of the pressures that are brought to bear on public policy by paid lobbyists. Such public awareness should inform the public of the broad array of lobbying efforts on all sides of an issue. In some cases, it may alert other interested parties of the need to provide their own views to decisionmakers. It also may encourage lobbyists and their clients to be sensitive to even the appearance of improper influence.

One of the reasons why the public is suspicious and distrustful of the relationship between lobbyists and Government officials is the cloak of secrecy that currently covers too many lobbyists and their activities.

Over the last 2 years, the Subcommittee on Oversight of Government Management, which I chair, has held a series of hearings on the lobbying disclosure laws. We learned that:

Fewer than 4,000 of the 13,500 individuals and organizations listed in the book "Washington Representatives" were registered as lobbyists. Three-quarters of the unregistered representatives interviewed by the GAO said that they contact Members of Congress and their staffs, deal with Federal legislation, and seek to influence actions of either Congress or the executive branch.

Only 825 persons were registered as active foreign agents—that is, persons employed to conduct political activities on behalf of a foreign principal—under the Foreign Agents Registration Act. In one case examined by the subcommittee, we found that 42 of 48 lobbyists for foreign manufacturers and their domestic subsidiaries were not registered under FARA.

Lobbyists who do register disclose expenditures as trivial as $27 lunch bills, $45 phone bills, $6 cab fares, and $16 messenger fees. One lobbyist even disclosed quarterly lobbying payments of $1.31 to one of its employees. Because of the way these costs are calculated, however, it is impossible to reach any accurate conclusion as to total lobbying expenditures.

Under existing statutes, there is no disclosure requirement when White House and other executive branch officials are lobbied, no disclosure when congressional staffers are lobbied, and only sporadic disclosure of lobbying by lawyers. These laws have been characterized by the Justice Department as "ineffective, inadequate and unenforceable"—which may explain why there doesn't appear to have been a single attempt to enforce them for almost 40 years.

The Lobbying Disclosure Act of 1993, which I am introducing today, would address these problems. This bill has been thoroughly examined through extensive hearings and committee consideration in the last Congress. It was reported last year by the Governmental Affairs Committee, but time ran out before it could be considered by the full Senate.

If enacted, the Lobbying Disclosure Act would replace existing lobbying disclosure laws with a single, uniform statute, covering the paid lobbying of Congress and the executive branch on behalf of both domestic and foreign persons. The new statute would replace the Federal Regulation of Lobbying Act; the disclosure requirements of the so-called Byrd amendment; the provisions of the Foreign Agents Registration Act [FARA] which apply to private persons and companies; and the HUD disclosure statutes. The provisions of the Byrd amendment prohibiting lobbying with appropriated funds would be left intact, as would the FARA provisions applicable to representatives of foreign governments and political parties.

The bill has three essential features: it would broaden the coverage of existing disclosure statutes to ensure that all professional lobbyists are registered; streamline disclosure requirements to make sure that only meaningful information is disclosed and needless burdens are avoided; and create a new, more effective and equitable system for administering and enforcing these requirements.

On the first point, the bill would require registration of all professional lobbyists—for example, anyone who is paid to make lobbying contacts with either the legislative or the executive branch of the Federal Government. People who are paid less than $1,000 to lobby, or whose lobbying activities are only incidental to, and not a significant part of, their jobs would not be covered.

The bill would define lobbying contacts to include communications with Members of Congress and their staff, offices and employees in the Executive Office of the President, and ranking officials in other Federal agencies. Activities that don't constitute lobbying—such as communications by public officials and media organizations; requests for appointments or for the status of an action and other ministerial communications; communications with regard to ongoing judicial or law enforcement proceedings; testimony before congressional committees and public meetings; participation in agency adjudicatory proceedings; the filing of written comments in rulemaking proceedings; and routine negotiations of contracts, grants, loans, and other Federal assistance—would be exempt from coverage.

On the second point, the bill would significantly streamline lobbying disclosure requirements by consolidating filing in a single form and a single location—one-stop shopping; replacing quarterly reports with semiannual reports; and authorizing the development of computer-filing systems and simplified forms. The bill would require a single registration by each organization whose employees lobby, instead of separate registration by each employee-lobbyist. The names of the employee-lobbyists—and any ranking legislative or executive branch position in which they served in the previous 2 years—would simply be listed in the employer's registration forms.

In addition, the bill would simplify reporting of receipts and expenditures by substituting estimates of total receipts or expenditures—by category of dollar value—for the current requirement to provide a detailed accounting of all receipts and expenditures. This reporting would be more meaningful than the current system, because the types of receipts and expenditures to be disclosed would be more broadly defined. The bill would also replace the requirement of FARA and the Byrd amendment to list each official contacted with a simpler requirement to identity the executive branch agencies, and the House and committees of Congress, that were contacted.

At the same time, the bill would close a loophole in existing law by requiring the disclosure of the identity of coalition members who are, in effect, clients—in that they contribute substantially—more than $5,000 in a semiannual period—to the coalition, help supervise its lobbying activities, and are likely to benefit directly if the coalition's lobbying efforts are successful. The bill would also enhance the effectiveness of public disclosure by requiring the disclosure of any foreign entity which supervises, directs, or controls the client, or which has a direct interest in the outcome of the lobbying activity. Any foreign entity with a 20 percent equitable ownership of a client would have to be disclosed.

Finally, the bill would improve the administration of the lobbying disclosure laws by creating a new Office of Lobbying Registration and Public Disclosure within the Justice Department to administer the statute; requiring the issuance of new rules, forms, and procedural regulations after notice and an opportunity for public comment; making guidance and assistance—including published advisory opinions—available to the public for the first time; authorizing the creation of computer systems to enhance public access to filed materials; avoiding intrusive audits or inspections through an informal dispute resolution process; and substituting a system of administrative fines—subject to judicial review—for the existing criminal penalties for noncompliance.

The bill we are introducing today contains a number of improvements over last year's bill. These changes are as follows:

The definition of "covered executive branch officials" is revised to include so-called Schedule C employees—political appointees serving in confidential or policy-making positions—as well as executive level officials and employees in the senior executive service.

The revised bill makes minor changes to the definitions of the terms "lobbyist" and "lobbying contact." The definition of "lobbyist" is revised to clarify that it applies on a client-by-client basis. The definition of "lobbying contact" is revised to clarify that the exclusion for written comments and other on-the-record communications applies regardless whether the communication is made with regard to legislation, regulatory proposals, or the administration of an ongoing program.

The revised bill adds a new provision making conforming changes to other statutes that refer to foreign agents and foreign principals to ensure that changes in the applicability of the Foreign Agents Registration Act do not result in any other changes to substantive law. In addition, the repeals of obsolete lobbying disclosure statutes are consolidated in a single section, and section 12(i) of the Public Utility Holding Company Act of 1935, which requires registration of list of statutes repealed.

The terms "income" and "expenses" are substituted for the terms "receipts" and "costs" to ensure that the Office of Lobbying Disclosure will have flexibility to require reporting of income and expenses when incurred rather than when received, if necessary to preclude evasion. In addition, flexibility is added to the provision addressing reporting of lobbying expenditures of nonprofit entities disclosing lobbying expenditures to the IRS, to accommodate differences in reporting periods.

Finally, the section on written decisions in noncompliance hearings is revised to ensure that such decisions will be available to the public, subject to appropriate redaction of confidential information.

President Clinton has said he will push for and sign legislation to toughen and streamline lobbying disclosure. The time is right for passage of this legislation and I hope that my colleagues will join me in enacting this bill into law.

Our new President has promised to push for and sign legislation to toughen and streamline lobbying disclosure. It is time for Congress to get behind the President on this important issue. The bill that Senators COHEN, GLENN, ROTH, BOREN, and I are introducing today would take a huge step in the right direction—the direction of Government in the sunshine, the direction of public disclosure and accountability—without impinging on first amendment rights. I hope that my colleagues will join me in supporting this bill and enacting this bill into law.•

• Mr. COHEN. Mr. President, I am pleased to join Senator LEVIN in reintroducing legislation which is designed to remedy the serious flaws in the current Federal lobbying disclosure laws.

The three major goals of this legislation are to bring uniformity, simplicity, and clarity to a system which can only be characterized as chaotic and counterproductive and, in my view, inimical to our system of government.

There is widespread agreement that the existing laws which govern lobbying are not serving the intended purpose of ensuring full public disclosure of lobbying activities. As the series of hearings held by the Senate Subcommittee on Oversight of Government Management revealed, the current system is riddled with loopholes, unnecessary and burdensome requirements, and there is little or no enforcement. As one of the subcommittee's witnesses observed, "present laws are being, if anything, observed in the breach."

The fundamental problem is that there is no agreement on who is required to register, what types of activities are covered, or what information must be disclosed. Many of the individuals who engage in lobbying are not registering, at least in some cases because they sincerely believe they are not required to, and those who do register are too often disclosing information that is of little use in making any determination as to actual lobbying activities or costs.

This situation subverts the public's confidence in government and in their elected officials which, as we all know, is at an all time low today. The low esteem in which public officials are held is due, in part, to the fact that the American people have come to the conclusion that the system is not serving the general public good and, instead, special interests are manipulating it to serve their own ends.

The depth of the public's concerns in this regard was made clear during the Presidential campaign last year. When H. Ross Perot decried the influence of special interests and high-priced lobbyists in Washington, he was articulating the outrage of many Americans who fear that high-paid hired guns are gaining access to Federal officials in an attempt to improperly influence the decisionmaking process. What the public wants to know is "who is doing what on behalf of whom and for how much?"

Under the current system, little relevant or useful information is being disclosed. The statutes are unclear and confusing, duplicative and burdensome, and require the disclosure of the wrong kinds of information. The failure of these laws to ensure public disclosure of appropriate and useful information about lobbying activities only serves to further undermine the public's confidence in government.

The legislation we are introducing is a comprehensive approach to reform which, when enacted, will be a significant improvement over the current situation. The bill would replace existing laws with a single, uniform statute and ensure that all professional lobbyists are registered. It would streamline the disclosure requirements to ensure meaningful disclosure to the public and to eliminate burdensome requirements on those who must register. It would also establish a new, more effective system for the administration and enforcement of these requirements. The responsible agency would be a new office created within the Department of Justice.

In conclusion, let me emphasize that the importance of ensuring effective public disclosure of lobbying activities cannot be understated. The public's suspicions concerning what is happening behind the closed doors of government offices can be significantly reduced or eliminated when there is adequate disclosure of these activities.

The lobbying disclosure reform measure being introduced today is a serious effort to comprehensively revamp the chaotic system that now exists. By replacing the ineffective patchwork of current laws with a uniform and simplified statute, the legislation will help to ensure that all professional lobbyist are registered and that lobbying activities are fully disclosed. More useful information will be disclosed to the American public and the press and, as a result, the public will be able to find an answer to the question "who is doing what on behalf of whom, and for how much?"

I want to commend Senator LEVIN for his commitment to achieving effective disclosure of lobbying activities. I hope our colleagues will join us in supporting this important legislation and will work with us to see that it is enacted into law this year.●

● Mr. ROTH. Mr. President, I would like to take this opportunity to join Senators LEVIN, COHEN, and GLENN in voicing my support for the Lobbying Disclosure Act of 1993. While the U.S. Constitution quite clearly guarantees the right to free speech as well as the right to petition the Government for redress of grievances, Congress may, without infringing on these important first amendment rights, require that lobbying activities be disclosed to the public. Surely, there can be no question that both Congress and the public are well served by the disclosure of private pressures on public issues.

The role of interest groups in the U.S. system of government has been a matter of concern and debate for over 200 years. As James Madison articulated, a democratic, pluralistic society is best served by "devising an elaborate system of procedural 'checks and balances' to reduce the potential power of any single, strong group, whether representing a majority or a minority position." Even today, the subject bears directly on constitutional freedoms of petition, speech and assembly, and the limits of those freedoms and the manner in which they may be regulated. Thus, in crafting new disclosure laws, we must recognize that almost all lobbying is constitutionally protected.

As it stands now, the omnibus 1946 Federal Regulation of Lobbying Act, the 1938 Foreign Agents Registration Act [FARA], the so-called Byrd amendment, and the 1989 HUD Reform Act form a loose patchwork of Disclosure requirements that are too easily avoided. The Foreign Agents Registration Act and the Federal Regulation of Lobbying Act have been in place for decades. Indeed, FARA's dissemination policies have remained unchanged since 1938. These laws are so complicated and riddled with loopholes as to be neither enforced nor enforceable. Clearly, they fail to achieve the public interest they are meant to serve, namely, informing the public of various pressures brought to bear by lobbyists on the Federal Government. In short, the existing lobbying disclosure laws poorly serve both the public and the lobbying community.

There is clearly a need to consolidate and rationalize the diverse and often confusing laws not on the books. The Lobbying Disclosure Act, if enacted, will consolidate and reform the existing lobbying disclosure laws by improving and replacing a group of laws that are widely viewed as ineffective and unenforceable with a single statute. Importantly, the new law will broaden the coverage of existing disclosure statutes to ensure that all professional lobbyists are registered, including those representing foreign entities. Specifically, the bill requires the disclosure of any foreign entity which supervises, directs or controls the client, or which has a direct interest in the outcome of the lobbying activity.

As President Clinton said in his inaugural address, "let us resolve to reform our politics, so that power and privilege no longer shout down the voice of the people." More specifically, the "Putting People First," the President promised to "push for and sign legislation to toughen and streamline lobbying disclosure." Well Mr. President, you have my support. If enacted, the Lobbying Disclosure Act introduced today will bring about more thorough disclosure of lobbyists' activities while streamlining disclosure requirements to ensure that only meaningful information is disclosed and needless burdens are avoided. This legislation is nearly identical to S. 2766, lobbying reform bill introduced in the 102d Congress, which was marked up and reported by the Committee on Governmental Affairs, on which I serve as ranking Republican.

I am confident that the Lobbying Disclosure Act, should it become law, will go a long way towards clarifying existing disclosure laws and will yield more useful information to both Congress and the public. Americans deserve to know how their government works, and how decisions may be influenced by the activities of organizations heavily engaged in the legislative process. Although these reforms are important, they should not be confused with more comprehensive ethics reform. In addition to the above, we need to remedy abuses in our current system of campaign finance laws and reduce overall campaign costs so that the interests of the individual citizen are placed above special interests.●

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 350. A bill to amend the Federal Water Pollution Control Act to require the Administrator of the Environmental Protection Agency to make grants to the Massachusetts Water Resources Authority for construction of wastewater treatment; to the Committee on Environment and Public Works.

BOSTON HARBOR ACT OF 1993

Mr. KERRY. Mr. President, today I am joined by my good friend, the senior Senator from Massachusetts, in reintroducing legislation to continue the Boston Harbor cleanup effort. This legislation, which Senator KENNEDY and I originally authored during the last Congress, would authorize a major Federal funding commitment for the cleanup of Boston Harbor, one of America's most historic—and, unfortunately, dirtiest—coastal water bodies. Congressmen MARKEY, MOAKLEY, STUDDS, and KENNEDY are introducing similar legislation in the House today.

Each day, over one half billion gallons of sewage are discharged into the harbor—resulting in what is arguably the most serious coastal water quality problems in the Nation. While the practice of discharging sewage sludge has been halted, continuing discharge of wastewater that has not received secondary treatment required by the Federal Clean Water Act remains a serious environmental problem.

This pollution is a major continuing threat to water activities such as fishing, swimming, and boating, and to other uses that provide a boost to the Boston area's economy. In addition, the contamination continues to devastate the health of marine life and threaten the health of the citizens of the Boston area.

While the public health and user benefits of harbor cleanup are great, so, too, are the costs. The total capital program of the Massachusetts Water Resources Authority [MWRA], which is charged with harbor cleanup, totals $5.7 billion for both water supply and sewage treatment. Of that amount, $4.8 billion, in 1993 dollars, is for the wastewater capital program. This is by far the most costly public works program in the history of New England.

The MWRA has received $279 million in Federal grant funding since 1987. Should no additional grant funding be provided by Congress or the Commonwealth, roughly 95 percent of the wastewater capital program will be locally funded. However, Congress historically has provided 55 percent in Federal matching grants to other localities across the Nation for similar water projects. In fact, in some cases, the Government provided 75 percent matching funds to larger urban areas in need of assistance for similar projects.

Given the Federal mandate for such projects and the extraordinary size and crushing rate burden associated with this particular situation, it is only fair, reasonable, and just for the Federal Government to assume a significantly larger share of the financial burden than it has accepted to date.

I am pleased with our past efforts to obtain Federal assistance to help Massachusetts ratepayers in meeting the obligation for this massive federally mandated wastewater construction program for Boston Harbor. However, the Federal and State assistance to date has just begun to scratch the surface.

MWRA area residents are continuing to experience rate shock in undertaking this important environmental program and MWRA households have experienced increases of 30 percent or more in just one year. Some estimate MWRA rates could increase by about 20 percent or more a year for the next 5 years to an average of $1200 per household by the year 2000. At that rate, an average family would pay about $100 per month just for water and sewer service—perhaps the fastest growing and highest rates in the country. In fact, one recent study estimates that MWRA district rates already are the highest in the Nation.

Even with significantly increased Federal and State assistance, rates will remain the highest or among the highest in the country; without it, our families will have the unchallenged if dubious distinction of paying more for sewage disposal than anyone else in any major metropolitan area of the United States.

The public health and environmental benefits of achieving Federal sewage treatment standards are obvious. In addition, as one of the largest public works projects in New England, the Boston Harbor cleanup will have significant economic benefits to Boston and the region. One Massachusetts study finds that every $1 billion of clean water investment produces 57,000 jobs, directly and indirectly. In addition, upon completion, it will allow removal, or avoidance of, any development moratoria related to inadequate sewage treatment facilities.

The Boston Harbor wastewater construction project is under way and on schedule. Its economic impact in generating much needed employment is significant. Plans are ready and additional Federal funding could be put to use this year as an important element in the Nation's effort to expand employment opportunities.

In addition to grant funding, in December, 1991, MWRA received $73.1 million in loans from the Commonwealth of Massachusett's State Revolving Fund established under Title VI of the Clean Water Act. However, since MWRA's own revenue bonds have a high rating, the State revolving fund [SRF] loans are expected to provide only minimal relief to the Authority's rate payers.

The legislation introduced today would authorize the appropriation of $1 billion over 5 years for the construction of wastewater facilities serving MWRA and Boston area households comprised of nearly 2.6 million persons and 5,500 businesses and industries. These funds would be used by MWRA to meet federally mandated secondary treatment requirements under a schedule previously ordered by the U.S. District Court.

Even in combination with the $279 million provided by Congress to date, this amount would bring the Federal share of the Boston Harbor project to approximately 20 percent of total costs, a far cry from the 75 percent Federal matching funds authorized for projects in the original Clean Water Act of 1972 or 55 percent for certain projects initiated after 1984.

Many other metropolitan areas in this country have complied with the Clean Water Act with the same significant assistance of these higher levels of Federal grant funding previously available. It is only fair and reasonable for the Federal Government to recognize its responsibility and expand its commitment to the Boston Harbor project. This bill enables that to happen. In the long run, this bill will save Massachusetts ratepayers thousands of dollars for each family—dollars they need to educate their children and meet a score of other important family financial burdens, instead of going primarily to pay some wealthy bond buyers rent on their money.

In past years, while the Massachusetts Congressional delegation has agreed that new clean water investments must be a top priority for the people of our State, the Reagan and Bush administrations have provided limited assistance. I am encouraged that the incoming Clinton-Gore administration views infrastructure needs as an important Federal responsibility and budgetary priority.

Today, I urge both President Clinton and my colleagues in Congress to recognize that what is really necessary and fair is a much more serious and multi year commitment to the cleanup of the historic Boston Harbor. We are not asking for the 75-percent Federal share of such costs that was provided for similar projects in the past, or even the 55 percent that was available for such projects at other times. We are simply asking that roughly 20 percent of this federally required, federally supervised clean-up be carried by the Federal Government, so that hard pressed Massachusetts ratepayers will not be left to carry this extraordinary load by themselves.

While the steps which would be authorized by the legislation we are introducing today are key to accomplishing the cleanup of Boston Harbor, we also recognize the vital role that must be played by the Governor and State government. Indeed, this is a problem so severe that it crosses all levels of government, and the actions of one will be sufficient without the committed and energetic involvement of all the others.

Finally, I would just like to add that the pricetag of the cleanup of Boston Harbor is just one example of a responsibility the Federal Government must share among many water investment projects throughout Massachusetts and across the country. Given the new administration's commitment to clean up assistance, I am hopeful that we will have more success in funding these other crucial water projects. My State has over 200 communities, from Holyoke to New Bedford to Lowell to Springfield, in need of new or improved water and sewer systems.

Mr. President, I hope that the Congress will provide expeditious and favorable consideration of this proposal and I ask unanimous consent that the text of the legislation be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 350

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Boston Harbor Wastewater Treatment Act of 1993".

SEC. 2. BOSTON HARBOR WASTEWATER TREATMENT GRANTS.

Title V of the Federal Water Pollution Control Act of 1972 is amended—

(1) by redesignating section 519 (33 U.S.C. 1251 note) as section 520; and

(2) by inserting after section 518 (33 U.S.C. 1377) the following new section:

"SEC. 519. BOSTON HARBOR WASTEWATER TREATMENT GRANTS.

"(a) IN GENERAL.—The Administrator shall make grants to the Massachusetts Water Resources Authority for constructing wastewater treatment works for the areas served by the Massachusetts Water Resources Authority.

"(b) FEDERAL SHARE.—The Federal share of a project described in subsection (a) shall not exceed 75 percent of the cost of construction of the wastewater treatment works. The non-Federal share may be satisfied by any combination of public or private funds or in-kind services.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $1,000,000,000 for the period beginning on the first day of fiscal year 1994, to remain available until expended.

"(2) SUPPLEMENTAL FUNDS.—Funds made available under paragraph (1) shall be used to supplement and not supplant other amounts made available under titles II and VI.".

Mr. KENNEDY. Mr. President, I am pleased to join my colleague from Massachusetts, Senator KERRY, in reintroducing this legislation to help ease the burden of sharply escalating water and sewer rates in the Greater Boston area.

This legislation is urgently needed by the 2.5 million citizens in 61 communities in Massachusetts who are reeling under the crushing cost of the largest clean water public works project in the country. The Boston Harbor project is mandated by Federal environmental laws and on a strict court-imposed timetable that imposes most of the multibillion dollar expenses in the next few years.

The result is that Boston area residents and businesses face the highest water and sewer rates in the country. The average household is now paying about $500–$600 a year, and that figure is expected to rise to over $1,200 by the end of the decade. These rates are far higher than in other areas of the country.

To date, the Federal share toward the Boston Harbor project has been less than 8 percent. By contrast, communities across the country have had 55–75 percent Federal assistance on these kinds of projects in the past. An increase to $200 million in Federal assistance a year over the next 5 years, as envisioned by this legislation, would still leave ratepayers with a very heavy burden, but would show that the Federal Government is working to ease the skyrocketing costs.

Help for Boston Harbor is not only a question of fairness. It is also a sound investment in a cleaner environment, a stronger infrastructure, and greater job creation for a region that has been particularly hard hit by the recession. I urge my colleagues to support this important legislation that will bring much-needed relief to the thousands of families and businesses in the Boston area.

By Mr. STEVENS:

S. 351. A bill to exclude deposits into a capital construction fund account under section 607(d) of the Merchant Marine Act from net earnings from self-employment; to the Committee on Finance.

S. 352. A bill to provide for the self-employment tax treatment of qualified withdrawals from a capital construction fund account under section 607(d) of the Merchant Marine Act; to the Committee on Finance.

CAPITAL CONSTRUCTION LEGISLATION

Mr. STEVENS. Mr. President, today I am introducing two bills which provide alternative approaches to resolving a tax problem which has been impairing the effectiveness of the capital construction fund program.

The first bill is similar to legislation I introduced in the 102d Congress as S. 1934. The bill would permit participants in the merchant marine capital construction fund—or CCF—program to reduce their self-employment income by the amount of contributions to their CCF account. Under current law, an amount equal to the amount deposited for the year into a CCF account reduces taxable income, but not self-employment income. The need for this provision can be better understood if I give some background on the purposes of the CCF program.

The purpose of the capital construction fund program, which was created by the Merchant Marine Act in 1936, is to improve the U.S.-flag merchant marine by providing fishermen a mechanism to facilitate accumulation of funds with which to acquire, construct, or reconstruct vessels. This is accomplished by permitting any citizen owning or leasing an eligible vessel to enter into an agreement with the Secretary of Commerce to establish a capital construction fund. Taxation of funds deposited into a CCF are deferred, in order to facilitate the accumulation of funds required for the acquisition, construction, or reconstruction of the specified vessel(s).

Essentially, this is a form of advance depreciation. Earnings which are placed into the CCF accounts are not subject to the income tax. However, when funds are withdrawn from the CCF accounts to acquire, construct or reconstruct a vessel, the basis of the vessel is reduced.

The advance depreciation benefit does not, however, apply to self-employment income. The Internal Revenue Service and the U.S. Tax Court have ruled that although the Merchant Marine Act provided that taxable income should be reduced by the amount deposited into a CCF, no provisions exist for earnings to be reduced in the determination of self-employment tax. Fishermen using the CCF program are therefore, in a sense, double-taxed with reference to self-employment income. They pay tax on their self-employment income at the time of the CCF deposit and lose future depreciation deductions against self-employment income due to the basis reductions required by the program.

Despite this double taxation, the Tax Court found in unlikely that Congress ever considered whether deposits into a capital construction fund established pursuant to section 607 of the Merchant Marine Act should be subject to the self-employment tax. *Eades* v. *Commissioner*, 79 TC 985 (Dec. 8, 1982).

I believe the Congress should squarely address this issue and make clear that deposits into CCF accounts will reduce self-employment income. The current situation where individuals must lose future depreciation against their self-employment income in order to utilize the CCF Program is inconsistent with that program's purpose. It doesn't make sense to provide reduction of taxable income as an incentive to use the CCF Program, and at the same time have a disincentive on the self-employment income side. This reduces the benefits CCF can provide to fishermen, which undermines the purposes of the program. I have, in fact, been told by administrators at the Fisheries Service that some fishermen are not using CCF because of the double taxation disincentive.

The first bill I am introducing today is substantially similar to S. 1934, which I introduced on November 7, 1991. It makes clear that deposits into CCF accounts will reduce—in addition to taxable income—net earnings from self employment. In addition, the bill provides for recapturing self-employment taxes for funds which are withdrawn from CCF accounts for nonqualified purposes, that is purposes other than acquisition, construction, or reconstruction of qualified vessels. However, unlike the bill I offered last Congress, my bill would be prospective only in order to hold down any revenue loss. The Joint Tax Committee has estimated the prospective losses to the Social Security trust funds to be $4 million per year.

I have also prepared an alternative bill which would have an even smaller revenue loss. Instead of providing for reduction of self-employment income up front, my alternative proposal would simply restore to users of CCF accounts the ability to apply depreciation against their self-employment income, notwithstanding that their basis has been automatically reduced for income tax purposes.

While this alternative bill would not fully restore the incentives of the program, it would nevertheless remove the tax penalty which now encumbers the program. The revenue losses of $4 million per year would also be reduced under this alternative approach.

I thank Senators for their attention and would welcome their support of my effort to clarify the tax treatment and ensure the effectiveness of the capital construction fund program.

I ask unanimous consent that the text of both bills be placed in the RECORD at the conclusion of my statement.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 351

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

SECTION 1. DEPOSITS IN CAPITAL CONSTRUCTION FUND ACCOUNT EXCLUDED FROM NET EARNINGS FROM SELF-EMPLOYMENT.

(a) IN GENERAL.—Subparagraph (A) of section 607(d)(1) of the Merchant Marine Act, 1936 (46 U.S.C. 1177(d)(1)) is amended by striking "taxable income (determined without regard to this section and section of such Code) for the taxable year shall be reduced" and by inserting "taxable income and net earnings from self-employment attributable to the operation of the agreement vessels (determined without regard to this section and section 7518 of such Code) for the taxable year shall each be reduced".

(b) NONQUALIFIED WITHDRAWALS.—Section 607(h) of the Merchant Marine Act, 1936 (46 U.S.C. 1177(h)) is amended by adding at the end thereof the following new paragraph:

"(7) NONQUALIFIED WITHDRAWALS SUBJECT TO SELF-EMPLOYMENT TAX.—

"(A) IN GENERAL.—In the case of any taxable year for which there is a nonqualified withdrawal (including any amount so treated under paragraph (5)), the tax imposed by section 1401 of the Internal revenue code of 1986 (at a rate for such taxable year unless otherwise established by the taxpayer to the satisfaction of the Secretary) shall be determined without regard to section 230 of the Social Security Act (42 U.S.C. 430).

"(B) TAX BENEFIT RULE.—If any portion of a nonqualified withdrawal is properly attributable to deposits (other than earnings on deposits) made by the taxpayer in any taxable year which did not reduce the taxpayer's liability for tax under section 1401 of such Code for any taxable year preceding the taxable year in which such withdrawal occurs, such portion shall not be taken into account under subparagraph (A).".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 7518(c)(1) of the Internal Revenue Code of 1986 is amended by striking "taxable income (determined without regard to this section and section 607 of the Merchant Marine Act, 1936) for taxable year shall be reduced" and by inserting "taxable income and net earnings from self-employment attributable to the operation of the agreement vessels (determined without

regard to this section and section 607 of the Merchant Marine Act, 1936) for the taxable year shall each be reduced".

(2) Section 7518(g) of the Internal Revenue code of 1986 is amended by adding at the end thereof the following new paragraph:

"(7) NONQUALIFIED WITHDRAWALS SUBJECT TO SELF-EMPLOYMENT TAX.—

"(A) IN GENERAL.—In the case of any taxable year for which there is a nonqualified withdrawal (including any amount so treated under paragraph (5)), the tax imposed by section 1401 (at a rate for such taxable year unless otherwise established by the taxpayer to the satisfaction of the Secretary) shall be determined without regard to section 230 of the Social Security Act (42 U.S.C. 430).

"(B) TAX BENEFIT RULE.—If any portion of a nonqualified withdrawal is properly attributable to deposits (other than earnings on deposits) made by the taxpayer in any taxable year which did not reduce the taxpayer's liability for tax under section 1401 for any taxable year preceding the taxable year in which such withdrawal occurs, such portion shall not be taken into account under subparagraph (A).".

(3) Section 1403(b) of the Internal Revenue Code of 1986 is amended by adding the following new paragraph:

"(3) For treatment of earnings of ship contractors deposited in special reserve funds, see subsections (d) and (h) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177) and subsections (c) and (g) of section 7518."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

(2) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of the amendment made by subsection (a) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefore is filed before the date 1 year after the date of the enactment of this Act.

S. 352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. . SELF-EMPLOYMENT TAX TREATMENT OF QUALIFIED WITHDRAWALS FROM CAPITAL CONSTRUCTION FUND ACCOUNT.

(a) IN GENERAL.—Subsection (g) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULE FOR SELF-EMPLOYMENT TAX.—In determining net earnings from self-employment for any taxable year, the basis of a vessel, barge, or container shall not be reduced by any qualified withdrawal in such taxable year."

(b) CONFORMING AMENDMENTS.

(1) Subsection (f) of section 7518 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULE FOR SELF-EMPLOYMENT TAX.—In determining net earnings from self-employment for any taxable year, the basis of a vessel, barge, or container shall not be reduced by any qualified withdrawal in such taxable year."

(2) Section 1403(b) of the Internal Revenue code of 1986 is amended by adding the following new paragraph:

"(3) For treatment of qualified withdrawals from capital construction fund accounts, see section 607(g)(6) of the Merchant Marine Act, 1936 (46 U.S.C. 1177) and section 7518(f)(6)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to withdrawals occurring after December 31, 1992.

By Mr. STEVENS:

S. 353. A bill to provide Alaska Native corporations, through an election process, standing to contest the disallowance of certain tax losses by the Internal Revenue Service if the purchasers of the losses agree; and to offset any associated revenue losses by increasing the interest rate on certain related tax deficiencies; to the Committee on Finance.

ALASKA NATIVE CORPORATION ACT OF 1993

Mr. STEVENS. Mr. President, the bill I am proposing today was included last year in H.R. 11. Since that legislation did not become law, I am reintroducing my legislation, which would provide Native corporations with the opportunity to go to court to contest Internal Revenue Service determinations with regard to the sale of net operating losses. This bill deals with standing only; it provides no new tax benefits of any kind and has been determined by the Joint Committee on Taxation to be revenue neutral.

First, let me briefly give some background. In 1984, Alaska Native corporations, or ANC's as we call them, were granted an exception from the general restriction on sale of net operating losses. This was granted in recognition of the decline in value of the lands and assets transferred to the ANC's by the Alaska Native Claims Settlement Act.

Many of the lands and assets had declined in value because of a delay in transfer and only a small fraction of their original value could be realized upon development or sale. Moreover, the losses generated thereby could not be utilized by the ANC's because they did not have offsetting income. However, if the losses could be sold to profitable corporations, economic value from these conveyed lands and assets could be realized. Hence the genesis of the ANC net operating loss [NOL] provision.

In 1986, Congress made clear its intention that these sales go forward and not be frustrated by the IRS applying theories of law in contravention to the express statutory provisions. Thus, as stated in section 60 of the 1986 act, except as otherwise provided, "no provision of the Internal Revenue Code of 1986 (including sections 269 and 482) or principle of law shall apply to deny the benefit or use of losses incurred or credits earned * * *."

In the 1988 tax law [TAMRA], the Native corporation NOL exception was phased out under the terms of specified transitional rules.

The most recent stage of the NOL process has been an audit of the losses by the IRS, followed by ANC agreement with any IRS-proposed adjustments, or litigation. Recently, however, the IRS has advanced a "springback theory" which is working to deny Native corporation standing in court to contest IRS determinations. Let me explain what has been happening.

In order to implement the NOL provisions, a subsidiary is formed to which the profits of the buyer corporation are transferred and the buyer's money for purchase of the NOL's goes into escrow. Such profits are then consolidated with losses generated by the ANC's so that little or no tax remains to be paid. If the IRS makes an adjustment which reduces the amount of the losses, there will be an excess of income in the subsidiary corporation formed to receive the buyer's profits. This would normally result in an additional tax due in the ANC's consolidated return and thus give the ANC the standing to challenge the assessment, both administratively and judicially.

However, the IRS has determined that such income does not remain in the ANC's consolidated return but instead "springs back" to the buyer—along with standing to challenge the IRS' determination. For those ANC's that have an alternative minimum tax liability, standing can nevertheless be achieved, provided the IRS chooses to assert that deficiency. However, for those ANC's that do not, the tax deficiency has "sprung back" to the buyer—and along with it, the ability to challenge in court the IRS' revaluation of the ANC losses.

The IRS position here is in conflict with the explicit admonition in the 1986 act that the IRS not frustrate these transactions without good and substantial reason. Nevertheless, the IRS has developed this novel "springback" theory to prevent ANC's from attaining standing to litigate the losses which they claimed on their own returns.

Mr. President, the bill I am introducing today has a single purpose: to grant ANC's, the true parties in interest, standing to litigate the NOL sales reported on their own returns. This is important because the buyer corporations are unfamiliar with the details of the losses claimed by the ANC-sellers. These losses are based on specific Alaskan transactions such as sales of timber, timber harvest rights, mining, and other natural resources. The buyer is usually a corporation from the lower 48 States which has depended upon the Native corporation, by contract, to be responsible for proving and defending these losses.

Most importantly, the real party at interest is the Native corporation because it has, in every case to my knowledge, contracted to indemnity the buyers for substantially all tax liability resulting from any losses incurred during the IRS audit.

Finally, the Native corporation is the party specifically designated by Congress to be the beneficiary under the NOL provision.

Mr. President, this bill will correct the standing problem, and will also have the collateral advantage of simplifying and consolidating audits.

Specifically, my legislation provides an elective process under which the Native corporation and one or more of its buyers may jointly elect to provide standing to an ANC, when denied by the IRS under the "springback" theory. This provides for a detailed statement which must be filed and the limited time frame in which the election must be made. Upon election, the Native corporation is the clear party at interest and the sole agent for resolution of the dispute with the IRS, with the Native corporation defending the losses claimed on its return. This is what was originally intended, and this bill will assure that this intent is fulfilled. At this point, I ask that a more detailed description of the bill, as well as a section-by-section analysis be entered into the RECORD following my statement.

Mr. President, as noted, this bill is procedural in nature and makes no substantive change to the tax law. The technical aspects of the statutory language and the description of the bill are based on extensive discussions with the Joint Tax Committee staff, and staff at the IRS and Treasury. The bill language is identical to section 7617 of H.R. 11, with the exception of a technical amendment adding new subparagraph (c)(1)(A)(v).

The Joint Committee originally estimated that enactment of this legislation would have resulted in a revenue loss to the Treasury of $15 million over 5 years. While I do not agree with the concept of associating revenue losses with a simple granting of standing, I fully understand that our budget process requires an offset to the Joint Committee's estimated loss. I have therefore included in my bill a provision that, in the event of an underpayment resulting from any case in which an election has been made, the applicable interest rate shall be calculated at the Federal short-term rate plus 3.50 percentage points, instead of the usual 3.0 points. This incremental increase in the interest rate on deficiency payments will, according the Joint Committee on Taxation, raise the required $15 million.

I would ask the distinguished chairman and ranking member of the Finance Committee to include in this year's tax bill the legislation I have introduced here today, which would guarantee Alaska Native Americans, through their congressionally created Native corporations, the fundamental right accorded all Americans—the ability to contest a tax determination made by the IRS with the full protection of the American judicial system.

Mr. President, I ask unanimous consent that several related documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ALASKA NATIVE CORPORATION STANDING BILL—DESCRIPTION OF AMENDMENT

PRESENT LAW

Congress allowed Alaska Native Corporations ("ANCSA—Alaska Native Claims Settlement Act Corporations") to sell their net operating losses and other tax benefits ("NOLs") to unrelated profitable corporations ("Buyers") from 1984 to 1988. The Internal Revenue Service is now examining these transactions and has in some cases contested the amount of NOLs reported by the ANCSA Corporations. The Internal Revenue Service has taken the position that any excess assigned income "springs back" to the assigning corporation. As a result, the ANCSA Corporations would not have any regular income tax liability and therefore lack standing to defend the validity of their NOLs.

DESCRIPTION OF PROPOSAL

The proposal would provide ANCSA Corporations standing to defend the validity of their NOLs under certain circumstances. This proposal is procedural in nature and not intended to change the amount of tax, addition to tax, interest (except for the additional interest generated by the election process), penalty or similar amount that may otherwise be due with respect to an NOL sale, including, but not limited to, any alternative minimum tax.

(1) All federal income tax issues concerning the amount and validity of tax benefits of an ANCSA Corporation that were sold to a Buyer in a transaction permitted under section 1804(e)(4) of the Tax Reform Act of 1986 ("NOL sale") would be resolved by the ANCSA Corporation and the Internal Revenue Service under procedural rules applicable to taxpayers generally. For example, the IRS would issue a statutory notice of deficiency to the ANCSA Corporation thereby giving the ANCSA Corporation standing to resolve the issues by settlement or litigation and the ability to pay any deficiency and file a claim for refund and litigate in its name in the appropriate judicial forum. All IRS notices regarding ANCSA Corporation transactions for which an election has been made would be issued only to the ANCSA Corporation, which would provide copies of such notices to all Buyers affected.

(2) An ANCSA Corporation must obtain the written consent of a Buyer with respect to a particular NOL sale in order to receive standing with respect to such sale. In the case of an ANCSA Corporation that has entered into multiple NOL sales, this election is to be made independently by each Buyer with respect to each ANCSA Corporation, but, if made, must be elected by a Buyer for all NOL sales with a particular ANCSA Corporation for which the statute of limitations for assessment is open. If the ANCSA Corporation has dealt with multiple Buyers or profit subsidiaries in the taxable year, it is intended that the Internal Revenue Service will respect the allocation, or ordering of an ANCSA Corporation's losses among several Buyer corporations in a single year. This election must include an agreement by the Buyer to extend the statute of limitations for its own income tax return (solely with respect to any tax attributable to the subject NOL sale) for at least 180 days after the tax liability of the ANCSA Corporation is finally determined. Nothing in this provision compels the IRS to litigate with an electing Buyer. The provision merely allows electing corporations to proceed in the name of the ANCSA Corporation if there is a tax controversy with respect to the taxability of the income assigned by the electing Buyers. In other words, the IRS will issue a deficiency notice to the ANCSA Corporation for the taxes associated with the portion of the losses that were sold to an electing Buyer; such tax deficiency will be determined by reference to each Buyer separately and, if such tax amount cannot be determined precisely, will be calculated by reference to the maximum tax rate generally applicable to the individual electing Buyer. The IRS may continue to deal with a non-electing Buyer as it would with any other taxpayer, including administrative settlement or litigation of any contested amounts.

(3) Any tax with respect to an NOL sale will be determined at the rate applicable to the Buyer for the taxable year of the Buyer in which the NOL sale occurred (as if the income assigned from the NOL sale had been reported by the Buyer or an affiliated group of corporations which includes the Buyer), and the Buyer shall be responsible for the payment of such tax. For purposes of issuing a notice of deficiency, or making an assessment with respect to a payment of tax and the filing of a refund claim, the IRS will use its best efforts, working with the ANCSA Corporation and the Buyer, to determine the tax using a Buyer's actual effective tax rate. Any payment made to the IRS by an ANCSA Corporation on behalf of a Buyer shall be deemed to be a payment of tax by the Buyer for the taxable year in question. However, the ANCSA Corporation shall be treated as the taxpayer of such amounts (and of any amounts paid by the Buyer) for purposes of filing a claim for refund and a refund suit. Any overpayment that may be made with respect to an ANCSA Corporation transaction for which an election has been made shall be made jointly to the ANCSA and the electing Buyer as the persons who made the overpayment within the meaning of section 6401(a) of the Code; the IRS shall have no further payment obligation with respect to the electing Buyer for such overpayment. Nothing in this provision shall prohibit the Internal Revenue Service from using its authority under section 6402 of the Internal Revenue Code to offset against other liabilities of the ANCSA or the electing buyer the amount of any overpayment that arises as a result of this provision.

(4) A Buyer that elects under this provision shall have participatory rights in any administrative consideration of the tax consequences of an NOL sale (including the right to submit a written statement to the IRS regarding the proposed adjustment and to meet with the IRS at the same time as the ANCSA Corporation), and the right to file an amicus brief in any judicial proceeding commenced by the ANCSA Corporation with respect to such tax consequences. Any meetings with the IRS will be subject to the reasonable discretion of the IRS as to time, place, and manner and will be subject to the general standards of the IRS that are applicable to the time and place for interviewing a taxpayer. The foregoing administrative rights will not apply if the IRS determines that an extension of the statute of limitations is necessary to permit the exercise of such rights and the Buyer and the ANCSA Corporation do not agree to such extension. The same procedural rights are preserved for an ANCSA Corporation for those NOL sales

for which no election is filed. Any failure by the IRS to grant the rights discussed above will not affect the validity of the determination by the IRS of any adjustment of tax liability.

(5) Any final determination related to the ANCSA Corporation's NOL sales, whether by administrative settlement or final judicial decision, including any amount of tax, addition to tax, interest, penalty or similar amount, will be binding upon the ANCSA Corporation, the Buyer, and the IRS.

(6) For any underpayment resulting from a case in which an election has been made under this provision, the interest rate applicable pursuant to Section 6621 of the Internal Revenue Code shall be calculated at the Federal Short-term rate plus 3.50 percentage points.

EFFECTIVE DATE

This proposal would be effective for ANCSA Corporations whose statute of limitations for the period of assessment related to sales under section 1804(e)(4) of the Tax Reform Act of 1986 has not expired.

ALASKA NATIVE CORPORATION STANDING BILL—SECTION-BY-SECTION ANALYSIS

The proposed legislation would amend Section 5021 of the Technical and Miscellaneous Revenue Act of 1988, which provides limited procedural rights to an Alaska Native Corporation ("Native Corporation") with respect to the tax audit litigation of its sale of tax benefits ("NOL sale") to a subsidiary ("profit subsidiary") of an unrelated corporation ("Buyer") in a transaction allowed under section 1804(e)(4) of the Tax Reform Act of 1986 ("Native Corporation transaction"), by amending subsection (c) and adding a new subsection (f).

SUBSECTION (C)(1)—ELECTIVE NATURE OF PROVISION

Subsection (c)(1) allows a Native Corporation and one or more of its buyers to elect to have the income of the profit subsidiary included on the consolidated tax return of the Native Corporation for purposes of the issuance of a statutory notice of deficiency by the Internal Revenue Service ("IRS"). This would allow the Native Corporation to contest the proposed tax deficiency in the United States Tax Court.

Subsection (c)(1)(A) sets forth the terms of the election. The election for the taxable year of the election must be made within 120 days after the date of enactment of the amendment. The election must be filed jointly by the Native Corporation and by the Buyer with the Anchorage IRS district director and must: (1) identify the parties with particularly; (2) state the amount of income assigned by the Buyer that is subject to the election; (3) if the Native Corporation dealt with multiple Buyers or profit subsidiaries in the taxable year, describe the order in which such Native Corporation transactions occurred (it is intended that the IRS will respect the allocation, or ordering, of Native Corporation's losses among several buyer corporations in a single year); (4) state the agreement of the Buyer to extend its statute of limitations for assessment and collection solely with respect to the income of the profit subsidiary for the Native Corporation transaction in question; and (5) authorize the IRS to issue the check for any refund or overpayment jointly to the Native Corporation and the Buyer Corporation.

Subsection (c)(1)(A) also establishes that the election is available separately for each Buyer for each Native Corporation. Any Buyer that so elects must, however, elect for all Native Corporation transactions with the particular Native Corporation for all open taxable years.

Subsection (c)(1)(B) provides that any tax liability for the Native Corporation transaction will remain the same whether an election is made or not. Such tax liability will be calculated by reference to the tax return of the electing Buyer.

SUBSECTION (C)(2)—TREATMENT OF NATIVE CORPORATION COMMON PARENT AS SOLE AGENT

Subsection (c)(2) provides that the common parent of the consolidated return of an electing Native Corporation will be treated under the consolidated return regulations as the sole agent of the profit subsidiary with respect to the Native Corporation transaction, except for purposes of collection.

SUBSECTION (C)(3)—COLLECTION OF TAX FROM BUYER CORPORATION

Subsection (c)(3) provides that the Buyer and the profit subsidiary will be liable for any income tax attributable to the Native Corporation transaction as if no election had been made. This provision is necessary to ensure full collection of the tax by inclusion of any excess income in the Buyer's return.

SUBSECTION (C)(4)—TREATMENT OF NATIVE CORPORATION AS THE TAXPAYER FOR PURPOSES OF FILING A REFUND CLAIM

Subsection (c)(4) permits the Native Corporation to pay all or part of any tax that is assessed against the Buyer for a Native Corporation transaction for which an election has been made and to file a claim for refund as the taxpayer thereof. The Native Corporation is also treated as the taxpayer for purposes of filing a refund suit with respect to any taxes attributable to such Native Corporation transaction. The venue for any refund suit would be determined by reference to the Native Corporation. The Native Corporation and the electing Buyer would be the joint recipients of any tax overpayment that is finally determined by the IRS or a court.

SUBSECTION (C)(5)—PROCEDURAL RIGHTS OF ELECTING BUYER

Subsection (c)(5) provides an electing Buyer with the same rights that the Native Corporation has under existing law. That is, the Buyer will have the right to submit a written statement to the IRS, to meet with the IRS at the same time as the Native Corporation, and to file an amicus brief in any litigation proceeding commenced by the Native Corporation. The IRS will send all notices to, and deal directly with, the Native Corporation, which will have the responsibility of forwarding such notices and other information to its affected buyers.

SUBSECTION (C)(6)—FINALITY OF DECISION

Subsection (c)(6) establishes that any final determination of the amount of any taxes and other amounts due with respect to a Native Corporation transaction for which an election has been made, whether by administrative settlement or judicial decision, will be final and be binding upon all parties, i.e., the Native Corporation, the Buyer, the profit subsidiary, and the IRS. No further administrative or judicial action with respect to such amounts will be permitted.

SUBSECTION (C)(7)—PROCEDURAL RIGHTS WHEN NO ELECTION IS MADE

Subsection (c)(7) provides that, in the absence of an election, the IRS shall have full authority to settle or litigate with any non-electing buyer corporation with respect to any issue relating to a Native Corporation transaction. Subsection (c)(7) also provides a Native Corporation with the same procedural rights as an electing Buyer in those situations where no election is filed. That is, the native Corporation will have the right to submit a written statement to the IRS, to meet with the IRS at the same time as the non-electing Buyer and to file an amicus brief in any litigation proceeding commenced by the non-electing Buyer.

SUBSECTION (C)(8)—EFFECTIVE DATE

Subsection (c)(8) provides that this elective provision will be available to all Native Corporations for which the statute of limitations for assessment has not yet expired. Those Native Corporations for which the statute of limitations expires within 120 days after the enactment of the provision will be given the right to extend such statute by agreement with the IRS in order to permit them to make the election.

SUBSECTION (F)—SPECIAL INTEREST RATE

Subsection (f) is the funding mechanism for the election process set forth in amended subsection (c). It provides that, in the event of an underpayment resulting from any case in which an election has been made under subsection (c), the interest rate applicable pursuant to Section 6621 of the Internal Revenue Code shall be calculated at the Federal Short-term rate plus 3.50 percentage points.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 354. A bill to section 108(f) of the Internal Revenue Code of 1986 to clarify the tax treatment of discharges of indebtedness under certain student loans; to the Committee on Finance.

STUDENT LOANS TAX ACT OF 1993

Mr. STEVENS. Mr. President, today I am introducing a bill to bring fairness and equity to the tax treatment of Alaska's student loan forgiveness program. I first introduced the provision on October 26, 1989. It was included last fall in H.R. 11 as section 7104(b)—but as Senators know, that bill was not signed into law. Nevertheless, this provision remains important to thousands of Alaskans, and I hope the Finance Committee will include it in this year's tax legislation.

Before I explain the need for this bill, I'd like to give Senators some background on this issue. In general, forgiveness of debt in return for an action on the part of the debtor is taxable and must be reported as other income. This principle applies generally to forgiveness of student loan debt.

However, section 108(f) of the Internal Revenue Code provides an exemption from taxation for certain student loan forgiveness programs; the exemption applies to student loan programs which condition forgiveness of the loans on the recipient "work(ing) for a certain period of time in certain professions for any of a broad class of employers." This exemption, in effect, permits States to treat as nontaxable grants, loan amounts made to individuals who end up serving in various needed professions in their home States.

However, in Alaska, one of our unique characteristics is that because of our small population and our location, we have no professional schools in our State to train lawyers and doctors. Our student loan forgiveness program was therefore designed to encourage students to return to our State after receiving an education elsewhere. For loans made before July 1, 1987, Alaska will forgive up to 50 percent of the loan amount made to individuals who reside in the State for a specified number of years following their schooling.

Therefore, our loan forgiveness provisions—unlike those of other States—are conditioned on residing in the State for a specified period of time following a course of study. However, because the program is not tied into service in specific professions, Alaska's loan forgiveness program does not technically fall within the section 108(f) exemption.

The problem is that most recipients of student loan forgiveness in Alaska were unaware that their student loan forgiveness benefits are taxable. This is entirely understandable if one considers the fact that the Form 1040 instructions mailed out to taxpayers during the years at issue, 1987 and 1988, do not mention student loan forgiveness as a type of reportable other income. In fact, the instructions do not even mention debt forgiveness generally as a type of income. It is only if a taxpayer refers to a much more detailed IRS publication that he or she will find explanations of other income, which include debt forgiveness and student loan forgiveness.

Moreover, when you add to this the fact that student loan forgiveness programs in some States are exempt from tax, and student grant programs are largely exempt, you can understand why my constituents were unaware that their student loan forgiveness benefits are taxable. In addition, although the State began offering loans with a forgiveness option in the late 1960's, and continued the program through the 1987–88 school year, neither the Internal Revenue Service nor the State of Alaska had ever publicized the taxability of forgiveness benefits to Alaskans.

Then late in the summer of 1989, after the State had discontinued offering loans with a forgiveness option, the IRS District Office in Anchorage decided to initiate an enforcement project to collect tax on unreported student loan forgiveness income back to the 1987 tax year. Unfortunately, 3,000 Alaskans who benefited from the forgiveness program were caught totally unaware that forgiven amounts are considered to be income.

Now 3,000 young people who have come back to Alaska following their education have had to pay back taxes, plus interest, on 1987 and 1988 loan forgiveness amounts.

Mr. President, these amounts should not be taxed. Other States have been able to exempt their student loan forgiveness programs by conditioning forgiveness on entering into certain professions. To those of us in Alaska, bringing students of all professions home, is just as important to us, as attracting students into particular professions might be for the Lower 48.

The provision I am reintroducing today would bring Alaska's student loan program under the section 108(f) exemption. Specifically, the provision would exempt from taxation student loan programs which forgive loans "made by a State * * * which had no accredited professional schools for the study of law or medicine on the date the loan was made, if the individual resided for a certain period of time in the State after completion of the individual's attendance at the educational organization with respect to which the loan was made." The provision would be effective beginning with tax year 1987.

The provision would give relief to the 3,000 young people who had to pay back taxes and interest for 1987 and 1988 as a result of the IRS enforcement project. It would resolve an unfair situation which has lingered for too long. For those individuals who have already paid tax on loan forgiveness received during those years, the bill provides that they may receive refunds.

In addition, the provision would ensure equitable treatment to over 6,000 Alaskans who are currently participating in the student loan forgiveness project, by bringing Alaska's loan forgiveness program under the current law exemption. For the remaining few years of the forgiveness program, my bill will guarantee that Alaska's forgiveness program is given the same tax exempt treatment as other worthwhile forgiveness programs around the country.

Bringing Alaska's student loan forgiveness program under the section 108(f) exemption will incur only a limited revenue loss to the Treasury—$17 million for a 5-year period, according to the Joint Committee on Taxation. The annual revenue cost declines to $2 million per year by the third year after enactment and the forgiveness program will come to a conclusion by the end of the decade, since only pre-1987 loans may be forgiven.

I thank Senators for their attention and would welcome their support of this provision to bring fairness and equity to the tax treatment of student loan forgiveness.

Mr. SIMON (for himself, Mr. HATCH, Mr. DECONCINI, Mr. THURMOND, Mr. HEFLIN, Mr. CRAIG, Mr. KOHL, Mr. GRASSLEY, Ms. MOSELEY-BRAUN, Mr. BROWN, Mr. DASCHLE, Mr. COHEN, Mr. BRYAN, Mr. PRESSLER, Mr. SHELBY, Mr. BENNETT, Mr. GRAHAM, Mr. SMITH, Mr. KRUEGER, Mr. KEMPTHORNE, Mr. MATHEWS, Mr. NICKLES, Mr. CAMPBELL, and Mr. LUGAR):

S.J. Res. 41. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget; to the Committee on the Judiciary.

BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. SIMON. Mr. President, I am pleased to announce today in the Senate, as well as the House, that we are introducing a constitutional amendment which will require a balanced budget unless there is a 60-percent vote of Congress to the contrary. I am pleased to say that so far we have 11 Democrats as cosponsors and 11 Republicans as cosponsors. The cosponsors on the Democratic side are Senator DECONCINI, Senator HEFLIN, Senator BRYAN, Senator DASCHLE, Senator SHELBY, Senator KRUEGER, Senator KOHL, Senator MOSELEY-BRAUN, Senator MATHEWS, Senator NIGHTHORSE CAMPBELL. On the Republican side, the chief cosponsor is Senator HATCH. The other Republican Senators are Senator THURMOND, Senator GRASSLEY, Senator BROWN, Senator COHEN, Senator PRESSLER, Senator CRAIG, Senator BENNETT, Senator SMITH, Senator KEMPTHORNE and Senator NICKLES.

Thomas Jefferson was not in the United States when the Constitution was written. He was in France. When he came back, he said, "If I could add one amendment to the Constitution, it would be to prohibit the Federal Government from borrowing funds." He said, "We should consider ourselves unauthorized to saddle posterity with our debts and morally bound to pay them ourselves." As in so many things, Thomas Jefferson was ahead of his time.

What is the problem today? The problem today, Mr. President, is that we are spending $800 million—more than $800 million—every day on interest that does absolutely nothing for us. In 1980, we spent $74 billion as our gross interest expenditure. This year the current estimate is $307 billion. The CBO reported to us just the other day that the current estimate on our deficit is $310 billion, and if we do not have some dramatic changes, 10 years from now, it will be $650 billion and 35 percent of the revenue of the Federal Government will go for debt service. That is assuming that there is not an increase in interest rates. That is the best case scenario. We have to get a hold of this problem.

The New York Federal Reserve Board says that the deficit in the 1980's cost us, in loss of savings, 5 percent loss in GNP, in national income. One percent, according to CBO, is 650,000 jobs. That means the deficit of the 1980's cost us over 3 million jobs. I cannot tell you how many of those jobs were in Illinois or Minnesota or Texas, but a lot of them were. We just cannot continue this. We have to face up to this.

What if, in 1980, we had had a balanced budget amendment to the Constitution? We would have an infinitely richer society today, and we better learn from what has happened. What has happened is a squeeze that hits all the social programs that I happen to believe in strongly. Interest is squeezing out our ability to respond. It is like a cancer, and the longer we wait in getting rid of that cancer, the tougher it is going to be.

We are the first generation of Americans to live on a huge credit card and say, send the bill to our children and our grandchildren. I heard Senator HATCH the other day say that a child born today will—if that child lives out a normal life span and if interest rates do not grow or increase—pay to the Federal Government on the average of $135,000 in interest.

We have to do better, and the Wellstones and the Kruegers and the Simons and the Hatches—everybody else here—have to be part of getting ahold of this thing.

One of the other things that happens is a massive redistribution of wealth. Who pays the $307 billion we are going to pay this year in interest? By and large, it is people of limited income. It is the employees we see around the Senate right now. They are paying that interest. Who collects it? How many of them own Treasury bonds? My guess, and I do not mean this disrespectfully to all of the good people here, very few of them own Treasury bonds.

We are taking from people of limited income; giving to those who are more fortunate. And it is a massive threat to something that I heard Senator PRYOR talking about just a few minutes ago, Social Security. Dorcas Hardy, the former Social Security Commissioner, says there is only one great cloud hanging over Social Security, and that is what happens in the future because of the Federal debt.

If I had a graph in front of you showing what is happening on Social Security retirement, it would show a gradual increase in numbers retiring until we get to the year 2010, and then it starts a sharp curve up because we are heavily dependent on Social Security retirement funds to buy our bonds. If we can slip by until the year 2010, at that point, whoever is in the Senate, whoever is in the House, whoever is in the White House, will have one of three choices to make:

First, you can dramatically cut back on Social Security. You can guess how politically popular that will be.

Second, you can dramatically increase taxes. And you can guess how politically popular that would be.

And the third option, which is the one we are headed toward if we do not pass this constitutional amendment, you can print more money. That is the politically easy way out, and it is the most dangerous of all three options.

What we have to do is adopt the fiscal discipline that Thomas Jefferson suggested a long time ago.

Now, I hear those who say this is a political gimmick. I heard Representative OLYMPIA SNOWE, over on the House side, say the other day, if this were a political gimmick, Congress would have it a long time ago. I think she is absolutely right. The little gimmicks just do not work now.

What about those who say Gramm-Rudman and the budget agreement have not worked? The answer is they have not worked because they are statutory. As soon as it squeezes a little bit, we change the law. And then we go ahead with business as is and keep piling up those deficits.

This is a sensible piece of legislation. Fred Bergson, a highly regarded economist who served in the Carter administration said, "If you had asked me 10 years ago would I favor a balanced budget amendment to the Constitution, I would have said that is ridiculous." He said, "Now I think it is essential."

More and more people who are economists and thoughtful on this are saying the same.

The lead witness in opposition to the constitutional amendment was the distinguished Harvard law professor, Larry Tribe, for whom I have great respect, and I would love to see him be the next Solicitor General for our Nation. Larry Tribe in testifying against it said, "I used to believe that it was unconstitutional in concept." This is not the kind of thing you ought to put in the Constitution. He said, "Even though I oppose it, I no longer believe that. I think the inability of one generation to force its debts on another generation is a major decision," and he said it really goes along with taxation without representation.

What we are calling for, Mr. President, is that by the year 1999—so we have plenty of time to work this out—we have to balance the budget. I think it is essential that we do so.

Mr. President, I would like at this point to yield 10 minutes to my colleague from Texas, Senator KRUEGER, the newest Member of the Senate, but I had the privilege of working with him in the House. I know that as a Member of the House, he was concerned about our fiscal problems, and he has already talked to me about things we can do to move toward a balanced budget. I am pleased to have him here as a colleague in the Senate, and I am pleased to yield 10 minutes to him at this point, Mr. President.

Mr. KRUEGER. I thank my distinguished colleague for yielding this time to me.

I rise to speak in favor of a balanced budget amendment to the U.S. Constitution. It is a serious thing to talk about changing such a precious document as our Constitution. But in supporting Senator SIMON and Senator HATCH and the bipartisan group that is supporting this amendment, we do so because the circumstances are so grave and so real.

I am proud as well to be a cosponsor along with my colleague from Texas, Congressman CHARLIE STENHOLM, who is introducing the same measure today in the other body.

In 1978, I cosponsored a balanced budget amendment when I was a Member of the House. It was not real popular then. But, had the Congress proceeded at that time with a balanced budget amendment, we would have been farther down the road, we would have had about a quarter of the size of the national debt that we currently have.

What we have had instead has been a mindless decade of gluttony and consumption. We have been eating up our seed corn, as my distinguished colleague from Illinois just said. We have had taxation without representation because we are taxing the next generation with our expenses.

Cicero once said we plant trees for the next generation.

We ought to be planting trees instead of simply garnering the fruit and cutting down the trees.

What we find is that our delay in 1978 has made our present circumstances more difficult. The medicine is harder to swallow today than it would have been a decade ago.

We can simply no longer ask the next generation to make these sacrifices for us.

First, Government must sacrifice and then we should ask the American people to sacrifice. We in Government must sacrifice our readiness to spend someone else's money. Like gluttons for our own future health, we need to adopt an austerity diet.

We have gone through the cafeteria line. We have totaled up too many calories and are getting a bit too portly, and we have been unable to discipline ourselves. Collectively, we need to impose this discipline through the document which each of us who came to this body swore to uphold, that is, the U.S. Constitution.

We must use that Constitution to force us to live within our means.

Mr. President, as legislators, we understand that situations rarely present themselves with conspicuous clarity. Few are the times where we can see quite unambiguously how and where we have arrived here.

Today, the Congress and the country have both arrived at that point. Sadly, we did not reach this point atop some pinnacle of prosperity nor of prudence. Instead, we are up to our necks in a well of red ink brought about by our own actions. Additions to the Federal deficit just this year will amount to $100 per family of four added to our debt every week. This week each American family of four is $100 deeper in debt than it was last week, not by its own choice but by the irrevocable momentum that we have set underway.

If we continue at our present rates of growth and under the present relationship of taxes and spending, we will find that our deficit will burst 20 percent of gross domestic product within the lifetimes of our children. This is not a legacy that I wish to leave my 4-year-old daughter, Mariana, nor my 3-year-old Sarah, nor is it a legacy, Mr. President, that I would wish to leave your children or the children of the people whom we represent in this distinguished body.

If we do not change our course, we will continue eating up our seed corn and we will have nothing left for investment in the future. Like the 800-pound gorilla that sits where it pleases, our deficit is a creature that is crowding out our own destiny.

Mr. President, we all know this. We all know that men and women of conscience and determination need the right tools to do the right thing. This is an enormous task and an enormously important job, and only constitutional clout can get that job done.

This measure requires the President to submit and the Congress to enact a balanced budget every fiscal year after October 1998 or within 2 years of ratification by the States themselves. It tightens definitions of outlays. It says that the smoke and mirrors can no longer fool us.

It allows a tax increase by a majority vote on both Houses and requires a three-fifths majority of both Houses to approve a deficit and to lift the budget ceiling. By doing so, it retains for us fiscal flexibility.

Mr. President, we are at a point where we have to admit we are serious about deficit reduction, or else we may as well admit that we are not. If we are not, let us just be honest enough to say so. Then the American families and businesses and investors can act in their own best interests while we are not acting in theirs. But if we are serious, let us establish that message. Let us show our seriousness by sending a balanced budget constitutional amendment to this body, to the other body, and indeed to the State legislatures across the land.

Toward the end of the last session, Congress narrowly defeated a measure virtually identical to this one. It is timely that the measure reappear now, because I think the American people have sent a very clear message that they think we must act on this crucial problem. It is essential that we prove it now, because we have seen the future, and it does not work. The people will expect Government first to sacrifice. We must make Government sacrifice first, and then the American people will follow. We have always been willing to sacrifice for a worthy goal. We will undertake that goal and that task. At this time, the American people simply do not believe they are getting value for their money from their Government. If the Government were a store, nobody would buy here. If the Government were an airline, nobody would fly it. We need to be a body worthy of the people's trust.

Mr. President, I am convinced that if we pass this balanced budget amendment, we will demonstrate to the people that we are once again worthy of their trust.

I yield the remainder of my time.

Mr. SIMON. Mr. President, I would like to refer to a chart. I see the distinguished President pro tempore on the floor here, and he has been great with charts and showing what happened. I thank my staff for preparing this, Aaron Rappaport and Susan Kaplan of my staff have been helping and Brant Lee, who is now practicing law in San Francisco helped, as well.

This is, in inflation adjusted terms, what happened from fiscal year 1981 to fiscal year 1993. You will see transportation is down 1 percent; education—and we all make speeches how important education is—down 1 percent; nondefense discretionary, generally, is up 9 percent; defense is up 17 percent; entitlements, largely Social Security, up 47 percent, largely because of Medicare and because of the growth in numbers.

But the great growth in the budget this last 12 years, the great growth is this gross interest figure. Everything else pales. If you were to say what should the priorities of this Nation be, let us just take a choice. Should we spend more money on education for the future of this country, or spend more money on interest? Well, it is very clear what our choice ought to be. It ought to be education. Yet, we have precisely reversed those kinds of priorities, because we have been imprudent.

Why is it necessary to have a constitutional amendment requiring a balanced budget? Mr. President, it is necessary to have a constitutional amendment, because we have shown in this body, both on the Democratic side and on the Republican side, that we are unable to make the tough choices.

If I can just go back to the last session, we had three major fights on appropriations, as my colleagues will recall. One of the major fights was on defense cuts, and we finally adopted, after much debate, an Exon amendment calling for a $1 billion cut—that is one-third of 1 percent.

The second big fight was on the space station. The third big fight was on the super collider in the State of the Presiding Officer from Texas.

How do we compromise on these three big appropriation fights? We compromise by passing everything, and that is what we do day after day, year after year, piling up the debt for our children in generations to come. How do we get in this kind of a mess? I am not sure any of us know that answer precisely. My instinct is that we ended up in this kind of a situation, because we have been heeding the polls too much.

I think one of the worst things that has happened to the body politic is the creation of polls. We wait and see what the polls have to say, and what the polls have told us is very clear: People want more services and lower taxes. And we have given them both. But we have given them both at the peril of the future of our country. We just cannot continue down this road. We have to get ahold of this thing.

I hope that we will, in this session, do what is needed. I intend to hold hearings on this in March, next month. By the end of the month, we will mark it up in the subcommittee, or in early April, and then we will proceed to the full Judiciary Committee where, frankly, we have the votes to get it out, and then it will come to the floor.

My hope is that the majority leader will give us time, but I know the rules of the Senate well enough that we are going to get this debated on the floor of the Senate, whether that is granted or whether it is not granted.

I respect those, like the majority leader, who oppose this. But public opinion is clear, and the public understands that we are going to have to make a sacrifice, that we have to decide that we cannot spend money on everything we would like, and that we are going to have to have some increases in taxes. There is just no way of doing it without doing both of those things. We have to assure the public that if there is an increase in taxes, it is going for this purpose, or for some other very constructive purpose.

Mr. President, I think it is vital that we move ahead.

I ask unanimous consent, Mr. President, to have printed in the RECORD at this end of my remarks a speech I gave to the Legislative Council of the American Association of Retired People on this subject yesterday.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SIMON. I hope, Mr. President, that we will show the courage in this session to pass this.

Let me add one final word. There are those who oppose this, and I respect them. What I have to say is that most of those who are opposing this are doing it in a very shortsighted perspective.

Those who favor social programs, for example—and there has been no better champion of social programs in this body than PAUL SIMON—say we are likely to get squeezed. My friends, everybody is going to get squeezed a little bit. But if we do not do something about it, the squeeze will continue to be from interest chewing up everything else.

What if—I ask those who are on the other side—what if in 1980, we had had a balanced budget in place? We had less than 1 trillion dollars' worth of debt. We would not be spending this kind of money on interest. We would be doing the things that need to be done, and we would have made the tough choices.

We have not made the tough choices. Oh, we have done a little. And when I say a little, one of those who has helped to lead us is the new Presiding Officer, the Senator from Florida [Mr. GRAHAM], who I remember took 2 percent out of the operational funds of some offices, and we saved a little bit of money. And I commend him, and I was pleased to vote with him on that.

But we have been tinkering at the edges. I do not mean this critical of the Senator from Florida, or any of my colleagues. We have not made the tough choices around here, and we are going to have to. And if that threatens some of us getting reelected, so be it. If we do not have the courage to make the tough choices, we should not get reelected, anyway.

Mr. President, the Nation needs a constitutional amendment calling for a balanced budget. That is what Thomas Jefferson told us late in the 18th century. Thomas Jefferson was right, and I hope we heed his advice.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 41

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SEC. 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SEC. 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

"SEC. 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SEC. 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SEC. 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SEC. 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

"SEC. 8. This article shall take effect beginning with fiscal year 1999 or with the second fiscal year beginning after its ratification, whichever is later.".

EXHIBIT 1

A RISING TIDE OF RED INK SINKS ALL BOATS: THE NEED FOR A BALANCED BUDGET CONSTITUTIONAL AMENDMENT

(Address by U.S. Senator Paul Simon)

Thank you for inviting me to be with you today and to speak about an issue that is as urgent as today's headlines: the constitutional amendment I have introduced with a bipartisan group of colleagues to structurally discipline our fiscal policy so that balanced budgets again become the general rule, instead of the rare exception.

You are here this week to listen to Washington, but let me assure you that Washington is also anxious to listen to you, and to your options about the economic policies that will dominate the first months of the new Administration.

I come to you as a friend and ally. We have worked together in the past, and I know we will continue to work together on such issues as the long-term health insurance bill I have introduced, on the legislation I have introduced targeting senior abuse—on a variety of policy fights. Today I seek to begin enlisting your support for our proposed Balanced Budget Amendment.

I know you have opposed the Balanced Budget Amendment in the past. I known many of you believe that structural budget discipline like this could threaten programs that you, I and many others have fought hard to win for older Americans. I know that some opponents have told you that this proposal could threaten our Social Security, our retirement income, our hard-won health benefits for older Americans.

The economic gains older Americans have made over the last half-century should be a point of pride for this country. Americans can be proud that we live in a land that provides basic economics protections for its senior members. And older Americans should be proud that they have successfully fought for these gains and have organized, through AARP and in other ways, to become a powerful political force to defend these gains whenever they are under assault.

I am here to tell you that the course we are on, unless it is changed soon, absolutely threatens all of these programs that you and I have fought for and believe in so strongly. The fiscal folly that we have followed for more than a decade has brought us to a crossroads. We face a basic decision, whether through default or through our actions to choose wisely the course that will lead us away from the brink. To put it bluntly, the pay our compounding debt already has begun to choke our ability to respond to all other national priorities. Gross interest recently passed defense to become the second largest spending item in the budget, and soon it will pass Social Security to become the top spending item. This will happen if we do nothing. If we do not act, interest payouts will spiral upward until they consume not only Social Security but health care, education, transportation investments—every other need on our national agenda. My warning to you today is that a rising tide of red ink sinks all boats.

The way out, the way to renewed prosperity and national strength, will take sacrifice. All proposals and programs need to be on the table. As long as the crisis looms over us, the temptation will arise to look to the surplus of Social Security retirement trust fund for relief, because, as one of your spokesman said this week, "that's where the money is." That is why Washington is buzzing this week with talk of capping Social Security COLAs.

This is one senator who does not favor such a proposal. Social Security retirement was not the cause of our deficit. Everything should be on the table, and those who favor that approach should be free to make their case. I believe you, and I, and our allies can win that argument. But all generations will be called upon for sacrifice. We will have to look at health care costs. We will have to look at discretionary programs. We will have to consider new revenue sources. We will have to look at entitlements. Our only way out is a program of shared sacrifice, where everyone bears some of the burden today so that we can have a growing economy both today and tomorrow. These are challenges to which President Clinton summoned us in his inaugural address, and for which he will need our support in the months and years to come.

We will not restore fiscal responsibility without some sacrifices—for those whose programs are cut, for those who pay the taxes, and for the politicians who will have to risk political fire for taking part in the solution.

And that is precisely why we need a Balanced Budget Amendment. The political price of voting for tough, meaningful deficit reduction will be high. Only the constitutionally enforced discipline of a Balanced Budget Amendment will give us even the possibility of a fair and balanced program to get our fiscal house in order.

So I come to you today to ask for your support and to enlist your help in this practical and moral imperative. I come to you not as senior Americans, not as the leadership of one of the most powerful and respected interest groups in the nation, not as defenders of a proud legacy of advocacy for retired Americans. I come to you as citizens concerned about this great land, as mothers and fathers and grandparents who want our children and grandchildren to have a prosperous future, unencumbered by the massive debts that we otherwise will leave behind as their inheritance.

The tasks ahead are sobering, but I am optimistic about the outcome. I share the President's optimism and idealism about the American spirit and about the agenda before us. I believe we will achieve the discipline of a Balanced Budget Amendment. I believe deeply in this cause, and I would be honored to join with you in achieving it.

The argument for a balanced budget amendment is straightforward. It rests on three basic premises. First, that chronic federal deficits—year after year—pose a serious threat to the economic stability of our country.

Second, that Congress and past administrations have shown themselves to be institutionally incapable of balancing the budget, even as the national debt has reached crisis proportions.

Third, that only structural reform, a change in the very rules of the budget-making process, will restore the economy to fiscal stability. The balanced budget amendment I have proposed combines the flexibility and discipline necessary to return our nation to a sound economic footing.

Today, I will touch on each of these three points: that chronic deficits are dangerous, that government inaction has implications for all segments of our society—and the need for institutional reform to set us on a course for sound fiscal policy.

DEFICIT DANGERS

Over the last decade, the deficit numbers have worsened to the point that they are now deeply embedded in our budgets, in our priorities and in our national consciousness. We read and we hear the numbers now with a sense of numbness, as if this is now beyond our control and beyond the limits of our national will. Ross Perot hit upon an apt metaphor when he described the deficit as our crazy aunt up in the attic who no one talks about anymore.

But run-on deficits are anything but academic in the harm they cause. Here are some troubling figures about the state of our economy:

In Fiscal Year 1993, the budget deficit is expected to reach $310 billion. The Congressional Budget Office projects no improvement in the near future. Without changes in current policies, the deficit is projected to reach 357 billion dollars by 1998; and 650 billion dollars by 2003.

At the end of Fiscal Year 1980, the gross federal debt stood at 909 billion dollars. By the end of Fiscal Year 1993, the debt will reach 4.4 trillion dollars. The debt is now approximately $46,660 per American family.

Interest on the debt is $1,171 per person per year. At this rate, a child born today, living a normal lifespan of 75 years, will pay $87,825 in interest on the debt we've handed that child—and that assumes that no further debt is added to the pile and interest rates do not rise—both unlikely.

We wouldn't and couldn't allow this borrow-and-spend approach in our own households or in our businesses. But in our national budget we accept it and we send signals to those who represent us that we want it this way. To quote Congressman Andy Jacobs, our economic philosophy has become: "Eat, drink and be merry, for tomorrow our kids can pay our debts."

You do not need to be a financial genius to understand that these figures, if not turned around, mean economic chaos at some point down the road. Runaway deficits are like a runaway freight train. Sooner or later, we'll run out of clear track.

Professor Benjamin Friedman of Harvard in his book "Day of Reckoning" sums up our situation this way: "We are living well by running up our debt and selling off our assets. America has thrown itself a party and billed the tab to the future. The costs, which are only beginning to come due, will include a lower standard of living for individual Americans and reduced American influence and importance in world affairs."

Why are budget deficits so harmful? There are three basic reasons.

First, deficits tend to consume savings that we could use for productive investments. To fund the budget shortfall, the government must borrow continuously, consuming capital just to keep up. The resulting scarcity of capital also exerts upward pressure on interest rates, further depressing economic activity.

Second, the budget deficit is eroding our economic standing relative to the rest of the world. By raising interest rates and discouraging private investment, the deficit has slowed the growth in the nation's productive capacity relative to other countries.

Some of you have seen the television commercial which shows Chrysler executive Lee Iacocca standing in front of a plant. Chrysler borrowed $1 billion to build that plant and paid 12 and ⅜ percent interest. At approximately the same time, Nissan in Japan borrowed a similar amount and paid 4.5 percent interest. Clearly, American manufacturers are at a disadvantage because of the imprudent fiscal policies followed by the United States government. And while Chrysler made a decision to build, my guess is that someone at a Chrysler board meeting asked the question, "At 12 and ⅜ percent interest, can we make money on this?"

Thousands of American corporations have made the decision that they cannot make money at a similar rate of interest, and the jobs have gone to other nations. Our performance in reindustrialization will remain sluggish unless and until we get our economic house in order. Without increased productivity in this nation, our earnings will not increase. We cannot divide what has not been produced.

Even more significant to our international position, the budget deficit has been a principal factor in the nation's persistent trade deficits. A Congressional Budget Office study shows that each dollar reduction in the budget deficit will reduce the trade deficit 32 to 47 percent, or roughly one-third to one-half. Their report says, and I quote: "Deficit reduction increases investment, which in turn increases the productive capacity of the economy. Moreover, deficit reduction lowers borrowing from abroad, which reduces the amount of income that is generated in the United States but flows to foreigners." Unquote. Findings like these are echoed in other studies.

Not surprisingly, the persistent trade deficits remain a serious problem for our economy. Lester Thurow points out that the trade deficit has cost the United States at least 2.5 million jobs. The jobs that remain tend to be devalued because of the deindustrialization caused by the budget deficit and the resultant trade deficit. Many workers slip from industrial jobs to lesser paying service-sector jobs. From 1979 to 1989, we lost 7.7 percent of our manufacturing jobs, while service sector jobs increased 31.1 percent, absorbing most of those entering the job market.

Finally, the enormous interest payments that we must set aside to service the national debt puts our government in a straight jacket.

It is as if, for 25 years, we have been living on a credit card and sending the bills to our children and grandchildren. Now, our children must not only pay the bills, but the interest due on them as well. This fiscal year interest payments totalled 295 billion dollars, only seven billion dollars less than the number one spending item on the budget—Social Security payments.

That's more than 800 million dollars each day that the government throws away in interest payments. For this we get nothing: no education, no health care, no resources for the battle against drugs and crime, no job training, no housing. We are eating our seed corn instead of making the investments that we should be making to leave behind a standard of living that's better than the one we inherited.

For the past 12 years, interest payments have been the fastest growing item in the federal budget.

Our fiscal foolishness has constrained our ability to enact needed policy initiatives. For example, Taiwan—the Republic of China—is launching a $303 billion, six-year infrastructure program. That would be the equivalent of a $3.6 trillion program in our country, using the population comparison. Taiwan will move ahead significantly economically and in the quality of life because there has been in exercise of fiscal discipline in the past. They are prepared. We are a much larger, much wealthier nation, and we are not even considering anything like that because of our huge deficit. We cannot continue to pursue the borrow and spend course.

Who are the beneficiaries of our bloated interest payments? Primarily two groups—the rich and, increasingly, foreign investors.

Who will pay the 295 billion dollars in interest this fiscal year? Generally those who are the backbone of our nation: middle-income Americans, people who struggle to make the mortgage payments and car payments, those who have to strain to get their children through college.

The future prosperity of AARP members and your families will be directly affected by the economic burden imposed by the continuing federal deficits.

In a recent study, the General Accounting Office examined the effect of various budgetary strategies through the year 2020. The results were sobering. A continuation of our current policies would likely lead to economic stagnation—if a financial crisis does not occur first. Cutting deficits to 3 percent of Gross Domestic Product (from the 5+ percent at which they now stand), would only delay the confrontation with the deficit. To quote from the report, this would mean "death by a thousand cuts."

In contrast, achieving a balanced budget by the turn of the century would lead to long-term economic growth. By 2020, says the GAO, real income would increase to levels 36 percent higher than those achieved under current policies, and 7 percent higher than those achieved under the 3 percent deficit strategy.

When the squeeze finally comes, its not hard to see who will bear the burden.

The GAO report suggests that the discretionary non-defense portion of the budget will decline by almost one-third over the next 28 years unless the deficit is curbed. The squeeze will be caused by our massive interest payments—and the GAO says that this is an optimistic scenario, assuming interest rates will not rise, and the strong probability is that they will if we don't act on the deficit problem.

Social Security, of course, is also threatened, and we already see the pressures that are building to pit generation against generation. A rising proportion of our population has been retiring on Social Security. However, about the year 2010, that number starts rising sharply. At that point, whoever is in Congress, whoever is President, will have one of three choices to make: (1) Dramatically reduce Social Security. We know that is politically unlikely. (2) Dramatically increase taxes. We know that is most politically unlikely. (3) Print more money. That is the politically easy way out and the most dangerous of all three. But that is the road we are on if we don't get hold of this deficit monster.

But I don't want to leave you with the impression that I think that you should be concerned about budget deficits only from the standpoint of self-interest. I truly believe that the basic issue here is a moral one.

Back in 1789, Thomas Jefferson put the point eloquently. He wrote: "The question whether one generation has the right to bind another by the deficit, it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves."

On the letterhead of your organization is the statement: "Bringing lifetimes of experience and leadership to serve all generations." As the Washington Post said last Friday, "Who more than grandparents want to reduce the future burdens on today's grandchildren." I think that fighting the deficit is something we must do for our grandchildren, if not for ourselves.

CONGRESSIONAL INACTION

The massive harm to our economy that we have already inflicted is clear. That harm will increase unless we take tough, firm action, and I see no approach, other than a constitutional amendment, that will force us to alter our course.

Congress and the President have the power now to pass a balanced budget. But both branches have repeatedly failed to do so. For the first 175 years of our nation's history, the budget was balanced 60 percent of the time. And, when there were deficits, they were relatively small. In recent times, however, the record is different. For the last 24 straight years, the government has run a deficit.

One might say that the problem is simply one of political will, but the real problem goes deeper than that. The issue is fundamentally one of institutional structure. Budgetary decisions are weighted significantly toward spending, not toward fiscal discipline. Indeed, when lawmakers choose to compromise, they understandably tend to compromise by giving everyone what he or she wants.

It has been too easy to ask for money but not ask for revenue or cuts in other spending to pay for it. Let me give you a very practical example, and one in which you and I have a special feeling. As you know, I have introduced legislation to offer insurance for long-term care. I pay for it, in my legislation, through a one-half percent increase in the Social Security tax, and by taking the cap off of the Medicare payments of 1.45 percent now paid on the first $125,000 earned but not on amounts above that level. Two of my colleagues in the Senate have come to me and said they liked my bill, and want to join as cosponsors—if I would take the tax off. That is precisely what we cannot do.

Our nation's infrastructure is desperately in need of significant improvement. This amendment neither directly helps nor hurts that, but simply says that whatever we do should be on a pay-as-you-go basis. As it should be.

THE BALANCED BUDGET AMENDMENT

The basic purpose of a balanced budget amendment is simple—to counterbalance the institutional pressure toward spending. It's not a new idea. Thomas Jefferson favored an absolute prohibition, which we do not propose. There are times, such as during a recession, when there should be a temporary deficit, and we provide for that.

The amendment I have introduced imposes a fiscal discipline on both the President and Congress. Under this amendment, the President must propose a balanced budget to Congress each year. Congress then must ensure that outlays match receipts, unless three-fifths of both chambers vote to suspend the balanced budget requirement for any given year. Congress may also waive the balanced budget requirements during wartime or when a threat of imminent military conflict exists. These provisions provide both the flexibility and the strong mandate required to ensure a fiscally responsible path for our nation.

Implementation of the Balanced Budget will undoubtedly cause pain. True. But any operation to remove a cancer growth causes pain, and we have a cancer growth in the deficit that eventually will cripple us economically if we do not act. The sooner the operation takes place, the less pain there will be, and the more likely there will be a healthy recovery by the patient.

The answers we choose under this discipline won't be and shouldn't be Paul Simon's plan for cutting the deficit. They will be the result of political give-and-take. My own belief is that it will take a modest mix of cuts in spending and tax increases to get hold of this, and we should start in Fiscal Year 1994. The most recent estimate by CBO projects a deficit in Fiscal Year 1993 of $310 billion. CBO's estimate for Fiscal Year 1994 is $291 billion, a reduction of $19 billion.

Doing this would require less courage than many of our governors and state legislative bodies have shown. My own view is that the solution on the spending side should emphasize sensible cuts in military spending, though many of my friends would have other priorities. In terms of revenue, let me point out that what is being discussed is appreciably less than many of our states have done. If you take recent state revenue increases, and multiply the state population to bring it to the national figure, North Carolina's tax increase translated into an increase of $37 billion nationally, California's translates into $60.8 billion, Pennsylvania's into $68.75 billion and New Jersey's would be $90.3 billion.

Polls show that the American people are willing to have both spending cuts and new revenue increases—if—and this is an important if—if they see this is going to reduce the deficit. The American public may not know the details about our fiscal plight, but they know instinctively that it affects them, and it is harming their children.

For those who are concerned that this might result in pressure for some middle-of-the-night tax increase passed by voice vote that members are unaware of, we have added the prudent precaution that any tax increase has to have a constitutional majority, which almost all tax increases have had anyway.

A sound economic program for the nation must be composed of more than exercising fiscal prudence. It should be a balanced program of improving education, rebuilding our infrastructure, encouraging corporate equity financing rather than debt financing, encouraging savings—and many more things. Once we have this amendment behind us, we can start dreaming and planning more realistically about the kind of nation we want to build for our children, but the dark cloud of this heavy deficit must first be removed.

Before closing, let me respond to some criticisms that have been used by opponents of the Balanced Budget Amendment.

Recently, the idea of a separate capital and operating budget has gained currency. According to this view, the operating budget would be balanced yearly, but the capital budget—or investment budget—would be permitted to run significant deficits. In its June report, the GAO rejects this view, predicting that the unbounded capital budget would become an excuse for excessive spending.

In any event, almost anything that can be done under a separate capital budget can also be done under a Balanced Budget Amendment. For example, the federal government recently built the new administrative building for the federal courts near Union Station by signing a long-term lease. The investment costs under this contract are spread out over a long period of time, and at the end of the period the government owns the building.

It is worth remembering that the biggest capital project in the history of humanity, the interstate highway system, initially was to be built with huge bond issues, as proposed by President Eisenhower. But thanks to the courageous leadership of Senator Albert Gore Sr. of Tennessee, the father of our Vice President, we raised the gasoline tax to pay for it, and we built the roads on a pay-as-you-go basis, saving the nation hundreds of billions of dollars in interest.

But, some opponents argue, if it is passed, Congress will find some way around it. Why will this be any more effective than Gramm-Rudman-Hollings? No. The problem with Gramm-Rudman-Hollings was that it was a statutory remedy. If the law started to pinch a little, we simply changed the law. So far as I know, however, not a single member of the Senate or House ever took the floor and said, "Let's just ignore the law." I introduced legislation to remove the wall, but never did I suggest that we should pretend the law did not exist. If that is true for the law, it is infinitely more true for the Constitution.

As senators we take only one oath, to "support and defend the Constitution." The Constitution says that we in Congress "shall be bound by oath or affirmation, to support this Constitution." Cynics say that we will just ignore the Constitution. While I differ with many of my colleagues on a host of issues, I do not believe that anyone here will say, "Let's just ignore the Constitution."

That is the real answer to those who say that the courts will end up running the nation. Congress does not want that, and the courts do not want that. I am confident we will honor the oath that we take. The risk of that happening is small indeed compared to the known risk of following the course of fiscal chaos on which we now are embarked.

Finally, the argument is made that we could balance the budget on our own, that we don't need a constitutional amendment. It is true that we could, but we won't. We have demonstrated that over and over and over again. We have elected too many people in both political parties who hold their finger to the wind to see what the latest political polls have to say, and the polls show clearly what people want: more services and lower taxes. We have given them both, at great peril to the future of the nation.

The reality is that we need a constitutional amendment to force us to do what we know is right. Our head tells us we should; our heart tells us we should; what we lack is the backbone to do it. This amendment will give us the backbone, give us the courage, if you will. And if the American public sees us failing to live up to the Constitution, they will remove us from office, as they should.

Mr. HATCH. Mr. President, I am pleased today to be introducing along with Senator SIMON and others the balanced budget constitutional amendment.

The national debt exceeds $4 trillion. This means every man, woman, and child in America, and in my home State of Utah and all the other States, has a debt burden of $16,700; each and every one of us.

Back in 1974 it was $2,500 for each man, woman, and child in this country, and in my home State of Utah. And we thought that was terrible. But today, just a few years after that, 18 years later, we all owe $16,700. That debt burden has gone up exponentially.

Every child born in Utah will pay in a normal lifetime, nearly $135,000 in extra taxes just to pay the interest on the present Federal debt. No wonder deficit spending has been called fiscal child abuse.

Voter outrage concerning the deficit has fueled a revival of the balanced budget amendment debate. Even after the 1990 budget deal which has supposed to bring down the deficit, record-setting tax hikes were enacted at that time to bring the deficit down. All of this led to record deficits in the ensuing years. And why? Because Congresss—we Members of Congress—for every dollar we have increased in taxes, have spent $1.83.

So it does not benefit this country from a deficit reduction standpoint to rely on Congress' promises that if we increase taxes we will bring down the deficit. Because, since 1946, for every dollar we have increased in taxes up to 1990 we have spent $1.59, but since 1990, that budget agreement which was supposed to bring the deficit down exponentially, since 1990 for every dollar we increased in that massive tax bill, the largest in history, we have spent almost $2 in Congress.

I have to say, Congress does not expect to make their children and grandchildren pay their credit card bills. And if that is so, then it seems to me we have to do the things that have to be done. The best thing we can do is pass the balanced budget amendment to encourage Congress to make priority choices among competing programs. I have to say this is why over 70 percent of my fellow Utahns favor a balanced budget constitutional amendment. I have to say that is probably true across the country as well.

This week I received mail from Utahns who are concerned about the way the Federal Government soaks up capital to make interest payments which could be used for private investment or Government health or housing or family or education programs. The human implications of our mammoth debt are that our children are being shackled with an insurmountable burden as a result of our largess. Perhaps the most significant effect of today's unrestrained borrowing, however, will be the reduction in the political choices available to future governments of the Nation.

Next year, some estimates suggest that interest will consume 26 percent of all Federal revenues, at $296 billion—that is next year. That is more than the total Federal revenues back in 1975. Just the interest against the national debt is more than the total revenues 18 years ago.

Congress has proven itself wholly incapable of controlling the deficit. A balanced budget constitutional amendment is necessary to force Congress to keep faith with voters who expect them to end this fiscal folly. Only the constitutional discipline of a balanced budget amendment can return sanity to the out-of-control budget process.

The proposed amendment addresses a serious bias in the present fiscal process arising from the fact that Members of Congress do not have to approve new taxes in order to pay for new spending programs. Rather than to have to cast politically disadvantageous votes, Congress has been able to resort to increased levels of deficit spending. The balanced budget amendment proposes to end this spending bias by requiring the linkage between Federal spending and taxing decisions. It does not propose to read any specific level or taxing forever into the Constitution. And it does not propose to intrude the Constitution into the day-to-day spending and taxing decisions of the representative branch of the Government. It merely proposes to create a fiscal environment in which the competition between the tax spenders and the taxpayers is a more equal one to one, in which spending decisions will once more be constrained by available revenues.

Statutory efforts to control spending are inadequate. They are short-term. Any balanced budget statute can be repealed, in whole or in part, by the simple expedient of adopting a new statute. The spending bias is a permanent problem. It demands a permanent constitutional solution. The virtue of a constitutional amendment is that it can invoke a stronger rule to overcome the spending bias.

The human implications of our mammoth debt are that our children are being shackled with an insurmountable burden as a result of our largess. Over time, the disproportionate burdens imposed on today's children and their children by a continuing pattern of deficits will include some combination of the following:

First, increased taxes; second, reduced public welfare benefits; third, reduced public pensions; fourth, reduced expenditures on infrastructure and other public investments; fifth, diminished capital formation, job creation, productivity enhancement, and real wage growth in the private economy; sixth, higher interest rates; seventh, higher inflation; eighth, increased indebtedness to and economic dependence on foreign creditors; and ninth, increased risk or default on the Federal debt.

Perhaps the most significant effect of today's unrestrained borrowing, however, will be a reduction in the political choices available to future governments of this Nation. From 1952 through 1975, the interest on the Federal debt consumed between 6.7 percent and 8.3 percent of annual revenues. Since then, that percentage has risen steadily. By 1988, interest consumed 16.7 percent of annual revenues. Next year, some estimates suggest interest will consume 26 percent of all Federal revenues—at $296 billion, that is more than total Federal revenues in 1975.

In large measure, the Nation's economic problems are attributable to these facts. Unacceptable levels of inflation and unemployment, as well as enormous foreign trade imbalances, can be traced directly or indirectly to the fiscal policies and practices of the National Government.

The proposed amendment addresses a serious spending bias in the present fiscal process, which is the fact that Members of Congress do not have to approve new taxes in order to pay for new spending programs. Rather than having to cast such politically disadvantageous votes, Congress has been able to resort to increased levels of deficit spending.

Members of Congress have been free to respond to the concentrated pressures of various interest groups—and to reap the political advantages of doing so—without having to suffer concomitant political disadvantages of voting to reduce spending for programs favored by other interest groups or by voting to raise taxes.

The result is that Congress continues to spend regardless of the genuine will of the people. It continues to spend regardless of the fact that every Member of this body knows that the compounding of interest on our national debt caused by deficit spending is an economic disaster waiting to happen. We can no longer avoid accountability for spending and taxing decisions. We need a constitutional solution.

The balanced budget amendment proposes to overcome this spending bias by restoring the linkage between Federal spending and taxing decisions. It does not propose to read any specific level of spending or taxing forever into the Constitution, and it does not propose to intrude the Constitution into the day-to-day spending and taxing decisions of the representative branch of the government. It merely proposes to create a fiscal environment in which the competition between those who spend tax dollars and those who pay tax dollars is a more equal one—one in which spending decisions will once more be constrained by available revenues. In other words, Congress will have to operate on the same basis as every household in America.

Section 1 of the amendment would establish a balanced budget as a norm of Federal fiscal policy which could be overcome only by three-fifths vote in both Houses of Congress. The President must submit a proposed balanced budget to Congress. Section 4 of the amendment would prohibit Congress from raising taxes and increasing the Federal Government's share of the national economy unless Members of Congress were willing to go on record as voting for tax hikes.

The major purpose of the balanced budget amendment is to ensure that, under normal circumstances, votes by Congress for increased spending will be accompanied by votes to, first, reduce other spending programs or, second, to increase taxes to pay for such programs. For the first time since the abandonment of the traditional balanced budget principle, Congress will be required to cast some politically difficult votes as a precondition for a politically attractive vote to increase spending.

This amendment is not a panacea for the economic problems of the nation. The amendment is, however, a necessary step toward securing an environment more conducive to honest and accountable fiscal decisionmaking.

The balanced budget amendment represents both responsible economic policy and responsible constitutional policy. Passage of this amendment would constitute an appropriate response by Congress to the pending applications by nearly two-thirds of the States for a Constitutional Convention on this issue.

In closing, I want to say how extremely pleased I am to stand side-by-side with my colleagues from both sides of the aisle and from both bodies of Congress as we unveil an amendment that will establish constitutional limitations on Federal spending and deficit practices. I want to pay special tribute to my colleague Senator SIMON, who has been a critical force in this effort over the years, and to Senator THURMOND, my predecessor as ranking minority member on the Senate Judiciary Committee. He has been a leader in this effort for many years, and we look forward to his continued participation.

I sincerely hope that this will be the year we enact this critical legislation to save future generations of Americans from this heavy economic burden.

Mr. President, just to conclude, my fellow Utahns back in 1975 each owned—man woman and child—$2,500 of the Federal deficit. That is how much they owed. By 1993, today, we each owe $16,700.

This second chart is a chart that lists Federal debt per capita in thousands of dollars. As you can see in 1970, it was down around $2,000. Now it is up to almost $17,000. It has continuously gone up as Members of Congress have been unwilling to do what needs to be done. So chart 2 shows the increase in the Federal debt per capita for 1970 to the present.

Let me go to chart 3. Chart 3 shows the size of Federal deficits that are run each year from 1970 to the present. Naturally, they are deficits that go below. It shows that the Congress has run a deficit in each of these years since 1970 and that each year's deficit has generally been increasing in size over that time. So it is a disgrace that we have allowed this to continue. Look how far that deficit has gone down as of 1993.

Let me go to chart 4 which shows a growth in Federal spending for various major budget items from 1975 to 1990. The growth of interest payments on the national debt, this red line, has far outstripped growth in the other areas of Federal spending. Defense has grown; entitlements and mandatory spending have grown a little bit more; nondefense discretionary has not grown as much of the other two. Total outlays have grown, but the largest item of growth in the Federal budget, and it is going up exponentially with compound interest, is this red line, net interest on the total debt.

Mr. President, these things cannot be ignored. We have to do something about it. I am convinced until we put fiscal discipline into the Constitution that the Founding Fathers assumed was there—they did not think anybody would continuously deficit spend during times of prosperity, or not during times of war or other tremendous economic difficulties, but as you can easily see, because of the continuation over the last 23 years of deficit financing getting worse and worse each year, the only way we are going to be able to solve this problem, it seems to me and I think to a large number of people in both bodies, is to pass Federal discipline that only a balanced budget constitutional amendment allows us to have.

So, Mr. President, I hope our colleagues will really take this seriously this year. This is the year to pass this; this is the year to accomplish this. I believe we will have the votes to do so, both in the House and in the Senate.

Mr. President, I want to thank, again, Senator SIMON for his courage in introducing this legislation and being willing to stand up for it. With that, I yield the floor.

Mr. DECONCINI. Mr. President, I want to express my strong support for Senator SIMON'S constitutional amendment to balance the Federal budget. I introduced my own amendment last week, just as I have in every Congress since coming to the Senate in 1977. I believe strongly that the budget crisis facing this country is of the utmost importance and that a constitutional amendment is necessary to get this country back on the road to fiscal responsibility.

The amendment being introduced today is the result of meaningful consultations last year between supporters in the House and the Senate. It is a bicameral, bipartisan amendment which reflects a strong commitment by many Members of Congress to enact a balanced budget amendment this year.

Why do we need a balanced budget amendment? Net interest on the debt, approximately $200 billion a year, is the third largest item in the Federal budget. This growth of interest costs translates into a major decline in funds available to finance any new discretionary programs. That $200 billion should be invested in the future, rather than used to pay past debts. The need for better education, health care, drug prevention, new roads, and bridges, and other domestic programs demands that we not lose sight of our budget deficit problems.

In order to reduce the debt of its 1980 level, the United States would have to collect a 45-percent surcharge on every American taxpayer's income tax bill for the next 12 years. This would mean approximately $4,000 a year in additional taxes for a couple earning $55,000 year for 12 years.

Since 1969, with the exception of years 1987 through 1990 when the increase in the deficit slowed, the annual deficit has grown larger every year. The 1990 deficit, in excess of $220 billion, was second only to the deficit of 1986 which was a record $221 billion. In 1991, an all-time record deficit was set at $269.5 billion, despite efforts to control spending. That record has not lasted long, because the deficit for 1992 was $290.2 billion. Clearly this negative trend will continue if a balanced budget amendment is not passed.

Some of my colleagues argue a balanced budget amendment is unnecessary because Congress already has the authority to control the deficit through legislation. The problem is that Congress lacks the self-discipline necessary to balance the budget and needs the force of a constitutional amendment to get the job done.

As we have proven over and over again, a constitutional amendment is needed because legislative rules can always be waived, and the next Congress can always reject the procedures and/or laws of its predecessors. However, if Congress adopts, and three-fourths of the States ratify, this amendment will become part of the fundamental law of the land impacting on generations far into the future.

This is a simple amendment. There is nothing here that would establish any permanent level of expenditures or taxes. There is nothing here that would prevent the Congress from approving any particular item of expenditure or taxation. It would not necessarily cut Social Security benefits or Medicaid. Clearly, these are priority items and would be considered as such.

What it would do is mandate that total spending of the United States for any fiscal year not exceed total revenues for that year unless 60 percent of Congress approves a specific amount of deficit spending. It also provides that the debt limit cannot be increased unless three-fifths of both Houses agree by rollcall vote. And the President would be obligated to submit a balanced budget, thus sharing the burden for responsible budgeting between the executive and legislative branches. Taxes could be raised only by a majority of the full membership of each House, not merely those present and voting.

A balanced budget amendment provides accountability. In an effort to strike a balance between flexibility and enforceability, the amendment is flexible enough so that in times of recession or national emergency Congress could authorize specific deficit spending or increase taxes. They must, however, go on record as having voted to do so. The voters can then decide if their representatives in Congress are serious about fiscal responsibility. At present, Members avoid accountability through deficit spending, failing to make the tough political decisions required to choose between too many programs competing for too few dollars.

Clearly, the public wants a balanced budget amendment to the Constitution. Thirty-two States have passed resolutions calling for a balanced budget amendment convention. Only two more States, for a total of 34, are needed to convene a convention. It seems unlikely, however, that the magic number of 34 will be forthcoming any time soon. Three States have passed resolutions of rescission because of concerns over the possible scope of any constitutional convention and I know of no other States considering the issue.

It is up to the Congress to get the process moving again. The Nation's bottom line is immersed in red ink and immediate action is needed. However well-intentioned we may be in trying to reduce the deficit, we have failed.

I urge my colleagues to support this bipartisan, bicameral balanced budget amendment. It is time to say "no" to deficit spending and reimpose fiscal responsibility into the budget process.

Mr. THURMOND. Mr. President, I rise today to join with Senators SIMON, HATCH, and DECONCINI as an original cosponsor of legislation to amend the U.S. Constitution to require the Federal Government to achieve and maintain a balanced budget.

This legislation is essentially the compromise on which we agreed with proponents in the House during the 102d Congress. Also, it is similar to an earlier bill in March of 1986 which received 66 of 67 votes needed for Senate approval. Simply stated, this legislation calls for a constitutional amendment requiring that outlays not exceed receipts during any fiscal year. Also, the Congress would be allowed by three-fifths vote to adopt a specific level of deficit spending. Further, the Congress could waive the amendment during time of war. Finally, the amendment would also require that any bill to increase taxes be approved by a majority of the whole number of both Houses.

It is clear that the budget deficit is a top priority with the American people. Additionally, this legislation would be a key step to reduce and ultimately eliminate the federal deficit. The interest and attention which this problem has attracted speaks volumes as to the need for solutions to our Nation's runaway fiscal policy.

Our Constitution has been amended only 27 times in over 200 years. Amendment to the supreme law of our land is a serious endeavor which should only be reserved to protect the fundamental rights of our citizens or to ensure the survival of our system of government.

Mr. President, I believe that the very survival of our system of government is presently being jeopardized by an irrational and irresponsible pattern of spending which has become firmly entrenched in Federal fiscal policy over the last half-century. As a result, this fiscal policy has gone a long way toward seriously threatening the liberties and opportunities of our present and future citizens.

The Federal debt is over $4 trillion. Per capita, the Federal debt is over $16,000. This means that it would cost every man, woman and child in America $16,000 each to pay off the public debt.

The Federal deficit for fiscal year 1992 was $290.2 billion. The Office of Management and Budget projected the deficit for fiscal year 1993 to be $341 billion. In order to solve the deficit problem, congressional spending must be addressed.

I have believed for many years that the way to reverse the misguided direction of the fiscal government is by amending the Constitution to mandate, except in extraordinary circumstances, balanced Federal budgets. I know many other Members of Congress join me in wanting to establish balanced budgets as a fiscal norm, rather than a fiscal anomaly.

Those who oppose a balanced budget constitutional amendment and opt instead for self-imposed congressional restraint must face the fact that this restraint has not been forthcoming. Importantly, the Congress has only balanced the Federal budget one time in the last 30 years. Meanwhile, the level of annual budget deficits has grown enormously over this period of time. Continued deficit spending by the Federal Government will undoubtedly lead the Nation into more periods of economic stagnation and decline. The tax burdens which today's deficits will place on future generations of American workers is staggering. We must reverse the fiscal course of the Federal Government and a constitutional amendment is the only effective way to accomplish it. It is time for Congress to understand the simple fact that a government cannot survive by continuing to spend more money than it takes in.

Mr. President, the balanced budget amendment proposal has the support of many of our colleagues in the Congress, a Congress which holds diverse views on many issues. However, supporters of a balanced budget amendment share an unyielding commitment to restoring sanity to a spending process which is out of control and hurling our Nation headlong toward economic disaster.

I urge my colleagues to support this proposal so we may submit this important constitutional amendment to the States for ratification.

Mr. GRASSLEY. Mr. President, I rise today to announce my cosponsorship of this balanced budget amendment to the Constitution. There has never been such a need for an amendment to restore fiscal discipline to our Government.

Various statutory means have been tried to control our budget deficit. Yet, year after year, the budget deficit increases. Like a mirage, the reductions in the deficit that are estimated to occur only a few years down the road never materialize. Ten years ago, we were only 5 years away from a balanced budget; 5 years ago, we were only 5 years away from a reduced budget deficit. The plain truth is that we will not get on the road to a balanced budget without fundamental change.

In last year's Presidential campaign, the Federal budget deficit became a major focus of discussion. The American people want action on the deficit. Since statutory measures have been tried and found wanting, we must enact a balanced budget amendment to the Constitution. Today, we are not merely sapping American economic strength; we are robbing from the economic futures of generations yet to come.

The balanced budget amendment introduced today is a step to restoring sound budgetary policy. It will require a three-fifths vote of Congress to have an unbalanced budget, and it requires the same vote to increase the national debt ceiling.

Nonetheless, we should be prepared to act even more decisively. Our budget deficits have not been caused because Government has decided to insufficiently tax. The percentage of GNP that taxes consume has been basically stable for many years now. The budget deficit that results from the GAP in revenues and expenditures is nearly entirely due to the fact that the growth in expenditures has increased dramatically in recent years. Congress has raised taxes a number of times, but the tax increases have only fueled further spending. If we are to truly restore a balanced budget, we must recognize that the focus must be to prefer spending cuts to tax increases. The balanced budget amendment introduced today will not advance that objective. Thus, I will continue to press for a balanced budget amendment that requires a super-majority to impose tax increases. We should enact procedures that make cutting spending easier than raising taxes. Additionally, we should not overlook other valuable ways to achieve a balanced budget, such as line-item veto authority, that will reduce unnecessary spending and narrow the budget deficit with the least pain to the national interest.

Thus, I cosponsor this balanced budget amendment, but will maximize every opportunity to strengthen the balanced budget amendment that will pass this body, to make sure that we can restore fiscal health to our country without creating a built-in pressure to increase taxes.

Mr. COHEN. Mr. President, I am pleased to join Senators SIMON, HATCH, and others in introducing legislation calling for a balanced budget amendment. Amending the U.S. Constitution is not something that should be entered into lightly. Indeed, for many years I opposed a balanced budget amendment. I felt that it was unnecessary and that Congress and the President should be able to reduce the deficit without a constitutional requirement. In light of the ballooning deficit, however, it appears as though my hopes were overly optimistic.

The will of the people for the past decade or more has been for lower taxes and higher spending. The result has been a burden on future taxpayers who will be saddled with debt. Political leaders have been coconspirators in this endeavor.

It should make us very queasy to look at the mountains of debt we are passing along to our children and their children. By our actions and choices, we are jeopardizing the future of our children. Our debt-financed consumption binge will lower future economic growth and future standards of living. The question is whether we will address the problem now or delay and exacerbate the problem. As a recent GAO report on the deficit pointed out, "The key question facing policymakers is not whether to undertake major deficit reduction, but when and how."

The balanced budget amendment answers the question of "When?" by saying "Now." Deciding on the "how" will not be easy, but it will only get more difficult with time. We should take a lesson from the savings and loan experience. Early and decisive action on that problem could have saved billions of dollars for the American taxpayer. Taking steps now to reduce the deficit will save billions of dollars over the long term.

To reduce the deficit, we must seriously consider changes that have long been thought politically impossible.

We must make vertical cuts in government spending. There are plenty of programs that, despite pleasant titles and laudable goals, have not met their objectives. We need to shift these resources into programs, like Head Start, R&D programs and infrastructure, where the rate of return on public investment is demonstrable.

We must also curtail the growth of entitlements which have become deeply ingrained and interwoven into the fabric of American life, and make some tough choices about what we want and what we can afford.

After cutting spending wherever possible, new revenues will also likely be necessary. It is critical, however, that these new revenues go to deficit reduction and not to fund additional Government programs that we simply cannot afford.

Our economy suffers from a lack of savings and a lack of investment. Both deficiencies are caused by excessive public borrowing. We have been unable to come to terms with this deficit. Despite its limitations, I think a constitutional amendment will force us to come to grips with the deficit before it worsens.

I firmly hope that a balanced budget amendment will mark a new beginning—a point at which we say, "Enough is enough." A constitutional amendment will hold Congress' and the administration's feet to the fire in a way that neither the Gramm-Rudman-Hollings law nor the 1990 Deficit Reduction Act were able to. Congress and the President will not be able to circumvent the Constitution the way it has these statutes.

I fully agree that a balanced budget amendment is no substitute for leadership and the willingness of Congress and the President to make the tough choices. The amendment, however, will force us to confront decisions that, heretofore, we have been unwilling to make.

To those making alarmist claims that the amendment would force us to double taxes or shut down the Government, I would make two points:

First, no one expects a $300 billion deficit to be eliminated in 1 year. Suggesting that a balanced budget amendment would require this is disingenuous to say the least. The budget did not get $300 billion out of line in 1 year, and no reasonable person expects it to be straightened out in 1 year. What is critical, however, is that we begin in earnest to reduce the deficit and gradually reduce the national debt.

Second, the amendment would still permit deficit spending if a three-fifths majority in each House agrees to do so. If any of the dire consequences that some have predicted would follow from a balanced budget amendment were to come to fruition, Congress and the President would have the flexibility to borrow funds to avert disaster. However, I would like to re-emphasize that I do not believe that a balanced budget amendment would cause the Federal sky to fall as some suggest.

We cannot reduce the deficit without some sacrifice. We have a deficit in the first place because Congress and the President have told the American people that they can have both lower taxes and more Government. The world sacrifice has been banned from the political lexicon. It must reappear if we are to ever make serious progress in reducing the deficit.

By the same token, however, I do not think the pain of spending cuts will require the level of sacrifice that some suggest. Over the past few years, many States have been forced to cut back government services. While in some cases, these cuts have been too abrupt and too painful, in many other cases, the cuts have made State governments more efficient. Many States found that, when forced to, they could do more with less money. I think the Federal Government is simply going to have to go through the same process.

I cannot close without noting the irony of those who, in the same breath, argue that the amendment is a gimmick that would not work while also arguing that it will force deep cuts in spending. Interest group after interest group has descended upon Washington to testify how terrible a balanced budget amendment would be. But if you listen closely to many of them, they are not simply arguing against the constitutional amendment, they are arguing against a balanced budget—period. Perhaps a constitutional amendment is a less than perfect tool for balancing the budget, but I cannot agree with those who oppose balancing the budget by any means.

Some opponents of the amendment have ridiculed a balanced budget amendment as an easy political vote. On the contrary, this is a very difficult vote—as the defeat of such an amendment last year demonstrated. The easy votes have been the ones we have been casting around here for the past decade or more where we buy now and pay later. The easy thing to do is to satisfy the wants of today's voters at the expense of tomorrow's. A balanced budget amendment will put an end to those kinds of easy votes.

The burden of the budget deficit is great. Unfortunately, the long-term costs of maintaining the deficit are less appreciated than the short-term costs of eliminating the deficit. As painful as it is to tackle the deficit today, it will be even more difficult to address this problem down the road. I urge my colleagues to support the balanced budget amendment so that we may get on with the work at hand.

Mr. BRYAN. Mr. President, I am pleased to be an original cosponsor of the joint resolution which will amend the Constitution to require a balanced Federal budget. I applaud the efforts of Senator PAUL SIMON and Senator STROM THURMOND to introduce this resolution early in the 103d Congress and begin the debate.

In January, the departing administration issued its final budget report estimating a staggering $327.3 billion deficit for fiscal year 1993. This is over $30 billion more than the Bush administration led us to believe during the 1992 Presidential campaign. The rising debt is a "Sword of Damocles" hanging over our heads, we must arm for the battle or our economy is doomed.

The accumulated national debt has quadrupled since 1980 from the red ink that results when Government spends more than it collects. In 1981, the national debt was $1 trillion. In the last 12 years, the national debt has reached an unprecedented level of $4 trillion. This debt is mortgaging our children's future, as the U.S. Treasury borrows $895 million a day.

Mr. President, our burgeoning Federal deficit is the greatest problem facing our Nation today. The interest payments consume dollars that could otherwise go for urgent needs such as infrastructure. It is necessary to force Congress and the President to set priorities and determine what is a critical need and what would be nice to fund.

Forty-eight State Governors face constitutional provisions limiting deficit spending and make those tough decisions every time they submit a budget to the legislature. For 6 years, as Governor of Nevada, I submitted balanced budgets to the State legislature.

Mr. President, a balanced budget amendment is not a panacea, it will not solve all of our fiscal difficulties. A balanced budget amendment will, however, compel both the President and Congress to evaluate those difficult choices necessary to bring Federal spending under control.

Mr. GRAHAM. Mr. President, it was not my intention to speak this morning, but having just yielded the chair to its distinguished current occupant and having listened to several comments that were made relative to the balanced budget amendment, I would like to take this opportunity first to ask unanimous consent to be listed as an original cosponsor of the balanced budget resolution as submitted by the distinguished Senator from Illinois [Mr. SIMON].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Also, Mr. President, I wish to share a few thoughts on that issue. As with many of my colleagues, I have just completed a campaign for reelection in my State. I would describe the attitude of the people of Florida as to what has happened to our sense of Federal budget discipline as one of being appalled at what has occurred. This is true among all of our citizens, but I think particularly true among older Americans, older Americans who grew up with a value system of personal responsibility, generations who fought wars and lived through depressions while still maintaining fiscal responsibility for the Nation.

I have done a brief analysis using the generations of my own family. My father was born in Croswell, MI, in 1885. On the day he was born, the national debt was less than $3 billion. We had fought many wars, including the not too distantly completed Civil War by the time my father was born, and yet the deficit was less than $3 billion.

I was born in 1936 in the middle of the Depression. We had fought a great World War by that time, as well as dealt with tremendous economic adversity. The national debt was less than $35 billion.

My first child was born in January of 1963. We had fought another great World War, a war in Korea, were in the first stages of Vietnam, had gone through all of the post-World War II/cold war expenditures. The national debt at the birth of my first child was $350 billion.

In October 1990, our first granddaughter was born. When she was born, the national debt was verging on $4 trillion.

I use that just as a personal example in the life of one American family of what has happened to the intergenerational sense of responsibility for our Nation's fiscal future.

I believe that the balanced budget amendment is essentially a generational compact. It is a statement that each generation of Americans will be responsible for its own fiscal affairs and will not place those into the future.

I recently participated in a television program with Senator GRAMM, of Texas, on the issue of sacrifice, drawing from the statement made by President Clinton in his inaugural address. I analyzed the issue of sacrifice as not one of whether we are going to have to sacrifice but who was going to have to sacrifice. It is not a question of whether this ballooning national deficit is going to require change in our lifestyles in a whole variety of manner; it is a question of whether we are going to do it or whether we are going to ask our grandchildren to do it.

I anticipate that there are going to be some restatements of criticism of the balanced budget amendment. One of those is going to be that we are going to be restricting future generations' ranges of options by placing the balanced budget amendment in the Constitution. The answer to that is, yes, we are going to be restricting future generations' ranges of options in that we are going to say to them, as we have been unwilling to say to ourselves, it is unacceptable for one generation of Americans to place this burden on the future.

It is true that most amendments to the Constitution have the effect of freezing a current philosophy of Government into the future. For instance, when we passed the amendment that said 18-year-olds could vote, we were taking a set of social values of that year and saying they would be a permanent part of the political values of America.

While this balanced budget amendment will, of course, be an amendment to the Constitution, in my judgment it has in practical effect the opposite consequence. That is, it doesn't enchain the future. It frees the future because it says that future generations will not be asked to pay for the expenses of their parents and grandparents.

A second argument that I anticipate will be made is that a balanced budget amendment is just an easy way out, that it creates the facade of doing something about the deficit without requiring real political action.

My response to that is it provides a spine for political action. If anyone wants to make the case that without that spine we have shown a willingness over the last dozen or more years to deal with the budget deficit, I would ask them to take the statistics of my own family and defend what has occurred. I believe we have been in a process of political avoidance of responsibility in the recent past and that, while a constitutional amendment will not substitute for political will, it will require us to face the consequences of our action and to take the necessary steps to bring fiscal responsibility to our Federal Government.

Most States have a constitutional provision requiring a balanced budget. I believe that the relative difference between the actions of States over the last 12 years and the actions of the Federal Government, where the States have maintained a relative discipline over their fiscal house while we have had virtually none, is some support for the proposition that a constitutional amendment assists rather than retards the achievement of political will.

As a former State legislator and Governor, I recognize that having a constitutional amendment requiring a balanced budget is not the end of the process; it just sets the context in which difficult political decisions must be made.

So, Mr. President, I applaud Senator SIMON and his colleagues who have developed and introduced this resolution. I am pleased to join with them, and I look forward to this body engaging in a very constructive debate, which I hope, in 1993, will lead to the conclusion of passage of a resolution to amend the United States Constitution to require a balanced budget and the early action by the States to ratify that resolution.

I thank the Chair.

Mr. CRAIG. Mr. President, I am pleased to join my colleague from Florida, Senator GRAHAM, in his comments and his cosponsorship of the balanced budget amendment. In fact, today several have come to the floor to speak of this most important issue. This week we did join together in the formal introduction of that amendment. It is an important occasion, and I say that because in a very clear, bipartisan way at this moment in our Nation's history Senator SIMON, who chairs the Constitutional Subcommittee, which has the jurisdiction over the amendment, along with Senator HATCH, of Utah, who is the ranking member on the Judiciary Committee, along with Senators DECONCINI, of Arizona, Senator HEFLIN, myself, and many others, this week made what I think is the beginning statement of a very important process that has to go forward from this time.

You heard Senator GRAHAM speak of a chronology of time that involved his family associated with deficits and our Federal budget. This past summer, one of our colleagues, who was home with open heart surgery, asked if every day I would come to this floor and submit the Federal debt of the day. It was clearly a reawakening for me to every day submit for our record the Federal debt as the U.S. Treasury was recording it.

You and I watched, Mr. President, as that debt jockeyed between $3.9 trillion and $4 trillion and finally broke over into $4 trillion and stayed in $4 trillion and began to accumulate additional billions of dollars.

I do not know of any clearer message than the message that I participated in giving which says that our Nation and our Government and our finances are in trouble at this moment if we do not have the political will to deal with this issue.

Today we started, with the introduction of this amendment, I hope, a process to reinstate the political will of fiscal responsibility that our colleague from Florida has talked about. A constitutional amendment requiring a balanced budget does not guarantee; it simply defines and begins to dictate a process that we must garner the political will to follow and develop the leadership in for future generations.

As I came from my office this morning, I had spoken with young people who are in Washington now attending congressional workshops for our young, and one of the things that almost invariably these young people ask is, "Senator, what do you plan to do about the debt and the deficit?" They are finally beginning to realize that the very sustenance of this country, its vitality is beginning to be sapped by the inability of this Government and this Congress to deal with its fiscal affairs.

One of the analogies I oftentimes use in visiting with our young people is to say, if we do not get our debt under control, and our deficit, it is not that you will not be able to live in a free society; it is that you will not be able to live in it in a way that you might choose. You will no longer have the opportunity that I had as a young person of your age. You will be restricted because your Government will require, of your productive ability, 60 percent of the reward of that production or more just to finance the Government and its debt.

Now, I am not talking about the rich. I am talking about middle-income Americans 20 or 30 years from now who by their local State and Federal Governments will be required to give up to 70 or 80 percent of their productivity just to take care of Government and debt and debt structure. What about a new car? What about a new home? What about a lifestyle and a savings for their young and the future of their young? It is that kind of economic stagnation that clearly will result from our failing to deal with this deficit issue.

We are in unique economic times today. We are growing as an economy. Our unemployment is growing; our ability to lift off and gain at 3 or 4 percent is relatively stagnant. Why?

If you believe in the old adage that deficit spending creates economic stimulus—and this past year we deficit spent at $320-plus billion—then by definition the economy ought to be screaming. There ought to be jobs for everybody. There ought to be people lined up at our borders waiting to fill the empty jobs that would be generated by this form of deficit spending.

For some reason, it is not happening. And for the first time in our country's history, the reason is that the deficit and debt burden are so great, it now strangles the economy, dragging it down, not allowing it to lift off and to create the kind of jobs and economic viability and activity that we would oftentimes expect of it.

Last week, as a new member of the Joint Economic Committee, I was privileged to have before us the Chairman of the Federal Reserve, Alan Greenspan. He talked about the uniqueness of this current economic condition. There were a few on our panel who wished to chastise him for his alleged inability to appropriately handle the M–2 funds of our Nation. It was largely only an excuse to direct attention away from their profligate voting and spending here in the Congress and the debt burden that is dragging the economy down.

Mr. Greenspan did not have a lot of answers, but I thought he made some very profound statements. In response to a question about the relationship between the deficit reduction and economic recovery, the much-touted idea of an economic stimulus package, that is being worked on today by the new administration and by this Congress, I asked Mr. Greenspan that question—what should we or could we expect? He said, "If a credible long-term deficit reduction package were in place, the credit markets would easily, immediately respond, if it were believable, and if Congress could be trusted in fulfilling it."

What is he saying? I think he was reflecting on a 1990 budget agreement in which we raised well over $130 billion in new revenue, and we promised for every dollar of new spending, we would cut 12. Just the reverse happened. We spent well beyond what we had intended to and we did not cut a dime. And budgets grew and the country began to grow weary of promise after promise, that this Government and this Congress would become fiscally responsible.

In other words, economic growth can no longer be related to a stimulus package. It can only be related to very specific actions taken by this Congress to convince the economists of this country that we mean business in controlling, spending, and bringing the deficit down and putting our debt in some form of explainable and manageable context. That is our responsibility, and I challenge our new President to make deficit reduction as much a part of his economic package as any form of new spending, because I find it unique, if not ironic, that we would be talking about new spending at a time when we cannot even pay for the spending that is currently going on.

Twenty-four years of uninterrupted economic deficits; 32 deficits in 33 years, and 55 deficits in the last 63 years. Not only in August and September of this year did we break over into the $4 trillion debt mark and stay there and move beyond it, Mr. President, and I believe that to be a historic time—something happened in early January of this year that is just as historic.

For the first time in our Nation's history, we are borrowing from our country and our country spends more money than they can generate in this sense: This year for the first time Federal borrowing equalled more than the personal savings of the individuals of our country and the retained earnings of corporate America. And we wonder why there are no new jobs today, because there is no money to invest in jobs, because we are borrowing, we the Government. No new money, no new savings, that is sucked in by our Government to pay for what we believe to be the immediate needs and the priorities of our country.

We wonder why the economy is sluggish. We can make all kinds of excuses, but if we do not come to this floor and look at ourselves and blame ourselves, none of those excuses have any base or validity, for it is our problem herein and our inability to be fiscally responsible that has caused the problems in the economy that we now choose to blame on someone other than George Bush, because he is not around anymore to blame.

Having said that, it is imperative that we respond to the citizens of our country. It is imperative that we give to them for their consideration and ratification, a constitutional amendment that would, for the first time, do what Thomas Jefferson said well over 200 years ago: That if he had but one addition to the Constitution to make, it would be to deny this Government the ability to borrow. In other words, he would be saying to us today, as he said 200 years ago: Spend within your means, do not borrow money, for if you do, you borrow from future generations; and if you do that you destroy the freedom that this country has always stood for.

I hope that we can, in our future days of deliberation in the 103d Congress, bring forth a constitutional amendment and send it to the States for their ratifications, and let go forward one of the greatest debates that will occur in the history of our country. I am totally confident that three-fourths of the States will rally and vote for and support a constitutional amendment to balance the budget.

But that is not going to be just the most important thing that will happen, because in each one of those States will occur a debate about the Federal budget and what it means and what it does and the kind of impacts it has on our economy. And there will be a much greater understanding across the land of what deficit spending does and the kind of impact it has on ordinary, everyday working men and women's lives. Out of that debate, I hope will come an adherence to the responsibility of balancing a budget, and on that will be a public opinion that will force upon this Congress a balanced budget for now and future generations.

I ask unanimous consent that other comments and thoughts about the balanced budget process be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF THE BIPARTISAN, BICAMERAL CONSENSUS BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Section 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

This section sets forth the general rule of this Article, and the central principle to be observed and enforced, that the Government of the United States shall not live beyond the means provided for it by the true sovereign, the people.

Therefore, the section establishes, as a norm of federal fiscal policy and process, that the government's spending should not exceed its income. While popularly—indeed, universally—referred to as requiring a "balanced budget", its mandate is both simpler and more comprehensive, requiring a balance (or surplus) of cash inflows relative to cash outflows.

Any departure from the general rule in this section and its guiding principles should be an extraordinary event, based on a compelling need. As is commonly the case with constitutionally established parameters for the legislative process, no attempt is made to enumerate all the circumstances that might justify deficit spending; if a three-fifths supermajority of each House of Congress believes an emergency, crisis, or urgency exists (and if the President concurs), it does. This formulation makes the option of deficit spending both difficult to exercise yet available when a fairly strong national consensus exists.

DETAILED ANALYSIS:

"Total outlays" and "total receipts" are defined below in Section 7.

"* * * fiscal year * * *" is intended as a term defined in statute and having no other, specific, constitutional standing. It is a commonly understood term in both private and public usage. While the definition of a fiscal year could be changed from time to time, the concept is sufficiently well understood that a blatant attempt to contravene the intent of the amendment would not be acceptable.

For example, creation of a "transition fiscal year" of 18 months to facilitate reforms in the budget process clearly would be consistent with the amendment. On the other hand, legislation purporting to implement the amendment that promised to balance the budget for the "fiscal year 1998–2008" (and, presumably, with little or nothing in the way of procedural discipline in the early portion of that "year"), clearly would be unconstitutional. Certainly, a simple "rule of reason" would be applied to any statutory definition of a "fiscal year."

"* * * shall not * * *" is a term readily obvious in its intent, spirit, and application. It is mandatory language simply meaning you may not. Saying that "Total outlays * * * shall not exceed total receipts" states both the goal to be pursued and the yardstick by which successful compliance with this amendment is measured. It prohibits fiscal behavior intended or reasonably likely to produce a deficit within a fiscal year.

"* * * three-fifths of the whole number of each House of Congress * * *" indicates the minimum proportion (60%) of the total membership of each House needed to approve expenditures producing a deficit. Currently, this would mean 60 of the 100 Senators and 261 of the 435 Representatives.

The term "whole number" is derived from, and intended to be consistent with, the use of the phrase in the 12th Amendment to the Constitution, "two-thirds of the whole number of Senators" (which is set as the quorum necessary for the purpose of electing the Vice President in case no candidate receives an Electoral College majority).

"* * * shall provide by law * * *" both states a simple consistency with other provisions of the Constitution and clarifies a difference between the deficit spending provided for under this amendment and a deficit planned for in a Congressional Budget Resolution.

Article I, Section 7, Clause 3 of the Constitution states: "Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States" for signature or a veto. Clearly, a vote by both Houses that results in deficit spending would be such a vote.

However, an additional reason for adding this clarifying language is that such a vote might easily be confused with the deficit that may be estimated in a budget resolution, which currently is not presented to the President. While budget resolutions are Concurrent Resolutions generally passed by both Houses, concurrence is not necessary, since budget resolutions actually fall under the "Rules of its Proceedings" that "(e)ach House may determine" under Article I, Section 5, Clause 2. This is because budget resolutions merely set target amounts for subsequent budget decisions made within each House. (The ultimate decisions requiring concurrence, appropriations, other direct spending bills, or revenue bills, are presented to the President.) In fact, the House often proceeded to act pursuant to a House-passed budget resolution in prior to and in lieu of House-Senate agreement on a single resolution.

Obviously, the ⅗ vote on permitting a deficit under this amendment is not a determination of an internal rule in either House, but has direct and immediate consequences external to the rules of either House. Therefore, the words "by law" state what normally would be obvious, but which might be confusing here, due to current budget resolution procedures.

"* * * a specific excess of outlays over receipts * * *" means that the maximum amount of deficit spending to be allowed must be clearly identified. Thus, enforcement of the amendment through the political process will be facilitated by improving elected officials' accountability to the public. The specific excess which is provided for by law would not apply to outlays in more than one fiscal year and may, in fact, apply to an excess that occurs over a shorter period, such as the remainder of a fiscal year when the law is enacted mid-year.

Ensuring such accountability is a cornerstone of the Balanced Budget Amendment, and restores the public's general—and diffuse—interest in fiscal responsibility to an equal competitive footing with the special interests who demand programmatic spending and tax preferences. Today, federal officials can reap the rewards of satisfying the incremental demands of special interests without ever having an individual decision identified as a decision that results in a deficit. This informational imbalance is corrected by the mandate in Section 1 that deficit spending cannot occur without a specific identification of the amount.

Changes from H.J. Res. 290/S.J. Res. 298, as introduced:

As originally introduced, Section 1 of H.J. Res. 290 read:

"Prior to each fiscal year, the Congress and the President shall agree on an estimate to total receipts for that fiscal year by enactment of a law devoted solely to that subject. Total outlays for that year shall not exceed the level of estimated receipts set forth in such law, unless three-fifths of the whole number of each House of Congress shall provide, by a rollcall vote, for a specific excess of outlays over estimated receipts."

The new Section 1 in the substitute takes cognizance of numerous comments offered, regarding the original language, in 1987 and 1990 hearings in the House Committee on the Judiciary, 1992 hearings in the House Committee on the Budget, during House floor debate in 1990, and otherwise. The authors have attempted to be responsive to all thoughtful comments and criticisms and to streamline and simplify the language.

"Prior to each fiscal year" was deleted both as hortatory (possibly even surplus) language, and in response to the inevitable question, "What if it isn't done by the beginning of the fiscal year?" Such simple timing questions are best left up to implementation and enforcement legislation.

"Congress and the President shall agree" was removed because "agree" truly was hortatory language. Although it stated a laudable goal, this phrase caused some confusion and raised a question of the legal consequences of a lack of an actual agreement. The words, "by enactment of a law", in the original language referring to establishing a receipts estimate, have clear meaning within the Constitution currently and would control, rather than the hortatory "agree" language. It was intended that Congress still could override a presidential veto of a receipts estimate. In deleting all of the first sentence of the original Section 1, all such possible confusion is also removed. (NOTE: In S.J. Res. 298, as introduced, this phrase was reworded as, "* * * and estimate of total receipts * * * shall be determined by enactment of a law * * *.")

"* * * an estimate of total receipts * * * by enactment of a law devoted solely to that subject * * * is deleted from Section 1 to remove the mandating of a specific procedural step that, however beneficial, is not necessary in the Constitution.

The authors in no way intend for the substitute to require a less flexible process in the establishment of a receipts estimate and the use of that single estimate as a benchmark against which to measure total outlays throughout the fiscal year. On the contrary, the substitute provides the same flexibility as would have been permitted under H.J. Res. 290 as introduced, and consistent with the language and purpose of Section 1 of the substitute. The permissible use of estimated receipts is moved to a new Section 6 which requires implementation and enforcement legislation.

Changes from S.J. Res. 18, as reported:

Section 1 of the substitute is substantively the same as Section 1 of S.J. Res. 18 as reported by the Committee on the Judiciary.

Section 2. The limit on the debt of the United States held by the public shall not be increased unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

No section of this Article should be read in isolation, especially Section 1. Section 2 provides the essential mechanism which not only enforces an honest budgeting process in pursuit of the general rule and principle stated in Section 1, but also will operate to make the amendment self-enforcing.

This Section is inspired by the often-quoted desire expressed by Thomas Jefferson, in his November 26, 1798 letter to John Taylor:

"I wish it were possible to obtain a single amendment to our constitution. I would be willing to depend on that alone for the reduction of the administration of our government to the genuine principles of its constitution; I mean an additional article, taking from the government the power of borrowing."

The authors here have drawn from recent experiences of the government and modern economic theory to reach a compromise with then-Vice President and later President Jefferson: Section 2 takes from the government the power of borrowing, unless three-fifths of the total membership of both Houses votes to approve a specific increase in the amount that may be borrowed.

Section 2 provides strong enforcement, indeed, for the provisions of Section 1. When the government runs a deficit, that necessitates additional borrowing to meet its obligations. Failure to authorize that level of borrowing could, in a worst-case scenario, result in a default by the government of the United States. Treasury securities might not be redeemed. Government services could be threatened with a shutdown, subject to the availability of receipts.

Today, such a consequence is occasionally threatened when an impasse within Congress or between Congress and the President jeopardizes passage of essentially ministerial legislation raising the statutory limit on the public debt by a simple majority. Under this amendment, the threat of default would loom when the government runs a deficit, thus providing a powerful incentive for balancing the budget.

This simple threat of default does not fully explain the way Section 2 will operate to enforce the fiscal norm of balancing outlays and receipts. Because a debt-increase bill represents an admission of failure of enormous magnitude, passage is always a difficult matter.

Under current law, Members of Congress not infrequently have rounded up 50% plus one of the Members of one House to threaten to push the government to the brink of insolvency unless a pet amendment is added to this must-pass legislation, despite consistent efforts by the Administration and the Congressional leadership of both parties in both Houses to pass a "clean" debt bill. This "debt bill blackmail", in fact, was the tactic used to enact the original Gramm-Rudman-Hollings law of 1985.

By lowering the "blackmail threshold" associated with passage of the regular debt limit bill from 50 percent plus one in either body to 40 percent plus one, Section 2 increases the motivation of the Administration and the Leadership, including the Chairs of the relevant committees, to do whatever is necessary, legislatively and cooperatively, even to the point of balancing the budget, to avoid facing such a difficult debt vote.

It is in no way the intent of the authors and supporters of this amendment that a default or shutdown should happen. However, the threat of such consequences is analogous to the deterrence effect of fines or legal damages in other situations.

Because borrowing, and increases in any limits on cumulative borrowing, must be enacted in law, Section 2 makes the amendment effectively self-enforcing. Such legislation usually involves large enough numbers of dollars to be borrowed that extensions of authority to borrow generally are used up in a year or so. The current statutory limit on the public debt, enacted as a part of the Budget Enforcement Act late in 1990 and allowing borrowing into 1993, is very much an exception in this regard; this lengthy term of borrowing, not quite three years, was made possible only by the status of the Act as an extraordinary, five-year plan. Virtually no elected official can stand the political heat of supporting a huge, multi-year increase in the government's level of indebtedness. This simple political dynamic will ensure that the self-enforcement provided by Section 2 occurs frequently enough to be effective.

Finally, when three-fifths of both Houses have "gutted up" and, under Section 1, voted explicitly for a specific excess of outlays, there is no intent in this amendment to "punish" them by later forcing a second three-fifths vote on the debt limit. Both decisions can be approved by the same, single, three-fifths vote in the same legislation.

Detailed analysis:

"* * * debt of the United States held by the public * * *" is a widely used and understood measurement tool. The Congressional Budget Office's January 1992 Economic and Budget Outlook: Fiscal Years 1993–1997 book, in its Glossary, defines "Publicly held federal debt" simply as: "Debt issued by the federal government and held by nonfederal investors (including the Federal Reserve System)." On page 66 of the same volume, CBO further explains, "Debt held by the public represents the government's appetite for credit and is the most useful measure of federal debt." The current, widely used and accepted meaning of "debt held by the public" is intended to be the controlling definition under this Article.

The "debt held by the public" differs from the gross federal debt in that the latter, according the CBO, page 66, "includes the securities (about $1 trillion and climbing) issued to government trust funds." The gross debt is the "close cousin" (per CBO) of the "public debt".

The Congressional Research Service's Manual on the Federal Budget Process, December 24, 1991, in its glossary, defines "Public debt" as: "Amounts borrowed by the Treasury Department or the Federal Financing Bank from the public or from another fund or account. The public debt does not include agency debt (amounts borrowed by other agencies of the Federal Government). The total public debt is subject to a statutory limit."

A requirement of a three-fifths vote on the "public debt" has been issued in some previous formulations of the Balanced Budget Amendment. The use, here, of "debt held by the public" is a refinement based on a 1990 recommendation by the Administration and subsequent review by the authors of the implications of using the different measures of debt. "Debt held by the public" has been chosen for two reasons:

First, as pointed out by CBO, common sense suggests that the most appropriate benchmark to use is the federal government's borrowing from all non-federal-government sources.

Second, the purpose of this section is to motivate an avoidance of deficits. When the Social Security or other federal trust funds run surpluses, this does not cause total outlays to exceed total receipts and the government does not increase its borrowing from non-government sources. Therefore, Congress and the President should not be forced to surmount the three-fifths vote hurdle on debt bills if they have not run a deficit and increased net federal borrowing. Section 2 matches the benchmark used in the enforcement process to the policy objectives desired.

"The limit on the debt * * * held by the public * * *" obviously assumes the establishment of a new statutory limit on this measure of federal borrowing. This limit may be established in addition to, or as a replacement for, the current statutory limit on the public debt. Article I, Section 8 of the Constitution simply says, "The Congress shall have Power * * * To borrow Money on the Credit of the United States * * *." The exact process of carrying out this power is left up to the Congress to provide for by law.

When establishing a new statutory limit on the debt held by the public (which will require a three-fifths vote to increase), Congress may or may not wish to continue to set by statute a limit on the public debt. The fact that a simple majority could continue to be required to pass such a public debt limit would not, in any way, create procedural or legal conflicts. At times when a trust fund surplus necessitates an increase in the public debt, such action would become more ministerial and less difficult than currently is the case. Increases in both limits certainly could be contained in the same bill that is passed by a three-fifths vote.

Changes from H.J. Res. 290/S.J. Res. 298, as introduced:

The substitute makes no changes to this section as it appeared in the Article as introduced.

Changes from S.J. Res. 18, as reported:

Language relating to a limitation on debt, such as Section 2 of the substitute, was not included in S.J. Res. 18 as introduced or reported. Language requiring a three-fifths vote to increase the limit on the public debt was added on the Senate floor both to S.J. Res. 225 in the 99th Congress (a predecessor to the current S.J. Res. 18, in 1986) and to S.J. Res. 58 in the 97th Congress (in 1982).

Section 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

In Section 3, the amendment extends to the President's annual budget the same norm of fiscal balance expected of the Congress. The current statutory requirement that the President submit a budget is codified in the Constitution to ensure that the President remains engaged with Congress in the budget process. Of course, this requirement of submission of a single document in no way alters the current constitutional balance of powers or separation of responsibilities. It also is perfectly consistent with the current constitutional provisions that the President "shall * * * recommend to [Congress'] Consideration such Measures as he shall judge necessary and expedient" (Article II, Section 3).

Detailed analysis:

"Prior to each fiscal year * * * was retained in Section 3 because of the long-understood legislative principle that deadlines certain can be set, and in fact are commonly expected to be set, for specific actions by the Executive. Currently, the deadline for submission of the President's budget is set by statute and occurs well in advance of the fiscal year for which it is written. Such statutory provisions are, and will remain, consistent with Section 3.

"* * * a proposed budget * * *" means a document similar, in broad terms, to that which is regularly submitted under current law. The amendment in no way restricts the discretion of Congress to enact changes in what is or is not required in such a budget, as long as the document remains useful for the purposes of planning federal spending activities.

"* * * in which total outlays do not exceed total receipts." Per se, a "budget" is a document in which all relevant future numbers are planned, recommended, projected, estimated, or assumed. This is true, as a matter of definition, of all documents called "budgets," public or private. Therefore, no qualifiers are added to this language in Section 3, such as "estimated receipts" or "recommended outlays". To include such terms would be redundant at best, and inadvertently confusing or limiting at worst.

Changes from H.J. Res. 290/S.J. Res. 298, as introduced:

The substitute makes no changes to this section as it appeared in the Article as introduced.

Changes from S.J. Res. 18, as reported:

This section of the substitute is identical to language in S.J. Res 18 as reported.

Section 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

The purpose of this section is to increase the accountability of Members of Congress when they consider legislation to increase revenue, in light of the amendment's requirement to balance receipts and outlays. The increased pressure the amendment will create for fiscal discipline may increase temptation to shield a certain amount of legislative decision-making from public view. Tax bills have been known to pass, occasionally, by voice vote.

The enhanced "tax accountability" (or, more precisely, accountability with regard to passage of bills to increase federal revenue) provided by the unvarying requirement for a rollcall vote, is supplemented by the requirement that such bill also shall not become law unless passed by a supermajority, in this case a majority of the whole number of each House.

The rollcall vote and supermajority requirements will serve to maintain a level playing field between the public's more general and diffuse interest in restraining the government's appetite for revenues and the more focused pressure that special interest groups can apply for individual spending programs.

Detailed analysis:

"No bill * * * shall become law unless * * *" is drafted in the negative to conform to the style used in Article I of the Constitution, in phrases such as, "No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census * * *" and "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law * * *."

"* * * revenue * * *" has the same meaning here as in Article I, Section 7, which states, "All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills."

"* * * bill to increase revenue * * *" means legislation making policy changes in the government's exercise of its sovereign power to tax or otherwise compel payments to the government. "Revenues" and "receipts" are largely synonymous, but not always so, especially when being use prospectively. Both are expressed in terms of quantities of dollars flowing into the Treasury. However, "revenue" is more closely connected to the tax rates, tax base, Customs rates, or other policy criteria formulated to produce inflows of receipts. A "receipt" is a more purely and more comprehensive quantitative concept. For example, a bill to step up Internal Revenue Service enforcement of current tax laws and enhance collection of taxes currently going uncollected definitely would result in increased receipts, but would not be "a bill to increase revenue," and therefore, not subject to the requirement of a majority of the whole House for passage. ("Receipts" are further defined under Section 7.)

"* * * majority of the whole number of each House * * *" means, under current law, never less than 218 votes among the 435 Members of the House of Representatives and never less than 51 votes in the Senate, which numbers 100 Members. The "whole number of each House" is defined under Section 1, above.

This language is not intended to preclude the Vice President, in his or her constitutional capacity as President of the Senate, from casting a tie-breaking vote that would produce a 51–50 result. This is consistent with Article I, Section 3, Clause 4, which states: "The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided." Nothing in Section 4 of the substitute takes away the Vice President's right to vote under such circumstances. The language requires (in today's Senate of 100) 51 votes to pass a revenue-increasing bill, not the votes of 51 Senators. Obviously, in a 51–50 vote, 51 still constitutes a majority of the whole number of 100. Also obviously, while the Vice President could turn a 49–49 tie into a 50–49 result, this would not constitute a majority of the whole number.

Changes from H.J. Res. 290/S.J. Res. 298, as introduced:

The substitute makes no changes to this section as it appeared in the Article as introduced.

Changes from S.J. Res. 18, as reported:

Section 4 of the substitute is substantively the same as Section 3 of S.J. Res. 18 as reported.

Section 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

This section reaffirms the traditional priority presumptively attached to matters of national self-defense. In such cases, especially when the Congress and the President have taken an action as extraordinary as declaring war, financing that effort should proceed unimpeded by any requirement of additional, extraordinary votes.

Detailed analysis:

The first sentence of Section 5, or a virtually identical counterpart, has been a fixture in almost every major version of the Balanced Budget Amendment over the years. Consistent with Article I, Section 7, Clause 3, such a simple majority vote to waive this Article would have to be presented to the President for his or her approval.

The second sentence recognizes that, for most of the military conflicts in which the United States has engaged, there was not a formal declaration of war. Nevertheless, a sufficient self-defense interest is present in such situations that a Section 1 supermajority should not be required to fund such an engagement. Further definition of the criteria set forth for the "majority of the whole number" waiver in Section 5 is not needed, since the Section requires simply that the joint resolution required for the waiver declare such conditions to be present.

Changes from H.J. Res. 290/S.J. Res. 298, as introduced:

The first sentence of the substitute Section 5 makes no changes to this section as it appeared in the joint resolution as introduced. The second sentence has been added, based on an amendment approved by the Senate Committee on the Judiciary to companion legislation, S.J. Res. 18.

Changes from S.J. Res. 18, as reported:

The first sentence of the substitute Section 5 is substantively the same as Section 4 in S.J. Res. 18 as introduced.

The second sentence was approved by the Senate Committee on the Judiciary and included as an amendment to S.J.Res 18 as reported. The difference between, and graduation of, the waiver requirements in the two sentences is intentional, and is based on the principle that the threshold of difficulty for deficit spending should be raised as the declared level of the seriousness of the military engagement declines.

Section 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

This section requires the adoption of legislation necessary, appropriate, and reasonable to enforce and implement the Balanced Budget Amendment. There is no need—and arguably it would be a bad idea—explicitly to foreclose the possibility of judicial interpretation or enforcement. However, this language further tilts presumptions of such responsibilities toward extremely limited court involvement. This language also is intended to prevent the possibility of an interpretation that could shift the current balance of power among the branches in favor of the Executive.

Detailed analysis:

"The Congress shall enforce and implement * * *" differs from clauses included in several other amendments that state, "The Congress shall have power to enforce * * *." This latter clause has been employed only where there was concern that the question could arise as to whether Congress had the power to pre-empt state laws or constitutions or was venturing impermissibly beyond its constitutionally enumerated powers and into the rights reserved to the states or the people.

Here, no such question of pre-emption is conceivable. Congress clearly has the power to enforce and implement this Article, under the "necessary and proper" clause in Article I, Section 8, which states: "The Congress shall have Power * * * To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

This section creates a positive obligation on the part of Congress to enact appropriate implementation and enforcement legislation. As a practical matter, this language simply requires what is inevitable and predictable. It is a simple statement that, however well-designed, a constitutional amendment dealing with subject matter as complicated as the federal budget process needs to be supplemented with legislation. It is a means of owning up to the truth in the arguments made by many Members of Congress—both supporters and opponents—that Members must expect to do more than cast this one vote to pass this one amendment, to ensure that deficits are brought down and, ultimately, eliminated.

The inclusion of a positive obligation to legislate does not make the Article more difficult to enforce, nor is it without precedence in the Constitution. Article I, Section 2, Clause 3 provides: "Representatives and direct Taxes shall be apportioned among the several States * * * according to their respective Numbers, which shall be determined by * * * [an] actual Enumeration * * * made within three Years * * * and within every subsequent Term of ten Years, in such Manner as they shall be Law direct. * * *" The critic who today asks, "What if Congress just doesn't enact implementing and enforcing legislation?" would be the counterpart of the critic who might have asked in 1787, "What if Congress just doesn't authorize or appropriate for a Census, if, in their own self-interest, they don't want the current apportionment to be changed?" In this case, it manifestly would be in Congress' own best interest to enact legislation ensuring a complete and clearly-defined budget process consistent with the Balanced Budget Amendment.

"* * * which may rely on estimates of outlays and receipts." This phrase allows Congress the flexibility in explicit language that it will need in practical effect, to make reasonable decisions and use reasonable estimates, when appropriate, as a means of achieving the normative result required in Section 1. To some extent, this phrase, too, states the obvious, that the process of budgeting and taxing and spending inevitably involves relying on estimates. "Estimates" means good faith, responsible, and reasonable estimates made with honest intent to implement Section 1 and not evade it.

The estimates contemplated in Section 6 do not apply in any way to a determination of the amount of debt referenced in Section 2. "Debt" there means actual, not estimated, debt.

Section 1 provides the standard by against which compliance with the amendment is measured. Section 6 clarifies that implementation and enforcement legislation may provide for the use of reasonable and appropriate estimates in the process of complying with Section 1. Section 6 is intended to support, strengthen, and aid the effectiveness of the other provisions of the amendment. This provision also will provide additional insurance against intrusion by the courts into the finer details of questions of compliance with the amendment.

Section 6 must not be interpreted in any way that would weaken or allow evasion of any other provision of this amendment. Over the course of the fiscal year, outlays may not exceed receipts. To the extent that any reasonable and lawful action can be taken to prevent an excess, it must be taken. On the other hand, for example, a brief dip in receipts or jump in outlays need not trigger a sequester, rescission, or other offsetting action if there it is reasonable to assume that such a "glitch" will be offset naturally in the near-term by normal economic or budgetary fluctuations.

In order to allow for an unexpected shortfall of receipts or an unexpected increase in outlays without triggering a three-fifths debt vote under Section 2, it would be necessary that the actual debt held by the public be held below the debt limit, by a sufficient amount to offset the amount by which actual receipts or outlays may differ from estimated receipts or outlays.

It also should be noted that outlays are both more predictable and more controllable than receipts. Therefore, the handling of outlays necessarily must be held to a stricter standard than the treatment of receipts. To be more specific, of course, is difficult until the actual design of implementation and enforcement legislation emerges. In all cases, the standard to be applied to the accuracy and adjustment of estimates is to be a rule of reason.

Changes from H.J. Res. 290/S.J. Res. 298, as introduced:

Section 6 is a new section. It was added to this substitute in part to clarify the role of Congress in the implementation and enforcement of the amendment, in part to require the enactment of such legislation, and in part to clarify that whatever process Congress enacts to enforce this amendment may provide for the use of reasonable estimates.

It is also the intent of this provision to allow the use of a single level of total estimated receipts for a fiscal year, enacted into law at the beginning of the budget process, as the fixed target amount which outlays throughout the fiscal year may not exceed. In other words, Section 6 is intended to allow Congress to enact into law the process of measuring actual outlays against a fixed receipts estimate in the same way that was outlined in H.J. Res. 290 as introduced. Nothing in H.J. Res. 290 as introduced would have prevented Congress from imposing a more stringent process of measuring actual outlays against constantly-updated receipts estimates throughout the fiscal year. Section 6 of the substitute is no more and no less restrictive in this regard.

Changes from S.J. Res. 18, as reported:

Section 6 is a new section.

Section 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

This section makes clear that, for purposes of computing a deficit, balance, or surplus under this amendment, there is no such thing as "off-budget" receipts or outlays. By requiring *all* cash inflows and outflows to be counted, the most commonly anticipated loopholes are prevented from ever being created. Simple refinancing of outstanding debt at the same net cost of borrowing would not be affected in the normal course of business and, of course, borrowing is not considered a receipt, but rather is recognized as only the means of financing deficit spending.

As currently used and reported, both "receipts" and "outlays" are well-understood, inclusive concepts used with consistency in the budgetary process.

Detailed analysis:

"* * * receipts * * *" is to be interpreted consistently with the use of "Receipts" in Article I, Section 9, Clause 7, which provides, in part, that "a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."

The definition of "budget receipts" in A Glossary of Terms Used in the Budget Process (1981), as quoted in S. Rept. 99-162 and S. Rept. 99-163 (committee reports on S.J. Res. 13 and 225, respectively) still applies:

"Collections from the public (based on the Government's exercise of its sovereign powers) and from payments by participants in certain voluntary Federal social insurance programs. These collections, also called governmental receipts, consist primarily of tax receipts and social insurance premiums, but also include receipts from court fines, certain licenses, and deposits of earnings by the Federal Reserve System. Gifts and contributions (as distinguished from payments for services or cost-sharing deposits by State and local governments) are also counted as budget receipts. Budget receipts are compared with total outlays in calculating the budget surplus or deficit. Excluded from budget receipts are offsetting receipts which are counted as deductions from budget authority and outlays rather than as budget receipts."

"* * * outlays * * *" means all disbursements from the U.S. Treasury, directly or indirectly through federal or quasi-federal agencies created or under the authority of Acts of Congress. The Glossary (as cited above) defines "outlays" as follows:

Obligations are generally liquidated when checks are issued or cash disbursed. Such payments are called outlays. In lieu of issuing checks, obligations may also be liquidated (and outlays occur) by the maturing of interest coupons in the case of some bonds, or by the issuance of bonds or notes (or increases in the redemption value of bonds outstanding). Outlays during a fiscal year may be for payment of obligations incurred in prior years (prior year outlays) or in the same year. Outlays, therefore, flow in part from unexpended balances of prior-year budget authority and in part from budget authority provided for the year in which the money is spent. Total budget outlays are stated net of offsetting collections, and exclude outlays of off-budget Federal entities. The terms expenditure and net disbursement are frequently used interchangeably with the term outlays.

"Expenditures", in fact, also appears in Article I, Section 9, Clause 7, as quoted above, and is used there in symmetry with "Receipts". "Outlays" is used in this Section because of that word's overwhelmingly prevalent use in recent and current budget terminology.

Changes from H.J. Res. 290/S.J. Res. 298, as introduced:

The substitute makes no changes to this section as it appeared in the Article as introduced.

Changes from S.J. Res. 18, as reported:

The substitute makes no changes to this section as it appeared in the Article as introduced.

Section 8. This article shall take effect beginning with fiscal year 1998 or with the second fiscal year beginning after its ratification, whichever is later.

By passing this amendment and sending it to the States for ratification, the Congress intends to bind itself, in mutual cooperation with the President, to adopt an orderly deficit reduction plan that will bring the budget into compliance with this amendment no later than fiscal year 1998.

Changes from H.J. Res. 290/S.J. Res. 298, as introduced:

The effective date has been moved from fiscal year 1995 or the second fiscal year to fiscal year 1998 or the second fiscal year. This change reflects both the passage of time since H.J. Res. 268, 101st Congress, was considered on the House floor in 1990 (with the fiscal 1995 date) and a realistic, consensus estimate of the time needed to allow for a "glide path" down to a zero deficit. (NOTE: S.J. Res. 298, as introduced, included an effective date of fiscal year *1997* or the second fiscal year after ratification.)

Changes from S.J. Res. 18, as reported:

S.J. Res. 18 as introduced and reported simply provided that the Article would take effect with the second fiscal year beginning after its ratification.

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ANSWERS TO COMMONLY-ASKED QUESTIONS ON THE BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

(NOTE: The questions and answers below were revised and updated just prior to House consideration of H.J. Res. 290 on June 10–11, 1992. For ease and swiftness of editing, all references to H.J. Res. 290 from earlier editions of this Q&A were left intact. However, these materials have been updated to apply to the Bipartisan, Bicameral Consensus version of the amendment agreed to by the principal sponsors and supporters of H.J. Res. 290/S.J. Res. 298 and S.J. Res. 18 in a series of meetings completed on June 9.)

Won't a constitutional requirement of a "balanced budget" simply invite moving some items off-budget?

H.J. Res. 290 does not require that a single document, a "budget," be written in balance. Instead, it deals with actual spending and taxing bills, and how actual outlays conform to estimated receipts. Taking any item "off-budget" would have absolutely no effect on the operation of H.J. Res. 290.

Wouldn't the temptation remain great to commit some other evasion, such as manipulating the definitions of terms used in the BBA?

Terms such as "outlays", "receipts," "debt held by the public", and "raising revenue" either already appear in the Constitution or are commonly understood. In the 99th Congress, Senate Reports 99–162 and 99–163 and Senate floor debate on S.J. Res. 225, and in the 101st Congress, the House floor debate, went to some lengths to establish a legislative history for and preventing misinterpretation of these and other terms as used in a BBA. This year the House Budget Committee compiled a formidable amount of testimony on all sides. It also remains the appropriate role of the Members engaged in floor debate this year to build similarly clear definitions.

Won't the BBA be unenforceable in other ways, causing erosion of respect for other Constitutional provisions as well?

To a certain extent, the provisions of H.J. Res. 290 are self-enforcing or interactively enforcing. Effective enforcement and orderly implementation certainly are expected in the form of enabling legislation; Members such as the Chairman of the Budget Committee have served notice most effectively in that regard. Beyond that, enforcement either is implied by the ramifications of stalemate or inaction or, to a very limited degree, could be obtained in the courts.

The Constitution requires Congress and the President to take the necessary steps to carry out Constitutional mandates. Congress is empowered to make all laws that are "necessary and proper to execute the mandate of the constitution." The President and Members of Congress take only one oath, promising to "preserve, protect and defend the constitution." It is assumed that Congress and the President will monitor each other and to the limits of their authority enforce the provisions of the amendment against the other.

The public will also have a significant role. A breach of the amendments' provisions would be readily apparent, and if a breach occurs a political firestorm very likely would erupt from the public. Public accountability is provided for in the provision that requires any vote to run a deficit to specify which outlays are "excess."

Finally, as a last resort, the judicial branch may act to insure that the Congress and President do not subvert the amendment. A member of Congress or an appropriate Administration official probably would have standing to file suit challenging legislation that subverted the amendment.

Wouldn't H.J. Res 290 dangerously and inappropriately transfer power to the courts in a whole new area by opening up to court challenge on Constitutional grounds virtually every budgetary decision made by Congress (and the President)?

The courts could make only a limited range of decisions on a limited number of issues. They could invalidate an individual appropriation or tax Act. They could rule as to whether a given Act of Congress or action by the Executive violated the requirements of this amendment. Indeed, a limited role is appropriate: In the words of *Marbury* v. *Madison*, the judiciary has a fundamental obligation to "say what the law is."

But it would be inappropriate for the courts, and it would be inappropriate to call upon the courts, to rewrite budget priorities and fiscal law. Senate Reports 99–162 and 99–163 and the accompanying Senate debate once again provide much guidance, this time as to how the "political question" doctrine of *Baker* v. *Carr*, 369 U.S. 186 (1962), the requirement to a justicable case or controversy (see e.g., *Aetna Life Insurance Co.* v. *Haworth*, 300 U.S. 227 (1937), and questions of standing would prevent the floodgates of litigation from opening upon the process in place under a suitable BBA. For example, *Riegle* v. *Federal Open Market Committee*, 656 F.2d 873 (DC Cir. 1981), "counsel[led] the courts to refrain from hearing cases which represent the most obvious intrusion by the judiciary into the legislative arena: challenges concerning congressional action or inaction regarding legislation."

The traditional judicial doctrine of "standing" requires that a plaintiff has a direct and specific, personal stake or injury. A "generalized" or "undifferentiated" public grievance, such as would suggest "taxpayer" standing vis-a-vis macroeconomic policy decisions, is not recognized.

Most questions that will arise as to compliance or enforcement will either be resolved through enabling legislation or will arise during policy-making events that trigger the self-enforcing mechanisms in the BBA (i.e., 3/5 vote to pass an increase the debt that results from a deficit in a given year) or currently in place (i.e., threat of government shutdown if a legislative deadlock persists).

Finally absolutely no role for the courts is foreseen beyond that of making a determination as to whether an Act of Congress or an Executive action is unconstitutional and a court order not to execute such Act or action. A purely restraining role is anticipated for the courts and could be guaranteed by Congress in appropriate legislation specifying standing, jurisdiction, and remedies.

If the judiciary is involved, couldn't a case drag on for years past the fiscal year in question, making every case moot?

The courts have shown an ability and willingness to expedite their processes in an emergency. Recent examples are the reapportionment cases involving Massachusetts and Montana that went all the way to the Supreme Court and were resolved in a matter of months. Congress could further ensure expeditious handling, for example, giving the Supreme exclusive and original jurisdiction over cases arising under the BBA.

What if the President and Congress do not enact necessary legislation required in implementing and enforcing statutes?

Currently, under the Constitution, if Congress fails to make appropriations or provide for further Treasury borrowing the government faces risk of shutdown. We will face the same result if Congress fails to pass necessary legislation required by implementing legislation. Absent the enactment of some other specific procedure, and assuming a defict situation begins developing a fiscal year, the amendment obviously implies that responsibility on the part of Congress and the Executive to estimate receipts and monitor outlays on an ongoing basis and to identify the point during the fiscal year at which disbursements simply will have to cease.

In any event, of course, failure to enact legislation or take other positive actions required or implied by this amendment will result in the "train wreck" of an increase in the debt held by the public needing to pass by a three-fifths vote of both Houses.

What if Congress, ignoring the provisions in H.J. Res. 290, nevertheless passes appropriations in excess of estimated revenues?

The general charge that outlays not exceed receipts creates a general obligation for Congress and the Executive to construct a statutory framework to enforce and implement the BBA, in advance of its effective date. Indeed, such legislation would be essential in managing the budget down its "glide path" to an eventual balance. The ultimate form of such legislation could include a revised Gramm-Rudman-Hollings type sequester, and enhanced Pay-as-you-go mechanism, or some other process reforms.

The language of Section 1 also creates an ongoing obligation to monitor outlays and make sure they do not breach the target amount fixed in an estimate of receipts. This does not envision any sort of discretionary "impoundment" power on the part of the President or courts. However, the Executive branch would be under an obligation to estimate whether outlays will occur faster or at higher levels than expected and to notify Congress promptly. If an offsetting rescission is not enacted or other appropriate legislative action not taken, then the President would be bound, at the point at which the government "runs out of money," to stop issuing checks (unless, of course such exigencies already have been accounted for in enforcement and implementation legislation in advance).

The deterrent of a budgetary "train wreck" always exists to motivate responsible budgeting: either the possibility of a government shutdown or of the need to round up ⅗ of both Houses to pass a debt increase bill without any "blackmail amendments." (For example, Gramm-Rudman-Hollings was a "blackmail amendment" attached to a debt ceiling bill in 1985, when 51 Senators refused to pass a "clean" bill.)

What is to prevent Congress and the President from drastically over-estimating revenues and then declaring, "oops," when outlays and receipts are unbalanced at the end of the fiscal year?

If such a scenario occurred, Congress would have to pass a debt ceiling increase by a three-fifths vote. The threat of a "train wreck" on the debt limit vote provides a powerful incentive for truth-in-budgeting. Any such mis-estimates will catch up rapidly with its authors within a year. A transparent mis-estimate would be subject to the very public process of budget-making. Congress and the President would avoid a widely publicized "mistake" because of its political impact.

Why is H.J. Res. 290, as introduced, different from previous BBA versions, in that it requires a ⅗ vote to raise the limit on federal "debt held by the public", rather than the "public" or "gross" debt?

When the Social Security and other trust funds run surpluses, those surpluses are invested in U.S. Treasury securities, meaning they are borrowed by the U.S. Treasury and the "public debt" (approximately the same as the "gross federal debt") is increased by that amount. Such borrowing is an intragovernmental transfer between accounts, and does NOT increase the "debt held by the public." Since the intent of the debt limit vote in the BBA is to enforce the amendment and deter deficits, the "debt held by the public" is the closest currently-used and commonly-understood measure of indebtedness that approximates the amount that indebtedness has been increased because of total deficit spending. In other words, H.J. Res. 290 was not meant to "punish" Congress by requiring a difficult ⅗ vote just because trust funds are running a surplus.

If a contracting economy causes a revenue shortfall, wouldn't harmful, pro-cyclical measures, such as cutting spending or raising taxes be required in mid-year?

Not under H.J. Res. 290. This BBA was designed to react flexibly to sudden changes in the economy by establishing the joint receipts estimate as the outlay ceiling for the entire fiscal year. A revenue shortfall would not precipitate any mandatory changes in taxing or spending.

If a contracting economy causes social spending outlays to rise in mid-year, would compensating action be required?

Possibly. Rather than try to anticipate every economic contingency in Constitutional language, the authors of H.J. Res. 290 wrote what they believe remains a sufficiently flexible amendment. Several responses are possible; for example:

(1) Congress can only control what is reasonably controllable. Often, such outlay changes will be sufficiently small that it cannot be determined with reasonable precision that an imbalance will exist at the end of the fiscal year. In such a case, no adjustment would be necessary.

(2) To the extent such outlay increases are foreseeable and fairly certain, a mid-year adjustment might be necessary, relying on offsetting rescissions or other account adjustments, as is the case when a supplemental appropriations must be made deficit-neutral.

(3) If Congress and the President agree that the economic situation warrants outlay levels above the receipts ceiling, achieving a ⅗ majority to approve such spending is not an insurmountable hurdle.

What if a law enacted in the good faith belief which is revenue-neutral turns out to increase revenues?

As with other laws that may be challenged on Constitutional grounds, if it were shown that Congress and the President acted in good faith and had a reasonable basis for projecting revenue-neutrality, the law would not be struck down.

What if a bill provides for both increases and decreases in revenues?

H.J. Res. 290 refers to a "bill to raise revenue." The clear intent is to look to the overall revenue effect of a bill.

What effect would H.J. Res. 290 have if in the process of building a "consensus deficit-reduction bill," revenue increases were combined with spending reductions?

H.J. Res. 290 differs from some previous BBAs in that it does not require a "vote directed solely to that subject" in the case of increasing revenues. Certainly, most of the sponsors of H.J. Res. 290 would not object to such language. However, as currently written, H.J. Res. 290 simply would require the authors and managers of such a combination bill to make a strategic decision as to whether they preferred to offer separate revenue and spending-cut bills or to subject the spending-cut provisions tied to the revenue-raising provisions in a single bill, with a need to pass by a majority of the whole membership.

Couldn't the various super-majority requirements in the H.J. Res. 290 thwart the wills of majorities in both Houses and the President?

Yes. Such is also the case with Senate filibusters, Gramm-Rudman-Hollings points of order, and other procedures today. As is the case with all super-majority requirements in the Constitution (or in law), the purpose is to protect the immediate rights of a significant minority, and arguably the long-term rights of the people, against a "tyranny of the majority," a phrase frequently invoked by the nation's Founders.

In the case of H.J. Res. 290, a sufficient structural bias exists for deficit spending and against accountability in tax decisions that compensating super-majority protections are warranted. Moreover, it is noteworthy that the super-majority levels involved are reasonable and modest.

Shouldn't economic policy be kept out of the Constitution?

Economics is politics and vice-versa. Governance inescapably involves addressing questions of economics. Moreover, our Constitution is replete with economic policy. For example, it refers to private property rights; prescribes Congressional (and Executive) roles in federal fiscal activities such as raising revenue, spending, and borrowing; provides for uniform duties, imposts, and excises; discusses the regulation of interstate commerce; discusses the coinage and value of money; and deals with counterfeiting, patents, and whether it encompasses broad and fundamental principles, its relevance is not transitory, and its importance is far-reaching in scope and over time. The need for a BBA and the proposal of H.J. Res. 290 in response meet this test.

Shouldn't the federal government have the flexibility to enact counter-cyclical economic measures?

Yes, and this flexibility is preserved in H.J. Res. 290 by allowing Congress to spend in excess of revenues if three-fifths of the members agree that deficit spending is warranted. What the amendment would do is mitigate against the structural bias to spend and borrow (and raise taxes somewhat in preference to restraining spending) in good times as well as bad. In restoring this level playing field, H.J. Res. 290 strikes a reasonable balance between requiring fiscal responsibility and allowing flexibility.

Wouldn't adopting a BBA result in cutbacks in services for the poor and needy, for senior citizens, for health and housing programs, and even possibly for defense programs?

The BBA itself would do none of these things. It would force the Executive and Legislative Branches to prioritize within a balance of receipts and outlays and force into the light of day what actual decisions and trade-offs are necessary. If this does not result in cutbacks of government programs, it will ensure that we pay for all the government we want.

Since "the BBA itself would do none of these things," isn't it just a "political free lunch," raising false hopes while diverting attention from the real and difficult budget decisions that need to be made?

Far from that, H.J. Res. 290 would force Congress, the President, and the public to own up to the hard choices that need to be made. It is general because most provisions in the Constitution, encompassing broad principles as they do, should be broadly worded. But its result will be to make unavoidable the asking of those questions some in elective office have avoided: How much government do we want? How willing are we to pay for it? Which programs should be priorities?

Should the Constitution dictate such details as the budgetary period (fiscal year)?

Some such reasonable parameters are necessary to provide for an enforceable amendment. Again, the authors are receptive to perfecting changes, although it is important that whatever parameter is used is not susceptible to subterfuge (e.g., merely including a term like "fiscal period" to be defined in statute). Senate Reports 99-162 and 99-163 suggested using "fiscal year," but allowed that a reasonable statutory re-definition could include a biennial "year."

Doesn't H.J. Res. 290 imply that the President would have enhanced powers to block spending based on a pretext of unconstitutionality?

A frequent criticism of previous BBA proposals has been that the President is not brought into the budget process sufficiently to share the responsibility of governing and the blame of impasse, although the President can criticize the Congress that "holds the purse strings." H.J. Res. 290 recognizes the accepted role the President has played under statute since the 1920s, by requiring the President to submit a balanced budget. The President must also share fiscal and political responsibility with Congress for H.J. Res. 290's joint receipts estimate. But beyond the role in that new joint estimate, H.J. Res. 290 does not broaden in any way the powers of the President. On the other hand, it does make the President more accountable for how the budget process proceeds.

Why do so many economic analyses project devastating results under a BBA?

Those that do generally assume either (1) that a balanced budget would be imposed immediately, without transition, or (2) that the requirement for balance will be adhered to without exception and that Congress (and the President in his or her recommendations) will not exercise its prerogatives under a flexible amendment to enact counter-cyclical measures.

This amendment will not go into effect until, at the earliest, two years after ratification. Once passed through both houses, we would hope that Congress would recognize the impending deadline and act to meet that date by which the budget must be balanced. By allowing a multi-year phase in, we believe any such "drastic" economic effects would be diminished, if not erased.

This amendment has the flexibility to address economic emergencies through the ⅗ release vote on balancing the budget. This allows Congress and the President to act in response to circumstances such as a recession or some other emergency, while insuring that such a decision is made in a fiscally responsible manner.

Of what use is a BBA in today's atmosphere of impending fiscal crisis, if it won't be in force for several years?

(1) A BBA is a long-term proposition. It should be adopted because it is a valid response to a long-term and structurally inherent problem.

(2) It's long-term nature not withstanding, even a BBA that is not in effect for several years will prompt deficit-reduction actions in anticipation of its being in place. Therefore, submission of the amendment to the states would stimulate an immediate response in federal fiscal behavior.

Mr. CRAIG. It is so important, Mr. President, that the American citizenry understand what we are about with this issue. Because, as I think most citizens recognize, Congress cannot pass an amendment. They can only offer forth an amendment in the form of a resolution. Because you see, we—you and I and other Senators and Congressmen and women—do not write the Constitution. It is the law of the land. It is the law of the citizenry. And they are the only ones who can write it.

We will propose an amendment that will go forth for their consideration and their acceptance or their rejection. For you see, the Constitution is really the people's law and it is that law under which we must live.

I certainly hope that in the coming days we can gain the political will to stand forth on this floor and vote, by a two-thirds majority, for a resolution that I and others have introduced this week, and that the House can follow suit also, and that we will send this forth to the citizens of this country for a most extensive and important debate and consideration of how we do our business as a government and what a government should be expected to do for its people and, as importantly, what a government should not be expected to do for its people.

By Mr. BUMPERS (for himself, Mr. BROWN, Mr. BRYAN, Mr. COATS, Mr. D'AMATO, Mr. DODD, Mrs. FEINSTEIN, Mr. FORD, Mr. HATCH, Mr. HEFLIN, Mr. HELMS, Mr. JOHNSON, Mr. KOHL, Mr. LIEBERMAN, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. NUNN, Mr. PELL, Mr. PRYOR, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SIMON, Mr. SPECTER, Mr. STEVENS, and Mr. WARNER):

S.J. Res. 42. A joint resolution to designate the month of April 1993 as "Civil War History Month"; to the Committee on the Judiciary.

CIVIL WAR HISTORY MONTH

Mr. BUMPERS. Mr. President, I rise today to introduce a joint resolution to designate April 1993 as Civil War History Month.

As many of my colleagues know, I have had a longstanding interest in and love of Civil War history. I believe the Civil War was the most momentous and defining event in the growth and development of our Nation. The suffering and turmoil of the conflict forever changed the shape and character of American society. As Shelby Foote, the noted Civil War historian, said about the war, "any understanding of this Nation has to be based on an understanding of the Civil War. It is very necessary if you're going to understand the American character in the 20th century, to learn about this enormous catastrophe of the 19th century. It was the crossroads of our being and it was a hell of a crossroads."

Because I cherish our Nation's history, I believe we must make every effort to educate our citizens about it. Today, I am introducing a joint resolution that will help heighten our understanding and interest in the Civil War. I urge my colleagues to join me in this important effort.

I ask unanimous consent that the joint resolution be printed following my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD as follows:

S.J. RES. 42

Whereas the period of American history known as the "Civil War" is universally recognized as one of the most significant landmark eras in our Nation's heritage;

Whereas the continuous growth of the public's awareness of and interest in the Civil War period remains an integral part of America's cultural heritage;

Whereas the study, preservation, and interpretation of literature and sites associated with this period are imbedded in the educational and cultural heritage of our country;

Whereas the beginning of the Civil War occurred in April of 1861 with the firing on Fort Sumter in Charleston, South Carolina, and the effective ending of the Civil War occurred in April of 1865 with the surrender of the Army of Northern Virginia at Appomattox, Virginia, making April the most important month of the year in Civil War history; and

Whereas the heritage of the Civil War deserves the attention and respect of all individuals in the United States: Now, therefore, be it

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That April of 1993 is designated as "Civil War History Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

By Mr. LIEBERMAN (for himself, Mr. DODD, Mr. MOYNIHAN, Mr. D'AMATO, and Mr. LAUTENBERG):

S.J. Res. 43. A joint resolution designating the week beginning June 6, 1993, and June 5, 1994, as "Lyme Disease Awareness Week"; to the Committee on the Judiciary.

LYME DISEASE AWARENESS WEEK

• Mr. LIEBERMAN. Mr. President, today I am pleased to introduce legislation to designate the week of June 6, 1993 and the week of June 4, 1993 as Lyme Disease Awareness Week. Lyme disease takes its name from a cluster of cases identified in Lyme, CT in 1976; however, researchers now believe that it has been present in the United States since the 1940's. This tick-borne disease has now been found in 49 States. Although 40,000 cases of Lyme disease were reported to the Centers for Disease Control between 1982 and 1991, few doctors and even fewer members of the general public recognize the symptoms of Lyme disease.

Left untreated, Lyme disease can cause severe arthritis, heart disease, and neurological complications. The damage caused by untreated Lyme Disease can be irreversible. Lyme disease poses particular risks to pregnant women because it can cross the placenta causing premature labor, fetal damage, miscarriages, and stillbirths. Jamie Forschner, a lovely 5-year-old boy from Connecticut, died from complications caused by Lyme disease which he contracted when his mother was pregnant. Jamie's 5-year battle to live taught all of us lessons about love and the strength of the human spirit. Lyme Disease Awareness Week is a marker to remind us that no other child should have to suffer the way Jamie did. We must continue to teach the public about the disease and pursue research on prevention and treatment.

Education, prevention, and research on this disease are vital because existing diagnostic tools cannot accurately detect the presence of the disease and there is, at this time, no vaccine which protects against Lyme disease. People who contract the disease often go through years of tests and a variety of treatments before a proper diagnosis is made.

To protect people from the worst effects of Lyme disease we must focus on prevention, early detection, and early treatment. Physicians and the general public must be taught what precautions to take to prevent the disease. They must learn how to recognize its early symptoms, so that those with Lyme disease receive the immediate antibiotic treatment necessary to prevent permanent damage.

We must focus particular attention on educating pregnant women and children and those who care for them, since children are the group most affected by Lyme disease. Children are especially vulnerable in the summertime because of their outdoors activities. Parents, camp counselors, those leading outdoor trips, and children themselves must be taught how to guard against Lyme disease and how to recognize its symptoms. I believe Lyme Disease Awareness Week can play an important role in teaching the American people about this devastating disease.

Mr. President, I ask that the full text of the resolution be printed in the RECORD following my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES 43

Whereas Lyme disease (borreliosis) is spread primarily by the bite of four types of ticks infected with the bacteria Borrelia burgdorferi;

Whereas Lyme disease-carrying ticks can be found across the country—in woods, mountains, beaches, even in our yards, and no effective tick control measures currently exist;

Whereas infected ticks can be carried by animals such as cats, dogs, horses, cows, goats, birds, and transferred to humans;

Whereas our pets and livestock can be infected with Lyme disease by ticks;

Whereas Lyme disease was first discovered in Europe in 1883 and scientists have recently proven its presence on Long Island as early as the 1940's;

Whereas Lyme disease was first found in Wisconsin in 1969, and derives its name from the diagnosis of a cluster of cases in the mid-1970's in Lyme, Connecticut;

Whereas 49 states reported more than 40,000 cases of Lyme disease from 1982 through 1991;

Whereas Lyme disease knows no season—the peak west coast and southern season is November to June, the peak east coast and northern season is April to October, and victims suffer all year round.

Whereas Lyme disease, easily treated soon after the bite with oral antibiotics, can be difficult to treat (by painful intravenous injections) if not discovered in time, and for some may be incurable;

Whereas Lyme disease is difficult to diagnose because there is no reliable test that can directly detect when the infection is present;

Whereas the early symptoms of Lyme disease may include rashes, severe headaches, fever, fatigue, and swollen glands;

Whereas if left untreated Lyme disease can affect every body system causing severe damage to the heart, brain, eyes, joints, lungs, liver, spleen, blood vessels, and kidneys;

Whereas the bacteria can cross the placenta and affect fetal development;

Whereas our children are the most vulnerable and most widely affected group;

Whereas the best cure for Lyme disease is prevention;

Whereas prevention of Lyme disease depends upon public awareness; and

Whereas education is essential to making the general public, health care professionals, employers, and insurers more knowledgeable about Lyme disease and its debilitating side effects: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the week beginning June 6, 1993 and June 5, 1994 is designated as "Lyme Disease Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities. •

By Mr. LIEBERMAN (for himself, Mr. DODD, Mr. D'AMATO, and Mr. COHEN):

S.J. Res. 44. A joint resolution designating the week beginning April 18, 1993, as "Primary Immune Deficiency Awareness Week"; to the Committee on the Judiciary.

PRIMARY IMMUNE DEFICIENCY AWARENESS WEEK

Mr. LIEBERMAN. Mr. President, I rise today to introduce legislation to declare the week of April 18, 1993, as Primary Immune Deficiency Awareness Week. Primary immune deficiency is of great concern to thousands of American families. It is a genetic defect to the immune system that affects 1 in 500 persons, most of them children, in the United States today. Despite its prevalence, it is a condition which many doctors and most families know little about. Although it can cause a lifetime of serious illness and death, primary immune deficiency is often misdiagnosed and not properly treated. There are treatments which can significantly improve the health of those suffering from primary immune deficiency, protect their vital organs, and save their lives, yet many families suffer alone with little medical or psychological support.

A Connecticut family, the Modells, have suffered through this ordeal. Jeffrey Modell struggled bravely with primary immune deficiency until it took his life at the age of 15. Fred and Vicki Modell experienced the enormous medical, emotional, and financial difficulties of dealing with primary immune deficiency, and they saw that families with this problem had nowhere to turn for help. Out of their heartache and struggle they founded the Jeffrey Modell Foundation, a national nonprofit research foundation which operates a 24-hour information and referral hotline, and helps fund and coordinate the struggle against primary immune deficiency through activities in three areas: research, physician and patient education, and patient support.

The Modell Foundation has done an extraordinary job, but we need to expand our efforts to increase public awareness; 500,000 Americans are known to be affected by this disease. We need to ensure that parents and health care professionals know the symptoms of primary immune deficiency, that they know where to turn for assistance, and that we are supporting research efforts to increase our understanding of this condition and ways to treat it. I hope my colleagues will join me in declaring the week of April 18 through April 23, 1993 as National Primary Immune Deficiency Awareness Week.

Mr. President, I request that the text of the bill be printed in the Record immediately following my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 44

Whereas primary immune deficiency is a congenital defect in the immune system such that the body cannot adequately defend itself from infection;

Whereas primary immune deficiency is most often diagnosed in children and affects more children than leukemia and lymphoma combined;

Whereas primary immune deficiency is believed to affect 500,000 Americans and possibly more because people are undiagnosed and misdiagnosed;

Whereas many forms of primary immune deficiency are inherited;

Whereas there are currently considered to be 70 forms of primary immune deficiency ranging from SCVID which is fatal is left untreated to chronic recurring infections and allergies that cannot be managed with prophylactic antibiotics;

Whereas the earliest symptoms of primary immune deficiency are easily confused with a number of common illnesses or infections so that physicians often fail to diagnose and treat the underlying problem;

Whereas once suspected, primary immune deficiency can be diagnosed through a series of blood screenings which test immune function;

Whereas early intervention and treatment can save lives as well as prevent permanent damage to lungs and other organs;

Whereas many forms of treatment are available once a specific diagnosis is made, procedures such as BMT may result in complete cure, and other treatments like monthly infusions of gamma globulin dramatically reduces a patient's risk of infections and enables him or her to lead a normal life;

Whereas patients may have long periods of normal health then suddenly be struck by severe fevers and infections;

Whereas lack of public awareness can lead to anxiety and leave families isolated and confused;

Whereas education is essential to make the general public, health care professionals, employers, and insurers more knowledgeable about primary immune deficiency: Now, therefore be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the week beginning April 18, 1993 is designated as "Primary Immune Deficiency Awareness Week," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such a week with appropriate programs, ceremonies and activities.

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. FORD, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from California [Mrs. BOXER], and the Senator from Wisconsin [Mr. FEINGOLD] were added as cosponsors of S. 2, a bill to establish national voter registration procedures for Federal elections, and for other purposes.

S. 15

At the request of Mr. ROTH, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 15, a bill to establish a Commission on Government Reform.

S. 27

At the request of Mr. SARBANES, the names of the Senator from Illinois [Mr. SIMON] and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 27, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 36

At the request of Mr. BOREN, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 36, a bill to amend section 207 of title 18, United States Code, to tighten the restrictions on former executive and legislative branch officials and employees.

S. 67

At the request of Mrs. KASSEBAUM, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 67, a bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents.

S. 71

At the request of Mr. METZENBAUM, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 71, a bill to prohibit discrimination by the Armed Forces on the basis of sexual orientation.

S. 185

At the request of Mr. GLENN, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 185, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 208

At the request of Mr. BUMPERS, the names of the Senator from Arkansas [Mr. PRYOR], the Senator from Hawaii [Mr. AKAKA], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 208, a bill to reform the concessions policies of the National Park Service, and for other purposes.

S. 210

At the request of Mr. WOFFORD, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 210, a bill to provide for cost-of-living adjustments for pay and retirement benefits for Members of Congress and certain senior Federal officials to be limited by the amount of social security cost-of-living adjustments, and for other purposes.

S. 236

At the request of Mr. MCCAIN, the names of the Senator from South Carolina [Mr. THURMOND], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of S. 236, a bill to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

S. 253

At the request of Mr. CRAIG, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Kansas [Mr. DOLE], the Senator from New Mexico [Mr. BINGAMAN], the Senator from North Carolina [Mr. HELMS], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Alabama [Mr. SHELBY], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 253, a bill to authorize the garnishment of Federal employees' pay, and for other purposes.

S. 254

At the request of Mr. JOHNSTON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 254, a bill to amend the Internal Revenue Code of 1986 to impose a fee on the importation of crude oil or refined petroleum products.

S. 296

At the request of Mr. BUMPERS, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 296, a bill to require the Secretary of Agriculture to submit monthly financial obligation and employment reports to Congress for the Food and Safety and Inspection Service, and for other purposes.

S. 300

At the request of Mr. MACK, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 300, a bill to provide for the utilization of the latest available census data in certain laws related to airport improvements.

S. 302

At the request of Mr. MACK, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 302, a bill to provide for the utilization of the latest available census data in certain laws related to Energy and Natural Resources.

S. 303

At the request of Mr. MACK, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 303, a bill to provide for the utilization of the most current census data in certain laws related to the environment and public works.

S. 304

At the request of Mr. MACK, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 304, a bill to provide for the utilization of the latest available census data in certain laws related to urban mass transportation.

S. 305

At the request of Mr. MACK, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 305, a bill to utilize the most current Federal census data in the distribution of Federal funds for agriculture, nutrition, and forestry.

S. 306

At the request of Mr. MACK, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 306, a bill to provide interim current census data on below poverty, urban, rural, and farm populations.

S. 307

At the request of Mr. MACK, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 307, a bill to require that, in the administration of any benefits program established by or under Federal law which requires the use of data obtained in the most recent decennial census, the 1990 adjusted census data be considered the official data for such census.

S. 308

At the request of Mr. MACK, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 308, a bill to require the use, in Federal formula grant programs, of adjusted census data, and for other purposes.

SENATE JOINT RESOLUTION 11

At the request of Mr. SARBANES, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from Montana [Mr. BURNS], the Senator from Missouri [Mr. DANFORTH], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from North Dakota [Mr. CONRAD], the Senator from South Dakota [Mr. PRESSLER], the Senator from Hawaii [Mr. INOUYE], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 11, joint resolution to designate May 3, 1993, through May 9, 1993, as "Public Service Recognition Week."

SENATE JOINT RESOLUTION 22

At the request of Mr. SPECTER, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from New York [Mr. MOYNIHAN], the Senator from Maine [Mr. MITCHELL], the Senator from Ohio [Mr. METZENBAUM], the Senator from West Virginia [Mr. BYRD], the Senator from Oklahoma [Mr. BOREN], the Senator from Florida [Mr. GRAHAM], the Senator from Nevada [Mr. REID], the Senator from Georgia [Mr. NUNN], the Senator from Massachusetts [Mr. KERRY], the Senator from Iowa [Mr. GRASSLEY], the Senator from Florida [Mr. MACK], the Senator from Mississippi [Mr. COCHRAN], the Senator from Arizona [Mr. MCCAIN], the Senator from New Hampshire [Mr. GREGG], the Senator from Wyoming [Mr. WALLOP], the Senator from South Carolina [Mr. THURMOND], the Senator from Utah [Mr. HATCH], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oregon [Mr. PACKWOOD], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Senate Joint Resolution 22, joint resolution designating March 25, 1993, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE JOINT RESOLUTION 30

At the request of Mr. D'AMATO, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Utah [Mr. HATCH], the Senator from Missouri [Mr. BOND], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Florida [Mr. MACK], the Senator from Maine [Mr. COHEN], the Senator from Vermont [Mr. JEFFORDS], the Senator from Utah [Mr. BENNETT], the Senator from Wyoming [Mr. WALLOP], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Joint Resolution 30, joint resolution to designate the weeks of April 25 through May 2, 1993, and April 10 through 17, 1994, as "Jewish Heritage Week."

SENATE JOINT RESOLUTION 36

At the request of Mr. LEAHY, the names of the Senator from Missouri [Mr. BOND], the Senator from Louisiana [Mr. BREAUX], the Senator from Montana [Mr. BURNS], the Senator from Indiana [Mr. COATS], the Senator from Maine [Mr. COHEN], the Senator from New York [Mr. D'AMATO], the Senator from New Mexico [Mr. DOMENICI], the Senator from North Dakota [Mr. DORGAN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Nebraska [Mr. EXON], the Senator from California [Mrs. FEINSTEIN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. JEFFORDS], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Texas [Mr. KRUEGER], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Michigan [Mr. LEVIN], the Senator from Georgia [Mr. NUNN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Michigan [Mr. RIEGLE], the Senator from Delaware [Mr. ROTH], the Senator from Tennessee [Mr. SASSER], the Senator from Alabama [Mr. SHELBY], the Senator from Illinois [Mr. SIMON], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Wyoming [Mr. WALLOP], the Senator from Virginia [Mr. WARNER], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of Senate Joint Resolution 36, joint resolution to proclaim March 20, 1993, as "National Agriculture Day."

SENATE RESOLUTION 35

At the request of Mr. LAUTENBERG, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Resolution 35, resolution expressing the sense of the Senate concerning systematic rape in the conflict in the former Socialist Federal Republic of Yugoslavia.

SENATE CONCURRENT RESOLUTION 9—URGING THE PRESIDENT TO NEGOTIATE A COMPREHENSIVE NUCLEAR WEAPONS TEST BAN

Mr. MITCHELL (for himself, Mr. HATFIELD, Mr. EXON, Mr. LEAHY, Mr. PELL, Mr. BIDEN, Mr. JEFFORDS, Mr. KENNEDY, Mr. DASCHLE, Mr. LEVIN, Mr. ROCKEFELLER, Mr. FORD, Mr. WELLSTONE, Mr. HARKIN, Mr. DODD, Mr. FEINGOLD, Mr. KOHL, Mr. SARBANES, Mr. CAMPHELL, Mr. AKAKA, Mr. KERRY, and Mr. SASSER) submitted the following concurrent Resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 9

Whereas the United States has sought to limit nuclear testing through the 1963 Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water, the Treaty on the Non-Proliferation of Nuclear Weapons of 1968, the Threshold Test Ban Treaty of 1974, and the Peaceful Nuclear Explosions Treaty of 1976;

Whereas a multilateral, comprehensive ban on nuclear weapons testing would help protect individual health and the environment, and enhance efforts to halt the proliferation of nuclear weapons;

Whereas both France and the Russian Federation have voluntarily suspended their underground nuclear testing programs;

Whereas the United States has joined France and the Russian Federation in suspending nuclear testing to enable a full review of United States underground nuclear testing policy and to promote negotiations to end nuclear testing worldwide; and

Whereas, since the beginning of the nuclear age, United States Presidents have supported and sought to negotiate a comprehensive nuclear weapons test ban: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress urges the President to initiate, at the earliest possible time, multilateral negotiations toward a comprehensive nuclear weapons test ban.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

Mr. MITCHELL. Mr. President, last year, the Congress changed America's nuclear testing policy from one of madness to one of hope.

Congress decided that instead of sustaining an infinite commitment to developing new nuclear weapons, the United States would commit itself to negotiating an end to their development.

We are fortunate to have a new President who shares this view.

President Clinton has voiced his commitment to negotiating a comprehensive nuclear test ban.

I join with my distinguished colleagues, Senator HATFIELD and Senator EXON, in welcoming this far-sighted approach to the problems of nuclear proliferation and conflict.

But the President has an enormous range of issues with which he must deal immediately.

That is why Senators HATFIELD, EXON, and I have joined together to introduce this resolution. The resolution expresses our hope that an end to nuclear testing be given immediate priority because the problem is so urgent and the potential payoff so great.

The purpose of this resolution is to urge the President to give this issue the attention and commitment it deserves.

It has long been U.S. policy to seek a comprehensive test ban, but only limited steps have been taken toward this goal.

Now, Congress has required that the United States nuclear testing program be suspended for 9 months, to match the Russian and French moratoriums on nuclear testing.

Congress has allowed a limited number of nuclear tests to be conducted in order to ensure that all safety improvements are made to nuclear weapons remaining in the U.S. arsenal.

Most significantly, Congress has decided that all nuclear weapons tests will stop by 1996 if no other nation tests.

The specifically stated aim of this law—which was vehemently opposed by President Bush—is to facilitate a comprehensive nuclear weapons test ban.

I had hoped that the passage of the law would result in a changed attitude on the part of the agencies responsible for nuclear weapons and their tests.

As the most recently submitted report on this subject from the Bush administration demonstrates, this is not the case.

I am concerned that many individuals in these agencies remain trapped in old thinking, and still do not accept the redirection of American policy as now embodied in U.S. law.

Thus it may well require more than a stated policy in support of a comprehensive test ban in order to effect change. The President will have to make clear to his officials, new and old, that change has come. President Clinton must be engaged in this issue if the old thinking on nuclear testing is to be replaced with a truly post-cold war vision.

I hope that this resolution will send a positive and supportive message to President Clinton.

Congress shares his view that a comprehensive test ban is critically important and urges him to make it an immediate priority.

The transition from fear to hope is difficult, but finally possible. We must do all we can to achieve it.

Mr. EXON. Mr. President, I am pleased to join the majority leader and Senator HATFIELD in drafting this concurrent resolution urging the President to initiate, at the earliest possible time, negotiations toward a comprehensive nuclear weapons test ban. Last year I joined my two colleagues in authoring landmark legislation establishing a temporary testing moratorium and strict limits on follow-on testing as steps toward achieving a comprehensive test ban by 1996. This resolution is the next important step.

Now that legislation establishing a comprehensive test ban date has been signed into law, it is time for our country to work with the international community to negotiate a true and verifiable ban, an essential step in closing the Pandora's box of nuclear weapons proliferation. Past administrations have not made such negotiations a priority, and, as a result, the world community has questioned our commitment to this goal, a goal which the United States has officially endorsed in a number of treaties.

I applaud the leadership of Majority Leader MITCHELL and Senator HATFIELD and their staffs for their diligent work in seeking to lower the threat of nuclear war today and in the future. Likewise, I wish to thank the many Senators who have signed on as original cosponsors of this legislation for their commitment to this truly historic endeavor.

Mr. President, I yield the floor.

Mr. HATFIELD. Mr. President, 4 months ago, by act of Congress, our Nation's nuclear weapons policy was revamped. All underground nuclear weapons testing has been suspended for 9 months, to be followed by a specific and limited testing program leading ultimately to a total ban on testing by 1996.

Since the nuclear age first emerged, our Nation's highest national security priority has been to avoid nuclear war and to block the proliferation of nuclear weapons. The negotiation of a comprehensive test ban is part of this strategy and many of the world's leaders, including President Clinton, have expressed interest in initiating discussions toward the negotiation of a CTB.

The resolution introduced by the majority leader, Mr. MITCHELL, the chairman of the Subcommittee on Strategic Forces and Nuclear Deterrence, Mr. EXON, and me is intended to be a statement of Congressional interest in early and vigorous efforts to promote a comprehensive test ban. A companion to this resolution is being offered in the House of Representatives by Majority Leader GEPHARDT and Representative KOPETSKI.

The message of this resolution is important and urgent. While our Nation's economic crisis and domestic concerns command great attention, so too should this mater of national security. Four of the five recognized nuclear states have suspended their testing programs. There is growing concern about the environmental damage done by underground nuclear tests. And as old enemies fade away, new crisis emerge because nuclear proliferation has not been contained.

There is no doubt in my mind that the President intends to show great leadership in addressing these issues. I hope that every Senator will join us in sending a message from Congress that we share his priorities for a peaceful world is to rid the nuclear threat.

SENATE CONCURRENT RESOLUTION 10—PROVIDING FOR A CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE

Mr. FORD (for Mr. MITCHELL) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 10

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, February 4, 1993, or Friday, February 5, 1993, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand recessed or adjourned until 12:00 noon, or until such time as may be specified by the Majority Leader, or his designee, in the motion to adjourn or recess, on Tuesday, February 16, 1993, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first; and that when the House of Representatives adjourns at the close of business on Thursday, February 4, 1993, or Friday, February 5, 1993, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand adjourned until 12:00 noon on Tuesday, February 16, 1993, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

SENATE RESOLUTION 64—RELATING TO THE LOWERING OF THE ESTATE TAX EXEMPTION

Mr. LUGAR (for himself, Mr. DOLE, Mr. LOTT, Mr. BOND, Mr. GRASSLEY Mr. SMITH, Mr. PRESSLER, Mr. KEMPTHORNE, Mr. GORTON, Mr. MCCAIN, Mr. HATFIELD, Mr. DANFORTH, Mr. WALLOP, Mr. BURNS, Mr. ROTH, Mr. THURMOND, Mr. COCHRAN, Mr. COATS, Mr. GRAMM, MR. COVERDELL, Mr. SIMPSON, Mr. NICKLES, Mr. D'AMATO, Mr. SHELBY, and Mr. BROWN) submitting the following resolution; which was referred to the Committee on Finance:

S. RES. 64

Whereas the average savings rate in the United States (2.9 percent of income) is lower then that of any other industrialized country;

Whereas government taxation of estates, which is the accumulation of assets throughout one's lifetime, discourages individuals and families from saving and investing;

Whereas estates often include the small businesses and farms of middle- and low-income Americans;

Whereas small businesses and farms have historically created most of the net new jobs in this country and fueled the growth of the economy generally;

Whereas there are nearly two million family-owned farms in the United States with an average value of $252,000;

Whereas assets that compromise the farm values are items such as: land, farm buildings, operator's residence, machinery, automobiles, breeding stock, grain stored on farm, and other stored farm inputs such as seed and fertilizer;

Whereas recently proposed legislation would decrease the threshold for estate tax exemption to $200,000;

Whereas decreasing such threshold would raise effective estate tax rates to a level so high that the heirs of homeowners, farmers and small business owners with assets over $200,000 could be forced to liquidate their assets to pay the taxes incurred by the proposed change in the tax law; and

Whereas liquidation of productive assets to finance tax liabilities would destroy jobs and further harm the fragile economy: Now, therefore, be it

Resolved, That the Senate opposes any attempt to lower the estate tax exemption or raise the effective rate of taxes on estates, or impose additional taxes on estates such as a capital gains tax at death, because such measures contradict the fundamental goal of the United States Government of encouraging long-term private savings through which productive investment promoting economic growth can be realized.

Mr. LUGAR. Mr. President, I have been deeply concerned that some officials in the current administration of President Clinton have been discussing a major tax increase that would reduce Americans' incentives to save, discourage the creation of new jobs, and force the sale of small businesses and farms that represent the work of a lifetime for many Americans. The Clinton administration is considering higher taxes on estates.

Independent small businesses are perhaps the single most important ingredient of American prosperity. They represent the best possibility for an increase of jobs in the current economy. Clearly they represent dreams and toil. Businessmen and farmers work hard, because they wish to succeed and prosper, but the ambition is not theirs alone. Part of the American dream has always been to build up a business, farm, or ranch, that could be kept in the family after one generation passed way, and that those businesses and farms could be passed on to one's children, the fruit of the life's work of a generation.

I have some personal experience in this area. My father died when I was in my early thirties, leaving his 604-acre farm in Marion County, IN, to his family. It became my responsibility to manage the farm, which had unfortunately built up considerable debts during his long illness at the end of his lifetime. It took a number of years, but we were successful, fortunately, in working out the financial problems and repaying the money. The farm is today profitable. We simply could not have worked through those problems if some of the high-tax options now being discussed had been the law of the land back then.

We hear of proposals to reduce the present $600,000 tax exemption for estates. Another proposal is to impose a capital gains tax upon the death of the business or farm owner, on the difference between the farm or business' current value and the late owner's basis or original costs plus improvements minus depreciation.

Let us consider how devastating such a tax increase could be. Farms, for example, tend to be held over many years and decades. The average value of land and buildings on an acre of U.S. farmland was less than $200 in 1970, but about $700 in 1990. Farmers will tell you that farming is not 3½ times more profitable today than it was in 1970. The increase in land prices has not been fueled by rising profits, but by inflation and urban encroachment.

In the Midwest, the contrast is still more dramatic because land is more productive and prices are higher. Very good Corn Belt land might command $2,000 an acre in my State, and if it had been in the same family not for 20 years but for 40 years, it might have appreciated by a factor of 10 over that time. If the farm is 500 acres—about the size of the average U.S. farm today—then a 28 percent capital gains tax on a capital gain of $1,800 per acre means the estate owes the IRS $252,000—not counting estate tax—and that is clearly double taxation.

What will the heirs do? If they are wealthy and particularly attached to farming, they may come up with the cash, but not many people are in this position. Most people will have to sell the farm or a major part of it.

And I would remind my urban colleagues that this dilemma arises as a result of a career in farming that, in the vast majority of cases, has not been either luxurious or lucrative. Farmers have lots of assets but little income. Many small businessmen are in the same situation.

On his death, the farmer or businessman hopes to pass on to his children the land that represents a great deal more than income. As I have said, this is part of the American dream: keeping a farm or business in the family, not selling it to strangers or seeing a lifetime's work disintegrate.

But some people do not believe in this particular part of the American dream. Instead, they believe wealth should be redistributed, and particularly that wealth arising from estates. Fortunately, the majority of Congress has disagreed with this philosophy. Once upon a time, we had a president who also disagreed, so in 1981 we effectively increased the estate tax exemption to $600,000. For good quality Corn Belt land, that still exempts only a 300-acre operation.

An acre of good quality land will net a farmer today about $35 an acre in profit, for a total income from the 300 acres of only $10,500—not really even a middle-class income in most of the country.

Now, we are certain to face a number of tough choices this year. But that does not mean we should blindly accept every tax increase that comes along the pike just because it is alleged to raise revenue. Surely we should also look at its economic effect.

Mr. President, small business is where the jobs are. During the 1980's, Fortune 500 companies cut their total employment by 3.5 million jobs. So where did the eighty's employment boom come from? Small businesses created more than 20 million jobs during that decade.

One of our present economic problems is that small businesses are not creating jobs at their previous healthy clip. The recent recession is partly to blame, of course, as is the reluctance of banks to make loans to businesses.

Given this problem, how much sense does it make to increase estate taxes on small businesses? Make no mistake: Decreasing the estate tax exemption, or taxing capital gains at death, will hit small businesses hard. It will mean an increase in distress sales of businesses by hard-pressed heirs, increasing the supply of commercial real estate on the market. That implies further erosion in real estate values. Does anyone in this Chamber think that is what the country needs?

Moreover, you are very unlikely to add to your payroll if you face the imminent prospect of liquidating all or part of your business. For people who inherit a business, higher estate taxes will mean less hiring.

Finally, there would also be important—and negative—effects on the incentives people have to save and invest. If you know that when you die your children will probably have to sell the business you built up over your lifetime, does that make you more likely to take the risk of starting a new business or enlarging your business? To ask the question is to answer it. Now why do we want to reduce the incentive to start up businesses? Why do some in the administration want to reduce Americans' incentive to save—as these new proposals would certainly do—since one motive for saving is to accumulate funds to buy or start a business?

Mr. President, I offer today a resolution expressing the sense of the Senate that we oppose a reduction in the threshold for estate tax exemption, an increase in the effective rate of taxes on estates—which this year can already be as high as 50 percent—or the levying of capital gains at death. The resolution is nonbinding, but it will put Senators on record in favor of small business job creation, in favor of incentives to save and invest, and in opposition to redistributionist taxes that would be a disaster for farms and small businesses all over America. I offer the resolution on behalf of myself and Senators DOLE, PACKWOOD, LOTT, BOND, GRASSLEY, SMITH, PRESSLER, KEMPTHORNE, GORTON, MCCAIN, HATFIELD, DANFORTH, WALLOP, BURNS, ROTH, and COATS, and urge my other colleagues to cosponsor it as well.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The senator from Texas.

Mr. GRAMM. Mr. President, I ask unanimous consent that I be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. I congratulate our dear colleague from Indiana. I have offered a similar resolution. We know that there was an effort in the House to raise inheritance taxes in the last session of Congress. We know there was additional debate in the Senate.

I am getting a lot of mail from people, I say to my colleague from Indiana, who are very concerned about this. And I think it is very important that the Senate go on record early saying we do not intend to allow estate taxes to be raised putting Americans in the position where virtually every family farm and every family business in America would have to be sold to pay taxes on wealth that has been built up over the years with after-tax income. So I thank my colleague for his leadership.

Mr. GRASSLEY. Mr. President, we just heard the introduction of a resolution on the estate tax exemption by

Senator LUGAR. I want to join him and our Republican leader, Senator DOLE, in offering that resolution, which resolution opposes any reduction in the estate tax exemption or any new tax on capital gains at death.

At the end of the last Congress, I had an opportunity to speak on this subject. I spoke directly to the point of the secret-tax approach of the Democrats in the other body, and how they were pushing the proposal that would devastate rural and small-business America.

This dangerous tax proposal in the last Congress was embodied in a bill with the number H.R. 4848, that was introduced by the majority leader in the other body, Congressman GEPHARDT, and by the Congressman from California, Mr. WAXMAN.

H.R. 4848 of the last Congress, I believe, would have severely reduced the estate tax exemption to a point where it would have been very detrimental to the economy of rural America. It would have reduced that exemption from $600,000 down to $200,000. That means that the estate tax on rural America, particularly the small farms and the small businesses, would then kick in on assets of over $200,000 instead of the $600,000 exemption; so that $400,000 more in assets would have been subject to Federal taxes.

More recently, President Clinton has floated what I consider another bad economic idea, and that is of taxing capital gains at death. Most of this gain is due to inflation, not real growth. So it would have been a tax on phantom income.

The new President and the people in his administration seem to be literally falling all over themselves to raise taxes. They try to couch these taxes in terms of taxing the so-called rich. But history has shown us that when the Democrats talk about taxing the rich, it is always the middle- and lower-income taxpayers that end up getting hit the hardest.

As I argued last year on this very same subject matter, I said: Look at the 1990 tax bill as an example. While the House Democrats were talking of taxing the rich, they were proposing to get rid of indexing, the indexing of the personal income tax, which, of course, is an across-the-board tax increase for middle America.

In addition, there was talk of increasing the gas tax, which was done, which is a regressive tax that hit the poor and middle class the hardest and there is talk this year of raising the gas tax. Of course, reducing the estate tax exemption or taxing capital gains at death falls neatly into the political rhetoric of taxing incomes over $200,000. Of course, we know who will be hit hardest. The people who propose these taxes are going to be taxing family farmers and small business people, the very backbone of our country.

People who are experts on estate taxes advise me that lowering the State tax exemption would hurt farmers more than any other group because of the high proportion of estate contained in land and equipment. As an example, just referring to the average size farming operation in my State, which I know does not sound very large to most people, it probably sounds small to most people, but the average size operation in my State is 340 acres. So just in regard to the land values alone, most farm estates would be devastated if the unified credit were lowered to $200,000 or inflationary capital gains were taxed at death.

I only hope that if or when such new taxes come up for a vote that Members have the sense to defeat what I consider ill-conceived and downright dangerous attempts that are going to bankrupt family farms and small businesses of America. In the meantime, I urge my colleagues to strongly support the resolution before us opposing these taxes because, as a practical matter in doing this, you are talking just strictly about creating jobs because that 340-acre farming operation is an average for my State. With the average value of land of $1,200, you can see it is just about $425,000 that it takes to create just one job, and that is just the land. Then add to that a couple hundred thousand dollars of capital it takes to put together the machinery to operate that.

You can see creating one job is much more expensive than it is in the cities of America, in industrial America, or in service America, service jobs America. You would be doing away with this. Plus, it usually takes two in a family to operate this, husband and wife. Women in this country usually outlive the men. That is probably as true in rural America. Outside of Social Security, most of the retirement is going to be in the return on this land. Every husband who dies wants to make sure that that farm provides some income for that spouse who will be left for another 6 or 7 years on average.

But with this $200,000 exemption, or with this taxing of capital gains at death, you are going to be in the very same situation we were in in 1979 and 1980, when that widow sold that farm to pay the estate tax and had very little left to live on. Besides, it is kind of a tradition if you have a son or daughter who wants to continue that farming operation, let us pass that on to a younger generation.

The average farmer in my State is 56 years of age. Twenty percent of them are going to retire in the next 5 or 6 years. Out of 103,000 farming units in my State, only 3,000 of those, or 3 percent roughly, are under 30 years of age. What are we going to do in America to get young people into agriculture? This problem of this taxing of capital gains on estates at death, or reducing this exemption, is just going to make it that much more difficult for young farmers to get started farming. I hope that all the Members of this body will take a serious look at either one of these proposals, and I hope you will support the Lugar resolution which states how bad the proposals of reducing the exemption are on small businesses and small farmers.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I rise to support the resolution offered by Senator LUGAR which expresses the Senate's opposition to lowering the estate tax exemption. Legislation was introduced last year to lower the exemption from $600,000 to $200,000 in an effort to raise additional revenue. This legislation would have been particularly costly to hard-working, middle-class Americans. While it has not been proposed yet in this session, we fear that there is some support for resurrecting that bill.

Throughout my years in the Congress, I have been a strong supporter of family-owned farms which are so vital to our country's economy. I feel this legislation would have disastrous effects on this crucial segment of our society.

There are nearly 2 million family-owned farms across our country with an average value of $252,000. Remember, these are family-owned farms, many of which have been held for generations. Under the proposed legislation, the average farmer would not be able to pass the farm to his children without incurring an enormous tax bill.

Many of these farm owners will be forced to liquidate their assets to pay the increased taxes. Along with that liquidation would be a loss of legacy, a loss of family tradition, and, economically, a loss of jobs. Good jobs.

It is important to note that farmers are not the only ones who have a stake in the estate tax issue. A study by the Kansas Farm Management Association shows that the value of land rented by farmers averages $404,000 per farm. That means that there are a lot of landlords living in the city who have a sizable interest in the passing of this generation.

The owners of other small businesses will be affected in much the same way as farmers. Lowering the amount of the estate tax exemption could effectively wipe out many of these small businesses with the passing of this generation.

Another big problem this legislation would pose is its effect on the Nation's homeowners.

The median value of single-family homes in this country is $104,000. While some may say that amount is within the new exemption, let me remind you that various areas of the country do not fall in this category.

While median home values in my home State fall within the exemption, what about those in the San Francisco area where the median value of a home is $258,000? Or Orange County in California at $234,000?

Many people in these areas would not even be able to leave the family home to their children without the Government taking a big chunk.

It has been suggested that the administration may impose additional taxes on estates such as a capital gains tax at time of death. This proposal would cause the same, if not more, hardship as lowering the estate tax exemption would.

Lowering the estate tax exemption, or imposing additional taxes on estates, may produce revenues, but as these examples show, it would put additional strain on our struggling economy and place a real hardship on millions of Americans.

With that in mind, Mr. President, I ask my colleagues to support this legislation.

SENATE RESOLUTION 65—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON THE JUDICIARY FOR THE PERIOD MARCH 1, 1993 THROUGH FEBRUARY 28, 1994

Mr. BIDEN, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 65

Resolved,

That, in carrying out its powers, duties and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994 under this resolution shall not exceed $5,397,100.00 of which amount (1) not to exceed $40,000.00 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended) and not to exceed $1,000.00 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946.)

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $5,515,215.00 of which amount (1) not to exceed $40,000.00 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $1,000.00 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1993, and February 28, 1994, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employers paid at an annual rate, the payment of stationery supplies purchased through the Keeper of Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 66—EXPRESSING THE OPPOSITION OF THE SENATE TO THE IMPOSITION OF AN IMPORT FEE ON CRUDE OIL AND REFINED PETROLEUM PRODUCTS

Mr. AKAKA (for himself and Mr. INOUYE) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 66

Whereas an import fee on crude oil or refined petroleum products would have an inflationary effect on the United States economy and would have widespread adverse impacts throughout the United States;

Whereas for each dollar the import fee is increased, the cost of petroleum for United States consumers increases approximately $6,200,000,000;

Whereas an oil import fee could potentially stall our country's economic recovery and harm the ability of United States companies to compete in foreign markets;

Whereas such a fee, even though applied only to imports, would increase the price of all oil consumed in the United States, because the price of domestically produced crude oil and domestically refined products would increase to the same level as imported oil;

Whereas such a fee would have widespread indirect inflationary costs by raising the cost of all consumer goods;

Whereas the additional costs resulting from an oil import fee would be disproportionately greater in areas of the country that rely on imported oil and petroleum products; and

Whereas the adverse inflationary effects of such a fee would far outweigh the marginal increase in Federal revenues: Now, therefore, be it

Resolved, That it is the sense of the Senate that neither the President nor the Congress should impose any import fee on the importation of crude oil or refined petroleum products.

Mr. AKAKA. Mr. President, today I am introducing legislation which expresses the opposition of the Senate to the imposition of an import fee on crude oil and refined petroleum products.

I remind my colleagues that only a few months ago Congress completed action on the Energy Policy Act of 1992. This legislation was the product of a 2-year effort to thoughtfully examine and comprehensively restructure our Nation's energy policy. Without question, it is one of the most significant achievements of the 102d Congress.

The ink on the energy bill has barely dried. Yet a drumbeat has begun to rise from this Chamber and echo through the halls of Congress. It is an old and familiar sound, and its message has been rejected by Congress in the past.

The drumbeat I speak of is the demands by my colleagues from oil producing states to impose an import fee on crude oil.

The purpose of my resolution is to allow the Senate to record its opposition to proposals to establish a fee on imported oil. Such a fee would be bad energy policy as well as bad tax policy. Imposing an oil import fee would be inflationary, regressive, and would drain purchasing power from the economy at a time when it can least afford it.

In their zeal to raise tax revenues and lift the domestic oil exploration and refining industry out of the doldrums, the proponents of an oil import fee have advanced a proposal that is penny-wise and pound foolish. The last thing our country needs is an oil import fee to further burden our faltering economy.

SENATE RESOLUTION 67—TO REMOVE "SELECT" FROM THE TITLE OF THE SELECT COMMITTEE ON INDIAN AFFAIRS AND TO DESIGNATE ROOM 485 IN THE RICHARD BREVARD RUSSELL SENATE OFFICE BUILDING AS THE "ROOM OF THE FIRST AMERICANS"

Mr. INOUYE (for himself and Mr. MCCAIN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 67

Resolved,

SECTION 1. COMMITTEE NAME.

The Select Committee on Indian Affairs is hereby redesignated as the "Committee on Indian Affairs".

SEC. 2. ROOM OF THE FIRST AMERICANS.

The room in the Richard Brevard Russell Senate Office Building currently designated as room 485 is hereby redesignated as the "Room of the First Americans".

Mr. INOUYE. Mr. President, I rise today, to introduce a measure that some might suggest is long overdue, but there are reasons that we have not taken this action sooner.

The Select Committee on Indian Affairs was made a permanent committee of the Senate on June 6, 1984, but up until this time, we have retained the word "select" in our title, because we wanted a reminder that this committee, like the people it is intended to serve, was once considered a small and insignificant committee in the Senate.

When I joined the committee, there were only five members. It was a committee on which no one wanted to serve. Today, the Indian Affairs Committee is a committee of choice. We have 18 members and are thus of comparable size to many of the so-called "A" committees.

Today, the conditions in Indian country are no longer perceived to be hopeless—today, the problems of this Nation's first Americans are finally getting the attention that they have so long deserved.

And so today, in order that all Americans may know that the Indian Affairs Committee is a permanent committee of the Senate, I rise to introduce this resolution proposing to remove the word "select" from the title of the committee. I am joined in this effort by my esteemed colleague and vice-chairman of the Indian Affairs Committee, Senator JOHN MCCAIN.

This resolution would also provide for the naming of the hearing room that is assigned to the Indian Affairs Committee. When this resolution is approved by the Senate, as I hope it will soon be, the room in the Richard Brevard Russell Senate Office Building currently designated as room 485 will be redesignated as the "Room of the First Americans".

Mr. President, I will be encouraging my colleagues on the Committee on Rules and Administration to expedite consideration of this resolution, and I will in turn, be calling upon my colleagues in the Senate to approve this resolution at the earliest possible time.

Mr. President, I believe that it is time that we send a message to Indian country—that their concerns are important to this body and to our country—and that the Committee on Indian Affairs is our commitment to a sustained effort to improve the lives of this Nation's first Americans.

AMENDMENTS SUBMITTED

FAMILY AND MEDICAL LEAVE ACT OF 1993

DOLE AMENDMENT NO. 15

Mr. DOLE proposed an amendment to the bill (S. 5) to grant family and temporary medial leave under certain circumstances, as follows:

On page 15, between lines 4 and 5, insert the following:

(g) LIMITATION ON LEAVE ABOVE CALCULATED COST.—

(1) LIMITATION.—Notwithstanding any other provision of this Act, no employer shall be required to provide a greater period of leave than the period calculated under paragraph (2)(B) to any eligible employee of the employer during the applicable calendar year.

(2) CALCULATION.— Each employer shall calculate, for the 1993 calendar year and for each subsequent calendar year—

(A) the average cost to the employer of providing leave in accordance with this title over such calendar year to an eligible employee who takes such leave; and

(B) based on such average cost, the period of such leave that the employer can provide for $7.30 per eligible employee taking such leave during such calendar year.

(3) ADJUSTMENT.—In the case of any calendar year beginning after 1993, the dollar amount contained in paragraph (2)(B) shall be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code of 1986 for the calendar year, by substituting "calendar year 1992" for "calendar year 1989" in subparagraph (B) thereof.

On page 40, between lines 21 and 22, insert the following:

"(g)(1) Notwithstanding any other provision of this subchapter, no employing agency shall be required to provide a greater period of leave than the period calculated under paragraph (2)(B) to any employee of the employing agency during the applicable calendar year.

"(2) Each employing agency shall calculate, for the 1993 calendar year and for each subsequent calendar year—

"(A) the average cost to the employing agency of providing leave in accordance with this subchapter over such calendar year to an employee who takes such leave; and

"(B) based on such average cost, the period of such leave that the employing agency can provide for $7.30 per employee taking such leave during such calendar year.

"(3) In the case of any calendar year beginning after 1993, the dollar amount contained in paragraph (2)(B) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code of 1986 for the calendar year, by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof.

DOLE (AND WALLOP) AMENDMENT NO. 16

Mr. DOLE (for himself and Mr. WALLOP) proposes an amendment to the bill S. 5, supra as follows:

On page 53, strike line 1 and insert the following:

SEC. 405. LIMITATION.

(a) IN GENERAL.—Notwithstanding any other provision of this Act or any amendment made by this Act, no employer shall be required to comply with any requirement of this Act in any period for which the employer fails to receive—

(1) Federal financial assistance or a reduction in Federal tax obligations that is sufficient to pay for the cost to the employer of compliance with all applicable requirements of this Act for such period; or

(2) a certification from the appropriate entity of the Federal Government that compliance with such requirements will not increase the expenses of the employer during such period.

(b) DEFINITION.—As used in this section, the term "employer" means—

(1) an employer, as defined in section 101(4);

(2) an employing agency, within the meaning of subchapter V of chapter 63 of title 5, United States Code, as added by section 201;

(3) an employing office, as defined in section 501(h)(1); and

(4) an employing authority, within the meaning of section 502.

DOLE (AND OTHERS) AMENDMENT NO. 17

Mr. DOLE (for himself, Mr. THURMOND, Mr. COATS, Mr. GRAMM, Mr. SMITH, Mr. FAIRCLOTH, Mr. KEMPTHORNE, Mr. WARNER, Mr. LOTT, Mr. MCCAIN, Mr. HELMS, Mr. NICKLES, Mr. MURKOWSKI, Mr. WALLOP, Mr. COVERDELL, Mr. SIMPSON, Mr. GREGG, Mr. MACK, and Mr. CRAIG) proposed an amendment to the bill S. 5, supra, as follows:

SECTION 1. REVIEW OF DEPARTMENT OF DEFENSE POLICY CONCERNING SERVICE OF HOMOSEXUALS IN THE ARMED FORCES.

A thorough review of all Executive orders, Department of Defense directives, and regulations of the military departments concerning the appointment, enlistment, and induction, and the retention, of homosexuals in the Armed Forces of the United States, shall be conducted by the Congress before July 15, 1993.

All Executive orders, Department of Defense directives, and regulations of the military departments concerning the appointment, enlistment, and induction, and the retention, of homosexuals in the Armed Forces of the United States, as in effect on January 1, 1993, shall remain in effect until the completion of this review with respect to the Army, Navy, Air Force, and Marine Corps and unless changed by law.

Any proposed change in this policy shall be submitted by the President in the form of a bill and shall be introduced in each House of Congress by the majority leader in each House. The bill introduced in the Senate, placed on the calendar, be amendable with germane or relevant amendments, and shall be voted on no later than the close of business three days of session after its introduction.

The bill introduced in the House shall also be voted on no later than the close of business three days after its introduction. If both houses agree to their separate bills, upon receipt of the House bill, if it is identical, the Senate shall be deemed to have passed the House bill in lieu of its own bill and the same shall be transmitted forthwith to the President.

Any conference report shall be nondebatable.

MITCHELL AMENDMENT NO. 18

Mr. MITCHELL proposed an amendment to amendment No. 17 proposed by Mr. DOLE to the bill S. 5 supra, as follows:

Strike all after section 1 and insert in lieu thereof the following:

It is the Sense of Congress that:

(a) The Secretary of Defense shall conduct a comprehensive review of current Departmental policy with respect to the service of homosexuals in the Armed Forces:

(b) Such review shall include the basis for the current policy of mandatory separation; the rights of all service men and women, and the effects of any change in such policy on morale, discipline, and military effectiveness;

(c) The Secretary shall report the results of such review and consultations and his recommendations to the President and to the Congress no later than July 15, 1993;

(d) The Senate Committee on Armed Services shall conduct—

(i) comprehensive hearings on the current military policy with respect to the service of homosexuals in the military services; and

(ii) shall conduct oversight hearings on the Secretary's recommendations as such are reported.

DOLE (AND OTHERS) AMENDMENT NO. 19

Mr. DOLE (for himself, Mr. THURMOND, Mr. COATS, Mr. GRAMM, Mr. SMITH, Mr. FAIRCLOTH, Mr. KEMPTHORNE, Mr. WARNER, Mr. LOTT, Mr. MCCAIN, Mr. HELMS, Mr. NICKLES, Mr. MURKOWSKI, Mr. WALLOP, Mr. COVERDELL, Mr. SIMPSON, Mr. GREGG, Mr. MACK, and Mr. CRAIG) proposed an amendment to amendment No. 17, as amended, proposed by Mr. DOLE (and others) to the bill S. 5, supra, as follows:

SECTION 1. REVIEW OF DEPARTMENT OF DEFENSE POLICY CONCERNING SERVICE OF HOMOSEXUALS IN THE ARMED FORCES.

A thorough review of all Executive orders, Department of Defense directives, and regulations of the military departments concerning the appointment, enlistment, and induction, and the retention, of homosexuals in the Armed Forces of the United States, shall be conducted by the Congress before July 15, 1993.

All Executive orders, Department of Defense directives, and regulations of the military departments concerning the appointment, enlistment, and induction, and the retention, of homosexuals in the Armed Forces of the United States, as in effect on January 1, 1993, shall remain in effect until the completion of this review with respect to the Army, Navy, Air Force, and Marine Corps and unless changed by law.

Any proposed change in this policy shall be submitted by the President in the form of a bill and shall be introduced in each House of Congress by the majority leader in each House. The bill introduced in the Senate, placed on the calendar, be amendable with germane or relevant amendments, and shall be voted on no later than the close of business three days of session after its introduction.

The bill introduced in the House shall also be voted on no later than the close of business three days after its introduction. If both houses agree to their separate bills, upon receipt of this House bill, if it is identical, the Senate shall be deemed to have passed the House bill in lieu of its own bill and the same shall be transmitted forthwith to the President.

Any conference report shall be nondebatable.

PRESSLER (AND DODD) AMENDMENT NO. 20

Mr. DODD (for Mr. PRESSLER and Mr. DODD) proposed an amendment to the bill S. 5, supra, as follows:

Strike section 302(1) of the bill and insert the following:

(1) conduct a comprehensive study of—

(A) existing and proposed mandatory and voluntary policies relating to family and temporary medical leave, including policies provided by employers not covered under this Act;

(B) the potential costs, benefits, and impact on productivity, job creation and business growth of such policies on employers and employees;

(C) possible differences in costs, benefits, and impact on productivity, job creation and business growth of such policies on employers based on business type and size;

(D) the impact of family and medical leave policies on the availability of employee benefits provided by employers, including employers not covered under this Act;

(E) alternate and equivalent State enforcement of title I with respect to employees described in section 108(a);

(F) methods used by employers to reduce administrative costs of implementing family and medical leave policies;

(G) the ability of the employers to recover, under section 104(c)(2), the premiums described in such section; and

(H) the impact on employers and employees of policies that provide temporary wage replacement during periods of family and medical leave.

In section 303(a)(1) of the bill, strike "and 2" and insert "and 4".

In section 303(a) of the bill, strike paragraph (1)(C)(ii) and all that follows through paragraph (2) and insert the following:

(ii) EXPERTISE.—Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor management issues. Such members shall include representatives of employers, including employers from large businesses and from small businesses.

(2) EX OFFICIO MEMBERS.—The Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Commerce, and the Administrator of the Small Business Administration shall serve on the Commission as nonvoting ex officio members.

DODD AMENDMENT NO. 21

Mr. DODD proposed an amendment to the bill S. 5, supra; as follows:

In section 101 of the bill, add at the end the following:

(13) SPOUSE.—The term "spouse" means a husband or wife, as the case may be.

In section 102(b)(1) of the bill, in the first sentence, strike "paragraph (1)" and insert "subsection (a)(1)".

In section 102(b)(1) of the bill, in the second sentence, strike "subparagraph (B)" and insert "paragraph (2)".

In section 102(b)(1) of the bill, in the second sentence, strike "paragraph (1)" and insert "subsection (a)(1)".

In section 102(b)(2) of the bill, strike "paragraph (1)" and insert "subsection (a)(1)".

In section 103(b)(4)(B) of the bill, strike "and".

In section 103(b)(5) of the bill, insert ", or leave on a reduced leave schedule," after "leave".

In section 103(b)(5) of the bill, strike the period and insert a semicolon.

In section 103(b) of the bill, add at the end the following:

(6) in the case of certification for intermittent leave, or leave on a reduced leave schedule, under section 102(a)(1)(D), a statement of the medical necessity for the intermittent leave or leave on a reduced leave schedule, and the expected duration of the intermittent leave or reduced leave schedule; and

(7) in the case of certification for intermittent leave, or leave on a reduced leave schedule, under section 102(a)(1)(C), a statement that the employee's intermittent leave or leave on a reduced leave schedule is necessary for the care of the son, daughter, parent, or spouse who has a serious health condition, or will assist in their recovery, and the expected duration and schedule of the intermittent leave or reduced leave schedule.

In section 104(c)(3)(C)(i) of the bill, strike "(A)(i)" and insert "(A)(ii)".

In section 104(c)(3)(C)(ii) of the bill, strike "(A)(ii)" and insert "(A)(i)".

In section 108(c) of the bill, in the heading, insert "OR LEAVE ON A REDUCED SCHEDULE" before "FOR INSTRUCTIONAL".

In section 6383(b)(5) of title 5, United States Code, as added by section 201 of the bill, insert ", or leave on a reduced leave schedule," after "leave".

In section 6387 of title 5, United States Code, as added by section 201 of the bill, strike "under" and insert "to carry out".

In section 303(a)(1)(C)(i) of the bill, strike "Members" and insert "members".

In section 502, in the heading, strike "CONGRESSIONAL EMPLOYEES" and insert "HOUSE EMPLOYEES".

In section 502(c) of the bill, strike "the resolution in".

BROWN (AND OTHERS) AMENDMENT NO. 22

Mr. BROWN (for himself and Mrs. KASSEBAUM) proposed an amendment to the bill S. 5, supra; as follows:

On page 10, strike line 22 and all that follows through page 11, line 24, and insert the following:

(3) INTERMITTENT LEAVE.—

(A) IN GENERAL.—Leave under subparagraph (A) or (B) of paragraph (1) shall not be taken by an employee intermittently unless the employee and the employer of the employee agree otherwise. Subject to subparagraph (B), subsection (e), and section 103(b)(5), leave under subparagraph (C) or (D) of paragraph (1) may be taken intermittently when medically necessary.

(B) ALTERNATIVE POSITION.—If an employee requests intermittent leave under subparagraph (C) or (D) of paragraph (1) that is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that—

(i) has equivalent pay and benefits; and

(ii) better accommodates recurring periods of leave than the regular employment position of the employee.

(b) REDUCED LEAVE.—On agreement between the employer and the employee, leave under subsection (a) may be taken on a reduced leave schedule. Such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Wednesday, March 3, and Thursday, March 4, 1993, at 9:30 a.m. on each day, to hold hearings on legislation pertaining to the financing of congressional election campaigns. The committee will receive testimony on S. 3, S. 7, S. 62, S. 87, S. 94, and any other bills referred by the time of the hearings.

Senators, Representatives, individuals, and organizations wishing to testify or submit a statement for the hearing record are requested to contact Mr. Jack Sousa, chief counsel of the Rules Committee, at 202-224-5648.

For further information regarding these hearings, please contact Mr. Sousa.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, February 4, 1993, from 11 a.m. to 12 noon and from 1:15 p.m. to 2:45 p.m., to hold hearings on Senate Committee funding resolutions. The committee will receive testimony from the chairmen and ranking members of the following committees: Judiciary; Finance; Appropriations; Indian Affairs; Labor and Human Resources; Budget; Small Business; Commerce, Science, and Transportation; Environment and Public Works; and Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, February 4, 1993, at 2 p.m., in open session, to receive testimony on "Economic Reform in the Former Soviet Union: The Current Situation and United States Policy Options."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ECONOMIC GROWTH AND REGULATORY PAPERWORK REDUCTION ACT

• Mr. INOUYE. Mr. President, I wish to commend Senator SHELBY for his introduction of S. 265, the Economic Growth and Regulatory Paperwork Reduction Act. I am pleased to be a cosponsor of this measure.

The provisions contained in S. 265, among other things, would streamline banking operations by eliminating unnecessary paperwork, simplifying banking procedures, and reducing regulatory impediments to lending without undermining the safety and soundness of our Nation's financial institutions. In addition, the measure would improve credit availability to small businesses, and residential, agricultural, and low- to moderate-income communities without adding to the budget deficit.

Our banking regulations have become too costly and burdensome to the Federal Government, to our Nation's financial institutions and to consumers. Credit availability has been hampered as a result of continued paperwork compliance, and other regulatory requirements. While banking regulations are necessary, they should be carried out in a manner that is most efficient and consistent with public policy objectives.

In the interest of our Nation's economy, it is time to forge ahead, and eliminate the unnecessary regulatory redtape. Our financial institutions must be able to serve the public in a manner that enhances public confidence and promotes economic growth. I urge my colleagues to support S. 265, the Economic Growth and Regulatory Paperwork Reduction Act.•

TRIBUTE TO COLUMBIA

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to Columbia in Adair County.

Columbia is a small town in the rolling hills of central Kentucky, located approximately 95 miles southeast of Louisville. Despite its size and location, Columbia is making great strides toward the future.

In recent years, Columbia has begun to renovate many of its historic buildings. This past summer, a newly renovated theater opened to be used for movies and community events. A new bypass is being planned to help alleviate the traffic problems in downtown Columbia. The town is also renowned for its expansive historic courthouse.

Though residents do not consider it a college town, Columbia is home to Lindsey Wilson College. This Methodist college helps provide employment for many in the community and adds to the charm of this small southern town.

I applaud Columbia's efforts to maintain its historic charm, but at the same time its move forward, making it one of Kentucky's finest towns.

Mr. President, I ask that this tribute and a recent article from Louisville's Courier-Journal be submitted in today's CONGRESSIONAL RECORD.

COLUMBIA

(By Kirsten Haukebo)

Downtown in this farming community, there are shops, banks, pool halls, a courthouse, a burger joint, a tattoo parlor and soon, a chic little cafe serving cappuccino.

That's right. The frothy specialty coffee more often associated with European sidewalk cafes and urban sophisticates is going to hit Columbia, home of the Bell Pepper Festival.

There's no telling how the drink will go over with the locals—the cafe is due to open next spring—but it's just one of several signs that Columbia is sprinting into the '90s.

Other clues:

The renovation of a handful of buildings on the square in the past year. Some businesses have uncovered treasures in the process. Reed Brothers Insurance found an irreplaceable carved American chestnut ceiling hidden behind ugly tiles.

Plans for a long-awaited bypass that will ease the chaotic traffic around the square.

The arrival of an innovative chicken processing plant that sells expensive French-bred, free-range chickens. The "yuppie chickens," as Columbia real estate agent Emily Sargent calls them, are said to be tastier and lower in fat.

The opening in July of the Columbian, a plush, newly renovated movie theater. The large-screen cinema shows first-run movies and has a stage for community events. A new theater group plans to use the property.

That's a lot of activity in a town where the opening of a McDonald's restaurant is a major event.

Actually, a McDonald's did come to town recently, a fact that Mayor Pam Hoots and others like to trumpet. As theater manager Ben Burris, 22, explains, "It's great to be able to go to McDonald's and see a movie in the same town. For years, we were doing that in Campbellsville."

But the man who renovated the movie theater, Adair County native Ben Arnold, has other designs on Adair County's diet. His cafe, planned in a vacant storefront across the alley from the theater, will serve healthful food, he said.

Arnold, a scientist who is president of Image Analysis Inc. of Irvine, Calif., bemoans the eating habits of his hometown. He notes that Adair County has unusually high rates of heart disease, even for Kentucky.

"There is a group of people here that have bacon and eggs for breakfast, a hamburger for lunch and a steak for dinner. They will surely die early of heart disease," Arnold says.

His cafe—which he admits will be more of a mission than a profit-making venture—will be named Cafe Columbio, after his favorite sidewalk cafe in Paris.

Arnold, 47, grew up on a farm and attended a one-room school. He went on to Centre College, earned graduate degrees from Harvard and Yale and developed several products used in the medical field.

Arnold lives part-time in Adair County and is planning to move his small, high-tech medical-equipment firm to Columbia over the Christmas holiday.

"It's really kind of wonderful to get on a country road and drive without having any traffic and having clean air and clean water. Wading up the creek has become a bigger value to me than it was 30 years ago," Arnold said.

About 10 years ago, Arnold noticed that downtown Columbia, like so many other town centers, was starting to lose its charm as Wal-Mart and other discount stores clustered on its outskirts.

The old movie theater had a special place in Arnold's heart. He saw his first movie, a Western, there. And Arnold found a willing and capable manager in Burris, who had once leased the theater at the age of 16 and tried valiantly to get it back on its feet. (Like most 16-year-olds, Burris simply didn't have the necessary capital.)

When Arnold mentioned he'd also like to open a cafe and serve cappuccino, Burris went to Louisville to try the drink. He reports that it was pretty good.

Burris is no country bumpkin, but he has been cast in that role before. Last July, as a delegate to the Democratic National Convention in New York, Burris was adopted by a radio station looking for a delegate who'd never been to the city before. The station flew him around in a helicopter and quizzed him on such topics as whether his hometown has cable television.

It does, but that's not to say there aren't some things about Columbia that New Yorkers would find quaint. The Bank of Columbia, for example, closes at 2 p.m. Columbia's seven police officers spend the better part of their time on such tasks as community crime-awareness education, escorting business people to banks for after-hours deposits and unlocking car doors after motorists have left the keys inside.

The morning after Halloween this year, Bank of Columbia President Wanda Hill discovered that someone had thrown eggs at her house. She called the police. When Officer Justin Claywell arrived, "we just got out a bucket and scrubbed and got it all off before you know it," Hill said.

Said Claywell: "We don't want to go out there with this big macho attitude. We want people to know we're there to help them, no matter how trivial."

People in Columbia wave at each other with such frequency that even the locals joke about it.

"I'll have people say to me, 'I saw you going down the street and you didn't wave,'" said insurance agent Dan Antle. "A lot of people around here have one hand on the steering wheel and keep the other one up."

Most visitors to Columbia are struck by its distinctive, historic courthouse, standing alone in the middle of the town square.

"When I'm out in the state and I say I'm from Columbia, they'll say, 'That town with the great big courthouse.'

Another jewel from Columbia's past is on display at a museum in Los Angeles. The Wells Fargo Bank and Museum told Alta Garnett that her father's stagecoach was the best-preserved specimen they'd ever seen, Garnett said.

The stagecoach to Campbellsville was a necessity for turn-of-the-century Columbia, which has never had rail service. In 1973, the Cumberland Parkway provided the first fast and easy route in and out of town.

And most of the young people head out, looking for greater job opportunities.

"I can't pick off on my hand five people who stayed here after graduation. All of my friends left. After graduation, it was 'whoosh,'" said Burris, the theater manager.

Lindsey Wilson College accounts for some of the incoming traffic. Many students are commuters from nearby towns. The private college, affiliated with the United Methodist Church, is in its sixth year as a four-year institution. It was founded in 1903 as a training school to prepare people from south-central Kentucky for Vanderbilt University in Nashville, Tenn.

The college in Columbia was named after the stepson and nephew of an early financial backer, Catherine Wilson of Louisville.

In recent years, Lindsey Wilson has become well known for its ace soccer team, for which it draws student athletes from around the world.

But while Columbians appreciate the payroll and other benefits of the college, they don't think of themselves as living in a college town.

"Lindsey is there; Adair County is there. We just sort of co-exist. It's not like a real college town," said Donna Shirley, a teacher at Col. William Casey Elementary School.

"In a way that might be an asset. We're allowed just to stay a small town. That's what they remember us by," Antle said.

The courthouse is formidable enough to serve as a sound shield during concerts at the annual Bell Pepper Festival—on one side of the square a country band plays; on the other; a rock group. The location of the courthouse has its drawbacks, though. Heavy traffic whizzes around it all day. Whether you can reach the building on foot depends on your skill at dodging cars and trucks.

That traffic will ease up, however, with the construction in 1995 or '96 of the bypass, something trucking companies, among others, lobbied for. ("You should see those trucks go around. Sometimes they nearly tear the courthouse down," said Sargent, the real-estate agent.)

For many years, the courthouse had on file a warrant for the arrests of members of the Jesse James gang. The notorious gang was wanted for the robbery and killing of a clerk at the Bank of Columbia in 1872. The original warrant disappeared during the major courthouse cleaning in 1975, but copies still exist.

It's uncertain if members of the James gang actually committed the crimes, because no one ever was prosecuted. But details of the crimes led many to believe the gang was to blame. A couple of men arrived in town a few days before the heist, posing as cattle buyers—a common tactic in James gang robberies in Kentucky. The robbers piled the money (probably a couple of hundred dollars, but accounts vary) into a wheat sack, another trademark.

Also, two Columbians claimed that Frank James, Jesse's brother, later admitted shooting the clerk, R. A. C. Martin, whose portrait still hangs on the bank wall.

A brighter spot in the town's history is the fact that it was the girlhood home of Mark Twain's mother, Jane Lampton.

The large brick house where she grow up is being renovated by a couple who moved to Columbia this year from South Carolina. The 1812 house had been empty for five years before David and Eva Rigney bought it.

There were gaping holes in the walls.

Population (1990): Columbia, 3,845; Adair County, 15,360.

Per capita income (1989): $10,981, or $2,892 less than the state average.

Jobs (1990): Manufacturing, 1,076; wholesale and retail trade, 638; services, 840; state/local goverment, 602; construction, 94.

Big employers: Oshkosh B'Gosh (clothing), 718 employees; Lindsey Wilson College, 161; Imo Industries (hydraulic pumps), 90.

Education: Adair County public schools, 2,541 students; Lindey Wilson College, 1,091.

Media: Newspapers: The Adair Progress, weekly; The Farmer's Pride, weekly, Radio; WAIN-AM/FM (country).

Transportation: Cumberland Parkway and Ky. 80 and 55 are the major roads serving Columbia. Eleven truck companies provide service. Air: Columbia/Adair County airport, one paved runway. Nearest commercial air service is Standford Field in Louisville, 97 miles northwest of Columbia. Rail: Nearest rail service is Glasgow, 37 miles west of Columbia.

Topography: Farmland, gently rolling hills with large, flat ridgetops.

FAMOUS FACTS AND FIGURES

No one knows for certain how Columbia got its name, but some historians say it was named in honor of Christopher Columbus. The town was founded around 1800 on Russell Creek, a tributary of the Green River.

Adair County was the adopted home of Arkansas native Janice Holt Giles, who wrote "The Kentuckians" and other historical novels of the American frontier. She is buried in Caldwell Chapel Cemetary near her Adair County home.

Ed Diddle, longtime coach of Western Kentucky University's men's basketball team, was born in Adair County. As coach of the Hilltoppers from 1922 to 1964, he compiled a record of 759 victories and 302 defeats. Diddle was a colorful character who was known for waving a red towel during games, a practice fans continued after his death.•

WAR ZONES IN THE PLAYGROUNDS

• Mr. SIMON. Mr. President, last week National Public Radio reported about schoolchildren in San Jose participating in "duck and play dead drills" reminiscent of the "duck and cover nuclear attack drills" from the 1950's. The new enemy has infiltrated our communities and our school playgrounds. Gangs, gang warfare, drug dealers, and violent crime have become part of the landscape.

Crime drills are becoming as routine as fire drills and earthquake drills in California. In the face of violence, students are given warnings and are instructed to hit the ground; teachers are instructed to lock their classrooms.

Students are exposed to needles, drug sales, arrests, gun fights, gangs, as well as domestic violence. Educators feel safety programs are necessary to help children cope with daily life. San Jose's police department conducts safety programs and counsels children and teachers about gangs and crime and teaches them basic survival skills.

Several principals have had to "strike deals" with gangs offering them use of the school on weekends and cleaning up after them in exchange for their not vandalizing the school and declaring the school a "safe zone" free from gang activity.

Many of our communities have become war zones and our children victims of the trauma that accompanies war.

Is this really what we want our children learning in school? Violence has reached epidemic proportions in communities across the country. It is time we addressed it as an epidemic and bring together the resources and creativity of both the public health and the law enforcement community.

Mr. President, I ask that the transcript of the NPR report be printed in full in the RECORD.

The transcript follows:

SAN JOSE SCHOOLS PREPARE KIDS FOR VIOLENT CRIME

City schools everywhere do what they can to protect themselves from violent crime that spills over from their neighborhoods, but if you want a sign of what has happened consider this—'duck and play dead drills' are replacing the old 'duck and cover nuclear attack drills' from the 1950s. In San Jose, California, some schools actually conduct these drills so that students and teachers can practice what to do in case of a shoot-out.

NPR's Isabel Alegria reports.

Isabel Alegria, Reporter: Clyde Arbuckle [sp] Elementary School is located right in the middle of an area of San Jose that has long been plagued by gang warfare, drug dealers and violent crime. Today, Lou Henry [sp], principal of Clyde Arbuckle, stands in the school playground which is bordered on one side by a field, and on the other by a ramshackle apartment complex. He points at the apartments.

Lou Henry, Principal, Clyde Arbuckle Elementary: The first balcony there at the end of the apartment, that's where the shooting took place.

Alegria: Lou Henry is recalling the day a few years ago when he faced a school principal's worst nightmare. The gunman didn't hit anyone and was quickly subdued by police, but the incident left students, parents and staff badly shaken.

Much more common than this incident is a police chase across school grounds, says Henry, or when he has to confront a stranger on the campus.

Mr. Henry: And I have to knock on wood. I yet have to have a situation where I haven't been able to communicate with someone, and there have been maybe a couple of instances where someone was really pretty loaded on crack or something like that, and that case, I still was able to talk to him, and if I don't show up back in this office in a certain amount of time, my staff calls 911 or call the police. They know it's something that—I mean, I'd be able to handle.

Alegria: Henry says if anyone is seen on or near campus with a gun, five bells go off and children are instructed to hit the ground and teachers to lock their classrooms. Several times a year, students and teachers practice the procedures. Crime drills have become as routine as the fire and earthquake drills required in California schools.

Educators say children need safety programs to help them cope with daily life. At Clyde Arbuckle, a class of fifth-graders responds in unison when asked if people sell drugs in their neighborhood. [Interviewing class] How do you know?

1st Fifth Grader: You can find——

Alegria: The kids say they find needles, witness drug sales, arrests and even gun fights. Domestic violence is frequently mentioned. Many live alongside gangs or experience the violence firsthand.

1st Student: I saw a blue gang. They were fighting with a red gang, and a kid—he hit a man with a bat.

2nd Student: My dad was like real drunk, and then like he pulled out my—his gun and pointed it at my head and he said, 'If you want to live to be ten?' So, I said, 'yeah,' so he put it away, and that's how I got really scared of my dad.

Alegria: But even with training and drills, when actually faced with violence, the children may forget what the school has taught them. If you heard shots on the playground, the kids were asked, what would you do?

3rd Student: Run to the nearest classroom.

Alegria: [interviewing students] Okay. Anybody else?

4th Student: Run to a teacher and tell 'em that people are shooting guns outside, and go tell a teacher, and the teacher could go call the cops.

Alegria: [interviewing] Okay.

5th Student: If I hear a gun shooting, um, at the school, I like—if I can't find my brother, I would just drop to the ground—just lie down like that—like that.

Alegria: About a third of San Jose's 73 elementary schools have safety programs and have invited police to come in and counsel the children as part of a program called "Project Crackdown." Some schools use bells and hand signals to warn children of danger. Edenvale [sp] Elementary School principal Merill Smith [sp] says to keep violent incidents from happening at his school, a deal was struck with gang members many years ago that declared the school a safe zone which would be kept clean of gang markings known as "tags."

Merill Smith, Principal, Edenvale Elementary: In exchange for that, it became the responsibility of the principal to make sure that if somebody came into the community and tagged the school, that those tags were gotten rid of immediately. Secondly, we made an agreement that, during the weekend, we wouldn't but the groups about using the school, drinking beer, and that we would clean up after them on Monday morning in exchange for not vandalizing the school.

Alegria: Smith says the in-school safety program involves parents who have in turn organized to make their South San Jose neighborhood a safer place to raise their children.

Alex Bedregon [sp] is a San Jose police officer who conducts seminars about gangs and crime for teachers and students. He says the programs at Arbuckle and Edenvale may seem extreme to outsiders, but he considers them long overdue in areas plagued by gangs and crime.

Alex Bedregon, San Jose Police Officer: If, you know, there's that kind of activity in the neighborhood, then we have an obligation as adults in the community to make sure that our children are safe, and you know, what may seem inappropriate or overreaction in one community is really survival perhaps in another community.

Alegria: In San Francisco, I'm Isabel Alegria.•

CONCERNING SANTIAGO MURRAY

• Mr. REID. Mr. President, I would like the Senate to recognize the efforts in Nicaragua of Mr. Santiago Murray, a representative of the Organization of American States [OAS]. Mr. Murray's courage and humanity have contributed a great deal to the restoration of peace in Nicaragua. As the General Coordinator of the OAS International Commission for Support and Verification [CIAV], he has worked tirelessly to demobilize and resettle former resistance fighters and their families into society. He is a man of peace laboring to heal the wounds of war.

Mr. Murray has helped to disarm 22,500 members of the Nicaraguan resistance, and to repatriate 18,000 people from Honduras to Nicaragua. Former resistance fighters have been fed and treated medically, and at the end of hostilities, 238 distribution centers were established to feed over 100,000 people for 12 months. Families have been provided with construction materials and tools for building homes and agricultural implements. In all, 1,231 homes and 41 schools have been built. Rice and bean seeds, along with fertilizers, have been distributed widely. Additionally, Mr. Murray has supervised the creation of the human rights observance and verification project, which tracks and verifies the implementation of the peace accords between the Nicaraguan Government and the former members of the resistance.

Mr. President, I ask that the article by Mr. Mike O'Callaghan, former Governor of Nevada,. be printed in the RECORD. The article appeared in the Las Vegas Sun on December 16, 1992.

The article follows:

WHERE I STAND

(By Mike O'Callaghan)

MANAGUA, NICARAGUA.—Heroes are very special people who go beyond the call of duty to help others and make this a better world.

During the days of jungle combat, when the resistance forces called Contras were fighting Daniel Ortega's Soviet-equipped army, there were hundreds of men, women and children I viewed as heroes. Following the peace agreement, it was my good fortune to bring three busloads of wounded heroes back home to Nicaragua from a rehabilitation center near Tegucigalpa, Honduras.

Santiago Murray came to Nicaragua almost three years ago, following the election which ousted Daniel Ortega from the presidency. Since coming to this country, he hasn't been wounded nor has he wounded or killed another human. His life has oftentimes been in danger, but he doesn't carry a gun into even the most dangerous situations.

I first met Santiago shortly after the Nicaragua national election in February 1990. He came to assume his present position as head of the International Commission for Support and Verification, known as CIAV. His job, as a representative of the Organization of American States, is identify and aid those resistance fighters and their families returning home.

The slender and wiry native of Argentina usually has a cigarette in one hand, a phone in the other and a cup of strong coffee nearby. Santiago has the energy to work night and day to solve any problems facing people needing help. I have seen him work around the clock to get an innocent person released from a government prison and then put him on a plane for Miami and safety.

It was Santiago who put together the final peace agreement in April 1990. After several days of gathering information, the key players from the outgoing and incoming governments and the resistance forces were brought together in the CIAV building for an all-night session which ended in a treaty agreement. Cardinal Obando y Bravo was instrumental in hammering out the agreement.

It was also the cardinal and Santiago who insisted that the Miskito Indians be allowed into the peace conference and have their voices heard. Four Miskito leaders and I participated that night. Initially, the government wheels and other resistance leaders had shunted the Indians aside, despite their key combat role along the Rio Coco and the Atlantic coast.

Since that time, it has been Murray who according to one foreign diplomat, has "kept some semblance of peace in the countryside." Even this week, he has been in the mountains meeting with jackal and his armed followers, who are demanding the government take the army officers guilty of brutality out of their area and also have more local people trained as police. They have legitimate complaints, and Murray is the man who listens and recognizes that some action should be taken.

"He has true compassion for people and has been a voice for those who put down their arms and returned home," a former resistance leader told me.

An American diplomat with several years' experience in Central and South America said it best when describing the CIAV leader. The American told me that "Santiago is a brave man who views injustices to Indians just as abhorrent as the human rights violation of light-colored people in Western Nicaragua.".

If ever a single individual should be recognized with the world's highest human rights award, it's this tough but kind man from OAS, who will soon complete a strenuous three-year stint of duty in this country.

He is also a very pragmatic person and, because of him, the Miskito Indians have new fishing boats, hundreds of wounded returnees have obtained tools and seeds and resumed farming, and even more important, he has provided a voice for those who for generations have been forgotten by the ruling classes.

Santiago Murray is a special human being who has eagerly carried the burden for those less fortunate. Despite possible violence and physical danger, he has carried out his mission which still is far from finished.

He's my kind of hero.•

FAIR TRADE ENFORCEMENT ACT OF 1993

• Mr. DASCHLE. Mr. President, yesterday the distinguished Senator from Michigan, Senator LEVIN, and I introduced the Fair Trade Enforcement Act of 1993. We were joined by our distinguished colleague from Louisiana, Senator JOHNSTON. The bill's approach is simple: It uses access to our market as leverage to open foreign markets to American goods and services.

Fair trade benefits everyone: consumers, businesses, and workers. While most people would agree on this proposition, there is strong disagreement on the means to achieve this goal. The previous administration tried to open other markets by setting a good example here at home. The United States has one of the most open markets in the world. Not surprisingly, in many areas of trade policy, the approach failed. With no incentive for other countries to change their practices, American companies lose tens of billions of dollars to foreign trade barriers.

There is every reason to believe that the new administration will be stronger on this issue. In fact, President Clinton has expressed support for a stronger section 301 enforcement mechanism. Our legislation is consistent with this goal and, in fact, would provide a useful tool for trade negotiators.

There is an increasing awareness of the fact that in a globalized market exports are vital to our economic well-being. According to the Department of Commerce, almost 20,000 U.S. jobs result from each $1 billion in exports. Many economists believe that the current recession would be far worse if not for the positive effects of exports. As a result, we can no longer afford to tolerate trade practices in foreign markets that unfairly exclude American products.

There is little argument that the old Super 301 process produced positive results. Markets were opened as a direct, and indirect, result of the exercise of authority under the 1988 Omnibus Trade Act. Yet, the Bush administration could have accomplished more. In 1990, the final year of the Super 301 authority, they chose to identify completion of the Uruguay round as their highest priority, ignoring the hundreds of foreign trade barriers named in that year's national trade estimate report.

The Fair Trade Enforcement Act of 1993 or FTEA makes a strengthened Super 301 a permanent part of the U.S. arsenal for combating unfair trade practices and opening foreign markets. We are not trying to protect our domestic industries by closing the door to competition from fairly traded imports. Yet, if other countries are unwilling to open their markets to our products, this bill will place equivalent restrictions on their products until they do.

It requires the U.S. Trade Representative to name priority practices in each of three vital sectors: agriculture, manufacturing, and services. The 1992 National Trade Estimate Report alone lists hundreds of trade barriers in 43 countries and two regional trading bodies—and this is not an exhaustive list.

The bill also requires USTR to target priority practices in each country where we have a merchandise trade deficit that exceeds 15 percent of the total U.S. merchandise trade deficit—excluding petroleum imports. It is true that a trade surplus is not automatically a result of unfair trade practices. The United States has a positive trade balance with many countries. But, let us be realistic. A substantial and persistent trade surplus warrants close examination. If a country contributes to 15 percent or more of our total trade deficit, this bill would require USTR to look carefully at the practices of that country and identify trade barriers in that country that contribute to the deficit.

The bill provides that, if for whatever reason the administration does not use this tool effectively to combat the most flagrant trade violations, the Congress can require the administration through procedures set up under the bill to initiate Super 301 investigations against particular practices.

The bill also removes the discretion that USTR had under the expired legislation to impose sanctions if negotiations do not remove the discriminatory practice. Under our proposal, if negotiations fail, USTR must impose equivalent restrictions—equivalent to the cost of the trade barrier to U.S. interests. If the President in his discretion decides not to impose equivalent restrictions, he must submit an alternate action plan for approval by Congress. Congressional approval is conditioned on passage of a joint resolution considered under the fast-track procedures.

These latter provisions should be welcomed by the administration as a forceful tool that will provide leverage in negotiations with our trading partners.

In drafting this legislation, we have attempted to be responsive to legitimate concerns that have been raised in connection with the various proposals to reauthorize Super 301. We have given USTR more time to informally address trade concerns with our trading partners prior to formal identification under Super 301. In response to former-Ambassador Carla Hills' concern that certain deadlines under the old Super 301 constrained her negotiating flexibility, the bill allows USTR to establish a plan of action for consulting and removing the barriers to U.S. products and services.

Finally, to avoid resentment by countries that complained of being singled out under the 1988 Trade Act, we have eliminated the priority country designation. The focus of this bill is on elimination of priority practices that constitute unfair barriers to U.S. exports. No country should resent or fear FTEA if its market is open and its international obligations are met.

This legislation is not inconsistent with our objectives in the Uruguay round of GATT negotiations. In my view, the Fair Trade Enforcement Act of 1992 can only help the Uruguay round by putting teeth in the oft-stated U.S. commitment to fair trade. Real progress in the GATT negotiations may very well depend on our trading partners understanding and believing our commitment.

The need for a strengthened Super 301 will not disappear, even if an agreement is reached in the GATT negotiations. If the round is successful, our trading partners will have to undertake substantial new commitments to remove barriers and open their markets to exports. FTEA would help ensure that these obligations are met. FTEA would also be available to combat trade barriers not addressed in the Uruguay round.

Our bill is balanced, and it is fair. We are simply proposing that our trading partners give American companies the same opportunities we give theirs.

We want to maintain the United States as the most open market in the world. Let us give other countries the incentive required to emulate this standard. I hope that my colleagues will join in supporting the passage of the Fair Trade Enforcement Act of 1993.

No one has been more dedicated to addressing fair trade issues than the Senator from Michigan. I have enjoyed working with him on this legislation immensely, and I look forward to working with him again this year to see that it is passed. We are very pleased that the Senator from Louisiana is joining us in this effort.

Mr. President, I ask unanimous consent that the full text of the bill and a summary of it be printed in the RECORD at the close of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Trade Enforcement Act of 1993".

SEC. 2. PERMANENT STATUS OF "SUPER 301" PROGRAM; MANDATORY PRIORITY PRACTICES.

(a) IN GENERAL.—Section 310 of the Trade Act of 1974 (19 U.S.C. 2420) is amended by striking subsections (a) and (b), by redesignating subsections (c) and (d) as subsections (e) and (f), respectively, and by inserting before subsection (e), as redesignated, the following new subsections:

"(a) MANDATORY IDENTIFICATION.—

"(1) IN GENERAL.—By not later than 60 days after the date in any calendar year on which the report required under section 181(b) is submitted to the appropriate congressional committees, the Trade Representative shall identify priority practices described in paragraph (2) or (3) of this subsection.

"(2) IDENTIFICATION OF PRIORITY PRACTICES.—The Trade Representative shall identify as a priority practice any act, policy, or practice specified under section 181(a)(1), and any other major barrier and trade distorting practice, the elimination of which is likely to have the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent.

"(3) IDENTIFICATION OF SPECIFIC PRIORITY PRACTICES.—

"(A) GENERAL RULE.—The priority practices described in paragraph (2), shall include—

"(i) major barriers and trade distorting practices in the agricultural, manufacturing, and services sectors; and

"(ii) if for any calendar year the United States merchandise trade balance (excluding trade petroleum imports) was in deficit, the major barriers and trade distorting practices of each foreign country that—

"(I) accounted for not less than 15 percent of such deficit, and

"(II) had a global current account surplus for such year in an amount equal to or greater than the amount of the United States' deficit with the foreign country.

"(B) EXCEPTION WHERE CERTIFICATION MADE.—The Trade Representative shall not be required to identify practices with respect to a sector described in subparagraph (A)(i), if the Trade Representative certifies to the Congress for any calendar year that major barriers and trade distorting practices do not exist or have been eliminated with respect to such sector.

"(4) GUIDELINES.—The priority practices identified by the Trade Representative under this section shall reflect—

"(A) the international competitive position and export potential of United States products and services,

"(B) circumstances in which the sale of a small quantity of a product or service may be more significant than its value,

"(C) circumstances in which the practice has the effect of imposing a total or near total barrier to the importation of foreign goods or services, and

"(D) the measurable medium-term and long-term implications of Government procurement commitments to United States exporters.

"(b) REPORT.—

"(1) LIST OF PRIORITY PRACTICES.—At the same time the identification is made under subsection (a), the Trade Representative shall submit to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives, and shall publish in the Federal Register, a report which lists—

"(A) the priority practices identified under subsection (a), and

"(B) the amount estimated under paragraph (2) with respect to each such priority practice.

"(2) ESTIMATE OF LOST EXPORTS.—The amount estimated under this paragraph is the total amount by which United States exports of goods or services to each foreign country which has a priority practice identified under subsection (a) would have increased during the preceding calendar year if the priority practices of such country did not exist. For purposes of the preceding sentence, the Trade Representative may use the estimates made under section 181 to the extent appropriate.

"(c) INITIATION OF INVESTIGATION.—

"(1) IN GENERAL.—The Trade Representative shall initiate an investigation under section 302(d), and consultations under section 303(a), with respect to each priority practice identified under subsection (a) or with respect to each priority practice to which a resolution described in subsection (d) applies.

"(2) TIMETABLE OF TRADE REPRESENTATIVE.—Not later than 21 days after the date a report is submitted under subsection (b), the Trade Representative shall submit to the appropriate congressional committees a timetable for initiating and completing the investigation and consultations with respect to each priority practice identified under subsection (a) or to which a resolution described in subsection (d) applies.

"(d) MANDATORY INVESTIGATION INITIATED BY CONGRESS.—

"(1) RESOLUTION BY COMMITTEE.—Upon the adoption by either the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate of a resolution that—

"(A) describes a priority practice of a foreign country, and

"(B) states that it is the opinion of the Committee that such priority practice is an act, policy, or practice that is described in section 301,

the Trade Representative shall initiate action under subsection (c).

"(2) JOINT RESOLUTION.—Upon enactment of a joint resolution described in paragraph (3), the Trade Representative shall initiate action under subsection (c).

"(3) JOINT RESOLUTION DESCRIBED.—A resolution is described in this paragraph if it is a joint resolution—

"(A) which is introduced in either the Senate or the House of Representatives not later than 15 days after the date on which the Trade Representative submits the report required by subsection (b),

"(B) which is sponsored by not less than one-fourth of the duly elected and sworn Members of the House in which it is introduced, and

"(C) the matter after the resolving clause of which contains the name of the foreign country, the practices of such country identified as priority practices, and a finding that elimination of such priority practices is likely to have significant potential to increase United States exports, either directly or through establishment of a beneficial precedent.

"(4) APPLICATION OF CONGRESSIONAL 'FAST TRACK' PROCEDURES TO JOINT RESOLUTION.—

"(A) Except as provided in subparagraph (B), the provisions of section 152 (other than subsection (a)) shall apply to a joint resolution described in paragraph (3).

"(B) For purposes of this paragraph—

"(i) section 152(d)(2) shall be applied by substituting '10' for '20',

"(ii) section 152(e)(2) shall be applied by substituting '10' for '20',

"(iii) section 152(f)(2) shall be applied by substituting 'text of the joint resolution described in section 310(d)(3)' for 'texts of joint resolutions described in section 152 or 153(a)', and

"(iv) section 152(f)(3) shall be applied by substituting 'joint resolution described in section 310(d)(3)' for 'joint resolution described in subsection (a)(2)(B)'.

"(5) RULEMAKING POWER.—Paragraph (4) is enacted by Congress—

"(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such it is deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 310 of the Trade Act of 1974, as redesignated by subsection (a), is amended—

(A) by striking "In the consultations" and all that follows through the first comma in paragraph (1) and inserting "In the consultations with a foreign country which has a priority practice identified under subsection (a) or (d),";

(B) by striking "subsection (a)(1)(A)" in subparagraph (A) of paragraph (1) and inserting "this section"; and

(C) by striking "subsection (b)" in paragraph (2) and inserting "this section".

(2) Paragraph (1) of section 310(f) of such Act, as redesignated by subsection (a), is amended to read as follows:

"(1) On the date in each calendar year on which the report the Trade Representative is required to submit under subsection (b), the Trade Representative shall also submit a report which includes—

"(A) revised estimates of the total amount determined under subsection (b)(2) for each priority practice that has been identified under this section,

"(B) evidence that demonstrates, in the form of increased United States exports to each foreign country with respect to which a priority practice has been identified during the previous calendar year—

"(i) in the case of a foreign country that has entered into an agreement described in subsection (e)(1), substantial progress during each year within the 3-year period described in subsection (e)(1)(A) toward the goal of eliminating the priority practice identified under this section by the close of such 3-year period, and

"(ii) in the case of a country which has not entered into (or has not complied with) an agreement described in subsection (e)(1), the elimination of such practices, and

"(C) to the extent that the evidence described in subparagraph (B) cannot be provided, any actions that have been taken by the Trade Representative under section 301 with respect to such priority practices of each such foreign country.".

(3) Paragraph (2) of section 310(f) of such Act, as redesignated by subsection (a), is amended—

(A) by striking "subsection (a)(1)(A)" each place it appears and inserting "this section"; and

(B) by striking "in any calendar year beginning after 1993".

(4) Section 303 of such Act (19 U.S.C. 2413) is amended—

(A) by inserting "or pursuant to the timetable prescribed by section 310(c)(2)" in paragraph (1) of subsection (a) after "section 302"; and

(B) by adding at the end of subsection (b) the following flush sentence:

"This subsection shall not apply to any consultation involving a priority practice identified under section 310.".

(5) Section 305(a)(1) of such Act (19 U.S.C. 2415(a)(1)) is amended by inserting "and section 301(e)" after "in paragraph (2)".

(6)(A) The heading for section 310 of such Act (19 U.S.C. 2420) is amended to read as follows:

"**SEC. 310. MANDATORY IDENTIFICATION OF PRIORITY PRACTICES.**".

(B) The table of contents of chapter 1 of title III of such Act is amended by striking the item relating to section 310 and inserting the following:

"Sec. 310. Mandatory identification of priority practices.".

SEC. 3. INVESTIGATIONS, DETERMINATIONS, AND MANDATORY ACTIONS.

(a) INVESTIGATIONS.—Section 302 of the Trade Act of 1974 (19 U.S.C. 2412) is amended by adding at the end thereof the following new subsection:

"(d) INITIATION OF INVESTIGATION FOR SECTION 310 PRIORITY PRACTICES.—Upon the identification of a priority practice under section 310(a) or the adoption of a resolution under section 310(d), the Trade Representative shall initiate an investigation under this chapter (in accordance with the timetable submitted under section 310(c)) and shall publish a notice of such investigation in the Federal Register.".

(b) DETERMINATIONS BY TRADE REPRESENTATIVE.—Section 304(a) of such Act (19 U.S.C. 2414(a)) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4)(A) If an investigation is initiated under this chapter by reason of section 302(d), the Trade Representative shall make an affirmative determination under subparagraph (A) of paragraph (1) that—

"(i) the rights to which the United States is entitled under any trade agreement are being denied, or

"(ii) an act, policy, or practice described in section 301(a)(1)(B) exists.

"(B) Such determination shall be made on or before—

"(i) in the case of an investigation which does not involve a trade agreement, the date which is 12 months after the date on which a timetable is submitted under section 310(c)(2), or

"(ii) in the case of an investigation which involves a trade agreement (other than an agreement on subsidies and countervailing measures described in section 2(c)(5) of the Trade Agreements Act of 1979), the earlier of—

"(I) the date that is 30 days after the date on which the dispute settlement procedure is concluded, or

"(II) the date that is 18 months after the date on which a timetable is submitted under section 310(c)(2).".

SEC. 4. ALTERNATIVE PLAN TO ELIMINATE PRIORITY PRACTICES.

Section 301 of the Trade Act of 1974 (19 U.S.C. 2411) is amended—

(1) by striking "If" in paragraph (1) of subsection (a) and inserting "Except as provided in subsection (e), if";

(2) by inserting "(or upon a determination under section 304(a)(4))" in paragraph (1) of subsection (a) after "section 304(a)(1)";

(3) by adding at the end of paragraph (2) of subsection (a) the following flush sentence:

"In the case of an affirmative determination under section 304(a)(4) involving a priority practice identified under section 310, this paragraph shall not apply unless a joint resolution (described in subsection (e)) permits such application and is enacted into law."; and

(4) by adding at the end thereof the following new subsection:

"(e) ALTERNATIVE PLAN FOR SECTION 310 PRIORITY PRACTICES.—

"(1) In the case of a priority practice identified under section 310 with respect to which an affirmative determination is made under section 304(a)(4), the President shall, not later than 30 days after the date of such determination, direct the Trade Representative to take action under subsection (a)(1) or submit to the Congress an alternative plan described in paragraph (2).

"(2) An alternative plan is described in this paragraph if it—

"(A) provides in detail the action the Trade Representative plans to take to eliminate a priority practice, including—

"(i) any reciprocal limitation, restriction, or action of the kind referred to in paragraph (3),

"(ii) the period of time that will be required to implement fully the plan and the specific interim results that should be achieved under the plan from time-to-time during that period, and

"(iii) the number of jobs to be created and the estimated increase in exports resulting from implementation of the plan;

"(B) cites the legal authorities for taking the measures contemplated by such plan;

"(C) contains, if the President considers that statutory authority is necessary for the implementation of any part of the alternative plan (including the implementation of any reciprocal limitation, restriction, or action referred to in paragraph (3)), appropriate suggested legislative proposals; and

"(D) states the reasons why the alternative plan is preferable to taking action under subsection (a)(1).

"(3) An alternative plan shall provide, in the case of unsatisfactory progress by a foreign country in eliminating the priority practice, for the implementation, for such time as may be appropriate, by the President of a restriction, limitation, or other action that is reciprocal in scope and effect to such priority practice.

"(4) If the President transmits an alternative plan to the Congress under paragraph (2) and a joint resolution described in paragraph (6) is not enacted within the 60-day period beginning on the date on which the alternative plan is transmitted, the Trade Representative shall take action under subsection (a)(1).

"(5) If the President transmits an alternative plan to Congress under paragraph (2) and a joint resolution described in paragraph (6) is enacted within the 60-day period beginning on the date on which the alternative plan is transmitted, the alternative plan shall take effect and the President shall direct the Trade Representative to implement appropriate action in accordance with the terms of such plan to obtain the elimination of the priority practice.

"(6) A joint resolution is described in this paragraph if it is a joint resolution—

"(A) which is introduced in either the House or the Senate not later than 15 days after the date the President submits an alternative plan to Congress under paragraph (2), and

"(B) the matter after the resolving clause of which is as follows: 'That the Congress approves the alternative plan transmitted under section 301(e) of the Trade Act of 1974 to the Congress on ——.', the blank space being filled with the appropriate date.

"(7)(A) Except as provided in subparagraph (B), the provisions of section 152 (other than subsection (a)) shall apply to a joint resolution described in paragraph (6).

"(B) For purposes of this paragraph—

"(i) section 152(f)(2) shall be applied by substituting 'text of the joint resolution described in section 301(e)(6)' for 'texts of joint resolutions described in section 152 or 153(a)', and

"(ii) section 152(f)(3) shall be applied by substituting 'joint resolution described in section 301(e)(6)' for 'joint resolution described in subsection (a)(2)(B)'.

"(8) Paragraph (7) is enacted by Congress—

"(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such it is deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(9) For purposes of paragraphs (4) and (5) the 60-day period shall be computed by excluding—

"(A) the days in which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

"(B) any Saturday and Sunday, not excluded under subparagraph (A), when either House is not in session.".

SEC. 5. ESTIMATION OF BARRIERS TO MARKET ACCESS.

Section 181(a)(1)(C) of the Trade Act of 1974 (19 U.S.C. 2241(a)(1)(C)) is amended by striking ", if feasible,".

SEC. 6. ACTIONS BY THE UNITED STATES TRADE REPRESENTATIVE.

(a) MANDATORY ACTION.—Section 301(a)(1)(B)(ii) of the Trade Act of 1974 (19 U.S.C. 2411(a)(1)(B)(ii)) is amended by inserting "(or threatens to burden or restrict)" after "restricts".

(b) DISCRETIONARY ACTION.—Section 301(b)(1) of such Act (19 U.S.C. 2411(b)(1)) is amended by inserting "(or threatens to burden or restrict)" after "restricts".

(c) DEFINITIONS.—Section 301(d) of such Act (19 U.S.C. 2411(d)) is amended by adding at the end thereof the following new paragraph:

"(10) An act, policy, or practice that threatens to burden or restrict United States commerce is an act, policy, or practice that does not currently burden or restrict United States commerce, but, if not corrected, is reasonably expected to burden or restrict United States commerce.".

OVERVIEW OF THE FAIR TRADE ENFORCEMENT ACT OF 1993

Permanently reauthorizes and strengthens the "Super 301" provisions of the 1988 Trade and Competitiveness Act.

The bill targets for elimination "priority practices" of other countries that unfairly exclude U.S. exports.

Under the bill, USTR is required to identify major barriers and trade distorting practices in each of three specific categories: agriculture, manufacturing, and services.

In addition, USTR must name priority practices of any country with a trade deficit which accounts for 15% or more of the total U.S. merchandise trade deficit (excluding trade petroleum imports).

The Finance or Way and Means Committee may require USTR to commence a 301 investigation with respect to discriminatory practices not cited by USTR. The Congress may also require USTR to take action under Super 301 by passing a joint resolution.

Under the FTEA, the USTR has flexibility to structure negotiations, but the negotiations must be completed within the deadlines. As in the original Super 301, in most cases there would be a one year deadline with additional time, up to a maximum of eighteen months, if dispute resolution procedures under a multilateral or bilateral agreement are available.

If negotiations do not result in the elimination of the discriminatory practice, USTR must impose sanctions.

Sanctions must take the form of equivalent restrictions equal to the cost of the cited priority practice on U.S. commerce.

If USTR recommends against imposition of the mandatory sanctions despite the failure of the negotiations to remove the unfair trade practice, USTR must obtain Congressional approval of an alternative action plan. Congressional approval is conditioned on passage of a joint resolution considered under "fast-track" procedures.

The bill requires the USTR to prepare an estimate of the cost to U.S. commerce of the cited discriminatory practice.

USTR would be required to identify priority practices whether or not they are included in the National Trade Estimate report.

The bill also incorporates the provisions of a bill introduced earlier by Senator Daschle which will strengthen our ability to respond to discriminatory trade practices that threaten to burden or restrict U.S. commerce.

Certain amendments have been made to the 1988 Trade Act to be responsive to the following concerns:

To avoid resentment by countries that complained of being singled out under the 1988 Trade Act, we have eliminated the "priority country" designation. The focus of this bill is on elimination of "priority practices" that constitute unfair barriers to U.S. exports.

We have lengthened the time between release of the National Trade Estimate Report and the date on which the USTR is required to identify "priority practices" from 30 days to 60 days. This may encourage countries to voluntarily remove their trade barriers to avoid having that practice identified under Super 301.

In response to former Ambassador Hill's concern that certain deadlines under the old Super 301 constrained her negotiating flexibility, we have removed the requirement that consultations being within 30 days of the identification of the practice under Super 301. The bill requires USTR to establish a plan of action for consulting and removing the barrier to U.S. products and services.●

● Mr. LEVIN. Mr. President, the legislation introduced yesterday builds on the bill Senator DASCHLE and I first introduced in 101st Congress after the Bush administration failed to enforce the Super 301 in 1990. Although that law was intended to get the administration to target priority unfair trade practices for negotiations, in 1990, the second and final year of the Super 301 legislation, the administration named no new countries or practices and only continued the identification of India.

The Bush administration, like those for 20 years before it, said it made progress on trade. But the results didn't match the rhetoric as we continue a hemorrhaging loss of manufacturing jobs. This is particularly true with regard to Japan.

Over the past 12 years, the United States has lost 2.6 million manufacturing jobs. Ten percent of these jobs were lost in Michigan. Japan gained 2.1 million manufacturing jobs over the same period.

Back in 1970, President Nixon said after meeting with Prime Minister Sato that Japan intended "to accelerate the reduction and removal of its restrictions on trade." In 1974, President Ford said Japan will negotiate "to reduce tariff and other trade distortions." In 1984, President Reagan said "Japan has made considerable progress in opening its markets further to American products, and we are confident we'll see more progress in the months ahead." In 1991, President Bush said it is time "to move ahead" on trade, (The United States and Japan) have "made solid progress" in easing trade tensions.

Our trading partners no longer take these threats seriously. Japan's Prime Minister Miyazawa recently said, "Whenever there is a new Administration, they always blow a lot of hot air, but after several months, it quiets down."

This lack of action is reflected in a 1992 annualized U.S. trade deficit of $82 billion and a 1993 U.S. trade deficit that is expected to surpass $100 billion. Two-thirds of our total trade deficit is with one nation, Japan. In 1991, our trade deficit with Japan was $43.4 billion. The 1992 deficit, when the final data is available, is expected to be even higher. So, United States trade policy should give a very high priority to Japan. We should use our trade laws aggressively to open Japan's markets. We must adopt the rule of reciprocity to achieve fair trade.

One obvious target for trade action is the auto parts sector. In 1991, the automotive trade deficit comprised a whopping 74 percent of the United States-Japan trade deficit. The auto parts portion of that deficit was $9.2 billion alone. These huge deficits loom while Japan protects its home automotive market to the tune of allowing only 3 percent total foreign penetration. United States auto parts compete everywhere in the world, but they are effectively kept out of Japan's market. No State feels the negative effect of this unlevel playing field more profoundly than Michigan.

If another country decides to restrict their markets to U.S. products, that's their decision. But if we tolerate it, that's our decision. We should fight back—with our Government being a partner in the effort of U.S. industries to survive and thrive.

The Super 301 trade law was intended to require action, and produced some results when it was used. But it was abandoned in practice in 1990, the second and final year it was in effect. The U.S. Trade Representative's 1990 Report on Foreign Trade Barriers included 20 pages of Japanese trade barriers, 12 pages of Canadian barriers, and another 12 pages of EC barriers, yet only India was identified in 1990 for continued negotiations under Super 301. And when no agreement was reached with India, no action was taken as a result.

We don't need to recreate the wheel, but we do need to use it and improve it. Super 301 is the basis of a good idea, but without strengthening it and using it, it's more often than not a toothless tiger. It is not enough to simply renew Super 301. We must strengthen our negotiators' hands and increase our chances of success in opening closed markets by requiring action when fundamental trade fairness demands it.

President Clinton's economic plan, putting people first, acknowledges the need for stronger trade law. It calls for passage of a "stronger, sharper super 301."

The bill Senator DASCHLE and I introduced last year and are reintroducing today is consistent with the President's request for stronger, sharper super 301 legislation. It extends the old super 301, but strengthens it in some key respects. It provides criteria to ensure that the law is used each year there are major barriers to our products, and it requires equivalent restrictions should the negotiations fail to eliminate the identified barriers. This legislation is intended to boost America and defend American jobs the way other governments defend their jobs.

Under this proposed super 301 procedure, each year, the U.S. Trade Representative must identify as priority practices major trade distorting barriers or practices in the agricultural, manufacturing and service sectors, and must also include trade distorting practices of any country comprising 15 percent or more of the total U.S. trade deficit. Once priority practices are identified, an investigation and negotiations are initiated in each case.

This legislation seeks to open markets unfairly closed to our products by making a strengthened version of super 301 a permanent part of our trade law. It would require the administration to attempt to negotiate away the most harmful trade barriers to American agriculture, manufacturing, and services. If negotiations fail to eliminate those barriers, this bill would require equivalent restrictions be placed on that country's products equivalent to the cost of those discriminatory practices to our businesses. The requirement for equivalent restrictions is the key to this bill. They are essential to successfully getting rid of the trade barriers that cost the United States so many jobs.

Under our bill the administration may waive the equivalent restrictions only with congressional approval. This process differs from former super 301 which allowed the administration a waiver for economic or national security reasons. Our bill further differs from former super 301 in that our legislation would require equivalent restrictions if negotiations fail. Our bill effectively uses access to our market to dramatically strengthen the hand of our negotiators because the individuals on the other side of the table will know for the first time what will happen if the practices are not eliminated.

There is clear precedent for using equivalent restrictions to change behavior. There is a little known office in the State Department called the Office of Foreign Missions. Its role is to remove costly and unfair restrictions on American diplomats abroad. It does this by placing equivalent restrictions on the other country's diplomats in the United States. For instance, when Ecuador placed a 25-percent tax on telephone charges at the American Embassy in Ecuador, we put an equivalent tax on telephone charges at the Ecuadoran Embassy here. As a result, Ecuador's foreign ministry has recommended that the tax be dropped.

Similarly, when The Netherlands applied their VAT tax to the United States mission in The Netherlands, we responded by applying our sales tax to their mission here. The Netherlands has now agreed to reimburse us for the VAT tax.

Requiring equivalent restrictions is a common sense policy which we should surely apply to restrictions on American exports and not just to restrictions on American diplomats. Our policy of placing equivalent restrictions on foreign diplomats when they place restrictions on ours has not started a diplomatic war; it has usually eliminated the restrictions.

Why are we so willing to defend our diplomats from unreasonable and costly foreign restrictions, but we have not been willing to do the same for American jobs and American companies? We ought to stop begging and stop pleading and just simply place equivalent restrictions on foreign products until they remove the discriminatory restrictions from our products. The bill we are introducing will do just that. We have lost hundreds of thousands of well-paying jobs to unfair trade practices and it has to stop.

Mr. President, American manufacturers and farmers are ready, eager and able to compete, but it is up to the Government to ensure that they have access to foreign markets. Ensuring that other countries trade fairly will go a long way to helping bring our soaring deficit into balance. We won the cold war by being strong. We will not win the economic contest ahead by keeping one hand tied behind our back. This legislation will help ensure that we have a strong trade policy, based on fairness, and the necessary tools to ensure a strong economic future.•

COMMENDATION OF LARRY BLOOM AND THE CINEPLEX ODEON CORP.

• Mr. SIMON. Mr. President, recently, Chicago Alderman Larry Bloom and the Cineplex Odeon Corp. reached an agreement designed to reduce violence in and around movie theaters in Chicago. The Cineplex Odeon Corp. has agreed to avoid concentrating violent films in certain areas of the city and to be sensitive to community concerns about violence.

By the age of 16, the typical child has seen over 200,000 violent acts, including over 30,000 murders, on television and in movies. There is no doubt that entertainment violence is absorbed and imitated—especially by children. Violence in movies and on television is adding to violence in our society. Recently, the entertainment industry has taken steps to address this problem. I am pleased that they will be meeting in the spring to discuss what further steps can be taken.

This agreement is an excellent example of how business and government can work together to improve the community. I commend Alderman Larry Bloom and the Cineplex Odeon Corp. for their efforts.•

THE 35TH ANNIVERSARY OF COUNTRY MUSIC ASSOCIATION

• Mr. SASSER. Mr. President, I rise today to call attention to the 35th anniversary of the Country Music Association, which is headquartered in my hometown of Nashville, TN: Music City, U.S.A. This celebration will be marked on February 6, 1993, with a special on the CBS television network.

It is fitting that this anniversary comes at a time when country music has gained newfound popularity throughout America. Part of country music's appeal stems from the fact that it is uniquely American. Beginning in rural areas with its roots in American folk songs and spirituals, country music can express basic human emotions and ideals we all share: joy, sadness, faith in God, reverence for nature, pride in country, and love of family. Country music has played an integral part in our Nation's history, reflecting the ethnic and cultural diversity of the American people.

Country music has long had a strong regional appeal, but over the past several years, it has become the music of mainstream America. Between 1990 and 1991, there was a gain of over 6 million new country music listeners and more than 2,500 country music radio stations. In 1991, country music albums made up almost 20 percent of the albums on Billboard Magazines Top 200 list. As a result, there has been an increase in the number of country-music television specials on the major networks and country radio continues to expand. Country music has even taken root in many European countries as well as Japan. While some aspects of Americans culture are reviled in these nations, country music thrives. This serves as a testament to the appeal of country music.

The Country Music Association has been the driving force behind this success. Founded in 1958, the Country Music Association was the first association to promote a type of music. Each year, the association produces a glamorous awards shows, live from the Grand Ole Opry House, as well as a fan fair celebration in Nashville where thousands of country music fans can meet the top talent in country music. The source of the association's success can be found in its ability to change within the industry, while not straying from its mission to foster interest in country music.

All Americans should be proud that this pure American form of music is not in the hearts and souls of Americans as a result of the support of the Country Music Association and its many members. I take this opportunity to congratulate the association on their 35th anniversary, and wish them many more successful years.•

NATIONAL CHILD PASSENGER SAFETY AWARENESS WEEK

• Mr. BINGAMAN. Mr. President, I would like to bring to your attention the fact that February 8–14 of this year is National Child Passenger Safety Awareness Week. While we all agree that child safety should be a year long—and life long—activity, citizens in New Mexico are using this week to focus statewide attention on the need to secure our children safely while riding in vehicles.

Recently, my home State has achieved an admirable seat belt usage rate for adults, and as a result, New Mexico had the lowest number of traffic fatalities in 25 years. However, we have been neglecting our children. It pains me to report that statistics related to childhood motor vehicle deaths in New Mexico are grim: they have doubled in the past 2 years. A review of the State's traffic fatality reports shows that for the 18 children, ages 5 and under, who were killed on New Mexico roadways in the past 3 years, only one was properly secured.

Motor vehicle crashes are the number one cause of death and injury for children, nationwide. They are also the most preventable. The cure is in our hands. Proper and consistent use of car seats and seat belts can be the most protective measure we can provide for our children. If all care givers would use car seats and seat belts for children, as well as for themselves, the number and severity of deaths and disabilities from motor vehicles would be dramatically reduced. According to the National Highway Traffic Safety Administration, 80 percent of vehicle crash deaths and injuries could be prevented for children under the age of four through the proper and consistent use of car seats.

Earlier this year, the New Mexico Department of Health provided a contract to Safer New Mexico Now, a non-profit traffic safety organization, to encourage, assist, and enhance child passenger safety education, services, and training programs. During the National Awareness Week, communities all around New Mexico are working to direct attention to the importance and value of safe transportation of our children. The Governor of New Mexico issued a proclamation designating the week in New Mexico. Volunteers are distributing information to parents, staffing exhibit tables at prominent locations, encouraging retail stores to sell car seats at discounted prices, conducting car seat surveys, working with hospitals and clinics to implement and expand low-cost car seat programs. Media personnel are featuring public service announcements and news segments about car seats and seat belts for children. Pediatricians are being asked to highlight child passenger safety issues with their clinics. Law enforcement personnel are playing a visible role in enforcing car seat use and sharing information with parents on the need to properly secure their children.

Today, I ask my esteemed colleagues in the Senate to join with me in commending the citizens of my home State of New Mexico on this commitment to saving children's lives. Nationally each year, nearly 700 children under the age of five are killed in auto accidents. These children deserve a chance to live and we can all play a pro-active part in giving them that chance: secure your children in vehicles. Buckle up. Take the pledge with New Mexicans to start a habit with your children that can last a lifetime, their lifetime.•

TRIBUTE TO MICHELLE AKERS-STAHL

• Mr. GRAHAM. Mr. President, it is no accident that I have chosen today to honor Floridian Michelle Akers-Stahl. Last year, Congress passed a commemorative bill designating the fourth of February as the National Women and Girls in Sports Day. It is on this occasion that, on behalf of the citizens of Florida, I rise to honor this outstanding citizen and athlete.

Michelle Akers-Stahl is not only a world-renowned soccer player, but she is also a leading proponent of women's and children's athletic programs. Her hometown of Oviedo, FL, the University of Central Florida, where she is currently assistant coach, and soccer fans throughout the Sunshine State, are proud to claim this native Floridian.

Michelle Akers-Stahl has been described as the best female soccer player in the world. While attending the University of Central Florida, she was named four-time "All-American." She is best known, however, for her integral role in capturing the Women's 1991 World Cup Championship for the United States. This marks the first World Cup victory for a U.S. team.

It is difficult to believe that this world champion soccer player has not already earned in Olympic medal. Yet it was only last September that Congress passed a concurrent resolution to encourage the Olympic Committee to include women's soccer as an Olympic medal sport. The United States would likely win a gold medal in women's soccer with this talented woman leading our national team. I am hopeful that all Americans will have the opportunity to support Michelle and her teammates at the 1996 centennial Olympic games in Atlanta, GA.

Please join me in honoring Floridian Michelle Akers-Stahl on this day dedicated to female athletes.•

FREDERICK EVANS: AN ILLINOIS ASSET

• Mr. SIMON. Mr. President, today, I would like to commend a very special young man from Illinois. His name is Frederick Evans and he is a 16-year-old sophomore at the Lincoln Senior High School in East St. Louis, IL.

Frederick is a member of the Principal Scholars Program at Lincoln, he serves on the deacon board at his church, and he is a member of the African-American Awareness Committee. In his spare time, he enjoys fishing and baseball.

Frederick was in Washington for the inaugural at the request of President Clinton. He, and five other youths traveled the parade route on inauguration day and distributed hundreds of "Prevention Works" lapel pins featuring the President's trademark saxophone. Frederick, who is himself a prevention success story, wore a sweatshirt that said, "We have better things to do than drugs." There is no doubt that this is true is Frederick's case. He is a very busy person.

"Prevention Work" is the theme of a U.S. Center for Substance Abuse Prevention public education program to let Americans know that prevention efforts around alcohol, tobacoo, and other drugs are working and save lives and health care dollars.

Frederick Evans is a special person in credit to Illinois and is an example to all young people, not just those in trouble with drugs.•

"I688+"

• Mr. D'AMATO. Mr. President, not surprisingly, my statement proposing an "I688+" attack submarine has ruffled feathers among some of my colleagues who continue to support either the *Seawolf*, the *Centurion*, or both. To reiterate, by I688+ I mean a baseline I688-class sub with the inclusion, on a case-by-case basis, of new technologies, *Seawolf*-derivative or not, that are more affordable than those currently fielded by the I688-class, offer identical or improved capabilities, and match or better both the weight and space footprints and the power and cooling requirements of the systems or components being replaced.

To my distressed friends, let me make two points, and then offer a challenge. One, affordability will drive all submarine decisions for the foreseeable future. Two, if the submarine industrial base is to survive, we must fund a submarine this year.

Now the challenge. Gerald Cann, Assistant Secretary of the Navy for Research, Development, and Acquisition, testified before Congress last year that an internal Navy estimate indicated that "the first ship would be around $1.4 billion and the second ship would be in the order of $1.2 billion" were the Navy to restart the I688 line. This estimate, coming as it does at the end of the I688 Program, represents hard numbers. I consider it a baseline.

For those who support either *Seawolf*, *Centurion*, or both, $1.4 billion is the number you have to beat with your lead ship, or, in the case of *Seawolf*, hull No. 3. Not someday, but this year, fiscal year 1994. I welcome any briefing, any material, any idea that puts forward a credible, cheaper, comparably capable alternative to an I688+. Show me, and such detail that I can, when convinced, bring your arguments before the experts among us with some hope of successfully enlisting their support.•

HONORING THE TUCSON METROPOLITAN CHAMBER OF COMMERCE MAN AND WOMAN OF THE YEAR AND THE RECIPIENTS OF THE FOUNDERS AWARD

• Mr. DECONCINI. Mr. President, on February 12, 1993, four outstanding individuals will be honored by the Tucson Metropolitan Chamber of Commerce. These individuals follow a long tradition of men and women who have contributed leadership, support and inspiration to our community. The honorees are George Miraben, Man of the Year, Louise Thomas, Woman of the Year, and Gordon Packard and Nancy Bissell, corecipients of the Founders Award.

I would like to take a moment of the Senate's time to share with my colleagues the achievements of these fine individuals.

George Miraben is most known for his tireless efforts on behalf of the United Way of Greater Tucson. George worked extensively as a public relations and communications expert as well as a chief fundraiser and chairman of the board for the Tucson United Way. His fundraising efforts in 1990 set an all-time record for Tucson United Way contributions. In fact, he was recently recognized for these achievements by being presented with the National Society of Fund-Raising Executives' Volunteer Fundraiser of the Year Award.

George's volunteer work extends even further. He is active in many organizations including: director of the American Cancer Society, the Downtown Development Corp., Chicanos Por La Causa, the Arizona Sonora Desert Museum Foundation, and the Wellness Council of Tucson.

Louise Thomas' contributions to our community are best seen through her dedication to the Tucson Ronald McDonald House. She is a founding member of the board of trustees and the Children's Auxiliary for the Ronald McDonald House, and in 1983, founded the Angel Charity for Children. Under Louise's direction, the nonprofit Angel Charity has raised an incredible six million dollars for Pima County children's charities.

Because of her extensive involvement with numerous community organizations and societies, Louis accrued a vast number of honors and awards. These include the Distinguished Citizens Award presented by the College of Medicine and the University of Arizona Alumi Association, the Outstanding Volunteer Fundraiser of the Year Award by the National Society of Fund-Raising Executives, the Good Samaritan Health Services "Sammy" Award, the YWCA Women on the Move Award and the Roots and Wings Outstanding Dedication Award.

The corecipients of the 1992 Founders Award are Gordon Packard and Nancy Bissell. No words could accurately reflect the time, commitment and charity that they have given to the unfortunate and homeless in our city. For the last 10 years, Gordon and Nancy have volunteered their lives to the Primavera Foundation, an organization they founded which is dedicated to providing aid to over 500 homeless and jobless men and women.

Gordon has dedicated himself to a number of other organizations that offer assistance to the homeless. He is a member of the Board of Directors for the National Coalition for the Homeless, was a cofounder of the Southern Arizona Coalition for the Homeless, and is Chairman of Housing Now. Nancy also worked extensively as a volunteer in the Peace Corps in La Paz, Bolivia as well as the St. Martins Center Soup Kitchen, sponsored by the Episcopal Diocese of Arizona.

Both Gordon and Nancy have been honored as recipients of several awards for their outstanding community involvement including the Good Samaritan Award and the National Association of Social Workers Community Service Award.

I would like my colleagues to join me in congratulating all the recipients at this year's award ceremony. The lifelong dedication exhibited by these four individuals is certainly deserving of praise and admiration. Our community benefits immensely from their work, and they serve as role models for all whose lives they touch.•

BRITANNICA'S 225TH ANNIVERSARY

• Mr. SIMON. Mr. President, I am pleased to take this opportunity to recognize Encyclopedia Britannica on its 225th anniversary. The Encyclopedia Britannica is based in my home State of Illinois, and is the oldest English language encyclopedia in continuous publication. The Britannica requires no lengthy introduction because all my colleagues here in the Senate have probably referred to this invaluable resource at one time or another. And no one who uses it can help but be impressed by how extensive and thorough it is. Now comprising 32 volumes and three parts, the Encyclopedia covers an incredible array of topics.

This renowned reference work was born in Edinburgh, Scotland, in 1768. It was the brainchild of three men: William Smellie, an editor; Andrew Bell, an engraver; and Colin Macfarquhar, a printer. They pooled their money and talents and created the first edition of what was to become a literary institution. That first edition contained 2,689 pages in three volumes, with 160 full-page copperplate engravings. It consisted of 44 treatises on major scientific systems, 30 other articles three or more pages long, and hundreds of dictionary entries. The entries ranged from extensive do-it-yourself advice to short and succinct definitions.

In 1768, in the midst of the industrial revolution, the Encyclopedia Britannica attracted little notice. But with time, it proved more durable than many other creations of that era. George Washington paid a guinea for a lottery ticket to win a copy of the Encyclopedia and lost, but he then went out and bought his own. Washington liked it so much that he wrote Alexander Hamilton, urging him to purchase one as well.

Sir Walter Scott, James Mill, Ricardo, Malthus, Hazlitt, John Playfair, and Lord Jeffrey were all early British contributors. Over the years, figures such as Algernon Swinburne, Robert Louis Stevenson, Stephen Leacock, Edward Everett Hale, H.L. Mencken, Sir Julian Huxley, Lin Yutang, Herbert Hoover, Douglas MacArthur, George Bernard Shaw, Sigmund Freud, Leon Trotsky, and Albert Einstein all contributed, demonstrating the unique breadth and variety of the entries.

More than 6,800 authorities contributed to today's edition, including Isaac Asimov, Edith Simon, Hans Morgenthau, Nicholas Katzenbach, C. Northcote Parkinson, Irving Wallace, Edmund Muskie, Jacques Barzun, Loren Eiseley, Nigel Calder, Ashley Montagu, and David Ben-Gurion.

In addition to its role as one of the leading reference publishers in North America, Encyclopedia Britannica also markets its products in more than 100 countries around the world. To help commemorate its 225th anniversary, Britannica is reissuing a replica of its first edition.

Today, under the able leadership of Robert P. Gwinn, Encyclopedia Britannica maintains its reputation by keeping pace with current events and developments. Mr. Gwinn has been publisher for nearly 20 years, and served as a director and a member of Britannica's executive committee for 14 years prior to that. Under Mr. Grinn's direction, Britannica has also become an internationally esteemed publisher of video and computer software products, many of which are among the leading educational tools in use today. Encyclopedia Britannica has moved into a host of new enterprises and into an era an unequaled profitability.

Encyclopedia Britannica has enriched the lives of millions throughout the world for over two centuries. The motto of the University of Chicago, used for every edition of the Encyclopedia Britannica, is "Let Knowledge Grow From More to More and Thus Be Human Life Enriched." Britannica has lived up to this motto for 225 years, and it will certainly continue to do so for many years to come.•

THE 75TH ANNIVERSARY OF UKRAINIAN INDEPENDENCE DAY

• Mr. RIEGLE. Mr. President, I would like to take this opportunity to add my voice to the millions of Ukrainians all over the world celebrating the 75th anniversary of the establishment of a sovereign and independent Ukraine. On January 22, 1919, at a mass demonstration in Kiev, Ukrainians adopted a proclamation which not only affirmed their independence and the existence of the United Ukrainian Republic, but also affirmed many of the democratic freedoms which we, as Americans, hold so dear.

The Proclamation of 1919 guaranteed freedoms of speech, press, religion, assembly the freedom to strike, and other basic human rights for the Ukrainian people. The Ukrainian proclamation also embraced the ideal of national-personal autonomy for minorities and affirmed the individual rights of members of each minority.

This independence from czarist Russian domination proved to be short lived and within 3 years this young republic was tragically overrun by the superior military forces of the Russian Bolsheviks. For the next 70 years, the Ukrainian people suffered greatly at the hands of the Soviets. Under Soviet control, Ukrainian political self-determination was stifled and basic human liberties were denied. The Ukrainian people, however, endured the brutal repression of a regime which sought to break their spirit. Despite this horrible repression, including the fiendish government-planned famines of 1932 and 1933 which resulted in the deaths of three to eight million Ukrainians, the Ukrainian spirit survived.

It is this undying spirit of a courageous people which burst forth on August 24, 1991. On that date, after the coup d'etat which occurred in the U.S.S.R. 5 days earlier, the Ukraine again declared itself an independent nation. As a long-time supporter of Ukrainian independence, I was proud to finally see the realization of this long sought dream. The people of Ukraine managed to survive as a nation, with their own language, culture, and historical experience. The original proclamation of January 22, 1919 was a symbol to which all the Ukrainian people could look as they strove for the reclamation of independence, finally achieved on that glorious day in 1991.

Since declaring its independence, Ukraine, following the example set in 1919, has pledged itself once again to the ideals of ethnic and minority rights. The Ukrainian Republic has announced a pledge to adhere to the principles of the Helsinki Final Act and the Charter of Paris, which embody respect for human rights and democratic values. Finally, the Ukrainian Legislature is currently preparing a new constitution, which promises to embody democratic values, for which the Ukrainian people were denied under Soviet repression.

As a young country, little more than a year old, Ukraine faces formidable challenges. This new nation currently endures a tense relationship with Russia in the Commonwealth of Independent States due to disagreements over economic reform, the status of the Black Sea fleet, and control over the Crimea. In addition, Ukraine suffers under a sluggish economy which is preventing the country's further progress. While Ukraine provided 20 percent of the Soviet agricultural production and 17 percent of its industrial output and is rich in natural resources, its dependence upon the other CIS countries and political confusion over economic reforms has prevented the new government from making efficient use of its resources.

As Ukraine embarks upon its bold journey as an independent country with a Democratic tradition, the United States, in concert with other nations, must do every thing possible to help Ukrainians finally achieve their goal of stability and freedom. I applaud our Government's commitments to assist Ukraine as it makes the transition to freedom. I believe we must support the courageous Ukrainian people who stand for the same ideals which Americans enjoy. It is very important that our current commitments of humanitarian relief and technical assistance continue so that the Ukrainian people, who fought so long and so diligently for their rights and freedom, never again have to endure the shackles of foreign dominance.•

TRIAL BALLOONS

• Mr. SHELBY. Mr. President, over the past week we have heard a number of so-called trial balloons regarding various spending cuts or tax increases that have emanated from the other end of Pennsylvania Avenue. I salute President Clinton for his willingness to make reducing the annual Federal deficit a top national priority. I plan to support him whenever possible in this most important undertaking. However, I cannot and will not support any reduction in the Social Security COLA. I want to thank the chairman of the Finance Committee, Senator MOYNIHAN, for quickly shooting this trial balloon out of the sky. I hope that his quick action on this matter will prevent the idea from resurfacing when the Congress considers the President's budget proposal.

Mr. President, this is not the first time that the idea of reducing COLA's has been thrown about in spending reduction discussions. I am sure that it will not be the last time that we propose to balance the budget on the backs of the elderly and the disabled. For this reason, I would like to take a few minutes to speak about the absurdity and injustice of this idea. Shared sacrifice in dealing with the deficit does not mean a freeze in Social Security COLA's. Any downward change in the current COLA formula would mean that a Social Security recipient's benefits will no longer keep pace with inflation. The current formula is tied to the Consumer Price Index. A reduction in the COLA calculation will incrementally reduce the purchasing power of a Social Security check, decreasing its real value on an annual basis.

Mr. President, be assured that very few Americans who are receiving Social Security are investing their benefits in mutual funds. One-fifth of elderly Social Security recipients had family incomes of under $10,000. A full 70 percent of elderly recipients have no more than $30,000 per year in household income. Over one-third of elderly recipients have incomes that place them below the poverty line. Social Security often covers the small margin between dire poverty and survival for recipients. Four-fifths of aged recipients who live alone derive half to all of their income from Social Security. This means that their income goes to pay rent or mortgage payments, food and utility costs, and, not least of all, increasingly expensive medical bills. Reducing the COLA will only shrink the margin of comfort and security for most recipients. Zero percent inflation will never be a reality in a free market economy. Could we really take an action on the COLA calculation that will be guaranteed to worsen the living conditions of most recipients on an annual basis. In good conscience, I cannot and will not support any such effort.

Mr. President, this year's COLA will be only 3 percent. This is the second lowest increase in the last four decades. Perhaps it is easier in the years with lower inflation, and therefore lower COLA's, to think that the COLA formula can be adjusted downward. I suppose that some of the so-called policy experts assume that the difference between a $40 increase and a $50 increase in benefits will not be noticed. However, the amount of an increase is not at issue here. The purchasing power of a Social Security check is the real heart of the matter.

Anything less than an inflation rate adjusted COLA is guaranteed to reduce the real value of benefits. In addition, let us not forget that despite overall low inflation during the past years, medical costs have soared at double digit rates. This ever increasing cost falls heaviest on the elderly and disabled citizens who are dependent upon Social Security.

Mr. President, I am deeply disturbed by another issue that is raised by this proposal. At issue is the concept of shared sacrifice. I have heard repeatedly in the past few days about the need for the elderly to sacrifice for the good of their grandchildren and children. How can I tell my constituents, young and old, that the elderly have to sacrifice their Social Security COLA's when the Social Security trust fund is expected to be around $400 billion by the end of the year.

This is exactly what the floaters of this trail balloon expect me to do. Why, Mr. President? We know the answer. This proposal takes the mask off the fact that the Government is using the trust fund to offset the deficit. It is a trust fund in name only. We are using excess Social Security revenues as operating funds under the guise that we will pay the fund back at some point in the future. Mr. President, Social Security taxes are bringing in more than we are paying out in benefits. Using these excess collections to finance other Government spending is deceptive to the elderly and to the working age population. We are asking the elderly to sacrifice because their benefits are not in a trust fund. Rather, we are using the taxes that should pay for present benefits and prepare us for the retirement of future generations to finance the present deficit.

If the Congress were the trustee of a private trust fund, it would be removed for mismanagement. The elderly are asked to sacrifice because of our mismanagement. If the fund existed as it was supposed to, as an actual trust, then we would not have to soak the elderly to pay for the deficit.

This is not simply an issue of old versus young. The use of excess Social Security tax collections to pay for present expenses is an extra burden on working, younger Americans. Part of the Social Security tax is not old age insurance, it is another form of income tax on working Americans. We levy huge Social Security taxes on working Americans, telling them that we are saving for their retirement. In reality we are hiding an extra withholding tax and spending the rest to pay for present Social Security benefits.

As the present working population ages they will have to pay more in taxes to cover the empty trust fund that they thought they were paying into. Or they will be asked to sacrifice again because we have spent the tax receipts ostensibly marked for their retirement. This is not a generational issue, Mr. President. The current COLA suggestion reveals a deeper problem in how we tax Americans and manage the Social Security trust fund. The current set of practices threatens every generation of Americans.

To conclude, Mr. President, I hope that there is no intention on the part of the President to pursue this proposal; that this is in fact a trial balloon that has run out of helium. However, I wish to assure my constituents, my colleagues, and all Americans, that I will stand vigorously against any reduction in Social Security benefits. I am sure that many of my colleagues will join me in this effort.•

AZERBAIJANI BLOCKADE OF ARMENIA

• Mr. RIEGLE. Mr. President, I rise today to call attention to the tragedy facing the Armenian people this winter. Just 2 weeks ago, an explosion in Georgia destroyed the only gas line which supplied the Armenian capital. This devastating event left the already beleaguered city without any electricity or heat to protect the populace against the near freezing temperatures of the Armenian winter. Even with the eventual repair of this vital pipeline, however, the Armenian people might only receive a scant few hours of electricity each day. This emergency alone might be overcome but it is magnified by many other devastating problems including: no public transportation; no newspapers; and no fresh water. What food is available, is too expensive for the average Armenian to afford. In addition, the colder winter and a sewage system which is in great disrepair bring numerous medical problems for which there is precious little medical help available. The once proud Armenians are now forced to scavenge the streets for firewood and tens of thousands face possible death by exposure and starvation.

This tragedy is the result of the brutal blockade which Azerbaijan has imposed upon the people of Armenia as a result of the two countries' conflict over Nagorno-Karabakh. Over the past 4 years, Azerbaijan has forced Armenia to its knees with this unrelenting policy. Humanitarian relief which appears to be readily available, has not been able to reach Armenia; and, the possibility of settlement seems dim.

This war imposed by Azerbaijan is doubly cruel, when one considers that it came upon the heels of the 1988 earthquake. That earthquake destroyed nearly half of Armenia's industrial base and left many people homeless. Nevertheless, it is the Azerbaijani blockade which now brings this young country to its knees, its economy to a standstill, and threatens to leave thousands dead from starvation and malnutrition. Despite numerous calls for cease-fires, the war and blockade continues.

Recently, the U.N. Security Council called for emergency fuel and humanitarian assistance to be sent to Armenia and for the end of the cruel blockade by Azerbaijan. I have joined with other Senators, including Senators SIMON and DOLE, in writing to Secretary General Boutros-Ghali urging him to use all of his available powers to ensure that aid reaches Armenia and to further the Minsk process in order to peacefully settle the problem over Nagorno-Karabakh. The letter specifically requests the Secretary General to urge neighboring States to facilitate the delivery of humanitarian supplies and to press for a dialog between the parties to obtain a cease-fire in the area. I applaud these efforts to bring a peaceful settlement to the emergency situation in Armenia.

I co-sponsored a bill during the 102d Congress which demanded that Azerbaijan halt its blockade of Armenia, respect the human rights of Armenians and other minorities living in Armenia, and participate constructively in international efforts to resolve peacefully and permanently the conflict in Nagorno-Karabakh. Under this bill, the United States would be prohibited from providing any assistance to the Government of the Republic of Azerbaijan, unless the President determined that the above requirements were met. I would again support such measures to end the brutal repression of the Armenian people.

Armenia once had a promising future, being the first republic to declare its independence and to reestablish democracy after the disintegration of the U.S.S.R. This ruthless Azerbaijani blockade has prevented the Armenian people from establishing democracy and a free market system. We must make sure that these proud people and their country are allowed to again enjoy their freedom and economic independence. The United States must do all it can to end the violence in this area and prevent the pointless suffering of thousands in Armenia.•

NATIONAL BURN AWARENESS WEEK

Mr. FORD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 20, National Burn Awareness Week; that the Senate proceed to its immediate consideration; that the joint resolution be deemed read a third time, passed, the preamble agreed to; that the motion to reconsider be laid upon the table; that any statements relative to the passage of this item appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (S.J. Res. 20) was deemed read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 20

Whereas the problem of burn injuries and death in the United States is one of the worst of any industrialized nation in the world;

Whereas burn injuries are one of the leading causes of accidental death in the United States;

Whereas every year over 2,000,000 people in the United States are victims of some form of burn injury, and children account for between one-third and one-half of this total;

Whereas of the number of people injured by burns over 70,000 are hospitalized, resulting in 9,000,000 disability days and $100,000,000 in costs annually;

Whereas over 6,000 people die from burn injuries annually, and the rehabilitative and psychological impact of burns is devastating;

Whereas young children are in the highest risk group suffering from hot liquid burns and injuries caused by child fire play and fire setting;

Whereas older adults and the disabled are also at great risk and extremely susceptible to burn injuries;

Whereas burn survivors often face years of costly reconstructive surgery and extensive physical and psychological rehabilitation in overcoming disabilities of fears of rejection by family members, friends, coworkers, schoolmates, and the general public;

Whereas it is estimated that approximately 75 percent of all burn injuries and deaths could be prevented by a comprehensive national educational and awareness campaign and by changes in the design and technology of homes and consumer products;

Whereas general public awareness of the need for smoke detectors and home fire escape plans, in combination with an understanding of the risk associated with items in the home environment, can cause a reduction of injuries and loss of life; and

Whereas there is a need for an effective national program that deals with all aspects of burn injuries and burn prevention: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the weeks of February 7, 1993, through February 13, 1993, and February 6, 1994, through February 12, 1994, are designated as "National Burn Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States and all Federal, State, and local government officials to observe those weeks with appropriate programs and activities.

MEASURE REFERRED TO LABOR AND HUMAN RESOURCES COMMITTEE—S. 267

Mr. FORD. Mr. President, I ask unanimous consent that S. 267 be discharged from the Governmental Affairs Committee and referred to the Labor and Human Resources Committee.

The PRESIDING OFFICER. Without objection, it is ordered.

READING OF WASHINGTON'S FAREWELL ADDRESS

Mr. FORD. Mr. President, I ask unanimous consent that, notwithstanding the resolution of the Senate of January 24, 1901, on Tuesday, February 23, 1993, immediately following the prayer and the disposition of the Journal, the traditional reading of Washington's Farewell Address take place, and that the Chair be authorized to appoint a Senator to perform this task.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE INDEFINITELY POSTPONED—S. 5

Mr. FORD. Mr. President, I ask unanimous consent that calendar No. 3, S. 5, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, FEBRUARY 16, 1993

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate reconvenes on Tuesday, February 16, the Journal of the proceedings be approved to date, and following the time for the two leaders, there be a period for morning business not to extend beyond 12:30 p.m., with Senators permitted to speak therein for up to 5 minutes each; that on Tuesday, the Senate stand in recess from 12:30 p.m. to 2:15 p.m., in order to accommodate the respective party conferences; further, that at 2:15 p.m., Tuesday, February 16, the Senate proceed to consideration of calendar No. 2, S. 1, the National Institutes of Health authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TUESDAY, FEBRUARY 16, 1993

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now move that the Senate stand in recess until 12 noon, Tuesday, February 16, according to the provisions of Senate Concurrent Resolution 10.

The motion was agreed to, and the Senate, at 8:31 p.m., recessed, as provided for under Senate Concurrent Resolution 10, until Tuesday, February 16, 1993, at 12 noon.

CONFIRMATION

Executive nomination confirmed by the Senate February 4, 1993:

EXECUTIVE OFFICE OF THE PRESIDENT

LAURA D'ANDREA TYSON, OF CALIFORNIA, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Thursday, February 4, 1993*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

On this National Day of Prayer, we give thanks, O gracious God, for the rich blessings that have been given to us and to our Nation. May we be worthy of the high calling that comes to each person of our land and be faithful in our work and in our service. May we learn to respect each other and gain a greater appreciation of our different traditions that growing together in the bond of unity and in the spirit of respect, we may live our lives in useful service to others. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from New York [Mrs. LOWEY] please come forward and lead the House in the Pledge of Allegiance.

Mrs. LOWEY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESIGNATION OF MEMBER FROM COMMITTEE ON AGRICULTURE AND COMMITTEE ON SMALL BUSINESS

The SPEAKER laid before the House the following resignation as a member of the Committee on Agriculture and as a member of the Committee on Small Business:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 4, 1993.

Hon. TOM FOLEY,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I submit my resignation from the Committee on Agriculture and the Committee on Small Business to the House of Representatives effective this date.

It has been a distinct honor to serve on both of these committees. However, in accordance with the rules of the Republican Conference, my selection for the Committee on Ways and Means precludes my service on the Agriculture or Small Business Committee.

I look forward to my continued service as a voice for agriculture and small business on the Ways and Means Committee. The many important issues which come before the committee will be of vital concern to farm families, employers, and employees across Michigan and America.

With deepest appreciation,
Sincerely,

DAVE CAMP,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES

Mr. ARMEY. Mr. Speaker, I offer a privileged resolution (H. Res. 66) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 66

Resolved, That the following named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Ways and Means: Mr. Camp of Michigan;

Committee on the District of Columbia: Mr. Ballenger of North Carolina;

Committee on House Administration: Ms. Dunn of Washington; and the

Committee on Merchant Marine and Fisheries: Mr. Pombo of California with two remaining vacancies.

The resolution was agreed to.

A motion to reconsider was laid on the table.

NATIONAL VOTER REGISTRATION ACT

(Mr. RUSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSH. Mr. Speaker, it is an honor and a privilege to speak before the 103d Congress. I cannot express the wealth of emotion I feel at this moment—the first occasion I have to speak on the House floor. My experiences while campaigning made me sensitive to the importance of voter registration. Therefore, it is appropriate that the subject matter of this first opportunity to address Congress concerns H.R. 2, the National Voter Registration Act.

As national director of voter registration for Clinton-Gore 1992, I am intimately acquainted with voter registration practices.

The three registration methods contained in the bill will reach the entire eligible population, including our young people. America's young adults have often been left out of the democratic process and ignored by our generation. This act will provide registration facilities where young people are most likely to be found, driver's license and motor vehicle registration facilities.

The right to vote is a fundamental right in America. It is the duty of the Federal Government to protect this right. The motor-voter bill provides simple and effective means to ensure this right for all Americans.

In conclusion, I urge my colleagues to vote for H.R. 2, the National Voter Registration Act.

FRUSTRATION WITHOUT HESITATION

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, Bill Clinton, in his campaign for President, promised the American people taxation without hesitation.

The Democratic majority, on the first day of this Congress, gave Delegates representation without taxation.

Now, both President Clinton and the Democrats in the House want to give the American people delegation without compensation.

In the voter registration bill coming up today, the Democrats require the States to implement costly voting procedures without giving them any money to help comply with the mandate.

So, now we have taxation without hesitation, representation without taxation, and delegation without compensation.

What's next? My guess is frustration without hesitation as the Democratic majority and President Clinton continue to implement their legislative agenda.

MOTOR-VOTER LEGISLATION

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, I rise to day to speak of new beginnings.

A few weeks ago, a new President took the oath of office and announced that "a new season of American renewal [had] begun." President Clinton told the American people that they had "changed the face of Congress, the Presidency and the political process itself."

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

By voting for change, the American people had "forced the spring," the President said, and he urged us all to "do the work the season demands."

Mr. Speaker, I rise to say that the National Voter Registration Act offers us a new beginning. We can expand democracy by supporting this legislation.

Voting is a fundamental right. It is a responsibility of citizenship. Yet, for many Americans, it is not easy to register to vote. It is difficult.

This legislation will make it easier and more convenient for people to vote. It will increase voter participation.

Mr. Speaker, when more Americans vote, it renews the strength and vitality of our political process. We must tear down remaining barriers to voting. We must pass the National Voter Registration Act.

GAY BASHING IS WRONG

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, I am opposed to President Clinton's proposal to lift the gay ban in the military. I am opposed, as well, to those who advocate that homosexuality constitutes a normal lifestyle. It does not.

But I am furthermore opposed to the gay bashing that has occurred across our country in recent days. These self-appointed bullies, thugs, see themselves as the country's law enforcers. They grab gay patrons at the bar, haul them into dark alleys and proceed to assault and batter their helpless victims.

These enforcers apparently believe these tactics will preserve the enforcement of the gay ban.

□ 1210

Their foolish, insensitive acts may well accelerate the band's demise. This controversial issue in my opinion should not be before us. It is before us, however, but it must be resolved in a thorough, deliberative manner within the appropriate legislative halls.

IN SUPPORT OF H.R. 2, THE NATIONAL VOTER REGISTRATION ACT OF 1993

(Ms. ROYBAL-ALLARD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in support of H.R. 2, the National Voter Registration Act. This legislation is extremely important because it will greatly enhance voter participation by citizens throughout this Nation. My district in Los Angeles has a large number of low- and middle-income families. Many are headed by a single parent or have both parents working. These hard-working citizens find it difficult to participate in the current voter registration process. Their lack of participation is due to the inconvenience of the process, not to lack of interest.

H.R. 2 will also serve to educate the electorate on the most significant aspect of any democracy, the fundamental right to vote, and H.R. 2 will help ensure that citizens throughout our country will have a greater opportunity to exercise that right. I urge my colleagues to support the final passage of H.R. 2, the National Voter Registration Act.

VOTER FRAUD AND ILLEGAL ALIEN EMPOWERMENT ACT

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, this bill mandates that government workers at welfare and unemployment offices automatically register to vote all people seeking their services. In order not to register, the applicant must affirm in writing, that he is not eligible to vote.

Under this bill, Zoe Baird's chauffeur—an illegal alien from Peru—would have been registered to vote when receiving his driver's license, unless, he said "I can't register to vote. You see, I'm an illegal alien."

This bill could register to vote a great deal of the estimated 11 million illegal aliens in this country.

My home State of California will pay over $26 million per year, to pay for this unfunded Federal Government mandate. Even worse, they would be forbidden to require verification of citizenship and will face an onslaught of fraudulent voters.

Our cherished right to vote should not be diluted by the Democratic leadership of this House who sponsor this fraud in hopes of maintaining their 39-year death grip on this House of Congress.

VOTER REGISTRATION LEADS TO POLITICAL EMPOWERMENT

(Mrs. MEEK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEEK. Mr. Speaker, I want to voice my strong support for H.R. 2, the National Registration Act. I wonder if people over this country understand that there are 70 million eligible voters who are not registered because of the burdensome registration policies and procedures which we have in this country.

The 1992 elections demonstrated that easing voter registration procedures can have a positive impact on increased voter participation. In States that have a "motor voter" program, the voter turnout has increased, voter registration has increased. Enactment of H.R. 2 will further establish this important trend.

People have found it very difficult. Mr. "Joe Lunchbucket" and other common people that have found it difficult or inconvenient to register will be given new opportunities, if this bill is passed, to get on the voter rolls. Registering at driver's license agencies, registering by mail, registering at State agencies such as welfare and employment offices, will ensure that every eligible voter, and I do not think that any American would want to block the opportunity for any eligible voter, to vote in this country.

The history of voter registration, particularly in the South, demonstrates the importance of procedures. Poorly understood voter registration procedures have the greatest impact on the less educated and the poor. Making registration more accessible will substantially increase registration among these groups.

We are going to meet the needs of all Americans. Everyone surely will be impacted by this. Let us get on with it, House, and let everybody have a chance to vote.

AMERICA NEEDS THE LINE-ITEM VETO TO BALANCE THE BUDGET

(Mr. BLUTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUTE. Mr. Speaker, the American people have begun to hear the ominous rumbling of major tax increases and senior citizen benefit cuts emanating from this administration. Do we not have a responsibility to do everything else possible to reduce our chronic deficits before entertaining these damaging options?

One important step in the direction of positive change and fiscal sanity is to give the President of the United States the line-item veto authority.

During the recent campaign the President thought it was a good idea and many of us were elected supporting this commonsense tool for the Executive.

Unfortunately, the President seems to be backing away from this in the face of opposition by the forces of the status quo here in the Congress.

If the States are truly the laboratories of democracy then the line-item veto must be judged to be a very successful experiment, 43 Governors use it to keep their budgets under control and balanced. The line-item veto works, and it's necessary now more than ever on the Federal level to once and for all stem the tide of red ink in our budget.

We owe it to the taxpayer and senior citizen to do the right thing.

MOTOR-VOTER BILL PROVIDES PROTECTION AGAINST ABUSE

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, I rise today to answer a specific charge made by opponents of the National Voter Registration Act.

Opponents say too many noncitizens—or illegal aliens as a few of my colleagues like to call them—will rush to register and vote.

This is simply not the case.

To paraphrase Illinois Cook County Clerk David Orr, who will oversee registration in the second largest county of the Nation.

> The procedures we currently use and would continue to use under the act * * * will be adequate to ensure registration of citizens only.

So we must ask ourselves two simple questions today.

Are we fulfilling our duty to remove obstacles to registering to vote?

Are we fulfilling our responsibility to protect against abuse and fraud?

I know the answer is "yes"—because this bill meets these two important criteria.

I would suggest to my colleagues who fear being overwhelmed in the voting booth by noncitizens that their fears are completely unsubstantiated, so let us pass the motor-voter bill today.

MOTOR-VOTER: FAIRNESS FOR THE INSUFFICIENTLY LIFELIKE

(Mr. BACHUS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BACHUS of Alabama. Mr. Speaker, I rise today to give voice to a group of Americans who have no voice in this debate over motor-voter legislation.

I am speaking, of course about dead Americans.

Dead Americans or, better yet, the insufficiently lifelike have presently no voice in American democracy.

Think of all the dead Americans whose wise counsel our Nation could use at the ballot box: George Washington, and Abe Lincoln.

And who can forget Senator Earl Long, who said:

> I hope that when I die, I get buried in Louisiana so I can stay active in politics.

Under motor-voter the late Senator Long's dream can come true.

How? Because motor-voter does not allow the purging of the insufficiently lifelike from the voter rolls.

If you wish to give the last neglected class in America a voice in politics, in the name of fairness and justice, give the vote to dead Americans by casting your vote proudly for the motor-voter bill.

□ 1220

IT IS "THE ECONOMY, STUPID"

(Mr. KOPETSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOPETSKI. Mr. Speaker, President Clinton has scheduled a major address before the Congress on February 17 to unveil his economic plan. It is time for the House and all of the politicians here to stop talking and start doing. It is time for this body to demonstrate a willingness, Republican and Democrat alike, to work with the new President on behalf of the American people.

An essential component of the President's package will be long-term deficit reduction. This body will be challenged to match our political posturing with the tough votes necessary to attack and fix the problems. In his inaugural address, President Clinton warned America that sacrifices will be necessary to gain control of the deficit. Polls show Americans understand and accept this fact. Let us move forward with the complete deficit-reduction package.

Mr. Speaker, the President and the administration are working night and day to craft this plan. I look forward to the President's address, and working with the administration to put people back to work in my district and across the Nation. I trust that the Members of the House on both sides of the aisle will have the political courage to seek solutions and to seek agreement, and not take the easy political course of only talking about what they oppose in a proposed program.

MOTOR-VOTER

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, like far too many pieces of legislation with good intentions, the so-called motor-voter bill will compound the problems it is trying to solve.

Motor-voter will not increase voter turnout. The Congressional Research Service has found that 8 of the 10 States that adopted some type of motor-voter registration system prior to the 1988 Presidential election actually saw a decline in voter turnout.

It is another costly mandate on States. As a former Arkansas State legislator, I know the resentment we cause when we impose costly mandates on States already strapped with budget shortfalls.

Illegal immigrants would be registered to vote when they got their drivers license. Zoe Baird's chauffeur had a driver's license—but he had no legal right to be here or vote here.

Welfare agencies must provide voter registration, and other governmental agencies such as public schools and libraries are not required to do so. This leads to a serious imbalance of who has easy access to voter registration.

As an Arkansas legislator, I led the effort to make voter registration more accessible by sponsoring the election code revision bill—and that is the appropriate jurisdiction for reform—the State—not heavy-handed Federal mandates.

POLITICAL NONSENSE ABOUT MOTOR-VOTER BILL

(Mr. SWIFT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWIFT. Mr. Speaker, I wish I could remember who it was who said, "It's not what you don't know that hurts, it's what you know that ain't so." I have got to tell Members we have heard more nonsense this morning in the well about the motor-voter bill than you can find in a Marx brothers' movie. We have heard that dead people are going to vote, we have heard that noncitizens are going to vote and a bunch of other nonsense.

We are going to be getting into the debate on this bill. Any Member who is concerned about all of the misinformation that is being trumpeted from the other side should listen with care to the debate.

What we have is a bill that is going to give access to the ballot for every American citizen more easily than they have it today, and that is all it is going to do, remove the heavy hand of government from between a citizen of this country and their access to the ballot box.

I think when Members hear the debate and when they hear what in fact this bill really will do, they will be eager to support it.

AUTO FRAUDO: AN OPEN INVITATION TO FRAUD

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remark.)

Mr. HOKE. Mr. Speaker, today we take up H.R. 2, the National Voter Registration Act. Some will try to sell this as civil rights legislation.

I say only if we defeat it do we win a victory for civil rights.

Motor-voter, also known as auto fraudo, will guarantee voter fraud.

Every dead person's vote, every illegal alien's vote, and every multiple vote by a party hack dilutes the voice of law-abiding Americans exercising their franchise legally.

Auto fraudo contains none of the tough antifraud provisions that we know are necessary. It does not allow for address verification. It does not contain any purge provision. It glaringly avoids the issue of citizenship verification. In other words, it is an open invitation to voter fraud.

We need to increase voter participation, and in a perfect world, we would not have to worry about voter fraud. But this is not a perfect world, and voter fraud hurts each and every American who legally participates in the electoral process.

For that reason, I urge all of my colleagues to oppose H.R. 2.

THE MOTOR-VOTER ACT

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, I rise in strong support of the National Voter Registration Act.

Voter participation in this country is much too low. While individuals must take responsibility for exercising their right to vote, we elected officials must take responsibility for reducing any existing impediments associated with registering to vote.

Not too long ago, the Congress permitted laws and practices that prevented all Americans from exercising their constitutional right to vote. Many citizens of the 11th District of Georgia were victims of those laws and practices.

I am in Congress today because of efforts to expand voting rights and voter participation.

On behalf of Mrs. Emma Gresham, Margie Pitts Hames, Kathy Wilde, State Representatives Tyrone Brooks and John White, my father Billy McKinney, Henry Turner, and Mary Young Cummings—folks who have dedicated their lives to voting rights for all Americans—I urge my colleagues to support this effort to make democracy a little more real for all citizens of the United States.

NATIONAL MOTOR-VOTER REGISTRATION ACT WOULD INCREASE VOTER FRAUD AND CORRUPTION

(Mrs. FOWLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FOWLER. Mr. Speaker, I support efforts by individual States to simplify the voter registration process. What I do not support, however, is a bill which would increase voter fraud and corruption.

The National Motor-Voter Registration Act of 1993 would increase voter fraud and corruption. Since this bill permits individuals to apply to register to vote while they apply for a driver's license, the potential for fraud is enormous.

Driver's licenses are in high demand with illegal aliens since licenses are used as a form of identification for employment purposes.

While this bill requires citizenship attestation in certain circumstances, it does not require proof. Do the cosponsors of this bill actually believe that an individual applying for a driver's license would admit that he or she was an illegal alien?

There is a financial concern as well. The cost of implementing this legislation rests wholly on the States.

Protect your home State from another unfunded Federal mandate and vote against the National Motor-Voter Registration Act of 1993.

PROVIDING BASIC HEALTH CARE FOR ALL AMERICANS

(Mr. MCHALE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCHALE. Mr. Speaker, he is a carpenter. He is 27 years old. And he has cancer. Several weeks ago, his mother wrote to tell me that the trauma of his initial diagnosis was compounded by the fact that he has no medical insurance. Like 36 million of his fellow citizens who have no health coverage, this young man cannot afford to pay for his expensive, life-sustaining medical care.

His mother wrote to me in anguish—in desperation—urging that the Congress take prompt action to effectively reform the American health care system. Mr. Speaker, the threat of serious illness need not be exacerbated by the further risk of bankruptcy. Wealthy citizens can afford coverage. Impoverished citizens have access to Medicaid. But middle-income wage earners, like the young man I've just described, can no longer afford even basic health insurance coverage. We can do better.

I'm greatly encouraged by President Clinton's action in establishing his task force on national health reform. I am heartened by his pledge that the task force will submit proposed health care reform legislation within the first 100 days of the Clinton administration.

The cost of health care continues to rise at three times the rate of inflation. Small business struggles to provide even modest group coverage. And although we spend 13 percent of our GDP on health care, 29 percent of our Nation's children remain without coverage. Health care reform will not come easily. But with leadership from the President and bipartisan cooperation from the Congress, it can be accomplished. That 27-year-old carpenter is counting on us.

☐ 1230

VOTE FOR EMPOWERMENT OF PEOPLE'S RIGHT TO VOTE

(Mr. EDWARDS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Texas. Mr. Speaker, I find it incredulous that a Member from the other side of the aisle would suggest that Abraham Lincoln and George Washington would oppose the motor-voter bill today.

What I do know, Members, is that all across this country there is a crying out for reform in this Congress, for the need to make democracy work better. In the history of our Nation, there has been no more effective reform of democracy than to empower the people's right to vote.

Today we can vote for meaningful reform, not window dressing, but effective reform of our democracy. A vote for H.R. 2, the motor-voter bill, will make voting easier for American citizens. If you truly want to lessen the influence of special interests on Congress, vote for H.R. 2.

A vote for H.R. 2 is a vote for reform. And let us be clear, a vote against H.R. 2 is a commitment to the status quo.

FLOODWATERS OF INCREASED REGULATION DESCENDING

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, I think after yesterday's action we can certainly say that gridlock is over and that the floodwaters of increased regulation and big Government are now descending upon an innocent America. Now, in the name of no more gridlock, another irresponsible bill is being haphazardly pushed upon us.

I urge my colleagues to vote "no" on H.R. 2, the motor-voter bill. I do this for a number of reasons.

No. 1, we have already talked about the bill will increase voter fraud. That is plain and simple. I cannot even see that meriting debate.

No. 2, it unfairly requires welfare recipients to be coerced into registering to vote. That is a right that they have to make their own mind up about without having big Government, Big Brother shove that on them.

No. 3, however, maybe more importantly to your local municipality and your local county, is that it is an unfunded mandate. Whenever Congress passes an unfunded mandate, simply the local municipality, your city or county has to increase your taxes in order to offset the costs.

As a candidate for this office, I heard repeatedly "No more unfunded mandates. They are killing the States and the local governments."

For this reason alone, I request and urge my colleagues to vote "no."

THE CLINTON ECONOMIC AGENDA

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, in less than 2 weeks, President Clinton will unveil his economic package to Congress and the country, during his State of the Union Address.

We know that while there have been encouraging signs in the economy, unemployment remains at 7.3 percent and underemployment is even higher, as people take what they can get.

We believe the President wants to do three things: Create jobs, raise incomes, and reduce our Federal debt. We also believe that this is what the American people want.

Second, I wholeheartedly support the President's proposal to invest in our infrastructure, and put people back to work building and repairing our bridges and roads.

I also support the President's proposal for tax incentives for private investment, and his plan to overhaul health care.

Let us also remember the President's inaugural message of shared sacrifice; all segments of society must share in the pain, and in order to achieve long-term deficit reduction. In this regard, the President has promised a balanced approach, and I support that.

In President Clinton's inauguration speech, he stated that this is our time. I view it as a challenge to right the wrongs of the Reagan-Bush era. It is a challenge to step up to the plate and make the tough decisions, just as past generations faced depressions, world wars, and the problem of integrating our society.

The President is right. It is our time, and it is also our turn.

VOTER REGISTRATION ACT PASSES COSTS ON TO OTHERS

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, this idea has merit. However, in Michigan, the costs are estimated to be $1 to $3 million additional money, so I am concerned about the Federal Government mandating good ideas and not letting the States gradually implement them the way that they can afford them.

So I am concerned about us not taking the responsibility to fund the ideas we have, whether it was H.R. 1 yesterday where we passed some ideas that have merit on to businesses, or whether it is H.R. 2, where we are passing those ideas on to State governments.

We have in Michigan already everybody who gets a driver's license are asked whether or not they want to register. So I think it is important that not only we have good ideas, that we also be concerned about the imposition as we pass these costs on to other entities in our society, whether it be local government or whether it be business.

THE PRESIDENT INSPIRES CONFIDENCE

(Ms. LONG asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LONG. Mr. Speaker, the dark clouds of recession, gridlock, and aimlessness, have broken, and they have given way to a rainbow of hope for new growth, cooperation, and decisiveness.

Just this week, the Commerce Department announced what is becoming a trend of good news about our economy. The Index of Leading Economic Indicators is up. Housing starts are up. The expectations of economists are up. But probably more importantly, the confidence of the American public is up.

Partly responsible for this surge is a President who inspires confidence. He is not afraid to make the tough decision, decisions not made in the past that have resulted in our Nation's $4.1 trillion debt and growth that has been sluggish at best.

President Clinton inspires confidence because he has had the courage to tell us that sacrifices are going to be required, sacrifices shared by all for the benefit of all.

I look forward to the plan that President Clinton will present in this Chamber in 13 days. I expect it to be bold and innovative, and the pot of gold at the end of that rainbow to be a renewed and robust America.

MOTOR-VOTER BILL STRENGTHENS DEMOCRACY

(Mr. HILLIARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIARD. Mr. Speaker, I am from Birmingham, AL. I am a product of the civil rights movement.

All of my life I have believed that the right to vote is fundamental. It is a privilege of democracy that should be universal and that should be extended to every citizen, to every American anywhere they reside in America or in any possession of America.

I ask for support for H.R. 2, the motor-voter bill, because it will extend my belief; it will extend democracy to everyone.

I recall in my lifetime in Alabama the poll tax. I myself recall being required to take an examination to register to vote, and I know that that was a deterrent for persons to register to vote. I know that it was a deterrent for citizens to participate fully in democracy.

□ 1240

This bill will erase those historical things and bring democracy into the 21st century. It will extend it to all Americans.

So I ask each one of you today to support H.R. 2.

WE SHOULD CAREFULLY EXAMINE, AND AMEND, H.R. 2

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. In response to the gentleman who preceded me, I think he has well stated the motivation of this bill. Unfortunately, he has not stated what this bill does.

This bill prevents notarization or verification of people who send in their names on postcards. We do not know who is going to send in postcard registrations.

The bill encourages same-day registration. A person could walk into one precinct after another and cast his vote. The bill discourages illegal aliens from telling people that they do not want to be registered. Once they get registered, of course, then they can vote.

This bill does a lot of things that the best of intentions behind this bill never even contemplated. This bill, frankly, should have been amended in subcommittee to make it a good bill, to make it do the things that all the people who have spoken a few minutes ago wanted it to do.

But none of the amendments that we offered to make this bill a better bill were permitted. And I think our colleagues, before they vote on this thing, ought to go back and talk with their registrars or commissioners in charge of elections and consider that we are imposing tremendous mandates, with no money, on those people who carry out the mandates that the American people are not going to like.

H.R. 2, THE NATIONAL VOTER REGISTRATION ACT

(Ms. E.B. JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. E.B. JOHNSON of Texas. Mr. Speaker, I rise today to speak on one of the most important civil rights in our democracy—the right to vote. As a black American woman, and a new Member of this institution, I have known in my lifetime what it means to be denied. I have seen the pain of my people who were refused this fundamental liberty, and I have known those willing to sacrifice their lives to end this injustice for future generations. It is nearly 30 years since Michael Schwerner, Andrew Goodman, and James Chaney died in Philadelphia, MS, fighting for voting rights for all Americans—for them, the price for freedom and voting rights was supreme. It is our duty to finally fulfill that goal of universal voter registration through passage today of H.R. 2, the National Voter Registration Act.

While a record 104.4 million people turned out to the polls in 1992—an impressive 85 percent of all the registered voters—that number was only 45 percent of the entire voting age population. There are still, today, roughly 70 million eligible citizens who are not registered to vote. I am very proud to say that my home State of Texas has been a leader in helping its residents vote—our Secretary of State, John Hannah, Jr., devised an innovative program whereby Texas could vote during a full 3-week period. By placing voting sites in widely accessible locations, the State ensured that every eligible individual had the opportunity to be heard at the ballot box. And in the area of voter registration, Texas implemented a virtually cost-free motor-voter program simply by redesigning the forms and reprogramming the necessary computer systems.

H.R. 2 is hardly radical. It provides national guidelines for 3 types of voter registration accessible to all citizens: Motor-voter, which will target the near 90 percent of eligible voters who have driver's licenses; agency registration which will register the remaining 10 percent of voters, especially those with disabilities, the poor and unemployed; and standard mail-in forms. Dozens of States, like Texas, have already implemented such programs at nominal costs. By retaining States' flexibility, while ensuring simplified registration for eligible voters, H.R. 2 strikes a fair and balanced approach that has been arrived at after years of bipartisan negotiations.

To vote is a protected right in our democracy, and we have an obligation to make that process simple, fair, and honest—I urge my colleagues to vote for H.R. 2, without amendments.

H.R. 2 OPENS UP THE POLITICAL PROCESS FOR MORE PEOPLE TO PARTICIPATE

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, I would like to address you today on the motor-voter bill, H.R. 2. I am one of the cosponsors.

You have heard a lot of things, but as I moved around in my own campaign for the House of Representatives, I was surprised at the horror stories that I heard around my own district about people who had attempted to register to vote but were shut out of the process.

When I got here and talked to fellow Members of the House, I heard the same kinds of stories from Georgia, Florida, from Missouri, Illinois, and from across this great Nation.

You have heard from the other side of the well some creative interpretations of this law. I want you to listen to the debate today, and I do not want you to believe that it was going to have just an increased cost, that it is going to open it up for fraud. In fact, it brings in Federal antiperjury laws which come into play with this law.

It is a law that does open up the political process for more people to participate.

By voting, maybe some of those people will also be moved to also run for Congress. Imagine that.

"IT'S STILL THE ECONOMY, STUPID"

(Ms. DANNER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DANNER. Mr. Speaker, Presidential candidate Bill Clinton had a sign in his campaign headquarters which read, "it's the economy, stupid."

That phrase, that reality was true last fall—and it's still true today.

We have all read the headlines—Sears, for example, has recently announced the layoff of 50,000 people. IBM has laid off 25,000 people.

Mr. Speaker, these are not mere numbers—these are men and women who have lost their jobs. And all too often, their dignity and self-esteem.

Today, we find ourselves faced with an unacceptable situation: An incredible number of unemployed and underemployed Americans.

Thus, Mr. Speaker, all America eagerly awaits President Clinton's economic stimulus package. By providing much needed revenue to rebuild our infrastructure and provide incentives for private investment, we will fortify and complement the promising statistics released by the Commerce Department this month.

A stronger and more robust economy will be the American people's reward for trusting us to remember: It's the economy, stupid.

ON BEHALF OF CONGRESSMAN HAROLD FORD

(Mr. STOKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STOKES. Mr. Speaker, I rise today to call the attention of the House to a matter which could potentially affect any Member of this body. Specifically, Mr. Speaker, I am referring to the ongoing legal battle of our colleague, HAROLD FORD, of Tennessee. At this moment a jury is being selected in Mr. FORD's case. Not only is this jury not a jury of his peers, it is a jury which is being selected 100 miles from his hometown, in Jackson, TN, on the premise that the jurors are less likely to be affected by the media coverage. The jurors, once selected, will then be bused 100 miles from Jackson, TN to the trial in Memphis.

The implications of selecting a jury outside a Member's congressional district are staggering. Our colleague from Tennessee is being stripped of his constitutional rights. If this can happen to our colleague from Tennessee, what will prevent the same thing from happening to any one of our colleagues. It is imperative for this body to take note of this disturbing legal precedent.

OUR FISCAL CRISIS: WE DO NOT NEED PERFECTION, WE NEED PROGRESS

(Mr. COPPERSMITH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COPPERSMITH. Mr. Speaker, in less than 2 weeks, President Clinton will present his economic plan. While we lack all the specifics, we do know what we need: job growth, increases in real family incomes, and serious, long-term deficit reduction.

We also know that the President's plan will not be perfect. Many of us will find parts uncomfortable, and special interests will lobby against certain provisions. The plan will change things for those who have grown too comfortable from years of borrow and spend.

Yet I believe Americans understand this Nation's fiscal crisis. We know we cannot rely on spending cuts or tax hikes that affect only someone else. We know that the time has come for shared sacrifice and shared responsibility. Most important, we know that we do not need perfection—we need progress.

Mr. Speaker, I say to my colleagues, in less than 2 weeks, we begin a crucial test of our responsibility. Let us craft a program that may not be perfect, but will begin to fix this Nation's economic problems.

□ 1250

"IT'S THE ECONOMY, STUPID"

(Mr. HOLDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLDEN. Mr. Speaker, during last year's Presidential campaign, President Clinton and his staff posted a sign to remind them of the No. 1 issue facing this country.

They posted that sign so that they could remain focused and not get sidetracked into other peripheral issues. The sign read, "It's the economy, stupid."

After watching this body over the past month, I am convinced that maybe we need to post a similar sign in this Chamber. To put it simply, I fear we are getting sidetracked.

I know that all of us have different responsibilities and demands to meet. But I also know that if we do not keep focused on getting this economy moving and growing, we will have failed and failed miserably.

President Clinton and his staff are preparing a blueprint for economic growth. That blueprint will be here 2 weeks from today. On one side will be incentives for business to invest in their future, and increased spending on infrastructure. On the other side will be cuts in wasteful Government programs, and deficit reduction.

On this floor last week I challenged my colleagues to put aside partisan and ideological differences, to put our heads together, and to do the job we were elected to do. Need I remind us all that job is simple: "It's the economy, stupid."

EASIER TO BUY A GUN IN AMERICA THAN TO VOTE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, why is it in some States you have to climb every mountain and jump through hoops just to exercise your constitutional right to vote?

Tell me, is there something sinister here that I am not seeing? I mean, really what is going on?

The truth is, Mr. Speaker, what is wrong is simply this. It is easier to buy a gun in America than it is to vote. Let us tell it like it is.

Think about that and also think about the Constitution today.

I think many people are worried about a lot of people voting. It is a right, Mr. Speaker. Let us get back to the Constitution and support Chairman SWIFT today. It is a good bill.

PERMANENT EXTENSION OF RESEARCH TAX CREDIT

(Mrs. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LLOYD. Mr. Speaker, today I am introducing a bill to encourage this country's businesses to expand their research efforts. I am sure we all agree that part of the solution to our ailing economy is to promote the type of needed research into advanced technologies that will yield operating efficiency and economic growth. This is one part of a multifaceted approach to improving our industrial base and its competitiveness.

The legislation I am introducing will make permanent the research tax credit. The credit expired in June of last year. By making the tax credit permanent, we remove many of the threats that could inhibit its regular reextension. Business leaders deserve the confidence of knowing that the credit is not in jeopardy and that their research efforts should continue to grow and be rewarded.

If you believe in encouraging business to expand their research efforts to promote growth and job creation, please join me in cosponsoring this measure.

CALLING FOR AN END TO THE AZERBAIJANI BLOCKADE

(Mr. TORRES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRES. Mr. Speaker, the American public has followed changes in the former Soviet Union, initially, with excitement and hope, but now, increasingly with horror. Two former republics of the U.S.S.R., Azerbaijan and Armenia, are now locked in deadly conflict. The recent causes of this conflict are clear.

Two years ago, Azerbaijan imposed an energy and rail blockade on Armenia. The blockade has cut off the fuel supply of Armenia, depriving its 3.6 million population of all electricity, heating fuel, public transportation, and water supplies.

Furthermore, the blockade threatens a potential nuclear catastrophe. Due to the lack of electricity, the safety system of the Medzamor nuclear powerplant has been forced to close, raising the specter of a nuclear disaster for the entire region. Carrying the nuclear threat one step further, this past November, the Azerbaijani Interior Minister reportedly warned that "unless the Armenians come to their senses", he would authorize a nuclear strike against the Armenian capital.

The European Parliament has condemned this Azerbaijani blockade.

I am calling on the United States Government, in coordination with its allies, and working within the United Nations and elsewhere, to end this blockade, and to immediately open corridors for the transport of food, fuel, medicine and other humanitarian supplies to Armenia.

Furthermore, I urge the strict enforcement of the Freedom Support Act, legislation which specifically prohibits the transfer of United States aid to Azerbaijan until it has ceased all blockades and other offensive uses of force against Armenia. The human suffering caused by this blockade must end.

THE SITUATION IN ARMENIA

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, as we speak today, the Armenian people are without food, electricity, and medicine. Two-thirds of the population is unemployed and most are losing hope.

This inhumane condition is the result of an Azerbaijani and Turkish blockade of Armenia. For months this tiny landlocked nation has been cut off from the world by blockades to the west and south, incapacity to the north in Georgia, and a destroyed infrastructure in Iran to the east. The only remaining fuel pipeline into Armenia has now been closed.

This proud nation has been completely shut down. The telephones do not work. The hospitals have been closed. Public transportation has stopped. The once thriving city of Yerevan has become a ghost town. While our attention has been focused on the deplorable situation in Somalia and the genocide in Bosnia, Armenia has been strangled almost to the point of death.

This has got to end. We must support efforts by the U.N. to condemn Azerbaijani aggression and we must pressure the Turkish Government to end their blockade. We must stop the wars plaguing this region of the world. We must also send emergency supplies of food, medicine, and fuel to save thousands of lives already threatened by starvation and disease. We must act now.

VOTE AGAINST H.R. 2, A FLAWED MOTOR-VOTER BILL

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, I along with all my colleagues in the House support efforts to increase voter registration and participation in the electoral process. However, H.R. 2 is a seriously flawed attempt to achieve this goal.

The so-called motor-voter bill not only invites fraud, but requires the States to implement this costly mandate without Federal funding.

While providing for mail-in registration, H.R. 2 expressly forbids States from seeking notarization or other types of verification. This is outrageous. Is it unreasonable to at least verify that the person who registers is indeed at least a citizen of this country? If passed, H.R. 2 would extend the franchise to virtually anyone with or without a mailbox.

According to CBO estimates, the cost of implementing H.R. 2 is less than $30 million. However, California alone has estimated that the cost for their State would be $26.1 million annually. Many States including my home State of Maryland are weathering tough financial times. We simply cannot continue loading Federal mandates on the

States without proper funding. If we pass H.R. 2, you can bet that the States will be knocking on our doors next year asking for funds to implement this costly bill.

Our forefathers and succeeding generations of Americans have fought and died to secure and maintain our system of democracy. Do not cheapen their efforts. I urge my colleagues to vote against H.R. 2.

UNFAIR SELECTION OF JURY IN TRIAL OF CONGRESSMAN HAROLD FORD

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, I rise today to call attention to a matter which is unjust and which could potentially affect every Member of this body. Specifically, Mr. Speaker, I am referring to the ongoing legal battle of our colleague, HAROLD FORD of Tennessee. At this moment, a jury is being selected in Mr. FORD's case. Not only is this jury not a jury of his peers, it is a jury which has predetermined his guilt. The jury is being selected 100 miles from his hometown in Jackson, TN, a community that is not as diverse as the one that is currently being served by Mr. FORD.

Mr. Speaker, the jurors here are being selected and will be bused from Jackson, TN, to Memphis, TN, to judge Mr. FORD. Clearly he is being stripped of his constitutional rights. If this can happen to our colleague from Tennessee, we must all understand that it can happen to any of us. It is imperative for this body to take note of this disturbing and unjust precedent that is being carried on at this moment, because it is indeed a miscarriage of justice.

THE CONTINUING GRIDLOCK IN THE HOUSE OF REPRESENTATIVES

(Mr. REYNOLDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REYNOLDS. Mr. Speaker, yesterday we saw a sad, shameful attempt by Republicans in his Chamber to revive the bad old days of gridlock that plagued this Nation for the past 12 years.

The American people clearly, forcefully, and passionately told their elected officials last November that gridlock must end.

If my colleagues on the other side of the aisle are under any illusion as to why they lost the White House at the polls in November, let me remind them that the American people were fed up with the delaying tactics used by those who say no to everything.

Fortunately, the Democrats in this body yesterday hung together and acted to free the American family from the hypocrisy of Republican family values rhetoric. Yesterday this body, led by the Democrats, enacted legislation 8 years in the waiting. I trust that we will further free the American people today by enacting the motor-voter registration bill.

□ 1300

THE ROAD TO ECONOMIC RECOVERY

(Mr. FINGERHUT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FINGERHUT. Mr. Speaker, recent economic indicators show that the public is optimistic that things will get better, and so consumer confidence is up. But this optimism will recede quickly if we fail to seize the opportunity for fundamental change. And there is only one accurate formula for that change, and there is only one accurate formula for that change, and that is the formula that is embodied in President Clinton's package to be presented here on February 17. It goes like this:

Investment in workers, business, and infrastructure plus debt reduction equals long-term growth.

Mr. Speaker, I have listened with great interest to the debate over whether or not we should have short-term stimuli. Certainly this strange sounding organism has a role in the economic package President Clinton will present. But this President and this Congress know that stimulating wasteful and unproductive spending is short-sighted, and so we will invest, not just stimulate. We will encourage a renewed focus on research and development that will lead to the promotion of advanced technology. We will update equipment and facilities to ensure our productivity.

But we will also pay attention to the second half of the formula: long-term debt reduction. The deficit drain on our budget means that we are literally taking money away from the real needs that exist both in the public and the private sector.

Mr. Speaker, for years both sides have talked about reducing the deficit. Now this President will lead us honestly and forthrightly to a solution. Investment and deficit reduction will put people back to work, and we will begin the true road to economic recovery.

LEHMAN CALLS ON THE UNITED STATES TO PRESSURE AZERBAIJAN TO LIFT BLOCKADE IMPOSED ON ARMENIA

(Mr. LEHMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEHMAN. Mr. Speaker, I rise today to draw attention to the tremendous suffering in Armenia due to the blockade imposed by Azerbaijan.

This blockade, which is entering its fifth year, has deprived Armenia of heating fuel, electricity, public transportation, sanitation services, and safe water. Industrial enterprises, with the exception of a few scattered bakeries, have been forced to close. The energy crisis facing Armenia has reached catastrophic proportions. As a result, there are plans to reopen a nuclear power plant closed after the 1988 earthquake.

The shortages of food and fuel in this landlocked republic will result in tens of thousands of deaths by exposure and starvation if action is not taken immediately. The death rate among the elderly and infants has already increased dramatically and the break down of the sanitation raises the risk of widespread epidemics this spring.

As a close friend of the Fresno Armenian community, which has greatly enriched central California, it is my hope the United States will immediately transport fuel to Armenian and pressure the Azerbaijani Government, directly and through the appropriate international channels, to end the blockade of Armenia.

The Armenian people have suffered for too long, and it is time for the United States to take action. The very survival of the Armenian people is at stake.

KILLER AMENDMENT TO H.R. 2 MUST BE DEFEATED

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, today the House will pass a second bill that the President will sign, the motor-voter registration, signaling that gridlock in Washington is over, that the President and Congress can work together on significant legislation. This bill will open up voting to all Americans making sure that we participate fully in the American electoral process.

Mr. Speaker, there will be two critical amendments; one, the first Michel amendment, which is a Hispanic-American, which I will be supporting, that basically states that no one but U.S. citizens may vote. That is already in the bill, but it will be reinforced.

There is a second Michel amendment that is a killer amendment because what it does is it guts the bill. In essence it allows officials who oppose the law to delay indefinitely in enforcing it. It states that each State's election officer must certify to the Attorney General that sufficient procedures exist to prevent non-U.S. citizens from registering. The practical effect is that an election official can delay indefinitely proceeding with this bill.

Mr. Speaker, that is a killer amendment, and we must defeat it.

THE MOTOR-VOTER BILL WILL ENCOURAGE AMERICANS TO VOTE

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, we are going to pass today, and deservedly so, the bill that we call the motor-voter bill, which is H.R. 2, the national voter registration bill which allows people to register to vote more easily than is the current situation. I would say that H.R. 2 bears the strong imprint of my home State of Kentucky. The senior Senator in the other body is a major sponsor of the bill.

We all know the bill's details, Mr. Speaker. Let me just simply say that the House passed this bill in the 101st Congress, the House and Senate passed it in the 102d Congress, and only because the then-resident of the White House was counseled by those who were afraid of letting all the people vote, did this bill get vetoed. We want to show by its passage today, Mr. Speaker, that we are not afraid of the American people and not afraid of their vote. Let us encourage their vote. Let us pass this bill.

SUPPORT H.R. 2

(Mr. TUCKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TUCKER. Mr. Speaker, I rise today, as so many of my other colleagues have already done so, in support of H.R. 2, what is commonly referred to as the motor-voter bill.

Mr. Speaker, we have heard a lot of different arguments from the other side of the aisle as to why this bill should not be passed; probably and perhaps the most prominent of which, Mr. Speaker, has been the allegation that there will be fraud, fraud perpetrated.

However, Mr. Speaker, I ask my colleagues, "Who is really perpetrating the fraud here today?" When we talk about ending the gridlock, when we talk about inclusion, we talk about bringing more Americans into the political process, it is fraud for us to assert that this bill is not going to achieve those ends.

The motor-voter bill, which has already been adopted in many States throughout this country, Mr. Speaker, has already shown that in 1992, in those States where it is already existing, that there was a higher registration and higher voting turnout in those States that it existed than where it did not. So, in effect this motor-voter bill will make more Americans participate, make more Americans register to vote, and those arguments are not only unfounded, but they are fraudulent.

Mr. Speaker, this is the time in America where we can give public assistance to those who need to be a part of the process, for perhaps our greatest problem in America is voter apathy. This is the time for us to turn that situation around, to make America the great country that it is supposed to be in terms of voter participation, voter registration, and voter turnout.

NATIONAL VOTER REGISTRATION ACT OF 1993

(Mr. BECERRA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BECERRA. Mr. Speaker, I rise today to support H.R. 2, the National Voter Registration Act of 1993.

For all too many Americans, government and the decisionmaking process are irrelevant factors in their daily lives. This is reflected in the fact that our Nation's voting rate in Federal Elections has fallen to the lowest level of any major world democracy.

It's mind-boggling to realize that over 57 million Americans who are eligible to vote are not registered to vote. I would venture to say that a great many of these 57 million Americans have not registered to vote primarily because of our outdated system of voter registration.

If we care about a healthy, participatory democracy in its fullest sense, it's imperative that we facilitate voter registration—the first step in bringing about greater levels of political participation. Today we will move closer to doing just that.

The bill before us combines some of the most successful voter registration methods utilized in many States: motor-voter registration, agency registration, and mail registration. This three-pronged approach will reach 95 percent of the eligible electorate within 4 years. It's an approach we cannot afford to let pass by.

Some of my colleagues have expressed concern that noncitizens will register to vote under the provisions of H.R. 2. These fears are unfounded. First, the documentation required to register under H.R. 2 is more extensive than the documentation currently required to register to vote in any State. Second, the voter registration forms will clearly state in no uncertain terms that only U.S. citizens can register to vote. And finally, it is clear from the evidence in those States that utilize motor-voter and other registration techniques that noncitizens are not registering to vote.

Reaching out to those individuals who are furthest removed from our system of government—and doing everything possible to encourage greater levels of political participation among our citizens—are critical tasks we as policymakers must undertake. I urge my colleagues to support the National Voter Registration Act.

PROVIDING FOR CONSIDERATION OF H.R. 2, NATIONAL VOTER REGISTRATION ACT OF 1993

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 59 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 59

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2) to establish national voter registration procedures for Federal elections, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with clause 2(l)(6) of rule XI are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration. After general debate the bill shall be considered for amendment under the five-minute rule. The amendments recommended by the Committee on House Administration now printed in the bill and the amendment printed in part 1 of the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. The bill as so amended shall be considered as read. No further amendment shall be in order except an amendment printed in part 2 of the report of the Committee on Rules accompanying this resolution. Such amendment may be offered only by the named proponent or a designee, shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendment as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

□ 1310

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume.

Mr. Speaker, all time yielded during the debate on House Resolution 59 is yielded for the purpose of debate only.

Mr. Speaker, House Resolution 59 provides for the consideration of H.R. 2, a bill commonly known as motor-voter, which establishes a national voter registration procedure for Federal elections. The rule waives the provisions of clause 2(l)(6) of rule XI, the 3-day layover rule, against the consideration of the bill. The rule also provides for 1 hour of general debate on the bill, which is to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration.

House Resolution 59 provides that when the bill is considered for amendment under the 5-minute rule that the amendments recommended by the Committee on House Administration, which are now printed in the bill, and the amendment printed in part 1 of the report accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole and that the bill as so amended shall be considered as read. The rule provides that no further amendments shall be in order except an amendment printed in part 2 of the report accompanying this resolution, and that amendment may be offered only by the gentleman from Illinois [Mr. MICHEL] or his designee. The rule also provides that the Michel amendment shall be considered as read, shall be debatable for 1 hour, which shall be equally divided and controlled by the proponent and an opponent thereto, and that it shall not be subject to amendment.

The Michel amendment contains two provisions. The first relates to eligibility to vote and the second to State certification that noncitizens are ineligible to participate in elections in each of the individual States. This provision would permit a recalcitrant State election official to block implementation of the bill by refusing to issue the certification. It is my understanding that the chairman of the Elections Subcommittee, the gentleman from Washington [Mr. SWIFT] will move that these two provisions be voted on separately. Without dividing the question, should the Michel amendment pass, the thrust and intent of H.R. 2 will be essentially gutted, and I urge my colleagues to support the position of Mr. SWIFT, and oppose the second part of the Michel amendment. Later in this debate on the rule, I will yield to him in order that he might explain his position on dividing this question.

Mr. Speaker, the rule provides that at the conclusion of the consideration of H.R. 2 for amendment, the committee shall rise and report the bill to the House with such amendment as may have been adopted. Finally, House Resolution 59 provides that the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. Speaker, H.R. 2, the National Voter Registration Act, seeks to extend the opportunity to participate in Federal elections to the greatest number of eligible American citizens as possible. The foundation of our great democracy, and any legitimate democracy, is the right to vote in free elections. H.R. 2 will make it easier for citizens who want to participate in this process to do so and will be achieved by permitting citizens to register to vote simultaneously with making application for a driver's license, through the mail, or in person at designated Federal, State, and local offices.

H.R. 2 seeks to ensure that no American is denied the ability to participate in Federal elections because of real or artificial barriers. H.R. 2 seeks to make voter registration an inclusive, rather than an exclusive opportunity in the United States. Mr. Speaker, removing barriers to increase participation will make registering to vote as easy as mailing a postcard, and as standard as applying for or reviewing a driver's license. These are things all Americans do on a regular basis. Registering to vote, gaining the opportunity to participate in one of our most basic rights in our democracy, should also be among those things.

A continuing complaint and chronic concern in our country, one that cuts across ideological and party boundaries, is the distressing number of American citizens who do not have the opportunity to vote because they are not registered. The motor-voter bill will allow us to make progress in addressing this serious concern. This legislation will eliminate many of the burdensome requirements found in some States and localities. Rather than forcing Americans to seek out a way to register, this bill brings the opportunity to them.

Mr. Speaker, my own State of Texas has utilized mail-in, postcard registration for 21 years. This form of voter registration has been highly successful, and new residents of Texas are often amazed at how easy it is to register and to participate in the electoral process. I think it is time for this system to be extended to all the States in our Nation, and H.R. 2 will extend that opportunity to all American citizens.

Mr. Speaker, registering to vote should not be a series of hurdles to clear, but rather an opportunity readily available to all citizens of our land. Some claim that enactment of H.R. 2 will lead to wholesale voter fraud and extraordinary expenses for the States in administering this program. These arguments are much the same as many that have been made in years past as the electoral process has been opened to more and more American citizens. The House has rejected those arguments in the past and I urge my colleagues to do so again today and vote to pass this legislation. I urge adoption of this resolution so that we may proceed to the consideration of this most important legislative proposal.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to this closed rule, which is clearly a reflection of a House leadership stuck in a time warp. It seems to be addicted to partisan bickering and an aversion to compromise.

This closed rule is very unnecessary. At a time when there is no other business waiting to come to the floor, when we seem to go into recess every other week, and when the American people are looking to us for serious debate and bipartisan cooperation, the Democrat leadership insists on closed rules intended only to gag debate, block compromise, and hide important issues from the American voters.

It is the height of irony that a bill nominally intended to expand the democratic process is shielded by a rule which is so undemocratic. Of course, that's undemocratic with a small "d", because closed gag rules have become the process of choice for the House Democrat leadership.

Mr. Speaker, passing this bill under cover of a closed rule like this is not breaking the dreaded gridlock. It is just a very poor legislative process.

For example, H.R. 2 needlessly passes millions of dollars of new costs along to local and State governments. In every State, county and precinct, voter registration officials, good hard-working Americans, will be forced to comply with irresponsible mandates, without funding.

Across the country, local and State elected officials will soon learn that this bill mandates millions of dollars of new expenses, without Federal assistance to pay for them. For example, in my State of California, the California County Clerks Association estimates that H.R. 2 will cost $26 million in the first year alone. That adds to the $1.4 billion in unfunded Federal mandates which are imposed on my State now.

We have got to stop passing these unfunded mandates onto State and local governments which are hard pressed today. While $200 million may not seem like much to a Congress addicted to $400 billion deficits, back in the real world, where local officials must balance budgets, it is an awful lot of money.

In Los Angeles County, 90 percent of the budget goes to pay for Federal and State mandates—and H.R. 2 adds for my county of Los Angeles, just another $5.5 million.

□ 1320

Two of my colleagues, the gentleman from California [Mr. CONDIT] and the gentleman from California [Mr. PACKARD], Democrat and Republican, brought a bipartisan amendment upstairs to our Committee on Rules which would exempt States from meeting the unfunded mandates in this bill. It was, as I said, a bipartisan amendment intended to protect the States from an additional $200 million in expenses and send a message that Washington is going to stop passing the tab onto State and local governments.

The Committee on Rules, on a party-line vote, prohibited the full House from even debating this issue. Mr. Speaker, that is just plain wrong. We should defeat the previous question here on this rule so that we can allow the Condit-Packard amendment to come to this floor.

In all, Mr. Speaker, there were 19 amendments filed with our Committee on Rules. These were thoughtful, responsible amendments to improve this bill by reducing opportunities for voter registration fraud and corruption, creating a bipartisan balance and ensuring that illegal immigrants are not pushed onto our voting rolls where they do not belong.

The chairman of the subcommittee reporting H.R. 2, the gentleman from Washington, actually came before our Committee on Rules and said that since the House had passed something like this bill four times over the past 3 years, there is no need for free and open debate. This, of course, ignores the fact that 110 new Members, full-fledged Members of the House of Representatives, have never debated or voted on this issue at all.

Mr. Speaker, when almost 30 percent of this body is new, I think the freshman deserve better than a closed rule. They were sent here to debate and vote on important issues, not to rubber stamp last year's partisan decision.

The American people are going to be shocked when they learn just how slanted and partisan this bill is. While it is called motor-voter, it targets some groups for special treatment. This bill mandates voter registration in a few Government agencies along with driver's license registration locations; namely, welfare, unemployment and food stamp offices. You do not get a fair cross section of America in those offices.

My colleague, the gentleman from California [Mr. POMBO], another freshman Member, offered an amendment to add IRS tax forms to the agency voter outreach program. He wanted to target taxpayers along with welfare and social service recipients.

The Committee on Rules majority, again on a party-line vote, voted that down.

Finally, H.R. 2 will set up voter registration systems that encourage fraud and abuse, as was outlined in our Committee on Rules by the gentleman from Louisiana [Mr. LIVINGSTON]. The distinguished ranking member is going to speak eloquently on this issue here today.

He tried to offer a number of amendments to us up in the Committee on Rules, but unfortunately, once again, on a party-line vote, his very eloquent arguments were ignored.

Mr. Speaker, I want to reiterate to my colleagues, if we want a voter registration bill our constituents will be proud of, vote to defeat the previous question, support my amendment to bring H.R. 2 up under an open rule.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 7 minutes to the gentlemen from Washington [Mr. SWIFT], chairman of the Subcommittee on Elections.

Mr. SWIFT. Mr. Speaker, we have been witnessing for the last week, and I am sure we are going to see throughout the debate today, Members operating on the belief that if they repeat misinformation and repeat it over and over again, often enough, that will make it so.

The fact is that you are also going to hear this side repeat the facts of the case over and over again so that Members will not be misled.

Let me give my colleagues a couple of examples. It has just been said that this is a partisan bill, because we have extended some specific requirements that agencies that deal with poor people should provide them with an opportunity to fill out a registration application. That is not partisan. Here is the underlying rationale of the legislation.

Ninety-two percent of all Americans drive cars, get driver's licenses. Motor-voter will include 92 percent of Americans. And they will have an opportunity to fill out a registration application there. Who does that leave out in that 8 percent without drivers license? People too poor to own a car to drive, and people who because of disability are incapable of driving a car and, therefore, do not have a driver's license. So we do two other things in the legislation so this will cover 100 percent of Americans.

We add postcard registration, which is particularly beneficial to the disabled, and we add agency registration for those who would be dealing with people most unlikely to be able to afford a vehicle.

The purpose of the bill is to see that 100 percent of Americans are covered.

Criticism of this bill suggests that there are some American citizens that the opponents of this bill would just as soon leave behind. Let me give you another example.

We have heard that this bill provides automatic registration. Not. What this bill provides, in all of its instances, and the only thing it provides is the opportunity for a citizen to apply for registration.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. Mr. Speaker, I will not yield at this time.

That application will then go through all of the same screening processes that applications for registration go through today. There is no, absolutely none, zero, zilch, automatic registration whatever. It is a misnomer. It is inaccurate.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. Mr. Speaker, I have been listening to this nonsense for 2 weeks, and I am going to state my position, and then I will be happy to yield at a later time.

This brings us to the amendment that is going to be offered. I am urging my colleagues to vote for this rule, but I think it is very important that we understand the nature of the amendment that is made in order by this bill.

As the gentleman from Texas indicated, I am going to ask that that vote be divided. The amendment is in two parts. The first part says that one must be a citizen in order to vote. This is in the bill. The bills says that in three separate and distinct places in the legislation.

The first part of the amendment that will be offered is redundant, duplicative, unnecessary and, in my judgment, is the premier candidate for the empty-gesture-of-the-week award.

On the other hand, it does no harm. It simply restates what is already in the bill three times. I would urge Members to vote for it.

The second part of this amendment, however, is very carefully designed to gut the legislation under the guise of hitting one of the political hot buttons we have today. It says that this bill will not go into effect in any State until the chief election official of that State certifies to the U.S. Attorney General that sufficient procedures exist in the State to prevent voter registration by persons who are not citizens in the United States. Again, harking back to the idea somehow that we are trying to register noncitizens, which is absurd on its face. The bill clearly makes the case in three specific points in the legislation that that is not the case. One must be a critizen to register.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield on this point?

Mr. SWIFT. Mr. Speaker, I will not yield at this time. I want to finish my statement.

What is done here, under the guise of saying "We are fixing it so we are sure that you don't get any illegal aliens to vote" is a gutting of the bill because, listen to what it says: It says "specific procedures," and it does not define them. That is a piece of work for out-of-work lawyers.

And it provides no deadline by which the State official ever has to make such a certification. In short, for a State to not participate, all they have to do is fail to certify.

□ 1330

There is no mechanism in this amendment whatever that would require them at some point to finally certify so the bill could go into effect.

Under the guise of protecting citizenship books, they have in effect, written an amendment that will totally gut the bill.

When we have the vote on this, I strongly urge all people who really want to reform the way we register citizens of this country to vote against this amendment, vote for the rule, and vote "yes" on final passage.

Mr. DREIER. Mr. Speaker, the Joint Committee on the Organization of Congress this morning heard very eloquent testimony from the gentleman from Sanibel, FL. He is the newest member of the Committee on Rules.

Mr. Speaker, I am happy to yield 3 minutes to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from Pasadena and environs for his generous remarks.

Mr. Speaker, for the second time in as many days we are faced with a restrictive rule, which forces us to waive the 3-day requirement and shuts out important amendments even though we are certainly not under any sort of time constraint. In fact, for the second time in 2 days this body is acting on a timetable that seems designed to suit the press needs of the new administration at the expense of the legislative needs of the Nation. Some might claim that gridlock is over. I would say the wheels have been greased with some pretty slippery stuff. Mr. Speaker, the so-called motor-voter bill before us today is destined to cause trouble—not just because it sets up a system powerless to fend off massive fraud, but because it imposes enormous costs on our State and local governments—many of which are suffering under the burden of budget shortfalls, just as we are here in Washington. Unfunded Federal mandates have become a popular tool for Federal legislators—eager to impose new social programs but unwilling to set priorities and make spending cuts to support their projects. Motor-voter, which is estimated to cost my State of Florida $6.4 million to implement, is another example of this dangerous trend. The annual cost, across the country, could climb to $250 million. We cannot claim to be serious about fiscal responsibility in one breath and pass such an irresponsible, costly bill in another. Then there is the very serious problem of voter fraud—this bill practically invites it. Can you imagine an illegal alien, applying for a driver's license—and, as the high-profile case of Zoe Baird demonstrates, likely getting one—actively calling attention to his or herself by declaring that he or she does not want to register to vote? In this bill, unless you affirmatively say "No thanks," you will automatically become registered. Making matters worse, this bill provides for no reasonable means for States to purge voter rolls to remove ineligible people. This bill limits a State's ability to preserve the integrity of its voter registration process through independent confirmation of information given by applicants. Mr. Speaker, as was the case yesterday, there were many good amendments proposed to correct some of this bill's most egregious problems. And, as we saw yesterday, those amendments were defeated in the Rules Committee on an almost automatic party line vote. It is becoming clear to this Member that, for the majority leadership, ending gridlock means limiting the rights of the minority while depriving this House and the people it represents of the right to fully debate and consider the issue. Our system of open government is rapidly giving way to autocratic, one-party rule. As you yourself said, Mr. Speaker, the majority party makes no pretense of being fair when it comes to the Rules Committee and bringing legislation to the floor. Especially when we are considering legislation that directly affects Americans' most basic right of representation according to the one-man, one-vote principle, this is a real tragedy for democracy. I urge my colleagues—and especially the 110 new Members sent here on a wave of voter anger and desire for change—to defeat the previous question so we can open up this process and improve this bill.

Mr. FROST. Mr. Speaker, for purposes of debate only I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, today is a great day for the House, because today we will take a great step for democracy by passing the motor-voter legislation. I commend the gentleman from Washington [Mr. SWIFT] and the other members of the committee who have worked so hard to bring this bill to the floor. It has come over and over, and most of the Members know what is in the bill. Our colleague, Mr. FROST, has laid it out, and I commend him for his efforts on behalf of this legislation.

Mr. Speaker, I just want to say, and my time allotment does not allow me to go into the details of the bill, and as I say, the gentleman from Texas [Mr. FROST] has already spelled them out, but I did want to say, in the words of some other people, what this bill means.

It is important to me as a former State Chair in California, faced with the difficulties of registering voters, I found that the Government in fact not only did not do its share, but in fact it was delinquent, it was derelict in its duties in removing obstacles to participation.

Some of our colleagues have mentioned the cost involved in this legislation. It has been estimated that while there are some startup costs, there are offsets that estimate a savings of up to $7 million to $10 million, because motor-voter and agency-based registration saves money by distributing voter registration over the year and allowing elected officials to save the cost of temporary workers during peak registration periods.

The States will save another $4 million annually in reduced postal rates, and motor-voter, which will be the primary method of registration, is cheaper than any other technique to register voters.

Registration, as it has been pointed out before, is estimated to cost $1 to $13 per transaction, while motor-voter comes to an estimated 3 cents to 35 cents per transaction.

As I said, Mr. Speaker, I wanted to capture the words of some of those who support this legislation. The National Organization on Disability, for example, whose national vice chairman is Jim Brady, former White House press secretary, says we should pass this legislation because "It would end years of exclusion by providing an inexpensive and efficient system for inclusion in the franchise." He is writing on behalf of the disabled.

The Disabled American Veterans of America also state that—

> At issue is an easing of restrictions on the voter registration process nationwide so that all disabled Americans, including those disabled in military service, would have easier access to the most fundamental right our country affords her citizens—that is, the right to be a part of our democratic process.

In closing, I would like to quote a letter from Antonia Hernandez of MALDEF, which says, and I think many of us in this room share this sentiment:

> The adoption of this legislation will strengthen the voice of our citizens and help rejuvenate our system of representative democracy.

The support of all of our Members here is crucial to the success of this legislation. Let us get these people on the books. In many States, unless people are registered, they do not receive any educational material relating to the election or any information from the candidates, so this will refresh our process and reinvigorate our system. It is time for us to get on with it.

Mr. DREIER. Mr. Speaker, so I might clarify for the distinguished ranking member on the Committee on Rules, we are going to seek to defeat the previous question so we can offer an open rule. Tragically, these amendments have been referred to on the floor as nonsense. They are in fact bipartisan. Democrats and Republicans alike want to have the opportunity to amend this rule so we can consider their proposals here on the floor.

Mr. Speaker, I yield 5 minutes to my good friend, the gentleman from Louisiana [Mr. LIVINGSTON], the ranking Republican on the Subcommittee on Elections of the Committee on House Administration.

Mr. LIVINGSTON. Mr. Speaker, I thank my good friend, the gentleman from California, for yielding to me.

While we are talking about organizations that have some concern about this bill, Mr. Speaker, I would just say to the gentlewoman that spoke a moment ago that certain organizations oppose this bill as it currently stands. They are very violently against any additional mandates from the Federal Government without adequate funding. They include the National Association of Counties, the National Governors Association, the National Association of Secretaries of State, the Association of Towns and Townships, and the National League of Cities.

In addition to that, and I have a number of points, and I do not know if I can squeeze them into 5 minutes, but Mr. Speaker, this is a bad rule. This rule stifles debate. This rule denies the opportunity to the minority, or to members of the majority, to amend what has become an incredibly partisan and bad, bad bill, even with the best of intentions.

No one will quarrel with the right to make it easier for legitimate citizens who are qualified to vote to vote. Everybody cares about that. Everybody wants to make it easier for qualified citizens to vote.

☐ 1340

But, this bill makes it easier for unqualified citizens to vote. And we offered as many as 20 amendments to the Rules Committee to try to improve the bill, and every one of those amendments were struck down and rejected on a partisan vote.

This Rules Committee has strangled the right of the American people to have open discussion and open debate in this body. For that reason, I urge the defeat of the previous question, and if that fails then the defeat of this bill, because this is a bad bill, and the American people are going to be very frustrated if this bill passes.

President Bill Clinton said he wanted increased jobs, he wanted to reduce the deficit, he wanted to expand or grow the economy. Does this bill have anything to do with any of that? Absolutely not. All it does is provide additional mandates which are going to cost the States, counties, communities, localities, and precincts lots of money, and we do not put up a single nickel to help them afford the mandates that we are imposing on them.

This bill strangles any vestige of States rights because it says to the counties, the localities, and the precincts: You cannot govern under your own election law; we are going to tell you how to do it.

This bill promotes fraud. It promotes illegal registration. Zoe Baird's chauffeur would be able to walk in and get a driver's license, and by the way, he would be able to register to vote, and later on to vote unless he actively declined to register. And show me an illegal alien that is going to decline to register under those circumstances, because he is not going to want to say "I'm an illegal alien, I cannot register."

This bill denies notarization or verification of signatures on postcard registration, it denies the right to cleanse the nonvoters from the voting rolls. It costs the States about $200 million in imposed mandates.

It provides for the opportunity to file lawsuits against the secretaries of state, or the commissioners of elections. It provides for attorneys' fees, but we in Congress do not pay the attorneys' fee; the U.S. Treasury does not pay the attorneys' fee. It is the States that have to pay the attorneys' fee if they get sued under this bill. And we provide zero money for mandates in this bill. And, we do make the registration automatic.

And by the way, when we are putting mandates on everybody all around the country to comply with this bill, who do they have to report to? Uncle Sugar, the Federal Election Commission, which is, by the way, going to become one of the biggest, most unmanageable bureaucracies in the history of this country.

I offered an amendment to make this a true motor-voter bill and to really make this bill count. I offered to strike postcard registration, which the Justice Department says is rife with inducements for fraud. I offered to strike the encouragement of same-day registration, and to strike the provision that you could register virtually in any State agency, welfare, or unemployment office. Those amendments were rejected.

I offered to strike the prohibition of notarization and authentication of postcard registration so that we know the people who are registering are who they say they are. That was rejected.

I offered to say that this bill would be voluntary unless the U.S. Government gave the money to the States and the counties to fund it, and that was rejected. I offered to strike the attorneys' fees provision that if you sue the State, you might even get your attorneys' fees back. No, that was rejected.

I offered to strike the FEC oversight provision and to strike the automatic provisions that say you are automatically registered unless you decline to be registered.

I offered to restore the right to remove a person from the voting rolls if he does not vote. I said if you do not vote in 4 years you ought to be stricken from the rolls. They said no. I said if you do not vote in 10 years you ought to be stricken from the rolls. And they said no. I said if you do not vote in 100 years you ought to be stricken from the rolls, and the Rules Committee said no. No such amendment would be allowed.

I think this is an outrageous stifling of debate and discussion on a very important bill, and I urge the defeat of the previous question, and I urge the defeat of the bill if the previous question goes forward.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I thank the gentleman for yielding me the time.

I listened with great interest, and I was sorry the gentleman from Louisiana could not yield, because he got turned down at every level. The Rules Committee did not listen to him, the committees of jurisdiction did not listen to him.

What is wrong with this body? Nobody listens to the gentleman from Louisiana. Did anybody accept anything the gentleman offered about this bill? I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. I appreciate the gentleman yielding, and the answer is no.

Mr. CONYERS. Why?

Mr. LIVINGSTON. And do you know what, I would have been delighted to have had this be a genuine motor-voter bill. Let us make it easier, but let us not make it easier to defraud the election process, and devalue your vote, and devalue my vote and the vote of every legitimate and concerned citizen of this country.

Mr. CONYERS. I would ask the gentleman if he is interested in getting more people in this country to vote?

Mr. LIVINGSTON. Frankly, I do not think this bill does it, but of course. Everybody who is qualified to vote and who is eligible to vote should vote.

Mr. CONYERS. And is the gentleman aware that the House has already once passed this bill over his strenuous objections?

Mr. LIVINGSTON. The gentleman is correct. I voted against it because I do not like this bill.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 additional minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I think the gentleman for yielding me the additional time.

I would say to the gentleman from Louisiana [Mr. LIVINGSTON], he was referring to some letters he had received from some officials who opposed the bill because of funding. I just wanted to put on the record the fact that the secretary of state who is responsible for voter registration in California strongly supports, and has written a number of times to the Members of Congress in support of the legislation.

One particular point I want to bring out because the gentleman seems to be concerned about it, and that was the mail registration, and this kind of motor-voter registration would be, I think the gentleman said, rife with fraud.

Mr. LIVINGSTON. Potential for fraud.

Ms. PELOSI. The gentleman might be consoled to know from our experience, the secretary of state writes:

> My office has reviewed H.R. 2 with attention to the issue of noncitizens registering to vote. After this review, we have concluded that this bill will make it less rather than more likely that noncitizens will be registered in California. Currently, with California's registration-by-mail system, we have been very vigilant in guarding against noncitizen registration * * * the adoption of H.R. 2, the "motor voter" and "agency-based" registration procedures will become the primary registration method. "Motor voter" and "agency-based" registration provided additional opportunities to screen for applicant eligibility.

I do want the gentleman to know that I think we share the same view, that we want more people to be registered, that we do not want fraud in the system, and those with experience in it have supported this legislation.

Mr. LIVINGSTON. Mr. Speaker, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, certainly she is speaking for one individual, and she probably knows that the State of California has certified that this bill will cost the State of California $27 million to implement, of which the U.S. Government provides not one penny. And she may also know that the national associations of secretaries of state, of Governors, of counties and towns are opposed to it because they do not get any money for this particular bill.

Ms. PELOSI. I would just like to say that in California 5.7 million people who are eligible to vote are not registered to vote, and I believe that the figures the gentleman cites are a small price to pay for that.

How would we judge another country if they said we cannot register voters because it costs too much money?

Mr. DREIER of California. Mr. Speaker, I am happy to yield 30 additional seconds to my friend, the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I will take the 30 seconds to say to the gentlewoman from California that nobody keeps people from registering. This bill is not intended to force people to register, although in some respects it does it because they have to actively decline to register. But nobody is kept from registering.

The point is that not enough people are actively going to the registrar of voters and registering, so we are making more places available for them to register. That is fine. But we are not even beginning to consider that we are making it also very easy for people who are not eligible to vote, and we are also imposing the liability on counties and on associations of townships to institute computers to talk to each other, and all sorts of costs that we are not providing a nickel for.

Mr. DREIER. Mr. Speaker, it was fascinating to listen to my friend, the gentleman from California, read of the support from our secretary of state.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PACKARD], the former mayor of Carlsbad, CA, who was literally on the front line having to deal with the potential Federal mandates that are unfunded in this bill.

□ 1350

Mr. PACKARD. Mr. Speaker, I rise strongly to urge my colleagues to defeat this rule.

The majority has made in order only one amendment. Once again, the majority leadership has impeded the ability of Congress to practice free and open debate.

On Tuesday I appeared before the Committee on Rules along with my colleague, the gentleman from California [Mr. CONDIT], with an amendment to request the compliance of all mandates coming from the Federal Government to be accompanied by funds. As was mentioned earlier, in the State of California this bill will mandate that the State of California spend $26 million just to start the program, and then $26 million a year to keep it going. California, I do not need to tell you, simply does not have the funds to take on more mandates such as this.

Perhaps the single greatest burden the States and local governments face are unfunded Government mandates. This bill will cost the States over $100 million per year.

It is time that Congress realized the burden it places on State governments hamstrung by budget shortfalls.

The National Governors' Association this week met here in Washington, and one of their major legislative priorities included a statement of the policy of unfunded Government mandates which I would like to quote:

> It is critical that Members of Congress oppose, and that President Clinton veto, any legislation that imposes further mandates without also providing adequate funding necessary for States to provide the service.

And this is from Democratic Governors and Republican Governors.

Mr. Speaker, I believe that if States are required to comply with this law, Congress should provide the money to implement it, and the States should not be required to implement it until the money is there.

Therefore, I strongly urge my colleagues to defeat the previous question and allow us to debate my amendment, and otherwise we should defeat this bill.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to my friend from Casper, WY, the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in opposition to the rule and to H.R. 2.

It is not the goal of H.R. 2 that I rise to oppose. Rather, it is the incredibly bad implementation of a goal that we all share, and that is increased participation of legitimate and certifiable voters.

What we are about to vote on is a bill that is an invitation to fraud. H.R. 2 is something that only Washington could write, the dreams of special interests and political consultants. H.R. 2 will create a new industry, so-called registration drives across State lines that will result in unscrupulous and systemic manipulation. Ghost voting will take on a whole new meaning.

Wyoming's secretary of state and the majority of the county clerks oppose H.R. 2, because it will lead to voting deception and high costs of Wyoming voters.

It is clearly expensive. It is clearly an unfunded mandate. I think it is an invitation to fraud that we can argue about.

But what puzzles me the most is why Members of this body think they have more compassion, more interest in getting people to vote or are more informed, are more wise than the people on the local level, and I served in the Wyoming Legislature, and we were just as interested as you. The clerk in my county is just as interested as you. And yet I do not quite understand the gentleman from Texas who indicates great satisfaction with their postcards. Fine. I will compare our results in Wyoming with yours.

Why not let us do it our way?

The gentlewoman from California likes what they are doing, fine, and the secretary of state. But why impose a California program on Wyoming? I am puzzled about that.

We talked and waxed eloquently about listening and believing in the Government closest to the people. We talk about local government. Why do we not exhibit some confidence in local government?

I suggest we vote no on the rule and no on H.R. 2.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise also as a former mayor, but as a former mayor who has a little bit of a different point of view than the previous former mayor.

I am in strong support of this legislation. My only reservation is, in fact, that it does not go far enough.

There are six States in this country which, in fact, right now are doing the right thing, and they have same-day registration. They make the very radical statement that if you are an American citizen, you should have the right to vote in an election even if you do not register 2 weeks before the election date; that, my goodness, you should be able to walk into the polling both, take your oath of office, and actually vote.

Now, some people have talked about fraud. Let me tell you about fraud. It is a fraud that we have officials elected in the United States in an election in which 70 or 80 percent of the poor people in their districts do not vote. That is a fraud. It is a national disgrace that the United States of America has by far the lowest voter turnout of any industrialized nation on Earth. In Canada they have 70 to 80 percent of their people coming out to vote. Some countries have 80 and 90 percent.

We recently rejoiced that all of 55 percent of the people came out to vote in the recent Presidential election, 55 percent, the lowest voter turnout of any industrialized nation on Earth.

The truth of the matter is that what we are talking about today is more important than the health care crisis, more important than unemployment, more important than the other major problems we are facing. What we are talking about today is whether this country is really going to be a democracy, is really going to involve the people in the political process.

Mr. Speaker, I would suggest that despite all the big talk about concerns, you know what the real concern is, my friends? You are getting nervous that maybe poor people and working people might participate in the political process, and they are going to take on the big money interest that elect many people here.

PARLIAMENTARY INQUIRY

Mr. DREIER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. (Mr. FIELDS of Louisiana). The gentleman will state his parliamentary inquiry.

Mr. DREIER. Mr. Speaker, am I correct in assuming that the 110 new freshman Members who have come to this Congress to try and bring about major change and reform have been prevented from having the right to offer any amendments to this bill at all?

Mr. FROST. Mr. Speaker, that is not a valid parliamentary inquiry.

Mr. DREIER. I think I will let the Chair rule.

The SPEAKER pro tempore. The gentleman from California has not stated a parliamentary inquiry.

Mr. DREIER. Mr. Speaker, I yield 3½ minutes to my friend and classmate from Dodge City, KS, the gentleman from Kansas [Mr. ROBERTS], the new ranking member of the Committee on Agriculture.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman for yielding me this time.

I should stress, Mr. Speaker, that while I view this bill as fundamentally flawed, and, yes, even partisan, I do not question the intent of the principal authors in that I do not know of any Member of this Congress, despite what the earlier speaker said, who opposed the stated intent of this bill. I certainly do not question the hard work and the dedication of the subcommittee chairman, the gentleman from Washington.

But there are those of us in the minority who have never signed on with this posse to increase voter turnout by mandating Federal registration and costs and regulations and hoops and hurdles on our State and local election offices. We have been, and continue to be, concerned about what lurks under the banner of reform and the law of unintended effects.

We believe that voter turnout is important but not at the expense of the integrity and the sanctity and the workability of the entire election process. With all due respect to the gentleman from Washington, who is the professor emeritus of good government and good intentions, who is a silver-haired and silver-tongued old rascal when he wants to be, this is not nonsense. We offered our amendments in subcommittee and committee, and they were not nonsense. It was with real intent to improve the bill.

And while he is the Roberts-declared professor emeritus of good intentions, he also may well be the umbragetaker of the House.

Now, let me briefly discuss the three amendments I had hoped the Committee on Rules would make in order. First, the cost: If there is anything that the Members hear today, it is that local counties, local cities, States, and every municipality, not to mention everybody else, is tired of the Federal mandates where we literally dictate very questionable rules and regulations and redtape, and we do not pay for it.

□ 1400

My amendment, in the subcommittee and in the full committee, Mr. PACKARD's amendment, also Mr. CONDIT's amendment simply said this bill would be voluntary for States until we pay for it.

Now, the second amendment would have preserved State fraud provisions that are stronger than the Federal provisions within this act. For example, Mr. ROSTENKOWSKI, the distinguished chairman of the Committee on Ways and Means, said in 1990 he did not want a similar bill imposed on the State of Illinois because they had stronger fraud provisions.

The last amendment dealt with the fact that the Federal statute allows illegal aliens to qualify for food stamps and other public assistance programs. The Department of Agriculture has informed me that during fiscal year 1992 some 300,000 illegal aliens and 700,000 legal aliens received food stamps. That is a million people that could vote under this bill.

Now, I know you say they cannot, but the amendment that I had was clear; it was explicit. Current language is not clear, and the procedure is confusing.

That was the sum total of the three amendments: We should pay for this new mandate, if it is $20 million, $30 million; the truth know, it is about a billion dollars. If it is so vital to the election process, let us pay for it.

Second, let us make sure only U.S. citizens vote.

Last, if you have a State that has stronger fraud provisions, simply keep it. What the heck is wrong with that? I do not understand it. Why can we not debate that here on the floor? No; partyline vote in subcommittee, in full committee, three Congresses ago, two Congresses ago, this Congress ago, and we are still denied the opportunity to debate and vote on those provisions.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. Mr. Speaker, the right to vote is the most precious of all rights because it is from the right to vote that we secure all other rights. As the most precious of all rights, we must insure that every American who wants to vote is provided the opportunity. I can think of no better way to achieve that vital goal than passage of H.R. 2.

The National Voter Registration Act is straightforward. The bill facilitates voter registration in three ways: Through the driver's license process, by mail, and by expanding voter registration locations. The motor-voter provisions of the bill allow the application, renewal, or change of address for a driver's license or nondriver's identification to serve as an application for voter registration. It is estimated that up to 90 percent of all eligible voters will register within 4 years of enactment.

The bill also permits mail-in voter registration. Some 25 States and the District of Columbia presently allow mail-in voter registration. Mail-in registrants who have not previously voted in a jurisdiction by mail may be required by the States to vote in person, except those voters who are entitled to vote by absentee ballot. And, the bill requires that voter registration applications be available at government offices that provide services to the disabled, unemployment compensation, public assistance, and other public places.

Mr. Speaker, the need for the legislation is quite clear. Some 70 million eligible American citizens, a full 38 percent of the voting age population, did not vote in the most recent Presidential election because they were not registered to vote. And, the cost of implementing such programs is not prohibitive; indeed, once implemented, States will experience considerable cost savings. For example, motor-voter registration can reduce registration costs from as much as $15 per registrant to no more than 33 cents.

There are other important provisions of H.R. 2. To prevent multiple registration and fraud, the bill makes voter fraud a Federal crime and adds penalties for abuse. In addition, registrants are required to attest under penalty of perjury that he or she is qualified for registration. The bill also includes provision for mandatory purging of voter lists to remove citizens who have moved or died. And, postal reductions are allowed for States who may have financial difficulties in implementing the new law.

Mr. Speaker, we have freedom of speech and freedom of the press in America because that's what we voted for. We are free from illegal searches and seizures, and we have the right to trial by jury because that's what we voted for. African-Americans are now whole citizens, women may participate in the electoral process, and 18-year-olds who can shed their blood in defense of this Nation may determine who commands them to do so because that's what we voted for.

There is no other right that we enjoy which is as important as the franchise. In fact, every right that we enjoy is as a result of the franchise. Each of us here today in the Hall of the House owes his presence to the right of the American people to vote. Voting has no meaning unless it can be exercised. And, so long as there are barriers to registering to vote, many will not exercise their right. I urge all of our colleagues to stand up for our system of government, participatory democracy. Vote for H.R. 2.

Those who are afraid of the right to vote, there is something wrong with you, not the American people. The American people want to vote.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. BLACKWELL. I am out of time.

Mr. DREIER. Mr. Speaker, I yield 30 seconds to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. I thank the gentleman for yielding.

I would like to ask the gentleman what the 1965 Voting Rights Act was all about. I thought that gave everybody the right to vote. We are not talking about the right to vote; we are talking about making people register whether they want to register or not.

Mr. BLACKWELL. We have to make sure that we stop tricking people on election day. There is nothing wrong with an American walking into the polls on election day saying, "I am an American. I live in the neighborhood. I have the right to vote for the people who represent me." That is all it says. What is wrong with that?

Mr. LIVINGSTON. The gentleman is absolutely right.

If that is all that is in this bill, I would agree with him. But what is in this bill is for that person to walk into one neighborhood, and another neighborhood, and another neighborhood, and another neighborhood, and another neighborhood, and another neighborhood, and another neighborhood, and another neighborhood, and vote in each one.

The SPEAKER pro tempore. The time of the gentleman from Louisiana [Mr. LIVINGSTON] has expired.

Mr. BLACKWELL. And we can convict him for fraud, sir. That is in the bill.

The SPEAKER pro tempore. The gentleman is out of order.

Mr. DREIER. Mr. Speaker, at this time I am happy to yield 2½ minutes to one of those new Members who was denied the opportunity to offer his amendment here on the House floor, the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I come here today to urge my colleagues to vote against this rule to H.R. 2. Two days ago, I went before the Rules Committee to ask that my simple amendment to make every taxpayer a registered voter to be made in order. Unfortunately, this amendment and 17 other amendments were not permitted to be debated on the floor of the House.

If the National Voter Registration Act is going to mandate that certain groups should be registered to vote, I believe the average taxpayer is an important group that should be included. My amendment would have registered the average taxpayer. Which in turn would have opened up the registration process even further than the bill we are going to debate shortly.

My amendment took into consideration the American taxpayer. I believe that when an individual writes a check to pay their income taxes—they also should be able to sign up and vote. It is only fair that those who pick up the tab to operate this country, should have the equal opportunity to determine what the Government does and where their taxes get spent. The best way to do this is through their voice at the ballot box. My amendment tied the principles on which this country was founded, and that is, the tie between taxes and representation.

Mr. Speaker, I would like to take a moment to quote a former Member of Congress who spoke on this floor on May 18, 1972. This Congressman stated:

> What right have a majority of the members of the House to prevent a member who represents 500,000 people himself—"and it is a bigger question than one-man, one-vote"—what right have they to say to this member who is elected by the people as a member of the House of Representatives, that he does not have the power to offer an amendment to a bill, and that he is not allowed to have any meaningful participation in the proceedings? * * * That is what happens under a closed rule * * * does a majority, even 434, have the right muzzle the 435th? * * * But I do not think it is really democratic when they (the Rules Committee) take it upon themselves to exclude amendments in the public interest * * * this is a constitutional question, a closed rule is undemocratic * * * it is the majority forcing their will upon the minority, involving constitutional rights and privileges, and they should not be denied.

Mr. Speaker, the Congressman who made that statement was Wright Patman of Texas, a member of your party. Twenty years later, it seems nothing has changed.

The Democratic Party now controls both ends of Pennsylvania Avenue. However, it still seems that the leadership of this House is afraid of free and open debate on floor. Mr. Speaker, I understand over the last several years there has been an upward trend of more and more closed rules on the House floor. A real reform in the House would be the ability for every Member, as Congressman Patman spoke of, to have a "meaningful participation in the proceedings."

Finally, I would like to voice my support for the efforts of my colleague, Mr. CONDIT, who proposed an amendment which would make this bill voluntary unless it was fully funded by the Federal Government. Because my amendment and Mr. Condit's were not allowed to be debated on the floor, I am going to vote against this rule. I urge my fellow colleagues to do the same.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the rule and in support of H.R. 2.

Prior to my election, I served for two terms, 8 years, as Ohio Secretary of State. My top priority as the State's chief election official was to promote greater involvement in the political process.

I joined with the great majority of secretaries of state, Republicans and Democrats alike, with the National Association of Secretaries of State during that time in supporting motor-voter, supporting other kinds of ways of opening up the political process to encourage people to vote.

During that time, Ohio fashioned what many observers said was the best outreach, most extensive voter registration program in America. What is more, we did it with very little expenditure of taxpayer dollars.

Voter registration in Ohio and in many other States, with Republican and Democratic secretaries of state, is an outstanding example of what we can accomplish when business and government and the labor unions as a partnership work together.

In Ohio we already had in place the tools that H.R. 2 brings; motor-voter, agency-based, and mail-in registration. We used that all-important tool of mail-in registration to build a partnership with private-sector businesses.

McDonald's restaurants paid the costs of printing registration forms in their tray liners; 30,000 Ohioans registered to vote.

United Telephone and GTE paid the costs of printing registration forms and mailed them to their customers with their telephone bills; 25,000 Ohioans registered to vote.

Cable television companies printed registration forms at their cost, mailed them to customers with their bills; 15,000 Ohioans registered to vote. The only cost to the taxpayers, Mr. Speaker, was essentially the normal administrative costs of processing the forms.

H.R. 2 is cost effective as Ohio's program was. H.R. 2 will streamline government. These minimal costs, Mr. Speaker, are a small price to pay for restoring our democracy, greater public involvement in the political process.

□ 1410

Mr. DREIER. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Alabama [Mr. BACHUS], another one of our dynamic new Members.

Mr. BACHUS of Alabama. Mr. Speaker, I am going to be voting against the motor-voter bill, because the bottom line is a vote for motor-voter is a vote against our senior citizens. A vote for motor-voter is a vote against Social Security recipients.

A vote for motor-voter is a vote against middle class American families.

And finally, a vote for motor-voter is a vote against taxpaying Americans. Working Americans, retired Americans, middle class Americans, taxpaying Americans, all lose with motor-voter; but as you know, when there are losers, there are winners.

Who wins under this bill? Well, motor-voter with its mandatory registration of welfare and entitlement recipients will result in the registration of millions of welfare recipients, illegal aliens and taxpayer-funded entitlement program recipients. They will win.

Motor-voter with its billion dollar regulatory price tag is also a victory for those calling for more programs, more Federal Government, more money for the Federal bureaucrats, a larger welfare state and a bigger welfare system.

To my fellow Congressmen and to our senior citizens, working Americans, Social Security recipients, and taxpaying Americans, I say the bottom line with motor-voter is that we will have a larger welfare system, a bigger Federal Government, bigger spending, higher deficits, and that means only one thing, higher taxes, and we know where that comes from, because President Clinton has announced and proposed where these higher taxes will come from. He says that we may have a possible elimination of next year's cost-of-living increase for our Nation's 41 million Social Security recipients, part of that to pay for motor-voter. It means that those of you who are covered by Social Security taxes may have an increase.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I was listening to this debate and I was reflecting on the fact that this is not the first time that this Chamber has considered a question along these lines. In fact, throughout the history of this Nation we have considered whether we are going to enfranchise and empower Americans to participate in the electoral process.

The interesting thing is what has happened from a partisan viewpoint. A gentleman who hailed from my hometown by the name of Abraham Lincoln is highly regarded as perhaps the greatest Republican President. He is known in history for enfranchising African-Americans. I think the Republican Party is rightly proud of the contributions he made, not only to his party, but to his Nation.

The women's suffrage movement at the beginning of this century had great Republican leadership when an effort was made to finally give to women in America the right to vote. And yet somehow or another in the ensuing 60 or 70 years, the roles have switched. The Democrats are not pushing for empowerment and enfranchisement to bring more voices into the process, while the Republicans consistently say, "Hold back. Don't let all these people in. It gets too expensive. It gets too complicated."

I do not know what has happened, why this philosophy has changed, when the Republicans who enjoyed the political reputation for empowering Americans came to resist it and the Democrats assumed this role instead.

Let me suggest to you, I am not sure how this will end up if H.R. 2 passes. I am not sure it will inure to the benefit of the Democratic Party or to the benefit of the Republican Party or perhaps to an independent party movement. But the basic principle we are arguing for, is as sound as it was in Lincoln's time, at the time of women's suffrage, and it is today. When we can extend more opportunity to bring people into decisionmaking in our democracy, we give more credibility to the decisions.

Why do we construct these obstacles and maintain them to keep people out of the process? Instead, we should open our doors, bring them in, trust democracy, trust the opinion, the knowledge and the wisdom of the American voter.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. ARMEY], the chairman of the Republican Conference Committee, a very dear friend, who is going to bring us the Texas perspective on this.

Mr. ARMEY. Mr. Speaker, let me say to my friend, the gentleman from Illinois, this legislation that the Democrats wrote and protected with their power over the process, which is absolutely in this body, was not inspired by Abraham Lincoln. It was inspired by a Texan, Lyndon Johnson.

It is best illustrated by Johnson's campaign workers coming back from a night of voter registration, back from the cemetery. When Johnson looked at the list of registrants he said, "Where is my great-grandfather? He is not on this list."

And the young man who had been registering those patrons of the graveyard said, "Well, that must have been the gravestone that was so covered with mud that I couldn't read it."

LBJ replied, "Well, you get back there and read it and get his name down. He has as much right to vote as anybody."

That is the inspiration behind this bill. That is the kind of quest and thirst and lust for power that inspired this bill.

The Republicans have nothing to do with this bill. This is a Democrat bill. This is a Democrat desire to have even more power; and in total disregard for the rights of the American people.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise in strong support of the National Voter Registration Act.

During the 1992 presidential election, 70 million Americans could not vote because they were not registered. Many of these American citizens were not registered because of the many obstacles to registration throughout our Nation.

This bill will allow all eligible Americans to register to vote when renewing or applying for a driver's license. It will also offer registration opportunities at public agencies including those which serve the poor and the disabled. This legislation should make it possible to reach 95 percent of the eligible electorate within 4 years.

Millions of people in the former Soviet Union, Eastern Europe, and Central America have finally been successful in their struggle for democracy. As the leader of the free world, we must set an example for these fledgling democracies. Let us show the world how greatly we value broad democratic participation in our own Nation. Passing this bill and extending the ballot to millions will send that message.

Mr. DREIER. Mr. Speaker, at this time I am happy to yield 1 minute to the gentleman from Illinois [Mr. MANZULLO], another one of our new freshmen.

Mr. MANZULLO. Mr. Speaker, I rise in opposition to this motor-voter bill. A vote in favor of this motor-voter bill is a vote to increase taxes in the States. The State of Illinois will have to pay somewhere between $50 million and $100 million within the next 5 years in order to implement motor-voter registration.

The State of Illinois will be faced with more opportunities for stealing elections than ever before in the State's history.

We have come a long way in this State in order to clean up the elections. Every single clerk almost to the letter is opposed to motor-voter registration because of the tremendous amount of cost and confusion that will come up if it is enacted.

Therefore, Mr. Speaker, I would urge my colleagues to vote against raising taxes back home to pay for this unfunded mandate by voting against the motor-voter bill.

Mr DREIER. Mr. Speaker, to close the debate at this time, I yield the balance of our time to the distinguished gentleman from New York [Mr. SOLOMON], the distinguished ranking Republican on the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding this time to me. Hello everybody.

Mr. Speaker, in a few minutes four Delegates are going to come over here when we resolve ourselves into the Committee of the Whole and they are going to cast votes for this piece of legislation which mandates a cost on all 50 States, but not on the territories they represent, because the territories are not included.

□ 1420

This is typical of what is going to happens time after time, after time. That is why it is a shame that my colleagues have let this kind of rule take place. I say to my colleagues, come over here, and defeat the previous question, and I'll have an opportunity to offer an amendment which would include the territories along with us other 50 poor States.

How about that?

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield the balance of our time to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I just have one point of clarification. The Congressional Budget Office said this bill is going to cost $25 million in the first 5 years for the whole Nation. So much for some of the estimates we hear.

I would like to address fraud for just a moment. We have got a couple of quotes from the debate.

Only Washington could write a bill like this.

This is an engraved invitation to fraud.

Mr. Speaker, I would like to point out that the three mechanisms that we are using to help people better register to vote all are in practice in the States and were first initiated by the States. This is a classic example of using the States as the laboratories. We have the right to establish the standards for people voting in Federal elections. But all of this is based on things that were initiated by the State.

And with regard to this whole issue of fraud, Mr. Speaker, I would like to read a letter from the secretary of state, Dick Molpus, of the State of Mississippi.

> In Mississippi, we initiated Mail-In Voter Registration on July 1, 1992 and became the 27th state to do so. There were cries from the opponents of this effort that there was a great potential for fraud during registration. We conducted an extensive nationwide study of voter registration with particular emphasis on determining the potential for fraud during registration. We found no evidence of registration fraud. The United States Postal Service confirmed that it had virtually no significant instances of registration fraud. Based on these representations, Mail-In Voter Registration is safe and effective.
>
> As Mississippi's chief elections officer, I firmly believe that House Resolution 2 (Motor Voter Bill) will be effective and safe.

Mr. Speaker, the fraud issue that is being raised here today is the biggest fraud in this entire debate.

Mr. FROST. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The SPEAKER pro tempore. Pursuant to clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a recorded vote, if ordered, may be taken on the question of adoption of the resolution if the previous question is ordered. Members of the body will have 15 minutes on the first vote and 5 minutes on the next vote.

The vote was taken by electronic device, and there were—yeas 248, nays 171, not voting 11, as follows:

[Roll No. 23]

YEAS—248

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Velázquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—171

Allard
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fish
Fowler
Franks (CT)

Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Archer
Barton
Fields (TX)
Ford (TN)
Henry
Hinchey
Johnson (CT)
Laughlin
Studds
Tucker
Washington

☐ 1445

Mr. JACOBS changed his vote from "yea" to "nay."

Mr. HAYES changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 249, nays 170, not voting 11, as follows:

[Roll No. 24]

YEAS—249

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lehman
Levin
Lewis (GA)
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—170

Allard
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bateman
Beilenson
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Archer
Bartlett
Barton
Fields (TX)
Ford (TN)
Henry
Johnson (CT)
Johnson, Sam
Laughlin
Studds
Washington

☐ 1457

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES

Mr. HOYER. Mr. Speaker, by direction of the Democratic caucus, I offer a privileged resolution (H. Res. 67), and I ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 67

Resolved, That the following named Members, Resident Commissioner, and Delegates, be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Agriculture: Pat Williams, Montana; Blanche Lambert, Arkansas.

Committee on Government Operations: Floyd H. Flake, New York; James A. Hayes, Louisiana; Craig Washington, Texas; Barbara-Rose Collins, Michigan; Corrine Brown, Florida; Marjorie Margolies-Mezvinsky, Pennsylvania; Lynn C. Woolsey, California; vacancy; vacancy.

Committee on Small Business: Maxine Waters, California; vacancy.

Committee on Standards of Official Conduct: Jim McDermott, Washington, Chairman; George Darden, Georgia; Benjamin Cardin, Maryland; Kweisi Mfume, Maryland; Robert A. Borski, Pennsylvania; Thomas C. Sawyer, Ohio.

The resolution was agreed to.

A motion to reconsider was laid on the table.

NATIONAL VOTER REGISTRATION ACT OF 1993

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Pursuant to

House Resolution 59 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2.

☐ 1459

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2) to establish national voter registration procedures for Federal elections, and for other purposes, with Mr. MCDERMOTT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as read the first time.

Under the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 30 minutes, and the gentleman from Louisiana [Mr. LIVINGSTON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, due to an oversight, the following Members were inadvertently omitted from the list of cosponsors of H.R. 2, the National Voter Registration Act: Mr. BARRETT of Wisconsin; Ms. CORINNE BROWN of Florida; Ms. ESHOO; Mrs. MEEK; Mr. MINGE; Mr. "PETE" PETERSON of Florida; Mr. POMEROY; Ms. ROYBAL-ALLARD; and Mr. RUSH.

Mr. Chairman, I ask unanimous consent that the gentleman from Michigan [Mr. CONYERS] be allowed to control 15 minutes of the time allocated to the majority side.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SWIFT. Mr. Chairman, it sometimes seems strange that it takes so much work to do something so simple and so good for the American people as this measure will do. What we are trying to address here is the eradication of a rather unfortunate tradition in this country. We have used voter registration mechanisms in the United States throughout many, many decades to prevent various groups who were from time to time and by certain groups considered undesirable, to make it very difficult for them to vote. At various times those have been eastern Europeans and southern Europeans, the Irish, African-Americans, and others.

There are very few people in this country today, who would condone establishing high registration thresholds for the purpose of discrimination against any American citizen, but we have grown out of that tradition to believe that it is government's right to establish high thresholds for registration; that, in short, government has the right to dictate high hurdles over which American citizens must jump in order to be qualified to vote on election day.

That is wrong. It is inconsistent with the fundamental beliefs and philosophy of this country, in which we believe that it is a God-given, not a government-given, right for a citizen of this country to vote.

The legislation which we have before us today suggests three specific ways to make it easier for citizens to register. All three are already in practice in this country. All three are working; all three are working well. There is nothing new; there is nothing untried here at all.

Ninety-two percent of Americans have a driver's license. The first thing this legislation does is to say that when one applies for a driver's license or renews the driver's license, they will also at that time have an opportunity to apply for registration to vote.

What of the other 8 percent? Why do they not have driver's licenses? Primarily either through physical disability that prevents them from driving, or economic disability, which prevents them from owning a car, so we do two other things in this legislation: we provide postcard registration, which is particularly useful to the disabled. That is a technique which is currently used by 28 States, a majority of the States. Most Americans today can register to vote through that technique.

For those who are in economic distress, we say in those agencies where they are most likely to seek help they will have an opportunity to apply for registration there as well.

Let me conclude this opening statement by making one other distinction that I think is terribly important. We use shorthand in our language and sometimes come to believe the accuracy of the shorthand. We say, "We register to vote." The truth is, all any of us do is apply to be registered to vote. The registrars register us.

Why is that distinction important? We have heard a lot of rhetoric around here about automatic registration. There is nothing in this bill that provides for that at all. Because whichever of the mechanisms in this bill are used by which to apply for registration, that application still goes, as any application does today, to a registration official who will screen that registration, that application, for eligibility. That is the way it is done now. That is the way it will be done under this legislation.

We do not have vote fraud because of any of these techniques now. There will be no vote fraud because these techniques will be used in every State, rather than in some. In short, this is simply an effort to make a citizen of this country more readily able to register, so come election day he or she will have no problem going into that voting booth and working his or her will.

Mr. Speaker, I reserve the balance of my time.

Mr. LIVINGSTON. Mr. Chairman, I am delighted to yield such time as he may consume to the gentleman from California [Mr. THOMAS], who has a great deal of an institutional memory about this bill and who would enlighten us now.

Mr. THOMAS of California. Mr. Chairman, I just want to say that the vineyard of expanding the opportunity for all Americans to vote is not exclusively a Democratic Party initiative. The Republican Party, after all, is the party of Lincoln, and if the Members will examine those various voting schemes devised to deny Americans the right to vote, it is a historical fact that most of them would be laid at the feet of the Democratic Party. I can mention the Texas white primaries, and I can mention any number of poll taxes, and I can mention their horrendous history following the Civil War, but it is not my purpose to do that because I think all of us are interested in expanding the right of all Americans to vote.

Most recently we joined together in a bipartisan effort to make sure that access to the polling place was not denied to all Americans. I was proud to say that that was done in a bipartisan way. Just two Congresses ago we approached the business of expanding the opportunity for Americans to vote in a bipartisan way. Sad to say, most of the provisions that made that bill a bipartisan one were lost just as soon as President Clinton was elected.

What we have in front of us is not one of the brighter moments in our attempt to expand the opportunity of all Americans to vote. No. 1, it is mandatory. It is mandatory even on those States that have motor-voter.

The problem is, if a State, under the existing law for setting up an election procedure that those folks in that State desired, went ahead and already enacted motor-voter, they are now forced to change it to the monolithic model that is being imposed on everyone.

Is it not interesting that the only two agencies that are required to carry out this activity in any State are the unemployment offices and the welfare offices? How in the world is this a requirement that we expand and broaden the opportunity for all Americans? Scratch out "all," write in "some." If the Members want to declare a particular party affiliation in terms of that bias, the choice is theirs. Do not pick ours.

In addition, the governors from all the 50 States were here in Washington. What was their major theme? "Don't give us any more mandated programs unless you fund them." Yesterday the Congress of the United States, in the first bill introduced in the House of Representatives, H.R. 1, gave them a mandated program with no funding.

Here we are today, taking up the second bill introduced in the House of Representatives, H.R. 2. It is mandatory, with no funding. The irony of all of this is that the States, that rich diversity of interaction among people within a Federal system who historically have had the power to structure the voting arrangements, are now going to be squeezed and homogenized through the Federal Election Commission, because that is where the major election decisions will reside, not in the States but in the Federal Election Commission.

Ross Perot, President Clinton, and others during the campaign decried the loss of the viability of the American political parties. Do Members know who traditionally carries on the bulk of voter registration? The American political parties, at no cost to the taxpayer. Why in the world are we not working on a creative incentive program to give more responsibility to those broad umbrellas of political ideas, the American political parties, and have them through various incentives, increase the opportunity for all Americans to register, give them a greater role in the system, instead of homogenizing, mandating, and not funding a program which I am sure will pass and fit very comfortably into the Democratic Party's program for this Congress, which is "Don't do as I say, do as I do do; that is, mandate and don't provide for the money to carry it out, force people into a homogenized package, and, by the way, destroy some of the most American, unique institutions in the world, our political parties."

□ 1510

Mr. SWIFT. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Michigan [Mr. BONIOR] the Democratic whip.

Mr. BONIOR. Mr. Chairman, I want to thank the gentleman from Washington for his leadership on this piece of legislation.

Mr. Chairman, this fall when I went campaigning I met hundreds of people who wanted to vote.

They were fed up.

Fed up with health care costs.

Fed up because family members were out of work.

If the 1992 elections taught us anything it was that people want in.

They want to participate.

So why are voter turnout figures so low in America?

Why 23d in the world—last among the major democracies?

Voter apathy? Cynicism?

No. The big reason is this: the antiquated, unnecessary, obstacles we impose on our voters.

We have barred the methods that make voter registration universal.

We insist hard-working Americans sacrifice wages—risk getting their boss mad—to take off from work to fill our a form.

Is there a better way? Absolutely. Motor-voter.

It makes sense for three reasons.

First, it works. Eighty-seven percent of the adult public has a drivers license—and this bill provides for disabled voters or those who don't drive. Besides, the States that have linked voter registration to drivers licenses—Nevada, Arizona, Minnesota—have seen lots more people take part.

Second, it prevents fraud. That is because a drivers license is one of the biggest safeguards against fraud. Sales clerks all around the country know that: the sentence they utter most in checking you out is, "I need your drivers license or a major credit card."

Third, it is cost-effective.

In my home State, Michigan, we first tried motor vehicle registration in 1975. We registered 750,000 new voters for 13 cents a vote.

Mr. Speaker, barriers to freedom are falling all around the world.

Lets knock down our own barriers.

Do it for new voters.

Do it for disabled voters.

Do it for people who have been cut out.

America should should lead the way, not pick up the rear.

Let us pass this bill.

Let us put more voters in the driver's seat where they belong.

Mr. LIVINGSTON. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding me the time.

Back in 1990, February 6, when we debated this bill, I made the point that no one in this Congress stands in the way of participatory democracy. In past years we got rid of literacy tests, poll taxes, residency requirements, property tax requirements, and all of those barriers. Nobody today wants these kinds of barriers in the election process. Let us make that clear.

What we have here today in this Chamber is that perception is reality. We have heard, and we will hear over and over and over again, if we simply increase voter registration by automatically registering everybody who has a driver's license, everybody who walks into the welfare office, the unemployment office, the food stamp distribution center, or where one gets their fishing license, or their marriage license, or their hunting license, or any agency the State may designate, and we make all of these folks election officials, and computer cousins, all of those computers are going to work together without any cost, then we will save democracy and increase voter turnout.

However, the record shows that the eight States that have motor-voter did not see any increase in turnout. Where they saw an increase in turnout is where they had a choice and where they cared.

I do not know about the State of Michigan, but in Kansas we voted.

Reality check. This is going to turn our election process upside down. Who is saying to the secretary of state of Kansas who sent a letter to me, and I ask permission to include it right after my remarks, who was saying to the secretary of state of Kansas and the local county election officials within my 66 counties of the First District that we have barriers to voting? I do not know of anyone. What makes anyone here think they know more in terms of outreach and voter turnout in Ford County and Dodge City, KS, America, than our county clerk, Rita Slattery, who by the way is a Democrat?

And let me say that all of us, all of us who questioned this approach do not oppose increased voter registration or turnout. We do that in Kansas, and in my State we have the Farm Bureau, the League of Women Voters, Republicans, Democrats, United We Stand for "Ross the Boss," the American GI Forum, the NAACP, veterans' organizations, and the list goes on and on.

Our secretary of state will have a motor-voter plan implemented by 1994. Pass this and we will not get it done until 1996. You will stand in the way of 90 percent voter turnout in the State of Kansas and turn it over to the FEC.

I include for the RECORD the letter I previously referred to from Bill Graves, the secretary of state of the State of Kansas, as follows:

STATE OF KANSAS,
Topeka, KS, January 25, 1993.

HON. PAT ROBERTS
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE ROBERTS: It is clear that President Clinton has made passage of the National Voter Registration Act a high priority in 1993. More than once last year I publicly voiced my objections to any federal motor-voter legislation, including writing a letter to President Bush urging his veto of S. 250.

I wish to reiterate my objections as chief election officer for the state or Kansas. Please consider the following points during your deliberations on H.R. 2.

H.R. 2 is one more unnecessary, unfunded, federally-mandated program foisted on the states, most of which are already having difficulty keeping their necessary existing programs operating with scarce and dwindling resources. To my knowledge, no one has even put a price tag on H.R. 2, but it will be expensive.

Most states already have or are developing motor-voter programs. Kansas passed a motor-voter bill in 1992, and my office is in the planing stage for 1994 implementation. Any additional federal legislation will unreasonably duplicate and complicate those efforts.

H.R. 2 will greatly increase the chance for election fraud, the very thing registration was intended to prevent. This bill would have more government agencies and administrators involved in the voter registration process, and would provide less time than our state now requires for verification of registration information and preparation of accurate and up-to-date registration lists. We will not be able to maintain our current standards of electoral integrity if H.R. 2 passes.

When implemented, Kansas' motor-voter program will reach, through the vehicle registration process, more than 90% of persons eligible to vote. H.R. 2 will require us to duplicate those contacts for many individuals because they will have the opportunity to register again at other government agencies. This will require an inordinate expenditure of resources to reach just a few of the individuals who did not register to vote during the vehicle registration process. It will also require us to spend an inordinate amount of time eliminating duplicate registrations.

Thank you for your consideration of my ideas. If you need more specific information, please call me at (913) 296-2236.

Sincerely,

BILL GRAVES,
Kansas Secretary of State.

Mr. LIVINGSTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Chairman, I rise in opposition to H.R. 2, the National Voter Registration Act, or motor-voter bill.

Voter registration officials in my State of Alabama are strongly opposed to the motor-voter bill because it is a gross infringement on States rights. It also imposes significant costs on the States without corresponding funding. I do not know about the other 49 States, but Alabama just cannot afford this expense, particularly when it will serve to promote voter fraud.

H.R. 2 will undoubtedly generate tremendous abuse in the election process. It will prevent any type of verification of postcard registration and encourage same-day registration. It also allows illegal aliens to register. Other questions persist: Can those under age 18 register? Can convicted felons register? I do not believe the supporters of this bill intend that fraud will prevail, but I do believe we should look very carefully at what will happen in reality. Widespread fraud is possible because the bill's safeguards are simply inadequate.

I agree that it is important to encourage participation in the Democratic process. Voting is a fundamental right—indeed, it is a responsibility. The individual States are in a better position to determine how best to get people to register. I am not sure the Federal Government should have a major role in this process, but I do know this legislation is not the right method of involvement.

I urge my colleagues to join me in voting "no" on the motor-voter bill.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished delegate for the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I do not envy the opponents of the National Voter Registration Act. It is bad enough to oppose increasing Democratic participation. But Republicans, for whom Government efficiency and cost cutting have become a mantra, oppose those good things too when they oppose H.R. 2.

Like our economic productivity, our voter productivity needs an assist from modern methods and technology. A comparable law in the District of Columbia has yielded a 50-percent increase in new registrants since 1989.

Last year Americans went from cynical apathy to new levels of participation using new outlets. Let us put them in closer touch with the vote, the outlet that counts most in a democracy.

Support H.R. 2.

Mr. LIVINGSTON. Mr. Chairman, I am honored to yield 2 minutes to the eloquent gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding me the time.

Although it may come as a surprise to some we do not possess unlimited authority to impose our will and good intentions on the States or on the citizens of this Nation. This is not a body possessed with boundless authority, but a constitutionally created legislature with limited powers.

We have a solemn obligation to examine the Constitution to see what it says about the power of the Federal Government to regulate Federal and State elections and our authority to use the resources of State governments, without their consent, to implement a Federal regulatory scheme.

Article I, section 4 of the Constitution, gives Congress the authority to make regulations with respect to the "Times, Places and Manner of holding elections for Senators and Representatives." Section 2 of article I, provides that the electors for the House of Representatives in each State "shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature."

Taken together, these two sections indicate that while Congress has authority to regulate Federal elections, States have the authority to conduct State elections and to set the qualifications for voters for State and Federal office, as long as they do not do so in a discriminatory fashion. In addition to these explicit references to voting, there is another section of the Constitution which is instructive. The 10th amendment to the Constitution states that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or the people."

Even if we accept the premise that congressional authority to regulate the times, places and manner of a Federal election authorizes the enactment of a comprehensive and mandatory voter registration scheme, it is a quantum leap to accept the proposition that the Federal Government has the power to commandeer the offices of State governments to impose this scheme.

Last year, in New York versus United States the U.S. Supreme Court struck down part of a Federal law on the disposal of radioactive waste on the ground that it violated the 10th amendment. Justice O'Connor writing for the majority stated:

> States are not mere political subdivisions of the United States. State governments are neither regional offices nor administration agencies of the Federal Government. The positions occupied by State officials appear nowhere on the Federal Government's most detailed organizational chart. The Constitution instead "leaves to the several States a residuary and inviolable sovereignty," reserved explicitly to the States by the Tenth Amendment.

This bill requires States to designate its offices that provide public assistance and unemployment compensation as voter registration agencies. Incredibly, States may not require Federal offices to share the load in implementing this Federal mandate. Federal offices have the option of deciding whether they can afford the commitment of time, resources, and personnel. They cannot be designated as voter registration agencies without their explicit agreement. Not only does this fly in the face of the 10th amendment, it turns any traditional concept of federalism on its ear.

The goal of this bill—increase citizen participation in our Constitutional democracy—is one with which we all agree. We gain nothing, however, if in seeking to achieve that worthy goal, we trample on the very document which we are sworn to uphold.

□ 1520

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. GREEN], who was the author of the motor-voter bill in his State.

Mr. GREEN of Texas. Mr. Chairman, I appreciate the opportunity to be here. I thank the gentleman for yielding me this time.

Mr. Chairman, I want to ask the Members to support H.R. 2, because in an earlier life just 2 years ago, I served in the State senate in Texas, and for a number of years we talked about passing motor-voter. We finally did, and we have a bill in the State of Texas that is actually a little stronger than the one we are considering today. We heard the same concerns from a lot of Members from the other party about how it is going to hurt our voter registration and voter activity.

Well, I know that this last November election we had one of the highest turnouts in history in Texas, and I wish we could claim all of that from motor-voter. I think it helped, because we had an aggressive effort to register voters. We do it at driver's license locations.

One of the oppositions we heard in Texas was that it would slow down the driver's license lines. That is not true, because, frankly, we wait in lines already to renew our driver's licenses, and we just encouraged people to register to vote.

For so many years, we have been concerned about registration. Our politics are based on fear, fear of what may happen, and fear of what may happen, but that is not what we need to be concerned about here. I can use a good example from my own home State of how motor-voter has worked, and it is working like a lot of other States will do, and I think I would hope that the whole Congress, and not just the majority Democrats, would vote for this bill, because our goal is to increase participation in our electoral process and not limit it.

Every opportunity we can do, whether it be this bill or some other bill that would increase the participation of our citizens, we need to do that.

Mr. LIVINGSTON. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, there are five excellent reasons why I oppose this piece of legislation, and they are the five local voting registrars in the five counties which comprise my district. Each one of these is a professional in his field and collectively these five have spent more than 100 years working the methodology of according the voting privilege to our fellow citizens in our area.

Last year, contrary to the assertions made by the Delegate from the District of Columbia, this last election they processed the highest number of registrations in 1 year and the highest number of voters in their entire experience without the help of motor-voter. It was the incentive of the election, the issues, and the people's will to vote and to register that brought about these swelling numbers of registrations and voting in those districts.

They tell me that there will be a nightmare of administration, of costs, but worse, it can ultimately damage the voting system that so eloquently responded this past election cycle to the needs of the voting public. It can damage it because of the reliance that these voting registrars are going to have to place on other agencies of the State. Are they going to be able to conform to the election deadlines schedule? Are they going to be able to communicate on a regular basis in a mutliparty type of agency kind of registration that this vehicle would present?

I rely on these voting registrars and their good judgment. Those five reasons obtain for all of us. We ought to be not spreading around the registration in a flimflam way but, rather, letting them concentrate their efforts as they did this past election cycle so successfully.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Chairman, I rise today in strong support of H.R. 2, the National Voter Registration Act and in opposition to the Michel amendment. This legislation goes to the very roots of democracy and to very origins of this Nation's founding—the natural right of all to the ballot and to elect their representative government. This natural right is implicit in the words of our Declaration of Independence, "Governments receive their power to rule only through agreement of the people."

This legislation is especially important to me because before my election to Congress, I dedicated many hours and much work in my community to greater voter access. I know that the inadequate voter registration systems that exist today hinder voter empowerment, particularly in minority communities. Archaic and burdensome procedures presently impede some 70 million eligible voters from exercising one of the their most important rights as citizens. It was clear to me that fresh opportunities and new vehicles for political empowerment were crucial in order to reach those millions of people historically ignore by the political process.

That is why I launched a voter registration drive in the Puerto Rican community entitled "Atrevete," which means dare to. This program strived to overcome the obstacles and impediments to registration by daring this disenfranchised community to dare to get involved, to struggle for their right to vote—a right that they have earned as citizens of this country. I am very proud to report that our efforts enrolled 200,000 new voters in the Puerto Rican community. Private projects such as Atrevete should continue and, indeed, be replicated, but our Federal Government has a responsibility to be a partner in these efforts. The modest but monumental principles in H.R. 2 accomplish that mission.

It is important to note that voter turnout increased in 1992, the first time in many years, but almost all of that increase occurred in States which had implemented part or all of the registration procedures outlined in H.R. 2. So, it is obvious that these principles have been tested and have been proven effective.

The National Voter Registration Act establishes three major procedures by which to improve voter registration. The first requires States to establish procedures that permits individuals to register to vote in Federal elections when they apply for a driver's license, renew a license, or apply for identification card by a motor vehicle department. The measure does not require that individuals register. As a matter of fact, it contains language ensuring that applicants cannot be coerced or influenced in their decision whether to register or how to register by any official. The measure also requires that the registration form contain a statement of the eligibility requirements for voting, an attestation that the applicant meets each requirement, and the applicant's signature.

H.R. 2 also improves access to the ballot by requiring each State to accept and use a mail voter registration form to be developed by the Federal Election Commission in consultation with the chief election officers of the States. The third major reform to voter registration procedures contained in H.R. 2 is the designation of public assistance, unemployment, and other agencies as voter registration agencies. These two final provisions are particularly important to our disabled Americans because transportation barriers often make it impossible for them to get to a voter registration site. The bill would help disabled people across the country become full and active participants in the electoral process.

I want to state my strong opposition to the amendment offered by the gentleman from Illinois [Mr. MICHEL]. I warn my colleagues not to be fooled by this deceptive amendment which creates a sizable loophole for States to avoid complying with H.R. 2. Under the amendment if a State's chief election official simply feels that existing procedures for preventing noneligible people to vote are insufficient, then the State does not have to adhere to H.R. 2. The Michael amendment essentially undermines the act by making it voluntary. There are more than adequate existing safeguards to determine eligibility to vote under current law.

In closing Mr. Chairman, I remind my colleagues, especially those who speak often of reform, that today they have a unique opportunity to institute true political reform by facilitating the fullest public participation in the electoral process. I urge my colleagues to oppose the Michael amendment and to support final passage of the National Voter Registration Act.

Mr. LIVINGSTON. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Chairman, I agree with the goal of this bill and, in fact, I voted for a previous version of this bill.

But I want to advise my colleagues that this bill, though well intentioned, has a number of problems. The secretary of labor in the State of New Mexico, the Honorable Patrick Baca, in a Democratic administration, I might add, has contacted me objecting to the enactment of this bill as it now reads.

He suggests two problems: No. 1, since the unemployment compensation office he administers must give forms to applicants, and the applicants must decline to register in writing, he is afraid that there will be a coercive impact on people who come to his agency, and that individuals will not come for unemployment compensation benefits because they are afraid of some type of political coercion. Second of all, he indicates that there is no financial assistance. This bill requires the employees of his agency to provide voter registration assistance but no financing to add more employees or to train existing employees.

He makes that point that the purpose of the employees of the Department of Labor are to serve the Department of Labor.

I respectfully urge my colleagues to talk to your State and local officials before you vote on this bill, no matter what their party affiliation, and get their views.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. KLEIN].

Mr. KLEIN. Mr. Chairman, I rise in strong support of H.R. 2, a bill that could dramatically increase participation in our democracy and the electoral process.

☐ 1530

Americans who register to vote follow through and cast their ballots in great numbers. Between 80 and 90 percent in the last election. But one-third of the electorate still is not registered, not because they do not want to vote but because of outdated registration policies that vary by State and sometimes even by municipality. That is right, more than 70 million eligible American citizens cannot exercise a fundamental constitutional right simply because our country lacks a consistent national policy for voter registration. But there is hope for a change. We saw increased voter turnout in the 1992 elections, a 20-year record.

Today we could jump start the American electorate, but only if we keep from getting stalled on insubstantial objections to the motor-voter act. What will it do? This bill will not increase voter fraud; it will eliminate discrimination.

Vote with me in favor of the National Voter Registration Act.

Mr. LIVINGSTON. Mr. Chairman, I am most honored to yield 1 minute to the gentleman from Florida [Mr. CANADY].

Mr. CANADY. Mr. Chairman, I rise to speak in opposition to this bill—a bill which will perpetrate a massive fraud on the American people.

The bill under consideration will strike a devastating blow against constitutional order and the American system of democracy. Under the banner of reform, the bill would inaugurate a new era of abuse—an era in which millions of illegal aliens and other noncitizens will flood into the American electoral system.

Less than 1 month ago, the majority of this House trampled on the Constitution by granting voting rights on this floor to delegates from the territories and the District of Columbia. Now, the majority is prepared to assault the constitutional rights of American citizens once again.

In the name of democratic participation, access, and inclusion, this bill will open the floodgates to electoral fraud on an unprecedented scale. It would rob American citizens of their right to elect representatives in a free, open, and fair electoral process.

By encouraging the registration of persons not eligible to vote, the bill would dilute the voting power of American citizens. It would create an electoral system on a par with the rotten borough system of 18th century Britain.

This is not a reform—it is a sham. An ugly partisan attempt to skew the results of elections by corrupting the system for registering voters.

Americans who choose not to exercise their right to vote do so not because of legal barriers to registration—but because of frustration and apathy induced by a lack of confidence in the institutions of government in America—including a lack of confidence in the Congress.

The sorry spectacle of Congress effectively surrendering the franchise to illegal aliens and other noncitizens will only serve further to undermine the confidence of American citizens in their Government. It will produce a result exactly the opposite of the purported intent of this legislation.

To maintain the confidence of American citizens in this Congress and the integrity of the electoral process, this House should defeat this ill-conceived bill.

Mr. CONYERS. Mr. Chairman, at this time I am pleased to yield 1 minute to the distinguished gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. I thank the gentleman for yielding.

Mr. Chairman, this bill begins to tear down the barriers that have so often prevented people from freely exercising their right to vote. It actually does something to help to get more people into the voting booth.

Mr. Chairman, I am interested in the arguments against this bill. If we are to believe the bill's opponents, it will lead to rampant voter fraud and bureaucratic nightmare. These same arguments were made when Wisconsin debated the same-day registration in the 1970's. I am here to tell you that the gloomy forecasts did not come true in Wisconsin.

According to the Wisconsin elections board, in Wisconsin voter fraud is not a problem in our State. More importantly, our law encourages people to vote. Voters are not kept out of the booth because they did not register 30 days before the election. Wisconsin law and the motor-voter law recognize that, as most of us in this public body know, most people do not focus on elections until the last few weeks before the campaign ends.

It is no coincidence that the States with the highest percentages in the 1992 election were Maine, Minnesota, North Dakota, and Wisconsin, all States that have either same-day registration or no registration at all.

When this bill becomes law, it will truly be a victory for democracy.

Mr. LIVINGSTON. Mr. Chairman, I yield 1½ minutes to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. I thank the gentleman for yielding.

Mr. Chairman, I would like to rise in opposition to H.R. 2, for several reasons. First of all, this bill does not in fact come through with the intent for which it was proposed. It fails to increase voter turnout. The intent is to increase voter participation, but as CRS has reported, of the 10 States adopting motor-voter registration provisions prior to the 1988 Presidential election, 8 States displayed decline in the percentage of the voting population voting in elections after the adoption of motor-voter registration.

Second, I would like to share with you that the Governor of my State, Gov. George Voinovich, called me personally, as well as our secretary of state, Bob Taft, to urge me to vote against this legislation because it is another example of the arrogant use of Federal mandates without funding to clog up and burden the taxpayers of the State of Ohio and all the States.

Finally, I would like to ask the question: Why is it that in this legislation the language says in section 7, No. 2, that each State shall designate as voter registration agencies all offices that provide public assistance, unemployment compensation, or related services, but it says that each State shall designate other offices, which may include public libraries, public schools, offices of city and county clerks, fishing and hunting license bureaus?

It seems to me, if you look at the population that is going to be at those different offices, it is clear that there is also a partisan intent at the bottom of this which strikes directly to the equity of the bill.

Mr. SWIFT. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLECZKA], a member of the committee.

Mr. KLECZKA. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in strong support of H.R. 2, the National Voter Registration Act.

As a member of the Elections Subcommittee, I would first like to compliment Mr. SWIFT for his dedication and effort on behalf of this cause. I have had the opportunity to serve on several House Administration panels with the gentleman from Washington, and I must say we can all learn from his even temper and judicious demeanor.

Mr. Chairman, H.R. 2 is the most important piece of legislation since the 1965 Voting Rights Act.

By simplifying the voter registration process and allowing eligible citizens to apply to register when they receive their driver's license, H.R. 2 ensures the voter registration process is responsive to the needs of voters, rather than Government bureaucrats.

During the consideration of this bill in committee, the ranking member from Louisiana, raised several concerns, which, in the words of Mr. SWIFT, are nothing but straw men.

He claimed this bill will promote voter fraud, require welfare offices to devote as much time to voter registration duties as to their other tasks, and stop State agencies from being able to purge their voter lists. All of these statements, Mr. Chairman, are based on unsubstantiated fears or misconceptions, not the actual legislation before us.

This bill in no way changes any present laws about voter qualification or the responsibilities of the local registrar. While this bill expands where and when individuals may apply for registration, the acceptance of an application remains under the control of State officials.

Contrary to some of the rhetoric espoused by opponents of this measure, it will not create inaccurate voter lists, but rather it requires States and local jurisdictions to maintain accurate lists.

It mandates that the purge processes must be uniform and nondiscriminatory, and stipulates that a registrant who fails to return an address confirmation notice may be removed from the rolls if that person does not vote within a period of two Federal elections.

As for charges that the bill imposes costly mandates on the States, official mailings under the act are eligible for reduced postal rates. Furthermore, it should be noted that under article 1, section 4 of the Constitution, Congress not only has the authority, but the obligation, to prescribe the conditions under which elections are held.

One other point the gentleman from Louisiana raised was his objection to the provision that exempts States which have same-day registration from the motor-voter provisions of the bill. In a Dear Colleague he circulated, he states that this "creates an election day registration loophole," and suggests States will adopt same-day procedures to avoid the costs of the bill. Good.

During the committee consideration of this bill, I was one of the strongest and probably the most vocal proponent of this provision. I did so because my home State—Wisconsin—has same-day registration, and I am surprised that someone could suggest that this practice precludes meaningful verification and invites fraud, where no such proof exists.

In the 1992 Presidential election, the three States with same-day registration—Wisconsin, Maine, and Minnesota—again ranked heads and shoulders above the national average. According to the election turnouts, Maine was first in the Nation with 72-percent turnout, followed by Minnesota with 71.6 percent. Wisconsin ranked fourth with 69 percent. Nationwide the average was 55.3 percent.

And I am proud to say that since Wisconsin adopted same-day registration in 1976, voter fraud has not been a problem, but long lines of voters at the polling places has been—that is exactly what we hope to achieve.

Mr. Chairman, with one-third of all eligible voters still unregistered, the need to make our political process more accessible to all Americans must be one of our priorities. H.R. 2 is a comprehensive compromise which will increase registration and maintain the integrity of the election process.

I urge all of my colleagues to join me in voting for this measure, and thank you, Mr. SWIFT, for allowing me to speak on behalf of this fine piece of legislation.

□ 1540

Mr. LIVINGSTON. Mr. Chairman, I yield myself 30 seconds to point out that the Justice Department says same-day registration is conducive to fraud and that postcard registration, according to a New York grand jury convened in 1982, says the advent of mail-in registration leads to a most incredible opportunity for fraud.

My own registrar of voters in Jefferson Parish in Louisiana says this bill would be an open invitation to fraud, so the views just expressed are not necessarily shared by others around the country.

Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, when the Michel amendment is offered later, it will consist of two parts; one to make sure that citizens only can be registered, and also a section that would say that has to be certified.

It is my understanding the Democrats are now prepared to divide that question into two parts. What they would do is say they will vote for the idea that people have to be citizens, but then they are going to vote against the certification. Understand what that means. What they are prepared to do is say that you have to be a citizen, but wink-wink, no one will certify it, so no one will know.

Well, this is in reality something that should be called for what it is, legalized voter fraud. That is exactly the problem with what we are doing here.

If you want to know what is sick about the Congress, look at what the Democrats are prepared to do on the upcoming Michel amendment. If you want to know why people are sick and tired of Congress, look at what the Democrats are prepared to do on the Michel amendment.

Mr. SWIFT. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the Michel amendment's second portion is what is fraudulent, because what it does is say nothing in this bill will go into effect until the State sends the certification to the Attorney General, but it provides no deadline which he ever has to do that.

Under the guise of a hot button political issue, this is simply an effort to eviscerate the central purpose of the bill, pure and simple.

I would make one other point; that is, that the amendment which would suggest that you must be a citizen is redundant. In three separate places inside this bill already, it says that you must be a citizen. That is in the legislation. It is in the legislation three times. They are going to offer an amendment which will say that you have to do it a fourth time. It does not make it any truer. It is redundant. It is harmless. It is unnecessary. It is kind of frivolous.

The fact is, obviously you must be a citizen and the legislation states three times you must be a citizen. The policy will be you must be a citizen. We all support that.

Mr. CONYERS. Mr. Chairman, I am pleased now to yield 3 minutes to my friend and colleague, the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Chairman, in the story "Citizen Kane," toward the end of the play Citizen Kane, the publisher of the newspaper, is a candidate for the U.S. Senate. The newspaper run is all set up on two different presses. One of them says, "Kane wins." The other press run says, "Fraud at the polls."

I do not know why I happened to think about that in connection with this debate, but I would like to point out for the record that if you are inclined to be dishonest, you can do it pretty well under any system. If you are inclined to be honest, you can also do that pretty well under any system.

Let me give the RECORD just one example. In the election of 1984, it came out very close in the Eighth District of Indiana. Our colleague, Representative FRANK MCCLOSKEY, represents that district and was the Democratic candidate in that election. Initially the Republican Secretary of State of Indiana declared his opponent the winner. A challenge to that declaration was made here in the House of Representatives. Under the clear authority of the U.S. Constitution, the House of Representatives commissioned three Members of this House to conduct a recount which actually was done technically by the General Accounting Office.

In almost every instance, one Democratic member of that three-member commission, in almost every instance of controversial issue, that one member voted with the Republican member. In other words, the benefit of the doubt always was in that direction.

In the end, the gentleman from Indiana [Mr. MCCLOSKEY] was determined by those votes and by the count of the GAO to have won, was declared the winner by four votes.

Well, certain Members of the House began a campaign which best be described as slander. They accused the Democratic Party of stealing the election. They talked of fraud at the polls.

Truth crushed to Earth, Mr. Chairman, will rise again, because when the dust and the rhetoric cleared away, the fact was that certain Republican officials in that district of Indiana were indicted and convicted for buying votes in that election.

I do not say this as a reflection on my friends in the House of the Republican Party. The gentleman who has managed the bill knows of my admiration for him.

I simply say it to point out that if you are of a mind to be honest, you can be honest in any system, and if you are of a mind to enforce the law, you can do that in any system, and if you of a mind to be dishonest you can do that in any system.

I think franchising poor people, and that is what we are really talking about here, people who cannot afford nice houses and cars, is a noble thing, a historically good thing for this House to do.

Mr. LIVINGSTON. Mr. Chairman, coming from a State that has had its experience with voter fraud, I am now pleased to yield 2 minutes to the gentleman from Texas [Mr. SMITH], who has enormous experience on the Subcommittee on International Law, Immigration, and Refugees, of the Committee on the Judiciary.

Mr. SMITH of Texas. Mr. Chairman, I thank my friend, the gentleman from Louisiana, for yielding me this time.

Mr. Chairman, anyone who has taken the time to read this bill knows that it is one of the most shamelessly slanted pieces of legislation that will come before this Congress.

What my colleagues may not know are the lengths the bill goes to resurrect the glory days of machine politics and throw open the door to voter fraud. The bill contains everything: No purging of voter rolls, no meaningful checks on voter eligibility and—most egregiously—the virtual certainty that illegal aliens will be registered to vote in Federal elections. Missing is only one thing: an accurate name for the bill. It should be called the Illegal Aliens Voting Rights Act of 1993.

In fact, I am convinced that the bill was named motor-voter with Zoe Baird's chauffeur in mind. This bill, as it is now written, will provide illegal aliens with just one more means to cover their illegal status and thus act as an encouragement for illegal aliens to register. This bill actually facilitates the registration of noncitizens because it does not have the teeth to prevent illegal aliens from registering to vote. We must put protections into this bill and require certification that States are only registering citizens to vote.

Driver's licenses are one of the forms of identification used by employers to verify citizenship status. Now with automatic voter registration in conjunction with obtaining a driver's license, illegal aliens can have an additional, though fraudulent, form for proof of citizenship.

Custom officials allow a traveler returning across the border from Mexico to use a voter registration card, along with a driver's license, to substitute for a passport in providing American citizenship. With this bill, we will have made it even easier for illegal aliens to cross back and forth across U.S. borders without fear of being caught.

H.R. 2 is not about ease of access; H.R. 2 is about ease of excess. By erecting a Tammany Hall in every town in America, this bill will throw open polling places to illegal aliens.

If you want to give illegal aliens the right to vote, then vote for H.R. 2, the Illegal Aliens Voting Rights Act.

Mr. SWIFT. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Mr. Chairman, I rise in strong support for H.R. 2, the National Voter Registration Act.

Voting is one of our most prized constitutional rights. I do not believe that voting rights in this country should be conditioned on overcoming obstacles and barriers to voter registration.

Many in my area of the country can still recall the literacy tests and poll taxes required for registering to vote—restrictions solely for the purpose of inhibiting certain people of their right to vote. I am grateful those days are gone, but unfortunately, there are still many people in this country who simply do not have access to the voter registration process.

A recent study by the Institute for Southern Studies ranked my home State of South Carolina as one of the Nation's "Dismal Dozen" States for its low voter turnout rate. It is not with any pride that I stand before you and report that South Carolina ranked 49th in voter turnout in 1992 and 50th in voter turnout for the last 12 years.

Regretably, South Carolina's laws make it difficult for eligible voters to register to vote. The study's numbers show that people are most likely to go to the polls in States that make voter registration the easiest.

Mr. Speaker, the American people need to know that they do have a voice in the electoral process and that our Government depends on their participation.

The National Voter Registration Act will meet this goal of encouraging and maximizing voter participation in the fullest way possible. I urge adoption of this long-overdue legislation.

□ 1550

Mr. LIVINGSTON. Mr. Chairman, I yield 3 minutes to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I rise in opposition to this vote fraud enhancement legislation, and, since I am from Illinois, I guess I am more sensitive than most about the corrosive and devastating effects of vote fraud. Peorians have long heard of the shenanigans that occur in our sister city to the north, Chicago, and we do not want a return to those good old days when relatives, long since passed, rose from the dead on election day and participated in our electoral process, and there are all kinds of stories to be told, from Mayor Daley on down, as to how it all came about.

Why does this bill promote and enhance voter fraud?

First, Mr. Chairman, there is no mandatory address verifications, and, without this important safeguard, people can walk into the voting registration location, register to vote with a fake address, walk away without fear that their action will be discovered, let alone prosecuted; and, second, the bill equates voter registration with receiving a Government check. It specifically targets welfare and unemployment offices for voter registration. This poses another great risk for fraud, and the people who come to these places, many of whom are not even eligible to vote, are vulnerable to pressure to register illegally. I even raised the question: If you're going to go that far, why not have them at Internal Revenue offices where people pay taxes? Then you get some sense of real equality there.

Mr. Chairman, problems with fraud vary from State to State. Some States have not had Illinois' history in this regard and can have easier registration laws. But many others have had similar experiences and need strong regulations to prevent it.

Republicans tried to strengthen the fraud provisions of the bill. We offered an amendment in the committee markup to purge voters who have not voted in 4 years, and 10 years and 100 years, all rejected by the majority, which pretty much suggests to me how serious they were in really trying to correct the problems that a number of us have tried to point out as the pitfalls in this legislation.

Mr. Chairman, it is a frightening prospect, but this legislation, if enacted, could lead to the most massive voter fraud in our Nation's history, and all because the Democrat majority refuses to allow amendments that would have made improvements to the bill.

Then of course we get to the mandate question. The other night I was meeting along with BOB DOLE with some of our Republican Governors, and the big message of that meeting was: Don't impose another mandate on us without paying for it. Don't impose another mandate.

So, here we are, right out of the box, with another mandate on the States, and they are unable, of course, to match the kind of money requested or required to fulfill the obligations of the legislation.

Mr. Chairman, I would urge all my colleagues, to vote against fraud and to vote against Federal mandates. My colleagues should vote against this Fraud Enhancement Act.

Mr. LIVINGSTON. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Chairman, today we consider H.R. 2, the National Voter Registration Act. This act will invite fraud, cost the States millions, and infringe on States rights.

And each dead person that votes, each illegal immigrant who votes, each person who votes more than once in an election, diminishes the voice of every American who votes in a legal fashion.

At a time when States, like Indiana, are undergoing difficult budgetary times, federally mandated spending increases are the last thing States need right now. Ten States estimated that the provisions of the motor-voter bill would collectively cost them $87.5 million. Even the most conservative estimates show at least a $200 million cost.

Yesterday, my office polled the opinions of 20 county clerks, Republican and Democrat, in my district and they are overwhelmingly opposed to this measure. This is another case of the tail wagging the dog. I urge my colleagues to defeat this bill and maintain the integrity of our current voting system.

Mr. LIVINGSTON. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Chairman, I urge my colleagues to vote "no" on H.R. 2, The National Voter Registration Act, the so-called motor-voter bill.

The motor-voter bill, at first glance, seems to be a noble piece of legislation.

The reality is that the motor-voter bill increases the size and cost of government, and it invites fraud. It is an auto-fraudo bill.

We, as Members of Congress, are not here to mandate the business of our States. Nor are we here to require that our States implement expensive new programs, without any intention of funding one dime of the cost.

In California alone, this legislation will cost taxpayers over $26 million. Now, this may not seem like much. But when the State of California is experiencing a record budget shortfall of $8 billion or more, the taxpayers of our State do not need an additional burden. Nor does any taxpayer.

Nor are we here to require that our States implement programs that invite fraud. The motor-voter bill provides no mechanism to determine whether an applicant is actually eligible to vote. In California alone, there are over 4 million noncitizens who, if this legislation is enacted, may be able to vote illegally. The hard-working American taxpayer does not need to have millions of illegal aliens, now increasingly drawing on welfare and health services, to help decide the course of our Nation.

Governor Wilson has noted that California has 50 percent of the illegal aliens in the United States. The Federal Government should pay the State of California for the $1.45 billion in services which have been rendered to illegal immigrants because our Nation cannot control its borders.

There are many critical issues more deserving of our attention than the motor-voter bill. Revitalizing our economy, decreasing our budget deficit, and reforming our health care system are among them. However, imposing costly new mandates on our States is not.

I urge a "no" vote on the H.R. 2, the motor-voter bill.

I include for the RECORD an article from the January 18, 1993, Los Angeles Times, and a letter which the Governors of California, Florida, Illinois, New York, and Texas have recently sent to the President.

January 31, 1993.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: The United States was founded by immigrants seeking a better life for themselves and their families. America continues to offer a home to immigrants, as well as a safe harbor for those refugees fleeing oppression and persecution. If the federal government wishes to sustain a humanitarian foreign policy which fosters immigration and refugee admissions, then it must allocate the financial resources required to support this population once it has arrived.

Some immigrants and refugees have special needs which require government assistance in order to facilitate rapid assimilation. In setting immigration and refugee policy, the federal government has acknowledged these needs by mandating that both documented and undocumented immigrants be provided with medical, education, and other services. The federal government has formed a partnership with the states to deliver these services to the immigrant population. In forming this partnership the federal government recognized its responsibility to reimburse states for the costs of providing these federally mandated services.

This partnership has broken down, however, because the federal government has failed to honor its commitment to provide the reimbursement to which the states are entitled. States cannot be expected to pay the costs of policies which are fundamentally the responsibility of the federal government. This especially is the case at a time when so many states are struggling with long-term budget problems and are being forced to reassess state programs and expenditures.

We look to your Administration and the Congress to renew the federal-state immigration partnership—one that recognizes the financial strain imposed by federal mandates which are unaccompanied by fair compensation. Several steps should be taken to achieve this objective:

1) The federal government must take immediate action to provide all reimbursement owed to the states for the provision of services to documented and undocumented immigrants and refugees.

2) The federal government must recognize that its decisions to admit immigrants and refugees is strictly a federal one and therefore carries with it a firm federal commitment to provide full reimbursement to the states for services provided to the immigrant and refugee population.

3) The federal government must work with the states to develop an effective federal mass immigration emergency plan.

We look forward to working with you to meet these objective and to renewing the federal-state relationship in this vital policy area.

Sincerely,

PETE WILSON,
Governor of California.
MARIO M. CUOMO,
Governor of New York.
LAWTON CHILES,
Governor of Florida.
ANN W. RICHARDS,
Governor of Texas.
JIM EDGAR,
Governor of Illinois.

[From the Los Angeles Times, Jan. 18, 1993]

WILSON'S $1.45-BILLION PLEA TO FEDS: PAY UP—GOVERNOR MAKES STRONG CASE FOR IMMIGRANT-AID MONEY

California has a proud history of attracting newcomers to the United States. Even before the Gold Rush brought the stampede of fortune seekers from east of the Rockies, settlers from around the world put down roots in this state in search of a better life. The infusion of new residents, whether immigrants or refugees, has helped to enrich and diversify California.

But there have been costs too.

In recent years, California and other states have had to bear too much of the expense of medical, educational and other services provided to immigrants and refugees. This despite the fact that the federal government is supposed to help foot the bill for such federally mandated services.

Repeat: federally mandated.

Washington has not lived up to that commitment, shortchanging California by billions over the years. In response, Gov. Pete Wilson has launched an appropriately aggressive campaign, as part of his 1993-94 budget-balancing act, to secure those funds. He needs the support of President-elect Bill Clinton and the state's huge but often ineffective congressional delegation to bring the money home.

California warrants a big share of federal funding because the state attracts, and thus in part supports, a disproportionately large number of refugees and immigrants—both legal and undocumented. The state is home to 54% of the immigrants legalized under the federal immigration Reform and Control Act of 1986 (IRCA), nearly 40% of the nation's refugees and perhaps 50% of the undocumented in the United States.

The immigration phenomenon is not only a downside cost question, of course. Many immigrants contribute to the state's economy through their labor and enterprise, and they also pay taxes. But most of their income taxes and Social Security taxes go to the federal government, not Sacramento.

A breakdown of the funding that the government seeks is revealing.

He is claiming from the so-called state legalization impact assistance grant about $324 million owed to California for services provided to individuals legalized under IRCA. This law established a $4-billion grant to reimburse states. But that account was raided by Congress to finance other programs.

The governor is claiming from the refugee resettlement funding program $104 million for services under the Aid to Families with Dependent Children, supplemental security income/state supplementary payment and Medi-Cal programs.

The governor is claiming from the citizen children of undocumented immigrants program $209 million for AFDC costs and $31 million in Medi-Cal costs.

And the governor is demanding $534 million for Medi-Cal costs for both IRCA immigrants and undocumented immigrants. Also, $250 million for the cost of keeping in state prisons those illegal residents convicted of crimes in California.

All that adds up to $1.45 billion.

In a year of jockeying for position with the new Administration, Wilson needs inspired help from the congressional delegation to push California's very good case for the $1.45 billion—with Congress and with Clinton. It is simply not fair for Californians to have to finance all the burdensome costs of federal immigration and refugee policies. Washington owes Sacramento and should put its money where its mouth has been all these years.

□ 1600

Mr. LIVINGSTON. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, yesterday this Congress trampled on the rights of the free enterprise system. We get more involved in the free enterprise system with more regulations on the free enterprise system, an unfunded mandate on the free enterprise system.

How many companies are going to go down the drain? Nobody knows. How many employees will lose their jobs with what we did yesterday? Nobody will know.

Now today this body is going to trample on States rights, States rights and their ability to run elections in their States.

In addition, we are going to saddle them with another unfunded mandate. These are the 50 States that are all broke. They are not just broke, most of them are more than broke. They do not have enough funds for schools, they do not have enough funds to supply the services that they want to provide.

We all want more people to vote, but for those in the majority to suggest that people do not have access to voting today just makes me want to wonder what happened after the 1964 Voting Rights Act? What happened after all those changes that we made to that act over the years to ensure that every American has access to vote.

Mr. Chairman, really today I wonder why we could not offer the amendments that we wanted to offer. The gentleman from Louisiana [Mr. LIVINGSTON] had 20 amendments, honest amendments, that were going to bring some sanity to this legislation, that we were not allowed to offer.

What is the majority afraid of? Are we afraid to let the House work its will? Are we afraid to have the deliberative body that the Founders of this country envisioned? Why can we not let the House work its will? Why can we not have due deliberation? Is this the price of ending gridlock? Only God knows what tomorrow will bring.

Mr. SWIFT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida [Mrs. THURMAN] for the purpose of a colloquy.

Mrs. THURMAN. Mr. Chairman, I have a few questions regarding the intent of the bill. As you know, in some States, such as Florida, the elections official with authority to act under this bill would be the local elections official. Do I understand correctly that throughout the bill, the term "State election official" or "appropriate State election official" refers to the official with authority under State law, even if it is a local elections officer?

Mr. SWIFT. Mr. Chairman, if the gentlewoman will yield, as stated in the report, that is the intention of the term.

Mrs. THURMAN. Mr. Chairman, under the provisions of the bill, voter registration agencies are given a 10-day period for transmittal of applications to the State elections official and a 5-day period if it falls 5 days before the voter registration books are scheduled to close. Is it permissible for States to reduce the 10-day period to 5 days in all cases if they desire?

Mr. SWIFT. The gentlewoman is correct.

Mrs. THURMAN. Mr. Chairman, there is no specific language in the bill regarding transmittal times of applications from motor vehicle licensing agencies to the voter registration offices. Is it permissible for States to set a time period?

Mr. SWIFT. It is the intention of this bill to place motor vehicle licensing agencies under the same timeframe as the other voter registration agencies.

Mrs. THURMAN. Mr. Chairman, there is no requirement listed in the bill for State voter registration agencies to submit a list of applicants with each batch of applications. Is it permissible for States to require their voter registration agencies to transmit a list of applicants with each batch of applications?

Mr. SWIFT. The bill gives States the flexibility in this area. I do not believe that States can dictate to Federal agencies within their States that serve as voter registration sites, but can do so with State agencies.

Mrs. THURMAN. Mr. Chairman, is it permissible under this bill for State or local election officials to place voters who fail to respond to change of address forms on inactive status?

Mr. SWIFT. The gentlewoman is correct.

Mr. CONYERS. Mr. Chairman, I am happy to yield 2 minutes to the distinguished gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I rise today in support of H.R. 2, the National Voter Registration Act of 1993. Voter registration is not a partisan issue.

The right to vote is guaranteed to all citizens by the Constitution. Yet, at this moment in the United States, there are over 57 million American citizens eligible to vote who are not registered. That is because archaic and burdensome procedures have impeded the ability of many American citizens from participating in one of our most precious freedoms—the right to vote.

In fact, the swift passage of H.R. 2 will go a long way toward reconnecting the citizens of this country to their Government. H.R. 2 will boost voting rates and political participation among all segments of American society.

By voting for H.R. 2, more people will be able to enjoy the rights of citizenship and have a voice in their government. I would also like to clarify any misconceptions about this bill.

The legislation has been drafted to ensure that only U.S. citizens can register to vote under H.R. 2. The act explicitly states that only U.S. citizens may register to vote through its motor-voter, mail, and agency registration procedures. State and local government employees will not register ineligible voters. Workers in State motor vehicle departments and social service agencies already receive hours of training on various application procedures and eligibility criteria. States will also easily design voter registration forms that highlight the citizenship requirement, thereby avoiding any possible registration of noneligible individuals.

In fact, H.R. 2's criminal penalties for false registration will prevent noncitizens from attempting to register to vote by jeopardizing their ability to ever become naturalized citizens or otherwise remain in the country. America needs the equitable and efficient voter registration laws proposed by H.R. 2.

We must, as a legislative body, promote the fact that voting is a fundamental right the government must encourage—not discourage. Our Founding Fathers believed that heightened citizen participation is an essential element of our representative government. H.R. 2 should be supported by all those truly interested with preserving and enhancing our democratic form of government.

Mr. LIVINGSTON. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT of Nebraska. Mr. Chairman, I rise in support of this procedural vehicle to provide that only U.S. citizens can be registered under this bill.

Even with the language we just adopted earlier, by approving the rule, H.R. 2 will open the door to the ballot booth for illegal aliens. And, it increases the opportunity to register more than once. State's are prohibited from removing ineligible voters from the rolls, and they are limited in their ability to verify application information.

The proponents are arguing that this won't happen, but let's be realistic. Zoe Baird's chauffeur highlights how easy it is for noncitizens to obtain a driver's license—and that's not just one isolated case. Problems like this hit close to home for a lot of us. Just recently, in one of their biggest raids in history, INS found hundreds of illegal aliens working at a beef packing plant in my district.

Now you can't tell me that these people, who will do anything they can to stay in this country, are going to draw attention to themselves by declining to register to vote.

The Michel amendment simply adds a safeguard, to ensure that the States have the ability to prevent the registration of noncitizens.

Mr. Chairman, for the past month I've heard over and over again that finally the gridlock in Washington is breaking. Well, to my colleagues on the other side of the aisle, let me say this, you don't break gridlock with a bulldozer. Instead, you work together to improve things, and here's a chance to do so.

In my opinion, this amendment will certainly improve H.R. 2.

Mr. Chairman, the Michel amendment is not going to correct the bill totally, but I think it is a start toward fixing the bill. This procedural move I think will make sure that our voting rights as U.S. citizens are truly protected.

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would ask the gentleman from Nebraska [Mr. BARRETT] if he has read the bill to ascertain that the citizenship requirement occurs on three different occasions in this measure before us?

Mr. BARRETT of Nebraska. Mr. Chairman, if the gentleman will yield, it is my understanding that there is no enforcement mechanism in the bill.

Mr. CONYERS. Mr. Chairman, reclaiming my time, so the gentleman understands that there is a requirement, the same that the gentleman from Illinois [Mr. MICHEL] proposes in his amendment, the same without an enforcement mechanism.

Mr. Chairman, let me ask the gentleman from Nebraska [Mr. BARRETT] this: Is the gentleman aware that there is no enforcement mechanism, as the gentleman chooses to use the term, for anybody that votes in the United States of America?

Mr. BARRETT of Nebraska. Mr. Chairman, I would yield to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. CONYERS. Mr. Chairman, I am afraid that the gentleman is not able to yield to anybody.

Mr. Chairman, since the gentleman from Nebraska [Mr. BARRETT] does not know the answer to this question, I think it is very important that all of the Members determine what the correct response is, because they will be asked to vote for the so-called Michel amendment.

□ 1610

Mr. LIVINGSTON. Mr. Chairman, I yield myself 15 seconds, simply to say that the gentleman in the well knows that sure, there are blandishments in the bill that say one should be a citizen, and maybe even on the registration form, one should be a citizen. But each individual actually has to decline in writing to be registered in order not to register; otherwise it is automatic, and an illegal alien is hardly likely to decline to be registered on the grounds that he is an illegal alien.

Mr. Chairman, I yield 2 minutes to the distinguished whip for the minority conference, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Chairman, let me say to my friend, the gentleman from Michigan, that I am sort of surprised by his argument. This is clearly the Zoe Baird chauffeur illegal aliens voting act.

In 5 or 10 or 15 years from now, when living, legal taxpaying Americans are watching elections stolen by political machines using illegal aliens by the fraudulent votes of people who no longer live in their precincts that are voting, they will look on this act as a national fraud act.

Here is the exact wording of the law being proposed on page 5:

> Each State motor vehicle drivers license application submitted to the appropriate State motor vehicle authority under State law shall serve as an application for voter registration with respect to elections for Federal office.

In fact, the effort to stop this from becoming an illegal aliens act was stopped in both the subcommittee and the committee.

Now, the Department of Agriculture reports that there are an estimated 300,000 illegal aliens getting food stamps. That is, we are paying for 300,000 illegal aliens right now to get food stamps. That does not count the ones who are too timid to show up for food stamps.

Zoe Baird's chauffeur from Peru, who was here illegally, had a driver's license from the State of Connecticut. Nobody checked to see if he was a citizen.

Under page 5 of this law, it is clear that the application for a driver's license by an illegal alien is, in fact, the basis.

Now, our friends will tell us, the registrar is not supposed to register them. How is he supposed to know? If we have 300,000 illegal aliens getting food stamps right now, and the estimates are there are between 2 and 4 million additional illegal alien adults available to register, how are we going to find out when we apply for the driver's license? Most States do not ask.

It is simply not valid in the real world for people to understand there are big city machines, the big city machines do vote people who are dead. There is no purge provision in this document.

My good friend, the gentleman from Louisiana, offered an amendment that if one had died, if one had not voted in 100 years, they ought to be purged. And they would not even accept 100 years as testimony.

Mr. LIVINGSTON. Mr. Chairman, how much time remains on all sides?

The CHAIRMAN. The gentleman from Louisiana [Mr. LIVINGSTON] has 2 minutes remaining, the gentleman from Washington [Mr. SWIFT] has 1 minute remaining, and the gentleman from Michigan [Mr. CONYERS] has 1 minute remaining.

Mr. SWIFT. Mr. Chairman, I am reserving the right to close debate.

Mr. LIVINGSTON. Mr. Chairman, I yield the balance of my time to the gentleman from Florida [Mr. MCCOLLUM].

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] is recognized for 2 minutes.

Mr. MCCOLLUM. Mr. Chairman, I rise in opposition to this bill today with grave, grave concerns, as many of my colleagues have expressed, about the immigration implications and the illegal voter implications of this bill. I have served, now, for over 12 years on the Subcommittee on International Law, Immigration, and Refugees in the House of Representatives and am the ranking Republican in this particular term as I was in the last Congress. I know from studies, and many of my colleagues know, that there are over 11 million noncitizens in the United States today. And by census count alone, not counting many illegals that were not, of course, counted in 1990, we have the potential in this bill, as has been stated, for many illegals and many who are noncitizens who are here legally, permanent resident aliens, and others to get to vote for the simple reason that they can walk into a driver's license shop, apply for the driver's license, and get automatically registered to vote.

That is what is going to happen unless they decline. That is far different from what it is today around the country.

And yes, all 50 States have a citizenship requirement today; but it is interesting knowledge that not a single statute of the U.S. Government, up to this point, requires citizenship for voting. It is not in our Constitution, but I dare say all of us would never want to see anybody who is not a citizen vote.

The way to assure that with these changed procedures, if that is what we are going to do, we are going to have application for driver's license and welfare benefits, and so on, automatically registering to vote, it would be to assure that before it becomes effective in a State, that that State has a procedure to determine if somebody is a citizen or not.

We are going to get a chance to vote on that fact in a few minutes. How do we do that? Have them produce a certificate of their birth, have them produce a certificate of naturalization or a certified copy. It is as simple as that. It does not take much time to do that. A couple of States already require proof of citizenship.

It is the least we can do, to put into law that every State where this is going to apply, since it is going to become so liberal and would be so recklessly abused, if we do not watch it, that every State where this is going to apply require proof of citizenship before this law becomes effective.

I urge my colleagues to vote for whatever we can to put that proof in and, if not, let us vote this bill down because it is an illegal immigrant voting bill otherwise.

Mr. CONYERS. Mr. Chairman, I yield the balance of my time to the distinguished deputy whip, the gentleman from Georgia [Mr. LEWIS].

The CHAIRMAN. The gentleman from Georgia [Mr. LEWIS] is recognized for 1 minute.

Mr. LEWIS of Georgia. Mr. Chairman, I thank the gentleman from Michigan [Mr. CONYERS] for yielding time to me.

Mr. Chairman, I rise today to urge my colleagues to support H.R. 2, the National Voter Registration Act. The National Voter Registration Act offers the American people the opportunity to expand democracy in our Nation.

Voting is a basic right. It is a responsibility of citizenship. Yet, for many, it is not easy or convenient to register to vote. It is often inconvenient and sometimes impossible.

By passing the National Voter Registration Act, we can renew our commitment to democracy. The United States has the lowest rate of voter turnout among the world's major democracies. This legislation will make it easier and more convenient for people to vote. It will increase voter participation.

I am sick and tired of hearing arguments that say this bill is too costly. You cannot and we must put a price tag on democracy. You cannot put a price tag on participating in the political system.

Some of our citizens paid the supreme price with their own lives for the right to vote. In my own lifetime, I have known too many people who shed blood seeking the right to vote.

Not too long ago, people had to pay a poll tax or own property to vote. Women and minorities were prohibited from casting the ballot. In 1964, three young men gave their lives while working to register people to vote near Philadelphia, MI.

Lyndon Johnson stood here on March 15, 1965, and presented to Congress the 1965 Voting Rights Act that made it possible for millions of Americans to enter the political process.

Our Nation has made progress. But many people shed blood and many died to secure voting rights protection for all Americans. They, indeed, paid a high price for the freedom we sometimes take for granted.

Passing H.R. 2 will move this Nation forward. This is an important bill—another significant step down the long road toward the full participation of all Americans in the political process.

Mr. Chairman, when more Americans vote, it renews and energizes the vitality of our political system. We must tear down the remaining barriers to voting.

Yes, the vote is a precious right. It is the most powerful nonviolent tool that people have at their disposal in a democracy. So, let us open up the political process. Let us pass H.R. 2.

□ 1620

Mr. SWIFT. Mr. Chairman, I would ask the Chair if that is all the time remaining.

The CHAIRMAN. Yes, the gentleman is correct, that is all the time remaining.

Mr. SMITH. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Chairman, I must not read very well, because I missed the part of the motor-voter bill that allows—no, more than allows—encourages—noncitizens to vote.

It must be there, or we would not be debating this absolutely unnecessary Michel amendment.

Let me suggest to my colleagues who fear that the Nation's Secretary of State's offices and driver's license facilities are about to be overrun by illegal aliens of all colors, shapes, and sizes from every nation on earth—Democratic illegal aliens, of course—that their concerns are extremely exaggerated.

In fact, I would like to remind them of a simple fact.

It is against the law for noncitizens to register in the United States today. It was illegal yesterday. It was illegal last week. It will be illegal tomorrow. Even if motor-voter passes.

So let's stop kidding each other about concerns about fraud.

This amendment is nothing more than an attempt to distract the American people by trying to exploit prejudice.

We have seen these tactics before. They are an attempt to hide a real issue—which is that we need to make it easier for our citizens to vote—behind a false issue—a fear of newcomers to our country.

The Fourth Congressional District of Illinois is a beautiful mosaic of first and second generation Americans—people who have come from Mexico and Poland, from Central America and Ukraine and Latvia and Estonia.

Every one of them has been proud to become a voter in the United States—The Day they become citizens.

This law will do nothing to change that citizenship requirement; it will only make it easier for them to register once that requirement is met.

Let's put an end to this shameful distraction and reject the Michel amendment.

Mr. SWIFT. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. WATT].

Mr. WATT. Mr. Chairman, I rise in support of H.R. 2, the National Voter Registration Act of 1993. H.R. 2 will strengthen our democracy by increasing voter registration and participation. This will help break the gridlock we've heard so much about.

I have long believed that voter registration itself is un-American because it disenfranchises our citizens, who, by virtue of being Americans, are entitled to the fundamental right to vote. In other words, I think H.R. 2 should go further than it does. But my momma always taught me that when you're hungry, half a loaf is better than nothing. Our country should always be hungry for more democracy. So I think H.R. 2 is a good step toward allowing all Americans to vote without hindrance or barrier, and a step toward more democracy.

I urge my colleagues to join with me in supporting this important legislation and showing the American people and the world that this Congress is intent on assuring democracy to all of our people.

Mr. SWIFT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have heard a great deal about illegal aliens. In fact, we have heard so much from the other side about illegal aliens and their opposition to their voting, one almost gets the impression that they would find it all right for legal aliens to vote. The fact is the language of this bill says that no aliens, legal or illegal, may vote. It says in three explict places in the legislation, "You must be a citizen." That is enforced the same way that any other requirement under our laws is enforced, exactly the same way. Nothing changes in that regard by this legislation.

It does not touch in any way the basic means by which local election officials and State election officials deal with qualifications, not at all. All of the rhetoric about illegal aliens is simply a bugaboo, a Halloween boo-hoo. It is simply a scare tactic to try and scare Members of this body from doing what is good for American citizens, doing what is right by way of getting the heavy hand of government out from between citizens of this country and their rightful place in the polling booth.

Mr. STOKES. Mr. Chairman, I rise today in support of H.R. 2, the National Voter Registration Act. This bill, better known as the motor-voter bill, is virtually identical to S. 250 which passed this body last year, only to be vetoed by former President Bush. H.R. 2 contains provisions designed to remove many of the barriers that remain to voter registration. I commend the Committee on House Administration, Representative AL SWIFT, chairman of the Subcommittee on Elections, and the House leadership for expeditiously bringing this bill to the floor for consideration.

Mr. Chairman, the right to vote is a fundamental right guaranteed under the Constitution of the United States. Unfortunately, our Nation's antiquated voter registration system has unfairly excluded millions of Americans from exercising this right, by denying them equitable access to the electoral process. The fundamental right to vote means little if the opportunity to register and stay registered is limited. H.R. 2 will remove many of the barriers to voter registration and facilitate equal access to citizen participation in the electoral process.

Specifically, H.R. 2 will allow eligible voters to register for Federal elections by mail, when applying for a driver's license, and at State and Federal agencies. Since it is estimated that 91 percent of the adult population in this country either has a driver's license or a photo ID card this provision will dramatically increase the number of registered voters. Those who do not have a driver's license or photo ID, may simply apply to register to vote at designated government agencies. H.R. 2 will also provide for automatic voter registration when individuals apply for, renew, or change their address on such licenses.

Contrary to arguments that these activities would not increase voter turnout and that it would increase the cost associated with voter registration, research has concluded that voter turnout increased between 13 and 26 percent in the four States which instituted effective motor-voter programs, and cost actually fell because the demand to hire additional staff, as voter registration deadlines approached, was eliminated.

H.R. 2 also extends the ability of millions of disabled Americans to register to vote. According to a Harris Poll, disabled Americans show greater interest in politics and public affairs than the general population, but they register and vote at lower rates. Study after study has shown that persons with disabilities list lack of transportation as the first or second obstacle in their lives.

Today, 20 States in this country require a person with a disability to go to either the offices of the board of elections or to a temporary voter registration site where deputy registrars offer voter registration. H.R. 2 removes the barriers to the disabled by mandating all officers primarily engaged in providing services to persons with disabilities to offer voter registration services during intake procedures, recertification procedures and change of address procedures. It guarantees that if services are provided in a disabled person's home, the agency representative who actually goes to the home must assist the client with voter registration.

Mr. Chairman, new opportunities for political empowerment must be afforded to persons left out of the political system. It is important for us to ensure that everyone in this country has a stake in our democratic form of government and that the people are encouraged to seek change through the ballot box, creating a more representative government.

Although the literacy tests and poll taxes of the past, which excluded potential voters and minorities in particular, no longer exist, inconvenient and cumbersome procedures in many States still serve to inhibit citizen participation in the electoral process.

I encourage my colleagues to join me today in support of H.R. 2 and bring down the barriers which have prohibited participation in the electoral process.

Mr. TOWNS. Mr. Chairman, I appear before my colleagues today to offer my wholehearted support for H.R. 2, the National Voter Registration Act of 1993. If this bill is enacted into public law, individuals who apply for driver's licenses and fulfill eligibility requirements would also be officially registered as voters. Voting is a right that was traditionally denied to African-Americans. The memories of African-Americans are still fresh with the degrading but legal techniques used to bar them from voting, such as poll taxes, so-called literacy tests, and in some cases physical or emotional intimidation.

Recent political gains in national and statewide elections are a direct result of concerted efforts to register record numbers of voters. In 1993, H.R. 2 is timely, necessary, and practical legislation that will promote efficiency and equity in the voting process. This bill will guarantee that public institutions are used to empower American citizens to easily engage in democratic elections. Additionally, the bill is designed to encourage voter outreach, while protecting against voter fraud. I join with the members of the Congressional Black Caucus, the NAACP, and my House colleagues in current efforts to get this bill passed into law.

Mrs. COLLINS of Illinois. Mr. Speaker, I rise today in strong support of H.R. 2, the National Voter Registration Act. The purpose of H.R. 2 is to increase the opportunities to register to vote and, clearly, the timing could not be any better such a bill. The recent election showed us that Americans are well aware of their right to vote and they want to use it. We have a new President and the highest number of new Members of Congress in decades as proof of the increased interest in the electoral process.

But we still have a long way to go before all Americans, or even almost all Americans, exercise their right to vote. In my home State of Illinois, voter participation was higher in November 1992 than it has been in over a decade. The number who actually voted, however, is still not even 60 percent.

The reason for the low participation is no surprise when you consider what people must do in order to register. If you are disabled, it is not necessarily very easy to get to the closest school or library to sign up, especially if you are unsure of the limited hours and days during which you can register. If you are a single working parent, it is neither easy nor convenient to go to a neighborhood bank or library during the workday so that you can register to vote. And if you are busy, like most people are, with the day-to-day tasks of raising a family and working or trying to find a job or whatever else, you might not realize that you missed the last election and have been removed from the voter registration list until it is too late.

By having the chance to register whenever you get a new driver's license or renew your old one, it is estimated that almost 90 percent of the voting age population will have the opportunity to become registered. Opening the door of registration to this many voters is one of the clearest reasons for supporting H.R. 2.

The bill also has other provisions to greatly increase voter access to registration, as well as establish fair procedures for removing a voter's name for not voting, which make it especially important and needed. Consider my district in the Chicago metropolitan area—many of the residents in parts of my district are unemployed or live below the poverty line. This means that having a car is not necessarily the norm so registering at a driver's examination office is not likely to happen very often. But by requiring unemployment agencies and public assistance offices to provide voter registration and by allowing eligible voters to register through the mail, the right to vote will be dramatically opened up to these constituents, as well as disabled constituents and many others throughout the country.

The right to vote forms the core of this country. Let's support H.R. 2 so that all Americans can exercise this important right and make voting part of their life.

Mr. GALLEGLY. Mr. Chairman. I rise in strong support of the Michel amendment to H.R. 2, because if this amendment is not adopted, the National Voter Registration Act of 1993 could become the welfare benefits for illegal aliens act of 1993.

Major Federal welfare programs, including aid to families with dependent children, SSI, and Medicaid, are limited to citizens and permanent resident aliens. The problem here is that the Department of Health and Human Services accepts voter registration cards as a means of establishing eligibility.

If voter registration cards are issued automatically to applicants for driver's licenses—without any verification of citizenship—the potential for illegal aliens fraudulently applying for welfare benefits will balloon out of control. Our hardpressed States and counties, particularly in southern California, cannot afford this increased burden.

For example, a recent study by Los Angeles County found that recent immigrants cost the taxpayers more than $2.3 billion a year, and as H.R. 2 will make it easier for illegal aliens to register to vote, and therefore to establish eligibility, it is inevitable that this figure will skyrocket.

Illegal aliens who apply for AFDC, housing assistance or any other benefit program will be given a voter registration form which will ask them to attest that they are citizens. Mr. Speaker, these illegal aliens are not going to do anything to raise suspicions about their citizenship, so of course they will say they are. They certainly aren't going to decline in writing to register to vote.

As a result, more illegal aliens will receive Federal benefits unlawfully, and to compound matters, they also will be registered to vote. Instead of tightening controls to make sure illegal aliens don't receive welfare benefits, we will be loosening them.

The Michel amendment will prevent these abuses by requiring States to implement procedures that prevent noncitizens from registering to vote. Without the ability to enforce the citizenship requirement in H.R. 2, the requirement itself is empty and pointless.

Mr. Speaker, I urge my colleagues to vote to require that only citizens be registered to vote, and to require procedures to enforce this requirement, by voting for the Michel amendment.

Mr. CONDIT. Mr. Chairman, today we have been talking about a topic in which all of us agree, increased voter registration. However, we have failed to recognize that H.R. 2 will result in substantial costs for State and local governments, who will be charged with implementing this legislation. For this reason, I wanted to offer an amendment which would have made the provisions of the National Voter Registration Act voluntary for States and localities until Federal support is provided. Unfortunately, my amendment was not allowed to be presented to this body for consideration.

This bill is going to cost my State of California more than $26 million. Anyone familiar with California knows that the State is still in the grips of a recession and is suffering from severe budget shortfalls. They cannot and should not have to absorb another financial hit from the Federal Government. Sure California will comply with this legislation if they are required to do so. However, the $26 million that this bill will cost them will come from further cuts in social services, welfare, and public safety. Prenatal care will be cut, police and fire forces will be reduced, and the quality of services offered will deteriorate.

California is not the only State that will suffer financially from this legislation. In last year's debate on this bill, 10 States; including Alaska, Florida, Kansas, New York, New Jersey, Oklahoma, South Carolina, and Virginia estimated that the motor-voter bill will result in $87.5 million in new costs. The Governor of Illinois estimated that this legislation will cost his State $37 million. Nationwide, this legislation is estimated to cost State and local governments $200 to $250 million per year.

The unfunded mandates contained in the bill will result in our States and localities being forced to eliminate critical social services and/or raise taxes to implement H.R. 2. It is as simple as that. For this reason, I rise in opposition to H.R. 2, and I encourage my colleagues to do the same.

Mrs. MALONEY. Mr. Chairman, I want to thank the gentleman from the State of Washington, Chairman SWIFT, for his leadership on H.R. 2, the National Voter Registration Act.

Much has been said about 1992 being the Year of the Woman in American politics. But I can tell you that I would not be standing here today—as 1 of 24 new women in the House of Representatives—if it were not for an amazingly successful voter registration effort in New York City.

This grassroots effort took advantage of several New York State registration procedures, including registration by mail, which is part of the national bill we consider today.

If we are to renew America and make our Government more accountable, we must make voter registration simple and convenient—for our citizens, not for Government bureaucrats.

Otherwise the staggering number of unregistered voters will continue to grow. Right now an estimated 70 million Americans, making up a third of our adult population, are not registered to vote.

This bill puts people first. It is an important and necessary step in making representative government meaningful for all of our citizens.

Mr. BEILENSON. Mr. Chairman, I rise in reluctant opposition to H.R. 2, the National Voter Registration Act. Although I strongly support the idea of encouraging greater voter participation by the citizens of this country, I am concerned about the problems States will have in implementing this legislation.

In pursuing the commendable goal of registering more of the citizens who are eligible to vote, we are placing a costly and difficult administrative burden on State and local officials. We are dictating to the States that they create more bureaucracy at their expense and at a time when most of them are facing severe budget crises.

The State agencies that will bear most of the burden of the bill tend to be among the most overworked—the departments of motor vehicles and public assistance offices. DMV agents and social services offices will have to distribute and help applicants complete these forms in the same way they help fill out their own agency forms; this is not a burden those agencies should be mandated by us to undertake.

I am also not convinced that H.R. 2 contains adequate safeguards against voter fraud. For example, States may not require that the mandated mail registration forms be notarized; address verification cannot be required; registrants, in effect, will not have to prove they are whom they say they are.

Under this bill, anyone who can obtain a driver's license through illegal means can also register to vote. In fact, any such person will almost certainly register to vote because to decline to do so on a license application form will only bring attention to the individual. This could turn out to be an especially serious problem in my own State of California where there is a very large undocumented alien population.

Mr. Chairman, we ought to encourage States to experiment with ways to increase voter registration. But the States themselves are in a better position to decide exactly which mechanisms are most likely to increase voter turnout, at a cost they can afford, and in a manner that will not increase the likelihood of election fraud. In attempting to prescribe a uniform registration system, we seem to have forgotten how dramatically diverse and large our Nation is.

The States not only are the best judges of what systems would best work for them, but also have the constitutional authority to regulate their election process. It is, after all, the States' responsibility to determine the system for qualification for voting, except for violations of the Voting Rights Act.

Mr. Chairman, I regret that I am unable to give my support to this legislation, which is extremely well intentioned and which I know my colleagues have struggled with for several years. I hope my fears about the implementation of the law are unfounded, but I cannot in good conscience vote for H.R. 2.

Mrs. MORELLA. Mr. Chairman, I rise today in support of H.R. 2, the National Voter Registration Act. By opening up the political process, I believe this bill is good for our system of participatory democracy and good for the American people.

One of the most fundamental rights protected by our Constitution is the right to vote. I believe we would all agree that the American people's ability to vote must be protected, nurtured, and even facilitated if our political system is to be preserved.

In the recent Presidential election, 70 million—or 38 percent—of eligible citizens, were unable to vote because they were unregistered. This comes on the heels of the 36-percent national voter turnout in the 1990 congressional elections, the lowest turnout since 1942. These alarming figures should serve as a warning to our Nation that our constituents are becoming increasingly disenfranchised and detached from the political process.

When tied to driver licensing and State ID's, voter registration becomes readily accessible to over 90 percent of our population, and getting voters registered is the key to high voter turnout. The most often heard explanation for why Americans do not vote is that they do not register in time. This bill would make the registration process virtually effortless, and statistics show 80 to 90 percent of the registered voters participate in Presidential elections, even when overall voter turnout is low.

States that have motor-voter programs have not only increased political participation but have also significantly decreased costs of registration. This, too, is an objective that is nonpartisan.

The greatest concerns raised regarding H.R. 2 are the potential risks of fraud through mail registration and lax list-cleaning procedures.

The successes of existing State motor-voter programs are proof that these concerns are unfounded. For example, Oregon has had mail registration for 17 years without a single case of fraud, and Minnesota and Washington have had similar experiences.

In addition, this bill is anything but indifferent to the threat of fraud. It provides for strong criminal penalties for fraud, mandatory address verification procedures, and requirements to remove from the voting rolls the names of those who have died or moved out of the jurisdiction. Also, H.R. 2 contains several elements to protect against registration by those who are not eligible to vote because they are not U.S. citizens.

Mr. Chairman, with passage of the Voting Rights Act of 1965, Congress made a historic stand for the voting rights of the American people. Today, we have an opportunity to again engage millions of Americans, especially the disabled and the elderly, in our government of the people, by the people, and for the people.

Let us not pass up this opportunity. I urge my colleagues to support this legislation.

Ms. MARGOLIES-MEZVINSKY. Mr. Chairman, I rise today in support of House Resolution 2, the National Voter Registration Act, because I believe it is a worthy and necessary piece of legislation whose arrival is long overdue.

We must build on the momentum of this past election cycle by ensuring that as many eligible Americans vote as possible. It is a disgrace that millions of Americans do not exercise their fundamental right to vote because they cannot or do not register.

H.R. 2 will reach millions of Americans who would not otherwise vote because it will provide new and more convenient ways to register. Citizens will register while applying for or renewing drivers licenses and while at government offices and agencies that service them.

Record numbers of Americans turned out to vote last November. However, the numbers were not high enough. It is now time to act to ensure that in upcoming elections millions more Americans will register and vote.

With passage of the National Voter Registration Act, we will be sending an important message to our citizens: that we believe in our democracy and will act to preserve and strengthen it.

We now have an opportunity, more importantly, the responsibility, to make it easier for all Americans to vote. I urge you to vote in favor of this important piece of legislation.

Mr. COYNE. Mr. Chairman, I want to note you my strong support for enactment of H.R. 2, the National Voter Registration Act, also known more popularly as the motor-voter bill.

I am very pleased that the House is moving quickly to enact motor-voter legislation this year. The House has an outstanding opportunity to promote voter participation and provide American citizens with increased access to the ballot box. It is also a pleasure to note that the United States has a President like Bill Clinton in the White House who shares our concern for cutting voter registration redtape.

The United States has enriched its democratic heritage steadily over the past 200 years by promoting increased participation in our political process. Access to the ballot box has been used as a concrete measurement of a citizen's standing in our society.

Every American should be proud of the fact that we have swept away most barriers to voting. Our Nation no longer denies citizens the right to vote on the basis of property holdings, race, gender, the payment of poll taxes, or a number of other hurdles which were used in previous times to discourage voter participation.

H.R. 2, the motor-voter bill, continues this tradition of expanding voter participation by easing the bureaucratic hurdles with which an American citizen must still contend to vote in most States. Under this bill, potential voters will find that registration to vote is more accessible. H.R. 2 promotes the idea of registering to vote with one-stop visits at driver's license registration centers or other State and local government offices. It also helps seniors and the disabled by increasing opportunities to register by mail.

The National Voter Registration Act speaks to the needs of American citizens who often do not focus on voter registration requirements until late in an election year when it may already be too late. It is a fact of life in our busy, hurry-scurry society that time has a great value to most Americans. For a number of reasons, many Americans regard a visit to a government office as a time-consuming occupation. The motor-voter bill offers potential voters relief from the necessity of making a separate trip to city hall simply for the purpose of registering to vote.

Mr. Speaker, H.R. 2, the motor-voter bill, strengthens America's democratic system by moving our Nation further along the path of increased access to the ballot box. It is a simple and effective piece of legislation which speaks to the needs of Americans in our busy modern society. I urge my colleagues to join me in supporting passage of the National Voter Registration Act.

Mr. NEAL of Massachusetts. Mr. Chairman, I want to thank you for the opportunity to express my strong support for H.R. 2, the National Voter Registration Act. This past November saw for the first time in many years an increase in voter turnout. Many people who never voted before registered and actively engaged in the democratic process. This infusion of new voters and their views changed the political landscape as we know it. The young, the minority, the disenfranchised now feel a part of the political process. No longer will they be looking from the outside.

H.R. 2 will continue this movement toward the broadest possible voter participation. We have seen the increase in voter turnout in States with motor-voter procedures. With the three registration methods in this bill we may finally challenge other industrialized nations who consistently have 75 to 80 percent voter participation in elections.

Mr. Chairman, the right to vote is a fundamental right guaranteed by the U.S. Constitution. I believe that any steps we can take to strip away impediments to voting can only improve the American democratic process. Nearly one-third of adult Americans move within a 2-year period. In many parts of the country, voter registration levels are only slightly over 50 percent. It is estimated that difficulties with registration are now blocking 70 million Americans from voting. These new procedures are also a boon for the elderly and handicapped people who have difficulty getting to a municipal building to register in person.

Mr. Chairman, this legislation will have the most far-reaching impact on the opening of the democratic process to all Americans since the 1965 Voting Rights Act. The bill also contains important conditions to guard against fraud and misuse of voter lists. The penalties are realistic and enforceable. Many States have taken steps to improve and update their voter lists. This bill sets forth some commonsense registration guidelines. I believe these guidelines are long overdue.

Finally, it's a cost-saving measure. Motor-voter costs pennies per transaction while deputy registration systems used in many States cost $1 to $15 per transaction. Mr. Chairman, this past election told us that Americans want to participate fully in the political process. With passage of H.R. 2, we will be moving in that direction.

Mr. RICHARDSON. Mr. Chairman, I rise today in strong support of the motor-voter bill. By streamlining the voter registration process, the motor-voter bill reaffirms our commitment to democracy and, when signed into law, will give a political voice to millions of Americans.

This bill is a commendable step toward removing existing barriers to voter registration. By simplifying and standardizing the voter registration process, it is estimated that the National Voter Registration Act will result in the registration of 90 percent of all eligible voters. However, much work remains in the area of voting procedures. With the number of elderly and disabled voters likely to soar during upcoming decades, it is vital to find alternatives to traditional voting procedures.

New technologies promise potential for providing those incapable of reaching the polls with an opportunity to vote. In the State of New Mexico, an innovative project was conducted during last year's election whereby New Mexico's secretary of state, in conjunction with Sandia National Laboratories, administered a mock election. In this election, participants cast their votes by phone. While this system would never replace normal voting procedures, voting by phone could provide an alternative means of exercising the right to vote to those who have difficulty reaching the polls. Implementation of this project in actual elections would significantly benefit New Mexico, a rural State with a large elderly population. In addition, the success of New Mexico's voting-by-phone project suggests the possibility of nationwide application.

Clearly, the security of such voting procedures must be airtight. Assurances that each voter votes only once, that votes cast are tallied and reported correctly, and that the system is impervious to outside tampering remain to be fully resolved. Sandia National Laboratory's expertise in developing related forms of defense security could provide the technology to solve these security concerns.

The State of New Mexico and Sandia Laboratories are to be applauded for their efforts to explore new voting procedures. The development of new voting procedures must continue where the motor-voter bill ends. I am proud to lend my support to the National Voter Registration Act, and urge my colleagues to do the same.

Mr. CALVERT. Mr. Chairman, throughout the Nation's history, we have expanded the franchise to more and more Americans.

We abolished property requirements; we abolished gender restrictions; we abolished racial restrictions; and we lowered the age requirement.

We have done these things because we believe as a nation that any American who is at least 18 years old and wants to vote should be allowed to vote. But, during more than two centuries as a nation, we have also held on to the belief that voting is, in fact, a privilege as well as a right.

Although we encourage all eligible citizens to vote, we continue to believe that a person who really wants to exercise this right has some responsibility to prepare himself—or herself—for that civic responsibility.

In keeping with the philosophy that voting is a right, my State of California allows people to register at the city clerk's office, public libraries, post offices, fire stations, chambers of commerce, and through the mail. But, in keeping with the philosophy that voting is also a privilege, we require citizens to take some affirmative action to express their desire to vote. We require them to make a small effort to show they are truly interested in voting. We do not automatically sign them up to vote because they own a house, rent an apartment, sign up for welfare, attend a sporting event—or drive a car.

There are many reasons to oppose the National Voter Registration Act, but my primary objection to it is that the Federal Government is forcing the States into a costly effort to register people to vote who may not have the slightest interest in voting, or the slightest bit of knowledge about the issues.

Think about it. If a person finds it too difficult to go to a local public building to register, will that person make much of an effort to study the issues or the candidates before casting his or her vote. I don't think so, and that is why I am opposed to automatically registering people to vote—and it is why I oppose the National Voter Registration Act.

Mr. CLAY. Mr. Chairman, I rise today in support of H.R. 2, the National Voter Registration bill. Voting is central to our form of government. It is a fundamental right of our citizens. This bill provides a convenient opportunity for citizens to register to vote when they obtain or renew a driver's license. H.R. 2 also provides for voter registration by mail.

H.R. 2 provides that the names of individuals who live within the jurisdiction can no longer be removed from voter lists because they have not voted in the past few elections. A voter's name may be removed from the list only if the voter has died or has moved out of the jurisdiction. We should encourage voting and remove obstacles to voting—not penalize citizens who have made the effort to register but have not voted recently.

Many citizens have said that they do not vote because registering to vote is a hassle. They cite that places to register are not at convenient locations and hours to register conflict with work hours.

Voter turnout in this country should be higher. Fortunately, this past election showed an increase in voter participation, but more needs to be done. Elected officials should be moving to remove barriers to voter participation. Inconvenient registration is clearly one of those barriers. This bill removes that barrier. The bill also provides for a nondiscriminatory program to keep voter lists current by using readily available change-of-address information compiled by the Postal Service.

So often in our history, voter registration requirements have been used to systematically prevent minority groups from exercising their fundamental right to vote. H.R. 2, without a complicated, costly set of procedures, ensures that all Americans will be able to exercise this basic, valuable right.

I urge all my colleagues to support voter registration for all American citizens. Vote for H.R. 2.

Mr. BALLENGER. Mr. Chairman, I rise to oppose H.R. 2, the National Voter Registration Act of 1993.

I am opposed to legislation to automatically register voters by mail or when applying for welfare, unemployment, or a driver's license. Not because I am against making it easier to vote, but because I am sure this legislation will lead to fraud. No identification will be required to register by mail, so illegal aliens could vote. The bill also restricts clerks from removing names from voter rolls for failure to vote or for failure to adequately prove residency, thus making it easier for people to vote more than once.

The proposed motor-voter bill will require citizens to register at all government facilities and force all government employees to become cross trained in election procedures. Potential voters that choose not to register must decline registration in writing. However, if they do not, they are automatically registered. Government employees will also be required to provide the same degree of assistance to voter registration applicants that they provide for other government services. Citizens who elect to register by mail are not required to verify their address, which could lead to nontax-paying illegal aliens registering. The appalling fact of this mandate is that States are forbidden to request proper identification of the voter at the polls. Voter fraud would become rampant!

The proposed bill will also make it difficult for State and precinct registrars to purge the files and drop voters from the registration books if they do not vote after several elections. This legislation will also require States to keep voters current for decades even if the citizen has married, moved, or died.

Once again, the Federal Government is infringing upon and trampling individual State's rights. I say this because this legislation will allow the Federal Election Commission to have total jurisdiction over voter proceedings in every State—thus removing the responsibility from the local boards of elections. Also, if we enact this legislation, the Congress will be mandating larger deficit spending by local governments to fund the elections with these new fraudulent proceedings because we are not providing funding for implementation.

The bottom line, Mr. Chairman, is that this legislation is riddled with flaws. I urge my colleagues to vote against the motor-voter bill.

Ms. MALONEY. Mr. Chairman, I want to thank the gentleman from the State of Washington, Chairman SWIFT, for his leadership on H.R. 2, the National Voter Registration Act.

Much has been said about 1992 being the Year of the Woman in American politics. But I can tell you and I would not be standing here today—as one of 24 new women in the House of Representatives—if it were not for an amazingly successful voter registration effort in New York City.

This grassroots effort took advantage of several New York State registration procedures, including registration by mail, which is part of the national bill we consider today.

If we are to renew America and make our government more accountable, we must make voter registration simple and convenient—for our citizens, not for Government bureaucrats.

Otherwise the staggering number of unregistered voters will continue to grow. Right now an estimated 70 million Americans, making up a third of our adult population, are not registered to vote.

This bill puts people first. It is an important and necessary step in making representative government meaningful for all of our citizens.

Ms. NORTON. Mr. Chairman, I do not envy the opponents of the National Voter Registration Act. It is bad enough to oppose increasing Democratic participation. But Republicans, for whom government efficiency and cost cutting has become a mantra, oppose those good things too when they oppose H.R. 2.

Like our economic productivity, our voter productivity needs an assist from modern methods and technology. A comparable law in the District has yielded a 50-percent increase in new registrants since 1989. The District of Columbia presents the best model in the country of successful outreach to extend the vote. Since 1984 registration has increased from 56.1 to 74.3 percent, a far greater increase than any other State jurisdiction.

The success of motor-voter registration in particular is borne out dramatically in the numbers. Since its inception in May 1989, this system has yielded more than 60,000 new registrants. Of voter address changes, the motor-voter system accounted for 25.5 percent. Thus, almost 15,000 registrants would have been purged from the voter rolls or gone to the wrong polling place without motor-voter, and 15 percent of the changes in part affiliation in the District since May 1989 were accomplished through the motor-voter system. At the time of the November 1992 Presidential election, there were almost 50,000 active registrants who came onto the voter rolls through the motor-voter program. This group represented 14.7 percent of the total registry and came out at a rate of 49.1 percent to vote in the 1992 Presidential election. Attached to my statement is a document entitled "Motor-Voter Facts and Figures," which further elaborates on the success of the District of Columbia program.

The District's results with motor-voter argue for moving even further to democratize access to the vote. Beyond H.R. 2, same day registration allowing those with adequate evidence of their eligibility to vote as they register, is where we should be headed. Americans are ready to go beyond de facto democracy. Are we?

Last year Americans went from cynical apathy to new levels of participation using new outlets. Let us put them in closer touch with the vote, the outlet that counts most in a democracy. Support H.R. 2.

MOTOR-VOTER FACTS AND FIGURES

PROFILE OF THE MOTOR-VOTER PROGRAM IN THE DISTRICT OF COLUMBIA

Background: The Motor-Voter program was designed to increase citizen participation in the electoral process by making voter registration more convenient and accessible.

In September 1988, the program emerged as D.C. Law 7–155 and required the Mayor of the District of Columbia to permit individuals to register to vote when they apply for or renew their driver's permit or non-driver's identification card.

The law provided for the use of a combined application form, covering both voter registration and motor vehicle services. The Board of Elections and Ethics, in cooperation with the District's Bureau of Motor Vehicle Services, developed the new form and a written plan detailing the manner in which the forms would be processed by both agencies when completed by an applicant.

On April 24, 1989, the program became a reality.

Program Operation: The combined application form features a two-part design which provides original signatures and complete information for the two agencies involved. All motor vehicle service application forms are received by the Board of Elections on a daily basis, reviewed to determine whether or not the applicant has requested voter registration service, and processed accordingly. Forms which are unexecuted ("blank") are destroyed. Others which are incomplete or unclear for voter registration purposes, receive follow-up mail action. Complete, and validated, forms are processed and the new voter is entered into the registry, or, if the application form indicates a change in the voter's record, that change is made, and the individual receives a new voter registration card.

Program Costs: No additional staff cost has been incurred by either of the two agencies involved. The form itself is relatively inexpensive, approximately $12,000 per year for 200,000 units. From the standpoint of workload, the program has caused some reduction in the usual pre-election registration peak load, because the Motor-Voter program produces a steady stream of new registrants during the normally slow periods.

Mr. MATSUI. Mr. Chairman, I rise today in strong support of H.R. 2, the National Voter Registration Act.

Last year's November election saw record numbers of voters cast their ballots. The heightened interest in the issues, the hope to make a difference, the desire to ensure change—all of these motivations and others drew more individuals to the polls than ever before. And yet, in spite of the immense public interest in the election, in spite of record voter turnout, there were still countless citizens who did not, or could not, vote because they were unregistered.

This legislation will help correct this grievous condition by simply making it easier for those eligible citizens who wish to register to vote to do so. The statistics clearly show that current methods of voter registration are inadequate. It is shameful that, in a democracy as unique and precious as ours, almost two-fifths of all eligible voters are not registered to vote.

The right to vote, to shape our Government, to choose leaders who write our laws and ensure the laws are faithfully executed—this right is sacred to our Nation. We are a Nation of the people, by the people, and for the people; suffrage is fundamental to this precept.

The franchise is too sacred to our form of Government to let slip through the hands of the people. The Government must be aggressive in its efforts to guarantee that all citizens who wish to vote can vote. Our Government is obligated to go to all reasonable lengths to make voter registration as uncomplicated as is possible. This legislation is a critical step in the right direction. I urge all of my colleagues on both sides of the aisle to do what is right and make the electoral process open to all individuals who are eligible to vote.

Mr. FAZIO. Mr. Chairman, I rise in strong support of H.R. 2, the National Voter Registration Act, better known as the motor-voter bill. H.R. 2 will make it easier for millions of eligible Americans to exercise their constitutional right and civic responsibility to vote.

Although H.R. 2 removes arbitrary barriers to voter registration, it balances this increased participation in the electoral process with Federal protections against fraud, safeguards against abuse, and stiff Federal penalties—up to 5 years in prison—for those who break the law.

Although voter participation in the United States increased during the last presidential election, we continue to have the worst voting participation rate among the world's leading democracies. Only 6 out of every 10 of eligible American voters is registered. Over 5.7 million eligible Californians are not registered to vote, and many of these people would have voted had they been registered. But, if we can open up the registration process by making it easy and uncomplicated, more of our citizens will register and vote. Most of the 12.3-percent increase, which we experienced nationally in voter turnout between our last two national elections, occurred in those States that had implemented part or all of the procedures outlined in H.R. 2—procedures that have proved to be effective in increasing voter participation.

H.R. 2 establishes uniform, nationwide voter registration procedures and, at the same time, gives States the flexibility to implement these procedures. However, it does not change any State's registration procedures; it just makes the process more available to all of our citizens.

For example, H.R. 2 requires States to establish procedures that permit individuals to register to vote in Federal elections when they apply for a driver's license, renew a driver's license, or apply for an identification card issued by a motor vehicle department. This provision will bring the registration process within reach of about 90 percent of the voter-age population, since 90 percent of American adults have either a driver's license or a department of motor vehicles photo identification card.

H.R. 2 also requires each state to accept and use a mail voter registration form, similar to the extensive register-by-mail program that we already have in place in California, with forms available for government and private distribution. This will be especially important for certain populations, like disabled and low-income citizens for whom travel can be an impediment and who constitute the 10 percent of the voter-age population that does not utilize state motor vehicle agencies.

Disabled citizens are particularly targeted for increased participation in the electoral process. H.R. 2 requires States to designate public assistance, unemployment, and all agencies administering State-funded programs primarily engaged in providing services to persons with disabilities as voter registration agencies. These agencies would then distribute voter registration forms, as we do in California, but also assist applicants in completing these forms, as well as accept completed forms to send to State officials. This is especially important since only about 25 percent of our disabled citizens are currently registered to vote.

Additionally, if H.R. 2 is enacted, States will not be able to remove a voter's name from a voter registration list simply for not voting. Even in States like California, that already have fairly strict regulations governing purging of voter registration lists, it will be more difficult to purge a citizen's name.

Lastly, H.R. 2 does not pave the way for noncitizens to vote; it does not permit noncitizens to fraudulently register. Again, a State's actual registration procedures are not changed. There is no automatic registration; applications, along with other eligibility requirements, are still evaluated and then validated—or not—by the State's election official.

The National Voter Registration Act has the potential to revitalize the democratic process in this country more than any bill that we have considered during the last Congress. It will remove roadblocks that contribute to low election turnout by minimizing Government interference in the registration process. The California Secretary of State estimates that motor-voter and agency-based registration alone will ultimately add over 2 million additional registered voters to our files.

H.R. 2 is almost identical to the bill that was adopted by House of Representatives last year, by an overwhelming bipartisan majority of 268–153. Unfortunately, last year's bill was vetoed by President Bush, and the Senate subsequently did not have the votes to override his veto. But President Clinton has already indicated his strong support for fast enactment of the National Voter Registration Act, as well as his intention to sign it into law once it clears Congress.

Every citizen has the right to choose not to vote. But, for those citizens who want to fully participate as voting Americans, we have a responsibility to protect this fundamental, constitutionally guaranteed right—to insure that the election process is as open and accessible as it can be. Factors like economic status, age, and physical ability should not be obstacles to an American citizen's access to the polls.

I am proud to support the National Voter Registration Act, and encourage my colleagues—on both sides of the aisle—to do likewise by supporting final passage of open, impartial access to the polls for all American citizens.

Mr. ORTIZ. Mr. Chairman, I rise today in support of H.R. 2, the National Voter Registration Act. This act will greatly increase the number of registered voters throughout the country, and thus expand democracy in America to new bounds.

My home State of Texas has been exemplary in its efforts to increase voter registration and participation. We have implemented an extended voting period which emphasizes early voting. Voter registration has become much more accessible by increasing the number of locations at which a citizen may register to vote. Registration forms are available from numerous Federal, State, and county agencies, which in turn give the people more opportunities to register to vote. We have seen great results in allowing citizens to register by mail. To safeguard against the registration of noncitizens, the penalty for fraudulent voting is clearly stated on the registration forms.

The voice of the American people in our Government is the basic principle on which our country was founded. It is essential that we allow each and every citizen a voice in our Government. In the Declaration of Independence, Thomas Jefferson penned that this democracy derives its "just powers from the consent of the governed." We can only truly represent the consent of the governed if each and every citizen is given the opportunity to participate in the electoral process. H.R. 2 clearly meets this objective by increasing the number of registered voters. With more citizens participating in the election process we will fulfill the objective of our Founding Fathers, a government of, by, and for the people.

Mr. DORNAN. Mr. Chairman, I rise today to urge my colleagues not to take part in what is sure to become one of the greatest political hoaxes of our time, H.R. 2, the so-called motor-voter bill. I urge a "no" vote on this written invitation to commit voter fraud.

Mr. Chairman, my colleagues on the other side of the aisle would like to portray this issue as a fight for the enfranchisement of greater numbers of eligible Americans. But while it is sure to enroll more names on the voting lists, there are insufficient safeguards against potential instances of fraud to allow this measure to succeed. The bill's sponsors know this, and yet they are pushing ahead all the same.

I wholeheartedly support increasing voter participation in what is truly the greatest representative democracy in all the world. We should be proud of our biyearly ritual, and we should strive to see that all Americans exercise their right to vote. H.R. 2, however, attempts to accomplish this without providing the means to assure that official voting lists remain current or accurate.

Under this bill, Mr. Chairman, States are required to incorporate voter registration with drivers license application. Registration is automatic unless specifically refused by the applicant in writing. Sure, it includes an eligibility oath, that is citizenship, but one can easily imagine the scene of an undocumented immigrant, wanting a drivers license but at the same time fearful of rejecting his vote registration lest he be suspected illegal and deported. The best way around this is for him to take his chances, register to vote, and hope he is not caught—and he will not be caught. This is not an effective way to buttress our Democratic institutions.

Further prospect for fraud comes in the provision requiring States to accept mail-in FEC voter registration forms while prohibiting them from demanding notarization or, really, any sort of authentication whatsoever. This is a truly curious provision, and begs the question as to why anyone would be so careless in opening up the voter registration process to fraud and abuse?

H.R. 2 mandates that States register voters at public assistance offices and State-funded disability programs—it is clear what type of voter the bill's authors wish to enfranchise. But surely, some thought should be given to safeguarding voter lists.

Perhaps a provision could be included to assist States in purging ineligible or fraudulent voters from the rolls?

Well, no, Mr. Chairman. H.R. 2 specifically prohibits States from removing voters from official lists unless it is done at the registrant's request. Oh, they may also be removed in the case of a criminal conviction or mental incapacity, or upon their death or change in residence—but only then if the move is confirmed in writing or if the person fails to respond to a written notice from the State, and subsequently fails to vote in the next two Federal elections.

Mr. Chairman, this bill is an improper vehicle for mandating State action that will not only prove excessively costly to them, but will do more harm than good. In true bureaucratic fashion, it fixes a problem that does not exist. And the fact that it requires registration at venues of public assistance without mandating similar registration procedures at places like libraries and public schools, says something about who the authors of this bill wish to see vote more. H.R. 2 is more about partisan politics than franchise.

You will remember that President Bush vetoed this legislation on July 2, 1992 for these very reasons, justly stating in his veto message:

> I cannot . . . legislation that imposes an unnecessary and costly federal regime on the states and that is, in addition, an open invitation to fraud and corruption.

These words were true last July, and they are true today.

I urge all my colleagues, Mr. Chairman, to vote down this ill-conceived bill, and work sincerely for real increased voter participation.

Mr. LAZIO. Mr. Chairman, few things outweigh my desire to increase the embarrassingly low voter registration and voter participation we experience in the United States. One of these things, however, is my opposition to the practice of Congress passing unfunded mandates onto State and local governments.

H.R. 2, the National Voter Registration Act, adds to the already too long list of unfunded Federal mandates. I could not, therefore, support this measure in good conscience.

Before being elected to Congress, I served for 3 years in the Suffolk County legislature. One of the first lessons I learned as a local legislator is that a large percentage of the budget was beyond my discretion. It almost seemed as if the favorite pasttime for Members of Congress was to pass legislation creating new Federal programs—then demanding that we in local governments pay for these programs.

It is very easy to hold a press conference or accept an award for championing a worthwhile program. It is particularly easy when you force officials at other levels of government to pay the bill. That is not why I came to Washington.

Mr. Chairman, I firmly believe that Congress should seek to create programs which will expand our electoral access and voter participation. At the same time, I also believe that we in Congress must ourselves make the tough choices and decide which other programs are not as necessary.

Mr. MFUME. Mr. Chairman, today, we vote on legislation that could provide the most significant change in our Nation's voting law since the enactment of the Voting Rights Act of 1965.

We pride ourselves on having one of the most participatory governments in the world. Yet, for a variety of reasons, the United States has had the lowest voter participation of all major democracies in the world. The motor-voter bill can help remedy this problem and increase voter turnout by simplifying the registration procedure.

The motor-voter bill provides a practical, efficient means to reinvigorate our political system. Indeed, in the 1992 election, voter turnout in States with motor voter procedures increased by 12.3 percent over voter turnout in 1988.

The motor voter bill presents a logical, cost-effective linkage between application, renewal, or change of address for a driver's license with voter registration. That motor vehicle bureaus should be the foundation of voter registration is sensible, since drivers' licenses and photo identifications are almost universally carried.

Furthermore, registration tied in with motor vehicle registrations and agencies that provide public assistance, unemployment or State-funded disability programs, minimizes the administrative and financial burdens to States.

The cost to democracy of leaving out millions of Americans from the voting process is significantly greater than any costs that would be accrued from registration administrative procedures.

Constituencies least likely to participate in democracy but still eligible for voter registration, will experience significantly eased access to the voter registration process. These constituencies include the poor, unemployed, and disabled. But, they are not the only segment of the population that has a low voter registration rate.

Many young, urban and suburban middle class citizens are not registered to vote because they frequently change addresses every 2 to 5 years.

Since a change in address notification must be filed at the county board of elections, some fail to reregister. These combined groups represent an enormous voting block—one that could be reached if voter registration procedures could be simplified and made more convenient.

Let us not lock citizens out of the voting booth simply by adhering to archaic and inconvenient registration procedures. Voter turnout can best be increased by a combination of improved registration procedures and more inspired campaigns. Neither can be effective without the other. Let us today take a step toward offering our citizens an additional incentive to vote.

It is imperative that we continue the momentum experienced in November's elections, when voter turnout increased for the first time in years. I urge my colleagues to vote for H.R. 2. A vote for this legislation is a vote for democracy.

Mr. POSHARD. Mr. Chairman, I rise in support of H.R. 2, the motor-voter bill, which we should pass and send promptly to President Clinton for his signature.

Let me say that I have met with the county clerks in my district and have talked with them at great length about some of the concerns they have with this bill. And I believe we should keep an open mind about those concerns and be willing to work with our States and counties to make this work. Because that is the ultimate goal—a system of voter participation that is inclusive and accessible.

One of the true strengths of our system is the role each citizen takes in determining what is best for the common good. They can speak in public, organize around a common goal and petition their government. But the greatest strength comes on election day, when at the ballot box the people decide how their lives will be governed.

I am proud to support this fine piece of legislation and urge its adoption to my colleagues.

Mr. ROEMER. Mr. Speaker, it is truly a national tragedy that the United States has what is arguably the worst reputation in the free world for voter turnout. This country is the No. 1 guardian of democracy, free speech, and voting rights around the globe, yet barely half of the eligible voters in the Nation show up at the polls during Presidential elections.

The legislation before us today seeks to redress this national disgrace. By making it easier to register, we improve the opportunities for our citizens to take part in one of the most vital functions of our democracy.

In the 1992 election, voter turnout increased for the first time in many years, but the greatest increases occurred in States which had implemented registration procedures similar to those contained in this bill. Turnout in States with motor-voter procedures increased by 12.3 percent, while turnout in States without these procedures increased by only 6.7 percent. It is clear from this data, that the reforms contained in this legislation will dramatically improve lagging voter participation in this country, which is a goal we should all share.

It will not, as its opponents disingenuously claim, compromise the integrity of voter registration process across the country. It contains tough antifraud provisions, including listing the eligibility criteria for voting on all voter registration forms and requiring the signature of applicants to attest, under the penalty of perjury, that they meet each of these requirements. Anyone found guilty of submitting fraudulent registrations would be subject to fines up to $250,000 and 5 years in prison, or both.

Mr. Speaker, we read and hear every day about how alienated and disenfranchised Americans feels about their Government. Passing this bill today will signal that we want to address these concerns, and promote fuller participation of the voting public in the electoral process.

Our democracy's health depends on the support and participation of the American people. This is an important step toward maintaining that health.

Mr. EMERSON. Mr. Chairman, I am certain that advocates of this bill have nothing but the best of intentions. After all, in the ideal republic, each citizen will take measures necessary to inform himself or herself of the issues in political races, and each citizen then exercises that most important right of citizenship and casts an informed vote for the individual that will best represent his or her interest. This is the ideal, and it has been long envisioned by great thinkers.

To my great regret, Mr. Chairman, we do not live in an ideal world. We do not even live in an ideal republic. Some citizens simply do not exercise their right to vote—some because of apathy, some because of ignorance, and some because of protest. We should encourage citizens to exercise their right to vote, but this bill does not do that. This bill may put names on a State roll, but it will do nothing to encourage people to actually vote. Thus, despite the best intentions of the bill's advocates, it simply won't work.

More registered voters do not necessarily lead to more participating voters. Several States have implemented motor-voter-voluntarily, I might add—and there is simply no convincing proof that automatic registration procedures—whether motor-voter, welfare-voter, marriage-voter, or walk-in-voter—increase voter turnout. To accomplish that goal, we need more exciting elections, and as much as we hate to admit it, more exciting candidates. If the candidates motivate folks to vote, they'll vote. If the candidates don't inspire folks to vote, they won't vote, regardless of how many times their names appear on an official list somewhere.

If we pass this bill, we are about to take away the States' traditional right to manage their own elections. We are about to force States to accept all mail-in registrations without verifying their truth or accuracy, and to train their welfare workers in registration assistance. We are about to tell States that they cannot remove names from voting lists, even if the voter has not voted for several decades. To add insult to injury, this bill does not give the States even one dime to comply with the costs of this bill. States must come up with millions of dollars to implement this legislation. What should we tell our States when they are forced to cut their budgets—education, law enforcement, health care, and more—in order to implement a motor-voter, welfare-voter, walk-in-voter registration law? That's quite a lot of money to spend on something that doesn't work that well in the first place.

If the advocates of this bill truly believe that motor-voter will accomplish some good, then they should at least have the courtesy to make the implementation of this Federal law voluntary until the costs can be paid by Federal dollars. Don't break the backs of the States in order to implement an ineffective system.

Mr. PENNY. Mr. Chairman, I rise in support of H.R. 2, the National Voter Registration Act. The passage of this legislation is long overdue. With enactment assured because of President Bill Clinton's strong support, this legislation will ease registration and increase turnout of eligible voters.

There is no doubt this bill will increase turnout. Between 85 and 90 percent of registered voters go to the polls on election day. In my State of Minnesota with its motor-voter and election-day voter registration, turnout in Presidential elections is very high, frequently leading the Nation. In other States with motor-voter registration procedures, turnout also has significantly increased.

Let me also say that the concerns expressed by opponents of this bill with possible fraud and abuse are not well founded. In the State of Minnesota similar concerns were expressed prior to passage of State motor-voter laws, but have not proven true. With diligent administration, there is no reason for voter fraud to increase.

The bill we consider today is straightforward. H.R. 2 gives all citizens the opportunity to apply for registration to vote in all Federal elections by: first, applying for or renewing their driver's license; second, by mail; and third, agency-based registration at a variety of Federal, State, or local government agencies. The legislation also provides for stringent civil and criminal enforcement to prevent fraud.

Passage of this bill will make it possible for millions of Americans to register and vote for the first time. But H.R. 2 is just the first step the Congress must take to open our American democracy to more citizens. We should also consider election day registration, which works very well in Minnesota and a few other States. The Congress should also debate and pass a fair ballot access law to make it easier for independent candidates to gain access to the ballot; a constitutional amendment to lower the voting age to 16 which will enfranchise hundreds-of-thousands of younger voters; and legislation to require presidential candidates to participate in election debates. These measures would further open our Democratic system to more people. I intend to introduce legislation in the coming weeks to make these ideas a reality and to start a debate that in the not too distant future can result in an expansion of our effort today to increase voter turnout.

Mr. Chairman and colleagues, I strongly urge passage of H.R. 2. While it is just a first step, it is the essential first step on the road to making it easy for all Americans to vote.

Mr. ZELIFF. Mr. Chairman, I rise in opposition to this legislation, both on behalf of myself and on behalf of the State of New Hampshire.

We have spoken at length with the New Hampshire secretary of state, Bill Gardner, a Democrat, over the past several days, and he has voiced his overwhelming opposition to this legislation.

This is in addition to many city and town clerks throughout New Hampshire, Republicans and Democrats, who have also voiced their opposition to this bill.

The Democrat secretary said, "there is no guarantee that voter participation will be increased in this State once this new Federal mandate is in place."

I would like to ask unanimous consent that his full written comments be included in the RECORD following my statement.

New Hampshire, with some of the strictest laws in the Nation regarding voter registration, has consistently illustrated that motor-voter is not needed.

For example, while the average voter turnout in Presidential elections in motor-voter States between the last two elections increased 6.6 percent, turnout increased over 9 percent in New Hampshire.

I might add, Mr. Chairman, that New Hampshire registered 90,000 new voters in 1992, achieving an 80 percent registration among the voting age population without any motor-voter laws.

Additionally, this bill is another case of the Federal Government forcing expensive mandates on the States. Of the 10 States which have done cost estimates, the total is nearly $100 million.

If the rest of the Nation is consistent, we're looking at a half a billion dollar Federal mandate here. Add that to the nearly $8 billion we hit small business with yesterday, and you can just see that economic recovery train coming, can't you?

One final point, Mr. Chairman. The fact that there are practically no safeguards in this bill against illegal aliens voting is particularly troubling to me. If this legislation is enacted, even Zoe Baird's chauffeur would have the right to vote.

While this may please certain officials in our Government, I assure you that the generations of Americans who had to fight for the constitutional right to vote would certainly not be pleased.

I strongly urge all my colleagues to vote against this legislation.

Mr. Chairman, I insert the following statement for the RECORD:

STATEMENT OF THE SECRETARY OF STATE FOR THE STATE OF NEW HAMPSHIRE CONCERNING THE NATIONAL VOTER REGISTRATION ACT

H.R. 2, a bill to establish national voter registration procedures for federal elections, does not appear to have provisions as written which would be of benefit to the State of New Hampshire.

At present, New Hampshire has a system of local voter registration. Except for handicapped or out of town/overseas citizens, registration is taken and proof of residency and citizenship is given in person to town or city clerks or to supervisors of the checklist in each voting jurisdiction. Voters may be registered up to 10 days before any election. Local officials thus determine the qualifications of voters and must so state on the checklist.

H.R. 2 alleges to make it easier for all eligible voters to be registered. While the aim of registering more voters may be achieved, passage of this act does not necessarily mean that voter participation will be increased and will require the expenditure of large amounts of tax dollars to benefit few.

The most recent study shows a greater increase in voter turnout in New Hampshire than in states with motor-voter registration. The voter turnout increase from the 1988 to the 1992 Presidential Election in New Hampshire was 9% while the average increase in motor-voter states from 1988 to 1992 was 6.6%. The widely fluctuating turnout in individual states shows that voter registration procedures is only one factor in influencing whether people will actually vote. New Hampshire, for instance, which has been sometimes criticized for its voter registration process, registered 90,000 new voters for the 1992 federal election, achieving a total registration percentage of 80% for the current voting age population. The 1992 voter turnout was 64%, higher than that of several motor-voter states, which averaged a 60.1% voter turnout. In fact, New Hampshire, at 55%, had a higher percentage of voter turnout even in 1988 than did the motor-voter states with an average of 53.5%.

In addition, the cost of implementing H.R. 2 appears to be prohibitive for our small state. Pursuant to this legislation, any place of motor vehicle registration, or any office providing public assistance such as welfare offices, vocational rehabilitation offices, or unemployment offices shall provide voter registration forms to all applicants for driver's licenses or assistance. Potential voters could apply anywhere in the state. Any completed forms would be sent by these offices or by the registrants by mail to state election officials. The official would determine the eligibility of the applicants and would notify the applicants as to their placement on the checklist. Not only would these agency offices supplant the local officials in the registration function, the cost of this new mandate to New Hampshire state and local government for materials, mailings, and manpower would be in the tens of thousands of dollars per year. The cost of printing and distributing the forms would also be borne by the state. Local offices could bear the cost of notifying the applicants of the disposition of their applications.

Other provisions of H.R. 2 are also troublesome. All agencies newly responsible for sending completed forms to the state election offices would have 10 days to do so, up until 5 days before the cut-off date of registering, then the forms must be sent in 5 days. The federal cut-off date allows thirty days before an election, while ours is ten days before an election. If the State of New Hampshire stays with the present dates of registration, some voters will not be placed on the checklist in time, while others may find they are judged ineligible too close to the election to rectify their voting status.

If our state does conform to the 30 day limitation, voters who currently have 20 extra days to register will also lose this opportunity to be registered close to an election.

In addition, H.R. 2 relates to federal elections. In New Hampshire, the question arises as to whether two checklists, one for local, county and state elections and one for federal elections, may be maintained. Supervisors may also object to the addition of federal election applicants too close to an election for verification by them in regards to an applicants' place of residence. Concern for voter fraud could even lead to the rejection of eligible applicants. Chaos would reign at the polling place if in fact voters were responsible for registering under two systems for two checklists.

New voters who register by mail are required to be responsible for verifying their eligibility at the polls. The possible results of confusion, lines, and frustration at the polls could even serve to discourage voter participation.

In addition, first-time voters registered by mail, if required to vote in person under the provisions of H.R. 2 to prove their qualifications, could lose the right to vote by absentee ballot. Since this is a right constitutionally guaranteed to all our New Hampshire citizens, this would also necessitate a change in our state constitution.

The office of the secretary of state of New Hampshire has grave concerns about the passage of H.R. 2 in its present form because of the before-mentioned reasons.

There is no firm evidence that increasing voter registration by such means as motor-voter registration will automatically increase voter turnout. Local control which appears to be working well in its present form in New Hampshire would be overruled.

Another layer of bureacracy through the cumbersome system of state control and notifications as described in this bill would be imposed to supplant our present procedures.

Confusion and lines at the polling place as certain new voters verify their qualifications could actually discourage voters and lower the voter turnout.

Voters may also be required to register 30 days before an election rather than 10, thus losing the ability to register close to an election.

Most troublesome is the potentially excessive cost required to benefit very few in this particular state. At a time when New Hampshire is struggling to fund social services, the expenditure of tax dollars to make it more convenient for only 20% of the population to register is not a high priority. The Secretary of State's Office has been committed to eliminating past barriers to voting and feels strongly that the rights of all eligible persons to vote should be guaranteed, it also assumes that these same persons will take some responsibility as citizens, as President Clinton asked for in his inaugural address.

This bill attempts to describe those voting age citizens who haven't taken the time to register to vote as victims of a system which has deliberately attempted to make it difficult for them to vote. We, on the other hand, would ask, why should the 80% of the eligible voters in New Hampshire who have made the effort to register spend their tax dollars on the 20% who have not done so, especially when in our depressed economy we have so many other serious needs?

Expecting non-handicapped persons who reside in their jurisdictions to appear in person to register to vote as the present local system requires is not only a less expensive procedure than that mandated by H.R. 2, but it will also help prevent election fraud. It does not, our opinion, constitute an undue burden on eligible voters.

In conclusion, the cost of this legislation not only outweighs the benefits to New Hampshire, but there is also no guarantee that voter participation will be increased in this state once this new federal mandate is in place.

In fact, it is my opinion that the legislation will cause a decrease in voter turnout in New Hampshire because new voters will be required to prove eligibility at the polls rather than prior to election day. Lines could develop, which will discourage voters from waiting to cast their votes.

The CHAIRMAN. Pursuant to the rule, the bill is considered as read for amendment under the 5-minute rule.

The amendments printed in the bill and the amendment printed in part 1 of House Report 103–11 are considered adopted.

The text of H.R. 2, as amended by the amendments in the bill and the amendment in part 1 of the House Report 103–11, is as follows:

H.R. 2

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Voter Registration Act of 1993".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the right of citizens of the United States to vote is a fundamental right;

(2) it is the duty of the Federal, State, and local governments to promote the exercise of that right; and

(3) discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office and disproportionately harm voter participation by various groups, including racial minorities.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office;

(2) to make it possible for Federal, State, and local governments to implement this Act in a manner that enhances the participation of eligible citizens as voters in elections for Federal office;

(3) to protect the integrity of the electoral process; and

(4) to ensure that accurate and current voter registration rolls are maintained.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "election" has the meaning stated in section 301(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(1));

(2) the term "Federal office" has the meaning stated in section 301(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3));

(3) the term "motor vehicle driver's license" includes any personal identification document issued by a State motor vehicle authority;

(4) the term "State" means a State of the United States and the District of Columbia; and

(5) the term "voter registration agency" means an office designated under section 7(a)(1) to perform voter registration activities.

SEC. 4. NATIONAL PROCEDURES FOR VOTER REGISTRATION FOR ELECTIONS FOR FEDERAL OFFICE.

(a) IN GENERAL.—Except as provided in subsection (b), notwithstanding any other Federal or State law, in addition to any other method of voter registration provided for under State law, each State shall establish procedures to register to vote in elections for Federal office—

(1) by application made simultaneously with an application for a motor vehicle driver's license pursuant to section 5;

(2) by mail application pursuant to section 6; and

(3) by application in person—

(A) at the appropriate registration site designated with respect to the residence of the applicant in accordance with State law; and

(B) at a Federal, State, or nongovernmental office designated under section 7.

(b) NONAPPLICABILITY TO CERTAIN STATES.—This Act does not apply to a State described in either or both of the following paragraphs:

(1) A State in which there is no voter registration requirement for any voter in the State with respect to an election for Federal office.

(2) A State in which all voters in the State may register to vote at the polling place at the time of voting in a general election for Federal office.

SEC. 5. SIMULTANEOUS APPLICATION FOR VOTER REGISTRATION AND APPLICATION FOR MOTOR VEHICLE DRIVER'S LICENSE.

(a) IN GENERAL.—(1) Except as provided in subsection (b), each State motor vehicle driver's license application (including any renewal application) submitted to the appropriate State motor vehicle authority under State law shall serve as an application for voter registration with respect to elections for Federal office.

(2) An application for voter registration submitted under paragraph (1) shall be considered as updating any previous voter registration by the applicant.

(b) DECLINATION TO REGISTER.—(1) An applicant for a State motor vehicle driver's license may decline in writing to be registered by means of the motor vehicle driver's license application.

(2) No information relating to a declination pursuant to paragraph (1) may be used for any purpose other than voter registration.

(c) FORMS AND PROCEDURES.—(1) Each State shall include a voter registration application form for elections for Federal office as part of an application for a State motor vehicle driver's license.

(2) The voter registration application portion of an application for a State motor vehicle driver's license—

(A) may not require any information that duplicates information required in the driver's license portion of the form (other than a second signature or other information necessary under subparagraph (C));

(B) shall include a means by which an applicant may decline to register to vote pursuant to subsection (b);

(C) may require only the minimum amount of information necessary to—

(i) prevent duplicate voter registrations; and

(ii) enable State election officials to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;

(D) shall include a statement that—

(i) states each eligibility requirement (including citizenship);

(ii) contains an attestation that the applicant meets each such requirement; and

(iii) requires the signature of the applicant, under penalty of perjury; and

(E) shall be made available (as submitted by the applicant, or in machine readable or other format) to the appropriate State election official as provided by State law.

(d) CHANGE OF ADDRESS.—Any change of address form submitted in accordance with State law for purposes of a State motor vehicle driver's license shall serve as notification of change of address for voter registration with respect to elections for Federal office for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes.

SEC. 6. MAIL REGISTRATION.

(a) FORM.—(1) Each State shall accept and use the mail voter registration application form prescribed by the Federal Election Commission pursuant to section 9(a)(2) for the registration of voters in elections for Federal office.

(2) In addition to accepting and using the form described in paragraph (1), a State may develop and use a mail voter registration form that meets all of the criteria stated in section 9(b) for the registration of voters in elections for Federal office.

(3) A form described in paragraph (1) or (2) shall be accepted and used for notification of a registrant's change of address.

(b) AVAILABILITY OF FORMS.—The chief State election official of a State shall make the forms described in subsection (a) available for distribution through governmental and private entities, with particular emphasis on making them available for organized voter registration programs.

(c) FIRST-TIME VOTERS.—(1) Subject to paragraph (2), a State may by law require a person to vote in person if—

(A) the person was registered to vote in a jurisdiction by mail; and

(B) the person has not previously voted in that jurisdiction.

(2) Paragraph (1) does not apply in the case of a person—

(A) who is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1 et seq.);

(B) who is provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee–1(b)(2)(B)(ii)); or

(C) who is entitled to vote otherwise than in person under any other Federal law.

SEC. 7. VOTER REGISTRATION AGENCIES.

(a) DESIGNATION.—(1) Each State shall designate agencies for the registration of voters in elections for Federal office.

(2) Each State shall designate as voter registration agencies—

(A) all offices in the State that provide public assistance, unemployment compensation, or related services; and

(B) all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities.

(3)(A) In addition to voter registration agencies designated under paragraph (2), each State shall designate other offices within the State as voter registration agencies.

(B) Voter registration agencies designated under subparagraph (A) may include—

(i) State or local government offices such as public libraries, public schools, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus, government revenue offices, and offices not described in paragraph (2)(B) that provide services to persons with disabilities; and

(ii) Federal and nongovernmental offices, with the agreement of such offices.

(4)(A) At each voter registration agency, the following services shall be made available:

(i) Distribution of mail voter registration application forms in accordance with paragraph (6).

(ii) Assistance to applicants in completing voter registration application forms.

(iii) Acceptance of completed voter registration application forms for transmittal to the appropriate State election official.

(B) If a voter registration agency designated under paragraph (2)(B) provides services to a person with a disability at the person's home, the agency shall provide the services described in subparagraph (A) at the person's home.

(5) A person who provides service described in paragraph (4) shall not—

(A) seek to influence an applicant's political preference or party registration;

(B) display any such political preference or party allegiance; or

(C) make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote.

(6) A voter registration agency that is an office that provides service or assistance in addition to conducting voter registration shall—

(A) distribute with each application for such service or assistance, and with each recertification, renewal, or change of address form relating to such service or assistance—

(i) the mail voter registration application form described in section 9(a)(2); or

(ii) the office's own form if it is equivalent to the form described in section 9(a)(2), including a statement that—

(I) specifies each eligibility requirement (including citizenship);

(II) contains an attestation that the applicant meets each such requirement; and

(III) requires the signature of the applicant, under penalty of perjury; or

unless the applicant, in writing, declines to register to vote;

(B) to the greatest extent practicable, incorporate in application forms and other forms used at those offices for purposes other than voter registration a means by which a person who completes the form may decline, in writing, to register to vote in elections for Federal office; and

(C) provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms.

(7) No information relating to a declination to register to vote in connection with an application made at an office described in paragraph (6) may be used for any purpose other than voter registration.

(b) FEDERAL GOVERNMENT AND PRIVATE SECTOR COOPERATION.—All departments, agencies, and other entities of the executive branch of the Federal Government shall, to the greatest extent practicable, cooperate with the States in carrying out subsection (a), and all nongovernmental entities are encouraged to do so.

(c) TRANSMITTAL DEADLINE.—(1) Subject to paragraph (2), a completed registration application accepted at a voter registration agency shall be transmitted to the appropriate State election official not later than 10 days after the date of acceptance.

(2) If a registration application is accepted within 5 days before the last day for registration to vote in an election, the application shall be transmitted to the appropriate State election official not later than 5 days after the date of acceptance.

SEC. 8. REQUIREMENTS WITH RESPECT TO ADMINISTRATION OF VOTER REGISTRATION.

(a) IN GENERAL.—In the administration of voter registration for elections for Federal office, each State shall—

(1) ensure that any eligible applicant is registered to vote in an election—

(A) in the case of registration with a motor vehicle application under section 5, if the valid voter registration form of the applicant is submitted to the appropriate State motor vehicle authority not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(B) in the case of registration by mail under section 6, if the valid voter registration form of the applicant is postmarked not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(C) in the case of registration at a voter registration agency, if the valid voter registration form of the applicant is accepted at the voter registration agency not later than the lesser of 30 days, or the period provided by State law, before the date of the election; and

(D) in any other case, if the valid voter registration form of the applicant is received by the appropriate State election official not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(2) require the appropriate State election official to send notice to each applicant of the disposition of the application;

(3) provide that the name of a registrant may not be removed from the official list of eligible voters except—

(A) at the request of the registrant;

(B) as provided by State law, by reason of criminal conviction or mental incapacity; or

(C) as provided under paragraph (4);

(4) conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of—

(A) the death of the registrant; or

(B) a change in the residence of the registrant, in accordance with subsections (b), (c), and (d);

(5) inform applicants under sections 5, 6, and 7 of—

(A) voter eligibility requirements; and

(B) penalties provided by law for submission of a false voter registration application; and

(6) ensure that the identity of the voter registration agency through which any particular voter is registered is not disclosed to the public.

(b) CONFIRMATION OF VOTER REGISTRATION.—Any State program or activity to protect the integrity of the electoral process by ensuring the maintenance of an accurate and current voter registration roll for elections for Federal office—

(1) shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.); and

(2) shall not result in the removal of the name of any person from the official list of voters registered to vote in an election for Federal office by reason of the person's failure to vote.

(c) VOTER REMOVAL PROGRAMS.—(1) A State may meet the requirement of subsection (a)(4) by establishing a program under which—

(A) change-of-address information supplied by the Postal Service through its licensees is used to identify registrants whose addresses may have changed; and

(B) if it appears from information provided by the Postal Service that—

(i) a registrant has moved to a different residence address in the same registrar's jurisdiction in which the registrant is currently registered, the registrar changes the registration records to show the new address and sends the registrant a notice of the change by forwardable mail and a postage prepaid pre-addressed return form by which the registrant may verify or correct the address information; or

(ii) the registrant has moved to a different residence address not in the same registrar's jurisdiction, the registrar uses the notice procedure described in subsection (d)(2) to confirm the change of address.

(2)(A) A State shall complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters.

(B) Subparagraph (A) shall not be construed to preclude—

(i) the removal of names from official lists of voters on a basis described in paragraph (3) (A) or (B) or (4)(A) of subsection (a); or

(ii) correction of registration records pursuant to this Act.

(d) REMOVAL OF NAMES FROM VOTING ROLLS.—(1) A State shall not remove the name of a registrant from the official list of eligible voters in elections for Federal office on the ground that the registrant has changed residence unless the registrant—

(A) confirms in writing that the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered; or

(B)(i) has failed to respond to a notice described in paragraph (2); and

(ii) has not voted or appeared to vote (and, if necessary, correct the registrar's record of the registrant's address) in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice.

(2) A notice is described in this paragraph if it is a postage prepaid and pre-addressed return card, sent by forwardable mail, on which the registrant may state his or her current address, together with a notice to the following effect:

(A) If the registrant did not change his or her residence, or changed residence but remained in the registrar's jurisdiction, the registrant should return the card not later than the time provided for mail registration under subsection (a)(1)(B). If the card is not returned, affirmation or confirmation of the registrant's address may be required before the registrant is permitted to vote in a Federal election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice, and if the registrant does not vote in an election during that period the registrant's name will be removed from the list of eligible voters.

(B) If the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered, information concerning how the registrant can continue to be eligible to vote.

(3) A voting registrar shall correct an official list of eligible voters in elections for Federal office in accordance with change of residence information obtained in conformance with this subsection.

(e) PROCEDURE FOR VOTING FOLLOWING FAILURE TO RETURN CARD.—(1) A registrant who has moved from an address in the area covered by a polling place to an address in the same area shall, notwithstanding failure to notify the registrar of the change of address prior to the date of an election, be permitted to vote at that polling place upon oral or written affirmation by the registrant of the change of address before an election official at that polling place.

(2)(A) A registrant who has moved from an address in the area covered by one polling place to an address in an area covered by a second polling place within the same registrar's jurisdiction and the same congressional district and who has failed to notify the registrar of the change of address prior to the date of an election, at the option of the registrant—

(i) shall be permitted to correct the voting records and vote at the registrant's former polling place, upon oral or written affirmation by the registrant of the new address before an election official at that polling place; or

(ii)(I) shall be permitted to correct the voting records and vote at a central location within the same registrar's jurisdiction designated by the registrar where a list of eligible voters is maintained, upon written affirmation by the registrant of the new address on a standard form provided by the registrar at the central location; or

(II) shall be permitted to correct the voting records for purposes of voting in future elections at the appropriate polling place for the current address and, if permitted by State law, shall be permitted to vote in the present election, upon confirmation by the registrant of the new address by such means as are required by law.

(B) If State law permits the registrant to vote in the current election upon oral or written affirmation by the registrant of the new address at a polling place described in subparagraph (A)(ii)(II), voting at the former polling place as described in subparagraph (A)(i) and at a central location as described in subparagraph (A)(ii)(I) need not be provided as alternative options.

(3) If the registration records indicate that a registrant has moved from an address in the area covered by a polling place, the registrant shall, upon oral or written affirmation by the registrant before an election official at that polling place that the registrant continues to reside at the address previously made known to the registrar, be permitted to vote at that polling place.

(f) CHANGE OF VOTING ADDRESS WITHIN A JURISDICTION.—In the case of a change of address, for voting purposes, of a registrant to another address within the same registrar's jurisdiction, the registrar shall correct the voting registration list accordingly, and the registrant's name may not be removed from the official list of eligible voters by reason of such a change of address except as provided in subsection (d).

(g) CONVICTION IN FEDERAL COURT.—(1) On the conviction of a person of a felony in a district court of the United States, the United States attorney shall give written notice of the conviction to the chief State election official designated under section 10 of the State of the person's residence.

(2) A notice given pursuant to paragraph (1) shall include—

(A) the name of the offender;

(B) the offender's age and residence address;

(C) the date of entry of the judgment;

(D) a description of the offenses of which the offender was convicted; and

(E) the sentence imposed by the court.

(3) On request of the chief State election official of a State or other State official with responsibility for determining the effect that a conviction may have on an offender's qualification to vote, the United States attorney shall provide such additional information as the United States attorney may have concerning the offender and the offense of which the offender was convicted.

(4) If a conviction of which notice was given pursuant to paragraph (1) is overturned, the United States attorney shall give the official to whom the notice was given written notice of the vacation of the judgment.

(5) The chief State election official shall notify the voter registration officials of the local jurisdiction in which an offender resides of the information received under this subsection.

(h) REDUCED POSTAL RATES.—(1) Subchapter II of chapter 36 of title 39, United States Code, is amended by adding at the end the following:

"§ 3629. Reduced rates for voter registration purposes

"The Postal Service shall make available to a State or local voting registration official the rate for any class of mail that is available to a qualified nonprofit organization under section 3626 for the purpose of making a mailing that the official certifies is required or authorized by the National Voter Registration Act of 1993.".

(2) The first sentence of section 2401(c) of title 39, United States Code, is amended by striking out "and 3626(a)-(h) and (j)-(k) of this title," and inserting in lieu thereof "3626(a)-(h), 3626(j)-(k), and 3629 of this title".

(3) Section 3627 of title 39, United States Code, is amended by striking out "or 3626 of this title," and inserting in lieu thereof "3626, or 3629 of this title".

(4) The table of sections for chapter 36 of title 39, United States Code, is amended by inserting after the item relating to section 3628 the following new item:

"3629. Reduced rates for voter registration purposes.".

(i) PUBLIC DISCLOSURE OF VOTER REGISTRATION ACTIVITIES.—(1) Each State shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters, except to the extent that such records relate to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered.

(2) The records maintained pursuant to paragraph (1) shall include lists of the names and addresses of all persons to whom notices described in subsection (d)(2) are sent, and information concerning whether or not each such person has responded to the notice as of the date that inspection of the records is made.

(j) DEFINITION.—For the purposes of this section, the term "registrar's jurisdiction" means—

(1) an incorporated city, town, borough, or other form of municipality;

(2) if voter registration is maintained by a county, parish, or other unit of government that governs a larger geographic area than a municipality, the geographic area governed by that unit of government; or

(3) if voter registration is maintained on a consolidated basis for more than one municipality or other unit of government by an office that performs all of the functions of a voting registrar, the geographic area of the consolidated municipalities or other geographic units.

SEC. 9. FEDERAL COORDINATION AND REGULATIONS.

(a) IN GENERAL.—The Federal Election Commission—

(1) in consultation with the chief election officers of the States, the heads of the departments, agencies, and other entities of the executive branch of the Federal Government, and representatives of nongovernmental entities, shall prescribe such regulations as are necessary to carry out this Act;

(2) in consultation with the chief election officers of the States, shall develop a mail voter registration application form for elections for Federal office;

(3) not later than June 30 of each odd-numbered year, shall submit to the Congress a report assessing the impact of this Act on the administration of elections for Federal office during the preceding 2-year period and including recommendations for improvements in Federal and State procedures, forms, and other matters affected by this Act; and

(4) shall provide information to the States with respect to the responsibilities of the States under this Act.

(b) CONTENTS OF MAIL VOTER REGISTRATION FORM.—The mail voter registration form developed under subsection (a)(2)—

(1) may require only such identifying information (including the signature of the applicant) and other information (including data relating to previous registration by the applicant), as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;

(2) shall include a statement that—

(A) specifies each eligibility requirement (including citizenship);

(B) contains an attestation that the applicant meets each such requirement; and

(C) requires the signature of the applicant, under penalty of perjury; and

(3) may not include any requirement for notarization or other formal authentication.

SEC. 10. DESIGNATION OF CHIEF STATE ELECTION OFFICIAL.

Each State shall designate a State officer or employee as the chief State election official to be responsible for coordination of State responsibilities under this Act.

SEC. 11. CIVIL ENFORCEMENT AND PRIVATE RIGHT OF ACTION.

(a) ATTORNEY GENERAL.—The Attorney General may bring a civil action in an appropriate district court for such declaratory or injunctive relief as is necessary to carry out this Act.

(b) PRIVATE RIGHT OF ACTION.—(1) A person who is aggrieved by a violation of this Act may provide written notice of the violation to the chief election official of the State involved.

(2) If the violation is not corrected within 90 days after receipt of a notice under paragraph (1), or within 20 days after receipt of the notice if the violation occurred within 120 days before the date of an election for Federal office, the aggrieved person may bring a civil action in an appropriate district court for declaratory or injunctive relief with respect to the violation.

(3) If the violation occurred within 30 days before the date of an election for Federal office, the aggrieved person need not provide notice to the chief election official of the State under paragraph (1) before bringing a civil action under paragraph (2).

(c) ATTORNEY'S FEES.—In a civil action under this section, the court may allow the prevailing party (other than the United States) reasonable attorney fees, including litigation expenses, and costs.

(d) RELATION TO OTHER LAWS.—(1) The rights and remedies established by this section are in addition to all other rights and remedies provided by law, and neither the rights and remedies established by this section nor any other provision of this Act shall supersede, restrict, or limit the application of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

(2) Nothing in this Act authorizes or requires conduct that is prohibited by the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

SEC. 12. CRIMINAL PENALTIES.

A person, including an election official, who in any election for Federal office—

(1) knowingly and willfully intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce, any person for—

(A) registering to vote, or voting, or attempting to register or vote;

(B) urging or aiding any person to register to vote, to vote, or to attempt to register or vote; or

(C) exercising any right under this Act; or

(2) knowingly and willfully deprives, defrauds, or attempts to deprive or defraud the residents of a State of a fair and impartially conducted election process, by—

(A) the procurement or submission of voter registration applications that are known by the person to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held; or

(B) the procurement, casting, or tabulation of ballots that are known by the person to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held,

shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

SEC. 13. EFFECTIVE DATE.

This Act shall take effect—

(1) with respect to a State that on the date of enactment of this Act has a provision in the constitution of the State that would preclude compliance with this Act unless the State maintained separate Federal and State official lists of eligible voters, on January 1, 1996; and

(2) with respect to any State not described in paragraph (1), on January 1, 1995.

The CHAIRMAN. No further amendment is in order except the amendment printed in part 2 of House Report 103–11, which may be offered by the proponent or a designee, shall be considered as read, and shall not be subject to amendment. Debate time for said amendment shall be 1 hour, equally divided and controlled by the proponent and an opponent of the amendment.

PARLIAMENTARY INQUIRY

Mr. SWIFT. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SWIFT. Mr. Chairman, it is my understanding that the amendment made in order under the rule is not being offered?

The CHAIRMAN. The Chair is not here to establish whether or not an amendment will be offered or not. The Chair has not yet established that.

Mr. SWIFT. Mr. Chairman, if I may further make a parliamentary inquiry, at what point do we know whether that event is going to occur or not?

The CHAIRMAN. The Chair would inquire, does the gentleman from Illinois [Mr. MICHEL] or a designee offer the amendment?

Mr. LIVINGSTON. Mr. Chairman, the gentleman from Illinois [Mr. MICHEL] is not present and does not intend to appoint a designee for the purpose of offering such an amendment.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCNULTY) having assumed the chair, Mr. MCDERMOTT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2) to establish national voter registration procedures for Federal elections, and for other purposes; pursuant to House Resolution 59, reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The amendments recommended by the Committee on House Administration and the amendment printed in part 1 of House Report 103–11 are considered as agreed to.

The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. THOMAS OF CALIFORNIA

Mr. THOMAS of California. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. THOMAS of California. I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. THOMAS of California moves to recommit the bill (H.R. 2) to the Committee on House Administration with instructions to report the same back to the House forthwith with the following amendment:

Strike out line 15–24 on pg. 29 and insert in lieu thereof the following:

SEC. 13. EFFECTIVE DATE AND CITIZENSHIP REQUIREMENT

(a) Except as provided in subsection (b) this Act shall take effect

(1) with respect to a State that on the date of enactment of this Act has a provision in the constitution of the State that would preclude compliance with this Act unless the State maintained separate Federal and State official lists of eligible voters, on January 1, 1996; and

(2) with respect to any State not described in paragraph (1), on January 1, 1995.

(b) This Act shall not take effect with respect to a State until the chief election official of that State certifies to the Attorney General that sufficient procedures exist in that State to prevent voter registration under the procedures provided for in this Act by persons who are not citizens of the United States. Certification of compliance or a statement of reasons for inability to certify shall be forwarded to the Attorney General not later than January 1, 1996. The Attorney General shall report such communications to the Congress.

(c) No person other than a citizen of the United States may be registered to vote under this Act.

The SPEAKER pro tempore. The gentleman from California [Mr. THOMAS] is recognized for 5 minutes in support of his motion to recommit.

Mr. THOMAS of California. Mr. Speaker, this motion to recommit with instructions does basically one thing. The dates that were read, January 1, 1996 and January 1, 1995, are the dates that are contained in the bill. The 1-year delay is for those States who may have a constitutional provision which would not allow them to comply with the bill, and it therefore provides an additional 12 months to allow their State constitution to be conformed to the requirements.

The new addition is the requirement that the chief election official of a State either certify that they can meet the provisions of this bill or indicate why they cannot meet the provisions of this bill, and to forward that information to the Attorney General of the United States no later than the effective date in the bill itself, January 1, 1996.

There have been allusions made to the fact that this provision presses somebody's hot button and that somehow this is a phony provision because it leaves an open-ended opportunity for States to evade this question.

We have heard an awful lot of rhetoric on this floor about how important it is to make sure that people are able to vote. I support every one of those statements, but Mr. Speaker, equally important to the right to vote is the belief that one's vote counts, no more, no less than anyone else's.

The history of voting in the United States is replete with examples of people who are no longer living, who no longer live there, or who never existed in the first place casting votes, and every one of those votes that are cast dilutes an honest vote. Elections have been won fraudulently.

I know it is popular to argue the point that no fraud exists in voting that can be determined. Let me tell the Members, I invite them to read Robert Caro's book on LBJ. It is entirely possible and certainly plausible that a President of the United States would never have been elected to the U.S. Senate had not all of those folks who never existed along the Rio Grande in Texas not only cast votes not only before the polls closed on the day of election, but who waited until they found out how many votes were needed to offset those who actually voted, to cast the votes.

One of the problems with this legislation in terms of making it easier for people to possibly vote is the threshold of admittance to the registration rolls. What we are saying now is that when a person signs up to get a driver's license, they sign up to vote. Let me assure the Members that the headlines just recently announced that an illegal alien who cost a very bright and talented lawyer the Attorney General position had a driver's license. And more and more people who want a driver's license, citizen or not, eligible to vote or not, are going to go through this process. You tell me whether they want to identify themselves, stick out like a sore thumb, let people know they are concerned with the way in which they have to get a driver's license by publicly admitting they do not want to register to vote.

□ 1630

A number of illegal aliens will end up with a driver's license and on the voting rolls. Whether they vote or not is a moot point. What happens is you discredit an honest person's belief that their vote counts as much as another.

Fundamental to the American system is the right to vote. Fundamental to that right to vote is the sanctity of that vote and the belief that your vote will actually count as much as anyone else's.

All this amendment says is that a State has to certify that they can make sure that the people who are brought into the system are in fact qualified, and are in fact citizens.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I commend the gentleman for his motion to recommit, and I would only quote former Speaker Tip O'Neill's book, "All Politics is Local," in which he says, "An Irishman named Martin Lomasney, who worked out to the Hendricks Club in the West End," said that he would "meet the new immigrants at the boat and take them straight over to register to vote."

Do I understand from the gentleman's amendment that anyone who votes for this bill knows that this is essentially voting against requiring only citizens to register?

Mr. THOMAS of California. All we are asking is that if we expand the ability to get on the rolls, those who have been added to the rolls meet the minimum qualification of citizenship. There is a date certain, and States have to report back as to their ability to do or not to do what is asked of them in this bill.

Mr. SWIFT. Mr. Speaker, I rise in opposition to the motion.

You know, when you cannot win on the merits, you try to win by saying "boo." These are scare tactics, pure and simple.

Citizenship is already a requirement under the law to register to vote in this country. This bill that we are dealing with now in three specific places says citizenship is required.

All of the ways we have of registering in this country today, including the three techniques contained in this bill which are in practice in the States at this very time, deal with effectively assuring that people must be citizens.

The idea that you need certification, that you need quadruplicate statements of citizenship is absurd on its face. This is an effort to simply oppose the bill, pure and simple, no other reason.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, over the years, every time this Chamber has tried to knock down legal barriers to voter registration, over the years, every time State legislative bodies have tried to knock down barriers to voter registration, every year when courageous citizens like JOHN LEWIS and others have tried to knock down barriers to voter registration, opponents raise the shadowy specter of fraud. That is a red herring. There is already a screening process in place, and 28 States have, most of them have the components of this motor-voter bill.

Whenever there are attempts at fraud, it is through transportation, through counting of the ballots, through computer programming, not through individual voters voting that are not allowed to vote. And this bill would not be supported by the likes of the ABA, the League of Women Voters, the Secretaries of State of both parties, most Secretaries of State, if there were any possibilities of fraud.

The Republican attitude in this is wrong. We have to move forward and pass voter registration.

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, this is not 1900, it is not the 1930's, it is not 1965. For those of you who have not checked your calendar, it is 1993.

I can go back and look at the records of my State legislature and find the same reasons basically that were given for the Jim Crow laws that were enacted back in the early part of this century. Those proponents of this motion to recommit know just as well as the rest of us know that this is an attempt to gut the bill, this is an attempt to deny honest American citizens the right to vote, to participate in the democratic process.

I urge Members to vote "no" on the motion to recommit.

Mr. SWIFT. Mr. Speaker, I just sometimes wonder why anyone would oppose a bill as straightforward, as simple, and as tried and true as this, and I can come to only one conclusion. There are simply people in this world who would oppose the dawn because it would change the night. There are people here who want to keep the darkness. They cannot let go of the darkness.

I think, however, most Members here today are going to want to make registration for American citizens easier. I think most Members here today will welcome the dawn.

I urge Members to vote against this motion to recommit, and I urge them to vote for the legislation.

The SPEAKER pro tempore (Mr. MCNULTY). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. THOMAS of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The Speaker pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 166, nays 253, not voting 11, as follows:

[Roll No. 25]

YEAS—166

Allard
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Pryce (OH)
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—253

Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi

Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velázquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—11

Abercrombie
Andrews (NJ)
Archer
Barton
Fields (TX)
Ford (TN)
Henry
Johnson (CT)
Laughlin
Quillen
Studds

□ 1658

Mrs. KENNELLY, Mr. MURPHY, and Mr. BREWSTER changed their vote from "yea" to "nay."

Mr. BAKER of California changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on final passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LIVINGSTON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 259, noes 160, not voting 11, as follows:

[Roll No. 26]

AYES—259

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Berman
Bilbray
Bilirakis
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Leach
Lehman
Levin
Lewis (GA)
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Reed
Reynolds
Richardson
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stark
Stokes
Strickland
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Velazquez
Vento
Volkmer
Walsh
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—160

Allard
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Bateman
Beilenson
Bentley
Bereuter
Bevill
Bliley
Blute
Boehner
Bonilla
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Cox
Cramer
Crane
Crapo
Cunningham
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Emerson
Everett
Ewing
Fawell
Fowler
Franks (CT)
Gallegly
Gallo
Gekas
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pickett
Pombo
Porter
Pryce (OH)
Quinn
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Roth
Roukema
Rowland
Royce
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Valentine
Visclosky
Vucanovich
Walker
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—11

Archer
Barton
Dunn
Fields (TX)
Ford (TN)
Gillmor
Henry
Johnson (CT)
Laughlin
Quillen
Studds

□ 1719

The Clerk announced the following pairs:

On this vote:

Mr. Studds for, with Mr. Archer against.

Mr. Laughlin for, with Mr. Barton of Texas against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1720

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 2, the bill just passed.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Washington?

There was no objection.

PERSONAL EXPLANATION

Ms. DUNN. Mr. Speaker, during rollcall vote 26, I was in the Chamber and had thought that I had voted. But my vote went unrecorded due to an apparent mechanical failure in the electronic voting system. Had my vote been recorded, it would have reflected a "nay" vote on the final passage of H.R. 2, the National Voter Registration Act.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 688

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 688.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this time that I might inquire of the distinguished majority leader the program for the balance of the day and the week.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding. Obviously the bill that we have been working on has been completed. There will not be a need for more votes with regard to that legislation. We will now try to move to special orders while we await the Senate's completion of the family and medical leave legislation.

Mr. Speaker, I would inform Members that we will try to give 30-minutes notice by the whip system and the Cloakrooms on both sides prior to the resumption of legislative business. It is very hard to give Members a concrete estimate as to when we think this could happen, but it should happen in a few hours, I would say 7 or 8 o'clock. It might be a good thing to think that that is when this might happen. Obviously, we will then take up the rule that will allow us to complete work on that legislation.

Mr. MICHEL. Mr. Speaker, would the gentleman expand upon that a moment on the kind of rule that would be necessary to proceed?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield further, it is obvious the Committee on Rules will have to meet and deliberate on the content of the rule that will be used to consider this Senate bill.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I might just point out to the Members that the Committee on Rules did meet and produce a rule which is live out here on the floor right now which waives the two-thirds rule, in other words, the two-thirds vote for a rule to be brought up the same day. That is a very controversial issue.

Mr. Speaker, just so the Members know, as well as those Members that might be at the White House for dinner now, there will probably be a somewhat extended debate on that first rule. So Members can factor that into their time as far as being back here for the first rollcall vote.

Mr. MICHEL. Mr. Speaker, might I inquire of the distinguished majority leader then after that has been concluded, assuming it is sometime tonight, then where are we and what is the schedule for the balance of this evening or tomorrow?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield further, there is no further business once that is completed. There will be no business tomorrow. Then we would return after the recess on the 16th of February, which is Tuesday.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I would like to ask the majority leader, there is a rumor on the floor to the extent that the Senate might, if the gays in the military amendment goes down, take our legislation and pass it, which would mean that there would be no need for any additional votes tonight. Is that a realistic possibility?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, the best information we have is they intend to take our number, but add their substance, which would require us to come back here, unfortunately.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 300

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent to remove my name from cosponsorship of H.R. 300.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

ELECTION AS MEMBER TO COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. MICHEL. Mr. Speaker, I offer a privileged resolution (H. Res. 68) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 68

Resolved, That Representative Schiff of New Mexico, be, and he is hereby, elected to the Committee on Standards of Official Conduct.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SCHEDULE REGARDING H.R. 670, FAMILY PLANNING AMENDMENTS ACT OF 1993

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute.)

Mr. MOAKLEY. Mr. Speaker, I would like to notify Members regarding the Rules Committee's plans for H.R. 670, the Family Planning Amendments Act of 1993.

The Energy and Commerce Committee is meeting today to mark up the bill. The Rules Committee is planning to meet on H.R. 670 the week of February 15, 1993, to take testimony and grant a rule. In order to assure timely consideration of the bill on the floor, the Rules Committee is considering a rule that may limit the offering of amendments.

Any Member who is contemplating an amendment to H.R. 670 should submit, to the Rules Committee in H-312 in the Capitol, 55 copies of the amendment and a brief explanation of the amendment no later than 12 noon on Tuesday, February 16, 1993.

We appreciate the cooperation of all Members in this effort to be fair and orderly in granting a rule for H.R. 670.

VACATION OF SPECIAL ORDERS AND REQUESTS FOR SPECIAL ORDERS

Mrs. COLLINS of Illinois. Mr. Speaker, I ask unanimous consent to vacate my special order for 60 minutes on the following dates: February 4, 5, 16, 17, 18, 19, 22, 23, 24, 25, and 26, and ask permission to address the House for 5 minutes on these dates.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

PERMISSION TO TABLE CERTAIN RESOLUTIONS

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent to table the following resolutions: House Resolution 18, House Resolution 19, House Resolution 23, and House Resolution 30.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, I would ask my good chairman, are these the four resolutions dealing with the individual reauthorizations for the select committees that have not been acted on on the floor as yet?

Mr. MOAKLEY. Mr. Speaker, if the gentleman will yield, the gentleman from New York is correct.

Mr. SOLOMON. Mr. Speaker, the gentleman is seeking to table those four resolutions?

Mr. MOAKLEY. The gentleman is correct.

Mr. SOLOMON. Mr. Speaker, we certainly have no objection, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts [Mr. MOAKLEY]?

There was no objection.

□ 1230

VOTE AGAINST THE NATIONAL VOTER REGISTRATION ACT

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, I am here today to discuss with my colleagues the National Voter Registration Act and to ask them to vote against this piece of legislation though I am quite sure my plea will fall on deaf ears.

The National Voter Registration Act invites serious voter fraud. It mandates registration without verification and it will seriously restrict the ability of the county clerks in my State to keep their voter lists up to date.

Just last week the Democratic administration pledged to the Nation's Governors who were in town that they would look after their interests. If this is a serious commitment, the President should veto this legislation which contains an unfunded mandate. This bill will cost the taxpayers of Illinois over $30 million next year, and $3 million the year thereafter, and that is because Congress refuses to put money where its mandate is. It is reasonable to expect that the funds to pay these costs will come out of our Illinois budget for education, children and family services, and other important State programs.

The National Voter Registration Act is an unfunded mandate on States and one which will invite election fraud. I urge you to listen to the message that our voters back home are sending to Washington and vote "no" on this piece of legislation.

Mr. Speaker, I am including in the RECORD copies of letters from the Governor of the State of Illinois and two members of the State board of elections of the State of Illinois, as follows:

STATE OF ILLINOIS,
OFFICE OF THE GOVERNOR,
Springfield, IL, February 2, 1993.
Hon. THOMAS W. EWING,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVE EWING: The House this week is scheduled to consider H.R. 2, the National Voter Registration Act commonly known as the "motor-voter" bill. I am opposed to this legislation and I urge you to vote against it.

The motor-voter bill will require a massive statewide voter registration program at all state offices without providing for the administrative costs of this service. It will, however, increase the waiting time for all applicants for state services, including those applying for unemployment compensation and driver's licenses, as well as contribute significantly to voter fraud in the state. In addition, the Federal Election Commission suggests that registration requirements have no significant effect on participation rates. Voters are motivated by candidates and issues, not by mandating yet another method of voter registration.

H.R. 2 is simply another unfunded federal mandate that places administrative costs and burdens on the state and taxpayers of Illinois while contributing to delays for state services and increasing the risks of voter fraud. For these reasons I oppose H.R. 2, the National Voter Registration Act, and I urge you to vote against this legislation as it comes before the House.

Sincerely,
JIM EDGAR,
Governor.

STATE OF ILLINOIS,
BOARD OF ELECTIONS,
January 26, 1993.
Re National Voter Registration Act of 1993 (H.R. 2).
Hon. THOMAS W. EWING,
House of Representatives
Washington, DC.

DEAR CONGRESSMAN EWING: Last week Congressman Henry Hyde requested that I send him information on how HR2 might affect Illinois. Enclosed for our information is a copy of my response to him along with copies of the other information he requested.

Please note that the members of the State Board of Elections, a bipartisan board, unanimously voted to let it be known that they share the concerns expressed in my letter to Congressman Hyde. However, if the relaxation of registration procedures required by HR2 is counterbalanced by vote fraud preventative measures as outlined in my letter, then HR2 deserves passage.

Sincerely,
THERESA M. PETRONE,
Member.

STATE OF ILLINOIS,
BOARD OF ELECTIONS,
January 25, 1993.
Hon. HENRY HYDE,
House of Representatives, Rayburn Office Building, Washington, DC.

DEAR CONGRESSMAN HYDE: In response to our phone conversation I am enclosing copies of letters and testimony in opposition to the implementation requirements included in the proposed National Registration Acts of 1989 and 1991. Many of these implementation requirements remain unchanged in the proposed National Registration Act of 1993, HR2. In my opinion these implementation requirements will place an unnecessary financial burden on the states when many can least afford it and will greatly increase the potential for vote fraud.

Without a doubt I believe that the intent of this proposed legislation to increase voter participation is commendable. Though voter participation greatly increased in the last election, it remains a serious problem. Certainly voter registration should not in any way impose unnecessary barriers to voting. Likewise, methods of increasing opportunities for voter registration should not increase the potential of vote fraud and must be administratively feasible.

Illinois has problems in implementing this legislation which may be unique. Our past reputation for vote fraud, deserved or not, has caused us to establish procedures which ensure the integrity of the electoral process and which we would be most reluctant to eliminate. This proposed federal legislation challenges these procedures.

Under current Illinois law, a registrant's address is verified by mail. Due to the configuration of the state and the requirements of this proposed legislation, this verification process may have to be eliminated. The reasons for this are discussed in the enclosed letter of July 19, 1991 to Senator Robert Dole. The alternative is to develop a network for registration across the state. The estimated cost of such a computer network is approximately $40,000,000. A breakdown of these costs is attached to the letter of May 31, 1989 to Senator Dole.

Current Illinois law also provides for a signature verification process in the polling place. A second copy of the registration card bearing a verified signature is used for this purpose. The universal registration card provided for in the proposed legislation and the mail registration most likely will eliminate the second copy of the registration card and the verified signature. I realize that few states require signature verification by the pollworkers as they are not handwriting experts. However, experts or not, I believe that signature verification by anyone is a psychological deterrent to vote fraud. Technology is in place to allow Illinois to retain signature verification with this federal legislation. Such a signature retrieval system is estimated to cost approximately $12,000,000.

The potential for vote fraud may also be increased by the automatic registration of any person applying for a driver's license or for assistance at a designated agency with the purging restrictions. For example, if HR2 becomes law in its present form, a citizen who applies for a renewal of a driver's license, public assistance and food stamps would automatically be registered to vote three times through no action of his own. If this person signs his name John Doe, John J. Doe and J.J. Doe, under the provisions of this legislation, these three registrations would remain on the official list of eligible voters for a period anywhere from two to almost four years. These multiple registrations would greatly increase the potential for vote fraud.

Many of the provisions in HR2 have been debated in the Illinois General Assembly and rejected. As a firm believer that each state understands best how to facilitate its electoral process, I must oppose many of the implementation requirements in this bill. At a minimum, HR2 should be amended in the following ways:

(1) To change the effective date to 1997 or at a minimum to 1996 to allow Illinois sufficient time to determine how best to implement the legislation and retain the integrity of the electoral process;

(2) To require the individual to indicate his desire to be registered to vote rather than have it be automatic unless he indicates otherwise in writing;

(3) To provide adequate federal funding according to the needs of the states; and

(4) To specifically provide that the State election officer may screen for duplicate registration and purge all but the most recent.

In conclusion, if the relaxation of registration procedures is counterbalanced by the potential vote fraud preventative measures outlined above then HR2 deserves passage.

If I can provide any further input or assistance to you, please let me know.

Sincerely,
THERESA M. PETRONE,
Member.

P.S. I have served as the chief electoral officer of the State of Illinois as well as the vice chairman of the Illinois State Board of Elections. Having been appointed to the State Board of Elections after it was re-organized in 1977, I am currently a Board member and legislative liaison to Federal, State and local governmental units.

I've been deeply involved over the years in investigating and researching the administrative consequences resulting from the concepts reflected in HR2.

Today, Monday, January 25, the State Board of Elections met in Chicago and unanimously approved the following:

Resolved, That the Illinois State Board of Elections share the concerns set out at page two, paragraph (1)-(4) of Board Member Petrone's letter to Congressman Hyde.

ECONOMIC ADJUSTMENT SPECIAL ORDER

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Mrs. KENNELLY] is recognized for 5 minutes.

Mrs. KENNELLY. Mr. Speaker, I rise today to discuss the plight of the thousands of Americans displaced because of defense cuts across this Nation and to introduce the Defense Economic Reinvestment Act of 1993, designed to play a critical role in assisting these workers.

Our national security needs have changed dramatically in recent years. We have begun to reduce the immense level of resources dedicated to our national security and, by all indications, will continue to do so in coming years. Because of these changes, we have a historic opportunity to restructure our budgetary priorities. Hopefully, domestic challenges which have gone unanswered will benefit from defense savings.

However, there is a dramatic and upsetting downside to this reorganization of our budgetary priorities. Around the country thousands of highly skilled defense workers are being displaced because of the defense drawdown. We cannot afford to simply cast these workers aside. We would be selling the country short by not taking steps to take advantage of the skills and knowledge they possess.

The ramifications of a defense drawdown are not limited to one region or one political party. From Connecticut to California, Democratic and Republican Members of Congress are witnessing too many of their constituents being put out on the street. That these workers are being let go because of their success and not their failure is not only ironic, but sad. The weapons, planes, and supplies built by these workers played a critical role in winning the cold war and pushing Saddam Hussein out of Kuwait. Credit for the many impressive displays put on by the U.S. military goes not only to the brave men and women of our armed services, but to the men and women who constructed the weapons used in defense of the Nation.

For these reasons, I am introducing the Defense Economic Reinvestment Act of 1993, which is similar to legislation I introduced last Congress. I am proud to say that several provisions from that legislation were induced in the comprehensive economic adjustment package approved at the end of the 102d Congress and signed into law by former President Bush.

Last year, $1.7 billion in economic adjustment assistance was appropriated for those impacted by defense cuts as appropriated. I am very proud of the effort put forth by Congress on this issue last year. However, with an administration in support of efforts on this front, rather than blocking the way, I hope that package will be only the beginning. The process started last year is far too important to be abandoned by the 103d Congress.

The Defense Economic Reinvestment Act of 1993 contains three main sections. Each section attends specifically to the needs of workers, communities, and defense industry, respectively. I would like to briefly summarize each of these sections and submit a longer summary for the RECORD.

Title I of this bill deals directly with the needs of displaced defense workers, for they are the ones most immediately hurt by defense layoffs. Included is a provision providing incentives for companies to hire displaced defense workers. Designed to fill the job vacuum left by downsizing defense firms, I hope this incentive will attract new industry to impacted areas. Title I also allows States to use Federal unemployment funds to create reemployment assistance programs, including job counseling, job search, relocation assistance, and retraining. Funding would also be provided for the retraining of displaced engineers as environmental engineers and the enhancement of existing skills in areas of projected employment growth areas.

Title II focuses on communities hard-hit by defense cuts. A $1 billion grant assistance program, the defense economic development block grant [DEFBG], would be established for defense distressed areas. This money could be distributed within the community to assist in the difficult transition away from a defense dependent economy. I have also called for the Secretary of Defense to establish a loan guarantee program for major defense contractors designed to assist in the conversion of defense-related equipment to nondefense uses. Hopefully, this will encourage firms to undertake alternative activities they may not otherwise be able to sustain, thus preserving jobs.

Title III of this legislation is aimed at our Nation's technology and industrial base. Five hundred million dollars would be authorized for the research, development and application of alternative technologies in specified fields. Activities under this provision will be conducted by appropriately qualified institutes of higher education. My legislation also calls for resources to establish or assist environmental entrepreneurial centers aimed at transferring defense related to growth sectors of the environmental field. Finally, this legislation calls for each State to carry out a survey of its manufacturing firms. Hopefully, this information can strengthen the competitiveness of U.S. manufacturing, a key part of our economy.

We are at an important time in our Nation's history. We simply cannot allow our highly skilled workers to be treated recklessly. This legislation provides a safety net designed to break the fall of displaced workers. I hope you will join me in standing up for the well-being of defense workers and easing their transition to a new world.

□ 1730

CORRECTING THE CENSUS UNDERCOUNT

The SPEAKER pro tempore (Mr. MCNULTY). Under a previous order of the House, the gentleman from Florida is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, our new President has repeatedly spoken about fairness and sharing the burden and sacrifice. I hope that he means that he is going to help us correct the census undercount and the horribly unfair conditions it imposes on growth States. And we have many growth States in our country, and that means we have much unfairness because of this undercounting.

My State, Florida, for instance, faces a very severe undercount, over 260,000 individuals. That is a lot of folks, and it translates into a dollar loss of somewhere between $12 million and $15 million in Federal funding. And that is a lot of money.

These are not just numbers. Today there are more than a quarter of a million mothers and children under the poverty line in Florida who cannot qualify for Medicaid. There are 6,600 persons with developmental disabilities waiting for services that the State of Florida cannot provide. And worse, we have an infant mortality rate higher than most industrialized nations. That is a shameful report card.

Most people love to come to Florida. In fact, most people love Florida. It is a fabulous spot. We have a wonderful climate, nice living conditions and nice people in Florida. And people should love Florida because we are a megadonor State. We are giving much more money to the Federal Treasury than we are receiving back in services from the Federal Government. So Florida is certainly doing its job, and I do not think anybody can accuse a Member from Florida of being parochial when they ask that the census undercount be made true so that we get our fair share.

State budgets across the country are in tough shape. We all know that. But Florida's dismal 75-cent return on every dollar that its taxpayers invest in this Government is clearly an undue burden and one that most people in the United States of America are not sharing and, in fact, one that many are profiting from.

The refusal of the Census Bureau to use updated figures, which was announced conveniently over the Christmas break, when none of us was in town, is clearly another reason why we would like this matter reviewed. The fact that they have come up with bad information, reviewed it and then said, "We understand there is a mistake but we are not going to correct the mistake," seems to me to be an additional insult not only to the people of Florida but to the sense of fair play. And if there is anything that is peculiarly unique about Americans, it is that we have a sense of fair play.

I think right now that we have got a situation on our hands that with 43 million annual visitors coming to the State of Florida, think of that, 43 million people coming each year to visit Florida and enjoy it, and every day 654 new residents, every day we have to make room for 654 new residents and provide them services that they expect and have reason to expect, there is no doubt that the situation is going to get worse. And it is going to get proportionately worse every day this undercounting continues.

Now, of course, there is a median opportunity to correct that undercount in a few years, but we all know that it will go until the census 10 years from now. So this problem is going to become geometrically worse every day for the next 10 years for the people of Florida and for other growth States where this undercounting situation exists.

I urge my colleagues, I urge the President of the United States, for the sake of equal treatment, to support fair share legislation in census counting.

Bills have been filed. I hope that the chairman involved will have the wisdom and the vision and the sense of fair play to give those bills a hearing and to speed them to a successful conclusion so that when we get accurate information, we can actually apply it.

GENDER EQUITY IN SPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, today is National Girls and Women in Sports Day. I want to take a few moments to talk about the ongoing effort to assure that women and girls athletes are provided the same opportunities given to men and boys.

When I attended the annual NCAA convention last month, there were a chorus of suggestions that gender equity, or the equal opportunities for women collegiate athletes, will somehow diminish men's athletic programs, particularly football.

Such arguments remind me of the opposition 30 years ago against the passage of fair employment laws on the grounds that such laws would mean fewer jobs for white men.

Civil rights opponents were wrong then and those who will argue that a fair share of sports scholarships and funding for women sports programs will mean less for men are wrong now.

The guardians of football and men's basketball are not standing in the doorways of colleges and universities, but they are circling the wagons and talking about, "wait until next year" for equal treatment of women athletes.

It has been over 20 years since the gender equity law was enacted and we shouldn't have to wait any longer for it to be fully enforced. Women athletics have been a part of the NCAA for 10 years.

Last April NCAA executive director, Dick Schultz, in testimony before the Energy Commerce Subcommittee on Commerce Consumer Protection, and Competitiveness testified that gender equity, or the equal treatment of women in college sports, would be put on the association's front burner. But 2 months later, Schultz was quoted in USA Today saying, the NCAA "shouldn't try to rush" to adopt gender equity rules this year.

I attended the NCAA convention knowing that gender equity was not scheduled to be a major topic of discussion, but I wanted to get a personal sense of how serious the association is about eliminating unequal treatment of women in college athletics.

What I found in Dallas, to my disappointment, was a large degree of anger and paranoia from football zealots. Gender equity was not only not on the agenda, but it was apparently not in the hearts of the predominately male delegates. In a recent survey, 26 percent of the division I-A football coaches named gender equity as the No. 1 problem facing football. Even Mr. Schultz expressed concern that football has become a target for some regarding gender equity.

Football is not the target. Equal treatment of women in college and university athletic programs is the target. Is that asking too much when only 20 percent of the average athletic department operations budget of $1.31 million is spent on women's athletics. When only 48 percent of women's teams are coached by women while 99 percent of men's teams have male coaches. When division 1-A schools, where football is king, spend on average twice as much for men's coaching salaries as for women—$396,791 versus $206,106.

Don't get me wrong. Football and men's basketball are wonderful sports that I enjoy watching. I have never advocated making football the sacrificial lamb for gender equity. By the same token, football is not the automatic cash cow that some would have you believe. Football programs often lose money and they are subsidized by student fees from women as well as men.

We should not forget that gender equity or equal treatment of women athletes is the law. Under title IX of the Education Amendments of the 1972 Civil Rights Act, schools that do not grant equal access to sports opportunities for both sexes can lose Federal funds.

In the past year, I have held hearings to examine why title IX has not been adequately enforced, I plan to hold further hearings and to consider a bill to have enforcement of title IX taken from the Department of Education and put in the Department of Justice to perhaps get a more vigorous prosecution of title IX violators.

I am hopeful that the new administration will do a better job of enforcing title IX than past two administrations, but it may still be necessary for Congress to play a more active role in seeing that title IX is enforced.

The NCAA has made no secret of its feelings that Congress should not butt into the business of collegiate sports. Rather than worry about Congress taking steps to ensure that Federal laws such as title IX are obeyed, college presidents should stop dragging their feet when it comes to eliminating sex discrimination in intercollegiate sports. If that does not happen, rest assured, Congress will take the necessary steps to see that women athletes are treated the same as men.

□ 1740

The SPEAKER pro tempore (Ms. SLAUGHTER). Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, last month, Japan finished shipping a ton of plutonium halfway around the world from France to use in its breeder reactor program. Thankfully, the cargo arrived safely, this time. Neither the ship nor the plutonium had adequate physical protection against accident or attack. But the real threat remains the long-term risks and precedents of bringing so much plutonium into circulation. A ton of plutonium is enough material to make nearly 200 nuclear warheads and there will be 30 more shipments like it over the next 20 years.

While Japan has very real energy security needs, there are other, safer, and less costly energy alternatives than using plutonium in breeder reactors. Stockpiling uranium, currently at historically low prices, is one.

But there is an alternative version for Japan. For nearly 50 years, the United States and Japan stood together as close allies in the cold war struggle. But now that the cold war is over and the Soviet Union disbanded, our relationship threatens to degenerate into endless quarrels over semiconductors and minivans. In this time of global uncertainty, the United States and Japan could once again join together to take on the new strategic challenge of combating nuclear proliferation.

As a nonnuclear weapon state with a strong nonproliferation record and the only country ever to suffer a nuclear attack, Japan has the credibility and the moral leadership to achieve real improvements in the nonproliferation regime. Tokyo could take the first step in offering to end its plutonium breeder reactor program. It could then join the

United States in asking the rest of the world to adopt these nonproliferation and disarmament reforms:

A comprehensive test ban;

Enhanced disarmament assistance to the former Soviet Union;

Stricter IAEA safeguards and inspections;

Multilaterally enforced nuclear and dual-use export controls, backed up with sanctions imposed by the U.N. Security Council;

A worldwide ban on producing or using plutonium or highly enriched uranium for military or civilian purposes; and

Step-by-step reduction in the nuclear arsenals of the United States, Russia, France, China, and Britain and, eventually, the threshold nuclear states.

These are all realistic measures, many of which have already been endorsed by the Congress and President Clinton.

In 1995, the Non-Proliferation Treaty is up for review and extension. That year also marks the 50th anniversary of the United Nations and the end of World War II, and the 50th commemoration of the bombing of Hiroshima and Nagasaki. If Japan is willing, an international conference could be held in 1995, perhaps in Hiroshima or Nagasaki, to begin implementing these initiatives as the first step toward a nuclear free world.

To help promote this discussion and encourage the new administration to consider this approach, I have introduced the United States-Japan Partnership Act of 1993. The bill's text follows below.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Japan Partnership Act of 1993."

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Treaty on the Non-Proliferation of Nuclear Weapons of 1968 calls for an end to the nuclear arms race and an abolition of all nuclear weapons at an early date;

(2) pursuing a policy of significant and continuous reductions in the nuclear arsenals of all countries will help reduce the likelihood of nuclear profleration;

(3) with the end of the Cold War and the collapse of the Soviet Union, nuclear proliferation is now the leading threat to United States national security;

(4) the revelations of Iraq's clandestine nuclear weapons program demonstrate the necessity of strengthening international measures to prevent nuclear proliferation;

(5) Japan is the only nation that has endured the nightmare of nuclear explosions;

(6) Japan has a consistently strong record of upholding the Treaty on the Non-Proliferation of Nuclear Weapons of 1968 and has made important contributions to International Atomic Energy Agency safeguards and to addressing proliferation threats through diplomatic initiatives;

(7) 1955 is the 50th anniversary of the founding of the United Nations, the 50th rememberance of the destruction of Hiroshima and Nagasaki, the 50th anniversary of the end of World War II, and the date for the extension conference for the Treaty on the Non-Proliferation of Nuclear Weapons of 1968; and

(8) it is appropriate to mark these anniversaries with a rededication to the cause of peace.

SEC. 3. UNITED STATES POLICY.

The United States, in consultation with Japan, and other nuclear and nonnuclear weapon states, shall seek to convene a World Nuclear Disarmament Conference in 1995, with the goal of achieving a worldwide, verifiable agreement to phase-out nuclear weapons from the arsenals of all countries, through a long-term, stage-by-stage process. If acceptable to participants, such conference shall be held in whole or in part at sites in Hiroshima and/or Nagasaki. This denuclearization process shall include such steps as—

(1) a verifiable, comprehensive nuclear test ban agreement;

(2) a verifiable, worldwide agreement, to end production of plutonium and highly enriched uranium for weapons purposes, with existing stockpiles put under bilateral or multilateral controls;

(3) phasing out of the use of plutonium and highly enriched uranium for civilian purposes;

(4) strengthening, and greatly expanding international regimes to prevent countries from developing or assisting others to develop nuclear weapons or their components, and strengthening and creating international mechanisms, such as the United Nations Security Council, to enforce these regimes;

(5) significantly increased investment in the research and development of nuclear safeguard and verification methods and technologies, and

(6) phased reductions in the nuclear arsenals of the United States, the Russian Federation, the Peoples Republic of China, the United Kingdom, and, eventually, the nuclear threshold states.

SEC. 4. REPORTS.

(a) By January 1 and July 1 of each year, the President shall report to the Congress on the actions taken to date and the actions planned for the next six months to carry out each of the policies outlined in Section 3.

BASICARE HEALTH ACCESS AND COST CONTROL ACT 1993

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 5 minutes.

Mr. GLICKMAN. Mr. Speaker, today a bipartisan group of Senators and Members of the House reintroduced the Basicare Health Access and Cost Control Act of 1993. This bill was originally introduced by Senator NANCY KASSEBAUM and myself in March 1992, before the term "managed competition" became a buzzword here on Capitol Hill and in the Presidential election campaign. Now, it is almost all we are talking about with regards to health care reform.

Well, I think it has become pretty clear that whatever our future health care system resembles, it is not going to be a pure market system. There are too many legislators and policy folks who do not trust the market's ability to keep a lid on costs. The President has been looking for a solution to our health care crisis which combines market-oriented managed competition, global budgets, and some type of universal mandate. The problem is that about as many people trust the notion of a global budget as trust a pure market approach.

The key is to develop a plan with as little Government regulation as possible but with adequate measures to control cost inflation. With the Basicare bill, I believe we have found the answer. This bill is compatible with the managed competition concept. It simplifies the private health insurance market around a single, uniform Basicare benefit package.

All private insurers would be required to sell the Basicare package and all Americans to carry it. Basicare plans would be subject to community rating and other insurance market reforms to protect beneficiaries. Most importantly, the system is located entirely in the private market, encourages integrated networks of care, and requires little Federal regulation. In fact, it would actually mean less regulation than the leading managed competition plan because it does not require insurers and providers to join regional integrated care networks.

At the same time, this bill has a binding cost control mechanism which is simpler, less regulatory, and less unwieldy than a global budget. By placing an annual limit on premium rate increase, the Basicare bill emphasizes efficiency and cost effectiveness. It will be in carriers and providers best interest to form managed care networks and to compete for consumers within the private insurance market. The beauty of this approach is that it provides binding cost control with a minimum of Government regulatory interference in the health care marketplace.

Our purpose in introducing this bill is to create a forum for discussion among Democrats, Republicans, and the administration about managed competition and global budgeting. We have a bill that is compatible with both concepts. In fact, we believe we have the most logical, workable compromise between advocates of pure versions of each approach, and we invite the President and Mrs. Clinton to take a look at our approach as a good way to combine the two. Most importantly, our minds are open, and we are eager to work with anyone interested in developing a rational approach to national health care reform.

STRONG MARITIME POLICY SHOULD BE PART OF ANY ECONOMIC REVITALIZATION PROGRAM

The SPEAKER pro tempore (Mrs. COLLINS of Illinois). Under a previous order of the House, the gentleman from Virginia [Mr. PICKETT] is recognized for 5 minutes.

Mr. PICKETT. Madam Speaker, as President Clinton begins work on his economic program to bolster business activity, create jobs, and restore prosperity in our Nation, nowhere is his leadership more urgently needed than in the task of strengthening our domestic maritime industries.

The decline in this important economic sector has been truly staggering.

According to a report published January 6, 1993, by the U.S. Maritime Administration, the number of privately owned, deep draft vessels in the U.S. merchant fleet totaled just 467 in 1992—an incredible figure for a once-preeminent maritime power. Fifty years ago, at the end of World War II, there were over 3,000 of these vessels in the U.S. merchant fleet, and more than 100,000 people manning them.

The report documents similar decreases in other areas. There are only three commercial ships on order or under construction in U.S. shipyards, and amazingly, this is better than we were doing throughout much of the 1980's. There are 3,200 fewer oceangoing shipboard jobs than there were 1 year ago. Fewer Americans work as longshoremen, and shipyard jobs are vanishing so fast they ought to be covered by the Endangered Species Act.

We cannot allow our Nation's maritime industries to continue on their present course. As every war and conflict in modern history has demonstrated, a strong sealift capability is essential to meeting the heavy force deployment requirements of a major contingency. Fully 95 percent of all American troops and supplies must be moved by sea during a conflict. In an emergency, our Nation will depend on existing U.S.-flag cargo ships under charter to the Navy, as well as fast sealift ships; U.S.-flag liners under contract with the government; and vessels from the Ready Reserve Force.

Despite the allies' success in Desert Storm, the Persian Gulf war did reveal the clear limits of our present sealift capability. Largely unnoticed were the shipyards in my district and around the Nation that worked day and night to get an aging and rusting fleet of reserves seaworthy. We had to round up aging and increasingly rare merchant seamen to man those ships. And while all Americans can be proud of what was achieved on such short notice during Desert Storm, there is some doubt about how we would fare in a longer conflict, with a stronger adversary, and less allied support.

Madam Speaker, national security is not the only reason why our maritime industries are important to this Nation. With a strong maritime policy—grounded in trade policies that eliminate the unfair shipbuilding subsidies of our competitors, the United States can put thousands of Americans back to work and reestablish itself as the world's undisputed maritime leader.

More than 3 years ago the National Commission on Merchant Marine and Defense issued a comprehensive report detailing how this Nation could do just that. The report called for tax incentives, a procure and charter program, and other needed measures to revitalize our maritime industries. The Bush administration never sought to have that report implemented. President Clinton would do well to make it a part of his economic program.

Madam Speaker, the few remaining men and women who work in U.S. shipyards, who man U.S.-flagged vessels, and who are engaged in waterborne commerce, know that America can compete in the maritime trades, if only it can do so fairly. I urge President Clinton to give them that chance by making a stronger maritime policy a centerpiece of the Nation's economic program.

TIME TO PROMOTE U.S. ECONOMIC INTERESTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, in the closing days of the Bush administration, leading negotiators on the General Agreements on Trade and Tariffs [GATT], in Geneva, pushed the United States for major concessions in order to wrap up the agreement as quickly as possible.

Major concessions requested were on textiles, agriculture, and the acceptance of the Multilateral Trade Organization [MTO]. The European Community demanded a 50-percent cut in the highest U.S. tariffs, but refused to lower their own by an equal percent.

On agriculture, Mr. Mickey Kantor, the new U.S. Trade Representative told the Senate—in confirmation hearings—that the base year for cuts mandated by the agreement might give too much credit to the EC and limit the benefits for U.S. agricultural exporters.

While there has been little coverage of the power of the Multilateral Trade Organization—which would contain the enforcement powers of the GATT—in my opinion, it should be the greatest obstacle to signing on.

The MTO is modeled along the lines of the dispute mechanism in the Canadian Free Trade Agreement, and the yet-to-be-approved North American Free-Trade Agreement. The Canadian model provides for a panel of lawyers representing both Canada and the United States to sit in judgment on any challenges to the agreement.

In the most recent dispute between pork producers in the two countries, a dispute settled in favor of the Canadians, an investigation of the background of the lawyers showed that, with one exception, every one worked for firms that were registered foreign agents of foreign firms or nations, and one of the lawyers representing the American position worked for a firm registered as foreign agents for Canada.

This mechanism bypasses the American courts and can strike any law of the Congress without a possibility of an appeal to the U.S. courts. Another constitutional guarantee struck by this dispute mechanism is the citizen's right to litigate. According to the rules onto which we signed, industries or companies that wish to challenge unfair trading practices under the Canadian agreement must secure the approval of the Trade Representative, who must file their challenge. Effectively, this gives the Trade Representative the power of both judge and jury to assess damage before allowing the producers to be heard.

And, there is no appeal from the Trade Representative decision.

I am not a constitutional lawyer, but in the sense of understanding the rights of Americans under the Constitution to a day in court, to a hearing before a judge versed in U.S. law and, if necessary, to an appeal from that judge's decision all the way to the Supreme Court if necessary. That right is destroyed by this agreement.

Also, the power granted to the Trade Representative to screen disputes to judge who will be heard and the power granted to a body of trade lawyers, not sworn to uphold the interests of this Government, or its people, 50 percent of them not even trained in American law, this usurpation of the powers of the U.S. courts is extraordinary. And, the most shocking thing to me, is that no hue and cry has been raised anywhere that this already is occurring in the Canadian agreement.

In the case of Canada, we are hammering out disputes with one nation using this mechanism. In the current GATT group there are 105 nations and 112 are in on the current negotiations. If the Multilateral Trade Organization operates as proposed, our regulations and laws can possibly face challenges from any or all of them, they can gang up with charges that a U.S. law is deliberately disruptive of the free flow of goods and services across our borders. At which point, international trade lawyers meet in Geneva to decide the fate of our laws, our regulations, without appeal, without recourse available to American citizens most affected.

To project what possibly will be considered in this international court, already there have been challenges to our standards for asbestos and to our protection of dolphins. Challenges claiming that the only purpose of our laws has been to protect American fishermen and to close markets to Canadian asbestos.

Because we have not signed onto the Multinational Trade Organization, these challenges have been heard in American courts. The dolphins are still protected and the fate of asbestos, to my knowledge, is not yet decided.

The U.S. courts are sworn to uphold U.S. law. International lawyers will be convened to uphold the GATT agreement. I am heartened that the MTO—so far—has been a stumbling block to our capitulation to European demands.

It crosses my mind, considering the numbers of European countries which are beginning to drag their heels about going full tilt into the European Community, including Switzerland, the home country of Mr. Arthur Dunkel, director-general of GATT, that if Denmark and Switzerland are concerned about losing their sovereignty to the EC, wait until they study the loss of sovereignty to GATT under the Multilateral Trade Organization.

Under the MTO, the developed nations of the world will be offering lesser developed nations or Third World nations the opportunity to attack our standards, whether on food production or manufacturing standards, as being merely a structural impediment, put into place to keep their substandard products from our markets.

World standards for the MTO will be set by the Codex Alimentarius in Rome, a body of scientists working under the United Nations. Currently, the Codex accepts pesticides banned in this Nation and levels of some pesticides much higher than any acceptable either here or in Canada.

These are just a few concerns raised by the specter of such transferences of power to a new world body—the more immediate concern should be the possible loss of jobs if we give up our tariff positions on textiles.

One tends to overlook the fact that if we lower tariffs for Europe, whose production costs are similar to ours, that all of the other nations whose production costs are much lower than ours will get the same treatment.

With all of this push to give up any protection for our markets, we seemingly also overlook the fact that we are giving up protection of the standard of living of our workers. Recall the report on "60 Minutes" a couple of weeks ago about the use of child labor in Bangladesh? Shirts were being purchased wholesale in Bangladesh for $1, retailed in the United States for $12, nearly a 1,200 percent markup for the retailer.

Using 12- to 14-year-old children, paying no Social Security, no unemployment compensation, no medical insurance, and obeying no hours laws, no environmental nor safety regulations, the manufacturer could make a profit on a $1 per piece.

It is the height, or the depth, of some sort of ethical or social policy to support the idea that the American consumer should have the most cheaply produced product, or conversely that a retailer should be able to mark up by 1,200 percent reporting that he is buying the fruits of exploiting children in order to give the American consumer the cheapest product he can get.

One would be more impressed that the retailer really cared about the consumer if his profits were not so bloated.

But back to the point. What of the American worker who once made those shirts? Do we really expect him to be able to compete against the unprotected children? Should we?

Of course not.

We forget that besides raising revenue, the purpose of tariffs was to level the playing field, to protect the domestic worker from unfair competition. Of course, that was before we enshrined the rights of the consumer above all other human rights. Try explaining that to more than one-half million textile workers who have been thrown out of work in the last 10 years.

We have been so obsessed with this consumer-driven economy that we have begun to sacrifice our own people, and with them, our once-vaunted standard of living to buy just one more item, to bloat corporate profits with sky high markups, all the while the standard of living of average Americans continues to fall.

Looking at projected tax increases, the need created, I am convinced, by a shrinking manufacturing base—and the loss of highly skilled jobs, everyone is paying for consuming beyond what we are able to produce for our own needs. It is a situation rife for a return of inflation and an energy tax will add to that possibility.

I recall the stagflation of the mid-1970's, inflation driven by increased gas and energy prices which when passed on to the consumer dried up discretionary income to purchase the higher priced goods.

We are not condemned to repeat history. We have choices, if we are aware of how the system works and what we must do for our people.

In any negotiations with the European countries on trade, we must always take into account their taxing system. The value added tax [VAT] used by the European nations is a far greater trade barrier than a tariff.

Products exported to Europe are subject to a tax upon arrival. On average, it is 19 percent representing to the Europeans the amount of tax that would have been paid to them had the product been manufactured there. They recoup their losses on letting foreign products in.

Conversely, when a European product is exported, the exporter-manufacturer receives a rebate of approximately the same amount so the VAT offers what is tantamount to a bonus for exporting.

At no point in the trade negotiations with the Europeans have we ever asked them to redress the imbalance of the VAT on our products going in, nor am I aware that we have ever defended our tariffs as a balance to their demand that our producers pay value added taxes.

With a new administration coming in, negotiations on the GATT and the North American Free-Trade Agreement are up in the air. It is hopeful to me reading some of the statements by Mr. Kantor, the new Trade Representative, that he sees many options still open. The Journal of Commerce, January 20, 1993, reported,

> When it has to act, the Clinton administration will be more concerned with the reaction of the U.S. voters than of the trading partners.
>
> He promised to support a renewal of the controversial Super 301 provision which requires the U.S. trade representative to single out countries with excessive trade barriers for negotiation and perhaps retaliation.

The Journal quotes Mr. Kantor as saying, "The days when we could afford to subordinate our economic interests to foreign or defense concerns are long past."

I hope so, Mr. Kantor.

□ 1800

INTRODUCTION OF LEGISLATION TO REPEAL THE SECOND AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS. Madam Speaker, last week I reintroduced the resolution to repeal the second amendment. The second amendment is construed to be the amendment which gives everybody the right to own a gun. It is really not the case, because the language talks about the right to maintain a well-organized militia.

A well-organized militia in this day and age should be interpreted as a police department or a National Guard unit. Those who wish to justify the proliferation of guns in our society continue to manufacture guns and sell them as if they were a piece of hardware. Those persons insist on distorting the Constitution and distorting the second amendment, making it appear that the second amendment gives every American the right to own a gun, and anybody who tries to control or regulate guns is automatically considered unpatriotic, or in violation of the Constitution. That is not the case.

The Supreme Court has ruled on several occasions that government has the right to regulate guns and the use of guns in any way it wishes, that the second amendment does not rule out a State government, a city government, or the National Government from regulating guns. But as long as the second amendment is there, there are those who will insist that they have the right and the duty to defend the right to maintain guns for every individual who wants to carry a gun and to minimize the regulation of guns.

Even the very moderate piece of legislation known as the Brady bill, a very conservative, very modest piece of legislation which proposes to do no more than to require that anyone who obtains a gun must wait 7 days, who wants to buy a gun must wait 7 days before they can actually secure the gun, that there must be a period, a waiting period between the time they make the first attempt to purchase a gun and the time the gun is delivered to them, a simple 7-day waiting period. That has been made an impossibility to pass. That has been impossible in the last few years here in Congress.

So I am aware, as I propose the repeal of the second amendment, that not much is going to happen in that direction for a long time. The repeal of the second amendment, or repeal of any amendment, would take a long process. Congress would have to pass it, of course, with a two-thirds majority, and the States would have to ratify it. It is a long process, but I want to begin the debate now. I want to force those who care about our civilization and the direction our society is taking to look very carefully at this amendment which has led to the proliferation of guns in the American society as in no other industrialized society.

No other industrialized society has such an escalating proliferation of guns. No other industrialized society has the problems related to the proliferation of guns as a result of our allowance of the manufacture and sale of guns as if they were vacuum cleaners or hair dryers, just another piece of hardware. As a result of that, we have an escalating situation with respect to deaths by gunshot, with respect to serious wounds. Violence committed with guns is escalating at a very rapid rate.

Consider for a moment the fact that we have sent detachments of Americans to a nation that has been overrun with citizens who had guns, where guns became the means to settle disputes, the means to govern. Somalia had a complete collapse of civil rule. The society has crumbled. The society has completely been torn apart by men with guns.

You might say that is an extreme example, and how dare you compare that with anything that ever could possibly happen in the United States of America. Well, already in the United States of America, we have some Somalia-syndrome situations. We have some situations that are as bad as Somalia in New York City.

In New York City, there are housing projects, public housing projects, where gunfire is a problem every night, where parents have sawed off the legs of the beds so their kids sleep closer to the floor in case bullets come through the windows, where people are scared to go out in the daylight as well as in the night.

In December, the principal of a local elementary school was murdered in the daytime. He was out looking for a youngster who had left school, and as a result of him being out there, he got caught in the crossfire between some drug racketeers, and he was killed. It is known as the Red Hook Housing Project, and Red Hook Housing Project for the last 10 years has been complaining about the fact that they are terrorized by sporadic gunfire day and night. And there are other housing developments, and there are some blocks, where there are complaints that there is gunfire frequently.

You might say, well, that is New York City, and there are people in the Congress who would like to depict New York City as something out of this world, a something foreign to the United States. I assure you that the number of people killed by guns, the ratio of the number of victims killed by guns to the total population of New York is not the highest. There are places in the country where the number of victims from gunfire per 1,000 population is far greater than New York City. There are places in rural America where large numbers of incidents are occurring all the time. There are places in suburban America, in our schools.

You know, you have an incident in New York City, and in the schools, and it begins a very dramatic coverage by the press, the TV. It gets national coverage. So, you know, when a youngster is murdered in school, and there was a dramatic incident that took place just outside my district last year at Thomas Jefferson High School. It was just outside my district in terms of geographical boundaries, but the two young people killed were constituents of mine. They lived in my district. That got a lot of publicity, as it should have: Two young men shot down by a third one in a dispute which, if it had taken place 10 years ago, might have been violent but it would have been settled in a way which would not have caused the deaths of two young men as well as ruin the life of a third one, because he is finished after having murdered two of his peers. There is no future for him either.

They might have settled it with fists 20 years ago; 10 years ago they might have settled it with knives. But now you put a gun in the hand of any coward, and that makes him a king. Everybody out there is looking for a gun.

Over the weekend, one of the newspapers, Newsday, in New York, ran a story about a youngster who was renting guns. You can rent a gun for $25 a night, and if you kill somebody, he charges you extra when you bring the gun back. It is $100, or if you shoot somebody, it is $100.

You know, we have come to that point, but it is not just New York City. When those two youngsters were killed in New York, and I went to their wake, and just outside the funeral home, I was accosted by a group of young people who asked me, "Congressman OWENS, what are you going to do about it?" You know, I was for a moment not able to answer, because New York State has one of the toughest gun control laws in the country.

□ 1810

New York City has a gun control law which is one of the toughest of any city in the country. There is not much more in terms of gun control that you can do in New York City or New York State. Yet we have the problem proliferating all the time. So when the young people accosted me and said, "What else are you going to do? Surely there must be something else," the question in my mind is what is it that a Congressman can do at the Federal level?

We are trying to pass this feeble little Brady bill, which would call for people to wait at least 7 days before they can take a gun out of the store. Am I going to tell these young people, "Well, I am fighting for the Brady bill and I am a cosponsor of the Brady bill and voted for the Brady bill every time it was on the floor, and we cannot get that passed. That is all we are going to do"?

I do not think the Brady bill is the answer. The answer must be far more comprehensive. We must, as a nation, face the threat that guns present to our society. We must determine that the manufacture, sale, distribution of guns must be regulated by the Government from beginning to end. We must determine that the manufacture of guns should not be a profit-making enterprise, the sale of guns should not be like the sale of hardware. We are going to have to come to grips with that and determine now, before our society degenerates any further. Nobody is exempt and no institution is exempt. Let me just give you a concrete example of how the guns go everywhere. In the courts, in a very short period of time we have had a number of incidents where guns have been taken into the courthouse. Recently we had a strike by judges in Dallas, TX. Now, Texas is one of the places where you can freely buy guns. Texas is one of the major sources of guns that flow into New York City and other large east coast cities.

Now, Virginia is a State where most of the guns, the largest percentage of the guns in New York City, come from; that is Virginia. They have been tracked by the U.S. Firearms Bureau. But Texas, a large number come from Texas, too. In Dallas, TX, the judges went on strike because of several incidents that took place in courtrooms and they had not been able to get the kind of protection that they needed, with metal detectors and guards in the court. They went on strike.

Over the past year there have been at least 12 murders in courthouses with guns.

January 1992 a man killed his wife and brother-in-law in a Cleveland family court. This is America.

March 1992 a man fatally stabbed his girlfriend—that was not with a gun.

May 1992 a man shoots his wife to death and wounds lawyers at a divorce hearing in Clayton, MO.

July 1992 a man kills two lawyers and wounds two judges and a prosecutor in a Fort Worth, TX, courtroom.

September 1992 a man fatally shoots former girlfriend in San Bernardino, CA, courthouse.

Friday, January 15—we move from the courthouse and the situation there—we had a situation in New York where an assemblyman recently elected, serving in the New York State Legislature, was accosted while he sat in a barbershop, accosted by a group of young men with guns. He was pistol-whipped, a gun was put to his head and he was robbed. It happened to be his brother's barbershop. That is January 15 of this year, just to give you a rundown on the sampling of the different variety of incidents that do take place. They are everywhere.

Monday, January 20, 1992, and many of you may have seen this on television, a man shot and killed his wife in front of a TV camera; that is, his ex-wife. We have not had an incident like that, I think, since Jack Ruby murdered Lee Harvey Oswald. Now, that was in front of a television camera, man shot and killed his wife on Monday, January 20, 1992.

Tuesday, January 21, at Los Angeles Fairfax High School, a student carrying a gun to school for protection—he felt he had to be protected—accidentally shot two classmates. One of those classmates died.

A 357 magnum was what he was using. It went off accidentally. But he felt he had to have it because he needed protection. One of his classmates died and the other was seriously wounded.

On Wednesday, January 27, in Fort Green, right on the edge of my district, in Brooklyn, NY, a man was shot five times with a machine pistol in full view of the police. It was at a meeting called to discuss the crime situation. Right there in full view of the police outside the meeting, the man was shot five times. Fortunately, he did not die but is in serious condition in the hospital.

On Thursday, January 28, the New York police, as I said before, discovered and revealed the fact that they had closed down a rent-a-gun operation. The rent-a-gun operation was operated by a 16-year-old.

As I said before, you could rent a gun for about $25 a night, but if you shot somebody before you brought it back, it was extra, $100, this with a used gun.

On Saturday, January 30, you might have read about this in the paper, in Eustis, FL, two teenagers were charged with murder in a carjacking, rape, and shooting. They abducted the mother, her two daughters age 7 and 3. They drove to an isolated area where they raped the mother. They shot the mother and shot and killed both children. The mother was shot but was, fortunately, able to get help.

Sunday, January 31, in Washington, DC, a 19-year-old boyfriend takes two women and a 3-month-old baby hostage in a 19-hour police standoff. He killed his girlfriend and he killed her roommate's infant daughter and wounded the other woman before being shot to death by the police.

Monday, February 1, Amityville High School, out in the suburbs on Long Island, not in the big city, an 11th-grader killed another student and wounded a second student as a result of an argument they had.

These are boys in high school, with arguments; one killed, the other shot. The existence of guns transforms the situation that has existed since the beginning of civilization; ever since there have been human beings there have been arguments, there have been conflicts. Young men are very aggressive, they argue, there are conflicts, but the gun introduces a new element. The gun introduces a deadly element from which there is no return. The gun is what I am talking about today.

Our civilization must take steps, we as a legislative body must take steps, to deal with the fact that guns are a very deadly menace to the social order.

Mr. Speaker, I yield to my colleague, the gentleman from American Samoa.

Mr. FALEOMAVAEGA. Mr. Speaker, I commend the distinguished gentleman from New York for bringing this longstanding issue, which has been discussed and deliberated certainly not only by this body but seemingly throughout the country. As the gentleman has distinctly stated, in terms of what happened both in the State of New York and the city of New York, it certainly prompts all of us as Members of this body to devote our full attention concerning the problem of gun control.

As the statement goes, an ounce of prevention is worth a pound of cure. Perhaps this is one of the areas that we, as a burning issue, as the gentleman well knows, that we have our friends from the National Rifle Association always pressing the issue of a constitutional question of the right to bear arms; there seems to be an ongoing controversy as to why there should be no limitation in allowing the citizens of this great country of ours to bear arms. The gentleman also referred earlier to what is happening in Somalia. I was there recently with our good friend from Georgia, Congressman JOHN LEWIS, and other Members. Even right in the city of Baidoa, where, and the gentleman is absolutely correct, the number of arms that were present throughout the whole country ultimately translates into complete chaos. If it had not been for the recent intervention of military forces of our own country, that we finally brought some sense of order to that country and the problem faced by the people of Somalia.

□ 1820

Mr. OWENS. You know, I have seen many TV presentations and photos of young people, children, dying in Somalia, older people dying from starvation, and I have certainly been moved as most other people have; but the scene that really hurt me the most and really frightened me the most was a scene on television which depicted the parliament building in Somalia, what is left of the parliament building. It is just one wall with a mural on it and the rest has been bombed and gutted. They have just torn it to pieces.

You talk about the collapse of a civilization, there is nothing more symbolic than to see what has happened to that parliament building, and it is all the result of gun power and the proliferation of weapons in that society.

Mr. FALEOMAVAEGA. Mr. Speaker, I would say to the gentleman that I really appreciate him bringing this issue again to the forefront. Hopefully in the coming weeks and months with the advent again of the Brady bill that we can provide some stronger measures in terms of how we can best prevent this. It seems to me that prevention seems to be the key word in my mind on how we can best control this very, very serious issue now affecting the lives of the people in our country, and I want to thank the gentleman for bringing this issue for discussion in the Chamber.

Mr. OWENS. Mr. Speaker, I thank the gentleman. That is what I am here for in memory of all those who have been slain, the mass murders that have taken place.

In a cafeteria, a man killed 20-some people.

In a post office, a man went in to get even with his colleagues for some grievance he had.

Recently another one of those situations where a man took a rifle and came after his colleagues outside the gates of the CIA. They still do not know who it was that murdered two people on a morning when they were on their way to work. This maniac, who under any other circumstances would just have been a maniac on the loose, but with a rifle he became a deadly menace and two people are dead as a result.

On and on it goes, the escalation of it. It is happening more and more.

It might be a surprise to most Americans to know that if you compare the number of people who died in the Vietnam war, about 57,000 people died in the war, compare that to the number of people who were killed by guns in homicide situations, not accidentally, homicides in a 6-year period, 2½ times more people were killed by guns, civilians, 2½ times more Americans than died in the 6-year period in Vietnam.

It is a shocking statistic. Again it is escalating. It gets worse every day. The number of guns in our society is increasing, not arithmetically, but geometrically. There are twice as many guns out there as there were 5 years ago and the sales are booming. The legal sales are booming and the illegal sales are booming.

As we heard before, there are now people who rent guns.

You cannot solve the problem with one city government taking strong measures or the police in one place taking strong action. You cannot solve the problem with one State of the Union. We do not have boundaries or border police at each State to search cars or trucks as they come in. That is not the solution. It has to be a national solution.

There have been steps taken. The Brady bill is a very conservative moderate step. I am all for the Brady bill. I will vote for the Brady bill. I am a cosponsor of the Brady bill, but we have to do more.

Senator JOHN CHAFEE of Rhode Island last year introduced a more comprehensive law which would regulate the manufacture and sale of guns. He talked about the Government even offering to buy all the guns out there now that people would sell back. They would buy them to get some of them out of the society in that same law.

A number of people have proposed—I am not alone—a number of people have proposed that the second amendment be repealed so that we can clear the deck philosophically and ideologically and we can get it out of people's minds that there is some kind of right to carry this deadly weapon, that there is some kind of right to have our society move closer and closer to a situation where it may become impossible to retrieve all the guns or to regulate guns because there is going to be such a proliferation that nobody will feel safe without one, that nobody will be safe without one.

We will have to send in the Marines to certain sections of our own country in order to disarm people. It is getting that bad. It is not an exaggeration.

So I am not here because I have some kind of wish to tamper with the Bill of Rights or the second amendment. I am here because I am frightened. I am here because my constituents are frightened. Businessmen are very frightened. They feel that they are totally defenseless against any amateur. There are a lot of amateur crooks, people who would not dare to rob a store if it were not for the gun and they believe that the gun will protect them and that the gun is magic. A lot of amateur crooks, a lot of teen-age crooks, a lot of people normally who would not be out there, store owners and business people, they are out there now.

I am not here because I want to do damage to the Constitution or repeal any amendment for the sake of repeal.

I would very much like to have a dialog with members of the National Rifle Association that is a civilized dialog. I introduced this amendment, this bill to repeal the second amendment last year. I have a mountain of mail that does not involve civilized dialog at all. There is all kinds of name-calling, all kinds of retreats to bigotry, all kinds of things that happen in the mountain of mail opposed to the amendment. There are, of course, people who are for it, but those who oppose it are particularly violent, particularly profane, particularly racist. I do not want to confront those people. I am not interested in furthering that kind of dialog. I would like to have a dialog with the leaders of the National Rifle Association, with the leaders of sports associations, pistol clubs, hunters. There ought to be a way and there is a way, without question to have people who want guns and will use guns for sport and use guns in a responsible way to maintain guns and to keep guns without having a blanket situation where anybody can get a gun, without having a wide open situation where the criminal, the insane, the children, can all have guns. We ought to be able to come together.

I challenge the National Rifle Association and the leadership there to deal with the fact that more children are dying, more students are dying every day as a result of this proliferation of guns.

What positive stings can we do together or can we do alone, given your vast resources and your influence to deal with the fact that a large number of the victims of gunshot wounds and large numbers of victims dying from gunshot wounds are young people.

Do you have an educational program? Do you have something that you will propose to keep guns out of the hands of students and children?

I appeal to the National Rifle Association, because I assume they are adults, to join me in a dialog. Let us figure out a way to guarantee that those people are going to act responsibly and use guns responsible for support or for protection or whatever always will have them and they will be regulated in a way to keep them out of the hands of the people who are going to use them in irresponsible and deadly ways.

It is no small matter. In the weeks and the months to come, I intend to maintain a body count. We maintained a body count in Vietnam where we would announce periodically the number of people who had been killed. I would like to maintain a body count on the victims of gunplay in this country.

It is impossible, I find, to get running statistics, but we will do the best we can.

I would like to alert the American people to the seriousness of the situation.

I want to show the escalation factor. I want to show how it is increasing. I want to show the danger of the Somalia syndrome, where we have situations that have become so bad as result of this unchecked proliferation of guns that you have to send in the National Guard. You have to send in the Marines. You have to deal with it in ways which are totally un-American. We do not want to do that, but you are going to have that situation if you do not take action now.

It is the duty of the Congress to exercise the kind of wisdom that is necessary to prevent these kinds of situations. Preventive legislation, preventive action is what we should be all about.

The repeal of the second amendment is not the solution. The repeal of the second amendment, however, is something we should look at in order to begin to arrive at a comprehensive solution.

KHALISTAN'S ADMISSION TO THE UNREPRESENTED NATIONS AND PEOPLE'S ORGANIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 60 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to announce Khalistan's admittance into the Unrepresented Nations and People's Organization known as the UNPO, as well-respected organization with strong links to the United Nations and the international community dedicated to advancing the aspirations of its members through nonviolent means. On January 24, 1993, the flag of Khalistan was officially hoisted in The Hague during UNPO's annual general assembly.

Dr. Gurmit Singh Aulakh, president of the Council of Khalistan, who led the delegation to the UNPO should be commended for obtaining admittance of Khalistan to UNPO and for his tireless efforts in the struggle for Sikh freedom. Other delegates attending the UNPO general assembly were Dr. Parmjit Singh Ajrawat of Potomac MD, and Mr. Bhupinder Singh of Holland.

Mr. Speaker, Khalistan's admittance into the UNPO is a major milestone in the long struggle of the Sikh people for greater freedom from the Government of India. For years Sikhs have been trying to air their grievances against the Government of India in the international community, only to be thwarted by the central Government of India. Now the Sikh nation has the backing of the UNPO and a new voice in the community of nations.

Mr. Speaker, Khalistan's membership in the UNPO may very well act as a springboard for greater autonomy and eventual independence. There are four former UNPO members: the Republicans of Estonia, Armenia, Georgia, and Latvia. They also sought independence and have now ascended to complete independence and sovereignty as member nations to the world community.

The time for the Sikh people, and Mr. Speaker, I want to say this; it is spelled S-i-k-h people—to declare freedom from India is long overdue. Although India has long claimed to be the world's largest democracy, Mr. Speaker, India's historical and present treatment of the Sikh people clearly needs closer examination, not only by the world community, but certainly by our own community.

Since 1984, over 110,000 Sikhs have been killed by Indian Government forces. It is estimated that between 30 to 40 Sikhs are killed every day in fake encounters, in which police kill their Sikh victims only to claim that they did so during an attempted escape or in self-defense. Throughout India, Amnesty International reports that well over 10,000 Sikhs languish in prisons without charges or trials under laws condemned by the United Nations human rights committee as disturbing and completely unacceptable for falling far short of international standards for the protection of human rights.

Mr. Speaker, in past sessions of Congress I have introduced, or cosponsored, numerous bills supporting the Sikh nation's right of self-determination and seeking to censure India for her disrespect for freedom and violation of human rights against the Sikhs. I urge my fellow Members of Congress to support such legislation during this session. Furthermore, I ask the new administration under President Clinton to take notice of the injustices Sikhs, Kashmiris, and other minorities face under oppressive actions taken by the Government of India.

Mr. Speaker, the Government of India should be sent a message that the United States and the rest of the international community will not accept its brutality against the Sikhs and other minority peoples. The United States should support the Sikh nation's right of self-determination and make the Indian government aware that it cannot getaway with its tactics of oppression by the government. The time is long overdue for the freedom of Khalistan, and I ask the United States Congress, the Clinton administration, and the entire international community to support the inalienable right of the Sikh nation to exercise its right of self-determination.

Mr. Speaker, I submit for the RECORD copies of articles that appeared in Newsweek and Time magazine detailing Khalistan's admittance into the UNPO.

The articles referred to are as follows:

[From Time, Feb. 1, 1993]

STATES OF MIND

(By Margot Hornblower)

The plaint of the batwa pygmy, translated into Russian, resonated through the earphones of the foreign minister of the Sakha republic of Siberia. The Iraqi Assyrian compared his forgotten people with American Indians, as a Sioux from South Dakota and a Mohawk from Quebec applauded gravely. Two exiled princes—Tengku Hasan di Tiro of Acheh in Sumatra and Agofe John Bart Agami of Lado in Africa—chatted over cheese sandwiches. "We all have our own dreams," said Erkin Alptekin, an Uighur from East Turkestan. "And if we can share the same pillow, we can achieve our dreams."

A kaleidoscopic cross section of the oppressed, the colonized, the neglected and the rebellious gathered in the Hague last week for the general assembly of the Unrepresented Nations and Peoples Organization. With flag-bearing delegates from five continents, it had all the trappings of a mini-United Nations, despite one key difference: its 39 members, representing 130 million people, are mostly diplomatic outcasts, unwelcome in the international bodies where their fate is discussed. "There are some 5,000 distinct peoples in the world," said UNPO Secretary-General Michael van Walt. "But fewer than 200 states are recognized. Many groups want only basic human rights and their cultural identity. But others, perhaps 50, have the historical and political legitimacy to form new separate states."

The splintering of the Soviet Union and Yugoslavia has roused the expectations of restive peoples around the world. Kurds from Iraq. Ogonis from Nigeria. Nagas from India. Frisians from Holland. Shan from Burma. Mapuches from Chile and Argentina. At last week's conference, they agreed on one goal: self-determination. "Indonesia is Yugoslavia a hundred times over," claimed Di Tiro. The Achenese fought a long war against Dutch colonizers, only to be handed over in 1949 to the new Republic of Indonesia. The Javanese-dominated archipelago is battling uprisings in Acheh, East Timor and West Papua. "More than 200,000 of our people have been massacred since Indonesia invaded us in 1975," said an East Timor delegate. "But the world is changing. The Soviet empire has crumbled. We too can be free."

UNPO grew out of the unlikely friendship of a Tibetan, an Estonian and a Dutchman. On a visit to the Soviet Union in 1989, Lodi Gyari, foreign minister of the Tibetan exile government, looked up a fellow Buddhist, Far Eastern history professor Linnart Mall. Their two peoples had something in common: neither could argue their case before the U.N., which deals only through member nations or nongovernmental organizations. "Nobody stood for our interests," said Mall, now vice president of the Estonian National Independence Party. He and Gyari resolved to form an organization "to work for small peoples." They called on Van Walt, the son of Dutch diplomats, who had become a Washington lawyer and general counsel to the Dalai Lama. Representing Tibet's case before the U.N. Human Rights Commission, Van Walt had been besieged with requests for help from members of other nationalities. "The frustration was high," he said. "When people cannot be heard, it leads to violence."

In the two years since it began, four founding UNPO members have gained independence: Estonia, Armenia, Georgia and Latvia. Now several are embroiled in controversy over the treatment of their own minorities. At the conference, Estonia was criticized for refusing citizenship to its Russian inhabitants. Georgia was censured for repressing the Abkhazians, who asked for self-government in 1990. "In an act of genocide," Abkhaz National Theater director Valeri Kove told the assembly, "the Georgian army is trying to annihilate the people of Abkhazia. We cannot accept losing our motherland."

UNPO has led fact-finding missions to Abkhazia, Kosovo, Kurdistan, Tatarstan and Chechnya in an effort to mediate conflicts, monitor elections and draw attention to human-rights abuses. "The first step is to listen to people's feelings—not just to list statistics," said Van Walt. "But UNPO also aims to provide services." Last week delegates attended workshops on diplomacy skills, conflict resolution and media relations.

"How do you deal with hostile journalists?" wondered a Scanian, whose group, from southern Sweden, seeks more cultural autonomy; a Tibetan counseled him to establish regular contact with a limited number of reporters. Many representatives of the would-be nations complained that their conflicts are rarely covered. "Reports in the media are few and far between," said Mike Foster, a spokesman for the island of Bougainville, which has been under siege by the Papua New Guinea army for three years. "Our cries must be heard."

The most frequent complaint of conference participants focused on the use of population transfers as a weapon against self-determination. Thus a representative of the Mari said Russians are being encouraged to move into their territory. Likewise, Menelaos Tselios, representing Greeks in Albania, claimed: "The Albanian government is intimidating, assimilating and forcing population transfer on the Greek minority." Similar complaints came from Bangladesh's Chittagong Hill Tracts, where indigenous peoples are being forced into "cluster villages" to make room for Bengali settlers. Tatars, forcibly transferred to East Asia from their Black Sea homeland by Stalin, have moved back and built homes and mosques only to have them razed by the resident Russians and Ukrainians. "We do not ask for independence," said Ilknur Baysu, a Crimean Tatar attorney. "Only for basic human rights."

Thirty new peoples have applied for UNPO membership. To join, they must show they are representative. Two separatists from the Jura region of Switzerland did not qualify: their group has only 50 members. Another applicant, the Union Démocratique Bretonne, a minority party that promotes Breton, the Celtic language of Brittany, had high hopes. "UNPO is the only global organization where we can express ourselves," said delegate Kristian Guyonvare'h.

Prospective members must disavow terrorism. Two Sikhs from Punjab complained their application was delayed. "If we do not have a place in an organization like this, where will we go?" said Gurmit Singh Aulakh, president of the Washington-based Council of Khalistan. Three black American groups—Nigritia, the National People's Democratic Uhuru Movement and the Lost-Found Nation of Islam—came as observers. "There's a struggle all over the world for identity," said Jerry Carroll, a onetime Los Angeles blues singer and president of the Nigritian Commission. Also seeking a platform, a group of Bosnian Gypsies showed up to get help in fighting a Dutch deportation order.

UNPO's sudden popularity could lead to growing pains. With a largely volunteer staff, its funds come from U.S. and European foundations, as well as from a $1,000 annual fee charged each member. Mostly, though, it survives on determination. After giving a harrowing description of the Serbian terror campaign against his fellow Muslims, Alija Mahmutovic, a physician from the former Yugoslav territory of Sanjak, listened with furrowed brow to the testimony of his fellow delegates. "I realized we are not the only ones to go through hard moments," he said. "I was touched by the Indians from America, by the men from Khalistan. And," he smiled, "I had never before heard of Scania!"

[From Newsweek, Feb. 1, 1993]

BIRTHPLACE OF NATIONS

(By Scott Sullivan)

Absolutely everybody wants a government to call his own. The remnants of ancient civilizations like Assyria want to become self-governing states. So do indigenous tribes like the Masai and the Aboriginals of Australia. Microdot islands, like Bougainville in the far Pacific, yearn for a seat at the United Nations. Once-powerful nations like the Mohawks in North America dream of regaining past glories. The struggles of hundreds of different groups for statehood is becoming one of the permanent—and permanently dangerous—phenomena of our postcolonial, post-cold-war world.

Last week representatives of more than 30 would-be nations met in The Hague to publicize their causes and try to gain strength through numbers. The occasion was the third annual general assembly of the Unrepresented Nations and Peoples Organization (UNPO). Formed in 1991, the group has seen four of its founding members—Estonia, Latvia, Armenia and Georgia—actually ascend to statehood. Its official membership has swelled from 6 to 32, with 19 candidates hammering at the door. But expansion has brought problems as well as opportunities. UNPO is strapped for cash, and it faces a huge embarrassment: one of its active members, Abkhazia, is waging a full-scale war of independence against former UNPO member Georgia.

The shooting war between Georgians and Abkhazians is simply the most visible case of the complex enmities produced by the wave of decolonization in the 1960s and the fall of communism in 1989. Many of the nations now accused of exploiting and even massacring their subject peoples are themselves ex-colonies, like India, Indonesia and Nigeria. The new Baltic nations have barely had time to adopt democratic constitutions, but they are already facing charges of prejudice and ethnic persecution from their own minorities of Russians and Ukrainians. In Yugoslavia, the secession of Slovenia, Croatia and Bosnia set off a multifaceted civil war that now threatens the peace of Central Europe.

The high-profile war in ex-Yugoslavia is only one of dozens of armed struggles between the forces of centralization and independence. Rebels in the Indonesian island of East Timor say they have lost 200,000 citizens in a war that's been raging since 1975. Spokesmen for the quaintly named East Turkistan Cultural Association accuse China of slaying "hundreds of thousands" of their Turkic brethren. Indian police and troops are killing "30 or 40 people every day" in Khalistan, better known as the Punjab, according to the independence-minded Council of Khalistan. Kurds and Turkomans from Iraq rehearse Saddam Hussein's atrocities against them.

ALREADY VANISHED

Some independence movements are more rhetorical than real. The Scanians of Sweden and the Jurassic people of Switzerland both sent spokesmen to last week's meeting on behalf of their virtually vanished cultures and languages. Sister Shaba Shabaka, from Los Angeles, argued that a vast swath of Central Africa, once known as Nigritia, had been stolen from its rightful owners, the Africans carried off to slavery in the Americas. Richard Grass from South Dakota, whose grandfather fought against General Custer at the battle of the Little Big Horn, said his Lakota Nation continued to claim all of the U.S. territory known as the Louisiana Purchase, "plus a fair amount that is now in Canada."

On most issues at last week's meeting, a high degree of solidarity prevailed. All the aspirant nation-builders agreed that self-determination was an inalienable right. They all subscribed to the proposition that large nations are by nature hegemonistic. But there were limits to the harmony of the unrepresented. Last week 24 independence movements applied for UNPO membership. Only 10 were immediately accepted, and those rejected were furious. "Why should the people of Khalistan be left at the door?" asked Gurmit Singh Aulakh, an elegant Sikh with a waxed mustache and a splendid saffron-colored turban. Richard C. La France, a representative of the Mohawk Nation, warned: "When we met here two years ago, we were all brothers. Today we are pointing fingers at one another. Tomorrow, when you yourselves become sovereign, you may end up pointing guns at your own minorities."

Michael van Walt, the suave Dutch lawyer who founded UNPO and serves as its secretary general, recognizes the difficulty of separating the nationalist sheep from the goats. The main criteria for membership are that an organization should stand for a recognizable geographical area (which rules out such universalist groups as Black Muslims), that it be representative of its people and that it renounce the use of terrorism. Van Walt admits that most active members carry on activities that "lie in a gray area between armed struggle and terrorism." He tries to guide them from clearly terrorist actions like bombing school buses and "to help them learn other forms of resistance, especially diplomacy and skillful use of the media."

UNPO has largely fulfilled its aim of acting as an alternative United Nations—sometimes to the point of parody. Each member of UNPO sports a national flag, many featuring a green stripe for "hope." The organization has an elaborate set of committees, subcommittees and regional officers. Its delegates sit through hours of droning speech upon speech. As each orator approaches the podium, the chairman announces, for example: "We will now hear from the very distinguished representative of the Udmurt National Movement."

REAL NEED

UNPO's rapidly growing membership suggests that the organization fills a real need. During the cold-war decades, "movements of national liberation" routinely turned to the Soviet Union and its allies for both recognition and practical aid. Those that could not gain Moscow's backing could usually hope for some support from the West. But the new Russia has closed down its revolution-exporting activities, and the West no longer needs to balance Soviet influence. Modest as it is, UNPO is the best available sounding board for, and moderating influence upon, the countless groups striving for independence and statehood.

The movement for national identity is likely to continue growing, and more than a few world leaders view it with alarm. In a recent speech, Boutros Boutros-Ghali, the U.N. secretary-general, warned: "The international community is threatened by micronationalism. If we permit it to continue till the end of the century, the U.N. will grow from 180 members perhaps to 300." To ward off the threat, Boutros suggested, "we should encourage states not to separate but to gather together, as the members of the European Community have done."

Boutros may be right in theory. But the fact of the 1990s is that tens of millions of the world's people aspire to statehood, and large numbers of them are ready to fight and die for it. For all its quaintness, its overblown rhetoric and its petty squabbles, the Unrepresented Nations and Peoples Organization is sailing with the wind of history. If it continues to grow at is current pace, UNPO's next general assembly, in 1994, will include more than 100 tribes, movements and governments-in-exile. Some will be harmless dreamers, but a good number will fight their bloody battles along the fault lines of history, and a few may make it to full-scale membership in the comity of nation-states.

HUMAN RIGHTS VIOLATIONS AROUND THE WORLD

Mr. BURTON of Indiana. Mr. Speaker, for the past several years I have been talking about human rights violations around the world, in particular pointing out that in the northwestern part of India are two areas where human rights have been violated to a degree that we as Americans can no longer turn a blind eye to.

In Kashmir there are 500,000 Indian troops and police imposing martial law who have been gang-raping women, torturing men, and reports of mysterious disappearances which take place on a regular basis of people who may disagree with the governmental policies.

Right next door is the Punjab, or, as many now recognize it, Kalistan. The Punjab is made up of people who are peace-loving warriors who fight for their rights for their freedoms vigorously, but they love peace. It is an agrarian society, in large part. They just want peace and democratic society just like the rest of the world, as do their neighbors in Kashmir.

I cannot express strongly enough the revulsion that I feel when I see what is going on in those two areas of India, or what used to be India.

There are 500,000 troops in Kashmir. There are also 500,000 police and troops in the Punjab, and the gang rapes that take place in Kashmir also take place in the Punjab, or Khalistan as it is now called.

There are mysterious disappearances. I have seen picture after picture that I have brought to this floor during major debates on foreign policy appropriation bills to point out to my colleagues and to the world the horrible atrocities that are taking place.

We in this country who believe in democracy and freedom and believe that people ought to have those rights, in 1776 fought for our independence and our freedom and for the rights that God gave to every man and woman, every human being.

Because of the repression in the Punjab, those people have decided, many of them, that they ought to have an independent state called Khalistan. I have supported them by trying to impose financial restrictions on our foreign aid to the government of India until they allow human rights groups into Punjab and Kashmir so that the world can see what is going on, until they allow the rule of law in Punjab and Kashmir so that the world can make sure there is fairness and equity and that people have the rights that we have and hold so dear as far as jurisprudence is concerned in this country.

We have not been able to get that accomplished with the Government of India. The Indian people I have high regard for. My Indian-American friends I have high regard for. The Government of India, however, has been very repressive in these two areas and they need to be taken to task because of these repressions.

When you see the pictures of young men who have been disemboweled, who have had cigarettes put out all over their bodies and hot irons put on them, when you see their tongues cut out or their eyes gouged out, you realize that this kind of inhumane treatment cannot be tolerated and that people who live under that kind of tyranny have a right to be able to protest and have their freedom and democracy and have the independence that God has granted to those of us in this country.

Recently, Dr. Aulakh, a good friend of mine, went to the unrepresented nations and people's organizations at The Hague in the Netherlands and for the first time received their recognition as an unrepresented people, because they are not getting the proper representation that they deserve by the Government of India. I know that he and his colleagues who want fairness, freedom and independence and democracy in the Punjab were so happy when they saw their flag hoisted above the unrepresented nations and people's organizations at The Hague.

This should send a very strong signal to the Indian Government that not only does the United States and Great Britain and other countries around the world realize what has been going on in the Punjab and in Kashmir, but that other countries who are represented at the unrepresented Nations and People's Organization also understand what is going on and they want change, they want the martial law and the million troops in that part of India removed. They want fairness. They want freedom. They want democracy and human rights for the peoples in that area, just as we in the United States and the people of Great Britain want.

So I would like to say particularly to my friends, and particularly to Dr. Aulakh, congratulations on your efforts. I wish you the best in your efforts in the future, and hopefully one day in the not too distant future not only will the United States and Great Britain and the Unrepresented Nations and People's Organization recognize that you ought to have freedom, human rights and democracy in Punjab or Khalistan, that then it will become a real fact and we will see the kind of humanity in that part of the world that we are so happy to have in the United States today.

Mr. Speaker, I include the following material on this subject:

[From the Council of Khalistan press release, Jan. 24, 1993]

KHALISTAN ADMITTED INTO UNREPRESENTED NATIONS AND PEOPLES ORGANIZATION—MAJOR MILESTONE FOR SIKH INDEPENDENCE MOVEMENT

WASHINGTON, DC, Jan. 24.—In a major milestone for the movement for Sikh independence from India, Khalistan was admitted today as a full member of the Unrepresented Nations and Peoples Organization having its flag hoisted at The Hague in the Netherlands during the organization's annual General Assembly. The UNPO, a well-respected organization with strong connections to the international community, is dedicated to advancing the aspirations of its members through nonviolent means.

Attending the General assembly were Lord Ennals, Member of the British House of Lords and former British Minister of Foreign Affairs and Defense; H.S.H. Prince Hans-Adam II of Liechtenstein; Ireland's Nobel Peace Prize Laureate Ms. M. Corrigan Maguire, President of the Peace People, Belfast, and many other renowned dignitaries. UNPO members include Kurdistan, Tibet and Taiwan among many others. Four founding members, Latvia, Estonia, Georgia and Armenia, have already gained their independence and now possess full membership in the United Nations.

Dr. Gurmit Singh Aulakh, President of the Council of Khalistan who leads the struggle for Sikh independence headed the Khalistan delegation to the UNPO. "I thank the UNPO for admitting Khalistan within its organization," he said. "This is a big boost for the movement for Sikh freedom and increases international pressure on the Indian government to honor the independence of Khalistan and cease its violation of human rights against the Sikh nation."

"We are all very pleased," said delegation member Dr. Paramjit Singh Ajrawat. "India has sought to keep us isolated from the international community for years, but thanks to the work of Dr. Aulakh we are spreading the news of India's oppression of the Sikhs throughout the world community."

"We have long sought an audience with the International community," said Bhupinder Singh of Holland, also a member of the delegation. "Now India cannot hide. Its brutality will be exposed."

Since 1984, over 110,000 Sikhs have been killed by Indian government police, paramilitary forces, death squads and vigilante mobs. Between 30 to 40 Sikhs are killed every day in extrajudicial murders. At least 38,000 Sikhs languish in Indian prisons under draconian laws condemned as "disturbing" and "completely unacceptable" by the U.N. Human Rights Committee for falling far short of international standards for the protection of human rights.

But India's oppression is not isolated to the Sikh nation. The Christians of Nagaland, who were also admitted as full members of the UNPO, have lived under constant oppression at the hands of the Indian government since 1947. Since then, over 100,000 Nagas have been killed by Indian government forces. Sikhs and Nagas hope that the exposure the UNPO can shed on such atrocities will help cease the long nightmare they have had to endure under Indian government rule.

"India is not one nation but a conglomerate of nations held together against the will of the people," said Dr. Aulakh. "Like the Soviet Union, India too will disintegrate into its natural parts.

"Our admittance into the UNPO is a milestone for the Sikh struggle for independence," Dr. Aulakh continued. "The Council of Khalistan will use this as a springboard toward outright independence. With our admittance we seek, through peaceful means in accordance with methods accepted by the international community to expose India's oppression of the Sikh nation and its mistreatment of the Nagas, Kashmiris, Tamils, Assamese and other nations suffering under Indian rule as well.

"We now have behind us an organization recognized by the international community for its integrity. India can no longer malign the Sikhs in the eyes of the world with its disinformation. It is time for India to face the world and answer to its misdeeds. It is time for India to realize that its tactics of government by oppression will no longer be accepted by the international community. It is time for India to respect the human rights of the Sikh nation. And it is time for the freedom of Khalistan. The Sikh nation will have its freedom. India has no other choice."

BIRTHPLACE OF NATIONS

(By Scott Sullivan)

Absolutely everybody wants a government to call his own. The remnants of ancient civilizations like Assyria want to become self-governing states. So do indigenous tribes like the Masai and the Aboriginals of Australia. Microdot islands, like Bougainville in the far Pacific, yearn for a seat at the United Nations. Once-powerful nations like the Mohawks in North America dream of regaining past glories. The struggles of hundreds of different groups for statehood is becoming one of the permanent—and permanently dangerous—phenomena of our postcolonial, post-cold-war world.

Last week representatives of more than 60 would-be nations met in The Hague to publicize their causes and try to gain strength through numbers. The occasion was the third annual general assembly of the Unrepresented Nations and Peoples Organization (UNPO). Formed in 1991, the group has seen four of its founding members—Estonia, Latvia, Armenia and Georgia—actually ascend to statehood. Its official membership has swelled from 6 to 32, with 19 candidates hammering at the door. But expansion has brought problems as well as opportunities. UNPO is strapped for cash, and it faces a huge embarrassment: one of its active members, Abkhazia, is waging a full-scale war of independence against former UNPO member Georgia.

The shooting war between Georgians and Abkhazians is simply the most visible case of the complex enmities produced by the wave of decolonization in the 1960s and the fall of communism in 1989. Many of the nations now accused of exploiting and even massacring their subject peoples are themselves ex-colonies, like India, Indonesia and Nigeria. The new Baltic nations have barely had time to adopt democratic constitutions, but they are already facing charges of prejudice and ethnic persecution from their own minorities of Russians and Ukrainians. In Yugoslavia, the secession of Slovenia, Croatia and Bosnia set off a multifaceted civil war that now threatens the peace of Central Europe.

The high-profile war in ex-Yugoslavia is only one of dozens of armed struggles between the forces of centralization and independence. Rebels in the Indonesian island of East Timor say they have lost 200,000 citizens in a war that's been raging since 1975. Spokesmen for the quaintly named East Turkistan Cultural Association accuse China of slaying "hundreds of thousands" of their Turkic brethren. Indian police and troops are killing "30 or 40 people every day" in Khalistan, better known as the Punjab, according to the independence-minded Council of Khalistan. Kurds and Turkomans from Iraq rehearse Saddam Hussein's atrocities against them.

ALREADY VANISHED

Some independence movements are more rhetorical than real. The Scanians of Sweden and the Jurassic people of Switzerland both sent spokesmen to last week's meeting on behalf of their virtually vanished cultures and languages. Sister Shaba Shabaka, from Los Angeles, argued that a vast swath of Central Africa, once known as Nigritia, had been stolen from its rightful owners, the Africans carried off to slavery in the Americas. Richard Grass from South Dakota, whose grandfather fought against General Custer at the battle of the Little Big Horn, said his Lakota Nation continued to claim all of the U.S. territory known as the Louisiana Purchase, "plus a fair amount that is now in Canada."

On most issues at last week's meeting, a high degree of solidarity prevailed. All the aspirant nation-builders agreed that self-determination was an inalienable right. They all subscribed to the proposition that large nations are by nature hegemonistic. But there were limits to the harmony of the unrepresented. Last week 24 independence movements applied for UNPO membership. Only 10 were immediately accepted, and those rejected were furious. "Why should the people of Khalistan be left at the door?" asked Gurmit Singh Aulakh, an elegant Sikh with a waxed mustache and a splendid saffron-colored turban. Richard C. La France, a representative of the Mohawk Nation, warned: "When we met here two years ago, we were all brothers. Today we are pointing fingers at one another. Tomorrow, when you yourselves become sovereign, you may end up pointing guns at your own minorities."

Michael van Walt, the suave Dutch lawyer who founded UNPO and serves as its secretary general, recognizes the difficulty of separating the nationalist sheep from the goats. The main criteria for membership are that an organization should stand for a recognizable geographical area (which rules out such universalist groups as Black Muslims), that it be representative of its people and that it renounce the use of terrorism. Van Walt admits that most active members carry on activities that "lie in a gray area between armed struggle and terrorism." He tries to guide them from clearly terrorist actions like bombing school buses and "to help them learn other forms of resistance, especially diplomacy and skillful use of the media."

UNPO has largely fulfilled its aim of acting as an alternative United Nations—sometimes to the point of parody. Each member of UNPO sports a national flag, many featuring a green stripe for "hope." The organization has an elaborate set of committees, subcommittees and regional officers. Its delegates sit through hours of droning speech upon speech. As each orator approaches the podium, the chairman announces, for example: "We will now hear from the very distinguished representative of the Udmurt National Movement."

REAL NEED

UNPO's rapidly growing membership suggests that the organization fills a real need. During the cold-war decades, "movements of national liberation" routinely turned to the Soviet Union and its allies for both recognition and practical aid. Those that could not gain Moscow's backing could usually hope for some support from the West. But the new Russia has closed down its revolution-exporting activities, and the West no longer needs to balance Soviet influence. Modest as it is, UNPO is the best available sounding board for, and moderating influence upon, the countless groups striving for independence and statehood.

The movement for national identity is likely to continue growing, and more than a few world leaders view it with alarm. In a recent speech, Boutros Boutros-Ghali, the U.N. secretary-general, warned: "The international community is threatened by micro-nationalism. If we permit it to continue till the end of the century, the U.N. will grow from 180 members perhaps to 300." To ward off the threat, Boutros suggested, "we should encourage states not to separate but to gather together, as the members of the European Community have done."

Boutros may be right in theory. But the fact of the 1990s is that tens of millions of the world's people aspire to statehood, and large numbers of them are ready to fight and die for it. For all its quaintness, its overblown rhetoric and its petty squabbles, the Unrepresented Nations and Peoples Organization is sailing with the wind of history. If it continues to grow at its current pace, UNPO's next general assembly, in 1994, will include more than 100 tribes, movements and governments-in-exile. Some will be harmless dreamers, but a good number will fight their bloody battles along the fault lines of history, and a few may make it to full-scale membership in the community of nation-states.

STATES OF MIND

(By Margot Hornblower)

THE HAGUE.—The plaint of the batwa pygmy, translated into Russian, resonated through the earphones of the foreign minister of the Sakha republic of Sibera. The Iraqi Assyrian compared this forgotten people with American Indians, as a Sioux from South Dakota and a Mohawk from Quebec applauded gravely. Two exiled princes—Tengku Hasan di Tiro of Acheh in Sumatra and Agofe John Bart Agami of Lado in Africa—chatted over cheese sandwiches. "We all have our own dreams," said Erkin Alptekin, an Uighur from East Turkestan. "And if we can share the same pillow, we can achieve our dreams."

A kaleidoscopic cross section of the oppressed, the colonized, the neglected and the rebellious gathered in the Hague last week for the general assembly of the Unrepresented Nations and Peoples Organization. With flag-bearing delegates from five continents it had all the trappings of a mini-United Nations, despite one key difference: its 39 members, representing 130 million people, are mostly diplomatic outcasts, unwelcome in the international bodies where their fate is discussed. "There are some 5,000 distinct peoples in the world," said UNPO Secretary-General Michael van Walt. "But fewer than 200 states are recognized. Many groups want only basic human rights and their cultural identify. But others, perhaps 50, have the historical and political legitimacy to form new separate states."

The splintering of the Soviet Union and Yugoslavia has roused the expectations of restive peoples around the world. Kurds from Iraq. Ogonis from Nigeria. Nagas from India. Frisians from Holland. Shan from Burma. Mapuches from Chile and Argentina. At last week's conference, they agreed on one goal: self-determination."Indonesia is Yugoslavia a hundred times over," claimed Di Tiro. The Achenese fought a long war against Dutch colonizers, only to be handed over in 1949 to the new Republic of Indonesia. The Javanese-dominated archipelago is battling uprisings in Acheh, East Timor and West Papua. "More than 200,000 of our people have been massacred since Indonesia invaded us in 1975," said an East Timor delegate. "But the world is changing. The Soviet empire has crumbled. We too can be free."

UNPO grew out of the unlikely friendship of a Tibetan, an Estonian and a Dutchman. On a visit to the Soviet Union in 1989, Lodi Gyari, foreign minister of the Tibetan exile government, looked up a fellow Buddhist, Far Eastern history professor Linnart Mall. Their two peoples had something in common: neither could argue their case before the U.N., which deals only through member nations or nongovernmental organizations. "Nobody stood for our interests," said Mall, now vice president of the Estonian National Independence Party. He and Gyari resolved to form an organization "to work for small peoples." They called on Van Walt, the son of Dutch diplomats, who had become a Washington lawyer and general counsel to the Dalai Lama. Representing Tibet's case before the U.N. Human Rights Commission, Van Walt had been besieged with requests for help from members of other nationalities. "The frustration was high," he said. "When people cannot be heard, it leads to violence."

In the two years since it began, four founding UNPO members have gained independence: Estonia, Armenia, Georgia and Latvia. Now several are embroiled in controversy over the treatment of their own minorities. At the conference, Estonia was criticized for refusing citizenship to its Russian inhabitants. Georgia was censured for repressing the Abkhazians, who asked for self-government in 1990. "In an act of genocide," Abkhaz National Theater director Valeri Kove told the assembly, "the Georgian army is trying to annihilate the people of Abkhazia. We cannot accept losing our motherland."

UNPO has led fact-finding missions to Abkhazia, Kosovo, Kurdistan, Tatarstan and Chechnya in an effort to mediate conflicts, monitor elections and draw attention to human-rights abuses. "The first step is to listen to people's feelings—not just to list statistics," said Van Walt. "But UNPO also aims to provide services." Last week delegates attended workshops on diplomacy skills, conflict resolution and media relations.

"How do you deal with hostile journalists?" wondered a Scanian, whose group, from southern Sweden, seeks more cultural autonomy; a Tibetan counseled him to establish regular contact with a limited number of reporters. Many representatives of the would-be nations complained that their conflicts are rarely covered. "Reports in the media are few and far between," said Mike Foster, a spokesman for the island of Bougainville, which has been under siege by the Paoua New Guinea army for three years. "Our cries must be heard."

The most frequent complaint of conference participants focused on the use of population transfers as a weapon against self-determination. Thus a representative of the Mari said Russians are being encouraged to move into their territory. Likewise, Menelaos Tselios, representing Greeks in Albania, claimed: "The Albanian government is intimidating, assimilating and forcing population transfer on the Greek minority." Similar complaints came from Bangladesh's Chittagong Hill Tracts, where indigenous peoples are being forced into "cluster villages" to make room for Bengali settlers. Tatars, forcibly transferred to East Asia from their Black Sea homeland by Stalin, have moved back and built homes and mosques only to have them razed by the resident Russians and Ukranians. "We do not ask for independence," said Ilknur Baysu, a Crimean Tatar attorney. "Only for basic human rights."

Thirty new peoples have applied for UNPO membership. To join, they must show they are representative. Two separatists from the Jura region of Switzerland did not qualify: their group has only 50 members. Another applicant, the Union Démocratique Bretonne, a minority party that promotes Breton, the Celtic language of Brittany, had high hopes. "UNPO is the only global organization where we can express ourselves," said delegate Kristian Guyonvare'h.

Prospective members must disavow terrorism. Two Sikhs from Punjab complained their application was delayed. "If we do not have a place in an organization like this, where will we go?" said Gurmit Singh Aulakh, president of the Washington-based Council of Khalistan. Three black American groups—Nigritia, the National People's Democratic Uhuru Movement and the Lost-Found Nation of Islam—came as observers. "There's a struggle all over the world for identity," said Jerry Carroll, a onetime Los Angeles blues singer and president of the Nigritian Commission. Also seeking a platform, a group of Bosnian Gypsies showed up to get help in fighting a Dutch deportation order.

UNPO's sudden popularity could lead to growing pains. With a largely volunteer staff, its funds come from U.S. and European foundations, as well as from a $1,000 annual fee charged each member. Mostly, though, it survives on determination. After giving a harrowing description of the Serbian terror campaign against his fellow Muslims, Alija Mahmutovic, a physician from the former Yugoslav territory of Sanjak, listened with furrowed brow to the testimony of his fellow delegates. "I realized we are not the only ones to go through hard moments," he said. "I was touched by the Indians from America, by the men from Khalistan. And," he smiled, "I had never before heard of Scania!"

THE ISSUE OF GAYS IN THE MILITARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN. Mr. Speaker, I probably will not take the full 60 minutes, but, as I address this distinguished Chamber today and about a million people on C-SPAN, and that would include those who are watching the other distinguished body at the north end of the world's greatest legislative building; as I speak, they do not have to worry about touching the dial and flipping over to the other C-SPAN channel because Mr. DOLE is just concluding his remarks on the Dole amendment which is being debated concurrently with the Senator Mitchell amendment. Both are debates on motions to table both the Mitchell and Dole amendments on whether or not to do something about the ban on homosexuals in the military.

Mr. Speaker, we have not yet addressed this issue, except by a few short 1-minute speeches over the few days that we have been in legislative session in the 103d Congress, but there probably will be a strong, vigorous debate in this Chamber soon, sooner, probably, rather than later, and I want to weigh in now with some observations that I think are germane to what I believe is a firestorm growing across this country with veterans groups.

Mr. Speaker, this morning the Republican House Research Committee, an instrument of our leadership, held hearings in the Rayburn Building with three panels of distinguished heads of veterans organizations, and the testimony was nothing short of stunning on homosexuality in what is certainly not the gay nineties, not with a black plague type disease, as one of the veteran leaders described it, that has already killed 100,000 homosexuals, 100,000 American homosexuals. That is far more than they killed in action, a total of 33,629 in Korea and the killed in action out of the 58,000-plus on the wall, the Vietnam wall. The killed in action is 47,832. We put those two figures together, and we still do not come anywhere near 100,000.

Let me correct the Vietnam killed in action. It is 382—47,382, a precious figure that includes 8 American women who died as Army nurses in the line of combat duty, and some missing in action, and some who died of torture and captivity in North Vietnam dungeons and other Communist cells.

□ 1840

Mr. Speaker, 100,000 are a lot of human beings. I said on this floor that in the early years of the AIDS crisis, the pollution of our blood supply was being incubated by promiscuity. Some people on this floor said incubated by sodomy. Well, sodomy by its nature involves promiscuity. And the majority of deaths, over 73 percent, if you throw in joint drug user and practicing homosexual, way over 73 percent.

If you discuss the Ryan White's of the world, the young man who was a hemophiliac who died because of the polluted blood supply before our otherwise fine Red Cross got with the program and started discriminating in every sense of that verb and telling people that if you are homosexual, whether you are practicing or not, we will not take blood from you. That is a discrimination of from whom they will take blood. And once they started that, on September 9, 1985, we began to clean up the blood supply in America, which is still not perfect. I think the odds are 1 in 4,000 that if someone gets a nonprearranged blood transfusion, you can worry a tad, but the worry is less than being struck by lightning. So I would suggest that people trust the blood supply up to this point. It is not like France, where everybody is suing because the authorities there knew it was a polluted blood supply, probably for the same reasons in the United States, and still kept dispensing blood. It is tearing that country's health system apart.

During the hearings this morning, Mr. Speaker, several references were made to blood, as Senator DOLE made in his concluding speech, right before these two votes that are going on right now.

He stated that the blood supply in the military, particularly in his branch of the service, the Army, is a living he called it walking, blood supply. The largest mobile blood supply in our combat forces is carried in the veins of your rifleman next to you, your mate in a foxhole, your shipmate in a gun turret on board the ship with you. Everybody has their blood type on their dog tags, along with their name and their religious affiliation, if they want to state it.

When you are wounded, and the blood supply is quickly exhausted, particularly with ships at sea. When a big aircraft carrier was hit in World War II, the blood supply was gone within hours, if not minutes. Then the whole ship becomes a mobile blood supply.

If people can't trust in the military that the blood supply is pure, then you have certainly an obvious morale problem.

You can incubate within yourself the immunodeficiency virus for 4 months, some people say, and others say much, much longer, before it would even register in a test.

So if you engaged in wild partying because you are going off into the service and contracted the HI virus, you could be on active duty for 4 months or longer before it would show up in a test.

Oh, yes. Oh, yes. It does not show up within hours or days, my friends.

Now, this mobile blood supply is just one reason of dozens and dozens of reasons that came up from our veterans this morning. I had the opportunity to read the opening paragraph of the current Time magazine under a section called Armed Forces, entitled, "Sex, Lies, and the Military." The subtitle, "For Gays," and later on in the article they always have to add the word male, gay males and lesbians. Lesbians, thanks to the Isle of Lesbos and sisters of Sapphos in ancient Greek mythology, probably, not history, lesbians have their own name.

It says, "For gays and lesbians, life in the Armed Forces means unflagging vigilance and tactical deception."

Now, this particular article is bylined by one reporter, a lady, Jill Smolowe. I will spell that name, S-m-o-l-o-w-e. It is unfamiliar to me.

It is a sympathetic article to the homosexual viewpoint, which makes these opening paragraphs all the more revealing.

Listen to this. Keep in mind the Latin expression sotto voce. It comes from the opera. It means soft voice, but you can hear it.

The article begins, "It is done sotto voce, but somehow word gets passed. The Air Force is the most hospitable armed branch. The Marines and the Army are the pits. Entertainment jobs, medical jobs, are the safest." This means for homosexuals. "Artillery and infantry units the roughest. If possible, head for bases around San Francisco or Washington, DC. Steer clear of South Korea and Hawaii. Join groups like Alcoholic Anonymous." This is if you have never had a drink in your life. Just join the group. "Why? Because they are safe enclaves, especially for those in the Navy. Buy 'Bob Damron's Address Book'." That is in italics because that is a title. "Bob D-a-m-r-o-n's Address Book". "It lists gay bars near military installations, both at home and abroad. But be careful—such clubs are off limits and often scouted by bands of military police known as courtesy patrols."

Notice the pejorative use of the word bands. I never thought of shore patrol or military patrol, although we did call the air police AIF's, but that was just a term of affection for AP's. I never heard them called bands. You know, bands are what you say for roving bands of looters or roving bands of Vikings scourging throughout Europe. I never heard this term applied to MP's.

"But the bands of military police known as courtesy patrols. Be alert for changing code words. If someone says don't go straight, go forward, or asks are you a friend of Dorothy's, you will know you have found the Emerald City."

Some of the Members know, the freshman class does not, that my uncle was Jack Haley, the tin man in the "Wizard of Oz". I went on that set as a 6-year-old and have fond feelings, since it is my children's, all grown now in their thirties, five of them, favorite film, the world's greatest babysitter. I have a ninth grandchild on the way. No movie has captivated my grandchildren like the "Wizard of Oz". I am sorry to see it become code words for homosexuals in the military, that you are in Emerald City, party time. Party on, Garth, party on, Wayne, if you answer yes, you are a friend of Dorothy's.

"For gay men," notice they have to add the word men there, "for gay men and lesbians, military service means a life of unflagging vigilance and tactical deception," starting off with recruiting, because you have to lie to get in.

The adversary they fear most does not speak a foreign tongue.

Mr. Speaker, I want to slow down here. Let me read this with real emphasis. "The adversary they," homosexuals, "fear most does not speak a foreign tongue. Rather, the enemy lies as close as the next bunk."

Your bunk mate. Your shipmate. For a homosexual in the military, that is your enemy. What an amazing statement.

"At military bases across the country, homosexuals describe the existence that at best is tentative, guarded, and supported by discrete networks. At worse, it can mean snickering colleagues, which hurts, and dangerous blanket parties, during which the victims are held beneath covers and beaten senseless," which is a cowardly act. And I have seen people that have been thrown out of the military, deservedly so, for these blanket parties.

The one I remember vividly that I thoroughly approved of was not over homosexuality, it was someone who just would not take a bath. He stunk to high heavens. Some people teased him that he had terminal BO. Finally they gave him a blanket party, scrubbed him with scrub brushes without soap or water, and some men received an article XV, and as I recall, 12 hours each marching in a rectangle on the tour paths for giving this guy what they called a GI bath.

These blanket parties are cowardly, and it is described in the media as gay bashing. Of course, whatever you call it, at its root it is not only violent and brutal, it is cowardly and it is condemned by every man of character and courage, whether in uniform or not.

Of course, women, it goes without saying, are not into violent little stunts like that.

"Until now, the military's homosexuals have had to live with the uneasy knowledge that exposure of their secret could mean expulsion. Over the past decade, homosexuals have been discharged from the Armed Services at the rate of about 1,500 a year." I might say that since the 1991 figures I looked at a few days ago, this is not evenly spread over the services.

□ 1850

I asked Admiral Moore, former Chairman of the Joint Chiefs for 4 years under the Kennedy years, why the Navy had a far disproportionate number in the number of figures. I gave him the 1991 figures. It went something, I will be off one or two figures here, the Marine Corps was 45. Remember that because of the Colt .45, 45. The Air Force was 146. The Army was 199, and I do not remember precisely the Navy, but it was in the high 580's.

I said, Why would there be so many more in the Navy? He said because of the living conditions. The Marine Corps, of course, is low because they have less than a third of the men that are in the Air Force and the Army and the Navy.

He said, because of long isolation, sea duty, long deployments overseas, he said the temptation is greater to succumb in a situation where you might be caught, which is interesting that the Navy will have the biggest problem, if the privacy factor is ended. And he said that it has always been thus. And in the Army and the Air Force, it is handled on the base level, more quickly, and the people have more access to going far away from the base of assignment to work out their sexual proclivities.

By the way, an important footnote here that I have come to believe, talking to Europeans on how their militaries handle this, there is a lot of lies and misinformation and disinformation going around. Israel and France are the two most distorted in how they handle it.

They do not ask people coming in, Mr. Speaker, but in France sex is considered so private that they do not ask but they make it clear, when you are recruited, that whether you are heterosexual or homosexual, if your sexual conduct becomes any kind of a problem, you are out, if you are a heterosexual. And if it becomes known at all, conduct notwithstanding, that you are a homosexual, you are not. The burden is upon you to keep it private. And this pejorative, ugly little term "in the closet" or "coming out of the closet" or "outing somebody from the closet" is a loaded term, created about 25 years ago by a homosexual activist/propagandist because what does that really mean, if you are looking for a synonym?

Out of the closet or in the closet conjures up an evil stepmother after a beating putting you in a small dark place when what it really means is privacy. That is all, privacy. And anyone in the military wants promotions and wants the respect of his colleagues who, to quote Gen. Colin Powell, do not understand the mores of the homosexual community in any country in the world, if you want that respect, maintain your privacy.

A perfect example, perfectly analogous, is someone who has a problem. There are all sorts of sick expressions about zipper problems or lack of respect for women, but suppose someone has the problem which psychiatrists call a Don Juan complex, a man incapable of loving women, incapable of feeling worthy of being loved back, so he is in the conquest mode to sleep with as many women as he possibly can.

If this person, and I am thinking of vaguely a true story here, not so vaguely, if this person is the CEO of a division of one of America's largest corporations, say, he is tall, very tall, over 6 feet 3 inches, handsome, prematurely gray hair, has redesigned a semi-sports model for one of the divisions of General Motors, is not only a designer and a good manager but is the star of five divisions of General Motors and is hand-picked to become the CEO of the entire corporation and suddenly the word starts circulating among the board of directors that he is a womanizer, that he is cheating on his wife and his mistress and cheating on his mistress more than once, that he has got this Don Juan problem, guess what happens in the closed boardroom? This division chairman of General Motors never becomes CEO. As a matter of fact, he is soon separated from the corporation.

Suppose this were in the military and this person were a man or a woman, generally a man, of course, up to make colonel, become a wing commander, come back to the Pentagon, become a brigadier and maybe go back and be a division commander of an Army division, and it is found out that he is either totally deceiving his wife or breaking her heart or she does not know, so he thinks he is the world's greatest con artist.

When it gets around his fellow officer corps, particularly above them, that is the end of his promotions. If he kept this private and was so discreet and so hidden that it was taken that he engaged in this illicit adultery and/or fornication miles and miles from the base, miles from his family and nobody ever knew, then everybody ever knows, right. That is called privacy. You could call it heterosexual in-the-closet illicit conduct, offending Mosaic law, adultery, but if it becomes known, his peers, without ever having to put anything down in writing, when it comes down to a promotion board in private, thumbs down. No promotion.

And most homosexuals in the military know that that is exactly what would happen to them. You know what? The Europeans that I have spoken with, officers and NCO's, have told me that it is their experience that no matter what is on the record on how you handle homosexuality and uniformed people, 90 to 95 percent will never come out of privacy. They just will not, for all the aforestated reasons.

So who will come out? Activists or people who think that enemy in the bunk next to them is about to disclose something to superior officers, out them, or, as happens in many cases, as these cliques develop on bases of one homosexual group against another, he will be outed either anonymously or openly by some other homosexual group who himself is in private for revenge, for some imagined or real offense against the one clique or an individual of the clique.

Talk to the military people. You get stories of all these tensions and conflicts that sometimes if you get two or three groups together can actually tear about an entire unit up to sizes of units that would stagger your imagination in analysis.

Newsweek magazine in an article, Mr. Speaker, I hope my staff is watching and brings the article over here so I can put it in the RECORD at this point. Newsweek had an article in January, three or four issues ago, four issues ago. The title of the article was a play off the title of one of the ABC daytime soaps, "The Young and Reckless."

The title was "The Young and the Reckless." It talked about not San Francisco or New York or one of our so-called sophisticated big cities, talked about Milwaukee. And it said in front of some of the homosexual bars there, they even gave the title of one. I think it was called the Club, the Club. It was the saloon. That was the name of the saloon, was the saloon in caps. It said older homosexuals in their thirties would come and shop, troll in front while young men with baseball caps on backwards and baggy Levis would lean against the wall. They called them teenagers, 18, 19, and 20, some probably lying about their age, below age. And they would lean against the wall and they would be selected by these older homosexuals for partying and no safe sex here.

That is why the title of "The Young and the Reckless." It said that the carnal, that is Newsweek, a Newsweek reporter used that word "carnal." Again, it was basically a sympathetic article, but the time you are through reading it, that the carnal activity was incredible.

And the article goes on to say, this is not just happening in big cities. It is happening and they mentioned medium- to small-size cities all over America where this is happening.

It is happening, I understand, in my town of record in my Orange County district, Garden Grove, CA, pretty much your average little small, lower- to middle-class American town with a great future. This "Young and the Reckless" problem is, according to Newsweek, going to cause a whole new surge of HI virus infections in young homosexuals and start this cycle all over again in the one group that we thought had exercised some discipline on activity and was using more than any other group in America safe sex.

We are still getting the warnings about the growth in the heterosexual community, which is where it is most prevalent in Africa, where it may literally kill tens of thousands of people in the next 10 years. And in high school kids across this country, where it is considered nonromantic, nonspontaneous to engage in any kind of contraceptive preparation for the sex act.

Here is a Marine Corps major, I hope he will not mind my using his name, but it is on the front page of one of our Nation's newspapers from the middle North of our country. He is suggesting disbanding the Marine Corps. That is how much this marine loves the corps, Mr. Speaker.

□ 1900

Listen to this. Listen to this. U.S. Marine Corps officer to Congress—that is to me, that is to all of us here, Mr. Speaker: "Abolish the Corps rather than admit homosexuals," Washington, DC. "No sooner was Bill Clinton sworn in as President than his top aides announced that the military's ban on homosexuals would be lifted. Under a plan worked out by President Clinton and his senior national security advisors"—and I can hardly absorb that, senior national security advisors; we are discharging good men and women, some of them decorated heroes from Desert Storm who want a career, who are halfway through a 20-year career, who want to stay, some approaching the 16th, 17th year, and we are discharging them saying, "We like your action and you got extra, exceptionally qualified officer efficiency reports, NCO reports, but we are going to have to let you go," meanwhile let's talk about bringing in people that cannot perform their approach to sex in 26, 27, 28 of our States because it is illegal; it is in the Universal Code of Military Justice, as sodomy, illegal, and it is also illegal up to this moment, at least, in the District of Columbia; but, "Come on in while we push out these other highly qualified and decorated men and women."

So anyway, "Clinton's senior national security advisors three days before the inauguration, Clinton will ask his Secretary of Defense, Les Aspin, to issue a code of conduct for both heterosexual and homosexual military personnel and an executive order which removes the ban. The order is expected to be issued as early as May, after Clinton concludes his consultations with top military officers."

He never asked for those, it was more or less forced upon him, Mr. Speaker.

Those were "consultations on how to implement the new order." In other words, all done, no matter what the Senate has voted on within the last few minutes, it is going to be done.

"How the order will be accepted among the armed services is not clear." It is after I heard all these people this morning. "Though certainly a measure of the discontent with Clinton's plan is indicated in the January issue of Marine Corps Gazette." That is a fine, fine service magazine.

Maj. Arthur J. Corbett, a student at the National War College, said it would be better to disband the Corps than see it dishonored and its virtues and values destroyed. In a brutally frank column titled 'Disband the Corps' Major Corbett says, 'The proposal to open the ranks of the services to homosexuals is a sign of a declining culture, a culmination of banal evils from a progression of noxious ideologies.'

"'If the U.S. Marine Corps is opened to homosexuals,' said Major Corbett, 'the marines should ask Congress to abolish them. Perhaps now is the time to recognize that, although America, more than ever before, might actually need a Marine Corps, it no longer wants one. It is true that the future portends many littoral conflicts'"—that means the littoral or coastline of the countries, l-i-t-t-o-r-a-l, the corniche—"'littoral conflicts to which a Marine Corps should respond, but the other services will adapt. They will certainly adapt better, the other services, to amphibious work there than the Marine Corps will adapt to recruiting sexual deviants.'"

"'Marines are an incredulous lot by nature, and brutally honest in their observations and decisions. The young officers who attempt to explain how homosexuality is an alternate instead of a deviant lifestyle will quickly lose the respect of their marines and a bit of their own honor in the process.'"

Continuing to quote, "'Sanitized terms like "sexual orientation" may serve to obfuscate the gross realities of a perverse life style to a jaded public, but marines living in barracks will rightfully question leadership that discredits by association the sacrifices they are willing to make. The party line will be that homosexuals are Marines, just like you and me.'"

I have heard a decorated marine from Vietnam who serves in the Senate make that very point on the floor tonight. He is going to vote with the homosexual ban removal.

Major Corbett continues: "'The cognitive dissonance'"—and don't we educate our Marine officers well, Mr. Speaker?—"'cognitive dissonance that this simple yet official lie must engender will tug at the credibility and ultimately rend the integrity of our corps. Critics claim that homosexuals already lurk in our ranks. The salient difference between the current reality and the proposed policy is that now homosexuals lie to the Marine Corps. Soon we will find that, to accommodate homosexuals, the Marine Corps must lie to marines, and they in turn lie to one another. Institutions like the corps are not built upon deceit. It is time to ask Congress to disband our Marine Corps. We should transfer our personnel to other services and don their uniforms. It is better to wear proudly the uniform of another service than to see the globe and anchor progressively defamed.'"

Mr. Speaker, we are in a break, waiting for the Senate votes to come over here, and I am hoping that enough Members, a great majority of the party, went over to Mr. DOLE and we will have some language to truly study this for six months and keep the standing policy in place and get a full debate in both houses and a vote.

Here is the article I mentioned just a few moments ago, Mr. Speaker, I want to read it verbatim, the opening paragraph.

Listen to this, "The Young and the Reckless." It is under the "Lifestyle" section. I don't know why it has above the title the word "Mind." Is this all taking place in people's minds? I thought it was hypothalamus, underdeveloped, except for lesbians, only the male hypothalamus, by a doctor who was a self-admitted homosexual dealing with 40 cadavers of homosexuals who died of AIDS, and he finds the hypothalamus is not developed, unbelievable, and that is being stated now as scientific fact by people over at the White House.

The subtitle is, "Safe-sex campaigns are running into a generation gap in the gay community." Here it goes.

"It was an average, rollicking 'Boy's Night Out' at The Saloon in downtown Minneapolis." As I said, that is the name of the place. "Conspicuous among the crowd of thirtysomething regulars was a generous sprinkling of dewy-faced 'boys'—18 to 21-year-olds, allowed in Thursday and Sunday nights to dance and make sexual contacts but not to drink liquor. With their backward baseball caps and baggy flannel shirts, some of the younger contingent might have been just off a touring school bus. But that impression was emphatically dispelled later at the carnal 'Sidewalk Sale' that is one of the attractions of Boy's Nite"—boy's night, sickening to this grandfather of soon to be nine grandchildren, sickening corruption of youth.

What did William B. Yates write about the coming of World War II right before he died, that "the blood-dimmed tide is loose and everywhere the ceremony of innocence is drowned. The center cannot hold, things fall apart, and the best lack all conviction, while the worst are full of passionate intensity."

The Members had better believe the center is not holding, and the ceremony of innocence is being drowned all around us. Boy's night out on the sidewalk sale of teenagers. If these young boys were shot up by a terrorist on a school bus, they would call them children. I will never forget when a high school bus was attacked in Israel and a dozen or so high school seniors were all gunned down by some of George Habash's terrorists, all the papers of the world called it a slaughter of children, when they were killed on a bus accident or a young football team goes down, they are children. But when they are in the streets of Minneapolis—did I say Milwaukee before? I will emphasize Minneapolis, and it probably is happening in Milwaukee, too, then they are not children any more. These are adults, supposedly; all 18, capable of sowing seeds for their own destruction and a painful death, curled up in a prenatal position, covered with Kaposi's sarcoma, cancer sores, and coughing from every pulmonary disease that comes down the pike, all infecting their bodies, slow, miserable deaths, sometimes living 14 years in this slow death agony, sometimes mercifully a third of them are dead within 6 months of being told that AIDS has manifested itself, and this is a sidewalk sale of boys.

"As one jaded curbside cruiser"—that is an older homosexual—"curbside cruiser observed after checking out the youthful wares," and I am going to respect the decorum of this floor by changing a word that means anal sexual intercourse, it is not the worst of words, it is the one that sounds like "carpentry," what you use without nails, use your imagination, Mr. Speaker, he says, "after checking out the youthful wares," like this is a hardware store, he says, "They are just old enough to bleep without getting yourself arrested for it." Disgusting.

Minneapolis is hardly the only place such daring games are being played. While the annual rate of new HIV-positive cases among homosexuals is decreasing, surveys in urban areas from Seattle to Mobile, Alabama are finding signs of a relapse to pre-AIDS recklessness marked by a resurgence of freewheeling gay night life.

□ 1910

"Even more worrisome, the evidence points to a growing generation gap in AIDS awareness: The importunate youth of the gay community apparently are practicing high-risk sex in significantly greater numbers than their elders. Studies say young gays are more likely to have had multiple partners and unprotected anal intercourse, the two leading risk factors for HIV infection, in the past 12 years. In the San Francisco area, where this year the HIV-positive rolls grew by 1,000, a department of health survey indicates that a second wave of AIDS infections is taking shape, with the highest incidence among gay men between 17," that is a minor in my State, "and 25. Nationally, according to the Centers for Disease Control and Prevention, diagnosed cases of AIDS among homosexual men from 13," that is not a man, "13 to 29 crept upward last year, in defiance of the overall trend downward.

"It seems clear that the safe-sex message is not getting through effectively to younger [homosexuals]."

Did you notice the use of the word by the Newsweek magazine right before "sidewalk sale" of "carnal"? Is that not a judgmental word, the carnal sidewalk sale, one of the attractions of "boys' nite."

So there it is in Newsweek. Here is the current article on the military in

Time, and I repeat, these are generally, as you read on, sympathetic articles.

Mr. Speaker, the fight is on.

Mr. DAN BURTON of Indiana just came to the floor, and I thought of a trip that he and I took to Granada. He was a sitting Congressman. I had just been gerrymandered out of my seat. It was the first days of November 1983, so that is 10 years ago this month. We went down to Grenada. The combat was not completely over, snipers were still operating in the hills, and the island was not totally secure. We were seeing for the first time women, not in combat units, but in support units on an island when, I repeat, the combat was not completely over. And we went out to I think it was the airport where the Rangers were hit in broad daylight, in the morning by mistake because the Cuban advisers had 23 millimeter antiaircraft fire set up, and were actually hitting all of the C-130's that were bringing in the 17th Ranger unit. And we were briefed with the colonel there, and then as we traveled around the Army units, about to be passed off to the Marine Corps, we noticed an Army captain that was, to be very frank, very effeminate. He had a small radio on one hip, and in the manner of some very eminent people in show business, what they call a limp wrist, or a broken wrist, he would put his wrist on his radio, cock his hip, stand with his toe pointed. It was like someone who was imagining he was a ballet dancer. So not to be unkind, giving him the benefit of the doubt that this buy was probably a highly-decorated Army captain, and it turned out later he was assigned to the general staff, and I think Mr. BURTON was standing right there, we turned to some of the sergeants and we said, "About this captain over here, is he a pretty good officer?"

Now I have traveled enough in the armed services for the Foreign Affairs Committee to tell you that our military enlisted people truly respect their Congressmen. When a Congressman or Congresswoman comes to a military base, it is not only officers that roll out the red carpet. A lot of these young men and women want to talk with you, they want you to eat in their chow hall, they want to spill out their good, positive suggestions, and they want to gripe. It is not just like World War II where the joking gripe was if you do not like it here, write your Congressman. That was generally under heavy fire, "Write your Congressman." But when a Congressman was there they were respectful of that.

So here is a young E-4 or E-5, who is not a senior sergeant, but like a buck sergeant, maybe a corporal, and I said to him, "How about this officer over here, is he a pretty good officer?" And he says, "Oh, sir, you mean that flaming," and he used the roughest word for a homosexual in America. In Britain it may be queer or something else, and I feel free to say that since they have renamed themselves in some groups as the Queer Nation. But this is a word that hurts, and I understand that, and that is why I will not use it. It is a British synonym for kindling wood, or cigarettes, and it is an alliteration, and it starts with a "f." "You mean, sir, that flaming (blank) over there? He's ridiculous."

Now as a Congressman I want to say wait a minute, sergeant, or corporal, why are you so open about this? Your career could be destroyed if he overheard you. "Are you kidding, Congressman? Everybody in this unit knows this guy is a flaming blankety-blank. He sickens us."

Now I ask you a question, is that the way you remember it? I will ask you a question. When that happens, the respect factor is gone. This is what the military means by order, good order, discipline and morale. That officer obviously was not commanding respect among the men under him, no matter how a younger man should be disciplined for speaking that roughly about an officer. And that was not just an officer he was addressing, he was a superior officer that he was telling that to, but the way he did it so openly, we had the feeling that they talked like that, all of the men in the unit talked like that about this general's aide. And I thought boy, good thing we have the policy we have. And for 10 years that policy has served us well, and anybody who has been in the military, and I have been an enlisted man for 2 years, and a cadet, and an active-duty officer, the California Guard Pilots Air Corps, Reserve Pilots combat-ready, standby reserve, and out-of-reserve after 28½ years, and I can tell you, maybe Time magazine is right, the Air Force is the most hospitable branch of the service to homosexuals. And then my dad's, the artillery, the infantry, I repeat, are the roughest.

I was on 10 bases on my active duty service, and on 8 of those 10 bases we heard right after we arrived or right before we arrived that there was a major homosexual scandal with lots of people discharged. And this was 1953 to 1958.

I remember Lackland Air Force Base where everyone was awakened one night with lights, and sirens, and the Air Police making a bust, and as I recall 13 homosexual activists are near the dugout at the first base on the baseball field, where they were all having a little orgy, and were all together caught with searchlights in some kind of a preplanned operation, all of them having anal sex on first base, and there went 13 people out of the Air Force, and that stuck in our minds. I had just turned 20, and I was an aviation cadet wing colonel at 20 years of age. So I had to be briefed on this, and I had to pass the word to all of the troops.

I found one sadist, an underclassman below me, who was making aviation cadets do pushups on top of one another, naked in the closet. I stood them up, and one of them was crying. Eventually he washed out for lack of emotional stability. And one guy said what kind of a man are you that you would subject yourself to that, and I am sure that the sadist who was doing this, he thought that he was some macho somebody who was going to be a jet fighter pilot, but he went back to being in the enlisted ranks, and I heard that later he was out of the service. Even in the ranks of training to be a pilot you can get bad apples like that, and the military's job is to weed them out.

So now we stand on the possible status of this debate in the Senate, and for those, Mr. Speaker, who have C-SPAN, they can click over to C-SPAN II if they have it, and they can find out what has happened. It will be back here soon. We are doing special orders now, not at the end of the full legislative business, but in lieu of recessing or adjourning so that we can go back into session to vote on this family leave act, which will have either the Mitchell or the Dole language on homosexuality in the military attached to it.

I would like to close by discussing a prologue that I always use when this issue comes up at home, or with the news media people, and it is simply why are we discussing this? It was not the Senate's choice, as Senator DOLE made very clear tonight. It is not the House's choice, and I would not have been making this speech on this maybe the whole 2 years of this Congress if Mr. Clinton had not moved on the only campaign promise he seems determined to keep if he had not brought it up.

Now, to defend the President, it was Veterans Day, November 11, in the Rotunda of the State Capitol in Arkansas when a media person, the powerful fourth estate up there behind me, brought up his campaign promise, and pushed it in his face, and he came out and he said in front of all of these veterans, and there were at least 30 veterans' divisional unit flags behind him, and he said yes, he thought it was a discrimination issue and a civil rights issue, and he was going to pursue this.

□ 1920

Now, the problem was he should not have been that soon, as someone who at one point in his career said he had loathing for the military; he should not have maybe gone to a Veterans' Day thing just 8 days after the election and put himself in a position to be asked that. He should have waited until he was inaugurated, eased in with some visits to military bases, and then started to make statements, and then the press would have hit him on this.

But from that day to this, there has been a building firestorm, since November 11 through the inaguration, right down to today, and to tell you the truth, Mr. Speaker, I think, what BOB DOLE is trying to do, our great Senator from Kansas, is stop the President from hemorrhaging. He has a bleeding wound, a massive bleeding wound. It is going to get worse over these 6 months if these veterans' groups that appeared at our Research Committee hearing this morning have their way.

The best that can be done for the President, and I talked to the Senate chairman of the Armed Services Committee in the majority party, is to close this wound, stitch it up, cauterize it, let him admit defeat, go to this constituency of homosexual activists that raised almost $4 million for him and say, "What do you want me to do? Look how much capital, political capital, I have expended. You have almost bankrupted me. It has ruined the first 2 weeks of my Presidency. Wait until next year, will you, or the year after? I have done what I can do for you. Let me move on to the laser-beam focus on the economy," balancing the budget, trying to bring down our massive debt, to quote the Governor of Colorado, which I completely concur with, is a nation-killer.

Our debt and our deficits are nation-killers. That is a darn good quote, and I will use it for the rest of the time that I am here in this Congress. Let him get back to the nation-killer issues and not try to fix something that is not broken, the morale of our military and the finest fighting units we have ever developed in all the history of military science and the art of arms.

Mr. Speaker, I think the best thing that the leadership in this Chamber and the other great body could do is to end this, give us a straight up-or-down vote, and let us in this Chamber speak with all of those phone calls that were coming in so highly respected and touted, to Larry King, to Rush Limbaugh, to the lowest, tiny little Christian Bible station that calls up in the hills of the Ozarks or the Olympia Mountains, all these radio programs with the voice of America, the vox populi who were speaking.

Now there is a lie going around that it is organized calling. I can tell organized calling whether it is from the right or the left. We can all tell organized postcard campaigns. We know what white mail is, mail handwritten on personal stationery, every style of writing, different, some long, some writing in the margins, some terse and simple, written on small monarch-sized stationery; the calls and the letters we are getting are from Middle America.

I want to close by quoting something my colleague from southern California, DUNCAN HUNTER, said in the hearings. He said, "Our volunteer military is working," the young men and women who volunteer to join. Because of it, I like this word picture: The coffee tables of the kitchens, small homes around America and small apartments, from an Archie Bunker-type apartment in the Bronx to the smallest little house in any little housing project anywhere in America, it is not the upper classes and the elite that send their kids into the military. Every now and then somebody from a wealthy family who has a fourth or a fifth child, that through reading, gets an interest in the military and maybe goes through an ROTC program or rarely asks for an appointment to one of the service academies. The kids that are asking for service academy appointments from this Member of Congress are from the lower middle class and some from the upper middle class of our country, and certainly all middle class.

Unfortunately, from the lower classes, unless you get an outstanding mom or dad, or a team of mother and father, a kid from the lower classes generally does not have the education, and that is a tragedy, to even pass the entrance exams to be a soldier, sailor, or marine, let alone an officer. So it is middle America.

Around that coffee table, talking about the options for an only son, an only daughter, or the oldest or the youngest of a large family, and at that coffee table, that kitchen table, we are going to interject a new element, and that is that that youngster, particularly if he or she is so gung-ho to go in and finish high school at 17 the way I did, just barely turned 17, that they need their parents' permission to sign them in, or a judge, and 99.9 percent of it is a parent, and that parent says, "Send my 17-year-old into military services that have been turned into some sociological experiment like some beaker in a chemistry lab; we are going to pour in this ingredient that religiously active people in this country call sodomy?"

You do not have to go any further than Leviticus or Romans to realize that you have to rewrite the Old Testament that begins, "And the Lord said to Moses," you know, from the top right to the main man, "The Lord said to Moses, abomination," or in Romans, St. Paul, who spread the Christian faith after the son of God's crucifixion, and telling people and listing in there plenty of heterosexual sins and all sorts of lying and cheating and thieving, abusing your neighbors, and puts in there clearly, "Men with men, women with women, abomination"; Romans in the New Testament, Leviticus in the Old, telling people who really go to church and practice religion in the middle of this County, "Give us your children. The Marine Corps wants, you know the bold, the proud, and the sensitive." Is that what the posters are going to say? Pink berets? No.

I do not mean to trivialize this thing. It is a very serious sociological discussion going on in our country. As I said at the hearings, our focus is on combat cohesiveness, readiness, an explosion of construction nightmare, either homosexuals or heterosexuals demanding new, expensive, separate housing when they are not in the field. That is the major problem.

Or, for example, assignment of lower E grades, enlisted grades, NCO's, petty officers, sergeants or officers to foreign countries as advisers; no Islamic nation is going to accept a professed, out-of-privacy officer or NCO adviser into a Moslem country.

You can be assured that if a man is in his local paper as being the first outed, professed homosexual in his unit, just like in our diplomatic corps and with our Foreign Service officers, unless kept private he or she will never be assigned to a country that respects and practices the Islamic faith.

There are not groups in Moslem countries that demean their holy writ, the Koran. It is respected, and in extreme cases up to the point of issuing death threats on Salman Rushdie, the writer. In our country we do have people who regularly demean and attack the bible as an anachronistic old-fashioned, meaningless, and certainly not God's word, and there are organized groups in this country that do that, but do not think you are going to send one of the professed homosexuals in uniform as an adviser to many countries in the world, and that includes all the Moslem countries in what they call the scimitar of Islam, and that goes to Mindanao in the Philippines, Indonesia, all the countries in the southern area of Asia. No; no. No military advisers are to be accepted there.

And then, in addition to the separate quarters, there is the domestic partnership thing that we see General Dinkins, the mayor of New York, fighting right now on all fronts trying to destroy the St. Patrick's Day parade, and we see it in San Francisco written into law, written into law again recently here in DC, and it comes back to our DC committee to be redebated, because we, in aggregate, are the mayor, governor general of the District of Columbia, and that is domestic partnership.

Once this thing in Mr. Clinton's vision is a fait accompli, then you have the problem next year of some litigious, and that is a problem for our whole society, some sue-oriented homosexual activist saying, "My domestic partner here is not feeling well. I want him in the base hospital. I want to get on the housing list on the base."

Remember, a family, a husband and a wife without children, opted not to adopt, one of them is not fertile, they do not have child, God loves them, and I have seen some of the greatest marriages going with people that could not have children, and they get on the housing list along with military couples with children. That's proper. A husband and wife is a family. I had to wait and watch husband and wife families without children get into housing ahead of me, never gave it a thought that they did not have kids. When I hit my final jet fighter base on active duty my wife was actually 8 months and 20 days pregnant with our No. 2. We could not secure on-base housing and had to live off the base for two months with a brand-new baby. It did not bother us a bit, we waited our turn.

What do you think is going to happen to morale, discipline, and good order if two male homosexuals approach base housing NCO's and they say, "We are domestic partners, and we want on the base housing list?" Mutiny time, Mr. Speaker.

And let me tell you what I said from this well on domestic partnership a year and a half ago, please, put on your thinking cap and use commonsense logic. It goes like this: What constitutes a domestic partnership? Suppose one guy is in Vietnam with his friend in a foxhole, and he saves his life, and the next day he saves his life, and you have that incredible bonding of deep friendship. Women understand how deep this can be between two men that does not involve sex. It involves saving one another's life. And they come home. Neither of them has found "Miss Right," so they get an apartment together, and one of them says, "You know, I think I will put you on my insurance policy until I find the girl of my dreams and we get married," and the other guy says, "I will do the same for you." And they develop a friendship, and they go to work for the city of San Francisco, and they come in and say, "Listen, I am working for the city, and this guy is my best friend through life until I get married. Can I get him on this domestic partnership thing to get hospital benefits or retirement if something happens to me on the job? I am a cop, I am a fireman, a civil engineer, and I get killed out on the freeway or something." And they say, "Well, we have got one question. Are you intimate with one another?" "Pardon me?" You know, just for sake of color, let us just say the guy is an Italian-American. "Excuse me?" "Are you intimate? Are you having sex with this guy, oral or anal sex? Because if you are not, you do not qualify for the program."

Do you get that logic? I discussed that on this floor that to qualify as a domestic partnership you must assert and state you are sexually intimate, and that goes for lesbians also. What a nutty thing.

Now, imagine a bar off base, whether it is off limits or not. Of course, they would try to not have them off limits, because the heteros have their bars where the MP's sometimes have to come in and arrest people for acting in an ungentlemanly way and getting drunk in the local bistro. And so let us say that a guy goes in a bar and gets a crush on this guy and says, "Listen, I have got an idea. If you like me as much as I like you, I will declare you my domestic partner, and you do not have a job, so you can come live on the base. I will put our name on base housing. You know, if we break up a year from now, you know, big deal, it is a done deal. Do you want to be my domestic partner? You get housing out of this. You can shop at the commissary. You can get milk at half price."

□ 1930

You could go to the PX, post exchange, the base exchange, what about it?

Now, I have a document from my Christian denomination, the Roman Catholic faith, and it says that if we pass legislation in this body or the other one or anywhere in the world which encourages people who may think that this is offensive to God and they are struggling with that orientation, to use their words, that may come from the absence of a father, a brutal father, a womanizing father, and they want to try and live a godly life, with a focus on Jesus or some other religion, and then suddenly they see the Congress of the United States saying, "Hey, this is equivalent to heterosexuality, this is open, it is just different, an open life style." So that they are tempted to come out. What would they do if they see a whole series of privileges passed, the temptation is there to get into a domestic partner relationship and they start to demand those privileges.

This document that I asked for last week that is a compilation of what came out of the Committee for the Propagation of the Faith, the Catholic Church, ordered by Cardinal Ratzinger, a cardinal with his base in Germany, it says two things. It says that homosexuality is intrinsically disordered and it says that although the particular inclination of the homosexual person is not a sin, it deserves dignity and to be respected and given all the constitutional privileges which—certainly in the military is not a right, it is a privilege—it says that the inclination "is not a sin but it is more or less a strong tendency toward an intrinsic moral evil, and thus the inclination itself must be seen as an objective disorder."

If you act it out, it is intrinsically evil.

I submit to Maria Shriver, who was raised as a Catholic and who did a ghastly 1-hour pure hardcore propaganda, pro-homosexual piece on NBC last week, I suggest to Maria and her great family and anybody in this Chamber of any Christian denomination that the debate in American is taking a course that is making people hate any religion or denomination that says that homosexuality is intrinsically evil, the acting out of it is intrinsically evil.

When the networks and the pundits, hardly 2 percent of whom go to church anymore, set themselves up to breed hatred against my religious faith, I am taking that personally.

St. Patrick's Cathedral, where my parents were married in New York in 1929, I was baptized there 4 years later, my older brother was baptized 2 years before me and my younger brother 2 years after me, all in the 1930's, I consider that one of the most beautiful houses of worship in this country. And to see that cathedral trashed on December 10, 1989, by this group called Act Up, which is getting more and more and more respectability by the networks, to see that happen, to see the communion host, which practicing Catholics believe is truly, through transubstantiation, is the body and blood of Jesus Christ, to see that thrown on the ground and trampled, to see that on television, believe me, there are New York police officers of Polish, Irish, or Italian heritage, who see red and they put on their gloves to arrest these people and make those arrests with their hearts in it. I am not going to watch the three networks in my service in this Chamber—and CNN, of late—create hatred for loyal Catholics and a church that is never ever going to change its doctrine on innocent life in the womb or that homosexuals individually must be respected with dignity and love, but the acting out of that inclination is an intrinsic evil and a disorder.

I am watching them create this hatred for fundamentalists, evangelicals, or Jews, for the Islamic faith, traditional Buddhism and Hinduism, all throughout history people have had codes and mores and taboos on sexual conduct.

I would recommend Samuel Francis' column of the day before yesterday, who said, with all of the debate, Colin Powell, the four-star general, chairman of the Joint Chiefs, excellent statement, one of them comes to mind. He says what the President is asking us to do is to allow something, to enforce something about mores that we do not even understand. In other words, Colin Powell says, "I don't even understand why people want to engage in that." He did not mean the bizarre stuff like fisting and renting and all of that bizarre yellow stuff that we see in the testimony this morning. He is just talking about gender on gender. He is talking about same sex. He said, "We don't understand the mores. We are being told we have to enforce this and allow it?" Well, I think, what Francis' column says at the heart of the matter here is that this Nation is going to have to decide whether this is aberrant or abnormal conduct or not. All the arguments that General Powell has used and all the military people have used and I have put in "Dear Colleagues" and we have all discussed up to this point, if we avoid the core, what Francis says is the heart of the issue and it becomes the national debate on the New York school system under Fernandez, where they teach that Heather has two mommies, in the school system and we start trying to force these lying statistics that the country is 15 percent homosexual, as the new figure is being thrown around. We barely were able to refute 10.

You go up to the National Institutes of Health, the Centers for Disease Control, out there it is 1.5 to 2 percent.

We have got one big national debate in front of us, Mr. Speaker, and I look forward to finding out in a few seconds what the Senate vote was. I hope the Dole amendment prevailed. I include here in closing the excellent commentary of Mr. Samuel Francis.

[From the Washington Times, Feb. 2, 1993]

SEX * * * AND CONSEQUENCES—SOCIETY'S STATE

(By Samuel Francis)

In what turned out to be the mother of all arguments, the brass hats of the Pentagon cloistered themselves with President Clinton for two hours last week to try to explain to the new chief why lifting the ban on alternative lifestyles in the military is not a terribly swift idea. Since the closest Mr. Clinton has ever come to people in uniform is when he quips with the burger jockeys at McDonald's, the brass took on no enviable mission.

Nevertheless, with help from Senate Armed Services Chairman Sam Nunn, the Joint Chiefs seem at last to have penetrated the bunker of presidential consciousness. Now there has been a "compromise," but no outright reversal of the ban—at least not for a while.

Yet most of the arguments the generals offered the president boil down to pragmatic and administrative reasons. The New York Times reports that Joint Chiefs Chairman Colin Powell brought up several: Accepting homosexuals in the military would create serious problems for "morale and discipline, recruiting, cohesiveness among combat troops, personal privacy and even the spread of AIDS."

These are good reasons, but none touches the heart of the issue, which is whether the social normalization of homosexuality is a good idea. Unless that issue is resolved in the negative, unless Americans and their leaders decide it's not a good idea, most of the reasons Gen. Powell mentioned become irrelevant.

If homosexuality is "normal," if it is no different from heterosexuality, then problems of "morale and discipline," recruiting and "cohesiveness" wither away as the result of outdated stereotypes of homosexuals as "abnormal." The spread of AIDS would be no more serious than that of other venereal diseases, and personal privacy has never been much of a consideration in an army that doesn't even have toilet stalls. Gen. Powell and his colleagues in khaki did their best, but by all accounts they missed the bull's eye.

Nor are many of the reasons the religious right offers much more compelling. It's true the Bible condemns sodomy, the Old Testament inflicts the death penalty for it and both church and rabbinical traditions condemn it. But America no longer even pretends to be a Christian society, and unless we make that pretense, there's no reason to write Jewish or Christian Scriptures into our secular law.

Moreover, God may not like sodomy, but reportedly He also doesn't much care for lying, gluttony or any of a wide range of vices that abuse the flesh He created. As abhorrent as such sins are in the eyes of the Almighty, it doesn't follow that our public laws should punish them. To reach that position, you have to engage on other ground.

The main argument homosexuals use to justify repealing laws against consenting sodomy among adults and voiding the ban on their kind in the military is that homosexuality does no harm. They claim (I'm not convinced they're right) that homosexuals are no more inclined to commit sex crimes than heterosexuals and that the homosexual act itself hurts no one. Hence, under a commonly accepted standard, the state has no business using legal force to prevent or punish such acts. It is on the validity of that argument that the case for normalizing homosexuality must stand or fall.

It is not a valid argument. One of its flaws is its very narrow conception of what constitutes "harm" and "hurting." The lesson of 4,000 years of social history is that sexual behavior, consensual or not, has consequences for others, that it often affects (and hurts) others in ways society needs to control, and that unregulated sex renders social bonds, especially in the family but also beyond it, impossible. We can regulate it through law or through socially enforced moral custom or both, but we have to do it somehow.

History knows of no human society that has not regulated sexual behavior and forbidden some kinds of it, nor is there any reason known to social science to suppose that a society that fails to do so is possible. A "society" that makes no distinction between sex within marriage and sex outside it, that does not distinguish morally and socially between continence and debauchery, normality and perversion, love and lust, is not really a society but merely the chaos of a perpetual orgy.

It is an invitation to just such an orgy that the proponents of normalized and unrestricted homosexuality invite America. Maybe most Americans have reached the point at which they are ready to immerse themselves in the illusion that a perpetual orgy pretending to be a society really doesn't hurt anybody.

Or maybe most Americans haven't thought it through. It's clear their leaders haven't and don't know how to make the case against normalization. That's one more reason why Mr. Clinton ought to hold off on his executive order until Americans and their leaders have a chance to think about it some more.

HUMAN RIGHTS VIOLATIONS AROUND THE WORLD

The SPEAKER pro tempore (Mr. COPPERSMITH). Under a previous order of the House, the gentleman from Indiana. [Mr. BURTON] is recognized for 10 minutes.

TRIBUTE TO THE LATE HONORABLE ANDREW JACOBS, SR.

Mr. BURTON of Indiana. Mr. Speaker, recently Andrew Jacobs, Sr., a fine former Member of this body, and a great American, passed away. People in Indianapolis knew him to be a fine legislator, a tough and yet fair-minded judge, and a devoted family man. He shall be missed by all those who knew him of whatever political persuasion.

You know a lot about people by their children. In addition to the fine reputation Andrew Jacobs, Sr., had, I know of him through his son and our colleague, Congressman ANDREW JACOBS, Jr. Although I'm a Republican and ANDREW JACOBS, Jr., is a Democrat, I consider him to be one of the finest Members of this body as well as a good friend, and I attribute his honesty, integrity, and love of his fellowman, to his parents who taught him well during his formative years.

Even though I primarily only knew Andrew Jacobs, Sr., by reputation, I know he was a unique individual because he couldn't have been otherwise and had a son like our colleague ANDREW JACOBS, Jr.

In addition to my brief remarks, Mr. Speaker, I am adding for the RECORD some comments made in Indianapolis newspapers and at a recent memorial service held for Judge Jacobs.

HOUSE OF REPRESENTATIVES,
WAYS AND MEANS COMMITTEE,
Washington, DC, January 28, 1993.

Hon. DAN BURTON,
Longworth House Office Building, Washington, DC.

DEAR DAN: Here are the two things Joe Gelarden wrote, one published in the Star and the other, you will recall, spoken at the memorial service.

It was kind of you to be willing to place them in the Record.

Dad was elected to the U.S. House in 1948 and served during the 81st Congress.

Sincerely,

ANDY JACOBS, JR.

[From the Indianapolis Star, Dec. 22, 1992]

CHERISHING MEMORIES AND LEGENDS OF ANDY SR.

(By Joe Gelarden)

His name was James Andrew Jacobs, but no one knew him by that name. He was simply Andy Senior.

But James Andrew Jacobs, reluctant member of the 81st Congress, Criminal Court judge like no one had ever seen before—or since—was not "simply" anything at all.

If this guy had lived in New York City or Los Angeles, they would have written books about him. Maybe they still will. But he was born a Hoosier, first class, so the big-shot writers in the big-time towns never knew him.

But I did.

Like other Hoosiers of legend, he was born in southern Indiana on a farm and educated in a one-room schoolhouse. He worked his way through law school, elbowed his way into the Downtown real estate game and made a ton of dough.

He was brilliant, hard-working to a fault, had a grasp of people and a sense of history. He loved his family, especially his wife, whom he always called "the widow Jacobs" and his kids. His son, known always as Andy Junior, the congressman, was the kid of whom he was most proud.

I know how much he loved his son. Once, at a big political dinner, a big-time politician made a bad joke about Andy Jr. Later that night, as I accompanied Andy Sr. to his car, the man who was so tough that he made mad dog killers and their lawyers quake in their boots was in tears.

"How could he say that about Andy? I thought he (the big-time politician) was a better man than that," said he.

JUDGE OF TALL TALES

I covered the courthouse while he was a judge. We talked most every day about life and politics and Indiana and America. He always had a story or a tall tale—like the one about the young lawyer, when ordered to give his best advice to the criminal client, suggested that he try to escape.

Despite our daily contact, he always called me Mr. Gelarden. I tried to explain that Mr. Gelarden was my father, that I answered to the name Joe.

"I'll try to remember that, Mr. Gelarden," he replied.

Andy Sr. went to Congress in 1948 from the old 11th District after being handed the nomination by a bunch of pols because they really didn't want him to run for Marion County prosecutor. One man who was in the meeting where they decided to offer him the nomination said the big shots believed Andy Sr. would have put them all in jail within six months.

Andy Sr. liked newspaper reporters, but he sued one for libel and collected. For that, my boss' dad banned his name from the pages of your favorite newspaper for years.

I first saw Andy Sr. about 1968 when I was a young police reporter with a fresh Marine Corps discharge in my pocket. It seems that the police were going to surround Military park because they believed a bunch of commie radicals were going to hold a rally there for a nefarious purpose.

DEMOCRAT REGISTRARS

Actually, they were Democrats and were there to register young voters, but you had to be there to understand the times.

On hand to bring in the kids were (shhhh) folk singers John Denver and Phil Ochs.

Anyway, one of the police brass was racing around snapping pictures of the alleged radicals with a tiny spy camera, and he spent a lot of time focused on this old guy in a string tie.

This alleged old commie guy was spouting reason, not treason. He talked about Lincoln and Washington, about motherhood and the flag, about Indiana and the U.S. Constitution. It was Andy Sr.

Some radical. So much for believing the police brass.

Later, when he was on the bench, he presided over some 150 jury trials in 159 days, a feat which must be a world record. I don't think he ever put anyone on probation. In Criminal Court 3, if you did the crime, you would do the time.

Often, he had so many trials that the city ran out of potential jurors. When the lawyers suggested that this was a good reason to continue the case, he just smiled.

"Sheriff," he'd tell the courtroom deputies, "go out on the highways and byways and bring me some jurors."

So the deputies, armed with a handful of blank subpoenas, walked out on Market Street and began stopping citizens.

One time, they stopped me and slapped a subpoena in my pocket. "Come with us," they ordered. I did. I fumed in his jury room for about an hour until I was seated in the jury box. A very stern Andy Sr. looked over his glasses and said: "Mr. Gelarden, do you know anyone involved with this case?"

"Yes, your honor," I replied. "I know everyone in this room, except the guy in the orange jumpsuit with the words Marion County Jail on it."

NO SHORTCUTS

The judge chuckled and said, "Excused." While he knew I would be eventually excused, he wouldn't pull a string to cut my service short. Like the rest of the public, he believed it when the law said he couldn't shortcut the process. In his mind, it just wasn't right to do a favor for me because I covered his court. I was to be treated like the rest of the citizenry.

Another time, another lawyer sought a continuance, saying he just couldn't go to trial today, but any other time would be fine. OK, said Andy Sr. "Be here at 6 a.m. tomorrow. And Mr. - - - -, don't be late."

Ken Roberts, a young lawyer, was one of Jacobs' public defenders. He later said the old man scared him to death. Fear turned to love.

"After practicing in front of Andy Sr., I believe I can be effective in any court in the land. I have learned my trade before the toughest, most exacting judge in the world."

One of the things Andy Sr. held dear in the world (besides his long-suffering bride) was the fact that his son Andy Jr. was elected to his 11th district congressional seat.

He never let anyone know his feelings.

"If my son wants to go to Congress, I want him to go to Congress," said Andy Sr.

"He'll learn."

REMARKS BY JOE GELARDEN AT THE FUNERAL OF ANDREW JACOBS, JR.

Today is my late father's birthday, Dec. 29.

Like Andy Senior, he was from Southern Indiana. His roots were in Belgium. Both were raised on a farm, clawed their way to Indianapolis, hustled their way into law school.

Along the way, both men seem to have earned a kind of wisdom that surely must spring from the rich Hoosier soil, the strong hardwood trees, the sweet flowing springs from under the rocks in the cricks where the critters dwell, from the secret spots under the grove of beech tree where flowers bloom in the spring, and from the hearts of the sensible people who scratch out a living in the hollers and hills of counties with names like Daviess and Martin and Crawford and Perry.

Both he and my dad came from a long tradition of Hoosier idealists. Those whose ancestors came to Indiana because they wanted to practice what they preached. Men like George Rapp and Robert Dale Owen and the Shakers and even yes, even Abraham Lincoln and Eugene Victor Debs.

Indiana and America has been blessed with these men and women.

James Andrew Jacobs claimed to be a simple man. But he was not. He professed to be happy only when holed up in his workshop, or puffing on the pipe that wouldn't stay lit. Or eating lunch with his cronies, spinning yarns that were often closer to outright lies than the sacred truth.

But Andy Senior was only truly happy when he was working. Working to solve a problem that troubled his soul and that of his friends and humanity.

At an age where most men are ready to go fishing, Andy Senior nearly worked himself to death on one of America's great problems. Crime.

He believed that insane maze that we call the criminal justice system works only if those involved in the system worked—hard.

And he relished the chance to go into battle with those he considered "artists" not lawyers. He believed that a trial was a search for the truth.

Unlike a lot of judges, he always said he would listen to any lawyers argument with a willingness to be convinced. And I believe he meant every word

(aside) That did not mean that he would swallow a load of horsefeathers.

Or listen very long to the plea of a lawyer who insisted that the sky was green, the earth was flat or that his client was just an innocent bystander caught up in inappropriate conduct situation because the Moon was in the seventh house and Jupiter was aligned with Mars.

In this situation it was a wonder to watch Old Andy smoke the lawyer's tail feathers using the very same speech delivered to me by Sgt. Noakes, my sainted Marine Drill Instructor but this time it was recited in simple, descriptive but un-profane English.

When other judges and politicos urged Old Andy to take the easy way out, to ride with the tide and roll with the flow, to cut back and plea bargain cases to get rid of them, he said no. He believed that is wrong.

And he put his pipe down and started to work. He presided over 150 jury trials in 159 days. If that is not the absolute world record, one does not exist.

In the end the system got to him and he resigned.

But to Andy Senior, it didn't matter. He did not fail. He had fought his fight on his own terms in his own way.

And to his way of thinking, a man could do no more.

Today, I have only two regrets about my relationship with Andy Senior. Confess that I was lax and failed to keep in contact with him after he left City Hall.

And I regret that I never got to read the book he never got around to writing entitled: "S.O.B.s I have Known, with its central character Judge Mordeci J. Loophole."

One wing of a well known political party recently tried to convince us that had the corner on the market for something called "Traditional values."

Hogwash, Old Andy would say.

For his life was a celebration of traditional values. Values like truth and hard work of devotion to ideals and traditions of love of fellow man and woman of honesty and integrity and the quest for justice of appreciation and celebration of the sense of place embodied in the perjoritive term—Hoosier—that he—and we—wear the pride of the knowledge of where he belonged in the history of this nation, this state and this city.

His life was a celebration of simple traditional values like a love of wife, son, daughters and what my late Daviess County grandmother called her grandbabies.

It was the love of and for a group we call family. It is a passion which consumes and drives any sane man.

But my friends, I am not here to recite his obit, praise his accomplishments and tell you of his faults. Others here can do that with more accuracy or eloquence.

I am a scribbler and do not possess the eloquent tongue of the lawyer, the politician or the Congressman.

But I can swear and affirm to all who will listen to my voice that my life is better for having known James Andrew Jacobs.

RECESS

The SPEAKER pro tempore (Mr. COPPERSMITH. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 7 o'clock and 45 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2111

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SKAGGS) at 9 o'clock and 11 minutes p.m.

WAIVING A REQUIREMENT OF CLAUSE 4(b) OF RULE XI WITH RESPECT TO CONSIDERATION OF A CERTAIN RESOLUTION

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 61 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 61

Resolved, That the requirement of clause 4(b) of rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is hereby waived with respect to a resolution providing for consideration of a bill relating to family and temporary medical leave for certain employees.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 61 waives clause 4(b) of rule XI, which requires a two-thirds vote to bring a rule to the floor the same day it is reported from the Committee on Rules. The resolution only applies to legislation relating to family and medical leave.

This resolution is simple and straightforward. President Clinton has requested that Congress get the family and medical leave legislation on his desk at the earliest possible time. House Resolution 61 facilitates this request.

I encourage my colleagues to adopt this resolution.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, President Clinton is taking another week of media criticism, this time for reneging on his campaign promise not to raise taxes on the middle class. He needs to create the appearance that he has a domestic agenda, and our friends on the other side have decided that the family leave bill will be his political prop.

So that the Democrats can have their photo opportunity tomorrow, the leadership wants to impose marital law on the House of Representatives.

I can understand, Mr. Speaker, if this were an emergency measure to create jobs and stimulate economic growth, or if we were approaching sine die adjournment. It is neither.

In fact, we are being asked to ignore House rules and expedite the passage of a bill that will actually destroy jobs.

Mr. Speaker, we have been waiting for 2 years to pass a jobs creation bill, but the Democratic leadership cannot wait 3 days, as required by House rules, to enact a jobs destruction bill.

Mr. Speaker, today our Joint Committee on the Organization of Congress took testimony from nearly 50 of our colleagues from both sides of the aisle on proposals to improve this institution.

One of the biggest frustrations commonly expressed is how we increasingly rush through legislation without adequate deliberation or opportunity for Members to review the measures they are being asked to vote on.

We have a 3-day layover rule just for this reason. Our problem is not that our rules don't work. Our problem is a Democratic leadership that increasingly ignores them.

Mr. Speaker, there is absolutely no justification for taking such extreme action only 4 weeks into the new Congress. I urge my colleagues to vote down this martial law rule for the people's House.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, is it my understanding that the basis of this rule is to waive the requirements that say that, if we are bringing up a bill on this same day that it comes before us, we have to have a two-thirds vote on it, and we are just kind of getting rid of that provision? Is that right?

Mr. DREIER. My friend is exactly correct. That is exactly what is happening here. We are waiving the standard provisions that we are supposed to work under here in the people's House.

Mr. WALKER. And the reason for that particular provision is to ensure that it would take a supermajority to pass any bill that the Members have not had a chance to read and to understand; is that correct?

Mr. DREIER. My friend is absolutely correct. We are really preventing most any Member from having the opportunity to read this measure before we vote upon it.

Mr. WALKER. And there have been changes in the bill that is coming over from the Senate that we are passing this rule to expedite; is that right?

Mr. DREIER. I say to my friend, "We just had a hearing upstairs in the Rules Committee, and there was a great deal of confusion over the changes which took place in the other body."

Mr. WALKER. Wait a minute. The people who are bringing this measure are confused about it themselves?

Mr. DREIER. Well, a number of us on the Committee on Rules were confused at the explanation that was given to us of the actions that took place in the other body.

Mr. WALKER. Mr. Speaker, I just did a quick count of the House, and we have approximately 30 to 50 Members on the floor right now. These are the only people that have any chance whatsoever to get ahold of copies of the bill. That is about one-tenth of the House of Representatives. One wonders when the other Members are going to have an opportunity to see some of these things, and yet we are going to waive the two-thirds rule that allows people an opportunity to really understand the bill.

Mr. DREIER. Well, I do not want my friend to be too much of a pessimist. We have an opportunity to address that because we are going to have a vote on that question in just a few minutes, so where there is life there is hope, and I hope that we are able to prevent this waiver of this two-thirds provision and we will allow every Member to have an opportunity to read the legislation.

Mr. WALKER. Let us also understand that what they are doing is they passed this rules package themselves in the beginning. We did not vote for it. The Democrats passed the rules package, and all of them voted for it, or there were a significant number of them that did not vote for it this time, but they passed it by an overwhelming majority, and now with a majority vote they are waiving a two-thirds rule.

Is that correct?

Mr. DREIER. Absolutely right.

Mr. WALKER. So, what we have is a situation where they are overthrowing their own rules in a way that cuts down on the supermajority rule that they have in place.

Does it strike the gentleman that that also is a rather obvious procedure, and is the gentleman telling me that the whole reason for doing all of this is because at 9:30 tomorrow morning the Democrats have scheduled at the White House a photo op?

Mr. DREIER. Well, that is what I have heard, but I did not get an invitation.

Mr. WALKER. So, in other words the Members are not going to be able to read the bill. We are going to pass a bill that the people who are proponents of it are confused about the Senate language, and we are doing this all because at 9:30 tomorrow morning we have to have a photo op at the White House.

□ 2120

Mr. DREIER. Did my friend get an invitation to be at that photo op?

Mr. WALKER. I must admit I am not on the invitation list these days.

Mr. DREIER. I felt I was left out myself.

Mr. WALKER. I have to tell the gentleman, I am not real disappointed by that. I am going to be able to be back in my district. But I am very concerned that the procedures of the House, meant to assure a logical and reasonable process, are being violated so that more Members can get on the television.

We were told by the chairman of the committee that handles this bill the other day that the whole debate on the floor was structured so as many Members as possible could get on television. Now we are having the whole House proceedings undermined so the Members can go to the White House tomorrow and get on television there. I am sure pleased the Democrats think television is more important than the democratic process.

Mr. GORDON. Mr. Speaker, I knew my friend from California [Mr. DREIER] represented an area near Hollywood and would have some expertise in that area. But let me congratulate my friend from Pennsylvania [Mr. WALKER] for his introduction——

Mr. SOLOMON. Mr. Speaker, the gentleman is out of order. The gentleman has not yielded himself any time.

The SPEAKER pro tempore (Mr. SKAGGS). The gentleman from California [Mr. DREIER] still controls the time.

Mr. GORDON. Mr. Speaker, will the gentleman yield?

Mr. DRIER. Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to repeat that my friend from California [Mr. DREIER], although he does not directly represent Hollywood, apparently represents an area close enough there that he has been able to develop some of the talent, which has rubbed off on our friend from Pennsylvania [Mr. WALKER]. I will have to congratulate them on their show of gasp, their show of awe and concern. I do not know how long it took them to be able to develop this. But let us look at the facts. Let us look at the facts.

Mr. Speaker, the facts are that we had a recess planned for this body that has been of notice since the first of the year. People have plans. So it is an attempt to try to move the family and medical leave bill forward so that people can keep those plans to go back to their district with their open meetings.

Now, to say that this is something suddenly put on us is amazing. The family and medical leave bill has been before us for 8 years. It has passed this House six times. It has been in committee hearings for hours, and hours, and hours.

Mr. DREIER. Mr. Speaker, will the gentleman yield on just one point?

Mr. GORDON. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, how many of the 110 new Members who have joined this House, the largest number of new Members in decades, had a chance during those other considerations to closely scrutinize this measure the way my friend from Tennessee [Mr. GORDON] and I have?

Mr. GORDON. Mr. Speaker, reclaiming my time, that is a very good question. The answer to that is that we had over 3½ hours of debate just this week on this subject.

Mr. DREIER. Mr. Speaker, including the Senate provisions which have been included in this measure, which we are going to ram through if martial law is imposed?

Mr. GORDON. Mr. Speaker, as I said, all of the new Members had over 3½ hours, which is an unusually long time for debate. They had the opportunity to attend a variety of hearings. We have yet to have heard a complaint about that. So clearly, we have had an abundant amount of time to be able to address this issue.

Mr. Speaker, I yield such time as he may consume to my friend, the gentleman from Michigan [Mr. BONIOR], the majority whip.

Mr. BONIOR. Mr. Speaker, I thank the gentleman for yielding. Not only have the new Members of this body had the opportunity during the debate over this issue in the last week, ample opportunity to express themselves, they are the very people who have come fresh from the electorate and who have brought the horror stories that make possible this legislation reaching the President's desk tomorrow at 9 o'clock. So they know firsthand the pain and suffering.

I venture to say when the rollcall is taken on this vote, at least on this side of the aisle, we will have over 95 percent of our new Members not only in support of this legislation, but in enthusiastic support to take care of the needs of sick parents and unborn children.

Mr. GORDON. Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say to my friend that he has made over the past several years a very compelling case for this legislation. We are standing here at 9:20 this evening debating whether or not we are going to impose martial law rule on the people's House. That is the question we are considering here.

I have heard the arguments made by my very good friend, the distinguished majority whip, for many years on this issue, and I have listened to it. Frankly, I sympathize with many of the things that my friend has said.

But the fact of the matter is, we do not need to do it with this kind of procedure. We do not need to waive the rules of the House of Representatives. There are 47 new Republican Members too. There are 63 Democrat and 47 Republican Members that are new. Many of them are virulently opposed to this legislation, and they should have the right to look at the changes that were made in the U.S. Senate before we bring this up for a vote here.

Mr. Speaker, I am happy to yield 5 minutes to the gentleman from Glens Falls, New York [Mr. SOLOMON], the distinguished Republican leader of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I appreciate the gentleman yielding. I am going to try to keep a cooler head than I sometimes do on this floor, although this issue is becoming so frustrating.

Mr. Speaker, I am just reminded of last year when I almost decided not to run. But as I look at what is happening here, and I am not here trying to defeat this piece of legislation, because Members on that side of the aisle know that last year I was a part of the negotiations that tried to make this a workable piece of legislation, one that would work, that would not create a hardship for small business and industry in this country, and I voted for the legislation. I did it again yesterday, almost against my own better judgment.

But having been a part of that, getting that 50-employee figure in there, meant so much to the people that I represent. So I am not here to try to defeat it.

But I am just totally disgusted with what is happening in this Congress. I have a young Member here, I believe from Idaho, who came up to me this morning and said, "What is an open rule?" You know, I looked up at him and I said, "Well, I understand why you don't know what an open rule is. We haven't had one this year yet." Here we are, 3, 4, 5 weeks into the session.

I looked back at what has happened in this Congress over recent years. Back in the 95th Congress, 1977–78, about the time I came here and my friend, the gentleman from Michigan [Mr. BONIOR], and a lot of these other people on that side of the aisle, at that time only 15 percent of the rules were restrictive rules. Two years later it jumped to 25 percent restrictive rules, waiving all the rules that we live by here. Two years later it jumped to 32 percent, then 43 percent, 46 percent, and 55 percent. Finally last year, in the 102d Congress, 66 percent of all the rules we brought to this floor were blanket waivers, waived the Budget Act, and drove the deficits through the ceiling.

That is what we are doing here today. We are waiving this two-thirds rule. We are going to vote on a piece of legislation that you and I have not seen.

Mr. Speaker, I am going to tell you something. I read these changes that were just handed to me. But there are not five Members on this floor that have read them. Members do not know what is in this bill. Members do not have the slightest idea what they are voting on here.

That is not the way democracy should work. That is not fairness in this House.

Getting on a little further, what the Senate has done, just so Members will know, they have defeated BOB DOLE'S amendment which would have kept the regulations in effect in the military dealing with homosexuals. They defeated that.

They enacted Mr. MITCHELL'S sense-of-Congress amendment, which does absolutely nothing. They have ducked this issue.

I offered the emotion upstairs a few minutes ago to make this in order. Mr. Speaker, listen to this: "All Executive orders, Department of Defense directives, and regulations of the military departments concerning the appointment, the enlistment, the induction, and the retention of homosexuals in the Armed Forces of the United States as in effect on January 1, 1993, shall remain in effect with respect to the Army, the Navy, the Air Force, the Marine Corps," which I served in, "unless changed by law." And that was voted down on a party line vote.

We tried to reinstate the Goodling amendment, which passed this House with Democratic support. It was just absolutely ignored by the other body.

They made some other changes, which I will let the gentleman from Pennsylvania [Mr. WALKER] talk about with his amendment and mine dealing with the definition of spouses. But, Mr. Speaker, there is no reason why we in this body have to cave in to the other body.

□ 2130

We are an equal branch of Government. Every one of us are as good as any Senator over there, and that is why we ought to defeat this rule. And we ought to go back upstairs and make the amendments in order and come down here and have a legitimate, honest-to-goodness debate of the issues so that Members like me, who want to vote for this bill, can do it. But do not try to jam this down our throats just because the Senate has already disappeared from Capitol Hill.

Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. GORDON. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise just to, I believe, correct the RECORD and the impression that my colleague from New York may have left with respect to two of the amendments that he talked about.

The argument on the floor has been that there has been changes made in the Senate and we need time to digest them, to understand them, to look them over, to reread them.

We have had 8 years to understand this bill. And if I might be so bold as to suggest, this body is capable of digesting the four changes that were made in the Senate.

The first change, they changed the definition of spouse from the language that we had that we, by the way, accepted from the Republicans, to a language that I think perhaps they would even be more enthused with, that which is listed in the U.S. Military Code definition.

The second point I want to make is with respect to the so-called Goodling amendment. The Goodling amendment was taken by the Senate and a compromise was reached. The compromise basically adds items to be studied by the Commission as well as by adding certain other members to the Commission who represent certain areas of expertise such as family issues, temporary disability and labor-management.

In addition to that, the Senate has taken language that reflected the Goodling amendment and they have added requirements that a doctor must certify that such leave is medically necessary and the expected duration of such leave, a reasonable compromise from what we passed and what they did not have, a reasonable compromise, a reasonable compromise on spousal language.

And the third point I want to make to my colleagues, so everybody understands what the four points were that they changed, is the question that the gentleman from New York [Mr. SOLOMON] alluded to. And that is the question of the issue of service of homosexuals in the armed forces.

By a vote of 62 to 37, with the vast majority of Democrats, including Senator NUNN, the chairman of the Senate Committee on Armed Services, and many, and some Republicans, they adopted the Nunn-Mitchell language which basically says this:

> It is the sense of the Congress that: (a) the Secretary of Defense shall conduct a comprehensive review of current departmental policy with respect to the service of homosexuals in the armed forces; (b) such review shall include the basis for the current policy of mandatory separation; the rights of all service men and women, and the effect of any change in such policy on morale, discipline, and military effectiveness; (c) the Secretary shall report the results of such a review and consultation and his recommendations to the President and to the Congress no later than July 15.

Of this year, July 15.

We can wait 6 months to get the review of the Secretary of Defense and have the impact of the hearings that the Senator of the Committee on Armed Service over there, Senator NUNN, will conduct. That is the fourth part.

> The Senate Committee on Armed Services shall conduct comprehensive hearings on the current military policy with respect to the service of homosexuals in the military services; and shall conduct oversight hearings on the Secretary's recommendations as such are reported.

By an overwhelming vote, 2 to 1 in the Senate, Republicans and Democrats, they adopted that language tonight. It would be a tragedy if we did not accept that same language and the review process which it implies, a thorough review process, not only by the Secretary of Defense but by the appropriate committees in the House and the Senate.

I ask my colleagues to understand that those were the four changes that were made there, changes we can live with, changes that make sense, changes that meet a common ground between the right and the left in this House, and that we pass to the President tonight this important piece of legislation which he is waiting for.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I am the one who authored the language that the House passed on spousal definition, and I am not certain what the language means that the Senate has passed.

The language reads, the term spouse means "a husband or wife, as the case may be."

Can the gentleman tell me what that means?

Mr. BONIOR. The term "spouse" in the Senate language means husband and wife or, as the case may be, or as defined in the Military Code definition.

Mr. WALKER. Mr. Speaker, if the gentleman will continue to yield, no, it does not say that. All it says is, the term spouse means "husband or wife, as the case may be," period.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. To help me define this for the gentleman from Pennsylvania, I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, I would think that at least the hawks over there would be relieved that the Senate adopted the language of the Uniform Code of Military Justice and the definition of spouse in the Uniform Code of Military Justice. That is what the language is.

Mr. WALKER. Mr. Speaker, if the gentleman will continue to yield, because once again, while that language may be, no one has yet provided me with an explanation.

Mr. BONIOR. Does the gentleman mean that he went for 12 years under President Reagan, under President Bush, under Colin Powell accepting that definition and all of a sudden tonight on the eve of this bill it has become a mystery as to what it means?

Mr. WALKER. Mr. Speaker, the point is that the language adopted by the House established the basis by law. Now this comes along and is not a legal definition.

Mr. BONIOR. Mr. Speaker, it is a legal definition. The Uniform Code of Military Conduct is a legal definition.

Mr. WALKER. Mr. Speaker, I just wanted to find out whether or not anybody disagrees with this: Does anybody disagree that this language in the bill that has come out of the Senate, that "husband" means a married man? Does anybody disagree with that?

Mr. BONIOR. Mr. Speaker, I agree with this language, and I agree with the support that it was given by Senator NUNN, the gentleman from Georgia.

Mr. WALKER. I think it is important to try to find out where we stand. Does this mean a married man and a married woman?

Mr. GORDON. Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania [Mr. GOODLING], author of that very famous Goodling amendment.

Mr. GOODLING. Mr. Speaker, I merely wanted to ask the distinguished whip, when he indicated what the modification was to my amendment, I thought I heard him say that the word "doctor," is that what he meant, that it is a doctor who must certify that such leave is medically necessary? I thought that is what the gentleman said.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, that is correct, and if I am wrong, I stand corrected.

My information is that the amendment added requirements that in order to be eligible for reduced or intermittent leave, a doctor must certify that such leave is medically necessary and the expected duration of such leave.

Mr. GOODLING. Mr. Speaker, did the gentleman say "a doctor"?

Mr. BONIOR. Mr. Speaker, if the gentleman will continue to yield, I did.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding time to me.

I will certify that this is an irregular practice at best and a darn mean one at worst.

Mr. Speaker, as near as I can tell, what we are doing tonight is exercising martial law in the U.S. House of Representatives so that we can entertain a self-executing rule or gag rule that will allow us to pass the Democrats' latest version of their bill without any discussion of that bill or without any vote on that bill, but a vote only on the rule itself.

□ 2140

I also understand the Democratic whip promises us that as whip, he can assure us that 95 percent of the Democrat freshmen will be whipped into line and vote for this gag rule. I find myself not at all curious about that proclamation from the Democrat whip. I expect they will be whipped into line, as they are told this is a procedural vote.

The question that I am most concerned about is, after 8 years of discussions in the committee over the reduced leave schedule in the bill, much work being done by many, we found the day before the bill was marked up last week that that reduced leave provision was substituted unilaterally by one member of the committee in consultation with certain people from outside the Congress of the United States.

We had put in here a provision that says that we can have a reduced leave schedule, 1 hour a week, 2 hours a week, 1 hour on Thursday, 3 hours on Friday, whatever the employee wants for 480 hours a year without any consultation with the employer; that is to say, to dictate the terms of the reduced leave to the employer. This was a totally new innovation taken out by this House in a vote on the Goodling amendment. Now we are asked to put gags on and vote to affirm this provision.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1. An act to grant family and temporary medical leave under certain circumstances.

The message also announced that the Senate had passed a joint resolution and a concurrent resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 20. Joint resolution to designate February 7, 1993, through February 13, 1993, and February 6, 1994, through February 12, 1994, as "National Burn Awareness Week," and

S. Con. Res. 10. Concurrent resolution providing for a conditional recess or adjournment of the Senate from Thursday, February 4, 1993, or Friday, February 5, 1993, until Tuesday, February 16, 1993, and a conditional adjournment of the House from Thursday, February 4, 1993, or Friday, February 5, 1993, until Tuesday, February 16, 1993.

WAIVING A REQUIREMENT OF CLAUSE 4(b) OF RULE XI WITH RESPECT TO CONSIDERATION OF A CERTAIN RESOLUTION

Mr. DREIER. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from Sugar Land, TX [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I think Members really better listen up as Members walk onto the floor about what is happening here. We are going to have two votes. The first vote will be on the martial law that has been amply debated here and described here, where with a majority vote we are going to waive the two-thirds vote by which we can bring up a bill.

The second vote, the second vote, Members, endorses Clinton's position on homosexuals in the military. If you vote for the rule that passes the Senate bill, it is a self-enacting rule, you are voting to endorse the position of the President on homosexuals in the military. What you will be endorsing is the removal of the question of whether you are a homosexual or not on personnel recruitment forms, and you are suspending any more charges or legal moves against homosexuals that presently are in the military, and you are waiting for hearings and however they want to do their political manipulations for July 15 to come.

You are also giving up your right as the House of Representatives in speaking to this issue. Do not, and I repeat, do not go home and say that you have taken care of the homosexual problem in the military, because what you have done is endorsed the President's position and, second, what you have done is given your right to enforce the ban on homosexuals in the military just carte blanche by passing a rule that is self-executing, this bill, H.R. 1.

So be very wary when you go home over the recess of the questions that will be asked to you about how you feel about gays serving in the military and the ban on gays serving in the military, because if you vote for this rule you are voting to support the President's position.

Mr. DREIER. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I thank the gentleman for yielding time to me.

I think it is very clear that there is confusion over the meaning of at least some of the terminology here. That is one of the reasons why we should not be adopting this truncated procedure. Under the terms of the Senate amendment, as I understand them, the term "spouse" means a husband or wife, as the case may be. That is all the language says, contrary to what the distinguished whip said a moment ago. It does not add the words as defined in the Military Code of Justice, so the only words we have before us are these very words: "The term 'spouse' means a husband or wife, as the case may be." That is not further defined, as it is in the House version.

I think it is very important before we vote on this that we have confirmation from the chairman or other Members who have been involved in the rule, in the developing of the rule, to confirm the fact that this refers to the two people involved in a heterosexual marriage; that it means a married man and a married woman, and that is precisely and all that it means.

If that is not the understanding of everyone in the body, then we have a significant difference of opinion, and we had better be very careful before we adopt this rule, that we understand the differences between the House version, which referred to other law, and the Senate version, which does not.

Mr. DREIER. Mr. Speaker, I would ask how much time remains on each side.

The SPEAKER pro tempore. (Mr. SKAGGS). The gentleman from California [Mr. DREIER] has 11½ minutes remaining, and the gentleman from Tennessee [Mr. GORDON] has 19 minutes remaining.

Mr. DREIER. And I would ask the gentleman, Mr. Speaker, are there going to be further requests for time?

Mr. GORDON. Mr. Speaker, I have no further requests for time.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from East Petersburg, PA [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I think we need to get some clarification on what language, we are told that everybody understands, is in this bill. It was apparent, a minute ago, the whip did not understand what was in the bill in terms of the language on "spouse". He specifically stated it wrong as to what is in the bill. I am trying to get a clarification, and I would like to have someone, who can make legislative history on this, give us the clarification that is necessary.

When we passed the House version, the House version talked about husband and wife under the law of any State. That means there was a body of law to refer to. The UCMJ was specifically dropped as a reference in the Senate. They went with this language that they put in there, but specifically dropped the reference to UCMJ, and in fact, the chairman of the Committee on Education and Labor, when he went before the committee, did not want to include any definition whatsoever with regard to "spouse" in this bill.

What we are trying to do is, since the House has adopted a position and since the Senate has adopted a position, we are trying to make certain that we mean the same thing.

I would ask again what I asked a couple of minutes ago, do the terms under this bill as it comes over from the Senate, does the term "husband" mean a married man and does the term "wife" mean a married woman?

I would ask the gentleman from Michigan [Mr. FORD], if he would answer.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, I would say to the gentleman, it does to me. I do not have any trouble knowing the difference.

Mr. WALKER. Mr. Speaker, I would ask if the gentleman would state it for the record.

Mr. FORD of Michigan. Mr. Speaker, I would say to the gentleman, it does to me, for the record, because I have no trouble understanding the difference. If the gentleman does, that is his problem, not mine.

Mr. WALKER. Mr. Speaker, let me say to the gentleman, the problem is, if we look in the dictionary, and it says, "as the case may be," we will find the term "husband" means, among other things, "a frugal housekeeper." Now, that could be a whole variety of things.

I am simply trying to establish, and I think the gentleman has said it for the record, that it is his understanding that this means a married man and a married woman. That does help clarify. I appreciate it.

Mr. DREIER. Mr. Speaker, I yield 30 seconds to my friend, the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Speaker, the Members are looking at someone who has never been in politics before. There are 10 of us that are in this Congress, the first time we have even been here, and I have walked off the street corners of America and walked into this body, and I am shocked. Not only am I shocked, but I am appalled at the martial law on this side. You ought to be ashamed.

What bothers me here, and what America needs to understand, is that there is a requirement of two-thirds, and all of a sudden they say, "We can shift and change," because you have flights that you have to make for tomorrow, and do not want to take the time to read a bill.

I think that is pretty shocking. I would like to read and see what the changes are. I think that is extremely important, not to put our personal time and our personal lives ahead of the job and the responsibilities. I think we owe it to the American people to stay here until the job is done.

□ 1250

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Glens Falls, NY [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, we have been a little too frivolous with the debate. This is really not something we can laugh about.

I just want Members to know that I am not going to take up time trying to defeat the previous question on this particular rule, because we are talking about simply waiving the two-thirds vote. So there is not really justifiable reason to try to defeat the previous question. We will have a recorded vote on the rule itself.

However, I just want Members to know that when we do debate the second rule, that there will be an attempt to defeat the previous question for two reasons. One, so we can offer the Goodling amendment and two, so that I can offer the Dole amendment which would keep the present policy in effect as far as military homosexuals are concerned. I just wanted Members to know that.

Mr. DREIER. Mr. Speaker, I urge a strong, enthusiastic "no" vote on this martial law rule.

Mr. Speaker, I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, the opponents of the Family and Medical Leave Act have presented a number of smoke screens today. But the bottom line goes back to the same issue that we have been discussing for the last 8 years, which has passed this House six times before, which we debated for over 3½ hours earlier this week, and that is, simply, should working men and women in this country that have a medical emergency in their family, whether it is a child or a parent in need, should they have the right to be able to spend time, unpaid leave time with that parent, or child, or spouse without fear of losing their job. That is the issue today.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SKAGGS). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GORDON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count for a quorum.

Does the gentlemen from Tennessee insist on his point of order with regard to a quorum?

RECORDED VOTE

Mr. GORDON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 239, noes 155, not voting 36, as follows:

[Roll No. 27]

AYES—239

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon

Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lehman
Levin
Lewis (GA)
Lloyd
Long
Lowey
Maloney
Mann
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Skelton
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn

NOES—155

Allard
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Pryce (OH)
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Saxton
Sensenbrenner
Shaw
Shays
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Thomas (CA)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—36

Archer
Barton
Blackwell
Brown (CA)
Crane
Fields (TX)
Ford (TN)
Gingrich
Hancock
Henry
Hutchinson
Johnson (CT)
Klug
Kopetski
Laughlin
Lipinski
Manton
Penny
Pickett
Pickle
Quillen
Rose
Santorum
Schaefer
Schiff
Shuster
Sisisky
Slattery
Studds
Taylor (NC)
Thomas (WY)
Washington
Waxman
Whitten
Yates
Young (FL)

□ 2212

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ELECTION AS A MEMBER OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. HOYER. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 70) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 70

Resolved, That the following named Member be elected to the following standing committee of the House of Representatives:

Standards of Official Conduct: Nancy Pelosi, California to rank after Representative Cardin of Maryland.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION RELATING TO CONSIDERATION OF SENATE AMENDMENT TO H.R. 1

Mr. GORDON, from the Committee on Rules, submitted a privileged report (Rept. No. 103–13) on the resolution (H. Res. 71) relating to the consideration of the Senate amendment to the bill (H.R. 1) to grant family and temporary medical leave under certain circumstances, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 1, FAMILY AND MEDICAL LEAVE ACT OF 1993

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 71 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 71

Resolved, That upon the adoption of this resolution the bill (H.R. 1) to grant family and temporary medical leave under certain circumstances be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment thereto be, and the same is hereby, agreed to.

The SPEAKER pro tempore (Mr. SKAGGS). The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

POINT OF ORDER

Mr. WALKER. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. WALKER. Mr. Speaker, pursuant to House rule XX, I make the point of order that House Resolution 71, the rule that we are taking up, should be considered in the Committee of the Whole, and I ask to be heard on my point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. WALKER. Mr. Speaker, House rule XX provides that, and I quote:

> Any amendment of the Senate to any House bill—

And I repeat:

> An amendment of the Senate * * * shall be subject to a point of order that it shall first be considered in the Committee of the Whole on the State of the Union, if, originating in the House, it would be subject to that point.

And the rule goes on to provide just one exception to this requirement is possible, and that is if a motion to disagree to the Senate amendment and request a conference is made.

Mr. Speaker, House Resolution 71 contains the Senate amendment by virtue of being a self-executing rule. As such, my point of order must be sustained and the resolution must be considered in the Committee of the Whole.

The SPEAKER pro tempore. Does the gentleman from Tennessee [Mr. GORDON] desire recognition on the point of order?

Mr. GORDON. Not on this point of order, not at this time, Mr. Speaker.

The SPEAKER pro tempore. (Mr. SKAGGS). The Chair is prepared to rule on the gentleman's point of order.

Before the House at this time is not the Senate amendment itself, but a rule properly reported from the Rules Committee to the House of Representatives, against which a rule XX point of order is not well taken. If we were considering the Senate amendment itself, the gentleman's point of order would be well-grounded, but the Chair will rule the point of order out of order.

PARLIAMENTARY INQUIRIES

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. WALKER. Mr. Speaker, is it not true that this resolution when adopted will in fact agree to the Senate amendment? So if the Senate amendment is not in this rule, where is it? Is it floating out there somewhere?

The SPEAKER pro tempore. The gentleman from Tennessee has not called up for House consideration the Senate amendment, but a rule offered by the Rules Committee.

Mr. WALKER. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. WALKER. Mr. Speaker, the gentleman from Tennessee has called up this resolution which contains the Senate amendment, because as soon as this resolution is adopted, it will, in fact have the Senate amendment. Now, the Chair cannot have it both ways.

The SPEAKER pro tempore. The pending business before the House is the resolution offered by the Rules Committee, which if adopted will be the order of the House. The Senate amendment is not now before us.

Mr. WALKER. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. WALKER. Mr. Speaker, will the Senate amendment be taken up separately when we have completed this legislation?

The SPEAKER pro tempore. Not under this resolution.

Mr. WALKER. Well, if the House is not going to take up the Senate amendment separately and it is not contained in this resolution, I repeat again, where is it?

The SPEAKER pro tempore. Again, rule XX which the gentleman has cited applies only if the Senate amendment itself is before the House, which is not the parliamentary status that we are now in.

Mr. WALKER. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. WALKER. Mr. Speaker, where is the Senate amendment if it is not in this language? It has to be before the House as a part of this language because once this language is adopted, and the Chair has ruled that the Senate amendment will not come up separately, and so therefore, it has to be contained in this resolution.

The SPEAKER pro tempore. What will be adopted will be the rule.

Mr. WALKER. But the rule enacts the bill, so the bill is a part of the rule.

The SPEAKER pro tempore. Again, the bill is not before the House. The Senate amendment is not before the House. The resolution of the Rules Committee is before the House. The Chair has ruled on the point of order.

The Chair recognizes the gentleman from Tennessee [Mr. GORDON].

Mr. GORDON. Mr. Speaker, during consideration of this resolution, all time yielded is for purposes of debate only.

At this time I yield the customary 30 minutes, for purposes of debate only, to the gentleman from California [Mr. DREIER]. Pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 71 provides for the consideration of H.R. 1, the Family and Medical Leave Act of 1993. The rule provides that the House concurs in the Senate amendment to H.R. 1, and, in effect, upon adoption of the rule, H.R. 1 is cleared for the President's signature.

Mr. Speaker, this will be the seventh time the House has passed family and medical leave legislation, each time with strong bipartisan support. Last evening the House passed H.R. 1 by an overwhelming vote of 265 to 163. Just a short time ago the Senate passed their version. By passing this rule we can put family and medical leave legislation on the President's desk tonight.

I encourage my colleagues to pass this resolution.

Mr. DREIER. Mr. Speaker, I thank my good friend, the gentleman from Tennessee, for yielding me this time very generously.

Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, when we were debating the last resolution, my friend, the gentleman from Tennessee, mentioned Hollywood. He referred to the fact that I represent an area that is near Hollywood.

I would add that the gentleman has just taken a page out of the same book with what he has proposed. We just voted a few minutes ago on Martial Rule No. 1. Now we are being asked again to vote on Martial Rule No. 2. Unfortunately, it is with the same tragic cast of villains.

Once again the other side is trying to stifle debate and deliberation by making a vote on this rule the vote on the Senate changes as well.

If I were permitted to say so under House rules, I would observe that the other body has sometimes been referred to as the "Cave of Winds." If we accept this procedure and the other body's amendment tonight, we will be called "The House of the Cave-Ins." We are being asked to cave in and accept sight unseen a Senate amendment which substantially alters what this House agreed to just yesterday.

□ 2230

Members may or may not be interested in knowing this, but, before the House and Senate have reached the stage of disagreement on a bill, the most privileged motion is to disagree to the Senate amendment and request a conference. That is because the position and prerogatives of the House are tantamount and must be protected at this stage. This rule turns that very important protection on its head and caves to the Senate position without separate debate or a vote.

Mr. Speaker, to protect the House prerogatives I urge defeat of the previous question so that we can make the amendments that we have discussed in the last resolution in order.

Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, I have no requests at this time, and I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Del Mar, CA [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, let me tell my colleagues why this Member and many of the other Members have a real concern about the term "spouse."

My wife, like all the other Members', was issued a spouse pin. The gentlewoman from New York [Ms. SLAUGHTER]; her husband, as many other husbands, was issued a spouse pin. The reason that we have concern is the Sergeant at Arms as an official body of this House has issued two spouse pins to the two homosexual Members of this body. So, the term "spouse" does have significance.

And I heard the chairman say that it is defined in the Uniform Code of Military Justice. I can assure the chairman, as a 20-year retiree from the U.S. Navy, it never has referred, or codified, or redefined the term "spouse" in that manner.

So, H.R. 1, if my colleagues support it, that is what they believe in, and they should do it. But I believe, and I believe many of the other Members feel, that H.R. 1, right now, with the term as it is, sets and keeps in the President's homosexual issues until July 15. Second, it is the start of the redefinition of the term "spouse." That is why this Member, and I am sure many of the other Members, have concern in the House.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Newport News, VA [Mr. BATEMAN].

Mr. BATEMAN. Mr. Speaker, it concerns me more than I can say that so early in this session we are on a track that is going to bring this House into enormous disrepute. It is not because I oppose the legislation pending before us. No, Mr. Speaker, it is not a matter that I am opposed to the legislation which is before us, shortly, presumably, to be enacted. If my colleagues have the votes to implement the public policy of that legislation, then I say to them, "Utilize it. Don't play games with our rules. If you do not have the courage to submit an issue straight to this body and cannot prevail by getting a majority without the permeations of the rules and self-executing rules that deny to me and to others the opportunity simply to say no, we think this is unwise public policy, and you cannot tell me, leadership on that side of the aisle, that you do these things other than to avoid the risk that people on your side of the aisle would not vote for this misconceived public policy in the way we are distorting and abusing the rules and the process of this House."

Mr. Speaker, I say to my colleagues, "Call a halt to it. Do not do this further. If you cannot prevail by a clearcut majority on a proposition fairly presented, you are not entitled to prevail, and how dare you contort and twist the rules to avoid the opportunity of this body to work its will? Are you so afraid you do not have a majority if you use the rules of this House as they were intended to be used?"

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Garden Grove, CA [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, I have this peculiar feeling that I should be doing my Christmas shopping this weekend. This feels that much like the end of a session. I cannot believe it is the beginning of February, the beginning of a brandnew Congress.

I went over to the Senate side this afternoon and this evening, and they had a fulsome debate on this issue of homosexuals in the military that has the Clinton administration hemorrhaging, and the President would have been well served by a Republican leader, Senator DOLE, to have allowed a fulsome debate on only the DOLE amendment and a similar amendment over here to give the President a defeat that I think he could have overcome with the passage of just a few months rather than have him hemorrhaging for the next 6 months where we will have full committee hearings in both Houses in several committees on this issue, and it will turn into a national debate that is going to affect a heinous policy of trying to teach grade school children that there is no such thing as sodomy.

Mr. Speaker, I would like to put an article out of the Navy Times in the RECORD on seven countries and how they handle homosexuals in their services, in varied ways, and none of these people have fought a war lately, and none of them have major navies at sea. But there is a lot of lying going around about what happens in other countries. I would also like to put in AIDS statistics because an Army is an entire walking, living, mobile blood bank, and it is important to people in combat that they trust the purity of their blood supply. I would like to put in a draft that will probably be refined a little bit of our leadership's research committee statement on what we think about this, and I would like to put in a Newsweek article called, on a play on words on a soap opera, "The Young and the Reckless," about how teenaged boys line up on the sidewalk in Minneapolis and are selected by homosexuals in their thirties, and one of them says, "It's nice to get them this young and not have to be arrested and go to jail."

Mr. Speaker, this is going to be a heck of a debate over the next 6 months. The President will continue to be hemorrhaging, and I am sorry we are not in for a full debate on this issue this early in the session.

The articles referred to are as follows:

GAYS IN FOREIGN MILITARIES

AMERICA: CLINTON'S TEAM BEGINS TO STUDY THE ISSUE

(By Patrick Pexton)

WASHINGTON.—The hottest issue of 1992 grew warmer in December when President-elect Clinton's personal emissary visited the Atlantic Fleet to assess the mood and plan strategy for lifting the current ban on homosexuals in the United States military.

The aide, Washington attorney John C. Holum, visited crews on three ships and a submarine and met with Navy Secretary Sean O'Keefe and the chief of naval operations, Adm. Frank Kelso.

In a brief interview with Navy Times, Holum said he has been "consulting widely" with people in all of the services and will continue to do so, although he would not outline precisely whom he has talked with or where he has visited.

Clinton has promised publicly to get advice from an array of military people about the issue before making the move; which many say would more closely align U.S. policy with that of such allies as France, Germany, Israel and Canada.

Holum echoed statements by Defense Secretary-designate Rep. Les Aspin, D-Wis., saying his mission is not to decide whether, but rather how, to make the change.

A senior adviser for national security to the transition team and a member of Secretary of State-designate Warren Christopher's law firm, Holum said he was assigned "to look into ways to implement Governor Clinton's commitment on this issue." He said his consultations are "very broad" and that he may visit other bases.

Holum spent between 90 minutes and two hours on each of four ships during his Dec. 22 visit to Norfolk, visiting berthing areas, heads and mess facilities. He met with groups of enlisted people aboard the aircraft carrier Teddy Roosevelt, the destroyer tender Yellowstone, the attack submarine Boise and the amphibious transport dock Trenton.

The sailors he met there, he said, were "certainly being candid." Officials said sailors expressed concern about privacy, berthing, personal health, potential violence against gays and fraternization regarding homosexuals.

In each case, Holum said he would convey the crew members' concerns to Clinton.

CANADA: LAWSUIT BROUGHT DOWN HOMOSEXUAL BAN

(By Grant Willis)

WASHINGTON.—All Michelle Douglas wanted was to get her security clearance, do her job and be left alone. Instead, the Canadian Air Force lieutenant found herself a place in history as the woman who brought down the Canadian military's ban on homosexuals in uniform.

"I never, in the military, made an issue of my sexuality. It was only the military that made an issue of it," said Douglas, 29, an Ontario lesbian who sued the government over restrictions on her career and triggered an abrupt change in government policy last fall. "I challenged it because of a personal injustice."

The government agreed October 27, 1992 on the eve of trial, to settle Douglas' $500,000 wrongful discrimination lawsuit and consented to an order by the Federal Court of Canada stating that the military's policy on sexual orientation violated the 1985 Charter of Rights and Freedoms.

"The Canadian Forces will comply fully with the court's decision," said an announcement the same day by Chief of Defense Staff Gen. John de Chastelain. "Canadians, regardless of their sexual orientation, will now be able to serve their country in the Canadian Forces without restriction." Now some Americans may be looking north of the border for indications of what may happen here if President-elect Clinton delivers on his promise to end the U.S. military's ban on homosexuals.

But the Canadian court decision ending the military's gay ban is barely two months old, so its real effects are still hard to judge. Plans to implement it are still in the works.

In addition, constitutional and cultural differences between Canada and the United States make comparisons unreliable.

REVOLUTION UNDERWAY

While gay-rights laws exist in only a handful of U.S. jurisdictions, Canada has been undergoing a nationwide gay-rights revolution for seven years under its human rights charter and associated court rulings.

The charter gives Canadians civil rights guarantees similar to those found in the U.S. Constitution, but it also contains the types of explicit bans on sex discrimination that were considered and rejected in the United States during debates over the Equal Rights Amendment in the 1970s and 1980s.

While an end to the homosexual ban in the U.S. military would put the Pentagon at or near the forefront of social change here, the Canadian military is one of the last institutions in that country to drop discriminatory practices.

Also, unlike the United States, Canada repealed its criminal sodomy laws in 1969, and Canadian service members are not required to certify they are heterosexual when they enlist or reenlist.

The Canadian defense official managing the change in sexual orientation is retired Brig. Gen. Daniel Munro, director general of personnel policy for the Canadian Forces. Munro declined to be interviewed.

However, it is clear that Munro's staff has more work to do to translate a broad anti-discrimination policy into a day-to-day change in military life.

ECHOES OF U.S. CONCERNS

A Canadian government background paper, issued at the time of the policy change, echoed many of the arguments made in the United States by those who oppose lifting the ban. It said strong leadership within the military will be required "to ensure that cohesion and morale, which are essential to operational effectiveness, are not impaired * * * Some of the strongest concerns center on the perceived loss of privacy and the inability to control personal relationships under conditions where physical and social privacy is impossible to provide."

Canada's sudden move to throw open the doors to homosexuals in the military is a sign of progress, Douglas said. Nevertheless, she said, the official silence on the policy since October is cause for concern.

"To a large extent, they are trying to make this issue go away by not discussing it publicly," she said. "We need to see some real leadership on this issue. . . I worry that, unless there's some external pressure, the military probably won't respond as well."

Some glimpse of the Canadian military's intentions emerged from a Dec. 10 meeting in Ottawa between Munro and Svend Robinson, an openly gay member of Parliament and a member of the New Democratic Party.

A Robinson aide who attended the meeting said Munro has asked interested organizations to suggest training or personnel policy changes to help the integration process.

Some immediate issues on Munro's agenda, the aide said, are the settlement of four pending lawsuits against the government by former service members who claim to have been damaged by the military's old policy.

Homosexuals in the military whose careers have continued under promotion and transfer restrictions since 1988 are having their personnel files reviewed for possible retroactive action to bring them back into parity with their heterosexual colleagues the aide said.

Finally, the aide said, the government plans to review the cases of all members who were released for homosexuality since Canada's human rights charter took effect in 1985. It is still unclear whether these veterans will be offered compensation or reinstatement to active duty.

MATRIMONIAL QUESTION

Meanwhile, the Canadian gay-rights juggernaut rolls on: The Supreme Court of Canada is reviewing whether to allow two gay men to marry, and the Ministry of Justice has introduced legislation to put homosexual rights explicitly into federal law.

"I wouldn't be surprised if it happens," said Ian Inrig, dominion secretary-treasurer of the Army, Navy and Air Force veterans in Canada—Dominion Headquarters. "We, here in Canada, are undergoing a great metamorphosis."

"There is some opposition in the armed forces, but the members have been told to live with it," he said. "I wouldn't think of it as very much of an issue at all, as far as our membership is concerned."

Sources say privately that Canadians are accustomed to a greater level of government intervention in social affairs than U.S. citizens and that the prevailing social climate is one of tolerance.

"We Canadians are not like you Americans," said one source, who asked not to be named. "Canadians are a very laid-back people. We have to be pushed and pushed until somebody really reacts."

Douglas agreed.

"We generally are a very accepting people," she said. "There is no Pat Buchanan and there's no Jerry Falwell here, and I say, "Thank God" Douglas added, referring to the conservative Republican political commentator and the fundamentalist clergyman whose views have carried electoral clout in the United States."

Douglas said one of her lesbian friends who is still on active duty and keeps her sexual orientation a secret noticed little reaction among her military colleagues to the new tolerance policy in October.

"They talked for about a week, and that was it," Douglas said. "There never were any hurtful statements, just a few jokes."

Douglas predicted few homosexuals in the Canadian forces will choose to announce their sexual orientation. And since many homosexuals will still appear on the surface to be just like anyone else, she said, there will be little for heterosexual members to react to or resign over.

ENGLAND: ONE SIMPLE POLICY: OUT OF THE CLOSET AND YOU'RE OUT OF THE ARMY

(By William Matthews)

WASHINGTON.—Britain's policy on homosexuals in the military is simple. "when you come out of the closet, you also come out of the army," said Chris Pengelly, a spokesman at the British Embassy in Washington.

And although policies restrict homosexuals from military service, Britons say there is little if any sentiment for change in Great Britain.

The question of permitting homosexuals to serve in the British military is simply not a matter of debate, according to Britons interviewed here and in London. And the fact that Canada and Australia recently lifted bans on letting homosexuals serve, and the possibility that the United States might follow suit, has not prompted the British to question their own policy, they said. "We think we've got it right," Pengelly said.

The only recent military action on the homosexual front in Britain came last June when the British military adopted the policy that homosexual acts that are not against civil law will no longer be against military law. The change means this:

"They used to be kicked out and prosecuted. Now they are just kicked out." Pengelly said.

Actually, the practice of prosecuting homosexuals simply for being gay was abandoned unofficially years ago, said Andre Silverman, a spokesman for the British Defense Ministry. Most homosexual activity among consenting adults was decriminalized in Britain in 1967, he said.

But beyond making current practice into official policy, there has been no move by the British military to welcome homosexuals.

Britain's military leadership contends, much like its American counterpart, that allowing homosexuals to serve would be detrimental to the military.

"Homosexuality is not compatible with the efficient operation of the armed forces" Silverman said. The British military is built on "a system of trust and confidence" among its members, and permitting known homosexuals to serve would disrupt that trust and undermine military effectiveness.

A spokesman at the Defense Ministry called the exclusion of homosexuals "a practical decision, not a moral judgement." She said the ban is necessary to maintain high morale and cohesiveness.

Both Defense Ministry spokesmen said they do not know how many troops are expelled each year for being homosexual, but Silverman said such expulsions among Britain's 300,000 military personnel are "not common."

Gays in the military "is certainly not an issue," said embassy spokesman Pengelly. And, gay rights have not become a political cause as in the United States.

"Most Britons think the controversy in the United States about whether to permit homosexuals in the military is all rather odd," said Jamie Dettmer, a correspondent for the Times of London.

ISRAEL: THE GAY CLOSET IS STILL FULL

(By Tom Philpott)

HAIFA, ISRAEL.—Yaron, a 30-year-old reserve lieutenant in the Israeli navy, stares thoughtfully at his coffee cup, considering the question.

English is his second language, so he must choose his words carefully. But the greater challenge is sorting out his feelings on the topic now raised: his experience as a homosexual in the Israeli Navy.

Thirty to 60 days each year, Yaron commands a Dvoraclass fast attack boat, patrolling Israel's coastline with a crew of five active-duty sailors and four to five reservists. "Ten beautiful men" Yaron calls them.

The crew trains to keep skills sharp and to guard against terrorism from the sea. But how does a homosexual like Yaron handle his duties? How does the crew react? How does the Israeli military accommodate homosexuals in operational assignments?

Widely viewed as one of the best militaries in the world, the battle-tested Israeli army is often cited as proof that military units can function successfully without excluding homosexuals. But in taking a first-hand look at the Israeli military, Navy Times discovered vast differences between the written law and day-to-day practices.

DISCRIMINATION PERSISTS

In theory, homosexuals in the Israeli military are promoted, serve in combat and are in every way the equals of their peers. But in practice, people like Yaron face many of the same pressures as their counterparts in the U.S. military. Indeed, Yaron has never revealed his sexual preference to his military leaders, for fear that it might cost him his coveted at-sea billet.

Those found to be gay, or who proclaim their homosexuality, must undergo psychological testing to remain in service. Their files are flagged. They usually are barred from positions requiring top-security clearances. And they are rarely assigned to combat units. Regardless of the position they hold, they do not serve without stigma.

Homosexuality, while no longer legally banned in Israel, is viewed as abnormal both within the military and in Israeli society.

THE MASQUERADE

Yaron's experience in a close-knit operational unit provides ammunition to both sides in the gay debate. He remains in the closet, even after six years of active duty and six more in the reserves. The masquerade, he said, is painful, but necessary. If he reveals his homosexuality, not only would it bother some crewmen, particularly the younger ones who don't know him, but it might upset his squadron commander. The navy has too many reserve officers for too few seagoing billets, so Yaron likely would get a quick transfer to a desk job.

Hiding his homosexuality, Yaron said, he receives excellent fitness reports and considers himself an effective boat captain. Still, he's concerned about the "sexual tension" and how his homosexuality plays off the crew.

"[Navy officials] think if I'm gay that, in an emergency, some of my subordinates won't take my orders . . . that they will be insubordinate," he said. "I feel you must trust everyone. It doesn't depend on sexual orientation. I'm very efficient."

But, "You live with the crew 24 hours a day, sometimes away from the beach for a long time. And sailors, they talk all the time about sex."

But as a homosexual, he said, "it's very difficult to separate the sexual stress from the special relationship with the crew. There are close quarters and sometimes even touching. Lots of times sailors go naked, and that is a problem for me. They laugh a lot about opportunities for sex among the crew and, sometimes, for a gay, it's very hard."

He's uncomfortable with some of the horseplay between crew members and bothered that the crew curse one another with derogatory slang words for homosexuals. He wonders if some sailors who joke about homosexual relations actually are interested in them. And he fears showing favoritism toward crewmen whom he finds physically attractive.

"I can't ignore if I like someone very much. If I'm very attracted or [have] a special relationship, I'll act different .... Sometimes they can be confused and don't know the meaning of this connection."

But Yaron emphatically said he would "never" have sexual relations with a crewman.

"I separate [my] civilian life when I come into the Navy. I act like I'm straight. But sometimes that may cause some trouble because I'm only a human being. I can do my job very good although I feel sexual attraction, too."

Listening to this conversation is Tal Weisberg, a gay reservist in the Israel army and Yaron's friend.

"I switch off my sexuality" when on active duty, Weisberg said. "Not because I want to, but because I am afraid."

Staying in the field for long periods is not much different than being at sea, said Weisberg, who serves in a frontline maintenance unit. When he feels attracted to another soldier, in a group shower for example, he has learned to check his feelings.

"It depends on the character of the person," Yaron said. "If he has a weak character, it's a problem."

WE DON'T WANT A PROBLEM

Israel has fought five major wars in its 45-year history. Today it faces real or potential enemies on every border and is dealing with the sixth year of civil unrest in its occupied Arab territories. Against that backdrop, the issue of homosexuals in the military is seen as relatively insignificant. And as far as the government is concerned, the less attention paid to it the better.

"We don't have a problem," said one government official "and we don't want one."

"It's true that the Israeli army does not discriminate against gays. But it has to be put into a proper context," said Lt. Col. Moshe Fogel, spokesman for the Israeli Defense Force. That context begins with Israeli society, where the emphasis is on "family values" and where the government is a democratic theocracy, with Judaism and religious leaders playing a prominent role in setting the nation's agenda. There's no concept here, as in the United States, of absolute separation of church and state.

"We struggle to strike a balance between a modern, pluralistic, secular society and, at the same time, a Jewish state," said Uri Dromi, director of the government press office. Judaism considers homosexuality as "an aberration something that should not be done and should not be endorsed or acknowledged or credited with the same status as straight people."

This approach to homosexuality fits in well with Israel's concept of universal service. At age 18, all Israeli men and women are drafted. Some exemptions are granted for ultraorthodox Jews and the physically handicapped. But many youths found physically unfit, including the severely handicapped, routinely appeal to a voluntary service board and win spots somewhere in the Israeli Defense Force. Throughout the process, the issue of sexual orientation is never raised.

"If you don't let someone in the Army here, it is a very cruel thing to do," said David Kreizelman, Israel's deputy director of the government press office. "Not only do people assume something's wrong" with that person, but he or she is sure to face "all kinds of problems."

Military service is a springboard to a successful civilian career here. Job applicants are quizzed on their military experience. Those who have progressed steadily or have served in critical positions have an advantage over their peers, particularly for jobs in government or in Israel's bustling defense industry. Conversely, young people with no military experience face limited prospects.

Male draftees must serve three years on active duty. At age 21 a relatively small number enter the small Israeli career force, while most transfer to the reserves, where they drill one to two months annually until age 51. Women must serve two years on active duty and remain in the reserves until age 24.

Draftees can say where they would like to be assigned, but the military makes final decisions based upon qualifications and service needs. Only top-quality recruits are sent to combat units. Quality is determined based on intelligence, motivation, psychological fitness, education and physical fitness.

While no conscript is asked about sexual preference, anyone who said he is a homosexual—or is suspected of being one—is referred for psychological testing.

Dan Yakir, a lawyer with the Association for Civil Rights in Israel, said the official policy on homosexuals in service is set down in a 1983 military order, which concludes that while homosexuality is not a mental disorder, it might pose a security risk.

The psychological exam given to those who acknowledge or are suspected of being homosexuals is aimed at determining whether the individual's sexual orientation is an isolated phenomenon or whether it is associated with other behavior that could jeopardize a military operation. The test also attempts to measure the "mental strength of the soldier and the ability to cope with stress," Yakir said.

Most homosexuals are permitted to remain in service, said Reuven Gal, former chief psychologist for the Israeli Defense Force. "However, there will be an indicator in his file that limits him from serving with specific units, such as intelligence . . . or in small units where the closeness of living accommodations are so tight and limited it may create problems. They won't send him to a submarine, for example. Other than that, they won't discriminate."

Yakir said homosexuals are not allowed to serve in positions requiring top-secret clearances, including any work with encoded messages. The 1983 order states that those suspected of being gay should be considered a security risk for the duration of their service career.

Charles Moskos, an American sociologist who opposes lifting the ban on gays in the U.S. military, recently spent time in Israel researching the gay issue. His conclusion: "Technically the Israelis draft gays. De facto, they treat gays like second-class soldiers. . . They are sent to open bases where they can go home at night." In other words, he said, "Open gays in the military are treated like women."

An Israeli defense official disagrees.

"Each case has to be treated on an individual basis," he said. But if a homosexual "is in a combat unit and his fellow soldiers know that he's homosexual and it becomes a social problem, he has to be taken out of that unit."

Gal, now director of the Israeli Institute of Military Studies, suggests that, structurally, the Israeli military might be better suited to accommodate homosexuals than is the U.S. military. The Israel military is smaller and far more stable.

"The very same group [of recruits] who came in together in August 1989 walks out together three years later," said Gal. "The same four guys in a tank crew will serve together through several wars. They know each other to the guts." For such a group to discover a close buddy is gay may not be so hard, he said. But for an American unit, in which members move in and out all the time. "I can see a lot of trouble with that."

The big stumbling block for acknowledged homosexuals is not the right to war a military uniform, Israelis point out. It's the right to earn advancement and win good jobs. "Once you become an officer, or once the Army has a lot invested in you, it's more unlikely they will kick you out on this issue alone," said Liora Moriel, who chairs the Society for the Protection of Personal Rights. Israel's only gay rights organization. Her advice to gay military people: "Keep quiet as long as you can. Once you've proven yourself, you can say I'm gay or 'I'm lesbian,' and it will matter less."

"I know an officer who visited with American units," said one Israeli defense official. "And what did he see? In Marine combat units he saw women getting the same training as men. He saw every type of ethnic background you could ever imagine.

"We see that and we say, "What problem could you have with homosexuals?"'

THE LAW SAYS IT'S OK TO BE GAY, BUT LIFE ISN'T SO SIMPLE

(By Tom Philpott)

TEL AVIV, ISRAEL.—Tal Weisberg hid his homosexuality from family and friends for years. He still does from fellow reservists in the Israel army.

"The difficulties are not in the field or with military authority, but dealing with the [military] environment," he says.

"In your personal life you can go where you want and be with whom you want * * * In the army you are stuck with fellow soldiers. And if they are not open about gay issues, and they find out you are gay, it can be a very difficult problem."

Weisberg says he "came out" only after leaving active duty. He did discuss his feelings with army psychologists and trusted them not to "transfer this information to military authorities." As far as he knows, they did not.

Weisberg doesn't talk about his personal life with other soldiers during stints on active duty as a reserve maintenance specialist. If someone asks why a nice-looking, 34-year-old is not married, he says, "I have a good cover story." He actually was married once and has two children.

The "common attitude" among other soldiers, Weisberg says, is that homosexuals "are faggots and drag queens." As a result, he knows only one openly gay soldier.

"Most people in the Army are much more accepting of the gay community now" than they were even a few years ago, he says.

But in the military, homosexuals, like heterosexuals, have to control their sex drives.

"Obviously, there are situations where [a homosexual] sees a sexy soldier and he desires him. But it's the same thing if a straight soldier sees a sexy women soldier and desires her.

"We do have more opportunity to be closer to men, [sharing] the same tents and the same showers. But gay people are very careful with those things. They won't try to hit on somebody unless they are positive they are gay too," Weisberg says.

"If permitted, I would prefer to be in a place where I wouldn't have to stay in camp all the time. I would do my duties and come home. But I'm sure there are some who would like to be combat officers or serve on ships."

"If people learn to appreciate the person, and to know they can count on him in time of need, his sexual orientation is totally irrelevant. If you are a [jerk] it doesn't matter if you are straight or gay."

GAYS CAN SERVE "IN AN OFFICE BUT NOT AT SEA!"

(By Tom Philpott)

TEL AVIV, ISRAEL.—Israeli authorities refused to let active-duty service members be interviewed about homosexuals in the ranks. But almost every Israeli adult has been in the military or serves in the reserves, so opinions are not hard to find.

And most agree that homosexuals are virtually invisible in the Israeli military.

Allon Klebanoff, a reserve Army captain who commands a tank company, says homosexuals stay hidden and no one goes looking for them.

His own experience with homosexuals over 12 years of service involves a single incident during a training exercise. As executive officer of a company, Klebanoff said, he walked by a tent and saw two soldiers in the same sleeping bag.

"I just looked the other way. They are good soldiers. Never any problems about them," he said. But "had they been bad soldiers, had I needed an excuse to get rid of one or both of them, I may have used it."

Klebanoff, a history teacher who was wounded in action in Lebanon's Bekaa Valley, in 1982, says he may not be typical. "Maybe somebody else would have said, 'There's no room for gays in my unit.' * * * In Israel you'll find policy in many cases comes down to how the commanders decide."

A retired Israeli naval officer, who asked not to be named, said he never had to deal with the issue during 31 years of service.

"If the gay restricts himself, and nobody in the boat knows about it and he doesn't show any sexual advances, I don't see any problem. [But] if this guy starts with another fellow, there probably is a problem."

But no one openly homosexual ever served in a seagoing billet, he said.

"I don't want to see a gay in our uniform. He can serve in an office someplace or on a base. Not at sea!"

A young woman who recently completed her two-year army obligation said she saw nothing that led her to believe lesbians serve openly in the Israeli army. "It's not open and people don't talk about it," she said. "If there were some I didn't know about them."

Adds Erez Weiss, 23, who spent his three-year tour as a helicopter crewman. "I don't think it would have been accepted. It is a very close system and they probably would throw him out. If there is someone who's gay, he hides it. It's a kind of curse."

A 41-year-old reserve army sergeant, named Israel, who refused to give his full name, said he was assigned to an artillery battalion for most of his 18 years in service and never met an avowed homosexual.

"A gay would have had lots of problems. [They] do not fit in with the image of a fighter. . . . He has no place in a combat unit, he would be automatically rejected."

That feeling surfaced during the Gulf war, he said, when he was assigned to a unit in Tel Aviv that rescued citizens from the rubble of Iraqi missile attacks. Because his temporary commander, a major, had very effete mannerisms, he and other soldiers refused to follow his commands. They did their jobs despite the officer, rather than by following his orders.

"Everybody called him homosexual . . . He had no support. No one respected him. . . ." "At the same time," he said, "it is stupid not to have gays serving as [military] computer programmers and in the medical corps."

GERMANY: FLAUNTING HOMOSEXUALITY CAN KILL CAREERS

(By Steve Vogel)

BONN.—Homosexuality is no excuse for not serving in the Buneswehr, the German armed forces. All young men, gay or straight, face the draft and compulsory service.

But the degree of acceptance of homosexuals here does not come close to the full equality that gay activists in the United States are demanding.

Gay officers find paths to promotion blocked, and in some cases they are barred from jobs requiring access to classified material, officials say. And gay conscripts often find life in the Bundeswehr unpleasant.

Still, neither anti-gay violence, lowered readiness nor other discipline problems have resulted from Germany's decriminalization of homosexuality 24 years ago. "We haven't noticed any problems like that," said Friedrichs, who has been in the service 30 years. "There were no problems that caused the military leadership any headaches."

From a practical standpoint, the Bundeswehr's prohibition on gays ended in 1969, when West Germany removed homosexuality from its list of criminal offenses—civilian and otherwise.

"Homosexuality is not an offense in Germany any longer, and it's the same way with the armed forces," and Lt. Col. Burkhard Friedrichs, spokesman for the German Army's 10th Armored Division in Simaringen.

"Heterosexuals and homosexuals are treated the same way," said Navy Commander Walker Reichenmiller, a spokesman for the Defense Ministry in Bonn.

How accurate that assessment is—and how applicable the German experience may be to the United States—are both open to debate. As one senior American officer said: "The Germans, the Dutch, the Belgians—they ain't been in a fight lately."

But the German military has managed to avoid any major public debate on the issue. Other than a single case in 1984, the issue of homosexuals in the German military has not created waves.

"There are always cases of known homosexual soldiers," said Friedrichs. "In principle, it's not treated any differently than heterosexuality." Typically, unless some sort of disturbance within the unit is reported, the situation is ignored. "It's a private matter," he said.

SOME ARE KNOWN

An officer in the Luftwaffe, Germany's Air Force, added: "I know one commander who's gay. His commander knows it, his unit knows it, but does it influence how he does his job? No. It's a known fact. He doesn't live on base. He doesn't behave against military law, and that's it. If he's behaving like everybody else, then where's the problem?"

Cases in which a homosexual makes an advance on a subordinate would not be treated differently than if a male superior made advances on a female subordinate, officials said. "In cases of sexual harassment, sexuality plays absolutely no role," said Friedrichs.

However, because women are prohibited from the German military except in the fields of medicine and music, there are few reports of heterosexual harassment.

Still, homosexuals face strict discrimination. The Bundeswehr withholds promotions from gay officers on the grounds that they cannot command adequate respect from soldiers, according to Volker Beck, a spokesperson for the German Gay League, who added that court challenges to the practice have not been successful to date. "What happens practically is that when someone is open about their homosexuality, they won't be promoted."

Military officials acknowledge that an officer's career can be damaged by open homosexuality. "It might be affected where they are behaving in a way it becomes obvious," said Reichenmiller. "The respect a military superior needs to lead soldiers might keep him from further promotion, but he wouldn't be" stripped of his rank.

But he might lose a prestigious job. In 1984, for example, a senior German army commander, Lt. Gen. Guenther Kiessling, was dismissed as deputy supreme commander of NATO because of allegations—later dismissed—that he frequented homosexual bars.

Manfred Woerner, then the German defense minister and now NATO secretary general, maintained that the general was a security risk because of alleged visits to two gay bars in Cologne, where Woerner said he was known as "Guenther of the Bundeswehr."

The case, known as the "Kiessling Affair," became a political hot potato, with Woerner coming under heavy criticism. When the allegations could not be substantiated, Kiessling was reinstated. But he then retired voluntarily.

German has compulsory military service for men, and a simple declaration of homosexuality does not exempt someone from military service. "The fact that somebody says 'I'm homosexual' is not reason to dismiss the man," said Reichenmiller.

URGES MUST BE CONTROLLED

However, if a potential draftee testifies that he is unable to control his sexual urges, he will generally be exempted.

"He will undergo a medical survey, including psychoanalysis, to establish clear evidence that he can't refrain from advancing on men" said Reichenmiller.

Exemptions also are granted for conscientious objectors, who are then required to work in civilian service.

Beck says that gay conscripts often find life in the Bundeswehr difficult.

"The conscripts are young, and manly behavior is expected," he said. "Someone who is homosexual is considered unmanly and therefore has a big psychological burden to bear if it's known.

"In a time when the entire society has become much more liberal, it's not a black mark to say you're homosexual," said Reichenmiller.

FRANCE: SOME CLAIM "I'M GAY" TO DODGE MILITARY SERVICE

(By Tom Philpott)

WASHINGTON—While homosexuals in the United States fight for the right to serve in the all-volunteer military, homosexuals in France may use sexual preference to avoid mandatory service, according to government officials there.

"There is no official discrimination against gay men and women as long as they obey the rules of the French armed forces," said Capt. Phillipe Hunter, a spokesman for the minister of defense. "For example, it is not possible to punish somebody because of his sexual life. But if this person makes some sexual harassment upon other members of his unit, he will be in trouble."

Other government sources said the more common practice for French homosexuals is to avoid the 10-month mandatory service required of draft-age youths by claiming their lifestyle is incompatible with service.

"Of people eligible for duty under the conscription law, only about three-quarters spend their 10 months in the army. Of the remaining 25 percent, three-quarters of those are medically exempted. And a well-known way of being exempted is declaring you are a homosexual," said one official. "[But] it will not appear on paper that you were exempted for that reason . . . Everybody is happy."

Yet it's not always a magic way to dodge the service. "If a young man claims to be a gay in hope of not being drafted, it won't work," said Hunter. "But if his sexual life causes him psychological troubles, he won't be drafted."

The gay movement in France "has always been anti-military," the official said. "Therefore many homosexuals will do everything possible to avoid being drafted."

Interestingly, while homosexuals in the French military "is a nontopic," in the words of one official, "It always comes as a surprise to discover there is such a thing as a gay in the military."

In French culture, he explained, "The way you behave sexually is a matter of private concern. So if you are a homosexual and you don't try to win [other service members] over to your ways, there will be no problem.

"The fact that they are screened out under the law is unofficial. It's just a well-known way of homosexuals to not be processed for service. If you were an avowed homosexual and wanted to volunteer, there would be nothing to prevent you from serving."

Hunter agreed that Americans speak more openly about "their sexual choices. It's not the same in France. They are more discreet."

It's uncommon to meet an avowed gay in French society, except perhaps among artists, are much more difficult to find than in the military, Hunter said.

"I have been serving on ship for about 10 years and I never met anybody who claimed to be gay," he said.

Marriage and Benefits: Drawing the Line

(By Soraya S. Nelson)

Washington.—Ask Norwegians what problems result from gays and lesbians serving in the military and the response is either a puzzled look or surprise at being asked the question.

In a country where women and men serve side by side aboard submarines and roll around naked in the snow to get clean during military exercises, Norwegians are very matter-of-fact about their integrated defense force. And homosexuals have served openly for the past 14 years.

There are approximately 40,000 people on active duty in the Norwegian military, including 26,000 male draftees. It is not known how many are homosexual because inductees are not asked their sexual preference.

Despite the absence of debate on homosexuals serving in the military, the status of homosexual partnerships is currently in flux.

The Labor Party government's proposal that Norway, like Denmark, allow gay and lesbian marriages is expected to pass before spring, officials said.

Homosexuals on active duty could then receive monthly housing allowances of about $550, plus other benefits, which could fuel resentment if it is seen as unfairly favoring homosexuals.

By contrast, there was little debate in 1979 over ending the ban on homosexual service in the military, said Gro Lindstad, who chairs, the National Organization of Lesbian and Gay Liberation.

"It's never been an issue or a problem," agreed 27-year veteran Navy Capt. Thor Hallin, who commanded the first Norwegian war vessel on which men and women served together.

Politicians agree society should be tolerant of homosexuals, said Anders Sjaastad, a member of Norway's parliament. Sjaastad likened the current debate to the one about putting women on an equal footing with men in the military.

"When we introduced equal rights for women serving in the military we had all kinds of arguments that it would introduce problems," recalled the former defense minister, who signed the order giving women equal opportunities in the Military. "None of those problems have actually occurred.

Hallin agreed, saying that in Norway today, women and men train together, serve together and even share quarters, sometimes in the least private of settings.

For example, a five-kilometer cross-country skiing exercise conducted five years ago required participants to work up a good sweat, undress and then roll in the snow to get clean while they were still hot. They did so without problems, said their former commanding officer.

But despite the tolerance of Norwegian society, Lindstad said most gays and lesbians in the military do not reveal their sexual orientation out of an unfounded fear of discrimination.

The Young and the Reckless

It was an average, rollicking "Boy's Nite Out" at The Saloon, in downtown Minneapolis. Conspicuous among the crowd of thirty something regulars was a generous sprinkling of dewy-faced "boys"—18- to 21-year-olds, allowed in Thursday and Sunday nights to dance and make sexual contacts but not to drink liquor. With their backward baseball caps and baggy flannel shirts, some of the younger contingent might have been just off a touring school bus. But that impression was emphatically dispelled later at the carnal "Sidewalk Sale" that is one of the attractions of Boy's Nite. As one jaded curbside cruiser observed, after checking out the youthful wares: "They're just old enough to screw without getting yourself arrested for it."

Minneapolis is hardly the only place such daring games are being played. While the annual rate of new HIV-positive cases among homosexuals is decreasing, surveys in urban areas from Seattle to Mobile are finding signs of a relapse to pre-AIDS recklessness, marked by a resurgence of free-wheeling gay night life. Even more worrisome, the evidence points to a growing generation gap in AIDS awareness: the importunate youth of the gay community apparently are practicing high-risk sex in significantly greater numbers than their elders. Studies say young gays are more likely to have had multiple partners and unprotected anal intercourse, the two leading risk factors for HIV infection, in the past 12 months. In the San Francisco area, where this year the HIV-positive rolls grew by a thousand, a Department of Health survey indicates that a second wave of AIDS infections is taking shape, with the highest incidence among gay men between 17 and 25. Nationally, according to the Centers for Disease Control and Prevention, diagnosed cases of AIDS among homosexual men from 13 to 29 crept upward last year, in defiance of the overall trend downward.

It seems clear that the safe-sex message is not getting through effectively to younger gays. Somehow, they manage to deflect the warnings. "I know a lot of guys my age just coming out, and [they] are having too much fun to worry about AIDS," wrote one respondent in a study of 18- to 25-year-old gay males in three West Coast communities. Many young gays carry a conviction of indestructibility along with the belief, held at their peril, that AIDS is no threat to them. The "stereotypical view" is that it happens mainly to "older men with mustaches who go to leather bars," said the study, conducted by the Center for AIDS Prevention Studies (CAPS) of the University of California, San Francisco.

Shock treatment: Young gays are sheltered, in a sense. Few have met anyone with AIDS, or seen a friend of their own age sicken and die. "They haven't had the shock treatment my generation has had, says 42-year-old journalist Charles Kaiser, who is writing a history of gay life in New York and has lost many friends to AIDS. As a gay teenager growing up in the San Francisco area, Richard Ehara felt immune, despite the city's high HIV-positive rates. He didn't know anyone with AIDS and, anyway, he didn't worry about it. "When you're young, you really don't feel like you're vulnerable to death," he says. "You say, 'Well, I'm having sex with this guy who's 19 and he says he's never had sex with anyone who's older'." At 24, Ehara realizes that was a delusion: "I know now that I've probably had sex with someone who could have had HIV."

By their mid-20s, gays may have developed a fatalistic attitude about the disease. Often, says Dan Wohfeiler, education director for San Francisco's Stop AIDS Project, they will tell project workers something like "I'm convinced that by the time this thing is over I'm going to be infected." The CAPS researchers say that closeted young gays sometimes feel so isolated they see little reason to protect themselves. "It seems like nobody cares if I die anyway, wrote a respondent in the CAPS survey.

Thousands of homosexuals come to meccas like San Francisco uninformed or misinformed about gay sex, and no one is waiting at the bus stop to greet them with information kits. There's a common belief, for instance, that anal sex is safe as long as the penis is withdrawn before ejaculation, although it has been shown that pre-ejaculatory secretion has enough HIV elements to cause infection. But school programs offering explicit information and free condoms meet fierce, often unyielding, opposition. "Schools don't want to talk about sex, and they certainly don't want to talk about homosexuality," says Frances Kunreuther, director of the Hetrick-Martin Institute in New York's Greenwich Village. Among other services, the institute operates a one-of-a-kind high school for gay youth, under city auspices. But the school is under constant fire from church and parent groups, among others.

It's not only information that the young lack, but so-called communication skills. Health workers point out that while it is becoming more hip for young people to carry condoms in their wallets, it takes a certain social adroitness to negotiate using them. Young gays may miss out on the education in such niceties provided by heterosexual dating rituals. Russ Nordmeyer, 23, an outreach worker for the University of Minnesota's Youth and AIDS project, recalls that what he and his friends feared most when they came out was not infection but rejection. "What you're thinking is: Is the guy going to freak out if I mention condoms? Will he think I have AIDS?"

Some AIDS educators have begun refurbishing their safe-sex pitches to make them more relevant for the young. In one three-year study funded by the National Institutes of Health, researchers reported they were able to sharply reduce high-risk behavior among gays in three small cities by working through "popular leaders" pointed out to them in gay bars. The leaders were asked to attend a series of training sessions where they were taught informal ways to communicate to their peers about safe-sex practices. Then each was encouraged to contact at least 14 other people and work the topic into conversations. According to study director Jeffrey A. Kelly, a professor of psychiatry at the Medical College of Wisconsin, before the program was in place 31 to 49 percent of the men surveyed reported having had unprotected anal intercourse. Afterward those figures dropped by as much as 30 percent.

Social norm: One conclusion, demonstrated in other studies as well, is that facts alone are not enough to change behavior. What brings about change more surely, Kelly and other researchers believe, is perception of what seems to be the accepted way of doing things. "By reshaping the norm, you can shift the behavior of the whole group," Kelly says. For example, he notes, people were told for years that smoking could kill them, but many resisted giving up the habit until abstinence started becoming the rule among their peers. He thinks the approach might work even better with adolescents, who are much more peer-oriented than adults and tend to respond eagerly to the latest "in" behavior.

Something along those lines is being tested in workshops run in several cities by U.C. San Francisco's CAPS. The focus is on behavior associated with AIDS: coming-out issues, dating relationships, communication skills. "How often do you remind a friend to use condoms? That's not a thing you commonly talk about," says CAPS psychologist Susan Kegeles. Workshops emphasize the need to make sure friends stay healthy, in order to keep their community intact. Participants are then sent back out to their localities and asked to bring in their friends. Say Kegeles: "This is a project run for and by young men. We're trying to empower them around these issues, so the issues become their own. We're coming to the realization that young people are never going to listen to older people about AIDS."

Insights like that are hard won in the AIDS battle. Psychologists believe that, in any case, there have been not enough new ideas forthcoming , and too much blaming of the victims. They argue that adults must bear much of the blame for the failure to get the message across imaginatively and convincingly. If AIDS educators really hope to convert the young to safe sex before their penchant for risky business becomes entrenched, they must look to improving their own communication skills. But that will avail them nothing if schools continue to bar the messengers from the classroom.

REPUBLICAN RESEARCH COMMITTEE RESOLUTION

The national security of the United States is not negotiable. That is why Republicans in the House of Representatives have always stood for a strong military. It is why we have opposed drastic cuts that would cripple preparedness.

It is why we now emphatically oppose the attempt, by a Commander-in-Chief unfamiliar with military life, to unilaterally intrude professed homosexuals into the ranks of the Armed Services.

This is not a matter of civil rights, but of military wrongs. It is wrong for any White House to pay off political debts at the expense of the men and women on the front lines of freedom. It is wrong for any President to scorn the collective wisdom of our military leaders, the overwhelming sentiment of those who serve in the ranks, and the outrage of the American people.

Our common bond of citizenship calls for understanding and compassion toward those who, for whatever reason, cannot reach their goal of a military career. Their individual aims must, however, be subordinated to a greater good: maintaining the order, morale, and discipline essential to fulfilling the mission of the Armed Forces.

That mission of our Armed Forces necessitates living together in enforced intimacy. It exposes personnel to hazardous situations, where exposure to blood-borne disease is dramatically increased. An army is a mobile living, walking blood bank. Our military system of authority is distorted by the intrusion of any sexual factor. Our military responsibility, financial and otherwise, for health care, for treatment of dependents, and for post-service benefits argues against RASH decision by an inexperienced President.

Republican Members of the House therefore affirm that the personnel procedures of the Department of Defense, and of related agencies, concerning homosexuals shall not be altered except by act of Congress.

TABLE 8.—AIDS CASES, CASE-FATALITY RATES, AND DEATHS BY HALF-YEAR AND AGE GROUP, THROUGH SEPTEMBER 1992, UNITED STATES

Half-year	Adults/adolescents			Children less than 13 years old		
	Cases diagnosed during interval	Case-fatality rate	Deaths occurring during interval	Cases diagnosed during interval	Case-fatality rate	Deaths occurring during interval
Before 1981	81	86.4	30	6	66.7	1
1981:						
January to June	92	91.3	39	10	80.0	2
July to December	205	91.7	87	5	100.0	7
1982:						
January to June	399	92.5	153	14	78.6	8
July to December	696	91.2	289	15	80.0	5
1983:						
January to June	1,288	93.6	524	33	100.0	13
July to December	1,645	93.0	931	42	88.1	16
1984:						
January to June	2,569	92.0	1,401	49	85.7	26
July to December	3,386	92.6	1,963	62	85.5	23
1985:						
January to June	4,891	92.1	2,821	97	76.3	44
July to December	6,319	91.0	3,868	130	80.0	70
1986:						
January to June	8,315	89.8	5,086	135	80.0	64
July to December	9,940	87.4	6,542	187	70.1	92
1987:						
January to June	12,928	87.8	7,571	223	70.4	118
July to December	14,358	84.1	7,947	260	64.2	167
1988:						
January to June	16,480	81.2	9,327	250	60.4	134
July to December	16,961	79.8	10,667	336	56.8	169
1989:						
January to June	19,181	74.4	12,381	339	56.3	167
July to December	19,190	71.4	14,150	326	49.7	182
1990:						
January to June	20,375	63.5	13,687	341	44.3	188
July to December	19,494	56.4	14,467	351	36.2	186
1991:						
January to June	20,924	46.0	14,757	317	32.2	152
July to December	19,600	34.7	15,326	257	24.5	157
1992:						
January to June	16,197	20.4	11,788	241	17.4	113
July to December	2,581	9.9	2,231	25	12.0	21
Total[1]	238,095	66.5	158,243	4,051	52.6	2,129

[1] Death totals include 210 adults/adolescents and 4 children known to have died, but whose dates of death are unknown.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. KING], another one of our dynamic freshman Members.

Mr. KING. Mr. Speaker, the issue of homosexuality in the military demands a full and open debate. It is not something that should be decided in the dark of night on something that is sent over to us at the last moment from the Senate.

The job of the military is to protect our national interests. Our job as a Congress is to protect the brave men and women who put their lives on the line to protect that national interest. By caving in to a politically correct pressure group, the Clinton administration is jeopardizing the lives of those brave men and women, and by acquiescing in the legislation passed in the Senate and by acquiescing in the so-called compromise being proposed by the Clinton administration, we are joining with the administration. There will be blood on our hands because we are also jeopardizing the lives of our brave men and women.

□ 2240

The Armed Forces are there to defend our country, not to be a vehicle for social change, not to bring about changes in the military that others are trying to bring about in society.

The job of the Army, the Navy, the Marine Corps, and the Air Force, is dangerous enough, it is tough enough, without the Congress and the administration attempting to impose what they believe to be a politically correct social standard upon them.

Mr. Speaker, I ask Members to give this issue the seriousness it deserves, the debate it deserves, and not acquiesce in the martial law that was imposed on us before. I ask that the previous question be defeated.

Mr. DREIER. Mr. Speaker, I yield 1 minute and 30 seconds to my friend, the gentleman from Sugarland, TX [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I want to speak to this side of the aisle. We know you have got the votes, and I know some of you can show some of your arrogance in having the votes and trying to turn this place into what it now looks like, the English Parliament. And we have expressed outrage over the way you are twisting the rules.

Mr. Speaker, let me just talk plain politics a minute. If you have not looked at this bill and this rule, especially those that have told their constituents that they support the ban on homosexuals in the military, they had better look at what they are doing.

Mr. Speaker, I have here a copy of the sense of Congress. it is a reiteration of the President's position. If you vote for this bill, you are voting for the President's position. That is what your people back home are going to see in the papers in the morning. So do not switch on your position that you established over the last few days, because believe me, it will be portrayed. A vote for this bill is a vote for the President's position that says he is going to lift the ban on July 15, and we are going to go through these machinations and political posturing between now and then to cover his position. But his position is lifting the ban on homosexuals in the military. By voting for this bill, you are supporting that position.

Mr. GORDON. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the hour is very late. Members worked until midnight last night, and it looks like we are going to come close to that this evening.

I just want our colleagues to refocus on what this bill is all about. We have worked for 8 years to get to this point, where we could deliver to the President of the United States a bill that will put into policy what every other major industrial nation has, and that is giving families a choice, giving them a choice so they do not have to choose to neglect their child and save their job, or a sick parent and save their job. That is what this is all about this evening. That is what this bill is about.

Mr. Speaker, if we fail this evening, we will have codified gridlock once again. The Senate of the United States, the other body, this evening passed this legislation with a very strong majority, 71 to 27. They had before them an amendment similar to that which the gentleman from New York [Mr. SOLOMON] wants to offer, and I hope we do not allow him to offer, an amendment offered by Senator DOLE that would have done the things that the gentleman has suggested with respect to the issue of gays in the military.

Mr. Speaker, that amendment was defeated on a vote of 62 to 37, with Republicans and Democrats supporting the position of the senior Senator from Georgia.

We have in this place of legislation before us that we will pass shortly, language supported by the majority leader from Maine and the Senator from Georgia [Senator NUNN], language that will allow us to continue to study this controversial issue and report back on the 15th of July, to study in the Department of Defense and study in the Committee on Armed Services in the other body.

That is a rational approach. That is one which looks at all the issues that this very difficult decision that faces the country needs to have looked at.

But please, I beg Members, please do not forget what this issue is all about. This issue is about whether or not people have to make the choice between a sick child and their job, or a dying parent and their job. They should not have to make that choice. That is not the values this country was founded upon. That is not the values Members came here to serve for.

Mr. Speaker, let us get rid of this black mark that we have had as we stand alone among Western democracies and free people on this very important social issue. Let us join other nations who have the decency to tell workers who are caught in those very, very difficult situations in their family, that, yes, your family comes first, your parents come first, your child comes first. That is what this bill is all about tonight. And do not be sidetracked by attempts from the other side to cloud this issue, to emotionalize this issue to the point where people are taking serious the other very human issue that we seek to remedy in this bill.

Mr. Speaker, I ask my colleagues to vote against the position of the gentleman from New York, vote for the previous question, and then finally let us send this bill to the President of the United States for a signature on a bill that we can all be proud of.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, once again my very dear friend from Michigan [Mr. BONIOR.] has made a very eloquent and passionate plea. Many of us on this side of the aisle are very sympathetic. But we have to realize that we are here debating the rule on this measure.

Mr. Speaker, I think it is important for our colleagues to know that over the past 12 years we have constantly heard from the other side of the aisle that we have a problem called gridlock. I was elected the same day that Ronald Reagan was in 1980. Since I have been here we have had a Democratic House of Representatives and a Republican in the White House.

Now we have a Democrat in the White House and both House of Congress also controlled by the Democrats. Mr. Speaker, what has happened here is we have found that the solution to the problem of gridlock is to throw the rules of this House right out the window. I believe that is reprehensible, and I believe it is a travesty to the process that we have of representative government.

Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, we do hear a great deal of discussion on both sides of the aisle tonight about fairness and unfairness. This is a body where we should take seriously and debate the issue openly and honestly, as fairly and equitably as possible.

Mr. Speaker, the reason I rise here tonight is to codify and reinforce the fact that all Americans should be able to take care of their children, their sick spouses, their grandparents, and so on. But I do not think that whether we have debated this for 8 years or 20 years is the issue tonight.

□ 2250

The issue is, have we debated it enough to come up with a law that will do what we want to do about family unity, about people in harm's way?

I heard earlier this evening one of the Members of this body said that should we not have a policy, and this is about one of the controversies, intermittent policy, should that be allowed?

The point I would like to make, one of the Members said earlier that should not a mother that has a child with leukemia be allowed to take 2 hours off on Tuesday and 2 hours off on Thursday to take that child to have treatment.

My point is, I agree with that 100 percent. If that mother works in a business where there are 55 employees, she can to that. But if that mother works in a firm where there are 45 employees, the bill that we will pass, maybe, will not help her.

I know this is maybe a day late and a dollar short, but should we not wait just a couple more weeks to redefine a bill so that all Americans, regardless of the number of employees in a business, have the opportunity to take the time off when they need it? And if we can craft a bill where some of those people can be paid, would it not be worth the time to wait a couple more weeks?

My position is that it would be.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I doubt that anything that is going to be said here on the floor tonight is going to change much, but it occurs to me that above here it says, "In God We Trust."

The longer I serve in the Congress of the United States, the more I become convinced that we really do not mean that a great deal.

The Bible and every religion talks about moral foundation and moral concept, and nations have to live by those morals. And when governments start violating the rules and the laws of God over a long period of time, that civilization cannot long exist.

I am not just talking about the Bible. I am talking about every major religion. I think this country is heading down a path now that is going to ultimately cause us real severe problems.

And we, as a Congress who set the moral tone for the Nation, ought to believe in what that says, "In God We Trust." And we ought to live by the religious teachings that the Bible and other great religions teach.

When we start flying in the face of Almighty God, in my opinion, and I am not preaching tonight, I am telling my colleagues it is going to hurt the Nation. It is going to hurt the Nation, and we should pay attention.

Mr. DREIER. Mr. Speaker, I would like to inquire of the gentleman from Tennessee if he has any further requests for time.

Mr. GORDON. Mr. Speaker, I have no requests for time at this moment, and I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, may I inquire of the Chair how much time is remaining on both sides?

The SPEAKER pro tempore (Mr. SKAGGS). The gentleman from California [Mr. DREIER] has 13 minutes remaining, and the gentleman from Tennessee [Mr. GORDON] has 25 minutes remaining.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON], our great Committee on Rules leader.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding time to me. I will try to be brief.

My colleagues, I have laid on the desk of the majority leader and the Speaker an amendment which, if we defeat the previous question, we will have that opportunity to vote on. It would simply give my colleagues a chance to vote again on the amendment of the gentleman from Pennsylvania [Mr. GOODLING] that passed this House by a substantial majority.

But even more importantly, it would give my colleagues the only opportunity they are going to have to continue the Department of Defense policy of service of homosexuals in our armed services.

Let me just read that amendment to my colleagues, because it is terribly, terribly important.

It simply says that all "executive orders, Department of Defense directives and regulations of the military departments concerning the appointments, the enlistment and induction and retention of homosexuals in our Armed Forces of the United States, as was in effect on January 1, 1993, shall remain in effect," with respect to the Army and the Navy and the Air Force and the Marine Corps, "unless changed by law." And that means my colleagues here.

Our military has a very important mission. That mission is more important than our mission here today. Because our military is the reason that we are the greatest, freest nation on Earth.

Right now is going to be the only chance that any man or woman in this body is going to have to vote on this terribly important issue.

I would just point out that the gentleman from Michigan [Mr. BONIOR], my good friend, the majority whip, said the Senate had defeated this amendment. That is right. And Senator MITCHELL, in the other body, had the fairness to give that body a chance to vote, a chance to do what we were sent here to do, to cast our vote for the people we represent, and we know how they feel.

I know that there are 276 men and women in this body that support this amendment, if we were given a chance to vote, a clean chance up or down. There is probably even more than that.

We owe it to the people of this country to allow this vote to take place. Please, vote against the previous question. We can stand up and be men and women that we were sent here to be.

For gosh sakes, get up and do it and vote down the previous question.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. LINDER].

Mr. LINDER. Mr. Speaker, I do not intend to move a single vote here tonight. I think it is decided.

But I would like to refocus on what we are actually doing here. We have talked about gays in the military, and the gentleman from Michigan has made a spirited defense of the bill, which passed earlier today. But that is not what this vote is.

This vote is on a rule, a rule that self-actuates a change made by the Senate which this House is unwilling to let us vote upon.

I think it is important for the people who might be watching in a large audience to begin to understand that the capricious nature we treat these rules by, the arrogance of the majority, which is so unsure of itself that it is unwilling to leave an open vote on the changes made by the Senate, will just abuse the rules they rammed down our throats on opening day to try and win their case.

This is not a vote, this is not a vote on family leave. We had that. The other side won that. We grant them that.

This is a vote on whether or not the House agrees to the Senate amendment to our bill on family leave, and they are unwilling to let us vote on that.

That is a brutal, capricious, arrogant abuse of the rules that were put forth.

My colleagues, we do not expect to win many of these votes. We are outnumbered. But we expect you to treat the rules with the reverence they were intended in a free society.

Absent that, we have no freedom, we have no democracy, and we have no law.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Speaker, I likewise continue to be appalled at the arrogance that I have seen here today. I want to share with my colleagues a little story. This story is about 2 years ago, in the fall of 1990.

I had just finished a Thanksgiving dinner. I invited my family over. My parents were there, and I took my father on a father-and-son walk, the first time I ever really had the opportunity to have that walk with that father.

And I said, "Dad, it is highly remote that I will go to Saudi Arabia."

Three days later, late in the night, I received a phone call. And the voice on the other end of that phone said, "Steve, it is your turn."

With that, my two small children were in the kitchen. I leaned down, I gave my 8-year-old daughter and 5-year-old son a hug that I wanted to last a lifetime.

□ 2300

My wife saw the look on my face. Then the Army gave me 3 days notice to leave this country and go to Saudi Arabia. I lost my business. The woman who sat next to me was 2d Lt. Laurie Laughton of Lafayette, IN. I sat next to Laurie with 270 people crammed in an air transport, in combat gear, going to a theater of war knowing we were about to be gassed.

I will tell the Members, they are going to share all of their hopes and dreams, their fears, their aspirations, with the person sitting next to them. When we landed in Saudi Arabia, I patted Laurie upon the knee and said, "Laurie, we are all coming home, and I will see you in Indiana."

The next time I saw 2d Lt. Laurie Laughton was at the cemetery in Lafayette, IN. She did not come home the same way, and I will tell the Members, it was her spirit that made me exercise courage to come to this body. That sacrifice is no different than the sacrifices of thousands of people, the sacrifices of men and women who have come before us. We owe it to them to act in reason and fairness for this democratic form of government, and this is completely unfortunate and unfair, and the American people are judging the Members right now.

Mr. GORDON. Mr. Speaker, I yield 3½ minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, I am going to put this in perspective. I am hearing a lot of debate from this side about why we are in this mess. We would begin to consider the family leave bill, which we have considered for 8 long years, and many of us have voted on many times, we heard from across the aisle, "We are going to attach the homosexuals and the military thing to the family leave bill." It has absolutely nothing to do with family leave, and if it stood on its own in this House, it is absolutely, totally irrelevant. It is not germane to this bill, and it is a delaying tactic. It is a political maneuver. It has nothing to do with family leave.

If they cannot win on the merits, they want to sabotage family leave. The debate has totally gone from the family leave position. Now we are relegated to talking about gays in the military, which has absolutely nothing to do with family leave.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. HEFNER. Yes, I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, the gentleman might have been right when the bill left here, and we did not offer this when the bill left here. The bill has come back. We are acting on the Senate bill. This is the Senate language dealing with the very subject that I am attempting to change. I am attempting to remove Senator MITCHELL's language, which is in the bill, and replace it with some more language that takes a different approach, so it is relevant, it is germane.

Mr. HEFNER. Mr. Speaker, I will retake my time.

We would not even be dealing with Senator MITCHELL's language had it not been put on a bill from the Republican side. It was not even camouflaged. The gentleman said, some Senators on that side said, "We are going to sabotage the family leave bill. We are going to attach the gays in the military thing to the family leave bill." It is not germane. In this House it would not even be germane.

I am not an authority on homosexuality. I do not even understand the lifestyle. A lot of people know a lot more about it from this side than I do, but I do know about family values. I do know about the value of this family leave bill.

Some of the language that the gentleman is talking about, the language of the gentleman from Pennsylvania [Mr. GOODLING], I watched the debate in the Senate. Senator KIT BOND insisted on the language change on the Goodling legislation because it dealt with if a child would have had cancer, and these were his words, a child could be going for cancer treatment and the mother could be forced to take six weeks off to get two days during the week. That was Mr. KIT BOND's argument on the other side when he changed the Goodling part of the bill.

It seems to me that this is a delaying tactic. It has nothing to do with family leave. Would the gentleman explain to me what it has to do?

Mr. BATEMAN. Mr. Speaker, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Virginia.

Mr. BATEMAN. Mr. Speaker, I think the gentleman should be aware that the debate to which he makes reference, that of the Senator, I think, from Missouri, regarding the Goodling amendment occupied about 3 to 5 minutes on the floor of the Senate. We debated the Goodling amendment at length and voted on it twice, and it prevailed.

What we are asking to do in this rule, leaving aside all the matters of homosexuals in the military, is to say "House, forget it. What you debated, what you discussed, what you worked your will on twice, we are going to preempt you and not even have a vote on it."

Mr. HEFNER. Mr. Speaker, we have been debating. We have been back in session here debating this family leave bill. We came back from dinner and we have been debating this bill now, and soon it will be two hours, and we have not talked about any of the merits of the family leave bill because we are not really allowed to address it under this rule.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to my good friend, the gentlewoman from Staten Island, NY, Ms. MOLINARI.

Ms. MOLINARI. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am a supporter of the family and medical leave bill. I have been a sponsor of the family and medical leave bill. I wanted to see it get out of this Chamber tonight, to become law, but once again the Democrats have chosen to use this bill as a political pawn. They used it last year and delayed bringing it to the floor to embarrass President Bush, and this year they try and break the law to give President Clinton an opportunity to hold a ceremony while we are not in session.

As a supporter of this bill, Mr. Speaker, and a supporter of the Goodling amendment, this move is very wrong, wrong for those of us who want this bill to become law and wrong for the men and women in this country who have waited too long for it to become a reality.

Mr. GORDON. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. PASTOR].

Mr. PASTOR. Mr. Speaker, first of all, let me tell the Members that I want to thank my colleague, the gentleman from Indiana [Mr. BUYER] for giving this time to go to Desert Storm and fight on our behalf. I am sorry he lost this business. He talks about this lieutenant, this woman who he patted her knee and he talked about the American dream. I am sorry that she died in action, died for her country.

However, Mr. Speaker, she would have probably told him, she would have probably said to him that as a woman, probably with two kids, no child support, that she needed to have the American society ideal; when she wanted to take care of her kids, when she wanted to take care of her parents, that she would be able to choose, not on her job, but to choose on her family.

I ask my colleagues, who a year ago with the administration said they were for family values, today to join us and be for family values, be for those mothers that want to take care of their children, be for those children who want to take care of their parents, and be for America, who asks that this bill be passed.

Mr. GORDON. Mr. Speaker, I yield 1 minute to my good friend, the gentleman from Missouri [Mr. VOLMER].

Mr. VOLKMER. Mr. Speaker, there has been some comment on this debate about the need for the Goodling amendment as we passed it last night. I voted for the Goodling amendment last night.

I have also listened to the debate in the Senate and looked at the Bond amendment to the reduced leave policy. What we have now from the Senate is a lot better than what the Goodling amendment did last night. It is a lot better, because it provides reasons so that a woman, the mother, can be able to take her child if it needs chemotherapy and yet has to have a doctor's certificate.

□ 2310

We did not have that in our language last night. The Goodling amendment did not have that. It does do a thing that I think, Mr. Speaker, that is really better than anything we have done before, and I want to commend my junior Senator, a good Republican from Missouri, for coming up with the language so that we can get this bill passed.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from New Jersey [Mr. KLEIN]

Mr. KLEIN. Mr. Speaker, as a new Member I had this same experience as the other new Members who heard from the people in our district, and what I heard over and over again is that they could not understand why Congress was dealing in matters that had nothing to do with the main subject matter of the legislation at hand, why bills were held up with gridlock, why bills were held up and derailed for things that were totally irrelevant to the main public policy issues.

I came here to vote for family and medical leave because I considered it to be a good public policy, and for the last 2 days all I have heard is a debate that is more in minutia and irrelevancies, and I for one hold my head up high and will continue to vote for this bill on good sound public policy grounds, and I think we should all do so.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 1 minute to the gentleman from Hamburg, NY, Mr. QUINN, another one of our freshmen.

Mr. QUINN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I testified just this morning as a freshman before the Joint Committee on Congressional Reform, and I testified at that time as the gentleman just spoke, that as we went on the camping trail this past year we heard about congressional reform, we heard from residents that said that they wanted change, that they did not want business as usual. And I know for a fact that freshmen were not the only ones who heard that message, that our veteran and distinguished Members heard the same thing: "We don't want business as usual."

The family leave bill has merit. I voted for it and I support it. I believe there is not a single person in this room that disagrees with the situation of a mother with a sick child.

The gentleman talked about gridlock earlier. We are here only weeks into this session, weeks. We are talking about procedural changes, we are talking about changing rules, we are talking about adding amendments, we are talking about attaching changes, making critical decisions into the middle of the night almost, Democrats blaming Republicans, Republicans blaming Democrats, and it is back to business as usual.

That disappoints me. I agree with the gentleman on the other side of the aisle. Business as usual is what we were asked not to do, and here we are at it again.

Mr. DREIER of California. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore (Mr. SKAGGS). The gentleman from California [Mr. DREIER] has 3 minutes remaining.

Mr. GORDON. Mr. Speaker, I have no requests for time.

Mr. DREIER of California. Mr. Speaker, I urge a no vote on the previous question.

Mr. Speaker, I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, as much as the opponents of family and medical leave would like this issue to go away, it will not. As much as the opponents of family and medical leave would like to confuse this issue, they cannot.

The question before us tonight is whether American workers should have the same right as workers in 125 other nations. The vote is, and get ready for it because here it comes, the vote is do you think American workers deserve to have the right to take time with a sick child, spouse or parent, without fear of losing their job.

If you agree with that proposition, vote "yes." If you do not agree with that proposition, vote "no." That is the question before us.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 227, nays 172, not voting 31, as follows:

[Roll No. 28]

YEAS—227

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
Eshoo
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoyer
Hughes
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lehman
Levin
Lewis (GA)
Long
Lowey
Maloney
Mann
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Price (NC)
Rangel
Ravenel
Reed
Reynolds
Richardson
Roemer
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Stupak
Swett
Swift
Synar
Tanner
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—172

Allard
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cramer
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
English (OK)
Everett
Ewing
Fawell
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood

Hall (TX)
Hamilton
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutto
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston

Lloyd
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Pryce (OH)
Quinn
Rahall
Ramstad
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen

Roth
Rowland
Royce
Sarpalius
Saxton
Sensenbrenner
Shaw
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—31

Archer
Barton
Brown (CA)
Cox
Crane
Fields (TX)
Ford (TN)
Gingrich
Hancock
Henry
Hutchinson

Johnson (CT)
Laughlin
Lipinski
Manton
Pickett
Pickle
Quillen
Rose
Rostenkowski
Santorum
Schaefer

Schiff
Shuster
Sisisky
Studds
Taylor (NC)
Washington
Waxman
Whitten
Young (FL)

□ 2333

Mrs. FOWLER changed her vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SKAGGS). The question is on the resolution.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 247, nays 152, not voting 31, as follows:

[Roll No. 29]

YEAS—247

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bilbray
Bishop
Blackwell
Blute

Boehlert
Bonior
Borski
Boucher
Brooks
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman

Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Danner
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell

Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoke
Holden
Horn
Hoyer
Huffington
Hughes
Hyde
Inslee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce

Lambert
Lantos
Lazio
Leach
Lehman
Levin
Lewis (GA)
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pomeroy
Poshard
Price (NC)
Quinn
Ramstad
Rangel
Ravenel

Reed
Regula
Reynolds
Richardson
Roemer
Ros-Lehtinen
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Solomon
Spratt
Stark
Stokes
Strickland
Stupak
Swett
Swift
Synar
Tanner
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Weldon
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)
Zimmer

NAYS—152

Allard
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Bonilla
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Clinger
Coble
Collins (GA)

Combest
Cox
Cramer
Crapo
Cunningham
Darden
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fowler
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Glickman
Goodlatte
Goodling

Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Houghton
Hunter
Hutto
Inglis
Inhofe
Istook
Johnson (GA)
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe

Kyl
Lancaster
LaRocco
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Manzullo
McCandless
McCollum
McCrery
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Montgomery
Moorhead
Myers

Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Penny
Pombo
Porter
Pryce (OH)
Rahall
Ridge
Roberts
Rogers
Rohrabacher
Roth
Rowland
Royce
Sarpalius
Sensenbrenner
Shaw
Skeen

Skelton
Slattery
Smith (MI)
Smith (OR)
Smith (TX)
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Valentine
Vucanovich
Walker
Wolf
Zeliff

NOT VOTING—31

Archer
Barton
Bevill
Brown (CA)
Crane
Fields (TX)
Ford (TN)
Gingrich
Hancock
Henry
Hutchinson

Johnson (CT)
Laughlin
Lipinski
Manton
Pickett
Pickle
Quillen
Rose
Rostenkowski
Santorum
Schaefer

Schiff
Shuster
Sisisky
Studds
Taylor (NC)
Washington
Waxman
Whitten
Young (FL)

□ 2349

The Clerk announced the following pair:

On this vote:

Mr. Manton for, with Mr. Laughlin against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BEVILL. Mr. Speaker, the RECORD shows that I did not vote on the final passage of H.R. 1, the Family and Medical Leave Act, which was vote No. 29. I was in the Chamber for the vote, attempted to vote and thought that I had. The RECORD indicates, however, that my vote was not recorded.

I would like to state that I supported the passage of this important piece of legislation, as I did during the previous Congress. I believe it will prove to be in the best interests of America's work force.

PERSONAL EXPLANATION

Mr. PICKLE. Mr. Speaker, I had been advised there may be several more recorded votes this evening. Unfortunately, tomorrow, I have an appointment for minor foot surgery which cannot be rescheduled. Therefore, I will have to leave for Texas tonight prior to these final votes. Had I been present, I would have again expressed my support for the Family and Medical Leave Act and would have voted accordingly.

□ 2350

COMMUNICATION FROM CHAIRMAN OF THE COMMITTEE ON HOUSE ADMINISTRATION

The SPEAKER laid before the House the following communication from the Honorable CHARLIE ROSE, chairman of the Committee on House Administration:

HOUSE OF REPRESENTATIVES,
Washington, DC, February, 1, 1993.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, H-204 The Capitol, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the authority vested in the Committee on House Administration by House Rule X, Clause 4(d)(3), and upon recommendation of the Subcommittee on Administrative Oversight of the Committee on House Administration pursuant to Clause 3(j)(2), the Committee has directed the following, effective on February 1, 1993:

"The responsibility for the operation of the House Finance Office is transferred to the Director of Non-Legislative and Financial Services, subject to the oversight of the Subcommittee on Administrative Oversight of the Committee on House Administration."

It is intended that the House Finance Office continue to operate under the existing statutory authority of the Clerk of the House, but at the direction of the Director of Non-Legislative and Financial Services, until such time as the necessary statutory changes are enacted.

Upon receipt of a copy of this letter, the Clerk of the House is directed to continue to carry out the ministerial functions imposed by statue with regard to the operation of the House Finance Office subject to the direction of the Director of Non-Legislative and Financial Services, and to work cooperatively with the Director and the Subcommittee on Administrative Oversight of the Committee on House Administration to ensure that all functions and operations of the House Finance Office are timely executed.

Sincerely,

CHARLIE ROSE
Chairman.
BILL THOMAS,
Ranking Republican Member.

DESIGNATION OF SPEAKER PRO TEMPORE THROUGH FEBRUARY 16, 1993

The SPEAKER laid before the House the following communication:

WASHINGTON, DC,
February 4, 1993.

I hereby designate the Honorable STENY H. HOYER to act as Speaker pro tempore to sign enrolled bills and joint resolutions through February 16, 1993.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

APPOINTMENT AS GENERAL COUNSEL TO THE HOUSE OF REPRESENTATIVES

The SPEAKER. The Chair announces that pursuant to clause 11 of rule I he has appointed Steven R. Ross as General Counsel to the House of Representatives, effective February 1, 1993.

AUTHORIZING SPEAKER AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS NOTWITHSTANDING ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Tuesday, February 16, 1993, the Speaker and the minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

MESSAGE FROM THE SENATE

The SPEAKER laid before the House the following message from the Senate:

S. CON. RES. 10

Resolved by the Senate (the House of Representatives concurring), that when the Senate recesses or adjourns at the close of business on Thursday, February 4, 1993, or Friday, February 5, 1993, pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, it stand recessed or adjourned until 12 noon, or until such time as may be specified by the majority leader, or his designee, in the motion to adjourn or recess, on Tuesday, February 16, 1993, or until 12 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first; and that when the House of Representatives adjourns at the close of business on Thursday, February 4, 1993, or Friday, February 5, 1993, pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, it stand adjourned until 12 noon on Tuesday, February 16, 1993, or until 12 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

SEC. 2. The majority leader of the Senate and the Speaker of the House, acting jointly after consultation with the minority leader of the Senate and the minority leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The SPEAKER. Without objection, the Senate concurrent resolution is concurred in.

There was not objection.

A motion to reconsider was laid on the table.

RULES OF PROCEDURE FOR THE COMMITTEE ON NATURAL RESOURCES FOR THE 103D CONGRESS

(Mr. MILLER of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of California. Mr. Speaker, as chairman of the Committee on Natural Resources, I am submitting for the RECORD a copy of the Committee Rules for the 103d Congress, as follows:

RULES OF THE COMMITTEE ON NATURAL RESOURCES

A. RULES OF GENERAL APPLICATION

Rule 1. Rules of the House.—Rule XI of the Rules of the House, which pertains entirely to Committee procedure, is incorporated and made a part of the Rules of the Committee which are supplementary to the Rules of the House. Written rules adopted by the Committee, not inconsistent with the Rules of the House, shall be binding on each Subcommittee. Each Subcommittee of the Committee is a part of the Committee and is subject to the authority and direction of the Committee. Unless otherwise explicitly stated references to Committee and to Chair shall apply to each Subcommittee and its respective Chair.

Rule 2. Schedule of Meetings.—(a) Regular meetings of the Full Committee shall be held at 9:45 a.m. on the first and third Wednesday of each month that Congress is in session unless canceled by the Chair.

(b) Additional meetings may be called and convened by the Chair.

(c) Special meetings shall be called and convened by the Chair as provided in Rule XI, clause 2, paragraph (c)(1), of the Rules of the House.

(d) Each regular, additional or special meeting shall be called to order and presided over by the Chair, or, in the absence of the Chair, by the Ranking Majority Member of the Committee present.

(e) Any meeting that conflicts with a party caucus or party conference of either party shall be rescheduled, at the discretion of the Chair.

Rule 3. Agenda for Meetings.—(a) The business to be considered at regular and additional meetings shall be available and delivered to the office of each Member no later than noon of the second day preceding the day of the meeting.

(b) The agenda for special meetings shall be made available as provided in Rule XI, clause 2, paragraph (c)(2), of the Rules of the House.

(c) The requirements of paragraphs (a) and (b) may be waived by a majority vote.

Rule 4. Committee Procedure for Hearings.—(a) The date, time, place and subject matter of all hearings of the Committee shall be announced at least one week before the commencement of such hearings, unless the Committee expedites the hearing as provided in Rule XI, clause 2, paragraph (g)(3), of the Rules of the House.

(b) No Member may be excluded from nonparticipatory attendance at any hearing of the Committee unless the House by majority vote, authorizes the Committee to exclude Members under Rule 5.

(c) Each witness before the Committee shall file a copy of the written testimony to be presented at least 24 hours in advance of his or her appearance, and shall limit the oral presentation of the testimony to a brief summary, unless this requirement is waived by the Committee.

(d) Committee Members may question witnesses only when recognized by the Chair for that purpose. All questions shall be pertinent to the subject matter of the hearing.

(e) The right to question witnesses before the Committee shall alternate between the Majority Members and the Minority Members, taking into consideration the ratio of Majority and Minority Members present. Each Member shall be limited to five minutes in the questioning of witnesses until such time as each Member of the Committee who is present has had an opportunity to question the witness.

Rule 5. Open Meetings and Hearings.—(a) Except as provided in paragraph (b) of this rule, each meeting and hearing conducted by the Committee shall be open to the public.

(b)(1) A meeting of the Committee may be closed to the public if the Committee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public.

(2) A hearing may be closed to the public if the Committee, in open session and with a majority present, determines by rollcall vote, to close all or part of the remainder of the hearing on that day because disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate any law or rule of the House of Representatives.

(3) A hearing may be closed to the public if a majority of the Members of the Committee who are present vote to close the hearing as provided in Rule XI, clause 2(k)(5), provided that the number of Members present is at least equal to the number of Members required to be present for the purpose of taking testimony.

(4) A hearing may be closed to the public if a majority of the Members of the Committee who are present vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security or violate Rule XI, clause 2(k)(5), provided that the number of Members present is at least equal to the number of Members required to be present for the purpose of taking testimony.

(5) No person other than Members of the Committee and such Congressional staff and departmental representatives as a majority of the Members may authorize shall be present at any meeting or hearing which has been closed to the public unless authorized by the Chair after consultation with the Ranking Minority member.

(6) Any meeting that relates solely to internal budget or personnel matters may be closed by the Chair after consultation with the Ranking Minority Member.

Rule 6. Committee Consideration.—(a) Except as provided in paragraph (c), no bill, recommendation, or other matter reported by a Subcommittee shall be considered by the Committee until two calendar days have elapsed from the time of Subcommittee action.

(b) Except as provided in paragraph (c), no bill shall be considered by the Committee unless a copy has been delivered to the office of each Member requesting a copy, together with a section-by-section explanation.

(c) The requirements in paragraphs (a) and (b) may be waived by a majority vote of the Committee, a quorum being present.

Rule 7. Quorum.—(a) No measure or recommendation shall be reported from the Committee unless a majority of the Members of the Committee are present which shall be deemed the case if a majority of the Committee responded on a roll call vote on that question.

(b) For the purpose of transacting any Committee business other than that described in paragraph (a), one-third of the Members shall constitute a quorum.

(c) Testimony and evidence may be received at any meeting at which two or more Members of the Committee are present.

(d) When a call of the roll is required to ascertain the presence of a quorum, the offices of all Members shall be notified and the Members shall have not less than 10 minutes to prove their attendance. The Chair shall have the discretion to waive this requirement when a quorum is actually present or whenever a quorum is secured and may direct the Clerk to note the names of all Members present within the 10-minute period.

Rule 8. Proxies.—A vote by any Member in the Committee or in any Subcommittee may be cast by proxy. Each proxy shall be in writing, shall designate the Member who is to execute the proxy authorization, shall assert that the Member is absent on official business or otherwise unable to attend, and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto; except that a Member may authorize a general proxy for motions to recess, adjourn or other procedural matters. Each proxy to be effective shall be signed by the Member assigning his vote and shall contain the date and time of day that the proxy is signed. Proxies may not be counted for a quorum.

Rule 9. Subpoenas and Oaths.—(a) The Committee may authorize and issue a subpoena under Rule XI, clause 2(m)(2)(A) of the Rules of the House, if authorized by a majority of the members voting, a majority being present. In addition, the Chair of the Full Committee may authorize and issue subpoenas under such clause during any period of time in which the House has adjourned for more than three days. Subpoenas may be issued over the signature of the Chair of the Full Committee, or any member of the Committee authorized by the Committee and may be served by any person designated by a such Chair or member.

(b) The Chair of the Committee, the Chair of any of its Subcommittees, or any Member designated by either, may administer oaths to any witness.

Rule 10. Rollcalls, Committee Records, Transcripts.—(a) The Committee shall make available for inspection by the public at reasonable times at the Committee office, the result of each rollcall vote taken at any Committee meeting including a description of the amendment, motion, order or other proposition; the name of each member voting for and against, and whether by proxy or in person; and the Members present but not voting. Such records shall constitute the official attendance records of the Committee.

(b) All Committee and Subcommittee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Members serving as Chairs; and such records shall be the property of the House and all Members of the House shall have access thereto.

(c) House records of the Committee which are at the National Archives shall be made available pursuant to House Rule XXXVI. The Chair of the Committee shall notify the Ranking Minority Member of any decision to withhold a record pursuant to the rule, and shall present the matter to the Committee upon written request of any Committee member.

(d) At the beginning of any meeting of the Committee, the Chair may announce to the Committee, in his discretion, that further proceedings will be postponed on any motions on which a recorded vote is ordered or on which the vote is objected to under Rule 7 until immediately preceding the conclusion of the meeting. In such instances, the Committee shall proceed with the consideration of the next regularly scheduled measure or matter until all such business is disposed of or until such time as the Chair announces that the question will be put on the matter deferred. The question on any postponed motion shall be put by the Chair and shall be disposed of by the Committee, without further debate, as expeditiously as possible. If the Committee adjourns before the question is put and determined on such motion, then the first order of business at the next meeting shall be the disposition of such motion.

(e) No demand for a rollcall shall be made or entertained except for the purpose of securing a record vote or in the apparent absence of a quorum.

(g) All transcripts of public meetings and hearings shall be available for review in the offices of the Committee, except that unrevised and unedited transcripts shall not be reproduced in any form without the consent of the Chair.

(h) Notwithstanding the other paragraphs of Rule 10, no records or transcripts of Committee meetings or hearings closed to the public under Rule 5 shall be released unless the Committee votes to release such records and transcripts in accordance with the procedure utilized to close the Committee meeting. All classified documents, transcripts, or other materials shall be maintained in an appropriately secured location and shall not be released for review by any unauthorized person. Authorized persons must review such classified materials at an appropriate location in the Committee offices, but such material shall not be removed from the Committee offices for any reason without the written permission of the Chair.

Rule 11. Filing of Committee Reports.—If, at the time of approval of any measure or matter by this Committee, any Member of the Committee gives notice of intention to file supplemental, minority, or additional views, that Member shall be entitled to not less than three calendar days (excluding Saturdays, Sundays, and legal holidays) to file such views, in writing and signed by that Member or Members, with the Clerk of the Committee. All such views so filed by one or more Members of the Committee shall be included within, and shall be a part of, the report filed by the Committee with respect to that measure or matter.

Rule 12. Broadcasting of Committee Hearings.—As provided in Rule XI, clause 3 of the Rules of the House, any hearing or meeting conducted by the Committee that is open to the public may be covered in whole or in part by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, as provided in Rule XI, clause 3 of the Rules of the House. The Chair shall have the discretion to establish reasonable requirements for implementing such coverage consistent with the Rules of the House including the following:

(1) Accredited press must obtain advance clearance for coverage of committee hearings or meetings from the appropriate gallery, and

(2) Persons other than accredited press will be permitted to cover meetings via audio or video recording only as approved in advance by the Chair, and upon agreeing in writing to comply with all House and Committee Rules pertaining to recording Committee meetings and hearings.

Rule 13. Committee Staffs.—(a)(1) The Committee shall appoint by a majority vote, appropriate professional and clerical staff personnel, in accordance with the provisions of clause 6 of Rule XI of the House Rules, from a list submitted by the Chair.

(2) Each employee on the professional, clerical and investigative staff of the Committee shall be entitled to pay at a single gross per annum rate, to be fixed by the Chair, which does not exceed the maximum rate of pay, as in effect from time to time, under applicable provisions of law. In the

case of staff designated directly to a Subcommittee, such rate of pay shall be fixed by the Chair in consultation with the relevant Subcommittee Chair.

(b) From the funds provided for the appointment of Committee staff pursuant to primary and additional expenses resolutions—

(1) The Chair of each standing Subcommittee is authorized to appoint one staff member who shall serve at the pleasure of the Subcommittee Chair.

(2) The Ranking Minority Member of each standing Subcommittee is authorized to appoint one staff person who shall serve at the pleasure of the Subcommittee Ranking Minority Member.

(3) The staff members appointed pursuant to the provisions of (1) and (2) shall be compensated at the rate determined by the Subcommittee Chair in consultation with the Chair of the Committee, not to exceed: (a) 75 per centum of the maximum established in paragraph (c) of clause 6 of Rule XI of the House Rules, or (b) the rate paid the staff member appointed pursuant to subparagraph (1) of this paragraph.

(c) Each staff member, other than a staff member appointed pursuant to the request of Minority Members or under the authority of subsection (b) above, is assigned to the Chair for purposes of general supervision and shall perform such duties as the Chair may assign. Any staff member designated by the Chair to perform Subcommittee staff duties shall be responsible to carry out duties assigned by the Chair and by the relevant Subcommittee Chair pursuant to the Subcommittee's legislative and oversight responsibilities. In the case of staff members appointed pursuant to the request of Minority Members, the Ranking Minority Member shall exercise general supervision, subject to the assignments designed by Minority Members in accordance with clause 6 of Rule XI of the House Rules.

B. SUBCOMMITTEES: JURISDICTION, COMPOSITION, AND POWERS

Rule 14. Reference of Legislation.—(a) Every bill, resolution, or other matter referred to the Committee shall be referred to subcommittee within two weeks from the date of its referral to the Committee unless the Chair, with the approval of majority of the Majority Members of the Committee, orders that it be retained for consideration by the Committee or that it be referred to a select or special Subcommittee.

(b) A bill, resolution, or other matter referred by the Chair to a Subcommittee may be recalled for the purpose of direct consideration by the Full Committee or for referral to another Subcommittee provided Members of the Committee receive one week written notice of the recall and a majority of the Members of the Committee do not object.

(c) A bill, resolution, or other matter referred by the Chair to a Subcommittee may be recalled from such Subcommittee at any time by majority vote, a quorum being present, for its consideration by the Committee or for reference to another Subcommittee.

Rule 15. Subcommittees.—There shall be the following five standing Subcommittees of the Committee: Oversight and Investigations; National Parks, Forest and Public Lands; Insular and International Affairs; Energy and Mineral Resources; and Native American Affairs.

Rules 16. Jurisdiction of Subcommittees.—The jurisdiction, including legislative, investigative, and oversight responsibilities of the five standing Subcommittees shall, subject to alteration as other Subcommittees are created, be as follows:

Subcommittee on Oversight and Investigations

(a) General and continuing oversight and investigative authority over activities, policies and programs within the jurisdiction of the Committee.

(b) Remedial legislation resulting from the findings or recommendations of the Subcommittee.

(c) Generation and marketing of electric power from Federal water projects by federally chartered or Federal regional power marketing authorities.

(d) All measures and matters concerning water resources planning conducted pursuant to the Water Resource Planning Act, water resource research and development programs, saline water research and development.

(e) Compacts relating to the use and apportionment of interstate waters, water rights, and major interbasin water or power movement programs.

(f) All measures and matters pertaining to irrigation and reclamation projects and other water resources development programs, including policies and procedures.

(g) Selected matters and proposals, regarding the environmental impacts of any laws or programs under jurisdiction of the Committee.

(h) Measures concerning the transportation of natural gas from or within Alaska, disposition of oil transported by the trans-Alaska oil pipeline.

(i) Measures and matters relating to Alaska public lands, including forestry and forest management issues, and Federal reserved water rights.

(j) Selected matters and proposals, as referred by the Chairman, involving the environmental impacts of any laws or programs under the jurisdiction of the Committee.

Subcommittee on National Parks, Forests and Public Lands

(a) Measures and matters related to the National Park System and all of its units.

(b) National Wild and Scenic Rivers System, National Trails System, national recreation areas, and other national units established for protection, conservation, preservation or recreational development administered by the Secretary of the Interior and the Secretary of Agriculture.

(c) Such military parks, battlefields, cemeteries, and parks administered by the Secretary of the Interior within the District of Columbia.

(d) Except for Alaska, National Wilderness Preservation System generally; and all matters regarding wilderness in the National Park System.

(e) Federal outdoor recreation plans, programs, administration including the Land and Water Conservation Fund.

(f) Plans and programs concerning non-federal outdoor recreation and land use, including such related plans and programs authorized by the Land and Water Conservation Fund Act of 1965 and the Outdoor Recreation Act of 1963.

(g) Preservation of prehistoric ruins and objects of interest on the public domain and other historic preservation programs and activities, including programs for international cooperation in the field of historic preservation.

(h) Matters concerning the following agencies and programs: Urban Parks and Recreation Recovery Program, Historic American Buildings Survey, Historic American Engineering Record, American Conservation Corps, U.S. Holocaust Memorial, and Pennsylvania Avenue Development Corporation.

(i) Except for public lands in Alaska, public lands, generally, including measures or matters related to entry, easements, withdrawals, and grazing.

(j) Forest reserves, including management thereof, created from the public domain, except in Alaska.

(k) Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.

(l) Federal reserved water rights on public lands and forest reserves.

(m) All legislation concerning use, occupancy, development and management of public lands in California Desert Conservation Area.

Subcommittee on Insular Affairs and International Affairs

(a) All matters regarding insular areas of the United States.

(b) All measures or matters regarding the Trust Territory of the Pacific Islands, the Freely Associated States, and Antarctica.

(c) Cooperative efforts to encourage, enhance and improve international programs for the protection of the environment and the conservation of natural resources within the jurisdiction of the Committee.

Subcommittee on Energy and Mineral Resources

(a) All measures and matters concerning the U.S. Geological Survey.

(b) All measures and matters affecting geothermal resources.

(c) Regulation of the domestic nuclear energy industry, including regulation of research and development of reactors and nuclear regulatory research and special oversight functions with respect to nonmilitary nuclear energy and research and development including the disposal of nuclear waste.

(d) Conservation of United States uranium supply.

(e) Mining interests generally, including all matters involving mining regulation and enforcement, including the reclamation of mined lands, the environmental effects of mining, and the management of mineral receipts, mineral land laws and claims, long-range mineral programs, and deep seabed mining and matters regarding Law of the Sea Treaty.

(f) Mining Schools, experimental stations and long-range mineral programs.

(g) Mineral resources on public lands.

(h) Conservation and development of oil and gas resources of the Outer Continental Shelf.

(i) Conservation of petroleum on public lands and of radium supply.

Subcommittee on Native American Affairs

(a) Measures relating to the welfare of Native Americans, including management of Indian lands and general and special measures relating to claims which are paid out of Indian funds.

(b) All matters regarding the relations of the United States with the Indians and the Indian tribes, including special oversight functions under clause 3(e) of the Rule X of the House of Representatives,

(c) All matters regarding Native Hawaiians.

(d) All matters related to the Federal trust responsibility to Native Americans and the sovereignty of Native Americans.

Rule 17. Party Ratios.—The ratio of Majority Members to Minority Members, excluding ex officio Members, on each Subcommittee shall be no less favorable to the Majority party than the ratio for the Committee. The Chair and the Ranking Minority shall serve as ex officio Members of each Subcommittee, and shall have the right to participate fully, including the right to vote on all matters before the Subcommittees, but shall not be considered in establishing the presence of a quorum. The size and party representation for each Subcommittee during the 103rd Congress shall be as follows:

Subcommittee	Total members	Majority party	Minority party
Oversight and investigations	23	14	9
National Parks, Forests and Public Lands	23	14	9
Insular and International Affairs	5	3	2
Energy and Mineral Resources	15	9	6
Native Americans Affairs	10	6	4

Rule 18. Task Force, Special or Select Subcommittee.—The Chair is authorized, after consultation with the Ranking Minority Member of the Committee, to appoint such task forces, special or select Subcommittees as he deems advisable for carrying out the responsibilities and functions of the Committee. Party representation on each such Subcommittee shall be in the same proportion as that on the Committee.

Rule 19. Powers and Duties of Subcommittees.—(a) Each Subcommittee is authorized to meet, hold hearings, receive evidence, and report to the Committee on all matters referred to it. The Chair of each Subcommittee shall set dates for hearings and meetings of their respective Subcommittee after consultation with the Chair of the Full Committee and of other Subcommittees with a view toward avoiding simultaneous scheduling of Committee and Subcommittee meetings or hearings wherever possible.

(b)(1) In order to enable the Committee to carry out its responsibilities under Rule X, clause 2, of the Rules of the House, each Subcommittee shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of the Subcommittee, and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress and whether such programs should be continued, curtailed, or eliminated. In addition, each such Subcommittee shall review and study any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of that Subcommittee (whether or not any bill or resolution has been introduced with respect thereto), and shall on a continuing basis undertake future research and forecasting on matters within the jurisdiction of the Subcommittee.

(2) Pursuant to Rule X, Clause 2, of the Rules of the House, the Chair of the Committee and the Chair of the Subcommittee having jurisdiction over the matter involved or their respective designees, shall meet with representatives of the Committee on Government Operations to discuss and to assist in coordinating oversight plans of their respective Committees.

Rule 20. Travel.—All travel of Members and staff of the Committee or its Subcommittees, to hearings, meetings, conferences, investigations, including all foreign travel, must be authorized by the Full Committee Chair prior to any public notice of such travel and prior to the actual travel. Funds authorized for the Committee under Rule XI, Clause 5, of the Rules of the House are for expenses incurred in the Committee's activities within the United States.

Rule 21. Subcommittee Chairs.—The Majority Members of the Committee shall have the right, in order of Full Committee seniority, to bid for Standing Subcommittee Chairs. Any such bid shall be subject to approval by a majority of the Majority Members of the Committee. The Minority shall select a counterpart to the Subcommittee Chair for each of the Subcommittees. The Chair of select and special Subcommittees shall be appointed by the Chair of the Committee, subject to approval by a majority of the Majority Members of the Committee.

Rule 22. Duties of Chair Upon Favorable Action by Committee.—Whenever the Committee authorizes the favorable reporting of a bill or resolution from the Committee, the Chair shall report the same or designate some Members of the Committee to report the same to the House and shall use or cause to be used all parliamentary methods to secure passage thereof, without such additional authority being set forth particularly in the motion to report each individual bill or resolution. Without limiting the generality of the foregoing, the authority contained herein extends in appropriate cases to moving in accordance with Rule XXIV, Clause 5, of the said rules that the House go into the Committee of the Whole House on the State of the Union to consider the bill or resolution; and to moving in accordance with Rule XXIV, Clause 2, of said rules for the disposition of a Senate rules for the disposition of a Senate bill or resolution that is substantially the same as the House bill or resolution as reported.

Rule 23. Committee Budget and Expenses.—(a) At the beginning of each session of Congress, after consultation with the Chair of each Subcommittee, the Chair shall propose and present to the Committee for its approval a budget covering the funding required for staff, travel, and miscellaneous expenses. The budget shall include amounts required for all activities and programs of the Committee and the Subcommittees.

(b) Upon approval by the Committee of each such budget, the Chair, acting pursuant to Rule XI, Clause 5, of the Rules of the House, shall prepare and introduce in the House a supporting expense resolution, and take all action necessary to bring about its approval by the Committee on House Administration and by the House.

(c) The Chair shall report to the Committee any amendments to each expense resolution and any changes in the budget necessitated thereby.

(d) Authorization for the payment of additional or unforeseen Committee and Subcommittee expenses may be procured by one or more additional expense resolutions processed in the same manner as set out herein.

(c) Copies of each monthly report, prepared by the Chair for the Committee on House Administration, which shows expenditures made during the reporting period and cumulative for the year, anticipated expenditures for the projected Committee program, and detailed information on travel shall be available to each Member.

Rule 24. Recommendation of Conferees.—Whenever in the legislative process it becomes necessary to appoint conferees, the Chair shall determine the suitable number of conferees in a ratio of Majority Members to Minority Members no less favorable to the Majority party than the ratio of Majority Members to Minority party Members on the Committee. The Chair shall recommend to the Speaker as conferees the names of those Majority Members of the Committee who were primarily responsible for the legislation, and the names of those Minority Members of the Committee recommended by the Ranking Minority Member of the Committee who were primarily responsible for the legislation.

RULES OF PROCEDURE FOR THE COMMITTEE ON SMALL BUSINESS FOR THE 103D CONGRESS

(Mr. LAFALCE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. LAFALCE. Mr. Speaker, pursuant to clause 2(a) of rule XI of the Rules of the House of Representatives, I hereby submit for printing in the CONGRESSIONAL RECORD the Rules of the Committee on Small Business for the 103d Congress, which were adopted by the Committee in open session on February 3, 1993.

RULES AND PROCEDURES OF THE COMMITTEE ON SMALL BUSINESS, HOUSE OF REPRESENTATIVES, 103D CONGRESS

1. GENERAL PROVISIONS

The Rules of the House, and in particular the committee rules enumerated in clause 2 of rule XI, are the rules of the Committee on Small Business to the extent applicable and by this reference are incorporated, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege in committees and subcommittees. Each subcommittee of the Committee on Small Business (hereinafter referred to as the "committee") is a part of the committee and is subject to the authority and direction of the committee, and its rules to the extent applicable.

2. REFERRAL OF BILLS BY CHAIRMAN

Unless retained for consideration by the full committee, all legislation and other matters referred to the committee shall be referred by the chairman to the subcommittee of appropriate jurisdiction within 2 weeks. Where the subject matter of the referral involves the jurisdiction of more than one subcommittee or does not fall within any previously assigned jurisdictions, the chairman shall refer the matter as he may deem advisable. Bills, resolutions, and other matters referred to subcommittees may be reassigned by the chairman when, in his judgment, the subcommittee is not able to complete its work or cannot reach agreement thereon.

3. DATE OF MEETING

The regular meeting date of the Committee on Small Business shall be the first Tuesday of every month when the House is in session. Additional meetings may be called by the chairman as he may deem necessary or at the request of a majority of the members of the committee in accordance with clause 2(c) of rule XI of the House of Representatives.

At least three days' notice of such additional meeting shall be given unless the chairman determines that there is good cause to call the meeting on less notice.

The determination of the business to be considered at each meeting shall be made by the chairman subject to clause 2(c) of rule XI of the House of Representatives.

A regularly scheduled meeting need not be held if there is no business to be considered or, upon at least three days' notice, it may be set for a different date.

4. ANNOUNCEMENT OF HEARINGS

Unless the chairman, or the committee by majority vote, determines that there is good cause to begin a hearing at an earlier date, public announcement shall be made of the date, place, and subject matter of any hearing to be conducted by the committee at least one week before the commencement of that hearing.

5. MEETINGS AND HEARINGS OPEN TO THE PUBLIC

(A) Meetings

Each meeting for the transaction of business, including the markup of legislation, of the committee or its subcommittees, shall be open to the public except when the committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public: *Provided, however,* That no person other than members of the committee, and such congressional staff and such departmental representatives as they may authorize, shall be present in any business or markup session which has been closed to the public.

This provision does not apply to any meeting that relates solely to internal budget or personnel matters.

(B) Hearings

Each hearing conducted by the committee or its subcommittees shall be open to the public except when the committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate any law or rule of the House of Representatives: *Provided, however,* That the committee or subcommittee may by the same procedure vote to close one subsequent day of hearings.

No member may be excluded from nonparticipatory attendance at any hearing of the committee or any subcommittee, unless the House of Representatives shall by majority vote authorize the committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to members by the same procedures designated for closing hearings to the public.

6. WITNESSES

(A) Interrogation of witnesses

The right to interrogate witnesses before the committee or any of its subcommittees shall alternate between the majority members and the minority members. In recognizing members to question witnesses, the chairman may take into consideration the ratio of majority and minority party members present and may recognize two majority party members for each minority party member recognized. Each member shall be limited to 5 minutes in the interrogation of witnesses until such time as each member of the committee who so desires has had an opportunity to question the witness.

(B) Statement of witnesses

Each witness shall file with the committee, 48 hours in advance of his appearance, 100 copies of his proposed testimony and shall make a brief oral summary of his views.

7. SUBPENAS

A subpena may be authorized and issued by the chairman of the committee in the conduct of any investigation or series of investigations or activities to require the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers and documents as he deems necessary. The ranking minority member shall be promptly notified of the issuance of such a subpena.

Such a subpena may be authorized and issued by the chairman of a subcommittee with the approval of a majority of the members of the subcommittee and the approval of the chairman of the committee or a majority of the members of the committee.

8. QUORUM

No measure or recommendation shall be reported unless a majority of the committee is actually present; for purposes of taking testimony or receiving evidence, two members shall constitute a quorum; and for all other purposes one-third of the members shall constitute a quorum.

9. AMENDMENTS DURING COMMITTEE MARKUP

Any amendment offered to any pending legislation before the committee must be made available in written form when requested by any member of the committee. If such amendment is not available in written form when requested, the chairman shall allow an appropriate period of time for the provision thereof.

10. PROXIES

A vote by any member of the committee or any of its subcommittees by proxy is permitted, provided that such proxy shall be in writing, and delivered to the clerk of the committee, shall assert that the member so voting by proxy is absent on official business or is otherwise unable to be present at the meeting of the committee or its subcommittee, shall designate the person who is to execute the proxy authorization, and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto; except that a member may authorize a general proxy only for motions to recess, adjourn, or other procedural matters. Each proxy shall be signed by the member assigning his or her vote and shall contain the date and time of day that the proxy is signed. Proxies may not be counted for a quorum.

11. NUMBER AND JURISDICTION OF SUBCOMMITTEES

There will be five subcommittees as follows:

SBA Legislation and the General Economy (9 Democrats and 6 Republicans).

Regulation, Business Opportunities and Technology (9 Democrats and 6 Republicans)

Procurement, Taxation and Tourism (6 Democrats and 4 Republicans)

Minority Enterprise, Finance and Urban Development (8 Democrats and 5 Republicans)

Development of Rural Enterprises, Exports and the Environment (6 Democrats and 4 Republicans)

During the 103d Congress, the chairman and ranking minority member shall be ex officio members of all subcommittees, without vote, and the full committee shall conduct oversight of all areas of the committee's jurisdiction.

In addition to conducting oversight in the area of their respective jurisdiction, each subcommittee shall have the following jurisdiction:

SBA Legislation and the General Economy

Small Business Act, Small Business Investment Act and related legislation.

General economic problems.

Access to capital.

Promotion of women-owned business.

Job creation.

Regulation, Business Opportunities and Technology

Responsibility for, and investigative authority over, the regulatory policies of Federal departments and agencies.

General promotion of business opportunities.

Energy issues in general.

Small Business Innovation and Research Program and technology in general.

Procurement, Taxation and Tourism

Participation of small business in Federal procurement, in general.

Impact of tax policy.

Travel and tourism.

Minority Enterprise, Finance and Urban Development

Oversight of programs to promote minority enterprise development, access to capital, enterprise zones, and finance issues in general.

Investigation of special problems facing minority-owned businesses.

Development of small businesses in urban areas.

Development of Rural Enterprises, Exports and the Environment

Development of small businesses in rural areas.

Agricultural enterprises.

Export Opportunities.

Environmental and hazardous waste.

12. POWERS AND DUTIES OF SUBCOMMITTEES

Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full committee on all matters referred to it. Subcommittee chairman shall set meeting dates after consultation with the chairman of the full committee and other subcommittee chairmen, with a view toward avoiding simultaneous scheduling of committee and subcommittee meetings or hearings wherever possible. Meetings of subcommittees shall not be scheduled to occur simultaneously with meetings of the full committee.

13. SUBCOMMITTEE REPORTS

(A) Investigative hearings

The report of any subcommittee on a matter which was the topic of a study or investigation shall include a statement concerning the subject of the study or investigation, the findings and conclusions, and recommendations for corrective action, if any, together with such other material as the subcommittee deems appropriate.

Such proposed report shall first be approved by a majority of the subcommittee members. After such approval has been secured, the proposed report shall be sent to each member of the full committee for his supplemental, minority or additional views.

Any such views shall be in writing and signed by the member and filed with the clerk of the committee within 5 calendar days (excluding Saturdays, Sundays, and legal holidays) from the date of the transmittal of the proposed report to the members.

After the expiration of such 5 calendar days, the report may be filed as a House report.

(B) End of Congress

Each subcommittee, not later than November 15th of each even-numbered year, shall submit to the Committee a report on the activities of the subcommittee during the Congress.

14. COMMITTEE STAFF

The staff of the Committee on Small Business shall be as follows:

(A) The professional and clerical employees of the committee, except those assigned to the minority or to a subcommittee chairman or ranking minority members as provided below, shall be appointed and assigned, and may be removed, by the chairman. Their remuneration shall be fixed by the chairman, and they shall be under the general supervision and direction of the chairman.

(B) The professional and clerical staff assigned to the minority shall be appointed and their remuneration determined as the minority members of the committee shall determine; *Provided, however*, That no minority staff person shall be compensated at a rate which exceeds that paid his or her majority staff counterpart. Such staff shall be under the general supervision and direction of the minority members of the committee who may delegate such authority as they deem appropriate.

(C) Each subcommittee chairperson and each ranking minority member on not more than five subcommittees shall have the right to appoint and assign one person to work on subcommittee business at a salary commensurate with the responsibilities prescribed but at a rate not to exceed 75 percent of the maximum established rate for the employees on the professional staff of the committee. Such staff members shall perform services in facilities assigned to the committee and to the extent that they are not occupied during regular working hours with tasks assigned by the subcommittee chairperson or ranking minority member who appointed them, they shall perform other tasks as assigned by the chairman or the appropriate staff director.

15. RECORDS

The committee shall keep a complete record of all actions which shall include a record of the votes on any question on which a rollcall vote is demanded. The result of each subcommittee rollcall vote, together with a description of the matter voted upon, shall be promptly made available to the full committee and such votes shall be available for inspection by the public at reasonable times in the offices of the committee.

The records of the committee at the National Archives and Records Administration shall be made available in accordance with rule XXXVI of the rules of the House, except that the committee authorizes use of any record to which clause 3(b)(4) would otherwise apply after such record has been in existence for 20 years. The chairman shall notify the ranking minority member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule to withhold a record otherwise available, and the matter shall be presented to the committee for a determination on the written request of any member of the committee.

16. ACCESS TO CLASSIFIED OR SENSITIVE INFORMATION

Access to classified information supplied to the committee and attendance at closed sessions of the committee or its subcommittees shall be limited to members, and to members of the committee staff and stenographic reporters who have appropriate security clearance when the chairman determines that such access or such attendance is essential to the functioning of the committee.

The procedure to be followed in granting access to those hearings, records, data, charts, and files of the committee which involve classified intelligence information or information deemed by a subcommittee to be sensitive shall be as follows:

(a) Only Members of the House of Representatives may have access to such information.

(b) Members who desire to read materials that are in the possession of the committee should notify the clerk of the committee or the subcommittee possessing the materials.

(c) The clerk will maintain an accurate access log which identifies without revealing the material examined, the staff member involved, and the time of arrival and departure of all members having access to the information.

(d) If the material desired is material the committee or subcommittee deems to be sensitive enough to require special handling, before receiving access to such information, Members of the House will be required to identify the information they desire to read and sign an access information sheet acknowledging such access and that the Member has read these procedures.

(e) Such material shall not be removed from the room.

(f) A staff representative shall insure that the documents used by the Member are returned to the proper custodian or to original safekeeping as appropriate.

(g) No notes, reproductions or recordings may be made of any portion of such information.

(h) The contents of such information shall not be divulged to any person in any way, form, shape, or manner and shall not be discussed with any person who has not received the information in an authorized manner either under these rules or the laws or rules in effect for officials and employees of the executive branch.

(i) When not being examined in the manner described herein, such information will be kept in secure safes in the committee rooms.

(j) These procedures only address access to information the committee or a subcommittee deems to be sensitive enough to require special treatment.

(k) If a Member believes the material should not be classified or considered restricted as to dissemination or use, the Member may ask the committee or subcommittee to so rule; however, as far as materials and information in the custody of the Small Business Committee is concerned, the classification of materials as determined by the executive branch shall prevail unless affirmatively changed by the committee or the subcommittee involved, after consultation with the appropriate executive agencies.

(l) Other materials in the possession of the committee are to be handled in accordance with the normal practices and traditions of the committee and its subcommittees.

17. BROADCASTING OF COMMITTEE HEARINGS AND MEETINGS

Upon approval by the committee or its subcommittees, all committee and subcommittee hearings which are open to the public may be covered, in whole or in part, by television broadcast, radio broadcast, and still photography or by any such methods of coverage.

The chairman of the full committee or the chairmen of the subcommittees are authorized to determine on behalf of the full committee or its subcommittees, respectively, whether hearings which are open may be broadcast, unless the committee or its subcommittees respectively by majority vote determine otherwise.

Permission for such coverage shall be granted only under the following conditions:

(1) Live coverage by radio or television shall be without commercial sponsorship.

(2) No witness served with a subpena by the committee shall be required against his or her will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off.

(3) Each committee or subcommittee chairman shall determine, in his discretion, the number of television and still cameras to be permitted in the room. The allocation among the television media of the positions of television cameras permitted by a committee or subcommittee chairman in the room shall be in accordance with fair and equitable procedures as devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(4) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the committee or the visibility of that witness and that member to each other.

(5) Television cameras shall operate from fixed positions but shall not be placed in positions which obstruct unnecessarily the coverage of the hearing or meeting by the other media.

(6) Television and radio media equipment shall not be installed in, or removed from, the room while the committee is in session.

(7) Floodlights, spotlights, strobelights, and flashguns shall not be used, except that the television media may install additional lighting in the room, without cost to the Government, in order to raise the ambient lighting level to the lowest level necessary to provide adequate television coverage at the then current state of the art.

(8) In the allocation of the number of still photographers permitted by a committee or subcommittee chairman in a hearing or meeting room, preference shall be given to photographers from Associated Press Photos and United Press International News pictures. If requests are made by more of the media than will be permitted by a committee or subcommittee chairman for coverage of the hearing or meeting by still photography, that coverage shall be made on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(9) Photographers shall not position themselves, at any time during the course of the hearing or meeting, between the witness table and the members of the committee.

(10) Photographers shall not place themselves in positions which obstruct unnecessarily the coverage by the other media.

(11) Television and radio media personnel shall be then currently accredited to the Radio and Television Correspondents' Galleries.

(12) Still photography personnel shall be then currently accredited to the Press Photographers' Gallery.

(13) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

18. OTHER PROCEDURES AND REGULATIONS

The chairman of the full committee may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the committee.

The committee may not be committed to any expense whatever without the prior approval of the chairman of the full committee.

19. AMENDMENTS TO COMMITTEE RULES

The rules of the committee may be modified, amended or repealed by a majority vote of its members, but only if written notice of the proposed change has been provided to each such member at least 48 hours before the time of the meeting at which the vote on the change occurs.

APPENDIX

Rule XI—Rules of procedures for committees

In general

1. (a)(1) The Rules of the House are the rules of its committees and subcommittees so far as applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege in committees and subcommittees.

(2) Each subcommittee of a committee is a part of that committee, and is subject to the authority and direction of that committee and to its rules so far as applicable.

(b) Each committee is authorized at any time to conduct such investigations and studies as it may consider necessary or appropriate in the exercise of its responsibilities under Rule X, and (subject to the adoption of expense resolutions as required by clause 5) to incur expenses (including travel expenses) in connection therewith.

(c) Each committee is authorized to have printed and bound testimony and other data presented at hearings held by the committee. All costs of stenographic services and transcripts in connection with any meeting or hearing of a committee shall be paid from the contingent fund of the House.

(d) Each committee shall submit to the House, not later than January 2 of each odd-numbered year, a report on the activities of that committee under this rule and Rule X during the Congress ending at noon on January 3 of such year.

Committee rules

Adoption of written rules

2. (a) Each standing committee of the House shall adopt written rules governing its procedure. Such rules—

(1) shall be adopted in a meeting which is open to the public unless the committee in open session and with a quorum present, determined by rollcall vote that all or part of the meeting on that day is to be closed to the public;

(2) shall be not inconsistent with the Rules of the House or with those provisions of law having the force and effect of Rules of the House; and

(3) shall in any event incorporate all of the succeeding provisions of this clause to the extent applicable.

Each committee's rules specifying its regular meeting days, and any other rules of a committee which are in addition to the provisions of this clause, shall be published in the Congressional Record not later than thirty days after the committee is elected in each odd-numbered year. Each select or joint committee shall comply with the provisions of this paragraph unless specifically prohibited by law.

Regular meeting days

(b) Each standing committee of the House shall adopt regular meeting days, which shall be not less frequent than monthly, for the conduct of its business. Each such committee shall meet, for the consideration of any bill or resolution pending before the committee or for the transaction of other committee business, on all regular meeting days fixed by the committee, unless otherwise provided by written rule adopted by the committee.

Additional and special meetings

(c)(1) The Chairman of each standing committee may call and convene, as he or she considers necessary, additional meetings of the committee for the consideration of any bill or resolution pending before the committee or for the conduct of other committee business. The committee shall meet for such purpose pursuant to the call of the chairman.

(2) If at least three members of any standing committee desire that a special meeting of the committee be called by the chairman, those members may file in the offices of the committee their written request to the chairman for that special meeting. Such request shall specify the measure or matter to be considered. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If, within three calendar days after the filing of the request, the chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date and hour of, and the measure or matter to be considered at, that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour and the measure or matter to be considered; and only the measure or matter specified in that notice may be considered at the special meeting.

Vice chairman or ranking majority Member to preside in absence of chairman

(d) The member of the majority party on any standing committee or subcommittee thereof ranking immediately after the chairman shall be vice chairman of the committee or subcommittee, as the case may be, and shall preside at any meeting during the temporary absence of the chairman. If the chairman and vice chairman of the committee or subcommittee are not present at any meeting of the committee or subcommittee, the ranking member of the majority party who is present shall preside at that meeting.

Committee records

(e)(1) Each committee shall keep a complete record of all committee action which shall include a record of the votes on any question on which a rollcall vote is demanded. The result of each such rollcall vote shall be made available by the committee for inspection by the public at reasonable times in the offices of the committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and whether by proxy or in person, and the names of those members present but not voting.

(2) All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the member serving as chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access thereto, except that in the case of records in the Committee on Standards of Official Conduct respecting the conduct of any Member, officer, or employee of the House, no Member of the House (other than a member of such committee) shall have access thereto without the specific, prior approval of the committee.

(3) Each committee shall include in its rules standards for availability of records of the committee delivered to the Archivist of the United States under rule XXXVI. Such standards shall specify procedures for orders of the committee under clause 3(b)(3) and clause 4(b) of rule XXXVI, including a requirement that nonavailability of a record for a period longer than the period otherwise applicable under that rule shall be approved by vote of the committee.

Proxies

(f) No vote by any member of any committee or subcommittee with respect to any measure or matter may be cast by proxy unless such committee, by written rule adopted by the committee, permits voting by proxy and requires that the proxy authorization shall be in writing, shall assert that the member is absent on official business or is otherwise unable to present at the meeting of the committee, shall designate the person who is to execute the proxy authorization, and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto; except that a member may authorize a general proxy only for motions to recess, adjourn or other procedural matters. Each proxy to be effective shall be signed by the member assigning his or her vote and shall contain the date and time of day that the proxy is signed. Proxies may not be counted for a quorum.

Open meetings and hearings

(g)(1) Each meeting for the transaction of business, including the markup of legislation, of each standing committee or subcommittee thereof shall be open to the public except when the committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public: Provided, however, That no person other than members of the committee and such congressional staff and such departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This paragraph does not apply to open committee hearings which are provided for by clause 4(a)(1) of Rule X or by subparagraph (2) of this paragraph, or to any meeting that relates solely to internal budget or personnel matters.

(2) Each hearing conducted by each committee or subcommittee thereof shall be open to the public except when the committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate any law or rule of the House of Representatives. Notwithstanding the requirements of the preceding sentence, a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony,

(A) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security or violate clause 2(k)(5) of rule XI; or

(B) may vote to close the hearing, as provided in clause 2(k)(5) of rule XI. No Member may be excluded from nonparticipatory attendance at any hearing of any committee or subcommittee, with the exception of the Committee on Standards of Official Conduct, unless the House of Representatives shall by a majority vote authorize a particular committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this subparagraph for closing hearings to the public: *Provided*, however, That the committee or subcommittee may be the same procedure vote to close one subsequent day of hearing except that the Committee on Appropriations, the Committee on Armed Services, and the Permanent Select Committee on Intelligence and the subcommittees therein may, by the same procedure, vote to close up to five additional consecutive days of hearings.

(3) Each committee of the House (except the Committee on Rules) shall make public announcement of the date, place, and subject matter of any committee hearing at least one week before the commencement of the hearing. If the committee determines that there is good cause to begin the hearing sooner, it shall make the announcement at the earliest possible date. Any announcement made under this subparagraph shall be promptly published in the Daily Digest and promptly entered into the committee scheduling service of the House Information Systems.

(4) Each committee shall, insofar as is practicable, require each witness who is to appear before it to file with the committee (in advance of his or her appearance) a written statement of the proposed testimony and to limit the oral presentation at such appearance to a brief summary of his or her argument.

(5) No point of order shall lie with respect to any measure reported by any committee on the ground that hearings on such measure were not conducted in accordance with the provisions of this clause; except that a point of order on that ground may be made by any member of the committee which reported the measure if, in the committee, such point of order was (A) timely made and (B) improperly overruled or not properly considered.

(6) The preceding provisions of this paragraph do not apply to the committee hearings which are provided for by clause 4(a)(1) of Rule X.

Quorum for taking testimony and certain other action

(h)(1) Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence which shall be not less than two.

(2) Each committee (except the Committee on Appropriations, the Committee on Budget, and the Committee on Ways and Means) may fix the number of its members to constitute a quorum for taking any action other than the reporting of a measure or recommendation which shall be not less than one-third of the members.

Prohibition against committees meeting during joint sessions and joint meetings

(i) No Committee of the House may sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress.

Calling and interrogation of witnesses

(j)(1) Whenever any hearing is conducted by any committee upon any measure or matter, the minority party members on the committee shall be entitled, upon request to the chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon.

(2) Each committee shall apply the five-minute rule in the interrogation of witnesses in any hearing until such time as each member of the committee who so desires has had an opportunity to question each witness.

Investigative hearing procedures

(k)(1) The chairman at an investigative hearing shall announce in an opening statement the subject of the investigation.

(2) A copy of the committee rules and this clause shall be made available to each witness.

(3) Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.

(5) Whenever it is asserted that the evidence or testimony at an investigatory hearing may tend to defame, degrade, or incriminate any person,

(A) such testimony or evidence shall be presented in executive session, notwithstanding the provisions of clause 2(g)(2) of this Rule, if by a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony, the committee determines that such evidence or testimony may tend to defame, degrade, or incriminate any person; and

(B) the committee shall proceed to receive such testimony in open session only if a majority of the members of the committee, a majority being present, determine that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

In either case the committee shall afford such person an opportunity voluntarily to appear as a witness; and receive and dispose of requests from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (5), the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.

(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

Committee procedures for reporting bills and resolutions

(l)(1)(A) It shall be the duty of the chairman of each committee to report or cause to be reported promptly to the House any measure approved by the committee and to take or cause to be taken necessary steps to bring a matter to a vote.

(B) In any event, the report of any committee on a measure which has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the committee a written request, signed by a majority of the members of the committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the committee shall transmit immediately to the chairman of the committee notice of the filing of that request. This subdivision does not apply to the reporting of a regular appropriation bill by the Committee on Appropriations prior to compliance with subdivision (C) and does not apply to a report of the Committee on Rules with respect to the rules, joint rules, or order of business of the House or to the reporting of a resolution of inquiry addressed to the head of an executive department.

(2)(A) No measure or recommendation shall be reported from any committee unless a majority of the committee was actually present, which shall be deemed the case if the records of the committee establish that a majority of the committee responded on a rollcall vote on that question. No point of order shall lie with respect to any measure or recommendation on the ground that it was reported without a majority of the committee actually present unless such point of order was timely made in committee.

(B) With respect to each rollcall vote on a motion to report any bill or resolution of a public character, the total number of votes cast for, and the total number of votes cast against, the reporting of such bill or resolution shall be included in the committee report.

(3) The report of any committee on a measure which has been approved by the committee (A) shall include the oversight findings and recommendations required pursuant to clause 2(b)(1) of Rule X separately set out and clearly identified; (B) the statement required by section 308(a)(1) of the Congressional Budget Act of 1974, separately set out and clearly identified, if the measure provides new budget authority (other than continuing appropriations), new spending authority described in section 401(c)(2) of such Act, new credit authority, or an increase or decrease in revenues or tax expenditures; (C) the estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of such Act, separately set out and clearly identified, whenever the Director (if timely submitted prior to the filing of the report) has submitted such estimate and comparison to the committee; and (D) a summary of the oversight findings and recommendations made by the Committee on Government Operations under clause 4(c)(2) of Rule X separately set out and clearly identified whenever such findings and recommendations have been submitted to the legislative committee in a timely fashion to allow an opportunity to consider such findings and recommendations during the committee's deliberations on the measure.

(4) Each report of a committee on each bill or joint resolution of a public character reported by such committee shall contain a detailed analytical statement as to whether the enactment of such bill or joint resolution into law may have an inflationary impact on prices and costs in the operation of the national economy.

(5) If, at the time of approval of any measure or matter by any committee, other than the Committee on Rules, any member of the committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than three calendar days (excluding Saturdays, Sundays, and legal holidays) in which to file such views, in writing and signed by that member, with the clerk of the committee. All such views so filed by one or more members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that measure or matter. The report of the committee

upon that measure or matter shall be printed in a single volume which—

(A) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

(B) shall bear upon its cover a recital that any such supplemental, minority, or additional views (and any material submitted under subdivisions (C) and (D) of subparagraph (3)) are included as part of the report.

This subparagraph does not preclude—

(i) the immediate filing or printing of a committee print unless timely requests for the opportunity to file supplemental, minority, or additional views has been made as provided by this subparagraph; or

(ii) the filing by any such committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by that committee upon that measure or matter.

(6) A measure or matter reported by any committee (except the Committee on Rules in the case of a resolution making in order the consideration of a bill, resolution, or other order of business), shall not be considered in the House until the third calendar day, excluding Saturdays, Sundays, and legal holidays, on which the report of that committee upon that measure or matter has been available to the Members of the House or as provided by section 305(a)(1) of the Congressional Budget Act of 1974 in the case of a concurrent resolution on the budget: *Provided, however*, That it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b), Rule XI, a report from the Committee on Rules specifically providing for the consideration of a reported measure or matter notwithstanding this restriction. If hearings have been held on any such measure or matter so reported, the committee reporting the measure or matter, shall make every reasonable effort to have such hearings printed and available for distribution to the Members of the House prior to the consideration of such measure or matter in the House. This subparagraph shall not apply to—

(A) any measure for the declaration of war, or the declaration of a national emergency, by the Congress; or

(B) any decision, determination, or action by a Government agency which would become or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress.

For the purposes of the preceding sentence, a Government agency includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or the government of the District of Columbia.

(7) If, within seven calendar days after a measure has, by resolution, been made in order for consideration by the House, no motion has been offered that the House consider that measure, any member of the committee which reported that measure may be recognized in the discretion of the Speaker to offer a motion that the House shall consider that measure, if that committee has duly authorized that member to offer that motion.

Power to sit and act; subpoena power

(m)(1) For the purpose of carrying out any of its functions and duties under this rule and Rule X (including any matters referred to it under clause 5 of Rule X), any committee, or any subcommittee thereof, is authorized (subject to subparagraph (2)(A) of this paragraph)—

(A) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings, and

(B) to require, by subpoena—or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. The chairman of the committee, or any member designated by such chairman, may administer oaths to any witness.

(2)(A) A subpoena may be authorized and issued by a committee or subcommittee under subparagraph (1)(B) in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present. The power to authorize and issue subpoenas under subparagraph (1)(B) may be delegated to the chairman of the committee pursuant to such rules and under such limitations as the committee may prescribe. Authorized subpoenas shall be signed by the chairman of the committee or by any member designated by the committee.

(B) Compliance with any subpoena issued by a committee or subcommittee under subparagraph (1)(B) may be enforced only as authorized or directed by the House.

Use of committee funds for travel

(n)(1) Funds authorized for a committee under clause 5 are for expenses incurred in the committee's activities: however, local currencies owned by the United States shall be made available to the committee and its employees engaged in carrying out their official duties outside the United States, its territories or possessions. No appropriated funds, including those authorized under clause 5, shall be expended for the purpose of defraying expenses of members of the committee or its employees in any country where local currencies are available for this purpose; and the following conditions shall apply with respect to travel outside the United States or its territories or possessions:

(A) No member or employee of the committee shall receive or expend local currencies for subsistence in any country for any day at a rate in excess of the maximum per diem set forth in applicable Federal law, or if the Member or employee is reimbursed for any expenses for such day, then the lesser of the per diem or the actual, unreimbursed expenses (other than for transportation) incurred by the member or employee during that day.

(B) Each member or employee of the committee shall make to the chairman of the committee an itemized report showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, any funds expended for any other official purpose and shall summarize in these categories the total foreign currencies and/or appropriated funds expended. All such individual reports shall be filed no later than sixty days following the completion of travel with the chairman of the committee for use in complying with reporting requirements in applicable Federal law and shall be open for public inspection.

(2) In carrying out the committee's activities outside of the United States in any country where local currencies are unavailable, a member or employee of the committee may not receive reimbursement for expenses (other than for transportation) in excess of the maximum per diem set forth in applicable Federal law, or if the member or employee is reimbursed for any expenses for such day, then the lesser of the per diem or the actual unreimbursed expenses (other than for transportation) incurred, by the member or employee during any day.

(3) A member or employee of a committee may not receive reimbursement for the cost of any transportation in connection with travel outside of the United States unless the member or employee has actually paid for the transportation.

(4) The restrictions respecting travel outside of the United States set forth in subparagraphs (2) and (3) shall also apply to travel outside of the United States by Members, officers, and employees of the House authorized under clause 8 of Rule I, clause 1(b) of this rule, or any other provision of these Rules of the House of Representatives.

(5) No local currencies owned by the United States may be made available under this paragraph for the use outside of the United States for defraying the expenses of a member of any committee after—

(A) the date of the general election of Members in which the Member has not been elected to the succeeding Congress; or

(B) in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjustment sine die of the last regular session of the Congress.

Broadcasting of committee hearings

3. (a) It is the purpose of this clause to provide a means, in conformity with acceptable standards of dignity, propriety, and decorum, by which committee hearings, or committee meetings, which are open to the public may be covered, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage—

(1) for the education, enlightenment, and information of the general public, on the basis of accurate and impartial news coverage, regarding the operations, procedures, and practices of the House as a legislative and representative body and regarding the measures, public issues, and other matters before the House and its committees, the consideration thereof, and the action taken thereon; and

(2) for the development of the perspective and understanding of the general public with respect to the role and function of the House under the Constitution of the United States as an organ of the Federal Government.

(b) In addition, it is the intent of this clause that radio and television tapes and television film of any coverage under this clause shall not be used, or made available for use, as partisan political campaign material to promote or oppose the candidacy of any person for elective public office.

(c) It is further, the intent of this clause that the general conduct of each meeting (whether of a hearing or otherwise) covered, under authority of this clause, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, and the personal behavior of the committee members and staff, other Government officials and personnel, witnesses, television, radio, and press media personnel, and the general public at the hearing or other meeting shall be in strict conformity with and observance of the acceptable standards of dignity, propriety, courtesy, and decorum traditionally observed by the House in its operations and shall not be such as to—

(1) distort the objects and purposes of the hearing or other meeting or the activities of committee members in connection with that hearing or meeting or in connection with the general work of the committee or of the House; or

(2) cast discredit or dishonor on the House, the committee, or any Member or bring the House, the committee, or any Member into disrepute.

(d) The coverage of committee hearings and meetings by television broadcast, radio broadcast, or still photography is a privilege made available by the House and shall be permitted and conducted only in strict conformity with the purposes, provisions, and requirements of this clause.

(e) Whenever any hearing or meeting conducted by any committee of the House is open to the public, that committee may permit, by majority vote of the committee, that hearing or meeting to be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, but only under such written rules as the committee may adopt in accordance with the purposes, provisions, and requirements of this clause: *Provided, however*, Each committee or subcommittee chairman shall determine, in his discretion, the number of television and still cameras permitted in a hearing or meeting room.

(f) The written rules which may be adopted by a committee under paragraph (e) of this clause shall contain provisions to the following effect:

(1) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(2) No witness served with a subpoena by the committee shall be required against his or her will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any such witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off. This subparagraph is supplementary to clause 2(k)(5) of this rule, relating to the protection of the rights of witnesses.

(3) The allocation among the television media of the positions of the number of television cameras permitted by a committee or subcommittee chairman in a hearing or meeting room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents Galleries.

(4) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the committee or the visibility of that witness and that member to each other.

(5) Television cameras shall operate from fixed positions but shall not be placed in positions which obstruct unnecessarily the coverage of the hearing or meeting by the other media.

(6) Equipment necessary for coverage by the television and radio media shall not be installed in, or removed from, the hearing or meeting room while the committee is in session.

(7) Floodlights, spotlights, strobelights, and flashguns shall not be used in providing any method of coverage of the hearing or meeting, except that the television media may install additional lighting in the hearing or meeting room, without cost to the Government, in order to raise the ambient lighting level in the hearing or meeting room to the lowest level necessary to provide adequate television coverage of the hearing or meeting at the then current state of the art of television coverage.

(8) In the allocation of the number of still photographers permitted by a committee or subcommittee chairman in a hearing or meeting room, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If requests are made by more of the media than will be permitted by a committee or subcommittee chairman for coverage of the hearing or meeting by still photography, that coverage shall be made on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(9) Photographers shall not position themselves, at any time during the course of the hearing or meeting, between the witness table and the members of the committee.

(10) Photographers shall not place themselves in positions which obstruct unnecessarily the coverage of the hearing by the other media.

(11) Personnel providing coverage by the television and radio media shall be then currently accredited to the Radio and Television Correspondents' Galleries.

(12) Personnel providing coverage by still photography shall be then currently accredited to the Press Photographers Gallery.

(13) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

Privileged reports and amendments

4. (a) The following committees shall have leave to report at any time on the matters herein stated, namely: The Committee on Appropriations—on general appropriation bills and on joint resolutions continuing appropriations for a fiscal year if reported after September 15 preceding the beginning of such fiscal year; the Committee on the Budget—on the matters required to be reported by such committee under Titles III and IV of the Congressional Budget Act of 1974; the Committee on House Administration—on enrolled bills, contested election, and all matters referred to it of printing for the use of the House or the two Houses, and on all matters of expenditure of the contingent fund of the House and on all matters relating to preservation and availability of noncurrent records of the House under Rule XXXVI; the Committee on Rules—on rules, joint rules, and the order of business; and the Committee on Standards of Official Conduct—on resolutions recommending action by the House of Representatives with respect to an individual Member, officer, or employee of the House of Representatives as a result of any investigation by the committee relating to the official conduct of such Member, officer, or employee of the House of Representatives.

(b) It shall always be in order to call up for consideration a report from the Committee on Rules on a rule, joint rule, or the order of business (except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting, but this provision shall not apply during the last three days of the session), and, pending the consideration thereof, the Speaker may entertain one motion that the House adjourn; but after the result is announced the Speaker shall not entertain any other dilatory motion until the report shall have been fully disposed of. The Committee on Rules shall not report any rule or order which provides that business under clause 7 of Rule XXIV shall be set aside by a vote of less than two-thirds of the Members present; nor shall it report any rule or order which would prevent the motion to recommit from being made as provided in clause 4 of Rule XVI.

(c) The Committee on Rules shall present to the House reports concerning rules, joint rules, and order of business, within three legislative days of the time when the bill or resolution involved is ordered reported by the committee. If any such rule or order is not considered immediately, it shall be referred to the calendar and, if not called up by the Member making the report within seven legislative days thereafter, any member of the Rules Committee may call it up as a question of privilege (but only on the day after the calendar day on which such Member announces to the House his intention to do so) and the Speaker shall recognize any member of the Rules Committee seeking recognition for that purpose. If the Committee on Rules makes an adverse report on any resolution pending before the committee, providing for an order of business for the consideration by the House of any public bill or joint resolution, on days when it shall be in order to call up motions to discharge committees it shall be in order for any Member of the House to call up for consideration by the House such adverse report, and it shall be in order to move the adoption by the House of such resolution adversely reported notwithstanding the adverse report of the Committee on Rules, and the Speaker shall recognize the Member seeking recognition for that purpose as a question of the highest privilege.

(d) Whenever the Committee on Rules reports a resolution repealing or amending any of the Rules of the House of Representatives or part thereof it shall include in its report or in an accompanying document—

(1) the text of any part of the Rules of the House of Representatives which is proposed to be repealed; and

(2) a comparative print of any part of the resolution making such an amendment and any part of the Rules of the House of Representatives to be amended, showing by an appropriate typographical device the omissions and insertions proposed to be made.

Committee expenses

5. (a) Whenever any committee, commission or other entity (except the Committee on Appropriations and the Committee on the Budget) is to be granted authorization for the payment, from the contingent fund of the House, of its expenses in any year, other than those expenses to be paid from appropriations provided by statute, such authorization initially shall be procured by one primary expense resolution for the committee, commission or other entity providing funds for the payment of the expenses of the committee, commission or other entity for that year from the contingent fund of the House. Any such primary expense resolution reported to the House shall not be considered in the House unless a printed report on that resolution has been made available to the Members of the House for at least one calendar day prior to the consideration of that resolution in the House. Such report shall, for the information of the House—

(1) state the total amount of the funds to be provided to the committee, commission or other entity under the primary expense resolution for all anticipated activities and programs of the committee, commission or other entity; and

(2) to the extent practicable, contain such general statements regarding the estimated foreseeable expenditures for the respective anticipated activities and programs of the committee, commission or other entity as may be appropriate to provide the House with basic estimates with respect to the expenditure generally of the funds to be provided to the committee, commission or other entity under the primary expense resolution.

* * * * *

there shall be paid out of the contingent fund of the House such amounts as may be necessary for the period beginning at noon on January 3 and ending at midnight on March 31 of each year.

(2) In the case of the first session of a Congress, amounts shall be made available under this paragraph for a select committee established by resolution in the preceding Congress only if—

(A) a reestablishing resolution for such select committee is introduced in the present Congress; and

(B) no resolution of the preceding Congress provided for termination of funding of investigations and studies by such select committee at or before the end of the preceding Congress.

(3) Each committee receiving amounts under this paragraph shall be entitled, for each month in the period specified in subparagraph (1), to 9 per centum (or such lesser per centum as may be determined by the Committee on House Administration) of the total annualized amount made available under expense resolutions for such committee in the preceding session of Congress.

(4) Payments under this paragraph shall be made on vouchers authorized by the committee involved, signed by the chairman of such committee, except as provided in subparagraph (5), and approved by the Committee on House Administration.

(5) Notwithstanding any provision of law, rule of the House, or other authority, from noon on January 3 of the first session of a Congress, until the election by the House of the committee involved in that Congress, payments under this paragraph shall be made on vouchers signed by—

(A) the chairman of such committee as constituted at the close of the preceding Congress; or

(B) if such chairman is not a Member in the present Congress, the ranking majority party member of such committee as constituted at the close of the preceding Congress who is a Member in the present Congress.

(6)(A) The authority of a committee to incur expenses under this paragraph shall expire upon agreement by the House to a primary expense resolution for such committee.

(B) Amounts made available under this paragraph shall be expended in accordance with regulations prescribed by the Committee on House Administration.

(C) The provisions of this paragraph shall be effective only insofar as not inconsistent with any resolution, reported by the Committee on House Administration and adopted after the date of adoption of these rules.

Committee staffs

6. (a)(1) Subject to subparagraph (2) of this paragraph and paragraph (f) of this clause, each standing committee may appoint, by majority vote of the committee, not more than eighteen professional staff members. Each professional staff member appointed under this subparagraph shall be assigned to the chairman and the ranking minority party member of such committee, as the committee considers advisable.

(2) Subject to paragraph (f) of this clause, whenever a majority of the minority party members of a standing committee (except the Committee on Standards of Official Conduct and the Permanent Select Committee on Intelligence) so request, not more than six persons may be selected, by majority vote of the minority party members, for appointment by the committee as professional staff members from among the number authorized by subparagraph (1) of this paragraph. The committee shall appoint any persons so selected whose character and qualifications are acceptable to a majority of the committee. If the committee determines that the character and qualifications of any person so selected are unacceptable to the committee, a majority of the minority party members may select other persons for appointment by the committee to the professional staff until such appointment is made. Each professional staff member appointed under this subparagraph shall be assigned to such committee business as the minority party members of the committee consider advisable.

(3) The professional staff members of each standing committee—

(A) shall be appointed on a permanent basis, without regard to race, creed, sex, or age, and solely on the basis of fitness to perform the duties of their respective positions;

(B) shall not engage in any work other than committee business; and

(C) shall not be assigned any duties other than those pertaining to committee business.

(4) Services of the professional staff members of each standing committee may be terminated by majority vote of the committee.

(b) After the date of adoption by the House of any such primary expense resolution for any such committee, commission or other entity for any year, authorization for the payment from the contingent fund of additional expenses of such committee, commission or other entity in that year, other than those expenses to be paid from appropriations provided by statute, may be procured by one or more supplemental expense resolutions for that committee, commission or other entity as necessary. Any such supplemental expense resolution reported to the House shall not be considered in the House unless a printed report on that resolution has been made available to the Members of the House for at least one calendar day prior to the consideration of that resolution in the House. Such report shall, for the information of the House—

(1) state the total amount of additional funds to be provided to the committee, commission or other entity under the supplemental expense resolution and the purpose or purposes for which those additional funds are to be used by the committee, commission or other entity; and

(2) state the reason or reasons for the failure to procure the additional funds for the committee, commission or other entity by means of the primary expense resolution.

(c) The preceding provisions of this clause do not apply to—

(1) any resolution providing for the payment from the contingent fund of the House of sums necessary to pay compensation for staff services performed for, or to pay other expenses of, any committee, commission or other entity at any time from and after the beginning of any year and before the date of adoption by the House of the primary expense resolution providing funds to pay the expenses of that committee, commission or other entity for that year; or

(2) any resolution providing in any Congress, for all of the standing committees of the House, additional office equipment, airmail and special delivery postage stamps, supplies, staff personnel, or any other specific item for the operation of the standing committees, and containing an authorization for the payment from the contingent fund of the House of the expenses of any of the foregoing items provided by that resolution, subject to and until enactment of the provisions of the resolution as permanent law.

(d) From the funds provided for the appointment of committee staff pursuant to primary and additional expense resolutions—

(1) the chairman of each standing subcommittee of a standing committee of the House is authorized to appoint one staff member who shall serve at the pleasure of the subcommittee chairman.

(2) the ranking minority party member of each standing subcommittee on each standing committee of the House is authorized to appoint one staff person who shall serve at the pleasure of the ranking minority party member.

(3) the staff members appointed pursuant to the provisions of subparagraphs (1) and (2) shall be compensated at a rate determined by the subcommittee chairman not to exceed (A) 75 per centum of the maximum established in paragraph (c) of clause 6 or (B) the rate paid the staff member appointed pursuant to subparagraph (1) of this paragraph.

(4) for the purpose of this paragraph, (A) there shall be no more than six standing subcommittees of each standing committee of the House, except for the Committee on Appropriations, and (B) no member shall appoint more than one person pursuant to the above provisions.

(5) the staff positions made available to the subcommittee chairman and ranking minority party members pursuant to subparagraphs (1) and (2) of this paragraph shall be made available from the staff positions provided under clause 6 of Rule XI unless such staff positions are made available pursuant to a primary or additional expense resolution.

(e) No primary expense resolution or additional expense resolution of a committee may provide for the payment or reimbursement of expenses incurred by any member of the committee for travel by the member after the date of the general election of Members in which the Member is not elected to the succeeding Congress, or in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjournment sine die of the last regular session of the Congress.

(f)(1) For continuance of necessary investigations and studies by—

(A) each standing committee and select committee established by these rules; and

(B) except as provided in subparagraph (2), each select committee established by resolution;

(5) The foregoing provisions of this paragraph do not apply to the Committee on Appropriations and to the Committee on the Budget and the provisions of subparagraphs (3) (B) and (C) do not apply to the Committee on Rules.

(b)(1) The clerical staff of each standing committee shall consist of not more than twelve clerks, to be attached to the office of the chairman, to the ranking minority party members, and to the professional staff, as the committee considers advisable. Subject to subparagraph (2) of this paragraph and paragraph (f) of this clause, the clerical staff shall be appointed by majority vote of the committee, without regard to race, creed, sex, or age. Except as provided by subparagraph (2) of this paragraph the clerical staff shall handle committee correspondence and stenographic work both for the committee staff and for the chairman and the ranking minority party member on matters related to committee work.

(2) Subject to paragraph (f) of this clause, whenever a majority of the minority party

members of a standing committee (except the Committee on Standards of Official Conduct and the Permanent Select Committee on Intelligence) so request, four persons may be selected, by majority vote of the minority party members, for appointment by the committee to positions on the clerical staff from among the number of clerks authorized by subparagraph (1) of the paragraph. The committee shall appoint to those positions any person so selected whose character and qualifications are acceptable to a majority of the committee. If the committee determines that the character and qualifications of any person so selected are unacceptable to the committee, a majority of the minority party members, may select other persons for appointment by the committee to the position involved on the clerical staff until such appointment is made. Each clerk appointed under this subparagraph shall handle committee correspondence and stenographic work for the minority party members of the committee and for any members of the professional staff appointed under subparagraph (2) of paragraph (a) of this clause on matters related to committee work.

(3) Services of the clerical staff members of each standing committee may be terminated by majority vote of the committee.

(4) The foregoing provisions of this paragraph do not apply to the Committee on Appropriations and the Committee on the Budget.

(c) Each employee on the professional, clerical and investigating staff of each standing committee shall be entitled to pay at a single gross per annum rate, to be fixed by the chairman which does not exceed the maximum rate of pay, as in effect from time to time, under applicable provisions of law.

(d) Subject to appropriations hereby authorized, the Committee on Appropriations and the Committee on the Budget may appoint such staff, in addition to the clerk thereof and assistants for the minority, as it determines by majority vote to be necessary, such personnel, other than minority assistants, to possess such qualifications as the committee may prescribe.

(e) No committee shall appoint to its staff any experts or other personnel detailed or assigned from any department or agency of the Government, except with the written permission of the Committee on House Administration.

(f) If a request for the appointment of a minority professional staff member under paragraph (a), or a minority clerical staff member under paragraph (b), is made when no vacancy exists to which that appointment may be made, the committee nevertheless shall appoint, under paragraph (a) or paragraph (b), as applicable, the person selected by the minority and acceptable to the committee. The person so appointed shall serve as an additional member of the professional staff or the clerical staff, as the case may be, of the committee, and shall be paid from the contingent fund, until such a vacancy (other than a vacancy in the position of head of the professional staff, by whatever title designated) occurs, at which time that person shall be deemed to have been appointed to that vacancy. If such vacancy occurs on the professional staff when seven or more persons have been so appointed who are eligible to fill that vacancy, a majority of the minority party members shall designate which of those persons shall fill that vacancy.

(g) Each staff member appointed pursuant to a request by minority party members under paragraph (a) or (b) of this clause, and each staff member appointed to assist minority party members of a committee pursuant to an expense resolution described in paragraph (a) or (b) of clause 5, shall be accorded equitable treatment with respect to the fixing of this or her rate of pay, the assignment to him or her of work facilities, and the accessibility to him or her of committee records.

(h) Paragraphs (a) and (b) of the clause shall not be construed to authorize the appointment of additional professional or clerical staff members of a committee pursuant to a request under either of such paragraphs by the minority party members of that committee if six or more professional staff members or four or more clerical staff members, provided for in paragraph (a)(1) or paragraph (b)(1) of this clause, as the case may be, who are satisfactory to a majority of the minority party members, are otherwise assigned to assist the minority party members.

(i) Notwithstanding paragraphs (a)(2) and (b)(2), a committee may employ nonpartisan staff, in lieu of or in addition to committee staff designated exclusively for the majority or minority party, upon an affirmative vote of a majority of the members of the majority party and a majority of the members of the minority party.

RULES OF PROCEDURE FOR THE COMMITTEE ON HOUSE ADMINISTRATION FOR THE 103D CONGRESS

(Mr. ROSE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROSE. Mr. Speaker, pursuant to the provisions of clause 2(a) of rule XI of the rules of the House, I submit for publication in the CONGRESSIONAL RECORD the rules of procedure adopted by the Committee on House Administration for the 103d Congress on January 27, 1993.

RULES OF PROCEDURE OF THE COMMITTEE ON HOUSE ADMINISTRATION, 103D CONGRESS

RULE NO. 1

General provisions

(a) The Rules of the House are the rules of the committee and subcommittees so far as applicable, except that a motion to recess from day to day is a motion of high privilege in committees and subcommittees. Each subcommittee of the committee is a part of the committee and is subject to the authority and direction of the committee and to its rules so far as applicable.

(b) The committee is authorized at any time to conduct such investigations and studies as it may consider necessary or appropriate in the exercise of its responsibilities under House Rule X and (subject to the adoption of expense resolutions as required by House Rule XI, clause 5) to incur expenses (including travel expenses) in connection therewith.

(c) The committee is authorized to have printed and bound testimony and other data presented at hearings held by the committee. All costs of stenographic services and transcripts in connection with any meeting or hearing of the committee shall be paid from the contingent fund of the House.

(d) The committee shall submit to the House, not later than January 2 of each odd-numbered year, a report on the activities of the committee under House Rules X and XI during the Congress ending at noon on January 3 of such year.

(e) The committee's rules shall be published in the CONGRESSIONAL RECORD not later than 30 days after the Congress convenes in each odd-numbered year.

RULE NO. 2

Regular and special meetings

(a) The regular meeting date of the Committee on House Administration shall be the first Wednesday of every month when the House is in session in accordance with Clause 2(b) of House Rule XI. Additional meetings may be called by the chairman as he may deem necessary or at the request of a majority of the members of the committee in accordance with Clause 2(c) of the House Rule XI. The determination of the business to be considered at each meeting shall be made by the chairman subject to Clause 2(c) of House Rule XI. A regularly scheduled meeting need not be held if there is no business to be considered.

(b) If the chairman of the committee or subcommittee is not present at any meeting of the committee or subcommittee the ranking member of the majority party on the committee or subcommittee who is present shall preside at the meeting.

RULE NO. 3

Open meetings

As required by Clause 2(g), of House Rule XI, each meeting for the transaction of business, including the markup of legislation, of the committee or its subcommittees, shall be open to the public except when the committee or subcommittee, in open session and with a quorum present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public: *Provided, however*, That no person other than members of the committee, and such congressional staff and such departmental representatives as they may authorize, shall be present in any business or markup session which has been closed to the public. This provision does not apply to any meeting that relates solely to internal budget or personnel matters.

RULE NO. 4

Records and rollcalls

(a) The result of each rollcall vote in any meeting of the committee shall be made available for inspection by the public at reasonable times at the committee offices, including a description of the amendment, motion, order or other proposition; the name of each member voting for and against, and whether by proxy or in person; and the members present but not voting.

(b) All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the member serving as chairman of the committee; and such records shall be the property of the House and all members of the House shall have access thereto.

(c) In order to facilitate committee compliance with House Rule XI, Clause 2(e)(1), each subcommittee shall keep a complete record of all subcommittee actions which shall include a record of the votes on any question on which a rollcall vote is demanded. The result of each such rollcall vote shall be promptly made available to the full committee for inspection by the public at reasonable times in the offices of the committee. Information so available for public inspection shall include a description of the amendment, motion, order or other proposition; the name of each member voting for and against such, and whether by proxy or in person; and the names of members present but not voting.

(d) All subcommittee hearings, records, data, charts, and files, shall be kept distinct from the congressional office records of the member serving as chairman of the subcommittee. Such records shall be coordinated with the records of the full committee, shall be the property of the House, and all members of the House shall have access thereto.

(e) House records of the committee which are at the National Archives shall be made available pursuant to House Rule XXXVI. The chairman of the committee shall notify the ranking minority party member of any decision to withhold a record pursuant to the rule, and shall present the matter to the committee upon written request of any committee member.

RULE NO. 5

Proxies

A vote by any member in the committee or in any subcommittee may be cast by proxy, but such proxy must be in writing and in the hands of the clerk of the committee or the clerk of the subcommittee, as the case may be, during each rollcall in which such member's proxy is to be voted. Each proxy shall designate the member who is to execute the proxy authorization and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto; except that a member may authorize a general proxy only for motions to recess, adjourn or other procedural matters. Each proxy to be effective shall be signed by the member assigning his vote and shall contain the date and time of day that the proxy is signed. Proxies may not be counted for a quorum. The member does not have to appear in person to present the proxy.

RULE NO. 6

Power to sit and act; subpoena power

(a) For the purpose of carrying out any of its functions and duties under House Rules X and XI, the committee, or any subcommittee thereof, is authorized (subject to subparagraph (b)(1) of this paragraph)—

(1) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings; and

(2) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents; as it deems necessary. The chairman of the committee, or any member designated by the chairman, may administer oaths of any witness.

(b)(1) A subpoena may be authorized and issued by a committee or subcommittee under subparagraph (a)(2) in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present. The power to authorize and issue subpoenas under subparagraph (a)(2) may be delegated to the chairman of the committee pursuant to such rules and under such limitations as the committee may prescribe. Authorized subpoenas shall be signed by the chairman of the committee or by any member designated by the committee.

(2) Compliance with any subpoena issued by the committee or subcommittee under subparagraph (a)(2) may be enforced only as authorized or directed by the House.

RULE NO. 7

Quorums

No measure or recommendation shall be reported to the House unless a majority of the committee is actually present. For the purposes of taking any action other than reporting any measure, issuance of a subpoena, closing meetings, promulgating committee orders, or changing the rules of the committee, the quorum shall be one-third of the members of the committee. For purposes of taking testimony and receiving evidence, two members shall constitute a quorum.

RULE NO. 8

Amendments

Any amendment offered to any pending legislation before the committee must be made available in written form when requested by any member of the committee. If such amendment is not available in written form when requested, the chair will allow an appropriate period of time for the provision thereof.

RULE NO. 9

Hearing procedures

(a) The chairman, in the case of hearings to be conducted by the committee, and the appropriate subcommittee chairman, in the case of hearings to be conducted by a subcommittee, shall make public announcement of the date, place, and subject matter of any hearing to be conducted on any measure or matter at least 1 week before the commencement of that hearing unless the committee determines that there is good cause to begin such hearing at an earlier date. In the latter event the chairman or the subcommittee chairman whichever the case may be shall make such public announcement at the earliest possible date. The clerk of the committee shall promptly notify the Daily Digest Clerk of the Congressional Record as soon as possible after such public announcement is made.

(b) Unless excused by the chairman, each witness who is to appear before the committee or a subcommittee shall file with the clerk of the committee, at least 48 hours in advance of his appearance, a written statement of his proposed testimony and shall limit his oral presentation to a summary of his statement.

(c) When any hearing is conducted by the committee or any subcommittee upon any measure or matter, the minority party members on the committee shall be entitled, upon request to the chairman by a majority of those minority members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearings thereon.

(d) All other members of the committee may have the privilege of sitting with any subcommittee during its hearing or deliberations and may participate in such hearings or deliberations, but no member who is not a member of the subcommittee shall vote on any matter before such subcommittee.

(e) Committee members may question witnesses only when they have been recognized by the chairman for that purpose, and only for a 5-minute period until all members present have had an opportunity to question a witness. The 5-minute period for questioning a witness by any one member can be extended only with the unanimous consent of all members present. The questioning of a witness in both full and subcommittee hearings shall be initiated by the chairman, followed by the ranking minority party member and all other members alternating between the majority and minority. In recognizing members to question witnesses in this fashion, the chairman shall take into consideration the ratio of the majority to minority members present and shall establish the order of recognition for questioning in such a manner as not to disadvantage the members of the majority. The chairman may accomplish this by recognizing two majority members for each minority member recognized.

(f) The following additional rules shall apply to hearings:

(1) The chairman at a hearing shall announce in an opening statement the subject of the investigation.

(2) A copy of the committee rules and this clause shall be made available to each witness.

(3) Witnesses at hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.

(5) If the committee determines that evidence or testimony at a hearing may tend to defame, degrade, or incriminate any person, it shall—

(A) afford such person an opportunity voluntarily to appear as a witness;

(B) receive such evidence or testimony in executive session; and

(C) receive and dispose of requests from such persons to subpoena additional witnesses.

(6) Except as provided in subparagraph (f)(5), the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.

(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

RULE NO. 10

Procedures for reporting bills and resolutions

(a)(1) It shall be the duty of the chairman of the committee to report or cause to be reported promptly to the House any measure approved by the committee and to take or cause to be taken necessary steps to bring the matter to a vote.

(2) In any event, the report of the committee on a measure which has been approved by the committee shall be filed within 7 calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the committee a written request, signed by a majority of the members of the committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the committee shall transmit immediately to the chairman of the committee notice of the filing of that request.

(b)(1) No measure or recommendation shall be reported from the committee unless a majority of the committee was actually present.

(2) With respect to each rollcall vote on a motion to report any bill or resolution of a public character, the total number of votes cast for, and the total number of votes cast against, the reporting of such bill or resolution shall be included in the committee report.

(c) The report of the committee on a measure which has been approved by the committee shall include—

(1) the oversight findings and recommendations required pursuant to House Rule X, of clause 2(b)(1) separately set out and clearly identified;

(2) the statement required by section 308(a)(1) of the Congressional Budget Act of 1974, separately set out and clearly identified, if the measure provides new budget authority or new or increased tax expenditures;

(3) the estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of such Act, separately set out and clearly identified, whenever the Director (if timely submitted prior to the filing of the report) has submitted such estimate and comparison to the committee; and

(4) a summary of the oversight findings and recommendations made by the Committee on Government Operations under House Rule X, clause 4(c)(2) separately set out and clearly identified whenever such findings and recommendations have been submitted to the committee in a timely fashion to allow an opportunity to consider such findings and recommendations during the committee's deliberations on the measure.

(d) Each report of the committee on each bill or joint resolution of a public character reported by the committee shall contain a detailed analytical statement as to whether the enactment of such bill or joint resolution into law may have an inflationary impact on prices and costs in the operation of the national economy.

(e) If, at the time of approval of any measure or matter by the committee, any member of the committee gives notice of intention of file supplemental, minority, or additional views, that member shall be entitled to not less than 3 calendar days, commencing on the day on which the measure or matter(s) was approved, excluding Saturdays, Sundays, and legal holidays, in which to file such views, in writing and signed by that member, with the clerk of the committee. All such views so filed by one or more members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that measure or matter. The report of the committee upon that measure or matter shall be printed in a single volume which—

(1) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

(2) shall bear upon its cover a recital that any such supplemental, minority, or additional views (and any material submitted under subparagraphs (c)(3) and (c)(4) are included as part of the report. This subparagraph does not preclude—

(A) the immediate filing or printing of a committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by paragraph (c); or

(B) the filing of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by the committee upon that measure or matter.

(f) If hearings have been held on any such measure or matter so reported, the committee shall make every reasonable effort to have such hearings printed and available for distribution to the members of the House prior to the consideration of such measure or matter in the House.

RULE NO. 11

Subcommittee oversight

The standing subcommittees of the committee shall conduct oversight of matters within their jurisdiction in accordance with House Rule X, clauses 2 and 3.

RULE NO. 12

Review of continuing programs; Budget Act provisions

(a) The committee shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, insure that appropriation for continuing programs and activities of the Federal Government and the District of Columbia government will be made annually to the maximum extent feasible and consistent with the nature, requirement, and objectives of the programs and activities involved. For the purposes of this paragraph a Government agency includes the organizational units of government listed in clause 7(c) of Rule XIII of House Rules.

(b) The committee shall review, from time to time, each continuing program within its jurisdictions for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefor be made annually.

(c) The committee shall, on or before February 25 of each year, submit to the Committee on the Budget (1) its views ad estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year which are within its jurisdiction or functions, and (2) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction which it intends to be effective during that fiscal year.

(d) As soon as practicable after a concurrent resolution on the budget for any fiscal year is agreed to, the committee (after consulting with the appropriate committee or committees of the Senate) shall subdivide any allocation made to it, the joint explanatory statement accompany the conference report on such resolution, and promptly report such subdivisions to the House, in the manner provided by section 302 of the Congressional Budget Act of 1974.

(e) Whenever the committee is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process it shall promptly make such determination and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget, in accordance with the Congressional Budget Act of 1974.

RULE NO. 13

Broadcasting of committee hearings

The rule for the broadcasting of committee hearings shall be the same as Rule XI, clause 3 of the Rules of the House of Representatives.

RULE NO. 14

Committee and subcommittee staff

Except as provided in House Rule XI, clause 5(d), the staff of the Committee on House Administration shall be appointed as follows:

A. The subcommittee staff shall be appointed, and may be removed, and their remuneration determined by the subcommittee chairman within the budget approved for the subcommittee by the full committee;

B. The staff assigned to the minority shall be appointed and their remuneration determined in such manner as the minority party members of the committee shall determine within the budget approved for such purposes by the committee;

C. The employees of the committee not assigned to a standing subcommittee or to the minority under the above provisions shall be appointed, and may be removed, and their remuneration determined by the chairman within the budget approved for such purposes by the committee.

RULE NO. 15

Travel of Members and staff

(a) Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, the provisions of this rule shall govern travel of committee members and staff. Travel for any member or any staff member shall be paid only upon the prior authorization of the chairman. Travel may be authorized by the chairman for any member and any staff member in connection with the attendance of hearings conducted by the committee or any subcommittee thereof and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the committee. Before such authorization is given there shall be submitted to the chairman in writing the following:

(1) The purpose of the travel;

(2) The dates during which the travel will occur;

(3) The locations to be visited and the length of time to be spent in each;

(4) The names of members and staff seeking authorization.

(b)(1) In the case of travel outside the United States of members and staff of the committee or of a subcommittee for the purpose of conducting hearings, investigations, studies, or attending meetings and conferences involving activities or subject matter under the legislative assignment of the committee or pertinent subcommittee, prior authorization must be obtained from the chairman. Before such authorization is given, there shall be submitted to the chairman, in writing, a request for such authorization. Each request, which shall be filed in a manner that allows for a reasonable period of time for review before such travel is scheduled to begin, shall include the following:

(A) the purpose of the travel;

(B) the dates during which the travel will occur;

(C) the names of the countries to be visited and the length of time to be spent in each;

(D) an agenda of anticipated activities for each country for which travel is authorized together with a description of the purpose to be served and the areas of committee jurisdiction involved; and

(E) the names of members and staff for whom authorization is sought.

(2) Requests for travel outside the United States shall be initiated by the Chairman and shall be limited to members and permanent employees of the committee.

(3) At the conclusion of any hearing, investigation, study, meeting or conference for which travel outside the United States has been authorized pursuant to this rule, each subcommittee (or members and staff attending meetings or conferences) shall submit a written report to the chairman covering the activities and other pertinent observations or information gained as a result of such travel.

(c) Members and staff of the committee performing authorized travel on official business shall be governed by applicable laws, resolutions, or regulations of the House and of the Committee on House Administration pertaining to such travel.

RULE NO. 16

Number and jurisdiction of subcommittees

(a) There shall be five standing subcommittees. The ratio (majority/minority) and jurisdiction of the subcommittees shall be: Subcommittee on Elections. (5/3)—Matters pertaining to the Federal Election Commission (FEC) authorization, FEC regulations, presidential public funding checkoff, federal voter registration provisions, poll closing provisions, Overseas Citizens' Voting Rights Act, and Voter Accessibility Act.

Subcommittee on Libraries and Memorials. (4/2)—Matters pertaining to the Library of Congress; statuary and pictures; acceptance or purchase of works of art for the Capitol; purchase of books and manuscripts; erection of monuments to the memory of individuals; matters relating to the Smithsonian Institution and the incorporation of similar institutions.

Subcommittee on Office Systems. (4/2)—Matters pertaining to furniture and furnishings for District offices; approval of all electrical and mechanical office equipment and other accoutrements for use in the offices of Members, Officers or Committees.

Subcommittee on Accounts. (7/4)—Internal budget matters; expenditures from the contingent fund; changes in amounts of allowances; and consultant contracts for committees.

Subcommittee on Personnel and Police. (4/2)—Matters pertaining to House employees and Police, parking, restaurant, barber and beauty shop, and other House facilities and services.

(b) The chairman of the Committee may appoint such ad hoc subcommittees as he deems appropriate.

(c) The chairman of the Committee and the ranking minority member shall serve as ex officio members on all subcommittees of the committee and may be counted in determining the presence of a quorum.

RULE NO. 17

Powers and duties of subcommittees

Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full committee on all matters referred to it. Subcommittee chairmen shall set meeting dates after consultation with the chairman of the full committee and other subcommittee chairmen, with a view toward avoiding simultaneous scheduling of committee or subcommittee meetings or hearings wherever possible. It shall be the practice of the committee that meetings of subcommittees not be scheduled to occur simultaneously with meetings of the full committee. In order to ensure orderly and fair assignment of hearing and meeting rooms, hearings and meetings should be arranged in advance with the chairman through the clerk of the committee.

Rule No. 18

Referral of legislation to subcommittees

All legislation and other matters referred to the committee shall be referred by the chairman of the subcommittee of appropriate jurisdiction within 2 weeks, unless by majority vote of the members of the full committee, consideration is to be otherwise effected. The chairman may refer the matter simultaneously to two or more subcommittees, consistent with House Rule X, clause 5, for concurrent consideration or for consideration in sequence (subject to appropriate time limitations), or divide the matter into two or more parts and refer each such part to a different subcommittee, or refer the matter to an ad hoc subcommittee appointed by the chairman for the specific purpose of considering that matter and reporting to the full committee thereon, or such other provisions as may be considered appropriate. The chairman may designate a subcommittee chairman or other member to take responsibility as "floor manager" of a bill during its consideration in the House.

RULE NO. 19

Other procedures and regulations

The chairman of the full committee may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the committee.

RULE NO. 20

Designation of clerk of the committee

For the purposes of these rules and the Rules of the House of Representatives, the staff director of the committee shall act as the clerk of the committee.

RULES OF PROCEDURE FOR THE COMMITTEE ON APPROPRIATIONS FOR THE 103RD CONGRESS

(Mr. NATCHER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. NATCHER. Mr. Speaker, pursuant to and in accordance with clause 2(a) of rule XI of the Rules of the House of Representatives, I submit for publication in the CONGRESSIONAL RECORD a copy of the rules of the Committee on Appropriations for the 103d Congress as approved by the committee on January 27, 1993:

COMMITTEE RULES OF THE COMMITTEE ON APPROPRIATIONS

Resolved, That the rules and practices of the Committee on Appropriations, House of Representatives, in the One Hundred Second Congress, except as otherwise provided hereinafter, shall be and are hereby adopted as the rules and practices of the Committee on Appropriations in the One Hundred Third Congress.

The foregoing resolution adopts the following rules:

SEC. 1: POWER TO SIT AND ACT

For the purpose of carrying out any of its functions and duties under Rules X and XI of the Rules of the House of Representatives, the Committee or any of its subcommittees is authorized:

(a) To sit and act at such times and places within the United States whether the House is in session, has recessed, or has adjourned, and to hold such hearings; and

(b) To require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, reports, correspondence, memorandums, papers, and documents as it deems necessary. The Chairman, or any Member designated by the Chairman, may administer oaths to any witness.

(c) A subpoena may be authorized and issued by the Committee or its subcommittees under subsection 1(b) in the conduct of any investigation or activity or series of investigations or activities, only when authorized by a majority of the Members of the Committee voting, a majority being present. The power to authorize and issue subpoenas under subsection 1(b) may be delegated to the chairman pursuant to such rules and under such limitations as the Committee may prescribe. Authorized subpoenas shall be signed by the Chairman or by any Member designated by the Committee.

(d) Compliance with any subpoena issued by the Committee or its subcommittees may be enforced only as authorized or directed by the House.

SEC. 2: SUBCOMMITTEES

(a) The Majority Caucus of the Committee shall establish the number of subcommittees and shall determine the jurisdiction of each subcommittee.

(b) Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the Committee all matters referred to it.

(c) All legislation and other matters referred to the Committee shall be referred to the subcommittee of appropriate jurisdiction within two weeks unless, by majority vote of the Majority Members of the full Committee, consideration is to be by the full Committee.

(d) The Majority Caucus of the Committee shall determine an appropriate ratio of Majority to Minority Members for each subcommittee. The Chairman is authorized to negotiate that ratio with the Minority; Provided, however, That party representation in each subcommittee, including ex-officio members, shall be no less favorable to the Majority than the ratio for the full Committee.

(e) The Chairman is authorized to sit as a member of any subcommittee and to participate in its work.

SEC. 3: STAFFING

(a) Committee Staff—The Chairman is authorized to appoint the staff of the Committee, and make adjustments in the job titles and compensation thereof subject to the maximum rates and conditions established in Clause 6(c) of Rule XI of the Rules of the House of Representatives. In addition, he is authorized, in his discretion, to arrange for their specialized training. The Chairman is also authorized to employ additional personnel as necessary.

(b) Assistants to Members—Each Member may select and designate two staff members who shall serve at the please of that Member. Such staff members shall be compensated at a rate, determined by the Member, not to exceed 75 per centum of the maximum established in Clause 6(c) of Rule XI of the Rules of the House of Representatives; Provided, That Members designating staff members under this subsection must specifically certify by letter to the Chairman that the employees are needed and will be utilized for Committee work.

SEC. 4: COMMITTEE MEETINGS

(a) Regular Meeting Day—The regular meeting day of the Committee shall be the first Wednesday of each month while the House is in session, unless the Committee has met within the past 30 days or the Chairman considers a specific meeting unnecessary in the light of the requirements of the Committee business schedule.

(b) Additional and Special Meetings:

(1) The Chairman may call and convene, as he considers necessary, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business. The Committee shall meet for such purpose pursuant to that call of the Chairman.

(2) If at least three Committee Members desire that a special meeting of the Commit-

tee be called by the Chairman, those Members may file in the Committee Offices a written request to the Chairman for that special meeting. Such request shall specify the measure or matter to be considered. Upon the filing of the request, the Committee Clerk shall notify the Chairman.

(3) If within three calendar days after the filing of the request, the Chairman does not call the requested special meeting to be held within seven calendar days after the filing of the request, a majority of the Committee Members may file in the Committee Offices their written notice that a special meeting will be held, specifying the date and hour of such meeting, and the measure or matter to be considered. The Committee shall meet on that date and hour.

(4) Immediately upon the filing of the notice, the Committee Clerk shall notify all Committee Members that such special meeting will be held and inform them of its date and hour and the measure or matter to be considered. Only the measure or matter specified in that notice may be considered at the special meeting.

(c) Vice Chairman or Ranking Majority Member To Preside in Absence of Chairman—The member of the majority party on the Committee or subcommittee thereof ranking immediately after the chairman shall be vice chairman of the Committee or subcommittee, as the case may be, and shall preside at any meeting during the temporary absence of the chairman. If the chairman and vice chairman of the Committee or subcommittee are not present at any meeting of the Committee or subcommittee, the ranking member of the majority party who is present shall preside at that meeting.

(d) Business Meetings:

(1) Each meeting for the transaction of business, including the markup of legislation, of the Committee and its subcommittees shall be open to the public except when the Committee or its subcommittees, in open session and with a majority present, determines by roll call vote that all or part of the remainder of the meeting on that day shall be closed.

(2) No person other than Committee Members and such congressional staff and departmental representatives as they may authorize shall be present at any business or markup session which has been closed.

(3) The provisions of this subsection do not apply to open hearings of the Committee or its subcommittees which are provided for in Section 5(b)(1) of these Rules or to any meeting of the Committee relating solely to internal budget or personnel matters.

(e) Committee Records:

(1) The Committee shall keep a complete record of all Committee action, including a record of the votes on any question on which a roll call is demanded. The result of each roll call vote shall be available for inspection by the public during regular business hours in the Committee Offices. The information made available for public inspection shall include a description of the amendment, motion, or other proposition, and the name of each Member voting for and each Member voting against, and the names of those Members present but not voting.

(2) All hearings, records, data, charts, and files of Committee shall be kept separate and distinct from the congressional office records of the Chairman of the Committee. Such records shall be the property of the House, and all Members of the House shall have access thereto.

(3) The records of the Committee at the National Archives and Records Administration shall be made available in accordance with Rule XXXVI of the Rules of the House, except that the Committee authorizes use of any record to which Clause 3(b)(4) of Rule XXXVI of the Rules of the House would otherwise apply after such record has been in existence for 20 years. The Chairman shall notify the Ranking Minority Member of any decision, pursuant to Clause 3(b)(3) or Clause 4(b) of Rule XXXVI of the Rules of the House, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination upon the written request of any Member of the Committee.

SEC. 5: COMMITTEE AND SUBCOMMITTEE HEARINGS

(a) Overall Budget Hearings—Overall budget hearings by the Committee, including the hearing required by Section 242(c) of the Legislative Reorganization Act of 1970 and Clause 4(a)(1) of Rule X of the Rules of the House of Representatives shall be conducted in open session except when the Committee in open session and with a majority present, determines by roll call vote that the testimony to be taken at that hearing on that day may be related to a matter of national security; except that the Committee may by the same procedure close one subsequent day of hearing. A transcript of all such hearings shall be printed and a copy furnished to each Member, Delegate, and the Resident Commissioner from Puerto Rico.

(b) Other Hearings:

All other hearings conducted by the Committee or its subcommittees shall be open to the public except when the Committee or subcommittee in open session and with a majority present determines by roll call vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate any law or Rule of the House of Representatives. Notwithstanding the requirements of the preceding sentence, a majority of those present at a hearing conducted by the Committee or any of its subcommittees, there being in attendance the number required under Section 5(c) of these Rules to be present for the purpose of taking testimony, (1) may vote to close the hearing for the sole purpose of discussing testimony or evidence to be received would endanger the national security or violate Clause 2(k)(5) of Rule XI of the Rules of the House of Representatives or (2) may vote to close the hearing, as provided in Clause 2(k)(5) of such Rule. No Member of the House of Representatives may be excluded from nonparticipatory attendance at any hearing of the Committee or its subcommittees unless the House of Representatives shall by majority vote authorize the Committee or any of its subcommittees, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this subsection for closing hearings to the public; Provided, however, That the Committee or its subcommittees may by the same procedure vote to close five subsequent days of hearings.

(2) Subcommittee chairmen shall set meeting dates after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of Committee and subcommittee meetings or hearings.

(3) Each witness who is to appear before the Committee or any of its subcommittees as the case may be, insofar as is practicable, shall file in advance of such appearance, a written statement of the proposed testimony and shall limit the oral presentation at such appearance to a brief summary, except that this provision shall not apply to any witness appearing before the Committee in the overall budget hearings.

(c) Quorum for Taking Testimony—The number of Members of the Committee which shall constitute a quorum for taking testimony and receiving evidence in any hearing of the Committee shall be two.

(d) Calling and Interrogation of Witnesses:

(1) The Minority Members of the Committee or its subcommittees shall be entitled, upon request to the Chairman or subcommittee chairman, by a majority of them before completion of any hearing, to call witnesses selected by the Minority to testify with respect to the matter under consideration during at least one day of hearings thereon.

(2) The Committee and its subcommittees shall observe the five-minute rule during the interrogation of witnesses until such time as each Member of the Committee or subcommittee who so desires has had an opportunity to question the witness.

(e) Broadcasting and Photographing of Committee Meetings and Hearings:

(1) The Chairman is authorized to determine the extent and nature of broadcasting and photographic coverage for the overall budget hearing and full Committee meetings and hearings, subject to the guidelines for such coverage set forth in Section 116(b) of the Legislative Reorganization Act of 1970 and Clause 3(f) of Rule XI of the Rules of the House of Representatives.

(2) Unless approved by the Chairman and concurred in by a majority of the subcommittee, no subcommittee hearings or meetings shall be recorded by electronic device or broadcast by radio or television.

(3) Unless approved by the subcommittee chairman and concurred in by a majority of the subcommittee, no subcommittee hearing or meeting or subcommittee room shall be photographed.

(4) Broadcasting and photographic coverage of subcommittee hearings and meetings authorized under the provisions of (2) and (3) above shall be subject to the guidelines for such coverage set forth in Clause 3(f) of Rule XI of the Rules of the House of Representatives.

(f) Subcommittee Meetings—No subcommittee shall sit while the House is reading an appropriation measure for amendment under the five-minute or while the Committee is in session.

(g) Public Notice of Committee Hearings—The Chairman is authorized and directed to make public announcements of the date, place, and subject matter of Committee and subcommittee hearings at least one week before the commencement of such hearings. If the Committee or any of its subcommittees, as the case may be, determines that there is good cause to begin a hearing sooner, the Chairman is authorized and directed to make the announcement at the earliest possible date.

SEC. 6: PROCEDURES FOR REPORTING BILLS AND RESOLUTIONS

(a) Prompt Reporting Requirement:

(1) It shall be the duty of the Chairman to report, or cause to be reported promptly to the House any bill or resolution approved by the Committee and to take or cause to be taken necessary steps to bring the matter to a vote.

(2) In any event, a report on a bill or resolution which the Committee has approved

shall be filed within seven calendar days (exclusive of days in which the House is not in session) after the day on which there has been filed with the Committee Clerk a written request, signed by a majority of Committee Members, for the reporting of such bill or resolution. Upon the filing of any such request, the Committee Clerk shall notify the Chairman immediately of the filing of the request. This subsection does not apply to the reporting of a regular appropriation bill or to the reporting of a resolution of inquiry addressed to the head of an executive department.

(b) Presence of Committee Majority—No measure or recommendation shall be reported from the Committee unless a majority of the Committee was actually present.

(c) Roll Call Votes—With respect to each roll call vote on a motion to report any bill or resolution, the total number of votes cost for, and the total number of votes cast against, the reporting of such a bill or resolution shall be included in the Committee report.

(d) Compliance With Congressional Budget Act—A Committee report on a bill or resolution which has been approved by the Committee shall include the statement required by Section 308(a) of the Congressional Budget Act of 1974, separately set out and clearly identified, if the bill or resolution provides new budget authority.

(e) Inflationary Impact Statement—Each Committee report on a bill or resolution reported by the Committee shall contain a detailed analytical statement as to whether the enactment of such bill or resolution into law may have an inflationary impact on prices and costs in the operation of the national economy.

(f) Changes in Existing Law—Each Committee report on a general appropriation bill shall contain a concise statement describing fully the effect of any provision of the bill which directly or indirectly changes the application of existing law.

(g) Rescissions and Transfers—Each bill or resolution reported by the Committee shall include separate headings for rescissions and transfers of unexpended balances with all proposed rescissions and transfers listed therein. The report of the Committee accompanying such a bill or resolution shall include a separate section with respect to such rescissions or transfers.

(h) Supplemental or Minority Views:

(1) If, at the time the Committee approves any measure or matter, any Committee Member gives notice of intention to file supplemental, minority, or additional views, the Member shall be entitled to not less than three calendar days (excluding Saturdays, Sundays, and legal holidays) in which to file such views in writing and signed by the Member, with the Clerk of the Committee. All such views so filed shall be included in and shall be a part of the report filed by the Committee with respect to that measure or matter.

(2) The Committee report on that measure or matter shall be printed in a single volume which—

(i) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

(ii) shall have on its cover a recital that any such supplemental, minority, or additional views are included as part of the report.

(3) Subsection (h)(1) of this section, above, does not preclude—

(i) the immediate filing or printing of a Committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by such subsection; or

(ii) the filing by the Committee of a supplemental report on a measure or matter which may be required for correction of any technical error in a previous report made by the Committee on that measure or matter.

(4) If, at the time a subcommittee approves any measure or matter for recommendation to the full Committee, any Member of that subcommittee who gives notice of intention to offer supplemental, minority, or additional views shall be entitled, insofar as is practicable and in accordance with the printing requirements as determined by the subcommittee, to include such views in the Committee Print with respect to that measure or matter.

(i) Availability of Reports—A copy of each bill, resolution, or report shall be made available to each Member of the Committee at least three calendar days (excluding Saturdays, Sundays, and legal holidays) in advance of the date on which the Committee is to consider each bill, resolution, or report; Provided, that this subsection may be waived by agreement between the Chairman and the Ranking Minority Member of the full Committee.

SEC. 7: VOTING

(a) No vote by any Member of the Committee or any of its subcommittees with respect to any measure or matter may be cast by proxy.

(b) The vote on any question before the Committee shall be taken by the yeas and nays on the demand of one-fifth of the Members present.

SEC. 8: STUDIES AND EXAMINATIONS

The following procedure shall be applicable with respect to the conduct of studies and examinations of the organization and operation of Executive Agencies under authority contained in Section 202(b) of the Legislative Reorganization Act of 1946 and in Clause 2(b((3) of Rule X, of the Rules of the House of Representatives.

(a) The Chairman is authorized to appoint such staff and, in his discretion, arrange for the procurement of temporary services of consultants, as from time to time may be required.

(b) Studies and examinations will be initiated upon the written request of a subcommittee which shall be reasonably specific and definite in character, and shall be initiated only by a majority vote of the subcommittee, with the chairman of the subcommittee and the ranking minority member thereof participating as part of such majority vote. When so initiated such request shall be filed with the Clerk of the Committee for submission to the Chairman and the Ranking Minority Member and their approval shall be required to make the same effective. Notwithstanding any action taken on such request by the chairman and ranking minority member of the subcommittee, a request may be approved by a majority of the Committee.

(c) Any request approved as provided under subsection (b) shall be immediately turned over to the staff appointed for action.

(d) Any information obtained by such staff shall be reported to the chairman of the subcommittee requesting such study and examination and to the Chairman and Ranking Minority Member, shall be made available to the members of the subcommittee concerned, and shall not be released for publication until the subcommittee so determines.

(e) Any hearings or investigations which may be desired, aside from the regular hearings on appropriation items, when approved by the Committee, shall be conducted by the subcommittee having jurisdiction over the matter.

SEC. 9: OFFICIAL TRAVEL

(a) The chairman of a subcommittee shall approve requests for travel by subcommittee members and staff for official business within the jurisdiction of that subcommittee. The ranking majority member of a subcommittee shall concur in such travel requests by minority members of that subcommittee and the Ranking Minority Member shall concur in such travel requests for Minority Members of the Committee. Requests in writing covering the purpose, itinerary, and dates of proposed travel shall be submitted for final approval to the Chairman. Specific approval shall be required for each and every trip.

(b) The Chairman is authorized during the recess of the Congress to approve travel authorizations for Committee Members and staff, including travel outside the United States.

(c) As soon as practicable, the Chairman shall direct the head of each Government agency concerned not to honor requests of subcommittees, individual Members, or staff for travel, the direct or indirect expenses of which are to be defrayed from an executive appropriation, except upon request from the Chairman.

(d) In accordance with Clause 2(n) of Rule XI of the Rules of the House of Representatives and Section 502(b) of the Mutual Security Act of 1954, as amended, local currencies owned by the United States shall be available to Committee Members and staff engaged in carrying out their official duties outside the United States, its territories, or possessions. No Committee Member or staff member shall receive or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in applicable Federal law.

(a) Travel Reports:

(a) Members or staff shall make a report to the Chairman on their travel, covering the purpose, results, itinerary, expenses, and other pertinent comments.

(2) With respect to travel outside the United States or its territories or possessions, the report shall include: (1) an itemized list showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, and any funds expended for any other official purpose; and (2) a summary in these categories of the total foreign currencies and/or appropriated funds expended. All such individual reports on foreign travel shall be filed with the Chairman no later than sixty days following completion of the travel for use in complying with reporting requirements in applicable Federal law, and shall be open for public inspection.

(3) Each Member or employee performing such travel shall be solely responsible for supporting the amounts reported by the Member or employee.

(4) No report or statement as to any trip shall be publicized making any recommendations in behalf of the Committee without the authorization of a majority of the Committee.

(f) Members and staff of the Committee performing authorized travel on official business pertaining to the jurisdiction of the Committee shall be governed by applicable laws or regulations of the House and of the Committee on House Administration pertaining to such travel, and as promulgated from time to time by the Chairman.

SEC. 10: ELIGIBILITY OF COMMITTEE MEMBER SERVING AS BUDGET COMMITTEE CHAIRMAN FOR APPROPRIATIONS SUBCOMMITTEE CHAIRMANSHIP

If the Chairman of the Budget Committee of the House of Representatives is chairman of a subcommittee on the Appropriations committee when he becomes Budget Committee Chairman, or would be eligible to become chairman of an Appropriations subcommittee under the rules of the Majority Caucus of the House of Representatives during his tenure as Budget Committee Chairman, the Appropriations committee may nominate such Member to serve as chairman of such subcommittee, subject to the approval of the Majority Caucus. But, if so elected and confirmed, the Member shall take a leave of absence while Chairman of the Budget Committee, and the responsibilities of the subcommittee chairmanship shall devolve onto a temporary chairman as determined by the Appropriations Committee and the Majority Caucus of the House.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PICKLE (at the request of Mr. GEPHARDT), for the balance of the day, on account of medical reasons.

Mr. SANTORUM (at the request of Mr. MICHEL), for today after 9 p.m., on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and include extraneous material:)

Mr. GOSS, for 5 minutes, today.

Mr. THOMAS of Wyoming, for 60 minutes, on February 16.

Mr. WALKER, for 60 minutes, today.

Mrs. BENTLEY, for 60 minutes each day, on March 2, 3, 4, 9, 10, 11, 16, 17, 18, 23, 24, and 25.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 5 minutes, today.

Mr. PICKETT, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes each day, on February 5, 16, 17, 18, 19, and 22.

(The following Member (at the request of Mr. PICKETT) to revise and extend his remarks and include extraneous material.)

Mr. CONYERS, for 15 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BURTON of Indiana, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BURTON of Indiana, and to include a statement regarding the Council of Kalistan in the CONGRESSIONAL RECORD today immediately after Mr. FALEOMAVAEGA's remarks relevant to the same issue.

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Ms. SNOWE.

Mr. SOLOMON.

Mr. SAXTON.

Mr. KOLBE.

Mr. GINGRICH.

Mr. MOORHEAD.

Mrs. MEYERS of Kansas.

Mr. MCDADE.

Mr. MICHEL.

Mrs. JOHNSON of Connecticut in two instances.

Mr. CUNNINGHAM.

Mr. LAZIO.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. EDWARDS of California.

Ms. WOOLSEY.

Mr. DINGELL.

Mr. BONIOR.

Mr. TORRICELLI.

Mr. ANDREWS of Texas.

Mr. LEVIN.

Mr. ROWLAND.

Ms. NORTON.

Mr. WILLIAMS.

Mr. FOGLIETTA.

Mr. TEJEDA.

Mr. SYNAR.

Mrs. COLLINS of Illinois in two instances.

Ms. SLAUGHTER.

Mr. DE LUGO.

Mr. LAROCCO.

Mr. FORD of Michigan.

ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER. Pursuant to the provisions of Senate Concurrent Resolution 10, 103d Congress, the House stands adjourned until noon on Tuesday, February 16, 1993.

Thereupon (at 11 o'clock and 54 minutes p.m.), pursuant to Senate Concurrent Resolution 10, the House adjourned until Tuesday, February 16, 1993, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

710. A letter from the Secretary, Department of Energy, transmitting notification that the report on the Scholarship and Fellowship Program for Environmental Restoration and Waste Management will be completed by March 1, 1993, pursuant to Public Law 102–190, section 3132(h) (105 Stat. 1574); to the Committee on Armed Services.

711. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment and services sold commercially to Japan (Transmittal No. DTC–16–93), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

712. A letter from the Chairman, Board for International Broadcasting, transmitting the Board's annual report on its activities, as well as its review and evaluation of the operation of Radio Free Europe/Radio Liberty for the period October 1, 1991 through September 30, 1992, pursuant to 22 U.S.C. 2873(a)(9); to the Committee on Foreign Affairs.

713. A letter from the Secretary of Labor, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1992, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

714. A letter from the Director, National Park Service, transmitting a report of surplus Federal real property disposed of for parks and recreation, fiscal years 1991 and 1992, pursuant to Public Law 100–612, section 5 (102 Stat. 3181); to the Committee on Natural Resources.

715. A letter from the Secretary, Department of Labor, transmitting a report on the extent and manner of compliance by State prison industry enhancement certification programs with the requirements set forth in 18 U.S.C. 1761(c), pursuant to Public Law 101–647, section 2908 (104 Stat. 4915); to the Committee on the Judiciary.

716. A letter from the Chairman, Copyright Royalty Tribunal, transmitting its annual report for the fiscal year ending September 30, 1992, pursuant to 17 U.S.C. 808; to the Committee on the Judiciary.

717. A letter from the Secretary, Department of Transportation, transmitting a report entitled "Commemoration of Dwight D. Eisenhower National System of Interstate and Defense Highways," pursuant to Public Law 102–240, section 1023(e)(4) (105 Stat. 1955); to the Committee on Public Works and Transportation.

718. A letter from the Chairman, U.S. Information Agency, transmitting a report of the Cultural Property Advisory Committee on the request of the Government of Mali, pursuant to 19 U.S.C. 2601 et seq.; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GORDON: Committee on Rules. House Resolution 71. Resolution relating to the consideration of the Senate amendment to the bill (H.R. 1) to grant family and temporary medical leave under certain circumstances (Rept. 103–13). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROOKS (for himself, Mr. BRYANT, and Mr. FRANK of Massachusetts):

H.R. 811. A bill to reauthorize the independent counsel law for an additional 5 years, and for other purposes; to the Committee on the Judiciary.

By Mr. GONZALEZ:

H.R. 812. A bill to establish the Congressional Advisory Commission on Amateur Boxing and to amend title 18, United States Code, to prohibit the participation in and promotion of professional boxing; jointly, to the Committees on Education and Labor, Energy and Commerce, and the Judiciary.

By Mr. ANDREWS of Texas (for himself, Ms. PELOSI, Mr. BACCHUS of Florida, Mr. KING, Mr. MCCOLLUM, Mr. GALLEGLY, Mr. SOLOMON, Mr. SUNDQUIST, Mr. GINGRICH, Mrs. SCHROEDER, Mr. GILLMOR, Mr. HOCHBRUECKNER, Mr. BATEMAN, Mr. PICKETT, Mr. THOMAS of Wyoming, Mr. SENSENBRENNER, Mr. PORTER, Mr. SMITH of New Jersey, Mr. TORKILDSEN, Mr. BLUTE, Mrs. KENNELLY, Mr. HINCHEY, Mr. SAXTON, Mr. SPRATT, Mr. UPTON, Mrs. JOHNSON of Connecticut, Mr. EMERSON, Mr. MACHTLEY, Mr. NEAL of Massachusetts, Mr. LEWIS of Florida, Mr. FROST, Mr. MATSUI, Mr. WALSH, Mr. TOWNS, Mr. SAM JOHNSON, and Mr. JACOBS):

H.R. 813. A bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference; to the Committee on Ways and Means.

By Mr. ARMEY (for himself, Mr. BLUTE, Mr. HOKE, Mr. FRANK of Massachusetts, Mr. ARCHER, Mr. SCHUMER, Mr. HYDE, Mr. DELAY, Mr. SHAYS, Mrs. SCHROEDER, Mr. GIBBONS, Mr. GALLEGLY, Mr. GORDON, Mr. UPTON, Mr. OWENS, Mr. KYL, Mr. JACOBS, Mr. CRANE, Mr. SHAW, Mr. COX, Mr. PACKARD, Mr. HUNTER, Mr. FAWELL, Mr. FIELDS of Texas, Mr. HANCOCK, Mr. SMITH of New Jersey, Mr. BALLENGER, Mr. PORTER, Mr. SAXTON, Mr. BAKER of California, Ms. ROS-LEHTINEN, Mr. ZIMMER, Ms. MOLINARI, and Mr. TRAFICANT):

H.R. 814. A bill to eliminate the outdated price support and production adjustment program for honey, and for other purposes; to the Committee on Agriculture.

By Mr. BARRETT of Nebraska:

H.R. 815. A bill to amend the Internal Revenue Code of 1986 to restore and increase tax deduction for the health insurance costs of self-employed individuals; to the Committee on Ways and Means.

By Mr. BARRETT of Nebraska (for himself and Mr. THOMAS of California):

H.R. 816. A bill to amend the Internal Revenue Code of 1986 to clarify the exemption from the firearms tax for shells and cartridges supplied by a customer for reloading; to the Committee on Ways and Means.

By Mr. BARRETT of Nebraska:

H.R. 817. A bill to amend the International Revenue Code of 1986 to provide that certain cash rents will not result in the recapture of the benefits of the special estate tax valuation rules for certain farm and other real property; to the Committee on Ways and Means.

By Mr. MARTINEZ:

H.R. 818. A bill to amend title VI of the Omnibus Budget Reconciliation Act of 1981 to establish a community services empowerment program; to the Committee on Education and Labor.

By Mr. BATEMAN:

H.R. 819. A bill to revise the boundaries of the George Washington Birthplace National Monument, and for other purposes; to the Committee on Natural Resources.

By Mr. VALENTINE (for himself and Mr. OLVER):

H.R. 820. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance manufacturing technology development and transfer, to authorize appropriations for the Technology Administration of the Department of Commerce, including the National Institute of Standards and Technology, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. BONILLA (for himself and Mr. STENHOLM):

H.R. 821. A bill to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a reserve component of the Armed Forces; to the Committee on Veterans' Affairs.

By Mr. BROWN of California:

H.R. 822. A bill to amend the Internal Revenue Code of 1986 to increase the availability of individual retirement accounts, to increase amount deductible for contributions to such accounts, and to permit penalty-free withdrawals from such accounts to pay educational, medical, and business start-up expenses; to the Committee on Ways and Means.

By Mr. BRYANT (for himself, Mr. GEKAS, and Mr. GLICKMAN):

H.R. 823. A bill to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes; to the Committee on the Judiciary.

By Mr. CLINGER (for himself, Mr. MCCANDLESS, Mr. HASTERT, Mr. SHAYS, Mr. SCHIFF, Mr. ZIMMER, and Mr. MCHUGH):

H.R. 824. A bill to establish a Department of Environmental Protection, and for other purposes; to the Committee on Government Operations.

By Mrs. COLLINS of Illinois:

H.R. 825. A bill to amend the Public Health Service Act to establish a National Institute on Minority Health; to the Committee on Energy and Commerce.

By Mr. CONYERS (for himself, Mr. CLINGER, and Mr. MCDADE):

H.R. 826. A bill to provide for the establishment, testing, and evaluation of strategic planning and performance measurement in the Federal Government, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. COYNE (for himself, Mr. RANGEL, Mr. MATSUI, Mrs. KENNELLY, Mr. THOMAS of California, Mr. JACOBS, Mr. SUNDQUIST, Mr. CARDIN, Mr. GRANDY, Mr. NEAL of Massachusetts, Mr. HOUGHTON, Mr. KOPETSKI, Mr. BREWSTER, Mr. JEFFERSON, Mr. SANTORUM, Mr. PAYNE of Virginia, Mr. SHAW, Mr. MCCRERY, Mr. LEVIN, and Mr. MCNULTY):

H.R. 827. A bill to amend the Internal Revenue Code of 1986 to permanently extend the treatment of qualified small issue bonds; to the Committee on Ways and Means.

By Mr. CRANE:

H.R. 828. A bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax; to the Committee on Ways and Means.

By Mr. EDWARDS of California (for himself, Mr. HYDE, and Mr. KOPETSKI):

H.R. 829. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize funds received by States and units of local government to be expended to improve the quality and availability of DNA records; to authorize the establishment of a DNA identification index; and for other purposes; to the Committee on the Judiciary.

By Mr. EWING (for himself, Mrs. MEYERS of Kansas, Mr. LAFALCE, Mr. SKELTON, Mr. COMBEST, Mr. GOODLING, Mr. RAMSTAD, Mr. SHAYS, Mr. DOOLITTLE, Mr. MONTGOMERY, Mr. PENNY, Mr. BAKER of Louisiana, Mr. KYL, Mr. LIGHTFOOT, Mr. LEHMAN, Mr. BEREUTER, Mr. FLAKE, Mr. ZELIFF, Mr. PETE GEREN, Mr. POSHARD, Mr. GILMAN, Ms. DANNER, Mr. SAM JOHNSON, Mr. MACHTLEY, Mr. DORNAN, Mr. DELAY, Mr. TORKILDSEN, Mr. PORTER, Mr. BURTON of Indiana, Mr. HEFLEY, and Mr. SISISKY):

H.R. 830. A bill to amend title 5, United States Code, to clarify procedures for judicial review of Federal agency compliance with regulatory flexibility analysis requirements, and for other purposes; to the Committee on the Judiciary.

By Mr. EWING (for himself, Mr. RAVENEL, Mr. SMITH of Oregon, Mr. POSHARD, Mr. THOMAS of Wyoming, Mr. GOSS, Mr. GOODLING, Mr. ALLARD, Mr. HUTCHINSON, Mr. STUMP, Mr. BAKER of Louisiana, Mr. BARTLETT of Maryland, Mr. ZELIFF, Mr. KLINK, Mr. SKEEN, Mr. QUINN, Mr. TORKILDSEN, and Mr. SAM JOHNSON):

H.R. 831. A bill to provide that cost-of-living adjustments in rates of pay for Members of Congress be made contingent on there not being a deficit in the budget of the U.S. Government; jointly, to the Committees on House Administration and Post Office and Civil Service.

By Mr. PETE GEREN:

H.R. 832. A bill to amend title XVIII of the Social Security Act to provide waiver of late enrollment penalty and establishment of a special enrollment period under part B of the Medicare Program for certain military retirees and dependents living near military bases that are closed; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. GIBBONS (for himself, Mr. SYNAR, Mr. BACCHUS of Florida, Mr. BERMAN, Mr. BROWN of California, Mrs. BYRNE, Mr. COLEMAN, Mr. DICKS, Mr. FROST, Mr. JEFFERSON, Mrs. MALONEY, Mrs. MEEK, Mr. NEAL of Massachusetts, Ms. PELOSI, Mr. RAVENEL, Mr. SABO, Mr. SCHUMER, Ms. SLAUGHTER, Mr. STOKES, Mr. TOWNS, Mr. WELDON, and Mr. YATES):

H.R. 833. A bill to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. GLICKMAN (for himself and Mr. MCCURDY):

H.R. 834. A bill to provide for comprehensive health care access expansion and cost control through reform and simplification of private health care insurance and other means; jointly, to the Committees on Energy and Commerce, Ways and Means, the Judiciary, Education and Labor, and Rules.

By Mr. HUFFINGTON:

H.R. 835. A bill to amend the Federal Water Pollution Control Act to add Morro Bay, CA, to the priority list of the National Estuary

Program; jointly, to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

By Mr. HUTCHINSON:

H.R. 836. A bill to amend the Internal Revenue Code of 1986 to restore and increase the deduction for the health insurance costs of self-employed individuals; to the Committee on Ways and Means.

H.R. 837. A bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies and that such benefit shall be payable for such month only to the extent proportionate to the number of days in such month preceding the date of the recipient's death; to the Committee on Ways and Means.

By Mr. JEFFERSON:

H.R. 838. A bill to amend the Internal Revenue Code of 1986 to impose a fee on the importation of crude oil or refined petroleum products; to the Committee on Ways and Means.

By Mrs. JOHNSON of Connecticut:

H.R. 839. A bill to amend title 5, United States Code, to allow Federal employees to seek election to local office, and otherwise take an active part in political management or in political campaigns relating to an election to such an office; to the Committee on Post Office and Civil Service.

By Mr. KENNEDY (for himself, Mr. MEEHAN, Mr. NEAL of Massachusetts, and Mr. ROYCE):

H.R. 840. A bill to establish a national program to reduce the incidence of stalking; to the Committee on the Judiciary.

By Mrs. KENNELLY:

H.R. 841. A bill to establish economic conversion programs in the Department of Defense to assist communities, businesses, and workers adversely affected by reductions in defense contracts and spending and closures of military installations and to provide an additional credit against Federal unemployment tax for States with reemployment assistance programs; jointly, to the Committees on Armed Services, Ways and Means, Education and Labor, Banking, Finance and Urban Affairs, and Science, Space, and Technology.

H.R. 842. A bill to increase the number of weeks for which emergency unemployment compensation is payable; to the Committee on Ways and Means.

By Mr. KOLBE:

H.R. 843. A bill to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the United States, and for other purposes; to the Committee on Natural Resources.

By Mrs. LLOYD:

H.R. 844. A bill to amend the Internal Revenue Code of 1986 to provide a permanent extension of the research credit; to the Committee on Ways and Means.

By Mr. MARKEY (for himself, Mr. MOAKLEY, Mr. KENNEDY, and Mr. STUDDS):

H.R. 845. A bill to amend the Federal Water Pollution Control Act to require the Administrator of the Environmental Protection Agency to make grants to the Massachusetts Water Resources Authority for construction of wastewater treatment works; to the Committee on Public Works and Transportation.

By Mr. MATSUI (for himself, Mr. JACOBS, Mr. ARCHER, Mr. KOPETSKI, Mr. SHAYS, Mr. MINETA, Mr. COYNE, Mr. KYL, and Mr. MURPHY):

H.R. 846. A bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, and for other purposes; to the Committee on Ways and Means.

By Mr. MINETA (for himself, Mr. NATCHER, and Mr. McDADE):

H.R. 847. A bill to authorize the Board of Regents of the Smithsonian Institution to plan and design an extension of the National Air and Space Museum at Washington Dulles International Airport, and for other purposes; to the Committee on House Administration.

H.R. 848. A bill to continue the authorization of appropriations for the East Court of the National Museum of Natural History; jointly, to the Committees on House Administration and Public Works and Transportation.

By Mr. DERRICK:

H.R. 849. A bill to amend title 1 of the United States Code to define the type of adjournment that prevents the return of a bill by the President, and to authorize the Clerk of the House of Representatives and the Secretary of the Senate to receive bills returned by the President at any time their respective Houses are not in session; jointly, to the Committees on the Judiciary and Rules.

By Mr. MOAKLEY (for himself and Mr. STUDDS):

H.R. 850. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones; to the Committee on Ways and Means.

By Mr. MOORHEAD:

H.R. 851. A bill to amend the Immigration and Nationality Act to authorize the Immigration and Naturalization Service to accept volunteer services; to the Committee on the Judiciary.

By Mr. MOORHEAD (for himself, Mr. DREIER, Mr. PACKARD, and Mr. GALLEGLY):

H.R. 852. A bill to authorize additional appropriations to increase border patrol personnel to 6,800 by the end of fiscal year 1995 in the Department of Justice Assets Forfeiture Fund for the additional border patrol personnel; to the Committee on the Judiciary.

By Mr. MORAN (for himself and Mr. McCLOSKEY):

H.R. 853. A bill to amend title 5, United States Code, to provide that career positions in the Senior Executive Service may not be filled, during the period between the date of a Presidential election and the next Inauguration Day thereafter, by any current or recently separated political appointee, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MYERS of Indiana (for himself, Mr. ROHRABACHER, Mr. DORNAN, Mr. DOOLITTLE, Mr. GALLEGLY, and Mr. LIGHTFOOT):

H.R. 854. A bill to amend the Internal Revenue Code of 1986 to reduce the capital gains tax in the case of senior citizens; to the Committee on Ways and Means.

By Ms. NORTON:

H.R. 855. A bill to require the Administrator of General Services, the Director of the National Park Service, the Architect of the Capitol, and the Secretary of the Smithsonian Institution to provide notice to the District of Columbia before carrying out any activity affecting property located in the District of Columbia, and for other purposes; jointly, to the Committees on the District of Columbia, House Administration, Natural Resources, and Public Works and Transportation.

By Mr. OWENS (for himself and Mr. FORD of Michigan):

H.R. 856. A bill to improve education in the United States by promoting excellence in research, development, and the dissemination of information; to the Committee on Education and Labor.

By Mr. OXLEY (for himself, Mr. GILLMOR, and Mr. HASTERT):

H.R. 857. A bill to establish procedures to improve the allocation and assignment of the electromagnetic spectrum, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PALLONE:

H.R. 858. A bill to provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway National Recreation Area in the State of New Jersey, and for other purposes; to the Committee on Natural Resources.

By Mr. PAYNE of New Jersey:

H.R. 859. A bill to exclude shipboard supervisory personnel from selection as employer representatives, and for other purposes; to the Committee on Education and Labor.

By Mr. PAYNE of Virginia:

H.R. 860. A bill to authorize the National Park Service to provide funding to assist in the restoration, reconstruction, rehabilitation, preservation, and maintenance of the historic buildings known as "Poplar Forest" in Bedford County, VA, designed, built, and lived in by Thomas Jefferson, and for other purposes; to the Committee on Natural Resources.

By Mr. PICKLE:

H.R. 861. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of certain buildings under the rehabilitation credit; to the Committee on Ways and Means.

By Mr. ROWLAND:

H.R. 862. A bill to require the Secretary of Health and Human Services to submit to the Congress a proposal for the regulation of long-term care insurance policies, including an analysis and evaluation of such policies as are available to individuals, and to amend the Internal Revenue Code of 1986 to allow tax-free distributions from individual retirement accounts for the purchase of long-term care insurance coverage by individuals who have attained age 59½; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. SCHAEFER:

H.R. 863. A bill to provide that all new revenue must be dedicated to deficit reduction and to establish, for fiscal years 1994 through 1998, discretionary spending limits for the defense, international, and domestic categories and maximum deficit amounts; jointly, to the Committees on Government Operations and Rules.

By Mr. SOLOMON:

H.R. 864. A bill to prohibit the entry into the United States of items produced, grown, or manufactured in the People's Republic of China with the use of forced labor; to the Committee on Ways and Means

H.R. 865. A bill to ensure that any peace dividend is invested in America's families and deficit reduction; jointly, to the Committees on Government Operations, Rules, and Ways and Means.

By Mr. STARK:

H.R. 866. A bill entitled, "United States-Japan Partnership Act of 1993"; to the Committee on Foreign Affairs.

H.R. 867. A bill to transfer the functions of the Director of the Federal Emergency Management Agency to the Secretary of Defense; jointly, to the Committees on Armed Services and Public Works and Transportation.

By Mr. SWIFT (for himself, Mr. OXLEY, Ms. LAMBERT, and Mr. GILLMOR):

H.R. 868. A bill to strengthen the authority of the Federal Trade Commission to protect consumers in connection with sales made with a telephone, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TORRICELLI (for himself, Mr. PORTER, Mr. MENENDEZ, Mr. OBERSTAR, Mr. DEUTSCH, Mr. BONIOR, Mr. BROWN of California, Mr. COLEMAN, Mr. TOWNS, Mr. HASTINGS, Mr. WASHINGTON, Mr. MORAN, Mrs. BYRNE, Mr. ANDREWS of Maine, and Mr. WYNN):

H.R. 869. A bill to promote biological diversity conservation and cooperation in the Western Hemisphere, and for other purposes; to the Committee on Foreign Affairs.

By Mr. TORRICELLI (for himself, Mr. DREIER, Mr. MOORHEAD, Mrs. ROUKEMA, Mr. SMITH of New Jersey, Mr. FRANK of Massachusetts, Mr. GEJDENSON, Mr. COX, Mr. HORN, Mr. WELDON, Mr. KOPETSKI, Mr. PETERSON of Minnesota, Mr. GALLO, Mr. KLECZKA, Mr. SHAYS, Mr. SISISKY, Mr. SKAGGS, Mr. OBEY, Mr. PETE GEREN, Mrs. SCHROEDER, Mr. KILDEE, Mr. MARTINEZ, Mr. DELLUMS, Ms. PELOSI, Mr. ANDREWS of Maine, Mr. TORRES, Mr. BERMAN, Mrs. JOHNSON of Connecticut, Mr. CRANE, Mr. BACCHUS of Florida, Mr. ANDREWS of New Jersey, Mr. EVANS, Mr. PAYNE of New Jersey, Mr. MCKEON, Mr. DORNAN, Mr. SCHUMER, Ms. DELAURO, Mr. HUNTER, Mr. FAZIO, and Mr. TRAFICANT):

H.R. 870. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide relief to local taxpayers, municipalities, and small businesses regarding the cleanup of hazardous substances, and for other purposes; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. VISCLOSKY:

H.R. 871. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in Lake County or Porter County, IN; to the Committee on Veterans' Affairs.

By Mr. WILLIAMS:

H.R. 873. A bill entitled, "Gallatin Range Consolidation and Protection Act of 1993"; to the Committee on Natural Resources.

By Mr. CARDIN:

H.R. 874. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and benefits for congressional election campaigns, and for other purposes; jointly, to the Committees on House Administration, Energy and Commerce, and Post Office and Civil Service.

By Mr. COBLE (for himself, Mr. HUNTER, Mr. PETRI, and Mr. FROST):

H.R. 875. A bill to amend title II of the Social Security Act to phase out the earnings test over a 5-year period for individuals who have attained retirement age, and for other purposes; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 876. A bill to prevent States from reducing unemployment compensation benefits by certain remuneration for services in the military reserves; to the Committee on Ways and Means.

By Mr. LEWIS of Georgia (for himself, Mr. ABERCROMBIE, Mr. BARRETT of Wisconsin, Mr. BISHOP, Mr. BLACKWELL, Mr. BONIOR, Ms. BROWN of Florida, Mr. CLAY, Mrs. CLAYTON, Mr. CLYBURN, Miss COLLINS of Michigan, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. CRAMER, Mr. DELLUMS, Mr. DE LUGO, Mr. DIXON, Mr. FILNER, Mr. FINGERHUT, Mr. FLAKE, Mr. FORD of Tennessee, Mr. FROST, Mr. HASTINGS, Mr. HILLIARD, Mr. HINCHEY, Mr. JEFFERSON, Ms. E.B. JOHNSON, Mrs. KENNELLY, Mr. KILDEE, Mr. LANCASTER, Mr. MAZZOLI, Ms. MCKINNEY, Mrs. MEEK, Mr. MFUME, Mr. MILLER of California, Mr. MINETA, Mr. MORAN, Ms. NORTON, Mr. OWENS, Mr. PARKER, Mr. PAYNE of New Jersey, Mr. REYNOLDS, Mr. ROMERO-BARCELÓ, Mr. RUSH, Mr. SCHUMER, Mr. SCOTT, Mr. SHAYS, Mr. SISISKY, Ms. SLAUGTHER, Mr. STOKES, Mr. TOWNS, Mr. TUCKER, Ms. VELÁZQUEZ, Mr. VENTO, Mr. WASHINGTON, Ms. WATERS, Mr. WATT, Mr. WHEAT, Ms. WOOLSEY, Mr. WYNN, Mr. FIELDS of Louisiana, and Mr. RANGEL):

H.R. 877. A bill to authorize the establishment of the National African-American Museum within the Smithsonian Institution; jointly, to the Committees on House Administration and Public Works and Transportation.

By Mr. UPTON and Mr. ROEMER:

H.R. 878. A bill to restore Federal services to the Pokagon Band of Potawatomi Indians; to the Committee on Natural Resources.

By Mr. VALENTINE and Mr. LANCASTER:

H.R. 879. A bill relating to the tariff treatment of pharmaceutical grade phospholipids and soybean oil; to the Committee on Ways and Means.

By Mr. VENTO (for himself, Mr. LEHMAN, and Mr. MILLER of California):

H.R. 880. A bill to withdraw certain Federal lands in the State of California for military purposes, and for other purposes; jointly, to the Committees on Armed Services and Natural Resources.

By Mr. CRANE (for himself, Mr. DORNAN, and Mr. ACKERMAN):

H.J. Res. 98. Joint resolution to authorize the National Committee of American Airmen Rescued by General Mihailovich to establish a memorial in the District of Columbia or its environs; to the Committee on House Administration.

By Mr. HUTCHINSON:

H.J. Res. 99. Joint resolution proposing an amendment to the Constitution of the U.S. limiting the number of terms for Members of the House of Representatives and the Senate; to the Committee on the Judiciary.

H.J. Res. 100. Joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation; to the Committee on the Judiciary.

By Mr. KOPETSKI (for himself, Mr. DE LA GARZA, Mr. WILSON, Mr. LAROCCO, Mr. GRANDY, Mr. HALL of Texas, Mr. SARPALIUS, Ms. DANNER, Mr. EWING, Mr. EMERSON, Mrs. JOHNSON of Connecticut, Mr. CLEMENT, Mr. EVANS, Mr. POSHARD, Mr. STENHOLM, Mr. GALLEGLY, Mr. DE LUGO, Ms. SNOWE, Mr. WHEAT, Mr. SLATTERY, Mr. PAXON, Mr. ROBERTS, Mr. SANDERS, Ms. FURSE, Mr. LEACH, Mr. POMEROY, Mr. SABO, Mr. VALENTINE, Mr. ROTH, Mr. CLYBURN, Mr. EDWARDS of Texas, Mr. ROSE, Mr. SOLOMON, Mr. WALSH, Mr. WOLF, Mrs. MINK, Mr. SKEEN, Mr. HOKE, Mr. NATCHER, Mr. LIGHTFOOT, Mr. DEFAZIO, Ms. SLAUGHTER, Mr. FROST, Mr. BREWSTER, Mr. GUTIERREZ, Mr. HUGHES, Mr. JOHNSON of South Dakota, Mrs. VUCANOVICH, Mr. MORAN, Mr. PASTOR, Ms. LONG, Mr. VOLKMER, Mr. KANJORSKI, Mr. ROEMER, Mr. JACOBS, Mr. PICKLE, Mr. MILLER of California, Mr. DOOLEY, Ms. PELOSI, Mr. FAZIO, Mr. DIXON, Mr. INSLEE, Mr. ABERCROMBIE, Mr. HAMBURG, Mr. SWIFT, Mr. DARDEN, Mr. JOHNSON of Georgia, Mr. PETERSON of Florida, Mr. FORD of Michigan, Mr. RAHALL, Mr. STOKES, Mr. TAYLOR of Mississippi, Mr. RICHARDSON, Mr. REED, Ms. MARGOLIES-MEZVINSKY, Mr. GEJDENSON, Ms. DELAURO, Mr. ANDREWS of Maine, Mr. SAWYER, Mr. MOLLOHAN, Mr. FRANK of Massachusetts, Mr. BRYANT, Mr. HOAGLAND, Mr. LEHMAN, Mr. BILBRAY, Mr. SCHUMER, Ms. KAPTUR, Mr. TRAFICANT, Mr. WAXMAN, Mr. PALLONE, Mr. BOUCHER, Mr. CARR, Mr. MCCOLLUM, Mr. GONZALEZ, Mr. MACHTLEY, Mr. MINETA, Mr. KLECZKA, Mr. BERMAN, Mr. HERGER, Mr. GEPHARDT, Mr. OXLEY, Mr. BARRETT of Nebraska, Mr. HOBSON, Mr. BROWDER, Mr. CRAMER, Mr. COLEMAN, Mr. TEJEDA, Mrs. KENNELLY, Mr. WYDEN, Mrs. UNSOELD, Mr. BROOKS, Ms. SCHENK, Mr. LEWIS of Georgia, Mr. HASTERT, Mr. QUILLEN, Mr. MCDERMOTT, Mr. DELLUMS, Mr. FILNER, Mr. HEFNER, Mr. SKELTON, Ms. ESHOO, Mr. HUTTO, Mr. HOCHBRUECKNER, Mrs. COLLINS of Illinois, Mr. GIBBONS, Mr. PETE GEREN, Mr. OLVER, Mr. LAUGHLIN, Mr. MONTGOMERY, Mr. SISISKY, Mr. GORDON, Mr. BORSKI, Mr. DINGELL, Mr. BONIOR, Miss COLLINS of Michigan, Mr. STUPAK, Mr. ORTIZ, Mr. TORRES, Mr. THORNTON, Mr. ANDREWS of New Jersey, Mr. MARKEY, Mr. MCNULTY, Mr. STUMP, Mr. SMITH of Texas, Mr. GUNDERSON, Mr. COBLE, Mr. TAYLOR of North Carolina, Mr. SERRANO, Mr. WISE, Ms. WATERS, Mr. MINGE, Mr. VENTO, Mr. WASHINGTON, Mr. BACCHUS of Florida, Mr. MATSUI, Mr. REYNOLDS, Mr. LEVIN, Mr. PARKER, Mr. GREENWOOD, Mr. HOLDEN, Mr. CAMP, Mr. BAESLER, Mrs. THURMAN, Mr. DOOLITTLE, Mr. BISHOP, Mr. CRAPO, Mrs. CLAYTON, Mr. MURTHA, Mr. ORTON, Mr. SMITH of Oregon, Mr. KASICH, Mr. KREIDLER, Mr. NEAL of Massachusetts, Mr. GEKAS, Mr. DICKS, Ms. SHEPHERD, Mr. BEVILL, Mr. HOUGHTON, Mr. SCHIFF, Mr. YOUNG of Alaska, Mr. MOORHEAD, Mr. JEFFERSON, Mr. RANGEL, Mr. OBERSTAR, Mr. PRICE of North Carolina, Mr. BROWN of California, Mr. HYDE, Mr. EDWARDS of California, Mr. WHITTEN, Mr. VISCLOSKY, Mr. KILDEE, Mr. ACKERMAN, Mr. SMITH of Iowa, Mr. DURBIN, Mr. FOGLIETTA, Mr. LANTOS, Mr. MFUME, Mr. ENGEL, Mr. FISH, Mr. MYERS of Indiana, Mr. SAXTON, Ms. MOLINARI, Mr. FIELDS of Louisiana, Mr. WYNN, Mr. TANNER, Mr. GILCHREST, Mr. MAZZOLI, Mr. HOYER, Mr. KENNEDY, Mr. MCHUGH, Mr. CARDIN, Mr. MANTON, Mr. CONYERS, Mr. COPPERSMITH, Mr. SPRATT, Mr. COOPER, Mr. BLACKWELL, Mrs. LLOYD, Ms. ROYBAL-ALLARD, Mr. MCCLOSKEY, Mr. OWENS, Mr. GINGRICH, Mr. HAMILTON, Mr. STARK, and Mr. APPLEGATE);

H.J. Res. 101. Joint resolution to designate February 21 through February 27, 1993, as "National FFA Organization Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. MINETA (for himself, Mr. NATCHER, and Mr. MCDADE):

H.J. Res. 102. Joint resolution providing for the appointment of Barber B. Conable, Jr., as a citizen regent of the Smithsonian Institution; to the Committee on House Administration.

By Mr. STENHOLM (for himself, Mr. Smith of Oregon, Mr. Payne of Virginia, Ms. Snowe, Mr. Kennedy, Mr. Inhofe, Mr. Gibbons, Mr. Barton of Texas, Mr. Allard, Mr. Andrews of Texas, Mr. Archer, Mr. Armey, Mr. Bacchus of Florida, Mr. Baker of Louisiana, Mr. Ballenger, Mr. Barrett of Nebraska, Mr. Bateman, Mrs. Bentley, Mr. Bereuter, Mr. Bevill, Mr. Bilbray, Mr. Bilirakis, Mr. Bliley, Mr. Boehlert, Mr. Boehner, Mr. Brewster, Mr. Browder, Mr. Bryant, Mr. Bunning, Mr. Burton of Indiana, Mr. Callahan, Mr. Camp, Mr. Chapman, Mr. Clement, Mr. Clinger, Mr. Coble, Mr. Condit, Mr. Cooper, Mr. Costello, Mr. Cox, Mr. Cramer, Mr. Crane, Mr. Cunningham, Mr. Darden, Mr. DeLay, Mr. Dooley, Mr. Doolittle, Mr. Dornan, Mr. Dreier, Mr. Duncan, Mr. Edwards of Texas, Mr. Emerson, Mr. English of Oklahoma, Mr. Ewing, Mr. Fawell, Mr. Fields of Texas, Mr. Fish, Mr. Franks of Connecticut, Mr. Gallegly, Mr. Gallo, Mr. Gekas, Mr. Pete Geren, Mr. Gilchrest, Mr. Gillmor, Mr. Gingrich, Mr. Glickman, Mr. Goodling, Mr. Gordon, Mr. Goss, Mr. Grandy, Mr. Gunderson, Mr. Hall of Texas, Mr. Hancock, Mr. Hansen, Mr. Hastert, Mr. Hayes of Louisiana, Mr. Hefley, Mr. Hefner, Mr. Henry, Mr. Herger, Mr. Hobson, Mr. Houghton, Mr. Hunter, Mr. Hutto, Mr. Hyde, Mr. Jacobs, Mrs. Johnson of Connecticut, Mr. Johnson of South Dakota, Mr. Sam Johnson of Texas, Mr. Johnston of Florida, Mr. Kasich, Mr. Klug, Mr. Kolbe, Mr. Kyl, Mr. Lancaster, Mr. Laughlin, Mr. Leach, Mr. Lewis of California, Mr. Lewis of Florida, Mr. Lightfoot, Mr. Livingston, Mrs. Lloyd, Mr. Machtley, Mr. Mazzoli, Mr. McCandless, Mr. McCollum, Mr. McCrery, Mr. McCurdy, Mr. McDade, Mr. McMillan, Mrs. Meyers of Kansas, Mr. Michel, Ms. Molinari, Mr. Montgomery, Mr. Moorhead, Mr. Moran, Mr. Murphy, Mr. Myers of Indiana, Mr. Nussle, Mr. Ortiz, Mr. Oxley, Mr. Packard, Mr. Pallone, Mr. Parker, Mr. Paxon, Mr. Penny, Mr. Peterson of Florida, Mr. Peterson of Minnesota, Mr. Petri, Mr. Pickle, Mr. Porter, Mr. Poshard, Mr. Quillen, Mr. Ramstad, Mr. Ravenel, Mr. Regula, Mr. Ridge, Mr. Roberts, Mr. Roemer, Mr. Rogers, Mr. Rohrabacher, Ms. Ros-Lehtinen, Mr. Roth, Mr. Rowland, Mr. Sangmeister, Mr. Santorum, Mr. Sarpalius, Mr. Saxton, Mr. Schaefer, Mr. Schiff, Mr. Sensenbrenner, Mr. Shaw, Mr. Shuster, Mr. Sisisky, Mr. Skeen, Mr. Skelton, Mr. Smith of New Jersey, Mr. Smith of Texas, Mr. Solomon, Mr. Spence, Mr. Spratt, Mr. Stearns, Mr. Stump, Mr. Sundquist, Mr. Swett, Mr. Tanner, Mr. Tauzin, Mr. Taylor of Mississippi, Mr. Taylor of North Carolina, Mr. Thomas of California, Mr. Thomas of Wyoming, Mr. Torricelli, Mr. Upton, Mr. Valentine, Mrs. Vucanovich, Mr. Walker, Mr. Walsh, Mr. Weldon, Mr. Wilson, Mr. Wolf, Mr. Young of Alaska, Mr. Young of Florida, Mr. Zeliff, Mr. Zimmer, Mr. de la Garza, Mr. Bachus of Alabama, Mr. Baesler, Mr. Baker of California, Mr. Barcia, Mr. Bartlett, Mr. Blute, Mr. Bonilla, Mr. Buyer, Mr. Calvert, Mr. Canady, Mr. Castle, Mr. Collins of Georgia, Mr. Coppersmith, Mr. Crapo, Mr. Deal, Mr. Diaz-Balart, Mr. Dickey, Ms. Dunn, Mr. Everett, Ms. Fowler, Mr. Franks of New Jersey, Mr. Goodlatte, Mr. Grams, Mr. Greenwood, Mr. Hoekstra, Mr. Hoke, Mr. Holden, Mr. Horn, Mr. Huffington, Mr. Hutchinson, Mr. Inglis, Mr. Istook, Mr. Johnson of Georgia, Mr. Kim, Mr. Kingston, Mr. Knollenberg, Mr. Lazio, Mr. Levy, Mr. Linder, Mr. Mann, Mr. Manzullo, Mr. McHugh, Mr. McInnis, Mr. McKeon, Mr. Meehan, Mr. Mica, Mr. Miller of Florida, Mr. Minge, Mr. Pombo, Ms. Pryce of Ohio, Mr. Quinn, Mr. Royce, Mr. Smith of Michigan, Mr. Talent, and Mr. Torkildsen):

H.J. Res. 103. Joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation; to the Committee on the Judiciary.

By Mr. MINETA (for himself, Mr. Natcher, and Mr. McDade):

H.J. Res. 104. Joint resolution providing for the appointment of Wesley S. Williams, Jr., as a citizen regent of the Smithsonian Institution; to the Committee on House Administration.

H.J. Res. 105. Joint resolution providing for the appointment of Hanna Holburn Gray as a citizen regent of the Smithsonian Institution; to the Committee on House Administration.

By Mr. KLEIN:

H. Con. Res. 35. Concurrent resolution recognizing Belleville, N.J., as the birthplace of the industrial revolution in the United States; to the Committee on Post Office and Civil Service.

By Mr. MACHTLEY:

H. Con. Res. 36. Concurrent resolution expressing the sense of Congress that any economic stimulus package that is passed by the 103d Congress should include the permanent extension of the mortgage revenue bond and low-income housing tax credit programs; to the Committee on Ways and Means.

By Mr. KOPETSKI (for himself, Mr. Dellums, Mr. Sabo, Mr. Gephardt, and Mr. Leach):

H. Con. Res. 37. Concurrent resolution urging the President to negotiate a comprehensive nuclear weapons test ban; to the Committee on Foreign Affairs.

By Mr. ARMEY:

H. Res. 66. Resolution designating membership on certain standing committees of the House; considered and agreed to.

By Mr. HOYER:

H. Res. 67. Resolution designating membership on certain standing committees; considered and agreed to.

By Mr. MICHEL:

H. Res. 68. Resolution electing Representative Schiff to the Committee on Standards of Official Conduct; considered and agreed to.

By Mr. CONYERS:

H. Res. 69. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Committee on Government Operations in the 1st session of the 103d Congress; to the Committee on House Administration.

By Mr. HOYER:

H. Res. 70. Resolution electing Representative Pelosi of California to the Committee on Standards of Official Conduct; considered and agreed to.

By Mr. DELLUMS:

H. Res. 72. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Committee on Armed Services in the 1st session of the 103d Congress; to the Committee on House Administration.

By Mr. GONZALEZ:

H. Res. 73. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Committee on Banking, Finance and Urban Affairs in the 1st session of the 103d Congress; to the Committee on House Administration.

By Mr. HUTCHINSON:

H. Res. 74. Resolution to amend the Rules of the House of Representatives to require a rollcall vote on passage of any measure making appropriations or providing revenue; to the Committee on Rules.

By Mr. LaFALCE:

H. Res. 75. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Committee on Small Business in the 1st session of the 103d Congress; to the Committee on House Administration.

By Mr. McDERMOTT:

H. Res. 76. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Committee on Standards of Official Conduct in the 1st session of the 103d Congress; to the Committee on House Administration.

By Mr. MILLER of California:

H. Res. 77. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Committee on Natural Resources in the 1st session of the 103d Congress; to the Committee on House Administration.

By Mr. MINETA:

H. Res. 78. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Committee on Public Works and Transportation in the 1st session of the 103d Congress; to the Committee on House Administration.

By Mr. STARK:

H. Res. 79. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Committee on the District of Columbia in the 1st session of the 103d Congress; to the Committee on House Administration.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mr. de Lugo.

H.R. 20: Mr. Vento, Mr. Sangmeister, Mr. Wheat, Mr. Montgomery, Mr. Sisisky, Mr. Torres, Mrs. Kennelly, Mr. Minge, and Mr. Dooley.

H.R. 21: Mr. Kleczka, Mr. McDermott, Mr. Grandy, Mr. Houghton, Mr. Chapman, Mr. Rose, Mr. LaRocco, and Mr. McDade.

H.R. 24: Mr. Bereuter, Mr. Bilirakis, Mr. Hastert, and Mr. Hobson.

H.R. 25: Mr. Gallo, Mr. Dixon, Mr. Bryant, Mr. Kreidler, Mrs. Collins of Illinois, Mr. Franks of Connecticut, and Mr. Waxman.

H.R. 65: Mr. DeFazio, Mr. Lancaster, Mr. Boucher, Mr. Ackerman, Mr. Spence, Mr. Neal of North Carolina, Mr. Taylor of Mississippi, Mr. Torres, Ms. Snowe, Mr. Coleman, Mr. Thomas of Wyoming, and Mrs. Vucanovich.

H.R. 66: Mr. Lipinski and Mr. Parker.

H.R. 68: Mr. Thomas of Wyoming.

H.R. 71: Mr. Parker, Mr. Lancaster, and Mr. Frost.

H.R. 82: Mr. Blute, Mr. Camp, Mr. Owens, Mr. Dornan, Mrs. Vucanovich, Mr. Santorum, Mr. Livingston, Mr. Inhofe, Mr. Kyl, Mr. Tucker, Mr. Istook, Mr. Packard, Mr. Zeliff, and Mr. Lightfoot.

H.R. 85: Mr. Sensenbrenner and Mr. Herger.

H.R. 86: Mr. Sensenbrenner, Mr. Herger, and Mr. Lewis of Florida.

H.R. 87: Mrs. Meyers of Kansas, Mr. Sensenbrenner, Mr. Herger, and Mr. Lewis of Florida.

H.R. 101: Mr. Cunningham, Mr. Linder, Mr. Quinn, Mr. Bartlett of Maryland, Mrs. Meyers of Kansas, Mr. Lewis of Florida, Mr. Sam Johnson of Texas, Mr. Calvert, Mr. Upton, and Mr. Young of Alaska.

H.R. 116: Mrs. Meyers of Kansas, Mr. Sensenbrenner, Mr. Herger, and Mr. Lewis of Florida.

H.R. 139: Mr. Sam Johnson of Texas.

H.R. 140: Mr. Parker, Mr. McKeon, Mr. Baker of California, Mr. Machtley, Mr. Castle, Mr. Sundquist, Mr. Klug, Mr. Petri, Mr. DeLay, Mr. Taylor of North Carolina, Mr. Huffington, and Mr. Weldon.

H.R. 159: Mr. Smith of Texas.

H.R. 163: Mr. Zeliff and Mr. Pombo.

H.R. 174: Ms. Woolsey, Mr. Sanders, Miss Collins of Michigan, Mrs. Meek, Mr. Scott, Mr. Stokes, Mr. Rangel, Mr. Evans, and Mr. Blackwell.

H.R. 303: Mr. DeFazio, Mr. Boucher, Mr. Ackerman, Mr. Spence, Mr. Neal of North Carolina, Mr. Taylor of Mississippi, Mr. Torres, Ms. Snowe, Mr. Coleman, and Mrs. Vucanovich.

H.R. 349: Ms. Long, Mr. Pete Geren, Mr. McHale, Mr. Penny, Mr. Browder, Mr. Carr, Mr. McCurdy, and Mr. Poshard.

H.R. 381: Mr. Stump, Mr. Packard, and Mr. Zeliff.

H.R. 383: Mr. Stump, Mr. Packard, and Mr. Zeliff.

H.R. 388: Mr. Dornan and Mr. Quinn.

H.R. 389: Mr. Stump, Mr. Packard, and Mr. Zeliff.

H.R. 390: Mr. Stump, Mr. Packard, and Mr. Zeliff.

H.R. 419: Mr. Bacchus of Florida and Mr. Parker.

H.R. 431: Ms. Bonior, Miss Collins of Michigan, Mr. DeFazio, Mr. Sanders, and Ms. Woolsey.

H.R. 453: Mr. Lancaster, Ms. Kaptur, Mr. Inslee, Mr. Shays, Mr. Bereuter, and Mr. Zeliff.

H.R. 465: Mr. Zimmer and Mr. Zeliff.

H.R. 493: Mr. Bilirakis, Mr. Dornan, Mr. Gillmor, Mr. Weldon, Mr. King, Mr. Doolittle, Mr. Gallegly, Mr. Diaz-Balart, Mr. Burton of Indiana, Mr. Ewing, Mr. Sensenbrenner, Mr. Bereuter, Mr. Hobson, Mr. Sam Johnson of Texas, Mr. Henry, Mr. Zeliff, and Mr. Smith of Texas.

H.R. 503: Mr. Hayes of Louisiana and Mr. Moran.

H.R. 513: Mr. Oxley, Mr. Everett, Mr. Bunning, Mr. Crane, Mr. Baker of California, Mr. Taylor of Mississippi, Mr. Stump, Mr. Boehner, Mr. Armey, Mr. Doolittle, Mr. Sam Johnson of Texas, Mr. Bilirakis, Mr. Hansen, and Mr. Quinn.

H.R. 526: Mr. Clyburn, Mr. Evans, Mr. Stokes, and Mr. Abercrombie.

H.R. 535: Mr. Gordon, Mr. Gilman, Mr. Taylor of North Carolina, Mr. McHugh, Mr. Kopetski, Mr. Lewis of Florida, Mr. Chapman, Mr. King, Mr. Spence, Mr. Dornan, Mr. Bilirakis, Mr. Montgomery, Mr. Lancaster, Mr. Solomon, Mr. Hall of Ohio, and Mr. Parker.

H.R. 556: Mr. Shays, Mr. Manton, and Mrs. Mink.

H.R. 567: Mr. Istook and Mr. Crapo.

H.R. 571: Mr. Valentine and Mr. Evans.

H.R. 578: Mr. Moorhead.

H.R. 660: Mr. Skelton, Mr. Wyden, Mr. Sisisky, Mr. Conyers, Mr. Bilbray, Mr. Mfume, Mr. Flake, Mr. Sarpalius, Mr. Poshard, Mr. Meehan, Ms. Danner, Mr. Strickland, Mr. Tucker, Mr. Klink, Ms. Roybal-Allard, Mr. Hilliard, Mr. Lancaster, and Mr. Franks of Connecticut.

H.R. 667: Mr. McKeon, Mr. Crapo, Mr. Buyer, Mr. Manzullo, Mr. Young of Alaska, Mr. Ravenel, and Mr. Istook.

H.R. 671: Ms. Pelosi, Mr. Coleman, Mr. Wynn, Mr. Bilbray, Ms. Kaptur, and Mr. Wheat.

H.R. 672: Mr. McHugh.

H.R. 702: Mr. Hutto, Mr. Lewis of Florida, Mr. Armey, Mr. Herger, Mr. Towns, and Mr. Gunderson.

H.R. 710: Ms. Kaptur.

H.R. 760: Mr. de Lugo, Ms. Byrne, and Mr. Stenholm.

H.R. 777: Mr. Bilirakis, Mr. Shays, Mr. Baker of California, Mr. Ramstad, Mr. Inhofe, Mr. Livingston, Mr. McHugh, Mr. Fawell, Mr. Petri, Mr. Doolittle, Mr. Henry, Mr. Rohrabacher, Mr. Packard, Mr. Hobson, Mr. Lightfoot, Mr. Sam Johnson, Mr. Zeliff, Mr. McMillan, Mr. Parker, and Mr. Smith of Texas.

H.R. 789: Mr. Dicks, Mr. Saxton, Mr. Lipinski, Mr. Coble, Ms. Slaughter, Mr. Traficant, Mr. Montgomery, Mr. Rahall, and Mr. Parker.

H.R. 799: Mr. Abercrombie, Mr. Hamilton, Mr. McCloskey, and Mr. Hyde.

H.J. Res. 9: Mr. Blute, Mr. Royce, Mr. Grams, and Mr. King.

H.J. Res. 69: Mr. Kasich, Mr. Shaw, Mr. Johnston of Florida, Mr. Bartlett, Mr. Volkmer, Mr. Jacobs, Mrs. Clayton, Mr. Clement, Mr. Diaz-Balart, Mr. Hochbrueckner, Mrs. Mink, Mr. Abercrombie, Mr. Martinez, Mr. Lancaster, Mr. Wise, Mr. Klink, Mr. Mollohan, Mr. Rahall, Mr. Hunter, Mr. Levin, Mr. McCrery, Mr. Glickman, Mr. Hobson, Mr. Murtha, Mr. Strickland, Mr. Callahan, Mr. Johnson of South Dakota, Mr. Sanders, Mr. Moorhead, Mrs. Roukema, Mr. Sabo, Mr. Coleman, Mr. Parker, Mr. Fawell, Ms. Schenk, Mr. Moran, Mr. Frost, Mr. Poshard, Mr. Price of North Carolina, Mr. Natcher, Mr. Wyden, Mr. Hutchinson, Mr. Coble, Mr. Orton, Mr. McNulty, Mr. Neal of North Carolina, Mr. Stearns, Ms. Ros-Lehtinen, Mr. Wheat, Mr. Miller of California, Mr. Conyers, Mr. Studds, Mr. Pickett, Mr. Hefner, Mr. Hefley, Mr. Cardin, Ms. Thurman, Mr. Kanjorski, Mr. Manton, Mr. Waxman, Mr. Sisisky, Mrs. Morella, Mr. Gonzalez, Mr. Clay, Mr. Porter, Mr. Deutsch, Mr. Taylor of North Carolina, Mr. Spratt, Mr. Ravenel, Ms. Meek, Mr. Leach, Mr. Hastings, Mr. Lehman, Mr. Canady, Mr. Lewis of California, Mr. Wolf, Mr. Slattery, Mr. Murphy, and Mr. Ackerman.

H.J. Res. 83: Mr. Hefner, Mr. Gutierrez, Mr. Markey, Mr. Kasich, Mr. Henry, Mr. Kleczka, Mr. Lipinski, and Mr. Levin.

H. Con. Res. 3: Mr. Royce, Mr. Hunter, Mr. Burton of Indiana, Mr. Doolittle, Mr. Solomon, and Mr. Packard.

H. Con. Res. 6: Mr. Sundquist, Mr. Weldon, Mr. Hayes of Louisiana, Mr. Hobson, and Mr. Johnson of South Dakota.

H. Con. Res. 15: Mr. Jacobs, Mr. Miller of California, Ms. Kaptur, Mr. Reed, Mr. Bacchus of Florida, Mr. Kreidler, Mr. Matsui, and Ms. Byrne.

H. Con. Res. 18: Mr. Thomas of Wyoming, Mr. Everett, Mr. Hyde, Mr. Quinn, and Mr. Ballenger.

H. Con. Res. 24: Mr. Brown of Ohio, Mr. Peterson of Florida, Mr. Dooley, Mr. Reynolds, Mr. Beilenson, Mr. Glickman, Mr. Wilson, Mr. McCloskey, Mr. Lewis of Georgia, Ms. Norton, Mr. McNulty, Mr. Blackwell, Mr. Kanjorski, Mr. Levin, and Ms. Byrne.

H. Con. Res. 26: Mrs. Bentley, Mr. Duncan, Mr. McDade, Mr. Shays, Mr. Rohrabacher, Mr. Payne of New Jersey, Mr. Ackerman, Mr. Hastert, Mr. Stearns, Mr. Stump, Mr. Bateman, Mr. Walsh, Mr. Weldon, Mr. Dornan, Mr. Rangel, Mr. Frank of Massachusetts, Mr. Lancaster, Mr. Waxman, Mr. Montgomery, Mr. McKeon, Mr. McHugh, Mr. Fawell, Mr. Bereuter, Mr. Zeliff, and Mr. Frost.

H. Res. 14: Mr. Dornan, Mr. Gillmor, Mr. Inhofe, Mr. Lancaster, Mr. King, Mr. Henry, Mr. Schiff, Mr. Lightfoot, Mr. Towns, and Mr. Klug.

H. Res. 16: Mr. Smith of Texas, Mr. Buyer, and Mr. Gingrich.

H. Res. 31: Mr. Zeliff.

H. Res. 45: Mr. Sam Johnson and Mr. Buyer.

H. Res. 50: Mr. Burton of Indiana, Mr. Stump, Mr. Inglis, Mr. Istook, Mr. Barrett of Nebraska, Mr. Allard, Mr. King, Mr. Sam Johnson, Mr. Rohrabacher, Mr. Hutchinson, Mr. Inhofe, Mr. Gallegly, Mr. Doolittle, Mr. Kyl, Mr. McHugh, Mr. Sensenbrenner, and Mr. Pombo.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 300: Mr. Gibbons.

H.R. 688: Mr. Ford of Michigan.

EXTENSIONS OF REMARKS

RELIEVING MUNICIPALITIES AND CITIZENS FROM UNWARRANTED SUPERFUND LAWSUITS

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. TORRICELLI. Mr. Speaker, today, along with Representative DREIER and 39 original cosponsors, I am reintroducing the Toxic Cleanup Equity and Acceleration Act. I am pleased to note that Senator FRANK LAUTENBERG is introducing identical legislation in the other body.

Since enactment of the Superfund law, thousands of local governments, small businesses, and individual citizens across the country have learned that the simple act of taking out the garbage can result in multimillion dollar lawsuits. Our legislation would correct this injustice and restore meaning to the polluter pays principle.

In a provision adopted in 1986, the Superfund statute allows polluters named by EPA to bring contribution lawsuits against other polluters for help in paying cleanup costs. The intention was to equitably spread the cleanup costs among all persons who legitimately contributed to environmental contamination at a site. However, corporate polluters have used this provision to launch so-called third-party lawsuits against local governments and small businesses who did nothing more than send household garbage or sewage sludge to a landfill.

These lawsuits are a monumental problem for my home State of New Jersey. Already, more than 95 New Jersey local governments have been sued or threatened with suit by private parties at New Jersey Superfund sites. Towns with total annual budgets of $5 or $6 million are being asked to pay $2 or $3 million to share in Superfund cleanups. Even though many of these suits may be settled out of court, the cost of fighting them in staggering.

In all, New Jersey has a total of 34 Superfund sites that have been identified by EPA as being either municipally owned or having received municipal wastes. While not all of the municipalities who have sent waste to these sites have been targeted by industrial polluters, all of them could be.

The problem also extends far beyond New Jersey. Suits for the generation of municipal solid waste or sewage sludge have been brought or threatened against 450 local governments in 12 States. And it is not limited solely to local governments. More than 1,000 small businesses and nonprofit groups and numerous individuals have been hit with third-party Superfund lawsuits. Third-party defendants include a tiny pizza parlor, an elderly couple that had its septic tank emptied, a flower shop, a children's book store, the Elks Club, and the Girl Scouts of America.

All of these suits rest on the outrageous assumption that the household garbage sent to landfills by municipalities and small businesses pose the same threat to the environment and the same cleanup costs as the dangerous chemicals dumped by industry. It is true that household garbage or sewage sludge can contain hazardous substances such as nail polish remover and paint thinner. But studies show that such substances only account for about one-half of 1 percent of municipal solid waste.

At virtually every contaminated landfill in the country, one can conclusively determine that it was industrial hazardous waste that caused environmental contamination. In fact, according to EPA, 254 of the 260 municipal landfills on the National Priorities List are actually co-disposal sites where industrial hazardous waste has contaminated ordinary municipal waste. Meanwhile, there are tens of thousands of ordinary municipal waste landfills in the country that do not require Superfund cleanups.

Ironically, when Congress amended the Superfund statute in 1986 to allow contribution lawsuits, the intention was to equitably spread the cleanup costs among all persons who legitimately contributed to environmental contamination at a site. Congress' intent was to help industrial polluters, but they have used this provision to sue parties that only contributed household garbage or sewage sludge.

It is this loophole in the Superfund statute that we seek to fix with the Toxic Cleanup Equity and Acceleration Act. Our bill has three main components:

It blocks third-party suits for municipal solid waste by specifying that only EPA can launch lawsuits under Superfund against municipalities, companies, or persons who generate or transport municipal waste or sewage sludge.

If EPA decides to send notices of potential liability to municipalities or other transporters or generators of municipal solid waste, then the bill allows such parties an opportunity to quickly settle their liability with EPA in an effort to hold down legal costs.

Finally, the bill states that the liability for generation and transportation of municipal waste must be capped at no more than 4 percent of total cleanup costs.

The Toxic Cleanup Equity and Acceleration Act merely makes sure that municipal waste is treated the way we intended it to be. I hope my colleagues will join me in cosponsoring and supporting this important legislation. The Superfund law has been distorted and we need to get it back on track.

A section-by-section analysis of this legislation follows:

SECTION-BY-SECTION ANALYSIS OF THE TOXIC CLEANUP EQUITY AND ACCELERATION ACT OF 1993

SECTION 1

This section entitles this legislation as "The Toxic Cleanup Equity and Acceleration Act of 1993."

SECTION 2

Subsection (a)—Additional Definitions

The legislation adds three new definitions to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§9601 *et seq.* Any reference to "CERCLA" or "Superfund" should be construed as a reference to that act. The subsection does not alter any existing definitions under CERCLA and thus, for example, does not affect current law's definition of "person" as virtually any public or private entity or natural person, including federal, state, and local governments.

The subsection defines "municipal solid waste" (MSW) as including all waste materials generated by households and multiple residences, as well as waste from other sources when it is essentially the same as household waste. The definition also includes small amounts of hazardous waste that can legally become part of the municipal waste stream under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §6921(d). The term does not include incinerator ash or waste from industrial processes not essentially the same as household waste but also regulated under Subtitle D of RCRA.

The subsection defines "sewage sludge" as essentially any residue removed during the treatment of waste water at a publicly-owned treatment works.

The subsection defines "municipality" to include any political subdivision of a state and includes individuals who act in an official capacity on behalf of a municipality.

Subsection (b)—Third-party Suits for MSW or Sewage Sludge

Under CERCLA, "potentially responsible parties" (PRPs) who have been notified by EPA that they may be liable for cleanup costs have the right to sue other parties who may also be responsible for the hazardous waste site. Such "third-party" or "contribution" suits provide PRPs a mechanism for making other polluters share the cleanup costs.

This subsection modifies CERCLA to prohibit third-party suits for contribution or for other response costs, penalties, or damages against any persons if the actions challenged were related to the generation or transportation of MSW or sewage sludge. As used herein, "generation" or "generators" is meant to refer to actions or persons described by section 107(a)(3) of CERCLA and may include arranging for the transportation, treatment, or disposal of hazardous substances. "Transportation" or "transporters" is meant to refer to actions or persons described by section 107(a)(4). To the extent municipalities or other persons owned or operated a facility, or generated or transported waste materials that do not meet the definitions of municipal solid waste and sewage sludge, the block on third-party suits does not apply.

The subsection defines two situations in which a municipality will not be liable under Superfund for exercising its regulatory power: when it owns a public right-of-way, such as a road or sewage pipeline, over which hazardous substances are transported, or when it grants a business license to a private

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

party to transport or dispose of municipal solid waste or sewage sludge.

Subsection (c)—Settlements

The subsection creates a special settlement opportunity for any person alleged to be a generator or transporter of MSW or sewage sludge in an administrative or judicial action. Such persons may offer to settle their potential liability with the President by stating in writing their ability and willingness to pay their share of cleanup costs in accordance with this subsection. Upon receipt of such a good faith offer to settle, all further administrative or judicial action against such party is stayed pending negotiations with the President, unless the President determines that the party is not negotiating in good faith or that the settlement offer addresses liability not related to the generation or transportation of MSW or sewage sludge.

Eligible persons may tender offers either (1) within 180 days after receiving a notice of potential liability or becoming subject to administrative or judicial action or (2) within 180 days after a record of decision is issued for the portion of the response action for which the person may have liability, whichever is later. In any event, neither the President nor any other person may pursue administrative or judicial action against any eligible party for 120 days after such party receives a notice of potential liability from the government.

In negotiating final settlements with persons eligible to tender offers under this subsection, the President shall (1) make a good faith effort to reach such settlements expeditiously; (2) allocate to all generation and transportation of MSW or sewage sludge a combined total of no more than four percent of total cleanup costs; (3) reduce such percentage share when the presence of MSW or sewage sludge is not significant at the facility; (4) require each individual eligible party to pay no more than his or her fair share of the total MSW or sewage sludge share; (5) limit an eligible person's contribution based on such person's inability to pay, public interest considerations, and other equitable factors; (6) permit eligible persons to provide in-kind services credited at market rates in lieu of a cash contribution; and (7) beginning 36 months following the date of enactment, for disposal of sewage sludge occurring after that date, limit a publicly owned treatment works' payment if it has promoted the beneficial reuse of sewage sludge through land application.

The subsection provides further that eligible parties shall be able to negotiate settlements under its terms even if they have committed acts that could give rise to potential liability under other sections of the statute by, for example, acting as the owner or operator of a site.

The subsection states that the President may provide a covenant not to sue with respect to the facility concerned to any person who has entered into a settlement under the subsection and that any such settlement blocks all future claims of contribution or other cost recovery, penalties, or damages regarding matters the settlement addresses. Such a settlement does not discharge the liability of any potentially responsible parties who do not participate in it, although such parties' liability shall be reduced by the amount paid under the settlement.

This subsection further provides that beginning three years after the date of enactment of the legislation, for disposal of MSW or sewage sludge that occurs at such time or later, municipalities wishing to take advantage of the settlement provisions of the subsection must take the following affirmative steps.

For potentially responsible municipal parties allegedly liable for the generation or transportation of MSW, eligible municipalities must establish a "qualified household hazardous waste collection program" that includes at least (1) semiannual, well-publicized collections at conveniently located collection points with the intended goal of participation by ten percent of community households; (2) a public education program that identifies both hazardous products and safer substitutes; (3) efforts to collect hazardous waste from conditionally exempt generators; and (4) a comprehensive plan, which may include regional compacts or joint ventures, outlining how the program will be accomplished.

For potentially responsible owners or operators of publicly owned treatment works whose liability allegedly arises out of the generation or transportation of sewage sludge, eligible parties must comply with section 405 of the Federal Water Pollution Control Act regulating the disposal of sewage sludge.

The subsection further provides that the President may determine that a household hazardous waste collection program or a publicly owned treatment works is not qualified under the subsection, but that minor instances of noncompliance do not render such programs or facilities unqualified. It states that when a municipality is notified that its publicly owned treatment works may not comply with the requirements of the subsection, the municipality shall have 12 months to rectify the identified problems. If such noncompliance is not remedied within 12 months, or if the President determines that a household hazardous waste collection program is not qualified for some period, the municipality shall lose its ability to use the settlement provisions of the subsection, but only with respect to waste materials disposed of during the period of noncompliance.

Subsection (d)—Volume of Municipal Solid Waste and Sewage Sludge

The subsection states that in determining eligibility for de minimis settlements under section 122(g)(1)(A)(i) of CERCLA, the amount of hazardous substances in MSW or sewage sludge shall refer to the quantity of hazardous substances which are constituents within the MSW or sewage sludge, not the overall quantity of such waste materials.

Subsection (e)—Effect on Other Law

The subsection states that the legislation does not modify the meaning or interpretation of the Solid Waste Disposal Act.

Subsection (f)—State Enforcement

The subsection states that the legislation does not modify the states' ability to carry out actions authorized by Superfund or through cooperative agreements with the President.

Subsection (g)—Constituent Components of MSW and Sewage Sludge

The subsection makes clear that the legislation shall apply to municipal solid waste and sewage sludge as defined, even though these materials may contain constituent components that are considered hazardous substances under Superfund when they exist apart from MSW or sewage sludge.

Subsection (h)—Retroactivity

This subsection provides that the legislation applies to all administrative or judicial actions that began before the effective date of the legislation, unless a final court judgment has been rendered or a court-approved settlement agreement has been reached.

THE GOVERNMENT PERFORMANCE AND RESULTS ACT

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. McDADE. Mr. Speaker, I am proud to be an original sponsor of bipartisan legislation being introduced today which will result in greater accountability, effectiveness, and efficiency in the operation of Federal programs.

I am pleased that the chairman and ranking Republican on the House Government Operations Committee have made this legislation a top priority, and that Senator ROTH is continuing his diligent efforts for passage of an identical bill. As the ranking Republican on the House Appropriations Committee, I pledge my support in moving this important legislation forward.

The Government Performance and Results Act has the potential to give the American people the kind of lean, cost-conscious, and responsive government they want and deserve as we move toward the 21st century.

The legislation, when fully implemented, would require all Federal agencies to establish measurable program performance goals and to report actual results. I sponsored a similar bill in the 102d Congress introduced by Representative JERRY LEWIS as a way for the American taxpayers to obtain accountability by the Federal agencies. Citizens are entitled to know what will be achieved with the tax dollars they have provided.

Common sense dictates that we take this step. Every business and corporation in America must produce results and every worker is judged on what he or she achieves. We should ask no less from the Federal Government.

Under the legislation, each agency would develop a 5-year strategic plan, with a set of specific, long-term program goals. It would then develop an annual performance plan, and aim its day-to-day activities at achieving the long-term objectives. Each agency would publish an annual performance report which would show what it achieved compared to those goals.

Before full implementation of performance standards, a 3-year pilot program within at least 10 agencies would be conducted to determine its workability. If successful, Congress would approve a resolution requiring governmentwide implementation. At that point, a number of pilot projects in performance-based budgeting would begin in order to link recommended spending levels with expected results.

The performance-based reforms are winning high marks at several levels. The National Academy of Public Administration and the American Society for Public Administration have endorsed the types of reforms in the Government Performance and Results Act. The reforms are being implemented by some State and local governments and are being tried at the national government level in such countries as Australia and the United Kingdom. David Broder recently praised the concept in his syndicated column, and author and public policy consultant David Osborne is actively promoting these ideas in the current administration.

We heard a great deal in the past campaign about the need for positive change. The bill introduced today would change for the better the way the Federal Government operates. The time has come to ensure the American people that they are getting the most from their tax dollars. I urge my colleagues to study this legislation and join me in working for its timely passage.

IN HONOR OF THE INDEPENDENCE OF LITHUANIA

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today to celebrate the 75th anniversary of Lithuania's original declaration of independence on February 14. My constituents in the Sixth District of Connecticut will soon gather in New Britain to honor those who fought for Lithuania's freedom.

I strongly believe that such a tribute is as necessary today as in the past to remind us of the long struggle this Baltic nation has had in its fight for self-determination. Mr. Speaker, I have long advocated the independence of the Baltic States and am pleased to celebrate the day that these efforts began. I look forward to the day when Lithuania will possess the economic strength that its political independence promises. I commend the 102d Congress for its successful passage of the Freedom Support Act, as this assistance is an important step toward the goal of independence for all of the Baltic Republics.

At this time, I again call on Congress, the President, and the American public to be steadfast in their support for Lithuania on its road to true independence. I join together with constituents of the Sixth District as well as countless other Lithuanians throughout the world to commend the people of Lithuania on their victories and their continued commitment to the admirable ideals of freedom and independence.

ON THE PRESIDENT'S ECONOMIC PLAN

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mrs. COLLINS of Illinois. Mr. Speaker, I rise to reflect on the end of 12 long years of trickle down economics. For years working and poor Americans have watched their Government and their President claim that giving more to the wealthy would somehow redound to their benefit in the by-and-by. Finally they have hope.

President Clinton is preparing to introduce his economic plan which will bring an end to the trickle of help that Americans have come to expect from their Government and their President. Finally we can turn on the faucet and try to get this economy moving again.

Mr. Speaker, I like the sunshine as much as the next person, but when you have been facing a drought like the economic drought we have been facing, showers are a welcome change.

So, I join the working and poor Americans who have anxiously awaited the end of trickle down in saying, President Clinton let it flow.

GOVERNMENT PERFORMANCE AND RESULTS ACT OF 1993

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. CONYERS. Mr. Speaker, today I and Mr. CLINGER, the ranking minority member of the Committee on Government Operations, are introducing the Government Performance and Results Act of 1993. This legislation is a companion bill to S. 20, introduced by Senators GLENN and ROTH.

This election the American people sent a very strong message to Washington—they want a government that is efficient, lean, provides needed services, and is accountable to the taxpayers. This legislation is the first response to that message, and would require all Federal agencies to reexamine their operations. This is an important step toward reinventing government. The legislation would require agencies to develop measurable program performance goals and to report their actual progress toward achieving those goals. The intent of the legislation is to orient program managers throughout the Federal Government toward setting and achieving performance goals while creating efficiencies—and therefore saving money. This would begin with 10 pilot projects to be phased in over a decade.

This legislation would require virtually all program managers to develop 5-year strategic plans outlining agency missions, general goals and objectives, and a description of how the goals and objectives will be achieved.

After long-term program goals are set, agencies would then be required to develop annual performance plans with measurable program goals, while at the same time attempting to meet the more short-term objectives. Finally, each agency would publish an annual performance report, showing its progress in achieving those goals.

Implementation of these steps would begin with at least 10 agencies, selected by OMB, as pilot projects for 3 years. In 1997, following reports by OMB and the GAO, Congress would have to review the progress of the pilot programs and determine whether to continue the process. Thus, the agencies will have a chance to experiment with this concept before we commit to a governmentwide application. We must first be certain that it is successful.

If Congress does decide at that time to continue with performance measures, strategic plans and annual performance reports would be mandated for each Federal agency. At the same time, pilot projects in performance-based budgeting would begin demonstrating proposed program budgets in a format that directly links recommended spending levels with expected results. Implementation of performance-based budgeting would begin by the year 2000.

The following is a timeline of implementation:

October 1, 1993: OMB selects 10 agencies to perform pilot projects on annual performance plans and reports (fiscal years 1994, 1995, 1996).

October 1, 1994: OMB selects 5 of those agencies to perform pilot projects on managerial flexibility waivers (fiscal years 1995, 1996).

May 1, 1997: OMB reports to President and Congress on pilot projects.

June 1, 1997: GAO reports to Congress on pilot projects.

August 1, 1997 (approx.): Congress must consider resolution mandating government-wide implementation.

September 30, 1997: If resolution is adopted, all agencies submit 5-year strategic plans (and every 3 years thereafter) and annual performance plans (and each year thereafter).

October 1, 1997: OMB selects 5 agencies to perform pilot projects in performance budgeting (fiscal year 1998 and 1999).

January 1, 1998 (approx.): OMB submits Federal Government performance plan with fiscal year 1999 budget (and each year thereafter).

March 31, 2000: All agencies submit annual performance reports for fiscal year 1999 (and each March 31 thereafter for each preceding year).

March 31, 2001: OMB report on performance budgeting pilot projects.

HE DID WHAT HE COULD

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. EDWARDS of California. Mr. Speaker, the past week has seen the passing of one of America's true pioneers of the civil rights movement, Justice Thurgood Marshall. Justice Marshall was a model activist, a voice for the oppressed, a teacher of justice. He will be dearly missed by all of our colleagues, indeed by all Americans.

In an article that appeared in the January 31 edition of the Fort Wayne Journal Gazette, distinguished civil rights lawyer William L. Taylor, who worked on Justice Marshall's staff at the NAACP Legal Defense Fund from 1954 to 1958, pays tribute to Thurgood Marshall. I commend this article to the attention of my colleagues.

The article follows:

He Did What He Could

(By William L. Taylor)

Thurgood Marshall was a great lawyer. Working with his teacher Charles Houston, he had the imagination and boldness to conceive a strategy for a systematic attack on the legalized caste system that oppressed black Americans. He had the courage to implement that strategy by traveling to corners of the country where his views and skin color made him a clear target.

Thurgood had the gift of great advocates of being able to reduce complex legal propositions to direct and simple arguments that appealed to the hearts and minds of those who sat in judgment.

Thurgood was earthy and funny and a great storyteller. His humor was self-mocking and at times sarcastic. He scorned pomp and pretense. When someone went on too long or affectedly, Thurgood would sometimes fix the speaker with a mischevious grin and say "woof, woof, woof."

I have thought in recent years that Thurgood, if he chose, could have gone far in electoral politics. He genuinely liked almost all people and this came through despite his sometimes forbidding presence. When I worked for him, I marveled at his ability to joke and get along with Southern lawyers who were defending segregation.

It was injustice of all kinds that Thurgood hated, and he hated it with a passion. It must have been galling to him to hear himself publicly praised by some of his colleagues on the Court for teaching them about life in America and yet to be consistently outvoted when considering the claims of those who are worst off in our society.

All Americans are in Thurgood's debt whether they know it or not.

Yet one of the worst things we could do is to participate in making Thurgood Marshall a mythic figure, forgetting his daily struggles and frustrations. If we deify and attribute superhuman powers to him, we run the risk of letting ourselves off the hook. Thurgood said that the epitaph he preferred was "he did what he could do with what he had." That is our obligation as well. If all we do is talk the talk about what a great man he was, I can almost hear him saying "woof, woof, woof."

MET LIFE LIGHTS UP MANHATTAN SKYLINE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the newest light in Manhattan's gorgeous skyline, signaling the presence of one of New York's best corporate citizens—Metropolitan Life.

Just a few days ago, I had the pleasure of attending the ceremony marking the lighting of the new Met Life sign on the building at 200 Park Avenue, which dominates all of the downtown views of this historic boulevard. Many of my colleagues will remember this building through movie scenes as the Pan-Am Building.

Met Life is an unusual company. My primary contact with Met Life over the years has not been through their well-known function as an insurance company, but as the landlord for more than 25,000 of my constituents in Stuyvesant Town and Peter Cooper Village.

And, Met Life is a landlord that the vast majority of the residents actually like. Since 1948, Met Life has maintained and upgraded affordable housing for New Yorkers in Stuyvesant Town and Peter Cooper Village. This housing complex is actually an oasis in our urban desert; the buildings are low density and set amidst trees, parks, and playgrounds. One can walk around the ovals and see all the signs of a bygone era of urban life such as children playing in the playground and elderly couples holding hands on park benches. Even the sounds of traffic and congestion are replaced by birdsong. This complex—from 14th to 23d Streets, east of First Avenue—is an example of urban planning that more New York developers would do well to emulate.

At a time when so many corporations are relocating out of New York City, I am pleased to see Met Life making a commitment—both economically and socially—to New York City. Their expansion wasn't to some outlying area but to the heart of midtown Manhattan. Its commitment to our city will be prominently marked by their new sign on the building at 200 Park Avenue.

That commitment is not only reflected in the new sign, but also through the $100,000,000 investment that Met Life is making to renovate its headquarters building at One Madison Avenue.

These two significant construction investments in New York City, coupled with Met Life employment of more than 8,800 New Yorkers make Met Life an invaluable member of the city's corporate community.

But what makes Met Life an invaluable member of the greater New York City community is its commitment of over $40 million to support social service programs in New York City, including a $2.6 million loan for Phoenix House.

Community reinvestment is a hot topic this year; I am pleased to call the attention of my colleagues to Met Life's outstanding contributions in this area and to welcome Met Life to its prominent place on Manhattan's skyline.

THE TOXIC CLEANUP EQUITY AND ACCELERATION ACT

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. MOORHEAD. Mr. Speaker, today I am cosponsoring the Toxic Cleanup Equity and Acceleration Act introduced by the gentleman from New Jersey, Mr. TORRICELLI. I was a cosponsor of this legislation in the last Congress, and because of the importance of this issue to several municipalities in my district, I am glad to be an original cosponsor this year.

Mr. Speaker, this legislation seeks to address part of a terrible problem affecting many of our towns and small businesses. The problem in this case is the crushing liability these towns and businesses are facing for the cleanup of old and leaking municipal waste landfills. This legislation does not offer a complete solution, and I would note that if enacted alone, it would surely exacerbate the problem for many other towns and businesses. However, it is the beginning of a solution, and I hope a part of more comprehensive Superfund reform.

To fully understand the problem, we have to go back to another beginning. In 1980, Congress passed the Comprehensive Environmental Response Compensation and Liability Act, commonly referred to as Superfund. Superfund imposes liability for the cleanup of a release of hazardous substances on the owners and operators of the facility where a release occurs and on anyone who transported or arranged for the disposal of the hazardous substance. In Superfund jargon, anyone fitting this description is called a Potentially Responsible Party, or PRP for short. Any single PRP can be held liable for the complete cost of cleanup regardless of the amount of hazardous substances contributed to the site, and regardless of whether the actions were legal at the time. In recent years, Superfund has been increasingly criticized for wasting hundreds of millions of dollars in unnecessary litigation, burdensome administrative expenses, and excessive cleanup requirements that drastically increase the cost of cleanup without significant benefit to human health or the environment.

Mr. Speaker, municipal waste and sewer sludge contain only small amounts of hazardous substances. Yet we know that when disposed of in large quantities, in poorly designed facilities, municipal waste and sewage sludge can contribute to serious environmental damage. As I have noted, Superfund makes no distinction between PRP's responsible for wastes with high concentrations of hazardous substances and wastes with low concentrations. The result of the Superfund liability standard is that tens of thousands of towns and small businesses are PRP's simply because years ago they arranged for the disposal of municipal waste in landfills that are Superfund sites today. As PRP's, they share the liability for many millions of dollars in cleanup costs. Unless changes are made to Superfund, this liability will bankrupt many towns and businesses across the country. It will put many thousands of people out of work, and reduce the competitiveness of many of the businesses it does not bankrupt.

Superfund is based on an idea commonly referred to as the "polluter pays principle." In the abstract, this principle is a very laudable goal, but as we apply it through the Superfund liability standard, to wastes such as municipal garbage and sewer sludge, we are forced to come to a very sobering conclusion. To paraphrase Pogo, and with apologies to Oliver Hazard Perry: We have met the polluter, and they is us. We, acting through our towns and cities, and at our places of business, arranged for the disposal of hazardous substances that are part and parcel of municipal waste. In the end, each of us bears responsibility for the environmental damage our lifestyle causes. We are all responsible parties.

As I said before, this bill is only a part of the legislation we need to pass before Superfund will work. The Superfund liability scheme, and the endless litigation it generates, is a poor way to raise the money needed to clean up a problem that we all helped to create. While this legislation would fix this part of the problem, many other major parts of the problem remain unresolved.

For example, this legislation creates two classes of municipalities, those who owned or operated municipal landfills and those who sent garbage or sewage sludge to a landfill owned by someone else. The legislation would effectively exempt the towns and small businesses who sent their garbage to a landfill owned by a third party. This is fine as far as it goes. We must reform a law that would bankrupt towns and small businesses simply because of the municipal waste and sewage sludge they sent to landfills.

However, unless this legislation is part of a larger Superfund reform package, towns that owned or operated landfills where municipal waste or sewer sludge were disposed, often as part of regional agreements with the very towns covered by this legislation, would remain fully liable as PRP's and continue to face almost certain bankruptcy. I do not believe the ultimate legislative package we craft should create two classes of municipalities, one class almost exempt from liability, while the other class is effectively written off into bankruptcy. Thus, I hope we can work to find a satisfactory solution to this issue as the legislation proceeds.

When faced with the problem of the equitable sharing of cleanup costs, we should not engage in an Orwellian rewrite of the polluter pays principle. It should not be restyled as the (corporate) polluter pays principle, so that some polluters are more equal than others. The moral strength of the polluter pays principle rests on its equal application to everyone. If it is to have any validity at all it must be applied equally to all parties, so I believe this legislation should only be considered in the context of more general liability reform.

Finally, we must take a serious look at the cleanup program whose cost estimates have soared a hundred times our original estimates from 1980. Much of the cleanup can be done more quickly and cost-effectively. In closing, Mr. Speaker, I hope to continue to work with all the parties affected by Superfund to develop a serious reform package for a program that has so many glaring problems.

THE GIFTS OF APPRECIATED PROPERTY AMENDMENT TO THE 1986 TAX REFORM ACT

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. ANDREWS of Texas. Mr. Speaker, today I am introducing legislation to restore an important tax incentive for donating gifts of appreciated property to nonprofit charitable and cultural institutions. The Tax Reform Act of 1986 mandated that gifts of appreciated property be included as a tax preference item in the alternative minimum tax [AMT]. Since the enactment of the Tax Reform Act, contributions of appreciated property have declined tremendously for a number of hospitals, museums, universities, conservation groups, and other charitable organizations. This decline in the number of donations has resulted in serious economic losses for these organizations.

Unfortunately, the reason for the decline lies in the Tax Reform Act of 1986. My bill will reverse this decline by restoring an exemption for gifts of appreciated property from the alternative minimum tax.

As a result of budgetary constraints, institutions, such as public and private colleges and universities, must turn to private donors for assistance in providing quality education. Donations are essential for establishing scholarships, academic programs, and maintaining campus facilities. Since the enactment of the Tax Reform Act, colleges and universities like the University of Texas and the University of Houston have reported that the number of contributions has diminished. One university reported that because of the AMT, an alumni decided against donating a gift valued at $4.8 million to the medical school which would have been used for scholarships for medical students. At another university, the widow of a law professor said she was interested in creating a law professorship in her late husband's specialty, however, when she learned from her lawyer that such a gift would be subject to the 21 percent AMT, she decided against it.

Five years prior to the passage of the Tax Reform Act, the number of contributions of works of art and other appreciated properties were growing at an annual rate of 14 percent. Museums rely on donations from the public for exhibits and financial support. According to Peter Marzio, director of the Museum of Fine Arts in Houston, during a 12-month time period when gifts of appreciated property were not included under the AMT, the museum received 2,106 works of art valued at more than $16 million. These donations included works of art such as paintings by Renoir, statues from Nigeria, and textiles from the Far East. Marzio says that since the passage of the Tax Reform Act the flow of gifts has stopped.

Colleges, universities, museums, and other charitable organizations will greatly benefit by enacting this legislation. As a result of the Tax Reform Act of 1986, the public has been discouraged from making contributions to organizations that desperately need them. I strongly urge my colleagues to support this legislation that will result in a higher quality of education, preservation of the humanities, and financial assistance to nonprofit organizations.

LIST OF COSPONSORS

Nancy Pelosi, (CA); Jim Bacchus, (FL); Peter King, (NY); Bill McCollum, (FL); Elton Gallegly, (CA); Gerald Solomon, (NY); Don Sundquist, (TN); Newt Gingrich, (GA); Pat Schroeder, (CO); Paul Gillmor, (OH); George Hochbrueckner, (NY); Herb Bateman, (VA); Owen Pickett, (VA); Craig Thomas, (WY); F. James Sensenbrenner, Jr., (WI); John Porter, (IL); Brendan Smith, (NJ); Peter Torkildsen, (MA); Peter Blute, (MA); Barbara Kennelly, (CT); Maurice D. Hinchey, (NY).

Jim Saxton, (NJ); John M. Spratt, Jr., (SC); Fred Upton, (MI); Nancy Johnson, (CT); Bill Emerson, (MO); Ronald K. Machtley, (RI); Richard E. Neal, (MA); Tom Lewis, (FL); Martin Frost, (TX); Robert T. Matsui, (CA); James T. Walsh, (NY); Edolphus Towns, (NY); Sam Johnson, (TX); Andy Jacobs, (IN).

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF TREATMENT OF CHARITABLE CONTRIBUTIONS OF APPRECIATED PROPERTY AS ITEM OF TAX PREFERENCE.

(a) IN GENERAL.—Subsection (a) of section 57 of the Internal Revenue Code of 1986 (relating to items of tax preference) is amended by striking paragraph (6) and by redesignating paragraph (7) as paragraph (6).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

NATIONAL COMPETITIVENESS ACT OF 1993

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. SWETT. Mr. Speaker, today, I, along with my distinguished colleagues on the Technology, Environment and Aviation Subcommittee, have introduced legislation to help reverse the alarming decline in our industrial competitiveness—the National Competitiveness Act of 1993.

Throughout the last decade, U.S. productivity growth has stagnated, real wages have fallen, and many of our industries have been lost to foreign competition. Only recently have we come to realize what our international competitors have known all along—technological advancement is the key to our long-term economic success.

Mr. Speaker, the National Competitiveness Act is a much-needed step toward the development of a comprehensive, national strategy for U.S. technological advancement. It will help us tap into our Nation's unparalleled scientific and engineering capability. It will help us to draw on the strengths of the free-market and the resources of our Government. It will help us to forge a new partnership between Government and industry.

Mr. Speaker, this long-overdue legislation will help put America back on track toward economic growth and long-term prosperity. I look forward to working with my colleagues and with the Clinton administration in seeing this critical legislation enacted into law.

NO COLA'S WITHOUT A BALANCED BUDGET

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. EWING. Mr. Speaker, one of the greatest concerns on the minds of all our constituents is our tremendous national debt and the ever-growing Federal deficit. This past fiscal year, the Federal Government ran a budget deficit of $290 billion while the national debt topped $4 trillion. As Members of Congress, we are responsible for this record. Now, it is time for us show some true responsibility and do something about it. I think a good place to start is with our own pocketbooks.

Each year, we, as Members of Congress, receive a cost-of-living adjustment to our salary. This year that COLA was over $4,000. As I traveled through my district this past year, my constituents repeatedly voiced their opposition to Members of Congress receiving COLA's, when our fiscal record is so poor. To them, this COLA amounts to a hidden pay raise for Congress. My constituents make a good point.

Today, I am introducing a bill which would prevent Members of Congress from receiving a COLA if the Federal budget was in deficit during the previous fiscal year. I think that this is a very simple but effective step. This bill would serve as a reminder to us that we are responsible for the fiscal mess the Federal Government is in. If we cannot balance the Federal budget, then we do not deserve a pay raise.

I realize that the savings from this measure would be minimal and I sincerely hope that this Congress will look at more substantive measures such as a balanced budget amendment and line-item veto authority for the President as more potent ways to attack our fiscal problems. However, eliminating our COLA's until the budget is balanced will send a strong message to our constituents that we have heard what they are saying to us about change, that we are serious about cleaning up the Federal Government's fiscal mess, and that we are willing to make sacrifices, too.

Mr. Speaker, I hope all of my colleagues will join me in support of this worthwhile legislation. It is time that we in Congress accept some responsibility and set an example as we work our way toward a balanced budget.

LET'S GIVE FEDERAL WORKERS THE RIGHT TO HOLD OFFICE

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today to introduce a bill to amend the Hatch Act to allow Federal workers the right to hold local office.

For five decades, the Hatch Act has limited Federal civil servants to voting and privately expressing political opinions, while prohibiting them from volunteering in political campaigns or running for office. I strongly believe that the 1939 law should be rewritten to grant Federal workers some basic political rights.

Our colleagues on the Post Office and Civil Service Committee introduced a Hatch reform bill in the 101st Congress, and again this session, to allow Federal employees to participate in State, local, and national politics. Unfortunately, the Senate has been opposed to granting Federal employees the right to participate in the political process, due to concerns that they will not be able to remain apolitical in the workplace. My proposal is meant to be a compromise between the two positions.

Specifically, my proposal allows Federal employees the right to participate in local politics. Federal employees have told me time and time again that they want to be able to run for local offices, such as school board or town council. Responsible Hatch reform would allow these people, many of whom have a strong public service ethic, to serve their local communities as elected officials. This reform is appropriate in an age when most Federal employees don't work in the same community where they reside and so the issue of intimidating coworkers into working or voting for them is moot in local races.

The original Hatch Act's aim, a Federal civil service independent of Federal electoral politics, is as necessary and desirable today as it was 50 years ago. But we need not sacrifice the legitimate desire of Federal workers to pursue local civic and political interests that do not conflict or interfere with their duties.

Finally, my proposal retains the protections of the current Hatch Act. Employees are not permitted to engage in political activities while on duty, in a Federal building, while wearing a uniform or official insignia, or while using a government vehicle. Furthermore, they will not be allowed to run for State or Federal office as traditional protections are hard to enforce in these broader forums.

A SALUTE TO THE CUYAHOGA COUNTY BAR ASSOCIATION ANNUAL PUBLIC SERVANTS MERIT AWARD RECIPIENTS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. STOKES. Mr. Speaker, on February 18, 1993, the Cuyahoga County Bar Foundation will host its annual public servants merit awards luncheon. The event recognizes the exceptional work and contributions of selected county court system employees with the presentation of the Franklin A. Polk Public Servants Merit Award.

I take pride in saluting the Cuyahoga County Bar and this year's eight public servant award recipients. I am also pleased to recognize the individual for whom these awards are named. For 40 years, Franklin Polk chaired the annual public servants awards luncheon. Although he passed away, Frank will always be remembered for his love of public servants and his commitment to recognize their contributions.

The honorees for this year's public servants awards luncheon are: Jacoba Bucur, Peter Byrne, Diana M. Derbin, Marylyn W. Doncevic, Joyce A. Feichtmeier, John J. O'Toole, Karen L. Rodgers, and John J. Winchester. I am proud to recognize each of these outstanding individuals.

Mr. Speaker, Jacoba Bucur holds the position of deputy clerk for the probate court psychiatric department. She is responsible for preparing the court docket, which includes maintenance of the 57 currently active books.

Mrs. Bucur is the wife of Nicholas A. Bucur. They are the proud parents of Nicholas, Philip, and Gregory. In her spare time, Mrs. Bucur enjoys painting, reading, walking, sewing, and yoga. Her hobbies also include traveling, aerobics, and clay modeling.

When asked about her outstanding accomplishments, Mrs. Bucur included her children, her many friends, and the experience and opportunity which her employment has given her.

Peter V. Byrne serves as the bailiff for Judge Frank J. Gorman. He is a graduate of Collinwood High School and attended Miami University. In addition to his court assignment, Mr. Byrne is active in the Cleveland community. He is the past president of the Emerald Civic Society and a former member of the Democratic Executive Committee. Mr. Byrne also serves as a member of the South Euclid Democratic Club.

Mr. Byrne devotes considerable time to the International Order of Alhambra, a Catholic fraternal organization with more than 12,000 members dedicated to assisting exceptional children. He also enjoys playing golf and is the founder of the Common Pleas Golf Tournament.

Mr. Speaker, Diana M. Derbin serves as chief cashier for the dealer tax department. In this position, she is responsible for collecting the appropriate fees for automobile taxes from car dealers.

Despite a busy work schedule, Ms. Derbin devotes considerable time to her community. For the past 16 years, she has served as the corresponding secretary for the Bedford Democratic Club. She is also involved in her parish, serving as a parish school of religion teacher for fourth graders.

Reading, photography, and cake decorating are just a few of Ms. Derbin's hobbies. She is also a collector of salt and pepper shakers, dolls, and music boxes. Lastly, Ms. Derbin enjoys her close relationships with family and friends.

Marylyn W. Doncevic is employed as the judicial secretary for the court of appeals. Prior to her employment with the court system, she served as a legal secretary at the law offices of Wegman and Hessler, as well as Wasserman, Stillman & Fink. Her career has also included a public stenographer position with the Jones Letter Service.

Mrs. Doncevic is a graduate of West Technical High School. She and her husband, Paul C. Doncevic, are the proud parents of five children—Paula J. Doncevic, Karen Doncevic Sellers, David W. Doncevic, Peter A. Doncevic, and Mark A. Doncevic. Mrs. Doncevic's hobbies include reading, sewing, and music. For the past 25 years, she has served as director of the chamber choir of Ascension Lutheran Church.

Mr. Speaker, the next honoree, Joyce Ann Feichtmeier, serves as secretary to Judge Leodis Harris in the Cuyahoga County Juvenile Court. She has worked in the juvenile court for approximately 25 years. During her tenure, Mrs. Feichtmeier has earned the respect and admiration of her colleagues, often training clerks for judges and referees.

Mrs. Feichtmeier is married to Henry Feichtmeier and they are the proud parents of Laurie and Eric. In her spare time, Mrs. Feichtmeier enjoys swimming, badminton, and baseball. Her hobbies also include latch hook sewing and cooking.

Mr. Speaker, John J. O'Toole serves as court administrator for the administrative services bureau of the Cleveland Municipal Court. Prior to his current assignment, Mr. O'Toole served in other capacities including Deputy Bailiff, Chief Deputy Bailiff, and administrative assistant. His career has also included military service where he attained the rank of corporal in the Army-Signal Corps.

I am proud to note that our community has also benefited from Mr. O'Toole's efforts over the years. He is a cofounder of Berard House and Scarborough Hall, which provides services for recovering alcoholics. Mr. O'Toole is also a board member and past president of Matt Talbot Inn, a residential treatment facility. He serves as treasurer and board member of the Civil Service Employees Credit Union and is a charter member and past president of the Ohio Court Administration Association. Mr. O'Toole is the proud father of Therese Nageotte, Martin A. O'Toole, Timothy J. O'Toole, Mary P. O'Toole, and Michael J. O'Toole.

Currently, Karen L. Rodgers is the supervisor for the call day and garnishments division for the clerk of courts. Her court career spans more than 24 years. Mrs. Rodgers is a graduate of John Adams High School and attended Long Beach City College. She is the wife of Clarence Moreland and they are the proud parents of Linda and Gerald.

Mrs. Rodgers includes walking and exercise as her hobbies. She is a proud member of the NAACP and gives her time freely to other community organizations and associations.

Mr. Speaker, the final honoree, John J. Winchester, serves as director of the family conciliation services division for the domestic relations court. In this capacity, he provides counseling and evaluations for families involved in divorce proceedings. Mr. Winchester's career has also included employment with Cleveland Metropolitan Hospital and Catholic Social Services. He is a graduate of St. Ignatius High School and John Carroll University. In addition, he received his masters degree in social work from the Boston College Graduate School of Social Work.

Mr. Winchester and his wife, Mary Ann, are the proud parents of seven children—John, Matthew, Brian, Sarah, Peter, Andrew, and Margaret. His hobbies include reading, photography, and bird watching.

Mr. Speaker, it is a special honor to participate in this salute to these exemplary public servants. Employees such as Jacoba Bucur, Peter Byrne, Diana Derbin, Marilyn Doncevic, Joyce Feichtmeier, John O'Toole, Karen Rodgers, and John Winchester ensure that the court system works for all the residents of the Cleveland Metropolitan area.

I am pleased to join the Cuyahoga County Bar Foundation and the chairperson of the annual awards luncheon, Mercedes Spotts, in paying tribute to the 1993 public servants merit awards recipients.

TRIBUTE TO SISTER WILLIAM JOSEPH

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. McDADE. Mr. Speaker, Sister William Joseph announced her decision earlier this year to retire as president and chief executive officer of Mercy Hospital in Scranton, PA. I am not overstating the case when I say that few people have ever contributed more to their vocation and community than Sister William Joseph.

Sister's affiliation with Mercy Hospital has been filled with remarkable achievements. Her mark can be seen in the rapid growth of the hospital's physical facility, the introduction of new medical technologies, and the recruitment and retention of highly competent physicians and staff. Sister will be remembered in particular for bringing the specialities of cardiovascular and cancer care to residents of northeastern Pennsylvania.

The vice chairman of the hospital board of directors, Ann Moskovitz, did an excellent job of describing Sister's personal attributes when she said: "She (Sister William Joseph) had the leadership skills to be a general, a politician, an educator, a business executive. She could read blueprints like an architect and was calm and decisive in a crisis. She was what she wanted to be, though; a very dedicated and devout Sister of Mercy with a special calling for the health ministry."

Sister originally became administrator in 1954 when Mercy's capacity was only 90 beds. The hospital now has 373 beds, is the service areas's major tertiary health center, the largest acute care hospital and the largest Catholic hospital in the area, and the largest employer in Scranton.

In 1963, Sister was appointed Provincial Administrator for the Sisters of Mercy, Province of Scranton. As provincial administrator, Sister was responsible for 900 Sisters of Mercy who then staffed 2 colleges, 17 high schools, 63 elementary schools and 4 hospitals.

Sister returned to Mercy Hospital in September 1970, leading it through a time of tremendous change and technological development of the Health care profession. She led a successful construction and expansion effort to better meet the needs of the community.

Sister was born and educated in Scranton, earned her bachelor's degree from College Misericordia, and received an honorary doctorate of laws degree from the University of Scranton. Among her many honors are her election to the National Register of prominent Americans and the addition of her name to a list of "Distinguished Pennsylvanians" by the blue-ribbon William Penn Committee.

Her greatest honor, however, comes from the respect she has earned in the hearts of those who know her best—the people of northeastern Pennsylvania. Their lives have been immensely improved through the community service and health care innovations she has brought to the area.

I wish her the very best as she moves into a new phase of her life, and I know that she will continue to follow health care and her many interests.

SUPPORT FOR U.N. PEACEKEEPING FORCE

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. MOORHEAD. Mr. Speaker, I rise today in support of placing a U.N. peacekeeping force along the Armenia-Azeri border to open humanitarian corridors to Armenia for immediate transport of fuel and humanitarian supplies. The Azerbaijani blockade has effectively cut off the fuel supply of Armenia. The recent destruction of the only remaining fuel pipeline into Armenia has deprived the region of all its resources. Innocent women and children have been forced to scavenge for bread and food under constant shelling and sniper fire. Electricity, gas, water, and telephones have been cut off. In order to avert a further disaster and the loss of tens of thousands of lives to exposure and starvation, the United States should send immediate emergency provisions of fuel, medicine, and food and encourage its allies to do the same. It is vital that the international community provides humanitarian assistance to help end the suffering in this region and facilitate the effort to bring peace to the area.

FORD RECOGNIZES PLIGHT OF ARMENIANS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. FORD of Michigan. Mr. Speaker, I rise today to draw to my colleagues' attention the dire situation in Armenia.

This former Soviet Republic has endured tragic history. Between 1915 and 1923, over 1.5 million Armenians were killed and 500,000 more were expelled from their homes by forces of the Ottoman Empire. Today, Armenian forces are engaged in a bloody struggle with its neighbor to the east, Azerbaijan, over the disputed territory of Nagorno-Karabagh.

Armenia has also had to overcome numerous internal obstacles. Landlocked, deficient in natural resources, and the victim of a devastating 1988 earthquake, this former Soviet Republic has lifted itself up and dusted itself off time and time again. Indeed, despite these barriers, the Armenian people have been at the forefront of their fellow former Soviet republics in their quest for a free and open democracy and market-based economy. An astounding 92 percent of the electorate cast their vote in their September 1991 referendum for independence. A month after this historic vote, Armenians came out in droves to elect their new President, Levon Ter Petrosian, to a 5-year term.

Economically, Armenia has also boldly gone forward with a reform program in transforming their formerly state-run economy to a capitalist one. To date, 60 percent of the orchards and 70 percent of the arable land has been privatized. These numbers meet or exceed those in Armenia's fellow former Soviet Republics.

The international community has acknowledged the achievements and unique problems of Armenia. In December 1991, shortly after Armenia agreed to become a member of the Commonwealth of Independent States, the United States formally recognized the new republic. Our recognition was quickly followed by international recognition. In the ensuing months, Armenia has been invited and accepted membership in the United Nations, the International Monetary Fund, the World Bank, and the Commission on Security and Cooperation in Europe.

Tragically, however, as the Washington Post noted on Saturday's front page, this small country and its people are struggling to meet even their most basic needs. The confrontation with Azerbaijan over the disputed territory of Nagorno Karabagh has resulted in a debilitating economic blockade of Armenia. This winter has proven particularly harsh for the Armenian people. To this end, in December, President Ter-Petrosian declared a state of emergency for his country.

Two weeks ago, the situation went from bad to worse. On January 23, Armenia's lone operating fuel line, which reaches Armenia through the Republic of Georgia, was severed by an explosion. While authorities have repaired the fuel line, its restoration represents merely a Band-Aid to a nation suffering under multiple, critical wounds. Armenian families are shivering in the dark and cold without sufficient heat to warm a cup of tea. Armenian workers are forced to stay home as businesses and factories lack the energy resources to resume their normal operations. The government is barely able to function as electricity to run their office typewriters and telephones is available infrequently at best.

The desperate conditions in Armenia deserve our attention. We must communicate to Azerbaijan, in no uncertain terms, that a continuation of the economic blockade against Armenia is unacceptable. In addition, we must urge the President to work with our allies in the United Nations to coordinate a massive humanitarian aid operation. Such an operation must ensure the delivery of massive quantities of food and supplies to enable the Armenian people to survive this most difficult period.

The American Armenian community—including many in my home State of Michigan—are answering the call for assistance. To cite just one example, this weekend, the Armenian Community Center in Dearborn, MI is coordinating a giant volunteer relief effort. Sunday, volunteers will meet to collect, box, and send to Armenia nonperishable foods, clothing, and medical supplies. Donations are already pouring into the center—including over $150,000 worth of medication, bandages, and surgical equipment.

I urge my colleagues to raise the issue of Armenia's plight with their constituents, as well as with President Clinton. Our failure to act will render us mere witnesses to the collapse of this small nation which has overcome so much in its tumultuous history.

PROTECT SMALL BUSINESSES FROM FEDERAL OVER-REGULATION

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. EWING. Mr. Speaker, today I am introducing legislation to amend the Regulatory Flexibility Act [RFA], which was passed in 1980—Public Law 96–354. My legislation is designed to help minimize the burden of Government regulation on small businesses.

One of the most consistent concerns of small businessmen throughout the country is the crippling costs which have resulted from overzealous regulation by the Federal Government. I encourage my colleagues to cosponsor the Regulatory Flexibility Amendments Act of 1993. In doing so, my colleagues can help to provide a powerful tool in the effort to control and minimize the impact of Federal regulation on small employers.

WHAT IS THE REGULATORY FLEXIBILITY ACT

The Regulatory Flexibility Act [RFA] was enacted in 1980 to force Federal agencies to take into consideration the costs their regulations will have on small businesses before they go into effect, and to minimize those costs.

As stated in the text of the act, "It is the purpose of this Act * * * that agencies shall endeavor * * * to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration."

Under the RFA, for proposed rules which are subject to publication in the Federal Register and public comment under the Administrative Procedure Act [APA], the rule-writing agency must also prepare an initial regulatory flexibility analysis describing the impact the rule may have on small businesses. The analysis must also outline alternatives to the proposed rule which would accomplish the same objectives at a lower economic impact on small businesses.

At the time of publication of the final rule, the RFA requires agencies to publish a final regulatory flexibility analysis, which summarizes public comments on the initial analysis, the agency response, and changes made to the rule as a result. If the agency did not adopt these less costly alternatives, an explanation must be published.

Proposed or final rules are not subject to these analyses if the head of the agency certifies that the rule will not have a significant economic impact on small business. The certification must be published in the Federal Register and include an explanation of the reasons for the certification.

In addition to these provisions, which function as part of the regular rulemaking process, the RFA requires agencies to publish regulatory flexibility agendas twice each year, outlining rules which the agency believes it may propose in the future that would significantly affect small business. The RFA requires agencies to take certain steps to afford small business the opportunity to participate in the rulemaking process. Finally, the RFA provides for the review of rules with a significant effect on small business 10 years after they have gone into effect.

The RFA charges the chief counsel for advocacy with the responsibility of monitoring agency compliance with the act.

WHY SHOULD THE REGULATORY FLEXIBILITY ACT BE AMENDED

Section 611 of the RFA states in part "* * * any determination by an agency concerning the applicability of any of the provisions of this chapter to any action of the agency shall not be subject to judicial review."

The RFA allows agencies to certify that their rules do not have significant effects on small business, and therefore avoid conducting regulatory flexibility analyses. The prohibition of judicial review allows no legal challenge to such a determination. The result is that compliance is voluntary and Federal regulators do not face court action for failure to comply.

Removal of section 611 is the single most important step which can be taken to force agencies to fully consider the impact of their rules on small business. Unless regulators face the possibility of court challenge to their actions they may not fully comply with the RFA.

The RFA currently does not make clear whether agencies must consider the indirect effects as well as the direct effects of their rules when preparing regulatory flexibility analyses. The Ewing legislation would require consideration of the indirect effects of rules on small business.

The RFA directs the chief counsel for advocacy of the Small Business Administration to monitor RFA compliance. However, his ability to do so has been limited. The Ewing legislation would force agencies to work more closely with the chief counsel during the rulemaking process. Agencies would be required to provide the chief counsel with copies of rules 30 days before they are proposed, and he would have the opportunity to present the concerns or opposition of small businesses to the proposed rule. The agency would then be required to respond to these concerns. This proposal would give more encouragement to regulators to minimize the impact of their rules on small businesses before the rules are proposed.

Finally, the RFA as passed in 1980 grants the chief counsel the authority to appear as amicus curiae in court cases which involve the review of Federal rules. However, when the chief counsel filed an amicus brief in 1986, the Justice Department challenged the constitutionality of this authority. After much discussion the brief was withdrawn and this question has never been resolved. The ability of the chief counsel to represent small-business views in court is critical. The Ewing legislation contains a "sense of the Congress" provision reaffirming the position Congress took in passing the original RFA: That the chief counsel does have the authority to file amicus briefs in court cases which involve the review of Federal rules.

THE REGULATORY FLEXIBILITY AMENDMENTS ACT OF 1993

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title.

Sec. 2. Judicial Review. Section Two would repeal section 611 of the Regulatory Flexibility Act (RFA) which prohibits judicial review of agency compliance with the RFA. Section 611 implicitly prohibits court challenge of an agency determination of the applicability of the RFA, and prohibits court review of any regulatory flexibility analysis prepared under the Act. In practice, the prohibition on judicial challenges has allowed agencies to ignore the spirit of the RFA. Removing the barrier to judicial challenge will force agencies to comply with the RFA.

Sec. 3. Consideration of Direct and Indirect Effects of Rules. Under current practice, it is not clear whether agencies must consider the indirect effects as well as the direct effects of their rules when they are preparing Regulatory Flexibility Analyses. Section 3 would require agencies to consider the indirect effects as well as the direct effects of their rules on small businesses in their Regulatory Flexibility Analyses.

Sec. 4. Rules Opposed by SBA Chief Counsel for Advocacy. It is the intention of the authors of this legislation to strengthen agency compliance with the RFA. It is also the intention of the authors to require agencies to work more closely with the SBA Chief Counsel, who is charged with monitoring RFA compliance, during the drafting of new rules.

Section 4 would amend section 612 of the RFA to require that when an agency is drafting a new rule, the agency must provide the SBA chief counsel with an advance copy of the rule 30 days before publishing a general notice of proposed rulemaking in the Federal Register—General notices of proposed rulemaking are required under the APA, 5 USC 553(b). At that time the agency must also provide the SBA chief counsel with a draft of the initial regulatory flexibility analysis for the rule or, if the agency determines that a regulatory flexibility analysis will not be necessary, the agency must provide an explanation for that determination.

Following receipt of the above information, the SBA chief counsel may review the proposed rule and regulatory flexibility analysis. The chief counsel will have 15 days to transmit, in writing, to the agency, any opposition or comments on the proposed rule or regulatory flexibility analysis.

If the SBA chief counsel submits such a statement, the agency shall publish that statement, together with the response of the agency, in the Federal Register at the same time the general notice of proposed rulemaking for the rule is published.

Sec. 5. The RFA currently gives the Chief Counsel authority to file amicus briefs in litigation involving federal rules, which only allows him to express the views of the Chief Counsel with respect to the effect of the rule on small business. In the history of the RFA this has only been done once, in the 1986 case of Lehigh Valley Farms. At that time the Justice Department indicated that this was unconstitutional because it would impair the ability of the Executive branch to fulfill its constitutional functions. The SBA Chief Counsel countered this argument with legal arguments of his own. The DOJ also argued that Executive Order 12146, prevents the Chief Counsel from filing such briefs. Section I-402 of Executive Order 12146 requires that when such a legal dispute exists between two agency heads which serve at the President's discretion, such dispute shall be submitted to the Attorney General for resolution. The SBA Chief Counsel countered with case law supporting the principle that an Executive Order cannot supersede a statute, and therefore Executive Order 12146 cannot prohibit the SBA Chief Counsel from appearing as amicus curiae.

After a great deal of wrangling between the DOJ and the chief counsel, the chief counsel eventually withdrew the amicus brief filed in the Lehigh Valley Farms case. To the best of our understanding, the chief counsel has never attempted to file another amicus brief.

The ability to appear as amicus curiae is important to the ability of the SBA chief counsel to represent the interests of small businesses in the rulemaking process. Furthermore, if this bill should become law, with its provision to permit judicial review of agency compliance with the Regulatory Flexibility Act, the importance of the SBA chief counsel's ability to file amicus briefs will be magnified.

Section 5 of this act is a sense of the Congress resolution reaffirming what the Congress has already passed into law: That the SBA chief counsel should be permitted to appear as amicus curiae in cases brought for the purpose of reviewing a rule. 5 USC 612(b)

Again, I urge my colleagues to cosponsor this important legislation to amend and improve the Regulatory Flexibility Act. My office can provide further information on the RFA as well as my legislation to amend the RFA.

COMMITTEE ON SMALL BUSINESS,
Washington, DC, February 4, 1993.

Mr. WILLIAM BROWN
House Parliamentarian, the Capitol, Washington, DC.

DEAR MR. BROWN: We request that the Regulatory Flexibility Amendments Act, introduced today by Rep. Thomas Ewing, be concurrently referred to the House Committee on Small Business.

This legislation proposes amendments to the Regulatory Flexibility Act (RFA), PL 96-354, which requires federal agencies to consider the impact of regulations on small businesses. The Small Business Committee conducted numerous hearings in the late 1970's and members of this Committee were the prime authors of the RFA in the House. Because of this precedent, we feel that the Small Business Committee should have the opportunity to review Amendments to the RFA.

Compliance with the RFA is monitored by the Office of Advocacy of the Small Business Administration, which the Committee on Small Business oversees. Because Rep. Ewing's bill makes substantial changes in how the Office of Advocacy will supervise compliance with the RFA, this Committee should consider the legislation as part of its oversight function.

Moreover, under House Rule X, clause 1(s)(1), the Committee on Small Business has legislative jurisdiction over bills which concern "[a]ssistance to and protection of small business." The RFA was enacted to protect small businesses from the potential adverse impact of federal regulation. Mr. Ewing's bill proposes to amend the RFA in ways that will further assist and protect small businesses.

The Regulatory Flexibility Amendments Act is of strong concern to small businesses, and our Committee has a vital interest in consideration of this bill.

Sincerely,

JOHN J. LAFALCE,
Chairman.
JAN MEYERS,
Ranking Member.

HONORING GLORIA BROWN WISE

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. ENGEL. Mr. Speaker, I rise today to pay tribute to an inspirational woman and a dear friend, Gloria Brown Wise, who is being honored by the Citizens Committee for New York with its 1993 John V. Lindsay Prize for Race and Ethnic Relations.

Throughout her entire life, Gloria Brown Wise has battled against prejudice and worked to foster harmony and understanding, especially among our youth.

In 1960, as president of the Bennett College student body in Greensboro, NC, she was the first woman to take part in the Woolworth lunch counter sit-ins, which help set the stage for the civil rights revolution that followed. Twenty years later, at an anniversary convocation honoring the sit-ins, Gloria stated: "I believe we have made progress, I measure progress by how we feel about ourselves * * * Now we walk with our heads up and our shoulders back. But I don't fool myself that there are no more bridges to cross."

I feel privileged to have witnessed that spirit of strength and self-determination in my home community of Co-op City, where Gloria Brown Wise has been an integral part of the community for nearly two decades. Her passion has been the Youth Activities Committee [YAC], which she founded and has been the driving force behind. Under her leadership, YAC has grown to include nearly 2,000 children who participate in programs ranging from athletic and recreational activities to antisubstance abuse and tutorial counseling. Any public official or community leader who has ever set foot in Co-op City has been cajoled by Gloria to dedicate more attention and funding toward youth programs. It is a labor of love that has borne much fruit.

In a life that has been filled with valiant battles, Gloria has always persevered. She is currently in a fight for her life against a very serious illness. Although we share her pain, we also marvel at her courage and strength, and draw inspiration from all the good deeds she has done.

It is truly appropriate that the prize for race and ethnic relations will be awarded to Gloria Brown Wise, a woman who exemplifies the richness of our diverse and evolving society.

LEGISLATION TO AMEND SECTION 320 OF THE FEDERAL WATER POLLUTION CONTROL ACT

HON. MICHAEL HUFFINGTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. HUFFINGTON. Mr. Speaker, I rise today to introduce legislation to amend section 320 of the Federal Water Pollution Control Act [FWPCA] to give Morro Bay, San Luis Obispo County, priority consideration in the Environmental Protection Agency's [EPA] National Estuary Program. In short, this bill directs the EPA to develop a management and protection plan for this most precious estuarine habitat on California's central coast.

Section 320 was established to address two challenges facing our Nation's estuarine areas: That of improvement of water quality, and that of maintenance of water quality. Currently, Morro Bay is relatively unpolluted, but since the threat of pollution and toxicity problems from both man-made and natural sources is imminent, this estuary is a perfect candidate for the second category. Even though Morro Bay has yet to experience the severe pollution problems that have endangered California's other estuarine habitats, the bay is filling with sediment at an unnatural and accelerating rate. If this problem is not addressed soon, the future of Morro Bay is seriously threatened.

As one of the most pristine remaining estuaries on the West Coast, Morro Bay possesses the rich habitats and endangered species that make its protection significant for both national and international environmental reasons. Morro Bay contains the most significant wetland system on California's central coast, serving as a critical habitat for a large number of federally-listed endangered and threatened plant and animal species, including the southern sea otter. These species rely on a healthy Morro Bay for a significant part of their life cycles; an unhealthy Morro Bay would bring about their demise.

On an international level, Morro Bay serves an important environmental function for a number of migratory bird species of the Pacific Flyway. International treaties protect these species and their habitat. The estuary also serves as a valuable breeding and nursing area for a number of species important to commercial and recreational fisheries and oyster farming concerns, all integral components of the region's economic health. Equally important to central California's economy are the 1.5 million visitors that are attracted each year to Morro Bay's natural beauty.

Additionally on a national level, the Morro Bay conservation program has been heralded by bay managers around the country as a perfect developing model for management policies for their own estuarine habitats. Indeed, the management activities underway in Morro Bay have already been used by conservation authorities in the Great Lakes area as examples of how protection for their own estuaries may be achieved. Also, last year, Morro Bay was used as a model for nonprofit organizations seeking to strengthen the management of key reaches of the upper Mississippi River.

However, despite the clear significance of Morro Bay's protection to both the Nation and the community, a comprehensive management plan has been slow in coming. Presently, numerous government entities have been vested with partial jurisdiction over the bay, but none are charged with singular authority of protection and management of the estuary. The EPA's National Estuary Program is ideally suited to correct this problem of divided responsibility.

It is my hope that this legislation will be included as part of the larger reauthorization of the National Estuary Program when it is considered by Congress later this year. As the protection of Morro Bay is truly of national significance, I urge my colleagues to support the adoption of this legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 320(a)(2)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1330(a)(2)(B)) is amended by inserting "Morro Bay, California;" after "Sarasota Bay, Florida;".

THE INCREASING AMOUNT OF GUN VIOLENCE PLAGUING OUR NATION'S STREETS

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mrs. COLLINS of Illinois. Mr. Speaker, I rise today absolutely disgusted and fed up with the needless, random violence occurring daily, like clockwork, in our Nation's communities. The tragedy outside CIA headquarters in Virginia is just one more horrifying example of the pressing need for a tough solution to the ever-increasing incidence of gun violence that is forcing fear into the hearts of all Americans.

Many residents of my district on Chicago's West Side have become accustomed to the terrifying sights and sounds of gunplay that so rightly shocked Washington area residents yesterday. This type of ghastly event, which seemed almost surreal to men and women driving through Langley on their way to work, is so real to most inner-city residents both in my district and across the country that it can no longer be ignored. Mr. Speaker, it is time that Congress act now to stem the mushrooming tide of gun violence. We must boldly challenge the players which knowingly allow these killing weapons to reach the unstable hands of criminals, thereby inflicting a devastating cost on our society.

Therefore, Mr. Speaker, last week I introduced the Gun Violence Economic Equity Act of 1993. This bill would impose strict liability upon manufacturers and dealers of handguns for injuries caused by these weapons in the commission of a felony.

The rampant violence which is currently plaguing our Nation's streets shows no signs of abating. Over 24,000 people in the United States are killed annually with handguns and assault weapons. This is a senseless loss of 65 American men, women, and children daily. Unfortunately, though, our country has become addicted to guns. A new handgun is produced every 20 seconds in America, even while an injury resulting from one of those guns happens every 2 minutes. While the NRA continues to shun very reasonable controls and oversight of the gun industry the United States, bodies pile up in our Nation's streets and alleys. If you ask me Mr. Speaker, the smell is making me sick.

WESTERN HEMISPHERE ENVIRONMENTAL COOPERATION ACT

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. TORRICELLI. Mr. Speaker, I am introducing today the Western Hemisphere Environmental Cooperation Act. The legislation, which was included in a bill I introduced last year, seeks to promote the preservation of biodiversity, serve the research needs of U.S. institutions, and help address the economic concerns of developing countries. The legislation also requires the administration to study the feasibility of creating a Western Hemisphere Environmental Partnership that would promote hemispheric technological cooperation on environmental problems.

The importance of this legislation is clear. Tropical forests are disappearing at alarming rates. Even with all the attention that has been paid to this problem, 17 million hectares of tropical forests are cleared annually. At this rate, scientists estimate conservatively that 5- to 20-percent of tropical species may face extinction within 30 years. This loss will have grave implications for people as far away as the cities and suburbs of the United States.

Tropical forests house 50- to 90-percent of the 10 million species that live on earth. However, only 2 percent of the world's plants have been thoroughly analyzed. This does not even include all the insects, fungi, and other biological resources included in tropical forests. These untested biological resources may have significant value to health, agriculture, and biotechnology. Many U.S. companies and institutions already rely heavily on biological resources for use in medicines, advances in biotechnology, and healthier, stronger crops and produce. The danger involved in losing these forests is clear when we remind ourselves that the cures for some of our society's most serious diseases remain elusive.

As we have already witnessed, preserving tropical forests and other sources of biodiversity is impossible without the cooperation of the countries in which these valuable resources are housed. If countries are to make the effort to conserve these resources and forego possible short-term gains, they must be convinced of the long-term economic value of doing so. In an attempt to address this challenge, my bill will facilitate cooperation between the people who have the biological resources and those who have an interest in exploring the applications of these resources.

I hope that this legislation will also help pave the way for the signing of the Convention on Biological Diversity by the U.S. Government. The bill promotes respect for intellectual property rights—a serious concern some U.S. officials and businesses had with the convention—as a basis for cooperative agreements with U.S. institutions. It is possible to protect biodiversity, the interests of the developing world, and the intellectual property rights of companies and other institutions that will spend millions of dollars on research for a single product.

The Western Hemisphere Environmental Partnership would seek to match U.S. expertise and technology with environmental needs in Latin America and the Caribbean. The demand for environmental technology and services in Latin America is expected to grow by 25- to 30-percent over the next few years. The United States should be prepared to share with our neighbors in the hemisphere our experience and expertise in instituting and enforcing environmental regulations, applying technology to environmental problems, and creating innovative mechanisms for financing improvements in environmental protection capacity. Through cooperation with the countries in the hemisphere on environmental protection we not only ensure our own protection, but help secure a healthy and growing market U.S. exports of environmental technology and services.

The time for innovative policies that protect the environment—especially the crucial elements of biodiversity—and encourage economic growth is now. This bill would create policies that do just that. The legislation promotes the protection and sustainable use of tropical forests and ensures that both developing countries and U.S. institutions and companies receive the resources they need to make their cooperation possible. I hope my colleagues will agree that the time has come for this type of legislation and will join me as cosponsors by calling the Subcommittee on Western Hemisphere Affairs on extension 6-7812.

A summary and the text of the legislation follow:

WESTERN HEMISPHERE ENVIRONMENTAL COOPERATION ACT

What this bill requires—

The establishment of a Western Hemisphere Biodiversity Cooperation Program to assist nonprofit organizations in Latin America and the Caribbean in preserving biological diversity and enhancing its economic value.

The establishment of a Western Hemisphere Biodiversity Cooperation Grants program to encourage agreements between these organizations and U.S. institutions that are interested in the potential applications of biological resources.

A study of the feasibility of establishing a Western Hemisphere Environmental Partnership to promote hemispheric technological cooperation on environmental problems.

The Western Hemisphere Biodiversity Cooperation Program will provide assistance to Latin American and Caribbean nonprofit organizations for—

Cataloguing and studying biological reserves;

Preparing data bases of resources that can be used for conservation, scientific, or commercial purposes;

Creating institutional capacity for the organizations to negotiate, enter into, and implement agreements with interested U.S. institutions;

Advising governments on legislation that will conserve biodiversity and encourage sustainable development;

Facilitating cooperation and exchange among organizations and with indigenous peoples; and

Developing and studying the uses of biological samples that may provide sustainable economic opportunities for communities located in or near the source of the resources.

Western Hemisphere Biodiversity Cooperation Grants are small grants to nonprofit organizations in Latin America and the Caribbean for the purpose of promoting agreements with U.S. institutions that will further the purposes of the bill by—

Strengthening the capacity of the organizations to implement their agreements with U.S. institutions;

Providing for the protection of intellectual property rights and the fair and equitable sharing of benefits arising from the commercial or other use of products developed under these agreements; and

Providing for training and equipment for the nonprofit organizations.

The purpose of the Western Hemisphere Environmental Partnership is to—

Promote public-private sector partnerships to address environmental problems;

Facilitate cooperation between the United States and Latin America and the Caribbean;

Provide for training in sound environmental practices;

Develop innovative mechanisms for financing improvements in the environmental capacity of countries in Latin America and the Caribbean;

Help countries in the region to develop appropriate technologies to meet their specific environmental needs; and

Facilitate information-sharing within the Western Hemisphere on the use of environmental technologies and services to address environmental problems.

HONORING BILL CRANE, THE GREATER ROMULUS CHAMBER OF COMMERCE 13TH ANNUAL PERSON OF THE YEAR

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. FORD of Michigan. Mr. Speaker, in his inaugural address, President Bill Clinton called on our Nation's citizens to devote themselves to a season of service to their community and country. I take great pride in rising today to share with my colleagues the work of my constituent, Bill Crane, whose work to embody that community spirit is being honored next month as the Greater Romulus Chamber of Commerce recognizes him with its 13th annual Person of the Year Award.

All of us in this body know the tremendous drive and commitment it takes to run a small business; it is a formidable job that places significant demands on one's time. Bill Crane, of Romulus, MI, is a remarkable man indeed. In addition to being the owner of his own successful small business, Bill Crane has given freely of his time in dedicated service to his community and his neighbors.

We in southeast Michigan are extremely proud of the new Romulus Veteran's Memorial. Its construction was a monumental task, and a credit to the work of many in our community. Bill Crane, more than anyone, is responsible for the successful completion of that memorial to our Nation's fighting men and women. Bill's time, his drive, and talent serving as chairman of the Rotary Club's Veterans Memorial Fund Drive guided that project from its earliest beginning to its successful dedication to the Greater Romulus community on July 4, 1992.

Bill's accomplishments read like a laundry list of community involvement and caring. In addition to serving on several local citizen committees, he has lent his talents to the Rotary Club, where he has been director and president and a member of the club's college scholarship committee; the Romulus Downtown Business Association, of which he is a past president; he served as chairperson and longstanding member of the Downtown Development Authority. Bill has served on the Romulus Festival Committee; he is a member and past president ofthe Romulus Chamber of Commerce; he has participated in Romulus' Partnership in Education Program, and sponsored numerous sporting events in our area.

Mr. Speaker, when his neighbors have needed him, Bill Crane has been there to share his talent and his energy. He is a pillar of our community, and we in southeast Michigan are proud of him. His selfless commitment to his neighbors is a credit to him, and a shining example of public service to be honored and emulated. I take great pleasure in offering my congratulations to him on his much-deserved selection as the Greater Romulus Chamber of Commerce 13th Annual Person of the Year.

AZERBAIJAN MUST END ITS BLOCKADE OF ARMENIA

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. SWETT. Mr. Speaker, I first wish to thank Mr. BONIOR for calling upon Members of Congress to speak out on the situation in Armenia. I have long shared his concern for the Armenian people. Last May I spoke out regarding the ongoing violence being leveled against the Armenian people by their neighbors in Azerbaijan. I warned of the possible consequences the Armenian people could suffer if the violence was not stopped and the blockade lifted. I called upon then-President Bush to rally the international community to put an end to this nightmare.

That was last May. We are now in the dead of winter and, if anything, the situation is dramatically worse. This insidious blockade, which is now in its fifth year, has left Armenia to face a harsh Caucasus winter without heating fuel, electricity or a safe water supply. Tens of thousands of people in Armenia—many of them refugees from anti-Armenian violence in Azerbaijan, or those left homeless following the 1988 earthquake—are at risk of death by exposure and starvation unless the blockade is lifted.

This is not the first time the Armenian people have endured privation in defense of their traditions and their independence. From the times of Alexander the Great, Armenia has continuously suffered the indignities and sorrows of invasion. Now, the Armenian people are again being subjected to outside aggression.

It is important that the Armenian people not stand alone in the face of today's threat. I am heartened by the January 21 resolution passed by the European Parliament. I applaud Turkey's announcement that it will allow humanitarian aid to pass through its territory to the people of Armenia. Moreover, it has—since the passage last October of the Freedom Support Act—been the policy of this Nation to restrict United States aid to Azerbaijan until it has taken demonstrable steps to end its blockade against Armenia and Nagorno Karabagh.

We must, however, go beyond all of this. Last May, I reminded this institution that every great journey begins with a step. Well, we have embarked upon this great journey. We have taken that first step. Now, it is time to take our second.

Mr. Speaker, as we speak here today, Armenia endures a winter without fuel, water or food. Add to this picture constant shelling, sniper fire and roaming packs of wild dogs.

I call upon my colleagues, and our new administration to lead the international community in an effort to end Armenia's suffering. Let us break this recurring pattern of Armenian sorrow in world history. Azerbaijan must end its blockade of Armenia.

INDEPENDENT GROCERY FILLS A NICHE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. MICHEL. Mr. Speaker, I would like to bring to the attention of my colleagues one of my constituents, Fred Haddad, Jr., from Peoria, IL.

As a third generation store owner, Fred has made the most of his business. He admits that the business is getting tougher with the pressure from chain stores but Fred prides himself on the fact that his store has and always will be a neighborhood store that takes care of its customers.

At this time I would like to insert into the RECORD an article by Clare Howard of the Peoria Journal Star, "Chains Put Family Stores in Bind," and wish Fred Haddad well and that he may continue to have great success in his future.

CHAINS PUT FAMILY STORES IN BIND

(By Clare Howard)

For the past 74 years, Peorians have shopped at a Haddad's grocery store. Now, third-generation owner Fred Haddad Jr. says there will not be a fourth generation of family ownership.

Though both his children—David, 27, and Debbie, 23—have worked at Haddad's Super Market, 2407 W. Rohman Ave., they have other career goals. Haddad's son studied robotics and his daughter will have a career in education.

"I'm 54 years old. If the right offer came along, I'd consider it," Haddad said regarding the possible future sale of the business.

Pressure from chain stores and new super stores have taken a toll on family-run grocery stores, with just half a dozen remaining in Peoria.

Matthews Market, 1500 NE Jefferson, was shuttered last month.

"It's getting tougher and tougher trying to cope with the big stores. Our niche is being a neighborhood store. We take care of the needs of our neighborhood," Haddad said.

His grandfather opened the first Haddad's on the South Side in 1919. His father moved to a store on Nebraska and Central in the 1930s. In 1950 the store was moved to Wisconsin Street.

"I got out of the service in 1963 and started a store at 2504 Rohman. The store on Wisconsin was sold in the late 1970s. In 1981, I opened here at 2407 Rohman," Haddad said. "My dad—he's 78—still works here part time, but he defers to my judgment. We don't have differences of opinion."

He has 32 full-and part-time employees.

His current building was constructed in 1965 when the Chicago-based Jewel food stores tried to make an incursion into central Illinois.

"They came to Peoria with a Chicago atmosphere and ended up closing in 1970," Haddad said. He purchased the building in 1978 and rented it to the U.S. Postal Service until 1981, when he moved from his 3,600-square-foot building into the current 12,000-square-foot store.

Sales volume doubled from $30,000 a week in 1981 to the current level of $60,000 a week—more than $3 million a year. Growth is steady but not spectacular, he said.

To stay competitive, Haddad said he buys at carload prices as the bigger stores do. He put in a deli and two years ago added a bakery for $30,000. Women start baking at 3 a.m. and work until 9 a.m. five days a week.

His deli generates 9 percent of sales, while the national average is 4 to 5 percent, he said. In 1988 the store added computerized scanners to its three checkout lanes at a cost of about $30,000.

About five years ago he added entrees in microwavable containers to keep pace with working parents and changing family lifestyles.

"There will always be a place for independent stores that cater to niche markets," Haddad said. "But to open a store like this today would be $5 to $6 million."

He used to burn his cardboard boxes. Now the cardboard must be baled and hauled away. Cost for all the business's disposals now runs about $8,000 a year.

"That shows up on the P&L statement," he said. "There is a place for government regulation, but if we get a soda bottle deposit and we have to collect dirty cans, that could give us a sanitation problem. I'm not sure how we'll get rid of the cans. It could be a hellish sanitation problem.

"The grocery business is recession-resistant because people have to eat. But with a Cub store coming in—that's a concern."

Haddad works from 7 a.m. to 6 p.m. six days a week.

"That's required if you're in business for yourself," he said.

A SPECIAL SALUTE TO THE NATIONAL BLACK NURSES' ASSOCIATION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. STOKES. Mr. Speaker, I am pleased to rise to salute the National Black Nurses' Association, Inc. Today, members of this notable organization from around the country are gathered on Capitol Hill for the annual observance of "National Black Nurses' Day." I take particular pride in the fact that the organization has its founding in my congressional district. It was in 1971 in Cleveland, OH, that a group of nurses began working together to address the health care needs of the African American community.

The National Black Nurses' Association now boasts 61 chartered chapters, is located nationwide and reaches approximately 130,000 nurses from the United States, the Eastern Caribbean and Africa. The organization is under the direction of its president, Dr. Linda Burnes Bolton, an outstanding researcher and educator. Dr. Bolton serves as director of the department of nursing research and development at Sedars-Sinai Medical Center in Los Angeles. The organization can be proud of the strong leadership this dynamic individual brings to its efforts.

Since its founding, the mission of the National Black Nurses' Association has been to provide a forum for collective action by African-American nurses to "investigate, define and determine the health care needs of African-Americans and to implement change to make health care available to African-Americans and other minorities." I should note that the National Black Nurses' Association is also committed to excellence in education. The organization provides continuing education programs for nurses and allied health professionals throughout the year, as well as annual scholarships for students.

Mr. Speaker, earlier today I hosted a press conference with members of the National Black Nurses' Association. During the press conference, it was announced that the organization's 1993 legislative effort will be targeted at reducing violence in African-American communities. Using the theme, "Strengthening the African American Family: A Strategy for Reducing Violence in African American Communities," the Black Nurses' Association has pledged its efforts to strengthen the family and implement strategies to reduce the incidence of violence in communities.

As health care professionals on the front line in this campaign against violence, members of the Black Nurses' Association are all too familiar with the tragic incidents of violence and its impact on our children and families. I am pleased that the National Black Nurses' Association has decided to help champion efforts to educate our community about the issue of violence. I look forward to working with the membership on this critical issue.

Mr. Speaker, as chairman of the Congressional Black Caucus Health Braintrust, I am proud of my close association with members of the Black Nurses' Association. As the organization observes "Black Nurses Day," I ask that my colleagues join me in a very special salute to the National Black Nurses' Association.

ILLEGAL IMMIGRATION: A FEDERAL PROBLEM, A LOCAL BURDEN

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. CUNNINGHAM. Mr. Speaker, the people of San Diego County are bearing a disproportionate share of the burden of this country's problem with illegal immigration.

This story in today's San Diego Union-Tribune tells the tale of this crisis in just one area—health care. Include the impacts of illegal immigrants on San Diego County's schools, law enforcement, and social service agencies, and the total burden illegal immigrants impose on San Diego County taxpayers totals an astounding $145 million per year, according to a recent report from the California State auditor general.

Illegal immigration is a Federal problem and a Federal responsibility. I submit the following news article for the permanent RECORD of the Congress of the United States.

[From the San Diego Union-Tribune, Feb. 4, 1993]

MOST HEALTH FUNDS GO TO MIGRANTS

(By Rex Dalton)

Over the past 11 years, the county has spent about two-thirds—$43.3 million—of its funds for emergency medical services for the poor on undocumented immigrants and foreign citizens, county records show.

The money is part of $67.7 million the county has paid to UCSD Medical Center since 1981 under a special contract to meet state requirements that there be an emergency safety net for indigent patients.

The contract is the county's largest health-care program.

County officials, faced with an ongoing budget crisis, want to renegotiate the UCSD contract, arguing that local government should not have to pay for emergency care provided to undocumented immigrants and non-citizens since control of the international border is a federal responsibility.

A breakdown of the residency/citizenship status of patients using the emergency service in the first six months of 1992 found that 36 percent were undocumented immigrants residing in the county; 24 percent were foreign citizens primarily living in Mexico or Latin America; 22 percent were lawful U.S. residents living in the county; 18 percent were lawful U.S. residents not living here.

"When we are cutting off health-care services to legal county residents, but providing (money for health care) to foreign nationals, it is absurd and immoral," said Brian Bilbray, chairman of the county Board of Supervisors.

"We could have provided free prenatal service to every working mother in the county for what we are spending on health care for foreign nationals."

Jan C. Spencley, director of government programs for UCSD Medical Center in Hillcrest, agreed that the county is bearing an unfair health-care burden because of its proximity to the border and immigration problems. But she said the UCSD contract is preferable to the county operating its own hospital.

"The county has gotten a very good deal, as far as its obligation in treating the poor," said Spencley. "If the county was running a hospital, it would have been paying a great deal more."

Roberto Martinez, of the American Friends Service Committee, which aids undocumented immigrants, said:

"Many of these people have been here for years. They have paid billions in taxes. They have earned the right to use this program because they provide an important community service in different levels of employment. And what is the alternative? Go without health care?"

The costs for undocumented immigrant care were calculated by the staff of the county's Health Services Department last summer, just before a state auditor general's report was released Aug. 5 in Sacramento showing that undocumented immigrants were costing San Diego County taxpayers $146 million annually for public services beyond what they pay in California and regional taxes.

The state report, using estimates previously supplied by UCSD, indicated that the annual cost of emergency medical care to undocumented immigrants under the UCSD contract was about $1.8 million in 1991, rather than the $5.4 million revealed by the new county health department figures.

Sandra McChesney, the county official responsible for the UCSD contract, was told of the higher costs in a "confidential" July 14 memo from her staff.

But the Board of Supervisors didn't learn about the new cost calculations until November, Bilbray said, when it was briefed during a session that was closed because of fears that immigrant-rights advocates might take legal action to stop the county from renegotiating the UCSD contract.

The auditor general's report, commissioned by state Sen. William A. Craven, R-Carisbad, had prompted considerable debate about its examination of the impact of undocumented immigration on the county's public agencies, including law enforcement, education, social services and health care.

Various officials argued over the costs attributed to undocumented immigrants in the state report, and whether taxes that undocumented immigrants paid were sufficiently considered in determining whether they offset the use of public services.

This debate is to continue tomorrow when Craven holds a public hearing on the report at 10 a.m. in the County Administration Building in San Diego. The hearing, planned for last November, was postponed because Craven was ill.

"There are going to be a lot of people upset about publicizing those figures," said Bilbray. "Some people don't want the figures made public. No one wants to touch the subject, because it is not politically correct."

The San Diego State University researchers who prepared the auditor general's report said they were given the $1.8 million figure by UCSD's Spencley.

The figures given the auditor general were only estimates, Spencley said. "I am unclear of how we came up with such a difference."

After the Board of Supervisors learned the health department's figures, it voted Dec. 8 to let the contract with UCSD expire effective Jan. 1, 1994, as the cancellation clause allows. The county now plans to negotiate a new agreement with UCSD this year.

All the money for the contract with UCSD comes from county general funds, which are in extreme demand, officials say.

County officials hope to recast the UCSD contract, authorities say, possibly so that money spent on undocumented immigrants and foreign citizens could be used by the County Medical Services (CMS) program for the care of indigent county residents. The CMS program runs on state money but is extremely under-funded, officials say.

Since the current contract began in 1981, the county's total costs for the UCSD contract have risen from nearly $3 million annually to about $9.9 million last year, records show.

During the last 11 years, the percentage of patients who were undocumented immigrants or foreign citizens not residing in the county ranged from a high of 74.4 percent in 1986–87, to a low of 54.4 percent in 1991–92, records say.

UCSD has no control over the patients who arrive at its emergency facilities, officials noted. All patients are billed for their care, but McCheaney said only about $300,000 a year is recovered—usually in small, monthly payments made by undocumented immigrants.

County officials plan to argue during negotiations with UCSD that while they are required to treat indigents, they aren't required to treat indigents from foreign countries. San Diego County taxpayers are shouldering the burden of an immigration problem that is the responsibility of the federal government, Bilbray said.

EXTEND CIVIL RIGHTS TO GAYS AND LESBIANS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mrs. MALONEY. Mr. Speaker, I am proud to announce today my support for H.R. 431. This legislation would amend the Federal Civil Rights Act to prohibit discrimination on the basis of sexual orientation in the areas of housing, employment, public accommodations, and Federally assisted programs.

For critics who insist such legislation will never succeed in the U.S. Congress, I urge them to consider action taken earlier this week by the State assembly in Albany, NY.

It is no secret how contentious and difficult the New York State Legislature can be. Yet last Monday—February 1, 1993—the State assembly, led by Assemblyman Steven Sanders from Manhattan, voted overwhelmingly to extend civil rights protection to gay men and lesbians in employment, housing, public accommodations, education, and credit. The vote was not even close, 90 to 50.

As Assemblyman Sanders noted, passage of the bill by the State assembly marked the first time such legislation has succeeded in either the assembly or the senate since it was initially introduced in 1971.

"This historic moment culminates a 20-year battle," said Sanders.

> For the first time at the State level, the same civil rights laws that currently provide protection from discrimination on the basis of race, gender, religion, national origin and disability would protect lesbian and gay New Yorkers who are currently victimized by discrimination on the basis of sexual orientation.

During the debate, Assemblywoman Deborah J. Click spoke movingly of how she had faced discrimination as a Jew, as a woman, and as a lesbian. Before a hushed chamber, she said:

> It is incredibly important for this society to finally rid itself of the last vestiges of ignorance that leads to prejudice and bigotry. And it is bigotry that leads to violence that will destroy us all, not just those who are victims of that discrimination but the entire society.

If this bill passed the State senate, as I hope it will later this year, New York will join seven other States, including Connecticut and New Jersey, in enacting civil rights legislation to protect gay men and lesbians against discrimination.

More than 70 other jurisdictions nationwide, including 13, local governments in New York State, have passed their own antidiscrimination ordinances to protect gay men and lesbians. Indeed, in 1986, I was proud to play a role in passage of such legislation as a member of the New York City Council.

Ultimately, however, State and local ordinances will not be enough. Congress, too, must act. Every day, gay men and lesbians face hostility and prejudice based on their admitted or perceived sexual orientation. Indeed, every day as many as 25 million Americans live with the possibility that they could be fired from their jobs or evicted from their housing without legal recourse because they are gay or are perceived as gay.

This country was founded on the principle that Americans can work and live together despite our differences. Justice and fair play are deeply embedded concepts in our society. We must continue to press for Federal legislation to ensure that all Americans—no matter what their orientation—can enjoy the fundamental freedoms all of us hold sacred.

TRIBUTE TO THE VILLAGE OF TINLEY PARK

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. LIPINSKI. Mr. Speaker, I am pleased to rise today to recognize the citizens of Tinley Park, IL, as they celebrate the centennial anniversary of the village's establishment.

The village of Tinley Park was incorporated on June 28, 1892, and named for Samuel Tinley. Mr. Tinley came to Illinois from England and played a major part in the development of the village. Although the community in that area was predominately German, the residents chose to name the village for a Briton. Sam Tinley played a major role in the establishment of the rail line between Chicago and Rock Island and his community wanted to recognize his contribution.

Tinley Park has a rich heritage that has been preserved for enjoyment today. An apartment building has been listed on the National Register of Historic Places, and several homes and other buildings have been identified in the Illinois historic structures survey. The village of Tinley Park has designated the area of the 1892 village boundaries as a local historic district. Through the Tinley Park Historic Preservation Commission, property owners within the district are encouraged to preserve and restore their structures to their historic appearances.

The village of Tinley Park celebrated its centennial ball on Saturday, January 23, 1993. This event marked the culmination of a year of centennial activities. I urge my colleagues to join me in congratulating the residents and elected officials of Tinley Park on this historic occasion. I know they all look forward to another century of accomplishment.

Mr. Speaker, as I stand today to acknowledge the village of Tinley Park, I wish to recognize the members of the village board, the Tinley Park Historical Society, and the centennial commission. I ask my colleagues to join me in thanking the individuals listed below for their tremendous contributions.

VILLAGE OF TINLEY PARK

VILLAGE BOARD

Mayor: Edward J. Zabrocki.

Clerk: Frank W. German, Jr.

Board of trustees: Kenneth J. Fulton, Gregory J. Hannon, Edward J. Matushek, Patrick E. Rea, David G. Seaman, Carl J. Vandenberg.

TINLEY PARK HISTORICAL SOCIETY

Board of directors: Kay Wolfe, Chair, Patrick E. Rea, Dr. Robert Kovarik, Walt Jagiello.

Officers: Brad L. Bettenhausen, President, Scott Mason, Vice President, Mary Kay Rady, Secretary, Marian Block, Treasurer, Marilyn Halpin, Museum Administrator.

CENTENNIAL COMMISSION

Jerry Meyer, Chairman, Bob Mason, Planning Chairman, Kay Wolfe, Dorothy Fulton, Ronald Wagner, Diane Nagel, Robert Funk, Frank Kurzawa, Gail Walus.

Ex-officio members: Frank W. German, Brad Bettenhausen, Corrine Deinert, Edward Gregory, Joanne Pierce, Pat Radecky.

IN MEMORY OF FRITZ HENLE

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. DE LUGO. Mr. Speaker, the Virgin Islands has lost one of its most well-known and revered citizens, master photographer Fritz Henle. Through the eye of his camera lens, Fritz Henle captured thousands of images of his adopted home and her people. He had the gift of unequaled composition and the subtle use of light and balance of color that, in a lifetime of practicing his craft, showed his deep love and respect for the Virgin Islands and portrayed as no other ever has the mood, the mystery, and the magic of our unique place on this planet.

Fritz Henle chronicled the Virgin Islands for nearly four decades. He was among the first to explore the true wealth of culture and the incomparable natural beauty that is the Virgin Islands and present them to the world. He created portraits of our people from all walks of life, images that have suspended in time moments that, thanks to his art, will stand forever for all to see.

Mr. Speaker, I ask that an editorial that appeared in the February 3 St. Croix Avis paying tribute to Fritz Henle be made a part of the CONGRESSIONAL RECORD.

[From the St. Croix Avis, Feb. 3, 1993]

TRIBUTE TO FRITZ HENLE 1910–93

If a picture is worth a thousand words, Fritz Henle of St. Croix could easily have the whole world talking.

Henle, 83, has been seeing the world through the lense of a camera for seven decades and was widely known for his unwavering ability to forever capture life on film.

Browsing through mounds of images from his home high atop Little Princess Hill last fall, one is easily mesmerized by Henle's rare ability to catch human emotion and the exact spirit of the moment.

Born in Dortmund, Germany, Henle worked as a Life magazine photographer during Adolph Hitler's terrifying rise to power. He photographed Paris in a tense time before the onslaught of World War II.

His pictures have brought to life pages of Harper's Bazaar, Town and Country, Mademoiselle and many other national publications. So far 21 books of his work have been published.

He attributed his fortune to a God-given gift.

"It all starts with the eyes," he said while relaxing in his comfortable den. You translate your vision through the lens of a camera and have the final image.

"If you don't have the ability to see, it becomes difficult," he said. "I have the gift to see. Fortunately, there are wonderful cameras with which to translate this gift."

Henle came to St. Croix beginning every winter in 1948 on assignments from various publications. "I never wanted to tie myself down," he said. It was during those visits that he fell in love with the island.

His work depicts early times in not only St. Croix, but all other Caribbean Islands.

"When I came to this island, things were very quiet and relaxed," he said. "I felt I could be creative here and that hasn't changed."

When asked where he hasn't been, he answered, "Australia and Indonesia. I've never been to those places."

Working with administrators at the University of Texas in Austin, Henle was building his archives housed in the Michener Gallery of the school's Humanities Research Center.

"It has progressed through the years," he told AVIS Assistant Editor, Billy Vaughn last fall. "There, one can see a complete collection of all of the negatives from 1928 to the present," he said.

"I'm working on a show now depicting the best images of my lifetime," he said, adding that show, to be held in 1994, is planned for Dortmund, his hometown."

The shutters of his faithful Rolleiflex 6600 clicked for the last time on Sunday, Jan. 31, 1993 when he died peacefully at a hospital in San Juan.

He leaves to mourn his wife Marguerite and their three children.

Fritz Henle was a titan and a genius among photo-artists. His genre of black and white and color photography will be sadly missed. But we have to cherish the tens of thousands of frames dating back over almost seven decades that he has left behind. His mastery of black and white imagery on film and paper will live on.

NATIONAL GIRLS AND WOMEN IN SPORTS DAY

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mrs. SNOWE. Mr. Speaker, the accomplishments of today's girls and women in sports surpass the dreams of women a generation ago. While young men were praised and exalted for their physical prowess, young women were praised for the traditional feminine characteristics—which did not include firm muscles. But the determined efforts of women and girls across the country have changed that. Women have steadily evolved from mere spectators of athletic activity to world-class, champion athletes.

In 1992, for example, Lyn St. James was the 1992 Indy 500 Rookie of the year. In last year's winter Olympics, Donna Weinbrecht brought back a gold medal in skiing, and Kristi Yamaguchi won a gold medal in skating.

These women represent the highest American ideals: dedication and hard work, perseverance in the face of adversity, and a commitment to do their very best.

In addition to these outstanding achievers, all women who are involved in sports deserve recognition. Countless girls and women invest considerable time and effort preparing for athletic endeavors. They work very hard, practicing, playing, and coaching in fields, courts and gymnasiums across America. While they may not win gold medals, they learn the importance of perseverance, hard work, physical health, commitment and teamwork. They gain the skills that enable them to become the exemplar parents, entrepreneurs, educators, business executives, and political leaders that keep our Nation competitive in a global society. All women in sports make remarkable contributions, and we can do no less than show our appreciation for them today.

National Women and Girls in Sports Day was conceived as a way to celebrate the tremendous progress of women in sports, to encourage women and girls to participate in sports, and to continue to work for equal opportunity in athletic programs.

While women have made significant strides, there is still much to be done. We must recognize that women have greater athletic opportunities than ever before while remembering that women still have challenges ahead. For example, according to the NCAA Gender Equity Study released in March 1992, division I schools award only 30 percent of their athletic scholarships to women. Furthermore, they spend over three times as much money on men-only sports as on women-only sports. Inequities still exist, and we must work together to resolve them.

Recognizing women and girls on this commemorative day does much to reduce these inequities, by drawing attention to women's accomplishments and inspiring countless youth. I congratulate women and girls in sports on their achievements, and thank them for leading the way for millions of young women to follow.

PRESIDENT CLINTON CAN STAND UP FOR SMALL BUSINESS TODAY

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mrs. MEYERS of Kansas. Mr. Speaker, I take this opportunity to share with our colleagues a copy of a letter I sent to our new President last week. In that message, I recommended to President Clinton three administrative changes he could implement immediately and unilaterally to help defend and advance the interests of our Nation's 20 million small businesses and their employees.

They are: First, create a Cabinet-level Department of Small Business, as echoed in H.R. 625; second, strengthen the Regulatory Flexibility Act; and third, create a small business post in the office of U.S. Trade Representative.

Since the letter discusses these issues in detail, I will not elaborate here. Let me emphasize to our colleagues, however, that these proposals will not burden the taxpayers, increase the bureaucracy, or require legislation. They will, however, help the White House formulate better policies and regulations which, in turn, will help small enterprises create the jobs, products, and services America needs.

Mr. Speaker, I urge my colleagues to review the letter and join with me in promoting the interests of our country's most innovative and productive enterprises—small businesses. I insert the text of the letter in the Record at this point:

House of Representatives,
Washington, DC, January 28, 1993.

The President,
The White House,
Washington, DC.

Dear Mr. President: I write today to respectfully recommend several administrative changes you can implement immediately and unilaterally to help protect and promote our nation's small businesses.

As you know, small enterprises create more new jobs, products and services than any segment of society, so the success of our economic recovery and growth rests mightily on the shoulders of the men and women who personify the entrepreneurial spirit. On their behalf, on behalf of the workers they employ, and on behalf of the entrepreneurs of tomorrow, I hope you will give these suggestions your serious consideration.

CREATE A CABINET-LEVEL DEPARTMENT OF SMALL BUSINESS

As I'm sure you know, there are very few economic programs, tax policies, or regulatory issues that don't affect small businesses and their employees in ways both large and small. Yet when your top advisors meet to discuss and debate these topics, to chart a course for our country, your top small business authority will not be at the table under the current organization.

To put this in perspective, let me note that when the cabinet discusses issues affecting the country's 3,500 colleges and universities, the Secretary of Education is there. When those policies affect our nation's 7,000 large businesses, the Secretary of Commerce is there. And when those policies could change how our nation's two million farms do business, the Secretary of Agriculture is there to advise you, and rightly so.

But when those policy discussions and decisions could alter the operations of our country's 20 million small enterprises, there is no Secretary of Small Business to offer his or her opinion.

Now, I'm not suggesting that cabinet secretaries are captives of their constituencies. I am suggesting, however, that they serve the vital function of knowing how ideas born in the rarified air of Washington will take root and grow in the real soil of the everyday world, for better or for worse.

Good decisions require good, complete information. But when it comes to how your policies or programs will affect small enterprises and their ability to create jobs, you and your cabinet will be at a decided disadvantage—as will 20 million small businesses.

Elevating the Small Business Administration to a cabinet-level department does not increase the bureaucracy, and the rewards to you and to our nation in formulating sound, informed policies will be great.

STRENGTHEN THE REGULATORY FLEXIBILITY ACT

According to a study by Professor Thomas Hopkins of the Rochester Institute of Technology, the cost of government regulation and paperwork is at least $400 billion per year, and this is over and above the administrative costs to taxpayers. While some regulation is necessary to protect the health and safety of our fellow citizens, there is no doubt in anybody's mind that much of it is superfluous, if not just plain silly.

The cumulative effect of government regulation and paperwork is killing small businesses and the incentives to start them. This government is closing the doors of new and existing enterprises to workers and customers alike—and in the process it is blocking our route to economic recovery and prosperity.

A fast and effective solution to this pernicious problem is to enforce and expand the federal Regulatory Flexibility Act.

As you know, this law requires each federal agency to review every proposed rule for its effect on small businesses and try to develop a less onerous regulatory compliance system for small firms. Further, it requires agencies to review all their regulations every 10 years to see if they are still needed or if they could be changed to lessen regulatory burdens.

However, this act has been observed more in the breach than in the practice. Fortunately, you can reverse that trend by requiring your agencies to observe the letter and spirit of the law and by empowering your Small Business Chief Counsel for Advocacy to see that they do. Further, you can direct your agencies to undertake and complete the 10-year review, which is now more than two years overdue.

CREATE A SMALL BUSINESS POST IN THE USTR

Forward-looking thinkers agree that the ability to expand our economy, create opportunities, and raise the standard of living for American workers rests in our ability to expand our export markets abroad.

If past is prologue, we must note that from 1986 to 1990, U.S. merchandise exports contributed 40 percent to the rise in our Gross National Product. In 1990 alone, about 84 percent of GNP growth was due to exports. All these trends are accelerating.

While this is good news, we must also recognize that we haven't even tapped our potential. In fact, our current trade policies may well be blind—and thus an impediment—to the largest source of exporting opportunities ever seen: small business.

If small business is the fastest growing segment of our domestic economy, it follows that small business should be the fastest growing source of exports. Yet this is not the case.

Consider this: Only about 100,000 U.S. firms are now actively exporting, and less than 2,000 firms, or one percent of U.S. businesses, account for 70 percent of U.S. exported manufactured goods. Indeed, just 100 U.S. companies account for about 50 percent of all U.S. exports of such goods. To me this suggests that the focus of our trade policy is far too narrow.

Indeed, fully 90 percent of the American manufacturers that are capable of exporting are of small and medium size. We have to ask: why aren't they exporting? Could our government be sinfully neglecting a tremendous promise of opportunity and growth?

I suspect it's a problem of vision. The large, obvious, more glamorous issues affecting our nation's two million farms and 7,000 big companies command a great deal of attention, and there is nothing wrong in this. But there may well remain 1,000 or 2,000 little issues down in the trenches of trade policy and negotiation that are stifling the ability of small enterprises to export to other countries—minute barriers and problems that aren't easily seen on the radar screen, much less highlighted in seminars and in the press.

Worse still, it is the smaller companies, the hi-tech, "niche-market" enterprises, that have the least amount of time, money, and political sophistication to ferret these problems out and press for a solution. More than any other segment of our economy, they must depend on our trade negotiations, their government, to identify and destroy these barriers.

Yet within the office of the United States Trade Representative, no one is assigned exclusively to the crucial task of protecting and promoting the interests of our 20 million small enterprises and working with other countries' small business advocates.

By simply creating an Assistant Trade Representative for Small Business, you can take the first step towards new horizons for U.S. exports.

SMALL BUSINESS REPRESENTATION ELSEWHERE

"Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficial," Justice Louis Brandeis wrote, and for small businesses this is especially true in the arena of mandated benefits of any kind.

I am confident, then, that I accurately express their severe disappointment that your health care task force excludes the views and concerns of small enterprises from this vital policy discussion. Without putting too fine a point on it, how can you in all good faith include the Department of Defense and yet shut out small enterprises? This is an egregious offense.

In this same disturbing vein, your National Economic Council also excludes small enterprises. Other than the President and Vice President, the council includes 16 representatives from all corners of the government, yet not one of them could remotely be considered a voice for the small business community. This, too, is appalling.

Mr. President, as Winston Churchill observed, some see private enterprise as a predatory target to be shot, others as a cow to be milked, but few see it as a sturdy horse pulling the wagon. I think it is incumbent on our government to see in small business a very sturdy horse and to do all we can to smooth the path the wagon rides on.

I look forward to working with you to help our nation's small businesses and their employees prosper. In the meantime, thank you for your time and consideration.

Sincerely,

JAN MEYERS,
Ranking Republican Member,
Committee on Small Business.

THE INSTITUTE ON MINORITY HEALTH ACT

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mrs. COLLINS of Illinois. Mr. Speaker, the statistics confirming the inferior health status of America's minority populations continue to accumulate. It has become clear in recent years that African-Americans, Hispanic-Americans, Native Americans and, in some cases, Asian- and Pacific-Americans suffer disproportionately from an array of health conditions. For example,

Heart disease and strokes lead to about two-and-a-half times as many deaths among black Americans—between the ages of 25 and 44—as among white Americans;

The prevalence of diabetes is twice as high among Mexican and Puerto Rican Americans as among white Americans;

Black and Hispanic women account for 73 percent of the reported cases of AIDS among American women, and the death rate from AIDS is nine times higher among black women then among white women;

Between 1983 and 1985, when the infant mortality rate among whites was 9 deaths per 1,000 live births, the infant mortality rate among blacks was 18.7 and 13.9 among Native Americans, with similar disparities among rates of low-birthweight babies; and

In 1988, when the rates of death resulting from homicides was 8 per 100,000 among young—(ages 15 to 24)—white males, the rate among young black males was 59 per 100,000, and the rates for young Hispanic and Native American males was roughly two to three times that of young white males.

Unfortunately, while there has been an influx of information, efforts to address these problems have not kept pace. There have been some positive changes, but we can do more. We must do more. Change must occur on all levels, through Federal, State and local governments, at universities, in pharmaceutical and other laboratories, and in hospitals and doctors' offices nationwide. Change must feature a new attentiveness to particular medical conditions, susceptibilities, access limitations, and reactions to treatments that minorities experience.

It can no longer be assumed that the entire American population has one uniform set of health care needs and medical responses. The myth of uniformity has led, over the years, to certain needs being unsatisfied, and certain responses going unnoticed or unexplained. No longer can we ignore the biological and socioeconomic diversity of our Nation. We must, instead, become sensitive to ethnic, racial, and cultural factors in the practice of medicine and the full range of health sciences, and we must accommodate those characteristics.

In furtherance of these objectives, today I am introducing the Institute on Minority Health Act. This bill would create an Institute on Minority Health within the National Institute of Health [NIH] which would be on the same level as the existing institutes within the NIH.

The Institute on Minority Health that is called for in my bill would consolidate and coordinate various efforts to advance minority health, to ensure that minority health concerns are accommodated wherever appropriate. It would be able to award grants for research and education projects and influence other branches of the NIH to ensure that the needs and concerns of minorities are taken into account in projects under their authority.

It would be able to play a similar role with respect to research in the private sector and at universities. This is especially important in light of revelations that clinical trials for pharmaceuticals often have failed to include minorities in the population being studied or tested, even though they may experience reactions, side effects, or success rates that are different from those of the general population.

The Institute on Minority Health would also be able to help address the shortage of access of medical care that African-Americans, Hispanic-Americans and Native Americans commonly experience. It could do so by developing programs to increase opportunities for minorities as health professionals and then by recruiting, training, and placing individuals in those positions. Since minorities are more likely than nonminorities to establish and maintain their careers in predominantly minority-populated areas, increasing the numbers of minority health professionals in a critical link in the advancement of health care for these communities.

The Institute would also serve the vital function of representing minority health considerations with regard to the new national health care delivery system that is expected to be established under President Clinton. There are certain to be numerous factors concerning access to and the cost of health care that must be adapted to the unique needs of minority populations, and those issues must be fully considered in the process of structuring the new system.

In short, Mr. Speaker, we are at a unique time when we can enact measures, such as the Institute on Minority Health Act, that will spark comprehensive, effective advancement of minority health, rather than settle for the piecemeal approach of the past. As the current shortcomings are profound, our remedies must be bold. The establishment of an Institute on Minority Health would be an important milestone in this effort and, therefore, I urge my colleagues to join me in support of this initiative.

THE GALLATIN RANGER CONSOLIDATION AND PROTECTION ACT

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. WILLIAMS. Mr. Speaker, I rise today to introduce the Gallatin Range Consolidation and Protection Act. This legislation consolidates checkerboard lands in Montana and was included in the Montana wilderness bill that passed this body last session. It is being presented by itself today because of a public lands crises that is looming in Montana if this legislation is not adopted by this spring.

Just north of Yellowstone National Park the Gallatin Range connects to the other mountains of the Yellowstone ecosystem like a spoke in a wheel. This range was not protected when the park was set aside. Every other section of the area was granted to the railroad to encourage the trans-America rail construction. This range's importance to the integrity of Yellowstone has never been questioned and it has essentially remained wild since. This range is the home of the largest elk herd in America along with countless other species including the endangered grizzly bear. The range also is the headwaters of some of the most pristine streams and rivers anywhere in this Nation.

The first attempt to consolidate these lands occurred in 1925 and since then there have been many attempts to consolidate the Gallatin Range into public ownership. The Federal Government has already spent more than $12 million to acquire elk winter range and the House of Representatives has held hours of testimony on the importance of these lands. The House has passed three bills to complete these land trades and purchases but still the range remains chopped up in checkerboard land ownership.

In 1988, both the House and the Senate passed a consolidation within a larger wilderness bill but it was vetoed by President Reagan. Following that veto, the railroad sold its land to a private timber company to avoid a hostile takeover and the company has since again sold the lands to several new owners interested in timber and development. Part of the new sale arrangement requires that timber be provided off the private lands and so now we face a serious problems if we do not solve these intermingled lands problem by the time the contractual harvest is necessary. The days of gracious corporate neighbor in and around the Gallatin are over and increasingly important recreation lands will be subdivided, posted off limits, or sold for private hunting rights if this legislation is not signed into law.

I helped bring the various parties together last year and we hammered out this agreement. Without this agreement in the Gallatin, we face a June deadline or the company will enter and log the National significant porcupine drainage, with the public losing precious recreation opportunities and scarce public access. I am committed to seeing this does not happen and I am hopeful that we can move quickly to assure these lands are brought into public ownership. The local landowners are in agreement, conservation organizations and local environmentalists are in agreement, the Park Service and Forest Service are in agreement and all we need now is for the Congress and the President to act. This opportunity, dreamed of since 1925, must not be lost.

THE DISTRICT OF COLUMBIA NOTIFICATION ACT

HON. ELEANOR HOLMES NORTON

OF DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Ms. NORTON. Mr. Speaker, today I am introducing legislation that will not only benefit residents of the District of Columbia but, I believe, is likely to benefit the Federal Government as well. When the Federal Government takes action that substantially impacts District neighborhoods either by physically altering the environment or by transferring title of land or leaseholds from a local to Federal entity, tension is sometimes created, which this bill will go a long way to alleviate.

The bill requires that before carrying out an activity that affects property in the District of Columbia, Federal agencies give prior notice to the Major, the chair of the city council, and the chair of the appropriate advisory neighborhood commission. This notice must be received at least 60 days before the activity is carried out, except in cases where the Government certifies that emergency conditions exist.

Recent local experiences speak to the need for, and value of, this measure. In some instances, the residential character of neighborhoods or local zoning ordinances were disregarded to accommodate a move or action taken by a Federal agency. Granting an opportunity for objections, however, is not the only value to this measure; my bill would guarantee a vehicle for suggestions that could benefit the Government. In fact, in many cases, there has been no local objection to a facility or to some other change in the physical environment, ownership of land or leasing of property, but there has been frustration over the lack of a structured process to present suggestions. In many instances, needless resentment could have been avoided, disputes resolved and Government delays prevented if a structured opportunity to consult with District residents had been available.

The bill does not seek veto power over Federal facilities, and, of course, none would be possible. Residents of local communities, however, are those who know their communities best, and we have seen obvious benefits to the Federal Government when local consultation has been sought before the eleventh hour. The most recent example of fruitful consultation is the resolution of the dispute surrounding the Library of Congress' purchase and renovation of what was formerly Saint Cecelia's School on Capitol Hill. With the cooperation of the Librarian of Congress, the Architect of the Capitol, the civic associations, and concerned citizens, we were able to work out the details to the satisfaction of all parties. Moreover, the fact that the Government bought and refurbished an abandoned building for the purpose of creating a day-care facility for Government employees is of significant benefit to the District of Columbia.

My bill provides the opportunity for rational problem-solving between two jurisdictions that benefit from peaceful cohabitation. The moderate 60-day notice period my bill requires is a courtesy that residents of the District of Columbia should be granted whenever the Federal Government moves beyond its natural parameters. My bill is designed to facilitate Government action without tension and with respect for all concerned.

CAVE CREEK CANYON PROTECTION ACT OF 1993

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. KOLBE. Mr. Speaker, it gives me great pleasure today to reintroduce the Cave Creek Canyon Protection Act of 1993. Last year, a similar bill ran out of time, even though both the Senate and the House passed the bill. Unfortunately, the Senate did not pass the bill until the final hours of the 102d Congress, at which time the House had already concluded its business. That was a particularly regrettable outcome because the bill had no known opposition. It was supported at all stages of the legislative process, and it is easy to understand why.

To understand the importance of this withdrawal, I only wish my colleagues could visit this magical part of southeastern Arizona. I grew up near this area. For years, I have enjoyed the spectacular beauty of the Chiricahua Mountains. Cave Creek and Portal, on the north side of the mountains, have been, until now, one of the best kept secrets among the many natural wonders in this country. This place really is magnificent.

What makes this area special? Simply put, Cave Creek Canyon is unparalleled in its diversity of species and plant life, its value to scientific researchers and recreational users, and its breathtaking beauty.

There is bio-diversity unlike any other area of comparable size in the United States. Cave Creek is home to endangered species such as the peregrine falcon, the desert tortoise, and the sanborn long-nosed bat. Javelina, jaguar, and jaguarundi are known to frequent the area. Birds of all stripes and color also call Cave Creek home.

There are 13 species of hummingbirds and 12 species of owls, alone. That is more variety of hummingbirds than found anyplace else in the United States. The 50 trogons that use the canyon for breeding comprise half the U.S. population of this colorful tropic species. Thick-billed parrots, not found any place else in the United States, are flourishing in the friendly confines of the canyon. Over 330 species of birds have been recorded in the area. This area is considered by many to be the single best birding spot in the country.

But we do not have to look to the sky over Cave Creek to find unusual, astonishing animal species. There are the exotic chiricahua leopard frogs, the green rat snakes, the yaacqui black-headed snakes, and the blue-throated hummingbirds that occupy the canyon * * * and on and on. Studying the area's plant and animal life is like looking in a Who's Who of rare and exotic species.

There is more to the canyon than rare and exotic plants and animals. The scientific value of the region is immeasurable, resulting in almost 1,000 disparate scientific publications, many outlining new discoveries in ecology, toxicology, and evolutionary biology. For example, research on scorpion venom is being conducted at Cave Creek to determine its possible use in treating human neurological diseases. The presence of the Southwestern research station of the American Museum of Natural History has played a significant role in much of this research. It is not a stretch to say that this region has produced more scientific discovery and achievement than any other area in the world of comparable size.

The scenic values are also spectacular. Perhaps A.B. Gray summed up the beauty of the canyon in 1854 when he wrote in his journal:

> The view of this canyon [sic] in the morning, with the sunlight reflected from its deep recesses, and upright wall rising majestically on all sides to a height of several thousand feet, tapering like spires amid the clouds, presented a scene of grandeur and beauty.

Mr. Speaker, as those words, written 140 years ago, suggest, these lands truly are magnificent. But a lot of other public lands could fit this description as well. That does not mean beautiful scenery should automatically preclude other, productive uses of land. That is why I support multiple use of public lands. I believe that mining, grazing, recreation, among others, are valuable and legitimate uses for public lands. However, we should recognize there are some lands so unique and so special that mining activity, with its physical scarring and ecological disruption, would be inappropriate. Cave Creek is such an area.

The Cave Creek Canyon Protection Act of 1993 is a simple bill. Like its predecessor, it protects lands in Cave Creek from mineral activity. This bill is virtually identical to the one I introduced last Congress and is identical to the one that passed the Senate in the final hours of last Congress. I hope and expect this bill to enjoy the same overwhelming support that the original did.

This is especially true in light of new developments that add urgency to the need to protect the canyon. The impetus for the original bill stemmed from Forest Service approval of a plan of operations for exploratory drilling in the Cave Creek area. The plan was approved November 23, 1990, and subsequently appealed on January 7, 1991, by the Portal Mining Action Coalition. On December 21, 1990, before the appeal, Newmont decided to defer mineral activity for 1 year in order to allow interested parties to seek a withdrawal from mining activities of the area.

At the request of local residents and others in southeastern Arizona, as well as hundreds of people from around the country, I introduced the original bill in June 1991 to accomplish a legislative withdrawal of the Cave Creek area. The original bill and this bill are the product of extensive discussions with the various interested parties and would prevent only mining activity in the area. Other uses would be unaffected.

Following the introduction of the original bill, the Forest Service announced its own administrative withdrawal of Cave Creek for 2 years to allow consideration of its proposal to establish a national recreation area in the Coronado National Forest. Its proposal had included the area proposed for withdrawal in the original bill. Subsequent to that announcement, Newmont withdrew its request for exploratory drilling operations in the area.

The Forest Service, however, has shelved its national recreation proposal for the time being. Moreover, the 2-year withdrawal period is quickly expiring. On September 27, 1993, Forest Service protection will be lost, leaving the land open to development. Simply put, Congress must act and act quickly to assure protection of this irreplaceable gem called Cave Creek Canyon.

If you believe in protecting unique and spectacular areas, this bill is for you. I urge quick and favorable consideration of the Cave Creek Canyon Protection Act of 1993. And I urge my colleagues support so that this national treasure can be preserved for future generations.

INTRODUCTION OF THE ENERGY SECURITY TAX ACT

HON. WILLIAM J. JEFFERSON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. JEFFERSON. Mr. Speaker, today I introduce the Energy Security Tax Act, the companion bill to S. 254 that was introduced in the Senate by Senators J. BENNETT JOHNSTON and BOB KRUEGER. This legislation establishes a variable fee on crude oil imports, which would be triggered whenever the price of internationally traded oil drops below $25 per barrel. The fee would equal the excess of $25 over the world market price. Furthermore, an additional differential of $2.50 per barrel is provided for product imports and petrochemical feedstocks, resulting in a floor price of $27.50 for such products.

The legislation I propose will accomplish several much desired objectives. First, the oil import fee will raise an estimated $35 billion over the next 3 years, according to information supplied by the Energy Information Administration.

Second, the fee would reduce our unhealthy dependence on foreign oil, the danger of which has been made drastically clear by recent events in the Persian Gulf. In the last year alone, total imports of oil represented 46.2 percent of domestic deliveries. At the same time, according to the American Petroleum Institute, domestic production fell to 7.132 million barrels per day in 1992, 3.8 percent less than the previous year, while consumption of oil increased 1.6 percent to 16.985 million barrels per day.

Third, and perhaps most importantly, this legislation would create jobs. Our domestic oil industry is in serious trouble, having lost over 450,000 jobs during the last decade. Enactment of an oil import fee would create a more secure economic climate that would result in expanded domestic oil exploration and development.

Mr. Speaker, I urge my colleagues to join in cosponsoring this legislation.

CALIFORNIA MILITARY LANDS WITHDRAWAL AND OVERFLIGHTS ACT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. VENTO. Mr. Speaker, I am today introducing a bill, entitled the California Military Lands Withdrawal and Overflights Act of 1993.

The bill would renew the withdrawal for military purposes of certain public lands in the California Desert and would clarify the relationship between the designation of Federal lands in that area for conservation purposes and the use of other lands and associated airspaces for important military training and testing.

The provisions of this bill are identical to those included as title VIII of H.R. 2929, the California Desert Protection Act, by the Vento-Blaz amendment prior to the passage of that legislation by the House of Representatives in 1991.

I regret that the Senate did not complete action on the California Desert Protection Act during the last Congress, and I have joined in cosponsoring the reintroduced California Desert bill (H.R. 518) principally sponsored by Representative Lehman of California.

Enactment of the California Desert Protection Act is a high priority for the Natural Resources Committee—and its Subcommittee on National Parks, Forests, and Public Lands, which I chair. As in the past the matters dealt with in the bill I am introducing today should be considered in conjunction with the California Desert legislation.

For the benefit of Members background information and a summary of the provisions of the bill follows:

BACKGROUND INFORMATION AND SUMMARY CALIFORNIA MILITARY LANDS, WITHDRAWAL AND OVERFLIGHTS ACT OF 1993

Before 1958, Federal lands in California (as in other States) were made available to the military departments for bases, training areas, and other purposes through administrative or executive actions, without the need for Congressional involvement. This was done through Public Land Orders, Executive Orders, or other measures that had the effect of withdrawing lands from operation of some or all of the otherwise applicable public lands laws (such as the Mining Law of 1872 or the Mineral Lands Leasing Act of 1920) and of limiting public access.

The extent of these military withdrawals and their long duration after the end of the Second World War and the Korean conflict led to the enactment in 1958 of the law popularly known as the "Engle Act" (P.L. 85-337). Named after the late U.S. Representative and Senator Clair Engle of California, this law provides that a peacetime withdrawal of 5,000 acres or more of public lands for military purposes can be accomplished only by an Act of Congress. It also specifies that (except in certain Naval reserve areas) minerals in lands withdrawn for military purposes are under the jurisdiction of the Secretary of the Interior, but that disposition of such shall not occur in cases in which the Secretary of Defense determines that this would be inconsistent with military use of the lands.

This bill, like Title VIII of H.R. 2929 of the 102d Congress, would withdraw two extensive areas of land in Southern California that have long been used by the Navy, in a manner consistent with the Engle Act.

AREAS WITHDRAWN

The first area addressed by the bill is the China Lake Naval Weapons Center ("China Lake"), which is located on approximately 1,100,000 acres in Inyo, Kern, and San Bernadino Counties. The other area dealt with is the Chocolate Mountain Aerial Gunnery Range ("Chocolate Mountain"), in Imperial and Riverside Counties, encompassing approximately 227,369 acres.

According to the Navy, China Lake is the principal Navy center for research, development, test, and evaluation of air warfare systems and missile weapon systems. The Navy has also been actively pursuing a program of developing the geothermal resources of the area for the production of electrical power.

The Chocolate Mountain area is heavily used by the Marine Corps for training of pilots in air-to-air gunnery, air combat maneuvering, air-to-ground ordnance delivery, and related training activities, many involving use of live ordnance.

GENERAL PROVISIONS

This bill, like a similar House-passed bill of 1987, is closely modelled on the omnibus Military Lands Withdrawal Act of 1986 (P.L. 99-606), which renewed the Engle Act withdrawals for areas in Nevada, Arizona, New Mexico, and Alaska. That omnibus measure was developed through negotiations between the House and Senate in the closing hours of the 99th Congress and included a number of compromises, such as agreement on 15 years as the standard period for duration of such withdrawals (as opposed to 10 years specified in House measures and 25 years requested by the Administration).

The bill would withdraw both China Lake and Chocolate Mountain from all forms of appropriation under the public land laws, and from entry, location, and patent under the mining laws. China Lake would be withdrawn from mineral leasing but not from geothermal leasing (to accommodate the ongoing program of developing geothermal resources there); Chocolate Mountain would be withdrawn from both mineral leasing and geothermal leasing.

China Lake would be reserved for use by the Secretary of the Navy for a research, development, test, and evaluation laboratory; Chocolate Mountain would be reserved for use in testing and training for aerial bombing, missile firing, tactical maneuvering, and air support. Each area could be used for additional defense-related purposes consistent with the specified purposes.

The Secretary of the Interior would retain responsibility for management of the lands involved, including the preparation of land-management plans, except that in the case of China Lake this could be assigned by the Secretary of the Interior to the Secretary of the Navy (as is currently done).

The military withdrawal of the two areas would expire 15 years after the date of enactment. No later than 12 years after enactment, the Secretary of the Navy would be required to publish a draft environmental impact statement concerning any desired continuation or renewal of either or both withdrawals. Consistent with the requirements of the Engle Act, any continuation or renewal of either or both withdrawals would be by Congress.

The bill includes the same provisions related to decontamination of the withdrawal lands as established by the omnibus withdrawal Act for the areas covered by that Act. The Navy would thus be required to maintain an ongoing program of decontamination, to the extent that funds are made available, at least at the level of work done in fiscal 1986, with reports concerning this program to be submitted to Congress at the same time as the President's budget is transmitted.

The bill also includes the same provisions regarding procedures for requesting continuation or renewal of the withdrawal for either or both areas as were included in the omnibus withdrawal Act of 1986 and in the 1987 House-passed bill to withdraw China Lake and the Chocolate Mountain area.

Similarly, the bill's provisions regarding immunization of the United States against damages; regulation of hunting, fishing, and trapping; and delegation of authority by the respective Secretaries are all closely modelled on those P.L. 99-606.

EL CENTRO RANGES

The bill, like the California Desert Protection legislation passed by the House in 1991, also deals with additional California lands being used by the Navy, not covered by the withdrawal provisions. The public lands involved are on the west side of the Imperial Valley, and have been the subject of a series of withdrawals for reclamation purposes for many years. In 1987, the Interior Committee (now, the Committee on Natural Resources) was told that since 1954 portions of these lands had been used as target ranges by the Navy in connection with the El Centro Naval Air Station. This use was permitted by the Interior Department through a series of memoranda of understanding, even after the enactment of the Engle Act in 1958 and the Federal Land Policy and Management Act of 1976.

The Committee was told that in 1982 the Navy concluded that although the two target ranges were used only for inert ordnance, additional controls on other uses were needed. The Committee was further informed that the Navy therefore proposed to seek a withdrawal of about 290,000 acres of public lands in El Centro area—more than twice the public lands then being used under the existing arrangements. This evidently provoked controversy.

Subsequently, the Navy entered into a cooperative agreement with the Interior Department under which the Navy was to reduce its withdrawal request to 55,000 acres immediately around certain target areas, and would seek a right-of-way grant for an additional 97,000 acres to control potential conflicts between Navy activities in the area and other uses. The Interior Committee was told that the Navy and the Department of the Interior were planning to submit a legislative request for the 55,000 acre withdrawal before the end of 1988, but to date no such request has been submitted.

In 1987, the Interior Committee had serious doubts about the authority of the Secretary of the Interior under existing law to permit the Navy to continue its use of public lands in the El Centro area prior to Congressional action on a withdrawal proposal. Therefore, the Interior Committee included in that year's bill provisions to explicitly authorize the Secretary of the Interior to permit the Navy to use the relevant public lands in the El Centro ranges until January 1, 1990, for the same purposes and to no greater extent than as of July 1, 1987.

The intent of this was to assure that the Navy could continue to use these lands for a period of time that the Interior Committee believed adequate for submission and consideration of a proposal for withdrawal of the affected public lands. In the same way, the corresponding provisions of the legislation I am introducing, would allow this use to continue until January 1, 1994.

Finally, the bill includes the same provisions as in Title VIII of H.R. 2929 as passed by the House in 1991 with respect to overflights by military aircraft of the lands withdrawn by the bill or the lands given wilderness, National Park, or other conservation designations by the California Desert Protection Act.

PESTICIDE FOOD SAFETY ACT OF 1993

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. WAXMAN. Mr. Speaker, I am pleased to introduce the Pesticide Food Safety Act of 1993. If enacted into law, this legislation will significantly increase the safety of the food supply. For the first time, American consumers will be assured that pesticides in food have no more than a negligible risk.

The Food, Drug and Cosmetic Act regulates pesticides used in food. But the provisions of the act applicable to pesticides have not been amended for 28 years. Over the years, the act's emphasis on the protection of public health has been distorted, and its application by the Environmental Protection Agency has resulted in the use of unsafe pesticides.

We have a historic opportunity to enact pesticide legislation this year. The environmental groups and many of the Nation's food processing companies have concluded that it is essential that we enact legislation to reform the laws that regulate pesticides in foods. The new Administrator of the Environmental Protection Agency has indicated that enacting such legislation will be a high priority. I know that there is a strong interest in this body in legislation. And Mr. Speaker, I am pleased to note that Senator KENNEDY, chairman of the Senate Labor and Human Resources Committee, will introduce an identical, companion bill and will assume leadership in the other body for moving this legislation forward.

Mr. Speaker, the current law is extremely protective for certain foods. For other foods, the protection is clearly insufficient. As a result of a court lawsuit, the Environmental Protection Agency published this week a list of 35 pesticides that cause cancer in animals and therefore may have to be banned unless the law is changed. Under current law, these pesticides may not be used in certain processed foods and it does not matter if EPA finds that they cause no risk to human health. Yet current law would allow these same pesticides to be used on fresh products and other processed foods even if there is no finding that they are safe. In fact, current law allows the use of a pesticide that causes a significant risk to health if EPA finds that profits to the agriculture industry justify that risk.

It is time to adopt a modern pesticide law that looks at public health and not industry profits. The bill that I am introducing will adopt a single standard to be applied to all food containing pesticides. On the one hand, no pesticide may be used unless EPA finds that there is a reasonable certainty that no individual may be harmed. On the other hand, the industry may use any pesticide if it demonstrates to a reasonable certainty that no individual will be harmed. If we don't know what the risks are, then the pesticide may not be used.

Mr. Speaker, we have learned a lot about food safety during the past 27 years.

We have learned that pesticides can pose serious health hazards; in fact, EPA has identified 66 pesticides that are carcinogens.

We have learned that children are particularly susceptible to chemical hazards including pesticides.

We have learned that we need health-based standards for all pesticides in food; if the food is not safe, no amount of economic benefits will justify its use.

We have also learned from the experience of alar, the pesticide that was used to make apples redder until "60 Minutes" ran a story about its risk to consumers, especially children. The alar episode taught us that Americans are concerned about pesticide safety, particularly when their children are affected. It taught us that farmers will be vulnerable as long as the Environmental Protection Agency delays making decisions on the safety of pesticides, and delays taking unsafe pesticides off the market. It taught us that we need to do better when it comes to the regulation of pesticides.

Unfortunately, Mr. Speaker, there is also a lot that we still don't know when it comes to pesticides. In many cases, we don't know whether a particular pesticide is safe or not. Even though Federal laws have required EPA to review the safety of pesticides since 1972, today that review is incomplete for virtually all pesticides.

The Pesticide Food Safety Act of 1993 will give American consumers the assurances that they are entitled to about the safety of their food supply.

The bill will prohibit the sale of foods with pesticide chemical residues unless the risk from those residues is negligible.

The bill will require EPA to take into account the unique susceptibility of children to pesticide chemicals.

The bill will eliminate economic benefits from the consideration of whether a pesticide is safe for use on food.

The bill will significantly simplify the procedures for taking a pesticide off the market where data are inadequate to support its safety or where data affirmatively demonstrate that the pesticide is hazardous to health.

Finally, the bill will establish a mandatory, enforceable timetable for deciding whether pesticides on the market are safe.

The bill provides for ample opportunities to produce data demonstrating that a pesticide causes negligible risk. For example, if the industry produces data demonstrating that the actual residues of a pesticide on food are extremely low, then that data will be factored in to the risk calculation. If there are no data, then EPA will be required to make assumptions that protect the public.

This legislation will obviously benefit consumers. But I believe that food processors will also benefit from its provisions. No longer will they be subject to inconsistent statutory standards and inconsistent implementation of those standards by EPA. No longer will they be subject to publicity hits such as occurred after the "60 Minutes" story on the pesticide alar, after EPA delayed for years in making a decision about that pesticide's safety.

The bill will also benefit EPA, which has been stymied by the cumbersome procedures in current law. By simplifying the procedures for gathering data on pesticides and removing unsafe pesticides from the market, this legislation will free up valuable EPA resources and allow the agency to take decisive action that is occasionally necessary to protect the safety of the food supply.

Mr. Speaker, I would like to close by emphasizing that I look forward to working with the administration, the environmental community, the food processors, and the agricultural community on this important legislation. I am convinced that jointly we can develop legislation that will better protect the public health and that can be enacted this year.

INTRODUCTION OF UNEMPLOYMENT COMPENSATION LEGISLATION

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mrs. KENNELLY. Mr. Speaker, today, I am introducing legislation to provide an additional 6 weeks of unemployment compesnation benefits for those people who have exhausted their extended benefits.

Although the recession is over, unemployment is still a serious concern in many parts of this Nation, especially in my home State of Connecticut. The most recent unemployment statistics indicate that there are over 119,000 unemployed people in my State. Unfortunately, events last week have compounded this already difficult situation.

Last week, United Technologies announced a restructuring plan which will force many employees at Pratt & Whitney to leave their jobs. We must not lose sight of the pain this causes those employees. Providing these extra weeks of benefits will give people more time to find a job in a very difficult job market. These additional benefits could also mean the difference between paying the mortgage or the rent and losing one's home.

We cannot extend unemployment benefits indefinitely. I do not wish to do that, and people who are receiving benefits want to work. That is why it is important to pass legislation which improves the economy and creates jobs. I have introduced legislation to reach that goal, and am eager to work with my colleagues and the administration to pass a comprehensive growth package.

In the meantime it is critical that we take every action we can to help those, who through no fault of their own, are unemployed and face the future with an uncertainty of how they will take care of themselves and provide for their families. Six weeks of additional benefits will help them get through this time of need.

BALANCED BUDGET AMENDMENT

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. VALENTINE. Mr. Speaker, I rise today in support of the balanced budget amendment legislation.

Two weeks ago, Americans heard the words hope and change over and over relative to the future. I share this optimism.

I, too, have hope for a change. I have hope for affordable health care. I have hope for a revitalized economy. I have hope for solving many problems, but none of these issues can be properly addressed if we do not reduce the national debt. While we have hope for the future, we must face the reality of a national debt of over $4 trillion.

The most important change we can make is to change our spending habits. How can we have hope for the future when we leave to our children a huge bill for our irresponsible spending. What hope will they have for better lives?

I believe that a balanced budget amendment is the first step toward reducing the national debt. This amendment will not solve all of our economic problems.

I am not saying that a balanced budget amendment will make our choices to cut spending or raise revenue any easier. What it will do is force us to make those difficult choices.

I know that we can make those choices without a balanced budget amendment, but will we? Have we ever made those choices? We could have voted to spend less in the past 10 years. Instead we added $3 trillion to the national debt. That is why we need a balanced budget amendment.

I am not in favor of haphazardly amending the legal foundation of the United States, which is the Constitution. The urgent need to get our fiscal house in order, however, is so acute I do not believe we have the luxury of putting off the day of reckoning any longer.

We finally have a President who says he is committed to serious deficit reduction. Let us become full partners with him in that effort. The balanced budget amendment is the first step.

Mr. Speaker, I believe we need to make the tough vote. I urge my colleagues to vote for the Stenholm balanced budget amendment.

INDUSTRIAL DEVELOPMENT BONDS EQUAL GROWTH PLUS JOBS

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. COYNE. Mr. Speaker, I rise today to introduce legislation to extend permanently the small issue Industrial Development Bond Program.

The House can soon expect the Clinton administration to call for action on an economic growth package. Industrial development bonds should be part of that package because the IDB Program is a proven creator of economic growth and jobs.

The Industrial Development Bonds Program is one of the last Federal economic growth tools available to State and local governments working to promote growth and job opportunities. IDB's allow State and local governments to offer low-cost financing to small manufacturers seeking to expand, build new plants, or increase their payrolls.

The important national economic role played by IDB's is one reason why the House has historically given its strong support to extension of the Industrial Development Bond Program. In the 102d Congress, over 230 Members of the House cosponsored H.R. 1186, the bill I introduced in early 1991 to extend the IDB Program.

Permanent IDB extension was twice included in major tax reported by the House Ways and Means Committee and passed by the House in 1992. It is only because these larger tax bills were vetoed by President Bush that the House must again take up the issue of extending the IDB Program, which expired on June 30, 1992.

The renewal of this program will provide much needed investment capital for job creation, plant expansion, and the construction of new facilities. This is especially true at a time when many recession wary financial institutions are still reluctant to offer small businesses the long-term financing needed to expand or modernize their plants.

The success of the IDB Program is the key reason why there is such strong support both in Washington and across the country for extending the IDB Program. I am pleased to note that 19 Members of the House Ways and

Means Committee have joined as original cosponsors of my IDB permanent extension legislation.

IDB's permit small firms in every State and congressional district to expand and retain good paying manufacturing jobs. My own State of Pennsylvania, for example, financed 224 projects between 1987 and 1992 which created 8,975 jobs and helped retain 17,724 jobs that might have otherwise been lost.

IDB's play a critical role in providing the good paying manufacturing jobs that allow U.S. workers to support their families and save for the future. Nationwide, between 1987 and 1992, IDB's have created an estimated 182,000 new manufacturing jobs and facilitated the retention of 169,000 jobs through the financing of roughly 3,800 projects.

One criterion for inclusion in an economic growth package is likely to be the challenge of providing an immediate boost to employment. Industrial development bonds pass that test because a number of States currently have a backlog of qualified IDB projects on hold due to the sunset of IDB issuing authority. The California State Treasurer's Office, for example, reports that IDB projects on hold in California would stimulate $63 to $73 million in total investment, creating 1,700 new jobs and retaining approximately 1,500 jobs.

Access to industrial development bonds [IDB] is vital for State and local communities seeking to promote the creation and retention of manufacturing jobs. Reforms of the IDB Program, enacted in 1984 and 1986, have succeeded in targeting this program to small manufacturers. The result has been to enhance the international competitive position of U.S. manufacturing and to preserve American jobs that might have been lost to foreign manufacturing facilities.

IDB eligibility has been restricted to small manufacturing firms, with no single bond issue exceeding $10 million and a $40 million cap on total tax exempt bonds outstanding per firm. In addition, IDB's have been subjected to statewide bond volume caps of $50 per capita or $150 million in small States, and must compete with other State and local programs, such as mortgage revenue and student loan bonds, for the limited pool for funds allowed under the cap.

Industrial development bonds are used throughout the United States to achieve the goals set by Congress. Since 1986, the Ways and Means Committee has regularly voted to extend temporarily the qualified small issue IDB Program. Unfortunately, the threat of periodic sunsets has limited the ability of State and local governments to utilize this program in the most effective manner. Still, small issue IDB's continue to play a central role in the economic development strategies of most U.S. State and local governments even with this limitation.

The prominent role of IDB's at the State and local level is shown by the fact that this program ranks second only to mortgage revenue bonds among State and local bond programs. The Advisory Commission on Intergovernmental Relations [ACIR] and the Urban Institute conducted a survey of State bond authorities and reported in 1989 that State and local IDB's amounted to $3.2 billion or 21 percent of the total private activity bonds issued that year.

The proven track record of industrial development bonds is one reason why this program has won widespread support. IDB permanent extension is endorsed by the National Governors' Association, the National League of Cities, the U.S. Conference of Mayors, and the U.S. Chamber of Commerce.

The Industrial Development Bond Program merits inclusion in any economic growth package considered by the House. IDB's are synonymous with economic growth and new job opportunities. It is imperative that State and local governments not be denied access to this effective economic growth tool.

Mr. Speaker, I urge the House to support permanent extension of the small issue industrial development bonds and invite my colleagues to join as cosponsors of this legislation.

FUNDING THE BOSTON HARBOR CLEANUP

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. MARKEY. Mr. Speaker, water and sewer rates in the Boston metropolitan area are currently estimated to be the highest in the country, and they will rise in coming years by 20 percent or more each year. The Massachusetts Water Resources Authority reports that water and sewer bills will surpass property taxes in some areas.

This rate shock could not come at a worse time for the Bay State. Struggling to come out of the recession, residents, and businesses will be hit with massive water and sewer rate increases. As we position Massachusetts to lead the country into the next century in such important industries as telecommunications and information technology, we suddenly find that the legacy of decades past is holding us back.

The strength of the Massachusetts economy depends on taking advantage of global opportunities in telecommunications, but it will also depend on a favorable business environment. With water and sewer rates projected to increase 600 percent over 10 years, Massachusetts businesses will have great difficulty competing in any industry.

The cost of the harbor cleanup is huge—over $4 billion by recent estimates. Without assistance from Federal and State governments, local ratepayers simply will not be able to foot the bill. Next year water and sewer rates in the Boston area will be twice the national average for major metropolitan areas, and it will only go up from there.

The legislation we have introduced would provide $1 billion in Federal funding for the cleanup of the harbor over the next 5 years. Using MWRA estimates, the $1 billion in Federal funding authorized by the Boston Harbor bill would mean a yearly reduction of $150 per household and a reduction of $4,500 per household over the 30 year life of MWRA bonds.

A study prepared by Cambridge Systematics, Inc., estimates that during the 1990's the project will provide approximately $3 billion to the Boston area economy—or $2 for every dollar spent locally. With one of the highest unemployment rates in the country, the estimated 4,000 jobs that would be created by the project would have a significant impact.

Not only will local residents benefit, but so will businesses. This bill to ease water and sewer rates will help to keep Massachusetts businesses competitive, and will keep jobs in Massachusetts.

Clearly, environmental issues are also infrastructure and business issues. The Boston Harbor cleanup will require cooperation between business and environmental groups.

THE NATIONAL WILDLIFE REFUGE SYSTEM MANAGEMENT AND POLICY ACT OF 1993

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. GIBBONS. Mr. Speaker, today I am introducing long-overdue legislation to strengthen the administration of our magnificent, yet troubled National Wildlife Refuge System. The refuge system is the only network of Federal lands established primarily to conserve wildlife. With the steady loss of wildlife habitat in this country from urbanization, agriculture, and other land uses, the integrity of our National Wildlife Refuge System has become more important than ever to the conservation of the Nation's wildlife.

This year marks the 90th anniversary of the birth of the National Wildlife Refuge System. In 1903, President Theodore Roosevelt established the very first refuge in my home State of Florida at Pelican Island. Today there are over 480 refuges, including at least one refuge in each of the 50 States. Many of these refuges are of particular importance to endangered species. For example, in Florida we have refuges that were established to protect some of the last remaining habitat for the endangered Key Deer, West Indian Manatee, Snail Kite, Green Sea Turtles, Florida Panther, and even a refuge established to conserve endangered plants.

Unfortunately, today our refuge system is severely threatened by economic, recreational, and even military activities. Two years ago, the U.S. Fish and Wildlife Service issued a report that found at least one harmful activity occurred on 63 percent of the Nation's refuges. That discovery followed similar conclusions of reports by the Department of the Interior, the General Accounting Office, and the Fish and Wildlife Service in 1968, 1979, 1983, 1984, and 1989.

It's time for Congress to give the refuge system new directions, new tools, and new authorities to restore integrity to the management of these important lands.

The National Wildlife Refuge System Management and Policy Act of 1993 would amend the National Wildlife Refuge System Administration Act to address the many problems in the refuge system. The bill would, for the first time, establish a clear set of purposes for the refuge system, require comprehensive planning, and provide an improved process to determine what activities should be allowed to occur on refuges.

The bill would not, however, preclude hunting, fishing, or other forms of wildlife-oriented recreation on refuges as long as they are compatible with the refuges' wildlife conservation purposes.

My bill is endorsed by the National Audubon Society, the Wilderness Society, Defenders of Wildlife, the National Wildlife Association, the Sierra Club, the Natural Resources Defense Council, and numerous local organizations. I am introducing this legislation today on behalf of 21 of my colleagues and invite other Members of the House to join this effort.

CONGRESSIONAL ADVISORY COMMISSION ON AMATEUR BOXING AND FEDERAL PROFESSIONAL BOXING PROHIBITION ACT OF 1993

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. GONZALEZ. Mr. Speaker, I am reintroducing a bill today (H.R. 812) that I first introduced in 1984 to ban professional boxing and to establish a Congressional Advisory Commission on Amateur Boxing. Incident after tragic incident occurs, bringing pain and sorrow to families of men who are injured or killed in this violent so-called sport, and it is far past time for Congress to do something about it. After all, boxing is not really a sport—it is an industry that capitalizes on the prurient display of brutality and human degradation. There is no sport involved when the goal and determining factor in all too many fights is the rendering of the opponent physically defenseless.

Each year, more and more cases of serious injury and death from boxing come to my attention. Most recently, a young airman stationed temporarily at Kelly Air Force Base in my congressional district died as a result of a boxing match. The 21-year-old man collapsed following a sparring match and died 2 days later without ever having regained consciousness. In the summer of 1991, after a fight in my hometown of San Antonio, a young boxer was seriously injured during a professional boxing match. In the fight, Akeem Anifowoshe suffered serious brain swelling and spent over 2 weeks at a local hospital. The other fighter suffered cuts and required plastic surgery. A Texas agency reviewed the fight and all pertinent evidence, and yet could only issue an inconclusive report on the cause of the injuries and made no recommendations for safety for the future other than a suggestion that heavier gloves be used. This scenario has been repeated over and over, and despite the horrible injuries and deaths that occur, no progress is being made. This is why I feel compelled to reintroduce my bill and to reintroduce it again and again in the future if I have to until we face up to the realities of the boxing world.

Last summer, hearings were held on boxing in the U.S. Senate. Testimony revealed that boxers are exploited—only a handful make the big time, and the vast majority end up real losers due to one-sided contract provisions, lack of health insurance and pension plans, and conflicts of interest among managers and promoters—not to mention frequent mismatches, payoffs, organized crime influence, and an ineffective patchwork of State regulation.

For many years, I have watched as young men, mostly black or Hispanic, mostly poor, uneducated, and without trade or employment, have been recruited, trained, and encouraged to fight their way out of poverty through the world of boxing. Boxing is their salvation, they are told—it is their road out of the ghetto. Boxing supposedly gives them a reason to stay out of trouble, to have a purpose in life, a future respect.

My bill bans only professional boxing in order to remove the illusory incentives of a professional boxing career. For amateur boxing, my bill would establish a Congressional Advisory Commission. This Commission would study amateur boxing and its present regulations, determine the sufficiency of the current safeguards, and make recommendations for future action to be taken to protect the health and potential of America's young boxers. I recognize that amateur boxing provides some limited opportunities for young men, but prolonged participation in boxing clearly has damaged the health of fighters. With some safeguards, amateur boxing can be a positive experience—but only if the boxing is carried on with strict safety regulations and for only a short period of time.

Professional boxing is another matter. What kind of opportunities are provided these young men through professional boxing? The opportunities I see all involve violence, personal injury, and massive exploitation. The very goal of a boxer in the ring is to render his opponent unconscious—to fight until only one fighter remains standing. Boxing is a simplistic display of one man's physical prowess prevailing over his opponent's.

But even the victor must share an element of physical defeat, for by the very act of knocking his opponent senseless, he too endures physical abuse. One fighter may prevail over the other, but neither prevails over the limitations of the human body.

Repeated blows to the fighter's head are the most direct means to victory for a boxer—professional boxers are paid to hit and be hit. But just as a boxer is paid, he also pays dearly in return for the sometimes silent but ever present injuries his brain suffers. The American Medical Association has studied the prolonged effects of boxing on a fighter's brain, and has reached the same conclusion as I have—that professional boxing should be banned. Every professional boxer suffers some degree of brain damage—everyone. Some of the damage is minimal; some is readily evident; and some does not manifest itself for years, all the while keeping its dreadful consequences hidden from the knowledge of the boxer. We all know the familiar stereotype of the has-been Palooka, the shambling wrecks of fighters who took one, or a thousand, too many punches.

If boxing provides such wonderful opportunities, as I am told, then why aren't young men from all walks of life recruited for the sport? Why are educational opportunities, mainstream employment, and long-term beneficial opportunities saved for some of America's youth while boxing and other violent sports seek participants from America's poorer corners? I find it appalling to think that at the expense of a real future—a future of health, of learning, of meaningful work—young men devote their early years to training to become fighters at the expense of their education and time to learn a trade of profession.

Young men are exploited by the boxing professsion—the promise of fame and riches is flashed in their eyes so they are blinded to the realities of a fighter's life—a life where few are famous, few are wealthy, but all risk their health. We all know that for every Sugar Ray Leonard or Mohammad Ali there are 1,000 Kims, 10,000 punchedout wrecks. We look in fear at young boxers, wondering how soon it will be until the effects of their boxing careers render their quick minds and sparkling eyes as muddled and dull as Ali's. How long can we continue to encourage young men to become boxers, when we know beyond a doubt that the medical experts are right—that the probability is that these young men whom we admire so much in the ring some day become as inarticulate and incoherent as the great Ali? For a youngster from a poor neighborhood who has few material possessions, his health may be all he has. Boxing will likely take his health and almost certainly give him nothing in return. How much better it would be to allow him to keep his health and develop his mind and his abilities. How much better it would be to develophis mind than to render it useless through fighting.

Once professional boxing is made illegal, amateur fighters will have no incentive to pursue boxing in lieu of their education and training. There will be no illusions of making a living from boxing. Since there will be no monetary rewards from boxing, a boxer's career will be relatively short, and the damage to his health, particularly with the use of safety equipment and stringent safety regulations, will be minimal.

I think we owe all of America's youth equal opportunities for a solid education and useful, financially, satisfying employment. It is our responsibility. Every young man has the right to his health, and we owe each young man a future—a road out of poverty that does not dead end in boxing but, instead, leads through education and training to a healthy and secure future.

DEPARTMENT OF ENVIRONMENTAL PROTECTION ACT

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. CLINGER. Mr. Speaker, I am introducing legislation today to provide for the elevation of the Environmental Protection Agency to become a Cabinet-level department, thereby establishing a new Department of Environmental Protection. I am pleased to have my colleagues, AL MCCANDLESS, DENNIS HASTERT, JOHN MCHUGH, STEVE SCHIFF, CHRIS SHAYS, and RICHARD ZIMMER, serving on the Government Operations Committee, join me in introducing this legislation.

This bill is the cleanest EPA elevation bill. It is the quickest, easiest, and least costly means to achieve a common goal. Mr. Speaker, we have considered legislation during the 101st Congress and then again in the 102d Congress to elevate the Agency. Now we are in the 103d Congress and we have yet another chance to pass legislation to elevate the Agency. I hope that we can do so this time, but do it sensibly.

My bill includes no bells or whistles. It simply provides for a Secretary to head up the Department of Environmental Protection, a Deputy Secretary, up to 10 Assistant Secretaries and 20 Deputy Assistant Secretaries, an Office of General Counsel, an Office of Inspector General, and up to 11 regional administrators. Administrative provisions included in the bill would allow the Agency's functions to be transferred smoothly to the Department, including legal proceedings and rules and regulations. That is all there is—nothing more, nothing less.

Why should we elevate EPA? I think most of us generally agree that environmental protection ranks among our Nation's highest priorities. EPA administers numerous statutes, including clean air, clean water, RCRA, and Superfund, and each one touches our lives. With Congress giving the Agency increased authority, the budget and staff of EPA have also grown significantly. The Agency's resources now exceed those of the Department of Education and the Department of Housing and Urban Development. Also, EPA is now a major participant in the protection of our global environment. Cabinet status will assist the Agency in international negotiations, as every other industrialized nation, with the exception of one other, have Cabinet-level environmental departments. It is clear that EPA now deserves to be on equal footing with other Federal departments and international environmental agencies.

However, in elevating the Agency we should not overlook who is paying for this increased status. A clean elevation will cost the American taxpayer less than $30,000 per year according to CBO. We are faced with alternative proposals that could cost taxpayers millions each year. Given the sky-high budget deficit, I think that there are far better ways to use taxpayer dollars than by adding new layers to the Federal bureaucracy. If we can achieve the same goal for less, then we should do so.

But even beyond the issue of costs, there is the issue of the Department's structure. This bill does not mandate how the Agency should be structured; it simply provides an elevation. There is a lot of flexibility for Administrator Browner to reorganize the Department. I fear, as so often happens, if we in Congress are heavyhanded we may do far more harm than good. There is the potential that we can end up disrupting the Agency so that it could be dysfunctional for years. Despite good intentions, the mission of the Agency would be lost.

Finally, I think we would be amiss if we did not credit former President Bush for his efforts to secure Cabinet status for EPA. The elevation of EPA is not a new idea. The former administration endorsed and promoted EPA Cabinet status for over 3 years, and worked in every possible way to get this legislation enacted. Yet there was no action taken although many promises were given. We have a chance to make a difference. But let's do it right. Let's not forget who is footing the bill.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Environmental Protection Act".

TITLE I—REDESIGNATION OF ENVIRONMENTAL PROTECTION AGENCY AS DEPARTMENT OF ENVIRONMENTAL PROTECTION

SEC. 101. REDESIGNATION OF ENVIRONMENTAL PROTECTION AGENCY AS DEPARTMENT OF ENVIRONMENTAL PROTECTION.

(a) REDESIGNATION.—The Environmental Protection Agency is redesignated as the Department of Environmental Protection (hereinafter in this Act referred to as the "Department"), and shall be an executive department in the executive branch of the Government. The Department shall be headquartered at the seat of Government. The official acronym of the Department shall be "D.E.P.".

(b) SECRETARY OF THE ENVIRONMENT.—(1) There shall be at the head of the Department a Secretary of Environmental Protection (hereinafter in this Act referred to as the "Secretary") who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) OFFICE OF THE SECRETARY.—The Office of the Secretary shall consist of the Secretary and the Deputy Secretary appointed under subsection (d), and may include an Executive Secretary.

(c) TRANSFER.—The functions, powers, and duties of the Administrator, other officers and employees of the Environmental Protection Agency, and the various offices and agencies of the Environmental Protection Agency are transferred to and vested in the Secretary.

(d) DEPUTY SECRETARY.—There shall be in the Department a Deputy Secretary of Environmental Protection, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such functions as the Secretary shall prescribe, and shall act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the Office of the Secretary.

(e) DELEGATION OF AUTHORITY.—Except as provided in this Act and other existing laws, the Secretary may delegate any functions, including the making of regulations, to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as the Secretary considers to be necessary or appropriate.

SEC. 102. ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department such number of Assistant Secretaries, not to exceed 10, as the Secretary shall determine, each of whom—

(1) shall be appointed by the President, by and with the advice and consent of the Senate; and

(2) shall perform such functions as the Secretary shall prescribe.

(b) FUNCTIONS.—The Secretary shall assign to each Assistant Secretary of the Department such functions as the Secretary considers appropriate.

(c) DESIGNATION OF FUNCTIONS PRIOR TO CONFIRMATION.—Whenever the President submits the name of an individual to the Senate for confirmation as an Assistant Secretary under this section, the President shall state the particular functions of the Department (as assigned by the Secretary under subsection (b)) such individual will exercise upon taking office.

SEC. 103. DEPUTY ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department 20 Deputy Assistant Secretaries, or such number as the Secretary determines is appropriate.

(b) APPOINTMENTS.—Each Deputy Assistant Secretary—

(1) shall be appointed by the Secretary; and

(2) shall perform such functions as the Secretary shall prescribe.

(c) CAREER SENIOR EXECUTIVE SERVICE.—At least one-half of positions established under subsection (a) and filled by subsection (b) shall be in the career Senior Executive Service.

(d) FUNCTIONS.—Functions assigned to an Assistant Secretary under section 102(b) may be performed by one or more Deputy Assistant Secretaries appointed to assist such Assistant Secretary.

SEC. 104. OFFICE OF THE GENERAL COUNSEL.

(a) GENERAL COUNSEL.—There shall be in the Department of the Office of the General Counsel. There shall be at the head of such office a General Counsel who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

(b) DEPUTY GENERAL COUNSEL.—There shall be in the Office of the General Counsel at least one Deputy General Counsel, who—

(1) shall be appointed by the General Counsel; and

(2) shall perform such functions as the Secretary shall prescribe.

SEC. 105. OFFICE OF INSPECTOR GENERAL.

The Office of Inspector General of the Environmental Protection Agency, established in accordance with the Inspector General Act of 1978 (5 U.S.C. App.), is redesignated as the Office of Inspector General of the Department of Environmental Protection.

SEC. 106. REGIONAL ADMINISTRATORS.

There shall be in the Department not more than 11 regional administrators, each of whom shall be appointed by the Secretary. Political affiliation or political qualification may not be the primary factor taken into account in connection with the appointment of any person to a position as a regional administrator of the Department. Each regional administrator shall—

(1) perform in accordance with applicable law such of the functions transferred or delegated to or vested in the Secretary as the Secretary shall prescribe in accordance with the provisions of this Act and other applicable law; and

(2) implement program policies and priorities as established by the Secretary, Assistant Secretaries, and Deputy Secretaries.

SEC. 107. CONTINUING PERFORMANCES OF FUNCTIONS.

(a) REDESIGNATION OF POSITIONS.—(1) The Administrator of the Environmental Protection Agency is redesignated as the Secretary of the Department of Environmental Protection.

(2) The Deputy Administrator of such agency is redesignated as the Deputy Sec-

retary of the Department of Environmental Protection.

(3) Each Assistant Administrator of such agency is redesignated as an Assistant Secretary of the Department.

(4) The General Counsel of such agency is redesignated as the General Counsel of the Department.

(5) The Inspector General of such agency is redesignated as the Inspector General of the Department.

(b) Not Subject to Renomination or Reconfirmation.—An individual serving at the pleasure of the President in a position that is redesignated by subsection (a) may continue to serve in and perform functions of that position after the date of the enactment of this Act without renomination by the President or reconfirmation by the Senate.

SEC. 108. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, reorganization plan, or delegation of authority, or in any document—

(1) to the Environmental Protection Agency is deemed to refer to the Department of Environmental Protection;

(2) to the Administrator of the Environmental Protection Agency is deemed to refer to the Secretary of Environmental Protection;

(3) to the Deputy Administrator of the Environmental Protection Agency is deemed to refer to the Deputy Secretary of Environmental Protection; and

(4) to an Assistant Administrator of the Environmental Protection Agency is deemed to refer to the corresponding Assistant Secretary of the Department of Environmental Protection who is assigned the functions of that Assistant Administrator.

SEC. 109. SAVINGS PROVISIONS.

(A) Continuing Effect of Legal Documents.—All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, privileges, and other administrative actions—

(1) which have been issued, made, granted or allowed to become effective by the President, the Administrator or other authorized official of the Environmental Protection Agency, or by a court of competent jurisdiction, which relate to functions of the Administrator or any other officer or agent of the Environmental Protection Agency actions; and

(2) which are in effect at the time this Act takes effect;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, by a court of competent jurisdiction, or by operation of law.

(b) Proceedings Not Affected.—This Act shall not affect any proceeding, proposed rule, or application for any license, permit, certificate, or financial assistance pending before the Environmental Protection Agency at the time this Act takes effect, and such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) Suits Not Affected.—This Act shall not affect suits commenced before the effective date of this Act, and in all such suits proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) Nonabatement of Actions.—No suit, action, or other proceeding commenced by or against the Environmental Protection Agency, or by or against any individual in the official capacity of such individual as an officer of the Environmental Protection Agency, shall be abated by reason of the enactment of this Act.

(e) Property and Resources.—The contracts, liabilities, records, property, and other assets and interests of the Environmental Protection Agency shall, after the effective date of this Act, be considered to be contracts, liabilities, records, property, and other assets and interests of the Department.

SEC. 110. CONFORMING AMENDMENTS.

(a) Presidential Succession.—Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end thereof the following: ", Secretary of Environmental Protection".

(b) Definition of Department in Civil Service Laws.—Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Environmental Protection.".

(c) Compensation, Level I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Secretary of Environmental Protection.".

(d) Compensation, Level II.—Section 5313 of title 5, United States Code, is amended by striking "Administrator of Environmental Protection Agency" and inserting in lieu thereof "Deputy Secretary of Environmental Protection".

(e) Compensation, Level IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking "Inspector General, Environmental Protection Agency" and inserting in lieu thereof "Inspector General, Department of Environmental Protection";

(2) by striking each reference to an Assistant Administrator, or Assistant Administrators, of the Environmental Protection Agency; and

(3) by adding at the end thereof the following:

"Assistant Secretaries, Department of Environmental Protection.

"General Counsel, Department of Environmental Protection.".

(f) Inspector General Act.—The Inspector General Act of 1978 is amended—

(1) in section 11(1)—

(A) by inserting "Environmental Protection," after "Energy,"; and

(B) by striking "Environmental Protection,"; and

(2) in section 11(2)—

(A) by inserting "Environmental Protection," after "Energy,"; and

(B) by striking "the Environmental Protection Agency,".

SEC. 111. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and other appropriate committees of the Congress, the Secretary shall prepare and submit to the Congress proposed legislation containing technical and conforming amendments to the laws of the United States, to reflect the changes made by this Act. Such proposed legislation shall be submitted not later than 1 year after the effective date of this Act.

TITLE II—ADMINISTRATIVE PROVISIONS

SEC. 201. ACQUISITION OF COPYRIGHTS AND PATENTS.

The Secretary may acquire any of the following rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) Copyrights, patents, and applications for patents, designs, processes, and manufacturing data.

(2) Licenses under copyrights, patents, and applications for patents.

(3) Releases, before suit is brought, for past infringement of patents or copyrights.

SEC. 202. GIFTS AND BEQUESTS.

The Secretary may accept, hold, administer, and utilize gifts, bequests, and devises of real or personal property for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

SEC. 203. OFFICIAL SEAL OF DEPARTMENT.

On and after the effective date of this Act, the seal of the Environmental Protection Agency, with appropriate changes, shall be the official seal of the Department, until such time as the Secretary may cause an official seal to be made for the Department of such design as the Secretary shall approve.

SEC. 204. USE OF LIKENESS OF OFFICIAL SEAL OF DEPARTMENT.

(a) Display of Seal.—Whoever knowingly displays any printed or other likeness of the official seal of the Department, or any facsimile thereof, in or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any building, monument, or stationery, for the purpose of conveying, or in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, shall be fined not more than $250 or imprisoned not more than 6 months, or both.

(b) Manufacture, Reproduction, Sale, or Purchases for Resale.—Except as authorized under regulations promulgated by the Secretary and published in the Federal Register, whoever knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the official seal of the Department or any substantial part thereof (except for manufacture or sale of the article for the official use of the Government of the United States), shall be fined not more than $250 or imprisoned not more than 6 months, or both.

(c) Injunctions.—A violation of subsection (a) or (b) may be enjoined by an action brought by the Attorney General in the appropriate district court of the United States. The Attorney General shall file such an action upon request of the Secretary or any authorized representative of the Secretary.

SEC. 205. USE OF STATIONARY, PRINTED FORMS, AND SUPPLIES OF ENVIRONMENTAL PROTECTION AGENCY.

The Secretary shall ensure that, to the extent practicable, existing stationary, printed forms, and other supplies of the Environmental Protection Agency are used to carry out functions of the Department before procuring new stationary, printed forms, and other supplies for the Department.

CHRISTIAN APPALACHIAN PROJECT: MAKING A DIFFERENCE

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. ROGERS. Mr. Speaker, the Christian Appalachian Project [CAP] has a long history of finding creative new ways to help people in trouble. On March 1, the Christian Appalachian Project and its founder Father Ralph Beiting will receive the Outstanding Philanthropic Organization Award of 1993.

This recognition is long overdue. Since coming to Kentucky in the early 1950's, Father Beiting has been single-minded in his determination to bring help and hope to those less fortunate. This year, CAP has donated $391,743 in home repair services, and $243,273 in grants and scholarships to youth, and $15,600 worth of in-kind gifts to people in 12 of the 13 Appalachian States.

Father Beiting's enthusiasm for his work is contagious. Each year hundreds of permanent and temporary volunteers from other States come to CAP to donate time, talent, and energy to assist CAP in fulfilling its mission to the people of Appalachia.

Throughout the years, CAP has provided full-time employment for more than 300 people in Kentucky, and during the Christmas season, they move into high gear with Christmas Handcraft Industries—an organization which employs more than 160 people in their handcraft industry.

But employment is just part of the picture. For families in crisis, CAP is there with emergency assistance through family abuse centers, literacy and GED training programs, community health advocacy, home visitation for shut-ins, respite care services for families, and recreational centers for children.

Whether it's scholarship money for college, jobs for the unemployed, or emergency family services—the Christian Appalachian Project works to help people help themselves.

Most importantly, though, Father Beiting and the volunteers who work for CAP remember that the people of Appalachia cherish their independence, value hard work, and appreciate the opportunity to help themselves. I salute Father Beiting and the volunteers at the Christian Appalachian Project for a job well done.

DEMOCRACY IS THREATENED IN NICARAGUA

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. SMITH of New Jersey. Mr. Speaker, today the Foreign Affairs Subcommittee on Western Hemisphere Affairs—of which I am the ranking member—conducted a hearing on the situation in Nicaragua, almost 3 years after the freely conducted elections in which Violeta Chamorro was elected president of her country.

The hearing provided a very sobering picture of Nicaragua's fragile democracy, Mr. Speaker. Certainly human rights continue to be violently abused. In addition, the settlement of the property disputes remains a major complication for the Government of Nicaragua, and resolution has been much too slow. A number of options regarding U.S. assistance to that country were presented by the witnesses and debated. I wanted to remind my colleagues of the serious concerns which must be addressed by the Nicaraguan people.

Mr. Speaker, with the defeat of the Sandinistas at the polls in the 1990 election, hope was kindled for the emergence of a truly Democratic and reform-minded government in Nicaragua. In the ensuing years, however, that hope has been deflated by certain actions and inactions by the government, and the dominance enjoyed by the Sandinistas in the military and police forces.

Some of the political developments since the election—especially within the last few weeks—suggest a disturbing trend. I believe the future of democracy and the protection of human rights in Nicaragua is being unnecessarily threatened by certain policies promulgated since the election. The legitimate leadership of the National Assembly—the Board of Directors—was set aside, for example, and replaced with an unconstitutionally elected leadership. Furthermore, just last week, the Comptoller General, Guillermo Potoy, who has been investigating the presumption of criminal liability by the Minister of the Presidency, Antonio Lacayo, was fired by the National Assembly, under the order of President Chamorro.

Many responsible voices in Nicaragua are expressing doubts, fears, disappointment, and anger over the path the government has chosen to follow. Charges of corruption are not uncommon. The fact that UNO—the coalition that stood foursquare behind Mrs. Chamorro's candidacy for president—is now in opposition, is a recent development which should not be trivialized or dismissed lightly. The fact that Cardinal Obando y Bravo has stepped up his criticism and has raised his voice in dissent once again ought to serve as a wake up call to all interested parties.

I find most disturbing the growing list of extrajudicial killings. Violence in the rural areas continues with little or no progress on the investigation of these cases. There are concerns that the extermination of the former members of the Nicaraguan Resistance may not be the result of coincidence, happenstance or everyday crime but may represent a pattern of eliminating certain opponents. There are concerns that COSEP President Dr. Arges Sequeira's murder in late November may have been politically motivated. The 1990 case of 16-year-old Jean Paul Genie remains unresolved. Other highly visible cases, such as the murder of former Resistance commander Enrique Bermudez in 1991, await aggressive investigation by the authorities.

As the Country Reports for 1992 summarize, "Major, persistent human rights problems in 1992, included extrajudicial killings, mistreatment of detainees and other abuses by the security forces, violence by paramilitary bands in rural areas, the backlogged and often partisan judicial system, the Government's continuing failure to investigate and prosecute those responsible for human rights abuses, and violence against women (including rape and wife beating) . . . Politically motivated violence was commonplace in 1992." While the government has failed to investigate and prosecute such violations of human rights, I am hopeful that the recently formed Tripartite Commission which includes the government, the Catholic Church, and the Organization of American States, will truly serve the cause of justice.

Moreover, I am deeply concerned that the Nicaraguan Government has been at best slow, if not downright negligent, in returning thousands of homes and properties to their rightful owners. Hundreds of Americans, including at least one family in New Jersey, have been frustrated by repeated attempts to re-acquire what is rightfully theirs. The Government of Nicaragua has a legal and moral responsibility to ensure that these confiscated properties are returned via a process that is fair, nondiscriminatory, and absolutely aboveboard.

My colleagues must realize that these issues are important to the progress of both democracy and reconciliation in Nicaragua. Certainly the questions which arise daily about the political situation in Nicaragua demand close scrutiny, and we must chart a course whereby United States relations with Nicaragua are constructive, based on mutual respect and understanding, and United States foreign aid accrues to the benefit of all the people of Nicaragua, especially those most in need.

INTRODUCTION OF THE GOVERNMENT PERFORMANCE AND RESULTS ACT OF 1993

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. CLINGER. Mr. Speaker, the last several years have helped the U.S. Congress, and more importantly, the American people understand that we must start expecting more for less from the Federal Government. Among my goals as Republican chairman of the House Government Operations Committee is to help bring efficiency and effectiveness to the Nation's public programs. "Reinventing government" is how author David Osborne referred to the pioneering of this new form of governance. Simply translated, it is the task of rebuilding faith in the Federal Government's ability to effectively carry out its missions.

Today I start down this new road by rising with Government Operations Committee Chairman John Conyers and Congressman MCDADE to introduce the Government Performance and Results Act of 1993. As companion legislation to S. 20, this will require Federal agencies to develop strategic plans and report annually on their performance in meeting those goals. The bill also envisions giving the managers much increased flexibility in reaching those goals.

Despite the speedy consideration this legislation is likely to receive in the Congress this year, this proposal is not new. It received extensive hearings in the Senate Governmental Affairs Committee and was approved in that body late last year, but it failed to gain consideration in the House.

Senate Governmental Affairs Committee Chairman JOHN GLENN and ranking minority member WILLIAM ROTH have again introduced this bill in the Senate, and Chairman CONYERS and I now support this same legislative proposal in the House. This bill was supported by the Bush administration, the General Accounting Office, and is expected to gain the official support of the Clinton administration soon. We now seek the support of our colleagues and welcome cosponsors.

In summary, the Government Performance and Results Act of 1993 requires the establishment in fiscal year 1994 of at least 10 three-year pilot projects in program measurement and reporting, and at least 5 two-year pilot projects in managerial flexibility. After OMB and GAO have reported on the results of the pilot projects, the bill requires Congress in 1997 to vote on mandating the implementation of a program measurement and reporting system governmentwide. The bill assumes a positive vote by Congress and provides the timetable for governmentwide implementation.

OMB would also be directed in the 1997 congressional resolution to conduct at least 5 two-year pilot projects in performance budgeting.

The legislative history of this proposal in the Senate demonstrates that its need is considerable. The General Accounting Office, in their transition report entitled, "Program Evaluation Issues", reminded us that over the next few years the Federal Government will face powerful opposing pressures: the need, on the one hand, to reduce the Federal deficit, and the demand, on the other, for a Federal response to some potentially expensive domestic problems (expanding health insurance, restoring the economy, and the like). These pressures are likely to intensify concern with the effective management of Federal programs and with the availability of objective information on the results of Federal investments.

In other words, are the Federal officials who administer programs adequately informed about the implementation and the results of those investments? And can they, in turn, adequately inform the President, the Congress, and the Nation about what has been accomplished?

In the past, the answer to that question has been no. As suggested in an article by Dana Priest of the Washington Post, "unless suspected of financial shenanigans or subjected to the curiosity of a given lawmaker, the thousands of government programs that gobble up the Federal tax dollar each year are not routinely obligated to show that they produce results." It is time that we bring that practice to an end.

Along with the Inspectors General Act of 1978 and the Chief Financial Officers Act of 1990, the Government Performance and Results Act of 1993 reflects the desire of the House Government Operations Committee to bring increased accountability into the budgeting and spending process. Scandals at the Housing and Urban Development Department, the savings and loan debacle and abuses in the Pentagon procurement process have focused attention on the Government's financial accountability. The effective implementation of the CFOs Act and, now, the Government Performance and Results Act, should help stem the tide of these growing government management scandals.

Managing the Government like a business is common political jargon. While the Government is not a business, there is no reason why we cannot bring business-like management practices to the administration of public services. This proposal will take us a step further in that direction. I urge all of my colleagues to support the Government Performance and Results Act of 1993.

LEGISLATION TO TRANSFER FEMA TO THE DEPARTMENT OF DEFENSE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. STARK. Mr. Speaker, today I am introducing legislation to abolish the Federal Emergency Management Agency [FEMA] and transfer its functions to the Department of Defense.

In all three of the most costly recent disasters—Hurricane Hugo, the Loma Prieta earthquake, and Hurricane Andrew—the agency responded not with a flashflood of immediate action, but with a blizzard of paperwork, a hurricane of hot air, and an avalanche of redtape.

For the past 12 years, the agency's political management positions have been a political dumping ground, a turkey farm as the House Appropriations Committee put it. FEMA has 21 schedule C appointments—one political appointment for every 85 career employees—much higher than at other agencies. Half of these political appointees have no background in emergency management. And their dedication is questionable; for example, the agency's top medical coordinator left for vacation the day after the Loma Prieta earthquake. The dedicated civil servants try, but the management undercuts their hard work.

Many say that the agency responded better to Hurricane Iniki last September. But this response included pulling resources out of Oakland leaving many earthquake-rebuilding tasks still unfinished—3 years after the quake hit the San Francisco Bay area.

Director Wallace Stickney said proudly after Hurricane Iniki, "If you practice the same thing three times in 2 weeks, you get better at it."

Mr. Speaker, when a natural disaster strikes, we need an organization that gets it right the first time.

California is under constant threat from earthquakes. The chances of the big one striking are increasing every day. Experts estimate that thousands of people could be buried in rubble. Damage losses could be in the $60 billion range.

The Defense Department proved with Operation Desert Storm in the Middle East and with Project Restore Hope in Somalia that they get their operations right the first time. If they can conduct massive relief efforts and troop movements around the world, they can certainly handle the complicated logistics of a major relief effort here at home.

During Hurricane Andrew, many soldiers were frustrated that they were not called in sooner. Marine Sgt. Bill Franks remarked on Monday, September 1 when he finally arrived in Florida: "It's a logistics nightmare. We've been sitting on our asses since Friday [Aug. 28] waiting to go."

FEMA will not call out the troops because the agency does not consider itself a response agency. One FEMA disaster specialist put it bluntly: "We don't really react to emergencies. That's up to the States. We come in with recovery [funds]."

Calling in the military to organize disaster relief is not a new idea. Many other countries like Japan, France, and South Korea already use their military to run disaster relief efforts. A good example: When typhoon No. 19 hit Nagasaki in September of 1991, the Japanese military was on the scene within hours with food, water, and emergency generators.

In the aftermath of Hurricane Andrew, many exports have agreed that the Army should take charge of relief operations. Lawrence Korb and Robert Kupperman, both former members of FEMA's advisory board, wrote in the New York Times: "The military should be given responsibility for planning and logistics, coordinating simulations of disaster conditions much as it conducts military exercises." They noted that letting the military command disaster relief efforts would also have the benefit of giving them a useful, important role in postcold war America.

Just this last week, the Senate Appropriations Subcommittee on VA, HUD, and independent agencies heard support for increasing the military's role in disaster relief from Senator GRAHAM of Florida an the GAO. The editorial pages of many national newspapers have observed that the military is an excellent resource which should be tapped for these kinds of domestic emergencies.

In the aftermath of Hurricane Hugo, Dade County relief director, Kate Hale, had to go on national TV with her frantic appeal to the government, "Quit playing like a bunch of kids. * * * Where in the hell is the cavalry?"

Let's give the job to the cavalry from the start.

TRIBUTE TO RABBI RONALD J. SHULMAN

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Ms. HARMAN. Mr. Speaker, I ask my colleagues to join me in paying tribute to Rabbi Ronald J. Shulman for his outstanding, dedicated service to the South Bay community and the greater Los Angeles area. Since 1983, Rabbi Shulman has served as rabbi at the Congregation Ner Tamid of South Bay, Rancho Palos Verdes, CA. During the past decade, he has striven to develop Jewish educational, cultural, and religious expression for his synagogue community, thereby enriching their scholastic and spiritual lives. He will be honored on March 20, 1993 for his 10 years of dedication and outstanding service to many of my constituents.

Rabbi Shulman's community involvement illustrates his profound commitment to others. He has actively served as a member of the Rabbinical Cabinet of the University of Judaism, co-chairman of the Southern Region, L.A. Jewish Community Relations Committee, a member of the Rabbinical Assembly's Committee on Current Issues & Publications, representation on the Honorary Board of Governors for "Help the Homeless Help Themselves", participation on a Community Advisory Council for the Los Angeles County Child Sexual Abuse Crisis Center. Mr. Speaker, these duties carry a great amount of responsibility, and Rabbi Shulman has performed them with dedication, energy, and with remarkable creativity and insight.

In addition to his community activism, Rabbi Shulman contributed his time, energy, and enthusiasm as an author and editor. He has written various articles expressing Jewish perspectives on contemporary society and social concerns, as well as a contributing author to "Willing, Learning, and Striving—A Course Guide to Emet Ve-Emunah" and "The Ezra Project." Also, he has been cited for many innovations in synagogue programming and for his work with interreligious married couples and their parents. Time after time, he has demonstrated compassion and understanding toward those seeking guidance.

Rabbi Shulman's personal academic achievements reflect the serious convictions he holds to educating and enlightening others. After receiving his bachelors and political science from Brandies University in 1978, his propitious decision to pursue rabbinical studies brought him in contact with Jewish academic and spiritual centers in the United States and Israel. He extended his studies in Israel at Neve Schechter, at the Hebrew University in Jerusalem, and the University of Judaism at Los Angeles. Even as a student, he set high standards for himself and worked ceaselessly to achieve these goals.

Once ordained by the Jewish Theological Seminary of America, New York City in 1983, he moved with his wife, Robin, to Los Angeles, and they eventually became the parents of two daughters, Heidi and Felicia. I am confident that I speak for those in his community when I say that since Rabbi Shulman's arrival at the Congregation Ner Tamid, the South Bay community has been profoundly moved by his love and commitment. His being honored by colleagues, relatives, and friends, is testimony to his accomplishments and service. I join his friends and colleagues in wishing him and his family the best and continued success in future endeavors. His example is encouragement and inspiration to those around the Nation who desire to get involved and better their own communities.

CONGRATULATIONS TO STAN PANIKOWSKI

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. FOGLIETTA. Mr. Speaker, I rise today to pay special tribute to south Philadelphia native Stan Panikowski, one of the few Americans named as a Rhodes Scholar and awarded with a 2-year scholarship to Oxford University. Excited about this new opportunity, Stan Panikowski attributes his success to his family, friends, and teachers who aided in his educational journey.

Residing on the 300 block of Ritner Street, Stan Panikowski is proud to be the only Philadelphian recipient of this award. A graduate of Our Lady of Mt. Carmel School, Third and Ritner Streets, and Saint Joseph's Preparatory School in north Philadelphia, Stan feels extremely lucky to be ranked among the 32 students chosen from the United States. Currently a senior at Emory University in Atlanta, GA, Panikowski will graduate in May with a bachelor's and master's degree in political science.

Ultimately, Stan Panikowski desires a career in government where he believes he can serve the public interest. After 2 years in England, he will graduate with bachelor of arts' degrees in philosophy, politics, and economics, subjects essential to furthering his goals. With this solid background, Stan hopes to continue his education with a master's degree in public policy, and eventually work for the government in the Philadelphia area.

Mr. Panikowski credits his parents' emphasis on education as a primary incentive that instilled in him this strong determination to further his educational career. He exclaimed, "My parents always realized the importance of an education. My parents cultivated that love in me early." I commend Stan Panikowski for his dedication and commitment to his studies and wish him continued success.

THE MANAGEMENT AND POLICY ACT

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. SYNAR. Mr. Speaker, I am delighted to join with my friend and colleague from Florida, Mr. GIBBONS, in introducing the National Wildlife Refuge Management Act of 1993. This bill addresses incompatible secondary uses of the National Wildlife Refuge System—a problem that was the subject of a joint hearing between my Subcommittee on Environment, Energy and Natural Resources and the Committee on Merchant Marine and Fisheries on September 12, 1989.

Obviously, this problem is not new. It has been the subject of numerous GAO reports and three internal reports by the Department of Interior itself, starting in 1968. The message of these reports is clear: incompatible, secondary uses, from water skiing to military bombing practice, pose a serious threat to the wildlife the refuges were designed to protect.

A GAO report released at our 1989 hearing found that 60 percent of the refuge managers themselves believed that at least one secondary use on their refuges was harmful to wildlife, and that many refuges are subjected to more than one harmful use. Even worse, 12 of the refuge managers who replied to GAO's questions identified over 10 harmful uses apiece. Yet the Fish and Wildlife Service did little to prevent or end these activities.

Managing secondary uses takes refuge managers' time and resources away from the wildlife conservation duties for which they were trained and hired. Even worse, these incompatible secondary uses are against the law and have been so since the passage of the Refuge Recreation Act of 1962 and the National Wildlife Refuge System Administration Act of 1966.

My subcommittee's investigation and hearing convinced me that the refuge system needs a formal process with scientific standards for making compatibility determinations, based on a master plan. Unlike the Park Service, Forest Service, and the Bureau of Land Management, the refuge system lacks an organic act to help resolve conflicts between different uses.

The bill we introduce today solves these problems. It provides a statement of purpose and a master plan for the refuge system and requires that compatibility decisions have a sound scientific basis and provide opportunity for public review. Finally, with the passage of this bill, for the first time the Department of Interior will be able to track these uses and the resources they consume in order to put the refuge system on a more businesslike basis.

LONG TERM CARE INSURANCE FOR THE ELDERLY ACT OF 1993

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. ROWLAND. Mr. Speaker, today I rise to reintroduce the Long Term Care Insurance for the Elderly Act of 1993.

The issue of long-term care for the elderly is comparable to a time bomb. Although it is already a very serious problem, it threatens to explode in a far more devastating way over the next several decades if something isn't done.

The problem is the rapid growth of the aging population and the inadequate system for helping people pay for long-term care in nursing homes or through home health care.

In 1900, only 4 percent of the population was 65 or older. By 1980, the percentage had jumped to 11.3 percent. By the year 2020, the 65-plus population is projected to reach 17.3 percent As a result, the number of Americans who will need nursing home care is expected to double in the next 30–40 years. And the cost for individuals receiving this care, which already averages almost $30,000 per year, will also continue to soar. Between 1985 and 1988 alone, the Nation's bill for long-term care increased from $35 billion to more than $50 billion.

The Government currently pays a substantial part of the tab, primarily through Medicaid for low-income citizens. A small part is covered by Medicare and by private insurance. But for most people, there is little or no help available for long-term care. A total of 51 percent of the total financial burden is shouldered by nursing home residents or their families.

For many Americans, this means experiencing ruinous financial hardships or leaving their loved ones without the care that is essential to their well-being. People are literally having to spend-down their financial assets to qualify for nursing home care through Medicaid. Congress is now considering legislation to revise eligible requirements in order to minimize this spend-down phenomenon.

The Federal Government will have to continue to do its share. But in light of the budgetary constraints caused by the large budget deficits, more consideration should be given to expanding the role of the private sector in the financing of long-term care.

The bill I am introducing today would allow all individuals age 59½ and over to withdraw funds from IRA accounts to purchase long-term care insurance without a tax penalty. By encouraging citizens to buy long-term care policies, this legislation would greatly aid Americans in planning for care that they may need in their later years. It also encourages more private sector involvement in the financing of long-term health expenses. I believe that every effort must be made to give America's rapidly growing elderly population an opportunity to live out their years in dignity and peace.

REPEAL OF THE TAX ON CONTRIBUTIONS IN AID OF CONSTRUCTION

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. MATSUI. Mr. Speaker, today I am reintroducing legislation to reinstate the exclusion from gross income of contributions in aid of construction—known as contributions or CIAC—to a water or wastewater utility. Joining me as original cosponsors are Representatives JACOBS, ARCHER, and KOPETSKI.

Utilities are capital intensive industries. Historically, they have received the capital for the construction of a utility extension directly from new customers—typically a developer. The customer contributes this property, or a cash equivalent, to the utility. In this way, existing customers will not face rate increases every time the utility gains new customers.

Prior to enactment of the Tax Reform Act of 1986, CIAC were not included in the gross income of an investor-owned utility and therefore were not subject to Federal income tax. In addition, utilities could not earn, take tax depreciation, or investment tax credits on CIAC.

The 1986 act repealed section 118(b) of the Internal Revenue Code and thus subjected CIAC to tax as gross income. Removing the exclusion from gross income of CIAC was intended as a tax on utilities. In practice, the CIAC tax is not a tax on utilities, but a tax on utility customers, primarily developers and home buyers.

State utility regulatory bodies, often referred to as PUC's, generally require utilities to pass tax costs onto their customers. This is done in one of two ways. The most common approach is to require the new customer to pay the cost of the tax, plus the tax on the tax known as a "gross-up". Depending on the State, a gross-up can add as much as 70 percent to the customer's cost of the contribution. Alternatively, the PUC may allow the utility to recover the tax cost from existing customers.

Whichever method is chosen, utilities do not pay the tax, they pass it on. But passing the tax on has detrimental effects, not only on the utility's ability to bring in new business, but on the environment and—most significantly—on the price of new housing and housing construction.

A developer will ultimately pass the cost of the CIAC and the gross-up on to the new home buyer. The National Association of Home Builders has estimated that the CIAC tax can increase the cost of new housing by as much as $2,000 a unit. This additional cost is enough to end the dream of homeownership for a young couple.

The CIAC tax also has some important environmental effects. New customers can avoid paying that CIAC tax by building their own independent water systems. This leads to a proliferation of systems that may not have the financial, technical, or managerial ability to comply with the rigorous requirements of the Safe Drinking Water Act. Such systems are referred to as "nonviable." According to EPA, in fiscal year 1990, more than 90 percent of the violations of the Safe Drinking Water Act were made by systems serving less than 3,300 individuals. By encouraging the proliferation of nonviable systems, the CIAC tax frustrates the environmental policy goal of consolidating these systems into already existing, professionally managed systems.

Section 118(b) of the Internal Revenue Code, exempting contributions in aid of construction from gross income, should be restored. It is a tax on capital, not income. It is not a tax on utilities, it is a tax on their customers. The CIAC tax increases the price of new homes, leads to the development of environmentally unsound water and sewage facilities and reduces the tax base for all levels of government.

Most important in my opinion, elimination of the CIAC tax will help get the real estate market back on its feet. Not by fueling real estate speculation, but by removing another barrier to the purchase of a new home. Anyone who has bought a house recently knows you just don't pay the price of the house. You pay closing costs, title costs, title insurance fees, attorneys' fees and points. And when you buy a house hooked up to privately owned utilities, you also pay the CIAC tax—as much as $2,000 a unit.

This legislation was most recently estimated to cost $106 million over 5 years. I have included a revenue offset in the bill as introduced that raises $140 million over the same period, thus netting $34 million for the Federal Government. The offset extends depreciation on new water utility plant from 20 to 25 years and switches from 150 percent declining balance to straight-line depreciation. This offset was suggested by the investor-owned water industry and is indivisible from the substance of the legislation which is the restoration of the exclusion of CIAC from gross income. The industry suggested it only for the purpose of repealing the CIAC tax, and that is its only intended use.

Mr. Speaker, repeal of the tax on CIAC for water and wastewater utilities will have a noticeable effect on both housing prices and environmental policy. It is supported by both the National Association of Water Companies and the National Association of Regulatory Utility Commissioners. I urge my colleagues to cosponsor this important legislation.

TELEPHONE COOPERATIVES LEGISLATION

HON. MICHAEL J. KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. KOPETSKI. Mr. Speaker, yesterday, I reintroduced legislation intended to clarify the tax treatment of certain amounts received by cooperative telephone companies. This new measure follows my introduction of similar legislation, H.R. 614, on January 26, 1993.

H.R. 614 reflects the language of its predecessor from the 102d Congress as introduced. However, last year's legislation was modified prior to the conference report's approval, primarily to clarify the treatment of telephone cooperatives' investment income, and H.R. 614 does not reflect these modifications.

To expedite consideration of this important issue this year, the measure I introduced yesterday is identical to the language of last year's conference agreement and is supported fully by telephone cooperatives and the cosponsors of H.R. 614. The bill number of the new measure is H.R. 778.

MINNEAPOLIS STAR TRIBUNE PUBLISHES INTERESTING SERIES

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. FRANK of Massachusetts. Mr. Speaker, I was very pleased to receive last week an excellent special section from the Minneapolis Star Tribune, in which photographer Rita Reed and writer Kurt Chandler portrayed with a great deal of intelligence, sensitivity, and analytical power the plight of gay and lesbian teenagers. Those who have expressed puzzlement as to why many of us feel that the fight against anti-gay and lesbian discrimination is an important one, fully deserving of national attention, should read the series. I believe that when people of any genuine degree of compassion read about the pain that many of these young people have experienced through no fault of their own, they will realize that abolishing the prejudice which besets them is an important national goal. The articles are far too long to be re-printed here, but I want to congratulate the editors of the Minneapolis-St. Paul Star Tribune for publishing this series, and congratulations to Kurt Chandler and Rita Reed for their excellent work, and urge people who have any interest in understanding this subject to write to the Star Tribune and get copies.

END THE BLOCKADE OF ARMENIA

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. BONIOR. Mr. Speaker, the Azerbaijani blockade of Armenia must end immediately. As a result of the blockade, Armenia is facing a winter of subzero temperatures without electricity, heating fuel, public transportation, telephone services, functioning factories, newspapers, and fresh water. The recent destruction of the last fuel pipeline into Armenia has left tens of thousands of its people in danger of death by exposure and starvation.

This Saturday's Washington Post reports that "people glumly set buckets under melting chunks of ice for drinking water for their children," and "dogs have become so hungry that they travel in sullen packs attacking people." Families are forced to sit in frigid homes without light, and barely enough fuel to cook food and wash themselves. The article also reports a surge of tuberculosis, hepatitis, measles, and gastrointestinal disease which will only worsen when temperatures rise this spring.

For the past 5 years, the blockade has hindered Armenia's efforts to recover from the devastating 1988 earthquake. The blockade also threatens to derail Armenia's successful transition to a democratic and free market system. Now the blockade threatens to take tens of thousands of lives.

The world community cannot tolerate the use of economic strangulation against civilian populations as a means of achieving political goals. Congress took the first step last year by prohibiting aid to Azerbaijan until the blockade is lifted, however, further steps are required.

I urge the President to work in coordination with its allies, within the United Nations and elsewhere to end this blockade and to pressure Azerbaijan to immediately open corridors for the transport of food, fuel, medicine, and other humanitarian supplies. The situation in Armenia has reached crisis proportions which requires immediate action.

IN SUPPORT OF NATIONAL EYE DONOR MONTH

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. ENGEL. Mr. Speaker, I rise today to remind my colleagues of the many benefits related to the use of organ, tissue and, most particularly, eye transplantation. These procedures have not only saved lives, they have also allowed thousands of men, women, and children to lead productive lives that might not have been otherwise possible. The benefits from such procedures extend beyond those who received transplants. They extend to the families, communities, and businesses that the recipients belong to. The efforts of Congress have had an enormous, positive impact on the success of organ donor and transplant programs, especially in the area of eye donation.

During 1991 over 90,000 donor eyes, a record number, were used by eye banks in the United States and Canada to restore or enhance sight and conduct research. According to the Eye Bank Association of America [EBAA] over 41,000 were used to restore sight through corneal transplants. The remainder were used in other sight enhancing procedures, and in vital research that may one day lead to the restoration of sight for the thousands of people who suffer from other types of blindness. These dramatic numbers are due in large part to increased public awareness of the benefits of eye donation. Caring Americans have in this case, as they have always done, heeded the call to help their fellow citizens in need.

Since 1961, when the EBAA was founded, more than 421,300 corneal transplants have been performed with a 90 percent success rate, the highest success rate of all transplant surgery and a truly remarkable number. The thousands who have had their sight restored by these transplants know first hand the importance of support for donor programs and the EBAA's role in the forefront of sight restoration.

The EBAA coordinates activities across the United States and Canada through its member eye banks to increase eye donations, expedite research, and maintain high medical standards for obtaining medical screening and delivering corneas for transplant.

Although donation of eyes for transplant and research has risen dramatically in recent years, many people are still waiting for the precious gift of sight that donations can provide. Their hopes rest with a public that is completely aware of the donation process. Great effort must be made to inform Americans that all eyes are acceptable for donation, regardless of a donor's age or quality of vision.

We, in Congress can lead the effort to educate the public about the need for eye donations and encourage more Americans to become organ and tissue donors. We have joined the effort every year since 1983 and may do so again by commemorating March, 1993, as National Eye Donor Month. In this we call on all Americans to support us in promoting the worthy endeavor of bringing aid to our fellow citizens.

FLOOR REMARKS BY CONGRESSMAN GEORGE E. BROWN, JR. ON THE MIDDLE-CLASS FLEXIBLE SAVINGS ACT OF 1993

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. BROWN of California. Mr. Speaker, today, I am introducing the Middle-Class Flexible Savings Act of 1993, which focuses on savings incentives for middle-class taxpayers.

Current IRA law makes no sense for working Americans. On the one hand the Federal Government is asking workers to set aside their hard-earned money until retirement, but then insists that the savings not be touched—even in dire circumstances—until retirement age. This is an impossible feat for many middle-income families who have struggled to maintain their standard of living during the past 10 years. My bill would extend a helping hand to middle-income Americans by making three important and progressive changes in current law governing IRA's.

First, it will substantially increase the level of contributions that they can put in an IRA. Since IRA's were first made possible in 1981, the levels governing how much can be contributed annually and who can deduct their contributions, in sum or in part, have eroded due to inflation. My bill increases contribution levels to make up for inflation since 1981, and it indexes contribution levels annually to keep pace with inflation.

Second, my bill authorizes higher IRA contribution levels for nonworking spouses in households with one or more children under the age of 6. That contribution level will also be indexed to keep up with inflation.

This provision could be called the IRA homemaker provision. Arguably, those Americans who most need to save for retirement are those (women primarily still) who stay at home to nurture their children in their most formative years. That financial sacrifice should be recognized and redressed by allowing them to better save for later years.

Finally, my bill would also allow middle-class taxpayers greater flexibility to withdraw IRA funds without being subject to the 10 percent penalty in order to pay expenses for higher or vocational education, to pay catastrophic medical expenses, or to start a small business. Arguably, wealthier taxpayers don't have commensurate cashflow problems vis a vis their IRA's and should still be encouraged to keep their money in savings.

At the rate tuition costs are rising—at least twice the rate of inflation—4 years at a State university by the year 2000 may cost over $50,000. Also, growing numbers of American workers are returning to classrooms to prepare for mid-career changes or to upgrade exiting job skills. This legislation will permit withdrawals for higher education and vocational education expenses for many of those Americans who are struggling to put themselves or their children through college.

With health care costs skyrocketing, the Federal Government must find ways to help ease the burden of medical expenses for middle-income Americans. A serious illness can be financially devastating to all but the extremely wealthy. My bill would allow individuals and families to draw upon their savings to provide health care for themselves, their children, and their parents.

Similarly, most of the new jobs are to be found in America's small businesses. It makes sense to make it easier for entrepreneurial Americans to get together start-up capital when they decide to start a business in mid-career or otherwise.

Last year, Congress decided that it was time to ease the tax burden on middle-income

Americans. This year, with a veto-threat out of the way, we can help those Americans who are working harder and longer yet finding it more and more difficult to make ends meet, let alone sock away money into savings. I urge my colleagues to support me in my proposal to assist middle-class tax payers by providing them with increased benefits through IRA's.

BALANCED BUDGET AMENDMENT IS NEEDED

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. LAZIO. Mr. Speaker, a constitutional requirement to balance the budget of the U.S. Government is not an end in itself. It is best thought of as a backstop or institutional framework because no amendment can actually force a balanced budget. That is why I do not view my support of this amendment as an end in itself.

Congress is very good at providing political cover, but I recognize that actually balancing the budget will require much more than simply enacting a balanced budget amendment. Balancing the budget will mean making difficult and painful choices—which programs to eliminate, cut back, or restrain and which, if any, taxes to raise. When making those tough decisions, I will not hide behind my support for a constitutional amendment.

The problem caused by running large deficits is temporal and generational. It is the classic tradeoff between what to do with one's income, whether that one is an individual or a society. Because income can only be consumed or saved, consuming more now means consuming less later. Therein lies the problem. The effect of running large deficits year after year is sinister, not catastrophic. It is not like falling off a cliff or slamming into a wall, and perhaps that is unfortunate. If the consequences of not living within our means were catastrophic—a crisis in the normal meaning of that term—we would probably address the matter and fix it—as was done with the Social Security crisis of 1983. But because the urgency of a traditional crisis is missing, all we seem to get is rhetoric against deficits instead of actions that actually reduce them. I think a balanced budget amendment will put more urgency into the debate.

Simply put, the consequence of running large deficits is to lower future living standards, a kind of play now, pay later phenomenon. It is absolutely true that we are saddling our children with paying for our largess; in so doing, we are sapping their ability to consume from their income and, as a result, their standard of living will be lower than it would be if we were not sticking them with the bill for our own consumption.

I have therefore come to the reluctant conclusion that a balanced budget amendment is a necessary step toward achieving the goal of a balanced budget.

ARMENIA

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. REED. Mr. Speaker, I rise today to express my support for the people of Armenia. Conditions in Armenia have drastically deteriorated during the last 4 years of ethnic violence with Azerbaijan. This once prosperous state has been brought to the brink of political disaster and economic collapse due to the blockade imposed by Azerbaijan.

The recent destruction of the last fuel pipeline into Armenia during this winter of subzero temperatures has brought great suffering to the people of Armenia. There is no electricity, heating fuel, public transportation, telephone service, or fresh water in this land-locked Nation. The shortage of food, fuel, and medical supplies threatens to take the lives of tens of thousands of innocent victims during the coming weeks and months.

The Armenian people have struggled for independence for centuries. They survived the Ottoman Empire's attempt to eliminate the Armenian culture, language, and race in the 20th century. Many of those who survived were exiled from their homeland.

With the fall of the Soviet Union, the Armenians were finally able to determine their own destiny, through free and fair elections. The blockade by Azerbaijan threatens to destroy this newly independent democracy. In December, the United Nations asked the International Community to come to the aid of Armenia in its time of need.

I believe that the United States should continue to lead relief efforts to Armenia. While shipments of humanitarian aid have been arriving in Armenian over the last few months, it is clear that the suffering continues.

I join the Armenian-Americans of Rhode Island, and throughout the Nation, in urging a continuation of relief shipments to the people of Armenia. I also urge Secretary of State Warren Christopher to work for an end to the blockade of Armenian by Azerbaijan.

OPPOSITION TO COMMERCIAL WHALING AND SUPPORT FOR ESTABLISHING THE ANTARCTIC INTERNATIONAL WHALE SANCTUARY

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. SAXTON. Mr. Speaker, yesterday I joined my colleague, Mr. STUDDS, in introducing a resolution expressing congressional support for continuing the international moratorium against the commercial harvesting of whales, and for designating the Antarctica as an international whale sanctuary, the feeding grounds for many species of whales and dolphins.

Although many people regard the practice of commercial whaling only as a tragic entry in the history books, they may be sadly mistaken. At this year's annual meeting of the International Whaling Commission, there will be efforts by some nations to resume commercial harvesting of these creatures.

Half a century ago, many species of whales were pursued to the brink of extinction. The only thing we understood about these creatures back then, were the profits they afforded from commodities—commodities which are now antiquated and no longer valued or necessary in modern societies.

Today, the nations of the world have begun to realize their responsibilities as international citizens in a global community of shared ecosystems and natural resources. The International Whaling Commission, organized 47 years ago, was a milestone in acknowledging the mutual need for conservation and stewardship that exists between nations.

Since that time, we have been successful in rebuilding some whale stocks. However, some species continue to decline, and others may never recover. More importantly, we remain woefully ignorant about these creatures and how their health relates to the general health of our ocean environments, the pressures of marine pollution, habitat destruction, and the impacts resulting from any possible climate change.

We humans have an instinctive respect and curiosity for these intelligent creatures, whose near-extinctions challenge our own intelligence to manage the natural resources on which we depend. The for-profit harvesting of whales is an unnecessary and primitive behavior that has no place in an ever interdependent world. I urge my colleagues to support this resolution and put an end to commercial whaling.

PEOPLE OF ARMENIA NEED OUR HELP

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Ms. WOOLSEY. Mr. Speaker, I rise today to draw to the attention of my colleagues a situation which is finally getting the media attention it deserves. The recent events in Armenia represent another international humanitarian crisis, which we as caring individuals must not ignore. The news reports from this weekend confirm what the people in the Armenian community have said for a long time. People are starving. Power lines are down. Schools and hospitals are closed.

I was elected by the people of my district to focus on the domestic problems facing our country. But a successful domestic program is dependent on a sound international policy. We can pass a Family and Medical Leave Act and help the people of Armenia. When people of lesser fortune in a different part of the world face mass starvation and sickness, the United States must act with compassion.

I would like to see the United Nations become strong enough to address the desperate situations of countries like Armenia without special United States involvement. When this happens, the burden of confronting humanitarian problems can be shared more equally by the international community. But right now the people of Armenia need our help, and our country must assist the United Nations in assuring that humanitarian relief arrives safely and swiftly. I urge President Clinton to help the United Nations achieve this goal.

IN SUPPORT OF ARMENIA

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. VISCLOSKY. Mr. Speaker, on February 2, I joined 45 of my colleagues in the House of Representatives in sending a letter to President Clinton urging that the United States lead the international community to ensure that desperately needed food and medical supplies reach the Armenian people in a timely manner.

Today, I rise to call for an end to the Azerbaijani blockade of Armenia. This blockade, combined with the recent destruction of Armenia's fuel pipeline, has caused desperate human conditions throughout the Republic. Though the pipeline has been partially repaired and Armenia is now receiving some gas, it is not enough. Last week, the pipeline delivered approximately 5 million cubic meters of gas a day—about 20 percent of Armenia's needs. As of yesterday, the damaged pipeline was supplying 2.5 million cubic meters of gas daily—only 10 percent of the needed fuel.

Armenia's severe fuel shortage, and the other hardships caused by the blockade, have contributed to devastating human suffering. The supply of medicine is in critically short supply. Even the vaccines donated by the international community can no longer be stored properly. There are reports of surges in gastrointestinal disease, tuberculosis, viral hepatitis, and measles. The prices for bread and other basic essentials have just risen 500 to 900 percent. Further, infant and elderly deaths have been drastically rising.

Armenia is now in the grip of winter, with sub-zero temperatures and a lack of electricity, heating fuel, fresh water, public transportation, telephone service, factories, newspapers, and sanitation services. Further complicating these dire circumstances, the Armenian government is considering reopening a nuclear power plant, which was shut down after the 1988 earthquake for safety reasons, if the situation does not improve.

By all reports, the situation in Armenia is deplorable. Tens of thousands of lives will be lost due to exposure, starvation, and disease if immediate action is not taken. The United States must act now and lead the international community in calling for an end to the Azerbaijani blockade of Armenia and help to provide the desperately needed food, fuel, and medical supplies.

CONCERN FOR SUFFERING IN ARMENIA

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. LEVIN of Michigan. Mr. Speaker, I rise today to express my deep concern for the tens of thousands of men, women and children suffering in the blockaded Republic of Armenia. The people of this newly independent nation have scrimped and sacrificed to survive under the 4-year-long Azeri blockade. Landlocked in the Caucasus Mountains, 70 percent of the population has been reduced to living below subsistence levels as fuel, food and supplies have dwindled.

The recent destruction of the last remaining fuel channel into Armenia paralyzed the nation. Although the sole pipeline has since been patched, the nation continues to struggle with an almost total energy blockade. The Armenian economy is at a standstill, public transportation has ceased, phone lines are down and factories and schools remain closed. Mr. Speaker, I am sure you've read the accounts of families burning their furniture for heat. It is a rigid winter, and thousands risk death from exposure and malnutrition.

The increasingly dire conditions within Armenia necessitate immediate assistance. While the United States has commendably responded to this emergency with funding for a humanitarian relief mission, we can do more. We must work with the United Nations to effect the immediate conclusion of the Azeri blockade, which is a violation of fundamental human rights. Moreover, our new administration should continue its diplomatic efforts to bring about a negotiated resolution of the Nagorno-Karabagh crisis.

FLORIDA A&M's RESPECTED ALUMNI

HON. DOUGLAS (PETE) PETERSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. PETERSON of Florida. Mr. Speaker, Florida A&M University has done it again. This outstanding State university, located in my district in Tallahassee, has long been known for its many distinguished and widely respected alumni. Florida A&M can now add to its illustrious list three of our colleagues here in the U.S. House of Representatives.

Indeed, three new members of Florida's congressional delegation, Congresswomen CARRIE MEEK and CORRINE BROWN, along with Congressman ALCEE HASTINGS, are all Florida A&M alumni. They now join such celebrated Florida A&M University graduates as Dr. Lasalle LeFall, former chairman of the American Cancer Society, and Davision Hepburn, Ambassador to the United Nations from the Bahamas.

Florida A&M has also produced many stars from the sports world such as major league baseball all-stars Vince Coleman and Andre Dawson, along with the man who has become known internationally as the world's fastest human, Bob Hayes, winner of the gold medal in the 100 meters in the 1964 Olympic games in Tokyo, Japan.

But, Mr. Speaker, these several highly visible examples are just a few of the countless men and women that Florida A&M has directed toward bigger and better things. Certainly, few schools can match Florida A&M's track record for molding students into successful and respectable human beings.

Once again, I congratulate my three new colleagues. We have come to expect great achievements from Florida A&M graduates, and I know that Representatives BROWN, MEEK, and HASTINGS will continue that tradition.

THE BRAY DECISION

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Ms. SLAUGHTER. Mr. Speaker, the Congress must act once again to overturn a Supreme Court decision which fails to protect the rights of American citizens. By denying Federal protection for lawfully operating clinics, the Bray decision says that if enough law breakers can gather to shut down a clinic, and that locality can not, or will not muster the resources to keep it open, then women will just have to go without health care. This is a disgrace.

I find it ironic that the same court which recently upheld the legal right for a woman to have an abortion has now rendered a decision which may make that right meaningless. What makes the Bray decision even more shameful is that facilities such as Planned Parenthood which are targeted by anti-choice groups do much more than perform abortions. Some of the many health services Planned Parenthood provides include birth control, pre-natal care, breast-screening education, cancer screening, and HIV testing and counseling. A mob, however, is not discriminating. Whether that woman is going to the clinic to exercise her legal right to have an abortion, or for any one of the numerous other health services that facility may provide, she may be unable to do so without Federal protection to keep that clinic open.

When the courts refuse to act to guarantee women their rights and access to health care, then Congress must act. I urge my colleagues to pass the Freedom of Access to Clinic Entrances Act of 1993.

TRIBUTE TO YESHIVA KETANA OF MANHATTAN

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. NADLER. Mr. Speaker, I rise to pay tribute to the Yeshiva Ketana of Manhattan on the occasion of its sixth annual dinner on January 16, 1993. The yeshiva, which is located at 346 West 89th Street in Manhattan, serves the Orthodox Jewish communities of Manhattan's West Side, Lower East Side, and Washington Heights, and that of the Bronx and surrounding areas as well. It is widely respected as a center of Jewish learning, and I wish to attest that that respect is well deserved.

I also want to commend the fine individuals who, by virtue of their outstanding efforts, have been named as honorees for the sixth annual dinner. Professors Richard and Suzanne Stone have been named the guests of honor, in recognition of their philanthropic and other efforts on behalf of the yeshiva. Mr. and Mrs. Leonard Teller have been named "Parents of the Year" in recognition of their outstanding service on behalf of the yeshiva. Mrs. Teller, by the way, is also the administrator of the yeshiva. Rabbi HoRav Zev Tzvi Vorhand, Prager Rov, and the Rebbitzin are the recipients of this year's Rabbinic Community Service Award. Rabbi Vorhand was instrumental in founding the yeshiva and gave it its first home on West 91st Street.

Mr. Speaker, I am proud to be a friend and neighbor of the Yeshiva Ketana of Manhattan and to bring the yeshiva and the honorees at its sixth annual dinner to the attention of this House.

SALUTE TO AUDREY BRAY

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. GINGRICH. Mr. Speaker, it is with a great deal of pride and gratitude that I rise today to recognize the years of hard work and dedication that Audrey Bray provided to the Sixth District of Georgia.

Audrey brought a unique perspective to my congressional staff through her years as a small business owner in Newnan. She knew how to deal with all kinds of problems that might arise in her work and brought this sense of accomplishment to my staff.

Whether it was working to bring clean drinking water to west Georgia or assisting a student with a class project, she always worked for the good of the people of the sixth district.

She has since joined the staff of Representatives MAC COLLINS, and I know that she will continue to provide quality service to the people of Georgia.

CLINTON LOOKING TO TERMINATE SELECTIVE SERVICE PEACETIME REGISTRATION

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. SOLOMON. Mr. Speaker, one of the first actions taken by President-elect Bill Clinton's transition team was to ask officials at the Selective Service System to try to justify why the Program of Peacetime Registration should not be terminated.

I should remind the new administration that any action to terminate this program cannot be done by Executive order and there is very limited support in the Congress for such a move. This action was attempted a few months ago and was overwhelmingly defeated in this body.

Peacetime registration is an inexpensive hedge against the unknown. As the size of our military is reduced, it becomes even more essential to retain our ability to reconstitute forces rapidly to meet any threat to the Nation. More than ever before, the selective service must be ready to mobilize quickly and fulfill its vital role in any down-sized force structure.

Peacetime registration helps to insure military readiness at a very small cost to the taxpayers.

I would also point out that the new President doesn't need any more trouble with the major veteran organizations in this country. The American Legion, the Veterans of Foreign Wars, the Non-Commissioned Officers Association and AMVETS strongly support this program and I have already altered them to attempts made to kill the Peacetime Registration Program. It should be noted that these organizations have a combined membership of over 10 million Americans.

Finally, let me say that when the House considers legislation to implement any new national service program, I will offer the Solomon amendments to insure that any and all applicants are drug-free and registered with selective service.

SAVING IN AMERICA

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. LAROCCO. Mr. Speaker, today in America we are facing a crisis, or should I say facing up to a crisis. We have seen the rate at which the American people save their money decline to its lowest point in 20 years, and we are just now beginning to wake up to the consequences.

A recent study by B. Douglas Bernheim, professor of economics and business policy at Princeton University, focuses on the savings habits of the baby boom generation as we approach retirement age with insufficient savings. But this is just one aspect of what is now becoming a national problem. When people fail to save and instead concentrate their resources on consumer spending, the long-term health of the economy is at risk. The declining savings rate depresses investment and deprives the economy of new plant and equipment purchases that are necessary for continued growth and sustained prosperity.

It is time for the savings rate to take its place in the public debate on the economy. I commend Professor Berheim's study to my colleagues, and I look forward to having more to say on this subject in the months ahead.

THE RESPONSIBLE SNOWMOBILE PROGRAM

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. ROTH. Mr. Speaker, I rise today to salute the launching of the Responsible Snowmobiling Program on January 15, 1993. This winter, with the generous support and contributions of the Miller Brewing Co., Artco Inc., Polaris Industries Inc., Bombardier Inc., Yamaha Motor Co., and the International Snowmobile Industry Association, the Responsible Snowmobiling Program was established to promote snowmobile safety.

Having spent most of my winters in northeast Wisconsin, I have had many occasions to enjoy the thrill of snowmobiling. I'm sure some of you in this chamber have had the opportunity as well.

Those of you who have, also understand full well the risks inherent in the sport. Inattentive, reckless, or impaired snowmobiling can be a fatal mistake. For this reason, I'm pleased that these philanthropic corporations have generously given of themselves to establish this very worthwhile program.

I'm especially proud that the Responsible Snowmobiling Program was launched in Eagle River, WI. This region of the State, part of my congressional district, is renowned for its wonderful snowmobile trails, and each winter season brings thousands of snowmobiling enthusiasts to the northwoods. Northeast Wisconsin needs a snowmobile safety program, and the comprehensive and broadly supported one launched this month will go a long way to promote safety, caution, and responsibility in the sport and pastime we in Wisconsin cherish so much.

Mr. Speaker, I would like to commend everyone involved for the work they've done in making this program a reality. Thanks to their efforts, millions of snowmobile enthusiasts will continue to enjoy one of winter's greatest pleasures in a safer, more responsible manner. I ask that my colleagues join me in saluting the establishment of the Responsible Snowmobiling Program.

TRIBUTE TO COM. SGT. MAJ. WALTER W. KRUEGER, USA, RET.

HON. FRANK TEJEDA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. TEJEDA. Mr. Speaker, on February 13, Mr. Walter W. Krueger will step down as president and chief executive officer of the federally chartered Non Commissioned Officers Association of the United States of America. Mr. Krueger is a true American patriot and I could not let this occasion pass without commenting on his achievements.

Mr. Krueger served in the U.S. Army for 33 years, rising through the ranks to Command Sergeant Major. Among his many assignments were tours in Panama, Korea, Europe, and Vietnam where he earned the Combat Infantryman's Badge. His Army career culminated with his appointment as Command Sergeant Major of the U.S. Army, Europe [USAREUR] and 7th Army. His success was recognized with the Distinguished Service Medal.

While serving in Europe, Mr. Krueger was appointed to the Non Commissioned Officers Association [NCOA] board of directors. Upon his retirement from the Army in 1983, he was elected executive vice president of the association. He assumed the presidency 1 year later.

During his tenure as president, NCOA received recognition with a Federal charter from the U.S. Congress. The association established its medical trust fund which makes thousands of dollars each year in grants to military families. He created the NCOA Operation Appreciation program which last year raised more than $135,000 used to purchase recreational equipment for use by hospital veterans. And, under his leadership, the association significantly increased the amount and number of scholarships granted to military dependents each year. For his service and dedication, Walt received every major association award.

Mr. Speaker, Walt and his wife Betty Ann live in San Antonio, TX. They have five daughters. Walt frequently credits Betty Ann for his success, and certainly she and the family have sacrificed with frequent moves and other hardships of military life. I salute them for their contribution, and I commend to the attention of my colleagues the most admirable service of Com. Sgt. Maj. Walter W. Krueger, U.S. Army, Retired, president of the Non Commissioned Officers Association, and a great American.

IS THE BABY BOOM PREPARING ADEQUATELY FOR RETIREMENT?

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. LAROCCO. Mr. Speaker, I insert the following summary report for the RECORD:

IS THE BABY BOOM PREPARING ADEQUATELY FOR RETIREMENT?

(Summary report by B. Douglas Bernheim, Princeton University)

I. SUMMARY

The purpose of this study is to evaluate how adequately members of the Baby Boom generation are saving for retirement. In the past, American workers have done a relatively poor job of preparing themselves for retirement, and it is widely recognized that Americans saved even less during the 1980s than they had in the 1960s and 1970s.

This raises the concern that most members of the enormous Baby Boom generation, those born between 1945 and 1964, are not saving enough to provide themselves with adequate financial security when they begin to retire early in the 21st Century. Despite this issue's obvious importance, it has not been the subject of any previous systematic investigation.

This study has three components:

First, it uses a computer simulation model to determine how retirement saving is required by various population subgroups in order to maintain a standard of living after retirement that is consistent with pre-retirement years. The computer model is not based on household income levels, but rather on household consumption levels, which more accurately reflect individual living standards.

Second, by examining data on household assets, the survey determines how much American households are actually saving.

And third, by comparing the simulated model of required savings with the amount of actual saving, the survey arrives at an index of savings adequacy—in other words, the amount of ground that American households must make up if they are to achieve a relative degree of financial security in their retirement years.

The survey's simulated model of required savings suggests that in order to achieve targeted amounts of savings upon retirement most households need to save a fraction of each year's earnings that rises with age. However, even realtively young households (35 to 45 years old) generally need to save 9-to-19% of their after-tax income, and individuals who are not covered by private pension plans should be even more frugal. On average, a household in the 35-to-45 age bracket that does not expect to be covered by a private pension should save between 13% and 25% of after-tax income, and this figure should rise with age.

Unfortunately, the survey's analysis of household asset data reveals that most households are saving at a much slower rate.

To arrive at a quantitative estimate of this savings shortfall, one must make a determination as to which household assets represent savings to finance consumption during retirement and which assets represent savings for some other purpose, such as financing children's college education, paying nursing home care for elderly parents, or buying a second home. This survey examines and evaluates a common level of saving and assumes that all household saving will be used to finance retirement. Other saving needs, of course, will increase the amount of saving needed.

It is important to note that during the 1970s and 1980s, American homeowners came to regard their houses not merely as residences, but as their most important financial asset as well. However, previous research suggests that the elderly have a strong aversion to paying living expenses during retirement by drawing upon the equity in their homes.[2] Therefore, it would be inappropriate to treat homeownership as a form of saving for retirement consumption.

When housing wealth is discounted, the average household is accumulating assets at only 33.79% of the desired rate. However, even if households were willing to devote all of the equity in their homes to finance retirement consumption, their accumulated assets would still fall short of prescribed levels by a significant amount.

The survey's findings paint a rather bleak picture for members of the Baby Boom generation and suggest that, unless they become far more frugal, most of them will have to accept dramatically lower standards of living in retirement than they enjoyed during their working years.

It is worth emphasizing that the calculations presented in this paper err on the side of conservatism. These figures overstate the degree to which American households are adequately preparing for retirement and, therefore, understate the true dimensions of the problem.

The remainder of this report is organized as follows:

Section II sets forth the methodology used to determine the levels of household savings required to maintain a consistent living standard after retirement and gives the computer model's results.

Section III examines the survey data on actual household asset accumulation, or savings.

Section IV compares the required rates of household saving with actual rates.

Section V presents conclusions.

It should be noted that this report is a summary of the survey's results and methodology. It does not supply technical details. These details are set forth in a separate technical report.[3]

II. LEVELS OF HOUSEHOLD SAVING REQUIRED TO MAINTAIN A CONSISTENT STANDARD OF LIVING IN RETIREMENT

A. Methodology

The prescribed levels of household saving presented here are based on an elaborate computer simulation model. This model projects lifetime consumption needs for different groups of people and then—in Section IV—compares those needs with actual savings behavior. The result of this comparison is an index that measures the individual household's degree of savings adequacy to meet future consumption needs.

The model uses several household categories, including age, current income level, pension coverage, education, and marital status. The model also takes into account important macroeconomic factors, such as interest rates, inflation, economic growth rates, and tax rates—both current and future. The computer model uses historical data on these factors to generate statistical forecasts of future conditions.

Based on the variables mentioned above, the model projects how much savings a household should have accumulated in the past and how much it should accumulate in the future in order to achieve the level of financial assets required.

This model also reflects a life cycle approach to the average household's financial decision-making process. In other words, it takes into account the correlation between certain age groups and certain major financial expenditures, such as buying a first home. This is the most widely used framework for studying household decision-making over time.[4]

Most households make important financial decisions that will give them the highest possible standard of living consistent with future financial stability. They are less concerned with maintaining a steady income after retirement than with maintaining a steady level of consumption. Ordinarily, households do not need the same level of income after retirement in order to maintain the same level of consumption because the need to save decreases.

One note of caution is in order: The Model used in this study is not designed to analyze the adequacy of saving by any individual household. The goals and characteristics of each individual household are unique. Rather, the computer model used in this survey is designed to calculate the adequacy of savings by households with characteristics typical of certain large population groups.

The computer model generally works as follows: Starting with the basic household characteristics listed above—age, income, marital status and pension coverage—the model imputes an earnings history beginning at age 26,[5] as well as a family composition, which includes children and other dependent relatives.

For each age group, earnings are then further adjusted to reflect past and projected wage growth in the economy. The model also is adjusted to reflect ongoning changes in household characteristics, such as continuing education and the birth of new children.[6]

The model then generates consumption and asset accumulation patterns for the household throughout its life cycle. It assumes that each household begins saving for retirement at age 26 with no accumulated assets whatever. For every year afterward, the model assumes that the individual household reevaluates its savings habits according to changing needs and circumstances—brought on, for instance, by a change in interest rates or income level—and behaves accordingly.

For each year of the household's financial life cycle, the model re-evaluates several variables that will affect decisions about consumption and savings. These variables are as follows:

Earnings: Projected through age 65, at which point it is assumed that the worker will retire.

Social Security benefits: The model forecasts a level of Social Security benefits for each household upon retirement, based on current statutes. These benefit levels reflect adjustments for spousal benefits and early retirements, where appropriate.

Pension benefits: Private pension income is projected, based upon average income replacement rates for individuals with normal retirements.[7] Pension coverage for secondary wage earners is calculated on the basis of population averages.[8] The model assumes that pension beneficiaries will receive partial cost of living adjustments, when appropriate.[9]

Taxes: The model incorporates details of the federal tax code, including tax brackets, tax rates, exemptions, and standard deductions. It projects future tax liability based upon the assumption that the degree of progressivity embodied in the federal tax system continues to remain in effect and that, on average, the effective tax on income from capital will be one half the rate on the last dollar of earned income. The model assesses state income taxes at a constant fraction of income, reflecting the national average. Payroll taxes are also applied up to the taxable maximum.

Family Composition: Household size and composition has an important effect on living standards. The model incorporates the financial effects of new-born children and dependent adults in the household over its financial life cycle.[10]

Survival probabilities: Gender-specific survival probabilities have been obtained from standard life tables and factored into the model.

Macroeconomic variables: For each of the relevant macroeconomic variables—interest rates, inflation rates, baseline wage growth rates, the level of federal income taxation, state income tax rates and payroll tax rates—an appropriate forecasting model was made and factored into the computer simulation.

B. Findings of the Computer Model Simulating Levels of Assets Required by Typical Households Upon Retirement

Table 1 below presents the minimum level of savings required by households at various ages—35, 45, 55 and 65—in order to fund a retirement at a standard of living consistent with the years before retirement.

All figures in this table are in constant 1991 dollars. It is likely that there will be substantial cumulative inflation over the next thirty years. Thus, the table says that a typical married couple with pension coverage and earning $50,000 a year at age 35 needs to accumulate $183,100 in savings by age 65; however, the actual amount needed will be significantly more, when measured in dollars of the year 2021.

As mentioned earlier, it is also important to remember that this survey assumes all of a household's accumulated savings will be used to finance retirement. Obviously, households must also accumulate savings for other important purposes, as well.

TABLE 1.—MINIMUM LEVEL OF SAVINGS REQUIRED FOR A TYPICAL HOUSEHOLD TO REMAIN ON TRACK FOR RETIREMENT (IN 1991 DOLLARS)

Household characteristics	Savings accumulated by age			
	35	45	55	65
Married couples				
Earnings=$30,000:				
With pension	560	15,010	52,120	88,350
Without pension	5,000	35,320	82,750	136,100
Earnings=$50,000:				
With pension	8,580	32,660	94,230	183,090
Without pension	19,880	64,240	149,220	264,860
Earnings=$75,000:				
With pension	11,450	75,090	229,890	367,800
Without pension	27,460	119,670	307,370	482,910
Earnings=$100,000:				
With pension	36,120	118,400	287,710	520,810
Without pension	62,000	186,200	403,250	690,350
Earnings=$150,000:				
With pension	67,930	199,760	503,930	891,700
Without pension	109,080	324,790	683,690	1,154,210
Single Men				
Earnings=$30,000:				
With pension	3,150	27,300	64,990	95,830
Without pension	10,350	49,420	103,150	150,550
Earnings=$50,000:				
With pension	6,330	36,110	95,700	172,210
Without pension	23,300	83,000	173,920	282,360
Earnings=$75,000:				
With pension	10,250	89,470	253,400	370,930
Without pension	33,060	154,500	362,610	524,800
Earnings=$100,000:				
With pension	28,600	129,000	299,240	511,000
Without pension	66,650	226,790	458,890	733,300
Earnings=$150,000:				
With pension	57,210	237,150	526,780	882,980
Without pension	110,940	371,770	745,420	1,186,500
Single women				
Earnings=$30,000:				
With pension	26,180	50,540	81,660	107,670
Without pension	35,180	71,410	115,360	155,600
Earnings=$50,000:				
With pension	35,650	72,850	126,800	189,960
Without pension	54,710	116,820	197,620	288,330
Earnings=$75,000:				
With pension	61,220	149,350	259,600	361,370
Without pension	91,380	215,690	364,070	503,930
Earnings=$100,000:				
With pension	89,560	203,340	361,110	539,460
Without pension	130,920	295,630	506,860	738,600
Earnings=$150,000:				
With pension	152,550	353,620	625,300	930,730
Without pension	208,330	477,810	821,240	1,198,080

A number of important patterns emerge from Table 1. First, it is clear that each hypothetical household needs to accumulate substantial savings prior to retirement. However, those without private pension coverage need to accumulate much more, and this difference is most pronounced for households with lower earnings.

One way to put these savings targets in perspective is to view them as a multiple of a household's annual income during its peak earnings years just before retirement. Roughly speaking, when the primary household earner is covered by a pension plan, total retirement savings at age 65 should range from 2.5 to 6 times the household's preretirement yearly earnings. The lower end of this range applies to households with lower earnings, while the required multiple rises sharply along with household income.

The reason for this differential is the progressive structure of our Social Security system. The lower the level of a household's earned income before retirement, the higher the level of earnings replacement provided by Social Security benefits. This is especially true for married couples. For households with relatively high earnings, Social Security is a much less important source of retirement income.

When a household's primary earner is not covered by a private pension, the need for personal savings becomes even more acute. Total retirement savings at age 65 should equal roughly 4 to 8 times the household's peak annual earnings before retirement. Here again, the multiple rises sharply along with earnings.

What percentage of income does a typical household need to save in order to achieve these targets? The answer is provided in Table 2.

TABLE 2.—SAVINGS (AS A PERCENTAGE OF AFTER-TAX EARNED INCOME) REQUIRED FOR A TYPICAL HOUSEHOLD TO REMAIN ON TRACK FOR RETIREMENT

Household age group	25–34	35–44	45–55	55–64
Married couples				
Earnings=$30,000:				
With pension	0	4.6	11.3	10.1
Without pension	1.7	8.5	15.1	14.0
Earnings=$50,000:				
With pension	1.9	5.2	11.7	17.2
Without pension	4.7	9.6	15.8	21.1
Earnings=$75,000:				
With pension	1.7	8.9	19.5	17.1
Without pension	4.5	13.0	23.1	20.9
Earnings=$100,000:				
With pension	4.7	9.3	16.6	22.6
Without pension	8.2	14.1	21.0	26.6
Earnings=$150,000:				
With pension	6.2	11.7	19.2	25.2
Without pension	15.9	16.8	23.8	29.5
Single men				
Earnings=$30,000:				
With pension	0.9	8.9	13.3	11.2
Without pension	3.9	14.6	18.7	16.7
Earnings=$50,000:				
With pension	1.3	7.5	13.3	18.2
Without pension	6.0	15.1	20.4	24.8
Earnings=$75,000				
With pension	1.4	12.5	23.5	29.6
Without pension	5.7	19.6	29.7	26.1
Earnings=$100,000				
With pension	3.5	13.2	19.8	25.3
Without pension	9.4	21.1	27.1	32.0
Earnings=$150,000:				
With pension	4.9	16.0	22.7	28.3
Without pension	10.7	23.1	29.4	34.5
Single women				
Earnings=$30,000:				
With pension	11.4	9.6	10.6	8.9
Without pension	15.3	14.2	15.2	13.5
Earnings=$50,000:				
With pension	10.0	10.0	11.8	15.7
Without pension	15.6	16.4	18.1	21.7
Earnings=$75,000:				
With pension	12.0	15.9	17.6	17.9
Without pension	18.4	22.2	23.8	24.1
Earnings=$100,000:				
With pension	13.5	16.0	18.8	23.3
Without pension	20.3	22.9	25.5	29.6
Earnings=$150,000:				
With pension	15.7	19.0	22.0	26.6
Without pension	22.1	25.3	28.0	32.3

The target savings rates in Table 2 are averages for four ten-year periods—the periods when the age of household heads is 25–34, 35–44, 45–54, and 55–64. Each target savings rate represents the percentage of after-tax earned income that a household should save toward retirement during that 10-year period.[11]

Note that the prescribed rate of savings tends to rise significantly along with age. The reason is that while most household's earnings increase with age, consumption levels tend to remain relatively flat. Thus, most households should be able to save more as they grow older.

For single women, however, the prescribed savings rate rises less with age because, on average, single women's incomes increase less as they grow older.

III. ACTUAL HOUSEHOLD SAVINGS ACCUMULATION

In order to determine the actual rate at which members of the Baby Boom generation are accumulating assets (as opposed to the target rates set forth in the section above), this survey used household data collected by ICR Survey Research Group, which conducts weekly, nationally representative omnibus surveys.

For four weeks during the first two months of 1992, ICR supplemented its standard survey instrument with a battery of questions designed expressly for this purpose. These supplementary questions elicited data about household financial assets, equity in the home and other real estate, the value of business interests, pension plan coverage, and debt. These questions were asked of each respondent between the ages of 25 and 44 (inclusive)—in other words, the Baby Boom population.

In all, the survey gathered data from 3,798 households within the Baby Boom age group. Response rates were high.

As mentioned earlier, for purposes of this survey, it is assumed that all household assets are intended to be used to finance retirement. The only exception to this is home equity. Because previous research has shown that the elderly have a strong aversion to drawing down the equity in their homes to pay for retirement, this analysis excludes home equity in measuring a household's actual savings for retirement.[12]

The survey examines a household's accumulated assets according to age, earnings, education, pension coverage, and marital status. This provides a reasonably good indication of the rates at which members of the Baby Boom generation are accumulating wealth.

The survey data on actual savings by Baby Boom members closest to retirement (ages 35-to-45) appears in the second column of numbers in Table 3.

TABLE 3.—INDEXES OF THE ADEQUACY OF ASSET ACCUMULATION FOR RETIREMENT

Household characteristics	Change in wealth, 35 to 45		Adequacy index (percent)
	Target savings	Actual savings	
Married couples			
$20,000 to $40,000:			
With pension	15,940	7,810	49.03
Without pension	27,100	7,650	28.22
$40,000 to $60,000:			
With pension	32,310	12,950	40.07
Without pension	49,860	12,570	25.22
$60,000 to $100,000:			
With pension	50,400	17,100	33.93
Without pension	74,340	16,930	22.77
Over $100,000:			
With pension	209,330	58,340	27.87
Without pension	290,190	57,980	19.98
Single men			
$20,000 to $40,000:			
With pension	20,980	7,650	36.47
Without pension	35,530	6,870	19.34
$40,000 to $60,000:			
With pension	34,200	11,520	33.68
Without pension	66,290	12,630	19.06
$60,000 to $100,000:			
With pension	62,720	16,900	26.94
Without pension	97,270	18,130	18.63
Over $100,000:			
With pension	291,620	69,330	23.77
Without pension	345,400	58,370	16.90
Single women			
$20,000 to $40,000:			
With pension	23,990	7,380	30.78
Without pension	30,170	7,100	23.54
$40,000 to $60,000:			
With pension	33,280	11,600	34.85
Without pension	59,270	12,180	20.56
$60,000 to $100,000:			
With pension	85,930	19,400	22.57
Without pension	89,740	16,810	18.73
Over $100,000:			
With pension	282,330	59,780	21.17
Without pension	354,410	57,780	16.30
Index of average adequacy			33.79

IV. MEASURING THE ADEQUACY OF BABY BOOM HOUSEHOLD RETIREMENT SAVINGS

A. Methodology

To measure how adequately Baby Boom households are saving for retirement, Table 3 compares actual rates of household asset accumulation with the minimum required target rates described in Section II. Households are grouped on the basis of marital status, pension coverage, and age-adjusted earnings.

The survey results do not include households with earnings below $20,000 a year because this group is assumed to include a disproportionate number of workers who were temporarily out of work or who may have experienced a transitory income fluctuation for a variety of other reasons. Marital status and pension coverage categories are identical to those used in Table 1.

B. The Baby Boom Retirement Savings Adequacy Index

By comparing the Baby Boom's actual savings rates with the minimum target savings, Table 3 arrives at a savings adequacy index for each subgroup, as well as for the Baby Boom population as a whole.

Note that the adequacy index for the various subgroups ranges from a low of 16.30% to a high of 49.03%. In general, the index shows that savings adequacy tends to decline as incomes rise. It also suggests that couples are accumulating savings more adequately than are single people. Both of these patterns reflect the effects of Social Security, which provides higher rates of income replacement for low-income households and for couples.

The adequacy index tends to be particularly low in cases where the primary earner is not covered by a private pension.

The savings adequacy index for the Baby Boom population as a whole is 33.79%. This index is an average of the 24 subgroup indexes, with each group weighted to reflect its relative size in the U.S. population.[13]

Table 4 shows retirement savings targets for Baby Boom households when they reach age 65.

TABLE 4.—RETIREMENT ASSET TARGETS FOR TYPICAL BABY BOOM HOUSEHOLDS

Household characteristics	Simulated wealth as of age 65
Married couples	
$20,000 to $40,000:	
With pension	95,400
Without pension	140,120
$40,000 to $60,000:	
With pension	203,790
Without pension	270,110
$60,000 to $100,000:	
With pension	298,500
Without pension	392,770
Over $100,000:	
With pension	1,209,850
Without pension	1,533,470
Single men	
$20,000 to $40,000:	
With pension	107,120
Without pension	138,210
$40,000 to $60,000:	
With pension	170,140
Without pension	293,250
$60,000 to $100,000:	
With pension	298,970
Without pension	454,430
Over $100,000:	
With pension	1,417,270
Without pension	1,568,860
Single women	
$20,000 to $40,000:	
With pension	102,990
Without pension	145,980
$40,000 to $60,000:	
With pension	171,290
Without pension	275,150
$60,000 to $100,000:	
With pension	352,700
Without pension	411,900
Over $100,000:	
With pension	1,297,140
Without pension	1,571,450

V. CONCLUSIONS

The savings adequacy index—33.79%—indicates that the typical Baby Boom household ought to triple its rate of saving.

It is important to note, however, that this survey's analysis probably underestimates the problem of retirement savings adequacy for a number of reasons. First, a significant portion of existing household savings will undoubtedly be used for purposes other than retirement.

Second, the computerized savings simulation model described in Section II suggests that a household's rate of savings or asset accumulation should increase significantly with age. Yet survey data for actual asset accumulation shows that there is no tendency among Baby Boom households to save more as they grow older.

This trend is disturbing because it suggests that Baby Boomers may fall behind at an increasing rate as they get closer to retirement age.

Another reason why the survey probably understates the severity of the retirement savings problem is that the simulation model does not allow for the uncertainty of an individual household's future economic prospects—say, for possible loss of employment or disabling illness—which also is an important reason for saving.

Moreover, the simulations make use of mortality probabilities taken from standard life tables. It is quite likely that these probabilities will continue to decline, so that Baby Boomers will live longer on average than the current life tables predict. Nor does this analysis take into account the increasing costs of health care and long-term care for the aged.

Finally, the simulations assume that public and private retirement benefits will continue to be paid at currently prescribed levels. It is entirely possible that mounting economic pressures may force Congress and employers to scale back these benefits.

The survey's finding that the typical Baby Boom household, aged 35 to 45, should increase its savings by a factor of four is almost certainly too conservative. Unless these households become significantly more frugal, many members of the Baby Boom generation will be forced to accept dramatically lower standards of living during retirement, or else forego retirement altogether.

FOOTNOTES

[1] During the 1960s, some 40% of American couples and more than 50% of unmarried individuals reported receiving no money income from assets after retirement. At age 60, nearly 30% of middle-class individuals lacked sufficient wealth to replace even two years' of income. See Peter A. Diamond, "A Framework for Social Security Analysis," Journal of Public Economics 8, no. 3 (December 1977), pages 275–298.

Likewise, one study showed that during the 1970s consumption shortly after retirement exceeded the highest sustainable level of consumption by an average of 14%. The same study found that most retirees were forced to reduce their expenditures substantially within a few years of retirement. See Daniel S. Hamermesh, "Consumption During Retirement: The Missing Link in the Life Cycle," Review of Economics and Statistics 66, no. 1 (February 1984), pages 1–7.

[2] See Stephen F. Venti and David A. Wise, "Aging, Moving, and Housing Wealth," in David A. Wise, ed., The Economics of Aging (Chicago: University of Chicago Press, 1989).

[3] See B. Douglas Bernheim, "Is the Baby Boom Generation Preparing Adequately for Retirement? Technical Report," mimeo, 1992.

[4] See e.g., Alan J. Auerbach and Laurence J. Kotlikoff, "Dynamic Fiscal Policy," (Cambridge: Cambridge University Press, 1986).

[5] The earnings history is constructed using an historical trend line of age-adjusted earnings, calculated using estimates of cross-sectional age-earnings profiles. These estimates are based on data obtained from the October 1989 Current Population Survey.

For married couples, the model divides earnings between spouses and differentiates by gender. This imputation makes use of an estimated relationship describing the division of household earnings as a function of age and total earnings. The estimates are based on data drawn from the 1986 wave of the Survey of Consumer Finances.

[6] Estimates of the relationship between household size and various characteristics such as age and edu-

cation are obtained using data from the 1986 wave of the Survey of Consumer Finances.

[7] These averages are obtained from Laurence J. Kotlikoff and Daniel E. Smith, "Pensions and the American Economy" (Chicago: University of Chicago Press, 1983).

[8] These averages are obtained from an analysis of data drawn from the 1986 wave of the Survey of Consumer Finances.

[9] Data on the extent of cost of living adjustments for private pension benefits are obtained from Kotlikoff and Smith, op. cit.

[10] Research on household economies of scale indicates that two adults in a household can obtain the same standard of living as one adult living alone with added expenditures of slightly more than 40%. Research also shows that the financial impact of adding one adult to a household is roughly equivalent to adding 2.5 children. See David M. Cutler and Lawrence F. Katz, "Rising Inequality? Changes in the Distribution of Income and Consumption in the 1980s," mimeo, Harvard University, January 1992.

[11] These calculations assume 100% reinvestment of all capital income earned on retirement assets.

[12] On the other hand, since it is conceivable that some households may intend to use a fraction of their housing equity to pay for living expenses during retirement, the author also has calculated savings that include home equity as an available financial asset. These calculations are available upon request.

[13] When the savings adequacy index is calculated without weighting the various population subgroups, the result is an index of 21.92%.

A SALUTE TO MADAM M. MAH SAMPIL, A DIPLOMAT, A LADY

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. BLACKWELL. Mr. Speaker, I rise to pay tribute to a distinguished African businesswoman. Madam M. Mah Sampil is among an emerging group of citizens, residing on the continent of Africa who believe in and are pressing for democracy as a form of government. Since visiting the United States as part of a delegation from Guinea, West Africa, she has established herself as an effective ambassador of goodwill on behalf of her country. More recently, she has acted as a principal catalyst in the effort to promote a relationship between my State, the Commonwealth of Pennsylvania, and the Republic of Guinea. Her efforts were instrumental in coordinating the very first official visit to her country by a congressional delegation. I had the good pleasure of leading that delegation and of becoming acquainted with Madam Sampil.

Born in Kankan, she attended primary school in Dakar and Conakry. She then attended secondary school in Conakry and later earned the baccalaurist degree. Subsequently, she attended midwife school in Dakar and Algeria, earning a midwife degree in 1971. For the next 10 years, she worked as a midwife, until 1981, when she started her first business. Since that time, with a tender touch, she has distinguished herself in the tough business world. She opened a sewing workroom in 1982. In 1984, she created a fire security company. In 1985, she started a duty free shop at the new airport in Conakry. And, in 1988, she created a printing house. With each of these businesses, she has forged new ground, blazed forbidden pathways and maintained a stature as a woman, unmatched by most I have met.

Mr. Speaker, I ask my colleagues in the House to join me in saluting the work and contributions of this outstanding Guinean entrepreneur, Madam M. Sampil, an ambassador, a diplomat, a rock in the storm, a willow in the wind, a beacon of light, an invincible summer in the midst of winter, a tough and tender businesswoman extraordinaire, a lady, an African queen.

H.R. 1, THE FAMILY AND MEDICAL LEAVE ACT OF 1993

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. FORD of Michigan. Mr. Speaker, will someone please call the White House and tell them to get a box of bill-signing pens ready because H.R. 1 is on the way to the President's desk. Yes, just 1 month after we introduced it, our new President will have The Family and Medical Leave Act of 1993 before him—the first major piece of legislation he'll have the honor of signing and making the law of the land.

For most of the working men and women of this country, H.R. 1 means they'll no longer face the tough choice between keeping their job or helping a family in need. On their behalf, we have put into law all of the campaign talk about family values.

For the all of the country, and all of the Congress, the success of H.R. 1 is a signal that gridlock is over. This is the same bill passed last year by essentially the same Congress. All that has changed since then is the person in the White House. This one has a pen he's promised to use to make the Family and Medical Leave Act a reality. Instead of supporting some narrowminded views by vetoing H.R. 1, this President is going to make The Family and Medical Leave Act the first of many personal commitments to America's families.

Tonight, I admit to being as excited and hopeful for this country as I was in 1965 when I came to this floor for the first time to help President Lyndon Johnson by passing all those people programs which eventually became known collectively as the Great Society. I honestly believe that our people and our working families need our help as greatly today as they did then.

Several people have consistently fought for our objectives along the way, including Chairman BILL CLAY of Missouri, Representative PAT SCHROEDER of Colorado, Congressman PAT WILLIAMS of Montana, and Senator CHRIS DODD from the other side of the Capitol. On the other side of the aisle, MARGE ROUKEMA of New Jersey has been a true believer in this legislation, and my ranking Republican friend, BILL GOODLING of Pennsylvania, allowed us to debate the merits of H.R. 1 in a free and open manner.

We now have a President in the White House who believes as I and a majority of the Congress believe: That The Family and Medical Leave Act should be the law of this land. Last October, he personally asked me to move this bill as soon as the new 103d Congress convened. He put it in writing as we introduced our bill, H.R. 1, on the first day of this session.

Now, his opponents will promote scare stories about H.R. 1 and what it might or might not do for America's workers and America's economy after it is signed into law. The hue and cry comes from the usual list of suspects: the U.S. Chamber of Commerce, the National Federal of Independent Businesses, the National Association of Manufacturers, and the National Restaurant Association. They're the same chorus which wails about decent wages, workplace safety, and bans against discrimination in the workplace. Their opposition is nothing new to us.

In reality, however, what you will also begin to hear are the success stories of the ever-increasing number of businesses that already have a family leave plan similar to the one we will approve today. To a company, these firms have recognized the challenge facing their workers as they try to balance their jobs and their families. These firms have found that retaining key personnel and fostering employee commitment and loyalty to an organization benefits them in their battle for a place in the global economy. As our new Secretary of Labor, Robert Reich, says—these companies consider their workers to be assets worthy of support.

As they say, the proof is in the pudding, or on the balance sheet. Businesses with a family leave program will be better businesses with loyal work forces.

There is another point to be made here, especially to those who say our standing in the international marketplace would be hurt by enactment of the Family and Medical Leave Act. Japan, Germany, Canada and over 60 other nations have family and medical leave policies—paid leave in some cases—and they're not having any problems competing with anyone! Tomorrow, our new President will put America on the list of countries that care. He'll get us closer to equal footing with our trading partners.

This is a proud moment for this chairman. We are on the verge of enacting the historic Family and Medical Leave Act of 1993, and I cannot think of a better issue as the first successful initiative between this new Congress and the Clinton administration.

For more years than I care to remember, we've had to play defense on this floor, trying to prevent others from ripping the safety net to shreds. From this day forward, this Congressman intends to work in this Congress to do what is right for American workers and their families.

Family and medical leave is the first of many commitments we're going to make to working families. This bill, when our President signs it, puts them back in the ball game—and better productivity, a stronger economy, loyal workers, and fair employers will be the result.

IN HONOR OF RICHARD H. AUSTIN

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. DINGELL. Mr. Speaker, I would like to recognize Richard H. Austin, the current Secretary of State for the State of Michigan, and a dedicated public servant, for his long association with the accounting profession. In recognition of his many accomplishments in the field, Wayne State University in Detroit has established the Richard H. Austin Fund for Accounting Excellence. This fund has been established to provide financial support, as well as other forms of support, to African-American students who are striving to achieve excellence in accounting.

Richard Austin's career is marked by a number of firsts for black accountants. He was the first African-American Certified Public Accountant in the State of Michigan, the first African-American accountant elected to serve as Wayne County Auditor, and the first African-American to serve as Secretary of State, a position to which he was elected in 1970. He has served as a member of numerous Federal, State, and local government tax policy advisory groups, and his years of management have been widely acclaimed for innovation and sensitivity.

As a young student, Mr. Austin was valedictorian of the graduating class of 1931 at Cass Technical High School in Detroit. He later earned a Bachelor of Arts degree in business administration from the Detroit Institute of Technology by attending classes at night and working during the day. In 1942, Mr. Austin began a 30-year career as a practicing Certified Public Accountant. In 1959, he joined two associates to form the Austin, Washington & Davenport accounting firm, which for more than a quarter of a century was one of the few firms where African-American accountants could obtain the necessary experience to become CPA's.

The Richard H. Austin Fund for Accounting Excellence was established to assist in the recruiting and retaining of African-American accounting students in schools of business administration. Nationally, the number of black students studying accounting is low. It is believed that this is a result of a lack of financial resources available to black students. The Richard H. Austin Fund will award annual scholarships to students who demonstrate the ability and desire to excel in the accounting profession.

Throughout his career, Richard H. Austin has been an outstanding role model for students wishing to pursue an accounting career. The qualities that he symbolizes—integrity, leadership, community involvement, concern for others, personal drive, and academic achievement—will be fostered through the Richard H. Austin Fund for Accounting Excellence. I am proud to pay tribute to my dear friend Mr. Austin's achievements for African-Americans and the State of Michigan, and I admire his commitment to helping young students to achieve excellence in accounting.

INTRODUCTION OF CONGRESSIONAL CAMPAIGN REFORM ACT

HON. BEN CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. CARDIN. Mr. Speaker, today I am introducing the Congressional Campaign Reform Act of 1993 and ask my colleagues to cosponsor this important piece of legislation.

The current system of financing congressional campaigns only serves to reinforce public cynicism and dissatisfaction with Congress, and I firmly believe the enactment of comprehensive campaign finance reform will certainly help. In order for campaign finance reform to be successful, the essential elements are: First, to limit the amount of money candidates spend on elections, second, to reduce the advantages incumbents have over challengers, and third, to reduce the influence of political action committees [PAC's] and large contributors.

The Congressional Campaign Reform Act is based upon the final conference report to the Congressional Campaign Spending Limit and Election Reform Act of 1992, which was vetoed by President Bush. My bill makes four major changes to the conference report, which I believe make it a much stronger piece of legislation:

First, set the general election spending limit at $400,000, second, increasing the matching funds ratio to 2-to-1, third, allow qualified candidates to receive matching funds during both primary and general elections, and fourth, require candidates to participate in public debates in order to be eligible to receive public funds and reduced mailing rates.

The bill calls for a voluntary spending limit for House candidates of $600,000 during the entire 2-year election cycle. Within the overall limit, spending during the general election period is limited to $400,000. Candidates who win contested primaries by a margin of less than 10 percent may spend an additional $150,000 during the general election period. First and foremost, these spending limits will cap the amount of money spent on congressional elections.

In many strongly partisan congressional districts, the decisive election is the primary election. The general election only serves to affirm the results of the primary. By setting the general election limit at $400,000, my bill would promote a more level playing field by preventing a candidate with a strong primary opponent, who has to spend a lot of money in the primary, from being significantly outspent in the general election.

Like the conference report, my bill would establish a $200,000 limit on aggregate contributions from PAC's and from large contributors, those giving more than $250.

As an incentive to accept the voluntary spending limits, House candidates who agree to abide by the spending limits are provided with reduced postal rates and matching funds.

Under the legislation, small individual contributions of $250 or less are matched at a two-to-one ratio during both the primary and general election. In order to qualify for matching funds, a candidate must raise $60,000 in small individual contributions of $250 or less. In addition, participating candidates may not contribute more than $50,000 in personal funds to their own campaigns.

Providing matching funds on a two-to-one ratio places a premium on small contributors and encouraging candidates to seek them out. In addition, it creates a mechanism for squeezing out contributions from PAC's and large contributors. Using the two-to-one ratio, it is possible for a candidate to spend the maximum $600,000 by raising $250 from 800 individuals.

The limits in this legislation would go a long way to reducing the current explosion in campaign spending. By allowing matching funds to be used in the primary campaign, I hope to level the playing field in congressional districts that have strong one-party majorities.

Furthermore, the legislation I am introducing today requires general election candidates to participate in at least one public debate during the 45 days prior to the election in order to qualify for reduced postal rates and matching funds. The bill also requires television stations that serve a significant concentration of residents of a congressional district to broadcast such debate on a rotating basis.

One of the keys to our Democratic system is the participation of informed voters. By requiring candidates to participate in a debate prior to the general election, voters need an opportunity to see the candidates in a neutral setting. Requiring televised debates provides this opportunity.

Finally, the Congressional Campaign Reform Act closes a variety of campaign loopholes that have developed since the campaign finance system was last updated in 1974: independent expenditures, bundling of contributions, leadership PAC's, and soft money. Soft money refers to money which may indirectly influence the outcome of Federal elections but which is raised under State law and not subject to Federal election law.

I believe the changes I am proposing in the Congressional Campaign Reform Act of 1993 will stem the erosion of public confidence in our Democratic system of government and create a level playing field in congressional elections.

LEGISLATION TO RECOGNIZE THE POKAGON BAND OF POTAWATOMI INDIANS

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. UPTON. Mr. Speaker. Today Congressman TIM ROEMER and I are reintroducing a bill we introduced at the end of the 102d Congress to restore Federal services to the Pokagon Band of the Potawatomi Indians. This legislation would formally establish that the Government of the United States of America recognizes the tribal government and people of the Pokagon band of Potawatomis. The formal recognition that this government-to-government arrangement embodies would ensure that the Pokagon Band of Potawatomis finally receives the fair and equitable treatment that has been lacking in our Government's policy toward the Potawatomis.

It is no secret that our Nation's treatment of native Americans has not been exemplary. In fact it has too often been the opposite. The treatment of the Potawatomis has certainly been no exception. The most serious inequity is that the Federal Government has arbitrarily excluded the Pokagon Band from Federal recognition. This recognition is important because it would make the tribe and its approximately 3000 members that live in southern Michigan and northern Indiana eligible for Federal Indian programs and services to which their ancestors in the early 1800's were once entitled. These programs—including education, health, housing, and economic development—would have a positive impact on tribal members, many of whom are poor. These programs would give tribal members a chance to succeed and enrich not just their own lives but those of fellow community members.

But more than that, affirming formal Federal recognition would restore fairness and legitimacy to the recognition process and to the Government's treatment of the Pokagons. Under the 1934 Indian Reorganization Act, tribes not receiving Federal services were authorized to petition the Government for Federal recognition. In 1940 the Pokagon Band was turned down because Federal officials decided their case not on the merits but simply because they did not want to extend recognition to tribes in the lower peninsula. It did not matter that other bands of Potawatomis do have Federal recognition.

The time is long overdue for the Pokagon band of Potawatomis to join the league of Indian nations recognized by the United States. It would elevate the relationship between the United States Governement and the tribal government, as well as between the Pokagons and previously recognized tribes, to the appropriate level of respect. More than just program eligibility, recognition entails a trust and trusting relationship as decribed by a decision written by the former Supreme Court Chief Justice John Marshall in the 19th Century.

The Potawatomis have a long and proud history in the area we now know as northern Indiana and southwestern Michigan. They inhabited the St. Joseph River basin as well as Northern Illinois and Wisconsin long before European explorers discovered America. As other Native Americans and even other Potawatomi bands were being removed west of the Mississippi River, Leopold Pokagon shrewdly negotiated an exception to the 1833 Treaty of Chicago that permitted his Potawatomi band to stay in the Michiana region. The Pokagon band has been an integral part of the development of this region ever since. Many names of natural features and even cities like Dowagiac ("Place of Plenty") and Kalamazoo ("Boiling Pot") are from the Potawatomi language. Tribal tradition holds that they donated the land to establish the University of Notre Dame in South Bend. Other churches throughout the area were also started by land grants from the Potawatomis. Throughout the 19th and 20th century, many outstanding Potawatomi individuals have contributed to the development of the communities of our region. To this day, schoolchildren in Michiana read and learn about the history of the Potawatomis in the area.

Congressman ROEMER and I are introducing this legislation because we are frustrated by the Department of Interior's administrative process for recognition. The Pokagon band of Potawatomis restarted their drive for recognition in 1981. Even though boxes and boxes of materials have been submitted, very little real progress has been made. For the last 2 years, efforts have been at a standstill. The Pokagons have been ready to go under the stage called active consideration. My staff, their tribal leadership, and even the House Interior Committee staff on at least one occasion have been told throughout those 2 years that it will be just another month before active consideration happens—but it never happens and still has not happened. Only one or two tribes per year get placed on active consideration, and other tribes keep bumping the Pokagons from this necessary review even though the Pokagons' application has been ready far longer.

We have come to the conclusion that the administrative process is fundamentally flawed and broken. We are not alone in that assessment. A panel of experts before a Congressional oversight hearing on the current recognition process unanimously testified in September of last year that it is arbitrary and unworkable. For this reason, we are turning to the legislative process for progress. We are now appealing to other Congressional legislators' sense of fairness and justice to restore Federal services and affirm Federal recognition to the Pokagon Potawatomis. It seems we have no place left to turn. Since these administrative procedures have been set up in 1978, more tribes have been recognized by legislation than through this process. At the current rate of administrative review, it could be well into the 21st century before all the reviews for pending tribes are considered. This is a terrible state of affairs; justice delayed is justice denied.

What is most frustrating is that the Pokagon Potawatomis' case for recognition is almost textbook clear. Even Indian Affairs officials would admit that their grounds for recognition appear sound. The Pokagon band meets all of the criteria and requirements including tracing its roots to before the Europeans landed, inhabiting a distinct area, maintaining a continual tribal influence over its members, and documenting a history of Federal Government treatment of the tribe as a distinct entity in court cases, treaties, and letters stretching back to 1795.

We do not know what the prospects of this legislation will be. It is sound on the merits, and we will work hard for its passage in the 103d Congress. Perhaps legislation like this will prompt and pressure Interior Department officials to fix the system and start making quicker decisions on pending applications, including the Potawatomis. It is also unclear exactly whether Federal recognitions will be a high priority under the new administration or what their recognition policy will be. We are not wedded to any one approach to recognition. But Congressman ROEMER and I are unified in our goal of ensuring that the Pokagon band obtains the Federal recognition that it deserves in the quickest manner possible. At this point, however, it seems manifestly unfair to make the Potawatomis wait until however long it may take to fix the Department of Interior's process, and are committed to pushing for the quick enactment of this legislation.

INTRODUCTION OF A BILL TO ESTABLISH A NATIONAL AFRICAN AMERICAN MUSEUM ON THE MALL

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. LEWIS of Georgia. Mr. Speaker, today I am introducing legislation to establish a National African-American Museum on the Mall. I do this now at the beginning of Black History Month to highlight the need for and the importance of such a museum.

African-American history is an integral part of our country. It is time to showcase the many achievements and history of African Americans. It is most appropriate that this museum be located in our Nation's capitol, where hundreds of thousands of people visit from all over the Nation and world.

This museum will be a center for scholarship and an exhibition place for African American art, history and culture. This legislation would locate the museum in the Arts and Industries Building on the Mall, a beautiful and historic building in an ideal location.

The history of African Americans is rich and varied. African slave labor built important parts of this Nation, including the Capitol building. Some of our Nation's greatest cowboys, the Buffalo soldiers, were black. It is from Elijah McCoy, a black mechanical engineer, that the expression "The Real McCoy" comes. The Harlem Renaissance gave us some of our greatest authors, poets and artists. The civil rights movement changed the face of this Nation.

Our history must be told in its entirety. I am proud that so many of my colleagues are joining me as original cosponsors. I call on all of my colleagues to support this important project.

ABOUT BEESNESS

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. SKEEN. Mr. Speaker, I insert the enclosed letter to the editor of the Las Cruces Sun-News, written by John K. Clayshulte Sr., a constituent of mine from Mesilla, NM. In his letter, Mr. Clayshulte casts light on the immense benefits that are ensued upon growing areas and subsequently, U.S. agriculture as a whole, by the process of apis mellifera. At this time, when Congress is considering the fiscal year 1994 funding for agriculture programs, I feel this letter delineates the important role that bees and beekeeping have held and should be permitted to hold in the future of our country's agriculture.

[From the Las Cruces Sun-News, January 23, 1993]

"ABOUT BEESNESS"

I would like to respond to Debra O'Hara's recent letter on bees and beekeeping subsidies.

Although comparative figures on the value of different types of bees and pollinators as quoted from Rodale are probably correct, any analysis using these figures would have little credence unless other major factors relevant to pollination in modern agriculture were also considered.

While nesting bees may be good pollinators, they are not best suited for the needs of today's farming practices. Demands for high concentrations of bees on particular fields and orchards at specific times makes it necessary to be able to move and control the bees.

Over 80 percent of U.S. crop pollination is done by apis mellifera, principally because this bee can be hived, worked and controlled. Wild bees such as nesting bees cannot be hived and controlled. Whether we approve or not, the fact is that a certain amount of chemical spraying is a part of business of growing food today. Any spray that kills destructive insects will also destroy good bugs, including bees. Therefore, it is necessary to be able to move bees from an area before sprays are used or risk losing the bees. Attempts to proliferate nesting bees in this environment would be an exercise in futility.

Most crop pollination in the U.S. is free by virtue of the fact that placing an apiary assures pollination of the surrounding area worked by the bees. USDA studies have found benefits of apiaries to growing areas to be 40 times as great for growers as for the beekeeper. Studies also reveal that production is more that one-third of our food crops is enhanced by bee pollination. Without the help of bee pollination, many foods would necessarily be in shorter supply, if available at all, and consequently would be more costly to the consumer.

The charge that the government subsidizes the honey industry by maintaining artificially high prices through tariffs on imports is false. The current import duty on honey is one cent per pound, which is next to nothing, and there are no quotas on honey importation. Imports, particularly from China, threaten the survival of the domestic industry.

The official government statistics aren't in yet, but it appears honey imports reached 90 million to 1,090 million pounds in 1992. That's about 20 million pounds more than the amount imported in 1991, and China's share of these imports has grown from 25 percent to 60 percent within four years. By comparison, the U.S. had a honey crop of 227 million pounds in 1991, and Americans consumed about 275 million pounds. U.S. beekeepers could be meeting all of the demand at home if depressed prices weren't increasing the demand for imports.

Regardless of how low domestic honey process are dropped, China can keep dropping her price lower and still come out ahead. This is also true of other honey-producing areas such as Mexico and Central America where wages are extremely low and living standards are very poor for the working class. The average Chinese worker is paid less than $2 per day. Hence the need for protective tariffs. According to a study by an entomologist at Michigan State University, only one in the last five years has the average U.S. beekeeper make any profit. The fact that numbers of hives and beekeeping operations in the U.S. has steadily declined for at least 10 years now indicating anything but government maintenance of artificially high prices.

The best defense any nation can have is the means to be able to grow an adequate food supply for its people. The U.S. can and once did produce most of its own food supply, but the advent of fast transport of enormous tonnages and modern methods of preservation have changed the picture and we now import much more than we did even a decade ago. This is a dangerous trend, as history attests that any nation can easily be controlled by those who control the food supply. Japan knows this and has steadfastly refused to allow importation of rice—one of her main foods. Importation of rice might be cheaper, but resultant depressed prices would predictably discourage domestic production.

The bottom line is that honey can be imported while pollination cannot. It only makes good sense to protect U.S. honey production in order to help assure that our farmers can produce adequate food for our growing population. Failure of our government to provide this protection through adequate import tariffs and quotas can only be called penny wise and pound foolish.

In the big picture, the minuscule percentage of the agricultural budget spent to help keep beekeepers in business is little more than a drop in the bucket, and anyone who eats food benefits from the expenditure.

PHOSPHOLIPIDS LEGISLATION

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. VALENTINE. Mr. Speaker, today Mr. Lancaster and I are reintroducing legislation to restore the prior tariff classification of pharmaceutical-grade egg yolk phospholipids, and to treat it and pharmaceutical-grade soybean oil the same as all other pharmaceutical-grade components if and when tariffs are eliminated on these products. Pharmaceutical-grade, FDA-approved egg yolk phospholipid and soybean oil are the two main components of Intralipid, a unique intravenous fat emulsion used as life support for sick or injured hospital patients who cannot assimilate food through their digestive tracts.

Intralipid is the main product of Kabi Pharmacia, a company located in Clayton, NC. More than 30 million units of Intralipid have been manufactured by Kabi in Clayton since 1979. However, it is my understanding that it would be impractical and uneconomic to manufacture Intralipid's phospholipid and soybean oil components in the United States; instead, they must be imported from Kabi's parent company in Sweden. Unfortunately, the conversion to the Harmonized Tariff Classification System in 1989 created a new category and inadvertently tripled the duty on Kabi's pharmaceutical-grade phospholipid. The bill we are reintroducing today will restore this duty to its pre-HTS rate.

We are also cognizant of the U.S. offer in the GATT negotiations to reduce the duty to zero on all pharmaceutical products. If this proposal were implemented, then the U.S. would impose duty on the pharmaceutical-grade phospholipid and soybean oil components of Intralipid—but Intralipid could be imported into the United States duty-free. This situation could lead to the manufacture of Intralipid in Sweden for export to the United States, and closure of Kabi in Clayton. Our bill would prevent this inadvertent outcome by making the duty for Kabi's pharmaceutical-grade phospholipid and soybean oil zero if the U.S. proposal for all pharmaceutical products to be duty-free is adopted.

Mr. Speaker, Kabi employs 175 people in Clayton and does about $35 million in annual business, generating about $90 million in annual economic activity for the region. Our reclassification legislation should be enacted as a matter of equity, but it will also remove the unintended jeopardy Kabi faces. We urge the enactment of this legislation.

LEE HARVEY OSWALD AND THE ASSASSINATION OF PRESIDENT JOHN F. KENNEDY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 4, 1993

Mr. STOKES. Mr. Speaker, during the 102d Congress, I authored legislation, the Assassination Material Disclosure Act, which was signed into law by President Bush. The legislation authorizes the release to the public relevant files and documents relating to the assassination of President John F. Kennedy.

As the former chairman of the House Select Committee on Assassinations, I am aware of the continuing debate surrounding the assassination of President Kennedy and subsequent investigations of the same. It is my hope that the release of files held by Government agencies and others will allow the American public to learn more about that fateful day in Dallas and the assassination of a great American President.

Just recently, Professor G. Robert Blakey, who served as the Chief Counsel and Staff Director for the House Assassinations Committee, brought to my attention a series of articles which appeared in the Soviet Press Digest in August of 1992. The articles concern the KGB and its investigation of Lee Harvey Oswald as the assassin of President Kennedy.

Mr. Speaker, I want to share these articles with my colleagues and others who have maintained an interest in this important issue.

[From Soviet Press Digest, Aug. 12, 1992]

AGENT DEVELOPMENT CASE NO. 31451

(By Sergei Mostovshchikov)

The Minsk drug store employee, Marina Prusakova, who entered history thanks to her husband, still raises many questions in the minds of Kennedy assassination researchers, Izvestia writes.

For example, was Oswald's wife a KGB agent? If she was not, then why was her patronymic in certain documents recorded as Nikolayevna, while in others, she was registered as Alexandrovna? And why, in general, did Oswald marry a Russian national? And lastly, could Oswald have had an assignment to simply live in the USSR for some time, then get married to the first Russian woman he met so as, in the final count, to discredit the USSR after the assassination of President Kennedy?

People acquainted with Oswald's dossier, Izvestia writes, swear Marina Prusakova "did not work for the KGB." The strange thing about her patronymic is also easily explained: she really is Nikolayevna by her real father [Nikolai]; however, after she was born, her mother married a second time, and her stepfather's name was Alexander

Medvedev—hence the mixup with her patronymics.

At first, Marina's life was not so simple. When her mother died, her stepfather married another woman, so she was a complete "stranger" in the home. She then moved to Minsk to live with an uncle and aunt, and that is when she found a job in a drug store.

However, fate had in store for her by far not a drug store life.

After Oswald and Marina became acquainted at a dance in March 1961, Oswald came down with an ear cold and had to be hospitalized. Marina started visiting him in hospital. And in less than two months, the Leninsky District Registry Office issued the couple Marriage License No. 416.

The swiftness of their marriage registration could only be envied, given the fact that it was a mixed marriage. It usually takes three months after a marriage application is filed for the official wedding ceremony to be held. And that was in the 1960s, and marrying an American, so swiftly—all this seemed more than strange.

But on the other hand, the explanation could be primitively simple. Although there was a kind of thaw in our relations with America at that time, we still pointed our fingers at Americans, calling them "capitalists." But here was an American who found asylum in the USSR, and had fallen in love with a Russian girl—why not pull off a propaganda stunt?

Yet the new family was kind of strange, the author continues. In moments of frankness, Marina confessed to Maya Gertsovich that her husband was a tyrant and scandalmonger, he practically gave her no money, although he demanded "steak and wine" for supper. And in general, Marina confided, he did not love her at all—that was probably his assignment to marry her. And when it became clear that Oswald was returning to the United States, Marina said she would not go to America "for anything in the world." Marina told her neighbor that Lee was teaching her English, but that she had no intention to speak that language.

Her neighbors tried to talk Marina into leaving for America together with her husband, motivating their reasoning by the fact that "Oswald's mother might be better natured," and that here in Minsk, they had practically no furniture at home.

Lee Harvey's first daughter was born in 1962, and instead of a crib, the baby slept in a small wash-tub. What kind of a life was that? But Marina told her neighbors: "America is an alien country to me."

But judging by Oswald's Minsk friends, everything looked quite differently. Marina Prusakova had a reputation of being "a bit loose," to put it mildly. From various sources, it is reported that while already in America, Oswald struck her when he learned she was writing to a man in Minsk: the letter was returned by the post office because it did not have enough stamps.

Oswald's friend, Titovetz, is convinced that being a "very practical woman," Prusakova compelled Oswald to marry her. Titovetz claims that Oswald "worshipped" the family, and after the birth of his first daughter, changed immensely. He washed and ironed the diapers himself, and derived pleasure looking after his firstling. Pavel Golovachev, another close acquaintance, believes Marina was "a woman who could look after herself," and all her talk about not wanting to go to America was either coquetry or put-on. And just before her departure, the author writes, what she said about the socialist system echoed what any American could say about it then.

However, Oswald is reported to have told Marina approximately the following: "No matter what happens in the future, never speak badly about the Soviet Union."

That did not prevent him, however, from saying to his neighbor on leaving their apartment together with Marina that he should "continue building communism without his [Oswald's] help."

The author notes that it probably took less than a minute to say these parting words, but it took Oswald more than a year and a half to come to the point when he uttered them.

There is information that Oswald first announced his intention to return to America in December 1960, after having lived in the USSR for just over a year.

Izvestia writes that obstacles were set up in Oswald's way to prevent his going back to America. At his factory, he signed up for an excursion to Moscow, but he was told the excursion had been cancelled, although that was not the case at all. Oswald's friends in Minsk told the author that several times Lee Harvey was removed from the train going to Moscow, and was told that there were restrictions on foreigners travelling in this country.

But on the other hand, what was the point of trying to hold him back? The author queries. After all, the KGB "had given up" with Oswald, coming to the conclusion that the American was of "no interest whatsoever" to the secret service. Moreover, Oswald remained an American citizen. In spite of the version that he had slapped down his U.S. passport on a desk in his Embassy in Moscow, Oswald had his passport No. 1733242 with him all the time he lived in the USSR—this too is confirmed in the KGB dossier.

Judging by everything, the author continues, the U.S. Embassy which he finally did manage to reach never lost sight of him. He did not have the 400-odd dollars required to purchase return tickets to America. The metal worker did not have that kind of money * * *

But even so, he and his wife and child left. Oswald's mother wrote him she could not afford the return fare because she was saving to help them get settled down when they arrive. "So," the author writes, "it is assumed that the Embassy helped him."

In connection with Oswald's and Marina's departure, the KGB started another (sixth) file, containing information on their pre-departure special check-ups.

It is reported that this file is the thinnest since it holds routine material ordinarily collected on a person leaving the USSR. However, the real nature of the documents in File Six is still unknown.

But it is known that one fine day, having packed their meager belongings, Oswald turned up at the Minsk Rail Terminal together with his wife and child. Seeing them off were the Zigers and Pavel Golovachev, who photographed the couple in the coach window. Eric Titovetz who is referred to as Oswald's closest friend in Minsk was not at the station that day because he was "too busy."

The author makes the following point: "Not one of the persons with whom I talked in Minsk believes, even for a single second, that the American they knew 30 years ago could have killed the U.S. President."

Speaking independently of each other, all these people said the same thing—Oswald was simply a "put up" job. They believe he got tangled up in some shady deal in which "some very serious forces" who actually assassinated the President used him as "bait."

KGB people who are acquainted with the contents of Dossier No. 31451, Izvestia writes, also are of the opinion that Lee Harvey Oswald was incapable of preparing and executing an operation such as the Kennedy assassination all by himself.

Judging by everything, the author maintains, for the Soviet counter-intelligence this question [was Oswald a loner?] can be viewed as an object of professional jealousy. How is it that we [KGB] "gave up" on this man as being absolutely useless for carrying out some special assignment, as being an ordinary individual, and then just a little over a year after leaving the USSR, this man goes out and assassinates the U.S. President?!

Does this mean that round-the-clock tailing, all the tricks of the cloak-and-dagger trade, all the versions and assumptions, all that is still kept a secret of the KGB's "modus operandi" are simply no good for anything?

Obviously, the KGB men are not attracted by such a train of thought, the author goes on. Some of them adhere to a theory in which Oswald was only a "link" in some very serious operation in which he was given a role, the true scope of which "he could not even imagine."

So what else can be said about the Minsk period in Oswald's life?

In general, the author writes, the people in Minsk reacted in quite a peculiar way when President Kennedy was shot on November 23, 1963. On the day after the tragedy, the local TV showed a photograph of the man suspected of assassinating the President.

That man was Lee Harvey Oswald.

"Oh, my God! That's our Alik! That can't be true!" exclaimed Maya Gertsovich, who in her time tried to convince the future suspected assassin of President Kennedy that she had flooded his apartment by accident.

[From Soviet Press Digest, Aug. 11, 1992]

AGENT DEVELOPMENT CASE NO. 31451

(By Sergei Mostovshchikov)

The KGB dossier on Lee Harvey Oswald became known to the public at large only after approximately 30 years, the author continues. And it is not only journalists and researchers who are interested in this dossier, but certain friends and acquaintances of Oswald in Minsk as well.

The latter consider they have the right to know what kind of information the dossier contains about them. One would have to think that the KGB kept tabs on those people who mixed with Oswald in any way, so quite naturally their names would be in the file.

The author gives the names of people close to Oswald in Minsk: Pavel Golovachev, Oswald's agemate; medical student Eric Titovetz; and Alexander Ziger, who worked with Oswald at the radio factory.

Ziger's life story is also quite interesting. As a promising technician, he was sent abroad for training. When World War II broke out, Ziger travelled to Argentina to escape persecution as a Jew. After the war, he returned to the USSR. But the main thing is Ziger was quite fluent in English.

Titovetz recalls that it was very important for Oswald to be able to converse with someone in his native language, for he was never very good at learning Russian. Titovetz, too, was quite eager to speak English to a real American, so they saw a lot of each other. In fact, Titovetz viewed Oswald as a "talking machine" or an "English language textbook on legs." He even recorded Oswald's voice on tape in order to listen and analyse the American way of speaking. Incidentally, Izvestia continues, these tape recordings and letters from Oswald in America are still in Titovetz's possession—for some reason the KGB never got around to them.

Understandably, the author goes on, Titovetz and Oswald did not only direct their attention to the English language—both were 20 at that time and there were a lot of nice-looking girls in Minsk. So, it was clear what these two comrades could be up to.

The two men were seen quite often at dances and parties.

What else did Oswald go in for in his spare time? He bought himself a camera, but he never did learn how to take pictures properly. He also bought a radio to listen to the Voice of America which was not jammed by the Soviets at that time. Incidentally, being a U.S. Marine electronics specialist, Oswald never did prove himself to be a handyman because when his radio went on the blink, he was unable to fix it himself. His friends did it for him, by simply bending back a thin plate. (Incidentally, Izvestia continues, all these facts are recorded in the KGB dossier—and the Soviet counter-intelligence apparently drew the conclusion that Oswald knew nothing about simple radio equipment and, consequently, he had received no special intelligence training.)

In general, the Byelorussian KGB built most unbelievable assumptions as to Oswald. They became very excited when in August, 1960 Oswald joined the hunter's club at the factory and bought himself a single-barrel shotgun. It was only later, after Kennedy's assassination, that specialists built far-reaching versions and assumptions based on his purchasing the gun.

The KGB at that time, of course, could not even imagine how important to the whole world would be each and every detail about Oswald's contacts with guns.

The local counter-intelligence, when it found out that Oswald had purchased a shotgun, formed its own version: under the pretext of hunting, Oswald wanted to "nose around" secret military installations.

Of course, the KGB knew everything about Oswald whenever he went "hunting." However, nothing criminal could be pinned on him. He did not look for missile silos, nor did he crawl under barbed wire entanglements. However, a very curious detail did come to light during that period: the American who, if one believes the official version, was Kennedy's assassin and a super marksman, actually was a poor shot. A very poor shot. .

This is confirmed by the former PT instructor at the radio factory, David Zvagelsky. One day, the factory held a shooting contest. The factory had just received several new pistols and everyone was sent to the shooting gallery "to be prepared for labor and defense." Zvagelsky remembers Oswald very well on that day—he was wearing a yellow leather jacket. Oswald picked up the pistol in both hands and, stretching his arms out in cowboy style, started aiming at a target 25 meters away. When Oswald was told they don't shoot that way in this country, he replied: "That's the way they shoot in my country."

Zvagelsky recalls that Oswald fired two or three times. He rated Oswald's shooting as only "fair". There were much better sharpshooters at the factory than Oswald.

After that contest, Oswald was never again seen in the shooting gallery. As for his shotgun, it did not stay long with him. After going into the forest several times, Oswald sold the weapon to a second-hand shop for 18 rubles. This fact, too, Izvestia writes, is recorded in the KGB dossier, just as other details about the American's pastimes.

At all the dances and parties attended by the American, there were always people from the KGB. And it is quite possible that Oswald even talked to them, danced with them and drank with them without knowing that each step he took was carefully recorded in his dossier.

So, Oswald could not know that when he and his friend Eric Titovetz went to a dance at the Medical Institute in the evening of March 17, 1961, all the details of that evening would be described in the KGB file.

That is when the name of a 19-year-old drug-store employee, Marina Prusakova, is first mentioned in the dossier. It was on that evening that Oswald met this woman, who in a matter of two months was destined to become his wife.

However, how that marriage came about is the subject of a separate story.

[From Soviet Press Digest, Aug. 10, 1992]

AGENT DEVELOPMENT CASE NO. 31451

(By Sergei Mostovshchikov)

While the KGB continued to build up its thick dossier on Lee Harvey Oswald, the future acknowledged assassin of U.S. President John F. Kennedy immersed himself in a "normal" Soviet life, Izvestia writes.

In January 1960, this American citizen was given permission to reside in Minsk, and for the first time he went to work—to participate in building the world's first state of workers and peasants.

Taking into account his past (service in the U.S. Marine Corps at various bases), the local Minsk authorities gave Oswald a job at the Gorizont radio factory as a metal worker of the lowest grade with a salary of 761 rubles a month, along with a 40 percent bonus rate.

Why Oswald was given a job at that radio factory had always raised questions in the minds of researchers, the paper continues. Department No. 25, where Oswald was given a rasp file, a hammer and some nails, was considered an "experimental" [secret] shop, so why should an American, and all the more so, a suspect, be placed in such an environment?

Although there are now claims that Department 25 became a "secret" shop after Oswald had left, even so, the KGB had a wonderful opportunity, without taking any chances, to see how the American would behave in such circumstances. If anything—Oswald would be caught red-handed.

However, it never came to that. Not only did Oswald show no interest in what was being manufactured at the factory, but judging by everything he was not even interested in his own job.

His former workmate, Konstantin Yalak, recalls that Oswald began shirking on the job and complaining that his pay was not enough to make ends meet.

The American's colleagues at work thought Oswald was "just putting on an act"—if anyone, he had no right to complain—he was living not only on his salary. As a "living example of the socialist way of life," the local authorities peeled off approximately another 800 rubles a month to him, supposedly from the Red Cross (as humanitarian aid).

He continued to receive such grants right up until he informed the authorities of his intention to return to America.

After that, this extra funding was stopped.

But financing was not all. Oswald was given a one-bedroom apartment unbelievably fast. He took up his job at the radio factory in January, and in March he already was living in his downtown apartment at No. 4 Kalinin Street (today it is No. 2 Communist Street). Usually ordinary Soviet citizens had to wait for years before they could improve their housing conditions.

Oswald's neighbors, Maya and Semyon Gertsovich, who lived on the floor above him recall their first encounter with the American when they accidentally flooded his apartment. Although Oswald spoke Russian very poorly, he raised a scandal and threatened to tell the factory authorities about the incident.

For a long time, Oswald was not on speaking terms with his neighbors, but later on when he married Marina Pruskova, they made up. It was during that period, the paper writes, that Oswald calmed down somewhat and began to brush up his Russian.

The Gertsovich couple who dropped into the newly-weds now and then recall that Oswald and his wife lived "very poorly"—some old furniture that the factory had given them, a bookcase, a kitchen table, two stools * * * the impression was that of an orphanage.

Ernst Titovetz, one of Lee Harvey's closest friends, explains that Oswald practically bought nothing for the home. Right from the beginning, from his first months in Minsk, the paper writes, it was clear that the American was not planning to stay long in the USSR. Titovetz, as he says, had no doubts about this, and that is why he was not surprised at all when Oswald decided to return to the United States. * * *

At the factory, his workmates did not shed any tears when they learned about the American's intention to go back to the U.S. Actually, they forgot about Oswald quite soon. But they remembered him in November 1963, when the name of the former metal worker of the Gorizont radio factory became known to the whole world.

In Department 25, everyone could only shake their heads and shrug their shoulders in bewilderment: how could an ordinary guy (in their opinion, a very clumsy worker) like Oswald go off and assassinate President Kennedy himself?! And there was even more talk in the workshop when Oswald was shot dead by Jack Ruby.

But the radio factory workers did not shake their heads for long. People from the KGB came around and advised them "to stop wagging their tongues" and, in general, forget that an American ever worked there. After that, at the factory library, the KGB men took Oswald's library card listing the books that he had taken to read.

And when the world learned that the man charged with assassinating Kennedy had lived in the USSR and was probably a Soviet agent, the KGB returned to Oswald's dossier and began filling it with newspaper clippings from all over the world about the investigation of "the murder of the century."

And it was only later, when the noise abated, that the Oswald "case" in Minsk was closed and placed in the archives—a "case" that contained not only specific KGB secrets, but also a huge amount of most interesting details about the life of the man accused of assassinating Kennedy.

[From Soviet Press Digest, Aug. 7, 1992]

AGENT DEVELOPMENT CASE NO. 31451

(By Sergei Mostovshchikov)

The KGB claims it never recruited Lee Harvey Oswald, the presumed assassin of President John Kennedy. There is no way to prove it, says Izvestia, but one fact appears to support the KGB assertion—the thick dossier it collected on him. Six volumes would be a bit too much for a KGB recruit. The usual outcome in the latter case would be a "thin and absolutely secret folder."

The system of Oswald surveillance appears to have been built "in a spirit of the latest achievements of Soviet counter-intelligence of the early 1960s model." Experts who have studied the dossier say everything was done "very thoroughly" and "cleverly." Eduard Shirkovsky, the present chief of the Byelorussian KGB, says Oswald was watched 24 hours a day. The KGB used every means to garner up information, "except for chemicals and psychotropic drugs." Though, admits Shirkovsky, "some tablets might have been dropped in his glass . . . but only to make him relax and talk more."

The dossier is said to contain no evidence that the KGB every questioned Oswald. This would appear strange, considering the manner in which Oswald came to stay in the Soviet Union: "it was not every day that American tourists in 1959 so stubbornly insisted on being granted political asylum in the USSR."

Oswald arrived in Moscow as a tourist on October 15, 1959. The next day he applied for political asylum and Soviet citizenship. His request was turned down, and he was told to leave the country on October 21. That day he cut open the veins in his left hand in protest and was taken to hospital. He asked the Supreme Soviet for political asylum several more times, and on October 31 was said to have thrown up a row in the American Embassy, publicly renouncing his U.S. citizenship and slapping his passport down on the ambassador's table.

In November 1959 Oswald was granted a temporary residence permit in Minsk. The KGB must have thought Minsk a better place to screen him. If he were a spy, he would be easier to figure out. Byelorussian counter-intelligence officers say he was suspected of working for foreign secret services. The KGB dossier, titled "an agent development case," was built on that premise.

In January 1960 Oswald moved to Minsk, followed by the KGB dossier. This included a transcript of a conversation with the hospital doctor who had mended his veins (he said the man was "unpredictable"), surveillance reports which referred to Oswald as Nalim, and other papers.

The Byelorussian KGB gave him another code-name, Likhoi (apparently a take-off on his full name, Lee Harvey Oswald), and started a "zealous" effort to "develop" him. A highly placed counter-intelligence officer is quoted as saying only one man or two in the Minsk KGB had access to the full information culled on him. Several teams were set up to keep tabs on Oswald, and none of these knew what the others were doing. The KGB is said to have recruited 20 agents to work on the Oswald case.

One of the recruits was Pavel Golovachev. He met Oswald at the Gorizont radio factory where the American got a job as an assembly worker of the lowest grade. Two weeks later, in January 1960, Golovachev was stopped in the street by a man who identified himself as Alexander Kostyukov of the KGB. The man told him it was a bad thing to dabble in fartsovka [buying goods from foreigners and selling them for profit], being the son of wartime pilot Pavel Golovachev, two times Hero of the Soviet Union. The intimidation piece brought home, he suggested that Golovachev meet with "certain people" several times a week and tell them everything he had learned from Oswald. He doesn't say now if he agreed to collaborate but he appears to "dislike" the KGB.

In 1963 when Oswald was killed on his way to prison, Golovachev wrote his wife, Marina Prusakova, a letter of condolences. A short while later the KGB came to his place and took away all photographs of Oswald and his wife, and Oswald's letters from America. Golovachev was taken to the KGB, threatened with prison, and told to keep his mouth shut. He was instructed to write to the Moscow Post Office to recall his letter of condolences, which the KGB had kept for some time.

Oswald's apartment in Minsk is said to have been heavily bugged. IZVESTIA quotes "sources in Minsk" as saying one day the KGB "asked" his neighbors living on the floor above to vacate their apartment for a couple of days. Another tactic the KGB used to "develop" Oswald was by planting provocateurs who claimed to possess classified information or would try "anti-Soviet talk" on him. People who knew Oswald say he "would seldom open his heart." In general, he lived a secluded life.

The KGB also tried to ferret out Oswald's attitude to the classics of Marxism. It took note of the fact that he was not too keen on "political self-education" and often absented himself from the "numerous union meetings and cultural events." His behavior made the KGB even more suspicious because in his request for political asylum Oswald had described himself as "a communist to the marrow." Oswald's friends and acquaintances in Minsk are convinced he was aware of being followed.

Despite his professed love of the Soviet Union, Oswald appears to have come to resent his new life. In June 1962 when he was leaving for America, he said to a neighbor: "You go on building your communism by yourselves. You can't even smile like human beings here."

It was eventually written in the Oswald dossier that Likhoi was not spying for foreign secret services and was of no interest to the KGB whatsoever. But to conclude that, "the KGB had, day in, day out, kept an open eye . . . on every move by the American, who was conducting a socialist enough way of life."

[From Soviet Press Digest, Aug. 6, 1992]

AGENT DEVELOPMENT CASE NO. 31451

(By Sergei Mostovshchikov)

The chief of the Byelorussian security service has agreed to answer questions about the KGB dossier on Lee Harvey Oswald, the presumed assassin of President J.F. Kennedy. Interviewed by Izvestia, Eduard Shirkovsky flatly refused to arrange interviews with KGB agents who have been involved in the Oswald "development" effort but consented to interviews with officials who have "thorough' knowledge of the case.

The Oswald dossier, No. 31451, makes up five thick volumes and a small folder. It must contain "detailed information" about three "rather strange" years of Oswald's life, from October 1959 to June 1962, when he lived in the Soviet Union and asked for political asylum.

The first attempt to make the Oswald records public was made by Vadim Bakatin in November 1991. He must have come across them "by chance" when the world again talked about Oswald on the anniversary of President Kennedy's assassination. Bakatin found "no secrets" that the KGB should continue to keep. Except for the KGB agents' names and Oswald's private telephone conversations and letter, the dossier, as Bakatin saw it, contained "interesting historical documents" shedding light on the Soviet counter-intelligence activities of 30 years before.

But KGB professionals resented Bakatin's intentions. Never before had they revealed their "agent activities." A KGB commission was set up to analyze the dossier and eventually put on Bakatin's table twelve "insignificant" documents they felt could be made public. Bakatin is said to have been angry and ordered another inquiry.

In the meantime, the Byelorussian KGB chief Shirkovsky asked the Oswald dossier to be sent to Minsk for "a few days." Most of it had been collected by the Byelorussian KGB since Oswald had lived in Minsk. His request was not without good reason. A short while later Bakatin stepped down as KGB chief, and the Oswald papers have ever since remained in Minsk.

Shirkovsky now says he will keep the dossier and will never make it public unless the Byelorussian Supreme Soviet decides otherwise. He is reported to have been offered 50 million dollars for it but refused. The Oswald dossier, which Shirkovsky says contains nothing very secret, must be seen by Byelorussian leaders as a symbol of independence from Moscow.

HOUSE OF REPRESENTATIVES—*Tuesday, February 16, 1993*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We join together in prayer this day in thanksgiving and gratitude for all the blessings of life—the blessings of faith and family, the gifts of hope and harmony, and the opportunities for service to people about us. May we be unselfish with our time and abilities in service to other people and enthusiastically respond to Your gifts of life. We earnestly pray that we will be faithful to the high calling we have received and steadfast in our daily tasks so we will be people of integrity and good will with the marks of justice and mercy. This is our prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from California [Mr. CALVERT] will please come forward and lead the House in the Pledge of Allegiance.

Mr. CALVERT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Friday, February 5, 1993:

H.R. 2. A bill to grant family and temporary medical leave under certain circumstances.

APPOINTMENT AS MEMBERS OF THE JOINT ECONOMIC COMMITTEE

The SPEAKER. Pursuant to the provisions of 15 U.S.C. 1024(a), and the order of the House of Thursday, February 4, 1993, authorizing the Speaker and the minority leader to accept resignations and to make appointments authorized by law or by the House, the Speaker on February 4, 1993, did appoint as members of the Joint Economic Committee the following Members on the part of the House: Mr. ARMEY of Texas; Mr. SAXTON of New Jersey; Mr. COX of California; and Mr. RAMSTAD of Minnesota.

COMMUNICATION FROM THE HONORABLE DAN ROSTENKOWSKI, MEMBER OF CONGRESS

The SPEAKER laid before the House the following communication from the Honorable DAN ROSTENKOWSKI, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 9, 1993.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L of the House that a member of the staff of the Committee on Ways and Means has been served with a subpoena issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel, I have determined that compliance with the subpoena is not inconsistent with the privileges and precedents of the House.

Sincerely yours,
DAN ROSTENKOWSKI,
Chairman.

COMMUNICATION FROM THE DOORKEEPER OF THE HOUSE

The SPEAKER laid before the House the following communication from the Doorkeeper of the House of Representatives:

OFFICE OF THE DOORKEEPER,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 9, 1993.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L of the Rules of the House that a member of my staff has been served with a subpoena issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel, I have determined that compliance with the subpoena is not inconsistent with the privileges and precedents of the House.

Sincerely,
JAMES T. MALLOY.

TIME FOR AMERICANS TO PITCH IN

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, the President has challenged us. He showed true leadership. He offered bold change. The battle lines are drawn. Here is the question: Whose side are you on? Are you for jobs? For growth? For education? For health care? For having the people who made out like bandits in the eighties pay their fair share? For investing in the future of our families? The President is.

The special interests are already saying it will not work. They learned one thing from the eighties. Just say no. Well, Americans are ready to say yes. Yes to investing in the future. Yes to families. Yes to decisive action.

The President's pitch last night was a perfect strike. Now it is time for all of us to pitch in.

A TAX BY ANY OTHER NAME IS STILL A TAX

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, a tax by any other name is still a tax. In 1986 Congress raised taxes and said it was tax reform. In 1990 Congress raised taxes and said it was deficit reduction. Today President Clinton wants us to raise taxes on the middle class and he says it is patriotism.

A tax is a tax is a tax; it does not matter what we call it. One might ask, when is enough enough. Tax increases did not work in 1986 or in 1990 to help our economy grow, so what makes the President think that raising taxes on the middle class this year will be any different?

Mr. Speaker, today we are collecting record levels of revenues from all of our taxes. The real villain is not that we do not have enough money; the real villain in the surge of the deficit is uncontrolled Government spending. That is what we need to cut, not increase taxes on the middle class.

UNITED STATES MUST LEAD TO STOP SERBIAN AGGRESSION

(Mr. KING asked and was given permission to address the House for 1 minute.)

Mr. KING. Mr. Speaker, the genocide being carried out by Serbia against the people of Bosnia defies human comprehension.

Equally incomprehensible is the inability and refusal of Western leaders to effectively confront this holocaust. The failure to stop Serbian aggression and ethnic cleansing is not only morally wrong, but—if allowed to continue—will prove strategically disastrous.

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The Owen-Vance plan is no answer. Like the Munich Pact of 1939, it is unworkable and rewards aggression. It allows the world to pretend it is doing something while the slaughter of innocent men, women, and children continues.

Regretably, the Clinton administration's proposal would endanger American ground troops by having them enforce the Owen-Vance plan. The time has come for the United States to lead the NATO alliance and other regional powers in taking meaningful action against Serbian aggression, without risking American ground forces.

Unless Serbia immediately desists, there must be full-scale air strikes directed at Serbia's artillery positions around Sarajevo, all supply routes leading into Bosnia, and energy facilities and manufacturing installations in Belgrade. Immediate action must also be taken to provide the Bosnians with the arms necessary to defend themselves.

It is only after a demonstration of American leadership and NATO unity that the Belgrade regime will begin to listen and there will be any hope of bringing a lasting peace to the Balkans.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 45. Joint resolution authorizing the use of United States Armed Forces in Somalia.

□ 1210

PRESIDENT CLINTON TELLS IT STRAIGHT

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, last night the President told it straight, and he told us, the American people, what we already knew, that there is no easy way out, and that we must all be in this together.

He said it is a comprehensive package that is needed, not bits and pieces, one that concentrates on jobs, on economic stimulus, short and long term on deficit reduction and on investment in the long term and on health care.

Yes, I hear the nay sayers, and some of them will be heard today. Those are the same people who presided over the last 12 years of a declining middle class, of declining wages, of declining education standards, of soaring health care costs. Do we want more of the same?

Most people that I talk to say, "I know this isn't working for me, what's happening right now, and what's worse, I'm scared for my kids and what they are going to have."

The President is offering a comprehensive plan, a long-term one. Everybody gives. The middle class gives, and most importantly, they see they also gain. It is a plan that we all need to pay close attention to.

A COLLECTION OF SLICK-ISMS FROM PRESIDENT CLINTON

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, last night we heard quite a collection of slick-isms parading as changed public policy.

Investment now means more money for politicians to spend on their pet projects. Contribution now means money which is coerced out of your pocketbook to pay for big government. Sacrifice now means that you give up a lot so that government does not have to give up anything. And patriotism, which used to mean a willingness to bleed and die for your country, now means a willingness to be bled dry by your country.

WITH PRESIDENT CLINTON, HONESTY IS BEST POLICY

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, I cannot tell you how refreshing it is to have a President of the United States who is honest with the American public.

I had the opportunity to meet with President Clinton at the White House yesterday along with other Members of Congress and then to watch his nationally televised speech last night.

This is a President who tells the public the truth. He uses real numbers for his economic assumptions—the conservative figures prepared by the Congressional Budget Office—not pie in the sky economic assumptions like the ones used by the Reagan and Bush White Houses. Thus, we will not suddenly find out at the end of the year that the deficit is much higher than originally projected because of using false figures at the outset.

Also, this is a President who looks people straight in the eye and tells them what he expects. He expects upper income Americans—the ones who profited from large tax cuts during the 1980's—to help with our economic recovery by paying higher taxes in the 1990's and he tells it straight to the rest of us—we will all have to contribute something.

Honesty is the best policy. It is certainly nice when that is the policy set by the President.

WHO ARE THE RICH, PRESIDENT CLINTON?

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, in his campaign for President, Bill Clinton said he would raise taxes only on the rich; in fact, the middle class would get a cut.

But the Pine Bluff Commercial, a newspaper in Arkansas, then said of their Governor:

> If Congress followed the example Bill Clinton has set as governor of Arkansas, it would pass a program that hit the middle class the hardest.

In his first address to the American people from the Oval Office, he has called for sacrifice.

He has said that the middle class would have to make more contributions.

And he is proposing an economic plan that will, you guessed it, hit the middle class the hardest.

In my mind, the prognosticator of the year award should go to the Pine Bluff Commercial of Arkansas.

They were the first to accurately predict Clinton's economic plan. If Clinton tells us the truth tomorrow night, it will be a nice change from his performance thus far.

PRESIDENT CLINTON'S ADDRESS TO THE NATION

(Mrs. COLLINS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Speaker, I rise to urge all of my colleagues and all America to warmly embrace the promising dawn of fundamental economic renewal outlined by President Clinton so honestly and succinctly last evening. After more than a decade of both trickle down economics—which barely even dripped to those most in need, and 1,000 points of light—which were constantly obscured by clouds of smoke, we have a President with a true vision and realistic economic plan. President Clinton's plan is to get America back on track with investment in those essential things that make America stronger, smarter, and more prosperous—jobs, education, and health care. His vision is for a nation which pays more than lipservice to stimulating our struggling economy. And while everyone will be asked to contribute, everyone will also share in the inevitable rewards of a sound, fair economic policy.

As President Clinton stated last night Mr. Speaker, the administration, the Congress, and the American people are in this economic rebuilding process together. We all have been called to be architects and builders of the future. I urge my colleagues on both sides of the

aisle to strap on their tool belts, and begin chiseling away at the last 12 years of economic and social rust and decay in order to clean the foundation for the coming revitalization of what for a long while has been the American dream, but will soon be the American reality.

BROKEN PROMISES BY PRESIDENT CLINTON

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, President Clinton says trust me, most of these taxes will be paid by the rich. But this is the same Bill Clinton who broke his solemn pledge to boost the economy with a middle class tax cut.

This is the same Bill Clinton who broke his solemn pledge to cut the deficit in half over 4 years.

This is the same Bill Clinton who broke his solemn pledge not to tax the elderly working poor. Now Clinton wants married senior citizens who make less than $20,000 a year each to pay new taxes on their meager Social Security incomes.

This is the same Bill Clinton who not only broke his solemn pledge to cut the White House staff 25 percent, but who faked the numbers for the American people, shifting employees to other Federal payrolls and claiming to save money.

President Clinton's budget adviser wanted him to cut $2 in spending for every $1 in new taxes. President Clinton abandoned that proposal too.

President Clinton has broken his word to the American people too many times. He asks us now to trust him. Why should we?

SMITH CORONA TYPEWRITER DUMPING

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Japan had a $135 billion trade surplus last year, most of it at the expense of American workers, due to illegal dumping.

But now check this out, Congress. Japan is complaining that Smith Corona, formerly of New York, now having moved to Mexico because of Japan's illegal dumping, they are saying that Smith Corona is dumping typewriters in America, hurting their Japanese company in America called Brothers. Now how does that rub your microchip, folks?

I say it is time for Japan to swallow some of that illegal trade themselves.

Let me say this: It is bad enough that we do not manufacture a television, or telephone, we do not manufacture a typewriter in America anymore. Japan forced Smith Corona from New York to Mexico, and we are going to hear them crying?

I think it is time for Japan to get the message loud and clear.

CUT SPENDING, DO NOT RAISE TAXES

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, Bill Clinton campaigned as a new kind of Democrat. Now we know that really means new kind of taxes.

Mr. Clinton said America needs to change. Less than a month after becoming President his middle-class tax cut has changed to a middle-class tax hike.

Mr. Clinton promised middle-class Americans a $60 billion tax cut. And he asserted an energy tax would be "an unfair hit on the middle class." He is about to break both of the pledges he used to attract voters. We have every right to hold President Clinton to the same standard to which he held President Bush during the campaign.

President Clinton says he wants the wealthy to pay their fair share. Yet, the top half income earners already pay 94 percent of the taxes.

During the last 20 years tax collections have increased 400 percent. President Clinton still thinks Americans do not pay enough taxes.

The reason we have a deficit is not because Americans are undertaxed; it is because the Government overspends. Federal spending has increased 500 percent over the last 20 years. We should cut spending, not raise taxes.

□ 1220

A STRIKE AGAINST THE CONSTITUTION

(Mr. RANGEL asked and was given permission to address the House for 1 minute.)

Mr. RANGEL. Mr. Speaker and my colleagues, I take the floor to speak on behalf of my friend and our colleague, the gentleman from Tennessee [Mr. FORD].

As most of you know, he was born and raised in Memphis, TN. He has been charged with some kind of bank fraud, and he begins his second trial, the first trial having had a hung jury. This is for charges that occurred before he became a Member of Congress.

As a lawyer and former Federal prosecutor, I assume that most of America thought that everyone was entitled to be tried by a jury of their peers. However, in the case of HAROLD FORD, the Government said it could not get a fair trial in Memphis, TN, where Congressman FORD represented the area and was born and raised. Could I repeat that: That the awesome, powerful U.S. Government could not get a fair trial in Memphis, and so what they have done is that the Federal judge, instead of picking jurors out of Memphis, TN, which is urban and almost half of them African-American, has seen fit to go to Jackson, TN, and to go to rural communities in Tennessee where over 80 percent of the people are white.

This is the jury that is coming into Memphis to try our colleague. If it happens to him, it can happen to any of us, but worse than that, it could happen with people that are less political, and I think that it strikes against our Constitution.

PROVIDE OPEN RULE FOR CONSIDERATION OF THE HATCH ACT

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, the schedule shows that next week the Hatch Act will be brought up. I call on the leadership of the House that when they bring the Hatch Act up that they bring it up under an open rule.

I have an amendment which I want to offer to it which would prohibit Federal employees from the FEC to be involved in political activity, would prohibit IRS investigators to be involved in political activity, and would also prohibit U.S. attorneys to be involved in political activity.

Please, do not bring up a gag rule and prohibit us from offering these amendments.

I was a Federal employee before I was elected to Congress. Most Federal employees oppose changing the Hatch Act, because they are concerned that they will be politically involved.

I ask all Members, particularly on my side, if they bring this up under a suspension of the rules, vote no. But I would ask the Democratic leadership, as you bring this up, give us the ability to offer amendments.

PRESIDENT PUTTING CHILDREN FIRST

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, we are hearing some fairly heavy charges today that President Clinton is not telling the truth.

Well, first of all, if it is true that the deficit is a lot less than he is saying, I wish people would, please, get us those numbers. I think even President Clinton would be happy to know that. If someone has some information that a deficit this large is not going to harm the economy but be great for it, please, bring that forward, because we have not seen anybody argue about that.

Now, if you are going to deal with this debt and you agree that the debt is harmful and you must deal with the debt, then I figure we must get on with it, and I salute him for trying.

I must say to anyone who wants to attack him, they have the opportunity to come up with a better plan. One of the most exciting things in his plan is he has finally put the children in the budget. We are finally going to immunize kids. Can you believe it? What a radical concept. We are way behind every country on the planet doing that, and I think that if he wanted to do it cheaply, we could even use some of the U.S. military medical personnel to carry this out so that we get it done once and for all.

The good deal is that while we may have to pay a little bit to get it done now, we are going to save $5 to $10 later on. Those are the wise decisions he is making, and before we attack it, let us see people come up with a better idea first.

CUT BUDGET BEFORE RAISING TAXES

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, this week, the President is calling for shared sacrifice from the American people and will announce major new tax increases which will hit the middle class, despite his campaign promises to cut their tax burden. But before we even think about raising taxes, let us see some real cuts in the bloated Federal budget. The Federal Government ought to sacrifice first.

Mr. Speaker, the American people have heard this old song and dance before. The Democrats in the administration claim that they will cut spending in addition to raising taxes, but somehow we never see the spending cuts. After the 1990 budget deal, the middle class sure got the tax increases, but for every dollar raised the Congress spent another $2.37.

The President says that he will propose 150 budget cuts in his State of the Union address. I hope these will be significant cuts, and we should not vote on any tax increases until Congress at least approves those cuts.

Working women and men will not be fooled again by broken promises of spending cuts in exchange for tax increases. They should demand to see the budget cuts first, before we even think about raising taxes on working Americans.

PATRIOTISM OVER PAROCHIALISM

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I was privileged yesterday to join President Clinton and many of my colleagues at the White House to talk about the economic program, and, along with millions of Americans, I watched his speech last night.

I think clearly certain hallmarks of his administration are already emerging, and one hallmark is that he stands for change against the status quo. There is pain in change, but there is payoff in the acceptance of change, because status quo yields more of the same.

We will have, under his economic program, a healthier future, healthier economically, and healthier from the standpoint of the health of our population.

Another hallmark of the Clinton presidency is that he stands for the future, but learns from the past. We had our meeting in the Roosevelt Room, and Mr. Clinton has studied those Presidencies. He knows that sometimes a great leader has to be the dispenser of bitter and hard medicine, but that such medicine will make you well.

The President stands for patriotism over parochialism. Everyone who votes on his economic package, for or against, is a patriot in this Chamber. What the President means, in calling on us for a show of patriotism is that we must put parochialism, localism, and regionalism behind us and try to look at the overall good for the country.

Mr. Speaker, the one thing that could intrude upon all of this is the special interests and their opposition. We need strong campaign finance reform, we will talk about the details later, to bring the special interests under control so that we can do a very serious job of evaluating this proposal of the President.

THE PROMISE OF TRUTH AND HONESTY

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, our Democrat colleagues have been parading before the microphones this morning telling us that tomorrow night the President will come to this Chamber and give us truth and honesty. Maybe that is the change that he promised us in the last election.

Then all during last year he told us that last year was the worst economy that we have had in 50 years. Yet we have found out differently. In fact, we did not even have a recession last year. We had growth.

He promised tax cuts for middle-income Americans and all kinds of other promises. Yet in the last 27 days he has broken more promises than he has kept.

He told us that he did not know that the economic conditions were so bad last year. Yet we found out that he has known it ever since this summer and probably even before.

Last night, he said that the tax burden over the last 12 years had shifted to middle-income America, and no one is proposing that at all. We know where the tax burden shifted in this country. It shifted from middle income, in great numbers, to upper income Americans.

He said he is going to put people first. Yet we saw last night that he is putting the Government first.

Truth and honesty is in the eye of the beholder, and the eye of the American people will be on the President tomorrow night.

SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC WORKERS

(Mrs. MEEK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEEK. Mr. Speaker, I am pleased to introduce today legislation to raise the threshold requirement for the withholding of taxes on wages paid to an employee engaged in domestic services and to simplify the payment process. Under current law, an employer is required to withhold taxes on $50 or more paid per quarter to a domestic worker such as a maid or a babysitter who comes to the employer's home to perform the service. Raising this threshold to $300 per year and enabling employers to coordinate their payments with the payment of their income taxes will have many benefits.

Although this proposal received favorable consideration in the last Congress, it was not enacted. Ironically, the issue of withholding taxes for domestic workers has received widespread publicity recently with the problems of Zoe Baird and other prominent people.

The present withholding requirements can have a detrimental effect on the hiring of domestic workers who work independently of companies that contract for services in the home. Many people just do not want to deal with all the paperwork, and they find it easier to call a cleaning or gardening service that will take care of withholding for their employees. Many parents may choose to hire a regular babysitter outside of their home rather than in their home in order to avoid the hassle of withholding.

My bill will reduce the paperwork, but I want to assure my colleagues that it will not do away with the responsibility of employers to pay taxes on behalf of their employees. Social Security is an important protection for these workers who need to have retirement benefits to keep them out of poverty in their later years. Social Security taxes will be paid by the employer at the time at which he files his income tax return. Any unemployment taxes that are due can be paid in the same manner. My legislation will reduce the paperwork burden but not the financial responsibility of the employer.

Mr. Speaker, I believe that people want to do the right thing by their domestic employees but are often scared off by the bureaucratic procedures of withholding. They are tempted to pay under the table or to avoid hiring certain workers. My bill will increase, not reduce, compliance. I urge my fellow Members of the House to support this effort.

☐ 1220

PAIN, NO GAIN

(Mr. CANADY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CANADY. Mr. Speaker, President Bill Clinton, in his address to the American people last night, promised a great deal of pain, but he did not really clarify what pain might gain us. He said his economic plan would create 500,000 new jobs, but he did not say where these jobs would be created. He said he wanted to cut the deficit, but he did not say by how much.

He said he wanted to invest more but did not really clarify where the investment will be made.

He called for sacrifice. He called for contributions. And he asked the middle class to pay more in taxes.

So, what will this pain gain us? Well, according to the stock market, which has already fallen 72 points today after the President's speech, it will not produce more economic confidence, it will not produce a more vibrant private sector, it will not produce real private sector expansion.

President Clinton's plan for pain will gain us only more pain. That does not seem like a reasonable sacrifice to me; it is a sacrifice the American people should not be forced to make.

ON BEHALF OF CONGRESSMAN HAROLD FORD

(Mr. HILLIARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIARD. Mr. Speaker, a grave injustice to Tennessee's first and only black Congressman has occurred. In the words of USA Today columnist Dewayne Wickham, "The scales of justice are way out of balance."

Congressman FORD, who is facing retrial on fraud charges in his 6-year-old indictment is facing judgment by a jury which is not only outside his home and congressional district, but it consists of 17 whites and 1 African-American.

This extraordinary situation is based upon the prosecution's argument that because of the Congressman's popularity in his own congressional district, the government cannot get a fair trial.

The prosecution has been given a right which it does not deserve, to remove the trial from the home of the person charged to a jury not representative of his home.

If this trial, with a bused-in jury is allowed to occur, a dangerous precedent will have been set. If this precedent stands, what will stop this from happening to other Members of Congress.

The conclusion that jurors cannot be found among the more than 400,000 African-Americans in the Memphis district is an idea that cannot be defended. It is a serious violation of his constitutional and civil rights.

Congressman FORD is not asking that the wheels of justice be stopped, he is only asking for relief from a system which has gone awry, a system which has given him a stacked jury, rather than a jury of his peers, which the Constitution is supposed to guarantee him.

I ask my colleagues, both black and white, Democrat and Republican, male and female to speak out against this severe injustice.

HIGHER TAXES FOR AMERICAN BUSINESSES MEAN HIGHER PRICES FOR AMERICAN CONSUMERS

(Mr. HORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HORN. Mr. Speaker, last night President Clinton promised in his new economic plan that he would create 500,000 jobs in the next 2 years. I have to ask where will those new jobs come from? They will not come from higher taxes. Higher taxes for American businesses simply mean higher prices for American consumers. Higher prices for consumers mean less money available for investment. Higher taxes for businesses and individuals mean less capital available for investment in new products. But it means we will not be as globally competitive as we should be.

We must do better than our current level of employment. We need to increase employment more than decrease it. More taxes on businesses and individuals will be counterproductive to a full-employment America.

Taxes are the wrong solution at the wrong time.

Before we raise taxes on the working middle class, we need to tighten our governmental belt, including that of the multibillion-dollar Congress.

The economy of southern California is devastated; we need more jobs, but not make-work jobs.

I think we should all ask President Clinton the simple question: Where will those jobs come from? They will not come as a result of more taxes.

CONGRESSMAN FORD DESERVES JURY OF HIS PEERS

(Ms. WATERS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATERS. Mr. Speaker, I rise today to call on Judge Jerome Turner in Memphis, TN, to put an end to the outrageous miscarriage of justice with the retrial of Congressman HAROLD FORD. This trial cannot proceed with a jury that has been bused into Memphis from Jackson, TN.

Mr. FORD is African-American. The Memphis area State judicial district, his district, is approximately 40 percent African-American. The rest of west Tennessee, which includes Jackson, is less than 20 percent African-American. This bizarre busing in of jurors from Jackson has resulted in the selection of 12 jurors and 6 alternates, only one of whom is African-American, and 17 of whom are caucasian. This outrageous manipulation of the jury selection system has been caused by a belief that Mr. FORD is too popular in Memphis. The Constitution of the United States does not deny justice because of popularity. The Constitution guarantees a defendant a jury of his peers. This basically all-white, hostile jury is not a jury of Congressman FORD's peers, but rather in selecting from those bused in, the judge even commented on their bias.

Let us start all over again and select a representative jury from the Memphis judicial district.

THE NEW POLITICAL VOCABULARY

(Mr. KIM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIM. Mr. Speaker, last night President Clinton introduced some new terms into the political vocabulary, terms that I believe need some further defining.

The word "contribution," in case you were wondering, is a new word for higher taxes. Keep this in mind when the IRS comes calling asking why your contribution is late.

Investment means higher Federal spending on social programs. A year from now when President Clinton defends why he is spending more instead of spending less, he will say he is investing.

Rich no longer simply means millionaires; it does not mean those making over $200,000 a year. Now it means couples who make over $100,000 a year. That means if you and your spouse both make $50,000 a year, you are rich.

Patriotism does not necessarily mean defending your country; now it means simply going along with President Clinton's request to increase the middle class' contribution.

I urge the American people to keep this new vocabulary in mind for the next 4 years.

Where is George Orwell now that we need him?

PRESIDENTIAL LEADERSHIP

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, last night President Clinton observed Presidents Day by offering Presidential leadership to our great country. The President presented to the American people a fair and smart proposal for a stronger economy and a brighter future. In the proposal, our children and our families benefit from Head Start, health care, higher education, and job creation. Businesses also benefit because the package will result in a lower cost of capital, a better-trained work force, and larger markets for our products. Our economy will benefit from the initiative to stimulate the economy; the investment in infrastructure will produce 500,000 new jobs immediately.

Also, the investment tax credit, the research and development tax credits, and targeted capital gains tax reduction will promote growth in emerging growth companies and technologies, making us more competitive internationally.

The entire package will stimulate the economy, cut spending, reduce the deficit; all this in a way that is fair to all Americans.

□ 1240

The President has shown the way. If we can improve on the package, we should do so. If not, then let us get on with it. The American people expect us to give our new President a chance.

PUTTING WASHINGTON FIRST

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, President Clinton won an election last fall on his pledge to limit his tax increases to the wealthy. It has been fascinating to watch how his definition of that term has changed over the past few months.

What Mr. Clinton defined 6 months ago as "those making more than $200,000 a year" has been cut in half last night to $100,000. At this rate he is likely to start defining wealthy as simply working, and defining working as undertaxed.

The candidate who told us flat out that he would not raise taxes on the middle class to pay for his programs now promises only to try not to hit the middle class first.

Mr. Speaker, in my district two schoolteachers filing a joint return, paying on a mortgage on their homes, and putting two children through college, are all of a sudden finding themselves waking up this morning, reading the newspapers, and all of a sudden they are rich.

Last night, Mr. Speaker, the President said that for the 26 days that he has been in Washington he has not found much common sense here.

Well, I will say, Mr. Speaker, that probably he has been talking to the wrong people.

IN SUPPORT OF CONGRESSMAN HAROLD FORD

(Mr. PAYNE of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE of New Jersey. Mr. Speaker, the principle of equal justice under the law is one that all Americans should respect and support. In fact, it is a principle we hold in such high esteem that the words "Equal Justice Under the Law" appear on the entrance to the highest court of our land, the Supreme Court.

Yet, in Tennessee, it appears that the basic American principle of equal justice is being seriously compromised in the case of our colleague, Congressman HAROLD FORD.

While the Memphis area State judicial district is about 40 percent African-American, the retrial of Congressman FORD on charges that are 6 years old is being moved nearly 100 miles away from the city. The rest of west Tennessee is 20 percent African-American.

As a result of this unfair move, the final jury is composed of 11 white and 1 African-American. All six alternates are white.

Mr. Speaker, I think it is obvious that the judicial system in Tennessee has deliberately stacked the cards against Congressman FORD. It is not fair, and it goes against the American principle of equal justice under the law. I join several other of my colleagues in strongly protesting this travesty of justice.

WE NEED TO BE AMERICANS FIRST ON THE DEFICIT

(Mr. SHAYS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAYS. Mr. Speaker, because of our annual budget deficit, our national debt has increased fivefold in just 13 years. For this both Congress and the White House must bear responsibility.

We need to reduce these deficits by first cutting spending, and then controlling the growth of entitlements, raising some tax revenues and growing the economy.

I hope my colleagues on both sides of the aisle do not rule out the various alternatives to accomplish this task before they fully evaluate what is being proposed.

There is no perfect package. We need to find common ground and do what we can. We need to be Americans first and Republicans and Democrats second.

We need to get this deficit down and we need to do it now.

WORLD CLASS LEADERSHIP IN THE EXECUTIVE BRANCH

(Mr. OWENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS. Mr. Speaker, at last we have world class leadership in the executive branch of Government. We have leadership that has sworn to pursue a path of truth in budgeting, tell the American people the harsh truths about what has happened over the last 12 years.

The deficit was not created by God. It was created by mismanagement. A lack of industrial policy meant that our jobs flowed to our competitors.

A number of major steps have to be taken to set right what has been going wrong for the last 12 years.

We have a President who is going to bite the bullet. We want the American people to join. We certainly all need to join in turning around the situation that has made it impossible for us to go forward toward the year 2000 with any hope of maintaining our leadership in the world.

The President has proposed a two-prong attack. On the one hand he is going to create the incentives for new jobs. He is going to provide full funding for Head Start. He is going to do the kinds of things that we know are necessary in order to invest in human beings and keep our Nation competitive. Human assets come first.

He is also going to invest in the infrastructure that has been neglected for so long.

He is also going to enunciate the outlines of an industrial policy that will lead to us remaining a first-class economy in the world and not the kind of second-class economy that we have become under the leadership of the last 12 years.

AMERICAN TAXPAYERS DO NOT DESERVE TO BE GUINEA PIGS

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, last night President Clinton called for bold, persistent, experimentation.

President Clinton should not experiment with middle-class tax hikes. And the American taxpayers do not deserve to be guinea pigs.

Tax hikes will not solve the deficit problem. We must hold the line on spending and reduce or eliminate Federal programs.

I recently received a graphic reminder from Barbara Bowling of Dallas, TX. She offers a sign similar to the one we saw at the Clinton campaign.

When it comes to the economy, "It's the spending, stupid!"

The administration should reduce spending before they even talk about tax increases. They have got the cart before the horse.

President Clinton may try to convince us that tax hikes are patriotic, but without going after spending, President Clinton's tax hikes become just a patriotic pickpocket.

THE PRESIDENT IS PUTTING SPECIFICS ON THE TABLE

(Mr. FINGERHUT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FINGERHUT. Mr. Speaker, the previous speaker before the last on the other side of the aisle, the gentleman from Kentucky, said what I think is right, and that is that this is not about Republican and this is not about Democrat. This is about the future of those children sitting up in the balcony right now.

Mr. Speaker, I am a new Member of this body. For years I have listened to people talk about two subjects, about cutting spending and about reducing the deficit.

I have heard that again today from people on the other side of the aisle in general terms; but Mr. Speaker, the problem is that they never get to the specifics. In the first 3 weeks of this administration and last night, President Clinton has gotten to the specifics. On cutting spending, he has reduced the White House by 25 percent, not next year, not in the future, but right now. He has ordered the Federal agencies to reduce their administrative costs by $9 billion. He is going to reduce Federal employment by over 100,000 people.

Indeed, in this body we have already moved to eliminate staff and budget of 16 subcommittees and we are going to continue in that trend. The specifics are on the table.

Mr. Speaker, on the subject of deficit reduction, no one wants to pay higher taxes, but again we have a President who has been willing to put the specifics on the table.

Mr. Speaker, I ask the American people to give this President credit for the specifics and reject those who talk in generalities and are not willing to put the details on the table.

COSPONSOR H.R. 441, CANCEL THE SPACE STATION

(Mr. ZIMMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZIMMER. Mr. Speaker, the Clinton White House has reopened the debate on the future of space station *Freedom*, and with good reason.

The space station has earned its status as a budget target. Since its inception, its costs have exploded from $8 to $40 billion and its capabilities have been radically diminished.

Year after year we have been assured that program management problems have been resolved. Yet, each year the budget swells just a bit more, and the scope of the mission is trimmed still further. In the past 2 months alone, a billion dollars of new cost overruns were disclosed.

Enough is enough.

As long as Congress allows it, this program will continue to rob American taxpayers by promising what it cannot deliver.

Congress—and especially those freshmen Members who were elected to change the status quo—must not allow this orbiting pork barrel to continue. Cosponsor H.R. 441. Cancel the space station.

□ 1250

A TRIBUTE TO ROBERT LAINE, A GREAT AMERICAN

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, I rise today to pay tribute to a great American and a special friend, Robert Laine. Bob Laine is someone who believes in his country and is not afraid to get involved.

A New York native after 3 years in the Navy, Bob Laine served as a member of the Nassau County Bureau of Special Operations from 1969 to 1985. His conscientious dedication to duty earned Bob a congressional award in 1983.

After serving his country and his community, Bob and his wife moved to Pasco County, FL, in 1985. But instead of fading into the background, Bob instead took on the dauting task of rebuilding the Pasco County Republican Executive Committee, which he did with courage and determination.

Today, Bob Laine is still fighting; this time with cancer. But I wanted to take this opportunity to pay tribute to a great American; someone who has consistently put the needs of others above his own. Mr. Speaker, we wish Bob a complete and speedy recovery and look forward to the day when his expertise and commitment will again be put to use for the benefit of his community.

THE INVESTMENT TAX CREDIT ACT OF 1993

(Mr. TORKILDSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORKILDSEN. Mr. Speaker, I come before the House today to notify my colleagues of a bill that I will be introducing, the Investment Tax Credit Act of 1993.

This is a bill that both Republicans and Democrats can support. Even President Clinton has been calling for some form of an investment tax credit because he knows the benefits an investment tax credit will bring to our economy, and the jobs it will help create.

When an investment tax credit was reinstituted in the early 1980's our economy quickly rebounded from the stagflation of the 1970's. But, net investment in this country has decreased every year since the investment tax was eliminated in 1986. This 10-percent investment tax credit will stimulate businesses to invest capital, increase production, and create jobs.

This tax credit will be for equipment used in production, manufacturing, agriculture, extraction, and research facilities. Businesses will have an incentive to invest now, when we need it most. Any growth in major industries also stimulates growth in other sectors as well. The impact of the bill will be immediate, but the benefits will be long term.

At a time when Americans are demanding action to control the deficit, this bill will help in that fight. Some revenue models project a $30 billion increase in revenues in the first 5 years after an investment tax credit has been initiated. Even long-term models project no loss of revenue with this type of tax incentive. I ask my colleagues to cosponsor this legislation and help invigorate our economy and create jobs by spurring companies to invest today.

INCREASE TAXES OR REDUCE GOVERNMENT SPENDING?

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, I was back on my farm this last weekend, and I filled out my income taxes, and I was somewhat upset. But I decided that filling out those tax forms is a good reminder of how deep the Federal Government reaches into our individuals pockets, taking away money that could be otherwise used for the family.

Mr. Speaker, I express my hope that every Member of Congress will make the effort to fill out their own income taxes as a reminder that Government is reaching deep into our pockets and spending the money probably not as wisely as we could spend our own money.

As I recall the budget agreement of 1990 and the tax increase we have that averages about $30 billion a year, nobody knows where that $30 billion went, and I am told that we increased spending and increased the deficit by an additional $2 for every $1 of taxes that we raised.

Mr. Speaker, I think most Americans are willing to sacrifice. I ask the Members of this Congress, I ask the American people, to look at their payroll deductions, look at their Federal taxes, before we decide whether to sacrifice by increasing taxes or by reducing Government spending.

LINE-ITEM VETO LEGISLATION

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, today I rise to call to your attention legislation I introduced on the first day of the session proposing an amendment to the Constitution of the United States allowing the line-item veto in appropriation bills. This is the same bill that has been introduced by retired Congressman Chalmers Wylie each session for the past 18 years.

Granting the President of the United States the power of the line-item veto is an excellent first step toward meaningful deficit reduction. Admittedly, it alone will not entirely reduce the deficit of our Government but it will be an invaluable fiscal tool to help reduce wasteful spending.

Forty-three States have successfully granted their Governor the power of the line-item veto as a fiscal tool providing an executive restraint on appropriations. Moreover, eight past President and the current President of the United States all have expressly supported this idea. The American people are asking why we don't have a line-item veto. This measure needs to come to the House floor for consideration.

INTRODUCTION OF WELFARE REFORM LEGISLATION

(Mr. FRANKS of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANKS of Connecticut. Mr. Speaker, reforming our welfare system is an important issue confronting our Nation.

It should always be our desire to move people from the welfare rolls to a payroll.

Today we are seeing generation after generation of welfare-dependent families. The vast majority of these families have one common denominator—they are headed by single, never married mothers.

At a Republican welfare reform task force hearing which I chaired, I was appalled to learn that only 22 percent of the never married single mothers have identified the father of their child for paternal support purposes.

Today I am introducing legislation that would encourage States to improve upon this dismal record.

By addressing this key area in need of reform, it would have a significant impact on how young males view their responsibilities as fathers.

HOLD ON TO YOUR ASSETS

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, we all remember Bill Clinton's campaign promise of a middle-class tax cut, and of raising taxes only on the rich, defined as those making over $200,000. Last night, President Clinton lowered that to $100,000. Seventy percent of his tax increases he says will be paid for by these so-called rich folks. By the way, Mr. Speaker, that $100,000 he is talking about, that is household income, that is two wageearners. Well, my advice is, "Hold on to your assets."

This morning, Mr. Speaker, the President's spokesman told us that those making under $30,000 per year would probably, probably, not have to have their taxes increased, too. Well, holding back the urge to say, "I told you so," let us just remember and be consoled by the fact that last night the President stated that he has worked harder than he has ever worked in his life to find a way to pay for his program without asking for more taxes from the American people. Sure.

Mr. Speaker, one little-remembered campaign promise from candidate Clinton was to hold off on new spending programs before imposing any new taxes on anyone earning under $200,000 per year. I would suggest the President go back again and look at that campaign promise and follow it. Otherwise his credibility will be shot.

BIPARTISAN SUPPORT FOR HEALTH CARE REFORM

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, President Clinton has stated that any viable economic package would have to include health care reform, and on that I certainly agree with him. In fact, I know all my colleagues on this side do, too. If we look at the health care proposals in the Senate and also in the House, Mr. Speaker, there are four things that stand out, that Members of Congress, the Senate and the House, all agree with, and what are they?

First, allowing self-employed individuals to deduct 100 percent of their premium costs; second, simplifying paperwork; third, a ban on preexisting illness exclusion; and, fourth, job lock security. That is portability, allowing employees to take their health insurance with them when they go from job to job.

Mr. Speaker, these are proposals that Democrats and Republicans agreed on. I urge my colleagues to put aside partisan politics and work together on passing these proposals.

□ 1300

A CALL TO ARMS FOR HIGHER TAXES AND MORE SPENDING

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Mr. Speaker, the President's speech last night was quite partisan, and we are told the President is going to become more partisan. That is interesting.

The President's speech last night was a call to arms. It is a call for higher taxes and more Government spending. The taxers and the spenders are back in town. Tax, tax, tax; spend, spend, spend; borrow, borrow, borrow—that is their call to arms. There is no gridlocks now, just a bigger and bigger welfare state.

I feel sorry for the American people as they are being bled by the Democrats. But what is to be done? The Democrats control the White House. They control this House; they have controlled it for 38 years. They control the Senate. They can control the entire bureaucracy. They can control all the agencies. In fact, the Democrats control everything in our Government today.

Our American people are going to go through a nightmare in the next 2 years. The only consolation is that the American people on election day, November 7, 1994, are going to deliver a nightmare to the Democrats. When the American people hear the Democrats, especially President Clinton, they feel they have been had. And do you know something? They have been.

A RECIPE FOR ECONOMIC DISASTER

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. BURTON of Indiana. Mr. Speaker, one of our colleagues earlier today said that President Clinton has a true vision for America. Well, he has a true vision all right. He is looking at everybody's wallets—$275 billion in new taxes.

In 1990 we had the budget summit agreement. It raised taxes $180 billion, and it caused the recession we are in. It cost us millions of jobs. Now they are going to more than raise that tax increase level by 50 percent; it is not $180 billion but $275 billion.

He promised a middle-income tax cut. No. He promised to cut the deficit in half. No. He promised not to raise taxes on the middle-income people. Yes. He is going to do that.

This is $275 billion. You take that money out of the collective pockets of America, and it is going to cost 750,000 to 1 million jobs. That is not the answer to solving our problems.

He also said that for each dollar in new taxes he was going to cut at least a dollar in spending. We did an analysis. For each dollar in new taxes they are going to raise spending by $3.

Mr. Speaker, this is a recipe for economic disaster for this country. I say, President Clinton, reevaluate what you are doing.

PRESIDENT CLINTON LAUDED FOR ACTING RESPONSIBLY

(Ms. FURSE asked and was given permission to address the House for 1 minute.)

Ms. FURSE. Mr. Speaker, I rise today to say it is time we stopped talking about taxes, stopped talking about investment, and stopped talking about jobs. From 1980 to 1992 the deficit grew from less than $1 trillion to $4 trillion.

It is time, Mr. Speaker, that we need to be responsible to our children because it is our children who are being asked to pay for the profligate spending of the last 12 years. We have neglected our country and our people while we have spent money foolishly.

Mr. Clinton is prepared to act responsibly. He wants us to invest in jobs, in children, and in infrastructure. I compliment him on having come to the American people to tell the truth.

CONTROLLED SPENDING, NOT HIGHER TAXES SEEN AS THE ANSWER TO A RECOVERY

(Mr. McCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCOLLUM Mr. Speaker, all of us want to see a balanced budget, and we want to see the deficits reduced. I do not think anybody in this Chamber is not willing to make sacrifice. I do not think any American is not willing to make a sacrifice to that end.

The debate, though, is over whether or not the proposals to do this are the right ones and what is going to work. The responsible way to balance the budget, to control the spending, is to do exactly that—to control spending and to get this economy growing. It is not responsible, in fact, it is irresponsible to raise taxes to do it.

The economists tell us that it is counterproductive. Wall Street today, with the stock market off by about 70 points after listening to President Clinton last night, tells us the same thing.

Raising taxes will cost jobs. We need to control spending, get the economy growing, raise revenues in that way, balance the budget, and do it responsibly, and all of us are willing to pitch in and do that. The problem is that this body has not acted responsibly in that regard over the last few years.

Mr. Speaker, the Democrats control Congress now, and I see no evidence that anybody is willing to reduce Government spending. I hope I am wrong.

IN SUPPORT OF CONGRESSMAN HAROLD FORD OF TENNESSEE

(Mr. TUCKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TUCKER. Mr. Speaker, I rise today to address a grave injustice that is occurring even as we speak here on the House floor. A grave injustice to Tennessee's first and only black Congressman has occurred. In the words of USA Today Columnist Dewayne Wickham, "The scales of justice are way out of balance."

Congressman FORD, who is facing retrial on fraud charges in his 6-year-old indictment, is facing judgment by a jury which is not only outside his home and his congressional district, but it consists of 17 whites and only 1 African-American.

This extraordinary situation is based upon the prosecution's argument that because of the Congressman's popularity in his own congressional district, the government cannot get a fair trial.

Mr. Speaker, the prosecution has been given a right which it does not deserve, to remove the trial from the home of the person charged, to a jury not representative of his home.

Mr. Speaker, if this trial, which is based on a jury which is not of his peers, is allowed to occur, I suggest that a dangerous precedent will have been set.

If this precedent stands, what will stop this from happening to other Members of Congress?

The conclusion that jurors cannot be found among the more than 400,000 African-Americans in the Memphis district is an idea that cannot be defended. It is a serious violation of Congressman FORD's constitutional and civil rights.

Mr. Speaker, I ask that this matter be immediately addressed.

SPENDING CUTS, NOT HIGHER TAXES NEEDED FOR THE ECONOMY

(Mr. CRAPO asked and was given permission to address the House for 1 minute.)

Mr. CRAPO. Mr. Speaker, I am concerned about the implications that we have about a pending budget proposal that will increase taxes and increase spending. The theory that increasing Federal spending and increasing taxes is what is needed to stimulate our economy and bring us out of the difficulties we face, fails to recognize the lessons of history.

What we need is lower spending and lower taxes. In fact, if the idea is that deficit spending and increased taxes is what will bring us into a hot, strong economy, we should have one of the strongest, hottest economies in the world. Yet we do not, and we see our economy failing. It is failing because raising taxes and increasing spending is not the answer. Cutting spending is the answer.

I would support any meaningful approach to cutting the spending of this Federal Government. We need across-the-board cuts in our programs. We need to focus on specific projects, and if Mr. Clinton will bring forward those specific projects for proposed cuts, I think he will find significant support for it, but let us not repeat the problems that we have had in the past of relying too heavily on a large Federal Government and its spending and its taxing to save our economy.

SPENDING CUTS A LARGE PART OF THE PRESIDENT'S ECONOMIC PROGRAM

(Mr. PRICE of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Speaker, we have heard a lot this morning about the President's economic package, and I think one thing we can say with certainty is that those who are worried about spending cuts need worry no longer. Spending must indeed be cut, and the President's program is going to cut spending deeply and broadly.

Everything is on the table, and that budget is going to be as austere as any we have seen, and certainly more serious and more honest than any we have seen from the White House in the last 12 years.

The President tomorrow night will lay this package before this body and before the American people. It will be a call to arms to get this economy back in shape, to get spending down, and to restore fairness and economic growth to the American system.

□ 1310

The President's program will ask something of all Americans. The President has made deep cuts himself in the White House staff, in the bureaucracy, and we must make comparable cuts in the legislative branch. Of the taxes that will be raised, over 70 percent are going to come from the wealthiest Americans, those who received a windfall from the Reagan-Bush policies.

The President has warned that this plan could be in jeopardy. The brighter future could be jeopardized by organized interests and by people who are taking partisan potshots and putting narrow interests ahead of the national interest. But it is the broad interests of the American people that must prevail. "I am confident about America," the President said. "We will prevail."

LOOK AT FEDERAL BUREAUCRACY BEFORE IMPOSING FURTHER TAXES

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, it is very frustrating for all of us because it is clear that we want to get this economy moving. My Los Angeles County has a 10.4-percent unemployment rate, we see a $4 trillion national debt, and we all want to turn the corner on that.

But I am very frustrated as I look at the package which is coming forward. Frankly, it is nothing more than the failed policies of the past.

What do we do? Well, we penalize success and we reward failure. That is really what we are saying. We are saying that someone who wants to have a modicum of success, that they really should not consider it unless they want to have their taxes go up even further.

Mr. Speaker, it seems to me that as we look at these challenges that we are going to face in the weeks and months ahead, we need to look at this institution, and we need to look at the entire Federal bureaucracy before we begin making any attempt whatsoever to impose further taxes on working Americans.

GETTING AMERICA BACK ON TRACK

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, I rise this afternoon to support our President Bill Clinton and his efforts to set America back on track. For the last 12 years, we have witnessed a feeding frenzy at the public trough that resulted in a savings and loan scandal, a HUD scandal, U.S. engagement in the international drug trade, and war against Third World people.

The American people voted for change. The Americam people voted for an end to gridlock. The American people voted to end the Republican feeding frenzy that allowed the fat cats to get fatter. Now is the time for all Americans to stand with our President and set our great country back on track. We must not allow fat cats and special interests to impede this historic progress that we are about to inaugurate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The PRESIDENT pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on both motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on both motions to suspend the rules.

OPPOSING RESUMPTION OF COMMERCIAL WHALING

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 34) calling for a continued U.S. policy of opposition to the resumption of commercial whaling, and otherwise expressing the sense of the Congress with respect to conserving and protecting the world's whale, dolphin, and porpoise populations, as amended.

The Clerk read as follows:

H. CON. RES. 34

Whereas there is significant widespread support in the international community for the view that for scientific, ecological, and educational reasons, whales should no longer be hunted for profit;

Whereas there is concern that efforts will be made at the 1993 Annual Meeting of the International Whaling Commission to overturn the Commission's existing moratorium on commercial whaling of large whales;

Whereas there are species of small cetaceans that are currently subject to direct commercial harvest;

Whereas there are unique regions of the world's seas which serve as important feeding grounds for many species of whales, and where the impacts of environmental threats are unknown: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the United States policy should promote the conservation and protection of whale, dolphin, and porpoise populations;

(2) the United States should remain opposed to any resumption of commercial whaling, and should work toward a moratorium on the direct commercial harvest of dolphins and porpoises;

(3) the United States should work to strengthen the International Whaling Commission by reaffirming its competence to regulate direct commercial harvest of small cetaceans and should encourage the Commission to consider the expertise of its Scientific Committee;

(4) the United States should support the establishment of appropriate international sanctuaries where whaling is prohibited; and

(5) in promoting the conservation and protection of the world's whale populations, the United States should make the fullest use of diplomatic channels, appropriate domestic and international law, and all other available means.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. SAXTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I am pleased to bring before you House Concurrent Resolution 34, which expresses congressional opposition to any resumption of commercial whaling. The resolution also urges the establishment of international whale sanctuaries where whaling is prohibited.

In today's world, the concept of killing whales for profit is simply an anachronism. There was a time when our ancestors—including the Yankee whalers from my home State of Massachusetts—hunted whales for their oil and whalebone, but those times are now long gone. The human race has progressed, and we no longer light our lamps with whale oil, nor make combs and other toiletries from whalebone.

Those advances almost came too late for the whales. By the middle of this century, more than 200 years of relentless killing had brought many of the world's whale species literally to the verge of extinction. Fortunately, nations from around the globe recognized the extent of the slaughter and came together in 1946 to sign a landmark conservation treaty: The International Convention for the Regulation of Whaling. The treaty's success in slowing, if not entirely stopping, the slaughter over the past 47 years has been nothing short of remarkable. Although still menaced by marine pollution and global climate changes that threaten to destroy their habitats, the great whales have slowly begun to repopulate the oceans of the world.

During the past few decades, no other group of animals has so captured the hearts of people around the world. In the United States, in Canada, Argentina, and Australia, we no longer kill whales for profit—we now watch whales for profit. In Massachusetts, the whalewatching industry brings over $70 million a year into the State's economy—proof that living whales are a far more valuable marine resource than dead whales could ever be. They are an educational tool and a symbol of the conservation movement, proof positive that humans and wildlife can coexist on this small planet.

Under these circumstances, some of my colleagues may find it surprising that this resolution is necessary. But a few shortsighted nations are now seeking to overturn a 6-year-old global moratorium on commercial hunting of large whales, and a number of nations continue the practice of commercially harvesting dolphins and porpoises. Two of these nations—Japan and Norway—have even hired lobbyists and public relations firms to try to convince the American people that commercial whaling is fine. House Concurrent Resolution 34 will make clear to them that the American people have chosen to look forward, not backward, on this issue. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say at the outset that I wish to commend the chairman of the full committee, the gentleman from Massachusetts [Mr. STUDDS], for the very thoughtful statement, as well as to say that I think it is very important to recognize that the chairman has seen to it that this bill reach the floor in a very quick manner.

This is a very important subject, one that is very important to the chairman and to others who care about these types of issues. To have it on the floor as one of our first measures of business in this session I think is quite commendable.

Mr. Speaker, I rise in support of House Concurrent Resolution 34 which expresses the support of Congress for continuing the international moratorium against the commercial harvest of whales and support for international efforts to establish a whale sanctuary.

Although many people may think the practice of commercial harvest for whales is a permanent entry in the history books, they could be very well mistaken. At this year's annual meeting of the International Whaling Commission in May, there will be efforts by some nations to resume commercial whaling once again.

Only half a century ago, many species of whales were pursued to the brink of extinction. At the time, the only thing understood about these creatures were the profits they afforded from commodities—commodities which are now antiquated and no longer valued or necessary in modern societies.

The International Whaling Commission, organized 47 years ago, was a milestone for internationally recognizing the need for conservation and the mutual stewardship which must exist between nations.

Since that time, some whale stocks appear to be rebuilding. Others, however, continue to decline and some species may never recover. More importantly, we remain woefully ignorant about these creatures and how their health and abundance relates to the general health of our ocean environments.

The impacts of marine pollution, habitat destruction and other disturbances in the marine environment that may be harmful to the recovery of these animals are, for the most part, unknown.

As humans, we have an instinctive respect and curiosity for these intelligent creatures whose near extinctions challenge our own intelligence to manage the natural resources and global commons on which we all depend.

The for profit harvesting of whales is an unnecessary and primitive behavior that has no purpose in an increasingly interdependent world.

I urge my colleagues to once again support this resolution and put an end once and for all to commercial whaling today.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume to commend the distinguished gentleman from New Jersey [Mr. SAXTON], the ranking member of the Subcommittee on the Environment and Natural Resources. The gentleman is proof positive that there are still genuine conservatives over there. I really appreciate that.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Connecticut [Mr. GEJDENSON].

□ 1320

Mr. GEJDENSON. Mr. Speaker, I thank the gentleman for yielding time to me, and for his leadership on this and so many other issues.

Mr. Speaker, as we look at our actions historically on saving the whales, from my State, as from Chairman STUDDS' State, a State with a significant history of whaling, it seems to me that to undo what we have accomplished over the past several years in trying to restore whale populations makes no sense. There is no economic justification, particularly, for the United States, for countries who are apparently interested in resuming the hunt for whales, if we care about the ecosystems on this planet, and the oceans being the most critical one, bringing the whale populations back to where they were 100 or 200 years ago is still an important issue before us, so I believe the action we take today will hopefully send a strong message to those countries around the globe who think that they can resume the hunt and slaughter of these great whales.

Mr. SAXTON. Mr. Speaker, I yield 4 minutes to the gentleman from South Carolina [Mr. RAVENEL], a gentleman who has worked so hard on conservation and environmental matters.

Mr. RAVENEL. Mr. Speaker, I would just like to say a few words about whales. Those Members who have been around a while here in Congress have heard me on the subject before. They have heard me give those nations of the world who have been killing the whales unmitigated Hades about it. They have heard me wind up my little talks with "Shame on you, Japan; shame on you, Japan," and I think that that has had some good.

Americans and environmentalists and people who love nature all over this world, they have a love affair with whales. Consider the blue whale. It grows to over 100 feet in length. Imagine that. It is the largest creature that has ever lived on the face of this Earth, the blue whale. Its heart is the size of a Volkswagen beetle. A man, a grown man, can crawl around in the arteries of the blue whale.

All of us have been to the zoo, and those of us that have been to Africa, we have seen mature elephants. The blue whale is the size of 12 mature bull elephants. Imagine that. Those creatures, those blue whales whose number had gotten down to below 2,000, they are still living on the face of this Earth since the moratorium has been in effect. We understand now, and we hope that the figures are correct, that the numbers of blue whales now exceed 10,000.

The great whales over on the west coast have been a great success story. They used to go down to the lagoons there in Mexico, and they were just slaughtered almost to extinction. Because of the moratoriums, now their numbers are approaching 20,000. The humpbacked whales, both on the east coast and on the west coast in the north Pacific, they sing, and the Members probably have heard whale songs on radio or on television. They have seen the television shots of the whales. However, the right whale, which is up and down the east coast, has not recovered. Their numbers number around 375 to 400, and we have been able to track them. There are so few that we know exactly what individuals exist. They only have a natural increase of about a dozen a year in a good year. They swim up and down the coast in the shipping channels and a lot of them get hit by ship propellers, and pollution is also affecting their reproductive rate.

That particular species of whale, known as the right whale because it was the right whale to kill, when they killed that whale, for some reason, it floated and they never lost any. They were able to bring them in and cut them up for their oil.

The moratorium has been good for the whales of the world. The moratorium is supported generally by the people that inhabit this planet. Whales are just out there in family groups. They don't do anybody any harm. They just swim, tend to their own business. As the chairman has said, they provide great recreational opportunities for people who just like to go and see them.

I have never seen a whale. Maybe I will never see one, but just the knowledge that they are out there still alive, the greatest creatures that ever inhabited the face of this Earth, just gives me a good feeling. I am just so delighted here today that this House is going to pass, I know by an overwhelming margin, this resolution.

Mr. SAXTON. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, while I rise in support of the motion to suspend the rules and pass House Concurrent Resolution 34 opposing any resumption of commercial whaling, I would, however, like to voice my concerns that the administration failed to provide our Committee on Foreign Affairs with a spokesman in our consideration of this measure earlier today to discuss the administration's position on this measure.

Since the government of Norway has informed us that there are ongoing negotiations between Norway and the United States with regard to this issue, and since there is some conflicting scientific data with regard to the necessity of protecting the minky whale, in my view, we should hold hearings on this vital subject allowing our committee to more closely examine its international implications. Furthermore, it is my understanding that there are now ongoing international discussions among several IWC Commissioners on this issue. We should not unduly prejudice these discussions by precipitous action on our part.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to conclude by saying that I do not believe there is any opposition to this measure in the House, at least none that is discernible that I can detect.

Mr. Speaker, I would just like to say that the chairman and other members of the Committee on Merchant Marine and Fisheries, the gentleman from South Carolina [Mr. RAVENEL] and others who are members of this committee, because we care so very deeply about the health and welfare of the ocean environment, I think this serves as a very good example of the types of things that are of special nature that the Committee on Merchant Marine and Fisheries is and will be dealing with under the leadership of our chairman, the gentleman from Massachusetts [Mr. STUDDS].

Inasmuch as this is a noncontroversial issue, it does serve as an example of the kind of work that the Committee on Merchant Marine and Fisheries does and I hope will productively continue to do in the future. I am sure it will.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just take a moment to acknowledge and thank the gentleman from New Jersey [Mr. SAXTON] for his kind remarks, and to observe in response to the remarks of the gentleman from New York [Mr. GILMAN], while I have not spoken directly with people in the administration, the new administration, on this question, I think in large measure because they do not have their telephones connected yet, I can assure the gentleman that there will be at least as intense a degree of love for the critters we are discussing as there was in the preceding administration. The gentleman need not worry about being overly bold in expressing the sense of Congress that we ought not be killing them.

If the gentleman has any doubts about that, I would refer him to his colleague, the gentleman from South Carolina.

I just want to say, Mr. Speaker, that I cannot believe, after the impassioned defense of these marine mammals offered by the gentleman from South Carolina [Mr. RAVENEL], that he concluded his remarks by saying that he had never met one. I am sorry he is not here, because he now is in possession of several invitations to meet and commune and converse with them, and I can assure him that they will agree with every word that he said.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from New York.

Mr. GILMAN. Ray Androtto of the Oceans and Environmental and Scientific Affairs Bureau of the State Department stated today that there are not currently any formal negotiations with the Norwegians on the issue of whale harvesting; however, the United States IWC Commissioner and the Norwegian IWC Commissioner have met several times to discuss this issue informally. The International Whale Commission has its formal meeting during the last week of April and first week of May and this issue will be discussed. The United States Whaling Commissioner plans to go to an informal meeting of IWC Commissioners this week to discuss this and other issues.

□ 1330

All I am urging is why not give the Commission the opportunity to make its report to the Congress before we act precipitously.

Mr. STUDDS. Let me say to the gentleman that I think he is going to have to live with the distinct possibility that the Norwegians are just plain wrong, and the people of the United States, in this country, and the peoples of most of the rest of the world are right in their impassioned insistence that we not resume commercial harvest of whales period. I realize that that may lead to difficult negotiations with Norway and possibly with Japan, but I do not think we should for 1 minute hesitate to reaffirm what has been the Commission's position and the position of this country for as long as I can remember, and hopefully, and I am confident will remain its position with the new administration. We do not have an Assistant Secretary, as the gentleman well knows, and I do not know from what sub-Cabinet level or sub-agency or department level the gentleman gets his information, but as soon as they have a boss, I am sure that those concerns will be straightened right out, very promptly.

I had hoped that this would not be a matter of any controversy at all, and I suspect that the gentleman may hear from some of his own constituents who share the passion of the gentleman from South Carolina.

In any event, I would urge Members to reaffirm in the clearest and the strongest possible terms the objection of this Congress and of this country to the resumption under any circumstances of the commercial harvest of whales.

Mr. YOUNG of Alaska. Mr. Speaker, I normally do not agree with the sort of rapid action that is occurring today in regard to this resolution. I would much prefer that matters follow the normal process of going through hearings and committee markup. However, knowing of the strong interest that the authors of this resolution have in the subject, I have decided not to object.

Nevertheless, I want to take a few moments to caution my colleagues on the issue before us today. Americans have, for the most part, become convinced that harvesting whales is bad. They think whales are endangered and they have moral objections to killing whales. Unfortunately, we have tended to let our emotions interfere with the truth.

Are whales endangered? Some are; many are not. In fact, the California gray whale was recently removed from the endangered species list. If science, rather than emotions, were considered, many other species should be removed as well.

Is killing whales wrong? It is if you are an urban resident who doesn't depend on whale meat. It is not if you are an Alaska Native who relies on harvesting bowhead whales for subsistence. It is also not wrong if a carefully controlled harvest for genuine food, cultural, and religious purposes is allowed.

Too often, we in this country extend our morals to other people without thought to what we are doing. Whaling is a good example. I think it is time that we reconsider our actions at the International Whaling Commission. We don't need factory fleets hunting down the last of an endangered species. However, we should give every consideration to the morals and traditions of other nations, just as we ask them to consider our own.

Mr. FIELDS of Texas. Mr. Speaker, I rise in support of House Concurrent Resolution 34. This resolution calls for a U.S. policy that would maintain the current International Whaling Commission [IWC] moratorium on commercial whaling. This moratorium, which has been in effect since 1986, prevents the depletion of these marine mammals as a result of direct commercial harvest. It is my hope that the IWC, using the best scientific information available, will continue to work with all nations to manage and conserve whales. Likewise, countries like Japan should not proceed with the taking of whales for their own use unless sanctioned by the IWC.

Mr. Speaker, I support adoption of this resolution for it will assist the United States in its negotiations with other countries in preparation for the upcoming IWC meetings.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 34, as amended.

The question was taken.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

EXPORT ADMINISTRATION ACT EXTENSION

Mr. GEJDENSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 750) to extend the Export Administration Act of 1979 and to authorize appropriations under that act for fiscal years 1993 and 1994.

The Clerk read as follows:

H.R. 750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 18 of the Export Administration Act of 1979 (50 U.S.C. App. 2417) is amended by striking subsection (b) and inserting the following:

"(b) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

"(1) $42,813,000 for the fiscal year 1993;

"(2) such sums as may be necessary for the fiscal year 1994; and

"(3) such additional amounts, for each such fiscal year, as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscriminatory costs.".

SEC. 2. EXTENSION OF THE ACT.

Section 20 of the Export Administration Act of 1979 (50 U.S.C. App. 2419) is amended by striking "September 30, 1990" and inserting "June 30, 1994".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut [Mr. GEJDENSON] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. ROTH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, all we do here today is to guarantee that the failure to pass an export administration act does not allow important controls by the United States to lapse, particularly in the area of high-technology items going to terrorist countries, issues like the antiboycott legislation.

As the result of a veto of an earlier version of this bill, the Commerce Department now feels itself vulnerable to legal action that would undercut their authority to control items that are of a significant nature in their technological capability to add to other countries' nuclear, chemical, or biological capabilities. These are items that we want to control, we want to make sure that the Commerce Department has the legal authority to control.

The act expired in 1990. Since that time we have been operating under emergency authority. But people within the Commerce Department feel that that power is subject to legal challenges. So what we are doing here today is simply doing an extension of the legislation until we can have a more comprehensive review that we would work out with the administration.

H.R. 750 is a simple extension of the Export Administration Act. It is cosponsored by the distinguished ranking member of the subcommittee, Mr. ROTH, and myself.

The bill will extend the Export Administration Act until June 30, 1994. This temporary extension does not change any of the provisions of the EAA.

The bill also authorizes the existing appropriation of $42.8 million for fiscal year 1993 and such sums as may be necessary to carry out the export licensing and enforcement activities for fiscal year 1994.

This temporary extension is essential because:

The EAA expired on September 30, 1990; since that time we have been operating under emergency residual authority which does not provide the same ability to enforce our export control laws; in order to ensure proper enforcement of these laws, we need to pass EAA;

The use of residual authority is coming under increasing legal question, raising the risk that a violation of the act could avoid penalty; this could jeopardize export controls and our national security;

The temporary extension should preclude legal problems while the Congress rewrites the act;

This bill will give us until June 30, 1994, to totally rewrite EAA; the EAA is a relic of the cold war and needs to be rewritten to reflect the new security risks facing the United States, especially those posed by the proliferation of nonconventional weapons.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I just had one brief question. The authorization level I believe is higher than last year. Can the gentleman tell me how much higher it is?

Mr. GEJDENSON. The level in the bill only reflects the appropriations level that already passed the House and the Senate and has been signed into law.

Mr. BURTON of Indiana. It is higher than it was last year, is it not?

Mr. GEJDENSON. I think it is slightly higher. If the gentleman will give me as second, I will get that number for him.

Mr. BURTON of Indiana. I thank the gentleman.

Mr. ROTH. Mr. Speaker, I yield myself such time as I may consume.

The answer to the last question is that it is actually somewhat lower than it was 2 years ago, according to the graph we have, and I am happy to share that with the gentleman from Indiana.

Mr. Speaker, the bill, H.R. 750, is a temporary reauthorization of the Export Administration Act.

Enactment of this bill is essential, as the chairman of the subcommittee pointed out, because legal challenges are mounting to our export control system.

In September 1990, the Export Administration Act lapsed, and for 3 years Congress has not completed action on a new authorization. During this period our export control system has been operated under Executive order, and the President has used emergency authority to keep the system going.

But there are several legal challenges to the use of this emergency authority to enforce export controls. This is significant because several of these challenges have been made by the Commerce Department's own administrative law judges, the very officials who must adjudicate export control cases. And while none of these challenges has been fully litigated, we may well lose one of these cases.

If that happens, the Federal Government would not be able to enforce our export control laws, and a violator might get away without a penalty. And more important, sensitive technology might make its way to dangerous countries like Iraq, or Libya, or North Korea.

Aside from the legal challenges, the current emergency authority provides only limited law enforcement authority, for example, for search warrants and arrest powers, and the confidentiality of proprietary business information. All are now subject to legal questions. Enactment of our bill will put the export controls back on a sound statutory basis and put an end to these legal challenges.

In this House there are a number of Members with a wide range of views on what should happen to export controls. But I trust that no Member wants a violator of the law to slip through a loophole, and no Member wants sensitive technology to get into the wrong hands because of a legal technicality. Therefore, all Members should support this bill today. It does not prejudice their position on the larger question of revising the Export Administration Act.

Indeed, our committee will use this period to completely rewrite the Export Administration Act. My understanding is that the other body is also committed to a complete rewrite, and the timeframe in our bill today is the period required to complete this rewrite. I would have preferred a shorter extension, but the other body has advised us that they need this time because of a change in chairmanships.

A complete revision of the export controls is now long past due. American high technology in machine tools, computers, aerospace, and electronics all depend on exports to survive.

The current export control system is an outmoded artifact of the cold war. Export controls deny American exporters the right to compete with companies in other countries. This is something that we must be very much concerned about.

Export controls prevent exports to countries that are now our strategic allies, countries which are now joining NATO, countries with which we share intelligence, and countries which are crucial to controlling weapons of mass destruction.

U.S. export controls deny American companies the ability to export, when our closest allies often permit such exports.

In short, this situation makes no sense. In the post-cold-war era, we have to start from scratch and devise an export control policy that reflects our economic security, a policy that controls only what has to be controlled and what we can control, and a policy that allows American high-technology industries to compete in the world markets.

☐ 1340

All of that work is ahead of us, and we are going to complete that work. But today we are dealing with an immediate problem.

I urge my colleagues to vote with our committee and with our chairman for H.R. 750, and to work with our subcommittee in the coming months to bring an export control system that can truly make us competitive and keep us competitive in not only the 1990's but as we move into the 21st century.

Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska [Mr. BEREUTER], who does a great deal of work on this issue, and we are proud of his contribution.

Mr. BEREUTER. Mr. Speaker, I thank the ranking member for his kind words. I join him and the chairman of the subcommittee in urging support of this legislation.

Because we have failed to reauthorize the Export Administration Act, we have had to rely primarily on the International Emergency Economic Powers Act, or IEEPA. The distinguished gentleman from Wisconsin has already mentioned some of the problems of having to rely on IEEPA. In the absence of the Export Administration Act, in authority to the Commerce Department, he mentioned, for example, that they do not have the ability to seek search warrants under IEEPA as they do under the EAA.

Mr. Speaker, problems created by the lapse of the authorizative legislation for the regulation of exports, the Export Administration Act include the following points.

Under International Emergency Economic Powers Act [IEEPA] the U.S. Government cannot impose penalties as severe as those available under the Effort Administrative Act [EAA]. For example, under IEEPA, civil penalties are limited to $10,000, whereas under the EAA the maximum civil penalty for violation of national security controls is $100,000.

IEEPA criminal penalties are capped at $50,000, while EAA criminal penalties go up to the greater of $1 million or five times the export value. In addition, IEEPA lacks express provision for denying the export privileges, a key sanction and diversion prevention measure.

The EAA gives Commerce's special agents some vital investigative powers—for example, the ability to execute search warrants and to arrest suspected export control law violators. The IEEPA has no similar provision, so Commerce agents have had to undergo a series of limited term deputizations by the U.S. marshals in order to carry out these functions.

There have been many challenges to Commerce's export control authority under IEEPA. Commerce has sought to defend the legality of its actions, but a number of issues are in litigation or are otherwise in limbo.

Continuously answering these challenges to Commerce's authority diverts scarce financial, technical, and legal resources from the real job at hand—administering an export control program that carefully balances U.S. economic concerns with our national security concerns.

For example, Commerce is being sued for its attempts to protect the confidentiality of information received from business in connection with export license applications while IEEPA has been in effect. Section 12(c) of the EAA would provide strong protection from forced public disclosure of such information under Freedom of Information Act [FOIA] actions, while providing for congressional access to the data.

The confidential treatment of business-related information is one of the basic assurances that Commerce uses to ensure that U.S. exporters provide complete and accurate information on export license applications. It is fundamental to Commerce's ability to effectively implement its export control system.

A successful challenge to 12(c) procedures under IEEPA: could lead to public disclosure of competitively significant information; expose firms to public pressure, even though they were engaged in legitimate export trade consistent with published U.S. policies; would discourage exporters from providing the complete information that Commerce needs to make informed export licensing decisions; and could cause U.S. firms to forego legitimate export opportunities rather than risk having proprietary information disclosed.

The IEEPA does not address the prevention of cooperation by U.S. persons with the Arab boycott of Israel, a matter very important to this administration, that is well covered by the EAA. Government assertions that IEEPA is broad enough to support antiboycott regulations have been questioned. No court has yet ruled on this issue.

The EAA provides for an administrative law judge [ALJ]. An ALJ raised many questions related to the EAA's lapse, including the basis for an ALJ to handle administrative enforcement proceedings and the authority of the Under Secretary for Export Administration, whose position is also provided for under the EAA.

Rulings by the Under Secretary for Export Administration have rejected such ALJ positions on enforcement authority, but these rules remain subject to court review.

Mr. Speaker, for these and other reasons I urge my colleagues to support the passage of this resolution.

Mr. ROTH. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN], the ranking member of the Committee on Foreign Affairs, who has helped us and has been a great mentor for us in this area, and we appreciate his help.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me this time and for his kind words.

Mr. Speaker, I rise in support of the motion to suspend the rules and pass H.R. 750, a bill to extend the Export Administration Act of 1979 through June 1994 and I commend the gentleman from Connecticut [Mr. GEJDENSON], the distinguished chairman of the Trades and Environment Subcommittee and the gentleman from Wisconsin [Mr. ROTH], the subcommittee's ranking member. This morning, House Foreign Affairs Committee considered this legislation and sent it before the House without change.

This act expired in September of 1990. In the interim, the previous administration has invoked the authority of the International Emergency Economic Powers Act as the underlying authority to continue our export control system.

This stop-gap expedient was required in light of the unsuccessful efforts during the last Congress to enact a more comprehensive EAA bill, marked by controversy over our nuclear export control policy and the role of the Defense Department in the licensing process.

I am pleased that our colleague, Mr. GEJDENSON, the chairman of the Trade and Environment Subcommittee, and the sponsor of this legislation, has finally agreed to what Republicans have been urging Democrats to do for the last 2 years—a simple reauthorization of EAA, and an end to the legislative gridlock on this important measure.

Its enactment today is essential. It will put to rest any confusion about the legal basis of our export control system and will send a clear message that Congress intends to play a key role in this critical area of our national security and foreign policy.

Its approval today is, of course, only the beginning of the process of overhauling this system so that it can meet the challenges of the post-cold-war period.

Today, let us pass this interim measure that not only strengthens the ability of the Department of Commerce to enforce our national security and foreign policy controls, but also ensures compliance with the antiboycott regulations essential in our efforts to counter the Arab embargo of Israel.

The Secretary of Commerce, Mr. Ronald Brown, with regard to this legislation, has urged, in a letter dated February 12, 1993:

> * * * A short-term extension of the EAA would provide an opportunity for the administration and the Congress to collaborate in a major refashioning of this statute—one that will not only reflect regulated improvements already adopted by the Department of Commerce, but also reflect the enormous changes in world conditions that have occurred since the act expired.

Accordingly, Mr. Speaker, I urge my colleagues to join me in supporting this legislation.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to thank the gentleman from Wisconsin [Mr. ROTH], the gentleman from Nebraska [Mr. BEREUTER], in particular, for the help they have always provided us in the subcommittee, the gentleman from New York [Mr. GILMAN], and others who have worked with us on these kinds of issues, and particularly point out the great work done by Ed Rice on the minority side and John Scheibel on the majority side on this issue.

This is a working team. We have worked together for a number of years, and we really appreciate their contribution and the working relationship we have developed.

It is critical that we develop an export policy that allows us to trade with friendly democratic nations, to make sure that American industry and workers are not disadvantaged when we try to sell products overseas when there is no national security risk. We also need to make sure that when there is a danger of diversion of these kinds of technologies that would aid the nuclear or chemical or biological capabilities of terrorist countries that we have the toughest possible controls, and that those controls be multilateral as often as possible.

Mr. Speaker, I reserve the balance of my time.

Mr. ROTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to take a couple of seconds, because I cannot let the chairman get by with giving out all of the accolades to the committee staff. I need to have them working for me, too. There is no more knowledgeable committee staff than John Scheibel. He has always been a real pleasure to work with.

Mr. Speaker, I want to say that Ed Rice's Republican credentials are now in question.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Mr. Speaker, I rise in support of H.R. 750, which would extend the Export Administration Action of 1979 until June 30, 1994.

No one is particularly pleased with this legislation. I wish we were able to bring a bill to the House floor that would totally rewrite the Export Administration Act. We need a new export control system that recognizes new threats to our national security while freeing up American business to compete in newly open markets in the former East bloc.

Mr. Speaker, I am inserting the remarks of Arthur Charles of Sundstrand Corp., who is extremely interested in a new Export Administration Act that will simplify the incredible bureaucratic quagmire of dual-use technology licensing.

Mr. Speaker, every day we delay, we lose potential customers to our competitors overseas. I stand ready to work with my colleagues on the Foreign Affairs Committee to redraft the Export Administration Act.

But we need this short-term legislation now to make sure that any potential violators of our export control laws do not get off scot-free because of a legal technicality. We can't have someone sell sensitive technology to Iran or Syria and then have a judge throw out the case because there is no export control system in force.

No one, least of all me, is particularly thrilled about this legislation. But it is a basic first step toward putting together a new export control system in place to catch potential violators. I urge my colleagues to support H.R. 750.

IMPEDIMENTS OF EFFECTIVE APPLICATION OF "DUAL USE" TECHNOLOGY

THE STATUTES AND REGULATIONS

Currently the U.S. has two separate major export control statutes:

Export Administration Act (EAA).

Export Administration Regulations (EAR).

Covers items that are inherently commercial in nature (Articles and Technical Data for civilian use).

Administered by the Department of Commerce.

Arms Export Control Act (AECA).

International Traffic in Arms Regulations (ITAR).

Covers inherently Military Items (Defense Articles and Defense Services).

Administered by the Department of State.

It must be noted that virtually all exports from the U.S. are controlled by these two statutes.

POLICY OBJECTIVES

In the past the distinction in purpose between these two statutes seemed reasonably clear. The charter of the AECA has been to restrict the dissemination of weapons to our potential enemies and to discourage arms races and possible resulting conflicts. The policy of the EAA was to restrict exports which would make a significant contribution to the military of any country which would be detrimental to the National Security.

Emerging technologies, the changing world political climate, and new defense initiatives have caused the State and Defense Departments to reassess their control over dual use items. Recent dual use decisions issued by the State Department certainly cloud which statute and agency has control of an item or technology.

DUAL USE

Dual Use Items are those which can be used for both military and civilian purposes, and fall under the control of the EAR.

Items cannot be included on both the Export Control list and the United States Munition List.

Therefore a determination of Commodity Jurisdiction between Commerce and State must be made to understand the authority under which an article may be exported.

Both Departments have procedures to give the Exporter guidance.

Commerce Department: Commodity Classification EAR 779.(e)(1).

State Department: Commodity Jurisdiction ITAR 120.5.

These two procedures are similar in many respects, but the State procedure has one important element that Commerce does not.

ITAR definitely informs the exporter whether the EAR or ITAR controls the export of an item. This is because under ITAR 120.5, State is required to obtain the views of Commerce and DoD before issuing a C.J. By contrast, Commerce is not required to obtain State's and DoD's views before issuing a commodity classification. Therefore State becomes the determines Agency in deciding what items are Dual Use.

POLICY

The criteria stated in 120.3 of the ITAR sets out the policy of what items should be on the U.S. Munitions List.

"Designations of Defense Articles, and Defense Services are based primarily on whether an article or service is determined to be inherently military in character, and whether it has a predominantly military application is also taken into account. The fact that an article or service may be used for military and civilian purposes does not in and of itself determine whether it is subject to the export controls of this sub chapter."

But.

Section 3.(2)(A) of the EAA states that it is the policy of the U.S. to restrict the export of goods and technology which would make a "significant contribution to the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States." Section 5 of the EAA, which contains statutes related to national security controls, implements the policy of Section 3.(2)(A).

Although guidance is available to the exporter, the Acts themselves certainly do not provide clear guidlines as to which commodities are controlled under which Act.

This results in frequent Commodity Jurisdiction disputes between the Departments of Commerce and State, which causes the Department of Commerce to delegate decisions on Commodity Jurisdiction to the Department of State who has the principal role in effecting Commodity Jurisdictions under the AECA. In addition, the State Department will solicit the opinion of the Department of Defense (the keeper of the Munition List) and to our knowledge State has always ruled in accordance with the DoD recommendation. This results in an extremely conservative approach and favors placing perceived sensitive or controversial items on the Munitions List.

With this in mind, the impediments become the current issues of the day as well as processes which have been painfully lacking in the system for years.

IMPEDIMENTS OF DUAL USE

Less emphasis is being placed on East/West controls and the focus is more on North/South controls.

Enhanced Proliferation Control Initiative [EPCI] and the Missile Technology Control Regime [MTCR].

More and more military equipment being based on commercial products and technology causing State and DoD to argue that an increasing array of Dual Use items must be controlled under the AECA.

Disregard of the general policy set forth in the ITAR to determine what items belong on the Munitions List.

Use of ITAR to control foreign policy.

The government has no clear internal decision making process for making commodity jurisdiction rulings.

Inconsistent application of the process.

Lack of an inter-agency dispute resolution mechanism.

Foreign availability is very seldom considered in the decision making process.

Foreign competitors can often sell more freely in the global market place.

In practical terms, there are policy and bureaucratic problems. Disputes can and do arise among agencies as to the controlling authority of an item and industry and our foreign customers are caught in the middle.

EXAMPLES

A classic example of this bureaucracy was introduced by AIA in a testimony provided to various House Subcommittees.

"A company which manufactures fasteners, basically nuts and bolts, under license from a European firm, and also produced in Germany, France, and Japan. These fasteners are used in automobiles, railroads, and bridges, as well as to fasten aircraft skin to frames, and had for years been exported under a G–Dest license. Last year, during a routine inspection, Customs detained a shipment (worth $150,000) destined for the United Kingdom. Customs determines that the fasteners would be used in work related to fighter aircraft and asked State whether a munitions license was required. State responded that since the end-user was military, State had proper jurisdiction. Customs was instructed to seize the shipment. The exporter was then subject to a fine and notified that the item could only be exported as a Munitions List Item.

The company appealed to Commerce for a commodity classification, stating that while the fasteners met military specs, they were not designed for the military, had numerous civilian applications and were readily available worldwide. Commerce agreed. What followed was a lengthy and costly appeal through the highest levels of both agencies before State agreed that the shipment could be properly exported under a G–Dest license.

Sundstrand is no stranger to this process. Sundstrand was recently told that on a commercial product that Sundstrand has sold for 40 plus years that by drilling an additional hole in the mounting flange, changing the location of a sight glass, or reconfiguring a housing in order to fit a military application, the item was now modified for military use and considered to be on the U.S. Munitions List.

Another example of this attitude is reflected in the treatment of a device we make to measure the inclination of the drill hole of an oil well. Because this particular device utilized the technology embodied in accelerometers, which are used in aircraft and missile guidance systems, the Department of State, and Defense determined that this down hole device could be modified to be used in aircraft and missile guidance systems; therefore, belonged on the Munitions List. This determination was made even though the device was specifically designed for commercial application and the sensing and scale factors were completely different from those used in guidance systems. This device does not navigate, it only measures the inclination of a hole and also utilizes the casing as an electrical ground, rendering it virtually impossible to be used in an airborne system. Despite all of these conditions, the State Department has maintained the export control of this item.

SOLUTIONS

Commerce Departments definition of dual use must govern State Department jurisdiction decisions.

Better definition of what constitutes a Dual Use Item based on the function of an item. The State Department believes this will be accomplished in the new proposed ITAR and EAA, but in reality will most likely add more confusion to the process. It appears a new ITAR will not be reality until after first of the year and with Congress failing to pass the EAA it may be another three years before we see an approved act if a new administration is elected.

Foreign availability of commercial products should be considered in all cases.

Stop the use of ITAR as a mechanism to enforce foreign policy.

SUMMARY

This is not a perceived problem, but is real in that it affects the ability of a U.S. company to compete on an equal basis overseas with a foreign company that is not subject to these cumbersome rules. The last example cited clearly illustrates one of the many problems we face when an item is subject to ITAR. That is, there are no permissive reexport rules and therefore any foreign customer still would require the approval of U.S. Department of State to move the device from country to country, even to send the device back to the U.S. for repair.

Why should a foreign company buy a U.S. product subject to this hassle factor when the same product is available from a foreign supplier without strings attached.

We must continue to press the Government Agencies involved to further define and streamline this process in order to provide U.S. industry a level playing field when competing with U.S. commercial (dual use) products in a global market place, while still recognizing and protecting significant national security interests.

In these times of diminishing U.S. industrial base, dwindling foreign market shares and gross U.S. imbalance of payment problems, it is contrary to the best interests of the U.S. to continue to impose their burdensome regulations on sales of commercial U.S. products abroad. If this trend is not turned around we will surely be looked upon as unreliable suppliers and ultimately lose not only our competitive edge but our marketplace to foreign competitors.

Industry, DoD, State Department and Commerce Department must all work more closely together to establish clearer guidelines for the export license process, speeding up the process, the defining Dual Use technology/products. Otherwise, we may have won the Cold War but we can lose the Economic War globally.

Mr. HAMILTON. Mr. Speaker, I rise in support of H.R. 750.

This bill is a simple piece of legislation. It authorizes the Export Administration Act [EAA] through June 30, 1994, and authorizes funding to carry out the act for fiscal year 1993 and fiscal year 1994.

The statutory authority of the Export Administration Act expired on September 31, 1990.

The act's authorities have been extended since then through executive order under the authority of the International Emergency Economic Powers Act [IEEPA].

In 1990, the Foreign Affairs Committee reported legislation, H.R. 4653, that would have reauthorized and revised the Export Administration Act, but the conference report on that bill was pocket vetoed.

The committee moved H.R. 3489, an updated version of that bill, in 1992, but the conference report for that bill died in the rush of business at the end of the 102d Congress.

The committee is not seeking to revive H.R. 3489 because the core of that bill was drafted 4 years ago and has been overtaken by world events and by administrative action.

Furthermore, there is a growing consensus that we need a comprehensive rethinking and rewriting of U.S. export control authorities—a review not just of national security export control authorities, but also of the various export control proliferation regimes.

The committee is moving this extension of the Export Administration Act because questions have been raised concerning the validity of extending all provisions of the EAA through IEEPA. This extension will also give the Congress and the executive branch 16 months to review and rewrite the Export Administration Act.

I look forward to working on this complex, but important, legislation with President Clinton, with the chairman of the Subcommittee on Economic Policy, Trade, and Environment, Mr. GEJDENSON, and with our ranking members, Mr. GILMAN and Mr. ROTH.

I urge members to support H.R. 750.

Mr. KYL. Mr. Speaker, I rise today to commend the Foreign Affairs Committee for proceeding with a straight reauthorization of the Export Administration Act [EAA] without any further changes to the authority and role of the Department of Defense as proposed in previous years.

As a member of the House Armed Services Committee, I have been concerned that certain legislative proposals to reform the EAA would result in further diminution of the all-important national security perspective in the process of reviewing export licenses for sensitive dual-use technologies.

Given the dramatic examples of military goods improperly being exported to Iraq and the continuing changes in the global security environment, it is essential that we retain a strong and vigilant export control process to guard against the proliferation of sensitive dual-use and military technologies. Within the Government, the department most qualified to provide this perspective is the Department of Defense.

Mr. Speaker, of course we all want to support and promote the export of appropriate American products, but it is my hope that by proceeding with a straight reauthorization, the Congress and the administration can use the time afforded to arrive at a more effective export control policy properly balancing national security and the needs of business. A policy that is better attuned to the real and emerging threat of proliferation and the unique challenges it poses for our military forces.

Many of my colleagues on the House Armed Services Committee share this concern. We intend to continue pushing for a strong policy to keep sensitive military technologies out of the hands of future Saddam Husseins.

I look forward to working with my colleagues on the Foreign Affairs Committee toward this goal and with the new Secretary of Defense, Les Aspin, who has established the proliferation issue as one of his highest priority challenges.

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Mr. ROTH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GEJDENSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Connecticut [Mr. GEJDENSON] that the House suspend the rules and pass the bill, H.R. 750.

The question was taken.

Mr. BURTON of Indiana. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 750, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The SPEAKER pro tempore. Debate has concluded on both motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed today in the order in which the motions were entertained.

Votes will be taken in the following order: House Concurrent Resolution 34, by the yeas and nays; H.R. 750, by the yeas and nays.

The Chair will reduce to 5 minutes the time for each electronic vote after the first such vote in this series. There will be a 5-minute vote on the second bill.

OPPOSING RESUMPTION OF COMMERCIAL WHALING

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 34, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 34, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 382, nays 0, not voting 48, as follows:

[Roll No. 30]

YEAS—382

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Bateman
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clinger
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
English (AZ)
Eshoo
Evans
Everett
Ewing
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Foglietta
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallo
Gejdenson
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Long
Lowey
Machtley
Maloney
Mann
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Regula
Reynolds
Richardson
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shays
Shuster
Sisisky
Skaggs
Skeen
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Torres
Towns
Traficant
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—48

Bacchus (FL)
Barton
Bentley
Brewster
Brown (FL)
Chapman
Clyburn
Condit
Coppersmith
Costello
Dellums
Dixon
Doolittle
Dornan
Engel
English (OK)
Flake
Ford (MI)
Gallegly
Gekas
Gibbons
Hefner
Henry
Jacobs
Kingston
Lewis (CA)
Lewis (FL)
Lloyd
Manton
McCloskey
McDade
Parker
Reed
Ridge
Rogers
Schaefer
Shaw
Shepherd
Skelton
Smith (OR)
Swett
Talent
Torricelli
Tucker
Walsh
Washington
Whitten
Wilson

□ 1413

Mr. HOKE and Mr. MOAKLEY changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. COPPERSMITH. Mr. Speaker, I was unavoidably detained during rollcall vote No. 30.

Had I been present on the House floor during this vote, I would have voted "yea" on rollcall vote 30 calling for a continued U.S. policy of opposition to the resumption of commercial whaling.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which the vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

EXPORT ADMINISTRATION ACT EXTENSION

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 750.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut [Mr. GEJDENSON] that the House suspend the rules and pass the bill, H.R. 750, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 330, nays 54, not voting 46, as follows:

[Roll No. 31]

YEAS—330

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bachus (AL)
Baesler
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bateman
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Boehlert
Bonilla
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (OH)
Bryant
Bunning
Buyer
Byrne
Calvert
Camp
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clinger
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Coppersmith
Cox
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Emerson
English (AZ)
Eshoo
Evans
Everett
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Foglietta
Ford (TN)
Fowler
Frank (MA)
Franks (NJ)
Frost
Furse
Gallo
Gejdenson
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hansen
Harman
Hastert
Hastings
Hayes
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hutto
Hyde
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kim
Kleczka
Klein
Klink
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (GA)
Lightfoot
Lipinski
Long
Lowey
Machtley
Maloney
Mann
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCollum
McCrery
McCurdy
McDermott
McHale
McHugh
McInnis
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Michel
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Regula
Reynolds
Richardson
Roberts
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Sisisky
Skaggs
Skeen
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torres
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—54

Allard
Archer
Armey
Baker (CA)
Barlow
Bartlett
Blute
Boehner
Burton
Callahan
Canady
Coble
Crane
Crapo
DeLay
Dreier
Duncan
Dunn
Ewing
Fields (TX)
Franks (CT)
Grams
Hancock
Hefley
Hunter
Hutchinson
Inglis
Johnson, Sam
Kasich
King
Klug
Knollenberg
Linder
Livingston
McCandless
McKeon
Mica
Miller (FL)
Moorhead
Nussle
Packard
Pombo
Rohrabacher
Royce
Sensenbrenner
Shuster
Smith (MI)
Solomon
Spence
Stearns
Stump
Taylor (NC)
Torkildsen
Walker

NOT VOTING—46

Bacchus (FL)
Barton
Becerra
Bentley
Brewster
Brown (FL)
Chapman
Clyburn
Condit
Costello
Dellums
Dixon
Doolittle
Dornan
Engel
English (OK)
Flake
Ford (MI)
Gallegly
Gekas
Gibbons
Hefner
Henry
Kingston
Lewis (CA)
Lewis (FL)
Lloyd
Manton
McCloskey
McDade
Parker
Reed
Ridge
Rogers
Schaefer
Shaw
Shepherd
Skelton
Smith (OR)
Swett
Talent
Torricelli
Walsh
Washington
Whitten
Wilson

□ 1425

Messrs. McCANDLESS, BURTON of Indiana, KASICH, FRANKS of Connecticut, ROHRABACHER, and MILLER of Florida changed their vote from "yea" to "nay."

Mr. McHUGH changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LEWIS of Florida. Mr. Speaker, due to a previous commitment in my district, I was unavoidably detained and therefore unable to vote on two bills which passed the House today.

Had I been here, I would have voted in favor of House Concurrent Resolution 34, a resolution expressing the sense of Congress that the United States remains opposed to the slaughter of whales in the world's oceans and must extend reasonable protection to the global population of dolphins and porpoises. I have cosponsored similar legislation in previous Congresses, and certainly support this most recent measure.

With regard to H.R. 750, while I understand the reasons behind this body's desire to expedite the authorization of the Export Administration, I have concerns about the length and funding of this carte blanche reauthorization.

Certainly, we can make the necessary adjustments to the Export Administration Act within the next few months. There is therefore no need to reauthorize this agency to the tune of $43 million in 1993 and such sums as may be necessary in 1994. In my opinion, this is an invitation to Government waste.

In keeping with my belief that all Federal agencies must be audited and pared to the bone, I cannot support such a reauthorization which does not make reforms that are undoubtably in order. Therefore, I would have voted against H.R. 750.

PERSONAL EXPLANATION

Mr. McCLOSKEY. Mr. Speaker, unfortunately, I had to miss two votes today, as my flight into Dulles Airport did not enable me to return to the floor in time for these two suspension matters. I would appreciate it if it is indicated that, had I been present, I would have voted "aye" on House Concurrent Resolution 34. I also would have voted "aye" on H.R. 750, the Export Administration Authorization Act.

PERSONAL EXPLANATION

Mr. WALSH. Mr. Speaker, due to a serious snowstorm in upstate New York, the airport in Syracuse, NY, was closed and I was unable to get a flight to Washington. I was, therefore, unable to vote on rollcall vote No. 30 and rollcall vote No. 31.

Had I been here I would have voted "yea" on rollcall vote No. 30 and "yea" on rollcall vote No. 31.

PERSONAL EXPLANATION

Mr. SMITH of Oregon. Mr. Speaker, I regret that I was unavoidably detained for rollcall votes No. 30 and No. 31, House Concurrent Resolution 34 to support the Whaling moratorium and H.R. 750, the Export Administration authorization.

Had I been present, I would have voted "aye" on both House Concurrent Resolution 34 and H.R. 750.

PERSONAL EXPLANATION

Mr. GEKAS. Mr. Speaker, a massive snow storm hit Pennsylvania creating treacherous travel conditions in the area. Due to this storm I was unable to travel from Harrisburg, PA, to Washington, DC, to vote. Had I been present I would have voted "yea" on rollcall No. 30, to agree to House Concurrent Resolution 34, opposing the resumption of commercial whaling, and "nay" on rollcall No. 31, to oppose House Resolution 750, the Export Administration Amendments Act.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 25

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the name of Mr. ROBERT SMITH of Oregon be removed as a cosponsor of the bill, H.R. 25.

The SPEAKER pro tempore (Mr. THORNTON). Is there objection to the request of the gentleman from California?

There was no objection.

NATIONAL FFA ORGANIZATION AWARENESS WEEK

Mr. WYNN. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 101) to designate February 21 through February 27, 1993, as "National FFA Organization Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I yield to the gentleman from Oregon [Mr. KOPETSKI], who is the chief sponsor of this joint resolution.

Mr. KOPETSKI. Mr. Speaker, I thank the gentlewoman from Maryland for yielding.

Mr. Speaker, I want to thank the leadership of the Committee on Post Office and Civil Service of the House for expediting this piece of legislation.

Today we are considering House Joint Resolution 101, a joint resolution designating the week of February 21 through February 27, 1993, as "National FFA Organization Awareness Week."

Currently, the world marketplace is about 5.3 billion people for agricultural products. We know that U.S. agricultural sector is strong. For example, the United States has a $7.5 billion surplus in agricultural products with the nation of Japan alone.

Agriculture contributes over $900 billion to the U.S. economy, according to our new Secretary of Agriculture, Mr. Espy. My home State of Oregon is heavily involved in agriculture. We maintain a positive balance of trade out of our State, exporting over $2 billion in agricultural products to the nation of Japan alone.

The United States has the most stable, affordable food supply in the world, and we should recognize the agricultural community for its contribution to American prosperity.

Mr. Speaker, I am sure we are all familiar with the excellent work of the national FFA organization. This group was previously known as the Future Farmers of America. The national organization was founded on November 20, 1928, as the leadership organization for students of agricultural education in our public school systems.

FFA fosters character development, responsible citizenship, and leadership skills, and training opportunities for students preparing for careers in agriscience, production agriculture, and agribusiness. The FFA has succeeded magnificently in introducing a great many of our youth to civics, education and leadership through agriculture.

The national FFA organization is comprised of more than 400,000 youths in all 50 States and the territories.

Success in U.S. agriculture comes about because of such organizations as FFA. It does not come by magic. It comes by people who work hard and who dedicate themselves to the land and to the business and science of modern agriculture. It comes from smart people.

□ 1430

I am particularly proud of this resolution, Mr. Speaker, because students from my district originated this idea, students from the Silverton, OR, chapter of FFA. Silverton is a small town of about 5,000 people in the beautiful, productive Willamette Valley.

Mr. Speaker, last fall I visited Silverton High School and met with a student, Rebecca Fisher, spokesperson for Silverton High School's FFA organization, Silverton's 75-member FFA organization, and their adviser, agricultural science and technology instructor, Mr. Andy Bellando.

During this visit I suggested to the students that they get involved in the legislative process. I was very proud to see that they acted on my suggestion. This is their work product today. This shows that a good idea can still become a law in the United States, even from our young people.

Mrs. MORELLA. Mr. Speaker, when it comes to farming, most Americans want food that is inexpensive and safe to eat. Yet, family farmers comprise less than 3 percent of the population of our Nation, and that number is dwindling. Our hope for the future is with organizations like the Future Farmers of America.

Future Farmers of America is comprised of more than 400,000 high school students across the United States. Future farmers are trained at their various schools in different aspects of farming, and they are encouraged to become actively involved in their communities. Through programs, such as Project Pals, high school students are paired with younger students to stimulate an interest in agriculture. Other projects include working with disabled students, planting seeds, and encouraging an interest in the various aspects of farming.

Students who participate in Future Farmers of America programs learn leadership skills, based upon the principles of cooperation and family agriculture, that prepare them to take over the task of feeding our Nation. The Future Farmers of America is an essential organization that can revitalize the family farm and continue America's leading edge in agriculture. It is my pleasure to salute this outstanding organization and to wish its members continued success as they face the challenges of the future.

Mr. Speaker, I yield to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, as a farmer from Michigan who has gone through FFA and was a star farmer, I want to take this opportunity to strongly endorse this resolution and this program as a training and experience program that allows young agricultural and nonagricultural individuals to grow up with an understanding of agriculture and its contribution to our society.

Now that the American farmer is producing the food and fiber and a higher quality food and fiber to our people in this country at a smaller portion of the disposable income than any other country in the world, it is very proper that we pass this resolution.

Mr. Speaker, I am proud to be one of the cosponsors.

Mr. DE LA GARZA. Mr. Speaker, I am pleased to rise in support of House Joint Resolution 101, to designate the week of February 21 through February 27, 1993, as "National FFA Organization Awareness Week."

The National FFA Organization is one of our Nation's most successful nongovernment programs to help young people become more productive and responsible citizens. FFA is dedicated to fostering character development, agricultural leadership and responsible citizenship among students enrolled in approved agriculture education programs at our Nation's high schools.

Today's FFA is not limited to leadership training programs for future farmers. It also exposes high school agriculture students to career opportunities in agriscience, agribusiness, forestry and other agriculture-related professions.

It is also an organization whose members believe in the future of American agriculture.

Several years ago, in the wake of the height of the farm crisis of the early 1980's, I was a speaker at the annual convention of the national FAA organization. It was a time of great troubles in the agricultural economy. Yet when I asked the rhetorical question, "Is there a future for young people in American agriculture," the answer from the crowd of thousands gathered in the convention center was a deafening "yes."

Mr. Speaker, I am pleased to join with my colleagues in extending official recognition to the accomplishments and contributions made over the years by the national FAA organization and its members and alumni. I urge passage of this resolution.

Mrs. MORELLA. Mr. Speaker, I concur with the importance of this resolution and all that it connotes. I want to indicate not only my appreciation to the major sponsors but the fact that I am managing this on the floor with my new colleague, the gentleman from Maryland [Mr. WYNN].

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. THORNTON). Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 101

Whereas the National FFA Organization was founded as a leadership organization for students of agriculture education in public schools;

Whereas each member lives by the FFA motto of Learning to Do, Doing to Learn, Earning to Live, Living to Serve;

Whereas the primary goal of the National FFA Organization is dedicated to develop competent agricultural leadership, citizenship, and cooperation;

Whereas as the National FFA Organization is comprised of approximately 400,000 members in all 50 States, Puerto Rico, the District of Columbia, Guam, ROTA (Commonwealth of Northern Mariana Islands), Federated States of Micronesia, and the Marshall Islands;

Whereas the National FFA Organization prepares a student for post-secondary education or employment following high school;

Whereas the National FFA Organization is only open to those students enrolled in approved agricultural education programs;

Whereas the National FFA Organization was formally organized on November 20, 1928;

Whereas the National FFA Organization was organized to foster character development, agricultural leadership, and responsible citizenship and to supplement training opportunities for students preparing for careers in agriscience, production agriculture, and agribusiness; and

Whereas the FFA is a national organization of high school agriculture students preparing for careers in agricultural production, processing, supply and service, mechanics, horticulture, forestry, and natural resources: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of February 21 through February 27, 1993, is designated as "National FFA Organization Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WYNN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on House Resolution 101.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

COMMENDING HON. HENRY J. NOWAK FOR HIS PUBLIC SERVICE

(Mr. QUINN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUINN. Mr. Speaker, today, on behalf of the people of Buffalo and surrounding areas, I would like to honor the work of our distinguished former colleague, and my friend, Henry J. Nowak.

As a local official who represented the town of Hamburg, I worked with Henry on numerous issues important to western New York. Henry had a style that I can only describe as warm, open, and bipartisan. Despite any ideological or political differences, Henry was first and foremost an advocate for western New York, our home.

Henry Nowak has always been a quiet man, letting his record speak for itself. I only have 1 minute here today, so I couldn't even begin to cite all of Henry Nowak's accomplishments here in Congress. But when I go home to Buffalo and western New York, I see Henry's work all around me. As chairman of the Water Resources Subcommittee of Public Works and Transportation, Henry was responsible for bringing almost $1 billion into western New York. Any one visiting downtown Buffalo, the Waterfront, driving the access roads and bridges, or riding the metro will see firsthand what Henry Nowak did for his constituents.

Thank you Henry, for your 18 years of tireless work and representation of western New York. I promise to keep fighting for the issues that matter most to our western New York constituents: Investing in our infrastructure, promoting Federal-State-local business partnerships, preserving fair trade policies, and reforming Congress. I applaud you on your recent unanimous selection as western New York's Man of the Year. I couldn't think of a more deserving individual or better friend.

A PRO-AMERICAN STATE OF THE UNION MESSAGE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, tomorrow night the President will tell the American people the truth. He will talk about the truth in the economy. He will talk about the need to sacrifice, and for every American to contribute. He will talk about creating 500,000 jobs to stimulate the economy. He will talk about stimulating the business sector. He will talk about education, children, families, and investing in the future. He will also talk about reducing the deficit.

For the last 12 years we have had State of the Union Addresses where the truth was masked and where we needed to talk about Americans sacrificing. Last night we saw a courageous President talk about the problems we face ahead and what we must do to build an economy that will better serve our future.

President Clinton has laid out a realistic package which will end the cycle of stagnating incomes and declining jobs for the middle class. His speech tomorrow night will be pro-American, pro-jobs, pro-family, and pro-future.

Mr. Speaker, finally, the middle class has been put at the center of this Nation's economic policy. Last night President Clinton spoke to the American people about his plan to reinvigorate the U.S. economy, calling upon all Americans to work together to "create an economy in which all Americans work hard and prosper."

For the last 12 years we have heard muddled and less than truthful talk about the economy. Last night we saw a courageous President talk straight about the problems we face ahead and what we must do to build an economy that will better serve our future. President Clinton has laid out a realistic package which will end the cycle of stagnant incomes and declining jobs for the middle class. He spoke of the need to jumpstart the economy, to make long-term investments, and to cut the deficit.

Tomorrow night the President will address a joint session of Congress and the American people in order to present the specifics of his plan. A plan that will attempt to reintroduce fairness to our economic policy and reverse the policies of the Reagan-Bush administrations. President Clinton and Democrats in Congress are committed to a plan:

That produces a system of affordable health care for all Americans;

That invests in education and training;

That focuses on the needs of displaced defense workers; and

That produces a fairer tax system and ensures that working parents will not raise their children in poverty.

There is much work to do and only together can we begin to rebuild America.

PRESIDENT'S SPEECH A GRAVE DISAPPOINTMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON. Mr. Speaker, I rise today to speak briefly abut the speech that the President of the United States made last evening to the American people. As someone who during his 6-year tenure in this Congress and body has attempted to work with coalitions from both parties on a number of issues, I found the speech a grave disappointment. In spite of the fact that President Clinton last week sent me a letter congratulating me for my efforts in assisting him in moving the family and medical leave legislation through, we have had no contact whatsoever as Republicans, rank and file Republicans, on the package he is about to announce tomorrow evening.

□ 1440

In fact, he took great length to announce that Congress has been consulted, and for the most part all I can see are the Democrats who have been brought in almost totally and yet no interaction with Republicans of this body.

Leading up to the actual speech last evening and continuing through today and tomorrow has been a lot of rhetoric that disappoints me quite clearly. First of all, the rhetoric about the bonuses given to Cabinet members in the weeks or days before they left office. If the President were serious about this, Mr. Speaker, I would suggest that perhaps he look at all the retiring incumbent Members of Congress in the last session and look at the bonuses and increases that were provided to them and apply the standard across the board. But we see a President who is unwilling to take on the leadership of this institution, and that says a lot about what he is proposing.

I think in terms of the speech and the actions that have taken place up until last night and will take place again today and tomorrow, it is more partisan politicking than it is real substance. As a matter of fact, all we heard last night was blaming the last 12 years of George Bush and Ronald Reagan, no acceptance of any responsibility on the part of this body or the leadership of this body. Once again, indicative of this President looking as though he is not willing to take on the leadership in the Congress but is going to go along with the status quo while really trying to tell the American people that he is a real instrument of change in terms of the way Government is in fact being run.

What it looks like he is going to be proposing to us tomorrow night is nothing more than warmed over Bentsen, Panetta, Darman policies that we tried to deal with 2½ years ago. The program that President Clinton has announced he is going to be bringing forth to us tomorrow evening is nothing different from what was proposed 2½ years ago.

We were told back then that for this modest tax increase that we were going to get real, true budget reform. We were going to get spending control. And look where we are today.

Mr. Speaker, the tax increases that are being proposed in this package are outrageous. They are outrageous especially in light of the fact that there are no significant spending cuts contained in this document. There is no process reform.

President Clinton last night spoke about the fact of how he had balanced the budget of Arkansas for 12 years. What he failed to tell the people is that he had two very important tools in that process. He had an amendment or provision in his law of his constitution of his State to balance the budget, a requirement as most States have. And he has a line-item veto.

Where is his support to the leadership of this body for both of those measures? If he really believed in process reform, why does he not come out and take on both of these initiatives so that we can give him the tools that we feel are necessary to balance this budget like he did in Arkansas?

Where was President Clinton's comments in terms of the unauthorized appropriation? On the defense bill alone, we average between $5 and $10 billion a cycle of unauthorized appropriations that are stuck in without full hearings and going through the appropriate legislative process. Where was the President speaking out on the need to reform the system and the process of the way that we spend money here in this institution?

Mr. Speaker, I have some grave concerns about the direction we are going as a country, and I have some grave concerns about the plan that is being put forth by President Clinton last night and again tomorrow evening to this body.

He told us during the campaign that he was only going to tax those who made more than $200,000. Now it is not just more than $100,000, it is families who make more than $100,000. If a husband makes $50,000 and the wife makes $50,000, they are, under his new definition, the wealthiest people in America. And he tells us that 70 percent of the American people are going to pay for the bulk of this bill. They are the people who are the corporate citizens and those wealthier taxpayers.

Mr. Speaker, we know that when any tax is placed upon a corporation, that corporation is going to pass that additional cost along to the consumer. The consumer is going to end up paying the bill.

Mr. Speaker, we heard during the campaign that for every dollar of tax and revenue enhancement, we are going to get from a Clinton administration $2.75 in cuts and reductions. In fact, what we are going to hear tomorrow night is $1 of cut for $1 of tax increase. And we know, Mr. Speaker, looking at history, that every time this institution has raised revenues and raised taxes, we have not in fact cut the deficit. We have, in fact, increased spending by two, three, and four times the amount of revenue raised.

Mr. Speaker, the President is off in the wrong direction. He is saying to the American people, it is now time to sacrifice. "I need more of your money." Mr. Speaker, 20 percent of the electorate in November cast their votes against both parties. It is time that President Clinton listened.

We need to first of all cut spending and control the way we spend taxpayers' money and then look at the revenue side of the equation.

HEALTH CARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wyoming [Mr. THOMAS] is recognized for 60 minutes.

Mr. THOMAS of Wyoming. Mr. Speaker, I would like to utilize some time to talk about a subject that I think all of us are interested in and are looking forward to dealing in, and that is health care.

Of course, everyone is concerned about health care. It is a national problem, one that we will be addressing and have addressed as a national reform. I want to talk about two things: One is moving forward on doing what we can with changes in the health care delivery system in this country, and then, more specifically, to talk a little bit about the difficulty we have in trying to relate a national health care program to rural areas such as Wyoming.

In fact, almost every State has a rural area. Wyoming may be unique in that we are almost entirely a rural area. So those are the things that I particularly want to talk about.

Obviously, we share the same goal, I believe, in health care, even though there are many ways to approach finding solutions. The goals that are commonly shared, I believe, are first of all, access to every American to a basic level of health care. And I think we have decided, informally, that that is the public policy that we will support, is a basic health care program and accessibility to everyone in this country.

The second challenge, of course, is that of doing something about health care costs. It is an enormous program, a program that touches each of us, whether it be our parents or our children or ourselves and our families. Everyone in the country is touched, of course, by health care and the costs that are attached to it.

Last year we spent nearly $840 billion in this country on health care, more than any other country, of course, and more per capita than any other country. And at the same time we did not provide access for everyone. Some 35 million people in this country do not have insurance. That does not mean that they do not get health care of some kind, but it surely means that the health care that is delivered to them is not delivered efficiently. It is often delivered in emergency rooms and expensively and, of course, maybe more important than anything else, no preventive care at all.

So we really ought to be talking about health in general and not health care. We really ought to be paying doctors to keep us healthy rather than paying them to fix us after we are broken.

In any event, it is a program that has been talked about for a very long time. There are many Members in this Congress who are very knowledgeable about it. Yet we have not really come to a consensus as to how to approach it.

□ 1450

The Congress bickers about it. The administration now, and Mrs. Clinton, I understand, is in charge of a study to come forward. I hope that she does, with the help of others, and I hope that the Congress is helpful as well as it does come forward.

I would like to suggest, however, that Washington is different than Wyoming. In Wyoming sometimes persons have to travel 100 miles to see a health provider, so access becomes more than simply the economic opportunity to have someone take a look at your health, but to have a provider available, whether it be a doctor, whether it be a nurse-practitioner, whether it be a physician's assistant. The difficulty in having health care available is one that is especially acute, I think, in rural areas.

Related to that, of course, is the reimbursement that is available, particularly in Medicare and Medicaid. It has over time historically been a lower reimbursement in rural areas. We argue that that is unfair, that there are costs that offset the differential. Certainly the rent is higher in New York City than it is in Basin, WY. On the other hand, the volume is different and there are higher costs there, as well.

We see ourselves having to provide a continuum of services from one area to another in which there are various levels of services, and we need to plan to do that. The current health care program that is being talked about is called managed care. Interestingly enough, the notion of managed care has come from a think tank in the Jackson Hole Group in Jackson Hole, WY. I favor the idea. It is an idea of bringing together volume purchasing based on quality and using the marketplace to provide both quality and to provide a lower price. Unfortunately, it does not always fit, as frankly is often the case with Federal programs.

One of the reasons, personally, is that I believe the more programs we can provide at a lower level, the more likely they are to fit. The "one fits all" idea, if it fits in Pittsburgh, it does not fit very well in Chugwater, WY. Of course, that is true in many, many places.

The model that was talked about on managed care that I think is very useful was one that was done in Cincinnati, as a matter of fact. Large employers polled the insureds. They looked at the 17 hospitals in Cincinnati, found the ones with the best quality, found the ones with the lowest price, and used their purchasing power to direct their business there; a good idea, not a brandnew idea but a good one, but it dose not work well in a place where there are no choices. Now there are no two-hospital towns in Wyoming. There was one, but finally the two merged. We have no towns with more than one facility, so the notion of having a selection, the notion of having competition between providers, does not fit there very well. It is a good plan, but it has to be augmented with something different if we are to use it in rural areas.

It seems to me that there are some things that we really know how to do. Mr. Speaker, I hope that we move forward on them. First of all, it seems to me that we have to have insurance reform if we are going to use the private sector, as I think we should, to finance these services. We have to have insurance reform. Insurance is basically regulated at the State level, but I think we are going to have to take a look at it as well on the national level to give some direction to those kinds of things.

First of all, if we are going to have insurance and we are going to have basic access to everyone, we cannot cancel people because they have losses, excessive losses. We have to let everyone be insured, so we cannot have an elimination by having prior bad experiences or prior conditions that eliminate people. We cannot do that if we are going to use insurance as the criteria.

I think we can do that, and we can do it in medical insurance. We can have pooling and we can have assignments, so that the very high risks are shared among the companies and small companies do not go out of business.

I think we have to have community rates so that each of us is not rated based upon the losses that we have had and subsequently and elimination of those people from the insured coverage.

We have to have a basic package, so that every insurance company would be offering the same kind of package. They can offer more, if they choose, but there has to be basic package. We can do that.

One of the things that has to be done, Mr. Speaker, I think is tax reform. Right now a self-insured person who buys health insurance gets a 25-percent tax deduction, where a corporation insuring their employees gets 100 percent. That is not fair. Certainly also it does not lend toward everyone being involved in the insurance program.

The basic package, of course, has to include hospitals, physician care, diagnostic testing, and preventive care. It is difficult to find a way to cause the market to really reflect the need for preventive care, but I think it is terribly important, and we ought to spend as much doing the kind of things to avoid health problems ass we do fixing them after we have found them.

I think we have to have businesses involved in offering units, groups that can be insured. I do not think businesses should have to provide insurance. I believe if we did that we would be working against ourselves in terms of creating jobs, because I am confident there are a number of small businesses that would not be able to do that, but they should be required to provide a group in which employees can take advantage of that.

Then it seems to me the way we deal with those who on an income basis cannot afford their insurance is to provide vouchers and tax incentives for assigning them.

The second important part is we have to do something about the basic costs. The notion that we can just continue to provide money for the same program and really expect something to be different by putting more money into it simply does not work, so we have to deal, I think, with the basic causes of some of the cost-driving elements of health insurance.,

One of them is tort reform. People argue about how much of an impact there is from the liability standpoint in health care, and we can argue about the amount, but we cannot argue with the fact that defensive medicine forces up costs substantially. Doctors and other health providers provide procedures that have very little to do with their health. They have to do with avoiding suit, and those kinds of things I think need to be changed.

We need to do something about reducing paperwork, and Secretary Sullivan, who recently left the Department of Health and Human Services, started a task force to do that. There is no reason why we ought to have 50 different forms to file a claim at a hospital.

I went up to Canada with a group last year to look at the Canadian program, and I am not an advocate of imposing a Canadian health program on the United States, but I do recognize that there are some things the Canadians do better than we do. One of them is to reduce administrative costs. We went to a very large hospital, a 700-bed hospital, as I recall, and they had two people in the billing department. That is much different than the billing department in this country, that is much smaller, so we can do that.

I think we have to do something to reduce duplicative services. I am very much impressed with Dr. Koop, the former Surgeon General, who suggested that we ought to put a percentage of the premiums from insurance, health insurance, into research of outcomes so that we would have a really scientific notion of what kinds of procedures work best for certain sorts of illnesses, and we should do that.

Finally, of course, we have to deal with long-term care. Long-term care is one of the most important and expensive elements of health care. Basically in Medicaid it is the most expensive item. We need to make some changes there. We need to be able to keep people in their homes with home care, much less expensive and also much more favorable for the patient than moving him to a $25,000 a year health care nursing home, unless that is a requirement. We need to do that.

We need to change the tax laws so young people begin to prepare for long-term care as they do life insurance in the early years. The costs would be relatively lower. We need to be able to convert IRA's into long-term care, or life insurance policies that could be used for that purpose.

There are a great many things that do need to be done. Interestingly enough, it seems to me, Mr. Speaker, that we do know the answers. We do know what we can do about health care to provide access for all Americans. We do know some of the things that need to be done to reduce the costs. We simply need to get at it. We have had some basic disagreements in this Congress, and I think throughout the country there is not a common notion of how this needs to be done. I do believe that there is less support today for the idea of a Federal program delivered by using the Federal Government as a service delivery system than there was a couple of years ago. I think increasingly we are aware that Medicare and Medicaid are not without problems.

We talk about a single payer system in Canada. The fact is that we have three times as many people in this country on single payer as there are in the whole of Canada, and that is not satisfactory. It is probably unlikely that we could take another culture, take another country's program and impose it here and expect it to work.

□ 1500

But we can find a way and we must find a way, and we need to take into account as we do that that there are areas that are quite different in their composition than the urban areas.

In this Congress, of course, most Members come from places that are fairly highly populated. So those of us who come from lower population areas need to work very hard to make sure that those interests are represented. So I am very pleased to be a part of the rural health caucus which represents I believe about 170 Members of this House who share these unique aspects of a low population area in health care.

So Mr. Speaker, I really hope that we can move forward. I look forward to the administration's proposal. I think we ought not to twiddle our thumbs until that happens. I think we ought to move forward in doing what we think ought to be done. There are very many Members in this Congress who are very knowledgeable about health care, and we need to move forward on it. Our goals I think are fairly well defined, and I think the public policy is that we need access for all Americans. I think we have to do something about the basic costs and deal with the root cause of the costs, and we do know some ways to do that.

Mr. Speaker, I appreciate the opportunity to take a little bit of time to talk about how plans like managed care could be converted and to work in rural areas. I hope that States will move forward in trying to devise a delivery plan. Clearly, we are going to have a spoke and wheel kind of delivery system in hospitals where we have the highest level of services as some kind of a regional hospital with affiliated hospitals providing less service where we simply have stabilizing of emergencies and basic family care and then move people, transport them to where we can afford to have a cardiac center, or afford to have an imaging machine, the very expensive items which all of us want and all of us demand in our health care.

So Mr. Speaker, I think we should move forward on this. I think we know how to do it. It just takes a will to move forward, and I suggest that we do so as soon as possible.

Mr. Speaker, I rise today to call upon my colleagues to enact comprehensive health care reform. I have been a Member of this body for 4 years now and we're still discussing the problem of rising medical costs but doing nothing to curb them. How many reports is Congress planning to issue on the disproportionate share of health insurance before making it equal for all Americans? While Congress, the administration, and special interest groups bicker over what direction to move, the people of my rural State of Wyoming are losing physicians, hospitals, and the lifelong benefits of comprehensive care.

Rural Wyoming is not like downtown Washington, Denver, Seattle or Dallas. There are great distances between towns, sometimes 100 miles to the doctor. There are different expenses for operating a clinic and practice. Emergency service has a vast radius. Rural people depend on their health care in a completely different way than urban areas. And any comprehensive care reform plan has to recognize these crucial differences because every State has a rural area. I just happen to represent a State that is entirely rural.

The Federal Government does not have expertise in delivering health care successfully in Chugwater, WY, or south central Los Angeles or New York for that matter. The Federal Government's responsibility is to pass a health care plan that sets a framework in which States and local communities can work. My State of Wyoming will not benefit from an elaborate managed care system where providers compete for consumers. Few towns in Wyoming have more than three doctors. No Wyoming town has the required 180,000 people to support managed care. Congress needs to wean itself from the congressional reports, the polls and behind-closed-door meetings and pass a few basic measures that get to the core of our health care delivery problems.

Every day my office receives mail from families whose health insurance premiums rose over $400 from last year. At town meetings, I hear stories of people who are denied coverage either because of price or being the victim of a previous health condition. No one can deny that these are the primary problems with our Nation's health care delivery system.

Every Member of Congress agrees that the insurance industry needs to be fundamentally reformed. My health care plan takes on that task by prohibiting insurance companies from underwriting, using preexisting clauses and limiting premium rates. I also propose adding pooling arrangements for small businesses and increasing the health insurance tax deduction for self-employed business owners. These last two measures, however, could be added at a later date so as not to bog down the primary reason for changing the delivery of health insurance—people.

My plan requires all individuals and families to sign up for a basic benefit package. Businesses do not necessarily have to pay for this plan, but they would be required to offer access to it. Vouchers would be provided for those meeting low-income eligibility standards and tax incentives would be offered to encourage businesses and individuals to sign up.

The basic package must include hospital care, physician care, diagnostic testing and preventive care. It must be limited in scope but not limited in choice. Rural areas have a tough time offering a full range of providers and that's why any basic plan must allow individuals the right to choose among qualified, licensed health care providers for those covered services.

The notion of cost containment for all parties involved is a complex one, but absolutely necessary for real reform. The benefit of my plan is that it contains costs by changing the obstacles that have spent $800 billion on health care. Reforming our system requires more than capping expenditures like Canada because when a balloon is squeezed at one end, it explodes at the other.

Instead, we need to enact tort reform, flexible antitust laws, and crack down on health care fraud. While I would prefer States to reform their own malpractice liability laws, it is such an important tool for systemic cost containment, it may be necessary to enact it federally and preempt State law to control costs nationwide.

Other important cost containment measures include reducing the hassle factor and allowing providers to fill out 1 uniform claim rather than 10. We need to cut back on duplicated procedures and allow facilities to consolidate by sharing services when applicable.

Long-term care is also an important pillar of my plan that must be put on the reform table because it's just around the corner for many of us. It also makes my plan different by expanding community services, such as home health care, and allowing the conversion of equity funds, such as IRA's, so that more seniors will be able to purchase long-term care coverage.

All these measures, however, depend upon a coordinated Federal/State partnership. The States need more flexibility in managing Medicaid so they can develop a delivery plan which caters to their unique needs. In Wyoming, we've been forced to create spoke-and-wheel arrangements that offer different levels of service. This helps us utilize our scarce resources better and coordinate recruitment efforts to attract and retain providers.

A statewide delivery plan, however, will only be effective if the Federal Government does its share by reimbursing Medicare and Medicaid on the same basis as private carriers to end cost shifting. Reimbursement rates between rural and urban providers must be equal so there's an incentive to practice in low-populated areas like Wyoming. And finally, the Federal Government must continue to provide education incentives for new physicians choosing primary care fields or practices in rural areas.

While these steps aren't exhaustive of all the necessary reforms, they can easily reach a consensus and pass overwhelmingly. It's these kinds of initiatives that improve access and build a basic system of care available to all because as representatives, we must always keep in mind that expanding care, affordable and sensible, must focus on the consumer—that's the bottom line.

CONGRESSIONAL OBLIGATION TO THE HORN OF AFRICA

The SPEAKER pro tempore (Mr. THORNTON). Under a previous order of the House, the gentleman from Virginia [Mr. WOLF] is recognized for 30 minutes.

Mr. WOLF. Mr. Speaker, I recently returned from an official visit to the Horn of Africa. Using Nairobi, Kenya, as a staging point, I visited southern Sudan for a 2-day period, followed by a 1-day stop in Baidoa in Somalia.

The Sudan, and southern Sudan, is far, far away, not only in terms of the 20-hour flight to get there, but it is a distant place in a distant time. The refugees in southern Sudan are a forgotten people in a remote corner of the world whose story is an untold tragedy of oppression, of cruelty and of hopelessness.

The ravages that the people in southern Sudan continue to endure seem much worse because they result not only from drought, and plague, and famine, and natural holocaust, but also spring from man's inhumanity to man.

On Monday, February 8, I flew in a small twin-engine plane carrying relief medical supplies to southern Sudan from the Norwegian People's Aid, the NPA organization, arriving at the base camp which is home to the NPA. That is the only nongovernmental organization or NGO today retaining a permanent, round-the-clock presence in Sudan where four relief workers were recently killed in a skirmish in southern Sudan from rampaging factions of the Southern Sudanese People's Liberation Army. And also another outstanding group is the Catholic Relief Services which has a vital role in conveying lifegiving food and supplies from far outside the country to three refugee feeding camps in the southern region, Aswa, Ame, and Atepe. These loosely defined camps are located in proximity to the main road bisecting Sudan on which hundreds of thousands of refugees made their way southward driven by the relentless and unforgiving army of the Government of Sudan in Khartoum. People are without food, are without medicine, without clothing, and it seems without hope. These people would surely perish without the bare subsistence provided by the Norwegian People's Aid and the Catholic Relief Services.

I visited in two of the three camps and saw the relief efforts which seem at best to fend off starvation and sickness for the moment, rather than to nurture and provide lasting sustenance to the refugees. Twice each day children, and when I say children, there are hundreds of thousands of children in lines and circles with feeding bowls, but the children, the infants form an endless line to receive a meager ration of food to prolong their existence until they again line up to do this again later on in the day.

In the camps I heard from the refugees and from the people. One individual, a woman named Rebekka, who was from the Dinka Tribe, was very angry and upset. She told me a number of things, that she had lost three of her children, that she had lost her husband, and what she said was told to me by a number of others of the Dinka Tribe. First, she said the world is silent to the suffering in southern Sudan because, she thought, the people of southern Sudan were black. The reluctance to act, in her view, and in the view of others, she said, was a matter of race, and these conditions would not be tolerated, she said, in any other part of the globe.

The second point is she felt, and many of the others I spoke to felt that they were being persecuted, starved, and bombed and killed because they were Christians.

The last point that she made, and there was near universal agreement by the southern Sudanese refugees, is that the humanitarian groups, such as World Vision and others who do such a wonderful job, and are doing such a wonderful job in Somalia where we were later on that week, and in Baidoa, and Mogadishu, should come back into the southern Sudan to help with food and giving assistance. As many people know, these groups left the region after the relief workers were killed, and are understandably reluctant to return until some measure of security for the caregivers can be assured.

These three points were echoed by others with whom I met. A pharmacist who provided the only medical health care in the Ame camp made a similar plea and asked for the return of the private humanitarian relief groups. Until significantly more relief is available, there is little medical care, no health care, insufficient food to sustain life. People are starving to death every day.

Some of the scenes that I saw, if we saw them in the United States, of children lying on the side of the road dying, we would call the police, or the rescue squad, or we would call somebody and take them to the hospital. In southern Sudan they are all over the place, and it is desensitizing because you cannot do anything to help them, because the same scene is everywhere, because people are starving to death every day.

□ 1510

There is no opportunity to educate the children. You are losing a whole generation of children that will never be educated and have very little chance for opportunities in the future. Quite frankly, the people in southern Sudan have literally lost a generation and will probably lose much more.

I also met with representatives of the SPLA and Sudan Relief Rehabilitation Association, with a number of Catholic priests, with local officials, a number of old hands in Sudan. I visited hospitals including one exclusively for those with tuberculosis and saw firsthand the recent damage in the town of Kajo Keji on the western bank of the Nile where the Khartoum government bombed the crowded town market killing and injuring many, many people.

The Sudanese Government did high-altitude bombing of this village where there were no military people in the village, and the Pope was not every far away in Uganda, in northern Uganda, and they still bombed. We saw the bomb craters, where they hit the huts.

They destroyed town marketplaces and a number of huts. They killed about 12 women and children.

Then we went into this building that they call a hospital, but, frankly, it was not a hospital. Nobody who can hear my voice would even go in there and would ever call it a hospital, but in this so-called hospital, there were a number of the wounded. There was one woman there with shrapnel in her head from the bombing. It does not get much worse to have to live in southern Sudan than to be in southern Sudan and in a little building they call a hospital which is so filthy and dirty with rats and disease and to be lying in a dirty, filthy bed with shrapnel in your head and no hope for the future.

Just when it seemed conditions were as bad as they possibly could be, they just seemed to get worse for the people.

Mr. Speaker, I believe this is a story that really must be told. This is the third time that I have been to Sudan. I was in southern Sudan in 1988, and then in 1989, and now looking at it today, it is much, much worse.

I think this is a situation that must not be permitted to last, and I think, frankly, that it need not last. There is much that can be done.

I was particularly impressed with the Pope's statement when he visited Khartoum, and the Pope's statement when he was in northern Uganda on the southern Sudanese border.

I just want to summarize with some recommendations. Our Government, the Clinton administration, the Secretary of State, the new Assistant Secretary for African Affairs must work for relief from the Khartoum government. Pressure should be put on the Khartoum government to stop the bombing and stop the killing.

In southern Sudan, what we probably need is, for lack of a better word, and I do not know exactly, almost what the Kurds have been successful in getting in Iraq of some sort of no-fly zone whereby both sides, the Government of Sudan and the SPLA agree that there will be no military presence in that area so the people can get food and medicine and relief, and the humanitarian groups can go in and know that they can go in without worrying about bombs dropping on their huts at night.

Then, stepped-up relief efforts including encouraging medical teams to help out for short but frequent periods is essential.

There was a Norwegian group in there, a doctor and three nurses, a doctor and his wife who was a nurse, and two other nurses, and they were there for 3 months. They all had amoebas in their stomachs, and they all had diarrhea and were very, very sick but had tried to do what they could, 3 months in southern Sudan, and it is probably too much to ask somebody to go for a long period, but I think we must have some medical teams go in on a rotating basis.

Also, we need the humanitarian relief efforts including bringing food and medicine, the principal life-giving needs to the people of southern Sudan.

Now, I am going to do what I can to bring this to the attention certainly of the United States and the Western World.

Let me just say to the media, I know it is a hard place to go to, but I think that this is a story that has to be told when literally hundreds of thousands and millions of people are dying. This fighting has been going on since 1984. People are dying, and then I think that the Western world has to focus on this, the United Nations has to address it. If we address it now with a no-fly zone and a buffer zone for relief and supplies, then we will not have to be what we are doing in Somalia. I salute President Bush, former President Bush, for his actions in Somalia. I think he did the right thing. But that is going to cost hundreds of millions of dollars.

We can keep that from taking place in Sudan if the West will focus on this now, and that is why I salute the Pope for going there, and I urge the West and the media to focus on this.

Second, the Members of Congress have to focus on this.

Mr. ABERCROMBIE. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I am happy to yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Speaker, I wanted to commend the gentleman on his statement so far and indicate to him that I had the privilege, I will say, of traveling in the Sudan in 1968. I had the opportunity to leave from Khartoum to travel down the Nile into Uganda and discovered virtually the same situation, the same circumstances minus the occasion of the actual bombing that has been taking place.

The situation that the gentleman describes has been ongoing over all of these decades.

I would say that the assessment that there is a division in that country, in that nation, with respect to those who are black, with respect to those who are Christian or animist, with respect to those who are in the great Sudd area of southern Sudan, the great swamp area, as opposed to the Islamic desert north of the country is such that perhaps a division is irreparable. I do not know. I would not comment on that at this particular time.

I think the gentleman has focused on the humanitarian side of this and the political implications of this for both the United States and for the United Nations.

I want to indicate to the gentleman that I did not know he was going to make these remarks today, and when I heard them, I took advantage, if you will, of the opportunity that it gave me to confirm for our friends that the remarks that the gentleman is making, while current today, represent the sad combination of a history, a legacy of terror, if you will, and horror that has been building over the past more than three decades now.

I certainly would agree with the gentleman that we need to alert ourselves in this Congress to this issue, because I believe that the conditions that he describes are not about to go away. If anything, they are about to be extended; in other words, the Somalian situation and the Sudanese situation are something that the United Nations will have to address, that we will have to address as a leading member of the United Nations, and that unless and until we take up the call of the gentleman, as he has described so eloquently these past few minutes, take up this challenge, we will find ourselves in a situation where the response that we will have to make inevitably anyway will be so much the worse in terms of arriving at any reasonable conclusion, so much the worse for trying to achieve a political solution or at least resolution.

So I thank the gentleman for bringing this to our attention and wish to associate myself with his remarks and pledge to him that I will work with him and anyone else who is interested in this area and in these matters to try to do what we can in the name of humanity and in the name of the political, economic, and social sense, not only for Africa but for the commitment that we make as a member of the United Nations.

Mr. WOLF. Mr. Speaker, I want to thank the gentleman for coming over from his office to make that statement. I appreciate it very, very much.

I think as Members focus on this, and the gentleman having been there before, it will become so obvious, and I just want to let him know that I appreciate the fact that he took the time to come over quickly to reiterate or second that. I thank him.

Mr. ABERCROMBIE. Mr. Speaker, will the gentleman yield further?

Mr. WOLF. I am happy to yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Speaker, one of the things that took place, so that I do not leave the gentleman or anyone else in the dark as to this trip, we are probably among the few Westerners then who have ever been in this part of the Sudan, I think the gentleman would agree, aside from those who have committed their lives for humanitarian purposes.

I wanted to travel the length of the Nile back in that time as a kind of an adventure. I had no idea at the time of the conditions and circumstances that I would find when I went on the Nile. I traveled on a paddle-wheel steamer down the Nile, down to Juba, down into the southern Sudan to visit some of the towns along the way.

□ 1520

We were confronted with military forces down there, and I found that there was a tremendous desire on the part of the people in that area to get connected with the United States. I am sure the gentleman would confirm we found this in so many places all around the world, that in the most remote sections of the world and certainly southern Sudan, I think, would qualify in that regard, remote in the sense of sophistication, access to technology, knowledge of the world generally, and the conditions there, that kind of thing—that yet there was, especially from the young people, a desire, a feeling of friendship for the people in the United States, a reaching out by them.

Mr. Speaker, I remember a young man saying to me, "Could you help me get to school in the United States?" My feeling—and I was a student at the time, traveling on my own, backpacking around the world—my feeling of frustration—and I must say not pity, as I am sure the gentleman would confirm, I am not speaking of these matters nor is the gentleman, I am sure, speaking out of pity; quite the opposite—out of a genuine human concern, out of a reaching back to someone who thought of the United States as a bastion of freedom, who thought of the United States of America as a land of opportunity, who thought of us as people who would care about him. Now, the fact that he could ask someone like me in my circumstances, just a student traveling around the world, that he thought I might be able to help him in that regard, being able to get to the United States, that was his goal. They have a vision, even under the most dire circumstances, in places like Sudan, abandoned by the rest of the world, that the United States is their true partner, that the United States will help them if we can.

Yes, we have tremendous problems facing us here at home, but we are the leader in the world, whether by default, whether by design, whether by destiny, however one concludes it, nonetheless we have this responsibility.

So I reiterate to the gentleman that his words today need to be heeded and that those of us in the United States have a special responsibility to ourselves to continue to be that beacon that others look to from the depths of their own despair as the Nation that can provide an example of what can be done in terms of freedom, in terms of opportunity, in terms of basic and fundamental justice.

Mr. WOLF. I thank the gentleman. The gentleman will be interested to know that in the villages they knew about Governor Clinton being elected President, even the young kids, which I was surprised at.

I might tell the gentleman that Juba has been surrounded for 5 years. I talked to a Catholic priest who was in Juba last year and the atrocities that are taking place in Juba are unbelievable. The people in Juba have basically been in prison for the last 5 years.

But I thank the gentleman and look forward to working with him.

Mr. Speaker, I think the House, the Senate, the Committee on Foreign Relations, the Committee on Foreign Affairs' subcommittees, must hold hearings. I was pleased today that the subcommittee chairman said they would hold hearings on this issue.

Unfortunately, there are no prominent movie stars, and other prominent people like that who take up world causes who are interested in this, to call attention to this problem.

So the Congress must. I am pleased and hopeful that we will hold hearings on this issue very, very soon, and urge all Members of Congress to focus on this issue.

Also, the Clinton administration has to deal with this issue. If you deal with it now, it does not cost you anything; put pressure on the Khartoum government, appoint someone who can go as a mediator, perhaps as the gentleman from Hawaii said, to politically separate this problem.

Now, that is for other people to decide. But the Clinton administration must deal with this.

The new Assistant Secretary for African Affairs must deal with this. Human rights groups, Africa Watch and others, must deal and look at this; all the humanitarian groups that provide food and relief must look at this.

In my visit I even heard stories of slavery, they would come into villages and take people for slavery. This is hard to believe, yet it came up over and over and over.

The word that was used over and over was "ethnic cleansing," similar to Bosnia-Herzegovina. The other word that came up was the word "genocide," over and over and over.

So I just think that the West must focus on this country, not the way we focused on Somalia. We are not asking to send American troops in. God bless the American men and women, the Marines and military people today in Somalia; you would be so proud of what they are doing, how they have saved so many lives.

But if we come in, in a political settlement and put pressure on the Khartoum government now, we can prevent other Somalias from taking place in the future. We can urge humanitarian groups to come in and allow these people to develop and have some semblance of their history and culture and not be destroyed in the way that they are.

So, Mr. Speaker, this is an important issue. I feel such an obligation because everywhere I went they said:

> Would you tell the people, would you tell the people back in the Congress, would you tell the President, would you tell the Secretary of State, would you tell the American people?

Mr. Speaker, that is what I am doing, and that is what I want to keep doing until we help make a difference for these people whom I consider to be persecuted and suffering more perhaps than anyone has in modern times, in the last 20 to 30 years.

SUMMING UP MY PREVIOUS SPECIAL ORDERS

The SPEAKER pro tempore (Mr. THORNTON). Under a previous order of the house, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. I thank the Speaker.

Mr. Speaker, what I have to say briefly by way of summing up the last three or four previous special orders in this session thus far, which mostly carried over the continuation of the House's Committee on Banking, Finance and Urban Affairs, the so-called BNL Bank, or the Atlanta branch of the Italian bank that we commonly and popularly know as the BNL or the Banca Nazionale del Lavoro; and say, in a way that repeats what I said in the last special order 2 weeks ago, that even though it got embroiled and it did at the very outset of last year, which was a political year, a Presidential election year, the basic facts surrounding the investigation on the part of the Committee on Banking, Finance and Urban Affairs were kind of overshadowed.

The basic thrust, the underlying reason that we were concentrating on that one, as well as some related occurrences such as the BCCI and one or two lesser publicized but similar in pattern of their activity, incidents and experiences, all of which, as I said in the last speech, go back personally to my interest since 1975, when I caused the bringing of 2 days of hearings in my hometown of San Antonio, TX.

I was not the chairman then, but I was the chairman of the Subcommittee on International Finance, which chair I held for 10 years. And having come across some information back home, very disturbing information concerning the very heavy volume of money transactions across the border daily, with no record whatsoever, and given that antecedent activities of mine were the ones that led to the ultimate exposure of a ring—and became notorious in Texas as a drug-importing ring and one that became notorious in my area because of its operation, similar to the organized crime in the United States.

□ 1530

I was the one who revealed the extensive stolen automobile vehicles and other vehicles in exchange for drugs. I brought out over a 3½-year period of time beginning in 1970, I took to the floor and mentioned in two special orders at the outset my concern.

I appeared before the local county grand jury four times.

Then finally with some startling events going back to the arrest of the ring leader in San Antonio who had been coming back and forth from San Antonio at will from Mexico into San Antonio and back and forth and involving some San Antonians who I first became acquainted with when I was a chief juvenile probation officer for the Bexar County Juvenile Court soon after the war and who were simply astounded that they were not even middle school graduates, yet telling me they had traveled to Paris and were wearing very expensive clothing and had fancy cars.

One thing led to another, to make a long story short, and I soon discovered the police were calling me to find out what if anything I could connect with some hits or murders that had been taking place in one particular part of the southern edge of the city and the county.

The question I asked of the police was the nature of the occupation, if any, of the individuals who were found gangster-style knocked off. They said:

> Well, you know, it's kind of interesting you would ask that, because they are all involved in the automobile business, either automobile salesmen or agents or something.

So then I got some more tips that there was a steady stream of stolen automobiles, some of them coming down what I call the eastern seaboard from this area, the Washington area, down to Florida and then across the southern tier of the country over to Texas, through Houston and then to the southern border crossing in Brownsville-Matamoros. The other was more central. It was the New York-Chicago-Dallas-San Antonio-Mexico-Laredo-New Laredo, and then there was a third that I found out about the second year I went into that, and that was the Las Vegas down to El Paso across Ciudad Juarez and into Mexico.

Then the last was the western seaboard. That was California down through Calexeco and across into Baja, CA.

In exchange, I received very sophisticated information how a certain make of car—for instance a pickup, a Ford pickup—would bring more than the same year model of a sedan in exchange for a given amount of kilos of either marijuana, or at that time it was not so much cocaine as the other principal hard drug.

Then to my alarm, I soon came to the conclusion that these hits were being made because these fellows had gotten mixed up in that trade and somehow or another were caught cheating and they were knocked off.

The police were baffled because they had no clues.

Then I found that one whole nest of this gang was headquartered in a rural area 10 miles south of Nuevo Laredo across the Texas border.

On one occasion they got so brazen when the Federal Government of Mexico sent what they called the judicial officials and, by golly, they hit two of them gangster fashion in the very city of Nuevo Laredo.

So I then tried to put things together, came to the conclusion, and verified one particular death that what was happening and the reason San Antonio police or any other local police would find it difficult to solve the crime was that these individuals were crossing the border, which they could do at will. All they had to do was cross the bridge, pay the fee, and then instead of going right over to Laredo, they kept on coming; 3 hours or 3½ hours later they were in San Antonio. They would make the hit and 4 hours later they were across the border in Mexico.

So then things happened and there was a lot of disbelief until I then made an inquiry of the National Automobile Theft Bureau and asked for statistics, which they provided and they verified.

By 1972, that traffic was over a billion dollars' worth of stolen automobiles in exchange for hard drugs and marijuana.

So I then took to the floor and I made several special orders. The years went by. The grand jury had a hearing or two. They did not indict anybody, but then came the arrest of the leader at a motel in San Antonio by a courageous police officer of the San Antonio police force. He attempted to resist, but he was overwhelmed. He was then placed in the county jail and while in the county jail, his lawyers were able to get a cell that had a telephone and other services and comforts denied any other regular denizen of the county jail.

I was soon informed by a former friend of mine that went back to my juvenile officer days that the fellow as using the phone even to do some drug business out of the county jail.

So he was tried and sentenced and sent to the penitentiary. He had not been there long when he grabbed four hostages, two men and two women, and he held himself up in the Huntsville State Penitentiary and held everybody at bay a couple days.

Finally, he demanded that his attorney who had represented him in San Antonio come and negotiate with him.

The first thing he demanded was, "I want to see what they are going to do about that guy, HENRY GONZALEZ."

Nobody could figure out why this guy was mentioning my name.

To make a long story short, it all ended up in a ghastly tragedy. He ended up in killing the hostages, or at least half of them, and he himself was killed. Everybody then thought that ended it. Well, of course not.

Soon after that and right soon after President Carter's administration had started, we had another momentous case that to this day is still mysterious. This involved the case of Sante Barrio. This is very interesting, one of the most interesting individuals anybody could read about in a novel. He had been an Italian policeman, but he was young, very versatile, managed to dominate two or three languages, went to France, ended up in New York. Then subsequent to that he was hired by the New York Crime Commission, the celebrated crime commission that began to target the French drug connection. He was given credit for having exposed the French connection.

He then came to Washington and went to work for what used to be called the Bureau of Narcotics, or the forerunner and in fact he was here when I think the DEA was begun as such.

He was then transferred to Mexico City as the DEA's agent in charge.

One day there was a big story in the San Antonio papers saying that this man had been arrested in a local hotel and charged with bribery because while he was in that hotel room he had been caught exchanging money and drugs or something with an equally fascinating, engrossing, and mysterious individual by the name of Picot, who was a French agent.

□ 1540

Now, whether he was a double agent, or a triple agent, or whatever you have, nobody has ever really bothered to find out. His true nature was never determined.

What happened was that, when Sante Barrio was sent to Mexico City, this agent, Picot, followed him there. Sante Barrio had been able to help break the French connection by being able to pass himself off at will. He was so able, he could pass himself as an Italian, Frenchman, a Spaniard, what have you, and one of those that he latched on to in breaking the French connection at that time was this fellow Picot.

So, when I read that and then found that the man that had been in that hotel room with him apparently giving him the money was this fellow Picot, I began to ask questions of the local police who said, Well, of course this is Federal, and I said, "Well, all I want to know is how did it come about that Sante Barrio would come to San Antonio, TX, to this very prominent hotel?"; they could not answer that.

But then, for his protection, they said, and under the protest of his lawyer at the time in San Antonio, he was removed up to a county about 90 miles north of San Antonio, and then, because of the insistent protest of the attorney who said, "I cannot consult with my client, it's difficult, it's unfair, it's unjust," they brought him back to the Bexar County jail.

Now mind you this was the same jail where this ringleader, known as Carrasco, that I mentioned, was the one who had held the hostages and got killed, had been able to get a phone installed in his cell and everything else. They bring back Sante Barrio from that county north of Bexar.

The first day he is there, in the afternoon or evening, early evening, he is given a peanut butter and jelly sandwich, and he goes into a convulsion and a coma, and he lies in a coma until the following day, almost 6 months, at which time he expires, but he never regained consciousness, and the case was dismissed; that is, closed, but never, never really resolved.

I was determined to see a little bit more information gathered. It seemed to me that, if a man who was relatively young, and had been in perfect health and was brought down to the county jail, given a peanut butter and jelly sandwich, and then collapsed into a coma, that it had to be more than just some coincidental happenstance. Well, that was enshrouded, and still is, in a lot of mystery except that the DEA took a very, very strong position and then said, Well, he was taking bribes.

Now, he was never tried, he was never indicted, he was never heard to explain his side, only whatever in privity he told his lawyer. Obviously his lawyer was going to defend him from the charges.

But, lo and behold, the DEA says, Well, you know what? We're going to deny his widow his benefits, his pension, and other benefits, and in the meanwhile I came to the floor. I reported all of this to my colleagues. I stated that there was a connection.

But almost coincidentally we have the attempted murder of the Federal district attorney for the western district which is more or less headquartered in San Antonio and extends all the way to El Paso 600 miles away, and a big mystery. The attempt was made there in San Antonio in the suburbs right outside of my district up in an exclusive suburb, and the police could not ascertain anything, even though the way it was done was the assistant Federal attorney was getting up early in the morning, about 8 a.m. He was going to get in his car, going to the local office, when a van-like automobile pulled up in front of him. The rear door opened, and they fired these submachine guns, just riddled his car with bullets.

Now he ducked. He said he ducked under the dash. But to me it was intimidation, pure and simple. I felt that it was more than an attempt to murder him because, if what were obviously professional hit men had wanted to kill him, they could have done it. So, I felt it was an attempt to intimidate the law enforcement side of things, and I had predicted that, if those murders that had been reported to the police, and had defied resolution, and were tied in with this very sophisticated ring of importation and exportation of stolen vehicles, that the day would come when these interests, well entrenched, highly organized, obviously infiltrating levels of society that made us weak to the defense against crime, such as business, law enforcement, government officials, and the ability to defy any coordinated attempt and with great ease defy local attempts to control it.

So, as a result of all that I did bring about one thing after reporting to the White House, and asking for some help and alerting the executive branch. The Federal agencies then decided that they would coordinate certain activities with the local police and the State enforcement police of Texas.

But what bothered me the most was that I was getting reports that there were aircraft coming in daily at will across the border with nobody checking and that some of that money that they were bringing in in undetermined amounts was beginning to filter into our banking and S&L system.

Well, the first indications were just kind of glimmers. I was more concerned about this sophisticated car business. So, together with the Federal agents, the local police and the State, they conducted a 26-hour sting in my area, in my district, and in 26 hours they were able to ascertain and stop individuals that were driving 26 motorcycles that were stolen and headed for Mexico, about 60 or so, if I remember correctly, pickups, about 70 or so regular passenger automobiles.

□ 1550

Then it was brought to our attention that even when they apprehended the individual and they said this is a car that has been reported stolen, that some of the vital parts, other than the engine itself, were not marked, so they could not really be traced to the rightful owner.

As a result of that, I introduced legislation that finally was enacted some 4 or 5 years later whereby you do have now registration of some of the vital portions of an automobile. That was one byproduct by way of legislation.

But on the other, what worried me was that if these forces then become so brazen, and I was really horrified at my own self after having told the local police officials and the newspaper editors that I feared they would be so brazen that they would defy and probably endanger the lives or limbs of some of the local law enforcement agents. But I never dreamed they would do that to an assistant Federal attorney, as they did in the case of this individual known as Mr. Kerr, James Kerr.

The police called me and so did an editor of the paper and said:

> Look, we have been putting things together. You have been speaking. Is this what you had in mind?

I said:

> I never dreamed they would be on this level. But it is obviously connected with Mr. Kerr's prosecution in the Western District of El Paso where they had some celebrated cases involving a group that had connections with Las Vegas.

The judge, John Wood, was very, very severe on these drug mules and peddlers and what not. Mr. Kerr was one of his chief prosecutors.

So I then took to the floor, I had no less than two speeches to this body, which I labeled "King Crime." I said one thing we found out about these chop shops in Chicago, for instance, was the underworld was so sophisticated they had a computer system to synchronize what kind of car or parts they wanted. I said that compared to that, our law enforcement agents are not that well organized.

Because what bothered me is that Customs that may be checking on something on the ground, or maybe even in the air, were not checking with the Immigration Service, and they in turn were not correlating with the law enforcement agencies, whether it is Federal, much less the State or local, and we have to get some coordination.

So that is the reason for that sting operation. I think everybody was astonished when in that brief period of time they found this volume just on this screen, New York, Chicago, Austin, Dallas, San Antonio, and Laredo.

Well, about 5 months after I had begun to speak on King Crime and I brought out how the Nation was imperiled and that until it even halfway resolved that, that we would not be able to really control the destiny of our society, and that in the meanwhile organized crime was so sophisticated and so well entrenched in every level of our society and had penetrated our society at every level, that I did not see at what cost or by what means we could extricate ourselves.

I then received a phone call just about 5 months after I had begun to speak at the opening of that Congress, which was 1979, and it was from Mr. Kerr.

Mr. Kerr said:

> Say, I am here in D.C. because the FBI is going to honor me and award me a certificate for my performance in enforcement and the fact that my life was at risk, and I just cannot leave Washington without setting up a meeting to meet you, or, if possible, could you come to the ceremonies?

I said:

> No, I can't, because we are going to be in session and we are going to be having votes.

So he said, "Well, I will go by." So he did. I brought him in on the Thursday before Memorial Day of 1979.

He said,

> Let me ask you to do something on behalf of a request by Judge John Wood. He and every one of us has been keeping up, even though you haven't been reported in the San Antonio papers.

I did not go out making releases or anything. I made my presentation to my colleagues and advised them of the bills I thought would be necessary for us to entertain, and I introduced some of them, and that was it. But they knew down there.

He said, "Judge Wood would like for you to autograph a photo and send it to him so he could put it in his chambers."

I said, "Well, I will be delighted to."

He said, "You know, we have and U.S. Marshals' surveillance of the Federal judges, but Judge Wood has been chafing, and he finally got rid of them last week."

Well, I could not hold myself. I said, "Mr. Kerr, you mean Judge Wood has dispensed with his protection from the U.S. Marshals?" He said, "Oh, yes. He just couldn't."

I said, "Look, when are you going back?"

He said, "This Saturday."

I said, "Please make a beeline to Judge Wood or call him from here and tell him by all means to get those marshals back on the job. Do not dispense with their services."

Well, I thought maybe I was overreacting, because Mr. Kerr did not seem to be overly wrought. But he was impressed. He said, "Well, I will do that."

I went down that weekend to my district, as I do every time the House is not in session. On Monday we had Memorial Day. I was going to come back the next day at noon. When on that Tuesday at about 8:30 in the morning I get a phone call from the editor of one of the papers. He says, "Henry, I am glad I caught you. Do you know that Judge Wood has just been shot?"

I said, "What?"

He said, "Yes; he was getting into his car leaving his dwelling at this apartment complex," again in this suburb where the assistant district attorney lived, "and he was fired upon."

I said, "Well, was he hurt?"

He said, "Oh, he was killed, and we wanted you to know. We are on our way. But the report just came through. We have been quite amazed that you would have been so concerned."

I said, "Well, I just can't tell you how I feel. I feel terrible."

So then I came and took the floor and kept on talking. In the meanwhile, there were no leads. I then tried to get a resolution. First I tried to get the President to set aside up to $1 million for the FBI to have as reward money for any information. My theory was, and I think I turned out to be somewhat correct, that whoever made that hit was not only professional, but had spent a long time in figuring out that complex and must have had access to blueprints and everything else and knew exactly where to be and where to shoot.

□ 1600

He did not fire a half a dozen shots at all. One did it. Police could not find a rifle. They could not find clues. They could not find anything. No witnesses.

And I came forth and said, we can at least flush out the people that for $1 million will throw out this lower echelon hitman or you can get the middle. The top dog, that is going to be hard. There are a lot of connections up there. And it will be tough, but if you can get that amount of money, it is not going to take $50,000 or $100,000, but you get a million.

So, finally, I introduced a resolution to provide $3 million, because I could not get any favorable agreement to that. And I was resisted and got nowhere with it. So then I kept talking.

Soon months passed and it looked like the John W. Wood case would die, as I said then, like Jimmy Hoffa. And I said, as long as I have breath, I will not cease from concentrating on this.

Well, finally, I forget how many months, it was almost a year, I went home on a Friday. And I was there at the house when at about 4 or 5 p.m., the phone rang. And it was Judge Webster, the Director of the FBI at that time.

And he said:

> Congressman, I am calling you because in about 2 hours we are going to have a press release announcing the first four indictments on the John Wood case. And I was calling you to thank you, because had it not been for your efforts that enabled us to have such things as a task force, which we had difficulty, but with you raising your voice day after day, week after week, month after month, we want you to know that we give you credit and we want to thank you for it. And that is the reason I am calling you. Now, it is confidential until we have this release in about an hour or two.

I forget whether he said 1 hour or 2 hours.

Well, that, to me, was all the reward I would ever hope to get. But as it turned out, they finally had an arrest and a conviction. They had the presumed hitman. Apparently, his background showed he was a pro. They had what I would say might be middle, but I do not know that the real, real powers behind that fated attempt to intimidate.

As I pointed out time after time, besides the assassination of President Kennedy, this is the assassination not only of this century but of any time in the history of the Federal judiciary. You never have a Federal judge assassinated. And we cannot tolerate to have that. You cannot have anybody, even if in the long run unsuccessfully, in the short run, over a period of time having any part of our judiciary, our law enforcement body, under the intimidation of a powerful but insidious and destructive element in our society.

So then, in the middle of this and right before these developments with the Federal attorney, I received definite information about a heavy volume of money coming across the border at will and that they were beginning to be used in some sort of a takeover of some S&L's. So I then tried to get the chairman of the subcommittee that has jurisdiction, and there was resistance.

I went to the then full committee chairman and he was not about to have any hearings in San Antonio.

So then I got desperate, and I told the chairman of the subcommittee that had absolute jurisdiction on supervision and so forth of financial institutions, I said:

> I tell you, I am so concerned that if you don't do it, and I am respectful of the line of channels of jurisdiction, I am not a member of your subcommittee, I want to respect it, but if you don't do it, then I am going to do it in the name of the Subcommittee on International Finance.

Because there was no law, at that time, and it was not until 1978, 3 years after 1975, there was no law governing international banking. Can you believe this? I could not, when I first ascertained that.

We then, finally, under the pressure in the spring of 1975, had 2-day hearings. As a result of those 2-day hearings, we had two indictments and convictions. One of the S&L's south of my city went under, when it was revealed how it had been milked.

There was a bank that had become exposed but survived at that time, but what concerned me more, after the hearings, was that during the course of the testimony, surfacing to our evidence were individuals from Louisiana and other places that were just as mysterious and questionable as anybody could be.

Well, it turned out that was a forerunner of exactly what happened to us back 3 years ago when we were so agitated by the S&L crisis, as it was labeled.

The pattern was clearly visible since then.

One of the individuals whose name surfaced just 3 years ago was exposed as one of the big manipulators, and he was convicted. But mind you, we first knew of that activity since 1975.

I came back after the hearings in April 1975, and I asked the chairman, "There is no law. I am having the legislative service and counsel help me prepare at least something that I would consider minimal."

He did not seem to be interested. So I went on ahead and did it on my own. I introduced it. I could not get any hearings from the proper committees. So we went out that Congress, came back the next; same thing.

Then when we came back at the beginning of the 1977 Congress, I stirred up a little comment and finally the chairman called me in and he said, in the last session of that Congress in 1978, "Look, we think that the bill you have is too strong. The Federal Reserve Board won't give us a clearance on it and all of that. So we are going to have to water it down."

Well, they did. And it provided the first banking act known as the 1978 International Banking Act. But it was so watered down that I kept going, 1979, 1980, 1981, 1982, 1983, 1984, and it was not until we had the drug money laundering cash scandals that we got the first amendment, and that was a weak, a very weak one.

Then, finally, last year, we strengthened the so-called drug money laundering laws a little bit more. But in the meanwhile, as I have said here, just in the last few speeches I have made, you have the potential for many more BNL's, BCCI's, and only the Lord in heaven, with the advent of this huge speculative worldwide, unregulated worldwide, there is no government that has jurisdiction, even partially, on a trillion dollars, moving as fast as an instantaneous electronic signal can conduct, and speculating on an hour-to-hour, day-to-day basis on what is known as the International Currency Exchange or values, futures market.

□ 1610

This is what I fear is going to sink us, and not just us, the world.

I have been blessed, or I guess I could say it is a blessing, and there are some who would say, "Well, you don't want to remember everything," but I have a good memory and I can remember after World War I, and why I would be interested in that, I do not know, but I can remember some of the writers who were speaking about why the bubble burst, Wall Street, the stock market. That was the symptom of something else that had been happening.

What was the something else? As I recall reading, and then through the years as I go back and reread, and in fact, I still have those publications, and do not ask me why I kept them since I was 15 years old, but I did, if we just change the names of the countries, the particulars, and instead of stock exchanges, we substitute what we have today in these highly speculative international currency exchange futures, we have the same thing.

Even with respect to what happened after World War I, and I remember it as if it were today, I had been working for this German druggist since I was 10 years old, because I started working when I was 10 years old, and there has not been a year since then until now, and I am 76, that I have not worked at something or another, depression or no depression.

I remember working for this German druggist. I remember him as if it were today. He was a very unusual man. One day he was talking about how he had just made, I forget how many dollars, $500, but it was a lot of money in that day and time, and I am talking about a day and time when we were supposed to have prosperity, but gee, if we got 10 cents an hour that was not bad.

At that time you could buy a loaf of bread for a nickel, you could buy a pint of milk for a nickel, and it was another world. There is no use evoking it, I am just using this by comparison to say in how many ways things change but still stay the same, in so many ways. For us to make the same mistakes we made seems to me to be ironic and actually unforgivable.

What Mr. Von Helms was talking about was how he had made a killing by going to the bank and going into the stock market. I remember vividly, it was the month of May, 1929. When the big thing that we read about in history about the big fall in October 1929, the big bust occurred, it was not preceptible right away, any more than the 1987 precipitous decline of the market, also in October of 1987, was immediately visible.

I said recently what I remembered, and that was that we did not feel the impact of all of that until 2 or 3 years later. Sure enough, 2 years later almost to the day but in the month of October, 1931, Mr. Von Helms, the druggist, was foreclosed on and the bank that he banked in, the City Central Bank, went broke.

Let me tell the Members what kind of world it was. I was 12, I was 13, I was 14, and then when I became 15 was when he went broke. Every week he would get a little paper sack, he would put the week's receipts in cash with a deposit slip, he would give it to me. I would get on the bicycle and I would pedal about 4 miles downtown, go to the bank, park my bicycle outside, go up to the teller, he would get it, stamp the receipt, and that was it. Nobody would ever think that anybody would bother me in any way, yet I would have as much as $1,100, $1,200, sometimes $1,400 in that sack. Yet he was foreclosed on; just 2 years before, prosperity unbounded, forever and a day.

As a matter of fact, in reading the history of that period, it was May, 1929, that a blue-ribbon commission set up by President Hoover to report on the economic future of the United States said, "We see an unlimited prosperous Nation for the foreseeable future." That was May 1929.

Then when I read what the banks were doing, the banks could then borrow from the Fed, and this sounds like a lot of highfalutin language, but if we understand what the system is then it is not so complicated. The Federal Reserve Board, which is really not a Federal agency, though it was created by the Congress, is really a creature of the commercial banking system, the commercial banks.

It is the Federal Reserve Board that prints the money now. There is not a note or a bill, whatever we want to call it, in our pockets that does not say "Federal Reserve Note." It was not always that way. In fact, I remember more often than not when it was a U.S. Treasury note. There are a lot of reasons that I will not go into for that, but that is one of the causes why we are in the mess that we are in.

I remember the moratorium. Germany said, "You just cannot wring blood out of a turnip. We cannot pay the reparations you have imposed on us." I remember in the old Liberty magazine that I sold during the depression, and I used to go sell it, together with a couple of other magazines: The American magazine at that time, the Cosmopolitan, the Ladies Home Journal—I sold all of those. I did everything you could imagine, but I did something.

I remember reading the article and seeing the features of emaciated, pale-looking German mothers with little kids in line and the caption said, "German mothers waiting for milk." Then there is a picture I have been trying to locate, but I guess I lost it in one of those same publications, and it shows a whole row of men with their head on what looks like an iron rail, and it said, "German homeless men in a railroad station sleeping." That was 1932.

Then we began to see, like we did in 1982, the so-called homeless. I would meet and see 15-year-olds, 14, 13, my same-age kids, just traveling all over the Nation riding the rails. I would run into them at what we call San Pedro

Park. I do not know why, with all the guys playing there, I would be the one they would seek out. I got to know some, and they were just wandering the country.

□ 1620

It was hundreds of thousands and adult men that were called hobos, but actually they were not what later we were accustomed to call the drifter.

So in 1982, 1½ years after I had become chairman of the Subcommittee on Housing, I began to see a different kind of homeless. This time it was mother, father, maybe a child, maybe two, living in a car at a park, or underneath an underpass, and then an individual freezing to death here in the District of Columbia in that early autumn of 1982. And then a couple in New York, and then even back in the so-called Sun Belt, down in my part of the country, I had emergency cases. And I had to intervene with the housing authority because the Salvation Army did not have any room for the family context or over a 1-night stay even for male single adults. So I managed to get a father and a mother and one child, who had parked and were trying to live in their car in one of the west side parks, I got them emergency housing, thanks to the sensitivity of the public housing director.

So I then caused to be held the first hearing, and as a consequence brought the first national attention to what we now call homelessness. But what everybody forgets is we never had it like that since the depression. It is just like lists of money in the financial setup when the Germans said we cannot pay the reparations to the French and the British, and then the French and the British said well, Uncle Sam, we cannot pay you the war debts that we owe you, the money that we have borrowed from you, because, as I have single-mindedly brought up time after time going back to 26 years ago here on the House floor, our country was the only creditor nation in World War I and in World War II. We began as a creditor nation in the year 1914, and we did not become a debtor nation again until September 16, 1985, my colleagues. Put that date down in your notebook, because when that happened that meant the American hegemony was beginning to dwindle, if not fade out. And today, less than 7 years after, we are the greatest debtor nation in the world. And we want to delude ourselves into thinking we are the strongest, and the only, what do they call it, unipolar power. It is a delusion. It is a delusion.

We became a debtor nation again when the Department of Commerce announced it, very unnoticed, yes, but it announced it September 16, 1985.

In the meanwhile we have kind of worked in a decentralizing, sort of centrifugally, where say Europe, not to speak of Japan, but Europe has been working toward a unification. I was the only one in this Congress that even mentioned EMS [the European Monetary System] or the ECU [the European Currency Unit].

In August of 1979, I brought out what to me was the most disturbing thing of all, and that was that the principal banks in the United States, in a matter of a year and a half or less, had loaned out in 1½ years, they went from $3 billion to over $47 billion to so-called lesser developed nations, governments, that I knew could not pay them back.

I will windup by saying this is where we really are today, plus the fact that we had allowed our domestic systems, such as the deposit insurance system to become so corrupted, and so out of purpose, certainly from congressional intent, that to me it is the most serious problem confronting us. And yet, we do not find the perception, and I cannot around a perception. I have tried for 3 years.

Let me just conclude by saying that it is simple arithmetic. You do not have to be a mathematician to figure this out. Right now there is in excess of $4 trillion in commercial bank deposits that are insured, just in commercial banks, and they are insured deposits. Uncle Sam says if you have up to $100,000 you are insured. But the average depositor is one who has less than $9,000 in that bank.

Where is all of that other money, where is it from? Up until recently when we tried to partially stop it, last year the regulators had been paying out the uninsured, those that had more than $100,000, some couple a couple of million.

Now we have 4 trillion dollars' worth, plus, of insured deposits just in the commercial banks, and we have an insolvent, a broke insurance fund, which is what we have in our country. The bank insurance fund is broke. It is insolvent.

What do you have? An insurance system or an illusion?

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

CONTINUED NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–46)

The SPEAKER pro tempore (Mr. THORNTON) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

I hereby report to the Congress on the developments since the last report of August 3, 1992, concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12772 of August 2, 1990. This report is submitted pursuant to sections 401(c) of the National Emergencies Act ("NEA"), 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act "(IEEPA"), 50 U.S.C. 1703(c).

Executive Order No. 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq) then or thereafter located in the United States or within the possession or control of a U.S. person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. U.S. persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order. 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution 661 of August 6, 1990.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 and matters relating to Executive Orders Nos. 12724 and 12817 (the "Executive Orders"). The report covers events from August 2, 1992, through February 1, 1993.

1. On October 21, 1992, President Bush issued Executive Order No. 12817, implementing the United States measures adopted in United Nations Security Council Resolution ("UNSCR") No. 778 of October 2, 1992. UNSCR No. 778 requires U.N. member states temporarily to transfer to a U.N. escrow account up to $200 million apiece in Iraqi oil proceeds paid by the purchaser after the imposition of U.N. sanctions on Iraq. These funds finance Iraq's obligations for U.N. activities with respect to Iraq, including expenses to verify Iraqi weapons destruction and to provide humanitarian assistance in Iraq on a nonpartisan basis. A portion of the escrowed funds will also fund the activities of the U.N. Compensation Commission in Geneva, which will handle claims from victims of the Iraqi invasion of Kuwait. The funds placed in the escrow account are to be returned, with interest, to the member states that transferred them to the U.N., as

funds are received from future sales of Iraqi oil authorized by the United Nations Security Council. No member state is required to fund more than half of the total contributions to the escrow account.

Executive Order No. 12817 authorized the Secretary of the Treasury (the "Secretary") to identify the proceeds of the sale of Iraqi petroleum or petroleum products paid for by or on behalf of the purchaser on or after August 6, 1990, and directed United States financial institutions holding such funds to transfer them to the Federal Reserve Bank of New York ("FRBNY") in the manner required by the Secretary. Executive Order No. 12817 further directs the FRBNY to receive, hold, and transfer funds in which the Government of Iraq has an interest at the direction of the Secretary to fulfill U.S. rights and obligations pursuant to UNSCR No. 778.

2. The economic sanctions imposed on Iraq by the Executive order are administered by the Treasury Department's Office of Foreign Assets Control ("FAC") pursuant to the Iraqi Sanctions Regulations, 31 CFR Part 575 ("ISR"). The ISR were amended on September 1, 1992, to revoke section 575.603, which had required U.S. financial institutions to file monthly reports regarding certain bank accounts in which the Government of Iraq has an interest. While this information was needed during the early implementation of the regulations and for a period thereafter, it is no longer required on a monthly basis and can be obtained by FAC on a case-by-case basis as required. The amendment is in harmony with President Bush's Regulatory Initiative.

3. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. These are intended to deter future activities in violation of the sanctions. Additional civil penalty notices were prepared during the reporting period for violations of the IEEPA and ISR with respect to transactions involving Iraq. Penalties were collected, principally from financial institutions which engaged in unauthorized, albeit apparently inadvertent, transactions with respect to Iraq.

4. Investigation also continues into the roles played by various individuals and firms outside Iraq in Saddam Hussein's procurement network. These investigations may lead to additions to the FAC listing of individuals and organizations determined to be Specially Designated Nations ("SDNs") of the Government of Iraq.

5. Pursuant to Executive Order No. 12817 implementing UNSCR No. 778, on October 26, 1992, FAC directed the FRBNY to establish a blocked account for receipt of certain post-August 6, 1990, Iraqi oil sales proceeds, and to hold, invest, and transfer these funds as required by the order. On the same date, FAC directed the eight United States financial institutions holding the affected oil proceeds, on allocated, pro rata basis, to transfer a total of $200 million of these blocked Iraqi assets to the FRBNY account. On December 15, 1992, following the payment of $20 million by the Government of Kuwait and $30 million by the Government of Saudi Arabia to a special United Nations-controlled account, entitled UNSCR No. 778 Escrow Account, the FRBNY was directed to transfer a corresponding amount of $50 million from the blocked account it holds to the United Nations-controlled account. Future transfers from the blocked FRBNY account will be made on a matching basis up to the $200 million for which the United States is potentially obligated pursuant to UNSCR No. 778.

6. Since the last report, one case filed against the Government of Iraq has gone to judgment. *Consarc Corporation* v. *Iraqi Ministry of Industry and Minerals et al.*, No. 90-2269 (D.D.C., filed December 29, 1992), arose out of a contract for the sale of furnaces by plaintiff to the Iraqi Ministry of Industry and Minerals ("MIM"), an Iraqi governmental entity. In connection with the contract, the Iraqi defendants opened an irrevocable letter of credit with an Iraqi bank in favor of Consarc, which was advised by Pittsburgh National Bank ("PNB"), with the Bank of New York ("BoNY") entering into a confirmed reimbursement agreement with the advising bank. Funds were set aside at BoNY in an account of the Iraqi bank, for reimbursement of BoNY if PNB made a payment to Consarc on the letter of credit and sought reimbursement from BoNY. Consarc received a down payment from the Iraqi MIM and manufactured the furnaces. No goods were shipped prior to imposition of sanctions on August 2, 1990, and the United States claimed that the funds on deposit in the Iraqi bank account at BoNY were blocked, as well as the furnaces manufactured for the Iraqi Government or the proceeds of the sale of the furnaces to third parties. The district court ruled that the furnaces or their sales proceeds were properly blocked pursuant to the declaration of the national emergency and blocking of Iraqi Government property interests, but that, due to fraud on MIM's part in concluding the sales contract, the funds on deposit in an Iraqi bank account at BoNY were not the property of the Government of Iraq, and ordered FAC to unblock these funds. FAC has noted its appeal of this ruling.

7. FAC has issued a total of 337 specific licenses regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Since the last report, 49 specific licenses have been issued. Licenses were issued for transactions such as the filing of legal actions involving Iraqi interests, for legal representation of Iraq, and the exportation to Iraq of donated medicine, medical supplies, and food intended for humanitarian relief purposes.

To ensure compliance with the terms of the licenses which have been issued, stringent reporting requirements have been imposed that are closely monitored. Licensed accounts are regularly audited by FAC compliance personnel and deputized auditors from other regulatory agencies. FAC compliance personnel continue to work closely with both State and Federal bank regulatory and law enforcement agencies in conducting special audits of Iraqi accounts subject to the ISR.

8. The expenses incurred by the Federal Government in the 6-month period from August 2, 1992, through February 1, 1993, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are estimated at about $2 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in FAC, the U.S. Customs Service, the Office of the Assistant Secretary for Enforcement, the Office of the Assistant Secretary for International Affairs, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near East and South Asian Affairs, the Bureau of International Organizations, and the Office of the Legal Adviser), the Department of Transportation (particularly the U.S. Coast Guard), and the Department of Commerce (particularly in the Bureau of Export Administration and the Office of the General Counsel.)

9. The United States imposed economic sanctions on Iraq in response to Iraq's invasion and illegal occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with United Nations Security Council resolutions, including those calling for the elimination of Iraqi weapons of mass destruction, the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third country nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction (WMD) capabilities, and the return of Kuwaiti assets stolen during its illegal occupation of Kuwait. The U.N. sanctions remain in place; the United States will continue to enforce those sanctions.

The Saddam Hussein regime continued to violate basic human rights by repressing the Iraqi civilian population and depriving it of humanitarian assistance. The United Nations Security

Council passed resolutions that permit Iraq to sell $1.6 billion of oil under U.N. auspices to fund the provision of food, medicine, and other humanitarian supplies to the people of Iraq. Under the U.N. resolutions, the equitable distribution within Iraq of this assistance would be supervised and monitored by the United Nations. The Iraqi regime continued to refuse to accept these resolutions and has thereby chosen to perpetuate the suffering of its civilian population.

The regime of Saddam Hussein continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. Because of Iraq's failure to comply fully with United Nations Security Council resolutions, the United States will therefore continue to apply economic sanctions to deter Iraq from threatening peace and stability in the region, and I will continue to report periodically to the Congress on significant developments, pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

The White House, *February 16, 1993*.

APPOINTMENT AS MEMBERS OF HOUSE COMMISSION ON CONGRESSIONAL MAILING STANDARDS

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of section 5(b) of Public Law 93-191, the Chair, on behalf of the Speaker, appoints as members of the House Commission on Congressional Mailing Standards the following members of the House: Mr. CLAY of Missouri, chairman; and Mr. MYERS Indiana.

There was no objection.

□ 1630

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 670, FAMILY PLANNING AMENDMENTS ACT OF 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-15) on the resolution (H. Res. 81) providing for the consideration of the bill (H.R. 670) to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes, which was referred to the House Calendar and ordered to be printed.

THE SAVAGERY IN BOSNIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes.

Mr. BONIOR. Mr. Speaker, there are times we have to examine unflinching the savagery in human hearts, and nowhere is this more urgently needed than in Bosnia.

The facts are neither obscure nor complicated.

After all, what is obscure or complicated about the 12-year-old girl described in a recent Newsweek?

She was evicted from her village last August. During the first night in a detention camp two soldiers pitched her out, took her to an empty apartment and raped her.

They did this for 9 nights in a row, once with her mother and another inmate. When the Serb soldiers were through with her they exchanged her for some Serbian prisoners and she now lives in a refugee center near Sarajevo.

Her father? He was beaten and dragged off to another prison camp. Nobody has heard from him since.

Is this an isolated case?

Absolutely not. For almost a year we have heard the stories of torture and murder coming from Bosnia, all in the name of ethnic cleansing, the latest sickening euphemism for genocide.

Now we have been provided evidence that the Serbs are systematically raping Moslem women—the estimates range from 30,000 to 50,000 rapes in the last few months.

Let me put this in a little broader framework.

In the last year, Moslems have been subjected to nothing less than persecution in a number of places around the world.

I include in this the recent deportation of Palestinian refugees from Israel.

And rivalling the Bosnian example, I include the atrocities committed against Muslims by the Hindu extremists in India.

Here, too, the evidence is hardly obscure.

Let me quote from a recent New York Times article, datelined Bombay:

> Nazira Khatoon rocked slowly back and forth on a dirty mat. A stream of tears glistened on her face as she recounted how a mob broke into her house in a Bombay shantytown and seized her son as the police looked on and did nothing.
>
> I said, "Don't do anything to my son," she recalled. "He was married just two days before. The mob of 250 came. They were with swords and stones, and they pushed me into the bathroom. They took all my property and killed my son in front of me. The police just stood there watching."

Again: an isolated example?

Hardly.

For 9 days in January, Hindu mobs roamed Bombay, killing and burning Muslims in what the Times apply called an "orgy of violence."

Six hundred Moslems were killed. Moreover, its now clear that the Indian police were ordered to allow this savagery to continue.

Mr. Speaker, America is not a Moslem country. But it is a fundamental cornerstone of our beliefs that when we see such butchery we cannot turn our backs.

Yes, there is room for measured thought about how we calibrate America's response.

But there should be room for sheer outrage, too.

And when it comes to Bosnia, that outrage should help influence our response.

Now, I know for some, Bosnia is a word in a headline.

Let me provide some background.

What exactly is Bosnia?

It is a patchwork of 4.4 million people, 44 percent Slavic Moslems, 31 percent Serbs, and 16 percent Croats.

Since fighting erupted last April, the Bosnian Serb militia has seized about two-thirds of Bosnia in a brutal war that has left as many as 100,000 dead and over 1½ million homeless.

A number of cease-fires and peace plans have failed to end the fighting. The United Nations is providing some relief to Sarajevo and other besieged cities. But conditions remain bleak. And there is a lot of pressure for international military intervention.

The situation is complicated by the brutal repression of ethnic Albanians in Kosova, another province of Serbia.

They have been subjected to political imprisonment, torture and killings. Albanian-language journalists and schools have been repressed.

I don't want to make it seem like this just happened—that there was some spontaneous welling up of hatred among the Serbs. Oh, yes, the Serbs have leaders.

I haven't found much to agree on with Lawrence Eagleburger. But I certainly agree with his call for a war-crimes trial with the chief architects of this policy—the despicable Serbian President Slobodan Milosevic, and the political and military leaders of the Bosnian Serbs, Radovan Karadzic, and Ratko Mladic.

Why not send American forces to Bosnia the way we did to Somalia?

The difficulties are obvious. This is not a flat country with a few maurauding gangs, easily cowed.

"There are perhaps 200,000 armed men in Bosnia," said the British military historian, John Keegan, suggesting the need for a half-million troops to disarm them.

Meanwhile, there have been those who have tried to find solutions.

Lord Owen and Cyrus Vance have formulated a peace plan in which Bosnia would be divided into 10 largely autonomous republics. All Americans know Cyrus Vance as a skilled and principled diplomat. Yet this is a plan which, simply put, rewards Serbian aggression of the most brutal sort.

That's why last week Secretary Christopher outlined the administration's plan on Bosnia.

There are six steps:

First, appoint a special U.S. envoy, Reginald Bartholomew to work with Cyrus Vance and Lord Owen.

Second, stress that negotiations are the key to settlement, that it can't be imposed on the Serbs.

Third, tighten the enforcement of economic sanctions.

Fourth, call for a halt in the fighting, enforcing the no-fly zone, ensuring the flow of humanitarian aid, and creating a richly deserved war crimes tribunal.

Fifth, prepare to enforce an agreement with an international armed force.

Sixth, coordinate efforts with allies, particularly Russia.

Is this enough?

Well, it's certainly a good step. It shows our active involvement with Bosnia. I am particularly happy that the Secretary specifically warned against Serbian incursions in Kosova.

But there are many questions.

How agressively will we enforce the no-fly zone?

How tough are we going to be with economic sanctions?

How vigorous will we be in helping with humanitarian aid?

And there is one crucial point:

Why not lift the arms embargo to allow Bosnian Muslims to defend themselves?

Don't we really want to encourage negotiation? Isn't compromise the essence of negotiation?

Well, right now the Serbs have an enormous military advantage. What is their incentive to compromise?

Not much. Only if the Bosnians came to the table on a more equal footing would they compromise.

That's why I have cosponsored House Concurrent Resolution 24.

It calls for a lifting of the arms embargo.

It calls for strict enforcement of the no-fly zone over Bosnia.

And it also calls for the acceptance of Bosnian refugees into the United States.

Why not? Was there ever a case where refugees were more clearly the result of political oppression?

The novelist Arthur Koestler once wrote that "statistics don't bleed."

In thinking about America's response, we must remember people like Borislav Herak.

A 21-year-old Serb laborer from Sarajevo, Herak admits to raping seven Moslem women and to killing two of his victims. "We were ordered to rape so that our morale would be higher," he says. "We were told we would fight better if we raped the women."

And he describes a rape camp outside Sarajevo populated by 70 Moslem women and girls.

"Those who were killed," the reporter writes, "were quickly replaced."

Mr. Speaker, does international law mean anything? Since 1907 it has prohibited attacks on undefended civilian targets. The Geneva Convention of 1929 and 1949 prohibits "outrages against personal dignity."

Isn't a rape camp an outrage? Isn't using rape as a morale booster an outrage?

We must be stronger in our condemnation of the systematic rape of Moslem women. We must create an international tribunal to prosecute these crimes against humanity.

Mr. Speaker, I think of the remark attributed to the German pastor Martin Niemoller, writing about the 1930's.

> When Hitler attacked the Jews, I was not a Jew, therefore, I was not concerned. And when Hitler attacked the Catholics, I was not a Catholic, and therefore, I was not concerned. And when Hitler attacked the unions and the industrialists, I was not a member of the unions and I was not concerned. Then Hitler attacked me and the Protestant church—and there was nobody left to be concerned.

If we have learned anything from history, it is to unite in the face of genocide.

It is being practiced today. It is being practiced in Bombay. It is being practiced in Bosnia.

Two hundred years ago, another principled thinker, Edmund Burke, wrote the sheriffs of Bristol: "A conscientious man would be cautious how he dealt in blood."

I applaud the determination of the new administration to be engaged when it comes to Bosnia. I ask them to support lifting the arms embargo.

Yes, there are risks.

But right now the defenseless Bosnians have taken all the risks for themselves. And they pay, each day and night, in tears and in blood.

□ 1640

Mr. Speaker, there are times we have to examine unflinchingly the savagery of the human heart, and I think examining it in Bosnia today, in Bombay, it is important for all of us who would stand by those who believe in freedom and justice and the dignity of the person.

I urge my colleagues and I urge the administration to forcefully pursue and actively engage themselves in making sure that this type of outrage against humanity is condemned and brought to an end in Bosnia.

RULES OF PROCEDURE FOR THE COMMITTEE ON AGRICULTURE FOR THE 103D CONGRESS

(Mr. DE LA GARZA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DE LA GARZA. Mr. Speaker, I am pleased to submit for printing in the CONGRESSIONAL RECORD, pursuant to rule XI, clause 2(a) of the rules of the House, a copy of the rules of the Committee on Agriculture, which were adopted at the organizational meeting of the committee on January 7, 1993. The rules were agreed to by a unanimous voice vote.

Appendix A of the committee's rules, prescribing the form of a proxy required by the rules, is included in this submission. Appendix B of the committee rules includes excerpts from the rules of the house revelant to the operation of the committee. Appendix C includes relevant excerpts from the Congressional Budget Act of 1974. In the interests of minimizing printing costs, appendices B and C are omitted from this submission.

RULES OF THE COMMITTEE ON AGRICULTURE

I. GENERAL PROVISIONS

a. Rules of the U.S. House of Representatives.—The Rules of the House shall govern the procedure of the Committee so far as applicable, and the rules of the Committee shall be interpreted in accordance with the Rules of the House, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege in committees and subcommittees. (See Appendix B for the applicable Rules of the U.S. House of Representatives.)

b. Applicability to Subcommittees.—The following rules shall apply to meetings, hearings, and other activities of Subcommittees, which are part of the Committee and subject to its authority and direction, only when specifically so stated.

II. COMMITTEE OR SUBCOMMITTEE BUSINESS MEETINGS

a. Regular and Additional Meetings.—The Committee shall meet on the first Tuesday of each month while Congress is in session. The Committee also shall meet at the call of the Chairman at such other times as the Chairman considers to be necessary, subject to advance notice to all Committee members. Insofar as practicable, an agenda for all regular and additional Committee meetings, setting forth all the measures and matters to be considered, shall be furnished each Committee member prior to the meeting. Items may be placed on the agenda by the Chairman or a majority of the Committee. If the Chairman determines that any meeting convened by the Chairman need not be held, the Chairman shall give all members of the Committee notice to that effect as far in advance of the meeting day as practicable, and no meeting shall be held on such day. See Rule VI. e. for provisions which apply to meetings of Subcommittees.

b. Special Meetings.—If at least three members of the Committee file a written request in the Committee offices that a special meeting be called by the Chairman to consider a specific measure or matter, the Staff Director shall immediately notify the Chairman of the filing of such request. If, within three calendar days after the filing of such request, the Chairman does not call the requested special meeting to be held at a time within seven calendar days after the filing of such request, a majority of the members of the Committee may file in the Committee offices their written notice that a special meeting will be held at a specified date and hour to consider a specified measure or matter. If such a notice is filed, the Committee shall meet on that date and hour. Immediately upon the filing of such a notice, the Staff Director shall notify all members of the Committee that such special meeting will be held at the specified date and hour to consider the specified measure or matter. Only the measure or matter so specified in the meeting notice as filed by the majority of Committee members and transmitted to all Committee members may be considered at a special meeting.

c. Vice Chairman.—The member of the majority party on the Committee ranking immediately after the Chairman of the Committee shall be the Vice Chairman of the Committee, and the member of the majority party on each Subcommittee ranking immediately after the Chairman of the Subcommittee shall be the Vice Chairman of that Subcommittee.

d. Presiding Member.—If the Chairman is not present at any Committee meeting or hearing, the Vice Chairman or, in the absence of the Vice Chairman, the ranking member of the majority party on the Committee who is present shall preside. If the Chairman is not present at any Subcommittee meeting or hearing, the Vice Chairman or, in the absence of the Vice Chairman, the ranking member of the majority party who is present shall preside.

e. Open Business Meetings.—Each Committee or Subcommittee meeting for the transaction of business, including the markup of legislation, shall be open to the public except when the Committee or Subcommittee, in open session and with a majority present, determines by roll call vote that all or part of the remainder of the meeting on that day shall be closed to the public. No person other than members of the Committee or Subcommittee and such congressional staff and departmental representatives as the Committee or Subcommittee may authorize shall be present at any business or markup session that has been closed to the public. This clause does not apply to Committee or Subcommittee hearings or to any meeting that, as announced by the Chairman of the Committee or Subcommittee, relates solely to internal budget or personnel matters.

f. Records and Roll Calls.—A complete record of all Committee or Subcommittee action shall be kept in the form of written minutes, including a record of the votes on any question as to which a roll call is demanded. A roll call vote shall be ordered on demand by one-fifth of the members present. The record of such action and the results of the roll call votes during each session of Congress shall be made available by the Committee, on request, for public inspection during regular office hours in the Committee offices and on telephone request. The information so available on roll call votes shall include a brief description of the amendment, motion, order, or other proposition; the name of each member voting for and each member voting against such amendment, motion, order, or other proposition; whether such vote was by proxy or in person; and names of those members present but not voting. A stenographic record of a business meeting of the Committee or Subcommittee may be kept and thereafter may be published if the Chairman of the Committee determines there is need for such a record. The proceedings of the Committee or Subcommittee in a closed meeting, other than roll call votes, shall not be divulged unless otherwise determined by a majority of the Committee or Subcommittee. See Rule IV. f. for publication of the minutes of meetings.

g. Quorums.—A majority of the members of the Committee or Subcommittee shall constitute a quorum of the Committee or Subcommittee for the purpose of convening meetings, conducting business, and voting on any matter: *Provided*, That the Chairman of the Committee may determine that one-third of the members of the Committee shall constitute a quorum of the Committee at any meeting for such purpose (other than for the reporting of any measure or recommendation, and voting on the authorization of subpoenas and on the closing of hearings and business meetings to the public) if the Chairman gives written notice to that effect to the members prior to the meeting.

h. Proxy Voting.—A member may vote by proxy on any matter before the Committee or Subcommittee other than the issuance of a subpoena pursuant to Rule III. c. The proxy authorization shall be in writing, shall assert that the member is absent on official business or otherwise is unable to be present at the Committee or Subcommittee meeting, shall designate the member who is to execute the proxy authorization, and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto. A member may authorize a general proxy only for motions to recess, adjourn, or other procedural matters. Each proxy to be effective shall be signed by the member assigning the vote and shall contain the date and time of day the proxy is signed as well as the date or dates during which it is to be effective. (See Appendix A for the proxy form required by the Committee or Subcommittee.) In order to be cast in a vote, a proxy shall be filed with the Committee or Subcommittee during such vote and must be placed on file with the Staff Director. Proxies shall not be counted toward a quorum.

i. Location of Persons at Meetings.—No person other than a Member of Congress or Committee or Subcommittee staff may walk in or be seated at the rostrum area during a meeting of the Committee or Subcommittee unless the Chairman or a majority of the Committee or Subcommittee determines otherwise.

j. Consideration of Amendments and Motions.—A member, upon request, may be recognized by the Chairman to address the Committee or Subcommittee at a meeting for not more than five minutes on behalf of an amendment or motion offered by the member or another member, or upon any other matter under consideration, unless the member receives unanimous consent to extend the time limit. Every amendment, substitute amendment, amendment to an amendment, or amendment in the nature of a substitute made in Committee or Subcommittee that is substantial as determined by the Chairman shall, upon the demand of any member present, be reduced to writing, and a copy thereof shall be made available to all members present: *Provided*, That such amendment shall remain pending before the Committee or Subcommittee and may not be voted on until the requirements of this section have been met.

k. Points of Order.—No point of order against the hearing or meeting procedures of the Committee or Subcommittee shall be sustained unless it is made in a timely fashion.

III. COMMITTEE OR SUBCOMMITTEE HEARINGS

a. Power to Hear.—For the purpose of carrying out any of its functions and duties under House Rules X and XI, the Committee is authorized to sit and hold hearings at any time or place within the United States whether the House is in session, has recessed, or has adjourned. See Rule VI. e. for provisions relating to Subcommittee hearings and meetings.

b. Announcement of Hearings.—The Chairman of the Committee or Subcommittee shall publicly announce the date, place, and subject matter of any hearing to be conducted on any measure or matter at least one week before the commencement of that hearing unless the Committee or Subcommittee or the Chairman of the Committee or Subcommittee, after consultation with the Ranking Minority Member of the Committee or Subcommittee, as applicable, determines that there is good cause to begin such hearing at an earlier date, in which case the announcement of the hearing shall be made by the Chairman of the Committee or Subcommittee at the earliest possible date. The Staff Director shall notify the Daily Digest Clerk of the Congressional Record as soon as possible after such public announcement has been made and enter the announcement into the Committee scheduling service of the House Information Systems.

c. Power to Subpoena.—For the purpose of carrying out any of its functions and duties under House Rules X and XI, the Committee is authorized to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it deems necessary. A subpoena may be authorized and issued in the conduct of any investigation or series of investigations or activities by the Committee or by a Subcommittee when authorized by a roll call vote of the majority of the members of the Committee, a majority being present, except that no proxies may be used to vote on the authorization and issuance of such a subpoena. Authorized subpoenas shall be signed by the Chairman of the Committee or by any other member the Committee may designate. Notice of a meeting to consider a motion to authorize and issue a subpoena shall be given to all members of the full Committee by 5 p.m. of the day preceding the day of such meeting. Compliance with a Committee or Subcommittee issued subpoena may be enforced only as authorized or directed by the House.

d. Scheduling of Hearings and Witnesses.—Except as otherwise provided in this clause, the scheduling of hearings and witnesses and determination of the time allowed for the presentation of testimony and interrogation shall be at the discretion of the Chairman or a majority of the Committee or Subcommittee. Whenever any hearing is conducted by the Committee or Subcommittee on any measure or matter, the Committee's or Subcommittee's minority party members shall be entitled, on request by a majority of them to the Chairman of the Committee or Subcommittee before the completion of the hearing, to call witnesses selected by them to testify with respect to that measure or matter during at least one day of the hearing.

e. Witnesses' Statements in Advance.—Each witness who is to appear before the Committee or Subcommittee shall, insofar as practicable, file with the Staff Director a written statement of the witness's prepared testimony at least two working days in advance of the witness's appearance in order to permit the testimony to be distributed to and reviewed in advance by Committee or Subcommittee members. Witnesses shall provide sufficient copies of their statement for distribution to Committee or Subcommittee members, staff, and the news media. The Committee or Subcommittee staff shall distribute such written statements to all members of the Committee or Subcommittee as soon as they are received as well as any official reports from departments and agencies on such subject matter.

f. Testimony of Witnesses.—The Chairman of the Committee or Subcommittee or any member designated by the Chairman may administer an oath to any witness. Each witness who has been subpoenaed, on the completion of the witness's testimony, may report in person or in writing to the Staff Director and sign appropriate vouchers for travel allowances and attendance fees. All witnesses may be limited in their oral presentations to brief summaries of their statements within the time allotted to them, at the discretion of the Chairman of the Committee or Subcommittee in light of the nature of the testimony and the length of time available.

g. Questioning of Witnesses.—Committee or Subcommittee members may question witnesses only when they have been recognized by the Chairman of the Committee or Subcommittee for that purpose. Each member so recognized shall be limited to questioning a witness (or panel of witnesses) for five minutes until such time as each member of the Committee or Subcommittee who so desires has had an opportunity to question the witness (or panel of witnesses) for five minutes, and, thereafter, the Chairman of the Committee or Subcommittee may limit the time of further questioning after giving due consideration to the importance of the subject matter and the length of time available. All questions put to witnesses shall be germane to the measure or matter under consideration. Unless the Chairman or a majority of the Committee or Subcommittee determines otherwise, no person shall interrogate witnesses other than members and Committee or Subcommittee staff.

h. Open Hearings.—Each hearing conducted by the Committee or Subcommittee shall be open to the public except when the Committee or Subcommittee, in open session and with a majority present, determines by roll call vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate any law or rule of the House of Representatives: *Provided*, That the Committee or Subcommittee may, by the same procedure, vote to close one subsequent day of hearing. Notwithstanding the requirements of the preceding sentence, a majority of those present, there being in attendance the requisite number required under the rules of the Committee to be present for the purpose of taking testimony (1) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security or violate Rule III. k. or (2) may vote to close the hearing, as provided in Rule III. k. In any event, no Member of the House may be excluded from nonparticipatory attendance at any hearing unless the House by majority vote shall authorize the Committee or Subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its meetings to members by means of the above procedure.

i. Quorum.—The quorum for taking testimony and receiving evidence shall be two members of the Committee or Subcommittee.

j. Record of Hearing.—An accurate stenographic record shall be kept of all testimony taken at public hearings. Any public witness, during Committee office hours in the Committee offices and within two weeks of the close of hearings, may examine the transcript of his or her own testimony and make such grammatical or technical changes as will not substantially alter the nature of testimony given. Members of the Committee or Subcommittee shall receive copies of transcripts for their prompt review and correction for return to the Committee. The Chairman of the Committee may order the printing of a hearing record without the corrections of any member or witness if the Chairman determines that such member or witness has been afforded a reasonable time in which to make such corrections and further delay would seriously impede the consideration of the legislative action that is the subject of the hearing. The record of a hearing closes ten calendar days after the last oral testimony, unless the Chairman of the Committee or Subcommittee otherwise determines. Any person requesting to file a statement for the record of a hearing must so request before the hearing concludes and must file the statement before the record closes. No written statement becomes part of the record and thus publicly available until such time as it has been approved by the Chairman of the Committee or any Committee staff the Chairman designates, and the Chairman of the Committee or Subcommittee or the Chairman's designee may reject any statement in light of its length or its tendency to defame, degrade, or incriminate any person.

k. Investigative Hearings.—The Chairman of the Committee or Subcommittee at an investigative hearing shall announce in an opening statement the subject of the investigation. A copy of the Committee rules (and the applicable provisions of Clause 2 of Rule XI of the House Rules, regarding investigative hearing procedures, a copy of which appears in Appendix B) shall be made available to each witness. Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights. The Chairman of the Committee or Subcommittee may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; but only the full Committee may cite the offender to the House for contempt. Whenever it is asserted that the evidence or testimony at an investigatory hearing may tend to defame, degrade, or incriminate any person—

(1) such testimony or evidence shall be presented in executive session, notwithstanding the provisions of Rule III. h., if by a majority of those present, there being in attendance the requisite number required under the rules of the Committee to be present for the purpose of taking testimony, the Committee or Subcommittee determines that such evidence or testimony may tend to defame, degrade, or incriminate any person; or

(2) the Committee or Subcommittee shall proceed to receive such testimony in open session only if a majority of the members of the Committee or Subcommittee, a majority being present, determine that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

In either case the Committee or Subcommittee shall afford such person any opportunity voluntarily to appear as a witness; and the Committee or Subcommittee shall receive and the Committee shall dispose of requests from such person to subpoena additional witnesses.

Except as provided above, the Chairman shall receive and the Committee shall dispose of requests to subpoena additional witnesses. No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Committee or Subcommittee. In the discretion of the Committee or Subcommittee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Committee or Subcommittee is the sole judge of the pertinency of testimony and evidence adduced at its hearings. A witness may obtain a transcript copy of his or her testimony given at a public session or, if given at an executive session, when authorized by the Committee or Subcommittee.

l. Broadcasting and Photography.—Television, film making, and live radio broadcasting of all or part of any Committee hearing or meeting shall be permitted only when the Committee by a majority vote agrees or, if the Committee cannot be polled in a timely manner, when approved by the Chairman of the Committee after consultation with the Ranking Minority Member. Except as otherwise determined by the Committee, television, film making, and live radio broadcasting of all or part of any Subcommittee hearing or meeting shall be permitted only when the Subcommittee by a majority vote agrees or, if the Subcommittee cannot be polled in a timely manner, when approved by the Chairman of the Committee or the Chairman of the Subcommittee after consultation with the Ranking Minority Member of the Committee or Subcommittee. Radio broadcasting that is not live and still photography are permitted of any Committee or Subcommittee meeting or hearing unless otherwise determined by the Chairman of the Committee or applicable Subcommittee after consultation with the Ranking Minority Member of the Committee or Subcommittee: *Provided*, That when such radio broadcasting is conducted, written notice to that effect shall be placed on the desk of each Member. Each Committee or Subcommittee Chairman shall determine, in his or her discretion, the number of television and still cameras permitted in a hearing or meeting room. Any broadcasting electronic recording, film making, or still photography of all or part of a hearing or meeting shall be subject to the provisions of House Rule XI, clause 3(f), which appear in Appendix B.

IV. THE REPORTING OF BILLS AND RESOLUTIONS

a. Filing of Reports.—The Chairman shall report or cause to be reported promptly to the House any bill or resolution approved by the Committee and shall take or cause to be taken all necessary steps to bring such bill or resolution to a vote. A Committee report on any bill or resolution approved by the Committee shall be filed within seven calendar days (not counting days on which the House is not in session) after the day on which there has been filed with the Staff Director of the Committee a written request, signed by a majority of the Committee, for the reporting of that bill or resolution. The Staff Director of the Committee shall notify the Chairman immediately when such a request is filed.

b. Content of Reports.—Each Committee report on any bill or resolution approved by the Committee shall include as separately identified sections:

(1) a statement of the intent or purpose of the bill or resolution;

(2) a statement describing the need for such bill or resolution;

(3) the results of the roll call vote on the motion to report such bill or resolution, including the total number of votes cast for and total number of votes cast against such reporting;

(4) the detailed statement described in section 308(a)(1) of the Congressional Budget Act of 1974 if the bill or resolution provides new budget authority (other than continuing

appropriations), new spending authority described in section 401(c)(2) of such Act, new credit authority, or an increase or decrease in revenues or tax expenditures;

(5) the estimate of costs and comparison of such estimates, if any, prepared by the Director of the Congressional Budget Office in connection with such bill or resolution pursuant to section 403 of the Congressional Budget Act of 1974 and submitted in timely fashion to the Committee;

(6) any oversight findings and recommendations made by the Committee or the Committee on Government Operations or both to the extent such were available during the Committee's deliberations on the bill or resolution;

(7) a detailed analytical statement as to whether the enactment of such bill or joint resolution into law may have an inflationary impact on prices and costs in the operation of the national economy;

(8) an estimate of the costs that would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported and for its authorized duration or for each of the five fiscal years following the fiscal year or reporting, whichever period is less, together with a comparison of these estimates with those made and submitted to the Committee by any Government agency (the provisions of this clause do not apply if a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and included in the report);

(9) the changes in existing law (if any) shown in accordance with Rule XIII, clause 3, of the House Rules;

(10) the determination required pursuant to section 5(b) of Public Law 92-463, if the legislation reported establishes or authorizes the establishment of an advisory committee; and

(11) such other matter as the Chairman of the Committee determines to be useful for public understanding of the intent and effect of the bill or resolution.

c. Supplemental, Minority, or Additional Views.—If, at the time of approval of any measure or matter by the Committee, any member of the Committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than three calendar days (excluding Saturdays, Sundays, and legal holidays) in which to file such views, in writing and signed by that member, with the Staff Director of the Committee. All such views so filed by one or more members of the Committee shall be included within, and shall be a part of, the report filed by the Committee with respect to that measure or matter. The report of the Committee on that measure or matter shall be printed in a single volume, which shall:

(1) include all supplemental, minority or additional views that have been submitted by the time of the filing of the report; and

(2) bear on its cover a recital that any such supplemental, minority, or additional views (and any material submitted under subdivisions (C) and (D) on paragraph (1)(3) of House Rule XI, clause 2) are included as part of the report.

This clause shall not preclude the immediate filing or printing of a Committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by this clause or the filing by the Committee of any supplemental report on any bill or resolution that may be required for the correction of any technical error in a previous report made by the Committee on that bill or resolution.

d. Availability of Printed Hearing Records.—If hearings have been held on any reported bill or resolution, the Committee shall make every reasonable effort to have the record of such hearings printed and available for distribution to the Members of the House prior to the consideration of such bill or resolution by the House.

e. Committee Prints.—All Committee or Subcommittee prints or other Committee or Subcommittee documents, other than reports or prints of bills, that are prepared for public distribution shall be approved by the Chairman of the Committee or the Committee prior to public distribution.

f. Publication of Minutes.—The Chairman of the Committee, in consultation with the Ranking Minority Member, shall cause to be published as a Committee Print on a periodic basis (and insofar as practicable on a semiannual basis) the minutes of all business meetings and hearings of the Committee and any of its Subcommittees; and such minutes shall include a record of the attendance of members, all recorded votes, and the action on all amendments and motions relating to legislation.

V. OTHER COMMITTEE ACTIVITIES

a. Annual Appropriations.—The Committee shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, ensure that appropriations for continuing programs and activities of the Federal government and the District of Columbia government will be made annually to the maximum extent feasible and consistent with the nature, requirements, and objectives of the programs and activities involved. The Committee shall review, from time to time, each continuing program within its jurisdiction for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefor would be made annually.

b. Budget Act Compliance: Views and Estimates (See Appendix C).—The Committee shall, within 6 weeks after the President submits a budget under section 1105(a) of title 31, United States Code, submit to the Committee on the Budget (1) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year (under section 301 of the Congressional Budget Act of 1974) that are within its jurisdiction or functions, and (2) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction that it intends to be effective during that fiscal year.

c. Budget Act Compliance: Subdivision of Allocations (See Appendix C).—As soon as practicable after a concurrent resolution on the budget for any fiscal year is agreed to, the Committee (after consulting with the appropriate committee or committees of the Senate) shall subdivide any allocations made to it in the joint explanatory statement accompanying the conference report on such resolution, and promptly report such subdivisions to the House, in the manner provided by section 602 of the Congressional Budget Act of 1974.

d. Budget Act Compliance: Recommended Changes (See Appendix C).—Whenever the Committee is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process, it shall promptly make such determination and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget, in accordance with the Congressional Budget Act of 1974.

e. Conference Committees.—Whenever in the legislative process it becomes necessary to appoint conferees, the Chairman shall determine the number of conferees the Chairman deems most suitable and then recommend to the Speaker as conferees, in keeping with the number to be chosen, the names of those members of the Committee who were primarily responsible for the legislation and, to the fullest extent feasible, those members of the Committee who were the principal proponents of the major provisions of the bill as it passed the House and such other Committee members of the majority party as the Chairman may designate in consultation with the members of the majority party. Such recommendations shall provide a ratio of majority party members to minority party members no less favorable to the majority party than the ratio of majority members to minority party members on the Committee. In making recommendations of minority party members as conferees, the Chairman shall consult with the Ranking Minority Member of the Committee.

f. Committee Records.—All Committee or Subcommittee hearing materials, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the member serving as Chairman, and such records shall be the property of the House with all Members of the House having access thereto. The Staff Director shall promptly notify the Chairman and Ranking Minority Member of any request for access to such records.

g. Archiving of Committee Records.—The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule XXXVI of the Rules of the House of Representatives. The Chairman shall notify the Ranking Minority member of any decisions, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any member of the Committee.

VI. SUBCOMMITTEES

a. Number and Composition.—There shall be such Subcommittees as specified in clause b. of this rule. Each of such Subcommittees shall be composed of the number of members set forth in such clause b., including ex officio members.[1] The Chairman may create additional Subcommittees of an ad hoc nature as the Chairman determines to be appropriate.

b. Jurisdiction.—The Subcommittees shall have the following general jurisdiction and number of members.

Commodity subcommittees

General Farm Commodities (26 members, 16 majority and 10 minority).—Wheat, feed grains, soybeans, oilseeds not otherwise assigned, cotton, cottonseed, rice, dry beans, peas, and lentils, generally.

Livestock (18 members, 11 majority and 7 minority).—Livestock (including aquaculture), dairy, poultry, and animal welfare, generally.

Specialty Crops and Natural Resources (22 members, 14 majority and 8 minority).—Tobacco, peanuts, sugar, bees (honey), forestry, domestic marketing, and marketing orders, generally.

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[1] The Chairman and Ranking Minority Member of the Committee (See clause d. of this Rule).

Operational subcommittees

Department Operations and Nutrition (24 members, 15 majority and 9 minority).—Agency review and analysis, research, pesticides, food safety, nutrition, food stamps, and consumer programs, generally.

Environment, Credit and Rural Development (27 members, 17 majority and 10 minority).—Water and soil conservation, small watershed program, agricultural credit, commodity futures, rural development, family farming, and energy matters, generally.

Foreign Agriculture and Hunger (15 members, 9 majority and 6 minority).—Foreign agricultural programs, hunger, oversight not otherwise assigned, and special investigations, generally.

c. Referral of Legislation.—In the case of any measure or matter not specifically described above, or that includes the jurisdiction of two or more Subcommittees, the Chairman may, unless the Committee by a majority vote decides otherwise, refer such measure or matter simultaneously to two or more Subcommittees for concurrent consideration or for consideration in sequence (subject to appropriate time limitations in the case of any Subcommittees), or divide the matter into two or more parts reflecting different subjects and jurisdiction and refer each part to a different Subcommittee, or refer the matter to an ad hoc Subcommittee appointed by the Chairman for the specific purpose of considering that matter and reporting to the Committee thereon, or make such other provisions as may be appropriate. The Chairman, with the approval of a majority of the Committee, shall have authority to discharge a Subcommittee from further consideration of any bill, resolution, or other matter referred thereto and have such bill, resolution, or other matter considered by the Committee. All legislation and other matters referred to the Committee shall be referred to all Subcommittees of appropriate jurisdiction within two weeks unless, by majority vote of the members of the Committee, consideration is to be by the Committee.

d. Service on Subcommittees.—The Chairman and the Ranking Minority Member shall serve as ex officio members of all Subcommittees and shall have the right to vote on all matters before such Subcommittees, but shall not be counted for the purpose of establishing a quorum. Any member of the Committee may have the privilege of sitting with any Subcommittee during its hearing or deliberations and participate therein, but shall not have authority to vote on any matter, nor be counted present for the purpose of a quorum for any Subcommittee action, nor, except as the Subcommittee Chairman or a majority of the Subcommittee may permit, participate in questioning of witnesses under the five-minute rule, nor raise points of order unless such member is a member of such Subcommittee.

e. Subcommittee Hearings and Meetings.—Each Subcommittee is authorized to meet, hold hearings, receive evidence, and report to the Committee on all matters referred to it or under its jurisdiction. Subcommittee Chairmen shall set dates for hearings and meetings of their Subcommittees, after consultation with the Chairman of the Committee and one another, with a view toward avoiding simultaneous scheduling of Committee and Subcommittee meetings or hearings whenever possible. Notice of all such meetings shall be given to the Chairman and the Ranking Minority Member of the Committee by the Staff Director. No Subcommittee shall hold meetings or hearings outside of the House unless permission to do so is granted by the Chairman, or a majority, of the Committee. If a vacancy should occur in a Subcommittee chairmanship, the Chairman of the Committee may set the dates for hearings and meetings of the Subcommittee during the period between the date of vacancy and the date the vacancy is filled. The provisions of Rule II. a. regarding notice and agenda of Committee meetings and of Rule II. b. regarding special meetings shall apply as well to Subcommittee meetings.

f. Subcommittee Action.—Any bill, resolution, recommendation, or other matter ordered reported to the Committee by a Subcommittee shall be promptly reported by the Subcommittee Chairman or any Subcommittee member authorized to do so by the Subcommittee. Upon receipt of such report, the Staff Director shall promptly advise all members of the Committee of the Subcommittee action. The Committee shall not consider any matters reported by Subcommittees until two calendar days have elapsed from the date of reporting, unless the Chairman or a majority of the Committee determines otherwise.

g. Subcommittee Investigations.—No investigation shall be initiated by a Subcommittee without the approval of the Chairman of the Committee or a majority of the Committee.

VII. COMMITTEE BUDGET, STAFF, AND TRAVEL

a. Committee Budget.—The Chairman, in consultation with the majority members of the Committee, shall for each session of the Congress prepare a preliminary budget. Such budget shall include necessary amounts for staff personnel, travel, investigation, and other expenses of the Committee and Subcommittees thereof. After consultation with the Ranking Minority Member, the Chairman shall include an amount budgeted to minority members for staff under their direction and supervision. Thereafter, the Chairman shall combine such proposals into a consolidated Committee budget, and shall take whatever action is necessary to have such budget duly authorized by the House.

b. Committee Staff.—The staff of the Committee shall perform such duties as are authorized by law and shall be under the general supervision and direction of the Chairman. Staff assigned to each Subcommittee shall perform such duties as are authorized by law and shall be under the general supervision and direction of the Chairman of the Committee and the Chairman of the Subcommittee. Committee members seeking assistance from the staff shall make their request through the Chairman or Ranking Minority Member. The Chairman shall ensure that each Subcommittee is adequately funded and staffed to discharge its responsibilities.

c. Committee Travel.—Funds authorized for the Committee under clause 5 of House Rule XI are for expenses incurred in the Committee's activities within the United States; however, local currencies owned by the United States shall be made available to the Committee and its employees engaged in carrying out their official duties outside the United States, its territories or possessions., No appropriated funds shall be expended for the purpose of defraying expenses of members of the Committee or its employees in any country where local currencies are available for this purposes; and the following conditions shall apply with respect to their use of such currencies:

(1) No member or employee of the Committee shall receive or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in applicable Federal law; and

(2) Each member or employee of the Committee shall make an itemized report to the Chairman within 60 days following the completion of travel showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, and any funds expended for any other official purpose, and shall summarize in the categories the total foreign currencies and appropriated funds expended. All such individual reports shall be filed by the Chairman with the Committee on House Administration and shall be open to public inspection.

VIII. AMENDMENT OF RULES

These rules may be modified, amended, or repealed, by a majority vote of the Committee, provided that two legislative days written notice of the proposed change has been provided each member of the Committee prior to the meeting date on which such changes are to be discussed and voted upon.

APPENDIX A

Proxy

Because I will be absent on official business or otherwise unable to be present, I hereby designate the Honorable ________ to cast my votes as hereinafter indicated on the following bill, resolution, or matter:

H.R. ________.

S. ________.

Other ________.

The proxy may be used on the following days: ________.

My votes shall be cast in such manner as the proxy holder deems appropriate, subject to the following limitations (specify): ________.

(Signature) ________.

(Date) ________. (Time) ________.

RULES OF PROCEDURE FOR THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE FOR THE 103D CONGRESS

(Mr. GLICKMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GLICKMAN. Mr. Speaker, pursuant to clause 2(a) of House rule XI, I submit herewith a copy of the Rules of Procedure adopted on February 3, 1993, by the Permanent Select Committee on Intelligence for the 103d Congress.

RULES OF PROCEDURE FOR THE HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

1. CONVENING OF MEETINGS

The regular meeting day of the Permanent Select Committee on Intelligence for the transaction of committee business shall be on the first Wednesday of each month, unless otherwise directed by the chairman.

In the case of any meeting of the committee, other than a regularly scheduled meeting, the clerk of the committee shall notify every member of the committee of the time and place of the meeting and shall give reasonable notice which, except in extraordinary circumstances, shall be at least 24 hours in advance of any meeting held in Washington, D.C., and at least 48 hours in the case of any meeting held outside Washington, D.C.

2. PREPARATIONS FOR COMMITTEE MEETINGS

Under direction of the chairman, designated committee staff members shall brief members of the committee at a time sufficiently prior to any committee or subcommittee meeting to assist the committee members in preparation for such meeting and to determine any matter which the committee members might wish considered during the meeting. Such briefing shall, at the request of a member, include a list of all pertinent papers and other materials that have been obtained by the committee that bear on matters to be considered at the meeting.

The staff director shall recommend to the chairman the testimony, papers, and other materials to be presented to the committee or subcommittee at any meeting. The determination whether such testimony, papers, and other materials shall be presented in open or executive session shall be made pursuant to the Rules of the House and these rules.

3. MEETING PROCEDURES

Meetings of the committee and its subcommittees shall be open to the public except that a portion or portions of any such meeting may be closed to the public if the committee or subcommittee, as the case may be, determines by record vote in open session and with a majority present that the matters to be discussed or the testimony to be taken at such portion or portions:

1. Will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

2. Will relate solely to matters of committee staff personnel or internal staff management or procedure;

3. Will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual except that, at a hearing which may tend to defame, degrade or incriminate any person, the hearing may be closed to the public consistent with clause 2(g)(2) and clause 2(k)(5) of Rule XI of the Rules of the House;

4. Will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

5. Will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(A) an act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person.

6. Will violate any other law of the United States or any rule of the House of Representatives.

Except for purposes of taking testimony or receiving evidence, for which purposes a quorum shall consist of two committee members, a quorum for the transaction of any other committee business shall consist of ten committee members. Decisions of the committee shall be by majority vote of the members present and voting.

Whenever the committee by rollcall vote reports any measure or matter, the report of the committee upon such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter.

4. PROCEDURES RELATED TO THE TAKING OF TESTIMONY

Notice.—Reasonable notice shall be given to all witnesses appearing before the committee.

Oath or Affirmation.—Testimony of witnesses shall be given under oath or affirmation which may be administered by any member of the committee, except that the chairman of the committee or of any subcommittee shall not require an oath or affirmation where the chairman determines that it would not be appropriate under the circumstances.

Interrogation.—Committee or subcommittee interrogation shall be conducted by members of the committee and such committee staff as are authorized by the chairman or the presiding member.

Counsel for the Witness.—(A) Any witness may be accompanied by counsel. A witness who is unable to obtain counsel may inform the committee of such fact. If the witness informs the committee of this fact at least 24 hours prior to the witness' appearance before the committee, the committee shall then endeavor to obtain voluntary counsel for the witness. Failure to obtain such counsel will not excuse the witness from appearing and testifying.

(B) Counsel shall conduct themselves in an ethical and professional manner. Failure to do so shall, upon a finding to that effect by a majority of the members of the committee, a majority being present, subject such counsel to disciplinary action which may include censure, removal, or a recommendation of contempt proceedings, except that the chairman of the committee or of a subcommittee may temporarily remove counsel during proceedings before the committee or subcommittee unless a majority of the members of the committee or subcommittee, a majority being present, vote to reverse the ruling of the chair.

(C) There shall be no direct or cross-examination by counsel. However, counsel may submit in writing any question counsel wishes propounded to a client or to any other witness and may, at the conclusion of such testimony, suggest the presentation of other evidence or the calling of other witnesses. The committee or subcommittee may use such questions and dispose of such suggestions as it deems appropriate.

Statements by Witnesses.—A witness may make a statement, which shall be brief and relevant, at the beginning and conclusion of the witness' testimony. Such statements shall not exceed a reasonable period of time as determined by the chairman, or other presiding member. Any witness desiring to make a prepared or written statement for the record of the proceedings shall file a copy with the clerk of the committee, and insofar as practicable and consistent with the notice given, shall do so at least 72 hours in advance of the witness' appearance before the committee.

Objections and Ruling.—Any objection raised by a witness or counsel shall be ruled upon by the chairman or other presiding member, and such ruling shall be the ruling of the committee unless a majority of the committee present overrules the ruling of the chair.

Transcripts.—A transcript shall be made of the testimony of each witness appearing before the committee or any subcommittee during a committee or subcommittee hearing.

Inspection and Correction.—All witnesses testifying before the committee or any subcommittee shall be given a reasonable opportunity to inspect the transcript of their testimony to determine whether such testimony was correctly transcribed. The witness may be accompanied by counsel. Any corrections the witness desires to make in the transcript shall be submitted in writing to the committee within 5 days from the date when the transcript was made available to the witness. Corrections shall be limited to grammar and minor editing, and may not be made to change the substance of the testimony. Any questions arising with respect to such corrections shall be decided by the chairman. Upon request, those parts of testimony given by a witness in executive session which are subsequently quoted or made part of a public record shall be made available to that witness at the witness' expense.

Requests to Testify.—The committee or any subcommittee will consider requests to testify on any matter or measure pending before the committee or subcommittee. A person who believes that testimony or other evidence presented at a public hearing, or any comment made by a committee member or a member of the committee staff may tend to affect adversely that person's reputation, may request to appear personally before the committee to testify on his or her own behalf, or may file a sworn statements of facts relevant to the testimony, evidence, or comment, or may submit to the chairman proposed questions in writing for the cross-examination of other witnesses. The committee shall take such actions as it deems appropriate.

Contempt Procedures.—No recommendation that a person be cited for contempt of Congress shall be forwarded to the House unless and until the committee has, upon notice to all its members, met and considered the alleged contempt, afforded the person an opportunity to state in writing or in person why he or she should not be held in contempt, and agreed, by majority vote of the committee to forward such recommendation to the House.

Release of Name of Witness.—At the request of any witness, the name of that witness scheduled to be heard by the committee shall not be released prior to, or after, the witness' appearance before the committee, unless otherwise authorized by the chairman.

Closing hearings.—A vote to close a committee or subcommittee hearing may not be taken by less than a majority of the committee or the subcommittee pursuant to clause 4 of House Rule XLVIII unless at least one member of the minority is present to vote upon a motion to close the hearing.

5. SUBCOMMITTEES

Creation of subcommittees shall be by majority vote of the committee. Subcommittees shall deal with such legislation and oversight of programs and policies as the committee may direct. The subcommittees shall be governed by the rules of the committee.

Except for purposes of taking testimony or receiving evidence, for which purposes a quorum shall consist of two subcommittee members, a quorum for the transaction of any other subcommittee business shall consist of a majority of the subcommittee.

There are hereby established the following subcommittees:

(1) Program and Budget Authorization.
(2) Legislation.
(3) Oversight and Evaluation.

6. INVESTIGATIONS

No investigation shall be conducted by the committee unless approved by the full committee, a majority being present; provided, however, that an investigation may be initiated—

(1) at the direction of the chairman of the full committee, with notice to the ranking minority member of the full committee; or

(2) at the written request to the chairman of the full committee of at least five members of the committee,

except that any investigation initiated under (1) or (2) must be brought to the attention of the full committee for approval at the next regular meeting of the full committee following initiation of the investigation. Authorized investigations may be conducted by members of the committee and/or by designated committee staff members.

7. SUBPOENAS

Unless otherwise determined by the committee, the chairman, upon consultation with the ranking minority member, or the committee, shall authorize and issue subpoenas. Subpoenas for the attendance of witnesses or the production of memoranda, documents, records or any other material may be issued by the chairman, or any member of the committee designated by the chairman, and may be served by any person designated by the chairman or member issuing the subpoenas. Each subpoena shall have attached thereto a copy of these rules.

8. STAFF

For the purpose of these rules, committee staff means employees of the committee, consultants to the committee, employees of other Government agencies detailed to the committee, or any other person engaged by contract or otherwise to perform services for or at the request of the committee.

The appointment of committee staff shall be by the chairman in consultation with the ranking minority member. After confirmation, the chairman shall certify committee staff appointments to the Clerk of the House in writing.

The committee staff works for the committee as a whole, under the supervision of the chairman of the committee. Except as otherwise provided by the committee, the duties of committee staff shall be performed and committee staff personnel affairs and day-to-day operations, including security and control of classified documents and material, shall be administered under the direct supervision and control of the staff director.

The committee staff shall assist the minority as fully as the majority in all matters of committee business and in the preparation and filing of additional, separate and minority views, to the end that all points of view may be fully considered by the committee and the House.

The members of the committee staff shall not discuss either the classified substance or procedure of the work of the committee with any person not a member of the committee or the committee staff for any purpose or in connection with any proceeding, judicial or otherwise, either during that person's tenure as a member of the committee staff or at any time thereafter except as directed by the committee in accordance with clause 7 of House Rule XLVIII and the provisions of these rules, or, in the event of the termination of the committee, in such a manner as may be determined by the House.

No member of the committee staff shall be employed by the committee unless and until such a member of the committee staff agrees in writing, as a condition of employment, not to divulge any classified information which comes into such person's possession while a member of the committee staff or any classified information which comes into such person's possession by virtue of his or her position as a member of the committee staff to any person not a member of the committee or the committee staff, either while a member of the committee staff or at any time thereafter except as directed by the committee in accordance with clause 7 of House Rule XLVIII and the provisions of these rules, or in the event of the termination of the committee, in such manner as may be determined by the House.

No member of the committee staff shall be employed by the committee unless and until such a member of the committee staff agrees in writing, as a condition of employment, to notify the committee, or, in the event of the committee's termination, the House, of any request for testimony, either while a member of the committee staff or at any time thereafter with respect to classified information which came into the staff member's possession by virtue of his or her position as a member of the committee staff. Such classified information shall not be disclosed in response to such requests except as directed by the committee in accordance with clause 7 of House Rule XLVIII and the provisions of these rules, or in the event of the termination of the committee, in such manner as may be determined by the House.

The committee shall immediately consider disciplinary action to be taken in case any member of the committee staff fails to conform to any of these rules. Such disciplinary action may include, but shall not be limited to, immediate dismissal from the committee staff.

9. RECEIPT OF CLASSIFIED MATERIAL

In the case of any information classified under established security procedures and submitted to the committee by the executive or legislative branch, the committee's acceptance of such information shall constitute a decision by the committee that it is executive session material and shall not be disclosed publicly or released unless the committee, by rollcall vote, determines, in a manner consistent with clause 7 of House Rule XLVIII, that it should be disclosed publicly or otherwise released. For purposes of receiving information from either the executive or legislative branch, the committee staff may accept information on behalf of the committee.

10. PROCEDURES RELATED TO CLASSIFIED OR SENSITIVE MATERIAL

(a) Committee staff offices shall operate under strict security precautions. At least one security officer shall be on duty at all times by the entrance to control entry. Before entering the office all persons shall identify themselves.

Sensitive or classified documents and material shall be segregated in a security storage area. They may be examined only at secure reading facilities. Copying, duplicating, or removal from the committee offices of such documents and other materials are prohibited except as is necessary for use in, or preparation for, interviews or committee meetings, including the taking of testimony in conformity with these rules.

Each member of the committee shall at all times have access to all papers and other material received from any source. The staff director shall be responsible for the maintenance, under appropriate security procedures, of a registry which will number and identify all classified papers and other classified materials in the possession of the committee and such registry shall be available to any member of the committee.

(b) Pursuant to clause (7)(c)(2) of House Rule XLVIII and to clause (2)(e)(2) and clause 2(g)(2) of House Rule XI, members who are not members of the committee shall be granted access to such transcripts, records, data, charts and files of the committee and be admitted on a nonparticipatory basis to hearings or briefings of the committee which involve classified material, on the basis of the following provisions:

(1) Members who desire to examine materials in the possession of the committee or to attend committee hearings or briefings on a nonparticipatory basis should notify the clerk of the committee in writing.

(2) Each such request by a member must be considered by the committee, a quorum being present, at the earliest practicable opportunity. The committee must determine by record vote whatever action it deems necessary in light of all the circumstances of each individual request. The committee shall take into account, in its deliberations, such considerations as the sensitivity of the information sought to the national defense or the confidential conduct of the foreign relations of the United States, the likelihood of its being directly or indirectly disclosed, the jurisdictional interest of the member making the request and such other concerns—constitutional or otherwise—as affect the public interest of the United States. Such actions as the committee may take include, but are not limited to: (i) approving the request, in whole or part; (ii) denying the request; (iii) providing in different form than requested information or material which is the subject of the request.

(3) In matters touching on such requests, the committee may, in its discretion, consult the Director of Central Intelligence and such other officials as it may deem necessary.

(4) In the event that the member making the request in question does not accede to the determination or any part thereof of the committee as regards the request, that member should notify the committee in writing of the grounds for such disagreement. The committee shall subsequently consider the matter and decide, by record vote, what further action or recommendation, if any, it will take.

(c) Pursuant to Section 501 of the National Security Act of 1947 (50 U.S.C. 413) and to clauses 3(a) and 7(c)(2) of House Rule XLVIII, the committee shall call to the attention of the House or to any other appropriate committee or committees of the House any matters requiring the attention of the House or such other committee or committees of the House on the basis of the following provisions:

(1) At the request of any member of the committee, the committee shall meet at the earliest practicable opportunity to consider a suggestion that the committee call to the attention of the House or any other committee or committees of the House executive session material.

(2) In determining whether any matter requires the attention of the House or any other committee or committees of the House, the committee shall consider, among such other matters it deems appropriate—

(A) the effect of the matter in question upon the national defense or the foreign relations of the United States;

(B) whether the matter in question involves sensitive intelligence sources and methods;

(C) whether the matter in question otherwise raises serious questions about the national interest; and

(D) whether the matter in question affects matters within the jurisdiction of another committee or committees of the House.

(3) In examining the considerations described in paragraph (2), the committee may seek the opinion of members of the committee appointed from standing committees of the House with jurisdiction over the matter in question or to submissions from such other committees. Further, the committee may seek the advice in its deliberations of any executive branch official.

(4) If the committee, with a quorum present, by record vote decides that a matter requires the attention of the House or a committee or committees of the House which the committee deems appropriate, it shall make arrangements to notify the House or committee or committees promptly.

(5) In bringing a matter to the attention of another committee or committees of the House, the committee, with due regard for the protection of intelligence sources and methods, shall take all necessary steps to safeguard materials or information relating to the matter in question.

(6) The method of communicating matters to other committees of the House shall insure that information or material designated by the committee is promptly made available to the chairman and ranking minority member of such other committees.

(7) The committee may bring a matter to the attention of the House when it considers the matter in question so grave that it requires the attention of all members of the House, if time is of the essence, or for any other reason which the committee finds compelling. In such case, the committee shall consider whether to request an immediate secret session of the House (with time equally divided between the majority and the minority) or to publicly disclose the matter in question pursuant to clause 7 of House Rule XLVIII.

(d) Whenever the select committee makes classified material available to any other committee of the House or to any member of the House not a member of the committee, the clerk of the committee shall be notified. The clerk shall at that time provide a copy of the applicable portions of these rules and of House Rule XLVIII and other pertinent Rules of the House to such members or such committee and insure that the conditions contained therein under which the classified materials provided are clearly presented to the recipient. The clerk of the committee shall also maintain a written record identifying the particular information transmitted, the reasons agreed upon by the committee for approving such transmission and the committee or members of the House receiving such information. The staff director of the committee is further empowered to provide for such additional measures as he or she deems necessary in providing material which the committee has determined to make available to a member of the House or a committee of the House.

(e) Access to classified information supplied to the committee shall be limited to those committee staff members with appropriate security clearance and a need-to-know, as determined by the committee, and under the committee's direction, the staff director.

No member of the committee or of the committee staff shall disclose, in whole or in part or by way of summary, to any person not a member of the committee or the committee staff for any purpose or in connection with any proceeding, judicial or otherwise, any testimony given before the committee in executive session, or the contents of any classified papers or other classified materials or other classified information received by the committee except as authorized by the committee in a manner consistent with clause 7 of House Rule XLVIII and the provisions of these rules, or in the event of the termination of the committee, in such a manner as may be determined by the House.

Before the committee makes any decision regarding a request for access to any testimony, papers or other materials in its possession or a proposal to bring any matter to the attention of the House or a committee or committees of the House, committee members shall have a reasonable opportunity to examine all pertinent testimony, papers, and other materials that have been obtained by the committee.

(f) Before any member of the committee or the committee staff may have access to classified information the following oath shall be executed:

I do solemnly swear (or affirm) that I will not disclose any classified information received in the course of my service on the House Permanent Select Committee on Intelligence, except when authorized to do so by the committee or the House of Representatives.

Copies of the executed oath shall be retained in the files of the committee.

11. LEGISLATIVE CALENDAR

The clerk of the committee shall maintain a printed calendar for the information of each committee member showing the measures introduced and referred to the committee and the status of such measures—and such other matters as the committee determines shall be included. The calendar shall be revised from time to time to show pertinent changes. A copy of each such revision shall be furnished to each member of the committee.

Unless otherwise ordered, measures referred to the committee shall be referred by the clerk of the committee to the appropriate department or agency of the Government for reports thereon.

12. COMMITTEE TRAVEL

No member of the committee or committee staff shall travel on committee business unless specifically authorized by the chairman. Requests for authorization of such travel shall state the purpose and extent of the trip. A full report shall be filed with the committee when travel is completed.

When the chairman approves the foreign travel of a member of the committee staff not accompanying a member of the committee, all members of the committee are to be advised, prior to the commencement of such travel of its extent, nature and purpose. The report referred to in the previous paragraph shall be furnished to all members of the committee and shall not be otherwise disseminated without the express authorization of the committee pursuant to the rules of the committee.

13. BROADCASTING COMMITTEE MEETINGS

Whenever any hearing or meeting conducted by the committee or any subcommittee is open to the public, a majority of the committee or subcommittee, as the case may be, may permit that hearing or meeting to be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, subject to the provisions and in accordance with the spirit of the purposes enumerated in clause 3 of Rule XI of the Rules of the House.

14. COMMITTEE RECORDS TRANSFERRED TO THE NATIONAL ARCHIVES

The records of the committee at the National Archives and Records Administration shall be made available for public use in accordance with rule XXXVI of the Rules of the House of Representatives. The chairman shall notify the ranking minority member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the committee for a determination on the written request of any member of the committee.

15. CHANGES IN RULES

These rules may be modified, amended, or repealed by the committee, provided that a notice in writing of the proposed change has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken.

RULES OF PROCEDURE FOR THE COMMITTEE ON MERCHANT MARINE AND FISHERIES FOR THE 103D CONGRESS

(Mr. STUDDS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STUDDS. Mr. Speaker, in accordance with clause 2(a) of rule XI of the Rules of the House of Representatives, I hereby submit for publication in the CONGRESSIONAL RECORD the rules of the Committee on Merchant Marine and Fisheries for the 103d Congress, which were adopted by the Committee in open meeting on January 7, 1993.

RULES OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES

RULE I. APPLICABILITY OF HOUSE RULES

The Rules of the House insofar as they are applicable shall be the Rules of the Committee and its Subcommittees.

RULE II. JURISDICTION

As established in Rule X of the House Rules, the jurisdiction of the Committee on Merchant Marine and Fisheries is:

(1) Merchant marine generally.

(2) Oceanography and Marine Affairs, including coastal zone management.

(3) Coast Guard, including lifesaving service, lighthouses, lightships, and ocean derelicts.

(4) Fisheries and wildlife, including research, restoration, refuges, and conservation.

(5) Measures relating to the regulation of common carriers by water (except matters subject to the jurisdiction of the Interstate Commerce Commission) and to the inspection of merchant marine vessels, lights and signals, lifesaving equipment, and fire protection on such vessels.

(6) Merchant marine officers and seamen.

(7) Navigation and the laws relating thereto, including pilot-age.

(8) Panama Canal and the maintenance and operation of the Panama Canal, including the administration, sanitation, and government of the Canal Zone; and interoceanic canals generally.

(9) Registering and licensing of vessels and small boats.

(10) Rules and international arrangements to prevent collisions at sea.

(11) United States Coast Guard and Merchant Marine Academies, and State Maritime Academies.

(12) International fishing agreements.

RULE III. FUNCTIONS

(A) *General Oversight Responsibilities.*—

(1) The Committee shall review and study, on a continuing basis:

(a) the application, administration, execution, and effectiveness of those laws, or parts of laws, within its jurisdiction;

(b) the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution of these laws in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress and whether such programs should be continued, curtailed, or eliminated; and

(c) any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within its jurisdiction (whether or not any bill or resolution has been introduced with respect thereto).

(2) The Committee shall undertake future research and forecasting on matters within its jurisdiction.

(3) The Committee shall review and study on a continuing basis the impact or probable impact of tax policies affecting subjects within its jurisdiction.

(B) *Annual Appropriations.*—In its consideration of all public bills and joint resolutions, the Committee shall ensure that appropriations for continuing programs and activities will be made annually to the maximum extent feasible and consistent with the nature, requirements, and objectives of the programs and activities involved. The Committee shall review, from time to time, each continuing program within its jurisdiction for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefor would be made annually.

(C) *Views and Estimates.*—On or before February 25 of each year or such date as determined by the Committee on the Budget, the Committee shall submit to the Committee on the Budget:

(1) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year which are within its jurisdiction or functions; and

(2) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction which it intends to be effective during that fiscal year.

RULE IV. SUBCOMMITTEES

(A) *Applicability of Committee Rules.*—Written Rules adopted by the Committee, not inconsistent with the Rules of the House, shall be binding on each of its Subcommittees. Each Subcommittee is a part of the Full Committee and subject to its authority, direction, and Rules.

(B) *Standing Subcommittees.*—There shall be five standing Subcommittees: the Subcommittee on Merchant Marine; the Subcommittee on Coast Guard and Navigation; the Subcommittee on Environment and Natural Resources; the Subcommittee on Fisheries Management; and the Subcommittee on Oceanography, Gulf of Mexico, and the Outer Continental Shelf.

(C) *Other Panels, Task Forces, Special Subcommittees, or other Subunits.*—The Chairman, or a majority of the Committee, may establish, as determined to be appropriate for the conduct of Committee business, other panels, task forces, special subcommittees, or other subunits to operate for a period not to exceed six months.

(D) *Subcommittee Membership.*—

(1) The ratio of Majority Members to Minority Members on Subcommittees, including Ex Officio Members, shall be no less favorable to the Majority Party than the ratio of Membership on the Full Committee.

(2) A Committee Member may temporarily resign from his Subcommittee assignment to serve on another Subcommittee of the Committee in the event of a vacancy. Members returning to their Subcommittee assignment at the end of the temporary assignment shall return to their original assignment without prejudice to tenure or seniority.

(E) *Ex Officio and Other Committee Members.*—

(1) The Chairman and the Ranking Minority Member of the Full Committee shall serve as Ex Officio Members of all Subcommittees of which they are not designated as Chairman or Ranking Minority Member. They shall have the right to participate fully, including the right to vote on all matters before the Subcommittees, but shall not be counted in establishing the requirements of, or in determining, a quorum.

(2) Any Member of the Committee may sit with any Subcommittee of which he or she is not a Member during its hearings or meetings (including closed meetings) and participate therein, but may not vote on any matter, or be counted present for the purpose of determining a quorum, or raise points of order, or, except as the Subcommittee Chairman may permit, participate in questioning under the five-minute rule.

(F) *Subcommittee Meetings.*—

(1) Subcommittees may hold hearings, receive evidence, hear witnesses, and report to the Committee for final action, together with such recommendations as may be agreed upon by the Subcommittee, on such matters as the Chairman may refer to a Subcommittee.

(2) Dates for Subcommittee meetings shall be assigned as a result of consultation between the Chairman and Subcommittee Chairmen and as nearly as practicable in relation to, and in accordance with, workloads.

(3) Subcommittees shall not meet at the same time as the Full Committee without the express permission of the Chairman of the Committee.

(G) *Joint Subcommittee Markup.*—When two or more Subcommittees meet jointly to take action on any measure or matter, each Member shall be entitled to one vote on each amendment, motion, order, or proposition.

RULE V. MEETINGS

(A) *Regular Meetings.*—The Committee shall meet at 10 a.m., on the first Wednesday of each month in the Committee Hearing Room, 1334 Longworth House Office Building, while Congress is in session. This meeting may be dispensed with at the discretion of the Chairman, in consultation with the Ranking Minority Member, if there is no business.

(B) *Additional Meetings.*—The Chairman may call and convene additional meetings.

(C) *Meeting Notices.*—

(1) The date, time, place, and subject matter of meetings shall be announced to all Members of the Committee and the public at least one week in advance. If the Chairman, in consultation with the Ranking Minority Member, determines this is not possible, a public announcement and oral and confirming written notice to Committee Members shall be made at the earliest possible date.

(2) All meeting notices shall be promptly published in the Daily Digest and promptly entered into the Committee scheduling service of the House Information Systems.

(3) All Committee Members shall have adequate notice prior to Committee or Subcommittee investigations or hearings at locations other than Washington, D.C.

(D) *Special Meetings.*—

(1) Three or more Committee Members may file with the Committee Clerk, a signed, written request to the Chairman for a special meeting of the Committee, specifying the measure or matter to be considered.

(2) If, within three calendar days after the filing of the request, the Chairman does not call the requested special meeting to be held within seven calendar days after the filing of the request, a majority of the Members of the Committee may file with the Committee Clerk their signed, written notice that a special meeting of the Committee will be held, specifying the date and hour of, and the measure or matter to be considered at, that special meeting. The Committee shall meet on that date and hour. Only the measure or matter specified in that notice may be considered at that special meeting. Immediately upon the filing of that notice, the Clerk of the Committee shall notify all Members of the Committee of the special meeting.

(3) The above procedures also apply to Subcommittees, except that the number of Subcommittee Members required to request a special Subcommittee meeting is two, and a majority of the Members of the Subcommittee must file their signed written notice with the Subcommittee Clerk.

(E) *Conflict With Party Caucus or Conference.*—When a Party Caucus or Conference of either Party directly conflicts with a scheduled Committee meeting, the meeting of the Committee shall be cancelled. The Clerk of the Committee shall give oral and confirming written notice to that effect to all Committee Members. The Chairman shall reschedule the meeting at the earliest practical time.

(F) *Prohibition Against Meeting During Joint Sessions and Joint Meetings.*—The Committee may not sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress.

RULE VI. COMMITTEE PROCEDURE

(A) *Applicability of House Procedure.*—The procedure in the Committee and its Subcommittees shall follow the procedure of the House.

(B) *Referral of Legislation.*—

(1) All legislation and other matters referred to the Committee shall be referred by the Chairman to all Subcommittees of appropriate jurisdiction within two weeks, unless by majority vote of the Majority Party Members of the Full Committee or by agreement between or among the Chairman and all the Subcommittee Chairmen to whom the legislation or other matter would otherwise be referred, consideration is to be by the Full Committee.

(2) The Chairman may refer any measure or matter simultaneously to two or more Subcommittees for concurrent consideration, or for consideration in sequence (subject to appropriate time limitations in the case of any Subcommittee), or divide the matter into two or more parts (reflecting different subjects and jurisdictions) and refer each such part to a different Subcommittee.

(C) *Power To Sit and Act and Subpoena Power.*—

(1) For the purpose of carrying out any of its functions and duties under Rules X and XI of the House of Representatives, the Committee, or any Subcommittee, is authorized:

(a) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or had adjourned;

(b) to hold hearings; and

(c) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary.

(2) A subpoena may be authorized and issued by the Committee or a Subcommittee under subparagraph (1)(c) in the conduct of any investigation or activity or series of investigations or activities, when authorized by a majority of the Members voting, a majority being present.

(3) The power to authorize and issue subpoenas is also delegated to the Chairman of the Full Committee.

(4) Authorized subpoenas shall be signed by the Chairman of the Committee or by any Member designated by the Committee.

(5) Compliance with any subpoena issued by a Committee or a Subcommittee may be enforced only as authorized or directed by the House.

(6) The Chairman of the Committee, or any Member designated by the Chairman, may administer oaths to any witness.

(D) *Vice Chairman or Ranking Majority Member to Preside in Absence of Chairman.*—

(1) *Committee.* The Member of the majority party on the Committee ranking immediately after the Chairman shall be the Vice Chairman of the Committee and shall preside at any meeting of the Committee during the temporary absence of the Chairman. If the Chairman and Vice Chairman of the Committee are not present at any meeting of the Committee, the Ranking Member of the majority party who is present shall preside at that meeting.

(2) *Subcommittees.* The Member of the majority party on each Subcommittee ranking immediately after the Chairman of the Subcommittee shall be the Vice Chairman of the Subcommittee and shall preside at any meeting of the Subcommittee during the temporary absence of the Chairman of the Subcommittee. If the Chairman and Vice Chairman of the Subcommittee are not present at any meeting of the Subcommittee, the Ranking Member of the majority party who is present shall preside at that meeting.

(E) *Quorums for Meetings, Markups, and Hearings.*—

(1) Except as provided below, one-third of the Members of the Committee shall constitute a quorum for the purpose of transacting Committee business.

(2) No measure or recommendation shall be reported from the Committee unless a majority of the Committee was actually present, which shall be deemed the case if the records of the Committee establish that a majority of the Committee responded on a rollcall vote on that question. No point of order shall lie with respect to any measure or recommendation on the ground that it was reported without a majority of the Committee actually present unless such point of order was timely made in Committee.

(3) Testimony may be taken and evidence received in any meeting at which there are present not fewer than two Members of the Committee, one of whom should be, whenever possible, a Minority Member. Unless at least two Members are present, at least one of whom is a Majority Member, the meeting must be adjourned.

(4) Proxies may not be counted for a quorum.

(F) *Members' Opening Statements at Hearings.*—Opening statements by Members at the beginning of any hearing of the Committee or any of its subcommittees shall be limited to five minutes each for the Chairman and Ranking Minority Member or their designee and one minute each for all other Members.

(G) *Amendments to be Offered at a Committee Markup.*—To the maximum extent possible, when a bill or resolution is being considered by the Committee, Members shall provide the Chief Clerk in a timely manner a sufficient number of written copies of any proposed amendment to enable each Member to receive a copy thereof prior to taking action in a Committee markup. A brief explanation of the effect of the amendment should be included with the text of the amendment.

(H) *Open Meetings.*—Each business meeting, including the markup of legislation, of the Committee and its Subcommittees shall be open to the public, except as provided below.

(I) *Closed Meetings.*—

(1) The Committee or Subcommittee, by a rollcall vote in open session and with a majority present, may determine that all or a part of the remainder of the business meeting, including the markup of legislation, on that day shall be closed to the public.

(2) If the meeting or markup is closed, no person other than Members of the Committee, and Congressional staff and departmental representatives as the Members may authorize, may be present.

(3) Any meeting that relates solely to internal budget or personnel matters may be closed by the Chairman after consultation with the Ranking Minority Member.

(J) *Closed Hearings.*—

(1) Each hearing conducted by the Committee or a Subcommittee shall be open to the public except when the Committee or Subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence or other matters to be considered would endanger the national security or would violate any law or Rule of the House of Representatives.

(2) Notwithstanding paragraph (1), a majority of those present, if the number required for the purpose of taking testimony are present, may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security or tend to defame, degrade, or incriminate any person.

(3) The Committee or Subcommittee may by the same procedure, vote to close one subsequent day of hearing.

(4) No Member of the House may be excluded from nonparticipatory attendance at any hearing of the Committee or its Subcommittees, unless the House of Representatives, by majority vote, authorizes the Committee or the Subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures for closing hearings to the public.

(K) *Investigative Hearings.*—

(1) The Chairman shall announce in the opening statement the subject of the investigation.

(2) Except as provided by the rule for closing an investigative hearing, the Chairman shall receive and the Committee shall dispose of requests to subpoena additional witnesses.

(3) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Committee.

(4) At the discretion of the Committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(L) *Closed Investigative Hearings.*—

(1) Whenever it is asserted that the evidence or testimony at an investigatory hearing may tend to defame, degrade, or incriminate any person, such testimony or evidence shall be presented in executive session, if by a majority of those present, there being in attendance the requisite number required under the Rules of the Committee to be present for the purpose of taking testimony, the Committee determines that such evidence or testimony may tend to defame, degrade, or incriminate any person.

(2) The Committee shall proceed to receive such testimony in open session only if a majority of the Members of the Committee, a majority being present, determine that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

(3) In either case, the Committee shall afford such person an opportunity voluntarily to appear as a witness, and shall receive and dispose of requests from such person to subpoena additional witnesses.

(M) *Questioning of Witnesses.*—

(1) Committee Members may question witnesses only when they have been recognized by the Chairman for that purpose. All questioning shall be pertinent to the subject matter of the hearing.

(2) After completing his questioning, the Chairman shall recognize the other Members beginning with the Ranking Minority Member and then the Ranking Majority Member, and thereafter, alternating between Minority and Majority, taking into consideration the ratio of Majority to Minority representation on the Committee. Each Member may request up to five minutes in each round of questioning. Additional time may be extended at the discretion of the Chairman.

(N) *Minority Witnesses.*—A majority of the Minority Members shall be entitled, upon request to the Chairman before the completion of any hearing, to call witnesses with respect to that measure or matter during at least one day of hearing.

(O) *Points of Order.*—No point of order shall lie with respect to any measure reported by the Committee on the ground that hearings on the measure were not conducted in accordance with the Rules governing open or closed hearings, public notice of hearings, or the requirements for advance filing and summarizing of statements by witnesses; except that a point of order on these grounds may be made by any Member of the Committee if, in the Committee, the point of order was timely made, and improperly overruled or not properly considered.

(P) *Ordering of Rollcall Votes.*—A rollcall vote may be ordered by one-fifth of the Members present.

(Q) *Proxies.*—

(1) A Member may vote by proxy only on a specific measure or matter and any amendments or motions pertaining to it; except that a Member may authorize a proxy for all motions to recess, adjourn, or other procedural matters.

(2) In order to be considered a valid and duly executed proxy, the proxy authorization must: be in writing; assert that the Member is absent on official business, or is otherwise unable to be present at the meeting of the Committee; designate the person who is to execute the proxy authorization; and be signed by the Member assigning his or her

vote, noting the date and time that the proxy was signed.

(3) For a proxy to be valid in sessions on succeeding days, it must be stipulated in the proxy, and if not stipulated, cannot be voted.

(4) All executed proxies shall be delivered to the Clerk and kept at the desk during the proceedings of the Committee for which they are given and shall be included in the official records of the meeting after they have been voted.

(5) Points of order as to the validity of proxies must be made at the time the proxies are voted.

(6) Proxies may not be counted for a quorum.

(R) *Limitation on Floor Action Under Suspension of the Rules.*—No bill which directly or indirectly authorizes the expenditure of over $1 million in Federal funds shall be brought to the House Floor by the Committee under Suspension of the Rules if the text of the bill has been changed after it was reported by the Committee unless:

(1) the changes are purely technical and conforming; or

(2) all Members of the Committee have been provided a written copy of the changes at least twenty-four hours prior to the time the bill is considered in the House.

RULE VII. WITNESSES

(A) *Advance Testimony Requirements.*—A witness shall not be permitted to testify or present evidence, nor will any statement or testimony be included in the Committee hearing record, unless seventy-five copies of the testimony have been delivered to the Clerk of the Committee at least twenty-four hours (excluding Saturdays, Sundays, and legal holidays) prior to the meeting. At least ten of these copies must be delivered at least forty-eight hours (excluding Saturdays, Sundays, and legal holidays) prior to the meeting. These requirements may be waived only by the Chairman.

(B) *Written Summary.*—Each prepared statement of ten pages or more shall include a summary which may not exceed five pages in length.

(C) *Federal and Administration Witnesses.*—To the extent feasible, statements and testimony of witnesses from Federal and Administrative agencies shall be accompanied, if not previously received, by fifty copies of the Federal agency report requested by the Committee on the matters pending before it.

(D) *Five Minute Oral Testimony.*—Witnesses will be allowed no more than five minutes to summarize their prepared statements orally, unless additional time is provided by the Chairman. Full written statements provided by the witnesses will be made part of the record.

(E) *Investigative Hearing Witnesses.*—

(1) A copy of the Committee Rules shall be made available to each witness.

(2) Witnesses may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(3) The Chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the Committee may cite the offender to the House for contempt.

(4) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Committee.

(F) *Responses/Information for the Record.*—Responses to Members' or staff questions and other information offered for the record, shall be submitted, in triplicate, to the Committee Clerk within forty-five days from the time of the request. One copy will be retained by the Clerk for printing and the remainder transmitted to the appropriate Majority and Minority Counsels.

RULE VIII. BROADCASTING OF COMMITTEE MEETINGS

The Chairman may permit any public hearing or meeting to be televised, broadcast by radio, photographed, or otherwise recorded, subject to the following requirements:

(1) At the request of any Committee Member present, a majority vote must be taken to permit the use of such equipment during the hearing or meeting.

(2) Radio and television tapes and television film of any coverage shall not be used, or made available for use, as partisan political campaign material to promote or oppose the candidacy of any person for elective public office.

(3) The coverage of Committee hearings and meetings by television broadcast, radio broadcast, or still photography is a privilege and shall be permitted and conducted only in strict conformity with the purposes, provisions, and requirements of these Rules.

(4) If the television or radio coverage of the hearing or meeting is live, it shall be conducted and presented without commercial sponsorship.

(5) All persons providing coverage of the meeting shall be accredited to the appropriate Gallery.

(6) No witness served with a subpoena by the Committee shall be required against his or her will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any such witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all recorders or microphones used for coverage shall be turned off.

(7) The number of television cameras allowed in the hearing or meeting room is at the discretion of the Chairman. If necessary, the allocation among the television media of these positions shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Gallery.

(8) Members of the media and their equipment shall not obstruct in any way the space or visibility between any witness and any Member of the Committee nor obstruct unnecessarily coverage by the other media.

(9) No audio-visual equipment will be allowed on the dais without the express prior approval of the Chairman.

(10) Fixed audio-visual equipment shall not be installed in, or removed from, the hearing or meeting room while the Committee is in session.

(11) Floodlights, spotlights, strobelights, and flashguns shall not be used in providing any method of coverage of the hearing or meeting, except that the television media may install additional lighting in the hearing or meeting room, without cost to the Government, in order to raise the ambient lighting level in the hearing or meeting room to the lowest level necessary to provide adequate television coverage of the hearing or meeting at the then current state of the art of television coverage.

(12) The number of still photographers allowed in the hearing or meeting room is at the discretion of the Chairman. If necessary, allocation among this media shall be made on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers. Preference shall be given to photographers from Associated Press Photos and United Press International Newspictures.

RULE IX. COMMITTEE RECORDS

(A) *Votes.*—

(1) The Committee shall keep a complete record of all Committee action which shall include a record of the votes on any question on which a rollcall vote is demanded.

(2) The result of each rollcall vote—including a description of the issue, the name of each Member voting for and against, and whether by proxy or in person, and the names of those Members present but not voting—shall be available for inspection by the public at reasonable times in the offices of the Committee.

(B) *Separate Files.*—All Committee hearings, records, data, charts, and files shall be kept separate and distinct from the Congressional office records of the Chairman. These records shall be the property of the House and all Members of the House shall have access.

(C) *Permanent Records.*—With respect to the preservation and availability of noncurrent records of the Committee, the procedures contained in Rule XXXVI of the House shall be followed.

(D) *Open Hearings.*—

(1) Records and transcripts of open hearings before the Committee shall not be available to the public for quotation of any Member until after that Member has had an opportunity to examine and approve them. No more than forty-five days after the conclusion of hearings, the transcript shall be closed and no further changes may be made.

(2) In no instance will the Committee staff distribute, or prepare for distribution, to persons, other than Members and witnesses for the purpose of correction, any open hearing transcript that has not yet been closed and transmitted to the Government Printing Office for publication.

(E) *Closed Meetings.*—Transcripts and records of closed meetings shall be available to Members of the House of Representatives and Merchant Marine and Fisheries Committee staff for inspection in the offices of the Committee, but may not be released or divulged to any other person without the consent of the Chairman or a majority of the Committee. In no event shall executive session transcripts and records be taken from the Committee offices by anyone.

(F) *Markup Transcripts.*—In no event shall markup transcripts and records be taken from the Committee offices by anyone.

(G) *Availability of Records.*—The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule XXXVI of the rules of the House of Representatives. The Chairman shall notify the Ranking Minority Member of any decision pursuant to clause 3(b)(3) or clause 4(b) of the House rule to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any Member of the Committee.

RULE X. COMMITTEE REPORTS AND PUBLICATIONS

(A) *Activities Report.*—The Committee shall submit to the House, not later than January 2 of each odd-numbered year, a report on its activities under Rules X and XI of the House during the Congress ending at noon on January 3 of that year.

(B) *Procedures for Reporting.*—

(1) The Chairman shall report or cause to be reported promptly to the House any measure approved by the Committee and shall

take or cause to be taken necessary steps to bring the matter to a vote.

(2) The report of the Committee on a measure which has been approved by the Committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the Clerk of the Committee a written request, signed by a majority of the Members of the Committee, for the reporting of that measure. Upon the filing of this request, the Clerk of the Committee shall immediately notify the Chairman.

(C) *Minority, Supplemental, or Additional Views.*—

(1) Members of the Committee must give notice to the Committee Clerk of intention to file supplemental, minority, or additional views within twenty-four hours after the time of approval of any measure or matter by the Committee (excluding Saturdays, Sundays, and legal holidays).

(2) Members shall be entitled to not less than three calendar days (excluding Saturdays, Sundays, and legal holidays) from the time of approval of any measure or matter, in which to file such views, in writing and signed by that Member, with the Clerk of the Committee.

(3) The provisions of subparagraphs (1) and (2) do not preclude—

(a) the immediate filing or printing of a Committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by this paragraph, or

(b) the filing by the Committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by the Committee upon that measure or matter.

(D) *Committee Report Requirements.*—Committee reports shall be printed in a single volume and include the following:

(1) with respect to each rollcall vote to report any bill or resolution, the total number of votes cast for and against, the name of each Member voting for and against, and whether by proxy or in person, and the names of those Members present but not voting;

(2) the oversight findings and recommendations required pursuant to clause 2(b)(1) of Rule X of the House Rules, separately set out and clearly identified;

(3) the statement required by section 308(a) of the Congressional Budget Act of 1974, separately set out and clearly identified, if the measure provides new budget authority or new or increased tax expenditures;

(4) the estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974, separately set out and clearly identified, if timely submitted;

(5) a summary of the oversight findings and recommendations made by the Committee on Government Operations under clause (4)(c)(2) of Rule X of the House Rules, separately set out and clearly identified, if it has been submitted to allow for the Committee's consideration during deliberations on the measure;

(6) on each bill or joint resolution of a public character, a detailed analytical statement as to whether its enactment into law may have an inflationary impact on prices and costs in the operation of the national economy;

(7) on a bill or a joint resolution repealing or amending any statute or part thereof, in the report or in an accompanying document—

(a) the text to be repealed; and

(b) a comparative print showing by stricken-through type and italic, parallel columns, or other appropriate typographical devices, the omissions and insertions proposed to the statute;

(8) all supplemental, minority, or additional views filed by one or more Members of the Committee; and

(9) on its cover, a recital that any material submitted under subparagraphs (4), (5), and (8) above are included as part of the report.

(E) *Approval by Chairman.*—All Committee or Subcommittee prints and other material prepared for public distribution shall be approved by the Chairman of the Full Committee prior to distribution.

RULE XI. USE OF COMMITTEE FUNDS FOR TRAVEL

(A) *Authorization.*—All travel of Members and staff of the Committee or its Subcommittees, to hearings, meetings, conferences, investigations, foreign conferences and meetings, and all foreign travel, must be authorized by the Chairman prior to any public notice or the actual travel.

(B) *Trip Report.*—A substantive report shall be filed with the Chairman within thirty days after any Committee trip or any trip related to matters of Committee jurisdiction which has been approved by the Chairman.

(C) *Domestic Travel.*—Funds authorized for the Committee under Clause 5 of Rule XI of the House Rules are for expenses incurred in the Committee's activities within the United States.

(D) *Foreign Travel.*—

(1) Local currencies owned by the United States shall be made available to the Committee and its employees engaged in carrying out their official duties outside the United States, its Territories or Possessions.

(2) No appropriated funds shall be expended for the purpose of defraying expenses of Members of the Committee or its employees in any country where local currencies are available for this purpose.

(3) The following conditions apply to travel outside the United States or its territories or possessions:

(a) No Member or employee of the Committee shall receive or expend local currencies for subsistence in any country for any day at a rate in excess of the maximum per diem rate set forth in applicable Federal law, or if the Member or employee is reimbursed for any expenses for such day, then the lesser of the per diem or the actual, unreimbursed expenses (other than for transportation) incurred by the Member or employee during that day.

(b) Each Member or employee of the Committee shall make to the Chairman of the Committee an itemized report showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, and any funds expended for any other official purpose and shall summarize in these categories the total foreign currencies and/or appropriated funds expended.

(c) All such individual reports shall be filed, no later than sixty days following the completion of travel, with the Chairman of the Committee for use in complying with the reporting requirements in applicable Federal law and shall be open for public inspection.

(4) In carrying out the Committee's activities outside of the United States in any country where local currencies are unavailable, a Member or employee of the Committee may not receive reimbursement for expenses (other than for transportation) in excess of the maximum per diem set forth in applicable Federal law, or if the Member or employee is reimbursed for any expenses for such day, then the lesser of the per diem or the actual unreimbursed expenses (other than for transportation) incurred, by the Member or employee during any day.

(5) A Member or employee of the Committee may not receive reimbursement for the coast of any transportation in connection with travel outside of the United States unless the Member or employee has actually paid for the transportation.

(E) *Lame Duck Members.*—No local currencies owned by the United States and made available to the Committee, no primary expense resolution, and no additional expense resolution of the Committee may provide for the payment or reimbursement of expenses incurred by any Member of the Committee for travel after the general election in which the Member is not elected to the succeeding Congress, or in the case of a Member who is not a candidate, the earlier of the general election date or the adjournment sine die of the last regular session of the Congress.

RULE XII. COMMITTEE AND SUBCOMMITTEE STAFF

(A) *Hiring Practices/Terms of Employment.*—The staff members of the Committee—

(1) shall be appointed on a permanent basis, without regard to race, creed, sex, or age, and solely on the basis of fitness to perform the duties of their respective positions;

(2) shall not engage in any work other than Committee business; and

(3) shall not be assigned any duties other than those pertaining to Committee business.

(B) *Limitation on Appointing Government Personnel.*—The Committee shall not appoint to its staff any experts or other personnel detailed or assigned from any department or agency of the Government, except with the written permission of the Committee on House Administration.

(C) *"Clause 5" Appointments.*—

(1) From the funds provided for the appointment of Committee staff pursuant to primary and additional expense resolutions—

(a) The Chairman of each standing Subcommittee is authorized to appoint one staff member who shall serve at the pleasure of the Subcommittee Chairman.

(b) The Ranking Minority Member of each standing Subcommittee is authorized to appoint one staff person who shall serve at the pleasure of the Subcommittee Ranking Minority Member.

(c) The staff members appointed pursuant to the provisions of (a) and (b) shall be compensated at a rate determined by the Subcommittee Chairman not to exceed: (1) 75 per centum of the maximum established in paragraph (c) of clause 6 of Rule XI of the House Rules, or (2) the rate paid the staff member appointed pursuant to subparagraph (a) of this paragraph.

(2) Subcommittee staff members appointed under paragraph (1) are subject to the supervision and control of, and shall be responsible to, the Subcommittee Chairman or Ranking Minority Member of the Subcommittee, as appropriate.

(D) *"Clause 6" Appointments.*—

(1) The Committee shall appoint, by a majority vote, from a list submitted by the Chairman, appropriate professional and clerical staff personnel, in accordance with the provisions of clause 6 of Rule XI of the House Rules.

(2) Each employee on the professional, clerical and investigating staff of the Committee shall be entitled to pay at a single gross per annum rate, to be fixed by the

Chairman, which does not exceed the maximum rate of pay, as in effect from time to time, under applicable provisions of law.

(3) Subject to the provisions of paragraph (C)(2), each Committee staff member, other than a member appointed pursuant to the request of Minority Members, is assigned to the Chairman for the purposes of general supervision and control and shall perform such duties as the Chairman may assign.

(4) In the case of staff members appointed pursuant to the request of Minority Members, the Ranking Minority Member shall exercise general supervision and control, subject to the assignments designated by Minority Members in accordance with clause 6 of Rule XI of the House Rules.

(5) When any staff member is assigned directly to Subcommittee staff duties, the staff member shall remain under the general supervision and control of the Chairman of the Committee or Ranking Minority Member of the Committee as appropriate, but under the direct control of the Subcommittee Chairman or Subcommittee Ranking Minority Member, as appropriate, for duty assignment purposes.

(6) The Committee, by majority vote, may terminate the services of any staff member appointed by the Committee and may, from time to time, take appropriate action to fill any staff vacancies.

RULE XIII. COMMITTEE BUDGET

(A) *Annual Budget.*—

(1) At the beginning of each session, after consultation with each Subcommittee Chairman, the Chairman shall propose and present to the Committee for its approval a budget of the estimated funds necessary for all anticipated activities and programs of the Committee and its Subcommittees, that will be requested under a primary expense resolution submitted in accordance with clause 5 of Rule XI of the House Rules.

(2) In presenting the budget, the Chairman shall ensure that it contains sufficient funds to enable the Committee and each Subcommittee to discharge its responsibilities for legislation and oversight.

(B) *Additional Expense Resolutions.*—Authorization for the payment of additional or unforeseen Committee and Subcommittee expenses may be procured by one or more additional expense resolutions processed in the same manner as set out above.

(C) *Monthly Accounting.*—

(1) Once monthly, the Chairman shall require the appropriate staff personnel to prepare a full and detailed accounting of all expenditures made during the period since the last accounting from the amount budgeted to the Full Committee.

(2) Each report shall show the amount and purpose of each expenditure and the budget to which the expenditure is attributed.

(3) Each report shall be available, upon request to the Committee Clerk, to any Member of the House of Representatives.

RULE XIV. CHANGES IN THE COMMITTEE RULES

The Rules of the Committee may be modified, amended, or repealed, by a majority vote of the Committee, provided that two legislative days written notice of the proposed change has been provided each Member of the Committee prior to the meeting date on which the changes are to be discussed and voted upon.

APPENDIX

SUBCOMMITTEE JURISDICTIONS

Subcommittee on Environment and Natural Resources

The Subcommittee's jurisdiction includes all matters pertaining to the protection of coastal and marine environments, national environmental policy generally, and the conservation of wildlife resources. Specific matters within the jurisdiction of the Subcommittee include coastal and marine pollution, estuarine protection, coastal barriers, the National Environmental Policy Act, wetlands and habitat conservation, endangered species, biological diversity, marine mammals, whales, and refuges. The Subcommittee has general responsibility for the activities of the U.S. Fish and Wildlife Service, the Council on Environmental Quality, and the Marine Mammal Commission, and for the activities of the U.S. Environmental Protection Agency within the jurisdiction of the Committee on Merchant Marine and Fisheries.

Subcommittee on Coast Guard and Navigation

The Subcommittee's jurisdiction includes the Coast Guard, including life-saving services, lighthouses, lightships, ocean derelicts, communications, radar, maritime aids and other aids to navigation; deep water ports; registration and licensing of vessels, including small boats, navigation and the laws relating thereto, including pilotage; regulation of recreational boats and their operation; fishing vessel safety; inspection of merchant vessels, lights and signals, life-saving equipment and fire protection on such vessels; rules and international arrangements to prevent collisions at sea; enforcement of laws and treaties and marine pollution control and abatement; oil spill laws and associated financial responsibility requirements; regulation of the transportation and storage of liquefied natural gas and other volatile gases; the Coast Guard Academy; the Panama Canal and the maintenance and operation of the Panama Canal consistent with the treaty with Panama and the implementation legislation enacted pursuant to such treaty; and interoceanic canals generally.

Subcommittee on Merchant Marine

The Subcommittee's jurisdiction includes cabotage laws; cargo preference laws; ports and port matters except deep water ports; foreign-flag passenger ships; international maritime activities; intermodal transportation; marine insurance, maritime statistics; maritime technology; maritime training; merchant marine officers and seamen; and measures related to the regulation of common carriers by water (except matters subject to the jurisdiction of the Interstate Commerce Commission).

Subcommittee on Oceanography, Gulf of Mexico, and the Outer Continental Shelf

The Subcommittee's jurisdiction includes marine science and research generally; oceanographic research, including vehicles, platforms and structures; ocean engineering, including materials, technology, and systems; ocean dumping; ocean resources development and conservation; coastal zone management; marine sanctuaries; the activities of the National Oceanic and Atmospheric Administration except those in general relating to fisheries management and the National Marine Fisheries Service; U.N. Convention on the Law of the Sea; Sea Grant programs and marine extension services; and the Outer Continental Shelf Lands Act.

Subcommittee on Fisheries Management

The Subcommittee's jurisdiction includes all matters relating to fisheries management and fisheries research generally, including the management of all commercial and recreational fisheries, the Magnuson Fishery Conservation and Management Act, interjurisdictional fisheries, international fisheries agreements, aquaculture, seafood safety, and fisheries promotion. The Subcommittee also has general jurisdiction over the fishery management activities of the National Marine Fisheries Service.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WASHINGTON (at the request of Mr. GEPHARDT) for today, on account of family illness.

Mr. DOOLITTLE (at the request of Mr. MICHEL) for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WELDON) to revise and extend their remarks and include extraneous material:)

Mr. THOMAS of Wyoming, for 60 minutes, on February 18.

Mr. WELDON, for 5 minutes each day, on today and February 17.

Mr. GINGRICH, for 60 minutes each day, on March 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, and 19.

Mr. WOLF, for 30 minutes, today.

Mr. DELAY, for 60 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 5 minutes, today.

Mr. BONIOR, for 60 minutes, today, and on February 17 and 18.

Mr. TUCKER, for 60 minutes, today.

Mr. CONYERS, for 30 minutes, today.

Mr. MILLER of California, for 60 minutes, on February 17 and 18.

Mr. DURBIN, for 60 minutes, on February 17 and 18.

Mr. GEJDENSON, for 60 minutes, on February 18.

Mr. WISE, for 60 minutes, on February 18.

Mr. LEHMAN, for 60 minutes, on April 21, 22, and 26.

(The following Members (at the request of Mr. BONIOR) to revise and extend their remarks and include extraneous material:)

Mr. FINGERHUT, for 5 minutes, on February 17.

Mr. LIPINSKI, for 60 minutes, on February 17.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WELDON) and to include extraneous matter:)

Mr. SANTORUM.

Mr. BILIRAKIS.

Mr. HEFLEY in two instances.

Mr. Gingrich.
Mr. King.
Mr. Bereuter.
Mrs. Morella.
Mr. Clinger.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Bonior.
Mr. Filner.
Mr. Wynn.
Mr. Gonzalez in 10 instances.
Mr. Brown of California in 10 instances.
Mr. Natcher.
Mr. Stark in three instances.
Mr. Ortiz.
Mr. Hamilton.
Mr. Durbin.
Ms. Slaughter.
Mrs. Schroeder.

SENATE JOINT RESOLUTION

A joint resolution of the Senate of the following title was taken from the Speaker's table, and, under the rule, referred as follows:

S.J. Res. 45. Joint resolution authorizing the use of United States Armed Forces in Somalia; to the Committee on Foreign Affairs.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2. An act to grant family and temporary medical leave under certain circumstances.

ADJOURNMENT

Mr. BONIOR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 47 minutes p.m.), the House adjourned until tomorrow, Wednesday, February 17, 1993, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[Omitted from the Record of January 5, 1993]

719. A communication from the President of the United States, transmitting requests for fiscal year 1993 emergency appropriations language for the Departments of Housing and Urban Development and the Interior to provide housing assistance in Florida, Louisiana, Hawaii, and Guam to victims of Hurricanes Andrew and Iniki and Typhoon Omar, and relief to the drought-stricken western United States, and support to Louisiana in studying and repairing ecological damage caused by Hurricane Andrew, pursuant to Public Law 102-368, chapter 10 (106 Stat. 1158) (H. Doc. No. 103-45); to the Committee on Appropriations and ordered to be printed.

[Submitted January 16, 1993]

720. A letter from the Deputy Director, Office of Legislative Affairs, Department of the Treasury, transmitting the second annual report on the operation of the Enterprise for the Americas Facility, pursuant to Public Law 101-624, section 1512 (104 Stat. 3662); to the Committee on Agriculture.

721. A letter from the Comptroller General, the General Accounting Office, transmitting a review of the President's second special impoundment message for fiscal year 1993, pursuant to 2 U.S.C. 681 et. seq. (H. Doc. No. 103-47); to the Committee on Appropriations and ordered to be printed.

722. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of February 1, 1993, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 103-48); to the Committee on Appropriations and ordered to be printed.

723. A letter from the Principal Director, Requirements and Resources, Department of Defense, transmitting notification that the Department's Defense Manpower Requirements Report for fiscal year 1994, will be delayed, pursuant to 10 U.S.C. 115(a); to the Committee on Armed Services.

724. A letter from the Director, Test and Evaluation, Department of Defense, transmitting notification of three additional fiscal year 1993 test projects, pursuant to 10 U.S.C. 2350a(g); to the Committee on Armed Services.

725. A letter from the Deputy Assistant Secretary of Defense (Installations), transmitting notification that the report entitled, "Report on the Performance of Department of Defense Commercial Activities," will be delayed, pursuant to 10 U.S.C. 2304 note; to the Committee on Armed Services.

726. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission's report on the status of all extensions granted by Congress regarding the requirements of section 13 of the Federal Power Act; to the Committee on Energy and Commerce.

727. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

728. A letter from the Department's of State and the Treasury, transmitting the final report on foreign contributions in response to the Persian Gulf Crisis, pursuant to Public Law 101-25, section 402 (105 Stat. 101); to the Committee on Foreign Affairs.

729. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1997 resulting from passage of H.R. 1, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on Government Operations.

730. A letter from the Council on Environmental Quality, Executive Office of the President, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1992, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

731. A letter from the Chairman, Farm Credit Administration, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1992, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

732. A letter from the Chairman, U.S. International Trade Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1992, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

733. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the semiannual report on El Salvador, pursuant to Public Law 101-513, section 531(i) (104 Stat. 2012); jointly, to the Committees on Appropriations and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 670. A bill to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes (Rept. 103-14). Referred to the Committee of the Whole House on the State of the Union.

Ms. SLAUGHTER: Committee on Rules. H. Res. 81. A resolution providing for the consideration of the bill (H.R. 670) to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes (Rept. 103-15).

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. TRAFICANT:

H.R. 881. A bill to prohibit smoking in Federal buildings; to the Committee on Public Works and Transportation.

By Mr. ANDREWS of Texas (for himself, Mr. Shaw, Ms. Pelosi, Mr. Bacchus of Florida, Mr. King, Mr. McCollum, Mr. Gallegly, Mr. Solomon, Mr. Sundquist, Mr. Gingrich, Mrs. Schroeder, Mr. Gillmor, Mr. Hochbrueckner, Mr. Bateman, Mr. Pickett, Mr. Sensenbrenner, Mr. Porter, Mr. Smith of New Jersey, Mr. Torkildsen, Mr. Blute, Mrs. Kennelly, Mr. Thomas of Wyoming, Mr. Hinchey, Mr. Saxton, Mr. Spratt, Mr. Upton, Mrs. Johnson of Connecticut, Mr. Emerson, Mr. Machtley, Mr. Neal of Massachusetts, Mr. Lewis of Florida, Mr. Frost, Mr. Matsui, Mr. Walsh, Mr. Towns, Mr. Sam Johnson, Mr. Jacobs, Mr. Williams, Mr. Baker of Louisiana, Mr. Lewis of Georgia, Mr. McDermott, Ms. Norton, and Mr. Mazzoli):

H.R. 882. A bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference; to the Committee on Ways and Means.

By Mr. ARMEY (for himself, Mr. Kasich, Mr. McCollum, and Mr. Horn):

H.R. 883. A bill to require a balanced Federal budget by fiscal year 2000 and each year thereafter, to protect Social Security, to provide for zero-based budgeting and decennial sunsetting, to impose spending caps on the growth of entitlements during fiscal years 1994 through 2000, and to enforce those requirements through a budget process involving the President and Congress and sequestration; jointly to the Committees on Government Operations and Rules.

By Mr. BURTON of Indiana (for himself and Mr. ZELIFF):

H.R. 884. A bill to amend the Internal Revenue Code of 1986 to repeal the deduction limitation which applies to State legislators who reside within 50 miles of the capitol building of the State; to the Committee on Ways and Means.

By Mr. CAMP:

H.R. 885. A bill amending the Rules of the House to limit the availability of appropriations for salaries and expenses of the House to 1 year and to require certain excess allowance amounts be returned to the Treasury; to the Committee on Rules.

By Mr. CLINGER (for himself, Mr. SHAYS, Mr. SCHIFF, Mr. MCHUGH, Mr. HORN, Mr. ZIMMER, Mr. MCCANDLESS, Mr. RANGEL, Mr. HOBSON, Mr. GUNDERSON, Mr. ZELIFF, Mr. THOMAS of Wyoming, Mr. BARTLETT, and Mr. MICA):

H.R. 886. A bill to provide mandate relief assistance to State and local governments, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. DUNCAN (for himself, Mr. INHOFE, Mr. ZELIFF, Mr. GALLEGLY, Mr. SANTORUM, Mr. SUNDQUIST, Mr. BARTON of Texas, Mr. BARTLETT of Maryland, and Mr. BAKER of Louisiana):

H.R. 887. A bill to amend the Immigration and Nationality Act to provide for the exclusion of immigrants infected with the HIV virus; to the Committee on the Judiciary.

By Mr. FIELDS of Texas (for himself and Mr. BONILLA):

H.R. 888. A bill to amend the Endangered Species Act of 1973 to the Committee on Merchant Marine and Fisheries.

By Mr. FRANK of Massachusetts:

H.R. 889. A bill to exclude from income amounts received under part A of title IV of the Social Security Act for the purposes of determining the amount of benefits to be provided under the Food Stamp Act of 1977; to the Committee on Agriculture.

H.R. 890. A bill to amend the Federal Deposit Insurance Act to provide for extended periods of time for claims on insured deposits; to the Committee on Banking, Finance and Urban Affairs.

H.R. 891. A bill to permit certain Federal employees who retired or became entitled to receive compensation for work injury before December 9, 1980, to elect to resume coverage under the Federal employees' group life insurance program; to the Committee on Post Office and Civil Service.

By Mr. FRANKS of Connecticut:

H.R. 892. A bill to amend part A of title IV of the Social Security Act to ensure the identification of the biological parents of each child who receives aid to families with dependent children; to the Committee on Ways and Means.

By Mr. GUTIERREZ:

H.R. 893. A bill to amend title 18, United States Code, to prohibit the possession or transfer of assault weapons; to the Committee on the Judiciary.

By Mr. HEFLEY:

H.R. 894. A bill to require the Congressional Budget Office to prepare estimates of the cost incurred by State and local governments in carrying out or complying with new legislation; to amend the Rules of the House of Representatives to require the inclusion of such estimates in committee reports on bills and joint resolutions; and to amend the Rules of the House of Representatives to ensure that Federal laws requiring activities by such governments shall not apply unless all amounts necessary to pay the direct costs of the activities are provided by the Federal Government; to the Committee on Rules.

H.R. 895. A bill to abolish the Economic Development Administration; jointly, to the Committees on Banking, Finance and Urban Affairs and Public Works and Transportation.

H.R. 896. A bill to abolish the Interstate Commerce Commission; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. HUGHES (for himself and Mr. FRANK of Massachusetts):

H.R. 897. A bill to amend title 17, United States Code, to modify certain recordation and registration requirements, to establish copyright arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes; to the Committee on the Judiciary.

By Mr. HUTTO:

H.R. 898. A bill to authorize the Air Force Memorial Foundation to establish a memorial in the District of Columbia or its environs; to the Committee on House Administration.

By Mr. KLUG:

H.R. 899. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1986 to increase the minimum amount of cash remuneration payable to a domestic employee in any year which is subject to Social Security employment taxes, to provide for annual adjustments in such minimum amount, and to simplify the payment of such employment taxes; to the Committee on Ways and Means.

By Mr. LAROCCO:

H.R. 900. A bill to amend title 28, United States Code, to provide for the appointment of an additional district judge for the District of Idaho; to the Committee on the Judiciary.

By Mr. LEWIS of Florida (for himself, Mr. BAKER of Louisiana, Mr. ROHRABACHER, Mr. GOSS, Mr. GALLEGLY, Mr. RAMSTAD, Mr. DORNAN, Mr. HYDE, and Mr. OXLEY):

H.R. 901. A bill to ensure employee rights concerning the payment of union dues; to the Committee on Education and Labor.

By Mr. MATSUI (for himself and Mr. HOAGLAND):

H.R. 902. A bill to amend the Internal Revenue Code of 1986 to provide a capital gains tax differential for individual and corporate taxpayers who make high-risk, long-term, growth-oriented venture and seed capital investments in startup and other small enterprises; to the Committee on Ways and Means.

By Mr. MURTHA:

H.R. 903. A bill to amend title III of the act of March 3, 1933, commonly known as the Buy American Act, to require Federal agencies to increase domestic procurement in times of economic recession, and for other purposes; to the Committee on Government Operations.

By Mr. OBERSTAR (for himself, Mr. GEPHARDT, Mr. MINETA, Mr. SHUSTER, Mr. CARR, and Mr. CLINGER):

H.R. 904. A bill to amend the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 with respect to the establishment of the National Commission to Ensure a Strong Competitive Airline Industry; to the Committee on Public Works and Transportation.

By Mr. OWENS:

H.R. 905. A bill to require the Bureau of Labor Statistics to collect and report unemployment and related statistics by congressional districts; to the Committee on Education and Labor.

H.R. 906. A bill to require that the Librarian of Congress be appointed from among individuals with specialized training or significant experience in the field of library and information science; to the Committee on House Administration.

H.R. 907. A bill to amend title 18, United States Code, to eliminate the effect of the parental exception to the kidnaping prohibition in cases of kidnapings in violation of valid custody orders; to the Committee on the Judiciary.

By Mr. PAXON:

H.R. 908. A bill to disqualify any individual or business concern who violates a Federal environmental law, or who holds a beneficial business interest in a person who has violated such a law, from being eligible to receive certain benefits from the Environmental Protection Agency for a period of 10 years; to the Committee on Energy and Commerce.

H.R. 909. A bill to amend the Congressional Budget Act of 1974 to require that the Congressional Budget Office prepare an analysis of the job loss or gain that would result from each reported bill; to the Committee on Rules.

H.R. 910. A bill to amend part A of title IV of the Social Security Act and title XIX of such act to discourage persons from moving to a State to obtain greater amounts of aid to families with dependent children or additional medical assistance under State medicaid plans; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. PORTER (for himself, Mr. ANDREWS of Maine, Mr. BACCHUS of Florida, Mr. BEREUTER, Mr. BOEHNER, Mr. BROWDER, Mr. BUNNING, Mr. BURTON of Indiana, Mrs. COLLINS of Michigan, Mr. COX, Mr. DOOLEY, Mr. DURBIN, Mr. DORNAN, Mr. FALEOMAVAEGA, Mr. FROST, Mr. GALLEGLY, Mr. GILMAN, Mr. GOODLING, Mr. GOSS, Mr. GREENWOOD, Mr. GUNDERSON, Mr. GUTIERREZ, Mr. HALL of Ohio, Mr. HENRY, Mr. HERGER, Ms. NORTON, Mr. HUGHES, Mr. HUNTER, Mr. HYDE, Mr. SAM JOHNSON, Mr. KING, Mr. KLUG, Mr. KYL, Mr. LIGHTFOOT, Mr. MACHTLEY, Mr. MAZZOLI, Mr. MCCANDLESS, Mr. MCCOLLUM, Mr. MCCLOSKEY, Mr. MCDADE, Mr. MCHUGH, Mr. MCKEON, Mrs. MEYERS of Kansas, Mr. MOAKLEY, Mr. MONTGOMERY, Mrs. MORELLA, Mr. PETERSON of Minnesota, Mr. PETRI, Mr. PICKETT, Mr. QUINN, Mr. ROYCE, Mr. SCHIFF, Mr. SHAYS, Mr. SKAGGS, Ms. SLAUGHTER, Mr. SOLOMON, Mr. STARK, Mr. SUNDQUIST, Mr. WALSH, Mr. WELDON, Mr. WOLF, and Mr. MCNULTY):

H.R. 911. A bill to encourage the States to enact legislation to grant immunity from personal civil liability, under certain circumstances to volunteers working on behalf of nonprofit organizations and governmental entities; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. PETERSON of Minnesota:

H.R. 912. A bill to amend the Internal Revenue Code of 1986 to repeal the limitation on passive activity losses and credits, provide an accelerated depreciation schedule for real estate, restore the investment tax credit, allow a deduction for certain capital gains, restore and increase the deduction for health insurance costs of self-employed individuals, restore income averaging, and reduce Social Security taxes and remove the ceiling on wages subject to such taxes; to the Committee on Ways and Means.

By Mr. RAMSTAD:

H.R. 913. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate $1 of their income tax liability and some or all of their income tax refunds, and to contribute additional amounts, to be used for purposes of financing drug abuse education programs; to the Committee on Ways and Means.

By Mr. ROGERS:

H.R. 914. A bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Red River in Kentucky as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Natural Resources.

By Mrs. SCHROEDER:

H.R. 915. A bill to improve the collection of child support; jointly, to the Committees on Ways and Means and the Judiciary.

By Mr. STARK:

H.R. 916. A bill to establish, in the Food and Drug Administration, the Patented Medicine Prices Review Board to regulate the prices of certain prescription drugs, to amend the Internal Revenue Code to recapture certain tax benefits, and for other purposes; jointly, to the Committees on Energy and Commerce, the Judiciary, and Ways and Means.

By Mr. TRAFICANT:

H.R. 917. A bill to amend the Internal Revenue Code of 1986 to require an investigation of the Internal Revenue Service abuse of taxpayers' rights, to safeguard taxpayer rights, to monitor the effectiveness of the Internal Revenue Service's program for the prevention of taxpayer abuse, and for other purposes; to the Committee on Ways and Means.

By Mr. WYNN (for himself, Mr. E.B. JOHNSON, and Mr. WILSON):

H.R. 918. A bill to amend the Federal Deposit Insurance Corporation Improvement Act of 1991 to provide for greater disclosure of lending to small businesses; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CLEMENT (for himself, Mr. COOPER, Mr. DUNCAN, Mr. FORD of Tennessee, Mr. GORDON, Mrs. LLOYD, Mr. QUILLEN, Mr. SUNDQUIST, and Mr. TANNER):

H.J. Res. 106. Joint resolution to designate the months of October 1993 and October 1994 as "Country Music Month"; to the Committee on Post Office and Civil Service.

By Mr. MCNULTY:

H.J. Res. 107. Joint resolution proposing an amendment to the Constitution of the United States repealing the 22d article of amendment, thereby removing the restrictions on the number of terms an individual may serve as President; to the Committee on the Judiciary.

Mr. MORAN (for himself, Mr. HOYER, Mr. WHEAT, Mr. ACKERMAN, Mr. CARDIN, Mr. BATEMAN, Mr. MCDERMOTT, Mr. CLEMENT, Mr. TAUZIN, Mr. SKEEN, Mr. NEAL of Massachusetts, Mr. BEVILL, Mr. PAYNE of New Jersey, Mr. MCCLOSKEY, Mr. WALSH, Mr. BLACKWELL, Mr. ANDREWS of Maine, Mr. WOLF, Mr. TRAFICANT, Mr. FRANK of Massachusetts, Mr. CHAPMAN, Ms. BYRNE, Mr. PALLONE, Mr. KLECZKA, Mr. COX, Mr. KILDEE, Mr. MYERS of Indiana, Mr. HANSEN, Mr. DE LUGO, Mr. RANGEL, Mr. DOOLITTLE, Mr. MINETA, Mr. MARTINEZ, Mr. LANCASTER, Mr. BERMAN, Mr. NEAL of North Carolina, Ms. KAPTUR, Mrs. MINK, Mr. KANJORSKI, Mr. CLAY, Mr. HYDE, Mr. BILBRAY, Mr. HOCHBRUECKNER, Mr. ROSE, Mr. KASICH, Mrs. MORELLA, Ms. WOOLSEY, Mr. POSHARD, Mr. PARKER, Mr. ABERCROMBIE, Mr. ANDREWS of New Jersey, Mr. YOUNG of Florida, Mr. LEHMAN, Ms. PELOSI, Mr. FROST, Mr. FORD of Michigan, Mr. HOBSON, Mr. CONYERS, Ms. NORTON, Mr. DICKS, Mr. FAZIO, Ms. BROWN of Florida, Mr. FILNER, Mr. EMERSON, Mr. ROEMER, Mr. HALL of Ohio, Mr. FALEOMAVAEGA, Mr. HUGHES, Mr. LANTOS, Mr. OWENS, Mr. HUTCHINSON, Mrs. UNSOELD, and Mr. STUPAK):

H.J. Res. 108. Joint resolution to designate May 3, 1993, through May 9, 1993, as "Public Service Recognition Week"; to the Committee on Post Office and Civil Service.

By Mr. PAXON:

H.J. Res. 109. Joint resolution proposing an amendment to the Constitution of the United States providing for the recall of Senators and Representatives; to the Committee on the Judiciary.

By Mr. PETRI:

H.J. Res. 110. Joint resolution to authorize the Administrator of the Federal Aviation Administration to conduct appropriate programs and activities to acknowledge the status of the county of Fond du Lac, WI, as the "World Capitol of Aerobatics," and for other purposes; to the Committee on Public Works and Transportation.

By Mr. DIAZ-BALART (for himself, Mr. TORRICELLI, Mr. MENENDEZ, Mr. SMITH of New Jersey, Mr. BALLENGER, Ms. ROS-LEHTINEN, and Mr. DEUTSCH):

H. Con. Res. 38. Concurrent resolution calling for the United States to propose and seek an international embargo against the totalitarian Government of Cuba; to the Committee on Foreign Affairs.

By Mr. HAMILTON:

H. Res. 80. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Committee on Foreign Affairs in the 1st session of the 103d Congress; to the Committee on House Administration.

By Mr. GLICKMAN:

H. Res. 82. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Permanent Select Committee on Intelligence in the 1st session of the 103d Congress; to the Committee on House Administration.

By Mr. SMITH of New Jersey (for himself, Mr. EMERSON, Ms. DANNER, Mr. QUINN, Mr. FIELDS of Texas, Mr. KING, Mr. MACHTLEY, Mr. LIGHTFOOT, and Mr. RAHALL):

H. Res. 83. Resolution expressing the sense of the House of Representatives that the cost-of-living adjustment provisions under title II of the Social Security Act should be preserved; to the Committee on Ways and Means.

By Mr. STUDDS:

H. Res. 84. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Committee on Merchant Marine and Fisheries in the 1st session of the 103d Congress; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII,

41. The SPEAKER presented a memorial of the Senate of the State of New Hampshire, relative to cable television; to the Committee on Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GINGRICH introduced a bill (H.R. 919) for the relief of Larry Errol Pieterse; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4: Mr. DIXON.

H.R. 20: Mr. YOUNG of Alaska, Mr. TUCKER, Mr. ROEMER, Mr. HAYES of Louisiana, Mr. VISCLOSKY, Mr. EMERSON, Mr. SWETT, Mr. RANGEL, Mr. TOWNS, Mr. ORTON, Mr. KLEIN, Mr. KLINK, Mr. FALEOMAVAEGA, Ms. SHEPHERD, Mr. BILBRAY, Mrs. LLOYD, Mr. MCHALE, Ms. CANTWELL, Mr. UPTON, Mr. TANNER, Mr. LEVIN, Mr. ENGLISH of Oklahoma, Mr. POMEROY, Mr. BERMAN, Mr. MANTON, Mr. HAMBURG, Mr. GALLO, Mr. PARKER, Mr. TORRICELLI, Mr. NADLER, Mr. HOYER, Mr. CRAMER, Mr. STUPAK, Mr. GOODLING, Mr. LEWIS of Georgia, Ms. MCKINNEY, Ms. WOOLSEY, Mrs. CLAYTON, Mr. PAYNE of New Jersey, Mr. JOHNSON of South Dakota, Mr. UNDERWOOD, Ms. DANNER, Mr. BECERRA, Mr. ENGEL, Mr. SCOTT, Mr. NEAL of North Carolina, Mr. WALSH, Ms. SCHENK, Ms. LOWEY, Mr. LANTOS, Mr. DELLUMS, and Mr. TRAFICANT.

H.R. 94: Mr. DORNAN, Mr. OXLEY, Mr. BURTON of Indiana, Mr. GALLEGLY, Mrs. MORELLA, Mr. HILLIARD, Mr. BARRETT of Nebraska, Mr. ROHRABACHER, and Mr. BARTLETT.

H.R. 109: Ms. FURSE, Ms. NORTON, Mrs. MORELLA, Mr. PALLONE, Mr. OLVER, Mr. SANGMEISTER, Mr. RAVENEL, Mr. LAFALCE, Mr. DELLUMS, Mr. KANJORSKI, Mr. PAYNE of New Jersey, and Mr. HINCHEY.

H.R. 150: Mr. COX and Mr. SUNDQUIST.

H.R. 162: Mr. HERGER, Mr. BACHUS of Alabama, Mr. BALLENGER, Mr. BLACKWELL, Mr. BUYER, Mr. CHAPMAN, Mr. COSTELLO, Mr. CRAMER, Mr. DELAY, Mr. EMERSON, Mr. FAWELL, Mr. FRANK of Massachusetts, Mr. GILLMOR, Mr. GLICKMAN, Mr. GUNDERSON, Mr. HAYES of Louisiana, Mr. HOEKSTRA, Mr. SAM JOHNSON of Texas, Mr. JOHNSON of South Dakota, Ms. KAPTUR, Mr. KYL, Mr. LAUGHLIN, Mr. LEWIS of Florida, Mr. MAZZOLI, Mr. MCCLOSKEY, Mr. NEAL of North Carolina, Mr. RAMSTAD, Mr. ROGERS, Mr. SARPALIUS, Ms. SHEPHERD, Mr. SMITH of New Jersey, Mr. STUMP, Mr. TAUZIN, Mr. TORKILDSEN, and Mr. ZELIFF.

H.R. 163: Mr. LIVINGSTON, Mr. DELAY, Mr. GOSS, and Mr. BARTLETT.

H.R. 166: Mr. STUMP and Mr. GOSS.

H.R. 229: Mr. SWIFT, Mr. NEAL of Massachusetts, Mr. DOOLEY, Mr. DEFAZIO, Mr. HERGER, Mrs. MINK, and Mr. MURPHY.

H.R. 300: Mrs. MEEK, Mr. VALENTINE, Mr. LIPINSKI, Mr. GEKAS, Mr. POMBO, Mr. CLINGER, Mr. LEWIS of California, Mr. BARTLETT, Mr. BARTON of Texas, Mr. MCMILLAN, Mr. YOUNG of Alaska, and Mr. COLLINS of Georgia.

H.R. 301: Mr. BAKER of Louisiana, Mr. ZIMMER, and Mr. GILCHREST.

H.R. 302: Mr. GILMAN, Mr. LEHMAN, Mr. HYDE, Ms. NORTON, Mr. GUNDERSON, Mr. BARTLETT, Mr. FRANK of Massachusetts.

H.R. 304: Mr. KYL, Mr. PENNY, Mr. BEREUTER, Mr. KLUG, Mr. ZIMMER, Mr. TAYLOR of North Carolina, Mr. BAKER of Louisiana, Mr. GRAMS, and Mr. SHAYS.

H.R. 306: Mr. LIPINSKI and Mr. CRAPO.

H.R. 324: Mr. SENSENBRENNER, Mr. PORTER, Mr. DIAZ-BALART, Mr. GRAMS, Mr. DOOLEY, Mr. BAKER of Louisiana, Mr. SMITH of Oregon, Mr. HINCHEY, and Mr. BARTLETT.

H.R. 339: Mr. COMBEST.

H.R. 348: Mr. HOBSON, Mr. TOWNS, Mr. POMBO, Mr. PARKER, Mr. FORD of Michigan, Mr. TORKILDSEN, Mr. WYNN, Mr. SWIFT, Mr. GEJDENSON, Mr. KOPETSKI, Mr. UPTON, Mr. BARTLETT, and Mr. KREIDLER.

H.R. 349: Mr. DOOLEY, Mr. JOHNSON of Georgia, Mr. TAYLOR of Mississippi, Mr. LINDER, Mr. BACHUS of Alabama, and Mr. MAZZOLI.

H.R. 385: Mr. STUMP.

H.R. 396: Mr. MCHUGH.

H.R. 410: Mr. PARKER, Mr. SOLOMON, Mr. BAKER of Louisiana, Mr. ARMEY, and Mr. CALLAHAN.

H.R. 412: Mr. DUNCAN and Mr. SOLOMON.

H.R. 419: Mr. EVANS, Mr. HOBSON, Ms. WOOLSEY, Ms. NORTON, Ms. PELOSI, Mr. BLACKWELL, and Mr. HINCHEY.

H.R. 441: Mr. MANN and Mr. BEREUTER.

H.R. 465: Mr. SHAYS.

H.R. 490: Mr. DORNAN, Mr. HUTTO, Mr. MCDERMOTT, Mr. FLAKE, Ms. BYRNE, Mr. FRANK of Massachusetts, Mr. MCHUGH, Mrs. MEEK, Mr. SANDERS, Ms. SNOWE, Mrs. MORELLA, Mr. CLYBURN, Ms. WOOLSEY, Mr. APPLEGATE, Mr. COLEMAN, Ms. E.B. JOHNSON, Ms. BROWN of Florida, Mr. CARDIN, Mr. LEVIN, Ms. MOLINARI, Ms. DANNER, Ms. PELOSI, Mr. RAHALL, Mrs. LLOYD, Mrs. SCHROEDER, Ms. SHEPHERD, Mr. TUCKER, Mr. OBERSTAR, Mr. SCHUMER, Mr. VALENTINE, Mrs. COLLINS of Illinois, Mrs. VUCANOVICH, Mr. FAZIO, Mr. DELLUMS, Mr. MORAN, Mr. PETERSON of Florida, Mr. CONYERS, Mr. FROST, Mr. EVANS, Miss. COLLINS of Michigan, Mr. BARRETT of Wisconsin, Mr. RUSH, Mr. FILNER, Mr. BONIOR, Ms. MARGOLIES-MEZVINSKY, Mr. COX, Mrs. CLAYTON, Mr. HOYER, Mr. HINCHEY, and Mr. EMERSON.

H.R. 498: Mr. BROWN of California.

H.R. 509: Mr. BAKER of Louisiana, Mr. DELAY, Mr. THOMAS of California, Mr. SKEEN, and Mr. BARTLETT.

H.R. 519: Ms. MALONEY, Ms. PELOSI, Mr. BERMAN, Mr. STARK, Mr. ANDREWS of Maine, Ms. BYRNE, Mr. HASTINGS, Mr. COLEMAN, Ms. NORTON, Mr. BLACKWELL, Mr. WYNN, Mr. FILNER, and Mr. MILLER of California.

H.R. 526: Mr. APPLEGATE, Mr. BLACKWELL, Mr. FOGLIETTA, Mr. HILLIARD, and Mr. REED.

H.R. 544: Mr. BLACKWELL, Mr. RUSH, Mr. GUTIERREZ, Mr. SKAGGS, Mr. RANGEL, Mr. BATEMAN, Mr. SCOTT, and Mr. WYNN.

H.R. 546: Mr. KREIDLER, Mr. HOBSON, Ms. NORTON, Mrs. THURMAN, and Mr. GORDON.

H.R. 561: Mr. BREWSTER, Mr. GILLMOR, Mr. POMBO, Mr. MCDADE, Mr. SARPALIUS, and Mr. LIGHTFOOT.

H.R. 562: Mr. EMERSON, Mr. LIGHTFOOT, and Mr. DOOLITTLE.

H.R. 563: Mr. MCHUGH, Mr. INGLIS, Mr. EMERSON, Mr. LIGHTFOOT, Mr. PORTER, and Mr. DOOLITTLE.

H.R. 565: Mr. PORTER, Mr. ROHRABACHER, Mr. COX, Mr. HERGER, Mr. EWING, Mr. SOLOMON, Mr. GENE GREEN, Mr. MCMILLAN, Mr. BARTLETT, Mr. BATEMAN, Mr. ARMEY, Mr. STUMP, Mr. SCHIFF, Mr. ZELIFF, Mr. BAKER of Louisiana, and Mr. PENNY.

H.R. 567: Mr. GRAMS.

H.R. 571: Mr. PAXON, Mr. ZIMMER, and Ms. NORTON.

H.R. 630: Mr. WALSH, Mr. LEVY, Mr. CLYBURN, Mr. TOWNS, Mr. EVANS, and Mrs. JOHNSON of Connecticut.

H.R. 667: Mr. SMITH of Oregon, Mr. FAWELL, Mr. GINGRICH, Mrs. MEYERS of Kansas, Mr. CANADY, and Mr. KNOLLENBERG.

H.R. 697: Mr. BLACKWELL, Mr. DE LUGO, Mr. EVANS, Mr. GEJDENSON, Mr. GUTIERREZ, MR. HILLIARD, Mr. MFUME, Mr. RUSH, Mr. SABO, Ms. WOOLSEY, Mrs. MORELLA, and Mr. MARTINEZ.

H.R. 723: Mr. GALLEGLY.

H.R. 726: Mr. FRANK of Massachusetts.

H.R. 739: Mr. DOOLITTLE, Mr. LIPINSKI, Mr. SANTORUM, and Mr. BARTLETT.

H.R. 749: Mr. DOOLEY, Mr. KLUG, Mr. BOEHLERT, Ms. BYRNE, Mr. DORNAN, Mr. PARKER, Mr. FRANK of Massachusetts, and Mr. CALVERT.

H.R. 762: Mr. FROST, Mr. SOLOMON, Mr. SANTORUM, Mr. BARLOW, and Mr. LIPINSKI.

H.R. 777: Mr. BAKER of Louisiana, Mr. LEACH, Mr. SOLOMON, Mr. TORKILDSEN, Mr. GUNDERSON, Mr. SAXTON, and Mr. BARTLETT.

H.R. 799: Mr. FRANKS of Connecticut, Mr. LAROCCO, Ms. LONG, Mr. HOKE, Mr. GUNDERSON, and Mr. MANZULLO.

H.R. 870: Mr. TUCKER, Mr. LEACH, Mrs. COLLINS of Michigan, Mr. BLACKWELL, Mr. CLAY, Mr. BARTLETT, and Mrs. KENNELLY.

H.J. Res. 6: Mr. BILIRAKIS, Mr. ROMERO-BARCELÓ, Mr. KREIDLER, Mr. EMERSON, Mr. MONTGOMERY, Ms. BYRNE, Mr. RANGEL, Mr. BEVILL, Mr. POSHARD, Mr. MAZZOLI, Mr. MINETA, Mr. HAMILTON, Mr. HUTTO, Mr. VENTO, Mr. DORNAN, Mr. HENRY, Mr. BARTLETT, Mr. FRANK of Massachusetts, Mr. BONIOR, and Mr. SUNDQUIST.

H.J. Res. 10: Mr. APPLEGATE, Mr. LEHMAN, Mr. EDWARDS of California, Mr. RANGEL, Mr. HAMILTON, Ms. NORTON, Mr. REGULA, Mr. DOOLITTLE, Mr. CRAMER, Mr. HUTTO, Mr. COYNE, Mr. BLILEY, Mr. MCCOLLUM, Mr. ROEMER, Mr. RAHALL, Mr. ORTON, Mr. DELLUMS, Mr. SCOTT, Mr. TAUZIN, Mr. STARK, Mr. CLEMENT, Mr. MINETA, Mr. FALEOMAVAEGA, Mr. LANTOS, and Mr. NUSSLE.

H.J. Res. 22: Mr. EMERSON, Mr. BEVILL, Mr. HUNTER, Mr. BURTON of Indiana, Mr. SUNDQUIST, Mr. BACHUS of Alabama, Mr. DORNAN, Mr. MCHUGH, Mr. SAM JOHNSON, Mr. BARTLETT, and Mr. LAUGHLIN.

H.J. Res. 58: Mr. SARPALIUS.

H.J. Res. 101: Mr. SMITH of Michigan.

H. Con. Res. 3: Mr. MCNULTY and Mr. SANTORUM.

H. Con. Res. 6: Mr. DOOLEY, Mr. CANADY, Mr. PETE GEREN, Mr. ORTON, and Mr. HOKE.

H. Con. Res. 15: Mr. LANTOS, Mr. VALENTINE, Ms. WOOLSEY, Ms. NORTON, Mr. HILLIARD, Mr. BLACKWELL, Mr. WYNN, Mr. GLICKMAN, Mr. GUTIERREZ, and Mr. JEFFERSON.

H. Con. Res. 21: Mr. EMERSON, Mr. CLEMENT, Mr. FILNER, Mr. BEREUTER, Mr. BILBRAY, Ms. WOOLSEY, Mr. HOBSON, Mr. RANGEL, and Mr. WALSH.

H. Con. Res. 29: Mr. SOLOMON, Mr. BAKER of California, Ms. NORTON, Mr. CANADY, Mr. HILLIARD, Mr. KILDEE, and Mr. MANZULLO.

H. Con. Res. 36: Mr. RANGEL and Mrs. KENNELLY.

H. Res. 16: Mr. BARTLETT.

H. Res. 35: Mr. GALLEGLY, Mr. OLVER, Ms. BYRNE, Mr. FRANKS of New Jersey, Mr. SHAYS, Mrs. KENNELLY, Mr. PENNY, Mr. BEILENSON, Ms. SLAUGHTER, Mr. LIPINSKI, Ms. MALONEY, Mr. CARDIN, and Mr. HINCHEY.

H. Res. 40: Ms. FURSE, Mr. MCDERMOTT, Mr. FROST, and Mr. SLATTERY.

H. Res. 41: Mr. BARRETT of Wisconsin, Mr. NEAL of North Carolina, and Mr. TORKILDSEN.

H. Res. 49: Ms. FOWLER, Mr. HANCOCK, Mr. DORNAN, Mr. ARMEY, and Mr. BAKER of Louisiana.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 25: Mr. SMITH of Oregon.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

12. By the SPEAKER: Petition of Graphic Communications International Union, Seattle, WA, relative to the health care crisis; to the Committee on Energy and Commerce.

13. Also, petition of the Ambassador, Embassy of Austria, relative to an International War Crimes Tribunal for the former Yugoslavia; to the Committee on Foreign Affairs.

SENATE—*Tuesday, February 16, 1993*

(Legislative day of Tuesday, January 5, 1993)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

God, our Father, we thank Thee for the recess with its opportunity for work and family time, for rest and recreation. And we thank Thee for safety in travel.

Now the Senate faces enormous problems which threaten the future of our Nation. You have promised, "If any of you lack wisdom, let him ask of God, that giveth to all (men) liberally, and upbraideth not; and it shall be given him."—James 1:5.

Grant to the Senators the gift of humility that they may acknowledge the limitations of human ability, ask for divine wisdom which transcends the human, and accept it freely. Lead them to clear understanding of the issues and adequate solutions.

Gracious Father, guide President Clinton in his counsel and deliberations, that he, with the Congress, will discover and agree on remedies which will lead America into a bright and promising future.

In Your name, O Lord, we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order the majority leader is recognized.

REV. RICHARD C. HALVERSON

Mr. MITCHELL. Mr. President, I know I again speak for all Senators when I express our gratitude at the privilege of having been joined today by our distinguished Chaplain, the Reverend Richard Halverson, and we look forward to his continued guidance and counsel.

THE SCHEDULE

Mr. MITCHELL. Mr. President, today following the time reserved for the two leaders, there will be a period for morning business until 12:30 p.m. wherein Senators may speak for up to 5 minutes each.

The Senate will recess from 12:30 to 2:15 p.m. in order to accommodate the regular party conference luncheons.

At 2:15 today the Senate will reconvene and begin consideration of Calendar item No. 2, S. 1, the National Institutes of Health Revitalization Act of 1993.

PRIVILEGE OF THE FLOOR—S. 1

Mr. MITCHELL. Mr. President, I ask unanimous consent that the privileges of the floor be granted to the following member of my staff, Jane Loeweson, a health fellow, during the pendency of S. 1, the National Institutes of Health Revitalization Act of 1993.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that a letter that I received from President Clinton be inserted at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, February 12, 1993.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR MITCHELL: On January 19, 1993, President Bush submitted a report on nuclear testing to the congressional defense committees that purports to respond to Section 507 of the Energy and Water Development Appropriations Act, 1993 (Public Law 102–377).

Notwithstanding the requirements of Section 507, the report submitted by President Bush did not contain a schedule for resuming the Nuclear Testing Talks with Russia, a plan for achieving a Comprehensive Test Ban (CTB) by 1996, a proposal for incorporating modern safety features recommended by the Drell Commission into U.S. nuclear weapons, or a plan for resuming a limited program of U.S. nuclear testing leading to a total cessation of tests in 1996.

Since the report submitted by President Bush did not comply with the substantial majority of the requirements of this legislation, I have determined that the report has no bearing on the provisions contained in Section 507(c) that prescribe the conditions upon which a limited program of U.S. nuclear testing could be resumed after July 1, 1993.

During my campaign, I supported the compromise on nuclear testing contained in Public Law 102–377. My Administration is currently preparing to review questions relating to the forum and modalities for negotiating a CTB and the related question of resuming a limited program of U.S. nuclear testing after July 1, 1993, as provided for under this legislation. I will submit a report pursuant to Section 507 of Public Law 102–377 as soon as this review is complete.

Sincerely,

BILL CLINTON.

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I yield now to the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the remainder of the majority leader's time is reserved.

RECOGNITION OF THE REPUBLICAN LEADER

The PRESIDENT pro tempore. The Republican leader is recognized under the order.

THE REVEREND RICHARD C. HALVERSON

Mr. DOLE. Mr. President, first let me join the majority leader in expressing our best wishes to the distinguished Senate Chaplain, Chaplain Halverson, welcoming him back to the Senate, and I wish him every wish for good health in the days and months ahead.

THE PRESIDENT'S ADDRESS

Mr. DOLE. Mr. President, I just wanted to take a minute or two to indicate what we hopefully have done in a responsible way on this side of the aisle, that we are looking forward to President Clinton's address to the Nation and when he addresses a joint session of Congress tomorrow evening. No doubt about it—the American people, whether Democrats or Republicans or Independents, have indicated that they want action; they want the deficit dealt with. So does this Senator. So does every Senator in this Chamber on either side of the aisle.

The President has been working closely with Democratic leaders, and I understand that is probably why he has not asked for advice from the Republican side but, notwithstanding that, we are prepared to be helpful where we can, particularly when it comes to spending restraint and if in fact President Clinton is serious about cutting spending, other than just cutting defense, then I believe he will have substantial support on the Republican side.

On the tax side, if reports we are receiving are accurate it is going to be a big, big tax package. Some people will have the opportunity to have their taxes increased not once but three or four or five times.

But what started out as a campaign promise to tax those of $200,000 or more, last night President Clinton said $100,000 and then today his communications director, Mr. Stephanopoulos, said anybody over $30,000 would feel the tax increase.

So I just suggest that while there will not be any middle-class tax cut, it is pretty obvious there is going to be a middle-class tax increase. Maybe, and I would support the President, that can be justified if in fact the sacrifice is fair and it is shared and it is across the board, starting with the Government, not with the people but starting with the Government.

With reference to the stimulus package, another part, a separate part of the overall Clinton program, it is difficult for this Senator to understand how you, on the one hand, can have a stimulus, an economic stimulus in a $5 to $6 trillion economy with a $15, $18, $30 billion stimulus which will add to the deficit, how you can do that and increase the deficit without having some impact on the economy.

The stock market is down 60 points right now. Maybe that will neutralize by the time the stock market closes. But it is an indication that some are not rallying or at least they are not particularly encouraged by what they see. Based on a preliminary estimate if we are going to create 300,000, 400,000, or 500,000 jobs, nobody knows where the jobs are going to come from, allowing them to be created. Who will have the jobs? Will the jobs be in the public sector or the private sector? Maybe that can be done without an economic stimulus package and without the additional tax on corporations.

Keep in mind that a lot of people with incomes of $100,000 are not just individuals. They are sole proprietors, partners that are making business, creating capital, creating jobs. That may be a stimulus package not to raise everybody's tax. But according to present indications if 300,000, 400,000, or 500,000 jobs are created, it would not be I think a big exaggeration. We figured it would cost about $62,000 per job. I am not certain what kind of job it is, government job or a temporary job. It may not be a job that will do much for the economy.

I would say, finally, that patriotism is not defined by suggesting if you do not support tax increases you are not patriotic. My view is most Americans would be prepared to support tax increases if in fact the tax increases are coupled with genuine, real, meaningful spending restraints.

So I would hope, as we get into this debate and it is very early—I do not disagree with the majority leader. He said let us see the details before we start making specific recommendations. But since the President has made general statements without talking about specifics, it seems to me that we need to keep an eye on precisely what all these tax increases will do for the economy.

My view is tax increases do not create many jobs, do not help the economy. The Bush recovery is well under way. Last quarter growth was 3.8 percent; productivity is up 2.1 percent; car sales are up; mortgage interest rates are down. We did create about 1½ million jobs this past year.

So there are a lot of good signs out there that indicate to many of us and many economists that the last thing we need to do is increase the deficit, whether it is through a stimulus package or whatever.

So I would say to the President—and we have invited him to come speak to the Republican Senators at a policy luncheon. It is my understanding he may do that on about March 2. We certainly welcome President Clinton. We want him to persuade us, if he can, that this is the right way to go. It is a very important challenge for the President of the United States. He has a big, big responsibility. And wherever we can, we ought to be willing to cooperate with him.

Mr. President, I reserve the remainder of my time.

The PRESIDENT pro tempore. Without objection, the 3 minutes and 50 seconds of Mr. DOLE'S remaining time is reserved.

Mr. MITCHELL addressed the Chair.

The PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. Mr. President, I thank my colleague, the distinguished Republican leader, for his offer of cooperation with President Clinton and the new administration.

It is very clear that our Nation has been moving in the wrong direction over the past 12 years. The national debt has quadrupled during that period; that is, increased by 4 times what it was in 1980. Deficits have reached record high in each of several of recent years and, at the same time, the rate of job creation has been the slowest and the lowest in the past 60 years.

I agree wholeheartedly with the observations of my colleague, Senator DOLE, about the importance of creating jobs in the private sector as opposed to Government jobs.

One of the concerns that I had over the past 4 years of the recent administration is that the only area of the economy in which jobs grew was in Government jobs and, in fact, there was a decline or, at best, a stagnant level of jobs in the private sector.

I believe that the program to be presented tomorrow evening by President Clinton will seek to correct that deficiency; that is, will seek an economic policy that is different from the policy pursued in the last few years to produce a result that is different from the last 4 years, we can now get to the creation of jobs in the private sector, and not just the creation of jobs but increases in the incomes of Americans.

So, instead of having the only area of job creation be in Government jobs, as has been the case in the last 4 years, we can now get to the creation of jobs in the private sector, and not just the creation of jobs but increases in the incomes of Americans.

One of the most distressing results of the past 12 years has been the decline in the income of average working Americans. But for the entry of so many spouses—wives entering the workplace for the first time, out of economic necessity—there would have been a dramatic decline in the average incomes of most Americans. The only people whose incomes rose appreciably over the past 12 years were those, of course, at the very top of the income scale. The very wealthiest of Americans saw spectacular increases in income, while the incomes of most Americans, and those who were certainly wage-earning Americans, actually declined.

So I think the objective of President Clinton's program will be to reverse the economic policies of the past 12 years; to reverse the economic results; to get back to job creation in the private sector, not job creation in the Government; and to get back to rising American incomes, not declining American incomes.

I think the President's program will be tough. It will be fair. It will ask for sacrifice from all Americans. But I think Americans are ahead of we politicians in that regard in that they are prepared to sacrifice if they believe the sacrifice will produce a beneficial result for their children and for their country.

I think that is what the President's program is looking toward—the future—not just what is good for those of us standing here today or those of us living today, but what is good for our children, our grandchildren, and their grandchildren.

As we look to the future, it is important that we lay the foundation for the kind of sustained economic growth, private sector job creation, and rising incomes that Americans need. That cannot be possible unless we address the increasing budget deficit.

We cannot continue the policies of the past 12 years which produced a quadrupling of the Federal budget deficit. That is why the President will ask Americans to contribute, to make those sacrifices needed to lay the foundation for future prosperity.

And, as the President indicated last night, it will be equitable. Those who are most able to contribute should contribute more. Those who are less able will be asked to contribute less.

That is, of course, a reversal of the policies of the past 12 years in which those who had less were asked to contribute more and those who had more were asked to contribute nothing. I think that will produce a groundswell of support among the American people, because it will be fair, it will be tough, it will be forward looking, and it will be what we must do to improve the American economy.

So I genuinely look forward to cooperation with our colleagues. As we all know, every one—every single Member of this Senate—wants to do what is right for the country.

Our differences are in defining what is right, in knowing what is right. And there are honest and legitimate and reasonable differences of approach in that regard. I expect that we will debate them over the coming weeks. I hope we can do it in the spirit and atmosphere that produces the result that we all seek. And that is a better country, more opportunity, more jobs, and better paying jobs for our country in the future.

So I look forward to working with the Republican leader and with all of our colleagues in that effort.

Mr. DOLE. Mr. President, if I could just take 1 minute.

The PRESIDENT pro tempore. The Senator from Kansas.

Mr. DOLE. Mr. President, I do not like to disagree with the distinguished majority leader, but I just want to set the record straight about the past 12 years. We have had great economic growth during those 12 years, unparalleled growth; I do not know how many months, 73, 74 months of unparalleled growth.

I remember when we passed the 1986 tax bill, it was heralded by Democrats and Republicans as the greatest thing that happened in this century. Some of the strongest proponents are on the floor right now.

So I suggest in those 12 years, the Democrats have controlled the house and for six of those 12 years they have controlled the Senate. And so I just did not want all the blame to fall on President Reagan, who is no longer here in Washington, or President Bush, who is now in Houston.

But we will do the best we can to sort of balance the record in our debate, and we will probably have a lot of debates on this in the future.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that morning business be extended until 12:45 p.m., under the same limitations as previously ordered, with the exception that Senator BRADLEY be recognized for up to 15 minutes, Senator PRYOR for up to 10 minutes, and Senator LUGAR for up to 5 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BRADLEY addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from New Jersey [Mr. BRADLEY], is recognized for not to exceed 15 minutes.

"DON'T STOP THINKING ABOUT TOMORROW"

Mr. BRADLEY. Mr. President, 1 month ago, we inaugurated a new President—a Democrat who takes office after 12 years of Republican rule. The two words that characterized his mandate are change and hope. People knew they needed a change, and President Clinton instilled a sense of hope in millions of Americans. Since that night he accepted the nomination last summer in Madison Square Garden, a song kept running through the minds of millions of Americans: "Don't Stop Thinking About Tomorrow," by Fleetwood Mac. It was meant to convey optimism and hope in a memorable way.

Yet, if you think about it, the message was contrary to our reality. It is not that we have been thinking of tomorrow, and we have to avoid stopping. Rather, in the most obvious ways, we have not been thinking about tomorrow.

One of Aesop's fables says it best:

> It was wintertime; the ants' store of grain had gotten wet, and they were laying it out to dry. A hungry [grasshopper] asked them to give it something to eat. "Why didn't you gather food in the summer like us?" the ants said. "I hadn't time," the grasshopper replied. "I was busy making sweet music." The ants laughed. "Very well," they said, "since you piped in the summer, now dance in the winter."

Moral of the story: in everything, beware of negligence, if you want to escape distress and danger.

Not thinking about tomorrow means being negligent, acting like the grasshopper instead of the ant. Too many of us have been grasshoppers for too long.

Just think about urban America. Each year it gets poorer, more violent, more populated with families in distress. If we stop and think about this reality, we would be compelled to act because of morality—if you are your brother's keeper, you got to walk your talk; because of self-interest—we will never compete and our living standards will be lower with a larger and larger unskilled population on our collective back; and because of world leadership—we can't lead the world as a pluralistic democracy with events such as the Los Angeles disturbances popping across television screens from Tokyo to London and 40 percent of our voting-age population denied the right to vote, even if they arrived at the polls and wanted to vote. Clearly, if we were thinking about tomorrow, we would see the human and national tragedy that is building in our cities; we would see it and then act to change these conditions. But we have not. Like the grasshopper, we have been playing our sweet music in the suburbs while things got worse.

And then there is the plight of our children—not just poor children but all children. How can we be thinking about tomorrow and continue neglecting our children? In 1975, one-third of married couples with children had both spouses working. In 1992, the percentage doubled to nearly two-thirds. Without that second paycheck, many families just would not make it. Yet with it, their children are often alone, without supervision, from an early age.

Parents in this Chamber know the pressures. I do. If you are lucky, a loving relative in the neighborhood is there and can assure the care. If you are upper income, you can hire someone to provide full-time care. If you do not have enough money or a loving relative nearby, then it becomes more difficult. There are only a few possible answers. For a spouse of either gender to have the option of staying home, the salary for the one earner has to be much higher; or companies will have to give family leave measured in years, not weeks; or all of us will have to pay more taxes so the Government can subsidize day care at the company, the union, the neighborhood center, or the church, or synagogue or mosque. The only given is that someone has to provide loving care. But too often no one does because as a society we have not made child care a priority. We are like the grasshopper dancing toward winter. That is not thinking about tomorrow.

Between 1980 and 1987, consumer credit increased 95 percent. People under economic stress did not consume less; they borrowed and consumed more, or they borrowed to speculate. By 1989–90, the bubble had burst. People cut back. Businesses started to pay debt down. In New Jersey, we are coming out of this 4-year recession, in part because the State acted responsibly and made tough choices. Here in Washington, the bubble has never burst; it just keeps getting bigger and bigger. The net national debt in 1980 was around $900 billion. Tonight the net national debt is over $3 trillion. Fifty-eight percent of all personal and corporate savings goes to finance the interest on that debt. It is as though in 1980 you owed $10,000 on your credit card, and now you owe $30,000. The interest you have to pay is money you do not have to spend on college for your kids, a new addition for your home, or saving for retirement. We have put a burden on each one of our children—a burden that endangers what we have come to think of as an American birthright—and that is that your children would have a standard of living higher than you do. In fact, a General Accounting Office report that I commissioned last year reported that if we do nothing about our deficits by 2020, we will have incomes 40 percent lower than they otherwise would be.

A few years ago, we won the gulf war in a triumph of our military technology and leadership, and then to pay for it, we passed the tin cup to our allies. The end of communism in the former Soviet Union and the end of the Soviet Union itself offer the potential to transform our prospects, yet unlike right after World War II, we cannot afford the cost of real leadership. Last April Los Angeles exploded, while 20 other cities simmered, and the Federal response was very few words and zero dollars. Workers lose their jobs with America's giants—AT&T, IBM, Sears, General Motors—and with them often their health care, their pensions, and the prospect of another good job. They are told do not look to Washington, because the Government is nearly bankrupt.

The time for passing the buck is over. There can be no more excuses by politicians who are afraid to make the same decisions that millions of Americans and hundreds of American corporations have had to make in the last several years—to eliminate excess, however small, to live within our means, to become more productive—all as the first step in regaining control over our lives. For those who say the debt is not that big to worry about, or yes, let us cut but not now, I remind them that I first heard those excuses in 1981 when the deficit was one-fourth of what it is today. For those who say growth is more important than the deficit, I agree. But then I would ask them to tell me how we get sustained long-term growth without reducing the deficit. The time of magic cures and fanciful theories is past. It is back to basics.

Putting the economy back on track will not be easy, nor painless, and there are many parts in a strategy. To reduce the deficit, there should be nothing that is off limits. Yet not everything should be cut. Those who can sacrifice should be called upon to sacrifice, and all of us should give something to be a part of the solution, but some spending should be increased, such as public investment that creates jobs. But, I cannot imagine reducing the deficit sufficiently without reducing entitlements, raising taxes, and cutting defense. If that fact does not give every Senator and Congressman heartburn, nothing will. It will test the civility and knowledge of our people as nothing has before. It will be a field day for demagogs, who will try to divide group against group for narrow purposes. Still, it has to be done. I urge President Clinton—and compliment him—and hope that by spring he will put on each legislator's desk the vote of that legislator's lifetime. The grasshopper's sweet music must stop. Nothing less will save our future.

In each of these areas—urban America, children, and the debt—I think we have lost our way for a deeper reason. We have allowed ourselves to become isolated from each other, locked in our own world unwilling to go into the public square together. Detachment and denial have to end. The cycle simply must be broken for our children's sake and for our ability to lead in the world.

You know something? I believe we can do it. As President Clinton said in his inaugural address, "There's nothing wrong in America that can't be fixed by what's right about America."

Each of us probably knows someone who is part of what is right about America. In my home State of New Jersey, that means people such as Kathy DiChiara, who started feeding the hungry out of the back of her stationwagon and now runs the Community Food Bank of New Jersey, which distributed nearly $23 million of food last year; Earl Mail and Jerry Minor, the union president and plant manager of the Ford Edison plant, who in 1986 took a plant that was close to last in efficiency, quality, and customer satisfaction and turned it into one vying for first place in the country; or Christine Bartram of Tinton Falls, who in the course of a decade went from gopher to the owner of the $4 million-a-year-in-sales marketing firm, Lanmark Group Inc.

Ultimately, though, it is not a matter of knowing someone; it is a matter of being part of what is right about America. The question that every American can ask himself or herself today is: Are you a part of what is right about America? Only you with your conscience and your mind can answer that question. Only you will determine whether you turn your back on urban America or engage in the effort to understand it and to help; only you know if you have spent enough time with your kids or fought for the support needed to allow you to spend more time with your kids; only you know if you truly are willing to give up a little income now for yourself so that we can all have more income later. Government in all its human vulnerability got us into some of these problems—no question about that—but not all of them. And it will take government and each of us to get out.

Over the last several weeks, I received—like many Senators—thousands of calls on Zoe Baird and on the President's effort to eliminate gays in the military, just as I received thousands of calls and letters during the Anita Hill-Clarence Thomas hearings. It is too early to be sure, but we might be seeing examples of a newly engaged and energized citizenry. Maybe it was the President's campaign, or Congress' excesses, or the neglect of the last decade, or the seriousness of our times—but people want to be heard in a new and compelling way. Washington commentators, stunned by the public participation, asked each other, "Is it possible the people really count?" The answer is yes, the people count—for everything. That does not mean in every case a Representative should allow his phone or mail log to determine his vote, but what it does mean is that an engaged citizenry over time can shape the direction of the country through their Representatives. That is the ultimate source of change and of hope—not in any one public official, but in the people themselves and in the growing realization that they can, if they choose, force us to think today, beyond narrow interests, beyond denial; the growing realization that they can force us to face up to our problems and to really start thinking about tomorrow.

I yield the floor.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. PRYOR addressed the Chair.

The PRESIDENT pro tempore. The Senator from Arkansas [Mr. PRYOR], is recognized for not to exceed 10 minutes.

Mr. PRYOR. Mr. President, I would like to compliment my friend from New Jersey, the distinguished senior Senator from New Jersey, who I had the privilege of coming to the Senate with and who I have had the privilege of watching as he has developed as one of the leading Members of this body.

Mr. President, in keeping with his usual habit, he has presented to us a thought-provoking message. I want to compliment the distinguished Senator, and I am very proud that I had the opportunity to hear his remarks.

(The remarks of Mr. PRYOR pertaining to the introduction of S. 356 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

ORDER OF PROCEDURE

The PRESIDENT pro tempore. Under the order previously entered, the Senator from Indiana [Mr. LUGAR], is recognized for not to exceed 5 minutes, and without objection the morning business period will be extended accordingly to accommodate him.

Mr. LUGAR. I thank the Chair.

RATIFICATION OF THE START I TREATY

Mr. LUGAR. Mr. President, I want to take a moment of the Senate's time to record a momentous event in the history of the newly independent States of the former Soviet Union and one that contributes significantly to the national interests of the United States. I refer to the ratification of the START I Treaty by the Parliament of Belarus and the approval of that country's accession to the Nuclear Non-Proliferation Treaty. Indeed, Belarus constitutes the first State in history to formally renounce all of its nuclear arms.

Moreover, Belarus has already signed an agreement with Moscow to transfer all 81 of its SS–25 missiles to Russia for dismantlement by the end of 1994.

The Government of Belarus and the Members of its Parliament have made good on the commitments that they undertook in the Lisbon protocol of

May 1992 and in the Government's letter to President Bush. To quote the Foreign Minister of Belarus: "Today Belarus has ratified, voluntarily, consciously, and in a civilized manner, the most important of international legal accords as a legal successor to the Soviet Union."

The Parliament voted 218 to 1, with 60 abstentions, to approve the treaty. Not only have the Government and Parliament demonstrated the seriousness with which the country views its international obligations but it did so in a democratic fashion, after due consideration and debate.

Mr. President, this action was not an easy one. Many questions remain unresolved with respect to the transfer of nuclear systems from Belarussian soil back to Russia. It is no simple task to coordinate the removal of the missiles or to define the status of the weapons in Belarus. Moreover, the costs of assisting service personnel in procuring alternative forms of employment and housing are substantial.

Nonetheless, the Parliament of Belarus has ratified the START I Treaty and approved the country's adherence to the NPT. The Government, the Parliament, and the people of Belarus deserve the thanks of the American people. But they deserve more than that. They deserve our assistance, and I will be working with my colleagues in the Congress and with the administration to see to it that appropriate forms of assistance are offered to Belarus.

Mr. President, I was recently in Belarus and held numerous conversations with officials in Minsk. The Chairman of the Supreme Soviet told me and Senator NUNN in a very straight-forward fashion that Belarus would honor its international commitments. True to his word, Belarus has done so. And in so doing it has earned our respect, our gratitude, and our assistance.

Mr. President, there are several areas on which immediate discussions among officials from Belarus and the United States over appropriate forms of assistance might focus. One area obviously has to do with assistance to expedite the transfer of the SS-25's and their nuclear warheads to Russia by the end of 1994, per the agreement between Russia and Belarus. A second and related area of assistance has to do with an equitable share of the proceeds to be obtained by the sale of the United States of the weapons-grade uranium to be extracted from the warheads as they are dismantled on Russian soil. A third area wherein the United States can be helpful relates to assistance in the relocation and housing of elements of the strategic rocket forces that will be returning to Russia along with the nuclear systems. And a fourth area concerns environmental cleanup in the aftermath of the Chernobyl disaster, a disaster that affected Belarus and its people much more than any other nation in Europe.

And last, Mr. President, we need to explore various forms of financial and monetary assistance to Belarus, a country that has pledged to work closely with the IMF in transforming its economy. Indeed, I would go so far as to recommend that the new administration give serious consideration to the establishment of a Belarus-United States Enterprise Fund, modeled after the highly successful bilateral enterprise funds we have developed with Poland, Hungary, and the Czech and Slovak Republics.

Mr. President, we still have a long road to travel before the historic START I and START II treaties can be implemented; numerous obstacles must be overcome before we can proceed to the actual physical destruction of the systems covered by these agreements. Belarus has shown the way, and it now falls to the United States, whose national security interests are furthered by such Belarussian action, to demonstrate in concrete ways that it is prepared to assist in the furtherance of Belarussian interests.

EXTENSION OF MORNING BUSINESS

Mr. CONRAD. Mr. President, I ask unanimous consent that the period for morning business be extended by 5 minutes.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

RTC PAYS $35 AN HOUR FOR PHOTOCOPYING

Mr. CONRAD. Mr. President, I rise today because of a story that appeared in the Washington Post on the 13th with respect to the RTC. I want to draw the attention of my colleagues to this, because I think the RTC needs to be brought up short, Mr. President.

The story indicates that the RTC has been paying $35 an hour for photocopying—$35 an hour, Mr. President. A lot of folks in my State, I am certain, and a lot of folks in the State of the distinguished President pro tempore, would like to be paid $35 an hour to photocopy.

Mr. President, the Resolution Trust Corporation, according to this story, has been paying as many as 1,300 people a rate of $35 an hour to photocopy. It would seem to me, if this were drawn to the attention of an agency, that they were paying $35 an hour for a total bill that is going to run $25 to $30 million for photocopying, that agency would react swiftly, promptly, and aggressively to stop it.

What is the answer from the RTC? It is really quite a remarkable answer, Mr. President. The RTC spokesman said that if the fees the agency paid were excessive, "we would certainly be interested in bringing those down."

Mr. President, if the fees are excessive? I mean, this fellow has taken a flight of fantasy here. There is no question about whether $35 an hour for photocopying is excessive. Anybody with an ounce of common sense knows that $35 for photocopying is excessive. Unfortunately, Mr. President, this pattern has repeated itself over and over again with the RTC. This is the greatest financial fiasco in our country's history. It should never of been done in this way. And over and over, the RTC displays insensitivity, and perhaps even contempt, for the people who are footing the bill—the taxpayers of this country.

Mr. President, the RTC should know that they are in trouble because of mismanagement like this. I hope my colleagues will let them know that this is totally unacceptable, and they need to be sent a message that they have to get their costs under control, because the taxpayers of this country should not be asked to spend one penny more than is necessary to clean up the S&L fiasco.

I yield the floor.

DEATH OF CLINT FULLER SADDENED COUNTLESS FRIENDS

Mr. HELMS. Mr. President, an obituary in the February 8 Raleigh, NC, News and Observer was headed, "Clint Fuller, ex-aide to Helms," and was reporting the death of one of the finest friends I ever had.

Clint Fuller was far more than an "ex-aide" to me, although he was certainly a remarkable one for 18 years. He was also a friend to everybody who needed a helping hand, and he was loved by countless thousands of people in North Carolina and other States because he was genuine—a rarity in a superficial age where honor and service to others are too often dismissed as yesterday's passing fancy.

There was never a hint of superficiality about Clint Fuller, whether in North Africa in 1943, or editing his hometown newspaper, the Franklin Times, or serving this Senate. Clint unyieldingly held to his belief that God and country, and duty to others, were not out of fashion. He conveyed to everyone a unique sense of selflessness and dignity. To the scores of young men and women who flowed through our offices in the last two decades, Clint Fuller was both a father figure and mentor. No problem was too great; and no person was too small. Clint always offered a considerate word and an offer of help and comfort.

As the throng paid their final respects to Clint Fuller at the rural church cemetery not far from Louisburg, NC, I thought of the words on the memorial to the renowned English architect, Sir Christopher Wrenn. Sir Christopher's crowning glory is the cathedral of Saint Paul in London where in the crypt of that great church stands Wrenn's simple but sublime epitaph: "If you seek this monument look around."

Gathered at that church near Louisburg was Clint Fuller's own monument, the faces of countless young North Carolinians whose lives had been touched by this man's grace and kindness.

Mr. President, I ask unanimous consent that the obituary to which I referred at the outset from the February 8, edition of the Raleigh News and Observer, as well as an editorial from the February 11 edition of the Goldsboro News-Argus be placed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Raleigh (NC) News & Observer, Feb. 8, 1993]

CLINT FULLER, EX-AIDE TO HELMS

(By Martha Quillin)

Clint Fuller, for years Sen. Jesse Helms' top aide and former editor of the Franklin (County) Times, died Saturday after a lengthy fight against lung cancer. He was 72.

Mr. Fuller went to work on Mr. Helms' first campaign in the summer of 1972 and became the senator's top aide when Mr. Helms took office in 1973. Before he left the job because of illness in 1991, Mr. Helms said Sunday, Mr. Fuller ran his Washington office like a good manager of a small business: efficiently and with a smile.

"Clint was known and loved by literally thousands of North Carolinians because he was never too busy to extend a helping hand," the senator said. "He didn't mind being called on the weekend and would get out of bed to go to the office if somebody needed him. He was popular all over the state.

"He was very highly respected by his fellow staff members. And to old Jesse Helms, he was one of nature's noblemen. I regarded him as a brother."

Albert Clinton Fuller was born in Henderson on June 14, 1920. He graduated from N.C. State University and served in the U.S. Army Air Corps during World War II.

After marrying Louise Burnette in 1947, he took a job as a meat cutter in his wife's hometown of Louisburg, where their only child, Larry, was born. Later, he bought a supermarket, which he ran for 11 years while working part time as a sportscaster for an area radio station. When the station needed a full-time news reporter, he left the grocery business.

He was hired as managing editor of the Franklin Times in Louisburg in 1964. The newspaper received several press awards under his leadership, and Mr. Fuller was named "Man of the Year" in 1966 by the local Rotary Club for his efforts to improve roads and schools in Franklin County and to attract industry to the area.

During those years, Mr. Fuller was active in the Franklin County Democratic Party. He served as a delegate to state conventions and as county party chairman. He resigned from the post in July 1972 to campaign for Mr. Helms, a Republican. At that time, Mr. Helms was a television broadcaster in Raleigh, and he frequently invited Mr. Fuller to town to serve as a panelist when interviewing political figures.

When he went to work for Mr. Helms, Mr. Fuller said he would not change his party affiliation and would not be active in other Republican campaigns.

"For all I know, he might have been a Democrat the day he died," Mr. Helms said. "I don't know. That's one thing I never ask."

But he said that if Mr. Fuller supported only one Republican in his lifetime, "I'm mighty proud that he supported me."

Mr. Fuller was never enamored of Washington, and said he only moved there because Mr. Helms asked him to. When Mr. Fuller retired, he and his wife moved to Hopewell, Va., where she has a sister. From there, he continued to work as a consultant for Mr. Helms, helping solve problems and acting as a father figure to the rest of the staff, just as he always had, the senator said.

Surviving are Mr. Fuller's wife, Mrs. Louise Burnette Fuller of Hopewell; a son, Larry Fuller of Houston, Texas; and two grandchildren.

Mr. Helms said he will close his office today to attend the funeral, which will be held at 2 p.m. at Lancaster Funeral Home in Louisburg. Burial will be in the Sandy Creek Baptist Church cemetery.

[From the Goldsboro (NC) News-Argus, Feb. 11, 1993]

CLINT FULLER, GENTLE, UNPRETENTIOUS, EFFECTIVE

Constituent service can make or break a public official.

Senator Jesse Helms built a national constituency championing conservative causes.

He also built a record of unsurpassed service to his North Carolina constituency.

Behind that record was gentle, soft-spoken Clint Fuller who served as Helms' administrative assistant until retiring due to poor health in 1991.

Fuller died last Saturday of lung cancer.

He began his work career as a meatcutter in Louisburg and later owned his own supermarket. From there he went into radio as a sportscaster and then into newspaper, becoming managing editor of the Franklin Times.

As an editor he led Franklin County's fight for better schools, good roads and new industry.

He also was chairman of the county's Democratic Party. He held that position until resigning to campaign for his friend Jesse Helms, a Raleigh television editorialist who was running for the U.S. Senate.

When Helms went to Washington, he took a reluctant Clint Fuller with him. Fuller didn't like Washington from the beginning but labored where for almost 20 years out of loyalty to the senator.

If Fuller ever changed his political affiliation to Republican, Helms wasn't aware of it. Nor did he ever campaign for other Republican candidates.

In a city that nourishes pomposity and self-importance, Clint Fuller remained the humble, dedicated employee.

He was at his desk long before most Washingtonians were awake and could be found there on into the evening. Early in the morning or well after normal closing hours, a phone ringing in the office of Senator Helms most likely would be answered by Clint Fuller.

While he worked seemingly endless hours, Fuller never appeared to be in a hurry. He always had time for those who called or came by. He was low-key, disarming. And effective.

For two decades, those of us at the News-Argus who had something needing immediate attention in Washington called Clint Fuller. Apparently, that was the case with many people across the state.

Senator Helms said Fuller was a father image to the rest of the Washington staff. To Helms, and others among us closer to his age, he was more like a close brother. Above all, he was a kind, gentle, remarkable friend.

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $4,172,769,647,100.97 as of the close of business on Wednesday, February 10, 1993.

Anybody remotely familiar with the U.S. Constitution is bound to know that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States. Therefore, no Member of Congress, House or Senate, can pass the buck as to the responsibility for this shameful display of irresponsibility. The dead cat lies on the doorstep of the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 merely to pay the interest on deficit Federal spending, approved by Congress, over and above what the Federal Government has collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman, and child owes $16,245.37—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt averages out to be $1,127.85 per year for each man, woman, and child in America. Or, looking at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

What would America's economic stability be today if there had been a Congress with the courage and the integrity to operate on a balanced budget? The arithmetic speaks for itself.

TRIBUTE TO JUSTICE THURGOOD MARSHALL

Mr. GLENN. Mr. President, I rise today to pay honor and tribute to a great American, Justice Thurgood Marshall, who died on Sunday, January 24, 1993. Heartfelt condolences are extended to his wife, Cecilia, Thurgood, Jr.—a former Senate Judiciary Committee staffer and current legislative director for Vice President GORE—and John and their family.

The lasting legacy of Justice Marshall is firmly rooted in the American experience. When he engineered the dismantling of the "separate but equal" educational system that stained the history of our country, his place in history was already secure.

Four decades ago, Thomas Jefferson's promise "that all men are created equal" had been ignored to the detriment of African-American children relegated to inferior schools, perpetually denying them opportunity while fostering inferior lives and inferior dreams.

With the singular courage of ordinary citizens: ministers, parents, tenant laborers, and others of the African-American community, Thurgood Marshall and the gifted attorneys, staff, scholars, and volunteers working with the NAACP Legal Defense Fund, designed an engine that could carry the load to desegregate the system of public education in America. Against the best resources, Marshall was able to engage the Warren Court to conform the reality of the American experience with the promises and protections of the Constitution. Regardless of whether others, both blacks and whites, thought that the time was right, Thurgood Marshall kept his eyes on the prize and never faltered.

No passage captures the crux of the dilemma as from Thurgood Marshall's brief in his most famous school desegregation case:

> These infant appellants are asserting the most important claims that can be put forward by children. The claim to their full measure of the chance to learn and to grow and the inseparably connected, but even more important claim to be treated as entire citizens of the society into which they have been born.

The life of Thurgood Marshall was a rich mosaic that will endure as a valuable treasure for Americans. The loving testament to his legacy was demonstrated by the thousands of citizens who made their personal pilgrimage of thanks while he lay in state at the Supreme Court.

As Solicitor General under President John F. Kennedy, Thurgood Marshall added to his illustrious winning record at the Supreme Court, ending with 29 victories out of 32 cases.

When President Lyndon Baines Johnson appointed Marshall as Associate Justice of the Supreme Court in 1967, he again faced Southern white resistance that urged that the time was not right. He did not flinch. He moved forward, and the Nation was forced to reconcile its actions with the Constitution. Thurgood Marshall was eventually confirmed and was the first African-American to serve on the Supreme Court.

A distinguished jurist, Marshall is not just known for his protection of civil rights, but for the protection of individual liberties, whether it pertained to freedom of speech, protection of the rights of the accused, or privacy issues.

There are many lessons that Justice Thurgood Marshall taught us. However, his legacy for us all is that he has left a path that we can still follow to protect the rights of all Americans.

Near the beginning of the brief for the Brown versus Board of Education of Topeka, Kansas cases, Marshall quoted Thaddeus Stevens, a Congressman from Pennsylvania who participated in the floor debate on the 14th amendment.

> Where any State makes distinctions between different classes of individuals, Congress shall have the power to correct such discriminations and inequality. No distinction will be tolerated in this purified republic but what rose from merit and conduct.

Many constitutionally protected rights remain unfulfilled. Minorities and women still endure glass ceilings that deny them equal employment opportunity. As the Los Angeles riots showed, racial harmony is not a reality. We have more work to do.

At his retirement press conference in June 1991, Justice Marshall was asked if the plight of the Negro had improved. His response was to tell a story of a railroad porter that he had met years ago. Justice Marshall said that the porter had been all over the United States "but at no time did he have to look at the back of his hand to know that he was a Negro." Thurgood Marshall said that he still agreed with the porter's remark. In a society that says it is colorblind, that is a telling indictment.

We will miss Justice Marshall's reminders that we are off course. However, the legacy he leaves for us brilliantly illuminates the meaning of the Constitution and all that is America—and all that America should be.

Justice Marshall was also optimistic about America's ideals. He believed—in fact, he knew we could do better and he implored us as a nation to live up to the best of America's promises. At that now famous last press conference, Justice Marshall was asked how he'd like to be remembered. He replied that he'd like it said "that he did what he could with what he had."

Mr. President, what he did was make America better because of who he was.

SOUTH DAKOTA TRANSPORTATION NEEDS

Mr. PRESSLER. Mr. President, earlier this summer, I had the privilege of taking part in a South Dakota highway dedication ceremony, naming South Dakota Highway 37 as the Hubert H. Humphrey Memorial Highway. Senator Humphrey and his wife, Muriel, both took a great interest in South Dakota's transportation network. In fact, Muriel continues to be interested in the rural transportation needs of States like South Dakota. I would like to discuss some of these unique needs today.

Current air travel routes are of great importance to South Dakota. Yearly, hundreds of thousands of passengers use the current air routes through South Dakota. Both Sioux Falls and Rapid City are vital links for interstate air travel. Due to the unfortunate decline of the airline industry, South Dakota has been a victim of routing cuts, leaving South Dakota communities like Aberdeen, Pierre, Yankton, and Watertown cut off from other larger communities. Air service is a vital, time-efficient service for rural citizens. The discontinuation of commuter service, due to the questionable strategies of the major airlines, first and foremost, will adversely affect the rural traveler.

South Dakota has only one passenger train service. It is the 1801 steam engine which runs in the Black Hills. Its purpose is for tourism. This train helps visitors to enjoy the past and experience intimately the scenic beauty of the Black Hills.

On the other hand, South Dakota's commercial railroads provide enormous benefits to our agricultural and mining industries. Without freight service, these two key South Dakota industries could not continue to compete effectively.

Railways are part of the economic lifeline of South Dakota agriculture and mining. The vital interstate commerce linkages South Dakota rails provide could be lost unless greater attention is paid to proper maintenance and improvement efforts. The enhanced transportation infrastructure programs and funding promised by President Clinton should help in that regard.

Where air service is not available within the State, the automobile is the next best option. South Dakota has two federally funded Interstate Systems—I-90 and I-29. They are simple, efficient, and necessary. In addition to the interstates, other Federal and State highways provide an efficient link between smaller communities. A good highway system is an essential mode of transportation for both South Dakotans and interstate travelers. This brings me back to Muriel Humphrey Brown. She agrees with me that a more balanced highway system is good for our region's travelers and our region's economy.

At this point, Mr. President, I ask unanimous consent that a letter from Muriel Humphrey Brown be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> OCTOBER 12, 1992.
>
> DEAR SENATOR: Thanks so much for sending your remarks to the CONGRESSIONAL RECORD. It was so very good to see you again and to have you participate in the highway dedication.
>
> The importance of good highways to the South Dakota cities and towns needs to be emphasized. I have a wish that both South Dakota and Minnesota would join in getting a good four-lane Interstate from the Twin Cities through Huron and beyond! The existing "90" and "94" are too far south and north—we need a "92" to go across the middle of our States. Minnesota towns would benefit too!

It would mean jobs and good business!!

Sincerely,

MURIEL.

REV. WADE BLANK, DISABILITY ACTIVIST

Mr. HARKIN. Mr. President, I rise today to mourn the loss of the Reverend Wade Blank of Denver, CO, one of our Nation's leaders in the disability community. Wade, along with his son Lincoln, drowned while vacationing in Mexico. My heartfelt prayers and thoughts are with his wife, Molly and their daughters Heather and Caitlin.

Wade was the founder of ADAPT, a grassroots organization that empowers people with disabilities to engage in direct action protest. ADAPT believes that it is important to force confrontation with authorities to demonstrate that people with disabilities care deeply enough to go to jail for their civil rights.

Prior to the passage of the Americans with Disabilities Act, an omnibus civil rights act that makes it illegal to discriminate against people with disabilities in employment, public services—including buses and other modes of transportation—public accommodations, and telecommunications, ADAPT stood for American Disabled for Accessible Public Transit. After ADA was passed, the group became American Disabled for Attendant Programs Today.

Wade was an activist with a heart. His family included all people with disabilities. Whether Wade was chanting "We will ride" or "Free our people" or "People united will never be defeated" he knew that he must continue to fight for a better America for all people, including those with significant disabilities.

Because of Wade's efforts, all new buses must now be fully accessible. The fight for consumer-driven personal assistance services continues. Today, an intolerable number of people with disabilities who want to live independent lives are forced into nursing homes and institutions and a life of dependency.

We will continue Wade's fight for consumer-driven personal assistance services. I know we will succeed.

Wade, you fought for what is right and just. Your memory will inspire us to carry on.

THE ECONOMY

Mr. DORGAN. Mr. President, tomorrow evening President Clinton will address a joint session of Congress and the American people about an economic plan that he has for this country. My guess is that he will be talking about spending cuts, increases in some taxes, and cuts in other tax proposals. He will probably be talking about the numbers that relate to economic growth in this country and what kinds of signs exist of either economic decline or economic opportunity or growth.

I applaud President Clinton for what I think is courageous effort to try to steer this country back on track. President Clinton is saying to the American people—last evening in his televised address to the Nation, and tomorrow evening in a joint session of the Congress—that there are no easy answers to the country's economic problems. We must make tough choices not to fix what is wrong in this country. A lot of the American people are accustomed to being told by politicians, especially in the 1980's, that you can have it all.

The Laffer curve said, heck, let's lower tax rates for everybody. We will raise more money and eliminate the Federal deficit. Well, the Laffer curve was just that, a laugher and we are stuck with an enormous debt, and a country headed in the wrong direction. And now we have the challenge, with the American people, to set things right.

The Federal Reserve Board gives us the measurements to tell us how we are doing. And I am not convinced the measurements mean very much. The barometer they have tells us about a certain amount of growth here, a certain amount of growth there.

It is interesting that the statistics generated by the Federal Reserve Board could be generated in a bunker by the economists. They need not see reality and need not talk to American families. They just look at their charts and tell us how things are going.

They would tell us, for example, that a car accident is an asset. It produces lawyers, lawsuits, repair bills for the fenders, and hospital bills. That is an asset in the national accounts as measured by the Federal Reserve Board.

The Federal Reserve Board would make no distinction, for example, between the enterprising business person who builds a new plant to produce new products and the business person on the other side who is the shark trying to buy an old plant with debt and take it apart and sell it to make some quick money. Both represent the same standard of wealth as measurements today in this country. And I wonder whether the statistics that are used are not ghosts of a past economy rather than a good barometer of today's economy.

So when President Clinton calls for economic change, my point is, Mr. President, that it is more than just numbers that need to change; more than just taxes and spending that needs to change. The economists will tell us that things are actually getting better in this country and yet you read in the newspaper that IBM, Sears and General Motors are having serious problems, laying off tens of thousands of workers. These are not mom and pop companies that have run into tough times. These are the American economic giants that are facing enormous layoffs and unprecedented economic challenges.

Things are not moving in the right direction in this country and we must change them. This country, sadly enough, has gotten soft in a number of areas. We have become victims and participants, in a way, of the economic hustle: Get rich quick. Separate effort and reward.

It is interesting to me that there is an enormous growth of gambling in this country. There was a recent column by George Will that describes some things I have talked about in recent months. Almost everywhere in America now, the discussion is how do you raise more money. Gambling, lotteries, casinos in State after State after State.

This mirrors a kind of mentality that existed for the last decade in this country. Strike it rich quick without the related effort that your folks taught you and my folks taught me that you must exhibit in order to receive the reward.

I was watching television one evening and the State of Virginia was disclosing on television the winners of the Virginia lotto. It is quite a production. Actually, they have tubes with vacuums and ping-pong balls. The interesting thing about that evening is that as they had these ping-pong balls with numbers come up the tube so we could find out who won the million dollars, the words scrawling across the screen was that Gorbachev had fallen in the Soviet Union. And I thought it is a very interesting mentality in this country that simply rates those words scrawling across the screen because we are trying to figure out who won the lottery. Think of the difference in what is important to our lives: The change in the Soviet Union, the fall of Gorbachev, or the lotto.

I grew up in a town of 400 people, Mr. President. When I was a kid, I used to go watch the blacksmith, and that blacksmith's name was John. He used to hammer white-hot steel into horse shoes and plow shares. And he worked very hard and made a decent living.

John died about 3 weeks ago, which is the reason I was thinking of him. But I was also thinking about how different it has become these days in our country. There is a notion somehow that you can get rich quick and we can separate effort from reward.

In the 1980's, it is very interesting that the bottom and the top of the society were almost perfect mirrors of each other. What was happening in America's streets was happening in the corporate suites. And the lexicon was interesting, as well. Junk. Junk is a euphemism, I guess, a code word for drugs in the street. Junk was the code word for bonds in the corporate suites. And both of them had exactly the same motive: Get rich quick without much effort. And it injured this country very badly, not just what is going on in the streets but what was going on in the corporate suites.

Now, how do we change all of that? What must we do to fix what is wrong in the country and move ahead?

President Clinton is providing leadership by talking about taxing and spending, but he is going to need much more than that coming from the American people.

His address to the American people last night was refreshing candor from a President who said this is going to be difficult and perhaps it is going to be controversial, but I need your help to ensure a better life for our kids, and for our families. In order to do that, we have to unburden ourselves with some of this debt. This ship of state simply cannot sail when it is full of debt, so we have to unload some.

And he said to the American people, I need your help to do that. Now, the other thing we need from the American people and from the political leaders, from the President and from Congress, is a grit and a determination to get back to basics in our economy. We have to start deciding that we are going to have an economic system that rewards those who produce real things, those that produce new wealth that moves America ahead. Back to basics.

So, you can talk about spending cuts and taxes and so on, but back to basics is an education system in which we educate our kids—not just fill them full of facts but help teach them how to think. One of the basics would be to get families to tell kids to turn off the television set and have families read to the kids. That is a basic, but something we have forgotten all too often in this country.

Another basic is to stop this addiction to debt in our society. Yes, at the Federal level, but debt at all levels. Debt in the corporate sector has grown enormously. Consumer debt has exploded in this country. Bankruptcies in this country have exploded in this country. The addiction to debt must stop if we are going to regain our economic health. How long has it been since anyone heard anyone else say, I am going to have to save up to buy something? That is not the things they discuss these days. You walk past a picture window and the window has advertising on it that says, hey, come over here, customer, I have something you want. I want you to take it right now. You do not have to pay for it for 5 months and we will give you a rebate next week.

The whole notion is part of this addiction to debt. And, yes, it is the Government, but it is more than that.

Next, we have to start thinking about what strengthens us and try to make certain those who make the efforts receive the reward from our factories to our farms. Those that produce real new things ought to share in the economic prosperity in this country. And, most importantly, we ought to try to create an economic system in which there is a premium on production and in which speculation for speculation sake is a liability.

Those are the kinds of economic changes that we must pursue and promote if we really are going to fix what is wrong in the country. Most American families expect that if you work hard and do the right thing there is a connection between what you do and the rewards you will receive or the compensation you will receive.

Having gone through the orgy of greed with leverage buyouts and hostile takeovers and junk bonds in the 1980's, the hood ornament of excess in this society, the American people say I do not understand how there is this disconnection between those of us that work every day and try and do our best and those that have decided that speculation is an important product of what we produce in this country.

So, I wish this President well. I pledge, as one Member of this body, that when this President tries to lead I am going to be there to follow. I hope the American people and my colleagues are with us because this country cannot compete in the long term unless we make fundamental economic changes.

Mr. President, let me make one additional comment about some of those economic changes that I think also relates to this. I have told my colleagues on past occasions that last year the chief economist of one of the largest banks in Japan came to this town and gave a speech. What he said was quite interesting. He said just after 1997 Japan will become the world's largest manufacturing country, and just after the year 2000 he predicted with his economic modeling Japan would become the world's economic leader.

Why? He said because each year in Japan they invest $440 billion more in new plant and equipment than we do here in this country. New plant and equipment means you produce a better product at a lower price—very simple.

Why do they invest that much more in new plant and equipment? Because they save and we borrow. Saving equals investment. Investment equals productivity. And being more productive means you have a better opportunity to win in the international marketplace.

The point is we have to change the way we think and change the way we behave in this country as it relates to debt, savings, investment, the reward for jobs that produce real new things. When we do all of that and then follow the leadership of a President who wants to take us where we have to go for a better future for our kids, then this country will be back on track.

I look forward to tomorrow night's speech by President Clinton. I commend him for his courage. I hope my colleagues and the American people will understand this is not a time to be bickering. It is not a time to be fighting. It is a time to be cooperating to fix what is wrong in America.

Mr. President, I yield the floor.

GENOCIDE IN BOSNIA

Mr. MOYNIHAN. Mr. President, the National Jewish Community Relations Advisory Council, known as NJCRAC, has been meeting in Washington this week. NJCRAC is the largest and most representative North American Jewish constituency organization through which 13 national Jewish organizations and 117 local Jewish community councils jointly determine positions on issues of collective concern.

I spoke earlier today at the NJCRAC plenary luncheon on Capitol Hill and addressed the unfolding tragedy in Bosnia-Herzegovina. The Council's leadership shared with me their plenary resolution which eloquently voices the American Jewish community's anguish over the unfolding Bosnian genocide. This resolution bears witness to the Jewish community's resolve to neither forget nor ignore the lessons of the Holocaust.

I ask unanimous consent that this important moral statement be printed in the CONGRESSIONAL RECORD at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION ON THE SITUATION IN BOSNIA-HERZEGOVINA ADOPTED BY THE NATIONAL JEWISH COMMUNITY RELATIONS COUNCIL, NJCRAC PLENARY SESSION, FEBRUARY 15, 1993

The National Jewish Community Relations Advisory Council is appalled by the ruthless and systematic violence that continues to be perpetrated against Moslem and other citizens of Bosnia-Herzegovina. As Jews we are deeply pained by the recurrence of such human tragedy in this century. The United States, as well as the UN and other governments, must take the necessary steps to separate the warring factions, assist them in negotiating a peaceful settlement and restore peace and normalcy to Bosnia-Herzegovina.

In view of the continuing assault on the people of Bosnia by Serbian military and paramilitary forces, and the apparent failure of the conflict to be resolved peacefully in an expeditious manner, the NJCRAC calls upon the Clinton Administration to take the necessary steps, in concert with other governments and the United Nations, to:

Accelerate humanitarian relief efforts;

If there is no progress in the negotiations to end the violence and establish peace, loft the discriminatory arms embargo imposed on Bosnia-Herzegovina. This independent and besieged country must be allowed to obtain the means for self-defense;

Enforce the no-fly zone over Bosnia, and end the siege of Sarajevo and other cities and strategic areas, including the use of limited air strikes;

Investigate all allegations of war crimes in the former Yugoslavia, including mass murder, mass rapes, torture, and other crimes against humanity, and to set up an international tribunal that would bring those responsible for these crimes to be tried and punished;

Urge the United Nations to add the crime of rape to the list of internationally-recognized war crimes;

Establish an effective United Nations peace enforcement presence in the former Yugoslavian republics;

Recognize and condemn unequivocally the savage means being employed by Serbian military and paramilitary forces to implement their stated policy of "ethnic cleansing", aimed at eradicating the Moslem population of Bosnia-Herzegovina through death or forcible population transfer and other means of intimidation;

Press all parties, in particular the Serbians, to desist from all acts of violence as a precondition to continuing peace negotiations;

In addition, the United States Government should immediately take the following actions:

Establish a watch list to bar from entry to this country any individuals who have been determined responsible for war crimes committed in Bosnia;

Provide for the acceptance of refugees from Bosnia to enter the United States if they wish to come;

While these steps alone will not bring about the peaceful resolution of this tragic conflict, the NJCRAC believes a more aggressive posture by the world community, led by the United States, is essential to encouraging the Serbian forces to desist from their destruction of Bosnia-Herzegovina. We are deeply concerned that if these measures are not implemented with dispatch and authority, the conflict may spread to the neighboring republics of Kosovo and Macedonia.

STOP UNDERCHARGE FRAUD

Mr. PRESSLER. Mr. President, in the early 1980's, common freight carriers began offering legally discounted freight rates to shippers. To avoid revealing these rates to their business rivals, many truckers did not list discounts with the Interstate Commerce Commission. When several big trucking companies went bankrupt, their trustees tried to collect from shippers the monetary difference between the legally discounted rate and the official tariff as filed with the ICC. These monetary differences have become known as an "undercharge."

Today I wish to speak for freight shippers in my home State of South Dakota and across the country. The undercharge crisis is destroying many small businesses and is costing our economy upward of $32 billion. I am here to support relief for shippers from fraudulent negotiated rate claims.

When the first undercharges were billed, the ICC granted relief to shippers, ruling in effect that it was unreasonable for carriers to negotiate a rate not filed with the ICC and then collect the difference between it and old tariffs. However, in Maislin Industries versus Primary Steel, the U.S. Supreme Court upheld the right of a bankrupt trucker to collect undercharges even though the shipper and carrier had negotiated a lower rate.

During the last session of the 102d Congress, the Senate Commerce Committee unanimously reported S. 1675, the Undercharge Equity Act of 1992, which created a procedure for resolving claims against shippers brought by trustees of bankrupt trucking companies attempting to collect undercharges. The Undercharge Equity Act passed the Senate last Congress, but failed to leave the House of Representatives.

Mr. President, I hope that early in this Congress both the Senate and the House will pass the undercharge relief bill. I urge my colleagues to support this legislation as it is designed to alleviate the heavy financial burdens being placed on freight shippers across America.

Mr. ROTH addressed the Chair.

The PRESIDENT pro tempore. The Senator from Delaware, Mr. ROTH, is recognized.

Mr. ROTH. Mr. President, I yield to the majority leader.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that morning business be extended so that Senator ROTH may be recognized to address the Senate for up to 5 minutes, and that upon the completion of his remarks, the Senate stand in recess as previously ordered.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PROMOTING ECONOMIC POLICIES

Mr. ROTH. Mr. President, the most pressing issue facing us right now is promoting economic policies that result in growth, jobs, and security for our families. Until we adequately address these needs, our efforts in other important areas will almost certainly be limited.

Consequently, there are three questions that I believe President Clinton must keep in mind as he moves forward with his broad economic program—three questions that I will be listening for him to answer in his State of the Union tomorrow night. First, will his program create more long-term jobs—jobs that promote continued growth, economic expansion, private risk-taking, investment, and opportunity? Second, will the Federal Government, under his program, become bigger—more overbearing, regulatory, and inefficient—or will it become smaller, leaner, and more efficient?

And third, can our economy sustain—can Americans afford—another large tax increase, especially one that will not reduce the budget deficit?

My concern, Mr. President, is that the program we are beginning to see emerge is one that purports to create jobs almost exclusively through an increase in government spending—spending which will undoubtedly lead to even higher deficits. I do not need to remind my colleagues that such a program is going to make it all the more difficult for private businesses—engines of real economic growth—to compete, as they struggle against higher taxation, and the likelihood of higher inflation and higher interest rates.

My concern is that the program we are seeing emerge asks for some $200 to $250 billion in new taxes at a time when our economy cannot afford such a draining assault. History has proven that tax relief spurs economic growth; tax increases stifle economic growth. It is that simple. What we are seeing emerge is a program akin to the record-setting 1990 tax increase, and I do not need to rehearse the job losses that resulted from that debacle and how it deepened our recent recession and fuelled the deficit.

During the campaign, then-candidate Clinton, promised to offer middle-class families some $60 billion in tax cuts over 4 years. Instead, what seems to be emerging are record-setting tax increases which could largely fall on the backs of the middle class.

What is doubly troubling is that these increases appear to be emerging without significant reductions in Federal spending. The Federal Government is already spending $71 billion more this year than last year. Spending as a percent of our economy is near a post-World War II high. President Clinton promised during the campaign that his program would halve the deficit by 1996.

Already he is beginning to back away from that promise, and I hope that as he addresses the American people tomorrow, he will consider that the path to deficit reduction is through restraining Government spending and improving conditions for economic growth. This means holding the line on taxes, creating incentives to save and invest, reducing Government spending and regulation. These are the things I will be listening for tomorrow night. And if President Clinton moves in this direction, I stand ready to work with him.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Morning business is closed.

RECESS UNTIL 2:15 P.M.

The PRESIDENT pro tempore. Under the order, the Senate stands in recess until the hour of 2:15 p.m. today.

Under the previous order, the Senate, at 12:58 p.m., recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. WOFFORD].

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNDER SECRETARY GENERAL JOSEPH VERNER REED: A FIRST-RATE AMBASSADOR

Mr. PRESSLER. Mr. President, during the recent congressional recess, I served as congressional delegate to the 47th General Assembly of the United Nations. While at the United Nations, I had the honor of meeting with the Under Secretary General of the United Nations, Ambassador Joseph Verner Reed. I would like to commend Ambassador Reed for his fine and dedicated service at the United Nations. His exemplary commitment to the international community deserves to be recognized. He is a public servant worthy of great praise.

Ambassador Reed has served as U.S. Ambassador to the U.N. Economic and Social Council during the Reagan Administration, and was Under Secretary General of the U.N. for Political and General Assembly Affairs under Secretary General Javier Perez de Cuellar. While serving at his current post at the United Nations, Ambassador Reed traveled to Kuwait to coordinate United Nations efforts to slow the adverse effects of the oil well fires set during the Persian Gulf war. He also represented Secretary-General Boutros Boutros-Gahali at a U.N. Conference on the Disabled. He has devoted a lifetime of skill an energy to the public he serves.

There are many things I could say about Ambassador Joseph Reed, but I would add that Ambassador Reed has become a personal friend of mine. What is unique about him is that he has made a point to know more African leaders and more about Africa than most people in our Government. He arranged for Western African Ambassadors to the United Nations to meet with the congressional delegates to the United Nations. At this meeting, it was apparent the affection and esteem these leaders hold for Joseph Reed. He maintains his relationships with African leaders as a volunteer—he does what more of us should do! He has developed expertise in an area of the world and he pursues it. I very much admire that and pay tribute to Ambassador Joseph Reed.

Mr. President, in recognition of Ambassador Reed's dedication, skill, and hard work at the United Nations, I ask unanimous consent that the transcript from Ambassador Reed's address to the United Nations at the English-Speaking Union be printed in the RECORD at the conclusion of my remarks. I urge all my colleagues to take a moment to read Ambassador Reed's address. His lifelong dedication to international service is evident in his eloquence.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY AMBASSADOR JOSEPH VERNER REED, UNDER SECRETARY GENERAL OF THE UNITED NATIONS, SEPTEMBER 17, 1992

Ladies and gentlemen, it gives me great pleasure to be here tonight and to speak to the member of this distinguished English Speaking Union on the "United Nations—Some New Challenges."

You, ladies and gentlemen, have the great privilege of helping to preserve and protect one of the great treasures of the Anglo-Saxon World—the English language. The language of the Bible, of Shakespeare and Milton, and other literary giants, past and present.

We at the United Nations have the responsibility for preserving international peace and security, for strengthening human rights and fundamental freedoms, and for promoting economic and social development.

The United Nations was founded in 1945 by those two great leaders of the English-speaking world and masters of the English language, Prime Minister Winston Churchill of Great Britain and President Franklin Delano Roosevelt of the United States. Today, almost 50 years later, the United Nations and the international community are at the threshold of a new era; with the end of the cold war the political ice age has ended. The ideological differences between the two superpowers which led to the cold war and prevented fulfillment of the original promise of the charter, are happily over. For the first time since its creation, the security council is functioning in the spirit of collegiality in which it was meant to function.

At no time since the creation of the United Nations has there been an opportunity like the present to transform the international organisation, formerly regarded critically by many, into a new, vibrant, healthy institution, capable of becoming the vehicle for international cooperation. that is so badly needed today, capable of working toward peace, guaranteeing respect for human rights, overcoming poverty, and safeguarding the environment.

The end of the cold war has relaxed some international tensions but it has not brought about the end of the use of force as a means of resolving disputes. To the contrary, we are seeing many long-submerged disputes flare up in violence in many parts of the world. Some of them, such as the saga in former Yugoslavia, are so complex and so bitter that they are challenging all the efforts of the entire international community at finding solutions.

Today, many nations seem to be more at war with themselves than with other nations. Hardly a week goes by that the United Nations is not asked to deal with yet another new and difficult situation. Just last week, the Secretary General decided to send a fact-finding mission to Tashkent, Uzbekistan, and a mission to Georgia to follow up on an agreement between the governments of the Russian federation and Georgia over the disputed territory of Abkhazia.

The United Nations is also helping in efforts to mediate the bitter dispute between Azerbaijan and Armenia over Nagorno-Karabakh.

Whether it be in former Yugoslavia or Somalia or in the republics of the former Soviet Union, internal conflicts are raging sometimes with even greater ferocity than international wars. Innocent civilians, caught in the middle, victims of ethnic cleansing or other such horrors, are uprooted from their homes and communities, and if they are lucky enough to survive are reduced to the status of refugees.

In the former Yugoslavia, as you all know from the newspapers, the situation in Bosnia and Herzegovina is grim. A United Nations plane on a mercy mission to Sarajevo was shot down last week with the loss of four lives, and soon after that two French soldiers in a relief convoy travelling from Belgrade to Sarajevo were killed.

On Monday of this week, the security council approved the Secretary General's recommendation that the United Nations peace-keeping force in Bosnia and Herzegovina, which presently numbers about 1,500, be enlarged to around 7,500 troops and support staff. The additions would include four or five infantry battalion groups, a transport battalion, extra medical, engineering, and communications support.

It is envisaged that the expanded force would safeguard the delivery of humanitarian assistance to Sarajevo and other parts of Bosnia and Herzegovina, being organized by the Office of the United Nations High Commissioner for Refugees. It would also monitor the artillery guns and other heavy weapons that both sides have agreed to place under United Nations supervision at designated locations. The peace-keeping troops are being authorised to use force in self-defence. In this context, self-defence is deemed to include situations in which armed persons attempt by force to prevent United Nations troops from carrying out their mandate.

At the same time, efforts are also being undertaken by former Secretary of State Cyrus Vance, who is the special representative of the Secretary General, and Lord David Owen of the European community to get the warring parties to arrive at a political settlement. I am optimistic that the United Nations will eventually end the warfare in Bosnia and Herzegovina, but we must not be under any illusions that it will be very soon. It will require patience, perseverance, time, money, and constant effort.

The tragedy in Somalia is one of the most difficult the international community has had to cope with. Who among us has not been moved by the pictures of starving children and sick adults waiting patiently and with resignation for food that is often looted before it can be delivered to them?

The Security Council has now approved the use of about 4,500 soldiers to protect the humanitarian aid deliveries in Somalia, and the first group of Pakistani troops has reached Mogadishu a few days ago. More troops from Belgium and other countries are expected in the near future.

As the security situation improves, the United Nations is stepping up its efforts to send in more food, medicines, and seeds, and to organise improved water supplies and better health services. Over the next 100 days, the world food programme—the food aid organisation of the United Nations—is ready to deliver up to 100,000 metric tons of food to people in all parts of Somalia.

Most of the food will be delivered by ship to Mogadishu and other ports, but it is also planned to airlift 10,000 metric tons into the country. Some relief supplies will be brought into southern Somalia by overland convoys across the Kenyan border.

The United Nations Children's Fund [UNICEF], will provide support to substantially increase intensive feeding of malnourished children and to set up new feeding centres.

UNICEF will also conduct a mass measles vaccination programme and provide maternity and pediatric drugs for all regional hospitals and health centres.

The United Nations Development Programme [UNDP] is taking immediate steps to restore essential basic services and to generate employment activities in order to promote stability throughout Somali society. In the past few weeks it has already begun to reestablish water supply in Mogadishu, providing jobs for almost 600 people. In the next month it will endeavour to implement large-scale waste disposal programmes, an activity that will eventually employ up to 4,000 people.

The United Nations' mission in Cambodia is one of the largest, most ambitious, and most expensive of all its peace-keeping operations. In fact, to call it a peace-keeping operation is something of a misnomer. Because it is a peace-keeping mission—and much more. It is a multidimensional and complex operation involving peace-keeping, peace-making, and above all, peace-building.

I say peace-building, because Cambodia is a country that has been completely shattered by decades of the most virulent type of warfare. Therefore, it has to be rebuilt physically, administrately, and in every other way.

The mission, which is called the United Nations Transitional Authority in Cambodia, is virtually in charge of the whole country during the 18 months that it is to be there. Its mandate is to disarm the four competing factions, store their heavy weapons, arrange for the withdrawal of foreign forces, and for the return and resettlement of thousands of refugees, promote human rights, organise the elections, and ensure that they are held freely and fairly.

All this in a country that has been devastated by more than 20 years of war, where malaria and other diseases are rampant, and where minefields cripple men, women, and particularly children, every day.

The total cost of the whole operation is currently expected to be about $1.7 billion. There will be 15,000 troops involved, 3,600 civilian police monitors, and about 750 foreign civilian administrators. An additional 1,400 foreign civilians will help organise and monitor the elections, along with an estimated 56,000 Cambodians.

Despite these formidable odds, and despite the non-cooperation of the Khmer Rouge, the United Nations has made a good start and hopes to organise the elections by next summer.

When we get discouraged with the way things are going in some parts of the world, it is important to remember the significant achievements of the last few years. The first success of the so-called "new" United Nations, was the agreement of the withdrawal of Soviet forces from Afghanistan. Even more significant perhaps was the achievement of a ceasefire and a basis for peace in the long and bloody war between Iran and Iraq. In this case, at the initiative of the Secretary General, the permanent members of the Security Council worked together towards a common purpose of ending a regional conflict through the United Nations. The Secretary General, with the support of a United Security Council, was able through skillful mediation to get the parties to accept a ceasefire despite the deep distrust between them.

This was followed by the truly historic achievement of a peaceful transition of Namibia to independence, and the related monitoring of the withdrawal of Cuban forces from Angola. Today, United Nations observers are in Angola monitoring arrangements for the elections that are soon to be held in that country.

Then there was the successful implementation of the peace process in Central America and the seminal resort to Chapter VII enforcement action in response to the Iraqi invasion of Kuwait. These were not overnight successes. They required long and patient negotiations, and, above all, perseverance in the face of overwhelming odds. Often, as in Iraq, the United Nations did not act alone. The military support of many member states was an essential element. But none of these achievements would have been possible without the central role played by the United Nations.

One of the most heartening achievements of recent times is the agreement reached on a draft treaty banning all chemical weapons. This treaty, which has been negotiated over many years at the United Nations' conference on disarmament in Geneva, will offer the international community a long-awaited opportunity to completely eliminate a whole category of weapons of mass destruction. This is a major milestone in our efforts to promote arms control and disarmament, one that deserves the widest possible acceptance.

This record of success needs to be widely recognized in the United States and elsewhere in order to stimulate the degree of support, both political and financial, necessary to sustain the level of effectiveness achieved by the United Nations and permit further actions. The sad truth is that while we are being asked to launch new operations with great frequency, never have our funds been so low and our finances so precarious.

As of last month, Member States owed the United Nations a sum of $788 million in unpaid contributions for peace-keeping operations alone. They owe the organization's regular budget an even larger amount of money—some $848 million. It grieves me to report that my country is among the largest debtors.

The political support of the United States, the host country of the United Nations, will be of even greater importance in the years to come, since it is now the most powerful and influential Member of the Security Council. The leadership of the United States in bringing Security Council action on behalf of international security is absolutely essential.

Despite its recent achievements, the United Nations is not resting on its laurels. The Secretary General has recently set out a number of important ideas on strengthening preventive diplomacy, peace-making, and peace-keeping in a seminal report called "An Agenda for Peace". The report offers constructive proposals for the extension of peace-making activities in the prevention of conflict. It also stresses the need for increased resort to post-conflict peace-building in restoring confidence and hope.

We have now been given a second opportunity to achieve the great objectives of the charter, a second chance to make of the United Nations what it was to have been in the first place. This opportunity must not be squandered and the United Nations must never again be crippled as it was in the era of the cold war that has now passed into history.

In 1995, the United Nations will celebrate its 50th anniversary, and as special representative of the Secretary General for public affairs, one of my important responsibilities is to ensure that the occasion is commemorated in a befitting manner. We have already been receiving suggestions and support from all over the world and would welcome both from your members as well. The 50th anniversary will provide an opportunity not merely to commemorate what has been achieved but to focus attention on the future.

As we prepare to enter the 21st century, the United Nations is gearing itself to meet the changing needs of a greatly changing world. I hope we can count on your support in this noble endeavour.

RECOGNITION OF VIETNAM

Mr. PRESSLER. Mr. President, I have just returned from an Aspen Institute meeting with a group of Vietnamese leaders. There were about a dozen leaders from the Government of Vietnam invited for discussions with American officials and people from foundations and businesses about the future relationship between the United States and Vietnam.

Many years ago I served in the Army in Vietnam. So I have taken an interest in that country and in its development.

I traveled to Vietnam 3 years ago to investigate the prisoner-of-war issue. Today, I have concluded that the time has come for the United States to recognize Vietnam. I support recognition of Vietnam. I support the President of the United States sending an Ambassador to Vietnam. And I say that, because I know there are some groups that still say that until we have all the prisoner-of-war issues resolved, until we have all of the issues regarding human rights resolved we should not recognize Vietnam. But on the prisoner-of-war issue, I think we could have a better chance of reaching a final resolution if we had an Ambassador in Hanoi and if we had American tourists going to Vietnam.

In my travels in Vietnam, first as a soldier and then as a Senator, I have been to every province in South Vietnam at one point or another. And during my second visit there in 1988 I became convinced that if there were any prisoners of war in Vietnam we would have a better chance of finding them if there are Americans in Vietnam on the ground going around talking to people.

We have now gone through a whole series of phases of various delegations going to Vietnam, of a Senate POW Committee—and I see the chairman of that committee, on the Senate floor. However, it has been my strongest conviction that at this point we can solve some of the problems that we have in our relationship with Vietnam better by having an American Ambassador in Hanoi and by having diplomatic and economic relations with Vietnam.

Now, let us take, for example, if there were prisoners of war living, say, in South Vietnam, being held someplace. If some good faith Vietnamese had information about these imprisoned Americans they could deliver it to an American Embassy or to a political officer traveling about Vietnam much easier than they can now.

So, therefore, we would be able to find those prisoners. If we had tourists who were able to go to South Vietnam—and many of my colleagues who served in the military in Vietnam would like to go back as tourists—if we had tourists there, they could certainly find prisoners of war or find human rights abuses or speak out on them. If we had American businessmen in Vietnam, they would be on the spot and be able to know what is going on.

I have frequently said, Mr. President, that I feel that one U.S. businessman doing his job of exporting goods sometimes can achieve as much as many temporary diplomats or certainly as many Members of Congress can do in visiting the same country.

In terms of assisting Vietnam, I think the best thing we can do is to help them privatize, to help them with the free enterprise system.

So at this conference that I attended, sponsored by the Aspen Institute, we had discussions about normalizing the relationship.

It has been my observation that different countries give foreign aid in different ways. I am not advocating foreign aid. I am not advocating any foreign aid to Vietnam in this speech.

The Japanese are geniuses at selling their products through their foreign aid program. For example, in Indonesia, the Japanese will send out a young Peace Corps volunteer, and that volunteer will spend 3 or 4 years distributing Japanese products—small pumps, small tractors that you walk behind to plow with, small tools, motor pumps and so forth. Then after that volunteer has been there 3 or 4 years, he will stay in that country as a Japanese businessman distributing parts for a profit. That is how the Japanese have gotten a foothold on all the local markets for small tools, power tools and so forth.

The point I am making is that the Japanese use their foreign aid program to introduce Japanese products and to introduce Japanese small businessmen to burrow in, so to speak, into the economy and stay there.

Now it is true that our Peace Corps does not work that way. Ours is based more on idealism. I know the Presiding Officer of the Senate at this moment is one of the founders of the Peace Corps.

But the Japanese have used their volunteers to develop a cadre of overseas businessmen. Maybe that is something we should consider.

The point I am making is that Vietnam will privatize and develop in the coming years. Mitterrand was just there bringing an entourage at 200 government and business leaders. We will have a country coming out of a dictatorial Communist system, a country that wants to privatize. Yes, there are many human rights abuses. They must be dealt with.

Yes, the prisoner-of-war issue still must be completely resolved, but I think we can move it ahead or resolve it better by having an Ambassador there.

So I am sending a letter to President Clinton urging that he initiate the recognition of Vietnam. We should have an Ambassador in Vietnam. That is the conclusion that I have come to after many years of struggle. Having an Ambassador in Vietnam would bring to a close the chapter of Vietnam in our country's history and open a new chapter. But it would also help to bring to a close the prisoner-of-war chapter.

Let me say a few words about that prisoner-of-war issue. And I say this as a Vietnam veteran, as a lifetime member of the Veterans of Foreign Wars, the Disabled American Veterans, the American Legion, and every other veterans' group that I could possibly be a member of.

I know that there are some who say we should not recognize Vietnam until all prisoners are accounted for. And they are not all accounted for, in a technical sense. In fact, there are some over in Laos and in Cambodia that have not been accounted for.

But I am convinced that this Government in Vietnam is doing everything it can to get information to families. That is my conclusion. I know that there are some of those families who will disagree very strongly with what I am saying. I also know that there have been some people who have made a career out of this prisoner-of-war issue and they have been very shrill and I do not like that attitude very much.

But at this point in history, I think we can resolve the POW-MIA issue better by recognizing Vietnam. I think it will help those families get information. They and their friends can go there and if there is any thread of information that somebody would have that they wanted to give us under the transom or over the transom, they could do so.

So, Mr. President, I would like to conclude by saying that I urge that the United States Government recognize Vietnam. I urge that President Clinton send an Ambassador to Hanoi.

NATIONAL INSTITUTES OF HEALTH REVITALIZATION ACT OF 1993

THE PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1) to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes.

The Senate proceeded to consider the bill, which has been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Institutes of Health Revitalization Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS REGARDING TITLE IV OF PUBLIC HEALTH SERVICE ACT

Subtitle A—Research Freedom

PART I—REVIEW OF PROPOSALS FOR BIOMEDICAL AND BEHAVIORAL RESEARCH

Sec. 101. Establishment of certain provisions regarding research conducted or supported by National Institutes of Health.

PART II—RESEARCH ON TRANSPLANTATION OF FETAL TISSUE

Sec. 111. Establishment of authorities.
Sec. 112. Purchase of human fetal tissue; solicitation or acceptance of tissue as directed donation for use in transplantation.
Sec. 113. Report by General Accounting Office on adequacy of requirements.

PART III—MISCELLANEOUS REPEALS

Sec. 121. Repeals.

Subtitle B—Clinical Research Equity Regarding Women and Minorities

PART I—WOMEN AND MINORITIES AS SUBJECTS IN CLINICAL RESEARCH

Sec. 131. Requirement of inclusion in research.
Sec. 132. Peer review.
Sec. 133. Applicability to current projects.

PART II—OFFICE OF RESEARCH ON WOMEN'S HEALTH

Sec. 141. Establishment.

PART III—OFFICE OF RESEARCH ON MINORITY HEALTH

Sec. 151. Establishment.

Subtitle C—Scientific Integrity

Sec. 161. Establishment of Office of Scientific Integrity.
Sec. 162. Commission on Scientific Integrity.
Sec. 163. Protection of whistleblowers.
Sec. 164. Requirement of regulations regarding protection against financial conflicts of interest in certain projects of research.
Sec. 165. Effective dates.

TITLE II—NATIONAL INSTITUTES OF HEALTH IN GENERAL

Sec. 201. Health promotion research dissemination.
Sec. 202. Programs for increased support regarding certain States and researchers.
Sec. 203. Children's vaccine initiative.
Sec. 204. Plan for use of animals in research.
Sec. 205. Increased participation of women and members of underrepresented minorities in fields of biomedical and behavioral research.
Sec. 206. Requirements regarding surveys of sexual behavior.
Sec. 207. Discretionary fund of Director of National Institutes of Health.
Sec. 208. Miscellaneous provisions.

TITLE III—GENERAL PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

Sec. 301. Appointment and authority of Directors of national research institutes.

Sec. 302. Program of research on osteoporosis, Paget's disease, and related disorders.
Sec. 303. Establishment of interagency program for trauma research.

TITLE IV—NATIONAL CANCER INSTITUTE

Sec. 401. Expansion and intensification of activities regarding breast cancer.
Sec. 402. Expansion and intensification of activities regarding prostate cancer.
Sec. 403. Authorization of appropriations.

TITLE V—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

Sec. 501. Education and training.
Sec. 502. Centers for the study of pediatric cardiovascular diseases.
Sec. 503. National Center on Sleep Disorders.
Sec. 504. Authorization of appropriations.

TITLE VI—NATIONAL INSTITUTE ON DIABETES AND DIGESTIVE AND KIDNEY DISEASES

Sec. 601. Provisions regarding nutritional disorders.

TITLE VII—NATIONAL INSTITUTE ON ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

Sec. 701. Juvenile arthritis.

TITLE VIII—NATIONAL INSTITUTE ON AGING

Sec. 801. Alzheimer's disease registry.
Sec. 802. Aging processes regarding women.
Sec. 803. Authorization of appropriations.
Sec. 804. Conforming amendment.

TITLE IX—NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

Sec. 901. Tropical diseases.
Sec. 902. Chronic fatigue syndrome.

TITLE X—NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

Subtitle A—Research Centers With Respect to Contraception and Research Centers With Respect to Infertility

Sec. 1001. Grants and contracts for research centers.
Sec. 1002. Loan repayment program for research with respect to contraception and infertility.

Subtitle B—Program Regarding Obstetrics and Gynecology

Sec. 1011. Establishment of program.

Subtitle C—Child Health Research Centers

Sec. 1021. Establishment of centers.

Subtitle D—Study Regarding Adolescent Health.

Sec. 1031. Prospective longitudinal study.

TITLE XI—NATIONAL EYE INSTITUTE

Sec. 1101. Clinical research on diabetes eye care.

TITLE XII—NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

Sec. 1201. Research on multiple sclerosis.

TITLE XIII—NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

Sec. 1301. Applied Toxicological Research and Testing Program.

TITLE XIV—NATIONAL LIBRARY OF MEDICINE

Subtitle A—General Provisions

Sec. 1401. Additional authorities.
Sec. 1402. Authorization of appropriations.

Subtitle B—Financial Assistance

Sec. 1411. Establishment of program of grants for development of education technologies.

Subtitle C—National Information Center on Health Services Research and Health Care Technology

Sec. 1421. Establishment of Center.
Sec. 1422. Conforming provisions.

TITLE XV—OTHER AGENCIES OF NATIONAL INSTITUTES OF HEALTH

Subtitle A—Division of Research Resources

Sec. 1501. Redesignation of Division as National Center for Research Resources.
Sec. 1502. Biomedical and behavioral research facilities.
Sec. 1503. Construction program for national primate research center.

Subtitle B—National Center for Nursing Research

Sec. 1511. Redesignation of National Center for Nursing Research as National Institute of Nursing Research.
Sec. 1512. Study on adequacy of number of nurses.

Subtitle C—National Center for Human Genome Research

Sec. 1521. Purpose of Center.

TITLE XVI—AWARDS AND TRAINING

Subtitle A—National Research Service Awards

Sec. 1601. Requirement regarding women and individuals from disadvantaged backgrounds.
Sec. 1602. Service payback requirements.

Subtitle B—Acquired Immune Deficiency Syndrome

Sec. 1611. Loan repayment program.

Subtitle C—Loan Repayment for Research Generally

Sec. 1621. Establishment of program.

Subtitle D—Scholarship and Loan Repayment Programs Regarding Professional Skills Needed by National Institutes of Health

Sec. 1631. Establishment of programs.
Sec. 1632. Funding.

Subtitle E—Funding for Awards and Training Generally

Sec. 1641. Authorization of appropriations.

TITLE XVII—NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH

Sec. 1701. Establishment of Foundation.

TITLE XVIII—RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

Sec. 1801. Revision and extension of various programs.

TITLE XIX—STUDIES

Sec. 1901. Acquired immune deficiency syndrome.
Sec. 1902. Malnutrition in the elderly.
Sec. 1903. Research activities on chronic fatigue syndrome.
Sec. 1904. Report on medical uses of biological agents in development of defenses against biological warfare.
Sec. 1905. Personnel study of recruitment, retention and turnover.
Sec. 1906. Procurement.
Sec. 1907. Report concerning leading causes of death.
Sec. 1908. Relationship between the consumption of legal and illegal drugs.
Sec. 1909. Cost of care in last 6 months of life.

TITLE XX—MISCELLANEOUS PROVISIONS

Sec. 2001. Designation of Senior Biomedical Research Service in honor of Silvio Conte, and limitation on number of members.
Sec. 2002. Technical corrections.
Sec. 2003. Biennial report on carcinogens.
Sec. 2004. Master plan for physical infrastructure for research.
Sec. 2005. Transfer of provisions of title xxvii.
Sec. 2006. Certain authorization of appropriations.
Sec. 2007. Prohibition against SHARP adult sex survey and the American teenage sex survey.
Sec. 2008. Support for bioengineering research.

TITLE XXI—EFFECTIVE DATES

Sec. 2101. Effective dates.

TITLE I—GENERAL PROVISIONS REGARDING TITLE IV OF PUBLIC HEALTH SERVICE ACT

Subtitle A—Research Freedom

PART I—REVIEW OF PROPOSALS FOR BIOMEDICAL AND BEHAVIORAL RESEARCH

SEC. 101. ESTABLISHMENT OF CERTAIN PROVISIONS REGARDING RESEARCH CONDUCTED OR SUPPORTED BY NATIONAL INSTITUTES OF HEALTH.

Part G of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by inserting after section 492 the following new section:

"CERTAIN PROVISIONS REGARDING REVIEW AND APPROVAL OF PROPOSALS FOR RESEARCH

"SEC. 492A. (a) REVIEW AS PRECONDITION TO RESEARCH.—

"(1) PROTECTION OF HUMAN RESEARCH SUBJECTS.—

"(A) In the case of any application submitted to the Secretary for financial assistance to conduct research, the Secretary may not approve or fund any application that is subject to review under section 491(a) by an Institutional Review Board unless the application has undergone review in accordance with such section and has been recommended for approval by a majority of the members of the Board conducting such review.

"(B) In the case of research that is subject to review under procedures established by the Secretary for the protection of human subjects in clinical research conducted by the National Institutes of Health, the Secretary may not authorize the conduct of the research unless the research has, pursuant to such procedures, been recommended for approval.

"(2) PEER REVIEW.—In the case of any application submitted to the Secretary for financial assistance to conduct research, the Secretary may not approve or fund any application that is subject to technical and scientific peer review under section 492(a) unless the application has undergone peer review in accordance with such section and has been recommended for approval by a majority of the members of the entity conducting such review.

"(b) ETHICAL REVIEW OF RESEARCH.—

"(1) PROCEDURES REGARDING WITHHOLDING OF FUNDS.—If research has been recommended for approval for purposes of subsection (a), the Secretary may not withhold funding for the research on ethical grounds unless—

"(A) the Secretary convenes an advisory board in accordance with paragraph (4) to study the ethical implications of the research; and

"(B) the majority of the advisory board recommends that, on ethical grounds, the Secretary withhold funds for the research.

"(2) APPLICABILITY.—The limitation established in paragraph (1) regarding the authority to withhold funds on ethical grounds shall apply without regard to whether the withholding of funds is characterized as a disapproval, a moratorium, a prohibition, or other description.

"(3) PRELIMINARY MATTERS REGARDING USE OF PROCEDURES.—

"(A) If the Secretary makes a determination that an advisory board should be convened for purposes of paragraph (1), the Secretary shall, through a statement published in the Federal Register, announce the intention of the Secretary to convene such a board.

"(B) A statement issued under subparagraph (A) shall include a request that interested individuals submit to the Secretary recommendations specifying the particular individuals who should be appointed to the advisory board involved. The Secretary shall consider such recommendations in making appointments to the board.

"(C) The Secretary may not make appointments to an advisory board under paragraph (1) until the expiration of the 30-day period beginning on the date on which the statement required in subparagraph (A) is made with respect to the board.

"(4) ETHICS ADVISORY BOARDS.—

"(A) Any advisory board convened for purposes of paragraph (1) shall be known as an ethics advisory board (hereafter in this paragraph referred to as an 'ethics board').

"(B)(i) An ethics board shall advise, consult with, and make recommendations to the Secretary regarding the ethics of the project of biomedical or behavioral research with respect to which the board has been convened.

"(ii) Not later than 180 days after the date on which the statement required in paragraph (3)(A) is made with respect to an ethics board, the board shall submit to the Secretary, and to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report describing the findings of the board regarding the project of research involved and making a recommendation under clause (i) of whether the Secretary should or should not withhold funds for the project. The report shall include the information considered in making the findings.

"(C) An ethics board shall be composed of no fewer than 14, and no more than 20, individuals who are not officers or employees of the United States. The Secretary shall make appointments to the board from among individuals with special qualifications and competence to provide advice and recommendations regarding ethical matters in biomedical and behavioral research. Of the members of the board—

"(i) no fewer than 1 shall be an attorney;

"(ii) no fewer than 1 shall be an ethicist;

"(iii) no fewer than 1 shall be a practicing physician;

"(iv) no fewer than 1 shall be a theologian; and

"(v) no fewer than one-third, and no more than one-half, shall be scientists with substantial accomplishments in biomedical or behavioral research.

"(D) The term of service as a member of an ethics board shall be for the life of the board. If such a member does not serve the full term of such service, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

"(E) A member of an ethics board shall be subject to removal from the board by the Secretary for neglect of duty or malfeasance or for other good cause shown.

"(F) The Secretary shall designate an individual from among the members of an ethics board to serve as the chair of the board.

"(G) In carrying out subparagraph (B)(i) with respect to a project of research, an ethics board shall conduct inquiries and hold public hearings.

"(H) With respect to information relevant to the duties described in subparagraph (B)(i), an ethics board shall have access to all such information possessed by the Department of Health and Human Services, or available to the Secretary from other agencies.

"(I) Members of an ethics board shall receive compensation for each day engaged in carrying out the duties of the board, including time engaged in traveling for purposes of such duties. Such compensation may not be provided in an amount in excess of the maximum rate of basic pay payable for GS–18 of the General Schedule.

"(J) The Secretary, acting through the Director of the National Institutes of Health, shall provide to each ethics board such staff and other assistance as may be necessary to carry out the duties of the board.

"(K) An ethics board shall terminate 30 days after the date on which the report required in subparagraph (B)(ii) is submitted to the Secretary and the congressional committees specified in such subparagraph.".

PART II—RESEARCH ON TRANSPLANTATION OF FETAL TISSUE

SEC. 111. ESTABLISHMENT OF AUTHORITIES.

Part G of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by inserting after section 498 the following new section:

"RESEARCH ON TRANSPLANTATION OF FETAL TISSUE

"SEC. 498A. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—The Secretary may conduct or support research on the transplantation of human fetal tissue for therapeutic purposes.

"(2) SOURCE OF TISSUE.—Human fetal tissue may be used in research carried out under paragraph (1) regardless of whether the tissue is obtained pursuant to a spontaneous or induced abortion or pursuant to a stillbirth.

"(b) INFORMED CONSENT OF DONOR.—

"(1) IN GENERAL.—In research carried out under subsection (a), human fetal tissue may be used only if the woman providing the tissue makes a statement, made in writing and signed by the woman, declaring that—

"(A) the woman donates the fetal tissue for use in research described in subsection (a);

"(B) the donation is made without any restriction regarding the identity of individuals who may be the recipients of transplantations of the tissue; and

"(C) the woman has not been informed of the identity of any such individuals.

"(2) ADDITIONAL STATEMENT.—In research carried out under subsection (a), human fetal tissue may be used only if the attending physician with respect to obtaining the tissue from the woman involved makes a statement, made in writing and signed by the physician, declaring that—

"(A) in the case of tissue obtained pursuant to an induced abortion—

"(i) the consent of the woman for the abortion was obtained prior to requesting or obtaining consent for the tissue to be used in such research; and

"(ii) no alteration of the timing, method, or procedures used to terminate the pregnancy was made solely for the purposes of obtaining the tissue;

"(B) the tissue has been donated by the woman in accordance with paragraph (1); and

"(C) full disclosure has been provided to the woman with regard to—

"(i) such physician's interest, if any, in the research to be conducted with the tissue; and

"(ii) any known medical risks to the woman or risks to her privacy that might be associated with the donation of the tissue and that are in addition to risks of such type that are associated with the woman's medical care.

"(c) INFORMED CONSENT OF RESEARCHER AND DONEE.—In research carried out under subsection (a), human fetal tissue may be used only if the individual with the principal responsibility for conducting the research involved makes a statement, made in writing and signed by the individual, declaring that the individual—

"(1) is aware that—

"(A) the tissue is human fetal tissue;

"(B) the tissue may have been obtained pursuant to a spontaneous or induced abortion or subsequent to a stillbirth; and

"(C) the tissue was donated for research purposes;

"(2) has provided such information to other individuals with responsibilities regarding the research;

"(3) will require, prior to obtaining the consent of an individual to be a recipient of a transplantation of the tissue, written acknowledgment of receipt of such information by such recipient; and

"(4) has had no part in any decisions as to the timing, method, or procedures used to terminate the pregnancy made solely for the purposes of the research.

"(d) AVAILABILITY OF STATEMENTS FOR AUDIT.—

"(1) IN GENERAL.—In research carried out under subsection (a), human fetal tissue may be used only if the head of the agency or other entity conducting the research involved certifies to the Secretary that the statements required under subsections (a)(3), (b)(2), and (c) will be available for audit by the Secretary.

"(2) CONFIDENTIALITY OF AUDIT.—Any audit conducted by the Secretary pursuant to paragraph (1) shall be conducted in a confidential manner to protect the privacy rights of the individuals and entities involved in such research, including such individuals and entities involved in the donation, transfer, receipt, or transplantation of human fetal tissue. With respect to any material or information obtained pursuant to such audit, the Secretary shall—

"(A) use such material or information only for the purposes of verifying compliance with the requirements of this section;

"(B) not disclose or publish such material or information, except where required by Federal law, in which case such material or information shall be coded in a manner such that the identities of such individuals and entities are protected; and

"(C) not maintain such material or information after completion of such audit, except where necessary for the purposes of such audit.

"(e) APPLICABILITY OF STATE AND LOCAL LAW.—

"(1) RESEARCH CONDUCTED BY RECIPIENTS OF ASSISTANCE.—The Secretary may not provide support for research under subsection (a) unless the applicant agrees to conduct the research in accordance with applicable State and local law.

"(2) RESEARCH CONDUCTED BY SECRETARY.—The Secretary may conduct research under subsection (a) only in accordance with applicable State and local law.

"(f) DEFINITION.—For purposes of this section, the term 'human fetal tissue' means tissue or cells obtained from a dead human embryo or fetus after a spontaneous or induced abortion, or after a stillbirth.".

SEC. 112. PURCHASE OF HUMAN FETAL TISSUE; SOLICITATION OR ACCEPTANCE OF TISSUE AS DIRECTED DONATION FOR USE IN TRANSPLANTATION.

Part G of title IV of the Public Health Service Act, as amended by section 111 of this Act, is amended by inserting after section 498A the following new section:

"PROHIBITIONS REGARDING HUMAN FETAL TISSUE

"SEC. 498B. (a) PURCHASE OF TISSUE.—It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human fetal tissue for valuable consideration if the transfer affects interstate commerce.

"(b) SOLICITATION OR ACCEPTANCE OF TISSUE AS DIRECTED DONATION FOR USE IN TRANSPLANTATION.—It shall be unlawful for any person to solicit or knowingly acquire, receive, or accept a donation of human fetal tissue for the purpose of transplantation of such tissue into another person if the donation affects interstate commerce, the tissue will be or is obtained pursuant to an induced abortion, and—

"(1) the donation will be or is made pursuant to a promise to the donating individual that the donated tissue will be transplanted into a recipient specified by such individual;

"(2) the donated tissue will be transplanted into a relative of the donating individual; or

"(3) the person who solicits or knowingly acquires, receives, or accepts the donation has provided valuable consideration for the costs associated with such abortion.

"(c) CRIMINAL PENALTIES FOR VIOLATIONS.—

"(1) IN GENERAL.—Any person who violates subsection (a) or (b) shall be fined in accordance with title 18, United States Code, subject to paragraph (2), or imprisoned for not more than 10 years, or both.

"(2) PENALTIES APPLICABLE TO PERSONS RECEIVING CONSIDERATION.—With respect to the imposition of a fine under paragraph (1), if the person involved violates subsection (a) or (b)(3), a fine shall be imposed in an amount not less than twice the amount of the valuable consideration received.

"(d) DEFINITIONS.—For purposes of this section:

"(1) The term 'human fetal tissue' has the meaning given such term in section 498A(e).

"(2) The term 'interstate commerce' has the meaning given such term in section 201(b) of the Federal Food, Drug, and Cosmetic Act.

"(3) The term 'valuable consideration' does not include reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue.".

SEC. 113. REPORT BY GENERAL ACCOUNTING OFFICE ON ADEQUACY OF REQUIREMENTS.

(a) IN GENERAL.—With respect to research on the transplantation of human fetal tissue for therapeutic purposes, the Comptroller General of the United States shall conduct an audit for the purpose of determining—

(1) whether and to what extent such research conducted or supported by the Secretary of Health and Human Services has been conducted in accordance with section 498A of the Public Health Service Act (as added by section 111 of this Act); and

(2) whether and to what extent there have been violations of section 498B of such Act (as added by section 112 of this Act).

(b) REPORT.—Not later than May 19, 1995, the Comptroller General of the United States shall complete the audit required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made pursuant to the audit.

PART III—MISCELLANEOUS REPEALS

SEC. 121. REPEALS.

(a) CERTAIN BIOMEDICAL ETHICS BOARD.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by striking part J.

(b) OTHER REPEALS.—Part G of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended—

(1) in section 498, by striking subsection (c); and

(2) by striking section 499; and

(3) by redesignating section 499A as section 499.

(c) NULLIFICATION OF CERTAIN REGULATION.—The provisions of section 204(d) of part 46 of title 45 of the Code of Federal Regulations (45 CFR 46.204(d)) shall not have any legal effect.

Subtitle B—Clinical Research Equity Regarding Women and Minorities

PART I—WOMEN AND MINORITIES AS SUBJECTS IN CLINICAL RESEARCH

SEC. 131. REQUIREMENT OF INCLUSION IN RESEARCH.

Part G of title IV of the Public Health Service Act, as amended by section 101 of this Act, is amended by inserting after section 492A the following new section:

"INCLUSION OF WOMEN AND MINORITIES IN CLINICAL RESEARCH

"SEC. 492B. (a) In conducting or supporting clinical research for purposes of this title, the Director of NIH shall, subject to subsection (b), ensure that—

"(1) women are included as subjects in each project of such research; and

"(2) members of minority groups are included as subjects in such research.

"(b) The requirement established in subsection (a) regarding women and members of minority groups shall not apply to a project of clinical research if the inclusion, as subjects in the project, of women and members of minority groups, respectively—

"(1) is inappropriate with respect to the health of the subjects;

"(2) is inappropriate with respect to the purpose of the research; or

"(3) is inappropriate under such other circumstances as the Director of NIH may designate.

"(c) In the case of any project of clinical research in which women or members of minority groups will under subsection (a) be included as subjects in the research, the Director of NIH shall ensure that the project is designed and carried out in a manner sufficient to provide for a valid analysis of whether the variables being tested in the research affect women or members of minority groups, as the case may be, differently than other subjects in the research.

"(d)(1) The Director of NIH, in consultation with the Director of the Office of Research on Women's Health, shall establish guidelines regarding—

"(A) the circumstances under which the inclusion of women and minorities in projects of clinical research is inappropriate for purposes of subsection (b);

"(B) the manner in which such projects are required to be designed and carried out for purposes of subsection (c), including a specification of the circumstances in which the requirement of such subsection does not apply on the basis of impracticability; and

"(C) the conduct of outreach programs for the recruitment of women and members of minority groups as subjects in such research.

"(2) The guidelines established under paragraph (1)—

"(A) may not provide that the cost of including women and minorities in clinical research are a permissible consideration regarding the circumstances described in subparagraph (A) of such paragraph; and

"(B) may provide that such circumstances include circumstances in which there are scientific reasons for believing that the variables proposed to be studied do not affect women or minorities differently than other subjects in the research.

"(3) The guidelines required in paragraph (1) shall be established and published in the Federal Register not later than 120 days after the date of the enactment of the National Institutes of Health Revitalization Act of 1993.

"(4) For fiscal year 1994 and subsequent fiscal years, the Director of NIH may not approve any proposal of clinical research to be conducted or supported by any agency of the National Institutes of Health unless the proposal specifies the manner in which the research will comply with subsection (a).

"(e) The advisory council of each national research institute shall annually submit to the Director of NIH and the Director of the institute involved a report describing the manner in which the agency has complied with subsection (a).".

SEC. 132. PEER REVIEW.

Section 492 of the Public Health Service Act (42 U.S.C. 289a) is amended by adding at the end the following new subsection:

"(c)(1) In technical and scientific peer review under this section of proposals for clinical research, the consideration of any such proposal (including the initial consideration) shall, except as provided in paragraph (2), include an evaluation of the technical and scientific merit of the proposal regarding compliance with section 492B(a).

"(2) Paragraph (1) shall not apply to any proposal for clinical research that, pursuant to subsection (b) of section 492B, is not subject to the requirement of subsection (a) of such section regarding the inclusion of women and members of minority groups as subjects in clinical research.".

SEC. 133. APPLICABILITY TO CURRENT PROJECTS.

Section 492B of the Public Health Service Act, as added by section 131 of this Act, shall not apply with respect to projects of clinical research for which initial funding was provided prior to the date of the enactment of this Act. With respect to the inclusion of women and minorities as subjects in clinical research conducted or supported by the National Institutes of Health, any policies of the Secretary of Health and Human Services regarding such inclusion that are in effect on the day before the date of the enactment of this Act shall continue to apply to the projects referred to in the preceding sentence.

PART II—OFFICE OF RESEARCH ON WOMEN'S HEALTH

SEC. 141. ESTABLISHMENT.

(a) IN GENERAL.—Title IV of the Public Health Service Act, as amended by section 2 of Public Law 101–613, is amended—

(1) by redesignating section 486 as section 485A;

(2) by redesignating parts F through H as parts G through I, respectively; and

(3) by inserting after part E the following new part:

"PART F—RESEARCH ON WOMEN'S HEALTH

"SEC. 486. OFFICE OF RESEARCH ON WOMEN'S HEALTH.

"(a) ESTABLISHMENT.—There is established within the Office of the Director of NIH an office to be known as the Office of Research on Women's Health (in this part referred to as the 'Office'). The Office shall be headed by a director, who shall be appointed by the Director of NIH.

"(b) PURPOSE.—The Director of the Office shall—

"(1) identify projects of research on women's health that should be conducted or supported by the national research institutes;

"(2) identify multidisciplinary research relating to research on women's health that should be so conducted or supported;

"(3) carry out paragraphs (1) and (2) with respect to the aging process in women, with priority given to menopause;

"(4) promote coordination and collaboration among entities conducting research identified under any of paragraphs (1) through (3);

"(5) encourage the conduct of such research by entities receiving funds from the national research institutes;

"(6) recommend an agenda for conducting and supporting such research;

"(7) promote the sufficient allocation of the resources of the national research institutes for conducting and supporting such research;

"(8) assist in the administration of section 492B with respect to the inclusion of women as subjects in clinical research; and

"(9) prepare the report required in section 486B.

"(c) COORDINATING COMMITTEE.—

"(1) In carrying out subsection (b), the Director of the Office shall establish a committee to be known as the Coordinating Committee on Research on Women's Health (hereafter in this subsection referred to as the 'Coordinating Committee').

"(2) The Coordinating Committee shall be composed of the Directors of the national research institutes (or the designees of the Directors).

"(3) The Director of the Office shall serve as the chair of the Coordinating Committee.

"(4) With respect to research on women's health, the Coordinating Committee shall assist the Director of the Office in—

"(A) identifying the need for such research, and making an estimate each fiscal year of the funds needed to adequately support the research;

"(B) identifying needs regarding the coordination of research activities, including intramural and extramural multidisciplinary activities;

"(C) supporting the development of methodologies to determine the circumstances in which obtaining data specific to women (including data relating to the age of women and the membership of women in ethnic or racial groups) is an appropriate function of clinical trials of treatments and therapies;

"(D) supporting the development and expansion of clinical trials of treatments and therapies for which obtaining such data has been determined to be an appropriate function; and

"(E) encouraging the national research institutes to conduct and support such research, including such clinical trials.

"(d) ADVISORY COMMITTEE.—

"(1) In carrying out subsection (b), the Director of the Office shall establish an advisory committee to be known as the Advisory Committee on Research on Women's Health (hereafter in this subsection referred to as the 'Advisory Committee').

"(2)(A) The Advisory Committee shall be composed of no fewer than 12, and not more than 18 individuals, who are not officers or employees of the Federal Government. The Director of the Office shall make appointments to the Advisory Committee from among physicians, practitioners, scientists, and other health professionals, whose clinical practice, research specialization, or professional expertise includes a significant focus on research on women's health. A majority of the members of the Advisory Committee shall be women.

"(B) Members of the Advisory Committee shall receive compensation for each day engaged in carrying out the duties of the Committee, including time engaged in traveling for purposes of such duties. Such compensation may not be provided in an amount in excess of the maximum rate of basic pay payable for GS–18 of the General Schedule.

"(3) The Director of the Office shall serve as the chair of the Advisory Committee.

"(4) The Advisory Committee shall—

"(A) advise the Director of the Office on appropriate research activities to be undertaken by the national research institutes with respect to—

"(i) research on women's health;

"(ii) research on gender differences in clinical drug trials, including responses to pharmacological drugs;

"(iii) research on gender differences in disease etiology, course, and treatment;

"(iv) research on obstetrical and gynecological health conditions, diseases, and treatments; and

"(v) research on women's health conditions which require a multidisciplinary approach;

"(B) report to the Director of the Office on such research;

"(C) provide recommendations to such Director regarding activities of the Office (including recommendations on the development of the methodologies described in subsection (c)(4)(C) and recommendations on priorities in carrying out research described in subparagraph (A)); and

"(D) assist in monitoring compliance with section 492B regarding the inclusion of women in clinical research.

"(5)(A) The Advisory Committee shall prepare a biennial report describing the activities of the Committee, including findings made by the Committee regarding—

"(i) compliance with section 492B;

"(ii) the extent of expenditures made for research on women's health by the agencies of the National Institutes of Health; and

"(iii) the level of funding needed for such research.

"(B) The report required in subparagraph (A) shall be submitted to the Director of NIH for inclusion in the report required in section 403.

"(e) REPRESENTATION OF WOMEN AMONG RESEARCHERS.—The Secretary, acting through the Assistant Secretary for Personnel and in collaboration with the Director of the Office, shall determine the extent to which women are represented among senior physicians and scientists of the national research institutes and among physicians and scientists conducting research with funds provided by such institutes, and as appropriate, carry out activities to increase the extent of such representation.

"(f) DEFINITIONS.—For purposes of this part:

"(1) The term 'women's health conditions', with respect to women of all age, ethnic, and racial groups, means all diseases, disorders, and conditions (including with respect to mental health)—

"(A) unique to, more serious, or more prevalent in women;

"(B) for which the factors of medical risk or types of medical intervention are different for women, or for which it is unknown whether such factors or types are different for women; or

"(C) with respect to which there has been insufficient clinical research involving women as subjects or insufficient clinical data on women.

"(2) The term 'research on women's health' means research on women's health conditions, including research on preventing such conditions.

"SEC. 486A. NATIONAL DATA SYSTEM AND CLEARINGHOUSE ON RESEARCH ON WOMEN'S HEALTH.

"(a) DATA SYSTEM.—

"(1) The Director of NIH, in consultation with the Director of the Office, shall establish a data system for the collection, storage, analysis, retrieval, and dissemination of information regarding research on women's health that is conducted or supported by the national research institutes. Information from the data system shall be available through information systems available to health care professionals and providers, researchers, and members of the public.

"(2) The data system established under paragraph (1) shall include a registry of clinical trials of experimental treatments that have been developed for research on women's health. Such registry shall include information on subject eligibility criteria, sex, age, ethnicity or race, and the location of the trial site or sites. Principal investigators of such clinical trials shall provide this information to the registry within 30 days after it is available. Once a trial has been completed, the principal investigator shall provide the registry with information pertaining to the results, including potential toxicities or adverse effects associated with the experimental treatment or treatments evaluated.

"(b) CLEARINGHOUSE.—The Director of NIH, in consultation with the Director of the Office and with the National Library of Medicine, shall establish, maintain, and operate a program to provide information on research and prevention activities of the national research institutes that relate to research on women's health.

"SEC. 486B. BIENNIAL REPORT.

"(a) IN GENERAL.—With respect to research on women's health, the Director of the Office shall, not later than February 1, 1994, and biennially thereafter, prepare a report—

"(1) describing and evaluating the progress made during the preceding 2 fiscal years in research and treatment conducted or supported by the National Institutes of Health;

"(2) describing and analyzing the professional status of women physicians and scientists of such Institutes, including the identification of problems and barriers regarding advancements;

"(3) summarizing and analyzing expenditures made by the agencies of such Institutes (and by such Office) during the preceding 2 fiscal years; and

"(4) making such recommendations for legislative and administrative initiatives as the Director of the Office determines to be appropriate.

"(b) INCLUSION IN BIENNIAL REPORT OF DIRECTOR OF NIH.—The Director of the Office shall submit each report prepared under subsection (a) to the Director of NIH for inclusion in the report submitted to the President and the Congress under section 403.".

(b) REQUIREMENT OF SUFFICIENT ALLOCATION OF RESOURCES OF INSTITUTES.—Section 402(b) of the Public Health Service Act (42 U.S.C. 282(b)) is amended—

(1) in paragraph (10), by striking "and" after the semicolon at the end;

(2) in paragraph (11), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (11) the following new paragraph:

"(12) after consultation with the Director of the Office of Research on Women's Health, shall ensure that resources of the National Institutes of Health are sufficiently allocated for projects of research on women's health that are identified under section 486(b).".

PART III—OFFICE OF RESEARCH ON MINORITY HEALTH

SEC. 151. ESTABLISHMENT.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following new section:

"OFFICE OF RESEARCH ON MINORITY HEALTH

"SEC. 403A. (a) ESTABLISHMENT.—There is established within the Office of the Director of NIH an office to be known as the Office of Research on Minority Health (in this section referred to as the 'Office'). The Office shall be headed by a director, who shall be appointed by the Director of NIH.

"(b) PURPOSE.—The Director of the Office shall—

"(1) identify projects of research on minority health that should be conducted or supported by the national research institutes;

"(2) identify multidisciplinary research relating to research on minority health that should be so conducted or supported;

"(3) promote coordination and collaboration among entities conducting research identified under paragraph (1) or (2);

"(4) encourage the conduct of such research by entities receiving funds from the national research institutes;

"(5) recommend an agenda for conducting and supporting such research;

"(6) promote the sufficient allocation of the resources of the national research institutes for conducting and supporting such research; and

"(7) assist in the administration of section 492B with respect to the inclusion of members of minority groups as subjects in clinical research.".

Subtitle C—Scientific Integrity

SEC. 161. ESTABLISHMENT OF OFFICE OF SCIENTIFIC INTEGRITY.

(a) IN GENERAL.—Section 493 of the Public Health Service Act (42 U.S.C. 289b) is amended to read as follows:

"OFFICE OF SCIENTIFIC INTEGRITY

"SEC. 493. (a) ESTABLISHMENT.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary shall establish an office to be known as the Office of Scientific Integrity (hereafter referred to in this section as the 'Office'), which shall be established as an independent entity in the Department of Health and Human Services.

"(2) DIRECTOR.—The Office shall be headed by a Director, who shall be appointed by the Secretary, be experienced and specially trained in the conduct of research, and have experience in the conduct of investigations of scientific misconduct. The Secretary shall carry out this section acting through the Director of the Office. The Director shall report to the Secretary.

"(b) EXISTENCE OF ADMINISTRATIVE PROCESSES AS CONDITION OF FUNDING FOR RESEARCH.—The Secretary shall by regulation require that each entity that applies for a grant, contract, or cooperative agreement under this Act for any project or program that involves the conduct of biomedical or behavioral research submit in or with its application for such grant, contract, or cooperative agreement assurances satisfactory to the Secretary that such entity—

"(1) has established (in accordance with regulations which the Secretary shall prescribe) an administrative process to review reports of scientific misconduct in connection with biomedical and behavioral research conducted at or sponsored by such entity; and

"(2) will report to the Director any investigation of alleged scientific misconduct in connection with projects for which funds have been made available under this Act that appears substantial.

"(c) PROCESS FOR RESPONSE OF DIRECTOR.—The Secretary shall establish by regulation a process to be followed by the Director for the prompt and appropriate—

"(1) response to information provided to the Director respecting scientific misconduct in connection with projects for which funds have been made available under this Act;

"(2) receipt of reports by the Director of such information from recipients of funds under this Act;

"(3) conduct of investigations, when appropriate; and

"(4) taking of other actions, including appropriate remedies, with respect to such misconduct.

"(d) MONITORING BY DIRECTOR.—The Secretary shall by regulation establish procedures for the Director to monitor administrative processes and investigations that have been established or carried out under this section.

"(e) EFFECT ON PRESENT INVESTIGATIONS.—Nothing in this section shall affect investigations which have been or will be commenced prior to the promulgation of final regulations under this section.".

(b) ESTABLISHMENT OF DEFINITION OF SCIENTIFIC MISCONDUCT.—Not later than 90 days after the date on which the report required under section 152(d) is submitted to the Secretary of Health and Human Services, such Secretary shall by regulation establish a definition for the term "scientific misconduct" for purposes of section 493 of the Public Health Service Act, as amended by subsection (a) of this section.

SEC. 162. COMMISSION ON SCIENTIFIC INTEGRITY.

(a) IN GENERAL.—The Secretary of Health and Human Services shall establish a commission to be known as the Commission on Scientific Integrity (in this section referred to as the "Commission").

(b) DUTIES.—The Commission shall develop recommendations for the Secretary of Health and Human Services on the administration of section 493 of the Public Health Service Act (as amended and added by section 161 of this Act).

(c) COMPOSITION.—The Commission shall be composed of 12 members to be appointed by the Secretary of Health and Human Services from among individuals who are not officers or employees of the United States. Of the members appointed to the Commission—

(1) three shall be scientists with substantial accomplishments in biomedical or behavioral research;

(2) three shall be individuals with experience in investigating allegations of misconduct with respect to scientific research;

(3) three shall be representatives of institutions of higher education at which biomedical or behavioral research is conducted; and

(4) three shall be individuals who are not described in paragraphs (1), (2), or (3), at least one of whom shall be an attorney and at least one of whom shall be an ethicist.

(d) COMPENSATION.—Members of the Commission shall receive compensation for each day engaged in carrying out the duties of the Commission, including time engaged in traveling for purposes of such duties. Such compensation may not be provided in an amount in excess of the maximum rate of basic pay payable for GS-18 of the General Schedule.

(e) REPORT.—Not later than 120 days after the date of enactment of this section, the Commission shall prepare and submit to the Secretary of Health and Human Services, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report containing the recommendations developed under subsection (b).

SEC. 163. PROTECTION OF WHISTLEBLOWERS.

Section 493 of the Public Health Service Act, as amended by section 161 of this Act, is amended by adding at the end the following new subsection:

"(f) PROTECTION OF WHISTLEBLOWERS.—

"(1) IN GENERAL.—In the case of any entity required to establish administrative processes under subsection (b), the Secretary shall by regulation establish standards for preventing, and for responding to the occurrence of retaliation by such entity, its officials or agents, against an employee in the terms and conditions of employment in response to the employee having in good faith—

"(A) made an allegation that the entity, its officials or agents, has engaged in or failed to adequately respond to an allegation of scientific misconduct; or

"(B) cooperated with an investigation of such an allegation.

"(2) MONITORING BY SECRETARY.—The Secretary shall establish by regulation procedures for the Director to monitor the implementation of the standards established by an entity under paragraph (1) for the purpose of determining whether the procedures have been established, and are being utilized, in accordance with the standards established under such paragraph.

"(3) NONCOMPLIANCE.—The Secretary shall by regulation establish remedies for noncompliance by an entity, its officials or agents, which has engaged in retaliation in violation of the standards established under paragraph (1). Such remedies may include termination of funding provided by the Secretary for such project or recovery of funding being provided by the Secretary for such project, or other actions as appropriate.

"(4) FINAL RULE FOR REGULATIONS.—The Secretary shall issue a final rule for the regulations required in paragraph (1) not later than 180 days after the date of the enactment of the National Institutes of Health Revitalization Act of 1993.

"(5) REQUIRED AGREEMENTS.—For any fiscal year beginning after the date on which the regulations required in paragraph (1) are issued, the Secretary may not provide a grant, cooperative agreement, or contract under this Act for biomedical or behavioral research unless the entity seeking such financial assistance agrees that the entity—

"(A) will maintain the procedures described in the regulations; and

"(B) will otherwise be subject to the regulations.".

SEC. 164. REQUIREMENT OF REGULATIONS REGARDING PROTECTION AGAINST FINANCIAL CONFLICTS OF INTEREST IN CERTAIN PROJECTS OF RESEARCH.

Part H of title IV of the Public Health Service Act, as redesignated by section 141(a)(2) of this Act, is amended by inserting after section 493 the following new section:

"PROTECTION AGAINST FINANCIAL CONFLICTS OF INTEREST IN CERTAIN PROJECTS OF RESEARCH

"SEC. 493A. (a) ISSUANCE OF REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall define by regulation, the specific circumstances that constitute the existence of a financial interest in a project on the part of an entity or individual that will, or may be reasonably expected to, create a bias in favor of obtaining results in such project that are consistent with such financial interest. Such definition shall apply uniformly to each entity or individual conducting a research project under this Act. In the case of any entity or individual receiving assistance from the Secretary for a project of research described in paragraph (2), the Secretary shall by regulation establish standards for responding to, including managing, reducing, or eliminating, the existence of such a financial interest. The entity may adopt individualized procedures for implementing the standards.

"(2) RELEVANT PROJECTS.—A project of research referred to in paragraph (1) is a project of clinical research whose purpose is to evaluate the safety or effectiveness of a drug, medical device, or treatment and for which such entity is receiving assistance from the Secretary.

"(3) IDENTIFYING AND REPORTING TO THE DIRECTOR.—The Secretary shall ensure that the standards established under paragraph (1) specify that as a condition of receiving assistance from the Secretary for the project involved, an entity described in such subsection is required—

"(A) to have in effect at the time the entity applies for the assistance and throughout the period during which the assistance is received, a process for identifying such financial interests as defined in paragraph (1) that exist regarding the project; and

"(B) to report to the Director such financial interest as defined in paragraph (1) identified by the entity and how any such financial interest identified by the entity will be managed or eliminated such that the project in question will be protected from bias that may stem from such financial interest.

"(4) MONITORING OF PROCESS.—The Secretary shall monitor the establishment and conduct of the process established by an entity pursuant to paragraph (1).

"(5) RESPONSE.—In any case in which the Secretary determines that an entity has failed to comply with paragraph (3) regarding a project of research described in paragraph (1), the Secretary—

"(A) shall require that, as a condition of receiving assistance, the entity disclose the existence of a financial interest as defined in paragraph (1) in each public presentation of the results of such project; and

"(B) may take such other actions as the Secretary determines to be appropriate.

"(6) DEFINITION.—As used in this section:

"(A) The term 'financial interest' includes the receipt of consulting fees or honoraria and the ownership of stock or equity.

"(B) The term 'assistance', with respect to conducting a project of research, means a grant, contract, or cooperative agreement.

"(b) Final Rule for Regulations.—The Secretary shall issue a final rule for the regulations required in subsection (a) not later than 180 days after the date of the enactment of the National Institutes of Health Revitalization Act of 1993.".

SEC. 165. EFFECTIVE DATES.

(a) In General.—The amendments made by this subtitle shall become effective on the date that occurs 180 days after the date on which the final rule required under section 493(f)(4) of the Public Health Service Act, as amended by sections 161 and 163, is published in the Federal Register.

(b) Agreements as a Condition of Funding.—The requirements of subsection (f)(5) of section 493 of the Public Health Service Act, as amended by sections 161 and 163, with respect to agreements as a condition of funding shall not be effective in the case of projects of research for which initial funding under the Public Health Service Act was provided prior to the effective date described in subsection (a).

TITLE II—NATIONAL INSTITUTES OF HEALTH IN GENERAL

SEC. 201. HEALTH PROMOTION RESEARCH DISSEMINATION.

Section 402(f) of the Public Health Service Act (42 U.S.C. 282(f)) is amended by striking "other public and private entities." and all that follows through the end and inserting "other public and private entities, including elementary, secondary, and post-secondary schools. The Associate Director shall—

"(1) annually review the efficacy of existing policies and techniques used by the national research institutes to disseminate the results of disease prevention and behavioral research programs;

"(2) recommend, coordinate, and oversee the modification or reconstruction of such policies and techniques to ensure maximum dissemination, using advanced technologies to the maximum extent practicable, of research results to such entities; and

"(3) annually prepare and submit to the Director of NIH a report concerning the prevention and dissemination activities undertaken by the Associate Director, including—

"(A) a summary of the Associate Director's review of existing dissemination policies and techniques together with a detailed statement concerning any modification or restructuring, or recommendations for modification or restructuring, of such policies and techniques; and

"(B) a detailed statement of the expenditures made for the prevention and dissemination activities reported on and the personnel used in connection with such activities.".

SEC. 202. PROGRAMS FOR INCREASED SUPPORT REGARDING CERTAIN STATES AND RESEARCHERS.

Section 402 of the Public Health Service Act (42 U.S.C. 282) is amended by adding at the end the following new subsection:

"(g)(1)(A) In the case of entities described in subparagraph (B), the Director of NIH, acting through the Director of the National Center for Research Resources, shall establish a program to enhance the competitiveness of such entities in obtaining funds from the national research institutes for conducting biomedical and behavioral research.

"(B) The entities referred to in subparagraph (A) are entities that conduct biomedical and behavioral research and are located in a State in which the aggregate success rate for applications to the national research institutes for assistance for such research by the entities in the State has historically constituted a low success rate of obtaining such funds, relative to such aggregate rate for such entities in other States.

"(C) With respect to enhancing competitiveness for purposes of subparagraph (A), the Director of NIH, in carrying out the program established under such subparagraph, may—

"(i) provide technical assistance to the entities involved, including technical assistance in the preparation of applications for obtaining funds from the national research institutes;

"(ii) assist the entities in developing a plan for biomedical or behavioral research proposals; and

"(iii) assist the entities in implementing such plan.

"(2) The Director of NIH shall establish a program of supporting projects of biomedical or behavioral research whose principal researchers are individuals who have not previously served as the principal researchers of such projects supported by the Director.".

SEC. 203. CHILDREN'S VACCINE INITIATIVE.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following new section:

"CHILDREN'S VACCINE INITIATIVE

"Sec. 404. (a) Development of New Vaccines.—The Secretary, in consulation with the Director of the National Vaccine Program under title XXI and acting through the Directors of the National Institute for Allergy and Infectious Diseases, the National Institute for Child Health and Human Development, the National Institute for Aging, and other public and private programs, shall carry out activities, which shall be consistent with the global Children's Vaccine Initiative, to develop affordable new and improved vaccines to be used in the United States and in the developing world that will increase the efficacy and efficiency of the prevention of infectious diseases. In carrying out such activities, the Secretary shall, to the extent practicable, develop and make available vaccines that require fewer contacts to deliver, that can be given early in life, that provide long lasting protection, that obviate refrigeration, needles and syringes, and that protect against a larger number of diseases.

"(b) Report.—In the report required in section 2104, the Secretary, acting through the Director of the National Vaccine Program under title XXI, shall include information with respect to activities and the progress made in implementing the provisions of this section and achieving its goals.

"(c) Authorization of Appropriations.—In addition to any other amounts authorized to be appropriated for activities of the type described in this section, there are authorized to be appropriated to carry out this section $20,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 204. PLAN FOR USE OF ANIMALS IN RESEARCH.

(a) In General.—Part A of title IV of the Public Health Service Act, as amended by section 203 of this Act, is amended by adding at the end the following new section:

"PLAN FOR USE OF ANIMALS IN RESEARCH

"Sec. 404A. (a) The Director of NIH, after consultation with the committee established under subsection (e), shall prepare a plan—

"(1) for the National Institutes of Health to conduct or support research into—

"(A) methods of biomedical research and experimentation that do not require the use of animals;

"(B) methods of such research and experimentation that reduce the number of animals used in such research; and

"(C) methods of such research and experimentation that produce less pain and distress in such animals;

"(2) for establishing the validity and reliability of the methods described in paragraph (1);

"(3) for encouraging the acceptance by the scientific community of such methods that have been found to be valid and reliable; and

"(4) for training scientists in the use of such methods that have been found to be valid and reliable.

"(b) Not later than October 1, 1993, the Director of NIH shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, the plan required in subsection (a) and shall begin implementation of the plan.

"(c) The Director of NIH shall periodically review, and as appropriate, make revisions in the plan required under subsection (a). A description of any revision made in the plan shall be included in the first biennial report under section 403 that is submitted after the revision is made.

"(d) The Director of NIH shall take such actions as may be appropriate to convey to scientists and others who use animals in biomedical or behavioral research or experimentation information respecting the methods found to be valid and reliable under subsection (a)(2).

"(e)(1) The Director of NIH shall establish within the National Institutes of Health a committee to be known as the Interagency Coordinating Committee on the Use of Animals in Research (hereafter in this subsection referred to as the 'Committee').

"(2) The Committee shall provide advice to the Director of NIH on the preparation of the plan required in subsection (a).

"(3) The Committee shall be composed of—

"(A) the Directors of each of the national research institutes and the Director of the Center for Research Resources (or the designees of such Directors); and

"(B) representatives of the Environmental Protection Agency, the Food and Drug Administration, the Consumer Product Safety Commission, the National Science Foundation, and such additional agencies as the Director of NIH determines to be appropriate.".

(b) Conforming Amendment.—Section 4 of the Health Research Extension Act of 1985 (Public Law 99–158; 99 Stat. 880) is repealed.

SEC. 205. INCREASED PARTICIPATION OF WOMEN AND MEMBERS OF UNDERREPRESENTED MINORITIES IN FIELDS OF BIOMEDICAL AND BEHAVIORAL RESEARCH.

Section 402 of the Public Health Service Act, as amended by section 202 of this Act, is amended by adding at the end the following new subsection:

"(h) The Secretary, acting through the Director of NIH and the Directors of the agencies of the National Institutes of Health, may conduct and support programs for research, research training, recruitment, and other activities to provide for an increase in the number of women and members of underrepresented minority groups in the fields of biomedical and behavioral research.".

SEC. 206. REQUIREMENTS REGARDING SURVEYS OF SEXUAL BEHAVIOR.

Part A of title IV of the Public Health Service Act, as amended by section 204 of this Act, is amended by adding at the end the following new section:

"REQUIREMENTS REGARDING SURVEYS OF SEXUAL BEHAVIOR

"Sec. 404B. With respect to any survey of human sexual behavior proposed to be conducted or supported through the National Institutes of Health, the survey may not be carried out unless—

"(1) the proposal has undergone review in accordance with any applicable requirements of sections 491 and 492; and

"(2) the Secretary, in accordance with section 492A, makes a determination that the information expected to be obtained through the survey will assist—

"(A) in reducing the incidence of sexually transmitted diseases, the incidence of infection with the human immunodeficiency virus, or the incidence of any other infectious disease; or

"(B) in improving reproductive health or other conditions of health.".

SEC. 207. DISCRETIONARY FUND OF DIRECTOR OF NATIONAL INSTITUTES OF HEALTH.

Section 402 of the Public Health Service Act, as amended by section 205 of this Act, is amended by adding at the end the following new subsection:

"(i)(1) There is established a fund, consisting of amounts appropriated under paragraph (3) and made available for the fund, for use by the Director of NIH to carry out the activities authorized in this Act for the National Institutes of Health. The purposes for which such fund may be expended include—

"(A) providing for research on matters that have not received significant funding relative to other matters, responding to new issues and scientific emergencies, and acting on research opportunities of high priority;

"(B) supporting research that is not exclusively within the authority of any single agency of such Institutes; and

"(C) purchasing or renting equipment and quarters for activities of such Institutes.

"(2) Not later than February 10 of each fiscal year, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the activities undertaken and expenditures made under this section during the preceding fiscal year. The report may contain such comments of the Secretary regarding this section as the Secretary determines to be appropriate.

"(3) For the purpose of carrying out this subsection, there are authorized to be appropriated $25,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 208. MISCELLANEOUS PROVISIONS.

(a) TERM OF OFFICE FOR MEMBERS OF ADVISORY COUNCILS.—Section 406(c) of the Public Health Service Act (42 U.S.C. 284a(c)) is amended in the second sentence by striking "until a successor has been appointed" and inserting the following: "for 180 days after the date of such expiration".

(b) LITERACY REQUIREMENTS.—Section 402(e) of the Public Health Service Act (42 U.S.C. 282(e)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) ensure that, after January 1, 1994, at least one-half of all new or revised health education and promotion materials developed or funded by the National Institutes of Health is in a form that does not exceed a level of functional literacy, as defined in the National Literacy Act of 1991 (Public Law 102–73).".

(c) DAY CARE REGARDING CHILDREN OF EMPLOYEES.—Section 402 of the Public Health Service Act, as amended by section 207 of this Act, is amended by adding at the end the following new subsection:

"(i)(1) The Director of NIH may establish a program to provide day care service for the employees of the National Institutes of Health similar to those services provided by other Federal agencies (including the availability of day care service on a 24-hour-a-day basis).

"(2) Any day care provider at the National Institutes of Health shall establish a sliding scale of fees that takes into consideration the income and needs of the employee.

"(3) For purposes regarding the provision of day care service, the Director of NIH may enter into rental or lease purchase agreements.".

TITLE III—GENERAL PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

SEC. 301. APPOINTMENT AND AUTHORITY OF DIRECTORS OF NATIONAL RESEARCH INSTITUTES.

(a) ESTABLISHMENT OF GENERAL AUTHORITY REGARDING DIRECT FUNDING.—

(1) IN GENERAL.—Section 405(b)(2) of the Public Health Service Act (42 U.S.C. 284(b)(2)) is amended—

(A) in subparagraph (A), by striking "and" after the semicolon at the end;

(B) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) shall receive from the President and the Office of Management and Budget directly all funds appropriated by the Congress for obligation and expenditure by the Institute.".

(2) CONFORMING AMENDMENT.—Section 413(b)(9) of the Public Health Service Act (42 U.S.C. 285a–2(b)(9)) is amended—

(A) by striking "(A)" after "(9)"; and

(B) by striking "advisory council;" and all that follows and inserting "advisory council.".

(b) APPOINTMENT AND DURATION OF TECHNICAL AND SCIENTIFIC PEER REVIEW GROUPS.—Section 405(c) of the Public Health Service Act (42 U.S.C. 284(c)) is amended—

(1) by amending paragraph (3) to read as follows:

"(3) may, in consultation with the advisory council for the Institute and with the approval of the Director of NIH—

"(A) establish technical and scientific peer review groups in addition to those appointed under section 402(b)(6); and

"(B) appoint the members of peer review groups established under subparagraph (A); and"; and

(2) by adding after and below paragraph (4) the following:

"The Federal Advisory Committee Act shall not apply to the duration of a peer review group appointed under paragraph (3).".

SEC. 302. PROGRAM OF RESEARCH ON OSTEOPOROSIS, PAGET'S DISEASE, AND RELATED BONE DISORDERS.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.), as amended by section 121(b) of Public Law 102–321 (106 Stat. 358), is amended by adding at the end the following new section:

"RESEARCH ON OSTEOPOROSIS, PAGET'S DISEASE, AND RELATED BONE DISORDERS

"SEC. 410. (a) ESTABLISHMENT.—The Directors of the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the National Institute on Aging, and the National Institute of Diabetes, Digestive and Kidney Diseases, shall expand and intensify the programs of such Institutes with respect to research and related activities concerning osteoporosis, Paget's disease, and related bone disorders.

"(b) COORDINATION.—The Directors referred to in subsection (a) shall jointly coordinate the programs referred to in such subsection and consult with the Arthritis and Musculoskeletal Diseases Interagency Coordinating Committee and the Interagency Task Force on Aging Research.

"(c) INFORMATION CLEARINGHOUSE.—

"(1) IN GENERAL.—In order to assist in carrying out the purpose described in subsection (a), the Director of NIH shall provide for the establishment of an information clearinghouse on osteoporosis and related bone disorders to facilitate and enhance knowledge and understanding on the part of health professionals, patients, and the public through the effective dissemination of information.

"(2) ESTABLISHMENT THROUGH GRANT OR CONTRACT.—For the purpose of carrying out paragraph (1), the Director of NIH shall enter into a grant, cooperative agreement, or contract with a nonprofit private entity involved in activities regarding the prevention and control of osteoporosis and related bone disorders.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $40,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 303. ESTABLISHMENT OF INTERAGENCY PROGRAM FOR TRAUMA RESEARCH.

(a) IN GENERAL.—Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.) is amended by adding at the end the following part:

"PART E—INTERAGENCY PROGRAM FOR TRAUMA RESEARCH

"SEC. 1251. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—The Secretary, acting through the Director of the National Institutes of Health (hereafter in this section referred to as the 'Director'), shall establish a comprehensive program of conducting basic and clinical research on trauma (hereafter in this section referred to as the 'Program'). The Program shall include research regarding the diagnosis, treatment, rehabilitation, and general management of trauma.

(b) PLAN FOR PROGRAM.—

"(1) IN GENERAL.—The Director, in consultation with the Trauma Research Interagency Coordinating Committee established under subsection (g), shall establish and implement a plan for carrying out the activities of the Program, including the activities described in subsection (d). All such activities shall be carried out in accordance with the plan. The plan shall be periodically reviewed, and revised as appropriate.

"(2) SUBMISSION TO CONGRESS.—Not later than June 1, 1993, the Director shall submit the plan required in paragraph (1) to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, together with an estimate of the funds needed for each of the fiscal years 1994 through 1996 to implement the plan.

"(c) PARTICIPATING AGENCIES; COORDINATION AND COLLABORATION.—The Director—

"(1) shall provide for the conduct of activities under the Program by the Directors of the agencies of the National Institutes of Health involved in research with respect to trauma;

"(2) shall ensure that the activities of the Program are coordinated among such agencies; and

"(3) shall, as appropriate, provide for collaboration among such agencies in carrying out such activities.

"(d) CERTAIN ACTIVITIES OF PROGRAM.—The Program shall include—

"(1) studies with respect to all phases of trauma care, including prehospital, resuscitation, surgical intervention, critical care, infection control, wound healing, nutritional care and support, and medical rehabilitation care;

"(2) basic and clinical research regarding the response of the body to trauma and the acute treatment and medical rehabilitation of individuals who are the victims of trauma; and

"(3) basic and clinical research regarding trauma care for pediatric and geriatric patients.

"(e) MECHANISMS OF SUPPORT.—In carrying out the Program, the Director, acting through the Directors of the agencies referred to in subsection (c)(1), may make grants to public and nonprofit entities, including designated trauma centers.

''(f) RESOURCES.—The Director shall assure the availability of appropriate resources to carry out the Program, including the plan established under subsection (b) (including the activities described in subsection (d)).

''(g) COORDINATING COMMITTEE.—

''(1) IN GENERAL.—There shall be established a Trauma Research Interagency Coordinating Committee (hereafter in this section referred to as the 'Coordinating Committee').

''(2) DUTIES.—The Coordinating Committee shall make recommendations regarding—

''(A) the activities of the Program to be carried out by each of the agencies represented on the Committee and the amount of funds needed by each of the agencies for such activities; and

''(B) effective collaboration among the agencies in carrying out the activities.

''(3) COMPOSITION.—The Coordinating Committee shall be composed of the Directors of each of the agencies that, under subsection (c), have responsibilities under the Program, and any other individuals who are practitioners in the trauma field as designated by the Director of the National Institutes of Health.

''(h) DEFINITIONS.—For purposes of this section:

''(1) The term 'designated trauma center' has the meaning given such term in section 1231(1).

''(2) The term 'Director' means the Director of the National Institutes of Health.

''(3) The term 'trauma' means any serious injury that could result in loss of life or in significant disability and that would meet pre-hospital triage criteria for transport to a designated trauma center.''.

(b) CONFORMING AMENDMENT.—Section 402 of the Public Health Service Act, as amended by section 208(c) of this Act, is amended by adding at the end the following new subsection:

''(k) The Director of NIH shall carry out the program established in part E of title XII (relating to interagency research on trauma).''.

TITLE IV—NATIONAL CANCER INSTITUTE

SEC. 401. EXPANSION AND INTENSIFICATION OF ACTIVITIES REGARDING BREAST CANCER.

Subpart 1 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following new section:

''BREAST AND GYNECOLOGICAL CANCERS

''SEC. 417. (a) EXPANSION AND COORDINATION OF ACTIVITIES.—The Director of the Institute, in consultation with the National Cancer Advisory Board, shall expand, intensify, and coordinate the activities of the Institute with respect to research on breast cancer, ovarian cancer, and other cancers of the reproductive system of women.

''(b) COORDINATION WITH OTHER INSTITUTES.—The Director of the Institute shall coordinate the activities of the Director under subsection (a) with similar activities conducted by other national research institutes and agencies of the National Institutes of Health to the extent that such Institutes and agencies have responsibilities that are related to breast cancer and other cancers of the reproductive system of women.

''(c) PROGRAMS FOR BREAST CANCER.—

''(1) IN GENERAL.—In carrying out subsection (a), the Director of the Institute shall conduct or support research to expand the understanding of the cause of, and to find a cure for, breast cancer. Activities under such subsection shall provide for an expansion and intensification of the conduct and support of—

''(A) basic research concerning the etiology and causes of breast cancer;

''(B) clinical research and related activities concerning the causes, prevention, detection and treatment of breast cancer;

''(C) control programs with respect to breast cancer in accordance with section 412;

''(D) information and education programs with respect to breast cancer in accordance with section 413; and

''(E) research and demonstration centers with respect to breast cancer in accordance with section 414, including the development and operation of centers for breast cancer research to bring together basic and clinical, biomedical and behavioral scientists to conduct basic, clinical, epidemiological, psychosocial, prevention and treatment research and related activities on breast cancer.

Not less than six centers shall be operated under subparagraph (E). Activities of such centers should include supporting new and innovative research and training programs for new researchers. Such centers shall give priority to expediting the transfer of research advances to clinical applications.

''(2) IMPLEMENTATION OF PLAN FOR PROGRAMS.—

''(A) The Director of the Institute shall ensure that the research programs described in paragraph (1) are implemented in accordance with a plan for the programs. Such plan shall include comments and recommendations that the Director of the Institute considers appropriate, with due consideration provided to the professional judgment needs of the Institute as expressed in the annual budget estimate prepared in accordance with section 413(9). The Director of the Institute, in consultation with the National Cancer Advisory Board, shall periodically review and revise such plan.

''(B) Not later than May 1, 1993, the Director of the Institute shall submit a copy of the plan to the President's Cancer Panel, the Secretary and the Director of NIH.

''(C) The Director of the Institute shall submit any revisions of the plan to the President's Cancer Panel, the Secretary, and the Director of NIH.

''(D) The Secretary shall provide a copy of the plan submitted under subparagraph (A), and any revisions submitted under subparagraph (C), to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

''(d) OTHER CANCERS.—In carrying out subsection (a), the Director of the Institute shall conduct or support research on ovarian cancer and other cancers of the reproductive system of women. Activities under such subsection shall provide for the conduct and support of—

''(1) basic research concerning the etiology and causes of ovarian cancer and other cancers of the reproductive system of women;

''(2) clinical research and related activities into the causes, prevention, detection and treatment of ovarian cancer and other cancers of the reproductive system of women;

''(3) control programs with respect to ovarian cancer and other cancers of the reproductive system of women in accordance with section 412;

''(4) information and education programs with respect to ovarian cancer and other cancers of the reproductive system of women in accordance with section 413; and

''(5) research and demonstration centers with respect to ovarian cancer and cancers of the reproductive system in accordance with section 414.

''(e) REPORT.—The Director of the Institute shall prepare, for inclusion in the biennial report submitted under section 407, a report that describes the activities of the National Cancer Institute under the research programs referred to in subsection (a), that shall include—

''(1) a description of the research plan with respect to breast cancer prepared under subsection (c);

''(2) an assessment of the development, revision, and implementation of such plan;

''(3) a description and evaluation of the progress made, during the period for which such report is prepared, in the research programs on breast cancer and cancers of the reproductive system of women;

''(4) a summary and analysis of expenditures made, during the period for which such report is made, for activities with respect to breast cancer and cancers of the reproductive system of women conducted and supported by the National Institutes of Health; and

''(5) such comments and recommendations as the Director considers appropriate.''.

SEC. 402. EXPANSION AND INTENSIFICATION OF ACTIVITIES REGARDING PROSTATE CANCER.

Subpart 1 of part C of title IV of the Public Health Service Act, as amended by section 401 of this Act, is amended by adding at the end the following new section:

''PROSTATE CANCER

''SEC. 417A. (a) EXPANSION AND COORDINATION OF ACTIVITIES.—The Director of the Institute, in consultation with the National Cancer Advisory Board, shall expand, intensify, and coordinate the activities of the Institute with respect to research on prostate cancer.

''(b) COORDINATION WITH OTHER INSTITUTES.—The Director of the Institute shall coordinate the activities of the Director under subsection (a) with similar activities conducted by other national research institutes and agencies of the National Institutes of Health to the extent that such Institutes and agencies have responsibilities that are related to prostate cancer.

''(c) PROGRAMS.—

''(1) IN GENERAL.—In carrying out subsection (a), the Director of the Institute shall conduct or support research to expand the understanding of the cause of, and to find a cure for, prostate cancer. Activities under such subsection shall provide for an expansion and intensification of the conduct and support of—

''(A) basic research concerning the etiology and causes of prostate cancer;

''(B) clinical research and related activities concerning the causes, prevention, detection and treatment of prostate cancer;

''(C) prevention and control and early detection programs with respect to prostate cancer in accordance with section 412, particularly as it relates to intensifying research on the role of prostate specific antigen for the screening and early detection of prostate cancer;

''(D) an Inter-Institute Task Force, under the direction of the Director of the Institute, to provide coordination between relevant National Institutes of Health components of research efforts on prostate cancer;

''(E) control programs with respect to prostate cancer in accordance with section 412;

''(F) information and education programs with respect to prostate cancer in accordance with section 413; and

''(G) research and demonstration centers with respect to prostate cancer in accordance with section 414, including the development and operation of centers for prostate cancer research to bring together basic and clinical, biomedical and behavioral scientists to conduct basic, clinical, epidemiological, psychosocial, prevention and treatment research and related activities on prostate cancer.

Not less than six centers shall be operated under subparagraph (G). Activities of such centers should include supporting new and innovative research and training programs for new researchers. Such centers shall give priority to expediting the transfer of research advances to clinical applications.

''(2) IMPLEMENTATION OF PLAN FOR PROGRAMS.—

''(A) The Director of the Institute shall ensure that the research programs described in para-

graph (1) are implemented in accordance with a plan for the programs. Such plan shall include comments and recommendations that the Director of the Institute considers appropriate, with due consideration provided to the professional judgment needs of the Institute as expressed in the annual budget estimate prepared in accordance with section 413(9). The Director of the Institute, in consultation with the National Cancer Advisory Board, shall periodically review and revise such plan.

"(B) Not later than May 1, 1993, the Director of the Institute shall submit a copy of the plan to the President's Cancer Panel, the Secretary and the Director of NIH.

"(C) The Director of the Institute shall submit any revisions of the plan to the President's Cancer Panel, the Secretary, and the Director of NIH.

"(D) The Secretary shall provide a copy of the plan submitted under subparagraph (A), and any revisions submitted under subparagraph (C), to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.".

SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—Subpart 1 of part C of title IV of the Public Health Service Act, as amended by section 402 of this Act, is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 417B. (a) Activities Generally.—For the purpose of carrying out this subpart, there are authorized to be appropriated $2,200,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(b) Breast Cancer and Gynecological Cancers.—

"(1) Breast cancer.—

"(A) For the purpose of carrying out subparagraph (A) of section 417(c)(1), there are authorized to be appropriated $225,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) with respect to such purpose.

"(B) For the purpose of carrying out subparagraphs (B) through (E) of section 417(c)(1), there are authorized to be appropriated $100,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) with respect to such purpose.

"(2) Other cancers.—For the purpose of carrying out subsection (d) of section 417, there are authorized to be appropriated $75,000,000 for fiscal year 1994, and such sums as are necessary for each of the fiscal years 1995 and 1996. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) with respect to such purpose.

"(c) Prostate Cancer.—For the purpose of carrying out section 417A, there are authorized to be appropriated $72,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) with respect to such purpose.

"(d) Allocation Regarding Cancer Control.—Of the amounts appropriated for the National Cancer Institute for a fiscal year, the Director of the Institute shall make available not less than 10 percent for carrying out the cancer control activities authorized in section 412 and for which budget estimates are made under section 413(b)(9) for the fiscal year.".

(b) Special Rule Regarding Funds for Section 412 for Fiscal Year 1994.—Notwithstanding section 417B(d) of the Public Health Service Act, as added by subsection (a) of this section, the amount made available under such section for fiscal year 1994 for carrying out section 412 of such Act shall be an amount not less than an amount equal to 75 percent of the amount specified for activities under such section 412 in the budget estimate made under section 413(b)(9) of such Act for such fiscal year.

(c) Conforming Amendments.—

(1) In general.—Section 408 of the Public Health Service Act (42 U.S.C. 284c) is amended—

(A) by striking subsection (a);

(B) by redesignating subsection (b) as subsection (a);

(C) by redesignating paragraph (5) of subsection (a) (as so redesignated) as subsection (b); and

(D) by amending the heading for the section to read as follows:

"CERTAIN USES OF FUNDS".

(2) Cross-reference.—Section 464F of the Public Health Service Act (42 U.S.C. 285m–6) is amended by striking "section 408(b)(1)" and inserting "section 408(a)(1)".

TITLE V—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

SEC. 501. EDUCATION AND TRAINING.

Section 421(b) of the Public Health Service Act (42 U.S.C. 285b–3(b)) is amended—

(1) in paragraph (3), by striking "and" after the semicolon at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) shall, in consultation with the advisory council for the Institute, conduct appropriate intramural training and education programs, including continuing education and laboratory and clinical research training programs.".

SEC. 502. CENTERS FOR THE STUDY OF PEDIATRIC CARDIOVASCULAR DISEASES.

Section 422(a)(1) of the Public Health Service Act (42 U.S.C. 285b–4(a)(1)) is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking the period and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) three centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment (including genetic studies, intrauterine environment studies, postnatal studies, heart arrhythmias, and acquired heart disease and preventive cardiology) for cardiovascular diseases in children.".

SEC. 503. NATIONAL CENTER ON SLEEP DISORDERS.

Subpart 2 of part C of title IV of the Public Health Service Act (42 U.S.C. 285b et seq.) is amended by adding at the end the following new section:

"NATIONAL CENTER ON SLEEP DISORDERS

"Sec. 424. (a) Not later than 1 year after the date of the enactment of the National Institutes of Health Revitalization Act of 1993, the Director of the Institute shall establish the National Center on Sleep Disorders (in this section referred to as the 'Center'). The Center shall be headed by a director, who shall be appointed by the Director of the Institute.

"(b) The general purpose of the Center is the conduct and support of research, training, health information dissemination, and other activities with respect to sleep disorders.".

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

Subpart 2 of part C of title IV of the Public Health Service Act, as amended by section 503 of this Act, is amended by adding at the end the following section:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 425. (a) For the purpose of carrying out this subpart, there are authorized to be appropriated $1,500,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(b) Of the amounts appropriated under paragraph (1) for a fiscal year, the Director of the Institute shall make available not less than 10 percent for carrying out community-based prevention and control activities that include clinical investigations, clinical trials, epidemiologic studies, and prevention demonstration and education projects.".

TITLE VI—NATIONAL INSTITUTE ON DIABETES AND DIGESTIVE AND KIDNEY DISEASES

SEC. 601. PROVISIONS REGARDING NUTRITIONAL DISORDERS.

Subpart 3 of part C of title IV of the Public Health Service Act (42 U.S.C. 285c et seq.) is amended by adding at the end the following new section:

"NUTRITIONAL DISORDERS PROGRAM

"Sec. 434. (a) The Director of the Institute shall establish a program of conducting and supporting research, training, health information dissemination, and other activities with respect to nutritional disorders, including obesity.

"(b) In carrying out the program established under subsection (a), the Director of the Institute shall conduct and support each of the activities described in such subsection. The Director of NIH shall ensure that, as appropriate, the other national research institutes and agencies of the National Institutes of Health have responsibilities regarding such activities.

"(c) In carrying out the program established under subsection (a), the Director of the Institute shall carry out activities to facilitate and enhance knowledge and understanding of nutritional disorders, including obesity, on the part of health professionals, patients, and the public through the effective dissemination of information.".

(b) Development and Expansion of Research and Training Centers.—Section 431 of the Public Health Service Act (42 U.S.C. 285c–5) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) The Director of the Institute shall, subject to the extent of amounts made available in appropriations Acts, provide for the development or substantial expansion of centers for research and training regarding nutritional disorders, including obesity.

"(2) The Director of the Institute shall carry out paragraph (1) in collaboration with the Director of the National Cancer Institute and with the Directors of such other agencies of the National Institutes of Health as the Director of NIH determines to be appropriate.

"(3) Each center developed or expanded under paragraph (1) shall—

"(A) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research and training qualifications as may be prescribed by the Director;

"(B) conduct basic and clinical research into the cause, diagnosis, early detection, prevention, control and treatment of nutritional disorders, including obesity and the impact of nutrition and diet on child development;

"(C) conduct training programs for physicians and allied health professionals in current methods of diagnosis and treatment of such diseases and complications, and in research in such disorders; and

"(D) conduct information programs for physicians and allied health professionals who provide primary care for patients with such disorders or complications.".

TITLE VII—NATIONAL INSTITUTE ON ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

SEC. 701. JUVENILE ARTHRITIS.

(a) PURPOSE.—Section 435 of the Public Health Service Act (42 U.S.C. 285d) is amended by striking "and other programs" and all that follows and inserting the following: "and other programs with respect to arthritis and musculoskeletal and skin diseases (including sports-related disorders), with particular attention to the effect of these diseases on children.".

(b) PROGRAMS.—Section 436 (42 U.S.C. 285d–1) is amended—

(1) in subsection (a), by inserting after the second sentence, the following: "The plan shall place particular emphasis upon expanding research into better understanding the causes and the development of effective treatments for arthritis affecting children."; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) research into the causes of arthritis affecting children and the development, trial, and evaluation of techniques, drugs and devices used in the diagnosis, treatment (including medical rehabilitation), and prevention of arthritis in children.".

(c) CENTERS.—Section 441 of the Public Health Service Act (42 U.S.C. 286d–6) is amended by adding at the end thereof the following new subsection:

"(f) Not later than October 1, 1994, the Director shall establish a multipurpose arthritis and musculoskeletal disease center for the purpose of expanding the level of research into the cause, diagnosis, early detection, prevention, control, and treatment of, and rehabilitation of children with arthritis and musculoskeletal diseases.".

(d) ADVISORY BOARD.—

(1) TITLE.—Section 442(a) of the Public Health Service Act (42 U.S.C. 285d–7(a)) is amended by inserting after "Arthritis" the the first place such term appears the following: "and Musculoskeletal and Skin Diseases".

(2) COMPOSITION.—Section 442(b) of the Public Health Service Act (42 U.S.C. 285d–7(b)) is amended—Section 442(b) of the Public Health Service Act (42 U.S.C. 285d–7(b)) is amended—

(A) in the matter preceding paragraph (1), by striking "eighteen" and inserting "twenty"; and

(B) in paragraph (1)(B)—

(i) by striking "six" and inserting "eight"; and

(ii) by striking "including" and all that follows and inserting the following: "including one member who is a person who has such a disease, one person who is the parent of an adult with such a disease, and two members who are parents of children with arthritis.".

(3) ANNUAL REPORT.—Section 442(j) of the Public Health Service Act (42 U.S.C. 285d–7(j)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following paragraph:

"(5) contains recommendations for expanding the Institute's funding of research directly applicable to the cause, diagnosis, early detection, prevention, control, and treatment of, and rehabilitation of children with arthritis and musculoskeletal diseases.".

TITLE VIII—NATIONAL INSTITUTE ON AGING

SEC. 801. ALZHEIMER'S DISEASE REGISTRY.

(a) IN GENERAL.—Section 12 of Public Law 99–158 (99 Stat. 885) is—

(1) transferred to subpart 5 of part C of title IV of the Public Health Service Act (42 U.S.C. 285e et seq.);

(2) redesignated as section 445G; and

(3) inserted after section 445F of such Act.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 445G of the Public Health Service Act, as transferred and inserted by subsection (a) of this section, is amended—

(1) by striking the section heading and all that follows through "may make a grant" in subsection (a) and inserting the following:

"ALZHEIMER'S DISEASE REGISTRY

"SEC. 445G. (a) IN GENERAL.—The Director of the Institute may make a grant"; and

(2) by striking subsection (c).

SEC. 802. AGING PROCESSES REGARDING WOMEN.

Subpart 5 of part C of title IV of the Public Health Service Act, as amended by section 801 of this Act, is amended by adding at the end the following new section:

"AGING PROCESSES REGARDING WOMEN

"SEC. 445H. The Director of the Institute, in addition to other special functions specified in section 444 and in cooperation with the Directors of the other national research institutes and agencies of the National Institutes of Health, shall conduct research into the aging processes of women, with particular emphasis given to the effects of menopause and the physiological and behavioral changes occurring during the transition from pre- to post-menopause, and into the diagnosis, disorders, and complications related to aging and loss of ovarian hormones in women.".

SEC. 803. AUTHORIZATION OF APPROPRIATIONS.

Subpart 5 of part C of title IV of the Public Health Service Act, as amended by section 802 of this Act, is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 445I. For the purpose of carrying out this subpart, there are authorized to be appropriated $500,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 804. CONFORMING AMENDMENT.

Section 445C of the Public Health Service Act (42 U.S.C. 285e–5(b)) is amended—

(1) in subsection (b)(1), in the first sentence, by inserting after "Council" the following: "on Alzheimer's Disease (hereafter in this section referred to as the 'Council')"; and

(2) by adding at the end the following new subsection:

"(d) For purposes of this section, the term 'Council on Alzheimer's Disease' means the council established in section 911(a) of Public Law 99–660.".

TITLE IX—NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

SEC. 901. TROPICAL DISEASES.

Section 446 of the Public Health Service Act (42 U.S.C. 285f) is amended by inserting before the period the following: ", including tropical diseases".

SEC. 902. CHRONIC FATIGUE SYNDROME.

(a) RESEARCH CENTERS.—Subpart 6 of part C of title IV of the Public Health Service Act (42 U.S.C. 285f) is amended by adding at the end the following new section:

"RESEARCH CENTERS REGARDING CHRONIC FATIGUE SYNDROME

"SEC. 447. (a) The Director of the Institute, after consultation with the advisory council for the Institute, may make grants to, or enter into contracts with, public or nonprofit private entities for the development and operation of centers to conduct basic and clinical research on chronic fatigue syndrome.

"(b) Each center assisted under this section shall use the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Director of the Institute.".

(b) EXTRAMURAL STUDY SECTION.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall establish an extramural study section for chronic fatigue syndrome research.

(c) REPRESENTATIVES.—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall ensure that appropriate individuals with expertise in chronic fatigue syndrome or neuromuscular diseases and representative of a variety of disciplines and fields within the research community are appointed to appropriate National Institutes of Health advisory committees and boards.

TITLE X—NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

Subtitle A—Research Centers With Respect to Contraception and Research Centers With Respect to Infertility

SEC. 1001. GRANTS AND CONTRACTS FOR RESEARCH CENTERS.

Subpart 7 of part C of title IV of the Public Health Service Act, as amended by section 3 of Public Law 101–613, is amended by adding at the end the following new section:

"RESEARCH CENTERS WITH RESPECT TO CONTRACEPTION AND INFERTILITY

"SEC. 452A. (a) The Director of the Institute, after consultation with the advisory council for the Institute, shall make grants to, or enter into contracts with, public or nonprofit private entities for the development and operation of centers to conduct activities for the purpose of improving methods of contraception and centers to conduct activities for the purpose of improving methods of diagnosis and treatment of infertility.

"(b) In carrying out subsection (a), the Director of the Institute shall, subject to the extent of amounts made available in appropriations Acts, provide for the establishment of three centers with respect to contraception and for two centers with respect to infertility.

"(c)(1) Each center assisted under this section shall, in carrying out the purpose of the center involved—

"(A) conduct clinical and other applied research, including—

"(i) for centers with respect to contraception, clinical trials of new or improved drugs and devices for use by males and females (including barrier methods); and

"(ii) for centers with respect to infertility, clinical trials of new or improved drugs and devices for the diagnosis and treatment of infertility in males and females;

"(B) develop protocols for training physicians, scientists, nurses, and other health and allied health professionals;

"(C) conduct training programs for such individuals;

"(D) develop model continuing education programs for such professionals; and

"(E) disseminate information to such professionals and the public.

"(2) A center may use funds provided under subsection (a) to provide stipends for health and allied health professionals enrolled in programs described in subparagraph (C) of paragraph (1), and to provide fees to individuals serving as subjects in clinical trials conducted under such paragraph.

"(d) The Director of the Institute shall, as appropriate, provide for the coordination of infor-

mation among the centers assisted under this section.

"(e) Each center assisted under subsection (a) shall use the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Director of the Institute.

"(f) Support of a center under subsection (a) may be for a period not exceeding 5 years. Such period may be extended for one or more additional periods not exceeding 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

"(g) For the purpose of carrying out this section, there are authorized to be appropriated $30,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 1002. LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO CONTRACEPTION AND INFERTILITY.

Part G of title IV of the Public Health Service Act, as redesignated by section 141(a)(2) of this Act, is amended by inserting after section 487A the following section:

"LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO CONTRACEPTION AND INFERTILITY

"SEC. 487B. (a) The Secretary, in consultation with the Director of the National Institute of Child Health and Human Development, shall establish a program of entering into agreements with qualified health professionals (including graduate students) under which such health professionals agree to conduct research with respect to contraception, or with respect to infertility, in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such health professionals.

"(b) The provisions of sections 338B, 338C, and 338E shall apply to the program established in subsection (a) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III.

"(c) Amounts appropriated for carrying out this section shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.".

Subtitle B—Program Regarding Obstetrics and Gynecology

SEC. 1011. ESTABLISHMENT OF PROGRAM.

Subpart 7 of part C of title IV of the Public Health Service Act, as amended by section 1001 of this Act, is amended by adding at the end the following new section:

"PROGRAM REGARDING OBSTETRICS AND GYNECOLOGY

"SEC. 452B. The Director of the Institute shall establish and maintain within the Institute an intramural laboratory and clinical research program in obstetrics and gynecology.".

Subtitle C—Child Health Research Centers

SEC. 1021. ESTABLISHMENT OF CENTERS.

Subpart 7 of part C of title IV of the Public Health Service Act, as amended by section 1011 of this Act, is amended by adding at the end the following new section:

"CHILD HEALTH RESEARCH CENTERS

"SEC. 452C. The Director of the Institute shall develop and support centers for conducting research with respect to child health. Such centers shall give priority to the expeditious transfer of advances from basic science to clinical applications and improving the care of infants and children.".

Subtitle D—Study Regarding Adolescent Health

SEC. 1031. PROSPECTIVE LONGITUDINAL STUDY.

Subpart 7 of part C of title IV of the Public Health Service Act, as amended by section 1021 of this Act, is amended by adding at the end the following new section:

"PROSPECTIVE LONGITUDINAL STUDY ON ADOLESCENT HEALTH

"SEC. 452D. (a) IN GENERAL.—The Director of the Institute shall conduct a study for the purpose of providing information on the general health and well-being of adolescents in the United States, including, with respect to such adolescents, information on—

"(1) the behaviors that promote health and the behaviors that are detrimental to health; and

"(2) the influence on health of factors particular to the communities in which the adolescents reside.

"(b) DESIGN OF STUDY.—

"(1) IN GENERAL.—The study required in subsection (a) shall be a longitudinal study in which a substantial number of adolescents participate as subjects. With respect to the purpose described in such subsection, the study shall monitor the subjects throughout the period of the study to determine the health status of the subjects and any change in such status over time.

"(2) POPULATION-SPECIFIC ANALYSES.—The study required in subsection (a) shall be conducted with respect to the population of adolescents who are female, the population of adolescents who are male, various socioeconomic populations of adolescents, and various racial and ethnic populations of adolescents. The study shall be designed and conducted in a manner sufficient to provide for a valid analysis of whether there are significant differences among such populations in health status and whether and to what extent any such differences are due to factors particular to the populations involved.

"(c) COORDINATION WITH WOMEN'S HEALTH INITIATIVE.—With respect to the national study of women being conducted by the Secretary and known as the Women's Health Initiative, the Secretary shall ensure that such study is coordinated with the component of the study required in subsection (a) that concerns adolescent females, including coordination in the design of the 2 studies.

"(d) ALLOCATION OF FUNDS FOR STUDY.—Of the amounts appropriated for each of the fiscal years 1994 through 1996 for the National Institute of Child Health and Human Development, the Secretary of Health and Human Services, acting through the Director of such Institute, shall reserve $3,000,000 to conduct the study required in subsection (a). The amounts so reserved shall remain available until expended.".

TITLE XI—NATIONAL EYE INSTITUTE

SEC. 1101. CLINICAL RESEARCH ON DIABETES EYE CARE.

(a) IN GENERAL.—Subpart 9 of part C of title IV of the Public Health Service Act (42 U.S.C. 285i) is amended by adding at the end the following new section:

"CLINICAL RESEARCH ON EYE CARE AND DIABETES

"SEC. 456. (a) PROGRAM OF GRANTS.—The Director of the Institute, in consultation with the advisory council for the Institute, may award not more than three grants for the establishment and support of centers for clinical research on eye care for individuals with diabetes.

"(b) AUTHORIZED EXPENDITURES.—The purposes for which a grant under subsection (a) may be expended include equipment for the research described in such subsection and the construction and modernization of facilities for such research.".

(b) CONFORMING AMENDMENT.—Section 455 of the Public Health Service Act (42 U.S.C. 285i) is amended in the second sentence by striking "The Director" and inserting "Subject to section 456, the Director".

TITLE XII—NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

SEC. 1201. RESEARCH ON MULTIPLE SCLEROSIS.

Subpart 10 of part C of title IV of the Public Health Service Act (42 U.S.C. 285j et seq.) is amended by adding at the end the following new section:

"RESEARCH ON MULTIPLE SCLEROSIS

"SEC. 460. The Director of the Institute shall conduct and support research on multiple sclerosis, especially research on effects of genetics and hormonal changes on the progress of the disease.".

TITLE XIII—NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

SEC. 1301. APPLIED TOXICOLOGICAL RESEARCH AND TESTING PROGRAM.

(a) IN GENERAL.—Subpart 12 of part C of title IV of the Public Health Service Act (42 U.S.C. 285l) is amended by adding at the end the following new section:

"APPLIED TOXICOLOGICAL RESEARCH AND TESTING PROGRAM

"SEC. 463A. (a) There is established within the Institute a program for conducting applied research and testing regarding toxicology, which program shall be known as the Applied Toxicological Research and Testing Program.

"(b) In carrying out the program established under subsection (a), the Director of the Institute shall, with respect to toxicology, carry out activities—

"(1) to expand knowledge of the health effects of environmental agents;

"(2) to broaden the spectrum of toxicology information that is obtained on selected chemicals;

"(3) to develop and validate assays and protocols, including alternative methods that can reduce or eliminate the use of animals in acute or chronic safety testing;

"(4) to establish criteria for the validation and regulatory acceptance of alternative testing and to recommend a process through which scientifically validated alternative methods can be accepted for regulatory use;

"(5) to communicate the results of research to government agencies, to medical, scientific, and regulatory communities, and to the public; and

"(6) to integrate related activities of the Department of Health and Human Services.".

(b) TECHNICAL AMENDMENT.—Section 463 of the Public Health Service Act (42 U.S.C. 285l) is amended by inserting after "Sciences" the following: "(hereafter in this subpart referred to as the 'Institute')".

TITLE XIV—NATIONAL LIBRARY OF MEDICINE

Subtitle A—General Provisions

SEC. 1401. ADDITIONAL AUTHORITIES.

(a) IN GENERAL.—Section 465(b) of the Public Health Service Act (42 U.S.C. 286(b)) is amended—

(1) by striking "and" after the semicolon at the end of paragraph (5);

(2) by redesignating paragraph (6) as paragraph (8); and

(3) by inserting after paragraph (5) the following new paragraphs:

"(6) publicize the availability from the Library of the products and services described in any of paragraphs (1) through (5);

"(7) promote the use of computers and telecommunications by health professionals (including health professionals in rural areas) for the purpose of improving access to biomedical information for health care delivery and medical research; and".

(b) LIMITATION REGARDING GRANTS.—Section 474(b)(2) of the Public Health Service Act (42 U.S.C. 286b-5(b)(2)) is amended by striking "$750,000" and inserting "$1,000,000".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) REPEAL OF CERTAIN AUTHORITY.—Section 215 of the Department of Health and Human Services Appropriations Act, 1988, as contained in section 101(h) of Public Law 100-202 (101 Stat. 1329-275), is repealed.

(2) APPLICABILITY OF CERTAIN NEW AUTHORITY.—With respect to the authority established for the National Library of Medicine in section 465(b)(6) of the Public Health Service Act, as added by subsection (a) of this section, such authority shall be effective as if the authority had been established on December 22, 1987.

SEC. 1402. AUTHORIZATION OF APPROPRIATIONS.

(a) ESTABLISHMENT OF SINGLE AUTHORIZATION.—Subpart 1 of part D of title IV of the Public Health Service Act (42 U.S.C. 286 et seq.) is amended by adding at the end the following section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 468. (a) For the purpose of carrying out this part, there are authorized to be appropriated $150,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(b) Amounts appropriated under subsection (a) and made available for grants or contracts under any of sections 472 through 476 shall remain available until the end of the fiscal year following the fiscal year for which the amounts were appropriated.".

(b) CONFORMING AMENDMENTS.—Part D of title IV of the Public Health Service Act (42 U.S.C. 286 et seq.) is amended by striking section 469 and section 478(c).

Subtitle B—Financial Assistance

SEC. 1411. ESTABLISHMENT OF PROGRAM OF GRANTS FOR DEVELOPMENT OF EDUCATION TECHNOLOGIES.

Section 473 of the Public Health Service Act (42 U.S.C. 286b-4) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall make grants to public or nonprofit private institutions for the purpose of carrying out projects of research on, and development and demonstration of, new education technologies.

"(2) The purposes for which a grant under paragraph (1) may be made include projects concerning—

"(A) computer-assisted teaching and testing of clinical competence at health professions and research institutions;

"(B) the effective transfer of new information from research laboratories to appropriate clinical applications;

"(C) the expansion of the laboratory and clinical uses of computer-stored research databases; and

"(D) the testing of new technologies for training health care professionals.

"(3) The Secretary may not make a grant under paragraph (1) unless the applicant for the grant agrees to make the projects available with respect to—

"(A) assisting in the training of health professions students; and

"(B) enhancing and improving the capabilities of health professionals regarding research and teaching.".

Subtitle C—National Information Center on Health Services Research and Health Care Technology

SEC. 1421. ESTABLISHMENT OF CENTER.

Part D of title IV of the Public Health Service Act (42 U.S.C. 286 et seq.) is amended by adding at the end the following new subpart:

"Subpart 4—National Information Center on Health Services Research and Health Care Technology

"NATIONAL INFORMATION CENTER

"SEC. 478A. (a) There is established within the Library an entity to be known as the National Information Center on Health Services Research and Health Care Technology (in this section referred to as the 'Center').

"(b) The purpose of the Center is the collection, storage, analysis, retrieval, and dissemination of information on health services research, clinical practice guidelines, and on health care technology, including the assessment of such technology. Such purpose includes developing and maintaining data bases and developing and implementing methods of carrying out such purpose.

"(c) The Director of the Center shall ensure that information under subsection (b) concerning clinical practice guidelines is collected and maintained electronically and in a convenient format. Such Director shall develop and publish criteria for the inclusion of practice guidelines and technology assessments in the information center database.

"(d) The Secretary, acting through the Center, shall coordinate the activities carried out under this section through the Center with related activities of the Administrator for Health Care Policy and Research.".

SEC. 1422. CONFORMING PROVISIONS.

(a) IN GENERAL.—Section 903 of the Public Health Service Act, as amended by section 3 of Public Law 102-410 (106 Stat. 2094), is amended to read as follows:

"(e) REQUIRED INTERAGENCY AGREEMENT.—The Administrator and the Director of the National Library of Medicine shall enter into an agreement providing for the implementation of section 478A.".

(b) RULE OF CONSTRUCTION.—The amendments made by section 3 of Public Law 102-410 (106 Stat. 2094), by section 1421 of this Act, and by subsection (a) of this section may not be construed as terminating the information center on health care technologies and health care technology assessment established under section 904 of the Public Health Service Act, as in effect on the day before the date of the enactment of Public Law 102-410. Such center shall be considered to be the center established in section 478A of the Public Health Service Act, as added by section 1421 of this Act, and shall be subject to the provisions of such section 478A.

TITLE XV—OTHER AGENCIES OF NATIONAL INSTITUTES OF HEALTH

Subtitle A—Division of Research Resources

SEC. 1501. REDESIGNATION OF DIVISION AS NATIONAL CENTER FOR RESEARCH RESOURCES.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended—

(1) in section 401(b)(2)(B), by amending such subparagraph to read as follows:

"(B) The National Center for Research Resources."; and

(2) in part E—

(A) in the heading for subpart 1, by striking "Division of" and inserting "National Center for";

(B) in section 479, by striking "the Division of Research Resources" and inserting the following: "the National Center for Research Resources (hereafter in this subpart referred to as the 'Center')";

(C) in sections 480 and 481, by striking "the Division of Research Resources" each place such term appears and inserting "the Center"; and

(D) in sections 480 and 481, as amended by subparagraph (C), by striking "the Division" each place such term appears and inserting "the Center".

SEC. 1502. BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES.

Subpart 1 of part E of title IV of the Public Health Service Act (42 U.S.C. 287 et seq.) is amended by adding at the end the following new section:

"BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES

"SEC. 481A. (a) MODERNIZATION AND CONSTRUCTION OF FACILITIES.—

"(1) IN GENERAL.—The Director of NIH, acting through the Director of the Center, may make grants to public and nonprofit private entities to expand, remodel, renovate, or alter existing research facilities or construct new research facilities, subject to the provisions of this section.

"(2) CONSTRUCTION AND COST OF CONSTRUCTION.—For purposes of this section, the terms 'construction' and 'cost of construction' include the construction of new buildings and the expansion, renovation, remodeling, and alteration of existing buildings, including architects' fees, but do not include the cost of acquisition of land or off-site improvements.

"(b) SCIENTIFIC AND TECHNICAL REVIEW BOARDS FOR MERIT-BASED REVIEW OF PROPOSALS.—

"(1) IN GENERAL; APPROVAL AS PRECONDITION TO GRANTS.—

"(A) There is established within the Center a Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities (hereafter referred to in this section as the 'Board').

"(B) The Director of the Center may approve an application for a grant under subsection (a) only if the Board has under paragraph (2) recommended the application for approval.

"(2) DUTIES.—

"(A) The Board shall provide advice to the Director of the Center and the advisory council established under section 480 (hereafter in this section referred to as the 'Advisory Council') on carrying out this section.

"(B) In carrying out subparagraph (A), the Board shall make a determination of the merit of each application submitted for a grant under subsection (a), after consideration of the requirements established in subsection (c), and shall report the results of the determination to the Director of the Center and the Advisory Council. Such determinations shall be conducted in a manner consistent with procedures established under section 492.

"(C) In carrying out subparagraph (A), the Board shall, in the case of applications recommended for approval, make recommendations to the Director and the Advisory Council on the amount that should be provided in the grant.

"(D) In carrying out subparagraph (A), the Board shall prepare an annual report for the Director of the Center and the Advisory Council describing the activities of the Board in the fiscal year for which the report is made. Each such report shall be available to the public, and shall—

"(i) summarize and analyze expenditures made under this section;

"(ii) provide a summary of the types, numbers, and amounts of applications that were recommended for grants under subsection (a) but that were not approved by the Director of the Center; and

"(iii) contain the recommendations of the Board for any changes in the administration of this section.

"(3) MEMBERSHIP.—

"(A) Subject to subparagraph (B), the Board shall be composed of such appointed and ex officio members as the Director of the Center may determine.

"(B) Not more than 3 individuals who are officers or employees of the Federal Government may serve as members of the Board.

"(C) Of the members of the Board—

"(i) 12 shall be appointed by the Director of the Center (without regard to the civil service laws); and

"(ii) 1 shall be an official of the National Science Foundation designated by the National Science Board.

"(4) CERTAIN REQUIREMENTS REGARDING MEMBERSHIP.—In selecting individuals for membership on the Board, the Director of the Center shall ensure that the members are individuals who, by the virtue of their training or experience, are eminently qualified to perform peer review functions. In selecting such individuals for such membership, the Director of the Center shall ensure that the members of the Board collectively—

"(A) are experienced in the planning, construction, financing, and administration of entities that conduct biomedical or behavioral research sciences;

"(B) are knowledgeable in making determinations of the need of entities for biomedical or behavioral research facilities, including such facilities for the dentistry, nursing, pharmacy, and allied health professions;

"(C) are knowledgeable in evaluating the relative priorities for applications for grants under subsection (a) in view of the overall research needs of the United States; and

"(D) are experienced with emerging centers of excellence, as described in subsection (c)(3).

"(5) CERTAIN AUTHORITIES.—

"(A) In carrying out paragraph (2), the Board may establish subcommittees, convene workshops and conferences, and collect data as the Board considers appropriate.

"(B) In carrying out paragraph (2), the Board may establish subcommittees within the Board. Such subcommittees may hold meetings as determined necessary to enable the subcommittee to carry out its duties.

"(6) TERMS.—

"(A) Except as provided in subparagraph (B), each appointed member of the Board shall hold office for a term of 4 years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of the term of the predecessor.

"(B) Of the initial members appointed to the Board (as specified by the Director of the Center when making the appointments)—

"(i) 3 shall hold office for a term of 3 years;

"(ii) 3 shall hold office for a term of 2 years; and

"(iii) 3 shall hold office for a term of 1 year.

"(C) No member is eligible for reappointment to the Board until 1 year has elapsed after the end of the most recent term of the member.

"(7) COMPENSATION.—Members of board who are not officers or employees of the United States shall receive compensation for each day engaged in carrying out the duties of the board, including time engaged in traveling for purposes of such duties. Such compensation may not be provided in an amount in excess of the maximum rate of basic pay payable for GS–18 of the General Schedule.

"(c) REQUIREMENTS FOR GRANTS.—

"(1) IN GENERAL.—The Director of the Center may make a grant under subsection (a) only if the applicant for the grant meets the following conditions:

"(A) The applicant is determined by such Director to be competent to engage in the type of research for which the proposed facility is to be constructed.

"(B) The applicant provides assurances satisfactory to the Director that—

"(i) for not less than 20 years after completion of the construction, the facility will be used for the purposes of research for which it is to be constructed;

"(ii) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility;

"(iii) sufficient funds will be available, when construction is completed, for the effective use of the facility for the research for which it is being constructed; and

"(iv) the proposed construction will expand the applicant's capacity for research, or is necessary to improve or maintain the quality of the applicant's research.

"(C) The applicant meets reasonable qualifications established by the Director with respect to—

"(i) the relative scientific and technical merit of the applications, and the relative effectiveness of the proposed facilities, in expanding the capacity for biomedical or behavioral research and in improving the quality of such research;

"(ii) the quality of the research or training, or both, to be carried out in the facilities involved;

"(iii) the need of the applicant for such facilities in order to maintain or expand the applicant's research and training mission;

"(iv) the congruence of the research activities to be carried out within the facility with the research and investigator manpower needs of the United States; and

"(v) the age and condition of existing research facilities and equipment.

"(D) The applicant has demonstrated a commitment to enhancing and expanding the research productivity of the applicant.

"(2) CONSIDERATION OF CERTAIN FACTORS.—In making grants under subsection (a), the Director of the Center may, in addition to the requirements established in paragraph (1), consider the following factors:

"(A) To what extent the applicant has the capacity to broaden the scope of research and research training programs of the applicant by promoting—

"(i) interdisciplinary research;

"(ii) research on emerging technologies, including those involving novel analytical techniques or computational methods; or

"(iii) other novel research mechanisms or programs.

"(B) To what extent the applicant has broadened the scope of research and research training programs of qualified institutions by promoting genomic research with an emphasis on interdisciplinary research, including research related to pediatric investigations.

"(3) INSTITUTIONS OF EMERGING EXCELLENCE.—Of the amounts appropriated under subsection (i) for a fiscal year, the Director of the Center shall make available 25 percent for grants under subsection (a) to applicants that, in addition to meeting the requirements established in paragraph (1), have demonstrated emerging excellence in biomedical or behavioral research, as follows:

"(A) The applicant has a plan for research or training advancement and possesses the ability to carry out the plan.

"(B) The applicant carries out research and research training programs that have a special relevance to a problem, concern, or unmet health need of the United States.

"(C) The applicant has been productive in research or research development and training.

"(D) The applicant—

"(i) has been designated as a center of excellence under section 739;

"(ii) is located in a geographic area a significant percentage of whose population has a health-status deficit, and the applicant provides health services to such population; or

"(iii) is located in a geographic area in which a deficit in health care technology, services, or research resources may adversely affect health status of the population of the area in the future, and the applicant is carrying out activities with respect to protecting the health status of such population.

"(d) REQUIREMENT OF APPLICATION.—The Director of the Center may make a grant under subsection (a) only if an application for the grant is submitted to the Director and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out this section.

"(e) AMOUNT OF GRANT; PAYMENTS.—

"(1) AMOUNT.—The amount of any grant awarded under subsection (a) shall be determined by the Director of the Center, except that such amount shall not exceed—

"(A) 50 percent of the necessary cost of the construction of a proposed facility as determined by the Director; or

"(B) in the case of a multipurpose facility, 40 percent of that part of the necessary cost of construction that the Director determines to be proportionate to the contemplated use of the facility.

"(2) RESERVATION OF AMOUNTS.—On approval of any application for a grant under subsection (a), the Director of the Center shall reserve, from any appropriation available therefore, the amount of such grant, and shall pay such amount, in advance or by way of reimbursement, and in such installments consistent with the construction progress, as the Director may determine appropriate. The reservation of the Director of any amount by the Director under this paragraph may be amended by the Director, either on the approval of an amendment of the application or on the revision of the estimated cost of construction of the facility.

"(3) EXCLUSION OF CERTAIN COSTS.—In determining the amount of any grant under this subsection (a), there shall be excluded from the cost of construction an amount equal to the sum of—

"(A) the amount of any other Federal grant that the applicant has obtained, or is assured of obtaining, with respect to construction that is to be financed in part by a grant authorized under this section; and

"(B) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

"(4) WAIVER OF LIMITATIONS.—The limitations imposed by paragraph (1) may be waived at the discretion of the Director for applicants meeting the conditions described in paragraphs (1) and (2) of subsection (c).

"(f) RECAPTURE OF PAYMENTS.—If, not later than 20 years after the completion of construction for which a grant has been awarded under subsection (a)—

"(1) the applicant or other owner of the facility shall cease to be a public or nonprofit private entity; or

"(2) the facility shall cease to be used for the research purposes for which it was constructed (unless the Director determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the current value (as determined by an agreement between the parties or by action brought in the United States District Court for the district in which such facility is situated) of the facility as the amount of the Federal participation bore to the cost of the construction of such facility.

"(g) NONINTERFERENCE WITH ADMINISTRATION OF ENTITIES.—Except as otherwise specifically provided in this section, nothing contained in this part shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to the administration of any entity funded under this part.

"(h) GUIDELINES.—Not later than 6 months after the date of the enactment of this section, the Director of the Center, after consultation with the Advisory Council, shall issue guidelines with respect to grants under subsection (a).

"(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $150,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 1503. CONSTRUCTION PROGRAM FOR NATIONAL PRIMATE RESEARCH CENTER.

Subpart 1 of part E of title IV of the Public Health Service Act, as amended by section 1502 of this Act, is amended by adding at the end the following new section:

"CONSTRUCTION OF REGIONAL CENTERS FOR RESEARCH ON PRIMATES

"SEC. 481B. (a) With respect to activities carried out by the National Center for Research Resources to support regional centers for research on primates, the Director of NIH shall, for each of the fiscal years 1994 through 1996, reserve from the amounts appropriated under section 481A(i) $7,000,000 for the purpose of making awards of grants and contracts to public or nonprofit private entities to construct, renovate, or otherwise improve such regional centers. The reservation of such amounts for any fiscal year is subject to the availability of qualified applicants for such awards.

"(b) The Director of NIH may not make a grant or enter into a contract under subsection (a) unless the applicant for such assistance agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions in cash toward such costs in an amount equal to not less than $1 for each $4 of Federal funds provided in such assistance.".

Subtitle B—National Center for Nursing Research

SEC. 1511. REDESIGNATION OF NATIONAL CENTER FOR NURSING RESEARCH AS NATIONAL INSTITUTE OF NURSING RESEARCH.

(a) IN GENERAL.—Subpart 3 of part E of title IV of the Public Health Service Act (42 U.S.C. 287c et seq.) is amended—

(1) in section 483—

(A) in the heading for the section, by striking "CENTER" and inserting "INSTITUTE"; and

(B) by striking "The general purpose" and all that follows through "is" and inserting the following: "The general purpose of the National Institute of Nursing Research (hereafter in this subpart referred to as the 'Institute') is";

(2) in section 484, by striking "Center" each place such term appears and inserting "Institute";

(3) in section 485—

(A) in subsection (a), in each of paragraphs (1) through (3), by striking "Center" each place such term appears and inserting "Institute";

(B) in subsection (b)—

(i) in paragraph (2)(A), by striking "Center" and inserting "Institute"; and

(ii) in paragraph (3)(A), in the first sentence, by striking "Center" and inserting "Institute"; and

(C) in subsections (d) through (g), by striking "Center" each place such term appears and inserting "Institute"; and

(4) in section 485A (as redesignated by section 141(a)(1) of this Act), by striking "Center" each place such term appears and inserting "Institute".

(b) CONFORMING AMENDMENTS.—

(1) ORGANIZATION OF NATIONAL INSTITUTE OF HEALTH.—Section 401(b) of the Public Health Service Act (42 U.S.C. 281(b)) is amended—

(A) in paragraph (1), by adding at the end the following new subparagraph:

"(Q) The National Institute of Nursing Research."; and

(B) in paragraph (2), by striking subparagraph (D).

(2) TRANSFER OF STATUTORY PROVISIONS.—Sections 483 through 485A of the Public Health Service Act, as amended by subsection (a) of this section—

(A) are transferred to part C of title IV of such Act;

(B) are redesignated as sections 464V through 464Y of such part; and

(C) are inserted, in the appropriate sequence, at the end of such part.

(3) HEADING FOR NEW SUBPART.—Title IV of the Public Health Service Act, as amended by the preceding provisions of this section, is amended—

(A) in part C, by inserting before section 464V the following new heading:

"Subpart 17—National Institute of Nursing Research"; and

(B) by striking the heading for subpart 3 of part E.

(4) CROSS-REFERENCES.—Title IV of the Public Health Service Act, as amended by the preceding provisions of this section, is amended in subpart 17 of part C—

(A) in section 464W, by striking "section 483" and inserting "section 464V";

(B) in section 464X(g), by striking "section 486" and inserting "section 464Y"; and

(C) in section 464Y, in the last sentence, by striking "section 485(g)" and inserting "section 464X(g)".

SEC. 1512. STUDY ON ADEQUACY OF NUMBER OF NURSES.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the National Institute of Nursing Research, shall enter into a contract with a public or nonprofit private entity to conduct a study for the purpose of determining whether and to what extent there is a need for an increase in the number of nurses in hospitals and nursing homes in order to promote the quality of patient care and reduce the incidence among nurses of work-related injuries and stress.

(b) NATIONAL ACADEMY OF SCIENCES.—The Secretary shall request the National Academy of Sciences to enter into the contract under subsection (a) to conduct the study described in such subsection. If such Institute declines to conduct the study, the Secretary shall carry out such subsection through another public or nonprofit private entity.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "nurse" means a registered nurse, a licensed practical nurse, a licensed vocational nurse, and a nurse assistant.

(2) The term "Secretary" means the Secretary of Health and Human Services.

(d) REPORT.—The Secretary shall ensure that, not later than October 1, 1994, the study required in subsection (a) is completed and a report describing the findings made as a result of the study is submitted to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate.

Subtitle C—National Center for Human Genome Research

SEC. 1521. PURPOSE OF CENTER.

Title IV of the Public Health Service Act, as amended by sections 141(a)(1) and 1611(b)(1)(B) of this Act, is amended—

(1) in section 401(b)(2), by adding at the end the following new subparagraph:

"(D) The National Center for Human Genome Research."; and

(2) in part E, by adding at the end the following new subpart:

"Subpart 4—National Center for Human Genome Research

"PURPOSE OF THE CENTER

"SEC. 485B. (a) The general purpose of the National Center for Human Genome Research (hereafter in this subpart referred to as the 'Center') is to characterize the structure and function of the human genome, including the mapping and sequencing of individual genes. Such purpose includes—

"(1) planning and coordinating the research goal of the genome project;

"(2) reviewing and funding research proposals;

"(3) developing training programs;

"(4) coordinating international genome research;

"(5) communicating advances in genome science to the public; and

"(6) reviewing and funding proposals to address the ethical issues associated with the genome project.

"(b)(1) Except as provided in paragraph (2), of the amounts appropriated to carry out subsection (a) for a fiscal year, the Director of the Center shall make available not less than 5 percent for carrying out paragraph (6) of such subsection.

"(2) With respect to providing funds under subsection (a)(6) for proposals to address the ethical issues associated with the genome project, paragraph (1) shall not apply for a fiscal year if the Director of the Center certifies to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, that the Director has determined that an insufficient number of such proposals meet the applicable requirements of sections 491 and 492.".

TITLE XVI—AWARDS AND TRAINING

Subtitle A—National Research Service Awards

SEC. 1601. REQUIREMENT REGARDING WOMEN AND INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

Section 487(a) of the Public Health Service Act (42 U.S.C. 288(a)(4)) is amended by adding at the end the following paragraph:

"(4) The Secretary shall carry out paragraph (1) in a manner that will result in the recruitment of women, and members from underrepresented minority groups, into fields of biomedical or behavioral research and in the provision of research training to women and such individuals.".

SEC. 1602. SERVICE PAYBACK REQUIREMENTS.

Paragraph (2) of section 487(c) of the Public Health Service Act (42 U.S.C. 288(c)(2)) is amended to read as follows:

"(2)(A) For the initial year for which an individual receives a National Research Service Award for the conduct of postdoctoral training or research, such individual shall engage in one year of health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment, or complete a second year of training or research under such Award.

"(B) Service obligations for National Research Service Awards that are less than 12 months may be satisfied—

"(i) by the conduct of health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment for a period of time equal to the amount of time under the Award; or

"(ii) by reimbursing the Federal Government for the amounts provided to such individual under the Award.".

Subtitle B—Acquired Immune Deficiency Syndrome

SEC. 1611. LOAN REPAYMENT PROGRAM.

Section 487A of the Public Health Service Act (42 U.S.C. 288–1) is amended to read as follows:

"LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

"SEC. 487A. (a) IN GENERAL.—

"(1) AUTHORITY FOR PROGRAM.—Subject to paragraph (2), the Secretary shall carry out a program of entering into agreements with appropriately qualified health professionals under which such health professionals agree to conduct, as employees of the National Institutes of Health, research with respect to acquired immune deficiency syndrome in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such health professionals.

"(2) LIMITATION.—The Secretary may not enter into an agreement with a health professional pursuant to paragraph (1) unless such professional—

"(A) has a substantial amount of educational loans relative to income; and

"(B)(i) was not employed at the National Institutes of Health during the 1-year period preceding the date of the enactment of the Health Professions Reauthorization Act of 1988; or

"(ii) agrees to serve as an employee of such Institutes for purposes of paragraph (1) for a period of not less than 3 years.".

"(b) APPLICABILITY OF CERTAIN PROVISIONS.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with subsection (a) of this section, apply to the program established in such subsection (a) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established in such subpart.

"(c) FUNDING; REIMBURSABLE TRANSFERS.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(2) TRANSFERS FOR RELATED PROGRAM.—The Commissioner of Food and Drugs may carry out for the Food and Drug Administration a program similar to the program established in subsection (a), which program shall be carried out with respect to the review of applications concerning acquired immune deficiency syndrome that are submitted to such Commissioner. From the amounts appropriated under paragraph (1) for a fiscal year, the Secretary may transfer amounts to the Commissioner for the purpose of carrying out such program. The Commissioner shall provide a reimbursement to the Secretary for the amount so transferred, and the reimbursement shall be available only for the program established in subsection (a). Any transfer and reimbursement made for purposes of this paragraph for a fiscal year shall be completed by April 1 of such year.".

Subtitle C—Loan Repayment for Research Generally

SEC. 1621. ESTABLISHMENT OF PROGRAM.

Part G of title IV of the Public Health Service Act, as redesignated by section 141(a)(2) of this Act and as amended by section 1002 of this Act, is amended by inserting after section 487B the following new section:

"LOAN REPAYMENT PROGRAM FOR RESEARCH GENERALLY

"SEC. 487C. (a) IN GENERAL.—

"(1) AUTHORITY FOR PROGRAM.—Subject to paragraph (2), the Secretary shall carry out a program of entering into agreements with appropriately qualified health professionals under which such health professionals agree to conduct research, as employees of the National Institutes of Health, in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such health professionals.

"(2) LIMITATION.—The Secretary may not enter into an agreement with a health professional pursuant to paragraph (1) unless such professional—

"(A) has a substantial amount of educational loans relative to income; and

"(B)(i) was not employed at the National Institutes of Health during the 1-year period preceding the date of the enactment of the Health Professions Reauthorization Act of 1988; or

"(ii) agrees to serve as an employee of such Institutes for purposes of paragraph (1) for a period of not less than 3 years.".

"(b) APPLICABILITY OF CERTAIN PROVISIONS.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with subsection (a) of this section, apply to the program established in such subsection (a) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established in such subpart.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section other than with respect to acquired immune deficiency syndrome, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 through 1996.".

Subtitle D—Scholarship and Loan Repayment Programs Regarding Professional Skills Needed by Certain Agencies

SEC. 1631. ESTABLISHMENT OF PROGRAMS FOR NATIONAL INSTITUTES OF HEALTH.

Part G of title IV of the Public Health Service Act, as redesignated by section 141(a)(2) of this Act and as amended by section 1621 of this Act, is amended by inserting after section 487C the following new sections:

"UNDERGRADUATE SCHOLARSHIP PROGRAM REGARDING PROFESSIONS NEEDED BY NATIONAL RESEARCH INSTITUTES

"SEC. 487D. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Subject to section 487(a)(1)(C), the Secretary, acting through the Director of NIH, may carry out a program of entering into contracts with individuals described in paragraph (2) under which—

"(A) the Director of NIH agrees to provide to the individuals scholarships for pursuing, as undergraduates at accredited institutions of higher education, academic programs appropriate for careers in professions needed by the National Institutes of Health; and

"(B) the individuals agree to serve as employees of the National Institutes of Health, for the period described in subsection (c), in positions that are needed by the National Institutes of Health and for which the individuals are qualified.

"(2) INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.—The individuals referred to in paragraph (1) are individuals who—

"(A) are enrolled or accepted for enrollment as full-time undergraduates at accredited institutions of higher education; and

"(B) are from minority groups that are underrepresented in the fields of biomedical or behavioral research.

"(b) FACILITATION OF INTEREST OF STUDENTS IN CAREERS AT NATIONAL INSTITUTES OF HEALTH.—In providing employment to individuals pursuant to contracts under subsection (a)(1), the Director of NIH shall carry out activities to facilitate the interest of the individuals in pursuing careers as employees of the National Institutes of Health.

"(c) PERIOD OF OBLIGATED SERVICE.—

"(1) DURATION OF SERVICE.—For purposes of subparagraph (B) of subsection (a)(1), the period of service for which an individual is obligated to serve as an employee of the National Institutes of Health is 12 months for each academic year for which the scholarship under such subsection is provided.

"(2) SCHEDULE FOR SERVICE.—

"(A) Subject to subparagraph (B), the Director of NIH may not provide a scholarship under subsection (a) unless the individual applying for the scholarship agrees that—

"(i) the individual will serve as an employee of the National Institutes of Health full-time for not less than 10 consecutive weeks of each year during which the individual is attending the educational institution involved and receiving such a scholarship;

"(ii) the period of service as such an employee that the individual is obligated to provide under clause (i) is in addition to the period of service as such an employee that the individual is obligated to provide under subsection (a)(1)(B); and

"(iii) not later than 60 days after obtaining the educational degree involved, the individual will begin serving full-time as such an employee in satisfaction of the period of service that the individual is obligated to provide under subsection (a)(1)(B).

"(B) The Director of NIH may defer the obligation of an individual to provide a period of service under subsection (a)(1)(B), if the Director determines that such a deferral is appropriate.

"(3) APPLICABILITY OF CERTAIN PROVISIONS RELATING TO APPOINTMENT AND COMPENSATION.—For any period in which an individual provides service as an employee of the National Institutes of Health in satisfaction of the obligation of the individual under subsection (a)(1)(B) or paragraph (2)(A)(i), the individual may be appointed as such an employee without regard to the provisions of title 5, United States Code, relating to appointment and compensation.

"(d) PROVISIONS REGARDING SCHOLARSHIP.—

"(1) APPROVAL OF ACADEMIC PROGRAM.—The Director of NIH may not provide a scholarship under subsection (a) for an academic year unless—

"(A) the individual applying for the scholarship has submitted to the Director a proposed academic program for the year and the Director has approved the program; and

"(B) the individual agrees that the program will not be altered without the approval of the Director.

"(2) ACADEMIC STANDING.—The Director of NIH may not provide a scholarship under subsection (a) for an academic year unless the individual applying for the scholarship agrees to maintain an acceptable level of academic standing, as determined by the educational institution involved in accordance with regulations issued by the Secretary.

"(3) LIMITATION ON AMOUNT.—The Director of NIH may not provide a scholarship under subsection (a) for an academic year in an amount exceeding $20,000.

"(4) AUTHORIZED USES.—A scholarship provided under subsection (a) may be expended only for tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attending the school involved.

"(5) CONTRACT REGARDING DIRECT PAYMENTS TO INSTITUTION.—In the case of an institution of higher education with respect to which a scholarship under subsection (a) is provided, the Director of NIH may enter into a contract with the institution under which the amounts provided in the scholarship for tuition and other educational expenses are paid directly to the institution. Payments to the institution under the contract may be made without regard to section 3324 of title 31, United States Code.

"(e) Penalties for Breach of Scholarship Contract.—The provisions of section 338E shall apply to the program established in subsection (a) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in section 338B.

"(f) Requirement of Application.—The Director of NIH may not provide a scholarship under subsection (a) unless an application for the scholarship is submitted to the Director and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out this section.

"(g) Availability of Authorization of Appropriations.—Amounts appropriated for a fiscal year for scholarships under this section shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.

"LOAN REPAYMENT PROGRAM REGARDING CLINICAL RESEARCHERS FROM DISADVANTAGED BACKGROUNDS

"Sec. 487E. (a) Implementation of Program.—

"(1) In General.—Subject to section 487(a)(1)(C), the Secretary, acting through the Director of NIH may, subject to paragraph (2), carry out a program of entering into contracts with appropriately qualified health professionals who are from disadvantaged backgrounds under which such health professionals agree to conduct clinical research as employees of the National Institutes of Health in consideration of the Federal Government agreeing to pay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of the health professionals.

"(2) Limitation.—The Director of NIH may not enter into a contract with a health professional pursuant to paragraph (1) unless such professional has a substantial amount of education loans relative to income.

"(3) Applicability of Certain Provisions Regarding Obligated Service.—Except to the extent inconsistent with this section, the provisions of sections 338C and 338E shall apply to the program established in paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in section 338B.

"(b) Availability of Authorization of Appropriations.—Amounts appropriated for a fiscal year for contracts under subsection (a) shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.".

SEC. 1632. FUNDING.

Section 487(a)(1) of the Public Health Service Act (42 U.S.C. 288(a)(1)) is amended—

(1) in subparagraph (A), by striking "and" after the semicolon at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) provide contracts for scholarships and loan repayments in accordance with sections 487D and 487E, subject to providing not more than an aggregate 50 such contracts during the fiscal years 1994 through 1996.".

Subtitle D—Funding

SEC. 1641. AUTHORIZATION OF APPROPRIATIONS.

Section 487(d) of the Public Health Service Act (42 U.S.C. 288(d)) is amended—

(1) in the first sentence, by amending the sentence to read as follows: "For the purpose of carrying out this section, there are authorized to be appropriated $400,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996."; and

(2) in paragraph (3)—

(A) by striking "one-half of one percent" each place such term appears and inserting "1 percent"; and

(B) by striking "780, 784, or 786" and inserting "747, 748, or 749".

TITLE XVII—NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH

SEC. 1701. ESTABLISHMENT OF FOUNDATION.

Section 499 of the Public Health Service Act, as redesignated by section 121(b), is amended to read as follows:

"SEC. 499A. ESTABLISHMENT AND DUTIES OF FOUNDATION.

"(a) In General.—The Secretary shall establish a nonprofit corporation to be known as the National Foundation for Biomedical Research (hereafter in this section referred to as the 'Foundation'). The Foundation shall not, except for the purposes of the Ethics in Government Act and the Technology Transfer Act, be an agency or instrumentality of the United States Government.

"(b) Purpose of Foundation.—The purpose of the Foundation shall be to conduct and support research with respect to any particular disease or groups of diseases or any other aspect of human health.

"(c) Endowment Fund.—

"(1) In general.—In carrying out subsection (b), the Foundation shall establish a fund whose primary purpose shall be to provide endowments for positions at the National Institutes of Health to conduct biomedical research, and dedicated to the purpose described in such subsection. Such positions may be held by scientists without regard to whether the scientists are employees of the Federal Government. Subject to subsection (g)(1)(B), the fund shall consist of such donations as may be provided by non-Federal entities and such non-Federal assets of the Foundation (including earnings of the Foundation and the fund) as the Foundation may elect to transfer to the fund.

"(2) Authorized Expenditures of Fund.—The provision of endowments under paragraph (1) shall be the primary function of the fund established under such paragraph. Such endowments may be expended only for the compensation of individuals holding the positions, for staff, equipment, quarters, travel, and other expenditures that are appropriate in supporting the positions, and for recruiting individuals to hold the positions endowed by the fund.

"(d) Certain Activities of Foundation.—In carrying out subsection (b), and subject to subsection (c), the Foundation may provide for the following with respect to the purpose described in such subsection:

"(1) Endowed chairs for distinguished senior investigators.

"(2) Positions for support of visiting scientists in mid-career who participate in the National Institutes of Health Scholars program.

"(3) Studies, projects, and research conducted by scientists under paragraphs (1) and (2).

"(4) Forums for the exchange of information between scientists. Participants in such forums may include institutions of higher education and appropriate private and public organizations.

"(5) Meetings, conferences, courses, and training workshops.

"(6) Programs to improve the collection and analysis of data.

"(7) Programs for writing, editing, printing, and publishing of books and other materials.

"(8) Other activities to carry out the purpose described in subsection (b).

"(e) Powers.—In carrying out subsection (b), the Foundation shall—

"(1) operate under the direction of its Board;

"(2) adopt, alter, and use a corporate seal, which shall be judicially noticed;

"(3) provide for 1 or more officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(4) hire, promote, compensate, and discharge officers and employees of the Foundation;

"(5) prescribe by its Board its bylaws, as described in subsection (g)(1)(A);

"(6) with the consent of any executive department or independent agency, use the information, services, staff, and facilities of such in carrying out this section;

"(7) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

"(8) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this subtitle;

"(9) establish a mechanism for the selection of candidates, subject to the approval of the Director of the National Institutes of Health for the endowed scientific positions within the organizational structure of the intramural research programs of the National Institutes of Health and candidates for participation in the National Institutes of Health Scholars program;

"(10) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of books and other material;

"(11) take such action as may be necessary to obtain patents and licenses for devices and procedures developed by the Foundation and its employees;

"(12) accept, hold, administer, invest, and spend any gift, devise, or bequest of real or personal property made to the Foundation;

"(13) enter into such other contracts, leases, cooperative agreements, and other transactions as the Executive Director considers appropriate to conduct the activities of the Foundation;

"(14) appoint other groups of advisors as may be determined necessary from time to time to carry out the functions of the Foundation; and

"(15) exercise other powers as set forth in this section, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this subtitle.

"(f) General Structure of Foundation; Nonprofit Status.—

"(1) Board of Directors.—The Foundation shall have a board of directors (in this part referred to as the 'Board'), which shall be established and conducted in accordance with subsection (g). The Board shall establish the general policies of the Foundation for carrying out subsection (b), including the establishment of the bylaws of the Foundation.

"(2) Executive Director.—The Foundation shall have an executive director (in this part referred to as the 'Director'), who shall be appointed by the Board, who shall serve at the pleasure of the Board, and for whom the Board shall establish the rate of compensation. Subject to compliance with the policies and bylaws established by the Board pursuant to paragraph (1), the Director shall be responsible for the daily operations of the Foundation in carrying out subsection (b).

"(3) Nonprofit Status.—In carrying out subsection (b), the Board shall establish such policies and bylaws under paragraph (1), and the Director shall carry out such activities under paragraph (2), as may be necessary to ensure that the Foundation maintains status as an organization that—

"(A) is described in subsection (c)(3) of section 501 of the Internal Revenue Code of 1986; and

"(B) is, under subsection (a) of such section, exempt from taxation.

"(4) Liaison.—The Director of the National Institutes of Health shall serve as the liaison

representative of the National Institutes of Health to the Board and the Foundation.

"(g) BOARD OF DIRECTORS.—

"(1) CERTAIN BYLAWS.—

"(A) In establishing bylaws under subsection (f)(1), the Board shall ensure that the bylaws of the Foundation include bylaws for the following:

"(i) Policies for the selection of the officers, employees, agents, and contractors of the Foundation.

"(ii) Policies for the acquisition, holding, and transfer of property.

"(iii) Policies, including ethical standards, for the acceptance and disposition of donations to the Foundation and for the disposition of the assets of the Foundation.

"(iv) Policies for the conduct of the general operations of the Foundation.

"(v) Policies for writing, editing, printing, and publishing of books and other materials, and the acquisition of patents and licenses for devices and procedures developed by the Foundation.

"(B) In establishing bylaws under subsection (f)(1), the Board shall ensure that the bylaws of the Foundation (and activities carried out under the bylaws) do not—

"(i) reflect unfavorably upon the ability of the Foundation, or the National Institutes of Health, to carry out its responsibilities or official duties in a fair and objective manner; or

"(ii) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in such program.

"(2) COMPOSITION.—

"(A) The Foundation shall have a Board of Directors (hereafter referred to in this section as the 'Board'), which shall initially be composed of ex officio and appointed members in accordance with this subsection until such time as all the appointed members, including the Chairperson, are fully appointed by the Board under paragraph (4).

"(B) The ex officio members of the Council shall be—

"(i) the Chairperson and ranking minority member of the Subcommittee on Health and the Environment (Committee on Energy and Commerce) or their designees, in the case of the House of Representatives;

"(ii) the Chairperson and ranking minority member of the Committee on Labor and Human Resources or their designees, in the case of the Senate; and

"(iii) the Director of the National Institutes of Health.

"(C) The ex officio members of the Board under subparagraph (B) shall appoint to the Council 9 individuals. Of such appointed members—

"(i) 4 shall be representative of the general biomedical field;

"(ii) 2 shall be representatives of the general biobehavorial field; and

"(iii) 3 shall be representatives of the general public.

"(3) CHAIRPERSON.—The ex officio members of the Board under paragraph (2)(B) shall designate an appointed member of the Board to serve as the first Chairperson of the Board. Subsequently, the Chairperson of the Board shall be chosen by the Board according to its bylaws.

"(4) APPOINTMENTS, VACANCIES, AND TERMS.—The following shall apply to the Board:

"(A) Any vacancy in the membership of the Board shall be filled by appointment by the Board, after consideration of suggestions made by the Chairperson and the Director regarding the appointments. Any such vacancy shall be filled not later than the expiration of the 180-day period beginning on the date on which the vacancy occurs.

"(B) The term of office of each member of the Board appointed under subparagraph (A) shall be 5 years, except that the terms of office for the initial appointed members of the Board shall expire as determined by the Chairperson of the Board, in consultation with the Director of the National Institutes of Health.

"(C) A vacancy in the membership of the Board shall not affect the power of the Board to carry out the duties of the Board. If a member of the Board does not serve the full term applicable under subparagraph (B), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

"(5) COMPENSATION.—Members of the Board may not receive compensation for service on the Board. Such members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Board, as set forth in the bylaws issued by the Board.

"(h) INCORPORATION.—The initial members of the Board shall serve as incorporators and shall take whatever actions necessary to incorporate the Foundation.

"(i) GENERAL PROVISIONS.—

"(1) ADMINISTRATIVE CONTROL.—No officer, employee, or member of the Board of the Foundation may exercise any administrative or managerial control over any Federal employee.

"(2) APPLICABILITY OF CERTAIN STANDARDS TO NON-FEDERAL EMPLOYEES.—In the case of any individual who is not an employee of the Federal Government and who serves with financial support from the Foundation, the Foundation shall negotiate a memorandum of understanding with the individual and the Director of the National Institutes of Health specifying that the individual—

"(A) shall be subject to the ethical and procedural standards regulating Federal employment, scientific investigation, and research findings (including publications and patents) that are required of individuals employed by the National Institutes of Health, including standards under this Act, the Ethics in Government Act, and the Technology Transfer Act; and

"(B) shall be subject to such ethical and procedural standards under chapter 11 of title 18, United States Code (relating to conflicts of interest), as the Director of the National Institutes of Health determines is appropriate, except such memorandum may not provide that the individual shall be subject to the standards of section 209 of such chapter.

"(3) FINANCIAL CONFLICTS OF INTEREST.—Any individual who is an officer, employee, or member of the Board of the Foundation may not directly or indirectly participate in the consideration or determination by the Foundation of any question affecting—

"(A) any direct or indirect financial interest of the individual; or

"(B) any direct or indirect financial interest of any business organization or other entity of which the individual is an officer or employee or in which the individual has a direct or indirect financial interest.

"(4) AUDITS; AVAILABILITY OF RECORDS.—The Foundation shall—

"(A) provide for biennial audits of the financial condition of the Foundation; and

"(B) make such audits, and all other records, documents, and other papers of the Foundation, available to the Secretary and the Comptroller General of the United States for examination or audit.

"(5) REPORTS.—

"(A) Not later than February 1 of each fiscal year, the Foundation shall publish a report describing the activities of the Foundation during the preceding fiscal year. Each such report shall include for the fiscal year involved a comprehensive statement of the operations, activities, financial condition, and accomplishments of the Foundation.

"(B) With respect to the financial condition of the Foundation, each report under subparagraph (A) shall include the source, and a description of, all gifts to the Foundation of real or personal property, and the source and amount of all gifts to the Foundation of money. Each such report shall include a specification of any restrictions on the purposes for which gifts to the Foundation may be used.

"(C) The Foundation shall make copies of each report submitted under subparagraph (A) available for public inspection, and shall upon request provide a copy of the report to any individual for a charge not exceeding the cost of providing the copy.

"(j) FEDERAL FUNDING.—

"(1) AUTHORITY FOR ANNUAL GRANTS.—

"(A) The Secretary, acting through the Director of the National Institutes of Health, shall for each of the fiscal years 1994 through 1996, make a grant to the Foundation.

"(B) A grant under subparagraph (A) may be expended only for the purpose of the administrative expenses of the Foundation.

"(C) A grant under subparagraph (A) may not be expended to provide amounts for the fund established under subsection (c).

"(2) FUNDING FOR GRANTS.—

"(A) For the purpose of grants under paragraph (1), there is authorized to be appropriated $500,000 for each of the fiscal years 1994 through 1996.

"(B) For the purpose of grants under paragraph (1), the Secretary may for each fiscal year make available not more than $500,000 from the amounts appropriated for the fiscal year for the programs of the National Institutes of Health. Such amounts may be made available without regard to whether amounts have been appropriated under subparagraph (A).".

TITLE XVIII—RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

SEC. 1801. REVISION AND EXTENSION OF VARIOUS PROGRAMS.

(a) AMENDMENTS.—Title XXIII of the Public Health Service Act (42 U.S.C. 300cc et seq.) is amended—

(1) in section 2304(c)(1)—

(A) in the matter preceding subparagraph (A), by inserting after "Director of such Institute" the following: "(and may provide advice to the Directors of other agencies of the National Institutes of Health, as appropriate)"; and

(B) in subparagraph (A), by inserting before the semicolon the following: ", including recommendations on the projects of research with respect to diagnosing immune deficiency and with respect to predicting, diagnosing, preventing, and treating cancers, opportunistic infections, and infectious diseases";

(2) in section 2311(a)(1), by inserting before the semicolon the following: ", including evaluations of methods of diagnosing immune deficiency and evaluations of methods of predicting, diagnosing, preventing, and treating cancers, opportunistic infections, and infectious diseases";

(3) in section 2315(a)(2), by striking "international research" and all that follows and inserting "international research and training concerning the natural history and pathogenesis of the human immunodeficiency virus and the development and evaluation of vaccines and treatments for acquired immune deficiency syndrome and opportunistic infections.";

(4) in section 2318—

(A) in subsection (a)(1)—

(i) by inserting after "The Secretary" the following: ", acting through the Director of the National Institutes of Health and after consultation with the Administrator for Health Care Policy and Research,"; and

(ii) by striking "syndrome" and inserting "syndrome, including treatment and prevention

of HIV infection and related conditions among women''; and

(B) in subsection (e), by striking ''1991.'' and inserting the following: ''1991, and such sums as may be necessary for each of the fiscal years 1994 through 1996.'';

(5) in section 2320(b)(1)(A), by striking ''syndrome'' and inserting ''syndrome and the natural history of such infection'';

(6) in the part heading for part D, by striking ''DIRECTOR OF THE NATIONAL INSTITUTES OF HEALTH'' and inserting ''OFFICE OF AIDS RESEARCH'';

(7) in section 2351—

(A) by redesignating subsections (a), (b) and (c) as subsections (c), (d) and (e), respectively;

(B) by inserting after the section heading the following new subsections:

''(a) IN GENERAL.—In carrying out research with respect to acquired immune deficiency syndrome, the Secretary, acting through the Director of the National Institutes of Health—

''(1) shall establish an office to be known as the Office of AIDS Research, which Office shall be headed by a Director who shall—

''(A) be appointed by the Secretary;

''(B) be determined by the Secretary to be an individual who is an outstanding scientist and a highly skilled administrator;

''(C) report directly to the Director of the National Institutes of Health; and

''(D) be the primary Federal official responsible for the conduct of AIDS-related research at the National Institutes of Health; and

''(2) shall provide administrative support and support services to the Director of such Office and shall ensure that such support takes maximum advantage of existing administrative structures at the institutes, centers and divisions of the National Institutes of Health to the fullest extent practicable.

''(b) ACTIVITIES OF THE OFFICE OF AIDS RESEARCH.—

''(1) IN GENERAL.—The Secretary, acting through the director of the Office of AIDS Research, shall ensure that AIDS research activities are coordinated across and throughout the institutes, centers, and divisions of the National Institutes of Health.

''(2) GENERAL DUTIES.—The Director of the Office of AIDS Research shall, based upon a strategic plan as defined in paragraph (3), develop and oversee the implementation of a scientifically justified budget for AIDS-related research at the National Institutes of Health and coordinate all AIDS-related research activities conducted at the institutes, centers, and divisions of the National Institutes of Health, and conduct evaluations on all such programs.

''(3) STRATEGIC PLAN.—

''(A) DEVELOPMENT.—The Director of the Office of AIDS Research shall, based on the advice of the directors of the institutes, centers, and divisions of the National Institutes of Health, and in consultation with the advisory council established in paragraph (5) and the coordinating groups established in subparagraph (B), develop and oversee the implementation of a comprehensive, long-range plan for the conduct and support of such research by the institutes, centers and divisions of the National Institutes of Health. Such plan shall be updated annually, and shall—

''(i) determine the appropriate overall balance between basic and applied research and between intramural and extramural research;

''(ii) determine and prioritize among critical scientific AIDS-related questions;

''(iii) based upon such determinations, specify the broad short and long range objectives to be achieved, and provide an estimate of the resources needed to achieve such objectives;

''(iv) evaluate the sufficiency of existing AIDS research programs to meet such objectives, and establish evaluation criteria, timelines and objectives for future program evaluation activities; and

''(v) make recommendations for changes and necessary resource allocation in and among such programs.

''(B) COORDINATING GROUPS.—The Director of the Office of AIDS Research shall establish AIDS coordinating groups for each research discipline within the AIDS research program, composed of representatives of relevant agencies of the National Institutes of Health and qualified extramural scientists, to evaluate and assess the efforts of the AIDS Research Program at the National Institutes of Health, to advise on the development of the strategic plan described in subparagraph (A), and to determine the extent to which such efforts are in accordance with such strategic plan.

''(4) COORDINATION.—The Director of the Office of AIDS Research shall act as the primary Federal official with responsibility for overseeing all AIDS-related research efforts undertaken by the National Institutes of Health, and

''(A) shall serve to represent the National Institutes of Health AIDS Research Program at all relevant Executive branch task forces and committees; and

''(B) shall maintain communications with all relevant Public Health Service agencies and with various other departments of the Federal Government, to ensure the timely transmission of information concerning advances in AIDS-related research and the clinical treatment of AIDS and its related conditions, between these various agencies for dissemination to affected communities and health care providers.

''(5) ADVISORY COUNCIL.—

''(A) ESTABLISHMENT.—The Secretary shall, consistent with section 406, establish an advisory council to be known as the Office of AIDS Research Advisory Council (hereafter referred to as the 'Council'), which shall serve to replace the AIDS Program Advisory Committee which is operating on the date of enactment of this subsection.

''(B) COMPOSITION.—The Council shall be composed of biomedical, behavioral, and social scientists, and representatives of diverse HIV affected communities, and shall be appointed by the Secretary.

''(C) AUTHORITY.—The Council shall—

''(i) advise the Director of the Office of AIDS Research and make recommendations concerning the development of the AIDS-related research budget, and the development and implementation of the strategic plan for AIDS-related research at the National Institutes of Health;

''(ii) provide the second level of peer review for awards made directly from the Office of AIDS Research from the discretionary fund described in paragraph (7); and

''(iii) carry out such other activities determined appropriate by the Director of the Office of AIDS Research.

''(6) BUDGETARY AUTHORITY.—The Director of the Office of AIDS Research shall—

''(A) in accordance with the strategic plan established under paragraph (3), in consultation with the Council, and based on budget requests and additional advice from the directors of the institutes, centers and divisions of the National Institutes of Health, prepare and submit directly to the President for review and transmittal to Congress, an annual, scientifically justified budget estimate for AIDS-related research conducted within the agencies of the National Institutes of Health, after reasonable opportunity for comment (but without change) by the Secretary and the Director of the National Institutes of Health, which shall include the amount of funds required (as requested by the directors of such institutes, centers and divisions) for—

''(i) the continued funding of the commitment base (ongoing program initiatives) at the sole discretion of the directors of such institutes, centers and divisions; and

''(ii) the funding of new and competing program initiatives through such institutes, centers and divisions, at the discretion of the Director of the Office of AIDS Research;

''(B) receive from the President and the Office of Management and Budget directly all AIDS-related research funds appropriated by Congress for transfer to, and obligation and expenditure by, the institutes, centers and divisions of the National Institutes of Health in accordance with the budget delineated under clauses (i) and (ii) of subparagraph (A); and

''(C) distribute AIDS research funding to the various institutes, centers, and divisions of the National Institutes of Health in accordance with the budget delineated under clauses (i) and (ii) of subparagraph (A).

The provisions of this paragraph shall become effective in the fiscal year following the submission of the consolidated AIDS budget.

''(7) DISCRETIONARY FUND.—

''(A) AVAILABILITY OF FUNDS.—The Secretary shall ensure that not to exceed 25 percent of the funds available in excess of the amount of baseline AIDS research spending during the previous fiscal year, be made available to the Director of the Office of AIDS Research for the establishment of an AIDS research discretionary fund.

''(B) USE.—The Director of the Office of AIDS Research, in consultation with the advisory council established under paragraph (5), shall use amounts in the AIDS research discretionary fund, either through the institutes, centers and divisions of the National Institutes of Health or grants made directly by the Office of AIDS Research, to—

''(i) fund emergency AIDS research programs;

''(ii) fund programs for the conduct of research aimed at filling gaps that exist in existing research programs;

''(iii) conduct conferences, convene committees, hold meetings or carry out other activities determined appropriate by the Director.

''(C) REDUCTION IN ADMINISTRATIVE IMPEDIMENTS.—Notwithstanding any other provision of law relating to the number of individuals who may be employed as full-time equivalent individuals, with respect to the number of full-time equivalent individuals so employed, the Director of the Office of AIDS Research shall be permitted to authorize the employment of such full-time equivalent individuals to perform AIDS-related research through the institutes, centers and divisions of the National Institutes of Health as described in clauses (i) and (ii) of subparagraph (B) and subject to appropriations.'';

(C) in subsection (c) (as so redesignated)—

(i) by striking the subsection designation and all that follows through paragraph (1) and inserting the following:

''(c) OTHER DUTIES.—The director of the office—'';

(ii) by redesignating paragraphs (2) through (8) as paragraphs (1) through (7), respectively;

(iii) by striking ''for the appropriate national research institute of the National Institutes of Health'' in paragraph (4) (as so redesignated); and

(iv) by inserting ''cannot reasonably be accomplished within the United States and'' after ''if such research'' in paragraph (4)(A) (as so redesignated); and

(D) by adding at the end thereof the following new subsection:

''(f) EVALUATION AND REPORT.—

''(1) EVALUATION.—Not later than 5 years after the date of enactment of this Act, the Secretary shall conduct an evaluation to—

''(A) determine the effect of this section on the planning and coordination of the AIDS research programs at the institutes, centers and divisions of the National Institutes of Health;

"(B) evaluate the extent to which this section has eliminated the duplication of administrative resources among such institutes, centers and divisions; and

"(C) provide recommendations concerning future alterations with respect to this section.

"(2) REPORT.—Not later than 1 year after the date on which the evaluation is commenced under paragraph (1), the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report concerning the results of such evaluation.";

(8) in section 2361, by striking "For purposes" and all that follows and inserting the following:

"For purposes of this title:

"(1) The term 'infection', with respect to the etiologic agent for acquired immune deficiency syndrome, includes cancers, opportunistic infections, and infectious diseases and any other conditions arising from infection with such etiologic agent.

"(2) The term 'treatment', with respect to the etiologic agent for acquired immune deficiency syndrome, includes primary and secondary prophylaxis.";

(9) in section 2315(f), by striking "there are authorized" and all that follows and inserting "there are authorized to be appropriated such sums as may be necessary for each fiscal year.";

(10) in section 2320(e)(1), by striking "there are authorized" and all that follows and inserting "there are authorized to be appropriated such sums as may be necessary for each fiscal year."; and

(11) in section 2341(d), by striking "there are authorized" and all that follows and inserting "there are authorized to be appropriated such sums as may be necessary for each fiscal year.".

TITLE XIX—STUDIES

SEC. 1901. ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) CERTAIN DRUG-RELEASE MECHANISMS.—

(1) The Secretary of Health and Human Services shall, subject to paragraph (2), enter into a contract with a public or nonprofit private entity to conduct a study for the purpose of determining, with respect to acquired immune deficiency syndrome, the impact of parallel-track drug-release mechanisms on public and private clinical research, and on the activities of the Commissioner of Food and Drugs regarding the approval of drugs.

(2) The Secretary of Health and Human Services shall request the Institute of Medicine of the National Academy of Sciences to enter into the contract under paragraph (1) to conduct the study described in such paragraph. If such Institute declines to conduct the study, the Secretary shall carry out paragraph (1) through another public or nonprofit private entity.

(b) THIRD-PARTY PAYMENTS REGARDING CERTAIN CLINICAL TRIALS.—The Secretary of Health and Human Services shall conduct a study for the purpose of—

(1) determining the policies of third-party payors regarding the payment of the costs of appropriate health services that are provided incident to the participation of individuals as subjects in clinical trials conducted in the development of drugs with respect to acquired immune deficiency syndrome; and

(2) developing recommendations regarding such policies.

(c) ADVISORY COMMITTEES.—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall conduct a study for the purpose of determining—

(1) whether the activities of the various advisory committees established in the National Institutes of Health regarding acquired immune deficiency syndrome are being coordinated sufficiently; and

(2) whether the functions of any of such advisory committees should be modified in order to achieve greater efficiency.

(d) VACCINES FOR HUMAN IMMUNODEFICIENCY VIRUS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the National Institutes of Health, shall develop a plan for the appropriate inclusion of HIV-infected women, including pregnant women, HIV-infected infants, and HIV-infected children in studies conducted by or through the National Institutes of Health concerning the safety and efficacy of HIV vaccines for the treatment and prevention of HIV infection. Such plan shall ensure the full participation of other Federal agencies currently conducting HIV vaccine studies and require that such studies conform fully to the requirements of part 46 of title 45, Code of Federal Regulations.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report concerning the plan developed under paragraph (1).

(3) IMPLEMENTATION.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall implement the plan developed under paragraph (1), including measures for the full participation of other Federal agencies currently conducting HIV vaccine studies.

(4) For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 through 1996.

SEC. 1902. MALNUTRITION IN THE ELDERLY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary"), acting through the National Institute on Aging, coordinating with the Agency for Health Care Policy and Research and, to the degree possible, in consultation with the head of the National Nutrition Monitoring System established under section 1428 of the Food and Agriculture Act of 1977 (7 U.S.C. 3178), shall conduct a 3-year nutrition screening and intervention activities study of the elderly.

(2) EFFICACY AND COST-EFFECTIVENESS OF NUTRITION SCREENING AND INTERVENTION ACTIVITIES.—In conducting the study, the Secretary shall determine the efficacy and cost-effectiveness of nutrition screening and intervention activities conducted in the elderly health and long-term care continuum, and of a program that would institutionalize nutrition screening and intervention activities. In evaluating such a program, the Secretary shall determine—

(A) if health or quality of life is measurably improved for elderly individuals who receive routine nutritional screening and treatment;

(B) if federally subsidized home or institutional care is reduced because of increased independence of elderly individuals resulting from improved nutritional status;

(C) if a multidisciplinary approach to nutritional care is effective in addressing the nutritional needs of elderly individuals; and

(D) if reimbursement for nutrition screening and intervention activities is a cost-effective approach to improving the health status of elderly individuals.

(3) POPULATIONS.—The populations of elderly individuals in which the study will be conducted shall include populations of elderly individuals who are—

(A) living independently, including—

(i) individuals who receive home and community-based services or family support;

(ii) individuals who do not receive additional services and support;

(iii) individuals with low incomes; and

(iv) individuals who are minorities;

(B) hospitalized, including individuals admitted from home and from institutions; and

(C) institutionalized in residential facilities such as nursing homes and adult homes.

(b) MALNUTRITION STUDY.—The Secretary, acting through the National Institute on Aging, shall conduct a 3-year study to determine the extent of malnutrition in elderly individuals in hospitals and long-term care facilities and in elderly individuals who are living independently.

(c) REPORT.—The Secretary shall submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives containing the findings resulting from the studies described in subsections (a) and (b), including a determination regarding whether a program that would institutionalize nutrition screening and intervention activities should be adopted, and the rationale for the determination.

(d) ADVISORY PANEL.—

(1) ESTABLISHMENT.—The Secretary, acting through the Director of the National Institute on Aging, shall establish an advisory panel that shall oversee the design, implementation, and evaluation of the studies described in subsections (a) and (b).

(2) COMPOSITION.—The advisory panel shall include representatives appointed for the life of the panel by the Secretary from the Health Care Financing Administration, the Social Security Administration, the National Center for Health Statistics, the Administration on Aging, the National Council on the Aging, the American Dietetic Association, the American Academy of Family Physicians, and such other agencies or organizations as the Secretary determines to be appropriate.

(3) COMPENSATION AND EXPENSES.—

(A) COMPENSATION.—Each member of the advisory panel who is not an employee of the Federal Government shall receive compensation for each day engaged in carrying out the duties of the panel, including time engaged in traveling for purposes of such duties. Such compensation may not be provided in an amount in excess of the maximum rate of basic pay payable for GS–18 of the General Schedule.

(B) TRAVEL EXPENSES.—Each member of the advisory panel shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(4) DETAIL OF FEDERAL EMPLOYEES.—On the request of the advisory panel, the head of any Federal agency shall detail, without reimbursement, any of the personnel of the agency to the advisory panel to assist the advisory panel in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—On the request of the advisory panel, the head of a Federal agency shall provide such technical assistance to the advisory panel as the advisory panel determines to be necessary to carry out its duties.

(6) TERMINATION.—Notwithstanding section 15 of the Federal Advisory Committee Act (5 U.S.C. App.), the advisory panel shall terminate 3 years after the date of enactment of this Act.

SEC. 1903. RESEARCH ACTIVITIES ON CHRONIC FATIGUE SYNDROME.

The Secretary of Health and Human Services shall, not later than May 1, 1993, and annually thereafter for the next 3 years, prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the

Senate, a report that summarizes the research activities conducted or supported by the National Institutes of Health concerning chronic fatigue syndrome. Such report should include information concerning grants made, cooperative agreements or contracts entered into, intramural activities, research priorities and needs, and a plan to address such priorities and needs.

SEC. 1904. REPORT ON MEDICAL USES OF BIOLOGICAL AGENTS IN DEVELOPMENT OF DEFENSES AGAINST BIOLOGICAL WARFARE.

The Secretary of Health and Human Services, in consultation with other appropriate executive agencies, shall report to the House Energy and Commerce Committee and the Senate Labor and Human Resources Committee on the appropriateness and impact of the National Institutes of Health assuming responsibility for the conduct of all Federal research, development, testing, and evaluation functions relating to medical countermeasures against biowarfare threat agents. In preparing the report, the Secretary shall identify the extent to which such activities are carried out by agencies other than the National Institutes of Health, and assess the impact (positive and negative) of the National Institutes of Health assuming responsibility for such activities, including the impact under the Budget Enforcement Act and the Omnibus Budget Reconciliation Act of 1990 on existing National Institutes of Health research programs as well as other programs within the category of domestic discretionary spending. The Secretary shall submit the report not later than 12 months after the date of the enactment of this Act.

SEC. 1905. PERSONNEL STUDY OF RECRUITMENT, RETENTION AND TURNOVER.

(a) Study of Personnel System.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall conduct a study to review the retention, recruitment, vacancy and turnover rates of support staff, including firefighters, law enforcement, procurement officers, technicians, nurses and clerical employees, to ensure that the National Institutes of Health is adequately supporting the conduct of efficient, effective and high quality research for the American public. The Director of NIH shall work in conjunction with appropriate employee organizations and representatives in developing such a study.

(b) Submission to Congress.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report containing the study conducted under subsection (a) together with the recommendations of the Secretary concerning the enactment of legislation to implement the results of such study.

SEC. 1906. PROCUREMENT.

(a) In General.—The Director of the National Institutes of Health and the Administrator of the General Services Administration shall jointly conduct a study to develop a streamlined procurement system for the National Institutes of Health that complies with the requirements of Federal law.

(b) Report.—Not later than March 1, 1994, the officials specified in subsection (a) shall complete the study required in such subsection and shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

SEC. 1907. REPORT CONCERNING LEADING CAUSES OF DEATH.

(a) Report.—The Secretary of Health and Human Services shall, not later than October 1, 1993, prepare a report that lists—

(1) the 20 illnesses that, in terms of mortality, number of years of expected life lost, and of number of preventable years of life lost, are the leading causes of death in the United States and the number of deaths from each such cause, the age-specific and age-adjusted death rates for each such cause, the death rate per 100,000 population for each such cause, the percentage of change in cause specific death rates for each age group, and the percentage of total deaths for each such cause;

(2) the amount expended by the Department of Health and Human Services for research, prevention, and education with respect to each of the 20 illnesses described in paragraph (1) for the most recent year for which the actual expenditures are known;

(3) an estimate by the Secretary of the amount to be expended on research, prevention, and education with respect to each of the 20 illnesses described in paragraph (1) for the year for which the report is prepared; and

(4) with respect to the years specified in paragraphs (2) and (3), the percentage of the total of the annual expenditures for research, prevention, and education on the 20 illnesses described in paragraph (1) that are attributable to each illness.

(b) Submission to Congress.—The Secretary of Health and Human Services shall submit the report required under subsection (a), together with relevant budget information, to the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Appropriations of the Senate.

SEC. 1908. RELATIONSHIP BETWEEN THE CONSUMPTION OF LEGAL AND ILLEGAL DRUGS.

(a) In General.—The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall review and consider all existing relevant data and research concerning whether there is a relationship between an individual's receptivity to use or consume legal drugs and the consumption or abuse by the individual of illegal drugs. On the basis of such review, the Secretary shall determine whether additional research is necessary. If the Secretary determines additional research is required, the Secretary shall conduct a study of those subjects where the Secretary's review indicates additional research is needed, including, if necessary, a review of—

(1) the effect of advertising and marketing campaigns that promote the use of legal dvugs on the public;

(2) the correlation of legal drug abuse with illegal drug abuse; and

(3) other matters that the Secretary determines appropriate.

(b) Report.—Not later than 12 months after the date of enactment of this Act, the Secretary shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and Committee on Labor and Human Resources of the Senate, a report containing the results of the review conducted under subsection (b). If the Secretary determines additional research is required, no later than 2 years after the date of enactment of this Act, the Secretary shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and Committee on Labor and Human Resources of the Senate, a report containing the results of the additional research conducted under subsection (b).

SEC. 1909. COST OF CARE IN LAST 6 MONTHS OF LIFE.

(a) Study.—

(1) In general.—The Secretary of Health and Human Services (referred to in this section as the "Secretary"), acting through the Agency for Health Care Policy and Research and, to the degree possible, in consultation with the Health Care Financing Administration, shall conduct a study, using the most recent National Medical Expenditure Survey database, to estimate the average amount of health care expenditures incurred during the last 6 months of life and during the last 3 months of life by—

(A) the population of individuals who are 65 years of age and older; and

(B) the total population, broken down based on noninstitutionalized and institutionalized populations.

(2) Elements of study.—The study conducted under paragraph (1) shall—

(A) be designed in a manner that will produce estimates of health care costs expended for health care provided to individuals during the last 3 and 6 months of life;

(B) be designed to produce estimates of such costs for the populations identified in subparagraphs (A) and (B) of paragraph (1);

(C) include a calculation of the estimated amount of total health care expenditures during such periods of time; and

(D) include a calculation of the estimate described in subparagraph (C)—

(i) as a percentage of the total national health care expenditures; and

(ii) for those age 65 years and over, as a percentage of the total Medicare expenditures for those age 65 years and over.

(b) Report.—Not later than 6 months after the date of enactment of this section, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report containing the findings resulting from the study described in subsection (a).

(c) 1996 National Medical Expenditure Survey.—

(1) In general.—The Secretary, acting through the Agency for Health Care Policy and Research, shall ensure that the 1996 National Medical Expenditure Survey is designed in a manner that will produce an estimate of the amount expended for health care provided to individuals during the last 3 and 6 months of life.

(2) Populations.—In designing the Survey under paragraph (1), the Secretary shall ensure that such Survey produces the data required under such paragraph for—

(A) the population of individuals who are 65 years of age and older; and

(B) the population of individuals who are 1 year of age and younger;

broken down based on noninstitutionalized and institutionalized populations.

TITLE XX—MISCELLANEOUS PROVISIONS

SEC. 2001. DESIGNATION OF SENIOR BIOMEDICAL RESEARCH SERVICE IN HONOR OF SILVIO O. CONTE, AND LIMITATION ON NUMBER OF MEMBERS.

(a) In General.—Section 228(a) of the Public Health Service Act (42 U.S.C. 237(a)), as added by section 304 of Public Law 101–509, is amended to read as follows:

"(a)(1) There shall be in the Public Health Service a Silvio O. Conte Senior Biomedical Research Service, not to exceed 750 members.

"(2) The authority established in paragraph (1) regarding the number of members in the Silvio O. Conte Senior Biomedical Research Service is in addition to any authority established regarding the number of members in the commissioned Regular Corps, in the Reserve Corps, and in the Senior Executive Service. Such paragraph may not be construed to require that the number of members in the commissioned Regular Corps, in the Reserve Corps, or in the

Senior Executive Service be reduced to offset the number of members serving in the Silvio O. Conte Senior Biomedical Research Service (hereafter in this section referred to as the 'Service').".

(b) CONFORMING AMENDMENT.—Section 228 of the Public Health Service Act (42 U.S.C. 237), as added by section 304 of Public Law 101–509, is amended in the heading for the section by amending the heading to read as follows:

"SILVIO O. CONTE SENIOR BIOMEDICAL RESEARCH SERVICE".

SEC. 2002. TECHNICAL CORRECTIONS.

(a) TITLE III.—Subsection (c) of section 316 of the Public Health Service Act (42 U.S.C. 247a(c)) is repealed.

(b) TITLE IV.—Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended—

(1) in section 406—

(A) in subsection (b)(2)(A), by striking "Veterans' Administration" each place such term appears and inserting "Department of Veterans Affairs"; and

(B) in subsection (h)(2)(A)(v), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(2) in section 408, in subsection (b) (as redesignated by section 501(c)(1)(C) of this Act), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(3) in section 421(b)(1), by inserting a comma after "may";

(4) in section 428(b), in the matter preceding paragraph (1), by striking "the the" and inserting "the";

(5) in section 430(b)(2)(A)(i), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(6) in section 439(b), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(7) in section 442(b)(2)(A), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(8) in section 464D(b)(2)(A), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(9) in section 464E—

(A) in subsection (d), in the first sentence, by inserting "Coordinating" before "Committee"; and

(B) in subsection (e), by inserting "Coordinating" before "Committee" the first place such term appears;

(10) in section 464P(b)(6) (as added by section 123 of Public Law 102-321 (106 Stat. 362)), by striking "Administration" and inserting "Institute";

(11) in section 466(a)(1)(B), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(12) in section 480(b)(2)(A), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(13) in section 485(b)(2)(A), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(14) in section 487(d)(3), by striking "section 304(a)(3)" and inserting "section 304(a)"; and

(15) in section 496(a), by striking "Such appropriations," and inserting the following: "Appropriations to carry out the purposes of this title,".

(c) TITLE XV.—Title XV of the Public Health Service Act is amended—

(1) in section 1501(b) (42 U.S.C. 300k(b)), by striking "nonprofit"; and

(2) in section 1505(3) (42 U.S.C. 300n–1(3)), by striking "nonprivate" and inserting "private".

(d) TITLE XXIII.—Part A of title XXIII of the Public Health Service Act (42 U.S.C. 300cc et seq.) is amended—

(1) in section 2304—

(A) in the heading for the section, by striking "**CLINICAL RESEARCH REVIEW COMMITTEE**" and inserting "**RESEARCH ADVISORY COMMITTEE**"; and

(B) in subsection (a), by striking "AIDS Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee";

(2) in section 2312(a)(2)(A), by striking "AIDS Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee";

(3) in section 2314(a)(1), in the matter preceding subparagraph (A), by striking "Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee";

(4) in section 2317(d)(1), by striking "Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee established under section 2304"; and

(5) in section 2318(b)(3), by striking "Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee".

(e) SECRETARY.—Section 2(c) of the Public Health Service Act (42 U.S.C. 201(c)) is amended by striking "Health, Education, and Welfare" and inserting "Health and Human Services".

(f) DEPARTMENT.—Section 201 of the Public Health Service Act (42 U.S.C. 202) is amended—

(1) by striking "Health, Education, and Welfare" and inserting "Health and Human Services"; and

(2) by striking "Surgeon General" and inserting "Assistant Secretary for Health".

(g) DEPARTMENT.—Section 202 of the Public Health Service Act (42 U.S.C. 203) is amended—

(1) by striking "Surgeon General" the second and subsequent times that such term appears and inserting "Secretary"; and

(2) by inserting ", and the Agency for Health Care Policy and Research" before the first period.

(h) VOLUNTEER SERVICES.—Section 223 of the Public Health Service Act (42 U.S.C. 217b) is amended by striking "Health, Education, and Welfare" and inserting "Health and Human Services".

SEC. 2003. BIENNIAL REPORT ON CARCINOGENS.

Section 301(b)(4) of the Public Health Service Act (42 U.S.C. 241(b)(4)) is amended by striking "an annual" and inserting in lieu thereof "a biennial".

SEC. 2004. MASTER PLAN FOR PHYSICAL INFRASTRUCTURE FOR RESEARCH.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall present to the Congress a master plan to provide for the replacement or refurbishment of less than adequate buildings, utility equipment and distribution systems (including the resources that provide electrical and other utilities, chilled water, air handling, and other services that the Secretary, acting through the Director, deems necessary), roads, walkways, parking areas, and grounds that underpin the laboratory and clinical facilities of the National Institutes of Health. Such plan may make recommendations for the undertaking of new projects that are consistent with the objectives of this section, such as encircling the National Institutes of Health Federal enclave with an adequate chilled water conduit.

SEC. 2005. TRANSFER OF PROVISIONS OF TITLE XXVII.

(a) IN GENERAL.—The Public Health Service Act (42 U.S.C. 201 et seq.), as amended by section 101 of Public Law 101–381 and section 304 of Public Law 101–509, is amended—

(1) by transferring sections 2701 through 2714 to title II;

(2) by redesignating such sections as sections 231 through 244, respectively;

(3) by inserting such sections, in the appropriate sequence, after section 228;

(4) by inserting before section 201 the following new heading:

"PART A—ADMINISTRATION"; and

(5) by inserting before section 231 (as redesignated by paragraph (2) of this subsection) the following new heading:

"PART B—MISCELLANEOUS PROVISIONS".

(b) CONFORMING AMENDMENTS.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) in the heading for title II, by inserting "AND MISCELLANEOUS PROVISIONS" after "ADMINISTRATION";

(2) in section 406(a)(2), by striking "2701" and inserting "231";

(3) in section 465(f), by striking "2701" and inserting "231";

(4) in section 480(a)(2), by striking "2701" and inserting "231";

(5) in section 485(a)(2), by striking "2701" and inserting "231";

(6) in section 497, by striking "2701" and inserting "231";

(7) in section 505(a)(2), by striking "2701" and inserting "231";

(8) in section 926(b), by striking "2711" each place such term appears and inserting "241"; and

(9) in title XXVII, by striking the heading for such title.

SEC. 2006. CERTAIN AUTHORIZATION OF APPROPRIATIONS.

Section 399L(a) of the Public Health Service Act (42 U.S.C. 280e-4(a)), as added by Public Law 102-515 (106 Stat. 3376), is amended—

(1) in the first sentence, by striking "the Secretary" and all that follows and inserting the following: "there are authorized to be appropriated $30,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1997."; and

(2) in the second sentence, by striking "Out of any amounts used" and inserting "Of the amounts appropriated under the preceding sentence".

SEC. 2007. PROHIBITION AGAINST SHARP ADULT SEX SURVEY AND THE AMERICAN TEENAGE SEX SURVEY.

The Secretary of Health and Human Services may not during fiscal year 1993 or any subsequent fiscal year conduct or support the SHARP survey of adult sexual behavior or the American Teenage Study of adolescent sexual behavior. This section becomes effective on the date of enactment of this Act.

SEC. 2008. SUPPORT FOR BIOENGINEERING RESEARCH.

(a) STUDY.—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall conduct a study for the purpose of—

(1) determining the sources and amounts of public and private funding devoted to basic research in bioengineering and biomaterials sciences;

(2) evaluating whether that commitment is sufficient to maintain the innovative edge that the United States has in these technologies; and

(3) evaluating the need to modify the structure of the National Institutes of Health or any other Federal agency to achieve a greater commitment to innovation in bioengineering, and evaluating the need for better coordination and collaboration among Federal agencies and between the public and private sectors.

In conducting such study, the Director shall work in conjunction with appropriate organizations and representatives including academics, industry leaders, bioengineering societies, and public agencies (such as the National Science Foundation, Veterans Administration, Department of Defense, National Aeronautics and Space Administration, and the White House Office of Science and Technology Policy).

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of

Health and Human Services shall prepare and submit to the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives, a report containing the findings of the study conducted under subsection (a) together with recommendations concerning the enactment of legislation to implement the results of such study.

TITLE XXI—EFFECTIVE DATES

SEC. 2101. EFFECTIVE DATES.

Subject to section 155, this Act and the amendments made by this Act take effect upon the date of the enactment of this Act.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE, AS MODIFIED

Mr. KENNEDY. Mr. President, on behalf of the committee I send a modification to the committee substitute to the desk.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The committee amendment in the nature of a substitute, as modified, is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Institutes of Health Revitalization Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS REGARDING TITLE IV OF PUBLIC HEALTH SERVICE ACT

Subtitle A—Research Freedom

Part I—Review of Proposals for Biomedical and Behavioral Research

Sec. 101. Establishment of certain provisions regarding research conducted or supported by National Institutes of Health.

PART II—RESEARCH ON TRANSPLANTATION OF FETAL TISSUE

Sec. 111. Establishment of authorities.
Sec. 112. Purchase of human fetal tissue; solicitation or acceptance of tissue as directed donation for use in transplantation.
Sec. 113. Report by General Accounting Office on adequacy of requirements.

PART III—MISCELLANEOUS REPEALS

Sec. 121. Repeals.

Subtitle B—Clinical Research Equity Regarding Women and Minorities

PART I—WOMEN AND MINORITIES AS SUBJECTS IN CLINICAL RESEARCH

Sec. 131. Requirement of inclusion in research.
Sec. 132. Peer review.
Sec. 133. Applicability to current projects.

PART II—OFFICE OF RESEARCH ON WOMEN'S HEALTH

Sec. 141. Establishment.

PART III—OFFICE OF RESEARCH ON MINORITY HEALTH

Sec. 151. Establishment.

Subtitle C—Scientific Integrity

Sec. 161. Establishment of Office of Scientific Integrity.
Sec. 162. Commission on Scientific Integrity.
Sec. 163. Protection of whistleblowers.
Sec. 164. Requirement of regulations regarding protection against financial conflicts of interest in certain projects of research.
Sec. 165. Effective dates.

TITLE II—NATIONAL INSTITUTES OF HEALTH IN GENERAL

Sec. 201. Health promotion research dissemination.
Sec. 202. Programs for increased support regarding certain States and researchers.
Sec. 203. Children's vaccine initiative.
Sec. 204. Plan for use of animals in research.
Sec. 205. Increased participation of women and members of underrepresented minorities in fields of biomedical and behavioral research.
Sec. 206. Requirements regarding surveys of sexual behavior.
Sec. 207. Discretionary fund of Director of National Institutes of Health.
Sec. 208. Miscellaneous provisions.

TITLE III—GENERAL PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

Sec. 301. Appointment and authority of Directors of national research institutes.
Sec. 302. Program of research on osteoporosis, Paget's disease, and related disorders.
Sec. 303. Establishment of interagency program for trauma research.

TITLE IV—NATIONAL CANCER INSTITUTE

Sec. 401. Expansion and intensification of activities regarding breast cancer.
Sec. 402. Expansion and intensification of activities regarding prostate cancer.
Sec. 403. Authorization of appropriations.

TITLE V—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

Sec. 501. Education and training.
Sec. 502. Centers for the study of pediatric cardiovascular diseases.
Sec. 503. National Center on Sleep Disorders Research.
Sec. 504. Authorization of appropriations.

TITLE VI—NATIONAL INSTITUTE ON DIABETES AND DIGESTIVE AND KIDNEY DISEASES

Sec. 601. Provisions regarding nutritional disorders.

TITLE VII—NATIONAL INSTITUTE ON ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

Sec. 701. Juvenile arthritis.

TITLE VIII—NATIONAL INSTITUTE ON AGING

Sec. 801. Alzheimer's disease registry.
Sec. 802. Aging processes regarding women.
Sec. 803. Authorization of appropriations.
Sec. 804. Conforming amendment.

TITLE IX—NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

Sec. 901. Tropical diseases.
Sec. 902. Chronic fatigue syndrome.

TITLE X—NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

Subtitle A—Research Centers With Respect to Contraception and Research Centers With Respect to Infertility

Sec. 1001. Grants and contracts for research centers.
Sec. 1002. Loan repayment program for research with respect to contraception and infertility.

Subtitle B—Program Regarding Obstetrics and Gynecology

Sec. 1011. Establishment of program.

Subtitle C—Child Health Research Centers

Sec. 1021. Establishment of centers.

Subtitle D—Study Regarding Adolescent Health.

Sec. 1031. Prospective longitudinal study.

TITLE XI—NATIONAL EYE INSTITUTE

Sec. 1101. Clinical and health services research on eye care and diabetes.

TITLE XII—NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

Sec. 1201. Research on multiple sclerosis.

TITLE XIII—NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

Sec. 1301. Applied Toxicological Research and Testing Program.

TITLE XIV—NATIONAL LIBRARY OF MEDICINE

Subtitle A—General Provisions

Sec. 1401. Additional authorities.
Sec. 1402. Authorization of appropriations.

Subtitle B—Financial Assistance

Sec. 1411. Establishment of program of grants for development of education technologies.

Subtitle C—National Information Center on Health Services Research and Health Care Technology

Sec. 1421. Establishment of Center.
Sec. 1422. Conforming provisions.

TITLE XV—OTHER AGENCIES OF NATIONAL INSTITUTES OF HEALTH

Subtitle A—Division of Research Resources

Sec. 1501. Redesignation of Division as National Center for Research Resources.
Sec. 1502. Biomedical and behavioral research facilities.
Sec. 1503. Construction program for national primate research center.

Subtitle B—National Center for Nursing Research

Sec. 1511. Redesignation of National Center for Nursing Research as National Institute of Nursing Research.
Sec. 1512. Study on adequacy of number of nurses.

Subtitle C—National Center for Human Genome Research

Sec. 1521. Purpose of Center.

TITLE XVI—AWARDS AND TRAINING

Subtitle A—National Research Service Awards

Sec. 1601. Requirement regarding women and individuals from disadvantaged backgrounds.
Sec. 1602. Service payback requirements.

Subtitle B—Acquired Immune Deficiency Syndrome

Sec. 1611. Loan repayment program.

Subtitle C—Loan Repayment for Research Generally

Sec. 1621. Establishment of program.

Subtitle D—Scholarship and Loan Repayment Programs Regarding Professional Skills Needed by National Institutes of Health

Sec. 1631. Establishment of programs.
Sec. 1632. Funding.

Subtitle E—Funding for Awards and Training Generally

Sec. 1641. Authorization of appropriations.

TITLE XVII—NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH

Sec. 1701. National Foundation for Biomedical Research.

TITLE XVIII—RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

Sec. 1801. Revision and extension of various programs.

TITLE XIX—STUDIES

Sec. 1901. Acquired immune deficiency syndrome.
Sec. 1902. Malnutrition in the elderly.
Sec. 1903. Research activities on chronic fatigue syndrome.
Sec. 1904. Report on medical uses of biological agents in development of defenses against biological warfare.
Sec. 1905. Personnel study of recruitment, retention and turnover.
Sec. 1906. Procurement.
Sec. 1907. Report concerning leading causes of death.
Sec. 1908. Relationship between the consumption of legal and illegal drugs.
Sec. 1909. Cost of care in last 6 months of life.
Sec. 1910. Reducing administrative health care costs.

TITLE XX—MISCELLANEOUS PROVISIONS

Sec. 2001. Designation of Senior Biomedical Research Service in honor of Silvio Conte, and limitation on number of members.
Sec. 2002. Technical corrections.
Sec. 2003. Technical corrections with respect to the Agency for Health Care Policy and Research.
Sec. 2004. Technical corrections with respect to the Health Professions Education Extension Amendments of 1992.
Sec. 2005. Biennial report on carcinogens.
Sec. 2006. Master plan for physical infrastructure for research.
Sec. 2007. Transfer of provisions of title XXVII.
Sec. 2008. Certain authorization of appropriations.
Sec. 2009. Prohibition against SHARP adult sex survey and the American teenage sex survey.
Sec. 2010. Support for bioengineering research.

TITLE XXI—EFFECTIVE DATES

Sec. 2101. Effective dates.

TITLE I—GENERAL PROVISIONS REGARDING TITLE IV OF PUBLIC HEALTH SERVICE ACT

Subtitle A—Research Freedom

PART I—REVIEW OF PROPOSALS FOR BIOMEDICAL AND BEHAVIORAL RESEARCH

SEC. 101. ESTABLISHMENT OF CERTAIN PROVISIONS REGARDING RESEARCH CONDUCTED OR SUPPORTED BY NATIONAL INSTITUTES OF HEALTH.

Part G of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by inserting after section 492 the following new section:

"CERTAIN PROVISIONS REGARDING REVIEW AND APPROVAL OF PROPOSALS FOR RESEARCH

"SEC. 492A. (a) REVIEW AS PRECONDITION TO RESEARCH.—

"(1) PROTECTION OF HUMAN RESEARCH SUBJECTS.—

"(A) In the case of any application submitted to the Secretary for financial assistance to conduct research, the Secretary may not approve or fund any application that is subject to review under section 491(a) by an Institutional Review Board unless the application has undergone review in accordance with such section and has been recommended for approval by a majority of the members of the Board conducting such review.

"(B) In the case of research that is subject to review under procedures established by the Secretary for the protection of human subjects in clinical research conducted by the National Institutes of Health, the Secretary may not authorize the conduct of the research unless the research has, pursuant to such procedures, been recommended for approval.

"(2) PEER REVIEW.—In the case of any application submitted to the Secretary for financial assistance to conduct research, the Secretary may not approve or fund any application that is subject to technical and scientific peer review under section 492(a) unless the application has undergone peer review in accordance with such section and has been recommended for approval by a majority of the members of the entity conducting such review.

"(b) ETHICAL REVIEW OF RESEARCH.—

"(1) PROCEDURES REGARDING WITHHOLDING OF FUNDS.—If research has been recommended for approval for purposes of subsection (a), the Secretary may not withhold funding for the research on ethical grounds unless—

"(A) the Secretary convenes an advisory board in accordance with paragraph (4) to study the ethical implications of the research; and

"(B)(i) the majority of the advisory board recommends that, on ethical grounds, the Secretary withhold funds for the research; or

"(ii) the majority of such board recommends that the Secretary not withhold funds for the research on ethical grounds, but the Secretary finds, on the basis of the report submitted under paragraph (4)(B)(ii), that there is a reasonable basis for overruling the board's recommendations.

"(2) APPLICABILITY.—The limitation established in paragraph (1) regarding the authority to withhold funds on ethical grounds shall apply without regard to whether the withholding such funds is characterized as a disapproval, a moratorium, a prohibition, or other description.

"(3) PRELIMINARY MATTERS REGARDING USE OF PROCEDURES.—

"(A) If the Secretary makes a determination that an advisory board should be convened for purposes of paragraph (1), the Secretary shall, through a statement published in the Federal Register, announce the intention of the Secretary to convene such a board.

"(B) A statement issued under subparagraph (A) shall include a request that interested individuals submit to the Secretary recommendations specifying the particular individuals who should be appointed to the advisory board involved. The President shall consider such recommendations in making appointments to the board.

"(C) The President may not make appointments to an advisory board under paragraph (1) until the expiration of the 30-day period beginning on the date on which the statement required in subparagraph (A) is made with respect to the board.

"(4) ETHICS ADVISORY BOARDS.—

"(A) Any advisory board convened for purposes of paragraph (1) shall be known as an ethics advisory board (hereafter in this paragraph referred to as an 'ethics board').

"(B)(i) An ethics board shall advise, consult with, and make recommendations to the Secretary regarding the ethics of the project of biomedical or behavioral research with respect to which the board has been convened.

"(ii) Not later than 180 days after the date on which the statement required in paragraph (3)(A) is made with respect to an ethics board, the board shall submit to the Secretary, and to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report describing the findings of the board regarding the project of research involved and making a recommendation under clause (i) of whether the Secretary should or should not withhold funds for the project. The report shall include the information considered in making the findings.

"(C) An ethics board shall be composed of no fewer than 14, and no more than 20, individuals who are not officers or employees of the United States. The President shall make appointments to the board from among individuals with special qualifications and competence to provide advice and recommendations regarding ethical matters in biomedical and behavioral research. Of the members of the board—

"(i) no fewer than 1 shall be an attorney;

"(ii) no fewer than 1 shall be an ethicist;

"(iii) no fewer than 1 shall be a practicing physician;

"(iv) no fewer than 1 shall be a theologian; and

"(v) no fewer than one-third, and no more than one-half, shall be scientists with substantial accomplishments in biomedical or behavioral research.

"(D) The term of service as a member of an ethics board shall be for the life of the board. If such a member does not serve the full term of such service, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

"(E) A member of an ethics board shall be subject to removal from the board by the President for neglect of duty or malfeasance or for other good cause shown.

"(F) The President shall designate an individual from among the members of an ethics board to serve as the chair of the board.

"(G) In carrying out subparagraph (B)(i) with respect to a project of research, an ethics board shall conduct inquiries and hold public hearings.

"(H) With respect to information relevant to the duties described in subparagraph (B)(i), an ethics board shall have access to all such information possessed by the Department of Health and Human Services, or available to the Secretary from other agencies.

"(I) Members of an ethics board shall receive compensation for each day engaged in carrying out the duties of the board, including time engaged in traveling for purposes of such duties. Such compensation may not be provided in an amount in excess of the maximum rate of basic pay payable for GS–18 of the General Schedule.

"(J) The Secretary, acting through the Director of the National Institutes of Health, shall provide to each ethics board such reasonable staff and assistance as may be necessary to carry out the duties of the board.

"(K) An ethics board shall terminate 30 days after the date on which the report required in subparagraph (B)(ii) is submitted to the Secretary and the congressional committees specified in such subparagraph.".

PART II—RESEARCH ON TRANSPLANTATION OF FETAL TISSUE

SEC. 111. ESTABLISHMENT OF AUTHORITIES.

Part G of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by inserting after section 498 the following new section:

"RESEARCH ON TRANSPLANTATION OF FETAL TISSUE

"SEC. 498A. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—The Secretary may conduct or support research on the transplantation of human fetal tissue for therapeutic purposes.

"(2) SOURCE OF TISSUE.—Human fetal tissue may be used in research carried out under paragraph (1) regardless of whether the tissue is obtained pursuant to a spontaneous or induced abortion or pursuant to a stillbirth.

"(b) INFORMED CONSENT OF DONOR.—

"(1) IN GENERAL.—In research carried out under subsection (a), human fetal tissue may be used only if the woman providing the tissue makes a statement, made in writing and signed by the woman, declaring that—

"(A) the woman donates the fetal tissue for use in research described in subsection (a);

"(B) the donation is made without any restriction regarding the identity of individuals who may be the recipients of transplantations of the tissue; and

"(C) the woman has not been informed of the identity of any such individuals.

"(2) ADDITIONAL STATEMENT.—In research carried out under subsection (a), human fetal tissue may be used only if the attending physician with respect to obtaining the tissue from the woman involved makes a statement, made in writing and signed by the physician, declaring that—

"(A) in the case of tissue obtained pursuant to an induced abortion—

"(i) the consent of the woman for the abortion was obtained prior to requesting or obtaining consent for the tissue to be used in such research; and

"(ii) no alteration of the timing, method, or procedures used to terminate the pregnancy was made solely for the purposes of obtaining the tissue;

"(B) the tissue has been donated by the woman in accordance with paragraph (1); and

"(C) full disclosure has been provided to the woman with regard to—

"(i) such physician's interest, if any, in the research to be conducted with the tissue; and

"(ii) any known medical risks to the woman or risks to her privacy that might be associated with the donation of the tissue and that are in addition to risks of such type that are associated with the woman's medical care.

"(c) INFORMED CONSENT OF RESEARCHER AND DONEE.—In research carried out under subsection (a), human fetal tissue may be used only if the individual with the principal responsibility for conducting the research involved makes a statement, made in writing and signed by the individual, declaring that the individual—

"(1) is aware that—

"(A) the tissue is human fetal tissue;

"(B) the tissue may have been obtained pursuant to a spontaneous or induced abortion or subsequent to a stillbirth; and

"(C) the tissue was donated for research purposes;

"(2) has provided such information to other individuals with responsibilities regarding the research;

"(3) will require, prior to obtaining the consent of an individual to be a recipient of a transplantation of the tissue, written acknowledgment of receipt of such information by such recipient; and

"(4) has had no part in any decisions as to the timing, method, or procedures used to terminate the pregnancy made solely for the purposes of the research.

"(d) AVAILABILITY OF STATEMENTS FOR AUDIT.—

"(1) IN GENERAL.—In research carried out under subsection (a), human fetal tissue may be used only if the head of the agency or other entity conducting the research involved certifies to the Secretary that the statements required under subsections (b)(1), (b)(2), and (c) will be available for audit by the Secretary.

"(2) CONFIDENTIALITY OF AUDIT.—Any audit conducted by the Secretary pursuant to paragraph (1) shall be conducted in a confidential manner to protect the privacy rights of the individuals and entities involved in such research, including such individuals and entities involved in the donation, transfer, receipt, or transplantation of human fetal tissue. With respect to any material or information obtained pursuant to such audit, the Secretary shall—

"(A) use such material or information only for the purposes of verifying compliance with the requirements of this section;

"(B) not disclose or publish such material or information, except where required by Federal law, in which case such material or information shall be coded in a manner such that the identities of such individuals and entities are protected; and

"(C) not maintain such material or information after completion of such audit, except where necessary for the purposes of such audit.

"(e) APPLICABILITY OF STATE AND LOCAL LAW.—

"(1) RESEARCH CONDUCTED BY RECIPIENTS OF ASSISTANCE.—The Secretary may not provide support for research under subsection (a) unless the applicant agrees to conduct the research in accordance with applicable State and local law.

"(2) RESEARCH CONDUCTED BY SECRETARY.—The Secretary may conduct research under subsection (a) only in accordance with applicable State and local law.

"(f) DEFINITION.—For purposes of this section, the term 'human fetal tissue' means tissue or cells obtained from a dead human embryo or fetus after a spontaneous or induced abortion, or after a stillbirth.".

SEC. 112. PURCHASE OF HUMAN FETAL TISSUE; SOLICITATION OR ACCEPTANCE OF TISSUE AS DIRECTED DONATION FOR USE IN TRANSPLANTATION.

Part G of title IV of the Public Health Service Act, as amended by section 111 of this Act, is amended by inserting after section 498A the following new section:

"PROHIBITIONS REGARDING HUMAN FETAL TISSUE

"SEC. 498B. (a) PURCHASE OF TISSUE.—It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human fetal tissue for valuable consideration if the transfer affects interstate commerce.

"(b) SOLICITATION OR ACCEPTANCE OF TISSUE AS DIRECTED DONATION FOR USE IN TRANSPLANTATION.—It shall be unlawful for any person to solicit or knowingly acquire, receive, or accept a donation of human fetal tissue for the purpose of transplantation of such tissue into another person if the donation affects interstate commerce, the tissue will be or is obtained pursuant to an induced abortion, and—

"(1) the donation will be or is made pursuant to a promise to the donating individual that the donated tissue will be transplanted into a recipient specified by such individual;

"(2) the donated tissue will be transplanted into a relative of the donating individual; or

"(3) the person who solicits or knowingly acquires, receives, or accepts the donation has provided valuable consideration for the costs associated with such abortion.

"(c) CRIMINAL PENALTIES FOR VIOLATIONS.—

"(1) IN GENERAL.—Any person who violates subsection (a) or (b) shall be fined in accordance with title 18, United States Code, subject to paragraph (2), or imprisoned for not more than 10 years, or both.

"(2) PENALTIES APPLICABLE TO PERSONS RECEIVING CONSIDERATION.—With respect to the imposition of a fine under paragraph (1), if the person involved violates subsection (a) or (b)(3), a fine shall be imposed in an amount not less than twice the amount of the valuable consideration received.

"(d) DEFINITIONS.—For purposes of this section:

"(1) The term 'human fetal tissue' has the meaning given such term in section 498A(e).

"(2) The term 'interstate commerce' has the meaning given such term in section 201(b) of the Federal Food, Drug, and Cosmetic Act.

"(3) The term 'valuable consideration' does not include reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue.".

SEC. 113. REPORT BY GENERAL ACCOUNTING OFFICE ON ADEQUACY OF REQUIREMENTS.

(a) IN GENERAL.—With respect to research on the transplantation of human fetal tissue for therapeutic purposes, the Comptroller General of the United States shall conduct an audit for the purpose of determining—

(1) whether and to what extent such research conducted or supported by the Secretary of Health and Human Services has been conducted in accordance with section 498A of the Public Health Service Act (as added by section 111 of this Act); and

(2) whether and to what extent there have been violations of section 498B of such Act (as added by section 112 of this Act).

(b) REPORT.—Not later than May 19, 1995, the Comptroller General of the United States shall complete the audit required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made pursuant to the audit.

PART III—MISCELLANEOUS REPEALS

SEC. 121. REPEALS.

(a) CERTAIN BIOMEDICAL ETHICS BOARD.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by striking part J.

(b) OTHER REPEALS.—Part G of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended—

(1) in section 498, by striking subsection (c); and

(2) by striking section 499; and

(3) by redesignating section 499A as section 499.

(c) NULLIFICATION OF CERTAIN REGULATION.—The provisions of section 204(d) of part 46 of title 45 of the Code of Federal Regulations (45 CFR 46.204(d)) shall not have any legal effect.

Subtitle B—Clinical Research Equity Regarding Women and Minorities

PART I—WOMEN AND MINORITIES AS SUBJECTS IN CLINICAL RESEARCH

SEC. 131. REQUIREMENT OF INCLUSION IN RESEARCH.

Part G of title IV of the Public Health Service Act, as amended by section 101 of this Act, is amended by inserting after section 492A the following new section:

"INCLUSION OF WOMEN AND MINORITIES IN CLINICAL RESEARCH

"SEC. 492B. (a) In conducting or supporting clinical research for purposes of this title, the Director of NIH shall, subject to subsection (b), ensure that—

"(1) women are included as subjects in each project of such research; and

"(2) members of minority groups are included as subjects in such research.

"(b) The requirement established in subsection (a) regarding women and members of minority groups shall not apply to a project of clinical research if the inclusion, as subjects in the project, of women and members of minority groups, respectively—

"(1) is inappropriate with respect to the health of the subjects;

"(2) is inappropriate with respect to the purpose of the research; or

"(3) is inappropriate under such other circumstances as the Director of NIH may designate.

"(c) In the case of any project of clinical research in which women or members of minority groups will under subsection (a) be included as subjects in the research, the Director of NIH shall ensure that the project is designed and carried out in a manner sufficient to provide for a valid analysis of whether the variables being tested in the research affect women or members of minority groups, as the case may be, differently than other subjects in the research.

"(d)(1) The Director of NIH, in consultation with the Director of the Office of Research on Women's Health and the Director of the Office of Research on Minority Health, shall establish guidelines regarding—

"(A) the circumstances under which the inclusion of women and minorities in projects of clinical research is inappropriate for purposes of subsection (b);

"(B) the manner in which such projects are required to be designed and carried out for purposes of subsection (c), including a specification of the circumstances in which the requirement of such subsection does not apply on the basis of impracticability; and

"(C) the conduct of outreach programs for the recruitment of women and members of minority groups as subjects in such research.

"(2) The guidelines established under paragraph (1)—

"(A) may not provide that the cost of including women and minorities in clinical research is a permissible consideration regarding the circumstances described in subparagraph (A) of such paragraph; and

"(B) may provide that such circumstances include circumstances in which there are scientific reasons for believing that the variables proposed to be studied do not affect women or minorities differently than other subjects in the research.

"(3) The guidelines required in paragraph (1) shall be established and published in the Federal Register not later than 180 days after the date of the enactment of the National Institutes of Health Revitalization Act of 1993.

"(4) For fiscal year 1994 and subsequent fiscal years, the Director of NIH may not provide funding for any project of clinical research to be conducted or supported by any agency of the National Institutes of Health unless the project specifies the manner in which the research will comply with subsection (a).

"(e) The advisory council of each national research institute shall annually submit to the Director of NIH and the Director of the institute involved a report describing the manner in which the agency has complied with subsection (a).".

SEC. 132. PEER REVIEW.

Section 492 of the Public Health Service Act (42 U.S.C. 289a) is amended by adding at the end the following new subsection:

"(c)(1) In technical and scientific peer review under this section of proposals for clinical research, the consideration of any such proposed project (including the initial consideration) shall, except as provided in paragraph (2), include an evaluation of the technical and scientific merit of the proposed project regarding compliance with section 492B(a).

"(2) Paragraph (1) shall not apply to any proposed project for clinical research that, pursuant to subsection (b) of section 492B, is not subject to the requirement of subsection (a) of such section regarding the inclusion of women and members of minority groups as subjects in clinical research.".

SEC. 133. APPLICABILITY TO CURRENT PROJECTS.

Section 492B of the Public Health Service Act, as added by section 131 of this Act, shall not apply with respect to projects of clinical research for which initial funding was provided prior to the date of the enactment of this Act. With respect to the inclusion of women and minorities as subjects in clinical research conducted or supported by the National Institutes of Health, any policies of the Secretary of Health and Human Services regarding such inclusion that are in effect on the day before the date of the enactment of this Act shall continue to apply to the projects referred to in the preceding sentence.

PART II—OFFICE OF RESEARCH ON WOMEN'S HEALTH

SEC. 141. ESTABLISHMENT.

(a) IN GENERAL.—Title IV of the Public Health Service Act, as amended by section 2 of Public Law 101-613, is amended—

(1) by redesignating section 486 as section 485A;

(2) by redesignating parts F through H as parts G through I, respectively; and

(3) by inserting after part E the following new part:

"PART F—RESEARCH ON WOMEN'S HEALTH

"SEC. 486. OFFICE OF RESEARCH ON WOMEN'S HEALTH.

"(a) ESTABLISHMENT.—There is established within the Office of the Director of NIH an office to be known as the Office of Research on Women's Health (in this part referred to as the 'Office'). The Office shall be headed by a director, who shall be appointed by the Director of NIH.

"(b) PURPOSE.—The Director of the Office shall—

"(1) identify projects of research on women's health that should be conducted or supported by the national research institutes;

"(2) identify multidisciplinary research relating to research on women's health that should be so conducted or supported;

"(3) carry out paragraphs (1) and (2) with respect to the aging process in women, with priority given to menopause;

"(4) promote coordination and collaboration among entities conducting research identified under any of paragraphs (1) through (3);

"(5) encourage the conduct of such research by entities receiving funds from the national research institutes;

"(6) recommend an agenda for conducting and supporting such research;

"(7) promote the sufficient allocation of the resources of the national research institutes for conducting and supporting such research;

"(8) assist in the administration of section 492B with respect to the inclusion of women as subjects in clinical research; and

"(9) prepare the report required in section 486B.

"(c) COORDINATING COMMITTEE.—

"(1) In carrying out subsection (b), the Director of the Office shall establish a committee to be known as the Coordinating Committee on Research on Women's Health (hereafter in this subsection referred to as the 'Coordinating Committee').

"(2) The Coordinating Committee shall be composed of the Directors of the national research institutes (or the designees of the Directors) and other appropriate entities.

"(3) The Director of the Office shall serve as the chair of the Coordinating Committee.

"(4) With respect to research on women's health, the Coordinating Committee shall assist the Director of the Office in—

"(A) identifying the need for such research, and making an estimate each fiscal year of the funds needed to adequately support the research;

"(B) identifying needs regarding the coordination of research activities, including intramural and extramural multidisciplinary activities;

"(C) supporting the development of methodologies to determine the circumstances in which obtaining data specific to women (including data relating to the age of women and the membership of women in ethnic or racial groups) is an appropriate function of clinical trials of treatments and therapies;

"(D) supporting the development and expansion of clinical trials of treatments and therapies for which obtaining such data has been determined to be an appropriate function; and

"(E) encouraging the national research institutes to conduct and support such research, including such clinical trials.

"(d) ADVISORY COMMITTEE.—

"(1) In carrying out subsection (b), the Director of the Office shall establish an advisory committee to be known as the Advisory Committee on Research on Women's Health (hereafter in this subsection referred to as the 'Advisory Committee').

"(2)(A) The Advisory Committee shall be composed of no fewer than 12, and not more than 18 individuals, who are not officers or employees of the Federal Government. The Director of the Office shall make appointments to the Advisory Committee from among physicians, practitioners, scientists, and other health professionals, whose clinical practice, research specialization, or professional expertise includes a significant focus on research on women's health. A majority of the members of the Advisory Committee shall be women.

"(B) Members of the Advisory Committee shall receive compensation for each day engaged in carrying out the duties of the Committee, including time engaged in traveling for purposes of such duties. Such compensation may not be provided in an amount in excess of the maximum rate of basic pay payable for GS-18 of the General Schedule.

"(3) The Director of the Office shall serve as the chair of the Advisory Committee.

"(4) The Advisory Committee shall—

"(A) advise the Director of the Office on appropriate research activities to be undertaken by the national research institutes with respect to—

"(i) research on women's health;

"(ii) research on gender differences in clinical drug trials, including responses to pharmacological drugs;

"(iii) research on gender differences in disease etiology, course, and treatment;

"(iv) research on obstetrical and gynecological health conditions, diseases, and treatments; and

"(v) research on women's health conditions which require a multidisciplinary approach;

"(B) report to the Director of the Office on such research;

"(C) provide recommendations to such Director regarding activities of the Office (including recommendations on the development of the methodologies described in subsection (c)(4)(C) and recommendations on priorities in carrying out research described in subparagraph (A)); and

"(D) assist in monitoring compliance with section 492B regarding the inclusion of women in clinical research.

"(5)(A) The Advisory Committee shall prepare a biennial report describing the activities of the Committee, including findings made by the Committee regarding—

"(i) compliance with section 492B;

"(ii) the extent of expenditures made for research on women's health by the agencies of the National Institutes of Health; and

"(iii) the level of funding needed for such research.

"(B) The report required in subparagraph (A) shall be submitted to the Director of NIH for inclusion in the report required in section 403.

"(e) REPRESENTATION OF WOMEN AMONG RESEARCHERS.—The Secretary, acting through the Assistant Secretary for Personnel and in collaboration with the Director of the Office, shall determine the extent to which women are represented among senior physicians and scientists of the national research institutes and among physicians and scientists conducting research with funds provided by such institutes, and as appropriate, carry out activities to increase the extent of such representation.

"(f) DEFINITIONS.—For purposes of this part:

"(1) The term 'women's health conditions', with respect to women of all age, ethnic, and racial groups, means all diseases, disorders, and conditions (including with respect to mental health)—

"(A) unique to, more serious, or more prevalent in women;

"(B) for which the factors of medical risk or types of medical intervention are different for women, or for which it is unknown whether such factors or types are different for women; or

"(C) with respect to which there has been insufficient clinical research involving women as subjects or insufficient clinical data on women.

"(2) The term 'research on women's health' means research on women's health conditions, including research on preventing such conditions.

"SEC. 486A. NATIONAL DATA SYSTEM AND CLEARINGHOUSE ON RESEARCH ON WOMEN'S HEALTH.

"(a) DATA SYSTEM.—

"(1) The Director of NIH, in consultation with the Director of the Office, shall establish a data system for the collection, storage, analysis, retrieval, and dissemination of information regarding research on women's health that is conducted or supported by the national research institutes. Information from the data system shall be available through information systems available to health care professionals and providers, researchers, and members of the public.

"(2) The data system established under paragraph (1) shall include a registry of clinical trials of experimental treatments that have been developed for research on women's health. Such registry shall include information on subject eligibility criteria, sex, age, ethnicity or race, and the location of the trial site or sites. Principal investigators of such clinical trials shall provide this information to the registry within 30 days after it is available. Once a trial has been completed, the principal investigator shall provide the registry with information pertaining to the results, including potential toxicities or adverse effects associated with the experimental treatment or treatments evaluated.

"(b) CLEARINGHOUSE.—The Director of NIH, in consultation with the Director of the Office and with the National Library of Medicine, shall establish, maintain, and operate a program to provide information on research and prevention activities of the national research institutes that relate to research on women's health.

"SEC. 486B. BIENNIAL REPORT.

"(a) IN GENERAL.—With respect to research on women's health, the Director of the Office shall, not later than February 1, 1994, and biennially thereafter, prepare a report—

"(1) describing and evaluating the progress made during the preceding 2 fiscal years in research and treatment conducted or supported by the National Institutes of Health;

"(2) describing and analyzing the professional status of women physicians and scientists of such Institutes, including the identification of problems and barriers regarding advancements;

"(3) summarizing and analyzing expenditures made by the agencies of such Institutes (and by such Office) during the preceding 2 fiscal years; and

"(4) making such recommendations for legislative and administrative initiatives as the Director of the Office determines to be appropriate.

"(b) INCLUSION IN BIENNIAL REPORT OF DIRECTOR OF NIH.—The Director of the Office shall submit each report prepared under subsection (a) to the Director of NIH for inclusion in the report submitted to the President and the Congress under section 403.".

(b) REQUIREMENT OF SUFFICIENT ALLOCATION OF RESOURCES OF INSTITUTES.—Section 402(b) of the Public Health Service Act (42 U.S.C. 282(b)) is amended—

(1) in paragraph (10), by striking "and" after the semicolon at the end;

(2) in paragraph (11), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (11) the following new paragraph:

"(12) after consultation with the Director of the Office of Research on Women's Health, shall ensure that resources of the National Institutes of Health are sufficiently allocated for projects of research on women's health that are identified under section 486(b).".

PART III—OFFICE OF RESEARCH ON MINORITY HEALTH

SEC. 151. ESTABLISHMENT.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following new section:

"OFFICE OF RESEARCH ON MINORITY HEALTH

"SEC. 403A. (a) ESTABLISHMENT.—There is established within the Office of the Director of NIH an office to be known as the Office of Research on Minority Health (in this section referred to as the 'Office'). The Office shall be headed by a director, who shall be appointed by the Director of NIH.

"(b) PURPOSE.—The Director of the Office shall—

"(1) identify projects of research on minority health that should be conducted or supported by the national research institutes;

"(2) identify multidisciplinary research relating to research on minority health that should be so conducted or supported;

"(3) promote coordination and collaboration among entities conducting research identified under paragraph (1) or (2);

"(4) encourage the conduct of such research by entities receiving funds from the national research institutes;

"(5) recommend an agenda for conducting and supporting such research;

"(6) promote the sufficient allocation of the resources of the national research institutes for conducting and supporting such research; and

"(7) assist in the administration of section 492B with respect to the inclusion of members of minority groups as subjects in clinical research.".

Subtitle C—Scientific Integrity

SEC. 161. ESTABLISHMENT OF OFFICE OF SCIENTIFIC INTEGRITY.

(a) IN GENERAL.—Section 493 of the Public Health Service Act (42 U.S.C. 289b) is amended to read as follows:

"OFFICE OF SCIENTIFIC INTEGRITY

"SEC. 493. (a) ESTABLISHMENT.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary shall establish an office to be known as the Office of Scientific Integrity (hereafter referred to in this section as the 'Office'), which shall be established as an independent entity in the Department of Health and Human Services.

"(2) DIRECTOR.—The Office shall be headed by a Director, who shall be appointed by the Secretary, be experienced and specially trained in the conduct of research, and have experience in the conduct of investigations of scientific misconduct. The Secretary shall carry out this section acting through the Director of the Office. The Director shall report to the Secretary.

"(b) EXISTENCE OF ADMINISTRATIVE PROCESSES AS CONDITION OF FUNDING FOR RESEARCH.—The Secretary shall by regulation require that each entity that applies for a grant, contract, or cooperative agreement under this Act for any project or program that involves the conduct of biomedical or behavioral research submit in or with its application for such grant, contract, or cooperative agreement assurances satisfactory to the Secretary that such entity—

"(1) has established (in accordance with regulations which the Secretary shall prescribe) an administrative process to review reports of scientific misconduct in connection with biomedical and behavioral research conducted at or sponsored by such entity; and

"(2) will report to the Director any investigation of alleged scientific misconduct in connection with projects for which funds have been made available under this Act that appears substantial.

"(c) PROCESS FOR RESPONSE OF DIRECTOR.—The Secretary shall establish by regulation a process to be followed by the Director for the prompt and appropriate—

"(1) response to information provided to the Director respecting scientific misconduct in connection with projects for which funds have been made available under this Act;

"(2) receipt of reports by the Director of such information from recipients of funds under this Act;

"(3) conduct of investigations, when appropriate; and

"(4) taking of other actions, including appropriate remedies, with respect to such misconduct.

"(d) MONITORING BY DIRECTOR.—The Secretary shall by regulation establish procedures for the Director to monitor administrative processes and investigations that have been established or carried out under this section.

"(e) EFFECT ON PRESENT INVESTIGATIONS.—Nothing in this section shall affect investigations which have been or will be commenced prior to the promulgation of final regulations under this section.".

(b) ESTABLISHMENT OF DEFINITION OF SCIENTIFIC MISCONDUCT.—Not later than 90 days after the date on which the report required under section 152(d) is submitted to the Secretary of Health and Human Services, such Secretary shall by regulation establish a definition for the term "scientific misconduct" for purposes of section 493 of the Public Health Service Act, as amended by subsection (a) of this section.

SEC. 162. COMMISSION ON SCIENTIFIC INTEGRITY.

(a) IN GENERAL.—The Secretary of Health and Human Services shall establish a commission to be known as the Commission on Scientific Integrity (in this section referred to as the "Commission").

(b) DUTIES.—The Commission shall develop recommendations for the Secretary of Health and Human Services on the administration of section 493 of the Public Health Service Act (as amended and added by section 161 of this Act).

(c) COMPOSITION.—The Commission shall be composed of 12 members to be appointed by the Secretary of Health and Human Services from among individuals who are not officers or employees of the United States. Of the members appointed to the Commission—

(1) three shall be scientists with substantial accomplishments in biomedical or behavioral research;

(2) three shall be individuals with experience in investigating allegations of misconduct with respect to scientific research;

(3) three shall be representatives of institutions of higher education at which biomedical or behavioral research is conducted; and

(4) three shall be individuals who are not described in paragraphs (1), (2), or (3), at least one of whom shall be an attorney and at least one of whom shall be an ethicist.

(d) COMPENSATION.—Members of the Commission shall receive compensation for each day engaged in carrying out the duties of the Commission, including time engaged in traveling for purposes of such duties. Such compensation may not be provided in an amount in excess of the maximum rate of basic pay payable for GS-18 of the General Schedule.

(e) REPORT.—Not later than 120 days after the date of enactment of this section, the Commission shall prepare and submit to the Secretary of Health and Human Services, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report containing the recommendations developed under subsection (b).

SEC. 163. PROTECTION OF WHISTLEBLOWERS.

Section 493 of the Public Health Service Act, as amended by section 161 of this Act, is amended by adding at the end the following new subsection:

"(f) PROTECTION OF WHISTLEBLOWERS.—

"(1) IN GENERAL.—In the case of any entity required to establish administrative processes under subsection (b), the Secretary shall by regulation establish standards for preventing, and for responding to the occurrence of retaliation by such entity, its officials or agents, against an employee in the terms and conditions of employment in response to the employee having in good faith—

"(A) made an allegation that the entity, its officials or agents, has engaged in or failed to adequately respond to an allegation of scientific misconduct; or

"(B) cooperated with an investigation of such an allegation.

"(2) MONITORING BY SECRETARY.—The Secretary shall establish by regulation procedures for the Director to monitor the implementation of the standards established by an entity under paragraph (1) for the purpose of determining whether the procedures have been established, and are being utilized, in accordance with the standards established under such paragraph.

"(3) NONCOMPLIANCE.—The Secretary shall by regulation establish remedies for noncompliance by an entity, its officials or agents, which has engaged in retaliation in violation of the standards established under paragraph (1). Such remedies may include termination of funding provided by the Secretary for such project or recovery of funding being provided by the Secretary for such project, or other actions as appropriate.

"(4) FINAL RULE FOR REGULATIONS.—The Secretary shall issue a final rule for the regulations required in paragraph (1) not later than 180 days after the date of the enactment of the National Institutes of Health Revitalization Act of 1993.

"(5) REQUIRED AGREEMENTS.—For any fiscal year beginning after the date on which the regulations required in paragraph (1) are issued, the Secretary may not provide a grant, cooperative agreement, or contract under this Act for biomedical or behavioral research unless the entity seeking such financial assistance agrees that the entity—

"(A) will maintain the procedures described in the regulations; and

"(B) will otherwise be subject to the regulations.".

SEC. 164. REQUIREMENT OF REGULATIONS REGARDING PROTECTION AGAINST FINANCIAL CONFLICTS OF INTEREST IN CERTAIN PROJECTS OF RESEARCH.

Part H of title IV of the Public Health Service Act, as redesignated by section 141(a)(2) of this Act, is amended by inserting after section 493 the following new section:

"PROTECTION AGAINST FINANCIAL CONFLICTS OF INTEREST IN CERTAIN PROJECTS OF RESEARCH

"SEC. 493A. (a) ISSUANCE OF REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall define by regulation, the specific circumstances that constitute the existence of a financial interest in a project on the part of an entity or individual that will, or may be reasonably expected to, create a bias in favor of obtaining results in such project that are consistent with such financial interest. Such definition shall apply uniformly to each entity or individual conducting a research project under this Act. In the case of any entity or individual receiving assistance from the Secretary for a project of research described in paragraph (2), the Secretary shall by regulation establish standards for responding to, including managing, reducing, or eliminating, the existence of such a financial interest. The entity may adopt individualized procedures for implementing the standards.

"(2) RELEVANT PROJECTS.—A project of research referred to in paragraph (1) is a project of clinical research whose purpose is to evaluate the safety or effectiveness of a drug, medical device, or treatment and for which such entity is receiving assistance from the Secretary.

"(3) IDENTIFYING AND REPORTING TO THE DIRECTOR.—The Secretary shall ensure that the standards established under paragraph (1) specify that as a condition of receiving assistance from the Secretary for the project involved, an entity described in such subsection is required—

"(A) to have in effect at the time the entity applies for the assistance and throughout the period during which the assistance is received, a process for identifying such financial interests as defined in paragraph (1) that exist regarding the project; and

"(B) to report to the Director such financial interest as defined in paragraph (1) identified by the entity and how any such financial interest identified by the entity will be managed or eliminated such that the project in question will be protected from bias that may stem from such financial interest.

"(4) MONITORING OF PROCESS.—The Secretary shall monitor the establishment and conduct of the process established by an entity pursuant to paragraph (1).

"(5) RESPONSE.—In any case in which the Secretary determines that an entity has failed to comply with paragraph (3) regarding a project of research described in paragraph (1), the Secretary—

"(A) shall require that, as a condition of receiving assistance, the entity disclose the existence of a financial interest as defined in paragraph (1) in each public presentation of the results of such project; and

"(B) may take such other actions as the Secretary determines to be appropriate.

"(6) DEFINITION.—As used in this section:

"(A) The term 'financial interest' includes the receipt of consulting fees or honoraria and the ownership of stock or equity.

"(B) The term 'assistance', with respect to conducting a project of research, means a grant, contract, or cooperative agreement.

"(b) FINAL RULE FOR REGULATIONS.—The Secretary shall issue a final rule for the regulations required in subsection (a) not later than 180 days after the date of the enactment of the National Institutes of Health Revitalization Act of 1993.".

SEC. 165. EFFECTIVE DATES.

(a) IN GENERAL.—The amendments made by this subtitle shall become effective on the date that occurs 180 days after the date on which the final rule required under section 493(f)(4) of the Public Health Service Act, as amended by sections 161 and 163, is published in the Federal Register.

(b) AGREEMENTS AS A CONDITION OF FUNDING.—The requirements of subsection (f)(5) of section 493 of the Public Health Service Act, as amended by sections 161 and 163, with respect to agreements as a condition of funding shall not be effective in the case of projects of research for which initial funding under the Public Health Service Act was provided prior to the effective date described in subsection (a).

TITLE II—NATIONAL INSTITUTES OF HEALTH IN GENERAL

SEC. 201. HEALTH PROMOTION RESEARCH DISSEMINATION.

Section 402(f) of the Public Health Service Act (42 U.S.C. 282(f)) is amended by striking "other public and private entities." and all that follows through the end and inserting "other public and private entities, including elementary, secondary, and post-secondary schools. The Associate Director shall—

"(1) annually review the efficacy of existing policies and techniques used by the national research institutes to disseminate the results of disease prevention and behavioral research programs;

"(2) recommend, coordinate, and oversee the modification or reconstruction of such policies and techniques to ensure maximum dissemination, using advanced technologies to the maximum extent practicable, of research results to such entities; and

"(3) annually prepare and submit to the Director of NIH a report concerning the prevention and dissemination activities undertaken by the Associate Director, including—

"(A) a summary of the Associate Director's review of existing dissemination policies and techniques together with a detailed statement concerning any modification or restructuring, or recommendations for modification or restructuring, of such policies and techniques; and

"(B) a detailed statement of the expenditures made for the prevention and dissemination activities reported on and the personnel used in connection with such activities.".

SEC. 202. PROGRAMS FOR INCREASED SUPPORT REGARDING CERTAIN STATES AND RESEARCHERS.

Section 402 of the Public Health Service Act (42 U.S.C. 282) is amended by adding at the end the following new subsection:

"(g)(1)(A) In the case of entities described in subparagraph (B), the Director of NIH, acting through the Director of the National Center for Research Resources, shall establish a program to enhance the competitiveness of such entities in obtaining funds from the national research institutes for conducting biomedical and behavioral research.

"(B) The entities referred to in subparagraph (A) are entities that conduct biomedical and behavioral research and are located in a State in which the aggregate success rate for applications to the national research institutes for assistance for such research by the entities in the State has historically constituted a low success rate of obtaining such funds, relative to such aggregate rate for such entities in other States.

"(C) With respect to enhancing competitiveness for purposes of subparagraph (A), the Director of NIH, in carrying out the program established under such subparagraph, may—

"(i) provide technical assistance to the entities involved, including technical assistance in the preparation of applications for obtaining funds from the national research institutes;

"(ii) assist the entities in developing a plan for biomedical or behavioral research proposals; and

"(iii) assist the entities in implementing such plan.

"(2) The Director of NIH shall establish a program of supporting projects of biomedical or behavioral research whose principal researchers are individuals who have not previously served as the principal researchers of such projects supported by the Director.".

SEC. 203. CHILDREN'S VACCINE INITIATIVE.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following new section:

"CHILDREN'S VACCINE INITIATIVE

"SEC. 404. (a) DEVELOPMENT OF NEW VACCINES.—The Secretary, in consultation with the Director of the National Vaccine Program under title XXI and acting through the Directors of the National Institute for Allergy and Infectious Diseases, the National Institute for Child Health and Human Development, the National Institute for Aging, and other public and private programs, shall carry out activities, which shall be consistent with the global Children's Vaccine Initiative, to develop affordable new and improved vaccines to be used in the United States and in the developing world that will increase the efficacy and efficiency of the prevention of infectious diseases. In carrying out such activities, the Secretary shall, to the extent practicable, develop and make available vaccines that require fewer contacts to deliver, that can be given early in life, that provide long lasting protection, that obviate refrigeration, needles and syringes, and that protect against a larger number of diseases.

"(b) REPORT.—In the report required in section 2104, the Secretary, acting through the Director of the National Vaccine Program under title XXI, shall include information with respect to activities and the progress made in implementing the provisions of this section and achieving its goals.

"(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated for activities of the type described in this section, there are authorized to be appropriated to carry out this section $20,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 204. PLAN FOR USE OF ANIMALS IN RESEARCH.

(a) IN GENERAL.—Part A of title IV of the Public Health Service Act, as amended by section 203 of this Act, is amended by adding at the end the following new section:

"PLAN FOR USE OF ANIMALS IN RESEARCH

"SEC. 404A. (a) The Director of NIH, after consultation with the committee established under subsection (e), shall prepare a plan—

"(1) for the National Institutes of Health to conduct or support research into—

"(A) methods of biomedical research and experimentation that do not require the use of animals;

"(B) methods of such research and experimentation that reduce the number of animals used in such research; and

"(C) methods of such research and experimentation that produce less pain and distress in such animals;

"(2) for establishing the validity and reliability of the methods described in paragraph (1);

"(3) for encouraging the acceptance by the scientific community of such methods that have been found to be valid and reliable; and

"(4) for training scientists in the use of such methods that have been found to be valid and reliable.

"(b) Not later than October 1, 1993, the Director of NIH shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, the plan required in subsection (a) and shall begin implementation of the plan.

"(c) The Director of NIH shall periodically review, and as appropriate, make revisions in the plan required under subsection (a). A description of any revision made in the plan shall be included in the first biennial report under section 403 that is submitted after the revision is made.

"(d) The Director of NIH shall take such actions as may be appropriate to convey to scientists and others who use animals in biomedical or behavioral research or experimentation information respecting the methods found to be valid and reliable under subsection (a)(2).

"(e)(1) The Director of NIH shall establish within the National Institutes of Health a committee to be known as the Interagency Coordinating Committee on the Use of Animals in Research (hereafter in this subsection referred to as the 'Committee').

"(2) The Committee shall provide advice to the Director of NIH on the preparation of the plan required in subsection (a).

"(3) The Committee shall be composed of—

"(A) the Directors of each of the national research institutes and the Director of the Center for Research Resources (or the designees of such Directors); and

"(B) representatives of the Environmental Protection Agency, the Food and Drug Administration, the Consumer Product Safety Commission, the National Science Foundation, and such additional agencies as the Director of NIH determines to be appropriate.".

(b) CONFORMING AMENDMENT.—Section 4 of the Health Research Extension Act of 1985 (Public Law 99–158; 99 Stat. 880) is repealed.

SEC. 205. INCREASED PARTICIPATION OF WOMEN AND MEMBERS OF UNDER-REPRESENTED MINORITIES IN FIELDS OF BIOMEDICAL AND BEHAVIORAL RESEARCH.

Section 402 of the Public Health Service Act, as amended by section 202 of this Act, is amended by adding at the end the following new subsection:

"(h) The Secretary, acting through the Director of NIH and the Directors of the agencies of the National Institutes of Health, may conduct and support programs for research, research training, recruitment, and other activities to provide for an increase in the number of women and members of underrepresented minority groups in the fields of biomedical and behavioral research.".

SEC. 206. REQUIREMENTS REGARDING SURVEYS OF SEXUAL BEHAVIOR.

Part A of title IV of the Public Health Service Act, as amended by section 204 of this Act, is amended by adding at the end the following new section:

"REQUIREMENTS REGARDING SURVEYS OF SEXUAL BEHAVIOR

"SEC. 404B. With respect to any survey of human sexual behavior proposed to be conducted or supported through the National Institutes of Health, the survey may not be carried out unless—

"(1) the proposal has undergone review in accordance with any applicable requirements of sections 491 and 492; and

"(2) the Secretary, in accordance with section 492A, makes a determination that the information expected to be obtained through the survey will assist—

"(A) in reducing the incidence of sexually transmitted diseases, the incidence of infection with the human immunodeficiency virus, or the incidence of any other infectious disease; or

"(B) in improving reproductive health or other conditions of health.".

SEC. 207. DISCRETIONARY FUND OF DIRECTOR OF NATIONAL INSTITUTES OF HEALTH.

Section 402 of the Public Health Service Act, as amended by section 205 of this Act, is amended by adding at the end the following new subsection:

"(i)(1) There is established a fund, consisting of amounts appropriated under paragraph (3) and made available for the fund, for use by the Director of NIH to carry out the activities authorized in this Act for the National Institutes of Health. The purposes for which such fund may be expended include—

"(A) providing for research on matters that have not received significant funding relative to other matters, responding to new issues and scientific emergencies, and acting on research opportunities of high priority;

"(B) supporting research that is not exclusively within the authority of any single agency of such Institutes; and

"(C) purchasing or renting equipment and quarters for activities of such Institutes.

"(2) Not later than February 10 of each fiscal year, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the activities undertaken and expenditures made under this section during the preceding fiscal year. The report may contain such comments of the Secretary regarding this section as the Secretary determines to be appropriate.

"(3) For the purpose of carrying out this subsection, there are authorized to be appropriated $25,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 208. MISCELLANEOUS PROVISIONS.

(a) TERM OF OFFICE FOR MEMBERS OF ADVISORY COUNCILS.—Section 406(c) of the Public Health Service Act (42 U.S.C. 284a(c)) is amended in the second sentence by striking "until a successor has been appointed" and inserting the following: "for 180 days after the date of such expiration".

(b) LITERACY REQUIREMENTS.—Section 402(e) of the Public Health Service Act (42 U.S.C. 282(e)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) ensure that, after January 1, 1994, at least one-half of all new or revised health education and promotion materials developed or funded by the National Institutes of Health is in a form that does not exceed a level of functional literacy, as defined in the National Literacy Act of 1991 (Public Law 102-73).".

(c) DAY CARE REGARDING CHILDREN OF EMPLOYEES.—Section 402 of the Public Health Service Act, as amended by section 207 of this Act, is amended by adding at the end the following new subsection:

"(j)(1) The Director of NIH may establish a program to provide day care service for the employees of the National Institutes of Health similar to those services provided by other Federal agencies (including the availability of day care service on a 24-hour-a-day basis).

"(2) Any day care provider at the National Institutes of Health shall establish a sliding scale of fees that takes into consideration the income and needs of the employee.

"(3) For purposes regarding the provision of day care service, the Director of NIH may enter into rental or lease purchase agreements.".

TITLE III—GENERAL PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

SEC. 301. APPOINTMENT AND AUTHORITY OF DIRECTORS OF NATIONAL RESEARCH INSTITUTES.

(a) ESTABLISHMENT OF GENERAL AUTHORITY REGARDING DIRECT FUNDING.—

(1) IN GENERAL.—Section 405(b)(2) of the Public Health Service Act (42 U.S.C. 284(b)(2)) is amended—

(A) in subparagraph (A), by striking "and" after the semicolon at the end;

(B) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) shall receive from the President and the Office of Management and Budget directly all funds appropriated by the Congress for obligation and expenditure by the Institute.".

(2) CONFORMING AMENDMENT.—Section 413(b)(9) of the Public Health Service Act (42 U.S.C. 285a-2(b)(9)) is amended—

(A) by striking "(A)" after "(9)"; and

(B) by striking "advisory council;" and all that follows and inserting "advisory council.".

(b) APPOINTMENT AND DURATION OF TECHNICAL AND SCIENTIFIC PEER REVIEW GROUPS.—Section 405(c) of the Public Health Service Act (42 U.S.C. 284(c)) is amended—

(1) by amending paragraph (3) to read as follows:

"(3) may, in consultation with the advisory council for the Institute and with the approval of the Director of NIH—

"(A) establish technical and scientific peer review groups in addition to those appointed under section 402(b)(6); and

"(B) appoint the members of peer review groups established under subparagraph (A); and"; and

(2) by adding after and below paragraph (4) the following:

"The Federal Advisory Committee Act shall not apply to the duration of a peer review group appointed under paragraph (3).".

SEC. 302. PROGRAM OF RESEARCH ON OSTEOPOROSIS, PAGET'S DISEASE, AND RELATED BONE DISORDERS.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.), as amended by section 121(b) of Public Law 102-321 (106 Stat. 358), is amended by adding at the end the following new section:

"RESEARCH ON OSTEOPOROSIS, PAGET'S DISEASE, AND RELATED BONE DISORDERS

"SEC. 410. (a) ESTABLISHMENT.—The Directors of the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the National Institute on Aging, the National Institute of Diabetes, Digestive and Kidney Diseases, and the National Institute of Dental Research, shall expand and intensify the programs of such Institutes with respect to research and related activities concerning osteoporosis, Paget's disease, and related bone disorders.

"(b) COORDINATION.—The Directors referred to in subsection (a) shall jointly coordinate the programs referred to in such subsection and consult with the Arthritis and Musculoskeletal Diseases Interagency Coordinating Committee and the Interagency Task Force on Aging Research.

"(c) INFORMATION CLEARINGHOUSE.—

"(1) IN GENERAL.—In order to assist in carrying out the purpose described in subsection (a), the Director of NIH shall provide for the establishment of an information clearinghouse on osteoporosis and related bone disorders to facilitate and enhance knowledge and understanding on the part of health professionals, patients, and the public through the effective dissemination of information.

"(2) ESTABLISHMENT THROUGH GRANT OR CONTRACT.—For the purpose of carrying out paragraph (1), the Director of NIH shall enter into a grant, cooperative agreement, or contract with a nonprofit private entity involved in activities regarding the prevention and control of osteoporosis and related bone disorders.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $40,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 303. ESTABLISHMENT OF INTERAGENCY PROGRAM FOR TRAUMA RESEARCH.

(a) IN GENERAL.—Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.) is amended by adding at the end the following part:

"PART E—INTERAGENCY PROGRAM FOR TRAUMA RESEARCH

"SEC. 1251. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—The Secretary, acting through the Director of the National Institutes of Health (hereafter in this section referred to as the 'Director'), shall establish a comprehensive program of conducting basic and clinical research on trauma (hereafter in this section referred to as the 'Program'). The Program shall include research regarding the diagnosis, treatment, rehabilitation, and general management of trauma.

(b) PLAN FOR PROGRAM.—

"(1) IN GENERAL.—The Director, in consultation with the Trauma Research Interagency Coordinating Committee established under subsection (g), shall establish and implement a plan for carrying out the activities of the Program, including the activities described in subsection (d). All such activities shall be carried out in accordance with the plan. The plan shall be periodically reviewed, and revised as appropriate.

"(2) SUBMISSION TO CONGRESS.—Not later than one year after the date of enactment of this section, the Director shall submit the plan required in paragraph (1) to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, together with an estimate of the funds needed for each of the fiscal years 1994 through 1996 to implement the plan.

"(c) PARTICIPATING AGENCIES; COORDINATION AND COLLABORATION.—The Director—

"(1) shall provide for the conduct of activities under the Program by the Directors of the agencies of the National Institutes of Health involved in research with respect to trauma;

"(2) shall ensure that the activities of the Program are coordinated among such agencies; and

"(3) shall, as appropriate, provide for collaboration among such agencies in carrying out such activities.

"(d) CERTAIN ACTIVITIES OF PROGRAM.—The Program shall include—

"(1) studies with respect to all phases of trauma care, including prehospital, resuscitation, surgical intervention, critical care, infection control, wound healing, nutritional care and support, and medical rehabilitation care;

"(2) basic and clinical research regarding the response of the body to trauma and the acute treatment and medical rehabilitation of individuals who are the victims of trauma; and

"(3) basic and clinical research regarding trauma care for pediatric and geriatric patients.

"(e) MECHANISMS OF SUPPORT.—In carrying out the Program, the Director, acting through the Directors of the agencies referred to in subsection (c)(1), may make grants to public and nonprofit entities, including designated trauma centers.

"(f) RESOURCES.—The Director shall assure the availability of appropriate resources to carry out the Program, including the plan established under subsection (b) (including the activities described in subsection (d)).

"(g) COORDINATING COMMITTEE.—

"(1) IN GENERAL.—There shall be established a Trauma Research Interagency Coordinating Committee (hereafter in this section referred to as the 'Coordinating Committee').

"(2) DUTIES.—The Coordinating Committee shall make recommendations regarding—

"(A) the activities of the Program to be carried out by each of the agencies represented on the Committee and the amount of funds needed by each of the agencies for such activities; and

"(B) effective collaboration among the agencies in carrying out the activities.

"(3) COMPOSITION.—The Coordinating Committee shall be composed of the Directors of each of the agencies that, under subsection (c), have responsibilities under the Program, and any other individuals who are practitioners in the trauma field as designated by the Director of the National Institutes of Health.

"(h) DEFINITIONS.—For purposes of this section:

"(1) The term 'designated trauma center' has the meaning given such term in section 1231(1).

"(2) The term 'Director' means the Director of the National Institutes of Health.

"(3) The term 'trauma' means any serious injury that could result in loss of life or in significant disability and that would meet pre-hospital triage criteria for transport to a designated trauma center.".

(b) CONFORMING AMENDMENT.—Section 402 of the Public Health Service Act, as amended by section 208(c) of this Act, is amended by adding at the end the following new subsection:

"(k) The Director of NIH shall carry out the program established in part E of title XII (relating to interagency research on trauma).".

TITLE IV—NATIONAL CANCER INSTITUTE

SEC. 401. EXPANSION AND INTENSIFICATION OF ACTIVITIES REGARDING BREAST CANCER.

Subpart 1 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following new section:

"BREAST AND GYNECOLOGICAL CANCERS

"SEC. 417. (a) EXPANSION AND COORDINATION OF ACTIVITIES.—The Director of the Institute, in consultation with the National Cancer Advisory Board, shall expand, intensify, and coordinate the activities of the Institute with respect to research on breast cancer, ovarian cancer, and other cancers of the reproductive system of women.

"(b) COORDINATION WITH OTHER INSTITUTES.—The Director of the Institute shall coordinate the activities of the Director under subsection (a) with similar activities conducted by other national research institutes and agencies of the National Institutes of Health to the extent that such Institutes and agencies have responsibilities that are related to breast cancer and other cancers of the reproductive system of women.

"(c) PROGRAMS FOR BREAST CANCER.—

"(1) IN GENERAL.—In carrying out subsection (a), the Director of the Institute shall conduct or support research to expand the understanding of the cause of, and to find a cure for, breast cancer. Activities under such subsection shall provide for an expansion and intensification of the conduct and support of—

"(A) basic research concerning the etiology and causes of breast cancer;

"(B) clinical research and related activities concerning the causes, prevention, detection and treatment of breast cancer;

"(C) control programs with respect to breast cancer in accordance with section 412;

"(D) information and education programs with respect to breast cancer in accordance with section 413; and

"(E) research and demonstration centers with respect to breast cancer in accordance with section 414, including the development and operation of centers for breast cancer research to bring together basic and clinical, biomedical and behavioral scientists to conduct basic, clinical, epidemiological, psychosocial, prevention and treatment research and related activities on breast cancer.

Not less than six centers shall be operated under subparagraph (E). Activities of such centers should include supporting new and innovative research and training programs for new researchers. Such centers shall give priority to expediting the transfer of research advances to clinical applications.

"(2) IMPLEMENTATION OF PLAN FOR PROGRAMS.—

"(A) The Director of the Institute shall ensure that the research programs described in paragraph (1) are implemented in accordance with a plan for the programs. Such plan shall include comments and recommendations that the Director of the Institute considers appropriate, with due consideration provided to the professional judgment needs of the Institute as expressed in the annual budget estimate prepared in accordance with section 413(9). The Director of the Institute, in consultation with the National Cancer Advisory Board, shall periodically review and revise such plan.

"(B) Not later than May 1, 1993, the Director of the Institute shall submit a copy of the plan to the President's Cancer Panel, the Secretary and the Director of NIH.

"(C) The Director of the Institute shall submit any revisions of the plan to the President's Cancer Panel, the Secretary, and the Director of NIH.

"(D) The Secretary shall provide a copy of the plan submitted under subparagraph (A), and any revisions submitted under subparagraph (C), to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

"(d) OTHER CANCERS.—In carrying out subsection (a), the Director of the Institute shall conduct or support research on ovarian cancer and other cancers of the reproductive system of women. Activities under such subsection shall provide for the conduct and support of—

"(1) basic research concerning the etiology and causes of ovarian cancer and other cancers of the reproductive system of women;

"(2) clinical research and related activities into the causes, prevention, detection and treatment of ovarian cancer and other cancers of the reproductive system of women;

"(3) control programs with respect to ovarian cancer and other cancers of the reproductive system of women in accordance with section 412;

"(4) information and education programs with respect to ovarian cancer and other cancers of the reproductive system of women in accordance with section 413; and

"(5) research and demonstration centers with respect to ovarian cancer and cancers of the reproductive system in accordance with section 414.

"(e) REPORT.—The Director of the Institute shall prepare, for inclusion in the biennial report submitted under section 407, a report that describes the activities of the National Cancer Institute under the research programs referred to in subsection (a), that shall include—

"(1) a description of the research plan with respect to breast cancer prepared under subsection (c);

"(2) an assessment of the development, revision, and implementation of such plan;

"(3) a description and evaluation of the progress made, during the period for which such report is prepared, in the research programs on breast cancer and cancers of the reproductive system of women;

"(4) a summary and analysis of expenditures made, during the period for which such report is made, for activities with respect to breast cancer and cancers of the reproductive system of women conducted and supported by the National Institutes of Health; and

"(5) such comments and recommendations as the Director considers appropriate.".

SEC. 402. EXPANSION AND INTENSIFICATION OF ACTIVITIES REGARDING PROSTATE CANCER.

Subpart 1 of part C of title IV of the Public Health Service Act, as amended by section 401 of this Act, is amended by adding at the end the following new section:

"PROSTATE CANCER

"SEC. 417A. (a) EXPANSION AND COORDINATION OF ACTIVITIES.—The Director of the Institute, in consultation with the National Cancer Advisory Board, shall expand, intensify, and coordinate the activities of the Institute with respect to research on prostate cancer.

"(b) COORDINATION WITH OTHER INSTITUTES.—The Director of the Institute shall coordinate the activities of the Director under subsection (a) with similar activities conducted by other national research institutes and agencies of the National Institutes of Health to the extent that such Institutes and agencies have responsibilities that are related to prostate cancer.

"(c) PROGRAMS.—

"(1) IN GENERAL.—In carrying out subsection (a), the Director of the Institute shall conduct or support research to expand the understanding of the cause of, and to find a cure for, prostate cancer. Activities under such subsection shall provide for an expansion and intensification of the conduct and support of—

"(A) basic research concerning the etiology and causes of prostate cancer;

"(B) clinical research and related activities concerning the causes, prevention, detection and treatment of prostate cancer;

"(C) prevention and control and early detection programs with respect to prostate cancer in accordance with section 412, particularly as it relates to intensifying research on the role of prostate specific antigen for the screening and early detection of prostate cancer;

"(D) an Inter-Institute Task Force, under the direction of the Director of the Institute, to provide coordination between relevant National Institutes of Health components of research efforts on prostate cancer;

"(E) control programs with respect to prostate cancer in accordance with section 412;

"(F) information and education programs with respect to prostate cancer in accordance with section 413; and

"(G) research and demonstration centers with respect to prostate cancer in accordance with section 414, including the development and operation of centers for prostate cancer research to bring together basic and clinical, biomedical and behavioral scientists to conduct basic, clinical, epidemiological, psychosocial, prevention and treatment research and related activities on prostate cancer.

Not less than six centers shall be operated under subparagraph (G). Activities of such centers should include supporting new and innovative research and training programs for new researchers. Such centers shall give priority to expediting the transfer of research advances to clinical applications.

"(2) IMPLEMENTATION OF PLAN FOR PROGRAMS.—

"(A) The Director of the Institute shall ensure that the research programs described in paragraph (1) are implemented in accordance with a plan for the programs. Such plan shall include comments and recommendations that the Director of the Institute considers appropriate, with due consideration provided to the professional judgment needs of the Institute as expressed in the annual budget estimate prepared in accordance with section 413(9). The Director of the Institute, in consultation with the National Cancer Advisory Board, shall periodically review and revise such plan.

"(B) Not later than May 1, 1993, the Director of the Institute shall submit a copy of the plan to the President's Cancer Panel, the Secretary and the Director of NIH.

"(C) The Director of the Institute shall submit any revisions of the plan to the President's Cancer Panel, the Secretary, and the Director of NIH.

"(D) The Secretary shall provide a copy of the plan submitted under subparagraph (A), and any revisions submitted under subparagraph (C), to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.".

SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subpart 1 of part C of title IV of the Public Health Service Act, as amended by section 402 of this Act, is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 417B. (a) ACTIVITIES GENERALLY.—For the purpose of carrying out this subpart, there are authorized to be appropriated $2,200,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(b) BREAST CANCER AND GYNECOLOGICAL CANCERS.—

"(1) BREAST CANCER.—

"(A) For the purpose of carrying out subparagraph (A) of section 417(c)(1), there are authorized to be appropriated $225,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) with respect to such purpose.

"(B) For the purpose of carrying out subparagraphs (B) through (E) of section 417(c)(1), there are authorized to be appropriated $100,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) with respect to such purpose.

"(2) OTHER CANCERS.—For the purpose of carrying out subsection (d) of section 417, there are authorized to be appropriated $75,000,000 for fiscal year 1994, and such sums as are necessary for each of the fiscal years 1995 and 1996. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) with respect to such purpose.

"(c) PROSTATE CANCER.—For the purpose of carrying out section 417A, there are authorized to be appropriated $72,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) with respect to such purpose.

"(d) ALLOCATION REGARDING CANCER CONTROL.—Of the amounts appropriated for the National Cancer Institute for a fiscal year, the Director of the Institute is authorized to make available not less than 10 percent for carrying out the cancer control activities authorized in section 412 and for which budget estimates are made under section 413(b)(9) for the fiscal year.".

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 408 of the Public Health Service Act (42 U.S.C. 284c) is amended—

(A) by striking subsection (a);

(B) by redesignating subsection (b) as subsection (a);

(C) by redesignating paragraph (5) of subsection (a) (as so redesignated) as subsection (b); and

(D) by amending the heading for the section to read as follows:

"CERTAIN USES OF FUNDS".

(2) CROSS-REFERENCE.—Section 464F of the Public Health Service Act (42 U.S.C. 285m–6) is amended by striking "section 408(b)(1)" and inserting "section 408(a)(1)".

TITLE V—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

SEC. 501. EDUCATION AND TRAINING.

Section 421(b) of the Public Health Service Act (42 U.S.C. 285b–3(b)) is amended—

(1) in paragraph (3), by striking "and" after the semicolon at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) shall, in consultation with the advisory council for the Institute, conduct appropriate intramural training and education programs, including continuing education and laboratory and clinical research training programs.".

SEC. 502. CENTERS FOR THE STUDY OF PEDIATRIC CARDIOVASCULAR DISEASES.

Section 422(a)(1) of the Public Health Service Act (42 U.S.C. 285b–4(a)(1)) is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking the period and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) three centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment (including genetic studies, intrauterine environment studies, postnatal studies, heart arrhythmias, and acquired heart disease and preventive cardiology) for cardiovascular diseases in children.".

SEC. 503. NATIONAL CENTER ON SLEEP DISORDERS RESEARCH.

Subpart 2 of part C of title IV of the Public Health Service Act (42 U.S.C. 285b et seq.) is amended by adding at the end the following new section:

"NATIONAL CENTER ON SLEEP DISORDERS RESEARCH

"SEC. 424. (a) Not later than 1 year after the date of the enactment of the National Institutes of Health Revitalization Act of 1993, the Director of the Institute shall establish the National Center on Sleep Disorders Research (in this section referred to as the 'Center'). The Center shall be headed by a director, who shall be appointed by the Director of the Institute.

"(b) The general purpose of the Center is—

"(1) the conduct and support of research, training, health information dissemination, and other activities with respect to sleep disorders, including biological and circadian rhythm research, basic understanding of sleep, chronobiological and other sleep related research; and

"(2) to coordinate the activities of the Center with similar activities of other Federal agencies, including the other agencies of the National Institutes of Health, and similar activities of other public entities and nonprofit entities.

"(c)(1) The Director of the National Institutes of Health shall establish a committee to be known as the Sleep Disorders Coordinating Committee (hereafter in this section referred to as the 'Coordinating Committee').

"(2) The Coordinating Committee shall be composed of the directors of the National Institutes of Health, the National Institute on Aging, the National Institute of Child Health and Human Development, the National Heart, Lung and Blood Institute, the National Institute of Neurological Disorders and Stroke, the National Institute of Mental Health, and of such other national research institutes as the Director of the National Institutes of Health determines to be appropriate, and shall include representation from other Federal departments and agencies whose programs involve sleep disorders.

"(3) The Director of the National Health, Lung, and Blood Institute shall serve as the chairperson of the Coordinating Committee.

"(4) The Coordinating Committee shall make recommendations to the Director of the National Institutes of Health and the Director of the Center with respect to the content of the plan required in subsection (e), with respect to the activities of the Center that are carried out in conjunction with other agencies of the National Institutes of Health, and with respect to the activities of the Center that are carried out in conjunction with other agencies of the Federal Government.

"(d)(1) The Director of the National Institutes of Health shall establish a board to be known as the Sleep Disorders Research Advisory Board (hereafter in this section referred to as the 'Advisory Board').

"(2) The Advisory Board shall advise, assist, consult with, and make recommendations to the Director of the National Institutes of Health, through the Director of the Institute, and the Director of the Center concerning matters relating to the scientific activities carried out by and through the Center and the policies respecting such activities, including recommendations with respect to the plan required in subsection (c).

"(3)(A) The Director of the National Institutes of Health shall appoint to the Advisory Board 12 appropriately qualified representatives of the public who are not officers or employees of the Federal Government. Of such members, eight shall be representatives of health and scientific disciplines with respect to sleep disorders and four shall be individuals representing the interests of individuals with or undergoing treatment for sleep disorders.

"(B) The following officials shall serve as ex officio members of the Advisory Board:

"(i) The Director of the National Institutes of Health.

"(ii) The Director of the Center.

"(iii) The Director of the National Heart, Lung and Blood Institute.

"(iv) The Director of the National Institute of Mental Health.

"(v) The Director of the National Institute on Aging.

"(vi) The Director of the National Institute of Child Health and Human Development.

"(vii) The Director of the National Institute of Neurological Disorders and Stroke.

"(viii) The Assistant Secretary for Health.

"(ix) The Assistant Secretary of Defense (Health Affairs).

"(x) The Chief Medical Director of the Veterans' Administration.

"(4) The members of the Advisory Board shall, from among the members of the Advisory Board, designate an individual to serve as the chairperson of the Advisory Board.

"(5) Except as inconsistent with, or inapplicable to, this section, the provisions of section 406 shall apply to the advisory board established under this section in the same manner as such provisions apply to any advisory council established under such section.

"(e)(1) After consultation with the Director of the Center, the advisory board established under subsection (d), and the coordinating committee established under subsection (c), the Director of the National Institutes of Health shall develop a comprehensive plan for the conduct and support of sleep disorders research.

"(2) The plan developed under paragraph (1) shall identify priorities with respect to such research and shall provide for the coordination of such research conducted or supported by the agencies of the National Institutes of Health.

"(3) The Director of the National Institutes of Health (after consultation with the Director of the Center, the advisory board established under subsection (d), and the coordinating committee established under subsection (c)) shall revise the plan developed under paragraph (1) as appropriate.".

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

Subpart 2 of part C of title IV of the Public Health Service Act, as amended by section 503 of this Act, is amended by adding at the end the following section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 425. (a) For the purpose of carrying out this subpart, there are authorized to be appropriated $1,500,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(b) Of the amounts appropriated under paragraph (1) for a fiscal year, the Director of the Institute is authorized to make available not less than 10 percent for carrying out community-based prevention and control activities that include clinical investigations, clinical trials, epidemiologic studies, and prevention demonstration and education projects.".

TITLE VI—NATIONAL INSTITUTE ON DIABETES AND DIGESTIVE AND KIDNEY DISEASES

SEC. 601. PROVISIONS REGARDING NUTRITIONAL DISORDERS.

Subpart 3 of part C of title IV of the Public Health Service Act (42 U.S.C. 285c et seq.) is amended by adding at the end the following new section:

"NUTRITIONAL DISORDERS PROGRAM

"SEC. 434. (a) The Director of the Institute shall establish a program of conducting and supporting research, training, health information dissemination, and other activities with respect to nutritional disorders, including obesity.

"(b) In carrying out the program established under subsection (a), the Director of the Institute shall conduct and support each of the activities described in such subsection. The Director of NIH shall ensure that, as appropriate, the other national research institutes and agencies of the National Institutes of Health have responsibilities regarding such activities.

"(c) In carrying out the program established under subsection (a), the Director of the Institute shall carry out activities to facilitate and enhance knowledge and understanding of nutritional disorders, including obesity, on the part of health professionals, patients, and the public through the effective dissemination of information.".

(b) DEVELOPMENT AND EXPANSION OF RESEARCH AND TRAINING CENTERS.—Section 431 of the Public Health Service Act (42 U.S.C. 285c–5) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) The Director of the Institute shall, subject to the extent of amounts made available in appropriations Acts, provide for the development or substantial expansion of centers for research and training regarding nutritional disorders, including obesity.

"(2) The Director of the Institute shall carry out paragraph (1) in collaboration with the Director of the National Cancer Institute and with the Directors of such other agencies of the National Institutes of Health as the Director of NIH determines to be appropriate.

"(3) Each center developed or expanded under paragraph (1) shall—

"(A) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research and training qualifications as may be prescribed by the Director;

"(B) conduct basic and clinical research into the cause, diagnosis, early detection, prevention, control and treatment of nutritional disorders, including obesity and the impact of nutrition and diet on child development;

"(C) conduct training programs for physicians and allied health professionals in current methods of diagnosis and treatment of such diseases and complications, and in research in such disorders; and

"(D) conduct information programs for physicians and allied health professionals who provide primary care for patients with such disorders or complications.".

TITLE VII—NATIONAL INSTITUTE ON ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

SEC. 701. JUVENILE ARTHRITIS.

(a) PURPOSE.—Section 435 of the Public Health Service Act (42 U.S.C. 285d) is amended by striking "and other programs" and all that follows and inserting the following: "and other programs with respect to arthritis and musculoskeletal and skin diseases (including sports-related disorders), with particular attention to the effect of these diseases on children.".

(b) PROGRAMS.—Section 436 (42 U.S.C. 285d–1) is amended—

(1) in subsection (a), by inserting after the second sentence, the following: "The plan shall place particular emphasis upon expanding research into better understanding the causes and the development of effective treatments for arthritis affecting children."; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) research into the causes of arthritis affecting children and the development, trial, and evaluation of techniques, drugs and devices used in the diagnosis, treatment (including medical rehabilitation), and prevention of arthritis in children.".

(c) CENTERS.—Section 441 of the Public Health Service Act (42 U.S.C. 286d–6) is amended by adding at the end thereof the following new subsection:

"(f) Not later than October 1, 1994, the Director shall establish a multipurpose arthritis and musculoskeletal disease center for the purpose of expanding the level of research into the cause, diagnosis, early detection, prevention, control, and treatment of, and rehabilitation of children with arthritis and musculoskeletal diseases.".

(d) ADVISORY BOARD.—

(1) TITLE.—Section 442(a) of the Public Health Service Act (42 U.S.C. 285d–7(a)) is amended by inserting after "Arthritis" the first place such term appears the following: "and Musculoskeletal and Skin Diseases".

(2) COMPOSITION.—Section 442(b) of the Public Health Service Act (42 U.S.C. 285d–7(b)) is amended—Section 442(b) of the Public Health Service Act (42 U.S.C. 285d–7(b)) is amended—

(A) in the matter preceding paragraph (1), by striking "eighteen" and inserting "twenty"; and

(B) in paragraph (1)(B)—

(i) by striking "six" and inserting "eight"; and

(ii) by striking "including" and all that follows and inserting the following: "including one member who is a person who has such a disease, one person who is the parent of an adult with such a disease, and two members who are parents of children with arthritis.".

(3) ANNUAL REPORT.—Section 442(j) of the Public Health Service Act (42 U.S.C. 285d–7(j)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following paragraph:

"(5) contains recommendations for expanding the Institute's funding of research directly applicable to the cause, diagnosis, early detection, prevention, control, and treatment of, and rehabilitation of children with arthritis and musculoskeletal diseases.".

TITLE VIII—NATIONAL INSTITUTE ON AGING

SEC. 801. ALZHEIMER'S DISEASE REGISTRY.

(a) IN GENERAL.—Section 12 of Public Law 99–158 (99 Stat. 885) is—

(1) transferred to subpart 5 of part C of title IV of the Public Health Service Act (42 U.S.C. 285e et seq.);

(2) redesignated as section 445G; and

(3) inserted after section 445F of such Act.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 445G of the Public Health Service Act, as transferred and inserted by subsection (a) of this section, is amended—

(1) by striking the section heading and all that follows through "may make a grant" in subsection (a) and inserting the following:

"ALZHEIMER'S DISEASE REGISTRY

"SEC. 445G. (a) IN GENERAL.—The Director of the Institute may make a grant"; and

(2) by striking subsection (c).

SEC. 802. AGING PROCESSES REGARDING WOMEN.

Subpart 5 of part C of title IV of the Public Health Service Act, as amended by section 801 of this Act, is amended by adding at the end the following new section:

"AGING PROCESSES REGARDING WOMEN

"SEC. 445H. The Director of the Institute, in addition to other special functions specified in section 444 and in cooperation with the Directors of the other national research institutes and agencies of the National Institutes of Health, shall conduct research into the aging processes of women, with particular emphasis given to the effects of menopause and the physiological and behavioral changes occurring during the transition from pre- to post-menopause, and into the diagnosis, disorders, and complications related to aging and loss of ovarian hormones in women.".

SEC. 803. AUTHORIZATION OF APPROPRIATIONS.

Subpart 5 of part C of title IV of the Public Health Service Act, as amended by section 802 of this Act, is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 445I. For the purpose of carrying out this subpart, there are authorized to be appropriated $500,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 804. CONFORMING AMENDMENT.

Section 445C of the Public Health Service Act (42 U.S.C. 285e–5(b)) is amended—

(1) in subsection (b)(1), in the first sentence, by inserting after "Council" the following: "on Alzheimer's Disease (hereafter in this section referred to as the 'Council')"; and

(2) by adding at the end the following new subsection:

"(d) For purposes of this section, the term 'Council on Alzheimer's Disease' means the council established in section 911(a) of Public Law 99–660.".

TITLE IX—NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

SEC. 901. TROPICAL DISEASES.

Section 446 of the Public Health Service Act (42 U.S.C. 285f) is amended by inserting before the period the following: ", including tropical diseases".

SEC. 902. CHRONIC FATIGUE SYNDROME.

(a) RESEARCH CENTERS.—Subpart 6 of part C of title IV of the Public Health Service Act (42 U.S.C. 285f) is amended by adding at the end the following new section:

"RESEARCH CENTERS REGARDING CHRONIC FATIGUE SYNDROME

"SEC. 447. (a) The Director of the Institute, after consultation with the advisory council for the Institute, may make grants to, or enter into contracts with, public or nonprofit private entities for the development and operation of centers to conduct basic and clinical research on chronic fatigue syndrome.

"(b) Each center assisted under this section shall use the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Director of the Institute.".

(b) EXTRAMURAL STUDY SECTION.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall establish an extramural study section for chronic fatigue syndrome research.

(c) REPRESENTATIVES.—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall ensure that appropriate individuals with expertise in chronic fatigue syndrome or neuromuscular diseases and representative of a variety of disciplines and fields within the research community are appointed to appropriate National Institutes of Health advisory committees and boards.

TITLE X—NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

Subtitle A—Research Centers With Respect to Contraception and Research Centers With Respect to Infertility

SEC. 1001. GRANTS AND CONTRACTS FOR RESEARCH CENTERS.

Subpart 7 of part C of title IV of the Public Health Service Act, as amended by section 3 of Public Law 101–613, is amended by adding at the end the following new section:

"RESEARCH CENTERS WITH RESPECT TO CONTRACEPTION AND INFERTILITY

"SEC. 452A. (a) The Director of the Institute, after consultation with the advisory council for the Institute, shall make grants to, or enter into contracts with, public or nonprofit private entities for the development and operation of centers to conduct activities for the purpose of improving methods of contraception and centers to conduct activities for the purpose of improving methods of diagnosis and treatment of infertility.

"(b) In carrying out subsection (a), the Director of the Institute shall, subject to the extent of amounts made available in appropriations Acts, provide for the establishment of three centers with respect to contraception and for two centers with respect to infertility.

"(c)(1) Each center assisted under this section shall, in carrying out the purpose of the center involved—

"(A) conduct clinical and other applied research, including—

"(i) for centers with respect to contraception, clinical trials of new or improved drugs and devices for use by males and females (including barrier methods); and

"(ii) for centers with respect to infertility, clinical trials of new or improved drugs and devices for the diagnosis and treatment of infertility in males and females;

"(B) develop protocols for training physicians, scientists, nurses, and other health and allied health professionals;

"(C) conduct training programs for such individuals;

"(D) develop model continuing education programs for such professionals; and

"(E) disseminate information to such professionals and the public.

"(2) A center may use funds provided under subsection (a) to provide stipends for health and allied health professionals enrolled in programs described in subparagraph (C) of paragraph (1), and to provide fees to individuals serving as subjects in clinical trials conducted under such paragraph.

"(d) The Director of the Institute shall, as appropriate, provide for the coordination of information among the centers assisted under this section.

"(e) Each center assisted under subsection (a) shall use the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Director of the Institute.

"(f) Support of a center under subsection (a) may be for a period not exceeding 5 years. Such period may be extended for one or more additional periods not exceeding 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

"(g) For the purpose of carrying out this section, there are authorized to be appropriated $30,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 1002. LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO CONTRACEPTION AND INFERTILITY.

Part G of title IV of the Public Health Service Act, as redesignated by section 141(a)(2) of this Act, is amended by inserting after section 487A the following section:

"LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO CONTRACEPTION AND INFERTILITY

"SEC. 487B. (a) The Secretary, in consultation with the Director of the National Institute of Child Health and Human Development, shall establish a program of entering into agreements with qualified health professionals (including graduate students) under which such health professionals agree to conduct research with respect to contraception, or with respect to infertility, in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such health professionals.

"(b) The provisions of sections 338B, 338C, and 338E shall apply to the program established in subsection (a) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III.

"(c) Amounts appropriated for carrying out this section shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.".

Subtitle B—Program Regarding Obstetrics and Gynecology

SEC. 1011. ESTABLISHMENT OF PROGRAM.

Subpart 7 of part C of title IV of the Public Health Service Act, as amended by section 1001 of this Act, is amended by adding at the end the following new section:

"PROGRAM REGARDING OBSTETRICS AND GYNECOLOGY

"SEC. 452B. The Director of the Institute shall establish and maintain within the Institute an intramural laboratory and clinical research program in obstetrics and gynecology.".

Subtitle C—Child Health Research Centers

SEC. 1021. ESTABLISHMENT OF CENTERS.

Subpart 7 of part C of title IV of the Public Health Service Act, as amended by section 1011 of this Act, is amended by adding at the end the following new section:

"CHILD HEALTH RESEARCH CENTERS

"SEC. 452C. The Director of the Institute shall develop and support centers for conducting research with respect to child health. Such centers shall give priority to the expeditious transfer of advances from basic science to clinical applications and improving the care of infants and children.".

Subtitle D—Study Regarding Adolescent Health

SEC. 1031. PROSPECTIVE LONGITUDINAL STUDY.

Subpart 7 of part C of title IV of the Public Health Service Act, as amended by section 1021 of this Act, is amended by adding at the end the following new section:

"PROSPECTIVE LONGITUDINAL STUDY ON ADOLESCENT HEALTH

"SEC. 452D. (a) In General.—Not later than November 1, 1993, the Director of the Institute shall initiate a 3-year study for the purpose of providing information on the general health and well-being of adolescents in the United States, including, with respect to such adolescents, information on—

"(1) the behaviors that promote health and the behaviors that are detrimental to health; and

"(2) the influence on health of factors particular to the communities in which the adolescents reside.

"(b) Design of Study.—

"(1) In general.—The study required in subsection (a) shall be a longitudinal study in which a substantial number of adolescents participate as subjects. With respect to the purpose described in such subsection, the study shall monitor the subjects throughout the period of the study to determine the health status of the subjects and any change in such status over time.

"(2) Population-specific analyses.—The study required in subsection (a) shall be conducted with respect to the population of adolescents who are female, the population of adolescents who are male, various socioeconomic populations of adolescents, and various racial and ethnic populations of adolescents. The study shall be designed and conducted in a manner sufficient to provide for a valid analysis of whether there are significant differences among such populations in health status and whether and to what extent any such differences are due to factors particular to the populations involved.

"(c) Coordination With Women's Health Initiative.—With respect to the national study of women being conducted by the Secretary and known as the Women's Health Initiative, the Secretary shall ensure that such study is coordinated with the component of the study required in subsection (a) that concerns adolescent females, including coordination in the design of the 2 studies.".

TITLE XI—NATIONAL EYE INSTITUTE

SEC. 1101. CLINICAL AND HEALTH SERVICES RESEARCH ON EYE CARE AND DIABETES.

(a) In General.—Subpart 9 of part C of title IV of the Public Health Service Act (42 U.S.C. 285i) is amended by adding at the end the following new section:

"CLINICAL RESEARCH ON EYE CARE AND DIABETES

"SEC. 456. (a) Program of Grants.—The Director of the Institute, in consultation with the advisory council for the Institute, may award research grants to one or more Diabetes Eye Research Institutions for the support of programs in clinical or health services aimed at—

"(1) providing comprehensive eye care services for people with diabetes, including a full complement of preventive, diagnostic and treatment procedures;

"(2) developing new and improved techniques of patient care through basic and clinical research;

"(3) assisting in translation of the latest research advances into clinical practice; and

"(4) expanding the knowledge of the eye and diabetes through further research.

"(b) Use of Funds.—Amounts received under a grant awarded under this section shall be used for the following:

"(1) Establishing the biochemical, cellular, and genetic mechanisms associated with diabetic eye disease and the earlier detection of pending eye abnormalities. The focus of work under this paragraph shall require that ophthalmologists have training in the most up-to-date molecular and cell biological methods.

"(2) Establishing new frontiers in technology, such as video-based diagnostic and research resources, to—

"(A) provide improved patient care;

"(B) provide for the evaluation of retinal physiology and its affect on diabetes; and

"(C) provide for the assessment of risks for the development and progression of diabetic eye disease and a more immediate evaluation of various therapies aimed at preventing diabetic eye disease.

Such technologies shall be designed to permit evaluations to be performed both in humans and in animal models.

"(3) The translation of the results of vision research into the improved care of patients with diabetic eye disease. Such translation shall require the application of institutional resources that encompass patient care, clinical research and basic laboratory research.

"(4) The conduct of research concerning the outcomes of eye care treatments and eye health education programs as they relate to patients with diabetic eye disease, including the evaluation of regional approaches to such research.

"(c) Authorized Expenditures.—The purposes for which a grant under subsection (a) may be expended include equipment for the research described in such subsection and the construction and modernization of facilities for such research.".

(b) Conforming Amendment.—Section 455 of the Public Health Service Act (42 U.S.C. 285i) is amended in the second sentence by striking "The Director" and inserting "Subject to section 456, the Director".

TITLE XII—NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

SEC. 1201. RESEARCH ON MULTIPLE SCLEROSIS.

Subpart 10 of part C of title IV of the Public Health Service Act (42 U.S.C. 285j et seq.) is amended by adding at the end the following new section:

"RESEARCH ON MULTIPLE SCLEROSIS

"SEC. 460. The Director of the Institute shall conduct and support research on multiple sclerosis, especially research on effects of genetics and hormonal changes on the progress of the disease.".

TITLE XIII—NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

SEC. 1301. APPLIED TOXICOLOGICAL RESEARCH AND TESTING PROGRAM.

(a) In General.—Subpart 12 of part C of title IV of the Public Health Service Act (42 U.S.C. 285l) is amended by adding at the end the following new section:

"APPLIED TOXICOLOGICAL RESEARCH AND TESTING PROGRAM

"SEC. 463A. (a) There is established within the Institute a program for conducting applied research and testing regarding toxicology, which program shall be known as the Applied Toxicological Research and Testing Program.

"(b) In carrying out the program established under subsection (a), the Director of the Institute shall, with respect to toxicology, carry out activities—

"(1) to expand knowledge of the health effects of environmental agents;

"(2) to broaden the spectrum of toxicology information that is obtained on selected chemicals;

"(3) to develop and validate assays and protocols, including alternative methods that can reduce or eliminate the use of animals in acute or chronic safety testing;

"(4) to establish criteria for the validation and regulatory acceptance of alternative testing and to recommend a process through which scientifically validated alternative methods can be accepted for regulatory use;

"(5) to communicate the results of research to government agencies, to medical, scientific, and regulatory communities, and to the public; and

"(6) to integrate related activities of the Department of Health and Human Services.".

(b) Technical Amendment.—Section 463 of the Public Health Service Act (42 U.S.C. 285l) is amended by inserting after "Sciences" the following: "(hereafter in this subpart referred to as the 'Institute')".

TITLE XIV—NATIONAL LIBRARY OF MEDICINE

Subtitle A—General Provisions

SEC. 1401. ADDITIONAL AUTHORITIES.

(a) In General.—Section 465(b) of the Public Health Service Act (42 U.S.C. 286(b)) is amended—

(1) by striking "and" after the semicolon at the end of paragraph (5);

(2) by redesignating paragraph (6) as paragraph (8); and

(3) by inserting after paragraph (5) the following new paragraphs:

"(6) publicize the availability from the Library of the products and services described in any of paragraphs (1) through (5);

"(7) promote the use of computers and telecommunications by health professionals (including health professionals in rural areas) for the purpose of improving access to biomedical information for health care delivery and medical research; and".

(b) Limitation Regarding Grants.—Section 474(b)(2) of the Public Health Service Act (42 U.S.C. 286b–S(b)(2)) is amended by striking "$750,000" and inserting "$1,000,000".

(c) Technical and Conforming Amendments.—

(1) Repeal of certain authority.—Section 215 of the Department of Health and Human Services Appropriations Act, 1988, as contained in section 101(h) of Public Law 100–202 (101 Stat. 1329–275), is repealed.

(2) Applicability of certain new authority.—With respect to the authority established for the National Library of Medicine in section 465(b)(6) of the Public Health Service Act, as added by subsection (a) of this section, such authority shall be effective as if the authority had been established on December 22, 1987.

SEC. 1402. AUTHORIZATION OF APPROPRIATIONS.

(a) Establishment of Single Authorization.—Subpart 1 of part D of title IV of the Public Health Service Act (42 U.S.C. 286 et seq.) is amended by adding at the end the following section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 468. (a) For the purpose of carrying out this part, there are authorized to be appropriated $150,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(b) Amounts appropriated under subsection (a) and made available for grants or contracts under any of sections 472 through 476 shall remain available until the end of the fiscal year following the fiscal year for which the amounts were appropriated.".

(b) CONFORMING AMENDMENTS.—Part D of title IV of the Public Health Service Act (42 U.S.C. 286 et seq.) is amended by striking section 469 and section 478(c).

Subtitle B—Financial Assistance

SEC. 1411. ESTABLISHMENT OF PROGRAM OF GRANTS FOR DEVELOPMENT OF EDUCATION TECHNOLOGIES.

Section 473 of the Public Health Service Act (42 U.S.C. 286b-4) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall make grants to public or nonprofit private institutions for the purpose of carrying out projects of research on, and development and demonstration of, new education technologies.

"(2) The purposes for which a grant under paragraph (1) may be made include projects concerning—

"(A) computer-assisted teaching and testing of clinical competence at health professions and research institutions;

"(B) the effective transfer of new information from research laboratories to appropriate clinical applications;

"(C) the expansion of the laboratory and clinical uses of computer-stored research databases; and

"(D) the testing of new technologies for training health care professionals.

"(3) The Secretary may not make a grant under paragraph (1) unless the applicant for the grant agrees to make the projects available with respect to—

"(A) assisting in the training of health professions students; and

"(B) enhancing and improving the capabilities of health professionals regarding research and teaching.".

Subtitle C—National Information Center on Health Services Research and Health Care Technology

SEC. 1421. ESTABLISHMENT OF CENTER.

Part D of title IV of the Public Health Service Act (42 U.S.C. 286 et seq.) is amended by adding at the end the following new subpart:

"Subpart 4—National Information Center on Health Services Research and Health Care Technology

"NATIONAL INFORMATION CENTER

"SEC. 478A. (a) There is established within the Library an entity to be known as the National Information Center on Health Services Research and Health Care Technology (in this section referred to as the 'Center').

"(b) The purpose of the Center is the collection, storage, analysis, retrieval, and dissemination of information on health services research, clinical practice guidelines, and on health care technology, including the assessment of such technology. Such purpose includes developing and maintaining data bases and developing and implementing methods of carrying out such purpose.

"(c) The Director of the Center shall ensure that information under subsection (b) concerning clinical practice guidelines is collected and maintained electronically and in a convenient format. Such Director shall develop and publish criteria for the inclusion of practice guidelines and technology assessments in the information center database.

"(d) The Secretary, acting through the Center, shall coordinate the activities carried out under this section through the Center with related activities of the Administrator for Health Care Policy and Research.".

SEC. 1422. CONFORMING PROVISIONS.

(a) IN GENERAL.—Section 903 of the Public Health Service Act, as amended by section 3 of Public Law 102-410 (106 Stat. 2094), is amended to read as follows:

"(e) REQUIRED INTERAGENCY AGREEMENT.—The Administrator and the Director of the National Library of Medicine shall enter into an agreement providing for the implementation of section 478A.".

(b) RULE OF CONSTRUCTION.—The amendments made by section 3 of Public Law 102-410 (106 Stat. 2094), by section 1421 of this Act, and by subsection (a) of this section may not be construed as terminating the information center on health care technologies and health care technology assessment established under section 904 of the Public Health Service Act, as in effect on the day before the date of the enactment of Public Law 102-410. Such center shall be considered to be the center established in section 478A of the Public Health Service Act, as added by section 1421 of this Act, and shall be subject to the provisions of such section 478A.

TITLE XV—OTHER AGENCIES OF NATIONAL INSTITUTES OF HEALTH

Subtitle A—Division of Research Resources

SEC. 1501. REDESIGNATION OF DIVISION AS NATIONAL CENTER FOR RESEARCH RESOURCES.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended—

(1) in section 401(b)(2)(B), by amending such subparagraph to read as follows:

"(B) The National Center for Research Resources."; and

(2) in part E—

(A) in the heading for subpart 1, by striking "Division of" and inserting "National Center for";

(B) in section 479, by striking "the Division of Research Resources" and inserting the following: "the National Center for Research Resources (hereafter in this subpart referred to as the 'Center')";

(C) in sections 480 and 481, by striking "the Division of Research Resources" each place such term appears and inserting "the Center"; and

(D) in sections 480 and 481, as amended by subparagraph (C), by striking "the Division" each place such term appears and inserting "the Center".

SEC. 1502. BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES.

Subpart 1 of part E of title IV of the Public Health Service Act (42 U.S.C. 287 et seq.) is amended by adding at the end the following new section:

"BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES

"SEC. 481A. (a) MODERNIZATION AND CONSTRUCTION OF FACILITIES.—

"(1) IN GENERAL.—The Director of NIH, acting through the Director of the Center, may make grants to public and nonprofit private entities to expand, remodel, renovate, or alter existing research facilities or construct new research facilities, subject to the provisions of this section.

"(2) CONSTRUCTION AND COST OF CONSTRUCTION.—For purposes of this section, the terms 'construction' and 'cost of construction' include the construction of new buildings and the expansion, renovation, remodeling, and alteration of existing buildings, including architects' fees, but do not include the cost of acquisition of land or off-site improvements.

"(b) SCIENTIFIC AND TECHNICAL REVIEW BOARDS FOR MERIT-BASED REVIEW OF PROPOSALS.—

"(1) IN GENERAL; APPROVAL AS PRECONDITION TO GRANTS.—

"(A) There is established within the Center a Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities (hereafter referred to in this section as the 'Board').

"(B) The Director of the Center may approve an application for a grant under subsection (a) only if—

"(i) the Board has under paragraph (2) recommended the application for approval; or

"(ii) the Director makes a written determination (setting forth in detail the Director's reasons for rejecting the recommendations of the Board) to approve a grant despite the adverse recommendation of the Board.

"(2) DUTIES.—

"(A) The Board shall provide advice to the Director of the Center and the advisory council established under section 480 (hereafter in this section referred to as the 'Advisory Council') on carrying out this section.

"(B) In carrying out subparagraph (A), the Board shall make a determination of the merit of each application submitted for a grant under subsection (a), after consideration of the requirements established in subsection (c), and shall report the results of the determination to the Director of the Center and the Advisory Council. Such determinations shall be conducted in a manner consistent with procedures established under section 492.

"(C) In carrying out subparagraph (A), the Board shall, in the case of applications recommended for approval, make recommendations to the Director and the Advisory Council on the amount that should be provided in the grant.

"(D) In carrying out subparagraph (A), the Board shall prepare an annual report for the Director of the Center and the Advisory Council describing the activities of the Board in the fiscal year for which the report is made. Each such report shall be available to the public, and shall—

"(i) summarize and analyze expenditures made under this section;

"(ii) provide a summary of the types, numbers, and amounts of applications that were recommended for grants under subsection (a) but that were not approved by the Director of the Center; and

"(iii) contain the recommendations of the Board for any changes in the administration of this section.

"(3) MEMBERSHIP.—

"(A) Subject to subparagraph (B), the Board shall be composed of not more than 9 members appointed by the Secretary, acting through the Director of the National Institutes of Health, and ex officio members as the Director of the Center may determine.

"(B) Not more than 2 individuals who are officers or employees of the Federal Government may serve as members of the Board.

"(4) CERTAIN REQUIREMENTS REGARDING MEMBERSHIP.—In selecting individuals for membership on the Board, the Secretary shall ensure that the members are individuals who, by the virtue of their training or experience, are eminently qualified to perform peer review functions. In selecting such individuals for such membership, the Secretary shall ensure that the members of the Board collectively—

"(A) are experienced in the planning, construction, financing, and administration of entities that conduct biomedical or behavioral research sciences;

"(B) are knowledgeable in making determinations of the need of entities for biomedical or behavioral research facilities, including such facilities for the dentistry, nursing, pharmacy, and allied health professions;

"(C) are knowledgeable in evaluating the relative priorities for applications for grants under subsection (a) in view of the overall research needs of the United States; and

"(D) are experienced with emerging centers of excellence, as described in subsection (c)(3).

"(5) CERTAIN AUTHORITIES.—

"(A) In carrying out paragraph (2), the Board may establish subcommittees, convene workshops and conferences, and collect data as the Board considers appropriate.

"(B) In carrying out paragraph (2), the Board may establish subcommittees within the Board. Such subcommittees may hold meetings as determined necessary to enable the subcommittee to carry out its duties.

"(6) TERMS.—

"(A) Except as provided in subparagraph (B), each appointed member of the Board shall hold office for a term of 4 years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of the term of the predecessor.

"(B) Of the initial members appointed to the Board (as specified by the Secretary when making the appointments)—

"(i) 3 shall hold office for a term of 3 years;

"(ii) 3 shall hold office for a term of 2 years; and

"(iii) 3 shall hold office for a term of 1 year.

"(C) No member is eligible for reappointment to the Board until 1 year has elapsed after the end of the most recent term of the member.

"(7) COMPENSATION.—Members of board who are not officers or employees of the United States shall receive compensation for each day engaged in carrying out the duties of the board, including time engaged in traveling for purposes of such duties. Such compensation may not be provided in an amount in excess of the maximum rate of basic pay payable for GS–18 of the General Schedule.

"(c) REQUIREMENTS FOR GRANTS.—

"(1) IN GENERAL.—The Director of the Center may make a grant under subsection (a) only if the applicant for the grant meets the following conditions:

"(A) The applicant is determined by such Director to be competent to engage in the type of research for which the proposed facility is to be constructed.

"(B) The applicant provides assurances satisfactory to the Director that—

"(i) for not less than 20 years after completion of the construction, the facility will be used for the purposes of research for which it is to be constructed;

"(ii) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility;

"(iii) sufficient funds will be available, when construction is completed, for the effective use of the facility for the research for which it is being constructed; and

"(iv) the proposed construction will expand the applicant's capacity for research, or is necessary to improve or maintain the quality of the applicant's research.

"(C) The applicant meets reasonable qualifications established by the Director with respect to—

"(i) the relative scientific and technical merit of the applications, and the relative effectiveness of the proposed facilities, in expanding the capacity for biomedical or behavioral research and in improving the quality of such research;

"(ii) the quality of the research or training, or both, to be carried out in the facilities involved;

"(iii) the need of the applicant for such facilities in order to maintain or expand the applicant's research and training mission;

"(iv) the congruence of the research activities to be carried out within the facility with the research and investigator manpower needs of the United States; and

"(v) the age and condition of existing research facilities and equipment.

"(D) The applicant has demonstrated a commitment to enhancing and expanding the research productivity of the applicant.

"(2) CONSIDERATION OF CERTAIN FACTORS.—In making grants under subsection (a), the Director of the Center may, in addition to the requirements established in paragraph (1), consider the following factors:

"(A) To what extent the applicant has the capacity to broaden the scope of research and research training programs of the applicant by promoting—

"(i) interdisciplinary research;

"(ii) research on emerging technologies, including those involving novel analytical techniques or computational methods; or

"(iii) other novel research mechanisms or programs.

"(B) To what extent the applicant has broadened the scope of research and research training programs of qualified institutions by promoting genomic research with an emphasis on interdisciplinary research, including research related to pediatric investigations.

"(3) INSTITUTIONS OF EMERGING EXCELLENCE.—Of the amounts appropriated under subsection (i) for a fiscal year, the Director of the Center shall make available 25 percent for grants under subsection (a) to applicants that, in addition to meeting the requirements established in paragraph (1), have demonstrated emerging excellence in biomedical or behavioral research, as follows:

"(A) The applicant has a plan for research or training advancement and possesses the ability to carry out the plan.

"(B) The applicant carries out research and research training programs that have a special relevance to a problem, concern, or unmet health need of the United States.

"(C) The applicant has been productive in research or research development and training.

"(D) The applicant—

"(i) has been designated as a center of excellence under section 739;

"(ii) is located in a geographic area a significant percentage of whose population has a health-status deficit, and the applicant provides health services to such population; or

"(iii) is located in a geographic area in which a deficit in health care technology, services, or research resources may adversely affect health status of the population of the area in the future, and the applicant is carrying out activities with respect to protecting the health status of such population.

"(d) REQUIREMENT OF APPLICATION.—The Director of the Center may make a grant under subsection (a) only if an application for the grant is submitted to the Director and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out this section.

"(e) AMOUNT OF GRANT; PAYMENTS.—

"(1) AMOUNT.—The amount of any grant awarded under subsection (a) shall be determined by the Director of the Center, except that such amount shall not exceed—

"(A) 50 percent of the necessary cost of the construction of a proposed facility as determined by the Director; or

"(B) in the case of a multipurpose facility, 40 percent of that part of the necessary cost of construction that the Director determines to be proportionate to the contemplated use of the facility.

"(2) RESERVATION OF AMOUNTS.—On approval of any application for a grant under subsection (a), the Director of the Center shall reserve, from any appropriation available therefore, the amount of such grant, and shall pay such amount, in advance or by way of reimbursement, and in such installments consistent with the construction progress, as the Director may determine appropriate. The reservation of the Director of any amount by the Director under this paragraph may be amended by the Director, either on the approval of an amendment of the application or on the revision of the estimated cost of construction of the facility.

"(3) EXCLUSION OF CERTAIN COSTS.—In determining the amount of any grant under this subsection (a), there shall be excluded from the cost of construction an amount equal to the sum of—

"(A) the amount of any other Federal grant that the applicant has obtained, or is assured of obtaining, with respect to construction that is to be financed in part by a grant authorized under this section; and

"(B) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

"(4) WAIVER OF LIMITATIONS.—The limitations imposed by paragraph (1) may be waived at the discretion of the Director for applicants meeting the conditions described in paragraphs (1) and (2) of subsection (c).

"(f) RECAPTURE OF PAYMENTS.—If, not later than 20 years after the completion of construction for which a grant has been awarded under subsection (a)—

"(1) the applicant or other owner of the facility shall cease to be a public or nonprofit private entity; or

"(2) the facility shall cease to be used for the research purposes for which it was constructed (unless the Director determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the current value (as determined by an agreement between the parties or by action brought in the United States District Court for the district in which such facility is situated) of the facility as the amount of the Federal participation bore to the cost of the construction of such facility.

"(g) NONINTERFERENCE WITH ADMINISTRATION OF ENTITIES.—Except as otherwise specifically provided in this section, nothing contained in this part shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to the administration of any entity funded under this part.

"(h) GUIDELINES.—Not later than 6 months after the date of the enactment of this section, the Director of the Center, after consultation with the Advisory Council, shall issue guidelines with respect to grants under subsection (a).

"(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section and section 481B, there are authorized to be appropriated $150,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 1503. CONSTRUCTION PROGRAM FOR NATIONAL PRIMATE RESEARCH CENTER.

Subpart 1 of part E of title IV of the Public Health Service Act, as amended by section 1502 of this Act, is amended by adding at the end the following new section:

"CONSTRUCTION OF REGIONAL CENTERS FOR RESEARCH ON PRIMATES

"SEC. 481B. (a) The Director of the National Institutes of Health, acting through the Director of the National Center for Research Resources, may award grants and contracts to public or nonprofit private entities to construct, renovate, or otherwise improve such regional centers.

"(b) The Director of NIH may not make a grant or enter into a contract under subsection (a) unless the applicant for such assistance agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions in cash toward such costs in an amount equal to not less than $1 for each $4 of Federal funds provided in such assistance.

"(c) The Secretary may reserve not more than $7,000,000 of the amounts appropriated under section 481A(i) for each fiscal year to carry out this section.".

Subtitle B—National Center for Nursing Research

SEC. 1511. REDESIGNATION OF NATIONAL CENTER FOR NURSING RESEARCH AS NATIONAL INSTITUTE OF NURSING RESEARCH.

(a) IN GENERAL.—Subpart 3 of part E of title IV of the Public Health Service Act (42 U.S.C. 287c et seq.) is amended—

(1) in section 483—

(A) in the heading for the section, by striking "CENTER" and inserting "INSTITUTE"; and

(B) by striking "The general purpose" and all that follows through "is" and inserting the following: "The general purpose of the National Institute of Nursing Research (hereafter in this subpart referred to as the 'Institute') is";

(2) in section 484, by striking "Center" each place such term appears and inserting "Institute";

(3) in section 485—

(A) in subsection (a), in each of paragraphs (1) through (3), by striking "Center" each place such term appears and inserting "Institute";

(B) in subsection (b)—

(i) in paragraph (2)(A), by striking "Center" and inserting "Institute"; and

(ii) in paragraph (3)(A), in the first sentence, by striking "Center" and inserting "Institute"; and

(C) in subsections (d) through (g), by striking "Center" each place such term appears and inserting "Institute"; and

(4) in section 485A (as redesignated by section 141(a)(1) of this Act), by striking "Center" each place such term appears and inserting "Institute".

(b) CONFORMING AMENDMENTS.—

(1) ORGANIZATION OF NATIONAL INSTITUTE OF HEALTH.—Section 401(b) of the Public Health Service Act (42 U.S.C. 281(b)) is amended—

(A) in paragraph (1), by adding at the end the following new subparagraph:

"(Q) The National Institute of Nursing Research."; and

(B) in paragraph (2), by striking subparagraph (D).

(2) TRANSFER OF STATUTORY PROVISIONS.—Sections 483 through 485A of the Public Health Service Act, as amended by subsection (a) of this section—

(A) are transferred to part C of title IV of such Act;

(B) are redesignated as sections 464V through 464Y of such part; and

(C) are inserted, in the appropriate sequence, at the end of such part.

(3) HEADING FOR NEW SUBPART.—Title IV of the Public Health Service Act, as amended by the preceding provisions of this section, is amended—

(A) in part C, by inserting before section 464V the following new heading:

"Subpart 17—National Institute of Nursing Research"; and

(B) by striking the heading for subpart 3 of part E.

(4) CROSS-REFERENCES.—Title IV of the Public Health Service Act, as amended by the preceding provisions of this section, is amended in subpart 17 of part C—

(A) in section 464W, by striking "section 483" and inserting "section 464V";

(B) in section 464X(g), by striking "section 486" and inserting "section 464Y"; and

(C) in section 464Y, in the last sentence, by striking "section 485(g)" and inserting "section 464X(g)".

SEC. 1512. STUDY ON ADEQUACY OF NUMBER OF NURSES.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the National Institute of Nursing Research and in collaboration with the Division of Nursing of the Health Resources and Services Administration, shall enter into a contract with a public or nonprofit private entity to conduct a study for the purpose of determining whether and to what extent there is a need for an increase in the number of nurses in hospitals and nursing homes in order to promote the quality of patient care and reduce the incidence among nurses of work-related injuries and stress.

(b) NATIONAL ACADEMY OF SCIENCES.—The Secretary shall request the National Academy of Sciences to enter into the contract under subsection (a) to conduct the study described in such subsection. If such Institute declines to conduct the study, the Secretary shall carry out such subsection through another public or nonprofit private entity.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "nurse" means a registered nurse, a licensed practical nurse, a licensed vocational nurse, and a nurse assistant.

(2) The term "Secretary" means the Secretary of Health and Human Services.

(d) REPORTS.—The Secretary shall ensure that, not later than 18 months after the date of enactment of this Act, an interim report describing the preliminary findings of the study conducted under this section will be issued, and not later than 3 years after such date of enactment, a final report shall be issued. Such reports shall be submitted to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate.

Subtitle C—National Center for Human Genome Research

SEC. 1521. PURPOSE OF CENTER.

Title IV of the Public Health Service Act, as amended by sections 141(a)(1) and 1611(b)(1)(B) of this Act, is amended—

(1) in section 401(b)(2), by adding at the end the following new subparagraph:

"(D) The National Center for Human Genome Research."; and

(2) in part E, by adding at the end the following new subpart:

"Subpart 4—National Center for Human Genome Research

"PURPOSE OF THE CENTER

"SEC. 485B. (a) The general purpose of the National Center for Human Genome Research (hereafter in this subpart referred to as the 'Center') is to characterize the structure and function of the human genome, including the mapping and sequencing of individual genes. Such purpose includes—

"(1) planning and coordinating the research goal of the genome project;

"(2) reviewing and funding research proposals;

"(3) developing training programs;

"(4) coordinating international genome research;

"(5) communicating advances in genome science to the public; and

"(6) reviewing and funding proposals to address the ethical and legal issues associated with the genome project.

"(b)(1) Except as provided in paragraph (2), of the amounts appropriated to carry out subsection (a) for a fiscal year, the Director of the Center is authorized to make available not less than 5 percent for carrying out paragraph (6) of such subsection.

"(2) With respect to providing funds under subsection (a)(6) for proposals to address the ethical and legal issues, including the issuing of patents, associated with the genome project, paragraph (1) shall not apply for a fiscal year if the Director of the Center certifies to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, that the Director has determined that an insufficient number of such proposals meet the applicable requirements of sections 491 and 492.

"(3) In carrying out the provisions of paragraph (1), the Director of the Center shall consider proposals from qualified public and nonprofit academic or research facilities.".

TITLE XVI—AWARDS AND TRAINING

Subtitle A—National Research Service Awards

SEC. 1601. REQUIREMENT REGARDING WOMEN AND INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

Section 487(a) of the Public Health Service Act (42 U.S.C. 288(a)(4)) is amended by adding at the end the following paragraph:

"(4) The Secretary shall carry out paragraph (1) in a manner that will result in the recruitment of women, and members from underrepresented minority groups, into fields of biomedical or behavioral research and in the provision of research training to women and such individuals.".

SEC. 1602. SERVICE PAYBACK REQUIREMENTS.

Paragraph (2) of section 487(c) of the Public Health Service Act (42 U.S.C. 288(c)(2)) is amended to read as follows:

"(2)(A) For the initial year for which an individual receives a National Research Service Award for the conduct of postdoctoral training or research, such individual shall engage in one year of health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment, or complete a second year of training or research under such Award.

"(B) Service obligations for National Research Service Awards that are less than 12 months may be satisfied—

"(i) by the conduct of health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment for a period of time equal to the amount of time under the Award; or "(ii) by reimbursing the Federal Government for the amounts provided to such individual under the Award.".

Subtitle B—Acquired Immune Deficiency Syndrome

SEC. 1611. LOAN REPAYMENT PROGRAM.

Section 487A of the Public Health Service Act (42 U.S.C. 288–1) is amended to read as follows:

"LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

"SEC. 487A. (a) IN GENERAL.—

"(1) AUTHORITY FOR PROGRAM.—Subject to paragraph (2), the Secretary shall carry out a program of entering into agreements with appropriately qualified health professionals under which such health professionals agree to conduct, as employees of the National Institutes of Health, research with respect to acquired immune deficiency syndrome in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such health professionals.

"(2) LIMITATION.—The Secretary may not enter into an agreement with a health professional pursuant to paragraph (1) unless such professional—

"(A) has a substantial amount of educational loans relative to income; and

"(B)(i) was not employed at the National Institutes of Health during the 1-year period preceding the date of the enactment of the Health Professions Reauthorization Act of 1988; or

"(ii) agrees to serve as an employee of such Institutes for purposes of paragraph (1) for a period of not less than 3 years.".

"(b) APPLICABILITY OF CERTAIN PROVISIONS.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with subsection (a) of this section, apply to the program established in such subsection (a) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established in such subpart.

"(c) FUNDING; REIMBURSABLE TRANSFERS.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(2) TRANSFERS FOR RELATED PROGRAM.—The Commissioner of Food and Drugs may carry out for the Food and Drug Administration a program similar to the program established in subsection (a), which program shall be carried out with respect to the review of applications concerning acquired immune deficiency syndrome that are submitted to such Commissioner. From the amounts appropriated under paragraph (1) for a fiscal year, the Secretary may transfer amounts to the Commissioner for the purpose of carrying out such program. The Commissioner shall provide a reimbursement to the Secretary for the amount so transferred, and the reimbursement shall be available only for the program established in subsection (a). Any transfer and reimbursement made for purposes of this paragraph for a fiscal year shall be completed by April 1 of such year.".

Subtitle C—Loan Repayment for Research Generally

SEC. 1621. ESTABLISHMENT OF PROGRAM.

Part G of title IV of the Public Health Service Act, as redesignated by section 141(a)(2) of this Act and as amended by section 1002 of this Act, is amended by inserting after section 487B the following new section:

"LOAN REPAYMENT PROGRAM FOR RESEARCH GENERALLY

"SEC. 487C. (a) IN GENERAL.—

"(1) AUTHORITY FOR PROGRAM.—Subject to paragraph (2), the Secretary shall carry out a program of entering into agreements with appropriately qualified health professionals under which such health professionals agree to conduct research, as employees of the National Institutes of Health, in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such health professionals.

"(2) LIMITATION.—The Secretary may not enter into an agreement with a health professional pursuant to paragraph (1) unless such professional—

"(A) has a substantial amount of educational loans relative to income; and

"(B)(i) was not employed at the National Institutes of Health during the 1-year period preceding the date of the enactment of the Health Professions Reauthorization Act of 1988; or

"(ii) agrees to serve as an employee of such Institutes for purposes of paragraph (1) for a period of not less than 3 years.".

"(b) APPLICABILITY OF CERTAIN PROVISIONS.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with subsection (a) of this section, apply to the program established in such subsection (a) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established in such subpart.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section other than with respect to acquired immune deficiency syndrome, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 through 1996.".

Subtitle D—Scholarship and Loan Repayment Programs Regarding Professional Skills Needed by Certain Agencies

SEC. 1631. ESTABLISHMENT OF PROGRAMS FOR NATIONAL INSTITUTES OF HEALTH.

Part G of title IV of the Public Health Service Act, as redesignated by section 141(a)(2) of this Act and as amended by section 1621 of this Act, is amended by inserting after section 487C the following new sections:

"UNDERGRADUATE SCHOLARSHIP PROGRAM REGARDING PROFESSIONS NEEDED BY NATIONAL RESEARCH INSTITUTES

"SEC. 487D. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Subject to section 487(a)(1)(C), the Secretary, acting through the Director of NIH, may carry out a program of entering into contracts with individuals described in paragraph (2) under which—

"(A) the Director of NIH agrees to provide to the individuals scholarships for pursuing, as undergraduates at accredited institutions of higher education, academic programs appropriate for careers in professions needed by the National Institutes of Health; and

"(B) the individuals agree to serve as employees of the National Institutes of Health, for the period described in subsection (c), in positions that are needed by the National Institutes of Health and for which the individuals are qualified.

"(2) INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.—The individuals referred to in paragraph (1) are individuals who—

"(A) are enrolled or accepted for enrollment as full-time undergraduates at accredited institutions of higher education; and

"(B) are from minority groups that are underrepresented in the fields of biomedical or behavioral research.

"(b) FACILITATION OF INTEREST OF STUDENTS IN CAREERS AT NATIONAL INSTITUTES OF HEALTH.—In providing employment to individuals pursuant to contracts under subsection (a)(1), the Director of NIH shall carry out activities to facilitate the interest of the individuals in pursuing careers as employees of the National Institutes of Health.

"(c) PERIOD OF OBLIGATED SERVICE.—

"(1) DURATION OF SERVICE.—For purposes of subparagraph (B) of subsection (a)(1), the period of service for which an individual is obligated to serve as an employee of the National Institutes of Health is 12 months for each academic year for which the scholarship under such subsection is provided.

"(2) SCHEDULE FOR SERVICE.—

"(A) Subject to subparagraph (B), the Director of NIH may not provide a scholarship under subsection (a) unless the individual applying for the scholarship agrees that—

"(i) the individual will serve as an employee of the National Institutes of Health full-time for not less than 10 consecutive weeks of each year during which the individual is attending the educational institution involved and receiving such a scholarship;

"(ii) the period of service as such an employee that the individual is obligated to provide under clause (i) is in addition to the period of service as such an employee that the individual is obligated to provide under subsection (a)(1)(B); and

"(iii) not later than 60 days after obtaining the educational degree involved, the individual will begin serving full-time as such an employee in satisfaction of the period of service that the individual is obligated to provide under subsection (a)(1)(B).

"(B) The Director of NIH may defer the obligation of an individual to provide a period of service under subsection (a)(1)(B), if the Director determines that such a deferral is appropriate.

"(3) APPLICABILITY OF CERTAIN PROVISIONS RELATING TO APPOINTMENT AND COMPENSATION.—For any period in which an individual provides service as an employee of the National Institutes of Health in satisfaction of the obligation of the individual under subsection (a)(1)(B) or paragraph (2)(A)(i), the individual may be appointed as such an employee without regard to the provisions of title 5, United States Code, relating to appointment and compensation.

"(d) PROVISIONS REGARDING SCHOLARSHIP.—

"(1) APPROVAL OF ACADEMIC PROGRAM.—The Director of NIH may not provide a scholarship under subsection (a) for an academic year unless—

"(A) the individual applying for the scholarship has submitted to the Director a proposed academic program for the year and the Director has approved the program; and

"(B) the individual agrees that the program will not be altered without the approval of the Director.

"(2) ACADEMIC STANDING.—The Director of NIH may not provide a scholarship under subsection (a) for an academic year unless the individual applying for the scholarship agrees to maintain an acceptable level of academic standing, as determined by the educational institution involved in accordance with regulations issued by the Secretary.

"(3) LIMITATION ON AMOUNT.—The Director of NIH may not provide a scholarship under subsection (a) for an academic year in an amount exceeding $20,000.

"(4) AUTHORIZED USES.—A scholarship provided under subsection (a) may be expended only for tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attending the school involved.

"(5) CONTRACT REGARDING DIRECT PAYMENTS TO INSTITUTION.—In the case of an institution of higher education with respect to which a scholarship under subsection (a) is provided, the Director of NIH may enter into a contract with the institution under which the amounts provided in the scholarship for tuition and other educational expenses are paid directly to the institution. Payments to the institution under the contract may be made without regard to section 3324 of title 31, United States Code.

"(e) PENALTIES FOR BREACH OF SCHOLARSHIP CONTRACT.—The provisions of section 338E shall apply to the program established in subsection (a) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in section 338B.

"(f) REQUIREMENT OF APPLICATION.—The Director of NIH may not provide a scholarship under subsection (a) unless an application for the scholarship is submitted to the Director and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out this section.

"(g) AVAILABILITY OF AUTHORIZATION OF APPROPRIATIONS.—Amounts appropriated for a fiscal year for scholarships under this section shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.

"LOAN REPAYMENT PROGRAM REGARDING CLINICAL RESEARCHERS FROM DISADVANTAGED BACKGROUNDS

"SEC. 487E. (a) IMPLEMENTATION OF PROGRAM.—

"(1) IN GENERAL.—Subject to section 487(a)(1)(C), the Secretary, acting through the Director of NIH may, subject to paragraph (2), carry out a program of entering into contracts with appropriately qualified health professionals who are from disadvantaged backgrounds under which such health professionals agree to conduct clinical research as employees of the National Institutes of Health in consideration of the Federal Government agreeing to pay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of the health professionals.

"(2) LIMITATION.—The Director of NIH may not enter into a contract with a health professional pursuant to paragraph (1) unless such professional has a substantial amount of education loans relative to income.

"(3) APPLICABILITY OF CERTAIN PROVISIONS REGARDING OBLIGATED SERVICE.—Except to the extent inconsistent with this section, the provisions of sections 338C and 338E shall apply to the program established in paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in section 338B.

"(b) AVAILABILITY OF AUTHORIZATION OF APPROPRIATIONS.—Amounts appropriated for a fiscal year for contracts under subsection (a) shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.".

SEC. 1632. FUNDING.

Section 487(a)(1) of the Public Health Service Act (42 U.S.C. 288(a)(1)) is amended—

(1) in subparagraph (A), by striking "and" after the semicolon at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) provide contracts for scholarships and loan repayments in accordance with sections 487D and 487E, subject to providing not more than an aggregate 50 such contracts during the fiscal years 1994 through 1996.".

Subtitle D—Funding

SEC. 1641. AUTHORIZATION OF APPROPRIATIONS.

Section 487(d) of the Public Health Service Act (42 U.S.C. 288(d)) is amended—

(1) in the first sentence, by amending the sentence to read as follows: "For the purpose of carrying out this section, there are authorized to be appropriated $400,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996."; and

(2) in paragraph (3)—

(A) by striking "one-half of one percent" each place such term appears and inserting "1 percent"; and

(B) by striking "780, 784, or 786" and inserting "747, 748, or 749".

TITLE XVII—NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH

SEC. 1701. NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH.

Section 499 of the Public Health Service Act, as redesignated by section 121(b), is amended—

(1) in subsection (a), by striking ", except for" and all that follows through "Transfer Act";

(2) by redesignating subsections (c), (d), (e), (f), (g), (h), and (i) as subsections (d), (f), (g), (h), (i), (j), and (m), respectively;

(3) by striking subsection (b) and inserting in lieu thereof the following new subsections:

"(b) PURPOSE OF FOUNDATION.—The purpose of the Foundation shall be to support the National Institutes of Health in its mission, and to advance collaboration with biomedical researchers from universities, industry, and nonprofit organizations.

"(c) CERTAIN ACTIVITIES OF FOUNDATION.—

"(1) IN GENERAL.—In carrying out subsection (b), the Foundation may solicit and accept gifts, grants, and other donations, establish accounts, and invest and expend funds in support of the following activities with respect to the purpose described in such subsection:

"(A) A program to provide and administer endowed positions that are associated with the research program of the National Institutes of Health. Such endowments may be expended for the compensation of individuals holding the positions, for staff, equipment, quarters, travel, and other expenditures that are appropriate in supporting the endowed positions.

"(B) A program to provide and administer fellowships and grants to research personnel in order to work and study in association with the National Institutes of Health. Such fellowships and grants may include stipends, travel, health insurance benefits and other appropriate expenses. The recipients of fellowships shall be selected by the donors and the Foundation upon the recommendation of the National Institutes of Health employees in the laboratory where the fellow would serve, and shall be subject to the agreement of the Director of the National Institutes of Health and the Executive Director of the Foundation.

"(C) Supplementary programs to provide for—

"(i) scientists of other countries to serve in research capacities in the United States in association with the National Institutes of Health or elsewhere, or opportunities for employees of the National Institutes of Health or other public health officials in the United States to serve in such capacities in other countries, or both;

"(ii) the conduct and support of studies, projects, and research, which may include stipends, travel and other support for personnel in collaboration with national and international non-profit and for-profit organizations;

"(iii) the conduct and support of forums, meetings, conferences, courses, and training workshops that may include undergraduate, graduate, post-graduate, and post-doctoral accredited courses and the maintenance of accreditation of such courses by the Foundation at the State and national level for college or continuing education credits or for degrees;

"(iv) programs to support and encourage teachers and students of science at all levels of education and programs for the general public which promote the understanding of science;

"(v) programs for writing, editing, printing, publishing, and vending of books and other materials; and

"(vi) the conduct of other activities to carry out and support the purpose described in subsection (b).

"(2) FEES.—The Foundation may assess fees for the provision of professional, administrative and management services by the Foundation in amounts determined reasonable and appropriate by the Executive Director.

"(3) AUTHORITY OF FOUNDATION.—The Foundation shall be the sole entity responsible for carrying out the activities described in this subsection.";

(4) in subsection (d) (as so redesignated)—

(A) in paragraph (1)—

(i) by striking "members of the Foundation" in subparagraph (A) and inserting "appointed members of the Board";

(ii) by striking "Council" in subparagraph (B) and inserting "Board";

(iii) by striking "Council" in subparagraph (C) and inserting "Board"; and

(iv) by adding at the end thereof the following new subparagraphs:

"(D)(i) Not later than 30 days after the date of enactment of the National Institutes of Health Revitalization Act of 1993, the Director of the National Institutes of Health shall convene a meeting of the ex officio members of the Board to—

"(I) incorporate the Foundation and establish the general policies of the Foundation for carrying out the purposes of subsection (b), including the establishment of the bylaws of the Foundation; and

"(II) appoint the members of the Board in accordance with subparagraph (C).

"(ii) Upon the appointment of the members of the Board under clause (i)(II), the terms of service of the ex officio members of the Board as members of the Board shall terminate.

"(E) The agreement of not less than three-fifths of the members of the ex officio members of the Board shall be required for the appointment of each member to the initial Board.

"(F) No employee of the National Institutes of Health shall be appointed as a member of the Board.

"(G) The Board may, through amendments to the bylaws of the Foundation, provide that the number of members of the Board shall be greater than the number specified in subparagraph (C).";

(B) in paragraph (2)—

(i) by inserting "(A)" before "The ex";

(ii) by striking "an appointed member of the Board to serve as the Chair" and inserting "an individual to serve as the initial Chairperson"; and

(iii) by adding at the end thereof the following new subparagraph:

"(B) Upon the termination of the term of service of the initial Chairperson of the Board, the appointed members of the Board shall elect a member of the Board to serve as the Chairperson of the Board.";

(C) in paragraph (3)(A), by striking "(2)(C)" and inserting "(1)(C)"; and

(D) by adding at the end thereof the following new paragraphs:

"(5) MEETINGS AND QUORUM.—A majority of the members of the Board shall constitute a quorum for purposes of conducting the business of the Board.

"(6) CERTAIN BYLAWS.—

"(A) In establishing bylaws under this subsection, the Board shall ensure that the following are provided for:

"(i) Policies for the selection of the officers, employees, agents, and contractors of the Foundation.

"(ii) Policies, including ethical standards, for the acceptance, solicitation, and disposition of donations and grants to the Foundation and for the disposition of the assets of the Foundation. Policies with respect to ethical standards shall ensure that officers, employees and agents of the Foundation (including members of the Board) avoid encumbrances that would result in a conflict of interest, including a financial conflict of interest or a divided allegiance. Such policies shall include requirements for the provision of information concerning any ownership or controlling interest in entities related to the activities of the Foundation by such officers, employees and agents and their spouses and relatives.

"(iii) Policies for the conduct of the general operations of the Foundation.

"(iv) Policies for writing, editing, printing, publishing, and vending of books and other materials.

"(B) In establishing bylaws under this subsection, the Board shall ensure that such bylaws (and activities carried out under the bylaws) do not—

"(i) reflect unfavorably upon the ability of the Foundation or the National Institutes of Health to carry out its responsibilities or official duties in a fair and objective manner; or

"(ii) compromise, or appear to compromise, the integrity of any governmental agency or program, or any officer or employee involved in such program.";

(5) in subsection (i) (as so redesignated)—

(A) by inserting ", and define the duties of the officers and employees" before the semicolon in paragraph (4);

(B) by striking paragraph (5);

(C) by redesignating paragraphs (6) through (14), as paragraphs (5) through (13), respectively;

(D) by striking paragraph (8) (as so redesignated), and inserting the following new paragraph:

"(8) establish a process for the selection of candidates for positions under subsection (c);"

(E) by inserting "solicit" after the paragraph designation in paragraph (11) (as so redesignated);

(F) by striking "Executive" in paragraph (12) (as so redesignated);

(G) by striking "and" at the end of paragraph (13) (as so redesignated); and

(H) by inserting after paragraph (13) (as so redesignated), the following new paragraph:

"(14) enter into such other contracts, leases, cooperative agreements, and other transactions as the Director considers appropriate to conduct the activities of the Foundation; and";

(6) by inserting after subsection (j) (as so redesignated), the following new subsections:

"(k) GENERAL PROVISIONS.—

"(1) FOUNDATION INTEGRITY.—The members of the Board shall be accountable for the integrity of the operations of the Foundation and shall ensure such integrity through the development and enforcement of criteria and procedures relating to standards of conduct (including those developed under subsection (d)(2)(B)(i)(II)), financial disclosure statements, conflict of interest rules, recusal and waiver rules, audits and other matter determined appropriate by the Board.

"(2) FINANCIAL CONFLICTS OF INTEREST.—Any individual who is an officer, employee, or member of the Board of the Foundation may not (in accordance with policies and requirements developed under subsection (d)(2)(B)(i)(II)) personally or substantially participate in the consideration or determination by the Foundation of any matter that would directly or predictably affect any financial interest of the individual or a relative (as such term is defined in section 109(16) of the Ethics in Government Act of 1978) of the individual, of any business organization or other entity, or of which the individual is an officer or employee, or is negotiating for employment, or in which the individual has any other financial interest.

"(3) AUDITS; AVAILABILITY OF RECORDS.—The Foundation shall—

"(A) provide for annual audits of the financial condition of the Foundation; and

"(B) make such audits, and all other records, documents, and other papers of the Foundation, available to the Secretary and the Comptroller General of the United States for examination or audit.

"(4) REPORTS.—

"(A) Not later than 5 months following the end of each fiscal year, the Foundation shall publish a report describing the activities of the Foundation during the preceding fiscal year. Each such report shall include for the fiscal year involved a comprehensive statement of the operations, activities, financial condition, and accomplishments of the Foundation.

"(B) With respect to the financial condition of the Foundation, each report under subparagraph (A) shall include the source, and a description of, all gifts or grants to the Foundation of real or personal property, and the source and amount of all gifts or grants to the Foundation of money. Each such report shall include a specification of any restrictions on the purposes for which gifts or grants to the Foundation may be used.

"(C) The Foundation shall make copies of each report submitted under subparagraph (A) available for public inspection, and shall upon request provide a copy of the report to any individual for a charge not exceeding the cost of providing the copy.

"(D) The Board shall annually hold a public meeting to summarize the activities of the Foundation and distribute written reports concerning such activities and the scientific results derived from such activities.

"(5) SERVICE OF FEDERAL EMPLOYEES.—Federal employees may serve on committees advisory to the Foundation and otherwise cooperate with and assist the Foundation in carrying out its function, so long as the employees do not direct or control Foundation activities.

"(6) RELATIONSHIP WITH EXISTING ENTITIES.—The Foundation may, pursuant to appropriate agreements, merge with, acquire, or use the resources of existing nonprofit private corporations with missions similar to the purposes of the Foundation, such as the Foundation for Advanced Education in the Sciences.

"(7) INTELLECTUAL PROPERTY RIGHTS.—The Board shall adopt written standards with respect to the ownership of any intellectual property rights derived from the collaborative efforts of the Foundation prior to the commencement of such efforts.

"(8) NATIONAL INSTITUTES OF HEALTH AMENDMENTS OF 1990.—The activities conducted in support of the National Institutes of Health Amendments of 1990 (Public Law 101–613) and the amendments made by such Act, shall not be nullified by the enactment of this section.

"(9) LIMITATION OF ACTIVITIES.—The Foundation shall exist solely as an entity to work in collaboration with the research programs of the National Institutes of Health. The Foundation may not undertake activities (such as the operation of independent laboratories or competing for Federal research funds) that are independent of those of the National Institutes of Health research programs.

"(l) DUTIES OF THE DIRECTOR.—

"(1) APPLICABILITY OF CERTAIN STANDARDS TO NON-FEDERAL EMPLOYEES.—In the case of any individual who is not an employee of the Federal Government and who serves in association with the National Institutes of Health, with respect to financial assistance received from the Foundation, the Foundation may not provide the assistance of, or otherwise permit the work at the National Institutes of Health to begin until a memorandum of understanding between the individual and the Director of the National Institutes of Health, or the designee of such Director, has been executed specifying that the individual shall be subject to such ethical and procedural standards of conduct relating to duties performed at the National Institutes of Health, as the Director of the National Institutes of Health determines is appropriate.

"(2) SUPPORT SERVICES.—The Director of the National Institutes of Health may provide facilities, utilities and support services to the Foundation if it is determined by the Director to be advantageous to the research programs of the National Institutes of Health.";

(7) in subsection (m) (as so redesignated)—

(A) by striking "$200,000" each place that such appears and inserting "$500,000"; and

(B) by striking "1995" in paragraph (1) and inserting "1996"; and

(8) by adding at the end thereof the following new subsections:

"(n) LIMITATION.—The Secretary shall ensure that no extramural funds made available by the National Institutes of Health are provided to the Foundation or for activities provided for under subparagraphs (A) and (B) of subsection (c)(1).

"(o) REPORT ON ADEQUACY OF COMPLIANCE.—

"(1) IN GENERAL.—With respect to the mission and function of the Foundation, the Comptroller General of the United States shall conduct an audit to determine—

"(A) whether the Foundation is in compliance with the guidelines established under this section; and

"(B) whether the procedures utilized under this section are adequate to prevent conflicts of interest involving the Foundation, the employees of the Foundation or members of the Board of the Foundation.

"(2) REPORT.—Not later than 18 months after the date on which the Foundation is incorporated, the Comptroller General of the United States shall complete the audit required under paragraph (1) and prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report describing the findings made with respect to such audit.".

TITLE XVIII—RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

SEC. 1801. REVISION AND EXTENSION OF VARIOUS PROGRAMS.

(a) AMENDMENTS.—Title XXIII of the Public Health Service Act (42 U.S.C. 300cc et seq.) is amended—

(1) in section 2304(c)(1)—

(A) in the matter preceding subparagraph (A), by inserting after "Director of such Institute" the following: "(and may provide advice to the Directors of other agencies of the National Institutes of Health, as appropriate)"; and

(B) in subparagraph (A), by inserting before the semicolon the following: ", including recommendations on the projects of research with respect to diagnosing immune deficiency and with respect to predicting, diagnosing, preventing, and treating cancers, opportunistic infections, and infectious diseases";

(2) in section 2311(a)(1), by inserting before the semicolon the following: ", including evaluations of methods of diagnosing immune deficiency and evaluations of methods of predicting, diagnosing, preventing, and treating cancers, opportunistic infections, and infectious diseases";

(3) in section 2315(a)(2), by striking "international research" and all that follows and inserting "international research and training concerning the natural history and pathogenesis of the human immunodeficiency virus and the development and evaluation of vaccines and treatments for acquired immune deficiency syndrome and opportunistic infections.";

(4) in section 2318—

(A) in subsection (a)(1)—

(i) by inserting after "The Secretary" the following: ", acting through the Director of the National Institutes of Health and after consultation with the Administrator for Health Care Policy and Research,"; and

(ii) by striking "syndrome" and inserting "syndrome, including treatment and prevention of HIV infection and related conditions among women"; and

(B) in subsection (e), by striking "1991." and inserting the following: "1991, and such sums as may be necessary for each of the fiscal years 1994 through 1996.";

(5) in section 2320(b)(1)(A), by striking "syndrome" and inserting "syndrome and the natural history of such infection";

(6) in the part heading for part D, by striking "DIRECTOR OF THE NATIONAL INSTITUTES OF HEALTH" and inserting "OFFICE OF AIDS RESEARCH";

(7) in section 2351—

(A) by redesignating subsections (a), (b) and (c) as subsections (c), (d) and (e), respectively;

(B) by inserting after the section heading the following new subsections:

"(a) IN GENERAL.—In carrying out research with respect to acquired immune deficiency syndrome, the Secretary, acting through the Director of the National Institutes of Health—

"(1) shall establish an office to be known as the Office of AIDS Research, which Office shall be headed by a Director who shall—

"(A) be appointed by the Secretary;

"(B) be determined by the Secretary to be an individual who is an outstanding scientist and a highly skilled administrator;

"(C) report directly to the Director of the National Institutes of Health; and

"(D) be the primary Federal official responsible for the conduct of AIDS-related research at the National Institutes of Health; and

"(2) shall provide administrative support and support services to the Director of such Office and shall ensure that such support takes maximum advantage of existing administrative structures at the institutes, centers and divisions of the National Institutes of Health to the fullest extent practicable.

"(b) ACTIVITIES OF THE OFFICE OF AIDS RESEARCH.—

"(1) IN GENERAL.—The Secretary, acting through the director of the Office of AIDS Research, shall ensure that AIDS research activities are coordinated across and throughout the institutes, centers, and divisions of the National Institutes of Health.

"(2) GENERAL DUTIES.—The Director of the Office of AIDS Research shall, based upon a strategic plan as defined in paragraph (3), develop and oversee the implementation of a scientifically justified budget for AIDS-related research at the National Institutes of Health and coordinate all AIDS-related research activities conducted at the institutes, centers, and divisions of the National Institutes of Health, and conduct evaluations on all such programs.

"(3) STRATEGIC PLAN.—

"(A) DEVELOPMENT.—The Director of the Office of AIDS Research shall, based on the advice of the directors of the institutes, centers, and divisions of the National Institutes of Health, and in consultation with the advisory council established in paragraph (5) and the coordinating groups established in subparagraph (B), develop and oversee the implementation of a comprehensive, long-range plan for the conduct and support of such research by the institutes, centers and divisions of the National Institutes of Health. Such plan shall be updated annually, and shall—

"(i) determine the appropriate overall balance between basic and applied research and between intramural and extramural research;

"(ii) determine and prioritize among critical scientific AIDS-related questions;

"(iii) based upon such determinations, specify the broad short and long range objectives to be achieved, and provide an estimate of the resources needed to achieve such objectives;

"(iv) evaluate the sufficiency of existing AIDS research programs to meet such objectives, and establish evaluation criteria, timelines and objectives for future program evaluation activities; and

"(v) make recommendations for changes and necessary resource allocation in and among such programs.

"(B) COORDINATING GROUPS.—The Director of the Office of AIDS Research shall establish AIDS coordinating groups for each research discipline within the AIDS research program, composed of representatives of relevant agencies of the National Institutes of Health and qualified extramural scientists, to evaluate and assess the efforts of the AIDS Research Program at the National Institutes of Health, to advise on the development of the strategic plan described in subparagraph (A), and to determine the extent to which such efforts are in accordance with such strategic plan.

"(4) COORDINATION.—The Director of the Office of AIDS Research shall act as the primary Federal official with responsibility for overseeing all AIDS-related research efforts undertaken by the National Institutes of Health, and

"(A) shall serve to represent the National Institutes of Health AIDS Research Program at all relevant Executive branch task forces and committees; and

"(B) shall maintain communications with all relevant Public Health Service agencies and with various other departments of the Federal Government, to ensure the timely transmission of information concerning advances in AIDS-related research and the clinical treatment of AIDS and its related conditions, between these various agencies for dissemination to affected communities and health care providers.

"(5) ADVISORY COUNCIL.—

"(A) ESTABLISHMENT.—The Secretary shall, consistent with section 406, establish an advisory council to be known as the Office of AIDS Research Advisory Council (hereafter referred to as the 'Council'), which shall serve to replace the AIDS Program Advisory Committee which is operating on the date of enactment of this subsection.

"(B) COMPOSITION.—The Council shall be composed of biomedical, behavioral, and social scientists, and representatives of diverse HIV affected communities, and shall be appointed by the Secretary.

"(C) AUTHORITY.—The Council shall—

"(i) advise the Director of the Office of AIDS Research and make recommendations concerning the development of the AIDS-related research budget, and the development and implementation of the strategic plan for AIDS-related research at the National Institutes of Health;

"(ii) provide the second level of peer review for awards made directly from the Office of AIDS Research from the discretionary fund described in paragraph (7); and

"(iii) carry out such other activities determined appropriate by the Director of the Office of AIDS Research.

"(6) BUDGETARY AUTHORITY.—The Director of the Office of AIDS Research shall—

"(A) in accordance with the strategic plan established under paragraph (3), in consultation with the Council, and based on budget requests and additional advice from the directors of the institutes, centers and divisions of the National Institutes of Health, prepare and submit directly to the President for review and transmittal to Congress, an annual, scientifically justified budget estimate for AIDS-related research conducted within the agencies of the National Institutes of Health, after reasonable opportunity for comment (but without change) by the Secretary and the Director of the National Institutes of Health, which shall include the amount of funds required (as requested by the directors of such institutes, centers and divisions) for—

"(i) the continued funding of the commitment base (ongoing program initiatives) at the sole discretion of the directors of such institutes, centers and divisions; and "(ii) the funding of new and competing program initiatives through such institutes, centers and divisions, at the discretion of the Director of the Office of AIDS Research;

"(B) receive from the President and the Office of Management and Budget directly all AIDS-related research funds appropriated by Congress for transfer to, and obligation and expenditure by, the institutes, centers and divisions of the National Institutes of Health in accordance with the budget delineated under clauses (i) and (ii) of subparagraph (A); and

"(C) distribute AIDS research funding to the various institutes, centers, and divisions of the National Institutes of Health in accordance with the budget delineated under clauses (i) and (ii) of subparagraph (A).

The provisions of this paragraph shall become effective in the fiscal year following the submission of the consolidated AIDS budget.

"(7) DISCRETIONARY FUND.—

"(A) AVAILABILITY OF FUNDS.—The Secretary shall ensure that not to exceed 25 percent of the funds available in excess of the amount of baseline AIDS research spending during the previous fiscal year, be made available to the Director of the Office of AIDS Research for the establishment of an AIDS research discretionary fund.

"(B) USE.—The Director of the Office of AIDS Research, in consultation with the advisory council established under paragraph (5), shall use amounts in the AIDS research discretionary fund, either through the institutes, centers and divisions of the National Institutes of Health or grants made directly by the Office of AIDS Research, to—

"(i) fund emergency AIDS research programs;

"(ii) fund programs for the conduct of research aimed at filling gaps that exist in existing research programs;

"(iii) conduct conferences, convene committees, hold meetings or carry out other activities determined appropriate by the Director.

"(C) REDUCTION IN ADMINISTRATIVE IMPEDIMENTS.—Notwithstanding any other provision of law relating to the number of individuals who may be employed as full-time equivalent individuals, with respect to the number of full-time equivalent individuals so employed, the Director of the Office of AIDS Research shall be permitted to authorize the employment of such full-time equivalent individuals to perform AIDS-related research through the institutes, centers and divisions of the National Institutes of Health as described in clauses (i) and (ii) of subparagraph (B) and subject to appropriations.";

(C) in subsection (c) (as so redesignated)—

(i) by striking the subsection designation and all that follows through paragraph (1) and inserting the following:

"(c) OTHER DUTIES.—The director of the office—";

(ii) by redesignating paragraphs (2) through (8) as paragraphs (1) through (7), respectively;

(iii) by striking "for the appropriate national research institute of the National Institutes of Health" in paragraph (4) (as so redesignated); and

(iv) by inserting "cannot reasonably be accomplished within the United States and" after "if such research" in paragraph (4)(A) (as so redesignated); and

(D) by adding at the end thereof the following new subsection:

"(f) EVALUATION AND REPORT.—

"(1) EVALUATION.—Not later than 5 years after the date of enactment of this Act, the Secretary shall conduct an evaluation to—

"(A) determine the effect of this section on the planning and coordination of the AIDS research programs at the institutes, centers and divisions of the National Institutes of Health;

"(B) evaluate the extent to which this section has eliminated the duplication of administrative resources among such institutes, centers and divisions; and

"(C) provide recommendations concerning future alterations with respect to this section.

"(2) REPORT.—Not later than 1 year after the date on which the evaluation is commenced under paragraph (1), the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report concerning the results of such evaluation.";

(8) in section 2361, by striking "For purposes" and all that follows and inserting the following:

"For purposes of this title:

"(1) The term 'infection', with respect to the etiologic agent for acquired immune deficiency syndrome, includes cancers, opportunistic infections, and infectious diseases and any other conditions arising from infection with such etiologic agent.

"(2) The term 'treatment', with respect to the etiologic agent for acquired immune deficiency syndrome, includes primary and secondary prophylaxis.";

(9) in section 2315(f), by striking "there are authorized" and all that follows and inserting "there are authorized to be appropriated such sums as may be necessary for each fiscal year.";

(10) in section 2320(e)(1), by striking "there are authorized" and all that follows and inserting "there are authorized to be appropriated such sums as may be necessary for each fiscal year."; and

(11) in section 2341(d), by striking "there are authorized" and all that follows and inserting "there are authorized to be appropriated such sums as may be necessary for each fiscal year.".

TITLE XIX—STUDIES

SEC. 1901. ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) CERTAIN DRUG-RELEASE MECHANISMS.—

(1) The Secretary of Health and Human Services shall, subject to paragraph (2), enter into a contract with a public or nonprofit private entity to conduct a study for the purpose of determining, with respect to acquired immune deficiency syndrome, the impact of parallel-track drug-release mechanisms on public and private clinical research, and on the activities of the Commissioner of Food and Drugs regarding the approval of drugs.

(2) The Secretary of Health and Human Services shall request the Institute of Medicine of the National Academy of Sciences to enter into the contract under paragraph (1) to conduct the study described in such paragraph. If such Institute declines to conduct the study, the Secretary shall carry out paragraph (1) through another public or nonprofit private entity.

(b) THIRD-PARTY PAYMENTS REGARDING CERTAIN CLINICAL TRIALS.—The Secretary of Health and Human Services shall conduct a study for the purpose of—

(1) determining the policies of third-party payors regarding the payment of the costs of appropriate health services that are provided incident to the participation of individuals as subjects in clinical trials conducted in the development of drugs with respect to acquired immune deficiency syndrome; and

(2) developing recommendations regarding such policies.

(c) ADVISORY COMMITTEES.—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall conduct a study for the purpose of determining—

(1) whether the activities of the various advisory committees established in the National Institutes of Health regarding acquired immune deficiency syndrome are being coordinated sufficiently; and

(2) whether the functions of any of such advisory committees should be modified in order to achieve greater efficiency.

(d) VACCINES FOR HUMAN IMMUNODEFICIENCY VIRUS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the National Institutes of Health, shall develop a plan for the appropriate inclusion of HIV-infected women, including pregnant women, HIV-infected infants, and HIV-infected children in studies conducted by or through the National Institutes of Health concerning the safety and efficacy of HIV vaccines for the treatment and prevention of HIV infection. Such plan shall ensure the full participation of other Federal agencies currently conducting HIV vaccine studies and require that such studies conform fully to the requirements of part 46 of title 45, Code of Federal Regulations.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report concerning the plan developed under paragraph (1).

(3) IMPLEMENTATION.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall implement the plan developed under paragraph (1), including measures for the full participation of other Federal agencies currently conducting HIV vaccine studies.

(4) For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 through 1996.

SEC. 1902. MALNUTRITION IN THE ELDERLY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary"), acting through the National Institute on Aging, coordinating with the Agency for Health Care Policy and Research and, to the degree possible, in consultation with the head of the National Nutrition Monitoring System established under section 1428 of the Food and Agriculture Act of 1977 (7 U.S.C. 3178), shall conduct a 3-year nutrition screening and intervention activities study of the elderly.

(2) EFFICACY AND COST-EFFECTIVENESS OF NUTRITION SCREENING AND INTERVENTION ACTIVITIES.—In conducting the study, the Secretary shall determine the efficacy and cost-effectiveness of nutrition screening and intervention activities conducted in the elderly health and long-term care continuum, and of a program that would institutionalize nutrition screening and intervention activities. In evaluating such a program, the Secretary shall determine—

(A) if health or quality of life is measurably improved for elderly individuals who receive routine nutritional screening and treatment;

(B) if federally subsidized home or institutional care is reduced because of increased independence of elderly individuals resulting from improved nutritional status;

(C) if a multidisciplinary approach to nutritional care is effective in addressing the nutritional needs of elderly individuals; and

(D) if reimbursement for nutrition screening and intervention activities is a cost-effective approach to improving the health status of elderly individuals.

(3) POPULATIONS.—The populations of elderly individuals in which the study will be conducted shall include populations of elderly individuals who are—

(A) living independently, including—

(i) individuals who receive home and community-based services or family support;

(ii) individuals who do not receive additional services and support;

(iii) individuals with low incomes; and

(iv) individuals who are minorities;

(B) hospitalized, including individuals admitted from home and from institutions; and

(C) institutionalized in residential facilities such as nursing homes and adult homes.

(b) MALNUTRITION STUDY.—The Secretary, acting through the National Institute on Aging, shall conduct a 3-year study to determine the extent of malnutrition in elderly individuals in hospitals and long-term care facilities and in elderly individuals who are living independently.

(c) REPORT.—The Secretary shall submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives containing the findings resulting from the studies described in subsections (a) and (b), including a determination regarding whether a program that would institutionalize nutrition screening and intervention activities should be adopted, and the rationale for the determination.

(d) ADVISORY PANEL.—

(1) ESTABLISHMENT.—The Secretary, acting through the Director of the National Institute on Aging, shall establish an advisory panel that shall oversee the design, implementation, and evaluation of the studies described in subsections (a) and (b).

(2) COMPOSITION.—The advisory panel shall include representatives appointed for the life of the panel by the Secretary from the Health Care Financing Administration, the Social Security Administration, the National Center for Health Statistics, the Administration on Aging, the National Council on the Aging, the American Dietetic Association, the American Academy of Family Physicians, and such other agencies or organizations as the Secretary determines to be appropriate.

(3) COMPENSATION AND EXPENSES.—

(A) COMPENSATION.—Each member of the advisory panel who is not an employee of the Federal Government shall receive compensation for each day engaged in carrying out the duties of the panel, including time engaged in traveling for purposes of such duties. Such compensation may not be provided in an amount in excess of the maximum rate of basic pay payable for GS-18 of the General Schedule.

(B) TRAVEL EXPENSES.—Each member of the advisory panel shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(4) DETAIL OF FEDERAL EMPLOYEES.—On the request of the advisory panel, the head of any Federal agency shall detail, without reimbursement, any of the personnel of the agency to the advisory panel to assist the advisory panel in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—On the request of the advisory panel, the head of a Federal agency shall provide such technical assistance to the advisory panel as the advisory panel determines to be necessary to carry out its duties.

(6) TERMINATION.—Notwithstanding section 15 of the Federal Advisory Committee Act (5 U.S.C. App.), the advisory panel shall terminate 3 years after the date of enactment of this Act.

SEC. 1903. RESEARCH ACTIVITIES ON CHRONIC FATIGUE SYNDROME.

The Secretary of Health and Human Services shall, not later than May 1, 1993, and annually thereafter for the next 3 years, prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report that summarizes the research activities conducted or supported by the National Institutes of Health concerning chronic fatigue syndrome. Such report should include information concerning grants made, cooperative agreements or contracts entered into, intramural activities, research priorities and needs, and a plan to address such priorities and needs.

SEC. 1904. REPORT ON MEDICAL USES OF BIOLOGICAL AGENTS IN DEVELOPMENT OF DEFENSES AGAINST BIOLOGICAL WARFARE.

The Secretary of Health and Human Services, in consultation with other appropriate executive agencies, shall report to the House Energy and Commerce Committee and the Senate Labor and Human Resources Committee on the appropriateness and impact of the National Institutes of Health assuming responsibility for the conduct of all Federal research, development, testing, and evaluation functions relating to medical countermeasures against biowarfare threat agents. In preparing the report, the Secretary shall identify the extent to which such activities are carried out by agencies other than the National Institutes of Health, and assess the impact (positive and negative) of the National Institutes of Health assuming responsibility for such activities, including the impact under the Budget Enforcement Act and the Omnibus Budget Reconciliation Act of 1990 on existing National Institutes of Health research programs as well as other programs within the category of domestic discretionary spending. The Secretary shall submit the report not later than 12 months after the date of the enactment of this Act.

SEC. 1905. PERSONNEL STUDY OF RECRUITMENT, RETENTION AND TURNOVER.

(a) STUDY OF PERSONNEL SYSTEM.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall conduct a study to review the retention, recruitment, vacancy and turnover rates of support staff, including firefighters, law enforcement, procurement officers, technicians, nurses and clerical employees, to ensure that the National Institutes of Health is adequately supporting the conduct of efficient, effective and high quality research for the American public. The Director of NIH shall work in conjunction with appropriate employee organizations and representatives in developing such a study.

(b) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report containing the study conducted under subsection (a) together with the recommendations of the Secretary concerning the enactment of legislation to implement the results of such study.

SEC. 1906. PROCUREMENT.

(a) IN GENERAL.—The Director of the National Institutes of Health and the Administrator of the General Services Administration shall jointly conduct a study to develop a streamlined procurement system for the National Institutes of Health that complies with the requirements of Federal law.

(b) REPORT.—Not later than March 1, 1994, the officials specified in subsection (a) shall complete the study required in such subsection and shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

SEC. 1907. REPORT CONCERNING LEADING CAUSES OF DEATH.

(a) REPORT.—The Secretary of Health and Human Services shall, not later than October 1, 1993, prepare a report that lists—

(1) the 20 illnesses that, in terms of mortality, number of years of expected life lost, and of number of preventable years of life lost, are the leading causes of death in the United States and the number of deaths from each such cause, the age-specific and age-adjusted death rates for each such cause, the death rate per 100,000 population for each such cause, the percentage of change in cause specific death rates for each age group, and the percentage of total deaths for each such cause;

(2) the amount expended by the Department of Health and Human Services for research, prevention, and education with respect to each of the 20 illnesses described in paragraph (1) for the most recent year for which the actual expenditures are known;

(3) an estimate by the Secretary of the amount to be expended on research, prevention, and education with respect to each of the 20 illnesses described in paragraph (1) for the year for which the report is prepared; and

(4) with respect to the years specified in paragraphs (2) and (3), the percentage of the total of the annual expenditures for research, prevention, and education on the 20 illnesses described in paragraph (1) that are attributable to each illness.

(b) SUBMISSION TO CONGRESS.—The Secretary of Health and Human Services shall submit the report required under subsection (a), together with relevant budget information, to the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Appropriations of the Senate.

SEC. 1908. RELATIONSHIP BETWEEN THE CONSUMPTION OF LEGAL AND ILLEGAL DRUGS.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall review and consider all existing relevant data and research concerning whether there is a relationship between an individual's receptivity to use or consume legal drugs and the consumption or abuse by the individual of illegal drugs. On the basis of such review, the Secretary shall determine whether additional research is necessary. If the Secretary determines additional research is required, the Secretary shall conduct a study of those subjects where the Secretary's review indicates additional research is needed, including, if necessary, a review of—

(1) the effect of advertising and marketing campaigns that promote the use of legal drugs on the public;

(2) the correlation of legal drug abuse with illegal drug abuse; and

(3) other matters that the Secretary determines appropriate.

(b) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and Committee on Labor and Human Resources of the Senate, a report containing the results of the review conducted under subsection (b). If the Secretary determines additional research is required, no later than 2 years after the date of enactment of this Act, the Secretary shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and Committee on Labor and Human Resources of the Senate, a report containing the results of the additional research conducted under subsection (b).

SEC. 1909. COST OF CARE IN LAST 6 MONTHS OF LIFE.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary"), acting through the Agency for Health Care Policy and Research and, to the degree possible, in consultation with the Health Care Financing Administration, shall conduct a study, using the most recent National Medical Expenditure Survey database, to estimate the average amount of health care expenditures incurred during the last 6 months of life and during the last 3 months of life by—

(A) the population of individuals who are 65 years of age and older; and

(B) the total population, broken down based on noninstitutionalized and institutionalized populations.

(2) ELEMENTS OF STUDY.—The study conducted under paragraph (1) shall—

(A) be designed in a manner that will produce estimates of health care costs expended for health care provided to individuals during the last 3 and 6 months of life;

(B) be designed to produce estimates of such costs for the populations identified in subparagraphs (A) and (B) of paragraph (1);

(C) include a calculation of the estimated amount of total health care expenditures during such periods of time; and

(D) include a calculation of the estimate described in subparagraph (C)—

(i) as a percentage of the total national health care expenditures; and

(ii) for those age 65 years and over, as a percentage of the total Medicare expenditures for those age 65 years and over.

(b) REPORT.—Not later than 6 months after the date of enactment of this section, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report containing the findings resulting from the study described in subsection (a).

(c) 1996 NATIONAL MEDICAL EXPENDITURE SURVEY.—

(1) IN GENERAL.—The Secretary, acting through the Agency for Health Care Policy and Research, shall ensure that the 1996 National Medical Expenditure Survey is designed in a manner that will produce an estimate of the amount expended for health care provided to individuals during the last 3 and 6 months of life.

(2) POPULATIONS.—In designing the Survey under paragraph (1), the Secretary shall ensure that such Survey produces the data required under such paragraph for the population of individuals who are 65 years of age or older, broken down based on noninstitutionalized and institutionalized populations.

(d) EXPENDITURE STUDY.—

(1) IN GENERAL.—Not later than 6 months after that date of enactment of this section, the Secretary, acting through the Agency for Health Care Policy and Research, shall design a study to produce estimates of expenditures for health care provided to children who are less than 1 year of age during the last 3 and 6 months of life, and prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report concerning such design. The Secretary shall ensure that such study is carried out not later than 2 years after the date on which such study is designed.

(2) REPORT.—Not later than 30 months after the date of enactment of this section, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report concerning the study described in paragraph (1).

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

SEC. 1910. REDUCING ADMINISTRATIVE HEALTH CARE COSTS.

The Secretary of Health and Human Services, acting through the Agency for Health Care Policy and Research and, to the extent possible, in consultation with the Health Care Financing Administration, may fund research to develop a text-based standardized billing process, through the utilization of text-based information retrieval and natural language processing techniques applied to automatic coding and analysis of textual patient discharge summaries and other text-based electronic medical records, within a parallel general purpose (shared memory) high performance computing environment. The Secretary shall determine whether such a standardized approach to medical billing, through the utilization of the text-based hospital discharge summary as well as electronic patient records can reduce the administrative billing costs of health care delivery.

TITLE XX—MISCELLANEOUS PROVISIONS

SEC. 2001. DESIGNATION OF SENIOR BIOMEDICAL RESEARCH SERVICE IN HONOR OF SILVIO O. CONTE, AND LIMITATION ON NUMBER OF MEMBERS.

(a) IN GENERAL.—Section 228(a) of the Public Health Service Act (42 U.S.C. 237(a)), as added by section 304 of Public Law 101-509, is amended to read as follows:

"(a)(1) There shall be in the Public Health Service a Silvio O. Conte Senior Biomedical Research Service, not to exceed 350 members.

"(2) The authority established in paragraph (1) regarding the number of members in the Silvio O. Conte Senior Biomedical Research Service is in addition to any authority established regarding the number of members in the commissioned Regular Corps, in the Reserve Corps, and in the Senior Executive Service. Such paragraph may not be construed to require that the number of members in the commissioned Regular Corps, in the Reserve Corps, or in the Senior Executive Service be reduced to offset the number of members serving in the Silvio O. Conte Senior Biomedical Research Service (hereafter in this section referred to as the 'Service').".

(b) CONFORMING AMENDMENT.—Section 228 of the Public Health Service Act (42 U.S.C. 237), as added by section 304 of Public Law 101-509, is amended in the heading for the section by amending the heading to read as follows:

"SILVIO O. CONTE SENIOR BIOMEDICAL RESEARCH SERVICE".

SEC. 2002. TECHNICAL CORRECTIONS.

(a) TITLE III.—Subsection (c) of section 316 of the Public Health Service Act (42 U.S.C. 247a(c)) is repealed.

(b) TITLE IV.—Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended—

(1) in section 406—

(A) in subsection (b)(2)(A), by striking "Veterans' Administration" each place such term appears and inserting "Department of Veterans Affairs"; and

(B) in subsection (h)(2)(A)(v), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(2) in section 408, in subsection (b) (as redesignated by section 501(c)(1)(C) of this Act), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(3) in section 421(b)(1), by inserting a comma after "may";

(4) in section 428(b), in the matter preceding paragraph (1), by striking "the the" and inserting "the";

(5) in section 430(b)(2)(A)(i), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(6) in section 439(b), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(7) in section 442(b)(2)(A), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(8) in section 464D(b)(2)(A), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(9) in section 464E—

(A) in subsection (d), in the first sentence, by inserting "Coordinating" before "Committee"; and

(B) in subsection (e), by inserting "Coordinating" before "Committee" the first place such term appears;

(10) in section 464P(b)(6) (as added by section 123 of Public Law 102-321 (106 Stat. 362)), by striking "Administration" and inserting "Institute";

(11) in section 466(a)(1)(B), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(12) in section 480(b)(2)(A), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(13) in section 485(b)(2)(A), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(14) in section 487(d)(3), by striking "section 304(a)(3)" and inserting "section 304(a)"; and

(15) in section 496(a), by striking "Such appropriations," and inserting the following: "Appropriations to carry out the purposes of this title,".

(c) Title XV.—Title XV of the Public Health Service Act is amended—

(1) in section 1501(b) (42 U.S.C. 300k(b)), by striking "nonprofit"; and

(2) in section 1505(3) (42 U.S.C. 300n–1(3)), by striking "nonprivate" and inserting "private".

(d) Title XXIII.—Part A of title XXIII of the Public Health Service Act (42 U.S.C. 300cc et seq.) is amended—

(1) in section 2304—

(A) in the heading for the section, by striking "**CLINICAL RESEARCH REVIEW COMMITTEE**" and inserting "**RESEARCH ADVISORY COMMITTEE**"; and

(B) in subsection (a), by striking "AIDS Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee";

(2) in section 2312(a)(2)(A), by striking "AIDS Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee";

(3) in section 2314(a)(1), in the matter preceding subparagraph (A), by striking "Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee";

(4) in section 2317(d)(1), by striking "Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee established under section 2304"; and

(5) in section 2318(b)(3), by striking "Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee".

(e) Secretary.—Section 2(c) of the Public Health Service Act (42 U.S.C. 201(c)) is amended by striking "Health, Education, and Welfare" and inserting "Health and Human Services".

(f) Department.—Section 201 of the Public Health Service Act (42 U.S.C. 202) is amended—

(1) by striking "Health, Education, and Welfare" and inserting "Health and Human Services"; and

(2) by striking "Surgeon General" and inserting "Assistant Secretary for Health".

(g) Department.—Section 202 of the Public Health Service Act (42 U.S.C. 203) is amended—

(1) by striking "Surgeon General" the second and subsequent times that such term appears and inserting "Secretary"; and

(2) by inserting ", and the Agency for Health Care Policy and Research" before the first period.

(h) Volunteer Services.—Section 223 of the Public Health Service Act (42 U.S.C. 217b) is amended by striking "Health, Education, and Welfare" and inserting "Health and Human Services".

SEC. 2003. TECHNICAL CORRECTIONS WITH RESPECT TO THE AGENCY FOR HEALTH CARE POLICY AND RESEARCH.

Title IX of the Public Health Service Act is amended—

(1) in section 904(d) (42 U.S.C. 299a–2(d))—

(A) by striking "In general" in paragraph (1) and inserting "Additional assessments";

(B) by redesignating paragraphs (1) and (2) as paragraphs (3) and (4), respectively;

(C) by inserting after the subsection designation the following new paragraphs:

"(1) Recommendations with respect to health care technology.—The Administrator shall make recommendations to the Secretary with respect to whether specific health care technologies should be reimbursable under federally financed health programs, including recommendations with respect to any conditions and requirements under which any such reimbursements should be made.

"(2) Considerations of certain factors.—In making recommendations respecting health care technologies, the Administrator shall consider the safety, efficacy, and effectiveness, and, as appropriate, the appropriate uses of such technologies. The Administrator shall also consider the cost effectiveness of such technologies where cost information is available and reliable."; and

(D) by adding at the end thereof the following new paragraph:

"(5) Consultations.—In carrying out this subsection, the Administrator shall cooperate and consult with the Director of the National Institutes of Health, the Commissioner of Food and Drugs, and the heads of any other interested Federal department or agency."; and

(2) in section 914(a)(2)(C), by striking "904(c)(2)" and inserting "904(d)(2)".

SEC. 2004. TECHNICAL CORRECTIONS WITH RESPECT TO THE HEALTH PROFESSIONS EDUCATION EXTENSION AMENDMENTS OF 1992.

(a) Assistance in Collection of Loans.—Subpart I of part A of title VII of the Public Health Service Act is amended—

(1) in section 705(a)(2)—

(A) by inserting "and" after the semicolon at the end of subparagraph (G);

(B) by striking subparagraph (H); and

(C) by redesignating subparagraph (I) as subparagraph (H); and

(2) by adding at the end of section 707 the following new subsection:

"(j) School Collection Assistance.—An institution or postgraduate training program attended by a borrower may assist in the collection of any loan of that borrower made under this subpart which becomes delinquent. The institution or postgraduate training program will not be subject to section 809 of the Fair Debt Collection Practices Act for purposes of assisting in the collection of any such loan.".

(b) Financial Need Requirement.—Subsection (b) of section 722 is amended—

(1) by inserting "and" after the semicolon at the end of paragraph (1);

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(c) Centers of Excellence.—Section 739(i)(2)(C) is amended by adding after the period the following new sentence: "Health professional schools described in paragraph (2) of subsection (c) are eligible for funding under this subsection.".

(d) Traineeships for Advanced Nurse Education.—Subsection (a) of section 830 of the Public Health Service Act is amended to read as follows:

"(a) In General.—The Secretary may make grants to public and nonprofit private entities to meet the cost of—

"(1) traineeships for individuals in advanced-degree programs in order to educate the individuals to serve as nurse practitioners, nurse midwives, nurse educators, or public health nurses, or in other clinical nursing specialities determined by the Secretary to require advanced education; and

"(2) traineeships for nurses in certificate nurse midwifery programs which conform to guidelines established by the Secretary under section 822(b), to educate the nurses to serve as nurse midwives.".

(e) Certain Generally Applicable Provisions.—Subsection (d) of section 860 of the Public Health Service Act is amended by striking "821, 822, 830, and 831" and inserting in lieu thereof "821, 822, and 827".

SEC. 2005. BIENNIAL REPORT ON CARCINOGENS.

Section 301(b)(4) of the Public Health Service Act (42 U.S.C. 241(b)(4)) is amended by striking "an annual" and inserting in lieu thereof "a biennial".

SEC. 2006. MASTER PLAN FOR PHYSICAL INFRASTRUCTURE FOR RESEARCH.

Not later than June 1, 1994, the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall present to the Congress a master plan to provide for the replacement or refurbishment of less than adequate buildings, utility equipment and distribution systems (including the resources that provide electrical and other utilities, chilled water, air handling, and other services that the Secretary, acting through the Director, deems necessary), roads, walkways, parking areas, and grounds that underpin the laboratory and clinical facilities of the National Institutes of Health. Such plan may make recommendations for the undertaking of new projects that are consistent with the objectives of this section, such as encircling the National Institutes of Health Federal enclave with an adequate chilled water conduit.

SEC. 2007. TRANSFER OF PROVISIONS OF TITLE XXVII.

(a) In General.—The Public Health Service Act (42 U.S.C. 201 et seq.), as amended by section 101 of Public Law 101–381 and section 304 of Public Law 101–509, is amended—

(1) by transferring sections 2701 through 2714 to title II;

(2) by redesignating such sections as sections 231 through 244, respectively;

(3) by inserting such sections, in the appropriate sequence, after section 228;

(4) by inserting before section 201 the following new heading:

"Part A—Administration"; and

(5) by inserting before section 231 (as redesignated by paragraph (2) of this subsection) the following new heading:

"Part B—Miscellaneous Provisions".

(b) Conforming Amendments.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) in the heading for title II, by inserting "AND MISCELLANEOUS PROVISIONS" after "ADMINISTRATION";

(2) in section 406(a)(2), by striking "2701" and inserting "231";

(3) in section 465(f), by striking "2701" and inserting "231";

(4) in section 480(a)(2), by striking "2701" and inserting "231";

(5) in section 485(a)(2), by striking "2701" and inserting "231";

(6) in section 497, by striking "2701" and inserting "231";

(7) in section 505(a)(2), by striking "2701" and inserting "231";

(8) in section 926(b), by striking "2711" each place such term appears and inserting "241"; and

(9) in title XXVII, by striking the heading for such title.

SEC. 2008. CERTAIN AUTHORIZATION OF APPROPRIATIONS.

Section 399L(a) of the Public Health Service Act (42 U.S.C. 280e-4(a)), as added by Public Law 102-515 (106 Stat. 3376), is amended—

(1) in the first sentence, by striking "the Secretary" and all that follows and inserting the following: "there are authorized to be appropriated $30,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1997."; and

(2) in the second sentence, by striking "Out of any amounts used" and inserting "Of the amounts appropriated under the preceding sentence".

SEC. 2009. PROHIBITION AGAINST SHARP ADULT SEX SURVEY AND THE AMERICAN TEENAGE SEX SURVEY.

The Secretary of Health and Human Services may not during fiscal year 1993 or any subsequent fiscal year conduct or support the SHARP survey of adult sexual behavior or the American Teenage Study of adolescent sexual behavior. This section becomes effective on the date of enactment of this Act.

SEC. 2010. SUPPORT FOR BIOENGINEERING RESEARCH.

(a) STUDY.—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall conduct a study for the purpose of—

(1) determining the sources and amounts of public and private funding devoted to basic research in bioengineering, including biomaterials sciences, cellular bioprocessing, tissue and rehabilitation engineering;

(2) evaluating whether that commitment is sufficient to maintain the innovative edge that the United States has in these technologies;

(3) evaluating the role of the National Institutes of Health or any other Federal agency to achieve a greater commitment to innovation in bioengineering; and

(4) evaluating the need for better coordination and collaboration among Federal agencies and between the public and private sectors.

In conducting such study, the Director shall work in conjunction with appropriate organizations and representatives including academics, industry leaders, bioengineering societies, and public agencies.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives, a report containing the findings of the study conducted under subsection (a) together with recommendations concerning the enactment of legislation to implement the results of such study.

TITLE XXI—EFFECTIVE DATES

SEC. 2101. EFFECTIVE DATES.

Subject to section 155, this Act and the amendments made by this Act take effect upon the date of the enactment of this Act.

Mr. KENNEDY. Mr. President, I ask unanimous consent that a brief analysis of the committee modification be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

THE NATIONAL INSTITUTES OF HEALTH REVITALIZATION ACT OF 1993

S. 1—CHANGES IN THE COMMITTEE MODIFICATION AMENDMENT

Section and provision

Sec. 101—Review of Proposal for Biomedical and Behavioral Research:

President appoints members of the ethics advisory board.

Secretary can overrule the board's recommendation only if there is a reasonable basis.

Sec. 131—Requirement of inclusion of women and minorities in research:

The Director of NIH will consult with the Director of the Office of Research on Minority Health on the establishment of guidelines requiring the inclusion of minorities in clinical research.

Sec. 302—Program of research on Osteoporosis, Paget's disease, and related disorders:

The National Institute of Dental Research has been added to the list of institutes required to expand and intensify research in the area of osteoporosis and related disorders.

Sec. 303—Establishment of interagency program for trauma research:

Changes the date for the submission of a plan from June 1, 1993 to not later than 1 year after enactment of this Act.

Sec. 503—Center on Sleep Disorders Research:

Establishes an advisory board and a coordinating committee.

Requires a comprehensive plan for sleep disorders research.

Sec. 1031—Prospective Longitudinal Adolescent Health Study:

Deletes $3 million reserved each year for a three year study.

Requires 3-year study to be completed.

Sec. 1101—Clinical and health services research on eye care and diabetes:

Changes from a research centers program to a research grants program. (NIH request)

Sec. 1502—Biomedical and Behavioral Research Facilities Construction:

Secretary appoints member of the advisory board.

The Director of NIH, acting through the Director of the Center, may make grants for facilities construction.

Sec. 1503—Primate facilities construction:

Authorizes that not more than $7 million be reserved from amounts appropriated for the facilities construction program.

Sec. 1521—National Center for Genome Research:

The Director of the Center is authorized to make available not less than 5 percent of funds appropriated to address the ethical and legal issues, including the issuing of patents, associated with the Genome Project.

Sec. 1701—National Foundation for Biomedical Research:

Clarifies the purpose of the Foundation and authorized activities.

Requires the Director of NIH, not later than 30 days after the date of enactment of this Act, to convene a meeting of the ex officio members of the Board. The ex officio members will select the initial members of the Board. The Board will then incorporate the Foundation and establish general operating policies including establishing by-laws.

Establishes guidelines to ensure the integrity of the Foundation and to avoid financial conflicts of interest.

Ensures that the Foundation does not receive NIH extramural funds.

GAO study to ensure that the Foundation is in compliance with the guidelines established by this act.

Sec. 1909—Cost of care in the last 6 months of life:

A study to determine the average amount of health care costs of children who are less than 1 year of age during the last 3 and 6 months of life.

Sec. 1910—Reducing administrative health care costs:

The Secretary may study (not required) whether computer extraction of data from hospital discharge summaries can reduce administrative costs associated with the billing process.

Sec. 2001—Silvio Conte Senior Biomedical Research Service:

Reduces the number of members from 750 to 350.

Sec. 2003—Agency for Health Care Policy and Research:

Technical corrections. (Agency request).

Sec. 2004—Health Professions Education Extension Amendments of 1992:

Technical corrections. (Agency request).

Sec. 2006—Master plan for Physical infrastructure for research:

The plan is due to Congress by June 1, 1994.

Sec. 2009—Support for bioengineering research:

Expands the area to be studied (cellular, bioprocessing, tissue, and rehabilitation engineering).

Mr. KENNEDY. Mr. President, from a beginning as a one-room Laboratory of Hygiene in 1887, the National Institutes of Health have grown into one of the foremost biomedical and behavioral science research centers in the world.

The research supported or conducted by NIH continues to offer the promise of improving the health, welfare, and quality of life of all Americans well into the next century. With each year, the NIH discovers new scientific knowledge to improve the prevention and treatment of disease.

The United States continues to be recognized as the world leader in medical research. This year alone, the NIH will invest more than $10 billion in biomedical research. And this year alone, NIH-supported research will yield many new discoveries of great potential value to the public and expand our understanding of health and disease.

NIH-supported scientists have developed the first animal model for cystic fibrosis. This development should help speed research on new therapeutic strategies for that disease. NIH-supported scientists recently discovered a link between a human gene and high blood pressure. Development of a test to measure that protein could improve diagnosis, treatment, and prevention of high blood pressure.

Recently, NIH scientists were the first to use gene therapy to treat human disease. The first person who received the therapy celebrated her 2d year of healthy life.

Successful use of taxol to treat ovarian cancer and breast cancer, successful use of suramin to treat prostate cancer, gene therapy for drug resistant breast cancer, and new treatment approaches to Alzheimer's disease all came from the intramural program at NIH.

We have learned, however, that we cannot guarantee the health of the American people with obsolete knowledge. We must remain on the cutting edge of science and technology. We must continue to support biomedical research to win the war on cancer, find a cure for AIDS, and effective therapies for people to live with HIV disease, improve the quality of life for people with Alzheimer's disease by developing better treatment, and find the cause of the breast cancer epidemic.

As the American population ages, new diseases emerge for which effective treatments are lacking. We must be prepared to meet these challenges. The reauthorization of programs at the NIH will ensure that we obtain scientific knowledge to prevent disease, to promote health, and to prolong life, reduce health care costs, and keep America first in biomedical research.

Yet, action on these critical programs was stalled in the 102d Congress because the previous administration vetoed this legislation because of its provisions on fetal tissue transplantation research. As a result, Majority Leader Mitchell designated this important legislation as S. 1.

The pending bill is a modified version of the legislation that passed the Senate last June by a vote of 85 to 12. The most controversial issue continues to be fetal tissue transplantation research. The moratorium prohibiting Federal funding of such research was overturned by President Clinton by Executive orders on January 22, 1993, and this bill provides authority for the NIH to conduct research in this area.

The new bill also contains all the safeguards in the previous bill to prevent potential abuses in such research. Under these safeguards, a clear separation is maintained between a woman's decision to have an abortion and her decision to donate the tissue for research.

The bill also contains new priorities on women's health. In recent years, irrefutable data have demonstrated major gaps in knowledge about the causes, treatment, and prevention of diseases in women.

To cite just a few examples:

Every year, 90,000 women die as a result of strokes.

Fifty percent of all women who have heart attacks die within a year, but only 31 percent of men do.

Lupus occurs nine times more often in women than men.

Today, 1 in 9 women will develop breast cancer, compared to 1 in 20 in the 1960's and the numbers continue to grow.

Each year over a million women suffer bone fractures as the result of osteoporosis.

We are also witnessing an epidemic in lung cancer in women. In fact, lung cancer has now surpassed breast cancer as the leading cause of cancer death in women. In 1991, 51,000 women died from lung cancer, and 45,000 women died from breast cancer.

Most of the biomedical knowledge about the causes and treatment of disease comes from studies on men. The results of these studies have then been applied to women's health care. The lack of direct research involving women has resulted in second-rate care for millions of American women. The challenge we face is to remedy that injustice as soon as possible.

The new legislation will do so, by making women's health a top priority at NIH. The bill ensures increased participation by women in clinical studies. It guarantees that NIH will expand the number of women scientists. It provides additional funding for research efforts on breast cancer, ovarian and cervical cancer, osteoporosis, and reproductive health. It will be a giant step toward a remedy for the failures and the neglect of the past.

The women of America deserve their fair share of health research conducted with Federal funds. They deserve a chance to participate in clinical trials. They deserve a chance to lead healthy and fulfilling lives.

Other important provisions in the bill are directed toward improving the health of children.

A children's vaccine initiative will develop affordable new and improved vaccines for the prevention of infectious diseases.

A study to evaluate the safety and effectiveness of HIV vaccines for treatment and prevention of HIV infection in women, infants, and children.

A child health research center program will speed the transfer of knowledge gained from basic research to clinical applications that will benefit the health of children. Centers for basic and clinical research on cardiovascular disease in children will also be established.

A juvenile arthritis program will expand research into the cause, diagnosis, early detection, control, treatment, and rehabilitation of children suffering from arthritis and related diseases.

This legislation will also ensure that we bring increased priority to our national AIDS research program. Currently, we benefit from the scientific expertise of 21 institutes, centers, and divisions at the NIH in the battle against AIDS. This approach allows the NIH to make use of the best and the brightest scientists in each institute. But at the same time, it is an approach that needs more coordination and strategic planning to maximize the effectiveness of our biomedical investments.

The Committee on Labor and Human Resources played a strong role in the creation of the Office of AIDS Research with the introduction of the first AIDS bill in 1987, and I am pleased that we are now enhancing the authorities of the Office, giving it the tools it needs to do the job.

I am gratified that the AIDS research reform provision has been included with the strong support of the Clinton administration and Senators KASSEBAUM and HATCH.

Finally, the legislation contains the following additional provisions:

Steps are taken to increase the competitiveness of research proposals in States whose facilities have experienced low success rates in obtaining research awards from the NIH.

New Federal policies are developed on scientific misconduct, conflicts of interest, and prevention of retaliation against whistleblowers in connection with NIH research.

An extramural facilities construction program will provide grants to repair the crumbling national biomedical infrastructure.

The National Research Service Awards Program is reauthorized to ensure a continuing supply of scientists and clinical investigators, and increase the number of women and minorities in biomedical research.

The National Center for Sleep Disorders Research in the National Heart, Lung, and Blood Institute will support basic, clinical, epidemiological, and prevention research on these disorders. It will also develop new research programs and educational and training initiatives, and will ensure coordination, cooperation, and collaboration among Federal agencies on these disorders. Forty million Americans are chronically ill with various sleep disorders and an additional 20 to 30 million experience intermittent problems in this area. The consequences are serious and often catastrophic.

The National Institutes of Health Reauthorization Act of 1993 is comprehensive and important bipartisan legislation to advance our knowledge of medical science.

Its goal is to save lives, improve the health of all Americans, and continue the long NIH tradition of research excellence to improve the health of people everywhere. We cannot prevent, treat and cure tomorrow's diseases with yesterday's knowledge. But with the passage of this bill we are recognizing the importance of biomedical research to the Nation's future.

I urge the Senate to approve this essential legislation.

I point out, Mr. President, just at this part of the opening comments, this really is a reflection of not only the support, but the input, of many members of our committee. There are areas of difference that we have in our Labor and Human Resource Committee, but we have been able to work very closely together, all members of the committee, in fashioning and shaping this legislation. It has virtually the unanimous support of all the members of the committee. Perhaps during the course of the debate, when we get into greater detail on the different provisions, I will mention in addition the various provisions that other members were primarily interested in. But it really is an enormously important piece of legislation which continues this Nation's strong commitment in the areas of biomedical research and increasing emphasis of moving that research out into public availability. I am very hopeful that the Senate will overwhelmingly pass this legislation.

I am enormously grateful as always for the help, guidance, and assistance of Senator KASSEBAUM.

The PRESIDING OFFICER. Senator KASSEBAUM.

Mrs. KASSEBAUM. Mr. President, I appreciate the comments of the chairman of the committee. I rise in strong support of S. 1, the National Institutes of Health Revitalization Act. It has bipartisan Labor Committee support and is an extremely important bill which legislates a wide variety of initiatives, as Senator KENNEDY has already laid out in some detail. Accordingly, I urge the Senate to pass this bipartisan legislation.

In many respects, S. 1 is identical to the conference version of H.R. 2507 which we passed last year by a vote of 85 to 12. Unfortunately, that bill faced a Presidential veto. I hope that this bill can now move swiftly through Congress and be signed into law.

The NIH is a national treasure and the centerpiece of the emerging American biomedical research enterprise. Through NIH-sponsored research, health providers are now able to treat and cure diseases which once led to debilitating illness or death. As just one example, NIH recently gave many children and their families renewed hope that a genetic cure might be developed for cystic fibrosis. And, just as Dr. Salk and Dr. Sabin discovered vaccines for the deadly polio virus, NIH-sponsored research may one day develop the vaccine against the deadly AIDS virus.

As the Nation responds to the national problems of tuberculosis, childhood immunizations, and breast cancer, NIH will lead the charge as it researches and develops effective treatments. Extending healthy life and reducing the burdens of illness and disability through quality scientific research is the mission of the NIH. Passing S. 1 will enable the Institutes to meet this commitment for the American people.

As the Senator from Massachusetts has already outlined, this bill has many good provisions. It will reauthorize the two largest Institutes: The National Heart, Lung, and Blood Institute and the National Cancer Institute. In addition, it will authorize many important new initiatives throughout NIH. I am particularly interested in the new initiative on women's and children's health and on scientific integrity. In addition, I am pleased the bill includes a measure for which I have ongoing interest, tropical diseases.

I would like to commend Dr. Pinn, who is the current director of the Office on Women's Health Research, for her leadership and efforts to ensure the inclusion of women in all appropriate NIH research efforts. I look forward to working with NIH as it goes forward with these significant endeavors. Furthermore, I wish to recognize the efforts of Senator MIKULSKI of Maryland, a member of the Labor Committee, who has been a strong proponent of the women's health research provisions. We shared pleasure in seeing these provisions included in last year's bill and in S. 1 this year.

This bill also calls for improved research for children's health through the new centers at the National Heart, Lung, and Blood Institute and the National Institute of Child Health and Human Development. Furthermore, NIH will include children in AIDS vaccine research. This initiative will help the smallest victims of this terrible disease.

Senator KENNEDY has addressed the immunization issue. I believe all my colleagues share some real concerns about this problem. The lack of adequate immunization rates for children is a great national concern. In Kansas, less than 50 percent of all 2-year-old children are adequately immunized. The costly and complicated vaccine regimen, which requires multiple shots on multiple visits, in part, is the cause of this problem. NIH vaccine research will remedy these problems as scientists create cheaper and more easily administered multicomponent vaccines.

Mr. President, tropical diseases require much-needed research to prevent their spread. Facilitated by the ever increasing volume of international travel and commerce, malaria, dengue fever, and other tropical diseases are surfacing within our borders. In addition, Americans are now threatened by many tropical viruses, including Lassa, Rift Valley, Marburg, and Ebola fevers. I am pleased that S. 1 contains a provision which changes the statutory purpose of the National Institute of Allergy and Infectious Diseases to include the study of tropical diseases.

I am also concerned about the issue of scientific misconduct. During her confirmation hearings, I discussed the issue of scientific integrity with Dr. Shalala. This issue arose during her tenure as chancellor of the University of Wisconsin, as indeed it has in many of our major research universities over the past several years. Research often generates substantial revenues for an institution and professional reputations are on the line. It is critical that appropriate procedures be in place to assure the thorough and fair investigation of charges of scientific misconduct.

This legislation attempts to address this important matter through the establishment of an Office of Scientific Integrity within the Department of Health and Human Services. This office will oversee measures to prevent and investigate scientific misconduct in NIH-sponsored research efforts. In addition, the bill provides for the development of the definition of scientific misconduct. It is my hope that these scientific integrity provisions will provide a solid framework for guiding our efforts to combat any fraud and misconduct that may take place. I look forward to reviewing the work of the office as it undertakes this task.

Recently, President Clinton lifted the moratorium on the use of fetal tissue for transplantation research, and there are safeguards contained in this legislation to ensure the delicate balance between the pursuit of science and the ethical and moral issues involved in the use of fetal tissue. These safeguards directly address the fears and concerns which many of us have expressed about potential abuses. Importantly, this legislation will apply those safeguards to privately funded research for the first time.

Mr. President, the AIDS provisions in this bill represent a significant compromise reached between Senator KENNEDY and myself and others. However, at its introduction, I did not support this measure. I was concerned the provisions would have used valuable AIDS research resources on bureaucracy and hurt basic research activities. Through its creation of an institute-like structure for AIDS research, the provisions would have set a precedent of creating disease-specific institutes. Institutes use resources for administration which are better spent on research. I am pleased that we were able to reach a compromise which will ensure that the Office of AIDS Research is a planning and coordinating body, not in effect a new AIDS institute.

I believe the agreement meets the goals of a 1991 Institute of Medicine blue ribbon panel which examined the AIDS research program at NIH. That panel concluded that NIH should not form an AIDS institute. However, it did recommend improvements in strategic planning and coordination of the NIH-wide AIDS research effort, and I believe the Kennedy-Kassebaum committee substitute AIDS provisions will achieve this goal.

Under our agreement, the Secretary, not the President, will appoint the director of the OAR. The Office of AIDS Research will have the power to develop an AIDS research strategic plan, but will coordinate its implementation across the institutes—the OAR will not conduct research itself. While the entire NIH-wide research budget will continue to pass through the OAR, it will only directly control the distribution of new research funding. Ongoing AIDS research funds will remain at the sole discretion of each institute director. Finally, our compromise streamlines the bureaucracy and prevents the OAR from wasting valuable resources through a provision which prohibits the duplication of evaluation and planning functions which now occur in the institutes.

In conclusion, reauthorizing research at the National Institutes of Health is an important investment for the American people. This act embodies 2 years of careful deliberations by this body. This bipartisan bill will lead to improved health for all Americans, and I urge my colleagues to support its adoption.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, the fact that we have S. 1 before us today—on the 12th day of this session—is testament to both the importance of our Nation's research infrastructure and the urgency Congress feels about moving our biomedical research agenda forward. Moving it forward quickly and wisely.

This is not last year. I could not say it more simply.

Issues that divided us last year, controversial issues such as the moratorium on fetal tissue research, are now moot.

In a bipartisan spirit of cooperation, the Labor and Human Resources Committee voted 16 to 0 to move this bill to the floor; 16 to 0. That says it all. It is not the time for gridlock, delay, or finger-pointing.

And in that same bipartisan spirit of cooperation, I will keep my remarks brief.

My purpose today is to express support for S. 1—I am an original cosponsor and strong proponent of the bill—and I intend to do what I can to ensure it is moved to the House as quickly as possible.

Some may question how I, who led the charge against the bill last year, could be a strong supporter of the measure this year. In fact, earlier this month someone stopped me and inquired about my so-called dramatic reversal on the validity of fetal tissue research.

I was surprised at this question, Mr. President, because nowhere in the debate did I ever criticize the scientific validity of fetal tissue research. In fact, I stated that some of the literature indicated it is quite promising. I also stated that I was a strong proponent of fetal tissue research.

Let the record be clear: I still maintain that the NIH-supported fetal tissue banks can be an efficient and effective means to supply tissue for research. In last year's haste to try and overturn the moratorium, I do not think proponents of S. 2507 paid sufficient attention to setting up a viable supply system for tissue.

Let the record be equally clear: last year, I objected to use of tissue from induced abortions. I still do. I wish the banks had been given a chance to work as the last administration envisioned them.

But that battle is over. The argument has been superseded by President Clinton's actions last week. And the bill contains a strong set of safeguards—which I insisted upon—which are aimed at protecting women from undue pressure or persuasion to have an abortion in order to make tissue available. That simply would be illegal.

In our debate, it is important to acknowledge the essential role scientists and administrators at NIH play in advancing our Nation's medical knowledge and in providing treatments and cures for a host of diseases and conditions, both small and large.

NIH is yielding exciting results. Look at molecular research. Doctors have been taking natural components and cell products, such as growth factors and receptors, and using these isolated elements to apply drugs in a highly focused way to targeted body areas. These smart bombs for cancers focus on bad cells without affecting the good cells. Clinical trials are already underway using this technology as a local therapy for patients with bladder cancer. It is amazing. It is impressive.

Look at structural biology. Look at vaccines. Look at lead poisoning. NIH's success stories would fill volumes. The institutions that collectively make up NIH are on the leading edge of biomedical research. That is the way it should be.

It is our job in Congress to provide NIH with the support it needs to get the job done. And that is what S. 1 aims to do. It is not the bill I would have written could I have begun from scratch. But it is a good bill.

The challenge for Congress and for the new administration is to support and guide NIH in continuing its stellar leadership in medical research without micromanaging its efforts or succumbing to partisan bickering over identifying priorities for the agency.

I promised to be brief, so I will limit the remainder of my remarks to three specific sections of the bill. The first is the section dealing with research on women and minorities.

For too long, medical studies performed in the United States have been biased against women and minorities. As a result, these populations have not had equal opportunity to receive the promises biomedical research holds. I have also found that little research is being focused on problems that only affect women.

I am gratified that this bill takes a strong step to address the problem. It requires research specifically targeted at women's health problems. It establishes the Office of Research on Women's Health, to identify problems unique to women that need research attending—to coordinate NIH efforts to explore these issues—to oversee the methodologies used to perform the studies.

The time has come to respond properly to the medical needs of this Nation's women. Mr. Chairman, I worked with you on this bill to ensure that women and children are included in AIDS vaccine trials. This legislation will take us in that direction.

The bill we have before us today contains a highly significant set of changes that were not present last year. These provisions focus on the AIDS research agenda at NIH.

I have been visited by Mary Fisher and I wear this pin, just a little plastic pin that she gave me which shows compassion for those who suffer from AIDS. I have also been visited by Elizabeth Glaser.

These are both brave and courageous women. They did not come to me as Republicans, nor did they come to me as Democrats. They did not come to me as women or mothers. They did not come representing any particular race, geographical locale, or economic income.

They came to me as people who know and people who care. They know of our scientists' hard work to find a cure for AIDS, but they also know that the cure is not coming fast enough.

How can we face these brave women and tell them we have done all we can? In good conscience, we cannot.

I have to say that in the case of pediatric AIDS, one of their special interests, Senator METZENBAUM and I raised the first $1 million in private funds to begin efforts on this specific problem. Last night, I noticed there is going to be a television show to raise money strictly for pediatric AIDS. And, there have been marvelous fundraisers out in Hollywood to raise money for pediatric AIDS. A lot of this has been inspired by this wonderful human being named Elizabeth Glaser.

I also mentioned Mary Fisher, who has done an equally compelling job. She came to visit us out in Utah and spoke to our women's conference and our youth advisory committee. She did a terrific job of making people more aware of others who are HIV positive and, yes, those who have AIDS. I could not have a greater appreciation for her or Elizabeth than I have today.

I want, with all my heart, to resolve these problems, not only for them, but for all people who suffer similarly.

As I said, S. 1 contains a highly significant set of changes for AIDS. It establishes an Office on AIDS Research. It establishes new lines of reporting at NIH. It mandates a new AIDS strategic plan. The AIDS budget will be more concentrated and under the direct authority of the new Director of the AIDS Office. The AIDS budget will be expedited without well-meaning but burdensome layers of administrative review.

It is true, this bill may shake things up just a bit. The old organizational structure will be challenged. But I assure our NIH Directors that we will do all we can to work with them to make sure they have a fair hearing and their concerns are addressed.

We all have the same goals, and that is important to keep in mind. But the bottom line is: we just cannot afford a business as usual attitude. Our best is not good enough. We have to keep trying. People are dying—and women and children are dying.

Finally, let me just mention one other provision of special interest to me. Section 1909 requires a study of the costs of medical treatment in the last 3 months of life and in the last 6 months of life. This study will provide invaluable information that can then be used to evaluate the effectiveness and cost of such health care. I believe that this information is important to the health care reform debate. To date, no study has examined national health care expenditure data for such an analysis.

Mr. President, Gen. George Patton, responding to criticism over his plan to halt the World War II German advance during the Battle of the Bulge, responded that "a good plan today is better than a perfect plan tomorrow."

The same thing may be said about this particular reauthorization bill. It is not perfect, but it is a reasonable, appropriate response to the demands placed on our biomedical research infrastructure.

Let us put aside our past rancorous debate. This is a new time in America. This is a new bill, and it deserves to move forward.

I particularly want to commend our chairman, Senator KENNEDY, and the ranking minority member, Senator KASSEBAUM, for their very fine work on this bill. They both have done a marvelous job, and we have tried to help whenever we could. I intend to work with both of them to ready this bill for the President's signature. I think these two leaders on the committee are doing their very best to work together and to provide the very best for NIH and for the people of this country. The American people deserve no less than the best research NIH has to offer.

Mr. President, there are a lot of excellent provisions in this bill that could help virtually every one in America improve their health status. I want to thank both of my colleagues, and the other members of the Labor and Human Resources Committee, for their prodigious efforts. They have worked hard to accommodate people, to compromise and resolve difficulties, and to work together in the best interests of our country, the NIH, as well as the men, women, and children in our country. I feel particularly good about this bill.

I yield the floor.

(Mr. WELLSTONE assumed the chair.)

Mr. KENNEDY. Mr. President, I want to express our appreciation to our friend from Utah, Senator HATCH. As he has pointed out during the course of the debate, this legislation has had very considerable discussion over a year, and Senator HATCH was very much involved in a number of the provisions. We did have some areas where there was difference, but I want to express all of our appreciation for the work that he has done in the developing of earlier pieces of legislation, also on this legislation. We welcome his help and assistance and his contribution in moving this whole process along.

Mr. HATCH. I thank the Senator. I appreciate his kind remarks.

FETAL TISSUE BANKS

Mr. HATCH. Could the distinguished chairman of the committee respond to a brief question on an issue which is very important to me, the fetal tissue banks at NIH?

Mr. KENNEDY. I would be happy to do so.

Mr. HATCH. As the chairman is very aware, during our debate on the NIH bill last year, I urged the administration to go forward with the idea of setting up fetal tissue banks, to serve as a collection point for tissue which could be used for important biomedical research. I said at that time, as I underscore now, that I do not oppose the use of fetal tissue for research. In fact, I think it holds great promise. What I did object to was that we would be encouraging fetal tissue transplantation from a source which was ethically troublesome to many Americans, when, in fact, alternative sources are available.

HHS did go forward with the banks last fall, and I understood that plans were for five banks to be funded for a 2-year period. If I recall correctly, the chairman did not object to the use of the banks, but rather he wished to make certain that setting up the banks did not in any way delay fetal tissue for research. Is my understanding correct?

Mr. KENNEDY. Yes, it is. There is a long history to this issue, which I will not reiterate here as we are all interested in moving this bill quickly to the President for signature. While I have a profound respect for my colleague from Utah, with whom I have worked closely on major health legislation over the years, the gentleman and I do have disagreement on the issue of whether tissue from elective abortions should be used for research. With the President's directive, that issue is now moot.

The bill is silent on the issue of the banks. However, I agree it was our committee's intent last year that HHS give them a fair try, and I see no reason to alter our intent that 2 years was a fair trial period, provided again, that there is no delay in research.

Mr. HATCH. I thank the chairman for those assurances. As you know, I am a strong proponent of S. 1. I am happy to support the bill this year. I am enthusiastic about it.

But I do have a longstanding interest in the banks and I believe that the banks could have value if their ability to provide an alternative source of tissue from spontaneous abortions were demonstrated. In addition, these banks will develop standards to ensure disease-free sources of tissue. I know that HHS is concerned about the money to fund them through next fiscal year. In a 10 billion-dollar budget for NIH, though, I think they ought to be able to find the funds. I will talk to the appropriators about this, if necessary.

Frankly, I was disturbed that NIH chose to spread out the funding among five projects, most of which are not institutions with large obstetrical services or in the more highly populated areas of the United States. If the future of the banks falls on the issue of funding, perhaps a smaller number of high quality projects would yield more productive results. I hope Secretary Shalala, for whom I have a great deal of respect, will take a look at this.

Again, I do not intend to hold up the debate on this meritorious bill, but I thank my colleague for his cooperation and his assurances.

AIDS RESEARCH SECTION OF S.1

Mr. HATCH. I would like to ask the distinguished chairman of the Labor and Human Resources Committee to respond to concerns a number of scientists have raised regarding the impact of these important reforms on how the NIH conducts AIDS research.

The chairman and I have a long history of working together on legislation to make our Nation's AIDS programs more efficient and effective. That is certainly our intent here. Does the Senator feel in any way that this bill would undermine NIH's AIDS research program?

Mr. KENNEDY. No; I don't. The linchpin of NIH's extramural research program—the peer review process—would remain unchanged. All extramural research funded through the Institutes would continue to be reviewed as it has in the past.

The newly strengthened Office of AIDS Research [OAR] would be involved in setting budgetary and policy priorities; it would not impose an additional layer of peer review over the various Institutes and Centers currently conducting AIDS research. The research funded directly by OAR would also have to be peer reviewed, utilizing an appropriately constituted study section, with second level review by the OAR Advisory Council.

Mr. HATCH. The point the chairman raised about imposing an additional layer of review is an important one. Does the chairman feel that the way we have strengthened OAR, giving the Director more of a coordinating role over AIDS research, will in any way delay speeding funds to research priorities?

Mr. KENNEDY. No; I do not see any need for delay. We have studied this in great length. As the Senator knows our staffs have had extensive discussions with the best minds in this field. There is going to be a certain level of discord anytime you make changes in the system. We all recognize this. But I am confident that the NIH can quickly adapt to the changes and work—in the spirit of bipartisan cooperation we all share—to carry out the intent of these revisions.

Mr. HATCH. I agree with the chairman. I understand that these changes do have the endorsement of the AIDS Action Council, the National Commission on AIDS, and the administration, to name a few.

In fact, when Secretary Shalala—who supports the AIDS provisions strongly—testified before the House earlier this month, she said:

> If there is any sense on our part that some reorganization would in fact impede our ability to move forward in terms of AIDS research, we will be the first ones back here at this table to tell you that we have a structure that doesn't work. We believe that we can make the structure work, and therefore we support the [Senate] recommendations.

Mr. KENNEDY. I agree. Let me add a point. Science would not be delayed by any provision in this bill. Funds for continuing grants would be awarded immediately to the Institutes at the beginning of the fiscal year, essentially as it has functioned in the past.

During the budget process, new initiatives, with new-and-competing funds, would be prioritized by the OAR, in consultation with the ICD's and the AIDS Program Advisory Council. Once the President's budget is forwarded to the Congress, the Institutes could begin developing RFA's and the carrying out of the logistical work needed to get money awarded as quickly as possible.

Only if the Congress appropriated less money than the President's request would there be uncertainty in funding new initiatives. But that is the case under the current system as well.

Mr. HATCH. Some have expressed concerns that the Institute Directors' ability to allocate priorities would be undermined since a significant portion of their funds would be rerouted to the OAR Director's control. Does the chairman feel this is the case?

Mr. KENNEDY. I understand the concerns. I have looked into them very carefully, and I am confident we have designed a system which will expedite a coordinated, strategic AIDS research program without unduly harming the Institute Directors' ability to conduct any research, AIDS or non-AIDS.

Only those programs that are new or competing will fall under the authority of the OAR Director. The commitment base programs, those continuing research grants, will not be subject to budget review by the OAR. Competing renewals will be subject to the enhanced prioritization and planning review process. In short, if they continue to meet the evolving goals and objectives of the overall NIH AIDS plan, they will be competed and continued as in the past. Competing fund will be distributed to the various Institutes and Centers, and only moneys from the discretionary fund would potentially go out in direct grants from the OAR.

Mr. HATCH. There seems to be some concern that the bill would allow the OAR Director to transfer AIDS research positions from one Institute to another, or to OAR. This is simply not the case.

Mr. KENNEDY. No, of course not. The intent of this legislation is to make sure there are no OMB-imposed ceilings on FTE's needed for the discretionary fund. The bill will not take existing research FTE's away from any Institute.

I know the Senator has mentioned to me his concern—which I share—over recent reports that less than half of the FTE's budgeted for the OAR are actually assigned to OAR. In addition, it is possible that some of the FTE's currently allocated to the National AIDS Program Office [NAPO] for coordination of AIDS activities could be more effectively utilized in the OAR. I hope that Secretary Shalala will look into this and take whatever corrective action is needed on a priority basis. I know she shares our commitment to improving AIDS programs at her agency.

Mr. HATCH. There has been a good deal of discussion about the baseline in this bill. S. 1 creates a discretionary fund for the OAR of up to 25 percent of funding above the baseline. Do we have agreement on how that baseline is defined?

Mr. KENNEDY. Yes there is agreement. I also believe there may be some confusion between the commitment base and the baseline.

The baseline is used to determine how much funding would go into the discretionary fund for the OAR Director, that is, the fund from which the OAR Director could make grants directly. The baseline would essentially be the current services budget or the last fiscal year's appropriation for all NIH research related to AIDS adjusted for biomedical inflation. It is my understanding that that amount for fiscal year 1993 would be about $1.1 billion. The discretionary fund would be comprised of up to 25 percent of any new funding above that amount.

For example, in fiscal year 1994, if we appropriate $100 million above fiscal year 1993 current services, up to $25 million would be available for the OAR's discretionary fund. The commitment base, in contrast, is used to gauge the amount of funds over which the OAR Director would have oversight and coordination authority, leaving the Institute Directors with the authority to actually make the grants. Let me make clear that the discretionary fund would not come out of the commitment base for NIH AIDS research, or out of the competing funds that have rolled over.

Mr. HATCH. How does the chairman envision this discretionary fund being used?

Mr. KENNEDY. The purpose of the discretionary fund is twofold: it can be used to address emergency situations that could not be anticipated during the planning and budgeting process; or, it could be used to support targeted research efforts, peer reviewed by the AIDS Program Advisory Council, on an expedited basis to fill gaps in the overall national AIDS research program. If the entire fund were not needed, it would be passed on to the Institutes and Centers based on the priorities set in the overall research plan.

Mr. HATCH. Does this mean that the OAR could tap funds already committed by the Institutes and Centers, either from the commitment base or from those discretionary funds passed on to the Institutes and Centers?

Mr. KENNEDY. That is not our intent. We intend that the OAR Director have a strong coordinating role upfront, and that the need to shift funds from one Institute to another would be minimized.

The OAR Director's discretionary fund is received at the beginning of the fiscal year from new funds appropriated by the Congress. It does not function like the NIH Director's 1-percent discretionary fund, which is like a tap on the Institutes and Centers—whether they are baseline funds or discretionary funds.

Mr. HATCH. This brings to mind one last issue. I am concerned, as I know is the Senator from Massachusetts, that the Institute and Center Directors continue to play a vital role in the process. Certainly, it is necessary to make some changes to enhance the process, and as the Senator earlier said, this will entail some disruption. On the other hand, we need to make certain that the ICD's are full partners in the process. The chairman has already addressed the budget aspect. What about the planning process?

Mr. KENNEDY. I believe we are in total agreement on this. Under the legislation, the strategic plan will be developed by the OAR with extensive involvement by the Institutes and Centers in collaboration with the advisory councils.

It is our intent that the foundation of the AIDS strategic plan be generated by the individual Institutes. While the OAR would have enhanced priority-setting and budgetary authority, all budgets and plans would be made in consultation with the Institute and Center Directors and the OAR Advisory Council. I see this as a partnership effort.

Mr. HATCH. I thank my colleague. I believe we are in total agreement.

Ms. MOSELEY-BRAUN. Mr. President, the NIH reauthorization bill is a critically important piece of legislation. This bill was wrongly vetoed last year. This legislation contains sound, well-thought-out provisions that will improve the health of the citizens of this Nation.

S. 1 emphasizes women's health research, a subject to which I am very committed. The bill requires the NIH to include women and minorities as subjects in all clinical research it conducts or supports.

Heart disease claims more women's lives than any disease in this country, yet all of the major studies of the cause and prevention of heart disease have only involved men.

A 1988 study of 22,000 physicians found that aspirin could prevent heart attacks. Sadly, however, no women were involved in the study. Today, doctors recommend their older male patients at risk for heart disease to take an aspirin every other day. But they cannot offer their older female patients at risk for heart disease the same advice with certainty precisely because women were not included in the study.

No women were included in a 15-year study of 13,000 people on premature heart disease. Nor were women included in a 15-year study which researched the effects of lowering cholesterol levels in 4,000 people, despite evidence that women's cholesterol levels typically increase after menopause and are affected by factors such as the use of oral contraceptives.

Mr. President, there are now six women in the Senate. I hope this job does not stress any of us out too much, because there has not been enough research on us for doctors to suggest with certainty preventive strategies against heart disease resulting from the stress of long hours, late nights, and constant plane trips home. Only stress-related heart disease in men has been studied.

S. 1 provides statutory authority for the Office of Research on Women's Health. It also establishes a national data bank and clearing house for the collection, storage, analysis, and dissemination of information on women's health research.

S. 1 authorizes a program for intensified basic, clinical and behavioral research on osteoporosis, which strikes mainly post-menopausal women. Although every woman who lives long enough enters menopause, the biology of menopause is poorly understood. Physicians increasingly prescribe hormone replacement therapy for post-menopausal women to prevent osteoporosis or cardiovascular disease, yet researchers are unable to answer with certainty the questions women have about the safety and efficacy of hormone replacement therapy. S. 1 expands and intensifies research activities on breast, ovarian and other cancers of the reproductive system.

S. 1 establishes a program to recruit and provide research training to women who are now underrepresented in the fields or biomedical and behavioral research. I am happy to know that the labor and human resources committee is concerned about the lack of women in senior level positions at the NIH, and that it encourages each institute to develop its own plan for improving the representation of women among its senior ranks and throughout. This training targeted toward women will help to address this problem.

Not only does S. 1 revitalize women's programs at NIH but it also serves as an important vehicle for enhancing the health of our Nation's children. In the last few days both President Clinton and Secretary of Health Donna Shalala have forcefully stated their commitment to the vaccinating of children. I too, share their concern and commitment. We must use all the tools available to us to protect our children from illnesses which we already know how to prevent. S. 1 creates a children's vaccine program which provides support for the development of affordable and new vaccines. The goal is to create longer lasting vaccines requiring fewer patient visits to a clinician. I am confident that with NIH leading the way we can accomplish that goal.

Vaccine development is not the only area S. 1 contributes to the health of our Nations children. This legislation not only will increase funding on child health and development but will also be important for information dissemination. If we are not successful in disseminating the fruits of our research to those that actually provide services to our children we will not be successful in improving the care of our Nation's youngest citizens.

S. 1 also ensures improved funding of research targeted to older children and adolescents. In particular S. 1 provides funding for research on juvenile arthritis and proposes funding for a longitudinal study of adolescent health. This study seeks to determine the behaviors that promote health and those that do not, as well as identify particular environmental factors which affect adolescent health. We may not learn why our teenagers suddenly seem to turn into beings from other planets but we will learn information that will help us as parents provide the most healthy environments for our children.

Improving the health of children is a goal that every one of us shares. Fetal tissue research, on the other hand, provokes heated, heartfelt debates among even the best of friends.

Research using the tissue from aborted fetuses has the ability to help those with Alzheimer's and Parkinson's disease. However, I believe sincerely we must be very careful in this area and handle research requests with sensitivity and with respect for the concerns of those who do not feel that this is necessarily appropriate. I am convinced that allowing fetal tissue to be used for research in appropriate cases contributes to the greater good of our society and must be allowed to go forward without political bias.

The President has lifted the moratorium on fetal tissue transplantation research and S. 1 codifies his action. I support him and the inclusion of the fetal tissue provisions in this bill.

I fully support S. 1 and encourage all of my colleagues to do the same. NIH research has been restrained for far to long. As the Nation's and the world's premier scientific institution we must pass this legislation to allow the important work of NIH to expand and flourish.

In closing, Mr. President, I commend Senator KENNEDY, Senator HATCH, and others, who have worked on this legislation, developing this legislation over the course of years, for their fine work in this area, for their sensitivity to the concerns expressed by women, communities, and minorities throughout this country and for their abiding commitment to the health of our children.

Thank you very much.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I rise today to commend the National Institutes of Health for all its work. Its scientists are responsible for discoveries in everything from influenza to Lyme disease and emphysema. Today, though, I want to focus my remarks on NIH's work in the field of pediatric AIDS.

I visited NIH yesterday and I met with world-class researchers like Dr. Anthony Fauci. I also met with parents from the State of Washington whose 12-year-old son is being treated at the Institute. I came away with mixed emotions. I am heartened by the astounding progress in AIDS research made by our scientists in the past few years, and heart broken for the unimaginable loss of life—of young life—that is inevitable in the coming decade.

Increasing numbers of AIDS deaths in the coming years will be young people—teenagers and children. Adolescents with overt AIDS are still uncommon, but HIV-infection during the teen years is a serious problem and a significant challenge. As the demographics of the epidemic have shifted, teenagers are carrying AIDS into the next decade.

AIDS cases in adolescents have been reported in all 50 States, Puerto Rico, and the District of Columbia.

Nearly one-third of the AIDS cases among teens has been reported in areas with populations of less than 500,000.

AIDS is now the sixth leading cause of death among youth ages 15 to 24.

The number of teens with AIDS increased by more than 70 percent in the past 2 years. One in four is female, and more than half are minorities.

Every day, I see in my own children all the pressures they must feel as teenagers in the nineties. As parents, we all wish that as our children deal with the day-to-day challenges they face—school, friends, drugs, peer pressure—the outside world would be safe for them. Today, it is not—AIDS is a constant dark cloud over their heads. As everyone knows, adolescence is a time when sexual behavior and drug use patterns are developing. Clearly, this is a critical time to make sure those patterns are positive.

I know from firsthand experience, that in all we do with adolescents, we must be nonjudgmental and straightforward. Kids today are exposed to more information and misinformation than ever before. It is shocking that many kids hear more about AIDS on the playground than in the classroom or at home. This is a killer epidemic. We must educate ourselves and our kids about AIDS.

Preventing HIV-infection among adolescents will require new, creative approaches like those being devised at NIH. The emphasis there is on teamwork and unity. Scientists work in interdisciplinary teams. Researchers are discovering breakthroughs right down the hall from the patients' beds. I was most impressed by how hard the staff works to maintain the family unit so that the disease that ravishes the body does not rip apart the family. These are family values at their best.

Yesterday at NIH, I spoke with Dr. Lauren Wood of the AIDS Working Group. Her section is developing initiatives targeted at teens, especially adolescent mothers with HIV-infected children. We must stand behind the courageous work of people like Dr. Wood. They are on the front line of this war on AIDS. They need the funds to continue their vital work.

Dr. Wood told me that a common case of AIDS diagnosis today is of a young couple in their midtwenties who has their first child. All is happy and well until the child, at 6 months, has a sudden serious infection. The diagnosis is AIDS-related pneumonia and suddenly, the entire family—mother, father, and child—is diagnosed HIV-positive.

Less than 5 percent of the current Federal AIDS dollars support research or services that benefit teens. Federal health policy regarding adolescents and HIV is essentially nonexistent. There are some model programs dealing with American youth and HIV infection, but there are precious few resources dedicated to disseminating information about these programs. State-of-the-art school-based programming is sparse.

The Ryan White CARE Act, the Federal law most likely to improve adolecents' access to HIV-related treatment and services, has been severely underfunded. I was astounded to find out that in the last 2 years, funding was less than one-third of the total authorized by Congress.

But this is a new era. People say that the face of the Senate changed in January. There are now two mothers of teenagers in this body. I am proud to speak for this group. I came to the U.S. Senate unafraid to discuss these issues. Unintimidated either by the subject matter or by those who would have us ignore it.

And, look what AIDS is costing us, because we ignored it—$11 billion in 1994. How much will future generations pay if we continue to ignore it? We must invest. Invest in basic research that has applications across science. Invest in technology transfer strategies that allow the industrial community to work with Government scientists for the betterment of all Americans. Invest in the kinds of research that help develop new industries, like the biotech industry, to keep America on the competitive edge. Invest in our children. Invest in NIH.

What are we waiting for? I firmly believe that in 50 years, our grandchildren will look back at us and demand to know why so many did so little. I am dedicating myself to the fight of this disease, to do all I can to help eradicate the epidemic.

I take this pledge seriously, for when I stand in this body, I do not forget my responsibilities as a mother. Preventing further HIV-infection in adolescents will depend on the combined efforts of all people who have contact with adolescents. I am one of these people. So are our researchers, physicians and social workers at NIH.

AIDS is America's problem. It is an American family problem. The AIDS epidemic will leave more than 80,000 children without parents by the end of the decade. Unless more resources are devoted to those orphans, a social catastrophe of the greatest magnitude is unavoidable.

We need to find a cure for AIDS. We cannot set our sights lower than that goal. The cost to our families and our society will not let us. Until that time, we must do all we can to help those who suffer and to prevent our future generations—America's young people—from becoming infected. That is why I am supporting this legislation. The diseases being combated at NIH are not waiting for us to finish this debate. I cannot imagine how much our children and our society will pay tomorrow if we do not reauthorize NIH funding today.

I wish to join in thanking my colleague, Senator KENNEDY, for his work on this bill and urge everyone's strong support and fast passage.

Mr. KENNEDY. Mr. President, while we are waiting for some of our colleagues to make comments, I want to bring to the attention of the membership a part of this NIH reauthorization which I think is enormously important. That is the provisions in the legislation that deal with women's health needs in our society. I will read some excerpts of the record of the National Institutes of Health, "Opportunities for Research In Women's Health," September 4-6, Summary Report, from the Office of Research on Women's Health:

Half of all women but only 31 percent of men who have heart attacks die within a year. Approximately 90 percent of all heart disease deaths among women occur after menopause.

Osteoporosis affects over 24 million Americans, primarily women. It affects one-third to one-half of all postmenopausal women, and the rates for osteoporosis increase dramatically with age, ranging from 17 percent for women ages 45 to 49, to 90 percent for 75 years of age or over, with all the accompanying complications of bone fractures and postural difficulties.

We find that 90 percent of individuals with lupus are women. There are also important differences between the rates of disease among black women, white women, and Hispanic women. Death from stroke occurs twice as often in black women as in white women. Rates of death from coronary disease are higher for black women than for white women—172 versus 106 per 100,000.

The incidence of breast cancer is lower for black women than for white women, but death rates from breast cancer are higher for black women than white.

Rates for lung cancer are higher for white women than for black women. And the incidence of cervical cancer is twice for Hispanic women when compared to non-Hispanic women. Death due to stomach cancer is twice as high for Hispanics as for non-Hispanics.

The incidence of these various health disorders comes at a predictable time for women. The time for understanding why these differences occur and how these diseases can be treated is due, certainly, overdue.

I see Senator FEINSTEIN on the floor at the present time, who wants to address the NIH issue. I hope that I will have an opportunity to go through some of these statistics in greater detail a little later in the debate and discussion.

At this time I withhold further comments.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I rise today in enthusiastic support for Senate bill 1, the NIH bill. I would like to take this opportunity to commend Senator KENNEDY and the committee for the excellent work done on this bill because not only is it a breakthrough in the legislative roadblocks of the last several years, but it is going to result in additional medical breakthroughs that will increase the quality of health care for millions of Americans.

One of the critically important sections of this bill will expand and intensify the research programs on breast cancer—and we all know the alarming statistics—on cancers of women's reproductive systems, osteoporosis, and related bone disorders.

I was listening to Senator KENNEDY just speak. I must say it is unbelievable to me it has taken up to now to require the inclusion of women and minorities as subjects in NIH clinical research. I will never forget picking up the newspaper and reading there was a test on the impact of coffee in the cholesterol of the blood and finding that women had been entirely left out of the test. Of course, we have cholesterol as well. So I strongly support this provision.

For too long there has been an alarming lack of information on a variety of diseases which primarily affect women. The list of research projects completed through NIH without participation from women goes on and on. And I look forward to the time that women, too, will lead healthier lives and that research dollars will be more equitably allocated and meaningful studies conducted.

Enactment of this bill creates the very real potential for dramatic changes in women's health. Because women are a majority of health care consumers and a majority of the country, it only makes good sense.

As a former mayor of a city that has lost 1.5 percent of its entire population to AIDS, and as a U.S. Senator representing a State with 20 percent of the Nation's AIDS caseload, I know firsthand how devastating this epidemic has been for so many people.

Sadly, all of the terrible predictions have come true. Now, there are between 1 and 1½ million Americans who are infected with the HIV virus.

For too many, time has already run out, and the remedies in this bill are too late. Every 6 minutes, a person dies of AIDS, and every 12 minutes, another person is infected with AIDS. Already, too many precious lives have been lost, and I fear the worst is yet to come.

But by moving swiftly to send this important bill to the President, I believe we can put our Nation's AIDS response on track and hopefully with a new emphasis on research priorities, we will hear news of a cure in the not too distant future.

I am encouraged that President Clinton has already lifted the ban to prohibit funding for fetal tissue research. This bill takes the next step in authorizing NIH to perform this vital groundbreaking research. The inclusion of this provision offers great hope for the many people who suffer from debilitation diseases.

Shoring up our support for biomedical research, cancer, lung, heart, and blood diseases is so very critical to learning not only how to cure diseases, but how to prevent them from happening as well. In that vein, the inclusion of the children's vaccine initiative to develop effective and affordable vaccines may be one of the most immediate paybacks on the investment.

Though NIH funding has steadily increased during the last few years, the amounts have been nominal. This comprehensive reauthorization legislation is vital to the health of all Americans and is an important base for enhancing our international competitiveness through science and biomedical research. I am proud to support this bill, and I would like to thank my colleagues who have done so much work to bring it to fruition.

Mr. KENNEDY. Mr. President, we thank Senator FEINSTEIN for the excellent comment and support that she has given to this legislation and other pieces of legislation that are affecting families.

One of the other important measures that we have included in this legislation, after having identified the real needs, as Senator FEINSTEIN has done, is to also enhance the number of women who will be involved in the research agendas on women's health issues. We require that the NIH undertake a series of projects to help identify the problems of attracting women to, and retaining them in, leadership positions to help develop and plan biomedical careers for women in research.

A number of years ago, several of us tried to get the National Science Foundation to help in this area as well. If you look at the numbers of women, who are getting graduate degrees in biomedical research, we are down to only a handful. If we are really going to be responsive to this issue, we need to give greater focus and attention to the diseases and ensure that we are going to have women involved at various clinical trials. We need also to have individuals who are involved in the planning, programming, and development of various research proposals. That is enormously important.

Our committee has had a series of hearings on some of the very excellent research that is going on with women's health issues. I had the good opportunity to chair an enormously interesting hearing up at the Brighams Women's Hospital on June 29. I will just include in the RECORD for those who are interested in this issue, the particular witnesses we had and the subject matters which they covered. Virtually every one of those individuals are women researchers. They are the ones, in a number of instances, who have been working for 20 and 30 years. Much of the information we have been able to use in order to bring national attention to the disparity has been the result of a very, very small group of primarily women researchers. I think it is important to recognize that work.

Mr. President, we do not really need these kinds of examples, but one of the people who testified in our Massachusetts hearing was a woman named Sheryl Shapiro. It is a short statement. It will take just a few moments, but it is really an inspiring one and is really, I think, at the heart of what this whole research program is really about. This is the testimony.

> My name is Sheryl Shapiro and I am a long-term survivor of breast cancer. My mother's older sister died of breast cancer in her early twenty's and my mother lived her entire adult life in fear that she would die of breast cancer as well. And so she did, at the age of 41. I was 13 years old when she died.
>
> I found a lump in my breast, which turned out to be malignant when I was 30 years old. I was told it was caught early, which was a good sign. I had a modified radical mastectomy and there was no lymph node involvement; another good sign. Unfortunately, within the year, my breast cancer spread to my lungs and my progress went from very good to very poor. Three doctor's told me I had 1–2 years to live.
>
> I have always been an optimist. It was hard to believe that all the dreams I had, of being a psychologist, of getting married and of being a mother; these dreams would not come true. I just could not believe this.
>
> I was being treated at the Dana-Farber Cancer Institute in Boston and my Oncologist had an idea. He didn't know if I would be permitted to enter an experimental program, but he would do his best. I would be the eleventh patient to undergo high dose chemotherapy with an autologous bone marrow transplant. All the other patients had prior treatment, either radiation or chemotherapy that did not work. This experimental treatment was their last chance. I had no prior treatment, only my surgery. I was very healthy (except for the cancer, I know that sounds funny) both physically and psychologically. I was certain I could beat this cancer if given the opportunity. I was allowed to enter the program, understanding that it was experimental and that I might die as a result of the treatments.
>
> I received several days of high dosage chemotherapy which destroyed my bone marrow. Having little or no immune system, I was in isolation. My own bone marrow was taken out prior to my chemotherapy (approximately one quart). One week later, on my 31st birthday, my bone marrow was returned and it took approximately 6 weeks for my blood count to reach normal levels and for me to be allowed out of isolation.
>
> I received excellent care in the hospital. I was sick every day with sometimes dangerously high temperatures, but I survived. Within a week all evidence of my cancer was gone. It was a miracle. The doctors had never seen anything like it.
>
> The ten people who went through this procedure before me all eventually died of their disease and others died after me. As far as I know, I am the longest living survivor of this treatment. I will be in remission 9 years.
>
> During the past 9 years I have completed my doctorate in Psychology, married and adopted a baby. My life is good and meaningful. My diagnosis is breast cancer in long term remission. I am not told that I am cured. I am at high risk for getting breast cancer again. I would not be alive today had I not participated in a procedure that was highly experimental. I would like to be alive to watch our son grow up. I would like to grow old, someday, with my husband.
>
> I would like to see a cure for breast cancer.
>
> We need to provide the funding to the many brilliant researchers who are looking

for ways to prevent, treat and cure this disease.

I think all of us can find countless stories to that effect. That is really at the base of so much of the research that is being done by the NIH. I am always mindful when we get into the discussion of the Cancer Institute of our former colleague, Warren Magnuson who was chairman of the Senate Appropriations Committee on Health and really presided over perhaps the greatest expansion in health research. He was always talking about the greatest headline that the world would ever have and that would be: "Cancer Cured."

I think most people around the world, not just Americans, would certainly agree. We are not suggesting that this legislation in and of itself is going to do that, although we do believe that giving that kind of support for the Cancer Institute and the other institutes will certainly hasten the day, both in terms of cancer and these other areas.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent hat the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, another important aspect of this legislation is the support of fetus tissue transplantation. The previous NIH bill was vetoed by President Bush because it lifted the ban on fetal tissue transplantation research. What we have attempted to accomplish by legislation, President Clinton has done by Executive order. NIH will now support and conduct fetal tissue transplantation research. This research may find a cure for Alzheimer's disease, Parkinson's disease, diabetes or spinal cord injuries. This legislation maintains all of the safeguards recommended by the Reagan Task Force and additional protections developed by members of the committee have been maintained in this bill.

I see our colleague from South Carolina is here, and I will pause at this time and resume discussing the safeguards after the Senator finishes his comments.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I wish to thank the able Senator for his courtesies.

I rise today in strong support of S. 1, the National Institutes of Health Revitalization Act of 1993. S. 1 reauthorizes various programs at the National Institutes of Health [NIH] through fiscal year 1996.

One important provision in this bill addresses fetal tissue research. For several years we have debated whether the Government should sponsor research involving the transplantation of human fetal tissue. A major concern surrounding this issue has been whether such research would encourage abortion. I do not believe this research will in any way encourage abortions.

This is not an abortion issue. It is a research issue. It is not about taking lives. It is about saving and improving lives.

I believe that the safeguards included in this bill will keep the decision to terminate a pregnancy independent from the retrieval and use of fetal tissue. These safeguards are:

First, the attending physician may ask the pregnant woman to donate the fetus only after the decision to abort has been made;

Second, payment or other forms of compensation may not be received for the fetal tissue; and

Third, the pregnant woman may not designate the recipient of the tissue.

Mr. President, another important issue addressed in this bill is AIDS research. Despite what some groups would have us believe, the Federal Government has allocated substantial resources to AIDS research and prevention. Last year the Federal Government spent approximately $2 billion on AIDS research and prevention, more than on any other disease, including cancer, heart disease, diabetes, or Alzheimer's. Unfortunately, there has not been a unified effort for coordinating AIDS research. S. 1 confronts this problem by creating an Office of AIDS Research [OAR].

The Director of OAR will be appointed by the Secretary of Health and Human Services. The Director will be responsible for the development and oversight of "the implementation of a comprehensive and long-range plan for the conduct and support of [AIDS] research." I believe the creation of the Office of AIDS Research will prove to be a significant step toward finding a cure for AIDS.

Mr. President, this bill will allow federally sponsored research that may save thousands of lives and improve the quality of life for many others with devastating diseases and disabilities. I urge my colleagues to support this legislation and allow this important research to go forward.

Thank you, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, parliamentary inquiry. Are we on a particular amendment or just general debate?

The PRESIDING OFFICER. The committee substitute is pending.

Mr. DODD. Mr. President, I commend the chairman of the committee, Senator KENNEDY, along with, before he leaves the floor, Senator THURMOND, who has been extremely supportive of this legislation, Senator KASSEBAUM, and others, for bringing this bill to the floor.

I want to take this opportunity, Mr. President, to express my strong support for the National Institutes of Health Revitalization Act. I am pleased to be a cosponsor of the legislation.

This legislation will provide much needed support for the kind of research that has made the National Institutes of Health the leading biomedical research institution in this Nation and throughout the world.

This bill provides us with an opportunity to further enhance NIH's leadership role and to help ensure that this Nation's preeminence in biomedical research continues well into the future.

The last few years have brought exciting new advances in biomedical research. We are on the threshold of breakthroughs that would have seemed unimaginable just a few short years ago. In order to take advantage of these opportunities, however, we must make an investment, and that is what this legislation does. It is clear that resources devoted to biomedical research at NIH is truly money well spent. This research holds the possibility of preventing diseases and providing very promising treatments for many others. Funding for NIH has not been adequate, quite candidly, in recent years, but this legislation calls for substantial increases in funding in critical areas such as research on cancer and acquired immune deficiency syndrome or AIDS.

Let me stop here for a minute, Mr. President. One might ask, why are you talking about additional funding when you listened to the President of the United States last evening talk about contributions or sacrifices to try to reduce the deficit and in preparation of a State of the Union Message in a little more than 24 hours he will be talking about shared sacrifice and trying to cut back?

I do not think anyone disagrees with the thrust of that argument. There may be some debate here about specifically where cuts ought to occur, but clearly cuts have to happen. My hope is that we will be able to come together in this body, regardless of party, and join in the effort that will put us on a much sounder economic footing for the future.

But part of that sound economic footing will require selective investments in order to make this a stronger, a smarter, a healthier, a safer country. This particular bill calls for additional dollars to be spent in the area of disease prevention and disease treatment. It is costing this country staggering amounts of money every single day for what we have failed to deal with effectively. And so while the argument is certainly potent about reducing spending in a number of areas, I believe that in this area of health related expenditures, particularly at NIH, there is broad bipartisan support for intelligent investment in these areas.

So I want to express that viewpoint in the larger context of deficit reduction, of budget cutting, of tax increases that will have to occur if we are going to place this country in a far better position economically in the future. But intelligent investments in the area of health-related costs fits into that mold and enjoys broad-based support.

Mr. President, I wish to express further my support for provisions specifically in this legislation regarding women's health. The performance of NIH has generally been exemplary in most areas.

It has, however, failed to address the health concerns of women. It has failed to adequately involve women in clinical research, and it has not sufficiently supported research on conditions that have particular significance for women.

An often-cited example of those shortcomings, I am confident it has been mentioned already here today, was a 1988 study of 22,000 physicians which found that aspirin helps prevent heart attacks in men. As a result of that study, doctors recommended that older men at high risk of heart disease take an aspirin every other day.

This study of 22,000 people, however, did not include one single woman. We therefore do not have any advice to offer women in this country who are at increased risk of heart disease. We cannot tell them whether taking aspirin every other day or every day or once a week will decrease the risk of heart attack.

Mr. President, that is inexcusable. We must correct this inequity. This legislation will require, when appropriate, the inclusion of women and minorities as subjects in clinical research conducted by the National Institutes of Health.

It will establish statutory authority for the Office of Research on Women's Health to ensure adequate support for research on women's health throughout NIH. With this legislation this body, the Senate, will send a clear signal that research on conditions such as osteoporosis, breast cancer, and ovarian cancer must be a priority for NIH.

In the last Congress, similar legislation was vetoed by the President because it would have lifted the ban on fetal tissue transplantation research. The legislation was a victim of antiabortion politics in this country. Nothing in the earlier legislation would have encouraged abortion at all, nothing whatsoever in that bill. The legislation was not about abortion. The issue was whether fetal tissue, which would otherwise be destroyed, could be used in medical research.

President Clinton, recognizing that this lifesaving research has been put on hold for far too long, has already lifted the ban on fetal tissue transplantation research. The legislation before us continues to include guidelines for all fetal tissue research.

These guidelines will ensure the decision to terminate a pregnancy will be totally independent from the retrieval and use of fetal tissue. The legislation will require that consent about the donation of tissue be obtained only after the decision to terminate the pregnancy has been made. It will prohibit women from designating the recipient or from being informed about the identity of the recipient. It will prohibit alterations in the timing, method, or procedures used to terminate the pregnancy solely for the purposes of obtaining the tissue.

Mr. President, this legislation is critical, I think, to our Nation's fight against disease and disability. It is time that we move forward if we are to improve the health of our Nation. We must support biomedical research, research that holds out the promise of cure for millions who suffer from disease and disability in this country. This is a sound, intelligent investment in the long-term health of this Nation, and in the long-term financial and economic security of this country.

I strongly support the adoption of the bill.

Mr. President, I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, at some time in the history of this broad land, there may have been a Presidential speech with less substance than the one last night when President Clinton claimed time on all of the major networks, ostensibly to discuss his economic plan. But the Saints have been good to me; I have never heard a Presidential speech with less substance.

There now appears to be almost unanimous agreement that what it was last night was a political speech, and a highly partisan one—precisely what the Nation does not need at this time.

Sweeping aside the barrage of cliches and vague assertions, the President's TV remarks were a recipe for economic disaster. He even deigned to talk about patriotism, of all people, in terms of why Americans should support the plan that presumably he will discuss Wednesday night during his first State of the Union Address to Congress, which again will be televised live by all major networks.

That, of course, is customary.

Frankly, I expected better from the President. I certainly and fervently hoped that he would indeed step forward with proposals that were both courageous and imaginative, in which case I suspect that millions of Americans, certainly this American, would have stood up and cheered.

For just a few examples, he could have been honest with the American people and reminded them that under the U.S. Constitution, no President can spend 1 dime that has not first been authorized and appropriated by the Congress of the United States. Then he could have acknowledged that since his political party has dominated Congress for the better part of 60 years, it is intellectually dishonest for him or anybody else in politics to pretend otherwise. So if Mr. Clinton wants to play politics with the Federal debt, he had better bear in mind that that dead cat lies on his doorstep and the others in his political party.

Every day that the Senate is in session for business, I make a report on the size of the Federal debt at the close of business for the latest available day. This morning, I reported that as of the close of business on February 10, last Wednesday, the Federal debt stood at $4,172,769,647,100.97.

I also reported, as I do each day, that it cost the American taxpayers more than $286 billion during the past fiscal year just to pay the interest on the Federal debt already run up by Congress over and above what it took in.

If you want to average this out, it cost the taxpayers $5.5 billion every week, or $785 million every day, just to pay the interest on this massive debt.

So what did the President tell the American people last evening? In a carefully nonspecific declaration, he told the people that it would be the patriotic thing for them to do if they would just support his proposals for heavier tax burdens. He spoke grandly of the way he has already slashed Federal spending. He has done no such thing. He used charts in a pretense that they somehow documented the declarations he was making. But nobody could read the charts.

The American people have heard this song and dance over and over on a bipartisan basis for years. That is why the stock market dropped more than 82 points—almost 83 points—today, and apparently will close at that point. As a matter of fact, this figure was just handed to me, and the stock markets closed at 4 o'clock. So I presume 82.94 is the closing figure.

By the way, Mr. President, past tax increases heaped upon the backs of the American people have not led to deficit reduction one time, let alone to debt reduction. In fact, since World War II, for every dollar in new Federal revenue taken in by the Federal Government in taxes, Congress has spent $1.59.

What had I dared to hope that the President might mention in his speech last night? There were a lot of things.

He could have endorsed the line-item veto—but he was silent in seven languages on that, even though he discussed it in the campaign last year. But do you not know, the political figures in his own party got to him and said: "You hush on that; don't mention that anymore."

Or he could have endorsed a balanced budget amendment to the U.S. Constitution.

He even could have called on Congress to give immediate and serious consideration to a flat tax at a 10 percent rate, or whatever he felt inclined to specify in terms of rates. Adoption of the flat tax could be done simply, it would be easily administered, and it is estimated that such a tax reform would save the taxpayers as much as $600 billion.

But no, he did not want to talk about that. Such bold suggestions never occurred to the President; or if they did, he certainly did not mention any of them.

During the 1992 campaign, there were repeated pledges that there would be a tax cut for the middle class. There were emphatic promises, over and over again, to pay for spending programs by soaking the rich. It cannot be done. You could take all of the money earned by everybody who is rich, and it might operate the Government for 2 or 3 days.

Before increasing taxes on working Americans, the President should insist that Congress first cut Federal spending and cut Federal redtape, so that businesses can be more productive instead of spending their time on paperwork. The line-item veto and the balanced budget amendment would be a good starting point.

I wish the President had at least hinted that there must be a drastic reform in the tax system. Our present tax system is an outrage. It is complicated, and it is devastatingly expensive to comply with. The General Accounting Office has declared that even Internal Revenue Service auditors do not understand many of the tax provisions.

Mr. President, late last year, James Payne, director of Layton Research and Analysis, published a study that estimated the overall cost of the Federal tax system. He calculated the cost of compliance, the cost of labor devoted to paperwork, the cost of tax avoidance and the effect on production. He concluded that the present Federal tax system costs a total of $618 billion. Think of that. That is why earlier this year I offered a bill, S. 188, proposing a 10-percent flat tax to replace our present system which, by the way, includes a $10,000 exemption to provide relief for low-income wage earners.

In closing, Mr. President, I mention again that the stock market closed at 4 o'clock, and my information is that it is down 82.94 points.

Mr. President, I ask unanimous consent that an Associated Press story that moved on the wire be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STOCKS TUMBLE

(By Stefan Fatsis)

NEW YORK.—The stock market tumbled this morning, largely over worries about the higher taxes forecast by President Clinton in his White House address Monday night.

A big reason for Wall Street's concern: a fear that higher taxes will stall an economic revival and will not be accompanied by equally drastic cuts in government spending.

Clinton also provoked the sell-off today in the stocks of pharmaceutical companies, which were leading the market lower. Last week, he attacked U.S. drug companies for "shocking" prices.

At 4 p.m. on Wall Street the widely watched Dow Jones average of 30 big-company stocks was down 82.94 points.

Economists generally believe that the economy cannot recover strongly if citizens and corporations must pay higher taxes. Also, Wall Street is skeptical of Clinton's ability to reduce the federal budget deficit.

"It's troubling because there's a long history of tax increases now, spending cuts someday," said Richard B. Hoey, chief economist at Dreyfus Corp.

The stock drop came against the backdrop of a four-month rally that propelled the Dow Jones average nearly 10 percent higher to a record 3,442.14 on Feb. 5. Some investors, therefore, believe the sell-off is not surprising.

The surging bond market, a critical influence on interest rates in the economy, wasn't shaken by Clinton's plans. Yields on most Treasury securities already around 10-year lows fell further today.

Clinton plans to announce specifics of his economic plans in an address to Congress on Wednesday.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY], is recognized.

NATIONAL INSTITUTES OF HEALTH REVITALIZATION ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. KENNEDY. Mr. President, there were several major improvements in this legislation. I talked briefly about the importance of the women's health issue and gave some very significant illustrations about the disparity between women's and men's health on a variety of major health challenges. Disparity also exists within the women's population among different racial groups and ethnic backgrounds. These diseases ought to have the attention and focus of the National Institutes of Health, and as a result of this legislation, they will.

One of the other very important provisions that has been discussed by myself and Senator KASSEBAUM is the Fetal Tissue Transplantation Research Program. We have been asked by a number of our members about the various safeguards and provisions which have been included in the legislation. I will mention these briefly:

In 1987, the NIH Director, James Wyngaarden, asked the Assistant Secretary for Health, Robert Windom, for approval to perform research on patients of Parkinson's disease by using brain tissue from aborted fetuses. The proposed research had been approved by NIH's merit review system. In March 1988, Dr. Windom placed a moratorium on fetal tissue transplantation research and directed the NIH to convene an outside advisory committee to study the ethical, legal, and scientific issues associated with the research on human fetal tissue transplantation. The committee included theologians, physicians, scientists and lawyers, many of whom were opposed to abortion, including the chairman, Arlin Adams.

After meeting from September to December, 1988, the panel concluded, by a vote of 18 to 3, that the use of human fetal tissue for transplantation research is acceptable public policy. The advisory committee reported to the Director of the NIH, who recommended lifting the ban through the Secretary of the Department of Health and Human Services.

First, in responding to questions posed by the Department of Health and Human Services, the NIH panel determined, that because abortion is legal and transplantation research is intended to achieve significant medical goals, the use of tissue from an induced abortion is acceptable public policy.

Second, there is no evidence that the use of fetal tissue for research has affected decisions regarding abortion, and that safeguards can be applied to minimize any possible encouragement for abortion.

Third, the process for obtaining informed consent from a pregnant woman for donation of fetal tissue for research does not constitute an inducement to abortion.

In November 1989, Secretary Sullivan proposed to continue the moratorium indefinitely on the grounds that fetal tissue transplantation research would increase the incidence of abortion across the country.

The provisions that we have included as safeguards to address that particular issue are as follows:

First, certification of consent by the attending physician that the decision for abortion was made prior to requesting or obtaining consent for the donation of tissue.

Second, a provision to assure informed consent of the donor and recipient, certification by the attending physician, and an audit by the director of NIH, in compliance with State and local law, that the donor has given in writing informed consent, that the donor is willing to donate fetal tissue for research; the donation made without designating a recipient, nor is the identity of the recipient to be known.

Full disclosure is to be made of any medical risk and interest in the research.

Therefore, the individual has to make a full disclosure as to whether they have any personal interest in the use of such material. The physical has to have a full disclosure, so we know there would not be an effort to have doctors using this process, gain financially.

The attending physician or researcher will not alter the timing, method, or procedure for determining the pregnancy solely for the purposes of fetal tissue research.

So there is additional protection again in terms of the individual. Then informed consent, in writing, of researcher and recipient: Researcher must provide signed statement he or she is aware that tissue to be utilized is human fetal tissue, obtained subsequent to a spontaneous or induced abortion, and tissue donated for research purpose.

The Secretary of HHS, through the Director of NIH, shall require audit of each grantee applying for or receiving grant involving fetal tissue transplantation research to assure compliance with the provisions.

So the only way the process can move forward is if the NIH is given full information and disclosure about the circumstances surrounding this procedure and that such research must be conducted only in accordance with the applicable State law.

The measure makes it a criminal offense for a person to solicit or receive donation of human fetal tissue for transplantation if: First, donation is made pursuant to promise to transplant tissue into specified recipient or relative of donor; or Second, such person has paid any part of costs of the abortion.

Then we have the GAO conduct a study of the adequacy of the safeguards.

So we have as clearly as we can outlined what is permitted and what is prohibited.

We have indicated the requirements to monitor the system by the NIH. We have also required the General Accounting Office to do an evaluation of each of these procedures and to report back to the Congress on the effectiveness of our safeguards. These recommendations basically incorporate what the Reagan-appointed, NIH task force recommended in reviewing this whole process and procedure. We have strengthened the safeguards by adding criminal penalties for violations. The safeguards are tough, strict and will be effective in preventing any potential abuses in this area of research. This provision has strong bipartisan support.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I notice Senator FEINGOLD is here on the floor and planning to give his first speech on the Senate floor in support of this legislation.

We want to take particular note that Senator FEINGOLD chaired the Wisconsin Senate aging committee for 10 years and has been a long-time supporter of biomedical research activities and especially in issues affecting older Americans and he was also a leader in the Wisconsin Senate relating to women's reproductive issues.

So we are enormously appreciative of his attention to this legislation given his long record and experience on the subject matters of this issue. I know he will have something worthy to say and I commend our colleagues to give him full attention.

The PRESIDING OFFICER. The Chair is honored to recognize the distinguished Senator from Wisconsin [Mr. FEINGOLD].

Mr. FEINGOLD. Mr. President, I thank the Chair and I thank the Senator from Massachusetts for his kind remarks about this first address of mine.

I would like to begin, Mr. President, by saying that I am very pleased that one of the first bills I will have the opportunity to cast a vote on in the U.S. Senate is S. 1, the National Institutes of Health Revitalization Act of 1993. Improving health care for Americans was a major focus of my campaign for the Senate. It is, therefore, particularly gratifying to see early action by the Congress on major legislation dealing with health care.

Mr. President, the Congress and the new administration have begun the important task of developing comprehensive health care reforms aimed at ensuring that every American has access to health care services while controlling sky rocketing health care costs.

We must, at the same time, remember the role that biomedical research can play in developing effective treatments and preventing the need for more costly remedial services. Investing in biomedical research conducted through the National Institutes of Health is one of the most important steps the Federal Government can take to promote the health of our Nation. For more than 100 years, the National Institutes of Health have supported scientific research on the causes and treatments of diseases. The dramatic breakthroughs of the past few decades in a host of areas from cancer to diabetes to heart disease are directly attributable to scientific advancements pioneered by NIH research.

Mr. President, there are several aspects of this legislation to reauthorize the National Institutes of Health that I strongly support.

RESEARCH ON DISEASES AFFECTING OLDER AMERICANS

First, Mr. President, as a long-time advocate for meaningful health services for the elderly in my State, I am particularly interested in the provisions of S. 1 which promote research into diseases which afflict millions of older Americans. S. 1 provides, for the first time, specific authorization levels for research conducted by the National Institute on Aging. It also contains provisions reauthorizing the Alzheimer's Disease Registry, which is aimed at enhancing our knowledge of this debilitating disease. As a member of the Wisconsin State Senate, I authored legislation to provide comprehensive services to Alzheimer's victims and their care givers. Alzheimer's is a chronic and degenerative disease that can disrupt the lives of its victims and their families for decades. Much, however, remains unknown about its cause or effective treatments. Greater research is clearly needed. This bill will help stimulate this research.

In particular, Mr. President, the provisions of the bill lifting the ban on fetal tissue transplantation research, along with the Executive order issued by President Clinton on January 22, will also result in an expansion of research into promising new areas not only for Alzheimer's victims, but also for those suffering from Parkinson's disease, Huntington's disease, diabetes, leukemia, epilepsy, and many other devastating chronic disorders. There is substantial evidence that this research will offer a new hope of prolonged life, greater quality of life, and perhaps one day even a cure for many of these diseases—at a tremendous economic and social cost-saving to the country.

I applaud both President Clinton and the authors of S. 1 for lifting the arbitrary ban on this promising research, while also establishing rigorous safeguards to ensure that the research is carried out in an ethical manner.

Mr. President, S. 1 also directs the National Institute on Aging to carry out a program of research into aging problems that particularly affect elderly women. As I will discuss in a moment, research into women's health issues has been neglected for far too long. The bill requires more attention to this area of research, focusing on such problems as osteoporosis—a degenerative and disabling disease which results in weak, brittle bones and increases the likelihood of bone fractures in many older women, leading in turn to loss of mobility or even eventual institutionalization. Finding safe and effective treatments for osteoporosis could help reduce the number of elderly women who become unable to function independently and who are then forced to rely on more expensive, long-term care services.

NEW FOCUS ON HEALTH NEEDS OF WOMEN

Mr. President, the second part of the NIH reauthorization bill for which I want to express my strong support deals with providing greater emphasis on women's health problems in general. For many years, women's health issues have been neglected. The bill creates an Office for Research on Women's Health to help correct these inequities. It requires new resources to be devoted to women-specific diseases including breast, ovarian, and other cancers of the reproductive system as well as contraceptive and infertility research.

Additionally, NIH will be required to include women and minorities as subjects of clinical research it conducts or supports. The exclusion of women from many major clinical research activities funded by NIH has been a serious problem. For example, heart disease is the No. 1 fatal disease affecting women. Yet women have not been included in any of the major studies on the cause and prevention of heart disease. The bill not only requires women and minorities to be included in clinical studies, but also mandates that studies be designed in a manner that will allow for analysis of the differences that may exist between genders or minority groups regarding research variables. These changes should bring about a long overdue increased effort to address the health needs of women and help ensure equal access to the benefits of biomedical research.

CONCLUSION

Mr. President, NIH does important research on an array of diseases and disorders that I have not mentioned, but underlying all this research is one basic tenet. Biomedical research into factors affecting the onset of disease, and research into the most effective, least debilitating treatments will in the long term begin to pay for itself in prevention, effective treatment, and improved quality of life. Given the health care crisis we face in this country, it is critical that we devote adequate resources to biomedical research as well as reform of the health care delivery system. NIH reauthorization is an important investment in the health of our Nation. I am happy to join in supporting the National Institutes of Health Revitalization Act of 1993.

Thank you, Mr. President.

Mr. SMITH. Mr. President, I oppose S. 1, the NIH reauthorization bill.

Last year, the majority leader, Senator MITCHELL, indicated that this bill would be the first bill to be introduced and one of the first items to be considered by the Senate during the 103d Congress. At the time, I felt this commitment was a little foolish. If President Bush had won reelection, the bill would have been vetoed again, and the veto would have been sustained, given the increase in Republican ranks in the House. On the other hand, if Governor Clinton was elected President—as he was—the fetal tissue ban would be rescinded by Presidential directive and the issue would be somewhat moot.

I do want to compliment the majority leader in this regard, though. Unlike the President, he does carry through with his promises, whether wise or not.

I also want to compliment the Committee on Labor and Human Resources for—wisely, in my opinion—avoiding a potentially bloody battle which could have occurred had it attempted to codify President Clinton's actions in lifting of the fetal tissue ban. While the bill does not reinstate President Bush's ban on the use of fetal tissue from aborted babies, as I would have preferred, neither does it explicitly codify the Clinton policy. Therefore, it does not prohibit some future pro-life administration for reimplementing the fetal tissue ban. And it does contain some anemic statutory restrictions on fetal tissue research during the Clinton administration. While I believe that President Clinton's unfortunate rescission of the moratorium on fetal tissue research using tissue from induced abortions is regrettable, it is obvious that it will not be legislatively overturned under current circumstances. Therefore, with respect to the fetal tissue issue, I have reached the conclusion that, given that we have elected a President who favors harvesting tissue from aborted babies, this language is probably the best we can do. For that reason, I do not intend to engage in extended debate, as I did last year, because, frankly, extended debate would be fruitless.

I still come down in opposition to the bill, because it is over budget and shortchanges my State of New Hampshire. In a year in which the national debt is rapidly climbing toward four and a half trillion dollars, this bill would increase NIH outlays to $5.88 billion in 1995 and $6.4 billion in 1996—nearly a half billion increase in 1 year. Surely, this is not the form of sacrifice and austerity it is going to take to cure our deficit problem. In fact, it is just more of the same business as usual.

I yield the floor.

If no one else desires to speak, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeding to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I rise with a great deal of enthusiasm and pride to support the legislation pending before the Senate, the reauthorization of the National Institutes of Health.

Mr. President, this Senator has the privilege of representing the National Institutes of Health. That flagship agency, designed to do the basic biomedical life science research for the United States of America, is located in my own State of Maryland. Out there we have 13,000 people working to find a cure for cancer, working to find a cure for AIDS, working to find a cure for Alzheimer's. They are out there working, and we need to be able to work for them to give them a modern framework for the National Institutes of Health.

A year ago, I had a townhall meeting with the people who work at the National Institutes of Health to listen to their very good ideas on what we should do to prepare the National Institutes of Health for the 21st century. NIH is one of the crown jewels in our Government. It is one of our flagship institutions. I want to make sure the capacity of this institution is not only maintained, but made stronger.

That is why I am proud that parts of this legislation are those elements that I introduced that hopefully will strengthen, first of all, the actual personnel and other activities that will enable those Nobel Prize-winning researchers to move ahead.

My components in this bill will address many of the issues I heard about from the people at NIH themselves, those kinds of things we can do to recruit and retain personnel from pathologists to firefighters. Yes, NIH must have its own firefighting unit because it runs a hospital and it has very specialized research.

What we also do in this legislation is streamline procedures to assure that a dollar's worth of taxes means a pound of cure.

I want to also thank my fellow Senators for working on something that has been very special to me, and that is on the women's health agenda, the women's health agenda that was brought to the attention of the U.S. Senate and to the House of Representatives in 1990. The Congresswomen and I had asked for a GAO report asking whether or not women were included in the protocols of research at NIH, and also what was the status of research being done on those diseases that affect women only, like cervical cancer.

We found that women were systematically being excluded from that research. We found women were not included in many of the research studies, that the large study that said, Take an aspirin a day to keep a heart attack away, only included men.

This legislation that we are passing today will make sure that never ever happens again. We establish and make permanent the Office of Women's Health at NIH to make sure that women are included in the protocols for those diseases that affect solely women, primarily women, and to also make sure that there is research on women's natural processes—pregnancy, other matters related to fertility, menopause, even aging itself.

We have also matched our finding with our good intentions. We have included an increase in breast cancer research money and, also, in other kinds of diseases affecting women.

In the area of breast cancer, one out of nine women get breast cancer. One out of twenty got it in 1960. We need to find a cure to preserve those families.

We are also going to make sure there is research money for gynecological cancers, a data bank on women's health research, as I said, a study on osteoporosis, and a study on the aging process itself. Women are half the population. We deserve to be included at that level in the research agenda of the 21st century.

We happen to believe that including women is good research and good science. This National Institutes of Health reauthorization legislation will create the framework not only for women but for American families to know that their tax dollars are being spent on biomedical research on those things that most drastically affect the American family: Diseases that steal a wife, steal a mother, steal a father, or steal a granny with Alzheimer's.

I thank the chairman and ranking minority member for working with me on these issues, and I look forward to the swift passage of this legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

Mr. HATFIELD. Madam President, today the Senate is considering legislation reauthorizing and improving programs for the National Institutes of Health. I am pleased to add my voice in support of this important legislation which is worthy of endorsement of the entire Senate.

Senate bill 1, however, gives the NIH direction only on what it can do to conduct health research. I would like to take a few minutes to talk about what we, the Congress, should be doing for NIH, not only to improve the health and quality of life of Americans, but to ensure that the United States continues to be the biomedical superpower it has been throughout this century, as well as into the next century.

Enactment of S. 1 is not sufficient. We must, as the saying goes, put our money where our mouth is. I fear that competing funding priorities are lessening our resolve to repair the fault lines in the pillars which support our Nation's medical establishment.

While funding for the NIH has risen since 1983 from $4 to $10.4 billion in 1993, our commitment to medical research has not been at the level it should be given its relative importance in our health care system. Of our total health care budget—more than $800 billion—funding for medical research represents a tiny, almost insignificant percentage. When one looks at the benefits of medical research in improving our quality of life in a cost-effective manner, one cannot argue against its value.

Madam President, these are but the dollar figures, these are but the economics. I am not talking about the pain, the suffering, and the people from the standpoint of their being denied preventive action and medical care that has yet to be discovered.

Federal investment in the private sector, creating jobs, and economic opportunities are all a part of the administration's prescription for curing the economic ills or the country. We have heard a considerable amount about the need to invest in various technologies through research to speed economic development and maintain America's competitive edge in the world. But we have heard very little about the major potential for investments in health research as part of that same prescription.

For years, basic and clinical researchers and their patients have been the primary constituencies arguing for increased appropriations for the National Institutes of Health. Today, in addition, the business community is coming forward to applaud the potential of the biomedical sciences as a strategy for creating more jobs, strengthening our economy, and enhancing our Nation's ability to compete in foreign markets.

The investment we make in research is both beneficial and efficient. In 1990, Fortune magazine and the Washington-based Council for Excellence in Government ranked the National Institutes of Health in the top 3 of 90 Federal departments, agencies, and offices surveyed in terms of return on the tax dollar. For every $1 invested in medical research, $13 are realized in return for the American economy.

Since polio was eradicated in the 1950's, Americans have understood the most important benefits of biomedical research: It protects us from disease and disability and it allows us to live longer. But that is only the first and most obvious benefit.

Biomedical research and development is also the foundation for one of the Nation's largest and most important growth industries. Our lead in this arena, however, is not without challenge as other nations double and triple their research investments while we have let our research budgets flatten out.

Research should also be the logical, but often forgotten, partner in any plan that is mentioned to reform the Nation's lumbering health care system. Conducting research to improve health and cut health care costs is a surefire way to find the dollars to provide the coverage Americans want and expect.

In 1990, at the request of the Congress, the NIH identified examples of NIH-supported research leading to health care advances that had actually resulted in dollar savings in terms of lower medical costs and recaptured wage earning potential from reduced illness or disability.

For example: $679,000 was invested by the NIH in research for lower cost treatment for kidney stones; the return is $300 million minimum in annual savings. Investing in alternatives to heart bypass surgery: $27 million was spent on research; the return is $258 million in annual savings. For Hepatitis B vaccine: $23.5 million for targeted research; the return is $47.3 million minimum in annual savings. For HIV detection in the blood supply: $6.7 million invested in research; the return is $47 million minimum annual savings.

In his 1982 State of the Union Address, President Reagan called for a national defense buildup. Thereafter, military spending increased by $120 billion during the Reagan years, and still today, in 18 months the military spends on research and development what the NIH has spent since the turn of the century. In the past decade, U.S. military spending has more than doubled, from less than $130 billion in fiscal year 1979 to $300 billion in fiscal year 1989.

Today, we need to embark on a disease defense buildup like that undertaken in the 1980's to respond to the perceived threat of the Soviet's. Repair of the faults threatening the integrity of our biomedical enterprise will require nothing less than a mobilization of resources and resolve. It will require a reordering of our Nation's budget priorities from programs which destroy life to those which preserve and enhance life.

The debate over our national health care system and national health care reform will be long and difficult in the months ahead. But in the course of that debate, I urge my colleagues to make certain that the National Institutes of Health and the promise of biomedical research remain a key feature. With medical research as one of the pistons powering the engine driving change, we can cut health care costs, expand technology, speed and improve health care for all Americans.

Madam President, I would also like to take a moment to discuss another issue of importance which we are considering today—fetal tissue transplantation research. Deciding whether or not to lift the ban on federally funded fetal tissue research prevented us from passing the NIH reauthorization and its many important programs last year. This occurred despite the fact that an overwhelming number of Senators, including myself, supported lifting the ban.

Many were surprised by my support for this important research. Most expected that as a pro-life Senator I would be compelled to treat fetal tissue research as an abortion issue, and thus, oppose it. Well, I do view this as a pro-life issue but not as an abortion issue. I strongly believe that we must look beyond abortion to the research benefits fetal tissue holds, remembering to consider the sanctity of all life.

That does not mean we must ignore the abortion implications raised. Obviously, without abortion this research would not exist. But, as I have said on a number of other occasions, I believe the legislation included in the NIH reauthorization contains sufficient and strong safeguards to overcome the concerns that this research promotes and encourages abortion.

In fact, under the wording of that fetal tissue amendment, it would have diminished the possibility of relating abortion to the donor-donee because we separated the donee from the donor in those circumstances and required all of that to be maintained in secrecy.

Several months ago, I joined with 16 of my colleagues in writing to then President-elect Clinton concerning the importance of fetal tissue research.

Madam President, I ask unanimous consent that this letter appear in the RECORD at the conclusion of my remarks as the response of the President.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. HATFIELD. Madam President, I applaud President Clinton for signing an Executive order overturning the ban on fetal tissue research, and I look forward to the medical breakthroughs that may come as a result of this research. I am pleased that our action today will ensure that the appropriate safeguards are in place. I know millions of Americans who suffering from debilitating diseases, such as Alzheimer's, Parkinson's, and diabetes, were also pleased by this action.

Also included in this legislation is language to authorize five contraceptive and infertility research centers. For a number of years now, we have appropriated money to begin research efforts in this area. However, by authorizing these centers we will be able to increase our appropriations and commitment to contraceptive and infertility research.

Under the provisions of this bill, we will authorize three contraceptive research centers and two infertility research centers. As an original cosponsor of the legislation to authorize these centers, I am pleased to see them included in the National Institutes of Health reauthorization legislation. If we are to reduce the number of unwanted pregnancies and abortions, we must concentrate our efforts on prevention. This legislation is a step in the right direction.

Madam President, again I want to focus on this question of abortion. I think so oftentimes the proponents and the opponents of the issue fail to listen to one another and realize there may be much ground upon which we can agree to achieve both of our objectives—far fewer abortions from my personal persuasion and at the same time to prevent abortions and to give alternatives to those who are on the other side of the issue. There is only one pharmaceutical house, according to my last review, in this country today that is researching in the field of contraception because of the liability factors. And they have abandoned this. We know the current contraception is not sufficiently strong or dependable, and that that results often in unnecessary abortions.

So here again, I think, people on the other side of the abortion issue ought to be able to join hands to see the benefit of prevention, never letting the issue rise, making abortion a moot issue if we had sufficient education, sufficient and accessible and dependable birth control contraception. I think it behooves us all to join hands where we can on this very hot and certainly an issue that creates a lot of difficulties for people on both sides; that is, prevention.

So, Madam President, again I want to emphasize my support for this reauthorization bill for the reasons that I have so stated.

EXHIBIT 1

U.S. SENATE,
Washington, DC, December 17, 1992.

Hon. BILL CLINTON,
Presidential Transition Office, 1120 Vermont Avenue NW., Washington, DC.

DEAR PRESIDENT-ELECT CLINTON: There are many important issues you will face in the opening days of your presidency. Among the most important are health care issues.

As you know, during the 102nd Congress we were unable to pass legislation to reauthorize the National Institutes of Health and the medical research programs it promotes. Included in this legislation was a provision to overturn the ban of federally funded fetal tissue transplantation research. We are writing to you today to reiterate our strong support for lifting the ban and implementing the important safeguards included in the Senate-passed legislation.

The Senate voted overwhelmingly on several occasions to allow this critical research to go forward. In addition, a majority of Americans support fetal tissue research. Most supporters did not reach this conclusion lightly; ethical and medical concerns were carefully weighed.

One must only look at the benefits fetal tissue transplantation research can bring to our ability to develop lifesaving therapies for diseases such as diabetes, Alzheimer's disease, Parkinson's disease, and other genetic and neurological disorders to realize the value of this research. In light of recent studies indicating the possibilities of fetal tissue transplantations in treating patients with Parkinson's disease, it has become more urgent for the federal government to be involved in supporting these efforts.

We appreciate your support for federally funded fetal tissue transplantation research during the campaign and urge you to act quickly to overturn the ban upon assuming office.

Sincerely,

Bob Dole, Mark O. Hatfield, Brock Adams, Alan K. Simpson, Paul Simon, Malcolm Wallop, Howard M. Metzenbaum, Paul D. Wellstone, Jim Jeffords, Strom Thurmond, Edward M. Kennedy, John Chafee, Tim Wirth, Jake Garn, John Warner, Bob Packwood, Hank Brown.

Mr. HATFIELD. Madam President, I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Madam President, thank you.

Madam President, I will be very brief in my remarks. I was chairing earlier today, and a number of Senators, women and men, both made some eloquent statements. I do not think I can add much to what they had to say.

I would like to thank Senator KENNEDY and Senator KASSEBAUM for their leadership on this NIH reauthorization bill.

I want to say to the Chair that I also appreciate the work that she has done. It is so gratifying to me as a U.S. Senator from Minnesota to now see in our country a focus on the concerns and circumstances of women's lives, including health care.

It is coming—here in the country, and now finally here to the U.S. Senate. It is also gratifying to see now a real focus on AIDS research, and I also am impressed with many other features of this legislation, as well.

But, Madam President, the reason I speak on the floor right now is more as a political scientist than as a U.S. Senator. For those that might be watching us deliberate, I just want to point out that it means a great deal to me that, No. 1, President Clinton was willing to, in fact, end the ban on funding for fetal tissue transplant research, and in this authorization bill we go forward with that research. I say that as the son of two parents who had Parkinson's disease. Neither one of them are alive any longer, Madam President, but so many other people who suffer from Parkinson's disease or Alzheimer's or diabetes look to this research with a great deal of hope.

What I want to point out is that while I have heard many Senators thank Senator KENNEDY and others for their role and leadership, one thing that we ought not to lose sight of is the way in which citizens, if you will, regular people, play an important role in finally getting this legislation passed, because I think that is what is going to happen.

I would like to, through these words, honor the work of Joan Samuelson and Ann Udall, Mo Udall's daughter. I want to point out that, throughout this whole struggle, even when the situation looked so bleak and it looked like, because of the President's veto, we would not be able to go on with this research which is so important; they persevered. They never gave up. They came here all the time, and they went by and talked to Senator after Senator, and they were, in the best sense, "citizen lobbyists."

I think that when we finally pass this legislation—and we will—the names Joan Samuelson and Ann Udall ought to be added as two women who made an enormous difference. I think they are inspiring for other people as well, and I think people who are watching us deliberate and who have followed this bill should understand that it is not true that you cannot make a difference. Do not ever fall into the trap of not attempting to make that difference, because if you do, what could be accomplished never happens.

I really think that the way this institution works best is when we have people like Joan Samuelson and Ann Udall and others, who were working, who were contacting us, and who were making it crystal clear that we have to do well for people. They are not connected to lots of money, and they are not connected to huge organizations. But I really believe when individual people, men and women, decide that their cause is just, and they are willing to work hard for what they believe in, it can make a huge difference. I believe these two women are going to be very, very proud when we pass this legislation. As a U.S. Senator from Minnesota, I want to highlight their work.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMPSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Madam President, I want to support the legislation before us today. This year's bill is a much-improved version of last year's NIH conference agreement that passed the Senate on June 4 and was then vetoed by President Bush.

This measure lifts the administration's ban on fetal tissue research and permits the National Institutes of Health to fund such research involving human fetal tissue. This provision would expand the scope of research that offers very real hope to sufferers of Parkinson's disease, childhood diabetes, and devastating genetic disorders.

My own father, who served in the U.S. Senate, is a victim of Parkinson's disease. He is in his 95th year, and certainly this disease is the most stunning type of devastating disease that I have personally witnessed in my time. So I am a strong supporter of this.

I have been a strong supporter of much of President Bush's legislative agenda over the past 4 years, but on that issue, I respectfully disagreed with him, as did many people across the country and in my State. This issue has been entangled in the abortion debate for far too long, and I am pleased to see the ban on fetal tissue research finally lifted. It is time to move beyond the rhetoric of this issue and focus on the real issues: that this legislation will indeed save lives and holds great promise for future discoveries in this medical research area.

Of course, there are a number of ethical safeguards here to ensure that the abortion issue does not further intrude in this debate and legislation. These safeguards include the certification that consent for the abortion was obtained separately and prior to obtaining consent for the tissue, although that certainly was never a great part of my reservation previously.

So this is going to be an excellent thing. It holds tremendous promise for so many American families who are suffering from disabilities and diseases for which there are no known cures or effective therapies. I am heartened that with the passage of S. 1, this promising avenue for treatment of many of these diseases and disabilities will no longer be suppressed. I think that is very important.

In 1990, Senators PAT MOYNIHAN, Congressman BARNEY FRANK, and I, and Senator KENNEDY, and many others, undertook to rewrite the statute on immigration exclusions in order to eliminate anachronistic provisions and to update the antiquated language of the law. One of the exclusions is health related.

For generations now, our U.S. immigration laws have excluded from admission to the United States all persons who have contagious diseases that constitute a threat to the public health and welfare.

The health-related exclusion is reasonable and necessary. Tuberculosis is once again reaching a serious level in our country, and many of our immigrants come from countries where tuberculosis is prevalent. Just last Saturday, the Washington Post reported that HIV infection rates are as high as 20 percent in some of the countries from which we receive large numbers of immigrants.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 13, 1993]

GENERATIONS WILL SUFFER AIDS, SCIENTIST ASSERTS

DISEASE PROJECTED TO AFFECT 1 BILLION BY 2025

(By Christopher B. Daly)

BOSTON, February 12.—Basic science has yielded dozens of promising ideas for treating AIDS, but by the time most such treatments are ready, the disease may have infected as many as 1 billion people worldwide, a prominent researcher said today.

Speaking to the annual meeting of the American Association for the Advancement of Science here, William Haseltine of the Dana-Farber Cancer Institute in Boston said that after a decade of deep involvement in the search for a cure, he is convinced that HIV, the virus that causes AIDS, is so prevalent and so resilient that "it will be a serious problem for the indefinite future," at least for several generations.

He warned against a plan, now under consideration on Capitol Hill, to appoint a national "AIDS czar" or to create the HIV equivalent of the Manhattan Project that developed the first atomic bomb during World War II. Too many basic questions are unknown for an overall commander to begin assigning tasks, Haseltine said.

He also cautioned against complacency. "Most of us are lulled by medicine. We think everything is possible. Yet we know most things in medicine are far from possible," Haseltine said. "We're in this for all of our lifetimes and all of our children's lifetimes."

Individuals, he said, should not expect science or government to make them safe. They must protect their own health. As one means of doing so, Haseltine advocated widespread use of simple tests using saliva or a small amount of blood. "These tests have been developed and tested, but they are not available," Haseltine said. He said five corporations have devised such tests but are reluctant to market them because of "the general issue of diagnostics for infectious disease."

Most doctors, he said, believe that testing raises questions of counseling and confidentiality that make self-testing a potentially dangerous practice. But Haseltine urged prompt release of home tests.

The need is urgent, he said, because even among a group that has had considerable success at cutting infection rates—gay men in the United States—the disease is spreading more rapidly after several years of decline. "This year has been a disaster for AIDS transmission in the homosexual community," he said.

Thomas McNaught, spokesman for the AIDS Action Committee in Boston, said Haseltine was "speculating" and said he knew of no scientific study showing an increase in infection rates among gay men.

"Our data would suggest otherwise," McNaught said. "But we are concerned that our education efforts have been insufficient and are not reaching the younger generation, both gay and straight."

On a global scale, Haseltine said, HIV is spreading rapidly in the Third World and has reached more than 20 percent of the general adult population in many areas, including Central Africa, India, Thailand, Indonesia and parts of South America. At that rate, and assuming no vaccine is forthcoming, by the year 2025 there could be 1 billion cases worldwide, Haseltine said.

Earlier at the AAAS meeting, John L. Sullivan of the University of Massachusetts Medical Center in Worcester outlined clinical trials aimed at cutting the spread of AIDS from infected mothers to newborns.

In three trials, experimental vaccines will be given to pregnant infected women, infected children and at-risk newborns. Another will involve trying to induce "passive immunity" in mothers and infants.

Mr. SIMPSON. I sought the assistance of the Public Health Service in drafting suitable language to define the health-related exclusions. PHS proposed, and we then inserted, the term "communicable disease of public health significance" to properly describe the illnesses which would prevent an alien from entering the United States.

That language was then enacted into law in the Immigration Act of 1990. The Secretary of Health and Human Services was to write the rules to implement the health-related grounds of exclusion.

At the time of passage of the bill, Congress made it quite clear that we intended to exclude aliens with diseases which would pose a public health risk. Please recall that HIV infection had been on the list of excludable diseases under the old definition, dangerous contagious diseases, and it remained on the list after the language change in the 1990 act.

In addition to the health exclusions, our immigration laws provide that any alien who is likely at any time to become a public charge—require welfare or public assistance—is also excludable.

The recent proposal to remove HIV infection from the list of excludable diseases raises two sincere questions: First, is HIV infection a communicable disease of public health significance? and second, is a person who will develop AIDS likely to become a public charge?

Without any doubt, AIDS is a deadly serious plague that threatens the public health here in America, as elsewhere in the world. Two years ago, the Centers for Disease Control announced, "the epidemic is here * * * and there is no letup in sight." Since that time the proportions of the epidemic have grown alarmingly.

Nearly 175,000 Americans have now tragically died of AIDS, and it is estimated that 1 to 1½ million more Americans have become infected with the virus.

We now know that the infection is not confined to intravenous drug users and homosexuals, but that it is also being spread through heterosexual sexual activity.

AIDS activists continually remind us of the deadly toll and the costly threat AIDS poses to our Nation, and at their urging Federal outlays for AIDS research are now among the highest provided for any medical cause. Can it rationally be said that HIV infection is not a disease of public health significance? I think not.

AIDS is an all-consuming illness that can result in medical costs of $100,000 or more for each patient, according to some recent estimates. It seems likely that many alien HIV-infected persons may well indeed become public charges after their admission to the United States.

It is for this reason that the American Medical Association has opposed the admission of such persons into the United States as permanent immigrants.

Let us ask honest and sensible questions: Does the admission of immigrants with HIV infection create a public health risk to the people of the United States; are such immigrants likely to become a public charge after entering our country?

Until these two issues are resolved, I would certainly counsel against the striking of HIV infection from the list of communicable diseases being of public health significance.

Congress should hold extensive hearings to properly and thoughtfully address these questions before any of the regulations are changed in any manner. There is much work and education of the public yet to be done here, and you can believe it.

We need to do that before we get caught in another one of those exercises which we do here, and do so well, where with a deft blend of emotion, fear, guilt, or racism, we do something. And that something is not always the most appropriate thing.

So I think it is a very important issue, and I speak principally in the area of public health and safety and the issue of cost.

Let me share with you an interesting statistic from the article: It is said that on a global scale, HIV is spreading rapidly in the third world, and has reached more than 20 percent of the general adult population in many areas. And then it names various countries. This is from the Washington Post, Saturday, February 13. One of those countries—and I shall not name the one—we have already admitted from that country, in 1991 as immigrants, 45,000 people from that country. And if this figure is correct, then 20 percent of that 45,000 people who have been admitted are potential HIV. And if you can imagine the cost just on that one country's ethnic population, that is a stunning figure. And 20 percent of 45,000 with that exposure to HIV is going to be to this country a tremendous cost and a tremendous social burden because the people would wonder why we bring people here or allow them to come when they have the disease.

I think we should stick with the waiver. I think we should be generous with the waiver. We should give the waiver for family reunification; we should give the waiver for conferences. But we should give the waiver. But to just simply say there is a disease we were thinking of when we revised the law in 1990 I think bears full attention.

TRIBUTE TO BILL FARMER

Mr. SIMPSON. Madam President, when we all returned to Washington last month, to our activities in the 103d Congress, I had this feeling that something was missing. Then, in a recent copy of the CONGRESSIONAL RECORD, I noted statements of the majority leader and the Republican leader regarding the retirement of Bill Farmer. That is when it dawned on me that a much beloved member of the Senate family was no longer sitting at his familiar post on the rostrum. And that is when I also realized that the distinctive voice and that ever-present warm smile of our friend Bill Farmer was what was missing.

Bill Farmer served the Senate with great distinction for 28 years. He has been at the rostrum of the Senate Chamber since March 1971. In July 1974, he was promoted to assistant legislative clerk, and he became chief legislative clerk on March 1, 1980. That was my second year here.

This place is much more than people doing their jobs in a competent manner. It is more like a family. We are very fortunate to have the quality of people who work here—not in a raw partisanship manner—but as bipartisan sources of counsel. They have helped educate me, and have contributed greatly to the Senate family. Bill Farmer did a superb job. But more than that, despite all of the hours and demands that were placed on him, and despite whatever was going on in his personal life, he always maintained an incredible reservoir of good cheer. Bill made life in the Senate a little bit more pleasant for all who came in contact with him on a daily basis. When it is all said and done, that is truly the most important thing. I have always said that legislative work done properly is one of the driest forms of human activity if done properly. If done with emotion and all the other things that clog it up, it can be a very inappropriate activity.

But maintaining one's good humor after reading the final and often arid product of legislative activity for over 21 years is truly an Olympian achievement. But that is the way Bill did the job. He actually looked like he enjoyed reading that unbelievably huge array of material.

So, I am proud to say that he is my friend, and I wish him all the best in his retirement. We thank him for his exemplary service and his contribution to the Senate family.

We already miss you. It is nice so see your successor carrying on as you would have wanted him to do.

I thank the Chair.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

MORNING BUSINESS

Mr. KENNEDY. Madam President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. KENNEDY. Madam President, I ask unanimous consent that Senator GRAMM be recognized to address the Senate and, at the conclusion of his remarks, the Senate stand in recess as ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a-1928d, as amended, appoints the Senator from Delaware [Mr. ROTH] as Vice Chairman of the Senate Delegation to the North Atlantic Assembly during the 103d Congress.

The Chair, on behalf of the Vice President, pursuant to the order of the Senate of January 24, 1901, as modified by the order of February 4, 1993, appoints the Senator from Idaho [Mr. KEMPTHORNE] to read Washington's Farewell Address on February 23, 1993.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 96-388, as amended by Public Law 97-84, appoints the Senator from Utah [Mr. HATCH], vice the former Senator from Wisconsin [Mr. Kasten], to the U.S. Holocaust Memorial Council.

Mr. GRAMM. Madam President, I am not sure I exactly got all of the information contained in the unanimous-consent request. Are we in morning business as I speak?

The PRESIDING OFFICER. The Senator is correct.

The Senator from Texas is recognized.

Mr. GRAMM. I thank the Chair.

(The remarks of Mr. GRAMM pertaining to the introduction of S. 377 are located in today's RECORD under "Statements on introduced Bills and Joint Resolutions.")

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT—PM 3

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I hereby report to the Congress on the developments since the last report of August 3, 1992, concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 of August 2, 1990. This report is submitted pursuant to sections 401(c) of the National Emergencies Act ("NEA"), 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act "(IEEPA"), 50 U.S.C. 1703(c).

Executive Order No. 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq) then or thereafter located in the United States or within the possession or control of a U.S. person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. U.S. persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order. 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution 661 of August 6, 1990.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 and matters relating to Executive Orders Nos. 12724 and 12817 (the "Executive Orders"). The report covers events from August 2, 1992, through February 1, 1993.

1. On October 21, 1992, President Bush issued Executive Order No. 12817, implementing the United States measures adopted in United Nations Security Council Resolution ("UNSCR") No. 778 of October 2, 1992. UNSCR No. 778 requires U.N. member states temporarily to transfer to a U.N. escrow account up to $200 million apiece in Iraqi oil proceeds paid by the purchaser after the imposition of U.N. sanctions on Iraq. These funds finance Iraq's obligations for U.N. activities with respect to Iraq, including expenses to verify Iraqi weapons destruction and to provide humanitarian assistance in Iraq on a nonpartisan basis. A portion of the escrowed funds will also fund the activities of the U.N. Compensation Commission in Geneva, which will handle claims from victims of the Iraqi invasion of Kuwait. The funds placed in the escrow account are to be returned, with interest, to the member states that transferred them to the U.N., as funds are received from future sales of Iraqi oil authorized by the United Nations Security Council. No member state is required to fund more than half of the total contributions to the escrow account.

Executive Order No. 12817 authorized the Secretary of the Treasury (the "Secretary") to identify the proceeds of the sale of Iraqi petroleum or petroleum products paid for by or on behalf of the purchaser on or after August 6, 1990, and directed United States financial institutions holding such funds to transfer them to the Federal Reserve Bank of New York ("FRBNY") in the manner required by the Secretary. Executive Order No. 12817 further directs the FRBNY to receive, hold, and transfer funds in which the Government of Iraq has an interest at the direction of the Secretary to fulfill U.S. rights and obligations pursuant to UNSCR No. 778.

2. The economic sanctions imposed on Iraq by the Executive order are administered by the Treasury Department's Office of Foreign Assets Control ("FAC") pursuant to the Iraqi Sanctions Regulations, 31 CFR Part 575 ("ISR"). The ISR were amended on September 1, 1992, to revoke section 575.603, which had required U.S. financial institutions to file monthly reports regarding certain bank accounts in which the Government of Iraq has an interest. While this information was needed during the early implementation of the regulations and for a period thereafter, it is no longer required on a monthly basis and can be obtained by FAC on a case-by-case basis as required. The amendment is in harmony with President Bush's Regulatory Initiative.

3. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. These are intended to deter future activities in violation of the sanctions. Additional civil penalty notices were prepared during the reporting period for violations of the IEEPA and ISR with respect to transactions involving Iraq. Penalties were collected, principally from financial in-

stitutions which engaged in unauthorized, albeit apparently inadvertent, transactions with respect to Iraq.

4. Investigation also continues into the roles played by various individuals and firms outside Iraq in Saddam Hussein's procurement network. These investigations may lead to additions to the FAC listing of individuals and organizations determined to be Specially Designated Nations ("SDNs") of the Government of Iraq.

5. Pursuant to Executive Order No. 12817 implementing UNSCR No. 778, on October 26, 1992, FAC directed the FRBNY to establish a blocked account for receipt of certain post-August 6, 1990, Iraqi oil sales proceeds, and to hold, invest, and transfer these funds as required by the order. On the same date, FAC directed the eight United States financial institutions holding the affected oil proceeds, on allocated, pro rata basis, to transfer a total of $200 million of these blocked Iraqi assets to the FRBNY account. On December 15, 1992, following the payment of $20 million by the Government of Kuwait and $30 million by the Government of Saudi Arabia to a special United Nations-controlled account, entitled UNSCR No. 778 Escrow Account, the FRBNY was directed to transfer a corresponding amount of $50 million from the blocked account it holds to the United Nations-controlled account. Future transfers from the blocked FRBNY account will be made on a matching basis up to the $200 million for which the United States is potentially obligated pursuant to UNSCR No. 778.

6. Since the last report, one case filed against the Government of Iraq has gone to judgment. *Consarc Corporation* v. *Iraqi Ministry of Industry and Minerals et al.*, No. 90-2269 (D.D.C., filed December 29, 1992), arose out of a contract for the sale of furnaces by plaintiff to the Iraqi Ministry of Industry and Minerals ("MIM"), an Iraqi governmental entity. In connection with the contract, the Iraqi defendants opened an irrevocable letter of credit with an Iraqi bank in favor of Consarc, which was advised by Pittsburgh National Bank ("PNB"), with the Bank of New York ("BoNY") entering into a confirmed reimbursement agreement with the advising bank. Funds were set aside at BoNY in an account of the Iraqi bank, for reimbursement of BoNY if PNB made a payment to Consarc on the letter of credit and sought reimbursement from BoNY. Consarc received a down payment from the Iraqi MIM and manufactured the furnaces. No goods were shipped prior to imposition of sanctions on August 2, 1990, and the United States claimed that the funds on deposit in the Iraqi bank account at BoNY were blocked, as well as the furnaces manufactured for the Iraqi Government or the proceeds of the sale of the furnaces to third parties. The district court ruled that the furnaces or their sales proceeds were properly blocked pursuant to the declaration of the national emergency and blocking of Iraqi Government property interests, but that, due to fraud on MIM's part in concluding the sales contract, the funds on deposit in an Iraqi bank account at BoNY were not the property of the Government of Iraq, and ordered FAC to unblock these funds. FAC has noted its appeal of this ruling.

7. FAC has issued a total of 337 specific licenses regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Since the last report, 49 specific licenses have been issued. Licenses were issued for transactions such as the filing of legal actions involving Iraqi interests, for legal representation of Iraq, and the exportation to Iraq of donated medicine, medical supplies, and food intended for humanitarian relief purposes.

To ensure compliance with the terms of the licenses which have been issued, stringent reporting requirements have been imposed that are closely monitored. Licensed accounts are regularly audited by FAC compliance personnel and deputized auditors from other regulatory agencies. FAC compliance personnel continue to work closely with both State and Federal bank regulatory and law enforcement agencies in conducting special audits of Iraqi accounts subject to the ISR.

8. The expenses incurred by the Federal Government in the 6-month period from August 2, 1992, through February 1, 1993, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are estimated at about $2 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in FAC, the U.S. Customs Service, the Office of the Assistant Secretary for Enforcement, the Office of the Assistant Secretary for International Affairs, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near East and South Asian Affairs, the Bureau of International Organizations, and the Office of the Legal Adviser), the Department of Transportation (particularly the U.S. Coast Guard), and the department of Commerce (particularly in the Bureau of Export Administration and the Office of the General Counsel.)

9. The United States imposed economic sanctions on Iraq in response to Iraq's invasion and illegal occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with United Nations Security Council resolutions, including those calling for the elimination of Iraqi weapons of mass destruction, the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third country nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction (WMD) capabilities, and the return of Kuwaiti assets stolen during its illegal occupation of Kuwait. The U.N. sanctions remain in place; the United States will continue to enforce those sanctions.

The Saddam Hussein regime continued to violate basic human rights by repressing the Iraqi civilian population and depriving it of humanitarian assistance. The United Nations Security Council passed resolutions that permit Iraq to sell $1.6 billion of oil under U.N. auspices to fund the provision of food, medicine, and other humanitarian supplies to the people of Iraq. Under the U.N. resolutions, the equitable distribution within Iraq of this assistance would be supervised and monitored by the United Nations. The Iraqi regime continued to refuse to accept these resolutions and has thereby chosen to perpetuate the suffering of its civilian population.

The regime of Saddam Hussein continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. Because of Iraq's failure to comply fully with United Nations Security Council resolutions, the United States will therefore continue to apply economic sanctions to deter Iraq from threatening peace and stability in the region, and I will continue to report periodically to the Congress on significant developments, pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

The White House, *February 16, 1993.*

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate, on February 5, 1993, during the recess of the Senate, received a message from the House of Representatives announcing that the House agrees to the amendment of the Senate to the bill (H.R. 1) to grant family and temporary medical leave under certain circumstances.

The message also announced that the House has agreed to the following concurrent resolution; without amendment:

S. Con. Res. 10. A concurrent resolution providing for a conditional recess or adjournment of the Senate from Thursday, February 4, 1993, or Friday, February 5, 1993, until Tuesday, February 16, 1993, and a conditional adjournment of the House from Thursday, February 4, 1993, or Friday, February 5, 1993, until Tuesday, February 16, 1993.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 1. An Act to grant family and temporary medical leave under certain circumstances.

Under the authority of the order of the Senate of January 5, 1993, the enrolled bill was signed on February 5, 1993, during the recess of the Senate by the Vice President.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-505. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-339 adopted by the Council on December 1, 1992; to the Committee on Governmental Affairs.

EC-506. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-338 adopted by the Council on December 1, 1992; to the Committee on Governmental Affairs.

EC-507. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-344 adopted by the Council on December 1, 1992; to the Committee on Governmental Affairs.

EC-508. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-343 adopted by the Council on December 1, 1992; to the Committee on Governmental Affairs.

EC-509. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-342 adopted by the Council on December 1, 1992; to the Committee on Governmental Affairs.

EC-510. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-347 adopted by the Council on December 15, 1992; to the Committee on Governmental Affairs.

EC-511. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-345 adopted by the Council on December 1, 1992; to the Committee on Governmental Affairs.

EC-512. A communication from the Administrator of the U.S. Small Business Administration, transmitting, pursuant to law, the semi-annual report of the Office of the Inspector General, for the period from April 1 to September 30, 1992; to the Committee on Governmental Affairs.

EC-513. A communication from the President of the United States, transmitting, a report entitled "Regulatory Program of the United States Government" for the period April 1, 1992 through March 31, 1993; to the Committee on Governmental Affairs.

EC-514. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-355 adopted by the Council on December 15, 1992; to the Committee on Governmental Affairs.

EC-515. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-350 adopted by the Council on December 15, 1992; to the Committee on Governmental Affairs.

EC-516. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-351 adopted by the Council on December 15, 1992; to the Committee on Governmental Affairs.

EC-517. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-352 adopted by the Council on December 15, 1992; to the Committee on Governmental Affairs.

EC-518. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-353 adopted by the Council on December 15, 1992; to the Committee on Governmental Affairs.

EC-519. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-354 adopted by the Council on December 15, 1992; to the Committee on Governmental Affairs.

EC-520. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-348 adopted by the Council on December 1, 1992; to the Committee on Governmental Affairs.

EC-521. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-356 adopted by the Council on December 15, 1992; to the Committee on Governmental Affairs.

EC-522. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-357 adopted by the Council on December 15, 1992; to the Committee on Governmental Affairs.

EC-523. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-358 adopted by the Council on December 15, 1992; to the Committee on Governmental Affairs.

EC-524. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-359 adopted by the Council on December 15, 1992; to the Committee on Governmental Affairs.

EC-525. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-360 adopted by the Council on December 15, 1992; to the Committee on Governmental Affairs.

EC-526. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-361 adopted by the Council on December 15, 1992; to the Committee on Governmental Affairs.

EC-527. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-362 adopted by the Council on December 15, 1992; to the Committee on Governmental Affairs.

EC-528. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-363 adopted by the Council on December 15, 1992; to the Committee on Governmental Affairs.

EC-529. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the semi-annual report of the Office of the Inspector General for fiscal year 1992; to the Committee on Governmental Affairs.

EC-530. A communication from the Chief Executive Officer of the Farm Credit System Insurance Corporation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1992; to the Committee on Governmental Affairs.

EC-531. A communication from the Director of the Office of Government Ethics, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1992; to the Committee on Governmental Affairs.

EC-532. A communication from the Director of the Federal Domestic Volunteer Agency, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal years 1991 and 1992; to the Committee on Governmental Affairs.

EC-533. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of the Department of Public Work's Water and Sewer Utility Administration's Capital Improvements Program"; to the Committee on Governmental Affairs.

EC-534. A communication from the Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the annual Sunshine Act Report for 1992; to the Committee on Governmental Affairs.

EC-535. A communication from the Chairman of the National Capital Planning Commission, transmitting, pursuant to law, a report relating to the Commission's internal control system for fiscal year 1992; to the Committee on Governmental Affairs.

EC-536. A communication from the Inspector General of the General Services Administration, transmitting, pursuant to law, the Audit Report Register for the period ending September 30, 1992; to the Committee on Governmental Affairs.

EC-537. A communication from the Administrator of the Panama Canal Commission, transmitting, pursuant to law, an evaluation of the Commission's system of internal accounting; to the Committee on Governmental Affairs.

EC-538. A communication from the Chairman of the Board of Governors of the United States Postal Service, transmitting, pursuant to law, the annual report of the Board of Governors of the United States Postal Service for calendar year 1992; to the Committee on Governmental Affairs.

EC-539. A communication from the Acting Secretary of the United States Postal Rate Commission, transmitting, pursuant to law, a notice of filing of complaint and order setting time for responses and appointing officer of the Commission; to the Committee on Governmental Affairs.

EC-540. A communication from the Chairman and Members of the Railroad Retirement Board, transmitting, pursuant to law, reports under the Program Fraud Civil Remedies Act; to the Committee on Governmental Affairs.

EC-541. A communication from the Acting Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls for fiscal year 1992; to the Committee on Governmental Affairs.

EC-542. A communication from the Secretary of Energy, transmitting, pursuant to law, a report under the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC-543. A communication from the Chairperson of the United States Commission of Civil Rights, transmitting, pursuant to law, a report entitled Enforcement of Equal Employment and Economic Opportunity Laws and Programs Relating to Federally Assisted Transportation Projects; to the Committee on the Judiciary.

EC-544. A communication from the Attorney General, transmitting, pursuant to law, a report on the United States Trustee System Fund; to the Committee on the Judiciary.

EC-545. A communication from the Chief Judge of the United States Claims Court, transmitting, pursuant to law, a report on the claim of Dynamic Technology International, Inc.; to the Committee on the Judiciary.

EC-546. A communication from the Chief Judge of the United States Claims Court, transmitting, pursuant to law, a report of the claim of Hoar Construction, Inc.; to the Committee on the Judiciary.

EC-547. A communication from the Secretary of Education, transmitting, pursuant to law, a publication entitled, "Final Regulations—Territories and Freely Associated States Educational Grant Program"; to the Committee on Labor and Human Resources.

EC-548. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the adoption of foster children; to the Committee on Labor and Human Resources.

EC-549. A communication from the Assistant Attorney General (Civil Rights Division), Department of Justice, transmitting, pursuant to law, the annual report on the activities of the Interagency Coordinating Council; to the Committee on Labor and Human Resources.

EC-550. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final funding priorities for the research in Education of Individuals with Disability Program; to the Committee on Labor and Human Resources.

EC-551. A communication from the Chairman of the National Commission for Employment Policy, transmitting, pursuant to law, the annual report for 1991; to the Committee on Labor and Human Resources.

EC-552. A communication from the Chairman of the National Commission for Employment Policy, transmitting, a report entitled "The Employment Effects of the North American Free Trade Agreement: Recommendations and Background Studies"; to the Committee on Labor and Human Resources.

EC-553. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on implementation of the Health Care Quality Improvement Act of 1986; to the Committee on Labor and Human Resources.

EC-554. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the Childhood Lead Poisoning Prevention Activities under the Lead Contamination Control Act of 1988; to the Committee on Labor and Human Resources.

EC-555. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a report on the transfers of funds from state to federal campaigns; to the Committee on Rules and Administration.

EC-556. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the annual report of personal property furnished to non-federal recipients during fiscal year 1991; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-23. A joint resolution adopted by the Legislature of the State of Alaska to the Committee on Armed Services:

"LEGISLATIVE RESOLVE NO. 87

"Be it resolved by the Legislature of the State of Alaska:

"Whereas changing world conditions and relationships have lead to pressure on the Congress and the President to reduce defense spending; and

"Whereas reductions in defense spending would probably result in some cuts in personnel stationed at bases around the country because a very significant portion of defense spending is related to personnel costs; and

"Whereas the U.S. military services have been reviewing the need for their current levels of military presence in Alaska, including the army post at For Richardson; and

"Whereas, although military reductions have occurred in Europe and the Far East, Alaska's strategic importance should continue to grow in order to defend the interests of the United States in the Arctic and the Pacific Rim regions; and

"Whereas in 1990, the military services in Alaska stood as the third largest industry in the state, accounting for 16 percent of the state's labor force and 13 percent of the state's payroll with expenditures on behalf of the military services in Alaska having an estimated $2,700,000,000 effort on Alaska's economy; and

"Whereas Fort Richardson Army Post represents one of the largest concentrations of military personnel in Alaska; and

"Whereas all of the military personnel and their families contribute significantly to the state's economy and their presence is vital to the social fabric of the communities in which they live;

"Be it resolved that the Alaska State Legislature urges the President, the Congress, and the U.S. military services to maintain at least the current level of all military facilities throughout Alaska, including the U.S. Army complement at Fort Richardson, which might be subject to closure."

POM-24. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on the Budget.

"LEGISLATIVE RESOLVE NO. 80

"Whereas a strong national defense remains a high priority, although the cost of maintaining a strong national defense has been reduced significantly; and

"Whereas the Budget Enforcement Act of 1990 enacted by the Congress established three separate categories for federal spending; and

"Whereas these categories of defense, domestic, and international spending have spending limits set within each category and transfer of funds between categories is prohibited; and

"Whereas any savings in military spending can be directed only toward budget deficit reduction and may not be reprogrammed for domestic spending; and

"Whereas Alaska, like the other 49 states, faces pressing social and economic needs ranging from health care and day care to transportation and public safety; and

"Whereas state and local government responsibility for providing human services and paying for the renewal of infrastructure has increased over the past decade while federal aid to states and communities has dropped from 29.4 percent to 16 percent of their budgets; and

"Whereas the number of Americans living below the poverty line has increased to 33,000,000 according to 1990 census figures and many families even above the poverty line are facing very difficult economic circumstances that affect the health and education of their children and the well-being and productivity of their adult members; and

"Whereas the fiscal constraints faced across the country retard efforts to preserve our families, develop jobs, clean up our environment, and repair and expand our infrastructure; and

"Whereas President bush proposed a 10-year reduction of 22 percent in the military budget even before the changes in the USSR; and

"Whereas the potential domestic effect of even a small savings in military spending is truly significant as evidenced by the fact that the $865,000,000 cost of just one B-2 bomber exceeds the cost of Aid to Families with Dependent Children (AFDC) in 49 out of the 50 states in the nation; and

"Whereas a "peace dividend" would make a real difference in whether our families can be strong and healthy and whether our nation will be economically competitive, environmentally responsible, and socially compassionate;

"Be it resolved that the Alaska State Legislature urges the Congress and the President, for the sake of present families, future generations of children, and the continued greatness of our nation, to reach a new budget agreement that would allow savings in military spending to be used to meet the nation's enormous domestic social and economic needs as well as for budget deficit reduction."

POM-25. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Commerce, Science and Transportation.

"LEGISLATIVE RESOLVE NO. 53

"Whereas the City of Diomede is located within the jurisdictional boundaries of Alaska and its citizens are residents of Alaska; and

"Whereas the citizens of the City of Diomede have traditionally used the bowhead whale for subsistence; and

"Whereas it is the responsibility of this legislature to represent the interests and protect the rights of the residents of Alaska; and

"Whereas the citizens of the City of Diomede, as expressed in the city's Resolution 90-11, desire to obtain a bowhead whale allocation; and

"Whereas to obtain the allocation the International Whaling Commission must increase the bowhead whale subsistence quota for Alaska Natives; and

"Whereas the City of Diomede's request for an allocation has been endorsed by the Alaska Eskimo Whaling Commission, the local organization that oversees the management of the Eskimo bowhead whale hunt through a cooperative agreement with the National Oceanic and Atmospheric Administration in the United States Department of Commerce; and

"Whereas before the International Whaling Commission will approve the increased bowhead whale subsistence quota, the subsistence needs of the City of Diomede must be documented, and the Alaska Eskimo Whaling Commission has confirmed that the documentation is underway; and

"Whereas the request for the increase in the bowhead whale subsistence quota must be scheduled for consideration at the commission's annual meeting; and

"Whereas a recent certified population census indicates that the healthy population of bowhead whales has increased;

"Be it resolved that the Alaska State Legislature heartily endorses Resolution 90-11 of the City of Diomede and its attempt to obtain a bowhead whale allocation; and be it

"Further resolved that the Alaska State Legislature encourages the International Whaling Commission to grant the request of the Alaska Eskimo Whaling Commission to increase the annual bowhead whale subsistence quota for the Natives of Alaska upon the submission of the subsistence needs report for the City of Diomede; and be it

"Further resolved that the Alaska State Legislature, in light of the certified population census indicating an increase of bowhead whales, and, in light of the traditional and documented use of the bowhead whale by the people of the City of Diomede, strongly endorses the request by the Alaska Eskimo Whaling Commission for an increased bowhead whale subsistence quota to enable the City of Diomede to obtain a bowhead whale allocation."

POM-26. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Commerce, Science, and Transportation.

"LEGISLATIVE RESOLVE NO. 83

"Whereas the seafood industry is the largest private employer in Alaska and the second largest source of revenue for the State of Alaska; and

"Whereas Alaskans deeply care abut the quality of Alaska seafood products and the national and international reputation of Alaska seafood products; and

"Whereas the State of Alaska has long maintained a year-around seafood inspection program to eliminate contamination and deterioration of seafood products produced in the state; and

"Whereas the Alaska seafood inspection program is a model program for the rest of the nation; and

"Whereas the Consumers Union of the United States, Inc., has recently published an article on the quality of fresh seafood based on samples collected in only two retail markets—Chicago and New York—that has seriously questioned the quality and wholesomeness of fresh seafood sold in the United States; and

"Whereas the article is damaging to Alaska's seafood industry because it does not distinguish between fresh or frozen salmon or farmed or wild salmon, identify the species of salmon tested, or identify the state, region, or country of origin of the salmon and other fish tested; and

"Whereas the article found that 43 percent of the salmon tested contained unacceptable levels of polychlorinated biphenyls (PCB's); and

"Whereas the Food and Drug Administration, the Environmental Protection Agency, and the Alaska Department of Environmental Conservation have stated that there are no PCB problems associated with Alaska salmon; and

"Whereas has the most pristine waters in the world according to the National Oceanic and Atmospheric Administration, as demonstrated by water quality sampling at strategic sites across Alaska; and

"Whereas American per capita consumption of fish has increased nearly 25 percent over the past decade; and

"Whereas federal inspection programs have long existed for meat and poultry but not for seafood;

"Be it resolved that the Alaska State Legislature encourages the media to educate and inform the American public about the quality of all fresh seafood sold in the United States; and be it

"Further resolved that the Alaska State Legislature respectfully requests the Congress to establish

"(1) a national mandatory seafood inspection program to ensure that consumers nationwide receive the highest quality seafood products possible; and

"(2) labeling requirements for seafood products that include disclosure of the country or state of origin of the seafood in the product and whether the seafood in the product is farmed or wild."

POM-27. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Finance.

"LEGISLATIVE RESOLVE NO. 91

"Whereas the Omnibus Budget Reconciliation Act of 1990 requires the United States Secretary of Transportation to establish and collect an annual fee for recreational vessels; and

"Whereas the fee is $25 for vessels greater than 16 feet to 20 feet in length, $35 for vessels greater than 20 feet to 27 feet in length, $50 for vessels greater than 27 feet to 40 feet in length, and $100 for vessels greater than 40 feet in length; and

"Whereas the fee will be collected by the United States Coast Guard during federal fiscal years 1991 through 1995; and

"Whereas the fee applies to recreational vessels over 16 feet long that are operated on all navigable waters of the United States where 'the Coast Guard has a presence,' broadly defined as 'within Coast Guard district boundaries'; and

"Whereas information about the fee was published in the Federal Register as a Notice of Proposed Rulemaking so all interested parties would have an opportunity to comment on the procedures for implementing and collecting the fees; and

"Whereas the purpose of the fee is to 'require recreational boaters to share in the cost of existing Coast Guard programs, including search and rescue, boating safety, and aids to navigation * * *'; and

"Whereas the fee will be deposited in the United States Treasury and, even though it will be attributed to Coast Guard activities, there is no guarantee it will be used for Coast Guard programs; and

"Whereas the fee is a new general tax on recreational vessels and an attempt by the federal government to raise new revenue; and

"Whereas the revenue from the fee will not be used to supplement existing programs, but to replace funds that will be diverted to other purposes; and

"Whereas the federal government already collects a motorboat fuel tax levied on the approximately 6,000,000 licensed boats in the United States, and this tax was increased five cents a gallon as part of the 1990 budget reconciliation process; and

"Whereas search and rescue, boating safety, and the aids to navigation are vital public services that should not be subject to user fees; and

"Whereas the fee will be an undue burden on recreational vessel owners and will provide them with no direct benefits; and

"Whereas Representative Robert W. Davis of Michigan introduced H.R. 534 in the U.S. House of Representatives and Senator John B. Breaux of Louisiana introduced S. 843 in the U.S. Senate for the purpose of repealing the annual fee for recreational vessels;

"Be it resolved that the Alaska State Legislature respectfully requests the United States Congress to repeal the annual fee for recreational vessels."

POM-28. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Foreign Relations.

"LEGISLATIVE RESOLVE NO. 82

"Whereas the Bureau of Consular Affairs in the Department of State, through its Citizens Travel Advisory Service, provides important information to persons planning to travel in various locations throughout the world; and

"Whereas these travel advisories can have a profound effect, either positive or negative, on the tourism industry that operates in the locations for which the bureau provides information; and

"Whereas tourism has become the number one industry in the world and in America, providing over 6,000,000 jobs and billions of dollars in revenue for communities throughout the nation; and

"Whereas tourism provides opportunities to open the doors of the global community as a prelude to understanding between different cultures; and

"Whereas public and private entities throughout the world have invested heavily in the development of international tourism; and

"Whereas it is essential that the information put out by the bureau be accurate so that people are well-informed and so that the tourism industry in a particular location is not inadvertently and unnecessarily harmed by inaccuracies;

"Be it resolved that the Alaska State Legislature respectfully requests the Bureau of Consular Affairs, Department of State, to allow public entities in this country that may be affected by a travel advisory to review the advisory before it is released in order to ensure its accuracy and to make other recommendations when necessary or desirable."

POM—29. A petition from citizens of the State of New Hampshire relative to sexual preference; to the Committee on Governmental Affairs.

POM—30. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Governmental Affairs:

"LEGISLATIVE RESOLVE NO. 86

"Be it resolved by the Legislature of the State of Alaska:

"Whereas the federal Office of Management and Budget maintains a Standard Industrial Classification system (SIC) that is used to measure activity in various sectors of the economy; and

"Whereas statistics for the travel and tourism industry are not distinctly identified in the SIC, but are split up into many different categories that include other retail sales and services; and

"Whereas the failure to separately identify travel and tourism as an industry inhibits recognition of the importance of this segment of the economy, both in terms of its contribution to the gross domestic product and in terms of its positive effect on the nation's balance of trade; and

"Whereas the travel and tourism industry is a significant segment of Alaska's economy and should become one of the top money-producing industries for the nation within the next 10 years; and

"Whereas separate SIC recognition of the travel and tourism industry would aid policy makers in fashioning appropriate measures that promote this very important industry;

"Be it resolved that the Alaska State Legislature respectfully requests the federal Office of Management and Budget to work with the U.S. Travel and Tourism Administration to develop appropriate SIC listings that will give due regard to the importance of the travel and tourism industry; and be it

"Further resolved that the legislature encourages the federal government to include travel and tourism expenditures when it calculates the national trade balance."

POM-31. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Governmental Affairs.

"RESOLUTION OF THE STATE OF MAINE

"We, your Memorialists, the Members of the One Hundred and Fifteenth Legislature of the State of Maine, now assembled in the Third Special Session, most respectfully present and petition the Citizens' Stamp Advisory Committee and the Postmaster General of the United States Postal Service, as follows:

"Whereas, the Town of Castine, Maine has a long and distinguished history that dates from 1604 and includes events of national interest and significance; and

"Whereas, the Town of Castine has been the site of important events in the early history of the United States, including significant military engagements between 1635 and 1814; and

"Whereas, the Town of Castine will celebrate its 200th anniversary on February 10, 1996; and

"Whereas, the Town of Castine's Commemorative Stamp Committee has submitted an application for the issuance of a block of 4 commemorative stamps to the Citizens' Stamp Advisory Committee; and

"Whereas, the 4 proposed stamps will depict the oldest operating Post Office in the United States; the Gunboat U.S.S. Castine, the first steel ship built by Bath Iron Works, which served in the Spanish American War and World War I; Baron Jean-Vincent de Saint Castin for whom the town was named; and Noah Brooks, a Castine native and important journalist, author and close friend of President Abraham Lincoln; and

"Whereas, the issuance of the 4 stamps would be an appropriate recognition of the singular historical role the Town of Castine has played in the United States and the World; now, therefore, be it

"Resolved: That We, your Memorialists, endorse the pending application submitted to the Citizens' Stamp Advisory Committee and respectfully urge the Citizens' Stamp Advisory Committee to act favorably on the request and further respectfully urge the Postmaster General of the United States Postal Service to issue the 4 proposed commemorative stamps; and be it further

"Resolved: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Citizens' Stamp Advisory Committee; the Honorable Marvin Runyon, Postmaster General of the United States Postal Service; and each member of the Maine Congressional Delegation."

POM-32. A petition from citizens of the State of New Hampshire relative to religious freedom; to the Committee on the Judiciary.

POM-33. A petition from citizens of the State of New Hampshire relative to religious freedom; to the Committee on the Judiciary.

POM-34. A petition from citizens of the State of New Hampshire relative to voluntary prayer in public schools; to the Committee on the Judiciary.

POM-35. A petition from citizens of the State of California relative to congressional term limits; to the Committee on the Judiciary.

POM-36. A petition from citizens of the State of New York relative to Presidential pardons; to the Committee on the Judiciary.

POM-37. A resolution adopted by the Board of Supervisors of the County of Los Angeles relative to Presidential elections; to the Committee on Rules and Administration.

POM-38. A resolution adopted by the Council of the city of Los Angeles, California relative to the right to privacy; to the Committee on Labor and Human Resources.

POM-39. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

"ASSEMBLY JOINT RESOLUTION NO. 101

"Whereas, Pending federal legislation related to the reauthorization of the Resource Conservation and Recovery Act (RCRA) has the potential of preempting the California Integrated Waste Management Act of 1989 and, if enacted, would force California cities and counties to revise their integrated waste management plans in order to meet new federal specifications; and

"Whereas, The California Integrated Waste Management Act of 1989 includes the same waste diversion goals as those contemplated in the proposed federal legislation: 25 percent diversion of solid waste from landfills by 1995 and 50 percent diversion by the year 2000; and

"Whereas, At least $30 million has already been spent by local governments since the California Integrated Waste Management Act of 1989 became law in developing local plans to meet state regulatory requirements; and

"Whereas, The proposed RCRA reauthorization specifies actual diversion programs which conflict with those programs which are mandated in the California Integrated Waste Management Act of 1989; and

"Whereas, Forcing California cities and counties to comply with the federal diversion programs would cause local governments and the State of California to spend millions of additional dollars in order to meet proposed new planning requirements; and

"Whereas, New federal requirements to meet similar goals would force local governments to spend funds for additional unnecessary planning, instead of for programs which are needed for the implementation of the solid waste diversion programs, including programs to "reduce, reuse, and recycle"; and

"Whereas, The California Integrated Waste Management Board, the California State Association of Counties, the League of California Cities, the Solid Waste Association of North America, and the Southern California Association of Governments have jointly requested the California Congressional Delegation to seek amendments to grandfather the California Integrated Waste Management Act of 1989 into the RCRA reauthorization; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to recognize that the overall goals of both the federal and state programs are similar, and to allow the planning provisions of the California Integrated Waste Management Act of 1989 to supersede the provisions of the RCRA reauthorization; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-40. A petition from a citizen of the State of California relative to federal judges; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRASSLEY:

S. 355. A bill to amend the Environmental Programs Assistance Act of 1984 to provide that for purposes of liability for damage, injury or death caused by the negligence or wrongful acts or omissions of individuals authorized by such Act, the United States is liable, and for purposes of access to trade secrets and confidential business information such individuals are authorized representatives of the United States Environmental Protection Agency; to the Committee on Environment and Public Works.

By Mr. PRYOR:

S. 356. A bill to amend the Internal Revenue Code of 1986 to replace the possession tax credit with a wage-based employment tax credit; to the Committee on Finance.

By Mr. FORD:

S. 357. A bill for the relief of Ljubica Warren; to the Committee on the Judiciary.

By Mr. WOFFORD:

S. 358. A bill to direct the Secretary of Commerce to provide grants to States to provide technical and financial assistance to small and medium-sized manufacturers; to the Committee on Commerce, Science, and Transportation.

By Mr. DECONCINI:

S. 359. A bill to require the Secretary of Treasury to mint coins in commemoration of the National Law Enforcement Officers Memorial, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DORGAN:

S. 360. A bill to amend the Internal Revenue Code of 1986 to extend the deduction for health insurance costs of self-employed individuals for an indefinite period, and to increase the amount of such deduction; to the Committee on Finance.

By Mr. HEFLIN:

S. 361. A bill to amend the Internal Revenue Code of 1986 to restore the regular investment tax credit for property placed in service during a specified period, and for other purposes; to the Committee on Finance.

S. 362. A bill to amend the Internal Revenue Code of 1986 to restore the IRA deduction and for other purposes; to the Committee on Finance.

S. 363. A bill to amend the Internal Revenue Code of 1986 to provide a 50 percent exclusion for gain from certain small business stock, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 364. A bill to amend the Internal Revenue Code of 1986 to modify the involuntary conversion rules for certain disaster-related conversions; to the Committee on Finance.

S. 365. A bill to provide for the conveyance of real property at Fort Ord, California, to the University of California and the California State University; to the Committee on Armed Services.

By Mr. EXON (for himself and Mr. HOLLINGS):

S. 366. A bill to amend the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 with respect to the establishment of the National Commission to Ensure a Strong Competitive Airline Industry; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself, Mr. SMITH, Mr. REID, and Mr. PELL):

S. 367. A bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BUMPERS (for himself, Mr. BROWN, Mr. KERRY, Mr. LIEBERMAN, Mr. MACK, Mr. RIEGLE, Mr. WOFFORD, Mr. COATS, Mr. BOREN, Mr. DASCHLE, Mr. CRAIG, Mr. DODD, Mr. D'AMATO, Mr. PRYOR, Mr. DECONCINI, Mr. JOHNSTON, Mrs. FEINSTEIN, and Mr. KOHL):

S. 368. A bill to amend the Internal Revenue Code of 1986 to provide a capital gains tax differential for individual and corporate taxpayers who make high-risk, long-term, growth-oriented venture and seed capital investments in startup and other small enterprises; to the Committee on Finance.

By Mr. DURENBERGER:

S. 369. A bill to suspend until January 1, 1995, the duty on certain ceramic ferrules and sleeves; to the Committee on Finance.

S. 370. A bill to suspend until January 1, 1995, the duty on certain internally lighted ceramic and porcelain miniatures of cottages, houses, churches, and other buildings and associated accessories and figurines; to the Committee on Finance.

By Mr. DODD (for himself, Mr. D'AMATO, and Mr. KERRY):

S. 371. A bill to provide for interstate banking and branching; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DECONCINI:

S. 372. A bill to extend the existing duty free treatment with respect to articles provided by the Max Planck Institute for Radioastronomy to the Steward Observatory; to the Committee on Finance.

By Mr. DECONCINI (for himself and Mr. HATCH):

S. 373. A bill to amend title 17, United States Code, to modify certain recordation and registration requirements, to establish copyright arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes; to the Committee on the Judiciary.

By Mr. NICKLES (for himself and Mr. BOREN):

S. 374. A bill to amend the Internal Revenue Code of 1986 to provide incentives for domestic oil and natural gas exploration and production, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 375. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LAUTENBERG:

S. 376. A bill to prohibit the transfer of 2 or more handguns to an individual in any 30-day period; to the Committee on the Judiciary.

By Mr. GRAMM (for himself and Mr. LOTT):

S. 377. A bill to require a balanced Federal budget by fiscal year 2000 and each year thereafter, to protect Social Security, to provide for zero-based budgeting and decennial sunsetting, to impose spending caps on the growth of entitlements during fiscal years 1994 through 2000, and to enforce those requirements through a budget process involving the President and Congress and sequestration; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977.

By Mr. D'AMATO:

S.J. Res. 46. A joint resolution to designate the week beginning March 7, 1993, as "National Manufacturing Week"; to the Committee on the Judiciary.

By Mr. JOHNSTON:

S.J. Res. 47. A joint resolution to designate the week beginning on November 21, 1993, and the week beginning on November 20, 1994, each as "National Family Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. D'AMATO (for himself, Mr. SPECTER, and Mr. GRASSLEY):

S. Res. 68. A resolution urging the President of the United States to seek an international oil embargo through the United Nations against Libya because of its refusal to comply with United Nations Security Council Resolutions 731 and 748 concerning the bombing of Pan Am Flight 103; to the Committee on Foreign Relations.

By Mr. HEFLIN:

S. Res. 69. A resolution to amend the Standing Rules of the Senate to require that a financial impact statement be included in the report accompanying each bill or joint resolution reported by any committee (except those by the Committee on Appropriations), showing the financial impact that any Federal mandates in the bill or joint resolution would have on States and local governments; to the Committee on Rules and Administration.

By Mr. BRADLEY:

S. Res. 70. A resolution expressing the sense of the Senate regarding the need for the President to seek the advice and consent of the Senate to the ratification of the United Nations Convention on the Rights of the Child; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY:

S. 355. A bill to amend the Environmental Programs Assistance Act of 1984 to provide that for purposes of liability for damage, injury or death caused by the negligence or wrongful acts or omissions of individuals authorized by such act, the United States is liable, and for purposes of access to trade secrets and confidential business information such individuals are authorized representatives of the U.S. Environmental Protection Agency; to the Committee on Environment and Public Works.

ENVIRONMENTAL PROGRAMS ASSISTANCE ACT OF 1984 AMENDMENTS OF 1993

• Mr. GRASSLEY. Mr. President, I rise today to introduce legislation which would clarify the Government's liability for the actions of individuals performing services for the Environmental Protection Agency in that Agency's Senior Environmental Employment Program [SEE]. The bill I am introducing would also provide SEE program enrollees with the same access to information needed to do their jobs that regular EPA employees presently have.

The Senior Environmental Employment Program began some years ago as a demonstration project jointly supported by the Administration on Aging in the then Department of Health, Education and Welfare, and the Environmental Protection Agency. The primary purpose of the project was to demonstrate ways in which older Americans could be effectively employed in jobs relating to the prevention, abatement and control of environmental pollution.

Over several years, considerable experience was accumulated with older workers in environmental protection activities. Older workers surveyed waste dumps, conducted surveys of hazardous waste products produced by industries, studied the extent to which migrant workers were exposed to pesticides, among other activities.

Then, in 1984, Senators Stafford, Heinz, SPECTER, PELL, and myself introduced legislation to make the program permanent. The Environment and Public Works Committee agreed unanimously to report the legislation, and it was passed by the Senate on March 26, 1984, and signed by the President on June 12, 1984.

The SEE Program has been supported consistently by the leadership of EPA. The legislation which made the program permanent was strongly supported by the then EPA Administrator, William Ruckelshaus. The Clinton administration has not at this time had an opportunity to review this bill. The program has also caused no problems for other, career, EPA employees, since the managers of the program and the agency personnel office must insure that employment of SEE workers does not displace currently employed individuals, interfere with the employment of any Federal employee in layoff status, or affect existing contracts for services.

Older workers are hired by the SEE Program through contracts or cooperative agreements that EPA concludes with several of the national aging organizations. Prominently involved have been the American Association of Retired Persons, the National Council on Aging, and the National Caucus and Center on the Black Aged.

Mr. President, this is a program which has conclusively demonstrated that older workers constitute a valuable resource whose talents we should make every effort to continue to use. In this program, the SEE workers are knowledgeable, often former EPA employees, or professionals who have worked in related fields.

I am introducing this legislation today because there is concern at the EPA that their SEE workers might be liable to lawsuit as a consequence of work they do on behalf of EPA. What the legislation would do is cover these SEE workers under the Federal Tort Claims Act. The workers in question work under the close, direct, supervision of career EPA officials, on projects, specified by EPA officials, which are undertaken as part of the EPA mission.

There is also concern at EPA that the workers in question may not have the legal authority to review, in the course of their work, materials considered to contain proprietary information. This bill would make it clear that they are empowered to review such materials. Again, it is important to stress that these workers are under the close supervision of EPA officials. Furthermore, they are mature individuals with long histories of work comparable to work they would be performing for EPA. In other words, I believe they would be able to handle such information in a responsible way.

Mr. President, I have a statement from the Environmental Protection Agency to the effect that neither the Department of Justice nor the Office of Management and Budget have any problem with this legislation. I ask unanimous consent that this letter be placed in the RECORD after my remarks. I should note again that the Clinton administration has not had the opportunity to review this legislation; the statement to which I refer was provided by EPA last year. I ask also that the text of the legislation appear in the RECORD after my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Programs Assistance Act of 1984 Amendments of 1993".

SEC. 2. AMENDMENTS TO THE ENVIRONMENTAL PROGRAMS ASSISTANCE ACT.

(a) IN GENERAL.—Section 2 of the Environmental Program Assistance Act of 1984 (42 U.S.C. 4368a) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of law, any individual whose talents are authorized by subsection (a) to be used in connection with the programs administered by the Administrator of the Environmental Protection Agency shall have the same access as Federal employees have to, and shall be subject to the same penalties as Federal employees are subject to for unauthorized disclosure of, trade secrets and confidential business information—

"(1) submitted in connection with—

"(A) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

"(B) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

"(C) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(D) the Clean Air Act (42 U.S.C. 7401 et seq.);

"(E) the Public Health Service Act (42 U.S.C. 201 et seq.), including section 1445(d) of such Act (42 U.S.C. 300j–4(d));

"(F) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

"(G) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

"(H) the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), including section 13(b) of such Act (42 U.S.C. 4912(b));

"(I) section 408(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(f)); or

"(J) the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.);

"(2) submitted pursuant to any contract or other agreement with the United States; or

"(3) otherwise obtained by an officer or employee of the Environmental Protection Agency under any authority.

(b) APPLICABILITY OF ETHICS AND CONFLICT OF INTEREST PROVISIONS UNDER TITLE 18, UNITED STATES CODE.—Section 2 of such Act (42 U.S.C. 4368a), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(e) Any individual whose talents are authorized by subsection (a) to be used in connection with the programs administered by the Administrator of the Environmental Protection Agency shall be subject to the requirements of sections 201 through 209 of title 18, United States Code (relating to ethics and conflict of interest).".

(c) TRADE SECRETS AND CONFIDENTIAL BUSINESS INFORMATION DEFINED.—Section 2 of such Act (42 U.S.C. 4368a), as amended by subsection (b), is further amended by adding at the end the following new subsection:

"(f) For purposes of this section, the term 'trade secrets and confidential business information' includes all information prohibited from disclosure by section 1905 of title 18, United States Code (relating to trade secrets), or by any other law referred to in this section.".

SEC. 3. SUNSET PROVISION.

The amendment made by section 2(a) shall be effective during the 2-year period beginning on the date of enactment of this Act.●

By Mr. PRYOR:

S. 356. A bill to amend the Internal Revenue Code of 1986 to replace the possession tax credit with a wage-based employment tax credit; to the Committee on Finance.

POSSESSIONS WAGE CREDIT ACT OF 1993

Mr. PRYOR. Mr. President, over the last few years, I have been the chief critic of the section 936 tax credit.

My reason for being so actively opposed to this tax credit, stems from my belief that it has become the most abusive of all tax shelters, maybe of all time.

The chief beneficiaries—and abusers—of the section 936 tax credit are the highly profitable pharmaceutical companies that manufacture drugs in Puerto Rico.

With the help of section 936, these drug manufacturers have managed to reap recordbreaking tax benefits and pad their already soaring profit margins at the expense of the American taxpayer, who is being whipsawed at every angle.

First, a pharmaceutical company develops a drug in its U.S. research facility, many times with funds directly provided by the American taxpayer. The American taxpayer then also gives the pharmaceutical company tax credits for research and development of drugs. In addition, the pharmaceutical company may then deduct its research and development costs in the year they are incurred.

On top of these several subsidies, section 936 then allows this same pharmaceutical company to manufacture the drugs in its subsidiary in Puerto Rico, allowing income from sales of its drugs to be tax free.

Then, Mr. President, after the American taxpayer forks over all these hard earned tax dollars to the drug companies, the taxpayer ultimately has to go to the drugstore to fill his prescription when he is sick, and as an American consumer, he finds or she finds that they have to pay the highest prescription drug prices in the world today.

It is no wonder that the pharmaceutical industry is the most profitable in the world. The American taxpayer props it up at every conceivable point, while the American consumer, having no other choice, pays through the nose, by paying the highest prices in the world for our prescription drugs.

Mr. President, the pharmaceutical industry calls this free enterprise. I call it greed. Nevertheless, it is intolerable, and now we must change it.

In the last Congress, I introduced S. 2000, the Prescription Drug Cost Containment Act of 1991, which used a carrot-and-stick approach to provide incentives to the pharmaceutical industry to curb its price increases. S. 2000 provided that, as a company's drug prices exceeded inflation, its section 936 tax credit would be proportionately reduced. That is what S. 2000 was about and, of course, the pharmaceutical companies did everything they could to defeat this proposal on the Senate floor, with the pharmaceutical companies hiding behind—as always—that old and too familiar argument that they are not going to be able to find the cure for cancer, Alzheimer's, and AIDS if they do not get this tax break.

Mr. President, last spring I unsuccessfully offered S. 2000 as an amendment to the tax bill. But since that time the landscape, I think, has been changed dramatically. We now have great opportunities to effect real change by reordering our priorities and reassessing the needs of our American citizens.

One of the most exciting and complex areas in the forefront for change is health care. The new administration is now in the process of evaluating our current health care system and is now considering options for the improvements to access and to control costs. It has been announced that this administration will come forward with a plan early this spring.

Mr. President, within that plan, I expect issues dealing with the cost of prescription drugs will be addressed. I look forward to working with this administration on its proposal and I hope to offer my own proposal in the near future.

In the meantime, the President is in the process of formulating his economic package, cutting Government costs and asking certain segments of our society in America to pay their fair share.

Mr. President, today I come to the floor of the Senate to introduce the Possessions Wage Credit Act of 1993, which will ask the pharmaceutical industry to pay its share. And I ask the President and my colleagues respectfully to take a look at section 936 of our Tax Code to consider closing this huge loophole before it raises taxes on the more vulnerable segments of our society.

When Congress originally enacted section 936, it sought to promote the economy of Puerto Rico and to create jobs.

The Congressional Budget Office estimates that, due to section 936, the U.S. Treasury will lose some $15 billion in tax revenues during the period from 1993 through 1997.

Today, section 936 companies employ about 10 percent of the total jobs in Puerto Rico, or in other words, it supports about 100,000 jobs for $15 billion lost to our Treasury in taxes.

The pharmaceutical industry alone in Puerto Rico will soak up over one-half of this $15 billion in credits while only providing 18 percent of the total jobs created by section 936 companies. That, Mr. President, is around $7.5 billion to create in Puerto Rico only 18,000 jobs.

Mr. President, I have here a chart that shows that on average when a pharmaceutical manufacturing company operating in Puerto Rico pays a salary of $26,471, it takes a tax credit of $70,788. This is from the Department of the Treasury, and these are the latest available statistics that we have.

Mr. President, I would like to submit that there is no other industry in the world that we know of that is subsidized to the extent of this section 936 tax benefit, as I call it, a great tax loophole. In fact, some companies receive $3 and $4, and in one case $6, in tax breaks for every $1 paid to workers in Puerto Rico.

For example, Pfizer has a big plant in Puerto Rico. It makes enormous profits. And for every dollar that they pay to the wage earner in those particular plants in Puerto Rico, the Pfizer Manufacturing Pharmaceutical Co., gets $6.36 in tax benefits.

American Home Products is another example, $3.28 in tax benefits for every dollar that they pay in wages in Puerto Rico.

Mr. President, this, we hope, will be a new age of fairness and responsibility. I submit, Mr. President, respectfully, this is one of the areas that we can begin to reorder our priorities and reintroduce fairness into our Tax Code.

I have used these numbers often to make the case that section 936 is an inefficient way to create jobs, that the drug companies have exploited the credit well beyond what the original drafters could have ever conceived. But in the recent 1989 Statistics of Income Bulletin that we have just received, Mr. President, published by the Internal Revenue Service, the IRS is reporting that, for the first time ever, the tax benefits which all companies received as a result of section 936 are now higher than the pay of their employees. These are all types of companies, including the drug companies, that have now moved to Puerto Rico to take advantage of the tax system that we have created there.

Mr. President, I respectfully submit that section 936 is completely broken and the American taxpayer and the Puerto Ricans are coming out the big losers.

The legislative solution that I offer today is to repeal section 936 and to phase in a more efficient wage credit over a 5-year period. The wage credit is the same credit as that offered to American cities and rural communities in the enterprise zone legislation passed by the Senate last year and which we expect to resurface again this year as a solution to the economic hardships faced by Americans throughout the United States.

Mr. President, the revenue savings of this proposal should be very significant although we do not yet have the official numbers.

Mr. President, I agree some of these funds must go for long-term investment in the Puerto Rican people, and we look forward to exploring ways to make the best use of these very, very scarce resources.

Also, the American taxpayer will benefit from my proposal since part of savings will be applied toward a 100-percent deduction for health care insurance premiums for the self-employed for 1993. This will correct the gross inequity in the law that has existed too long.

Further, Mr. President, I find it intolerable and irresponsible that we should have allowed the 25-percent deduction for these premiums for the self-employed to expire as of last June 30. This bill would correct this problem by going back to provide the revenues so that the small businessmen may deduct that 25 percent of their health care premiums for the last half of 1992 as they had planned.

Mr. President, I urge the new administration and my colleagues to look at this proposal as it sets its program and moves that program forward.

Mr. President, I send to the desk my legislation to repeal section 936.

Mr. President, I thank the Chair. I yield the floor.

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

There being no objection, the bill is ordered to be printed in the RECORD, as follows:

S. 356

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Possessions Wage Credit Act of 1993".

SEC. 2. REPLACEMENT OF POSSESSION TAX CREDIT WITH WAGE-BASED EMPLOYMENT CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45A. POSSESSIONS EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the amount of the possessions employment credit determined under this section with respect to any eligible employer for any taxable year is 40 percent of the qualified possession wages paid or incurred during such taxable year.

"(b) QUALIFIED POSSESSION WAGES.—For purposes of this section, the term 'qualified possession wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified possession employee to the extent such wages do not exceed $20,000.

"(c) QUALIFIED POSSESSION EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified possession employee' means, with respect to any period, any employee of an eligible employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within a possession of the United States in a trade or business of the employer,

"(B) such employee is a bona fide resident of such possession, and

"(C) such employee is subject to tax by such possession on income from sources within and without such possession.

"(2) CERTAIN INDIVIDUALS NOT ELIGIBLE.—The term 'qualified possession employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)), and

"(C) any individual unless such individual either—

"(i) is employed by the employer at least 90 days, or

"(ii) has completed at least 120 hours of services performed for the employer.

"(d) ELIGIBLE EMPLOYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible employer' means a domestic corporation which—

"(A) elects the application of this section, and

"(B) meets the conditions of both subparagraphs (A) and (B) of paragraph (2).

"(2) CONDITIONS WHICH MUST BE SATISFIED.—The conditions referred to in paragraph (1) are as follows:

"(A) 3-YEAR PERIOD.—If 80 percent or more of the gross income of such domestic corporation for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States (determined without regard to section 904(f)).

"(B) TRADE OR BUSINESS.—If 75 percent or more of the gross income of such domestic corporation for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) POSSESSION.—The term 'possession of the United States' includes the Commonwealth of Puerto Rico and the Virgin Islands.

"(2) WAGES.—The term 'wages' has the same meaning as when used in section 51, except that paragraph (4) of section 51(c) shall not apply.

"(3) TREATMENT OF CERTAIN FOREIGN TAXES.—For purposes of this title, any tax of a foreign country or possession of the United States which is paid or accrued with respect to taxable income of an eligible employer for any taxable year for which an election is in effect under this section shall not be treated as income, war profits, or excess profits paid or accrued to a foreign country or possession of the United States. The preceding sentence shall not apply to the extent such amounts exceed the amount of the credit determined under subsection (a) for such taxable year.

"(4) CONTROLLED GROUPS.—

"(A) TREATED AS SINGLE EMPLOYER.—All employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this section.

"(B) PROPORTIONATE SHARE.—The credit (if any) determined under this section with respect to each employer described in subparagraph (A) shall be such employer's proportionate share of the wages giving rise to such credit.

"(5) DENIAL OF DOUBLE BENEFIT.—No credit or deduction shall be allowable under any other provision of this title with respect to any wages taken into account in computing the credit allowed by this section.

"(6) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

"(f) TRANSITION RULES.—For purposes of this section—

"(1) IN GENERAL.—In the case of a taxpayer for which a credit is allowed under section 936 for its last taxable year ending before February 16, 1993, the credit determined under subsection (a) for each of the 5 taxable years in the transition period shall not be less than the lesser of—

"(A) the old section 936 amount, or

"(B) the adjusted wage credit.

"(2) OLD SECTION 936 AMOUNT.—For purposes of paragraph (1)(A)—

"(A) IN GENERAL.—The term 'old section 936 amount' means, with respect to any taxable year, the applicable percentage of the lesser of—

"(i) the amount of the credit which would have been determined under section 936 but for section 936(i), or

"(ii) 115 percent of the average amount of the credit under section 936 of the taxpayer and its predecessors for the 3-taxable-year period ending with the taxpayer's last taxable year ending before February 16, 1993 (not taking into account years in which the taxpayer or any predecessor was not in existence).

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined as follows:

"In the case of the following year in the transition period:	The percentage is:
1st	100
2d	100
3d	75
4th	50
5th	25.

"(3) ADJUSTED WAGE CREDIT.—For purposes of paragraph (1)(B)—

"(A) IN GENERAL.—The term 'adjusted wage credit' means, with respect to any taxable year, the amount determined under subsection (a) by substituting the applicable percentage for 40 percent.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined as follows:

"In the case of the following year in the transition period:	The percentage is:
1st	100
2d	100
3d	85
4th	70
5th	55.

"(4) TREATMENT OF ADDITIONAL CREDIT.—If an additional credit is allowed to a taxpayer for any taxable year by reason of this subsection, then, for purposes of this title—

"(A) an election under section 936 shall be treated as in effect with respect to such taxpayer for such taxable year, and

"(B) the excess of the credit allowed under this section for such taxable year over the amount of the credit which would have been allowed without regard to this subsection shall be treated as a credit allowed by section 936.

"(5) TRANSITION PERIOD.—For purposes of this subsection, the term 'transition period' means the 5-taxable-year period beginning with the taxable year which includes February 16, 1993."

(b) TERMINATION OF SECTION 936 CREDIT.—

(1) IN GENERAL.—Section 936 of such Code is amended by adding at the end the following new subsection:

"(i) TERMINATION.—Except as provided in section 45A(f)(4), no credit shall be allowed under this section for any taxable year ending on or after February 16, 1993."

(2) CONFORMING AMENDMENT.—Section 27(b) of such Code is amended by adding at the end the following new sentence: "Except as provided in section 45A(f)(4), no credit shall be allowed under this subsection for any taxable year ending on or after February 16, 1993."

(c) CREDIT ALLOWED AS BUSINESS CREDIT.—

(1) IN GENERAL.—Section 38(b) of such Code is amended by striking "plus" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ", plus", and by adding at the end the following new paragraph:

"(9) the possessions employment credit under section 45A(a)."

(2) TRANSITION.—Section 39(d) of such Code is amended by adding at the end the following new paragraph:

"(4) NO CARRYBACK OF POSSESSIONS EMPLOYMENT CREDIT.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45A may be carried back to any taxable year ending before February 16, 1993."

(d) CONFORMING AMENDMENTS.—

(1) Sections 243(b)(1)(B)(ii) and 1361(b)(2)(D) of such Code are each amended by inserting "45A or" before "936".

(2) Section 1504(b)(4) of such Code is amended by inserting "section 45A (relating to possessions employment credit) or" before "section 936".

(3) Clause (ii) of section 6091(b)(2)(B) of such Code is amended by inserting "section 45A (relating to possessions employment credit) or" before "section 936".

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 45A. Possessions employment credit."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after February 16, 1993.

SEC. 3. EXTENSION AND MODIFICATION OF DEDUCTION OF HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) 18-MONTH EXTENSION.—Paragraph (6) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) INCREASE IN AMOUNT OF DEDUCTION.—Section 162(l)(1) of such Code is amended by striking "25 percent of".

(c) CONFORMING AMENDMENT.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is hereby repealed.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

(2) INCREASE.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1992.

By Mr. WOFFORD:

S. 358. A bill to direct the Secretary of Commerce to provide grants to States to provide technical and financial assistance to small- and medium-sized manufacturers; to the Committee on Commerce, Science, and Transportation.

INDUSTRIAL INNOVATION ACT OF 1993

• Mr. WOFFORD. Mr. President, today I introduce the Industrial Innovation Act to help small- and medium-sized manufacturers and their employees boost their productivity and competitiveness.

Our small- and medium-sized industrial companies—the same companies that helped us to become a superpower both economically and militarily—are suffering. To meet the challenges of a newly competitive world, they need to improve products, seek new markets, and upgrade their production systems. Unfortunately, smaller firms often lack the expertise, money, and time to do what needs to be done.

Up to now, the States have taken the lead in helping these firms meet the challenges of increased international competition. I know that there are many good ideas in Washington. But as a former Secretary of Labor and Industry for Pennsylvania, I know firsthand that there are a lot of good ideas outside the Beltway as well.

Pennsylvania offers a good example of how State programs can make a real difference. The Commonwealth's eight Industrial Resource Centers provide substantive services to over 1,000 Pennsylvania firms. The Commonwealth has also implemented a successful government-industry-university program, the Ben Franklin Partnership, which is uniquely positioned to commercialize state-of-the-art research—an area in which the United States must do better if we are to retain our technological leadership. Federal support would allow these programs to expand and assist even more of my State's 18,000 manufacturing firms, an investment that would pay off in better product quality, improved technology, and more jobs in the manufacturing sector.

The Industrial Innovation Act of 1993 would foster a system of extension services to provide technical and financial assistance to small- and medium-size manufacturers. And this legislation would provide Federal assistance in ways that are developed locally and most responsive to the needs of business.

The Industrial Innovation Act would go beyond encouraging the diffusion of the latest technology or introducing the newest equipment. It would assist firms in improving their workplace practices and identifying their training needs. Training is an essential element in industrial modernization. At least two recent reports, one from the Heinz School of Public Policy and Management and the final recommendations of the Training Subcouncil of the Competitiveness Policy Council, conclude that a key to our future economic competitiveness is for firms to adopt high performance practices. As described in the Heinz School report, high performance firms continuously improve to increase productivity, develop new product and process innovations, and reduce costs. These firms expend considerable resources on training and employee development as part of longer term production strategies.

Though some American companies have adopted high performance practices, we have not been as successful as our top competitors at spreading high performance across industries and firms of different sizes. To get at this problem, the Industrial Innovation Act would target 50 percent of its assistance on helping firms to undertake human resource development initiatives essential for industrial modernization and the fulfillment of improved competitiveness. These initiatives would include developing and carrying out high performance workplace systems and company and industry-specific training for workers required for the introduction of advanced manufacturing technologies.

In addition, the Industrial Innovation Act would require the Secretary of Commerce to annually evaluate the success of State grantees based on objective measures, including growth in employment, productivity, market share, and sales. Federally supported technology programs should have clear goals. Achieving those goals should be a condition for continued support. This legislation would make certain that only those programs that are actually improving business conditions and stimulating economic growth would be financed.

President Clinton has made the preservation of our industrial base a top priority. I believe assistance to successful State programs is one way to improve our economic growth and international manufacturing competitiveness.

Mr. President, I ask unanimous consent that the full text of the legislation and an article from today's New York Times about State-based industrial extension program appear following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 358

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; STATEMENT OF PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Industrial Innovation Act of 1993".

(b) STATEMENT OF PURPOSE.—The purposes of this Act are to help small and medium-sized businesses to utilize the best practices in quality processes, productivity, and marketing programs and to utilize such practices in human resource management.

SEC. 2. DEFINITIONS.

For purposes of this Act, the following definitions apply:

(1) SMALL AND MEDIUM-SIZED MANUFACTURER.—The term "small and medium-sized manufacturers" shall have such meaning as the Secretary, by regulation, shall prescribe.

(2) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(3) STATE.—The term "State" means each of the several States, the District of Columbia, American Samoa, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Palau, and the Virgin Islands.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated for fiscal years 1994, 1995, and 1996 not more than $300,000,000 to carry out this Act.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization provided by subsection (a) shall remain available until expended.

SEC. 4. APPLICATION.

(a) GRANTS.—The Secretary is authorized to make grants to the States to enable the States to provide technical and financial assistance to small and medium-sized manufacturers in accordance with this Act.

(b) IN GENERAL.—To receive a grant under this Act, a State shall submit to the Secretary an application at such time and in such form and containing such information as the Secretary may require, including, but not limited to—

(1) the certifications required under subsection (c);

(2) identification of the impact of industrial job loss on the State, regions within the State, and particular communities;

(3) the need for services among manufacturing firms;

(4) existing State and local efforts to address such needs;

(5) assurances satisfactory to the Secretary that the State will use amounts from a grant only for the eligible activities under section 5;

(6) identification, through a strategic plan, of how a grant will leverage coordination of existing private and public business services, financial assistance, job training and educational programs in support of objectives of the grant;

(7) assurances satisfactory to the Secretary that the State will not provide technical and financial assistance under this Act to any small or medium-sized manufacturer who does not have a committee, comprised of management and employees other than management, advising on planning and new technology, and making recommendations concerning training needs and health and safety issues; and

(8) assurances satisfactory to the Secretary that assistance provided in accordance with this Act are coordinated with other Federal and State efforts to meet the needs of small and medium-sized manufacturers and their employees.

(c) CERTIFICATIONS.—The State shall certify to the satisfaction of the Secretary that—

(1) the State will provide funds from its revenues in an amount equal to $1 for every $10 of Federal funds from such grant for the purpose of providing technical and financial assistance to small and medium-sized manufacturers;

(2) the State will maintain its aggregate expenditures from all other sources for programs which provide technical and financial assistance to small and medium-sized manufacturers at or above the average level of such expenditures in the 2 fiscal years preceding the date of the enactment of this Act;

(3) the State will require each small and medium-sized manufacturer receiving financial assistance under section 5 to provide funds in an amount equal to and not less than $1 for every $1 of funds provided to the manufacturer in those cases where the State provides direct financial assistance under such section for the purpose of supplementing such funds; and

(4) the State will evaluate any subgrantee in accordance with objective measures of success for State programs established by the Secretary, including growth in employment, productivity, market share and sales. The State will submit annually to the Sec-

retary a report containing such information as the Secretary shall determine appropriate, including evaluations of any State subgrantee.

SEC. 5. ELIGIBLE ACTIVITIES.

(a) IN GENERAL.—A State shall use amounts from a grant under this Act only to provide technical and financial assistance to small and medium-sized manufacturers doing business in such State in accordance with the allocation requirements under subsection (b).

(b) STATE ALLOCATION.—The State will allocate amounts received from a grant under this Act in accordance with the following requirements:

(1) 50 percent of amounts received from the grant will be reserved by the State to provide technical and financial assistance to small and medium-sized manufacturers to make quality and productivity improvements and expand markets through various activities, including—

(A) developing and carrying out strategic planning for innovation and industrial modernization;

(B) developing and carrying out advanced manufacturing processes, practices and techniques, and best commercial practices;

(C) transferring advanced manufacturing technologies and best commercial practices;

(D) assessing export potential and undertaking export marketing programs;

(E) supporting manufacturing extension services;

(F) fostering supplier networks and other forms of collaboration among businesses to improve competitiveness;

(G) assistance in developing new products and technologies;

(H) market expansion assistance, including support for export trade, and procurement assistance centers that are recognized by the Small Business Administration;

(I) strategic financing assistance for export, new product development and the commercialization of new technologies;

(J) planning development and design of projects for new commercial uses in critical technology areas such as high speed transportation technology, digital communications, and optical electronics; and

(K) assessing employee training needs and arranging for appropriate training resources; and

(2) 50 percent of amounts received from the grant will be reserved by the State to provide technical and financial assistance to small and medium-sized manufacturers to undertake human resource development initiatives essential for industrial modernization and the fulfillment of improved competitiveness strategies, including—

(A) developing and carrying out high performance workplace systems and employee involvement and Labor-Management Committees to—

(i) reduce overspecialization;

(ii) foster flexible work organization;

(iii) increase teamwork among workers across functional work units; and

(iv) expand employees' roles as partners with management in planning and managing change;

(B) developing and carrying out company and industry-specific training for workers required for the introduction of advanced manufacturing technologies and other industrial modernization initiatives;

(C) developing and carrying out work force literacy programs for industrial modernization; and

(D) developing and carrying out programs to encourage employee ownership.

(c) COORDINATION.—The Secretary of Commerce shall coordinate as necessary with the Secretary of Labor and States' employment services and Service Delivery Areas (as described in section 101 of the Job Training Partnership Act) and other pertinent State agencies to carry out the provisions of this Act.

SEC. 6. REPORT.

Not later than January 1, 1996, the Secretary shall submit to the Congress a report containing—

(1) a compilation of the information contained in the State reports received by the Secretary pursuant to section 4(c)(4); and

(2) an evaluation of the effectiveness of the grant program.

SEC. 7. EVALUATION.

The Secretary shall establish objective measures of success for State programs, including growth in employment, productivity, market share and sales. The Secretary shall annually evaluate the success of each State program receiving a grant pursuant to this Act. No State shall be eligible for future grants that has not successfully used a grant as determined by the Secretary.

[From the New York Times, Feb. 16, 1993]

TRAVELING HIGH-TECH AGENTS HELP UPDATE SMALL FACTORIES

(By John Holusha)

DORNSIFE, PA.—High technology arrived here one recent morning in a silver Volkswagen van with 107,000 miles on the odometer and James Bodnar at the wheel.

Mr. Bodnar, an engineer, and his partner, Zane Patalive, a computer specialist, turned up at Keim's Machine and Tool Company to tinker with Dave Keim's computer-operated lathe and one of Bill Clinton's industrial policy goals.

Like the agricultural extension agents who take their expertise up and down the dusty roads of America's farm country, the two men travel with similar intent. They respond to pleas for help from small manufacturers in the hills and valleys of central Pennsylvania who are trying to get more out of their computers, their production equipment and their workers.

A POSSIBLE MODEL

The two are in the business of rendering technical assistance, and what they do is low key at this point. But government officials are looking closely at their program and others like it, seeking models for a high-stakes Federal and state effort to eke more productivity out of the small manufacturers who are so important in the food chain of American competitiveness.

On this afternoon, however, Washington seems very far away from Keim's Machine and Tool Company. Operating in the service area of a defunct Chevrolet dealership by the side of a lightly traveled road, Keim's embodies the "small" in small business. Mr. Keim has one full-time shop worker and two part-timers on his pay-roll. His wife, Nancy, manages the two-desk office that is one symbol of the company's progress. Until last year, when the office and the shop shared the same space Mrs. Keim has to shout "turn off the machines" whenever the telephone rang.

The company produces precision parts that go into industrial tools and is what industrial analysts call a foundation firm—one of the 360,000 or so small and medium-sized manufacturers that are the supply base for major corporations.

What has been troubling Mr. Keim is the single computer-controlled lathe that sits in his shop of mostly manually operated machine tools. The Hitachi Seiki lathe can automatically turn out parts following the instructions of a program, and Mr. Keim has taught himself how to write compute code to instruct it. But the controller's memory is so small that producing new parts requires Mr. Keim to kill out programming covering old parts. He does not want to do that in case customers reorder old parts. So he has called in Mr. Bodnar and Mr. Patalive to help him figure out a way to transfer the programming onto a high-capacity disk drive on his office computer.

The two men work for the Industrial Modernization Center, Inc., a state-backed consulting and training firm in Williamsport, near here. It is one of eight not-for-profit corporations established by the State of Pennsylvania to provide hands-on services to small and medium-sized companies that probably could not afford private consultants even if they knew the right ones to call.

Although many states offer some form of technological assistance to small manufacturers, only about a dozen provide the services of field representatives who, like agricultural extension agents, call on manufacturers and offer help. Besides Pennsylvania, they are Georgia, Indiana, Iowa, Maryland, New Jersey, New York, North Carolina, Ohio, South Carolina, Tennessee and Virginia, according to a compilation by the National Governors Association.

Given the suspicion that many small-business people have about government, the state connection is not heavily advertised. "If I showed up with a business card saying, 'I'm from the state and I'm here to help you,' I'd get tossed out on my ear," said one technical extension agent in another state.

THE TASK AT HAND

Mr. Bodnar and Mr.. Patalive bring technical credentials and practical operating experience to their clients. Mr. Bodnar is an industrial engineer with an M.B.A. degree, who spent 19 years in the steel industry before joining the center about 4 years ago. Mr. Patalive has a degree in computer science and worked as a consultant to I.M.C. and others before joining the staff early this year.

When they arrive, Mr. Keim does not mince words.

"We want to go from an all-manual operation to computerized without hiring a lot of computer people," he said. In addition to linking the office computer with the automated lathe, he wants to harness the computer's power to keep books and analyze the business.

"I want software to keep track of shop time so I can know which jobs are profitable," he said "I want to know where to raise my prices and where to lower them."

Mr. Bodnar offers the services of I.M.C.'s demonstration center in Williamsport, where there are computers and software packages that Mr. Keim can test before shelling out any money. Mr. Patalive said he could start with a program called Shoptimizer, developed by the Industrial Software Company of East Providence, R.I., for operations like Keim's.

The ability to use computers effectively is one of the two great divides that separate old-fashioned, mostly small, manufacturing operations from those that are at the forefront of technology, said Robert W. Vandine, the executive director of I.M.C. The other is the ability to reorganize and retrain workers so they become participants in factory operations, rather than just automations. If American manufacturers do not improve technology and workplace organization, they will not be able to compete internationally, he said.

SPEAKING FROM EXPERIENCE

"I feel passionately about this," he said, his own history coming through. In an earlier job, he had been manager of Bethlehem Steel's wire rope plant in Williamsport—until the company was driven out of the business by imports.

"One of our major goals has been the development of understandable packages of computer-based technology," Mr. Vandine said. Most small manufacturers, he said, are too busy pushing products out the door—to keep the cash flowing in—to fight their way through the software jungle.

But their need for that equipment is evident. Small and medium-sized manufacturers are 25 percent less productive than big companies. a 1990 Census Bureau study found, largely because they are half as likely to be using computer-controlled equipment.

Although strict free-market advocates will probably scream, the Clinton Administration plans to stimulate job and economic growth by increasing the technical assistance available to manufacturers. It is backing legislation that would expand the existing seven technology assistance centers operated by the national Institutes of Standards and Technology to a nationwide network of 170. Financing would grow from a modest $17 million this year to $150 million in the 1994 fiscal year.

DIED IN CONGRESS

Legislation to expand the network was passed in different forms by both houses of Congress last year—without Bush Administration support—but died before the House and Senate versions could be sorted out. Senator Ernest F. Hollings, Democrat of South Carolina, chairman of the Commerce Committee, has pledged early action this year.

"One of the functions will be to support state technical extension services," said Philip Nanzetta, director of the Manufacturing Extension Partnership of the National Institutes.

The various centers work in different ways. In Pennsylvania, recognizing that cutting and bending metal is a way of life in the central part of the state. Mr. Bodner's Industrial Modernization Center focuses on helping companies in those businesses. It helped PMF Industries, a company that forms stainless-steel products, with training in statistical process control to improve quality. Playworld Systems, which makes playground equipment in New Berlin, got help in converting hard-to-understand engineering drawings into renderings for sales pitches.

But that's not all the center does. In a gesture to the small cut-and-sew apparel operations that dot the area as well, it has bought automated machinery to generate the large paper markers used to guide cutters. Robert Cross, the president of Equinox Ltd., which makes camping equipment, said the center gave him access to equipment he could not afford on his own.

HOLDING DOWN THE PRICE

A Pennsylvania grant of $688,000 for the year allows Mr. Vandine to keep the prices of his five consultants' services down. "If it's a qualified project, for every $1 I collect from the client, I'll get 25 cents from the state grant," he said. He said the need to hustle business kept the center entrepreneurial and more attuned to the needs of the region than more formalized state programs would be.

At Keim's, the two technology agents and Mr. Keim walk out into the shop to take a closer look at the troublesome machine. Mr. Keim makes it clear he is thinking beyond a single used 1986-vintage lathe. "We need to develop more computer-controlled machinery in here," he said. "That's the way manufacturing is going in the United States."

Hence the problem.

"If I go to Hitachi Seiki, they will want to sell me a box to put on this machine," he said, referring to a specialized data storage unit. That would probably work well enough, but would not meet his goal of writing instructions in the office while the machine is operating and then quickly loading them to begin a new production run as soon as the previous one is finished. "You have no idea how much time that would save," he said.

Nor would it help control the other machines he hopes to add. Mr. Patalive closely eyes the lines of code displayed on the lathe's control unit and pronounces the problem solvable. The control unit has a cable port to connect with the office computer. Now all he must do is find software that will allow the two units to talk to each other.

A PROPOSED SOLUTION

A few weeks later he is ready to write a proposal for Mr. Keim. He has found software that will link the office computer to the lathe for about $500 plus a $250 installation fee. But he hopes to persuade him to spend a total of $1,000 for added programming that will let him simulate the cutting paths of tools on a computer screen to speed operations and to control multiple machines—a strategy even more advanced than Mr. Keim thought possible.

Mr. Patalive said he would negotiate with the software supplier to get a fixed price for Mr. Keim, instead of the costs-plus-expenses formula the vendor prefers. I.M.C. does not charge a fee for its consultants' first visit, and is paid modestly for services rendered, like the software installation.

As for Mr. Keim's problem, Mr. Bodner considered it straightforward, easy to solve—and typical.

"A lot of people have bought a computer and some software because they have been told they need one," he said, "but they do not know how to use them. That's where we can add some value."•

By Mr. DECONCINI:

S. 359. A bill to require the Secretary of the Treasury to mint coins in commemoration of the National Law Enforcement Officers Memorial, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL COIN ACT

• Mr. DECONCINI. Mr. President, I rise today to ask this body to recognize the men and women of law enforcement who have died in defense of their communities and their country. The measure I have sent to the desk is a very simple proposal that is intended to make clear a profound truth: The war in our Nation's streets against crime, drugs and violence is claiming some of the very best and brightest of our citizens—police officers.

As many of you know, there is a majestic National Law Enforcement Officers Memorial just down the street from the Capitol. This includes a "Pathway of Remembrance" where the names of 12,928 law enforcement officers who have died in the line of duty from all parts of the United States are engraved on marble walls. It is the one symbol which reminds us all that there is a domestic war which claims its victims every single day. It is a fitting tribute to the sacrifices made by the brave men and women of law enforcement and their families. The memorial is a constant reminder of the increasingly dangerous occupation which is today's law enforcement. The bill I am sending to the desk is a further recognition of the bravery displayed by these protectors of the peace.

The National Law Enforcement Officers' Memorial Coin Act, which I am introducing today, will authorize the minting of coins to be issued in 1994 to pay honor and respect to these fallen protectors of the peace. This legislation will allow for a surcharge on the sale of these coins, the proceeds of which would go to establish a national law enforcement officers memorial maintenance fund. The fund will be used to finance major repairs and alterations to the memorial, and when tragedy strikes again, provide for the addition of individual names to the memorial. In addition, proceeds from the sale of these coins will cover payment to the Treasury Department for all costs authorized in this bill. Sadly, law enforcement organizations estimate that another 153 names will have to be added to the memorial by year's end.

This bill will authorize the minting of a limited number of both gold five dollar and silver one dollar coins. Sales of the gold five dollars coin and the silver one dollar coin will include a surcharge of $35 and $7 respectively. The Secretary of the Treasury in consultation with officials of the National Park Service and the U.S. Commission on Fine Arts will select the coin's design.

From the very inception of the Law Enforcement Memorial to final construction, funding has come from the private donations of thousands of individuals, corporations and many law enforcement organizations. None of these people had to do this; many have made great sacrifices to complete this silent tribute to their friends, family, colleagues, mothers and fathers. In keeping with the tradition of the memorial, the total cost for production and distribution of the coins will be paid from the surcharge on the coin itself and it will not cost the taxpayer one penny.

There is no doubt in my mind that your support for the minting of these coins and the establishment of this fund will touch the hearts and minds of generations of police officers and their families.

Despite the best efforts of all branches of Government our first line of defense against absolute anarchy, the police officer, continues to be killed in the line of duty. Mr. President, I am sure that you would agree this is an abhorrent reality. It is my fervent wish that not a dime from the proceeds of the sale of these coins would need to be expended to add another name to the national memorial. It is painfully evident that until we as a nation get serious about the crime epidemic, officers will still die, families will suffer and names will continue to be added to these memorials.

I am pleased to inform you, Mr. President, that this bill will also be a living tribute to the men and women who wear the badge. There is a provision contained in this legislation which authorizes the Secretary of the Interior, in consultation with the Attorney General, to establish an educational scholarship for the immediate family members of law enforcement officers killed in the line of duty, using a portion of revenues generated by coin sales.

The police officer is on duty 24 hours a day, 365 days a year. It is appropriate for us to take just a few moments to help repay that dedication by supporting this measure. This bill is clear and concise, and I hope it will be considered and passed in an expeditious manner.

Mr. President, I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 359

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Law Enforcement Officers Memorial Coin Act".

SEC. 2. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—The Secretary of the Treasury (hereafter referred to as the "Secretary") shall issue not more than 200,000 five dollar coins, which shall—

(1) weigh 8.859 grams;

(2) have a diameter of 0.850 inches; and

(3) contain 90 percent gold and 10 percent alloy.

(b) ONE DOLLAR SILVER COINS.—The Secretary shall issue not more than 750,000 one dollar coins which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(c) DESIGN.—The design of coins authorized to be minted under this Act shall be emblematic of the National Law Enforcement Officers Memorial, and shall be minted from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.). On each such coin there shall be a designation of the value of the coin, an inscription of the year "1994", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(d) LEGAL TENDER.—The coins issued under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SELECTION OF DESIGN.

The design for each coin authorized by this Act shall be selected by the Secretary after consultation with the National Law Enforcement Officers Memorial Fund, Inc., the Secretary of the Interior (or his or her designee), and the Commission of Fine Arts.

SEC. 4. SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price at least equal to the cost of bullion, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the five dollar coins and $7 per coin for the one dollar coins.

SEC. 5. ISSUANCE OF THE COINS.

(a) PERIOD FOR ISSUANCE.—The coins authorized under this Act shall be issued only through the end of calendar year 1994.

(b) PROOF AND UNCIRCULATED COINS.—The coins authorized under this Act shall be issued in uncirculated and proof qualities, and not more than 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality.

SEC. 6. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity. No firm shall be considered to be a Federal contractor for purposes of 41 C.F.R. Part 60 et seq. as a result of participating as a United States Mint consignee.

SEC. 7. DISTRIBUTION OF SURCHARGES.

The total amount of surcharges received by the Secretary from the sale of coins under this Act shall be promptly paid by the Secretary to the Fund established under section 11.

SEC. 8. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the National Park Service as may be related to the expenditure of amounts paid under paragraph (2) of section 9.

SEC. 9. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this Act from the coinage profit fund to the Fund established under section 11 and to the Department of the Treasury; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 10. FINANCIAL ASSURANCES.

(a) NO COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins under this Act shall not result in any net cost to the Federal Government.

(b) PAYMENT.—No coin shall be issued under this Act unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

SEC. 11. NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL MAINTENANCE FUND.

(a) ESTABLISHMENT.—There is hereby established the National Law Enforcement Officers Memorial Maintenance Fund (hereafter referred to as the "Fund"), which shall be a revolving fund, to be administered by the Secretary of the Interior (or his or her designee). Monies for the Fund shall be raised through surcharges authorized under section 7. The Secretary of the Interior may accept donations for the Fund. The Fund shall be maintained in an interest bearing account within the Department of the Treasury.

(b) PURPOSES.—The Fund shall be used—

(1) for maintenance and repair of the National Law Enforcement Officers Memorial;

(2) to add to the Memorial the names of law enforcement officers who have died in the line of duty;

(3) for security of the Memorial site, to include the posting of National Park Service rangers and United States Park Police, as appropriate;

(4) at the discretion of the Secretary of the Interior and in consultation with the Secretary of the Treasury and the Attorney General of the United States, who shall establish an equitable procedure between the Fund and such other organizations as may be appropriate, to provide educational scholarships to the immediate family members of law enforcement officers killed in the line of duty whose names appear on the Memorial, the total amount of such scholarships not to exceed 10 percent of the Fund's annual income;

(5) for the dissemination of information regarding the Memorial to the general public; and

(6) to administer the Fund, including contracting for necessary services, in an amount not to exceed the lesser of—

(A) 10 percent of the Fund's annual income; or

(B) $200,000 in any 1-year period.

(c) BUDGET AND AUDIT TREATMENT.—The Fund shall be subject to the budget and audit provisions of chapter 91 of title 31, United States Code.●

By Mr. DORGAN:

S. 360. A bill to amend the Internal Revenue Code of 1986 to extend the deduction for health insurance costs of self-employed individuals for an indefinite period, and to increase the amount of such deduction; to the Committee on Finance.

SELF-EMPLOYED ACT OF 1993

Mr. DORGAN. Mr. President, the tax laws of this country have turned our independent farmers and producers into second class citizens where medical insurance is concerned. We have one set of rules for the self-employed, but a much better set of rules for people who work in corporations and who enjoy the security that those institutions provide.

This is blatant injustice. These people who go it alone in America today—whether they are farmers, artists, or entrepreneurs—deserve more help where health insurance is concerned, not less. That is why I am introducing today a bill to right this wrong in the Federal tax laws and make it easier for our independent producers to buy health insurance they need for themselves and their families.

While I served on the House Ways and Means Committee I led the fight to correct this tax inequity. And I intend to pursue this tax matter with equal vigor in the Senate.

The problem here is simple. If you are the president of Time-Warner, or the Washington Post, or any other corporation, you get your medical coverage tax-free, on top of the millions of dollars in salary and other benefits the company may provide. If you work for such a company, your medical coverage is tax-free too, and the company can deduct 100 percent of the cost.

By contrast, if you work for yourself—as a farmer, artist, entrepreneur, whatever—you can deduct only 25 percent of your health insurance costs. Worse, you cannot even do that any more; the provision expired on June 30 of last year, and then-President Bush vetoed the extension that was in the economic growth package last November.

As we sit here today, the independent producers of this country get no help at all in paying for medical insurance premiums that are going through the roof.

There is absolutely no excuse for this. The health of a farm family is no less important than the health of the president of Cargill or General Mills, and the Internal Revenue Code should reflect this simple fact. That is what my bill would do. For this year, it would restore the old 25 percent deduction for health insurance costs of the self-employed. The deduction would increase to 50 percent in 1994 and 1995. After that, Americans who work for themselves could deduct 100 percent of their insurance costs, just as corporations do.

These Americans cannot wait while Washington plays games. More than 36 million Americans currently do not have health insurance, and this includes a large number of family farmers and entrepreneurs. These numbers will only grow larger, as the cost of insurance continues to increase. We should encourage those Americans who set out on their own, not levy a surtax upon them in the form of higher insurance costs. The next Apple corporation may never appear, because of an insurance premium that is too high to meet.

I urge my colleagues to cosponsor this legislation. It is important tax justice, and to the well-being of our independent producers and the entire country.

I ask unanimous consent to print the bill in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "25 percent" and inserting "the applicable percentage".

(b) Paragraph (6) of section 162(l) of such Code is amended to read as follows:

"(6) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

In the case of taxable years beginning in calendar year:	**The applicable percentage is:**
1992 or 1993	25
1994 or 1995	50
1996 or thereafter	100."

(c) Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is hereby repealed.

(d) The amendments made by this section shall apply to taxable years ending after June 30, 1992.

By Mr. HEFLIN:

S. 361. A bill to amend the Internal Revenue Code of 1986 to restore the regular investment tax credit for property placed in service during a specified period, and for other purposes; to the Committee on Finance.

S. 362. A bill to amend the Internal Revenue Code of 1986 to restore the IRA deduction and for other purposes; to the Committee on Finance.

S. 363. A bill to amend the Internal Revenue Code of 1986 to provide a 50 percent exclusion for gain from certain small business stock, and for other purposes; to the Committee on Finance.

ECONOMIC REVITALIZATION TAX ACT OF 1993

Mr. HEFLIN. Mr. President, I rise today to introduce several bills designated to aid in the recovery of our Nation's economy. These measures are aimed at giving back to the American people the ability and the incentive to invest their money back into America. President Clinton challenged us in his inaugural address by reminding us that what is wrong with this country can be cured by what is right with this country. The bills I bring to the floor today will help what is wrong with the economy by encouraging the sound principles of investment that have served this Nation well in the past.

My first bill, will reinstate the investment tax credit. This bill will allow businesses to recognize a tax credit on the tangible personal property which they purchase. I introduced this legislation during the last Congress with a strong belief that providing American business with incentives to investment for the future would help all Americans. As we embark on a new session of Congress my resolve on this credit has grown even stronger.

Before its repeal in 1986, the investment tax credit proved to be one of the most effective incentives to business. Under this credit, a business considering purchasing new equipment would view such an investment as having immediate as well as long range returns. Investment of this nature means more than just an increased demand for equipment and a strengthening of our industrial base—in real terms, it means jobs for many Americans, and hope for many families.

An investment tax credit is not a corporate giveway. It is incentive for companies to reinvest in themselves, and thus reinvest in the lives of their employees. As I said on the floor last year, we must turn away from the do nothing and hope policy. With a new administration and a new Congress I believe we are doing just that. The investment tax credit is something we can give to the American people to illustrate we believe in them and their ability to do great things.

Mr. President, the second bill I am introducing will restore the IRA deduction. Like the investment tax credit, restoration of the IRA deduction for all Americans will lead to reinvestment in the Nation. IRA's lead to a growth in capital available for investment in the country. At the same time, they allow our citizens to save and plan for their retirement.

We must encourage long range thinking. IRA's do this. Many studies show us that IRA's encourage low-savings households to save more. President Clinton has spoken very thoughtfully about investing in our future and in our children's future. A return of the IRA deduction will be a good start to this investment policy. It will provide incentive for the most important investor, the American family, to return to the long range savings market.

Mr. President, I am also introducing a bill to provide a targeted capital gains exclusion. Under my proposal, an exclusion would be provided for gain from certain small business stock held for at least 2 years. There has been much discussion about capital gains over the last several years. What must be realized is that there are different types of capital gains. My bill is aimed at encouraging investment in small business stock.

America has been built on ideas and hard work. These ideas, however, must be supported by investors. American entrepreneurs still lead the world with their ideas. This bill will encourage investors to support these small business persons who provide jobs and opportunities for many in their communities.

In the same vein as the investment tax credit, the targeted capital gains exclusion will allow people to reinvest in American business and thus in the lives of their fellow Americans. As President Clinton has stated so eloquently, we are all in this together. As such, we must all pull together, invest in our future and in the future of all of our children.

Mr. President, all three of these bills are introduced with a hope for our future. More important, I offer them as a plan for the future. A plan based on long range, not quick fix solutions. This Nation is still the home of the American dream. Let us not dwell on some past economic failures, but instead let us provide the leadership and incentive for the rebirth of the dream.

I believe in the American people, and I believe in the ability of the people to grow a strong economy. Our job is simply to create a legal framework under which the strength and ingenuity of the American people can flourish. I hope all of my colleagues will join me in support of this bill and in support of my belief that if you give Americans the freedom and incentive to prosper they will do so with astounding results.

By Mrs. FEINSTEIN (for herself and Mrs. Boxer):

S. 364. A bill to amend the Internal Revenue Code of 1986 to modify the involuntary conversion rules for certain disaster-related conversions; to the Committee on Finance.

DISASTER RELIEF ACT OF 1993

Mrs. FEINSTEIN. Mr. President, today I am introducing a bill that will provide some relief to victims of federally declared disasters. While this proposal will not lessen the heartache and suffering that these people have endured, these simple revisions to the tax code will, I hope, assist disaster victims in rebuilding their lives more quickly.

It's been almost a year and a half since residents of California's East Bay suffered the Nation's most disastrous urban firestorm. My memory of the disaster is vivid. The whirlwind firestorm claimed 25 lives, scorched 1,900 acres and destroyed over 3,000 homes, leaving most victims with nothing more than the clothes on their backs. And, if that wasn't enough, victims now face Federal tax rules that inhibit their ability to restore their ravaged lives. I note, Mr. President, that this bill is identical to legislation introduced last year which was incorporated into H.R. 11 and passed both Chambers. Unfortunately, for reasons not related to this provision, the bill was vetoed by President Bush. Although the IRS granted disaster victims a blanket extension on the deadline for reinvesting compensation for their fire loss until the end of 1994, that extension expires during this Congress. Action is needed now to avoid further burden for these disaster victims.

The bill, Mr. President, provides three very simple, yet important, revisions to the Tax Code in an effort to help victims who have lost their homes and/or personal property in presidentially-declared disasters:

First, it would extend the time to rebuild or buy a principal residence from 2 to 4 years. Taxpayers unable to build in 2 years will not be penalized by losing the rollover period for homeowners to reinvest any capital gain;

Second, this legislation would exclude capital gains on any unscheduled personal property. Insurance proceeds rarely if ever reimburse a taxpayer fully for their loss and this would minimize the recordkeeping involved in listing losses of all personal property and the replacement cost of normal household property;

Third, this proposal would treat insurance proceeds covering personal property and insurance proceeds covering real property as one common fund, which a taxpayer would use to replace their real and personal property. Current law requires real property proceeds to be used for only real property replacement. The change would provide that there is no gain to the taxpayer as long as all the insurance proceeds are reinvested in replacing their home and furnishings and allow the taxpayer to allocate the insurance proceeds between real and personal property as their needs dictate.

As every Member of this Chamber can certainly attest, California is not the only State to be hit by a natural disaster in the past few years. Southern Florida and Kauai are still recovering from the enormously destructive storms that ravaged their communities only months ago, and, just recently, New York and New Jersey were hit with devastating storms and floods. This legislation would pertain to any presidentially declared disasters occurring on or after September 1, 1991. Just recently, President Clinton declared 19 additional counties in my State Federal disaster areas. These new areas will benefit from this legislation. Providing this tax relief will not bust the budget. According to the Joint Tax Committee, the revenue impact of this bill is negligible.

Mr. President, there is no way to predict the devastation and havoc handed down by Mother Nature. We can, however, make the rebuilding a little simpler. I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 364

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION OF INVOLUNTARY CONVERSION RULES FOR CERTAIN DISASTER-RELATED CONVERSIONS.

(a) In General.—Section 1033 of the Internal Revenue Code of 1986 (relating to involuntary conversions) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Special Rules for Principal Residences Damaged by Presidentially Declared Disasters.—

"(1) In General.—If the taxpayer's principal residence or any of its contents is compulsorily or involuntarily converted as a result of a Presidentially declared disaster—

"(A) Treatment of insurance proceeds.—

"(i) Exclusion for unscheduled personal property.—No gain shall be recognized by reason of the receipt of any insurance proceeds for personal property which was part of such contents and which was not scheduled property for purposes of such insurance.

"(ii) Other proceeds treated as common fund.—In case of any insurance proceeds (not described in clause (i)) for such residence or contents—

"(I) such proceeds shall be treated as received for the conversion of a single item of property, and

"(II) any property which is similar or related in service or use to the residence so converted (or contents thereof) shall be treated for purposes of subsection (a)(2) as property similar or related in service or use to such single item of property.

"(B) Extension of replacement period.—Subsection (a)(2)(B) shall be applied with respect to any property so converted by substituting '4 years' for '2 years'.

"(2) Presidentially declared disaster.—For purposes of this subsection, the term "Presidentially declared disaster' means any disaster which, with respect to the area in which the residence is located, resulted in a subsequent determination by the President that such area warrants assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistant Act.

"(3) Principal Residence.—For purposes of this subsection, the term 'principal residence' has the same meaning as when used in section 1034, except that no ownership requirement shall be imposed."

(b) Effective Date.—The amendment made by subsection (a) shall apply to property compulsorily or involuntarily converted as a result of disasters for which the determination referred to in section 1033(h)(2) of the Internal Revenue Code of 1986 (as added by this section) is made on or after September 1, 1991, and to taxable years ending on or after such date.

By Mrs. FEINSTEIN (for herself and Mrs. Boxer):

S. 365. A bill to provide for the conveyance of real property at Fort Ord, CA, to the University of California and the California State University; to the Committee on Armed Services.

FORT ORD REAL PROPERTY CONVEYANCE ACT

Mrs. FEINSTEIN. Mr. President, today I am pleased to introduce, on behalf of myself and Senator Boxer, a bill that would allow the conveyance of approximately 2,500 acres of land at Fort Ord in Monterey, CA, to the University of California [UC] and California State University [CSU].

When Fort Ord closes in 1994, it will take with it tens of thousands of jobs and millions of dollars in economic activity that are vital to the region. UC and CSU plan to convert the base into an academic and research institution that will be a model for the reuse of closing military bases.

The centerpiece of Fort Ord's reuse plan is the establishment of a CSU 4-year, full-service residential campus for 25,000 students. In addition, UC will establish a science, technology, and policy center devoted to marine and environmental studies and technologies.

The Monterey Bay area's prestigious cluster of marine, environmental, and atmospheric institutions is an ideal setting for this project. The institutions would attract not only local, State, and Federal agencies, but would draw in businesses in fields ranging from biotechnology and computer sciences to marine biology and environmental cleanup. Already, the National Oceanic and Atmospheric Administration has proposed creating a cooperative institute at Fort Ord to conduct research and assist in the cleanup of hazardous waste.

This land transfer is necessary to ensure the long-term success of the project. As private companies take part in environmental research and develop new technologies, the revenue generated would be used for other research and educational purposes. The development of public-private partnerships is critical to the Fort Ord reuse plan and is essential to the operation of a financially feasible research and academic facility.

By design, Fort Ord is becoming a national model for the reuse of military bases. Not only will the UC and CSU proposed facilities help boost the area's sagging economy by creating thousands of jobs and millions of dollars in revenue, but valuable research will be conducted and new technologies developed that could benefit every American.

Mr. President, this bill is important to the Monterey area, the State of California, and the entire country.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 365

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF SURPLUS REAL PROPERTY AT FORT ORD, CALIFORNIA.

(a) CONVEYANCE.—The Secretary of Defense shall convey, without reimbursement, to the University of California and the California State University all right, title, and interest of the United States in and to a tract of real property described in subsection (b), including improvements thereon, which is located at Fort Ord, California. The Secretary shall not impose as part of the conveyance under this subsection any condition or restriction on the use of the conveyed real property by the recipients.

(b) DESCRIPTION.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by the Secretary of Defense on the basis of the Educational Public Benefit Transfer Applications submitted by the University of California and the California State University before March 8, 1993, with regard to Fort Ord.

By Mr. EXON (for himself and Mr. HOLLINGS):

S. 366. A bill to amend the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 with respect to the establishment of the National Commission to Ensure a Strong Competitive Airline Industry; to the Committee on Commerce, Science, and Transportation.

THE AIRPORT AND AIRWAY SAFETY, CAPACITY, NOISE IMPROVEMENT AND INTERMODAL TRANSPORTATION ACT

Mr. EXON. Mr. President, the bill that I am introducing today on behalf of myself and Senator HOLLINGS is nearly identical to a bill that is being introduced today on the other side of the Hill in the House of Representatives.

This has to do with a measure vitally important to the future of the aviation industry at all levels in the United States. We had a press conference this morning. The Speaker of the House of Representatives was there. Expedited procedures are going to be instituted in the House of Representatives, and I hope we could expedite procedures here also so these bills that are nearly identical could go forward in an accelerated action for the reasons I will state in just a few moments.

Mr. President, in 1991, I introduced legislation to create a blue ribbon commission to make recommendations to ensure strong and competitive airline and aircraft manufacturing industries. That legislation became law as part of the Federal Aviation Administration Reauthorization Act approved in the 102d Congress.

Since the enactment of that legislation, a new President was elected. I have worked closely with Secretary Pena to make the Commission the primary forum for the discussion of new strategies to restore the economic health to our Nation's airline and aircraft industries.

This morning, the Secretary, the House leadership and I announced at a joint press conference the introduction of bipartisan legislation to expand the Commission and focus its attention on three immediate priorities, namely financial stability, manufacturing and future international competitiveness of the nation's aviation industries. These are things that are absolutely necessary that we address as soon as we can.

The changes embodied in this legislation implement the desire of the new Congress and the new administration to move aggressively to find solutions to our Nation's aviation problems. As Secretary Pena indicated this morning, this is not an effort to look back and assign blame. It is an effort to boldly move forward.

America's aviation industries have long been symbols of our Nation's economic and technological strength. The sight of American troops deplaning from commercial aircraft in the Persian gulf and Somalia are reminders that America not only has an economic security interest in aviation industries, we have a national security interest in these industries.

It is time for change. The status quo means lost jobs and lost competitiveness.

The new Commission will be the forum for a new agenda. It will necessarily meet an ambitious and difficult schedule to consider options and make recommendations to the President and the Congress.

There is no time to waste.

I urge my colleagues to quickly pass this much needed legislation.

As the Secretary of Transportation pointed out this morning, in the last year the airline industry has lost $8 billion. We are now seeing a further deterioration in everything from where airplanes fly and what the costs are to the manufacture of aircraft and the loss of jobs in our factories.

It seems to me we should heed the requests by the aviation industry who I suspected a year ago would be the last to come to the new administration and to the Congress and ask for some help to restore some kind of semblance of order in this industry that has been plagued by the rigors of deregulation, by the rigors of high financing schemes that have made it nearly impossible for these industries to look to the future with any degree of security.

The Commission that will be appointed will have 15 Members; 5 will be appointed by the Secretary of Transportation, 5 appointed by the Senate leadership, and 5 by the House leadership. In addition to that there will be some ex officio members of both the House and the Senate there who will not vote. These individuals, commission members and experts, will be working very hard and very long on this for the next 90 day's. That 90 day's is the time limit set by the Secretary of Transportation for their report, which indicates as much as anything else the seriousness of the situation in the opinion of the Secretary of Transportation. Mr. President, I send a bill to the desk on behalf of myself and Senator HOLLINGS to amend the Airport and Airway Safety, Capacity, Noise Improvement, Intermodel Transportation Act of 1992.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 366

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL COMMISSION TO ENSURE A STRONG COMPETITIVE AIRLINE INDUSTRY.

(a) APPOINTMENT OF MEMBERS.—Paragraph (1) of subsection (e) of section 204 of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation

Act of 1992 (49 U.S.C. App. 1371 note) is amended to read as follows:

"(1) APPOINTMENT.—the Commission shall be composed of 15 voting members and 9 nonvoting members as follows:

"(A) 5 voting members and 1 nonvoting member appointed by the President.

"(B) 3 voting members and 3 nonvoting members appointed by the Speaker of the House of Representatives.

"(C) 2 voting members and 1 nonvoting member appointed by the minority leader of the House of Representatives.

"(D) 3 voting members and 3 nonvoting members appointed by the majority leader of the Senate.

"(E) 2 voting members and 1 nonvoting member appointed by the minority leader of the Senate.".

(b) QUALIFICATIONS OF MEMBERS.—Paragraph (2) of subsection (e) of such section is amended to read as follows:

"(2) QUALIFICATIONS.—Voting members appointed pursuant to paragraph (1) shall be appointed from among individuals who are experts in aviation economics, finance, international trade, and related disciplines and who can represent airlines, passengers, shippers, airline employees, aircraft manufacturers, general aviation, and the financial community.".

(c) TRAVEL EXPENSES.—Paragraph (5) of subsection (e) of such section is amended by striking "sections 5702 and 5703" and inserting "subchapter I of chapter 75".

(d) CHAIRMAN.—Paragraph (6) subsection (e) of such section is amended to read as follows:

"(6) CHAIRMAN.—The President, in consultation with the Speaker of the House of Representatives and the majority leader of the Senate, shall designate the Chairman of the Commission from among its voting members.".

(e) COMMISSION PANELS.—

(1) IN GENERAL.—Such section is further amended by inserting after subsection (e) the following new subsection:

"(f) COMMISSION PANELS.—The Chairman shall establish such panels consisting of voting members of the Commission as the Chairman determines appropriate to carry out the functions of the Commission.".

(2) CONFORMING AMENDMENT.—Subsections (f), (g), (h), (i), (j), and (k) of such section are redesignated as subsections (g), (h), (i), (k), (l), and (m), respectively.

(f) STAFF AND OTHER SUPPORT.—Such section is further amended by inserting after subsection (i) (as redesignated by subsection (e)(2) of this section) the following new subsection:

"(j) STAFF AND OTHER SUPPORT.—Upon the request of the Commission or a panel of the Commission, the Secretary of Transportation shall provide the Commission or panel with staff and other support to assist the Commission or panel in carrying out its responsibilities.".

(g) REPORT.—Subsection (l) of such section (as redesignated by subsection (e)(2) of this section) is amended by striking "6 months" and inserting "90 days".

(h) TERMINATION.—Subsection (m) of such section (as redesignated by subsection (e)(2) of this section) is amended—

(1) by striking "180th day" and inserting "30th day"; and

(2) by striking "subsection (j)" and inserting "subsection (l)".

(i) COMMISSION EXPENDITURES.—Such section is further amended by adding at the end the following new subsection:

"(n) COMMISSION EXPENDITURES.—Amounts expended to carry out this section shall not be considered expenses of advisory committees for purposes of section 312 of the Department of Transportation and Related Agencies Appropriations Act, 1993."

(j) PREVIOUSLY APPOINTED MEMBERS.—Such section is further amended by adding at the end the following new subsection:

"(o) PREVIOUSLY APPOINTED MEMBERS.—Any appointment made to the Commission before the date of the enactment of this subsection shall not be effective after such date of enactment.".

Mr. HOLLINGS. Mr. President, last year, Congress passed legislation reauthorizing the programs of the Federal Aviation Administration, which included provisions establishing a national commission to ensure a strong competitive airline industry. These provisions were based on legislation introduced by Senator EXON, which I cosponsored, to establish a blue-ribbon commission to look at the ailing airline and aircraft manufacturing industries. When this legislation was approved, the financial picture for the aviation industry was bleak. Since then, it has declined even further.

The legislation which Senator EXON is introducing today, and which I am cosponsoring, amends the current law to expand the number of people to be appointed to the commission and directs that the commission report to the President and Congress its findings within 90 days. The commission's mandate remains the same—to look at the complex problems within both the airline and the aircraft manufacturing industries. The commission's task is monumental, and I welcome the advice that the commission will provide on possible solutions to the aviation crisis.

Over the last 3 years, the airline industry has lost more than $10 billion. More than 100,000 airline jobs have been eliminated over the last 3 years. In the aircraft manufacturing industry, more than 38,000 people were laid off last year, and Boeing, McDonnell Douglas, and Pratt & Whitney are expected to lay off more than 50,000 people this year. We have heard many times that the aircraft manufacturing industry is the Nation's principal exporter. Yet, because U.S. airlines are in such financial decline, they are canceling orders and delaying delivery of aircraft—the problems of the two industries are clearly interrelated. It is imperative that the commission examine both industries carefully.

Secretary of Transportation Peña has made the state of aviation industry and the activities of this commission among his highest priorities. This legislation must be enacted expeditiously to ensure that we can proceed on this important matter. I urge my colleagues to join in supporting this effort.

By Mr. AKAKA (for himself, Mr. SMITH, Mr. REID, and Mr. PELL):

S. 367. A bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE DOWNED ANIMAL PROTECTION ACT OF 1993

• Mr. AKAKA. Mr. President, today I am introducing the Downed Animal Protection Act, a bill to eliminate inhumane and improper treatment of downed animals at stockyards. Senators SMITH, REID, and PELL have joined me in sponsoring this bill. The legislation will prohibit the sale or transfer of downed animals unless they have been humanely euthanized.

Downed animals are severely distressed recumbent animals that are so sick they cannot rise or move on their own. They are also referred to as nonambulatory animals. Once an animal becomes immobile and fails to stand, it is left to lie where it falls, often without receiving basic needs. Downed animals that survive the stockyard are eventually slaughtered for human consumption.

These animals are extremely difficult, if not impossible, to handle humanely. They have very specific needs, and must be fed and watered individually. They require bedding and a separate pen, and need veterinary attention. The suffering of downed animals is so severe that the only humane solution is immediate euthanasia.

Mr. President, the bill I have introduced provides for euthanasia of these hopelessly sick or injured animals by humane methods that rapidly and effectively renders animals insensitive to pain. Humane euthanasia of downed animals will limit animal suffering and will encourage the livestock industry to concentrate on improved management and handling practices to avoid this problem in the first place.

Downed animals comprise a tiny fraction, roughly one-tenth of 1 percent, of animals at stockyards. Banning their sale or transfer would cause no economic hardship. The Downed Animal Protection Act will prompt stockyards to refuse to accept crippled and distressed animals and will make the prevention of downed animals a priority for the livestock industry. In this way the bill will reinforce the livestock industry's commitment to humane handling of animals.

The downed animal problem has been addressed by major livestock organizations such as the United Stockyards Corp., the Minnesota Livestock Marketing Association, the National Pork Producers Council, the Colorado Cattlemen's Association, and the Independent Cattlemen's Association of Texas. All these organizations have taken strong stands against improper treatment of animals by adopting "nodowner" policies. I want to commend these and other organizations, as well as every responsible and conscientious livestock producer in this country, for their efforts to end an appalling practice that erodes consumer confidence.

In addition to the concern expressed about this problem within the livestock industry, Ed Madigan, during his tenure as Secretary of Agriculture, expressed concern about the treatment of downed animals and recommended that his agency would increase efforts to protect animal rights at livestock markets nationwide. On May 21, 1991, he was quoted as being "disgusted and repelled" at the way downed animals had been treated, and added that the Agriculture Department was going to be more aggressive and effective in dealing with animal welfare. In response, USDA's Packers and Stockyards Administration issued a recommendation for stockyards to take steps to assure that proper care and handling are provided to animals. Saner, more humane ways of handing downed animals were also the subject of hearings by the House Subcommittee on Livestock, Dairy and Poultry during the 102d Congress.

Despite these actions and an unprecedented consensus among the industry, animal welfare movement, consumers, and government that downed animals should not be sent to stockyards, this sad problem continues to exist, causing animal suffering and an erosion of confidence in the industry.

Mr. President, the legislation that I invite all my colleagues to support will complement the industry's efforts to address this problem by encouraging better care of animals at farms and ranches. Animals with impaired mobility will be treated better in order to avoid the possibility of them going down. The bill will remove the incentive for sending downed animals to stockyards in the hope of receiving some salvage value for such animals and would encourage greater care during loading and transport. By allowing 1 year for the legislation to come into effect, the bill will also end improper breeding practices which account for a significant percentage of downed animals. This will be conducive to a gradual, phased-in introduction of more humane treatment policies.

My legislation would set a uniform standard throughout the States thereby removing any unfair advantages that might result from differing State guidelines. Furthermore, no additional bureaucracy will be needed as a consequence of my bill because inspectors of the Packers and Stockyards Administration regularly visit stockyards to enforce existing regulations. Thus, the additional regulatory burden on the agency and stockyard operators will be insignificant.

Thank you, Mr. President. I ask that a copy of the Downed Animal Protection Act be printed in the RECORD following my remarks. I urge all of my colleagues to join in supporting this legislation.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Downed Animal Protection Act of 1993".

SEC. 2. UNLAWFUL STOCKYARD PRACTICES INVOLVING NONAMBULATORY LIVESTOCK.

Title III of the Packers and Stockyards Act, 1921 is amended by inserting after section 317 (7 U.S.C. 217a) the following new section:

"SEC. 318. UNLAWFUL STOCKYARD PRACTICES INVOLVING NONAMBULATORY LIVESTOCK.

"(a) DEFINITION.—As used in this section, the term 'humanely euthanized' means to kill an animal by mechanical, chemical, or other means that rapidly and effectively renders the animal insensitive to pain.

"(b) UNLAWFUL ACT.—It shall be unlawful for any stockyard owner, market agency, or dealer to buy, sell, give, receive, transfer, market, or hold nonambulatory livestock unless the livestock has been humanely euthanized.".

SEC. 2. EFFECTIVE DATE.

This Act and the amendment made by this Act shall become effective 1 year after the date of enactment of this Act.•

By Mr. BUMPERS (for himself, Mr. BROWN, Mr. KERRY, Mr. LIEBERMAN, Mr. MACK, Mr. RIEGLE, Mr. WOFFORD, Mr. COATS, Mr. BOREN, Mr. DASCHLE, Mr. CRAIG, Mr. DODD, Mr. D'AMATO, Mr. PRYOR, Mr. DECONCINI, Mr. JOHNSTON, Mrs. FEINSTEIN and Mr. KOHL):

S. 368. A bill to amend the Internal Revenue Code of 1986 to provide a capital gains tax differential for individual and corporate taxpayers who make high-risk, long-term, growth-oriented venture and seed capital investments in startup and other small enterprises; to the Committee on Finance.

ENTERPRISE CAPITAL FORMATION ACT OF 1993

• Mr. BUMPERS. Mr. President, today I am proud to reintroduce the Enterprise Capital Formation Act, S. 368, a capital investment tax incentive that challenges Americans to make high-risk, long-term, growth-oriented investments in the enterprises that will lead America into the 21st century.

END OF STALEMATE

The stalemate on capital gains tax incentives can be over. We have in this bill a gains incentive on which we can all agree, Democrats and Republicans, Congress and the President.

Some would like to go further, but there can be no dispute that the investments covered by this incentive should stand first-in-line.

REVENUE IMPACT

This investment incentive is not premised on the supply-side claim that it will magically pay for itself. I have never believed the supply-side claims that tax cuts will pay for themselves. Back in 1981 I warned that the supply-side tax cut would generate deficits that would "choke a mule." Unfortunately, that warning proved to be an understatement.

This bill is scored by the Joint Tax Committee as losing $1 billion over 6 years. I accept the Joint Tax estimate and I will insist that this revenue loss be financed on a pay-as-you-go basis. Those of us who support tax incentives for savings and investment cannot claim that we have increased savings and investment on a net basis if we run up the public deficit to pay for it. This is a zero sum game with the increase in private savings canceled out by the decrease in public savings.

I have not proposed an offset to pay for the modest revenue loss associated with the bill I am introducing today, but, given the amount of revenue involved, it can easily be financed in the context of the tax bill that will be proposed by President Clinton tomorrow.

The Joint Committee on Taxation has estimated that the Tax Code will grant $2.132 trillion in tax expenditures over the next 5 years, so I'm sure it won't be difficult for President Clinton and the Joint Committee to suggest an appropriate offset.

FAIRNESS

In addition, we have learned that fairness is another key to consideration of an investment incentive in the Congress.

This legislation does not provide an undeserved, retroactive tax windfall for wealthy investors for the sale of investments that were made long before it goes into effect. The bill only applies to new investments made in response to the new incentive.

This legislation rewards investors and entrepreneurs who are willing to take risks and invest for long-term economic growth, not short-term income. It calls on them to change their portfolio strategy and does not simply reward investors for doing exactly what they are already doing without any capital gains tax incentive for doing so.

This legislation does confer advantages on wealthy taxpayers who act as outside investors and provide capital to entrepreneurs who need it. Any cut in capital gains taxes provides benefits to those who have capital to invest. But, the bill also provides tax benefits to individual entrepreneurs who found new businesses and build its value with their own savings and sweat equity.

The Progressive Policy Institute has found that a targeted capital gains tax reduction is fair to low and middle income taxpayers. The study is entitled "Tax Incentives for Investing in Emerging Firms: A Strategy for Enhancing U.S. Competitiveness" and its author is Dr. Robert Shapiro. Dr. Shapiro served as Presidential Candidate Dukakis chief economic adviser and as a key adviser to President Clinton during the campaign.

Dr. Shapiro makes three crucial points:

First, a capital gains incentive targeted at investments in "emerging businesses would produce greater and more broadly distributed benefits." In fact, such an incentive, "far from impairing the efficiency of the capital markets, could enhance the efficiency of the allocation of American's investment capital." This is true because "when it comes to small, emerging companies, the capital markets do not provide investment resources commensurate to their rates of return * * *"

Second, emerging companies are the primary forces for new job creation, providing the basic condition for most Americans' job mobility. The study finds that "encouraging investment in new business ventures in their early years—the time when they typically can grow and best use large additional capital—should increase the levels and growth of U.S. capital spending, research and development, and the commercialization of new products and services."

Third, the study finds that "a tax preference for investment in emerging businesses passes the following test of social fairness: It would produce direct benefits mainly for affluent middle-class persons, not predominantly wealthy people, and greater indirect benefits for average-income Americans."

So, the fairness issue that helped to kill the President's proposal in 1989 and 1990 will not kill this proposal.

COMPETITIVENESS AND JOBS

We must focus on investment incentives that are necessary to help America create the jobs and meet the intense competition we face in the international marketplace.

Small firms need patient equity capital. They need a way to avoid the premiums they pay for debt capital and to avoid the credit crunch, that is hurting so many small firms.

States like Connecticut, Massachusetts, and California that are suffering with the cuts in defense spending need to rely on their entrepreneurs to take up the slack.

Unlike an investment tax credit, this incentive does not tell a small firm how to run its business. It helps small firms raise capital and then says if they have gains on the sale of the stock in the business the gains will be taxed at a lower rate. This is an incentive for gains, not an incentive that gives a preference for one type of corporate expenditure over another. It trusts that entrepreneurs will know how to make the best use of the capital they obtain from investors.

If President Clinton want to redeem his pledge to create jobs, he has only one place to turn—America's entrepreneurs and small businesses. The just issued "State of Small Business" reports that small firms with 20 or fewer employees generated 4.1 million new jobs between 1988 and 1990. During that same period firms with 20 to 499 employees lost 850,000 jobs and those with 500 or more employees lost 500,000 jobs.

NONPARTISAN

We need to enact a capital formation incentive that avoids the partisan and ideological battle between Democrats and Republicans.

I am a Democrat and I first introduced my venture capital bill in 1987, before then-Vice President Bush proposed cutting capital gains taxes. I reintroduced my venture capital bill in 1989—with strong support among Senate Democrats—and introduced my seed capital bill in 1990. Congressman PETER HOAGLAND, another Democrat, was the lead sponsor for my venture capital bill in the other body.

Then in 1991 Senator BROWN and I reintroduced the bill in the Senate and Congressmen MATSUI, MOODY, HOAGLAND and GRADISON introduced the bill in the House. In the Senate we had 48 cosponsors of the legislation, 35 of them Democrats. We had three other Members cosponsor a seed capital amendment I offered to the October tax bill, H.R. 11.

Vice President Gore was one of the cosponsors of S. 1932. Treasury Secretary Bentsen was a cosponsor of the seed capital amendment.

During the campaign President Clinton and President Bush both endorsed the seed capital incentive. This was the only capital gains provision that they both endorsed. President Clinton endorsed the venture capital incentive as well.

The media has always billed the capital gains debate as one in which Republicans and Democrats were fighting and it never reported that there were 35 Democrats in the Senate who supported my capital gains proposal in the last Congress.

So, this bill moves to overcome the partisanship that proved so divisive on the capital gains issues during the Bush Presidency.

NEW COALITION FORMED

Finally, this bill provides an opportunity to unify the high technology and traditional small business communities.

This legislation is endorsed by the American Electronics Association, the Industrial Biotechnology Association, and the National Venture Capital Association. It is also endorsed by the National Federation of Independent Business, the Small Business Legislative Council, National Small Business United, the National Association of Small Business Investment Companies, and the National Association of Investment Companies. This powerful coalition of high technology and traditional small business firms has made this legislation irresistible.

I look forward to working with the coalition on this bill and on many other legislative issues in the coming years. This is a coalition that can help America to compete in international markets.

TERMS OF THE INCENTIVE

The terms of the incentive are unchanged. It lowers the cost of capital for small enterprises by providing a 50-percent tax deduction for investors who buy and hold their small business stock for at least 5 years. The bill defines small business stock as the stock of a company with less than $100 million in aggregate capitalization. The stock must be purchased or acquired directly from the corporation issuing the stock. Trading of the stock in the secondary market is not covered.

Investors who make seed capital investments—defined as the first $5 million of paid-in capital for a company—qualify for additional deductions if they hold a stock more than 6 years. Both individual and corporate investors are covered because we need corporations to act as venture and seed capitalists just as much as we need individuals to do the same.

In addition, the bill is tightly drafted to ensure that companies cannot redeem existing stock and issue new, qualified stock; cannot divide up a larger company into many small companies that could issue qualified stock; and cannot use a "corporation" as a front for a tax shelter.

I ask unanimous consent that an outline of the bill and the antiabuse provisions incorporated in it be printed at the end of this statement.

Let me mention a related issue. For this legislation to be completely effective we need to change the alternative minimum tax. We need to permit the deduction of certain investment expenses for AMT purposes in order to avoid taxing income from venture capital investments on a gross rather than a net basis. Under current law individuals making venture capital investments become minimum taxpayers based on the gross income from their venture capital investments. The impact of this rule is particularly egregious in the case of individuals who are partners in venture capital partnerships that invest in the stock of start-up and other small enterprises, the enterprises covered by this bill. This rule should be changed in order to enable the Enterprise Capital Formation Act to revolutionize capital markets for small firms.

VENTURE AND SEED CAPITAL INVESTMENTS

The legislation seeks to make available to entrepreneurs or inventors the risk venture and seed capital they need to prove that they have an idea that can grow into a business. Without these high risk capital investments, these businesses often die for lack of capital, their products or services are never developed or tested in the marketplace, and the firms never generate the jobs and economic growth that will improve our Nation's standard of living and global competitiveness.

These are high risk seed capital investments. There is no more important capital formation in the life of a business and these are the investments we most need to encourage with a new capital formation incentive.

Venture and seed capital investments involve the highest risk and the longest holding period of any type of investment. The nascent businesses often die even when they obtain the venture and seed capital they need. If they survive, they can struggle for many years before they turn a profit. All the earnings of the business tend to be funneled back into the business for research, product development, capital expenditures, marketing, legal assistance, or other expenses.

Investors can lose their shirt with a direct venture or seed capital investment, find themselves stuck with an investment for which there is no secondary market to sell their stock, be called upon to provide all types of nonfinancial assistance to the firms' often inexperienced managers on crises that arise with the business, and wait for many years without receiving any return on their investment.

This is the American capitalist spirit at work. This is free enterprise in its classic, risk-taking form. This is frontier risk-taking. This is long-term investing. This is the American entrepreneur. This is the Horatio Alger story in the real world. This is what has made America so prosperous and free. This is the world of direct venture and seed capital investments.

Venture and seed capital investments have been the fuel that make the American dream come true. Without rekindling direct venture and seed capital investing, America will become increasingly stale and uncompetitive in the international marketplace. The future of our postwar prosperity literally depends on our investments in the future, our investments in change, in short, our venture and seed capital investments.

With so much risk involved with venture and seed capital investments, it is not surprising that the firms that have the greatest difficulty raising capital are these small, start-up firms. They stand last in line for capital, they are charged a premium for the seed capital they can obtain, and they are under constant pressure from their creditors or shareholders to show a profit.

The search for venture and seed capital and the pressure that current entrepreneurs feel to show a quick profit distracts them from the task of nurturing their business and undermines the investments in the firm that are necessary for strategic, long-term growth. At crucial times in the launching of a new business, the energy and time of the founders often are diverted to solving a financial crisis. This puts pressure on the often inexperienced managers of the firm that can be debilitating. It is not surprising that so many startup small businesses fail.

At the same time, venture and seed capital formation gives the greatest economic return to the Nation. The pace of change in the marketplace is accelerating, competition in international markets is intensifying, and the cost of risk capital in America remains among the highest in the world. In the face of these challenges, the small firms that take root and manage to grow can create whole new industries, with tens of thousands of employees and will pay hundreds of millions of dollars in Government taxes. The Nation's standard of living depends on the growth of new businesses on the cutting edge of technology and new global markets.

This means that there is no stronger public policy rationale for a capital formation incentive than for a gains incentive for venture and seed capital investments. This is what my Enterprise Capital Formation Act is all about, promoting venture and seed capital investments in America's future and creating a new seed capital industry for America.

Since the Tax Reform Act of 1986 the taxable individual investors that had backed our entrepreneurs in the past have withdrawn from actively risking their investable capital developing our emerging technologies. Our American entrepreneurs can testify that there is a dearth of early stage investors and that as a result they are starving for capital.

America's innovators have been forced to look off shore for the time critical venture and seed capital they require to emerge into the global market place. These off shore inventors are eagerly seeking our technology before it takes hold in the United States under U.S. ownership. They have a much lower cost of capital than do U.S. sources and always negotiate technology rights for their home economies, stripping America of our own future foundation of know-how upon which our children must depend for jobs and a competitive footing among global economies.

This venture and seed capital formation incentive is the needed mix of incentives to again motivate our own countries wealthiest taxpayers to take the risks that they now are avoiding. We need again to give them a justification for taking the extraordinary risk of active, direct venture and seed capital investing. This will help to ensure that America's entrepreneurs live and prosper here in America.

RHETORIC VERSES REALITY

Most of the rhetoric we have heard from those who favor restoring a capital gains differential focuses on "risk-takers," "small, growth companies," "entrepreneurs and inventors," and "competitiveness."

We hear endless stories about the brilliant entrepreneur who borrows money using his own home as collateral, who starts a computer company in his garage, who develops a technology that all the Fortune 500 companies have ignored, and who becomes a megamillionaire when his company finally goes public.

However, restoring an across-the-board capital gains differential for nearly every type of investment transaction has very little to do with this rhetoric. Most of the benefits of a broad-based capital gains differential go to transactions that have nothing to do with the brilliant entrepreneur attempting to start a company in Silicon Valley or on Route 128.

According to one detailed analysis, an across-the-board cut in capital gains tax rates mostly provides tax benefits to "sectors other than new businesses." (James Poterba, "Venture Capital and Capital Gains Taxation," in "Tax Policy and the Economy, 1989"). This conclusion is based on the fact that less than "one-quarter of realized (capital) gains reflects appreciation of common stock, and venture capital activity is only a small share of this equity component." (Id. at 63.) The pool of venture capital funds under management is "less than 1 percent of the value of U.S. equity markets." (Id.)

The flow of initial public offerings [IPO's] of new firms suggests that "the venture IPO's accounted for 0.5 percent and 0.65 percent, respectively (for 1985 and 1986), of realized (capital) gains." (Id. at 65.) "These statistics illustrate the basic fact that a subsidy to all appreciating assets, such as an across-the-board reduction in capital gains rates, largely benefits nonventure capital assets." (Id.) Such an across-the-board cut in capital gains tax rates is a "relatively blunt device for encouraging venture investments." (Id. at 48.)

By way of contrast, the venture and seed capital formation bill provide a tax incentive that is specifically targeted to form capital for entrepreneurs and inventors struggling to "grow" small start-up businesses. These are working capital investments that can create jobs, new technologies and new markets. The seed capital formation and venture capital gains bills match the capital gains rhetoric with the targeted provisions of the legislation.

I am not saying that no other types of investments should be covered by a capital gains tax incentive. I come from a State where timber is an important industry and strong arguments can be made for extending some type of a capital incentive to other, less risky classes of investments.

In terms of priorities, an incentive for venture and seed capital formation should form the core of any capital gains considered by Congress. These forms of direct investments are the paradigm for investments that are high-risk, long-term, and growth-oriented.

When one sets priorities, it is clear that there are different types of investments, there are different degrees of risk, there are different capital formation barriers, and there are differently taxed investors. We need to match an analysis of the need for a capital formation incentive with the provisions of an incentive that meets that need to offset the risk that is associated with the investment.

In short, the capital gains issue is one that involves balancing and choices, not one that is simply a question of ones support for or opposition to a general concept. The venture and seed capital formation bill set priorities that match the capital gains rhetoric with the targeted provisions of the bills.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 368

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Enterprise Capital Formation Act of 1993".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1202. EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

"(a) EXCLUSION.—

"(1) IN GENERAL.—Gross income shall not include the sum of—

"(A) 50 percent of any gain from the sale or exchange of qualified small business stock (other than seed capital stock) held for more than 5 years, plus

"(B) the amounts determined by applying the applicable percentages to the appropriate categories of gain from the sale or exchange of qualified small business stock which is seed capital stock held for more than 5 years.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be computed as follows:

"In the case of:	The applicable percentage is:
5-year gain	50
6-year gain	60
7-year gain	70
8-year gain	80
9-year gain	90
10-year gain	100.

"(3) CATEGORIES OF GAIN.—

"(A) 10-YEAR GAIN.—The term '10-year gain' means gain determined by taking into account only gain from qualified small business stock with a holding period of more than 10 years at the time of the sale or exchange.

"(B) OTHER GAIN.—The terms '5-, 6-, 7-, 8-, and 9-year gain' mean the gain determined by taking into account only gain from qualified small business stock with a holding period of more than 5, 6, 7, 8, or 9 years but not more than 6, 7, 8, 9, or 10 years, respectively.

"(b) QUALIFIED SMALL BUSINESS STOCK; SEED CAPITAL STOCK.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'qualified small business stock' means any stock in a corporation which is originally issued on or after January 1, 1993, if—

"(A) as of the date of issuance, such corporation is a qualified small business, and

"(B) except as provided in subsections (e), (f), and (g), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or

"(ii) as compensation for services (other than services performed as an underwriter of such stock).

"(2) ACTIVE BUSINESS REQUIREMENT.—Stock in a corporation shall not be treated as qualified small business stock unless, during substantially all of the taxpayer's holding period for such stock, such corporation meets the active business requirements of subsection (d).

"(3) CERTAIN PURCHASES BY CORPORATION OF ITS OWN STOCK.—

"(A) IN GENERAL.—Stock issued by a corporation shall not be treated as qualified small business stock if such corporation has purchased or purchases any of its stock within the 2-year period beginning 1 year before the date of the issuance of such stock.

"(B) EXCEPTION WHERE BUSINESS PURPOSE.—Subparagraph (A) shall not apply where the issuing corporation establishes that there was a business purpose for the purchase of the stock and such purchase is not inconsistent with the purposes of this section. Except as provided in regulations, the preceding sentence shall not apply to any purchase which—

"(i) is part of a transaction or series of transactions in which the corporation purchases not more than 5 percent (by vote or value) of the outstanding shares of the corporation, or

"(ii) is a purchase by the corporation of convertible preferred stock of the corporation but only if such purchase is required by the terms of the stock being purchased.

"(C) MEMBERS OF AFFILIATED GROUP.—For purposes of this paragraph, the purchase of any stock of the issuing corporation by any corporation which, as of the time of the purchase, is a member of the same affiliated group (within the meaning of section 1504) as the issuing corporation shall be treated as a purchase by the issuing corporation of its stock.

"(4) SEED CAPITAL STOCK.—The term 'seed capital stock' means stock which is qualified small business stock in a qualified small business, as determined under subsection (c) by substituting '$5,000,000' for '$100,000,000' each place it appears in subsection (c)(1).

"(c) QUALIFIED SMALL BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified small business' means any domestic corporation if—

"(A) the aggregate capitalization of such corporation (or any predecessor thereof) at all times on or after January 1, 1993, and before the issuance did not exceed $100,000,000, and

"(B) the aggregate capitalization of such corporation immediately after the issuance (determined by taking into account amounts to be received in the issuance) does not exceed $100,000,000.

"(2) AGGREGATE CAPITALIZATION.—For purposes of paragraph (1), the term 'aggregate capitalization' means the excess of—

"(A) the amount of cash and the aggregate adjusted bases of other property held by the corporation, over

"(B) the aggregate amount of the short-term indebtedness of the corporation.

For purposes of the preceding sentence, the term 'short-term indebtedness' means any indebtedness which, when incurred, did not have a term in excess of 1 year.

"(3) LOOK-THRU IN CASE OF SUBSIDIARIES.—In determining whether a corporation meets the requirements of this subsection—

"(A) stock and debt of any subsidiary (as defined in subsection (d)(4)(C)) held by such corporation shall be disregarded, and

"(B) such corporation shall be treated as holding its ratable share of the assets of such subsidiary and as being liable for its ratable share of the indebtedness of such subsidiary.

For purposes of subparagraph (B), a corporation's ratable share shall be based on its share of the total combined voting power of the stock of the subsidiary.

"(4) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after 1993, each dollar amount contained in paragraph (1) and subsection (b)(4) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that section 1(f)(3)(B) shall be applied by substituting '1992' for '1989'.

"(d) ACTIVE BUSINESS REQUIREMENT.—For purposes of this section—

"(1) IN GENERAL.—For purposes of subsection (b)(2), the requirements of this subsection are met for any period if during such period—

"(A) the corporation is engaged in the active conduct of a trade or business,

"(B) substantially all of the assets of such corporation are used in the active conduct of a trade or business, and

"(C) such corporation is an eligible corporation.

"(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future trade or business, a corporation is engaged in—

"(A) startup activities described in section 195(c)(1)(A),

"(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(C) activities with respect to in-house research expenses described in section 41(b)(4),

such corporation shall be treated with respect to such activities as engaged in (and assets used in such activities shall be treated as used in) the active conduct of a trade or business. Any determination under this paragraph shall be made without regard to whether a corporation has any gross income from such activities at the time of the determination.

"(3) ELIGIBLE CORPORATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible corporation' means any domestic corporation; except that such term shall not include—

"(i) any corporation predominantly engaged in a disqualified business,

"(ii) any personal service corporation (within the meaning of section 269A(b)),

"(iii) a DISC,

"(iv) a corporation with respect to which an election under section 936 is in effect,

"(v) any regulated investment company, real estate investment trust, or REMIC,

"(vi) any cooperative, and

"(vii) in the case of a corporate shareholder, any corporation which at any time was a subsidiary (as defined in paragraph (4)(C)) of such corporate shareholder.

"(B) DISQUALIFIED BUSINESS.—The term 'disqualified business' means—

"(i) any banking, insurance, financing, or similar business,

"(ii) any farming business (other than the business of raising or harvesting trees),

"(iii) any business involving the production or extraction of products of a character with respect to which a deduction is allowable under section 613 or 613A, and

"(iv) any business of franchising or operating a hotel, motel, or restaurant or similar business.

"(4) STOCK IN OTHER CORPORATIONS.—

"(A) LOOK-THRU IN CASE OF SUBSIDIARIES.—For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities. For purposes of the preceding sentence, a corporation's ratable share shall be based on its share of the total combined voting power of the stock of the subsidiary.

"(B) PORTFOLIO STOCK OR SECURITIES.—A corporation shall be treated as failing to meet the requirements of paragraph (1) for any period during which more than 10 percent of the value of its assets consists of stock or securities in other corporations which are not subsidiaries of such corporation (other than assets described in paragraph (5)).

"(C) SUBSIDIARY.—For purposes of this paragraph, a corporation shall be considered a subsidiary if the parent corporation owns more than 50 percent of the combined voting power of all classes of stock entitled to vote, or more than 50 percent in value of all outstanding stock, of such corporation.

"(5) WORKING CAPITAL.—For purposes of paragraph (1)(B), any assets which—

"(A) are held for investment, and

"(B) are to be used to finance future research and experimentation or working capital needs of the corporation,

shall be treated as used in the active conduct of a trade or business.

"(6) MAXIMUM REAL ESTATE HOLDINGS.—A corporation shall be treated as failing to meet the requirements of paragraph (1) for any period during which more than 10 percent of the total value of its assets consists of real property which is not used (or to be used) in the active conduct of a trade or business. For purposes of the preceding sentence—

"(A) the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a trade or business; and

"(B) the total value of the assets and of any real property shall be reduced by all liabilities to which the property is subject.

"(7) COMPUTER SOFTWARE ROYALTIES.—For purposes of paragraph (1), rights to computer software which produces income described in section 543(d) shall be treated as an asset used in the active conduct of a trade or business.

"(8) EXCEPTION FOR SMALL BUSINESS INVESTMENT COMPANIES.—This subsection shall not apply to any small business investment company described in section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 682(d)).

"(e) STOCK ACQUIRED ON CONVERSION OF OTHER STOCK.—If any stock is acquired through the conversion of other stock which is qualified small business stock in the hands of the taxpayer—

"(1) the stock so acquired shall be treated as qualified small business stock in the hands of the taxpayer, and

"(2) the stock so acquired shall be treated as having been held during the period during which the converted stock was held.

"(f) SPECIAL RULES FOR WARRANTS AND CERTAIN CONVERTIBLE INVESTMENTS.—For purposes of this section—

"(1) IN GENERAL.—In the case of stock which is acquired by the taxpayer through the exercise of an applicable warrant, through the conversion of convertible debt, or in exchange for securities of the corporation in a transaction described in section 368—

"(A) such stock shall be treated as acquired by the taxpayer at original issue,

"(B) the holding period of such stock shall be treated for purposes of subsection (a) as including the period such warrant or debt was held by the taxpayer, or such security was outstanding, and

"(C) such stock shall be treated as meeting the requirements of subsection (c) if such requirements were met at the time the warrant, debt, or security was acquired by the taxpayer.

"(2) ISSUE PRICE FOR CONVERTIBLE DEBT OR SECURITY.—For purposes of subsection (c)(1), in the case of a debt instrument converted to stock, or stock issued in exchange for securities in a transaction described in section 368, such stock shall be treated as issued for an amount equal to the sum of—

"(A) the principal amount of the debt or security as of the time of the conversion or exchange, and

"(B) accrued but unpaid interest on such debt or security.

"(3) APPLICABLE WARRANT.—For purposes of this subsection, the term 'applicable warrant' means a warrant which—

"(A) was granted in connection with the performance of services for the corporation granting it (or its parent or subsidiary), and

"(B) by its terms is not transferable other than by will or the laws of descent or distribution.

"(g) SPECIAL RULE FOR OPTIONS.—

"(1) IN GENERAL.—For purposes of this section, in the case of stock which is acquired by the taxpayer through the exercise of an applicable option—

"(A) such stock shall be treated as acquired by the taxpayer at original issue,

"(B) such stock shall be treated as having been held during the period such option was held by the taxpayer, and

"(C) such stock shall be treated as meeting the requirements of subsection (c) if such requirements were met at the time the option was granted.

"(2) APPLICABLE OPTION.—For purposes of this subsection, the term 'applicable option' means an option which—

"(A) was granted in connection with the performance of services for the corporation granting it (or its parent or subsidiary), and

"(B) by its terms is not transferable other than by will or the laws of descent or distribution.

"(h) TREATMENT OF PASS-THRU ENTITIES.—

"(1) IN GENERAL.—Any amount included in income by reason of holding an interest in a pass-thru entity shall be treated as gain described in subsection (a) if such amount meets the requirements of paragraph (2).

"(2) REQUIREMENTS.—An amount meets the requirements of this paragraph if—

"(A) such amount is attributable to gain on the sale or exchange by the pass-thru entity of stock which is qualified small business stock in the hands of such entity and which was held by such entity for more than 5 years, and

"(B) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such stock and at all times thereafter before the disposition of such stock by such pass-thru entity.

"(3) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Paragraph (1) shall not apply to any amount to the extent such amount exceeds the amount to which paragraph (1) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified small business stock was acquired.

"(4) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) any partnership,

"(B) any S corporation,

"(C) any regulated investment company, and

"(D) any common trust fund.

"(i) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

"(1) IN GENERAL.—In the case of a transfer of stock to which this subsection applies, the transferee shall be treated as—

"(A) having acquired such stock in the same manner as the transferor, and

"(B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) TRANSFERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transfer—

"(A) by gift,

"(B) at death,

"(C) subject to the limitation of subsection (h)(3), from a partnership to a partner of stock with respect to which the requirements of subsection (h) are met at the time of the transfer (without regard to the 5-year holding requirement),

"(D) to the extent that the basis of the property in the hands of the transferee is determined by reference to the basis of the property in the hands of the transferor by reason of section 334(b), but only if requirements similar to the requirements of subsection (h) are met with respect to the stock,

"(E) of qualified small business stock for other qualified small business stock in a transaction described in section 351 or a reorganization described in section 368, or

"(F) as a stock distribution of qualified small business stock in a transaction not subject to tax under section 305.

"(3) CERTAIN RULES MADE APPLICABLE.—In the case of distributions or transactions described in subparagraph (E) or (F) of section 368(a)(1), rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

"(4) INCORPORATIONS AND REORGANIZATIONS INVOLVING NONQUALIFIED STOCK.—

"(A) IN GENERAL.—In the case of a transaction described in section 351 or a reorganization described in section 368, if qualified small business stock is transferred for other stock, such transfer shall be treated as a transfer to which this subsection applies solely with respect to the person receiving such other stock.

"(B) LIMITATION.—This section shall apply to the sale or exchange of stock treated as qualified small business stock by reason of subparagraph (A) only to the extent of the gain (if any) which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time.

"(C) SUCCESSIVE APPLICATION.—For purposes of this paragraph, stock treated as qualified small business stock under subparagraph (A) shall be so treated for subsequent transactions or reorganizations, except that the limitation of subparagraph (B) shall be applied as of the time of the first transfer to which subparagraph (A) applied.

"(D) CONTROL TEST.—Except in the case of a transaction described in section 368, this paragraph shall apply only if, immediately after the transaction, the corporation issuing the stock owns directly or indirectly stock representing control (within the meaning of section 368(c)) of the corporation whose stock was transferred.

"(j) BASIS RULES.—

"(1) STOCK EXCHANGED FOR PROPERTY.—For purposes of this section, in the case where the taxpayer transfers property (other than money or stock) to a corporation in exchange for stock in such corporation—

"(A) such stock shall be treated as having been acquired by the taxpayer on the date of such exchange, and

"(B) the basis of such stock in the hands of the taxpayer shall in no event be less than the fair market value of the property exchanged.

Notwithstanding subparagraph (B), for purposes of subsection (c)(1), the adjusted basis to the corporation of the property received shall be the fair market value of such property at the time of the determination.

"(2) BASIS OF S CORPORATION STOCK.—For purposes of determining the amount of gain to which this section applies, the adjusted basis of stock in an S corporation shall in no event be less than its adjusted basis determined without regard to any adjustment to the basis of such stock under section 1367.

"(k) APPLICATION OF TAX INCENTIVE TO CURRENT STOCK HOLDINGS OF INVESTORS.—

"(1) IN GENERAL.—If—

"(A) a taxpayer holds any stock on December 31, 1992, which, at the time it was issued, would have been treated as qualified small business stock if such determination had been made without regard to the time such stock was issued, and

"(B) the value of such stock on December 31, 1992 exceeds its adjusted basis,

the taxpayer may elect to treat such stock as having been sold on such date for an amount equal to its value on such date (and as having been reacquired on such date for an amount equal to such value). The gain attributable to such sale shall be treated as realized and recognized or accrued (and the holding period of the reacquired stock shall be treated as beginning) on December 31, 1992. For purposes of applying this section, the requirement of subsection (b)(1) that the stock must have been issued on or after January 1, 1993, shall not apply.

"(2) ELECTION.—An election under paragraph (1) with respect to any stock shall be made in such manner as the Secretary may prescribe. Such an election, once made with respect to any stock, shall be irrevocable.

"(l) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through split-ups or otherwise."

(b) MAXIMUM 14 PERCENT TAX RATE.—

(1) INDIVIDUALS.—Section 1(h) is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under subparagraph (A).

"(2) SPECIAL RULE WHERE TAXPAYER HAS QUALIFIED SMALL BUSINESS NET CAPITAL OR SEED CAPITAL GAIN.—

"(A) IN GENERAL.—If a taxpayer has gain for any taxable year attributable to the sale or exchange of any qualified small business stock held for more than 5 years, then the tax imposed by this section shall not exceed the lesser of—

"(i) the amount determined under paragraph (1), or

"(ii) the sum of—

"(I) the amount determined under paragraph (1) without taking into account gain or loss from qualified small business stock held for more than 5 years for purposes of subparagraphs (A) and (B) thereof, plus

"(II) 14 percent of the net capital gain determined by only taking into account such gain or loss.

"(B) DEFINITION.—For purposes of this paragraph, the term 'qualified small business stock' has the meaning given such term by section 1202."

(2) CORPORATIONS.—Section 1201(a) is amended—

(A) by inserting "or the corporation has gain from the sale or exchange of any qualified small business stock held for more than 5 years" before ", then", and

(B) by striking paragraph (2) and inserting:

"(2) a tax equal to the sum of—

"(A) 34 percent of the sum of the net capital gain, determined by not taking into account any gain or loss from the sale or exchange of any qualified small business stock held for more than 5 years, plus

"(B) 17 percent of the net capital gain determined by only taking into account such gain or loss.

For purposes of this subsection, the term 'qualified small business stock' has the meaning given such term by section 1202."

(c) MINIMUM TAX TREATMENT.—

(1) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended by adding at the end thereof the following new paragraph:

"(8) EXCLUSION FOR GAINS ON SALE OF VENTURE CAPITAL SMALL BUSINESS STOCK.—An amount equal to the amount excluded from gross income for the taxable year under section 1202(a)(1)(A) (relating to exclusion of gain on small business stock other than seed capital stock)."

(2) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(2)(B)(ii) is amended by striking "and (6)" and inserting "(6), and (8)".

(d) LOSSES ON SMALL BUSINESS STOCK.—Section 1244(c)(3)(A) is amended by striking "$1,000,000" and inserting "$5,000,000 (adjusted at the same time and manner as under section 1202(c)(4))".

(e) CONFORMING AMENDMENTS.—

(1)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets; and

"(B) the exclusion provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(2) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(3) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The exclusion under section 1202 shall not be taken into account."

(4) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1202, and 1211, and for purposes of section 57(a)(8)".

(5) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 and" after "except that".

(6) The table of sections for part I of subchapter P of chapter 1 is amended by adding after the item relating to section 1201 the following new item:

"Sec. 1202. Exclusion for gain from certain small business stock."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued (or treated as issued) on or after January 1, 1993.

OUTLINE: ENTERPRISE CAPITAL FORMATION ACT

Incentive for venture and seed capital investments:

Limited to high-risk, long-term, growth-oriented investments.

These are the investments that should stand first-in-line for any capital gains incentive.

Needed because of inadequate and costly capital markets for small businesses and emerging growth companies.

Incentive applies only to purchase of corporate stock:

Includes founders stock, incentive stock options, private placements, non-public offerings, and public offerings of stock.

Includes all types of stock, including common, preferred and convertible preferred stock.

Includes stock of both "C" and "S" corporations.

Encourages capital formation through equity rather than debt and helps corporations avoid the credit crunch.

Applies only to the direct purchase or acquisition of stock from a corporation:

Focuses exclusively on investments that put capital directly into the hands of entrepreneurs.

Does not apply to trading of stock in secondary markets.

Incentive focuses on start-ups and other smaller companies:

Applies to new companies raising first capital and to existing companies that need more capital to expand as well as new companies as long as their aggregate capitalization does not exceed specified limits.

Seed capital incentive—applies to stock issued by companies with $5 million or less in aggregate capitalization.

Venture capital incentive—applies to stock issued by companies with $100 million or less in aggregate capitalization.

Aggregate capitalization limits are adjusted for inflation.

Company may issue more than one round of qualified stock as long as total aggregate capitalization does not exceed specified limits.

Investors receive 50% deduction on gains on stock held for five years:

Investors in both venture and seed capital stock held for five or more years receive 50% deduction on gains—are taxed on half the gain.

Bill sets a maximum gains tax rate of 14% for taxpayers in 28% or 31% tax brackets (or proposed 36% bracket).

Maximum gains tax rate for taxpayers in 15% tax bracket is set at 7.5%.

Additional deductions and gains on seed capital investments:

Seed capital investments qualify for 60–100% deduction if held for 6–10 years.

Shareholders with losses on seed capital investments may deduct losses against ordinary income under Section 1244 (up to $50,000 per individual taxpayer).

Section 1244 currently permits ordinary losses for investments in stock of companies with $1 million or less in aggregate capitalization.

Investment incentive is available to individual and corporate taxpayers:

We want corporations to be venture and seed capital investors.

Deduction available to partners in venture capital partnerships that pool capital so that individual investors can make seed and venture capital investments:

Critically important to include partnerships and mutual fund investors so that average investor can participate in new market.

Shareholders must hold stock for at least five years to qualify for gains incentive:

Encourages patient capital that permits enterprise to reinvest earnings in firm to build for long-term growth.

Holding period for incentive stock options runs from grant, not exercise, date:

Provides incentive for productivity of employees.

Holding period is not interrupted by corporate reorganizations and other tax-free transfers of stock.

Incentive applies only to new investments:

Not retroactive to investments made before incentive goes into effect so no tax windfall.

Alternative minimum tax applies to deductions on venture capital investments but not on seed capital investments:

Low and middle income taxpayers should not take risk associated with seed capital investments except when they are the founders of a small firm.

Need to encourage wealthy taxpayers to take risk with seed investments.

Anti-evasion provisions prevent companies from redeeming stock so can issue new, qualified stock.

Company issuing stock must be an active trade or business for five years following issuance of stock—prevents tax shelters.

Bill loses modest amount of revenue and can easily be financed in context of modest sized tax bill:

Sponsors accept revenue estimate of Joint Tax Committee.

Joint Tax Committee finds that bill would lose $1 billion in revenue over six years.

This revenue loss can easily be financed in the context of the 1993 tax bill.

PROVISIONS TO PREVENT ABUSE OF ENTERPRISE CAPITAL FORMATION ACT

The Enterprise Capital Formation Act contains numerous provisions to prevent the use of its capital gains incentives in ways that are inconsistent with the purposes of the legislation. These provisions are based on suggestions from the staff of the Joint Committee on Taxation when it prepared revenue estimates on the bill in 1991, 1992 and 1993 and when the legislation was included in H.R. 4210 and H.R. 11 in 1992. The sponsors of the legislation have engaged in an intensive and continuous technical review of the legislation utilizing the services of six law and accounting firms starting in September of 1990. Among the anti-abuse provisions are the following:

1. SIZE LIMITATIONS

The tax incentive is available only to small corporations which do not exceed the $100 million venture capital and $5 million seed capital ceilings. The bill denies capital gains treatment for investments in the stock of large corporations that have been able to finance their growth by retained earnings or issuing debt (such as through a leveraged buyout) rather than raising additional equity capital. Only small corporations qualify under the bill because the $100 million and $5 million ceilings are based on the adjusted tax basis of assets (the "aggregate capitalization" of the firm) rather than only the corporation's paid-in capital. The aggregate capitalization of the firm includes retained earnings and borrowed funds, not just paid-in capital. So, a large corporation would be precluded from issuing stock that is "qualified small business stock" (or qualified "seed capital stock") respect to which the benefits provided by the bill are available.

Further, this capitalization ceiling is cumulative. A corporation issuing stock (the "Issuing Corporation") cannot issue additional qualified "small business stock" (or qualified "seed capital stock") at any time after its aggregate capitalization has exceeded the $100 million or $5 million ceilings.

Finally, an Issuing Corporation cannot evade the $100 million or $5 million ceilings by conducting its business through subsidiaries. If the Issuing Corporation owns more than 50% by vote or value of the stock of any subsidiary corporation, the Issuing Corporation's adjusted tax basis in the stock of the subsidiary (which might be low) is disregarded, and the Issuing Corporation is treated as owning directly its ratable share of the assets of that subsidiary.

EFFECT OF REDEMPTIONS

The bill is prospective in application. It applies only to investments in "qualified small business stock" (and "qualified seed capital stock") issued after the effective date set forth in the bill. It provides no benefits for the sale of stock acquired before this effective data.

To prevent an Issuing Corporation from evading this effective data limitation by redeeming its own stock and reissuing new stock after the specified effective date, the bill generally precludes "qualified small business stock" (and "qualified seed capital stock") treatment for stock issued by any corporation that has redeemed any of its outstanding stock within one year before or one year after issuing the stock in question, unless the Issuing Corporation affirmatively demonstrates that it had a business purpose for such redemptions and that this purpose is not inconsistent with the purposes of the bill.

Further, the purchase of stock of any member of an affiliated group (within the meaning of section 1504) by any other member of that affiliated group is treated as a redemption by the Issuing Corporation. In effect, an Issuing Corporation is not allowed to reduce its assets through redemptions in order to remain below the $100 million or $5 million capitalization ceilings.

3. DIVISION OF LARGER COMPANY

The bill contains several provisions to prevent a large corporation from breaking its existing businesses into separate businesses to avoid the $100 million or $5 million capitalization ceilings.

First, no corporation is entitled to capital gains treatment of the sale or other disposition of stock issued by any other corporation, if at any time, that other corporation held more than 50% of the vote or value of the stock of the Issuing Corporation.

Second, if an existing corporation transfers assets to a new subsidiary in a section 351 incorporation transaction, those assets are marked-to-market for purposes of the $100 million and $5 million capitalization ceilings as they apply to the new subsidiary, and the transferor's adjusted tax basis in those assets (which may be low) is disregarded.

The bill does not prevent any such new subsidiary from issuing "qualified small business stock" (or "qualified seed capital stock") to unrelated third-party investors, subject to the $100 million and $5 million capitalization ceilings and the other qualification requirements. Providing incentives for unrelated taxpayers to invest in the stock of an otherwise-qualifying small business is consistent with the capital formation purposes of the bill to create jobs and improves our country's competitive position by encouraging "patient capital," regardless of whether other parties who are not entitled to benefit from such tax incentives also hold equity interests in that same business.

4. ACTIVE TRADE OR BUSINESS

The bill prevents the organization of shell corporations to be used as a tax shelter. The bill provides incentives for investment only in a corporation that is engaged in the "active conduct of a trade or business" and only if "substantially all of the assets of such corporation are used in the active conduct of (that) trade or business."

An Issuing Corporation must satisfy this active trade or business requirement during substantially all of the holding period of any taxpayer claiming capital gains benefits on the disposition of otherwise-qualified stock. As a result, capital gains incentives are not available for investments in passive investment companies.

An Issuing Corporation fails to meet the active trade or business requirement if more than 10% by value of its assets consist of assets that are not used in the active conduct of a trade or business. For this purpose, (a) stock of any other corporation is treated as a non-business asset unless the Issuing Corporation owns more than 50% by vote or value of the stock of the other corporation, and (b) an Issuing Corporation is treated as owning its ratable share of the assets, and conducting directly the business, of any such 50%-owned subsidiary.

Under the bill, the owning of, dealing in or rental of real estate is not treated as engaging in the conduct of an active trade or business.

Corporations may satisfy the active trade or business requirement, however, if they are engaged in start-up activities with respect to a future trade or business, or if they incur research and experimentation expenditures in connection with such a future business, even though they have not yet realized any business income.

5. INCORPORATION OF EXISTING PROPRIETORSHIPS AND PARTNERSHIPS

As noted above, if taxpayers transfer assets to a corporation in a section 351 transaction, the new corporation does not treat those assets as having a "carryover" basis equal generally to that of the transferors for purposes of the $100 million and $5 million capitalization ceilings; rather, those assets are marked-to-market for this purpose. This provision prevents corporations that receive contributions of appreciated assets in otherwise tax-free incorporations from ignoring that appreciation in determining whether the capitalization ceilings have been exceeded.

6. TAX BENEFIT TRANSFER LIMITATIONS

The provisions of the bill preventing taxpayers from transferring tax benefits when they transfer qualified small business (or seed capital) stock are critical to preventing tax shelter abuses.

In general, otherwise-qualified stock must be acquired by that taxpayer directly from the Issuing Corporation at its original issue in exchange for cash or, in certain circumstances, services. Further, the tax benefits provided by the bill are available in most cases only to the initial acquiror of such stock, and only in certain situations that are not likely to result in tax shelter abuses can such stock be transferred with the associated tax benefits intact for the transferee.

If an individual acquires qualified small business stock from an Issuing Corporation, the individual can transfer the stock, with the associated tax benefits intact, only by gift or at death.

If a partnership acquires "qualified small business stock" (or "qualified seed capital stock") from an Issuing Corporation, that stock can be distributed by the partnership, with the associated tax benefits intact, only to those taxpayers who (directly, or through other flow-through entities) held beneficial interests in that stock at the time of its acquisition by the partnership, and only to the extent of their respective beneficial interests at that time, without regard to later increases in any such taxpayer's beneficial interest in the partnership itself.

If any taxpayer acquires "qualified small business stock" (or "qualified seed capital stock") from an Issuing Corporation and later exchanges that stock ("old stock") for other stock ("new stock") in a section 351 incorporation or a section 368 reorganization, and the new stock would not otherwise constitute qualified small business stock, the new stock is treated as "qualified small business stock" (or "qualified seed capital stock") only to the extent of any unrealized appreciation in the old stock at the time of the exchange. This prevents, for example, a taxpayer whose small, closely-held corporation is acquired by a large publicly-held corporation in a tax-free merger from obtaining capital gains benefits with respect to appreciation in the public company's stock occurring after the merger.

In addition, any transferee corporation receiving "qualified small business stock" (or "qualified seed capital stock") in a section 351 or 368 transaction is not entitled to the benefits provided by the bill when the recipient later disposes of that stock. Only the transferor of that stock is entitled to "carryover" tax benefits.

Finally, similar safeguards are provided with respect to compensatory stock options and convertible debt. The bill allows favorable capital gains treatment for stock acquired upon exercise of an option granted in connection with the performance of services only if the Issuing Corporation satisfied the requirements set forth in the bill as of the date that option was issued and that option by its terms is not transferable other than by will or the laws of descent or distribution. (Stock acquired on the exercise of other options or warrants qualifies only if, as of the date of exercise, the requirements of the bill are satisfied.) Stock acquired on conversion of convertible debt of an Issuing Corporation qualifies for favorable capital gains treatment if, when the debt was issued, the Issuing Corporation satisfied the requirements of the bill and the initial holder does not transfer the convertible debt or stock obtained on conversion.

7. ALTERNATIVE MINIMUM TAX

The exclusion from gross income for gain realized on the disposition of "qualified small business stock" (but not "qualified seed capital stock") constitutes an item of tax preference for alternative minimum tax purposes. This ensures that taxpayers generally will not be able to avoid all tax liability that, absent the bill, they would incur when they dispose of qualified small business stock.•

• Mr. BROWN. Mr. President, today Senator BUMPERS and I are reintroducing our Enterprise Capital Formation Act for the 103d Congress. The purpose of this bill is to create jobs by encouraging long-term investment in small businesses.

The bill being introduced today is nearly identical to the one we introduced last Congress, which was cosponsored by 46 other Senators. It has already been endorsed for this 103d Congress by the National Federation of Independent Businesses [NFIB], National Venture Capital Association [NVCA], the American Electronics Association [AEA], and the Industrial Biotechnology Association [IBA].

The Enterprise Capital Formation Act [ECFA] would provide that the first $5 million raised by the company, with less than $100 million of aggregate capital, be treated as seed capital and the first $100 million be treated as venture capital. Seed and venture capital gains earned after a 5 year holding period would be eligible for a 50-percent exclusion. Seed capital investments would be entitled to an additional 10-percent exclusion for each year beyond the 5 years. These apply to both individuals and corporations.

The seed capital portion of our bill was passed by the Senate last year, but not enacted.

Investment in the United States is subject to one of the most discouraging tax systems in the world. A capital gains tax exclusion will encourage the risk-taking and entrepreneurship necessary to create increased employment and help make America more competitive in the world economy. The incentives provided in this bill are key if the United States is to preserve a competitive edge over other nations. Small businesses, which are the backbone of economy and provide the most jobs, ironically have the hardest time raising capital. Our tax code must encourage, not discourage, investment if the United States is to remain competitive.

Our bill also includes antiabuse provisions to ensure only new stock is covered. Specifically, the language prohibits companies from reissuing old stock as new, dividing up larger companies into smaller companies that could then issue qualified stock, and setting up shell corporations as a tax shelter.

The Joint Committee on Taxation [JCT] has calculated that, in a static environment assuming no change in investor behavior, this bill will lose Federal revenue over the course of 5 years. I believe, however, that these incentives will result in a change in investment behavior and increase Federal revenue.

Recent statistics have shown improvements in U.S. economic growth, but not a corresponding increase in new jobs created. The United States needs long-term, growth-oriented investment incentives to create initial capital necessary for new businesses and new jobs. Congress can help best by providing incentives where we need them most—in over 5 million small- and mid-sized businesses that have been responsible for over half of the new jobs created since 1980.•

• Mrs. FEINSTEIN. Mr. President, I rise today in support of the Enterprise Capital Formation Act and to echo what has been said in this Chamber regarding the drastic need to promote long-term investments in small and expanding companies.

This legislation is not new. Senator BUMPERS has been advocating this legislation for some time now. Parts of this bill were incorporated in the tax bills Congress passed last year and which President Bush vetoed.

Mr. President, I believe this bill will encourage the flow of capital to a dynamic sector of our economy—new and expanding businesses. To encourage investments in this sector, this bill would target capital gains tax reductions in providing a 50-percent capital gains tax cut for investments held in a small business for 5 years, and a 100-percent exclusion for investments held for 10 years. The bill promotes patient capital by encouraging investors to hold onto the stock for 5 years or longer in order receive any benefits. It would stimulate direct investment in new and expanding businesses by requiring the investor to purchase the stock directly from the company, not the secondary market. This way the capital goes directly to the entrepreneur, not the middleman. Most important to me, Mr. President, this bill encourages investors to make needed investments in startup companies; the same companies that suffered from the credit crunch and are in need of capital.

Small businesses have traditionally generated much of the economic growth and new jobs in the Nation. According to the Small Business Administration, small businesses created 100 percent of the net new jobs in California from 1988 through 1990. One hundred percent. Of the 733,755 businesses established in California in 1989, small businesses owned 93.4 percent. These figures underscore the importance of the small business sector in California.

However, Mr. President, things are not all that rosy in California. We lead the Nation in bankruptcies and had a 33-percent increase in business failures in 1992. New business incorporation in California fell by 6.9 percent between 1990 and 1991. Small businesses need capital. This is especially true for California's high-technology industry. I believe the Enterprise Capital Formation Act will stimulate investments in one of the most productive and dynamic sectors of the economy—our small and expanding new businesses. I urge my colleagues to support this bill.

Mr. President, I yield the floor.•

By Mr. DURENBERGER:

S. 369. A bill to suspend until January 1, 1995, the duty on certain ceramic ferrules and sleeves; to the Committee on Finance.

DUTY SUSPENSION FOR CERTAIN CERAMIC FERRULES AND SLEEVES

• Mr. DURENBERGER. Mr. President, today I am introducing legislation which would suspend the duties on certain ceramic ferrules and sleeves until January 1, 1995.

The 3M Corp., which is based in Minnesota, produces fiber optic connectors used primarily in the telecommunications industry. A key component of the connectors is a ceramic ferrule which is a tubular object with an inside diameter precisely sized to accommodate a single optical fiber. The sleeve is a larger tube, open on one side, to hold the ferrule in place.

3M imports these items from Japan, and their cost, at $1.75 each, is a large portion of the total cost of the connector. The relatively high duty rate of 8 percent constitutes a cost of component that makes the completed connector's total cost so high that normal profitability is difficult to attain—and this jeopardizes American jobs.

There are nine U.S. importers of the ferrules and sleeves and annual imports are now approximately $22 million. The items are not made anywhere in the United States.•

By Mr. DURENBERGER:

S. 370. A bill to suspend until January 1, 1995, the duty on certain internally lighted ceramic and porcelain miniatures of cottages, houses, churches, and other buildings and associated accessories and figurines; to the Committee on Finance.

DUTY SUSPENSION ON CERTAIN INTERNALLY LIGHTED CERAMIC AND PORCELAIN MINIATURES

• Mr. DURENBERGER. Mr. President, today I am introducing legislation to suspend until January 1, 1995, the duty imposed on internally lighted porcelain or ceramic miniature buildings and structures which are designed and sold primarily for display during the Christmas holiday season. This duty suspension would be applicable but not limited to, cottages, houses, and churches and associated porcelain or ceramic miniature figures depicting people, animals, or other objects.

There is no American producer of Christmas houses comparable to these articles; no American will lose his or her job or be otherwise adversely affected by this legislation. Yet, those that will benefit will be the many American consumers who buy the ceramic or porcelain Christmas pieces each year. Plus, more than 100 employees of the company that designs and imports the Christmas houses will benefit from steady growth through expanded sales.

Mr. President, this legislation is very specific. It will not let into the United States every ceramic or porcelain product made abroad; it will not create a huge hole in our tariff system. Only those articles that are miniatures of buildings, lighted, and intended for display during the Christmas holiday season will be eligible for duty-free treatment under this bill.

The primary designer and distributor of these products is a constituent of mine, Department 56, located in Eden Prairie, MN. This small, but growing company pays a significant duty on the porcelain and ceramic Christmas houses it brings into the United States. Because of an arbitrary Customs Service decision, however, the amount of the duty the company must pay for a product which is only commercially produced outside of the United States—will go up.

Let me make one thing very clear, Mr. President, the Christmas houses imported by Department 56 are festive and seasonal in nature. The Department 56 Christmas houses are primarily designed for and advertised as products to be displayed during the Christmas holiday season. The collections which Department 56 sells have Christmas themes, such as the North Pole collection and the Alpine Village. The Christmas houses are seldom, if ever, used year-round by the consumer. Instead, they are like Christmas ornaments or nativity scenes; they are taken out each Christmas, set on a table or mantle and admired. Then, once the season is over, the houses are packed away, not to be seen, until the next Christmas. In a very real sense, Department 56's Christmas houses can be considered secular nativity scenes.

Thus, Mr. President, believing that the consumer and the American designer and importer will be benefited and no American job adversely affected, I introduce this legislation and urge its favorable consideration by my colleagues.•

By Mr. DODD (for himself, Mr. D'AMATO and Mr. KERRY):

S. 371. A bill to provide for interstate banking and branching; to the Committee on Banking, Housing, and Urban Affairs.

INTERSTATE BANKING AND BRANCHING ACT OF 1993

• Mr. DODD. Mr. President, 11 short days ago, President Clinton signed the Family and Medical Leave Act into law. For 7 years, many of us fought for this legislation because we believed that working Americans should not be forced to choose between their jobs and their families. Now, finally, that measure is law.

The Family and Medical Leave Act shows what we can accomplish when we make cooperation, not gridlock, the order of the day. The bill is now law because Democrats and Republicans came together to make it so. It is law because Congress and the President stopped pointing fingers, and started joining hands to move the Nation forward.

That same spirit of cooperation must guide us as we tackle other difficult issues in the weeks and months ahead. The major items on the agenda are clear: We must pass legislation to create jobs. We must overhaul our health care system to control costs and cover the millions of Americans currently without health insurance. And for the sake of future generations, we must reduce the deficit.

Tomorrow night, the Senate will join the House of Representatives in the House Chamber, to receive President Clinton's State of the Union Address. The President will offer us his proposals to create jobs, reduce the deficit, and build a better foundation for our Nation's future.

If we are to succeed in reinvigorating our Nation, each of us in Congress must respond in kind. We must offer up our own ideas for moving the country forward. We must raise the issues our constituents are concerned about. And we must put forward proposed solutions for all, the administration included, to consider.

Mr. President, I rise today to help begin that dialog. In a narrow sense, I rise to introduce interstate banking and branching legislation that is cosponsored by the distinguished ranking member of the Banking Committee, Senator D'AMATO, and by Senator KERRY of Massachusetts. In a more general sense, I rise to speak of the real concerns I hear every day I am home in Connecticut: the loss of jobs, and the credit crunch which hamstring economic recovery.

Over the past several weeks, Americans have heard some welcome news about the Nation's overall, economy: it grew by 3.8 percent in the fourth quarter of 1992; the Congressional Budget Office forecasts further growth of 3 percent in 1993 and 1994; orders for durable goods climbed by 9.1 percent and the leading economic indicators rose by 1.9 percent in December; unemployment has dipped slightly, to 7.1 percent.

Sadly, Mr. President, reality belies the statistics. Millions of Americans still wait in the unemployment lines, because the uptick has not generated enough jobs. We are currently 3 million jobs behind the norm for employment creation during postwar economic recoveries.

New England has been particularly hard hit. Consumer confidence has risen slightly in recent months, but the overall mood is still dark, and no wonder. In Connecticut, the recession has claimed one of every eight jobs over the past 4 years, for a total of 205,000. The number is still climbing. And late last month, Pratt & Whitney, one of Connecticut's biggest employers, announced 6,700 more layoffs.

This is why the economic stimulus package President Clinton will announce tomorrow night is urgently needed. More money for roads, bridges, education, and other key aspects of our infrastructure will put people back to work and give them renewed hope for a better future. But we need action on other fronts as well.

Every day I am home in Connecticut, I read and hear a litany of complaints about the credit crunch. Most recently, 60.4 percent of all businesses responding to a Connecticut business and industry association survey reported credit availability problems in their industries.

Plenty of anecdotal evidence comes my way as well. I hear of case after case in which solid, profitable businesses cannot get the funds they need to expand and hire new workers. I hear of instances in which unavailability of credit has forced firms into bankruptcy.

Mr. President, the true casualties of the credit crunch are not Fortune 500 companies; they are real people. They are construction workers and sales clerks; laborers; small business owners; and men and women on the assembly lines.

These are the people left out in the cold when small businesses cannot get the credit they need to expand and create new jobs. These are the people whose careers, whose homes, and whose way of life are in jeopardy.

Regrettably, there is no panacea for the credit crunch. It will not be cured with a speech, or by enactment of some silver bullet bill. In fact, the credit crunch results from the confluence of many factors, and will not end overnight.

There are things we can do to ease the credit pressures on small businesses, however.

We can begin by enacting the interstate banking and branching bill I am introducing today.

When Maine enacted the Nation's first interstate banking law in 1975, its goal was to infuse credit into its capital-starved economy; 47 States have since followed Maine's lead, and Connecticut and others have found that interstate banking can indeed attract banks with money to lend. They have also found that interstate banking promotes geographically diverse lending, and regional downturns are less likely to weaken banks with such geographically broad portfolios.

Yet outdated Federal laws still require banks to establish separate legal entities in each State in which they do business, with the result that hundreds of millions of dollars are wasted each year on duplicate boards of directors, regulatory reports, and legal terms. The interstate branching bill I am introducing today will enable banks to eliminate this duplication and waste, and every dollar saved is a dollar that can be used to make loans and reduce the credit squeeze.

We should expand the Small Business Administration's 7(a) Loan Guarantee Program. As the credit crunch has tightened its grip, demand for this program has exploded, and no wonder. Small businesses previously turned down by banks find they can get a loan if they can obtain an SBA 7(a) guarantee.

This is a cost-effective program: $45 million in Federal money generates $1 billion in loans. But the SBA has shut it down once already, in December, because it ran out of funds. It will do so again in the next few weeks unless we invest more money in the program.

We should move ahead with the Small Business Capital Access program, legislation which Senator LIEBERMAN will soon introduce along with myself and other colleagues. A similar program is already making a difference in Michigan, where more than $50 million in loans have been made to more than 1,000 companies over the past 6 years.

The sum of $50 million Federal funding would generate $1 billion in additional loans, and the program is a model public-private partnership. It would bring borrowers, lenders, and State and Federal Governments together to establish loan loss reserves at banks, which in turn will enable banks to make loans to businesses otherwise unable to obtain credit.

We should enact the Small Business Incentive Act, which I will reintroduce later this week.

Our Nation has the strongest and most liquid securities markets in the world. Regrettably, many smaller businesses are currently shut out by overly burdensome filing and disclosure rules which require armies of expensive lawyers to comply with The Small Business Incentive Act would simplify legal requirements and cut red tape for smaller companies, yielding them greater access to the securities markets for capital.

We must look for ways to spur development of a secondary market in small business loans.

For most home buyers, development of a secondary market for home mortgages has meant greater availability of mortgages at better terms. Small businesses would reap similar benefits if an analogous secondary market for commercial loans is established. The Resolution Trust Corporation's securitization of commercial mortgages points in the right direction, and while there are considerable challenges, I would hope we could move toward this goal.

Mr. President, some of these ideas were embraced by President Clinton during his campaign last year. He spoke of securitization of small business loans, and indicated his support for the Small Business Incentive Act.

I would hope the administration will join us in moving forward on those initiatives; I would also hope the administration will consider supporting interstate branching legislation, expansion of the SBA 7(a) program, and enactment of the small business capital access proposal.

We can make a difference on the credit crunch if we work together. If we maintain the spirit of cooperation between Democrats and Republicans and between Congress and the President that led to enactment of family leave, and if we set to work on the agenda I have outlined, we can make real headway. For every step forward we take, it is thousands of real people—small business owners, sales clerks, and assembly line workers—who will be the real winners.

Mr. President, these same people also stand to win the sooner we move forward to modernize Federal laws governing financial services.

Strong financial services industries are a critical underpinning of our Nation's economy. Banks in particular continue to be the major sources of credit for small and medium-sized businesses, and the largest U.S. banks provide important services around the world for American companies doing business abroad.

Most of our major Federal laws governing the products banks can offer, and the places they can do business, are products of the 1920's, 1930's, and 1950's. In the interim, technological advances and the development of new products have revolutionized the world of financial services and dramatically increased competition, to the benefit of consumers and businesses alike.

These changes have broken down the once well-defined categories of financial service providers. American Express, Prudential, and Merrill Lynch now offer banking services. GE Capital has become one of the Nation's leading lenders to business. Ford and GM originate mortgages. Sears, Ford, ITT, and other commercial firms have purchased thrifts.

The result is that banks have lost the dominant role they once enjoyed in the financial services industry. In 1946, they held 57 percent of the assets of all U.S. financial institutions, but by 1985 that figures had dropped to 33 percent.

Unfortunately, these outmoded Federal laws tilt the playing field against banks. These days, if you're a retailer, you can be a bank. If you're an automaker, you can be a bank, if you're a securities firm, you can be a bank. But if you're a bank, you can't be a retailer or an automaker or a securities firm. All you can be is a bank. It is very difficult for banks to play their vital role in our economy so long as the deck stays stacked against them.

This is why I have long supported legislation to allow banks to expand their product lines and their places of business. This is why I first introduced interstate banking legislation in 1990, for example. U.S. banks are different from virtually every other American industry and from their counterparts in other industrialized nations because they are prevented from freely pursuing business opportunities nationwide.

This is why I also support repeal of Glass-Steagall, so that U.S. banks might once again be allowed to affiliate with securities firms. Banks can take advantage of synergies by making loans and offering investment banking services together, and I think we can build sufficient firewalls to protect the insured portion of a bank from riskier activities.

My preference is for banks to affiliate with other types of financial service providers through a narrow bank approach. Under that scheme, federally insured deposits support only very safe, highly liquid investments, with banks free to offer other financial services through separately capitalized subsidiaries.

I have introduced narrow bank legislation in past Congresses, and in 1991, a similar proposal by Congressman SCHUMER made headway in the House of Representatives. I hope President Clinton and my colleagues will consider initiatives along these lines during the 103d Congress.

As we look at financial modernization legislation, we should also work to close egregious loopholes that have developed in the interpretation of Federal laws. Conducting a nationwide insurance agency business out of a bank branch in a small town, for example, is a gross abuse of the law, and this and other loopholes banks have used to engage in insurance agency activities should be closed.

Mr. President, if we do move forward and modernize our Nation's banking laws, we will inject new competition into our financial services industry. Consumers will win because they will benefit from a wider array of services. Small business owners and stock clerks and men and women on the assembly lines will also win, because stronger banks are less likely to shut their credit windows during tough times.

To return to my opening theme, we have already seen this year that the Nation can make progress when all of us in Government join hands and move forward together. We have loosened the grip of gridlock by enacting landmark family leave legislation.

We must build upon that achievement. We must receive the President's proposals tomorrow night in a spirit of cooperation, not confrontation. We must work together to create jobs, reform health care, and reduce the budget deficit. And we must have an ongoing dialog regarding the other challenges that face our Nation.

I believe the agenda I have laid out is a good starting point. I believe the Nation will be better off if we attack the credit crunch, modernize our banking laws, and close loopholes. I ask the administration to consider these proposals, and to work with Congress on these issues in the weeks and months ahead. The people of Connecticut and the rest of the Nation expect and deserve nothing less.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD, and that a statement by the distinguished Senator from New York [Mr. D'AMATO], also be included in the RECORD at the appropriate place.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 371

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interstate Banking and Branching Act of 1993".

SEC. 2. INTERSTATE BANKING.

(a) IN GENERAL.—Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended—

(1) by striking "(d) Notwithstanding any other provision of this section, no" and inserting the following:

"(d) STATE BOUNDARIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no"; and

(2) by adding at the end the following:

"(2) APPROVALS AUTHORIZED.—

"(A) ACQUISITION OF EXISTING BANKS.—Beginning 1 year after the date of enactment of the Interstate Banking and Branching Act of 1993, the Board may approve an application under this section which will permit a bank holding company that is adequately capitalized and adequately managed, or a subsidiary thereof, to acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all of the assets of a bank located outside the State in which the operations of such bank holding company's banking subsidiaries were principally conducted on July 1, 1966, or the date on which such company became a bank holding company, whichever is later.

"(B) ESTABLISHMENT OF NEW BANKS.—Beginning 2 years after the date of enactment of the Interstate Banking and Branching Act of 1993, the Board may approve an application under this section which will permit a bank holding company that is adequately capitalized and adequately managed, or a subsidiary thereof, to charter and acquire any voting shares of, interest in, or all or substantially all of the assets of any new bank to be located outside the State in which the operations of such bank holding company's banking subsidiaries were principally conducted on July 1, 1966, or the date on which such company became a bank holding company, whichever is later.

"(C) 'NEW BANK' EXCEPTION.—For purposes of this paragraph, a bank that does not open for business and has been chartered solely for the purpose of acquiring all or substantially all of the assets of an existing bank shall not be deemed to be a new bank.

"(3) CONCENTRATION LIMITS.—The Board may not approve an application under paragraph (2)(A) if—

"(A) the applicant controls, or upon completion of the acquisition would control, more than 10 percent of the insured depository institution assets of the United States, as determined under regulations of the Board; or

"(B) the applicant controls, or upon completion of the acquisition would control, 30 percent or more of the insured depository institution deposits in the State in which the bank to be acquired is located, as determined under regulations of the Board, except that such a State may waive the applicability of this subparagraph.

Nothing in this paragraph affects the applicability of Federal antitrust laws or of State antitrust laws that do not discriminate against out-of-State bank holding companies.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'adequately capitalized' has the same meaning as in section 38(b) of the Federal Deposit Insurance Act; and

"(B) the term 'insured depository institution' has the same meaning as in section 3 of that Act.".

(b) CONVERSION OF BANKS TO BRANCHES.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end the following new subsection:

"(h) INTERSTATE COMBINATION.—

"(1) IN GENERAL.—Beginning 18 months after the date of enactment of the Interstate Banking and Branching Act of 1993, a bank holding company having subsidiary banks located in more than 1 State may combine 2 or more of such banks into a single bank by means of merger, consolidation, or other transaction, except that a bank may not be so combined or remain so combined if it is located in a State that has elected to prohibit out-of-State banks from establishing and acquiring branches in that State. Notwithstanding the exception in the preceding sentence, a bank holding company may engage in such a combination on or after the date of enactment of this subsection if the holding company is undercapitalized and the transaction is approved as part of a capital restoration plan described in paragraph (2)(B).

"(2) APPLICABILITY.—Paragraph (1) applies only in the case of a merger, consolidation, or other transaction that is undertaken—

"(A) by a bank holding company that is adequately capitalized, as defined in section 38 of the Federal Deposit Insurance Act; or

"(B) in connection with a comprehensive capital restoration plan under section 38 of the Federal Deposit Insurance Act that contains at least 1 element in addition to the merger, consolidation, or other transaction described in paragraph (1).

"(3) INTRASTATE BRANCHING.—Nothing in paragraph (1) shall be deemed to authorize—

"(A) a national bank to operate branches at locations in a State unless a national bank having offices only in such State could operate its main office or branches at such locations; or

"(B) a State bank to operate branches at locations in a State unless a State bank having branches only in such State could operate its main office or branches at such locations.".

SEC. 3. INTERSTATE BRANCHING BY NATIONAL BANKS.

Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended—

(1) by redesignating subsections (d) through (h) as subsections (e) through (i), respectively; and

(2) by inserting after subsection (c) the following:

"(d) INTERSTATE BRANCHING BY NATIONAL BANKS.—

"(1) IN GENERAL.—

"(A) APPROVALS AUTHORIZED.—Beginning 3 years after the date of enactment of the Interstate Banking and Branching Act of 1993, the Comptroller of the Currency may approve an application under this section which will permit a national bank that is adequately capitalized and adequately managed to establish or acquire and operate a branch located outside the State in which the main office of such bank is located.

"(B) CONDITIONS.—In determining whether to grant approval under subparagraph (A), the Comptroller of the Currency shall consider the bank's rating under the Community Reinvestment Act of 1977 and the views of the appropriate State bank officials regarding the bank's compliance with applicable State community reinvestment laws.

"(C) APPLICABLE LAW.—

"(i) IN GENERAL.—Any branch of a national bank that is established in accordance with this subsection shall be subject to the laws of the host State with respect to intrastate branching, consumer protection, fair lending, and community reinvestment as if it were a branch of a national bank having its main office in that State. Nothing contained in this subsection in any way affects, limits, impairs, or precludes the right of any State or political subdivision of a State to impose a nondiscriminatory franchise tax or other nonproperty tax instead of a franchise tax as provided by section 3124 of title 31, United States Code.

"(ii) FILING REQUIREMENT.—A host State may require any national bank that has its main office in another State that wishes to establish a branch within the host State to comply with filing requirements that are not discriminatory in nature and that are similar in their effect to those that are imposed on a corporation from another State that is not engaged in the business of banking and that seeks to engage in business in the host State. The host State may preclude any national bank, the main office of which is located in another State, from establishing or operating a branch within the host State if that national bank or its branch materially fails to comply with the filing requirements.

"(2) STATE ELECTION TO PROHIBIT INTERSTATE BRANCHING.—

"(A) IN GENERAL.—The provisions of paragraph (1) shall not apply to branches to be located in a State which has enacted, during the period beginning on January 1, 1990, and ending on the expiration of 3 years after the date of enactment of the Interstate Banking and Branching Act of 1993, a law that applies equally to national and State banks and that expressly prohibits all out-of-State banks from establishing or acquiring branches located in that State.

"(B) EFFECT OF PROHIBITION.—A national bank that has its main office in a State that has in effect a prohibition described in subparagraph (A) may not acquire or establish a branch located in any other State under the provisions of this subsection.

"(3) STATE ELECTION TO PERMIT INTERSTATE BRANCHING.—

"(A) DURING THE THREE-YEAR PERIOD FOLLOWING ENACTMENT.—The Comptroller of the Currency may approve an application under paragraph (1)(A) before the expiration of the 3-year period described in paragraph (1)(A), if the State in which the branch will be located enacts a law during that period expressly permitting interstate branching by all out-of-State national and State banks before the expiration of that period. A State that enacts a law described in the preceding sentence—

"(i) may prohibit interstate de novo branching during the 5-year period beginning on the date of enactment of the Interstate Banking and Branching Act of 1993;

"(ii) may require a copy of an application submitted under this section to be filed with the host State banking authority in a timely manner (and the Comptroller of the Currency shall consider any timely comments of the host State prior to approving that application); and

"(iii) may impose other conditions on an incoming branch if—

"(I) the conditions do not discriminate against out of State banks or bank holding companies; and

"(II) the imposition of the conditions is not preempted by Federal law regarding the same subject.

"(B) AFTER THE THREE-YEAR PERIOD FOLLOWING ENACTMENT.—A State that originally elects, pursuant to paragraph (2), to prohibit interstate branching may nonetheless elect at any later time to permit interstate branching if such State enacts a law expressly permitting interstate branching by all out-of-State national and State banks.

"(4) CONCENTRATION LIMITS.—

"(A) IN GENERAL.—The Comptroller of the Currency may not approve an acquisition under paragraph (1)(A) by a bank of a branch located in another State if—

"(i) the bank controls, or upon completion of the acquisition would control, more than 10 percent of the insured depository institution assets of the United States, as determined under regulations of the Board of Governors of the Federal Reserve System; or

"(ii) the bank controls, or upon completion of the acquisition would control, 30 percent or more of the insured depository institution deposits in the State in which the branch to be acquired is located, as determined under regulations of the Board of Governors of the Federal Reserve System, except that a State may waive the applicability of this clause.

"(B) LIMITATIONS.—Nothing in subparagraph (A)—

"(i) affects the applicability of Federal antitrust laws or of State antitrust laws that do not discriminate against out-of-State banks or bank holding companies; or

"(ii) applies to the establishment of new branches located outside the State where the main office of the bank is located.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'adequately capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act;

"(B) the term 'host State' means the State in which a national bank establishes or maintains a branch, other than the State in which the bank has its main office and is engaging in the business of banking; and

"(C) the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

SEC. 4. INTERSTATE BRANCHING BY STATE BANKS.

Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by adding at the end the following:

"(3) INTERSTATE BRANCHING BY STATE BANKS.—Beginning 3 years after the date of enactment of the Interstate Banking and Branching Act of 1993, an insured State bank that is adequately capitalized and adequately managed may establish or acquire and operate a branch located outside the State in which the bank is chartered if such action—

"(A) is authorized by the law of the State in which the bank is chartered; and

"(B) is not prohibited under paragraph (5) or is permitted under paragraph (6), by the host State.

"(4) APPLICABLE LAW.—

"(A) IN GENERAL.—Any branch of a State-chartered bank, that is established in accordance with this subsection shall be subject to the laws of the host State with respect to intrastate branching, consumer protection, fair lending, and community reinvestment as if it were a branch of a bank chartered under the laws of that State and having offices only in such State. Nothing contained in this subsection in any way affects, limits, impairs, or precludes the right of any State or political subdivision of a State to impose a nondiscriminatory franchise tax or other nonproperty tax instead of a franchise tax as provided by section 3124 of title 31, United States Code.

"(B) ACTIVITIES OF BRANCHES.—An insured State bank that establishes a branch or branches in accordance with paragraph (3) may not conduct any activity at such branch that is not permissible for a bank chartered by the host State.

"(C) FILING REQUIREMENT.—A host State may require any bank chartered by another State that wishes to establish a branch within the host State to comply with filing requirements that are not discriminatory in nature and that are similar in their effect to those that are imposed on a corporation from another State that is not engaged in the business of banking and that seeks to engage in business in the host State. The host State may preclude any State bank chartered by another State from establishing or operating a branch within the host State if that State bank or its branch materially fails to comply with the filing requirements.

"(D) RESERVATION OF CERTAIN RIGHTS TO STATES.—Nothing in this subsection limits in any way the right of a State to—

"(i) determine the authority of State banks chartered in that State to establish and maintain branches; or

"(ii) supervise, regulate, and examine State banks chartered by that State.

"(5) STATE ELECTION TO PROHIBIT INTERSTATE BRANCHING.—

"(A) IN GENERAL.—The provisions of paragraph (3) shall not apply to branches to be located in a State which has enacted, during the period beginning on January 1, 1990, and ending on the expiration of 3 years after the date of enactment of the Interstate Banking and Branching Act of 1993, a law that applies equally to national and State banks and that expressly prohibits all out-of-State banks from establishing or acquiring branches located in that State.

"(B) EFFECT OF PROHIBITION.—A State bank that is chartered by a State that has in effect a prohibition described in subparagraph (A) may not acquire or establish a branch located in any other State.

"(6) STATE ELECTION TO PERMIT INTERSTATE BRANCHING.—

"(A) DURING THE THREE-YEAR PERIOD FOLLOWING ENACTMENT.—A State bank may establish or acquire, and operate, a branch outside the State in which the main office of the bank is located, subject to the provisions of this subsection, before the expiration of the 3-year period described in paragraph (3), if the State in which the branch will be located enacts a law during that period expressly permitting interstate branching by all national and State banks before the expiration of that period. A State that enacts such a law—

"(i) may prohibit interstate de novo branching during the 5-year period beginning on the date of enactment of the Interstate Banking and Branching Act of 1993;

"(ii) may require a copy of an application submitted under this section to be filed with the host State banking authority in a timely manner (and the home State banking authority and the appropriate Federal banking agency shall consider any timely comments of the host State prior to approving that application); and

"(iii) may impose other conditions on an incoming branch if—

"(I) the conditions do not discriminate against out of State banks or bank holding companies; and

"(II) the imposition of the conditions is not preempted by Federal law regarding the same subject.

"(B) AFTER THE THREE-YEAR PERIOD FOLLOWING ENACTMENT.—A State that originally elects, pursuant to paragraph (5), to prohibit interstate branching may elect at any later time to permit interstate branching if such State enacts a law expressly permitting interstate branching by all national and State banks.

"(7) CONCENTRATION LIMITS.—

"(A) IN GENERAL.—Notwithstanding the provisions of this subsection, a State bank may not acquire an existing branch located in another State if—

"(i) the bank controls, or upon completion of the acquisition would control, more than 10 percent of the insured depository institution assets of the United States, as determined under regulations of the Board of Governors of the Federal Reserve System; or

"(ii) the bank controls, or upon completion of the acquisition would control, 30 percent or more of the insured depository institution deposits in the State in which the branch to be acquired is located, as determined under regulations of the Board of Governors of the Federal Reserve System, except that a State may waive the applicability of this clause.

"(B) LIMITATIONS.—Nothing in subparagraph (A)—

"(i) affects the applicability of Federal antitrust laws or of State antitrust laws that do not discriminate against out-of-State bank holding companies, or

"(ii) applies to the establishment of new branches located outside the State in which the main office of the bank is located.

"(8) COORDINATION OF EXAMINATION AUTHORITY.—

"(A) IN GENERAL.—A host State bank supervisory or regulatory authority may examine a branch established in the host State by banks chartered by another State for the purpose of determining compliance with host State laws regarding banking, taxation, community reinvestment, fair lending, consumer protection, and permissible activities and to ensure that the activities of the branch are conducted in a manner consistent with sound banking principles and do not constitute a serious risk to the safety and sound operation of the branch.

"(B) ENFORCEMENT.—In the event that a host State bank authority as described in subparagraph (A) determines that there is a violation of host State law concerning the activities being conducted by the branch or that the branch is being operated in a manner not consistent with sound banking principles or in an unsafe and unsound manner, such host State bank authority may undertake such enforcement actions or proceedings as would be permitted under host State law if the branch were a bank chartered by the host State.

"(C) COOPERATIVE AGREEMENT.—The State bank authorities from 1 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations.

"(D) FEDERAL REGULATORY AUTHORITY.—

"(i) IN GENERAL.—Nothing in this subsection limits in any way the authority of the appropriate Federal banking agency to examine any bank or branch of a bank for which the agency is the appropriate Federal banking agency.

"(ii) REVIEW OF INTERSTATE AGREEMENTS.—If the appropriate Federal banking agency determines that the States have failed to reach an agreement under subparagraph (C), or that such an agreement fails to adequately protect the Federal Deposit Insurance Fund, the appropriate Federal banking agency shall not defer to State examinations of the out-of-State branches.

"(9) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'host State' means the State in which a bank establishes or maintains a branch other than the State in which the bank is chartered and is engaging in the business of banking; and

"(B) the term 'adequately capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act.".

SEC. 5. COMMUNITY REINVESTMENT ACT EVALUATION OF BANKS WITH INTERSTATE BRANCHES.

(a) IN GENERAL.—Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended by adding at the end the following new subsections:

"(d) INSTITUTIONS WITH INTERSTATE BRANCHES.—

"(1) STATE-BY-STATE EVALUATION.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States, the appropriate Federal financial supervisory agency shall prepare—

"(A) a written evaluation of the entire institution's record of performance under this Act, as required by subsections (a), (b), and (c); and

"(B) for each State in which the institution maintains 1 or more domestic branches, a separate written evaluation of the institution's record of performance within such State under this Act, as required by subsections (a), (b), and (c).

"(2) MULTISTATE METROPOLITAN AREAS.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States within a multistate metropolitan area, the appropriate Federal financial supervisory agency may prepare a separate written evaluation of the institution's record of performance within such metropolitan area under this Act, as required by subsections (a), (b), and (c). If the agency prepares a written evaluation pursuant to this paragraph, the scope of the written evaluation required under paragraph (1)(B) shall be adjusted accordingly.

"(3) STATE LEVEL EVALUATION.—A written evaluation prepared pursuant to paragraph (1)(B) shall—

"(A) include the information required by subparagraphs (A) and (B) of subsection (b)(1) separately for each metropolitan area in which the institution maintains 1 or more domestic branch offices and separately for the remainder of the nonmetropolitan area of the State if the institution maintains 1 or more domestic branch offices in such area; and

"(B) describe how the Federal financial supervisory agency has performed the examination of the institution, including a list of the individual branches examined.

"(4) DEFINITIONS.—For purposes of this section—

"(A) the term 'domestic branch' means any branch office or other facility of a regulated financial institution with the ability to accept deposits located in any State;

"(B) the term 'metropolitan area' means any primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area, as defined by the Director of the Office of Management and Budget, with a population of 250,000 or more, and any other area identified by the appropriate Federal financial supervisory agency; and

"(C) the term 'State' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

(b) SEPARATE PRESENTATION.—Section 807(b)(1) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(1)) is amended by adding at the end the following sentence: "A written evaluation shall contain the information required by subparagraphs (A) and (B) presented separately for each metropolitan area in which an insured depository institution maintains 1 or more domestic branch offices.".

SEC. 6. BRANCHING BY FOREIGN BANKS.

(a) In General.—Section 5(a) of the International Banking Act of 1978 (12 U.S.C. 3103(a)) is amended to read as follows:

"(a) Interstate Banking Operations.—

"(1) In general.—A foreign bank may establish and operate—

"(A) a Federal branch or agency, with the approval of the Board and the Comptroller of the Currency, in any State outside its home State to the extent that such establishment and operation would be permitted under section 5155 of the Revised Statutes for a national bank, as if the foreign bank were a national bank having its main office in the home State of the foreign bank; or

"(B) a State branch or agency, with the approval of the Board and the appropriate regulatory authority of the State, in any State outside its home State to the extent that such establishment and operation would be permitted under section 18(d) of the Federal Deposit Insurance Act for a State bank, as if the foreign bank were a State bank chartered in the home State of the foreign bank.

"(2) Criteria for determination.—In approving an application under paragraph (1), the Board and the Comptroller of the Currency—

"(A) shall apply the standards for establishment of a foreign bank office in the United States under section 7; and

"(B) may not approve an application unless it determines that the foreign bank's financial resources, including the capital level, are equivalent to those required for a domestic bank to be approved for branching under section 5155 of the Revised Statutes and section 18(d) of the Federal Deposit Insurance Act and, in the case of the first branching application by such foreign bank, after consultation with the Secretary of the Treasury regarding capital equivalency.".

(b) Treatment of United States Banking Subsidiaries.—Section 5 of the International Banking Act of 1978 (12 U.S.C. 3103) is amended by adding at the end the following:

"(d) Treatment of United States Subsidiary of a Foreign Bank.—A foreign bank that has a domestic subsidiary within the United States may establish Federal and State branches and agencies outside its home State to the extent permitted under section 5155(d) of the Revised Statutes and section 18(d) of the Federal Deposit Insurance Act.".

(c) Home State.—

(1) Method of determining.—Section 4(h) of the International Banking Act of 1978 (12 U.S.C. 3102(h)) is amended—

(A) in paragraph (1)(A), by striking "in the State in which such branch or agency is located"; and

(B) by adding at the end the following:

"(3) Home state.—For purposes of section 5155(c) of the Revised Statutes, the home State of a foreign bank shall be its home State as determined under section 5(c).".

(2) Single state determinations.—Section 5(c) of the International Banking Act of 1978 (12 U.S.C. 3103(c)) is amended to read as follows:

"(c) Determination of Home State of Foreign Bank.—For purposes of this section—

"(1) the home State of a foreign bank that has branches, agencies, subsidiary commercial lending companies, or subsidiary banks, or any combination thereof, in more than 1 State, is the 1 of those States elected by the foreign bank, or, in default of such election, by the Board; and

"(2) the home State of a foreign bank that has branches, agencies, subsidiary commercial lending companies, or subsidiary banks, or any combination thereof, in only one State, is that State.".

SEC. 7. USE OF NAMES IN HOST STATE.

(a) Bank Holding Company Act of 1956.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842), as amended by section 2, is amended by adding at the end the following:

"(h) Use of Names in Host State.—

"(1) In general.—A bank holding company that seeks, directly or indirectly, to acquire or establish a bank in a host State shall provide the Board with the name or names under which the bank will operate in the host State.

"(2) Prohibition against same or similar names.—A bank holding company may not operate a bank in a host State if the proposed name of the bank is—

"(A) identical or deceptively similar to a name being used by an existing bank or bank holding company in the host State; or

"(B) is likely to cause the public to be confused, deceived, or mistaken, due to a similarity or identity of names.

"(3) Subsequent use of same or similar name.—Upon application by any person or institution that is adversely affected, the Board shall revoke permission of a bank holding company to operate a bank in a host State if the bank holding company uses or changes the name of, or uses an additional name for any of its banks in the host State, and the new or additional name is described in subparagraph (A) or (B) of paragraph (2). The preceding sentence does not preclude any adversely affected person from pursuing any available legal or administrative remedies.

"(4) Definition.—For purposes of this subsection, the term 'host State' means the State in which a bank holding company establishes or acquires a bank other than the State in which the operations of the bank holding company's banking subsidiaries were principally conducted on July 1, 1996, or the date on which the company became a bank holding company, whichever is later.".

(b) National Banks.—Section 5155(d) of the Revised Statutes (12 U.S.C. 36(d)), as added by section 3, is amended by adding at the end the following:

"(6) Use of names in host state.—

"(A) In general.—A bank that seeks, directly or indirectly, to acquire or establish a branch in a host State shall provide the Comptroller of the Currency with the name or names under which the branch will operate in the host State.

"(B) Prohibition against same or similar names.—A bank may not operate a branch in a host State if the proposed name of the branch is—

"(i) identical or deceptively similar to a name being used by an existing bank or bank holding company in the host State; or

"(ii) is likely to cause the public to be confused, deceived, or mistaken, due to a similarity or identity of names.

"(C) Subsequent use of same or similar name.—Upon application by any person or institution that is adversely affected, the Comptroller of the Currency shall revoke permission of a bank to operate a branch in a host State if the bank uses or changes the name of, or uses an additional name for any such branch in the host State, and the new or additional name is described in clause (i) or (ii) of subparagraph (B). The preceding sentence does not preclude any adversely affected person from pursuing any available legal or administrative remedies.

"(D) Definition.—For purposes of this paragraph, the term 'host State' means the State in which a bank establishes or acquires a branch other than the State in which the bank has its main office and is engaging in the business of banking.".

(c) Federal Deposit Insurance Act.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)), as amended by section 4, is amended by adding at the end the following:

"(10) Use of names in host state.—

"(A) In general.—A bank that seeks, directly or indirectly, to acquire or establish a branch in a host State shall provide the appropriate State regulatory authority with the name or names under which the branch will operate in the host State.

"(B) Prohibition against same or similar names.—A bank may not operate a branch in a host State if the proposed name of the branch is—

"(i) identical or deceptively similar to a name being used by an existing bank or bank holding company in the host State; or

"(ii) is likely to cause the public to be confused, deceived, or mistaken, due to a similarity or identity of names.

"(C) Subsequent use of same or similar name.—Upon application by any person or institution that is adversely affected, the appropriate State regulatory authority may revoke permission of a bank to operate a branch in a host State if the bank uses or changes the name of, or uses an additional name for any such branch in the host State, and the new or additional name is described in clause (i) or (ii) of subparagraph (B). The preceding sentence does not preclude any adversely affected person from pursuing any available legal or administrative remedies.

"(D) Definition.—For purposes of this paragraph, the term 'host State' means the State in which a bank establishes or acquires a branch other than the State in which the bank has its main office and is engaging in the business of banking.".

• Mr. D'AMATO. Mr. President, I have long supported legislation to reform our financial services industry.

During the 102d Congress, the Banking Committee held numerous hearings on comprehensive bank reform. The hearings demonstrated that interstate banking and branching would provide cost savings to banks by allowing the conservation of a bank's subsidiaries into branches.

Interstate banking and branching would also allow banks to reduce risks through geographic diversification. Banks would be able to diversify their liabilities by making loans in various regions across the country.

Although 33 States have passed laws that allow nationwide interstate banking and 14 States allow regional banking, legislation to permit full-scale interstate banking and branching has yet to pass both Houses of Congress.

The Senate passed a version of interstate branching in the Federal Deposit Insurance Corporation Improvement Act of 1991, but these provisions did not survive the conference.

Congress should continue to press ahead toward the goal accomplishing meaningful reform of the banking industry. Today, Senator Dodd has taken an important step toward achieving that goal by introducing the Interstate

Banking and Branching Act of 1993. I am pleased to be among the original cosponsors of this legislation.

The Interstate Banking and Branching Act of 1993 presents a balanced approach to permitting interstate banking and branching. States that do not want to participate in interstate branching will be able to opt out within a specified time period. By opting out, that State could restrict its banks from branching out of State and prohibit out-of-State banks from branching into that State.

While there may be modifications to this bill during the legislative process, I hope that Congress will enact this legislation without delay. I urge my colleagues to support S. 371.●

By Mr. DECONCINI:

S. 372. A bill to extend the existing duty free treatment with respect to articles provided by the Max Planck Institute for Radioastronomy to the Steward Observatory; to the Committee on Finance.

MAX PLANCK INSTITUTE ACT OF 1993

● Mr. DECONCINI. Mr. President, I am introducing legislation today which is critical to the advancement of astronomy in my home State of Arizona and indeed the entire country. This is identical to legislation I introduced in the 102d Congress which, unfortunately, was not considered by the Senate.

I sponsored legislation included in the Tariff and Trade Act of 1984 to provide assistance with importing materials and instruments from Germany, primarily calibration and repair equipment as well as installation instruments, for a new world-class submillimeter telescope [SMT]. While at that time I expected the project to be complete by 1993, construction delays necessitate an extension of the original legislation.

This bill will provide a continuation of the tariff exemption on materials and equipment necessary to complete this important telescope. The SMT is designed to explore the potential of submillimeter astronomy. The Steward Observatory of the University of Arizona and the Max Planck Institute for Radioastronomie in Germany are collaborating on the construction and operation of the SMT. The project is particularly exciting given that the SMT will be twice as accurate as any currently existing radio telescope. In addition, the reflector, 10 meters in diameter, will be the first SMT of this size with a surface designed for efficient measurement at the highest frequency microwave window through the atmosphere.

In June 1982, the University of Arizona and the Max Planck-Gesellschaft signed a memorandum of understanding for a 10-year formal collaboration on the project. In 1992, the agreement was renewed for another 10 years. The project has been beneficial in fostering collaboration between a distinguished American university, a German national research laboratory and high-technology industries in both countries. The University of Arizona's unique capabilities, including large glass optics and instrumentation, have been teamed with the Max Planck Institute's experience in development of large, precise radio astronomy telescopes.

Just as exceptional as the telescope is the instrumentation that will be used with the telescope. Much of this instrumentation is being developed in collaboration between the two institutions just as the telescope itself was. This custom instrumentation is not available from any other manufacturer in the world; it is a product of research and development particular to this telescope facility.

As the instrumentation is built and operations begin, new problems and astronomical discoveries will necessarily lead to further instrumentation being shipped between countries to adjust to the evolution of this project. Therefore, even after the telescope project is complete, the need for this extension will continue.

Germany reciprocates the benefits provided by current law when equipment is shipped from the United States to Germany. Extending this tariff exemption is in the best interest of this cooperative bilateral effort. It is also important to note that there is no real economic cost incurred by the U.S. Government by extending the current tariff waiver as most of the shipments involve the transfer of the same equipment between countries to receive adjustment, repair, or modification.

Mr. President, I urge my colleagues to support this legislation and I ask unanimous consent that the entire text of the bill as well as a list of telescope parts and instrumentation be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ARTICLES PROVIDED BY THE MAX PLANCK INSTITUTE FOR A JOINT PROJECT WITH STEWARD OBSERVATORY.

(a) IN GENERAL.—Subsection (f) of section 240 of the Trade and Tariff Act of 1984 (98 Stat 2994) is amended by striking "and before November 1, 1993".

(b) TECHNICAL AMENDMENTS.—

(1) Section 240(a)(1)(A) of such Act is amended by striking "headnote 6(a) of part 4 of schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202)" and inserting "U.S. note 6(a) of subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States (19 U.S.C. (19 U.S.C. 3007)".)

(2) Section 240(e) of such act is amended by striking "headnote 1 of part 4 of schedule 8 (19 U.S.C. 1202)" and inserting "U.S. note 1 of subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after October 31, 1993.

LIST OF TELESCOPE PARTS AND INSTRUMENTATION

*1. Telescope mount and control electronics.

*2. Reflector support structure.

3. Reflector panels.

*4. Secondary mirror support structure.

5. Microwave relievers, bolemeters and associated electronic systems.

6. Cryogenic dewars, compressors, vacuum pumps, and vacuum equipment.

7. Analog and digital computer interfaces, including CAMAC electronics.

8. Electronic and microwave test equipment.

9. Semiconductor devices such as mixer diodes, bolemeters, and solid-state oscillators.

10. Vacuum tubes such as klystrons and carcinotrons.

11. Laser local oscillator systems.

12. Auxiliary instrumentation for use with SMT.

13. Computer systems for telescope control, data acquisition, and data reduction.

Note.—Mirror molds will be temporarily exported from UA to Germany, then returned later. Similarly, computer systems will be "loaned" to MPI in Bonn temporarily and then returned. All molds returned, except for mold 4.

*Importation complete.●

By Mr. DECONCINI (for himself and Mr. HATCH):

S. 373. A bill to amend title 17, United States Code, to modify certain recordation and registration requirements, to establish copyright arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes; to the Committee on the Judiciary.

COPYRIGHT REFORM ACT OF 1993

Mr. DECONCINI. Mr. President, I rise today to introduce the Copyright Reform Act of 1993. This bill modifies certain recordation and registration requirements, converts the Register of Copyrights form an appointee of the Librarian of Congress to a Presidential appointee, and replaces the Copyright Royalty Tribunal with ad hoc arbitration panels under the direction of the Register of Copyrights. The public mandate for a more efficient Government is met by all the reforms this bill proposes.

The first reform made by this bill reverses *National Peregrine, Inc.* v. *Capitol Federal Savings & Loan Association*, 116 Bankr. 194 (Bank, C.D. Cal. 1990) and *Official Unsecured Creditors' Committee* v. *Zenith Productions, Ltd. (in re AEG Acquisition Corp.)*, 127 Bankr. 34 (Bank. C.D. Cal. 1991). In both decisions, the court held that the State Uniform Commercial Code statutes for perfecting security interests were preempted by sections 205 and 301 of the Copyright Act. These decisions require organizations or individuals taking copyrights as security for loans or financing to record those interests with the Copyright Office, as required by section 205 of title 17, United States Code.

These decisions have resulted in a 50 percent increase in the recordation of transfers with the Copyright Office and has caused considerable administrative burdens for business. Congress' intent in enacting section 205 was not to preempt State procedures for protecting secured creditors' rights. In order to solve this unforeseen problem, this bill exempts the perfection of security interests from Federal preemption so that small businesses and others may have secured creditors' rights by complying with their State UCC statutes.

Second, title I reduces the administrative burdens connected with Copyright Office registration by repealing sections 411(a) and 412 of title 17, United States Code. This eliminates the requirement to register the copyrighted work as a condition to bringing an infringement action. Moreover, it eliminates the requirement that a work be registered before the infringement occurs in order to obtain statutory damages and attorneys' fees.

The United States is presently the only country in the world with these requirements. The Berne Implementation Act of 1988 requires that no formalities be required as a condition to copyright protection. When the act was being considered, however, the United States wished to make only minimal changes to U.S. law. As a compromise, the registration requirement as a condition to protection was dropped, but registration as a condition to sue was retained. In order to comply with international obligations, the registration requirement as a condition to suit was dropped for foreign works, resulting in a two-tiered system in which there is a more stringent standard for U.S. authors and another, more lenient standard for foreign works.

There are many reasons for removing the registration requirement for U.S. authors. The differing treatment of foreign and domestic works results in the anomaly of U.S. authors being treated less favorably than foreign authors, a dubious policy result. Eliminating the requirement would remove this anomaly and simultaneously place the United States in harmony with the rest of the world.

Leaving the requirement in place indirectly results in mandatory registration. The reality is that copyright owners, rather than forgo some of the most important rights granted under the act, must needlessly register all their works. This reform should be adopted to significantly benefit small businesses and individuals, reduce legislative branch employment, and correct an inequity created by the Berne Implementation Act of 1988.

The third proposed reform converts the Register of Copyrights from a Librarian of Congress appointee to a Presidential appointee. Currently, the Librarian of Congress, who is appointed by the President, selects the Register of Copyrights. This bill would give the Register of Copyrights increased responsibilities in the selection and oversight of the arbitration panels established by this legislation to adjust rates and distribute fees for copyright compulsory licenses. Furthermore, this conversion comports with the heightened importance of intellectual property, especially in international trade. The growth of intellectual property and its increasing importance to the U.S. economy warrants the President's attention in this selection.

Finally, title II of this bill replaces the Copyright Royalty Tribunal with ad hoc arbitration panels. The Copyright Royalty Tribunal [CTR] is a legislative branch agency that was established to engage principally in two activities: rate adjustment and distribution of royalties in the administration of the compulsory license provisions of the Copyright Act.

The CRT consists of three SES level V commissioners appointed by the President with the advice and consent of the Senate for a 7-year term. The workload of the CRT does not, in this Senator's opinion, justify the need for the continued operation of the tribunal.

The CRT's functions are better replaced by ad hoc panels created when rate adjustment and royalty distribution disputes arise. Under the bill, when there is no dispute, the Register of Copyrights will distribute the fees. When a dispute arises, a different arbitration board consisting of three arbitrators selected by the Register of Copyrights will convene for each dispute. The parties to each proceeding will bear all the costs. Reports are given to the Register of Copyright and all decisions are reviewable by the Register of Copyrights. The Register of Copyrights' decision may be appealed to the U.S. court of appeals.

Proposals for ad hoc panels to administer the compulsory licenses are not new. Until final passage of the 1976 Act, this was the approach embodied in the copyright law revision bills. The panels were to be convened by the Register of Copyrights. The CRT was established in 1976 in reaction to the Supreme Court's 1976 decision in Buckley versus Valeo which expressed concern that the Register of Copyrights is not a Presidential appointee. That concern is remedied by this legislation, however, by converting the Register of Copyrights to a Presidential appointee.

A switch to arbitration panels would have a number of positive effects: First, by eliminating the CRT, Congress can reduce legislative branch employment; second, the costs of the arbitration panels are borne by the parties, not by the taxpayers; third, since the costs would be borne by the parties, there is strong incentive to settle, rather than litigate disputes; and fourth, negotiated agreements will better reflect market rates than a Government-set compulsory license rate.

Mr. President, it is for these reasons that I urge my colleagues to support this legislation. I ask unanimous consent that the full text of my bill be printed in the RECORD immediately following this statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Reform Act of 1993".

TITLE I—COPYRIGHT OFFICE

SEC. 101. COPYRIGHT RECORDATION PROVISIONS.

Section 301(b) of title 17, United States Code, is amended—

(1) in paragraph (3) by striking "or" after the semicolon;

(2) in paragraph (4) by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(5) perfecting security interests.".

SEC. 102. COPYRIGHT REGISTRATION PROVISIONS.

(a) REGISTRATION AND INFRINGEMENT ACTIONS.—Section 411 of title 17, United States Code, is amended to read as follows:

"§411. Registration and infringement actions

"In the case of a work consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, the copyright owner may, either before or after such fixation takes place, institute an action for infringement under section 501, fully subject to the remedies provided by sections 502 through 506 and sections 509 and 510, if, in accordance with requirements that the Register of Copyrights shall prescribe by regulation, the copyright owner serves notice upon the infringer, not less than 10 or more than 30 days before such fixation, identifying the work and the specific time and source of its first transmission.".

(b) REGISTRATION AS PREREQUISITE TO CERTAIN REMEDIES FOR INFRINGEMENT.—Section 412 of title 17, United States Code, and the item relating to section 412 in the table of sections at the beginning of chapter 4 of title 17, United States Code, are repealed.

SEC. 103. THE COPYRIGHT OFFICE: GENERAL RESPONSIBILITIES AND ORGANIZATION.

(a) REGISTER OF COPYRIGHTS.—Section 701(a) of title 17, United States Code, is amended to read as follows:

"(a)(1) The President shall appoint, by and with the advice and consent of the Senate, the Register of Copyrights. The Register of Copyrights shall be paid at the rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5.".

"(2) All administrative functions and duties under this title, except as otherwise specified, are the responsibility of the Register of Copyrights as director of the Copyright Office of the Library of Congress. The Register of Copyrights shall appoint all other officers and employees of the Copyright Office, who shall act under the Register's general direction and supervision.".

(b) Annual Report.—Section 701(c) of title 17, United States Code, is amended to read as follows:

"(c) The Register of Copyrights shall make an annual report to the Congress on the work and accomplishments of the Copyright Office during the previous fiscal year.".

(c) Repeal.—Section 701(e) of title 17, United States Code, is repealed.

SEC. 104. COPYRIGHT OFFICE REGULATIONS.

Section 702 of title 17, United States Code, is amended by striking the last sentence.

SEC. 105. CONFORMING AMENDMENTS.

(a) Definitions.—Section 101 of title 17, United States Code, is amended by striking the definition of the "country of origin" of a Berne Convention work.

(b) Recordation of Transfers and Other Documents.—Section 205(c) of title 17, United States Code, is amended by striking "but only if—" and all that follows through the end of paragraph (2) and inserting the following: "but only if the document, or material attached to it, specifically identifies the work to which it pertains so that, after the document is indexed by the Register of Copyrights, it would be revealed by a reasonable search under the title or registration number of the work.".

(c) Infringement of Copyright.—Section 501(b) of title 17, United States Code, is amended in the first sentence by striking ", subject to the requirements of section 411,".

(d) Remedies for Infringement.—Section 504(a) of title 17, United States Code, is amended by striking "Except as otherwise provided by this title, an" and inserting "An".

TITLE II—COPYRIGHT ROYALTY TRIBUNAL

SEC. 201. COPYRIGHT ARBITRATION ROYALTY PANELS.

(a) Establishment and Purpose.—Section 801 of title 17, United States Code, is amended to read as follows:

"§801. Copyright arbitration royalty panels: establishment and purpose

"(a) Establishment.—The Register of Copyrights is authorized to appoint and convene copyright arbitration royalty panels to—

"(1) make determinations concerning the adjustment of the copyright royalty rates as provided in section 803;

"(2) adjust royalty payments under section 1004(a)(3);

"(3) distribute royalty fees deposited with the Register of Copyrights under sections 111 and 119(b) in the event a controversy over such distribution exists; and

"(4) distribute the royalty fees deposited with the Register of Copyrights under section 1005 in the event a controversy over such distribution exists under section 1006(c).".

(b) Membership and Proceedings.—Section 802 of title 17, United States Code, is amended to read as follows:

"§802. Membership and proceedings of copyright arbitration royalty panels

"(a) Composition of Copyright Arbitration Royalty Panels.— A copyright arbitration royalty panel shall consist of 3 arbitrators selected by the Register of Copyrights pursuant to subsection (b).

"(b) Selection of Arbitration Panel.— Not later than 10 days after publication of a notice initiating an arbitration proceeding under section 803 or 804, and in accordance with procedures specified by the Register of Copyrights, the Register of Copyrights shall select 2 arbitrators from lists of arbitrators provided to the Register by parties participating in the arbitration. The 2 arbitrators so selected shall, within 10 days after their selection, choose a third arbitrator from the same lists, who shall serve as the chairperson of the arbitrators. If such 2 arbitrators fail to agree upon the selection of a chairperson, the Register of Copyrights shall promptly select the chairperson.

"(c) Arbitration Proceedings.—Copyright arbitration royalty panels shall conduct arbitration proceedings, in accordance with such procedures as they may adopt, for the purpose of making their determinations in carrying out the purposes set forth in section 801. The arbitration panels shall act on the basis of a fully documented written record. Any copyright owner who claims to be entitled to royalties under section 111 or 119 or any interested copyright party who claims to be entitled to royalties under section 1006 may submit relevant information and proposals to the arbitration panels in proceedings applicable to such copyright owner or interested copyright party. The parties to the proceedings shall bear the entire cost thereof in such manner and proportion as the arbitration panels shall direct.

"(d) Report to the Register of Copyrights.—Not later than 180 days after publication of the notice initiating an arbitration proceeding, the copyright arbitration royalty panel conducting the proceeding shall report to the Register of Copyrights its determination concerning the royalty fee or distribution of royalty fees, as the case may be. Such report shall be accompanied by the written record, and shall set forth the facts that the arbitration panel found relevant to its determination.

"(e) Action by Copyright Arbitration Royalty Panel.—Within 60 days after receiving the report of a copyright arbitration royalty panel under subsection (d), the Register of Copyrights shall adopt or reject the determination of the arbitration panel. The Register shall adopt the determination of the arbitration panel unless the Register finds that the determination is arbitrary. If the Register rejects the determination of the arbitration panel, the Register shall, before the end of that 60-day period, and after full examination of the record created in the arbitration proceeding, issue an order setting the royalty fee or distribution of fees, as the case may be. The Register shall cause to be published in the Federal Register the determination of the arbitration panel, and the decision of the Register (including an order issued under the preceding sentence). The Register shall also publicize such determination and decision in such other manner as the Register considers appropriate. The Register shall also make the report of the arbitration panel and the accompanying record available for public inspection and copying.

"(f) Judicial Review.—Any decision of the Register of Copyrights under subsection (e) with respect to a determination of an arbitration panel may be appealed, by any aggrieved party who would be bound by the determination, to the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the publication of the decision in the Federal Register. The pendency of an appeal under this paragraph shall not relieve persons obligated to make royalty payments under sections 111, 119, or 1003 who would be affected by the determination on appeal to deposit the statement of account and royalty fees specified in those sections. The court shall have jurisdiction to modify or vacate a decision of the Register only if it finds, on the basis of the record before the Register, that the Register acted in an arbitrary manner. If the court modifies the decision of the Register, the court shall have jurisdiction to enter its own determination with respect to the amount or distribution of royalty fees and costs, to order the repayment of any excess fees, and to order the payment of any underpaid fees, and the interest pertaining respectively thereto, in accordance with its final judgment. The court may further vacate the decision of the arbitration panel and remand the case for arbitration proceedings in accordance with subsection (c).".

(c) Adjustment of Compulsory License Rates.—Section 803 of title 17, United States Code, is amended to read as follows:

"§803. Adjustment of compulsory license rates

"(a) Petitions.—In accordance with subsection (b), any owner or user of a copyrighted work whose royalty rates are specified by this title, or by a rate established by the Copyright Royalty Tribunal before the date of the enactment of the Copyright Reform Act of 1993, or by a copyright arbitration royalty panel after such date of enactment, may file a petition with the Register of Copyrights declaring that the petitioner requests an adjustment of the rate. The Register of Copyrights shall make a determination as to whether the petitioner has a significant interest in the royalty rate in which an adjustment is requested. If the Register determines that the petitioner has a significant interest, the Register shall cause notice of this determination, with the reasons therefor, to be published in the Federal Register, together with the notice of commencement of proceedings under this chapter. Except as provided in subsection (b)(1), the rates set by a copyright arbitration royalty panel shall attempt to reflect what the fair market value of the use would be in the absence of a compulsory license.

"(b) Types of Proceedings.—

"(1) Cable.—In making determinations concerning the adjustment of the copyright royalty rates in section 111, copyright arbitration royalty panels shall make their determinations only in accordance with the following provisions:

"(A) The rates established by section 111(d)(1)(B) may be adjusted to reflect national monetary inflation or deflation, or changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar level of the royalty fee per subscriber which existed on the date of the enactment of the Copyright Reform Act of 1993, except that—

"(i) if the average rates charged cable system subscribers for the basic service of providing secondary transmissions are changed so that the average rates exceed national monetary inflation, no change in the rates established by section 111(d)(1)(B) shall be permitted; and

"(ii) no increase in the royalty fee shall be permitted based on any reduction in the average number of distant signal equivalents per subscriber.

Copyright arbitration royalty panels may consider all factors relating to the maintenance of such level of payments including, as an extenuating factor, whether the cable industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmissions.

"(B) In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April

15, 1976, to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(1)(B) may be adjusted to ensure that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, a copyright arbitration royalty panel shall consider, among other factors, the economic impact on copyright owners and users, except that no adjustment in royalty rates shall be made under this subparagraph with respect to any distant signal equivalent or fraction thereof represented by—

"(i) carriage of any signal permitted under the rules and regulations of the Federal Communications Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal, or

"(ii) a television broadcast signal first carried after April 15, 1976, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976.

"(C) In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(1)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

"(D) The gross receipts limitations established by section 111(d)(1)(C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section; and the royalty rate specified in such section shall not be subject to adjustment.

"(E) With respect to proceedings under subparagraph (A) or (D), petitions under subsection (a) may be filed during 1995 and in each subsequent fifth calendar year.

"(F) With respect to proceedings under subparagraph (B) or (C), petitions under subsection (a) may be filed within 12 months after an event described in either such subsection. Any change in royalty rates made pursuant to subparagraph (B) or (C) may be reconsidered in 1995 and each fifth calendar year thereafter, in accordance with subparagraph (B) or (C), as the case may be.

"(2) PHONORECORDS.—With respect to proceedings to adjust the copyright royalty rates in section 115, petitions under subsection (a) may be filed in 1997 and in each subsequent tenth calendar year.

"(3) COIN-OPERATED PHONORECORD PLAYERS.—If a negotiated license authorized by section 116 is terminated or expires and is not replaced by another license agreement under such section, the Register of Copyrights shall, upon petition filed under subsection (a) within 1 year after such termination or expiration, convene a copyright arbitration royalty panel. The arbitration panel shall promptly establish an interim royalty rate or rates for the public performance by means of a coin-operated phonorecord player of non-dramatic musical works embodied in phonorecords which had been subject to the terminated or expired negotiated license agreement. Such rate or rates shall be the same as the last such rate or rates and shall remain in force until the conclusion of proceedings by the arbitration panel, in accordance with section 802, to adjust the royalty rates applicable to such works, or until superseded by a new negotiated license agreement, as provided in section 116(c).

"(4) NONCOMMERCIAL BROADCASTING.—A copyright arbitration royalty panel may commence proceedings to adjust the copyright royalty rates in section 118 as provided in that section.

"(5) DIGITAL AUDIO RECORDING.—The Register of Copyrights shall make adjustments to royalty payments under section 1004(a)(3) as provided in that section.".

(d) DISTRIBUTION OF COPYRIGHT ROYALTIES.—Section 804 of title 17, United States Code, is amended to read as follows:

"§ 804. Distribution of copyright royalties

"The distribution of royalties under this title shall be as provided in section 111(d)(4), 119(b)(4), and 1007.".

(e) REPEAL.—Sections 805 through 810 of title 17, United States Code, are repealed.

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 8 of title 17, United States Code, is amended to read as follows:

"Sec. 801. Copyright arbitration royalty panels: establishment and purpose.
"Sec. 802. Membership and proceedings of copyright arbitration royalty panels.
"Sec. 803. Adjustment of compulsory license rates.
"Sec. 804. Distribution of copyright royalties.".

SEC. 202. JUKEBOX LICENSES.

(a) REPEAL OF COMPULSORY LICENSE.—Section 116 of title 17, United States Code, and the item relating to section 116 in the table of sections at the beginning of chapter 1 of such title, are repealed.

(b) NEGOTIATED LICENSES.—(1) Section 116A of title 17, United States Code, is amended—

(A) by redesignating such section as section 116;

(B) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively;

(C) in subsection (b)(2) (as so redesignated) by striking "Copyright Royalty Tribunal" and inserting "Register of Copyrights";

(D) in subsection (c) (as so redesignated)—

(i) in the subsection caption by striking "ROYALTY TRIBUNAL" and inserting "ARBITRATION ROYALTY PANEL"; and

(ii) by striking "the Copyright Royalty Tribunal" and inserting "a copyright arbitration royalty panel"; and

(E) by striking subsections (e), (f), and (g).

(2) The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by striking "116A" and inserting "116".

SEC. 203. PUBLIC BROADCASTING COMPULSORY LICENSE.

Section 118 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) by striking the first 2 sentences;

(B) in the third sentence by striking "works specified by this subsection" and inserting "published nondramatic musical works and published pictorial, graphic, and sculptural works";

(C) in paragraph (1)—

(i) in the first sentence by striking ", within one hundred and twenty days after publication of the notice specified in this subsection,"; and

(ii) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Register of Copyrights";

(D) in paragraph (2) by striking "Tribunal" and inserting "Register of Copyrights";

(E) in paragraph (3)—

(i) by striking the first sentence and inserting the following: "In the absence of license agreements negotiated under paragraph (2), the Register of Copyrights shall, pursuant to section 803, convene a copyright arbitration royalty panel to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (2), shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether such copyright owners have submitted proposals to the Register of Copyrights.";

(ii) in the second sentence—

(I) by striking "Copyright Royalty Tribunal" and inserting "copyright arbitration royalty panel"; and

(II) by striking "clause (2) of this subsection" and inserting "paragraph (2)"; and

(iii) in the last sentence by striking "Copyright Royalty Tribunal" and inserting 'Register of Copyrights"; and

(F) by striking paragraph (4);

(2) by striking subsection (c); and

(3) in subsection (d)—

(A) by redesignating such subsection as subsection (c);

(B) by striking "to the transitional provisions of subsection (b)(4), and"; and

(C) by striking "Copyright Royalty Tribunal" and inserting "copyright arbitration royalty panel".

SEC. 204. SECONDARY TRANSMISSIONS BY SUPERSTATIONS AND NETWORK STATIONS FOR PRIVATE VIEWING.

Section 119 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking ", after consultation with the Copyright Royalty Tribunal," each place it appears;

(B) in paragraph (2) by striking "Copyright Royalty Tribunal" and inserting "Register of Copyrights";

(C) in paragraph (3) by striking "Copyright Royalty Tribunal" and inserting "Register of Copyrights"; and

(D) in paragraph (4)—

(i) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Register of Copyrights";

(ii) by striking "Tribunal" each place it appears and inserting "Register"; and

(iii) in subparagraph (C) by striking "conduct a proceeding" in the last sentence and inserting "convene a copyright arbitration royalty panel"; and

(2) by striking subsection (c) and inserting the following:

"(c) DETERMINATION OF ROYALTIES.—The royalty fee payable under subsection (b)(1)(B) shall be that established by the Copyright Royalty Tribunal on May 1, 1992, as corrected on May 18, 1992.".

SEC. 205. CONFORMING AMENDMENTS.

(a) CABLE COMPULSORY LICENSE.—Section 111(d) of title 17, United States Code, is amended as follows:

(1) Paragraph (1) is amended by striking ", after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted),".

(2) Paragraph (1)(A) is amended by striking ", after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted),".

(3) Paragraph (2) is amended by striking the second and third sentences and by inserting the following: "All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution by the Register in the event no controversy over distribution exists, or by a copyright arbitration royalty panel in the event a controversy over such distribution exists. The Register shall compile and publish on a semiannual basis, a compilation of all statements of account covering the relevant 6-month period provided by paragraph (1) of this subsection.".

(4) Paragraph (4)(A) is amended—

(A) by striking "Copyright Royalty Tribunal" and inserting "Register of Copyrights"; and

(B) by striking "Tribunal" and inserting "Register".

(5) Paragraph (4)(B) is amended to read as follows:

"(B) After the first day of August of each year, the Register of Copyrights shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Register determines that no such controversy exists, the Register shall, after deducting the Copyright Office's reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If the Register finds the existence of a controversy, the Register shall, pursuant to chapter 8 of this title, convene a copyright arbitration royalty panel to determine the distribution of royalty fees.".

(6) Paragraph (4)(C) is amended by striking "Copyright Royalty Tribunal" and inserting "Register of Copyrights".

(b) AUDIO HOME RECORDING ACT.—

(1) ROYALTY PAYMENTS.—Section 1004(a)(3) of title 17, United States Code, is amended—

(A) by striking "Copyright Royalty Tribunal" and inserting "Register of Copyrights"; and

(B) by striking "Tribunal" and inserting "Register".

(2) DEPOSIT OF ROYALTY PAYMENTS.—Section 1005 of title 17, United States Code, is amended by striking the last sentence.

(3) ENTITLEMENT TO ROYALTY PAYMENTS.—Section 1006(c) of title 17, United States Code, is amended by striking "Copyright Royalty Tribunal" and inserting "Register of Copyrights shall convene a copyright arbitration royalty panel which".

(4) PROCEDURES FOR DISTRIBUTING ROYALTY PAYMENTS.—Section 1007 of title 17, United States Code, is amended—

(A) in subsection (a)(1) by striking "Copyright Royalty Tribunal" and inserting "Register of Copyrights";

(B) in subsection (b)—

(i) by striking "Copyright Royalty Tribunal" and inserting "Register of Copyrights"; and

(ii) by striking "Tribunal" each place it appears and inserting "Register"; and

(C) in subsection (c)—

(i) by striking the first sentence and inserting "If the Register finds the existence of a controversy, the Register shall, pursuant to chapter 8 of this title, convene a copyright arbitration royalty panel to determine the distribution of royalty payments."; and

(ii) by striking "Tribunal" each place it appears and inserting "Register".

(5) ARBITRATION OF CERTAIN DISPUTES.—Section 1010 of title 17, United States Code, is amended—

(A) in subsection (b)—

(i) by striking "Copyright Royalty Tribunal" and inserting "Register of Copyrights"; and

(ii) by striking "Tribunal" each place it appears and inserting "Register";

(B) in subsection (e) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Register of Copyrights";

(C) in subsection (f)—

(i) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Register of Copyrights";

(iii) by striking "Tribunal" each place it appears and inserting "Register"; and

(iii) in the third sentence by striking "its" and inserting "the Register's"; and

(D) in subsection (g)—

(i) by striking "Copyright Royalty Tribunal" and inserting "Register of Copyrights"; and

(ii) by striking "Tribunal" each place it appears and inserting "Register".

TITLE III—GENERAL PROVISIONS

SEC. 301. EFFECTIVE DATE.

(a) TITLE I.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by title I take effect on the date of the enactment of this Act.

(2) SECTION 103.—The amendments made by section 103 take effect on January 1, 1994.

(b) TITLE II.—The amendments made by title II take effect on January 1, 1994.

(c) EFFECTIVENESS OF EXISTING RATES AND DISTRIBUTIONS.—All royalty rates and all determinations with respect to the proportionate division of compulsory license fees among copyright claimants, whether made by the Copyright Royalty Tribunal, or by voluntary agreement, before the effective date set forth in subsection (b) shall remain in effect until modified by voluntary agreement or pursuant to the amendments made by this Act.

Mr. HATCH. Mr. President, I am pleased to join my colleague from Arizona, Senator DECONCINI, chairman of the Subcommittee on Patents, Copyrights and Trademarks, in jointly introducing in the Senate the Copyright Reform Act of 1993.

Earlier today, Representative HUGHES, the chairman of the House Subcommittee on Intellectual Property and the Administration of Justice, introduced similar legislation in the House of Representatives. These bills respond to a number of concerns that have become apparent in recent years relating to the functioning of the Copyright Royalty Tribunal and the need for updating and streamlining the Copyright Act.

The copyright industry in America is one of our true success stories, both at home and abroad. When one considers the vast scope of the intellectual property products that are secured by copyright—including motion pictures, music, books, computer software, works of fine art, and sound recordings—and the place of those industries in our economy, the importance of today's bill should become readily apparent.

Similarly, the Copyright Office, America's experts on copyright law, enjoys a unique and special place in our Government. It has historically been located within the Library of Congress and is a division of the legislative branch. Many of its functions, however, are of the sort that are usually performed by executive branch agencies such as the Patent and Trademark Office.

But the location of the Copyright Office in the Library of Congress has more than simple history to recommend it. These two organizations have an inherently close relationship that derives from the basic similarity in their missions: Both are charged with preserving and fostering creative expression in whatever form it may take. And the practical benefits that have traditionally flowed from this close relationship, such as the use of the copyright deposit requirement to enrich the holdings of the Library, are valuable and worth preserving.

Still, with the growing importance of copyright law in American and world affairs, it is time that the important position of Register of Copyrights be enhanced in status by being established as a full Presidential appointment, with all of the powers and responsibilities that flow from such an appointment. This bill makes that change in the law. This change will enhance the power and prestige of the Register's office, and that should redound to the benefit of its current occupant and all future incumbents in that office.

This bill also moves our copyright law to the next logical step along the path of harmonizing our system of copyright registration with the worldwide standard of formality-free copyright protection. It does this by eliminating the requirement in section 411 that formal registration is a prerequisite to maintaining an infringement action in U.S. courts. That is already the standard for many foreign copyright holders. Eliminating this distinction that worked against the interests of American copyright holders is sensible and overdue.

Since its creation in the late 1970's, the Copyright Royalty Tribunal has performed the important function of making certain complicated and involved royalty fee distributions as mandated by statute. It has performed this task well. However, questions have arisen as to whether the maintenance of a full-fledged permanent agency is necessary to the performance of this task.

In the 101st Congress, we reduced the size of the Tribunal from five commissioners to three. Title II of the bill we are filing today would dismantle the Tribunal as a permanent agency. In its place is established a system by which the Register of Copyrights is authorized to appoint and convene ad hoc arbitration royalty panels when and as needed. I believe that this is a far more efficient way to handle the problem of statutorily mandated distributions.

Mr. President, these are the principal changes in copyright law that are included in the Copyright Reform Act of 1993. I believe that they are necessary changes which will enhance the value and effectiveness of copyright as an author's and creator's fundamental right. I further hope that, when enacted, the Copyright Reform Act of 1993, will allow the Copyright Office to continue to perform the excellent work that we in Congress have come to expect from it, as well as to allow those creators and proprietors who rely on copyright law generally to have a law in place that is fully responsive to their needs.

By Mr. NICKLES (for himself and Mr. BOREN):

S. 374. A bill to amend the Internal Revenue Code of 1986 to provide incentives for domestic oil and natural gas exploration and production, and for other purposes; to the Committee on Finance.

ENERGY INDEPENDENCE, INFRASTRUCTURE AND INVESTMENT ACT OF 1993

• Mr. NICKLES. Mr. President, last night President Clinton spoke to the American people concerning the economic package that he will be detailing tomorrow night before Congress. In his statement, he mentioned that he will ask Congress to pass a broad-based energy tax. I am opposed to any such tax. Taxes on our domestic energy sources are bad for the economy, bad for Oklahoma, and bad for America. Increased taxes are not the answer to reducing our country's deficit. The President and Congress first need to significantly reduce Government spending before, if ever, asking Americans to give up more of their hard-earned income.

Imposing taxes on domestic energy are not the answer to our country's deficit problems. Nor do they reduce America's addiction to foreign oil. The bill I am introducing today, along with Senator BOREN, will not only provide revenues that can be used for deficit reduction, but will reduce our dependence on foreign oil as well as provide incentives to fully recover proven domestic reserves.

Today, the U.S. petroleum industry's drilling infrastructure is in imminent danger of collapse. The domestic producer operates in a country founded on free market principles, yet they find themselves as price-takers for their commodity. The market price is determined by nondomestic producers who seem intent on keeping the United States flooded with their imported oil and driving U.S. producers into extinction.

Because of the lack of a reliable and economical price at which domestic producers can sell their oil, and due to ever increasing costs, our country's explorers and producers cannot plan or afford new drilling activities. Domestic producers are forced into business decisions between operating wells at a loss or abandoning their production. Once a producing well has been plugged and abandoned the petroleum reservoir can no longer be used to produce oil or natural gas. This further aggravates our country's dependency on foreign oil. And low prices further erode our country's decaying drilling infrastructure. Unless we act now we will lose another 20,000 domestic wells, and 20 million barrels of production this year alone. Soon this country could have no domestic drilling infrastructure; we will be completely at the mercy of foreign producers for our petroleum energy needs.

The bill I am introducing today addresses this problem by providing for a floor price on imported oil. It establishes a $25 floor price for crude oil and a $28 floor price for petroleum products. The fee is based on the difference between the $25 floor and the weighted average international price for the preceding 4 weeks. This floor price will provide domestic producers a secure price upon which to obtain financing for continued domestic petroleum exploration activities, which are nearing all time low levels. Also, a $25 floor price would raise approximately $35 billion in federal revenues in the next 3 years, reduce consumption by an estimated 200,000 barrels per day, increase production by 300,000 barrels per day, and reduce oil imports by 500,000 barrels per day.

Currently 77 percent of this country's producing oil and natural gas wells are considered low volume, or stripper, wells. These are not wells that have been fully depleted of their reserves. Stripper wells are those properties which are no longer economic to produce due to the high costs of production and low wellhead prices. These wells comprise 15 percent of our Nation's proved petroleum reserves. Low volume wells provide more than 1 million out of the 7 million barrel total daily production.

Over the last 10 years 130,000 of these low volume producing wells have been abandoned. Once abandoned the property's proven petroleum reserves are permanently lost from further production. The Department of Energy projects that if current trends continue another 5.7 billion barrels of proved reserves will be lost due to abandonment in the next 2 years. Along with the lost production are lost jobs, and lost tax revenues from severance taxes, employment taxes, and income taxes. We must act today to prevent the loss of these revenues and stem the tide of growing more energy dependent on foreign suppliers.

Every barrel of domestic oil lost due to early abandonment of low volume wells means another barrel of imported oil. This Nation currently imports 46 percent of its petroleum needs. The costs of oil and natural gas production continues to rise, as they naturally do from inflationary forces. There is no commensurate rise in the sales price, due to the lack of a free market determining price. Producers are forced to abandon their low volume wells and either go out of business or take on risks by drilling new prospects to replace the lost production. It is shortsighted domestic energy security policy to allow producers to abandon their domestic reserves in favor of foreign oil.

The bill I am introducing will keep these marginally economic low volume wells producing energy by giving producers encouragement to operate their properties until the proved reserve is fully recovered. This will be accomplished by removing the net income limitation from the percentage depletion calculation. This will allow a producer the production related tax deduction intended by Congress, and will postpone the decision to abandon the property until full recovery of its proved reserve. This will provide the producer the needed funds to replace the fully depleted reserves with new domestic properties. The bill also provides an increase in the maximum rate of depletion for low volume wells. The maximum depletion rate provided in this bill is established at 27.5 percent and is subject to decrease to its current 15 percent rate if oil prices rise above $28 per barrel.

To encourage the domestic petroleum exploration industry and help rebuild the decaying petroleum drilling infrastructure, the bill provides an exploration and drilling credit. This will act to put many of the 400,000 Americans who have lost their petroleum related jobs in the last 10 years back to work in the search, and drilling for domestic reserves. The bill provides a 20-percent tax credit on the first $1 million of investment—10 percent for expenditures greater than $1 million—in qualified geological and geophysical costs, and drilling costs expended in the search for domestic reserves.

As an additional encouragement to continue producing from low volume wells, this bill provides a 20-percent tax credit for qualified production expenditures incurred in stripper well production. The credit would be available to any low volume well, other than those currently qualified under current law production credit provisions, for lease operating, and severance tax expenditures.

Many domestic low volume wells are older wells which have lost their natural production drives, which are the geologic forces which help lift the oil or natural gas to the surface. These wells could be returned to economic production through expensive reworking processes known as secondary or tertiary recovery projects. By applying these geological technologies, a producer can more fully deplete a known and proven reserve and achieve desired national energy independence and environmental goals. The validity of tax policies providing such incentives has already been established, as evidenced by the current law allowance of a 15 percent credit for certain tertiary recovery projects. This bill expands the definition of qualified recovery projects to the secondary recovery projects performed by independent producers. The expanded definition includes horizontal drilling technologies.

Nearly all domestic production is high cost production, either because it is produced from remote regions of the country, or due to the deep production geology. The current statutory definition of a stripper well is an oil or natural gas well which produces less than 15 barrels of oil or natural gas equivalent per day. There are wells which produce amounts of oil and natural gas which are not productive at current lifting costs and oil prices. This bill expands the definition of stripper well to those wells producing up to 25 barrels of oil or natural gas equivalent per day.

This bill also encourages domestic exploration activity by adding certainty to the recovery of geological and geophysical costs by providing a 60-month amortization of costs incurred in the determination of the location or existence of new domestic reserves.

The domestic petroleum industry has always been, and continues to be, a good environmental steward. Many of the environmental protection costs incurred by these producers, as well as those in other industries, are penalized by unfavorable capital cost recovery treatment in the alternative minimum tax rules. This bill provides an exemption from alternative minimum tax for tangible, depreciable property which is placed in service for the protection, or the improvement of the environment.

These provisions are vital to the survival of this country's petroleum exploration and production industry. This country cannot afford to allow the continued erosion in its ability to fully produce and find new domestic reserves of oil and natural gas. The cost of not keeping our petroleum industry alive is much greater than the costs of becoming fully dependent on foreign oil.

With the apparent imminent imposition of a broad-based energy tax on the American public, it becomes even more critical that the provisions in this bill are enacted. We must preserve what is left of our domestic energy industry if we are ever to achieve our national goal of energy independence. The existence and survival of domestic producers is critical to all Americans. This bill will provide the needed stability and incentives to keep domestic producers producing. The sooner it is enacted, the better.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Energy Independence, Infrastructure, and Investment Act of 1993".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—ENERGY INDEPENDENCE INCENTIVES

SEC. 101. FEE ON IMPORTED CRUDE OIL AND REFINED PETROLEUM PRODUCTS.

(a) IN GENERAL.—Subtitle E (relating to alcohol, tobacco, and certain other excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 55—IMPORTED CRUDE OIL AND REFINED PETROLEUM PRODUCTS

"Sec. 5891. Imposition of tax.
"Sec. 5892. Definitions.
"Sec. 5893. Registration.
"Sec. 5894. Procedures; returns; penalties.
"Sec. 5895. Adjustment for inflation.

"SEC. 5891. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—In addition to any other tax imposed under this title, an excise tax is hereby imposed on—

"(1) the first sale within the United States of each barrel (or its equivalent) of—

"(A) any crude oil, or

"(B) any refined petroleum product,

that has been imported into the United States, and

"(2) the use within the United States of each barrel (or its equivalent) of—

"(A) any crude oil, or

"(B) any refined petroleum product,

that has been imported into the United States if no tax has been imposed with respect to such crude oil or refined petroleum product prior to such use.

"(b) RATE OF TAX.—

"(1) CRUDE OIL.—For purposes of paragraphs (1)(A) and (2)(A) of subsection (a) the rate of tax on any barrel (or its equivalent) shall be the excess, if any, of—

"(A) $25, over

"(B) the energy policy price per barrel of crude oil.

"(2) REFINED PETROLEUM PRODUCT.—For purposes of paragraphs (1)(B) and (2)(B) of subsection (a), the rate of tax on any barrel (or its equivalent) shall be equal to—

"(A) $3, plus

"(B) the tax determined under paragraph (1) of this subsection.

"(3) FRACTIONAL PARTS OF BARRELS.—In the case of a fraction of a barrel, the tax imposed by subsection (a) shall be the same fraction of the amount of such tax imposed on the whole barrel.

"(c) DETERMINATION OF ENERGY POLICY PRICE.—

"(1) IN GENERAL.—For purposes of this section, the energy policy price with respect to any week during which the tax under subsection (a) is imposed shall be determined by the Secretary and published in the Federal Register on the first day of such week.

"(2) BASIS OF DETERMINATION.—For purposes of paragraph (1), the energy policy price for any week is the weighted average international price of a barrel of crude oil for the preceding 4 weeks as determined by the Secretary, after consultation with the Administrator of the Energy Information Administration of the Department of Energy, pursuant to the formula for determining such international price as used in publishing the Weekly Petroleum Status Report and as in effect on the date of the enactment of this section.

"(d) LIABILITY FOR PAYMENT OF TAX.—

"(1) SALES.—The taxes imposed by subsection (a)(1) shall be paid by the first person who sells the crude oil or refined petroleum product within the United States.

"(2) USE.—The taxes imposed by subsection (a)(2) shall be paid by the person who uses the crude oil or refined petroleum product.

"(3) TAX-FREE EXPORTS.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this chapter on the sale of crude oil or refined petroleum product for export or for resale by the purchaser to a second purchaser for export.

"(B) PROOF OF EXPORT.—Where any crude oil or refined petroleum product has been sold free of tax under subparagraph (A), such subparagraph shall cease to apply with respect to the sale of such crude oil or refined petroleum product, unless, within the 6-month period which begins on the date of the sale, the seller receives proof that the crude oil or refined petroleum product has been exported.

"SEC. 5892. DEFINITIONS.

"For purposes of this chapter—

"(1) CRUDE OIL.—The term 'crude oil' means crude oil other than crude oil produced from a well located in the United States (within the meaning of section 638(2)) or a possession of the United States.

"(2) BARREL.—The term 'barrel' means 42 United States gallons.

"(3) REFINED PETROLEUM PRODUCT.—The term 'refined petroleum product' shall have the same meaning given to such term by section 3(5) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 752(5)).

"(4) EXPORT.—The term 'export' includes shipment to a possession of the United States; and the term 'exported' includes shipment to a possession of the United States.

"SEC. 5893. REGISTRATION.

"Every person subject to tax under section 5891 shall, before incurring any liability for tax under such section, register with the Secretary.

"SEC. 5894. PROCEDURES; RETURNS; PENALTIES.

"For purposes of this title, the tax imposed by section 5891 shall be treated in the same manner as the tax imposed by section 4986 (as in effect before its repeal).

"SEC. 5890. ADJUSTMENT FOR INFLATION.

"In the case of any calendar year beginning after 1993, the dollar amount referred to in section 5886(b)(1)(A) and section 5886(b)(2)(A) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof."

(b) CONFORMING AMENDMENT.—The table of chapters for subtitle E is amended by adding at the end thereof the following new item:

"Chapter 55. Imported crude oil and refined petroleum products."

(c) DEDUCTIBILITY OF IMPORTED OIL TAX.—The first sentence of section 164(a) (relating to deductions for taxes) is amended by inserting after paragraph (5) the following new paragraph:

"(6) The imported oil taxes imposed by section 5891."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to sales and use of imported crude oil or refined petroleum products on or after the date of the enactment of this Act.

TITLE II—INFRASTRUCTURE INCENTIVES

SEC. 201. INCREASE IN PERCENTAGE DEPLETION FOR STRIPPER WELLS.

(a) IN GENERAL.—Subparagraph (C) of section 613A(c)(6) (relating to oil and natural gas produced from marginal properties) is amended—

(1) by striking "25 percent" and inserting "27.5 percent" in the matter preceding clause (i), and

(2) by striking "$20" and inserting "$28" in clause (ii).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 202. NET INCOME LIMITATION ON PERCENTAGE DEPLETION REPEALED FOR OIL AND GAS PROPERTIES.

(a) IN GENERAL.—Section 613(a) (relating to percentage depletion) is amended by striking the second sentence and inserting: "Except in the case of oil and gas properties, such allowance shall not exceed 50 percent of the taxpayer's taxable income from the property (computed without allowances for depletion)."

(b) CONFORMING AMENDMENT.—Section 613A(c)(7) (relating to special rules) is amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 203. CRUDE OIL AND NATURAL GAS EXPLORATION AND DEVELOPMENT CREDIT.

(a) CRUDE OIL AND NATURAL GAS EXPLORATION AND DEVELOPMENT CREDIT.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding the following new section:

"SEC. 30A. CRUDE OIL AND NATURAL GAS EXPLORATION AND DEVELOPMENT CREDIT.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 20 percent of so much of the taxpayer's qualified investment for the taxable year as does not exceed $1,000,000, plus

"(2) 10 percent of so much of such qualified investment for the taxable year as exceeds $1,000,000.

"(b) QUALIFIED INVESTMENT.—For purposes of this section, the term 'qualified investment' means amounts paid or incurred—

"(1) for geological and geophysical expenditures incurred for the purpose of ascertaining the existence, location, extent, or quality of any crude oil or natural gas deposit, including core testing and drilling test wells,

"(2) for the purpose of drilling and equipping crude oil and natural gas wells (including pollution control equipment used in connection with such wells), or

"(3) for the purpose of performing secondary or tertiary recovery techniques,

on properties located in the United States or in a possession of the United States as defined in section 638 (relating to Continental Shelf areas), but only to the extent that the expenditure is not a qualified cost under section 30B.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) LIABILITY FOR TAX.—The credit allowable under subsection (a) for any taxable year shall not exceed—

"(A) the sum of—

"(i) the taxpayer's minimum tax liability under section 55(a) for such taxable year, plus

"(ii) the taxpayer's regular tax liability for such taxable year (as defined in section 26(b)), over

"(B) the sum of the credits allowable against the taxpayer's regular tax liability under subparts A and D of this part and sections 27, 28, 29, and 30.

"(2) CARRYBACK AND CARRYFORWARD OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the amount of the credit allowed under subsection (a) for any taxable year exceeds the limitation under paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(i) an oil and gas exploration and development credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(ii) an oil and gas exploration and development credit carryforward to each of the 15 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit under subsection (a) for such years. If any portion of such excess is a carryback to a taxable year beginning on or before the date of the enactment of this section, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit shall be carried to the earliest of the 18 taxable years to which such credit may be carried, and then to each of the other 17 taxable years to the extent that, because of the limitation contained in paragraph (1), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATIONS.—The amount of the unused credit which may be taken into account under subparagraph (A) for any succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under subsection (a) for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION OF QUALIFIED INVESTMENT EXPENSES.—

"(A) CONTROLLED GROUPS; COMMON CONTROL.—In determining the amount of the credit under this section, all members of the same controlled group of corporations (within the meaning of section 52(a)) and all persons under common control (within the meaning of section 52(b)) shall be treated as a single taxpayer for purposes of this section.

"(B) APPORTIONMENT OF CREDIT.—The credit (if any) allowable by this section to members of any group (or to any person) described in subparagraph (A) shall be such member's or person's proportionate share of the qualified investment expenses giving rise to the credit determined under regulations prescribed by the Secretary.

"(2) PARTNERSHIPS, S CORPORATIONS, ESTATES AND TRUSTS.—

"(A) PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership, the credit shall be allocated among partners under regulations prescribed by the Secretary. A similar rule shall apply in the case of an S corporation and its shareholders.

"(B) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) ADJUSTMENTS FOR CERTAIN ACQUISITIONS AND DISPOSITIONS.—Under regulations prescribed by the Secretary, rules similar to the rules contained in section 41(f)(3) shall apply with respect to the acquisition or disposition of a taxpayer.

"(4) SHORT TAXABLE YEARS.—In the case of any short taxable year, qualified investment expenses shall be annualized in such circumstances and under such methods as the Secretary may prescribe by regulation.

"(5) DENIAL OF DOUBLE BENEFIT.—

"(A) DISALLOWANCE OF DEDUCTION.—Any deduction allowable under this chapter for any costs taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such costs.

"(B) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is determined under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditures shall be reduced by the amount of the credit so allowed."

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 30A. Crude oil and natural gas exploration and development credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after the date of enactment of this Act in taxable years ending after such date.

SEC. 204. MARGINAL PRODUCTION CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by section 203(a), is amended by adding the following new section:

"SEC. 30B. MARGINAL PRODUCTION CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year to the producer of eligible crude oil or eligible natural gas an amount equal to 20 percent of the qualified cost of each barrel of such oil or each barrel-of-oil equivalent of such gas (or fractional part thereof) produced during the taxable year.

"(b) QUALIFIED COST.—For purposes of this section, the term 'qualified cost' means, with respect to each barrel of eligible crude oil or each barrel-of-oil equivalent of eligible natural gas, the sum of—

"(1) such barrel's or barrel-of-oil equivalent's pro rata share of the lease operating expenses (other than business overhead expenses) paid or incurred by the producer of such barrel or barrel-of-oil equivalent during the taxable year in which such barrel or barrel-of-oil equivalent was produced, plus

"(2) the amount of severance tax paid or incurred by such producer with respect to such barrel or barrel-of-oil equivalent.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE CRUDE OIL.—The term 'eligible crude oil' means domestic crude oil which is—

"(A) from a stripper well property,

"(B) heavy oil,

"(C) oil recovered through a tertiary recovery method, or

"(D) harsh environment oil.

"(2) ELIGIBLE NATURAL GAS.—The term 'eligible natural gas' means gas, other than gas qualifying for the credit under section 29, which is—

"(A) from a stripper well property, or

"(B) natural gas recovered through a tertiary recovery method.

"(3) OTHER DEFINITIONS.—

"(A) CRUDE OIL.—The term 'crude oil' has the meaning given to such term by the June 1979 energy regulations.

"(B) BARREL.—The term 'barrel' means 42 United States gallons.

"(C) BARREL-OF-OIL EQUIVALENT.—The term 'barrel-of-oil equivalent' with respect to any natural gas means that amount of such natural gas which has a Btu content of 5.8 million.

"(D) DOMESTIC.—The term 'domestic' when used with respect to crude oil, means crude oil produced from a property located in the United States or a possession of the United States.

"(E) UNITED STATES.—The term 'United States' has the meaning given to such term by paragraph (1) of section 638 (relating to Continental Shelf areas).

"(F) POSSESSION OF THE UNITED STATES.—The term 'possession of the United States' has the meaning given to such term by paragraph (2) of section 638.

"(G) STRIPPER WELL PROPERTY.—The term 'stripper well property' has the meaning given to such term by subparagraph (E) of section 613A(c)(6).

"(H) PROPERTY.—The term 'property' means property as defined in section 614.

"(I) HEAVY OIL.—The term 'heavy oil' means all crude oil which is produced from a property if crude oil produced and sold from such property during—

"(i) the last month before July 1979 in which crude oil was produced and sold from such property, or

"(ii) the taxable year had a weighted average gravity of 20 degrees API or less (corrected to 60 degrees Fahrenheit).

"(J) TERTIARY RECOVERY METHOD.—The term 'tertiary recovery method' means—

"(i) any method which is described in subparagraphs (1) through (9) of section 212.78(c) of the October 1979 energy regulations, or

"(ii) any other method to provide tertiary enhanced recovery (including steam generation) which is approved by the Secretary for purposes of this section.

"(K) HARSH ENVIRONMENT OIL.—The term 'harsh environment oil' means oil produced from a property located north of the 49th parallel or under at least 400 feet of water.

"(L) SEVERANCE TAX.—The term 'severance tax' means a tax imposed by a State or political subdivision thereof with respect to the extraction of crude oil.

"(M) ENERGY REGULATIONS.—

"(i) IN GENERAL.—The term 'energy regulations' means regulations prescribed under section 4(a) of the Energy Petroleum Allocation Act of 1973 (15 U.S.C. 753(a)).

"(ii) JUNE 1979 ENERGY REGULATIONS.—The June 1979 energy regulations shall be the terms of the energy regulations as such terms existed on June 1, 1979.

"(iii) OCTOBER 1979 ENERGY REGULATIONS.—The October 1979 Energy Regulations shall be the terms of the energy regulations as such terms existed on October 30, 1979.

"(iv) CONTINUED APPLICATION OF REGULATIONS AFTER DECONTROL.—Energy regulations shall be treated as continuing in effect without regard to decontrol of oil prices or any other termination of the application of such regulations.

"(d) SPECIAL RULE FOR OFFSHORE WELLS.—In the case of eligible crude oil or eligible natural gas produced from a property located under at least 400 feet (but less than 1,200 feet) of water, the percentage determined under the following table shall be substituted for '20 percent' in subsection (a):

"If distance (in feet) of the property under water is—		The percentage is—
At least	But less than	
400	600	5
600	900	10
900	1,200	15

"(e) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) LIABILITY FOR TAX.—The credit allowable under subsection (a) for any taxable year shall not exceed—

"(A) the sum of—

"(i) the taxpayer's minimum tax liability under section 55(a) for such taxable year, plus

"(ii) the taxpayer's regular tax liability for such taxable year (as defined in section 26(b)), over

"(B) the sum of the credits allowable against the taxpayer's regular tax liability under subparts A and D of this part and sections 27, 28, 29, 30, and 30A.

"(2) CARRYBACK AND CARRYFORWARD OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the amount of the credit allowed under subsection (a) for any taxable year exceeds the limitation under paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(i) an oil and gas production credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(ii) an oil and gas production credit carryforward to each of the 15 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit under subsection (a) for such years. If any portion of such excess is a carryback to a taxable year beginning on or before the date of the enactment of this section, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit shall be carried to the earliest of the 18 taxable years to which such credit may be carried, and then to each of the other 17 taxable years to the extent that, because of the limitation contained in paragraph (1), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATIONS.—The amount of the unused credit which may be taken into account under subparagraph (A) for any succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under subsection (a) for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year."

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by section 203(b), is amended by adding at the end thereof the following new item:

"Sec. 30B. Marginal production credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after the date of enactment of this Act in taxable years ending after such date.

SEC. 205. EXPANSION OF ENHANCED OIL RECOVERY CREDIT.

(a) IN GENERAL.—Section 43(a) (relating to enhanced oil recovery credit) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of section 38, the enhanced oil recovery credit for any taxable year is an amount equal to—

"(1) 15 percent of the taxpayer's qualified enhanced oil recovery costs for such taxable year, plus

"(2) in the case of a taxpayer (other than an integrated oil company as defined in section 291(b)(4)), 15 percent of the taxpayer's advanced secondary recovery costs for such taxable year."

(b) ADVANCED SECONDARY RECOVERY COSTS, ETC.—Section 43(c) (defining qualified enhanced oil recovery costs) is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) ADVANCED SECONDARY RECOVERY COSTS.—

"(A) IN GENERAL.—The term 'advanced secondary recovery costs' means any of the following:

"(i) Any amount paid or incurred during the taxable year for tangible property—

"(I) which is an integral part of a qualified advanced secondary recovery project, and

"(II) with respect to which depreciation (or amortization in lieu of depreciation) is allowable under this chapter.

"(ii) Any intangible drilling and development costs—

"(I) which are paid or incurred in connection with a qualified advanced secondary recovery project, and

"(II) with respect to which the taxpayer may make an election under section 263(c) for the taxable year.

"(iii) Any qualified secondary advanced injectant expenses which are paid or incurred in connection with a qualified advanced secondary recovery project.

"(B) QUALIFIED ADVANCED SECONDARY RECOVERY PROJECT.—The term 'qualified advanced secondary recovery project' means any project which meets the requirements of subparagraph (C) and which involves 1 of the following advanced secondary recovery methods:

"(i) A method which is used to produce unrecovered oil which remains in a reservoir after conventional production because of heterogeneity and mobility differences between oil and water.

"(ii) A reservoir characterization technique which pinpoints the location of new well sites without regard to traditional spacing requirements (including advanced well logging, advanced geophysical detection technologies, advanced geocellular reservoir computer modeling, and precision drilling).

"(iii) A drilling method in which the wellbore is deviated from the vertical by a short- or long-range radius technique at a direction parallel to the bedding plane.

"(iv) Any other advanced secondary recovery method approved by the Secretary for purposes of this section.

"(C) REQUIREMENTS FOR QUALIFIED ADVANCED SECONDARY RECOVERY PROJECT.—

"(i) IN GENERAL.—A project meets the requirements of a qualified advanced secondary recovery project if—

"(I) such project involves the application (in accordance with sound engineering principles) of 1 or more advanced secondary recovery methods which can reasonably be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered,

"(II) such project is located within the United States (within the meaning of section 638(1)), and

"(III) such project commences after December 31, 1992.

"(ii) CERTIFICATION.—A project shall not be treated as a qualified advanced secondary recovery project unless the operator submits to the Secretary (at such times and in such manner as the Secretary provides) a certification from a petroleum engineer that the project meets (and continues to meet) the requirements of clause (i)."

(c) NO DOUBLE CERTIFICATION.—Section 43(c), as amended by subsection (b), is amended by adding at the end thereof the following new paragraph:

"(6) ONLY 1 CERTIFICATION ALLOWED.—For purposes of this section, the term 'qualified enhanced oil recovery project' shall not include any project which is certified as a qualified advanced secondary recovery project under paragraph (3) and the term 'qualified advanced secondary recovery project' shall not include any project which is certified as an enhanced oil recovery project under paragraph (2)."

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (4) of section 43(c), as redesignated, is amended by inserting "and qualified advanced secondary recovery costs" after "qualified enhanced oil recovery costs".

(2) The heading for subsection (c) of section 43 is amended by inserting "AND QUALIFIED ADVANCED SECONDARY RECOVERY COSTS" after "COSTS".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1992.

(2) EXPANSION OF PROJECTS.—For purposes of section 43(c)(3)(C)(i)(III) of the Internal Revenue Code of 1986 (as added by subsection (b)), any significant expansion after December 31, 1992, of a project begun before January 1, 1993, shall be treated as a project which commences after December 31, 1992.

SEC. 206. EXPANSION OF STRIPPER WELL DEFINITION.

(a) IN GENERAL.—Clause (i) of section 613A(c)(6)(E) (defining stripper well property) is amended by striking "15" and inserting "25".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred after the date of enactment of this Act in taxable years ending after such date.

TITLE III—INVESTMENT INCENTIVES

SEC. 301. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL COSTS.

(a) IN GENERAL.—Section 263 (relating to capital expenditures) is amended by adding at the end the following new subsection:

"(j) SPECIAL RULE FOR CERTAIN GEOLOGICAL AND GEOPHYSICAL COSTS.—Geological and geophysical costs for the purpose of ascertaining the existence, location, extent, or quality of any deposit of oil or gas within the United States (within the meaning of section 638(1)) or a possession of the United States (within the meaning of section 638(2)) shall be allowed as a deduction ratably over the 5-year period beginning with the taxable year in which such costs were paid or incurred."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to costs paid or incurred after the date of the enactment of this Act in taxable years ending after such date.

SEC. 302. DEPRECIATION ADJUSTMENTS NOT TO APPLY TO ENVIRONMENTAL PROPERTY.

(a) IN GENERAL.—Subparagraph (B) of section 56(a)(1) (relating to depreciation adjustments) is amended to read as follows:

"(B) EXCEPTION.—With respect to any oil or gas producer, this paragraph shall not apply to—

"(i) property described in paragraph (1), (2), (3), or (4) of section 168(f), or

"(ii) environmental improvement assets (as defined in section 59(k))."

(b) ENVIRONMENTAL IMPROVEMENT ASSETS.—Section 59 (relating to definition and special rules) is amended by adding at the end the following new subsection:

"(k) ENVIRONMENTAL IMPROVEMENT ASSETS.—

"(1) IN GENERAL.—For purposes of section 56(a)(1)(B)(ii), the term 'environmental improvement asset' means tangible property which is—

"(A) of a character subject to the allowance for depreciation provided in section 167 or is nondepreciable real property;

"(B) used for, or is functionally related to property used for, one or more of the following purposes—

"(i) source reduction,

"(ii) solid waste minimization,

"(iii) waste conversion or recycling,

"(iv) reduction of environmental hazards,

"(v) compliance with environmental permits, rules, and similar requirements,

"(vi) prevention, containment or control of unplanned releases, or

"(vii) the manufacture, distribution and sale of alternate fuels and blending stocks or fuel additives for reformulated fuels, and

"(C) located and used exclusively in the United States during the taxable year.

If only a portion of property described in subparagraphs (A) and (C) is described in subparagraph (B), such portion shall be treated as an environmental improvement asset.

"(2) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) SOURCE REDUCTION.—The term 'source reduction' means reduction of the amount of regulated substances or other pollutants from fixed or mobile sources released into the environment if such reduction reduces hazards to public health or environment.

"(B) WASTE MINIMIZATION.—The term 'waste minimization' means the reduction in the generation of, or the recovery of commercially usable products from, residual materials which are classified as, or which if disposed would be classified as, solid wastes (within the meaning of the Resource Conservation and Recovery Act).

"(C) WASTE CONVERSION OR RECYCLING.—The term 'waste conversion or recycling' means the processing or conversion of liquid, solid, or gaseous wastes into fuel, energy, or other commercially usable products, and the production of such products if production occurs at the same facility as the conversion.

"(D) ABATEMENT OF ENVIRONMENTAL HAZARDS.—The term 'abatement of environmental hazards' includes the abatement, reduction, monitoring, or stabilization of potential human exposure to toxic chemicals, hazardous or extremely hazardous substances, or harmful radiation.

"(E) UNPLANNED RELEASES.—The term 'unplanned releases' means any release of regulated substances (except federally permitted releases), including indoor releases.

"(F) REGULATED SUBSTANCE.—The term 'regulated substance' includes any substance the release or emission of which is prohibited, limited, or regulated by Federal or State law or by Federal regulations (as determined without regard to whether a particular release would have been prohibited or limited).

"(G) RELEASE.—The term 'release' means any spilling, leaking, pouring, discharging, escaping, dumping, or disposing into the environment, including the abandonment or discarding of barrels or other closed receptacles."

(c) CONFORMING AMENDMENT.—Subparagraph (A) of section 56(g)(4) is amended by adding at the end the following new clause:

"(vi) This subparagraph shall not apply to environmental improvement assets (as defined in section 59(k))."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service in taxable years beginning after December 31, 1992.•

• Mr. BOREN. Mr. President, too many people here in Washington and throughout the country fail to understand the critical role a healthy domestic oil and gas industry plays in our national security and economic well-being. In the past our Government has not adopted policies to strengthen this vital industry. And now we hear increasingly that the industry will be a primary source of revenue for the President's economic plan. Such policies ignore the economic crisis in the domestic oil and gas industry and threaten the very survival of a domestic supply of oil and gas.

The domestic picture is bleak. The United States oil and gas production industry has lost more than 400,000 jobs since its peak employment in 1982—more jobs than have been lost in the automobile, textile, steel, and electronics industries. The rig count—the measure of activity for the industry—continues to fall to all-time lows. In January, the national rig count had plummeted to 838, as compared to a count of 4,530 10 years ago. In my State of Oklahoma, the number of oil and gas wells drilled in 1992 dropped to the lowest level in 55 years.

As our domestic industry declines, this country must rely on foreign sources of oil and petroleum products to meet our needs. Last year, oil imports accounted for more than 50 percent of the Nation's trade deficit. Almost half of the oil and petroleum products consumed in America come from foreign suppliers. An energy policy that displays no awareness of the harm to our national security caused by such substantial dependence is shortsighted. Rather than undermining our domestic energy industry, we must do all that we can to nurture it so that it plays a vital role in our economic recovery.

Last year, Congress took an important step in the right direction by passing as part of the comprehensive energy bill a provision that I introduced, along with Senator NICKLES, to change certain alternative minimum tax provisions that threatened to destroy the domestic independent oil and gas industry. An official at the Department of Energy estimated that this tax change had the potential of increasing domestic oil production by more than 50,000 barrels per day in this decade. But just as I am becoming more optimistic about the fate of the domestic industry, I learn that we face the real possibility of energy consumption taxes as a revenue source of the President's economic plan.

Mr. President, such sector-specific consumption taxes have a tendency to be unfair to certain regions. As I have stated frequently in the past, we cannot afford to embark on this path that will divide the country and the Congress along regional lines. We cannot afford policies that will undermine the tax relief we gave our beleaguered domestic industry only a few months ago. A bold comprehensive approach that takes advantage of our unique opportunity to transform the tax system to one that encourages savings and investment is preferable to a piecemeal approach.

Although I would prefer not to see energy consumption taxes as part of the Clinton economic package, I am also putting the Congress and the administration on notice that should such taxes be adopted, we must also adopt tax provisions to strengthen the domestic industry. Although all Americans are ready to sacrifice for the greater good of the country, that sacrifice cannot result in the destruction of a vital sector of the economy, the loss of thousands of jobs, and the further erosion of our energy independence. The Energy Independence, Infrastructure and Investment Act of 1993 can serve as a blueprint for a way to ensure that the domestic oil and gas industry can meet the challenge of the future and can continue to find new sources of oil and natural gas and develop those that are already in production.

In view of the current discussions of energy consumption taxes, Senator NICKLES and I determined that we should introduce The Energy Independence, Infrastructure and Investment Act of 1993 at this time. At the outset, this bill highlights our belief that, if energy is to serve as a revenue source for the Clinton economic proposal, the revenue should come from a floor price for imported oil. Not only will this provision raise needed revenue, but it will also serve to stabilize the price of oil and to reduce our dependence on foreign sources. I remain amazed that, despite the crisis in the Persian Gulf, this country has failed to come to grips with the threats inherent in its dependence on foreign oil. In addition, the lack of stability in oil prices through the mid-1980's has resulted in 25 percent less drilling than would have occurred had prices been perceived as stable.

The imported oil floor price will allow domestic producers a secure price of at least $25 per barrel. It has been estimated that such a price would raise nearly $35 billion in Federal revenues over the next 3 years. Moreover, the fee would reduce consumption by 200,000 barrels per day, increase production by 300,000 barrels per day, and reduce oil imports by 500,000 barrels per day.

Second, we want to provide our suggestions for tax changes that can further encourage the domestic oil and natural gas industry. Several of these proposals are designed to lengthen the lives of stripper wells, which represent 77 percent of this country's producing oil and gas wells and 15 percent of our Nation's proven petroleum reserves. Stripper wells are wells that have not been fully depleted of their reserves, but that may not be economic to produce given the high costs of production and low energy prices. Without meaningful incentives to keep these wells producing, drillers will cap them, and we will lose forever the oil and natural gas deep within them. Indeed, over the last 10 years, 130,000 of these low volume wells have been abandoned.

As my colleague has described in more detail, The Energy Independence, Infrastructure and Investment Act contains several provisions aimed at increasing the profitability of stripper wells. First, the bill would increase the allowance for percentage depletion allowed for stripper wells. Second, the legislation removes the net income limitation on percentage depletion so that producers may claim this tax advantage even if no profit is made from the sales of production. Third, the bill provides for a 20 percent production credit for marginal wells. Fourth, a very important provision expands the credit for enhanced oil recovery so that the credit can be taken for horizontal drilling and advanced secondary recovery techniques. Finally, we expand the definition of stripper well in the Tax Code so that more marginal production can qualify for favorable tax treatment.

The other proposals in the legislation are designed to encourage investment in the domestic oil and gas industry generally. To encourage the domestic petroleum exploration industry, the bill provides an exploration and drilling credit. The legislation provides a 20 percent tax credit on the first $1 million of investment—10 percent for expenditures greater than $1 million—in qualified geological and geophysical costs and in drilling costs related to finding domestic reserves. We also encourage domestic exploration by adding certainty to the recovery of geological and geophysical costs by providing 60-month amortization of costs incurred in the determination of the location or existence of new domestic reserves. Finally, we eliminate the currently unfavorable tax treatment of investment by domestic oil and gas producers in tangible, depreciable property designed to protect or improve the environment.

Mr. President, I look forward to working with my colleagues and the administration to pass responsible legislation that does not undermine our long-term interest in a strong domestic oil and gas industry.●

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 375. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

RIO GRAND DESIGNATION ACT OF 1993

● Mr. BINGAMAN. Mr. President, I rise today to introduce a bill to amend the Wild and Scenic Rivers Act by designating an additional 12-mile segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System. I am pleased that my colleague, Senator DOMENICI, has joined with me in cosponsoring this bill.

You may recall that the Rio Grande in northern New Mexico was among the first rivers protected under the Wild and Scenic Rivers Act. We in New Mexico have a great regard for our free-flowing streams and we were eager for the designation. Water in our state is scarce, and the beauty of a flowing river is increased for us because of this scarcity.

This bill again shows the appreciation we have for our river resources. It will confer the designation scenic river, as provided for in the Wild and Scenic Rivers Act, for an additional 12 miles downstream from the southern terminus of the Rio Grande's existing designation. This will cover from the Taos Junction Bridge down to the village of Rinconada.

A majority of the lands in the proposed extension are public lands under the administration of the Bureau of Land Management. Private lands are centered around the village of Pilar for about 2 river miles, and at three locations downstream, totaling about 1¼ additional miles.

Mr. President, let me tell you about this 12-mile segment of river. Just south of the Taos Junction Bridge the river enters the Orilla Verde Recreation Area, a stretch with several developed recreation sites and with some prime riparian areas which provide homes to a variety of birds and animals. State Highway 570 follows the river in this section. South of the recreation area, beginning just below Pilar, the river carves its way through deep, spectacular canyons. There are stretches of rapids in this part of the river. And, above the canyon, State Highway 64 runs, providing pullouts to watch both the activities on the river and the river taking its course below. River rafters, boaters, people fishing, photographers, hikers and rock climbers, campers—all use and enjoy the free-flowing Rio Grande along this 12-mile segment.

This bill will provide protection for this portion of the river from any new federally built, permitted, or licensed dams or other water resource projects which would have a direct and adverse effect on the free-flowing values of the Rio Grande.

The scenic designation which this legislation ensures that recreation uses will be consistent with protection of the river environment. Lands will be managed for a full range of agricultural and livestock grazing uses, consistent with current practices. Water quality will be maintained or improved and existing dams and diversions may be maintained in such a way as to assure that the character of the waterway will remain generally natural.

Because of the benefits a scenic designation can provide to both visitors and residents, the landowners along the river—public and private—support this designation. In fact, area residents requested, and we have included in this bill, language requiring BLM to study the feasibility of an additional wild and scenic river designation below the Rio Arriba County line. This bill will protect the values of the river that New Mexicans hold dear. The people who use the river, and those who live along it, will be assured of a beautiful, free-flowing stream for themselves and their children.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rio Grande Designation Act of 1993".

SEC. 2. DESIGNATION OF SCENIC RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraph:

"( ) RIO GRANDE, NEW MEXICO.—The main stem from the southern boundary of the segment of the Rio Grande designated pursuant to paragraph (4), downstream approximately 12 miles to the west section line of Section 15, Township 23 North, Range 10 East, to be administered by the Secretary of the Interior as a scenic river.".

SEC. 3. DESIGNATION OF STUDY RIVER.

(a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end the following new paragraph:

"( ) RIO GRANDE, NEW MEXICO.—The segment from the west section line of Section 15, Township 23 North, Range 10 East, downstream approximately 8 miles to the southern line of the northwest quarter of Section 34, Township 23 North, Range 9 East.".

(b) STUDY REQUIREMENTS.—Section 5(b) of such Act (16 U.S.C. 1276(b)) is amended by adding at the end the following new paragraph:

"( ) The study of the Rio Grande in New Mexico shall be completed and the report submitted not later than 3 years after the date of enactment of this paragraph.".

SEC. 4. RIO GRANDE CITIZENS ADVISORY BOARD.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior (referred to in this Act as the "Secretary") shall establish the Rio Grande Citizens Oversight Review Board (referred to in this Act as the "Board") to advise the Secretary on matters pertaining to—

(1) the development and implementation of a management plan for the segment of the Rio Grande designated as a component of the National Wild and Scenic Rivers System pursuant to the amendment made by section 2; and

(2) the preparation of the study pursuant to the amendments made by section 3.

(b) COMPOSITION.—The Board shall consist of 11 members, appointed by the Secretary, of whom—

(1) 10 members shall be property owners along the segments of the Rio Grande designated and studied pursuant to the amendments made by this Act; and

(2) 1 member shall be a representative of the village of Pilar.

SEC. 5. WITHDRAWAL OF ORILLA VERDE RECREATION AREA.

(a) IN GENERAL.—Subject to valid existing rights, the lands described in subsection (b) are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing.

(b) LANDS.—

(1) DESCRIPTION.—The lands referred to in subsection (a) comprise an area known as the "Orilla Verde Recreation Area", totaling approximately 1,349 acres, which were conveyed by the State of New Mexico to the United States on July 23, 1980, April 20, 1990, and July 17, 1990, as generally depicted on the map entitled "Proposed Recreation Addition to Rio Grande Wild and Scenic River" and dated September 1992.

(2) PUBLIC ACCESS.—The map referred to in paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 6. COMPLETION OF PREHISTORIC TRACKWAYS STUDY.

The Secretary is authorized to contract with the Smithsonian Institution for the completion of the prehistoric trackways study required under section 303 of the Act entitled "An Act to conduct certain studies in the State of New Mexico", approved November 15, 1990 (Public Law 101–578).•

• Mr. DOMENICI. Mr. President, I am pleased to rise today to cosponsor legislation to amend the Wild and Scenic Rivers Act by designating an additional 12 miles of the Rio Grande River's main channel and a tributary for inclusion into the National Wild and Scenic Rivers System. I am pleased to cosponsor this legislation sponsored by Senator BINGAMAN, my colleague from New Mexico.

In 1968 nearly 50 miles of the Rio Grande River in northern New Mexico were designated as wild and scenic along with five other rivers in the original Wild and Scenic Rivers Act. We now have an excellent opportunity to add an additional 12 miles of truly wild and scenic river segment downstream from the already designated and protected Rio Grande River segment.

As you know, in order for a river to be included in the Wild and Scenic Rivers System, it must possess certain outstanding qualities, which are remarkable in their scenic, recreational, geologic, fishery, and wildlife, historic, and cultural values. The additional segment proposed for designation possesses these qualities.

The Rio Grande flows through the high New Mexican mesa in a deep canyon at the foot the Sangre de Cristo Mountains. The mesa country offers breathtaking panoramas and natural beauty, which is matched by the confined beauty of the high rimmed canyon surroundings. The additional proposed river segment contains formidable river rapids which hundreds of rafters and kayakers challenge and enjoy every spring and summer. The trails that wind within the canyon walls offer hiking and picknicking enjoyment most of the year.

When the additional 12-mile segment is added, over 60 miles will be included to the Rio Grande River System within New Mexico. The additional segment of river will extend downstream from the present designated segment to the town of Rinconada, NM, to include the Red River at the confluence of these two rivers.

Now is the time for action. The State of New Mexico and the Federal Government now possess almost all of the land that is required to complete the wild and scenic designation for this segment of river. The private lands that are within the proposed boundaries are minimal, so the amount of land that would have to be acquired is minimal. The passage of this legislation is desirable to meet the needs of Americans today and ensure availability of this precious resource for future generations to enjoy.

Mr. President, I urge the Senate to move expeditiously on this important legislation, to include the additional river segments of the Rio Grande River System within northern New Mexico in the National Wild and Scenic River System.•

By Mr. LAUTENBERG:

S. 376. A bill to prohibit the transfer of two or more handguns to an individual in any 30-day period; to the Committee on the Judiciary.

MULTIPLE HANDGUN TRANSFER PROHIBITION ACT OF 1993

• Mr. LAUTENBERG. Mr. President, today I am introducing legislation, the Multiple Handgun Transfer Prohibition Act of 1993, to limit handgun purchases to one per month.

Mr. President, the primary purpose of this bill is to address the problem of interstate gun running. Currently, many criminals are purchasing handguns in States with weak firearm laws and transporting them to other States with tougher laws. Virginia, for example, is the source of a significant portion of the guns used in crimes in several northeastern cities.

In response to this problem, Governor Douglas Wilder has proposed a one-per-month limit in Virginia. However, the problem goes beyond Virginia, and a nationwide limit is appropriate.

Under this legislation, an individual other than a licensed firearms dealer generally would be prohibited from purchasing more than one handgun in a 30-day period. Similarly, it would be unlawful for any dealer, importer, or manufacturer to transfer a handgun to any individual who has received a handgun within the last 30 days. Violators would be subject to a fine of up to $5,000 and a prison sentence of up to 1 year.

Mr. President, while a one-per-month handgun limit would help cut down on gun running, it would not create an unreasonable obstacle to legitimate sportsmen and sportswomen. No additional restrictions are proposed for firearms other than handguns, and individuals still would be allowed to purchase 12 handguns per year. Also, the legislation would provide an exception where an individual requires access to a handgun because of a threat to the life of the individual or of any member of the individual's family.

Mr. President, I do not claim that this bill will end all handgun violence. However, it is a reasonable and modest step in the right direction. I hope my colleagues will support the bill.

I ask unanimous consent that a copy of the legislation be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 376

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multiple Handgun Transfer Prohibition Act of 1993".

SEC. 2. MULTIPLE HANDGUN TRANSFER PROHIBITION.

(a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(s)(1)(A)(i) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer—

"(I) during any 30-day period, to transfer 2 or more handguns to an individual who is not licensed under section 923; or

"(II) to transfer a handgun to an individual who is not licensed under section 923 and who received a handgun during the 30-day period ending on the date of the transfer.

"(ii) It shall be unlawful for any individual who is not licensed under section 923 to receive 2 or more handguns during any 30-day period.

"(iii) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to transfer a handgun to an individual who is not licensed under section 923, unless, after the most recent proposal of the transfer by the individual, the transferor has—

"(I) received from the individual a statement of the individual containing the information described in paragraph (3);

"(II) verified the identification of the individual by examining the identification document presented; and

"(III) within 1 day after the individual furnishes the statement, provided a copy of the statement to the chief law enforcement officer of the place of residence of the individual.

"(B) Subparagraph (A) shall not apply to the transfer of a handgun to, or the receipt of a handgun by, an individual who has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the individual during the 10-day period ending on the date of the transfer or receipt, which states that the individual requires access to a handgun because of a threat to the life of the individual or of any member of the household of the individual.

"(2) Paragraph (1) shall not be interpreted to require any action by a chief law enforcement officer which is not otherwise required.

"(3) The statement referred to in paragraph (1)(A)(iii)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the individual containing a photograph of the individual and a description of the identification used;

"(B) a statement that the individual—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions;

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship; and

"(viii) has not received a handgun during the 30-day period ending on the date of the statement;

"(C) the date the statement is made; and

"(D) notice that the individual intends to obtain a handgun from the transferor.

"(4) Any transferor of a handgun who, after the transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(5) Any transferor who receives information, not otherwise available to the public, with respect to an individual in a report under this subsection shall not disclose such information except to the individual, to law enforcement authorities, or pursuant to the direction of a court of law.

"(6) In the case of a handgun transfer to which paragraph (1)(A) applies—

"(A) the transferor shall retain—

"(i) the copy of the statement of the transferee with respect to the transfer; and

"(ii) evidence that the transferor has complied with paragraph (1)(A)(iii)(III) with respect to the statement; and

"(B) the chief law enforcement officer to whom a copy of a statement is sent pursuant to paragraph (1)(A)(iii)(III) shall retain the copy for at least 30 calendar days after the date the statement was made.

"(7) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer, or the designee of any such individual.

"(8) This subsection shall not apply to the sale of a firearm in the circumstances described in subsection (c).

"(9) The Secretary shall take necessary actions to assure that the provisions of this subsection are published and disseminated to dealers and to the public.".

(b) HANDGUN DEFINED.—Section 921(a) of such title is amended by adding at the end the following:

"(29) The term 'handgun' means—

"(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(c) PENALTY.—Section 924(a) of such title is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922(s) shall be fined not more than $5,000, imprisoned for not more than one year, or both.".

(d) EFFECTIVE DATE.—The amendments made by this Act shall apply to conduct engaged in 90 or more days after the date of the enactment of this Act.•

By Mr. GRAMM (for himself and Mr. LOTT):

S. 377. A bill to require a balanced Federal budget by fiscal year 2000 and each year thereafter, to protect Social Security, to provide for zero-based budgeting and decennial sunsetting, to impose spending caps on the growth of entitlements during fiscal years 1994 through 2000, and to enforce those requirements through a budget process involving the President and Congress and sequestration; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977.

BALANCED BUDGET IMPLEMENTATION ACT

Mr. GRAMM. Madam President, I have sent to the desk a bill that I believe is very important. I have taken seriously the request of my colleagues and people in the media that those of us who are strong proponents of the balanced budget amendment to the Constitution should outline the mechanism that we would employ to balance the budget if Congress should adopt and the States should ratify the balanced budget amendment to the Constitution.

What I have sent to the desk is a bill entitled the Balanced Budget Implementation Act that answers that request. This bill, being introduced today in the House by Congressman DICK ARMEY, is a comprehensive plan to balance the budget by the end of the century.

I would like to briefly outline what this bill does and how it works.

In working with Senator LOTT here in the Senate and with Congressmen DICK ARMEY and JOHN KASICH in the House, we have attempted to assemble a comprehensive program to force Congress and the President to make difficult choices and to achieve a balanced budget in the remaining 7 years of this century. Basically, this bill is composed of some new ideas, but it also attempts to go back and look at ideas that have been proposed in the past.

The first title of the bill has to do with correcting a problem that has existed since 1974. In 1974, Congress passed the Budget and Impoundment Act, which first, took away from President Nixon the power to impound money that Congress had appropriated and second, established a totally independent budgetary process in the Congress. Since 1974, we have had the unusual circumstance where the executive branch has operated off its budget, where Congress has operated off its budget, and often those two budgets have had relatively little to do with each other.

So, the first reform is to require the President to submit a budget, to have the Congress then formally amend the President's budget and send it back to the President as a joint resolution which the President must sign into law. This would give us one unified budget agreed to by the President and by the Congress where we would all be committed to the same document and to the same numbers. I think it is a very important reform, and, quite frankly, Madam President, I do not think it ought to be very controversial.

The second reform is a very important one and a very powerful idea. Many States around the country have used it. It was first proposed seriously in Washington, DC, by President Jimmy Carter in 1977, and that is zero-based budgeting.

The Carter proposal ended up not being adopted by Congress in part because many saw it as requiring the sunsetting of programs on an annual basis, therefore being unworkable. What we have done is to capture this fundamental idea that we need to reinvent government, that we need to go back and look at programs that were adopted 50 and 75 years ago and ask the question: Do these programs now meet the national need and how do they stand in relative priority to the new and emerging needs of the country?

How this would work is that in the first 2 years of this 7-year process to balance the budget, all unearned benefits, both entitlement and discretionary programs, defense and nondefense, would be deauthorized or sunset. Earned benefits, or benefits people pay for or earn—for example, Federal retirement, Social Security benefits you pay for—are permanent. Benefits you earn through service like veterans' benefits or benefits you earn as a fireman or a policeman—for example, if someone's spouse is killed in the line of duty, they are permanent. These are earned benefits, earned by service or payment, and would not be affected by this process.

But what would happen is that every discretionary program and the vast majority of the entitlements, which are unearned, would be sunset in fiscal year 1994 and fiscal year 1995, and they would have to be reauthorized in order to be appropriated. At any given time as many as 20 percent of the programs in the Federal Government are not authorized. Every program that did not represent an earned benefit would have to be authorized or it could not be appropriated.

What would be the advantage of this? Well, having locked ourselves into a 7-year process to balance the budget, having to go back and rewrite programs ranging from the farm program to aid to families with dependent children, those programs would finally be subject to a thorough and complete review under circumstances when we know we have to make hard choices. The governors, both Democrats and Republicans, demand reform in programs like AFDC and Medicaid, and if we had to reauthorize those programs, those reforms would occur.

There is no doubt about the fact that the farm program, if it were to be sunsetted and had to be completely readopted, could never be written in the form it is written today.

This I think is a very important reform. And at a time when the buzzword is let us reinvent government, what this would do is force a thorough rethinking of all of the programs of the Federal Government, and would require a strong consensus to continue a program because it would have to be adopted by both Houses of Congress and signed by the President.

In addition to starting off the process to balance the budget over a 7-year period with sunsetting, this 2-year process would be repeated every time we did a census—every 10 years in the Congress that comes into session after the census and reapportionment. Every decade after the census you would go through the same sunsetting process so once every 10 years every unearned benefit of the Federal Government would have to be reviewed, would have to be reauthorized, or it could not be appropriated.

The third reform is the entitlement cap proposed by President Bush, which simply says we ought to have a limit on the growth of overall entitlements other than Social Security. That limit is the growth rate of Social Security, which is determined by the population which becomes eligible and the Consumer Price Index. Any time the aggregate of entitlements grows faster than this limit, Congress would have to go back and reform the entitlement, bringing it back within the cap, or face an across-the-board cut. This would force Congress to deal with the exploding cost of programs like Medicare and Medicaid.

I believe—and I share this view with our new President—there is no possibility that we are going to deal with the deficit problem over the long term unless we do something about the exploding cost of Medicare and Medicaid. And there is no way we can do that without dealing with the underlying problems in the health care market, basically by trying to make the system more efficient and more competitive.

The final part of the bill has to do with revitalizing Gramm-Rudman. It takes the commitment the President made in the campaign of reducing the deficit by 50 percent during his 4-year term, updates that for the fact that in August, before the election, both CBO and OMB updated the deficit projection. Therefore, in setting fixed targets, we take the Clinton commitment in the campaign of a 50-percent reduction in the deficit, divide that up over 4 years, and set fixed targets for deficit reduction exactly the same as we had under the old Gramm-Rudman law.

So, the deficit target for 1994 would be $255 billion; 1995 would be $219 billion; 1996 would be $183 billion; 1997, $147 billion. That would be consistent with what the President is committed to. Then we would add targets for 1998, 1999, and the year 2000, and those targets would be $98 billion, $49 billion, and zero.

These new fixed deficit reduction targets would operate exactly as the old fixed targets did under Gramm-Rudman until Gramm-Rudman was repealed in the 1990 Budget Act. It would mandate that the President submit budgets that meet these targets. It would make budgets out of order that did not meet the targets. It would require a 60-vote margin in the Senate and a 60-percent vote margin in the House to waive these points of order. And these budget deficit targets would be enforced by the Gramm-Rudman sequester process.

So, what we would do is set out the fixed targets for deficit reduction to achieve a balanced budget by the turn of the century. We would mandate that budget plans be adopted by the President and approved by the Congress. We would institute zero-based budgeting to force every existing program that did not represent an earned benefit paid for or earned through service to be reauthorized as part of our effort to review what Government is doing and whether or not we are meeting the needs of the country. We would impose limits on the aggregate totals of entitlements other than Social Security and we would set into place fixed targets to balance the budget by the end of this century.

I believe if this bill were adopted we would be forced to make hard decisions. We would eliminate the situation where people with different philosophies and different viewpoints can simply differ and nothing ever happens.

What this bill would do is put the fat in the fire and then we would have to figure out how to put it out in order to meet these targets and in order to see deficits decline.

I submit that, had the President last night introduced a plan like this, that rather than the market falling by 85 points today, and rather than interest rates going up and bond prices going down, that exactly the opposite would have happened.

Instead, what we heard last night was the ultimate status quo which is we ought to go on taxing and go on spending. I do not believe that is going to deal with the problem and therefore I have submitted this bill.

I do not expect a great rush of Congress to adopt this bill but I have no doubt that we are going to quickly conclude that we cannot get home by the path that has been outlined in the President's new budget. I am hopeful when the debt ceiling is on the floor of the Senate, when the bill collector is at the door and we have to raise the debt ceiling to pay our bills, that we will adopt the balanced budget amendment to the Constitution. And I have no doubt, once having made that commitment to the American people, we will have exactly this kind of program in place to see it happen.

I ask unanimous consent that both the outline and the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 377

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Balanced Budget Implementation Act".

SEC. 2. EFFECTIVE DATES.

Except as otherwise specified, this Act and the amendments made by it shall take effect on its date of enactment and shall apply to fiscal year 1993 and subsequent fiscal years.

TITLE I—JOINT BUDGET RESOLUTION

SEC. 101. JOINT BUDGET RESOLUTION.

(a) DEFINITIONS.—Paragraph (4) of section 3 of the Congressional Budget Act of 1974 is amended to read as follows:

"(4) the term 'joint resolution on the budget' means—

"(A) a joint resolution setting forth the congressional budget for the United States Government for a fiscal year as provided in section 301; and

"(B) any other joint resolution revising the congressional budget for the United States Government for a fiscal year as described in section 304.".

(b) JOINT RESOLUTION ON THE BUDGET.—(1) Section 300 is amended by striking "concurrent resolution" each place it appears and inserting "joint resolution".

(2) Section 301(a) of the Congressional Budget Act of 1974 is amended by striking "concurrent resolution" each place it appears including in the caption and inserting "joint resolution".

(3) Section 301(b) is amended by striking "concurrent resolution" each place it appears including in the caption and inserting "joint resolution".

(4) Section 301(c) is amended by striking "concurrent resolution" each place it appears and inserting "joint resolution".

(5) Section 301(e) is amended by striking "concurrent resolution" each place it appears and inserting "joint resolution".

(6) Section 301(f) is amended by striking "concurrent resolution" each place it appears and inserting "joint resolution".

(7) Section 301(g) is amended by striking "concurrent resolution" each place it appears and inserting "joint resolution".

(8) Section 301(h) is amended by striking "concurrent resolution" and inserting "joint resolution".

(9) Section 301(i) is amended by striking "concurrent resolution" each place it appears and inserting "joint resolution".

(10) The section heading of section 301 is amended by striking "**ANNUAL ADOPTION OF CONCURRENT**" and inserting "**ANNUAL ADOPTION OF JOINT**".

(11) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "Annual adoption of the concurrent" in the item relating to section 301 and inserting "Annual adoption of the joint".

(12) Section 302 is amended by striking "concurrent resolution" each place it appears and inserting "joint resolution".

(13) Section 303, including the heading, is amended by striking "concurrent resolution" each place it appears and inserting "joint resolution".

(14) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "Concurrent" in the item relating to section 303 and inserting "Joint".

(15) Section 304 is amended by striking "concurrent resolution", including in the heading, each place it appears and inserting "joint resolution".

(16) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "Concurrent" in the item relating to section 304 and inserting "Joint".

(17) Section 305 is amended by striking "concurrent resolution", including in the heading, each place it appears and inserting "joint resolution".

(18) Section 308 is amended by striking "concurrent resolution" each place it appears and inserting "joint resolution".

(19) Section 310 is amended by striking "concurrent resolution" each place it appears and inserting "joint resolution".

(20) Section 311 is amended by striking "concurrent resolution" each place it appears and inserting "joint resolution".

TITLE II—ZERO BASED BUDGETING AND DECENNIAL SUNSETTING

SEC. 201. REAUTHORIZATION OF DISCRETIONARY PROGRAMS AND UNEARNED ENTITLEMENTS.

(a) FISCAL YEAR 1994.—Effective October 1, 1993, spending authority for each unearned entitlement and high-cost discretionary spending program is terminated unless such spending authority is reauthorized after the date of enactment of this Act.

(b) FISCAL YEAR 1995.—Effective October 1, 1994, spending authority for each discretionary spending program (not including high-cost discretionary spending programs) is terminated unless such spending authority is reauthorized after the date of enactment of this Act.

(c) DEFINITIONS.—For purposes of this title—

(1) the term "unearned entitlement" means an entitlement not earned by service or paid for in total or in part by assessments or contributions such as Social Security, veterans' benefits, retirement programs, and medicare; and

(2) the term "high-cost discretionary program" means the most expensive one-third of discretionary program within each budget function account.

SEC. 202. POINT OF ORDER.

(a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, or conference report that includes any provision that appropriates funds unless such appropriation has been previously authorized by law.

(b) WAIVER OR SUSPENSION.—This section may be waived or suspended in the House of Representatives or the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

SEC. 203. DECENNIAL SUNSETTING.

(a) FIRST DECENNIAL CENSUS YEAR.—Effective on the first day of the fiscal year beginning in the first decennial census year after the year 2000 and each 10 years thereafter, the spending authority described in section 201(a) is terminated unless such spending authority is reauthorized after the last date the spending authority was required to be reauthorized under this title.

(b) FIRST DECENNIAL CENSUS YEAR.—Effective on the first day of the fiscal year beginning in the year after the first decennial census year after the year 2000 and each 10 years thereafter, the spending authority described in section 201(b) is terminated unless such spending authority is reauthorized after the last date the spending authority was required to be reauthorized under this title.

TITLE III—SPENDING CAPS ON THE GROWTH OF ENTITLEMENTS FOR FISCAL YEARS 1994 THROUGH 2000

SEC. 301. SPENDING CAPS ON GROWTH OF ENTITLEMENTS AND MANDATORIES.

(a) CAP ON GROWTH OF ENTITLEMENTS.—Effective for each of the fiscal years 1994 through 2000, the total level of entitlement and mandatory spending, excluding Social Security, shall not exceed the total level for the previous fiscal year increased by the consumer price index, and the growth in eligible population.

(b) SEQUESTRATION.—Within 15 days after Congress adjourns to end a session, and on the same day as a sequestration (if any) under title IV (pursuant to the amendments made by such title), there shall be a sequestration to reduce the amount of entitlement and mandatory spending for the fiscal year beginning in the year the Congress adjourns by any amount necessary to reduce such spending to the level set forth in subsection (a) unless that amount is less than $250,000,000.

(c) Uniform Reductions; Limitations.—The amount required to be sequestered for the fiscal year under subsection (a) shall be obtained from nonexempt direct spending accounts by actions taken in the following order:

(1) First.—The reductions in the programs specified in section 303(a) (National Wool Act and special milk), section 303(b) (guaranteed student loans), and section 303(c) (foster care and adoption assistance) shall be made.

(2) Second.—Any additional reductions that may be required shall be achieved by reducing each remaining nonexempt direct spending account by the uniform percentage necessary to achieve those additional reductions, except that—

(A) the low-income programs specified in section 303(d) shall not be reduced by more than 1 percent;

(B) the retirement and veterans benefits specified in section 303(e) shall not be reduced by more than 2 percent in the manner specified in that section; and

(C) the medicare programs shall not be reduced by more than 4 percent in the manner specified in section 303(f).

The limitations set forth in subparagraphs (A), (B), and (C) shall be applied iteratively, and after each iteration the uniform percentage applicable to all other programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the reductions required by this paragraph.

SEC. 302. EXEMPT PROGRAMS AND ACTIVITIES.

(a) Descriptions and Lists.—Except as provided in subsection (b), the following budget accounts or activities shall be exempt from sequestration—

(1) net interest;

(2) all payments to trust funds from excise taxes or other receipts or collections properly creditable to those trust funds;

(3) all payments from one Federal direct spending budget account to another Federal budget account; and all intragovernmental funds including those from which funding is derived primarily from other Government accounts, except to the extent that such funds are augmented by direct appropriations for the fiscal year for which the order is in effect;

(4) activities resulting from private donations, bequests, or voluntary contributions to the Government;

(5) payments from any revolving fund or trust-revolving fund (or similar activity) that provides deposit insurance or other Government insurance, Government guarantees, or any other form of contingent liability, to the extent those payments result from contractual or other legally binding commitments of the Government at the time of any sequestration;

(6) credit liquidating and financing accounts;

(7) the following accounts, which largely fulfill requirements of the Constitution or otherwise make payments to which the Government is committed—

Administration of Territories, Northern Mariana Islands Covenant grants (14–0412–0–1–806);

Bureau of Indian Affairs, miscellaneous payments to Indians (14–2303–0–1–452);

Bureau of Indian Affairs, miscellaneous trust funds, tribal trust funds (14–9973–0–7–999);

Claims, defense;

Claims, judgments, and relief act (20–1895–0–1–806);

Compact of Free Association, economic assistance pursuant to Public Law 99–658 (14–0415–0–1–806);

Compensation of the President (11–0001–0–1–802);

Customs Service, miscellaneous permanent appropriations (20–9992–0–2–852);

Eastern Indian land claims settlement fund (14–2202–0–1–806);

Farm Credit System Financial Assistance Corporation, interest payments (20–1850–0–1–351);

Internal Revenue collections of Puerto Rico (20–5737–0–2–852);

Panama Canal Commission, operating expenses and capital outlay (95–5190–0–2–403);

Payments of Vietnam and USS Pueblo prisoner-of-war claims (15–0104–0–1–153);

Payments to copyright owners (03–5175–0–2–376);

Payments to the United States territories, fiscal assistance (14–0418–0–1–801);

Payments to widows and heirs of deceased Members of Congress (00–0215–0–1–801);

Salaries of Article III judges;

Soldier's and Airmen's Home, payment of claims (84–8930–0–7–705);

Washington Metropolitan Area Transit Authority, interest payments (46–0300–0–1–401).

(8) the following noncredit special, revolving, or trust-revolving funds—

Coinage profit fund (20–5811–0–2–803);

Comptroller of the Currency;

Director of the Office of Thrift Supervision;

Exchange Stabilization Fund (20–4444–0–3–155);

Federal Housing Finance Board;

Foreign Military Sales trust fund (11–82232–0–7–155);

(9) Thrift Savings Fund;

(10) appropriations for the District of Columbia to the extent they are appropriations of locally raised funds;

(11)(A) any amount paid as regular unemployment compensation by a State from its account in the Unemployment Trust Fund (established by section 904(a) of the Social Security Act);

(B) any advance made to a State from the Federal unemployment account (established by section 904(g) of such Act) under title XII of such Act and any advance appropriated to the Federal unemployment account pursuant to section 1203 of such Act; and

(C) any payment made from the Federal Employees Compensation Account (as established under section 909 of such Act) for the purpose of carrying out chapter 85 of title 5, United States Code, and funds appropriated or transferred to or otherwise deposited in such Account;

(12) the earned income tax credit (payments to individuals pursuant to section 32 of the Internal Revenue Code of 1986).

(b) Federal Administrative Expenses.—

(1) Notwithstanding any provision of law other than paragraph (3), administrative expenses incurred by the departments and agencies, including independent agencies, of the Federal Government in connection with any program, project, activity, or account shall be subject to reduction pursuant to any sequestration order, without regard to any exemption, exception, limitation, or special rule otherwise applicable with respect to such program, project, activity, or account, and regardless of whether the program, project, activity, or account is self-supporting and does not receive appropriations.

(2) Payments made by the Federal Government to reimburse or match administrative costs incurred by a State or political subdivision under or in connection with any program, project, activity, or account shall not be considered administrative expenses of the Federal Government for purposes of this section, and shall be subject to sequestration to the extent (and only to the extent) that other payments made by the Federal Government under or in connection with that program, project, activity, or account are subject to that reduction or sequestration; except that Federal payments made to a State as reimbursement of administrative costs incurred by that State under or in connection with the unemployment compensation programs specified in subsection (a)(11) shall be subject to reduction or sequestration under this part notwithstanding the exemption otherwise granted to such programs under that subsection.

(3) Notwithstanding any other provision of law, the administrative expenses of the following programs shall be exempt from sequestration:

(A) Comptroller of the Currency.

(B) Federal Deposit Insurance Corporation.

(C) Office of Thrift Supervision.

(D) National Credit Union Administration.

(E) National Credit Union Administration, central liquidity facility.

(F) Federal Retirement Thrift Investment Board.

(G) Resolution Funding Corporation.

(H) Resolution Trust Corporation.

(I) Board of Governors of the Federal Reserve System.

SEC. 303. EXCEPTIONS, LIMITATIONS, AND SPECIAL RULES.

(a) National Wool Act and the Special Milk Program.—Automatic spending increases are increases in outlays due to changes in indexes in the following programs:

(1) National Wool Act; and

(2) Special milk program.

In those programs all amounts other than the automatic spending increases shall be exempt from reduction under any sequestration order.

(b) The Guaranteed Student Loan Program.—(1) Any reductions which are required to be achieved from the student loan programs operated pursuant to part B of title IV of the Higher Education Act of 1965 under any sequestration order shall be achieved only from loans described in paragraphs (2) and (3) by the application of the measures described in such paragraphs.

(2) For any loan made during the period beginning on the date that a sequestration order takes effect with respect to a fiscal year, the rate used in computing the special allowance payment pursuant to section 438(b)(2)(A)(iii) of such Act for each of the first four special allowance payments for such loan shall be adjusted by reducing such rate by the lesser of—

(A) 0.40 percent, or

(B) the percentage by which the rate specified in such section exceeds 3 percent.

(3) For any loan made during the period beginning on the date that a sequestration order takes effect with respect to a fiscal year, the origination fee which is authorized to be collected pursuant to section 438(c)(2) of such Act shall be increased by 0.50 percent.

(c) Foster Care and Adoption Assistance Programs.—Any sequestration order shall make the reduction otherwise required under the foster care and adoption assistance programs (established by part E of title IV of the Social Security Act) only with respect to payments and expenditures made by States in which increases in foster care maintenance payment rates or adoption assistance payment rates (or both) are to take effect during the fiscal year involved, and only to the extent that the required reduction can be accomplished by applying a uniform percentage reduction to the Federal matching payments that each such State would otherwise receive under section 474 of that Act (for such fiscal year) for that portion of the State's payments attributable to the increases taking effect during that year. No State's matching payments from the Federal Government for foster care maintenance payments or for adoption assistance maintenance payments may be reduced by a percentage exceeding the applicable domestic sequestration percentage. No State may, after the date of the enactment of this Act, make any change in the timetable for making payments under a State plan approved under part E of title IV of the Social Security Act which has the effect of changing the fiscal year in which expenditures under such part are made.

(d) LOW-INCOME ENTITLEMENTS.—(1) Benefit payments or payments to States or other entities for the programs listed in paragraph (2) shall not be reduced by more than 1 percent under any sequestration order. When reduced under an end-of-session sequestration order, those benefit reductions shall occur starting with the payment made at the start of January. When reduced under a within-session sequestration order, those benefit reductions shall occur starting with the next periodic payment.

(2) The programs referred to in paragraph (1) are the following:

Aid to families with dependent children (75–0412–0–1–609);

Child nutrition (12–3539–0–1–605);

Food stamp programs (12–3505–0–1–605) and (12–3550–0–1–605);

Grants to States for medicaid (75–0512–0–1–551); and

Supplemental security income program (75–0406–0–1–609);

(e) FEDERAL RETIREMENT AND VETERANS' PROGRAMS.—

(1) For each of the programs listed in paragraph (2) and except as provided in paragraph (3), monthly (or other periodic) benefit payments shall be reduced by the uniform percentage applicable to direct spending sequestrations for such programs under section 301(c)(2), which shall in no case exceed 2 percent under any sequestration order. When reduced under an end-of-session sequestration order, those benefit reductions shall occur starting with the payment made at the start of January or 7 weeks after the order is issued, whichever is later. When reduced under a within-session sequestration order, those benefit reductions shall occur starting with the next periodic payment.

(2) The programs subject to paragraph (1) are:

Benefits payable under sections 3(a), 3(f)(3), 4(a), or 4(f) of the Railroad Retirement Act of 1974;

Benefits under chapter 21 of title 38, United States Code, relating to specially adapted housing and mortgage-protection life insurance for certain veterans with service-connected disabilities (36–0137–0–1–702);

Benefits under section 907 of title 38, United States Code, relating to burial benefits for veterans who die as a result of service-connected disability (36–0155–0–1–701);

Benefits under chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces (36–0137–0–1–702);

Black lung benefits (20–8144–0–7–601);

Central Intelligence Agency retirement and disability system fund (56–3400–0–1–054);

Civil service retirement and disability fund (24–8135–0–7–602);

Comptrollers general retirement system (05–0107–0–1–801);

Foreign service retirement and disability fund (19–8186–0–7–602);

Judicial survivors' annuities fund (10–8110–0–7–602);

Longshoremen's and harborworkers' compensation benefits (16–9971–0–7–601);

Military retirement fund (97–8097–0–7–602);

National Oceanic and Atmospheric Administration retirement (13–1450–0–1–306);

Pensions for former Presidents (47–0105–0–1–802);

Railroad retirement tier II (60–8011–0–7–601);

Railroad supplemental annuity pension fund (60–8012–0–7–602);

Retired pay, Coast Guard (69–0241–0–1–403);

Retirement pay and medical benefits for commissioned officers, Public Health Service (75–0379–0–1–551);

Special benefits, Federal Employees' Compensation Act (16–1521–0–1–600);

Special benefits for disabled coal miners (75–0409–0–1–601);

Tax Court judges survivors annuity fund (23–8115–0–7–602);

Veterans' compensation (36–0153–0–1–701); and

Veterans' pensions (36–0154–0–1–701).

(f) MEDICARE PROGRAM.—

(1) CALCULATION OF REDUCTION IN INDIVIDUAL PAYMENT AMOUNTS.—To achieve the total percentage reduction in those programs required by section 301, the percentage reduction that shall apply to payments under the health insurance programs under title XVIII of the Social Security Act for services furnished after any sequestration order is issued shall be such that the reduction made in payments under that order shall achieve the required total percentage reduction in those payments for that fiscal year as determined on a 12-month basis.

(2) TIMING OF APPLICATION OF REDUCTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if a reduction is made under paragraph (1) in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for services furnished after the effective date of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

(B) PAYMENT ON THE BASIS OF COST REPORTING PERIODS.—In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made under paragraph (1) in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs after the effective date of the order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs after the effective date of the order.

(3) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES.—If a reduction in payment amounts is made under paragraph (1) for services for which payment under part B of title XVIII of the Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1) of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

(4) NO EFFECT ON COMPUTATION OF AAPCC.—In computing the adjusted average per capita cost for purposes of section 1876(a)(4) of the Social Security Act, the Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this subtitle.

(g) FEDERAL PAY.—

(1) IN GENERAL.—Except as provided in section 302(b)(3), new budget authority to pay Federal personnel shall be reduced by the uniform percentage calculated under section 301(c), but no sequestration order may reduce or have the effect of reducing the rate of pay to which any individual is entitled under any statutory pay system (as increased by any amount payable under section 5304 of title 5, United States Code, or section 302 of the Federal Employees Pay Comparability Act of 1990) or the rate of any element of military pay to which any individual is entitled under title 37, United States Code, or any increase in rates of pay which is scheduled to take effect under section 5303 of title 5, United States Code, section 1009 of title 37, United States Code, or any other provision of law.

(2) DEFINITIONS.—For purposes of this subsection:

(A) The term "statutory pay system" shall have the meaning given that term in section 5302(1) of title 5, United States Code.

(B) The term "elements of military pay" means—

(i) the elements of compensation of members of the uniformed services specified in section 1009 of title 37, United States Code,

(ii) allowances provided members of the uniformed services under sections 403a and 405 of such title, and

(iii) cadet pay and midshipman pay under section 203(c) of such title.

(C) The term "uniformed services" shall have the meaning given that term in section 101(3) of title 37, United States Code.

(h) CHILD SUPPORT ENFORCEMENT PROGRAM.—Any sequestration order shall accomplish the full amount of any required reduction in expenditures under sections 455 and 458 of the Social Security Act by reducing the Federal matching rate for State administrative costs under such program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

(i) EXTENDED UNEMPLOYMENT COMPENSATION.—(1) A State may reduce each weekly benefit payment made under the Federal-State Extended Unemployment Compensation Act of 1970 for any week of unemployment occurring during any period with respect to which payments are reduced under an order issued under this title by a percentage not to exceed the percentage by which the Federal payment to the State under section 204 of such Act is to be reduced for such week as a result of such order.

(2) A reduction by a State in accordance with subparagraph (A) shall not be consid-

ered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1954.

(j) COMMODITY CREDIT CORPORATION.—

(1) POWERS AND AUTHORITIES OF THE COMMODITY CREDIT CORPORATION.—This title shall not restrict the Commodity Credit Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, to use the proceeds as a revolving fund to meet other obligations and otherwise operate as a corporation, the purpose for which it was created.

(2) REDUCTION IN PAYMENTS MADE UNDER CONTRACTS.—(A) Payments and loan eligibility under any contract entered into with a person by the Commodity Credit Corporation prior to the time any sequestration order has been issued shall not be reduced by an order subsequently issued. Subject to subparagraph (B), after any sequestration order is issued for a fiscal year, any cash payments made by the Commodity Credit Corporation—

(i) under the terms of any one-year contract entered into in or after such fiscal year and after the issuance of the order; and

(ii) out of an entitlement account,

to any person (including any producer, lender, or guarantee entity) shall be subject to reduction under the order.

(B) Each contract entered into with producers or producer cooperatives with respect to a particular crop of a commodity and subject to reduction under subparagraph (A) shall be reduced in accordance with the same terms and conditions. If some, but not all, contracts applicable to a crop of a commodity have been entered into prior to the issuance of any sequestration order, the order shall provide that the necessary reduction in payments under contracts applicable to the commodity be uniformly applied to all contracts for succeeding crops of the commodity, under the authority provided in paragraph (3).

(3) DELAYED REDUCTION IN OUTLAYS PERMISSIBLE.—Notwithstanding any other provision of this title, if any sequestration order is issued with respect to a fiscal year, any reduction under the order applicable to contracts described in paragraph (2) may provide for reductions in outlays for the account involved to occur in the fiscal years following the fiscal year to which the order applies.

(4) UNIFORM PERCENTAGE RATE OF REDUCTION AND OTHER LIMITATIONS.—All reductions described in paragraph (2) that are required to be made in connection with any sequestration order with respect to a fiscal year—

(A) shall be made so as to ensure that outlays for each program, project, activity, or account involved are reduced by a percentage rate that is uniform for all such programs, projects, activities, and accounts, and may not be made so as to achieve a percentage rate of reduction in any such item exceeding the rate specified in the order; and

(B) with respect to commodity price support and income protection programs, shall be made in such manner and under such procedures as will attempt to ensure that—

(i) uncertainty as to the scope of benefits under any such program is minimized;

(ii) any instability in market prices for agricultural commodities resulting from the reduction is minimized; and

(iii) normal production and marketing relationships among agricultural commodities (including both contract and non-contract commodities) are not distorted.

In meeting the criterion set out in clause (iii) of subparagraph (B) of the preceding sentence, the President shall take into consideration that reductions under an order may apply to programs for two or more agricultural commodities that use the same type of production or marketing resources or that are alternative commodities among which a producer could choose in making annual production decisions.

(5) CERTAIN AUTHORITY NOT TO BE LIMITED.—Nothing in this title shall limit or reduce in any way any appropriation that provides the Commodity Credit Corporation with funds to cover the Corporation's net realized losses.

(k) THE JOBS PORTION OF AFDC.—

(1) FULL AMOUNT OF SEQUESTRATION REQUIRED.—Any sequestration order shall accomplish the full amount of any required reduction of the job opportunities and basic skills training program under section 402(a)(19), and part F of title VI, of the Social Security Act, in the manner specified in this subsection. Such an order may not reduce any Federal matching rate pursuant to section 403(l) of the Social Security Act.

(2) NEW ALLOTMENT FORMULA.—

(A) GENERAL RULE.—Notwithstanding section 403(k) of the Social Security Act, each State's percentage share of the amount available after sequestration for direct spending pursuant to section 403(l) of such Act shall be equal to that percentage of the total amount paid to the States pursuant to such section 403(l) for the prior fiscal year that is represented by the amount paid to such State pursuant to such section 403(l) for the prior fiscal year, except that a State may not be allotted an amount under this subparagraph that exceeds the amount that would have been allotted to such State pursuant to such section 403(k) had the sequestration not been in effect.

(B) REALLOTMENT OF AMOUNTS REMAINING UNALLOTTED AFTER APPLICATION OF GENERAL RULE.—Any amount made available after sequestration for direct spending pursuant to section 403(l) of the Social Security Act that remains unallotted as a result of subparagraph (A) of this paragraph shall be allotted among the States in proportion to the absolute difference between the amount allotted, respectively, to each State as a result of such subparagraph and the amount that would have been allotted to such State pursuant to section 403(k) of such Act had the sequestration not been in effect, except that a State may not be allotted an amount under this subparagraph that results in a total allotment to the State under this paragraph of more than the amount that would have been allotted to such State pursuant to such section 403(k) had the sequestration not been in effect.

(l) POSTAL SERVICE FUND.—Notwithstanding any other provision of law, any sequestration of the Postal Service Fund shall be accomplished by a payment from that Fund to the General Fund of the Treasury, and the Postmaster General of the United States shall make the full amount of that payment during the fiscal year to which the presidential sequestration order applies.

(m) EFFECTS OF SEQUESTRATION.—The effects of sequestration shall be as follows:

(1) Budgetary resources sequestered from any account other than an entitlement trust, special, or revolving fund account shall revert to the Treasury and be permanently canceled.

(2) Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects, and activities within a budget account (with programs, projects, and activities as delineated in the appropriation Act or accompanying report for the relevant fiscal year covering that account, or for accounts not included in appropriation Acts, as delineated in the most recently submitted President's budget).

(3) Administrative regulations or similar actions implementing a sequestration shall be made within 120 days of the sequestration order. To the extent that formula allocations differ at different levels of budgetary resources within an account, program, project, or activity, the sequestration shall be interpreted as producing a lower total appropriation, with that lower appropriation being obligated as though it had been the pre-sequestration appropriation and no sequestration had occurred.

(4) Except as otherwise provided, obligations in sequestered direct spending accounts shall be reduced in the fiscal year in which a sequestration occurs and in all succeeding fiscal years.

(5) If an automatic spending increase is sequestered, the increase (in the applicable index) that was disregarded as a result of that sequestration shall not be taken into account in any subsequent fiscal year.

(6) Except as otherwise provided, sequestration in accounts for which obligations are indefinite shall be taken in a manner to ensure that obligations in the fiscal year of a sequestration and succeeding fiscal years are reduced, from the level that would actually have occurred, by the applicable sequestration percentage.

SEC. 304. POINT OF ORDER.

(a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, or conference report that includes any provision that has the effect of modifying the application of this title to any entitlement program subject to sequestration or exempt from sequestration under this title.

(b) WAIVER OR SUSPENSION.—This section may be waived or suspended in the House of Representatives or the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

TITLE IV—BALANCED BUDGET BY FISCAL YEAR 2000

SEC. 401. REDUCTION OF MAXIMUM DEFICIT AMOUNT TO ZERO.

(a) IN GENERAL.—Section 601(a)(1) of the Congressional Budget Act of 1974 is amended to read as follows:

"(1) MAXIMUM DEFICIT AMOUNT.—The term 'maximum deficit amount' means—

"(A) with respect to fiscal year 1994, $255,000,000,000;

"(B) with respect to fiscal year 1995, $219,000,000,000;

"(C) with respect to fiscal year 1996, $183,000,000,000;

"(D) with respect to fiscal year 1997, $147,000,000,000;

"(E) with respect to fiscal year 1998, $98,000,000,000;

"(F) with respect to fiscal year 1999, $49,000,000,000; and

"(G) with respect to fiscal year 2000 and fiscal years thereafter, zero.".

(b) RESTORATION OF FIXED MAXIMUM DEFICIT AMOUNTS.—Section 253(g) of the Balanced Budget and Emergency Deficit Control Act is amended by striking paragraph (1)(B).

SEC. 402. MAXIMUM DEFICIT AMOUNT POINT OF ORDER.

(a) MDA POINT OF ORDER.—Section 605(b) of the Congressional Budget Act of 1974 is amended to read as follows:

"(b) MAXIMUM DEFICIT POINT OF ORDER.—

"(1) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, or conference report that includes any provision that would result in a deficit for a fiscal year that exceeds the maximum deficit amount for such fiscal year.

"(2) WAIVER OR SUSPENSION.—This subsection may be waived or suspended in the House of Representatives or the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.".

(b) LIMIT ON PUBLIC DEBT.—Section 605 of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following:

"(c) LIMIT ON PUBLIC DEBT.—

"(1) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, or conference report that includes any provision that increases the national debt held by the public established in the joint resolution on the budget for a fiscal year in excess of the limit on public debt established by the joint resolution for such fiscal year.

"(2) WAIVER OR SUSPENSION.—This subsection may be waived or suspended in the House of Representatives or the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.".

(c) SOCIAL SECURITY.—

(1) EXCLUSION FROM BUDGET.—Section 13301(a) of the Budget Enforcement Act of 1990 is amended by adding at the end thereof the following: "This subsection shall apply to fiscal years beginning with fiscal year 2001.".

(2) EXCLUSION FROM CONGRESSIONAL BUDGET.—The last sentence of section 301(a) of the Congressional Budget Act of 1974 is amended by striking "The" and inserting "Effective with respect to fiscal years beginning with fiscal year 2001, the".

(3) SOCIAL SECURITY ACT.—Section 710(a) of the Social Security Act is amended by adding at the end thereof the following: "This subsection shall apply to fiscal years beginning with fiscal year 2001.".

SEC. 403. SOCIAL SECURITY FIREWALL.

(a) POINT OF ORDER.—Section 301(i) of the Congressional Budget Act of 1974 is amended to read as follows:

"(i) SOCIAL SECURITY POINT OF ORDER.—It shall not be in order in the Senate or the House of Representatives to consider any joint resolution on the budget that would decrease the excess of social security revenues over social security outlays in any of the fiscal years covered by the joint resolution. No change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues unless such provision changes the income tax treatment of social security benefits.".

(b) BALANCING THE UNIFIED BUDGET.—Section 601(a)(1) of the Congressional Budget Act of 1974, as amended by section 401(a) of this Act, is amended by adding at the end thereof the following:

"For fiscal years after fiscal year 1999, the maximum deficit amount shall be set at zero for each fiscal year in the joint resolution on the budget.".

(c) ELIMINATION OF SOCIAL SECURITY DEFICIT.—Not later than October 1, 2000, Congress may adopt budget procedures for the elimination of the non-Social Security deficit by not later than September 30, 2005. The non-Social Security deficit shall be defined as the Federal budget deficit excluding the receipts and outlays of the Social Security Trust Fund.

SEC. 404. LOOK-BACK SEQUESTER.

Section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following new subsection:

"(l) LOOK-BACK SEQUESTER.—

"(1) IN GENERAL.—On July 1 of each fiscal year, the Director of OMB shall determine if laws effective during the current fiscal year will cause the deficit to exceed the maximum deficit amount for such fiscal year. If the limit is exceeded, there shall be a preliminary sequester on July 1 to eliminate the excess.

"(2) PERMANENT SEQUESTER.—Budget authority sequestered on July 1 pursuant to paragraph (1) shall be permanently canceled on July 15.

"(3) NO MARGIN.—The margin for determining a sequester under this subsection shall be zero.

"(4) SEQUESTRATION PROCEDURES.—The provision of subsections (c), (d), and (e) of this section shall apply to a sequester under this subsection.".

SEC. 405. SAVINGS PROVISION.

The amendments made by this title, the limits established by this title, and the procedures provided in Acts amended by this title necessary to enforce such limits shall apply with respect to fiscal years beginning with fiscal year 1993 and shall continue notwithstanding the termination of any Act setting forth such procedures.

BALANCED BUDGET IMPLEMENTATION ACT

TITLE 1. REQUIRE A JOINT BUDGET RESOLUTION TO FORCE JOINT ACTION BETWEEN CONGRESS AND THE PRESIDENT:

(A) Joint Resolution on the Budget: To remedy the lack of cooperation and coordination between the President and Congress resulting from the Congressional Budget and Impoundment Control Act of 1974 which created two budgets—one Executive and one Congressional—the Balanced Budget Implementation Act converts the present concurrent resolution on the budget into a joint resolution on the budget which must be signed by the President, ensuring joint Congressional and Executive branch consensus on and commitment to each annual budget.

TITLE 2. ZERO-BASED BUDGETING & DECENNIAL SUNSETTING:

(A) For FY 1994 and FY 1995, Congress must re-authorize all discretionary programs and all unearned entitlements: The Balanced Budget Implementation Act adopts President Carter's zero-based budgeting concept, mandating that before FY 1994 begins, the spending authority for all unearned entitlements, and the spending authority for the most expensive one-third of discretionary programs will expire. Entitlements earned by service or paid for in total or in part by assessments or contributions shall be deemed as earned, and their authorization shall not expire. Entitlements not sunsetted include Social Security, veterans benefits, retirement programs, Medicare and others. Before FY 1995, the spending authority of the remaining discretionary programs will expire.

Specifics:

By the beginning of FY 1995, all unearned entitlement and discretionary programs will be subject to re-authorization. If a specific unearned entitlement or discretionary program is not re-authorized in a non-appropriations bill, it cannot be funded and will be terminated.

(B) Unauthorized programs cannot receive appropriations: The Balanced Budget Implementation Act creates a point of order in both Houses against any bill or provision thereof that appropriates funds to a program for which no authorization exists.

Specifics:

Such point of order can be waived only by the affirmative vote of three-fifths of the whole membership of each House. Appeals of the ruling of the Chair on such points of order also require a three-fifths affirmative vote of the whole membership of each House.

A three-fifths point of order shall lie against any authorization that is contained in an appropriation bill.

(C) All discretionary programs and unearned entitlements must be reauthorized every ten years: In the first session of the Congress which follows the decennial Census reapportionment, the spending authority for all unearned entitlements and the most expensive one-third of all discretionary programs will expire for the fiscal year that begins in that session. In the second session of that Congress, the spending authority for the remaining discretionary programs will expire for the fiscal year that begins in that session. This provision will be enforced by the points of order contained in Section B) above.

TITLE 3. LIMIT THE GROWTH OF ENTITLEMENTS TO THE GROWTH RATE OF SOCIAL SECURITY:

(A) The Balanced Budget Implementation Act adopts President Bush's proposal to limit the aggregate growth of all entitlements other than Social Security to the growth rate formula of Social Security for the period FY 1994 to FY 2000: The aggregate growth of all entitlements other than Social Security is limited to the growth rate formula of Social Security, which is the consumer price index and the growth in eligible population.

(B) The Balanced Budget Implementation Act provides flexibility in the growth rate of entitlement programs: An individual entitlement program can grow faster than the overall entitlement cap as long as the aggregate growth in all entitlements (other than Social Security) does not exceed the entitlement cap.

(C) From FY 1994 to FY 2000, the aggregate spending growth cap on entitlements will be enforced by an entitlement sequester: The Balanced Budget Implementation Act provides that if aggregate spending growth in entitlements exceeds the total growth in consumer prices and eligible population, an across-the-board sequester to eliminate excess spending growth will occur on all entitlements other than Social Security. A three-fifths vote point of order lies against any effort to exclude any entitlement from this sequester. This sequester would be in effect until Congress passes legislation which brings the entitlement program back within the cap, and the President signs the bill.

TITLE 4. ESTABLISH FIXED DEFICIT TARGETS, RESTORE AND STRENGTHEN GRAMM-RUDMAN-HOLLINGS, AND REQUIRE A BALANCED BUDGET BY 2000:

(A) Set deficit targets based on President Clinton's pledge to cut the deficit in half in four years:

President Clinton assumed $27 to $40 billion of deficit reduction in FY 1993 in his campaign plan to cut deficit in half by 1996. The fixed deficit targets established in the BBIA to fulfill President Clinton's pledge to cut the deficit in half start with the most recent CBO deficit estimate of $291 billion in FY 1994, and set targets which cut the deficit in half by the fourth year, FY 1997.

The fixed targets established for the four fiscal years that President Clinton's will submit budgets assume reductions in the deficit targets of approximately $36 billion each year and lock them in as the new fixed deficit targets under Gramm-Rudman-Hollings: FY 1994, $255 billion; FY 1995, $219 billion; FY 1996, $183 billion; and FY 1997, $147 billion.

(B) Add new fixed deficit targets after FY 1997 to require a balanced budget by FY 2000:

The deficit targets after FY 1997 would be: FY 1998, $98 billion; FY 1999, $49 billion; and FY 2000, $0 billion.

(C) Restore and extend the fixed deficit targets of Gramm-Rudman-Hollings (GRH); The Balanced Budget Implementation Act modifies the existing GRH maximum deficit amounts and extends the GRH sequester mechanism to balance the budget by FY 2000 and annually thereafter.

The new maximum deficit amounts will be enforced by the existing GRH deficit sequester. After reaching a balanced budget, the GRH sequester mechanism will become permanent to ensure the budget stays in balance.

(D) Strengthen the GRH points of order: The Balanced Budget Implementation Act requires the strengthening of the existing GRH budget points of order.

Specifics:

A point of order will lie against all actions that (1) increase the deficit or (2) increase the limit on national debt held by the public beyond the deficit levels required in section A & B (above). This point of order will lie in both Houses, and may be waived only by a three-fifths vote of the whole membership of each House. An appeal of the point of order can only be waived by a three-fifths vote. No rule in either House can permit waiver of such a point of order by less than three-fifths affirmative vote of the whole membership of such House, nor can such point of order be waived for more than one bill per vote on such point of order.

Once the budget is balanced, all points of order will become permanent to ensure the budget stays in balance.

(E) Protect Social Security: Social Security will be protected fully by (1) preserving the existing points of order to protect the Social Security trust fund; and (2) providing expedited procedures in 1999 for consideration of additional legislation to balance the budget excluding the Social Security Trust Fund.

(F) Look Back Sequester: In the last quarter of every fiscal year, a "look back" sequestration is required to eliminate any excess deficit for the current year. This look back sequester will guarantee that the actual deficit target set for that year is achieved.

Specifics:

On July 1 of every fiscal year, the OMB will order an initial look back sequester based on the most recent OMB deficit estimates. On July 15, the OMB Mid-Session Review will update and finalize the sequester order. The final order will stay in effect unless offset by appropriate legislation to bring the deficit into compliance with that year's target.

Mr. LOTT. Mr. President, I rise in strong support of the Balanced Budget Implementation Act. Congress must reform the budget process and reevaluate our spending priorities. The American people are demanding fiscal responsibility—a complete overhaul, not merely a tinkering with the cogs of the current machinery. This bill will provide the means to that end by creating an enforceable process for balancing the Federal budget by the year 2000.

The deficit is out of control. This gargantuan behemoth is slowing our economic recovery. It is time the Congress learned to balance America's checkbook. We are the ones with the responsibility to do it; yet, we lack the political courage. Unfortunately, Congress has proven that it must have statutory discipline to rein in excessive spending. This bill establishes a process to enforce such discipline.

The budget must be balanced, but it should not—and cannot—be accomplished through increased taxes. The budget deal of 1990 showed us what increasing taxes does for the economy. Our problem has not been too little taxes, but too much spending. Spending, excluding interest payments, rose as a share of the gross domestic product [GDP] by 0.8 percent between the 1970's and the 1980's. At the same time, revenues rose by 0.4 percent. The American people are not overtaxed.

There are four primary components to this bill. First, it requires a joint budget resolution to force formal cooperation between the President and Congress. Since the Congressional Budget and Impoundment Control Act of 1974, there have basically been two budgets: The President's, which is declared dead on arrival more often than not, and the Congress'.

Presidents have complained that they lack sufficient authority over the budget process and, according to a recent study, the Nation's Governors agree; 55 percent said Congress has too much power over the Federal budget, while only 2 percent said the President has too much power. It is time for cooperation and shared responsibility. I believe it is critical that both branches of the Government work together from the beginning of the process to develop the budget.

Second, Congress would be required to reauthorize all discretionary programs and all unearned entitlements during fiscal years 1994 and 1995. The bill requires that this be done every 10 years to reexamine the Nation's current spending habits against yesterday's priorities. We must stop funding Government programs which have outlived their usefulness or purpose. The only way to determine the value of a program is to reconsider its purpose and measure its success. As William Lyon Mackenzie King said, "The promises of yesterday are the taxes of today."

President Carter developed this concept of zero-based budgeting, and we believe it is a necessary component of budget reform. It is time to start from scratch and ensure that every tax dollar collected is spent wisely. We must put an end to Federal program perpetuity.

The bill would also create Senate discipline with a point of order against any bill or provision thereof that appropriates unauthorized funds. While authorization is currently intended to precede appropriation, it frequently does not.

Third, the bill places a cap on the growth rate of entitlements other than Social Security. Entitlement programs are estimated to cost more than $760 billion in fiscal year 1993. This bill would not cut these programs, but restrain the dramatic escalation in their growth. CBO projects entitlements to grow from 12.1 percent of GDP in 1992 to 12.8 percent by 1997. Medicare and Medicaid, the two worst offenders, grew at 31.5 and 12.5 percent respectively between 1991 and 1992. The proposed cap would hold these programs to the growth rate of social security, plus a factor to account for population growth.

Fourth, the bill reestablishes the Gramm-Rudman-Hollings fixed deficit targets, enforceable by sequester. We support President Clinton in his deficit reduction goals. To that end, the annual fixed deficit targets are based on his most recent pledge to cut the deficit in half in 4 years.

The new deficit targets are: Fiscal year 1994, $255 billion; fiscal year 1995, $219 billion; fiscal year 1996, $183 billion; fiscal year 1997, $147 billion.

This is an equal amount of deficit reduction—$36 million—in each of the 4 years. In addition, new deficit targets for the next 3 fiscal years are as follows: Fiscal year 1998, $98 billion; fiscal year 1999, $49 billion; fiscal year 2000, $0 billion.

A look-back sequester in the last quarter of each fiscal year will be used to ensure compliance with these targets. If they are not met, a sequester will be in place until legislation is passed to meet the target.

The bill will also strengthen points of order against actions that increase the deficit or increase the limit on national debt held by the public beyond the fixed deficit target levels. The point of order will lie in both Houses and may only be waived by a three-fifth's vote.

I urge my colleagues to join with us in this fight to reduce the deficit and cosponsor this legislation. If you are serious about fighting the deficit, this legislation will accomplish that.

ADDITIONAL COSPONSORS

S. 7

At the request of Mr. MCCONNELL, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 7, a bill to amend the Federal Election Campaign Act of 1971 to reduce special interest influence on elections, to increase competition in politics, to reduce campaign costs, and for other purposes.

S. 11

At the request of Mr. BIDEN, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of S. 11, a bill to combat violence and crimes against women on the streets and in homes.

S. 20

At the request of Mr. ROTH, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 20, a bill to provide for the establishment, testing, and evaluation of strategic planning and performance measurement in the Federal Government, and for other purposes.

S. 21

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 21, a bill to designate certain lands in the California Desert as wilderness to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes.

S. 24

At the request of Mr. LEVIN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 24, a bill to reauthorize the independent counsel law for an additional 5 years, and for other purposes.

S. 25

At the request of Mr. MITCHELL, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 25, a bill to protect the reproductive rights of women, and for other purposes.

S. 26

At the request of Mr. DORGAN, the names of the Senator from Colorado [Mr. CAMPBELL] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 26, a bill to amend the Internal Revenue Code of 1986 to end deferral for United States shareholders on income of controlled foreign corporations attributable to property imported into the United States.

S. 27

At the request of Mr. SARBANES, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 27, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 39

At the request of Mr. ROTH, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 39, a bill to amend the National Wildlife Refuge Administration Act.

S. 51

At the request of Mr. FEINGOLD, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 51, a bill to consolidate overseas broadcasting services of the United States Government, and for other purposes.

S. 69

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 69, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on boats.

S. 70

At the request of Mr. COCHRAN, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Rhode Island [Mr. PELL], the Senator from Alabama [Mr. SHELBY], the Senator from Alaska [Mr. STEVENS], and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 70, a bill to reauthorize the National Writing Project, and for other purposes.

S. 92

At the request of Mr. HOLLINGS, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 92, a bill to create a legislative line-item veto by requiring separate enrollment of items in appropriations bills.

S. 98

At the request of Mr. BRADLEY, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 98, a bill to establish a Link-up for Learning Grant Program to provide coordinated services to at-risk youth.

S. 103

At the request of Mr. NICKLES, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 103, a bill to fully apply the rights and protections of Federal civil rights and labor laws to employment by Congress.

S. 140

At the request of Mr. INOUYE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 140, a bill to provide that the State Health Insurance Program of Hawaii is eligible for reimbursement from certain funds appropriated to the Public Health and Social Services Emergency Fund, and for other purposes.

S. 148

At the request of Mr. ROCKEFELLER, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 148, a bill to amend section 337 of the Tariff Act of 1930 and title 28 of the United States Code to provide effective procedures to deal with unfair practices in import trade and to conform section 337 and title 28 to the General Agreement on Tariffs and Trade, and for other purposes.

S. 161

At the request of Mr. SARBANES, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 161, a bill to provide for an endowment grant program to support college access programs nationwide, and for other purposes.

S. 171

At the request of Mr. GLENN, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 171, a bill to establish the Department of the Environment, provide for a Bureau of Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes.

S. 176

At the request of Mr. DOLE, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 176, a bill to amend title XVIII of the Social Security Act with respect to essential access community hospitals, the rural transition grant program, regional referral centers, Medicare-dependent small rural hospitals, interpretation of electrocardiograms, payment for new physicians and practitioners, prohibitions on carrier forum shopping, treatment of nebulizers and aspirators, and rural hospital demonstrations.

S. 177

At the request of Mr. DOLE, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 177, a bill to ensure that agencies establish the appropriate procedures for assessing whether or not regulation may result in the taking of private property, so as to avoid such where possible.

S. 185

At the request of Mr. GLENN, the names of the Senator from Virginia [Mr. ROBB], the Senator from Arizona [Mr. DECONCINI], the Senator from Wisconsin [Mr. KOHL], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 185, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 187

At the request of Mr. BURNS, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 187, a bill to protect individuals engaged in lawful hunt on Federal lands, to establish an administrative civil penalty for persons who intentionally obstruct, impede, or interfere with the conduct of a lawful hunt, and for other purposes.

S. 207

At the request of Mr. LOTT, the names of the Senator from Florida [Mr. MACK], the Senator from Oklahoma [Mr. NICKLES], the Senator from Idaho [Mr. KEMPTHORNE], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 207, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 222

At the request of Mr. WELLSTONE, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 222, a bill to require the Commissioner of Food and Drugs to collect information regarding the drug RU-486 and review the information to determine whether to approve RU-486 for marketing as a new drug, and for other purposes.

S. 232

At the request of Mr. HATFIELD, the name of the Senator from Mississippi

[Mr. COCHRAN] was added as a cosponsor of S. 232, a bill to provide assistance to States to enable such States to raise the quality of instruction in mathematics and science by providing equipment and materials necessary for hands-on instruction.

S. 233

At the request of Mr. BOREN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 233, a bill to authorize appropriations for the Civilian Community Corps Demonstration Program.

S. 236

At the request of Mr. MCCAIN, the names of the Senator from Colorado [Mr. BROWN], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 236, a bill to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

S. 239

At the request of Mr. BOREN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 239, a bill to provide grants to States for the establishment of community works progress programs.

S. 253

At the request of Mr. CRAIG, the names of the Senator from Colorado [Mr. CAMPBELL], the Senator from Wyoming [Mr. SIMPSON], the Senator from Arkansas [Mr. BUMPERS], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 253, a bill to authorize the garnishment of Federal employees' pay, and for other purposes.

S. 257

At the request of Mr. BUMPERS, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 257, a bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

S. 261

At the request of Mr. LAUTENBERG, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Washington [Mrs. MURRAY], the Senator from Ohio [Mr. METZENBAUM], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 261, a bill to protect children from exposure to environmental tobacco smoke in the provision of children's services, and for other purposes.

S. 262

At the request of Mr. LAUTENBERG, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Washington [Mrs. MURRAY], the Senator from Ohio [Mr. METZENBAUM], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 262, a bill to require the Administrator of the Environmental Protection Agency to promulgate guidelines for instituting a nonsmoking policy in buildings owned or leased by Federal agencies, and for other purposes.

S. 289

At the request of Mr. REID, the names of the Senator from Connecticut [Mr. DODD] and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 289, a bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, and for other purposes.

S. 295

At the request of Mr. DURENBERGER, the names of the Senator from New Hampshire [Mr. GREGG] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 295, a bill to amend title 23, United States Code, to remove the penalties for States that do not have in effect safety belt and motorcycle helmet traffic safety programs, and for other purposes.

S. 318

At the request of Mr. JOHNSTON, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 318, a bill to provide for the energy security of the Nation through encouraging the production of domestic oil and gas resources in deep water on the Outer Continental Shelf in the Gulf of Mexico, and for other purposes.

SENATE JOINT RESOLUTION 11

At the request of Mr. SARBANES, the names of the Senator from Arkansas [Mr. PRYOR], the Senator from Alaska [Mr. MURKOWSKI], the Senator from West Virginia [Mr. BYRD], the Senator from Georgia [Mr. NUNN], the Senator from Indiana [Mr. COATS], the Senator from Arizona [Mr. MCCAIN], the Senator from Delaware [Mr. ROTH], the Senator from Idaho [Mr. CRAIG], the Senator from Vermont [Mr. JEFFORDS], the Senator from Missouri [Mr. BOND], the Senator from Oregon [Mr. PACKWOOD], the Senator from Florida [Mr. MACK], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Joint Resolution 11, a joint resolution to designate May 3, 1993, through May 9, 1993, as "Public Service Recognition Week."

SENATE JOINT RESOLUTION 30

At the request of Mr. D'AMATO, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Colorado [Mr. BROWN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mr. DORGAN], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Wisconsin [Mr. FEINGOLD] were added as cosponsors of Senate Joint Resolution 30, a joint resolution to designate the weeks of April 25 through May 2, 1993, and April 10 through 17, 1994, as "Jewish Heritage Week."

SENATE JOINT RESOLUTION 32

At the request of Mr. DODD, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of Senate Joint Resolution 32, a joint resolution calling for the United States to support efforts of the United Nations to conclude an international agreement to establish an international criminal court.

SENATE JOINT RESOLUTION 37

At the request of Mr. HOLLINGS, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 37, a joint resolution proposing an amendment to the Constitution relative to contributions and expenditures intended to affect congressional and Presidential elections.

SENATE JOINT RESOLUTION 42

At the request of Mr. BUMPERS, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Michigan [Mr. LEVIN], the Senator from North Dakota [Mr. CONRAD], the Senator from Iowa [Mr. GRASSLEY], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Nevada [Mr. REID], and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Joint Resolution 42, a joint resolution to designate the month of April 1993 as "Civil War History Month."

SENATE CONCURRENT RESOLUTION 9

At the request of Mr. MITCHELL, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from California [Mrs. FEINSTEIN], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Concurrent Resolution 9, a concurrent resolution urging the President to negotiate a comprehensive nuclear weapons test ban.

At the request of Mr. EXON, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Concurrent Resolution 9, supra.

SENATE RESOLUTION 13

At the request of Mrs. KASSEBAUM, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Resolution 13, a resolution to amend the rules of the Senate to improve legislative efficiency, and for other purposes.

SENATE RESOLUTION 24

At the request of Mr. DANFORTH, the names of the Senator from New York [Mr. D'AMATO], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Virginia [Mr. WARNER], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Resolution 24, a resolution urging the criminal prosecution of persons committing crimes against humanity, including participation in mass rapes, in Bosnia-Herzegovina.

SENATE RESOLUTION 35

At the request of Mr. LAUTENBERG, the names of the Senator from Ohio [Mr. GLENN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Iowa [Mr. HARKIN], the Senator from North Dakota [Mr. CONRAD], the Senator from Utah [Mr. HATCH], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Resolution 35, a resolution expressing the sense of the Senate concerning systematic rape in the conflict in the former Socialist Federal Republic of Yugoslavia.

SENATE RESOLUTION 64

At the request of Mr. LUGAR, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of Senate Resolution 64, a resolution expressing the sense of the Senate that increasing the effective rate of taxation by lowering the estate tax exemption would devastate homeowners, farmers, and small business owners, further hindering the creation of jobs and economic growth.

SENATE RESOLUTION 68—URGING THE PRESIDENT TO SEEK AN INTERNATIONAL OIL EMBARGO

Mr. D'AMATO (for himself, Mr. SPECTER, and Mr. GRASSLEY) submitted the following resolution: which was referred to the Committee on Foreign Relations:

S. RES. 68

Whereas 441 people were murdered in the terrorist bombing of Pan Am Flight 103 in 1988 and the UTA Flight 772 in 1989;

Whereas these bombings killed nationals from over 30 nations;

Whereas the United Nations Security Council first passed Resolution 731 on January 21, 1992, and subsequently adopted Resolution 748 on March 31, 1992, in response to the inaction of the Libyan government on this issue;

Whereas Libya has refused to provide all information in its possession regarding the bombings;

Whereas Libya has refused to remand into American, British, or French custody, the two suspected Libyan agents;

Whereas Libya has refused to pay compensation to the families of the victims of both flights;

Whereas Libya has long been a state sponsor of international terrorism, providing financial, logistical, and armed support for a variety of terrorist groups and movements: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) The President should seek an international oil embargo through the United Nations against Libya for its refusal to comply with United Nations Security Council Resolutions 731 and 748 concerning the bombings of Pan Am Flight 103 and UTA 772;

(2) Libya should comply with all provisions of United Nations Security Council Resolutions 731 and 748;

(3) Libya should release to the United States or Great Britain for trial, the two Libyan agents suspected for complicity in the bombing of Pan Am Flight 103 and to France those responsible for the bombing of UTA Flight 772;

(4) Libya should provide all information in its possession regarding the two bombings;

(5) Libya should pay compensation to the families of the victims of both flights;

(6) all United States nationals in Libya who, in defiance of United States law, continue to contribute to the economy of Libya, should leave immediately; and

(7) Libya should cease support, training, and the arming of terrorist groups and movements throughout the world.

• Mr. D'AMATO. Mr. President, I rise today, along with Senators GRASSLEY and SPECTER, to introduce a resolution urging the President of the United States to seek an international oil embargo against Libya for its refusal to comply with U.N. Security Council Resolutions 731 and 748 concerning the bombings of Pan Am flight 103 and UTA 772.

Libya has long been our adversary. It has challenged our ships in the Mediterranean, threatened the lives of our leaders, and most critical to Americans, sponsored acts of terrorism against our citizens abroad.

The most despicable act of Libyan terrorism occurred on December 21, 1989, when Pan Am flight 103 was blown up over Lockerbie, Scotland by at least two Libyans. This mass murder claimed the lives of 270 people, 189 of them Americans. Of this number, 35 were students at Syracuse University, my alma mater.

On November 14, 1991, the U.S. Justice Department charged these agents, Lamen Khalifa Fhimah and Abdel Basset Ali Megrahi, in Federal district court in a 193-count indictment stemming from a 3-year investigation into the December 1988 bombing.

Mu'ammar Qadhafi brazenly dismissed the indictment while pounding his chest, bragging to the world that he had again withstood American aggression. His offer to try the two agents in the Libyan court was a mockery of justice and an insult to the families of the victims.

There can be no rest until the individuals who ordered, directed, and paid for the commission of this terrible crime are brought to justice, no matter where they may be located. The investigation of the bombing must continue to be vigorously and intensively pursued.

Libya's total lack of compliance only adds to its crimes. It has refused to cooperate with the United Nations in supplying any information on the bombings. Moreover, it has refused compensation to the families of the bombing victims. In all, Libya has not moved 1 inch toward fulfilling the U.N. resolutions.

Libya has done little more than spread death through its long support of international terrorism by providing the financing, logistical, and armed support of a variety of terrorist groups and movements. Libya must pay the price for its part in these massacres. Despite the international community's reluctance to do so, a worldwide oil embargo must be imposed on Libya.

We must send the message that terrorism and sponsorship of terrorism will not go unpunished. Libya and its leader, Mu'ammar Qadhafi, must come to realize that violence has a price and that Libya's murderous actions must end.•

SENATE RESOLUTION 69—TO AMEND THE STANDING RULES OF THE SENATE

Mr. HEFLIN submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 69

Resolved, That paragraph 11 of rule XXVI of the Standing Rules of the Senate is amended—

(1) in subparagraph (c) by striking "(a) and (b)" and inserting "(a), (b), and (c)";

(2) by redesignating subparagraph (c) as subparagraph (d); and

(3) by inserting after subparagraph (b) the following:

"(c) Each such report (except those by the Committee on Appropriations) shall also contain—

"(1) an evaluation, made by such committee, of the financial impact that any Federal mandates in the bill or joint resolution would have on State and local governments; or

"(2) in lieu of such evaluation, a statement of the reasons why compliance by the committee with the requirements of clause (1) is impracticable.".

Mr. HEFLIN. Mr. President, I rise today to introduce a bill which would amend the Standing Rules of the Senate to require that a financial impact statement be included in the report accompanying each bill reported by a Senate committee, showing the financial impact which any Federal mandates in the bill would have on State and local governments. I know that my colleagues are all acutely aware of the very serious budget problems facing many of our 50 States and that they share my belief that Congress must not take lightly legislative decisions which impact their budgets.

As we all know, Federal funds to State and local governments have declined precipitously since the early 1980's. Funding from the Environmental Protection Agency for water and sewer projects declined from $365 to $230 million. Job training funds declined from $6.5 to $2.5 billion. The Community Development Block Grant Program which provided $3.7 billion to communities in 1981 was whittled away at for years and has only now caught up with its 1981 level of funding. Of course, that does not include an adjustment for inflation. Meanwhile, the Urban Development Action Grant Program has been totally eliminated. Also abandoned is the Revenue Sharing Program which in 1981 provided $4.5 billion to State and local governments in flexible funding to meet community needs and offset State budgetary crises.

However, as Federal funding has decreased, Federal mandates have increased. The objective of these Federal mandates may be noble, but the bottom line economic impact on State and local governments can be devastating. A complex web of Federal programs on everything from medical care and welfare to roads and bridges can tie up over 25 percent of a State's budget. Medicaid alone cost the States $44 billion during 1992. Consider the economic burden placed on cities that make a good-faith effort to comply with environmental mandates on everything from asbestos, clean air, and clean water to underground storage tanks, and solid waste disposal. No one would argue with the objective of these programs, however, the increasing number of Federal mandates is shifting a large portion of the costs of Federal programs to the States.

Currently, the Senate requires that any committee reporting out a bill or resolution provide an estimate of the cost incurred in carrying out that bill or resolution. I think we would all agree that this information has become indispensable in conducting the business of the Senate and has become an important tool in trying to encourage responsible and informed policymaking. Likewise, the bill I introduce today will provide information necessary to more fully assess the ramifications of proposals pending in the Congress and serve to remind us all that nothing is free. Increased information, accountability, and responsibility will be encouraged by a proposal of this type and I hope my colleagues will share my belief that such a proposal would be in the best interests of the various levels of government in our country and a step toward sounder economic ground for the people of the United States.

SENATE RESOLUTION 70—RELATIVE TO THE RATIFICATION OF THE U.N. CONVENTION ON THE RIGHTS OF THE CHILD

Mr. BRADLEY (for himself, Mr. LUGAR, Mr. LEAHY, and Mr. HATFIELD) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 70

Whereas the future peace and prosperity of all nations depend upon the good health and well-being of the world's children;

Whereas Congress has long recognized the vulnerability of children and has enacted numerous laws that afford children special protections in the United States;

Whereas millions of children worldwide are threatened daily by poverty, malnutrition, homelessness, exploitation, and abuse, depriving both family and society of the productivity and potential of the children;

Whereas the Child Survival and Development Revolution, launched in 1982 to attack the root causes of infant mortality and child ill-health through low-cost means such as universal child immunization and oral rehydration therapy, is saving the lives of more than 3,000,000 children each year and has demonstrated that the number of child deaths can be reduced significantly if available resources are used appropriately;

Whereas despite the gains in lives saved and an emerging international consensus about the importance of protecting children, children both in the United States and abroad will continue to face poverty, sickness, and ill-treatment;

Whereas on November 20, 1989, the United States and other members of the United Nations unanimously endorsed the United Nations Convention on the Rights of the Child and urged national governments to ratify the Convention and make possible the application of the Convention as international law;

Whereas the Convention, if implemented, will help establish universal legal standards for the care and protection of children against neglect, exploitation, and abuse;

Whereas the Federal Government, scores of private voluntary organizations, and hundreds of American citizens were actively involved in the drafting of the Convention;

Whereas as of January 1993, 128 countries have become parties to the Convention by ratification or accession, and 24 others have signed the Convention, indicating an intention to ratify the Convention in the future;

Whereas the United States is the only Western industrialized nation that has neither signed nor ratified the Convention, and the United States stands with Iraq, and Libya as one of fewer than 30 countries that neither is a party to the Convention nor has signed the Convention; and

Whereas the United States must regain a leading role in the implementation of the Convention to ensure that the Convention remains a force for improving the lot of children, both in the United States and abroad; Now, therefore be it.

Resolved, That it is the sense of the Senate that—

(1) the issue of children's rights and well-being is important both to the United States and the world; and

(2) in consideration of the importance of the issue, the President should promptly seek the advice and consent of the Senate to the ratification of the Convention on the Rights of the Child, adopted by the United Nations with the support of the United States on November 29, 1989.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. BRADLEY. Mr. President, today I am pleased to submit, with Senators LUGAR, HATFIELD, and LEAHY, a resolution calling on the President to send to the Senate as expeditiously as possible the Convention on the Rights of the Child for ratification.

The United States and the other members of the United Nations unanimously endorsed the Convention on the Rights of the Child on November 20, 1989.

This unanimous approval reflects, first and foremost, the world's awareness that we need universal standards for the care and protection of children against neglect, exploitation, and abuse.

America has long recognized that children are particularly vulnerable and need special protections. Congress has passed many laws to provide these protections. But even in this country, we know all too well the tragedy of infant mortality, the terror of child abuse, the scourge of drugs, and the wasted potential of school dropouts.

In the rest of the world, where legal protections are weak or nonexistent and resources scarce, the plight of the child is considerably worse. Children are born stateless, unwanted, without any government to assume responsibility for them. Some work under appalling conditions. Some are literally bought and sold, through illegal adoption schemes. Armed conflict devours many and few know any semblance of protection for what we would consider basic rights—freedom of speech, of thought, religion, assembly, privacy. And where government policies don't attack children, poverty and ignorance do. Far too many children die needlessly of easily preventable diseases or treatable conditions.

Mr. President, the Convention on the Rights of the Child will help focus needed attention on these problems, here and abroad. Ten years in the making, it establishes minimum standards for measuring the way governments treat their children. It entitles children to a name and nationality at birth. It stresses the importance of child survival and the need for primary health care. It emphasizes primary education, where 4 years of schooling can turn potential beggars into productive citizens. It requires governments to protect their children against child labor, drug abuse, sexual exploitation. It provides for special protections in adoption, and mandates proper care for orphaned children, It requires countries to establish minimum standards of juvenile justice. It prohibits states from using children as cannon fodder during war. And, if implemented, it becomes international law, binding on all signatories, with a committee of experts to monitor and publicize the extent to which governments meet these standards. The Convention will become a powerful voice in promoting and protecting children, in this country and abroad.

Mr. President, for us, the need for these rights and protections is self-evident. Every day we delay ratifying the treaty, nearly 40,000 children die. Every week that we delay, 250,000 children die. The saddest fact is that most of these deaths have occurred from preventable causes such as vaccine-preventable diseases, diarrhea, dehydration, and pneumonia. Throughout the world, 100 million children work under hazardous and often fatal conditions.

Another 80 million children are homeless in the world's cities and 10 million are refugees. These are all issues addressed by the Convention.

The United States must continue to play a leading role in promoting the Convention on the Rights of the Child. The problems of the world's children are our problem. As the only remaining superpower, we are morally obligated to confront their plight. It is also in our national interest to act. As the world grows more interdependent it is no longer possible to ignore the actions of others, especially when they concern children. Imagine a world where the potential of all humans is fully utilized? If we are ever to achieve such a noble and fruitful goal we must begin with our children, all the world's children.

This body has a long tradition of enacting effective legislation on behalf of children. But I cannot say that we have done all we can do. The statistics I stated previously make this clear. The Convention furthers our long tradition of legislating to make the world better for children everywhere. It focuses energy and resources on doing the simple things—the right things—to help children.

This Convention is not about changing our society or a massive transfer of resources. It is, instead, about targeting available resources toward the most vulnerable elements of our society. This Convention is not about a wholesale redefinition of human rights to include social and economic benefits for every individual. Instead, it is about recognizing that we have to take care of children as a group.

I urge all Senators to join me and Senators LUGAR, HATFIELD, and LEAHY in sponsoring this resolution requesting the President to send the Convention on the Rights of the Child to the Senate for ratification.

Mr. LUGAR. Mr. President, I am pleased to join my colleagues Senator BRADLEY, Senator HATFIELD, and Senator LEAHY today in introducing a resolution encouraging the administration to review and quickly forward to the Senate for ratification the U.N. Convention on the Rights of the Child.

I share Senator BRADLEY's intense interest in ensuring the basic rights and freedoms for children the world over. Today, we underscore our belief that children are our most precious resource and deserving of the protections we as caring adults are committed to provide. That is why children have special protection in the United States. Our laws punish child abusers, regulate and oversee adoption and foster care, help parents provide for child care, assure collection of child support payments, and attempt to educate all our children. However, we are painfully aware that these assurances are not provided or guaranteed universally. The purpose of this convention is to prod all countries to subscribe to higher standards of treatment and protection of children.

Throughout the world, children are subject not only to social and economic difficulties, but also to intentionally inflicted abuses of their most fundamental rights. In many countries, governments refuse to acknowledge any responsibility for their children and have abdicated responsibility for preparing their future generations for the challenges ahead. In parts of the world, children work under appalling conditions, are bought and sold in illegal adoption schemes, and are used as cannon fodder in war. Around the world, nearly 35 million children die each year from preventable causes.

The U.N. Convention on the Rights of the Child is an international treaty guaranteeing children the fulfillment of their basic needs, protections, and freedoms. The Convention was unanimously endorsed by the United States and other members of the United Nations on November 20, 1989, after 10 years of study and debate. The Convention establishes minimum standards for measuring the way governments treat their children and includes many of the rights guaranteed under our Bill of Rights.

Today, we encourage President Clinton to take the next important step by embracing the Convention and promptly seeking the advice and consent of the Senate on its ratification. Ratification will not incur any cost or appropriation by the United States. It will encourage all nations to agree to high standards in the treatment of children, with all nations judging compliance. With hope, it will help build a commitment by other nations to improve the lives of children by giving greater priority to their needs.

I intend to work closely with the other cosponsors of this resolution to speed the progress of the ratification process. Senator BRADLEY and I continue to serve on an advisory council urging adoption of this Convention. We believe that the United States has a special leadership role to play in ensuring that the most basic protections long afforded children in our country become a part of the lives of children worldwide. I encourage our colleagues to join us in this effort.

Mr. LEAHY. Mr. President, today I join with my colleagues, Senators BRADLEY, LUGAR, and HATFIELD, to submit a resolution calling on President Clinton to quickly sign the Convention on the Rights of the Child and submit it to the Senate for ratification. This resolution reminds us that if we want a secure future we must take special care of the people who will influence the future the most—the children.

The plight of many of the world's children is heart-rending. In our own country, we are all too familiar with the tragedies of infant mortality, child abuse, drug abuse, and the perils of inner-city violence which threaten so many of our youth.

But in other countries the situation is worse. Right now, countless children around the world face a day-to-day struggle for survival. In too many countries children live on the margin of society and are sold into prostitution and exploited in sweatshops. More than 40,000 children die each day from malnutrition, measles, pneumonia, and other preventable diseases. Millions more have been orphaned as a result of AIDS.

Too often governments ignore the basic needs of their people, and children are the most vulnerable. Today we have a terrific opportunity to support children worldwide. The U.N. Convention on the Rights of the Child recognizes specific obligations of society and government toward children. It spells out the rights and safeguards owed to children around the world and establishes minimum standards for measuring the way governments treat their children. The development of our children from their earliest stages must be made an international priority. Our failure to ensure basic rights for our children incurs enormous social and moral costs.

Failing to act in the past has placed the United States in the company of Iraq, Libya, and South Africa as one of fewer than 33 countries that have not signed nor ratified the treaty. It is time that we join the ranks of so many other nations, including all of the industrialized Western countries, that have both signed and ratified the Convention.

Signing the Convention is an interim step to help us move forward and meet the important needs of children around the world. To move toward our goal, President Clinton should submit the U.N. Convention on the Rights of the Child to the Senate for ratification. President Clinton has already expressed his support of this international consensus, and I am hopeful that he will sign it. Let us hope that this treaty amounts to more than just kind words, and that with its passage the administration will move to produce a plan to pursue the goals of the Convention.

It is incumbent upon us to do what the preamble to our Constitution calls on us to do for our children. All hopes for our children will mean little if we do not focus more on their needs. Let us not forget our most precious resource—our children.

AMENDMENTS SUBMITTED

FREEDOM OF CHOICE ACT

SMITH AMENDMENT NOS. 23 THROUGH 34

(Ordered referred to the Committee on Labor and Human Resources.)

Mr. SMITH submitted 12 amendments intended to be proposed by him to the bill (S. 25) to protect the reproductive rights of women, and for other purposes, as follows:

AMENDMENT No. 23

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from regulating the performance of abortions after the sixth month of pregnancy unless the life of the mother would be endangered if the pregnancy were carried to term.".

AMENDMENT No. 24

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from regulating the performance of abortions after the seventh month of pregnancy unless the life of the mother would be endangered if the pregnancy were carried to term.".

AMENDMENT No. 25

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from regulating the performance of abortions after the eighth month of pregnancy unless the life of the mother would be endangered if the pregnancy were carried to term.".

AMENDMENT No. 26

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from regulating the performance of abortions after the ninth month of pregnancy unless the life of the mother would be endangered if the pregnancy were carried to term.".

AMENDMENT No. 27

At the appropriate place, add the following:

"Nothing in this Act shall be construed to require any individual or institution with moral or religious objections to the performance of some or all abortions to perform an abortion or participate in the performance of an abortion.".

AMENDMENT No. 28

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from regulating the performance of abortions performed solely on the basis of the sex of the fetus.".

AMENDMENT No. 29

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from requiring the provision of information concerning the medical and biological ramifications of an abortion to a woman seeking an abortion prior to the performance of such abortion.".

AMENDMENT No. 30

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from enacting constitutional statutes requiring that the parents of a minor child who has not attained 18 years of age be notified prior to the performance of an abortion on such child.".

AMENDMENT No. 31

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from enacting constitutional statutes requiring that the parents of a minor child who has not attained 18 years of age give their consent to the performance of an abortion on such child; *Provided, however*, That a state may not require the notification of a parent in the case of a pregnancy resulting from incest with such parent or in the case in which the minor would be subject to severe physical or mental abuse if the parent were notified.".

AMENDMENT No. 32

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from allowing a woman to sue an abortion-provider for physical, mental, emotional, or financial damage done to such woman by such abortion-provider.".

AMENDMENT No. 33

At the appropriate place, add the following:

Section 152 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"( ) EXCEPTION.—For purposes of subsection (a), the term "dependent" does not include any individual in any taxable year if

"(1) an induced abortion was attempted with respect to such individual;

"(2) such abortion was unsuccessful;

"(3) the taxpayer claiming such individual as a dependent consented to such abortion; and

"(4) such individual died within the same table year as the birth as a result of the abortion or of complications resulting from the abortion.".

AMENDMENT No. 34

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from establishing a reasonable waiting period not in excess of 24 hours prior to the performance of an abortion.".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on S. 338, the Petroleum Marketing Practices Act Amendments of 1993.

The hearing will take place on Thursday, February 25, 1993, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building, First and C Streets NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for inclusion in the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Don Santa.

For further information, please contact Don Santa of the committee staff at (202) 224–4820.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, February 25, 1993, beginning at 2 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on two bills currently pending before the subcommittee. The bills are:

S. 206, a bill to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, and for other purposes; and

S. 341, a bill to provide for a land exchange between the Secretary of Agriculture and Eagle and Pitkin Counties in Colorado, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit a written statement is welcome to do so by sending two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 304, Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact Erica Rosenberg of the subcommittee staff at (202) 224–7933.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources. The purpose of the hearing is to receive testimony on energy tax options.

The hearing will take place on Wednesday, February 24, 1993, beginning at 9:30 a.m. in room 216 of the Hart Senate Office Building in Washington, DC. Witnesses will testify by invitation only.

Those wishing to submit written testimony should address it to the Committee on Energy and Natural Resources, room 304, Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Patricia Beneke of the committee staff at (202) 224-2383.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, there will be a meeting of the Committee on Rules and Administration, in SR-301, Russell Office Building, on Wednesday, March 3, and Thursday, March 4, 1993, at 9:30 a.m.

Hearings—To receive testimony on legislation pertaining to the financing of congressional election campaigns—S. 3, S. 7, S. 62, S. 87, S. 94, and any other bills referred by the time of the hearings.

Mr. FORD. Mr. President, there will be a meeting of the Committee on Rules and Administration, in SR-301, Russell Office Building, on Thursday, March 18, 1993, at 9:30 a.m.

Markup—To consider a congressional election campaign finance bill.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, February 16, 1993, at 2:30 p.m., in open session, to consider the nominees for the 1993 Defense Base Closure and Realignment Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO MRS. BROWNING DODSON

• Mr. ROCKEFELLER. Mr. President, I would like to take this time to recognize a wonderful woman from my beautiful State of West Virginia. A devoted educator, mother, and community leader, Mrs. Browning Dodson has been teaching elementary students for nearly 60 years in the rural areas of Greenbrier County, WV.

Mrs. Dodson has long recognized the need for educating our children well, and comes from a family of educators. She says, "I had six older sisters who were teachers. My grandfather and grandmother were teachers. On my husband's side, they were all teachers." Her two daughters are teachers, and are even married to teachers.

When Mrs. Dodson started teaching in 1933, she earned $574 a year. "At that time, that was a good salary," she says. Although we all know teachers are paid a little more than that today, Mrs. Dodson points out that her salary then went just as far as her salary now.

In Mrs. Dodson's earlier years of teaching, the hardest thing for her was to see the poorer children do without some of the necessities in the classroom. Many of the parents would trade or borrow textbooks for their children, so that they would have the opportunity to learn; something that many of these parents were never afforded. Mrs. Dodson always tried to make sure that every child in her classroom and the chance to at least look at a text, and get as much as they could out of the class.

She feels that the situation she is in today is perfect. She is teaching a small math class of five to seven special needs students. Compared to the 40 or more students that she taught in the one-room school house many years before, this is a welcomed change.

Very recently, Mrs. Dodson was recognized by the West Virginia State School Superintendent, as the State's senior educator. After almost 60 years of being an educator in the State of West Virginia, Mrs. Dodson says that she would not know what to do if she were not teaching. Mrs. Dodson never thought at first that she would teach as long as she has. She was once told that, ". . . you will start feeling old when you begin teaching your former students' children." Well today, Mrs. Dodson is teaching their grandchildren and going strong.

Mr. President, as you know, I am the chairman of the National Commission on Children. "This Commission recognizes the needs of our children all across the Nation. We try to bring about the changes necessary to make life better, and to bring children the opportunities that they rightly deserve. How wonderful to know that Mrs. Dodson has been bringing these opportunities to her classrooms for nearly 60 years.

Mr. President, I would like to close by saying, thank you Mrs. Dodson, for your unselfish devotion and service to the children of West Virginia. You have made us so very proud.•

ABOLISH THE SOURCE TAX—S. 235

• Mr. GORTON. Mr. President, today I speak in support of an important piece of legislation designed to help the senior citizens in my home State. It is the bill introduced by my distinguished colleagues Senators REID and BRYAN to abolish the so-called source tax.

As the situation stands today, retirees living anywhere in the country may find that the retirement pension on which they depend for their livelihood is taxed by a State in which they no longer reside. They must pay taxes to the State where they spent all, or part of, their working years, even though these retirees do not live there anymore. In many cases, this unjust tax is automatically deducted from the retiree's pension benefit.

This unfair situation is particularly important to me because Washington State is one of our seniors' favorite States in which to retire. Many people spend their working lives saving up enough money to retire in Washington State, only to find their pensions taxed by their former State of residence.

Consequently, many residents of Washington's retirement committees have written to me, and I have listened. Seniors from cities such as Forks, Spokane, and Walla Walla have all expressed their outrage and frustration at being taxed by other States. And, as I travel around the State listening to the concerns of the citizens, this issue is always brought to my attention.

Retirees are outraged because their taxes are going to pay for State services of which they cannot take advantage. Retirees in Washington cannot avail themselves of the senior services, medical services, transportation facilities, or public parks in other States. They cannot vote in those States and influence how the money is spent. Yet they are forced to pay taxes to support these services so that others may benefit from them. The seniors in my State from whom I have heard characterize this practice as taxation without representation. I agree.

The source tax represents not only taxation without representation, it represents a further drain on the already limited and fixed incomes of our senior citizens. Seniors who rely on their fixed incomes to buy their groceries and pay their bills are shocked when they learn that they may not have enough to do it because of the taxation policies of other States.

Progress was made last year when the Senate voted in favor of the source tax bill. It was successfully added to the tax bill last spring. I voted in favor of that amendment. But the job is not finished because the abolition of the source tax has yet to be signed into law.

We need to correct this problem now. This is why I am cosponsoring the Source Tax Elimination Act of 1993. I encourage my colleagues to help me pass this bill quickly and restore fairness to our retirees' tax bill.•

EULOGY AT WOUNDED KNEE

• Mr. SIMON. Mr. President, recently, I saw a reference in the New York Times to a statement by Rabbi Marc D. Angel of the Congregation Shearith Israel of New York City. It is a Spanish and Portuguese Synagogue founded in 1654.

Rabbi Angel has shown a sensitivity to the plight of the American Indian.

Recently, he delivered a eulogy at Wounded Knee, and I ask unanimous consent to insert that eulogy at the end of my remarks.

His eulogy is a reminder, once again, of how inhuman humanity can become.

It would be easy to say that the Germans did a horrible deed against the Jews, and the Turks did a horrible deed against the Armenians, but we could never do anything like that.

The battle at Wounded Knee, slightly more than a century ago, is a reminder that we can be guilty of the same misdeeds. The action of our Government against the Japanese-Americans in 1942 is another grim reminder. I might add, I was at the battle sight of Wounded Knee for the second time recently, the last significant fight between American-Indians and the United States Government. That historic sight is virtually unmarked.

There is a survivors association, the descendants of those who were killed, who want to make a fitting memorial tribute there. I applaud that idea and believe it is needed. Even on a Sunday morning when I visited there in early October there were two cars of tourists coming who could only read a sign but see no other notation of this grim battle.

I applaud my colleague, Senator TOM DASCHLE of South Dakota, for initiating efforts to have a suitable remembrance there.

I join in that effort. I hope we can take this important step to note this important but grim day in American history.

At this point, I ask to insert the eulogy by Rabbi Marc Angel into the RECORD at this point.

The eulogy follows:

EULOGY AT WOUNDED KNEE

(By Rabbi Marc D. Angel)

We stand at the mass grave of men, women and children—Indians who were massacred at Wounded Knee in the bitter winter of 1890. Pondering the tragedy which occurred at Wounded Knee fills the heart with crying and with silence.

The great Sioux holy man, Black Elk, was still a child when he saw the dead bodies of his people strewn throughout this area. As an old man, he thought back on what he had seen: "I did not know then how much was ended. When I look back now from this high hill of my old age, I can still see the butchered women and children lying heaped and scattered all along the crooked gulch as plain as when I saw them with eyes still young. And I can see that something else died there in the bloody mud and was buried in the blizzard. A people's dream died there. It was a beautiful dream. For the nation's hoop is broken and scattered. There is no center any longer, and the sacred tree is dead."

Indeed, the massacre at Wounded Knee was the culmination of decades of destruction and transformation for the American Indian. The decades of sufferings are somehow encapsulated and symbolized by the tragedy at Wounded Knee. Well-armed American soldiers slaughtered freezing, almost defenseless, Indians-including women and children. Many of the soldiers were awarded medals of honor for the heroism, as if there could be any heroism in wiping out helpless people.

How did this tragedy happen? How was it possible for the soldiers—who no doubt thought of themselves as good men—to participate in a deed of savagery? How was it possible that the United States Government awarded medals of honor to so many of the soldiers?

The answer is found in one word: dehumanization. For the Americans the Indians were not people at all, only wild savages. It was no different killing Indians than killing buffaloes or wild dogs. If an American general taught that "the only good Indian is a dead Indian," it means that he did not view Indians as human beings.

When you look at a person in the eye and see him as a person, you simply can't kill him or hurt him. Human sympathy and compassion will be aroused. Doesn't he have feelings like you? Doesn't he love, fear, cry, laugh? Doesn't he want to protect his loved ones?

The tragedy of Wounded Knee is a tragedy of the Americans Indians. But it is also more than that. It is a profound tragedy of humanity. It is the tragedy of dehumanization. It is the tragedy which recurs again and again, and which is still with us today. Isn't our society still riddled with hatred, where groups are hated because of their religion, race, national origin? Don't we still experience the pervasive depersonalization process where people are made into objects, robbed of their essential human dignity?

When Black Elk spoke, he lamented the broken hoop of his nation. The hoop was the symbol of wholeness, togetherness, harmony. Black Elk cried that the hoop of his nation had been broken at Wounded Knee. But we might also add that the hoop of American life was also broken by the hatred and prejudice exemplified by Wounded Knee. And the hoop of our nation continues to be torn apart by the hatred which festers in our society.

Our task, the task of every American, is to do our share to mend the hoop, to repair the breaches.

The poet Stephen Vincent Benet in his profound empathy, wrote: "Bury my heart at Wounded Knee." This phrase reflects the pathos of this place and the tragedy of this place.

But if we are to be faithful to Black Elk's vision, we must also add: Revitalize our hearts at Wounded Knee. Awaken our hearts to the depths of this human tragedy. Let us devote our revitalized hearts to working to mend the hoop of America, the hoop of all humanity. That hoop is made of love; that hoop depends on respect for each other, for human dignity.

We cry at this mass grave at Wounded Knee. We cry for the victims and the victimizers. We cry for the recurrent pattern of hatred and dehumanization which continues to separate people, which continues to foster hatred and violence and murder.

Let us put the hoop of our nation back in order. For the sake of those who have suffered and for the sake of those who are suffering, let us put the hoop of our nation back in order.•

TRIBUTE TO GREENUP

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to the town of Greenup in Greenup County.

Greenup is a small community located in the far, northeastern corner of Kentucky. The town sits on hilly terrain and is bordered by the Little Sandy River and the Ohio River.

Nearly 200 years ago, Jesse Boone, brother of the famous pioneer Daniel Boone, founded Greenup. Jesse Boone's settlement attracted many adventurers and Greenup soon became a cultural and intellectual leader in the new frontier.

Approximately 1,200 people live in Greenup, which serves as the county seat. Many view Greenup as the leader of the eight other communities in Greenup County. Greenup residents take great pride in the history of the town, and often draw on the past to give them hope for the future.

In 1949, Greenup was immortalized by a local citizen, author Jesse Stuart, in his book "The Thread That Runs So True." Stuart's controversial book brought national attention to the plight of eastern Kentuckians and the need for education reform.

I applaud Greenup's efforts to honor the past. I think Stuart best described the spirit of Greenup when he wrote the following lines that are inscribed in stone on the courthouse lawn: "Sing your song, dream your dream, hope your hope and pray your prayer." Greenup truly is one of Kentucky's finest towns.

Mr. President, I ask that a recent article from Louisville's Courier-Journal be submitted in today's CONGRESSIONAL RECORD.

The article follows:

GREENUP

(By Fran Ellers)

"Once I heard a man who had come to Greenup to get married ask a native of Greenup this question. 'Sir, can you tell me,' he said, 'how do people in Greenup live? While waiting for the clerk's office to open to get our license, we've driven all over Greenup and we never found any industries.'

"The Greenup man eyed the stranger." Then he replied: 'They live by their wits.'"

Jesse Stuart, poet and novelist, in the 1951 article, "Greenup: My Native Town."

Four decades after Jesse Stuart summed up the character of Greenup, his words still fit.

The big industries down U.S. 23 from Greenup are laying off hundreds of workers, and the new shopping centers in nearby Ashland are luring away what little business is left.

But drawing on a sense of history, which gives them a sense of hope, the townspeople sort out what is fleeting and what will last. Greenup has been a town for almost 200 years, in part because it has changed with the times while preserving what it could. The landscape along the Ohio River has been scarred by floods, fires, and lately, fast food. Golden arches are the first thing you see when you swing into town on Ky. 1, but Greenup is still Greenup at its core.

"It's a little town that should not be forgotten," says Lillian Applegate, a civic leader and nurse who helped start Old Fashion Days, the annual festival decades ago. Fittingly, Old Fashion Days celebrate both the lasting and the ephemeral: last summer, Billy Ray Cyrus of nearby Flatwoods entertained, fulfilling a commitment he made to his home county before he became an overnight sensation with his album "Some Gave All," featuring the song "Achy Breaky Heart."

"He's been here every year for Old Fashion Days," says Norma Staph, secretary at the Chamber of Commerce. But, she adds, without a hint of cynicism, that time may be past:

"If doubt that we could ever, ever afford him again."

That may not be true, for Cyrus owes a lot to the county and he knows it. Country station WLGC—FM was playing his music when no one else would, and Cyrus is represented by a Greenup law firm.

But if he were to look at the courthouse lawn, Cyrus would see a reminder of how fleeting fame is—a fancy stone marker engraved, "This Is Don Gullett Country." It is the tribute of a passionate fan to the Cincinnati Reds pitcher of the 1970s, Gullett, unfortunately, quickly threw out his arm.

The marker strikes some people as absurd, but like the Stuart monument on the other side of the walk, it reflects the community's tendency to honor the living. The Stuart monument was erected after the writer suffered a heart attack in 1954, Stuart lived and wrote another 30 years, satisfied that he had won acceptance from his home county, which was quite a while in coming.

The county's attitude toward its living heroes reflects the fact that its residents have deep roots, says regional historian Jim Gifford of the Jesse Stuart Foundation. Because families haven't moved around, "they're more inclined to recognize what's happening around them, and . . . to revere the people out of their own culture," he said.

Greenup has plenty of old history to revere, including its founding by, among others, Jesse Boone, brother of Daniel. The town was soon filled with adventurers from the East Coast and elsewhere, and enjoyed a fine cultural life, including a school that offered Latin, Greek and German. It was perhaps most clearly defined by the Ohio River, which flows so close to the courthouse that you can skip stones from the parking lot.

With about 1,200 people a number that has changed little in the last hundred years, Greenup is one of the smallest of eight towns in Greenup County. But with its seniority and status as the county seat, it is in many ways the leader, Russell and Flatwoods, between Greenup and Ashland on U.S. 23, are bigger but much newer, both serving mainly as residential communities for big industries along * * * like relatives from different branches of the same family. They grew to meet different needs, but they serve many of the same purposes, tying the industrial south end of Greenup County to the undeveloped areas in the north and east.

Greenup is the government center. Lawyers are quickly filling the storefronts, something the townspeople have resigned themselves to. Greenup was once renowned as a marrying place. Couples could get tested, licensed and married in quick time, and to this day it issues almost as many marriage licenses each year as it has people, 1,000 to 1,100.

On the other hand, Flatwoods, which has no real downtown and only one traffic light, is a sort of bustling suburb with almost 8,000 residents. It is the biggest town in the county.

The communities also share a strong bond through their schools, which have been in the limelight for years. In 1949 Stuart won acclaim—although not necessarily at home—for his stories of teaching and managing the local schools in "The Thread That Runs So True." The book illustrated the need for school reform and also served as a primer for teachers. Today, Stuart's books are popular with schoolchildren and teachers.

The schools in Greenup County are different now. There is a consolidated county school system and independent systems in Russell and Raceland. They have had their successes, most recently when the Greenup County High School and the Russell High School bands, along with the Fairview High School band from Boyd County, were invited to march as a unit next month at the inauguration of President Bill Clinton.

But the personal significance of the schools was expressed in the visit, two weeks ago, of Cyrus to Russell High School for the taping of an ABC-TV special. Seeing former principals, coaches, teachers and cafeteria workers, Cyrus (still "Bill" to the people who really know him) stumbled all over himself trying to tell them how much they had helped him. A wide receiver on the football team that won the state AAA championship in 1978, he told Coach Ivan McGlone that he'd taken his advice to heart, writing it on the wall of a Huntington, W.Va., lounge where he sang for years:

"One of the things that I wrote was that you'll play on Friday night like you practice all week long," he said. "Every single night I'd go out and give everything I've got."

To another teacher, he explained how he'd tried to dredge up his Spanish during interviews in Spain, where he had a hit record: "I didn't do too good."

And in front of 800 screaming students, he was unashamedly sentimental: "There's a part of me that will always be part of this gymnasium," he said. He started calling out names of his football teammates, and the crowd helped. "All these people are the very definition of 'Some Gave All,'" he said.

Cyrus' advice to the students was to decide what you want in life, then persevere until you get it. His example: If you want to buy jeans at the mall, you have to decide what kind, drive there, and buy them.

(Stuart's advice on the courthouse lawn is, "Sing your song, dream your dream, hope your hope and pray your prayer.")

There is a sad irony in Cyrus' illustration. The malls in Ashland and Huntington are eating up the business in the town of Greenup. Many of the businesses had already moved from downtown to U.S. 23, the four-lane road that runs along the river past the huge CSX railyards in Raceland and Armco Steel in Russell. Other businesses have sprung up, including a company that develops software, Navix, and a chemical plant, PCI.

But back toward Greenup, where the businesses are typically small, one of the recent successes on U.S. 23 is a store that illustrates how Greenup residents use their wits: Tri-State Dancewear supplies the Greenup County cheerleaders with body suits and shoes. It also serves dance studios in Kentucky, Ohio and West Virginia. "For this area," admits sales manager Karen Ratliff, "we do boom."

The store's bright-pink exterior contrasts dramatically with the rest of the town, where Lawson Hardware has been operated by the Lawson family for exactly 100 years, and the Applegate shopping center just off U.S. 23, which houses the Food Lion.

But it complements the many pizza places that also seem to boom in Greenup. "Everybody sees a dollar in it," says restaurant owner Mike Long. "A pizza place anymore is not just a pizza place."

Aside from the concerns of any small town, says Greenup Mayor Charles Veach, "We never have any problems."

Not quite. The county had to deal for years with a controversy over the Green Valley landfill, which is now in operation after a protracted environmental fight. That dispute has been supplanted by a new one: whether cockfighting is to be allowed in Greenup.

But it's true that Greenup itself, while bereft of real industry, has few of the problems associated with development.

Stuart also wrote in 1951 that the town could have had industry if it wanted it—but by being hemmed in by a creek and two rivers, that would have been difficult.

One thing is sure, he wrote. "Never will Greenup be a pillar of smoke by day and a flame by night. For Greenup is steeped in her own traditions, her own way of living and industry will be slow, if ever, to get inside her barriers."

Population (1990): Greenup, 1,158; Greenup County, 36,742.

Per capita income (1988): $12,786, or $44 below the state average.

Big Employers: Greenup has no industry or big businesses, Major employers in the area are Ashland Oil, 3,734 employees; Armco Steel, 2,900; and CSX Transportation, 1,175.

Education: Greenup County Schools, 3,563 pupils. State vocational schools are in South Shore and Russell in Greenup County, as well as in Ashland. Morehead State University is about 50 miles away. Also nearby are Marshall University in Huntington, W. Va., and Shawnee State University in Portsmouth, Ohio.

Transportation: Greenup is served by U.S. 23 and the AA Highway; interstate 64 is accessible at Ashland, CSX Transportation provides rail service. Air service is provided at the Ashland Regional Airport about 15 miles away. The nearest commercial service is Tri-State Airport near Huntington, W. Va. Thirty-four trucking companies serve Greenup and Boyd counties. The region is served by barges on the Ohio and Big Sandy rivers.

Media: Newspaper—Greenup News (weekly). Radio—WLGC–FM (country) and WTCV–AM (Southern gospel).

Topography: Greenup sits amid hilly terrain at the confluence of the Little Sandy River and the Ohio River. The county is split into three parts by Little Sandy and Tygarts Creek.

FAMOUS FACTS AND FIGURES

One of the oldest towns in Kentucky, Greenupsburg was laid out about the time Greenup County was created in 1803. Both were named for Christopher Greenup, governor from 1804–1808. The General Assembly shortened the town's name in 1873 so it wouldn't be confused with Greensburg in Green County.

The two most famous people from Greenup are both named Jesse. Jesse Boone, brother of Daniel, brought his family to Greenup around the end of the 18th century. Daniel Boone visited him before moving to Missouri. Jesse Boone's cabin has been preserved at the county fairgrounds. The other famous Jesse is Jesse Stuart, the prolific novelist and poet whose stories about life in Greenup County made him a national figure and focused attention on the hill people of Eastern Kentucky as well as his home county. Stuart, born in 1906, died in 1984.

Even though Greenup is a haven for history buffs, the monuments on the courthouse lawn were erected for living figures of the 20th century—Jesse Stuart, who lived for 30 years after his monument was dedicated; Don Gullett, the former Cincinnati Reds pitcher; and Lillian Applegate, a civic leader from one of the town's most prominent families. The monument to Applegate is a tree.

Charcoal furnaces made of stone were major producers of iron before and after the Civil War. By 1850 there were 19 blast furnaces in Greenup County. The remains of the old Buffalo furnace are preserved at the Greenbo Lake State Resort Park. It reportedly could produce 15 tons of iron in 24 hours—with the help of 150 men.•

RULES OF THE COMMITTEE ON THE JUDICIARY

• **Mr. BIDEN.** Mr. President, I ask that there be printed in the RECORD at this point the rules of the Committee on the Judiciary.

The rules of the Committee on the Judiciary follow:

RULES OF THE COMMITTEE ON THE JUDICIARY

I. MEETING OF THE COMMITTEE

1. Meetings may be called by the Chairman as he may deem necessary on three days notice or in the alternative with the consent of the Ranking Minority Member or pursuant to the provision of the Standing Rules of the Senate, as amended.

2. Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee, at least 48 hours in advance of the hearing, a written statement of his testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

3. On the request of any member, a nomination or bill on the agenda of the Committee will be held over until the next meeting of the Committee or for one week, whichever occurs later.

II. QUORUMS

1. Ten members shall constitute a quorum of the Committee when reporting a bill or nomination; provided that proxies shall not be counted in making a quorum.

2. For the purpose of taking sworn testimony, a quorum of the Committee and each Subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

III. PROXIES

When a record vote is taken in the Committee on any bill, resolution, amendment, or any other question, a quorum being present, a member who is unable to attend the meeting may submit his vote by proxy, in writing or by telephone, or through personal instructions. A proxy must be specific with respect to the matters it addresses.

IV. BRINGING A MATTER TO A VOTE

The Chairman shall entertain a non-debatable motion to bring a matter before the Committee to a vote. If there is objection to bring the matter to a vote without further debate, a rollcall vote of the Committee shall be taken and debate shall be terminated if the motion to bring the matter to a vote without further debate passes with ten votes in the affirmative, one of which must be cast by the Minority.

V. SUBCOMMITTEES

1. Any member of the Committee may sit with any Subcommittee during its hearings or any other meeting, but shall not have the authority to vote on any matter before the Subcommittee unless he is a member of such Subcommittee.

2. Subcommittees shall be considered de novo whenever there is a change in the Subcommittee chairmanship and seniority on the particular Subcommittee shall not necessarily apply.

3. Except for matters retained at the full Committee, matters shall be referred to the appropriate Subcommittee or Subcommittees by the Chairman, except as agreed by a majority vote of the Committee or by the agreement of the Chairman and the Ranking Minority Member.

VI. ATTENDANCE RULES

1. Official attendance at all Committee markups and executive sessions of the Committee shall be kept by the Committee Clerk. Official attendance at all Subcommittee markups and executive sessions shall be kept by the Subcommittee Clerk.

2. Official attendance at all hearings shall be kept, provided that Senators are notified by the Committee Chairman and Ranking Member, in the case of Committee hearings, and by the Subcommittee Chairman and Ranking Member, in the case of Subcommittee hearings, 48 hours in advance of the hearing that attendance will be taken; otherwise, no attendance will be taken. Attendance at all hearings is encouraged.

NO CHANGE FROM 102D CONGRESS

Immigration Subcommittee: Kennedy, Chairman; Simon; and Simpson.

Antitrust Subcommittee: Metzenbaum, Chairman; DeConcini; Heflin; Simon; Thurmond, Specter; and Hatch.

ADDITIONAL OR CHANGES IN MEMBERSHIP

Patents Subcommittee: DeConcini, Chairman; Kennedy, Leahy, Heflin, continuing members; Feinstein, new member; Hatch, Simpson, Grassley, continuing members; and Brown, new member.

Technology Subcommittee: Leahy, Chairman; Kohl, continuing member; Feinstein, new member; Specter, new ranking minority member replacing Brown; Pressler, new member.

Courts Subcommittee: Heflin, Chairman; Metzenbaum, Kohl, continuing members; Moseley Braun, new member; Grassley, Thurmond, continuing members; Cohen, new member.

Constitution Subcommittee: Simon, Chairman; Metzenbaum, DeConcini, Kennedy, continuing members; Brown, new ranking minority replacing Specter; Hatch, continuing member.

Juvenile Justice Subcommittee: Kohl, Chairman; Biden, continuing member; Moseley Braun, new member; Cohen, new ranking member replacing Brown; Pressler, new member.•

A TRIBUTE TO THE OLD BARRACKS ASSOCIATION

• **Mr. LAUTENBERG.** Mr. President, all of us are familiar with the famous painting depicting Gen. George Washington and his troops, huddled in their small boats, quietly crossing the ice-clogged Delaware River on Christmas night in 1776. We know that they are headed toward Trenton, NJ, for a surprise attack on the British forces there and a battle that will prove to be the turning point in our Nation's fight for independence.

For many of us, that painting symbolizes the very spirit of the American Revolution. Despite the seemingly insurmountable odds, the colonists were determined to obtain the right to chart their own destiny.

They knew that neither the battle the next day in Trenton, nor the new government that would be born several years later, would be easy undertakings, but their desire for freedom, democracy, and independence was much stronger than their fear of failure.

Today, the sole remaining building with a direct connection to Washington's first victory, and the oldest public building in New Jersey, is the Old Barracks Museum in Trenton.

This year marks the 90th anniversary of the founding of the Old Barracks Association, an organization dedicated to preserving this important historic landmark and to giving today's Americans an understanding of the political ideals and values that shaped our Nation.

The members of the Barracks Association believe that civic pride and civic responsibility must be a vital part of our national character. They believe it is important that those of us who are fortunate enough to live in America today understand why this country came into being in the first place, and appreciate the hard-won social and political advances that gave birth to it and have preserved it for more than 200 years.

Through their work, the members of the Old Barracks Association pass that sense of history and those founding American values on to the 21,000 schoolchildren and 10,000 adults who visit the museum every year.

Mr. President, I ask that the Senate join me in commending the Old Barracks Association on its 90th anniversary and in honoring the great contribution that the members of the association are making to the American experience.•

BREAKING THE CYCLE OF VIOLENT CRIME

• **Mr. SIMON.** Mr. President, I ask to insert at the end of my remarks a copy of an article, "Breaking the Cycle of Violent Crime," written by Barry Krisberg, president of the National Council on Crime and Delinquency [NCCD], and William H. Rentschler, a member of the NCCD board of directors and publisher of the "Rentschler Report." They make a number of practical suggestions, but let me call attention, particularly, to what they call "substantive reform of sentencing practices."

They suggest that we clearly need some modification of our sentencing practices. They write:

> Conclusive research by the NCCD makes it clear that increasing punishment by itself will not reduce crime. Prison sentences in the U.S. already are the harshest in the world. An overly severe sentence may serve as a public display of social condemnation and reinforce the "get tough" image nursed so diligently by officeholders, but its main impact is negative in tying up scarce prison space and thus exacerbating the costly, dangerous overcrowding dilemma. Further, excessive sentences make rational sentences seem lenient to the public.
>
> The huge and ever-rising cost of the nation's correctional apparatus is restricting state and federal programs in areas of dire people needs, such as education, health care, support for poor and ill-treated children, mental health, roads and public facilities.

They claim that 50 percent of the Nation's prisoners are not dangerous and "are incarcerated for offenses that do not endanger public safety and threaten physical violence."

What we do know is that we have more prisoners than any country in the world.

We also know, we have a higher percentage of our population in prison than any other country, South Africa being a distant second.

There is disagreement on whether that has an impact on crime. The Department of Justice has issued a report saying that it does and also claiming that there is no racial discrimination in sentencing, both conclusions highly questionable.

At this point, I ask to insert their full article in the RECORD.

The article follows:

[From the Chicago Tribune, Jan. 26, 1993]

BREAKING THE CYCLE OF VIOLENT CRIME

(By Barry Krisberg and William H. Rentschler)

This is the ideal time for some tough but sensible new initiatives that offer realistic promise of reducing crime in America over the next four years.

A rare opportunity confronts the Clinton administration. There is no quick fix, but President Clinton has a legitimate chance to adopt an innovative, enlightened approach to crime and punishment that will yield far better results at significantly less cost than anything proposed or attempted in the last two decades.

Despite squandering countless billions of precious tax dollars on more prisons (14 in Illinois alone in the 1980s at an initial capital cost of $1.25 billion); despite far longer sentences and the highest incarceration rate in the civilized world; despite unending, overhyped, failed "wars" on crime and drugs, violent crime—especially that linked to drugs and guns—continues to spiral upward in this increasingly violent nation. What Clinton proposed during the recent campaign were sound, modest, reason-based steps in the right direction:

Federal funding to supply 100,000 more police officers—mainly trained in "community-based policing"—to walk the beat in tough, high-crime neighborhoods.

Additional funding for drug education in the schools and drug treatment on demand—critical initiatives. Says Judge Michael B. Getty of Cook County Circuit Court: "We must get away from the pattern of reactive responses and search for proactive, preventive solutions. This requires the foresight of Noah rather than the hindsight of Mrs. O'Leary."

Federal dollars to help urban communities (like Chicago, Evanston, Waukegan, Elgin) make their beleaguered schools safer, with strong voice for local officials, school boards and neighborhood residents.

Established of "boot camps" nationwide to give young offenders a second chance a second chance to become productive citizens.

Support for the Brady Bill and a ban on assault weapons as a start in controlling the alarming rise in gun deaths, two measures opposed by President Bush but aggressively supported by Chicago Mayor Richard M. Daley, who intends to lead a nationwide crusade against the gun menace.

Even though crime continued to escalate under the counter-productive "get tough and tougher" policies of the Reagan-Bush Justice Department, Bush charged that Clinton is soft on crime and his election would endanger public safety. While there is no evidence to support this claim, such overblown, politicized rhetoric helps explain why grid-lock is the norm in setting national criminal justice policy and why enlightened legislators tiptoe for fear of being branded "soft on crime."

The National Council on Crime and Delinquency (NCCD) was asked by the Clinton transition team to provide suggestions for combating the scourge of violence in the nation. We have proposed two primary initiatives:

The highest immediate priority is youth crime.

In the past five years juvenile violent crime rates have grown by a staggering 48 percent. Murders by juveniles have nearly doubled. This terrible crime increase has occurred despite a 28 percent growth in the juvenile incarceration rate, coupled with stiffer penalties for young offenders.

What is more troubling is that we can expect much higher rates of youth crime in the next several years, no matter what countermeasures are adopted in the short term. In part, this pattern is virtually assured as the "Echo Baby Boomers" move through their high crime-prone years. Matters will be made worse by the collective impact of increased child poverty, family stress, unchecked child abuse, sustained high rates of teenage unemployment and a widespread feeling of hopelessness among the urban poor.

We urge the new president to give immediate attention to this urgent challenge.

We call on President Clinton to establish, as a highest priority, a White House Office of Juvenile Delinquency and Youth Opportunity—one of the first policy moves made by President John F. Kennedy when he took office.

This special White House office should design and implement a cogent, realistic, humane national program, using existing dollars, that would integrate the competing and overlapping efforts of Cabinet and other federal agencies. The new president should move immediately to seize this critical initiative.

The need is not for more tax dollars. We are already frittering away billions in scattered and ineffective ways. Equally important, the new approach to youth crime must focus on prevention and thus must embrace a decidedly broader perspective than the narrow, get-tough mentality of the Justice Department, law enforcement establishment, and public at large in the last two decades.

Substantive reform of sentencing practices is equally essential.

Conclusive research by the NCCD makes it clear that increasing punishment by itself will not reduce crime. Prison sentences in the U.S. already are the harshest in the world. An overly severe sentence may serve as a public display of social condemnation and reinforce the "get tough" image nursed so diligently by officeholders, but its main impact is negative in tying up scarce prison space and thus exacerbating the costly, dangerous overcrowding dilemma. Further, excessive sentences make rational sentences seem lenient to the public.

The huge and ever-rising cost of the nation's correctional apparatus is restricting state and federal programs in areas of dire people needs, such as education, health care, support for poor and ill-treated children, mental health, roads and public facilities.

The public needs to understand that 50 percent or more of prison inmates—in Illinois and elsewhere—are not dangerous and are incarcerated for offenses that do not endanger public safety and threaten physical violence.

A wide range of far less costly alternatives to incarceration are effective in punishing non-violent and first-time offenders. Noted University of Chicago criminologist Norval Morris, an NCCD director, deplores the lack of alternative sanctions in use today.

"It's either a lobotomy or an aspirin, with nothing in between," he laments, "which makes no sense at all."

The new president must revamp the U.S. Sentencing Commission with a clear mandate to establish fair and equitable sentencing guidelines and restore reasonable discretion to judges to base sentences on an evaluation of the individual wrongdoer and extenuating circumstances. Determinate and mandatory sentencing laws (such as Class X in Illinois) has not only created an impossible fiscal burden on the states, but also resulted in outrageously inequitable punishment for minor, non-dangerous offenders, especially minorities, at great and needless cost to society.

The new Clinton administration can make a positive difference by attacking the rampaging monster of violent crime in rational ways and shunting aside the failed nostrums of the recent past. Demonstrable progress in making our streets and neighborhoods safer will reinforce the Clinton campaign pledge of "putting people first."

The agenda we proposed, effectively implemented, stands a strong likelihood in the next four years of breaking the cycle of escalating violent crime without requiring huge additional outlays of tax dollars.•

EQUAL REMEDIES ACT

• Mr. DURENBERGER. Mr. President, one of the first bills introduced in this session was the Equal Remedies Act. I am proud to be the lead cosponsor of this important piece of civil rights legislation.

In the 102d Congress, we passed the Civil Rights Act of 1991, a bill that gave the right to recover compensatory and punitive damages to certain victims of intentional discrimination in the workplace—women, religious minorities, and people with disabilities. The total amount of damages was capped in a compromise provision that was aimed at gathering broad support for the bill.

The Civil Rights Act of 1991 was a significant step forward, but it has left us with a glaring double standard in the way we treat discrimination cases. This inequality is what the Equal Remedies Act addresses.

Victims of discrimination on the basis of race or national origin have always been able to recover damages without limit. Because of the cap in the 1991 Civil Rights Act, however, victims of other types of discrimination are relegated to second-class remedies. The Equal Remedies Act removes the cap on damages for women, religious minorities, and people with disabilities.

I do not necessarily believe that the sky's-the-limit lawsuits are the best way to fight discrimination in the workplace. But it is a matter of simple justice to offer the same remedies to all victims of discrimination.

If we as a Nation decide that discrimination damages should be capped, then they should be capped for all victims. If on the other hand, some victims can recover damages without limit, then that standard should apply across the board.

Unjustified bigotry against people with disabilities, religious minorities, and women is no more tolerable than racial bigotry in the workplace. It simply does not make sense to apply unequal standards in these discrimination cases.

The Equal Remedies Act was reported favorably out of the Senate Labor Committee last year, but the full Senate did not take up the bill before Congress adjourned. I hope that we can work quickly in this session of Congress to pass the Equal Remedies Act and send a message that all types of discrimination are equally unacceptable.•

HONORING GERALD S. DePASQUALE

• Mr. D'AMATO. Mr. President, I rise today to honor a dedicated public servant, Gerald S. DePasquale. He has once again been installed as the president of the Lake Erie Club which he has served faithfully for many years. The Lake Erie Club is a civic organization which serves the needs of the community. Mr. DePasquale has served the city of Lackawanna as city clerk for the past 28 years. As he retires, I salute him for his community spirit and dedication to the interests of others. DePasquale has served and defended his country since joining the U.S. Navy in 1948. Since that time, he has gone on to participate in many professional and community activities. In particular, Mr. DePasquale has been a longstanding member in the following organizations: American Legion; Moose Lodge; Knights of Columbus; Our Lady of Victory Holy Name Society; and as director of the Lake Erie Italian Club.

Gerald S. DePasquale, has dedicated his life to helping others and promoting loyalty and patriotism. He is an inspiration to all who serve the public and I am sure that he will continue to help others. I salute him.•

LITHUANIAN INDEPENDENCE DAY

• Mr. RIEGLE. Mr. President, today marks the 75th anniversary of Lithuanian independence. It is a great honor to pay tribute to this nation which has a rich tradition and a history which attests to the Lithuanian people's strength, unity, and ability to persevere over insurmountable odds. Despite repeated attempts by foreign powers to repress Lithuanian culture and national identity, the Lithuanian people have proven their resilience by restoring the sovereignty of their nation.

On February 16, 1918, a Lithuanian national council declared Lithuania's independence from Czarist Russia. This declaration received final affirmation when brave Lithuanian forces defeated Polish and Soviet Russian attempts to bring the country under foreign dominance at the close of the First World War. Lithuanians could again enjoy the freedom and independence that various foreign powers had denied to them for over 300 years.

Tragically, Lithuanians once again had to bear the burden of foreign dominance when a German-Soviet pact arranged in 1939, delivered Lithuania into the hands of Stalin and Russia in 1940. Subsequently, Stalin began a brutal policy of sovietization which included the arrest and executions of suspected opponents of the Soviet regime and the repression of Lithuanian national identity. Despite Lithuanian guerrilla attempts to free the country from Soviet oppression, Lithuania was doomed to over 50 years of Soviet domination.

The courageous Lithuanian people defined Soviet attempts to eliminate their culture and patiently waited for their opportunity to free Lithuania from its foreign yoke. During the years of Gorbachev's presidency, a strong national movement began to demand more freedoms for the Lithuanian people and on March 11, 1990 the Lithuanian Supreme Soviet finally declared independence from the Soviet Union. Despite repeated attempts to deny the Lithuanians their newly declared independence, the Soviets were forced to recognize the new state after the failed military coup of August 1991.

This hard-fought victory for independence and democracy stands as a testament to the courage, endurance, and strength of the Lithuanian people. I am honored today as we commemorate not only the original declaration of Lithuanian independence, but the ongoing sacrifices which these people endure to secure their freedom. The Lithuanian struggle stands as a symbol of the need to fight repression and unjust domination throughout the world.

The challenges which now face this new republic are numerous and formidable. Lithuania currently suffers from a sluggish economy and a lack of raw materials and natural resources. Lithuania's inflation rate has climbed above 1,000 percent and industrial production has drastically declined. These factors pose a major obstacle to Lithuania's establishment of a stable democracy and market economy. In addition, Lithuania endures fragile relations with Russia. These tense relations with Russia leaves Lithuania in a tenuous situation as it is still dependent upon Russia for many of its supplies and imports of fuel and raw materials.

In addition, after the dissolution of the Soviet Union in early 1992, between 100,000 to 200,000 Russian troops remained in the Baltic States, with approximately 45,000 of these stationed in Lithuania. By the close of 1992, however, only 15,000 Russian troops remained in Lithuania. In fact, on December 30, 1992, the last Russian forces withdrew from Vilnius. I am delighted to have taken part in the effort to press Moscow to remove all former Soviet forces. On January 3, 1992, I wrote a letter to former President Bush, joined by 36 other Senators, urging him to press Russian President Yeltsin to remove Russian armed forces from the Baltics. I also spoke on the Senate floor in support of an amendment which conditioned aid to the former Soviet Union upon the removal of these forces. I am committed to the withdrawal of the remaining Russian troops from Lithuania. The Baltic republics should never again have to fear the dominance of a foreign nation.

Mr. President, the United States must help Lithuania as it strives to achieve its full potential as an independent nation. I applaud the recent technical assistance programs designed to help the Baltic States, including Lithuania. I believe that we should redouble our efforts in this area to ensure that Lithuania has the opportunity to create a more balanced economy. On this day of celebration of the 75th anniversary of Lithuania's Independence Day, let us recognize the Lithuanian people and their brothers and sisters of Lithuanian descent in Michigan and throughout the United States who today rejoice in the restoration of independence of their homeland.•

EXTRA-LABEL USE OF ANIMAL DRUGS

• Mr. D'AMATO. Mr. President, I rise today to lend my support to S. 304, legislation which addresses the issues of extra-label use of animal drugs.

Currently, a veterinarian can use an animal drug only for those purposes and in those animals listed on the drug's label. Many drugs have numerous applications other than those listed, but cost considerations prevent manufacturers from seeking approval for labeling a product with all of its uses.

The Food and Drug Administration, recognizing this problem, has already stated that it will not institute regulatory actions against veterinarians for extra-label use of legally obtained drugs. The proposed legislation simply codifies this practice.

I thank Senators HEFLIN, PRESSLER, and SHELBY for introducing this important legislation which will protect the lives of many animals, and ask my colleagues to join me in support of this bill.•

COMMUNITY WORKS PROGRESS ACT OF 1993

• Mr. ROBB. Mr. President, I commend my distinguished colleague, Senator

BOREN, for introducing the Community Works Progress Act of 1993, and I am pleased to add my name as a cosponsor of this legislation.

This important bill authorizes grants to states for the establishment of WPA projects. Mandatory participation is limited to individuals who have received at least 2 years of training in the Aid to Families With Dependent Children [AFDC] JOBS Program and are still unemployed. Optional participation is extended to a host of others, including those eligible to receive AFDC benefits, those eligible to receive or have exhausted unemployment benefits, individuals who have been unemployed for at least 7 weeks and are not receiving benefits, those who are at least 2 months behind in court mandated child support payments, and those who are noncustodial parents of a child or children receiving AFDC benefits.

In my mind, this legislation fulfills three very important goals.

First, it reconnects many poor and unemployed individuals with the workplace. Only by providing useful work—and the values and discipline associated with work—can we offer the poor and the disadvantaged a permanent way out of poverty. I believe everyone benefits from the sense of self-worth that earning wages and contributing to his or her community engenders.

Second, society will benefit in return. The original WPA allowed many Americans to both survive the Great Depression and help build the infrastructure of our Nation. Contemporary WPA projects have the potential to leave a great community legacy in such important areas as health care, education, environmental protection, and urban and rural development.

Finally, the WPA concept is compatible with my sense of what the shared contract between a society and its people should embody. While I believe very strongly that our society should conscientiously care for the poor and disadvantaged among us, I also believe that society should expect something in return. Each citizen who can work should have an opportunity to do so. And in return for their compensation, society should have the benefit of their honest labors.

Mr. President, once again, I commend my friend from Oklahoma for his work in preparing this fine legislation.●

SENATE SELECT COMMITTEE ON ETHICS

STATEMENT OF THE CHAIRMAN AND VICE CHAIRMAN REGARDING PUBLICATION OF THE COMMITTEE RULES OF PROCEDURE, AS AMENDED, IN THE CONGRESSIONAL RECORD

● Mr. BRYAN. Mr. President, Senator MCCONNELL joins me to ask that, in accordance with rule XXVI of the Standing Rules of the Senate, the Rules of Procedure of the Select Committee on Ethics, which were adopted February 23, 1978, and amended on February 4, 1993, be printed in the CONGRESSIONAL RECORD for the first session of the 103d Congress, and we ask unanimous consent that the rules be so published.

The amendment adopted by the committee on February 4, 1993, added section (C) to paragraph 6 (Admissibility of Evidence) of rule 6 (Procedures for Hearings), and established rule 412 of the Federal Rules of Evidence as a guide on questions of admissibility of any witness' sexual history in matters involving sexual discrimination, including sexual harassment, or sexual misconduct.

The material follows:

RULES OF THE SELECT COMMITTEE ON ETHICS

PART I: ORGANIC AUTHORITY

Subpart A—S. Res. 338 as amended

(S. Res. 338, 88th Cong., 2d Sess. (1964))[1]

Resolved, That (a) there is hereby established a permanent select committee of the Senate to be known as the Select Committee on Ethics (referred to hereinafter as the "Select Committee") consisting of six Members of the Senate, of whom three shall be selected from members of the majority party and three shall be selected from members of the minority party. Members thereof shall be appointed by the Senate in accordance with the provisions of Paragraph 1 of Rule XXIV of the standing rules for the Senate at the beginning of each Congress. For purposes of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member or chairman of the Select Committee shall not be taken into account.

(b) Vacancies in the membership of the Select Committee shall not affect the authority of the remaining members to execute the functions of the committee, and shall be filled in the same manner as original appointments thereto are made.

(c)(1) A majority of the Members of the Select Committee shall constitute a quorum for the transaction of business involving complaints and allegations of misconduct, including the consideration of matters involving sworn complaints, unsworn allegations or information, resultant preliminary inquiries, initial reviews, investigations, hearings, recommendations or reports and matters relating to Senate Resolution 400, agreed to May 19, 1976.

(2) Three Members shall constitute a quorum for the transaction of routine business of the Select Committee not covered by the first paragraph of this subparagraph, including requests for opinions and interpretations concerning the Code of Official Conduct or any other statute or regulation under the jurisdiction of the Select Committee, if one Member of the quorum is a Member of the Majority Party and one Member of the quorum is a Member of the Minority Party. During the transaction of routine business any Member of the Select Committee constituting the quorum shall have the right to postpone further discussion of a pending matter until such time as a majority of the Members of the Select Committee are present.

(3) The Select Committee may fix a lesser number as a quorum for the purpose of taking sworn testimony.[2]

[3]"(d)(1) A member of the Select Committee shall be ineligible to participate in any initial review or investigation relating to his own conduct, the conduct of any officer or employee he supervises, or the conduct of any employee of any officer he supervises, or relating to any complaint filed by him, and the determinations and recommendations of the Select Committee with respect thereto. For purposes of this subparagraph, a Member of the Select Committee and an officer of the Senate shall be deemed to supervise any officer or employee consistent with the provision of paragraph 11 of rule XXXVII of the Standing Rules of the Senate.

"(2) A member of the Select Committee may, at his discretion, disqualify himself from participating in any initial review or investigation pending before the Select Committee and the determinations and recommendations of the Select Committee with respect thereto. Notice of such disqualification shall be given in writing to the President of the Senate.

"(3) Whenever any member of the Select Committee is ineligible under paragraph (1) to participate in any initial review or investigation or disqualifies himself under paragraph (2) from participating in any initial review or investigation, another Member of the Senate shall, subject to the provisions of subsection (d), be appointed to serve as a member of the Select Committee solely for purposes of such initial review or investigation and the determinations and recommendations of the Select Committee with respect thereto. Any Member of the Senate appointed for such purposes shall be of the same party as the Member who is ineligible or disqualifies himself."

Sec. 2. (a) It shall be the duty of the Select Committee to—

(1) receive complaints and investigate allegations of improper conduct which may reflect upon the Senate, violations of law, violations of the Senate Code of Official Conduct,[4] and violations of rules and regulations of the Senate, relating to the conduct of individuals in the performance of their duties as Members of the Senate, or as officers or employees of the Senate, and to make appropriate findings of fact and conclusions with respect thereto;

(2) recommend to the Senate by report or resolution by a majority vote of the full committee disciplinary action (including, but not limited to, in the case of a Member: censure, expulsion, or recommendation to the appropriate party conference regarding such Member's seniority or positions of responsibility; and, in the case of an officer or employee: suspension or dismissal)[5] to be taken with respect to such violations which the Select Committee shall determine, after according to the individuals concerned due notice and opportunity for hearing, to have occurred;

(3) recommend to the Senate, by report or resolution, such additional rules or regulations as the Select Committee shall determine to be necessary or desirable to insure proper standards of conduct by Members of the Senate, and by officers or employees of the Senate, in the performance of their duties and the discharge of their responsibilities; and

(4) report violations by a majority vote of the full committee of any law to the proper Federal and State authorities.

"(b)(1) Each sworn complaint filed with the Select Committee shall be in writing, shall be in such form as the Select Committee may prescribe by regulation, and shall be under oath.

"(2) For purposes of this section, 'sworn complaint' means a statement of facts within the personal knowledge of the complainant alleging a violation of law, the Senate Code of Official Conduct, or any other rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as Members, officers, or employees of the Senate.

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[1] Footnotes at end of article.

"(3) Any person who knowingly and willfully swears falsely to a sworn complaint does so under penalty of perjury, and the Select Committee may refer any such case to the Attorney General for prosecution.

"(4) For the purposes of this section, 'investigation' is a proceeding undertaken by the Select Committee after a finding, on the basis of an initial review, that there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred.

"(c)(1) No investigation of conduct of a Member or officer of the Senate, and no report, resolution, or recommendation relating thereto, may be made unless approved by the affirmative recorded vote of not less than four members of the Select Committee.

"(2) No other resolution, report, recommendation, interpretative ruling, or advisory opinion may be made without an affirmative vote of a majority of the members of the Select Committee voting.

"(d)(1) When the Select Committee receives a sworn complaint against a Member or officer of the Senate, it shall promptly conduct an initial review of that complaint. The initial review shall be of duration and scope necessary to determine whether there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred.

"(2) If as a result of an initial review under paragraph (1), the Select Committee determines by a recorded vote that there is not such substantial credible evidence, the Select Committee shall report such determination to the complainant and to the party charged together with an explanation of the basis of such determination.

"(3) If as a result of an initial review under paragraph (1), the Select Committee determines that a violation is inadvertent, technical or otherwise of a de minimus nature, the Select Committee may attempt to correct or prevent such a violation by informal methods.

"(4) If as a result of an initial review under paragraph (1), the Select Committee determines that there is such substantial credible evidence but that the violation, if proven, is neither of a de minimus nature nor sufficiently serious to justify any of the penalties expressly referred to in subsection (a)(2), the Select Committee may propose a remedy it deems appropriate. If the matter is thereby resolved, a summary of the Select Committee's conclusions and the remedy proposed shall be filed as a public record with the Secretary of the Senate and a notice of such filing shall be printed in the Congressional Record.

"(5) If as the result of an initial review under paragraph (1), the Select Committee determines that there is such substantial credible evidence, the Select Committee shall promptly conduct an investigation if (A) the violation, if proven, would be sufficiently serious, in the judgment of the Select Committee, to warrant imposition of one or more of the penalties expressly referred to in subsection (a)(2), or (B) the violation, if proven, is less serious, but was not resolved pursuant to paragraph (4) above. Upon the conclusion of such investigation, the Select Committee shall report to the Senate, as soon as practicable, the results of such investigation together with its recommendations (if any) pursuant to subsection (a)(2).

"(6) Upon the conclusion of any other investigation respecting the conduct of a Member or officer undertaken by the Select Committee, the Select Committee shall report to the Senate, as soon as practicable, the results of such investigation together with its recommendations (if any) pursuant to subsection (a)(2).

"(e) When the Select Committee receives a sworn complaint against an employee of the Senate, it shall consider the complaint according to procedures it deems appropriate. If the Select Committee determines that the complaint is without substantial merit, it shall notify the complainant and the accused of its determination, together with an explanation of the basis of such determination.

"(f) The Select Committee may, in its discretion, employ hearing examiners to hear testimony and make findings of fact and/or recommendations to the Select Committee concerning the disposition of complaints.

"(g) Notwithstanding any other provision of this section, no initial review or investigation shall be made of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provisions of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code. The Select Committee may conduct an initial review or investigation of any alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Select Committee.

"(h) The Select Committee shall adopt written rules setting forth procedures to be used in conducting investigations of complaints.[6]

[7](i) The Select Committee from time to time shall transmit to the Senate its recommendation as to any legislative measures which it may consider to be necessary for the effective discharge of its duties.

Sec. 3. (a) The Select Committee is authorized to (1) make such expenditures; (2) hold such hearings; (3) sit and act at such times and places during the sessions, recesses, and adjournment periods of the Senate; (4) require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents; (5) administer such oaths; (6) take such testimony orally or by deposition; (7) employ and fix the compensation of a staff director, a counsel, an assistant counsel, one or more investigators, one or more hearing examiners,[8] and such technical, clerical, and other assistants and consultants as it deems advisable; and (8) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, by contract as independent contractors or, in the case of individuals, by employment at daily rates of compensation not in excess of the per diem equivalent of the highest rate of compensation which may be paid to a regular employee of the Select Committee.[9]

[10](b)(1) The Select Committee is authorized to retain and compensate counsel not employed by the Senate (or by any department or agency of the executive branch of the Government) whenever the Select Committee determines that the retention of outside counsel is necessary or appropriate for any action regarding any complaint or allegation, which, in the determination of the Select Committee is more appropriately conducted by counsel not employed by the Government of the United States as a regular employee.

"(2) Any investigation conducted under section 2 shall be conducted by outside counsel as authorized in paragraph (1), unless the Select Committee determines not to use outside counsel.

[11]"(c) With the prior consent of the department or agency concerned, the Select Committee may (1) utilize the services, information and facilities of any such department or agency of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Senate, or any subcommittee thereof, the Select Committee may utilize the facilities and the services of the staff of such other committee or subcommittee whenever the chairman of the Select Committee determines that such action is necessary and appropriate.

"(d) Subpoenas may be issued (1) by the Select Committee or (2) by the chairman and vice chairman, acting jointly. Any such subpoena shall be signed by the chairman or the vice chairman and may be served by any person designated by such chairman or vice chairman. The chairman of the Select Committee or any member thereof may administer oaths to witnesses.[12]

[13]"(e)(1) The Select Committee shall prescribe and publish such regulations as it feels are necessary to implement the Senate Code of Official Conduct.

"(2) The Select Committee is authorized to issue interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction.

"(3) The Select Committee shall render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

"(4) The Select Committee may in its discretion render an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

"(5) Notwithstanding any provision of the Senate Code of Official Conduct or any rule or regulation of the Senate, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraphs (3) and (4) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

"(6) Any advisory opinion rendered by the Select Committee under paragraphs (3) and (4) may be relied upon by (A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered: Provided, however, that the request for such advisory opinion included a complete and accurate statement of the specific factual situation; and, (B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

"(7) Any advisory opinion issued in response to a request under paragraph (3) or (4) shall be printed in the Congressional Record with appropriate deletions to assure the privacy of the individual concerned. The Select Committee shall, to the extent practicable, before rendering an advisory opinion, provide any interested party with an opportunity to transmit written comments to the Select Committee with respect to the request for such advisory opinion. The advisory opinions issued by the Select Committee shall be compiled, indexed, reproduced, and made available on a periodic basis.

"(8) A brief description of a waiver granted under paragraph 2(c) of rule XXXIV or paragraph 1 of rule XXXV of the Standing Rules of the Senate shall be made available upon request in the Select Committee office with appropriate deletions to assure the privacy of the individual concerned.

SEC. 4. The expenses of the Select Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Select Committee.

SEC. 5. As used in this resolution, the term "officer or employee of the Senate" means—

(1) an elected officer of the Senate who is not a Member of the Senate;

(2) an employee of the Senate, any committee or subcommittee of the Senate, or any Member of the Senate;

(3) the Legislative Counsel of the Senate or any employee of his office;

(4) an Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) a member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) an employee of the Vice President if such employee's compensation is disbursed by the Secretary of the Senate; and

(7) an employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate.

Subpart B—Public Law 93-191—Franked Mail, Provisions Relating to the Select Committee

SEC. 6. (a) The Select Committee on Standards and Conduct of the Senate shall provide guidance, assistance, advice and counsel, through advisory opinions or consultations, in connection with the mailing or contemplated mailing of franked mail under section 3210, 3211, 3212, 3218(2) or 3218, and in connection with the operation of section 3215, of title 39, United States Code, upon the request of any Member of the Senate or Member-elect, surviving spouse of any of the foregoing, or other Senate official, entitled to send mail as franked mail under any of those sections. The select committee shall prescribe regulations governing the proper use of the franking privilege under those sections by such persons.

(b) Any complaint filed by any person with the select committee that a violation of any section of title 39, United States Code, referred to in subsection (a) of this section is about to occur or has occurred within the immediately preceding period of 1 year, by any person referred to in such subsection (a), shall contain pertinent factual material and shall conform to regulations prescribed by the select committee. The select committee, if it determines there is reasonable justification for the compliant, shall conduct an investigation of the matter, including an investigation of reports and statements filed by that complainant with respect to the matter which is the subject of the complaint. The committee shall afford to the person who is the subject of the complaint due notice and, if it determines that there is substantial reason to believe that such violation has occurred or is about to occur, opportunity for all parties to participate in a hearing before the select committee. The select committee shall issue a written decision on each complaint under this subsection not later than thirty days after such a complaint has been filed or, if a hearing is held, not later than thirty days after the conclusion of such hearing. Such decision shall be based on written findings of fact in the case by the select committee. If the select committee finds, in its written decision, that a violation has occurred or is about to occur, the committee may take such action and enforcement as it considers appropriate in accordance with applicable rules, precedents, and standing orders of the Senate, and such other standards as may be prescribed by such committee.

(c) Notwithstanding any other provision of law, no court or administrative body in the United States or in any territory thereof shall have jurisdiction to entertain any civil action of any character concerning or related to a violation of the franking laws or an abuse of the franking privilege by any person listed under subsection (a) of this section as entitled to send mail as franked mail, until a complaint has been filed with the select committee and the committee has rendered a decision under subsection (b) of this section.

(d) The select committee shall prescribe regulations for the holding of investigations and hearings, the conduct of proceedings, and the rendering of decisions under this sub-section providing for equitable procedures and the protection of individual, public, and Government interests. The regulations shall, insofar as practicable, contain the substance of the administrative procedure provisions of sections 551-559 and 701-706, of title 5, United States Code. These regulations shall govern matters under this subsection subject to judicial review thereof.

(e) The select committee shall keep a complete record of all its actions, including a record of the votes on any question on which a record vote is demanded. All records, data and files of the select committee shall be the property of the Senate and shall be kept in the offices of the select committee or such other places as the committee may direct.

Subpart C—Standing Orders of the Senate Regarding Unauthorized Disclosure of Intelligence Information, S. Res. 400, 94th Congress, Provisions Relating to the Select Committee

Sec. 8. * * *

(c)(1) No information in the possession of the select committee relating to the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to subsection (a) or (b) of this section, has determined should not be disclosed, shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The select committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the select committee makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee which, receives any information under this subsection, shall disclose such information except in a closed session of the Senate.

(d) It shall be the duty of the Select Committee on Standards and Conduct to investigate any unauthorized disclosure of intelligence information by a Member, officer or employee of the Senate in violation of subsection (c) and to report to the Senate concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

Subpart D—Public Law 95-105, Section 515, Relating to Receipt and Disposition of Foreign Gifts and Decorations Received by Members, Officers and Employees of the Senate or Their Spouses or Dependents, Provisions Relating to the Select Committee on Ethics

SEC. 515. (a)(1) Section 7342 of title 5, United States Code, is amended to read as follows:

§7342. Receipt and disposition of foreign gifts and decorations.

"(a) For the purpose of this section—

"(6) 'employing agency' means—

"(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in subsections (c)(2)(A), (e), and (g)(2)(B) shall be carried out by the Clerk of the House;

"(B) the Select Committee on Ethics of the Senate, for Senators and employees of the Senate.

"(C) the Administrative Office of the United States Courts, for judges and judicial branch employees; and

"(D) the department, agency office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees.

"(b) An employee may not—

"(1) request or otherwise encourage the tender of a gift or decoration; or

"(2) accept a gift or decoration, other than in accordance with the provisions of subsections (c) and (d).

"(c)(1) The Congress consents to—

"(A) the accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and

"(B) the accepting by an employee of a gift of more than minimal value when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that—

"(i) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States; and

"(ii) an employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency and any regulations which may be Prescribed by the employing agency.

"(2) Within 60 days after accepting a tangible gift of more than minimal value (other than a gift described in paragraph (1)(B)(ii)), an employee shall—

"(A) deposit the gift for disposal with his or her employing agency or;

"(B) subject to the approval of the employing agency, deposit the gift with that agency for official use. Within 30 days after terminating the official use of a gift under subparagraph (B), the employing agency shall forward the gift to the Administrator of General Services in accordance with subsection (e).

"(3) When an employee deposits a gift of more than minimal value for disposal or for official use pursuant to paragraph (2), or within 30 days after accepting travel or travel expenses as provided in paragraph (1)(B)(ii) unless such travel or travel expenses are accepted in accordance with specific instructions of his or her employing agency, the employee shall file a statement with his or her employing agency or its delegate containing the information prescribed in subsection (f) for that gift.

"(d) The Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the employing agency of such employee. Without this approval, the decoration is deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited by the employee, within sixty days of acceptance, with the employing agency for official use or forwarding to the Administrator of General Services for disposal in accordance with subsection (e).

"(e) Gifts and decorations that have been deposited with an employing agency for disposal shall be (1) returned to the donor, or (2) forwarded to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949. However, no gift or decoration that has been deposited for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. Gifts and decorations may be sold by negotiated sale.

"(f)(1) Not later than January 31 of each year, each employing agency or its delegate shall compile a listing of all statements filed during the preceding year by the employees of that agency pursuant to subsection (c)(3) and shall transmit such listing to the Secretary of State who shall publish a comprehensive listing of all such statements in the Federal Register.

"(2) Such listings shall include for each tangible gift reported—

"(A) the name and position of the employee;

"(B) a brief description of the gift and the circumstances justifying acceptance;

"(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift;

"(D) the date of acceptance of the gift;

"(E) the estimated value in the United States of the gift at the time of acceptance; and

"(F) disposition or current location of the gift.

"(3) Such listings shall include for each gift of travel or travel expenses—

"(A) the name and position of the employee;

"(B) a brief description of the gift and the circumstances justifying acceptance; and

"(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

"(4) In transmitting such listing for the Central Intelligence Agency, the Director of Central Intelligence may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.

"(g)(1) Each employing agency shall prescribe such regulations as may be necessary to carry out the purpose of this section. For all employing agencies in the executive branch, such regulations shall be prescribed pursuant to guidance provided by the Secretary of State. These regulations shall be implemented by each employing agency for its employees.

"(2) Each employing agency shall—

"(A) report to the Attorney General cases in which there is reason to believe that an employee has violated this section;

"(B) establish a procedure for obtaining an appraisal, when necessary, of the value of gifts; and

"(C) take any other actions necessary to carry out the purpose of this section.

"(n) The Attorney General may bring a civil action in any district court of the United States against any employee who knowingly solicits or accepts a gift from a foreign government not consented to by this section or who fails to deposit or report such gift as required by this section. The court in which such action is brought may assess a penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus $5,000.

"(i) The President shall direct all Chiefs of a United States Diplomatic Mission to inform their host governments that it is a general policy of the United States Government to prohibit United States Government employees from receiving gifts or decorations of more than minimal value.

"(j) Nothing in this section shall be construed to derogate any regulation prescribed by any employing agency which provides for more stringent limitations on the receipt of gifts and decorations by its employees.

"(k) The provisions of this section do not apply to grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies."

(2) The amendment made by paragraph (1) of this subsection shall take effect on January 1, 1978.

Part II: Supplementary Procedural Rules

(135 Cong. Rec. S2933 (daily ed. Mar. 17, 1989), amended Dec. 21, 1989)

Rule 1. General Procedures

(a) OFFICERS: The Committee shall select a Chairman and a Vice Chairman from among its members. In the absence of the Chairman, the duties of the Chair shall be filled by the Vice Chairman or, in the Vice Chairman's absence, a Committee member designated by the Chairman.

(b) PROCEDURAL RULES: The basic procedural rules of the Committee are stated as a part of the Standing Orders of the Senate in Senate Resolution 338, 88th Congress, as amended, as well as other resolutions and laws. Supplementary Procedural Rules are stated herein and are hereinafter referred to as the Rules. The Rules shall be published in the Congressional Record not later than thirty days after adoption, and copies shall be made available by the Committee office upon request.

(c) MEETINGS:

(1) The regular meeting of the Committee shall be the first Thursday of each month while the Congress is in session.

(2) Special meetings may be held at the call of the Chairman or Vice Chairman if at least forty-eight hours notice is furnished to all members. If all members agree, a special meeting may be held on less than forty-eight hours notice.

(3)(A) If any member of the Committee desires that a special meeting of the Committee be called, the member may file in the office of the Committee a written request to the Chairman or Vice Chairman for that special meeting.

(B) Immediately upon the filing of the request the Clerk of the Committee shall notify the Chairman and Vice Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman or the Vice Chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, any three of the members of the Committee may file their written notice in the office of the Committee that a special meeting of the Committee will be held at a specified date and hour; such special meeting may not occur until forty-eight hours after the notice is filed. The Clerk shall immediately notify all members of the Committee of the date and hour of the special meeting. The Committee shall meet at the specified date and hour.

(d) QUORUM:

(1) A majority of the members of the Select Committee shall constitute a quorum for the transaction of business involving complaints and allegations of misconduct, including the consideration of matters involving sworn complaints, unsworn allegations or information, resultant preliminary inquiries, initial reviews, investigations, hearings, recommendations or reports and matters relating to Senate Resolution 400, agreed to May 19, 1976.

(2) Three members shall constitute a quorum for the transaction of the routine business of the Select Committee not covered by the first subparagraph of this paragraph, including requests for opinions and interpretations concerning the Code of Official Conduct or any other statute or regulation under the jurisdiction of the Select Committee, if one member of the quorum is a Member of the Majority Party and one

member of the quorum is a Member of the Minority party. During the transaction of routine business any member of the Select Committee, constituting the quorum shall have the right to postpone further discussion of a pending matter until such time as a majority of the members of the Select Committee are present.

(3) Except for an adjudicatory hearing under Rule 6 and any deposition taken outside the presence of a Member under Rule 7, one Member shall constitute a quorum for hearing testimony, provided that all Members have been given notice of the hearing and the Chairman has designated a Member of the Majority Party and the Vice Chairman has designated a Member of the Minority Party to be in attendance, either of whom in the absence of the other may constitute the quorum.

(e) Order of Business: Questions as to the order of business and the procedure of the Committee shall in the first instance be decided by the Chairman and Vice Chairman, subject to reversal by a vote by a majority of the Committee.

(f) Hearings Announcements: The Committee shall make public announcement of the date, place and subject matter of any hearing to be conducted by it at least one week before the commencement of that hearing, and shall publish such announcement in the Congressional Record. If the Committee determines that there is good cause to commence a hearing at an earlier date, such notice will be given at the earliest possible time.

(g) Open and Closed Committee Meetings: Meetings of the Committee shall be open to the public or closed to the public (executive session), as determined under the provisions of paragraphs 5(b) to (d) of Rule XXVI of the Standing Rules of the Senate. Executive session meetings of the Committee shall be closed except to the members and the staff of the Committee. On the motion of any member, and with the approval of a majority of the Committee members present, other individuals may be admitted to an executive session meeting for a specified period or purpose.

(h) Record of Testimony and Committee Action: An accurate stenographic or transcribed electronic record shall be kept of all Committee proceedings, whether in executive or public session. Such record shall include Senators' votes on any question on which a recorded vote is held. The record of a witness' testimony, whether in public or executive session, shall be made available for inspection to the witness or his counsel under Committee supervision; a copy of any testimony given by that witness in public session, or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be made available to any witness if he so requests. (See Rule 6 on Procedures for Conducting Hearings.)

(i) Secrecy of Executive Testimony and Action and of Complaint Proceedings:

(1) All testimony and action taken in executive session shall be kept secret and shall not be released outside the Committee to any individual or group, whether governmental or private, without the approval of a majority of the Committee.

(2) All testimony and action relating to a sworn complaint shall be kept secret and shall not be released by the Committee to any individual or group, whether governmental or private, except the respondent, without the approval of a majority of the Committee, until such time as a report to the Senate is required under Senate Resolution 338, 88th Congress, as amended, or unless otherwise permitted under these Rules. (See Rule 9 on Procedures for Handling Committee Sensitive and Classified Materials.)

(j) Release of Reports to Public: No information pertaining to, or copies of any Committee report, study, or other document which purports to express the view, findings, conclusions or recommendations of the Committee in connection with any of its activities or proceedings may be released to any individual or group whether governmental or private, without the authorization of the Committee. Whenever the Chairman or Vice Chairman is authorized to make any determination, then the determination may be released at his or her discretion. Each member of the Committee shall be given a reasonable opportunity to have separate views included as part of any Committee report. (See Rule 9 on Procedures for Handling Committee Sensitive and Classified Materials.)

(k) Ineligibility or Disqualification of Members and Staff:

(1) A member of the Committee shall be ineligible to participate in any Committee proceeding that relates specifically to any of the following:

(A) That member's own conduct;

(B) The conduct of any employee or officer that the member supervises, as defined in paragraph 11 of Rule XXXVII of the Standing Rules of the Senate;

(C) The conduct of any employee or any officer that the member supervises; or

(D) A complaint, sworn or unsworn, that was filed by a member, or by any employee or officer that the member supervises.

(2) If any Committee proceeding appears to relate to a member of the Committee in a manner described in subparagraph (1) of this paragraph, the staff shall prepare a report to the Chairman and Vice Chairman. If either the Chairman or the Vice Chairman concludes from the report that it appears that the member may be ineligible, the member shall be notified in writing of the nature of the particular proceeding and the reason that it appears that the member may be ineligible to participate in it. If the member agrees that he or she is ineligible, the member shall so notify the Chairman or Vice Chairman. If the member believes that he or she is not ineligible, he or she may explain the reasons to the Chairman and Vice Chairman, and if they both agree that the member is not ineligible, the member shall continue to serve. But if either the Chairman or Vice Chairman continues to believe that the member is ineligible, while the member believes that he or she is not ineligible, the matter shall be promptly referred to the Committee. The member shall present his or her arguments to the Committee in executive session. Any contested questions concerning a member's eligibility shall be decided by a majority vote of the Committee, meeting in executive session, with the member in question not participating.

(3) A member may also disqualify himself from participating in a Committee proceeding in other circumstances not listed in subparagraph (k)(1).

(4) The President of the Senate shall be given written notice of the ineligibility or disqualification of any member from any initial review, investigation, or other proceeding requiring the appointment of another member in accordance with subparagraph (k)(5).

(5) Whenever a member of the Committee ineligible to participate in or disqualifies himself from participating in any initial review, investigation, or other substantial Committee proceeding, another Member of the Senate who is of the same party shall be appointed by the Senate in accordance with the provisions of paragraph 1 of Rule XXIV of the Standing Rules of the Senate, to serve as a member of the Committee solely for the purposes of that proceeding.

(6) A member of the Committee staff shall be ineligible to participate in any Committee proceeding that the staff director or outside counsel determines relates specifically to any of the following:

(A) the staff member's own conduct;

(B) the conduct of any employee that the staff member supervises;

(C) the conduct of any Member, officer or employee for whom the staff member has worked for any substantial period; or

(D) a complaint, sworn or unsworn, that was filed by the staff member. At the direction or with the consent of the staff director or outside counsel, a staff member may also be disqualified from participating in a Committee proceeding in other circumstances not listed above.

(l) Recorded Votes: Any member may require a recorded vote on any matter.

(m) Proxies; Recording Votes of Absent Members:

(1) Proxy voting shall not be allowed when the question before the Committee is the initiation or continuation of an initial review or an investigation, or the issuance of a report or recommendation related thereto concerning a Member or officer of the Senate. In any such case an absent member's vote may be announced solely for the purpose of recording the member's position and such announced votes shall not be counted for or against the motion.

(2) On matters other than matters listed in paragraph (m)(1) above, the Committee may order that the record be held open for the vote of absentees or recorded proxy votes if the absent Committee member has been informed of the matter on which the vote occurs and has affirmatively requested the Chairman of Vice Chairman in writing that he be so recorded.

(3) All proxies shall be in writing, and shall be delivered to the Chairman or Vice Chairman to be recorded.

(4) Proxies shall not be considered for the purpose of establishing a quorum.

(n) Approval of Blind Trusts and Foreign Travel Requests Between Sessions and During Extended Recesses: During any period in which the Senate stands in adjournment between sessions of the Congress or stands in a recess scheduled to extend beyond fourteen days, the Chairman and Vice Chairman, or their designees, acting jointly, are authorized to approve or disapprove blind trusts under the provisions of Rule XXXIV, and to approve or disapprove foreign travel requests which require immediate resolution.

(o) Committee Use of Services or Employees of Other Agencies and Departments: With the prior consent of the department or agency involved, the Committee may (1) utilize the services, information, or facilities of any such department or agency of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Senate, or any subcommittee, the Committee may utilize the facilities and the services of the staff of such other committee or subcommittee whenever the Chairman and Vice Chairman of the Committee, acting jointly, determine that such action is necessary and appropriate.

Rule 2: Procedures for Sworn Complaints

(a) SWORN COMPLAINTS: Any person may file a sworn complaint with the Committee, alleging that any Senator, or officer, or employee of the Senate has violated a law, the Senate Code of Official Conduct, or any rule or regulation of the Senate relating to the conduct of any individual in the performance of his or her duty as a Member, officer, or employee of the Senate, or has engaged in improper conduct which may reflect upon the Senate.

(b) FORM AND CONTENT OF COMPLAINTS: A complaint filed under paragraph (a) shall be in writing and under oath, and shall set forth in simple, concise and direct statements:

(1) The name and legal address of the party filing the complaint (hereinafter, the complainant);

(2) The name and position or title of each Member, officer, or employee of the Senate who is specifically alleged to have engaged in the improper conduct or committed the violation (hereinafter, the respondent);

(3) The nature of the alleged improper conduct or violation, including, if possible, the specific provision of the Senate Code of Official Conduct or other law, rule, or regulation alleged to have been violated.

(4)(A) A statement of the facts within the personal knowledge of the complainant that are alleged to constitute the improper conduct or violation.

(B) The term "personal knowledge" is not intended to and does not limit the complainant's statement to situations that he or she personally witnessed or to activities in which the complainant was a participant.

(C) Where allegations in the sworn complaint are made upon the information and belief of the complainant, the complaint shall so state, and shall set forth the basis for such information and belief.

(5) The complainant must swear that all of the information contained in the complaint either (a) is true, or (b) was obtained under circumstances such that the complainant has sufficient personal knowledge of the source of the information reasonably to believe that it is true. The complainant may so swear either by oath or by solemn affirmation before a notary public or other authorized official.

(6) All documents in the possession of the complainant relevant to or in support of his or her allegations may be appended to the complaint.

(c) PROCESSING OF SWORN COMPLAINTS:

(1) When the Committee receives a sworn complaint against a Member, officer or employee of the Senate, it shall determine by majority vote whether the complaint is in substantial compliance with paragraph (b) of this rule.

(2) If it is determined by the Committee that a sworn complaint does not substantially comply with the requirements of paragraph (b), the complaint shall be returned promptly to the complainant, with a statement explaining how the complaint fails to comply and a copy of the rules for filing sworn complaints. The complainant may resubmit the complaint in the proper form. If the complaint is not revised so that it substantially complies with the stated requirements, the Committee may in its discretion process the complaint in accordance with Rule 3.

(3) A sworn complaint against any Member, officer, or employee of the Senate that is determined by the Committee to be in substantial compliance shall be transmitted to the respondent within five days of that determination. The transmittal notice shall include the date upon which the complaint was received, a statement that the complaint conforms to the applicable rules, a statement that the Committee will immediately begin an initial review of the complaint, and a statement inviting the respondent to provide any information relevant to the complaint to the Committee. A copy of the Rules of the Committee shall be supplied with the notice.

Rule 3: Procedures on Receipt of Allegations Other Than a Sworn Complaint; Preliminary Inquiry

(a) UNSWORN ALLEGATIONS OR INFORMATION: Any member or staff member of the Committee shall report to the Committee, and any other person may report to the Committee, any credible information available to him or her that indicates that any named or unnamed Member, officer or employee of the Senate may have—

(1) violated the Senate Code of Official Conduct;

(2) violated a law;

(3) violated any rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as Members, officers, or employees of the Senate; or

(4) engaged in improper conduct which may reflect upon the Senate. Such allegations or information may be reported to the Chairman, the Vice Chairman, a Committee member, or a Committee staff member.

(b) SOURCES OF UNSWORN ALLEGATIONS OR INFORMATION: The information to be reported to the Committee under paragraph (a), may be obtained from a variety of sources, including but not limited to the following:

(1) sworn complaints that do not satisfy all of the requirements of Rule 2;

(2) anonymous or informal complaints, whether or not satisfying the requirements of Rule 2;

(3) information developed during a study or inquiry by the Committee or other committees or subcommittees of the Senate, including information obtained in connection with legislative or general oversight hearings;

(4) information reported by the news media; or

(5) information obtained from any individual, agency or department of the executive branch of the Federal Government.

(c) PRELIMINARY INQUIRY:

(1) When information is presented to the Committee pursuant to paragraph (a), it shall immediately be transmitted to the Chairman and the Vice Chairman, for one of the following actions:

(A) The Chairman and Vice Chairman, acting jointly, may conduct or may direct the Committee staff to conduct, a preliminary inquiry.

(B) The Chairman and Vice Chairman, acting jointly, may present the allegations or information received directly to the Committee for it to determine whether an initial review should be undertaken. (See paragraph (d).)

(2) A preliminary inquiry may include any inquiries, interviews, sworn statements, depositions, and subpoenas that the Chairman and the Vice Chairman deem appropriate to obtain information upon which to make any determination provided for by this Rule.

(3) At the conclusion of a preliminary inquiry, the Chairman and Vice Chairman shall receive a full report of its findings. The Chairman and Vice Chairman, acting jointly, shall then determine what further action, if any, is appropriate in the particular case, including any of the following:

(A) No further action is appropriate, because the alleged improper conduct or violation is clearly not within the jurisdiction of the Committee;

(B) No further action is appropriate, because there is no reason to believe that the alleged improper conduct or violation may have occurred; or

(C) The unsworn allegations or information, and a report on the preliminary inquiry, should be referred to the Committee, to determine whether an initial review should be undertaken. (See paragraph (d).)

(4) If the Chairman and the Vice Chairman are unable to agree on a determination at the conclusion of a preliminary inquiry, then they shall refer the allegations or information to the Committee, with a report on the preliminary inquiry, for the Committee to determine whether an initial review should be undertaken. (See paragraph (d).)

(5) A preliminary inquiry shall be completed within sixty days after the unsworn allegations or information were received by the Chairman and Vice Chairman. The sixty day period may be extended for a specified period by the Chairman and Vice Chairman, acting jointly. A preliminary inquiry is completed when the Chairman and the Vice Chairman have made the determination required by subparagraphs (3) and (4) of this paragraph.

(d) DETERMINATION WHETHER TO CONDUCT AN INITIAL REVIEW: When information or allegations are presented to the Committee by the Chairman and the Vice Chairman, the Committee shall determine whether an initial review should be undertaken.

(1) An initial review shall be undertaken when—

(A) there is reason to believe on the basis of the information before the Committee that the possible improper conduct or violation may be within the jurisdiction of the Committee; and

(B) there is reason to believe on the basis of the information before the Committee that the improper conduct or violation may have occurred.

(2) The determination whether to undertake an initial review shall be made by recorded vote within thirty days following the Committee's receipt of the unsworn allegations or information from the Chairman or Vice Chairman, or at the first meeting of the Committee thereafter if none occurs within thirty days, unless this time is extended for a specified period by the Committee.

(3) The Committee may determine that an initial review is not warranted because (a) there is no reason to believe on the basis of the information before the Committee that the improper conduct or violation may have occurred, or (b) the improper conduct or violation, even if proven, is not within the jurisdiction of the Committee.

(A) If the Committee determines that an initial review is not warranted, it shall promptly notify the complainant, if any, and any known respondent.

(B) If there is a complainant, he or she may also be invited to submit additional information, and notified of the procedures for filing a sworn complaint. If the complainant later provides additional information, not in the form of a sworn complaint, it shall be handled as a new allegation in accordance with the procedures of Rule 3. If he or she submits a sworn complaint, it shall be handled in accordance with Rule 2.

(4)(A) The Committee may determine that there is reason to believe on the basis of the information before it that the improper conduct or violation may have occurred and may be within the jurisdiction of the Committee, and that an initial review must therefore be conducted.

(B) If the Committee determines that an initial review will be conducted, it shall promptly notify the complainant, if any, and the respondent, if any.

(C) The notice required under subparagraph (B) shall include a general statement of the information or allegations before the Committee, and a statement that the Committee will immediately begin an initial review of the complaint. A copy of the Rules of the Committee shall be supplied with the notice.

(5) If a member of the Committee believes that the preliminary inquiry has provided sufficient information for the Committee to determine whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred, the member may move that the Committee dispense with the initial review and move directly to the determinations described in Rule 4(f). The Committee may adopt such a motion by majority vote of the full Committee.

Rule 4: Procedures for Conducting an Initial Review

(a) BASIS FOR INITIAL REVIEW: The Committee shall promptly commence an initial review whenever it has received either (1) a sworn complaint that the Committee has determined is in substantial compliance with the requirements of Rule 2, or (2) unsworn allegations or information that have caused the Committee to determine in accordance with Rule 3 that an initial review must be conducted.

(b) SCOPE OF INITIAL REVIEW:

(1) The initial review shall be of such duration and scope as may be necessary to determine whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred.

(2) An initial review may include any inquiries, interviews, sworn statements, depositions, and subpoenas that the Committee deems appropriate to obtain information upon which to make any determination provided for by this Rule.

(c) OPPORTUNITY FOR RESPONSE: An initial review may include an opportunity for any known respondent or his designated representative, to present either a written or oral statement, or to respond orally to questions from the Committee. Such an oral statement or answers shall be transcribed and signed by the person providing the statement or answers.

(d) STATUS REPORTS: The Committee staff or outside counsel shall periodically report to the Committee in the form and according to the schedule prescribed by the Committee. The reports shall be confidential.

(e) FINAL REPORT: When the initial review is completed, the staff or outside counsel shall make a confidential report to the Committee on findings and recommendations.

(f) COMMITTEE ACTION: As soon as practicable following submission of the report on the initial review, the Committee shall determine by a recorded vote whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred. The Committee may make any of the following determinations:

(1) The Committee may determine that there is not such substantial credible evidence. In this case, the Committee shall report its determination to the complainant, if any, and to the respondent, together with an explanation of the basis for the determination. The explanation may be as detailed as the Committee desires, but it is not required to include a complete discussion of the evidence collected in the initial review.

(2) The Committee may determine that there is such substantial credible evidence, but that the alleged violation is inadvertent, technical, or otherwise of a de minimis nature. In this case, the Committee may attempt to correct or to prevent such violation by informal methods. The Committee's final determination in this matter shall be reported to the complainant, if any, and to the respondent, if any.

(3) The Committee may determine that there is such substantial credible evidence, but that the alleged violation, if proven, although not of a de minimis nature, would not be sufficiently serious to justify the severe disciplinary actions specified in Senate Resolution 338, 88th Congress, as amended (i.e., for a Member, censure, expulsion, or recommendation to the appropriate party conference regarding the Member's seniority or positions of responsibility; or for an officer or employee, suspension or dismissal). In this case, the Committee, by the recorded affirmative vote of at least four members, may propose a remedy that it deems appropriate. If the respondent agrees to the proposed remedy, a summary of the Committee's conclusions and the remedy proposed and agreed to shall be filed as a public record with the Secretary of the Senate and a notice of the filing shall be printed in the Congressional Record.

(4) The Committee may determine, by recorded affirmative vote of at least four members, that there is such substantial credible evidence, and also either:

(A) that the violation, if proved, would be sufficiently serious to warrant imposition of one of the severe disciplinary actions listed in paragraph (3); or

(B) that the violation, if proven, is less serious, but was not resolved pursuant to the procedure in paragraph (3). In either case, the Committee shall order that an investigation promptly be conducted in accordance with Rule 5.

Rule 5: Procedures for Conducting an Investigation

(a) DEFINITION OF INVESTIGATION: An "investigation" is a proceeding undertaken by the Committee, by recorded affirmative vote of at least four members, after a finding on the basis of an initial review that there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within its jurisdiction has occurred.

(b) SCOPE OF INVESTIGATION: When the Committee decides to conduct an investigation, it shall be of such duration and scope as is necessary for the Committee to determine whether a violation within its jurisdiction has occurred. In the course of the investigation, designated outside counsel, or if the Committee determines not to use outside counsel, the Committee or its staff, may conduct inquiries or interviews, take sworn statements, use compulsory process as described in Rule 7, or take any other actions that the Committee deems appropriate to secure the evidence necessary to make this determination.

(c) NOTICE TO RESPONDENT: The Committee shall give written notice to any known respondent who is the subject of an investigation. The notice shall be sent to the respondent no later than five working days after the Committee has voted to conduct an investigation. The notice shall include a statement of the nature of the possible violation, and a description of the evidence indicating that a possible violation occurred. The Committee shall offer the respondent an opportunity to present a statement or to respond to questions from members of the Committee, the Committee staff, or outside counsel.

(d) RIGHT TO A HEARING: The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate.

(e) PROGRESS REPORTS TO COMMITTEE: The Committee staff or outside counsel shall periodically report to the Committee concerning the progress of the investigation. Such reports shall be delivered to the Committee in the form and according to the schedule prescribed by the Committee, and shall be confidential.

(f) REPORT OF INVESTIGATION: (1) Upon completion of an investigation, including any hearings held pursuant to Rule 6, the outside counsel or the staff shall submit a confidential written report to the Committee, which shall detail the factual findings of the investigation and which may recommend disciplinary action, if appropriate. Findings of fact of the investigation shall be detailed in this report whether or not disciplinary action is recommended.

(2) The Committee shall consider the report of the staff or outside counsel promptly following its submission. The Committee shall prepare and submit a report to the Senate, including a recommendation to the Senate concerning disciplinary action, appropriate. A report shall be issued, stating in detail the Committee's findings of fact, whether or not disciplinary action is recommended. The report shall also explain fully reasons underlying the Committee's recommendation concerning disciplinary action, if any. No recommendation or resolution of the Committee concerning the investigation of a Member, officer or employee of the Senate may be approved except by the affirmative recorded vote of not less than four members of the Committee.

(3) Promptly, after the conclusion of the investigation, the Committee's report and recommendation shall be forwarded to the Secretary of the Senate, and a copy shall be provided to the complainant and the respondent. The full report and recommendation shall be printed and made public, unless the Committee determines by majority vote that it should remain confidential.

Rule 6: Procedures for Hearings

(a) RIGHT TO HEARING: The Committee may hold a public or executive hearing in any inquiry, initial review, investigation, or other proceeding. The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate. (See Rule 5(e).)

(b) NON-PUBLIC HEARINGS: The Committee may at any time during a hearing determine in accordance with paragraph 5(b) of Rule XXVI of the Standing Rules of the Senate whether to receive the testimony of specific witnesses in executive session. If a witness desires to express a preference for testifying in public or in executive session, he or she shall so notify the Committee at least five days before he or she is scheduled to testify.

(c) ADJUDICATORY HEARINGS: The Committee may, by majority vote, designate any public or executive hearing as an adjudicatory hearing; and, any hearing which is concerned with possible disciplinary action against a respondent or respondents designated by the Committee shall be adjudicatory hearing. In any adjudicatory hearing, the procedures described in paragraph (j) shall apply.

(d) SUBPOENA POWER: The Committee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such correspondence, books, papers, documents or other articles as it deems advisable. (See Rule 7.)

(e) NOTICE OF HEARING: The Committee shall make public an announcement of the date, place, and subject matter of any hearing to be conducted by it, in accordance with rule 1(f).

(f) PRESIDING OFFICER: The Chairman shall preside over the hearings, or in his absence the Vice Chairman. If the Vice Chairman is also absent, a Committee member designated by the Chairman shall preside. If an oath or affirmation is required, it shall be administered to a witness by the Presiding Officer, or in his absence, by any Committee member.

(g) WITNESSES:

(1) A subpoena or other request to testify shall be served on a witness sufficiently in advance of his or her scheduled appearance to allow the witness a reasonable period of time, as determined by the Committee, to prepare for the hearing and to employ counsel if desired.

(2) The Committee may, by majority vote, rule that no member of the Committee or staff or outside counsel shall make public the name of any witness subpoenaed by the Committee before the date of that witness' scheduled appearance, except as specifically authorized by the Chairman and Vice Chairman, acting jointly.

(3) Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the Committee at least two working days in advance of the hearing at which the statement is to be presented. The Chairman and Vice Chairman shall determine whether such statements may be read or placed in the record of the hearing.

(4) Insofar as practicable, each witness shall be permitted to present a brief oral opening statement, if he or she desires to do so.

(h) RIGHT TO TESTIFY: Any person whose name is mentioned or who is specifically identified or otherwise referred to in testimony or in statements made by a Committee member, staff member or outside counsel, or any witness, and who reasonably believes that the statement tends to adversely affect his or her reputation may—

(1) Request to appear personally before the Committee to testify in his or her own behalf; or

(2) File a sworn statement of facts relevant to the testimony or other evidence or statement of which he or she complained. Such request and such statement shall be submitted to the Committee for its consideration and action.

(i) CONDUCT OF WITNESSES AND OTHER ATTENDEES: The Presiding Officer may punish any breaches of order and decorum by censure and exclusion from the hearings. The Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(j) ADJUDICATORY HEARING PROCEDURES:

(1) NOTICE OF HEARINGS: A copy of the public announcement of an adjudicatory hearing, required by paragraph (3), shall be furnished together with a copy of these Rules to all witnesses at the time that they are subpoenaed or otherwise summoned to testify.

(2) PREPARATION FOR ADJUDICATORY HEARINGS:

(A) At least five working days prior to the commencement of an adjudicatory hearing, the Committee shall provide the following information and documents to the respondent, if any:

(i) a list of proposed witnesses to be called at the hearing;

(ii) copies of all documents expected to be introduced as exhibits at the hearing; and

(iii) a brief statement as to the nature of the testimony expected to be given by each witness to be called at the hearing.

(B) At least two working days prior to the commencement of an adjudicatory hearing, the respondent, if any, shall provide the information and documents described in divisions (i), (ii) and (iii) of subparagraph (A) to the Committee.

(C) At the discretion of the Committee, the information and documents to be exchanged under this paragraph shall be subject to an appropriate agreement limiting access and disclosure.

(D) If a respondent refuses to provide the information and documents to the Committee (see (A) and (B) of this subparagraph), or if a respondent or other individual violates an agreement limiting access and disclosure, the Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(3) SWEARING OF WITNESSES: All witnesses who testify at adjudicatory hearings shall be sworn unless the Presiding Officer, for good cause, decides that a witness does not have to be sworn.

(4) RIGHT TO COUNSEL: Any witness at an adjudicatory hearing may be accompanied by counsel of his or her own choosing, who shall be permitted to advise the witness of his or her legal rights during the testimony.

(5) RIGHT TO CROSS-EXAMINE AND CALL WITNESSES:

(A) In adjudicatory hearings, any respondent who is the subject of an investigation, and any other person who obtains the permission of the Committee, may personally or through counsel cross-examine witnesses called by the Committee and may call witnesses in his or her own behalf.

(B) A respondent may apply to the Committee for the issuance of subpoenas for the appearance of witnesses or the production of documents on his or her behalf. An application shall be approved upon a concise showing by the respondent that the proposed testimony or evidence is relevant and appropriate, as determined by the Chairman and Vice Chairman.

(C) With respect to witnesses called by a respondent, or other individual given permission by the Committee, each such witness shall first be examined by the party who called the witness or by that party's counsel.

(D) At least one working day before a witness' scheduled appearance, a witness or a witness' counsel may submit to the Committee written questions proposed to be asked of that witness. If the Committee determines that it is necessary, such questions may be asked by any member of the Committee, or by any Committee staff member if directed by a Committee member. The witness or witness' counsel may also submit additional sworn testimony for the record within twenty-four hours after the last day that the witness has testified. The insertion of such testimony in that day's record is subject to the approval of the Chairman and Vice Chairman acting jointly within five days after the testimony is received.

(6) ADMISSIBILITY OF EVIDENCE:

(A) The object of the hearing shall be to ascertain the truth. Any evidence that may be relevant and probative shall be admissible, unless privileged under the Federal Rules of Evidence. Rules of evidence shall not be applied strictly, but the Presiding Officer shall exclude irrelevant or unduly repetitious testimony. Objections going only to the weight that should be given evidence will not justify its exclusion.

(B) The Presiding Officer shall rule upon any question of the admissibility of testimony or other evidence presented to the Committee. Such rulings shall be final unless reversed or modified by a majority vote of the Committee before the recess of that day's hearings.

(C) Notwithstanding paragraphs (A) and (B), in any matter before the Committee involving allegations of sexual discrimination, including sexual harassment, or sexual misconduct, by a Member, officer, or employee, within the jurisdiction of the Committee, the Committee shall be guided by the standards and procedures of Rule 412 of the Federal Rules of Evidence, except that the Committee may admit evidence subject to the provisions of this paragraph only upon a determination of a majority of the members of the full Committee that the interests of justice require that such evidence be admitted.

(7) SUPPLEMENTARY HEARING PROCEDURES: The Committee may adopt any additional special hearing procedures that it deems necessary or appropriate to a particular adjudicatory hearing. Copies of such supplementary procedures shall be furnished to witnesses and respondents, and shall be made available upon request to any member of the public.

(k) TRANSCRIPTS:

(1) An accurate stenographic or recorded transcript shall be made of all public and executive hearings. Any member of the Committee, Committee staff member, outside counsel retained by the Committee, or witness may examine a copy of the transcript retained by the Committee of his or her own remarks and may suggest to the official reporter any typographical or transcription errors. If the reporter declines to make the requested corrections, the member, staff member, outside counsel or witness may request a ruling by the Chairman and Vice Chairman, acting jointly. Any member or witness shall return the transcript with suggested corrections to the Committee offices within five working days after receipt of the transcript, or as soon thereafter as is practicable. If the testimony was given in executive session, the member or witness may only inspect the transcript at a location determined by the Chairman and Vice Chairman, acting jointly. Any questions arising with respect to the processing and correction of transcripts shall be decided by the Chairman and Vice Chairman, acting jointly.

(2) Except for the record of a hearing which is closed to the public, each transcript shall be printed as soon as is practicable after receipt of the corrected version. The Chairman and Vice Chairman, acting jointly, may order the transcript of a hearing to be printed without the corrections of a member or witness if they determine that such member or witness has been afforded a reasonable time to correct such transcript and such transcript has not been returned within such time.

(3) The Committee shall furnish each witness, at no cost, one transcript copy of that witness' testimony given at a public hearing. If the testimony was given in executive ses-

sion, then a transcript copy shall be provided upon request, subject to appropriate conditions and restrictions prescribed by the Chairman and Vice Chairman. If any individual violates such conditions and restrictions, the Committee may recommend by majority vote that he or she be cited for contempt of Congress.

Rule 7: Subpoenas and Depositions

(a) SUBPOENAS:

(1) AUTHORIZATION FOR ISSUANCE: Subpoenas for the attendance and testimony of witnesses at depositions or hearings, and subpoenas for the production of documents and tangible things at depositions, hearings, or other times and places designated therein, may be authorized for issuance by either (A) a majority vote of the Committee, or (B) the Chairman and Vice Chairman, acting jointly, at any time before a preliminary inquiry, for the purpose of obtaining information to evaluate unsworn allegations or information, or at any time during a preliminary inquiry, initial review, investigation, or other proceeding.

(2) SIGNATURE AND SERVICE: All subpoenas shall be signed by the Chairman or the Vice Chairman and may be served by any person eighteen years of age or older, who is designated by the Chairman or Vice Chairman. Each subpoena shall be served with a copy of the Rules of the Committee and a brief statement of the purpose of the Committee's proceeding.

(3) WITHDRAWAL OF SUBPOENA: The Committee, by majority vote, may withdraw any subpoena authorized for issuance by it or authorized for issuance by the Chairman and Vice Chairman, acting jointly. The Chairman and Vice Chairman, acting jointly, may withdraw any subpoena authorized for issuance by them.

(b) DEPOSITIONS:

(1) PERSONS AUTHORIZED TO TAKE DEPOSITIONS: Depositions may be taken by any Member of the Committee designated by the Chairman and Vice Chairman, acting jointly, or by any other person designated by the Chairman and Vice Chairman, acting jointly, including outside counsel, Committee staff, other employees of the Senate, or government employees detailed to the Committee.

(2) DEPOSITION NOTICES: Notices for the taking of depositions shall be authorized by the Committee, or the Chairman and Vice Chairman, acting jointly, and issued by the Chairman, Vice Chairman, or a Committee staff member or outside counsel designated by the Chairman and Vice Chairman, acting jointly. Depositions may be taken at any time before a preliminary inquiry, for the purpose of obtaining information to evaluate unsworn allegations or information, or at any time during a preliminary inquiry, initial review, investigation, or other proceeding. Deposition notices shall specify a time and place for examination. Unless otherwise specified, the deposition shall be in private, and the testimony taken and documents produced shall be deemed for the purpose of these rules to have been received in a closed or executive session of the Committee. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear or to testify, or to produce documents, unless the deposition notice was accompanied by a subpoena authorized for issuance by the Committee, or the Chairman and Vice Chairman, acting jointly.

(3) COUNSEL AT DEPOSITIONS: Witnesses may be accompanied at a deposition by counsel to advise them of their rights.

(4) DEPOSITION PROCEDURE: Witnesses at depositions shall be examined upon oath administered by an individual authorized by law to administer oaths or administered by any Member of the Committee if one is present. Questions may be propounded by any person or persons who are authorized to take depositions for the Committee. If a witness objects to a question and refuses to testify, or refuses to produce a document, any Member of the Committee who is present may rule on the objection and, if the objection is overruled, direct the witness to answer the question or produce the document. If no Member of the Committee is present, the individual who has been designated by the Chairman and Vice Chairman, acting jointly, to take the deposition may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the Chairman or Vice Chairman of the Committee, who may refer the matter to the Committee or rule on the objection. If the Chairman or Vice Chairman, or the Committee upon referral, overrules the objection, the Chairman, Vice Chairman, or the Committee as the case may be, may direct the witness to answer the question or produce the document. The Committee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify or produce documents after having been directed to do so.

(5) FILING OF DEPOSITIONS: Deposition testimony shall be transcribed or electronically recorded. If the deposition is transcribed, the individual administering the oath shall certify on the transcript that the witness was duly sworn in his or her presence and the transcriber shall certify that the transcript is a true record of the testimony. The transcript with these certifications shall be filed with the chief clerk of the Committee, and the witness shall be furnished with access to a copy at the Committee's offices for review. Upon inspecting the transcript, within a time limit set by the Chairman and Vice Chairman, acting jointly, a witness may request in writing changes in the transcript to correct errors in transcription. The witness may also bring to the attention of the Committee errors of fact in the witness's testimony by submitting a sworn statement about those facts with a request that it be attached to the transcript. The Chairman and Vice Chairman, acting jointly, may rule on the witness's request, and the changes or attachments allowed shall be certified by the Committee's chief clerk. If the witness fails to make any request under this paragraph within the time limit set, this fact shall be noted by the Committee's chief clerk. Any person authorized by the Committee may stipulate with the witness to changes in this procedure.

Rule 8: Violations of Law; Perjury; Legislative Recommendations; and Applicable Rules and Standards of Conduct

(a) VIOLATIONS OF LAW: Whenever the Committee determines by majority vote that there is reason to believe that a violation of law may have occurred, it shall report such possible violation to the proper state and federal authorities.

(b) PERJURY: Any person who knowingly and willfully swears falsely to a sworn complaint or any other sworn statement to the Committee does so under penalty of perjury. The Committee may refer any such case to the Attorney General for prosecution.

(c) LEGISLATIVE RECOMMENDATIONS: The Committee shall recommend to the Senate by report or resolution such additional rules, regulations, or other legislative measures as it determines to be necessary or desirable to ensure proper standards of conduct by Members, officers, or employees of the Senate. The Committee may conduct such inquiries as it deems necessary to prepare such a report or resolution, including the holding of hearings in public or executive session and the use of subpoenas to compel the attendance of witnesses or the production of materials. The Committee may make legislative recommendations as a result of its findings in an initial review, investigation, or other proceeding.

(d) APPLICABLE RULES AND STANDARDS OF CONDUCT:

(1) No initial review or investigation shall be made of an alleged violation of any law, rule, regulation, or provision of the Senate Code of Official Conduct which was not in effect at the time the alleged violation occurred. No provision of the Senate Code of Official Conduct shall apply to, or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code.

(2) The Committee may conduct an initial review or investigation of an alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Committee.

Rule 9: Procedures for Handling Committee Sensitive and Classified Materials

(a) PROCEDURES FOR HANDLING COMMITTEE SENSITIVE MATERIALS:

(1) Committee Sensitive information or material is information or material in the possession of the Select Committee on Ethics which pertains to illegal or improper conduct by a present or former Member, officer, or employee of the Senate; to allegations or accusation of such conduct; to any resulting preliminary inquiry, initial review, or investigation by the Select Committee on Ethics into such allegations or conduct; to the investigative techniques and procedures of the Select Committee on Ethics; or to other information or material designated by the staff director, or outside counsel designated by the Chairman and Vice Chairman.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of Committee Sensitive information in the possession of the Committee or its staff. Procedures for protecting Committee Sensitive materials shall be in writing and shall be given to each Committee staff member.

(b) PROCEDURES FOR HANDLING CLASSIFIED MATERIALS:

(1) Classified information on material is information or material which is specifically designated as classified under the authority of Executive Order 11652 requiring protection of such information or material from unauthorized disclosure in order to prevent damage to the United States.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of classified information in the possession of the Committee or its staff. Procedures for handling such information shall be in writing and a copy of the procedures shall be given to each staff member cleared for access to classified information.

(3) Each member of the Committee shall have access to classified material in the Committee's possession. Only Committee staff members with appropriate security clearances and a need-to-know, as approved

by the Chairman and Vice Chairman, acting jointly, shall have access to classified information in the Committee's possession.

(c) PROCEDURES FOR HANDLING COMMITTEE SENSITIVE AND CLASSIFIED DOCUMENTS:

(1) Committee Sensitive and classified documents and materials shall be segregated in secure filing safes. Removal from the Committee offices of such documents or materials is prohibited except as necessary for use in, or preparation for, interviews or Committee meetings, including the taking of testimony, or as otherwise specifically approved by the staff director or by outside counsel designated by the Chairman and Vice Chairman.

(2) Each member of the Committee shall have access to all materials in the Committee's possession. The staffs of members shall not have access to Committee Sensitive or classified documents and materials without the specific approval in each instance of the Chairman, and Vice Chairman, acting jointly. Members may examine such materials in the Committee's offices. If necessary, requested materials may be taken by a member of the Committee staff to the office of a member of the Committee for his or her examination, but the Committee staff member shall remain with the Committee Sensitive or classified documents or materials at all times except as specifically authorized by The Chairman or Vice Chairman.

(3) Any Member of the Senate who is not a member of the Committee and who seeks access to any Committee Sensitive or classified documents or materials, other than documents or materials which are matters of public record, shall request access in writing. The Committee shall decide by majority vote whether to make documents or materials available. If access is granted, the Member shall not disclose the information except as authorized by the Committee.

(4) Whenever the Committee makes Committee Sensitive or classified documents or materials available to any Member of the Senate who is not a member of the Committee, or to a staff person of a Committee member in response to a specific request to the chairman and Vice Chairman, a written record shall be made identifying the Member of the Senate requesting such documents or materials and describing what was made available and to whom.

(d) NON-DISCLOSURE POLICY AND AGREEMENT:

(1) Except as provided in the last sentence of this paragraph, no member of the Select Committee on Ethics, its staff or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics shall release, divulge, publish, reveal by writing, word, conduct, or disclose in any way, in whole, or in part, or by way of summary, during tenure with the Select Committee on Ethics or anytime thereafter, any testimony given before the Select Committee on Ethics in executive session (including the names of any witness who appeared or was called to appear in executive session), any classified or Committee Sensitive information, document or material, received or generated by the Select Committee on Ethics or any classified or Committee Sensitive information which may come into the possession of such person during tenure with the Select Committee on Ethics or its staff. Such information, documents, or material may be released to an official of the executive branch properly cleared for access with a need-to-know, for any purpose or in connection with any proceeding, judicial or otherwise, as authorized by the Select Committee on Ethics, or in the event of termination of the Select Committee on Ethics, in such a manner as may be determined by its successor or by the Senate.

(2) No member of the Select Committee on Ethics staff or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics, shall be granted access to classified or Committee Sensitive information or material in the possession of the Select Committee on Ethics unless and until such person agrees in writing, as a condition of employment, to the nondisclosure policy. The agreement shall become effective when signed by the Chairman and Vice Chairman on behalf of the Committee.

Rule 10: Broadcasting and News Coverage of Committee Proceedings.

(a) Whenever any hearing or meeting of the Committee is open to the public, the Committee shall permit the hearing or meeting to be covered in whole or in part, by television broadcast, radio broadcast, still photography, or by any other methods of coverage, unless the Committee decides by majority vote that such coverage is not appropriate at a particular hearing or meeting.

(b) Any witness served with a subpoena by the Committee may request not be photographed at any hearing or to give evidence or testimony while the broadcasting, reproduction, or coverage of that hearing by radio, television, still photography, or other methods in occurring. At the request of any such witness who does not wish to be subjected to radio, television, still photography, or other methods of coverage, and subject to the approval of the Committee, all lenses shall be covered and all microphones used for coverage turned off.

(c) If coverage is permitted, it shall be in accordance with the following requirements:

(1) Photographers and reporters using mechanical recording, filming, or broadcasting apparatus shall position their equipment so as not to interfere with the seating, vision, and hearing of the Committee members and staff, or with the orderly process of the meeting or hearing.

(2) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, the coverage shall be conducted and presented without commercial sponsorship.

(3) Personnel providing coverage by the television and radio media shall be currently accredited to the Radio and Television Correspondents' Galleries.

(4) Personnel providing coverage by still photography shall be currently accredited to the Press Photographers' Gallery Committee of Press Photographers.

(5) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and the coverage activities in an orderly and unobtrusive manner.

Rule 11: Procedures for Advisory Opinions

(a) WHEN ADVISORY OPINIONS ARE RENDERED:

(1) The Committee shall render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(2) The Committee may issue an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(b) FORM OR REQUEST: A request for an advisory opinion shall be directed in writing to the Chairman of the Committee and shall include a complete and accurate statement of the specific factual situation with respect to which the request is made as well as the specific question or questions which the requestor wishes the Committee to address.

(c) OPPORTUNITY FOR COMMENT:

(1) The Committee will provide an opportunity for any interested party to comment on a request for an advisory opinion—

(A) which requires an interpretation on a significant question of first impression that will affect more than a few individuals; or

(B) when the Committee determines that comments from interested parties would be of assistance.

(2) Notice of any such request for an advisory opinion shall be published in the Congressional Record, with appropriate deletions to insure confidentiality, and interested parties will be asked to submit their comments in writing to the Committee within ten days.

(3) All relevant comments received on a timely basis will be considered.

(d) ISSUANCE OF AN ADVISORY OPINION:

(1) The Committee staff shall prepare a proposed advisory opinion in draft form which will first be reviewed and approved by the Chairman and Vice Chairman, acting jointly, and will be presented to the Committee for final action. If (A) the Chairman and Vice Chairman cannot agree, or (B) either the Chairman or Vice Chairman requests that it be taken directly to the Committee, then the proposed advisory opinion shall be referred to the Committee for its decision.

(2) An advisory opinion shall be issued only by the affirmative recorded vote of a majority of the members voting.

(3) Each advisory opinion issued by the Committee shall be promptly transmitted for publication in the Congressional Record after appropriate deletions are made to insure confidentiality. The Committee may at any time revise, withdraw, or elaborate on any advisory opinion.

(e) RELIANCE ON ADVISORY OPINIONS:

(1) Any advisory opinion issued by the Committee under Senate Resolution 338, 88th Congress, as amended, and the rules may be relied upon by—

(A) Any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered if the request for such advisory opinion included a complete and accurate statement of the specific factual situation; and

(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(2) Any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of Senate Resolution 338, 88th Congress, as amended, and of the rules, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

Rule 12: Procedures for Interpretative Rulings

(a) BASIS FOR INTERPRETATIVE RULINGS: Senate Resolution 338, 88th Congress, as amended, authorizes the Committee to issue interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction. The Committee also may issue such rulings clarifying or explaining and rule or regulation of the Select Committee on Ethics.

(b) REQUEST FOR RULING: A request for such a ruling must be directed in writing to the Chairman or Vice Chairman of the Committee.

(c) ADOPTION OF RULING:

(1) The Chairman and Vice Chairman, acting jointly, shall issue a written interpretative ruling in response to any such request, unless—

(A) they cannot agree,

(B) it requires an interpretation of a significant question of first impression, or

(C) either requests that it be taken to the Committee, in which event the request shall be directed to the Committee for a ruling.

(2) A ruling on any request taken to the Committee under subparagraph (1) shall be adopted by a majority of the members voting and the ruling shall then be issued by the Chairman and Vice Chairman.

(d) PUBLICATION OF RULINGS: The Committee will publish in the Congressional Record, after making appropriate deletions to ensure confidentiality, any interpretative rulings issued under this Rule which the Committee determines may be of assistance or guidance to other Members, officers or employees. The Committee may at any time revise, withdraw, or elaborate on interpretative rulings.

(3) RELIANCE ON RULINGS: Whenever an individual can demonstrate to the Committee's satisfaction that his or her conduct was in good faith reliance on an interpretative ruling issued in accordance with this Rule, the Committee will not recommend sanctions to the Senate as a result of such conduct.

(f) RULINGS BY COMMITTEE STAFF: The Committee staff is not authorized to make rulings or give advice, orally or in writing, which binds the Committee in any way.

Rule 13: Procedures for Complaints Involving Improper Use of the Mailing Frank

(a) AUTHORITY TO RECEIVE COMPLAINTS: The Committee is directed by section 6(b) of Public Law 93-191 to receive and dispose of complaints that a violation of the use of the mailing frank has occurred or is about to occur by a Member or officer of the Senate or by a surviving spouse of a Member. All such complaints will be processed in accordance with the provisions of these Rules, except as provided in paragraph (b).

(b) DISPOSITION OF COMPLAINTS:

(1) The Committee may dispose of any such complaint by requiring restitution of the cost of the mailing if it finds that the franking violation was the result of a mistake.

(2) Any complaint disposed of by restitution that is made after the Committee has formally commenced an initial review or investigation, must be summarized, together with the disposition, in a notice promptly transmitted for publication in the Congressional Record.

(3) If a complaint is disposed of by restitution, the complainant, if any, shall be notified of the disposition in writing.

(c) ADVISORY OPINION AND INTERPRETATIVE RULINGS: Requests for advisory opinions or interpretative rulings involving franking questions shall be processed in accordance with Rules 11 and 12.

Rule 14: Procedures for Waivers

(a) AUTHORITY FOR WAIVERS: The Committee is authorized to grant a waiver under the following provisions of the Standing Rules of the Senate:

(1) Section 101(h) of the Ethics in Government Act of 1978, as amended (Rule XXXIV), relating to the filing of financial disclosure reports by individuals who are expected to perform or who have performed the duties of their offices or positions for less than one hundred and thirty days in a calendar year;

(2) Section 102(a)(2)(D) of the Ethics in Government Act, as amended (Rule XXXIV), relating to the reporting of gifts;

(3) Paragraph 1 of Rule XXXV relating to acceptance of gifts; or

(4) Paragraph 5 of Rule XLI relating to applicability of any of the provisions of the Code of Official Conduct to an employee of the Senate hired on a per diem basis.

(b) REQUESTS FOR WAIVERS: A request for a waiver under paragraph (a) must be directed to the Chairman or Vice Chairman in writing and must specify the nature of the waiver being sought and explain in detail the facts alleged to justify a waiver. In the case of a request submitted by an employee, the views of his or her supervisor (as determined under paragraph 11 of Rule XXXVII of the Standing Rules of the Senate) should be included with the waiver request.

(c) RULING: The Committee shall rule on a waiver request by recorded vote, with a majority of those voting affirming the decision.

(d) AVAILABILITY OF WAIVER DETERMINATIONS: A brief description of any waiver granted by the Committee, with appropriate deletions to ensure confidentiality, shall be made available for review upon request in the Committee office. Waivers granted by the Committee pursuant to the Ethics in Government Act of 1978, as amended, may only be granted pursuant to a publicly available request as required by the Act.

Rule 15: Definition of "Officer or Employee"

(a) As used in the applicable resolutions and in these rules and procedures, the term "officer or employee of the Senate" means:

(1) An elected officer of the Senate who is not a Member of the Senate;

(2) An employee of the Senate, any committee or subcommittee of the Senate, or any Member of the Senate;

(3) The Legislative Counsel of the Senate or any employee of his office;

(4) An Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) A member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) An employee of the Vice President, if such employee's compensation is disbursed by the Secretary of the Senate;

(7) An employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate;

(8) An officer or employee of any department or agency of the Federal Government whose services are being utilized on a full-time and continuing basis by a Member, officer, employee, or committee of the Senate in accordance with Rule XLI(3) of the Standing Rules of the Senate; and

(9) Any other individual whose full-time services are utilized for more than ninety days in a calendar year by a Member, officer, employee, or committee of the Senate in the conduct of official duties in accordance with rule XLI(4) of the Standing Rules of the Senate.

Rule 16: Committee Staff

(a) COMMITTEE POLICY:

(1) The staff is to be assembled and retained as a permanent, professional, nonpartisan staff.

(2) Each member of the staff shall be professional and demonstrably qualified for the position for which he or she is hired.

(3) The staff as a whole and each member of the staff shall perform all official duties in a nonpartisan manner.

(4) No member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election.

(5) No member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to his or her employment or duties with the Committee without specific advance permission from the Chairman and Vice Chairman.

(6) No member of the staff may make public, without Committee approval, any Committee Sensitive or classified information, documents, or other material obtained during the course of his or her employment with the Committee.

(b) APPOINTMENT OF STAFF:

(1) The appointment of all staff members shall be approved by the Chairman and Vice Chairman, acting jointly.

(2) The Committee may determine by majority vote that it is necessary to retain staff members, including a staff recommended by a special counsel for the purpose of a particular initial review, investigation, or other proceeding. Such staff shall be retained only for the duration of that particular undertaking.

(3) The Committee is authorized to retain and compensate counsel not employed by the Senate (or by any department or agency of the Executive Branch of the Government) whenever the Committee determines that the retention of outside counsel if necessary or appropriate for any action regarding any complaint or allegation, initial review, investigation, or other proceeding, which in the determination of the Committee, is more appropriately conducted by counsel not employed by the Government of the United States as a regular employee. The Committee shall retain and compensate outside counsel to conduct any investigation undertaken after an initial review of a sworn complaint, unless the Committee determines that the use of outside counsel is not appropriate in the particular case.

(c) DISMISSAL OF STAFF: A staff member may not be removed for partisan, political reasons, or merely as a consequence of the rotation of the Committee membership. The Chairman and Vice Chairman, acting jointly, shall approve the dismissal of any staff member.

(d) STAFF WORKS FOR COMMITTEE AS WHOLE: All staff employed by the Committee or housed in Committee offices shall work for the Committee as a whole, under the general direction of the Chairman and Vice Chairman, and the immediate direction of the staff director or outside counsel.

(e) NOTICE OF SUMMONS TO TESTIFY: Each member of the Committee staff shall immediately notify the Committee in the event that he or she is called upon by a properly constituted authority to testify or provide confidential information obtained as a result of and during his or her employment with the Committee.

RULE 17: CHANGES IN SUPPLEMENTARY PROCEDURAL RULES

(a) ADOPTION OF CHANGES IN SUPPLEMENTARY RULES: The Rules of the Committee, other than rules established by statute, or by the Standing Rules and Standing Orders of the Senate, may be modified, amended, or suspended at any time, pursuant to a majority vote of the entire membership taken at a meeting called with due notice when prior written notice of the proposed change has been provided each member of the Committee.

(b) PUBLICATION: Any amendments adopted to the Rules of this Committee shall be published in the Congressional Record in accordance with Rule XXVI(2) of the Standing Rules of the Senate.

PART III—SUBJECT MATTER JURISDICTION

Following are sources of the subject matter jurisdiction of the Select Committee:

(a) The Senate Code of Official Conduct approved by the Senate in Title I of S. Res. 110, 95th Congress, April 1, 1977, and stated in Rules 34 through 42 of the Standing Rules of the Senate;

(b) Senate Resolution 338, 88th Congress, as amended, which states, among others, the duties to receive complaints and investigate allegations of improper conduct which may reflect on the Senate, violations of law, violations of the Senate Code of Official Conduct and violations of the Senate Code of Official Conduct and violations of rules and regulations of the Senate; recommend disciplinary action; and recommended additional Senate Rules or regulations to insure proper standards of conduct;

(c) Residual portions of Standing Rules 41, 42, 43 and 44 of the Senate as they existed on the day prior to the amendments made by Title I of S. Res. 110;

(d) Public Law 93-191 relating to the use of the mail franking privilege by Senators, officers of the Senate; and surviving spouses of Senators;

(e) Senate Resolution 400, 94th Congress, Section 8, relating to unauthorized disclosure of classified information in the possession of the Select Committee on Intelligence.

(f) Public Law 95-105, Section 515, relating to receipt and disposition of foreign gifts and decorations received by Senate members, officers and employees and their spouses or dependents;

(g) Preamble to Senate Resolution 266, 90th Congress, 2d Session, March 22, 1968; and

(h) The Code of Ethics for Government Service, H. Con. Res. 175, 85th Congress, 2d Session, July 11, 1958 (72 Stat. B12).

Except that S. Res. 338, as amended by Section 202 of S. Res. 110 (April 2, 1977), provides:

"(g) Notwithstanding any other provision of this section, no initial review or investigation shall be made of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provision of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code. The Select Committee may conduct an initial review or investigation of any alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Select Committee.

APPENDIX A—OPEN AND CLOSED MEETINGS

Paragraphs 7 (b) to (d) of Rule XXVI of the Standing Rules of the Senate read as follows:

(b) Each meeting of a standing, select, or special committee of the Senate, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by a committee or a subcommittee thereof on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in classes (1) through (6) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will discuss matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

(c) Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.

(d) Whenever disorder arises during a committee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator. When the Chair finds it necessary to maintain order, he shall have the power to clear the room, and the committee may act in closed session for so long as there is doubt of the assurance of order.

APPENDIX B—"SUPERVISORS" DEFINED

Paragraph 11 of Rule XXXVII of the Standing Rules of the Senate reads as follows:

For purposes of this rule—

(a) a Senator or the Vice President is the supervisor of his administrative, clerical, or other assistants;

(b) a Senator who is the chairman of a committee is the supervisor of the professional, clerical, or other assistants to the committee except that minority staff members shall be under the supervision of the ranking minority Senator on the committee;

(c) a Senator who is a chairman of a subcommittee which has its own staff and financial authorization is the supervisor of the professional, clerical, or other assistants to the subcommittee except that minority staff members shall be under the supervision of the ranking minority Senator on the subcommittee;

(d) the President pro tempore is the supervisor of the Secretary of the Senate, Sergeant at Arms and Doorkeeper, the Chaplain, the Legislative Counsel, and the employees of the Office of the Legislative Counsel;

(e) the Secretary of the Senate is the supervisor of the employees of his office;

(f) the Sergeant at Arms and Doorkeeper is the supervisor of the employees of his office;

(g) the Majority and Minority Leaders and the Majority and Minority Whips are the supervisors of the research, clerical, or other assistants assigned to their respective offices;

(h) the Majority Leader is the supervisor of the Secretary for the Majority and the Secretary for the Majority is the supervisor of the employees of his office; and

(i) the Minority Leader is the supervisor of the Secretary for the Minority and the Secretary for the Minority is the supervisor of the employees of his office.

FOOTNOTES

[1] As amended by S. Res. 4, 95th Cong., 1st Sess. (1970), S. Res. 110, 95th Cong., 1st Sess. (1977), S. Res. 204, 95th Cong., 1st Sess. (1977), S. Res. 230, 95th Cong., 1st Sess. (1977), S. Res. 312, 95th Cong., 1st Sess. (1977), S. Res. 78, 97th Cong., 1st Sess. (1981).

[2] Changed by S. Res. 78 (February 24, 1981).

[3] Added by S. Res. 110 (April 2, 1977).

[4] Added by Section 201 of S. Res. 110 (April 2, 1977).

[5] Added by Section 205 of S. Res. 110 (April 2, 1977).

[6] Added by Section 202 of S. Res. 110 (April 2, 1977).

[7] Changed by Section 202 of S. Res. 110 (April 2, 1977).

[8] Added by Section 204 of S. Res. 110 (April 2, 1977).

[9] Added by S. Res. 230 (July 25, 1977).

[10] Added by Section 204 of S. Res. 110 (April 2, 1977).

[11] Changed by Section 204 of S. Res. 110 (April 2, 1977).

[12] Section added by S. Res. 312 (Nov. 1, 1977).

[13] Section added by Section 206 of S. Res. 110 (April 2, 1977).•

NOBEL LAUREATE ELIE WIESEL

• Mr. DODD. Mr. President, I rise to say a few words on behalf of Elie Weisel, whose lifelong struggle against hatred and evil is a shining example of the unshakeable human spirit.

Mr. President, Elie Weisel is known to the world as a Nobel Laureate. But he is often better described as a Conscience Laureate. Ever since the world bestowed upon him the Nobel Peace Prize in 1986, Elie Weisel has made it his mission to pay humanity back in full.

When Elie Weisel was awarded the Nobel Peace Prize, he used the opportunity of his acceptance speech to describe why the world must not sit by when the human rights of others are threatened. His words deserve repeating today:

> Sometimes we must interfere. When human lives are endangered, when human dignity is in jeopardy, national borders and sensitivities become irrelevant. Whenever men or women are persecuted because of their race, religion or political views, that place must—at that moment—become the center of the universe.

Today, Mr. President, the center of Elie Wiesel's universe is the former

Yugoslavia. In recent months he has spoken out with clarity and conviction against the rape and pillaging of the people of Bosnia. He has called for the world to bring an end to the suffering of Bosnia. And he has reminded us of our solemn obligation to bring the perpetrators of this outrage to justice.

Mr. President, Harvard University professor Alan Dershowitz recently captured the remarkable spirit of Elie Wiesel in a newspaper editorial entitled "Nobel Laureate Works for Peace." In the editorial, which appeared in the Boston Herald on December 8, 1992, Mr. Dershowitz described a recent visit Elie Wiesel took to Sarajevo with these words:

> No one person alone can ever end the cycle of violence and counter-violence that has long plagued the tribal Balkans in general and the heterogeneous city of Sarajevo in particular.
>
> But Elie Wiesel's courageous visit to that dangerous area sent an important message to both perpetrators and victims of the ongoing crimes against humanity. The message is that the eyes of the civilized world are watching, and they will not forget what they have seen, even after this round of violence has abated.

Alan Dershowitz finished by concluding that when the Nobel Committee meets to select the next peace laureate, it should use Elie Wiesel as its model. Mr. President, I couldn't agree more. Elie Wiesel has indeed been an example to us all.

I ask that the full text of the article by Alan Dershowitz be included in the CONGRESSIONAL RECORD.

The article follows:

NOBEL LAUREATE WORKS FOR PEACE

Most individual winners of the prestigious Nobel Peace Prize have taken their gold medals home, cashed their checks and retired into oblivion. Not so with Elie Wiesel, who won the prize in 1986. He used the money to establish a foundation which continues his life work in human rights and his struggle against the forces of hatred and evil that killed his family and millions of others during the Holocaust.

Wherever there is suffering and hatred, the gentle voice and diminutive figure of Elie Wiesel can be heard and seen. Most recently, Boston University Professor Wiesel was standing in clear view of Serbian snipers as he came to bear witness to the suffering and death in the ancient city of Sarajevo. He came not only to bear witness to the tragedy of those who were already dead, but to prevent the death and suffering of thousands of others who face starvation and freezing as the deadly winter approaches.

No one person alone can ever end the cycle of violence and counter violence that has long plagued the tribal Balkans in general and the heterogeneous city of Sarajevo, in particular.

But Elie Wiesel's courageous visit to that dangerous area sent an important message to both perpetrators and victims of the ongoing crimes against humanity. The message is that the eyes of the civilized world are watching, and they will not forget what they have seen, even after this round of violence has abated.

The conscience of the civilized world, whose most articulate representative stood across from the ruins of the great National Library, will not accept the rationalizations offered by all sides for their crimes against each other. It will demand a moral accounting for the gratuitous violence, the tribal retributions, the ethnic cleansing.

Many of the Nobel Peace Prize winners were recognized by the Nobel Committee for their work on behalf of their own people: Most recent winners—Rigoberto Menchu of Guatemala, Aung San Suu Kyl of Burma, the Dalai Lama of Tibet, Bishop Desmond Tutu of South Africa, Lech Walesa of Poland, were honored primarily for helping their own people, and they have continued to try to help their people.

Elie Wiesel's work is far more universal. For example, those who have suffered most in the former Yugoslavia have been the Croats and the Muslims. It was they who Elie Wiesel risked his life to protect. Yet during the Holocaust, which took the lives of 6 million of Wiesel's people, the Croats were among the most barbarous hands-on perpetrators of genocide against Jewish babies, women and men. The Islamic world has been in conflict with Elie Wiesel's people over Israel, and many innocent Jews have been murdered by Islamic co-religionists of Muslims who have been terrorized in Sarajevo. Yet, Wiesel makes no distinctions based on religion, race, creed or even enmity against his own people. He will bear witness, even at the risk of his life, to the suffering of any human beings, so long as they are not the aggressors.

To be sure, Elie Wiesel speaks up on behalf of his people as well, with a voice of unparalleled eloquence. He tried to persuade President Reagan not to follow Patrick Buchanan's obscene recommendation that the American president go to Bitburg to honor the graves of Nazi storm troopers who had played a major role in the Holocaust. By ignoring Wiesel's sage counsel and going to Bitburg, President Reagan contributed to the atmosphere, now rampant in Germany, of legitimizing the SS and what it stood for. It was Elie Wiesel who pricked the conscience of the world by alerting us all to the plight of the "Jews of Silence," who lived lives of outlet desperation in the Soviet Union. It is Elie Wiesel who is today reminding the civilized world that it cannot ignore the ethnic cleansing that gangs of German youths are directing against German citizens of Turkish, Jewish and Romani heritage, as well as against foreigners who have sought asylum in the strong economy that the United States bestowed on Germany via the Marshall Plan.

A great Jewish sage, once wrote, "If I am not for myself, who will be for me? But if I am for myself alone what am I? And if not now, when?" Elie Wiesel lives by that tripartite philosophy. He is the voice of the Jewish people—their international moral spokesman. But he speaks not for Jews alone. Instead, he can be counted to combat hatred and bigotry regardless of who the victims may be. And for Elie Wiesel, tomorrow is never an excuse for not acting today.

When the Nobel Committee meets to select the next peace laureate, it should use Elie Wiesel as its model. It should bestow the prize on a universalist who will continue the struggle for global peace and human rights for all.●

ADVICE FROM A PRO

● Mr. D'AMATO. Mr. President, I rise today to convey the ideas of Muriel Siebert, who is perhaps the best known woman entrepreneur on Wall Street. She is the former New York State Banking Superintendent and president of Siebert & Co., a well-known discount brokerage firm. Ms. Siebert has many substantial and viable ideas which could jump start the economy. Among her many ideas are those concerned with tax credits for small businesses who hire additional workers. Small businesses are the undisputed superstars of job creation, producing 80 percent of all new jobs in recent years. A new job credit is a sensible way to give the economy a boost. I would like to have the following article by Ms. Siebert entered in the RECORD.

The article follows:

[From the New York Times, Jan. 6, 1993]

HIRE WORKERS: GET A TAX CREDIT

(By Muriel Siebert)

There is a bright side to corporate downsizing, which economists say still has at least another year to play itself out as I.B.M., American Express, General Motors and other giants respond to global competition by reducing labor costs.

Small businesses have become the superstars of job creation, producing up to 80 percent of new jobs in recent years. Between 1980 and 1990, when Fortune 500 companies eliminated 400,000 jobs a year, small businesses created 14.8 million. That's well beyond the total number of jobs created by Japan (5.9 million), Canada (1.8 million) and most of Western Europe (3.5 million) combined in that same period.

Considering the success of small businesses in today's service sector and their willingness to take on and retain new employees, it would be innovative and economically sound for the Clinton Administration and Congress to give business a tax credit for hiring additional people.

Many of those hired would be middle managers, members of the once solid middle class, who constitute a majority of those who have lost jobs during the corporate shrinkage. A study for the National Association of Women Business Owners projected that businesses owned and operated by women would employ more people than the Fortune 500 companies by the end of 1992. Forty percent of these businesses have been in business for more than a dozen years.

Unlike monolithic Fortune 500 companies, small businesses behave like families. The association study indicated that one reason for the durability of businesses owned by women is the value they place on their workers. It showed that small businesses hold on to workers through periods when revenues decline. Rather than eliminate workers, they tend to cut other expenses, including their own salaries.

That contrasts with big businesses, where chief executive officers cut the work force sharply while keeping their salaries and perks. Nearly half of the workers laid off by large companies have to swallow pay reductions when they find new full-time work; two out of three work for at least 20 percent less money than before.

If the 3.31 million skilled workers who are unemployed don't find jobs, they could be a drag on the economy for years. Even as uptick in the economy is likely to absorb only a small number of them.

A job-creation credit is as meritorious as the much discussed investment tax credit—a tax break for capital spent on plant and equipment.

How about a tax credit equal to 25 percent of the wages paid every new worker hired by any company over a two-year period after the credit went into effect? To avoid rewarding businesses for merely replacing employees, only companies that increased payrolls by hiring additional employees would qualify.

This revenue subtracted from one side of the Government's ledger would be significantly offset by taxes paid by the new employees, a reduction in unemployment benefits and public assistance costs. In addition, the multiplier effect caused by the impact of new wages filtering through the economy would create additional business and jobs.

A new-job credit is a sensible way to give the economy a boost at a moment when economists believe that big business' harsh measures will result in fewer but more efficient companies and, ultimately, a more competitive economy. The credit would help get Americans back to work by helping to create new jobs.•

LIFT THE ARMS EMBARGO AGAINST BOSNIA

• Mr. FEINGOLD. Mr. President, every day brings more mind-boggling reports and disclosures of further bloodshed and atrocities in Bosnia and Herzegovina. What began in 1991 as the post-cold-war breakup of the artificial, multiethnic state of the Socialist Republic of Yugoslavia has since exploded into a sadistic civil war. Serbian policies of ethnic cleansing and systematic rape of non-Serbs have challenged international promises of the 1940's that never again would we allow such horrors to occur.

Despite good-faith attempts to avert disaster, regions of the former Yugoslavia are suffering the worst violence on European soil since the Second World War. Mr. President, I need not recount the deliberate killing of tens of thousands of people—soldiers and civilians—in Bosnia and Herzegovina, or detail the reports of abuse of detainees, prisoners, and civilians rounded up for expulsion or murder to fulfill Serbian policies of ethnic cleansing. We are all painfully aware of the gruesome ordeals through which hundreds of thousands are suffering.

The Bush administration, once it realized that Yugoslavian unity was impossible in the face of Serbian nationalism, supported any solution reached peacefully and democratically. To that end, the European Community and the United Nations also have negotiated numerous cease fires among the warring parties. Similarly, U.N. peacekeeping troops and humanitarian organizations have been deployed to protect the populations under siege. The United Nations has passed other resolutions, such as sanctions against Serbia and Montenegro and a flight ban over Bosnia. In the Senate, I am a cosponsor of a Lautenberg resolution, calling on the United Nations to include rape in the definition of "crime against humanity."

Unfortunately, Mr. President, it is time to recognize that these efforts, however noble, are simply not working. In my opinion, the Clinton administration's six-point plan, announced last week by Secretary Christopher, signals a necessary change in United States policy toward the Balkan Republics. Where the Bush administration left the problems of the former Yugoslavia to fester and then explode, President Clinton has recognized that the United States, in conjunction with the international community, must be more active and engaged in efforts to resolve the crisis in Bosnia and Herzegovina.

However, Mr. President, I support a seventh point to the administration's plan: Lift the arms embargo against Bosnia.

Throughout my campaign for the U.S. Senate I was occasionally briefed by my fellow citizens in Wisconsin on this issue. Wisconsin has well over 80,000 persons of Croat, Bosnian, and Serbian ancestry. In October 1992, I met with a group of Croats, at a Croatian church in Milwaukee, where I was told about the ironic danger the arms embargo was posing to the Bosnians. I was warned that Bosnia would be further Balkanized through one-sided Serb aggression if the arms embargo was maintained; that, in fact, the embargo was only strengthening the Serbs. Lifting the arms embargo against Bosnia sounded right then, and it sounds right today.

When the embargo was imposed by the United Nations 18 months ago it favored the Serbs, for they had inherited the massive weapons arsenal from the Yugoslav Army. Furthermore, the United Nations has thus far lacked the resolve and the imperative necessary to enforce its resolutions. As a result, according to defense specialists and customs officials, assault rifles, rockets, anti-aircraft weapons, rifles, and ammunitions are smuggled into the region, and sold to the highest bidder. Obviously, the blockade against Serbia has not stopped military supplies from reaching Serbia. Even worse, once these goods reach Serbia, they are shipped to Serb-held areas of Bosnia.

The U.N. embargo, then, only denies food, water, electricity, and weapons to the Bosnian Moslem and Croats under siege by the Serb minority in Bosnian territory. Quite frankly, it has left them defenseless.

No one wants to see an escalation of tensions and armaments in the region. However, this is no longer a civil war. It is, at least in part, a war against Serbian aggression. This must be halted, and should not, under any circumstances, be tolerated or appeased.

We have few alternatives at this point. Sadly enough, continuing diplomatic negotiations—though the solution in the long term—do not protect the Moslems from daily, wholesale slaughter. The United Nations and the European Community thus far have been either unwilling or unprepared to intervene militarily. Like President Clinton, I remain skeptical and concerned about using U.S. ground troops in the region.

Thus, the Bosnians are left without diplomatic or military protection. They are left naked in the face of naked aggression. The United States, the United Nations, the E.C., or any other international body cannot protect against this aggression. At this desperate juncture, Mr. President, I believe we must lift the arms embargo. At the very least, the Bosnians are entitled to any self-defense they can muster.

In addition, U.N. resolutions must be enforced. If the international community cannot protect the Bosnians, then, as the administration clearly recognizes, the aggression may very well continue on to Kosovo and Macedonia.

In this post-cold-war world, we should be crafting policies which enhance an international system of law, and address desperate humanitarian crises such as that in Bosnia and Herzegovina. Lifting the arms embargo is hardly a precedent we relish setting. However, in this extreme case it is the correct and just course to follow.•

THE DRUG WAR IN THE 1990's

• Mr. D'AMATO. Mr. President, I rise today to discuss an important issue for all Americans, the future of the war on drugs. In these early days of a new administration, before an Attorney General, a Director of National Drug Control Policy, or a Drug Enforcement Administration Administrator are confirmed, I want to review the current situation as I see it and make some comments on the supplyside policy choices facing President Clinton and his senior aides.

While "it's the economy, stupid," remains true, I believe that illegal drug trafficking and use, and the violent crime associated with it, is a close second priority. How that priority will be addressed under President Clinton is the question.

My first and most urgent point is that the new administration should not start over with a clean sheet of paper. I want to emphasize that what we have done—the Congress, the executive branch, and State and local authorities—is valuable and effective and must not be discarded.

The most important progress we have made in the drug war is also the most tenuous and fragile and the most easily lost. What is that progress? On the supply side, it is getting separate agencies and authorities to work together.

That sounds simple, but it is harder than most Americans would willingly believe, yet it is incredibly central to success. In the past, at the Federal level, counterdrug efforts were uncoordinated, separate, and often contradictory and contentious as agencies vied for public prominence and larger budget shares. Turf protection unquestionably ranked ahead of mission accomplishment in the individual agencies' approaches to their jobs, regardless of their rhetoric.

Since the Anti-Drug Abuse Act of 1988, we have made slow but definite progress in rationalizing our approach to fighting drugs. On the Federal level, we created institutions whose primary goal was to see the whole forest instead of just the trees, and chart a path through the forest for this country, leading to the achievement of the goal set forth in the act of a drug-free America by 1995.

Sadly, it is clear that we will not come close to meeting that goal. However, we are closer to it than we were when we started. We have built successful models for managing the Nation's counterdrug efforts. Since it would take at least as long to replace these models with something new as it did to create them in the first place, I strongly urge the Clinton administration to pay sharp attention to them and to place a major emphasis on carrying forward the work that has been done so far with a minimum of disruption and redirection.

Let me be specific. The Office of National Drug Control Policy [ONDCP], regardless of its shortcomings, is very valuable. I strongly recommend that it be retained in the Executive Office of the President and not be moved elsewhere in the Government. Moreover, I believed when the Office was created and continue to believe that the incumbent Director of National Drug Control Policy—the drug czar—should have Cabinet rank.

Why is this so? The central point is that the Director of National Drug Control Policy is the only person in the executive branch other than the President himself who has the charter to look across agency boundaries and attempt to coordinate policies and expenditures on both the demand and supply sides of the drug war. Since the drug czar must coordinate the activities of Cabinet departments, it is an iron law of bureaucracy that he or she must have the rank—Cabinet rank—necessary to make it work.

It should be clear to the least perceptive person that the President does not have the time to manage the drug war himself. If he does not do it, that means, absent the drug czar, that nobody does it. If nobody does it, our national effort to fight drugs will unquestionably fail.

I do not think it is possible to overstate this point—without central management, turf wars, and agency rivalries will swiftly tear apart the fragile cooperative relationships that have been so slowly and painfully established, mostly on the supply side, from the Federal level down to the State and local levels. Once those cooperative relationships and the small institutions created to establish and foster them are gone, so is any hope for a rational, cost-effective approach to fighting drugs in America.

Critics say that all of the objective indicators—street price, purity, quantities of drugs confiscated, DAWN statistics—indicate that, at best, we are barely holding our own in the drug war, and are clearly not winning.

I have worked on the fight against drugs for 12 years. It would shock many of my colleagues, and most of my constituents, to learn how slowly the establishment of cooperative relationships and the institution building I have mentioned have gone. Critics will say, well, your approach has had years and years to work and increasing billions of dollars of resources, and we do not see progress.

My answer is that progress takes time—especially when you are making changes that challenge embedded cultural values that have been in place as long as the agencies involved have existed, for all practical purposes.

Let me give you one specific example—the involvement of the Defense Department in the war on drugs. DOD was long of the opinion that the drug war was no business of the military—it was a distraction from the campaign against the Evil Empire. Moreover, the drug war held dangers that the military had no stomach for—in foreign affairs, the chance of being drawn into low-intensity conflicts with overtones of Vietnam, and in domestic affairs, the chance of being drawn into law enforcement-related activities that would force the Department to engage in executive branch Federal law enforcement interagency politics and would expose it to political crossfire in the domestic arena generally.

This was changed when Congress ordered DOD to become the lead agency for detection and monitoring of illegal international drug trafficking destined for the United States and altered the posse comitatus restrictions to allow greater DOD support for law enforcement. We also directed DOD to integrate Federal drug law enforcement agency command, control, communications, and intelligence capabilities.

As a result, in September 1989, Secretary Cheney issued a directive to the Department and all of the armed services to participate in the drug war. Since that directive was issued, DOD has been working to accomplish its new missions.

It took the Department almost 3 years to learn its way around the problem, to learn who the players are, and to create and refine the institutions it needed to implement the Cheney directive. Internal structures within the Department also took years to create and even longer to achieve maturity.

The Department's drug war chain of command was not clear at the beginning. Within the DOD, the Office of DOD Coordinator for Drug Enforcement Policy and Support was created. The Assistant Secretary of Defense for Reserve Affairs was ultimately designated to also serve as the drug coordinator.

An important step was the decision to apply the Department's Planning, Programming, and Budgeting System [PPBS] to the drug war. Without it, requirements could not be developed in an orderly manner, plans could not be made, budgets to implement them would not come together, and coherent understanding of the problem would be elusive. The Office of the DOD Coordinator for Drug Enforcement Policy and Support performs the PPBS function, unifying budget submissions from the services and unified and specified commands.

Within the Joint Chiefs of Staff, in the Office of the Director for Operations (J-3), the Counternarcotics Operations Division was created. It staffs the Chairman of the JCS and the Secretary of Defense on counter-narcotics operations matters.

Special measures were taken to create drug war intelligence structures to support DOD involvement in the drug war. These structures were new and were built in response to demands from commanders in the field for actionable intelligence on a new and elusive enemy. It is only within the past 18 months—and for some, only within the last 12 months—that these structures have actually begun to do effective work. Also, all of the problems associated with their creation and operation have yet to be fully resolved.

The three Joint Task Forces, JTF-4, 5, and 6, were created but are only now reaching the level of effectiveness we had in mind when we gave statutory and report language direction. Each JTF's work is different because each faces a different environment.

I want to mention another DOD contribution to the drug war. The United States Southern Command, a unified command based in Panama, has responsibility for pursuing the drug war in Central and South America, under the command of Gen. George Joulwan. He has done an outstanding job in leading and coordinating counterdrug efforts in the main theater of war.

In particular, he has shown an ability to draw together officials from U.S. agencies that have in the past been competitors instead of cooperators and persuade them that they each can gain from working in unison in a coordinated approach to the region. He has also worked with the military establishments of the Central and South American States most affected by illegal drug cultivation and trafficking and helped them to see that cooperation against drug traffickers was an honorable mission and one that was important to each of their nation's futures.

I want to commend General Joulwan for his personal commitment to and his contributions to the progress of the drug war. His personal impact was vital to the positive progress that has been made.

This observation leads me back to the main line of this discussion—my appeal to the new administration to leave in place, and, indeed, to foster those centers of cooperation and coordination that have developed so slowly and painfully over the past several years.

Another aspect of this situation is that these institutions are so young and so fragile that their success—when they succeed—is usually attributable to one person—a dynamic leader who took charge and had the ability to sell the benefits of cooperation to the other agencies he or she dealt with. On the other hand, when they fail, the reason for failure is generally that the agency responsible for running the institution did not find and appoint a dynamic leader to take charge of the effort. In so many words, success is personality dependent—far more so than in established organizations with clearly understood charters and legitimacy and bureaucratic momentum.

Atmospherics are incredibly important right now. Getting the right person for the job depends upon the right person seeking the job. Normally, dynamic leaders capable of taking control of and shaping an ambiguous environment filled with potential for controversy and conflict are the kind of people who are on a fast track for promotion and success in their agencies or in public life in general. They will not be available to take these drug war positions if the President's face—and favor—are turned away from the effort.

It is important that, once an Attorney General is appointed, the President makes a general statement setting forth administration policy on the drug war. Nothing short of a statement from the President will do.

If the President speaks, it will be clear to everyone in the various executive departments that the drug war is a priority matter and service in leadership positions in the drug war is desirable. Moreover, it will also be clear that cooperation with persons in drug war leadership positions is necessary and advantageous to the various Cabinet and sub-Cabinet departments and administrations.

The absence of a Presidential message will also send a signal—that it is back to the way it was before—that the drug war is no longer a priority—that loyalty to the old line organizations will be rewarded with promotions and higher budgets—and not innovation and leadership in cooperative areas that bridge organizations. Turf protection, the lowest common denominator of bureaucratic life, will once again take control.

I hope the President will heed this call. If he does not, the drug war goes on the back burner. The best and brightest in the Government will seek those programs and priorities the President supports, and the drug war will become a backwater staffed by second-raters or people awaiting retirement.

If that happens, there will be celebrations in Medellin and Cali, in the Golden Triangle, and wherever else the lords of the drug trade live. There will be more armed violence in America's cities, more public corruption, and more wasted and blasted lives as the chemical poisons there underlings peddle continue to do their evil and destructive work on America's youth.•

PROGRAM

Mr. KENNEDY. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Wednesday, February 17; that following the prayer, the Journal of the proceedings be approved to date; that following the time for two leaders, there be a period for morning business not to extend beyond 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator BOREN recognized for up to 15 minutes, and Senator GRAMM, of Texas, for up to 10 minutes; that at 10:30 a.m., the Senate resume consideration of S. 1, the National Institutes of Health Revitalization Act; further, that on Wednesday, the Senate stand in recess from 12:30 p.m. to 2:15 p.m. in order to accommodate a conference luncheon.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 10 a.m. tomorrow morning, February 17, 1993.

Thereupon, at 5:56 p.m., the Senate recessed until Wednesday, February 17, 1993, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate February 16, 1993:

IN THE COAST GUARD

PURSUANT TO THE PROVISIONS OF 14 USC 729, THE FOLLOWING NAMED LIEUTENANT COMMANDERS OF THE COAST GUARD RESERVE TO BE PERMANENT COMMISSIONED OFFICERS IN THE COAST GUARD RESERVE IN THE GRADE OF COMMANDER.

GARY C. ANDERSON
NEAL M. DOHERTY
ROBERT H. CORDZ
ARTHUR J. DYCK
JOSEPH DIBERNARDO
KIM L. KRZYWICKI
MICHAEL J. QUIGLEY
JOHN P. LANIGAN, JR.
DANA J. ST. JAMES
MICHAEL L. BUTLER
RAYMOND A. PELLETIER
STEPHEN A. FIELDER
EDWARD L. RISTAINO
JANNA LAMBINE
STEVEN F. WIKER
SARAH E. WALSH
TRAVIS J. AIKIN, JR.
JOHN N. LEONARD
JOSEPH O. BROWN
STEVEN E. FABIAN
THOMAS R. WITKOWSKI
PHILIP CENTONZE
CAROLL P. WEDLUND
JAMES A. MCDONOUGH, JR.
JERRY J. SAULTER
CRAIG D. PETERSON
CHRISTOPHER S. KILGORE
EVAN B. CLARK
MICHAEL P. JONES
ALBERT W. HARTBERGER, II
NEVIN L. FIDLER
PAUL D. KIRKPATRICK
MELLISANDE WOERNER
KATHRYN S. GREGORY
MICHAEL H. GRANER
JEFFREY P. WATRY
PAUL B. MURRAY, JR.
PHILLIP W. WALDRON
LARRY D. HICE
MARK S. ZECCA
MARK R. TRAMMELL
PAMELA S. MEBINE
GREGORY P. COLEMAN
GARY L. BAGAAS
RAYMOND G. MEYER
JOHN D. DWYER
DARRYL W. FLATTUM

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE U.S. MARINE CORPS UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

To be brigadier general

COL. JERRY E. WARD [redacted]
COL. JOHN W. HILL [redacted]
COL. DENNIS M. MCCARTHY [redacted]
COL. FREDERICK R. LOPEZ [redacted]

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE:

JUDGE ADVOCATES GENERAL'S CORPS

To be lieutenant colonel

JEFFREY F. ADDICOTT [redacted]
DEBRA L. BOUDREAU, [redacted]
MICHAEL S. CHILD [redacted]
HOWARD G. COOLEY [redacted]
STEPHEN DEARDORFF [redacted]
ALAN L. DUNAVAN [redacted]
ALFRED L. FAUSTINO [redacted]
DAVID S. FRANKE [redacted]
JAMES GERSTENLAUER [redacted]
MARK S. GRAHAM [redacted]
GEORGE L. HANCOCK [redacted]
STEWART C. HUDSON [redacted]
BERNARD P. INGOLD [redacted]
ROBERT S. JOHNSON [redacted]
MICHAEL J. KELLEHER [redacted]
MICHAEL A. KILLHAM [redacted]
PATRICK W. LISOWSKI [redacted]
JOHN L. LONG [redacted]
DOUGLAS B. MACINNES [redacted]
CHRISTOPHER MAHER [redacted]
SARAH P. MERCK [redacted]
EUGENE R. MILHIZER [redacted]
ADELE H. ODEGARD [redacted]
GARY M. PEROLMAN [redacted]
DAVID L. POINTER [redacted]
JAMES P. POTTORF [redacted]
TIMOTHY A. RAEZER [redacted]
THOMAS W. RAU [redacted]
SAMUEL J. ROB [redacted]
GEORGE A. SIRMANS [redacted]
ROBERT M. SMITH [redacted]
DAN TRIMBLE [redacted]
KATHLEE VANDERBOOM [redacted]
CARL M. WAGNER [redacted]
DALE N. WOODLING [redacted]

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

ROBERT E BRAITHWAITE [redacted]
JAMES E CARTWRIGHT [redacted]
JAMES M COLLINS, II, [redacted]
RONALD V DELONEY [redacted]
CHARLES L DOCKERY, [redacted]
JON A GALLINETTI [redacted]
WILLIAM C GRUBB, JR, [redacted]
JAMES C HARDEE [redacted]
STEVEN J KING, [redacted]
THOMAS R KING, [redacted]
JAMES L SACHTLEBEN [redacted]

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR PERMANENT APPOINTMENT TO THE GRADE OF COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 5912:

DAVID R HARMAN, [redacted]
HENRY J WEILAND [redacted]
DENNIS K STAVER [redacted]

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF LIEUTENANT COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

MARK S BARNHART [redacted]
KENNETH D BONNER, [redacted]
STEPHEN J DYROFF [redacted]
JAMES G HUGHES [redacted]
TIMOTHY P HUGHES, [redacted]
WESLEY A JARMULOWICZ, [redacted]
MICHAEL J KELLY [redacted]
RICHARD J PACKARD [redacted]
JOHN C RADAR, [redacted]

STEVEN W RAWSON [redacted]
JOHN D REARDON [redacted]
CHARLES F TOLER, III, [redacted]
CLARENCE L WALLACE, JR., [redacted]

THE FOLLOWING NAMED OFFICER OF THE MARINE CORPS RESERVE FOR PERMANENT APPOINTMENT TO THE GRADE OF LIEUTENANT COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 5912:

FREDERICK N SHEPARD [redacted]

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF MAJOR UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

WILLIAM D BEYDLER [redacted]
JOHN K ELDER, [redacted]
GREGORY S FERRANDO [redacted]
PATRICK J GREENE [redacted]
PETER J LOUGHLIN, [redacted]
MICHAEL J MANUCHE, [redacted]
WILL J PEAVY [redacted]
TIMOTHY J REEVES, [redacted]
ERIC J VANCAMP, [redacted]
TROY A WARD [redacted]
DAVID L WHITE, [redacted]
ROBERT S ZAK [redacted]

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

NURSE CORPS

To be colonel

LAURA BOONE [redacted]
VIRGINIA C. BOSSLEY [redacted]
BARBARA C. BRANNON [redacted]
GLENNDA L. BRUCE [redacted]
CHRISTINE J. CARBONE [redacted]
DAVID L. CLARK [redacted]
BRENDA K. CREFT [redacted]
MARGO L. DUCKETT [redacted]
MONICA A. FIGUN [redacted]
MARY K. FRYMAN [redacted]
LINDA C. GARAUX [redacted]
GAY P. HALL [redacted]
ELAINE M. HAUCK [redacted]
DIANA L. KUPCHELLA [redacted]
MARY E. MAXSE [redacted]
JAN B. SCHERMERHORN [redacted]
FRANKIE G. SMITH [redacted]
MARCIA R. TATE [redacted]
KATHLEEN VANDERBURG [redacted]
SARAH J. WILLIAMS [redacted]
PRISCILLA S. WORRAL [redacted]
SUE E. YINGLING [redacted]

MEDICAL SERVICE CORPS

To be colonel

RAMON L. BENEDETTO [redacted]
THOMAS J. ESLICK [redacted]
SCOTT H. GARNER [redacted]
CLIFFORD M. LOPER [redacted]
NANCY L. MCDANIEL [redacted]
TIMOTHY M. MORGAN [redacted]
CURTIS W. PEARSON [redacted]
ANN M. PEASE [redacted]
THOMAS A. PETERS [redacted]
JAMES D. REAY [redacted]
WILLIAM T. SANDERS, II [redacted]
THOMAS D. SKALOMENOS [redacted]
RICHARD F. WELTZIN, JR [redacted]

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

JUDGE ADVOCATE

To be colonel

JAY L. COHEN [redacted]
CHARLES J. DUNLAP, JR [redacted]
DANIEL P. HASS [redacted]
JEFFERY T. INFELISI [redacted]
LESTER K. KATAHARA [redacted]
ROBERT L. KUSTER [redacted]
DAVID W. MADSEN [redacted]
MICHAEL R. MCANTEE [redacted]
MICHAEL MCDONALD [redacted]
TERRENCE J. MORAN [redacted]
CHESTER H. MORGAN, II, [redacted]
CLINTON C. PEARSON [redacted]
CLARENCE R. PENNINGTON [redacted]
JACK L. RIVES [redacted]
JARISSE J. SANBORN [redacted]
BERNARD K. SCHAFER [redacted]
JACK W. SMITH [redacted]
EDWARD M. STARR [redacted]
JOHN C. SUHAR [redacted]
THOMAS S. M. TUDOR [redacted]
ERIK L. WINBORN [redacted]

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE, AND THOSE OFFICERS IDENTIFIED BY AN ASTERISK FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

LINE OF THE AIR FORCE

To be lieutenant colonel

CANDACE C. ABBOTT [redacted]
CLARCK E. ABELARD [redacted]
ROBERT A. ABOE [redacted]
ABEL ABUNDEZ [redacted]
CRAIG P. ADAMS [redacted]
DAVID G. ADAMS [redacted]
WARREN R. ADAMS [redacted]
ROBERT D. ADSIT [redacted]
DONALD F. AIKEN [redacted]
KEVIN P. ALBERT, [redacted]
VINCENT L. ALBERT [redacted]
JOSEPH P. ALFANO [redacted]
JOSEPH M. ALICEA [redacted]
ROBERT R. ALLARDICE [redacted]
BENJAMIN S. ALLEN [redacted]
MICHAEL L. ALLEN [redacted]
THOMAS E. ALLEN [redacted]
DEAN S. ALLRED [redacted]
TODD L. ALMAND [redacted]
RICHARD L. ALMEIDA, JR [redacted]
JOHN R. ALSBROOKS [redacted]
JOHN M. ANDERSON, II [redacted]
JOSEPH A. ANDERSON [redacted]
PAUL R. ANDERSON [redacted]
STERLING S. ANDERSON [redacted]
JOHN D. ANDREWS [redacted]
LAURENS R. ANDREWS, III [redacted]
JOHN G. ANDRUSYSZYN [redacted]
CONSTANTINE A. ANNINOS [redacted]
JOHN C. ARMSTRONG [redacted]
ALEXANDER J. ARNISTA [redacted]
ROBERT G. ARRANT [redacted]
EARL C. ATKINSON [redacted]
JUDY A. ATKINSONKIRK [redacted]
DAVID ATZHORN [redacted]
INGELORE AUBER [redacted]
WILLIAM N. AUDENAERT [redacted]
PAUL J. AVELLA [redacted]
MARK R. AVERY [redacted]
JOHN W. AYERS [redacted]
CHARLES BAILEY [redacted]
JOSEPH G. BAILLARGEON, JR [redacted]
JAMES F. BAKER [redacted]
MICHAEL T. BAKER [redacted]
VIRGINIA E. BAKER [redacted]
WILLIAM E. BAKER, JR [redacted]
DOUGLAS M. BALL [redacted]
GEORGE W. BALLINGER, JR [redacted]
DOUGLAS A. BANKER [redacted]
DAVID C. BANNERMAN [redacted]
RUSSELL C. BARBERO [redacted]
JASON B. BARLOW [redacted]
GEORGE G. BARR [redacted]
JOHN W. BARR [redacted]
DAVID K. BARRETT [redacted]
THOMAS A. BARRETT [redacted]
ROBERT W. BARTHELMESS [redacted]
DONALD E. BARWICK [redacted]
BROOKS L. BASH [redacted]
MICHAEL J. BASLA [redacted]
FRANK W. BATTEAS [redacted]
ROGER L. BAUCUM [redacted]
HAROLD J. BAUGH, JR [redacted]
JAMES D. BAUGHMAN, [redacted]
STEVEN N. BAUMGARTNER [redacted]
DENNIS A. BAXTER, [redacted]
JAMES L. BEACH [redacted]
PAUL R. BEACH [redacted]
MICHAEL N. BEARD [redacted]
ANDREW R. BEASLEY [redacted]
ALAN M. BECKER [redacted]
LARRY J. BECKER [redacted]
SYLVESTER A. BELCHER [redacted]
DENNIS E. BELLAMY [redacted]
ANTHONY BENEVENTO [redacted]
PHILIP E. BENNER [redacted]
CATHERINE A. BENNETT [redacted]
BRUCE L. BETTS [redacted]
GEOFFREY S. BIALAS [redacted]
JAMES R. BIERNESSER [redacted]
A. C. BIERSCHBACH [redacted]
BRUCE G. BILLIG [redacted]
DAVID F. BIRD, JR [redacted]
GREGORY H. BISHOP [redacted]
ROCKY L. BLACKWELL [redacted]
JAMES A. BLACKWOOD, II [redacted]
GENE E. BLAIR [redacted]
PATRICIA A. BLAIR [redacted]
YONNIE M. BLANCHETTE [redacted]
MICHAEL E. BLAYLOCK [redacted]
RONALD R. BLICKLEY [redacted]
WILLIAM E. BLOCKER [redacted]
ROBERT J. BLOEMER, JR [redacted]
JEFFREY A. BLOHM [redacted]
JOHN P. BLOOM, JR [redacted]
SCOTT W. BLUE [redacted]
GENE A. BOEDIGHEIMER [redacted]
PATRICIA S. BOGGS [redacted]
DONALD J. BOHAC [redacted]
MICHAEL H. BOHUN [redacted]
MARK E. BONTRAGER [redacted]
DAVID R. BOOZER, [redacted]
SCOTT K. BORGES [redacted]
MARK S. BORKOWSKI [redacted]
CLAYTON D. BOSLER [redacted]
JAMES O. BOTHWELL [redacted]
STEVEN M. BOWER [redacted]
CHARLES T. BOWMAN, III [redacted]
BLAIR L. BOZEK [redacted]
MARK D. BRACKEN [redacted]
DAVID S. BRACKETT [redacted]
JACK L. BRADLEY, [redacted]
RAY T. BRADLEY [redacted]
FRANK H. BRADY [redacted]
CLAUDE C. BRALEY [redacted]
RICHARD A. BRANDICH [redacted]
WILLIAM A. BRANDON [redacted]
DAVID R. BRETT [redacted]
JAMES H. BRIDGMAN, JR [redacted]
JAMES P. BRIGGS, JR [redacted]
JOSEPH A. BRIGHT [redacted]
GAYLA J. BRILES [redacted]
WILLIAM D. BRINKLEY [redacted]
SHEILA B. BROCKI [redacted]
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LAVELL W. BROWN, III [redacted]
MARY R. BROWN [redacted]
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RALPH W. BROWN [redacted]
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THAD BRUMFIELD, JR [redacted]
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JOSEPH S. BUTLER [redacted]
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RODGER E. CARTER [redacted]
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SUE T. CAUDILL [redacted]
SYER S. CAUDILL, JR [redacted]
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JOHN L. CODELLA, JR [redacted]
ALFRED M. COFFMAN, JR [redacted]
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NORMAN E. COLE [redacted]

WILLIAM COLON, JR [redacted]
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DENA Z. FUTRELL [redacted]
DOYLE E. GAGE [redacted]
DAVID A. GAITROS [redacted]
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REBECCA J. GENTRY [redacted]
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ROBERT R. GOODWIN [redacted]
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FRANK GORENC [redacted]
ROBERT R. GOTT [redacted]
KEVIN J. GRABER [redacted]
MICHAEL DENISON GRADY [redacted]
WALTER A. GRADY, JR [redacted]
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CARY B. GRANT [redacted]
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GREGORY L. GROSS [redacted]
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WILSON GUILBEAUX, JR [redacted]
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ANTONINA HACKETT [redacted]
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TIM D. HAMMON [redacted]
MONTGOMERY S. HAND [redacted]
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PAUL E. HANEY [redacted]
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JON G. HANSON [redacted]
BOICE M. HARDY [redacted]
LINDA L. HARDY [redacted]
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PETER J. HEINZ [redacted]
PERCY R. HELM, III [redacted]
SUSAN J. HELMS [redacted]
RANDY L. HENKE [redacted]
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MAXIMINO V. HERNANDEZ [redacted]
ROJELIO HERRERA, JR [redacted]
MARVIN T. HERSHEY [redacted]
MARY K. HERTOG [redacted]
WILLIAM N. HERZOG, JR [redacted]
DALE A. HESS [redacted]
DALE J. HEWITT [redacted]
EMMETT C. HEWITT [redacted]
JEFFREY G. HEWLETT [redacted]
JOHN L. HIBSHMAN [redacted]
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EMMETT L. HIGGINBOTHAM [redacted]

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GLENN E. HOAD [redacted]
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BRUCE J. HOVER [redacted]
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ELAINE HOWELL [redacted]
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S. THOMAS KINGSLEY [redacted]
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VAL J. LAUGHLIN [redacted]
NED J. LAVIOLETTE, JR [redacted]
RICHARD R. LAW [redacted]
DAVID J. LAWTON [redacted]
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J. BRIAN LIHANI [redacted]
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VIOLET M. NICKLEN [redacted]
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JOSEPH D. NOLAND [redacted]
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JONATHAN S. NORWOOD [redacted]
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JOHN C. ONEILL [redacted]

PETER M. ONEILL [redacted]
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JERRY L. PIPPINS, JR [redacted]
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FRANK PLUM, III [redacted]
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ARCHIE D. RIPPETO [redacted]
ANGEL RIVERA, [redacted]
ELVA A. RIVERA [redacted]
LEE A. ROBERSON [redacted]
DARLA M. ROBERTS [redacted]
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JAMES R. ROBILOTTA [redacted]
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WALTER H. ROSS [redacted]
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GARY M. RUSNAK, [redacted]
EDGAR F. RUSSELL, III [redacted]
GENE M. RUTAN, [redacted]
EDWARD F. RYGLEWICZ, [redacted]
ABELINO SAENZ, JR. [redacted]
GLENN J. SALTAMACHIA [redacted]
DAVID B. SAMPSON [redacted]
JAMES S. SAMPSON [redacted]
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ROLAND M. SASSCER [redacted]
WILLIAM R. SAUNDERS [redacted]
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JEANNIE H. SCHIFF [redacted]
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ROBERT E. SERVANT [redacted]
JOHN C. SEYMOUR, [redacted]
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BRIGGS M. SHADE, [redacted]
MAX D. SHAEVITZ, [redacted]
LARRY D. SHAFER, [redacted]
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VINCENT H. SHARP, [redacted]
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MARK S. SOLO, [redacted]
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MARY J. STREET, [redacted]
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THOMAS TRISCARI, JR. [redacted]
GARY A. TROGDON, [redacted]
ROBERT J. TRUMMER, [redacted]
EDWARD J. TRUST, [redacted]
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SUSAN T. UNGVARSKY, [redacted]
LAWRENCE J. VACCARO, JR. [redacted]
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BRENDA J. VALLANCE, [redacted]
PAUL VALOVCIN, [redacted]
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DAVID G. VANORSOW, [redacted]
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KENNETH W. VANTREUREN, [redacted]
JAMIE G. G. VARNI, [redacted]
ROBERT J. VAUGHN, [redacted]
EVELYN L. VEASLY, [redacted]
PAUL L. VERGEZ, [redacted]

JON D. VERLINDE [redacted]
LYNNE E. VERMILLION [redacted]
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MARY L. VROMAN [redacted]
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TRAVIS M. WHEELER [redacted]
CARL A. WHICKER [redacted]
BRETT D. WHITE [redacted]
CLAUDIA P. WHITE [redacted]
HAROLD C. M. WHITE [redacted]
THOMAS M. WHITTEMORE, JR [redacted]
JAMES S. WHITTEN [redacted]
THOMAS R. WHITTEN [redacted]
ROBERT D. WHITTENBERG [redacted]
ALLEN E. WICKMAN [redacted]
GLEN A. WIERSCH [redacted]
DAVID B. WILE [redacted]
JAMES H. WILKINSON [redacted]
JOHN L. WILKINSON [redacted]
DEREK M. WILLIAMS [redacted]
KENT D. WILLIAMS [redacted]
MICHAEL D. WILLIAMS [redacted]
RAE A. WILLIAMS [redacted]
STEPHEN P. WILLIAMS [redacted]
WALTER C. WILLIAMS [redacted]
JERRY H. WILLIAMSON [redacted]
JOHN S. WILLIAMSON [redacted]
CHARLES P. WILSON, I [redacted]
LARRY D. WILSON [redacted]
WILLIAM M. WILSON [redacted]
STEVEN L. WINGFIELD [redacted]
RODNEY G. WINTER [redacted]
WILLIAM L. WINTERS, JR [redacted]
RANDALL E. WISE [redacted]
VINCENT P. WISNIEWSKI [redacted]
KEITH E. WOLFSBERGER [redacted]
TIMOTHY L. WOLTERS [redacted]
JOSEPH R. WOOD [redacted]
PATRICIA E. WOODMAN [redacted]
ALFRED E. WOODS [redacted]
DANIEL P. WOODWARD [redacted]
CURTIS A. WRIGHT [redacted]
DAVID A. WRIGHT [redacted]
LONNIS D. WRIGHT [redacted]
STEPHEN E. WRIGHT [redacted]
WILLIAM D. WRIGHT [redacted]
SCOTT L. WYMORE [redacted]
LINDA L. YAEGER [redacted]
JOHN O. YANAROS, JR [redacted]
ROBERT R. YAUCH [redacted]
DAVID C. YOUNG [redacted]
THOMAS D. YOUNG [redacted]
NEIL A. YOUTSLER [redacted]
EDWARD G. ZAKRZEWSKI [redacted]
LAWRENCE E. ZEBELL, JR [redacted]
DONALD S. ZONA [redacted]
JAMES S. ZUPAN [redacted]
DAVID J. ZUP [redacted]
PETER ZWALLY [redacted]
ANTHONY ZYCH [redacted]

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

CHAPLAIN CORPS

To be lieutenant colonel

KEVIN K. ADAMS [redacted]
R. LEE BOLEYN [redacted]
DAVID E. BROYLES [redacted]
A. ROBERT BRUNO [redacted]
GARY W. BUFFINGTON [redacted]
DENNIS R. COCHRAN [redacted]
NATHANIEL CRAWFORD, JR [redacted]
JAMES P. DILLON [redacted]
RODGER T. ERICSON [redacted]
LAYNE E. FLAKE, [redacted]
ROBERT W. GARDNER [redacted]
WILLIAM M. GOFF, JR [redacted]
WAYLAND M. HARTSFIELD [redacted]
JONATHAN W. HUBBARD [redacted]
MICHAEL T. JONES [redacted]
JOHN N. KONDRATICK [redacted]
RAYMOND J. LEURCK [redacted]
DENNIS A. LOVIN [redacted]
JAMES E. LUDWIKOSKI [redacted]
JANET R. MCCORMACK [redacted]
DARRELL D. MORTON [redacted]
DANIEL N. POWELL [redacted]
STEVEN R. RICH [redacted]
PAUL G. RIDER [redacted]
JOHN S. SANDERS [redacted]
KATHERINE A. SHINDEL [redacted]
WILLIAM D. THOMPSON [redacted]
PAUL L. YEUN [redacted]

JUDGE ADVOCATE

To be lieutenant colonel

JOHN A. ARRIGO, 328–38–9168
THOMAS E. ATKINSON [redacted]
KENNETH J. BELONGIA [redacted]
MICHAEL J. BRESLIN [redacted]
PETER N. CAREY [redacted]
CAROLE W. CHEATHAM [redacted]
MICHAEL L. COLOPY [redacted]
JAMES L. CONRAD [redacted]
ANTHONY P. DATTILO, [redacted]
WAYNE E. DILLINGHAM [redacted]
DANIEL F. DOOGAN [redacted]
STEVEN A. GABRIAL [redacted]
MARILYN A. GORDON [redacted]
ERICH O. HART [redacted]
JOHN J. KARNS [redacted]
CHARLES T. KETCHEL, JR [redacted]
MARCIA L. KURTZ [redacted]
GEORGE H. LEDBETTER [redacted]
STEVEN J. LEPPER [redacted]
RONALD G. MORGAN [redacted]
STEVEN J. PECINOVSKY [redacted]
RICHARD A. PHELPS [redacted]
PAUL E. PIROG [redacted]
DAVID D. RATHGEBER [redacted]
KEITH L. ROBERTS [redacted]
DEAN C. RODGERS [redacted]
SAM C. RUPE [redacted]
MICHAEL N. SCHMITT [redacted]
KIM L. SHEFFIELD [redacted]
JOSEPH M. WILLGING [redacted]
TIMOTHY D. WILSON [redacted]
ROBERT L. WOODS [redacted]

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

MEDICAL SERVICE CORPS

To be lieutenant colonel

RICHARD L. ALLEN [redacted]
MATTHEW W. COGDELL [redacted]
ALLAN W. DAVIS [redacted]
JOHN M. DOWNS [redacted]
MICHAEL R. EARNSHAW [redacted]
JOHN P. EONTA [redacted]
BRAD J. HALVORSEN [redacted]
RANDALL W. HARTLEY [redacted]
CARL W. HUARD [redacted]
STANLEY E. HURSTELL, JR [redacted]
JEANIE M. KEARNEY [redacted]
PHILIP L. MAHLUM [redacted]
THEODORE B. MCFARLAND [redacted]
JAMES P. MORELAND [redacted]
DANIEL R. G. NEELY [redacted]
ALFREDO ONTIVEROS, JR [redacted]
DONALD W. PALEN, JR [redacted]
RALPH J. RICCARDI, JR [redacted]
JAMES T. ROSENSWIKE [redacted]
DAVID J. RUNT [redacted]
HENRY L. SMITH [redacted]
THOMAS P. TATKO [redacted]
LARRY W. THORNHILL [redacted]
BRETT M. B. UTTERBACK [redacted]
LUCAS J. WALTER, JR [redacted]

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE, AND THOSE OFFICERS IDENTIFIED BY AN ASTERISK FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A. VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

NURSE CORPS

To be major

LAURA M. ABBEY [redacted]
MARK J. AGUAYO [redacted]
LINDA L. ALDOUS [redacted]
REBECCA L. ALLEN [redacted]
CORTLAND J. ARLIEN [redacted]
MARY S. ARMOUR [redacted]
EDNA E. ARTIS [redacted]
STEVEN L. BAKER [redacted]
PAMELA J. BARTHOLOMEW [redacted]
GARY K. BAYNE [redacted]
LAWRENCE A. BECKER [redacted]
PAUL T. BEISSER, III [redacted]
BARBARA BENE [redacted]
PAUL V. BENNETT [redacted]
FLORENCE A. BENSON [redacted]
JANET L. BOURNE [redacted]
ELIZABETH J. BRIDGES [redacted]
MARY E. BROWN [redacted]
SANDRA L. BRUCE [redacted]
MARY F. CAMPBELL [redacted]
SUSAN CAPORELLI [redacted]
LORRIE J. CAPPELLINO [redacted]
VICKI L. CHAMBERS [redacted]
VONDA F. CHANEY [redacted]
KIMBERLY S. COBB [redacted]
KATHLEEN O. CONCANNON [redacted]
SUSAN B. CONNOR [redacted]
KATHLEEN C. CONRAD [redacted]
BARBARA A. CORMIER [redacted]
SANDRA E. CORNELL [redacted]
GAIL A. CORYER [redacted]
CHRISTOPHER B. COULAHAN [redacted]
CYNTHIA P. CROOK [redacted]
JENNIFER D. CUNNINGHAM [redacted]
ANN P. CURTIS [redacted]
LAURA W. CURTIS [redacted]
MICHAEL J. DELONG [redacted]
KARLENE P. DEPINEUIL [redacted]
KAREN S. DOANE [redacted]
KONNIE M. DOYLE [redacted]
DIEP N. DUONG [redacted]
COLEEN R. ELMERS [redacted]
KARLA R. ENGE [redacted]
LESLIE D. ERICKSON [redacted]
TERI S. FELIZ [redacted]
JOHN T. FELLOWS [redacted]
DEBRA A. FINGLES [redacted]
DEBBIE C. FLOYD [redacted]
JASON T. FOGG [redacted]
NORMAN J. FORBES [redacted]
RHONDA F. FORD [redacted]
ROY H. FUKUOKA [redacted]
MOLLY M. GARGALA [redacted]
DEBORAH D. GARNER [redacted]
KENNETH J. GATES, JR [redacted]
ANGELA E. GEOFROY [redacted]
CHRISTY A. GIROUX [redacted]
LYNN C. GRAHAM [redacted]
JOYCE L. GRIM [redacted]
DONALD R. GUAJARDO [redacted]
LINDA I. HAEGER [redacted]
MICHELE A. HAGARTY [redacted]
KATHRYN E. HALL [redacted]
SUSAN R. HALL [redacted]
LOUANNE E. HAUSMANN [redacted]
FRED R. HAWKINS, JR [redacted]
NANCY J. HEISTERMAN [redacted]
KIRSCHBAUM JOANNE HENKENIUS [redacted]
EVELYN C. HENRY [redacted]
MICHAEL W. HENRY [redacted]
SHARON M. HERMAN [redacted]
SHERRY A. HERRERA [redacted]
JOHN T. HILDEN [redacted]
MARK BARBARA J. HOLMSTEDT [redacted]
JAMES P. HOLT [redacted]
MAUREEN E. HOPKINS [redacted]
GEORGE J. HUBER [redacted]
DEWEY W. JENKINS, JR [redacted]
JAMES R. JOHNSTON [redacted]
PAUL J. KAMMER [redacted]
REBECCA A. KANTER [redacted]
KATE H. KEATY [redacted]
BETH Y. KOHSIN [redacted]
BARBARA L. KOLDEN [redacted]
VICKI L. KYZER [redacted]
JOSEPH P. LANGAN [redacted]
DAVID L. LARSON [redacted]
DAVID M. LARSON [redacted]
AMY LEE [redacted]
JEANETTE A. LEE [redacted]
LINDA P. LEE [redacted]
MAUREEN P. LEIGHTON [redacted]
MARIACRISTINA C. LEONE [redacted]
STEPHANIE C. LIM [redacted]
SOLEDAD LINDO [redacted]
JIMMY L. LOTT [redacted]
LAURICE P. LUCAS [redacted]
MICHAEL J. LUTGEN [redacted]
BARBARA J. MACH [redacted]
ALLYSON J. MAES [redacted]
GINA M. MAIOCCO [redacted]
RONALD G. MARTIN [redacted]
CHARLES V. MATTOS [redacted]
ELIZABETH M. MAU [redacted]
MALLORY S. MCDANIEL [redacted]
MARY A. MERMANN [redacted]
KAREN P. MORRIS [redacted]
ALICE C. MURPHY [redacted]
BARBARA M. MYERS [redacted]
THERESE M. NEELY [redacted]
MARY S. NELSON [redacted]
ANNELIE C. NISSEN [redacted]
DAVID NORMAN [redacted]

IVETTE ORTIZDEHARRINGTON [redacted]
EVELYN S. OTERORUIZ [redacted]
ELIZABETH A. PACE [redacted]
LORENA D. PAUL [redacted]
PAULA L. PENGILLY [redacted]
PAULA A. PETERS [redacted]
JANET V. PHELPS [redacted]
HOWARD E. PHILLIPP [redacted]
LANE A. PHILLIPS [redacted]
SHARON M. PICKENS [redacted]
VICTORIA J. PIERCE [redacted]
PHYLLIS K. PINKERTON [redacted]
SUSAN G. POLK [redacted]
PATRICIA L. POPPINO [redacted]
DENISE M. PROCTOR [redacted]
SUZANNE T. QUIRAO [redacted]
AMY E. QUIST [redacted]
RONALD R. RAHL [redacted]
JOEL D. RAY [redacted]
MARGARET A. REILLY [redacted]
JENNIFER D. REINHARDT [redacted]
MARK L. RICHARDSON [redacted]
SUSAN E. RICHMOND [redacted]
ROBERT O. RIGDON [redacted]
DIANE C. ROBERTSON [redacted]
PATRICIA A. ROGERS [redacted]
VILMA L. ROSADO [redacted]
JIMMIE JACKSON RYALS, JR [redacted]
LAURIE S. SALZMANN, [redacted]
BRIJ B. SANDILL [redacted]
JUDITH SCHAFFER [redacted]
PAULETTE F. SCHALCK [redacted]
MARVIN J. SCHUTZIUS [redacted]
LESA E. SCHWARTZ [redacted]
REBECCA L. SIMS [redacted]
DEBRA S. SITES [redacted]
ERIN E. SMITH [redacted]
JOSE A. SOTO [redacted]
JANICE M. SPRUNGL [redacted]
JESSE J. STAKES [redacted]
VALERIE M. STEVENS [redacted]
DIANE K. STRUCK [redacted]
MICHAEL J. SULLIVAN [redacted]
STEPHEN E. SWANAGIN [redacted]
SHERRY A. SWANSTON [redacted]
RICHARD C. SWANSTROM [redacted]
WALTEA J. SWASEY [redacted]
MIRIAM S. TALLEY [redacted]
LUCILLE P. TAYLOR [redacted]
ANGELA L. THOMPSON [redacted]
GREGORY G. THOMPSON [redacted]
FRANK B. THORNBURG, III [redacted]
ALLYSON A. THORPE [redacted]
THOMAS N. TILLMAN, JR [redacted]
TERESA A. TOWNE [redacted]
MILLARD W. TRIBBLE [redacted]
ROSE M. VICKERY [redacted]
VIVIENNE K. VIDUNAS [redacted]
DEBRA L. WAGNER [redacted]
REGINA A. WATSON [redacted]
JANICE A. WHITE [redacted]
MARY K. WHITTENBURG [redacted]
HARRIET A. WILMS [redacted]
VANESSA WISE [redacted]
CYNTHIA T. WOLD [redacted]
JUDY A. YOUNG [redacted]
THERESA M. ZOLNINGER [redacted]

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE, AND THOSE OFFICERS IDENTIFIED BY AN ASTERISK FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

LINE OF THE AIR FORCE

To be major

JOHN T. ABBOTT, JR [redacted]
REBECCA G. ABRAHAM [redacted]
JORGE ACEVEDO [redacted]
REMEY J. ACEVEDO [redacted]
BRUCE H. ACKER [redacted]
CHARLES E. ACREE [redacted]
DAVID A. ADAMS [redacted]
KELLY M. ADAMS [redacted]
MICHAEL E. ADAMS, [redacted]
WILLIAM K. ADAMS [redacted]
JAMES Y. ADKINS [redacted]
TERRY R. ADLER [redacted]
DAVID D. ADOLF [redacted]
RICARDO AGUILAR [redacted]
RAYMOND L. AGURKIS [redacted]
JOHN J. AHERN [redacted]
STEVEN W. AHLBIN [redacted]
FRANK ALBANESE [redacted]
JAMES V. ALDERMAN [redacted]
JAMES R. ALDRICH [redacted]
MARVIN L. ALEXANDER [redacted]
SCOTT C. ALEXANDER [redacted]
AZAR S. ALI [redacted]
EDGAR ALICEAORTIZ [redacted]
ALETA S. ALLEN [redacted]
BRIAN L. ALLEN [redacted]
CHARLES M. ALLEN [redacted]
GEORGE R. ALLEN [redacted]
KIMBERLY M. ALLEN [redacted]
STEPHEN F. ALLTOP [redacted]
PATRICK A. ALMAZAR [redacted]
ANDREW C. ALPAUGH [redacted]
MARK A. ALRED [redacted]
DOUGLAS H. ALSTON [redacted]
JASON W. ALTCHEK [redacted]
MATTHEW B. ALTHOUSE [redacted]
GERARD A. AMATO [redacted]
GILBERT M. AMEZQUITA [redacted]
MICHAEL R. AMSPACKER [redacted]
JOSEPH P. ANATRA [redacted]
KURT S. ANDERS [redacted]
NIELS T. ANDERSEN [redacted]
DENNIS J. ANDERSH [redacted]
ALAN K. ANDERSON [redacted]
BRYAN K. ANDERSON [redacted]
LISA M. ANDERSON [redacted]
MICHAEL L. ANDERSON [redacted]
TOD D. ANDERSON [redacted]
BRENDA L. ANDERSONHICKS [redacted]
JOSEPH O. ANDREWS [redacted]
WILLIAM J. ANDREWS [redacted]
MICHAEL ANGLEY [redacted]
TODD M. ANSTY [redacted]
MARK ANTHONY, [redacted]
GLEN A. APGAR [redacted]
WAYNE A. APPLEWHITE [redacted]
HAROLD J. ARATA, III [redacted]
ROBERT A. ARBACH [redacted]
LINDA K. ARBUCKLE [redacted]
CHIC A. AREY [redacted]
THOMAS P. ARIOSTO [redacted]
THOMAS ARKO [redacted]
STEVEN E. ARMSTRONG [redacted]
JONATHAN A. ARNOLD [redacted]
DAVID P. ARRINGTON [redacted]
TIMOTHY D. ARRINGTON [redacted]
THOMAS A. ARTIS [redacted]
CARLOS V. ARVIZU [redacted]
MARK C. ASHTON, [redacted]
WOLFGANG C. ASMUS [redacted]
DAVID R. ATKINSON [redacted]
MARK A. ATKINSON, [redacted]
STEVEN V. AUCHTER [redacted]
ROGER P. AUSTIFF [redacted]
JOHN C. AUTEN [redacted]
MARIA E. AVELLANEDA [redacted]
JOHN F. AYMONIN [redacted]
RICHARD R. AYRES [redacted]
ALAN E. BABCOCK [redacted]
GARRY C. BACCUS [redacted]
DANIEL D. BADGER, JR [redacted]
FREDERICK L. BAEDKE [redacted]
LAURELL BAEZ [redacted]
OCTAVIO NMI BAEZ, JR [redacted]
STEVEN A. BAGNASCHI [redacted]
JIMMIE D. BAILEY, II [redacted]
TRACY A. BAILEY [redacted]
ROBERT P. BAINE, III [redacted]
BRADLEY C. BAKER [redacted]
JEFFREY W. BAKER [redacted]
JOSEPH R. BAKER [redacted]
STEVEN F. BAKER [redacted]
DANIEL B. BAKKE [redacted]
DAVID L. BAKKE [redacted]
TODD J. BALAWAJDER [redacted]
STEVEN A. BALDOCK [redacted]
JAMES L. BALDWIN [redacted]
VANESSA L. BALDWIN [redacted]
DAVID S. BALLARD [redacted]
CANDACE A. BALLMER [redacted]
GUILLERMO B. BALMASEDA [redacted]
MICHAEL S. BALOG [redacted]
ROBERT W. BANDSTRA [redacted]
DANIEL C. BANKS [redacted]
ERIC A. BANKS [redacted]
MARTIN D. BANNON [redacted]
CLIFFORD S. BAPTISTA [redacted]
GREGORY S. BARBER [redacted]
SHAWN BARBER [redacted]
JOHN M. BARGER [redacted]
TRACY D. BARHAM [redacted]
HARVEY L. BARKER, JR [redacted]
MARK JOSEPH BARNABO [redacted]
JOSE BARRERA, JR [redacted]
BRADLEY G. BARRETT [redacted]
JOE W. BARTHELL [redacted]
RICHARD D. BARTHOLOMEW [redacted]
SAMUEL T. BARTLETT [redacted]
MICHAEL L. BARTLEY [redacted]
RICHARD R. BASKIN [redacted]
DIANNA J. BATCHELOR [redacted]
JERRY L. BATEMAN, JR [redacted]
GLENN C. BAUGHER [redacted]
WILLIAM H. BAUMAN, III [redacted]
GREGORY M. BAYLEY [redacted]
MICHAEL P. BAYLOR [redacted]
MICHAEL O. BEALE [redacted]
KEITH W. BEAM [redacted]
EDISON A. BEANE, JR [redacted]
CHARLES M. BEARD [redacted]
THOMAS J. BEATTIE [redacted]
ROBERT D. BECERRA [redacted]
KARL H. BECKER [redacted]
ALAN L. BEDSOLE [redacted]
RANDALL C. BEEM [redacted]
DENNIS J. BEERS [redacted]
EDWARD N. BEERY [redacted]
KENNETH C. BEISSNER [redacted]
JEFFERY A. BELL [redacted]
ROBERT F. BELLACICCO [redacted]
THOMAS L. BELLNOSKI [redacted]
ROBERT S. BELLOMY [redacted]
LESLIE O. BELSMA [redacted]
THOMAS H. BELVIN, JR [redacted]
GARY C. BENDER [redacted]
JOSEPH T. BENDER [redacted]
RALPH K. BENDER [redacted]
WILLIAM J. BENDER [redacted]
DALE P. BENEDETTI [redacted]
JANICE A. BENHAM [redacted]
CLINTON S. BENNETT [redacted]
GORDON R. BENNETT [redacted]
JAMES M. BENNETT [redacted]
KENNETH L. BENNETT [redacted]
MARK A. BENSON [redacted]
MICHAEL P. BENSON [redacted]
GEORGE W. BENTON [redacted]
EDWARD J. BERGEMANN [redacted]
DANIEL E. BERGERON [redacted]
WILLIAM J. BERNARD [redacted]
LOUIS A. BERRENA [redacted]
JOHN A. BERRY [redacted]
MICHAEL J. BERRY [redacted]
ALAN T. BERRYMAN [redacted]
GLENN M. BEST [redacted]
BRUCE R. BEVILLE [redacted]
LARRY W. BEWARD, [redacted]
VICKI P. BEYER [redacted]
HAROLD W. BIDLACK [redacted]
THOMAS W. BILLICK [redacted]
DENNIS C. BILLIG [redacted]
GREGORY M. BILLMAN [redacted]
CARL R. BINFORD [redacted]
ROBERT G. BINFORD, III [redacted]
PHILLIP E. BINGMAN [redacted]
CHRISTOPHER P. BISGROVE [redacted]
BRIAN T. BISHOP [redacted]
JONATHAN E. BITLER [redacted]
KENNETH SCOTT BITSKY [redacted]
LANE S. BITTICK [redacted]
JAMES R. BLACK [redacted]
MATTHEW T. BLACK [redacted]
SUSAN E. BLACKBURN [redacted]
ERIC L. BLACKMON [redacted]
SAMUEL E. BLACKMON [redacted]
LEMOYNE F. BLACKSHEAR [redacted]
MARY W. BLACKWELL, [redacted]
LARRY R. BLADES [redacted]
RANDY L. BLAISDELL [redacted]
CAROLYN M. BLALOCK [redacted]
MICHAEL S. BLAND [redacted]
EDWIN K. BLASI [redacted]
RICHARD A. BLAZIER [redacted]
ROBERT G. BLEDSOE [redacted]
GRACE M. BLEVINSHOLMAN [redacted]
JODIE L. BLISS [redacted]
KENNETT G. BLOCK [redacted]
PETER J. BLOME [redacted]
ROLAND J. BLOOM [redacted]
MICHAEL J. BLOOMFIELD [redacted]
RICHARD L. BLOSER [redacted]
BRIAN W. BOARDMAN, [redacted]
BRENDA J. BOBBITT [redacted]
LOUIS G. BOCHAIN [redacted]
JOHN A. BOCKHOLD [redacted]
MICHAEL R. BOERA [redacted]
JOHN P. BOGGS [redacted]
GLYN F. BOLASKY [redacted]
ALEXANDER BOLLMAN [redacted]
EDWARD L. BOLTON, JR, [redacted]
JOSEPH BONAFINE, JR [redacted]
PETER J. BONANNO [redacted]
RICHARD D. BONNER [redacted]
DEBORAH L. BORIO [redacted]
STEPHEN J. BORKOWSKI, JR [redacted]
ALAN J. BORTON [redacted]
ALAN V. BOTINE [redacted]
AMY M. BOUCHARD, [redacted]
CLARENCE J. BOUCHAT, IV [redacted]
TODD A. BOUDINOT, [redacted]
TIMOTHY M. BOUDREAUX [redacted]
ALVIN R. BOUDY [redacted]
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JEFFERY C. BREWER [redacted]

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YOLANDA CRUZ [redacted]
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ARTHUR L. ESTES [redacted]
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CHIU H. EVERETT [redacted]
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A. WALTER FENSTERMACHER, JR [redacted]
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CARROLL J. INGRAM, JR [redacted]
MAURICE J. INKEL, JR [redacted]
NANCY R. INSPRUCKER [redacted]
MICHAEL J. IRWIN [redacted]
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FREDERICK D. KLUG [redacted]
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SCOTT R. LEWIS [redacted]
ERNEST R. LIBERATORE, JR [redacted]
JOHN C. LIBURDI [redacted]
MICHAEL J. LICATA [redacted]
BRUCE A. LICHTMAN [redacted]
THOMAS R. LIES [redacted]
JAMES A. LIGHT [redacted]
TINA L. LILEK [redacted]
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STEPHEN J. LINSENMEYER, JR [redacted]
MARK F. LIST [redacted]
BRUCE A. LITCHFIELD [redacted]
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GROVER C. LOLLAR [redacted]
JAMES C. LONG [redacted]
JAMES T. LONG [redacted]
JOHN A. LOPER [redacted]
ALFREDO D. LOPEZ, JR [redacted]
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MARY J. LOWE [redacted]
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A. SCOTT MARRONE [redacted]
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STEVEN E. MCKAY [redacted]

KELLY K. MCKEAGUE [redacted]
CYNTHIA A. MCKINLEY [redacted]
JAMES H. MCKINNEY, JR [redacted]
LEAH ANN MCKNIGHT [redacted]
JAMES K. MCLAUGHLIN [redacted]
MICHAEL D. MCLAUGHLIN [redacted]
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MICHAEL R. MCPHERSON [redacted]
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S. JANIECE MONDALE [redacted]
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DEBORAH J. PARSON [redacted]

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RENO J. PELLETIER [redacted]
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LAWRENCE E. PITTS [redacted]
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NICOLE H. PLOURDE [redacted]
JAMES P. PLYLER [redacted]
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HARRY D. POLUMBO, JR [redacted]
GARY W. POND [redacted]
MICHAEL S. PONGRACE [redacted]
BILL POPE [redacted]
MARK A. POPE [redacted]
PAUL M. PORONSKY [redacted]
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RUSSELL L. PORTER [redacted]
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JAMES O. POSS [redacted]
NATHANIEL T. POSTELLE [redacted]
JOHN M. POTT [redacted]
MARTHA L. POTTER [redacted]
NORMAN D. POTTER [redacted]
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JOHN D. POUCHER, II [redacted]
MARK A. POWERS [redacted]
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DARRELL J. PRATT [redacted]
SAMUEL F. PRESSLEY [redacted]
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THORNTON E. PRIEST, JR [redacted]
EDWARD T. PROFFIT [redacted]
DENNIS C. PROKOPOWICZ [redacted]
FRANK PROVENZANO [redacted]
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JAMES E. PUGH [redacted]
MARVIN S. PUGMIRE [redacted]
MARY L. PURDUE [redacted]
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JAMES D. QUILLIAM [redacted]
VINCENT F. QUINN, [redacted]
LEONHARD RAABE [redacted]
DAVID L. RABE [redacted]
BETH A. RABINE [redacted]
NEIL E. RADER [redacted]
DELPHINE MARIA RAFFERTY [redacted]
FOWLER O. RAGLAND, JR [redacted]
GLENDA P. RAICHLEN [redacted]
LEONARD H. RAK [redacted]
LUIS A. RAMIREZ [redacted]
VINCENT R. RAMIREZ [redacted]
MICHAEL A. RAMPINO [redacted]

LOUIS G. RANHOFER, JR [redacted]
BRADLEY L. RATHBUN [redacted]
JACKIE C. RATLIFF [redacted]
GRETCHEN R. RAUCH [redacted]
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LARRY L. REXFORD [redacted]
MARIO O. REYES [redacted]
CURTIS R. REYNOLDS [redacted]
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BRUCE EDWARD RINGSTAD [redacted]
DAVID P. RIPLEY [redacted]
DENEAN P. RIVERA [redacted]
HECTOR V. RIVERA [redacted]
VICTOR M. RIVERA, JR [redacted]
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TINA G. RIZZO [redacted]
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WILLIAM T. SMITH [redacted]
HARRY L. SNODGRASS [redacted]
WILLIAM R. SNOW [redacted]
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VINCENT R. SNYDER [redacted]
JOHN L. SOKOLSKY [redacted]
DAVID F. SOLOMON [redacted]
STEVEN D. SOLOMON [redacted]
DONALD G. SOMERVILLE [redacted]
STEPHEN V. SOMMERS [redacted]
FRANK SORNATALE [redacted]
RICKY A. SOWELL [redacted]
STEVEN J. SPAN [redacted]
DON W. SPARKS [redacted]
WILLIAM X. SPEIGHT, J [redacted]
MORRIS J. SPENCE [redacted]
MARTIN J. SPITEK [redacted]
RICHARD R. SPRADLIN [redacted]
JEFFREY W. SPRAGGINS [redacted]
ANITA K. SPRINGER [redacted]
TIMOTHY M. SPRINGER [redacted]
DANA M. STABIN [redacted]
KEITH B. STACHOWSKI [redacted]
ROBERT J. STAI [redacted]
ELLEN J. STALEY [redacted]
ROBERT M. STAMBAUGH [redacted]
BENNIE J. STANFORD [redacted]
EDWARD M. STANHOUSE [redacted]
MICHAEL W. STANSBURY [redacted]
WENDELL T. STAPLER [redacted]
CLARENCE B. STARK, I [redacted]
SAMUEL J. STARKEY [redacted]
ALAN K. STARR [redacted]
KERMIT L. STEARNS, I [redacted]
DANIEL J. STECH [redacted]
HOWARD W. STECK [redacted]
LARRY STEELE [redacted]
ROBERT A. STEEN [redacted]
CAREY A. STEGALL [redacted]
ROBERT A. STEIGERWALD [redacted]
JOSEPH V. STEPHANS [redacted]
ERIC J. STEPHEN [redacted]
WILLIAM D. STEPHENS [redacted]
GREGORY L. STEPHENSON [redacted]
CECIL D. STEVENS, J [redacted]
GREGORY A. STEVENS [redacted]
RICHARD R. STEVENS, [redacted]
NANELLE S. STINE [redacted]
ROBERT K. STITH [redacted]
GREG J. STOCK [redacted]
MICHAEL B. STOCK [redacted]
SAMUEL E. STOCKBRIDGE [redacted]
SHIRLANA STOCKDALE [redacted]
LOWELL J. STOCKMAN, [redacted]
MICHAEL R. STOCKWELL [redacted]
RALPH O. STOFFLER [redacted]
BARRY STONE [redacted]
RICHARD E. STONE [redacted]
KURT A. STONEROCK [redacted]
GERALD D. STOPHEL [redacted]
BRIAN W. STORCK [redacted]
ROBERT A. STOWE [redacted]
ROBERT L. STRADFORD [redacted]
DAVID A. STRAND, [redacted]
JOHN R. STRASBURGER, I [redacted]
SUSAN E. STREDNANSKY [redacted]
DAVID A. STREETER [redacted]
XAVIER L. STREETER [redacted]
RENEE B. STRICKLAND [redacted]
ANTHONY B. STRINES, [redacted]
PATRICK A. STROMAN [redacted]
RUTH A. STRONG [redacted]
LEO R. STUBBS [redacted]
THOMAS R. STULL [redacted]
RODNEY C. STURDIVANT [redacted]
ANTHONY L. STUTTS [redacted]
DONALD W. SUBLETT [redacted]
STEVEN C. SUDDARTH [redacted]
SCOTT SUHR [redacted]
JAMES L. SULLIVAN [redacted]
PAUL B. SULLIVAN [redacted]
ROBERT E. SUMINSBY [redacted]
VICKI J. SUMNER [redacted]
VICKI M. SUNDBERG [redacted]
JEROME D. SUNDEE [redacted]
MARK J. SURINA [redacted]
CHARLES D. SUTHERLAND [redacted]
RONALD W. SUTPHIN [redacted]
RANDLE W. SUTTKUS, [redacted]
CRAIG O. SUTTON [redacted]
LARRY J. SUTTON [redacted]
MARGA SUWARNO [redacted]
PHILIP A. SWANSON [redacted]
WILLIAM R. SWEGER, J [redacted]
CHRISTOPHER L. SWIDER [redacted]

TERRENCE C. SYKES [redacted]
TERENCE R. SZANTO [redacted]
GERALD E. SZPILA [redacted]
TROY L. TABOR [redacted]
RICHARD S. TALLARIGO [redacted]
GREGG F. TANOFF [redacted]
TODD W. TASSEFF [redacted]
DIANE CAROL TATTERFIELD [redacted]
JAMES K. TATUM [redacted]
CLINTON E. TAYLOR [redacted]
DAVID M. TAYLOR [redacted]
GLENN M. TAYLOR [redacted]
JOHN R. TAYLOR, J [redacted]
JOSEPH TAYLOR [redacted]
KERRY W. TAYLOR [redacted]
LAWRENCE R. TAYLOR [redacted]
RICHARD D. TAYLOR [redacted]
TIMOTHY S. TAYLOR [redacted]
KURT R. TEK [redacted]
LARRY D. TELLMAN [redacted]
KURT A. TEMPEL [redacted]
H. MICHAEL TENNERMANN [redacted]
JULIE A. TEPE [redacted]
JOSEPH MICHAEL TERRY [redacted]
BYRON B. THATCHER [redacted]
DEAN THEODOSAKIS [redacted]
BRENDA Y. THOMAS [redacted]
DAVID M. THOMAS [redacted]
JOSEPH J. THOMAS [redacted]
KENNETH L. THOMAS [redacted]
PHILLIP A. THOMAS [redacted]
ANTHONY C. THOMPSON [redacted]
DAVID A. THOMPSON [redacted]
DONALD W. THOMPSON [redacted]
JEFFERY G. THOMPSON [redacted]
JOSEPH P. THOMPSON, J [redacted]
KEVIN L. THOMPSON [redacted]
KIRBY G. THOMPSON [redacted]
MICHAEL G. THOMPSON [redacted]
RICHARD THOMPSON, J [redacted]
JOSEPH O. THORNTON, J [redacted]
LEWIS A. THORP [redacted]
WALTER N. THORP [redacted]
DAVID W. THORSEN [redacted]
CARL D. THUNBERG [redacted]
BRIAN P. TICE [redacted]
FREDERICK W. TICHANUK [redacted]
TERRY D. TICHENOR [redacted]
ROBERT E. TILLEMA [redacted]
DAVID R. TIMKO, [redacted]
KELLY TIMMONS [redacted]
EDGAR L. TINDALL [redacted]
STEVEN M. TIPPETS [redacted]
DANIEL L. TOBAT [redacted]
THOMAS G. TOMARAS [redacted]
FRANK G. TOMKO [redacted]
MICHAEL S. TOMKO [redacted]
ROBERT R. TOPP [redacted]
GEORGE TORRES, J [redacted]
JESUS R. TORRES [redacted]
JUAN TORRES, J [redacted]
JOSEPH A. TORSANI, II [redacted]
GREGORY J. TOUHILL [redacted]
GARY N. TOUPS [redacted]
GREGORY T. TOVREA [redacted]
MATTHEW C. TOWNE [redacted]
CHRISTOPHER A. TRAINOR [redacted]
MARK P. TRANSUE [redacted]
KIM C. TRAVER, [redacted]
RUSSELL W. TRAVIS [redacted]
TIMOTHY N. TRAVIS [redacted]
DAVID B. TREAT [redacted]
JOSEPH TRIPODI [redacted]
JAMES E. TROESCHEL [redacted]
BENJAMIN D. TROTTER [redacted]
DAVID P. TROTTIER [redacted]
CARL E. TROUT [redacted]
ALAN B. TUCKER, J [redacted]
DOUGLAS K. TUCKER [redacted]
JASON P. TUELL [redacted]
JOSEPH R. TURNAGE, J [redacted]
MARK L. TURNER [redacted]
JAMES E. TUSING [redacted]
COUNT B. TYE, JR [redacted]
DONALD T. TYLER [redacted]
NATHANIEL TYMES, J [redacted]
JAMES F. TYNAN [redacted]
CLIFFORD P. UEHLIN [redacted]
JOHN M. ULMER [redacted]
MARTIN F. URBANSKI [redacted]
JEFFERY A. URIE [redacted]
JAMES W. URSCHELER [redacted]
JOHN C. USTICK [redacted]
ALAN H. VAFIDES [redacted]
VINCENT C. VALDESPINO [redacted]
ROBERT M. VALEK [redacted]
WILLIAM D. VALENTI [redacted]
PAUL A. VALENTIC [redacted]
JOHN T. VALVERDE [redacted]
MARK H. VANBENTHEM [redacted]
BURTON L. VANDENBURG [redacted]
RICHARD S. VANDERBURGH [redacted]
DEBORAH S. VANDEVEN [redacted]
CYNTHIA D. VANEVERY, [redacted]
WARREN E. VANLIER, J [redacted]
MEL VASQUEZ, JR [redacted]
CAROL L. VAUGHT [redacted]
J. M. VAUGHT [redacted]
RICHARD G. VAUGHT [redacted]
VICTORIA A. VELEZ [redacted]
JOHN R. VENABLE [redacted]
DARRELL M. VENTURE [redacted]

GONZALO I. VERGARA [redacted]
GREGG K. VERSER [redacted]
PERRY F. VICK [redacted]
ROSS A. VICTOR [redacted]
EDWARD A. VIGNAROLI [redacted]
WANDA K. VILLERS [redacted]
ERIC VINCENT [redacted]
STEPHEN W. E. VINCENT [redacted]
TIMOTHY D. VINOSKI [redacted]
DENNIS J. VIOLA [redacted]
RUSSELL A. VOGEL [redacted]
MICHAEL J. VOLEK [redacted]
DEVEN R. VOLK [redacted]
RICHARD R. VOLLMER [redacted]
DANIEL VRSNIK, 569–17–8698
DEBORAH A. VUNCANNON [redacted]
PATRICK J. WACHTLER [redacted]
GLENN A. WADDELL [redacted]
MICHAEL F. WAGNER [redacted]
REBECCA A. WAGNER [redacted]
RONALD J. WAGNER [redacted]
THOMAS J. WAGNER [redacted]
DAVID M. WAHL [redacted]
DOUGLAS W. WAHL [redacted]
STEPHANIE L. WALDROP [redacted]
RAYMOND G. WALIZER, J [redacted]
EARL WALKER [redacted]
MICHAEL D. WALKER [redacted]
PAUL C. WALKER [redacted]
STEPHEN G. WALKER [redacted]
THOMAS W. WALKER, J [redacted]
TRACEY A. WALKER [redacted]
ERNEST E. WALLACE, [redacted]
GARY R. WALLACE [redacted]
MICHAEL J. WALLACE [redacted]
EDWARD T. WALSH [redacted]
STEPHEN J. WALSH [redacted]
GEORGE M. WALTENSPERGER [redacted]
RONALD G. WALTERS [redacted]
PAUL D. WALTON [redacted]
WALTER W. WANNER, J [redacted]
DAVID T. WARD, [redacted]
DENNIS M. WARD [redacted]
MARYMARGARET S. WARD [redacted]
PATRICK M. WARD [redacted]
DONALD R. WARDLE [redacted]
ROBERT E. WARE [redacted]
TED W. WARNOCK, [redacted]
MICHAEL W. WARREN [redacted]
JOE L. WASHINGTON [redacted]
DAVID L. WATFORD [redacted]
ROBERT M. WATKINS, [redacted]
JULIE A. WATSON [redacted]
ROBERT D. WATSON [redacted]
ROBERT M. WATSON, J [redacted]
DAVID D. WATT [redacted]
JOHN Q. WATTON [redacted]
DEBRA J. WATTS [redacted]
JON A. WATTS [redacted]
LOREN K. WATTS [redacted]
BRYAN L. WAUGH, [redacted]
DYKE D. WEATHERINGTON [redacted]
JOHN N. WEAVER [redacted]
MICHAEL E. WEAVER [redacted]
GARY C. WEBB [redacted]
CURT A. WEBER [redacted]
TIMOTHY S. WEBER [redacted]
DAVID L. WEBSTER [redacted]
JOSEPH L. WEGNER [redacted]
JOHN D. WEIDERT [redacted]
ROBERT F. WEILAND, J [redacted]
STEPHEN P. WEILER [redacted]
JACK WEINSTEIN [redacted]
FREDRIC J. WEISHOFF, I [redacted]
WENDELL R. WELCH [redacted]
KERRY M. WELKER [redacted]
GUY W. WELLS [redacted]
MARK N. WELNETZ [redacted]
JAMES G. WELTON [redacted]
STEPHEN J. WERNER [redacted]
JAMES E. WEST [redacted]
KATHERINE D. WEST [redacted]
RICHARD C. WESTERFIELD [redacted]
JEFFERY L. WESTERN [redacted]
RICHARD T. WESTLAND [redacted]
MONTY H. WESTMEYER, [redacted]
ANDREW C. WESTON [redacted]
MARK F. WETZEL [redacted]
RUSSELL MARK WETZEL [redacted]
JOSEPH F. WHALEY, II [redacted]
CURT L. WHEELER [redacted]
JOEL D. WHEELER [redacted]
RICHARD J. WHEELER [redacted]
THOMAS J. WHELIHAN [redacted]
MARY JANE WHITAKER [redacted]
ROBERT K. WHITAKER [redacted]
CHARLES G. WHITE, [redacted]
JERRY D. WHITLEY [redacted]
KEVIN L. WHITMAN [redacted]
MARCELLUS J. WHITT, J [redacted]
RICHARD H. WHITTEN [redacted]
ROBIN N. WHYBROW [redacted]
JON W. WICKLUND [redacted]
GARY M. WILBAS [redacted]
ERIC J. WILBUR, [redacted]
TERRY E. WILLETT [redacted]
ROBERT J. WILLHITE [redacted]
EVAN ROY WILLIAMS [redacted]
GARY L. WILLIAMS [redacted]
JAMES D. WILLIAMS [redacted]
JOHN E. WILLIAMS [redacted]
MARIANNE T. WILLIAMS [redacted]

RICHARD D. WILLIAMS [redacted]
ROBIN P. WILLIAMS [redacted]
TERRY W. WILLIAMSON [redacted]
DAVID J. WILMOT, [redacted]
BRET T. WILSON [redacted]
CRAIG W. WILSON [redacted]
JAMES R. WILSON [redacted]
LAWRENCE E. WILSON, JR [redacted]
ROBERT G. WILSON [redacted]
THOMAS G. WILSON [redacted]
ROBERT A. WIND [redacted]
KAY J. WINSLOW [redacted]
MICHAEL P. WINSLOW [redacted]
DONALD L. WIRTH [redacted]
RICHARD L. WOJICK, JR [redacted]
EDWIN L. WOLFE [redacted]
BYRON L. WOLTER [redacted]
TOD D. WOLTERS [redacted]
DOUGLAS W. WOOD [redacted]
LARRY M. WOOD [redacted]
THEODORE A. WOOD [redacted]
JOHN R. WOODCOCK [redacted]
ELDON A. WOODIE [redacted]
JONATHAN B. WOODS [redacted]
THOMAS E. WOOLPERT [redacted]
JEFFREY S. WOOLSTON [redacted]
JOHN T. WOOSLEY [redacted]
JACK L. WOOSTER [redacted]
WILLIAM N. WOOTTON, [redacted]
EDWARD G. WORLEY [redacted]
JOSEPH WOTTON [redacted]
CELEO WRIGHT [redacted]
ROBERT F. WRIGHT, JR [redacted]
DONALD E. WUSSLER, JR [redacted]
PETER R. WYMAN [redacted]
CHARLES E. WYNNE [redacted]
JOSEPH L. WYPYCH [redacted]
MARK D. YAKABE [redacted]
GARY E. YALE [redacted]
DENNIS W. YAMROSE, JR [redacted]
ANN K. YEOMAN [redacted]
MARK M. YODER [redacted]
THOMAS L. YODER [redacted]
HERBERT L. YOUNG [redacted]
JOHN D. YOUNG [redacted]
PHILIP N. YOUNG [redacted]
STEPHEN M. YOUNG [redacted]
TIMOTHY G. YOUNG [redacted]
WILLIAM J. YOUNG [redacted]
DOUGLAS B. YOUNGBLOOD [redacted]
RONALD L. YOUNGBLOOD [redacted]
DAVID W. YUNDT [redacted]
LYNN M. ZABKAR [redacted]
JIMMY D. ZACHRY [redacted]
FELIX A. ZAMBETTI, III, [redacted]
CLIFFORD A. ZAPF [redacted]
JOSEPH P. ZEBROWSKI [redacted]
DARRELL P. ZELKO [redacted]
RICHARD E. ZIEBARTH [redacted]
DAVID W. ZIEGLER [redacted]
MICHAEL W. ZIMMERMAN [redacted]
DAVID A. ZIOMEK [redacted]
ROBERT J. ZYRIEK, I [redacted]

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE, AND THOSE OFFICERS IDENTIFIED BY AN ASTERISK FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A. VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

CHAPLAIN CORPS

To be major

HOWARD L. ASHFORD [redacted]
THOMAS L. BLASE [redacted]
KEVIN R. BOLL [redacted]
LEVI E. BRASWELL [redacted]
WILFRED R. BRISTOL [redacted]
WALTER E. COCHRAN [redacted]
EDMUND G. CROWLEY [redacted]
JUAN M. DIPHE [redacted]
MICHAEL W. DUNCAN [redacted]
TERESE A. ERICKSON [redacted]
DANIEL L. FIGUEROA [redacted]
PHILIP J. FISHER [redacted]
JEFFERY S. GALLEN [redacted]
SCOTT R. GARDNER, [redacted]
STEVEN J. GRAU [redacted]
JOSEPH P. HENNESSY [redacted]
PATRICK A. HERRING [redacted]
STEVEN E. KEITH [redacted]
DENNIS K. KITTERMAN, [redacted]
DAVID R. MAACK [redacted]
JOSEPH H. MCGUGAN [redacted]
LAWRENCE J. MCGUIN [redacted]
STEVEN J. MERRILL [redacted]
DAVID L. MORROW [redacted]
JEFFREY L. NEUBERGER [redacted]
GREGORY W. NOWEL [redacted]
BOBBY V. PAGE [redacted]
LEON D. PAGE, SR [redacted]
GARY R. PERRY [redacted]
THOMAS A. PFAFF [redacted]
ALAN J. PINEAULT [redacted]
HERRIE L. REED, JR [redacted]
ALVIE E. ROBBINS [redacted]
EUGENE H. SCHNIPKE [redacted]
HOWARD D. STENDAHL [redacted]
CHARLIE R. STUTTS [redacted]
CARL J. SWANSON [redacted]
NELSON T. TOLEDO [redacted]
CLYDE E. VANWORTH [redacted]
JOHNNIE D. WARD [redacted]

JUDGE ADVOCATE

To be major

KEITH R. ALICH [redacted]
BRUCE S. AMBROSE [redacted]
DOUGLAS S. ANDERSON [redacted]
PAUL M. BARZLER [redacted]
BARBARA G. BRAND [redacted]
RANDALL J. BUNN [redacted]
MICHAEL D. BURT [redacted]
MARSHALL L. CAGGIANO [redacted]
LEONARD M. COHEN [redacted]
DAVID C. CORY [redacted]
WILLIAM T. CUMBIE [redacted]
JOGINDER S. DHILLON [redacted]
SCOTT A. DOLD [redacted]
CHRIS L. FARRIS [redacted]
JAMES L. FLANARY [redacted]
ORMOND R. FODREA [redacted]
KEVIN M. FORBUSH, [redacted]
JEFFREY S. GARDNER [redacted]
ALBERT N. GUARINO [redacted]
BRUCE A. HADDENHORST [redacted]
GORDON R. HAMMOCK [redacted]
JAMES T. HEDGEPETH [redacted]
PETER G. HERMAN [redacted]
WILLIAM J. HOLMES [redacted]
DONALD P. HOLTZ [redacted]
STEPHEN R. IRWIN [redacted]
NORMAN JACOBSON, JR [redacted]
JASON F. KAAR [redacted]
ALBERT W. KLEIN, JR [redacted]
VICKIA K. LEONARD [redacted]
FELIX A. LOSCO [redacted]
BARNARD N. MADSEN [redacted]
CHRISTOPHER A. MATHEWS [redacted]
MICHAEL W. MEADOWS [redacted]
TAMARA L. MILLER [redacted]
THOMAS W. MURREY, JR [redacted]
STEVEN R. PARRISH [redacted]
CRAIG T. PAULSON [redacted]
WILLIAM W. PISCHNOTTE [redacted]
REGINA E. QUINN [redacted]
TARIK M. RADWAN [redacted]
EDWARD N. RAMRAS [redacted]
RONALD M. REED [redacted]
ROBERT M. REIST [redacted]
MICHAEL A. RODGERS [redacted]
RONALD A. RODGERS [redacted]
JOSEPH A. ROSA [redacted]
JULES D. SILBERBERG, [redacted]
BRUCE T. SMITH [redacted]
JOHN M. SMITH [redacted]
DALE L. SONNENBERG [redacted]
NORMAN K. THOMPSON [redacted]
DENISE A. UNDERWOOD [redacted]
CYNTHIA L. WALDRON [redacted]
JEFFREY W. WATSON [redacted]
RONALD J. WILLIAMS [redacted]
CHARLES W. WILLIAMSON, III [redacted]
SCOTT R. WILLIAMSON [redacted]

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

ARMY

To be major

ANGEL L. ACEVEDO [redacted]
JOSE M. *. ACEVEDO [redacted]
MARK A. ACKER [redacted]
MICHAEL S. *. ADAMS [redacted]
LYNN W. *. ADAMSON [redacted]
JAMES E. *. ADDAS [redacted]
THOMAS F. *. ADKINS [redacted]
RICHARD L. ADKISON [redacted]
CHARLES J. AFRICANO [redacted]
ROBIN B. AKIN [redacted]
RICHARD C. AKRIDGE [redacted]
RAFAEL A. ALCOVER [redacted]
BLAIR E. ALEXANDER [redacted]
DAVID R. ALEXANDER [redacted]
GILBERT F. *. ALFARO [redacted]
CLYDEA M. *. ALLAIRE [redacted]
CYRIL R. *. ALLEN [redacted]
RUSSELL G. *. ALLEN [redacted]
CAMPBELL D. ALLISON [redacted]
JAMES A. ALLSBROOK [redacted]
BRADLEY L. ALVADJ [redacted]
KENNETH E. ANDERSON [redacted]
PAUL T. *. ANDERSON [redacted]
STEVEN P. APLAND [redacted]
MANUEL APONTE, JR [redacted]
WAYNE *. ARCHAMBAULT [redacted]
WAYNE S. *. ASHCROFT [redacted]
LOWELL T. *. ASHER [redacted]
ERIC L. ASHWORTH [redacted]
PETER W. AUBREY [redacted]
DAVID A. AUSTIN [redacted]
STEVEN M. AVILES [redacted]
ALICE A. BABINE [redacted]
MARGARET L. BACA [redacted]
KEVIN M. BADGER [redacted]
WILLIAM E. *. BADGER [redacted]
JAMES B. BAGBY [redacted]
THOMAS E. *. BAILEY [redacted]
DANIEL P. BAILIE [redacted]
MALCOLM G. BAILLIE [redacted]
MARK D. *. BAINES [redacted]
JOHN C. BAKER [redacted]
PETER R. BAKER [redacted]
RALPH O. BAKER [redacted]
JAMES B. *. BALDWIN [redacted]
THOMAS A. BALISH, [redacted]
DENNIS A. *. BALITSKI [redacted]
ARTHUR T. BALL [redacted]
ROBERT D. *. BALL [redacted]
STEFAN J. BANACH [redacted]
DOMINIC R. BARAGONA [redacted]
BRIAN V. *. BARBER [redacted]
WAYLAND P. BARBER [redacted]
MICHAEL P. BARBERO [redacted]
MARK J. *. BARBOSA [redacted]
WALTER S. BARGE [redacted]
GREGG A. BARISANO [redacted]
GRIFFIN J. *. BARKIE [redacted]
ROBERT J. BARNHILL [redacted]
DALE R. *. BARON [redacted]
RONALD J. *. BARRON [redacted]
ROGER J. BARROS [redacted]
THOMAS H. BARTH [redacted]
DAVID L. *. BARTLETT [redacted]
RAYMOND M. *. BATEMAN [redacted]
JAMES C. BATES [redacted]
ALLEN W. BATSCHELET [redacted]
TERENCE K. BATTLE [redacted]
RONALD L. *. BEACH [redacted]
STEPHEN M. BEATTY [redacted]
JOHN F. BECK [redacted]
JEFFREY A. BEDEY [redacted]
JAMES BEDINGFIELD [redacted]
EDWARD C. BEEKER [redacted]
RENE D. BELANGER [redacted]
MICHAEL E. *. BELCHER [redacted]
CARTER L. BELL [redacted]
HUGH M. BELL [redacted]
ROBERT T. *. BELL [redacted]
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JOHN W. COPP [redacted]
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BRENT CORNSTUBBLE [redacted]
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KARLUS L. COZART [redacted]
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TIM L. DAY [redacted]
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SAMUEL M. DUNKLE [redacted]
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MARK C. EASTON [redacted]
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JOANN Y. EBERLE [redacted]
STEVEN J. EDEN [redacted]
JON R. EDMONSON [redacted]
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JUSTIN L. ELDRIDGE [redacted]
ALLEN R. *. ELLERY [redacted]
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RODNEY L. *. FAUSETT [redacted]
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ROY L. FISHEL [redacted]
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SCOT HOLLINGSWORTH [redacted]
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TIMOTHY E. HOWLE [redacted]
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NATHANIEL IDLET [redacted]
HEATHER J. IERARDI [redacted]
MARK S. INCH [redacted]
STEPHEN A. INGALLS [redacted]
ATLAS J. INGRAM [redacted]
JAY W. INMAN [redacted]
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SAM *. JAMES, JR [redacted]
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MONICA G. LEE [redacted]
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FREDERICK *. PERKINS, [redacted]
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RICHARD J. POOLE [redacted]
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JOHN E. POST, [redacted]
MICHAEL H. *. POSTMA, [redacted]
JOHN M. POTTINGER [redacted]

GARY M. POTTS [redacted]
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TIMOTH PRENDERGAST [redacted]
LOWELL C. PRESKITT [redacted]
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MARK R. QUANTOCK [redacted]
TONI R. *. QUIROZ [redacted]
CHARLES A. *. RADKE [redacted]
RODNEY N. *. RAGSDALE [redacted]
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EXTENSIONS OF REMARKS

REPORT OF THE INTER-AMERICAN DIALOG

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. HAMILTON. Mr. Speaker, I would like to call to the attention of Members the policy recommendations contained in the recently published report of the Inter-American Dialog. The Inter-American Dialog is a unique discussion group comprised of prominent former officials, executives, and scholars from all parts of the Western Hemisphere. Dialog members gather every 18 months for intensive discussions of current policy issues. Their objective is to develop consensus views on key hemispheric problems and challenges. The Dialog's policy recommendations have been consistently original and compelling, and the latest report is no exception. These summary recommendations offer wise guidance for U.S. policy, and they deserve careful consideration by American policymakers.

The text of the summary of recommendations follow:

SUMMARY OF RECOMMENDATIONS

Our report explores the three main challenges facing the hemisphere in the 1990s—how to build regional economic partnerships to enhance global competitiveness; how to protect and advance the democratic gains of the past decade; and how to promote social and economic justice. We set forth a common policy agenda for the nations of the Americas, and offer concrete recommendations that can transform that agenda into joint and effective action—and create the foundations of a genuine Western Hemisphere Community of Democracies.

CHAPTER I—WESTERN HEMISPHERE ECONOMIC INTEGRATION

With the first building blocks being put in place, the nations of the Western Hemisphere will have the opportunity in the coming years to forge an economic community that will span the Americas and, within a generation, could incorporate nearly one billion persons. An economically integrated hemisphere would enable every nation to become more productive and compete more effectively in the global economy.

We propose a six-point program for grasping this opportunity—a program of economic integration that is hemispheric in scope, comprehensive in coverage, and grounded in social justice and democratic practice.

1. The United States, Mexico, and Canada should proceed to ratify the North American Free Trade Agreement (NAFTA), making sure it or parallel accords give appropriate attention to the environment and to workers' rights. The rejection of the NAFTA at this stage would gut the core of future hemisphere-wide trade arrangements.

2. Latin American and Caribbean governments should intensify their efforts to forge viable sub-regional trade pacts while sustaining their internal processes of economic reform and trade liberalization. These are essential steps toward hemispheric economic integration.

3. The NAFTA partners should begin consultations with other hemispheric governments to establish criteria, procedures, and timetables for building NAFTA into a Western Hemisphere free trade pact. The NAFTA commission proposed in the agreement's text could undertake such consultations on behalf of the three governments. In addition to basic economic conditions, requirements for entry to an expanded NAFTA should include a commitment to democratic governance; authoritarian governments should be excluded.

4. Negotiations should begin promptly to incorporate into NAFTA those countries that can meet the entry requirements. Chile is the likely first candidate, given its economic performance, its existing free trade accord with Mexico, and the U.S. pledge to put it next in line.

5. The United States, Mexico, and Canada should work with the countries of Central America and the Caribbean to pave the way for their participation in free trade talks. NAFTA is likely to impose some immediate losses on these countries, and the sooner they can achieve the benefits of broader integration the better.

6. The governments of the Americas should establish a new multilateral organization to guide and coordinate progress toward a Western Hemisphere Economic Community. The existing regional economic organizations—the Inter-American Development Bank (IDB), Organization of American States (OAS), and United Nations Economic Commission for Latin America and the Caribbean (ECLAC)—should play prominent roles in the new coordinated body, along with private business, trade unions, and other non-governmental organizations.

CHAPTER II—THE COLLECTIVE DEFENSE OF DEMOCRACY

There is movement today, still tentative but clear and growing, toward the formation of a democratic political community in the Western Hemisphere. Nearly every nation of the Americas is now governed by elected, civilian leadership. A democratic network of participatory institutions has emerged, involving political parties, human rights groups, trade unions, professional and business associations, the media, women's organizations, and environmental groups. And the nations of the hemisphere have collectively pledged to promote democracy and to act jointly to defend it where it is threatened or violated. Democracy in each country of the Americas has become the concern of all countries.

To sustain and deepen this progress toward democratic community, two fundamental challenges must be confronted. First, democratic institutions throughout the Americas—public and private—must be made more effective, responsive, and participatory. Second, the nations of the hemisphere must fortify their resolve and capacity to respond to violations of constitutional order.

We propose a nine-point strategy for the inter-American community to meet these challenges.

1. The nations of the hemisphere must actively promote negotiated settlements of Latin America's remaining guerrilla conflicts to end the violence and counterviolence that undermine the institutions and values of democracy. They must also work to stop human rights abuses by vigorously pursuing the findings and recommendations of official and credible non-governmental human rights organizations.

2. Hemispheric governments should together take a fresh look at the missions, size, weapons, and costs of their armed forces—with the objective of establishing firm civilian control over the military. Civilians should be trained to manage security policy and international agencies should be encouraged to monitor military spending.

3. The inter-American community should bolster the basic institutions of democracy in every country. Whenever national elections are endangered by fraud or violence, governments should be pressed to accept international monitors. Non-partisan assistance should be made available to strengthen legislatures and judicial systems, and aid provided to non-governmental organizations.

4. Sustained efforts must be undertaken by every country, individually and jointly, to reduce sharp inequalities and pervasive poverty that exacerbate other threats to democratic rule.

5. The inter-American community must respond rapidly to breakdowns of democratic rule—as called for in the Santiago resolutions of the OAS. All nations of the hemisphere must forcefully condemn the illegal usurption of power and work collectively to repair the democratic process.

6. The capacity of the OAS to play a leadership role in situations of democratic breakdown must be strengthened. The OAS's new Unit for Democracy needs to be enlarged and better financed. The Unit should cooperate closely with the Inter-American Commission on Human Rights and many other relevant organizations—public and private, multilateral and national, regional and subregional.

7. The inter-American community should not try to impose a predetermined solution following a democratic breakdown. In some cases, decisive action might well quickly reverse an illegal takeover of power. But if a rapid turnaround appears unlikely, inter-American efforts should foster negotiations among contending national forces to restore constitutional rule. In situations where the internal order is threatened or where repression is rampant, the OAS should press the authorities to allow a significant civilian mission to establish itself in the country to assist in rebuilding democratic politics.

8. When an illegally constituted government refuses to engage in negotiations to restore democratic order and rejects a civilian mission, the inter-American community should consider applying stronger sanctions. But there should be no automaticity regarding the selection, sequencing, or escalation of sanctions. They must be orchestrated on a case-by-case basis, directed to achieving specific political aims, and supported by a consensus of OAS members.

9. The priority aim of collective hemispheric action must be to restore the demo-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

cratic process as quickly as possible. However distasteful, they may require a compromise solution that accommodates some of the demands of those who illegally took power.

CHAPTER III—THE PROBLEMS OF POVERTY AND INEQUALITY

The struggle against social and economic inequity is the most difficult challenge facing the Americans today. Progress toward consolidating democratic politics, resuming economic growth, and building an economically integrated hemisphere is jeopardized by mass poverty and profound income disparities. Democracy must be anchored in social justice if it is to endure. A vibrant economy requires the productive employment of all sectors of the population.

A genuine Western Hemisphere community can only be built on a foundation of strong national communities in which all citizens participate in political life and enjoy the benefits of economic progress. The challenge for the Americans is to forge a future that is shared by all Americans.

We propose seven measures to meet that challenge.

1. The countries of the Americas should give as much priority to alleviating poverty and reducing inequality as they do to promoting growth. These goals go hand-in-hand.

2. All governments must sustain sound, growth-oriented macroeconomic policies. Government spending must be kept in line with tax revenues and inflation must be controlled. Anti-poverty initiatives are invariably undermined by high inflation and low growth, which reduce wages, destroy jobs, and force cuts in social spending.

3. Anti-poverty strategies should emphasize efforts to raise the productivity of the poor, particularly women. What are required are stepped-up investments in health and education and other programs that enhance the skills and increase the capital assets of low-income groups. Such investments in human capital permanently lift individuals and families out of poverty, reduce inequalities of income and opportunity, and contribute to national growth.

4. Income transfer programs should be targeted to the neediest and most vulnerable population groups. Such targeting can increase the assistance provided to the very poor, while reducing the cost of such programs to governments.

5. Governments must improve the quality of programs that serve the poor. Local governments, community groups, and business and professional associations should be intensively involved in the planning and management of social services. Every effort should be made to exploit opportunities for collaboration between public and private sectors.

6. Programs to reduce poverty and inequality must be consistent with macroeconomic stability and therefore should be financed through some combination of increased taxes, the reallocation of existing expenditures, and external aid. Opening new opportunities for the poor, above all, requires that the better-off pay their taxes.

7. External organizations should put their financial, intellectual, and political muscle behind national anti-poverty programs. The World Bank and the IDB should commit at least one-third of their Latin American lending to poverty reduction. These institutions, along with smaller development and nongovernmental organizations, must consistently focus priority attention on poverty and inequality—not only by spending money or imposing conditions on loans, but also through programs of research and publication, speeches by their officials, and persistent private communications to world political and economic leaders. International agencies should cooperate in building a data collection and analysis system to report on the progress made by every nation in reducing poverty and inequality.

We believe the nations of the Americas have an unparalleled opportunity together to shape their common future. It will take many years, but an important start has been made toward building political and economic community in the hemisphere. Progress now must be sustained and deepened—for the benefit of all Americans.

ECONOMIC DEVELOPMENT ADMINISTRATION SUNSET ACT OF 1993

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. HEFLEY. Mr. Speaker, as part of a continuing effort to reduce the size and complexity of government, today I am reintroducing legislation to abolish the Economic Development Administration.

During the most recent campaign, President-elect Bill Clinton promised to increase government investment in America. He claimed that the United States was falling behind our global competitors and that a new, public-private partnership was needed to restore our economic dominance.

The idea of a public-private partnership is nothing new. Ever since the New Deal, the Federal Government has attempted to use public funds to stimulate private investment and growth. One such program is the Economic Development Administration.

Selected by the Carter administration to lead its urban renewal program, the EDA was offered to the public as a vehicle for targeting investment and leveraging public moneys to attract private funds; a public-private partnership to stimulate the economic development of distressed areas.

Instead of symbolizing the new partnership between public and private interests, the EDA has come to represent Government waste and inefficiency with a legacy of poor management and poorer investments. It is time to put this failed experiment in Federal investment to rest. By terminating the EDA, we can streamline our Federal assistance programs and cut $200 million from the budget each year.

HISTORY

The Economic Development Agency was created in 1965 as part of the Great Society. It was designed to administer programs providing assistance to States, counties, cities, and communities suffering from substantial, persistent, or potential unemployment and underemployment.

In its inception, the EDA was established to provide assistance to rural areas. Over the years, the EDA's mission was broadened to encompass urban areas and it began to make direct and guaranteed loans to private businesses while continuing to provide grants to State and local governments.

In many ways, the Carter administration's decision to make a flagship out of the EDA was the program's midas touch. Propelled out of obscurity, the newly enlarged administration began attracting headlines and the EDA's underlying faults became readily apparent.

In 1981, citing a legacy of failed projects and pork-riddled investments, the Reagan administration targeted the EDA for elimination. What followed was a decade-long battle between Congress and the Reagan and Bush administrations that ended when Bill Clinton was elected to the White House.

During the decade, the budget for the EDA dropped precipitously. From a high during the Carter administration of over a billion dollars, the EDA's budget fell to $257 million in fiscal year 1992. This lower profile, however, has not shielded the administration from continued criticism.

LEGISLATION

The bill I am introducing would terminate the EDA taking effect in fiscal year 1994. The bill would authorize the Secretary of Commerce to continue to operate the EDA's revolving fund until all its current obligations are concluded.

This legislation is not an attack upon the people who work at the EDA. The EDA's failure can be attributed to an unworkable mandate and congressional micromanagement, not civil servants.

It does not eliminate Federal assistance to State and local governments. The Community Development Block Grant Program currently serves many of the same constituents served by the EDA. The CDBG program does it better, with fewer controversies and embarrassments.

This bill is an attack on Government waste. The EDA has invested in empty industrial parks, roads that lead nowhere, and sewer hookups to empty fields. At one point, over 40 percent of the businesses invested in by the EDA were in default.

It's also an attack on pork-barrel spending. When the EDA was created, 12 percent of the population qualified for EDA grants. Today, 90 percent of the country lives in areas eligible for EDA assistance.

Obviously, 90 percent of this country is not economically distressed. Instead, eagerly seeking out Federal dollars, Congress has expanded the EDA's jurisdiction to the point where its original mandate to assist areas with high unemployment has become meaningless.

Furthermore, there is a long list of examples where individual Congressmen have forced the EDA to fund projects that were ineligible for EDA assistance. To many, the EDA became a pork-barrel slush fund for powerful Members of Congress and their friends.

CONCLUSION

The history of the EDA is a history of failure and frustration. Simply put, it is not the Federal Government's job to make local investments. There are too many pitfalls, political and otherwise, to do the job well.

For a President focused on public-private partnerships, the EDA provides Bill Clinton with an excellent example of what not to do. Envisioned as an administration to facilitate economic growth in distressed areas, the EDA became a means for individual Congressmen to fund their pet projects or to provide favors to political allies.

THE CRISIS IN ARMENIA

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. CARDIN. Mr. Speaker, I raise to call attention to the dreadful suffering in Armenia.

My hometown newspaper, the Baltimore Sun, this past Sunday ran a story about the terrible human crisis in Armenia. The headline read: "In Winter's Chill, a Nation's Dying Days." I was shocked by the extent of the hardship that has been inflicted on the Armenian people. I am including a copy of this article in the RECORD so that my colleagues can better appreciate the situation faced by Armenia.

The Armenians are a proud people. After barely surviving a systematic and deliberate massacre at the hands of the Ottoman Empire from 1915 to 1923, Armenia became a Soviet republic. Even under Soviet occupation, the Armenian culture, language, and church has survived. In 1988, Armenia was struck by a massive earthquake that destroyed half of the country's industrial base and left large numbers of people homeless.

With the collapse of the former Soviet Union, the Armenian people gained their freedom and independence. In spite of the earthquake, the hard-working, entrepreneurial spirit of the Armenian people quickly made Armenia one of the most prosperous and successful of the former Soviet republics.

Unfortunately, the demise of the Soviet Union also meant a withdrawal of the Soviet Red Army, which had imposed a series of cease-fires on Armenia and Azerbaijan. In the absence of a peacekeeping force, Azerbaijan erected a blockade against the 3.3 million people living in Armenia. The most devastating aspect of the blockade has been the denial of energy supplies. For many months, the Armenian people struggled to continue some semblance of normal life, allocating the scarce energy resources made available through a gas pipeline from neighboring Georgia.

Last week, Armenia was plunged into frigid darkness when the gas pipeline from Georgia was blown up. Like a scene from a Charles Dickens novel, the sky over the Armenian capital of Yerevan is black from the smoke of wood-burning stoves that litter living rooms across the city. Much of the country is without heat or running water. At most, electricity is available for a couple of hours a day. In a desperate struggle to stay warn, people have stripped the city's parks and streets of trees to feed their wood-burning stoves.

Now, Mr. Speaker, even the flame burning atop the monument to the Armenian genocide in Yerevan has died for lack of fuel. Let us not allow this same fate to befall the Armenian nation.

IN WINTER'S CHILL, A NATION'S DYING DAYS

(By Kathy Lally)

YEREVAN, ARMENIA—The most destructive forces unleashed by the demise of the Soviet Union are bearing down on small, once wealthy Armenia, leaving it on the brink of obliteration.

Most people are living without heat or running water. They have electricity two hours a day. All major industries are closed, and unemployment is estimated at 65 percent. Packs of starving dogs roam the streets. Last week, a pack attacked and killed a woman.

The Christian country that waited centuries for independence is slowly receding from the modern world, due to a blockade imposed by neighboring Muslim Azerbaijan.

"There are projections that 30,000 people could starve in 1993," says Stuart Willcuts, deputy head of the International Red Cross delegation here, "and 500,000 are at risk."

On Friday night, the United Nations Security Council issued an urgent appeal for fuel and humanitarian assistance for Armenia and the Nakhichevan region of neighboring Azerbaijan. It read:

"The members of the council urge all countries in a position to help to facilitate the provision of fuel and humanitarian assistance and call on governments in the region, with a view to preventing a further deterioration of the humanitarian situation, to allow humanitarian supplies, and in particular fuel, to flow freely."

The plea came after the only gas pipeline still running into Armenia—through Georgia—was blown up a week ago in an attack that Armenia blamed on Azeris living in Georgia.

With this last, weak link to fuel for survival broken, Armenians must call on their last reserves to stay alive. A temporary repair reportedly was made Friday night, but it can deliver only a small percentage of the earlier supply. Repairs to the pipeline are expected to take up to a month, assuming there is no further sabotage.

The fight with Azerbaijan began in 1988 over the predominantly Armenian enclave of Nagorno-Karabakh, which the Soviets had given to Azerbaijan.

Azerbaijan imposed a blockade in 1990 against Armenia, then tightened it into a stranglehold. Civil unrest in Georgia prevents help from that neighbor. Turkey shares another border, but the Turks historically have had no sympathy for Armenians.

A PRIMAL STRUGGLE TO STAY ALIVE

Two years after it began, the blockade is taking an awful toll. Outward signs of civilization are fast disappearing. Life has become little more than a primal struggle to stay alive.

People desperate for warmth and cooking fuel are chopping down practically anything that burns, stripping the city's parks and avenues of trees. The dark nights are filled with the scraping of saws. Morning light illuminates trails of sawdust along disfigured streets.

There is no public transportation. Everybody moves on foot.

Schools shut down Dec. 3 and won't open before March, at the earliest. Children sit at home in darkened rooms with nothing to do.

Newspapers have stopped publishing. Only a few telephones work. Most hospitals have closed, and it's impossible to call an ambulance. Bread factories have been allocated scarce electricity, but a family of four may buy one loaf of bread a day—precious little when bread is the main course, supplemented by potatoes and preserves put up over the summer.

Water pressure is low. Anyone who lives above the first few floors of a building has to carry it by hand.

People are freezing. The temperature drops below 15 degrees at night. An elderly woman was found frozen to death on the steps of the Opera House early last Monday, according to Mr. Willcuts of the Red Cross. Five newborns reportedly died in the last week because hospitals were unable to keep them warm.

"Babies are dying, dogs are turning into wolves," said Linda Bedeian, director of humanitarian aid for the Armenian Assembly of America. "The streets are full of children pulling sleds with pots of water. Elderly women are sawing away at the trees. By the time summer comes, there will be no trees left in the country."

The city air is filled with blue smoke as people burn whatever they can in homemade stoves—door jambs, floorboards, anything at hand. Garbage piles up on streets.

But there may be worse to come.

The threat of disaster reaches far beyond this nation of 3.8 million people. Armenia's nuclear power plant, shut down after the devastating earthquake in 1988, is endangered by the lack of electricity. Even though it is inactive, the plant needs power to cool and ventilate its nuclear fuel and waste. An accident there could cause damage in the surrounding countries.

"The station is built on the Ararat Valley water basin," said Karine S. Danielian, the Armenian environmental minister. An accident could contaminate ground water in Turkey, Iran, Georgia and Azerbaijan.

"We can no longer assure its safety," Prime Minister Khosrov Harutyunian said last week. "Under the current situation, we can't guarantee a supply of power."

Even more frightening, the Armenian government has decided to reopen the plant despite the opposition of its own scientists, who fear nuclear catastrophe if another earthquake strikes. The plant will take a year and a half to reopen.

"What else can we do?" the prime minister asks.

Yet, in the face of this calamity, many still declare that they have what they need to keep their humanity. They have their freedom.

"Even a dog likes freedom," says Vahagn H. Demirdjian, vice minister of health.

"There is no need to go back," says Ofelia Buznynie, 68, "only to go forward."

Outside on the sidewalk, just a few hundred yards from Yerevan's main square, her son-in-law, Parkev Gyozalian, is chopping up sections of floorboard to burn.

Inside the 20-by-20-foot room in which seven family members live, emblems of normal life are gathering dust. A Christmas tree stands, unreachable, on a window sill. A piano sits in one corner; shelves filled with books and religious pictures line one wall.

Books and music are part of the past—they sit behind a barricade of beds and chairs that have been moved to make room for a tiny stove Mr. Gyozalian built of stone and cement. It's not much, but at least a small pot can boil on it, and some warmth is shed.

"Of course, life was not easy when I was young," says Mrs. Buznynie, sitting with grandchildren Lilit, 4, and Souren, 3, in the dark room.

"We couldn't speak. We were afraid even of the walls. Our land was taken away by the Bolsheviks. Life is harder now than it was then. But then we feared every knock at the door."

As there is no electricity, Mr. Gyozalian no longer has to go to his job repairing traffic lights. So he has become a gatherer of wood, his wife a forager of food.

"I am very happy the Soviet Union collapsed," Mr. Gyozalian says. "What we need now is for our government to find a way to come to a compromise with the Azeris."

"WE CAN STILL LAUGH"

Life is hell here, but never mind, says his mother-in-law.

"We can still laugh," offers Mrs. Buznynie. "Now real love is shown," adds Mr. Gyozalian.

They quickly find the last of their coffee, brew it over the stove, rummage for a flowered china cup, and press this treasure on their visitor.

Kindness refuses to be extinguished here. A woman begging on the street gets small bills from a succession of passers-by.

The government no longer has money to support a Yerevan children's home, says Yelena Kasparian, the director. But the 49 children are loved and protected.

Babies are wrapped in scarves and shawls, and tucked into bunting. Children lie two to a bed, head to toe, keeping warm under blankets. Neighbors offer what they have.

One afternoon last week, two men appeared with a carload of wood. The women who work in the home spend the day at hard labor, heating pots of water and washing clothes and diapers by hand.

"Probably things will be better," says Mrs. Kasparian, "but we will be gone by then."

They wonder here about a world that was so eager to fight communism but now does not seem so eager to help preserve freedom and independence.

"It all turned out to be slogans used by the big powers in areas of the world where they felt the need to use them," says Mrs. Danielan, the environmental minister. "Now they are watching as our people are dying."

Armenia will be without bread for 142 days this year, says Mr. Willcuts of the Red Cross, despite the efforts of the International Red Cross, the U.N. High Commission for Refugees and humanitarian aid from other countries, including the United States—some of which is getting through the blockade.

Armenia had no chance to recover from the 1988 earthquake, which killed 35,000 people and left 500,000 homeless, before the conflict with Azerbaijan turned even more people out of their homes and killed 6,000 people. Ten percent of the population are refugees.

Now, Armenia, the first of the former Soviet republics to privatize its land, the most prosperous of them, is now the most desperately poor.

"I've been in the refugee-related disaster business for 20 years," says Mr. Willcuts, "and I've never seen anything like this. Here you have a developed country that is slipping backward . . . into the Third World."

A week ago, a sewer line burst in Kirovakan in north Armenia, contaminating the water supply and resulting in 300 cases of dysentery and seven deaths.

"Those are official statistics," Mr. Willcuts says. "I believe you can double that. We have ahead of us a potential for even more."

A study done for the U.S. Centers for Disease Control found an increase of 61 percent in diarrheal diseases in the past six months. Viral hepatitis has increased by 163 percent and hepatitis A by 213 percent. Measles is up by 60 percent.

Mr. Demirdjian says Armenia is grateful for the humanitarian aid it has been receiving. But, he says, his country needs peace more than food.

"The international communities try to provide Armenia with food, but no one is trying to prevent the cause," he says. "The Armenian people are hard workers. If the cause were eliminated and the blockade lifted, they could begin to work. They could begin to live as people."

The nation, surrounded and battered, can't prevail over Azerbaijan. Nor can it bring itself to surrender.

"We need foreign countries to use all their authority to pressure the Azeri leadership for a negotiated settlement," says Mr. Harutyunian, the prime minister.

Armenia, says Mrs. Danielian, has no choices left. "I'm one of those people who would prefer to die free."

OUR NATION'S FINEST SPEAK OUT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. STARK. Mr. Speaker, I would like to share with my colleagues a letter I received recently from a constituent of mine in California. He is an officer in the U.S. Navy and wrote to me in support of the President's plan to lift the ban on gays and lesbians in the military.

I will not reveal his name, but he writes as a naval officer who has seen combat and his letter speaks to all those who ask us to defer this civil rights issue to popular opinion in the uniformed services. He makes the case more eloquently than I could and deserves our careful attention.

The letter follows:

I am currently a naval officer on active duty in California. I am registered to vote in my hometown in your congressional district.

I am writing you concerning the current debate on lifting the ban against homosexuals in the military. I have thought long and hard about it and feel it is important that I write to you in order to let you know my opinion/stance.

When I joined the Navy ten years ago, I was very naive in the ways of both the Navy and the world. Most of my perceptions came from what I learned from my parents and at school.

When I was assigned to sea duty in 1987, I served with 350 other men in cramped living spaces on a ship that was older than I was. Throughout the next two and one half years on that ship and a subsequent two year tour on an aircraft carrier I learned one of the most important lessons of my life: that (on the ship) the single, most important characteristic about a person is his or her job performance.

I learned to see past and accept skin color, ethnicity, accent and any number of things that made the sailors in my division different than me. I also learned to accept the ones who trusted me enough to tell me that they were gay. I found that the homosexual sailors' performance was no different than that of the heterosexual sailors'. In many cases, they were among the best of the men I was assigned. When the ship went into the Persian Gulf, I counted on all my sailors, not just the straight ones, to do their job and keep us all alive.

I realize that some people are uncomfortable with the prospect of the gay ban being lifted. I understand their feelings but I do not agree with them. The comfort of some should not preclude the rights of others. If this were the case, I would not be able to serve as I have for the past eleven years; I would instead have been relegated to the jobs which Hispanics and Blacks held prior to the integration of the Department of Defense in the fifties.

I urge you to support President Clinton as he works to lift the ban on homosexuals in the services and would appreciate a response stating your position on the issue.

THE 50TH WEDDING ANNIVERSARY OF MR. AND MRS. ANGELO INGRAFFIA

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues an exemplary couple from the Third Congressional District of Illinois, Angelo and Barbara Ingraffia. They celebrated their 50th wedding anniversary on Sunday, February 14, and are a role model of the family strength and solidity which has made America great.

Their commitment to each other and their family is impressive and deserving of special recognition and honor. I am sure that my colleagues join me in congratulating Angelo and Barbara Ingraffia on their many years of love and commitment. May their life together continue to be full of joy and offer them many pleasant memories.

THE MONROE COUNTY FARM BUREAU CELEBRATES ITS 75TH ANNIVERSARY

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. COSTELLO. Mr. Speaker, I rise today in recognition of the Monroe County Farm Bureau's 75th anniversary. The Monroe County Farm Bureau was formed on December 31, 1917, with Mr. John Gummersheimer as its first president. The group organized in the county's seat—Waterloo—and continues to meet there today.

A special celebration in honor of this anniversary will be held on February 28, 1993, in Hecker, IL. I am pleased to have been invited to celebrate this special occasion with Monroe County Farm Bureau members. Many descendants of the founding members are still active in the group today, and under the leadership of current president, Lyle Wessel, it has grown to include approximately 2,800 members. I thank my colleagues for joining me in recognizing this 75th anniversary.

LETTER TO DR. RONALD W. ROSKENS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. BEREUTER. Mr. Speaker, given the distinguished service of Dr. Ronald W. Roskens as the Administrator of the U.S. Agency for International Development during the Bush administration, and the fact that he is a long-term resident of Nebraska, I thought it was entirely appropriate to call to my colleagues' attention the very complimentary letter my distinguished colleague from the Third District, BILL BARRETT, sent to Dr. Roskens. Before Dr. Roskens completed this challenging assignment he had served as the chancellor of the University of Nebraska-Omaha, and the president of the University of Nebraska system in a fashion that was highly regarded by Nebraskans. This Member joins his Nebraska colleague in the sentiments of the following letter, and extends our best wishes to Ron and Lois Roskens as they turn to crucial and challenging new international roles from their Omaha location through his position as head of Action International, a council of top world leaders from diverse important nations:

December 4, 1992.

Dr. RONALD W. ROSKENS,
Director, USAID, Washington, DC.

DEAR RON: Although this is but a brief note, it still brings thanks and accolades to you as you bring to a close your leadership at USAID. While you've had to guide the agency through difficult times and controversy, you met every challenge and successfully accomplished your mission. The country is indebted to you for taking time to serve her so well.

Certainly this note would not be complete if I did not welcome you back to Nebraska and wish you the very best as you start a new chapter in your career with Action International. I'll be interested in the work of this new organization, and I hope you'll stay in touch and let me know if ever I can be of assistance.

Please give my best to Lois. And again, congratulations and best of luck in the future!

Sincerely,

BILL BARRETT,
Member of Congress.

TRIBUTE TO GORHAM BLACK: "A CHAMPION FOR THE ELDERLY"

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. BLACKWELL. Mr. Speaker, I rise today to pay special tribute to one of Pennsylvania's oustanding citizens, Gorham L. Black, Jr., who recently passed.

Gorham Black was the first secretary for the Pennsylvania Department on Aging, and I might add that he served with distinction in this position from 1979 until 1984 when he retired. Under the leadership of Mr. Black, Pennsylvania's Department of Aging was widely recognized as a model and an institution characterized by its vast productivity in the field of aging.

In his capacity as the secretary of the Pennsylvania Department of Aging, Mr. Black was instrumental in securing passage of the pharmaceutical assistance contract for the elderly, which assisted more than 500,000 elderly persons to obtain prescriptions at affordable costs.

Mr. Speaker, Gorham Black excelled as a member of the National Caucus and Center on Black aged; he also served as a member of the board of directors where he later became cochairman. Mr. Black appeared before Congress and the executive branch as a leading spokesperson on the problems affecting elderly African-Americans and other low-income older Americans. Mr. Black was especially well-known for the inspiration and encouragement that he provided to elderly blacks when he spoke throughout our great Nation.

Gorham was also the 1989 recipient of the prestigious Living Legacy Award which is conferred by the National Caucus and Center on Black Aged. The aforementioned is the highest accolade and honor that the National Caucus and Center on Black Aged awards to elderly African-Americans for their contributions to the society in a wide range of fields. Past recipients of this award include the late Supreme Court Justice Thurgood Marshall, Dr. Martin Luther King, Jr., Jesse Owens, Aaron Henry, Dorothy Height, Robert Weaver, and numerous luminaries.

Mr. Speaker, Gorahm Black spent 27 years serving his country in the U.S. Army, whereby such service spanned from 1941, when he enlisted as a private, to 1968, when he retired as a colonel. He saw combat duty as an infantry officer in World War II and the Korean conflict. He was awarded the Silver Star, Legion of Merit, Purple Heart, and several other awards.

Mr. Speaker, just as other organizations have recognized Gorham's unselfish contributions to our society, I too ask that you and other colleagues join me and the State of Pennsylvania in saluting Gorham Black.

Mr. Speaker, Mr. Black was a model citizen and a community activist; I am therefore delighted to take this opportunity to salute his long-standing dedication to the senior citizens in Pennsylvania and across the United States.

HEARING OF THE ECONOMIC DEVELOPMENT SUBCOMMITTEE

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. FILNER. Mr. Speaker, on February 3, 1993, the Economic Development Subcommittee of the House Committee on Public Works and Transportation held the last of three hearings on the subject of "Investing in America's Infrastructure: Short and Long-Term Strategies." My testimony to the committee, which follows, stressed the necessity of linking short-term economic stimulus and long-term economic conversion.

Today and in past hearings we have heard about the state of our economy: unacceptable unemployment and underemployment rates, families without jobs and food on the table, and an aging and inadequate infrastructure plague every part of the Nation. Like many other places, my home town of San Diego has hundreds of projects that are ready-to-go and, with adequate resources, could be employing thousands of people within 3 months.

These projects total hundreds of millions of dollars. They will improve our region's economy through infrastructure investment and the creation of jobs. These projects are in the areas of technology, environment, public safety, library, housing, water, transportation, neighborhood pride and protection, parks, and commercial revitalization.

Chairman MINETA mentioned specificity yesterday. I have here with me wish lists from the city of San Diego, San Diego County, the city of Chula Vista, and the San Diego Unified School District. These lists mention hundreds of very specific projects, their cost, and the number of jobs each project would create. All of these projects are ready-to-go, but they require funding.

Financing of these ready-to-go projects is a worthy goal, as is putting America back to work, and we on this committee must commit ourselves to making it happen. But as we consider the short-term infrastructure stimulus, we must begin to link this strategy with long-term economic conversion plans.

Like many other cities in this Nation, San Diego is heavily dependent on defense spending, and is suffering because of defense cutbacks. We have already lost thousands of jobs and several multimillion dollar defense contracts.

We have begun the painful process of weaning ourselves from the military, but it is not an easy process and it is one that requires a tremendous amount of resources. When I was on the San Diego City Council, I convinced the council to adopt an economic conversion plan, and obtained a Federal grant for this program. But, we have a long way to go.

As this Nation realizes the critical need for both economic conversion and economic stimulus, we must start thinking of how we can accomplish both with the same resources. We must formulate a plan in which defense companies with conversion plans get priority on projects we are financing to stimulate the economy and repair our Nation's infrastructure. We must link new projects with existing and future job retraining programs.

For example, under the Clean Water Act, San Diego will be building multibillion dollar sewage treatment and water reclamation systems. At the same time, however, we have aerospace and high-technology defense contractors losing contracts. As we build these new sewage and reclamation facilities, let us give preference to defense contractors with approved conversion plans. As we hire engineers and mid-level managers for these projects, let us give priority to laid-off workers currently being trained for other jobs which may or may not exist.

The city of San Diego is also interested in constructing a $25 million Traffic Control Communications Systems for "smart roads and highways." Many defense technologies are perfectly suited to the development of these smart systems and we should ensure that we link available technology with need as we finance these infrastructure improvements.

We must begin to think about linking all the short-term stimuli to long-term economic diversification projects. In this regard, we would be fulfilling two national objectives at the same time while using one source of funds. And we would be helping our defense industries diversify into civilian markets and domestic need.

This is a vital link which we cannot ignore and I would respectfully ask the subcommittee to consider all of these discussions in the context of this Nation's economic conversion needs.

LYME DISEASE AWARENESS

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. HOCHBRUECKNER. Mr. Speaker, as the Member of Congress representing the area with the most reported cases of Lyme disease in the country, I have introduced legislation that would designate the week of June 6, 1993 and June 5, 1994 as Lyme Disease Awareness Week. Senator JOSEPH LIEBERMAN of Connecticut is introducing identical legislation in the Senate. I appreciate this opportunity to provide my colleagues with some background on Lyme disease, and why I believe that this legislation is worthy of their full attention.

Although Lyme disease was first officially reported just 18 years ago in Lyme, CT it has fast become the most common tick-borne disease and one of the fastest spreading infectious diseases in the United States. If treated early, the disease can be cured by antibiotic therapy; however, early diagnosis is often thwarted by the disease's resemblance to the flu and other less dangerous ailments. Indeed, without early treatment, a victim of Lyme disease can expect severe arthritis, heart disease, or neurologic complications. Later effects, often occurring months or years after the initial onset of the disease, include destructive arthritis and chronic neurologic disease.

Many people never even know that they have been bitten by this tick because it is so small. The tick which spreads that disease is the size of a comma in newsprint. The parasite can attach itself, feed, and detach itself to lay its eggs, all without the host's knowledge. Moreover, a person might not develop the telltale rash at the site of the tick bite, leaving a person clueless as to the cause of his or her ailment. Without the characteristic rash, doctors may have difficulty diagnosing Lyme disease. In addition, standard blood tests often do not reveal the presence of the spirochete.

Originally thought to be exclusively a regional problem of the coastal Northeast, Lyme disease is spreading rapidly to all areas of the country. In fact, since the Centers for Disease Control [CDC] began recording Lyme disease cases in 1982, more than 40,000 cases of Lyme disease have been reported to the CDC from 49 States. In 1991 alone, 9,300 new cases were reported to the CDC. However, because diagnosis is difficult and public awareness about the disease is limited, it is estimated that thousands of cases have gone undiagnosed, unreported, and—worse yet—untreated.

Mr. Speaker, because no vaccine currently exists for this disease, the most effective way to combat disease is through prevention. The key to prevention is education of the public. It is for this reason that Senator LIEBERMAN and I have introduced Lyme Disease Awareness Week. I hope my colleagues will join us in bringing this debilitating disease to the attention of all Americans by supporting this important resolution.

THE INTRODUCTION OF A BILL TO AMEND THE ENDANGERED SPECIES ACT

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. FIELDS. Mr. Speaker, today I am introducing, along with our distinguished colleague HENRY BONILLA, an essential bill to solve a serious problem facing the city of San Antonio, TX.

On February 1, 1993, U.S. District Court Judge Lucius D. Bunton issued a ruling under the Endangered Species Act that will require that the water flows at the Comal and San Marcos Springs be maintained, even during a drought, to preserve the one-inch fountain darter. In order to comply with this ruling, current users will have to severely reduce the amount of water that is pumped from the 175-mile underground river known as the Edwards Aquifer. This aquifer is the source that feeds the Comal and San Marcos Springs.

Judge Bunton has also ruled that the State of Texas has until May 31, 1993, to develop a plan to regulate the spring flows. While the Texas legislature will, in all likelihood, comply with that arbitrary deadline, it is impossible for the city of San Antonio to develop alternative water supplies by that date.

This ruling presents a serious problem because the Edwards Aquifer is the sole source of drinking water for the 1.5 million residents of San Antonio, which is our Nation's ninth largest city. It has been estimated that compliance with the judge's ruling will result in a 68 percent reduction in available water. This will have a devastating impact on the city of San Antonio, Bexar County, and six other adjacent jurisdictions.

There is no alternative source of water to replace the Edwards Aquifer. It will take 5 to 10 years for significant amounts of non-aquifer water to become available at a cost of $500 million to $1.5 billion. This is clearly unacceptable.

Furthermore, initial elements of trying to maintain water flows at Comal Springs, based on the worst case scenario of a drought, include: A $9.6 billion annual reduction in spending; a $5.2 billion annual reduction in total output; a $3.3 billion annual reduction in personal income; a $2.6 billion annual reduction in wages and salaries; a $1.3 billion annual reduction in retail sales; and a permanent loss of 136,703 jobs with a disproportionate share of the impact being felt by low income minority families.

Mr. Speaker, these are devastating impacts and this ruling makes it clear why the Endangered Species Act must be reformed. We must clarify that this law was never intended to prevent the availability of our most basic human necessity—water. We must amend this act to ensure that the needs of people are considered just as carefully as one-inch fountain darters.

I am, therefore, introducing legislation today that would exempt the Edwards Aquifer from the Endangered Species Act. Under my bill, if a drought were to occur and water supplies were to be rationed, then priority would be given to human consumption of that water rather than simply reserving it solely for the fountain darter.

There are certain groups that advocate limiting the amount of water that may be pumped from the aquifer and want to dictate to farmers and ranchers how much water they may use. This is an outrage, and I will strongly oppose any effort that denies any Texas citizen the right to fully utilize his or her own water rights.

The Endangered Species Act is designed to ensure that endangered and threatened species are protected for future generations. Nevertheless, Congress has a responsibility to protect not only fauna and flora but to protect our citizens' basic constitutional right to be able to enjoy their private property. We can have both a strong Endangered Species Act and continued economic development.

If my bill or other similar relief legislation is not enacted, then the fine people of San Antonio could truly become the endangered species. And make no mistake, this onerous judicial ruling can easily be applied in the future to other cities and communities throughout this Nation.

We must not forget the people of San Antonio and we must enact the legislation I am proposing today. I urge my colleagues to join with me in this vital effort.

THE NEED FOR NATIONAL HEALTH CARE REFORM NO. 3: SPENDING HIS LIFE SAVINGS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. STARK. Mr. Speaker, one more example of the desperate need for health reform; last fall one of my Oakland constituents wrote about her brother who lost his life savings following a heart attack.

Her brother had worked for a small family-owned company with five employees. Several years ago they stopped providing their employees with medical benefits, because they could not afford it. My constituent's brother exhausted his COBRA health continuation benefits, and when he had his heart attack at age 59, 6 years before Medicare eligibility, he had no health coverage at all. After his attack, he paid the county hospital $18,000—his life savings—for the 8 days in the hospital.

As my constituent writes:

> Now my brother is faced with the reality of spending his life savings to pay for hospitalization and doctors, which is very devastating for him and does not help toward recovery * * * If Washington remains insensitive and does not move on this critical issue, it may well lead to the genocide of the poor in this land of plenty.

Mr. Speaker, it is way, way past time to make sure that all Americans, regardless of age or medical condition, have health insurance.

TRIBUTE TO MR. LEONARD GARDNER

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. COSTELLO. Mr. Speaker, I rise today in honor of a leader in Illinois agriculture issues—Leonard Gardner. At the end of last year, Len retired from the Illinois Farm Bureau after 36 years of service. Len joined IFB as a research department assistant immediately after graduating from the University of Illinois. He later served as assistant to the president for 6 years and IFB secretary for 10 years. At the time of Len's retirement, he was serving as executive director of governmental affairs, overseeing IFB concerns at all levels of government.

Beside his work with IFB, Len has been active in other matters to benefit his community and State. He has served on the Illinois Commission on the Future of Public Service and the Committee to Implement the 1970 Constitution. In addition, he presently serves on the board of directors of both the Taxpayers Federation of Illinois and the Bank of Illinois in Normal.

Len will be recognized at a special retirement party on Monday, February 22, in Springfield. Our former House colleague and Agriculture Secretary Ed Madigan will be the guest speaker at this occasion. I thank my colleagues for joining me in recognizing Len's 36 years of service and leadership to the IFB.

EAGLE SCOUT HONORED

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues, an outstanding young individual from the third Congressional District of Illinois who has completed a major goal in his Scouting career. On January 24, 1993, in Riverside, IL, John Flynn was honored at an Eagle Scout Court of Honor.

It is important to note that less than 2 percent of all young men in Scouting in America attain the rank of Eagle Scout. This high honor can only be earned by those Scouts demonstrating extraordinary leadership abilities. John's Eagle Scout project was collecting clothes for Hessed House, a homeless shelter in Aurora, IL. With the help of others in the community, John was able to collect over 200 boxes of clothes and food. In addition, John shows his commitment to his community by participating in numerous other activities including being an altar server at St. Mary's Church in Riverside, a den chief for Pack 92 Webelos, and a crossing guard. He also belongs to the YMCA Leaders Club in Berwyn, IL.

In light of the commendable leadership and courageous activities performed by this fine young man, I ask my colleagues to join me in honoring John Flynn for attaining the highest honor in Scouting—the rank of Eagle. Let us wish him the very best in all of his endeavors.

PROTECTING WORKERS' POLITICAL RIGHTS

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. LEWIS of Florida. Mr. Speaker, Thomas Jefferson once said that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical."

These words articulate an important American principle. The Supreme Court upheld this principle in Communication Workers of America *versus* Beck, the 1988 case in which the Court held that a union may not use fees collected from an employee, if that employee objects, on activities unrelated to collective bargaining, contract administration, or grievance adjustment.

In April 1992, President Bush issued an executive order requiring Federal contractors to post notices informing employees of their rights under the Beck decision. Unfortunately, on February 1, 1993, President Clinton rescinded this order.

Workers should be informed of their right to refuse to contribute to causes with which they do not agree. Unions collected more than $10 billion in dues in 1991, and in some unions, more than half of dues are spent for political purposes. Workers who are unaware of their right to refuse to subsidize union political activity are left victim to the political agendas of union bosses.

Today I am introducing legislation to reinstate the Bush Executive order implementing the Beck decision. I call on my colleagues to join me in this effort to ensure that working Americans know their rights regarding union dues spent on political activities.

VOTER FRAUD BILL OF 1993 (H.R. 2)

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. MICHEL. Mr. Speaker, 2 weeks ago we passed legislation that I opposed for a variety of reasons. The National Voter Enhancement Act of 1993 requires States to provide voter registration at driver's license bureaus and public assistance offices and through the mail, without providing the necessary funds. Further, it mandates reduced mail rates for voter registration purposes, without providing funding to offset this subsidy.

Illinois State officials responsible for election security are overwhelmingly opposed to this bill for the same reason I opposed it. According to Theresa M. Petrone, a member of Illinois' State Board of Elections, an estimated $40,836,378 would be necessary for start up costs alone for the Illinois State government. This does not include additional costs necessary in each county, which would be millions more.

The following are excerpts of correspondence I received from Theresa Petrone, Governor Edgar of Illinois, and Governor Thompson of Wisconsin:

THERESA PETRONE, MEMBER OF THE ILLINOIS BOARD OF ELECTIONS

Without a doubt I believe that the intent of this (National Voter Registration Act of 1993) proposed legislation to increase voter participation is commendable. Though voter participation greatly increased in the last election, it remains a serious problem. Certainly voter registration should not in any way impose unnecessary barriers to voting. Likewise, methods of increasing opportunities for voter registration should not increase the potential of vote fraud and must be administratively feasible. I do not know where the State of Illinois would find the millions of dollars necessary to put this bill into practice.

Illinois has problems in implementing this legislation which may be unique. Our past reputation for vote fraud, deserved or not, has caused us to establish procedures which ensure the integrity of the electoral process and which we would be most reluctant to eliminate. As recently as last November over 300 names of deceased voters were discovered on the registration rolls in East St. Louis, Illinois, even though purging is required every two years and the Department of Health supplies death records to election officials. Records show that the voting participation of some of these deceased actually improved after death.

Under current Illinois law, a registrant's address is verified by mail (to ensure the integrity of the electoral process). Due to the configuration of the state and the requirements of this proposed legislation, this verification process may have to be eliminated. It would be extremely unlikely that registrations executed in southern Illinois could be mailed to northern Illinois and processed in a timely fashion to allow for absentee voting.

Presently, registration in Illinois closes 30 days prior to an election. If a registration is taken in an office in Carbondale, Illinois, at the southern tip of the state and the location of one of the major state universities, the registration cards would take a minimum of 7 days to be delivered to the office of the Chicago Board of Election Commissioners in the northern portion of the State. The election office is then required to verify the registration address by mail. This process would probably take another 7–10 days as time must be allowed for the mail to be returned to the office if the address is not valid. The voter must then be sent an application for ballot which must be completed and returned to the election office. This would possibly take another 10 days if the voter responds immediately. Mailing, voting and returning the ballot would account for an additional 10 days at the very minimum. If all goes well, the length of time required for such registration and absentee voting would be 34 days (7+7+10+10). Too late to count the ballot!

The alternative is to develop a network for registration across the state. The estimated cost of such a computer network is approximately $40,000,000.

Current Illinois law also provides for a signature verification process in the polling place. A second copy of the registration card bearing a verified signature is used for this purpose. The universal registration card provided for in the proposed legislation and the mail registration most likely will eliminate the second copy of the registration card and the verified signature. I realize that few states require signature verification by the pollworkers as they are not handwriting experts. However, experts or not, I believe that signature verification by anyone is a psychological deterrent to vote fraud. Technology is in place to allow Illinois to retain signature verification with this federal legislation. Such a signature retrieval system is estimated to cost approximately $12,000,000.

Many of the provisions in H.R. 2 have been debated in the Illinois General Assembly and rejected. As a firm believer that each state understands best how to facilitate its electoral process, I must oppose many of the implementation requirements in this bill.

GOVERNOR JIM EDGAR, STATE OF ILLINOIS

I am opposed to this ("motor-voter" bill) legislation and I urge you to vote against it.

The motor-voter bill will require a massive statewide voter registration program at all state offices without providing for the administrative costs of this service. It will, however, increase the waiting time for all applicants for state services, including those applying for unemployment compensation and driver's licenses, as well as contribute significantly to voter fraud in the state. In addition, the Federal Election Commission suggests that registration requirements have no significant effect on participation rates. Voters are motivated by candidates and issues, not by mandating yet another method of voter registration.

H.R. 2 is simply another unfunded federal mandate that places administrative costs and burdens on the state and taxpayers of Illinois while contributing to delays for state services and increasing the risks of voter fraud. For these reasons I oppose H.R. 2, the National Voter Registration Act, and I urge you to vote against this legislation as it comes before the House.

GOVERNOR TOMMY THOMPSON, STATE OF WISCONSIN

I am writing to express my opposition to H.R. 2, the National Motor Voter Registration Act. I support efforts to improve voter registration, however, this legislation is not an effective means of achieving that goal.

In December of 1991, I vetoed a bill passed by the Wisconsin Legislature that would have established a registration system similar to that proposed in H.R. 2. The legislation was not a cost effective means of improving Wisconsin's voter registration program which is already among the best in the nation.

Although Wisconsin would receive an exemption from enacting provisions of the program because it is one of three states to permit same-day voter registration at the polling place, I must object to this attempt by Congress to pass another unfunded mandate on the states. The bill will require states to provide voter registration at driver's licensing centers and other public assistance offices and through the mail without providing the necessary funding.

Unfunded mandates are stealing resources from the states stifling state initiative. The 101st Congress passed legislation imposing twenty two mandates costing states over $15 billion and several others were passed in the 102nd Congress that impose further burdens. I am opposed to H.R. 2 and I am hopeful that you will vote against this faulty bill.

TRIBUTE TO FOUR HEROES

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mrs. ROUKEMA. Mr. Speaker, I would like to pay tribute today to four heroes. George Lansing Fox, Alexander David Goode, Clark Poling, and John Washington, four chaplains in the U.S. Army who were killed when their ship, the U.S.S. *Dorcester*, was torpedoed off the coast of Greenland during World War II. The heroic deaths of these men will be observed on February 6, 1993, by the Cpl. Jedh C. Barker Memorial Post of the American Legion.

George Lansing Fox received a Silver Star, a Purple Heart, and France's Croix de Guerre for service in World War I. He began preaching in a Methodist church in Vermont at the age of 34. After the bombing of Pearl Harbor, Fox, who was by then past 40, volunteered for the Corps of Chaplains and left behind his wife and two sons.

Alexander David Goode joined the National Guard while he was still in high school. He served 9 years before he became a rabbi, following his father and grandfather's example. He lead a temple in York, PA, before joining the Corps of Chaplains seeking overseas duty. He left his wife, Teresa, behind.

Clark Poling was a free-spirited youth who announced to his father that he intended to break from the family tradition of entering the ministry to become a lawyer. But after a year of college, Clark could no longer ignore the call and became the eighth generation of ministers in his family when he was ordained in 1938. He moved to New York where he helped revive the First Reformed Church (Dutch) in Schenectady. Clark left behind his pregnant wife and their 2-year-old son.

John Washington, who was born in Newark, was stricken with a severe throat infection at the age of 12. Although he was expected to die—a parish priest administered last rights—John recovered and confided in his sister that he believed God had something special for him to do. Ordained a Catholic priest in 1937, John served at St. Joseph's Church in North Arlington, NJ.

These four men of four faiths had one duty. They were aboard the *Dorcester* to ease the minds of the soldiers. They held worship services, offered sympathy to those suffering from illness, and broke the tension on the ship with laughter and song.

On February 3, 1943, the true mettle of these men was put to the test. At 12:55 a.m. the *Dorcester* was torpedoed by a U–456. As panic swept through the ship, the chaplains stood as beacons of calm and order.

They directed the soldiers to their lifeboat stations. They distributed lifejackets to those who had left their own below deck. And after all the lifejackets had been given out, the chaplains handed over their own jackets. Chaplain Goode even gave his own gloves to Coast Guard CPO John Mahoney who had left his in his cabin.

As the *Dorcester* began to slide beneath the sea, the four chaplains locked arms and began to pray. Other men drew close and joined in the prayers. There were no screams, no fear, just prayer. And though the prayers were said in the different languages of Latin, Hebrew, and English they were all directed to the same God.

Of the 904 men who were on board the *Dorcester*, 605 died. Survivors, like John Ladd, will never forget the heroism of the chaplains. In Ladd's words, "It was the finest thing that I had ever seen, or hope to see, this side of heaven."

Mr. Speaker, on January 18, 1961, this body posthumously bestowed upon the four chaplains a Special Medal of Heroism; it was the only one ever given. Since that time, February 3 has come to be known as Four Chaplains Observance Day. Previous to that, Philadelphia's Chapel of the Four Chaplains was dedicated as an interfaith shrine in 1951.

Mr. Speaker, the efforts of these four men on the *Dorcester* that cold February night saved the lives of hundreds of soldiers. They, along with the entire country, owe a debt of gratitude to the four chaplains. It is for that reason that I urge my colleagues to join with me and the Cpl. Jedh C. Barker Memorial Post of the American Legion in paying tribute to these fine men. The memories of their heroic deeds will live on for generations to come.

LIBERATION OF CUBA

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. DIAZ-BALART. Mr. Speaker, for 34 years the Cuban people have been victimized by the most brutal dictatorship in the Western Hemisphere.

Massive and systematic violations of the most fundamental human rights have characterized the rule of Fidel Castro from the very beginning of his regime. From torture in various forms, including by psychiatry, to execution, exile, confiscation, political imprisonment and other forms of repression, the totalitarian nature of the Cuban dictatorship deprives the Cuban people of any peaceful recourse to improving their own condition and has led thousands to lose their lives attempting to escape Cuba to freedom, or fighting for freedom.

Congress has historically and consistently manifested its solidarity and the solidarity of the American people with the Cuban people and their democratic aspirations.

Last fall, Congress spoke firmly and in a bipartisan way through the Cuban Democracy Act of 1992, by perfecting the United States policy of refusing to trade with the Cuban dictatorship.

In fact, the only sanction existing in the world today against the unprecedented and extraordinary violations of human rights by the Castro dictatorship, is the unilateral United States policy embodied in the Cuban Democracy Act of 1992.

While that policy, our policy, shines as a beacon of solidarity with an oppressed people in an indifferent world, we cannot, nor will we stand still, until the Cuban dictatorship is eliminated and democracy returns to Cuba. The time has come to clearly and unequivocally ask the world community to join us in helping the Cuban people end their oppression and recover their liberty.

In recent years the United Nations has determined that massive and systematic violations of human rights have constituted threats to peace under article 39 of its charter and has, accordingly, imposed international sanctions against the former Rhodesia, South Africa, Iraq, and the former Yugoslavia.

A number of Members of Congress sent a letter to President Clinton a few weeks ago requesting mandatory U.N. Security Council sanctions against the Haitian dictatorship. I signed that letter, as a supporter of democracy for the Haitian people and as a manifestation of my rejection of double standards with regard to human rights in our hemisphere.

The concurrent resolution that we are filing today resolves that it is the sense of the Congress that:

1. The United States considers the acts of the Castro government, including its massive, systematic, and extraordinary violations of human rights, a threat to international peace; and that

2. The President should advocate, and should instruct the United States representatives to the United Nations Security Council to propose and to seek, a mandatory international embargo against the totalitarian government in Cuba pursuant to Chapter 7 of the Charter of the United Nations.

I am hopeful that President Clinton, who's support was instrumental in the passage of the Cuban Democracy Act last fall and who has, subsequently, personally expressed to me his commitment to the liberation of Cuba, will support our efforts to ask the international community to join the United States in adopting a policy designed to accelerate the liberation of a people who, 90 miles from our shores, have been the victims of a brutal dictatorship for 34 years.

H. CON. RES. —

Whereas the United States has shown a deep commitment, and considers it a moral obligation, to promote and protect human rights and fundamental freedoms as expressed in the Charter of the United Nations and in the Universal Declaration of Human Rights;

Whereas the Congress has historically and consistently manifested its solidarity and the solidarity of the American people with the democratic aspirations of the Cuban people;

Whereas the Cuban Democracy Act of 1992 calls upon the President to encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of that Act;

Whereas the 1992 FREEDOM Support Act requires that the President, in providing economic assistance to Russia and the emerging Eurasian democracies, take into account the extent to which they are acting to "terminate support for the communist regime in Cuba, including removal of troops, closing military facilities, and ceasing trade subsidies and economic, nuclear, and other assistance";

Whereas the Government of Cuba has engaged in the illegal international narcotics trade and harbors fugitives from justice in the United States;

Whereas the Castro government has threatened international peace and security by engaging in acts of armed subversion and terrorism such as the training and supplying of groups dedicated to international violence;

Whereas the Castro government has utilized from its inception and continues to utilize torture in various forms (including by psychiatry), as well as execution, exile, confiscation, political imprisonment, and other forms of terror and repression, as means of retaining power;

Whereas Fidel Castro has defined democratic pluralism as "pluralistic garbage" and has made clear that he has no intention of tolerating the democratization of Cuban society;

Whereas the Castro government holds innocent Cubans hostage in Cuba by no fault of the hostages themselves solely because relatives have escaped the country;

Whereas although a signatory state to the 1928 Inter-American Convention on Asylum and the International Covenant on Civil and Political Rights (which protects the right to leave one's own country), Cuba nevertheless surrounds embassies in its capital by armed forces to thwart the right of its citizens to seek asylum and systematically denies that right to the Cuban people, punishing them by imprisonment for seeking to leave the country;

Whereas the United Nations Commission on Human Rights has repeatedly reported on the unacceptable human rights situation in Cuba and, in Resolution 1992/61, took the extraordinary step of appointing a Special Rapporteur;

Whereas the Government of Cuba refused access to the Special Rapporteur and formally expressed its decision not to "implement so much as one comma of Resolution 1992/61";

Whereas on December 4, 1992, the United Nations General Assembly passed Resolution 1992/70 which "Regrets profoundly the numerous uncontested reports of violations of human rights and fundamental freedoms" described in the Special Rapporteur's report to the United Nations;

Whereas Article 39 of Chapter VII of the United Nations Charter provides that the United Nations Security Council "shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken . . ., to maintain or restore international peace and security.";

Whereas the United Nations has determined that massive and systematic violations of human rights may constitute a "threat to peace" under Article 39 and has imposed sanctions due to such violations of human rights in the cases of Rhodesia, South Africa, Iraq, and the former Yugoslavia;

Whereas the totalitarian nature of the Castro regime has deprived the Cuban people of any peaceful recourse to improving their own condition and has led thousands of Cuban citizens to risk or lose their lives in attempting to escape from Cuba to freedom; and

Whereas the Cuban people deserve to be assisted in a decisive manner to end the tyranny that has oppressed them for 34 years: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the United States considers the acts of the Castro government, including its massive, systematic, and extraordinary violations of human rights, a threat to international peace; and

(2) the President should advocate, and should instruct the United States representatives to the United Nations Security Council to propose and to seek, a mandatory international embargo against the totalitarian government of Cuba pursuant to chapter VII of the Charter of the United Nations.

REINTRODUCTION OF THE ENTERPRISE CAPITAL FORMATION ACT OF 1993

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. MATSUI. Mr. Speaker, today I rise to reintroduce, with Representative HOAGLAND, and in conjunction with Senators BUMPERS and BROWN in the Senate, the Enterprise Capital Formation Act of 1993. We are doing so because this legislation is critical to reinvigorating our stagnating and job-poor economy.

Prior to 1991 and after the enactment of tax reform in 1986, few economic issues provoked more public controversy than whether to reintroduce preferential treatment for capital gains. At the hiatus of the argument in 1990, politics nudged economic theory aside and the debate became one of rich versus poor and tax fairness.

It was only in the last session of Congress that a consensus was reached and Democrats and Republicans alike supported the targeted capital gains approach put forward in the Enterprise Capital Formation Act. Portions of this proposal were included in both tax bills passed by both the House and Senate last year, but subsequently vetoed by President Bush. President Clinton endorsed this proposal during his campaign, and Treasury Secretary Bentsen cosponsored a portion of this targeted approach himself last year during consideration of the second tax bill.

The proposal that we are reintroducing aims to promote economic growth the job creation. It is targeted at seed and venture capital investment because it is a well-known fact that emerging firms are critical to the economy. According to the recently issued "State of Small Business" reports, small firms with 20 or fewer employees generated 4.1 million new jobs between 1988–90, while the larger firms, as we have all read, have reduced their work forces by upwards of 1.3 million jobs. If entrepreneurial investment had not slowed after 1986 as it did, small business job creation would undoubtedly have been even greater.

Not only do these emerging companies provide jobs, but they are generally on the cutting edge in fostering new technology. Nearly half of all venture capital investment in the 1980's has been in areas where the United States has subsequently secured a strong competitive position—medical and health fields; computer hardware and systems; computer software and systems, and telephone and data communications.

An important facet of this proposal is that it offers a targeted business incentive, but does not provide a preference for one type of corporate expenditure over another. It does not dictate how a business should invest, but instead provides a patient capital base and rewards for profitability.

This legislation provides a much-needed stimulus for everyone. For those who have the capital to invest, it offers an incentive to take the risk and invest in our future. For those without jobs, it offers hope of new and dependable employment. For entrepreneurs, it offers back the American dream of pursuing innovation, and promises patient capital with which to do so. Finally, for our country, it demonstrates our commitment to encouraging the entrepreneurial spirit, fostering new technology, and increasing our competitiveness vis-a-vis the international market.

A strong economy depends on secure investment and thrives with creativity, productivity, and dependability. The Enterprise Capital Formation Act will help to create economic opportunity and job growth, and we plan to work hard with our colleagues and President Clinton to ensure its enactment.

Mr. Speaker, I respectfully insert a technical description outlining the provisions of the bill in the RECORD following this introductory statement.

OUTLINE: ENTERPRISE CAPITAL FORMATION ACT

Incentive for Venture and Seed Capital Investments:

Limited to high-risk, long-term, growth-oriented investments.

There are the investments that should stand first-in-line for any capital gains incentive.

Needed because of inadequate and costly capital markets for small businesses and emerging growth companies.

Incentives Applies Only to Purchase of Corporate Stock:

Includes founders stock, incentive stock options, private placements, non-public offerings, and public offerings of stock.

Includes all types of stock, including common, preferred and convertible preferred stock.

Includes stock of both "C" and "S" corporations.

Encourages capital formation through equity rather than debt and helps corporations avoid the credit crunch.

Applies Only To The Direct Purchase or Acquisition of Stock From A Corporation:

Focuses exclusively on investments that put capital directly into the hands of entrepreneurs.

Does not apply to trading of stock in secondary markets.

Incentive Focuses on Start-Ups and Other Smaller Companies:

Applies to new companies raising first capital and to existing companies that need more capital to expand as well as new companies as long as their aggregate capitalization does not exceed specified limits.

Seed capital incentive—applies to stock issued by companies with $5 million or less in aggregate capitalization.

Venture capital incentive—applies to stock issued by companies with $100 million or less in aggregate capitalization.

Aggregate capitalization limits are adjusted for inflation.

Company may issue more than one round of qualified stock as long as total aggregate capitalization does not exceed specified limits.

Investors Receive 50% Deduction on Gains on Stock Held For Five Years:

Investors in both venture and seed capital stock held for five or more years receive 50% deduction on gains—are taxed on half the gain.

Bill sets a maximum gains tax rate of 14% for taxpayers in 28% or 31% tax brackets (or proposed 36% bracket).

Maximum gains tax rate for taxpayers in 15% tax bracket is set at 7.5%.

Additional Deductions on Gains on Seed Capital Investments:

Seed capital investments qualify for 60-100% deduction if held for 6-10 Years.

Shareholders with losses on seed capital investments may deduct losses against ordinary income under Section 1244 (up to $50,000 per individual taxpayer).

Section 1244 currently permits ordinary losses for investments in stock of companies with $1 million or less in aggregate capitalization.

Investment Incentive is Available to Individual and Corporate Taxpayers:

We want corporations to be venture and seed capital investors.

Deduction Available to Partners in Venture Capital Partnerships That Pool Capital So That Individual Investors Can Make Seed and Venture Capital Investments:

Critically important to include partnerships and mutual fund investors so that average investor can participate in new market.

Shareholders Must Hold Stock For At Least Five Years To Qualify for Gains Incentive:

Encourages patient capital that permits enterprise to reinvest earnings in firm to build for long-term growth.

Holding Period for Incentive Stock Options Runs from Grant, Not Exercise, Date:

Provides incentive for productivity of employees.

Holding Period Is Not Interrupted by Corporate Reorganizations and Other Tax-Free Transfers of Stock.

Incentives Applies Only to New Investments:

Not retroactive to investments made before incentive goes into effect so no tax windfall.

Alternative Minimum Tax Applies to Deductions on Venture Capital Investments But Not On Seed Capital Investments:

Low and middle income taxpayers should not take risk associated with seed capital investments except when they are the founders of a small firm.

Need to encourage wealthy taxpayers to take risk with seed investments.

Anti-Evasion Provisions Prevent Companies From Redeeming Stock So Can Issue New, Qualified Stock.

Company Issuing Stock Must Be An Active Trade or Business For Five Years Following Issuance of Stock—Prevents Tax Shelters.

Bill Loses Modest Amount of Revenue and Can Easily Be Financed In Context of Modest Sized Tax Bill:

Sponsors accept revenue estimate of Joint Tax Committee.

Joint Tax Committee finds that bill would lose $1 billion in revenue over six years.

This revenue loss can easily be financed in the context of the 1993 tax bill.

A TRIBUTE TO DANIELA ROMO: MR. AMIGO, 1992

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. ORTIZ. Mr. Speaker, I rise today to commend and pay tribute to Ms. Daniela Romo, the newly selected Mr. Amigo.

Every year, members of the Mr. Amigo Association, who represent the city of Brownsville, Texas, travel to Mexico City to select a new Mr. Amigo to serve as the honored guest of the Mr. Amigo festivities in Brownsville. The Mr. Amigo festivity is a 4-day international event in which the United States and Mexico are joined in celebration of the cultures of these neighboring countries. During the Mr. Amigo celebration, which originated as a pre-Lenten festival, Brownsville citizens participate in a series of parades, dances, and parties to demonstrate the goodwill of both countries. It is a well-planned, major function which is enjoyed and eagerly anticipated by many south Texans, as well as our winter visitors.

In 1971, Daniela Romo became part of the artistic world as a member of the prestigious choir of Los Hermanos Zavala. She attended La Academia Andres Soler, to study acting, and she modeled while going to school. Daniela's acting career began with Greek tragedy and musical comedy. She has performed in seven plays and is recognized for her outstanding performance in the musical comedy, "El Diluvio que Viene." She has seven major motion pictures to her credit. On television, Daniela began directing musical programs and later acted on six "telenovelas."

The year 1993 marks the 10th anniversary of Daniela Romo's dedication to music. In 1983, the record production "Daniela Romo," was launched on the international market. That year she began a world tour to promote her record in Mexico, the United States, South America, Spain, Luxembourg, France and Belgium.

In 1986, Daniela Romo returned to telenovelas where she had a major role in "Camino Secreto," a series that was transmitted to all Spanish-speaking countries. In 1990, she participated in two great events that reaffirmed her international acclaim. In New York City, at the Madison Square Garden, she was part of the magna exposition, "30 centuries of Mexican Art," and in San Juan, Puerto Rico, at the Teatro de Bellas Artes de Puerto Rico.

Daniela Romo continues to be recognized throughout the world for her outstanding achievement. She defines herself as a Cantora, and hopes that she and her artistic career will be remembered fondly.

The prestigious Mr. Amigo designee, is selected on the basis of their contribution to international friendship and development of mutual understanding and cooperation between Mexico and the United States. Ms. Romo should be recognized for both her artistic ability and for her contribution to the commitment of understanding between nations.

As Mr. Amigo, Ms. Daniela Romo will receive royal treatment when she visits Brownsville as the city's honored guest during the Mr. Amigo celebration. During her 3-day stay on the border, she will make personal appearances in the parades and at other fiesta events. Official welcome receptions will be staged by organizations in Cameron County, Texas, and the cities of Brownsville, Texas, and Matamoros, Tamaulipas Mexico.

I ask my colleagues to join me in extending a very special congratulations to Daniela Romo for being honored with this special award.

TRIBUTE TO JUDITH JAMISON

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. BLACKWELL. Mr. Speaker, I am delighted to stand here today to honor an exceptionally talented individual from the city of Philadelphia, Ms. Judith Jamison.

As a young girl growing up in Philadelphia, Judith Jamison developed a love for the art of dance. She began here formal dance study at the age of 6 under the direction of Marion Cuyjet. In addition to augmenting her dancing capabilities, Jamison also pursued artistic expression through the piano and violin.

Jamison attended Fisk University in Tennessee as a psychology major. However, due to her incredible talent, she later transferred to the Philadelphia Dance Academy—now the University of the Arts—to pursue a career in dance.

Throughout the years, she has enhanced her training with the assistance of such greats as Antony Tudor, John Hines, Delores Browne, John Jones, Joan Kerr, and Madame Swoboda. By the time she reached her early twenties, Jamison had developed a talent that could not go unnoticed.

When choreographer Agnes de Mille recognized Jamison's overwhelming potential, she provided her with a superb opportunity to perform. Under her direction, she made her New York debut in de Mille's "The Four Marys," with the American Ballet Theatre. Needless to say, Judith Jamison took New York by storm in what marked the beginning of her extraordinary career.

By 1965, Jamison had become the leading dancer of the well-known Alvin Ailey Dance Theater. Her fame quickly spread throughout the world from the success of tours in the United States, Europe, Asia, South America, and Africa. Consequently, she became known as the first black superstar of American dance.

Upon recognition of Jamison's elegant dance style. Alvin Ailey especially choreographed a variety of dance roles in her behalf. One of the most well-knwon was the tour de force, "Cry." This included two roles depicting the nobility and suffering of black women wherein Jamison portrayed both a slave and black queen.

To add to her impressive dance credentials, Jamison starred in the hit Broadway musical, "Sophisticated Ladies." In addition, she has appeared as a guest performer with the American Ballet Theatre, Harkness Ballet, San Francisco Ballet, Dallas Ballet, Vienna, Munich, and Hamburg State Opera Ballets, as well as Maurice Bejart's Ballet of the Twentieth Century.

In addition to her great abilities as a dancer, Ms. Jamison possesses an extraordinary talent for choreography. She lent her talent to create new works for Maurice Bejart, Dancer's Unlimited of Dallas, The Washington Ballet, and Jennifer Muller/The Works. One of her most memorable choreographed works includes "diving," for the Alvin Ailey American Dance Theater in 1984. Moreover, in January 1989, she choreographed her first opera, "Bioto's Mefistofele," for the Opera Company of Philadelphia. She has received much recognition for her outstanding works. For example, in 1989, PBS aired a special entitled, "Judith Jamison: The Dancemaker," which she also choreographed.

Judith Jamison is truly a dance innovator. Not only has she danced with some of the greatest dance companies in the world, but she has also worked with some of the world's great male dancers including James Truitte, Dudley Williams, Kevin Haigen, and Mikhail Baryshnikov.

Mr. Speaker, the city of Philadelphia is extremely proud of Judith Jamison. Her work is an indication that dreams do come true. I ask my colleague to join me in congratulating Ms. Jamison on her many wonderful contributions to the art of dance which have inspired millions.

NATIONAL FHA/HERO WEEK

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. NATCHER. Mr. Speaker, I am pleased to join with the members and advisers of the Future Homemakers of America as they celebrate National FHA/HERO Week this week. FHA/HERO is a national vocational student organization which has involved over 9 million youth since its founding in 1945. It is the only in-school organization with the family as its central focus. This year's theme, "The Time Is Now," is an appropriate one because it emphasizes how FHA/HERO members are rising to fight problems such as stressful family situations, lack of global awareness, and low self-esteem.

These concerns will be addressed by over 270,000 members in 10,500 chapters across the Nation during FHA/HERO Week. Members will be participating in activities which demonstrate how home economics skills help them solve problems. One activity this year is the Second Annual Family Walk and Roll, an activity during which members and their families rollerblade, skate, or walk together to promote family communication and unity.

Activities and projects of this nature are not new to the members of the Future Homemakers of America. Throughout the year they are involved in a variety of family-oriented projects and they participate in numerous community service activities.

My home State of Kentucky was well represented in this organization this past year with 10,951 members active in 250 chapters. There were 1,285 members from the Second Congressional District of Kentucky, the district I represent. Several chapters of FHA/HERO from Kentucky's Second Congressional District were recognized at both State and national meetings. These chapters are: Barren County High School, Central Hardin High School, Green County High School, and the Lyndon Technical Center in Jefferson County.

Last July, 124 Kentucky members, advisers and guests attended the national leadership meeting in Chicago, IL. During this meeting, 44 members from Kentucky participated in star events. Thirty of these members received gold medals and 14 received silver medals. From the Second Congressional District of Kentucky, Charlie Tichenor, Cortney Albert, Corey Coate, and Amanda Dennis of the Spencer County High School Parliamentary Procedure Team won gold medals in the junior division. In the senior division, Stacy Simpson, Cindy Young, Spring Price, Karen Wisdom, Bethany Davis, Angie Ferguson, Jaclyn Lobb, and Stephanie Thompson of the Green County High School Parliamentary Procedure Team also won gold medals.

Eighty-three young people from Kentucky received power of one during the national leadership meeting. To receive power of one, FHA/HERO members must complete projects in five areas: improving self, strengthening family life, exploring careers, developing leadership skills, and promoting the organization. Those from Kentucky's Second Congressional District who received power of one are: Donna Spillman, Barren County High School; Angie Bryant and Leanna Nash, Hart County High School; Heather Minagawa and Tessa Smith, North Hardin High School; Stacy Cunningham, LaShonda Gummer, James Lee, and Spencer Rutledge of the Lyndon Technical Center and Emily Dennis, Spencer County High School.

I am also proud to have two State officers from the Second Congressional District of Kentucky. Chris Colburn of Spencer County High School is serving as vice president for programs and Karen Wisdom of Green County High School is serving as State activity leader.

Through FHA/HERO programs, all of these young men and women are being prepared for multiple roles as wage earners, community leaders, and caring family members, and during this process, they are providing a great deal of service to their communities.

I would like to commend all of those associated with the Future Homemakers of America throughout the United States and I wish them success in their future endeavors.

TRIBUTE TO MR. DAVID PETTITT

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. WALSH. Mr. Speaker, I rise today to pay tribute to a public servant my colleagues do not have the privilege of knowing. He is David Pettitt, a man of local government in my home district. Dave is the town of Camillus Highway Superintendent and this month, on February 25, he will be honored as the "Man of the Year" at the Elk's Lodge 2367, Camillus, NY for outstanding service and dedication to his fellow citizens.

If all politics is local, as has been suggested in our history, then Dave Pettitt is a politician's politician. More precisely, he is a public servant extraordinaire. His service extends beyond the clearing of streets in all seasons, which is admirable enough given the severity of our winters in central New York. He is a respected, admired, even cherished member of the community whose leadership in volunteer efforts and dedication to his fellow citizens makes him an institution in Camillus and a model for all of us in public service.

I am proud to say Dave is a friend of mine. His wife, Lucille, and he have been strong supporters of my efforts in public life. We share the experiences and values that make communities strong. And we share a special objective which I believe has motivated our Nation's greatest heroes: to help people.

I look forward to congratulating Dave in person for this honor.

NATIONAL ENGINEERS WEEK 1993

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. BROWN of California. Mr. Speaker, I rise today to pay special tribute to America's engineers, who will be celebrating National Engineers Week 1993, beginning on February 14.

No group has contributed more to our Nation's unsurpassed standard of living and economic leadership than American engineers. The wonders of our civilization—awe-inspiring space travel, ubiquitous communications, versatile personal computers, lifesaving heart pacemakers—all have one thing in common: Without engineers, they wouldn't exist. Yet for all these vital achievements, most people don't know much about engineers or what they do.

Now more than ever, Americans need to understand the engineering profession's essential role in the preservation of the American way of life. As President Clinton has said, "technology [is] the engine of economic growth." And it's engineers who create that technology. National Engineers Week is intended to nurture public awareness by honoring, each February, these visionaries of our modern age—the men and women who are turning ideas into reality.

Once again this year, America's engineers will approach their task not by resting on the laurels of past achievements, but by actively cultivating the seeds of America's future greatness. Kenneth T. Derr, honorary chair of National Engineers Week and Chevron Corp. president, is leading 30,000 engineering professionals into the Nation's classrooms, where they will inspire up to 3 million youngsters to relate their math and science studies to the world around them.

National Engineers Week is also giving tomorrow's technological pioneers a taste of society's future challenges. For the first-ever Future City Competition, teams of students, teachers, and engineer volunteers from hundreds of intermediate schools have engineered and modeled computer-simulated cities of the 21st century. And students involved in the Marsville project are overcoming the complex obstacles to life in an alien environment by designing and building life-support systems for a human habitat on Mars.

Mr. Speaker, I would like to urge my colleagues to join dozens of engineering societies and corporations in promoting National Engineers Week in every district in the country. To do so is not only to bestow some well-deserved recognition on America's engineers for their achievements, but also to make a sound investment in tomorrow's American dream. As Martha Sloan, chair of National Engineers Week and president of the Institute of Electrical and Electronics Engineers, has aptly stated, "America's future depends on the minds and hands of engineers."

TO DESIGNATE SEGMENTS OF THE RED RIVER AS A WILD AND SCENIC RIVER

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. ROGERS. Mr. Speaker, today I am introducing legislation to protect one of America's most unique and splendid rivers—the Red River which runs through eastern Kentucky.

The Red River Gorge is a wondrous area—rugged towering cliffs, crashing white water, natural bridges, uncommon wildflowers, and archaeological wonders dot the landscape.

For the people of eastern Kentucky, the Red River Gorge is a place of solitude and incredible beauty. The river links a strong and vibrant people to the land in a way that should be protected for generations to come.

That is why I am proud to sponsor legislation that will designate a portion of this unspoiled river as a component of our National Wild and Scenic Rivers System.

The Red River Gorge has outstanding geological formations unique to the United States. Portions of the river send crashing whitewater rapids down the corridor, while the lower segment remains serene and tranquil.

The diversity of wildflowers along the river is a source of great pride to Kentuckians. Blue violet, aster, jack-in-the-pulpit, blue bells, wood lilies, dwarf asters, wild orchards, poppy, foxglove, and wild rose surround the countryside.

The river gorge is also rich in prehistoric, historic, and cultural resources. American Indians discovered the gorge area long before European settlers. Rock shelters protected them from the elements and provided defense in times of war.

During the 19th century, the area was heavily logged. But the trees have grown back, and today beech, oak, pine, hickory, dogwood, maple, and birch layer the thick forest canopy.

For the people of Wolfe, Menifee, and Powell Counties, the Red River is more than a unique archaeological and environmental area—it is home to family farms and strong community ties.

The people of these counties have worked hard to preserve and protect the lands. This legislation ensures that they will be equal partners at the table when it comes to maintaining a strong rural economy and protecting the Red River.

Under my legislation, affected landowners will be fully compensated for their holding if they choose to sell to the Federal Government.

And just as important, under my bill, if a landowner wants to keep his land—keep his cattle grazing, or plant hay or tobacco—he can do just that.

My bill places strong restrictions on the powers of the Federal Government so that they cannot condemn property just because the Government wants the land. There must be a willing seller.

This bill will go a long way to protect the Red River, protect the private property rights of landowners, and preserve the rich heritage of the land and the people for generations to come.

A THIRD U.S. DISTRICT JUDGE FOR IDAHO

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. LaROCCO. Mr. Speaker, today I am introducing legislation authorizing an additional district judge for the District of Idaho. As the Representative for one of the most rural congressional districts in America, I know firsthand the logistical difficulties and time constraints with which Idaho's two district judges must contend. Last year alone, the district judges in Idaho traveled from their home base of Boise, to hear cases in Moscow, Pocatello, and Coeur d'Alene on 21 separate occasions. In fact, they spend approximately 35 to 40 percent of their time on the road each year, covering the 85,000 square miles of our great State.

The legislation I am introducing today will help to rectify what is a growing problem for this Nation's judicial system. Our Constitution plainly guarantees everyone due process under the law. Creating an additional Article III judgeship for the District of Idaho will do much more than ease an undue burden on Idaho's two overworked district judges. It will help to assure that Idahoans are served by the effective and responsive court system that they deserve.

TRIBUTE TO THURGOOD MARSHALL

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. DE LA GARZA. Mr. Speaker, recently with the death of Thurgood Marshall our Nation lost an outstanding American. While much was heard on the news and written in the papers about the significance of his contributions to our Nation's heritage, I wanted to take this opportunity to emphasize how great a debt all Americans owe him. I say this because Thurgood Marshall's work and his vision changed in a positive fashion the way many Americans see each other.

Thurgood Marshall was indeed an extraordinary man. He was an individual passionately committed to the rights of all Americans.

He saw what others refused to see. He heard what others refused to hear. He felt the pain and suffered the agony of an entire people, and he tried, as God gave him the ability, to ease it. All this he did within the rule of law, with courage and with dignity.

Recently I read that Thurgood Marshall had said he wanted to be remembered by the words "that he did what he could with what he had." He did indeed, and we are all the beneficiaries of his judicial legacy. His message will long live on.

LEGISLATION TO BAN SMOKING

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. TRAFICANT. Mr. Speaker, today I am introducing legislation to ban all smoking in federally owned and leased office buildings, including buildings used by the U.S. House and Senate, as well the U.S. courts. I am introducing this legislation after closely reviewing all the recent medical and scientific evidence which clearly indicates that secondhand smoke is a killer. Mr. Speaker, the time has come for the Federal Government to take decisive action to better protect the health and safety of its workers.

According to the results of a study released last month by the Environmental Protection Agency, secondhand smoke is responsible for some 3,000 lung cancer deaths each year in nonsmokers. The bill I am introducing today would ban smoking in all indoor areas of federally owned or leased office buildings.

Under my bill, anyone in a Federal building who wishes to smoke must go outside. The bill would require the General Services Administration, the Administrative Office of the Courts, the House Office Building Commission, the Senate Committee on Rules and Administration, and the Architect of the Capitol to issue regulations to institute and enforce the ban.

On average, Americans spend up to 90 percent of their workday indoors—making most Americans extremely vulnerable to secondhand smoke from indoor air. In many Federal buildings indoor air is recirculated throughout the building, exposing nonsmokers in nonsmoking areas to secondhand smoke. From a public health standpoint, we in the Congress have an obligation to ensure that Federal workers are not being unnecessarily placed at risk. The medical evidence is in; the time for action is now. I urge all of my colleagues to support this legislation.

INTRODUCTION OF INDEPENDENT COUNSEL REAUTHORIZATION ACT

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. BROOKS. Mr. Speaker, on February 4 I introduced legislation to reauthorize the Independent Counsel Act, which unfortunately was permitted to lapse on December 15, 1992, due to the blocking efforts of the previous administration. It was unfitting treatment for a principle of good government that was one of the few truly original enhancements to our constitutional democracy in the 20th century. The Independent Counsel Act deserved better, and I intend to see that the situation is corrected early this Congress.

The original act—first passed in 1978 and renewed in 1982 and 1987—came as a nonpartisan response to the shock, dismay and anger that welled up across the land in the wake of the "Saturday night massacre" in which special counsel Archibald Cox was told to clean out his desk simply because he was coming a bit too close to the truth about the Watergate scandal. As more information came to light, as the traditional arm's-length relationship between the Justice Department and the White House became distorted, as apparent and actual conflicts of interest multiplied, the Congress and the Nation realized that there are times when the Justice Department cannot—and should not—be placed in a situation of investigating itself or other high-level officials.

The act that came into being was a testament to the belief in the even-handed and non-political administration of justice—irrespective of which party or personality controls the reins of government.

I believe that the 15 years of experience with the independent counsel statute has shown to all reasonable people that the act works—not as an instrument of political revenge but as a means to establish truth in difficult circumstances. Moreover, the mechanism of an independent counsel in no way impugns the integrity of the many honorable people at the Justice Department. Quite the contrary, it is meant to protect these same dedicated people from any charge of a conflict of interest which, whether true or baseless, could nevertheless undermine their personal reputations and professional work product.

I must confess that the opposition to the use of the statute by the past administration was as inexplicable to me as it was destructive of the public trust. In the past year when the House Judiciary Committee presented two well-grounded requests to use the statute, former Attorney General Barr seemed to take the unprecedented position that he would only act when presented with a signed and sealed indictment of criminal wrongdoing. There was no basis for that interpretation, particularly since the Attorney General is expressly given the opportunity to flesh out the facts further before making any request to the special court for an independent counsel.

Yet, by staking out this extreme position, the former Attorney General refused to ask for an independent counsel even when faced with overwhelming evidence of potentially illegal assistance to the regime of Saddam Hussein by highly-placed administration officials. He even refused to ask for an independent counsel when faced with a criminal conspiracy by Justice officials—documented by two Federal courts—to force Inslaw, a small computer company, out of business and to steal its primary asset—a software system called promis.

I am proud that President Clinton has already turned a new page in opening up Government to the kind of scrutiny that the American people have long demanded. Consistent with this commitment, he has indicated his support for our efforts to revive the act.

But the legislation introduced today not only restores the underlying act; it also addresses criticisms voiced in recent months about procedures and practices. It strengthens fiscal and administrative controls—with changes that apply to all existing independent counsels, as well as to future ones—and it gives the Attorney General explicit authority to use the act in cases involving Members of Congress, even when there is no finding of a personal, financial, or political conflict of interest.

I am very pleased that joining me in this effort are Congressman JOHN BRYANT, who now chairs the Judiciary Committee's Subcommittee on Administrative Law and Governmental Relations, and Congressman BARNEY FRANK, former chairman of that same subcommittee. Mr. FRANK is a stalwart supporter of the act who helped lead the fight to save it in the last Congress—until a threatened filibuster in the other body brought that effort to its unfortunate end.

I want to express particular appreciation to the bipartisan support of Senators LEVIN and COHEN who worked with me on the bill and who now stand ready to move the companion legislation in the other body.

Let us send a message to the American people that Government is capable of renewing itself and its core values again and again. In this spirit, let us renew the Independent Counsel Act. I ask for your support in the drive to move this most needed legislation swiftly to enactment.

CLINTON CUTS THREATEN TO END DRUG WAR

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. SHUSTER. Mr. Speaker, I insert the attached article from the February 13, 1993, edition of the Denver-Rocky Mountain News. The article clearly calls into serious question President Clinton's commitment to our Nation's drug war.

[From the Denver-Rocky Mountain News, Feb. 13, 1993]

CLINTON CUTS THREATEN TO END DRUG WAR

WASHINGTON.—The Clinton administration is quietly dismantling the war on drugs and the biggest casualty so far appears to be the aggressive campaign to interdict drugs at their source in Latin America.

Since the administration began reorganizing the government:

The drug czar's office has been cut from 146 to 25.

The State Department is shutting its independent Office of International Narcotic Matters and adding it to an office that will handle environment, labor, population and other issues.

The post of assistant secretary of defense conducting drug-enforcement policy and support, and the top deputy position are vacant. Betting at the Pentagon is that the position will be abolished. The people remaining in that section have been told to take no action pending reassignment.

The White House National Security Council has dropped the drug war from one of three top priorities to No. 29 on a list of 29, according to several sources.

The White House press office referred all questions about the future of the drug war to the drug czar's office, which, in turn, referred all such questions back to the White House press office.

In Latin America, these changes are widely perceived as a U.S. retreat, even abandonment, of the war on drugs.

"The very first sign that an American president is not 100% behind this war, every bit of progress vaporizes instantly, and it looks like that sign has been given," said a Justice Department attorney.

Headlines from Latin American newspapers on the cutback in the drug czar's office reflected that perception:

In Mexico: "U.S. may end drug war."

In Ecuador: "U.S. cuts drug war staff—the battle may be over."

In Bolivia: "Clinton changes strategy in fight against drugs."

In Colombia: "Clinton staff cuts an ominous sign in drug fight."

Much of the progress of the drug war was not in searching the jungles for illicit drug labs and airstrips, but in prodding Latin American nations to adopt U.S.-style drug laws, to induce bankers and treasury officials to outlaw and prosecute money-laundering and to cajole police and military into arresting some of the most powerful drug lords who for years were paying them off.

The cutbacks have had an adverse impact on the morale of U.S. diplomats, drug agents and military specialists on the ground in Latin America.

While they refuse to openly criticize the new president, privately they expressed dismay and outrage at Washington's actions.

"We were blind-sided," said an embassy officer in Lima. "Of course it's the president's right, but the least someone could have done was warned us he was wiping out the (drug czar's) staff. We just got the Peruvians to start working with us to go after the cartel. Now they think we're pulling out and leaving them holding the bag."

A military adviser to Bogota added, "We don't know what it means here in the embassy, so imagine the mixed signals the people in the Colombian government are getting."

Particularly upsetting was the near-abolition of the drug czar's office, whose principal role was to force rival U.S. agencies to cooperate in the drug war.

Two dozen agencies have men and women assigned to drug-fighting duties in Latin America, among them the Drug Enforcement Administration, Customs, Border Patrol and the State, Justice and Defense departments.

"We worked out a careful balance between U.S. agencies that don't like working with each other doing their things in some countries that didn't want us there," said John Walters, the acting drug czar who resigned Tuesday.

"We never claimed to have a smooth-running precision machine, but we were able to get all the factions together to fight drugs the way Congress demanded. Now the Clinton administration has tossed the whole operation up into the air."

According to Walters, Gen. George Joukwan, who runs the Panama-based U.S. Southern Command and oversees military advisers in Latin America, has been unable to get authorization and funds to continue a successful radar intercept program that began last fall to use Colombian, Bolivian and Peruvian troops and aircraft to capture drug planes.

"No one in the Pentagon could give him the OK because all the high-ranking civilian drug leaders had been asked to resign. The (White House National Security Council), which normally convenes an advisory panel to evaluate requests like these, refused to get involved," Walters said.

STEIN HONORED FOR WORK, ACHIEVEMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. GORDON. Mr. Speaker, Marc Stein, a senior at Beech High School in Sumner County, TN, is an excellent example of what is right about America. Through his academic, athletic, and community achievements, Marc has shown us all how one person can make a difference in building a better world for everyone.

Marc's is a lesson we all can learn. You do not have to be a community organizer, a speech maker, or rich and famous. It is simply a matter of getting involved in a way that addresses the Nation's problems within the scope of your own life, to become a link in the chain that leads to a larger solution.

First, Marc has built an outstanding high school record. He has been named a United States Achievement Academy All American School for 3 consecutive years, selected for "Who's Who Among American High School Students", and received the National Science Merit Award three times. A Century III leader, he has been a delegate to the American Legion Boys' State and an international semifinalist in the Hugh O'Brian Youth Foundation Leadership Seminar.

He has been a standout soccer goalie for the Beech High School varsity and also plays football and runs cross-country track.

But he still finds time for his community.

After several years doing volunteer work each summer as part of the Appalachia Service Project, he is chairing the ASP planning committee this year. In addition, he volunteers for the Meals on Wheels Program and the beautiful Hendersonville Recycling Center.

On June 4, 1992, Marc truly made a difference in the life of a neighbor when he saved an elder woman from drowning after her car had plunged into a rain-swollen creek. After being rescued, the woman said of Marc's efforts, "He didn't have to come in for me like that. He could have stood on the bank and wrung his hands like many other people would have done. That current was unbelievably strong; it was raging and I was about 40 yards away when he first saw me and it was all he could do to get to me."

Indeed, Marc Stein has not been one to stand on the bank and wring his hands. It's a lesson we can all learn.

Please join me in recognizing Marc Stein, who has been named one of eight national recipients of the High School All-American Award. He certainly is deserving.

SALUTE TO MAC WILLIE RHODES IN RECOGNITION OF HIS 95TH BIRTHDAY

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. CLYBURN. Mr. Speaker, I welcome my colleagues to join me in paying tribute to a pillar in our community, and African-American great-grandfather, Mr. Mac Willie Rhodes of Sumter, SC.

Mr. Rhodes is a champion in serving his community as he assists neighbors with shopping, driving them to appointments, and taking food to those in need. Mr. Rhodes became a member of Melina Presbyterian Church in 1915 and is now one of its oldest members. He has been a member of Masonic Lodge Golden Gate No. 78 since 1948.

Mr. Rhodes was born in Clarendon County, SC, on February 25, 1898. A grandson of a slave owner, Mr. Rhodes is the second oldest of 15 children. Family, good values, and good living are Mr. Rhodes' most cherished possessions. He is affectionately addressed as "Papa" by his 14 children, 36 grandchildren, and 37 great-grandchildren. Mr. Rhodes loves baseball. His favorite pastime is to read the Bible, newspapers, and magazines. His favorite Bible scripture is the 23d chapter of Psalms.

On Saturday, February 20, 1993, family and friends will gather in celebration of Mr. Rhodes' 95th birthday. Please join me in wishing Mr. Mac Willie Rhodes a prosperous and happy birthday.

MANDATE AND COMMUNITY ASSISTANCE REFORM ACT OF 1993

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. CLINGER. Mr. Speaker, State, and local governments around the Nation have been forced to wear two hats: provider of basic services to the community, and surrogate for the Federal Government in implementing national policy directives that come in the form of unfunded Federal mandates. They cannot continue to wear both. Even after many communities have reduced waste and inefficiency, growth in mandated spending and static or shrinking revenues continue to squeeze State and local budgets. Many States and municipalities have found that tax increases and service cuts are the only ways to keep their heads above water.

Today I am introducing the Mandate and Community Assistance Reform Act of 1993. This measure establishes a commission to look at existing Federal mandates and recommend the elimination of those that are obsolete or lacking practical utility, the temporary suspension during recessionary periods of particular mandates, and the consolidation of planning or reporting requirements of existing mandates. To ensure these recommendations receive appropriate consideration, they will take effect automatically unless Congress disapproves them within 60 days of their submittal. The Commission also is charged with suggesting common definitions for terms contained in mandates, and with recommending a redistribution of Federal, State, and local responsibilities for intergovernmental programs.

It is safe to say, Mr. Speaker, that most of us at one time or another have voted on legislation without fully appreciating the costs it would impose on our States and localities. This is due in large measure to a loophole in the Congressional Budget Act of 1974, which directs that Congressional Budget Office cost estimates are required only if they can be submitted in a timely manner. My bill amends the Congressional Budget Act to remove the timely manner loophole. It further amends the act to require cost estimates to accompany conference reports, and to require committees to include in their instructions to conferees the costs of their provisions for State and local governments. We must be fully aware of the impact a piece of legislation will have on States and communities if we are to cast an educated vote.

This bill proposes to amend the Regulatory Flexibility Act, as well, which was intended to mitigate the impact of Federal rules on small governments and businesses. Under the act, agencies are expected to conduct regulatory flexibility analyses to determine alternate means of compliance with rules for these small entities. Unfortunately, Reg Flex has a built-in loophole as well. An agency head may certify that a rule will not significantly impact small entities, and as a consequence of that certification, no Reg Flex analysis is required. My bill would make that certification decision part of the whole rulemaking record for purposes of judicial review. I believe this will prompt executive agencies to give more consideration to the effects of their rules on small entities.

Communities are stifled by more than expensive rules and mandates. Those that receive Federal grant funds must try to build a comprehensive plan out of fragmented social service programs. Communities are in the best position to determine where their needs are greatest, and should be able to direct their resources accordingly. My bill proposes to let local governments use some of the money they already receive from the Federal Government to design their own assistance plans for low-income citizens. These plans must be approved by a Federal review council, and must include performance measures to ensure that the plans are designed to get results. Further, no plan may be approved unless low-income citizens have participated in developing the plan. This proposal is an important step toward restoring to local governments the authority to make the best decisions for their constituencies.

I invite my colleagues to join me as cosponsors of this important legislation for our States and communities.

STATE SENATOR JOHN D. PERRY RETIRES

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Ms. SLAUGHTER. Mr. Speaker, I rise today to recognize the career and achievements of New York State Senator John D. Perry. Senator Perry applied his extensive background in education and economics to the major problems of New York State for nine terms before his retirement in 1992.

Senator Perry has been a leading advocate for a fairer State education aid formula. He proposed a comprehensive 10-point education program to address the needs of youth at risk with the goal of greatly reducing the school dropout rate and improving the quality of the work force.

As a member of the New York State Job Training Partnership Council, he continues to work toward coordinating all job training into one comprehensive system.

A nationally recognized expert on the education of disadvantaged young people, Senator Perry serves as senior project consultant for the Interstate Migrant Education Council, a special project of the Education Commission of the States.

Before his election to the New York State Senate, Senator Perry was a member of the Monroe County legislature for 3 years, and was elected minority leader of that body by his Democratic colleagues. He taught history and economics at Penfield High School and has taught economics at the Rochester Institute of Technology and Nazareth College.

We honor State Senator John D. Perry's numerous achievements. His efforts and dedication represent public service of the very highest caliber.

IN TRIBUTE TO SANDRA JONES ANDERSON

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. DIXON. Mr. Speaker, I rise to pay special tribute to Sandra Anderson, for her 28 years of dedicated service to Los Angeles County. Ms. Anderson has served with undying dedication, unrelenting commitment, and fervent devotion. As director of external affairs for the Los Angeles County Department of Health Services, she led the legislative and community relations programs for the second largest deliverer of health care to the public in the United States. Sandra is a resident of the 32d Congressional District.

Throughout her career, Sandra Anderson has displayed the true virtues of a public servant, evidenced by her efforts to improve and advance social and health care services to the citizens of Los Angeles County. Her contributions are numerous in these areas and rich in their substance.

Ms. Anderson's commitment to ensuring the availability and improvement of health care for residents of the county of Los Angeles is noted by her fight in the 1980's against the Federal Medicaid cap proposals, which would have had a detrimental impact on L.A.'s hospital system and its patient population. She was involved in the planning of the First Conference on Indigent Care, which was sponsored by the National Governor's Association, the National Association of Counties, and the city of San Francisco.

Ms. Anderson also assisted in the planning of, and participated in, the Outlook 1984 Conference of black elected and high level officials from Federal, State, and local governments to assist them in addressing issues of importance to their constituency groups.

Mr. Speaker, Ms. Sandra Anderson's academic and professional accomplishments alone would warrant recognition. But she has also been active in her community and in other local social organizations. Being an active member of the YWCA—and the immediate past president of the YWCA of Los Angeles—the Harriet Buhai Center for Law and Poverty, the Jenesse Center for Women, a domestic violence shelter, the United Way, the Los Angeles County Employees Retirement Association Board of Investments, and the Los Angeles County Management Council, is testament to her social awareness and dedication.

Mr. Speaker, I am proud to pay special tribute to Ms. Sandra Anderson for her stellar career helping the citizens of Los Angeles. I urge all Members of the House to join me in recognizing her contributions to Los Angeles County, and in extending best wishes to her on the occasion of her retirement.

SALUTE TO CHIEF ROBERT ANDERSON

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. GALLEGLY. Mr. Speaker, I am pleased to rise today to honor an outstanding law enforcement leader and an old friend, Chief Robert A. Anderson, as he retires from the Port Hueneme Police Department.

During his long career with the department, Bob Anderson has been a leader in innovative law enforcement, as well as a leader in his community.

Bob began his career with Port Hueneme in 1970, and was appointed chief on April 12, 1978. As chief, his main goals have been to upgrade and modernize the department and to build ties with the community, and he was successful on both fronts.

Bob was instrumental in beginning the Neighborhood Watch Program in the city, and frequently takes the time to talk with neighborhood groups to get this important plan underway. He also spends many hours giving general safety talks to service groups, and recently was instrumental in establishing the Crime Stoppers Program in the city.

Chief Anderson is a member of many law enforcement organizations, including International Footprinters, the Peace Officers Association of Ventura County, the California Police

Chiefs' Association, and the International Association of Chiefs of Police.

On the community front, Bob Anderson has long been active in a variety of ways. He is a past deputy district governor of the Lions Club, is a 15-year member and past president of the Port Hueneme Boys and Girls Club, served on the chamber of commerce, and in the cabinet of the United Way.

For his dedication, Bob has received numerous awards and commendations, including being named citizen of the year in 1985 by the chamber of commerce and receiving the Man and Boy Award from the Boys and Girls Club in 1984.

Mr. Speaker, I ask my colleagues to join me in honoring Bob Anderson for his many years of service to his community, and to wish him and his wife, Lynn, well as they begin a new life of travel and relaxation.

SALUTE TO GARY CROOK

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. GINGRICH. Mr. Speaker, I rise today to recognize the dedication that Gary Crook has shown to the residents of the Sixth District of Georgia.

Gary is a unique individual who always took a very personal, active role in solving whatever problems confronted him. Whether it was his work in helping ensure a quick and professional cleanup of the hazardous waste site at Basket Creek, or his work in ensuring clean water for the Sixth District, he always devoted whatever time it took to see the problem solved.

Gary has since joined the staff of Representative MAC COLLINS; however, we will always remember Gary's contribution to the betterment of the Sixth District.

TRIBUTE TO COMMEMORATE THE 75TH ANNIVERSARY OF LITHUANIAN INDEPENDENCE

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. BONIOR. Mr. Speaker, I rise today to commemorate the 75th anniversary of Lithuanian independence. This past Sunday, February 14, the Detroit-Lithuanian community marked the event by holding a commemorative program at the Lithuanian cultural center in Southfield, MI.

Throughout the cold war, Lithuania has always been viewed as an occupied country. Since Russian President Boris Yeltsin has agreed to remove all troops by August 1, 1993, Sunday's celebration will hopefully mark the last observance of the anniversary while Russian forces remain in Lithuania. After 53 years of occupation, the removal of troops is long overdue.

During the withdrawal, I will be watching the events in Lithuania closely. I believe the United States must remain vigilant and do whatever it can to ensure Lithuanian sovereignty. I urge my colleagues to join me in encouraging an orderly and complete removal of Russian troops and to be supportive during this time.

I commend the Lithuanian-American community for their vigilance through the many difficult years and extend my best wishes during this commemoration of Lithuanian independence.

IN RECOGNITION OF CAPT. NEWL D. JUDD, USNR

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. SANTORUM. Mr. Speaker, I would like to take this opportunity to recognize Capt. Newl D. Judd of the U.S. Navy Reserve.

During a span of over 30 years of active and reserve duty in the U.S. Navy, Captain Judd has served his country and his community with the highest sense of duty and professionalism.

Captain Judd entered the Navy during World War II and his career spanned both the Korean and Vietnam conflicts. But his sense of obligation to the institution did not stop when he retired.

Upon retirement in 1975, Captain Judd began to volunteer his time and services to work as director, Retired Affairs at the Naval and Marine Corps Training Center in Pittsburgh on a daily basis. In this capacity, he has continuously served for 17 years without pay or benefits from the government. He conducts all seminars on retired benefits and acts as liaison for any marine separating from the Corps. These liaison duties include helping marines receive the latest information on benefits.

Captain Judd continues to volunteer his time and effort in serving as commanding officer of the Pittsburgh Sea Cadet Program, a U.S. Navy League youth organization. Since 1967 he has acted in this capacity without fail.

Captain Judd provides assistance, advice and a point of contact for all retirees, medically discharged veterans, and any veteran from every branch of service requiring assistance on any military problem. This is an enormous job as Captain Judd is the only person providing this service for all of western Pennsylvania, West Virginia, and Ohio. Significantly, his extensive file system has resulted in numerous veterans being awarded benefits they were entitled to, but never offered.

Clearly, Captain Judd has demonstrated the highest qualities of duty, honor, and service. Countless servicemen and veterans, and indeed the American people are indebted and grateful.

TRIBUTE TO AUGUST "GUS" SUTTER

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. DURBIN. Mr. Speaker, I would like to recognize the country's longest serving letter carrier, Mr. August "Gus" Sutter, for a distinguished career of public service in central Illinois.

After 64 years of dependable service, Mr. Sutter has hung up his mailbag. The residents of Montgomery County, IL, will miss their beloved mail carrier who served them faithfully through rain, sleet and snow since 1929. Each day, he left his home in Harvel, IL, to deliver mail to 135 rural residences which required traveling 80 miles a day.

Mr. Sutter began his career driving a Model T Ford and riding a horse when the roads were muddy. At the time of his retirement last month, he was on his fifth car.

Four years ago, the Postmaster General presented Mr. Sutter with a plaque for 60 years of service at a ceremony in Washington, DC, marking one of the highlights of his career.

Mr. Sutter loved his job and should be congratulated for his years of service and hard work. I wish him all the best in retirement.

THE CHILD SUPPORT ECONOMIC SECURITY ACT OF 1993

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mrs. SCHROEDER. Mr. Speaker, I am pleased to reintroduce today the Child Support Economic Security Act of 1993, a measure to improve the collection of child support so that children in single-parent households will have a regular, reliable source of income from their noncustodial parents.

This legislation contains 16 tools for States to use to improve their track records collecting child support. But it does not just ask more of States. It changes the Federal payment structure to the States, providing them with the additional resources that are absolutely critical if we want this system to work. Caseworkers lack essential training and are required to manage caseloads in excess of 1,000 families. Even highly trained caseworkers cannot do justice to a caseload that numbers in the thousands. It is time to recognize that the child support enforcement system needs new resources—including more staff, computer technology, and training—to bring the system in line with the demands of the 21st century.

In addition, the legislation also amends the bankruptcy code to ensure that noncustodial parents cannot use a declaration of bankruptcy to avoid their financial obligations to their children and former spouses.

The failure to pay child support is a national disgrace. News stories about night-time roundups of deadbeat parents help focus public attention on how blatant child support evasion has become. But more than media attention, what is needed is a new national ethic that makes it unacceptable to avoid paying child support.

Because so many children, one out of four, live in single-parent families, the child support enforcement system has become an integral part of America's income transfer system. Yet 42 percent of the 10 million women living with children under the age of 21 from a noncustodial father have never been awarded child support. Of those with a child support order, only one-half receive the full amount of the child support to which they are entitled and about one-quarter receive no child support at all.

Most children living in single-parent families, 87 percent, live with their mothers. Since women, on average, earn only about two-thirds of what men earn, most women who head single-parent households are at an economic disadvantage compared with their noncustodial ex-spouses, and they rely heavily on child support often just to stay financially afloat.

A 1992 study from the U.S. Bureau of the Census that followed nearly 52,000 children from October 1983 through May 1986 found that within 4 months of their parents' separation, the family income of the children declined by 37 percent. Even more disturbing, the percent of children living in poverty increased from 19 percent to 36 percent in the 4 months following their parents' separation. The number of these children relying on Aid to Families with Dependent Children [AFDC] doubled, and the number of food stamps recipients nearly tripled during the first year of parental separation.

These statistics emphasize just how important a reliable source of income from a noncustodial parent is to these children.

I am deeply saddened by the tremendous amount of mail that I receive from all over the country—much of it from my esteemed colleagues' districts—from distraught parents who cannot get the system to help them. They write of endless delays, some dragging on for years, before child support payments are withheld from the wages of a noncustodial parents. They write about thousands of dollars in unpaid child support. Others report of the failure of the system to tap the resources of a parent, whose whereabouts are known to the custodial parent, but the system never seems to catch up with the nonpaying parent. On average, it takes 1 year to locate an absent parent, and 2 years to establish a court order if a parent has deserted a family.

I do not fault the caseworkers on the front lines, trying to do battle on behalf of a battalion of custodial parents without modern-day equipment and without access to State records that could make their jobs easier.

Congress has been trying since 1975 to improve the collection of child support. But unfortunately, the focus of Federal efforts until recently has been on trying to recoup expenditures on AFDC, rather than trying to make it clear that failure to pay child support will not be tolerated. In the 102d Congress, we took several small steps toward this goal. But much more is needed.

It's time for both the Federal and State governments to put their money where their mouths are when it comes to collecting child support. It's time to dedicate the resources and put some teeth in the program so that the program will work. Systematic reforms, more tools, less cumbersome procedures and automation are needed to move the system into the 21st century. The legislation that I am introducing today takes a big step in that direction.

I commend the work of the Commission on Interstate Child Support, which released its findings and recommendations to Congress last summer. Indeed, some of the measures contained in the legislation I am introducing today, are included among the Commission's recommendations. I will work with my colleagues as we study the Commission's recommendations and move forward.

But I suspect that process will not proceed quickly. And I am ready to move now. Custodial parents need help now. My legislation, which focuses on specific tools that States can implement within a short period of time. I urge my colleagues to join with me in moving the Child Support Economic Security Act of 1993 quickly through Congress so that we can provide real relief to custodial parents now. At the same time, I know that my colleagues will want to examine the more long-term systemic overhauls to the IV–D system that have been proposed.

I urge my colleagues to join with me in cosponsoring this important legislation. It is time for the receipt of child support to be as automatic as the receipt of Social Security is to our Nation's senior citizens. While parents with child support obligations may try to avoid their child support responsibilities, they should not be allowed to hide from them. We owe this much to our children.

LEGISLATION TO ABOLISH THE INTERSTATE COMMERCE COMMISSION

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. HEFLEY. Mr. Speaker, today I am reintroducing legislation to abolish the Interstate Commerce Commission [ICC]. This is the fourth Congress that I have introduced this legislation, and while the political climate has changed dramatically since the free-market days of that first bill, I continue to believe that the ICC has outlived its usefulness and should be shut down.

The ICC was created in 1887 in response to public outcry over abuses committed by the emerging railroad industry. The legislation which created the ICC, the Interstate Commerce Act, required that rates be reasonable and just and prohibited discrimination, price fixing, or rebates. The bill comprised 10 pages of legislation.

Years later, after the ICC's responsibilities had been expanded to include the trucking, busing, and moving industries, that act had over 500 pages of statutes.

This growth would be fine if there were a real need for the work that the ICC does. The purpose of the ICC is to protect consumers and shippers from discrimination and cutthroat pricing practices. At one time, the ICC may have played an important role in curbing these abuses and enabling infant industries and communities to develop and prosper.

Eighty years after its inception, however, those industries regulated by the ICC were definitely not prospering. Many observers believed that rather than protect consumers and shippers, the primary effect of the ICC's policies was to protect established companies from competition, inflating rates, and taking billions from consumers through excess charges.

In response to these concerns, Congress initiated a wave of reforms that deregulated to one degree or another all of the industries under the ICC's authority. These reforms included the Staggers Rail Act of 1980, the Motor Carrier Act of 1980, the Household Goods Transportation Act of 1980, and the Bus Regulation Reform Act of 1982 and they left the ICC with diminished responsibilities and a correspondingly smaller budget.

At the time Congress was acting on these reforms, critics claimed that deregulation would allow the affected industries to resume their previous abuses and cause a general increase in transportation costs to consumers. Just the opposite has been true.

Deregulation of the rail, trucking, busing, and moving industries has resulted in increased competition and lower costs to consumers. In the last 12 years, literally billions of dollars have been saved by consumers. The success of deregulation brings the whole purpose of the ICC into question. Why do we need an independent agency to regulate prices when the markets are fully capable of regulating themselves?

The bill I am introducing today recognizes the diminished role of the ICC and takes the next logical step. The bill would abolish the ICC by the end of fiscal year 1995 and transfer its remaining duties to other appropriate agencies.

This is not a deregulatory bill. All the current responsibilities shouldered by the ICC would be transferred to other agencies. The ICC's rail freight functions would be transferred to the Department of Transportation and it's residual regulatory and enforcement responsibilities would be transferred to the Federal Trade Commission and the Department of Justice.

This bill will not disemploy career civil servants. All civil servants employed by the ICC would be transferred to those agencies which assume its functions. The only jobs eliminated by this legislation are those positions held by political appointees.

This is not a partisan bill. Most of the deregulation affecting the ICC occurred under the Carter administration with the assistance of a Democratic Congress.

This is a good government bill. We currently spend $40 million a year to continue an independent agency whose job could be carried out by existing agencies. While this bill won's save all $40 million, it will result in significant savings and help streamline Government.

As we move into the 21st century, the United States must continue to become more competitive in the global marketplace. This will require more efficiency from both the private sector and the Government. The elimination of the ICC represents a commitment to move the country in the right direction. This bill will trim the size of the Federal bureaucracy, make the Government more efficient, and save the taxpayer money.

CAN YOU SPOT THE TRUTH ABOUT PHARMACEUTICAL DRUG PRICES?

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. STARK. Mr. Speaker, I would like to share with you the information contained in the Pharmaceutical Manufacturers Association's version of how the drug industry is doing, compared to what I call the Pete Stark Reality Association's version of how the drug industry is doing.

The PMA has been running an ad which includes a tearsheet from Fortune magazine. The story from which it was taken discussed how American industry stacks up. The pharmaceutical manufacturers were more than happy to show their A grade as a score for United States competitiveness relative to Japan and Europe. They failed to point out that this competitiveness grade is probably based on the Government subsidies, National Institutes of Health research, R&D and other tax credits, and generous patent protection given to the drug industry compliments of the American taxpayer. They go on to try and imply that the reason they got such a high mark is based on the industry's research rather than on their sky-high profits.

As founder, inventor, and CEO of what I'll call the Pete Stark Reality Association, I'll give you the real picture.

The real scorecard of the pharmaceutical industry shows an industry which distorts the truth in their advertisements while reaping huge profits at the expense of America's health. The real scorecard shows an industry who gets an F in market competition because of their virtual oligopoly and jacked up prices; an F in United States prices versus Canadian prices because of their practice of charging American consumers far more than they charge Canadian consumers; an F in affordability for seniors who have been hurt the most, both in their pocketbook and quality of health, by skyrocketing drug prices; a D-minus in containing health costs due to the fact that they are one of the downright selfish culprits in our gigantic health inflation; a D in the affordability of drugs overall for the very same reasons; a D in product innovation and a C-minus in research expenditures because of their abuse of Government subsidies for research and development and greater concern for good marketing rather than good innovation. Finally, by all means, they deserve at least three A's in marketing because of the incredible amount of money they put into it and their amazing ability to sucker us, the consumers, into believing that they're doing all they can on our behalf.

My version of the ad points out that a grossly expensive ad campaign is the Pharmaceutical Manufacturer Association's strength. In the past 5 years, prescription drug companies have had profit margins four times the rate of the average Fortune 500 company. Their prices have soared at four times the rate of inflation. While their profits have gone up over 200 percent, their R&D has gone up less than 10 percent. Nonetheless, they try to keep their consumers happy by spending some of these profits on expensive ad campaigns that distort the truth. And their prices are still soaring. Ethical? No. Profitable? Indeed. Pharmaceutical ad campaigns are cheap tactics at a high price.

If you too would like to find out how pharmaceutical companies really spend most of their money, I'll give you a hint; it's not on R&D. And if you want to know more about the legislation that hopes to change their practices, I welcome you to give me a call and read some of my legislation to contain the costs of prescription drugs and work for a cure for our health crisis.

TRIBUTE TO SAMMIE R. YOUNG

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mrs. MORELLA. Mr. Speaker, Mr. Sammie R. Young, a man noted for his tough but fair compliance stance on matters affecting the quality and safety of the Nation's drug and biologics supply, retired from the Food and Drug Administration [FDA] on November 3, 1992, after more than 41 years of dedicated Government service.

Mr. Young's retirement is considered by the people who worked with him as the passing of an era. He has always been highly respected for his knowledge of and experience in FDA compliance actions relating to pharmaceutical law and regulation.The loss of his expertise and highly valued guidance has already been felt.

Throughout his career, Mr. Young—a resident of Montgomery County, MD—consistently demonstrated the highest level of dedication to the American public health and welfare. He has devoted his full attention to the management and improvement of the FDA's human drug and biologics programs. His personal efforts have substantially contributed to the safety and effectiveness of regulated pharmaceutical products by virtue of continued surveillance and compliance activities managed by FDA.

Mr. Young began his Government career following graduation from the University of Florida. Mr. Young first served as an FDA investigator in the Agency's Dallas district office and was subsequently reassigned to FDA's Philadelphia district office where he served as a drug specialist investigator and supervisory investigator.

In 1971, Mr. Young transferred to FDA headquarters in Rockville, MD, where he assumed regulatory and enforcement duties in the then Bureau of Drugs. Following this, he was assigned to the Office of Associate Commissioner for Compliance. In 1974, Mr. Young was selected and completed the FDA Executive Development Program gaining further regulatory experience. He was promoted and reassigned to the then Bureau of Biologics as Director of Compliance. Mr. Young was instrumental in the development and implementation of the surveillance and compliance programs for all biological products, including blood, blood products, plasma and vaccines regulated by FDA Bureau of Biologics.

In 1983, following a reorganization, Mr. Young was designed as the Deputy Director of the Office of Compliance in the now Center for Drug Evaluation and Research [CDER], the position he held until his retirement. While in this position, Mr. Young directed legal actions and was known for his outstanding performance in resolving complex regulatory problems by developing and applying new approaches in the area of assuring drug safety and efficacy.

Mr. Young personally directed and monitored a little-known but critically important program at FDA in cooperation with the World Health Organization's [WHO] Scheme to Assure the Quality of Pharmaceuticals in International Commerce. FDA is recognized by WHO as the only competent authority in the United States for issuing a certification on the quality of domestically produced drugs which are exported all over the world. Mr. Young's work in this program has contributed to the ability of U.S. pharmaceutical manufacturers and distributors to export American drugs without difficulty and thus he has significantly contributed his assistance to aiding in our Nation's attempts to achieve a favorable balance of trade.

Mr. Young has received the Agency's highest award, the Award of Merit, in 1989 for his efforts toward the development of the FDA Personnel Guide for the Evaluation of Nonsupervisory Consumer Safety Officers—compliance officers—which for the first time created a mechanism whereby top-of-the-grade exceptional individuals in this field could achieve promotions based on their unique qualifications and expertise.

I am pleased to commend Mr. Young for his long and outstanding career as a dedicated public servant.

INTRODUCING THE COPYRIGHT REFORM ACT OF 1993

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. HUGHES. Mr. Speaker, today, joined by Mr. FRANK, I introduce the Copyright Reform Act of 1993. An identical bill is being introduced in the Senate. As chairman of the Subcommittee on Intellectual Property and Judicial Administration, I have a keen interest in the Copyright Office and the Copyright Royalty Tribunal, two agencies for which the subcommittee has oversight jurisdiction. In the case of the Copyright Royalty Tribunal, we have an agency that is both broken and unnecessary. In the case of the Copyright Office, we have an agency that would be benefited by some relatively minor changes.

During the recent election, the public made clear that it wants a leaner, more efficient Government. President Clinton has taken some steps to reduce the size of the executive branch, and in his address to the Nation last night, he strongly reiterated the need to eliminate wasteful bureaucracy. The Copyright Reform Act of 1993 will bring needed reform to the administration of copyright in the legislative branch: It is a win-win bill that will eliminate an unnecessary agency, reduce the size of legislative branch employment, and remove bureaucratic obstacles to the enforcement of copyright.

EXPLANATION OF BILL

THE COPYRIGHT OFFICE

Title I of the bill concerns the operations of the Copyright Office. The Copyright Office is a part of the Library of Congress. The placement of the Copyright Office in the Library is an outgrowth of an 1870 centralization of the copyright registration and deposit requirements. Before 1870, copyright was secured by filing a prepublication copy of the title page of the work with the U.S. district court where the claimant resided, and by depositing, after publication, copies of the work with the Secretary of State. In 1870, both functions were assigned to the Library of Congress.

The 1870 centralization was extremely successful as a way for the Library of Congress to receive free books. So successful, in fact, that the Librarian of Congress requested the Congress to authorize the construction of a new building to house the deposits and the Library's administrative offices, which were, at the time, in the Capitol. The Librarian's request was fulfilled 27 years later, with the completion of the magnificent Thomas Jefferson Memorial Building, located across the street from the Capitol and adjacent to the Supreme Court.

The year 1897 was a banner year for another reason: The Congress authorized the Librarian to hire a Register of Copyrights to be in charge of the Copyright Department. Before 1897, copyright registration was, in many cases, handled personally by the Librarian.

The Copyright Reform Act of 1993 vests new responsibilities in the Register of Copyrights, including many presently assigned to the Copyright Royalty Tribunal. In light of these new responsibilities and certain separation of power issues discussed below in my explanation of title II of the bill, the act makes the Register a Presidential appointee, subject to the advice and consent of the Senate.

The legislation adopts other Copyright Office reforms that bear explanation. First, the bill repeals sections 411(a) and 412 of title 17, United States Code. Section 411(a) requires that copyright owners register their claim—or have that claim refused—before instituting an action for copyright infringement. Section 412 prohibits the courts from awarding attorney's fees and statutory damages to the copyright owner if the claim has not been registered before the infringement occurs. In the case of published works, there is a 3-month grace period measured from the date of first publication. Section 411(b), which provides special standing for certain works that are first fixed while being simultaneously transmitted, is retained, but amended to delete the registration requirement.

Sections 411(a) and 412 were reviewed during the debates that preceded passage of the Berne Implementation Act of 1988. That act left section 412 unamended, but created a two-tier approach to registration under section 411(a): The copyright owner of a work whose country of origin is a Berne country other than the United States does not have to comply with section 411(a). All other copyright owners, including U.S. authors, however, must comply with that section.

While the two-tier approach permitted adherence to the Berne Convention, it has resulted in U.S. authors being less favorably treated than foreign authors. With Berne adherence behind us, it is time to rethink the two-tier approach. Retention of the section 411(a) requirement has been justified principally on two grounds:

First, it is argued that section 411(a) weeds out frivolous claims. The problem with this argument is that section 411(a) permits claimants to file suit after a rejection. Thus, at most, section 411(a) deters only the assertion of frivolous claims by those who are not sufficiently determined to bring suit after a rejection.

On the other hand, section 411(a), when coupled with section 412, has deprived individuals and small businesses from asserting meritorious claims. Visual artists have been unable to pursue cases of clear-cut copyright infringement because they have not registered their works before an infringement occurs. Many individuals and small businesses are simply unaware that they will be deprived of important remedies if they do not "file with the Government."

Even those who are aware of the section 412 penalty may not be able to avoid its deprivation of remedies. Photographers on assignment typically send their negatives to the newspaper or magazine that has temporarily hired them. Because the negatives remain in the custody of the newspaper or magazine, it is generally impossible for the photographer to comply with the deposit requirements. Because they cannot readily comply with the deposit requirements, they cannot register their work. Because they cannot register their work, they cannot receive attorney's fees and statutory damages pursuant to section 412. Even if photographers could register their works, because it is impossible to know beforehand when a work—or which work—will be infringed, in the case of published photographs photographers are faced with the burden of having to register hundreds, if not thousands of photographs at an obviously prohibitive cost.

Second, it was argued that repeal of section 411(a) and 412 would adversely affect the Library of Congress' acquisition of deposits. The legislation, however, retains the mandatory deposit requirement of section 407 for the benefit of the Library of Congress, the voluntary registration provision of section 408, and the prima facie status that certificates of registration are given under section 410(c). Under section 410(c) a certificate of registration obtained within 5 years of first publication constitutes prima facie evidence of the validity of the copyright and of the facts stated therein. This evidence is often quite useful in preliminary injunction proceedings. Thus, nothing in the bill directly affects the Library's acquisition practices.

During the debates over Berne adherence, it was argued that repeal of section 411(a) would indirectly weaken the Library's acquisitions because fewer deposits would be received under the separate section 408 voluntary registration system. The effect on section 407 as a result of repeal of section 411(a) was, I believe, vastly overstated in those debates. In 1991, 634,797 claims to copyright a year were filed with the Copyright Office, while only 1,831 suits for copyright infringement were filed. Obviously, the vast majority of claimants register for reasons unconnected with litigation.

Repeal of section 411(a) can have no effect on the Library's ability to acquire deposits it needs since section 407 is unamended. Thus, as in the past, the Library retains the full authority to demand, backed up by the Justice Department, any and all copies of copyrighted works published in the United States, entirely apart from the registration system.

I also note that a 1983 policy decision of the Copyright Office and the Librarian of Congress permits the destruction of deposit copies of published works submitted for registration—other than works of visual art—after 5 years. Deposit copies of works of the visual art may be destroyed after 10 years.

Perhaps even more significantly, Copyright Office regulations, approved by the Librarian of Congress, completely exempt the following categories of works from the section 407(a) deposit requirements:

First, diagrams and models illustrating scientific or technical works or formulating scientific or technical information in linear or three-dimensional form, such as an architectural or engineering blueprint, plan, or design, a mechanical drawing, or anatomical model.

Second, greeting cards, picture postcards, and stationery.

Third, lectures, sermons, speeches, and addresses when published individually and not as a collection of the works of one or more authors.

Fourth, literary, dramatic, and musical works published only as embodied in phonorecords.

Fifth, automated databases available only online in the United States.

Sixth, three-dimensional sculptural works, and any works published only as reproduced in or on jewelry, dolls, toys, games, plaques, floor coverings, wallpaper and similar commercial wall coverings, textiles and other fabrics, packaging material, or any useful article.

Seventh, prints, labels, and other advertising matter, including catalogs published in connection with the rental, lease, lending, licensing, or sale of articles of merchandise, works of authorship, or services.

Eighth, tests, and answer material for tests when published separately from other literary works.

Ninth, works first published as individual contributions to collective works.

Tenth, works first published outside the United States and later published in the United States without change in copyrightable content if registration is made under section 408.

Eleventh, works published only as embodied in a soundtrack that is an integral part of a motion picture.

Twelfth, motion pictures that consist of television transmission programs and that have been published, if at all, by reason of a license or grant to a nonprofit institution of the right to make a fixation of the program directly from a transmission to the public.

A cursory review of reported court opinions reveals that a significant amount of litigation involves works falling within one of these exempt categories.

Given the infinitesimal amount of works involved in litigation relative to the number registered—to say nothing of those created but not registered; the exemption from the Library deposit requirements for much subject matter involved in litigation, and the possible destruction of deposit copies after 5 years, repeal of the section 411(a) and 412 requirements should not in any way impact adversely on the Library's acquisition activities. I trust that as in the past, the Library will be diligent in ensuring that it obtains the material it needs.

The final amendment made in title I of the bill relating to the Copyright Office's functions reverses the decisions in *National Peregrine, Inc.* v. *Capitol Federal Savings and Loan,* 116 Bankr. 194 (Bank. C.D. Cal. 1990) and *Official Unsecured Creditors' Committee* v. *Zenith Productions, Ltd. (in re AEG Acquisition Corp.,* 127 Bankr. 34 (Bank. C.D. Cal. 1991), to the extent those decisions held that State Uniform Commercial Code statutes for perfecting security interests are preempted by sections 205 and 301 of the Copyright Act. These decisions have required individuals or organizations taking copyrights as security for financing or loans to comply with the recordation requirements of section 205 of title 17, United States Code, or be deemed an unsecured creditor. Since section 205(c)(2) also requires registration for the work, a considerable amount of time and expense is required in order to comply with these decisions.

These decisions have turned a relatively simple business transaction into a nightmare for businesses and lenders. Moreover, given that a number of lenders have, in the past, only made UCC filings, there is considerable uncertainty about past transactions. This uncertainty is heightened by lenders' inability to register the work.

Congress' intent in enacting the relevant provisions in section 205 was to provide a system for ordering the priority between conflicting transfers, not to preempt state procedures for ensuring that a secured creditor's rights are protected. There is no reason the Federal and State systems cannot coexist in this area.

I am aware that similar issues have arisen with respect to filings in the Patent and Trademark Office. I plan to meet with the Patent and Trademark Office and the affected interests and learn whether amendments should be made to this bill to take into account difficulties in the patent and trademark field.

COPYRIGHT ROYALTY TRIBUNAL

Title II of the bill abolishes the existing Copyright Royalty Tribunal [CRT] and reassigns its functions to the Register of Copyrights and to ad hoc arbitration panels.

The Copyright Royalty Tribunal is an agency whose members have very little to do; perhaps as a result, the three CRT Commissioners seem to spend most of their time feuding. They can well afford to feud: The current salary for Tribunal members is $111,800 per year. The Tribunal's functions can, and under the legislation will be, performed by ad hoc arbitration panels convened by the Register of Copyrights. This procedure was proposed in earlier versions of the revision bills that led to the 1976 Copyright Act, but was abandoned in response to the Supreme Court's January 1976 decision in *Buckley* v. *Valeo,* 424 U.S. 1 (1976). The Buckley concern arose because the Register of Copyrights was not a Presidential appointee. Since this bill makes the Register of Copyrights a Presidential appointee, any Buckley problems are removed.

Abolition of the Copyright Royalty Tribunal and its replacement with ad hoc arbitration panels has a number of significant advantages. First, taxpayers will benefit by not having to help foot the bill for an unnecessary agency. Second, copyright royalty claimants will benefit by not having to foot the largest part of that bill. Currently, the bulk of the Tribunal's costs are deducted from royalties. By employing ad hoc arbitration panels, administrative costs can be reduced, resulting in increased royalty payments to authors. Third, since the claimants will bear the full costs of arbitration, they will have an extra incentive to reduce the number of issues adjudicated, leading to fewer controversies, and increased royalties. Finally, arbitrated rates can be expected to more closely resemble market rates than a Government-set compulsory license fee.

The experience with arbitration under the section 119 statutory license was a positive one, and indicates that the approach taken in the legislation introduced today can work for the other royalty schemes in title 17.

Somewhat simplified, the legislation takes the following approach: The time tables for adjustment of the compulsory license rates in the statute are left in place. Where there is no controversy over the distribution of royalty fees, the Register of Copyrights will distribute the fees. Where there is such a controversy, the distribution will be made by an ad hoc arbitration panel. In a procedure adapted from the section 119 statutory license, arbitrated decisions may be appealed to the Register of Copyrights. The Register of Copyrights' decision may be appealed to the U.S. Court of Appeals for the District of Columbia. In order to avoid any disruption in present business practices, the legislation preserves all royalty rates and distribution allocations, whether fixed by statute, by the Copyright Royalty Tribunal, or by voluntary agreement, in effect on January 1, 1994, until such time as those rates are adjusted by an arbitration panel or voluntary agreement.

The legislation makes no substantive changes in the existing compulsory licenses, with one exception. Section 116, covering performance of nondramatic works by jukeboxes, is repealed. Section 116A, which superseded section 116 in the Berne Implementation Act of 1988, is renumbered section 116, and as elsewhere in the bill, the Copyright Royalty Tribunal's functions are delegated to the Register of Copyrights and to the ad hoc arbitration panels. The availability of arbitration will provide a sufficient safety net for jukebox operators in the event that voluntary negotiations are unsuccessful.

THE HAMPTON UNIVERSITY CONCERT CHOIR AND HAMPTON PARENT'S CLUB

HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. WYNN. Mr. Speaker, I rise in order to pay tribute to the Hampton University Concert Choir and the Hampton University Parent's Club.

The Hampton University choir is affiliated with Hampton University in Virginia, a historically black college that marks its 125th anniversary this year. I want to commemorate the Hampton University Concert Choir for its excellent performances over the past year. Choir members will perform this Sunday, February 7, at the Zion Baptist Church in Washington, DC, as part of Black History Month activities planned in Washington, DC.

The choir is one of the most famous concert choirs in this country and abroad. Performers have sung everything from classical concertos to arias, choral music to gospel spirituals, and even contemporary music.

Under the direction of Roland Carter, the Hampton Concert Choir has toured and performed in Europe, the Virgin Islands, New York, Philadelphia, and Washington. Members also performed at the Interlochen Fine Arts Camp in Michigan. The choir has also premiered the music of well-known and innovative composers, including Noel Da Costa and Robert Nathaniel Dett.

I especially want to thank the Hampton Parent's Club for their work with the choir. The club has been closely involved in raising scholarship money. Without the parent's work, the efforts of the choir would go unnoticed.

Mr. Speaker, I want to state my appreciation of and high regard for these talented performers and their parents.

NEW MEXICANS EARN FOOTPRINTS AWARD

HON. STEVEN SCHIFF

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 16, 1993

Mr. SCHIFF. Mr. Speaker, the State of New Mexico is a land of many peoples and many cultures—something of which all New Mexicans are justifiably proud. From the early explorer Esteban to the Buffalo Soldiers to the leaders of today, African-Americans have played a vital role in the history and the development of the Land of Enchantment.

As we celebrate Black History Month, it is my great honor and privilege to recognize four outstanding New Mexicans whose contributions to their communities and their State have earned them the prestigious "Footprints Award" of the Albuquerque Branch of the NAACP.

These four are Helena Washington, Diana Dorn Jones, Linger N. Douglas, and Raymond Hamilton.

Mrs. Washington, of Rio Rancho, has devoted great time and energy to performing arts

projects that focus on the history and culture of African-Americans. She has directed and produced two major African-American plays and is a scholar with the New Mexico Endowment for the Humanities. Mrs. Washington currently is portraying Harriet Tubman in another important production and is researching African-Americans who have contributed to the diversity of New Mexico.

Ms. Jones, of Albuquerque, is executive director of the South Broadway Housing Project and is president of the John Marshall Neighborhood Association. She works closely with families to provide housing and has facilitated more than $2 million in home sales to low- and moderate-income families. She chairs the city of Albuquerque Affordable Housing Committee, represents New Mexico on the Federal Home Loan Bank of Dallas affordable housing advisory board and is a member of the executive committee of the city of Albuquerque's Shared Vision project to build a greater community.

Ms. Jones also has organized marches against gangs and drugs, and has advocated educational changes to improve reading and testing levels among children. She continues to be active in the fight against racism and for the betterment of her community and her State.

Ms. Douglas, of Roswell, has taught school for the past 18 years and now teaches fourth grade at the Roswell Independent Schools.

While teaching with the Hobs Municipal School System, Ms. Douglas implemented a special reading and writing program, and she has been responsible for teaching economically deprived students who were deficient in math and reading in the Artesia Public School System. She also has taught in Albuquerque and in Clovis.

Ms. Douglas has supervised student teachers at the University of New Mexico in Albuquerque and Eastern New Mexico University in Portales, where she obtained her undergraduate and graduate degrees. She also was instrumental in obtaining grant moneys for the outdoor education lab at the Roswell school system.

Ms. Douglas is a member of the National Congress of Parents and Teachers Association, New Mexico, the New Mexico Education Association, the New Mexico Association of Classroom Teachers and the International Reading Association.

Mr. Hamilton is an Albuquerque attorney and Harvard Law School graduate. A former intern for Senator Joseph M. Montoya, in Washington, DC, Mr. Hamilton has worked tirelessly for the campaigns of a number of African-American political candidates.

Mr. Hamilton is a former member of the board of directors of the New Mexico Legal Aid Society; a member of the board of visitors of the University of New Mexico School of Law; a hearing officer for the State Bar of New Mexico's disciplinary board; past president of the New Mexico Black Lawyers Association; chaiman of the law school subcommittee of the committee on minority involvement in the State Bar of New Mexico; and the chairman of the NAACP legal redress committee.

Mr. Hamilton has received the attorney general's Award for Volunteerism and was selected as an Outstanding Young Albuquerquean by the Albuquerque Junior Chamber of Commerce.

Black History Month provides us with an outstanding opportunity to recognize the contributions of African-Americans in New Mexico and across the United States. I am pleased and proud to offer my thanks and congratulations to Helena Washington, Diana Dorn Jones, Linger N. Douglas, Raymond Hamilton, to the Albuquerque chapter of the NAACP for sponsoring the Footprints Award and to all the other African-Americans who help to make New Mexico a great and proud State.

SENATE—*Wednesday, February 17, 1993*

(Legislative day of Tuesday, January 5, 1993)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be led by the Senate chaplain, the Reverend Dr. Richard C. Halverson. Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Eternal God, may we hear and heed the wisdom of proverbs. "Trust in the Lord with all thine heart; and lean not unto thine own understanding. In all thy ways acknowledge him, and He shall direct thy paths."—Proverbs 3:5,6.

The crises of our time are far too desperate to trust in "the best we can do." As Thou didst guide our Founding Fathers through prayer and biblical insight, so guide the leadership of our Nation today. When Your servants have reached the limits of their best, lead them beyond to the transcendent wisdom of Proverbs. Give them grace to trust in the Lord with all their hearts, to not depend on themselves; to acknowledge Him in all their ways, that He may guide them in the right way to the right answers.

In the name of Jesus who is Truth incarnate we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning following the time reserved for the two leaders, there will be a period for morning business until 10:30 a.m., during which Senators may speak for up to 5 minutes each, with Senators BOREN and GRAMM of Texas eligible to be recognized for additional periods of time.

At 10:30 this morning, the Senate will resume consideration of S. 1, the National Institutes of Health reauthorization bill.

The Senate will be in recess today from 12:30 p.m. until 2:15 p.m. for a party conference luncheon.

And, of course, Mr. President, this evening, the President will come to the Capitol, to the House Chamber to address a joint session of Congress. The Senate will gather and walk to the House Chamber as a group at 8:30 p.m. Those Senators wishing to attend the joint session to hear the President should be present in the Senate Chamber by 8:25 p.m. to travel together as a group to the House at 8:30 p.m.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve all of the leader time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the time of both leaders is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the standing order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein under the order for up to 5 minutes each.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Mississippi [Mr. COCHRAN] is recognized for not to exceed 5 minutes.

MAKING A COMMITMENT TO WORK TOGETHER

Mr. COCHRAN. Mr. President, tonight we look forward to receiving the message of President Clinton as he presents his plan for economic recovery and reducing the deficit to the joint session of Congress which will be meeting in the House Chamber. Leading up to this event, there have already been some outlines of the proposal made in radio addresses, a television address to the country, personal meetings, and in other ways, so that we are all acquainted at this time with the general outline of the President's proposals.

I was very honored and pleased to have been called upon this past weekend to deliver the Republican response to the President's radio address on February 13. It is a little difficult to avoid prejudging the proposal with all of the information that has been made available to us, but I still have the opinion that whatever the President proposes should receive a very careful and full review by both Republicans and Democrats and that we should, as far as possible, refrain from making judgments before the speech is given about whether or not we will be able to work together to craft some final legislative product that will strengthen the economy and be effective in reducing the budget deficit.

I think we all share those goals with the President, and the matter of working together remains our commitment to the people we represent to be sure that the Government in Washington works for their interests and not against them. But we all have the same constituency, regardless of our party or whether we serve in the executive branch or the legislative branch.

I hope we will all make a commitment to try as hard as we can to work in a constructive way to deal with these problems that our country faces. I really think that a lot of fear and anxiety that we see out in the countryside right now is based on a view that our Government has not proven in the past that it listens as carefully as it should to the people, and that it works as well as it should to really solve the problems we face.

I think we all have an obligation to help restore confidence in our Government's ability to solve problems and to work with the American people to help them achieve their goals and aspirations. These are challenges that both the President and the Congress face together, and I look forward to working, as I know other Senators do, in this effort, to try to make sure that the decisions we reach are sound, that they are good policy decisions, and that they serve the interests of the American people, not just the short-term interests of a political party necessarily—but the genuine, legitimate interests of the vast majority of Americans.

I ask unanimous consent, Mr. President, that a copy of the response that I gave on February 13 to President Clinton's radio address be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SENATOR THAD COCHRAN GIVES REPUBLICAN RESPONSE TO PRESIDENT CLINTON'S RADIO ADDRESS OF FEBRUARY 13, ON THE CLINTON ECONOMIC PLAN

The president has now completed the selection of his Cabinet and is preparing his first

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

address to Congress. While some are already writing his political obituary because of the controversies that have swirled around the White House during the last three weeks, it is not my purpose to add to the criticism or to try to embarrass the president.

I want to extend to him a political olive branch, an offer of cooperation. The people I represent as a United States senator are tired of partisan politics as now practiced by many in Washington. What they would like to see instead is more of an effort to work together, with much less emphasis on party politics and more on finding common ground and making decisions based on the merits of ideas.

There are naturally going to be programs and proposals the president will make that we will not be able to support. But his suggestions should get a fair hearing and careful consideration from both Republicans and Democrats. A full and open debate will help ensure that the final decisions serve the long-term interests of the American people, not just the short-term interests of one political party.

That is the test which I think should apply to any proposal the president makes. Self-righteous-sounding pronouncements, whether about campaign reform or the economy, should be judged against a standard of fairness. That standard requires us to ask, does it serve the common good?

With respect to the president's economic program, let me briefly offer two suggestions that I hope the president keeps in mind.

First, we don't need new symbolic spending that adds to the budget deficit at a time when the economy is growing. In the fourth quarter of 1992, the growth rate was a very healthy 3.8 percent. Last year, our productivity jumped 2.7 percent, the largest annual increase in 20 years.

The American economy is stronger than that of any industrial nation. An economic stimulus package could do more harm than good if the result is more federal debt and higher rates of inflation. That means fewer jobs, also, rather than more.

Second, to reduce the budget deficit, we should put the emphasis on spending restraints and make new efforts to slow the growth of federal spending programs. Raising taxes or imposing new taxes will end up making the federal government bigger and more powerful, but it is not the most effective way to reduce the deficit.

Some of the new taxes would hit many Americans especially hard. The energy tax, for example, would create some real and unfair hardships on those who have to drive long distances to work every day and on those who work in the transportation industries. Republicans in Congress are ready to go to work with President Clinton to strengthen our economy and reduce the budget deficit. At the same time, we are aware that we have the responsibility to make sure the government works for the American people and not against them.

Over 200 years ago, Thomas Jefferson had some sound advice that still rings true today. The government, he said, can do something for the people only in proportion as it can do something to the people.

I hope that this year Republicans and Democrats will resolve to work together to solve the problems that face our country in a renewed spirit of cooperation. We can restore confidence in our government only by demonstrating that we can make good policy decisions. We should try for a change to do what's best for America and not worry so much about who gets the credit.

CONSTRUCTION OF A NEW INTERSTATE HIGHWAY

Mr. COCHRAN. Mr. President, I was visited in my office yesterday by a good friend of mine who serves in the State legislature in Mississippi. Tom Cameron is a member of the house of representatives in our State, and he came to my office to deliver to me personally a copy of a senate concurrent resolution which had been adopted by the senate and the house of representatives in our State. It was just adopted by the House yesterday, and so his visit was very timely.

The subject of the resolution is the possible construction of a new interstate highway that would connect Indianapolis, IN with the Gulf of Mexico. Interstate 69, as I understand it, right now originates in the State of Michigan and runs at this time through the State of Indiana to the city of Indianapolis.

In recent legislation, the authority to extend this highway still further to Memphis, TN, was approved and other language had been adopted in an appropriations bill suggesting the highway ought to be carried all the way to the Gulf of Mexico. It is my hope that the Congress can look at and respond to this issue, and then authorize and fund the construction of a highway that would continue through Memphis, the Mississippi Delta, Arkansas, Louisiana, and east Texas to the Gulf of Mexico.

I ask unanimous consent, Mr. President, that a copy of Senate Concurrent Resolution No. 511 as adopted by the State legislature, signed by Eddie Briggs, president of the senate, and Tim Ford, speaker of the house of representatives, be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

SENATE CONCURRENT RESOLUTION NO. 511

(A concurrent resolution memorializing Congress to ensure that the extension of Interstate 69 from its current terminus at Indianapolis, Indiana, southwestward to the Mexican border is routed through the Mississippi Delta region in the vicinity of Greenville, Mississippi)

Whereas, Interstate 69 originates in the State of Michigan and is completed through the State of Indiana to the City of Indianapolis; and

Whereas, the 1991 Federal Intermodal Surface Transportation Efficiency Act, P.L. 102–240, Section 1105(c)(18), designated Indianapolis through Evansville, Indiana, to Memphis, Tennessee, as a National High Priority Corridor and appropriated $23,700,000.00 to be spent over the next six years on engineering, location and design studies on a portion of this corridor which extends Interstate 69 southwestward from Indianapolis, Indiana, toward Memphis, Tennessee; and

Whereas, the United States Department of Transportation Appropriation Act of 1993, P.L. 102–388, Section 351, extends this National High Priority Corridor from Memphis, Tennessee, through Shreveport and Bossier City, Louisiana, to Houston, Texas, where another National High Priority Corridor continues to Laredo, Texas, and to the Republic of Mexico; and

Whereas, construction of a highway built to interstate standards along a corridor extending from the City of Indianapolis through the States of Kentucky and Tennessee to Memphis, and then south from Memphis through the Mississippi Delta to cross the Mississippi River in the vicinity of the City of Greenville and continuing through southern Arkansas and northern Louisiana to the City of Shreveport, and then continuing through eastern Texas to the City of Houston, with potential extension beyond the City of Houston to the Republic of Mexico would greatly enhance the economic well-being of the United States; and

Whereas, extending Interstate 69 from the Great Lakes to the Republic of Mexico would create a free trade corridor from Canada to Mexico which would aid in the goal of increasing exports; and

Whereas, the area in Mississippi, Arkansas and Louisiana through which the proposed route passes, including the Mississippi Delta, is economically depressed and would be vastly aided in its economic development by an interstate highway connecting this area with major metropolitan centers such as Detroit, Indianapolis, Memphis, Shreveport and Houston; and

Whereas, the proposed highway would correct the historic omission of the Mid-Delta region from the interstate highway system, an omission which has caused the area to suffer economically for the past three decades:

Now, therefore, be it resolved by the Mississippi State Senate, the House of Representatives concurring therein, That we urge the Congress to take speedy and appropriate action to ensure that Interstate 69 will be extended along a National High Priority Corridor from Indianapolis, Indiana, through Memphis, Tennessee, and western Mississippi, crossing the Mississippi River in the vicinity of Greenville, Mississippi, then through southern Arkansas to Shreveport and Bossier City, Louisiana, to Houston, Texas, and the Republic of Mexico, and that adequate funding to plan and construct this highway should be authorized and appropriated.

Be it further resolved, That copies of this resolution be furnished to the Speaker of the House of Representatives, the President of the United States Senate, the Secretary of Transportation and the members of the Mississippi Congressional Delegation.

Adopted by the Senate February 12, 1993.

EDDIE BRIGGS,
President of the Senate.

Adopted by the House of Representatives February 15, 1993.

TIM FORD,
Speaker of the House of Representatives.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I think the unanimous-consent request last night gave me 10 minutes and I would like to have an opportunity to use that time.

The PRESIDENT pro tempore. Under the order, the Senator from Texas [Mr. GRAMM] is recognized for not to exceed 10 minutes.

Mr. GRAMM. Thank you, Mr. President.

THE CLINTON ECONOMIC PLAN

Mr. GRAMM. Mr. President, this morning I want to talk about the Clinton economic program, the national crisis we face with deficit spending, and about where we are and what our options are.

I am sure, Mr. President, that many Americans were surprised by what they heard the other night. They heard the President in essence say to them that what the President said during the campaign was at variance with what his new administration will do.

During the campaign, not once but a dozen times our President said that when he was talking about raising taxes, he was talking about taxing rich people, specifically those who had gross adjusted incomes as a family of $200,000 or above.

What has happened as we have moved from that campaign rhetoric to a concrete proposal—which we will see tonight but which has leaked out through a variety of sources—is that that threshold of taxing has fallen from $200,000 to $100,000. Today it is down to $30,000. We all know that when you impose an energy tax you drive up the price of gasoline for every American. You drive up the cost of heating and cooling the homes of every American.

So the President is now proposing taxes that do not represent some far away tax imposed on some rich person somewhere but taxes that impose a heavy burden on the people who do the work and pay the taxes and pull the wagon.

What is equally alarming to me, Mr. President, is at the same time that the definition of who is going to be taxed has changed dramatically. The definition of what is going to be done about spending has changed dramatically as well.

In the campaign, the President spoke of $3 in spending cuts for every dollar of taxes. Then when the new Office of Management and Budget Director was before the Senate in confirmation he spoke of $2 of spending cuts for every dollar of taxes. Then last week the discussion was $1 in spending cuts for every dollar of taxes. That is now down into the 90 cents of spending cuts for every dollar of taxes and there is growing evidence that this does not include the $16 billion of new economic stimulus spending which as I understand could well be sent to the Congress on an emergency designation.

While not trying to be overly critical, Mr. President, but as I look at the items that are at least contemplated in that economic stimulus package, they have the strange smell of pork to me rather than any kind of expenditure that would have a long-term impact on jobs.

If in fact the spending cuts do not include the additional spending, we might very well be down in terms of an initial commitment to about 50 cents of spending cuts for every dollar of taxes.

One of the things that is increasingly clear is that when the President is talking about sacrifice, he is talking about taxes. I personally do not see a shared sacrifice in those portions of the program that I have had an opportunity to see and review. When I hear sacrifice, ultimately the sacrifice is imposed on only one element of our society. That element is made up of the people who do the work, pay the taxes, and pull the wagon.

I see absolutely no evidence, Mr. President, that the people who are riding in the wagon, the people who are benefiting from the Government, are being asked to get out of the wagon and help pull. In fact, as I look at the information that is now available, nondefense discretionary spending will grow substantially under this program. Defense will be cut, but the total level of Government spending will actually go up as taxes go up.

I do not believe that approach represents shared sacrifice. I also do not believe that the American people are going to support the program, at least as we have seen it outlined to this point. My guess is, unless I figure this wrong, we are going to have the Congress take action to reject the President's program.

Quite frankly I am concerned that as we go into this debate we should go in with one commitment. That commitment is no matter what happens to the President's initial budget proposal, it ought not to lessen our commitment to deal with the problem. If it turns out that the American people view a program that would raise taxes, impose taxes on retirees, impose taxes on working people, but would at the same time allow the Government to get bigger, if the public ultimately rejects that as any kind of shared sacrifice to reduce the deficit, and if Congress rejects it, it is important, Mr. President, that we come back immediately on a bipartisan basis to try to come up with another program.

It is one thing to say that we reject the Clinton proposal. But I do not believe that that finishes our work. If the proposal tonight reflects the information that we have been given over the last 3 weeks, I believe it will and should be rejected. But I think that should not be the end of the budget debate. It should be the beginning of the budget debate.

Since we are going to be talking about a lot of issues as this debate occurs, Mr. President, I wanted to just call your attention and the attention of the Senate and the public to two fundamental factors that often get lost in this debate. One factor has to do with what has happened to the American people, and the American family budget as compared to the Federal Government's budget and the State government's budget.

What I have done in a simple chart here is I have started in 1967, and I have plotted Federal spending in this blue line. What you can see is the real growth in Federal spending since 1967. If you look at this blue line, you can see that it is going in only one direction. That direction is up.

Then I took State and local government spending. That is the red line. As you can see, its direction is clearly up. But if you look at family income, family income even though it rose from 1981 to 1990, has been basically stagnant for the last 25 years.

So when we are talking about shared sacrifice, which is a concept that I subscribe to, it seems to me that the people who ought to do the most sacrificing are the people who have benefited the most, and those are the people who are in, who run, and who have benefited from the massive growth in Federal, State, and local government spending.

The family has not been a beneficiary of this explosion in Government. In my opinion, as we look at the mix of how we are going to deal with the deficit problem these are numbers we should keep in mind.

Finally, Mr. President, in an era where we are all talking about taxing rich people, I think it is important that we look at the facts in terms of the tax burden of this country, and maybe these numbers will be a little bit enlightening. In 1980, before Ronald Reagan ever became President, the top 1 percent of all income earners paid 18.2 percent of all the income taxes paid in America.

In 1990, they paid 25.4 percent. So the percentage of taxes paid on income by the top 1 percent of all income earners in America actually went up by 40 percent from 1980 to 1990. The top 5 percent paid 36 percent in 1980, 44.1 percent in 1990. So its share of the tax burden actually went up by 23 percent. The top 10 percent paid 48.8 in 1980; 56.1 in 1990. Their tax burden went up by 15 percent. The top 20 percent saw their tax burden up by 9 percent. The bottom 60 percent of all income earners actually saw their share of the tax burden decline by 20 percent. The bottom 40 percent saw it decline by 33 percent.

So, Mr. President, when we are talking about imposing tax burden, I think it is very important that we remember that in terms of the effective tax collection people are already paying a lot of taxes, and when we are imposing taxes we are stifling the incentive of people to work and save and invest.

I yield the floor.

The PRESIDING OFFICER (Mr. KOHL). Who seeks recognition?

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Dakota.

EXTENSION OF MORNING BUSINESS

Mr. DASCHLE. I ask unanimous consent that the time for morning business be extended until 10:45.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S ECONOMIC PLAN

Mr. DASCHLE. Mr. President, I am amazed sometimes at how the colleagues in this Chamber jump to conclusions prior to the time they even have the opportunity to see the President's plan.

We have seen illustrations of that again this morning, as we have seen in the past, and I think it is unfortunate. I sometimes wonder whether it is partisanship or whether it is true objectivity and concern for the proposals that lead people to come to the floor to criticize a plan prior to the time they have even had the opportunity to see it.

The President has basically said one thing: He wants more jobs and higher income. He believes that we need to do that through deficit reduction and incentives to make this economy grow again. That is what we are talking about here. He is going to accomplish it for the first time in a long time with honest-to-goodness deficit reduction, not the smoke and mirrors we have seen for the last 12 years, but using the most conservative numbers we have to come up with a plan that will work and restore the people's confidence in Government again.

That is what we are talking about here: restoring confidence; asking people who have benefited the most over the last 10 years to contribute the most; to ensure that this economy continues to grow; to ensure that we begin dealing with the deficit in an honest way; to ensure that we get the kinds of jobs we need so badly; to ensure that we get the kind of growth that takes us beyond the pallid 2 percent we have seen over the last year.

So if people want to criticize and lambast this plan prior to the time they have even seen the first word, I question their motives and, frankly, I question their judgment. I think it is important that we take a good look. The American people sent us here to do the job of making this Government work better. That is what we are talking about here. If we cannot support this plan, then I think it is imperative that they come forth with constructive ideas on how to make it better, not throw it out categorically, not discard it entirely as just another plan that has no merit whatsoever.

Those who oppose it owe us the opportunity to evaluate their proposals that they believe will be an improvement over that which the President will announce tonight. But I sure hope that we will analyze it and will carefully look at all of its ramifications before criticizing it, prior to the time we have seen the first word. Constructively we should work together to ensure that we begin to address our Nation's economic and deficit problems in a forthright, constructive, and positive manner.

RURAL HEALTH AND MANAGED COMPETITION

Mr. DASCHLE. Mr. President, those of us in the Senate for some time have begun looking at the many different problems associated with health care in this country today. What strikes me most is when I look at the health care implications in rural America is "one in seven."

One out of every $7 we spent in 1992 in rural America and across this land was spent on health care. According to the Commerce Department, the Nation's health bill was $840 billion—that is 14 percent of our gross domestic product last year.

Although we have heard it several times in the past, that figure is both surprising and alarming, especially considering that many experts tell us that by 1995, we will spend $1.1 trillion by 1995.

One in seven.

Perhaps even more alarming is that one out of every seven rural Americans today is uninsured. That is almost 9 million people in rural areas alone, who are completely without any kind of health insurance whatsoever.

Most people do not realize that the rate of uninsurance for rural Americans is significantly higher than that for urban residents.

Of the remaining 53 million rural Americans, most are either uninsured, or pay expensive premiums that sap their meager incomes.

A major question is just now emerging from all of this: How will rural America fare with the health care reform being considered this year?

Although there are honest differences, it seems we—the Congress, the White House, the experts, and the American public—are beginning to agree on general principles that ought to guide our health care reform efforts.

It also seems we are beginning to focus the debate on some sort of managed competition model as a framework for reform.

About a year ago, an influential policy journal characterized this debate as being in the "waiting room of reform." I believe we have stepped out of the waiting room and into the operating room. But I am concerned, however, that we may be leaving rural America at the door. There are valid reasons for my concern.

Quite simply, rural Americans do not have access to appropriate, affordable, and quality health care today. We must understand that, and recognize it.

There are prevalent myths about rural America, from the romantic, bucolic life of the farmer on the prairie to the invigorating, seaborne life of the Maine lobsterman. But that is only half of the truth.

These are noble people, hardworking people, who are beset by major social and health problems—problems of poverty, poor nutrition, unsafe and deteriorating housing, inadequate water supply, lack of transportation, and limited medical resources.

These problems are not unique to rural America, but they are more prevalent, and they make the need for health care reform in rural areas even more critical.

Rural Americans—compared to the Nation as a whole—are disproportionately poor, experience much higher rates of chronic illness and disability and, frankly, they even age faster.

More and more, they are faced with the closure of hospitals and clinics, and an increasingly acute shortage of primary care providers.

Most are uninsured or underinsured, primarily because most workers are self employed and do not have employer paid or subsidized insurance programs available to them.

Insurance companies have continued to abandon community rating of insurance premiums in favor of a rating system based on individuals or employee group risk factors.

Many rural workers are considered high risk. The National Safety Council lists agriculturally related work as the most dangerous in the Nation. Farmers have the highest rate of hospitalization and the lowest rate of physician visits than any other occupation.

Because insurance companies refuse to use community rating, which would spread the risk, farmers, heavy machine operators, field hands, and foresters are either excluded from health insurance, or pay sky-high premiums.

As we develop a health reform plan, the unique characteristics of rural areas must be taken into account.

Paul Starr, a Pulitzer Prize-winning sociologist at Princeton, is one of the Nation's leading health policy experts and a major proponent of a national health care system using a managed competition mechanism.

Professor Starr has defined managed competition as an approach which harnesses market forces to make them work to the good of patients. In theory, managed competition encourages providers to form networks that compete for patients on the basis of premiums and quality, rather than on the basis of who gets the healthiest patients.

In theory, it holds that the quality and economy of health care delivery will improve if private health care networks compete for consumers.

Unfortunately, in rural areas, the paucity of providers offers few opportunities for real competition. Therefore, there are several things we must keep in mind as we enter the "operating room."

First, any reform strategy must incorporate substantial incentives and system flexibility to allow States and communities to determine their own health care priorities and preferences.

Second, any health care reform strategy must recognize the extraordinary and imposing access problems that impede the delivery of health care in rural communities.

Third, any reform strategy must enable and require our education and training system to provide more primary care physicians in order to meet the needs in medically underserved areas.

I still believe that the principles and mechanisms in a managed competition model provide the most useful framework for reform strategy. The desirable features of a managed competition model need not be lost when it comes to rural health care.

Indeed, there are models for how managed competition can be reshaped to respond to rural needs. For example, the Jackson Hole Group—including founding father of managed competition, Alain Enthoven—is now in the process of developing a model for how managed competition can work in rural areas.

This group proposes that the National Health Board create rural authorities that would be responsible for using subsidies to entice health networks to rural areas.

Competition would be among smaller, primary care, facilities, which would either be branch offices of urban networks, or independent networks that contract with other providers for specialized care.

Some of the best minds in rural health care will be meeting in Little Rock to brainstorm ideas for how managed competition can work in rural areas. We should heed their conclusions.

CONCLUSION

The mechanisms that would make managed competition work in Boston could theoretically be modified to fit Redfield, SD, but it is going to take a heightened awareness of the diverse needs of different regions of the country.

Creating such a flexible, regionally sensitive, reform plan is an immense challenge, but a challenge we cannot fail to take up.

Under the leadership of our President and the very capable chair of his national task force, his wife Hillary Rodham Clinton, I am optimistic and enthusiastic about our prospects.

As nation I believe we are up to the task.

There is work to be done. Let us go to it. But, as we step out of the waiting room and into the operating room, let us not craft a one-size-fits-all solution to a multifaceted problem.

We need to ensure that rural America is not left in the emergency room.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, is the leader time reserved?

The PRESIDING OFFICER. You have 10 minutes.

Mr. DOLE. I thank the Chair.

PRESIDENT CLINTON'S STATE OF THE UNION MESSAGE

Mr. DOLE. Mr. President, the American people are going to be watching President Clinton tonight, and they are going to be looking for leadership, especially on the economy. They are going to be watching, as they always are, with skepticism, because they have heard speeches before by Presidents, Democrats and Republicans. They have heard discussions before by Democratic Presidents and Republican Presidents about dealing with the deficit.

I guess in this case if the stock market is any barometer dropping 83 points yesterday, it is rather disquieting and indicates there is a lot of selling to do if the President's package is as we have read about it in the newspapers or watched on television. Maybe not. Maybe it is not mostly taxes; maybe there are spending cuts.

In my office yesterday and this morning we have had 900 phone calls. The ratio is 17 to 1, 17 to 1 against what these people understand to be President Clinton's package. What generates someone in my State or someone—in fact we have heard from every State with the exception of Alaska as of last night. We may have heard from Alaska since then. What inspires or generates or causes someone to pick up the telephone and call this Senator or the Presiding Officer or the distinguished Senator from Minnesota or anybody else to express their views? It is this new telephone or fax or letter democracy that the American people are beginning to understand and beginning to participate in which I think is a great idea. They are beginning to feel in America, the real America outside the Beltway, that if enough people call and register their objection or support for anything that someone may be listening. Maybe it will be the President of the United States. Maybe it will be someone in the Senate or someone in the House. Or maybe a lot of us will be listening.

So I think what the American people are saying when they called me yesterday maybe they are not ready to pass judgment. We should not pass judgment until we see every specific and every detail. But they are certainly registering their skepticism, and I believe that they are saying, in effect, that they want a balanced, common sense approach to deficit reduction.

And I have to believe there are enough of us in this Chamber on both sides of the aisle who are willing to be responsible and I believe enough of us have demonstrated that in the past when it comes to tough decisions there will always be some who will only want to criticize and have no plan of their own, but I believe there must be a majority somewhere if we have a balanced, commonsense approach to deficit reduction where you have the emphasis on spending restraint, spending cuts rather than new taxes.

I believe I can speak with some, not authority, but I think I understand that most people believe when you say tax the rich they are not going to believe that you are only going to be taxing the rich—and keep in mind that people making $100,000 may be businessmen or businesswomen, may be partners, may be subchapter S corporations, may be sole proprietors, may be creating jobs, meeting a payroll, doing all the things that they should do—they may not consider themselves rich, and some of these people are going to get to pay a lot of new taxes if what we hear is correct.

In my view the American people are saying to us, to the Congress, to the executive branch, to every agency, "We want real spending cuts from you before you ask us to pay more taxes." Maybe we will see those tonight. I understand that maybe 150 different programs will be cut. I do not know. I do not know how many are going to be increased either. If we increase spending that means more money on the deficit.

One thing we all know around this place is it is not hard to deliver a tough speech on the deficit. The hard part is making the tough votes and putting it together so it is a well balanced, common sense approach to deficit reduction.

There is nothing fair about raising taxes on the middle class. In fact, I am not certain there is anything fair about raising taxes, period, unless you couple that with tough spending cuts.

So what maybe the people are talking about when they call in they say, well, here we go; more business as usual, with Government from Washington, from Congress, from the President, raising taxes, gutting, not cutting, defense, but gutting defense and not much else.

So we will wait with great expectation tonight as we hear President Clinton.

The President has made it rather clear he expects this to be a Democratic proposal. He must be expecting nothing but Democratic support. We have had no consultation with the President. We will meet with the President this afternoon with the leadership where he will tell us what is in the package. That is not consultation. Maybe that is the way it ought to be. It has probably been done in the past. I can recall in 1985 when I was the majority leader and we had a tough, tough deficit reduction package on this floor, I had one vote from the other side of the aisle, the late Senator Ed Zorinsky from the State of Nebraska, and his one vote made a difference, and we passed that package by a vote of 50 to 49. If anybody wants to check on whether or not we demonstrated willingness to take on the deficit, go back and take a look at that package and take a look at some of the spending restraints.

So my view is the debt has not gone down. It is still about $4.4 trillion. The Bush recovery is well underway. Productivity is up 2.7 percent, the highest year in 20 years. The car sales are up the highest in 2 years. Growth in the last quarter is 3.8 percent. All these are things President Bush told us might happen.

And I would just conclude by saying this: I hope we do not get into the posture around here where President Clinton tonight is going to blame President Bush and President Reagan for all the Nation's problems without recounting that Democrats controlled the House all those 12 years and the Senate 6 out of those 12 years.

So if we are going to start pointing the finger of blame, then I think it is going to be a disaster from the start. If there is going to be an effort to construct a good, common sense, tough approach to the deficit, then the American people are better off for it whether they are Democrats, Republicans, or Independents. So if President Clinton tonight hopes to pin the tail on the Bush and Reagan administrations, that would not be the way to start in his first 30 days. Congress also has a role to play and Congress has been here for the most part controlled by his party. So if there are problems, he ought to point that out, too.

So I am one Republican who believes in deficit reduction. I stake my reputation on my votes for deficit reduction, and I am prepared to make additional tough votes. But before we do that, we need to make certain we know what is in the package and we need to make certain it is not going to be top-heavy.

I look forward then, with great interest, to hearing what the President has to say tonight. As Republicans—and I think I can speak for everyone on this side of the aisle—we want to be helpful. We think we can be helpful when it comes to spending cuts. We hope to put together a package of alternative spending cuts that might be used to reduce some of the increased taxes.

So we will be looking forward to working with Democrats in the Senate and the President of the United States.

I reserve the remainder of my time.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. WELLSTONE. Mr. President, I ask unanimous consent that morning business be extended for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAIT AND HEAR WHAT THE PRESIDENT HAS TO SAY

Mr. WELLSTONE. Mr. President, I was listening carefully to the words of the distinguished minority leader, and I thought maybe I would share my perspective about this very, very important address tonight.

We do not know all the specifics, so I think we should wait and hear what the President has to say in total.

Let me just start out by saying that the minority leader mentioned the reaction of Wall Street. I think that, as a Senator from Minnesota, I am more concerned about Main Street, Minnesota, and Main Street, United States, than I am about Wall Street.

There is an old Yiddish proverb that you cannot dance at two weddings at the same time. And I will follow the advice of the minority leader and I will not make this a partisan point, but I will point out that in the last 10 years-plus, we have seen an overall debt go from $1 trillion to $4 trillion and we have seen a deficit go from $70 billion to $350 billion.

And I think people in Minnesota, I think people in Massachusetts, I think people around the United States of America are saying to all of us, regardless of party background: You all cannot talk about reducing the deficit, and talk about investing in children and education, and talk about health care, and talk about job training, and talk about investment in the economy without talking honestly about where the resources are going to come from. That is dancing at two weddings at the same time.

I believe, as I understand what President Clinton is going to propose to our Nation, the most important feature perhaps is that we will finally—and I think it is long overdue—have some fairness when it comes to who will pay the additional revenue. That is a welcome change from what we have been doing in this country.

It makes sense for higher income people and wealthier people to pay their proportionate share, their fair share, of taxes. That will be part of the sacrifice. All of us will be a part of it, but this time I think it will be based upon a principle of fairness.

And, quite frankly, I think the reaction of people in cafes in Minnesota about the President of the United States, President Clinton, will be something like this: "He has guts. He is treating us with intelligence. He is telling us we have to tackle the problems, and he is being honest about what we have to do."

Let me just make one other point. When I hear people talk about cuts, I think that is appropriate. But sometimes I worry, because part of the philosophy of Government that we have seen for all too many years of this decade of the 1980's-plus has been cut, cut, cut.

But it is interesting to me how some people can be so generous with the suffering of others. What are we going to do, cut more when it comes to children? We have abandoned all too many children already. Are we going to cut job training? Are we going to cut health care benefits? Are we going to cut the cleanup of the environment? Are we going to cut aid to urban communities? Are we going to cut aid to rural communities?

It strikes me, if we are going to have an evenhanded approach—and I believe that is what the President is proposing to our country—we are going to focus on the budget deficit, but we are also going to focus on the investment deficit and we are going to have some money up front to invest in our communities and our people and in job training and in job creation.

So I just want to say that I have a somewhat different perspective, as a Senator from Minnesota, than the one that the minority leader has presented. I am getting a somewhat different tally of phone calls. It is kind of interesting who calls what Senator, and I will admit there is self-selection, to be sure, and I think I need to point that out.

I quite frankly think that the people of the United States of America are going to say after tonight: This is going to be a difficult time. But this time, finally, we have a President who is treating us with intelligence, we have a President who has the courage to tell us what we have to do to tackle the problem, we have a President that has some standard of fairness when he calls for sacrifice by all of us, and we have a President that has his eye on the prize, which is jobs and investment in people in our own country.

Mr. President, I yield back my time.

COMMENDING JAY FIEDLER

Mr. MOYNIHAN. Mr. President, I rise today to recognize the outstanding achievements of New York's own Jay Fiedler. Jay is Dartmouth's record-breaking quarterback. He is a junior, an engineering major, and maintains a 3.15 grade point average.

In addition to rewriting the Dartmouth record books, this 6 foot 1 inch, 215 pound Oceanside, LI, resident was named "Third Team Division 1-AA All American" by the Associated Press. He was awarded the 1992 Bushnell Cup as the Ivy League's most valuable player. Jay led Dartmouth to a tie for the league championship, and the list goes on and on. Quite simply, he is one of the best quarterbacks the "Big Green" has ever seen.

Mr. President, I offer my most sincere congratulations to this special young man and wish him the best of luck in the future.

COMMENDING GEORGE F. SORN

Mr. MACK. Mr. President, I rise today to bring to the attention of my colleagues an outstanding individual who devoted his life's work to agriculture, both nationally and in Florida. Mr. George F. Sorn retired as executive vice president of the Florida Fruit & Vegetable Association on December 31, 1992, after 40 years of dedicated service to the industry.

His involvement with all aspects of Florida agriculture was the springboard that brought him national recognition as a leader and spokesperson for all of agriculture. During his career he has served on many Federal and State commissions and councils. In 1987, President Reagan appointed him to serve on the Commission on Agricultural Workers.

George graduated from Rutgers University with a BS degree in agriculture in 1950. He took time out of his college studies to serve 18 months with the U.S. Air Force in the late 1940's. Prior to his joining the Florida Fruit & Vegetable Association in 1953 as a field representative, he spent 2 years working with Seabrook Farms in Bridgeton, NJ, serving in various labor related supervisory capacities.

George was named manager of FFVA's Labor Division in 1967. This was the beginning of George's climb to the top at FFVA. On March 1, 1981, he was named assistant general manager, in addition to his continuing duties as manager of the labor division. In April of 1984, he was named secretary-treasurer, executive vice president and general manager.

In addition to his membership in many agricultural associations on both the State and Federal level, George found time to devote to humanitarian and human rights issues in the agricultural industry. He has received many awards and honors throughout his career in recognition of these efforts.

The most recent award was presented at FFVA's 49th annual convention. He was presented FFVA's prestigious Distinguished Service Award. His major awards include "Life Member Award" for Optimist International (1971); "Certificate of Appreciation"—State of Florida Department of Labor and Employment Security (1983); "Award of Recognition" by the Employer's National Job Service Committee (1984); "Award of Appreciation" by the Redlands Christian Migrant Association (1985); "Award of Merit for Distinguished Service to Agriculture" by the Gamma Signa Honorary Society of Agriculture (1986); "Certificate of Appreciation" by Florida Governor's Advisory Council on Farmworker Affairs (1986): "State Friend of Extension Award" by the Alpha Delta Chapter of Epsilon Sigma Phi—Honorary Agricultural Extension Service Fraternity (1987); "Chairman's Roundtable"—Distinguished Honor Roll of United Fresh Fruit and Vegetable Association (1990); "Award of Merit for Distinguished Service to the Food and Agricultural Industry of Florida" by the University of Florida's Institute of Food and Agricultural Sciences (1992); and most recently he was awarded the "Bert Roper Humanitarian of the Year Award" by the Orange County Public School Migrant Program.

George was responsible for developing agricultural labor seminars over 20 years ago that continue to address the major concerns facing the industry today.

Since becoming general manager in 1984, George Sorn added two new divisions at Florida Fruit and Vegetable Association to respond to the changing demands of the industry. The first division was environmental and pest management, which marked a first for any organization in the fruit and vegetable industry to establish a unit to deal with these important issues on a full-scale basis. A communications and education division was created 3 years ago to meet the ever increasing needs, to be more responsive to the media. George felt it was imperative that the organization spend full time telling the public, media and legislators about the importance of Florida agriculture and all the good things they do in providing safe, healthy food to the American consumer.

Mr. President, I know my colleagues here in the Senate join me in recognizing the many years of dedicated, selfless service George Sorn has provided to the agricultural community and the American public. His work has had a significant impact on the agricultural community, and I am proud to commend George for his years of service.

"THE TIMES ARE A CHANGIN"

Mr. DECONCINI. Mr. President, I respectfully request that the enclosed article be printed in the CONGRESSIONAL RECORD. "The Times Are a Changin" was written by one of my constituents, Robert T. Paca, and I want to share his views about the pardons granted by President with my colleagues.

I ask unanimous consent that "The Times Are a Changin" be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"THE TIMES ARE A CHANGIN"

At the birth of our country my "many greats" grandfather, William Paca, along with others, signed his name below John Hancock on the Declaration of Independence. In those days men pledged their sacred honor. It had genuine meaning and guaranteed the public they served—honesty and integrity.

Today, more than 200 years later politicians and lawyers are evolving a new and disgusting philosophy relative to the character of those whom we elect to manage the affairs of our country. We have traveled down the road from sacred honor to today's "Don't not do it, just don't get caught.", a sad milepost in the total collapse of what is honorable, right and fair. The newest position taken by our president is "Go ahead and do it. It's OK.", "If you get caught I will pardon you!" What kind of a message is that to send to our youth of all ages? How can we expect coming generations to hold high the Torch of Honor for the world to see, when such a revolting example is provided for them by the highest level of our government.

I recommended that, along with his pardon of those convicted, Mr. Bush include his personal check to reimburse the American Taxpayer in full for all legal expenses, investigations and trials that resulted in the conviction of those he has pardoned. If his actions bespeak his implementation of "family values", Heaven help us.

ROBERT TILGHMAN PACA.

A DISAPPOINTING ECONOMIC PLAN

Mr. NICKLES. Mr. President, I, for one, have been very disappointed in President Clinton's announced economic plan. His speech on Monday night, as well as recent press statements, show me that he has broken faith with the American people as far as the promises and statements that were made throughout last year's campaign.

We heard throughout the campaign that his tax increases were only going to affect the very wealthy; or people who make over $200,000. We heard that repeatedly. According to headlines the last couple of days, now people will be taxes if they make over $30,000; $30,000 is not the same thing as $200,000, a figure which we heard time and time again.

The President said, "We are only going to sock it to the fat cats. We are only going to sock it to the wealthy." Yet we find out from the President's press spokesperson yesterday that people who make over $30,000 a year will be asked to "contribute." That is the new code word for increasing taxes, be it energy taxes, or Social Security taxes.

My father-in-law is living on Social Security and other retirement income. He found out he is going to have a big tax increase. He said, "I did not hear that during the campaign." He did not know that he was rich. He thought President Clinton was talking about someone else.

During the campaign President Clinton said we are going to put a 10-percent tax surcharge on millionaires. Now we find out the definition of millionaires has changed to people who make over $250,000.

What really bothers me is his philosophy—that philosophy that by increasing taxes we are going to help the economy. I want to contribute to help make the economy better, to help this economy grow, to employ more people. But I do not think raising taxes is going to help the economy.

We raised taxes in 1990. Did it help the economy? Not in my opinion. I did not vote for that package because I thought it would hurt the economy, and it did. It helped put people out of work.

We need to do some things to get the deficit under control. Some people seem to think the solution is more taxes. I for one believe we need to cut spending.

I heard my friend and colleague Senator WELLSTONE from Minnesota say, we need people to quit talking out of both sides of their mouths. We are spending $6,000 for every man, woman, and child in the United States. Surely that is enough. Surely we should be trying to reduce the deficit by cutting spending, not by increasing taxes.

I am concerned about the thrust of President Clinton's plan, an almost total elimination of real deficit reduction. When you hear President Clinton's remarks tonight, he is going to talk about tax increases. He is going to talk about some spending cuts. But he is also going to talk about a lot of spending increases. Those spending increases will grow substantially in the future and create a lot of pressure for more spending and increased deficits in the future. That situation bothers me probably most of all.

I am bothered by the fact that our President was making campaign promises not to raise taxes on the middle class, and then asking the middle class to accept a big tax increase. They are going to be taxing retirees on their Social Security; they are going to define millionaires as anybody who makes over $250,000; they are going to say that the so-called wealthy or fat cats now are anybody who makes over $30,000. I am concerned because we are asking them to pay more taxes for deficit reduction when in reality it is for more spending.

I will predict that in tonight's address we will hear the President talk about increased spending. In other words, he wants to increase taxes to increase spending.

I also want to comment about this movement away from the President's campaign promise or pledge to cut the deficit in half. The deficit in 1992 was $290 billion. One-half of that would be $145 billion. Now we heard the President on Monday night say that the deficit is growing—oh, my, now it is going to be $400 billion.

Frankly, the forecast that CBO gives for 1996 is $287 billion. The deficit is projected under most scenarios to be fairly constant in about the $300 billion range. So the deficit is not changing that much from what it was last year. It is fairly constant. The President now wants to take the worst scenario and say the deficit is going to be even higher.

But as the Republican leader, the Senator from Kansas, mentioned, there is a lot of good news on the economic cycle. Until the President's speech on Monday night there were a lot of things moving up. Gross domestic product last quarter grew 3.8 percent; the quarter before that, 3.6 percent—moving up. We have had some good economic news. Interest rates are low, inflation is low, and GDP growth in the United States is much higher than any of our competitors. There are some good things happening.

We want to create an environment for jobs and job growth. I believe massive new taxes, massive new mandates, massive new regulations will not help the economy. They will put people out of work, and we cannot afford to do that.

Finally, I have been disappointed in the fact that this administration, for whatever reason, has decided to totally ignore the Republicans in this body and the House in formulating this package. That is their choice. They have been consulting with multitudes of Democrats, and that too is certainly their prerogative. They have decided to make this a very partisan package, which is clear both from the President's statement on Monday night and also from his lack of consultation with Republicans in formulating the package. I regret that. I think the President would have been far wiser had he decided to work with a bipartisan group in Congress, both in the House and the Senate, to formulate a very positive package for real deficit reduction, one that would have real spending cuts intend of massive tax increases which will do more damage than good.

A BROKEN PROMISE

Mr. MACK. Mr. President, Bill Clinton has broken his promise to the American people. His economic plan is one of more taxes, more spending, and more government. This is not what Americans voted for.

President Clinton was elected on his core commitment to help the economy, and he will be judged by his ability to keep the campaign promises he made to the American people.

The President promised a bold experiment, but proposes the same old tired rhetoric of more taxes and more spending. Although he used a Reagan approach, he delivered a Carter message.

The President must realize if economic growth is to continue, talk of higher taxes must stop.

Higher taxes have never helped the economy, and never will. Higher taxes have never produced jobs, and never will.

I listened to Treasury Secretary Lloyd Bentsen defend President Clinton's plan on a TV talk show this morning. What I heard from the Treasury Secretary was not a plan to grow the economy, but a plan to change the way Americans behave.

The Clinton plan should be focused on giving Americans the opportunities to make their own choices to improve their lives. The President is, unfortunately more interested in telling people how to live their lives. The Clinton plan would tax energy, because we drive too much. The Clinton plan would raise income taxes, because some people made too much. What a message about achieving and success.

In 1990, talk of taxing the wealthy led to the luxury tax on boats which cost hundreds of jobs in Florida's boatbuilding industry, and thousands nationwide. When the luxury tax was passed, middle-class workers lost their jobs.

In fact, we refer to the luxury tax in the State of Florida as the layoff tax. It is a lesson we must not repeat.

The President is wrong on three counts. First, a tax increase on the middle class, the elderly, the wealthy, and energy users is not the path to job growth and economic revitalization. It is the road to economic stagnation.

Second, the President is wrong to equate patriotism with his demand that Americans sacrifice more of their income to taxes. Patriotism has nothing to do with agreeing to an economic program which will result in more taxes, more spending, lower levels of growth, more unemployment, and higher deficits.

Third, the President is wrong to want to change the way we live our lives just to meet the goals of a politically correct agenda. Americans want more freedom, not less. They want more opportunities, not less.

Republicans are eager to work with the President to help the economy move forward without raising taxes. The President's plan violates a cornerstone of his campaign—raising taxes on the middle class. Moreover, there is nothing new about his economic approach. It has been tried before, and failed miserably.

PRESIDENTIAL PARDONS WERE WRONG

Mr. DORGAN. Mr. President, I rise today to reflect on the pardons President Bush issued last December on behalf of six individuals involved in the Iran-Contra affair.

These Presidential pardons point to an inherent double standard. They send a message that it is alright for some people to break the law. Well, it is not alright, and no President should condone it.

I am especially angered by the pardons Mr. Bush granted to a number of CIA officials. If an administration can use the CIA to pursue policies that violate the law, and then grant these operatives Presidential pardons, a dangerous precedent is set. Because of its role in national security, Congress already gives broad discretion of CIA operations.

The irresponsible act of granting these pardons has allowed some officials of this executive agency to act with absolute judicial immunity as well. The pardon of these officials casts a historical and indelible shadow on what Mr. Bush considered to be his greatest accomplishment, his administration's foreign policy.

I am also concerned about pardons being issued by a lameduck President. These is no accountability when a lameduck President uses his power to pardon in this manner. Instead of being used as an act of mercy—the constitutional reasoning behind the power to pardon—these pardons were use to obviate the truth, and have implied to many a confession of guilt.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt—run up by the U.S. Congress—stood at $4,175,915,249,528.46 as of the close of business on Friday, February 12.

Anybody remotely familiar with the U.S. Constitution is bound to know that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States. Therefore, no Member of Congress, House or Senate, can pass the buck about the responsibility for this shameful display of irresponsibility. The dead cat lies on the doorstep of the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 merely to pay the interest on deficit Federal spending, approved by Congress, over and above what the Federal Government has collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman, and child owes $16,257.62—thanks to the big-spenders in Congress for the past half century. Paying the interest on this massive debt, averages out to be $1,127.85 per year for each man, woman, and child in America. Or, looking at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

What would America's economic stability be today if there had been a Congress with the courage and the integrity to operate on a balanced budget? The arithmetic speaks for itself.

A GREAT CELTIC RETIRES

Mr. KERRY. Mr. President, on February 4 over 15,000 friends, family, and fans gathered as Larry Bird's No. 33 was raised to the rafters at historic Boston Garden. The retirement of Larry Bird is yet another landmark in the history of the Boston Celtics, arguably the greatest franchise in the history of the National Basketball Association.

Whether you were thrilled about Bill Russell's dominance on the court during his 13 seasons as the game's greatest center or glued to the radio for announcer Johnny Most's infamous call of "Havlicek stole the ball," Celtic pride and tradition are a high point in the world of sports. No one has more eloquently described this than Larry Bird himself, on April 18, 1992:

> Everybody else says they're proud to play for all those teams and make a lot of money and everything, but if you don't play for the Celtics you never played professional basketball. This is what basketball is all about. This is what every player in the world—whether they like it or not—this is what you strive for—to be part of a family, part of a team. The only way you can get that is to play for the Celtics—not for a year, not for two years, but for a whole career. Very few players have been able to do that and I'm very fortunate.

Indeed, the Celtics have a unique place in the history of sport. The team is one of only two charter teams in the NBA that have remained in their original city; my friend Senator BRADLEY can speak of the other. The Celtics are also the winningest team, with 16 World Championships—eight in succession from 1959–1966—and, of course, are the only team with Red Auerbach, the Celtics president and winningest coach in NBA chronicles.

While the Celtics continue to excel with future hall of famers Kevin McHale and Robert Parish, today's Celtics are clearly a team in transition—not on the fast break, but rather with a new generation of Celtics heroes like team captain Reggie Lewis and slam-dunk champ Dee Brown.

There has always been a special relationship between the Celtics and their fans. Through thick and thin, those who cheer for the green have sold out every game since the 1981–82 season. And the players' sentiments toward the fans is perhaps best expressed in Larry Bird's retirement night statement:

> I'm going to miss running the pick-and-roll with Robert Parish. Yes, I'm going to miss throwing the ball down low to Kevin McHale and watching him go to work. I'll miss those back-door passes from Dennis Johnson. Most of all, believe it or not, I'll miss the fans.

Yes; Larry Bird has retired—much earlier than he or the fans would have liked. But future generations of fathers and sons and mothers and daughters will still root for their Celtics and someday again will look up at another championship banner hanging high from the rafters of Boston Garden.

TRIBUTE TO BOB DUNN

Mr. DURENBERGER. Mr. President, I rise today to pay tribute to Bob Dunn, a longtime friend of Minnesota—and a long-time friend of mine.

Bob served in the Minnesota House of Representatives for 8 years and in the Minnesota Senate for 8 years. These years of service came at the same time that I began my career in public service as chief of staff to Gov. Harold Levander. Bob taught me that when one is in the arena of public service, it is best to do what is right, rather than add political points to your column. It is a lesson well-learned by everyone who gives their lives to serving others.

There is another gift that Bob has given those in public service. He has a remarkable ability and wisdom to work with every Minnesota interest to develop important relationships that have all of us working together to focus on a cleaner and healthier environment.

It is through his work on behalf of Minnesotans and our environment that Bob is best known, especially through his leadership of the Environmental Quality Board.

Charles Lindbergh Jr., another Minnesotan concerned about conservation and environment, once asked if civilization was progress. Lindbergh answered his own question:

> The final answer will be given not by our amassing of knowledge, or by the discoveries of our science, or by the speed of our aircraft, but by the effect of our civilized activities as a whole have upon the quality of our planet's life—the life of plants and animals as well as that of humankind.

Bob Dunn's efforts and his leadership, in behalf of humankind in our relationship to the environment have raised our level of civilization. I gratefully acknowledge the gifts that Bob has given to each of us.

DEVELOPING A COMPREHENSIVE ECONOMIC PLAN

Mr. BIDEN. Mr. President, beginning with the State of the Union Address this evening, the task of developing a comprehensive economic plan will pass to Congress. The challenge we face is to undo the mistakes of the last decade and to meet the demands of the next century. As we confront that challenge, we must remember that to promote economic growth in the future we need more jobs now.

That economic reform plan will confront the unique task of restoring growth in the face of fundamental changes in the way our economy operates. In the words of Federal Reserve Chairman Greenspan, this recovery is fighting headwinds which no other expansion in our post-war experience has faced.

These headwinds, Mr. President, are also the winds of historic change. In fact, in other circumstances, many of the factors that have contributed to this situation should be welcome. But unless we act to take advantage of these trends, their potential benefits for the future may be lost.

For example, new, more intense global competition is driving the restructuring of many of our country's largest corporations. In many industries, dramatic improvements in productivity mean demand can be met with only a fraction of the work force needed a decade ago. We now know that 1992 saw the healthiest productivity growth in two decades. This is good news for the future of our economy.

We also welcome the changes in international relations that permit less defense spending than the cold war required. The talents and resources we dedicated to winning that war are now available for peaceful endeavors.

But these and other historic developments also mean that millions of jobs in the core industries of our economy are now gone. Major corporations continue to lay off workers. Just 3 weeks ago, four of our largest employers announced plans to lay off more than 100,000 workers. They will not return to those jobs, even if our economy expands.

Like every other American, I welcome recent economic reports of increasing sales and output. And like every other American, I want to be optimistic about our economic future. But the fact of the matter, Mr. President, is that right now our economy is not capable of creating the jobs we need to sustain recovery in the face of these historic changes.

We remain far behind other recoveries, in both job creation and economic growth. Today, our national output is only 1.6 percent above its peak before the 1990 recession; at this point in other recoveries, output had grown 5.8 percent.

Job creation, too, is a fraction of other recoveries. Job creation so far is only one-tenth of the average post-war recovery. More that a year after the beginning of recovery, unemployment is still higher than it was at the bottom of the recession.

The current consensus forecast for this year is for growth of just over 3 percent for 1993, too weak to bring unemployment below 7 percent this year, or below 6.5 percent in 1994.

Slow economic growth and unemployment add to our deficit, reducing the tax base and increasing social support spending. Every 1 percent of unemployment adds $50 billion to our deficit.

In these circumstances, I am encouraged by President Clinton's commitment to boost job creation and economic growth now as part of a long-term plan for economic renewal.

At the same time, Mr. President, I am discouraged that we continue to hear arguments against economic stimulus. We hear that the recent slowdown and layoffs represent the inevitable costs of economic change. We should do nothing to interfere with this process, according to this argument—the survival of the fittest will guarantee that our economy will be better off in the long run.

We are also told that despite persistent unemployment, there is nothing constructive we can do to boost job creation and growth. Economic stimulus will only make the deficit worse, say these critics, and besides, a government program to help the economy is bound to be inefficient.

We must not be paralyzed by a false choice between current growth and the need to bring our deficit under control. Until we return to a level of growth that can put a real dent in unemployment, attempts to restore fiscal balance by tightening our budget alone will be impossible to legislate and cannot succeed.

And if we simply wait for growth to return on its own, in the face of the headwinds we now face, we will leave idle human talents and industrial capacity, leaving a smaller base to grow from in the future. Currently, 2½ million workers are unemployed, and we are using less than 80 percent of our industrial capacity. Under these conditions, there is room for expanding economic activity without the threat of increasing inflation and interest rates that could harm future growth.

This is particularly true if a stimulus plan includes a focus on rehabilitating our neglected public infrastructure, because unemployment problems in the construction industry are particularly severe, and improved public facilities offer real long-term economic benefits.

But not just any public works program will do. To be an effective part of an economic plan that restores healthy economic growth now and is compatible with deficit control, an infrastructure investment program must be carefully designed.

Among the features that I believe such a program should have, Mr. President, I will mention only a few. It should target projects that have already been identified as economically beneficial by States and local governments, not just elicited by the prospects of Federal funding. A quick turnaround in the approval of grants will direct resources to those projects that have already benefited from extensive local review and development.

An effective program will also ensure that funds are shared among the States on the basis of the history and severity of their unemployment problems. We know that current economic distress is unevenly distributed throughout the country, and a Federal program to respond to that distress must focus its resources where they are needed most.

Such a program will also assure that rural America, and the smaller political jurisdictions that have borne their share of the local fiscal stress in recent years, will be cared for with provisions that get funds down to their level.

While matching funds may add an additional consideration to hard-pressed local governments, I am convinced that the commitment of local funds will assure that projects they choose to undertake are real priorities.

Finally, such a program should sunset a year after passage, or sooner if we see an unexpected improvement in the employment picture. This will provide the incentive for States and localities to undertake needed projects soon, assuring the speediest possible boost to the economy, while we can be confident that the need will still exist.

I look forward to the President's economic recovery package. I expect that it will include incentives for additional private capital investment, programs to upgrade the skills—and the incomes—of American workers, and a credible plan to restore balance to the Federal budget. A carefully drawn, focused program of job creation through infrastructure investment will be an important component of such a comprehensive plan.

THE PASSING OF PFC DOMINGO ARROYO, JR., OF ELIZABETH, NJ

Mr. BRADLEY. Mr. President, on January 20, 1993, Pfc. Domingo Arroyo, Jr., of Elizabeth, NJ, became the first United States soldier to be killed in the Somalian relief effort. Private Arroyo, who expected to be discharged shortly from the Marines after 4 years of active duty that included Operation Desert Storm, was part of a patrol that was ambushed by Somali gunmen.

Domingo was born in Puerto Rico. Living in New Jersey most of his life, he came from a close-knit family and was liked and respected by his teachers, friends, and neighbors. The reasons he gave for joining the Marines were moral and selfless. He wanted to help others, he wanted a college education in order to better himself, and he wanted to provide his mother with more desirable living conditions.

A true American, Domingo gave his life in another country, protecting its destitute, defenseless people. In his dedication to his country, to his family, and to his high ideals, he represents the best of our Nation's youth. I mourn his loss. Domingo will be remembered as a hero and honored for his selfless bravery.

At this very sad time, Mr. President, I ask my colleagues to join me in expressing our deepest sympathy to the family of Domingo Arroyo, Jr.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL INSTITUTES OF HEALTH REVITALIZATION ACT OF 1993

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the National Institutes of Health Revitalization Act of 1993, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1) to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes.

The Senate resumed consideration of the bill.

Mr. KENNEDY. Mr. President, just for the benefit of Members, over the period of yesterday and even through the earlier part of today, we have been working with Senator KASSEBAUM, a number of our colleagues, to resolve issues with the NIH bill, and we continue to make progress. We are discussing various amendments to the bill.

We have been urging, as has the majority leader, that those Members who do have amendments come forward. The leader has given notice that this legislation was going to come up. He indicated that at the end of last year and the early part of this year, so we have been on notice. S. 1 was unanimously reported out of committee. We did have a unanimous vote—the Republicans and Democrats alike supported this legislation.

Senator KASSEBAUM and I have outlined the provisions of this bill in detail. We will be glad to try and work out any measures that are of concern or interest to the membership.

There will be matters which will be further discussed by Senator DOLE and Senator MITCHELL which are in the process now of negotiations. There will be an amendment from the Senator from Alabama dealing with university research and foreign corporations. I look forward to the debate on that amendment.

So if there are Members who have amendments, we welcome them. They have not at this time shared them with the floor managers. They are within their rights to offer them at any time while the measure is before the Senate. Obviously, we can have an informed and intelligent debate and discussion if the amendments are distributed as soon as possible.

So, again, at the urging of the leader, we want to be able to address this issue and dispose of it. We have debated it extensively in the past, and we are prepared to do so at this time.

Mr. President, while I have a few moments, I thought I would just outline some of the very important provisions that have been included in the legislation which the Members, hopefully, are aware of. Obviously, I will yield for any of the Members if they do have amendments, and we can get back to the general discussion.

One of the very important areas that has been included in this legislation deals with pediatric cardiovascular disease.

As I mentioned, pediatric cardiovascular diseases are one of the very important and significant health challenges to infants and small children. It is a cause of significant morbidity and mortality in the United States. And congenital heart disease, the most common type of birth defect, affects 8 out of every 1,000 newborns.

Acquired heart disorders such as rheumatic heart disease accounted for over 50,000 hospital admissions in 1990.

The bill recognizes that multidisciplinary research centers offer the potential for advancing our knowledge in biochemistry, molecular biology, genetics, and bioengineering as they pertain to pediatric cardiovascular diseases.

The bill supports the establishment of pediatric research centers to meet the health and research needs of children.

During the past few years, there have been unprecedented advances in the scientific investigation of inherited and acquired diseases affecting children.

The application of the research to disorders such as cystic fibrosis, sickle cell anemia, juvenile diabetes, and mental retardation can result in improved treatment and care for the Nation's children.

There is, in the field of pediatrics, a great ummet need for researchers who are able to apply their basic research skills to clinical problems.

In 1990, the National Institutes of Child Health and Human Development sought to address the issue by increasing the number of pediatric medical centers that could transfer research findings to pressing pediatric problems and encourage the development of physician-scientists in pediatric medicine.

I think all of us are mindful of the excellence of NIH. Part of the challenge to all of us is how you are going to get the treatment into the medical centers, particularly the great medical centers around this country that are dealing with childhood diseases. This is really an effort to take the scientific knowledge gained from basic science research and rapidly transfer that knowledge to patient care. The National Institute of Child Health and Human Development should be commended for initiating this program. Our goal is to strengthen and expand this program.

This bill authorizes the child health research centers program designed to speed the application of findings from the basic science to direct patient care.

Each of the centers concentrates on a specific scientific area. Established investigators from a variety of scientific backgrounds would combine their efforts to establish a pediatric center of excellence.

Senior scientists would serve as mentors for newly trained pediatricians just embarking on their research careers.

What we are trying to do is take these newly trained pediatricians from these medical centers and bring them into the areas of scientific research, since we do have a shortage of physician researchers in pediatric diseases.

Each center would have the flexibility to select which new projects and which junior investigators to support, providing the opportunity for highly individualized programs.

This has been very, very well received in the various medical centers that are focusing on infant cardiovascular diseases, and we do believe that with the kinds of investments we are placing here we are really expanding both the knowledge and the treatment and service to infants.

Another very important children's initiative is in the vaccine area. I think all of us were very supportive of the President's commitment, announcement last week of some $300 million that will be put into the budget to ensure that every child is immunized. We must remove all the barriers that impede the efforts of working families to get their children immunized.

The development of registries is enormously important to immunization programs. We were doing pretty well in developing registries in the 1970's until the early period of the 1980's when support for those programs was cut back.

The importance of the registries is to ensure that children who receive the early shots for these vaccine preventable diseases complete their immunization schedule. The registries provide immunization information to the parents, followup notices for the next series of shots, and they keep track of the children if they move.

I know our colleagues, Senator BUMPERS, Senator RIEGLE, and a number of our colleagues on the other side of the aisle are very much interested in childhood immunization. We will have a chance to address this issue later in the session.

But one of the important initiatives in this legislation is the development of a children's vaccine initiative. In 1990, the World Health Organization and UNICEF launched the children's vaccine initiative to bring together scientists, industry, government, and private donor groups to develop new and effective vaccines that can be easily administered.

There are many potential benefits to developing combination vaccines that can protect children against many illnesses with one shot.

CDC reported that only 10 to 40 percent of 2-year-old children were up to date with their required immunizations, while 90 percent had received at least one shot in their first year.

So, obviously, if you are able to bring the combination of these various protections into one shot and that can be an ongoing and continuing positive impact on that child, on the issue of immunization, you make very substantial progress.

Combination vaccines could radically improve the number of children fully protected. There is a need for vaccines which do not require refrigeration and have a long shelf life.

I listened yesterday to my colleague and friend, Senator KASSEBAUM, talk about research in tropical diseases. If the United States could develop the technology for a one-shot vaccine that would not need refrigeration, what we could do around the world in terms of children and preserving children's lives is unbelievable. Every year, we have about 15 million children die under the age of 3, both from lack of immunization and also because of water. But what we could do in terms of children and the impact that could be made on them would be truly extraordinary.

Most of the scientists and researchers believe that if we provide resources to be able to do it, we are able to do it; the kinds of problems that they are looking at in terms of this area are not so complex and difficult as to not to be able to achieve it. But the fact is, since we have refrigeration available and accessible in the United States, the sense of urgency we have had in terms of trying to pursue that research has basically not been there.

But, nonetheless, what we are interested in is the development of children's vaccine initiative.

This bill authorizes the Secretary to develop the affordable and improved vaccines to be used in the United States and developing countries to protect children from vaccine-preventable infectious diseases. This is enormously important.

We take a certain pride in my own State of Massachusetts, which is one of two States that actually manufactures its own vaccine. It goes back to the 1930's where the decision and judgment in terms of the public was sufficiently demanding in terms of the various children's diseases that the State of Massachusetts developed its own program, not for the complete list of vaccines, but for the majority of them. We are perhaps one of the highest States in the country in terms of the coverage of children.

I think, quite frankly, that sense of urgency in coverage is still very much in the country, and we are hopeful that the research on the single vaccine will result in a positive outcome.

Finally, with regard to children, but not all-inclusive, one of the most insidious diseases which affect children is juvenile arthritis. There are 250,000 children in the United States that have some form of arthritis. I think most of us who have been blessed with healthy children cringe at the thought of not seeing them be able to do the kinds of things that every youngster would hope to be able to do in enjoying a young and active life. The kind of agony that these children experience in the very early time of their lives with all of the implications which that has in terms of their own kind of development at a key time of their lives is obviously enormously painful and disturbing to those children as well as to the parents, but also obviously denies them the kind of opportunity for activity that I think all of us would hope for children, for our own children, and for children all over the world.

There are 250,000 children who have some form of arthritis. As we know, arthritis can strike at any age and can last a lifetime. As with adults, the juvenile arthritis can affect the most simple tasks of walking or tying shoes. The disease can affect the joints, the heart, the liver, and even the eyes, and there is no cure. There is no cure. Despite the fact that juvenile arthritis is a chronic debilitating disease, the NIH supports very little research in this area.

This bill establishes a multipurpose arthritis research center to expand research in the cause, early detection, diagnosis, prevention, treatment of, and rehabilitation of children with arthritis.

We are mindful that we cannot take just limited dollars and expect, as a result of targeting, an ultimate result. We know there is a certain basic amount of research that has to take place. I think we all can make very strong cases for that. For the most part, many of the breakthroughs that have come in terms of dealing with diseases have come either in basic research or research that is not necessarily targeted.

What we have tried to do with the NIH is to encourage both the basic research and also to take advantage of research that offers some hope or opportunity for breakthrough in some of these very special areas. We have tried to raise that kind of a visibility in the area of juvenile arthritis.

Mr. President, there are several other areas that I will go into briefly about what this legislation does. But I think it is important to understand that, when it comes to questions involving children and children's diseases, we have tried to give emphasis to their particular needs. I think we are mindful that perhaps they have not been given both the focus and attention that I think all of us would have liked. We want to try to give further encouragement to those initiatives that offer some very special further advantages.

At this time, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I ask unanimous consent to proceed as if in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S ECONOMIC PLAN

Mr. CRAIG. Mr. President, I believe that I and all of my colleagues here in the Senate await this evening and the State of the Union and our President's economic message with certain hope that we will hear a message that will start a course of economic direction for this Government of ours and for us in the coming days that can result in economic growth for our country.

But I am greatly concerned that our President is proposing a large package of new taxes with relatively limited or no emphasis on spending reduction. There is no doubt in my mind, as I am sure there is no doubt in our new President's mind, that the deficit of this country and the inability of this Congress to curb its spending habits clearly remains a No. 1 problem for our Nation.

That seemed to be the theme of the campaign that concluded in the election of President Bill Clinton. But somehow since the campaign through to this evening that message has been progressively blurred in an effort to get to what appears now to be an approach of taxing and spending in what we might call an old style approach toward resolving our economic problems.

I have in front of me an article in the Wall Street Journal today by James Miller, once Director of OMB, now a fellow at George Mason University. I ask unanimous consent that that article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SHAM CUTS ON SPENDING . . .

(By James C. Miller III)

Tonight President Clinton unveils more about his plan to stimulate the economy and reduce the deficit. Judging from the details leaked thus far, the market's 83-point drop yesterday, and Mr. Clinton's address from the Oval Office on Monday, it will be a hard sell—not only because of the tax "contribution" but because there is so little discipline on the spending side of the budget.

First, a word about the budget newspeak in Washington that masquerades as truth. When the Beltway crowd talks about cutting spending, they can't mean spending less next year than will be spent this year. They mean spending less than would have been spent if the budget were left on automatic pilot. The Office of Management and Budget, or OMB, estimates that spending will rise $48 billion from (fiscal year) 1993 to 1994; the Congressional Budget Office, or CBO, estimates $54 billion. The same holds true for the tax side. OMB estimates that the tax code, left alone, will produce $82 billion more in 1994 than in 1993; CBO estimates $72 billion.

With this baseline as his starting point, Mr. Clinton recommends a $31 billion increase in spending for 1993, of which $16 billion will be for job creation, with the rest for public infrastructure, new technologies, immunizations for children, and grants to cities and towns. He also recommends certain spending "reductions"; an additional $8 billion from defense plus unspecified savings from trimming administrative costs, reducing the federal work force by 100,000 positions, and from other sources—reductions that Mr. Clinton characterizes as "real, defensible, and measurable, not imaginary."

NO SPENDING DISCIPLINE

Just how much spending is to be cut is a matter of intense speculation. It appears, however, that the amount will fall considerably short of the previously stated goal of $2 in spending cuts for every $1 in tax increases—a formula that Texas Rep. Charles Stenholm, leader of the 50-member Conservative Democratic Forum, says is essential if the plan is to pass muster in the House. Even the lower ratio might be tolerable, provided there was spending discipline. Unfortunately, there is little reason for confidence on this score.

Some of the president's claimed "savings" are not really savings at all. An example is the plan to increase Medicare premiums for the wealthy. Although by convention these revenues show up in the budget as "negative outlays" and serve to reduce the measured cost of the Medicare program, in reality the president's plan amounts to a revenue increase and does nothing to reduce the size of government. The same is true of his approach to Social Security. Increasing the tax to 85% from 50% on that portion of Social Security above $25,000 per year for a single adult and $32,000 for a married couple constitutes a straightforward tax increase, having no effect on Social Security outlays.

Moreover, to keep the fiscal aggregates down, the Clinton administration is looking increasingly to regulation to accomplish its policy objectives. To restrain the costs of immunizations, the president beats up on vaccine manufacturers, characterizing their profits as "unconscionable" and directing his health secretary to negotiate with them to ensure that their prices are "reasonable." To rein in the cost of Medicare, the president wants to apply price controls to doctors, hospitals and insurance companies. Of course, the real costs of government programs are changed not one iota by such measures. The only thing that changes is who foots the bill.

And where will it stop? Will we next hear that Mr. Clinton wants to force pension funds to invest in public infrastructure? The open endedness of such opportunities to shift costs off-budget makes it imperative that Congress institute a regulatory budget.

What about the spending behavior of Congress? There is abundant, though controversial, evidence that whenever there is an increase in government revenue Congress simply spends the money. Thus, no matter what the rhetoric, the chances are that all the revenue increases from Mr. Clinton's assortment of new taxes will be translated into spending increases, not deficit reductions.

The strategy that is developing—that of negotiating a "mega-deal" with Congress—all but ensures that spending will grow by more than the increase in revenues. Bear in mind that both OMB and CBO project that the baseline deficit will fall in 1994. OMB says by $35 billion; CBO says by $19 billion. But what will happen to the actual deficit?

History is particularly instructive on this score. From 1980 through 1993, six budgets were the result of budget summits and seven were not. In the agreement years, the deficit increased an average of $26 billion. (Ignoring the years covered by the infamous 1990 budget accord yields a similar result: $30 billion.) However, in the nonagreement years, the deficit actually decreased an average of $17 billion. Thus, establishing parameters for the budget and threatening to veto any bill outside those parameters would likely reduce the deficit, whereas sitting down and cutting a deal with Congress would likely increase the deficit.

Unfortunately, every year or two our elected officials do a memory dump on recent history and call for summit negotiations "to reduce the deficit." The last time that happened, 1990, the deficit-reduction goal was $496 billion. Mr. Clinton's goal is $500 billion. As Ronald Reagan would say, "There they go again!"

Most important, the lack of spending discipline is evident by what Mr. Clinton has not proposed. Our present institutions impart a bias toward increased spending and increased deficits. The way out of the spiral is to adopt rules that meet this bias head-on. The most important such change would be a balanced budget amendment requiring a supermajority to increase spending (nominally, in real terms, or even as a proportion of gross national product). Yet, in his town meeting last week, Mr. Clinton said he couldn't support the idea.

A DISAPPOINTING PACKAGE

What about other rules? A line-item veto would be just great, but Mr. Clinton backed off when the congressional leadership objected. And what about firm caps on entitlement programs, or subjecting them to reauthorization (zero-based budgeting) on a regular timetable? And, what about automatic sequesters of spending authority tied to deficit targets a la Gramm-Rudman-Hollings? If Mr. Clinton is indeed serious about getting the budget under control, he should spend his political capital on institutional reforms that provide incentives for Congress and the executive to choose fiscal responsibility over fiscal profligacy.

There are reasons to be disappointed with Mr. Clinton's package, not the least of which is that rather than being a stimulus for the economy, it may actually slow down the recovery. But most disappointing of all is that Mr. Clinton fails to grasp the salient feature of the present budget crisis. It's not a failure of elected officials to compromise, an unwillingness of the public to go along with "shared sacrifice" or even a general lack of patriotism. It's a budget process that undermines spending discipline.

Mr. CRAIG. Mr. President, he argues, as I think many of us would argue, that unless there are structural changes made to the way we budget and the way we discipline ourselves here in Congress in a fiscal manner more than likely all of the new tax increases will be translated into spending increases and no true deficit reduction will occur.

He points out so clearly that spending cuts are not translated into reductions below last year's level of spending but only reductions in rates of increase based on a government that is now well over 65 percent on automatic pilot.

That is why I and others over the course of the last several years have proposed items like a constitutional amendment requiring a balanced budget, and we will continue to fight for that over the course of the development of the Clinton economic plan because, although our President is new to this town, he certainly should not be new to observing that this Congress in the course of the last 12 years, at least with my experience here, has demonstrated no will to be fiscally responsible and that we have the deficit and the budget crisis today because of the lack of that will. Whether it is the pressure of outside interest groups or whether it is the individual Members demonstrating no regard for the economy, there is without question a collective absence of a sense of fiscal responsibility, and I am convinced, I think as many others are, that we have to change the structure of the way we budget and change the environment in which we operate if we are to regain that kind of fiscal responsibility.

So I will attend the State of the Union Address this evening. I am very curious about what our President is proposing, but I am growing increasingly concerned that, as he said last Friday night in his town meeting, he had never seen a balanced budget amendment that he could agree on and he pooh-poohed in large part the one we had proposed saying we cannot put off this issue for 5 years, ignoring the fact that we were talking of immediate implementation and a phasing-in over a 5-year period, that largely he denounces the concept, a concept that I and others believe will be the only way we can return ourselves to fiscal responsibility.

So we will be reluctant to talk about taxes based on the record of 1984, 1986, and 1990 that in a bipartisan way this Congress of ours simply ignored the belief of the American public that we had to get our house in order and went on to spend and create the budgetary crisis that we are in today.

I hope our President has the will to resist the spending habits of this Congress and will work with us to implement an environment of fiscal concern and fiscal responsibility.

I yield back the remainder of my time.

NATIONAL INSTITUTES OF HEALTH REVITALIZATION ACT OF 1993

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, are we in morning business or on the bill?

The PRESIDING OFFICER. We are currently considering S. 1.

The Senator from Idaho had sought and received unanimous consent to proceed as if in morning business.

Mr. COATS. Mr. President, I would like to be recognized to speak on S. 1.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I intend to vote on this legislation when and if it gets to a vote and I trust it will shortly. I think the work of the National Institutes of Health is commendable in a number of areas and it has certainly provided the kinds of breakthroughs in medical treatment and diagnosis that is important to many millions of Americans.

America offers the best quality medical care in the world. We lead the world in pioneering cures for disease and finding innovative treatments. We are making dramatic discoveries in DNA fingerprinting, genetic markers, biomedical research, and noninvasive surgery. No other society has matched our achievements in combating disease and bringing hope to those many millions and others around the world who suffer. The National Institutes of Health represents hope for many millions of Americans. Authorizing $6.1 billion next year for critical research I think is very important.

I am pleased that this bill focuses new attention on cancer research. This legislation contains $2.2 billion for cancer research, which is a 10-percent increase over fiscal year 1993 levels. Particular emphasis is placed on breast cancer research and prostate cancer, the leading causes of deaths in women and men, respectively.

The funding for breast cancer research I believe will devote $225 million to research the causes of breast cancer and an additional $100 million for research, prevention, education and training aspects of that issue. Breast cancer we know will afflict 1 in 9 women and is the leading cause of cancer deaths in women between the ages of 19 and 54, responsible for 32 percent of all cancers in women.

In addition, the bill will authorize $75 million for research on reproductive cancer.

I am also pleased the legislation authorizes a 20-percent increase for funding for the National Heart, Lung, and Blood Institute. This institute provides funding for the national research and demonstration centers for heart, blood vessel, lung and blood diseases, sickle cell anemia, and blood resources. This funding increase will enable researchers to utilize and continue the rapid development of new technologies in heart, lung, and blood research.

The bill also contains a number of other provisions that I support and I am pleased that will now be authorized.

Mr. President, I would like to raise some questions and concerns relative to one part of the bill that have primarily been resolved at least politically by the President's decision through executive order to lift the ban on fetal tissue research.

While I do support this bill and the many fine things it does, I do have some concerns about the use of fetal tissue in research with tax funds, because it raises a number of ethical questions that I do not think have been satisfactory answered or resolved. I would hope that my colleagues voting for and undoubtedly passing this legislation will not conclude that this issue is put to rest, will not conclude that the questions have been answered, and that all the ethical concerns have been addressed satisfactorily.

Because, while the legislation before us contains some very important safeguards, attempting to address some of those concerns, wrenching dilemmas, remain—dilemmas that are not, in my opinion, adequately addressed in the legislation.

I believe it is our job, on this issue, to find a path that serves both public health and moral principle; a path that can offer hope, but also shows ethical insights. Because I think if we fail on either side, we fail in all.

Scientific research does not occur in a moral vacuum. It has to be guided by something more than what is merely possible.

We need to thoughtfully consider some important questions—questions I do not believe the President and his administration have adequately answered relative to this issue.

Question No. 1: Will the use of fetal tissue from elective abortion create an irreversible economic and institutional bond between abortion centers and biomedical science?

Just think for a moment. If medical research becomes dependent on the provision of fetal tissue obtained from widespread abortion, a vested interest would clearly be created in a substantial, uninterrupted flow of fetal remains. Medical science would be dependent on continued legal abortion on demand.

Second, what future will we find if tissue transplants dependent on elective abortion are successful?

If all the victims of diabetes, Parkinson's, Alzheimer's disease, and neurological trauma were to be treated with human fetal tissue—and it is these diseases where there is some promise that tissue transplant research can provide some, if not cures, at least some alleviation of some of the symptoms—if all the victims of those diseases were, through the research, demonstrated to benefit from fetal tissue transplantation, it is estimated that between 4 and 20 million fetuses would have to be procured to supply the need for the treatment.

This obviously presents an ethical dilemma, because, just on this question alone, I believe we ought to be looking at some potential alternatives. Clearly, the demand for the fetal tissue would far outstrip the available current supply. And that in and of itself creates an ethical dilemma for many of us and one that I think we ought to seriously consider.

That is why I believe, along with others, that we need to direct attention to some alternatives—ways to generate fetal tissue without elective abortion, to look at cell cultures, the use of animal tissue and other research. Some alternatives must be found to induced abortion if demand is to be met and an ethical nightmare avoided.

Last year, Senator HATCH proposed an amendment to this legislation which would set up fetal tissue banks which would provide funds and an impetus to establishing cell cultures and research into use of animal tissue. Unfortunately, that amendment was defeated. I regret that, because I believe that, without pursuing the alternative of providing fetal tissue for research and hopefully ultimately cure or alleviation of symptoms for these diseases that affect so many Americans, we are putting ourselves into a nightmare of an ethical question at some point down the line.

A third question I think we need to ask is: By what right is this tissue obtained? Certainly, the remains of a fetus in any elective abortion are not donated in any traditional sense of the word. The fetus can give no consent. It is, instead, provided by the very people who chose to end the life of the fetus. Can the person who ended a life be morally permitted to determined the use of the organs of that life?

That is a question that I do not believe the legislation answers, that we have adequately discussed, or that the administration has adequately considered. And I would suggest to my colleagues that is something we ought to be looking at very, very carefully.

A fourth question: Is it really possible to separate neatly the practice of abortion from its use in biomedical research? Are researchers merely using the results of abortion, or are they dictating its practice? There are real concerns about how fetal tissue currently is being procured. Some types of abortions, like suction abortions, tear the fetus apart, making the brain recoverable in only 8 percent of the cases.

A report issued by the University of Minnesota Center for Bioethics has stated that in Sweden:

> Doctors say they have obtained brain tissue with a forceps before the fetus was suctioned out of the mother. That raises the question of whether the fetus was killed by the harvesting of brain tissue or by abortion.

Janice G. Raymond, professor of women's studies and medical ethics at the University of Massachusetts has testified that doctors are already altering the methods of abortion in order to get the tissue they desire. "Doctors who are eager to get good tissue samples," she says, "must put women at additional risk of complication by altering the methods for performing abortions and by extending the time it takes to perform a conventional abortion procedure."

Dorle Vawter, of the Center for Bioethics at the University of Minnesota, has reaffirmed this observation, noting that some clinics currently alter abortion methods for tissue harvesting—slowing the abortion procedure, reducing the pressure of the suction machine, and increasing the size of dilation instruments, all practices which place women at additional risk.

Finally, Mr. President, I believe we have to ask the question: Are we encouraging abortion by covering it with a veneer of compassion?

There are few, if any, Members of the U.S. Senate that stand and say, "I believe we ought to encourage the use of abortion," regardless on which side you fall on this issue, pro-life or pro-choice. I do not believe I have heard a Senator stand and say, "I support ever-increased abortion." All have said, even though they support a pro-choice position, all have said we would hope we can reduce the incidence of abortion by reducing unwanted pregnancy, by reducing the need for abortion. Well, I believe that runs counter to the question that I have just raised here.

My final question, and that is: Are we using the veneer of compassion—that is, using the byproduct from an abortion, the fetal tissue—to try to research and treat a demonstrable human illness, with potential for either curing that illness or alleviating the symptoms of that illness, are we setting ourselves up for a situation where we smooth over the rough question of whether or not abortions ought to be performed by saying that, well, at least the product of that goes to help those who are suffering?

Let me quote Dr. Kathleen Nolan, formerly of the Hastings Center, who wrote:

> Lifesaving cures resulting from the use of cadaveric material might make abortion, and fetal death, seem less tragic. Enhancing abortion's image could thus be expected to undermine efforts to make it as little needed and little done procedure as possible.

These are my questions, and my fears. As Stephen Post puts it:

> Ultimately, it is the specter of a society whose medical institutions are inextricably bound up with elective abortions and whose people come to believe that for their own health they have every right to feed off the unborn, that gives pause.

I hope, Mr. President, all of us can give pause on these important questions that have not yet been resolved and that we not today, with the passage of this legislation, assume that this issue is no longer one that needs to be thought about or debated, assume that the issue has been taken care of in the legislation, and responds to inquiries on these questions by saying, oh, no, we took care of that early in 1993 when we passed the NIH reauthorization bill. These questions remain. They are serious questions. They go to the very essence of life. They are questions that deserve careful consideration, revisitation.

I hope each Senator will take the time to investigate and think through the implications of what we are doing today and keep the issue one that we can visit on a number of occasions and discuss seriously and thoughtfully.

I yield the floor.

NATIONAL LIBRARY OF MEDICINE

Mr. KENNEDY. Mr. President, there is more to the NIH than its Research Institutes and Center. One of its major assets is often overlooked. The National Library of Medicine is the world's greatest library for biomedicare, behavioral sciences, and health services research and medicare information.

Health services research is the main source of information that helps policymakers, managers, clinicians and consumers make better decisions.

As the health system becomes more complex, the problems more complicated, and the budgets tighter, it is increasingly important that decision makers have access to comprehensive and timely information.

Currently, there is no centralized source of easily accessible information on health services research comparable to that available to biomedical researchers and clinicians.

The most efficient way to fill this void is to build on the existing capacity of the National Library of Medicine.

This legislation reauthorizes the National Library of Medicine and supports the dissemination of biomedical and health information to health professions and the public.

The Medical Library Assistance Program will expand outreach efforts to practicing physicians. This program will allow physicians working in their own offices to have access to the current diagnostic and treatment information now available mainly through libraries through the use of personal computers.

Modern telecommunications technologies can play a vital role in closing the gap between the quality of health care services available in urban America and that available in the sparsely populated areas of the country. Rural patients can be hooked up to monitoring devices connected to academic medical centers, x-rays, EKG's, and other diagnostic information can be transmitted across country electronically. Medical students and health care providers in rural areas can receive an continuing education via telecommunications transmission.

The bill promotes the use of telecommunication technology in the provision of health care, the support of related research, and the education of health care providers.

The National Center for Biotechnology information will build new databases, develop ways to enhance and link existing ones, and develop new technologies for entering, storing, analyzing, and transmitting massive amounts of information in the field of biotechnology.

Through this legislation, we will ensure the dissemination of the latest biotechnology discoveries and developments to all our fellow citizens. The latest addict breakthroughs will be available to rural areas as well as the great urban medical centers.

By investing in the National Library of Medicine, we will provide health care providers with the medical information necessary to improve the qualify of care, reduce health care cost and strengthen our health care delivery system.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERREY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I ask unanimous consent that I be allowed to proceed for the next 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME IS RUNNING OUT

Mr. COATS. Mr. President, I think we all know that time is running out on how and when we will deal with this deficit and the national debt which Members of both sides of the aisle have spoken to eloquently and articulately. The American people have spoken throughout the last campaign and all three candidates—Ross Perot, George Bush, and Bill Clinton—made deficit reduction a central issue of the campaign of 1992.

We have all seen the projections that have scared the financial markets and ought to scare all of us relative to where we are headed in this country if we do not take action now. We have talked about this for more than a decade, yet very little has been done because both the American people and the Congress, have not summoned up the will to attack this directly and substantially.

I think all of us came to the 103d Congress believing that the time is now; that we should move forward in a decisive way; and that the American people would support such an effort, not perhaps enthusiastically, but with the realization that sacrifice had to be made.

There are only two ways essentially to deal with this problem: One is to raise revenues and the other is to reduce spending. Some feel that raising revenue is the answer. Others feel that exclusively reducing spending is the answer and others say a combination is needed. There is one thing that the American people know for sure, at least Hoosiers know for sure—We tried one way, we tried the method of raising taxes as a way of reducing the deficit and retiring some of the national debt, and that way failed.

Fifty-six times in the past several decades we have raised taxes, almost every one of those times with the promise that the result would be a reduction in the deficit. As Hoosiers and all Americans know, it has not worked. The latest of these increases was just 2 years ago in the grand budget compromise of 1990 which promised $3 of spending reductions for every dollar of tax increase. That is a ratio that has been used over and over. Regardless of which tax act you look at, it is always 2 to 1 or 3 to 1, but the result is usually just the opposite. We always end up getting the tax increase, but we do not seem to achieve the spending reduction.

It is easy—to put into place a change in withholding taxes or a change in tax law and then try to flow more money into the Treasury as a result, but it is extraordinarily difficult, as all of us have found, to achieve real spending reductions.

I am not going to prejudge the President's proposal which will be offered this evening, before Congress. However, has been leaked and discussed so far ought to give us all some pause and great concern. It certainly gave great concern to Wall Street yesterday with the largest fall in the Dow Jones average in nearly a year and a half. It certainly caused a ripple of concern—more than a ripple of concern—in the money markets around the world in relation to the value of the dollar. Based on what was reported the President will address this evening, a number of people have raised considerable concerns. They have raised those concerns because they have heard it all and seen it all before. They have been told that if we can just raise more revenue and send it to Washington, we can solve all of our problems; we can fund all the programs that we think are important for Americans; we can at the same time reduce the deficit.

I need to tell you that Hoosiers are not absolutely opposed to raising taxes in any form. Many have come to me and said: If I knew that a tax increase was going to go directly to reducing the deficit, I would consider some plan where I was guaranteed that the increase in revenue that you extracted from my earnings would go to reduce the deficit because I believe that would be for the benefit of all of us in the future; that reducing the deficit would help our economy; and would result in a net gain for America in the future.

But over and over and over we have asked the American people to send more dollars to Washington with the promise it would be used for deficit reduction but the result being increased spending for new programs. The American people have watched Congress time and time again walk up to the line and back down in terms of enacting meaningful spending cuts.

As I said, the reported proposal that the President will offer this evening looks as if, on the basis of the information that has been released, it is the same old story: All taxes, no spending cuts—that the promise of spending cuts is simply that, a promise. But the promise of taxes is a commitment to taxes.

I hope that is not the case. I hope the President surprises us this evening. I hope he has been shrewd enough to prepare the American people for a real surprise, that just at the point where we are thinking, "Oh, no, there they go again, tax and spend," the President will lay down a substantive, meaningful reduction in the size of Government, in the programs that Government funds, in eliminating waste, in taking real steps to reduce spending, because I think all of us instinctively know that, unless we do that, we are not going to solve this deficit problem.

We can tax and tax and throw revenue in here with adverse effects on the economy which ultimately are counterproductive to our ability to fund what Government should be funding, and we will not impose the kind of restraint on spending that is necessary to reduce the deficit or to control what many think and I believe is runaway government.

So I hope the President has a surprise for us tonight. Or I hope that even if the reported elements of the President's plan were correct this morning, the reaction of Wall Street yesterday, the stock market investors across this country and money markets around the world, would cause the administration to regroup and say, "Maybe we better revise the plan we were going to offer tonight."

I hope that what is in the paper this morning is another trial balloon. We have had a lot of trial balloons on this economic plan. If they want to measure the effect of that, I think they just need to look at the consternation which is being raised across the country. Americans do not have much confidence that this will provide the economic recovery we are looking for. We do not have any confidence that this is going to reduce the deficit. We do not have any confidence that this will deal with the real problem which was so intensely debated and discussed during the campaign of 1992.

So I am going to wait to hear what the President has to say before I draw a final conclusion. I hope what the President has to say this evening is not what the President has said to date.

Mr. President, I yield the floor.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having passed, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:38 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. REID).

NATIONAL INSTITUTES OF HEALTH REVITALIZATION ACT OF 1993

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The pending business of the Senate is S. 1.

Mr. SHELBY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE OREGON WAIVER

Mr. HATFIELD. Mr. President, I have cleared just a few moments of comment with the managers of the bill. I would like to indicate that the Oregon waiver, which is to free the State of Oregon up to proceed with a demonstration program on expanding health care to all people in our State for elementary health care, has been a national focus for now almost 4 years.

In the Bush administration, we were hopeful to get that waiver to proceed to make this kind of creative experiment. Things got fouled up in the legislative branch. We could not secure the waiver. The executive branch cleared it at the White House level, at the Secretary's level, at OMB level, but then, as so oftentimes is the case, the lawyers get involved and it got hung up on legal questions. I think that is being cleared now.

Candidate Clinton, running for the Democratic nomination, made a very strong public support statement. And then President Clinton, in visiting the National Governors Conference, added his further comment to the Governor's resolution, which was unanimously adopted, to offer to give the waiver to the State of Oregon.

I had intended to offer an amendment to this NIH pending bill. Mr. President, Secretary Shalala of HHS asked me not to offer the amendment. Senator PACKWOOD, my colleague from the State of Oregon, has labored long on this issue, as all of us have in the House of Representatives as well as in the Senate. We felt we had really a strong commitment. We wanted to make sure that this was acted upon quickly.

And I say that because, after 4 years, I have a letter here that I will ask unanimous consent to be printed in the RECORD from the Governor of our State, Barbara Roberts; from the president of the senate, Bill Bradbury; and the speaker of the house, Larry Campbell, urging an action by March 19 because of the fiscal issues confronting the Oregon Legislature and the Governor.

I have this letter, along with the National Governors' resolution to encourage prompt approval of the Oregon waiver, along with a news release as to the President's statement in which it says, "Clinton said the states were required to wait too long, fight through a rules process too complex and duplicate each other's efforts in seeking to provide the most cost-effective health services they can under the Federal Medicare rules."

Now, all of these documents, I will ask unanimous consent to have printed in the RECORD, along with the letter from Secretary Shalala.

Mr. President, she says in this letter:

> This letter confirms our conversation concerning the Oregon waiver which is currently pending review by the Health Care Financing Administration. We are discussing with the Justice Department their concerns regarding the impact of the waiver on the Americans with Disabilities Act. I am confident that these discussions will be completed within the next few weeks. It is my intention to issue a decision on the waiver request and notify the Governor and the Congressional delegation no later than March 19, 1993 concerning the final disposition of this matter.
>
> I enjoyed our meeting and look forward to a productive working relationship in the years ahead.
>
> Signed,
>
> DONNA E. SHALALA.

I ask unanimous consent that these documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF
HEALTH AND HUMAN SERVICES,
Washington, DC, February 17, 1993.

Senator MARK O. HATFIELD,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: This letter confirms our conversation concerning the Oregon waiver which is currently pending review by the Health Care Financing Administration. We are discussing with the Justice Department their concerns regarding the impact of the waiver on the Americans with Disabilities Act. I am confident that these discussions will be completed within the next few weeks. It is my intention to issue a decision on the waiver request and notify the Governor and the congressional delegation no later than March 19, 1993 concerning the final disposition of this matter.

I enjoyed our meeting and look forward to a productive working relationship in the years ahead.

Sincerely,

DONNA E. SHALALA.

[From the Governors' Association, Washington, DC]

NATIONAL HEALTH REFORM AND COST CONTAINMENT

1. INTRODUCTION

The United States spends more on health care than any other industrialized nation even though fewer of our citizens have insured access to the health care system. Moreover, growth in the American health care industry has exceeded growth in the overall U.S. economy for almost every one of the last thirty years. As a result, health care expenditures represent an increasing share of the economy as measured by the gross domestic product (GDP). In 1980 health care was approximately 9.1 percent of GDP; in 1992 it represented 13.4 percent; and it is projected to represent about 17 percent of GDP by the turn of the century if current trends continue.

This phenomenal growth in costs has negatively affected government at every level and has seriously eroded the competitive edge of our businesses attempting to compete in a global marketplace.

Clearly the nation cannot sustain the current rate of growth in health care costs. If the system is expanded to include universal coverage without reform, the cost problems will be greatly exacerbated. While people may argue about the final target for an acceptable rate of growth in costs, the nation must develop a health care system that over the next several years will move growth in costs toward a long-term sustainable level.

The kinds of structural changes that must occur in the health care system to control costs cannot be effective unless and until every legal resident has health insurance. Universal access to health care is both a moral imperative and an invaluable cost containment tool.

2. BASIC FEDERAL FRAMEWORK

The Governors support a managed competitive approach to health care reform that is organized by the federal government. However, attention must be paid to ensuring that the approach will work in both rural and inner-city areas. Toward that end, the federal government should establish a national health care board that includes state and local representation. Much of the framework for implementing managed competition could be accomplished by the national board.

The basic and fundamental federal framework for a restructured health care system that both controls costs and provides access and coverage must, at a minimum, include the following:

Universal access. Universal access to health care coverage should be guaranteed to every American. States should have the option of providing access to health care either through public or private programs or through an employer mandated system similar to those pursued in Kentucky, Oregon, and Hawaii.

A standardized and federally organized information base for consumers. The database must include price and quality information for all providers of health care services in a given geographic area.

Federally organized national outcomes research. One component of such research should focus on primary and preventive care. Among other uses, this research could be used as a basis for clinical practice models.

Federal minimum standards for the regulation of health insurance. These minimum standards must be developed in consultation with states and include limitations on the variation in rates that different individuals and groups charge; limitations on medical underwriting; and guaranteed renewability, portability, and availability of insurance products. States can exceed these minimum standards. These standards should apply to nontraditional insurance mechanisms, such as Multiple Employee Welfare Arrangements (MEWAs) and other ERISA plans, and to newly formed Health Insurance Purchasing Cooperatives. Once reforms are implemented, individuals bear a personal responsibility to obtain coverage either through public or private programs. The cost of coverage would be supplemented for low-income individuals.

State-organized purchasing cooperatives. Through purchasing cooperatives, affordable insurance products will be made available. States and the federal government must work together to ensure that states have flexibility in establishing and operating purchasing cooperatives within a national framework. Purchasing cooperatives should allow for public or private operation under state regulation.

Tort and liability reform standards. Tort and liability standards for health care should be developed by the federal government. However, states must have the flexibility to design and regulate their own programs that meet the federal standards or further limit liability.

A single national claims form. The federal government, in consultation with states, must develop a single claims form and support the development of electronic billing as a means to reduce administrative costs. A single electronic claims form system will simplify the administrative procedures for all health care participants, including hospitals, physicians, insurers, employers, government, and consumers.

Core benefits package. The federal government, in consultation with states, localities, businesses, and labor organizations, must develop a core benefits package comparable to those now provided by the most efficient and cost-effective health maintenance organizations. There may be some state or regional variations in the basic benefit package, but such variations must be certified by a national health care board. Individuals would be free to purchase additional insurance with after-tax dollars. This package could be adjusted as additional information from outcomes research becomes available.

Limitations on tax deductibility of health insurance. The federal tax code must be amended to limit the tax deduction/exemption of health insurance for both employers and employees. Employer-paid insurance above the limit would be taxable to either the employer or employee. The self-employed would be eligible to purchase fully deductible health insurance—exempt from taxation as personal income—within the federal limit and/or tied to a percentage of an income level. This limit may be tied to the local cost of a basic benefit package and set at a specific dollar amount. Additional coverage or care can be purchased with after-tax dollars.

Primary and preventive care. The federal government must greatly expand its support for primary and preventive care including, but not limited to, periodic health screenings, prenatal care, well-baby care, and childhood immunizations.

3. SPECIFIC COST CONTAINMENT STRATEGIES

Even if a federal framework is established that adheres to the principles just described, a real possibility exists that the federal government will attempt cost control by capping the federal medical entitlement programs. A cap only on federal health care entitlement programs will most certainly continue to shift costs to the private sector and local governments and reduce real benefits. A more effective strategy is to control costs throughout the health care system by developing health care expenditure targets.

It is unrealistic to immediately enforce strict budget limits on health care spending, since available data are not sufficient to set accurate spending ceilings. However, the national framework, developed in consultation with the states, should include cost control mechanisms which should be implemented by the states as quickly as possible. Cost containment strategies must consider all the major cost-drivers in the health care and health insurance systems. Incentives such as expedited waivers and Medicaid demonstrations must also be available to contain costs.

Goals for the growth of national health care expenditures should be established for expenditures that are publicly supported either directly or through the tax code. Health care expenditures made by individuals with after-tax dollars would not be included in the targets. The national goals should be used to estimate expenditure targets for each state.

Data systems necessary to objectively measure national and state health care expenditures must be established.

As data become available, there should be a review of the progress the federal and state governments have made toward achieving the national expenditure goals.

The federal government should issue an annual report to the states that addresses the following.

The effectiveness of our health care expenditures toward producing and maintaining health for all of our citizens. The data should be presented in at least the following categories: populations, state-by-state, urban and rural, fee-for-service, various types of managed care, and comparative therapies.

The status of data system improvements, including the development of data categories, sample sizes, and timeliness.

The progress or failure of each state toward any state or per capita expenditure goals.

4. STATE AND LOCAL MANAGEMENT

Within the context of a managed competitive approach to health care reform that ensures universal access and controls costs, the Governors support the principle of state and local management. State and local governments will need a set of tools to manage a cost-effective health care system.

States wishing to undertake reforms which complement the federal framework described above and which are aimed at significantly expanding access to health care and controlling health care costs should be encouraged to move ahead in advance of full implementation of national reforms and should be given the tools necessary to be successful. For example, Governors encourage prompt approval of the Oregon waiver request.

Assuming that there still is a public program, even if that public program is modeled after Medicaid, state and local governments will need stable financing and a uniform definition of eligibility. Beyond that, however, state and local governments must be given the flexibility and authority to fully integrate the public program into a service delivery system that reflects the national movement toward managed care. The federal government must not impose mandates beyond the core benefits or service delivery restrictions on the public program. A streamlined and efficient public program will obviate the need for the complex and costly waiver process.

If Medicare continues to exist as a separate program, state and local governments will need the flexibility to fully integrate Medicare into their health care systems.

States must have the ability to include the current self-insured market (ERISA plans) in their state design.

States must have additional authority now precluded by federal anti-trust statutes.

5. ADDITIONAL FEDERAL/STATE ISSUES

The federal government must participate in a discussion about how to deal with the access issues of rural areas, inner cities, and populations currently financed by federal programs, including Native Americans, veterans, and dependents of military personnel. The federal government also must participate in discussions about the provision of care to undocumented aliens.

The federal government must reaffirm the traditional role of public health programs including epidemiology, environmental health, and disease prevention while integrating primary and preventive care services into the core benefits package to the extent possible. Adequate federal resources and technical assistance must be provided to ensure that the public health needs of states and communities can be met.

Federal, state, and local governments must work toward agreement on a long-term care program that recognizes the need for different levels of care and support either within or outside a health care institution.

The Governors are prepared to work with other interested organizations and with the President and Congress to flesh out the details of specific proposals and then to secure formal support and enactment.

OFFICE OF THE GOVERNOR,
Salem, OR, February 16, 1993.

Hon. MARK O. HATFIELD,
Hart Building,
Washington, DC.

DEAR MARK: As you know, the State of Oregon awaits a decision by the Secretary of Health and Human Services on our Medicaid waiver request. The expansion of health benefits to an estimated 120,000 Oregonians remains a high priority for our state. This is an historic opportunity for Oregon and I deeply appreciate your efforts on our behalf.

As the legislature considers its 1993-95 budget, we need a timely waiver decision so the legislature can allocate the needed revenue for the program.

I support your efforts to get us a timely decision through the Congressional action you have described. We believe the waiver request should be judged on its merits and we do need the decision by mid-March.

Thank you in advance for your assistance.

Sincerely,

BARBARA ROBERTS,
Governor.

STATE CAPITOL,
Salem, OR, February 3, 1993.

Hon. MARK O. HATFIELD,
Hart Building,
Washington DC.

DEAR MARK: As you know, the 67th Oregon Legislative Assembly is off and rolling once again. There are many pressing issues that are at hand for Oregon; one of course is the budget considerations. We have a 1.2 billion dollar short fall and if we are going to be able to deal with funding the Oregon waiver for the upcoming biennium it is imperative that it be approved within the next 45 days.

This is a high priority but we find it unlikely that we will be able to deal with the funding of this waiver for the 1993-95 biennium if it is not received by mid-March. Therefore, we hope that your office can be instrumental in assisting us so that we may attempt to deal with the waiver this session.

If there is anymore that we can do from this end please don't hesitate to call.

Sincerely,

LARRY L. CAMPBELL,
Speaker of the House, Oregon Legislative Assembly.

BILL BRADBURY,
Senate President, Oregon Legislative Assembly.

[From the Washington Post, Feb. 2, 1993]

GOVERNORS, CLINTON TALK HEALTH CARE

(By Ann Devroy and Dana Priest)

President Clinton yesterday promised the nation's governors he would give them more flexibility in the way they provide health care to indigent residents under Medicaid, and revealed plans to include $30 billion in tax credits and spending increases in his economic package to be unveiled later this month.

Clinton's two-hour-plus session with the governors at the White House, extraordinarily long by the standards of past presidents, allowed him to shift public focus back to his major campaign themes: preparing his economic program for its Feb. 17 State of the Union presentation, writing his budget for his first such submission on March 23 and starting extensive work on health care reform.

Clearly sensitive to the Medicaid issue from his years as a governor, Clinton said the states were required to wait too long, fight through a rules process too complex and duplicate each other's efforts in seeking to provide the most cost-effective health services they can under the federal Medicaid rules.

To remedy that, he said he had directed the Department of Health and Human Services and the federal Health Care Financing Administration to cut back—to one—requests to the states for more documentation and clarifications of requests for waivers. He also has asked for establishment of a list of innovative state programs that would become available to all states once one had received federal approval and for an overall review of the process by which states get waivers from federal Medicaid rules.

"For years and years and years, governors have been screaming for relief from the cumbersome process by which the federal government has micromanaged the health care system affecting poor Americans," Clinton said. "We are going to try to give them that relief so that for lower costs we can do more good for more people."

But Clinton stopped short of actually granting exemptions or waivers to states attempting comprehensive health reform—Florida and Oregon among them.

According to two Republican governors, Carroll A. Campbell Jr. of South Carolina and William F. Weld of Massachusetts, Clinton told the group that his package to stimulate the economy will reach $30 billion, half in direct government spending on projects such as road building and half on tax credits to business and industry.

Officials last week estimated the package would be $20 billion to $25 billion. Although Clinton did not say so, it was estimated the package would increase the overall deficit by $30 billion the first year and be accompanied by a direct deficit reduction package for later years.

The governors said Clinton told them the White House wants to fund projects that can be started within 60 days. Clinton was handed what amounts to a governors' wish list—$6.5 billion in transportation projects that are already to go under last year's transportation bill.

The governors praised Clinton's effort on Medicaid and his pledge to include their representatives in his health care task force headed by Hillary Rodham Clinton. She and Tipper Gore, wife of the vice president, attended the governors' session at the White House.

Medicaid, the state-federal program that provides health care to poor and disabled Americans, is the fastest-growing part of most states' budgets and accounts for as much as 20 percent of some states' spending. Combined federal and state spending for Medicaid has doubled since 1989 to $140 billion this year.

In an effort to hold down health care costs, states want to experiment with nontraditional ways to provide health care to the poor.

Some states, for example, would rather allow elderly recipients to live at home with the assistance of nurses than to live in nursing homes required under Medicaid rules. Others would like to use Medicaid to cover uninsured children and pregnant women whose household income is too high to qualify but too low to pay for preventive and primary care.

To try such experiments, a state must obtain a waiver from Health Care Financing Administration in a process that can take years. Clinton, in his first meeting with then-President George Bush after the November election, complained to him about Medicaid rules, he told reporters then.

In addition, source said Clinton and the governors are close to an agreement on allowing as many as 32 states to collect up to $350 million more in federal Medicaid grants this year than was allowed by the Bush administration. The money goes to reimburse hospitals that serve an unusually high volume of indigent patients.

Clinton also discussed health care reform with the governors, but only in broad terms. "The very tough, difficult" issues like cost controls "were not discussed today," said Colorado Gov. Roy Romer (D).

Later in the day, Senate Majority leader George J. Mitchell (D-Maine), who last year opposed waivers as an impediment to overall reform, told the governors he hoped they would use the liberalized waivers to push ahead with state experiments in improving health care delivery.

"State action at this time will not interfere with national health care reform," Mitchell said. "We need a comprehensive national health plan, but it must include substantial authority and flexibility at the state level."

As he puts together his spending plans, Clinton on Thursday will be informing departments and agencies of the deficit projections and economic stimulus decisions he has made for his first budget, and those officials must file appeals by Monday.

According to administration officials, the appeals must be "pay-as-you-go" appeals, that is, if a department wants more money for one of its programs, it must offset that with less in another of its programs. While the broad Clinton economic program will be unveiled in his State of the Union address on Feb. 17, the details will come in the formal 1994 federal budget to be released on March 23.

Mr. HATFIELD. These documents, Mr. President, do satisfy my desire to this congressional position taken on this. Senator MOYNIHAN of the Finance Committee and Senator PACKWOOD, the ranking member of the Finance Committee, have both assented to this waiver, support the waiver. And, as the Senator from New York indicated to me this noon, we will revisit this issue if it is not completed satisfactorily by March 19.

I thank the chairman of the committee for permitting this intrusion into his timeframe and these amendments pending.

I want to say again, Mr. President, I am happy that the Secretary and others have given their support to this. I am very hopeful that we can get it acted upon soon.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The junior Senator from Oregon.

Mr. PACKWOOD. Mr. President, I hope this is the end of a torturous road that Senator HATFIELD and I, Congressman WYDEN and others have pursued for the last solid 18 months and for the better part of 2½ years.

In the 1989 session of the legislature in Oregon, three bills were passed. One said that we will cover everybody in the State to the limit of the poverty level with Medicaid. We do not do that now. Most States do not do that now. And we said we would cover them on a broader basis than they are now covered. But we indicated that we would not cover everybody for every procedure that a much smaller group of people who are now covered by Medicaid are covered.

In other words, we said we are going to try to cover everybody with a basic, broad medical plan. But in order to do that, because we do not have a lot of money to spend, we do not want to be compelled to cover some procedures that are very expensive that a very few people use.

The legislature passed that. They also passed an employer mandate bill, indicating that employers in the State must provide at least the minimum benefits package that Medicaid recipients would be eligible for. That would go into effect, however, only after the Medicaid waiver was passed.

Then we passed a third bill that was an insurance risk pool. For those that are unemployed but they are not eligible for Medicaid, they would be in the State risk pool. The money would be collected from employers and elsewhere and that risk pool would cover the others.

So, in essence, we were going to cover everybody. Everybody in the State, employed or unemployed, Medicaid to 100 percent of the poverty level, but in order to do it, we need a waiver from the Federal Government to be permitted to experiment with the Medicaid plan and the mandate on the employers to cover their employees did not go into effect until we got the waiver for the insurance pool.

And for 18 solid months we tried to get the waiver from the Bush administration. First, we were told there was a budget problem. And I worked extensively with then Budget Director Dick Darman. We got over that. Then we were told there was an abortion problem, that this Medicaid waiver would fund abortions. And, of course, the Federal law prohibits the use of Federal funds for abortions. And we indicated the waiver cannot override the Federal law. The President does not have the power just to waive Federal law. Got over that one.

Then in the midst of this, we passed the Americans with Disabilities Act while Oregon was applying for the Medicaid waiver. And the argument was this discriminated against the disabled. The Department of Justice looked at it. Allegedly this was the reason the Bush administration did not want to grant the waiver. I say "allegedly." I do not know if that was the reason, but I take them at their word.

And bear in mind, this act was not in full effect when Oregon applied for the waiver. We could not foresee this coming.

But here is the premise of what we are trying to do. And President Clinton, several weeks ago when he met with the Governors, said he wanted to grant all of these waivers and let the States experiment.

The premise is very simple in this Medicaid program of Oregon's. That premise is that at public expense, we cannot afford to cover every illness known to the mind of man or woman, no matter how expensive the treatment, that we cannot afford to provide for every citizen at public expense the kind of health treatment that Henry Ford or John Rockefeller, if they were alive, would pay for themselves. We just do not have that much public money.

So not only did we pass this bill, we then set up a commission that held hearings all over the State as to what should be the priority of the care, what is the most important cost-benefit medical procedure you can have.

As I recall, I cannot remember if it was 789 or 719 procedures, what was the least. At the top, as I recall, was viral pneumonia; if not viral, the other pneumonia, which is easily treated with antibiotics and if you catch it quick you are cured and you are not likely to die of it. You are going to live a long time. And it is very expensive if you were to look at the entire list from one to the bottom. I do not think you would quarrel much with the philosophy of the cost-benefit system. You might quarrel with something that is 350 on the list as opposed to 360. But if you look at the whole list, whether it is elderly care, children, prenatal care, pregnant women, medicine that is relatively inexpensive, comparatively speaking, and which has a tremendous payout in terms of saving medical expenses at the other end.

Now, that is the philosophy of what we are trying to do. Some people call it rationing. But I would say we ration medicine now. I indicated earlier, Oregon does not cover people to 100 percent of the poverty level on Medicaid nor does any other State I know of. That is rationing. If you are above the poverty level that the State covers on Medicaid, you are out. Not a sou, not a penny. You are out. That is rationing. That is very brutal rationing.

So, Oregon tried to rationally—not rationingly—rationally come up with a list that said what is the most important; what is the least important. I cannot recall how close to the bottom it is but one of the ones very close to the bottom is cosmetic surgery for pure cosmetic purposes. You are not in an accident, you just do not like your face and you would like to change it. The public is not going to pay for that. And it is understandable.

I hope the President will grant this waiver. I understand the sensitivity of it. But I also understand the need to restrain health costs in this country.

Within 3 or 4 years, Medicare and Medicaid together will exceed what we now pay out for Social Security—what we then pay out for Social Security. It will go beyond it in about 1997, as I recall—I may be off a year—and then it widens after that. What we pay out for Social Security and what we pay out for Medicaid are getting greater and greater. The health costs go up exponentially. Social Security only goes up with the cost of living. Public health care, Medicare, Medicaid, goes up in places 2 to 3 to 4 to 5 times, on occasion, the cost of living. So we are trying to bring it under control.

In the meantime, the President and Ms. Clinton are working on a national health plan. But the President very clearly said he thinks the States ought to be laboratories. He emphasized that again when he spoke to the Governors—all of them, Republican and Democrat—when they were here 2 weeks ago or 3 weeks ago. He indicated how much he wanted to let the States experiment, eight or nine States having requests for Medicaid waivers—none as far-reaching and dramatic as Oregon.

Oregon so far is the only one of any State that has said we have finally come to the Rubicon and we must make a decision in terms of public money. How much we are going to spend for health, how much we are going to spend for education, how much we are going to spend for highways. And then within health, if you say that is all we have to spend because if we spend more we have to short other priorities within health, we are going to try to spend it on the best basis possible. That is all we are asking.

I am delighted we have finally—I do not want to say "finally" gotten a promise out of this administration, it is brand new—but we have finally gotten a promise that we will get a decision. I hope it is a favorable decision although I think I would feel very strongly unless the administration just said we will veto it, I would be tempted to try this on the floor if we do not get a favorable decision.

What Oregon wants to try, the Nation will one day have to come to. The Congressional Budget Office has estimated that health care costs in this Nation—this is public and private, not just public costs—health care costs in this country, which are now about 14 percent of our gross domestic product, will by the year 2000 be close to 20 percent of our gross national product. One dollar in five in this country we will spend on health. And for every 1-percent increase that we spend, it is 1-percent less we can spend on something else, assuming we were to spend it instead of applying it to the deficit, even. But it is 1-percent less we can spend on something else.

This country cannot forever run on the equivalent of the unending salt box at the bottom of the sea. There is a limit to money. There is a limit to how much taxpayers will pay, how much they should pay, and there is a limit to the total quantities of services we can give in this country. If you want to talk aircraft safety and Amtrak and environment and the forest service and health and Social Security and defense—there is a limit.

And I personally would prefer to not raise taxes if we are simply going to spend the money, if we are not going to use it to narrow the deficit—and we never have used it to narrow the deficit before. All we do is raise the taxes and spend the money, either on new programs or expended old programs. If we are not going to use taxes to narrow the deficit, then the only way we are going to narrow it is to restrain spending.

I want to emphasize restrain, because people in Government use the word cut in a funny way. If you have $100 a month from the Government this year, $100 every month, and if you thought you were going to get $120 next year and you got $110, people say they have been cut $10. They have not been cut. I do not know any business that uses the term cut in that sense.

If we are not going to raise taxes to narrow the deficit then the only way to narrow the deficit is to restrain the increase in spending. And if we are going to restrain it, it means priorities.

If health care is the highest priority, and there is to be no limit on it, then everything else is going to have to have more severe limits on it. It is really a philosophical choice. It is not in essence a political choice. When it comes to the prioritizing of medical care, it is very much a moral, almost a theological choice. But it is one this country must come to.

Oregon has come to it. Oregon wants permission to try it. And I hope very much this administration would give us that chance.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 35

(Purpose: To ensure that foreign corporations are not provided with access to information derived from research funded in part with Federal funds prior to such information being publicly made available to domestic corporations)

Mr. SHELBY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for himself, Mr. NICKLES, and Mr. HELMS, proposes an amendment numbered 35 to the reported committee substitute as modified,

At the end of title XX, add the following new section:

SEC. 20 . ACCESS TO INFORMATION BY FOREIGN CORPORATIONS.

(a) PROHIBITION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, information derived through research and development activities conducted in whole or in part with funds received from the National Institutes of Health or the National Science Foundation, may not be made available to a foreign corporation within the meaning of section 7701(a)(5) of the Internal Revenue Code of 1986, or a United States based subsidiary corporation of such a foreign corporation, by an institution of higher education if such corporation

of subsidiary has a financial relationship with the institution.

(2) FINANCIAL RELATIONSHIP.—A financial relationship with an institution as described in paragraph (1) shall exist if—

(A) the corporation or subsidiary involved has paid a fee to the institution;

(B) the institution has accepted any gifts or donations of the corporation or subsidiary involved; or

(C) the institution had acquired any stock or other financial holding in the corporation or subsidiary involved.

(3) DEFINITION.—As used in paragraph (1), the term "subsidiary corporation" means any corporation (incorporated in the United States) in an unbroken chain of corporations beginning with the foreign corporation involved if, at the time the information to which paragraph (1) is sought, each of the corporations other than the last corporation in the unbroken chains owns stock possessing 50 percent or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

(b) SHARING OF INFORMATION.—Notwithstanding any other provision of law, an institution of higher education may not permit the sharing of information derived from research and development activities conducted in whole or in part with funds received from the National Institutes of Health or the National Science Foundation with a foreign corporation (within the meaning of section 7701(a)(5) of the Internal Revenue Code of 1986) or a subsidiary of that corporation, prior to the time at which such information becomes publicly available.

(c) GUIDELINES.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services and the Director of the National Science Foundation shall promulgate guidelines for the implementation of this section.

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services and the Director of the National Science Foundation shall prepare and submit to the appropriate committees of Congress a report concerning the implementation of this section, including an assessment of the status and progress of recipients of funds to which the section applies in complying with this section.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 36 TO AMENDMENT NO. 35

(Purpose: To ensure that foreign corporations are not provided with access to information derived from research funded in part with Federal funds prior to such information being publicly made available to domestic corporations)

Mr. KENNEDY. Mr. President, I send an amendment in the second degree to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 36, to amendment numbered 35.

In the amendment strike all after SEC. and insert the following:

20 . ACCESS TO INFORMATION BY FOREIGN CORPORATIONS.

(a) PROHIBITION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, information derived through research and development activities conducted in whole or in part with funds received from the National Institutes of Health or the National Science Foundation, may not be made available to a foreign corporation within the meaning of section 7701(a)(5) of the Internal Revenue Code of 1986, or a United States based subsidiary corporation of such a foreign corporation, by an institution of higher education if such corporation or subsidiary has a financial relationship with the institution.

(2) FINANCIAL RELATIONSHIP.—A financial relationship with an institution as described in paragraph (1) shall exist if—

(A) the corporation or subsidiary involved has paid a fee to the institution;

(B) the institution has accepted any gifts or donations of the corporation or subsidiary involved; or

(C) the institution had acquired any stock or other financial holding in the corporation or subsidiary involved.

(3) DEFINITION.—As used in paragraph (1), the term "subsidiary corporation" means any corporation (incorporated in the United States) in an unbroken chain of corporations beginning with the foreign corporation involved if, at the time the information to which paragraph (1) is sought, each of the corporations other than the last corporation in the unbroken chain owns stock possessing 50 percent or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

(b) SHARING OF INFORMATION.—Notwithstanding any other provision of law, an institution of higher education may not permit the sharing of information derived from research and development activities conducted in whole or in part with funds received from the National Institutes of Health or the National Science Foundation with a foreign corporation (within the meaning of section 7701(a)(5) of the Internal Revenue Code of 1986) or a subsidiary of that corporation, prior to the time at which such information becomes publicly available.

(c) GUIDELINES.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services and the Director of the National Science Foundation shall promulgate guidelines for the implementation of this section.

(d) REPORT.—Not later than 13 months after the date of enactment of this Act, the Secretary of Health and Human Services and the Director of the National Science Foundation shall prepare and submit to the appropriate committees of Congress a report concerning the implementation of this section, including an assessment of the status and progress of recipients of funds to which this section applies in complying with this section.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I ask unanimous consent that the distinguished Senator from Oklahoma, Senator NICKLES, and the distinguished Senator from North Carolina, Senator HELMS, be added as original cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, often the best intended and successful plans wander astray over time. In 1980, 13 years ago, the Congress passed the patent and trademark amendments, the Bayh-Dole Act. This act was intended to encourage the commercial licensing and development of federally funded research on the part of universities and other entities. In large part, these amendments have been successful. They have fostered a closer working relationship between industry and universities. This relationship provides additional private funding for research, more income for universities, and most importantly, commercial and competitive applications for our Federal research dollars.

Much of the success of the 1980 amendments can be attributed to a lack of government interference in the establishment of these university-business partnerships. However, a lack of government oversight has also led to what must be perceived as a terrible abuse of the system on the part of some universities. Presently, a number of leading research universities receiving funding through the National Science Foundation and the National Institutes of Health provide advance and exclusive access to this federally sponsored research to industrial corporations through what are known as industrial liaison programs, or ILP's. These programs should, Mr. President, ostensibly be helping American competitiveness by orienting Federal research dollars toward marketable technologies from which we create jobs.

Unfortunately, many of our research dollars, funded by the American taxpayer, are producing technologies that are provided to the foreign competitors of our own American companies.

Mr. President, there can be absolutely no justification for this practice. The products of research money, provided by the Federal Government for the betterment of the American people and their economic well-being, are being transferred to our overseas competitors. Mr. President, our trade balance remains in the red year after year. We, in Congress, bemoan the lack of American competitiveness and loss of jobs to foreign industry. In turn, we provide taxpayer money for NIH and National Science Foundation research with high humane and economic goals for the fruits of this research.

We are rewarded with the transfer of new technology produced with this research to our foreign competitors. I cannot possibly justify this practice to the American worker who has lost his or her job because of foreign competition; or to any taxpayer who sends his or her hard-earned money to the Internal Revenue Service. It disturbs me tremendously to think that the American consumer might purchase a product or service that was developed with his or her tax dollars, but manufactured and marketed by a foreign company in competition with domestic manufacturers.

Mr. President, the methods of this transfer vary from university to university. However, the common method of foreign transfer of this technology is through so called industrial liaison programs.

For example, universities like the Massachusetts Institute of Technology charge a membership fee to corporations in return for membership in the program. In turn, corporations receive advance access and in some cases licensing rights to university research, although a lot of them are foreign corporations. Faculty members doing research at the university are encouraged to participate in the industrial liaison program through a system of rewards and inducements that range from free travel to extra office expenses. In return, faculty members are expected to share their research results, prior to publication, with ILP corporate members. In the case of MIT, faculty members are awarded points toward travel and other benefits based on the extent that they share such research results with ILP members.

What is disturbing about these programs, Mr. President, is not necessarily the system of incentives and fees, but the extent of foreign participation in these liaison programs. In MIT's liaison program, 45 percent of the members are foreign. Moreover, a full two-thirds of what MIT's own point system rates as substantial contacts are with foreign corporations. Half of that number are Japanese. In fact, the MIT points system rewards foreign contacts more than domestic ones. Foreign contacts have provided ILP professors anywhere from $420 and $1,200 in travel funds at a time. It can be no small coincidence that MIT has an ILP office in Tokyo. MIT receives 86 percent, Mr. President, of its research funding from the Federal Government, a figure well over $400 million.

Of those 25 researchers at MIT, which we all know is a great university, receiving over a million dollars of NIH and NSF money over the past 5 years, 80 percent of these researchers had more contact with foreign corporations than with American ones. The same percentage holds true for the top 10 researchers who received between $3 million and $9 million over the same period. To make matters worse, MIT actually charged foreign companies less to join their ILP than they did domestic corporations.

Foreign participants in MIT's ILP program have enjoyed, Mr. President, direct tangible benefits from their participation in the program, to the detriment of U.S. companies. The chairman of NEC, a world leader in semiconductors, directly credited access to MIT research as a cornerstone of the company's success in the world market, including our own.

In response to congressional inquiries about these practices, MIT released a report to counter anticipated criticisms of its foreign contacts. I would like to assure the Senator from Massachusetts that I am not singling out MIT only for criticism. I have a long list. Many major research universities have extensive foreign contacts. However, the available information on MIT's program and the large amount of Federal funding that it receives makes it an excellent example of the problem that I am describing.

The MIT response to the criticisms that I am leveling is indeed well thought out and eloquent. I would like to detail some of MIT's responses. Because over three-fourths of MIT's research budget is federally funded by the taxpayers, I would argue that restrictions should be placed on foreign access to the products of this research.

MIT responds in this paper that this argument, quote, "deserves serious consideration." Unfortunately, the authors of the response go on to dismiss this contention out of hand. The report contends that openness in the university and MIT's role as a major research institution requires a continuation of extensive foreign contact, including industrial liaison contracts. They defend their contracts with foreign firms by claiming that such contracts benefit American industry because MIT learns about our foreign competitors. The report concludes by recommending virtually no changes in MIT's foreign contact policies. Why should we not limit foreign access to taxpayer research, Mr. President.

Because, and I quote from the report, "The relative weakness of the United States in the ability to translate research to the commercial marketplace * * * must not be used as a reason to limit the openness of university research; that would ultimately erode the quality of that research." If I understand this argument, Mr. President, MIT is claiming that because United States firms are not as good at commercial development as the Japanese, then they do not deserve a break from the institution. I hope that is not what they mean, but that is the way I read it. The conclusion sounds to me as if MIT is saying "drop dead"—forget the taxpayers, forget the money they put in here. Mr. President, I believe that MIT has motivations for maintaining its foreign contacts other than academic freedom and research quality. MIT by its own admission is raising large amounts of money through foreign contacts, and they are not alone.

The report contends that this is necessary because of MIT's small endowment. MIT already receives a half a billion dollars per year in Federal research money. MIT raised $8 million last year from its ILP program alone. MIT's foreign contacts, including 30 chairs endowed by foreign companies, are bringing in substantial amounts of money to the university. MIT's response, and I quote again, "Unrestricted gifts from foreign sources for endowment, chairs, and other purposes are an effective means for foreign beneficiaries of American science and technology to contribute to the continued productivity of the research base from which they have benefited. The relationships that naturally develop with any substantial donor to the institute are equally appropriate with foreign donors." Mr. President, I believe that in a nutshell this is the summary of the problem. Universities like MIT are supplementing their income through research relationships with foreign companies. They are taking billions of dollars per year in Federal research money and selling the products of that money to the highest bidder. Such practices are, quote, "appropriate." The issue is simple, Mr. President. The sanctity of openness and quality of research are only covers for simple greed.

Again, Mr. President, I want to emphasize that this is not simply an MIT problem.

One-third of the foreign members of ILP programs in a recent GAO report belonged to Stanford and California Berkeley alone. In addition, the following universities have foreign members in ILP programs that provide advance access to research:

The University of California at San Diego, Columbia, Cornell, Illinois, Maryland, Michigan, Minnesota, Northwestern, the University of Pittsburgh has 70 foreign members, Rochester, Southern California, the University of Washington, Washington University, and Wisconsin.

Columbia has the Columbia Forum in Japan. Carnegie Mellon and California Berkeley have fundraising offices in Tokyo. All of these offices are designed to coordinate and foster financial and/or technical ties with foreign members. The practice of soliciting foreign development of these technologies in return for financial gain is widespread, Mr. President. I propose today that we take away the incentives for the transfer of taxpayer financed research to foreign companies.

My amendment is very simple, Mr. President. It will remove the economic motivation to sell government-sponsored university research to the highest bidder. The amendment will prohibit the sharing of NIH and NSF funded research with foreign corporations if the university has any financial ties to, or accepts any compensation from that company.

This only seems fair because American companies are paying twice for access to the same research, first in the form of corporate taxes and a second time in ILP membership fees. Furthermore, the amendment I am offering today will prohibit the sharing of such research with foreign companies before that research is made publicly available. This provision is to take away any incentive for any university to provide free, exclusive access to information in the hope of future licensing sales. At least such a provision will give domestic companies a fighting chance.

Mr. President, the practices that I have described here today cannot continue.

In a time of shrinking discretionary spending, research universities testify before Congress that NSF and NIH research money is necessary for American competitiveness. They have been successful in maintaining and increasing their share of the budget while other valuable programs have suffered. Mr. President, if this money is truly increasing American competitiveness I am unequivocally in support of it because I have supported every one of these initiatives. However, I cannot support the diversion of the products of this research money to the foreign corporations, especially when we appropriate the money to, in part, enhance American competitiveness.

I ask that my colleagues join me in support of the amendment. I cannot face my constituents with eloquent justifications for their tax dollars subsidizing foreign companies. I am not sure that my colleagues can either.

Mr. President, I have a couple of charts that I will use to outline this program as it is being used now. We had them a few minutes ago.

I suggest the absence of a quorum.

Mr. KENNEDY addressed the Chair.

Mr. SHELBY. Go ahead.

The PRESIDING OFFICER. Did the Senator from Massachusetts ask the Senator from Alabama to withhold suggesting the absence of a quorum?

Mr. SHELBY. I will withhold.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KENNEDY. Mr. President, I welcome the opportunity to address the Senate. During the course of our hearings on the National Institutes of Health, this amendment did not come up. It did not come up during the course of our hearings. It was not offered by any members. Even in the time when the leader had indicated that we were going to have an opportunity to bring the legislation up it was not advanced. And I was notified last evening about this particular issue. So we will address that particular issue at the present time.

During the course of the morning, we have had an opportunity to talk, as we should, with the head of the National Institutes of Health, National Science Foundation, the President's Adviser on Technology Development, all of whom oppose this amendment. Not that that ought to be the defining issue, but they oppose it for a variety of reasons, both because of its drafting, the vagueness of the draft, and also because of the signal it sends.

They do not, I must say in a general way, although they have not had the chance to write the letters—maybe they will have more of an opportunity during the course of the afternoon. They have not had the opportunity to say that unequivocally this is not a matter that ought to have some attention by the NSF and by the National Institutes of Health.

But I am still waiting for the Senator from Alabama to point out the transgressions which allegedly exist at a university in my own State, who says they exist in other universities across the country. What is completely unacceptable, obviously, is American research funded by the National Institutes of Health, funded by the National Science Foundation that is made available to foreign corporations. That is wrong. We are against it. I am against it. He has stated that that is taking place, and I am asking for the evidence for that accusation.

He talks about procedures that are followed at one of the universities in my own State, the Massachusetts Institute of Technology. After an academician and researcher publishes the information, they can talk to whomever they want. That is what is happening at MIT and that is what is happening in other universities around the country.

If we do not want that to happen, then that is a matter of changed policy. For a long period of time we have been trying to encourage American corporations to get the cutting edge of new technology so they can compete around the world. I deplore the fact that the maglev technology developed at MIT went abroad to a European corporation. American companies had an opportunity to do it. They have not. And the most advanced new technology for rapid transportation on railroads has all been developed by European companies.

That has been true on issue after issue. Advanced definitional television, available to American corporations—no. Published questions, and then that technology produced in a foreign country. Well, I wish it were all done here. It would mean more jobs here at home.

But to make sense from what the Senator is talking about, he has to be able to demonstrate, which was not demonstrated in the House hearings, and was not demonstrated by the General Accounting Office, that these transgressions are taking place. That is the best information that we have.

I have indicated to the Senator we would be glad to have a hearing on it—have the National Institutes of Health, have the National Science Foundation, have his researchers that talk about this matter, all up before us and let us get the facts out.

Mr. SARBANES. Will the Senator yield?

Mr. KENNEDY. I am glad to yield.

Mr. SARBANES. Has the Senator's distinguished committee which he chairs, ever held hearings on this subject?

Mr. KENNEDY. We have not held hearings on this subject.

Mr. SARBANES. This is a very complex subject because it involves a lot of competing values including the freedom of academic research. It seems to me if we are going to deal with this subject in a manner that is suggested by this amendment, this is not a study amendment. This is an amendment that actually puts restrictions and limitations into law. It seems to me at least it ought to be supported by or backed up by a proper set of hearings within the committee.

I take it the committee has not done that work. Is that correct?

Mr. KENNEDY. Indeed, the committee has not done that. I have indicated to the Senator from Alabama we are glad to. I think there are sufficient issues of concern in terms of the utilization that we would certainly welcome. We are constantly dealing with issues for example on patents, research programs, that go to the universities, and establish the patents. How is the public interest going to be protected? We are not dealing with that issue here today. It is just on the issues of information.

On the whole question of the NIH we have very impressive measures in this dealing with scientific integrity, questions that have been raised as a result of congressional hearings. We certainly are open to those different recommendations and suggestions. As a matter of fact, we incorporated and worked with a good deal of the recommendations that came out of the Dingell committee and also out of Senator NUNN's committee, investigative committee, as well, that incorporated that in ways in which the universities, the researchers, and others were able to support.

It is easy enough to come out here and beat up on the Japanese, all those that beat up on our European adversaries, beat up on them. And there are three universities which have 58 percent of the agreements in terms of foreign researchers. And there has not been, at least in the presentation that has been made so far, any evidence whatsoever that those agreements have been violated. If they have been violated, we have problems. We are not even saying they should not have an opportunity—I am not particularly familiar. I know just on the basis of the material we have been able to gather since last night what has happened in those universities. I do not know if there are other universities that have violated it. Certainly if there are, we ought to know about it and try to deal with it. We are glad to do it.

We do know the GAO reviewed this subject matter and did not come up with these kinds of glaring statements and allegations that the Senator from Alabama has come up with. We do know the House got into it with their own kind of concerns and have recommended that the NIH and National Science Foundation should be concerned about it.

The fact of the matter is in NIH and the National Science Foundation they already have the authority existing to try to deal with it. We are glad to ask them to join with the Senator from Alabama if they so want to and ask them to review this, and come back and have a study on this issue.

As the Senator from Maryland has pointed out, he wants to try to make basically these allegations which we have yet to hear from other than, "My goodness, there are foreign investments that are taking place in American universities." Some are trying to get those resources over at American universities. Try to invest in those. Some feel that that is useful. Clearly, it is not American-funded research being leaked out and being used, purloined, stolen from universities in violation of any agreement which they are going to profit on. Of course that is wrong. If we have examples of those factors, then obviously those are matters that ought to be attended to.

But other than just sort of describing the fact that there are certain number of chairs at certain number of universities that are supported by foreigners, and that foreigners come over there and visit the university and once in a while someone travels to a foreign country, I would have thought we would try to be thinking about how we are going to get some of the scientists from Eastern Europe over here that are dealing with desperate problems in their environment and the rest of it.

We are going to send a powerful message to them all right. "You come from abroad. You are from a foreign nation. Boy, don't you give a nickel to an American university and don't let your people come on over there and be seen in the cafeterias to talk to any of these."

So much for international conferences. Let us have a bed check for everyone that is going to attend an international conference. A scientist or researcher goes to an international conference in Europe and we find out in the back of the room there is a European corporation waiting just to hear that person and that American university loses all of its funding. That is good. We will get those head checks, check their passports, make sure there are none out there.

I wonder if they are part-time workers.

Come on, Mr. President. We are talking about the National Institutes of Health. He has included the National Science Foundation. We have jurisdiction on that issue. Also the Commerce Committee has. I do not know Senator HOLLINGS' or the ranking minority's position on this. They have been consulted. We started with the staff to let them know. I imagine if we are dealing with the jurisdictions of different committees, we notify those committees as well. I know the Senator from Alabama has done that. We have not heard from them.

I am sure they will be interested, as I would have thought the administration, the Secretary of Commerce would have some interest in this as well. We are going to hear tonight, I expect, about all the investments we are going to make about new technologies and developing centers, and how we are going to work that whole process through.

One thing we will know. If this amendment passes, certainly there will not be any other funding for those other than what we have, which is limited enough.

Mr. President, I will get into a greater degree of just about the specifics of the amendment itself in just a few moments.

But I hope that we will not accept this particular amendment.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, the Senator from Massachusetts wanted to talk about evidence and so forth. I would like to ask unanimous consent that the report of the House Government Operations Committee entitled "Science for Sale, Transferring Technology in Universities to Foreign Corporations," dated October 16, 1992, after extensive hearings over in the other body, be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, reserving the right to object, would not the whole report be done with tax money?

Mr. SHELBY. Yes.

Mr. KENNEDY. Taxpayers' money.

I have no objection.

Mr. SHELBY. The Senator should not object to this because it is a condensed report, but it has a lot in it that supports the argument to exclude foreign corporations from having access to taxpayers' research.

Will the Senator yield for a request? Will the Senator from Massachusetts yield for a request?

Mr. KENNEDY. I apologize. Certainly.

Mr. SHELBY. Mr. President, earlier in the debate when we were talking about the amendment before the Senate, I asked that we consider a House report from one of the committees. I ask that request be withdrawn and vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, will the Senator from Alabama yield for a question?

Mr. SHELBY. I yield for a question.

Mr. NICKLES. In looking at the Senator's language, is the extent of his amendment to try to make sure U.S. taxpayers' funds either coming from the National Science Foundation or National Institutes of Health, which are going to universities throughout the country, would not be used to subsidize or assist foreign corporations?

Mr. SHELBY. Absolutely. That is the thrust of it. And that is probably sensitive to lots of people. But when we are here talking about competitiveness, we are talking about budgets, we are talking about the American taxpayer. I think we have to see where this money goes and who is getting it, and then who is building products to compete against us with it.

Mr. NICKLES. Mr. President, will the Senator yield for an additional question?

Mr. SHELBY. I yield.

Mr. NICKLES. I have not seen the report. I guess it was a House report or investigation on it. Did they come up with dollar figures, that so many billions of dollars or hundreds of millions of dollars were used in indirectly assisting or subsidizing foreign corporations in some manner?

Mr. SHELBY. Some of it.

Let me share—if I may regain my floor privilege here, let me give you some examples of this.

Harvard and California at Irving have built research centers with Japanese corporate money respectively. Research in this facility will be augmented with Federal money, our taxpayers' money, to make products. Toshiba has advanced compact disk technology through taxpayer university research. There is evidence of this. It is not something I created out of the air. There is evidence of this. The MIT-created famed cutting edge media has been manufactured in Japan. Japanese officials were surprised they were so willing to sell it, as it has been described as a crown jewel of American research and development. A lot of it has been through the American taxpayer.

Mr. KENNEDY. Mr. President, will the Senator respond to a question?

Mr. SHELBY. I am glad to respond to a question.

Mr. KENNEDY. Just the end of last week, IBM and Siemens, a German firm, announced an agreement for new computer technology at a different university. How would the Senator's amendment apply to that?

Mr. SHELBY. Mr. President, I do not think my amendment would bother that at all. I regain my floor privilege here. I do not think my legislation, my amendment, would bother that at all.

The thrust of my amendment is to protect the taxpayer from subsidizing foreign corporations, not from foreign corporations getting with us and doing their own independent research. Those are two different things.

Mr. KENNEDY. If any of this money that they have in the private sector goes to any of the universities that the Senator has mentioned, would they be permitted to be able to receive that money? Would the universities be able to receive it and would foreigners be able to go to those universities and talk to those researchers?

Mr. SHELBY. Not if they were using the taxpayers' money to finance their research; no.

Mr. KENNEDY. No; I am just talking about research done by taxpayers' money. They are going to have a tax deduction for it. So what is the Senator saying?

Mr. SHELBY. What I am saying is this——

Mr. KENNEDY. What is the Senator saying? They cannot do it when they even get agreement?

Mr. SHELBY. I will tell the Senator what I am saying. I believe I have the floor.

What I am saying is the thrust of this amendment would be to protect the taxpayers of America from subsidizing the foreign corporations with their basic research which is funneled through various universities without letting the American corporations first have access to it.

That is the thrust of this amendment. It makes sense. It is important to the taxpayers. And if we can ventilate it here with further debate, I believe more Members will understand it.

Mr. SARBANES. Mr. President, will the Senator yield for a question?

Mr. SHELBY. I am glad to yield.

Mr. SARBANES. What does the Senator's amendment do where you have two corporations which enter into a joint venture, one an American corporation and one a foreign corporation?

Mr. SHELBY. It does not keep them from entering into any kind of joint venture.

Mr. SARBANES. I understand that. If the university shares its findings with that joint venture, then it loses all of its NIH or NSF funding?

Mr. SHELBY. No.

Mr. SARBANES. Why not?

Mr. SHELBY. It prohibits them from doing this.

Mr. SARBANES. That is the very point.

Mr. SHELBY. That is if they are sharing the research. The thrust of the amendment is to keep us from subsidizing foreign corporations.

Mr. SARBANES. I understand that. I am trying to probe what the amendment does. And I am asking the question, what is the thrust of the amendment if instead of just having a foreign corporation, you have a joint venture?

Mr. SHELBY. First of all, my amendment would call for guidelines to be issued by the National Science Foundation and the National Institutes of Health after they go into this if this amendment is passed, which I hope it will be.

Mr. SARBANES. The Senator's amendment says if any information is shared with a foreign corporation—and I am positing that you have a joint venture having a foreign corporation and American corporation; that is happening more and more—that if any of that information is shared, they lose their grant.

Is that correct?

Mr. SHELBY. I will read it to the Senator, Mr. President, and I know the Senator read it.

> No information derived from National Institutes of Health and National Science Foundation funds in whole or in part may be shared with any foreign company as defined by section 7701(a)5 of the Internal Revenue Code of 1986, or U.S. subsidiary of a foreign corporation with which the university has a financial relationship, and so forth.
>
> In addition, information may not be shared with foreign companies prior to that information becoming publicly available.

That is the thrust of my amendment.

Mr. SARBANES. I understand that, and I have read the Senator's amendment. The question I am putting to the Senator is, what does his amendment do in the instance in which an American corporation and a foreign corporation have entered into a joint venture, and which information is then shared with this joint venture, part of which is an American corporation and part of which is a foreign corporation? Would it eliminate the aid to that?

Mr. SHELBY. It would not eliminate it.

Mr. SARBANES. Why not?

Mr. SHELBY. Because it would be first offered to the American corporation. The American corporation, if it had the research value of the basic university research and was doing something with it, under my amendment they would already have the leading edge in technology. If they wanted to share it with one of the Japanese or German companies, they could do this; but not the opposite.

Do not let the Japanese or other foreign companies have it ahead of our own people. That is the thrust of this amendment. It makes a lot of sense if you look at it.

Mr. SARBANES. Mr. President, I looked at it. It puts a flat ban on it. The Senator's amendment, in effect, in those instances in which there was a joint venture, having an American and a foreign corporation in which a university was involved in trying to enhance this research and development, would eliminate that university from National Institutes of Health or National Science Foundation grants.

Mr. SHELBY. The basic thrust, Mr. President—and I have gone back to this three or four times—is to protect the American taxpayers' basic research dollars from going to foreign corporations. However it may go.

Mr. SARBANES. Mr. President, I understand the basic thrust. I am trying to deal with the impact of the amendment in the real world.

And what I am trying to get at is, in the real world, where you face joint ventures, you in effect are going to put American universities sort of at the risk of losing all of their NIH and NSF grants in this instance. I take it from the way the Senator is responding to my question that he would not want that to happen, because he is not directly responding to it. He is moving back to a different set of facts.

But on the facts that I am presenting, these American universities are going to be simply eliminated from having this sponsored research from the NIH and the NSF.

I take it the Senator does not want to do that?

Mr. SHELBY. Mr. President, I am reclaiming my floor privilege here.

This amendment would require that universities receiving NIH or National Science Foundation funds and which are licensing this technology must develop programs to locate markets and develop these technologies with domestic—in other words, American—companies. The university would have 2 years to report on its efforts to NIH or the National Science Foundation to have its program certified. Failure to comply with it would subject the university to loss.

That is the thrust of what we are trying to do.

Mr. SARBANES. Mr. President, if the Senator will yield, where is that provision in the Senator's amendment? If I could find that provision in that amendment——

Mr. SHELBY. I will yield to the Senator from Maryland in a few minutes, Mr. President. Right now, I am going to go through what we have on the boards describing what is going on.

First of all, the taxpayers—if you will share with me here—the taxpayers, all of us here, we fund research through the National Institutes of Health and the National Science Foundation. This money is going to various and sundry colleges and universities around the United States. The MIT is not the only one. It is a great university, and one of the leading ones.

In this case, it would show MIT receiving $430 million for the year in Federal research money. There are many others who do this. They create what they call an industrial liaison program that costs $50,000 to join. They have some of these offices, for example, in Tokyo.

What does this do? This brings about faculty research, the findings are published, the people who participate, the foreign companies in the liaison program. They have access to the findings of the research before American companies do, before domestic companies.

Who benefits from this? Well, the faculty members benefit for travel, office expenses. The universities benefit because it grants them access to various and sundry things.

It also gives license to foreign companies. The foreign company then develops technology that comes out of the basic taxpayer research. The foreign companies then, once they adapt this to the marketplace, create products and then jobs and sell these goods, among other markets, in the U.S. market.

So the taxpayer buys foreign goods developed with researched funded by their colleagues. It is a round robin. You can follow the outline here.

I have another chart I want to share. There is MIT, a great university, one of the greatest in the world. We know that. MIT: A case study.

Of MIT's top 10 researchers, 8 reported more contact with foreign corporations than with American ones. Thirty-six percent contact with other foreign companies; 33 percent contact with American companies; 30.3 percent contact with Japanese companies. MIT's top 10 researchers received between $3.1 and $9.3 million from NIH or the National Science Foundation over the last 5 years.

What this amendment basically is all about, when it gets down to it, is: Are we going to continue to use the taxpayers' money to provide research that will benefit our foreign competitors? If we are, we are going to continue with what is going on today. If we are not, we are going to do something about it.

They have already had hearings on it over in the House. I wish we would have had hearings on it in the Senate. Maybe that will come. But the amendment that I have proposed here today would protect the American taxpayers.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I think the Senator from Alabama raises some concerns that we would all share.

But I would have to agree with those who have spoken earlier about this being very broadly drawn. Without, hopefully, being redundant, I would like to ask the Senator from Alabama some questions.

One is: How is "sharing information" defined? Would the prohibition against sharing information with foreign companies or their subsidiaries apply, for instance, to just routine requests?

Now, I believe, as I read the amendment that such a definition would be developed no later than a year after the date of enactment; would that be correct? Would the definition of "sharing of information" be clarified at that point?

Mr. SHELBY. The answer to that is "yes."

Mrs. KASSEBAUM. I think it would create a lot of confusion, for instance, about whether this amendment would prohibit scientists from delivering papers at conferences where there might be representatives from foreign companies.

I think there are some very important points that have been made. I, too, think the implications of this amendment, without greater clarification of its operation, will only leave a great deal of confusion.

I hope that we could have a series of hearings on this issue in the Senate. I realize there have been some hearings in the House. But I think we have to look at what the implications are for universities, working in cooperation with U.S. subsidiaries.

As the Senator from Alabama has pointed out, it is not just MIT, but also probably the University of Alabama, the University of Kansas, and countless other institutions where research is being done with the financial help of the National Science Foundation or the National Institutes of Health.

I think it is very important, Mr. President, to be a little clearer about some of the definitions that are involved. While these questions may be clarified in a year, that still sows a lot of seeds of confusion in the interim.

That is why I would suggest to the Senator from Alabama that we have a period of time in which to review this matter and find some ways, perhaps, to clarify these definitions in advance—not a whole year later.

Mr. SHELBY. If the Senator from Kansas will yield to comment on her statement.

Mrs. KASSEBAUM. Yes.

Mr. SHELBY. I realize there have not been any hearings in the committee yet. I wish there had been.

But this is a serious question facing us in America, facing our universities. They are well funded. They bring about a lot of basic research.

But I believe—and I believe the American taxpayer would agree with me—that they want their tax dollars to go to universities, including mainly our own, I hope all of our own, that are going to bring research about to help bring products to create jobs for the American people and not our foreign competition.

Now, if I had some kind of assurance from not only the Senator from Kansas but the chairman of the committee, the Senator from Massachusetts, that we would have hearings on this very subject before the committee, say in the next 6 weeks or 2 months, because it is early in this legislative year, where both sides could be heard, where both sides could thrash this out, where we could have an open debate in the committee and then perhaps find a resolution to this, I have no objection to that.

But, I think the distinguished Senator from Massachusetts would have to respond to that.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I welcome the opportunity to work with the Senator from Alabama. We would be glad to have the hearings within the 2-month period. We will work that out. The only reason for being cautious about it is I would like to permit the NSF and also the NIH to have an opportunity to review it so that their testimony would be responsive.

On my part, I have no reluctance to scheduling it within that period of the time. I would be glad to work with the Senator so that the Senator is satisfied that those two agencies will be prepared.

Mr. SHELBY. Would the distinguished chairman say right here—and I know if he says it, he will do it—that he will schedule a hearing on this, a specific hearing on the thrust of what we are trying to do, or at least I am trying to do, to ventilate this, to see if we can improve the way our research dollars are spent with our universities.

Mr. KENNEDY. I would be glad to have a hearing on the subject matter of the whole ethical, if it is, the ethical issues involved in American taxpayers research money being available to foreign companies and corporations and what is the appropriate type of arrangements that are held.

I want to hear from the National Science Foundation. I would be glad to hear from the NIH.

Mr. SHELBY. I think we want to hear from the universities.

Mr. KENNEDY. Yes; we want to hear from the universities.

I do not want to be put in the position where they are going to have to feel compelled to go to every university that may or may not be receiving it. I want to do it in a timely way.

I also want to indicate to the Senator that in that hearing we ought to hear from NSF and the NIH about what we are doing in foreign countries. We have developed in the NSF and the National Institutes of Health important research that is being done in foreign countries at institutes of research there. We want to have some idea and awareness of what the implications would be there, as well.

I think we ought to take a look at it. I think Senator SARBANES and Senator KASSEBAUM have raised the questions in a broad context, and I want to be able to deal with the thrust of the Senator's point.

I do not raise this as in any way deflecting the importance of examining the thrust of the Senator's point. But I do also want to work with Senator KASSEBAUM, Senator SARBANES, and other Members if they are watching and listening to this, to try and at least get a hearing that will focus on this issue.

Mr. SHELBY. On the thrust of my amendment?

Mr. KENNEDY. Yes.

Mr. SHELBY. Or the thrust of the problem.

Mr. KENNEDY. The Senator is correct.

Mr. SHELBY. With that assurance, and that is why we bring things to the attention of the American people and the floor at times, I feel reassured about what the Senator will do in the committee.

Mr. KENNEDY. I thank the Senator. Do I understand that the Senator intends to withdraw his amendment?

Mr. SHELBY. I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment, and the amendment is withdrawn.

The amendment (No. 35) was withdrawn.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I want to commend the chairman of the committee for his willingness to examine it. I was not clear, as the distinguished Senator from Alabama talked about MIT, which he referred to as a great university and then listed a long list of grievances, whether he came to the floor today to praise MIT or to bury MIT. So I am still left wondering in that regard, but I guess we will find out on another day.

Mr. SHELBY. Praise.

Mr. SARBANES. I could not tell whether you came to bury MIT or praise it.

Mr. SHELBY. If the Senator would yield for a comment?

Mr. SARBANES. Surely.

Mr. SHELBY. The Senator from Alabama first came to praise MIT as—

Mr. SARBANES. And then to bury it.

Mr. SHELBY. As, if not "the," one of the great research universities and great universities in the world, if not the leading one in the world. Also, the distinguished Senator from Maryland has one in Baltimore, Johns Hopkins University.

Mr. SARBANES. And the University of Maryland. We have two great research universities.

Mr. SHELBY. But I wanted to praise MIT for all the things they have done, and there are many, many in America, dealing with research and development. But I wanted to point out—and I said it is not just MIT—you know a lot of universities that are doing this. We will develop that in a hearing before the committee chaired by the Senator from Massachusetts, and we will have a chance to hear both sides and maybe come to some resolution of the problem, because I think there is a problem here.

Thank you.

The PRESIDING OFFICER (Mr. GLENN). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator from Alabama. We addressed the principal issue that the Senator from Oregon, Senator HATFIELD, and also Senator PACKWOOD and the Senator from Alabama were concerned with.

I think, at least in terms of the notification, we have matters relating to HIV, which the two leaders are addressing or attempting to address. And I believe there are perhaps one or two other items at least that we know at this time.

We want to reiterate—I do to our Democratic side and I know Senator KASSEBAUM has to the Republicans as well—if there are going to be other amendments, I hope they will be forthcoming.

We have accepted an amendment of the Senator from Vermont, Senator JEFFORDS, to set up a disease surveillance and followup registry for identifying the relationship between the occupation of household members and the incidence of subsequent conditions or diseases in other members of the household. This has been agreed to on both sides.

Senator GORTON has an Institute of Medicine study to determine a method for allocating research dollars based on scientific merit and cost effectiveness. That has been agreed on.

Senator MOYNIHAN has an amendment dealing with NIDA, which is the principal agency that is doing research in terms of substance abuse and addiction. As I understand it, he will offer a sense of the Senate supporting NIDA programs and also providing treatment on demand. That is in the process now of working its way through the Members. But those, to date, are the ones that have been accepted and that are being contemplated.

Mr. President, Senator ROTH had an amendment which deals with the peer review process. At this point, we do not find it acceptable for reasons we will outline, but we would always like to try to work it through with our colleagues to see if those problems can be adjusted. We have worked with others, and we welcome the opportunity to work with him. There may be others. But we want, from time to time, to let the membership know where we are on the different measures so they can at least be alert to what progress has been made.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. I think we are trying to work on some agreements on what few amendments still may be there. The next amendment is one that will be important and will require some time in debate. It is one that will be offered soon by Senator NICKLES, if he is ready to offer that on our side.

Mr. KENNEDY. Fine. That is fine.

Mrs. KASSEBAUM. That is regarding the immigration issue and AIDS.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I did not catch the initial comments but I have been here now for a couple of hours and we are more than ready to offer the amendment. I believe the amendment by the Senator from Alabama is pending. It has been withdrawn. I will be happy to offer the amendment.

AMENDMENT NO. 37

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself, Mr. DOLE, Mrs. KASSEBAUM, Mr. HELMS, Mr. GRAMM, Mr. LOTT, Mr. COATS, Mr. MACK, Mr. CRAIG, Mr. BOND, and Mr. COVERDELL, proposes an amendment numbered 37.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. KENNEDY. Mr. President, just so we all know, after the amendment of the Senator is offered, I intend to offer an amendment in the second degree in behalf of myself and the majority leader. I would prefer to hear the full amendment, just until I have an opportunity to get it from staff that are in the back of the Chamber.

So I will object for that reason, and for no other, just so we could have the reading of the amendment.

The PRESIDING OFFICER. Objection is heard. The clerk will read the amendment.

The bill clerk read as follows:

At the appropriate place, add the following:

SECTION 1. ADMISSION TO THE UNITED STATES OF ALIENS INFECTED WITH THE AIDS VIRUS.

(a) Notwithstanding any other provision of law, regulations or directives concerning the exclusion of aliens on health related grounds, infection with HIV, the human immunodeficiency virus, shall constitute a communicable disease of public health significance for purposes of section 212(a)(1)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)(A)(i)).

(b) REPORT REQUIRED.—The President shall submit a report by September 1, 1993 containing—

(1) an assessment of the anticipated costs of the admission to the United States of persons with HIV to public health care programs, including such costs as will be borne by States and municipalities, and private insurers and health care providers;

(2) an estimate of the number and origins of persons infected with HIV likely to seek entry into the United States before December 31, 2003;

(3) an assessment of the effectiveness of the Immigration and Nationality Act in preventing persons entering the United States likely to become a public charge, as well as the ability to enforce this Act with regard to persons infected with potentially costly health conditions including, but not limited to HIV;

(4) the cost implications of refugees entering or likely to enter the United States, who carry the HIV virus;

(5) A comparison of the anticipated public and private health care costs associated with aliens infected with HIV with the costs attributable to the entry of aliens suffering from other health conditions;

(c) HIV TESTING.—Except as otherwise provided in subsection (d) the Attorney General, in consultation with the Secretary of HHS, shall provide for the testing of aliens for infection with HIV in accordance with the policy in effect on January 1, 1993;

(d) WAIVER AUTHORITY.—Subsection (c) may be waived by the Attorney General, in consultation with the Secretary of HHS for non-immigrants who, except for the provisions of this act, would be admissible to the United States, and who seek admission for 30 days or less for the purpose of:

(1) attending educational or medical conferences;

(2) receiving medical treatment;

(3) visiting close family members;

(4) conducting temporary business activities; or

(5) visiting for pleasure (tourism);

and in addition such non-immigrants may be admitted without questions as to whether they are carriers of the HIV virus, at the discretion of the Attorney General.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the authority of the Secretary of HHS to prescribe regulations, concerning communicable diseases of public health significance, other than infection with the human immunodeficiency virus in accordance with section 212(a)(1)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)(A)(i)).

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 38 TO AMENDMENT NO. 37

(Purpose: To provide that the current list of communicable diseases of public health significance remain in place for a 60-day period and to require that a careful review of potential costs to the United States health care system take place before any change in the list)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 38 to amendment No. 37.

Mr. NICKLES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the amendment strike all after section and insert the following:

SEC. . CONDITIONS ON ANY REMOVAL OF HIV STATUS EXCLUSION.

(a) RETENTION OF EXCLUSION.—The current list of communicable diseases of public health significance as in effect on February 16, 1993, shall remain in effect for a period of at least 60 days after the date of enactment of this Act for purposes of section 212(a)(1)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)(A)(i)).

(b) REPORT REQUIRED.—If the Secretary of Health and Human Services removes or alters the list described in subsection (a) after the expiration of the 60-day period described in that subsection, then the Secretary shall submit to Congress a report containing—

(1) an assessment of—

(A) the anticipated effect of such action on costs to United States public health care programs and entities, as well as to those operated by States and municipalities; and

(B) the anticipated costs to private insurers and health care providers of such action;

(2) any findings regarding current immigration law submitted by the Attorney General under subsection (c); and

(3) a comparison of the anticipated public and private health care costs associated with aliens infected with HIV with the costs attributable to the entry of aliens suffering from other health conditions.

(c) STUDY AND REPORT.—(1) The Attorney General shall conduct a study of the following:

(A) The effectiveness of current provisions of the Immigration and Nationality Act in guarding against entry into the United States of persons likely to become a public charge and in deporting, during a 5-year period after such entry, those immigrants who do become public charges.

(B) The ability of the Immigration and Naturalization Service to apply and enforce such Act with regard to immigrants infected with potentially costly health conditions including, but not limited to, HIV.

(2) The Attorney General shall submit to the President, the Secretary of Health and Human Services, and the Congress a report setting forth the findings of the study conducted under paragraph (1) and including such recommendations as the Attorney General determines may be necessary for revision of current immigration law to ensure that immigrants with costly health conditions who are likely to become public charges will be excluded.

Mr. NICKLES. Mr. President, the amendment that I offer today is on behalf of myself, Senator DOLE, Senator KASSEBAUM, Senator HELMS, Senator SHELBY, Senator GRAMM, Senator LOTT, Senator COATS, Senator MACK, Senator CRAIG, Senator BOND, and Senator COVERDELL.

What this amendment would do would be to prohibit permanent immigration to the United States for persons infected with HIV. I think all of my colleagues are aware that President Clinton and his staff announced his intention to change the present policy which prohibits persons from entering this country permanently who are presently carrying the AIDS virus.

I think this change by President Clinton is a serious mistake. I think it is a serious mistake for several reasons. One is for the health implications. As I think all my colleagues are aware, HIV is a deadly virus. I wish we had a cure for it. Under the bill we are considering right now, we are going to authorize and appropriate over $2 billion in research to try and find a cure for this very deadly disease, but we do not have a cure yet. As a matter of fact, it is not likely that we will for the next few years. I hope that we could have one tomorrow, but it is not there yet.

So if we change this policy and allow more people to come into the country that are HIV positive, if they do not change their social behavior, the disease will spread faster throughout the United States. It will infect a lot more people in this country. It will cost lives and, Mr. President, the second part of this is that it will cost millions of dollars. This change in policy that is promoted by President Clinton is not only a decision that will cost lives, but it will cost hundreds of millions of dollars. It will overburden an already overburdened health care system, one that we are having a very difficult time affording today. We have heard different estimates of the cost of treating someone that is HIV positive. I have quotes from some people who say it is $100,000. I have others who say it is $200,000. Some say those estimates are too low, and that the actual cost would even be higher.

I do know this: I know the cost in Medicaid is already exploding and that many of the people who have been coming into the country who are HIV positive would be Medicaid eligible and ultimately would be on Medicaid.

I have a chart that shows the recent charges for Medicaid and how rapidly it is growing. It is the fastest growing entitlement program, fastest growing program in Government today. Medicaid last year grew at 29 percent, that is $15.3 billion for 1992 alone. The year before it was 27.7 percent. The year before that 18.8 percent. So you can see that Medicaid costs are exploding, and this is without this new policy which, again, would just add to the growing medical crisis that we have.

I would like to compliment my colleague, Senator KASSEBAUM, who has worked with me on this amendment. There are several pieces of this amendment which are mine and there are several pieces which are Senator KASSEBAUM's. Also, I would like to thank Senator DOLE who helped make some constructive changes as well.

This amendment would do four things. One, it would codify the present provision in law, and I will just read it:

> Notwithstanding any other provision in regulations or directives concerning the exclusion of aliens on health related grounds, infection with HIV, the human immunodeficiency virus, shall constitute a communicable disease of public health significance for purposes of section 212 of the Immigration and Nationality Act.

That is present practice. That has been the practice for several years. Section B of the amendment was requested by Senator KASSEBAUM, and I think makes eminent good sense, says the President shall submit a report by September 1, 1993, containing the assessments of cost and what the impact his proposal to lift the ban would be. I will allow Senator KASSEBAUM to make further statements on this as well.

Section C, HIV testing. We will continue to have testing for aliens coming into this country, as we do right now to test and find out whether or not they are HIV positive.

Section D would allow people to come into the country without testing if they are coming in temporarily. They can come in temporarily to attend an educational conference or medical conference, to receive medical treatment, to visit family members, to conduct temporary business or to even visit the country for tourism. But this would be a 30-day waiver and if they receive this waiver, they would not have to be tested for HIV.

But, Mr. President, what we would not do is allow people to come permanently into this country who are HIV positive, who may or may not continue their social behavior, which might spread the disease throughout the United States and also be a very significant financial drain and burden on an already burdened system.

This is a serious amendment. I have not had a chance really to analyze Senator KENNEDY's second-degree amendment. Earlier, we were negotiating on having a separate vote on both amendments. I hope that is exactly what we will have, an up-or-down vote on both amendments. I think that is important. If I understand Senator KENNEDY's amendment, it is basically a delay in change of policy, but then it would allow the Secretary and/or the President, I guess, to implement the change without any congressional action whatsoever. They would have a hearing, they would have some reports on costs, but it would still allow the Secretary, or the President through the Secretary to implement the change without congressional action. I think that would be a mistake. I think it would be costly both in the form of lives and costly in the form of dollars to an already overburdened system.

Mr. President, I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, 2 years ago when this issue was considered in the context of the upcoming World Conference on AIDS in Boston, the debate focused at that time largely on the issue of whether foreigners with AIDS would pose a public health risk to American citizens. Today, however, the chief issue has become cost, and I believe that it does need to be addressed.

AIDS is not spread by casual contact, through the air or from food, water or other objects. Thus, I believe it is important that we not simply support an AIDS ban out of fear, that entrance to the United States will pose an immediate contagious risk to Americans. I think this is very unfortunate if, indeed, in any way this is take in that context. An overwhelming majority of public health experts, including the Centers for Disease Control, the American Medical Association and the American Public Health Association stress that no such threat exists and that the current ban is not justifiable on public health grounds.

Mr. President, my concern lies in the area of potential financial costs to an already beleaguered American health care system. For example, people who I have talked to in Kansas tell me they cannot understand why we would allow immigration of highly expensive AIDS, and other health-related cases into this country, even as our own health care costs are exploding and one out of seven Americans has no health coverage at all.

Advocates of lifting the current AIDS exclusions claim that the likely financial cost of doing so will be acceptable and that current immigration laws already contain adequate protections against the entry of persons deemed "likely to become a public charge."

Mr. President, this may be true. Thus far, however, I do not believe the case has been adequately made. I am troubled, that there appears to be no documentation on whether or not existing immigration laws have in fact been working effectively to guard against entry of persons found likely to be "a public charge." Similarly, considering that a single AIDS case is currently estimated to cost about $102,000 over the lifetime of the patient, I think we deserve to know a lot more about how many AIDS-infected immigrants we are going to see in coming years if this ban is lifted. And again, I would wish to expand this inquiry to include immigrants who are entering the United States with other health-related concerns.

I believe the following key questions need to be examined more carefully before we move ahead with the lifting of the current immigration ban.

First, what are the estimates of the likely number and origin of persons infected with HIV who are likely to seek entry into the United States in the next few years?

Second, what exactly is the projected financial impact of such immigrants on cost to the U.S. public health care programs and to the health care system in general?

Third, how effective are our current immigration laws in screening out applicants likely to become "a public charge?" Are these laws working and are they adequately enforced?

Mr. President, I intend to support the amendment that has been offered by Senator NICKLES and others to require that the current AIDS exclusion remain in place pending legislative action to the contrary by Congress. I do so for two basic reasons.

First, as I have discussed, there are simply too many serious unanswered questions about potential cost to our health care system to permit lifting the AIDS immigration ban without further examination of the issue.

Second, I agree with the sponsors of this amendment that the issues involved with AIDS and immigration are too sensitive and too complex to prevent a lifting of the ban by regulation only as the opposition proposes.

This amendment offers what I believe to be a sensible alternative. We did try, and I appreciate the efforts of the chairman of the committee and others, to find a compromise. But this amendment I am cosponsoring would not in any way preclude the President from proposing at any time that the ban be lifted. All it would do is require that Congress consent to such an action through legislation.

The approach being advanced by the other side would provide for several months delay in which this issue would be studied, but after that time the Secretary would have full authority to lift the ban through regulation. Congress would not be consulted on the matter.

I would like to ask my colleagues this: If the troubling cost questions regarding AIDS and immigration are serious enough to warrant an act of Congress today to stop the President from moving forward, are they not also serious enough to justify requiring that Congress must act to approve the lifting of the ban several months from now?

The other side will argue that the list of health conditions on the immigration list should be a matter to be dealt with through regulation, not legislation. I appreciate this point, and I do agree that under normal circumstances matters such as disease exclusion lists for immigration are ones that should be dealt with by the Secretary through regulation.

However, Mr. President, these are not normal circumstances and, tragically, AIDS is not just another disease. There is ample precedent for Congress to intervene in the executive regulatory process on issues of particular public importance, including the area of health policy. In fact, this very bill, as earlier NIH bills, includes a provision providing that any action by the Secretary of Health and Human Services to bar Federal funding for fetal tissue research must first be approved by a special ethics advisory board.

Also, let us not forget that the current AIDS exclusion exists in large part because of congressional action. In fact, the vote to add this exclusion passed the Senate in 1987 by a unanimous vote of 96 to zero. I hope and expect that if this amendment is passed, there will be renewed examination of the AIDS immigration question. If it can be shown that HIV-infected immigrants do not, in fact, pose a cost burden to the American health care system or if it can be demonstrated that there is a better way to handle our immigration policy in this area, I will be among the first to help seek an overturning of the current exclusion.

I am particularly pleased that the study includes an assessment of the effectiveness of the Immigration and Nationality Act in preventing persons who are likely to become a public charge. Additionally, a distinction is drawn between immigrants and refugees. The cost analysis of that study will be the cost implication of refugees entering, or likely to enter, the United States.

Mr. President, I believe as a result of this study we will gain a greater degree of information that will help us analyze this sensitive issue. Although a difficult question, I believe it is one that must be answered to the satisfaction of the American public, and addressed by Congress in a responsible manner.

I yield the floor.

Mr. NICKLES. Mr. President.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I wish to thank the Senator from Kansas for her statement and also for her leadership. As I mentioned before, the report required in a section of this amendment came from the Senator from Kansas and I think that is a very good addition to this amendment.

Also, Mr. President, I ask unanimous consent that Senator GRAMM, Senator THURMOND, and also Senator SMITH be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. I rise in support of the Nickles amendment, and I congratulate the Senator from Oklahoma for the work he has already done on this issue. He has a long list of cosponsors. He has been open to suggestions. I think that has been very helpful.

I also would like to express appreciation to the Senator from Kansas, Mrs. KASSEBAUM, for her work in coming up with this amendment.

I think this amendment, the Nickles amendment actually is too narrowly drawn. I would like it also to be applicable to other diseases that we have talked about in the past—gonorrhea, syphilis, other sexually communicable diseases.

But this one is narrowly aimed at the HIV and AIDS problem. So I am going to accept that. But I personally would like to see it broader.

I want to emphasize on a procedural point that I assume somewhere along the line there is going to be an agreement worked out where there can be a direct vote on the Nickles amendment, perhaps a direct vote on the Kennedy amendment. I do not think we should let this issue rest on a second-degree amendment which, in effect, wipes out the Nickles first-degree amendment. I had thought that agreement was being worked out and I hope that is going to happen. I think it is important that we have a direct, clear vote on the substance of the Nickles amendment.

Having said that, I would now like to address what is at stake.

This has been a very low-keyed debate so far. I think the people need to understand exactly what we are talking about this afternoon. President Clinton has indicated a policy or a change in policy that would allow immigrants to come into this country that are infected with the HIV virus. Let us make no mistake about it. Let us make it clear. We are talking about immigrants coming into the country with AIDS.

I think we need to think about that. When I was in my own State this past week, I had this subject raised more than any other subject, more than homosexuals in the military, more than the proposal to cut Social Security benefits, more than the proposal to tax Social Security benefits, more than the proposals to raise taxes on everyone down to people making only $30,000 a year. People would say, "Have you all lost your minds?"

First of all, most Americans think our immigration policy has gone askew. They wonder why we cannot control our borders, why do we have this flood of illegal aliens coming into the country. They also wonder why we have the flood of legal aliens that are coming into the country. They think that is out of control.

So they wonder about the laws on the books, and what the administrations—and I say that because it should include previous administrations—what are we thinking in not being able to control the flood of immigrants coming into this country? We have the Statue of Liberty. We also have the policy of letting people come into the country. But should we have some reasonable control? Absolutely. I think you will find that, if you ask people in this country, whether it is New York, Mississippi, California, or North Carolina.

Then you add to that. They ask me the question in Belzoni, or in Belmont, "Are you serious? You are talking about opening up the floodgates and allowing people to come in as immigrants with a problem, a disease that is sexually communicable?" They do not understand that. I do not understand it.

So I do not think we should study the problem, to address the costs—and they are significant—to address the question of health implications, and then let it go forward. I think we should put into law the policy that has been in place and then if the Congress wants to change that law, and answer their constituents, so be it. But to set up a system where we have a government study and then let it go forward, I do not believe the American people are going to accept that.

Mr. President, any time in this country when we have a threat to public health, big or even very small, this body and the appropriate Government institutions are responsible for taking steps to minimize or eliminate those threats—to take action. Recently, we had the tragedy involving food poisoning. It gripped the Nation. We saw little children sick and clinging to life—some dying. We took action. The appropriate Government agencies swung into action. They changed policy. They increased inspections. They moved in there to eliminate the threat. The Government responded immediately and appropriately to this tragedy.

Contrast that tragedy and that action to what we have proposed here by the President with regard to lifting immigration restrictions placed on people with AIDS. The proposed change in policy would increase the threat to the public, it would lead to the possible continued spread of a deadly communicable disease, and would burden the health care system in this country. There is no question that it has health care implications.

The President stated the other night directly that what we need more of in Washington is common sense. Certainly I agree with that. The current policy which excludes people who have a communicable disease, of public health significance, is the most commonsense policy I have ever heard. That is a policy we should keep in place. To reverse that sound policy would be a grave violation of not only common sense, but of our duty to protect the public.

So I strongly support the Nickles amendment which would codify the existing immigration policy.

Should we have a study, and understand exactly what the impact might be on health care or the cost which might be involved? Fine. Sure. That is good. Go ahead, have a study, but do not set up a process where it automatically goes into effect without Congress being involved in the results of that study and without additional congressional action.

A similar amendment to this one passed in 1987 by a vote of 96 to 0. I believe that was the vote. Not one Senator voted against it. Not one Senator stood to say this policy did not make sense. I would argue that the Senate's vote on that occasion represented common sense, not the absence of it.

What would happen if we changed the current policy to allow immigration of those which are HIV positive? Would public health benefit? Clearly the answer is no. Would it pose a significant risk to public health? Yes; it would. Would it help contain the spread of a tragic and incurable disease? No. Would the U.S. health care system bear the burden of additional AIDS case costs? Clearly, yes.

The reasons for maintaining the current policy are clear. It is sound. It protects public health. It helps contain the spread of a tragic disease, and prevents a further burdening of the U.S. health care system.

My colleagues, you have already heard documentation in terms of the impact on our Medicaid system. Even the American Medical Association, the body that should be most knowledgeable and experienced in AIDS policy, supports the current policy which is reflected in the Nickles amendment.

So my colleagues, I am for a very calm, cool, and rational debate, but I feel passionate about this. If we do not put this law in place we are going to wind up with a decision being made by the Secretary of HHS just to change it summarily. I think that would be a tragic mistake. The Senate needs to vote on this issue. I believe when the Senate votes on this issue the current policy will be maintained. I certainly hope that will be the result.

I yield the floor at this time, Mr. President.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, on the procedure, I want to indicate to the Senator from Oklahoma, and to the membership, that at this time, or at some time, the leadership will address the various interests of Members in terms of this issue.

So I am glad to work with the Senator from Oklahoma and others to ensure that we have an opportunity to address this in an appropriate way at an appropriate time.

There are Members interested in this issue on both sides. I think a number of them are wondering when we are going to come to grips with this particular amendment. We were hopeful this might have been the last amendment. I think we are pretty close to completion of the bill. We have been appreciative of those who wanted to offer this amendment, for working with us over the past 24 hours.

Mr. President, first of all, I want to mention very briefly exactly what our amendment does.

AMENDMENT NO. 38, AS MODIFIED

Mr. KENNEDY. Mr. President, it is in order for me to send a modification of my amendment?

The PRESIDING OFFICER. The Senator has a right to modify the amendment.

Mr. KENNEDY. Mr. President, I send a modification to the desk, and indicate it simply changes 60 days to 90 days.

The PRESIDING OFFICER. The amendment is so modified.

Mr. HELMS. Just a moment. I want to know what the modification is.

Mr. KENNEDY. The modification maintains the status quo for 90 days rather than 60 days.

Mr. HELMS. That is all it does, just the dates?

Mr. KENNEDY. That is all it does.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 38) as modified, is as follows:

(Purpose: To provide that the current list of communicable diseases of public health significance remain in place for a 90-day period and to require that a careful review of potential costs to the United States health care system take place before any change in the list)

In the Nickles amendment No. 37, strike all after "Section" and input:

STUDY OF THE COST IMPLICATIONS OF ALTERING THE PUBLIC HEALTH EXCLUSION LIST.

(a) RETENTION OF EXCLUSION.—The current list of communicable diseases of public health significance as in effect on February 17, 1993, shall remain in effect for a period of at least 90 days after the date of enactment of this Act for purposes of section 212(a)(1)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)(A)(i)).

(b) REPORT REQUIRED.—If the Secretary of Health and Human Services alters the list described in subsection (a) after the expiration of the 90-day period described in that subsection, then the Secretary shall submit to Congress a report containing—

(1) an assessment of—

(A) the anticipated effect of such action on costs to United States public health care programs and entities, as well as to those operated by States and municipalities; and

(B) the anticipated costs to private insurers and health care providers of such action;

(2) any findings regarding current immigration law submitted by the Attorney General under subsection (c);

(3) a comparison of the anticipated health care costs associated with immigrants infected with HIV with the costs attributable to the entry of immigrants suffering from other serious health conditions which significantly impair the individual's ability to earn a living; and

(4) an estimate of the costs associated with retention of the list described in subsection (a).

(c) STUDY AND REPORT.—(1) The Attorney General shall conduct a study of the following:

(A) The effectiveness of current provisions of the Immigration and Nationality Act in guarding against entry into the United States of persons likely to become a public charge and in deporting, during a 5-year period after such entry, those immigrants who do become public charges.

(B) The ability of the Immigration and Naturalization Service to apply and enforce such Act with regard to immigrants infected with potentially costly health conditions including, but not limited to, HIV.

(2) The Attorney General shall submit to the President, the Secretary of Health and Human Services, and the Congress a report setting forth the findings of the study conducted under paragraph (1) and including such recommendations as the Attorney General determines may be necessary for revision of current immigration law to ensure that immigrants with costly health conditions who are likely to become public charges will be excluded.

Mr. KENNEDY. Mr. President, what this amendment does is ensure that the list of communicable diseases of public health significance currently in effect shall remain in effect for at least 90 days after the enactment of the legislation—the passage of the NIH bill.

Further, this amendment directs the Secretary of HHS, if she decides to alter the list described after the 90-day period, to submit a report to the Congress which responds to the cost concerns that have been raised. If she intends to modify the list she will submit to the Congress an assessment of the anticipated effect of such action on the cost to the U.S. public health care programs and entities, as well as those operated by the States and municipalities. This will provide us with a complete study by the Department of HHS of what the cost implications are going to be to our health care system. Second, the study will explore the anticipated cost to the private insurers and health care providers of any such action.

We have also included a comparison of the anticipated health care costs associated with immigrants infected with HIV and the costs attributable to immigrants suffering from other serious health conditions which significantly impair the individual's ability to earn a living.

We hear a good deal about costs. This is not just an HIV issue. We heard concern about the burden on the local health care systems. And we heard a little earlier about the burden on the Medicaid system.

You can pass the amendment of the Senator from Oklahoma, and it is not going to do much for the Medicaid system for reasons I will illustrate. No matter how many times that is stated here that the Nickles amendment addresses Medicaid costs, this is not true. As a matter of fact, if they had such concerns about all of the costs taking place out in local communities, why were we not talking about the costs of renal failure or cancer? We do not hear people talking about that. People with those conditions can come in here.

The immigration program involves the reunification of families.—That is what we are talking about, basically—how this exclusion separates families and denies asylum to true refugees. Those are the conditions we are talking about. We are talking about members of families. If they can have cancer, they may become a ward of the State. But that is OK, according to those supporting this amendment. Immigrants can have all kinds of other diseases. Well, we do not care if they will burden our local public health service. No, no. But the supporters of the Nickles amendment say they are out here to protect the taxpayer.

That is hogwash. All of us know what is happening out here. It is a similar kind of effort we saw last week in terms of gay bashing. We understand that.

We have, over the period of time of recent years, tried to bring this issue, this scourge, HIV, this epidemic that is taking place in our society, out of the political boardrooms and into the public health science boardrooms, and we have made some progress at different times.

Remember Mrs. Ryan White, who sat up there in the gallery, whose son died of a bad blood transfusion. You found everybody in this Chamber very quiet at that moment. We said we will accept scientific information on that situation—because Ryan White died of AIDS, died of AIDS, that horrible disease, but as a result of a blood transfusion. She was sitting up there, and everybody was marching in and saying we can understand that. Science meant something then. Let us bring science into public policy, we said. And we made some progress on that.

Do you know what we did in 1990 in the Immigration Act? We said, let us make science and science policy the controlling and guiding factor in terms of excluding those individuals who have diseases that are going to pose a public health threat to American citizens. So we do so on tuberculosis. We do not permit even temporary visits of people with tuberculosis. We do not permit them to go to a science fair or a conference. We do not permit them to do the five things this amendment permits HIV people to do. Why? Because it is a public health service determination. That is what we should be interested in. If you or a member of your family have the danger of tuberculosis, you cannot come into the United States of America. At the time we passed the Immigration Act of 1990, we had a Republican President of the United States and a Republican Secretary of HHS, and we had a Republican Attorney General, and we said we will permit them to make the judgment of how to handle excludable diseases. But now the Senator from Oklahoma won't have it. We were prepared in 1990 to give a Republican President the same kind of authority they want to take away from our President. Why? Why do they want to do that? They had their own Secretary of HHS that had made the request on a sound scientific basis that HIV be removed from the list. A Republican appointee that said that this should not be on the list.

Now we say it was OK for one President to handle this issue, but, by God, we are not going to allow this new President to do it. We are not going to give him the same kind of authority we gave President Bush. We want to take that away.

There have been legitimate questions raised in terms of the impact on costs to local communities. It is interesting that after we hear the supporters of the Nickles amendment speak and we imagine that thousands of people will be coming in with AIDS. But medical tests found only 450 2 years ago; of the 700,000 immigrants, there were 450 of them with HIV and they were excluded. You have to take a blood test to immigrate to the United States. There were 450 who failed 2 years ago, and 600 last year. One-tenth of 1 percent.

But what the supporters of the Nickles amendment are saying—and we all know what they are saying here today—is you have 268 black Haitians in Guantanamo Bay, 40 children and 2 have HIV, and 20 pregnant women. Many of them have been found to be in incredible fear of persecution or death if they go back to Haiti. The proponents of this amendment say, "Send them back. Send them back. We do not care."

It does not make much difference that somebody has HIV and come in here for 4 weeks and attends a conference and has not received any AIDS education. What kind of threat do they pose to the public health? They are not concerned about that. But send that black person back from Guantanamo Bay, even if she is pregnant. Let us get rid of this problem and not try to deal with something that is as important as this on the basis of science. Oh, no. Why, it is going to run up our Medicaid, Medicaid, Medicaid. All those poor people, many of them black, all those poor, sick people, let us get rid of them. Mr. President, we have heard it all on this floor. At least I have.

A point that is so interesting is that none of our friends on that side of the aisle point out when it comes to cost is that the Attorney General has the authority and power under the 1990 Immigration Act to make a determination that they are going to be a burden on the locality or the community or their State. And the Attorney General can send them back if they become public charges within the first 5 years. They never mentioned that. That point was never mentioned over there. The Attorney General has the authority and the responsibility and, under risk of not having conformed with the law, if he does not apply the public charge provisions. He has to do that. Has to do it. That is in the law at the present time. And he should conform and meet that responsibility if someone is going to be a public charge.

So, Mr. President, we have tried over a period of time to deal with this issue. We know that it is an issue which is of enormous concern to all Americans, as it should be. HIV is relatively new in our immigration history but we know a good deal about it. We are finding out more.

All you have to do is read the history of this country, and you find out that a number of years ago you could not work alongside a person that had cancer, because it was thought to be communicable. I doubt if there is a letter of the alphabet that is more terrifying than the letter C—cancer—for all Americans. Then we found out that it is not communicable in those ways. So what did we do? We adopted a scientific Public Health Service position on it.

The answer in this area, Mr. President, is what we have talked about before: education and other kinds of activity, to limit the spread of this disease. Education, communication, understanding, awareness is what we really need.

We had, not many years ago, epilepsy on the exclusion list. Regarding people that were epileptic, it was said, let us get them out. Basically, we did not understand them. They did not look good to us. We faced that same issue on the Americans With Disabilities Act, where people that owned restaurants said "keep the epileptics out. They have epilepsy and they scare our patrons, scare away our business." Well, we made progress on that issue. Why?

We have looked extensively at the public health aspects of it. We examined it, and thank God, we brought some rationality to it. On HIV issues, we ought to deal in ways, Mr. President, that include Republicans and Democrats alike. This is how we have always preferred to proceed.

We have the former Dr. James Mason, who served under the Republican administration as the Assistant Secretary of Health, who has wholeheartedly supported our position. I have his statements, and I will include them at the appropriate place in the RECORD.

I see others want to speak.

We have Dr. James Todd of the AMA. It is interesting to hear Senator NICKLES speak about where the AMA stands on this issue. I have a letter from Dr. Todd, President of the American Medical Association, that is dated February 12, also in support of our position.

Mr. President, I ask unanimous consent to have this letter printed in the RECORD, along with other letters from a whole series of public health experts.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the U.S. Department of Health and Human Services, Washington, DC, Jan. 25, 1991]

NEWS RELEASE

(By Don Berreth)

The Department of Health and Human Services today proposed that starting June 1 infectious tuberculosis would be the only communicable disease which would exclude foreign visitors, workers, refugees and immigrants.

The Immigration Act of 1990 eliminated the category of "dangerous contagious" diseases that have been listed as bars to travel and immigration. The act instructed the HHS secretary to develop a new list of "communicable diseases of public health significance" based on medical and scientific considerations alone.

The medical experts consulted agreed that infectious tuberculosis should be on the list but that the other seven conditions—leprosy and six sexually transmitted diseases, including HIV infection—should not be considered as medical reasons for barring people under the new law. A formal proposal reflecting that view was published in the Jan. 23 Federal Register for public comment.

A medical examination with chest x-ray would continue to be required for adult immigrants. Other requirements will remain in effect to ensure that immigrants or foreign workers in the United States have the financial resources or responsible sponsors so they do not become medical or welfare dependents.

Under the law, drug abusers and addicts and people who are likely to cause harm because of a history of such behavior associated with mental health conditions would be excluded. Regulations governing such aliens will be announced later.

Under existing regulations, the list of dangerous contagious diseases includes five sexually transmitted diseases—infectious syphilis, gonorrhea, granuloma inguinale, lymphogranuloma venereum and chancroid. HIV was added at the end of 1987 by Congress. Infectious leprosy and active tuberculosis round out the current list of eight.

The Centers for Disease Control, an agency of the Public Health Service within the Department of Health and Human Services, reviewed diseases in consultation with non-federal experts in infectious disease and public health and concluded that, from a public health standpoint, sexually transmitted diseases, including HIV infection, should not be on the list of excludable conditions.

HHS Assistant Secretary for Health James O. Mason, M.D., who heads the Public Health Service, endorsed the CDC's conclusions and forwarded them to HHS Secretary Louis W. Sullivan, M.D., who concurred. Dr. Sullivan said, "AIDS evokes an emotional response from many—and that's understandable—but we have been virtually the only major country to try to bar HIV-infected travelers. This policy will bring us in line with the best medical thinking, here and abroad."

In reaching their conclusions using the "communicable disease" definition of the new law, the medical experts agreed:

Sexually transmitted diseases, including HIV infection, are not spread by casual contact, through the air, or from food, water or other objects, nor will an infected person in a common public setting place another individual inadvertently or unwillingly at risk.

HIV infection is transmitted among adults in this country almost exclusively by two routes: sexual intercourse with an infected person, and sharing of contaminated injection equipment by injection drug users. The risk of (or protection from) HIV infection comes not from the nationality of the infected person, but from the specific behaviors that are practiced. The best defense against further spread of HIV infection, whether from a U.S. citizen or alien, is an educated population.

Leprosy (Hansen's disease) is spread only through prolonged contact with an infected person. Most imported cases occur in persons who do not manifest outward signs of the disease when they are medically screened abroad. Effective drugs are now available for treating this disease and suppressing its infectiousness. In recent years, management of patients with Hansen's disease has substantially changed from isolation from society to ambulatory treatment. There is a nationwide system in the United States to provide comprehensive care and treatment to persons diagnosed with Hansen's disease.

Infectious tuberculosis is proposed for inclusion on the list because the disease can be transmitted through the air, and an infectious person places others at risk through casual contact. The tuberculosis bacillus is carried in airborne particles that can be generated when persons with pulmonary or laryngeal tuberculosis sneeze, cough, speak or sing. The disease can be spread by normal air currents in a room, building or airplane.

The CDC and the non-federal experts were also asked if there should be any other communicable diseases on a list of excludable conditions, and they agreed that no other diseases should be added. However, the Public Health Service, through the World Health Organization, maintains worldwide surveillance of communicable diseases and will add diseases to the list when necessary.

The comment period will close Feb. 22, 1991. Comments should be addressed to: Director, Division of Quarantine, Center for Prevention Services, Centers for Disease Control, Mail Stop E03, Atlanta, Ga. 30333.

DEPARTMENT OF HEALTH & HUMAN SERVICES, PUBLIC HEALTH SERVICE,

Washington, DC, March 14, 1990.

To: The Secretary.
From: Assistant Secretary for Health.
Subject: CDC Proposed Rule, 42 CFR Part 34, Medical Examination of Aliens—ACTION.

BACKGROUND

The Immigration and Nationality Act sets out medical grounds for exclusion of aliens; among these are the occurrence of a dangerous contagious disease. The Secretary of Health and Human Services normally specifies the particular diseases by regulation. Dangerous contagious diseases currently are defined as chancroid, gonorrhea, granuloma inguinale, human immuodeficieny virus (HIV) infection, lymphogranuloma venereum, infectious syphilis, infectious leprosy, and active tuberculosis. All except HIV infection were established by regulations promulgated by the Secretary. HIV infection was added to the regulations as required by section 518 of Public Law 100–71, the Supplemental Appropriations Act of 1987.

PROVISIONS OF PROPOSED REGULATIONS

This Notice of Proposed Rulemaking would modify 42 CFR Part 34.2(b), Medical Examination of Aliens, by deleting six of the eight currently listed diseases: chancroid; gonorrhea; granuloma inguinale; lymphogranuloma venereum; syphilis, infectious stage; and infectious leprosy. Aliens with these diseases can no longer be considered a public health threat to the United States. The proposal also changes "tuberculosis, active" to "infectious tuberculosis." Additionally, technical and conforming corrections are proposed in Section 34.4.

The sexually transmitted diseases proposed for deletion are not transmitted by casual contact, through the air, or from common vehicles (such as fomites, food, or water), nor will an infected person in a common or public setting place another individual inadvertently or unwillingly at risk. Rather, these diseases are primarily spread through voluntary exposure. Because HIV infection was added to the list of dangerous contagious diseases as mandated by Congress, we do not propose to delete it from the list in this NPRM. We are submitting a legislative proposal to repeal this provision so that we can delete HIV infection from the list as well.

Leprosy (Hansen's disease) is not highly contagious; the disease is spread through prolonged contact with an infected individual. The majority of imported cases occur in persons who do not manifest outward signs of the disease when they are medically screened abroad, but develop active disease after arriving in this country. Effective drugs are now available for treating this disease and for suppressing its infectiousness. In recent years, management of patients with Hansen's disease has substantially changed from isolation from society to ambulatory treatment. There is a nationwide system in the United States to provide comprehensive care and treatment for persons diagnosed with Hansen's disease.

We do propose to leave tuberculosis on the list. Unlike the other diseases on the list, tuberculosis can be transmitted through the air, and an infectious person can place others at risk through casual contact. Those found to have infectious tuberculosis should receive treatment until they are no longer infectious before they are allowed to travel to the United States. At that point, existing public health programs are capable of managing the relatively few who will require further treatment after arrival. We propose to change the term "tuberculosis, active" to "infectious tuberculosis" to correspond with modern medical terminology.

The proposal has been discussed with representatives of the American Medical Association (AMA), the American Public Health Association, a former Assistant Secretary for Health, the Association of State and Territorial Health Officials, CDC's Advisory Committee on the Elimination of Tuberculosis, CDC's Advisory Committee for the Prevention of HIV Infection, the Council of State and Territorial Epidemiologists, the Department of Defense, the National Association of County Health Officials, the National Commission on Acquired Immune Deficiency Syndrome, the National Medical Association, and the U.S. Conference of Local Health Officers.

All of those consulted have supported deleting from the list of dangerous contagious diseases chancroid, gonorrhea, granuloma inguinale, HIV infection, infectious leprosy, lymphogranuloma venereum, and infectious syphilis. All have supported the retention of infectious (or active) tuberculosis. The AMA favors HIV testing and counseling of immigrants as an important part of their medical record, but does not necessarily favor exclusion of those found positive.

REGULATORY FLEXIBILITY ANALYSIS

This proposed revision will not impact significantly on small entities; therefore, preparation of a regulatory flexibility analysis under the Regulatory Flexibility Act, Public Law 96–354, is not required.

REPORTING/RECORDKEEPING REQUIREMENTS

The proposed modifications under this part do not contain information collections which are subject to review by the Office of Management and Budget under section 3504(h) of the Paperwork Reduction Act of 1980.

CONSEQUENCES OF DISAPPROVAL

Disapproval may open the Department to criticism for failing to recognize that there is no public health value in continued screening for these medical conditions.

EXPECTATIONS

We anticipate objections to this NPRM by some who may consider that the importation of even one case of these diseases should not be allowed.

URGENCY

Due to the increasing concern of the public health community worldwide about our outdated policy for screening for these diseases, this NPRM should be published as soon as possible.

PRESS RELEASE

A press announcement will be developed.

RECOMMENDATION

I recommend that you sign the attached NPRM for publication in the Federal Register.

JAMES O. MASON, M.D., Dr.P.H.

ORGANIZATIONS SUPPORTING THE SECRETARY OF HHS'S AUTHORITY TO DETERMINE THE LIST OF COMMUNICABLE DISEASES OF PUBLIC HEALTH SIGNIFICANCE

AMERICAN MEDICAL ASSOCIATION,
Chicago, Il, February 15, 1993.
Re HIV and Immigration.
Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: The issue of HIV and immigration is once again before the Congress and the Administration. The purpose of this letter is to offer you the American Medical Association's current views.

The Association consistently has supported the authority of the Public Health Service (PHS) to determine which diseases should trigger exclusion of foreign nationals. Federal law requires the PHS to base this determination on current epidemiological concepts and medical diagnostic standards.

The 1990 immigration reform law provides the federal authority for excluding those individuals likely to become public charges. Any medical condition serious enough to interfere with employment or that could result in burdensome medical expenses could trigger this type of exclusion. With proper enforcement, this provision addresses our concerns about HIV-infected foreign nationals seeking to immigrate.

Sincerely,

JAMES S. TODD, MD.,
Executive Vice President.

MIGRATION AND REFUGEE SERVICES,
NATIONAL OFFICE,
Washington, DC, February 16, 1993.

DEAR SENATOR: On behalf of several national organizations interested in immigration and refugee policy, I am sending the enclosed letter to express our strong support for removing HIV-infection from the list of diseases upon which individuals may be excluded from entering the United States.

We ask for your support in defeating any amendment that would overturn or interfere with the Department of Health and Human Service's authority to make this decision.

Thank you for your attention to this urgent issue.

Sincerely,

FR. RICHARD RYSCAVAGE, S.J.,
Executive Director.

Enclosure.

FEBRUARY 16, 1993.
Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: We, the undersigned organizations, express our support for removing HIV-infection from the list of diseases upon which persons may be excluded from traveling to, immigrating to, or seeking refuge in the U.S. We understand that an effort may be made on the Senate floor to legislate a travel ban for HIV positive visitors, immigrants or refugees. We strongly oppose this effort. We urge you to vote against any amendment that would overturn or otherwise interfere with the Department of Health and Human Service's authority to make this decision based on current epidemiological principles and medical standards.

Two reasons are generally advanced for placing HIV-infection on the list of diseases warranting automatic exclusion from the U.S. First, is the communicable nature of the disease. The 101st Congress, through enactment of the Immigration Act of 1990, appropriately placed all questions related to health-related exclusions in the hands of federal health professionals. We concur with Congress' decision that technical health policy issues should be left to public health officials, and we agree with the Public Health Service that otherwise eligible applicants should not be denied immigration status solely because they are HIV-positive.

A second reason generally advanced is the unwarranted perception that HIV-positive immigrants will become a public charge because of the expense associated with treating this condition. In actuality, these economic concerns are already addressed in existing law. Under current law, all foreign visitors and immigrants must meet financial eligibility criteria. Anyone who does not is precluded from visiting or immigrating to the U.S.

We believe that current U.S. law adequately addresses both the medical and economic concerns on HIV-positive immigrants, and we strongly oppose efforts to make major changes in immigration and refugee law based on prejudice or ignorance. We urge you to support the Department of Health and Human Services on this important issue.

Sincerely,

American Council for Nationalities Service, Church World Service, American Immigration Lawyers Association, Ethiopian Community Development Council, Indochinese Resource Action Center, The Tolstoy Foundation, U.S. Committee for Refugees, Lutheran Immigration Refugee Service, United States Catholic Conference Migration and Refugee Services.

[From the National Commission on Acquired Immune Deficiency Syndrome, Washington, DC]

STATEMENT ON IMMIGRATION POLICY

The National Commission on AIDS commends the Administration's preliminary decision to remove HIV infection from the list of conditions which constitute grounds for excluding an individual from traveling or immigrating to the United States.

The U.S. Congress reaffirmed under the Immigration Act of 1990 (P.L. 101-649) that public health judgments on these issues are appropriately placed in the hands of the Secretary of Health and Human Services, hence, there is no need of further congressional action in this matter. Under the Act, Congress directed the Secretary to look to "current epidemiological principles and medical standards" in assessing the need to exclude immigrant applicants on the basis of illness or medical condition. Accordingly, the Public Health Service reexamined the list of diseases to be used for the purposes of exclusion. Of the eight diseases on the list, the Public Health Service determined that only infectious tuberculosis should be retained as it alone was transmissible through the air and by casual contact, and therefore a threat to the public health. The Commission urges that any proposed or final rule realign U.S. immigration policy with sound public health principles.

Under the Immigration Act of 1990, the Congress also reaffirmed the appropriateness of placing determinations related to economic burden in the hands of the Attorney General. It has been argued by some that HIV-infected individuals should be barred from immigration into the United States on the basis of the financial cost they will pose to the nation. It is a fact that immigration applicants who are HIV positive, like every other applicant, will be obliged to satisfy all other immigration requirements, including financial requirements. Public charge provisions of the Immigration and Nationality Act require all applicants for immigrant and non-immigrant visas to demonstrate that they are not likely to become public charges. Anyone who does not do so is denied a visa and precluded from either visiting or immigrating to the United States. This is based on a "totality of circumstances" test which considers an applicant's health, financial resources, and their ability to earn a living in the future. As an added safeguard, the regulations provide that an alien who becomes a public charge within five years of entry be deported. Elimination of the exclusion based on HIV infection will in no way lessen these restrictions on individuals who wish to immigrate to the United States.

The Commission voices its deep distress over the encroachment, once again, of extraneous issues into a decision that should be science-based and focused solely on public health concerns. We must not allow arguments based on politics, misinformation, fear or discrimination to triumph. To do so is to betray the heart and integrity of the federal government's role in protecting and advancing the health of all its people. The desire of President Clinton and Secretary of Health and Human Services Shalala to base public health policy on sound science is unequivocally supported by the National Commission on AIDS.

ASSOCIATION OF STATE AND
TERRITORIAL HEALTH OFFICIALS,
Washington, DC, February 12, 1993.
President WILLIAM J. CLINTON,
Pennsylvania Ave., NW.,
Washington, DC.

DEAR PRESIDENT CLINTON: I am writing on behalf of the Association of State and Territorial Health Officials (ASTHO), which represents the chief health officers of the 50 states, the District of Columbia and the U.S. territories, to express our strongest support for lifting the ban on HIV infected individuals seeking entry into the U.S.

Because HIV infection is not spread by casual contact and immigration of infected individuals does not pose a direct threat to the health or safety of the population, ASTHO continues to support removal of HIV infection from the list of communicable diseases of public health significance upon which U.S. travel and immigration can be denied. The public health and scientific community has overwhelmingly and repeatedly stressed the fact that restriction of immigration will neither protect the health of the American public, nor will it prevent or control the HIV epidemic. We urge you to use your action of lifting the immigration ban as an opportunity to truly educate the American public about the facts of HIV transmission.

In addition, ASTHO firmly believes that removing travel and immigration exclusions for HIV infected individuals is not principally an economic issue, as some are contending. Because the Immigration and Nationally Act continues to exclude persons who "are likely at any time to become public charges," concerns about HIV-infected persons immigrating and becoming wards of the state, are grossly exaggerated.

We applaud you for taking this strong stand based on science and we look forward to moving forward with the new Administration to address the real HIV prevention and treatment needs of individuals affected by this devastating epidemic.

Sincerely,

GEORGE K. DEGNON,
Executive Vice President.

American Public
Health Association,
Washington, DC, February 11, 1993.

Dear Senator Kennedy: The American Public Health Association (APHA), the world's oldest and largest association of public health professionals, supports the Clinton Administration's decision to end the immigration policy which bars HIV-infected persons from entering the United States.

APHA opposes the current immigration policy barring persons with communicable diseases (including syphilis, leprosy, gonorrhea, and HIV infection) from the United States in the absence of scientific evidence that such measures will protect the public's health. When such measures are likely to be protective, based on known mechanisms for disease transmission, we certainly support them. For example, we concur with Secretary Donna Shalala's decision to keep active tuberculosis on the list of excludable communicable diseases.

We cannot afford to send mixed messages about such a serious disease as HIV infection. The public is not at risk of HIV from casual contact with individuals with HIV infection or AIDS. As physicians and scientists concerned with the health of Americans, we must say so. Failure to change the immigration policy would do serious harm to the credibility and confidence we have all struggled to maintain during the HIV epidemic. It would especially erode confidence in the integrity of the U.S. Public Health Service. We can ill afford to cater to fear and discrimination.

We urge you to support this important public health policy.

Very truly yours.
William H. McBeath, MD, MPH,
Executive Director.

American Bar Association,
Washington, DC, February 12, 1993.

Dear Senator: We understand that an amendment might be offered to S.1, the National Institutes of Health Revitalization Act of 1993, which would require the President to retain a travel ban on persons with the HIV virus. The American Bar Association opposes legislation that would require the President to exclude all HIV-infected travelers, refugees and immigrants from entering the United States.

In the Immigration Act of 1990, Congress directed the Secretary of Health and Human Services (HHS) to promulgate a new list of excludable "communicable diseases of public health significance," 8 U.S.C. §1182(a)(1)(A)(i), based solely on "current epidemiologic principles and medical standards." In so doing, Congress appropriately delegated responsibility for this health decision to the health experts, rather than the political branches. The national and international public health authorities, including former Secretary of Health and Human Services Dr. Louis Sullivan, concur that removing HIV from the list of diseases upon which persons may be barred from entering the U.S. will not endanger public health.

Moreover, the Immigration Act imposes numerous criteria that an individual must satisfy in order to be admitted to the United States. One of them requires that the applicant demonstrate that he or she is not "likely at any time to become a public charge." 8 U.S.C. §1182(a)(4).

Eliminating the HIV exclusion does not mean that any individual with HIV can enter the United States. It only means that a person who otherwise qualifies under the law will not be prevented entry solely on account of his or her HIV status.

The American Bar Association supports the Public Health Services's reconsideration of the current HIV bar and urges you to vote against any measure that would force the President to retain the current ban.

Sincerely,
Robert D. Evans.

National Organizations
Responding to AIDS,
Washington, DC, February 16, 1993.

Senator Edward Kennedy,
U.S. Senate, Washington, DC.

Dear Senator Kennedy: The undersigned members of the coalition National Organizations Responding to AIDS (NORA) write to support the action by the Department of Health and Human Services to lift the ban on HIV infected individuals seeking entry into the United States.

Virtually every public health organization in the U.S. and all public health officials including the former Secretary for Health and Human Services, Dr. Louis Sullivan, have stated that HIV infection should be removed from the list of communicable diseases of public health significance used to exclude aliens whose presence would threaten the public health.

As you may recall, as part of the Immigration Act of 1990 Congress charged the Public Health Service with determining the list of excludable diseases based on standard public health principles. Congress acted correctly in delegating responsibility for public health decisions to the chief public health authorities in our nation.

In the Immigration Act of 1990, Congress also affirmed that economic concerns are to be addressed through the Attorney General. All foreign visitors and immigrants must meet financial eligibility criteria to enter the United States. Under current law, immigrants and non-immigrants are subject to exclusion if they are "likely at any time to become a public charge." To determine public charge the INS looks at the aliens' physical and mental condition, as well as ability to earn a living and support themselves. An individual who becomes a "pubic charge" within five years of entry risks deportation.

Therefore, the economic impact of immigration policy is addressed by the public charge provision. Any decisions regarding public health are properly determined by the Public Health Service. We urge you to resist any attempt to direct specific actions that run counter to public health principles.

We support the President's desire to realign our immigration policy with sound public health and urge you to support the Public Health Service in lifting the ban on HIV infected individuals entering the United States for immigration purposes.

Sincerely,
AIDS Action Council.
AIDS National Interfaith Network.
American Civil Liberties Union.
American Foundation for AIDS Research.
American Friends Service Committee.
American Medical Student Association.
American Public Health Association.
Association of Schools of Public Health.
Association of State and Territorial Health Officials.
Broadway Cares/Equity Fights AIDS.
Center for Women Policy Studies.
Coalition for the Homeless.
Council of Jewish Federations.
Human Rights Campaign Fund.
Legal Action Center.
National Alliance of State and Territorial AIDS Directors.
National Association of Protection and Advocacy Systems.
National Association of Public Hospitals.
National Association of Social Workers.
National Catholic AIDS Network.
National Community AIDS Partnership.
National Education Association's Health Information Network.
National Healthcare for the Homeless Council.
National Hospice Organization.
National Native American AIDS Prevention Center.
National Puerto Rican Coalition.
National Women's Health Network.
Sex Information and Education Council of the U.S.
Therapeutic Communities of America.
UJA—Federation of Jewish Philanthropies of New York.

February 8, 1993.

President Bill Clinton,
The White House, Washington, DC.

Dear President Clinton: The undersigned organizations represent a broad spectrum of public health organizations, HIV service providers, immigrant and refugee service providers, religious organizations, gay, lesbian and AIDS activist organizations, women's organizations and other national organizations. We commend your commitment to end the current exclusion and mandatory testing of immigrants and travelers with HIV and urge you to include this policy change as a priority for the first 100 days of your Administration by directing the Department of Health and Human Services to adopt as a final regulation the rule proposed in January 1991 that would establish the list of communicable diseases of public health significance. 56 Fed. Reg. 2484. It has been two years since this regulation was first proposed by then-Secretary of Health and Human Services Louis Sullivan, implementing the Congressional intent in enacting the Immigration Act of 1990 to revise the immigration exclusion list. There is no sound public health rationale to continue to delay the adoption of the January 1991 proposed regulation removing HIV and other diseases from the current exclusion list and ending the mandatory HIV testing of immigrants and refugees.

As direct service providers to persons subject to the HIV immigration exclusion, we can attest to the adverse consequences of this inhumane policy and the enormous hardship it imposes on our clients. For example, there are some applicants for legalization under the Immigration Reform and Control Act of 1986 that are still waiting for decisions on their waivers of exclusion, over five years after their applications were first submitted. All of these persons have resided in the United States for over ten years, have worked and paid taxes during that time, supporting themselves and their families and continuing to make economic and social contributions to their communities.

There are also many others who still remain ineligible to obtain lawful permanent residence solely because of their HIV status. Moreover, there is no monitoring of the accuracy or reliability of the mandatory HIV tests performed for immigrant purposes and no accountability for the lack of pre- and post-test counseling. Rather than providing any positive health education value, the exclusion policy has hindered our prevention education efforts in the immigrant and refugee communities by creating fear, mistrust and misunderstanding an prompting many seropositive immigrants to go underground.

The following experiences of individuals affected by the exclusion policy poignantly illustrate its detrimental and counterproductive results (names used are pseudonyms):

José Ramos tested seropositive, but because he also had a severe skin rash, his civil surgeon who had never before counseled a seropositive person misdiagnosed him as having AIDS. José was extremely distraught and was fired from his job when his employer found out about the diagnosis. With no money and no place to live, he turned himself in to the Immigration and Naturalization Service so that they could send him back to his country. After an unsuccessful suicide attempt, he eventually obtained assistance of an advocate, who located appropriate referrals for his emotional, financial, health, legal and social service needs and who accompanied him to the hospital, where it was learned that he did not in fact have AIDS.

Tomás Santos was astounded that the civil surgeon who was administering his medical exam for his legalization application had charged him excessively, so he sought advice from a community agency. The paralegal opened the sealed envelope containing the report of the exam to determine the anomaly and discovered that he had tested seropositive. She asked Tomás if he knew about AIDS. "I have heard about it," he responded, somewhat unsure of himself. She then asked whether the doctor had told him anything about his health, and he responded that the doctor had mentioned that he had a virus, adding, "I know I have a virus. I had a cold last week."

Marie Auguste is a Haitian national who came to the U.S. in 1973. She worked to buy a home where she continues to reside. She married a U.S. citizen, but the marriage ended when she discovered that her husband was unfaithful and had infected her with HIV. She applied for temporary residence but was denied. Her frustration with the government's continued apathy towards her tragic situation has led her to depression. She has repeatedly told the agency that is assisting her that she does not understand what she has done that is so bad that the government must punish her so, when she has been a contributing, upstanding, taxpaying member of American society for 18 years.

A U.S. citizen woman is petitioning for her HIV positive husband who is currently residing in Spain. The U.S. consulate in Spain has informed them of their right to apply for a waiver, but has warned them that there is a very high probability that they will deny it. Minimally, the couple faces months of separation waiting for the consulate to adjudicate the waiver, and they are threatened with indefinite separation. When she was informed that you have stated that as President, you will lift the exclusion of HIV positive immigrants, she cried and said, "I have been waiting for someone to tell me that for a long time. That's the best piece of news I have heard in awhile. At least now I have some hope."

The revision of the immigration exclusion list has been endorsed by every major public health and medical association in the United States. Over a thousand participants of the VIII International Conference on AIDS (moved from Boston to Amsterdam due to the U.S. policy) signed on to a document condemning discriminatory HIV immigration policies. All these people and organizations know from experience that mandatory testing and HIV immigration restrictions deter effective prevention education and early intervention efforts and in fact may be contributing to the spread of the disease.

Accordingly, we urge you to take immediate action to end this inhumane restriction that has so direly affected the lives of so many immigrants and refugees and their U.S. citizen and permanent resident family members. Simple regulatory action by your Administration could implement this long overdue policy change.

Finally, we urge that when your administration acts on this issue, you speak personally and publicly against any mandatory HIV testing of immigrants and refugees and against any immigration exclusion of persons with HIV, here in the United States or anywhere around the world. We ask that you hold a press conference and include immigrants and refugees with HIV to talk about the devastating impact these discriminatory laws have had. The unfortunate example set by current U.S. policy has already encouraged other countries to pass similar counterproductive policies. A clear and forceful statement directly from you as President of the United States will send an unequivocal message to the world community that AIDS truly knows no borders and that discrimination against persons with HIV must not be tolerated. Thank you.

Sincerely,

The undersigned 200 organizations:

18th Street Services.

ACT-UP San Francisco.

ACT-UP/OKC.

ActionAIDS.

African American Immigration Service, Inc.

AIDS Action Committee of Massachusetts.

AIDS Action Council.

AIDS Action—Baltimore.

AIDS Benefits Counselors.

AIDS Bulletin Board Services.

AIDS Center—Strong Memorial Hospital.

AIDS Council of Northeastern New York.

AIDS Education & Resource Center/SAHP-SUNY Stony Brook.

AIDS Health Care Foundation.

AIDS in Prison Project of the Correctional Association of New York.

AIDS Interfaith Network of New Jersey.

AIDS Mental Health Project/Greenwich House, Inc.

AIDS National Interfaith Network.

AIDS Project of Los Angeles.

AIDS Project of Contra Costa.

AIDS Rochester.

AIDS Service Center Lower Manhattan.

AIDS Services of Dallas.

AIDS Task Force—Philadelphia.

AIDS Treatment Data Network.

AIDS Treatment News.

AIDS Trust of Maryland (ATOM).

Alameda Health Consortium, Oakland, California.

ALTAMED Health Services Corporation.

American Association on Mental Retardation.

American Civil Liberties Union of Illinois.

American Council for Nationalities Service.

American Immigration Lawyers Association—New York Chapter.

American Jewish Congress, Northern Pacific Region.

American Medical Students Association.

American Psychiatric Association.

Asian AIDS Project.

Asian American Health Forum.

Asian American Recovery Services.

Asian and Pacific Islander Coalition on HIV/AIDS, New York

Asian Health Services.

Asian Law Alliance.

Asian Pacific Legal Center of Southern California.

Asian/Pacific AIDS Coalition.

Association of Asian/Pacific Community Health Organizations.

Association of Maternal and Child Health Programs.

Association of Performing Arts Presenters.

Bar Association of San Francisco.

Bay Area Haitian American Council.

Bay Area Physicians for Human rights.

Being Alive: People with HIV/AIDS Action Coalition.

Bienestar Latino AIDS Project.

Big Island AIDS Project.

Black and White Men Together, Los Angeles.

Black Coalition on AIDS.

Body Positive.

Broadway Cares/Equity Fights AIDS.

Brooklyn Haitian Ralph and Good Shepherd.

Building Service 32B-J Legal Services Fund.

California Association of AIDS Agencies.

California Council of Churches.

Caribbean Women's Health Association.

Catholic Charities Immigration and Refugee Services.

Catholic Emergency Legal Aid for Haitians-United States Catholic Conference.

Catholic Migration Office.

Center for Constitutional Rights.

Center for Population Options.

Central American Legal Assistance.

Central American Refugee Center, Hempstead.

Central American Refugee Center, Los Angeles.

Church Alive Ministries.

City AIDS Office of Los Angeles.

Coalition for Humane Immigration Rights of Los Angeles.

Coalition for Immigrant and Refugee Rights and Services.

Colorado AIDS Project.

Community Consortium.

Community Health Project.

Continuum HIV Day Services.

Contra Costa County AIDS Program.

Council of Jewish Federations.

D.C. Care Consortium.

Dance/USA.

Early Advocacy and Care for HIV (EACH).

El Rescate.

Family Link

Filipino Task Force on AIDS-Northern California.

Gay and Lesbian Latino AIDS Education Initiative.

Gay Asian Pacific Alliance Community HIV Project.

Gay Men's Health Crisis.

Gente Latina de Ambiente.

Haitian Americans United for Progress, Cambria Heights.

Haitian Centers Council

Harvard AIDS Institute.

Harvey Milk Progressive Democratic Club.

Hawaii Governor's Committee on AIDS.

Health Education Resource Organization (HERO).

Hellenic American Neighborhood Action Center (HANAC).

Help Project/Samaritan Inc.

Helping People with AIDS, Inc., Rochester, New York.

Hyacinth AIDS Foundation.

Immigrant Legal Resource Center.

In God's Love We Deliver.

Indiana HIV Advocacy Program.

Indochinese Community Center.

Institute for Radical Empowerment.

International Gay and Lesbian Human Rights Commission.

International Institute of Boston.

International Institute, Los Angeles.
International Institute, San Francisco.
International Ladies Garment Workers Union Immigration Project.
International Rescue Committee.
Jews for Racial and Economic Justice.
Kairos Support for Caregivers.
La Red.
Latino Lesbian/Gay Organization—LLEGO California.
Law Offices of Anthony, Howison & Landis.
Lawyers Committee for Civil Rights of the San Francisco Bay Area.
Legal Action Center.
Legal Aid Society of San Diego County.
LIFEbeat, the Music Industry Organization to Fight AIDS.
Lyon-Martin Women's Health Services.
Metropolitan Community Church of New York City.
Mexican American Legal Defense and Education Fund.
Mobilization Against AIDS.
Montefiore Medical Center Substance Abuse Treatment Program.
Mother's Voices.
Mujeres Project.
Mujeres Unidas y Activas.
National Association of Counties.
National Association of Latin Elected and Appointed Officials (NALEO).
National Association of Protection and Advocacy Systems.
National Catholic AIDS Network.
National Coalition on the Homeless.
National Community AIDS Partnership.
National Council for International Health.
National Gay and Lesbian Task Force.
National Hemophilia Foundation.
National Minority AIDS Council.
National Organization for Women, Inc.—East End Chapter.
National Puerto Rican Coalition.
National Task Force on AIDS Prevention.
National Urban League.
National Women's Health Network.
New Jersey State Nurses Association.
New Mexico Association of People Living with AIDS.
New York Association for New Americans.
New York City Mayor's Office on Immigrant Affairs.
New York Immigration Coalition.
New York Immigration Hotline/Travelers Aid Services.
NO/AIDS Task Force.
Nobiru-Kai Japanese Newcomers Service.
North Broward Hospital District AIDS Services.
NOW-NYC.
Ontrack Incorporated.
Pennsylvania Governor's Council for Sexual Minorities.
People of Color Against AIDS Network, Seattle.
Physicians Association for AIDS Care.
Polonians Organized to Minister to Our Community.
Presbyterian Church (USA), Washington Office.
Project Inform.
Provincetown AIDS Support Group.
Real Alternatives Program, San Francisco.
Republicans for Individual Freedoms.
San Francisco AIDS Foundation.
San Francisco Department of Public Health.
San Francisco Interreligious Coalition on AIDS.
San Francisco Mayor Frank Jordan.
San Francisco Medical Society.
San Francisco Suicide Prevention.
Santa Clara County Network for Immigrant Rights and Services.
Sault Tribe Community Health Services.
SF Department of Public Health Consultation Education and Information Unit.
Southern Tier AIDS Program, Inc.
Southside Community Mission.
St. Vincent's Hospital, AIDS Center.
Texas AIDS Network.
The Ark of Refuge.
The Center for Women Policy Studies.
The Committee for Children.
The Hetrick-Martain Institute.
The Indiana Community AIDS Action Network (ICAAN).
The LIFE AIDS Lobby.
The National Education Association's Health Information Network.
The National Hospice Organization.
The New York State Nurses' Association.
The Sex Information and Education Council of the U.S. (SIECUS).
Thursday's Child.
Tri-City Health Services.
United African Christian Council.
United Jewish Appeal-Federation of Jewish Philantropies of New York.
United States Conference of Local Health Officers.
United States Conference of Mayors.
United Way Information and Referral Services, San Francisco.
Upper Room AIDS Ministry.
Visiting Nurse Association of Dade County.

JULY 23, 1991.

Mr. CHARLES R. MCCANCE,
Director, Division of Quarantine, Center for Prevention Services, Centers for Disease Control, Atlanta, GA.

DEAR MR. MCCANCE: We the undersigned represent medical research scientists deeply concerned about the interim ruling effective June 1, 1991, regarding travelers and immigrants infected with the human immunodeficiency virus [HIV]. This interim ruling reinstates HIV infection on the list of "communicable diseases of public health significance," once again making HIV infection grounds for exclusion of immigrants and travelers to the United States. The interim rule reverses, for a 60-day period, the proposed regulation published by Health and Human Services Secretary Louis Sullivan, M.D., in the Federal Register on January 23, 1991, which would have listed infectious tuberculosis as the only disease warranting such exclusion. We write to endorse Dr. Sullivan's proposed regulation of January 23, and hope to see it made law at the end of this 60 day waiting period.

The proposed regulation of January 23, 1991, was a sound one, developed at the mandate of the Immigration Act of 1990 which called for Health and human Services Secretary Sullivan to design regulations for the exclusion of immigrants and travelers "based on current epidemiologic principles and medical standards," excluding only those aliens with diseases that "constitute a public health threat to the United States." The January proposed regulation reflected what we as scientists and medical professionals know perfectly well: that, unlike a person with active tuberculosis, a person with HIV cannot infect others through casual contact. HIV is transmitted among adults in the United States almost exclusively via unprotected sexual intercourse and by the sharing of contaminated needles among injection drug users. U.S. citizens who choose to engage in these behaviors place themselves at risk of infection, and the continual willingness of our citizens to place themselves at such risk is a matter of great concern. Attempting to prevent HIV infected foreigners from entering or residing in the United States, however, does not address this concern. Our citizens can only be protected from HIV infection through comprehensive HIV education.

By contrast, the interim ruling put into effect on June 1, 1991, furthers misconceptions about HIV while failing to provide the American public with one iota of added protection from the virus. The United States has one of the highest seroprevalence rates in the world. The notion that the threat of HIV comes from outside of the United States and can be avoided through exclusion of HIV infected immigrants and travelers is medically and epidemiologically incorrect and is a potential threat to the public health. The American public must understand that it can only protect itself from HIV infection by refraining from high risk behaviors.

While the interim ruling put into effect in June has no medical or epidemiologic basis, we understand that its tenets have been defended according to the question of "public charge," the concern that allowing HIV infected immigrants to become permanent residents of the United States will have a significant economic impact. While we are not lawyers, we do understand that existing immigration law already provides for exclusion of anyone who may become a public charge. This presumably explains why other diseases, such as chronic renal failure, that are equally if not more costly, are not by themselves grounds for exclusion from this country. Given these facts, we believe that a specific exclusion for HIV infection is unwarranted. We are made further comfortable in this belief by the public health considerations mentioned above and by the knowledge that many of the immigrants in question have been living, working and paying taxes in the United States for many years, and indeed often became infected in the United States. Thus we feel confident that the immigrants in question are not some sort of "medical freeloaders."

An additional area of concern to which we would like to draw your attention is that of the technical instructions provided by the Centers for Disease Control to medical personnel who examine immigrants. It has come to our attention that these instructions have, as of June, 1991, been made more stringent. In addition to assessing an immigrant's present health and ability to care for him or herself, physicians are now required to give a specific assessment of an immigrant's future need for health care services. As medical professionals, we must point out that such judgments must necessarily be subjective and inaccurate. Moreover, the fact that such unreasonable instructions have been developed at this time leads us to wonder whether these instructions may constitute an attempt at maintaining the exclusion of HIV infected immigrants in spite of all responsible arguments to the contrary. Certainly such instructions should not be in effect when the Public Health Service as a whole has yet to decide the exclusion issue.

The medically unjustified stance this nation has taken toward HIV infected immigrants and travelers in the years since exclusion became law has been a source of great embarrassment to us in the international community. The U.S. policy is out of line with the World Health Organization which has specifically stated that the screening of international travelers cannot prevent the spread of HIV. Moreover we, the U.S. professionals confronting the HIV/AIDS pandemic, are subject to boycotts from our international peers when seeking to hold international HIV/AIDS conferences in the United States.

We are all dedicated to stemming the HIV/AIDS epidemic, and it is out of this dedication that we write to you. We ask that you join us in taking a stance on this issue based on medical and epidemiologic truth, and not on distracting and potentially harmful misconceptions. We thank you for your thoughtful consideration of this important international and public health matter.

Sincerely,

Lowell S. Young, MD, Director, Kuzell Institute for Arthritis and Infectious Disease.

Gail L. Woods, MD, Assistant Professor, Medical College of Pennsylvania.

Flossie Wong-Staal, PhD, Professor of Medicine and Biology, University of California at San Diego.

James Allen Wiley, PhD, Assistant Director, Survey Research Center, University of California.

David J. Volsky, PhD, Associate Professor and Director, Molecular Virology Laboratory, St. Luke's-Roosevelt Hospital Center.

Barbara Visscher, MD, DPH, Professor of Epidemiology, UCLA School of Public Health.

Gwen Van Servellen, PhD, Associate Professor and Vice Chair, University of California at Los Angeles.

Wilfred G. Van Gorp, PhD, Assistant Professor, School of Medicine, University of California at Los Angeles.

Ernest F. Terwillinger, PhD, Instructor, Division of Human Retrovirology, Dana-Farber Cancer Institute.

Lydia Temoshok, PhD, Senior Scientist, HIV Research Clinic, Henry M. Jackson Foundation.

Mario Stevenson, PhD, Associate Professor, University of Nebraska Medical Center.

James L. Sorensen, PhD, Adjunct Professor, University of California at San Francisco.

Whaijen Soo, MD, PhD, Senior Director, Clinical Virology and AIDS Research, Hoffman La Roche, Inc.

Frederick P. Siegal, MD, Section Head, Hematology Research, Long Island Jewish Medical Center.

Ganes C. Sen, PhD, Department of Molecular Biology, The Cleveland Clinic Foundation.

Ola A. Selnes, PhD, Assistant Professor, Johns Hopkins University School of Medicine.

Frederick P. Siegal, MD, Professor of Medicine, Albert Einstein College of Medicine.

Susan C.M. Scrimshaw, PhD, Professor of Community Health Sciences, UCLA School of Public Health.

Helen Scheitinger, MA, RN, 1623 Kennedy Place, NW., Washington, DC. 20011.

Robert Turner Schooley, MD, Professor of Medicine, University of Colorado.

Frederick A. Schimtt, PhD, Director, Neuropsychology Service, University of Kentucky.

Alfred Joseph Saah, MD, Director, Infectious Disease Program, Johns Hopkins School of Hygiene and Public Health.

Craig A. Rosen, PhD, Chair, Scientific Advisory Committee, American Foundation for AIDS Research, Associate Member, Roche Institute of Molecular Biology.

Jack S. Remington, MD, Professor of Medicine, Stanford University School of Medicine.

Lee Ratner, MD, PhD, Assistant Professor, Washington University School of Medicine.

David T. Purtilo, MD, Professor and Chair, University of Nebraska Medical Center.

Alfred Meyer Prince, MD, Senior Investigator, Department of Virology, The Lindsay F. Kimball Research Institute.

William G. Powderly, MD, MRCPI, Assistant Professor, Washington University Department of Medicine.

Stephan R. Petteway, Director, Department of Anti-infectives, SmithKline Beecham.

Sidney Pestka, MD, Chairman and Professor, Robert Wood Johnson Medical School.

Thomas J. Palker, PhD, Associate Research Professor, Duke University Medical School.

Jay A. Nelson, PhD, Associate Member, Department of Immunology, Scripps Clinic and Research Foundation.

Nancy Elsa Mueller, ScD, Associate Professor, Harvard University School of Public Health.

Donna Mildvan, MD, Chief, Infectious Disease, Beth Israel Medical Center.

Craig E. Metroka, MD, PhD, Assistant Professor of Medicine, St. Luke's-Roosevelt Hospital Center.

Michael S. McGrath, MD, PhD, Assistant Professor, University of California at San Francisco.

Justin C. McArthur, MBBS, MPH, Assistant Professor, Johns Hopkins University School of Medicine.

Kenneth Hugh Mayer, MD, Director, Brown University AIDS Program.

Thomas James Matthews, PhD, Associate Professor, Duke University Medical Center.

Cliff Morrison, MS, MN, RN, Deputy Director, AIDS Health Service Program, University of California at San Francisco.

Philip I. Marcus, PhD, Professor of Molecular and Cell Biology, University of Connecticut.

H. Kim Lyerly, MD, Assistant Professor, Duke University Medical School.

Donald B. Louria, MD, Chairman and Professor, University of Medicine and Dentistry, New Jersey.

Norman Lee Letvin, MD, Associate Professor of Medicine, New England Regional Primate Research Center.

Tun-Hou Lee, DSc, Assistant Professor, Harvard School of Public Health.

Jefferey Laurence, MD, Associate Professor of Medicine, Cornell University of Medical College.

Michael Lange, MD, Assistant Chief, Division of Infectious Disease and Epidemiology, St. Luke's-Roosevelt Hospital Center.

Jay A. Levy, MD, Professor of Medicine, University of California at San Francisco.

Stephen W. Lagakos, PhD, Professor, Department of Biostatistics, Harvard University School of Public Health.

Mathilde Krim, PhD, Founding Co-Chair, American Foundation for AIDS Research, Adjunct Professor of Public Health, Columbia University.

David E. Kanouse, PhD, Senior Social Scientist, The Rand Corporation.

William L. Holzemer, PhD, RN, Professor, School of Nursing, University of California at San Francisco.

David Ho, MD, Director, Aaron Diamond AIDS Research Center.

Jeffery Harris, MD, PhD, Professor, Department of Economics, Massachusetts Institute of Technology.

Sandra Rae Hernandez, MD, Director, AIDS Office, San Francisco Department of Health.

Robert K. Heaton, PhD, Professor of Psychiatry, University of California at San Diego.

William Haseltine, PhD, Chief, Laboratory of Biomedical Pharmacology, Dana-Farber Cancer Institute.

Jerome E. Groopman, MD, Chief, Division of Hematology/Oncology, New England Deaconess Hospital.

Stephan P. Goff, PhD, Professor, Columbia University College of Physicians and Surgeons.

Michael H. Grieco, MD, JD, Chief, Division of Allergy and Clinical Immunology, St. Luke's-Roosevelt Hospital Center.

Jonathan W.M. Gold, MD, Director, Department of Medicine, Bronx Lebanon Hospital.

Jacquelyn Flaskerud, PhD, Professor, School of Nursing, University of California at Los Angeles.

Harvey V. Fineberg, MD, PhD, Chair, Public Policy Committee, American Foundation for AIDS Research, Dean, Harvard School of Public Health.

Michael P. Eriksen, ScD, Anderson Cancer Center, University of Texas.

Gordon R. Dreesman, Scientific Director, Department of Virology and Immunology, Biotech Resources, Inc.

Ronald C. Desrosiers, PhD, Associate Professor, Harvard Medical School.

Don C. Des Jarlais, Deputy Director for AIDS Research, Narcotic and Drug Research, Inc.

John Delos DeLamater, PhD, Professor of Sociology, University of Wisconsin.

Victor Gerard DeGruttola, DSc, Assistant Professor, Harvard University School of Public Health.

Deborah Jean Cotton, MD, MPH, Clinical Director for AIDS, Harvard University School of Public Health.

David R. Cornblath, MD, Associate Professor, Johns Hopkins University School of Medicine.

Clarence Budd Colby, PhD, 15 Tullamore Place, Alameda, CA 94501.

Paul C. Cleary, PhD, Associate Professor, Harvard Medical School.

Richard Christie, PhD, Professor of Social Psychology, Columbia University.

Marcel Baluda, PhD, Professor, School of Medicine, University of California at Los Angeles.

John Francis Bunker, ScD, MHS, Director, Special Health Initiatives, The Wyatt Group.

Stephan L. Buckingham, MSSW, Director of Psychosocial Services, Pacific Oaks Medical Group.

Dani P. Bolognesi, PhD, James B. Duke Professor, Duke University Medical Center.

Corrado Baglioni, MD, Professor, State University of New York at Albany.

Peter S. Arno, PhD, Associate Professor of Health Economics, Albert Einstein College of Medicine.

Donald Armstrong, MD, Chief, Infectious Disease Services, Memorial Sloan-Kettering Cancer Center.

Warren A. Andiman, MD, Associate Professor of Pediatrics and Epidemiology, Yale University School of Medicine.

Jonathan Allan, DVM, Assistant Scientist, Southwest Foundation of Biomedical Research.

Arthur J. Ammann, MD, Chair, Science Policy Committee, American Foundation for AIDS Research, Director of Collaborative Research, Genentech, Inc.

Donald Abrams, MD, Associate Professor of Clinical Medicine, University of California at San Francisco.

(Mr. ROCKEFELLER assumed the chair.)

Mr. KENNEDY. What we ought to be focused on, Mr. President, and something that has been included in our amendment, is the burdens, if any, on the health care system and on local communities, and admitting immigrants with serious medical conditions. It is a legitimate issue, and a question we ought to explore. And the Attorney General should certainly review current law and report back to us within 90 days. I personally believe that our laws are adequate to deal with these issues. We will seek more information, and Senators will have an opportunity to ultimately take whatever action they want to take should the administration move forward with regulatory action. They will have their chance.

The 90-day period we allow for in our amendment is a result of an inquiry with the Secretary of HHS as to how long it would take to complete this particular study. We are told that the 90-day period will suffice.

But I do not understand why we would want to take action that flies in the face of the best scientific information, as a means of responding to cost concerns. Some say, let us just take action. Let us just legislate HIV onto the exclusion list this afternoon. Let us try to get a hit in on the President of the United States this afternoon. Let us do it before prime time, so we can make the most of it. Let us do that so that when Members are coming out of the Chamber and the President is focusing on changing the direction of this country in terms of our economy, the reporters will say: Oh, yes; and how did you vote on the AIDS infected aliens? Politics as usual, on an issue that is as important to families, whether they know someone infected or affected by HIV, whether they are just concerned about their fellow human beings, or whether they are concerned about people whose skin may be a different color. They are rotting away down there—on an American base.

Hopefully, Mr. President, we will have support for the amendment which I have offered on behalf of myself and Senator MITCHELL, and against the Nickles amendment, and have an opportunity to responsibly address this issue.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, in response to my friend and colleague, Senator KENNEDY, I resent almost the undertone that this is a racist amendment, because it is not. My colleague mentioned the fact that there are 215 Haitians that are HIV positive waiting to come into this country, and how this amendment would prohibit that.

This amendment is written because we want to protect the health of Americans. This amendment is written because we want to protect the taxpayers. It was not written to discriminate against any race. It was written to protect health.

We now have laws on the books that prohibit bringing even fruit into this country because it might have a virus or it might have a bug or it might have some kind of disease that might impact negatively the health of Americans. But we know that HIV is a deadly disease, and we know that if people continue their behavioral patterns of multiple sexual partners or exchanging needles, that it will kill more people.

So this is not a racist amendment, and I really resent the tone that was implied.

This is an amendment that says we are really concerned about this disease that already has infected a million Americans. A million Americans are going to die as a result of this disease. The CDC estimated in 1991—or they have confirmation of 31,000 deaths in 1991, and estimate 45,000 deaths in 1991, and almost 50,000 deaths in 1992. And that figure is only rising.

I might tell my colleague, if he wants to talk a little bit about health, the virus strain in our country is primarily HIV 1. It is not HIV 2, which has mostly been detected in other countries. It has spread primarily through the heterosexual community. And if it is introduced to this country, we are going to have an outbreak of AIDS that we have not seen yet. It is going to spread through this country and is going to kill countless thousands of Americans.

Now, my colleague from Massachusetts says: Wait a minute; why do we not do this for cancer? Why do we not do it for heart disease? Because these are not communicable diseases. I had cancer, but I do not think by having communications or relations with someone else, that heart disease and cancer can be communicated or transferred. It cannot. But AIDS can. And again, AIDS is deadly.

So when my colleague is saying: Well, we are less than compassionate because we are telling people from Haiti or other countries we do not want them to come into our country because they are HIV positive, it is not because of a lack of compassion. It is because we are trying to protect our country for the same reason we say we do not want to have other viruses come into our country, the same reason why we have food inspectors on our borders, the same reason why we really do try to protect the American people. That is why we invest so much at NIH. That is the reason we spend so much, on Medicaid.

It is not because we are not compassionate. We are compassionate. I do not think it is compassionate to open up a sign that says: Yes; come into the United States even if you have a contagious, infectious disease that can be transmitted throughout our population. I do not think it is compassionate to say: Come to America and Uncle Sam is going to take care of your medical expenses. I do not think that is compassionate to be putting that kind of burden on taxpayers in the future. I do not think that it is compassionate, allowing AIDS to continue to spread and kill more Americans. I do not see anything compassionate whatsoever about that.

I would have never even thought about skin color until the Senator from Massachusetts made that statement. I had in my statement, in my facts, that there are 215 Haitian refugees that are HIV positive that are waiting to come into this country. They are refugees when they come into this country. They are automatically eligible for Medicaid. I do not know if my colleagues know that, but refugees, when they come in and seek asylum in the United States, are automatically eligible for welfare packages including Medicaid. I did not realize that until recently.

I am just saying I am concerned about the cost. That is 215 people. I have heard reports that in Haiti alone, the HIV population may range as much as 11 percent, and that is a tragedy. And I know President Clinton was originally talking about allowing a lot more Haitians to come into the United States. I did not realize that that significant a percentage of their population might be HIV positive. But that could really spread the disease throughout the United States. I do not think it would be very prudent on our part if we allow that to happen.

Again, I mentioned HIV 2 is not really prevalent in this country. HIV 2 is prevalent in many other countries, maybe in countries where people have a different color skin. I have not paid that much attention to skin color. But I am concerned about it being transmitted throughout the heterosexual community, and the lives that it may cost our country, and the dollars it will put on an already overburdened health care system.

I make mention to my friend and colleague from Massachusetts that I hope when we debate this—and we obviously have a difference of opinion on this issue. But the reason why we talked about this disease is because it is a communicable disease; it can be spread. It is spread by having multiple sexual partners, and it is spread through IV, or intravenous, use of drugs. That is in 90-some percent of the cases who are HIV positive or have the AIDS virus.

I wish people did not have this dreadful disease. I wish we could stop this dreadful disease. I hope that we will find a cure for this dreadful disease.

But I think it would be a serious mistake for us to be saying: "No, people can come."

We have now 700,000 immigrants coming into the country every year. We now have restrictions. The Senator from Massachusetts said, well, it was 400 one year and 600 the next year. We change that policy and that number is going to explode. I do not know how many more it will be, but there are a lot of people that would much rather be in the United States than some other country for their health care.

So that number will grow and will grow significantly and it will cost lives in this country and it will cost millions and millions of dollars.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I want to thank our colleague from Oklahoma for offering his amendment.

His amendment is a pretty simple amendment. It simply says that existing policy concerning the prohibition on immigrants coming into this country who are infected with the AIDS virus will be a matter of statute. And if after study and deliberation the President decides to stay with his policy of changing that existing policy, he would have to offer a proposal to Congress, it would have to be debated, and it would then have to be enacted into law.

What the Senator from Massachusetts proposes is that we just have a moratorium, when the President has already announced the policy. And when the period of study has passed, the President can then act unilaterally, unless we can override the President and override his veto.

So, basically, the debate here is about whether or not the burden of proof ought to be on the President if he wants to lift the ban on AIDS-infected immigrants.

Now, what I would like to do is look at this from the point of view of the public's interest, and I would like to begin with the immigration policy of this country.

We have an immigration policy—thanks, in part, to the distinguished Senator from Massachusetts, because I voted for that immigration bill—that seeks to set a policy to allow legal immigration based on who can help America.

In fact, on the bill cosponsored by our dear colleague from Massachusetts—a bill that is one of the most enlightened policies in terms of immigration to be adopted in the history of the country—we decided that with 7.2 million people waiting to come to America, knowing that they cannot all come here, that what we ought to set out a policy to determine that who is coming is in the interest of the people that are already here.

So we now have as the law of the land a policy that says if people have skills or education or talent that we as a Nation deem to be of great value, we give them preference in coming into the country. That is the policy under which we operate, recognizing, that until we can take the American dream to the world, they cannot all come here to find it.

So, we set out with an immigration policy to improve our country and to bring people here who can work, who can contribute, and who can make us richer, freer, and happier.

Now the President comes along and says, let us change that policy and let us allow immigrants to come into the country who are infected with the AIDS virus.

Mr. President, the problem is that as compassionate as it may be to say, "Well, let them come in," we are looking at medical expenses of up to $100,000 per person.

We have 37 million people who are not covered by health insurance. We have Americans now who cannot afford to get health care in their own country. What kind of logic is it that we should be bringing people who are sick from other countries into our country to pay their medical bills when we cannot pay the medical bills of our own people?

I believe in compassion, but I believe two points are important: First, compassion is what you do with your money, not what you do with the taxpayers' money; and second, compassion ought to begin at home.

Mr. President, the reason we have offered this amendment is because we do not think it makes sense that when there are exploding medical costs in America, and when there are 37 million people who have uncovered expenses and who do not have health insurance of any form, to be bringing people in that we know are going to have full-blown AIDS, and their expenses are going to run $100,000 each, and most of them are going to become wards of the State, and we are going to end up paying those bills, I do not think that is a rational policy.

And the reason we offered the amendment is not that Bill Clinton is a Democrat, whereas George Bush was a Republican. If President Bush had sought to change this policy, we would have still offered this amendment, because it would have been a policy that was a mistake, a policy that was expensive, and a policy that denied Americans benefits that they do not now have to provide benefits to people from other countries.

So our basic position is this: If you want the President to have the ability to allow AIDS-infected immigrants to come into the country and impose a $100,000 per person cost on the American taxpayer, then you want to vote against this amendment and you want to vote for the amendment of the distinguished Senator from Massachusetts.

If, on the other hand, you believe that the President, having instituted this policy, probably should not be trusted to act unilaterally and, as stewards of the people who elected us, that we ought to require in statute that the current policy will be in place until it is changed by law, then we are going to want to vote against the amendment of the distinguished Senator from Massachusetts and we are going to vote for the amendment of the distinguished Senator from Oklahoma.

I have no doubt in my mind that the American people are in no way confused on this issue. I believe the American people, in overwhelming numbers, support the amendment of the distinguished Senator from Oklahoma.

I urge my colleagues to vote for that amendment, and I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, with all respect to my friend and colleague from Texas, we have 700,000 legitimate immigrants; 550,000 of those are family members, the other 150,000 are nonfamily members. Three-quarters of those are already here in the United States; three-quarters of them.

We have 300,000 people a year that are pouring across that border down across Texas and by boat to other parts of the country. Many of them are endangering the American population. They are a much greater and more legitimate issue than thinking we have really done something in the U.S. Senate by legislating a restriction on the basis of HIV status.

I mean, we can all, no matter how this comes out, go back and beat our chests that we have really done something to protect the American people from HIV. It is simply not so. Many of these immigrants are already living here. Most of them probably contracted the AIDS virus while in the United States.

I mean, this is wonderful. Now that they have contracted the virus we decide to deport them. What do you think they are going to do? They are going to go underground. They are not going to go for treatment or care. They are going underground, not coming forward for counseling and education, and are therefore putting a greater risk to the American population.

I mean, let us get serious about this. This idea that all of a sudden people are going to pour through our door that have HIV. That is just not the case. At least, if we are going to talk about immigration because the basis of immigration is reunification of families—that is 80 percent of it—and the others are special skills; 75 percent are already in this country. Of the immigrants we have tested, less than 1 percent have tested positive.

So while you may say you are doing something to protect the public health, you are driving people underground. By not dealing with this issue in the way the public health community believes it should be dealt with, through education, knowledge, and awareness, we are endangering the lives of Americans. That is what we may do here today if we are not careful.

As any person, seriously involved in public health, and they will say, that once you make it clear that seeking help will lead to discrimination—you drive this whole disease underground, and put people with HIV and the American public at large, at far greater risk.

And we have talked about the financial aspects of this earlier, in terms of existing law. And the Attorney General said if an individual is going to be a ward on the State, they are not coming in. They are not permitted to do so now.

So, Mr. President, I would hope that on the basic issue of the cost, and Attorney General's authority, we are going to get more information, we are going to direct a study, we are going to make that available and then, if the administration makes regulatory changes that some in this body do not approve of, they can always take action then.

But, Mr. President, listening to my friend talk about the burden of proof, the statute says that determinations will be decided by HHS and by the Attorney General.

That is what the statute says. But their amendment says we are going to change the statute, and turn back the clock on the Immigration Act of 1990.

What we are saying is let us get the information which should be available to the Members prior to taking such action. That is what we want to do. Then, if the Senate wants to take action, it will do it but it will be on the basis of information and intelligence and not ideology.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, let me adjust my hearing aid. It could not accommodate the decibels of the Senator from Massachusetts.

Let us get straight about what the situation is here today. From the moment the Senate convened this morning, aside from some morning business, there have been two amendments—one of them was withdrawn—and the other one was never offered and instead it became a colloquy between two or three Senators.

Let us examine parliamentarily what is afoot here.

The determination was made earlier that there would be no vote on this issue today. So just like in basketball, before they put in the time clock, the other side has run out the clock. A proposal was made that we would begin debate about 2 or 2:15 and I said that will be fine with me if we debate 4 hours, just so we begin voting at 5:30.

One Senator had to go down to the White House. Another Senator had to do something else. But the effort to prevent a vote on this issue has worked. Furthermore, for the edification of anybody who is not totally familiar with the Senate rules, the majority party controls which Senator will be recognized. That has everything to do with who is enabled to put a second-degree amendment on a first-degree amendment thereby ensuring an up or down vote. No Republican is allowed to preside over the U.S. Senate. So the issue to recognition rests solely with one party, the party that does not want this issue to be voted on at all, and certainly not this day.

I have deferred to my colleagues on this side. Maybe it is a little bit of Tom Sawyer in me. I like to see the younger fellows paint the fence, and they are doing a great job of it, and I am grateful to them. But I have been the progenitor and father figure on this amendment for about 7 years.

By the way, Mr. President, at this point will the clerk give you a list of the cosponsors of the Nickles amendment?

Mr. NICKLES. Will the Senator yield just for a moment?

Mr. HELMS. Yes, sir.

Mr. NICKLES. Before you do that, I ask unanimous consent that Senator ROTH and Senator MURKOWSKI be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I would like at this point in the RECORD to have the list of Senators read into the RECORD.

The PRESIDING OFFICER. The clerk will report.

The clerk is compiling the list.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The Chair informs the distinguished Senator from North Carolina that the clerks would not have the list here at the table. It was sent down to the recording clerk as soon as they have it. However, it is in the RECORD.

Mr. HELMS. Suppose I proceed and if the Chair will wave to me, we will put it in the RECORD at that point.

I thank the Chair for his courtesy.

What Senator NICKLES and all of his fellow cosponsors seek to do, is to put Senators on record once again as to whether they believe that AIDS carriers should be allowed unchallenged entry into this country and unlimited access to our already overburdened health care system. This amendment, that is to say the underlying amendment—returns AIDS to the list of diseases for which an alien may be excluded from entry into America.

Mr. President, I had reached the conclusion that every possible concession had already been made to the AIDS lobby and to the homosexual rights movement which feeds it. But the Clinton administration's kowtowing to this arrogant and repugnant political group is beyond belief.

As we know, the President is currently waging war on the Armed Forces. He is pushing ahead with plans to reshape the military to make it satisfactory to the organization known as ACT UP and another organization known as Queer Nation. Yet that is not enough for the activists who poured millions of dollars into Mr. Clinton's campaign.

Incredibly, the President is now in the process of throwing open this Nation's doors to AIDS-infected immigrants from around the world.

Who can blame those Americans who feel that this President, after breaking promise after promise, has made clear that about the only citizens who need show up to collect their campaign IOU's are the radicals in the organized homosexual movement.

The public health agenda of America has been torn apart by an AIDS lobby which promotes special rights rather than public safety. Everyday some Senator gets on this floor and cries that we are in an AIDS emergency, that AIDS is everywhere, and that this disease will bankrupt our hospitals. If we are in the middle of such a national health emergency, why would anyone want to throw open the floodgates to immigrants who will overwhelm a health system that supposedly is on the verge of collapsing?

This is the kind of thing that I discussed back in 1987 when I offered the first legislation to close the doors on unregulated immigration.

I have in hand the Congressional Quarterly Almanac, which says, "In 1987 Senator JESSE HELMS persuaded Congress to take the unusual step of adding the AIDS virus—by law—to a list of 'dangerous contagious diseases' that were grounds for exclusion from the United States."

Then the article quotes me as saying, "Other countries are trying to stop the import of the AIDS virus. They do not want it to come into their country, and neither should we."

But, "with barely a murmur of dissent, the Senate adopted his amendment 96 to 0 and the House accepted the provision as part of a 1987 supplemental appropriations bill, Public Law 100-71"—and so forth.

Then an interesting thing happened. There was a bit of collusion with a Senator on this side of the aisle and the distinguished Senator from Massachusetts.

On the last night of the Senate session in 1990, what do you know? Without any consultation nor any warning, a little provision was slipped in that rendered nugatory the 1987 Helms amendment. I will not go into all that happened, but fortunately, the Secretary of Health and Human Services decided not to take advantage or to utilize that little legislative switch that occurred about midnight that night.

These AIDS activists are not satisfied with receiving merely fair treatment. They are constantly demanding special legal privileges and priority funding for their own specific programs. AIDS already consumes about 38 percent of every Federal dollar spent on treatment, education and research and it receives an exemption from established public health measures designed to combat all other sexually transmitted diseases.

As I said earlier, the history of this amendment dates back to June 2, 1987, when the Senate voted 96 to 0 to protect the health of the American people, and that is what this is all about. Senator LOTT is right. Senator NICKLES is right. We are trying to protect the health of the American people and also prevent another raid on the U.S. Treasury.

In 1987, the Senate unanimously approved this AIDS immigration amendment because it was and is good public health policy. I recall that I offered the amendment on the recommendation of the then U.S. Surgeon General C. Everett Koop. I agreed with General Koop then, as did every other Senator, liberals and conservatives, Republicans and Democrats, that the public health would be at risk if immigrants with AIDS continued to flow into the United States.

The Bush administration, I am sad to say, and the Congress later attempted to appease AIDS activists in 1990 by creating a special immigration waiver. Under this waiver, people may enter the United States to attend medical conferences, receive medical treatment, or visit family members. However, the infected individuals must answer questions about their medical condition, including whether they are infected with HIV. But even that didn't satisfy the activists. They claimed that America is stigmatizing homosexuals. I would submit, Mr. President, that they are stigmatizing themselves. They claim that everyone should be allowed into this country without disclosing his or her medical condition. I disagree. They pressured the Congress to give the Secretary of Health and Human Services the discretion to take AIDS off the list of excludable diseases. Congress caved in, but fortunately the Justice Department refused to give in to these activists and prevented the HHS Secretary from removing AIDS from the list of excludable diseases.

Let us get down to brass tacks, and I will wind up. The delegates of the American Medical Association support the original Helms amendment and, of course, the Nickles amendment today. I read recently, in fact, certain officials of the American Medical Association support the Clinton administration's proposal to lift the ban on AIDS carriers, but to put the record straight, it should be made clear that the policy of the AMA's governing body is clearly stated in a resolution of 1990, which has not been altered.

Let me read it:

> Immigrants have historically undergone a health assessment before entering into the citizenship process. To exclude HIV infection from the health assessment of those seeking United States citizenship would be a change in longstanding U.S. policy and difficult to justify on medical, scientific or economic grounds.

The delegates of the American Medical Association agree the amendment of 1987, offered by this Senator, is sound policy and it has been working.

Dr. Roy Schwarz, head of the AMA task force, denounced the proposed change in immigration policy. Last week, Dr. Schwarz said that the Clinton administration policy—and let us use his words—"doesn't make any sense * * * we simply cannot afford this policy, we don't need anymore AIDS patients, there isn't enough money to care for U.S. AIDS patients and they're," meaning the Clinton administration, "talking about capping rising health care costs."

The distinguished Republican leader, BOB DOLE, in a February 10 letter to the Secretary of HHS went Dr. Schwarz a step further. Senator DOLE wrote:

> I fail to see how bringing more people infected with AIDS into America will in any way contribute to the health and safety of the American public. It seems to me we have more than enough health care problems without adding to the crisis. The 300,000 experts at the American Medical Association also oppose changing this policy.

And then Senator DOLE added:

> In addition, it appears that the current policy provision allowing infected aliens waivers for short-term visits for humanitarian purposes is reasonable and adequate.

Senator DOLE concluded:

> Unless you believe we have the AIDS crisis under control, I would advise you to resist this potentially explosive policy change * * * an executive order overturning current policy would likely precipitate congressional action to safeguard the financial and physical health of the American taxpayer.

And as usual, BOB DOLE is right on target.

Mr. President, AIDS activists disingenuously argue that allowing infected people into the country will not cost us anything. If you believe that, there is a little piece of land down in eastern North Carolina under water that I want to sell to you.

As has been mentioned, there are currently about 300 Haitians with AIDS sitting at Guantanamo Bay right this minute. They are waiting for President Clinton to keep his promise to open up the doors to Haitian immigration. I've heard that the Immigration Service estimates that if Mr. Clinton gets his wish, we could receive more than 100,000 immigrants from that country.

How many AIDS carriers are we talking about? Nobody knows for sure, but the World Health Organization says that almost 15 percent of the Haitian population—15 percent—has AIDS. Are we looking at the prospects of letting thousands into America with this disease?

Before I conclude, I think I should mention one other issue created by the potential admission of Haitians with AIDS. The Haitians at the naval base in Cuba would have been admitted to the country long ago but for the original 1987 amendment offered by the Senator and enacted unanimously by Senators present.

You see they are not applying for immigration through normal channels. This administration obviously considers Haitians to be political refugees. But under the law anyone granted refugee status is automatically given welfare, and as DON NICKLES, PHIL GRAMM, and others have already said, that includes Medicaid and AFDC and other support funds on down the line.

Now, estimates for the average cost of caring for an AIDS patient range from $102,000, according to HHS, to $200,000, according to a study done for the Department of Defense. And if we allow the 300 or so AIDS-infected refugees at Guantanamo entry we are looking at a potential cost to the taxpayers of $20 million in medical bills alone, and that is just the tip of the iceberg. That is what PHIL GRAMM was talking about, that is what DON NICKLES was talking about, and that is what I am talking about. If we open the doors to thousands in Haiti infected with the virus, the American taxpayers are surely to be stuck with billions in medical costs.

Now, let us talk about the original Helms amendment which in effect is still operative. It is screening between 500 to 1,000 people a year who would otherwise have entered the country with AIDS. Some of those stopped had the HIV 2 virus, which is not yet found in this country.

So, Mr. President, the Senate has a decision to make. There may be some parliamentary agreements. But one way or another, the American people are entitled to know how their respective Senators stand on this issue. And as far as I am concerned, that is the purpose of bringing it up. The existing immigration law works for the good of all of the American people, and it must not be treated like a special-interest football to be kicked around at the whim and caprice of any militant group and its apologists on either end of Pennsylvania Avenue. I intend to do everything I can to see that the AIDS immigration prohibition remains in place, and I truly hope that the Senate will approve the Nickles-Dole-Helms amendment.

Mr. NICKLES. Will the Senator yield?

Mrs. BOXER addressed the Chair.

Mr. NICKLES. If the Senator will yield for a question.

Mr. HELMS. Surely.

Mr. NICKLES. One, I wish to compliment Senator HELMS because, as he mentioned in his statement—and it was an excellent statement—in 1987 we passed an amendment that prohibited people from emigrating to the United States who were HIV positive and that was the law of the land actually for, I think, about 2½ years. As a result of that amendment, he saved some American lives and he saved a lot of tax dollars, and I thank the Senator for that. I also thank the Senator for his statement as well.

I guess my question would be to the Senator, with this issue that some people have alleged is discriminatory or anything else, it is the Senator's opinion that the reason we bring this issue to the floor today is not because we initiated anything, but it was brought to the floor because President Clinton has announced that he wants to change existing policy, and that, in the Senator's opinion, will cost lives and cost the taxpayers a lot of dollars?

Mr. HELMS. The Senator is unquestionably correct, and I thank him for his kind words and his efforts to put teeth back into the legislation this Senator offered in 1987.

Mr. President, I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. I thank the Chair, and I rise in support of the amendment offered by the Senator from Massachusetts, Senator KENNEDY, to the amendment offered by the Senator from Oklahoma.

The current debate over the issue of HIV disease and immigration makes clear to me the wisdom of the Congress when it enacted the Immigration Act of 1990. In that act, Congress acted wisely. It chose to make the decisions regarding immigration not based on what politicians think but put them where they rightfully belong, in the able hands of our public health officials.

Mr. President, that is really the key point here. This debate reveals once again how easily this issue becomes distorted by politics. AIDS is an illness, Mr. President, and we must not allow it to become yet another political football to divide this country.

Now, I was not elected to be a physician, and I do not think that my good colleague from Oklahoma was sent here because he is a physician, or my colleague from North Carolina was not sent here to be a physician. We were all sent here, Mr. President, to be Senators and, of course, in that responsibility to look out for the health and the safety and the welfare of all our people.

Now, how do you do that as a Senator of the United States of America? Mr. President, in order for me to do that for the people of the largest State of the Union, California, I must rely not on politicians but on public health officials. We do not want to rely on politicians when we deal with health issues because they just might try to make political points based on fear and division in the politics of hate. We cannot allow that.

The first national public health official to speak against the policy offered by the distinguished Senator from Oklahoma was Dr. Louis Sullivan, and I think it is very important, Mr. President, to point out to my friend from Oklahoma that Dr. Sullivan was appointed by a Republican President. Now we have a new head of HHS, Donna Shalala, appointed by a Democratic President, and she proposes, Mr. President, an approach nearly identical—as a matter of fact, actually identical—to the recommendations of Dr. Sullivan made to President Bush 2 years ago. So here we have a Republican President, George Bush, appointing Dr. Louis Sullivan, and lo and behold, we have identical policies put forward by Dr. Sullivan and by Donna Shalala.

But here we go again, politics over the expert advice of both our national public health officials and health departments and agencies from across this Nation. Now, this is judgment that we as taxpayers pay for. They work for us, to give us their opinions based on science and fact, not on bigotry or hatred or politics or who is going to score a point here tonight on the eve of the State of the Union Address. Their judgment is based on decades of experience, and I think these public health officials should be respected.

Now, I do not know anyone in this esteemed body, which I respect so much, who is a physician. I did serve in the House of Representatives, and there were two physicians there, one categorized politically as a liberal from Washington State, one categorized as a Southerner who served as a Democrat. And both of those physicians, Mr. President, supported Dr. Louis Sullivan, supported and spoke out against the politics of hate and fear.

I want to talk about the notion that the people who may be let into this country can become wards of the State. The proponents of the Nickles amendment have stated that this is an absolute certainty.

I want to set aside the issue we face with the Haitian refugees because that is a very unusual situation that has to be dealt with. But under current immigration laws, immigrants and visitors are subjected to exclusion, meaning they cannot come into this country if they are, and I am quoting from the law, "likely at any time to become a public charge." Let me repeat that. Under the current law that is supported by our President, Bill Clinton, and by his Secretary of HHS, immigrants and visitors are subjected to exclusion from this country if they are "likely at any time to become a public charge."

Thus if cost is really the issue here, it is addressed by the public charge provision of the existing law, and that law is enforced by the attorney general.

In addition, Mr. President, all foreign visitors and immigrants must meet detailed financial eligibility criteria and anyone who does not meet those criteria is precluded from visiting or immigrating to the United States of America.

The policy put forward by Senator NICKLES and Senator HELMS and others has also been a barrier to the international exchange of information, particularly regarding HIV. HIV-positive delegates to the 1990 International Conference on AIDS in San Francisco who wanted to share their experience, their wisdom, their ideas, their research, risked being turned away at the borders. Because of that incident, Mr. President, physicians from all over the world condemned that approach that has been put forward here today by our good friends, Senators NICKLES, HELMS, and others. It is not small groups or political activities that condemn this policy. Mainstream physicians, and health care workers in this country, and all over the world condemn that policy.

I would like to ask my colleagues to note that if Spain has the same policy as that being put forward here by Senator NICKLES and others, Magic Johnson would never have gotten to play basketball for the United States at the 1992 Summer Olympics.

So, Mr. President, in conclusion, I find it sad that we will take a public health issue and turn it into a political football. But that has been before with this issue and it will be done again. The Kennedy amendment is a very sensible one. It leaves the law basically as it is, and that law protects us. It gives public health officials the responsibility to protect our health. That is their job. And it gives the Attorney General the responsibility to protect our purse so that no one coming into this country, even as a visitor, can become a ward of the State or a burden on our people.

I believe that is the correct course for us to take because it is the one that is being put forward to us by those to whom we must turn to for advice in these very complex matters. Those people are our public health officials. I hope that we will have the courage to support the Kennedy amendment, it makes a lot of sense, and turn back the Nickles approach.

I thank the President for my time.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, having heard the Senator from California and some of her comments, let me just answer a couple.

I heard over and over again that this is politics. If it is politics, it is politics generated by President Clinton and his administration who want to change existing policy.

I do not doubt that former Secretary of HHS, Secretary Sullivan, also advocated that change. But President Bush had the good common sense not to do so.

If it is politics on this side, it is certainly not initiated for political purposes. It was initiated by President Clinton and by his Secretary of HHS, who said they want to change this policy, a policy that really goes back to 1987 as a result of action that passed the Senate by unanimous vote. I do not know if the House voted on it or not. But I think that was good policy. I think that policy helped save lives and helped keep the disease out of the United States or helped reduce the number of immigrants coming into this country that have HIV.

So the politics, if there is any politics, the politics has been initiated by the Clinton administration trying to push whatever agenda, an agenda that at least in my opinion is not good for the country; an agenda that is going to be very expensive for the country.

When we talk about dollars, no one on the other side who is proposing this amendment can truthfully say that this amendment or the change in policy will not cost a lot of money. Nor can they say that the change in policy will not cost lives. Because frankly, Mr. President, if people immigrant to this country who are carrying HIV, a communicable disease, if they continue in certain behavioral patterns, in other words multiple sexual partners, and/or exchanging IV drug, they are going to infect other people. The net result of that is there are going to be lives lost. It is going to kill some Americans and maybe they will infect some people and those people will infect some other people. You could see how this horrendous disease could accelerate and spread throughout the country.

I hope that does not happen. That is the reason why this amendment is here. This amendment is not here for political reasons. This amendment is here to try to stop what I believe is a very serious mistake that President Clinton and his administration are getting ready to make.

The amendment offered by my friend and colleague, Senator KENNEDY, is clearly a figleaf designed to give political cover, and to allow President Clinton to go forward with his change in policy and allow immigrants that are HIV positive to come into this country. As Senator KENNEDY mentioned there are 700,000 immigrants that come into the United States every year. If we change this policy, it will almost be like an invitation for many people who carry this dreadful, deadly disease, to come into the country because we do have quality health care in this country, better health care in the United States than any other country, in the world.

So instead of talking about a few hundred, I fear we would be talking about thousands. I also do fear the fact that some of those people may come into the country with HIV 2, which is transmitted primarily through the heterosexual community.

I mention this amendment is not born out of hate. This amendment is not born out of fear. This amendment is not born out of homophobia. This amendment is raised to try and stop President Clinton's administration from making a very serious mistake that will jeopardize the lives of countless Americans and will cost U.S. taxpayers millions of dollars.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROVIDING FOR A JOINT SESSION OF CONGRESS TO RECEIVE A MESSAGE FROM THE PRESIDENT

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 39.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 39) providing for a joint session of Congress to receive a message from the President.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 39) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL INSTITUTES OF HEALTH REVITALIZATION ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, is the pending business still the NIH authorization?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Is the pending amendment the Nickles amendment?

The PRESIDING OFFICER. The Kennedy amendment is the pending amendment, which is a second-degree amendment to the Nickles amendment.

Mr. DOLE. Mr. President, Bill Clinton, during his campaign, promised to "lift the current ban on travel and immigration to the United States by foreign nationals with HIV." This policy was initiated by Congress in 1987. The Senate voted in favor of it 96 to 0, and the House accepted the provision without a vote.

Mr. President, I believe that the lifting of the current ban—which is within the power of the President to lift by Executive order—is premature and will very likely strain our already overburdened health care system. The amendment offered today retains the current ban unless changed by law.

I emphasize—because I have heard some of the discussion on the Senate floor—that this is not a battle about who cares more about people who are sick. However, there are those who will try to turn this vote into a political contest and who will argue that those of us who oppose lifting the ban at this time are callous and heartless and do not care about people.

They will argue that the history of America and the greatness of this country is based on the willingness of this country to accept people in need.

But, Mr. President, that is not the issue. This is not an anti-immigration issue. This is not a gay issue. This is a public health issue, and it is an economic health issue. There is nothing callous or heartless about protecting the physical and financial health of the American people.

No doubt, Mr. President, AIDS is a tragic disease. It has taken the lives of approximately 175,000 Americans and has afflicted more than one million other Americans. It is a communicable disease that is not confined to the intravenous drug user or the gay population. It is being spread on an increasing basis through heterosexual contact. It infects the old, the young, men and women, rich or poor. There is no doubt in my mind that what we confront now is an epidemic, one that will call on all our resources to address.

While I realize that some of the fears about AIDS are unfounded, I fail to see how permitting more people infected with the AIDS virus to permanently immigrate into America will in any way contribute to the health and well-being of the American public, or help us resolve the very serious issues facing us here at home.

Mr. President, I believe that out of fairness to the American people, who are already—and rightly so—demanding a more equitable and affordable health care system, that lifting the ban at this time would appear unwise until such time as a number of troubling issues are thoroughly addressed.

By some estimates—and there are different estimates—the cost of caring for an AIDS patient can well exceed $100,000 per case.

I do not believe that all immigrants with the HIV virus who are permitted entry into this country will be able to afford these astronomical expenses. It seems reasonable to believe then, that many of the thousands granted permanent entry into this country will eventually fall onto the public rolls.

Would taxpayers be forced to pay the astronomical cost of treatment for these patients—in effect, establishing a health care asylum in America? What will be the effect of these AIDS patients on our already strained health care system? And how do we justify the added costs to the American public—a public who will pay over $800 billion for health care this year alone, and who are concerned about the 37 million uninsured, and those here who are already confronting the AIDS virus.

Mr. President, on top of the billions of dollars we have spent on AIDS research, our Nation has invested untold millions of dollars to educate the public about the spread of the AIDS virus. Would the American taxpayer have to pay to educate these emigres, or are we willing to take our chances that these individuals will act responsibly?

Mr. President, our current law provides for a waiver authority allowing those infected with certain infectious diseases, including AIDS, to enter the United States for a limited period of time. These waivers are granted for humanitarian purposes, for individuals who wish to enter the United States for treatment or education purposes, or those who already have an immediate family member legally residing in the United States, who arguably can provide them with the necessary financial and emotional resources. No one has argued that this waiver of authority should be altered.

However, Mr. President, until we have better information on what the effect will be on the American public if the ban is lifted, I am opposed to any change in our current policy. This amendment would require a thorough study to be conducted to evaluate the full implications of the lifting of the ban. Upon completion of the study, if deemed appropriate by the Congress and the President, a policy change can be instituted legislatively.

In the meantime, we in Congress have an obligation to ensure that no policy changes are enacted that will in any way compromise the financial and physical health of the American taxpayer. At this time, our information available on the implications of lifting the ban is not adequate to make that decision.

So I want to congratulate the distinguished Senator from Oklahoma for his amendment, one that a number of us have worked on together. I think it is a good amendment. The issue is health care, not gay bashing. It is not antidiscrimination, not anti-immigrant. This is a health care issue. It should be resolved as such. I yield the floor.

Mr. BOND. Mr. President, I intend to vote in favor of this legislation because of the absolutely critical need for the reauthorization of the National Institutes of Health and funding of the vital research projects undertaken through NIH. However, I would like to take this opportunity to raise an issue of concern to many people in the health research community, including the chancellor of Washington University and chair of the Institute of Medicine Committee to Study the AIDS Research Program of the National Institutes of Health. This committee issued a report in 1991 entitled "The AIDS Research Program of the National Institutes of Health."

The concern stems from provisions in S. 1 which change the authority of the NIH Office of AIDS Research and which were added in the committee markup without the benefit of adequate consultation with or comment from the health research community. These provisions significantly alter the flow of funds into AIDS research and amplify the authority of the Director of the Office of AIDS Research to direct those funds, thus they may have a significant impact on AIDS research. I believe that we should approach such changes thoughtfully with complete and careful consideration, particularly of the views of the research community that is most aware of how such changes will affect their work.

I salute the efforts of Senator KASSEBAUM and others on the Labor Committee to address this issue and present a compromise that we can all abide with an eye toward the greater need to support this legislation as a whole. But I also remain hopeful that the Congress will allow for additional comment, and if necessary, input, in conference from the health research community before we move forward to implement these proposed changes.

In further support of this statement, I ask unanimous consent that a letter written by the chancellor of Washington University and chair of the IOM committee to Representative WAXMAN on this matter be included in the RECORD at the close of my statement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON UNIVERSITY,
St. Louis, MO, February 11, 1993.

Hon. HENRY WAXMAN,
U.S. House of Representatives, Committee on Energy and Commerce, Washington, DC.

DEAR MR. CHAIRMAN: I am writing regarding the National Institutes of Health Revitalization Amendments of 1993. As you know, the Senate version of this bill, S. 1, includes provisions in Title XVIII which change the authority of the NIH Office of AIDS Research. Although several provisions may have merit, confusion surrounding the interpretation and intent of the legislative language concerns me. I understand that H.R. 4, the House NIH Bill, does not yet include any similar AIDS provisions and I am writing to offer my comments about the Senate language and about testimony I understand was offered before your Subcommittee.

It has come to my attention that several witnesses appearing before your Subcommittee indicated that the provisions of Title XVIII are consistent with the recommendations in the 1991 Institute of Medicine report "The AIDS Research Program of the National Institutes of Health." IOM committee members were in strong agreement regarding the necessity of long-range research planning and evaluation efforts, a stronger role for the AIDS Program Advisory Committee, expanded staff support for the Office of AIDS Research, and a discretionary fund for the NIH director.

At no time, however, did committee members endorse the concept that funds appropriated by Congress for AIDS research go directly to the Office of AIDS Research for redistribution to the Institutes. I think such a proposal deserves a careful assessment of its implications for our continuing fight against AIDS. Keeping in mind the best interests of the NIH and its AIDS research programs, I believe calls for open and thoughtful consideration of any proposed new authority for the Office of AIDS Research.

I salute your stalwart support for the well-being of the National Institutes of Health. Thank you for your continued leadership.

Yours sincerely,

WILLIAM H. DANFORTH,
Chancellor.

Mr. DURENBERGER. Mr. President, I rise today in support of the Nickles amendment on the admission of HIV-infected aliens to the United States.

This amendment would retain the policy excluding HIV-positive aliens for a period of 6 months. During that time, the Secretary of HHS would work with the Attorney General to examine the critical cost issues involved in granting immigrant status to HIV-infected aliens. And at the conclusion of that 6-month review, the Secretary of HHS and the Attorney General will make a full report to Congress on the cost implications of lifting the exclusion.

We need to know the answer to this specific question: Is the public charge provision in today's immigration law sufficient to protect against added costs to the United States?

Mr. President, I think that this amendment is a reasonable compromise. It lays out a series of steps toward a final decision on this important issue—and will give the process adequate time to address all relevant concerns.

I reach this conclusion on the Nickles amendment without prejudice to the decision we will be called upon to make in 6 months' time. I know, for example, that all the public health authorities are unanimous in believing that AIDS/HIV should come off the immigration list of communicable diseases.

I also know that according to all the scientific evidence, AIDS is not transmitted by casual contact. That's why our last HHS Secretary, Dr. Louis Sullivan, and his Department had already signed off on a rule eliminating the classification of HIV-positive individuals in immigration law.

So there is a great deal of evidence tilting us in the direction of repealing this exclusion. That's why it is especially important for us to have some time in which to consider the objections. Dr. Robert Windom, the former Assistant Secretary of HHS, believes that there are serious cost considerations involved in allowing the entry of HIV-infected aliens.

Anyone who has HIV now may become sicker. Even if immigrants enter the country capable of paying their own way, in 10 or 15 years their health may have deteriorated enough to make them a public charge.

Let's get to the bottom of these questions before we set in stone a policy we may end up regretting. Let's enact the Kassebaum-Dole review process—and get on with some of the more pressing tasks President Clinton will be outlining for us tonight.

Mr. COCHRAN. Mr. President, I am pleased to see that the bill before us today includes a provision to establish a program within the National Center for Research Resources to enhance the ability of institutions in certain States to compete for biomedical and other research grants and awards offered by the NIH.

The program in the bill is called the Institutional Development Award [IDeA] Program. It is similar in nature to the Experimental Program to Stimulate Competitive Research [EPSCoR] that originated in the National Science Foundation and has now spread to several Federal agencies. These programs provide grants to States that have traditionally not been very successful in competing for federally funded research projects. The initial grants help these States determine where they need to improve their research infrastructure at their research universities, and followup grants help these States to implement their plans to correct the deficiencies they discover.

This program does not set aside any funds for research for these institutions, which are located mostly in rural States such as my State of Mississippi. The universities in these States will still be required to go through the peer review process before any research grants are awarded. The IDeA and EPSCoR Programs simply boost the ability of universities to compete in that process.

As an example of the kinds of accomplishments that are possible through programs like this, the EPSCoR Program in Mississippi has produced unprecedented cooperation among our research institutions, and has resulted in an increase in grants being awarded to the State by the agencies involved in the program. In addition to increased Federal funding, our research universities have received a level of private research contributions that exceeded all expectations and far exceeded the matching requirements of the EPSCoR Program.

I am confident the IDeA Program will produce the same quality results as the EPSCoR Program has. The IDeA Program will broaden the geographic base of biomedical scientific expertise. Currently, 50 percent of all NIH extramural funding goes to institutions in five States. Funding currently going to the 25 States that will be eligible for IDeA totals only 5 percent of NIH's research awards. With improvements resulting from IDeA awards, more research will be conducted at more universities, which has the added benefit of exposing more students to this type of research, therefore encouraging more science graduates to pursue a career in health-related research.

The NIH itself has seen the value of a program of this kind. In 1991, NIH completed a study I had requested to determine whether this type of program would be feasible within the structure of NIH. The report concluded that an IDeA Program can indeed achieve the same accomplishments that have been seen at other agencies.

In this year's appropriations bill for the NIH, $750,000 was provided to the National Center for Research Resources to help get this program off the ground. Last month, the NCRR began to solicit applications for the initial IDeA competition. I am hopeful additional funding will be available next fiscal year.

I appreciate the efforts of the chairman of the Labor Committee, Senator KENNEDY, for his help in getting the IDeA Program authorized in this bill.

SUPPORTING THE NATIONAL INSTITUTES OF HEALTH

Mr. RIEGLE. Mr. President, I rise today in support of S. 1, the National Institutes of Health Reauthorization Act. I encourage my Senate colleagues to join me in support of this important legislation.

The National Institutes of Health [NIH] have led the world in health research, improving the quality of life for all Americans. We must provide the NIH with the resources and direction it needs to continue to pursue its vital mission.

Yet the NIH, due to political constraints imposed by the Bush administration, has not been able to adequately address the changing health needs of our Nation. We need to devote more resources to women's health research. We need a coordinated research strategy for AIDS. We also need a nonpoliticized process to answer ethically challenging issues, like fetal tissue research, both now and in the future. The National Institutes of Health Reauthorization Act responds to the changing health priorities of our Nation while addressing these ethically contentious issues.

The National Institutes of Health Reauthorization Act provides increased funding for women's health issues. This legislation establishes research programs that would address the most pressing women's health concerns, including breast cancer, reproductive cancer, and osteoporosis. The bill also codifies the Office of Research on Women's Health and directs all clinical research supported by the NIH to include women and minorities. These provisions in the National Institutes of Health Reauthorization Act will dramatically improve the quality and scope of research dedicated to women's health issues.

The health needs of America's children are also addressed in this legislation. Though the United States has made great strides providing immunizations to school aged children, many toddlers do not receive proper immunization against infectious diseases. Over 40 percent of U.S. 2-year-olds are not immunized against preventable infectious diseases. One of the keys to improving the poor immunization rates among 2-year-olds is to develop low cost and improved vaccines. The National Institutes of Health Reauthorization Act addresses this need by providing funds for research and development of affordable and improved childhood vaccines. I support the efforts of the NIH to develop improved vaccines as an important component of improving immunization rates of our Nation's children. I look forward to working with my colleagues Senator KENNEDY and Senator BUMPERS and the Clinton administration to develop a comprehensive immunization program to vaccinate all children of America.

S. 1 would also help the NIH face the challenge of the AIDS epidemic. The National Institutes of Health Reauthorization Act formally authorizes the Office of AIDS Research [OAR] as the central planning and policy agency for AIDS research. The OAR will be responsible for developing and implementing a comprehensive AIDS strategy that includes identifying budget and research priorities as well as coordinating AIDS research within the various NIH agencies. Strengthening the OAR will better focus our Nation's effort to combat the AIDS epidemic which in the past has lacked direction.

The National Institutes of Health Reauthorization Act addresses the issue of fetal tissue research, with fairness and sensitivity. Lifting the ban on fetal tissue research will provide hope for millions of people with life-threatening illnesses like Parkinson's disease, diabetes, leukemia, and epilepsy. For these people fetal tissue transplantation offers the potential for medical miracles.

Mr. President, we really don't know the extent to which fetal tissue transplantation may save lives, but the evidence from studies done so far is very promising. In the past we have heard moving testimony which illustrates in the most human terms they way this technique can improve the quality of life for people with serious illnesses.

The safeguards set forth in this legislation make the argument that these provisions will promote abortion, null and void. The act says that a woman must consent to an abortion before she makes the decision to donate tissue. It says that donors cannot receive compensation for fetal tissue, and it says that the recipient cannot be specified. Even more important, it applies these guidelines across the board to all fetal tissue research, whether publicly or privately funded. Currently there are no safeguards in place for private research.

Mr. President, the National Institutes of Health Reauthorization Act will help the NIH to respond effectively to our Nation's most pressing health needs. The act further creates a nonpolitical mechanism to resolve the ethically difficult biomedical issues we face today and the ethical issues of tomorrow. I wholeheartedly support swift enactment of this legislation.

Mr. President, for the past 3 years the NIH has been waiting for reauthorization. This means that for the last 3 years, funding for research on our Nation's most pressing health concerns, like cancer, heart disease, and AIDS have remained static. In the 102d session, Congress passed the National Health Reauthorization Act, only to be vetoed by President Bush. Most of the issues addressed in the National Institutes of Health Reauthorization Act are not new and have already been approved by Congress. It is my hope that Congress and the President will act swiftly to enact this important legislation.

A TRIBUTE TO WILLIAM F. (BILL) FARMER, JR.

Mr. FORD. Mr. President, I rise today to pay tribute to a favorite son of the great Commonwealth of Kentucky, Mr. William F. (Bill) Farmer, Jr.

Bill Farmer retired at the end of the 102d Congress, having served as the legislative clerk of the U.S. Senate for the past 12 years. A native Kentuckian, Bill was born in Frankfort, KY and graduated from the University of Kentucky with a degree in Commerce. During the Korean war, Bill enlisted in the Marine Corps where he served honorably. Before arriving in Washington, Bill worked as an accountant in Greensboro, NC.

In 1964, Bill was hired as an assistant registration clerk by the Secretary of the Senate. He advanced rapidly within the Senate. In 1966 he was promoted to registration clerk, in 1969 Bill was appointed as assistant editor of the Daily Digest; then in 1971 Bill joined the legislative staff at the rostrum of the U.S. Senate where he remained until his promotion to chief legislative clerk in March 1980.

Mr. President, it is a personal loss to me not to have my fellow Kentuckian at the rostrum of the Senate. It was comforting to have a part of Kentucky so close by. As Bill would call the roll in the Senate, you could hear that distinctive bluegrass drawl resounding through the Chamber. That drawl became a familiar part of the day-to-day proceedings in the Senate, and many Senators have snapped to attention as Bill trumpeted their name for a rollcall vote.

During those times that I had the pleasure of presiding over the Senate, I would trade stories with Bill about home. When the Senate remained in session late into the evening and into the wee morning hours, the temperament of even the most loyal and robust of individuals might be strained, yet, I myself have witnessed Bill faithfully at his post of duty.

Those who worked closely with Bill enjoyed his quick wit and creative captioning. Bill is a fine Kentucky gentleman, who has always been courteous to me, my staff and all those who worked with him.

While I'll miss the cheerful, hearty attitude displayed by Bill, I congratulate him on a job well done and wish him all the best in his return to the private sector.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that I may be permitted to speak for a period of time not to exceed 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont is recognized.

OUR ECONOMIC SITUATION

Mr. JEFFORDS. Mr. President, I look forward to the address of President Clinton tonight. Though I have some concerns about proposals I have heard, I will wait to pass judgment until my fellow Vermonters and I have had an opportunity to consider his plan.

I take the floor today, Mr. President, to note for my colleagues that history repeats itself. I must thank my colleague from West Virginia, our President pro tempore, with his interest in Senate history, for making me think to look at what the Senate was debating 100 years ago this very day.

Mr. President, the Senate was debating the Federal debt. Some wanted to increase the debt by issuing bonds, while others opposed these efforts. Here we are 100 years later soon to debate our debt and means to control it.

Let me set a historical frame of references for 1893. In the world, countries are trying to accumulate gold because of instability in Europe.

Vast sums of American money are being shipped overseas. Tourists alone are taking $100,000,000 out of our country. Our merchandise is being loaded onto foreign ships by foreign workers for transport. Another $30 to $60 million loss to American workers.

Domestic help, a sensitive issue these days, is cited as being responsible for $12 million in capital outflow from the United States.

In 1893, Russia is in financial ruin. Allow me to quote from Senator Teller, a former Republican Member from Colorado. I am going to quote exclusively of our Republican predecessors—

> The financial condition of the people of Russia is the most deplorable of that of any people on earth. * * * There is no use of disguising the fact that the people of that great country are in a state of destitution and distress such as rarely comes to the human race. * * * In that country there is distress everywhere, and poverty is general.

A Republican President, President Cleveland, was defeated, and President Harrison is set to take office. States which had gone Republican in 1888, went Democratic in 1892. Mr. Teller, again a Republican, analyzed the election as follows:

> We went out of power last year; that is to say, the verdict of the people was rendered in November which puts us out of control of the executive and of the legislative departments of the Government. We were put out because the people had lost confidence in us. I know a good many have spent time in endeavoring to determine what was the occasion of this feeling of distrust.
>
> Sometimes we have laid it to our candidates, but at the bottom of it—and it need not be disguised—was the feeling that the Republican party, which had been founded to foster the rights of men, had become absolutely oblivious to the interests of all the great masses of the people and had been paying court and attention only to capitalists and monopolists.

Again, Mr. President, these words were spoken on the Senate floor 100 years ago today. Needless to say, at least one of his Republican colleagues took issue with Mr. Teller's analysis. Senator Hiscock, from New York, I believe, stated that we needed to issue new bonds, basically so we could invest in our growth, in other words, invest our way out of a deficit.

In Mr. Hiscock's words:

> Mr. President, we are a debtor nation. Rich as we are, almost boundless as is our wealth, still we want to borrow money for the improvements which are being made within our own broad domain.

Mr. Hiscock, then when on to take issue with Mr. Teller's analysis of the 1892 election: He states:

> I recognize the fact that we were defeated, but in my State I do not recognize the fact that it was a spirit of discontent which promoted that defeat. Since I have been active in business there never has been a period of time when all classes, from the lowest to the

> highest, were more prosperous, were happier, and enjoying more of the necessities and the luxuries of life than they were in the year of our Lord 1892. I sometimes think that that which led to our defeat was because the people were satisfied with the situation. * * *

Our predecessor shows interesting logic and political analysis skills, to say the least.

Specifically, Mr. President, the debate on the floor 100 years ago was whether or not to issue more Government bonds. Proponents of this legislation argue that without additional bonds, financial leaders and foreign governments would lose faith in America. A financial panic would result. Opponents, such as Mr. Teller, argue that the time has come to stop increasing our debt. New bonds are only tools for the bankers to make money, not a means to improve the situation of Americans.

As Mr. Teller put it, "Who ever heard of an increase of a public debt creating security in the faith of the Government which created it?"

I hope Mr. President that 100 years from today, history will not be repeating itself on this Senate floor. Let us put the deficit behind us.

I intend to listen to the President tonight and then to listen to my constituents. I plan to consider President Clinton's plan carefully. I do not intend to let partisanship be a factor in my deliberations. I intend to let the people of my State express their views, weigh them, and then to act accordingly. That is what I believe the role of a Senator to be.

I believe that the American people will be able to sort out the good from the bad, right from wrong. We must act on their advice.

I will close with one last quote from Mr. Teller, from February 17, 1893:

> I repeat, so that nobody shall have any excuse for lying about what I say, that the American people are ready and willing to pay their debts to the utmost farthing, and to pay them in the best money in the world, as they have contracted to pay. They will complain of nothing which is necessary to maintain the honor, the integrity, and the credit of the American Government, but they do not believe that there is a danger now which will justify the issue of more bonds, the increase of the public debt, and the increase of taxation. They have complained for some years of unnecessary and unreasonable taxation, and rightfully, as they ought.

I think Mr. Teller is telling us to look first at cutting spending. This is good and timeless advice. He continues:

> I thank God that they have the courage to complain. I shall be sorry for the American people if the time shall ever come that party organizations and party lines shall hold men to principles which they despise and which they detest. When they become satisfied that the policy of any party is inimical to their interests, I glory in their courage when they break away from their old party associations and take a stand which they think will bring credit to them and prosperity to the whole nation.

Patriotism, before partisonship, is the message. Mr. President, let us watch tonight's address not as Republicans, not as Democrats, but as Americans. And, when we are done listening to the President, let us listen to the courageous Americans of today. Then, let us act.

Mr. President, I am happy to yield to my distinguished colleague from Maine.

The PRESIDING OFFICER. The majority leader is recognized.

NATIONAL INSTITUTES OF HEALTH REVITALIZATION ACT OF 1993

The Senate continued with the consideration of the bill.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate resume consideration of S. 1, the National Institute of Health bill at 8:30 a.m. on Thursday, February 18; that on Thursday, the amendment numbered 37 and 38 be withdrawn and that Senators KENNEDY and NICKLES be recognized in that order to each offer a first degree amendment on the subject of immigration policy and HIV aliens which will be identical to amendments 37 and 38; that there be 30 minutes for debate on the two amendments, to run concurrently, with the time equally divided and controlled in the usual form; that at 9 a.m., the Senate vote without any intervening action or debate, on, or in relation to, the Kennedy amendment; that following the disposition of the Kennedy amendment the Senate vote immediately, without any intervening action or debate, on, or in relation to, the Nickles amendment; that no further amendments regarding the issue of immigration policy and HIV-infected aliens be in order prior to final passage of this bill; and that the following be the only other amendments remaining in order to this bill and that they be subject to relevant second degree amendments:

A Moynihan amendment relating to National Institute of Drug Abuse;

A Hatfield amendment relating to sleep disorder;

A Roth amendment relating to scientific peer review;

A Jeffords amendment relating to sentinel disease study;

A Jeffords amendment relating to LIHEAP;

A Gorton amendment relating to Institute of Medicine;

A Craig amendment relating to medical radio-nucleide strategy;

A Kennedy relevant amendment;

A Kassebaum relevant amendment; and

A Helms relevant amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation. I again thank the Senator from Vermont for his courtesy.

PROGRAM

Mr. MITCHELL. Mr. President, in light of the agreement obtained, there will be no rollcall votes this evening. Pursuant to the order agreed to by all Senators, there will be two votes commencing at 9 a.m. tomorrow morning.

I remind Senators of the rule which I established at the outset of this session, that votes will not be held beyond 20 minutes. The first vote will end no longer than precisely 20 minutes after it begins. So Senators should be aware of that: a vote at 9 a.m. tomorrow, to terminate no longer than 20 minutes after it begins.

I thank my colleagues.

Mr. SIMPSON. We shall all take judicial notice of the comments of the majority leader who served on the Federal bench. I have heard that tone of voice in my time here. And I shall be present and the judge and our leader has spoken.

Mr. President, I thank my friend, Senator JEFFORDS. He always shares with us very apt things in his unique way. He is a very splendid Member of the Senate and I enjoy him very much. So I do appreciate him yielding the floor if I should want it, which I do.

I thank the Chair.

AMENDMENT NO. 37

Mr. SIMPSON. Mr. President, I am in support of the Nickles amendment. I have been on the fringes of working to see if we could not get that in that proper form. I just think it is so vital that before we adopt a policy of admitting immigrants who are infected with the AIDS virus, Congress must study that issue and the administration should surely study the issue in order that we can answer the questions that are so very troubling to our constituents. They are wondering what we are doing.

Let me share with you what they are wondering and what they are saying. My constituents, and yours, are asking: "Why in the world would we want to admit as permanent—a permanent resident for this country—a person infected with a contagious deadly disease which will require up to $100,000 or more of medical attention during his or her lifetime?" That is the question.

I have had some difficulty in responding to that powerful question. We might wish to allow a close family member to enter and to join the rest of the family here in the United States. In such a case, if the immigrant or his family is able to pay the cost of the medical care the immigrant will require, a waiver of the general policy might be warranted. But except for such a case, it is most difficult to justify a change in our current policy regarding HIV-infected immigrants.

Please note that the amendment provides waivers for nonimmigrants who wish to enter this country, those people who would come here for business or pleasure or medical treatment, to visit relatives, or to attend conference. In fact, this waiver authority covers nearly every purpose for which short-term visitors come to this country. In fact, we broadened it through this amendment.

Some argue that nearly all other countries in the world admit HIV-infected persons. But you are not hearing the full story. I have been in this immigration and refugee field since I came to the United States Senate. It was visited upon me, I did not seek it. It is an issue filled with emotion, fear, guilt, and racism. I tire of seeing people use it—using a deft blend of emotion, fear, guilt, and racism to try to get something skewed into the system.

Let me remind my colleagues that Canada, Australia, and the United States are virtually the only countries in the world—in the Western World—which accept any kind of significant numbers of permanent immigrants. Thus, when we are told in a passionate way that other countries allow HIV-infected persons to enter, and why do we not, they mean that they are allowed to enter as visitors, not to become permanent members of society. I think it behooves us to be honest when we speak of that issue, what we are really talking about. They are allowed to enter as visitors, but not one of those countries that they talk about as being so generous, allow persons to come as permanent members of their society who are infected with HIV.

Under this amendment, HIV-infected persons would be admitted to this country as visitors, as is the case in all other Western countries. As I mentioned yesterday when I spoke about the issue, we sought the assistance of the Public Health Service in drafting suitable language for the health-related grounds of exclusion. We accepted the term they proposed—they proposed this term. The term is "communicable disease of public health significance," to describe an illness which would prevent an alien from immigrating to the United States.

The administration is now proposing that infection with the AIDS virus is not a disease of "public health significance."

It seems to me there are two arguments against this position which need to be answered before our policy is changed.

One, is a disease which has reached epidemic proportions, killing more than 175,000 fellow Americans and infecting as many as a million-and-a-half more, a disease of public health significance?

That is a question, a pretty good question.

Two, is a disease which renders its victim terminally ill in every single instance, with medical care expenses reaching as much as $100,000 or more, a disease of "public health significance"?

On the basis of what we know today, I believe the answer to both of those questions obviously is yes.

It is certainly a contagious disease whose only prognosis as far as we know—and it is a terrible tragedy—is death, and which already affects 1.5 million Americans, is of public health significance. You bet it is.

How could it be decided or determined otherwise? How absurd. And also at a time when health care costs are one of the most significant elements in our current economic crisis, a disease, which has such high medical costs, has to be of public health significance unless one would argue that health care costs are not of public health significance.

It has been argued by some that the 1990 act gave the Secretary of HHS and the Public Health Service the authority to decide which diseases are of public health significance and that we should leave that decision with "the experts" and not let the politicians mess around with this one, and leave it with the experts where it belongs. I ascribed to that. Indeed, I did.

But what has happened, unfortunately, of the several diseases on the list, HIV infection is the only one that has become now a political football. When you want to leave it desperately with the experts, which I did in the 1990 bill, I did not believe any of those diseases would become political footballs—leprosy, tuberculosis, gonorrhea, syphilis—those things are in the exclusion. And it became a political issue during the past election campaign.

I am very concerned that the current proposal to remove HIV infection from the list is simply a political response, nothing more. As a policy decision, it is not based on any solid medical evidence, and if that is true that this is simply a political payoff, that is very sad, and I have a feeling that that is exactly what this is, under the pressure of a political campaign and a political response and a political payoff.

It is for this reason that I support this amendment which also makes it very clear that the Secretary of Health and Human Services has the full authority and discretion to continue to add or remove all other diseases included on the list. Some argue we do not need to have HIV as a medical exclusion because we have the public charge exclusion, which can be used to address the concerns about the health care costs of admitting aliens with the AIDS virus. The only way we know whether or not an immigrant is infected with the AIDS virus is through the blood test that every immigrant must now provide to identify the presence of excludable diseases. If HIV infection is removed from the list now of excludable diseases, the consular offices will not know whether or not the intending immigrant has HIV infection in order to be able to make a judgment on the public charge exclusion.

I hope that we can remember that in the debate. In other words, if we were to remove HIV as a medical exclusion and rely instead on the public charge exclusion, we would also have to provide that every intending immigrant submit to a blood test for HIV infection.

Let me just conclude by responding to a couple of items that have occurred in the debate. One of my fine colleagues stated that if this had been the law of Spain, that Magic Johnson could not have been able to play basketball in the Olympic games. I believe Senator BOXER responded in that fashion. I am enjoying very much getting to know Senator BOXER. She is a very able and articulate spokesman for her State and, she is going to be, and is already, a great addition to the United States Senate. I will be looking forward to working with her on immigration issues because certainly the State of California is the most impacted and affected State, not only with immigration but with refugee issues.

I will just say the Nickles amendment, this amendment, provides to the contrary. It provides for a waiver for visitors with the HIV infection. It is very important. That is not being heard in this debate. This is a very clear waiver system within this amendment, it is very specific, very clear and if any other country had had this law, all of our members of our dream team would not have played in any country on Earth.

Then my friend from Massachusetts, Senator KENNEDY, and I have been through the wars together with regard to immigration, refugee issues. With his help and support, we have passed some significant legislation over the past 14 years with regard to legal immigration. Even though he could not feel completely disposed to support the issue of illegal immigration, he was a sincere player in the entire debate. I enjoy him very much and he is a splendid legislator. But, again, I have already warned how easy it is in this body to slip into the area of emotion, fear, guilt, or racism. I respectfully say that it was, in my mind, inappropriate to state that the purpose perhaps of the Nickles amendment is to keep out those black Haitians who are rotting away at our naval base at Guantanamo. That is a very unfortunate statement because it is not so.

The Haitians at Guantanamo are awaiting admission as refugees. A refugee is a person fleeing persecution, or a well-founded fear of persecution, based on race, religion, national origin, or membership in some political or social organization. A person is not a refugee who simply does not like their country anymore, does not want to be drafted, does not like the economy but just wants out, or is frightened by something that happened in the political government within their district. That is not a refugee. Either we keep and stick with the U.N. definition of refugee and the U.S. definition—and that is what it is, but let us not make economic refugees political refugees. There is a difference. What happened in the previous administration, sadly, we found there were State Department refugees and INS and Justice Department refugees. That was a real mistake of the previous administration.

This amendment does not affect refugees who are admitted under another provision which allows waivers of medical exclusion.

So as we go through the debate, and we are nearly to conclude that, I urge my colleagues to support this amendment. After we have the President's report this fall and after the Congress has held hearings on the issue, as we should, as Senator KASSEBAUM continually alerted us to the costs involved and the danger to the public that is involved, we can make a truly informed decision as to whether or not HIV infection should be removed from the list of communicable diseases with "public health significance." It is a most important issue. We must do it right and honestly and not out of political pressure.

I thank the Chair.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Minnesota is recognized.

MORNING BUSINESS

Mr. WELLSTONE. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING APPOINTMENT OF COMMITTEE ON THE PART OF THE SENATE

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee, on the part of the Senate, to join with a like committee, on the part of the House of Representatives, to escort the President of the United States into the House Chamber for the joint session to be held at 9 p.m. this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

FUTURE FARMERS OF AMERICA

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 101, a joint resolution relating to the Future Farmers of America, just received from the House; that the joint resolution be deemed read 3 times and passed; that the motion to reconsider be laid upon the table; and that the preamble be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 101) was deemed read the third time and passed.

The preamble was agreed to.

A JOINT ADDRESS TO CONGRESS—MESSAGE FROM THE PRESIDENT—PM 4

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States which was ordered to lie on the table:

The PRESIDENT. Mr. President, Mr. Speaker, Members of the House and the Senate, distinguished Americans here as visitors in this Chamber, as am I, when Presidents speak to Congress and the Nation from this podium, typically they comment on the full range of challenges and opportunities that face the United States. But this is not an ordinary time, and for all the many tasks that require our attention, I believe tonight that one calls on us to focus, to unite, and to act, and that is our economy. For more than anything else, our task tonight as Americans is to make our economy thrive again.

Let me begin by saying that it has been too long, at least three decades, since a President has come and challenged Americans to join him on a great national journey, not merely to consume the bounty of today, but to invest for a much greater one tomorrow.

Like individuals, nations must ultimately decide how they wish to conduct themselves, how they wish to be thought of by those with whom they live, and, later, how they wish to be judged by history. Like every individual man and woman, nations must decide whether they are prepared to rise to the occasions history presents them.

We have always been a people of youthful energy and daring spirit. And at this historic moment, as communism has fallen, as freedom is spreading around the world, as a global economy is taking shape before our eyes, Americans have called for change. And now it is up to those of us in this room to deliver for them.

Our Nation needs a new direction. Tonight I present to you a comprehensive plan to set our Nation on that new course.

I believe we will find our new direction in the basic old values that brought us here over the last two centuries: a commitment to opportunity, to individual responsibility, to community, to work, to family, and to faith. We must now break the habits of both political parties and say there can be no more something for nothing, and admit, frankly, that we are all in this together.

The conditions which brought us as a Nation to this point are well known. Two decades of low productivity growth and stagnant wages; persistent unemployment and underemployment; years of huge government deficits and declining investment in our future; exploding health care costs and lack of coverage for millions of Americans; legions of poor children; education and job training opportunities inadequate to the demands of this tough global economy. For too long we have drifted without a strong sense of purpose, of responsibility, or of community. And our political system so often has seemed paralyzed by special interest groups, by partisan bickering, and by the sheer complexity of our problems.

I believe we can do better, because we remain the greatest nation of Earth, the world's strongest economy, the world's only military superpower. If we have the vision, the will, and the heart to make the changes we must, we can enter the 21st century with possibilities our parents could not even have imagined, and enter it having secured the American dream for ourselves and for future generations.

I well remember 12 years ago President Reagan stood at this very podium and told you and the American people that if our national debt were stacked in thousand-dollar bills, the stack would reach 67 miles into space. Well, today that stack would reach 267 miles.

I tell you this not to assign blame for this problem. There is plenty of blame to go around, in both branches of the Government and both parties. The time has come for the blame to end. I did not seek this office to place blame. I come here tonight to accept responsibility, and I want you to accept responsibility with me. And if we do right by this country, I do not care who gets the credit for it.

The plan I offer you has four fundamental components:

First, it shifts our emphasis in public and private spending from consumption to investment, initially by jump-starting the economy in the short term and investing in our people, their jobs, and their incomes, over the long run.

Second, it changes the rhetoric of the past into the actions of the present, by honoring work and families in every part of our public decisionmaking.

Third, it substantially reduces the Federal deficit, honestly and credibly, by using in the beginning the most conservative estimates of government revenues, not as the executive branch has done so often in the past, using the most optimistic ones.

Finally, it seeks to earn the trust of the American people by paying for these plans first with cuts in government waste and inefficiency. Second, with cuts, not gimmicks, in Government spending, and by fairness, for a change, in the way the burdens are borne.

Tonight I want to talk with you about what government can do, because I believe government must do more. But let me say first that the real engine of economic growth in this country is the private sector. And, second, that each of us must be an engine of growth and change. The truth is that as government creates more opportunity in this new and different time, we must also demand more responsibility in return.

Our immediate priority must be to create jobs, create jobs now. Some people say, well, we are in a recovery. We don't have to do that. Well, we all hope we are in a recovery, but we sure are not creating new jobs. And there is no recovery worth its salt that doesn't put the American people back to work.

To create jobs and guarantee a strong recovery, I call on Congress to enact an immediate package of jobs investments of over $30 billion to put people to work now, to create a half-million jobs: jobs to rebuild our highways and airports, to renovate housing, to bring new life to rural communities, and to spread hope and opportunity among our Nation's youth. Especially I want to emphasize after the events of last year in Los Angeles and the countless stories of despair in our cities and in our poor rural communities, this proposal will create almost 700,000 new summer jobs for displaced unemployed young people alone this summer. And tonight I invite America's business leaders to join us in this effort, so that together we can provide over 1 million summer jobs in cities and poor rural areas for our young people.

Second, our plan looks beyond today's business cycle, because our aspirations extend into the next century. The heart of this plan deals with the long term. It is an investment program designed to increase public and private investment in areas critical to our economic future. And it has a deficit-reduction program that will increase the savings available for the private sector to invest, will lower interest rates, will decrease the percentage of the Federal budget claimed by interest payments, and decrease the risk of financial-market disruption that could adversely affect our economy.

Over the long run, all this will bring us a higher rate of economic growth, improved productivity, more high-quality jobs, and an improved economic competitive position in the world.

In order to accomplish both increased investment and deficit reduction, something no American Government has ever been called upon to do at the same time before, spending must be cut and taxes must be raised. The spending cuts I recommend were carefully thought through in a way to minimize any adverse economic impact, to capture the peace dividend for investment purposes, and to switch the balance in the budget from consumption to more investment. The tax increases and the spending cuts were both designed to assure that the cost of this historic program to face and deal with our problems will be borne by those who could readily afford it the most.

Our plan is designed, furthermore, and perhaps in some ways most importantly, to improve the health of American business through lower interest rates, more incentives to invest, and better-trained workers. Because small business has created such a high percentage of all the new jobs in our Nation over the last 10 or 15 years, our plan includes the boldest targeted incentives for small business in history. We propose a permanent investment tax credit for the smallest firms in this country, with revenues under $5 million. That is about 90 percent of the firms in America, employing about 40 percent of the work force, but creating a big majority of the net new jobs in more than a decade.

We propose new rewards for entrepreneurs to take new risks. We propose to give small business access to all the new technologies of our time, and we propose to attack this credit crunch, which has denied small business the credit they need to flourish and prosper.

With a new network of community development banks, and $1 billion to make the dream of enterprise zones real, we propose to bring new hope and new jobs to storefronts and factories from south Boston to south Texas to south-central Los Angeles.

This plan invests in our roads, our bridges, our transit systems, in high-speed railways, and high-tech information systems, and it provides the most ambitious environmental cleanup in partnership with State and local government of our time, to put people to work and to preserve the environment for our future.

Standing as we are on the edge of a new century, we know that economic growth depends as never before on opening up new markets overseas and expanding the volume of world trade. And so we will insist on fair trade rules in international markets as a part of a national economic strategy to expand trade, including the successful completion of the latest round of world trade talks and the successful completion of a North American Free Trade Agreement with appropriate safeguards for our workers and for the environment. At the same time, and I say this to you in both parties and across America tonight, all the people who are listening, it is not enough to pass a budget or even to have a trade agreement. The world is changing so fast that we must have aggressive targeted attempts to create the high-wage jobs of the future. That is what all our competitors are doing. Special attention to those critical industries that are going to explode in the 21st century, but are in trouble in America today, like aerospace. We must provide special assistance to areas and to workers displaced by cuts in the defense budget and by other unavoidable economic dislocations.

Again I will say that we must do this together. I pledge to you that I will do my best to see that business and labor and government work together for a change.

But all of our efforts to strengthen the economy will fail—let me say this again, I feel so strongly about this—all of our efforts to strengthen the economy will fail unless we also take this year, not next year, not 5 years from now, but this year, bold steps to reform our health care system.

In 1992 we spent 14 percent of our income on health care, more than 30 percent more than any other country in the world, and yet we were the only advanced nation that did not provide a basic package of health care benefits to all of its citizens. Unless we change the present pattern, 50 percent of the growth in the deficit between now and the year 2000 will be in health care costs. By the year 2000 almost 20 percent of our income will be in health care. Our families will never be secure, our businesses will never be strong, and our Government will never again be fully solvent until we tackle the health care crisis. We must do it this year.

The combination of the rising cost of care and the lack of care and the fear of losing care are endangering the security and the very lives of millions of our people, and they are weakening our economy every day. Reducing health care costs can liberate literally hundreds of billions of dollars for new investment in growth and jobs. Bringing health costs in line with inflation would do more for the private sector in this country than any tax cut we could give and any spending program we could promote. Reforming health care over the long run is critically essential to reducing not only our deficit, but to expanding investment in America.

Later this spring, after the First Lady and many good people who are helping her all across the country complete their work, I will deliver to Congress a comprehensive plan for health care reform that finally will bring costs under control and provide security to all of our families, so that no one will be denied the coverage they need, but so that our economic future will not be compromised either. We will have to root out fraud and overcharges and make sure that paperwork no longer chokes your doctor. We will have to maintain the highest American standards, and the right to choose, and a system that is the world's finest for all those who can access it. But first we must make choices. We must choose to give the American people the quality they demand and deserve with a system that will not bankrupt the country or further drive more Americans into agony.

Let me further say that I want to work with all of you on this. I realize this is a complicated issue. But we must address it. And I believe if there is any chance that Democrats or Republicans who disagree on taxes or spending or anything else can agree on one thing, surely we can all look at these numbers and go home and tell our people the truth—we cannot continue these spending patterns in public or private dollars for health care for less and less and less every year. We can do better.

Perhaps the most fundamental change the new direction I propose offers is its focus on the future and its investment which I seek in our children. Each day we delay really making a commitment to our children carries a dear cost. Half of the two-year-olds in this country today don't receive the immunizations they need against deadly diseases. Our plan will provide them for every eligible child, and we know now that we will save $10 later for every $1 we spend by eliminating preventable childhood diseases. That is a good investment no matter how you measure it.

The Women, Infants, and Children nutrition program will be expanded so that every expectant mother who needs the help gets it.

We all know that Head Start, a program that prepares children for school, is a success story. We all know that it saves money. But today it just reaches barely over a third of all the eligible children. Under this plan every eligible child will be able to get a head start. This is not just the right thing to do, it is the smart thing to do. For every dollar we invest today, we will save three tomorrow. We have to start thinking about tomorrow. I've heard that somewhere before.

We have to ask more in our schools, of our students, our teachers, our principals, our parents. Yes, we must give them the resources they need to meet high standards. But we must also use the authority and the influence and the funding of the Education Department to promote strategies that really work in learning. Money alone is not enough. We have to do what really works to increase learning in our schools.

All of our high school graduates need some further education in order to be competitive in this global economy, so we have to establish a partnership between businesses and education and the Government for apprenticeship programs in every State in this country to give our people the skills they need.

Lifelong learning will benefit not just young high school graduates, but workers too throughout their careers. The average 18-year-old today will change jobs seven times in a lifetime. We have done a lot in this country on worker training in the last few years, but the system is too fractured. We must develop a unified, simplified, sensible, streamlined worker training program so that workers receive the training they need, regardless of why they lost their jobs or whether they simply need to learn something new to keep them. We have got to do better than this.

Finally, I propose a program that got a great response from the American people all across this country last year, a program of national service to make college loans available to all Americans, and to challenge them at the same time to give something back to their country—as teachers, or police officers, or as community service workers. To give them the option to pay the loans back, but at tax time, so they can't beat the bill, but to encourage them instead to pay it back by making their country stronger and making their country better, and giving us the benefit of their time.

A generation ago when President Kennedy proposed and the United States Congress embraced the Peace Corps, it defined the character of a whole generation of Americans committed to serving people around the world. In this national service program we will provide more than twice as many slots for people before they go to college to be in national service than ever served in the Peace Corps. This program could do for this generation of Members of Congress what the Land Grant College Act did and what the G.I. Bill did for former Congressmen. In the future historians who got their education through the national service loan will look back on you and thank you for giving America a new lease on life if you meet this challenge.

If we believe in jobs and we believe in learning, we must believe in rewarding work. If we believe in restoring the values that make America special, we must believe that there is dignity in all work, and there must be dignity for all workers. To those who care for our sick, who tend our children, who do our most difficult and tiring jobs, the new direction I propose will make this solemn, simple commitment: by expanding the refundable earned income tax credit, we will make history. We will reward the work of millions of working poor Americans by realizing the principle that if you work 40 hours a week and you have got a child in the house, you will no longer be in poverty.

Later this year we will offer a plan to end welfare as we know it. I have worked on this issue for the better part of a decade, and I know from personal conversations with many people, that no one, no one wants to change the welfare system as badly as those who are trapped in it.

I want to offer the people on welfare the education, the training, the child care, and the health care they need to get back on their feet. But, say, after 2 years, they must get back to work, too, in private business if possible, in public service if necessary. We have to end welfare as a way of life and make it a path to independence and dignity.

Our next great goal should be to strengthen our families. I compliment the Congress for passing the Family and Medical Leave Act as a good first step, but it is time to do more. This plan will give this country the toughest child support enforcement system it has ever had. It is time to demand that people take responsibility for the children they bring into this world.

I ask you to help to protect our families against the violent crime which terrorizes our people and which tears our communities apart. We must pass a tough crime bill. I support not only the bill which did not quite make it to the President's desk last year, but also an initiative to put 100,000 more police officers on the street, to provide boot camps for first-time nonviolent offenders, for more space for the hardened criminals in jail, and I support an initiative to do what we can to keep guns out of the hands of criminals. Let me say this: I will make you this bargain; if you will pass the Brady bill, I will sure sign it.

Let me say now we should move to the harder parts. I think it is clear to every American, including every Member of Congress of both parties, that the confidence of the people who pay our bills in our institutions in Washington is not high. We must restore it. We must begin again to make government work for ordinary taxpayers, not simply for organized interest groups. And that beginning will start with real political reform.

I am asking the United States Congress to pass a real campaign finance reform bill this year. I ask you to increase the participation of the American people by passing the motor-voter bill promptly. I ask you to deal with the undue influence of special interests by passing a bill to end the tax deduction for lobbying and to act quickly to require all the people who lobby you to register as lobbyists by passing the lobbying registration bill.

Believe me, they were cheering that last section at home. I believe lobby reform and campaign finance reform are a sure path to increased popularity for Republicans and Democrats alike, because it says to the voters back home, this is your House, this is your Senate. We are your hired hands, and every penny we draw is your money.

Next to revolutionize government we have to ensure that we live within our means, and that should start at the top and with the White House. In the last few days I have announced a cut in the White House staff of 25 percent, saving approximately $10 million. I have ordered administrative cuts in budgets of agencies and departments. I have cut the Federal bureaucracy, or will over the next 4 years, by approximately 100,000 positions, for a combined savings of $9 billion.

It is time for government to demonstrate in the condition we are in that we can be as frugal as any household in America. And that is why I also want to congratulate the Congress. I noticed in meeting with the leadership today that Congress cut its cost. I think that is important. I think it will send a very clear signal to the American people.

But if we really want to cut spending, we are going to have to do more. And some of it will be difficult. Tonight I call for an across-the-board freeze in Federal Government salaries for 1 year. Thereafter, during this 4-year period, I recommend that salaries rise at one point lower than the cost-of-living allowance normally involved in Federal pay increases.

Next I recommend that we make 150 specific budget cuts, as you know, and that all those who say we should cut more be as specific as I have been.

Finally, let me say to my friends on both sides of the aisle, it is not enough simply to cut government. We have to rethink the whole way it works. When I became President I was amazed at just the way the White House worked in ways that added lots of money to what taxpayers had to pay, outmoded ways that didn't take maximum advantage of technology and did not do things that any business would have done years ago to save taxpayers money. So I want to bring a new spirit of innovation into every government department. I want to push education reform, as I said, not just to spend more money, but to really improve learning. Some things work and some things don't. We ought to be subsidizing the things that work, and discouraging the things that don't.

I would like to use that Superfund to clean up pollution for a change, and not just pay lawyers.

We must use Federal bank regulators to protect the security and safety of our financial institutions, but they should not be used to continue the credit crunch and to stop people from making sensible loans.

I would like for us to not only have welfare reform, but to reexamine the whole focus of all of our programs that help people, to shift them from entitlement programs to empowerment programs. In the end, we want people not to need us any more, and I think that is important.

But in the end, we have to get back to the deficit. For years, there has been a lot of talk about it, but very few credible efforts to deal with it. And now I understand why, having dealt with the real numbers for 4 weeks. But I believe this plan does. It tackles the budget deficit seriously, and over the long term. It puts in place one of the biggest deficit reductions and one of the biggest changes in Federal priorities, from consumption to investment, in the history of this country at the same time over the next four years.

Let me say to all the people watching us tonight who will ask me these questions beginning tomorrow as I go around the country, who have asked it in the past, we are not cutting the deficit just because experts say it is the thing to do or because it has some intrinsic merit. We have to cut the deficit because the more we spend paying off the debt, the less tax dollars we have to invest in jobs, in education, and the future of this country. And the more money we take out of the pool of available savings, the harder it is for people in the private sector to borrow money at affordable interest rates for a college loan for their children, for a home mortgage, or to start a new business. That is why we have got to reduce the debt, because it is crowding out other activities that we ought to be engaged in and that the American people ought to be engaged in.

We cut the deficit so that our children will be able to buy a home, so that our companies can invest in the future, in retraining its workers, and so that our government can make the kinds of investments we need to be a stronger and smarter and safer Nation.

If we don't act now, you and I might not even recognize this government 10 years from now. If we just stay with the same trends of the last 4 years, by the end of the decade the deficit will be $635 billion a year, almost 80 percent of our gross domestic product. And paying the interest on that debt will be the costliest government program of all. We will still be the world's largest debtor. And when Members of Congress come here, they will be devoting over 20 cents on the dollar to interest payments, more than half of the budget to health care and to other entitlements, and you will come here and deliberate and argue over 6 or 7 cents on the dollar, no matter what America's problems are.

We will not be able to have the independence we need to chart the future that we must, and we will be terribly dependent on foreign funds for a large portion of our investment.

This budget plan, by contrast, will by 1997 cut $140 billion in that year alone from the deficit, a real spending cut, a real revenue increase, a real deficit reduction, using the independent numbers of the Congressional Budget Office.

Well, you can laugh, my fellow Republicans, but I will point out that the Congressional Budget Office was normally more conservative about what was going to happen and closer to right than previous Presidents have been. I did this so that we could argue about priorities with the same set of numbers.

I did this so no one could say I am estimating my way out of this difficulty. I did this because if we can agree together on the most prudent revenues we are likely to get if the recovery stays and we do right things economically, then it will turn out better for the American people than we say. In the last 12 years, because there were differences over the revenue estimates, you and I know that both parties were given greater elbow room for irresponsibility. This is tightening the rein on the Democrats as well as the Republicans. Let's at least argue about the same set of numbers so the American people will think we are being straight with them.

As I said earlier, my recommendation makes more than 150 difficult reductions to cut the Federal spending by a total of $246 billion. We are eliminating programs that are no longer needed, such as nuclear power research and development. We are slashing subsidies and cancelling wasteful projects. Many of these programs were justified in their time. A lot of them are difficult for me to recommend reduction in. Some really tough ones for me personally. I recommend that we reduce interest subsidies to the Rural Electric Administration. This is a difficult thing for me to recommend. But I think that I cannot exempt the things that exist in my State or in my experience if I ask you to deal with things that are difficult for you to deal with. We are going to have no sacred cows, except the fundamental abiding interests of the American people.

I have to say that we all know our government has been just great at building programs. The time has come to show the American people that we can limit them, too. We cannot only start things, but we can actually stop things. As we restructure our military forces to meet the new threats of the post-Cold War World, it is true that we can responsibly reduce our defense budget. And we may all doubt what that range of reduction is. But let me say that as long as I am President, I will do everything I can to make sure that the men and women who serve under the American Flag will remain the best trained, the best prepared, the best equipped fighting force in the world, and every one of you should make that solemn pledge. We still have responsibilities around the world. We are the world's only superpower. This is still a dangerous and uncertain time. And we owe it to the people in uniform to make sure that we adequately provide for the national defense and for their interests and needs.

Backed by an effective national defense and a stronger economy, our Nation will be prepared to lead a world challenge, as it is everywhere, by ethnic conflicts, by the proliferation of weapons of mass destruction, by the global democratic revolution, and by challenges to the health of our global environment.

I know this economic plan is ambitious, but I honestly believe it is necessary for the continued greatness of the United States. And I think it is paid for fairly, first by cutting government, then by asking the most of those who benefited the most in the past, and by asking more Americans to contribute today so that all of us can prosper tomorrow.

For the wealthiest, those earning more than $180,000 per year, I ask you who are listening tonight to support a raise in the top rate for Federal income taxes from 31 to 36 percent. We recommend a 10 percent surtax on incomes over $250,000 a year. And we recommend closing some loopholes that let some people get away without paying any tax at all.

For businesses with taxable incomes in excess of $10 million, we recommend a raise in the corporate tax rate also to 36 percent, as well as a cut in the deduction for business entertainment expenses.

Our plan seeks to attack tax subsidies that actually reward companies more for shutting their operations down here and moving them overseas than for staying here and reinvesting in America. I say that as someone who believes that American companies should be free to invest around the world and as a former Governor who actively sought investment of foreign companies in my State. But the Tax Code should not express a preference to American companies for moving somewhere else, and it does in particular places today.

We will seek to ensure that through effective tax enforcement, foreign corporations who do make money in America simply pay the same taxes that American companies make on the same income.

To middle-class Americans who have paid a great deal for the last 12 years, and from whom I ask a contribution tonight, I will say again, as I did on Monday night, you are not going alone anymore, you are certainly not going first, and you are not going to pay more for less as you have too often in the past.

I want to emphasize the facts about this plan: 98.8 percent of America's families will have no increase in their income-tax rates, only 1.2 percent at the top.

Let me be clear: There will also be no new cuts in benefits for Medicare. As we move towards the fourth year with the explosion in health care costs, as I said, expected to account for 50 percent of the growth in the deficit between now and the year 2000, there must be planned cuts in payments to providers, to doctors, to hospitals, to labs, as a way of controlling health care costs. But I see these only as a stopgap until we can reform the entire health care system. If you will let me do that, we can be fair to the providers and to the consumers of health care.

Let me repeat this, because I know it matters to a lot of you on both sides of the aisle. This plan does not make a recommendation for new cuts in Medicare benefits for any beneficiary.

Secondly, the only change we are making in Social Security is one that has already been publicized. The plan does ask older Americans with higher incomes who do not rely solely on Social Security to get by to contribute more. This plan will not affect the 80 percent of Social Security recipients who do not pay taxes on Social Security now. Those who do not pay tax on Social Security now will not be affected by this plan.

Our plan does include a broad-based tax on energy. And I want to tell you why I selected this and why I think it is a good idea. I recommend that we adopt a BTU tax on the heat content of energy as the best way to provide us with revenue to lower the deficit, because it also combats pollution, promotes energy efficiency, promotes the independence economically of this country, as well as helping to reduce the debt, and because it does not discriminate against any area. Unlike a carbon tax, it is not too hard on the coal States. Unlike a gas tax, it is not too tough on people who drive a long way to work. Unlike an ad valorem tax, it doesn't increase just when the price of an energy source goes up. And it is environmentally responsible. It will help us in the future, as well as in the present, with the deficit.

Taken together, these measures will cost an American family with an income of about $40,000 a year less than $17 a month. It will cost American families with incomes under $30,000 nothing because of other programs we propose, principally those raising the earned income tax credit.

Because of our publicly stated determination to reduce the deficit, if we do these things we will see the continuation of what has happened just since the election. Just since the election, since the Secretary of the Treasury, the Director of the Office of Management and Budget, and others have begun to speak out publicly in favor of a tough deficit-reduction plan, interest rates have continued to fall long-term. That means that, for the middle class who will pay something more each month, if they have any credit needs or demands, their increased energy costs will be more than offset by lower interests costs for mortgages, consumer loans, and credit cards. This can be a wise investment for them and their country now.

I would also point out what the American people already know, and that is because we are a big vast country, where we drive long distances, we have maintained far lower burdens on energy than any other advanced country. We will still have far lower burdens on energy than any other advanced country, and these will be spread fairly, with real attempts to make sure that no cost is imposed on families with income under $30,000, and that the costs are very modest until you get into the higher income groups where the income taxes trigger in.

Now I ask all of you to consider this. Whatever you think of the tax program, whatever you think of the spending cuts, consider the cost of not changing. Remember the numbers that you all know. If we just keep on doing what we are doing, by the end of the decade we will have a $650-billion-a-year deficit. If we just keep on doing what we are doing, by the end of the decade 20 percent of our national income will go to health care every year, twice as much as any other country on the face of the globe. If we just keep on doing what we are doing, over 20 cents on the dollar will have to go to service the debt.

Unless we have the courage now to start building our future and stop borrowing from it, we are condemning ourselves to years of stagnation, interrupted by occasional recessions; to slow growth in jobs, to no more growth in incomes, to more debt, to more disappointment.

Worse yet, unless we change, unless we increase investment and reduce the debt, to raise productivity so that we can generate both jobs and incomes, we will be condemning our children and our children's children to a lesser life than we enjoyed.

Once Americans looked forward to doubling their living standards every 25 years. At present productivity rates, it will take 100 years to double living standards, until our grandchildren's grandchildren are born. I say that is too long to wait.

Tonight the American people know we have to change. But they are also likely to ask me tomorrow, and all of you for the weeks and months ahead, whether we have the fortitude to make the changes happen in the right way.

They know that as soon as I leave this Chamber and you go home, various interest groups will be out in force lobbying against this or that piece of this plan, and that the forces of conventional wisdom will offer 1,000 reasons why we well ought to do this, but we just can't do it. Our people will be watching and wondering, not to see whether you disagree with me on a particular issue, but just to see whether this is going to be business as usual, or a real new day. Whether we are all going to conduct ourselves as if we know we are working for them.

We must scale the walls of the people's skepticism. Not with our words, but with our deeds. After so many years of gridlock and indecision, after so many hopeful beginnings and so few promising results, the American people are going to be harsh in their judgments of all of us if we fail to seize this moment.

This economic plan can't please everybody. If the package is picked apart, there will be something that will anger each of us. It won't please anybody. But if it is taken as a whole, it will help all of us.

So I ask you all to begin by resisting the temptation to focus only on a particular spending cut you don't like or some particular investment that wasn't made. And nobody likes the tax increases. But let's just face facts: For 20 years, through administrations of both parties, incomes have stalled and debt has exploded and productivity has not grown as it should. We cannot deny the reality of our condition. We have got to play the hand we were dealt and play it as best we can.

My fellow Americans, the test of this plan cannot be what is in it for me. It has got to be what is in it for us.

If we work hard, and if we work together, if we rededicate ourselves to creating jobs, to rewarding work, to strengthening our families, to reinventing our Government, we can lift our country's fortunes again.

Tonight I ask everyone in this Chamber, every American, to look simply into your own heart, to spark your own hopes, to fire your own imagination. There is so much good, so much possibility, so much excitement in this country now, that if we act boldly and honestly, as leaders should, our legacy will be one of prosperity and progress. This must be America's new direction. Let us summon the courage to seize it.

Thank you. God bless America.

[Applause, the Members rising.]

MESSAGES FROM THE HOUSE

At 5:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of their reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 39. A concurrent resolution providing for a joint session of Congress to receive a message from the President.

The message also announced that pursuant to the provisions of 15 United States Code 1024(a), and the order of the House of Thursday, February 4, 1993, authorizing the Speaker and the minority leader to accept resignations and to make appointments authorized by law or by the House, the Speaker on February 4, 1993, appointed as members of the Joint Economic Committee the following Members on the part of the House: Representatives ARMEY, SAXTON, COX, and RAMSTAD.

The message further announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2. An act to establish national voter registration procedures for Federal elections, and for other purposes;

H.R. 750. An act to extend the Export Administration Act of 1979 and to authorize appropriations under that act for fiscal years 1993 and 1994; and

H.J. Res. 101. A joint resolution to designate February 21 through February 27, 1993, as "National FFA Organization Awareness Week."

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2. An act to establish national voter registration procedures for Federal elections, and for other purposes; to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND:

S. 378. A bill to amend the provisions of titles 5 and 10, United States Code, to provide for the extension of certain annuity benefits for widow, widowers, and former spouses under Federal employee and military retirement systems, and for other purposes; to the Committee on Governmental Affairs.

By Mr. CHAFEE:

S. 379. A bill to amend the Internal Revenue Code of 1986 to increase the rollover period on principal residences for taxpayers whose assets are frozen in financial institutions; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. WELLSTONE, Mr. CHAFEE, and Mr. DURENBERGER):

S. 380. A bill to establish a Department of Environmental Protection, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DASCHLE:

S. 381. A bill to amend the Internal Revenue Code of 1986 to make permanent, and to increase to 100 percent, the deduction of self-employed individuals for health insurance costs; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. RIEGLE, Mr. MITCHELL, Mr. BRADLEY, Mr. ROCKEFELLER, Mr. DASCHLE, and Mr. CONRAD) (by request):

S. 382. A bill to extend the emergency unemployment compensation program, and for other purposes; to the Committee on Finance.

By Mr. PELL (for himself, Mr. KENNEDY, Mr. JEFFORDS, and Mr. SIMON):

S. 383. A bill to shift Impact Aid funding responsibility for military connected children from the Department of Education to the Department of Defense; to the Committee on Labor and Human Resources.

By Mr. D'AMATO (for himself, Mr. DODD, Mr. BRYAN, Mr. DOLE, Mr. BOND, Mr. GRAMM, Mr. MACK, Mr. FAIRCLOTH, Mr. BENNETT, Mr. DOMENICI, Mr. SHELBY, Mr. CHAFEE, Mr. NICKLES, Mr. CONRAD, Mr. MURKOWSKI, Mr. STEVENS, Mr. LIEBERMAN, Mr. COHEN, Mr. PRESSLER, Mr. GORTON, Mrs. KASSEBAUM, Mr. DANFORTH, and Mr. JEFFORDS):

S. 384. A bill to increase the availability of credit to small businesses by eliminating impediments to securitization and facilitating the development of a secondary market in small business loans, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. RIEGLE (for himself and Mr. LEVIN):

S. 385. A bill to change the tariff classification for light trucks; to the Committee on Finance.

By Mrs. MURRAY (for herself, Mr. GRASSLEY, and Mr. PRESSLER):

S.J. Res. 48. A joint resolution to designate February 21 through February 27, 1993, as "National FFA Organization Awareness Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND:

S. 378. A bill to amend the provisions of titles 5 and 10, United States Code, to provide for the extension of certain annuity benefits for widow, widowers, and former spouses under Federal employee and military retirement systems, and for other purposes; to the Committee on Governmental Affairs.

MILITARY SPOUSES EQUITY ACT OF 1993

Mr. THURMOND. Mr. President, I rise today to introduce legislation to correct an inequity which exists for surviving spouses of the members of our Armed Forces and Federal employees.

Currently, the spouse of a soldier who is entitled to a survivor annuity faces termination of benefits if a remarriage occurs before age 55. Clearly this is sound policy when the annuitant had been married to the deceased soldier for a short period of time. Under those circumstances, a surviving widow or widower would not reasonably expect to be a long-term beneficiary of a survivor annuity upon remarriage before age 55. However, it is my belief that if the marriage was for a period of 20 years or more before the soldier dies, then a person entitled to the survivor benefits should not be punished by a termination of those benefits if there is a remarriage before age 55.

Service in the Armed Forces is a noble profession and calls for great sacrifice by those who wear the uniform and their spouses. Oftentimes, a soldier's assignment is to a distant post and separation from one's spouse during this time can be a difficult experience. Even on those occasions when the spouse moves to be with the soldier on or off the base, it calls for compromise and patience for the married couples.

The defense of our Nation and service to this great country is essential to our national security interests. The moral support and encouragement of a spouse is a valuable asset that receives little recognition.

On a number of occasions, I have heard from surviving spouses of our soldiers who have told me that they had long supported their husband or wife during difficult times for the soldier in their military career. Yet, they believe they are being unduly punished for continuing with their lives in normal and predictable fashion after the death of their soldier spouse. Although a small concession for losing a loved one, they would receive a survivor annuity but only if they did not remarry before age 55.

I believe that this legislation will provide recognition to those who serve that their Government will honor their commitment and continue annuity payments to their surviving spouse who had stood by them for so many years during their military career.

Mr. President, I urge my colleagues to support this legislation and ask unanimous consent that it be printed in the RECORD in this entirety following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF CERTAIN SURVIVOR ANNUITIES UNDER THE FEDERAL RETIREMENT SYSTEM.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8341 of title 5, United States Code, is amended—

(1) in subsection (b)(3)(B) by inserting before the period ", unless the marriage of the widow or widower and the employee or the Member (upon whom the entitlement of such annuity is based) is a period of 20 years or more";

(2) in clause (ii) at the end of subsection (d) by inserting before the period ", unless the marriage of the widow or widower and the employee or the Member (upon whom the entitlement of such annuity is based) is a period of 20 years or more"; and

(3) in subsection (h)(3)(B)—

(A) in clause (i) by inserting after "55 years of age" the following: "(unless the marriage of the widow or widower and the employee or the Member, upon whom the entitlement of such annuity is based, is a period of 20 years or more)"; and

(B) in clause (ii) by inserting after "former spouse remarries" the following: "(unless the marriage of the widow or widower and the Member, upon whom the entitlement of such annuity is based, is a period of 20 years or more)".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—(1) Section 8442(d)(1)(B) of title 5, United States Code, is amended by inserting before the period ", unless the marriage of the widow or widower and the employee or the Member (upon whom the entitlement of such annuity is based) is a period of 20 years or more".

(2) Section 8445(c)(2) of title 5, United States Code, is amended by inserting after "55 years of age" the following: "(unless the marriage of the widow or widower and the employee or the Member, upon whom the entitlement of such annuity is based, is a period of 20 years or more)".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on and after the date of the enactment of this Act and shall apply with regard to a widow or widower who remarries before becoming 55 years of age on or after such date of enactment.

SEC. 2. CONTINUATION OF PAYMENT OF SURVIVOR BENEFIT PLAN ANNUITY UPON REMARRIAGE UNDER THE MILITARY RETIREMENT SYSTEM.

(a) IN GENERAL.—Section 1450(b) of title 10, United States Code, as amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2) Notwithstanding the second sentence of paragraph (1), in the case of a widow, or former spouse who was married for 20 years or more to a person to whom section 1448 of this title applies, payment of annuity to that widow, widower, or former spouse after the death of such person shall not be terminated pursuant to that sentence by reason of a remarriage of the widow, widower, or former spouse before reaching 55 years of age.".

(b) EFFECTIVE DATE.—Paragraph (2) of section 1450(b) of title 10, United States Code, shall take effect on the date of the enactment of this Act and shall apply with respect to remarriages described in such paragraph that occur on or after such date.

By Mr. CHAFEE:

S. 379. A bill to amend the Internal Revenue Code of 1986 to increase the rollover period on principal residences for taxpayers whose assets are frozen in financial institutions; to the Committee on Finance.

ROLLOVER EXTENSION ACT OF 1993

• Mr. CHAFEE. Mr. President, the bill I am introducing today will provide temporary relief to individuals in Rhode Island who were required to pay tax on the sale of their principal residence as a result of the State's banking crisis.

Under the Internal Revenue Code, homeowners may defer the payment of tax on the sale of their principle residence by purchasing a new one within 2 years. This 2-year requirement can only be extended under specific circumstances, and the IRS does not have the authority to waive it to take into consideration extraordinary situations such as occurred in Rhode Island.

Many Rhode Islanders who sold their homes over the last 2 years had placed the cash proceeds from the sale in a Rhode Island financial institution that was subsequently closed when the Governor declared a bank holiday on January 1, 1991. As a result, these individuals could not gain access to their downpayments and thus were unable to purchase a new principal residence within the 2-year period required to avoid paying the tax.

My bill extends the normal 2-year rollover period by the amount of time that their money was frozen in a closed institution. With this additional time, Rhode Islanders will now be able to take advantage of the tax deferral that would have been available to them had the bank holiday not occurred.

Without this legislation, Rhode Islanders who are already victims of my State's banking crisis will also be penalized by the 2-year rollover rule. I urge my colleagues to join me in supporting this bill so that we can enact it early this year and spare these individuals this unfair penalty.•

By Mr. ROTH (for himself, Mr. WELLSTONE, Mr. CHAFEE, and Mr. DURENBERGER):

S. 380. A bill to establish a Department of Environmental Protection, and for other purposes; to the Committee on Governmental Affairs.

DEPARTMENT OF ENVIRONMENTAL PROTECTION ACT

• Mr. ROTH. Mr. President, I rise today to introduce legislation to elevate the EPA to a Cabinet-level Department and thereby establish a new Department of the Environment. I am very pleased to be joined by my colleagues Senator WELLSTONE, Senator CHAFEE, and Senator DURENBERGER.

I strongly believe that our Federal planning and decisionmaking on domestic and international environmental issues must come from an organization with Cabinet-level stature because the protection of the environment is one of our top priorities. In the years to come we will see the nations of the world getting together to reach agreement on the important environmental issues that affect us all. During these negotiations it is important that our chief negotiator have Cabinet status. It is also critically important from the competitive point of view because global competition must be bound by the same strict environmental rules lest our firms be disadvantaged by others who are producing products cheap and dirty.

My colleague, Senator GLENN, and I worked very hard in the last Congress to pass an EPA elevation bill. Unfortunately we were unable to reach an agreement with the House of Representatives. This year the new administration has indicated its support for a Department of the Environment and Senator GLENN has reintroduced the legislation that we passed in the Senate on October 1, 1991.

Mr. President, you might wonder why last year's bill is not good enough today. To answer that question, I note that our former effort contained essentially two distinct parts. The first part was elevation of the EPA to Cabinet-level status. The second part was a series of environmental proposals such as a Bureau of Environmental Statistics, a National Academy of Sciences study on data collection, an international energy conference, and the establishment of a commission to study our environmental laws espoused by the chairman of the Governmental Affairs Committee.

For the last two Congresses, the second part has prevented the first part from achieving enactment into law. Issues extraneous to elevating EPA drew fire; they whet the appetite of other Members to add their own extraneous provisions; they serve as cover for some who oppose elevating EPA by allowing them to take issue with these extraneous proposals.

Of course, every Senator who offers an extraneous amendment believes it to be a good idea. The problem is that everyone in Congress might not agree. So if we adopt a strategy allowing good extraneous amendments to be added and bad ones to be opposed, there is no way to distinguish a good from a bad except by voting. In the last Congress, we adopted this strategy with the result that a controversial amendment which the chairman opposed was added to the Senate floor. The amendment then served as an impediment to the House action.

So if it is time that we learned from our mistakes in parliamentary strategy. If we do not initiate and pursue a clean-bill strategy—one restricted to elevating EPA, we have no basis on which to oppose Senate amendments and House amendments as bad extraneous amendments.

Therefore, Mr. President, I am introducing today what I call a clean bill, one whose only purpose is to elevate EPA. It is time to decide whether elevating EPA merits our allegiance or whether it is merely a circumstance to be used to force extraneous amendments upon unwilling Members of Congress.

I think we all realize how precious our environment is to us and how important it is that we be its guardians. We must demand the highest form of responsibility and action. The environmental legacy we leave for future generations depends on the right decisions being made today—and I hope you will agree with me that those decisions must be made by supporting a clean and simple Department of Environmental Protection bill.

I ask unanimous consent that the bill be printed in the RECORD at the conclusion of my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Environmental Protection Act".

TITLE I—REDESIGNATION OF ENVIRONMENTAL PROTECTION AGENCY AS DEPARTMENT OF ENVIRONMENTAL PROTECTION

SEC. 101. REDESIGNATION OF ENVIRONMENTAL PROTECTION AGENCY AS DEPARTMENT OF ENVIRONMENTAL PROTECTION.

(a) REDESIGNATION.—The Environmental Protection Agency is redesignated as the Department of Environmental Protection (hereinafter in this Act referred to as the "Department"), and shall be an executive department in the executive branch of the Government. The Department shall be headquartered at the seat of Government. The official acronym of the Department shall be "D.E.P.".

(b) SECRETARY OF THE ENVIRONMENT.—(1) There shall be at the head of the Department a Secretary of Environmental Protection (hereinafter in this Act referred to as the "Secretary") who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) OFFICE OF THE SECRETARY.—The Office of the Secretary shall consist of the Secretary and the Deputy Secretary appointed under subsection (d), and may include an Executive Secretary.

(c) TRANSFER.—The functions, powers, and duties of the Administrator, other officers and employees of the Environmental Protection Agency, and the various offices and agencies of the Environmental Protection Agency are transferred to and vested in the Secretary.

(d) DEPUTY SECRETARY.—There shall be in the Department a Deputy Secretary of Environmental Protection, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such functions as the Secretary shall prescribe, and shall act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the Office of the Secretary.

(e) DELEGATION OF AUTHORITY.—Except as provided in this Act and other existing laws, the Secretary may delegate any functions, including the making of regulations, to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as the Secretary considers to be necessary or appropriate.

SEC. 102. ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department such number of Assistant Secretaries, not to exceed 10, as the Secretary shall determine, each of whom—

(1) shall be appointed by the President, by and with the advice and consent of the Senate; and

(2) shall perform such functions as the Secretary shall prescribe.

(b) FUNCTIONS.—The Secretary shall assign to each Assistant Secretary of the Department such functions as the Secretary considers appropriate.

(c) DESIGNATION OF FUNCTIONS PRIOR TO CONFIRMATION.—Whenever the President submits the name of an individual to the Senate for confirmation as an Assistant Secretary under this section, the President shall state the particular functions of the Department (as assigned by the Secretary under subsection (b)) such individual will exercise upon taking office.

SEC. 103. DEPUTY ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department 20 Deputy Assistant Secretaries, or such number as the Secretary determines is appropriate.

(b) APPOINTMENTS.—Each Deputy Assistant Secretary—

(1) shall be appointed by the Secretary; and

(2) shall perform such functions as the Secretary shall prescribe.

(c) CAREER SENIOR EXECUTIVE SERVICE.—At least one-half of positions established under subsection (a) and filled by subsection (b) shall be in the career Senior Executive Service.

(d) FUNCTIONS.—Functions assigned to an Assistant Secretary under section 102(b) may be performed by one or more Deputy Assistant Secretaries appointed to assist such Assistant Secretary.

SEC. 104. OFFICE OF THE GENERAL COUNSEL.

(a) GENERAL COUNSEL.—There shall be in the Department the Office of the General Counsel. There shall be at the head of such office a General Counsel who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

SEC. 105. OFFICE OF INSPECTOR GENERAL.

The Office of Inspector General of the Environmental Protection Agency, established in accordance with the Inspector General Act of 1978 (5 U.S.C. App.), is redesignated as the Office of Inspector General of the Department of Environmental Protection.

SEC. 106. REGIONAL ADMINISTRATORS.

There shall be in the Department not more than 11 regional administrators, each of whom shall be appointed by the Secretary. Political affiliation or political qualification may not be the primary factor taken into account in connection with the appointment of any person to a position as a regional administrator of the Department. Each regional administrator shall—

(1) perform in accordance with applicable law such of the functions transferred or delegated to or vested in the Secretary as the Secretary shall prescribe in accordance with the provisions of this Act and other applicable law; and

(2) implement program policies and priorities as established by the Secretary, Assistant Secretaries, and Deputy Secretaries.

SEC. 107. CONTINUING PERFORMANCE OF FUNCTIONS.

(a) REDESIGNATION OF POSITIONS.—(1) The Administrator of the Environmental Protection Agency is redesignated as the Secretary of the Department of Environmental Protection.

(2) The Deputy Administrator of such agency is redesignated as the Deputy Secretary of the Department of Environmental Protection.

(3) Each Assistant Administrator of such agency is redesignated as an Assistant Secretary of the Department.

(4) The General Counsel of such agency is redesignated as the General Counsel of the Department.

(5) The Inspector General of such agency is redesignated as the Inspector General of the Department.

(b) NOT SUBJECT TO RENOMINATION OR RECONFIRMATION.—An individual serving at the pleasure of the President in a position that is redesignated by subsection (a) may continue to serve in and perform functions of that position after the date of the enactment of this Act without renomination by the President or reconfirmation by the Senate.

SEC. 108. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, reorganization plan, or delegation of authority, or in any document—

(1) to the Environmental Protection Agency is deemed to refer to the Department of Environmental Protection;

(2) to the Administrator of the Environmental Protection Agency is deemed to refer to the Secretary of Environmental Protection;

(3) to the Deputy Administrator of the Environmental Protection Agency is deemed to refer to the Deputy Secretary of Environmental Protection; and

(4) to an Assistant Administrator of the Environmental Protection Agency is deemed to refer to the corresponding Assistant Secretary of the Department of Environmental Protection who is assigned the functions of that Assistant Administrator.

SEC. 109. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, privileges, and other administrative actions—

(1) which have been issued, made, granted o allowed to become effective by the President, the Administrator or other authorized official of the Environmental Protection Agency, or by a court of competent jurisdiction, which relate to functions of the Administrator or any other officer or agent of the Environmental Protection Agency actions; and

(2) which are in effect at the time this Act takes effect;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—This Act shall not affect any proceeding, proposed rule, or application for any license, permit, certificate, or financial assistance pending before the Environmental Protection Agency at the time this Act takes effect, and such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) SUITS NOT AFFECTED.—This Act shall not affect suits commenced before the effective date of this Act, and in all such suits proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Environmental Protection Agency, or by or against any individual in the official capacity of such individual as an officer of the Environmental Protection Agency, shall be abated by reason of the enactment of this Act.

(e) PROPERTY AND RESOURCES.—The contracts, liabilities, records, property, and other assets and interests of the Environmental Protection Agency shall, after the effective date of this Act, be considered to be contracts, liabilities, records, property, and other assets and interests of the Department.

SEC. 110. CONFORMING AMENDMENTS.

(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end thereof the following: ", Secretary of Environmental Protection".

(b) DEFINITION OF DEPARTMENT IN CIVIL SERVICE LAWS.—Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Environmental Protection.".

(c) COMPENSATION, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Secretary of Environmental Protection.".

(d) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking "Administrator of Environmental Protection Agency" and inserting in lieu thereof "Deputy Secretary of Environmental Protection".

(e) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking "Inspector General, Environmental Protection Agency" and inserting in lieu thereof "Inspector General, Department of Environmental Protection";

(2) by striking each reference to an Assistant Administrator, or Assistant Administrators, of the Environmental Protection Agency; and

(3) by adding at the end thereof the following:

"Assistant Secretaries, Department of Environmental Protection.

"General Counsel, Department of Environmental Protection.".

(f) INSPECTOR GENERAL ACT.—The Inspector General Act of 1978 is amended—

(1) in section 11(1)—

(A) by inserting "Environmental Protection," after "Energy,"; and

(B) by striking "Environmental Protection,"; and

(2) in section 11(2)—

(A) by inserting "Environmental Protection," after "Energy,"; and

(B) by striking "the Environmental Protection Agency,".

SEC. 111. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and other appropriate committees of the Congress, the Secretary shall prepare and submit to the Congress proposed legislation containing technical and conforming amendments to the laws of the United States, to reflect the changes made by this Act. Such proposed legislation shall be submitted not later than 1 year after the effective date of this Act.

TITLE II—ADMINISTRATIVE PROVISIONS

SEC. 201. ACQUISITION OF COPYRIGHTS AND PATENTS.

The Secretary may acquire any of the following rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) Copyrights, patents, and applications for patents, designs, processes, and manufacturing data.

(2) Licenses under copyrights, patents, and applications for patents.

(3) Releases, before suit is brought, for past infringement of patents or copyrights.

SEC. 202. GIFTS AND BEQUESTS.

The Secretary may accept, hold, administer, and utilize gifts, bequests, and devises of real or personal property for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

SEC. 203. OFFICIAL SEAL OF DEPARTMENT.

On and after the effective date of this Act, the seal of the Environmental Protection Agency, with appropriate changes, shall be the official seal of the Department, until such time as the Secretary may cause an official seal to be made for the Department of such design as the Secretary shall approve.

SEC. 204. USE OF LIKENESS OF OFFICIAL SEAL OF DEPARTMENT.

(a) DISPLAY OF SEAL.—Whoever knowingly displays any printed or other likeness of the official seal of the Department, or any facsimile thereof, in or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any building, monument, or stationery, for the purpose of conveying, or in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, shall be fined not more than $250 or imprisoned not more than 6 months, or both.

(b) MANUFACTURE, REPRODUCTION, SALE, OR PURCHASES FOR RESALE.—Except as authorized under regulations promulgated by the Secretary and published in the Federal Register, whoever knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the official seal of the Department or any substantial part thereof (except for manufacture or sale of the article for the official use of the Government of the United States), shall be fined not more than $250 or imprisoned not more than 6 months, or both.

(c) INJUNCTIONS.—A violation of subsection (a) or (b) may be enjoined by an action brought by the Attorney General in the appropriate district court of the United States. The Attorney General shall file such an action upon request of the Secretary or any authorized representative of the Secretary.

SEC. 205. USE OF STATIONERY, PRINTED FORMS, AND SUPPLIES OF ENVIRONMENTAL PROTECTION AGENCY.

The Secretary shall ensure that, to the extent practicable, existing stationery, printed forms, and other supplies of the Environmental Protection Agency are used to carry out functions of the Department before procuring new stationery, printed forms, and other supplies for the Department.•

• Mr. DURENBERGER. Mr. President, I am pleased to cosponsor this legislation to make the Environmental Protection Agency a Cabinet department. I want to commend the distinguished ranking Republican member of the Governmental Affairs Committee, Senator ROTH, for introducing this bill.

Mr. President, over the past 5 years I have many times urged the Senate to take this step.

I first introduced a bill to elevate EPA to Cabinet status on June 28, 1988. I was joined on that bill by several Republican colleagues including Senator JOHN CHAFEE, the ranking Republican member of the Environment and Public Works Committee which has the principal oversight role on EPA programs here in the Senate.

Also on that bill was Senator RICHARD LUGAR, the ranking Republican member of the Agriculture Committee which has jurisdiction over the pesticide programs administered by EPA. Other Republican Senators, including Senator ROTH, Senator Robert Stafford, and Senator John Heinz, joined on that bill. All of the cosponsors were Republican Senators.

Our purpose was to send a message to George Bush about the environment. We were in the midst of a Presidential campaign in June, 1988. But at that date serious debate on the environmental issues had not begun. We thought George Bush should be talking about environmental issues and we believed that a proposal to elevate EPA to Cabinet rank would be a good way to get the discussion going. In addition, several of the cosponsors were running for reelection to the Senate and it was a way to signal that environmental issues were important to us.

After preparing the bill, we approached the Bush campaign to see if we could get Mr. Bush's endorsement of our proposal. Word came back that he would not endorse it. He indicated that he had an open mind on whether or not EPA should be a part of the Cabinet. But the first thing he wanted to do was to reduce the size of the Cabinet by removing some officials who sat at the table. Only after the size of the Cabinet was trimmed, would he want to take up the question of new members. And President Bush did trim the size of the Cabinet during his first weeks in office.

Even though we could not secure Mr. Bush's endorsement of the bill, we introduced it and pressed the case for elevation of EPA to departmental rank. Ironically, the Democratic candidate for President in 1988, Mr. Dukakis, endorsed the bill in midsummer. Environmental issues did play an important role in that Presidential campaign and significant commitments on specific issues were made by both of the candidates.

When the 101st Congress convened in January 1989, I introduced the EPA Cabinet bill a second time. By then the effort had become bipartisan. Congressman Jim Florio, now the Governor of New Jersey, introduced the bill on the House side and on the Senate side the distinguished Senator from New Jersey, Senator LAUTENBERG, became the principal cosponsor. S. 276 had 25 Senate cosponsors when it was introduced in January 1989.

But we still hadn't persuaded President Bush, and it was, afterall, his Cabinet. His support was critical. Bill Reilly who was selected by President Bush to head EPA was a strong advocate of Cabinet status and let the President know his views before he was appointed. We discussed the issue with Mr. Reilly at the time of his confirmation. And we were again told that President Bush had not foreclosed the option, but didn't think that it was time to endorse it either.

It fell to the chairman of the Senate Governmental Affairs Committee, Senator GLENN, to take the issue to the President. I believe that Senator GLENN became a convert to this cause in the summer of 1989. He took up the issue with the President personally and negotiated the details of an elevation proposal with various officials from the administration.

In January 1990, President Bush gave the nod to a Department of the Environment and Senator GLENN introduced his bill, S. 2006, implementing his discussions with the administration. A companion bill was introduced on the House side by Representative JOHN CONYERS, chairman of the House Government Operations Committee.

Upon securing the endorsement of the President, I had expected the legislative path for this bill would be clear and enactment would follow shortly. Elevating an existing agency to departmental status is a simple proposition. There was strong bipartisan support for the bill. The chairmen of the committees with jurisdiction took up the issue and introduced their own bills. So, it seemed that Cabinet status might be enacted quickly.

But as sometimes happens, the legislation was loaded down with amendments in the House and the Senate that were controversial and on which there was strong disagreement. Those controversies killed the bill in the 101st Congress.

In the 102d, Senator GLENN again introduced a bill and reported it promptly for consideration in the Senate. Although the bill passed the Senate late in the first session and was sent to the House, it failed to get consideration in that body. Although there was broad support for the policy decision, there was unexplained inertia in the legislative process suggesting perhaps that the majority in Congress did not wish to give President Bush any new accomplishments in the environmental field.

Although the legislative hurdles have been difficult, the underlying proposal is simple. This bill takes what is now an executive branch agency created by President Nixon in 1970 and makes it a Cabinet department headed by a Secretary of the Environment.

The principal benefit to be gained by putting EPA at the Cabinet table is to involve the President directly in setting environmental policies. It is a well-known fact that President Reagan had little interest in environmental issues. He kept EPA and its mission at a distance and I believe the quality of EPA's work and the quality of the environmental legislation enacted during the Reagan administration suffered as a result.

President Bush and Bill Reilly changed that history. Their work to produce the Clean Air Act Amendments of 1990 is an example of why the President should be involved in these questions. By all accounts, it was the President's decision to support clean air legislation that broke a 10-year deadlock here in the Congress on the issue of acid rain and allowed a comprehensive reauthorization of the Clean Air Act to become law.

One might conclude from this example that Presidents can choose to involve themselves on environmental issues without EPA in the Cabinet. That is true. But we can go beyond the example set by one President by establishing that commitment as an institutional arrangement which assures access and involvement by every President in the future.

A second concern is the relationship between the environmental agency and the other Cabinet departments. Unfortunately, some of our worst polluters are agencies and departments of the U.S. Government. We have big problems with hazardous wastes sites at Defense and Energy facilities. It may cost DOE as much as $30 billion to come into compliance with environmental laws at its currently operating facilities and many times that amount to cleanup the residue of previous activities.

EPA needs to be on an equal footing with those departments as the cleanup efforts at Federal facilities are designed and carried out.

There is a third dimension of the relationship issue which can be cited in support of this legislation. Environmental protection is a growing aspect of our international relations. We will increasingly see agreements like that recently signed to protect the ozone layer which reflect an international commitment to solve global environmental problems. Many of our most difficult environmental problems—air pollution, global warming, and marine protection—can only be dealt with in an international context.

We are encouraged by the strong role that the United States took in developing the ozone protocol. Although we have fallen behind the aggressive posture of some other nations on the larger question of global warming, Cabinet rank for EPA may be just the kind of signal which is needed to bring the whole of the executive branch into serious consideration of policies that can avert the calamity that current trends foreshadow. And surely our voice in the international arena will be stronger if it is the voice of a Cabinet Secretary with direct access to the President.

On this point it is interesting to note that environmental protection is a Cabinet function in almost every developed and many developing nations. Ministries of the Environment are to be found in Australia, Austria, Belgium, Canada, Denmark, Finland, West Germany, India, Ireland, Japan, Luxembourg, Malaysia, Mexico, Netherlands, New Zealand, Norway, the Philippines, Poland, Sweden, Switzerland, the United Kingdom, and the U.S.S.R. Among the OECD nations we stand with Italy as one of the few who have not made environmental protection a ministerial function.

A review of the Cabinets of the American States would demonstrate the same point. In governments in many places and under many different circumstances, environmental protection is accorded the highest rank in the councils which make and implement policy.

Elevation of EPA to Cabinet rank has broad public support. It is endorsed by all of the major environmental organizations. All of the previous EPA administrators are in favor of Cabinet status and urge us to adopt this bill. President Clinton is in support of the bill as was his Republican predecessor.

Mr. President, it is time to elevate the environmental function of the National Government to Cabinet rank.●

By Mr. DASCHLE:

S. 381. A bill to amend the Internal Revenue Code of 1986 to make permanent, and to increase to 100 percent, the deduction of self-employed individuals for health insurance costs; to the Committee on Finance.

SELF-EMPLOYED HEALTH INSURANCE ACT OF 1993

Mr. DASCHLE. Mr. President, as a member of the Senate Finance Committee, I have become increasingly aware of inequities for small businesses in our Federal tax laws. This is particularly ironic, given the often-repeated claim that small business is the backbone of our country.

One of the many ways that our tax system discriminates against small business is in denying the self-employed a deduction for their health insurance expenses. Corporations may deduct 100 percent of the costs of providing health insurance for their employees, but the self-employed, whether they operate as sole proprietorships or as partnerships, have only been permitted to deduct 25 percent of the cost of health insurance for themselves and their families. What's more, the 25 percent deduction expired on June 30, 1992. Unless we reinstate the deduction, the self-employed will have to shoulder the full cost of their health insurance.

The importance of the deduction for health insurance costs has grown substantially in recent years due to tremendous increases in health care costs generally. The annual double-digit increases in health care costs have far outstripped the rate of inflation and led to similar increases in the cost of health insurance. Corporations, which frequently are in a better position to absorb cost increases, may fully deduct the greater insurance expenses, while the self-employed must pay these costs with after-tax dollars. In some cases, this may mean forfeiting health insurance altogether.

Last year, Congress passed legislation that would have extended the temporary 25 percent deduction. Unfortunately, the President vetoed the legislation containing that extension, and the self-employed with health insurance policies may now be left with a higher tax burden as a result. I think it is time we put the self-employed on an equal footing with corporations. Therefore, I am introducing today legislation that would establish a full 100 percent deduction for health insurance costs paid by the self-employed. In addition, my bill would make the deduction permanent, as it is for corporations. If my bill is enacted, the self-employed will no longer have to worry each year that their deduction for health insurance costs may be completely eliminated.

Of course, consideration of this measure should in no way diminish the importance of or divert our attention away from the ultimate goal of a complete overhaul of our health care system. Only through such comprehensive restructuring of our system can we guarantee all citizens access to affordable, quality coverage while reining in skyrocketing health costs. We must not take our eyes off of this goal.

However, the measure I am introducing today recognizes the reality that such a comprehensive health care reform plan will take time to pass and implement. Many self-employed individuals cannot wait that long; they are perilously close to losing their insurance or simply cannot afford coverage in the first place. I believe we have a responsibility to do all we can now to help these individuals, and that is exactly what my bill is designed to do.

I ask unanimous consent that the full text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 381

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) DEDUCTION MADE PERMANENT.—

(1) IN GENERAL.—Section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (6).

(2) CONFORMING AMENDMENT.—Section 110(a) of the Tax Extension Act of 1991 is amended by striking paragraph (2).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after June 30, 1992.

(b) INCREASE IN AMOUNT OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (1) of section 162(l) of such Code is amended by striking "25 percent of".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1992.

By Mr. MOYNIHAN (for himself, Mr. RIEGLE, Mr. MITCHELL, Mr. BRADLEY, Mr. ROCKEFELLER, Mr. DASCHLE, and Mr. CONRAD) (by request):

S. 382. A bill to extend the emergency unemployment compensation program, and for other purposes; to the Committee on Finance.

EMERGENCY UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

● Mr. MOYNIHAN. Mr. President, I am pleased to introduce at the request of President Clinton a bill that has enormous importance for the 300,000 American workers and their families who each month are exhausting their regular State unemployment compensation benefits.

Senators will recall that in November 1991 the Congress passed a law establishing a temporary Federal emergency unemployment compensation program. This was not new. We have enacted similar temporary programs in recessions over the last three decades. As we had done before, we determined that there needed to be additional weeks of benefits for those long-term unemployed workers who were victims of recession, and who had exhausted the 26 weeks of benefits ordinarily payable under the regular State programs. And last July, when the emergency program was due to expire, we voted to extend it through March 6 of this year.

At that time we hoped that the Nation's employment picture would improve sufficiently so that no further action would be required. Unfortunately, that has not turned out to be the case. The Nation's unemployment rate now stands at 7.1 percent, higher even than the 6.9 percent rate that prevailed when the program was first enacted. There are now 9 million unemployed American workers.

As Deputy Commissioner Barron of the Bureau of Labor Statistics pointed out earlier this month, unemployment is at the same level as it was a year ago, and the pace of job growth has been slow compared with previous recoveries.

By this stage of the typical postwar recovery, 22 months after the trough of the recession, a total of 3.7 million new payroll jobs had been created. A scant 498,000 jobs have been produced this time around.

About one-half of the decline in the unemployment rate, from a peak of 7.8 percent in June 1992, to 7.1 percent in January, is simply the result of 466,000 workers leaving the labor force. Indeed, had the labor force grown at its usual pace since June 1992 instead of falling, 1 million additional Americans would be counted as officially unemployed now, and the unemployment rate in January would have been little changed from last June's level.

Although the economic indicators are improving, and unemployment may be expected to decline slowly in the months to come, that improvement will not come in time to help those who face today's weak job market. Accordingly, we cannot allow the present program of emergency benefits to expire at this time.

The President has asked that the present program be extended through the end of the fiscal year, to October 2, 1993. Workers who exhaust their regular State benefits on or before that date will be eligible for up to 26 weeks of benefits in States with high unemployment, and 20 weeks in all other States. These are the same numbers of weeks of benefits for which they are eligible under current law.

As part of this same bill, the President is also proposing a measure to speed the return of long-term unemployed workers to full-time employment. The Secretary of Labor will assist States in implementing a so-called profiling program that identifies dislocated workers receiving unemployment compensation who are in particular need of help in finding new jobs. These individuals, who otherwise may face very long-term unemployment, can then be given job search assistance, or can be referred to an appropriate job training program.

Mr. President, this bill invokes the emergency spending authority that was established in the 1990 budget agreement. That agreement requires both the President and the Congress to concur in designating any spending as an emergency requirement. In the past the Congress willingly agreed to designate as emergency spending certain costs associated with Operation Desert Storm. These were one-time costs to deal with a specific, critical situation.

This is also a critical situation, but for American workers here at home—those whose regular unemployment benefits have run out and who can't pay the mortgage, or can't afford to take a sick child to the doctor.

To underscore the urgency of this measure, Senators need only to recall the announcement by Sears in January that it will soon be cutting 50,000 jobs, or nearly 15 percent of the company's merchandising staff. Added to that are upcoming cuts by General Motors of 18,000 jobs; by Boeing of 30,000 jobs; by McDonnell Douglas of 10,200 jobs. And IBM has announced a cut of 25,000 jobs, with a possibility of another 15,000 to come.

Mr. President, the Committee on Finance will be holding hearings tomorrow, as will be House Committee on Ways and Means. I hope we will send this bill to the President as quickly as possible. There must be no failure on the part of this institution and of this Government to ensure continued payment of these emergency unemployment benefits.

I ask unanimous consent that the text of the bill be included in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 382

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Unemployment Compensation Amendment of 1993".

SEC. 2. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM

(a) GENERAL RULE.—Sections 102(f)(1) and 106(a)(2) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) are each amended by striking "March 6, 1993" and inserting "October 2, 1993".

(b) MODIFICATION TO FINAL PHASE-OUT.—Paragraph (2) of section 102(f) of such Act is amended—

(1) by striking "March 6, 1993" and inserting "October 2, 1993", and

(2) by striking "June 19, 1993" and inserting "January 15, 1994".

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 101(e) of such Act is amended by striking "March 6, 1993" each place it appears and inserting "October 2, 1993".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to weeks beginning after March 6, 1993.

SEC. 3. TREATMENT OF RAILROAD WORKERS.

(a) EXTENSION OF PROGRAM.—

(1) IN GENERAL.—Paragraph (1) and (2) of section 501(b) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) are each amended by striking "March 6, 1993" and inserting "October 2, 1993".

(2) CONFORMING AMENDMENT.—Section 501(a) of such Act is amended by striking "March 1993" and inserting "October 1993".

(b) TERMINATION OF BENEFITS.—Section 501(e) of such Act is amended—

(1) by striking "March 6, 1993" and inserting "October 2, 1993", and

(2) by striking "June 19, 1993" and inserting "January 15, 1994".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to weeks beginning after March 6, 1993.

SEC. 4. PROFILING OF NEW CLAIMANTS.

(a) GENERAL RULE.—The Secretary of Labor shall establish a program for encouraging the adoption and implementation by all States of a system of profiling all new claimants for regular unemployment compensation (including new claimants under each State unemployment compensation law which is approved under the Federal Unemployment Tax Act (26 U.S.C. 3301-3311) and new claimants under Federal unemployment benefit and allowance programs administered by the State under agreements with the Secretary of Labor), to determine which claimants may be likely to exhaust regular unemployment compensation and may need reemployment assistance services to make a successful transition to new employment.

(b) TECHNICAL ASSISTANCE TO STATES.—The Secretary of Labor shall provide technical assistance and advice to the States in the development of model profiling systems and the procedures for such systems. Such technical assistance and advice shall be provided by the utilization of such resources as the secretary deems appropriate, and the procedures for such profiling systems shall include the effective utilization of automated data processing.

(c) FUNDING OF ACTIVITIES.—For purposes of encouraging the development and establishment of model profiling systems in the States, the Secretary of Labor shall provide to each State, from funds available for this purpose, such funds as may be determined by the Secretary to be necessary.

(d) REPORT TO CONGRESS.—Within 30 months after the date of the enactment of this Act, the Secretary of Labor shall report to the Congress on the operation and effectiveness of the profiling systems adopted by the States, and the Secretary's recommendation for continuation of the systems and any appropriate legislation.

(e) STATE.—For purposes of this section, the term "State" has the meaning given such term by section 3306(j)(1) of the Internal Revenue Code of 1986.

(f) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for nonrepayable advances to the account for "Advances to the Unemployment Trust Fund and Other Funds" in the Department of Labor Appropriations Acts (for transfer to the "extended unemployment compensation account" established by section 905 of the Social Security Act) such sums as may be necessary to carry out the purposes of the amendments made by section 2 of this Act.

SEC. 6. EMERGENCY DESIGNATION.

Pursuant to section 251(b)(2)(D)(i) and 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985, the Congress hereby designates all direct spending amounts provided by this Act (for all fiscal years) and all appropriations authorized by this Act (for all fiscal years) as emergency requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.•

Mr. RIEGLE. Mr. President, I strongly support the legislation to extend the Emergency Unemployment Compensation Program. The Emergency Unemployment Compensation Program is critical to meeting the lingering human costs of the recession. We cannot allow this program to expire.

We are currently in a jobs recession that is among the longest in the past 50 years. It has taken a harsh toll on our people. Since the recession began, two million jobs have been lost. Over 15 million Americans are unemployed. Millions more work in part-time jobs that are inadequate to meet their families' needs.

Recent announcements by General Motors, Sears, and IBM represent devastating losses and are dramatic evidence of the fundamental problems that exist in this country. But it is not just major corporations that are facing difficulties in this economy: small- and medium-sized businesses have not been growing the way we want them to.

The Emergency Unemployment Compensation Program is an important weapon in combatting the effects of the recession. We need to enact this legislation quickly. But, more must be done to develop a long-term economic strategy that allows us to regain our economic strength and put Americans back to work. I will continue to work with the Clinton administration to get our economy back on track.

I commend the chairman of the Finance Committee, Senator MOYNIHAN, for offering this important legislation and I commend the President for making this bill a top priority. I urge my colleagues to help pass this bill quickly so our working people have the resources to weather this difficult economic time.

By Mr. PELL (for himself, Mr. KENNEDY, Mr. JEFFORDS, and Mr. SIMON):

S. 383. A bill to shift impact aid funding responsibility for military connected children from the Department of Education to the Department of Defense; to the Committee on Labor and Human Resources.

MILITARY DEPENDENTS EDUCATION ACT OF 1993

• Mr. PELL. Mr. President, the children of our military personnel are being shortchanged when it comes to education. Despite a $270 billion budget, the Department of Defense has little responsibility for the education of military children who live on bases throughout our country, but attend school within the community where the base is located. School districts find themselves in a double-bind when a Federal activity, such as the operation of a military base, results in an increased number of children to educate and a depleted tax base from which to draw support for their education.

On the Federal level we established the Impact Aid Program to provide financial assistance to such school districts. The reality, though, is that impact aid is underfunded and our children are underserved. Local communities have been forced to absorb the costs of educating military children, and frequently the result is a diminished education for all children in a district.

President Clinton has articulated a new covenant between the American people and our Government which can be summed up in two words: opportunity and responsibility. To my mind, our job in Congress is to help make good on that pledge and I believe an excellent place to begin is with the education of children whose parents serve in the Armed Forces.

Today, I am introducing the Military Dependents Education Act. The bill takes a number of steps to expand educational opportunity for military children. First, it transfers impact aid funding responsibility for military dependents from the Department of Education to the Department of Defense, where it belongs. And second, the bill requires the Department of Defense to provide school districts with the financial capacity to adequately serve disabled students.

This second aspect of the legislation addresses an area with which I am especially concerned—the effects of military personnel assignments on behalf of families with severely handicapped children. The military often confers special post-compassionate assignments for personnel to area school districts with outstanding special needs programs. The military, however, does not share in the cost of educating these children.

In my own home State of Rhode Island, the Middletown school district is in perilous financial shape because of its outstanding special needs program. Middletown's special needs program is attractive to many military families with disabled children. The military makes post-compassionate assignments, and as a result, Middletown has a number of these students to educate. Like many communities Middletown welcomes disabled military children, but is saddled with a per pupil cost that reaches as high as $100,000.

With a budget nearly 10 times the size of the Department of Education, the military is in a better position to assure military families that their children will receive a good, solid education. It can do that if it begins to bear full responsibility for funding the education costs of all military children.

Mr. President, impact aid is an extraordinarily complex program that focuses far too often on the education of the children involved, but on the impact those children have on a local school district. We often do not examine the needs of the children. Instead, we attempt to measure how their presence affects the finances of a school district.

Worse still, we inadequately compensate school districts for the financial burden they are asked to carry. Throughout the past decade, appropriations have been insufficient to meet the task at hand and I fear that the future will not be much different.

During this session of Congress, we will be reauthorizing the Impact Aid Program. To my mind the time may well be at hand to place the Impact Aid Program within the Department of Defense where it might be fashioned to meet the needs of these children directly, and not simply recognize their existence. The Department of Defense accepts responsibility for the housing of our soldiers' families, and for their health care. It should assume responsibility for their education as well.

Impact aid will be reauthorized. All aspects of the program will be discussed and I assure my colleagues and the Middletown school district that the role of the military in impact aid will be given very serious and thoughtful consideration.

Mr. President, I ask that the full text of the legislation be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 383

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Dependents Education Act of 1993".

SEC. 2. FUNDING RESPONSIBILITY FOR MILITARY CONNECTED CHILDREN.

Title I of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by adding at the end the following new section:

"FUNDING RESPONSIBILITY FOR MILITARY CONNECTED CHILDREN

"SEC. 8. (a) COMPUTATION OF AMOUNT.—

"(1) IN GENERAL.—For the purpose of computing the amount which a local educational agency is entitled to receive under section 2, 3 or 4 for military connected children in each fiscal year, the Secretary shall determine, for each local educational agency receiving assistance under this Act, the number of children referred to in—

"(A) section 3(a) who reside on a military installation;

"(B) section 3(b)(1) who reside on a military installation;

"(C) section 3(b)(2) who have a parent employed on a military installation; and

"(D) section 3(b)(3).

"(2) TOTAL AMOUNT OF PAYMENTS.—The Secretary shall determine the total amount of payments all local educational agencies are entitled to receive under section 2, 3 or 4 for military connected children in each fiscal year.

"(b) TRANSFER OF FUNDS.—From any amounts available to the Secretary of Defense, the Secretary of Defense shall transfer to the Secretary of Education in each fiscal year the total amount of funds necessary for the Secretary of Education to make all of the payments described in subsection (a)(2) for such fiscal year.

"(c) SPECIAL RULES.—Notwithstanding any other provision of law, funds made available by the Secretary of Defense to the Secretary of Education for military connected children pursuant to subsection (b) shall be—

"(1) the only funds used to make payments under section 2, 3 or 4 to local educational agencies for military connected children; and

"(2) distributed to such local educational agencies in accordance with the provisions of this Act which are not inconsistent with—

"(A) the provisions of this section; and

"(B) shifting only the funding responsibility for such military connected children from the Department of Education to the Department of Defense.

"(d) DEFINITIONS.—For the purpose of this section—

"(1) the term 'military connected children' means the children described in subparagraphs (A) through (D) of subsection (a)(1); and

"(2) the term 'military installation' has the same meaning given to such term in section 2801(c) of title 10, United States Code.".

SEC. 3. MILITARY CONNECTED CHILDREN WITH DISABILITIES.

Subparagraph (C) of section 3(d)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended—

(1) by redesignating clauses (ii), (iii) and (iv) as clauses (iii), (iv) and (v), respectively;

(2) in clause (i), by striking "and children with specific learning disabilities for whom a determination is made under subsection (a)(2) or (b)(3)";

(3) by inserting after clause (i) the following new clause:

"(ii)(I) The amount of an entitlement of any local educational agency under this section for any fiscal year with respect to military connected children with disabilities and for whom such local educational agency is providing a program designed to meet the special and related needs of such children shall be—

"(aa) in the case of any local educational agency with respect to which the number of such children is determined under subsection (a), an amount equal to 100 percent of the average per pupil expenditure in the State or such expenditure in the United States, whichever is greater, multiplied by the number of such children determined under such subsection plus the product obtained with respect to such agency under division (bb); and

"(bb) in any other case, an amount equal to 25 percent of the average per pupil expenditure in the State or such expenditure in the United States, whichever is greater, multiplied by the number of such children determined with respect to such agency for such fiscal year under subsection (b).

"(II) For the purpose of this clause, the term 'military connected children with disabilities' means individuals who are—

"(aa) military connected children as such term is defined in section 8(d)(1); and

"(bb) children with disabilities.";

(4) in clause (iii) (as redesignated in paragraph (1)), by striking "division (iii)" and inserting "division (iv)"; and

(5) by amending clause (v) (as redesignated in paragraph (1)) to read as follows:

"(v) For the purpose of this subparagraph the term 'children with disabilities' means—

"(I) children with disabilities as such term is defined in section 602(1) of the Individuals with Disabilities Education Act; and

"(II) children with specific learning disabilities as such term is defined in section 602(15) of such Act.".●

● Mr. SIMON. Mr. President, I commend my colleague from Rhode Island for his leadership in legislation that shifts the military portion of impact aid from the Education Department to the Defense Department. I am pleased to be an original cosponsor of this bill.

Impact aid compensates local school districts that educate students connected with a Federal activity—such as a military base—but are not able to tax the Federal Government to raise the funds to cover the costs of educating them. But impact aid generally covers only a third of the costs of educating military children. This leaves taxpayers with most of the burden, but without the tax base to pay for it, and hampers local schools' ability to provide all students with the quality education they deserve. Not only does our Federal activity reduce revenue from local property taxes, but it can substantially increase the number of students that local schools must educate.

By not adequately reimbursing local schools for this cost, the Federal Government is shortchanging these districts—and in many areas local taxpayers are taking up the slack. For example, North Chicago District 187 is losing up to $4,000 per year for each military child. The people of North Chicago have made every effort to provide a quality education for their students, including passing a referendum to raise property taxes to one of the highest rates in Illinois. Despite this effort, their budget shortfall forced them to cut 45 of 140 teachers. Highland Park and other Illinois districts—as well as school districts throughout the country—face similar problems. Our students deserve better.

I have also asked Secretary Aspin to consider having the Department of Defense take over the military portion of the Impact Aid Program. The Federal defense budget is nearly 10 times larger than our education budget. Clearly, there is much more room for providing adequate funding for this program within the defense budget than in the already severely underfunded education budget. In fact, impact aid appropriations are approximately the same as the cost of one B-2 bomber.

Mr. President, the cost of educating military dependents should be included in the defense budget. It is a cost of doing business. Ironically, if a military base is located where there is no local school district, the Defense Department pays the full cost of educating military dependents. If, however, there is a local school, the Education Department barely covers one-third of the costs, and the local taxpayers shoulder the rest. This must change. I urge my colleagues to join me in supporting this important legislation.●

By Mr. D'AMATO (for himself, Mr. DODD, Mr. BRYAN, Mr. DOLE, Mr. BOND, Mr. GRAMM, Mr. MACK, Mr. FAIRCLOTH, Mr. BENNETT, Mr. DOMENICI, Mr. SHELBY, Mr. CHAFEE, Mr. NICKLES, Mr. CONRAD, Mr. MURKOWSKI, Mr. STEVENS, Mr. LIEBERMAN, Mr. COHEN, Mr. PRESSLER, Mr. GORTON, Mrs. KASSEBAUM, Mr. DANFORTH, and Mr. JEFFORDS):

S. 384. A bill to increase the availability of credit to small businesses by eliminating impediments to securitization and facilitating the development of a secondary market in small business loans, and for other purposes.

SMALL BUSINESS LOAN SECURITIZATION AND SECONDARY MARKET ENHANCEMENT ACT

● Mr. D'AMATO. Mr. President, tonight President Clinton will address the Congress to present his economic program. The President's economic stimulus package will probably include Government spending programs to improve our Nation's infrastructure.

Before the President presents his economic program, I would like to let him know that the financial infrastructure that supports our economy—the Nation's banking system—is in dire need of repair.

Credit is the lifeblood of the economy and banks are the major arteries that channel credit to our Nation's businesses. But we all know that there has been a real credit crunch for America's small businesses. They cannot get the credit essential to buy equipment or inventory or to hire new workers.

The best way to restore the health of the economy is to provide for a strong infusion of credit to the small businesses that are the engine of economic growth. So if President Clinton wants to improve the infrastructure, I suggest that we start by building a bridge that links Wall Street with Main Street.

While our small businesses are starved for credit, there is no credit crunch for home buyers. This is because we have a strong secondary market in residential mortgages that facilitates the flow of credit from the capital markets to those who want to finance a home.

In 1984 Congress removed regulatory impediments to selling securities backed by pools of residential mortgages by enacting the Secondary Mortgage Market Enhancement Act. We need to do the same for small businesses by facilitating capital market investment in securities backed by small business loans.

Removing unnecessary barriers to the development of a secondary market in small business loans will help bankers, small business borrowers, and investors alike:

Banks will be able to originate more small business loans without having to raise additional capital because the loans will be sold to investors rather than kept on the bank's books.

Small businesses will gain access to the capital markets, making more credit available at lower prices.

Institutional and individual investors will be able to fund small businesses by purchasing investment grade securities backed by small business loans.

Mr. President, today I am introducing the Small Business Loan Securitization and Secondary Market Enhancement Act. This legislation removes unnecessary barriers in our securities, banking, pension, and tax laws that deter the development of a secondary market in securities backed by small business loans.

The bill removes certain restrictions in the margin and securities delivery rules under our Federal securities laws so that issuers have sufficient time to pool small business loans and sell them as securities.

My bill removes impediments under State securities laws by permitting issuers of securities backed by small business loans to file a single registration statement with the SEC rather than have to spend the time and money to register those securities in each of the 50 States.

The bill changes the capital requirements under our banking laws so that financial institutions that sell small business loans will not be required to hold prohibitively excessive amounts of capital against these loans. Instead, the bill sets capital requirements that more accurately protect banks against any potential losses that may arise under arrangements used to sell small business loans.

The legislation also removes certain restrictions under ERISA [the Employee Retirement Income Securities Act] by directing the Secretary of Labor to grant an exemption to permit financial institutions that manage pension funds to participate in the pooling and packaging of small business loans for sale as securities.

My bill also facilitates the sale of small business securities by directing the Secretary of the Treasury to clarify the tax rules relating to these securities. This is the same approach Congress took in 1986 when it adopted provisions that cover the sale of mortgage backed securities—the so-called REMIC rules.

Mr. President, in addition to removing barriers to securitization of small business loans, this legislation facilitates the development of a secondary market by expanding the number of potential investors.

The legislation amends both the Federal banking laws and State investment laws so that banks, savings associations, credit unions, insurance companies, and pension funds can invest in securities backed by small business loans that are investment grade.

Mr. President, any program to improve our infrastructure should begin with the demolition of the regulatory toll booths that clutter our financial highways and slow down the delivery of the credit that is essential to our economic recovery. By facilitating the securitization of small business loans, this legislation builds a badly needed bridge with only one destination—a strong and growing economy.

Mr. President, my bill will help small businesses obtain badly needed credit, but more can be done to provide incentives for small businesses to expand employment. There are many proposals to provide a tax credit for investments in plant and equipment. However, these investment tax credit proposals ignore a business' most valuable asset—the employees. I think we should give small businesses a tax credit for hiring new workers.

I ask unanimous consent that an excellent article discussing this proposal, written by Muriel Siebert, former New York State banking superintendent and a well-respected member of the securities profession, be inserted in the RECORD.

Mr. President, I ask unanimous consent that the text of the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 384

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Loan Securitization and Secondary Market Enhancement Act of 1993".

SEC. 2. SMALL BUSINESS RELATED SECURITY.

(a) DEFINITION.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following new paragraph:

"(53)(A) The term 'small business related security' means a security that is rated in 1 of the 4 highest rating categories by at least 1 nationally recognized statistical rating organization, and either—

"(i) represents an interest in 1 or more promissory notes evidencing the indebtedness of a small business and originated by an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act), credit union, insurance company, or similar institution which is supervised and examined by a Federal or State authority; or

"(ii) is secured by an interest in 1 or more promissory notes (with or without recourse to the issuer) and provides for payments of principal in relation to payments, or reasonable projections of payments, on notes meeting the requirements of subparagraph (A).

"(B) For purposes of this paragraph—

"(i) an interest in a promissory note includes ownership rights, certificates of interest or participation in such notes, and rights designed to assure servicing of such notes, or the receipt or timely receipt of amounts payable under such notes; and

"(ii) a small business is a business that meets the criteria for a 'small business concern' established under section 3(a) of the Small Business Act.".

(b) CONFORMING AMENDMENT.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by redesignating paragraph (51) defining the term "foreign financial regulatory authority" as paragraph (52) and inserting such paragraph after paragraph (51), defining the term "penny stocks".

SEC. 3. APPLICABILITY OF MARGIN REQUIREMENTS.

Section 7(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78g(g)) is amended by inserting "or a small business related security" after "mortgage related security".

SEC. 4. BORROWING IN THE COURSE OF BUSINESS.

Section 8(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78h(a)) is amended in the last sentence by inserting "or a small business related security" after "mortgage related security".

SEC. 5. SMALL BUSINESS RELATED SECURITIES AS COLLATERAL.

Clause (ii) of section 11(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(d)(1)) is amended by inserting "or any small business related security" after "mortgage related security".

SEC. 6. INVESTMENT BY DEPOSITORY INSTITUTIONS.

(a) HOME OWNERS' LOAN ACT AMENDMENT.—Section 5(c)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(1)) is amended by adding at the end the following new subparagraph:

"(S) SMALL BUSINESS RELATED SECURITIES.—Investments in small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), subject to such regulations as the Director may prescribe, including regulations concerning the minimum size of the issue (at the time of the initial distribution) or minimum aggregate sales price, or both.".

(b) CREDIT UNIONS.—Section 107(15) of the Federal Credit Union Act (12 U.S.C. 1757(15) is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by inserting "or" at the end; and

(3) by adding at the end the following new subparagraph:

"(C) are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), subject to such regulations as the Board may prescribe, including regulations prescribing the minimum size of the issue (at the time of the initial distribution) or minimum aggregate sales price, or both;".

(c) NATIONAL BANKING ASSOCIATIONS.—Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the last sentence in the first full paragraph of paragraph Seventh by striking "or (B) are mortgage" and inserting the following: "(B) are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934); or (C) are mortgage".

SEC. 7. PREEMPTION OF STATE LAW.

(a) IN GENERAL.—Section 106(a)(1) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), or".

(b) OBLIGATIONS OF THE UNITED STATES.—Section 106(a)(2) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1(a)(2)) is amended—

(1) by striking "or" at the end of su graph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), or".

(c) PREEMPTION OF STATE LAWS.—Section 106(c) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1(c)) is amended—

(1) in the first sentence, by striking "or that" and inserting ", that";

(2) by inserting ", or that are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934)" before "shall be exempt"; and

(3) by adding at the end the following new subsection:

"(d) IMPLEMENTATION.—

"(1) LIMITATION.—The provisions of subsections (a) and (b) concerning small business related securities shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity or class thereof in any State that, prior to the expiration of 7 years after the date of enactment of this Act, enacts a statute that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in small business related securities by any person, trust, corporation, partnership, association, business trust, or business entity or class thereof than is provided in such amendments. The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior to such enactment, and shall not require the sale or other disposition of any small business related securities acquired prior to the date of such enactment.

"(2) ENACTMENT OF STATE PROVISIONS.—Any State may, not later than 7 years after the date of enactment of this Act, enact a statute that specifically refers to this section and requires registration or qualification of any small business related securities on terms that differ from those applicable to any obligation issued by the United States.".

SEC. 8. INSURED DEPOSITORY INSTITUTION CAPITAL REQUIREMENTS FOR TRANSFERS OF SMALL BUSINESS LOANS AND INVESTMENTS IN SMALL BUSINESS RELATED SECURITIES.

(a) ACCOUNTING PRINCIPLES.—The accounting principles applicable to the transfer of a small business loan with recourse contained in reports or statements required to be filed with the appropriate Federal banking agencies by all insured depository institutions shall be uniform and consistent with generally accepted accounting principles.

(b) CAPITAL REQUIREMENTS.—The amount of capital required to be maintained by an insured depository institution under applicable capital standards and other capital measures with respect to the sale of a small business loan with recourse, as reported under subsection (a), shall not exceed an amount sufficient to meet the institution's reasonable estimated liability under the recourse arrangement.

(c) INVESTMENTS IN SMALL BUSINESS RELATED SECURITIES.—A small business related security shall be treated as a similarly rated mortgage-backed security under the risk-based capital requirement applicable to insured depository institutions.

(d) REGULATIONS REQUIRED.—Not later than 180 days after the date of enactment of this Act, each appropriate Federal banking agency shall promulgate final regulations implementing this section not later than 180 days after the date of enactment of this Act.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(2) the term "capital standards" has the same meaning as in section 38(c) of the Federal Deposit Insurance Act;

(3) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(4) the term "other capital measures" has the same meaning as in section 38(c) of the Federal Deposit Insurance Act;

(5) the term "recourse" shall have the meaning given such term under generally accepted accounting principles;

(6) the term "small business" means a business that meets the criteria for a small business concern established under section 3(a) of the Small Business Act; and

(7) the term "small business related security" has the same meaning as in section 3(a)(53) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(53).

SEC. 9. TRANSACTIONS IN SMALL BUSINESS RELATED SECURITIES BY EMPLOYEE BENEFIT PLANS.

(a) PROHIBITED TRANSACTION EXEMPTION.—The Secretary of Labor, in consultation with the Secretary of the Treasury, shall exempt transactions involving small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934 (as added by section 2 of this Act)), either unconditionally or on stated terms and conditions, from the restrictions of sections 406 and 407 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1106, 1107) and the taxes imposed under section 4975 of the Internal Revenue Code of 1986 (26 U.S.C. 4975).

(b) CONDITIONS.—In providing for the exemption required under subsection (a) the Secretary of Labor shall consider—

(1) the importance of facilitating transactions in small business related securities; and

(2) the necessity of imposing any term or condition to protect the rights and interests of participants and beneficiaries of such plan.

(c) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Labor shall promulgate final regulations to carry out subsection (a).

SEC. 10. TAXATION OF SMALL BUSINESS LOAN INVESTMENT CONDUITS.

(a) TAXATION SIMILAR TO REMIC.—The Secretary of the Treasury shall promulgate regulations providing for the taxation of a small business loan investment conduit and the holder of an interest therein similar to the taxation of a real estate mortgage investment conduit and the holder of interests therein under the Internal Revenue Code of 1986.

(b) ADJUSTMENT TO REMIC PROVISIONS.—In promulgating regulations under subsection (a), the Secretary shall make any necessary adjustments to the real estate mortgage investment conduit provisions to take into consideration—

(1) the purpose of facilitating the securitization of small business loans through the use of small business loan investment conduits and the development of a secondary market in small business loans;

(2) differences in the nature of qualifying mortgages in a real estate mortgage investment conduit and small business loans and obligations; and

(3) differences in the practices of participants in the securitization of real estate mortgages in a real estate mortgage investment conduit and the securitization of other assets.

(c) SMALL BUSINESS LOAN INVESTMENT CONDUIT DEFINED.—For purposes of this section, the term "small business loan investment conduit" means—

(1) any entity substantially all of the assets of which consist of any obligation (including any participation or certificate of beneficial ownership therein) of a business that meets the criteria for a small business concern established under section 3(a) of the Small Business Act; and

(2) if such obligation was originated by an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act), credit union, insurance company, or similar institution which is supervised and examined by an appropriate Federal or State authority.

[From the New York Times, Jan. 6, 1993]

HIRE WORKERS; GET A TAX CREDIT

(By Muriel Siebert)

There is a bright side to corporate downsizing, which economists say still has at least another year to play itself out as I.B.M., American Express, General Motors and other giants respond to global competition by reducing labor costs.

Small businesses have become the superstars of job creation, producing up to 80 percent of new jobs in recent years. Between 1980 and 1990, when Fortune 500 companies eliminated 400,000 jobs a year, small businesses created 14.8 million. That's well beyond the total number of jobs created by Japan (5.9 million), Canada (1.8 million) and most of Western Europe (3.5 million) combined in that same period.

Considering the success of small businesses in today's service sector and their willingness to take on and retain new employees, it would be innovative and economically sound for the Clinton Administration and Congress to give business a tax credit for hiring additional people.

Many of those hired would be middle managers, members of the once solid, middle class, who constitute a majority of those who have lost jobs during the corporate shrinkage. A study for the National Association of Women Business Owners projected that businesses owned and operated by women would employ more people than the Fortune 500 companies by the end of 1992. Forty percent of these businesses have been in business for more than a dozen years.

Unlike monolithic Fortune 500 companies, small businesses behave like families. The association study indicated that one reason for the durability of businesses owned by women is the value they place on their worker. It showed that small businesses hold on to workers through periods when revenues decline. Rather than eliminate workers, they tend to cut other expenses, including their own salaries.

That contrasts with big businesses, where chief executive officers cut the work force sharply while keeping their salaries and perks. Nearly half of the workers laid off by large companies have to swallow pay reductions when they find new full-time work; two out of three work for at least 20 percent less money than before.

If the 3.31 million skilled workers who are unemployed don't find jobs, they could be a drag on the economy for years. Even an uptick in the economy is likely to absorb only a small number of them.

A job-creation credit is as meritorious as the much discussed investment tax credit—a tax break for capital spent on plant and equipment.

How about a tax credit equal to 25 percent of the wages paid every new worker hired by any company over a two-year period after the credit went into effect? To avoid rewarding businesses for merely replacing employees, only companies that increased payrolls by hiring additional employees would qualify.

This revenue subtracted from one side of the Government's ledger would be significantly offset by taxes paid by the new employees, a reduction in unemployment benefits and public assistance costs. In addition, the multiplier effect caused by the impact of new wages filtering through the economy would create additional business and jobs.

A new-job credit is a sensible way to give the economy a boost at a moment when economists believe that big business's harsh measures will result in fewer but more efficient companies and, ultimately, a more competitive economy. The credit would help get Americans back to work by helping to create new jobs.●

By Mr. RIEGLE (for himself and Mr. LEVIN):

S. 385. A bill to change the tariff classification for light trucks; to the Committee on Finance.

LIGHT TRUCK TARIFF ACT OF 1993

Mr. RIEGLE. Mr. President, I rise to introduce legislation to correct a gross error by the U.S. Treasury Department on the proper tariff classification for multipurpose vehicles, known as MPV's. In 1989, the U.S. Customs Service classified MPV's as trucks. This ruling was based on their technical judgment that these vehicles were structurally indistinguishable from trucks. In fact, MPV's are classified as light trucks for a number of purposes, such as emissions requirements, the gas-guzzler tax, and fuel economy standards. However, within 2 weeks, and under pressure from Japanese car makers, the Bush administration's Treasury Department overruled the technical expertise of the Customs Service and classified MPV's as cars for tariffs. This mistaken political decision not only cost the Federal Government revenues but also threatens the jobs of American workers.

The bill I introduce today is the same as legislation I sponsored during the 102d Congress. The bill would properly classify, as the U.S. Customs Service ruled, two-door multipurpose vehicles as trucks and four-door MPV's as trucks at a 25-percent tariff, not passenger cars at a 2.5-percent tariff. This provision will raise Federal revenues by $220 million in fiscal year 1992 and $1 billion over the next 5 years. Provisions to correct this gross error in the classification of MPV's passed the Senate in march 1992, but were unfortunately stripped out of the tax bill during conference on H.R. 4210.

President Clinton has strongly criticized the Bush administration's actions regarding MPV's. I expect the Clinton administration to overturn this mistaken decision. I am introducing this bill to make sure that we retain our focus on it until the administration takes those steps necessary to correct this wrong. I ask unanimous consent that a copy of the legislation be included in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 385

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TARIFF CLASSIFICATION OF LIGHT TRUCKS.

(a) IN GENERAL.—The Additional United States Notes to chapter 87 of the Harmonized Tariff Schedule of the United States is amended by redesignating note 2 as note 3 and by inserting after note 1 the following new note:

"2. Any passenger van, multipurpose van, sport utility vehicle, and other Jeep-type vehicle with a G.V.W. not exceeding 5 metric tons and a basic vehicle frontal area of 4.1805 square meters or less which is—

"(a) designed primarily for purposes of transportation of property or is a derivation of such a vehicle;

"(b) equipped with special features enabling offstreet or off-highway operations and uses; or

"(c) suitable for cargo-carrying purposes or other nonpassenger-carrying purposes through the removal of seats by means installed for that purpose by the manufacturer of the vehicle or with simple tools, such as screwdrivers or wrenches, so as to create a flat, floor level surface extending from the forwardmost point of installation of such seats to the rear of the vehicle's interior,

shall be classified in heading 8704.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to merchandise entered, or withdrawn from warehouse for consumption, after the 15th day after the date of the enactment of this Act.

By Mrs. MURRAY (for herself, Mr. GRASSLEY, and Mr. PRESSLER):

S.J. Res. 48. A joint resolution to designate February 21 through February 27, 1993, as "National FFA Organization Awareness Week"; to the Committee on the Judiciary.

NATIONAL FFA ORGANIZATION AWARENESS WEEK

Mrs. MURRAY. Mr. President, for Senators who represent States in which agriculture plays a major economic role, I am sure they are familiar with the excellent work of the National FFA Organization, formerly known as the Future Farmers of America. FFA was organized to foster character development, agricultural leadership, and responsible citizenship in young people with an interest in pursuing a life in agriculture. In addition, FFA activities supplement training opportunities for students studying agriscience, production agriculture, and agribusiness.

The FFA has succeeded magnificently in these endeavors. I propose to commemorate this good work by introducing a resolution today, Senate Joint Resolution 48 to designate the week of February 21 through the 27, 1993, as "National FFA Organization Awareness Week." I hope my colleagues will join me in this cause.

The National FFA Organization was founded on November 20, 1928, as a leadership organization for students of agriculture in public schools. FFA has served consistently and successfully for 65 years. Today, FFA is comprised of more than 400,000 in all 50 States and the U.S. territories. My resolution honors that record of success.

I ask unanimous consent that the text of Senate Joint Resolution 48 be printed in the RECORD, along with my statement. I hope my colleagues will express their support for youth in agriculture by joining me as a cosponsor of this bill.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 48

Whereas the National FFA Organization was founded as a leadership organization for students of agricultural education in public schools;

Whereas each member lives by the FFA motto of "Learning to Do, Doing to Learn, Earning to Live, Living to Serve";

Whereas the National FFA Organization is dedicated to the development of competent agricultural leadership, citizenship, and cooperation;

Whereas the National FFA Organization is comprised of approximately 400,000 members in all 50 States, Puerto Rico, the District of Columbia, Guam, ROTA (Commonwealth of Northern Mariana Islands), Federated States of Micronesia, and the Marshall Islands;

Whereas the National FFA Organization prepares a student for postsecondary education or employment following high school;

Whereas the National FFA Organization is only open to those students enrolled in approved agricultural education programs;

Whereas the National FFA Organization was formally organized on November 20, 1928;

Whereas the National FFA Organization was organized to foster character development, agricultural leadership, and responsible citizenship, and to supplement training opportunities for students preparing for careers in agriscience, production agriculture, and agribusiness; and

Whereas the FFA is a national organization of high school agricultural students preparing for careers in agricultural production, processing, supply and service, mechanics, horticulture, forestry, and natural resources: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of February 21 through February 27, 1993, is designated as "National FFA Organization Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. FORD, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Ohio [Mr. METZENBAUM], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 2, a bill to establish national voter registration procedures for Federal elections, and for other purposes.

S. 12

At the request of Mr. BIDEN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 12, a bill to authorize the Secretary of Commerce to make grants to States and local governments for the construction of projects in areas of high unemployment, and for other purposes.

S. 15

At the request of Mr. ROTH, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 15, a bill to establish a Commission on Government Reform.

S. 27

At the request of Mr. SARBANES, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 27, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 69

At the request of Mr. BREAUX, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 69, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on boats.

S. 103

At the request of Mr. NICKLES, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 103, a bill to fully apply the rights and protections of Federal civil rights and labor laws to employment by Congress.

S. 155

At the request of Mr. DASCHLE, the names of the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 155, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by a cooperative telephone company.

S. 158

At the request of Mr. DASCHLE, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 158, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for travel expenses of certain loggers.

S. 171

At the request of Mr. GLENN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 171, a bill to establish the Department of the Environment, provide for a Bureau of Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes.

S. 185

At the request of Mr. GLENN, the names of the Senator from California [Mrs. FEINSTEIN], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 185, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the nation, to protect such employees from improper political solicitations, and for other purposes.

S. 208

At the request of Mr. BUMPERS, the names of the Senator from Missouri [Mr. BOND] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 208, a bill to reform the concessions policies of the National Park Service, and for other purposes.

S. 221

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 221, a bill to allow a prisoner under sentence of death to obtain judicial review of newly discovered evidence showing that he is probably innocent.

S. 261

At the request of Mr. LAUTENBERG, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 261, a bill to protect children from exposure to environmental tobacco smoke in the provision of children's services, and for other purposes.

S. 266

At the request of Mr. SIMON, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 266, a bill to provide for elementary and secondary school library media resources, technology enhancement, training, and improvement.

S. 277

At the request of Mr. SIMON, the names of the Senator from Indiana [Mr. COATS], the Senator from Rhode Island [Mr. PELL], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 277, a bill to authorize the establishment of the National African American Museum within the Smithsonian Institution.

S. 296

At the request of Mr. BUMPERS, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 296, a bill to require the Secretary of Agriculture to submit monthly financial obligation and employment reports to Congress for the Food and Safety and Inspection Service, and for other purposes.

S. 314

At the request of Mr. SARBANES, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 314, a bill to authorize appropriations for the National Historical Publications and Records Commission for fiscal year 1994 through fiscal year 1999.

S. 321

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 321, a bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide onsite day-care facilities for dependents of their employees, and for other purposes.

S. 348

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 348, a bill to amend the Internal Revenue Code of 1986 to permanently extend qualified mortgage bonds.

SENATE JOINT RESOLUTION 22

At the request of Mr. SPECTER, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Washington [Mrs. MURRAY], the Senator from Maine [Mr. COHEN], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of Senate Joint Resolution 22, a joint resolution designating March 25, 1993, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE JOINT RESOLUTION 36

At the request of Mr. LEAHY, the names of the Senator from Georgia [Mr. COVERDELL], the Senator from Arizona [Mr. DECONCINI], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Mississippi [Mr. LOTT], the Senator from Tennessee [Mr. MATHEWS], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of Senate Joint Resolution 36, a joint resolution to proclaim March 20, 1993, as "National Agriculture Day."

SENATE JOINT RESOLUTION 38

At the request of Mrs. KASSEBAUM, the names of the Senator from New York [Mr. D'AMATO], the Senator from Alaska [Mr. STEVENS], the Senator from Maryland [Mr. SARBANES], the Senator from Rhode Island [Mr. PELL], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Connecticut [Mr. DODD], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of Senate Joint Resolution 38, a joint resolution designating March 20, 1993, as "National Quilting Day."

SENATE JOINT RESOLUTION 40

At the request of Mr. KENNEDY, the names of the Senator from Colorado [Mr. BROWN] and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of Senate Joint Resolution 40, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

SENATE JOINT RESOLUTION 41

At the request of Mr. SIMON, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 41, a joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget.

SENATE JOINT RESOLUTION 42

At the request of Mr. BUMPERS, the names of the Senator from Missouri [Mr. DANFORTH] and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Joint Resolution 42, a joint resolution to designate the month of April 1993 as "Civil War History Month."

SENATE CONCURRENT RESOLUTION 9

At the request of Mr. EXON, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of Senate Concurrent Resolution 9, a concurrent resolution urging the President to negotiate a comprehensive nuclear weapons test ban.

SENATE RESOLUTION 11

At the request of Mr. DECONCINI, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Resolution 11, a resolution relating to Bosnia-Hercegovina's right to self-defense.

SENATE RESOLUTION 35

At the request of Mr. LAUTENBERG, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Resolution 35, a resolution expressing the sense of the Senate concerning systematic rape in the conflict in the former Socialist Federal Republic of Yugoslavia.

AMENDMENTS SUBMITTED

NATIONAL INSTITUTES OF HEALTH REAUTHORIZATION ACT

SHELBY (AND OTHERS) AMENDMENT NO. 35

Mr. SHELBY (for himself, Mr. NICKLES, and Mr. HELMS) proposed an amendment to the bill (S. 1) to amend the Public Health Service Act to revise and extend the programs for the National Institutes of Health, and for other purposes, as follows:

At the end of title XX, add the following new section:

SEC. 20. ACCESS TO INFORMATION BY FOREIGN CORPORATIONS.

(a) PROHIBITION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, information derived through research and development activities conducted in whole or in part with funds received from the National Institutes of Health or the National Science Foundation, may not be made available to a foreign corporation within the meaning of section 7701(a)(5) of the Internal Revenue Code of 1986, or a United States based subsidiary corporation of such a foreign corporation, by an institution of higher education if such corporation or subsidiary has a financial relationship with the institution.

(2) FINANCIAL RELATIONSHIP.—A financial relationship with an institution as described in paragraph (1) shall exist if—

(A) the corporation or subsidiary involved has paid a fee to the institution;

(B) the institution has accepted any gifts or donations of the corporation or subsidiary involved; or

(C) the institution had acquired any stock or other financial holding in the corporation or subsidiary involved.

(3) DEFINITION.—As used in paragraph (1), the term "subsidiary corporation" means any corporation (incorporated in the United States) in an unbroken chain of corporations beginning with the foreign corporation involved if, at the time the information to which paragraph (1) is sought, each of the corporations other than the last corporation in the unbroken chain owns stock possessing 50 percent or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

(b) SHARING OF INFORMATION.—Notwithstanding any other provision of law, an institution of higher education may not permit the sharing of information derived from research and development activities conducted in whole or in part with funds received from the National Institutes of Health or the National Science Foundation with a foreign corporation (within the meaning of section 7701(a)(5) of the Internal Revenue Code of 1986) or a subsidiary of that corporation, prior to the time at which such information becomes publicly available.

(c) GUIDELINES.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services and the Director of the National Science Foundation shall promulgate guidelines for the implementation of this section.

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services and the Director of the National Science Foundation shall prepare and submit to the appropriate committees of Congress a report concerning the implementation of this section, including an assessment of the status and progress of recipients of funds to which this section applies in complying with this section.

KENNEDY AMENDMENT NO. 36

Mr. KENNEDY proposed an amendment to amendment No. 35 proposed by Mr. SHELBY (and others) to the bill (S. 1) supra, as follows:

20 . ACCESS TO INFORMATION BY FOREIGN CORPORATIONS.

(a) PROHIBITION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, information derived through research and development activities conducted in whole or in part with funds received from the National Institutes of Health or the National Science Foundation, may not be made available to a foreign corporation within the meaning of section 7701(a)(5) of the Internal Revenue Code of 1986, or a United States based subsidiary corporation of such a foreign corporation, by an institution of higher education if such corporation or subsidiary has a financial relationship with the institution.

(2) FINANCIAL RELATIONSHIP.—A financial relationship with an institution as described in paragraph (1) shall exist if—

(A) the corporation or subsidiary involved has paid a fee to the institution;

(B) the institution has accepted any gifts or donations of the corporation or subsidiary involved; or

(C) the institution had acquired any stock or other financial holding in the corporation or subsidiary involved.

(3) DEFINITION.—As used in paragraph (1), the term "subsidiary corporation" means any corporation (incorporated in the United States) in an unbroken chain of corporations beginning with the foreign corporation involved if, at the time the information to which paragraph (1) is sought, each of the corporations other than the last corporation in the unbroken chain owns stock possessing 50 percent or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

(b) SHARING OF INFORMATION.—Notwithstanding any other provision of law, an institution of higher education may not permit the sharing of information derived from research and development activities conducted in whole or in part with funds received from the National Institutes of Health or the National Science Foundation with a foreign corporation (within the meaning of section 7701(a)(5) of the Internal Revenue Code of 1986) or a subsidiary of that corporation, prior to the time at which such information becomes publicly available.

(c) GUIDELINES.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services and the Director of the National Science Foundation shall promulgate guidelines for the implementation of this section.

(d) REPORT.—Not later than 13 months after the date of enactment of this Act, the Secretary of Health and Human Services and the Director of the National Science Foundation shall prepare and submit to the appropriate committees of Congress a report concerning the implementation of this section, including an assessment of the status and progress of recipients of funds to which this section applies in complying with this section.

NICKLES (AND OTHERS) AMENDMENT NO. 37

Mr. NICKLES (for himself, Mr. DOLE, Mrs. KASSEBAUM, Mr. HELMS, Mr. SHELBY, Mr. GRAMM, Mr. LOTT, Mr. COATS, Mr. MACK, Mr. CRAIG, Mr. BOND, Mr. COVERDELL, Mr. ROTH, Mr. MURKOWSKI, Mr. THURMOND, and Mr. SMITH) proposed an amendment to the bill (S. 1) supra, as follows:

At the appropriate place, add the following:

SECTION 1. ADMISSION TO THE UNITED STATES OF ALIENS INFECTED WITH THE AIDS VIRUS.

(a) Notwithstanding any other provision of law, regulations or directives concerning the exclusion of aliens on health related grounds, infection with HIV, the human immunodeficiency virus, shall constitute a communicable disease of public health significance for purposes of section 212(a)(1)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)(A)(i)).

(b) REPORT REQUIRED.—The President shall submit a report by September 1, 1993 containing—

(1) an assessment of the anticipated costs of the admission to the United States of persons with HIV to public health care programs, including such costs as will be borne by States and municipalities, and private insurers and health care providers;

(2) an estimate of the number and origins of persons infected with HIV likely to seek entry into the United States before December 31, 2003;

(3) an assessment of the effectiveness of the Immigration and Nationality Act in preventing persons entering the United States likely to become a public charge, as well as the ability to enforce this Act with regard to persons infected with potentially costly health conditions including, but not limited to HIV;

(4) the cost implications of refugees entering or likely to enter the United States, who carry the HIV virus;

(5) A comparison of the anticipated public and private health care costs associated with aliens infected with HIV with the costs attributable to the entry of aliens suffering from other health conditions;

(c) HIV TESTING.—Except as otherwise provided in subsection (d) the Attorney General, in consultation with the Secretary of HHS, shall provide for the testing of aliens for infection with HIV in accordance with the policy in effect on January 1, 1993;

(d) WAIVER AUTHORITY.—Subsection (c) may be waived by the Attorney General, in consultation with the Secretary of HHS for non-immigrants who, except for the provisions of this act, would be admissible to the United States, and who seek admission for 30 days or less for the purpose of:

(1) attending educational or medical conferences;

(2) receiving medical treatment;

(3) visiting close family members;

(4) conducting temporary business activities; or

(5) visiting for pleasure (tourism);

and in addition such non-immigrants may be admitted without questions as to whether they are carriers of the HIV virus, at the discretion of the Attorney General.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the authority of the Secretary of HHS to prescribe regulations, concerning communicable diseases of public health significance, other than infection with the human immunodeficiency virus in accordance with section 212(a)(1)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)(A)(i)).

KENNEDY AMENDMENT NO. 38

Mr. KENNEDY proposed an amendment to amendment No. 37 proposed by Mr. NICKLES (and others) to the bill (S. 1) supra, as follows:

In the amendment strike all after Section and insert the following:

. CONDITIONS ON ANY REMOVAL OF HIV STATUS EXCLUSION.

(a) RETENTION OF EXCLUSION.—The current list of communicable diseases of public health significance as in effect on February 16, 1993, shall remain in effect for a period of at least 60 days after the date of enactment of this Act for purposes of section 212(a)(1)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)(A)(i)).

(b) REPORT REQUIRED.—If the Secretary of Health and Human Services removes or alters the list described in subsection (a) after the expiration of the 60-day period described in that subsection, then the Secretary shall submit to Congress a report containing—

(1) an assessment of—

(A) the anticipated effect of such action on costs to United States public health care programs and entities, as well as to those operated by States and municipalities; and

(B) the anticipated costs to private insurers and health care providers of such action;

(2) any findings regarding current immigration law submitted by the Attorney General under subsection (c); and

(3) a comparison of the anticipated public and private health care costs associated with aliens infected with HIV with the costs attributable to the entry of aliens suffering from other health conditions.

(c) STUDY AND REPORT.—(1) The Attorney General shall conduct a study of the following:

(A) The effectiveness of current provisions of the Immigration and Nationality Act in guarding against entry into the United States of persons likely to become a public charge and in deporting, during a 5-year period after such entry, those immigrants who do become public charges.

(B) The ability of the Immigration and Naturalization Service to apply and enforce such Act with regard to immigrants infected with potentially costly health conditions including, but not limited to, HIV.

(2) The Attorney General shall submit to the President, the Secretary of Health and Human Services, and the Congress a report setting forth the findings of the study conducted under paragraph (1) and including such recommendations as the Attorney General determines may be necessary for revision of current immigration law to ensure that immigrants with costly health conditions who are likely to become public charges will be excluded.

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Thursday, March 18, 1993, at 9:00 a.m., to mark up a congressional election campaign finance bill. The committee will also mark up other pending legislative and administrative business that is ready for consideration by the time of the meeting.

For further information regarding this meeting, please contact Carole Blessington of the Rules Committee staff on x40278.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Wednesday, February 17, 1993, at 10 a.m. to conduct a hearing on reverse redlining and problems in home equity lending.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, February 17, 1993, at 9:30 a.m., in open session, to receive testimony on economic reform in the former Soviet Union: The current situation and United States policy options.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

GUN CONTROL

• Mr. SIMON. Mr. President, last December, I came across these articles in the Washington Post which highlight the serious problem of monitoring gun dealers and gun sales. The Bureau of Alcohol, Tobacco and Firearms simply does not have the resources necessary to enforce laws governing firearms dealers. There are over 276,000 licensed gun dealers in this country—according to the news program 20/20, there are more gun dealerships in our country than there are gas stations. While the number of gun dealers has increased by 59 percent since 1980, the number of Federal inspectors who inspect these gun dealerships has decreased by 13 percent. Meanwhile, guns have killed more than 60,000 people in the last 5 years. Something must be done to remedy this problem.

Mr. President, I ask that the following articles from the Washington Post be included in the RECORD: Two articles by Pierre Thomas, "Hit-Or-Miss Control of Firearms Sales" and "Penny-Ante Arms Dealer Ran Amok," and an Opinion Editorial from the Washington Post entitled "License to Kill."

The articles follow:

HIT-OR-MISS CONTROL OF FIREARMS SALES

(By Pierre Thomas)

Getting a federal license to sell rifles, shotguns and handguns can be as easy as sending in a two-page form and paying a $30 fee. Look for the license in your mailbox 45 days or so later.

Chances are nearly nine out of 10 that no one will interview you beforehand. Once you're licensed, federal inspectors won't get around to auditing your records and business practices for about 20 years. Renewals of the three-year license are virtually automatic.

Even if you live in the District, where local law has banned handgun sales since 1976 and the homicide rate has soared, you can obtain a federal permit to sell firearms.

The District's ban on handgun sales is only as strong as dealers' willingness to limit their business to rifles and shotguns. There are 46 federally licensed gun dealers in the District, and in the last two years, federal inspectors have checked two. D.C. police leave responsibility for monitoring dealers to the federal government.

"It's a joke," said Melvin Abrams, a longtime Baltimore County gun dealer. "The politicians are screaming about gun control, but [the federal government] is handing out licenses to every Tom, Dick and Harry. And then they never check the people. It makes you want to scream."

More than 60,000 people nationwide have been killed with guns in the last five years. The federal licensing system, meanwhile, if not a joke, is a least a well of irony, its critics and top officials agree.

At the heart of that irony is the U.S. Bureau of Alcohol, Tobacco and Firearms. It is the federal agency most responsible for enforcing federal gun-control laws and curbing illegal gun trafficking, but its mission as a licensing agency is to get permits into—not keep them out of—the hands of dealers. Congress and powerful lobbyists pressure the bureau constantly to make gun-selling in the United States as hassle-free as possible.

"Anybody can get a license to sell firearms," said Tony Haynes, head of ATF's licensing center. More than 270 licenses a day—91,000 new and renewed permits in all—were issued in 1991 by the licensing center, which is in Atlanta. Of 34,000 applications for new licenses that year, 37 were denied. The agency renewed 57,327 licenses, while denying 15 renewal requests.

Haynes said his mandate is to issue licenses and to do it as quickly and efficiently as possible." Federal regulations require ATF to process applications within 45 days.

There are more than 276,000 federally licensed gun dealers in the United States. ATF officials say that most are law-abiding, but that the agency has issued more permits than it can hope to monitor closely.

ATF bureau has 13 percent fewer field inspectors assigned primarily to gun dealers today than it had a decade ago. The number of federally licensed dealers, however, has grown rapidly. In 1980, there were 174,000; now there are 102,000 more—an increase of 59 percent.

Stephen Higgins, director of the agency, said that at present inspection rates and with current staff levels, it will be 20 years before ATF inspectors audit some licensees. "With 280,000 licensed dealers," Higgins said, "we're not going to get around to some of these people in their lifetime.

"No, I'm not comfortable with that, but the unfortunate fact is that we are not going to get more" money for inspections, Higgins said. "It's much easier to get Congress to approve task forces . . . of agents who are going to be working street gangs or violent criminals."

Such special operations have become more common in recent years, and arrests by ATF's 1,947 agents have grown. A surprising number of dealers have been accused of breaking the law and contributing to urban violence: At least 600 federally licensed dealers across the country have been arrested on criminal charges in the last five years, most for illegal weapons sales; More than a dozen federally licensed dealers in Detroit have been charged with providing more than 2,000 firearms to criminals in the city; A Richmond gun dealer recently pleaded guilty to falsifying federal firearms reports and then committed suicide after 100 guns he sold were confiscated in New York.

"There are just so many [new dealers] coming in," said Ed McKita, who supervises nine ATF inspectors responsible for monitoring 7,500 licensed Virginia dealers from a field office in Richmond. "There is just so much that you can do."

ATF'S HISTORY

Formed in 1972 as a branch of the Treasury Department, the bureau traces its history to

1863, when Congress established an office to collect taxes on alcohol.

In the 1920s, the Bureau of Prohibition was set up to track down bootleggers and gangsters. ATF agents today proudly declare themselves successors of that bureau's most famous agent, Eliot Ness, who snared mobster Al Capone and whose exploits were memorialized in a television series, "The Untouchables," and a movie of the same name.

ATF, nevertheless, has worked in the shadow of the more prestigious and better-funded Federal Bureau of Investigation, part of the Justice Department. ATF, with 4,203 employees, has a $341 million annual operating budget, less than a quarter of the FBI's.

ATF's duties include apprehending gunrunners, investigating explosions and arsons, auditing cigarette plants and tracking down the relatively few remaining moonshiners. The agency says it collects $10 billion in taxes from the industries it regulates.

The mandate for ATF's regulation of firearms is the Gun Control Act of 1968, the nation's primary gun-control law, passed after the shooting deaths of the Rev. Martin Luther King Jr. and Sen. Robert F. Kennedy.

The law provided for more comprehensive licensing of and record keeping by dealers so that weapons used in violent crimes could be traced to their original purchasers. The law also banned felons, people deemed mentally incompetent and some others from receiving, possessing or selling firearms.

ATF is charged with licensing dealers and with making sure that their sales are properly recorded and that they do not knowingly sell to prohibited buyers. It also runs the federal gun-tracing center in Landover, which helps law enforcement agencies track weapons used in violent crimes.

ATF's efforts to regulate guns have been hamstrung for years by the powerful gun lobby, led by the National Rifle Association. When, for instance, ATF tries to track a gun used in a crime, it often does so by flipping through slips of paper recording gun sales. Congress, responding to NRA assertions, has denied the agency money to computerize certain records of gun sales.

The gun lobby is opposed to any central database of gun owners, fearing it eventually could lead to confiscation of weapons from law-abiding citizens.

Proponents of stricter national gun control generally support strengthening ATF's oversight of dealers. Opponents often attack the competence of the agency and the attitudes of its agents, often described by critics as overzealous.

The agency has "made an awful lot of errors in their enforcement efforts," said James A. McClure, an Idaho Republican and frequent ATF critic who retired from the Senate in 1990. "Some pretty awful things were done—unlawful search and seizures, entrapment" of gun dealers. At times, McClure said, the agency "trampled on the Constitution."

Rep. William J. Hughes (D-NJ.), a supporter of stricter gun control, said complaints such as McClure's are "grossly overexaggerated" and part of overall efforts to "decimate the agency."

"There has been a concerted effort in recent administrations and in Congress," Hughes said, "to beat them down."

Hughes pointed to legislation cosponsored by McClure and passed in 1986 that reduced certain record-keeping violations by dealers from felonies to misdemeanors and forbade ATF to inspect any gun dealer more than once a year.

"We wanted them to get back to the field [to make criminal cases] rather than harassing dealers, McClure said. "We as Americans don't like the idea of Big Brother." Hughes countered that those changes produced a system with "no safeguards."

While required to issue permits quickly, ATF also is expected to ensure that undesirables do not get them. That process can be fraught with pitfalls.

Four ATF computer operators run names and Social Security numbers through a Treasury Department database to determine whether applicants are under federal investigation. They also check the FBI-run National Crime Information Center, a databank of crime records from federal, state and local agencies.

While some consider the FBI databank more than adequate, others contend there are critical flaws in it. The system usually cannot determine, for example, when the name and Social Security number on an applicant are false.

Several years ago, in an effort to underscore that weakness, a reporter submitted a made-up Social Security number as part of the application for a gun dealer's license for a pet dog, Haynes said. The computer found no criminal record under the dog's name, Fifi, or Social Security number, and a license was issued.

"If a criminal lies, I can't catch that up front," Haynes said. "Fifi the dog was clean."

David Nemecek, the head of the National Crime Information Center, said in a recent interview that though there are more than 16 million records in the system, not all local agencies contribute information. The database, moreover, is most complete for people born in 1956 and after. Many born earlier "may or may not be in the system," Nemecek said.

FEW SAFEGUARDS UP FRONT

ATF says it does not have the money to do fingerprint checks on applicants. Moreover, Haynes said, because of limited resources, there are very few pre-approval visits, in which an ATF inspector meets the dealer-to-be, gets answers to any nagging questions and explains rules and regulations.

Guns are "probably the most deadly consumer product, and it's essentially an unregulated industry," said Dennis Henigan, director of the D.C.-based Center to Prevent Handgun Violence.

Richard Gardiner, counsel for the NRA's Institute for Legislative Action, said the vast majority of gun dealers use their licenses to purchase guns for their personal use. Strengthening ATF oversight, he said, "would only make life difficult for more law-abiding people."

Abrams's Valley Gun Store in Parkville, a Baltimore suburb, is an example of how the federal system of gun regulation is supposed to work.

The inventory of Valley Gun, which stocks virtually every gun available, is guarded by clerks carrying guns in holsters and by a closed-circuit television system.

During his 43 years in business, Abrams said, he has sold more than 200,000 guns. ATF inspects his operation once a year, partly because he is a large dealer and sells machine guns and partly because weapons purchased at some time from his store often turn up in criminal investigations.

At Abrams's store, gun purchasers fill out two government forms—one from ATF, the other from the state of Maryland. Abrams, as the dealer, is required to keep the yellow ATF form for possible inspection by the agency—especially if the weapon is used in a crime.

ATF requires no background checks before the sales are made. Maryland law, however, imposes a seven-day waiting period for handguns and requires Abrams to send the white state form to the Maryland State Police for review and a background check.

But many dealers have trouble complying with the red tape that accompanies legal gun sales. More than half the gun dealers inspected by ATF last year were cited for violations such as incomplete records of gun buyers and reductions in gun inventories unaccounted for in sales records.

REACTING TO PROBLEMS

Pat McGlone, who has been an inspector for 22 years, said she worries that too often the agency is reacting to problems once they develop rather than working to prevent them through adequate policing of dealers.

A single bad dealer has the power to quickly put a large number of guns into the wrong hands. "Hopefully, we can catch them [bad dealers] before too much damage is done," McGlone said. "But in the meantime, how many people will have been injured or worse?"

ATF's lack of monitoring leads to poor coordination between federal and state law enforcement agencies.

In Maryland, for example ATF has licensed about 3,000 gun dealers. Only 300, however, have registered with the state police. No one knows whether the 2,700 others are selling guns and complying with state and local firearms, tax, business and land-use laws.

The Virginia State Police, which does background checks on gun buyers in that state, recently formed a firearms section to find out more about nearly 2,000 federally licensed dealers who have not registered with the state.

Some see a distinct irony in current efforts to impose a nationwide waiting period for handgun buyers: "We don't go anywhere near that far in relation to gun dealers," said Roland Vaughn, recently retired president of the International Association of Chiefs of Police, which favors the national waiting period. "That's a significant flaw, and it ought to be corrected immediately."

PENNY-ANTE ARMS DEALER RAN AMOK

(By Pierre Thomas)

From his Baltimore home and the seat of his car—and with the federal government's seal of approval—Carroll Landis Brown ran a bustling gun dealership.

One of his customers, John Kennedy, was a convicted felon, prohibited by federal law from buying or owning a weapon. "Don't worry. Just sign and put 'no' down to all the questions," Kennedy recalled Brown's telling him as he gave him a form from the U.S. Bureau of Alcohol, Tobacco and Firearms that asks prospective gun owners about criminal convictions.

Kennedy wrote a false address on the form and asked Brown whether the information would be forwarded to law enforcement agencies. "He said, 'No, it stays with me,'" Kennedy told investigators later.

In addition to the ATF form, Brown was supposed to provide Kennedy's name and address to the Maryland State Police for a background check. Under state law, Brown was not supposed to give Kennedy the gun for seven days, to allow police to complete the check.

Brown ignored the regulations, Kennedy paid him $385 in cash and left with a new 10mm semiautomatic pistol.

With his $30 dealer's license from ATF, Brown sold more than 300 guns in 17 months.

Some of them later were used in crimes. Not once after Brown's brief interview as an applicant for a dealer's license was he contacted or inspected by ATF.

Had ATF inquired, it would have found that fewer than half of Brown's gun sales were properly recorded. Some weren't recorded at all. And when he bothered to write down names and addresses, they were often bogus, law enforcement authorities say.

Brown said he never knowingly violated state or local laws. In 1990 he was charged with multiple violations of the laws governing his license. He pleaded guilty to some of the charges and served 21 months in prison.

Brown's case is an example of what can go wrong in a system with a team of federal inspectors that has shrunk as the number of gun dealers has grown by more than half, to more than 276,000.

It also shows how ATF, the federal agency that licenses dealers and enforces the principal federal gun control law, the Gun Control Act of 1968, largely reacts to illegal gun sales rather than preventing them.

Some critics of ATF say it has to become more aggressive about regulating dealers and gun sales, especially in light of the more than 60,000 gun-related homicides nationwide in the five years. Opponents of stronger ATF oversight contend that it would lead to unnecessary harassment of law-abiding dealers and gun owners, who, they say, make up the majority of both.

ATF's problem is, in part, a matter of resources. In Maryland, there are more than 3,000 federally licensed gun dealers, but only 11 ATF inspectors to oversee them. Last year, they conducted 209 inspections of gun dealers in the state.

Rogue federally licensed dealers have become a growing concern to local and national law enforcement authorities, including ATF. At least 600 federally licensed dealers have been arrested on criminal charges in the last five years, most for illegal distribution of firearms.

Brown, a former postal worker, began selling guns as a side business. "He paid $30, had virtually no overhead and was in business," said Edward W. Wetterman, an AFT agent who helped bring about Brown's arrest. "He had an opportunity to make money with very few questions asked, and he took advantage of the situation."

Brown sees it differently. He said he did neglect to fill out required paperwork, but believed he was operating no differently from other gun dealers. "The rules and regulations that they put on firearms and people that have licenses [are] not going to work." Brown said in an interview, "because people are going to find a way to get [firearms] one way or another."

THE APPLICATION PROCESS

Brown's contact with ATF began on March 12, 1989, when his wife mailed the agency a $30 American Express money order and an application in both their names for a license to purchase and sell firearms.

The application was run through an automated criminal background check. Brown had been convicted of a misdemeanor assault in 1983 and served a year's probation, according to court records. After reviewing his application, ATF made an appointment to interview him, partly because of his misdemeanor conviction. Only about one in 10 applicants receives such an on-site visit.

An ATF inspector spent roughly four hours on the Browns' application before recommending approval, agency records show. The misdemeanor conviction did not disqualify Brown. A felony or a history of mental illness would have.

The application stated that Brown and his wife planned to sell "rifles, shotguns, pistols, ammunition and any accessories" from "a small shop in [their] home." Baltimore officials say Brown never obtained permits required to operate a business from a residence.

Dealers are required to record the names and addresses of all gun buyers and keep them for ATF inspectors—especially in the event that one of the weapons they have sold turns up in a criminal investigation.

When he first set up the business, Brown said, he thought ATF might show up to audit his files. He kept records, but sporadically. Months passed with no contact from the agency Brown recalled, and he became less and less concerned about an agency inspection.

Brown wanted the business to grow, so he began taking out classified advertisements in the daily newspaper, according to court records. A portion of one ad read: "Llama 9mm [pistol] $350. New never been fired." The gun business was lucrative: Brown's profit was about $100 a gun, authorities said. Customers were plentiful, Brown said.

High-capacity firearms originally sold by Brown, some equipped with laser sights, began showing up at Baltimore crime scenes. In a three-month span beginning in September 1990, police confiscated 11 guns that, according to records, manufacturers and wholesalers had shipped to Brown. One was taken from a three-time-convicted felon.

That November, Baltimore police investigating a homicide found at a city residence a Cobray 9mm pistol that had been shipped to Brown. Five days later, police arrested four suspects on handgun charges and confiscated three more guns that had been shipped to Brown.

ATF agent Wetterman eventually determined that at least eight distributors had shipped Brown hundreds of weapons, with a wholesale value of more than $58,000. Yet in many instances, state police had not been asked to perform background checks on buyers as required by state law.

Law enforcement officials also learned that three months after receiving his license, Brown changed his business address without informing ATF. Technically, that would have rendered the license invalid because Brown had not registered his new place of business.

In addition, city officials were not aware that Brown was operating a business out of his home, zoning officials said.

SETTING UP THE STING

In December 1990, an undercover ATF agent dialed the telephone number that appeared in Brown's classifieds. A man who identified himself as Carroll answered, according to court records.

The undercover agent told the man he wanted to buy a Glock 9mm. The agent told the man that he lived in Virginia. Federal law generally permits a dealer to sell only to residents of the state where the business is located.

The man agreed to meet the agent at a Baltimore shopping center.

A few days later, the agent, who was being electronically monitored, slipped into the front seat of a 1989 Dodge. Brown was at the wheel. Again, the agent said that he was from Virginia.

The sale went through. The agent gave Brown $470. Brown gave him the gun, according to court records.

Brown asked the agent to write the address of a Baltimore acquaintance on the ATF sale form, the records show. Brown said he routinely conducted business in this fashion and bragged of having sold 15 guns on one occasion.

The next week, ATF agents arrested Brown on a variety of charges stemming from the $470 sale and other sales under investigation. As he was processed by authorities, he told them he would give up his federal license voluntarily. ATF accepted the offer, and two months later the agency formally canceled FFL No. 8-52-001-01-2G-33026.

Brown's attorney, Gordon Tayback, of Baltimore, acknowledged that his client had sold more than 300 weapons. Most have not been recovered, including more than 100 Brown is believed to have sold to a single buyer, federal agents said.

Less than a month after Brown was arrested, Baltimore police investigated a complaint of shots being fired by a New Year's Eve reveler. They stopped a man and confiscated a gun.

The man identified himself as John Kennedy. He said he had purchased that gun and others from Carroll Landis Brown. He never used his own name, he said. He signed all the gun sales records as "John Johnson." Investigators determined that one of those guns made its way from Kennedy to a man who later used the weapon in a Baltimore homicide.

During a recent interview at a Baltimore halfway house, Brown told a reporter that he was pained by the violence carried out with the weapons he sold. "It bothered me," he said, his voice trailing off, his eyes lowered. "I didn't really think that someone would actually murder somebody."

LICENSE TO KILL

In an eye-opening series this week titled "Under the Gun," staff writer Pierre Thomas reported that getting a federal license to sell firearms is a snap. Fill out a short form, pay $30, and in about 45 days you've got a license. No fuss and probably no bother—most records aren't audited for decades. No wonder business is jumping—with more than 270 licenses a day issued in 1991. Of 34,000 applications for new licenses last year, only 37 were denied. There were 57,327 licenses renewed and only 15 renewal applications denied. The total number of license-holders, most of them considered law-abiding, is ridiculously high—276,000, up 59 percent since 1980, while the number of federal inspectors assigned primarily to gun dealers is down 13 percent. And oh, yes: Guns have killed 60,000 people in this country in five years.

So what's the matter with the U.S. Bureau of Alcohol, Tobacco and Firearms, the agency that dishes out all these licenses and then can't begin to monitor them? This agency is only as effective as the law allows it to be, and in this case the law is just the way—weak—the NRA likes. The gun lobby prefers an agency with minimum computerized capacity to check records or use a central database. In 1986, when members of Congress were even more cowed by the gun lobby than they are today, the NRA and its semiautomatic water-carrier in the Senate at the time—Republican James A. McClure of Idaho, now retired—succeeded in weakening what law was on the books. His legislation reduced certain record-keeping violations by dealers from felonies to misdemeanors and forbade ATF to inspect any gun dealer more than once a year.

ATF needs its teeth back. The agency is good at what it is allowed to do, including the tracking of guns, even though it may have to sift through slips of paper because it hasn't been able to computerize its records quickly enough. Good legislation has been proposed before and should be enacted now. It's obvious that tougher federal controls are needed, along with a force that can inspect all license-holders regularly. One other proposal that could take effect quickly would require any applicant for a federal license to supply certification of compliance with all state and local ordinances. This, with an accelerated automation and inspection plan, could begin to make a difference right away. So could some tighter rules on applications for renewals.

The gun manufacturers for whom the NRA fronts will insist that the killers will always get firearms without paying attention to tougher controls. Why not test their argument? As it stands, the federal system is a disgrace.•

RULES OF THE COMMITTEE ON SMALL BUSINESS

• Mr. BUMPERS. Mr. President, in accordance with the Standing Rules of the Senate, I ask that the Small Business Committee's rules be printed in the RECORD.

The rules follow:

COMMITTEE RULES AS ADOPTED IN EXECUTIVE SESSION, MARCH 28, 1985

1. GENERAL

All applicable provisions of the Standing Rules of the Senate and of the Legislative Reorganization Act of 1946, as amended, shall govern the Committee and its Subcommittees. The Rules of the Committee shall be the Rules of any Subcommittee of the Committee.

2. MEETINGS AND QUORUMS

(a) The regular meeting day of the Committee shall be the first Wednesday of each month unless otherwise directed by the Chairman. All other meetings many be called by the Chairman as he deems necessary, on 3 days notice where practicable. If at least three Members of the Committee desire the Chairman to call a special meeting, they may file in the office of the Committee a written request therefor, addressed to the Chairman. Immediately thereafter, the Clerk of the Committee shall notify the Chairman of such request. If, within 3 calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within 7 calendar days after the filing of such request, a majority of the Committee Members may file in the Office of the Committee their written notice that a special Committee meeting will be held, specifying the date, hour and place thereof, and the Committee shall meet at that time and place. Immediately upon the filing of such notice, the Clerk of the Committee shall notify all Committee Members that such special meeting will be held and inform them of its date, hour and place. If the Chairman is not present at any regular, additional or special meeting, the Ranking Majority Member present shall preside.

(b)(1) Eleven Members of the Committee shall constitute a quorum for reporting any legislative measure or nomination.

(2) Seven Members of the Committee shall constitute a quorum for the transaction of routine business, provided that one Minority Member is present. The term "routine business" includes, but is not limited to, the consideration of legislation pending before the Committee and any amendments thereto, and voting on such amendments. 132 Cong. Rec. S3231 (daily ed. March 21, 1986).

(3) In hearings, whether in public or closed session, a quorum for the taking of testimony, including sworn testimony, shall consist of one Member of the Committee or Subcommittee.

(c) Proxies will be permitted in voting upon the business of the Committee by Members who are unable to be present. To be valid, proxies must be signed and assign the right to vote to one of the Members who will be present. Proxies shall in no case be counted for establishing a quorum.

3. HEARINGS

(a)(1) The Chairman of the Committee may initiate a hearing of the Committee on his authority or upon his arrival of a request by any Member of the Committee. The Chairman of any Subcommittee may, after approval of the Chairman, initiate a hearing of the Subcommittee on his authority or at the request of any member of the Subcommittee. Written notice of all hearings shall be given, as far in advance as practicable, to Members of the Committee.

(2) Hearings of the Committee or any Subcommittee shall not be scheduled outside the District of Columbia unless specifically authorized by the Chairman and the Ranking Minority Member or by consent of a majority of the Committee. Such consent may be given informally, without a meeting.

(b)(1) Any Member of the Committee shall be empowered to administer the oath to any witness testifying as to fact if a quorum be present as specified in Rule 2(b).

(2) Any Member of the Committee may attend any meeting or hearing held by any Subcommittee and question witnesses testifying before any Subcommittee.

(3) Interrogation of witnesses at hearings shall be conducted on behalf of the Committee by Members of the Committee or such Committee staff as is authorized by the Chairman or Ranking Minority Member.

(4) Witnesses appearing before the Committee shall file with the Clerk of the Committee a written statement of the prepared testimony at least 48 hours in advance of the hearing at which the witness is to appear unless this requirement is waived by the Chairman and the Ranking Minority Member.

(c) Witnesses may be subpoenaed by the Chairman with the agreement of the Ranking Minority Member or by consent of a majority of the Members of the Committee. Such consent may be given informally, without a meeting. Subpoenas shall be issued by the Chairman or by any Member of the Committee designated by him. Subcommittees shall not have the right to authorize or issue subpoenas. A subpoena for the attendance of a witness shall state briefly the purpose of the hearing and the matter or matters to which the witness is expected to testify. A subpoena for the production of memoranda, documents and records shall identify the papers required to be produced with as much particularity as is practicable.

(d) Any witness summoned to a public or closed hearing may be accompanied by counsel of his own choosing, who shall be permitted while the witness is testifying to advise him of his legal rights.

(e) No confidential testimony taken, or confidential material presented to the Committee, or any report of the proceedings of a closed hearing, or confidential testimony or material submitted voluntarily or pursuant to a subpoena, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee.

4. AMENDMENT OF RULES

The foregoing rules may be added to, modified or amended: provided, however, that not less than a majority of the entire Membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.•

REMARKS OF LEON WIESELTIER

• Mr. MOYNIHAN. Mr. President, on this day of the State of the Union Address, I would call to the attention of the Senate a remarkable, if brief, address given by Leon Wieseltier on the occasion of a reception for Vice President and Mrs. Gore at the time of the inauguration. Mr. Wieseltier is, of course, literary editor of the New Republic, which gave the reception. His remarks are both felicitous, welcoming, and admonitory. He is himself a man of singular literary gifts, and profound historical understanding. I believe Senators will agree and ask unanimous consent that Mr. Wieseltier's remarks be included in the RECORD.

The remarks follow:

REMARKS BY LEON WIESELTIER

Ladies and gentlemen, Tipper and Al, I'm delighted to welcome you here this evening on behalf of Marty, Ann, Andrew, myself, and all my colleagues at The New Republic, which is, as you know, the best liberal and conservative magazine in America.

Al, there stand before you here the children, distant and not so distant, of slaves, immigrants, and refugees; an African American, an Asian American, a Jewish American. All week long you have been reminded of these differences, and asked that you remember them and respect them.

We, too, would like you to remember and to respect them; but we ask, as you come to govern us, that you also forget them. In this country, being different is easy. Being the same, in the way that citizens must be the same, is the real trick.

And so we have asked Brother Marsalis and Brother Ma to play in your honor this evening, with this thought in mind: just as the aim of art is beauty, the aim of government is justice; and justice must resemble beauty in its complete indifference to everything except itself, or so we all should wish.•

PRESIDENTIAL POLITICS IN SOUTH DAKOTA

• Mr. DASCHLE. Mr. President, I would like to bring to my colleagues' attention an article, "Presidential Politics in South Dakota, 1936." It was written by Philip A. Grant, Jr., a distinguished professor of history at Pace University in New York.

One of the major themes of the article is the tendency of South Dakota voters to split their tickets. In 1936, South Dakotans voted for President Roosevelt and elected a Republican Governor and Congressman. Last November, South Dakotans favored President Bush and reelected a Democratic Senator and Congressman.

I ask that Professor Grant's fascinating article be printed in the RECORD and commend it to my colleagues.

The article follows:

PRESIDENTIAL POLITICS IN SOUTH DAKOTA, 1936

(By Philip A. Grant, Jr.)

On 11 June 1936, the Republican party nominated Governor Alfred M. Landon of Kansas as its candidate for president of the United States. Fifteen days later, the Democrats renominated incumbent president Franklin D. Roosevelt. Although both major political parties had officially chosen presidential candidates by late June, the 1936 campaign did not actually begin until Governor Landon gave his first major speech on 22 August. Between that date and 3 November, the American electorate had the opportunity to evaluate the personalities and policies of the Republican and Democratic nominees. During those ten weeks, both Governor Landon and President Roosevelt traveled throughout the nation, held press conferences in numerous cities and towns, delivered formal addresses over the various radios networks, and issued a multitude of position papers detailing their campaign promises. While the people of the United States were certainly interested in the outcome of the 1936 presidential contest, they were equally preoccupied with the progress made toward mitigating the suffering the Great Depression had caused. Indeed, nearly seven years had elapsed since the infamous Wall Street financial crisis of 1929. As the campaign of 1936 progressed, political observers kept an eye on South Dakota, for the state had proven to be a barometer of midwestern, if not national, political sentiment, having cast its electoral votes for victorious candidates in seven of the last nine presidential elections.[1]

Between 1900 and 1928, South Dakotans had been steadfastly Republican, sending GOP candidates to both the United States Senate and House of Representatives and voting for Republicans in thirteen of fifteen gubernatorial elections.[2] On 8 November 1932, the sustained Republican domination of South Dakota politics had ended abruptly and dramatically with Roosevelt winning all but one county in the state and outpolling President Herbert Hoover 183,515 to 99,212. Also triumphant in the 1932 South Dakota race were the Democratic nominee for governor, the two Democratic candidates for the House of Representatives, and ninety-eight Democrats seeking seats in the one hundred-forty-eight-member state legislature.[3] By August and September 1936, however, some South Dakota Republicans were cautiously optimistic about their party's prospects for the November election. First, these Republicans suspected that an appreciable number of voters were growing impatient with the limited success of President Roosevelt's attempts to revitalize the American economy. Second, they believed that Governor Landon, who was in no way associated with the origins of the depression, was a decidedly more attractive and viable candidate than discredited former president Herbert Hoover had been four years earlier. Finally, they anticipated that the Union party presidential nominee, Congressman William Lemke of neighboring North Dakota, might draw thousands of disgruntled Democratic and independent votes in rural South Dakota.

South Dakota Republicans had some justification for their optimism regarding Landon's challenge to Roosevelt's reelection quest. One of the few Republican governors elected in the Democratic landslide of 1932, Landon had been comfortably reelected two years later in defiance of a pronounced nationwide Democratic trend. The popular chief executive of a Great Plains state that was similar to South Dakota both geographically and economically, he had carried the bulk of the agricultural counties in his two Kansas gubernatorial campaigns. Moreover, Landon clearly identified with the moderate wing of the Republican party, making him more acceptable to those whom Hoover's rigid conservatism had alienated in 1932.[4]

South Dakota political observers estimated that Union party candidate Lemke might poll in excess of twenty percent of South Dakota's popular vote, recalling that third-party candidates had fared conspicuously well in several past presidential elections. In 1892, Populist James B. Weaver had received 26,552 votes (37.8 percent) in South Dakota, while in 1912 Theodore Roosevelt, the Progressive ("Bull Moose") nominee, had accumulated 58,811 ballots (50.6 percent). In 1920 Parley P. Christensen, the Farmer-Labor candidate, had won 34,406 votes (19.0 percent), and four years later, Progressive Robert M. La Follette secured 75,200 votes (36.9 percent). Observers speculated that if Lemke did reasonably well in his presidential bid in South Dakota, he might cause serious problems for the Roosevelt candidacy.[5]

With few exceptions, South Dakota Democrats expected that 1936 would be a productive year for their party. President Roosevelt's magnetic personality would be a meaningful factor in the presidential contest, as it had in 1932. Destined to become the most formidable vote-getter in the annals of American politics, Roosevelt had twice won the governorship of New York, the nation's largest and most diverse state. In the 1932 presidential election, he had won every state between the Ohio River and the Pacific Ocean. His aristocratic background notwithstanding, Roosevelt repeatedly stressed his commitment to improving the lot of the small and frequently impoverished farmer. During his first administration, he had persuaded Congress to enact the most sweeping domestic-reform program in American history. An orator of renowned eloquence, he had delivered a number of his legendary "fireside chats" before the 1936 campaign began.[6]

In addition to Roosevelt's popularity, Democrats had further reason to be optimistic when they reviewed the off-year elections of 1934, which had afforded voters an opportunity to express their approval for or disenchantment with Roosevelt's New Deal. In all previous off-year elections, the party controlling the White House had lost congressional seats and governorships. In 1934, however, the Democrats added to their already sizeable House and Senate majorities and captured several key governorships. Particularly noteworthy were Democratic successes in the Midwest, where Democrats won Senate seats in Ohio, Indiana, Missouri, and Nebraska and governorships in Ohio, Iowa, Nebraska, North Dakota, and South Dakota. In South Dakota, both incumbent Democratic congressmen, Fred H. Hildebrandt of Watertown and Theodore B. Werner of Rapid City, defeated their Republican adversaries. Voters gave Democratic Governor Tom Berry a second term by a record 62,593 majority.[7]

Of paramount importance to the fate of the Democratic ticket in South Dakota, however, was the impact of the various New Deal agricultural programs, which had resulted in a steady increase in annual farm income across the Midwest and the entire nation. Such landmark measures as the Agricultural Adjustment Act of 1933, the Farm Mortgage Moratorium Act of 1935, the Soil Conservation and Domestic Allotment Act, and the Rural Electrification Act had contributed to a reversal of the misfortunes that had plagued American agriculture since the early 1920s. Between 1932 and 1936, farm income nationwide had increased by more than sixty-eight percent, from $6,405,000,000 to $10,756,000,000. Roosevelt's emphasis on farm relief generated considerable enthusiasm in South Dakota and its neighboring states throughout the farm belt, where support for the president crossed party lines. Endorsing Roosevelt in 1936 were Senators George W. Norris of Nebraska, Henrik Shipstead of Minnesota, and Robert M. La Follette, Jr., of Wisconsin, three distinguished public servants who had long advocated farm relief but had never affiliated with the Democratic party.[8]

In late August, prior to launching his formal reelection campaign, Roosevelt traveled through several midwestern states on a drought-inspection trip. The president visited South Dakota from 28 to 30 August, participating in drought-crisis conferences in Perre and Rapid City. Roosevelt's presence in South Dakota generated a substantial amount of favorable publicity around the country, and the chief executive frequently reminded South Dakotans of his administration's unwavering commitments to agriculture and conservation.[9]

At Aberdeen on 28 August, the president expressed concern over both the drought and the projected needs of the 1936-1937 winter, stating, "I have been thinking more about the future, for I want to see South Dakota continue to grow and prosper." Acknowledging that the economy of South Dakota was largely dependent upon agriculture, Roosevelt stressed that those who lived in the cities needed to realize that "there would not be any cities if there were not any farms." Urging South Dakotans "to cooperate with Nature," the president concluded: "I have come out here to learn more about the conditions at first hand. I shall take back to Washington with me the picture of a whole lot of people with courage, with their chins up, who are telling us that they are going to see things through. And I am going to help."[10]

Later the same day, Roosevelt delivered an extemporaneous speech at Huron. Voicing optimism about the future, the president asserted that the federal government was "trying to restore this country out through here to a position where we can go ahead in South Dakota to better times, not only in the cities, but on the farms." Confident that the cooperation of South Dakotans would make "the days to come more happy and prosperous than in the past," Roosevelt climaxed his remarks with his own appraisal of the farm situation: "I notice a good deal of change up here from the days when wheat was selling at twenty-five cents and corn at ten cents, even if we have not got so much wheat and corn. And next year we hope that we shall have them and that the prices for them will be higher than they were in the old days."[11] The president also spoke at Mount Rushmore after unveiling the face of Thomas Jefferson on 30 August. In an informal speech, he hailed the memorial to democratic government as an inspiration "not only in our own beloved country, but, we hope, throughout the world."[12]

Although Republican presidential candidate Alfred Landon did not appear in South Dakota during the 1936 campaign, his running mate, Chicago Daily News publisher Frank Knox, visited the state in early September. In addresses delivered at Mitchell,

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[1] Footnotes at end of article.

Aberdeen, and Rapid City, Knox criticized the Roosevelt Administration for squandering government money and charged that New Deal farm policies had resulted in a loss of foreign markets. Knox assured South Dakotans that the Republican party would not cut relief benefits but would instead eliminate the waste in government programs.[13]

William Lemke, the Union party nominee, confined his 1936 campaign in South Dakota to a single speech in Sioux Falls on 7 October, in which he predicted that he would carry the state in the general election if the race between Roosevelt and Lemke was close. Denouncing the records of both major parties, Lemke declared: "We are through with the reactionary Democrats and Republicans. They are not only breeds of the same cat, but are the same cat." Presenting himself as the true friend of the farmer, Lemke recalled the bills that he and his North Dakota colleague, Sen. Lynn J. Frazier, had authored between 1933 and 1936 calling for massive federal aid for agriculture.[14]

Perhaps the most noteworthy development of the entire 1936 South Dakota presidential campaign was Sen. Peter Norbeck's decision to endorse Roosevelt. A lifelong Republican and highly respected leader of the bipartisan congressional farm bloc, Norbeck, of Redfield, South Dakota, had been elected governor twice and United States senator three times. Despite his Republican affiliation, Norbeck had compiled a virtually unblemished record of support for New Deal legislation. In his 13 October announcement that he favored Roosevelt's reelection, Norbeck credited the president with having fostered business recovery and improved the overall welfare of agriculture.[15]

Republicans met Norbeck's endorsement with dismay, but they took encouragement from the results of two public-opinion polls published in the Farm Journal and the Literary Digest. The Farm Journal's surveys, conducted monthly between August and November, revealed that Landon led Roosevelt in South Dakota by 13.5 to 18.8 percent. The Literary Digest findings indicated that Landon would handily carry the state by a margin of 25.6 to 28.9 percent. Both polls predicted that Lemke would not be a factor in the South Dakota election. According to the Farm Journal, Lemke would attract a maximum of 74 percent of the ballots, while the Literary Digest calculated the North Dakotan's proportion at 5.7 percent or less.[16]

The Gallup and Crossley polls indicated a somewhat different political climate in the state. In several surveys conducted between 24 November 1935 and 19 January 1936, the Gallup organization concluded that most South Dakotans favored the president's reelection. In late August, however, the poll placed South Dakota and ten other states in the "borderline Republican" category. In late October, South Dakota was listed in the ranks of fourteen "doubtful" states. The Crossley Poll published the results of three surveys in the autumn of 1936. On 27 September, the poll estimated that Roosevelt and Landon would both receive fifty percent of the popular vote, while on 1 November it projected that the president held a fifty-four-to-forty-six-percent advantage over his Republican challenger.[17]

On 3 November 1936, nearly three hundred thousand South Dakotans went to the polls to choose between Roosevelt and Landon. Early returns showed the president leading his Republican challenger in approximately three-quarters of the state's counties. By midnight it was certain that Roosevelt would carry South Dakota by at least thirty thousand votes. After all the ballots were counted, Roosevelt had garnered 160,137 votes (54.0 percent); Landon, 125,977 (42.5 percent); and Lemke, 10,338 (3.5 percent).[18]

While the president's plurality of 34,160 votes was far less than his 1932 margin of 84,303, he prevailed over Landon in fifty-four of South Dakota's sixty-nine counties. In addition to winning most of the state's rural areas, Roosevelt also ran well in eight primarily urban counties, although in the largest, Minnehaha County, his margin of victory was only 756 votes:

County	Roosevelt	Landon
Minnehaha (Sioux Falls)	13,174	12,418
Brown (Aberdeen)	9,177	4,505
Beadle (Huron)	5,843	2,965
Pennington (Rapid City)	5,557	4,442
Davison (Mitchell)	4,983	2,510
Yankton (Yankton)	4,349	2,702
Codington (Watertown)	4,256	3,005
Clay (Vermillion)	3,070	[19] 1,692

The Republican challenger had captured only fifteen counties, twelve of which were located east of the Missouri River. Landon proved particularly strong in seven counties close to the Minnesota border:

County	Landon	Roosevelt
Brookings	3,899	3,161
Turner	3,214	2,923
Lake	3,182	2,520
Lincoln	2,918	2,541
Kingsbury	2,813	2,037
Hamlin	1,857	1,622
Deuel	1,595	[20] 1,440

Interestingly, all seven counties had favored Roosevelt in 1932.

As some pollsters had predicted, Lemke's 10,338 votes had absolutely no impact on the outcome of South Dakota's presidential contest. His candidacy harmed Roosevelt only in Butte County, which Landon carried by six votes. As a long-time advocate of farm relief and an outspoken congressman from an adjacent state, Lemke was well known in South Dakota. Although he did attract a somewhat higher proportion of the vote in the state than in other parts of the nation, his performance was obviously disappointing. The fact that the president swept most of the state's rural counties indicated that South Dakotans were generally satisfied with the New Deal farm programs and saw no overriding reason to cast a protest vote for Lemke.[21]

In November 1936, across the country, Roosevelt scored the most overwhelming victory in the annals of American presidential elections, defeating Landon by 531 to 8 ballots in the electoral college and 11,068,093 in the popular vote. In nearly all sections of the United States, Roosevelt substantially improved his showing over that of 1932—except in South Dakota and a few other states, where the president's percentage declined. While his support nationwide increased from 57.4 to 60.8 percent, his share of the vote in South Dakota dropped from 63.6 to 54.0 percent.[22]

Roosevelt's overwhelming victory in other areas of the country reflected the fact that by 1936, the problems confronting urban America had begun to preoccupy the president. Such significant New Deal laws as the National Housing Act of 1934, the Social Security Act, and the National Labor Relations (Wagner) Act had enormous importance to tens of millions of citizens clustered in the nation's urban centers. While the president still commanded the loyalty of most farmers in South Dakota and its neighboring agricultural states, his popularity in the industrial states of the Northeast and Midwest had grown significantly. Between the 1932 and 1936 elections, the proportion of the vote Roosevelt received in the industrial states of New York, New Jersey, Pennsylvania, Ohio, Michigan, and Illinois rose an average of 6.8 percent, an increase of 2,348,113 votes.[23]

In 1932, the Roosevelt landslide had resulted in Democrats winning nearly all key South Dakota offices. In 1936, the coattail effects of the president's victory were more limited. Although the Republican party had been unable to deny Roosevelt South Dakota's four electoral votes, it had regained control of both the governorship and the legislature and ousted an incumbent Democrat in the second congressional district. In the gubernatorial race, Republican Leslie Jensen of Hot Springs emerged victorious by a 9,404-vote margin over Democratic incumbent Tom Berry. Republicans registered net increases of ten seats in the state senate and twenty-five seats in the house of representatives. In the second congressional district race, Republican Francis H. Case of Custer prevailed by a vote of 34,812 to 32,549 over Democrat Theodore B. Werner, thus beginning a career on Capitol Hill that would span more than a quarter century. Republicans also made respectable showings in contests for the United States Senate and the first congressional district. Republican Senate candidate Chan Gurney of Yankton secured 49.2 percent of the vote, coming within 6,048 votes of unseating Democratic incumbent William J. Bulow, and Republican Karl E. Mundt of Madison received 49.4 percent of the vote for the House seat, losing the race to Fred H. Hildebrandt by only 2,570 votes.[24]

In South Dakota, a correlation certainly existed between the president's second victory in 1936 and the progress his administration had made in combating the depression. To assert that Roosevelt had ended the depression by November 1936 would be erroneous, but evidence abounded that both the state and the nation as a whole had experienced gradual economic recovery during Roosevelt's tenure. Of paramount importance were the figures both for annual statewide farm income and prices of individual crops. In 1932, South Dakota's farm income from crops, livestock, and government payments had been $56,654,000, while in 1936 the figure had been $103,972,000. This increase of $47,318,000 represented a rise of nearly 54.5 percent and reflected the prices South Dakota farmers received for their crops. The comparative statistics for four major crops were as follows:

Crop	1932	1936
Corn	$0.25 per bushel	$1.08 per bushel.
Wheat	$0.34 per bushel	$1.15 per bushel.
Oats	$0.10 per bushel	$0.40 per bushel.
Barley	$0.16 per bushel	$0.67 per bushel.[25]

The outcome of the presidential election of 1936 in South Dakota constituted both a personal tribute to Franklin D. Roosevelt and a basic sympathy on the part of most South Dakotans with the objectives of the New Deal. While South Dakota had been consistently Republican since its admission to the Union in 1889, Roosevelt's dynamic personality and avowed determination to change the nation's economic structure, along with some recognizable success, had profoundly influenced the people of the state.

In no sense did the South Dakota election of 1936 suggest a mandate for the Democratic party. Indeed, the president's victory was considerably more modest than in 1932, and the electorate of South Dakota, while declining to approve Landon's candidacy, had returned control of the state government to the Republicans. Moreover, the extremely close House and Senate contests confirmed that South Dakotans were almost evenly divided over which party should represent them in Congress. In helping to elect Roosevelt to a second term, South Dakotans did not repeat their 1932 repudiation of state Republican party leadership. In voting Democratic at the presidential level in 1936, the citizens of South Dakota continued to affirm their support of Roosevelt's New Deal and act as a barometer concerning midwestern political trends.●

FOOTNOTES

[1] Richard C. Bain and Judith H. Paris, Convention Decisions and Voting Records, 2d ed. (Washington, D.C.; Brookings Institution, 1973), pp. 245–50; New York Times, 12 June 1936, pp. 1, 12, 27 June 1936, pp. 1, 8, 23 Aug. 1936, pp. 1, 35. Comprehensive accounts of the 1936 presidential campaign can be found in the following works: James A. Farley, Behind the Ballots: The Personal History of a Politician (New York: Harcourt, Brace & Co., 1938), pp. 289–327; William E. Leuchtenberg, Franklin D. Roosevelt and the New Deal, 1932–1940 (New York: Harper & Row, 1963), pp. 175–96; Donald R. McCoy, Landon of Kansas (Lincoln: University of Nebraska Press, 1966), pp. 262–339; and Arthur M. Schlesinger, Jr., The Politics of Upheaval (Boston, Mass.: Houghton, Mifflin Co., 1960), pp. 626–43.

[2] Svend Petersen, A Statistical History of the American Presidential Elections (New York: Frederick Ungar Publishing Co., 1963), pp. 67, 70, 74, 78, 81, 83, 86, 89, 91. Between 1900 and 1928, the Republicans won eight of nine contests for the Senate and prevailed in thirty-six of the thirty-nine campaigns for seals in the House. The only South Dakota Democrats serving on Capitol Hill during the period were Sen. Edwin S. Johnson of Platte and Rep. Harry L. Gandy of Rapid City. The sole Democratic governor was William J. Bulow of Beresford, elected in 1926 and reelected in 1928. Guide to U.S. Elections (Washington, D.C.: Congressional Quarterly, Inc., 1975), pp. 429–30, 477, 504–5, 690, 695, 700, 705, 710, 715, 722, 729, 734, 739, 745, 749, 754, 759, 764; Lawrence F. Kennedy, comp., Biographical Directory of the American Congress, 1884–1971 (Washington, D.C.: Government Printing Office, 1971), pp. 983, 1191; Robert Sobel and John Raimo, comps., Biographical Directory of the Governors of the United States, 1789–1978, 4 vols. (Westport, Conn.: Meckler Books, 1978), 4:1449–54.

[3] South Dakota, Legislative Manual (1933), pp. 297–98, 301–9, 520–34, 536–70; Philip A. Grant, Jr., "Establishing a Two-Party System: The 1932 Presidential Election is South Dakota," Presidential Studies Quarterly 10 (Winter 1980): 76–79. For an analysis of the 1932 national election and party platforms, see Frank Freidel, "Election of 1932," in History of American Presidential Elections, 1789–1968, ed. Arthur M. Schlesinger, Jr., 4 vols. (New York: Chelsea House Publishers, 1971), 3:2707–62.

[4] In 1932, Democrats had won governorships in Ohio, Michigan, Indiana, Illinois, Missouri, Iowa, Wisconsin, Nebraska, and South Dakota, while Minnesota voters had elected the Farmer-Labor candidate. Guide to U.S. Elections, pp. 406–7, 415–18, 425, 430, 436. Having won by a mere 5,637-vote margin in 1932, Landon defeated his Democratic opponent by a 62,153 majority in 1934. After the 1934 elections, Republicans held only eight of the nation's forty-eight governorships and one hundred twenty-eight of the five hundred thirty-one seats in Congress. Guide to U.S. Elections, pp. 397–437, 485–509, 776–80.

[5] Ibid., pp. 279, 284, 286–87. The following volumes offer scholarly analyses of the Lenke campaign: David H. Bennett, Demagogues in the Depression: American Radicals and the Union Party, 1932–1936 (New Brunswick, N.J.: Rutgers University Press, 1969), pp. 189–276; Edward C. Blackorby, Prairie Rebel: The Public Life of William Lemke (Lincoln: University of Nebraska Press, 1963), pp. 217–31; Donald R. McCoy, Angry Voices: Left-of-Center Politics in the New Deal Era (Lawrence: University of Kansas Press, 1958), pp. 142–57.

[6] Guide to U.S. Elections, p. 289.

[7] Ibid., pp. 491, 496–97, 501; Kennedy, Biographical Directory of the American Congress, pp. 1116–17, 1901; Sobel and Raimo, Biographical Directory of Governors, 2:446–47, 3:906–7, 1182, 1230–31, 4:1454–55 New York Times, 7 Nov. 1934, pp. 1–2, 8 Nov. 1934, pp. 1–3.

[8] John A. Garraty, ed., Dictionary of American Biography, Supplement Six (1956–1960) (New York: Charles Scribner's Sons, 1980), pp. 577–79; Richard Lowitt, George W. Norris: The Triumph of a Progressive, 1933–1944 (Urbana: University of Illinois Press, 1978), pp. 151–62; Patrick J. Maney, "Young Bob" La Follette: A Biography of Robert M. La Follette, Jr., 1895–1953 (Columbia: University of Missouri Press, 1978), pp. 189–91. Roosevelt's farm-relief programs are discussed in Frank Freidel, Franklin D. Roosevelt: Launching the New Deal (Boston, Mass.: Little, Brown & Co., 1973), pp. 83–101, 308–19; Van L. Perkins, Crisis in Agriculture: The Agricultural Adjustment Administration and the New Deal, 1933 (Berkeley: University of California Press, 1969), pp. 1–78; Theodore Saloutos and John D. Hicks, Agricultural Discontent in the Middle West, 1900–1939 (Madison: University of Wisconsin Press, 1951), pp. 452–502; and Edward L. Schapsmeier and Frederick M. Schapsmeier, Henry A. Wallace of Iowa: The Agrarian Years, 1910–1940 (Ames: Iowa State University Press, 1968), pp. 166–209.

[9] Sioux Falls Daily Argus-Leader, 30 Aug. 1936; Washington Evening Star, 29, 31 Aug. 1936; New York Times, 31 Aug. 1936, pp. 1, 3.

[10] Public Papers and Addresses of Franklin D. Roosevelt, 1936 (New York: Macmillan Co., 1938), pp. 307–8.

[11] Ibid., pp. 308–9.

[12] Ibid., pp. 309–10.

[13] Edward T. James, ed., Dictionary of American Biography, Supplement Three (1941–1945) (New York: Charles Scribner's Sons, 1973), pp. 424–26; New York Herald Tribune, 11 Sept. 1936; Sioux Falls Daily Argus-Leader, 10, 11 Sept. 1936; Rapid City Journal, 10 Sept. 1936.

[14] Sioux Falls Daily Argus-Leader, 8 Oct. 1936.

[15] Ronald L. Feinman, Twilight of Progressivism: The Western Republican Senators and the New Deal (Baltimore, Md.: Johns Hopkins University Press, 1981), p. 106; Gilbert C. Fite, Peter Norbeck: Prairie Statesman, University of Missouri Studies, vol. 22, no. 2 (Columbia, 1948), pp. 202–4; Sioux Falls Daily Argus-Leader, 14 Oct. 1936.

[16] Farm Journal 60, no. 8 (Aug. 1936): 18, no. 9 (Sept. 1936): 19, no. 10 (Oct. 1936): 17, and no. 11 (Nov. 1936): 17; Literary Digest 122, no. 14 (3 Oct. 1936): 7, no. 15 (10 Oct. 1936): 7, no. 16 (17 Oct. 1936): 7, no. 17 (24 Oct. 1936): 9, no. 18 (31 Oct. 1936): 5.

[17] George H. Gallup, The Gallup Poll: Public Opinion, 1935–1971, 3 vols. (New York: Random House, 1972), 1:3–4, 6, 10, 32–33, 38; New York American, 27 Sept., 25 Oct., 1 Nov. 1936.

[18] Richard M. Scammon, comp. and ed., America at the Polls: A Handbook of American Presidential Election Statistics, 1920–1964 (Pittsburgh, Pa.: University of Pittsburgh Press, 1965), pp. 404–5; Sioux Falls Daily Argus-Leader, 4, 5, 6 Nov. 1936.

[19] Scammon, America at the Polls, pp. 403–5.

[20] Ibid., pp. 402–5.

[21] Ibid. In 1936, Lemke's 892,492 ballots accounted for 1.96 percent of the nation's total votes. Lemke polled the following proportions in South Dakota and the surrounding farm states: South Dakota, 3.5 percent; Nebraska, 2.1 percent; Iowa, 2.6 percent; and North Dakota, 13.4 percent. Guide to U.S. Elections, p. 290.

[22] Guide to U.S. Elections, pp. 251, 289–90.

[23] Ibid., pp. 289–90.

[24] Guide to U.S. Elections, pp. 430, 504, 784; South Dakota, Official Directory and Rules of the Senate and House of Representatives, Twenty-fifth Session of the Legislature of South Dakota, 1937–1938, pp. 22–26, 43–49; Biographical Directory of the American Congress, pp. 714, 1043, 1454; Sobel and Raimo, Biographical Directory of Governors, 4:1455.

[25] South Dakota, Cooperative Crop and Livestock Reporting Service, Agricultural Statistics, Annual Report, 1937 (Sioux Falls, S.Dak., [1937]), pp. 12–13, 57, 61–63.

COMMENDATION TO THE ORGAN PIPE CACTUS MONUMENT STAFF AND VOLUNTEERS

● Mr. DECONCINI. Mr. President, I rise today to recognize the efforts of seasonal live-in volunteers and staff at the Organ Pipe Cactus National Monument in southern Arizona. The workers at this monument have expended tireless efforts to help preserve a magnificent desert frontier and jewel of the American Southwest.

Established in 1937, Organ Pipe Cactus National Monument serves as a pristine, undisturbed sample of the Sonoran desert, featuring plant and wildlife indigenous only to the Southwest. Under a crisp blue Arizona sky, visitors can drive through this remote desert wilderness, hike a back country trail, or camp at facilities throughout the preserved 330,689-acre monument. The monument provides Arizonans and all Americans a beautiful sample of the diversity and splendor our magnificent land has to offer. Within its boundaries great expanses of native cactus and wild flowers carpet a contrasting land supporting delicate life and a fragile ecosystem.

Mr. President, it is the efforts of the volunteers and staff at Organ Pipe that help preserve this natural desert wonderland. Greatly limited in size and financial capacity, the Organ Pipe staff relies heavily on live-in winter volunteers to assist visitors at the site. The monument handles over 200,000 visitors every year, many of whom visit in the warm Arizona winter season. The monument employs only about 25 people, who oversee every aspect of operations at the site. Everything from trail maintenance to administrative work is handled by these individuals.

Due to the amount of work that is required to keep the facility's day-to-day operations running, the volunteers at Organ Pipe provide the support and assistance needed to help the overburdened staff ensure a successful operation. They assume many of the same responsibilities as do the staff, and often share their own knowledge and experiences of the Sonoran desert with monument visitors. In exchange for 4 days of volunteer work each week, the volunteers are provided with a space to hook up their RV's and full utility amenities. Some trek from as far away as Vermont and Canada every winter to work at the monument.

Mr. President, without the contributions of these people, the monument could not provide information services and self-reliant features that many outside of the area often take for granted. Their efforts and dedication have been extraordinary, and the fruit of their work can be seen by the beauty of the park and in the enjoyment of its visitors. Every day they share information that they have discovered through experiences and research about the Sonoran desert, adding to the educational value of a visit to the monument.

Mr. President, I enthusiastically salute the volunteers and staff at Organ Pipe Cactus National Monument and thank them for their tireless preservation and educational contributions to the lives of Arizonans and visitors from around the country and the world. Their efforts are helping to preserve a rare and fragile ecosystem so that our children and our children's children can enjoy the raw beauty of nature. I commend these volunteers listed below and ask that we all follow their example by cherishing and preserving the natural treasures we all share.

ORGAN PIPE CACTUS NATIONAL MONUMENT VOLUNTEERS

Beale, Daphne; Beale, Don; Black, Alvin; Black, Melba; Gordon, Essee; Gordon, Kenneth; Johnson, Charles; Johnson, Jean; Klitsch, Esther; Klitsch, Frank; Nuss, Kenneth; and Nuss, Sarah.

Powers, Bruce; Powers, Vicki; Sander, Alice; Sander, Frank; Stephens, Dick; Stephens, Janice; Van Wyngarden, Jerry; Willis, Talmage; Willis, Norma; Wolfe, Jerry; Wolfe, Lois; Smith, Harold J., supervisor; Schlinkmann, Shirley, secretary; and Losher, Cathryn, administrative technician.•

LIVE IT SAFE

• Mr. SIMON. Mr. President, I want to bring to the attention of my colleagues a worthwhile public service activity that has been undertaken by the American Academy of Orthopaedic Surgeons. Since the main headquarters of the academy is in Illinois, I am particularly pleased to share the information about their recent efforts to prevent hip injury, one of the main causes of disability among our senior citizens.

During the past few years, the academy has launched a series of nationwide public education programs designed to prevent injuries. Reducing the number of preventable injuries is one of the most important steps we can take to lower health care costs in our country, and public service educational programs are a significant help in this effort. The academy's most recent public service program, Live It Safe, focuses attention on the prevention of broken hips.

In carrying out the Live It Safe program, orthopedists have found that the general public is not aware of the number of hip fractures that occur each year or of the serious consequences. There are more than 280,000 hip fractures each year, mostly in older women, and most require hospitalization and surgery. Although modern orthopedic care and surgical technology offer new hope for bone healing, most hip fracture patients who lived independently before the injury will need assistance from family members or others after the injury.

Forty percent of hip fracture patients aged 65 or older are discharged from hospitals to long-term care facilities. All hip fracture patients require walking aids for several months after injury, and nearly half will permanently require canes or walkers to move around their homes or outdoors.

Mr. President, hip fractures have a major impact on society. According to the academy, the annual cost to the U.S. health care system for acute and convalescent care is more than $9.8 billion. That's an average of $35,000 per patient, since the expected hospital stay is almost 2 weeks. In addition, continuing care, including nursing homes, paid caretakers, and assistance from family members greatly increases the expense of hip fractures beyond that of hospitalization and surgery.

Osteoporosis, age, female gender, nutrition, personal habits, physical and mental impairments, unsafe living environments, and use of medications are some of the factors associated with hip fractures. Prevention of hip fractures is far better and less costly than treatment after the bone is broken. As part of its public education program, the American Academy of Orthopaedic Surgeons suggests several measures that can help prevent broken hips. These include: A diet adequate in calcium, particularly during childhood, adolescence, and adulthood; exercise to minimize bone loss; proper diagnosis and early treatment to reduce the risk of osteoporosis; elimination of smoking and excessive alcohol use, both of which cause bone loss and increase the risk of a fracture; and creation of a safe home environment by recognizing and taking necessary steps to minimize risk of preventable falls from known home hazards.

Mr. President, while orthopedic surgeons are experts in the diagnosis and treatment of disorders involving bones, joints, ligaments, tendons, muscles, and nerves, it is important to note that they are also interested in reducing the need for their services by preventing injuries. I want to commend the American Academy of Orthopaedic Surgeons for increasing public awareness of the risk factors that lead to hip fractures in the elderly and developing strategies for preventing the injury.

The academy invites all Members of the House and Senate to contact them for copies of the brochure "Live It Safe" to share with our constituents. The address is: American Academy of Orthopaedic Surgeons, 6300 North River Road, Rosemont, IL 60018. Their phone number is (708) 823–7186.•

KE KUKUI MALAMALAMA AWARD WINNERS

• Mr. AKAKA. Mr. President, I rise today to pay tribute to the winners of the Office of Hawaiian Affairs' second annual Ke Kukui Malamalama Award for excellence in Hawaiian education.

The award honors individuals or groups who have excelled in leadership, curriculum development, innovative education, encouragement of Hawaiians in education, and sensitivity to Hawaiians and Hawaiian culture.

This year's awards were presented to Rubellite Kawena Johnson, professor, University of Hawaii, Manoa; Harriet Awana O'Sullivan, Alu Like's Oahu island representative; Abraham Piianaia, lecturer, University of Hawaii, Manoa; and Jack Yama, a community volunteer.

Others honored at the ceremony included Allan Makahinu Barcarse, Hawaiian studies teacher, King Intermediate School; Robert Cazimero, kumu hula; Dion-Magrit Malamakahu Coschigano, executive vice-president, Historic Hawaii foundation; Carldean Nalani Tollefsen Fisher, teaching/reading specialist, Nanakuli High and Intermediate School; Elizabeth Kauahipaula, kupuna, Hawaiian Studies Program, Waiau Elementary School; John Keola Lake, teacher, St. Louis High School; Nina Lane, retired educator/administrator, department of education (posthumous); Cecilia Kapuaokaainaoku'uipoleimanu Lee-Lindo, resource teacher, Hawaiian studies, Hongwanji Mission School; Nova-Jean Laulipolipo'okanahele McKenzie, Hawaiian studies/Hawaiian language teacher, Pearl City High School; and Kaupena Wong, retired educator/administrator, department of education.

Mr. President, since the arrival of westernization in the Hawaiian Islands in 1778, and the subsequent 1893 overthrow of the Kingdom of Hawaii and 1898 annexation of Hawaii by the United States, native Hawaiians have struggled to preserve their cultural heritage. Necessary to this struggle is education. The education of history, language, religion, and culture and arts of the Hawaiian people, among Hawaiians and non-Hawaiians alike, have paved the way for a renewed sense of pride and dignity among native Hawaiians.

I firmly believe that education will continue to be one of the most important resources we can use to preserve our cultural heritage. I commend the contributions of the Ke Kui Malamalama Award winners in their efforts to help the native Hawaiian people. As we observe the centennial of the 1893 overthrow of the Kingdom of Hawaii, there can be no better time to commend such efforts to the Hawaiian cause.•

90TH ANNIVERSARY TRIBUTE TO THE SALT RIVER PROJECT

• Mr. DECONCINI. Mr. President, I would like to pay special tribute to the oldest multipurpose reclamation project in the United States. The Salt River project [SRP], created in 1903, is the Nation's third largest public power utility and Arizona's largest water supplier.

On February 7, 1993, the Salt River project celebrated 90 years of dedicated service to the citizens of Arizona. This great organization provides a variety of services, including electrical power, to over 550,000 customers and a water delivery system that includes the following: Six Salt River project lakes, including Theodore Roosevelt Dam;

water to industrial, municipal, residential, and agricultural users, and; over 1,300 miles of a water delivery system to serve over 240,000 acres of agricultural lands.

The Salt River project is an invaluable energy resource to the State of Arizona. The Salt River project is also a good citizen whose community activities spread far and wide. It participates in community programs, encourages employee voluntarism, funds charitable causes, and promotes educational programs. Community service is a key element to the overall management of the Salt River project. Community service projects sponsored by the Salt River project includes: Energy conservation programs including an aggressive lighting efficiency program; major sponsor of Phoenix Clean and Beautiful; member of EPA's national Green Lights Program for customers, and; winner of the Governor's Pride in Arizona Award for corporate recycling for 1991-92.

Of special note to citizens across the United States is the estimated $430 million effort by the Salt River project to reduce by 90 percent sulfur dioxide emissions at the Navajo Generating Station located 80 miles from the Grand Canyon. When annual operation and maintenance costs are added it is estimated that more than $2.9 billion will be spent on this effort over the next 22 years. This initiative again demonstrates SRP's commitment to the environment and the people of Arizona.

Mr. President, it is with great pleasure that I recognize and applaud SRP's 90 years of dedicated service to the State of Arizona and its communities.•

COMMITTEE ON FINANCE RULES

• Mr. MOYNIHAN. Mr. President, in accordance with paragraph 2 of rule XXVI of the Standing Rules of the Senate, I submit the rules of the Committee on Finance to be printed in the RECORD.

These committee rules were adopted at the committee's executive session held on February 1, 1993, and are unchanged from the previous Congress.

The rules follow:

COMMITTEE ON FINANCE

I. RULES OF PROCEDURE

(Adopted February 1, 1993)

Rule 1. *Regular Meeting Days.*—The regular meeting day of the committee shall be the second and fourth Tuesday of each month, except that if there be no business before the committee the regular meeting shall be omitted.

Rule 2. *Committee Meetings.*—(a) Except as provided by paragraph 3 of Rule XXVI of the Standing Rules of the Senate (relating to special meetings called by a majority of the committee) and subsection (b) of this rule, committee meetings, for the conduct of business, for the purpose of holding hearings, or for any other purpose, shall be called by the chairman. Members will be notified of committee meetings at least 48 hours in advance, unless the chairman determines that an emergency situation requires a meeting on shorter notice. The notification will include a written agenda together with materials prepared by the staff relating to that agenda. After the agenda for a committee meeting is published and distributed, no nongermane items may be brought up during that meeting unless at least two-thirds of the members present agree to consider those items.

(b) In the absence of the chairman, meetings of the committee may be called by the ranking majority member of the committee who is present, provided authority to call meetings has been delegated to such member by the chairman.

Rule 3. *Presiding Officer.*—(a) The chairman shall preside at all meetings and hearings of the committee except that in his absence the ranking majority member who is present at the meeting shall preside.

(b) Notwithstanding the rule prescribed by subsection (a) any member of the committee may preside over the conduct of a hearing.

Rule 4. *Quorums.*—(a) Except as provided in subsection (b) one-third of the membership of the committee, including not less than one member of the majority party and one member of the minority party, shall constitute a quorum for the conduct of business.

(b) Nothwithstanding the rule prescribed by subsection (a), one member shall constitute a quorum for the purpose of conducting a hearing.

Rule 5. *Reporting of Measures or Recommendations.*—No measure or recommendation shall be reported from the committee unless a majority of the committee is actually present and a majority of those present concur.

Rule 6. *Proxy Voting; Polling.*—(a) Except as provided by paragraph 7(a)(3) of Rule XXVI of the Standing Rules of the Senate (relating to limitation on use of proxy voting to report a measure or matter), members who are unable to be present may have their vote recorded by proxy.

(b) At the discretion of the committee, members who are unable to be present and whose vote has not been cast by proxy may be polled for the purpose of recording their vote on any rollcall taken by the committee.

Rule 7. *Order of Motions.*—When several motions are before the committee dealing with related or overlapping matters, the chairman may specify the order in which the motions shall be voted upon.

Rule 8. *Bringing a Matter to a Vote.*—If the chairman determines that a motion or amendment has been adequately debated, he may call for a vote on such motion or amendment, and the vote shall then be taken, unless the committee votes to continue debate on such motion or amendment, as the case may be. The vote on a motion to continue debate on any motion or amendment shall be taken without debate.

Rule 9. *Public Announcement of Committee Votes.*—Pursuant to paragraph 7(b) of Rule XXVI of the Standing Rules of the Senate (relating to public announcement of votes), the results of rollcall votes taken by the committee on any measure (or amendment thereto) or matter shall be announced publicly not later than the day on which such measure or matter is ordered reported from the committee.

Rule 10. *Subpoenas.*—Subpoenas for attendance of witnesses and the production of memoranda, documents, and records shall be issued by the chairman, or by any other member of the committee designated by him.

Rule 11. *Open Committee Hearings.*—To the extent required by paragraph 5 of Rule XXVI of the Standing Rules of the Senate (relating to limitations on open hearings), each hearing conducted by the committee shall be open to the public.

Rule 12. *Announcement of Hearings.*—The committee shall undertake consistent with the provisions of paragraph 4(a) of Rule XXVI of the Standing Rules of the Senate (relating to public notice of committee hearings) to issue public announcements of hearings it intends to hold at least one week prior to the commencement of such hearings.

Rule 13. *Witnesses at Hearings.*—(a) Each witness who is scheduled to testify at any hearing must submit his written testimony to the staff director not later than noon of the business day immediately before the last business day preceding the day on which he is scheduled to appear. Such written testimony shall be accompanied by a brief summary of the principal points covered in the written testimony. Having submitted his written testimony, the witness shall be allowed not more than ten minutes for oral presentation of his statement.

(b) Witnesses may not read their entire written testimony, but must confine their oral presentation to a summarization of their arguments.

(c) Witnesses shall observe proper standards of dignity, decorum and propriety while presenting their views to the committee. Any witness who violates this rule shall be dismissed, and his testimony (both oral and written) shall not appear in the record of the hearing.

(d) In scheduling witnesses for hearings, the staff shall attempt to schedule witnesses so as to attain a balance of views early in the hearings. Every member of the committee may designate witnesses who will appear before the committee to testify. To the extent that a witness designated by a member cannot be scheduled to testify during the time set aside for the hearing, a special time will be set aside for the witness to testify if the member designating that witness is available at that time to chair the hearing.

Rule 14. *Audiences.*—Persons admitted into the audience for open hearings of the committee shall conduct themselves with the dignity, decorum, courtesy and propriety traditionally observed by the Senate. Demonstrations of approval or disapproval of any statement or act by any member or witness are not allowed. Persons creating confusion or distractions or otherwise disrupting the orderly proceeding of the hearing shall be expelled from the hearing.

Rule 15. *Broadcasting of Hearings.*—(a) Broadcasting of open hearings by television or radio coverage shall be allowed upon approval by the chairman of a request filed with the staff director not later than noon of the day before the day on which such coverage is desired.

(b) If such approval is granted, broadcasting coverage of the hearing shall be conducted unobtrusively and in accordance with the standards of dignity, propriety, courtesy and decorum traditionally observed by the Senate.

(c) Equipment necessary for coverage by television and radio media shall not be installed in, or removed from, the hearing room while the committee is in session.

(d) Additional lighting may be installed in the hearing room by the media in order to raise the ambient lighting level to the lowest level necessary to provide adequate television coverage of the hearing at the then current state of the art of television coverage.

(e) The additional lighting authorized by subsection (d) of this rule shall not be directed into the eyes of any members of the committee or of any witness, and at the request of any such member or witness, offending lighting shall be extinguished.

(f) No witness shall be required to be photographed at any hearing or to give testimony while the broadcasting (or coverage) of that hearing is being conducted. At the request of any such witness who does not wish to be subjected to radio or television coverage, all equipment used for coverage shall be turned off.

Rule 16. *Subcommittees.*—(a) The chairman, subject to the approval of the committee, shall appoint legislative subcommittees. All legislation shall be kept on the full committee calendar unless a majority of the members present and voting agree to refer specific legislation to an appropriate subcommittee.

(b) The chairman may limit the period during which House-passed legislation referred to a subcommittee under paragraph (a) will remain in that subcommittee. At the end of that period, the legislation will be restored to the full committee calendar. The period referred to in the preceding sentences should be 6 weeks, but may be extended in the event that adjournment or a long recess is imminent.

(c) All decisions of the chairman are subject to approval or modification by a majority vote of the committee.

(d) The full committee may at any time by majority vote of those members present discharge a subcommittee from further consideration of a specific piece of legislation.

(e) Because the Senate is constitutionally prohibited from passing revenue legislation originating in the Senate, subcommittees may mark up legislation originating in the Senate and referred to them under Rule 16(a) to develop specific proposals for full committee consideration but may not report such legislation to the full committee. The preceding sentence does not apply to nonrevenue legislation originating in the Senate.

(f) The chairman and ranking minority members shall serve as nonvoting *ex officio* members of the subcommittees on which they do not serve as voting members.

(g) Any member of the committee may attend hearings held by any subcommittee and question witnesses testifying before that subcommittee.

(h) Subcommittee meeting times shall be coordinated by the staff director to insure that—

(1) no subcommittee meeting will be held when the committee is in executive session, except by unanimous consent;

(2) no more than one subcommittee will meet when the full committee is holding hearings; and

(3) not more than two subcommittees will meet at the same time.

Notwithstanding paragraphs (2) and (3), a subcommittee may meet when the full committee is holding hearings and two subcommittees may meet at the same time only upon the approval of the chairman and the ranking minority member of the committee and subcommittees involved.

(i) All nominations shall be considered by the full committee.

(j) The chairman will attempt to schedule reasonably frequent meetings of the full committee to permit consideration of legislation reported favorably to the committee by the subcommittees.

Rule 17. *Transcripts of Committee Meetings.*—An accurate record shall be kept of all markups of the committee, whether they be open or closed to the public. This record, marked as "uncorrected," shall be available for inspection by Members of the Senate, or members of the committee together with their staffs, at any time. This record shall not be published or made public in any way except:

(a) By majority vote of the committee after all members of the committee have had a reasonable opportunity to correct their remarks for grammatical errors or to accurately reflect statements made.

(b) Any member may release his own remarks made in any markup of the committee provided that every member or witness whose remarks are contained in the released portion is given a reasonable opportunity before release to correct their remarks.

Notwithstanding the above, in the case of the record of an executive session of the committee that is closed to the public pursuant to Rule XXVI of the Standing Rules of the Senate, the record shall not be published or made public in any way except by majority vote of the committee after all members of the committee have had a reasonable opportunity to correct their remarks for grammatical errors or to accurately reflect statements made.

Rule 18. *Amendment of Rules.*—The foregoing rules may be added to, modified, amended or suspended at any time.●

COMMENDING REPRESENTATIVE JOE KENNEDY

● Mr. SIMON. Mr. President, I rise to take this opportunity to commend our House colleague Congressman JOE KENNEDY for his leadership on the Turkish-Armenian situation and to commend President Turgut Ozal of Turkey for this positive step forward.

What our colleague has done is to meet with the President of Turkey, and Turkey has agreed to three things: First, that humanitarian aid can cross the border into Armenia by whatever means; second, that Turkey will allow oil to be taken across its border into Armenia by rail; and third, that Turkey will try to develop better economic relations with Armenia.

What this does is to start to heal wounds that go back many decades, even centuries.

The situation in Armenia is desperate.

And I hope that the leaders of Azerbaijan will follow the lead of Turkey and see what can be done to improve the situation.

Right now, the image that many of us in public office have of Azerbaijan is not a favorable one, based on their treatment of Armenia.

What we need are positive steps forward.

And I would add, if Turkey can take the same attitude toward Cyprus, there can be a marked improvement in Greek-Turkish relations and, I think, an improved attitude toward Turkey on the part of the Western European community.

Again, I am grateful to Congressman KENNEDY and President Ozal for this step forward.

I ask to insert into the RECORD the remarks of Congressman JOE KENNEDY at a press conference on February 3.

The remarks follow:

REMARKS OF CONGRESSMAN JOE KENNEDY, FEBRUARY 3, 1993

I am concerned about the state of crisis that exists in Armenia today. The economic blockade imposed on Armenia by the Republics of Azerbaijan and Turkey have brought misery and suffering to millions of Armenians. Civil strife within bordering Georgia has caused shipments of food and medicine to be sporadic and unpredictable.

The conditions in Armenia are bleak and disintegrating daily. In the Capital city of Yerevan, there is no heat, only sporadic electricity, no hot water, contaminated drinking water, limited foodstuffs and primitive medical conditions. Telephones no longer work and there is no public transportation. The citizens of Yerevan are tearing up the floorboards in their houses and cutting down all the trees in an effort to keep from freezing to death. News reports from Yerevan paint a picture of a living hell.

The U.N. High Commissioner, Amnesty International, The Red Cross, UNICEF and other international organizations report that 40 percent of the county is at risk and 30,000 people could die this winter from starvation and exposure if sufficient amounts of food, heat and medicine are not brought into the country immediately.

The situation is even more urgent given the fact that Armenia's only remaining source of energy—a gas pipeline running through Georgia—was blown up last week.

Yesterday, I met with the President of the Republic of Turkey, Turgut Ozal. I made an appeal on humanitarian grounds for his country to help address the misery and suffering of the Armenian people. President Ozal agreed to three main points:

(1) Turkey will allow all humanitarian aid to cross their border—by any transport—into Armenia, provided it is inspected by the Turkish government.

(2) Turkey will allow oil to be taken across its border by rail into Armenia.

(3) Turkey will pursue developing economic relations with Armenia through the Black Sea Economic Accord.

This is a significant difference in the position taken by the Turkish Government in the past. I have talked to the American Ambassador to the Newly Independent States and he considers this agreement to be a very positive step forward.

I want to commend President Ozal for this significant agreement. It is my hope and belief that the agreement reached between President Ozal and myself last evening will be immediately implemented. There are tons and tons of food and medicine ready to brought into Armenia and time is absolutely critical.

I want to again commend President Ozal and call upon the Turkish Government to implement this agreement as quickly and possible.●

FACES OF THE HEALTH CARE CRISIS IN MICHIGAN: RISING HEALTH CARE COSTS FOR FAMILIES

● Mr. RIEGLE. Mr. President, I rise today in a continuing effort to put a face on the problem of rising health care costs for families throughout the United States. The high costs of health care coverage are having a devastating financial impact on the Cole family, of Warren, MI. Dawn Marie Cole contacted me in a letter last September to tell me about their situation.

Dawn Marie and her husband Kenneth are in their thirties. They have three children, Jessica 15, Amanda 9, and Justin 2. Kenneth is an auto mechanic who works two jobs to support his family. Dawn Marie was disabled after a severe auto accident several years ago. She had stopped to help a person who was stranded on the highway and was struck by an oncoming car. As a result, she is unable to work outside the home.

For the past year, the family has had health care coverage from a Blue Cross/Blue Shield major medical plan provided through Kenneth's employer. But the Coles are not protected for catastrophic expenses under their current plan and they have been struggling to pay the out-of-pocket costs for medical expenses not covered by their insurance. And Kenneth's employer is unable to assist the family in paying a portion of the premium costs. They pay $99.86 per week—more than $5,100 per year—for their insurance and have a $300 per year deductible. After the deductible has been met, the Coles must still pay 30 percent of their medical expenses.

Dawn Marie said the family's out-of-pocket medical costs in 1992 exceeded $11,000. She is very frustrated that it costs her family so much to purchase medical insurance, and that the insurance they have doesn't adequately cover the family medical bills.

The family has had to deal with a number of health problems. The youngest son, Justin, has had surgery twice to insert tubes in his ears and a third time to clean out his tear ducts. He also has asthma that requires the daily use of antibiotics. The eldest child, Jessica, was born prematurely and her lungs were underdeveloped. As a result, she has bouts of bronchitis and pneumonia which have occasionally required hospitalization. Amanda and Justin both have allergies which require treatment. Justin visits an ear nose and throat specialist once a month that charges $55 per visit plus $15 for injections. When his asthma is active, he may go to his pediatrician every other day for up to 2 weeks. The office call is $45 and injections are $10.

As a result of an auto accident, Dawn Marie has problems with disks in her back and neck that continue to plague her and require medical attention. She also occasionally has brain hemorrhages and incapacitating headaches. She requires physical therapy and visits to a neurologist. Her auto insurance, State Farm, has paid for some but not all of the medical costs for the injuries incurred in the accident. To date, Dawn Marie states that the insurance has not covered approximately $1,000 in treatment.

Their health care costs have put such a severe strain on the family's budget that they barely have enough for food and clothes for the children. Their income depends on Kenneth's commissions and currently varies from $200 to $280 a week after taxes. The Coles do not qualify for any assistance.

Dawn Marie is afraid of what the future holds because of the rising costs of health care. She is worried that the family may not be able to continue paying for their medical insurance. If that happens, she is very worried about how they will be able to afford the care they need to stay health.

The Cole family, and every family in America, deserves affordable coverage that provides basic health care services. Like the Coles, too many families are finding that health care coverage is moving out of their financial reach. Health care should not be a luxury available to some and not others. I will continue to do all that I can to bring down the skyrocketing costs of health insurance by supporting comprehensive reform of the current health care system.•

CORONA DEL SOL HIGH SCHOOL "DEBT BUSTERS"

• Mr. DECONCINI. Mr. President, I rise today to pay tribute to 90 juniors and seniors at Corona Del Sol High School in Tempe, AZ, who courageously answered President Clinton's call to arms for shared sacrifice in combating our national debt.

As part of a government-class project, these ambitious 17- and 18-year-olds tried to raise $50,000 to help reduce the $4 trillion national debt. Shortly after election day, these students and their teacher, Mr. Frank Mirizio, with the support of principal Eldon Mailes, devised a simple plan of attack. They would hold bake sales and sell "Debt Buster" Tee-shirts and bumper stickers. Their goal was twofold. First, they sought to raise the consciousness of the community in order to address the seriousness of the problem with our escalating debt. Second, they attempted to raise the $50,000 for deposit in the Treasury's debt reduction account.

These students hoped to reach their $50,000 goal sometime before Christmas. They never anticipated, however, that they would face such strong apathy and lack of interest in the adult community. Unfortunately, two months of hard work resulted in roughly $2,100 of net profit. Last week, they presented to me a check in that amount which I will soon give to Secretary Bentsen for deposit in the public debt reduction fund. This fund provides for the acceptance of gifts to be used for reducing the public debt by the Secretary of the Treasury and the Administrator of General Services.

Mr. President, many Americans probably do not know that this fund was first established in 1961. I am also sure that many Americans do not know that contributions made to this fund qualify as a charitable donation and may be taken as a charitable deduction. The first year that the fund was established a mere $10,000 was donated by citizens across the land. In 1991, however, that figure climbed to almost $1.5 million. I realize that $1.5 million pales in comparison to a $4 trillion debt, but it is a start. In fact, I would hope that it is only a beginning for bigger and better things to come—real participation by all Americans in helping to remedy a situation that could literally bring this country to its knees.

Clearly, Mr. President, the real significance of Corona Del Sol's project was not the amount of money raised, but rather the dedicated concern these young men and women demonstrated for the future of our country. Throughout their endeavor, these students were ridiculed at school as well as in the community. They were told that the project was a waste of time and that their effort would not make a difference. Their teacher, Mr. Mirizio, even expressed some embarrassment at the amount of the money raised. Mr. President, I believe that the only ones who should be embarrassed are those who did not support the student effort and the purpose behind the "Debt Buster" project.

I would argue that this project was a huge success. I understand that since these students presented their check for $2,100 to me last week, citizens and groups from all across this country have been calling Corona Del Sol High School to get involved. In fact, representatives from over 200 high schools as far away as Delaware have contacted Corona Del Sol High School in order to organize their own "Debt Buster" campaigns. It is precisely this type of grassroots movement to retire the debt that brings all of us together to fight the good fight.

Mr. President, if only more people would realize the true nature of the debt today, there would surely be similar action by Americans everywhere. Currently, the accumulation of yearly deficits total a $4.17 trillion debt and estimates indicate that by the year 2000 it will reach $12 trillion. If the national debt were to be paid off this year, it would require a payment of more than $16,000 from every man, woman, and child in the country. Each year, the Government must borrow huge amounts of money to make interest payments on the debt. This borrowing diverts funds from investment which would enhance productivity and improve our economy. Reducing the deficit is clearly the most important mechanism by which to promote long-term economic growth.

Mr. President, these students have done much more than to make a donation in the effort to reduce our debt. They have realized that they are the next generation of Americans, a generation which will have to work longer and harder in order to chip away at a debt whose weight is crushing the economy. These young Americans have proven their determination to take responsibility for a problem which they did not cause, but are doing everything to solve. They are a civics lesson in action.

I come to the floor on the same day on which the President of the United States will present what everyone knows, both in Congress and across this country, will be a momentous address about his economic plan for the future of this country—an address which will call for a number of tough sacrifices by all Americans. It is gratifying to know that in at least one case the call is already being answered and sacrifices are already being made.

I thank the students of Corona Del Sol High School for their effort and determination. I hope that their hard work and vision will inspire both the citizens and the Government of the United States to do their respective parts in bringing the debt under control. I know they have inspired me.•

ORDERS FOR TOMORROW

Mr. WELLSTONE. Mr. President, I ask unanimous consent that when the Senate completes its business, it stand in recess until 8:30 p.m. today; that upon reconvening at 8:30 p.m., the Senate assemble as a body and proceed to the House of Representatives for a Joint Session of Congress to receive a message from the President of the United States; that at the close of the Joint Session the Senate then stand in recess until 8:30 a.m. Thursday, February 18; that on Thursday, following the prayer, the Journal of Proceedings be deemed approved to date and that the time for the two leaders be reserved for their use later in the day; that upon disposition of S. 1, the NIH bill, there then be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Senator GRASSLEY now be recognized to address the Senate, and that at the conclusion of his remarks the Senate then stand in recess until 8:30 p.m. this evening.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Iowa [Mr. GRASSLEY], is recognized.

Mr. GRASSLEY. Mr. President, I only want to speak 10 minutes. I do not know that is what was said, but I want everybody to know I am not going to be speaking for a long period of time.

THE FEDERAL DEFICIT

Mr. GRASSLEY. Mr. President, I rise to address my colleagues on the subject of the Federal deficit and things that are going to be stated in the President's program in regard to that.

It seems that once again, Mr. President, Washington's efforts to deal with the Federal deficit and business as usual are leaving the American people scratching their heads. Is this what they voted for last November, they are asking? Is this what we were promised, more taxes and more spending? They thought that obsolete prescription ran out with the end of the Carter administration. Not so, Mr. President. It is back. Tax and spend is back. It is called, "Tax and spend: the sequel." This first Clinton budget, as budget director Leon Panetta said this morning, reflects the President's fundamental beliefs. If so, we are not seeing the policy of a new kind of Democrat. We are seeing Jimmy Carter all over again. It is Jimmy Carter in Bill Clinton's clothing. We are seeing the Democrats' proposal at Andrews Air Force Base at the budget summit in September 1990 all over again.

Now, the American people were adamant and clear about one thing. They want change. That is what they voted for. They were promised change. And they are being told that, indeed, the economic plan represents change.

Well, America, what you are really getting is false advertising. This is a program of broken promises. You are being told that you are being leveled with. This package, you are told, represents change. It is change all right, but the change that you are about to get is this: Instead of gridlock, you are about to get an all-Democrat tax-and-spend package, and it is going to be, evidently, rammed right down the collective throats of Americans.

Ross Perot, I would suggest that your 1–800 number will be ringing off the wall tonight. There is nothing creative or surgical about this package. It diagnoses the patient correctly, pointing out all the maladies, but the prescription is to hit the patient over the head with a two-by-four.

If that is what you think this economy needs, America, then it will pass. But somehow I suspect your infinite wisdom, America, will prevail.

There are three levels of criticism that I have with this plan, Mr. President. First, the plan reflects an about-face from the President's campaign pledges.

Second, the selling of this package is far different from the reality of this package.

And third, it makes no sense economically.

First, the promise versus delivery mismatch. America was told the deficit would be cut in half within 4 years. That will not happen. Middle-class America was told that their taxes would be cut, and that their taxes would never, ever, ever be raised. They were told that if revenues were insufficient, more spending cuts would be made.

All three of these principles were breached in a single package. Middle-class taxes were not cut, middle-class taxes were increased, and more spending cuts are not what we are getting.

Finally, America was told to expect real, fundamental change, a restructuring of Government, a reinventing of Government, making Government more effective with less money. Yet, what we are getting is a tinkering around the edges. We are getting the 3-percent solution, a 3-percent cut in administrative expenses. If I recall my Peter Drucker lessons correctly, this 3-percent solution addresses efficiency, not effectiveness.

Where is the reinventing of Government?

Moreover, as we have seen before, scoring administrative savings for agencies is doubtful. And so there is no assurance that these savings will come about, and an erosion of the civil service corps through attrition is hardly a bold, vibrant step toward reforming Government bureaucracies.

The second level of criticism I have is with the rhetoric versus the reality of the package. We were told to expect a 2-for-1 spending cut to tax increase ratio. We did not get that. We are told now that it is 1 to 1. Well, America, we did not even get that. This again is false advertising.

First of all, the package calls spending cuts what are really tax increases on Social Security and other beneficiaries, so not only do we have the word "contribution" as a euphemism for tax increase, we also have the phrase "spending cut" that is a euphemism for tax increase. This logic only works if you are behind a looking glass.

Also counted as spending cuts is the amount of interest that we will avoid paying because we have been more frugal. Is there really a spending cut? Not in the real world.

Finally and most importantly, much of the rest of the spending cuts are really not spending cuts at all. They are savings from an inflated baseline. The savings from these so-called spending cuts were already saved. Last year we voted overwhelmingly in this body to maintain a capped baseline. The administration has created an inflated baseline above the capped baseline. That is like an unscrupulous businessperson inflating his or her prices by 50 percent, then lowering those prices by the same 50 percent by telling people it is a 50-percent-off sale. In other words, Mr. President, again that is false advertising.

Finally, Mr. President, the American people are being led to believe the special interests will deplore this package. Let me be frank. Only selected special interests will not like it. Other special interests will like it. So I would like to quote one paragraph from the front page of the morning Washington Post:

> While Clinton was criticizing lobbyists and the "special interests" he said were lining up to oppose his program, the White House and Democratic National Committee were briefing about 50 interest groups that are being asked to promote his program, including women's groups, environmental activists, anti-poverty groups, children's advocates, youth leaders, labor and civil rights groups.

The point is, Mr. President, that this is not a budget that attacks established interests across the board in Washington as we are led to believe. Again, that is false advertising.

The third point of criticism I have with this plan, Mr. President, is that it does not make economic sense. A $31 billion stimulus will have as much an impact on the economy as a spit in the ocean. Besides, we already have a huge stimulus package and that is called in every day language a $300 billion deficit. This constant talk that we hear of a sluggish economy is Democrat-speak for "We need to make Government grow."

In addition, since when does it make economic sense to increase taxes while we are emerging from a long recession? This would be the largest tax increase in history. Once again, this is a two-by-four prescription: Hit the economy hard just when it is getting well.

Mr. President, these are just some of the reasons why this plan, in my calculation, should be and hopefully will be dead on arrival with the American people. Despite all my criticisms of this plan, there is at least one point of agreement that I share with the President.

The President has termed this a "call to arms." I agree. But where there is probably disagreement is that I believe the arms should be aimed right at the White House. We expected change. We were promised change. We are told that this is change.

This is not change, Mr. President. This is tax and spend. This is the 1990 budget agreement all over again, only worse. This is the status quo. This is business as usual.

America, you have spoken loud and clear that you intend to take back your capital. You said this so thoroughly throughout the election year. You said so during the Zoe Baird nomination.

Look at this package without the false advertising. If it is true that you want your capital back, then let your phones and our phones ring off the hook throughout this city.

Send them back to the drawing board, because evidently people in this town who were sent here supposedly with a message are not getting the message.

Thank you. I yield the floor.

ORDER OF PROCEDURE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the previous consent agreement be amended to reflect a second Hatfield amendment regarding the sense-of-the-Senate language with respect to the Oregon waivers.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 8:30 p.m. tonight.

Thereupon, the Senate, at 6:22 p.m., recessed until 8:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FORD).

JOINT SESSION OF THE TWO HOUSES—MESSAGE OF THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 1)

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the Hall of the House of Representatives for a joint session.

Upon the conclusion of the joint session, the Senate will stand in recess until 8:30 a.m. tomorrow, Thursday, February 18, 1993.

Thereupon, at 8:30 p.m., the Senate, preceded by the Secretary of the Senate, Walter J. Stewart, and the Sergeant at Arms, Martha S. Pope, proceeded to the Hall of the House of Representatives to hear the address by the President of the United States.

(The address by the President of the United States, this day delivered by him to the joint session of the two Houses of Congress, appears in the proceedings of the House of Representatives in today's RECORD.)

RECESS UNTIL 8:30 A.M. TOMORROW

At the conclusion of the joint session of the two Houses, and in accordance with the order previously entered, at 10:16 p.m., the Senate recessed until tomorrow, February 18, 1993, at 8:30 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, February 17, 1993*

The House met at 2 p.m. and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 17, 1993.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious God, you have been our foundation and strength, our providence for all the years. Our Nation has been blessed in good season and in bad and Your grace is ever available to us. We pray that Your spirit will remind us of Your direction in the past and our hope for tomorrow that in all things justice will flow down as waters and righteousness like an everflowing stream. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

Mr. SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 264, nays 136, not voting 30, as follows:

[Roll No. 32]

YEAS—264

Abercrombie
Andrews (ME)
Andrews (TX)
Applegate
Archer
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Byrne
Cantwell
Cardin
Carr
Chapman
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Derrick
Deutsch
Dickey
Dicks
Dingell
Dixon
Dooley
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gunderson
Gutierrez
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hughes
Hunter
Hutto
Hyde
Inglis
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kingston
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Levin
Lewis (GA)
Lipinski
Livingston
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McHale
McMillan
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Olver
Ortiz
Orton
Owens
Packard
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Ravenel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schumer
Scott
Sharp
Shaw
Shepherd
Sisisky
Skaggs
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spence
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—136

Allard
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bunning
Burton
Callahan
Calvert
Camp
Canady
Castle
Clay
Coble
Collins (GA)
Cox
Crane
Crapo
Cunningham
DeLay
Doolittle
Dreier
Duncan
Emerson
Everett
Ewing
Fawell
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Goodlatte
Goodling
Goss
Grams
Grandy
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Huffington
Hutchinson
Inhofe
Istook
Jacobs
Johnson (CT)
Kim
King
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Machtley
Manzullo
McCandless
McCrery
McHugh
McInnis
McKeon
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Murphy
Nussle
Oxley
Paxon
Petri
Quillen
Quinn
Ramstad
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shays
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Stearns
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—30

Ackerman
Andrews (NJ)
Armey
Barton
Bonior
Conyers
Dellums
Diaz-Balart
Dornan
Fields (TX)
Gephardt
Gingrich
Hall (OH)
Henry
Hoyer
Johnson, Sam
Lehman
Lloyd
McDade
McKinney
Michel
Obey
Porter
Pryce (OH)
Serrano
Skelton
Talent
Valentine
Washington
Whitten

□ 1424

Mr. GRAMS changed his vote from "yea" to "nay."

Ms. SHEPHERD changed her vote from "nay" to yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair will ask the gentleman from California [Mr. TORRES] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. TORRES led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SOLOMON. Mr. Speaker, I am trying to ascertain what is taking place. Is there a resolution pending dealing with the joint session tonight, or is that going to be delayed until after the 1-minutes?

The SPEAKER pro tempore. That will be offered sometime later today, and the Chair will now recognize Members for the 1-minutes.

Mr. SOLOMON. Mr. Speaker, I thank the Chair very much.

A GOOD DEAL

(Mr. DERRICK asked and was given permission to address the House for 1 minute.)

Mr. DERRICK. Mr. Speaker, President Bill Clinton will ask all Americans to make their contribution for a better future when he addresses the Nation tonight.

With the support of the Congress and every citizen, the Clinton blueprint to restore the economy and to slice the deficit will succeed.

The Clinton plan asks the American people to link hands and to stride into the future. The previous two administrations mortgaged the future to prop up the present. The Reagan-Bush legacy is: A health care system few Americans can afford. College for only the wealthy. U.S. jobs swept away by overseas competition.

President Clinton will ask all Americans to join him by making a contribution to the restoration of the economy and our future.

In exchange, we will have affordable health care, college for our children, new jobs and real cuts in spending leading to deficit reduction.

Mr. Speaker, the Clinton economic plan. That is a deal the American people cannot afford to pass up.

BE TRUE TO THE MIDDLE CLASS

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, the spin coming out of the White House over the last 24 hours is how honest the President has been about raising taxes.

I am not surprised he is raising taxes, we all knew he would. In fact, he said he would raise taxes on the Nation's wealthy during his campaign.

What I am concerned about is the President being less than truthful with the middle class in this country, and breaking his campaign pledge not to raise taxes.

Mr. Speaker, I would like to remind the President that it is the middle class and they are not stupid.

Mr. Speaker, in less than 7 hours, the President will issue his State of the Union Address.

As the President puts the final touches on this speech to Congress and the Nation, I hope he feels compelled to keep his promise and eliminate any and all tax increases on hard working, middle class Americans.

THE PRESIDENT WILL SPEAK THE TRUTH

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, tonight the President will speak the truth, no more smoke and mirrors, no more gimmicks. He will propose the biggest deficit reduction package in history.

We all will take a hit, but the rich will be hit hardest. His plan will create 500,000 jobs through a stimulus package. His plan will protect children.

□ 1430

His plan will protect middle- and low-income people, through the earned income tax credit. His plan will focus on education and training. His plan will be a boost to the business sector, especially small business.

Mr. Speaker, we all will have to sacrifice because we have a fiscal deficit crisis in this country. The President will show his leadership qualities tonight.

THE DESPERATE TACTICS START TONIGHT

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, there were many emotional moments during this past fall campaign, but perhaps no statement was as emotional as the one made by then-candidate Clinton on October 1 in response to President George Bush telling us that to implement his plan would tax every American who made more than $36,000.

I quote:

> It is a disgrace to the American people that the President of the United States would make a claim that is so baseless, so without foundation, so shameless in its attempt to get votes under false pretenses. It amounts to desperate tactics.

Mr. Speaker, the Philadelphia Inquirer summed it up best today with the headline "Clinton Taxes to Start at $30,000."

Mr. Speaker, the desperate tactics start tonight in this very Chamber, and I am ashamed.

THE KIND OF CHANGE AMERICANS ARE LOOKING FOR

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, tonight this Congress, and the Nation, will get some straight talk from the other end of Pennsylvania Avenue.

For the first time in many years we will hear an honest assessment of the state of our Union, from a President realistic about our problems, and prepared to confront our economic emergency. And that, Mr. Speaker, is what the American people have been waiting for.

There is nobody who should understand this better than those of us in this body. We who hear daily from angry constituents tired of gridlock and frustrated by inaction.

I believe that the American people are awaiting President Clinton's appearance with anticipation. They are eager for a plan that will put people back to work. They are eager for a blueprint that calls for difficult, but necessary, cuts in government spending and that challenges the special interests. And they are eager for a leader who will demand, for the first time in many years, that the wealthiest Americans pay their fair share. And that is what the President will propose.

Straight talk. A plan to create jobs—to repair our economy. This is the kind of change American's are looking for from Washington.

"IT'S THE SPENDING, STUPID"

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, yesterday Congressman SAM JOHNSON of Texas said, "It is spending, stupid, not taxes."

That is what this button says: "It is spending, stupid." The Government spending is out of control in this country. That is the issue, not more taxes.

And yet, like Caesar saying to those in the arena, "Let the games begin," tonight President Clinton will say, "Let the taxes begin."

He is going to give us the largest tax increase in American history. The total, it appears, is going to be around $275 billion. And that will just kill a growing economy.

He is going to raise taxes on everyone, the people making $30,000 or more, and even those less. The energy tax he is talking about is going to hit everybody, not just those in the upper income levels.

There is going to be a so-called millionaires tax; a tax he is going to ask for on people getting social security benefits; he is going to get us all, folks.

Yet, according to the New York Times, that is not the end of it. They say today he is going to raise 18 more taxes, totaling another $190 billion.

Tax, tax, tax, that is not the answer. If we are going to have a strong economy, Mr. Speaker, we are going to have to get the spending under control, not more taxes.

INVESTING TO REBUILD AMERICA

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, in 1980, our national debt was $1 trillion. Now, 12 years later, it is over $4 trillion.

What have we gotten for this mountain of debt? Hard working families that cannot afford to send their children to college. Over 34 million Americans, most of whom work full-time jobs, that do not have health insurance. And most middle-income families are working harder today than ever before but for lower real income.

We cannot afford to continue with the stale and failed policies that have led us into this mess. If we stay the course we are on, our national debt will have doubled again by the turn of the century.

Tonight President Clinton will lay out his economic plan to change the direction of our Nation. It is a bold plan—a plan that will put Americans back to work—creating millions of new jobs over 4 years. It is a responsible plan that demands that those who enjoyed the party of the 1980's now pay their fair share of the bill for that excess. No more leaning on middle-income families to pay for the tax breaks of the wealthy.

Clinton's budget addresses the real problems we face as a nation—and it does it head on with honest, even conservative numbers. No more smoke and mirrors; no more budgetary deceit. It combines incentives for businesses to stimulate the economy and investment in our Nation's infrastructure, with strict deficit reduction to achieve economic growth, including over 150 specific cuts in Federal programs.

To those who would dismember the President's plan before it has even seen the light of day—we cannot afford to continue with it your way. Except for the chosen few who prospered under the past regime, the American people are struggling—trying to keep afloat.

I pray we have learned the lesson of these past 12 years: The policies of pay for it later, instant gratification not only do not work, but undermine the very discipline of the economy. Responsible investment now is the only way to reap—somewhat later—the benefits we all seek: good jobs, economic growth, affordable health care, and a good education system.

For our future, for the future of our children, I urge my colleagues to support the President.

IT'S THE SPENDING, STUPID

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, it seems all the emphasis in the economic discussion has been on who is going to pay the most, how we define the middle class, and where the pain will fall.

I guess it is just understood the Democrats are going to raise taxes, so what is the point of having any debate about that?

But it appears that the President has missed the point. To paraphrase his campaign in the words we have heard today, "It's the spending, stupid."

Since the campaign, from the administration we have heard nothing about a balance budget amendment, we have heard nothing encouraging about a line-item veto, and hardly a whisper about cutting the inordinate amounts of wasteful spending, which the GAO estimates is approaching $200 billion a year, in the Government.

Higher taxes and more taxes spell big-dollar troubles for all Americans. Clearly, the middle-class people, those forgotten Americans, of the Clinton campaign are no longer being forgotten. They have been discovered by the Democrats, at least their pocketbooks have.

Our economy is struggling to its feet, and this new program of tax and spend will simply beat it back down onto its knees.

Remember 1990, with the Budget Deficit Reduction Act, where every dollar raised in $160 billion in new taxes led to an increased spending of $2.27? Well, with the $250 billion new Clinton tax program, will be at $4 for every dollar raised?

News flash: That will not erase the deficit.

TODAY IS THE BEGINNING OF A NEW ERA

(Ms. CANTWELL asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CANTWELL. Mr. Speaker, today I rise to recognize the beginning of a new era, one that calls for fiscal responsibility and honesty. Tonight we will hear from President Clinton on a plan that I think will put us on the road to economic recovery, but it is with a budget that has followed a plan of integrity. Earlier this week, the President spoke frankly about American responsibility to the challenges that lie ahead. Tonight we will hear that specifics of that proposal.

Let us not close our ears nor turn our backs to those specifics just because of our partisan politics or our districts. Let us say that it is time to stand up to these tough problems and not stand on the sidelines and complain. I think the President is going to be very specific about the structural changes needed to increase incomes for all American workers, to provide investments, to cut Government spending and reduce the deficit.

Let us be responsible, Americans, and not just throw rhetoric.

PRESIDENT CLINTON IS GOING TO TAX EVERYONE, EVEN THE WORKING POOR

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, tonight President Clinton is going to promise to cut spending; that is good news. But in addition, he is going to also promise that he is going to raise taxes $250 billion or more. Three weeks ago he promised $2 in cuts for every dollar of new taxes. That is good news.

But now his aides say they hope the cuts will equal the taxes. But with the rate at which the taxes are increasing, there is no way that the cuts can equal the taxes.

Mr. Speaker, my phone has been ringing off the wall, with angry and betrayed taxpayers who believed that they were going to have in this President somebody who is going to tax the rich but in fact he is going to tax everyone, even the working poor, the unemployed and the elderly.

It is time that he renewed his original promises, or he will face the wrath of the voters in the years to come.

□ 1440

IMMUNIZATION

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, tonight the President will chart a course out of the economic crisis confronting our country.

The President will make the case for investing in America again.

But that investment must include not only the physical infrastructure of roads and bridges but our human infrastructure, boys and girls, and especially infants.

They are our future; we must invest in them.

Today in America, 30 percent of our 2-year-olds do not receive the proper immunizations.

In some cities, up to half the 2-year-olds have not been immunized.

Measles has reached epidemic proportions.

Tuberculosis is on the rise. Other childhood illnesses are killing our kids.

Yet vaccines are safe and effective. What is more, vaccines make good economic sense. Every dollar we invest now, every dollar we spend now on immunizations will save $10 later in health care costs.

I urge all Members to support the President's program to make vaccines available to the youngest and most helpless members of our American community.

ARE YOU A PATRIOT?

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, in his speech on Monday night, President Clinton invoked patriotism as the badge of honor for those who support his program. Those who question it or disagree are special interests and, at least in the President's mind, not patriots. I question the President's attempt to cloak his tax-and-spend program with the American flag.

This country has many kinds of patriots. Some risked their lives to fight for their country in time of war and they are now facing the prospect of increased taxes on their Social Security. They are no less patriots if they question the need to increase their taxes while providing little in the way of meaningful deficit reduction.

Many now feel misled because of President Clinton's about face on giving the middle class a tax cut. Are those people unpatriotic if they express their anger at being deceived?

Are they unpatriotic if they ask about cutting spending instead? If I remember history correctly, the first American patriots began by asking real questions about taxes.

PRESIDENT CLINTON'S ECONOMIC PACKAGE

(Mr. RAHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAHALL. Mr. Speaker, tonight President Clinton unveils his economic plan to the Nation.

He will speak of fairness. He will speak of creating 500,000 real jobs, investing in America, investing in education, providing vaccinations and fully funding Head Start for our children, reducing the deficit, and health care for all Americans.

President Clinton will speak from real figures, no smoke, screens and mirrors anymore, but honesty in budgeting.

For 12 years we have been told we must spend billions on bombers—that there are no millions for our bridges.

Tomorrow, Mr. Speaker, the Congress can say to the President, let the dirt fly. Let us rebuild America.

Let us rebuild our water systems, our highways and our bridges of steel.

Let us rebuild our bridges of heart, rather than a heartless recovery, and hope for our children's future. Some say do nothing, that "In the long run we will grow out of this mess."

Well, Mr. Speaker, as a great man once said, "People don't eat in the long run, they eat every day."

MIDDLE CLASS TAX HIKE NOT PATRIOTIC, BUT IDIOTIC

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and to include extraneous material.)

Mr. BOEHNER. Mr. Speaker, Monday, the President offered his reasons for abandoning the middle class and used a lot of fancy charts and figures to make his case.

Well, he left one chart out, this one. Over the last 12 years, Government revenues have increased dramatically.

The problem in not that we do not tax enough, it is that Government spends too much.

The President has reverted to true form, that of a tax and spend, old-time Democrat. He has abandoned tens of millions of middle-class voters that trusted him.

Raising taxes on the middle class is not patriotic, it is idiotic.

Five times in the past 12 years we have told middle-class Americans that we must raise their taxes to balance the budget. Five times, we have told middle class America that we would control spending. Five times, we have betrayed the middle class. Let us not try tax and spend again.

THE PRESIDENT'S MESSAGE OF COMMITMENT TO CHANGE

(Ms. DANNER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DANNER. Mr. Speaker, tonight President Clinton will address the American people. At that time he will produce a plan to foster a faster growing economy, a more productive economy, one that will produce more jobs, produce more jobs in order to address the unemployment and underemployment faced by far too many American citizens today.

Tonight, we will hear from President Clinton. He will talk to us about developing a much-needed cooperative link between government and the private sector, where the needs and concerns of the private sector take their well-deserved place in the overall picture of our economic well-being.

Mr. Speaker, tonight from our President we will hear a message of a commitment to change, fairness, economic recovery, and honesty, honesty in his figures. As you have heard my colleagues say, no smoke and mirrors this time.

What that means to the people of my district, the Sixth District of Missouri, is a promise of action from those of us here in Washington. What that means to us is a rededication to change, with a spirit of cooperation and fairness.

REAL CANDOR WOULD HELP IN THE FISCAL DEPARTMENT

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, among the great mysteries of the current time is whatever happened to the middle-class tax cut? It is now a middle-class tax increase.

I recall recently the President saying that the reason for this reversal is the upward revision in the deficit figures that the Bush administration finally provided. The deficit is higher than he had imagined or dreamed, he said, therefore, the notion of a balanced budget, much less a middle-class tax cut had gone aglimmering.

In my ongoing research, I came across Business Week of July 6, 1992, reporting on a June 23 interview with the then-candidate for the Presidency, Mr. Clinton. He was asked:

> Why are you revising your economic strategy now and backing away from the goal of a balanced budget by 1996?

This is last June, Mr. Speaker. Mr. Clinton's answer was:

> A When I began the campaign, the projected deficit was $250 billion. Now, it's up to $400 billion. I've watched the economy pick up very slowly, if at all. I hadn't cut government as much as I wanted to, and I need to put teeth into that idea.

So the President well knew that the deficit was $400 billion last June. It just seems to me a little candor on the part of Mr. Clinton would help us as we debate the tax and spend proposals we will hear about tonight.

THE UNFAIR PROSECUTION OF CONGRESSMAN HAROLD FORD

(Mr. BLACKWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLACKWELL. Mr. Speaker, I rise to protest what seems clearly to be a case of unfair prosecution.

Of course, I speak of the retrial of the first and only African-American Congressman from the State of Tennessee, our colleague, HAROLD FORD.

In an unusual and unprecedented move, the prosecution has relocated the trial of Congressman FORD out of the jurisdiction where he lives to a jurisdiction where the potential jury consists of 11 whites and only 1 African-American.

In promoting its position, the prosecution argues that a fair trial cannot be held where Congressman FORD lives, a congressional district that consists of some 400,000 African-Americans.

This incredible position, combined with the fact that the indictment in this case was handed down more than 6 years ago, creates a situation never before heard of in American criminal justice history.

Congressman FORD now faces this unfair prosecution. Mr. Speaker, this is a serious and dangerous situation. The whole notion of justice is at risk.

If this can be done to Congressman FORD in the light of day, imagine what is done under the cloak of darkness.

Those who believe in our Constitution; those who defend civil liberties; those who support blind justice, must stand up now for Congressman FORD.

The prosecution in this case does not seem to be interested in justice. They have sought to impose a system on Congressman FORD that they would not tolerate if imposed on them.

Mr. Speaker, in the case of HAROLD FORD, we need to open our eyes, because a purported system of blind justice is causing far too many not to see at all.

□ 1450

WE MUST FIGHT A TAX INCREASE

(Mr. KIM asked and was given permission to address the House for 1 minute.)

Mr. KIM. Mr. Speaker, according to President Clinton, Americans have been working harder for less. Well, if this package of sacrifice passes through this Chamber, Americans would be working even harder for much less.

I remember the last tax increase led us into double digit inflation and a misery index higher than the Empire State Building. The budget deficit also doubled. Do we really think another tax increase would be the solution?

Mr. Speaker, the answer is resoundingly "No." Raising taxes may seem like an easy solution, but in reality tax increases only compound the problem.

The sham of this whole program is that it assumes that our citizens are undertaxed. This simply is not the case. Taxes as a share of GDP are historically at the highest level right now.

It is ultimately unpatriotic if we do not fight this tax increase program if the President's proposal is nothing more than another tax and spend plan. Then this Congress must vote "no."

NCLR CELEBRATES ITS 25TH ANNIVERSARY

(Mr. TORRES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRES. Mr. Speaker, some time ago—in fact, longer ago than I care to admit—I was honored to serve as the executive director of the East Los Angeles Community Union. TELACU, as it is more commonly known, is a significant organization in its own right.

It is significant in another way, for TELACU was one of the first local affiliates of the organization that is now known as the National Council of La Raza. NCLR was a small institution struggling to survive. But even then, it was fervently committed to the proposition that Hispanics deserve an equal opportunity to succeed in all aspects of American life.

Now, more than two decades later, we have yet to fully realize our goals: too many Hispanic Americans must overcome poverty and discrimination in their lives. Too many Americans still fail to appreciate the condition and contributions of the Hispanic community. Too few of our public or private institutions are responsive to the interests and needs of Hispanics.

But we have made much progress as a community and a nation, and we have done so in large part because of the contributions of the National Council of La Raza. This year, NCLR celebrates its 25th anniversary. I have watched with great pride over the years as NCLR has become not just the principal national Hispanic organization, but an important American institution.

The National Council of La Raza has emerged from its humble beginnings to become "the leading Hispanic think tank in the country," according to the Albuquerque Tribune; the Nation's "principal" Latino group, according to the Baltimore Sun; and "by all accounts the most effective" Hispanic organization, according to Hispanic Business magazine.

The inside-the-beltway reviews are equally glowing. A senior Brookings Institution official found that NCLR is perhaps the most respected Hispanic organization. A Fortune 500 chief executive describes NCLR as "the single most important Hispanic organization." Our colleague Howard Berman has said that it is "unexcelled in the legislative arena"; while our former colleague Steve Bartlett has cited NCLR's work as "invaluable."

As proud as I am of this praise, I am even prouder of the record of accomplishment of NCLR and its affiliate network. Its affiliates have built thousands of affordable housing units and created thousands of jobs. They have fed, clothed, or educated hundreds of thousands of needy families, helped thousands of immigrants obtain legal status and learn English, and delivered health and social services to hundreds of thousands more. All together, NCLR's 150 local affiliates comprise the largest network in the Hispanic community, serving over 2 million persons per year.

The National Council of La Raza network has also served as a crucial training ground for our community's leaders. Our colleague, Ed Pastor, chaired NCLR's board of directors during its crucial, formative years. The late Willie Velasquez conceived, developed, and later spun off the southwest voter registration project while a member of the NCLR staff. Cabinet members Henry Cisneros and Federico Pena, Texas State Senator Carlos Truan, former Colorado State Senators Polly Baca and Don Sandoval, and a whole new cadre of emerging leaders like Texas County Judge Alicia Chacon, California State Assemblywoman Martha Escutia, and dozens of others are all part of the NCLR family.

And, speaking of leadership, NCLR's enormous success is, obviously, due in great part to its own leadership. Raul Yzaguirre, NCLR's president, has led the organization for 18 years. In 1980, he was the first Hispanic to receive the Rockefeller Award for Public Service by the trustees of Princeton University. In 1985, he received the Common Cause Award for Public Service. In 1989, he became one of the first Latino Fellows at the Institute of Politics at Harvard University's Kennedy School of Government. In 1992, he received Hispanic magazine's Community Service Award and was named the recipient of the Aguila Award, the Government of Mexico's highest honor. And this year, he was awarded the Martin Luther King Medallion by the trustees of George Washington University. Little wonder that Yzaguirre is, according to Hispanic magazine, "at the center of the Hispanic leadership stage."

In this, the National Council of La Raza's silver anniversary year, I think it's appropriate to recognize this important, unique American institution. I'm proud to have been associated with NCLR at the very beginning, and I look forward to its continuing growth and development as it seeks to meet the many challenges that still face the Hispanic community.

Tomorrow night, many of us will be attending the National Council of La Raza's congressional recognition reception and dinner. I invite my colleagues to join me at the event.

WHAT HAPPENED TO SPENDING CUTS?

(Mr. BACHUS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BACHUS of Alabama. Mr. Speaker, what happened to spending cuts?

At his confirmation hearings, President Clinton's Budget Director, Leon Panetta, promised that the Clinton program would provide at least $2 of spending cuts for every $1 of tax increases. Mr. Panetta also promised the American people "truth in budgeting" from the Clinton administration. Well, let us say goodbye to another couple of good intentions.

By President Clinton's own estimate, spending cuts will be about half the package, not two-thirds. And, the President gets to the one-half for spending cuts only by labeling a major tax increase on Social Security recipients as a spending cut. With that kind of creative accounting I am surprised that the President has not managed to claim that his entire package is one of spending cuts.

For those of my colleagues who are looking for a simple test to distinguished spending cuts from tax increases, I have one: If the amount you pay on your form 1040 goes up, it's a tax increase.

SINCE WHEN DID POPULARITY BECOME A CRIME?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Department of Justice says that Congressman HAROLD FORD is too popular. He is too popular to be tried by a jury of his peers in Memphis, so thay are busing in an almost all-white jury.

Now this does not seem like busing to me. This sounds like railroading.

My colleagues, since when did popularity become a crime, and what has happened to the Constitution in America? This case is ridiculous. Eighteen jurors and alternates, and only one black juror. Since when did busing get to be so damn fashionable in America?

Mr. Speaker, HAROLD FORD is not being prosecuted. HAROLD FORD is being persecuted, and Congress should be calling for an investigation into the damn Justice Department.

THE CLINTON ANTHEM

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Well, President Clinton has finally done it. Has made wanting to pay more taxes the new litmus test for patriotism. So, with apologies from me to a very good friend, Lee Greenwood, the country singer, let me say:

> I'm proud to be an American, so can I please pay more tax? For I'm honored to contribute to a President who plays the sax. And I'm proud to sacrifice my hard-earned dough and salute you when I say I'm going to send you a great big check with my Form 1040-A.

SHADES OF RODNEY KING

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, I rise this afternoon to take exception to the treatment of one of our colleagues, the distinguished Congressman from Tennessee, HAROLD FORD. He served the State of Tennessee honorably for 20 years. Now he is being retired on a 6-year-old charge of bank fraud and conspiracy.

Mr. Speaker, in the first trial 2 years ago held in Memphis the jury consisted of eight blacks and four whites, and the trial ended in a hung jury. Citing Mr. FORD's popularity in Memphis the prosecution persuaded the judge to order the selection of a jury from Jackson 100 miles away, apparently in order to find jurors with no racial or political bias.

Now Memphis is majority black, and Jackson is majority white. It comes as no surprise then that the Jackson jury consists of 17 whites and only 1 black.

Shades of Rodney King. Why, when we have a high profile case, do we have to exclude the entire black community in order to find a fair and impartial jury?

Today, Mr. Speaker, HAROLD FORD is not asking for a perfect trial. He is only asking for a fair trial.

CHANGE! (OF THE DICTIONARY)

(Mr. BONILLA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONILLA. Mr. Speaker, President Clinton, elected on a mandate of change, now wants to change the dictionary.

Here are some examples: "Contribution," means taxes. "Sacrifice," means taxes. And now, even "patriotism" means taxes.

At this rate, Webster will have to update the dictionary every time the President proposes a new tax.

I do not know about all the other Members of this body, but I give my contribution to my church, a "sacrifice" is a play in baseball and "patriotism" is love of country.

I wish President Clinton would keep to the basics, tell the truth to the working people of this country and call a tax just what it is: a tax.

THE RIGHT TO A FAIR TRIAL IS BEING VIOLATED

(Mr. TOWNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TOWNS. Mr. Speaker, I stand before my colleagues because an injustice is being done to my colleague, HAROLD FORD. Our Constitution with its Bill of Rights is designed to promote fairness and protect individuals from abuse by their Government. In this case the Government did not, and I say did not, prove guilt to the satisfaction of 12 jurors, so it moved and started all over. The prosecutor believes in the old saying, "If at first you do not succeed, you try, you try, and you try again."

Mr. Speaker, it bothers me that the right to a fair trial by your peers is being violated. The prosecutor has moved 100 miles outside of Memphis precisely because the jury in Memphis, where Mr. FORD lives, after hearing the evidence, refused to convict. By moving the trial the prosecutor is shopping for a jury that would prefer him, his witnesses, and his version of events.

Mr. Speaker, it is precisely this type of governmental abuse that the Constitution sought to prevent. But maybe this court will not allow it.

The late Thurgood Marshall's words apply here as well as to the Supreme Court.

"Power, not reason, has become the currency of this court." Reason would not allow this gross injustice.

I think that the people who represent law and justice must speak out because our Constitution is being attacked.

□ 1500

CUT SPENDING, DON'T PILE ON TAXES

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, the American people know that the deficit is bad for the country. The American people also know we can reduce the deficit by cutting what the Government spends or by increasing what the Government collects through taxes.

Let me show you a chart that you will not see the President use when he talks about the deficit. It shows that Government spending was $230 billion in 1972 and is $1.4 trillion today. That means that Government spending has increased almost 500 percent over the last 20 years.

Here's another chart you will not see the President use. It shows that Federal revenues during the last 20 years have increased over 400 percent.

The implication is clear. We have not been able to tax our way out of deficits over 20 years and we will not be able to do so now.

The American people today stagger under the heaviest tax burden ever. Americans work, on the average, 126 days of the year, until May 5, to pay their taxes. After that, they finally get to keep what they earn.

The way to reduce the deficit and strengthen our economy is to cut excessive Government spending, not pile on more taxes.

LET PRESIDENT STICK TO HIS PLAN

(Mr. HOEKSTRA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOEKSTRA. "Read my plan." I have here a direct quote from President Clinton from October 20 in the New York Times:

> Now I will tell you this: I will not raise taxes on the middle class to pay for these programs. I am not going to raise taxes on the middle class to pay for these programs. I am not going to tell you read my lips, but I can tell you this: I am not going to raise taxes on the middle class Americans to pay for the programs I have recommended.
>
> Read my plan.

Mr. Speaker, I will keep an open mind as I listen to the President tonight, but the American people and I have heard his plan. So what is the question and what is all the excitement about? The only question is, let us see if the President does stick to his plan.

A HEALTHIER AMERICA BACK AT WORK

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, just as if he were a doctor administering a treatment to a sick patient, tonight, a few feet from where I stand, the President will come to deliver to us what could be called bitter economic medicine. But it must be remembered that that bitter economic medicine has a payoff—a payoff in a stronger economy, a payoff in a healthier population, a payoff in lower interest rates, and a payoff in more jobs—both in human infrastructure programs, education and training, and in physical infrastructure such as bridges and highways.

In that setting, this Friday Secretary Peña, Secretary of Transportation, will be in Louisville, KY, to talk with local leaders there about our $100 million of ready-to-go infrastructure programs which we have in Louisville, airport construction, sewer construction, transit construction, and also light rail.

So I would emphasize and hope that our colleagues would recognize that the President's message of pain carries with it a message of payoff in the form of a healthier America, an America which is back at work.

AMERICA NEEDS A RESPONSIBLE PRESIDENT

(Mr. MANZULLO asked and was given permission to address the House for 1 minute.)

Mr. MANZULLO. Mr. Speaker, the approval rate of Congress has fallen to an all-time low of 16 percent. I can understand that because yesterday while the stock market fell by 85 points, we were voting on the issue of the preservation of whales. It goes to show the irony that has taken place with regard to the President's plan. He is trying to bring the economy under control while at the same time increasing the breadth and scope and jurisdiction of the Federal Government.

You cannot insist on motor-voter registration, you cannot insist on mandated family care, without more regulations, more rules, and more laws. In fact, Mr. Clinton's idea of cutting out fat is to lay off ladies who are opening letters in the basement of the White House and to hire 50 lawyers on his staff in order to help him with regulations.

What Mr. Clinton is doing, Mr. Speaker, is cruel to the farmer, it is cruel to those on fixed incomes, and it is cruel to the poor. We do not need more taxes, we need a responsible President.

DO WHAT IS BEST FOR AMERICA

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, tonight we are going to witness from this lectern right here over my shoulder an historical event. It is going to be an historic event because we are going to have a President who is going to present an honest budget based on honest figures telling us what we have to do in this Nation to put our economy back on the right track.

Now, why is it so important to reduce the deficit? It is because only by reducing the deficit can we foster growth, can we create a more productive economy, and can we have an economy that will lead to more high paying jobs for all Americans.

One thing we know: We simply cannot afford to continue going down the same track, because there is going to be a major train wreck at the end if we do not act responsibly in this Chamber and in the other Chamber this year.

This is a critical fork in the road for the future of the economy of our country, and I call on my colleagues from both sides of the aisle to set partisanship considerations aside and do what is best for the country, because this is our time, in order to put the economy back on the right track.

Mr. Speaker, let me give a fact: 98.5 percent of all Americans will pay no new income taxes under this plan.

A DEFINITION OF THE RICH

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, for over a year President Clinton, then candidate Clinton, and now President Clinton, has been saying that he is going to tax the rich. He now tells us who the rich are: The rich include anyone who heats their home or drives a car in America.

A TIME FOR A PROUD AMERICA

(Mr. BARLOW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARLOW. Mr. Speaker, this is a time for a proud America. This is a time for a disciplined America.

□ 1510

Our forefathers, our families, have sacrificed through the ages to build our Nation. We stand at a historic crossroads. We can make sacrifices and continue the building of a strong, proud America. I call on all of us, without regard to party, to come behind a program of strength for the future of our Nation, for our children, our grandchildren. This shall be the home of the free.

END POLICIES WHICH PENALIZE SUCCESS AND REWARD FAILURE

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, more than a few of us in this Chamber are aficionados of a television program known as Saturday Night Live. My friend, the gentleman from California [Mr. HUNTER] even tells me that he has seen it one time, and it seems to me that as we look at a number of the characters there, a very appropriate one has come forward, a guy called Kevin Nyland. When he does the news at midnight, he fulfills the role of a guy called Subliminal Man.

As I listened to some of the terminology that has come forward over the past several days, I cannot help but think of how Subliminal Man would deal with this. I could hear him say, "Has a job: rich; shared sacrifice: tax; contribution: tax; patriotism: tax; and investment: spend."

It seems to me that we will finally, in a little less than 6 hours, Mr. Speaker, have the opportunity to give President Clinton a chance to realize that we have got to bring an end to policies which penalize success and reward failure.

THE EQUAL ACCESS RESOLUTION

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Speaker, I rise today in support of the equal access resolution, which will be introduced tomorrow by my colleague, Mr. KOPETSKI. This resolution expresses the sense of Congress that adequate mental health care benefits must be included in any legislation designed to address the ongoing and unmet health care needs of the American people.

This resolution is an invaluable tool in communicating that we in Congress know that mental health insurance is not the icing on the national health care cake, but an essential ingredient in the mix. I commend my colleague, a long-time advocate for individuals with mental health needs, for introducing the measure.

Mr. Speaker, as a psychologist by profession, I recognize all too well, the price we have already paid for not having an adequate system of mental health coverage. As a clinician for more than a decade, I have seen first hand how mental health services have saved lives, by allowing people to keep their jobs, stay with their families, and contribute to their communities. I have also seen the costs—in both human and economic terms—of neglecting treatment: Drug and alcohol abuse, divorce, child and spousal abuse, suicide, worker absenteeism and lost productivity, crime, institutionalization, and the pain of suffering alone.

Providing adequate coverage for treatment of mental health disorders and substance abuse is both humane and cost effective. Congress must lead the way in removing the age-old stigmas associated with mental health problems, and recognize, once and for all, that mental illness does not always have to be a chronic, debilitating condition—it can be diagnosable, treatable, and often curable. And studies have shown that for every $1 spent on treatment, society spends nearly $4 on the consequences of not providing treatment.

For these reasons, Mr. Speaker, America cannot afford to be without an adequate system of mental health care coverage any longer. Passing this resolution will be an important step on the road to national health care reform.

TAX INCREASES ON SOCIAL SECURITY: AN ORWELLIAN CHANGE

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, we have heard a lot of talk on the floor today about truth and honesty. What I have in front of me here are the revenue provisions from tonight's plan, and they are a very interesting collection of tax increases, and they add up to $244 billion; that is, if we can believe the figures. However, they left off one tax, the $31 billion that they are going to charge Social Security recipients over and above what they now pay on their Social Security, so that adds up to $275 billion in new taxes.

Why is that $31 billion not in here? They are going to call that tax increase a spending cut. There is change for us, an Orwellian change; Don't call them spending cuts. That may be a change, but it is not honest, it is not candid, and it is not the truth.

INTRODUCING THE IMMUNIZATION NOW ACT

(Mrs. BYRNE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BYRNE. Mr. Speaker, it is evident that this Congress has a rare opportunity to end America's disgraceful legacy of 8.3 million children at risk from preventable, life-threatening disease.

I rise today to introduce the Immunization Now Act of 1993. This bill offers us a truly cost-effective means to immunize children against measles, pertussis, diptheria, and tetanus without government monopoly and without undermining other economic concerns.

The Immunization Now Act leaves this vital component of preventive health care in the hands of families and their personal physicians. Vouchers for the necessary immunizations will be dispensed at hospitals before newborns are discharged, or can be obtained at community health centers. The vouchers can be redeemed wherever holders seek medical care. For $130 we prevent diseases that cost many thousands, perhaps death.

I urge Members to consider this bill on its merits.

BACK TO THE FUTURE

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, more sacrifice, more contributions, more taxes. Does that sound familiar? It ought to, because it was Jimmy Carter's Democratic prescription for economic malaise.

As we see the stock market plummet in reaction to Bill Clinton's economic plan, we should ponder how history seems to endlessly repeat itself. Another President, Abe Lincoln, whose birthday we just celebrated, had this to say about tax fairness: "You cannot help the wage earner by pulling down the wage payer; you cannot help the poor by destroying the rich."

Bill Clinton, ignoring the pleas of President Lincoln, will rob the private economy of capital needed to create jobs and stall the economic recovery. He calls for more sacrifice, more contributions, and more taxes, and the stock market reacts as we all thought it would.

President Clinton, by waving the soak the rich banner, fooled us until today when we learned that rich is a $30,000 income.

The problem is not that Americans are not paying enough taxes, it is that their Government is spending too much.

TEXAS SCHOOL FUNDING

(Mr. GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, I was planning to rise to talk about what is happening in Texas and the State house and the State senate, but for a part of a minute, after sitting here and seeing the graphs that were pointed our earlier by the colleagues on the other side of the aisle, I want to talk about a graph that showed that for the last 12 years our expenditures or our money that the U.S. Government is taking is doubled, and that is true, but in the last 12 years our debt has tripled, and tonight we are going to put an end to that.

Mr. Speaker, I would like to take this opportunity to comment on the state of education in our Nation as well as in my home State of Texas.

Over half of the States have experienced court battles over the constitutionality of their public school system and Texas is one of them. My tenure in the Texas legislature spanned two decades and the most persistent problem was education funding.

Monday, I stood in the hall of the Texas Senate as the historic vote took place that could end 45 years of conflict over the ways Texas funds its public schools. I am proud of all those State senators and House members who put their differences aside and did what was best for the schoolchildren of Texas. On May 1, the voters of Texas will have the opportunity to affirm their belief in fairness for all children and I encourage them to cast a vote in favor of their children's future.

In Texas they have decided that it is time to get out of the courts and back to the business of education and I urge my colleagues to listen to their message. If we want to be No. 1 in the world in job creation and providing for our citizens, we must first create an education system that is second to none. Many States, including Texas, have made great strides in education reform such as 22 to 1 teacher to student ratios, and a 4-year-old program when Head Start was hindered in the early 1980's.

As we begin the budget process this year, I ask that we put education first and give our children the chance they deserve.

□ 1520

ECONOMIC REFORM

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CUNNINGHAM. Mr. Speaker, I would like to laud President Clinton. He cut 100,000 Federal workers, and we ought to say good when he does the things that we would like to see on both sides of the aisle.

But when we allow HIV and AIDS patients into the United States, I wonder where the Delta is going to go. And you will pass a tax package. We do not have the votes to stop it, nor have we had for the last 38 years. I would ask the freshmen who came in for change to think about this. Do not cut Defense below an area where the damage to our national security is unrecoverable.

I would also like to balance the budget with a balanced budget amendment. If we are going to increase taxes on the American people, let us cut the spending and really balance the budget. I do not think the American public has really seen any tax increase that has gone to balance the budget.

I would also like to see a line-item veto, and I know Members on our side of the aisle would support that same issue.

I am a Republican, but I would like to also go on record to say that I do not like the way that Congressman HAROLD FORD is being treated.

CONGRESS MUST ALSO SACRIFICE

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, in this body, we all know that change can be difficult. That making sacrifices can be difficult.

Tonight, our President is going to come to this Chamber to ask every American to make a change. To ask every American to make a small sacrifice today, to help ensure larger rewards for tomorrow.

I rise today to say to my colleagues, the phrase, "every American" includes us.

And that means that we better be ready to make some real sacrifices, not cosmetic sacrifices, in this institution.

Mr. Speaker, we were elected to lead. If the American people—people who have been hit hard by 12 years of economic neglect—are going to be asked to tighten their belts a notch or two, then the U.S. Congress better be ready to tighten its belt five or six notches.

That means we need to take a long look at what we can do to cut down on committee staff and expenditures, a long look at what it costs to frank our mail, a long look at reforming campaign laws.

And yes, perhaps it means taking a look at a cost-of-living increase that alone is more money than most Americans make in 2 months.

The President is asking Americans to sacrifice—he is saying the free ride is over. Well, my friends, our free ride needs to be over as well. We should take the lead in demonstrating what shared sacrifice really means.

PRESIDENT CLINTON SHOULD RECONSIDER HIS ECONOMIC PROPOSAL

(Mr. TORKILDSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORKILDSEN. Mr. Speaker, I too rise to speak about the President's State of the Union Address tonight, and I guess the early reviews have not been positive. One headline reads: "Get Out Your Wallet." I think it is a warning many working people in our country are taking quite seriously.

I also point to one provision in the little revenue provision sheet that some of us have, trying to explain where that money might theoretically come from. One item calls for reducing the deductibility of business expenses from 80 percent down to 50 percent. I just point out to the Members that the last time something like that was tried it was when we had what we called the luxury tax. The luxury tax really did not raise any money, but it put the working men and women who worked on boats and cars out of business, because people just stopped buying them. If we take away this deduction or cut it back, we are going to have the safe effect. We are going to put waiters, waitresses, and other people who make their living from this type of business out of work.

I would also ask President Clinton to please reconsider his proposal. He still has several hours. Come back with some spending cuts, help us get the deficit under control, but by reducing spending.

STUDENT LOAN AFFORDABILITY ACT

(Mr. PRICE of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Speaker, today, MARTIN LANCASTER and I, and 65 of our colleagues, are introducing the Student Loan Affordability Act, a bill which would restore the tax deduction for student loan interest and the full tax exemption for scholarships and fellowships.

In the last decade, the number of American students borrowing money for student loans has doubled. The average debt today for a public college graduate is over $6,000 and more than $10,000 for private college graduates. Many of this Nation's talented young people—young people who are the future of this country—are opting not to attend college at all because of the financial hardship.

To ease this burden, a bipartisan commission—the National Commission on Responsibilities for Financing Postsecondary Education—this week recommended to President Clinton that the tax deduction for student loan interest and the full tax exemption for scholarships and fellowships be restored. Today, 67 Members are once again championing a bill to do just that. Our bill, the Student Loan Affordability Act, will restore the tax deduction for student loan interest and restore the full tax exemption for scholarships and fellowships—both of which were eliminated by the Tax Reform Act of 1986.

Last year, a version of our bill was included in the economic growth package, passed by this Congress but vetoed for reasons other than the inclusion of these education tax incentives.

Accessible and affordable higher education is essential to this Nation's ability to compete in the global market. Passage of this bill would be an investment in the future of our young people and our country. I urge colleagues to join us by cosponsoring the Student Loan Affordability Act.

AMERICANS WILL RISE TO PRESIDENT CLINTON'S CHALLENGE

(Ms. E.B. JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. E.B. JOHNSON of Texas. Mr. Speaker, tonight, in this Chamber, President Clinton will reach out across America, and across the world, in setting out his comprehensive plan for economic recovery and stability. Surely the sacrifices required to repair the damage done by 12 years of Republican trickle-down economic policies will be difficult, and sometimes contentious. But I am confident that just as the American people have united against common enemies in the past, we will once again rise to the challenge. Realistically, we are in a war—a war against spiralling debt, against unemployment, against a dying health-care system, against hopelessness and despair. And as with all wars, our response must be aggressive and united—our citizens can't afford for us to waste their time responding to every special interest group's criticism—we need to support the President and work with him in fashioning a swift economic stimulus program, along with long-term investment programs.

I am pleased to say that my home State of Texas has taken the kind of initiative needed to assist the Federal Government in its herculean task. The Smart Jobs Fund Program, funded by one-tenth of 1 percent of the State's unemployment insurance tax, will help businesses in Texas by training, and retraining, their employees. With the estimated $50 million in yearly revenue, matching grants will go to businesses for the training of new workers, or the improvement of existing workers' skills, which directly helps keep our work force competitive in today's global markets. Another important feature of the program is the special assistance for production innovation at those companies losing defense industry contracts—a Federal budget cut which has hit Texas particularly hard.

I look forward to listening to President Clinton's economic plan, and urge my colleagues to lend their full support to the administration in the coming days. Without consensus, we will be unable to generate an economic revival—Together, we can create a blueprint for long-term prosperity and international triumph.

AMERICA REACHING A TURNING POINT

(Mrs. MEEK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEEK. Mr. Speaker, there are people in this House who feel that tonight we are at a turning point, and let me tell you what, they are right. We are at a turning point tonight. We have a courageous President who is willing to come before this country to say fish or cut bait. Now it is time to cut bait, right now, and fish.

First I want to say to the Republicans, many of you have labeled Clinton's plan as being more liberal tax and spend. What they do not bother to say is that we need this money to pay for the deficit that the Republicans have brought on for the past 12 years.

For 12 years the Republicans have had tax giveaways to the rich, 12 years of star wars boondoggles, 12 years of decay from decreased investment on roads, infrastructure, education, and housing, 12 years of greed, corporate takeovers financed with Republican tax giveaways.

If Republicans really want to help, I know where they can begin. Go help the workers from Pan Am in my district who because of deregulation are out of work. Go help the old people whose money you took from the Social Security trust fund to conceal the true size of the deficit. Go help the homeless who once were working families but who now are out on the streets because of the cuts you made in subsidized housing.

The last time the Republicans saved us from big government, they gave away our tax revenues to the rich. I like what Bill Clinton has offered. He is up front with both good news and bad news. That is better than voodoo economics, and it is better than "Read my lips."

Let us get on with it, and let us support our President.

GIVE CONGRESSMAN HAROLD FORD A FAIR TRIAL

(Mr. OWENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS. Mr. Speaker, I was born in Memphis, TN. I spent most of my life in the district now represented by Congressman HAROLD FORD. I went to Hamilton High School. Of course I still have many relatives and friends in Memphis, TN.

I want to assure everyone that the people of Memphis are as American as people anywhere else in the United States. The people of Memphis know how to make the jury system work. Our courts in Memphis today, day in day out, use juries. They make the system work. Why should it be any different with HAROLD FORD? The jury system can work in Memphis without the interference of the Justice Department, without the railroading that is going on in terms of trying to get a jury that will give a verdict that the prosecution wants.

□ 1530

Never before in the history of this country: There is no precedent in law for what the Justice Department has done in the case of HAROLD FORD.

All HAROLD FORD wants is a fair trial. All HAROLD FORD wants is what every other American wants. It is our duty to uphold the Constitution and to see to it that HAROLD FORD gets a fair trial.

ALL PAIN AND NO GAIN

(Mr. GRAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAMS. Mr. Speaker, all pain, and no gain.

That is what the Clinton tax and spend offers middle-class Americans.

Mr. Speaker, if President Clinton had spent as much time reading the history of the last 12 years as he has rewriting it, he would know that tax increases are not the way to balance the budget.

In the early 1980's President Reagan made an agreement with Congress to accept tax increases in exchange for spending cuts.

The President delivered the taxes, but Congress spent the money. As a result, Americans got higher taxes, higher spending, and bigger budget deficits.

In 1990, President Bush made the same bargain with Congress. Again, Congress spent the money. And once more, the American people got higher taxes, higher spending, bigger deficits, and a recession to boot.

All pain, and no gain.

Mr. Speaker, I have one piece of advice for our new President.

Keep your no new taxes promise for the middle class. Before, raising one dime in new taxes, makes Congress deliver on the spending cuts.

This is not patriotism, it is pay and pay-triotism.

DO NOT PREJUDGE PRESIDENT'S PLAN

(Mr. TUCKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TUCKER. Mr. Speaker, tonight we will all receive the long-awaited news of the economic plan forecasted by our President, President Clinton.

And, yes, there are tough decisions to be made tonight, but we can make these times even tougher by judging the President's plan before it is unveiled or by picking apart merely one aspect of the plan such as the taxation aspect just to make political brownie points.

Mr. Speaker, on the other hand, it is easy to judge the past. Hindsight, for that matter, is 20/20, past neglect in public infrastructure, past neglect in human infrastructure, past neglect in dealing with the deficit.

President Clinton's plan is committed to fairness for all America and economic recovery, not only shared sacrifice but shared investment and shared opportunity. At a time when our country needs all of us to be sober and all of us to unite, we can ill afford partisan politics.

Mr. Speaker, we all, Republicans and Democrats alike, must be quick to hear, slow to speak, and quick to roll up our sleeves to help and not to hinder the progress of America.

TIME TO PUT JUSTICE INTO CRIMINAL JUSTICE SYSTEM

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, it is time to put justice into our criminal justice system.

HAROLD FORD is being unfairly targeted. There is no way that we can justify the gross dismantling of Mr. FORD's right to a fair trial, to be tried by a jury of his peers.

Regardless of the underlying charges against Mr. FORD, the law says he is innocent until proven guilty, and that he is entitled to fairness.

When did it become a crime to have a good reputation in a district which he represents? When did it become just to empanel only those jurors who have openly confessed their prejudice against the defendant?

Mr. Speaker, the wheels of justice are said to turn slowly. However, in the case of HAROLD FORD the wheels are running over him, and it is time to slam on the brakes of justice.

OPPORTUNITY TO FOLLOW REAL LEADERSHIP

(Mr. SARPALIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SARPALIUS. Mr. Speaker, as a young boy, my two brothers and I lived in Houston, TX, in a home where we had no running water, no electricity, no utilities at all. The only food and clothes we got were what churches would bring to us.

At the age of 12, we went to Cal Farley's Boys' Ranch. At that time I had nothing going for me in my life, but today I stand before you as a Member of the U.S. Congress.

The reason I am here today is because of sacrifices of past generations. They gave me a country that was full of opportunities, a country where you could dream any dream and make that dream come true.

But what is my generation giving the next generation? I have a 19-year-old son. We are not giving him a country that is full of opportunities but a country that is full of responsibilities.

Tonight we have an opportunity to follow some real leadership and make some real changes and give back to our children the same country where they can dream any dream and make those dreams come true.

KEEP AMERICAN JOBS IN AMERICA

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, I guess what all this is about is balancing the budget. It is the most important thing that we can do right now.

But we cannot do it with minimum wage jobs and we are losing all of our good jobs to Mexico, to China, to Japan. We cannot compete as long as we allow them to pay cheap labor, no benefits, no health, no health and safety.

I hope that President Clinton addresses this issue tonight on renegotiating NAFTA and a better trade policy.

To add to that problem, our colleague, the gentlewoman from Ohio [Ms. KAPTUR], said earlier about the National Bank of Mexico, through an investment-fund scheme, is going to buy American companies and move them south of the border and steal American jobs, and they are going to do it if we let them get away with it. It is up to us to stop them.

Do you want to balance the budget? Keep American jobs in America.

ASSURE JUSTICE FOR REPRESENTATIVE HAROLD FORD

(Mr. WATT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATT. Mr. Speaker, I would like to be using my time today to speak in support of the economic package the President will be submitting to Congress today. It is a package I heartily endorse and one which represents the first semblance, in a long time, of leveling with the American public about the serious jeopardy the last 12 years of careless administration has left the country in.

I would really like to talk about my support for the economic package and the more global concerns of our country. But the system has me caught here again today talking about survival and the constitutional rights most people, including politicians, take for granted.

My comments today are not about the guilt or innocence of my colleague HAROLD FORD. I have no knowledge of whether he is guilty or innocent. I do have knowledge of the constitutional right that he and all criminal defendants have to a trial by a jury of peers. I do have knowledge of the need for justice in this country.

So today I ask for the Department of Justice to assure justice by guaranteeing Congressman FORD a trial by his peers, instead of by folks bused from afar. Then I can go on to talk about the kind of economic justice the President's plan will offer tonight.

PRESIDENT IS PRESENTING A COMPREHENSIVE PROPOSAL

(Mr. LEVIN asked and was given permission to address the House for 1 minute.)

Mr. LEVIN. Mr. Speaker, once again, we have seen in the words from the minority that it is so much easier to throw bricks than to build, and it is easier to be courageous when you are in the minority than when you are in the majority.

Tonight President Clinton will break the spell of dodge and duck in Washington. The public is saying, "do not think of taxing me until you cut wasteful programs." The public is right.

Tonight the President will present a comprehensive proposal, including 150 cuts in programs, and there would be an increase in income taxes for any family earning over $140,000 a year.

The benefits would go for two purposes: deficit reduction and economic growth. These are supremely important, and they deserve more than brickbats and finger pointing from the minority.

□ 1540

THE GAG RULE—AGAIN

(Mr. SOLOMON was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, excuse me if I speak from this side of the aisle, but I want to talk to you folks over here for a minute.

You know, in a few minutes this House is going to take up a bill called the Family Planning Act. It is a bill that amends chapter 10 of the public health law, that repeals the so-called gag rule. Yet the ironic part, and perhaps the hypocritical part, Mr. Speaker, is that this rule that is coming on this floor is a gag rule. It means that 434 Members are being shut out of the debating process here today, including this Member.

I have an amendment which is terribly important to the American people. It would require that the ban on aliens infected with HIV virus, AIDS, be prohibited from coming into this country on a permanent basis.

Last year we turned down 600. There are 274 Haitians waiting in Guantanamo Bay right now. The minute President Clinton lifts the ban, in they come, at a cost of $100 million added to the medical costs already saddling the American people today.

That is a shame, Mr. Speaker. You cannot keep gagging Members on this side of the floor or mine, because if you do, all hell is going to break loose.

Think about it, Mr. Speaker.

PRESIDENT CLINTON KNEW THE SIZE OF THE BUDGET DEFICIT IN 1992

(Mr. INGLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INGLIS. Mr. Speaker, I think that all Americans had hoped for the best, but I am afraid that our worst fears have come true about Bill Clinton. I am afraid that he has not been honest with us. I think that Bill Clinton knew all along the size of the deficit.

In fact, Business Week, on July 6, 1992, indicated that he knew the budget deficit was $400 billion. I am very disappointed.

He says he has worked harder than he has ever worked in his life to balance the budget without raising taxes. Well, he has only been President for 29 days. That may be hard work for him, but he surely has not worked very long.

I would suggest that the President go back and work longer and harder to find a way to cut the size of this Government; that this week the Bureau of Labor Statistics reported we now have more people hired by the Federal, State, and local governments than we do in the manufacturing sector of our economy.

That is too big of a Government.

PROVIDING FOR A JOINT SESSION OF CONGRESS TO RECEIVE A MESSAGE FROM THE PRESIDENT

Mr. DERRICK. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 39) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 39

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives today, Wednesday, February 17, 1993, at 9 o'clock post meridiem, for the purpose of receiving such communication as the President of the United States shall be pleased to make to them.

The SPEAKER pro tempore (Mr. MFUME). The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 415, nays 0, not voting 15, as follows:

[Roll No. 33]

YEAS—415

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Watt
Waxman
Weldon
Wheat
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—0

NOT VOTING—15

Applegate
Barton
Collins (IL)
Fields (TX)
Henry
Herger
Klein
Lloyd
McDade
Miller (CA)
Roukema
Schenk
Skelton
Whitten
Williams

☐ 1600

Messrs. POMBO, WATT, VALENTINE, and SMITH of Michigan changed their vote from "nay" to "yea."

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MFUME). Without objection, a motion to reconsider is laid on the table.

☐ 1601

Mr. SOLOMON. Mr. Speaker, reserving the right to object, may I be heard?

The SPEAKER pro tempore (Mr. MFUME). The gentleman from New York [Mr. SOLOMON] may proceed.

Mr. SOLOMON. Mr. Speaker, I really hate to take up the time of the body here at 4 o'clock this afternoon, but it is absolutely important that we call to the attention of the House that this is the third consecutive bill, and there have only been three that have come before this body during this 103d Congress, and all three of those bills were brought here under a restricted rule. I just have to call to the attention of the body that, when we debated the Family Medical Leave Act, the Committee on Rules only saw fit to make in order amendments by one Member of Congress, and I believe there were about 37 amendments pending before our Committee on Rules. Later on we took up the motor-voter bill, and there were 18 amendments filed duly and timely, and only one amendment was allowed to be brought to this floor.

Now, Mr. Speaker, here we are today, about to take up a family planning bill.

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, I would remind the Chair that I do not think the remarks of the gentleman from New York [Mr. SOLOMON] are relevant to the matter before us.

Mr. SOLOMON. Mr. Speaker, may I continue to be heard?

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] has reserved the right to object and may proceed until otherwise notified by the Chair.

Mr. SOLOMON. Mr. Speaker, I say to the gentleman that I was just pointing out that in a few minutes we are going to be taking up the so-called family planning act which is an act to amend the public health law, chapter 10, which would repeal the so-called gag rule, and yet hypocritically here we are today being asked to take up that bill when all of our amendments were disallowed except for one.

☐ 1610

Mr. Speaker, that is wrong. We are also taking up this bill without any Member in this body here right now, and I would venture to say that maybe 250 Members are here, and not one Member has read the report that was only filed as of noon time yesterday. Yet we have 110 new Members, 63 on your side and 47 on ours, that do not have any idea what is in the family planning bill.

Mr. Speaker, I raise this point because we just are not going to roll over and play dead. If this continues, and I understand it is about to continue next week again with the unemployment insurance bill that is coming before this body, again we will be asking to let that bill come on the floor with no amendments and without any one of these Members having read that report.

Mr. Speaker, this is undemocratic. It is not the way that President Clinton was elected and these new Members were elected to come to Washington for change. We need to change this system and not allow these restrictive rules so that 434 Members are denied their right to debate and offer amendments on this floor.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Pennsylvania, the distinguished deputy whip.

Mr. WALKER. Mr. Speaker, could the gentleman tell me what the excuse was for using a closed rule on this bill which we are about to consider? Why did the Committee on Rules say this was necessary?

Mr. DERRICK. Mr. Speaker, I object to this procedure. This debate is properly framed to be taken up on the rule itself. It has absolutely nothing to do with what we were on before.

The SPEAKER pro tempore (Mr. MFUME). Does the gentleman request regular order?

Mr. DERRICK. Mr. Speaker, I request regular order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina [Mr. DERRICK]?

Mr. SOLOMON. Mr. Speaker, I continue my reservation. I was in a colloquy yielding to the gentleman from Pennsylvania [Mr. WALKER]. I certainly do not want to object to what my reservation is about. If the gentleman wants to force me to, I would be glad to do it.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, we are talking about fairness around here.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, the question I had was: What was the excuse that was given at the Committee on Rules for a closed rule? It is not as though there is any time constraint in this case. Tomorrow we have a full legislative day. It is the only order of business. It is the only order of business for today. There are no time constraints with regard to this bill, and I wonder what the excuse that the Democrats used this time for closing down the process is and not allowing Members to have a chance to work their will on the legislation?

Mr. DERRICK. Mr. Speaker, if the gentleman will yield, I believe the gentleman from Pennsylvania [Mr. WALKER] was probably directing the question to me.

Mr. SOLOMON. Mr. Speaker, reclaiming my time, I will answer, and then I will be glad to yield to the gentleman from South Carolina [Mr. DERRICK] out of respect, and I have great respect for the gentleman.

Mr. Speaker, I would say to the gentleman no reason was given. The rule was written behind closed doors and was then laid on our desk after we had eight Members of this House, duly elected from across this country, who came to the Committee on Rules in order to ask that their amendments be made in order. None of those amendments were frivolous; none of those amendments were dilatory. They all deal with very important issues that are of concern to all Americans across this Nation.

Mr. Speaker, unfortunately, I do not know whether it was from arrogance from the Speaker's office, arrogance from the Democratic caucus, or just arrogance from my colleagues on the Democrat side of the Committee on Rules. I hope it was not that, because I have great respect for that group. But no excuse was given.

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am pleased to yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, let me point out to the gentleman from New York [Mr. SOLOMON] and the gentleman from Pennsylvania [Mr. WALKER] and the body as a whole that, No. 1, this is not a closed rule. There was an amendment made in order. The Bliley amendment was made in order.

Second, this was not done behind closed doors. We had an open discussion in the Committee on Rules. There was debate. The gentlemen all offered their amendments and there was open debate.

As the gentleman from New York [Mr. SOLOMON] well knows, the amendment that the gentleman is so perturbed about, the gentleman's amendment, is not germane to this issue and should not be on here. If it had been germane to this issue we may have considered it otherwise.

Mr. Speaker, this is a very fair rule. The majority on the Committee on Rules is not arrogant, as suggested, and the gentleman knows that very well. The gentleman had an opportunity in full open committee to give his arguments, to offer his amendment, and to have a vote. So to say that the majority is arrogant is just not the case.

Mr. SOLOMON. Mr. Speaker, reserving my reservation, let me repeat to the gentleman what I said about my colleagues on the Committee on Rules on the Democrat side. I said I hoped that they were not the arrogant ones which demanded that this closed rule with one amendment being made in order to be brought before this House. But honestly, and I will say this to my good friend, it either had to be them or it had to be the Democrat caucus represented by my good friend from Michigan [Mr. BONIOR] and the whip on your side of the aisle, or it had to be the Speaker. It does not make much difference which one of them was arrogant. The truth of the matter is they were afraid to allow those seven amendments, all seven of those amendments, to come to this floor for legitimate, honest debate.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, that explanation is not one which I think the House can accept, largely because——

Mr. DERRICK. Mr. Speaker, I did not expect the gentleman from Pennsylvania [Mr. WALKER] to be able to accept it.

Mr. WALKER. Mr. Speaker, let me say to the gentleman that I know of a number of amendments that were offered that were entirely germane. The gentleman from Texas [Mr. DELAY] had a number of amendments that were entirely germane to the matter before us. The only reason for not having the amendments of the gentleman from Texas [Mr. DELAY] accepted for consideration here was that you do not want to debate them on the floor. They are not the issues that you want to vote on. So therefore you have decided to shut down the privileges of the Members of the House to legitimately raise issues, have them debated, and have them voted on.

Mr. Speaker, this is not a proper reason for the Committee on Rules to bring closed rules to the floor. To suggest that this is not a closed rule because you made one amendment in order is just nonsense. Any rule which does not permit free and open debate on the floor is in fact a closed rule. In this case it is a very closed rule because several very germane amendments were not made in order.

Mr. SOLOMON. Mr. Speaker, continuing my reservation, let me point out to my good friend, the gentleman from South Carolina [Mr. DERRICK], and to answer the question of the gentleman from Pennsylvania [Mr. WALKER] that six of the seven amendments that were not made in order were germane. They were checked with those parliamentarians sitting over there. They were told to us to be germane. Yet they were still denied.

The gentleman makes a point that my own personal amendment was not germane. That amendment was an amendment which would have continued to codify into law the ban that President Clinton is trying to lift now on alien immigrants infected with the AIDS virus coming into this country.

We all know that 600 of them were turned down last year. If that ban had been lifted, all 600 would be somewhere in this country continuing their lifestyle that helped them get the AIDS virus, in whatever way that was.

Mr. Speaker, there are 274 Haitian refugees waiting in Guantanamo Bay in a U.S. naval base that are infected with the AIDS virus. If President Clinton is allowed to lift that ban, that means that automatically they are going to receive entry into this country. We cannot allow that to happen.

Mr. Speaker, the gentleman from South Carolina [Mr. DERRICK] says that he could not allow my amendment because it was nongermane. I would point out to my good friend from South Carolina that last year the gentleman voted for 24 nongermane amendments to be made in order and brought to this floor, all 24 by Democrats. Yet when a Republican wants a nongermane amendment, it is not allowed.

In 98 other cases during the 102d Congress we waived all points of order against germaneness and everything else and those bills were allowed to come to this floor and those amendments.

Mr. DERRICK. Mr. Speaker, if the gentleman will yield, I did not suggest that was the only reason.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman. I am glad to get some kind of a concession from my good friend.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. Mr. Speaker, continuing my reservation, I yield to the gentleman from Indiana.

□ 1620

Mr. BURTON of Indiana. Mr. Speaker, I just want to make two real quick points to the majority. The Solomon amendment, if adopted, would have probably saved about $87 million, because if all of those people who will be allowed into this country that have HIV get active AIDS—and they will—it is going to cost an average of $100,000 apiece on our health care delivery system, and that amounts to $87.4 million, and that is just the tip of the iceberg.

I want to talk about one other issue, and that is that I had an amendment that dealt with the AIDS virus that was germane, and the family planning groups around the country thought my amendment was worthwhile, and still the Committee on Rules did not make it in order. I do not understand why, and I would like to know.

Mr. SOLOMON. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from New Jersey [Mr. SMITH], another one of the Members that came before our committee. He has been a leader in this Congress ever since he came here about 12 years ago, and he had a very, very important amendment that deserved debate on the floor of this House.

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I just want to say to the Members that the process we are operating under is extremely unfair, not just to the minority but to any Member who hoped to change any aspect of this particular legislation. This is an authorizing bill. This is not an appropriations bill, it is an authorizing bill, within which we set parameters as to what a ceiling ought to be in terms of spending, in terms of what the actual parameters of the policy ought to be.

It seems to me that to preclude amendments means that a select few—the privileged Members who happen to serve on Energy and Commerce—get it their way, the rest of us can go pound salt. If we want to reform the program—or at least suggest reforms—the rule says tough luck. The rule is profoundly undemocratic.

If the gentleman will continue yielding, I had planned to offer an amendment that was very simple. On January 22 of this year the abortion President, Mr. Clinton, issued a Presidential order that reversed several pro-life, pro-child policies. One Clinton pro-abortion initiative authorized federally subsidized abortion counseling and referral. Obviously, this will lead to more children destroyed by abortionists. Largely overlooked, was Clinton's reversal of a policy that proscribed the colocation of abortion mills with title X projects. I think it is an outrage that in many of our cities and States, including my own State of New Jersey, there are Planned Parenthood and other recipients of title X funds who have colocated abortion mills with family planning projects.

It seems clear to me that a compelling conflict of interest exists here. I would respectfully submit that we need to take corrective action, separate abortion from family planning and stop this shameful colocation. But regrettably my amendment was not made in order. I ask Members to vote no on the previous question today so that my amendment and other meaningful proposals can have their day in court.

A "no" vote on the previous question gives us the opportunity to vote on this and thus let the Members work their will.

I thank my friend from New York, Mr. SOLOMON for his leadership, moral courage, and tenacity in demanding fundamental fairness in what is clearly a rigged process.

Mr. DERRICK. Mr. Speaker, will the gentleman from New York [Mr. SOLOMON] yield for just one question?

Mr. SOLOMON. Mr. Speaker, I was about to continue my reservation of objection and yield to the gentleman from Texas, but as a distinguished member of the Committee on Rules, I yield to the gentleman from South Carolina [Mr. DERRICK], and continue to reserve my right to object.

Mr. DERRICK. Mr. Speaker, I would ask the gentleman if he plans on insisting on his point of order.

Mr. SOLOMON. Not at this point, I would say to the gentleman.

Mr. DERRICK. Mr. Speaker I would ask further, how about at some other point?

Mr. SOLOMON. It depends on the arrogance around here, I will say to the gentleman.

Mr. DERRICK. If the gentleman will continue to yield, I would mention that we are bumping up against 6 o'clock here. If we are going to have a vote, let us go ahead and have it.

Mr. SOLOMON. Mr. Speaker, continuing my reservation of objection, I would say to the gentleman that I voted to allow President Clinton to come here and address us, and I am going to see that he gets here.

Mr. Speaker, I yield to the distinguished gentleman from Texas [Mr. DELAY], who had two very germane amendments approved by the Parliamentarian.

Mr. DERRICK. Mr. Speaker, I ask for regular order.

The SPEAKER pro tempore (Mr. MFUME). The gentleman from South Carolina requests regular order.

Is there objection to the request of the gentleman from South Carolina?

Mr. SOLOMON. Mr. Speaker, further reserving the right to object——

Mr. DERRICK. Mr. Speaker, I insist on regular order.

The SPEAKER pro tempore. Does the gentleman from South Carolina wish to put the question?

Mr. DERRICK. Mr. Speaker, I do wish to put the question.

Mr. SOLOMON. Mr. Speaker, I object. I do not want to, but I object.

MOTION OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Mr. Speaker, I move to reconsider the vote by which the House passed House Concurrent Resolution No. 39.

MOTION OFFERED BY MR. DERRICK

Mr. DERRICK. Mr. Speaker, I move to lay the motion to reconsider on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from South Carolina [Mr. DERRICK] to lay on the table the motion offered by the gentlewoman from New York [Ms. SLAUGHTER].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 246, nays 170, not voting 14, as follows:

[Roll No. 34]

YEAS—246

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher

Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
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Moran
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
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Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—170

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
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Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—14

Barton
Collins (IL)
Doolittle
Fields (TX)
Henry
Johnston
Lloyd
McDade
Murphy
Scott
Skelton
Tucker
Washington
Whitten

☐ 1646

Mr. EDWARDS of Texas changed his vote from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. COLLINS of Illinois. Mr. Speaker, because of illness, I was unable to vote. If I had been present I would have voted "yea" on House Concurrent Resolution 39 and "yea" on the motion to lay the motion to reconsider on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MFUME). The Chair will entertain requests for special orders up until 6 p.m.

LEGISLATIVE PROGRAM

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I see some Members from the majority Committee on Rules, and I ask for this time in order that they might enlighten us as to what is going to take place the rest of the day.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Missouri to tell us what is going to happen for the rest of the evening so the members could be informed.

Mr. GEPHARDT. Mr. Speaker, it is our intent to stop now, and at about 6 o'clock the room will be cleared and swept for the speech this evening.

We will make a decision later today on whether we will return to this bill tomorrow, and what part of it will be considered tomorrow.

Mr. SOLOMON. There will be nothing further that will take place on the floor as far as the House of Representatives is concerned?

Mr. GEPHARDT. The gentleman is correct.

Mr. SOLOMON. If the majority leader would inform the President, we anxiously await his appearance here.

I thank the gentleman.

Mr. GEPHARDT. I thank the gentleman.

CLOSELY SCRUTINIZE PROPOSED TRADE AGREEMENT WITH MEXICO

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks, and include extraneous matter.)

Ms. KAPTUR. Mr. Speaker, we have all been told over and over again that the proposed trade agreement with Mexico will not cost us jobs in the United States. But an article on the front page of the New York Times' business section today tells us a different story.

The article uncovers a scheme by wealthy investors in New York and Mexico to set up a development fund by American companies and move them to Mexico where wages are cheap and workers are easily exploited. This is going to be the new LBO scheme of the 1990's.

Mexico is a nation that is run by a super elite, in a one-party system that has been exploiting its own workers for decades. Mexico's secretary of treasury of the State of Yucatan, with close ties to Mexico's President Salinas, is one of the top investors in the AmeriMex Maquiladora fund. And the largest state-owned industrial bank in Mexico, Nafinsa, is in the driver's seat in this deal.

Certain powerful interests are going to benefit from this agreement. But you can bet it is not going to be the glass factory worker in Toledo or the Mexican who toils 12 hours a day for $1 an hour.

This is just one more cruel reminder of what is really at stake in our agreement with Mexico, and that means the movement of our companies and our jobs south of the border.

Mr. Speaker, for the RECORD I include the article from the February 17, 1993, New York Times.

FUND TO MOVE COMPANIES TO MEXICO

(By Keith Bradsher)

WASHINGTON, Feb. 16.—In a development that has inflamed opposition to the North

American Free Trade Agreement, entrepreneurs in New York and Mexico have established an investment fund whose announced purpose is to buy small American manufacturing companies and move them to Mexico to take advantage of lower wages there.

The Mexican Government's largest industrial development bank is a "significant investor" in the venture, according to a prospectus distributed today by Richard A. Gephardt, the House Majority leader, a leading opponent of the trade pact.

"Funds such as this should not be allowed to operate," Mr. Gephardt said in a letter to President Carlos Salinas de Gortari of Mexico. "But even more objectionable is the official participation of entities controlled by your Government in stealing American jobs."

POWERFUL OBSTACLE

Likely job losses to Mexico are already the most potent political obstacle to Congressional approval of the trade agreement, which would eliminate most barriers to trade and investment among Canada, Mexico and the United States. President Clinton has endorsed the agreement, pending negotiation of side agreements on labor, the environment and surges in imports as tariffs are reduced.

A senior American trade official said this evening that Mickey Kantor, the United States trade representative, would discuss the fund on Wednesday morning at his first meeting with Jaime Serra Puche, Mexico's trade minister. "Any Government-subsidized program to steal American jobs would not be tolerated by this Administration," the official said.

The Mexican Embassy had no comment on the prospectus last night.

Even without the Nafta, Mexicans may already buy American companies in many industries and legally move them to Mexico, while Americans can buy Mexican companies in some industries and move them here.

The Mexican Government's involvement in the fund, known as the AmeriMex Maquiladora Fund L.P., is particularly awkward for the Clinton Administration. In his election campaign, President Clinton strongly criticized a foreign aid program that provided financial incentives for American companies to move to Central America.

The prospectus said the fund's organizers are trying to rise $50 million they would use to buy 9 to 13 companies. But critics of the free trade pact cited the prospectus as evidence for their contention that many American companies would move south if the trade pact is approved.

Pat Choate, the director of the Manufacturing Policy Project, a Washington group that is seeking more protection from imports for ailing manufacturing industries, said that the fund could be the first in a wave of cross-border financial transactions to rival the leveraged-buyout boom during the 1980's, and that "hundreds of thousands" of American jobs would be lost.

The Mexican Government's involvement in the fund, "couldn't possibly be a worse move," said Representative Charles E. Schumer, a Brooklyn Democrat. "I hope the Mexican Government is better at economics than they are at American politics."

The fund "is wonderfully revealing of the attitudes behind the enthusiasm for the Nafta," said Tom Donohue, the secretary-treasurer of the AFL-CIO, which opposes the pact.

But most academic studies have predicted that the pact would create more American jobs than it would destroy or send to Mexico because jobs added in Mexico would ultimately mean more demand for American goods. More than two thirds of Mexico's imports come from the United States.

Lynn Martin, who was then the Labor Secretary, testified before the Senate Finance Committee in September that the pact could cost 150,000 America jobs, but she predicted that these losses would be more than offset by additional jobs in factories shipping extra goods to Mexico.

The prospectus estimated that manufacturing companies now paying $7 to $10 an hour to their workers in the United States can pay Mexican workers just $1.15 to $1.50 an hour. By moving to Mexico, the companies would save $10,000 to $17,000 per employee each year, excluding relocation costs, the prospectus said.

The fund would buy companies with annual sales of $10 million to $100 million, move them to Mexico within a year and a half, and then resell the company after three to eight years.

□ 1650

WANTED: FAIR PRESCRIPTION DRUG PRICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, we must work on all fronts to confront the exploding costs of our Nation's health care system. Today I am introducing legislation that will protect consumers from excessive prescription drug pricing. This bill, the Prescription Drug Prices Review Board Act of 1993, is modeled after a Canadian initiative that has enabled our northern neighbor to pay 32 percent less for prescription drug prices than we pay in the United States.

FUNCTIONS OF THE REVIEW BOARD

This bill creates the Prescription Drug Prices Review Board, a Presidentially-appointed panel of five with three primary functions: Track the pricing of prescription drugs for sale in the United States; disseminate information on drug pricing and prices of therapeutically equivalent alternatives to Federal agencies which buy or reimburse others for drugs purchased, and for drugs found to have excessive prices, recoup benefits provided by the Federal Government in the development of the drug or, as a last resort, contract directly with a manufacturer to produce and distribute the product so that its life-saving features may be made available to the public.

Determining whether a prescription drug is priced excessively will be based upon four factors: First, if the price of the drug increased by more than the rate of inflation plus 2 percent over the past year; second, the average price increases of the drug over the past 5 years; third, the costs of producing and marketing the drug; and fourth, the amount of government funds invested in its development.

If a pharmaceutical company is found guilty of price gouging, the Board will have the authority to shorten the patent life of the drug and/or recapture tax incentives provided by the Federal Government in the development of the product. The Federal tax incentives that may be recouped include tax credits provided for research and development expenditures, Section 936 (of the Internal Revenue Code) tax credits, and benefits provided under the Orphan Drug Act. The Board may also exercise the authority provided in existing Federal patent law wherein the Government may contract directly with a manufacturer to produce and distribute a product that is under patent. Compensation for any losses to the patent holder would be available as provided in the 1948 amendments to the Court of Claims Act. Federal agencies will receive an annual report on those pharmaceutical products found to be excessively priced.

Mr. Speaker, I would like to briefly explain why this legislation's time has come, as well as what arguments we might expect to hear in opposition to gaining control of the horrendous increases in pharmaceutical prices.

WHY GOVERNMENT INVOLVEMENT IS NECESSARY AND SUPPORTABLE FOR PRESCRIPTION DRUGS

Like the rest of the health care sector, a functioning market does not exist with the physician-controlled prescribing of medications. On top of this market shortcoming, prescribed pharmaceutical products are typically under the protection of patents, further distorting the operation of price competition. Add to this findings of a University of Massachusetts and Harvard Medical School study that there is widespread ignorance by doctors about the cost of drugs, and you have the prescription for a disaster. Pharmaceutical companies capitalize on this through a steady stream of price hikes.

The results? The 20 most prescribed drugs for the elderly between 1985–91 increased 70 percent in price while the CPI rose only 21 percent. Pharmaceutical companies' profit margins are four times larger than the average Fortune 500 company. And while the entire Nation suffered from the recession, the pharmaceutical manufacturers' profit margins were unscathed.

Product patents, tax subsidies, and research grants link government to the pharmaceutical industry and the drugs they develop. Empowering a government-appointed board to uncover and rectify price gouging in the sale of these products will save the American people an estimated $60 billion in health care expenditures over the next decade.

Patents, a key ingredient to pharmaceutical research and development, are a privilege, not a right. Considering the nature of the marketplace, the damage that has been done to family budgets, and our national health care crisis, prescription drug price increases must be moderated. If pharmaceutical companies refuse to play fair, they should lose their privileged patent status.

Government subsidies, like the research and development tax credit, have allowed government and industry to work together creating life-saving and life-enhancing drugs. But the pricing of many of these drugs has placed them out of reach of many in dire medical need. And for those who do purchase these drugs, their financial health may ultimately be ruined.

WHAT ARE THE ARGUMENTS IN OPPOSITION TO A PRESCRIPTION DRUG PRICES REVIEW BOARD?

The single most stated reason, which in fact is also the single greatest myth, as to why consideration of pricing should be no concern of government, is that the prices charged for prescription medicine are required to maintain desired levels of research and development. The Pharmaceutical Manufacturers Association [PMA] claims that monitoring prices will eventually decrease R&D, and limit new, therapeutically advanced drugs. This claim is made despite studies which show that there is no direct correlation between profits and R&D investment. Ron Pollack, Executive Director of Families USA, refuted the PMA's claim saying:

> The truth is that little of the pharmaceutical manufacturers money goes into research. While profits far more than doubled from 1985 to 1991, fewer than half of the top drug companies increased their research budgets even 10 percent.

Meanwhile, American tax dollars support this industry through $11 billion of government-sponsored research, the R&D tax credit, and section 936 tax incentives.

The PMA states that the tremendous profits of their member corporations are necessary to compensate for the risks in development. The Office of Technology Assessment disagrees. The OTA wrote that the financial returns of drug companies "were higher than was required to reward investors for the time and risks incurred."

The PMA's bookkeepers insist that it costs over $230 million to bring a new drug to the market. But, there is no verification that their record-keeping is accurate. The OTA wrote in a draft of a soon-to-be-released study: "Pharmaceutical companies have demonstrated a willingness to actively resist providing access to congressional agencies to this proprietary data." To add insult to injury, experts believe that of the $230 million in costs claimed, $117 million of this is for a bogus expense of the profit the investor would have earned if the FDA drug approval process had not existed. Like the pricing of some of these products, this argument is ridiculous.

FOR PHARMACEUTICAL MANUFACTURERS, MARKETING DECISIONS OUTWEIGH R&D CONCERNS

While pharmaceutical companies whine about scarce resources for R&D expenditures, they don't mind spending extravagantly on marketing and promotions. The Philadelphia Inquirer said it best when it stated last month that the drug industry woos doctors.

> It begins the moment a medical student starts school and receives a free stethoscope * * * [and] doesn't let up until the doctor retires.

Pharmaceutical companies spend over $10 billion a year on promotions. More than $3 billion is spent on a sales force of 45,000 persons. A 1982 study conducted at Harvard Medical School concluded that doctors prescribing patterns were influenced by drug advertising, although doctors believed their intelligence and education kept them immune.

Recently, in a less than subtle shift of priorities, Merck & Co. selected Richard J. Markham, a marketing executive, to succeed the retiring Chair and CEO Dr. P. Roy Vagelos, a reputable researcher. The New York Times reported that "the choice suggests that Merck * * * sees marketing as its toughest challenge in a rapidly changing world."

To top it off, others have noted that pharmaceutical companies are hiding marketing costs in those shady R&D budgets. David Jones, a former executive director of government relations and promotions at CEIBA-GEIGY and a former vice president at Abbott Laboratories, testified before the Senate Labor Committee in 1990 and the Senate Aging Committee in 1991 that large chunks of R&D budgets go toward marketing, promotions, and sales, and are knowingly mislabeled as R&D expenditures.

A PRICE REVIEW BOARD CAN CONTAIN HEALTH CARE EXPENDITURES

The Canadian Parliament created its Patented Medicine Price Review Board in 1987. Through its policy of monitoring new and existing drugs, it has been successful in keeping drug prices in check with inflation. And while my legislation will permit us to contain the abuses in drug pricing, we can also ensure sufficient resources are available to maintain the leadership of the United States in the development of pharmaceutical products.

The U.S. pharmaceutical industry is so concerned about the successful efforts to moderate drug prices in Canada, it has worked with the PMA-Canada and the United States Trade Representative to abolish one of Canada's primary regulatory tools, the compulsory licensing program. This program allows generics to compete with brand name drugs after 10 years of patent life. The Bush administration required the Canadian government to extend pharmaceutical patent life to 20 years before agreeing to NAFTA. This will extend monopoly control of the prescription drug market and lessen the control of the Canadian price review board. The New York Times reported it will cost Canadians at least $400 million per year initially and up to $800 million annually by the late 1990's as a result of patent extensions.

The time for a prescription drug prices review board has come. The public is aware and angry. Congress is focused on limiting the growth of health expenditures. The major prescription drug manufacturers are in retreat, aware that they have forced many elderly Americans to choose between food and drugs. It is time for action, and this is the Congress that can ensure that government support provided to the pharmaceutical industry is ultimately returned to benefit the American people.

HOUSE SHOULD MOVE SWIFTLY ON CAMPAIGN FINANCE REFORM

The SPEAKER. Under a previous order of the House, the gentleman from Ohio [Mr. FINGERHUT] is recognized for 5 minutes.

Mr. FINGERHUT. Mr. Speaker, tonight President Clinton will come to this Chamber to begin a national debate on the economy and on the budget. He has already taken measures in the White House to reduce his staff, to begin to reduce the budget of the Federal Government, and to begin to approach the American people with complete openness and honesty about the future of this country.

In his address on television the other night to the American people, he expressed his concern that the plan will not receive a fair hearing because of the influence of special interests on this body. Mr. Speaker, Mr. President, I share that concern, and I know a lot of Members of this body share that concern as well. That is why I rise this afternoon to ask that this body, and the leadership of this body, and the chairmen of our committees, move as quickly as we can to take up the subject of campaign finance reform.

Mr. Speaker, nothing, nothing would tell the American people more directly that the decisions that we are going to make over the next few months, that the plans that we are going to approve, and the programs that we are going to adopt have been done with only their best interests in mind, than if we were to quickly, forcefully, and dramatically adopt a campaign finance reform bill.

Mr. Speaker, that bill must have as part of its measures at least two provisions: It must place a limit on the amount of money that can be spent in congressional campaigns.

Mr. Speaker, we all know that the spending has gotten out of hand. We understand that when millions of dollars are spent on campaigns to elect Members to this body, that the money must come from somewhere, and where that money comes from calls into question the ultimate integrity of this body.

Mr. Speaker, second, we must do something to reduce the amount of money we spend on campaigns. The fact of the matter is that in this day and age, the way we communicate with our constituents is through television and the radio.

Mr. Speaker, you know that those media are public licenses granted to private corporations, and I believe it is time that as a condition of the public license, we ask those private entities who are profiting from the public airwaves to help us solve the problem of campaign finance reform by permitting us to have time to address our constituents directly.

If we do that, Mr. Speaker, and the American people, we will not need as much money to run our campaigns and we will not need to put ourselves into the process of campaign fundraising that we have done before. We will begin to send a message to the American people that we are going to be making these decisions in an open and honest way.

Mr. Speaker, I yield to the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. I thank the gentleman from Ohio for yielding to me.

Mr. Speaker, I wish to join my colleague from Ohio, Mr. FINGERHUT, in favor of campaign finance reform. I wish to add as a personal note, maybe engage in a colloquy with Mr. FINGERHUT: I think, from my personal experience, I ran against an incumbent, his prescription, Mr. FINGERHUT's prescription, is entirely right. I ran against an incumbent who spent more on the frank in that cycle, more on postage out of his congressional office, than I could hope to raise in my entire campaign. I think that the prescription is some form of limiting spending, to allow real political competition in all districts to take place, that that is absolutely necessary. We need to see some form of campaign finance reform. It must be real, it must allow for real competition, and it must somehow end the cycle where challengers, people with new ideas and new approaches, start from so far behind the starting gate.

I know my colleague was in a similar situation. This is not his first race for public office, but it was his first race for the Congress. He was running in an open seat. I know the difficulties he faced. We need some way to make the system fair, so that some people can compete on the basis of ideas rather than simply on the basis of how much money they can raise.

Mr. FINGERHUT. I thank the gentleman from Arizona for his comments. I know he has campaigned for Congress in an area that is not predominantly of his own party. He was successful because of his ability to concentrate on ideas.

The SPEAKER pro tempore (Mr. MINGE). Under a previous order of the House, the gentleman from Georgia [Mr. COLLINS] is recognized for 5 minutes.

Mr. COLLINS of Georgia. Mr. Speaker, I am today introducing legislation to enhance the integrity of airline operations. The bill proposes to establish important criteria to ensure that anyone who operates an airline is financially fit to do so. It would minimize the possibility of financial failure, with its devastating consequences. History has shown that unscrupulous individuals can establish or acquire an airline and use it for their own ends, to the ultimate detriment of the customers, the employees, and their families. We must do everything possible to guard against this type of airline ownership.

Currently, the Department of Transportation must provide certification of financial fitness for airline operations. The bill that I am introducing raises the presumption that any person who has been in control of an airline or airlines placed in bankruptcy more than once is not financially fit to acquire yet another carrier, and cannot be certified to do so by the Department. Financial fitness today is determined on the basis of case history, rather than statutory instruction. Case history, of course, can be fluid. But it is the case history of Eastern and Continental Airlines that is the underlying motivation of this legislation.

There are many former Eastern Airline employees in the Third Congressional District of Georgia who are still suffering from the financial antics of the management of not only Eastern Airlines, but Continental Airlines as well. These airlines, their customers, and hard working employees were victimized by inept management: They were systematically stripped of their assets, millions of dollars were lost by investors and thousands upon thousands of hardworking employees were left without jobs.

One such family I recently spoke with is typical of those impacted by the demise of Eastern. They told me that even though Eastern went out of business years ago, they still drove their same old car, still wore their same old clothes, and had virtually nothing but the barest necessities. This hard-working employee who had once believed in and worked with pride for the company, had to resort to bankruptcy in order to hold the family together. The plight of families such as this is of great concern to me, because there are hundreds and hundreds of families that feel the same effect of mismanagement on this scale, families that are torn apart by the bitterness and greed of a very few. These families do not want Government handouts, they want to work. But for many there is still no work.

In the case of Texas Air Corp., the management headed by Frank Lorenzo is responsible for these abhorrent acts. He broke the backs of Eastern and Continental and then sold off pieces to the highest bidder. He called upon the employees to believe in him and trust his ability to help the ailing carriers and then callously turned his back on them to make a huge fortune at the employees' expense. The damage to these people has been done, but it is our responsibility not to let this happen again. That is the purpose of this legislation.

In October 1989, the House of Representatives passed, by a large margin, an amendment offered by former Representative Bosco of California which is similar to the bill I offer today. The initiative was lost when the other body failed to take up the bill to which this amendment was attached. Because of the keen interest in the current state of the airline industry and its impact on airline employees, I urge my colleagues to provide swift consideration to this measure. I hope you will join me in barring repeat offenders who bring misfortune upon others for their own personal profit. My constituents have suffered and have suffered deeply, and I urge you to take preventive steps and protect all Americans so they will not have to share their plight.

□ 1700

ORDER OF BUSINESS

Mr. DORNAN of California. Mr. Speaker, I ask unanimous consent to vacate my preapproved 60-minute special order and ask for 5 minutes.

The SPEAKER pro tempore (Mr. MINGE). Is there objection to the request of the gentleman from California?

There was no objection.

ORDER OF BUSINESS

Mr. DURBIN. Mr. Speaker, I make the same request. I ask unanimous consent to vacate my request for a 1-hour special order and instead request 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ORDER OF BUSINESS

Mr. BURTON of Indiana. Mr. Speaker, I make the same request. I ask unanimous consent to vacate my 60-minute special order and take instead 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

THE CLINTON TAX STRATEGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, the White House wants us to believe that they can balance the budget by raising taxes on working Americans, as if our hard-working fellow citizens, and not bloated Government, were the problem.

Well, I hold in my hand evidence that Clinton's plans to sock it to the American people will come to naught and that his revenue estimates will simply not pan out.

Here is a Forbes magazine story on "Tax Strategies for Clintonomics, Your Smart Tax Moves Now."

Here are a couple of Money magazine articles: "How President Clinton Will Change Your Taxes" and another one advising how to "Stop Paying 40 Percent of Your Income in Taxes."

Indeed, Mr. Speaker, I have thoroughly surveyed the financial press and have yet to come across a single article detailing just how we Americans can make it easier for the Government to confiscate more of our money.

Are these Americans unpatriotic, Mr. Speaker, because they believe that they have more of a claim on the fruits of their labor than their fat Government does? Are they "unpatriotic" to believe that they know far better the types of investments that will benefit them, their families, and their children?

By raising taxes to confiscatory levels, the President will simply drive more and more Americans into the underground economy, where they will stay until its safe to come out. I wonder how many IRS 1040 tax returns, joint or single households, that we will see next year with $249,000 in the taxable income bottom line? I wonder what new and imaginative ways lawyers and accountants will come up with to shelter income? And I want to return to that word "shelter" before I close.

I also wonder how much effort will be put into trying to beat the system instead of being productive?

A final note. I noticed that on television Monday night Mr. Clinton said his plan was "nothing less than a call to arms." Given the President's response when his country tried three times to call him to arms in 1969 and 1970, I would advise him to lay off the martial metaphors. Otherwise, we could see boatloads of taxpayers heading off to Oxford to take an academic sabbatical for 3 years and 8 months, rather than work hard under confiscatory tax policies.

Mr. Speaker, I include the following articles referred to in my statement, as follows:

TAX STRATEGIES FOR CLINTONOMICS

(By Laura Saunders)

Income taxes will be going up under President-elect Clinton and the new Congress: That's a foregone conclusion. The hows and the whens are still unclear. However, there are things you can do right now to minimize the blow to your wealth and income.

Decisions you make now, before year-end, could save you thousands of dollars. Still more will be at stake over the next several years as you make critical and sometimes irrevocable choices relating to deferred-pay, stock options, gifts to family members, municipal bonds, mortgage refinancings, thrift-plan investment options and charitable contributions.

None but Clinton's most believing supporters take seriously his promise to limit tax hikes to the "rich"—defined as those making over $200,000. People in this category will be hit, but so will others further down the scale. That's because there aren't enough upper-income taxpayers to provide the revenue needed to cut the deficit or fund big, popular programs, like universal health insurance (Forbes, Oct. 26).

Ironically, political cover on this front could come from Ross Perot.

On the *Today Show* the morning after the election, congressional leaders George Mitchell and Robert Dole praised Perot's commitment to deficit-cutting. Both the Democrat and the Republican agreed that his plan had struck a chord with voters. Translation: Thank goodness Ross Perot has put on the table all those things—such as taxing more Social Security or employer provided health insurance, or cutting mortgage interest deductions—that have been untouchable.

But Clinton can raise taxes on those earning less than $200,000 even without seeming to go back on solemn campaign promises. He has promised, for example, to raise the dreaded and complex alternative minimum tax in tandem with the top marginal rate. It's a good bet that this increase would apply to all taxpayers, not just those making more than $200,000.

Here are the basics of the Clinton tax plan: a new 36% bracket starting at $200,000 and a 10% surtax starting at $1 million; an increase in the alternative minimum tax rate from 24% to perhaps 27%; a 50% exclusion of the capital gain from investments in new small businesses; and cuts in taxes for low-income working people.

But these sketchy plans understate the reality of rate increases. Coupled with various tax-magnifying quirks already in the code, they will put a lot more upper-income people in 40%-plus federal tax brackets. Throw in state and city income taxes, and many Forbes readers could find themselves splitting the incremental income dollar 50-50 with the tax collectors.

Other proposals floating around Capitol Hill, not explicitly endorsed by Clinton, include: a drastic reduction in the $600,000 gift/estate tax exclusion; limits on the present $10,000 per year per donee gift tax exclusion; and an end to the capital gains step-up at death.

It's impossible to say which of these proposals will be enacted, or in which year: Politicians don't like to talk about plans for future tax increases, and legislation is written in the heat of the moment. But some patterns are clear. Often legislators start with a small assault on some form of income or tax benefit, wait for the squawking to die down, and then tighten the screws again until taxpayers' screams become too loud. Thus, the alternative minimum tax started out as a special tax to close up some "loopholes" like oil depletion, but has since been expanded so that the deduction for state and local income taxes now counts as a loophole.

In just this way, it's a good bet that the deduction for interest on various types of mortgages will be trimmed at some point. After all, existing law limits some mortgage interest deductions for taxpayers affected by the alternative minimum tax; expanding these limits is a real possibility.

What will escape? The only fairly safe bet is municipal bonds, Clinton being a former governor with close ties to the labor unions that benefit from state and local spending. But even the much-repeated advice to buy munis is an oversimplification. Did you know that the Clinton tax increases will make it still harder to come out ahead by buying a mutual fund specializing in bonds from your home state? Read the article on page 146 for details.

Here's one certainty: The numbing complexity of the code will only get worse. Expect more phase-ins, phase-outs, ceilings, floors and the like, all of which will make tax planning at once more imperative and harder to do. The 3% disallowance of itemized deductions, for example, could easily be raised to 5%, effectively increasing marginal tax rates for itemizers. Note that this is really not a limitation on deductions; it's just a convoluted way of raising marginal rates while keeping published ones low.

This also is clear: Act quickly to protect yourself. "People don't have as much time as they think they do," warns David Berenson, an expert with Ernst & Young in Washington. Clinton may try to act in the first 100 days. It is highly likely rate increases enacted next year will be retroactive to Jan. 1.

Other types of changes are often made effective the day a congressional committee first votes on them. Occasionally this is pushed forward to the date a bill is enacted, but don't count on a grace period. Grandfather rules exist at the whim of Congress.

Here are 16 tips to help you sort things out. If some of them seem complex and convoluted, that's because politicians love complexity; it confuses the public, making them unaware how hard they are being hit.

ACCELERATE INCOME—BUT ONLY UP TO A POINT

Conventional wisdom says that when tax rates are going up, you should accelerate income and defer deductions. That's why many executives are asking for year-end bonuses in December rather than January. With interest rates low, paying taxes sooner doesn't hurt so much.

But there's a potential trap here. If you shrink next year's income too much or boost next year's deductions too much, you could get caught by the alternative minimum tax. Why is that bad, if ATM rates are only 24% and ordinary rates much higher? Because the ATM is akin to a flat tax, in which a lot of big deductions are wiped out.

Moral: Plan multiple tax years before shuffling income and deductions. Also factor in what you would earn by deferring the income and thus the taxes on it. Says Arthur Andersen expert David Bohl in Milwaukee, "Most people are accelerating what they can't defer at least four years."

Executives who run firms should also consider the real chance that Congress will disallow deductions for compensation over $1 million.

BEWARE THE MINIMUM TAX

The most important thing to understand about the ATM is that it applies only when it delivers more money to the Internal Revenue Service than the regular tax does. So, if you pay the ATM, you are missing a deduction or benefit that might be yours with proper planning.

Some of the items on your tax return that can kick you into ATM territory; charitable donations of appreciated property like stock; incentive stock options handed out by your employer, deductions for state and local income and property taxes. See the box on page 145 for details.

KNOW YOUR TAX BRACKET

And don't think you can figure it out simply by looking at an IRS schedule. The tax code deliberately conceals the full extent of high rates.

Note that we are talking about a tax bracket, or marginal tax rate. This is the percentage of tax you give up out of each additional dollar of income. If you pay $50,000 in tax on an income of $200,000, your average rate is only 25%. But if collecting a $10,000 bonus costs you an additional $3,000 in tax, then your marginal rate is 30%.

It's the marginal rate that matters in tax strategy, because most of your income is given. But if you are pondering whether to take a bonus this year or next, or whether to invest some spare cash in munis or taxable bonds, or whether to cash in a stock option now, you are dealing with tax rates at the margin.

How high will marginal rates go? Take the advertised 36% bracket starting at $200,000. Now allow for the fact that personal exemptions will be phased out starting at about $163,000 for married couples. This can add more than 2 percentage points for a family of four. Tack on another percentage point for the deduction limitation, which kicks in at about $108,000 next year. People who claim "miscellaneous" deductions take a further hit. And don't forget the 1.45% Medicare tax on salaries up to about $134,000.

Bottom line: Top marginal federal rates could easily approach 40%.

DON'T COUNT ON BIG MORTGAGE INTEREST DEDUCTIONS

Currently you can deduct interest on mortgages of up to $1 million. This ceiling could drop to $500,000 or lower. Or Congress could go after equity loans and mortgages on second homes. After all, it has already tipped its hand here, having eliminated the interest deduction for AMT taxpayers whose second home is a fancy boat. Those who pay alternate tax can also be denied some deductions when they refinance a mortgage.

You may want to wait to buy, to see how tax changes affect house prices. But if you are buying anyway, close before the end of the year or as early as possible next year, since there is a chance that new limits would grandfather outstanding mortgages.

WITH REGARD TO STATE AND LOCAL TAXES, THINK ABOUT TIMING

In the days before the current minimum tax, it often made sense to prepay property or state income taxes in December, to speed up the federal deduction for local taxes. But this strategy backfires if you will be subject to the AMT this year but not next year. In that case accelerating payments cause you to lose deductions permanently.

New York CPA Stuart Becker always advises clients subject to the alternate tax to postpone payments into a year when they expect to be AMT-free. They may come out ahead even if they end up paying a late penalty to the local tax collector. "Paying the penalty and getting the deduction can be cheaper than losing the deduction entirely," Becker says.

TIME YOUR INVESTMENT GAINS AND LOSSES

There's a good chance Clinton and the new Congress won't directly raise long-term capital gain taxes, but don't let this give you a false sense of security. What Congress gives with one hand, it can take away with the other.

Thus any capital gains exclusion—say for new small businesses—that lawmakers enact could also be included in calculating AMT income. This is how capital gains were taxed before 1987. Says Ernst & Young's David Berenson, "More than any other provision, it knocked unsuspecting taxpayers into the AMT." Even if the overall gains rate remains 28%, gains could be included in the AMT at effective rates higher than that.

What about short-term capital gains and losses? If you tend to have far more short-term gains in your portfolio than losses, it may make sense to postpone taking losses until next year, in order to maximize your income this year.

But if you are comparatively rich in unrealized losses, a reverse strategy may be better. Capital losses taken this year can absorb any amount of gains plus up to $3,000 of ordinary income (like salary). Net losses beyond the $3,000 limit can be carried forward but not back.

HOLD OFF MAKING CHARITABLE GIFTS OF APPRECIATED PROPERTY

Ordinarily you escape paying regular tax on the appreciated portion of a donation, but you must include it when figuring the minimum tax. That could change, however, if a provision in a bill that Bush vetoed this year passes again next year. So if you have stock worth $100 that you brought at $20, and are planning to give it to your college, hold off for now.

If enacted, the provision would solve another problem. A law exempting donations of tangible personal property from the AMT expired June 30. It was much used by museum donors, and will probably be extended in any event.

CONSIDER EXERCISING "NONQUALIFIED" OPTIONS

These are corporate stock options that do not meet certain criteria for favorable treatment, and create highly taxable ordinary income upon exercise. This income is equal to the difference between the exercise price and the value of the stock at the time. However, any further gains are capital gains.

An example: Say you are holding options granted at $50. If you exercise them now, when the stock price is $60, then you pay tax at ordinary income rates on the $10-per-share gain. If the price rises to $100 and you sell more than a year after exercise, you will have a $40 capital gain taxed at lower rates.

Why would you exercise an option now, rather than wait until nearer its expiration date? Because you expect the stock to rise a lot more and want to be taxed at capital gains rates in the future. If you wait to exercise until the stock is at $100, you will have a $50 gain taxable as ordinary income, probably at high Clinton rates.

DON'T EXERCISE "INCENTIVE STOCK OPTIONS" TOO QUICKLY

Unlike the nonqualified variety, the "incentive" type creates income subject to the minimum tax. When you exercise, the difference between the strike price and the value on the date of exercise becomes AMT income.

Many incentive options were granted before 1986 and run for ten years, so holders have only a few years left to use them. The trick is to exercise your options in a way that doesn't trigger the AMT. That means not exercising too many in one year, or any at all in a year when other tax items put you into AMT territory. Assuming you avoid the AMT, then the options are a nice perk, for none of your paper profits are immediately taxable. Instead, you pay capital gain tax when you sell the stock, which can be many years later.

What if you have so many options you can't avoid triggering the alternate tax? One possibility is to pay the AMT and hope that you get some of it back in a later year in the form of an AMT credit against regular taxes.

The other strategy is to exercise and sell the stock the same year. You pay tax at ordinary rates on the entire profit but create no AMT income. If you go this route, do it this year, when ordinary income tax rates are low. Grant Thornton's Dean Jorgensen adds this advice: Tell your firm what you are doing, because it will get a tax deduction that it wouldn't get otherwise. Some firms, he says, will even share the savings with you.

DON'T BUY TAX-DEFERRED ANNUITIES

These are insurance-flavored mutual funds that promise tax-sheltered compounding to savers who can afford to put money away until they are 59½. Congress may take this deferral away, while perhaps grandfathering outstanding annuities.

But even for investments made now, the advantage to deferring taxes is largely undone by the steep fees and commissions built into most of them. Thus, they are an iffy proposition.

DON'T RUSH TO SELL TAX SHELTERS AT DESPERATION PRICES

These old dogs are causing pain because you can no longer deduct "passive losses" against other income. But if you sell in a hurry, you may be stuck with a surprise bill for "recapture" taxes.

Moreover, a rescue may—repeat, may—be at hand, depending on your livelihood and your spouse's. A partial relief from the passive-loss rules has enormous support in Congress and is likely to resurface next year. The real estate lobby—which writes lots of fat checks for congressional campaigns—wants this badly.

It would allow certain real estate professionals to deduct passive losses on rental property against other income. And who is a professional? The definition is complex, but it could apply to someone who spends as little as 100 hours a year on real estate. So if you have lots of passive losses and the provision passes, it may make sense for you or your spouse to dabble in real estate.

IF YOU HAVE LOTS OF MONEY IN RETIREMENT PLANS, THINK ABOUT A WITHDRAWAL

This is most likely to make sense for someone who is nearing retirement age anyway, and has several million dollars in IRAs, Keoghs and corporate thrift plans.

Your decision depends on many complicated factors, including your age and health, whether you made a certain grandfather election in 1986, your expected payout from traditional pension plans, and your investment plans. "Don't take money out of company plans earning 10%, pay tax, and then park it in CDs earning 4%, which I have seen people do," says Arthur Andersen expert Bohl.

Why might it make sense to take out money and pay tax now? Because the pension rules put the affluent thrifty between a rock and a hard place. The rock is the mandatory withdrawals from retirement plans beginning at age 70½. The hard place is that if the amount you take out of all retirement plans tops about $150,000 (per year, indexed for inflation), you owe a 15% penalty tax on top of ordinary taxes. The surtax also applies to lump sums more than $750,000, and can even hit your estate. So, a 62-year-old might do well to withdraw $140,000 before year-end. Better to get the money out before rates go up.

If, however, you are looking for shelter and have self-employment income, check out a defined-benefit Keogh. According to Arthur Andersen actuary Howard Freidin, a 55-year-old with $200,000 of self-employment income could shelter nearly $90,000 with a defined-benefit Keogh, versus only $30,000 with a defined-contribution Keogh. But the plan must be in place by year-end.

DON'T ASSUME THAT THE ESTATE STEP-UP WILL LAST

Say you own a $1 million building you bought 20 years ago for $100,000. If you die tomorrow, your estate doesn't owe capital gains tax on the $900,000 paper profit, although it does owe estate taxes on the full $1 million. If your heirs inherit the building, their basis is $1 million, too. This peculiarity of the tax code has kept many older taxpayers stuck with assets they don't want.

Chances are Congress won't tackle this loophole for a while. For one thing, it could create tremendous record-keeping problems. But it could be repealed before the decade is out. A first pass might discontinue the step-up-at-death for property that goes to a spouse; other heirs would be targeted later.

Conclusion: If you are healthy, don't hang on to poor investments with past appreciation in them for estate tax reasons. Pay the tax now and invest in something better.

IF YOU ARE THINKING ABOUT ESTATE PLANNING, USE UP YOUR $600,000 EXCLUSION

Preferably before year-end. Current law allows each taxpayer to give away during life or leave at death a total of $600,000 of assets tax-free. Could this exclusion be lowered to $200,000, as one bill has proposed? We'd bet even odds. But it's still a good idea to use up your lifetime exemption if you have wealth well beyond retirement needs.

That's because assets not given away now will appreciate in your name and be taxed in your estate at marginal rates up to 60%. Remember that, using tools such as remainder trusts and family partnerships, you can transfer property worth more than $600,000 that has a value, for tax purposes, of only that amount.

If you are one of the very few taxpayers inclined to make taxable gifts beyond the $600,000 exemption, make them soon. A current peculiarity of the law means that making a cash gift is far less expensive than leaving the same amount in your estate. Congress may level this disparity by raising gift tax rates.

USE THAT $10,000 GIFT FREEBIE

Current law says you might give anyone else $10,000 per year free of tax, without the gift counting against the one-time $600,000 exclusion. Married couples can give away $20,000 to each beneficiary, tax-free. So a couple with three married children and eight grandchildren can easily remove $280,000 from their combined estates every year, tax-free.

Some sort of crackdown is a good bet. One congressional proposal would put a yearly limit of $30,000 on these gifts. They could also be limited to lineal descendants.

If you are inclined to make these gifts, remember that they can be made into trusts if you are worried about spendthrift relatives. And note the benefits of a case called Cristofani v. Commissioner. In effect it allows you to make many $10,000 gifts to a trust that will go to a very few beneficiaries. Congress is guaranteed to overturn this, so use it before you lose it.

WHATEVER YOUR TACK, DON'T PANIC

Don't do something dumb just for tax reasons. Don't, for example, give away all your assets to your children, buy a tax shelter or renounce your citizenship. "After elections people always call me to say they want to leave the country," says New York CPA Stuart Kessler of Goldstein Golub Kessler. "I tell them taxes are low in Antarctica, but be sure to take an overcoat."

ALTERNATIVE MAXIMUM TORTURE

Mention the alternative minimum tax, and even experts with years of experience roll their eyes. "It is counterintuitive," says Kenneth Anderson, a partner with Arthur Andersen. "You can't just look at a return and have any sense of how the AMT will come out."

But more than ever you need to be aware of this trap, for two reasons. The first is that Clinton has promised to raise the AMT rate along with regular tax rates. That means it could go to 27 percent from its current 24 percent level.

Legislators are likely to broaden the AMT. They could, for example, add into the AMT an adjustment that undoes the benefit of reduced rates on capital gains. Or they could tighten the existing restrictions on deducting mortgage interest in figuring AMT income.

"As it is, lots of people just miss paying the alternative tax," says Anderson. "In the future, they probably will get caught."

The second reason for awareness is that the AMT is crucial in determining what you do now, before the new Administration comes in. That's because the very moves that make sense if you are paying regular tax can be disastrous if you owe AMT.

Here, roughly, is how the minimum tax now works. You take the adjusted gross income from your regular return, then add back various items that would be deferred or excluded in the regular tax. From this broader base you are permitted to subtract an extremely niggardly range of deductions, plus $40,000 (for joint returns). However, the $40,000 freebie phases out, beginning at AMT income above $150,000. Result: The AMT rate of 24% can cost you more than regular taxes imposed at higher rates. You calculate both the regular tax and the AMT, and pay the higher.

As you plan, remember that the base-broadeners fall into two categories, with a crucial distinction between them.

The first includes deductions that you lose entirely or income that is fully taxed if you are subject to the AMT. Here are some: state and local income and property taxes, most miscellaneous deductions; the appreciation in intangible charitable gifts such as stock; some medical deductions; some home mortgage interest; and tax-exempt interest from "private purpose" municipal bonds.

The second category consists of "timing differences" that trigger the AMT but also generate a credit usable in the next year you pay regular taxes. It includes the appreciation in incentive stock options and certain types of accelerated depreciation.

When you're planning, worry a lot about the permanent differences like state taxes. Unless you will be stuck in AMT-land for years on end, don't worry too much about the timing differences.

[From Money Magazine, Dec. 1992]

HOW PRESIDENT CLINTON WILL CHANGE YOUR TAXES

(By Teresa Tritch)

Just as soon as he takes office on Jan. 20. President-elect Bill Clinton promises to launch an F.D.R.-style First Hundred Days, marked by a blaze of legislation that will leave no doubt that the Republican era of cut-your-tax tactics has ended with a vengeance. Clinton's four-year plan calls for some $220 billion in spending, including $80 billion for public works and $60 billion for job training and education. Moreover, as he repeatedly declared during the campaign, he intends to slash the deficit—estimated at $327 billion this fiscal year—in half by 1996.

To pay for all this, Clinton has pledged $140 billion in spending cuts, primarily aimed at defense and the federal bureaucracy, as well as $150 billion in tax hikes, mostly on the rich ($90 billion) and U.S. and foreign corporations ($60 billion). But—the big, big BUT—both conservative and liberal analysts say that at least half of his spending cuts are sham wishes and cavalier dreams, to paraphrase Robin Leach. For example, the $45 billion Clinton expects to squeeze from foreign corporations may crunch down to a mere $1 billion, according to calculations by Congress' Joint Tax Committee. Moreover, all that analysts know for sure about Clinton's plan for universal health coverage is that the spending involved could dwarf most of his other programs. The glaring gap between the taxes coming in and the money going out will have to be filled by someone, and guess who'll get hit? Yes, despite Clinton's avowed intentions to tap only the 1% of all taxpayers making $150,000 or more, you're a likely target if you're married and earn $80,000 or more, or single and make above $50,000.

This conclusion is drawn from an extensive analysis of Clinton's economic plan and interviews with 25 economists, tax experts, policy analysis and congressional staffers. Our judgment rests on two assumptions.

First, Clinton is serious about both his spending and deficit-shrinking plans. In the campaign's closing weeks, he promised to "cut other government spending or slow down the phasein of the programs" if the money he expects does not materialize. But he never said he would back off his agenda entirely. And second, he will keep his pledge not to raise taxes on the middle class. However, he left himself wiggle room by never defining "middle class." The closest he came to it was in his proposal for a "middle-class tax cut." Even then he said only that the cut would apply to couples with less than $80,000 in adjusted gross income (AGI). Between that income level and the thresholds for his tax-the-rich hikes ($200,000 for couples and $150,000 for singles) grazes the cash cow that could be milked to feed his ambitions: the upper middle class.

To keep from crippling the crawling economy, the Clinton tax measures will probably take effect in stages. For openers, the new President will undoubtedly make good on his campaign pledge to slap a 10% surcharge on people making $1 million a year in addition to hiking the top federal income tax rate from 31% to 36% on couples with adjusted gross income above $200,000 and individuals making more than $150,000. In all, however, fewer than a million taxpayers out of 114 million earn enough to be affected. Then, once the risk of renewed recession recedes, experts say Clinton will be compelled to extend his tax increases well below those cutoffs. Among his probable means: a rate hike; tightening deductions; and extending taxes on Social Security benefits. Capital gains on assets held at least one year will continue to be taxed at 28%.

At the same time, taxpayers making as much as $80,000 who fit Clinton's definition of middle class will have a long wait for the tax cuts he promised: $300 per child or $200 for childless couples and $150 for singles. That's because those breaks would cost about $60 billion over four years. "There's a good chance he'll say he simply can't afford a tax cut now but will look into it later," says Lawrence Chimerine, a senior economic counselor at DRI/McGraw-Hill in Lexington, Mass.

Barring an economic miracle or an unexpected retreat, the Clinton Presidency will bring a range of specific tax changes. The most important ones are outlined below, along with advice from tax pros on what you can do now to ease the coming bite.

ALTERNATIVE MINIMUM TAX

As the second leg of his tax-the-rich plan, Clinton promised to boost the AMT rate from 24% to 26% or 27%. Watch out! "The AMT is a real sleeper," says David Berenson, national director of tax policy at Ernst & Young in Washington, D.C. "It could catch a lot of taxpayers who make well under $200,000." Congress enacted this whammy in 1979 to force people who were taking big write-offs to pay at least some tax. Since then, however, Congress has twice craftily raised the AMT while dropping the top regular rate. Reason: In general, as the spread narrows between your normal top rate and the AMT rate, you're more likely to be snared by the AMT—for example, if you exercise hefty incentive stock options or if you take disproportionately large write-offs for state and local taxes or for home-equity-loan interest.

What to do. When the AMT rate goes up, consult a tax adviser before you make any major financial moves that might trigger the tax. He or she may be able to suggest steps to eliminate the danger.

DEDUCTIONS

Taxpayers with income in even the low six figures will continue to lose some of their deductions. Currently, the total of most of your itemized write-offs is reduced by $30 for every $1,000 of AGI above $105,250; similarly, your exemptions—$2,300 each for yourself, your spouse and any dependents in 1992—begin to phase out as AGIs exceed $157,900 if married, $105,250 if single. Those provisions, scheduled to expire in 1996 and 1997, respectively, seem likely to be extended permanently and perhaps even augmented.

If you earn less than $100,000 your deductions look safe—unless the deficit balloons further and Clinton feels forced to react. In that case, tax experts think his likeliest target would be your deduction for home mortgage interest. Together with Congress, he would consider these three main options: Reduce the $1 million cap on mortgages for which interest is deductible; eliminate the interest deduction for mortgages on second homes; or lower the $100,000 cap on home-equity debt for which interest is deductible.

What to do. Before you borrow, make sure you could afford your new mortgage or home-equity-loan payments if the interest weren't fully deductible. Also, preserve your deductions by keeping your AGI as low as possible. For example, contribute the maximum to tax-favored plans at work, such as 401(k) retirement accounts.

RETIREMENT PLANS

Chances are excellent that Individual Retirement Accounts will be liberalized next year at the urging of Texas' Lloyd Bentsen, one of the Senate's most powerful Democrats. Bentsen got Congress to include IRA-enhancing measures in the tax bill that President Bush was expected to veto in early November. President Clinton will be inclined to grant Bentsen his wish, in return for support of his own tax proposals.

The most likely 1993-94 IRA reforms would spur spending to help the economy without bloating the deficit immediately. They include allowing penalty-free withdrawals for new-home purchases, college costs, major medical bills and expenses while you're unemployed. You'll probably also be offered a so-called back-end IRA. With these accounts, your contributions won't be deductible, but you can withdraw the earnings tax-free after only five years.

However, you'll probably have to wait until 1995 or '96 for the heart of Bentsen's plan to become law: a fully deductible IRA for couples with AGIs as high as $100,000 and singles making as much as $75,000.

What to do. Lobby your representatives now for the liberalized IRA. "Members of Congress who have supported previous IRA legislation will be inclined to do so again if they're aware of the enormous popular support," says Lynn Dudley, director of retirement policy at the Association of Private Welfare and Pension Plans in Washington, D.C.

SOCIAL SECURITY AND MEDICARE

Like any politician, Clinton will approach these so-called entitlements very carefully. Nonetheless, he'll probably press early for his plan to require retirees who make more than $125,000 to pay higher premiums for coverage of doctors' bills under Medicare: under current law the government will pay $109.80 of the monthly premium in 1993, and a retiree will pay $36.60 regardless of income.

In addition, during the last debate Clinton seemed inclined to raise taxes on well-off Social Security recipients too. "Should people pay more for Medicare if they can?" he asked rhetorically. His answer: "Yes. Should they pay more for Social Security if they get more out of it than they paid in . . . [and] they're upper-income people? Yes." Currently, up to 50% of benefits are taxed for those whose income exceeds $32,000 if married or $25,000 if single. Taxing 85% of such benefits, as Ross Perot proposed, might be the outer limit.

THE SELF-EMPLOYED

Chances are, Congress will agree to Clinton's proposal for an investment tax credit, which might equal about 10% of the purchase price of new business equipment, such as a computer, car or truck. The self-employed also are likely to get a deduction for their health insurance premiums, though no one knows whether Clinton's proposal to allow a 100% write-off will win out over Congress' 25% limit.

What to do. If possible, postpone the purchase of business equipment purchases until it's clear when the ITC will become law—or at least until the new year. "If the ITC is passed in 1993, it could well be retroactive to Jan. 1," says Kevin Roach, a tax partner at Price Waterhouse in New York City.

TAX-FAVORED INVESTING

Clinton aides have pledged that he will not tamper with municipal bonds' tax-free status. He is also expected to favor extending the tax credit for investments in low-income housing for one year.

What to do. Resist plunging blindly into munis. Before you buy any, ask your tax adviser whether you would be better off with taxable bonds. As for low-income housing deals, they are complicated and best suited for investors who can take big risks.

If Clinton and Congress become frustrated in their search for new tax revenue, they could turn draconian down the road. Money magazine sources warn not to count out such disturbing steps as:

Slashing the value of an estate you can leave to your heirs tax-free from $600,000 to, say, $300,000. Approximately 15% of estates would end up owing federal death taxes, up from the scant 2% that pay them today. The take: $5 billion over five years.

Requiring that capital-gains tax be paid on assets you own at your death. The take: $17 billion over five years.

Eliminating the cap on wages subject to the Medicare tax—now 1.45% on amounts up to $130,200. The take: $28 billion over five years.

Taxing a portion of your employer-provided medical benefits. Taxing benefits above, say, $335 a month for families and $135 for individuals would bring in $56 billion over five years.

Hiking the 14.1¢ federal tax on each gallon of gasoline. A 12¢ increase, small compared with Ross Perot's 50¢ proposal, would still bring in $55 billion over five years.

Even those tax shocks might not be enough, however. "We may soon realize that we're incapable of raising the revenue we need for the society we want without either returning to the confiscatory 70% rates of the pre-1980s or adopting a radically new approach to taxes," says Gerald Portney, a principal at KPMG Peat Marwick in Washington, D.C. and former IRS assistant commissioner under Presidents Carter and Reagan. In an influential report sponsored by a bipartisan research organization, Sens. Sam Nunn (D-Ga.) and Pete Domenici (R-N.M.) recently endorsed such a revolutionary approach that is favored by many experts inside and outside of government: a broad consumption tax, which could be a far more prodigious and efficient money raiser than the income tax. The government may need every cent.

[From Money Magazine Jan. 1993]

YOUR TAXES

(By Teresa Tritch)

No, the U.S. economy will not achieve the historic post-recession average of 5% annual growth anytime soon. The best hope is for about half that. And no, you can't count on President Bill Clinton to back off entirely from two of his biggest campaign pledges: to stimulate the economy by spending $220 billion on new programs while cutting the deficit in half—all by 1996. And yes, the Clinton agenda will require broad tax increases over the next four years to close the gap between federal income and outgo. And of course, you're right to suspect that the most attractive target may be you.

Trouble is, Clinton's promised tax hikes on 1 million so-called rich taxpayers, defined in general as couples with an adjusted gross income of $200,000 or more ($150,000 for singles), will bring in only $59 billion by '96, according to the Treasury Department, $24 billion less than the Clinton camp's estimate. Like any new President anxious to win a second term, he'll try his best to shield his biggest constituency, the vast middle class, which he has vaguely identified only as couples making less than $80,000. Yet not even they may be safe from the tax onslaught as the '90s march on.

For now, however, it's the soft underbelly of American wealth—the upper middle class—that is most exposed. Two spouses each earning $40,000 a year qualify, as do singles making above $50,000. And this upper middle sector will be most vulnerable because it has neither the rich's ability to shift and shelter income nor the political clout of the largely Democratic lower middle class. "Since 1981, this group has seen only increases and is likely to experience more hikes as Congress chips away at the few remaining deductions," says Robert Garner, a partner at Ernst & Young in Atlanta.

Don't, however, scan the horizon for signs of a '93 tax-rate increase like the one in store for the rich. Even their coming rate hike from 31% to 36% may be phased in, with a transitional rate of perhaps 33.5% in 1993. Rather, as the Clinton years unfold, expect Congress to enact more indirect tax increases like exemption phaseouts and to trim such deductions as mortgage interest and business meals and entertainment. But along with full recovery could come a genuine gift, a cut in the long-term capital-gains tax rate, maybe to as low as 14% for couples making $36,900 to $89,150. "Democrats are increasingly seeing such a break as a way to spur the economy and thereby create more jobs," says Garner.

Money's subscribers also support cutting the capital-gains rate. Two-thirds of the 309 respondents in our annual tax poll favored the idea. In fact, only one other proposed tax cut was more popular: restoring the fully deductible Individual Retirement Account, which was supported by 85%. But with Sen. Lloyd Bentsen moving in as Treasury Secretary, IRAs will lose their firmest supporter on Capitol Hill. (Other poll results are reported below and on the following pages. The survey, taken by the Gallup Organization in early November, has a six-point margin of error.)

Your real nemesis will be those already enacted covert hikes—the ones that Congress and George Bush began slipping into the tax law back in 1991. In 1993, for example, the total of your write-offs for mortgage interest, state and local taxes, moving and miscellaneous expenses will be reduced by 3% for every dollar that your AGI exceeds $108,450.

Similarly, personal and dependent exemptions, worth $2,350 each in 1993, will be phased out for couples whose AGIs fall between $162,700 and $285,200, and for singles making between $108,450 and $230,950. What will those hidden cuts cost you? Let's say that you and your spouse have an AGI of $150,000 and deductions of $20,000. Your write-offs will be trimmed to $18,754.

Moreover, Social Security (FICA) taxes will continue to claim an ever-increasing chunk of your earnings. In 1993, employees will pay 6.2% of their gross wages up to $57,600 for retirement, disability and survivor benefits and 1.45% of wages up to $135,000 for Medicare hospital benefits. The maximum hit: $5,529, a $200 increase from last year and an astonishing $2,149 more than in 1988.

How can you cope? "You need strategies that combine a commitment to long-term tax-deferred savings with the flexibility to respond to change," says Kaycee Krysty, the director of personal finance at the accounting firm Moss Adams in Seattle. A dozen such strategies follow for employees, the self-employed, retirees and investors.

HOW DOES TAX BURDEN COMPARE WITH LAST YEAR'S?

[In percent]

	Greater				Lower				Same			
	1992	1991	1990	1989	1992	1991	1990	1989	1992	1991	1990	1989
Federal	45	51	52	47	7	7	6	16	45	36	37	29
State	44	48	46	41	7	5	5	7	37	34	36	30
Real estate	60	64	61	58	4	5	4	6	29	24	24	22

EMPLOYEES

Make retirement savings plans a priority. Beyond a doubt, your best single tax-slashing move is to contribute the maximum to a company-sponsored 401(k), up to the estimated legal limit of $9,000 this year. Your contributions, plus their earnings, escape federal and most state and local income taxes until withdrawn. If you can't afford the maximum, aim to put in at least enough to get your employer's full matching funds, typically 50¢ for every dollar that you invest up to 6% of your pretax pay. An extra: You won't owe FICA tax on the money from your employer.

Contribute to flexible spending accounts. Next to 401(k)s, FSAs are an employee's most capacious shelter, enabling you to pay dependent-care costs and unreimbursed medical expenses with money deducted from your paycheck before federal income tax-and FICA tax if you make below the $57,600 and $135,000 wage caps. (Money in FSAs is also free of state and local income taxes, except in New Jersey and Pennsylvania.) You and your spouse can each fund a medical-care FSA up to the limits set by your employers, generally $2,000 to $4,000; the tax law caps a couple's contribution to a dependent-care FSA at $5,000 (although your employer may set a lower limit). The savings: By paying $5,000 of bills from an FSA, you will cut your tax bill by $1,783, assuming that you are in the 28% bracket and your gross wages are under the $57,600 FICA cap.

Coordinate your dependent-care FSA with the childcare credit. If your AGI is more than $24,000, you should use an FSA for dependent-care costs even though you'll lose all or part of your dependent care credit as a result. Reason: The credit scales down as your AGI rises, while an FSA's tax-cutting power increases as your tax rate rises. In some instances, however, you can use the child-care credit and an FSA. Say, for example, your employer limits your FSA to $2,000 but you pay $4,800 to keep two children in day care. You could still claim a credit of $560. In addition, 22 states and the District of Columbia will grant you a dependent-care break if you claim a federal credit. Check your state tax instruction booklet for details.

Turn commuting into a tax break. Beginning Jan. 1, the tax law lets employers give you as much as $720 a year—free of income and FICA tax-for mass transit commuting costs; the previous maximum was a modest $252. If your company offers the benefit, grab it: A $720 payment, made in the form of transportation vouchers or tokens, is equivalent to a before-tax raise of $1,120, assuming you're in the 28% bracket and pay FICA tax. If your company doesn't offer commuting assistance, lobby for it.

THE SELF-EMPLOYED

Maximize your deductions. Being your own boss makes you eligible for a host of truly generous write-offs, such as those for work-related travel and entertainment expenses, dues to professional organizations, subscriptions to business publications and equipment depreciation. Equally important, the write-offs also reduce your self-employment tax (the sole proprietor's version of FICA), because you owe it only on income after deductions.

Fully fund a Keogh. You can contribute and deduct a healthy chunk of your self-employment earnings to a Keogh retirement account, even if you're just a moonlighter and are covered by a pension plan at a full-time job. Burton Young of Newport Beach, Calif., pictured on page 81, is an ideal Keogh candidate. With little tax shelter—not even a house of his own—he paid 41.6% of his AGI in taxes in '92.

Michael Knight, a certified public accountant in Fairfield, Conn., recommends that young entrepreneurs start with a so-called profit-sharing Keogh, which lets them contribute and deduct up to 13.04% of their net self-employment earnings each year. (That's net of allowable business expenses and half of your self-employment tax.) You can vary the contribution as your cash needs dictate or even not contribute anything at all. Once your business profits stabilize, you can add a second type of Keogh known as a money-purchase plan, which requires you to salt away annually a percentage of your income that you designate when you establish the plan. Since the combined percentage you can put in both a profit-sharing and a money-purchase Keogh works out to 20%, your best course is to contribute the 13.04% maximum to the flexible profit-sharing variety and commit 6.96% to the money-purchase plan. However, the total amount sheltered in all your retirement plans can't exceed $30,000 a year.

If you're at least 50 years old and haven't yet established a tax-deferred retirement plan, consider a defined-benefit Keogh. It lets you set aside annually whatever amount it takes to provide a retirement payout of as much as $112,221 a year at age 65 or older. You'll need an actuary's help to calculate the sum you must invest each year to reach your target.

Consider incorporating. By organizing yourself as a so-called C corporation, you can arrange for your business to pay—and deduct—your family's health insurance premiums, deductibles and co-payments as well as premiums for life and disability insurance for you. Moreover, contributions to a qualified corporate profit-sharing plan escape FICA tax. Be aware, however, that C-corp status could be a tax trap, especially if your business makes more money than you pay yourself in salary. One pitfall: Accumulated earnings that exceed $250,000 get hit with a special 28% penalty and then are taxed a second time at your top rate when you eventually take the money as salary or dividends.

ARE YOUR TAXES WELL SPENT?

[In percent]

	Well spent				Not well spent			
	1992	1991	1990	1989	1992	1991	1990	1989
Federal	15	25	28	37	84	74	70	60
State	32	36	46	56	64	59	48	40
Real estate	52	58	60	68	47	39	35	29

INVESTORS

Consider low-income-housing investment. Both Clinton and Congress favor giving juicy tax credits to investors in complex new low-income-housing limited partnerships. (The old law granting such credits expired last June 30.) Clinton wants to make the credit permanent, while congressional leaders are willing at least to extend it year by year. With the top federal tax rate poised to leap to 36%, the timing couldn't be better. "As rates rise, investors look for shelter—and low-income housing is one of the last shelters left," says Michael Marsh, a tax manager at Grant Thornton in Kansas City, Mo. "Unfortunately," he adds, "the tax credits may entice investors who don't understand the risks."

In brief, here's how the deals work: By buying or building housing that is then one-fifth to two-fifths occupied by renters with household incomes 50% to 60% of the area's median, limited-partnership sponsors qualify for tax credits that they in turn parcel out to investors over 10 years. The credit on a minimum investment of $5,000 is typically $700 a year. (You would need to invest about $50,000 to qualify for the maximum credit of $7,750 a year if you're in the 31% bracket or $7,000 in the 28% bracket.) Since 1988, for example, Jan and Cindy Warren of Brighton, Mich., pictured on page 79, have invested $46,146 in two partnerships. Thus far, the couple—he's a commercial builder, and she's a special-education teacher—have reaped credits of $15,637. At that rate, their credits will ultimately total $64,339, giving them the equivalent of a 9.5% after-tax annual return on the first partnership and 11% on the second. Bear in mind, however, that such deals rarely generate income or capital gains. "Stick with deals that project their returns solely on the value of the tax credits," says Marsh.

Attractive as the credits sound, they are substantial risks. Chief among them: If a project fails to meet strict federal rules each year, investors retroactively lose up to a third of the credits they've taken to date. If a deal goes bankrupt, both principal and credits are lost. Moreover, low-income deals are sometimes hyped, with financial planners spinning tales of big gains and rarely mentioning their commissions of as much as 10%. Best advice: Don't invest unless you or a trusted adviser can evaluate a plan sponsor's prospectus and record.

Watch out for the alternative minimum tax (AMT). Congress originally intended the AMT to force wealthy taxpayers with excessive tax breaks to pay more tax. Clinton has promised, however, to raise the AMT rate from 24% to as much as 27%, which would give anyone with substantial capital gains in 1993 and beyond special cause for concern. Reason: In general, the narrower the spread between the AMT rate and your regular top rate, the greater your chances of being snared. Warns David Berenson, national director of tax policy at Ernst & Young in Washington, D.C.: "With only a one- or two-point difference between the maximum 28% rate on long-term capital gains and the coming AMT rate, anyone who realizes a substantial capital gain could easily be caught by the AMT." Before taking a big gain or making any other major moves that could trigger the AMT, such as claiming a large deduction for state taxes, ask a tax adviser to suggest tactics to ease or even eliminate the AMT.

Don't automatically claim your child's investment income on your 1040. As a convenience, many taxpayers report the unearned income of children under 14 on the parents' federal tax returns. The ploy could backfire on your state taxes. Reason: In 36 states[1] and the District of Columbia, your state tax liability is pegged to the income or tax you report on your federal return. By adding your child's income to your own, you boost your reported income or tax, thereby increasing your state tax. Moreover, if you file separately for your son or daughter, the child's standard deduction and exemption could wipe out his or her state tax liability.

WHICH TAX IS UP THE MOST?

[In percent]

	1992	1991	1990
Federal	36	38	31
State	15	15	12
Real estate	39	37	37
No increase	5	6	17

OUTLOOK FOR U.S. TAXES

[In percent]

	1993	1992	1991
Higher	62	57	72
Lower	8	13	3
No change	28	28	25
Don't know	2	2	....

RETIREES

Shift from taxable investments into municipal bonds. This could be particularly critical, points out Betsy Dow, a vice president at A.G. Edwards in St. Louis, if Congress and the new President agree to increase the federally taxable portion of Social Security benefits. At present, you owe tax when your AGI plus your tax-exempt interest and half your Social Security benefit exceed $32,000 (for joint filers) or $25,000 (for singles). Your challenge is to keep your income below those thresholds. Let's say your $50,000 nest egg is invested in taxable bonds paying 8%. Your annual interest of $4,000 would be included in your AGI, even though you'd pocket only $2,600 after taxes, assuming a combined federal and state tax bracket of 35%. But if you invested that $50,000 in comparable municipal bonds yielding 5.2%, you'd earn a tax-free $2,600, and only that amount would be counted toward the thresholds.

Take a look at series EE bonds. You can shift as much as $15,000 a year into Series EE savings bonds ($30,000 for a married couple), which were recently paying 4.16% for a bond held for six months, vs. 3% on a six-month certificate of deposit. The interest is not taxed until you cash in the bonds—up to 30 years after purchase. And the interest is free from state and local income tax.

If you are a grandparent, you may soon have a new reason to buy the bonds. Last year Congress passed a proposal—vetoed by President Bush—that would make income from EE bonds that are redeemed to pay college tuition tax-free, regardless of your income or relationship to the student. Currently, the interest is fully exempt only if your AGI is below $68,250 (for couples) or $45,500 (for individuals) and if you, your spouse or your dependent is the student.

If the proposal is revived as expected and you were inclined to use the interest to help send your grandchild to college, you would be spreading the tax advantages across generations. That's the ultimate in long-term tax planning.

WHY GREAT TAX PROS ARE SCARCE . . . AND WHAT YOU MUST DO TO FIND ONE

(By Elizabeth M. MacDonald)

U.S. taxpayers demanded $100 million in damages from certified public accountants in malpractice suits last year. That startling statistic comes from the solidest of sources: Crum & Forster, the chief insurance liability underwriter for the accounting industry. The company won't disclose how many C.P.A.s were sued, but one prime reason for the legal activity is clear: Tax pros are making more errors on returns because they haven't stayed abreast of the 12 major changes in tax law since 1980.

"The average practitioner doesn't keep up to date," says Sidney Kess, a veteran attorney and C.P.A. who has taught tax law for more than 30 years. "Preparers just don't read tax law anymore."

In fact, in recent years one out of seven preparers, who haul in average annual fees of $179,000, has canceled subscriptions to tax information services that help accountants keep up with changes in tax law. Instead, according to a 1990 survey of 480 pros by New York City's Research Institute of America, these preparers routinely turn to other accountants on even simple questions or consult outdated tax publications. "It's like doing carpentry without a hammer," says Stephen Banks, a second vice president at Commerce Clearing House, a widely used tax information service. "Most accountants are three to five years behind the laws and regulations."

Why cut corners? Simply to save dollars, Money was told by tax experts and officials at the General Accounting Office, the congressional investigative agency. Commerce Clearing House's Federal Tax Guide, for example, costs $430 a year. Consequently, many tax preparers run a growing risk of committing errors that could leave you exposed to Internal Revenue Service deficiency notices, penalties and perhaps even audits.

To avoid such problems, first make sure to choose the right type of preparer. If your tax records consist only of a W-2 and a couple of 1099 forms, you could be well served at a tax chain, such as H&R Block or Jackson Hewitt. H&R Block keeps its army of preparers up to date with annual 15-week courses; Jackson Hewitt's run 12 weeks. A typical chain customer, with a handful of deductions and an income of $30,000 or $40,000, will pay about $50 for federal and state returns.

If you can't use a chain, picking the right pro becomes more complicated. For example, a typical Money subscriber—annual income of about $72,385 and $21,000 in investments—probably needs the expertise of a C.P.A. or an enrolled agent.

The Money subscriber might pay a C.P.A. anywhere from $350 to $700 for a federal and state return. The 310,000 C.P.A.s enrolled in the American Institute of Certified Public Accountants (AICPA) are required to take 40-hour brushup courses on tax law every year. C.P.A. societies that offer client referral services operate in some 27 states. Call AICPA at 800-862-4272 for local phone numbers.

The 30,000 enrolled agents are as expert on taxes as C.P.A.s but generally charge about a third less because most are self-employed. "They don't have the overhead of a large accounting firm," says Steven DeFilippis, a spokesman for the National Association of Enrolled Agents (NAEA). Agents charge according to the number of forms prepared, their time, or a combination of the two. For a federal 1040 and a state return, the Money subscriber would pay roughly $250. Enrolled agents must meet rigorous requirements—for example, passing grades on tough two-day Treasury exams. The IRS also expects the agents to spend 72 hours over three years on tax refresher courses. You may want to confine your search to the roughly 7,500 agents who belong to NAEA. The organization requires members, who charge no more than other agents, to take an additional 30 hours of classroom work a year. For the name of a local NAEA member, call the group's 24-hour referral service (800-424-4339).

Once you have decided on whether to use a chain, a C.P.A. or an enrolled agent, interview at least three candidates to find one whose personality, experience and accounting philosophy suit you. Then weed out the underinformed by asking to see each prospect's tax library. Jack Porter, national director of tax practice at BDO Seidman in Washington, D.C. says the "rock bottom, bare minimum" library should contain one weekly or monthly tax newsletter, such as the Internal Revenue Service's Bulletin, and either a looseleaf service like Commerce Clearing House's or the Federal Tax Coordinator from the Research Institute of America. Finally, make sure the pro owns 1992 tax-return software.

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[1] Arizona, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Utah, Vermont, Virginia, West Virginia and Wisconsin.

Request an initial consultation with each of your three finalists—if it isn't free, don't go. At the meeting, review your past years' returns as well as the practitioner's fees. Answers to your questions should be clear and unequivocal. Also ask how many 1040s the practitioner prepares annually. A very big number is bad news. Few can complete more than 800 a year singlehanded. Happy returns!

THE 75TH ANNIVERSARY OF LITHUANIA'S INDEPENDENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. DURBIN] is recognized for 5 minutes.

Mr. DURBIN. Mr. Speaker, I have asked for this special order today because this week marks the 75th anniversary of Lithuanian independence. On February 16, 1918, a Lithuanian national council declared Lithuania's independence from Czarist Russia.

Eleven years later, a German-Soviet pact put Lithuania at the mercy of Stalin and Russia, the so-called Molotov-Ribbentrop pact. For almost 50 years it put this poor country and the other Baltic States of Latvia and Estonia under the brutal control of Soviet Russia, which sought to erase Lithuania's rich cultural tradition, but the Lithuanian spirit proved invincible to the Soviet force.

□ 1710

On March 11, 1990, the Lithuanian Supreme Soviet declared independence from the Soviet Union. Lithuania is, in fact, a David whose simple weapon of peaceful resistance proved to be the stone that brought the Goliath of the Soviet Union to its knees.

On Sunday, February 14, 1993, this past Sunday, the Lithuanians reaffirmed their commitment to democracy. On that day 80 percent of their 2½ million electorate voted in Lithuania's first presidential election. The new president of Lithuania, Mr. Brazauskas, visited Washington last year, and I had a chance to meet him. He is a very popular figure in Lithuania, and he has said some things during the course of this campaign which gives hope that his leadership in Lithuania will move that country further toward democracy, closer to a free market economy and really bring the longlasting independence which many of us have prayed for.

But with independence secured, Lithuania still has many difficult times ahead. First and foremost it is faced with the formidable task of removing the last vestiges of Soviet occupation. It must establish a stable democracy, and it must build a prosperous market economy. By the close of 1992, there were still 15,000 Russian troops remaining in Lithuania, down from an original estimate of as high as 42,000.

Progress has been made. On December 30, 1992, the last Russian forces withdrew from the city of Vilnius, the capital of Lithuania. Russian President Boris Yeltsin has agreed to remove all troops by August 1, 1993. I sincerely hope that the Clinton administration will do everything in its power to hold Mr. Yeltsin to that promise.

Mr. Speaker, so long as there are Russian troops on Lithuanian soil there is, in fact, an army of occupation. They give no notice to the people of Lithuania as to their position, their armaments or their troop movements. Any other country or nation in the world would find it intolerable to have 15,000 armed forces from another nation on its soil without the very basic cooperation which I think is necessary.

Mr. Speaker, I hope the Clinton administration, through Mr. Christopher, our Secretary of State, and others, will continue to put the pressure on Russia to remove its troops from Lithuania.

The Russians make an economic argument that they cannot afford to bring these troops home. They have no place to put them. The Lithuanians have been patient. They have not just waited a few months. They have waited a half a century so that they can reclaim their own country and have the type of control of it which one would expect in a democracy.

Mr. Speaker, after this half century of occupation the removal of Soviet troops is long overdue. The United States must continue to support Lithuanian sovereignty. I have worked towards this end by introducing legislation last year which conditions any aid to Russia on progress towards a withdrawal of these Russian controlled troops. I am going to certainly work to keep Mr. Yeltsin to his promise. The Lithuanian economy has slowed, and there is a general shortage of raw material. The Lithuanian homes lack hot water, and heat is very limited. Inflation is claimed to be over a thousand percent. Industrial production has declined drastically.

Despite these dire situations, Mr. Speaker, none of this comes as a great surprise. This country is really emerging from 50 years of central Communist authority and is trying to establish a basic democracy and a free market economy. There are bound to be difficult times, but we must try, as best we can with our limited resources, to help the Baltic States, including Lithuania, to get on their feet. Their prosperity and their success will inure to the benefit, not only of their people and all the friends of their people around the world, but to the Free World in general.

Mr. Speaker, they face some very serious specific shortages. Medicine is in short supply. There has been an outbreak of tuberculosis, and according to the State Department, our State Department, over nine people have been reported with diphtheria. That, of course, is a problem which can be taken care of through necessary sanitary measures and vaccination, but without the necessary medical supplies the Lithuanians and many living in the Baltic States are at the mercy of these diseases.

For over 50 years the United States refused to recognize Soviet occupation of Lithuania. Now, as this tiny country is laboring toward rebuilding itself, the United States must not falter in its support to the people of free Lithuania from the people of the United States.

Mr. Speaker, we must wish them the very best on the 75th anniversary of Lithuanian independence.

RECIPE FOR ECONOMIC CALAMITY

The SPEAKER pro tempore (Mr. MINGE). Under a previous order of the House, the gentleman from Indiana [Mr. BURDON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, today Members of the House of Representatives received from the chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI], a memorandum regarding President Clinton's revenue proposals, and I think everybody in this Chamber and everybody across the country is very interested in this, and what it does is it shows how much revenues; that is, new taxes, that President Clinton is going to be proposing tonight. That would be of great interest to all our colleagues.

Get this, $328 billion—hope everybody get that—$328 billion, $326 million in new taxes.

Two years ago, Mr. Speaker, we had the largest tax increase in history; $182 billion, and this one is going to be $328 billion.

One of the major reasons we had a recession a couple of years ago was because that budget summit agreement raised taxes and put the country into an economic decline.

I say to my colleagues, "When you take $182 billion out of the Americans' collective pockets, that is $182 billion they couldn't spend, and, when they don't spend it, they don't buy products, and when they don't buy products like cars and refrigerators, they quit making the cars, and refrigerators and everything else, and they start laying people off." So, Mr. Speaker, we had higher unemployment, and we had a recession.

Now President Clinton, who said he was not going to tax the middle class, is going to raise taxes on everybody to the tune of $328,326,000,000. This is a recipe for economic disaster. He said he was not going to tax the middle class. He is taxing the middle class. He said there was going to be a tax cut for the middle class. No tax cut. There is going to be an energy tax increase which will hit everybody from the people on welfare all the way up. He said he cannot halve the deficit now.

Mr. Speaker, he is breaking promise, after promise, after promise, and he is hitting this country with this kind of recipe toward economic calamity.

Now just let me read to my colleagues what 17 different economists say. I know I do not have time to read all of these, but I submit for the RECORD what these prominent economists are saying regarding this debate:

[From The Heritage Foundation]

CLINTON'S ECONOMIC PROPOSAL—A PRESCRIPTION FOR SLOWER GROWTH, MORE INFLATION, HIGHER INTEREST RATES

The following senior economists—many with extensive Washington experience—are available for comment in the days to come.

"Far from stimulating the economy, as he intends, President Clinton's economic program will have the opposite effect. Higher tax rates on corporations and our most productive workers will reduce saving, investment, innovation, entrepreneurship, and risk-taking. Higher spending will sap resources from private industry and simply feed an already bloated government. The inevitable result will be slower growth, more inflation, and higher interest rates."—Bruce R. Bartlett, Deputy Assistant Secretary for Economic Policy, U.S. Treasury Department, 1988–1993. Home: (703) 739–1527.

"Clinton plans higher marginal tax rates on the country's most productive citizens. The so-called "rich"—according to Clinton anyone with an income of $100,000 or more—are 2.8 percent of the taxpaying population and already pay 36.2 percent of total income taxes. The rate increases will discourage their efforts and reduce national economic output. The proposed energy taxes will make it more costly to operate every business and household in the country. Manufacturing will be especially hard hit, making a mockery of Clinton's concern over lack of job growth in that sector."—Steve Entin, Resident Scholar, Institute for Research on the Economics of Taxation; Deputy Assistant Secretary for Economic Policy, U.S. Treasury Department, 1981–1988. Work: (202) 347–9570.

"A broad-based energy tax would be extraordinarily complicated and costly to implement, would impose a disproportionate burden on the poor and middle class, would diminish future job and productivity growth, and has the potential of generating enormous new amounts of revenue for the federal government in the future. We must be very, very careful before embarking on this course."—J.D. Foster, Chief Economist and Director, The Tax Foundation; Chief of Staff, Council of Economic Advisors, 1992. Work: (202) 783–2760; Home: (703) 998–7633.

"The economic difficulties this country faces have been caused by runaway federal entitlement, anti-growth tax policy and productivity-damaging federal regulations. Putting the economy on a real growth track will require lower taxes on capital and labor, changing the federal entitlement laws which mandate ever higher spending, regulatory common sense, freer trade, and price level stability."—John Hosemann, Chief Economist, American Farm Bureau Federation. Work: (312) 399–5746.

"The 1990 Budget Agreement, which gave us the largest tax increase ever, demonstrated conclusively that we cannot tax the deficit away. We only succeed in taxing away prosperity. The only way to reduce the deficit is to increase economic growth and reduce government spending. Yet, the Clinton plan offers only token investment incentives to salve punitive tax hikes and misrepresents new federal spending as "investment" while offering up symbolic spending "cuts" as compensation. Federal jobs programs do not create new jobs, they merely redistribute jobs from the private to public sector. And, there is no recorded instance where a tax increase stimulated economic growth and expanded prosperity."—Lawrence A. Hunter, Former Vice President and Chief Economist of the U.S. Chamber of Commerce. Home: (703) 478–8449.

"I strongly disagree with the across-the-board tax increases expected to be proposed by the Clinton administration. Rising income tax rates for businesses and families will reduce saving and investment, retard productivity and discourage work effort. As capital costs are raised and investment returns are lowered, the improving economic growth rate we are now experiencing will falter."—Lawrence A. Kudlow, Senior Managing Director and Chief Economist—Bear, Stearns & Co., Inc.; Associate Director for economics and planning at the Office of Management and Budget, 1982–1986. Work: (212) 272–4217; Home: (212) 722–1558.

"The more we learn about the Clinton administration's programs the more they look like Carter II—tax, spend, and regulate. A serious program to increase productivity would encourage long-term investment in education and capital. This program taxes income to pay for government spending."—Allan H. Meltzer, Professor of Political Economy, Carnegie-Mellon University and Visiting Scholar, American Enterprise Institute. Work: (202) 862–5800.

"President Clinton's budget will be a hard sell. First, he didn't articulate a clear vision of what he wanted during the campaign (and much of his budget is inconsistent with what he promised). Second, while portions of his tax package are politically attractive (soaking the rich), on the whole his proposals threaten the economy's revival. And finally, there is precious little by way of real restraints on spending. The notion that progress will be made on the deficit simply doesn't pass the 'hee-haw test.'"—Jim Miller, Chairman, Citizens for a Sound Economy; Director of the Office of Management and Budget, 1985–1988. Work: (202) 783–3870.

"Higher taxes did not work for Herbert Hoover, Jimmy Carter, and George Bush, and they will not work for Bill Clinton. Clinton's proposed record tax increase will destroy jobs, fuel higher spending, and increase the deficit. Clinton would be wise to instead mimic the policies of John F. Kennedy and Ronald Reagan, both of whom triggered record economic expansions by cutting tax rates and restraining the growth of federal spending."—Daniel J. Mitchell, John M. Olin Senior Fellow in Political Economy, The Heritage Foundation. Work: (202) 546–4400; Home: (703) 641–7968.

"A federal tax increase would reduce economic growth, invite an increase in government spending, and may not reduce the deficit. A tax increase would be appropriate only if the last dollar of federal spending is worth more than about $1.50. Few, if any, federal programs meet this test. The primary focus of federal fiscal policy should be to reduce spending to a level that is broadly supported by the American population."—William A. Niskanen, Chairman, The Cato Institute; Member, The Council of Economic Advisors, 1981–1985. Work: (202) 546–0200.

"The President is right, we do have a deficit problem and it ought to be reduced. But the source of the problem is government spending, which has been growing much faster than national income. Tax increases will not and cannot cure a spending problem. Only when the President and the Congress face the reality of the spending problem will the resulting deficit problem be cured. The miracle of the spending cure is that if you take the medicine you will find you do not need to increase taxes, because our existing tax system already produces a yearly increase in tax revenue that exceeds the growth of national income."—Richard W. Rahn, President, Novecon; former Vice President and Chief Economist, U.S. Chamber of Commerce. Work: (202) 659–3200; Home: (703) 759–0440.

"Higher personal and corporate tax rates will soon yield less revenue, not more. Two-earner families will become one-earner families, executives will take more pay in the form of perks, professionals will play more golf, middle-aged men and women will retire younger, fewer young people will bother to earn advanced degrees or take the risk of starting new businesses, investors will shift into tax shelters and tax-free bonds, corporations will get back into debt to minimize taxable profits. Growth of the economy and employment will suffer, just as they did when Canada, Germany and Japan imposed higher tax rates in 1990, or when Herbert Hoover and Lyndon Johnson did the same in the U.S."—Alan Reynolds, Director of Economic Research, The Hudson Institute. Work: (317) 545–1000.

"The private sector will be asked to raise its "contribution" to the federal government by some $250 billion over the next five years. This represents an average increase of around 5 percent. The marginal effect—particularly on saving and investment—will be much larger, however. The Clinton administration acknowledges that incentives matter by seeking a targeted investment credit of 1 percent. Yet, a 6 percent increase in the corporate tax rate will more than wipe out the credit. On net, investors will again find it in their interest to invest abroad rather than in the U.S. The loss of that investment will ultimately mean lower employment, lower tax revenues and a lower living standard for all Americans."—Gary Robbins, President of Fiscal Associates; Chief of the Applied Econometrics Staff of the U.S. Treasury Department, 1982–1985. Work: (703) 413–4371; Home: (703) 413–4371.

"Clinton is modelling his administration on Herbert Hoover's—Higher taxes and trade protection."—Paul Craig Roberts, William E. Simon Chair in Political Economy at the Center for Strategic and International Studies; Assistant Secretary of the Treasury for Economic Policy, 1981–1982. Work: (202) 887–0200.

"The Clinton Economic plan may undo much of the good in the current recovery he inherited from President Bush and seems highly unlikely to foster what America needs most: more long-term private sector jobs; more long-term private sector savings and investment; higher productivity; and a more economically competitive America. I'm concerned that it's a little like a well-intentioned amateur artist coming in with his paintbrush to touch up a Rembrandt. Hopefully, Congress and the administration will work out a final package that will better serve our goals."—John Robson, Visiting Fellow, The Heritage Foundation; Deputy Secretary of the U.S. Treasury, 1989-1993. Work: (202) 546-4400; Home: (202) 338-2261.

"The last thing the American economy needs now are tax hikes and new federal spending programs. No matter its form or the taxpayers on whom it is imposed, any tax increase will impede the burgeoning economic recovery and slow the growth in jobs, production, and income. New federal spending programs, no matter how small they are to begin with, will quickly grow and become additional drags on the nation's economic growth and vitality. To revitalize the economy, we need real, substantial, and sustained cuts in government spending. If President Clinton wants to remove the road blocks in the way of economic progress, he should recommend fundamental changes in existing spending programs to curb their expansion, not more taxes."—Norman B. Ture, President, Institute for Research on the Economics of Taxation; Undersecretary for Tax and Economic Policy, U.S. Treasury Department, 1981-1982. Work: (202) 347-9570.

"President Clinton has flunked his first economics exam. Forty years of history tells us that every dollar of new taxes has associated with it $1.59 in new spending. We predict continued high deficits and a crowding out of productive private spending—in short a return to the stagnation, and possibly stagflation, of the Carter 1970s if the Clinton plan of taxation and regulation is adopted."—Richard Vedder and Lowell Gallaway, Ohio University and authors of Out of Work: Unemployment and Government in Twentieth Century America (NY: Homes & Meier for the Independent Institute of Oakland, 1993). Work: (614) 593-2036 and (614) 593-2037.

□ 1720

Mr. Speaker, let me end by saying this is a recipe for economic disaster. President Clinton wants the economy to move in the right direction. If this is what his message tonight includes, it is going to move in exactly the opposite direction.

INTRODUCTION OF H.R. 920, THE EMERGENCY UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 60 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I am pleased to introduce today President Clinton's proposal to extend unemployment benefits in H.R. 920, the Emergency Unemployment Compensation Amendments of 1993.

H.R. 920 extends the authorization for new claims of emergency unemployment compensation benefits from March 6, 1993, through October 2, 1993. Continued claims are authorized during the phase-out period after October 2, 1993, through January 15, 1994. In addition, the bill authorizes the design of automated systems to identify dislocated workers and refer them to reemployment services. Unemployment benefits and related administrative activities in the bill are estimated to cost $5.7 billion over fiscal years 1993 and 1994. The entire bill is designated as an emergency requirement within the meaning of the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. Speaker, some Members of the House of Representatives might say that this extension is not needed because a bill enacted last year solved the problem. This law permits States to adopt an optional trigger mechanism under the permanent Extended Benefits Program. If States had adopted this trigger, about half of the States would be activated for 13 weeks of benefits in March. No States, however, have adopted the trigger, in part because the recession has depleted their trust funds. Many State officials believe they cannot afford the 50 percent State cost of the program.

Others might ask why we must extend unemployment benefits again at all. The economy is improving, but we are not out of the woods yet. Although the unemployment rate fell from 7.3 percent in December to 7.1 percent in January, long-term unemployment persists. Over 1.9 million workers were unemployed more than half of a year, and 1.5 million of these workers were receiving emergency benefits.

Signs of improvement are showing up in the unemployment insurance system, but these reflect mainly declines in job losses, not long-term unemployment. Fewer workers are losing jobs now, but many of those who are unemployed remain in the system. Initial claims for the first 26 weeks of regular State benefits have dropped to around 350,000 workers from a peak exceeding 500,000 early in 1991. The rate at which workers have been exhausting their regular State benefits recently hit a near record 40 percent, which is substantially above the normal rate of 25 to 30 percent. As a consequence, the number of workers exhausting regular benefits and claiming emergency benefits has continued to run high at around 300,000 workers per month. Even if job growth picks up, it could take at least 6 months for regular benefit exhaustions to return to the normal level of around 200,000 workers per month.

As President Clinton noted earlier this week in his address to the Nation, job growth has been meager. It has been 22 months since the bottom of the recession and we have regained only 498,000 of the 1,734,000 jobs lost. According to the National Bureau of Economic Research, if we had experienced a normal recovery, we not only would have regained all of the jobs lost during the recession, but we also would be 2.2 million jobs ahead of our previous peak. We can and must do better.

Mr. Speaker, there is no doubt that we have a continuing long-term unemployment problem, and there is no doubt that our economy must create more jobs if we are to solve this problem. President Clinton's plan for long-term economic growth and deficit reduction addresses these needs, but in the meantime we need to extend emergency benefits again for those who have borne the brunt of this recession. I urge my colleagues to support this bill. I hope it is our last step in response to the recession, and our first step toward sustained economic expansion.

TRAINING AMERICANS FOR NEEDED JOBS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes or until 6 o'clock, whichever comes first.

Mr. OWENS. Mr. Speaker, tonight the American people are eagerly awaiting the State of the Union Address by the new President. We have all seen the way the new President has conducted himself since he was elected during the transition period and since he was inaugurated up until now, and we all recognize that we have world-class leadership. It is very important that a nation in a leadership position like the United States of America have leadership that can measure up to the task. Nations rise and fall on the basis of their leadership. It is not the natural resources that they happen to have, it is not their location on the globe. None of those factors are half as important as the kind of leadership they have.

The Soviet Union collapsed not because God willed it, but because the leadership was inadequate. Numerous countries in Africa are suffering not totally because they happened to be accidents of the weather and the drought. In the final analysis, when you analyze the problems of Somalia, of Liberia, of a number of nations, it is the leadership.

So we look forward to a new leadership, a world-class leadership. We await the proposals of the President. We await the proposals of the President. It is time to be bold. It is time to face up to the truth that this President is going to bite the bullet, face the truth, tell the American people exactly what the problems are, exactly what the budget situation is, and then propose some hard choices. We look forward to that, Mr. Speaker.

Mr. Speaker, I look forward to being able to go back to my district and tell the people of my district that finally, after 12 years of suffering, relief has come. We have had good reason to hope. I know as I go back to my district that the macropolicymaking in Washington, the big decisions that we make and the budget process that we go through here, takes a long time to get back to the district. But I want people there to recognize the fact that the situation has been turned around, is being turned around, and any efforts on their part, any efforts on our part, to meet the effort in Washington halfway, will be appreciated. I want people to understand that they have an opportunity to seize the moment and take their fate in their own hands and meet our leaders halfway.

Tonight the President will begin a process of redirecting our economy and our national priorities with a bold, comprehensive program. This national action package will emphasize investments in human beings, as well as investments in the physical infrastructure. Education and training for jobs will be a major component of this comprehensive program.

At some time within the next 100 days the President will also submit a more detailed program for welfare reform and he will initiate that program. We also anxiously await the communication of a national health care program.

Today I would like to call attention to one small little effort that could be made from within my district in Brooklyn, the 11th Congressional District.

I would like to call attention to a model program already in existence which in one effort shows how to accomplish some of our important goals in welfare reform, job training, improved health care, and the provision of child care for working mothers. As we all know, the Zoe Baird case highlighted the fact that there is a perceived shortage of qualified child care workers in this Nation. This model program at the Brooklyn Downstate Medical Center located in my 11th Congressional District trains child care workers for jobs in hospitals, day care centers and, yes, if there were more funds for training, many could provide quality child care services for working mothers. Without exploiting undocumented workers, the child care needs of working women can be met while at the same time we provide decent jobs for women who want to get off welfare and go to work.

Mr. Speaker, I do not know of many women on welfare who do not want to go to work. I do know that there is a lot of talk about putting them to work, but when they go looking for jobs, the jobs are not there.

Here is a situation where jobs do exist. Not only in Brooklyn, not only in New York City, not only in New York State, but anywhere in America there are women who need child care services.

Dr. Joann Bradley, vice provost for allied medical professions at Downstate Medical Center has developed a curriculum and regimen which in 1 year prepares enrollees for the very sensitive task of caring for children. Graduates who complete this program find a long list of jobs waiting. Dr. Bradley insists that adequate training requires no less than 1 year. The pilot program she presently operates may soon be closed for lack of funding. To allow such a program to close would indeed be tragic. Since this initiative is part of the continuing education program within the context of a great medical school, the participants are also exposed to information about career opportunities in the allied medical professions. Two-year training programs for x-ray technicians, medical records specialists, physical therapists, and nursing are among the programs offered.

Dr. Bradley estimates that with the proper funding she could expand her child care worker program to an enrollment of 100, with increases each year until a maximum of 300 per year is reached. Dr. Bradley notes that there are several obstacles to Federal support for this program which guarantees jobs to its graduates. The fact that most Federal training programs do not provide stipends on any support beyond 6 months is one of the major obstacles.

Many of them insist you can train a person for a job in 6 weeks, but they do not go beyond 6 months, and that is one of the major training obstacles, because Joann Bradley insists you cannot properly train a child care provider for the kind of work that we are talking about without spending at least a year doing it.

□ 1730

Mr. Speaker, to jump start the human investment initiatives of President Clinton while at the same time we begin to fill the great need for childcare workers in America, I propose that the Department of Health and Human Services and/or the Department of Labor, either singley or together, immediately review this existing program at Downstate Medical Center. This existing pilot program should be kept alive and should be expanded. We have here a model which may be replicated any place in the Nation, but especially it can be replicated in the needy urban centers.

The multiple benefits are clear and simple: Welfare mothers may enroll in a 1-year program which guarantees a stable job.

They get off the welfare rolls.

These same qualified child-care workers can be employed later on by families with wage earners in the higher paying professions. The welfare rolls are lowered, the children receive better care, and the Zoe Baird syndrome is avoided. I call on all the middle-class professionals of America, all the families, middle-class families to support this kind of effort where you are relieved of the burden of having to take care of children excessively at the same time you try to maintain a professional career. You are relieved of that burden at the same time you provide a job for somebody at a lower level.

If America is to overcome the competitive edge that some of our competition have, we are going to have to make the people in the professions, the people who are in the competitive arenas, more productive.

One way to make them more productive is to relieve them of some of the burdens they have by giving people at lower levels an opportunity to help the cause by doing other kinds of things. One of the things they can do is take care of children and do it well. American citizens are put to work in decent paying jobs. At the same time, they lessen the burden on professional women in more competitive areas of our economy. It is a win-win situation.

Certain practical innovations could move this set of opportunities further and faster. If we had just a few changes, if welfare recipients in the Downstate Program were allowed to keep their Medicaid benefits after they begin working, it would allow them to work at wages which middle-class families can afford to pay. This is one little change that could be made which would make a big difference.

This subsidy would benefit both the worker and the employer. In view of the fact that the Nation is moving in the direction of universal health care coverage, a waiver for a pilot program like this should not be difficult to justify. And it would show us the kind of benefits that we might realize.

What is most important, Mr. Speaker, is that the human investment components of President Clinton's jump start for the economy could begin and should begin immediately, and it could begin in an area of investment for those who have the greatest need.

Welfare mothers want to work. The need for child-care workers and allied health care professionals is massive. Let us begin by combining these two needs. This is the kind of program within the overall grand design that our President will be proposing. This is the kind of proposal that makes a lot of sense, that does not require a lot of funding and would produce great results for everybody concerned.

It is just one example of where we can go now that we have world-class leadership and the country is being turned in the right direction. This is just one example of the places and the directions that we can move in.

Mr. Speaker, I yield to the gentleman from Washington [Mr. McDERMOTT].

Mr. McDERMOTT. Mr. Speaker, I want to thank the gentleman from New York. The issue, I think, you are to be commended for bringing before the people today is the whole question of whether there is going to be any hope in this society.

This is a night, in about 3 hours, when we are going to have the President of the United States in here giving his State of the Union Message.

Mr. Speaker, I think in my political career of 20-some years, this is the most significant night that we have faced.

There is a famed philosopher named Santayana who once said that those who fail to learn from history are doomed to repeat it. Over the course of the last 12 years, we have spent ourselves into a situation that brought about the election of President Clinton. The American people, by more than two-thirds, rejected the former President. They said, "We don't want any more of the Bush-Reagan kind of economics. It didn't work. It has created enormous problems for us, and we want a change."

Now Mr. Clinton comes here tonight faced with a real choice: "Shall I be bold; shall I do the difficult things, the politically difficult things, the things that may be unpopular for a moment, or should I do something, sort of fiddle around the edges?"

Tonight the American people, Mr. Speaker, are going to see a bold act by the President. The President is coming before us with a speech for recovery for this country that, if one reads the newspapers, is a disaster and, if one listens to some of the folks on the other side of the aisle, is a disaster.

But if we look at it, 98.5 percent of the American people will not pay more income tax. All the things they have read in the paper, all the things they have heard from Members of the opposition is simply not true. The tax structure takes 70 percent of the revenue out of people making over $100,000; 98.2 percent of the people will not pay more income taxes.

Second, there are many people out there, Mr. Speaker, who believe that since they are on Social Security, they are going to get a terrible hit. They have been hearing all these awful things that are going to happen to Social Security. If somebody is out there who has not paid income tax now on Social Security, they will not be paying income tax tomorrow or the next day or any time during the next 4 years. This proposal does not tax senior citizens on their Social Security, and I defy anybody to give any evidence that the President is doing anything but taxing those people who have gotten the benefits of the last 12 years.

Now, the President's plan that he puts before us is really rooted in three basic principles. The first is to generate more jobs. And in this bill, he hopes to create over 8 million jobs over the next 4 years.

He also is intending to increase the incomes of all Americans. And third, most importantly, to provide the structural change to the economy by increasing investments and by reducing the deficits by 150 specific cuts in the Federal budget.

Over the past 12 years, the deficit went up and investments in people went down. And the President's plan tonight is to absolutely reverse that, to begin investing in the economy, investing in the people of this country, and turning around what has been going on economically in this country.

There are three basic principles in the President's plan.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. OWENS. Mr. Speaker, I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding to me.

I wanted to enter into this debate or discussion. I wanted, before we get to the parts of this program which I think are being misconstrued by some in the media and, perhaps, misunderstood by the people, to return to a different question, which I think needs some exposition tonight before we hear the speech.

That is the question of why we need an economic program. There are even some in the country who are saying we do not need an economic plan. We do not need this kind of deficit reduction. We do not need stimulus, short-term stimulus, or long-term investment, or health care reform, which, of course, are the four big parts of this program.

I want to address that because I think there is a deep misunderstanding, at least in some corridors in the country, about where we are in this economy.

Unemployment is a little bit down, but not much. The truth is, unemployment right now is about as bad as it was in the worst part of this 3-year recession.

The incredible thing about this so-called recovery that has been going on is that as it has been going on, and I think there are some beginning signs of recovery, unemployment has been constant.

□ 1740

In fact, the truth is that good-paying jobs are still being lost in great numbers across the country. In my town of St. Louis, General Motors just announced a few days ago that a plant that was built in 1983 will be closed at the end of this year; 4,500 workers in that plant are being laid off. These are people that, with fringes, earned $40 and $50 an hour. However, that was just the tip of the iceberg, because all of the plants that supply that plant with glass and steel and plastic and semiconductors and fabrics and a multitude of other items are also being laid off because those parts will no longer be needed.

In fact, if we want to take a bigger look at just the automobile industry, which is 1 of 6 jobs in this country, both direct and indirect, we will notice that we have lost 10 points of market share, primarily General Motors, over the last 6 years, and the closing of these 70 plants across the country and the unemployment of 70,000 workers in automobiles is the direct result of the loss of those 10 points of market share.

There are analysts who believe those jobs have been lost in the American economy forever. That is one industry, perhaps one of the most important industries in our country, but that is just one.

I would say to the gentleman from Washington [Mr. MCDERMOTT], in his part of the country Boeing, which is another big industry—and I have McDonnell Douglas in St. Louis—is laying off thousands of people, as is McDonnell Douglas, because we are in a depression in the aerospace industry. Then there is Sears; there is IBM, which was once believed to be the strongest part of our economy, laying off thousands of people all over the country.

The truth is that our economy is in extreme difficulty, not just yesterday and not just today, but I believe for the foreseeable future. It is a difficulty that comes not only in the form of unemployment but in the form of underemployment. We are losing our standard of living. Incomes are on the downswing, not the upswing.

The phenomenon that was the hallmark of this economy for 40 years, that everybody's standard of living would go up, is now not true. As President Clinton said the other day, if we stay on the course we are on, it will take 100 years to double our standard of living, something that it took 30 years to do after World War II.

This is the set of facts that we are presented with. That is why we need a bold, comprehensive program. That is why it cannot just be deficit reduction alone, as important as that is. It has to be more than that.

As President Clinton has often said to us in meetings in the last couple of weeks, we have a tough assignment. We not only have to do deficit reduction, which is extremely, excruciatingly difficult in and of itself, but we have to do short-term stimulus, a long-term investment strategy in this economy, and health care reform all together this year in order to have a hope of beginning to get this economy back on an upswing with the rising tide, a rising standard of living, good new jobs being created in our society, as they have been over the last years after World War II.

This is a big assignment. This has never been attempted before. We did deficit reduction in 1990, and both the gentleman from New York [Mr. OWENS] and the gentleman from Washington [Mr. MCDERMOTT] were here and participated in that. They well remember, and every Member who was involved in it remembers, how tough it was.

We are doing much more than that in 1993. We are talking about a deficit reduction program which equals what we did in 1990 in terms of deficit reduction, about $500 billion over 4 years, but in addition we are doing short-term stimulus, long-term investment strategy, which means we have got to cut more to get that investment done, and health care reform, which affects everybody and every interest in the country.

The four things work together. They are interactive. They are synergistic. If we just do one we won't get the outcome.

The gentleman from Washington is a physician—I know his former life—and he knows that when doctors treat patients, sometimes they have to give four different remedies. One is not enough. They may have to give some kind of prescription drug. They may have to have some kind of therapy, in addition to it. They might need to do surgery, and then something else in addition. The four therapies working together will bring the patient back to health.

That is what we face here. We need to do four things at once, all hard, but working together they can bring our economy back to health and give people the kind of long-term income increase, enrichment, that our society requires.

We had a riot in Los Angeles not too many months ago, a horrible riot. Hundreds of people died, businesses were destroyed, and there was civil violence the likes of which we have not seen in a long time in this country.

I talked with people who were witnesses of the violence, and they told me that a large part of what was happening was that the people who were the poorest in that society were looking and seeing workers at Boeing and McDonnell Douglas and General Motors and other places being laid off permanently, and these people who had never gotten their foot on the first rung of the economic ladder had decided that they were never going to get their foot on the first rung of the economic ladder, and it was their sense of hopelessness that led them to violence in our society.

If that feeling of hopelessness continues—and it will if our standard of living continues to go down—then we face a very unhappy future in this society. We can turn that around. That is what is at stake, is our standard of living, our hope, our sense of the future. That is what this program is for.

I hope that as Members receive this program and begin to analyze it and look at it and study it and understand it, that they will take the time to see the big picture and not focus down on just one part that they may not like.

I am sure that there will be parts of this that all of us will find not to like, but we cannot fail to see the larger picture of what this is for. I hope that all of us, whether we are Members of Congress or members of the citizenry of this society, will take the time to step back, to study the facts, to analyze what is being suggested, and then slowly but surely make up their minds on whether or not all four parts of this program are not a positive influence for the future of our country.

Mr. OWENS. Mr. Speaker, I thank the gentleman from Missouri [Mr. GEPHARDT], our majority leader, and I yield to the gentleman from California [Mr. TUCKER].

Mr. TUCKER. Mr. Speaker, I thank so much the gentleman from New York [Mr. OWENS] and the gentleman from Missouri [Mr. GEPHARDT], our majority leader.

Mr. Speaker, I could not agree more with the majority leader on this point. As I echoed in the House earlier today, it is so imperative that we do step back and we look at the President's economic plan in total, holistically, and not just pick apart and become very petty about what this means and portends for our country.

We have seen in the last couple of weeks discussion on whether or not there is importance in having an economic stimulus package, otherwise known, as our Republican colleagues say, as spending. But there is a difference between spending and investing. Just cutting spending will not get the job done in terms of the spiraling deficit that we now face in this country. What we need is vision. We have heard the saying that "Where there is no vision, the people perish," and that it truly what is going to happen to this country unless we embrace the vision today for the future of America tomorrow.

We must come together right now and we must recommit if we are truly concerned about family values. If we are truly concerned about American values, we must tonight make an effort to recommit, whether Republican or Democrat, black or white, urban or rural, and we must take a stand to support the President when he talks about investing in our economy, when he talks about growing our economy, growing public infrastructure, growing human infrastructure.

These are the things that Americans have been waiting for. What they have not been waiting for is more gridlock. What they have not been waiting for is more rhetoric. What they have not been waiting for is more talk about who is doing what and not really doing it.

□ 1750

It is interesting, Mr. Speaker, and Mr. Majority Leader, that the same persons who have been on the side of the read-my-lips tax culpability can now come before this House and talk about taxation. Yes, there is taxation in the President's plan, but that is only one part of his plan, and it is not going to serve this country well if we have the nay-sayers to come very quickly and to pick that part out and put it under the microscope.

In effect, Mr. Speaker, this is the time to find out the true mettle of all of us as Americans, not just Democrat Americans or Republican Americans, but as Americans to put aside the partisanism, to put aside the pettyism, and to be fair, to be open-minded, openhearted, and to really give the President an opportunity to present his package.

There will be some criticisms, there will be some tough choices. We will all have to make them. But for the first time in a long time let us do what is right in this country. Let us not talk about taxation for taxation's sake, but let us talk about what has to happen to make this country move in the direction that it must move in.

For example, I have heard all day on the floor bandied around the fact that the middle class is going to have to pay for this new economic package, this new economic stimulus. Let us once again look at the facts and the accuracy of that. I am informed by the White House that 70 percent of all of the revenues that have to be raised will be incurred by the rich.

Once again, let us look at the facts, and let us not just put rhetoric out there to stir up and to place fear in the minds of the American people. We can play games with the American people if we want to, but in the long run, and in the final analysis who will suffer from this? Not Democrats who are trying to work with the President, but Americans, whether they be Democrats or Republicans, who are out there looking for leadership from all of us. They will be looking tonight. They will be looking tonight at this greater than they do the Grammy Awards, greater than they do the American Music Awards, greater than they do the Super Bowl. This is the Super Bowl of all Super Bowls. People are waiting to see not only what the President has to say, but they are going to be waiting, and they are going to be listening to see what we have to say after the President speaks, for in effect, Mr. Speaker, the deafening silence or the cacophony of criticism after the President speaks will be what people will be looking for and listening for. They will be listening to see the tirade of those who are quick to just criticize on the sidelines, or they will be listening to see if those who want to come into the harmony of support and to help put this country back on track, and to create the economic engine and vehicle that will respond to the despair and pain that many Americans are feeling out there.

Yes, there is taxation, but these is also investment. Yes, there are spending cuts, but there is also investment.

Yes, the President is coming tonight with a comprehensive economic package, and we owe it to him, but even more importantly we owe it to this country and to the citizens to listen with fair ears and a watchful heart to make sure that his plan has an opportunity to be burst into reality.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. OWENS. I am happy to yield to the gentleman from California on the other side of the aisle.

Mr. LEWIS of California. Mr. Speaker, I really appreciate my colleague, MAJOR OWENS, yielding. I have come to the floor to suggest to the majority leader as well as to my colleague from

New York that there is a very, very sizable percentage of the Members of the House on both sides of the aisle who have come to this Congress with hopes that this President will succeed. In a bipartisan way we want to support a program that will turn our ailing economy around. It is my hope that that this program will mean jobs that will overcome the impact of a huge deficit and national debt.

There is little doubt that the people of San Bernardino Inyo counties, a largely rural, conservative district, have said time and time again to straighten out our economy we are willing to share a bit of the pain, as long as it is spread across the board equally.

I must tell you that as a result of the President's preliminary presentation on Monday night, those same people who were willing to share the pain have responded with some serious concerns about what they think they are going to hear. That is, they heard from the President's remarks that those taxpayers earning over $250,000 were going to bear the burden. Now the President has indicated that families earning $100,000 will feel the pain of new taxes. They heard that the initial pain might be felt by the senior citizens who were recipients of Social Security. They are very concerned that maybe the President is redefining where he will raise the revenues necessary to carry forward this investment, and indeed, my constituents, I can tell you, and I think people across this country are waiting tonight to hear specifics from the President. Just how is he planning to go about cutting the rate of growth of government. We are never going to handle the deficit problem unless we can get a handle on the growth of government.

As I stated earlier, I am here in a bipartisan sense, to suggest to our President that maybe his greatest problem has to do with this very House. This House tends to want to spend money. And there is little doubt, that the Presidents of the past 12 years have faced a similar challenge.

Mr. OWENS. I thank the gentleman for his remarks and appreciate his understanding of the complexity of the situation. I look forward to his support as the President and the Congress seek to educate the American people on just how complex our economy is.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. OWENS. I yield to the gentleman from Missouri, our majority leader.

Mr. GEPHARDT. I thank the gentleman for yielding. I appreciate my friend from California being here and entering into our discussion tonight.

I do not want to announce the President's plan before he is able to do it. I do again say and hope that all of our people, both in the House and all over the country, will take the time to study and analyze this plan before we pronounce judgment on it. There are a lot of ways to state facts, some of which can be misconstrued. And we are an impatient people. We like to make judgments quickly.

I just hope everyone will stop and study before they decide whether or not the totality of this program is a good one or a bad one.

Middle-income taxes is one area where there probably will be a lot of misunderstanding. As the gentleman from California [Mr. LEWIS] stated, the President the other night said that most of the taxes will be paid by people who earn $100,000 a year or more. One of the things I learned today, and which will be I am sure revealed tonight, is that there will not be an income tax increase for 98.5 percent of the American people. That is another way of stating the facts of this program.

Another fact that will come out tonight is that if people are on Social Security and are being taxed as they already are under Social Security, under this program if they are not paying tax now under Social Security they will not pay tax on their Social Security. So it only affects the people who again are higher income and also getting Social Security.

I say all of this simply again to hope that all of us will take the time to study, read and understand the totality of this package. There will be some who will want to pass judgment tonight, right after the speech, to say that it is a good or a bad program. This is a big change. The President got elected to try to perform change. He has worked hard with his people, Leon Panetta, our former colleague who was the budget chairman here, and Lloyd Bentsen, our former colleague from the Senate, and all of the other members of the administration have worked hard over the past weeks to put this program together. The President deserves and they deserve our willingness to study it and to analyze it, and to think about it, and then to make up our mind.

To my friends on the other side of the aisle, I know we are not likely to get many votes on the other side of the aisle. We have some fundamental differences about many of these budgetary matters. I accept that.

□ 1800

We would be in a gosh-awful mess in this country if everybody saw everything the same way.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. OWENS. I am happy to yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I must say that all of us hope the President's program is successful. The pain that will be felt by all of our constituents, if it is not successful, is too much to bear.

But when the emphasis is upon more spending rather than reducing the rate of growth of government, more taxes rather than reducing the rate of growth of government, it strikes me, at least my people, that he may be on the wrong path at the beginning. I hope he will provide us with specific detail as to how he is going to reduce the rate of growth of government tonight.

Mr. GEPHARDT. I can assure the gentleman that will be detailed.

Mr. OWENS. Mr. Speaker, I yield to the gentleman from Washington [Mr. MCDERMOTT] for a closing statement.

Mr. MCDERMOTT. Mr. Speaker, I just wanted to enter an editorial from the Seattle Post-Intelligence which says:

> Our job, as responsible citizens, is to listen closely and carefully to what the President has to say, to evaluate his proposals not from the insular, what's-in-it-for-me perspective that was so vogue in the 1980's but from the perspective of what is right and best for the economic health of this Nation in the decade, and century, to come.
>
> CLINTON'S CALL TO PAY THE BILLS
>
> One thing would have been worse than President Clinton breaking his campaign promise of a tax cut for the middle class: keeping it.
>
> Just as we faulted George Bush less for breaking his "read-my-lips" pledge on tax increases than for making it in the first place, we see a larger risk in Clinton trying to cling to a hustings pitch that has been overtaken by the reality of a burgeoning deficit.
>
> So Clinton's mea culpa during his brief Monday night television chat sets the appropriate mood for what he will say to Congress and the rest of us tonight.
>
> What we can expect the president to tell us tonight is that the time has come for shared sacrifice; shared as fairly as possible across the full range of American society.
>
> What we hope the president will say tonight is that it is time for the generation of Americans that has consumed so much of the world's resources and spent so much of its children's and grandchildren's money to pay the piper.
>
> The prosperity of the last decade was largely purchased on credit, and the credit cards are "maxed" out.
>
> Expect the president to call upon all of us to support a federal government that not only spends less money but spends it more efficiently, and to support a system of fair and progressive taxation that can begin to retire the nation's massive debt.
>
> Our job, as responsible citizens, is to listen closely and carefully to what the president has to say, to evaluate his proposals not from the insular, what's-in-it-for-me perspective that was so vogue in the 1980s but from the perspective of what is right and best for the economic health of this nation in the decade, and century, to come.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 39. Concurrent resolution providing for a joint session of

Congress to receive a message from the President.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The Speaker pro tempore (Mr. MINGE). The Chair desires to make an announcement on behalf of the Speaker.

After consultation with the majority and minority leaders, and with their consent and approval, the chair announces that tonight when the two Houses meet in joint session to hear an address by the President of the United States, only the doors immediately opposite the Speaker and those on his left and right will be open.

No one will be allowed on the floor of the House who does not have the privilege of the floor of the House.

Due to the large attendance which is anticipated, the Chair feels that the rule regarding the privilege of the floor must be strictly adhered to.

Children of Members will not be permitted on the floor, and the cooperation of all Members is requested.

RECESS

The SPEAKER pro tempore. The Chair declares the House in recess until approximately 8:40 p.m. for the purpose of receiving in joint session the President of the United States.

Accordingly [at 6 o'clock and 3 minutes p.m.], the House stood in recess until approximately 8:40 p.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 8 o'clock and 43 minutes p.m.

JOINT SESSION OF THE HOUSE AND SENATE HELD PURSUANT TO THE PROVISIONS OF HOUSE CONCURRENT RESOLUTION 39 TO HEAR AN ADDRESS BY THE PRESIDENT OF THE UNITED STATES

The SPEAKER of the House presided.

The Doorkeeper, the Honorable James T. Molloy, announced the Vice President and Members of the U.S. Senate, who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort the President of the United States into the Chamber:

The gentleman from Missouri [Mr. GEPHARDT];

The gentleman from Michigan [Mr. BONIOR];

The gentleman from Maryland [Mr. HOYER];

The gentleman from California [Mr. FAZIO];

The gentleman from Arkansas [Mr. THORNTON];

The gentlewoman from Arkansas [Ms. LAMBERT];

The gentleman from Illinois [Mr. MICHEL];

The gentleman from Georgia [Mr. GINGRICH];

The gentleman from Texas [Mr. ARMEY];

The gentleman from Illinois [Mr. HYDE];

The gentleman from Arkansas [Mr. DICKEY]; and

The gentleman from Arkansas [Mr. HUTCHINSON].

The VICE PRESIDENT. The President of the Senate, at the direction of that body, appoints the following Senators to escort the President of the United States into the House Chamber:

The Senator from West Virginia [Mr. BYRD];

The Senator from Maine [Mr. MITCHELL];

The Senator from Kentucky [Mr. FORD];

The Senator from Arkansas [Mr. PRYOR];

The Senator from Louisiana [Mr. BREAUX];

The Senator from Maryland [Ms. MIKULSKI];

The Senator from South Dakota [Mr. DASCHLE];

The Senator from Florida [Mr. GRAHAM];

The Senator from Vermont [Mr. LEAHY];

The Senator from Texas [Mr. KRUEGER];

The Senator from Kansas [Mr. DOLE];

The Senator from Wyoming [Mr. SIMPSON];

The Senator from Mississippi [Mr. COCHRAN];

The Senator from Oklahoma [Mr. NICKLES];

The Senator from Mississippi [Mr. LOTT];

The Senator from Texas [Mr. GRAMM]; and

The Senator from South Carolina [Mr. THURMOND].

The Doorkeeper announced the ambassadors, ministers, and chargé d'affaires of foreign governments.

The ambassadors, ministers, and chargé d'affaires of foreign governments entered the Hall of the House of Representatives and took the seats reserved for them.

The Doorkeeper announced the Chief Justice of the United States and the Associate Justices of the Supreme Court.

The Chief Justice of the United States and the Associate Justices of the Supreme Court entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

The Doorkeeper announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 9 o'clock and 7 minutes p.m., the Doorkeeper announced the President of the United States.

The President of the United States, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. Members of the Congress, I have the high privilege and the distinct honor of presenting to you the President of the United States.

[Applause, the Members rising.]

The PRESIDENT. Mr. President, Mr. Speaker, Members of the House and the Senate, distinguished Americans here as visitors in this Chamber, as am I, when Presidents speak to Congress and the Nation from this podium, typically they comment on the full range of challenges and opportunities that face the United States. But this is not an ordinary time, and for all the many tasks that require our attention, I believe tonight that one calls on us to focus, to unite, and to act, and that is our economy. For more than anything else, our task tonight as Americans is to make our economy thrive again.

Let me begin by saying that it has been too long, at least three decades, since a President has come and challenged Americans to join him on a great national journey, not merely to consume the bounty of today, but to invest for a much greater one tomorrow.

Like individuals, nations must ultimately decide how they wish to conduct themselves, how they wish to be thought of by those with whom they live, and, later, how they wish to be judged by history. Like every individual man and woman, nations must decide whether they are prepared to rise to the occasions history presents them.

We have always been a people of youthful energy and daring spirit. And at this historic moment, as communism has fallen, as freedom is spreading around the world, as a global economy is taking shape before our eyes, Americans have called for change. And now it is up to those of us in this room to deliver for them.

Our Nation needs a new direction. Tonight I present to you a comprehensive plan to set our Nation on that new course.

I believe we will find our new direction in the basic old values that brought us here over the last two centuries: a commitment to opportunity, to individual responsibility, to community, to work, to family, and to faith. We must now break the habits of both political parties and say there can be no more something for nothing, and admit, frankly, that we are all in this together.

The conditions which brought us as a Nation to this point are well known. Two decades of low productivity growth and stagnant wages; persistent unemployment and underemployment; years of huge government deficits and declining investment in our future; exploding health care costs and lack of coverage for millions of Americans; legions of poor children; education and job training opportunities inadequate to the demands of this tough global economy. For too long we have drifted without a strong sense of purpose, of responsibility, or of community. And our political system so often has seemed paralyzed by special interest groups, by partisan bickering, and by the sheer complexity of our problems.

I believe we can do better, because we remain the greatest nation of Earth, the world's strongest economy, the world's only military superpower. If we have the vision, the will, and the heart to make the changes we must, we can enter the 21st century with possibilities our parents could not even have imagined, and enter it having secured the American dream for ourselves and for future generations.

I well remember 12 years ago President Reagan stood at this very podium and told you and the American people that if our national debt were stacked in thousand-dollar bills, the stack would reach 67 miles into space. Well, today that stack would reach 267 miles.

I tell you this not to assign blame for this problem. There is plenty of blame to go around, in both branches of the Government and both parties. The time has come for the blame to end. I did not seek this office to place blame. I come here tonight to accept responsibility, and I want you to accept responsibility with me. And if we do right by this country, I do not care who gets the credit for it.

The plan I offer you has four fundamental components:

First, it shifts our emphasis in public and private spending from consumption to investment, initially by jump-starting the economy in the short term and investing in our people, their jobs, and their incomes, over the long run.

Second, it changes the rhetoric of the past into the actions of the present, by honoring work and families in every part of our public decisionmaking.

Third, it substantially reduces the Federal deficit, honestly and credibly, by using in the beginning the most conservative estimates of government revenues, not as the executive branch has done so often in the past, using the most optimistic ones.

Finally, it seeks to earn the trust of the American people by paying for these plans first with cuts in government waste and inefficiency. Second, with cuts, not gimmicks, in Government spending, and by fairness, for a change, in the way the burdens are borne.

Tonight I want to talk with you about what government can do, because I believe government must do more. But let me say first that the real engine of economic growth in this country is the private sector. And, second, that each of us must be an engine of growth and change. The truth is that as government creates more opportunity in this new and different time, we must also demand more responsibility in return.

Our immediate priority must be to create jobs, create jobs now. Some people say, well, we are in a recovery. We don't have to do that. Well, we all hope we are in a recovery, but we sure are not creating new jobs. And there is no recovery worth its salt that doesn't put the American people back to work.

To create jobs and guarantee a strong recovery, I call on Congress to enact an immediate package of jobs investments of over $30 billion to put people to work now, to create a half million jobs: jobs to rebuild our highways and airports, to renovate housing, to bring new life to rural communities, and to spread hope and opportunity among our Nation's youth. Especially I want to emphasize after the events of last year in Los Angeles and the countless stories of despair in our cities and in our poor rural communities, this proposal will create almost 700,000 new summer jobs for displaced unemployed young people alone this summer. And tonight I invite America's business leaders to join us in this effort, so that together we can provide over 1 million summer jobs in cities and poor rural areas for our young people.

Second, our plan looks beyond today's business cycle, because our aspirations extend into the next century. The heart of this plan deals with the long term. It is an investment program designed to increase public and private investment in areas critical to our economic future. And it has a deficit-reduction program that will increase the savings available for the private sector to invest, will lower interest rates, will decrease the percentage of the Federal budget claimed by interest payments, and decrease the risk of financial-market disruption that could adversely affect our economy.

Over the long run, all this will bring us a higher rate of economic growth, improved productivity, more high-quality jobs, and an improved economic competitive position in the world.

In order to accomplish both increased investment and deficit reduction, something no American Government has ever been called upon to do at the same time before, spending must be cut and taxes must be raised. The spending cuts I recommend were carefully thought through in a way to minimize any adverse economic impact, to capture the peace dividend for investment purposes, and to switch the balance in the budget from consumption to more investment. The tax increases and the spending cuts were both designed to assure that the cost of this historic program to face and deal with our problems will be borne by those who could readily afford it the most.

Our plan is designed, furthermore, and perhaps in some ways most importantly, to improve the health of American business through lower interest rates, more incentives to invest, and better-trained workers. Because small business has created such a high percentage of all the new jobs in our Nation over the last 10 or 15 years, our plan includes the boldest targeted incentives for small business in history. We propose a permanent investment tax credit for the smallest firms in this country, with revenues under $5 million. That is about 90 percent of the firms in America, employing about 40 percent of the work force, but creating a big majority of the net new jobs in more than a decade.

We propose new rewards for entrepreneurs to take new risks. We propose to give small business access to all the new technologies of our time, and we propose to attack this credit crunch, which has denied small business the credit they need to flourish and prosper.

With a new network of community development banks, and $1 billion to make the dream of enterprise zones real, we propose to bring new hope and new jobs to storefronts and factories from south Boston to south Texas to south-central Los Angeles.

This plan invests in our roads, our bridges, our transit systems, in high-speed railways, and high-tech information systems, and it provides the most ambitious environmental cleanup in partnership with State and local government of our time, to put people to work and to preserve the environment for our future.

Standing as we are on the edge of a new century, we know that economic growth depends as never before on opening up new markets overseas and expanding the volume of world trade. And so we will insist on fair trade rules in international markets as a part of a national economic strategy to expand trade, including the successful completion of the latest round of world trade talks and the successful completion of a North American Free Trade Agreement with appropriate safeguards for our workers and for the environment. At the same time, and I say this to you in both parties and across America tonight, all the people who are listening, it is not enough to pass a budget or even to have a trade agreement. The world is changing so fast that we must have aggressive targeted attempts to create the high-wage jobs of the future. That is what all our competitors are doing. Special attention to those critical industries that are going to explode in the 21st century, but are in trouble in America today, like aerospace. We must provide special assistance to areas and to workers displaced by cuts in the defense budget and by other unavoidable economic dislocations.

Again I will say that we must do this together. I pledge to you that I will do my best to see that business and labor and government work together for a change.

But all of our efforts to strengthen the economy will fail—let me say this again, I feel so strongly about this—all of our efforts to strengthen the economy will fail unless we also take this year, not next year, not 5 years from now, but this year, bold steps to reform our health care system.

In 1992 we spent 14 percent of our income on health care, more than 30 percent more than any other country in the world, and yet we were the only advanced nation that did not provide a basic package of health care benefits to all of its citizens. Unless we change the present pattern, 50 percent of the growth in the deficit between now and the year 2000 will be in health care costs. By the year 2000 almost 20 percent of our income will be in health care. Our families will never be secure, our businesses will never be strong, and our Government will never again be fully solvent until we tackle the health care crisis. We must do it this year.

The combination of the rising cost of care and the lack of care and the fear of losing care are endangering the security and the very lives of millions of our people, and they are weakening our economy every day. Reducing health care costs can liberate literally hundreds of billions of dollars for new investment in growth and jobs. Bringing health costs in line with inflation would do more for the private sector in this country than any tax cut we could give and any spending program we could promote. Reforming health care over the long run is critically essential to reducing not only our deficit, but to expanding investment in America.

Later this spring, after the First Lady and many good people who are helping her all across the country complete their work, I will deliver to Congress a comprehensive plan for health care reform that finally will bring costs under control and provide security to all of our families, so that no one will be denied the coverage they need, but so that our economic future will not be compromised either. We will have to root out fraud and overcharges and make sure that paperwork no longer chokes your doctor. We will have to maintain the highest American standards, and the right to choose, and a system that is the world's finest for all those who can access it. But first we must make choices. We must choose to give the American people the quality they demand and deserve with a system that will not bankrupt the country or further drive more Americans into agony.

Let me further say that I want to work with all of you on this. I realize this is a complicated issue. But we must address it. And I believe if there is any chance that Democrats or Republicans who disagree on taxes or spending or anything else can agree on one thing, surely we can all look at these numbers and go home and tell our people the truth—we cannot continue these spending patterns in public or private dollars for health care for less and less and less every year. We can do better.

Perhaps the most fundamental change the new direction I propose offers is its focus on the future and its investment which I seek in our children. Each day we delay really making a commitment to our children carries a dear cost. Half of the two-year-olds in this country today don't receive the immunizations they need against deadly diseases. Our plan will provide them for every eligible child, and we know now that we will save $10 later for every $1 we spend by eliminating preventable childhood diseases. That is a good investment no matter how you measure it.

The Women, Infants, and Children nutrition program will be expanded so that every expectant mother who needs the help gets it.

We all know that Head Start, a program that prepares children for school, is a success story. We all know that it saves money. But today it just reaches barely over a third of all the eligible children. Under this plan every eligible child will be able to get a head start. This is not just the right thing to do, it is the smart thing to do. For every dollar we invest today, we will save three tomorrow. We have to start thinking about tomorrow. I've heard that somewhere before.

We have to ask more in our schools, of our students, our teachers, our principals, our parents. Yes, we must give them the resources they need to meet high standards. But we must also use the authority and the influence and the funding of the Education Department to promote strategies that really work in learning. Money alone is not enough. We have to do what really works to increase learning in our schools.

All of our high school graduates need some further education in order to be competitive in this global economy, so we have to establish a partnership between businesses and education and the Government for apprenticeship programs in every State in this country to give our people the skills they need.

Lifelong learning will benefit not just young high school graduates, but workers too throughout their careers. The average 18-year-old today will change jobs seven times in a lifetime. We have done a lot in this country on worker training in the last few years, but the system is too fractured. We must develop a unified, simplified, sensible, streamlined worker training program so that workers receive the training they need, regardless of why they lost their jobs or whether they simply need to learn something new to keep them. We have got to do better than this.

Finally, I propose a program that got a great response from the American people all across this country last year, a program of national service to make college loans available to all Americans, and to challenge them at the same time to give something back to their country—as teachers, or police officers, or as community service workers. To give them the option to pay the loans back, but at tax time, so they can't beat the bill, but to encourage them instead to pay it back by making their country stronger and making their country better, and giving us the benefit of their time.

A generation ago when President Kennedy proposed and the United States Congress embraced the Peace Corps, it defined the character of a whole generation of Americans committed to serving people around the world. In this national service program we will provide more than twice as many slots for people before they go to college to be in national service than ever served in the Peace Corps. This program could do for this generation of Members of Congress what the Land Grant College Act did and what the G.I. Bill did for former Congressmen. In the future historians who got their education through the national service loan will look back on you and thank you for giving America a new lease on life if you meet this challenge.

If we believe in jobs and we believe in learning, we must believe in rewarding work. If we believe in restoring the values that make America special, we must believe that there is dignity in all work, and there must be dignity for all workers. To those who care for our sick, who tend our children, who do our most difficult and tiring jobs, the new direction I propose will make this solemn, simple commitment: by expanding the refundable earned income tax credit, we will make history. We will reward the work of millions of working poor Americans by realizing the principle that if you work 40 hours a week and you have got a child in the house, you will no longer be in poverty.

Later this year we will offer a plan to end welfare as we know it. I have worked on this issue for the better part of a decade, and I know from personal conversations with many people, that no one, no one wants to change the welfare system, as badly as those who are trapped in it.

I want to offer the people on welfare the education, the training, the child care, and the health care they need to get back on their feet. But, say, after 2 years, they must get back to work too, in private business if possible, in public service if necessary. We have to end welfare as a way of life and make it a path to independence and dignity.

Our next great goal should be to strengthen our families. I compliment the Congress for passing the Family and Medical Leave Act as a good first step, but it is time to do more. This plan will give this country the toughest child support enforcement system it has ever had. It is time to demand that people take responsibility for the children they bring into this world.

I ask you to help to protect our families against the violent crime which terrorizes our people and which tears our communities apart. We must pass a tough crime bill. I support not only the bill which did not quite make it to the President's desk last year, but also an initiative to put 100,000 more police officers on the street, to provide boot camps for first-time nonviolent offenders, for more space for the hardened criminals in jail, and I support an initiative to do what we can to keep guns out of the hands of criminals. Let me say this: I will make you this bargain; if you will pass the Brady bill, I will sure sign it.

Let me say now we should move to the harder parts. I think it is clear to every American, including every Member of Congress of both parties, that the confidence of the people who pay our bills in our institutions in Washington is not high. We must restore it. We must begin again to make government work for ordinary taxpayers, not simply for organized interest groups. And that beginning will start with real political reform.

I am asking the United States Congress to pass a real campaign finance reform bill this year. I ask you to increase the participation of the American people by passing the motor-voter bill promptly. I ask you to deal with the undue influence of special interests by passing a bill to end the tax deduction for lobbying and to act quickly to require all the people who lobby you to register as lobbyists by passing the lobbying registration bill.

Believe me, they were cheering that last section at home. I believe lobby reform and campaign finance reform are a sure path to increased popularity for Republicans and Democrats alike, because it says to the voters back home, this is your House, this is your Senate. We are your hired hands, and every penny we draw is your money.

Next to revolutionize government we have to ensure that we live within our means, and that should start at the top and with the White House. In the last few days I have announced a cut in the White House staff of 25 percent, saving approximately $10 million. I have ordered administrative cuts in budgets of agencies and departments. I have cut the Federal bureaucracy, or will over the next 4 years, by approximately 100,000 positions, for a combined savings of $9 billion.

It is time for government to demonstrate in the condition we are in that we can be as frugal as any household in America. And that is why I also want to congratulate the Congress. I noticed in meeting with the leadership today that Congress cut its cost. I think that is important. I think it will send a very clear signal to the American people.

But if we really want to cut spending, we are going to have to do more. And some of it will be difficult. Tonight I call for an across-the-board freeze in Federal Government salaries for 1 year. Thereafter, during this 4-year period, I recommend that salaries rise at one point lower than the cost-of-living allowance normally involved in Federal pay increases.

Next I recommend that we make 150 specific budget cuts, as you know, and that all those who say we should cut more be as specific as I have been.

Finally, let me say to my friends on both sides of the aisle, it is not enough simply to cut government. We have to rethink the whole way it works. When I became President I was amazed at just the way the White House worked in ways that added lots of money to what taxpayers had to pay, outmoded ways that didn't take maximum advantage of technology and did not do things that any business would have done years ago to save taxpayers money. So I want to bring a new spirit of innovation into every government department. I want to push education reform, as I said, not just to spend more money, but to really improve learning. Some things work and some things don't. We ought to be subsidizing the things that work, and discouraging the things that don't.

I would like to use that Superfund to clean up pollution for a change, and not just pay lawyers.

We must use Federal bank regulators to protect the security and safety of our financial institutions, but they should not be used to continue the credit crunch and to stop people from making sensible loans.

I would like for us to not only have welfare reform, but to reexamine the whole focus of all of our programs that help people, to shift them from entitlement programs to empowerment programs. In the end, we want people not to need us any more, and I think that is important.

But in the end, we have to get back to the deficit. For years, there has been a lot of talk about it, but very few credible efforts to deal with it. And now I understand why, having dealt with the real numbers for 4 weeks. But I believe this plan does. It tackles the budget deficit seriously, and over the long term. It puts in place one of the biggest deficit reductions and one of the biggest changes in Federal priorities, from consumption to investment, in the history of this country at the same time over the next four years.

Let me say to all the people watching us tonight who will ask me these questions beginning tomorrow as I go around the country, who have asked it in the past, we are not cutting the deficit just because experts say it is the thing to do or because it has some intrinsic merit. We have to cut the deficit because the more we spend paying off the debt, the less tax dollars we have to invest in jobs, in education, and the future of this country. And the more money we take out of the pool of available savings, the harder it is for people in the private sector to borrow money at affordable interest rates for a college loan for their children, for a home mortgage, or to start a new business. That is why we have got to reduce the debt, because it is crowding out other activities that we ought to be engaged in and that the American people ought to be engaged in.

We cut the deficit so that our children will be able to buy a home, so that our companies can invest in the future, in retraining its workers, and so that our government can make the kinds of investments we need to be a stronger and smarter and safer Nation.

If we don't act now, you and I might not even recognize this government 10 years from now. If we just stay with the same trends of the last 4 years, by the end of the decade the deficit will be $635 billion a year, almost 80 percent of our gross domestic product. And paying the interest on that debt will be the costliest government program of all. We will still be the world's largest debtor. And when Members of Congress come here, they will be devoting over 20 cents on the dollar to interest payments, more than half of the budget to health care and to other entitlements, and you will come here and deliberate and argue over 6 or 7 cents on the dollar, no matter what America's problems are.

We will not be able to have the independence we need to chart the future that we must, and we will be terribly dependent on foreign funds for a large portion of our investment.

This budget plan, by contrast, will by 1997 cut $140 billion in that year alone from the deficit, a real spending cut, a real revenue increase, a real deficit reduction, using the independent numbers of the Congressional Budget Office.

Well, you can laugh, my fellow Republicans, but I will point out that the Congressional Budget Office was normally more conservative about what was going to happen and closer to right than previous Presidents have been. I did this so that we could argue about priorities with the same set of numbers.

I did this so no one could say I am estimating my way out of this difficulty.

I did this because if we can agree together on the most prudent revenues we are likely to get if the recovery stays and we do right things economically, then it will turn out better for the American people than we say. In the last 12 years, because there were differences over the revenue estimates, you and I know that both parties were given greater elbow room for irresponsibility. This is tightening the rein on the Democrats as well as the Republicans. Let's at least argue about the same set of numbers so the American people will think we are being straight with them.

As I said earlier, my recommendation makes more than 150 difficult reductions to cut the Federal spending by a total of $246 billion. We are eliminating programs that are no longer needed, such as nuclear power research and development. We are slashing subsidies and cancelling wasteful projects. Many of these programs were justified in their time. A lot of them are difficult for me to recommend reduction in. Some really tough ones for me personally. I recommend that we reduce interest subsidies to the Rural Electric Administration. This is a difficult thing for me to recommend. But I think that I cannot exempt the things that exist in my State or in my experience if I ask you to deal with things that are difficult for you to deal with. We are going to have no sacred cows, except the fundamental abiding interests of the American people.

I have to say that we all know our government has been just great at building programs. The time has come to show the American people that we can limit them, too. We cannot only start things, but we can actually stop things. As we restructure our military forces to meet the new threats of the post-Cold War World, it is true that we can responsibly reduce our defense budget. And we may all doubt what that range of reduction is. But let me say that as long as I am President, I will do everything I can to make sure that the men and women who serve under the American Flag will remain the best trained, the best prepared, the best equipped fighting force in the world, and every one of you should make that solemn pledge. We still have responsibilities around the world. We are the world's only superpower. This is still a dangerous and uncertain time. And we owe it to the people in uniform to make sure that we adequately provide for the national defense and for their interests and needs.

Backed by an effective national defense and a stronger economy, our Nation will be prepared to lead a world challenge, as it is everywhere, by ethnic conflicts, by the proliferation of weapons of mass destruction, by the global democratic revolution, and by challenges to the health of our global environment.

I know this economic plan is ambitious, but I honestly believe it is necessary for the continued greatness of the United States. And I think it is paid for fairly, first by cutting government, then by asking the most of those who benefited the most in the past, and by asking more Americans to contribute today so that all of us can prosper tomorrow.

For the wealthiest, those earning more than $180,000 per year, I ask you who are listening tonight to support a raise in the top rate for Federal income taxes from 31 to 36 percent. We recommend a 10 percent surtax on incomes over $250,000 a year. And we recommend closing some loopholes that let some people get away without paying any tax at all.

For businesses with taxable incomes in excess of $10 million, we recommend a raise in the corporate tax rate also to 36 percent, as well as a cut in the deduction for business entertainment expenses.

Our plan seeks to attack tax subsidies that actually reward companies more for shutting their operations down here and moving them overseas than for staying here and reinvesting in America. I say that as someone who believes that American companies should be free to invest around the world and as a former Governor who actively sought investment of foreign companies in my State. But the Tax Code should not express a preference to American companies for moving somewhere else, and it does in particular places today.

We will seek to ensure that through effective tax enforcement, foreign corporations who do make money in America simply pay the same taxes that American companies make on the same income.

To middle-class Americans who have paid a great deal for the last 12 years, and from whom I ask a contribution tonight, I will say again, as I did on Monday night, you are not going alone anymore, you are certainly not going first, and you are not going to pay more for less as you have too often in the past.

I want to emphasize the facts about this plan: 98.8 percent of America's families will have no increase in their income-tax rates, only 1.2 percent at the top.

Let me be clear: There will also be no new cuts in benefits for Medicare. As we move toward the fourth year with the explosion in health care costs, as I said, expected to account for 50 percent of the growth in the deficit between now and the year 2000, there must be planned cuts in payments to providers, to doctors, to hospitals, to labs, as a way of controlling health care costs. But I see these only as a stopgap until we can reform the entire health care system. If you will let me do that, we can be fair to the providers and to the consumers of health care.

Let me repeat this, because I know it matters to a lot of you on both sides of the aisle. This plan does not make a recommendation for new cuts in Medicare benefits for any beneficiary.

Secondly, the only change we are making in Social Security is one that has already been publicized. The plan does ask older Americans with higher incomes who do not rely solely on Social Security to get by to contribute more. This plan will not affect the 80 percent of Social Security recipients who do not pay taxes on Social Security now. Those who do not pay tax on Social Security now will not be affected by this plan.

Our plan does include a broad-based tax on energy. And I want to tell you why I selected this and why I think it is a good idea. I recommend that we adopt a BTU tax on the heat content of energy as the best way to provide us with revenue to lower the deficit, because it also combats pollution, promotes energy efficiency, promotes the independence economically of this country, as well as helping to reduce the debt, and because it does not discriminate against any area. Unlike a carbon tax, it is not too hard on the coal States. Unlike a gas tax, it is not too tough on people who drive a long way to work. Unlike an ad valorem tax, it doesn't increase just when the price of an energy source goes up. And it is environmentally responsible. It will help us in the future, as well as in the present, with the deficit.

Taken together, these measures will cost an American family with an income of about $40,000 a year less than $17 a month. It will cost American families with incomes under $30,000 nothing because of other programs we propose, principally those raising the earned income tax credit.

Because of our publicly stated determination to reduce the deficit, if we do these things we will see the continuation of what has happened just since the election. Just since the election, since the Secretary of the Treasury, the Director of the Office of Management and Budget, and others have begun to speak out publicly in favor of a tough deficit-reduction plan, interest rates have continued to fall long-term. That means that, for the middle class who will pay something more each month, if they have any credit needs or demands, their increased energy costs will be more than offset by lower interests costs for mortgages, consumer loans, and credit cards. This can be a wise investment for them and their country now.

I would also point out what the American people already know, and that is because we are a big vast country, where we drive long distances, we have maintained far lower burdens on energy than any other advanced country. We will still have far lower burdens on energy than any other advanced country, and these will be spread fairly, with real attempts to make sure that no cost is imposed on families with income under $30,000, and that the costs are very modest until you get into the higher income groups where the income taxes trigger in.

Now I ask all of you to consider this. Whatever you think of the tax program, whatever you think of the spending cuts, consider the cost of not changing. Remember the numbers that you all know. If we just keep on doing what we are doing, by the end of the decade we will have a $650 billion a year deficit. If we just keep on doing what we are doing, by the end of the decade 20 percent of our national income will go to health care every year, twice as much as any other country on the face of the globe. If we just keep on doing what we are doing, over 20 cents on the dollar will have to go to service the debt.

Unless we have the courage now to start building our future and stop borrowing from it, we are condemning ourselves to years of stagnation, interrupted by occasional recessions; to slow growth in jobs, to no more growth in incomes, to more debt, to more disappointment.

Worse yet, unless we change, unless we increase investment and reduce the debt, to raise productivity so that we can generate both jobs and incomes, we will be condemning our children and our children's children to a lesser life than we enjoyed.

Once Americans looked forward to doubling their living standards every 25 years. At present productivity rates, it will take 100 years to double living standards, until our grandchildren's grandchildren are born. I say that is too long to wait.

Tonight the American people know we have to change. But they are also likely to ask me tomorrow, and all of you for the weeks and months ahead, whether we have the fortitude to make the changes happen in the right way.

They know that as soon as I leave this Chamber and you go home, various interest groups will be out in force lobbying against this or that piece of this plan, and that the forces of conventional wisdom will offer 1,000 reasons why we well ought to do this, but we just can't do it. Our people will be watching and wondering, not to see whether you disagree with me on a particular issue, but just to see whether this is going to be business as usual, or a real new day. Whether we are all going to conduct ourselves as if we know we are working for them.

We must scale the walls of the people's skepticism. Not with our words, but with our deeds. After so many years of gridlock and indecision, after so many hopeful beginnings and so few promising results, the American people are going to be harsh in their judgments of all of us if we fail to seize this moment.

This economic plan can't please everybody. If the package is picked apart, there will be something that will anger each of us. It won't please anybody. But if it is taken as a whole, it will help all of us.

So I ask you all to begin by resisting the temptation to focus only on a particular spending cut you don't like or some particular investment that wasn't made. And nobody likes the tax increases. But let's just face facts: For 20 years, through administrations of both parties, incomes have stalled and debt has exploded and productivity has not grown as it should. We cannot deny the reality of our condition. We have got to play the hand we were dealt and play it as best we can.

My fellow Americans, the test of this plan cannot be what is in it for me. It has got to be what is in it for us.

If we work hard, and if we work together, if we rededicate ourselves to creating jobs, to rewarding work, to strengthening our families, to reinventing our Government, we can lift our country's fortunes again.

Tonight I ask everyone in this Chamber, every American, to look simply into your own heart, to spark your own hopes, to fire your own imagination. There is so much good, so much possibility, so much excitement in this country now, that if we act boldly and honestly, as leaders should, our legacy will be one of prosperity and progress. This must be America's new direction. Let us summon the courage to seize it.

Thank you. God bless America.

[Applause, the Members rising.]

At 10 o'clock and 13 minutes p.m., the President of the United States, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet.

The Chief Justice of the United States and the Associate Justices of the Supreme Court.

The ambassadors, ministers, and chargé d'affaires of foreign governments.

JOINT SESSION DISSOLVED

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair declares the joint session of the two Houses now dissolved.

Accordingly, at 10 o'clock and 16 minutes the joint session of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

MESSAGE OF THE PRESIDENT REFERRED TO THE COMMITTEE OF THE WHOLE HOUSE ON THE STATE OF THE UNION

Mr. GEPHARDT. Mr. Speaker, I move that the message of the President be referred to the Committee of the Whole House on the State of the Union and ordered printed.

The motion was agreed to.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DOOLITTLE, (at the request of Mr. MICHEL) from 4:30 p.m. today, on account of illness in the family.

Mr. MCDADE, (at the request of Mr. MICHEL) on February 16, 17, and 18, on account of medical reasons.

Mrs. LLOYD, (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CRAPO) to revise and extend their remarks and include extraneous material:)

Mr. DELAY, for 60 minutes each day, today and on February 18.

Mr. BURTON of Indiana, for 60 minutes each day, on March 15, 16, 17, 18, 23, 24, 25, 26, 29, 30, 31, April 1, 2, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29, and 30.

Mr. SOLOMON, for 60 minutes each day, today and on February 23, 24, and 25.

Mr. DORNAN, for 60 minutes each day, on March 17, 23, 24, 25, 26, 29, 30, 31, April 1, 2, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29, and 30.

Mr. COLLINS of Georgia, for 5 minutes, today.

(The following Members (at the request of Mr. FRANK of Massachusetts) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 5 minutes, today.

Mr. CONYERS, for 15 minutes, today.

Mr. TUCKER, for 60 minutes, today and February 18 and 19.

Mr. KOPETSKI, for 60 minutes, today.

(The following Members (at the request of Mr. DURBIN) to revise and extend their remarks and include extraneous material:)

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. OBEY, for 5 minutes each day, on February 18, 23, and 24.

Mr. OBEY, for 60 minutes each day, on February 19, 22, March 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 18, 19, 23, 24, and 25.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CRAPO) and to include extraneous matter:)

Mr. BALLENGER.

Mr. PORTER.
Mr. BILIRAKIS.
Mr. CLINGER.
Mr. SMITH of Oregon.
Mr. CRANE.
Mr. SOLOMON in three instances.
Mr. WALSH.
Mr. GEKAS.
Mr. DUNCAN in two instances.
Ms. SNOWE in two instances.
Mr. GINGRICH.

(The following Members (at the request of Mr. FRANK of Massachusetts) and to include extraneous matter:)

Mrs. KENNELLY in two instances.
Mr. JACOBS.
Mr. NEAL of Massachusetts.
Mr. GEJDENSON.
Mr. CONDIT.
Mr. GUTIERREZ.
Mr. BLACKWELL.
Mr. TOWNS.
Mr. JOHNSON of South Dakota.
Mr. DELLUMS.
Mr. DIXON.
Mr. TORRICELLI.
Mr. HAMILTON in two instances.
Mr. BILBRAY.
Mr. KLINK.

ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 17 minutes p.m.), the House adjourned until Thursday, February 18, 1993, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

734. A letter from the Appraisal Subcommittee, Federal Financial Institutions Examination Council, transmitting the Council's 1992 annual report of the Appraisal Subcommittee, pursuant to Public Law 101-73, section 1103(a)(4) (103 Stat. 512); to the Committee on Banking, Finance and Urban Affairs.

735. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Review of the Department of Public Work's Water and Sewer Utility Administration's Enterprise Fund Revenue and Expenditures," pursuant to D.C. Code, section 47-117(d); to the Committee on the District of Columbia.

736. A letter from the Director, Agency for International Development, transmitting a report on economic conditions prevailing in Israel that may affect its ability to meet its international debt obligations and to stabilize its economy, pursuant to 22 U.S.C. 2346 note; to the Committee on Foreign Affairs.

737. A letter from the Executive Director, Interstate Commission on the Potomac River Basin, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1992, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

738. A letter from the Secretary, Smithsonian Institution, transmitting a copy of the National Society of the Daughters of the American Revolution's "Annual Proceedings of the One Hundred and First Continental Congress," pursuant to 36 U.S.C. 18(b); to the Committee on the Judiciary.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI (for himself, Mr. MATSUI, and Mr. GEPHARDT):

H.R. 920. A bill to extend the emergency unemployment compensation program, and for other purposes; to the Committee on Ways and Means.

By Mrs. COLLINS of Illinois:

H.R. 921. A bill to amend the Higher Education Act of 1965 to require institutions of higher education to disclose participation rates, and program support expenditures, in college athletic programs, and for other purposes; to the Committee on Education and Labor.

By Mr. JACOBS:

H.R. 922. A bill to amend the Social Security Act and related provisions of law to make miscellaneous improvements in the old-age, survivors, and disability insurance program; to the Committee on Ways and Means.

By Mr. CALLAHAN:

H.R. 923. A bill to provide Federal recognition of the Mowa Band of Choctaw Indians of Alabama; to the Committee on Natural Resources.

By Mr. BALLENGER:

H.R. 924. A bill to designate certain lands in the State of North Carolina as wilderness, and for other purposes; jointly, to the Committees on Natural Resources and Agriculture.

By Mr. BOEHNER (for himself, Mr. KYL, Mr. ZELIFF, Mr. BALLENGER, Mr. ZIMMER, and Mr. DELAY):

H.R. 925. A bill to provide that any new tax increases shall not apply to individuals with taxable incomes under $200,000; to the Committee on Ways and Means.

By Mr. CLINGER (for himself and Mr. SHUSTER):

H.R. 926. A bill to amend the Federal Aviation Act of 1958 to authorize the Secretary of Transportation to reduce under certain circumstances the percentage of voting interests of air carriers which are required to be owned or controlled by persons who are citizens of the United States; to the Committee on Public Works and Transportation.

By Mr. COYNE:

H.R. 927. A bill to designate the Pittsburgh Aviary in Pittsburgh, PA, as the National Aviary in Pittsburgh; to the Committee on Merchant Marine and Fisheries.

H.R. 928. A bill to amend the Internal Revenue Code of 1986 to provide a full exemption from the volume cap on private activity bonds for bonds used to finance high-speed intercity rail facilities; to the Committee on Ways and Means.

By Mr. GOSS:

H.R. 929. A bill to amend the Internal Revenue Code of 1986 to simplify the application of employment taxes in the case of domestic services; to the Committee on Ways and Means.

By Mr. JACOBS:

H.R. 930. A bill to amend the Internal Revenue Code to allow a deduction for qualified adoption expenses, and for other purposes; to the Committee on Ways and Means.

H.R. 931. A bill to amend title II of the Social Security Act to require the Secretary of the Treasury to issue to the trust funds under the old-age, survivors, and disability insurance program certificates evidencing obligations of the United States held by such trust funds; to the Committee on Ways and Means.

By Mr. MANZULLO:

H.R. 932. A bill to extend until January 1, 1997, the existing suspension of duty on certain monochrome glass envelopes; to the Committee on Ways and Means.

By Mr. MAZZOLI (for himself and Mr. LANTOS):

H.R. 933. A bill to implement for the United States the United Nations Convention Against Torture and Other Cruel Inhumane or Degrading Treatment or Punishment; to the Committee on the Judiciary.

By Mr. MAZZOLI:

H.R. 934. A bill to amend title 28, United States Code, relating to jurisdictional immunities of foreign states, to grant jurisdiction to the courts of the United States in certain cases involving torture or extrajudicial killing occurring in that state; to the Committee on the Judiciary.

By Mrs. MINK:

H.R. 935. A bill to provide for a Federal program of insurance against the risk of catastrophic earthquakes, volcanic eruptions, and hurricanes, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Science, Space, and Technology.

By Mr. MOAKLEY:

H.R. 936. A bill to amend the Boston National Historical Park Act of 1974 to authorize a cooperative agreement with the Boston Public Library for the distribution of informational and interpretive materials relating to the park and to the Freedom Trail; to the Committee on Natural Resources.

By Mr. PARKER (for himself, Mr. LEWIS of Georgia, Mr. WHITTEN, Mr. MONTGOMERY, Mr. GORDON, Mr. STOKES, Mr. TOWNS, Mr. SISISKY, Mr. FORD of Tennessee, Ms. PELOSI, Mr. LIPINSKI, Mr. EVANS, Mr. FROST, Mr. GONZALEZ, Mr. CONYERS, Mr. MFUME, Mr. BONIOR, Mr. BROWDER, Mr. OWENS, Mr. WYNN, Mr. DIXON, Miss COLLINS of Michigan, and Ms. NORTON):

H.R. 937. A bill to provide for the establishment of the Margaret Walker Alexander National African-American Research Center; to the Committee on Education and Labor.

By Mr. VOLKMER (for himself, Mr. EMERSON, Mr. HANCOCK, and Mr. SKELTON):

H.R. 938. A bill to designate the Veterans Hospital in Kansas City, MO, the "Omar N. Bradley Veterans Hospital"; to the Committee on Veterans' Affairs.

By Mr. BILBRAY:

H.R. 939. A bill to extend the suspension of duty on three-dimensional cameras; to the Committee on Ways and Means.

By Mrs. BYRNE (for herself, Mr. EVANS, Mr. RAHALL, Mr. JEFFERSON, Mr. WHEAT, Mrs. MORELLA, Mr. PETERSON of Minnesota, and Mr. BROWN of California):

H.R. 940. A bill to establish an entitlement program regarding the immunization of infants against vaccine-preventable diseases; to the Committee on Energy and Commerce.

By Mr. CAMP (for himself, Mr. HENRY, and Mr. HOBSON):

H.R. 941. A bill to encourage soil and water protection and energy conservation among farmers, ranchers, forest industry, and for other purposes; to the Committee on Agriculture.

By Mr. CARDIN:

H.R. 942. A bill to amend title XVIII of the Social Security Act to permit separate payment to be made under part B of the Medicare Program for the interpretation of electrocardiograms performed during an office visit; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. COLLINS of Georgia (for himself, Mr. GINGRICH, Mr. DARDEN, Mr. DEAL, Mr. INHOFE, Mr. BALLENGER, and Mr. DEFAZIO):

H.R. 943. A bill to amend the Federal Aviation Act of 1958 to prohibit the issuance of a certificate of public convenience and necessity to an applicant which is controlled by a person who has controlled one or more air carriers which have filed, in the aggregate, two or more petitions for bankruptcy; to the Committee on Public Works and Transportation.

By Mr. CUNNINGHAM (for himself, Mr. GALLEGLY, Mr. MCCANDLESS, Mr. LIGHTFOOT, Mr. OXLEY, Mr. ZELIFF, Mr. MYERS of Indiana, Mr. BARTLETT, and Mr. STUMP):

H.R. 944. A bill to amend title IV of the Social Security Act to deny aid to families with dependent children to certain individuals for any week in which the individuals work or attend courses at an educational institution for fewer than 30 hours; to the Committee on Ways and Means.

By Mr. DICKS:

H.R. 945. A bill to amend the Public Health Service Act and the Social Security Act to increase the availability of primary and preventive health care, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. FISH:

H.R. 946. A bill authorizing the President to award posthumously the Medal of Honor or other appropriate military decoration to John Peter Manzi, killed in action on September 7, 1967, in the Republic of Vietnam; to the Committee on Armed Services.

By Mr. LIPINSKI:

H.R. 947. A bill to amend the Internal Revenue Code of 1986 to allow a permanent incremental investment credit; to the Committee on Ways and Means.

By Mr. REGULA:

H.R. 948. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for dividends paid by domestic corporations, to reduce the tax on capital gains from assets held for more than 3 years, and to restore the investment tax credit for certain property; to the Committee on Ways and Means.

By Mr. SANGMEISTER:

H.R. 949. A bill to amend title 38, United States Code, to increase the amount of the loan guaranty for loans for the purchase or construction of homes; to the Committee on Veterans' Affairs.

H.R. 950. A bill to amend title 38, United States Code, to provide mortgage payment assistance to avoid foreclosure of home loans guaranteed under title 38, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 951. A bill to amend title 38, United States Code, to provide for the payment of the cemetery plot allowance for veterans eligible for burial in a national cemetery but interred in a State veterans cemetery, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SARPALIUS:

H.R. 952. A bill to amend the Internal Revenue Code of 1986 to adjust the $50 threshold for payment of Social Security taxes on wages paid for domestic service in a private home for inflation since the $50 threshold was established, and for other purposes; to the Committee on Ways and Means.

By Mr. SHAW (for himself and Mr. SAXTON):

H.R. 953. A bill to amend title XVIII of the Social Security Act to extend the period during which Medicare-dependent, small rural hospitals receive additional payments under the Medicare Program for the operating costs of inpatient hospital services, to revise the criteria for determining whether hospitals are eligible for such additional payments, and to provide additional payments under the Medicare Program to other Medicare-dependent hospitals; to the Committee on Ways and Means.

By Ms. SNOWE:

H.R. 954. A bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certain individuals under part B of the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. ARCHER:

H.R. 955. A bill to exempt semiconductors from the country of origin marking requirements under the Tariff Act of 1930; to the Committee on Ways and Means.

H.R. 956. A bill to amend the Harmonized Tariff Schedule of the United States to clarify the classification of linear alkylbenzene sulfonates and linear alkylbenzene sulfonic acid; to the Committee on Ways and Means.

By Mr. EDWARDS of California:

H.R. 957. A bill to amend title 18, United States Code, and other provisions of law, to make them consistent with the Sentencing Reform Act of 1984; to the Committee on the Judiciary.

By Mrs. KENNELLY:

H.R. 958. A bill to amend the Internal Revenue Code to simplify the earned income credit; to the Committee on Ways and Means.

By Mr. PRICE of North Carolina (for himself, Mr. LANCASTER, Mr. COX, Mr. FRANK of Massachusetts, Mr. HEFNER, Mr. SCHUMER, Mr. BAKER of Louisiana, Mr. MINETA, Mr. PENNY, Mr. MILLER of California, Mr. RANGEL, Mr. MARTINEZ, Mr. SANDERS, Mr. WALSH, Mr. STUDDS, Mrs. CLAYTON, Mr. SLATTERY, Mr. RICHARDSON, Mr. BOUCHER, Mr. LIVINGSTON, Mr. THOMAS of Wyoming, Mr. WATT, Mr. KANJORSKI, Mr. GONZALEZ, Mr. ACKERMAN, Mrs. MORELLA, Mrs. COLLINS of Illinois, Mr. BRYANT, Mr. HUGHES, Ms. LONG, Mrs. LOWEY, Mr. SKAGGS, Ms. SLAUGHTER, Mr. COLEMAN, Mr. LAROCCO, Mr. FROST, Mr. HOCHBRUECKNER, Mr. DURBIN, Mr. NEAL of North Carolina, Mr. PARKER, Mr. VALENTINE, Mr. WASHINGTON, Mr. STOKES, Mr. ROHRABACHER, Mr. YOUNG of Florida, Mr. ANDREWS of Maine, Ms. PELOSI, Mr. SAWYER, Mr. CLEMENT, Mr. EMERSON, Mr. BACCHUS of Florida, Mr. EVANS, Mr. WYDEN, Mr. ENGEL, Mr. CRAMER, Mr. ABERCROMBIE, Ms. DELAURO, Mr. DEFAZIO, Ms. NORTON, Mr. RAVENEL, Mr. OWENS, Miss COLLINS of Michigan, Mr. FILNER, Mr. LAFALCE, Mr. VENTO, Mr. JOHNSON of South Dakota, Mr. WELDON, Mr. BARTLETT, and Mr. TUCKER):

H.R. 959. A bill to amend the Internal Revenue Code of 1986 to restore the prior law exclusion for scholarships and fellowships and to restore the deduction for interest on educational loans; to the Committee on Ways and Means.

By Mr. VOLKMER:

H.J. Res. 111. Joint resolution designating October 21, 1993, as "National Biomedical Research Day"; to the Committee on Post Office and Civil Service.

By Mr. FISH:

H.J. Res. 112. Joint resolution to designate May 13, 1994, as "Irish Brigade-Marine Day"; to the Committee on Post Office and Civil Service.

By Mr. RAHALL:

H.J. Res. 113. Joint resolution designating November 21, 1993, through November 27, 1993, as "Christian Heritage Week"; to the Committee on Post Office and Civil Service.

By Mr. STARK:

H.J. Res. 114. Joint resolution proposing an amendment to the Constitution of the United States guaranteeing access to medical care to all citizens of the United States; to the Committee on the Judiciary.

By Mr. DERRICK:

H. Con. Res. 39. Concurrent resolution providing for a joint session of Congress to receive a message from the President; considered and agreed to.

By Mr. DELAY:

H. Con. Res. 40. Concurrent resolution expressing the sense of the Congress in opposition to the efforts of certain groups to impose a sexual agenda on the children of the United States; to the Committee on Education and Labor.

By Mr. YATES:

H. Con. Res. 41. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony to commemorate the days of remembrance of victims of the Holocaust; to the Committee on House Administration.

By Mrs. KENNELLY:

H. Con. Res. 42. Concurrent resolution expressing the sense of the Congress that the job opportunities and basic skills training program [JOBS] should be fully funded; to the Committee on Education and Labor.

By Ms. SNOWE (for herself, Mr. BOEHLERT, Mr. ROHRABACHER, Mr. MANZULLO, Mrs. JOHNSON of Connecticut, and Mr. BLUTE):

H. Con. Res. 43. Concurrent resolution expressing the sense of the Congress that no new fee or tax should be levied on oil imported into the United States from foreign countries; to the Committee on Ways and Means.

By Mr. BROWN of California:

H. Res. 85. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Committee on Science, Space, and Technology in the first session of the 103d Congress; to the Committee on House Administration.

By Mr. BONIOR (for himself, Mr. DINGELL, Mr. DOOLEY, Mr. KENNEDY, Mr. LEHMAN, Mr. LEVIN, Mr. MOORHEAD, Mr. PALLONE, Mr. TORRES, Mr. TOWNS, and Mr. VISCLOSKY):

H. Res. 86. Resolution to express dissatisfaction with the Republic of Azerbaijan's failure to work toward a peaceful and fair settlement to the dispute over Nagorno Karabagh by continuing the devastating blockade and economic boycott of the Republics of Armenia and Nagorno Karabagh; to the Committee on Foreign Affairs.

By Mr. CLAY:

H. Res. 87. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Committee on Post Office and Civil Service in the first session of the 103d Congress; to the Committee on House Administration.

By Mr. DE LA GARZA:

H. Res. 88. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Committee on Agriculture in the first session of the 103d Congress; to the Committee on House Administration.

By Ms. SNOWE:

H. Res. 89. Resolution to amend the Rules of the House of Representatives to limit the size of committees to 25 members and to prohibit Members from serving on more than one standing committee; to the Committee on Rules.

By Mr. ZIMMER:

H. Res. 90. Resolution amending the Rules of the House of Representatives to limit the availability of appropriations for office salaries and expenses, or for official mailing costs, of the House of Representatives to 1 year; to prevent their obligation for any different purpose; and to require excess amounts appropriated for either of these purposes to be used for open-market purchase of outstanding interest-bearing obligations of the Government; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII.

42. The SPEAKER presented a memorial of the House of Representatives of the State of New Hampshire, relative to the Portsmouth Naval Shipyard; to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4: Mr. EDWARDS of California.

H.R. 18: Mrs. BYRNE, Mr. SWIFT, and Mrs. JOHNSON of Connecticut.

H.R. 21: Mr. BEREUTER, Mr. POSHARD, Mr. MCHUGH, Mr. VALENTINE, Mr. SMITH of Oregon, Mr. WHEAT, Ms. DANNER, and Mr. LAFALCE.

H.R. 24: Mr. GRAMS, Mr. MACHTLEY, and Mr. TORKILDSEN.

H.R. 26: Mr. ANDREWS of New Jersey, Mr. BECERRA, Mr. COLEMAN, Miss COLLINS of Michigan, Mr. DIXON, Mr. FILNER, Ms. FURSE, Mr. KREIDLER, Mr. LEHMAN, and Mr. TORRICELLI.

H.R. 39: Mr. VALENTINE, Mr. EVANS, Ms. SLAUGHTER, Mrs. MORELLA, Mr. CLAY, Ms. PELOSI, Mr. SKAGGS, and Mr. DURBIN.

H.R. 44: Mr. ANDREWS of Texas, Mr. BACCHUS of Florida, Mrs. BENTLEY, Mr. BORSKI, Mr. BUYER, Mr. DEFAZIO, Mr. DIXON, Mr. EMERSON, Mr. GEJDENSON, Mr. GENE GREEN of Texas, Mr. GUTIERREZ, Mr. HALL of Texas, Mr. HINCHEY, Mr. SAM JOHNSON of Texas, Mr. KING, Mr. LAUGHLIN, Mr. MCHUGH, Mr. MATSUI, Mrs. MEEK, Mr. MOORHEAD, Mrs. MORELLA, Mr. PETERSON of Florida, Mr. PICKETT, Mr. REED, Mr. SANTORUM, Mr. SCOTT, Mr. SKAGGS, Mr. SOLOMON, Mr. TAYLOR of North Carolina, Mr. TORRES, Mrs. VUCANOVICH, Mr. WISE, Mr. WYDEN, and Mr. YOUNG of Florida.

H.R. 56: Mr. BARTLETT of Maryland.

H.R. 57: Mr. TAYLOR of Mississippi.

H.R. 58: Mr. FROST.

H.R. 64: Mr. DIAZ-BALART.

H.R. 65: Mr. EVANS, Mr. WYDEN, and Mr. SMITH of New Jersey.

H.R. 66: Mr. SPENCE, Mr. EVANS, and Mr. PORTER.

H.R. 68: Mr. EVANS and Mrs. SCHROEDER.

H.R. 71: Mr. RAHALL.

H.R. 93: Mr. RAMSTAD, Mr. KYL, Mr. OXLEY, Mr. GALLEGLY, Mr. SENSENBRENNER, Mr. CRANE, Mr. QUINN, Mr. INGLIS of South Carolina, Mr. HASTERT, Mr. BAKER of Louisiana, Mr. MCHUGH, Mr. ROYCE, and Mr. PENNY.

H.R. 109: Ms. SNOWE, Ms. MOLINARI, Mr. FINGERHUT, Mr. SANDERS, Mrs. MALONEY, Ms. WOOLSEY, Mr. BRYANT, Mr. BACCHUS of Florida, and Mr. KLECZKA.

H.R. 118: Mr. WASHINGTON, Mrs. COLLINS of Illinois, Mr. RANGEL, and Mr. BRYANT.

H.R. 142: Mr. LIPINSKI, Mr. PARKER, and Mr. DOOLEY.

H.R. 146: Mr. MANZULLO, Mr. STUMP, Mr. HUNTER, Mr. DORNAN, Mr. MCKEON, and Mr. BARTLETT of Maryland.

H.R. 159: Mr. WILSON, Mr. TORKILDSEN, Mr. HOKE, Mr. GUNDERSON, Mr. ROYCE, Mr. MACHTLEY, Mr. GALLEGLY, Mr. MCKEON, and Mr. MCCOLLUM.

H.R. 214: Mr. BUNNING, Mr. RICHARDSON, Mr. ZELIFF, Mr. UPTON, Mr. MCCURDY, Mr. BOEHNER, Mr. BACHUS of Alabama, Ms. SHEPHERD, Mr. SANDERS, and Mr. GOSS.

H.R. 224: Mr. SERRANO, Mr. CLAY, and Mr. GEJDENSON.

H.R. 240: Ms. WOOLSEY.

H.R. 266: Mr. BOUCHER, Mr. WISE, Mr. FRANK of Massachusetts, Mr. TOWNS, Mr. APPLEGATE, Mr. RANGEL, Mr. EVANS, Mr. DURBIN, Mr. BLACKWELL, Mr. HILLIARD, and Mr. SANDERS.

H.R. 291: Mr. KING, Mr. RAMSTAD, Mr. MACHTLEY, Mr. ROMERO-BARCELÓ, Mr. MCNULTY, Mr. FROST, Mr. TAYLOR of Mississippi, Mr. HANCOCK, Mr. TORRES, Mr. BLACKWELL, Mrs. MORELLA, Mr. GENE GREEN of Texas, Mr. HASTERT, Mr. ROEMER, and Mr. LIPINSKI.

H.R. 303: Mr. EVANS, Mr. WYDEN, and Mr. SMITH of New Jersey.

H.R. 325: Ms. PELOSI, Mr. SHAYS, Mr. HASTINGS, Mr. GALLEGLY, Mr. CRAMER, Mr. OXLEY, Mr. SPRATT, Mr. MAZZOLI, Mr. REED, Mr. HOCHBRUECKNER, Mr. COLEMAN, Mr. HENRY, Mr. SKAGGS, Mr. BALLENGER, Mr. BACCHUS of Florida, Mrs. MORELLA, Mr. SWIFT, Ms. NORTON, Mr. CLAY, Ms. KAPTUR, Mr. BLACKWELL, Mr. HILLIARD, Mrs. SCHROEDER, Mr. HINCHEY, Mrs. JOHNSON of Connecticut, Mr. VENTO, Mr. MANTON, Mr. SUNDQUIST, and Mr. SABO.

H.R. 326: Mr. MOAKLEY, Ms. PELOSI, Mr. FRANK of Massachusetts, Mr. HOCHBRUECKNER, Mr. COLEMAN, Mr. CLAY, Mr. LAFALCE, Ms. NORTON, Mr. BLACKWELL, and Mr. SANDERS.

H.R. 396: Mr. COX, Mr. ZELIFF, Mr. SCHIFF, and Mr. DIAZ-BALART.

H.R. 410: Mr. ZIMMER and Mr. BARTLETT of Maryland.

H.R. 411: Mr. WISE.

H.R. 412: Mr. BOEHNER and Mr. BEREUTER.

H.R. 415: Mr. INHOFE.

H.R. 417: Mr. PETERSON of Minnesota, Mr. KYL, Mr. MCMILLAN, Mr. SUNDQUIST, Mr. HENRY, and Mr. BURTON of Indiana.

H.R. 425: Mr. BUNNING, Mr. CLYBURN, Mr. COLEMAN, Miss COLLINS of Michigan, Mrs. COLLINS of Illinois, Mr. DELLUMS, Mr. DIAZ-BALART, Mr. EVANS, Mr. FLAKE, Mr. FROST, Mr. HANSEN, Mr. HOBSON, Mr. HYDE, Mr. JOHNSON of South Dakota, Mr. LEVY, Mr. MAZZOLI, Mr. MEEHAN, Ms. NORTON, Mr. OXLEY, Ms. PELOSI, Mr. ROGERS, Ms. ROS-LEHTINEN, Mr. SANDERS, Mr. TOWNS, and Mr. YATES.

H.R. 427: Mr. BUNNING, Mr. CLYBURN, Mr. COLEMAN, Miss COLLINS of Michigan, Mrs. COLLINS of Illinois, Mr. DELLUMS, Mr. DIAZ-BALART, Mr. EVANS, Mr. FLAKE, Mr. FROST, Mr. HANSEN, Mr. HOBSON, Mr. HYDE, Mr. JOHNSON of South Dakota, Mr. LEVY, Mr. MAZZOLI, Mr. MEEHAN, Ms. NORTON, Mr. OXLEY, Ms. PELOSI, Mr. ROGERS, Ms. ROS-LEHTINEN, Mr. SANDERS, Mr. TOWNS, and Mr. YATES.

H.R. 429: Mr. BLACKWELL, Mr. BUNNING, Mr. BURTON of Indiana, Mr. INGLIS of South Carolina, Mr. KYL, Mr. MANZULLO, Mr. SOLOMON, Mr. TORKILDSEN, Mr. BAKER of California, Mr. GRAMS, Mr. HOEKSTRA, Mr. HORN, Mr. LEVY, Ms. PRYCE of Ohio, and Mr. SMITH of Michigan.

H.R. 436: Mr. TOWNS, Mr. HOBSON, Mr. POMBO, Mr. LINDER, Mr. GRAMS, Mr. MANZULLO, Mr. ISTOOK, Mr. BUYER, Mr. KOLBE, Ms. DUNN, Mr. GUNDERSON, Mr. HINCHEY, Mr. MCKEON, Mr. GALLO, Mr. MCCOLLUM, Mr. TANNER, and Mr. YOUNG of Florida.

H.R. 494: Mr. FINGERHUT, Mr. NEAL of North Carolina, Mr. LANTOS, and Mr. HASTINGS.

H.R. 500: Mr. HOLDEN.

H.R. 513: Mr. SOLOMON, Mr. HOBSON, Mr. PORTER, Mr. TORKILDSEN, Mr. MCINNIS, Mr. LIVINGSTON, Mr. HOLDEN, Mr. GILCHREST, Mr. THOMAS of California, Mr. SWETT, and Mr. YOUNG of Florida.

H.R. 518: Mr. EVANS, Mr. TORRES, Mr. COOPER, Mr. TOWNS, Ms. SLAUGHTER, Mr. BLACKWELL, Mr. FILNER, and Mr. FAZIO.

H.R. 522: Mrs. MEYERS of Kansas, Mr. FRANK of Massachusetts, Ms. PELOSI, Mr. MCDERMOTT, Mr. KILDEE, Mr. BEREUTER, Mr. BAESLER, and Mrs. COLLINS of Illinois.

H.R. 558: Mr. SHAYS, Mr. SCHUMER, Mr. SMITH of Texas, Mr. FRANK of Massachusetts, Mr. ZELIFF, Mr. BONIOR, Mrs. UNSOELD, and Mr. DIAZ-BALART.

H.R. 576. Mr. GILMAN, Mr. SAWYER, Mrs. MORELLA, and Mr. WYNN.

H.R. 591: Mr. CAMP.

H.R. 603: Mr. HOLDEN.

H.R. 608: Mr. SANDERS.

H.R. 611: Mr. HOLDEN.

H.R. 624: Mr. GILCHREST, Mr. GRANDY, Mr. SKELTON, and Mr. ENGLISH of Oklahoma.

H.R. 632: Mr. WALSH.

H.R. 633: Mr. HINCHEY, Mr. DORNAN, Mr. LEWIS of Florida, Mr. HYDE, Mr. FALEOMAVAEGA, and Mr. BARTLETT of Maryland.

H.R. 634: Mr. PARKER, Mr. DOOLEY, Mr. GORDON, Mr. GEJDENSON, Mrs. MEEK, Mr. ROWLAND, and Mr. HINCHEY.

H.R. 643: Mr. KANJORSKI.

H.R. 655: Mr. KILDEE.

H.R. 656: Mr. PETERSON of Minnesota, Mr. PAYNE of New Jersey, Mr. BLACKWELL, and Mrs. MEEK.

H.R. 672: Mr. VENTO, Mr. BORSKI, Mr. JACOBS, Ms. NORTON, Mr. DELLUMS, and Mr. HOCHBRUECKNER.

H.R. 692: Mr. CLAY, Mr. FRANK of Massachusetts, Mr. RANGEL, Ms. WATERS, Ms. WOOLSEY, Mr. BLACKWELL, and Mr. MORAN.

H.R. 737: Ms. WOOLSEY, Mr. CLAY, Mr. RANGEL, Mr. LIPINSKI, Mr. BLACKWELL, and Mr. HINCHEY.

H.R. 742: Mr. GEJDENSON.

H.R. 749: Mr. SAXTON, Mr. BURTON of Indiana, Mr. HILLIARD, Mr. PACKARD, and Mr. SMITH of Oregon.

H.R. 751: Mr. STEARNS, Mr. MCCOLLUM, Mr. DIAZ-BALART, Mr. LEWIS of Florida, and Mrs. FOWLER.

H.R. 752: Mr. STEARNS, Mr. MCCOLLUM, Mr. DIAZ-BALART, Mr. LEWIS of Florida, and Mrs. FOWLER.

H.R. 753: Mr. STEARNS, Mr. MCCOLLUM, Mr. DIAZ-BALART, Mr. LEWIS of Florida, and Mrs. FOWLER.

H.R. 754: Mr. STEARNS, Mr. MCCOLLUM, Mr. DIAZ-BALART, Mr. LEWIS of Florida, and Mrs. FOWLER.

H.R. 755: Mr. Stearns, Mr. McCollum, Mr. Diaz-Balart, Mr. Lewis of Florida, and Mrs. Fowler.

H.R. 756: Mr. Stearns, Mr. McCollum, Mr. Diaz-Balart, Mr. Lewis of Florida, and Mrs. Fowler.

H.R. 757: Mr. Stearns, Mr. McCollum, Mr. Diaz-Balart, Mr. Lewis of Florida, and Mrs. Fowler.

H.R. 760: Mr. McCloskey, Ms. Kaptur, and Mr. Neal of North Carolina.

H.R. 769: Mr. Schumer, Mr. Hochbrueckner, Mr. Markey, Mr. McCloskey, Mrs. Maloney, Mr. Wilson, Mr. Stupak, Mr. Blute, Mrs. Collins of Illinois, Mr. LaFalce, and Mrs. Morella.

H.R. 772: Mr. Gallo, Mr. Saxton, Mr. Franks of New Jersey, Mr. Hobson, Mr. Jacobs, Mr. Zeliff, Mr. Bartlett of Maryland, Mr. Bereuter, and Mr. LaFalce.

H.R. 796: Mr. Nadler, Ms. Norton, Mr. Frank of Massachusetts, Mr. Ford of Michigan, Mr. Filner, Mr. Derrick, Mr. Deutsch, Mr. Kopetski, Mr. Berman, Ms. Slaughter, and Mr. Wise.

H.R. 833: Ms. Furse, Mr. Sanders, Mr. Blackwell, Ms. Norton, Ms. Woolsey, Mr. LaFalce, Mr. Richardson, and Mr. Hastings.

H.R. 887: Mr. Hyde, Mr. Fawell, and Mr. Hefley.

H.J. Res. 10: Mr. Hastert, Mr. de la Garza, Mr. Pallone, Mr. Borski, Mr. Diaz-Balart, Mr. Stupak, Mr. Hall of Ohio, Mr. Sawyer, Mr. Hutchinson, Mr. McInnis, Mr. Kleczka, Mr. Lewis of California, Mr. Spence, Mr. Reynolds, Mr. Owens, and Mr. Coble.

H.J. Res. 22: Mr. Hyde and Mr. Stearns.

H.J. Res. 28: Mr. McCandless, Mr. Hastings, Mr. Gene Green, of Texas Mr. McNulty, Mr. Peterson of Minnesota, Mr. Johnson of South Dakota, Mr. Hansen, Mr. Greenwood, Mr. Romero-Barcelo, Mr. Bonior, Mr. Dooley, Mr. McHale, Mr. Minge, Mr. Bacchus of Florida, Mr. Clement, Mr. Frank of Massachusetts, Mr. Stupak, Mrs. Collins of Illinois, Mr. Jacobs, and Ms. Molinari.

H.J. Res. 61: Mr. Dreier, Mr. Fawell, Mr. Hunter, Mr. Kolbe, Mr. Livingston, Mr. Torkildsen, Mr. Zimmer, and Mr. Fields of Texas.

H.J. Res. 68: Mrs. Byrne, Mr. Kreidler, Mr. Young of Florida, Mr. Parker, Mr. Ramstad, Mr. Blackwell, and Mr. Hastings.

H.J. Res. 75: Mr. Kopetski, Mr. Towns, Mr. Wolf, Mr. Lipinski, Mr. Parker, Mr. Rangel, Mr. Ewing, Mr. Martinez, Ms. Norton, Mr. Sabo, and Mr. Hastings.

H.J. Res. 78: Mr. Bevill, Mr. Blackwell, Mrs. Byrne, Mr. Camp, Mr. Dornan, Mr. Engel, Mr. Gene Green, of Texas Mr. Greenwood, Mr. Hastings, Mr. Hochbrueckner, Mr. Hyde, Mr. Kasich, Mr. LaFalce, Mr. Levin, Mr. Lipinski, Mrs Lowey, Mrs. Maloney, Mrs. Morella, Mr. Owens, Ms. Pelosi, Mr. Poshard, Mr. Rahall, Mr. Rangel, Mr. Ravenel, Mrs. Roukema, Mr. Scott, Mr. Spence, Mr. Spratt, Mr. Tauzin, Mr. Towns, Mr. Walsh, Mr. Wolf, and Mr. Young of Alaska.

H.J. Res. 83: Mr. Scott, Mr. Frost, Mr. Filner, Mr. Faleomavaega, Mr. Payne of Virginia, Mr. Meehan, Mr. Mollohan, Mr. Walsh, and Mr. Ballenger.

H.J. Res. 90: Mr. Gutierrez, Mr. Martinez, Mr. Bartlett, of Maryland Mr. Blackwell, Mrs. Clayton, Mr. Fazio, Mr. Hobson, Mr. Kasich, Mr. Montgomery, Ms. Norton, Mr. Pickett, Mr. Wolf, Mr. Rangel, and Ms. Woolsey.

H.J. Res. 94: Mr. Evans, Mr. Torkildsen, Mr. Filner, Mr. Clyburn, Mr. Clement, Mr. Wyden, and Mr. Schumer.

H. Con. Res. 5: Mr. Shays.

H. Con. Res. 18: Mr. Solomon, Mr. Baker of Louisiana, Mr. Cox, Mr. Hobson, Mr. Torkildsen, Mr. Doolittle, Mr. Bartlett, of Maryland Mr. Zeliff, Mrs. Meyers of Kansas, Mrs. Morella, Mr. Machtley, Mr. Young of Florida, and Ms. Kaptur.

H. Con. Res. 19: Mr. Bereuter and Mr. Bartlett of Maryland.

H. Con. Res. 20: Mr. Ackerman, Mr. Frank of Massachusetts, Mrs. Unsoeld, Mr. McDermott, Mr. Kildee, Mr. Hyde, Mr. LaFalce, and Mrs. Collins of Illinois.

H. Con. Res. 25: Mr. LaFalce, Mrs. Mink, Mr. Gutierrez, Mr. Underwood, Mr. Filner, Ms. Pelosi, and Mr. Stark.

H. Res. 16: Mr. Spence.

H. Res. 41: Mr. Barton of Texas.

PETITIONS, ETC.

Under clause 1 of rule XXII.

14. The SPEAKER presented a petition of the Embassy of El Salvador, the Ambassador, relative to El Salvador; which was referred to the Committee on Foreign Affairs.

EXTENSIONS OF REMARKS

REMARKS OF LANE KIRKLAND ACCEPTING FREEDOM HOUSE FREEDOM AWARD

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. GEJDENSON. Mr. Speaker, I rise today to share with the House an inspiring speech I had the opportunity to hear a few weeks ago. The speech was made by Lane Kirkland, the national president of the AFL–CIO, when he was given the Freedom Award by Freedom House.

Mr. Kirkland has championed democracy and workplace fairness throughout the world. During his years of service at the AFL–CIO, he has fought tirelessly to improve the plight of America's work force and has played a key role in helping emerging democracies organize trade unions. It is because of these tremendous achievements that I am honored to enter Mr. Kirkland's speech into the RECORD.

REMARKS BY LANE KIRKLAND ACCEPTING FREEDOM HOUSE FREEDOM AWARD

I am delighted to receive this award from Freedom House, an organization that for five decades has been a beacon of democracy and human rights the world over.

I accept this honor on behalf of the 14 million working men and women of the AFL–CIO, the largest and most cohesive organization of democratic trade unions in the world.

It is their steadfast belief in human liberty that has imbued our movement with the proposition that international labor solidarity is the essential key to delivering working people from the thralldom of the ages.

I am also honored to share tonight's accolades with Steve Forbes and Radio Free Europe/Radio Liberty.

You know of the important role that the radios played in helping workers' movements launch the wave of democratic revolution that swept through Eastern and Central Europe and the former Soviet Republics.

These Freedom Awards pay homage to a central and essential truth about democracy—how it is won and how it is sustained.

The stirring events of recent years have given body to the idea that freedom comes not from up high—not from the ministries and counting houses of the elite—but from the ground, from the workplaces and the streets, wherever ordinary people stand up and declare that they mean to live on their feet and not on their knees.

That is the real story of democracy. And that is the story we ought to keep telling—over and over again—as we enter the next critical phase of helping citizens of the newly democratized countries build new and more human societies.

It is a time of daunting challenges—of political, economic and social upheaval—and a time when dark forces have sought to assert themselves by appealing to the lowest human instincts.

Winston Churchill described Europe at the end of World War II in this way: "When the designs of wicked men or the aggressive urge of mighty states dissolve, over large areas, the frame of civilized society, humble folk are confronted with difficulties with which they cannot cope. For them all is distorted, all is broken or is even ground to a pulp."

That, my friends, is essentially the same situation many of our brothers and sisters face today in the emerging democracies of Eastern and Central Europe and the former Soviet Union.

Yes, state communism has lost, its credibility stands in tatters and it has been found before mankind guilty of sins that even God cannot forgive.

But there are some that would have us believe that communism's collapse is the victory of capitalism and the final vindication of raw market theory.

Millions upon millions have found out, in the hardest way and in grueling detail, exactly what is wrong with communism. Now it is up to those who cherish democracy to do what we can to see that they do not now proceed to discover what is wrong with the jungle of the unregulated marketplace.

To those in the business community who believe that freedom and democracy are borne on the wings and in the pockets of capital, I would point to the words of one of their own—a vice president Oppenheimer Management Corporation—who recently gave this frank assessment of trade with China to the Wall Street Journal:

"The bottom line is that markets prefer political order and stability to any particular political doctrine, whether it be democracy, communism or whatever. As long as communism provides an ability to make money and stability, investors will be attracted to China."

I would suggest that this pursuit of profit—abetted by the so-called "pragmatism" of Western governments—is what sped Chamberlain to Munich and kept the likes of Franco and Pinochet on their thrones.

Clearly, in Central and Eastern Europe there needs to be a major withdrawal of the State from ownership and management to its area of competence. But the extent of that withdrawal ought to be determined not by dogmatists, as was the overwhelming extension of state power, but by democratic decision and debate.

Much can be learned from the experience of working people in our own country, where the early labor movement emerging in combat with a system of repression by law and market theory, leaned to a doctrine I would describe as "anarcho-syndicalism." Its best expression can be found in the words of the American revolutionary Thomas Paine, who wrote:

"Society is produced by our wants, and government by our wickedness. The former promotes our happiness positively by uniting our affections, the latter negatively by restraining our vices. Government, like dress, is a badge of lost innocence. The palaces of kings are built on the ruins of the bowers of paradise."

In the newly-emerging democracies, the task is to rebuild civil society from the ashes of regimes that murdered society, and then to sustain it by creating the institutions that make life tolerable to ordinary citizens.

That restoration is not achieved merely by democratic elections or the doctrines of economic theorists, shock treatments and the lender mercies of the free market.

It is achieved by building strong and free institutions that represent the aspirations of people and defend their interests. And trade unions are foremost among them.

As statesmen and opinion makers ponder the course ahead and frame their policies, they should ask themselves these threshold questions:

What prospect motivated those workers whose sacrifice of their lives is memorialized on the wall of that shipyard in Gdansk?

What aspirations moved those young workers whose bodies are still being exhumed from unmarked graves in a cemetery on the outskirts of Budapest?

Should not their visions now weigh heavily in the scales of decision?

Have these true authors of the democratic revolution not earned the right to say to the finance ministers of this world, now ascendent, as was said by an embattled King of France centuries ago:

"Go and hang yourself, brave Crillon. We fought and won at Arc, and you were not there."

Finally, I would remind you that amid the turmoil of national conflict—trade unions are among the few of these institutions that organize and unify people across all ethnic and religious lines.

That's a role we take very seriously at the AFL–CIO. And that's why we are resolved to continue our broad program of support for our brothers and sisters who are on the front lines of the struggle to incorporate strong and free trade unions into the democratic societies they have advanced thus far with their courage and daring.

In recognizing the role of the AFL–CIO in this great movement toward a more democratic future, you are doing us but simple justice.

I thank you for that, for the high honor you have given me, and I salute Freedom House on the occasion of its 50th Anniversary of service to the cause of liberty throughout the world.

THE MOTOR-VOTER BILL

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, February 10, 1993 into the CONGRESSIONAL RECORD:

THE MOTOR-VOTER BILL

The House of Representatives voted last week to approve the National Voter Registration Act, commonly referred to as the "motor voter" bill. The measure aims to increase voter turnout in the U.S.—by requiring states to allow citizens to register to vote in person, by mail, or when applying for driver's licenses or other public certificates.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The Senate must now consider the bill. President Clinton has said he will sign a motor voter bill into law.

VOTER PARTICIPATION

Voter turnout rose in the 1992 presidential election—to 55 percent of the voting-age population—after declining for almost 30 years. Even so, the turnout rate in the U.S. is still the lowest among major industrialized nations. There are many reasons why Americans do not vote. Some are apathetic and don't care; others are disillusioned with the political system and choose not to participate. Yet, I believe there are a substantial number of potential voters who do not vote because the registration process can be inconvenient, time-consuming, or difficult. Raising registration rates would likely raise voter turnout: 80–90 percent of registered voters typically vote in presidential elections.

We must do a better job making our election system more responsive to the needs of today's voter. One-third of our adult population moves every two years, and different state and local registration practices can pose barriers to voter registration. About 65 percent of eligible Americans are registered to vote, compared to 85 percent or more in 19 leading industrialized nations. Automatic registration has helped boost the voter rolls in these countries. Likewise, in the U.S., higher voter registration and turnout rates have been recorded in states with motor voter registration systems.

REGISTRATION REFORM

The motor voter bill aims to increase voter registration by simplifying and standardizing the registration process across the country, and providing outreach to those eligible to vote. Some estimate that the effect of the bill would be to raise registration rates to 90 percent of all eligible voters.

The bill has several key provisions. First, it provides that an application, renewal or change-of-address for a driver's license or nondriver's ID will serve as an application for voter registration. Second, it provides for agency registration, which means that voter registration application forms and assistance will be made available at government and nongovernmental agencies, particularly unemployment, public assistance and disabilities agencies. Third, it provides for mail-in registration in all states. Agency registration and mail-in registration will help reach eligible citizens who may not be reached through "motor voter", including the disabled. At present, 25 states and the District of Columbia have registration by mail. Fourth, it creates uniform and nondiscriminatory address verification to ensure current registration lists. Fifth, it prohibits purging of registered voters who do not vote. Sixth, it grants financial aid to the states to assist with the implementation of the bill.

HOW COSTLY IS THE BILL

Some say the bill will be costly to implement. The motor voter bill will cost an estimated $20–25 million for each of the first five years. To help offset some of these costs, the bill includes a postal rate reduction for state and local election officials. This will save the states an estimated $4 million per year. Motor voter and the other forms of agency-based registration will also save money by spreading registration out over the entire year. This change will allow election officials to save the costs of temporary workers during peak registration periods and to use full-time staff more efficiently.

WON'T THE BILL BURDEN LOCAL OFFICIALS

Some state and local officials in Indiana have told me that the motor voter bill would impose an expensive administrative burden on them without providing any funding to help implement its provisions. I share their concerns about unfunded federal mandates. As noted above, the bill does provide a postal rate reduction to election officials. I would support other measures to assist these officials. It is important to note, however, that all 12 states with motor voter registration systems have reported no major problems in putting them into place. In those states the transaction time of issuing a driver's license application and the voter registration form has remained the same. The bill allows states to choose separate or dual forms for this purpose. Supporters of the bill say that additional training of existing staff, rather than hiring new staff, will be sufficient to implement its provisions.

WON'T THE BILL INCREASE VOTER FRAUD

The motor voter bill includes strong protections against voter fraud. The bill requires that the mail registration form, like the motor voter registration form, include a statement of the eligibility requirements for voting, an attestation that the applicant meets each requirement, and the signature of the applicant under penalty of perjury. Eligibility requirements are not affected by the bill. Furthermore, there is no significant evidence of fraud in mail voter registrations. At least half the states have registration by mail, and most of these states have no notarization or witnessing requirements. The bill includes stiff penalties against fraud, and nothing in it interferes with the stern enforcement of voting rules by the states.

WON'T THE BILL INFRINGE ON STATES' RIGHTS

Some critics say that state compliance with the provisions of the bill should be optional, rather than mandatory. They say that the states are in the best position to know which mechanisms are most likely to increase voter turnout, at a cost the state can afford. I am sympathetic to this view, but believe the benefits of the bill far outweigh its costs. Voter turnout is a national concern. It is critical to the success of our system of government. Measures that can boost turnout, at limited cost to the states, can and should be pursued.

CONCLUSION

All of us agree that voter turnout is essential to the health and vibrancy of our democracy. We must do all we can to encourage more people to vote—without increasing the chances for fraud, and without imposing undue burdens on states. I am not suggesting that easing or simplifying registration requirements is sufficient to end voter apathy in this country, but registration reforms can help make a difference. This bill is a constructive approach—already proven in many states—and is certainly worth a try.

COMMUNITY IS PROUD OF BOY SCOUT TROOP 9 OF SOUTH GLENS FALLS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. SOLOMON. Mr. Speaker, one way or another I have been involved in Scouting for nearly 50 years. That is all the more reason I take special pride in talking today about Troop 9, American Legion Post 553 of South Glens Falls, NY.

Troop 9 will celebrate its 50th anniversary on February 25. I has been an impressive 50 years. Over 50 young men have become Eagles, and anyone who has a background in Scouting knows what that entails. The troop has produced outstanding professionals in the fields of teaching, law enforcement, engineering, medicine, the military, and many others.

Troops 9 has been involved in such projects as food collections, a cancer bike-a-thon, visits to nursing homes, painting the inside of a church, and a variety of flag day activities.

Troop 9 received a special award for working on the Historical Trail. Troop 9 Scouts also took a 50-mile-hike. Twenty years ago, Troop 9 traveled to the National Jamboree in Idaho.

The history of Troop 9 actually began in the 1930's, when it was organized by the South Glens Falls Methodist Church. However, the troop's charter was dropped once World War II began. By 1943, however, the charter was picked up by the American Legion.

Troop 9's Scoutmasters have included such gentlemen as Frank Holden, Seward Washburn, Ed White, Burdell Bailey, Lloyd Johnson, Harry Van Scoy, Tom Osier, Phil Comeau, and the present Scoutmaster, Chris Jones.

Mr. Speaker Scouting has been an apprenticeship in life and citizenship for countless young Americans. The various troops across the country have been a rich source of our leaders for generations.

Please join me in wishing a happy 50th birthday to one of the finest of those troops, Troop 9, American Legion Post 553 of South Glens Falls, NY.

RECOGNITION OF HAROLD R. GARY ON HIS RETIREMENT FROM THE U.S. SOIL CONSERVATION SERVICE

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. PARKER. Mr. Speaker, today I stand in the Halls of Congress, in the people's chamber, to speak in honor of a great citizen of my district, Mr. Harold R. Gary.

Harold Gary retired on January 3, 1993 with almost 32 years of Federal service. He began his career with the Soil Conservation Service on February 1, 1965 as a soil conservationist in the Yazoo City, MS field office after 3 years with the Cooperative Extension Service. He progressed up the career ladder with assignments to Vicksburg, and as District Conservationist at Forest and Hernando. On November 9, 1975, he became Area Conservationist at Brookhaven, my hometown.

During his career, Harold was recognized several times through the incentive awards program for his outstanding accomplishments. His insights and professional assistance will be sorely missed.

I know that my friend, Harold Gary, will face the challenges of retirement with the same determination and courage he has shown throughout his career. I salute him for his accomplishments and wish him well.

SID GROSSMAN RETIRES

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. HOCHBRUECKNER. Mr. Speaker, it is a great pleasure to rise today to honor Sid Grossman, an outstanding individual who has retired after 25 years of service to Suffolk County, NY.

Sid Grossman began serving his country in World War II in the Philippine Islands aboard a PT boat. His first job with Suffolk County was with the probation department in 1967, and in 1971 he was hired by the Suffolk County district attorney's office. Sid Grossman spent the last 16 years of his career as president of the Suffolk County Detective Investigators Police Benevolent Association [PBA]. He and his wife Joyce have been married for 45 years and have 5 children, 7 grandchildren, and 1 great-grandchild on the way.

As a member of the Metropolitan Police Conference, Sid Grossman served on its legislative committee. Some of its accomplishments include forming the Suffolk County Detective Investigators PBA as a separate bargaining unit, and supporting legislation to protect detective investigators injured in the line of duty. The police conference was also responsible for a 20-year retirement bill which includes 1 to 60 payments for 20 years of service, and it supported New York State legislation that allowed police officers to belong to and contribute to political parties.

Mr. Speaker, it is an honor to recognize Sid Grossman for his many accomplishments and his 25 years of service to his community. I wish him and his wife a long and happy retirement. He will be sorely missed by the people of Suffolk County.

COMMITTEE REFORM

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Ms. SNOWE. Mr. Speaker, today I am reintroducing legislation to change the House committee system.

My bill would limit Members to service on only one standing committee and would limit the number of Members on any committee to 25. This proposal would allow Members to focus their energy and attention on the issues before their committee, and the smaller size would allow each Member to have more input into committee preceedings as well as improving the lines of communication between committee members.

The need for this type of reform can be seen in the numbers. In the 102d Congress, the Committee on Public Works and Transportation had 57 members, and 40 of them served on the Surface Transportation Subcommittee. The Committee on Banking, Finance, and Urban Affairs had 51 members and 37 of them sat on the Subcommittee on Financial Instititions Supervision, Regulation, and Insurance. There is such a thing as having too many cooks in the kitchen and I think that is the case with some of our subcommittees. I know that this Congress is cutting the number of subcommittees but we need to go further, and my bill would do just that.

My bill would also provide the impetus for cuts in committee staffing. In 1991, standing committee staff cost the U.S. taxpayer $51,211,147. In 1992 there are 2,295 committee staffers. I know that committee staff provide valuable expertise to members but I think that the ratio of five committee staffers per member is too much. It's time to reorder our priorities and here is a place where we can make cuts that not only will save money but will help improve the process.

We need to make our committees places of legislative business, not legislative gridlock. With the staggering number of claims on a Member's time, committee work can't always take the point. Limiting ourselves to one committee and limiting the size of that committee will improve the quality of the bills we put before the American people, improve our efficiency and save the taxpayer some money. I urge my colleagues to join me in support of this bill.

INTRODUCTION OF JOBS RESOLUTION AND EITC EXPANSION

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mrs. KENNELLY. Mr. Speaker, President Clinton has pledged to change welfare as we know it, and I look forward to working with the President once Congress receives his legislative proposal outlining his specific ideas in this area.

A logical way to begin to change welfare is to help individuals get the skills and receive the support which will enable them to make that move. Full funding of the JOBS Program and expansion of the EITC can help reach that end. I rise today to introduce legislation that would significantly expand the earned income tax credit [EITC]. The EITC is one of our most effective antipoverty programs because it rewards work. I am also introducing a resolution today which calls for full funding of the Job Opportunities and Basic Skills [JOBS] Training Program which was established as part of the Family Support Act of 1988.

The JOBS Program is designed to ensure that families with children in need receive education, training, and employment assistance which will allow them to break the cycle of welfare dependence. Unfortunately, insufficient funding of this program since its inception has minimized its effectiveness. My resolution simply expresses the sense of Congress that the JOBS Program be funded at the levels specified in the Family Support Act of 1988.

The first provision of my bill to expand EITC would mirror one contained in H.R. 13, tax simplification legislation recently introduced by Ways and Means Committee Chairman DAN ROSTENKOWSKI. It would eliminate the two supplemental credits, health care and young child. These two supplemental credits add great complexity to the EITC and have been the subject of much abuse.

To replace the supplemental credit, my bill would then add a third tier for families with 3 or more children. Because family needs increase significantly with family size, larger families have a much more difficult time escaping poverty, and badly need this additional assistance.

Finally my bill would require the IRS to include an explanation of advanced refunding and the appropriate form when it mails EITC recipients their refund checks. Under current law families entitled to the EITC can elect to receive benefits over the course of the year through adjusted withholding. However, less than 10 percent of EITC recipients elect to do so, depriving themselves of badly needed assistance.

I would ask my colleagues support.

STILL SICK OF GOVERNMENT

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. DUNCAN. Mr. Speaker, in a column published in the Washington Post on January 21, 1993, George Will points out that the 1992 election results show that, contrary to some reports, Americans have not abandoned their desire to cut the size of the Federal Government. I submit the complete text of Mr. Will's column for the RECORD.

[From the Washington Post, Jan. 21, 1993]

STILL SICK OF GOVERNMENT

(By George F. Will)

Democrats have had their routs and revels, Republicans have had their ration of gall and wormwood, and now Democrats confront the problem of Republican impotence. If is said that opponents are useful because they allow us to believe that if they were absent we would be able to realize our ideals, Congressional Republicans are too few to foil President Clinton's plans, so he needs excuses for the country's coming disappointments, and his.

Actually, the country is more immunized against disappointments than he is. He is of the generation that got permanently sunstruck by staring into the glare of the Kennedy glamour, or what then seemed glamorous. He hopes he can rekindle the splendor, such as it was. He won't, not primarily because of any defect on his part, but because of the maturation of Americans.

The most important political fact of the 32 years since Kennedy came to the presidency is the collapse of the prestige of government. That prestige peaked around 1965, when a "great" society—merely "good" would not suffice—was going to be legislated. Government in its hubris believed that macroeconomic sophistication had given it the ability to "manage" the economy. Henceforth, the political problem would be to allocate equitably the vast revenues government would receive. Nowadays government looks to most Americans like an overbearing and overreaching underachiever that is suspect regarding both its competence and motives.

The vocational interests of politicians, and the emotional needs of the media (which feel important in proportion to the importance of what they are covering), explain a thought that recurs every four years. The thought is that the most recent presidential election was especially momentous. But the 1992 election was not, for three reasons.

First, the nation is more secure from foreign threats than it has been in 216 years. Second, because of the deficit, and the electorate's taxaphobia (related to the government's diminished prestige), and the power of interest groups over career politicians, the federal government has little latitude for action. In fact, less latitude than at any time since it completely slipped the leash of constitutional restraints (once upon a time there was a doctrine of enumerated powers) early in this century.

Third, the problems most troubling to most Americans seem largely immune to government. For example, the inadequacy of education in grades K–12, and the urban regression in the midst of societal prosperity, are problems of cultural values, character, behavior and family breakdown. In such problems, ameliorative government seems to have met its match.

Clinton is the highest ranking of 18 million civilian employees of government, which employs more people than all U.S. manufacturers combined. He is landlord of the federal government's 440,000 buildings, and custodian of the approximately one-third of the nation's land that the federal government owns. Stephen Moore, in a report published by the Institute for Policy Innovation, says that since Kennedy came to power, government's share (federal, state, local) of gross national product has risen from 26.6 percent to 37 percent, and the public sector is now spending more than $23,000 per household. Such numbers underscore a paradox that will haunt Clinton's presidency.

He was elected promising "change." But he was elected only because voters decided that his party has changed in a direction that makes it less ambitious about using government as an instrument of change.

Everett Carll Ladd of the University of Connecticut and the American Enterprise Institute says that 1992 election data, far from revealing a demand for change, reveal remarkable continuity. The data gathered by a survey organization formed by CBS, NBC, ABC and CNN prove the durability of policy preferences that defined the Republican presidential era. "Americans," says Ladd, "gave no sign in the November balloting that they had abandoned their concerns about government's scope and role."

Asked if they favored more services requiring more taxes, or fewer services from less expensive government, voters favored the latter, 55 percent to 36 percent. Perot voters "were disproportionately libertarian-inclined independents and Republicans, who were angered by government's excesses and wanted a more restricted governmental role." Ladd believes that "in terms of political philosophy," the "Reagan Realignment" survives:

"In the New Deal years, the sense of government's being too big, wasteful and intrusive was largely confined to Republican ranks. Today, in contrast government's size and malperformance are seen as problems all across the political spectrum. Though they elected a Democrat to the presidency this year, voters indicated that they continue to favor the kind of restraint on government's growth that has been the basis of the GOP's ascendancy in presidential elections of the last quarter-century."

An inauguration is an occasion for Americans to bask in the warmth of sentiments put into words by Stephen Vincent Benet:

We made this thing, this dream
This land unsatisfied by little ways

But nowadays Americans are unsentimental about government and chilly toward those who think government "made this thing, this dream."

INTRODUCTION OF BILL TO OPEN UP FOREIGN CAPITAL MARKETS TO U.S. AIRLINES

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. CLINGER. Mr. Speaker, 2 years ago the Aviation Subcommittee on which I serve as ranking member held a hearing on the state of the airline industry. At that time, the industry had just finished a terrible year where it had lost $2 billion.

Since that time, the situation has continued to deteriorate. The losses for the last 3 years now total more than $8 billion. That effectively wipes out all the profit that the industry has made over the previous 40 years.

Clearly something is terribly wrong. High taxes, burdensome regulations, and fare wars are among the factors that have been cited as the cause of the airlines' woes. Each of them probably had played a role in creating the dire situation that the industry finds itself in today.

However, in my view, one of the biggest problems facing the airlines is the dearth of available capital. This is a capital intensive industry. One of the things we need to do to ensure the continuation of healthy airlines is to address this capital crisis.

Unfortunately, in this country, the traditional sources of capital do not seem to be available to many U.S. airlines. Some have been able to piece together creative financing packages. Others have turned to foreign financial markets. But in doing so, they run up against the current 25-percent limit on foreign investment in U.S. airlines.

Two years ago, I attempted to raise this limit by introducing a bill, H.R. 782. This bill was narrowly written in order to try to meet the objections we often heard from opponents of foreign investment. As a result, the legislation was very restrictive and would not have opened up foreign capital markets very much.

In light of the experience of the last 2 years, I am now introducing legislation that would take a different approach than H.R. 782. The bill I am introducing today would be more favorable to foreign investment while retaining enough discretion with the Secretary of Transportation so that deals that were clearly not in the public interest could still be blocked.

Under this bill, foreign investments below the current 25-percent threshold could continue as before without restriction. Investments above 25 percent would be permitted as long as: First, the key officers and two-thirds of the airline's board of directors would still be U.S. citizens, second, U.S. citizens would still control at least 51 percent of the airline's stock, and third, the Secretary found that the investment would be in the public interest.

The first two requirements are objective standards that should be easy to apply in specific cases and would give some assurance of continued U.S. control. The third requirement, the public interest test, is intended to give continued discretion to the DOT Secretary.

In applying the public interest test, the Secretary is directed to consider seven factors. No one factor is meant to be an absolute bar to the transaction. Rather, the Secretary is to give the proper weight to each factor in each individual case in deciding whether the deal should be consummated.

Under the bill, the Secretary would be expected to look favorably upon an investment that would help a weak carrier survive and effectively compete, that would help preserve U.S. jobs, or that would enhance domestic or international competition.

In addition, the Secretary would consider whether the foreign country would allow a similar investment in one of its airlines. If so, that would be a plus. On the other hand, if the foreign investor was controlled or subsidized by a foreign government, that would be a minus as it could tend to distort competition.

Another factor that the Secretary must consider is the issue of foreign control. I share the desire of many of my colleagues to prevent our airlines from falling under the control of foreign nationals. But I am also mindful that a recent GAO report indicated that continuing the current control restrictions would discourage foreign investment and limit the benefits that might otherwise be achieved by this legislation. The issue of foreign control would be one factor among the others mentioned for the Secretary to consider.

The final factor for DOT to consider would be whether the foreign investor's home country has a procompetitive bilateral with the United States. While this is clearly important, it should not be the controlling factor as it seems to have been in recent transactions. Proponents of open skies should keep in mind that more liberal foreign investment rules may be the best way to achieve their goal. Only when the nationality lines of carriers are blurred so that it is not clear which nation is benefiting from a negotiation will some of the protectionist countries be willing to remove their aviation trade barriers and allow free competition on international routes.

In evaluating these factors, the bill gives the Secretary 90 days. A time limit is important so that investors do not have to deal with the uncertainties of Government approval for an unreasonable length of time.

The issue of national security has also been raised with respect to foreign investment. Clearly we do not want an enemy of the United States taking control of one of our airlines. Moreover, our experience with Operation Desert Shield and Desert Storm demonstrated that U.S. carriers play an important role by ferrying troops and supplies to a war zone under the Civil Reserve Air Fleet [CRAF] Program. It is important that the viability of this program be preserved.

My bill would address the national security issues by giving the President 30 days to review a DOT-approved foreign investment. The President could disapprove an investment only on national security grounds such as a transaction that would undermine the CRAF program. Limiting the President's authority in this way is similar to his role in the awarding of international routes under section 801 of the Federal Aviation Act. This portion of my bill is patterned after that provision.

Mr. Speaker, I am aware that there are airlines who would like to close the door on foreign investment. Some have already themselves taken advantage of that source of capital and would now deny it to others. Others can still access the U.S. capital markets and would probably be just as happy to see their competitors wither and die.

But I believe they are being shortsighted and perhaps a little selfish. The airline industry is increasingly becoming a global one. I do not think an arbitrary 25 percent limit on foreign investment in U.S. carriers any longer makes sense in a worldwide economy where capital flows freely across borders.

Moreover, it should be noted that foreign investment is nothing new in the airline industry. Several foreign airlines now have substantial financial stakes in U.S. airlines. In addition, there are foreign banks, leasing companies, and other entities that hold debt obligations or other financial interests in our airlines. In some cases, these interests may be substantial. So we have already crossed the bridge on the foreign investment issue. Now it is time to raise the artificial limit on foreign investments in U.S. airline voting stock so that capital can more freely flow to U.S. airlines.

Accordingly, I am pleased to introduce this bill that would allow foreign investment in airlines up to 49 percent. Perhaps some day we can go further. For now I invite my colleagues to join me in supporting this measure.

THE NATIONAL AVIARY IN PITTSBURGH WILL BE A NATIONAL TREASURE

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. COYNE. Mr. Speaker, today I am introducing legislation which would designate the Pittsburgh Aviary as the National Aviary in Pittsburgh.

The designation of the National Aviary in Pittsburgh is needed to ensure that more Americans have the opportunity to enjoy and witness a world-class collection of birds. Enactment of this legislation will ensure that millions of Americans will have better access to a quality recreational and educational facility. This action will provide U.S. citizens and visitors from abroad an excellent opportunity to view one of America's best collections of birds at a time when all of us are gaining an enhanced awareness of the environment and the species which share our planet.

Congress can grant the title "National Aviary" with the knowledge that this action is fully warranted because of the outstanding caliber of the Pittsburgh Aviary. The Pittsburgh Aviary has the unique status of being the United States' only freestanding, indoor, aviary not associated with a larger zoo. The aviary is also a nationally respected conservation center and serves as an invaluable research center for ornithologists. In addition, the aviary serves as one of the top breeding facilities in the United States.

The Pittsburgh Aviary is today home to nearly 450 birds, and its collection includes over 220 species from every continent in the world except Antarctica. The aviary's 11 climate-controlled indoor exhibits and eight outdoor exhibits are also home to a number of endangered species who find sanctuary in Pittsburgh. The preservation of these endangered species, which include the Micronesian kingfisher, is a fundamental element of the aviary's mission.

Nearly 100,000 visitors tour the aviary each year. Visitors to the Pittsburgh Aviary can witness remarkable displays of birds in the various indoor rooms which include the Marsh room that simulates tropical wetlands and the popular Parrot Hall. In each room, birds from various parts of the world can be seen alongside other species of birds from their native regions.

The Pittsburgh Aviary first opened in 1952 as one of the first indoor walk-through bird exhibits in the United States. The aviary was first accredited by the American Association of Zoological Parks and Aquariums in 1984 and again in 1989. Originally wholly funded by the city of Pittsburgh, the aviary became a joint private-public venture in 1991 when the nonprofit Save the Aviary, Inc. took responsibility for raising private and public donations and grants for the operation of the facility. In fall of 1991, attendance at the aviary grew by 23 percent.

Designation of the National Aviary in Pittsburgh follows the precedent set for establishing the National Zoo in Washington and the National Aquarium in Baltimore. This legislation calls for no Federal funds but would instead simply grant official designation of the Pittsburgh Aviary as the National Aviary in Pittsburgh. Furthermore, the legislation would stipulate that any reference, document, record, map, or other paper of the United States to the Aviary in Pittsburgh would be deemed a reference to the National Aviary in Pittsburgh.

Mr. Speaker, designation of the National Aviary in Pittsburgh would ensure that the American people have a continued opportunity to enjoy one of the United States' great natural treasures. I urge my colleagues to support this legislation.

INJUSTICE NEEDS TO BE STOPPED

HON. WILLIAM J. JEFFERSON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. JEFFERSON. Mr. Speaker, I rise to add my voice to those who have already spoken so eloquently on yet the latest outrage in our Federal criminal justice system. The handling of the jury selection process in the case of our colleague, HAROLD FORD, will go down in history as one of its most damaging and amongst its least responsible.

Dr. Martin Luther King once remarked that history's greatest injustices have occurred not because of what bad people have done, but because of what good and decent people have failed to do—when good people silently tolerate the perversion of our system of justice.

Today, in the case of HAROLD FORD, the question rightly arises whether we, in this Congress and we in our country, will silently tolerate the injustice to him.

Will we not stand with him and say that the prosecutors in this case appear to be more interested in winning than they are in justice? Do any of us really believe that the interests of justice are served by subjecting Mr. FORD to a decision by a jury that is bused in from an adjoining county for the purpose of insuring his trial by a virtual all white jury. Is this fair or right?

I think not. But this is not just about HAROLD FORD. If it happens, he is not the only one who will be on trial here by an unfairly selected jury. America is on trial. Its system of justice is on trial. And its time now, in this hour, for the good people who Dr. King spoke about in this Congress and in this country to stand up and let their voices be heard so that the injustice of Mr. FORD may be spared and so that our system of justice might triumph.

THE EARTHQUAKE, VOLCANIC ERUPTION, AND HURRICANE HAZARDS INSURANCE ACT OF 1993

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mrs. MINK. Mr. Speaker, today I am introducing the Earthquake, Volcanic Eruption, and Hurricane Hazards Insurance Act of 1993, which will establish a Federal insurance and reinsurance program to protect homeowners against the risk of catastrophic earthquakes, volcanic eruptions, and hurricanes.

Last fall the country experienced two catastrophic hurricanes that resulted in the loss of billions of dollars worth of property and possessions. With little or no insurance to cover damage caused by hurricanes, many families in Florida, Louisiana, and Hawaii are still struggling to cope with the aftermath of the destruction caused by Hurricanes Iniki and Andrew.

In Hawaii one of the most devastating long-term effects of Hurricane Iniki has been the decimation of our residential homeowners insurance industry. Insurance companies have folded, others have suspended issuing new and renewal homeowners policies. The result is that 70,000 homeowners in Hawaii face termination or nonrenewal of their homeowners policy this year.

While the State of Hawaii is working to cope with this crisis, this situation emphasizes the necessity of a Federal program to provide insurance for hurricanes and other natural hazards, such as earthquakes and volcanic activity. In States prone to these hazards, insurance to cover damage by hurricanes, earthquakes, and volcanic activity are not available or the premiums are so exorbitantly high that most people cannot afford this kind of coverage.

The bill I am introducing today would establish a Federal residential insurance program, much like the national flood insurance program, to cover damage by earthquakes, volcanic eruptions, and hurricanes so that homeowners have access to affordable insurance that can help protect them against total financial ruin because of a natural disaster.

In order to participate in this federally backed insurance program, States prone to earthquakes and hurricanes must implement certain mitigation measures determined by the Federal Emergency Management Agency to help guard against extensive damage which might be preventable.

My bill also establishes a reinsurance program so that private insurance companies which provide coverage for earthquakes, volcanic eruptions, and hurricanes have adequate reinsurance to cover their losses.

Mr. Speaker, some may question the need for a Federal program that will benefit only a limited number of States. I think our experience during Hurricanes Andrew and Iniki show that when a section of the country is hit by a disaster the entire country suffers. Whether its because friends and family have been affected by the catastrophe or because Federal funds that everyone contributes as taxpayers are used to provide disaster relief, we all become victims of the disaster and we all participate in some small way with the recovery effort.

Mr. Speaker, this country is in desperate need for a program that will help families cope with these unpredictable, unpreventable, catastrophic events. I urge my colleagues to join me in supporting the earthquake, Volcanic Eruption, and Hurricane Hazards Insurance Act of 1993.

A summary of the bill follows:

SUMMARY OF THE EARTHQUAKE, VOLCANIC ERUPTION AND HURRICANE HAZARDS INSURANCE ACT OF 1993

PURPOSE

To establish a federal insurance and reinsurance program to protect homeowners against the risk of catastrophic earthquakes, volcanic eruptions, and hurricanes; and to establish mitigation programs in states prone to these types of disasters.

TITLE I—STATE ADOPTION OF HAZARD REDUCTION MEASURES

Establishes a program to encourage states to adopt measures intended to reduce the amount of damage caused by an earthquake, volcanic eruption or hurricane. The mitigation program will be administered by the Federal Emergency Management Agency [FEMA] in consultation with a 7-member Advisory Committee made up of experts in the fields of earthquake, volcanic eruption and hurricane loss mitigation.

Under this program FEMA in consultation with the Advisory Committee would identify states and areas within the United States prone to earthquakes, volcanic activity and hurricanes and recommend certain measures to mitigate losses from such disasters. States are required to comply with the mitigation measures recommended by FEMA in order to participate in the residential insurance program established under this Act.

TITLE II—RESIDENTIAL INSURANCE

Requires all homeowners who hold a federally related mortgage loan in an earthquake, volcanic eruption or hurricane-prone state to purchase the applicable insurance (earthquake, volcano, or hurricane). So that homeowners can meet this requirement the bill establishes a federal program for providing residential earthquake, volcano and hurricane insurance to homeowners.

The residential insurance program would be developed by FEMA in consultation with an Insurance and Reinsurance Advisory Committee. The premiums to be established by FEMA must be actuarially fair over an extended period of time and not lead to the cross-subsidization of policyholders in high-risk areas by those in low risk areas. Low-income households and residential property that meet certain loss-reduction requirements can be charged lower rates.

The bill allows individual homeowners in areas of non-compliance with the mitigation measures established in Title I of this bill to be eligible for the federal residential insurance if their property meets certain mitigation criteria.

95 percent of the premiums paid will be deposited in the Residential Property Insurance Fund established in the Treasury of the U.S. The Fund will be used to settle claims in the event of losses incurred by an earthquake, volcanic eruption, or hurricane.

5 percent of the premiums paid will be deposited in the Self-Sustaining Mitigation Fund, which will be available to the Director of FEMA to support certain earthquake, volcanic eruption and hurricane hazard reduction activities.

TITLE III—REINSURANCE PROGRAM

Establishes an excess-loss reinsurance program for private insurers. Federal reinsurance coverage will be triggered if an earthquake, volcanic eruption or hurricane cause losses and loss adjustment expenses under these policies that exceed eight percent of the industry's country wide premiums. Reinsurance coverage will also be triggered if any single insurer or reinsurer experiences losses from a single event that exceeds 50 percent of its countrywide premiums.

THE BOY SCOUTS OF AMERICA PRESENT THE 1992 REPORT TO THE NATION

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. GEPHARDT. Mr. Speaker, on Tuesday, February 9, 1993, the Boy Scouts of America presented the 1992 Report to the Nation to the President of the United States, the Vice President, and the Speaker of the House. The report was accepted on behalf of the Speaker by the Clerk of the House, the Honorable Donnald K. Anderson, during a breakfast held in the Speaker's dining room in the Capitol.

The Boy Scouts of America instills the highest standards of citizenship and moral values in the youth of our Nation and is an organization of which I am proud to have been a member, achieving the rank of Eagle Scout. It is with great pleasure that I present for inclusion in the RECORD the Boy Scouts of America 1992 Annual Report to the Nation together with the names of the delegation.

1992 REPORT TO THE NATION, BOY SCOUTS OF AMERICA

In 1992, the Boy Scouts of America—

Developed a new Strategic Plan;

Introduced an innovative Urban Emphasis initiative;

Offered its members exciting new outdoor and service adventures through the TRAIL Boss program;

Initiated the work of the Russian Scout exchange;

Developed its college internship program;

Elected a new national president.

It was a year that included a review of the past decade and, from that perspective, effective methods of delivering a strong, values-based program to meet the needs of youth in the 1990s and beyond were formulated. More than 4.1 million youth participated in Scouting activities in 128,229 units.

Boy Scout Camping. Nineteen ninety-two was a record year for Boy Scout summer camping, with 70.1 percent of Scout troops and 55.2 percent of all Scouts participating. This represents the highest percentages of boys and troops camping since 1941. Most of the 34,587 troops and 479,384 Scouts who camped did so in more than 700 Boy Scout resident camps around the country.

Cub Scout and Family Camping. Helping families find ways to spend more time together remains an important goal of the BSA's Cub Scout camping program. The continued popularity of Cub Scout outdoor activities was evident as nearly 565,000 boys and 258,000 adults participated in Cub Scout outdoor programs. Family camping attendance exceeded 248,000.

Eagle Scouts. The Eagle Scout Award, the highest rank that can be achieved by a Scout or Explorer, was earned by 34,064 boys. Distinguished Eagle Scout Awards were presented to 32 adults who earned the Eagle Scout badge at least twenty-five years ago and who are acknowledged as leaders in their professions. Membership in the National Eagle Scout Association rose to 168,504—an increase of 8,380 members.

Hispanic Emphasis. Continuing its effort to promote understanding and acceptance of America's rich cultural diversity, the BSA again increased the number of Scouting publications available in Spanish editions so that parents and adult leaders who read Spanish may fully participate in Scouting.

Strategic Plan. A new Strategic Plan for the BSA was approved by the National Executive Board. This plan gives the Boy Scouts of America the direction to achieve its role as a viable force for youth as it prepares to enter the twenty-first century. The plan addresses challenges such as the growth of total available youth in the 1990s and the need for local councils to prepare to serve the added numbers of youth. National and regional restructuring, including the restructuring of the regions from six into four, will maximize the benefit of the dollars available to Scouting.

National Court of Honor. The National Council recognized outstanding acts of service by Scouting's youth members and leaders. The National Council of Honor authorized 49 Honor Medals, 127 Heroism Awards, 126 Medals of Merit, and 71 National Certificates of Merit. The Silver Beaver Award, the highest recognition for council volunteers, was presented to 2,376 leaders for distinguished service to youth.

Silver Buffalo Awards. Fifteen distinguished citizens of the United States received the Silver Buffalo, awarded by the Boy Scouts of America for distinguished service to youth.

Young American Awards. The BSA Young American Awards are presented to young people between the approximate ages of 15 and 25 who have achieved excellence in any of several fields. These prestigious awards for exceptional achievement by youth were bestowed on five outstanding recipients in 1992.

Russian Outreach. The BSA has accepted the challenge of reorganizing Scouting in Siberia. As part of this commitment, the first Scout exchange was held. Four Siberian Scouts and a leader spend one week each with BSA local councils in Provo, Utah, and Bethesda, Maryland. The Siberian Scouts in turn hosted a BSA patrol in Perm, Russia. Scouts in both countries look forward to the BSA's continued support of the Siberian association.

Reader's Digest College Internships. The BSA is committed to minority employment. In October 1991 the DeWitt-Wallace Reader's Digest Fund awarded the BSA a $2.3 million grant to establish a national college internship program. Six metropolitan Scouting councils were chosen to participate. The program began in January 1992 with nine interns; fifty-seven interns participated in the fall semester. Of the latter, fifty-one were female or ethnic minority. Each worked twenty hours a week alongside a successful Scouting professional. The program earned positive comment from faculty members, university placement officers, and professional Scouters. Strategies have been developed to place all recommended interns in BSA local councils upon graduation.

New BSA President. John L. Clendenin, chairman and chief executive officer of BellSouth Corporation, Atlanta, Georgia, was elected national president of the BSA at the National Executive Board Meeting in May. A lifetime supporter of Scouting, Clendenin had served on the National Executive Board since 1986 and has held many volunteer positions, including executive vice president of the BSA and vice president of Personnel. He also served as chairman of the Strategic Planning Steering Committee.

Trail Boss. Teaching Resources and Individual Leadership—better known as TRAIL Boss training—gives volunteer leaders specialized skills for training and leading volunteer crews in worthwhile conservation or public service projects. These projects promote environmental education and enhance the stewardship of cultural and natural resources. Seven federal agencies worked with the BSA to develop the program. TRAIL Boss encompasses conservation and environmental projects ranging from maintaining hiking trails to restoring cultural landmarks to building nesting boxes. In 1992 the BSA conducted two training courses to help BSA local councils with the program and released a self-study manual.

Chartered Organization. The BSA owns no Cub Scout packs, Boy Scout troops, or Explorer posts. Rather, the program is designed to be used by religious, civic, fraternal, educational, and business groups and other community-based chartered organizations who share with the BSA the goal of preparing the nation's youth to be contributing members of society. The program remains adaptable to the goals and methods of virtually any organization with an interest in youth.

Urban Emphasis. A new Urban Emphasis is bringing traditional Scouting to low-income and minority urban communities. At the national level, Urban Emphasis will develop new tools to support target markets of local councils, provide training for professionals, help councils develop new program initiatives, and forge new relationships with national groups that have a vital interest or presence in these target market areas.

Learning for Life. School-based Learning for Life, designed to teach positive values and life skills in a classroom setting, completed its first year of operation in 1992. Nearly 700,000 youths participated in this program, which has been applauded by teachers and school principals nationwide and by such organizations as the National Alliance of Black School Educators and the American Association of School Administrators. Thomas A. Shannon, executive director of the National School Boards Association, stated, "The successful implementation of Learning for Life programs in local school districts will make a significant contribution to our free and democratic way of life."

JOHN L. CLENDENIN,
President.
BEN H. LOVE,
Chief Scout Executive.

1992 REPORT TO THE NATION DELEGATION

Brandon Stickle, Cub Scout Representative.

William Hernandez, Boy Scout Representative.

Kohath Gilbert, National Eagle Scout Association Representative.

Domecia Manuel, National Exploring President.

Kathleen Conwell, Explorer Program Representative.

Dameon Hutto, National Vice Chief, Order of the Arrow.

Billy Wally and Beverly Walley, Co-Advisers, Volunteer Scouters.

G. Allen Mossman, Delegation Director.

Rick Stickle, Father of Cub Scout Representative.

INTRODUCTION OF THE SOCIAL SECURITY MISCELLANEOUS AMENDMENTS ACT OF 1993

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. JACOBS. Mr. Speaker, today I am introducing H.R. 922, the Social Security Miscellaneous Amendments Act of 1993. This bill contains 11 provisions which were included in H.R. 11, the Revenue Act of 1992, which was vetoed by President Bush last fall.

I insert a staff summary of this legislation in the CONGRESSIONAL RECORD following these remarks:

H.R. 922, THE SOCIAL SECURITY MISCELLANEOUS AMENDMENTS ACT OF 1993

Sec. 2. Statutory requirements for public telephone access to local social security offices.—The existing requirement that the Social Security Administration [SSA] maintain public telephone access to local Social Security offices at the level generally available on September 30, 1989, would be made more explicit by requiring that the agency reestablish and maintain the same number of public inquiry telephone lines to the offices as were in service on that date, including telephone sets for the lines. Public access to SSA's 800 number would also be maintained at current levels.

Sec. 3. Social Security exclusion for election workers.—The Federal Insurance Contributions Act [FICA] tax exclusion for election workers would be raised from $100 to $1,000 annually, beginning on January 1, 1994, and would be indexed thereafter.

Sec. 4. Social Security coverage of non-cash agricultural wages.—Non-cash remuneration paid to agricultural workers would generally be covered by Social Security and therefore subject to tax under FICA.

Sec. 5. Use of Social Security numbers by States and local governments and Federal District Courts for jury selection purposes.—States and Federal District Courts would be permitted to use Social Security numbers, which have been collected for purposes permitted under current law, to eliminate duplicate names and names of convicted felons from jury source lists.

Sec. 6 Authority for optional Social Security coverage of police and firefighters in all States.—The option currently available in 24 States for the State to cover under Social Security police and firefighters who participate in a public retirement system would be expanded to apply to all States.

Sec. 7 Limited exemption from SECA for American ministers working and resident in Canada.—Limited relief from Social Security taxes would be provided for American citizens who are ministers residing and working in Canada. The relief would be from double taxation—taxation under both the U.S. and Canadian social insurance systems on the same work—for years just prior to the U.S. totalization agreement with Canada which eliminated such double taxation.

Sec. 8 Totalization benefits and the windfall elimination provision.—The U.S. can enter into "totalization" agreements with foreign countries in order to provide Social Security benefits to individuals who have split their careers between the two countries. The inappropriate application of the Windfall Elimination Provision (which reduces benefits to an individual who also receives a pension from work not covered by the U.S. Social Security system) in certain totalized cases would be repealed.

Sec. 9 Exclusion of military reservists from application of the windfall elimination provision.—Military retirees who receive a pension based on inactive duty between 1956 and 1988 would be exempted from the Government Pension Offset and the Windfall Elimination Provision, thus conforming their treatment with that of other military retirees.

Sec. 10 Repeal of facility-of-payment provision.—When a dependent beneficiary has benefits withheld (e.g. due to the earnings test), the withheld benefits would be redistributed and paid directly to the remaining beneficiaries, rather than being paid to the working beneficiary with the understanding that they were for the use of the other dependent beneficiaries under the facility-of-payment provision of current law.

Sec. 11 Application of subsequent entitlement guarantee to maximum family benefits.—A worker who received disability benefits for a period of time, then returned to work, and subsequently became reentitled to benefits would be guaranteed the Maximum Family Benefit applicable during the period of his or her earlier entitlement to disability benefits.

Sec. 12 Disclosure of SSA information for epidemiological research.—SSA would be permitted to disclose, subject to safeguards, whether its records showed an individual to be alive or deceased for epidemiological research purposes, if the information could reasonably be expected to contribute to the national health interest.

THE REVEREND ROBERT E. CLARK RETIRES AFTER YEARS OF SERVICE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. SOLOMON. Mr. Speaker, the Reverend Robert E. Clark has retired as rector of the

Episcopal Church of the Messiah in my hometown of Glens Falls, NY.

He has been an outstanding spiritual leader in the community, and he will be missed, but fortunately, Reverend Clark has also contributed to civil life, and we all hope that will continue.

After obtaining his bachelor's degree at Bowling Green State University in Ohio, Reverend Clark obtained a masters degree from Colgate-Rochester Divinity School, Bexley Hall, and Philadelphia Divinity School. He is a retired commander in the U.S. Navy Reserve and served as an information officer at the U.S. Naval Academy for many years.

He served as rector at Church of the Messiah from 1978 until his recent retirement. During that time, in addition to his duties as rector, Reverend Clark has also been active on the executive board of the American Red Cross, United Way, Marines Corps League, Masonic Lodge 121, and a number of ecumenical clergy groups. He has also served in various positions on the Episcopal diocese. He is a member of the American Association of Marriage and Family Counselors.

Reverend Clark is married to Anne Thompson Clark, who, like her husband, has been a real asset to the community. They are the parents of four children.

Friends, family, and parishioners honored Reverend Clark at a recent reception. Mr. Speaker, I would ask that you and other members please join me for our own tribute to the Reverend Robert E. Clark, a spiritual leader, pillar of his community, and great American.

HONORING NEW SETAUKET FIRE CHIEF LAWRENCE T. HEINZ

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. HOCHBRUECKNER. Mr. Speaker, I am pleased to announce that on Saturday, February 20, 1993, the Setauket Fire Department of Long Island, NY, will honor its new chief, Lawrence T. Heinz.

Mr. Heinz has been an active member of the Setauket Fire Department since December 1968, when he was assigned to Engine and Hose Company No. 2. In 1980 he transferred to Rescue Company, and continued his volunteer service to the community. In addition, he has achieved the designation of advanced emergency medical technician.

Mr. Heinz served our Nation as a staff sergeant in the U.S. Air Force and is now employed by the Grumman Corp. as a crash rescue firefighter.

The installation ceremony will have special and unique significance because Larry Heinz will be sworn in as chief by his father, Mr. Rexford Heinz, who also served as chief of the Setauket Fire Department. The ceremony will be witnessed by family and friends including Larry Heinz's wife, Linda, as well as his son and daughter. The Heinz family has an outstanding record of community service with the Setauket Fire Department. Perhaps one day in the future Larry Heinz will swear in one of his children as chief and the family commitment will be carried on by a third generation.

As the Representative of the people of the First Congressional District of New York, I offer Chief Heinz my thanks for a job well done and best wishes for his tenure as chief.

INDOCTRINATING THE CHILDREN

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. DUNCAN. Mr. Speaker, Thomas Sowell, a distinguished scholar at Stanford University, recently wrote a column titled "Indoctrinating the Children" which appeared in the February 1, 1993 issue of Forbes magazine. In response to fears being raised in the media about the religious right taking over school boards, Dr. Sowell asks the question, "Where have the media been all these years, while the most blatant, deliberate and pervasive indoctrination by the political left has been taking place in public schools all across the country?" Mr. Speaker, I submit Dr. Sowell's complete article for the RECORD.

Any boy who grew up in a rough neighborhood has probably had the experience of having another boy punch him in class, with the teacher turning around just as he hit him back.

It did no good to say, "He hit me first!" because the automatic answer was: "Two wrongs don't make a right."

It is much the same story in the media today, as editorials warn that "the religious right" is "taking over" school boards. Alarms are being raised that conservative or religious indoctrination will be imposed in the public schools.

Where have the media been all these years, while the most blatant, deliberate and pervasive indoctrination by the political left has been taking place in public schools all across the country?

Hypothetical dangers from conservative or religious groups attempting to fight back do not begin to compare with the dangers from the enormous apparatus already in place, and continuing to conduct classroom brainwashing, to the detriment of academic education.

The techniques of brainwashing developed in totalitarian countries are routinely used in psychological-conditioning programs imposed on American school children. These include emotional shock and desensitization, psychological isolation from sources of support, stripping away defenses, manipulative cross-examination of the individual's underlying moral values, and inducing acceptance of alternative values by psychological rather than rational means.

These techniques are not confined to separate courses or programs, but also intrude into academic subjects like history or social studies, as well as being pervasive in programs ostensibly dealing with special social issues, such as sex education, death education, drug prevention, nuclear education, or multiculturalism.

Shock and desensitization procedures range from taking children to morgues and funeral homes to see and touch dead bodies to pairing boys and girls to have conversations with each other about sex, showing ghastly movies of war, or raw movies showing sexual activity or close-ups of childbirth.

Verbal examples include classroom discussions of lifeboat dilemmas, where the limited capacity of the boat forces decisions as to who should be left to drown. Sometimes children are asked to decide whom they would sacrifice among members of their own family.

These are not the isolated idiosyncrasies of particular teachers. They are products of numerous books and other "educational" material in programs packaged by organizations that sell such curricula to administrators and teach the techniques to teachers. Some packages even include instructions on how to deal with patents or others who object.

Psychological isolation can be achieved in a number of ways, and stripping away psychological defenses can be done through assignments to keep diaries to be discussed in the group and through role-playing assignments, both techniques used in the original brainwashing programs in China under Mao.

Mobilizing school children for the political crusades of the left has also been going on for years. At one time, the largest number of letters received by the President of the United States on any subject came from school children writing to him about nuclear issues, as part of their classroom assignments.

All this is barely the proverbial tip of the iceberg. There is, for example, the whole Alice-in-Wonderland world of multiculturalism, where the very photographs and drawings in textbooks must propagandize the multicultural message. There are math textbooks where the pictures of famous mathematicians and scientists would suggest that virtually no white male had ever had anything to do with either of these fields.

The pettiness of the education establishment's detailed instructions and taboos for pictures in textbooks might seem funny to an observer, but they are deadly serious matters of financial life and death to the publishers.

Many parents who have been appalled to discover what has been going on in the schools have fought lonely and frustrating battles against the education establishment. Eventually some have begun to organize, which at least deprives the school bureaucrats of their favorite line: "You're the only one who has complained."

That line will be used, even when controversies and lawsuits are raging all across the country over a particular brainwashing program. Parents are also likely to be told that all the educational experts support the program. What they are unlikely to be told is that these "experts" are often the ideological gurus who pushed these programs in the First place, or consultants who profit from them.

When the futility of individual protest leads to organized activity, that is when the cry of "censorship" goes up from the education establishment and the media rush to the rescue, invoking the specter of "the religious right." What has caught their attention is someone trying to fight back.

AFRICAN-AMERICANS HAVE A PROUD LEGACY

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mrs. KENNELLY. Mr. Speaker, during the month of February all Americans will have the opportunity to reflect on the remarkable achievements of African-Americans in shaping

American history and American life. This is as it should be: Dr. Carter Woodson, Black History Month's founding father, wanted this to be a time to celebrate achievements, not only for black Americans, but for all Americans. After all, we have all benefited from the accomplishments of African-Americans, and we have all been enriched by their culture.

This year, we focus on African-Americans as scholars, leaders, activists, and writers. The late Thurgood Marshall, whose death we mourn, epitomized this theme; his efforts, as a civil rights advocate and Supreme Court Justice, changed America forever—and for the better. So too, Arthur Ashe, who earned fame on the tennis court, but always remained a dedicated activist for human rights around the world.

There is an endless honor roll of African-Americans: Compelling speakers and leaders like Malcolm X and Sojourner Truth; educators and intellectuals like Mary McLeod Bethune and W.E.B. DuBois; giants of the civil rights movement like Rosa Parks and Dr. Martin Luther King, Jr.

But those who lead on the Nation's and world's stage are not alone. In States and cities, communities and neighborhoods across our country, we are rich in talented and able black Americans. Our leaders and neighbors in the First Congressional District of Connecticut include the late State Senator Wilber Smith, Art Johnson, and the late Isabel Blake, activists in community affairs and civil rights; historians and scholars like John Rodgers, Judge Boce Barlow, and John Brittain; and political trailblazers and activists like Carrie Saxon Perry, Thirman Milner, and Ella Cromwell. These individuals are committed to achievement—not only for themselves, but for their community.

Mr. Speaker, African-Americans have a proud legacy. I celebrate not only that legacy, but the continuing contribution of African-Americans to the enrichment and spirit of the United States.

HEALTH CARE REFORM: MANAGED COMPETITION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, February 17, 1993 into the CONGRESSIONAL RECORD:

The American health care system has two glaring problems: costs are out of control and roughly 37 million Americans lack medical coverage. The challenge facing the country today is to develop a solid consensus behind an approach to solve these and other problems. The approach most widely discussed is managed competition.

REFORM GOALS

I find general agreement among Hoosiers about what they want from a health care system: it should be affordable; it should allow people to choose their own doctor and hospital; it should include preventive measures; it should continue to provide high quality care; and it should be universal, with no patient denied basic care because he or she cannot pay for it. Also, the federal government must not micromanage care, but should leave states enough flexibility to adjust health care programs to the needs of their citizens and to the limits of their resources.

MANAGED COMPETITION

Other reform proposals—ranging from more market competition to a government-run plan—are under consideration, but the reform that is most discussed at present in Washington is managed competition. The basic idea of managed competition is to restrain costs by requiring health care providers to compete with one another. Managed competition represents a middle ground between a government-operated plan and market competition. The government would enforce some guidelines and restrictions on private insurers, doctors, and hospitals. President Clinton backed managed competition last year, and he is expected to present a reform package later this year. The President's health care proposal will dominate debate on this issue.

A managed competition system would use government incentives such as tax credits to encourage companies and individuals to enroll in large or "super" health maintenance organizations (HMOs). The goal is to have the super HMOs compete to attract customers. Super HMOs would use their size and purchasing power to negotiate the best price and service from hospitals, doctors, and insurers. Individuals, small employers and large corporations all could join, allowing everyone in that super HMO to receive similar coverage for the same cost.

Many Americans already are familiar with traditional HMOs, and roughly 45 million of them are enrolled in such an organization. Traditional HMOs, which offer medical coverage in return for a prepaid premium, try to hold down costs by limiting unnecessary services and restricting a patient's choice of doctors and hospitals to those in the HMO. HMOs have had limited success, and most have held cost increases to just under medical inflation.

Some large businesses are experimenting with managed competition. One company, for example, solicits bids from competing HMOs for the right to enroll its employees. It reviews the bids on the basis of cost and quality and reimburses its employees only for the least expensive HMO plan. Employees who join a more expensive HMO must pay the extra cost on their own.

Critics of managed competition are concerned that the proposal has never been tried on a national level, and that it may not restrict cost increases. Some also worry that rural areas would not benefit from managed competition. Few rural areas have enough people to form super HMOs, and managed competition will not necessarily increase the availability of doctors and other medical care in these areas.

ADDITIONAL PROGRAM

Managed competition plans often include several other reforms:

One, a standard benefit plan could be established which insurers would have to offer everyone. The package could include doctor and hospital coverage, preventive care, mental health benefits, prescription drug coverage, and protection from catastrophic health care costs. Well-to-do families could, at their own expense, buy conveniences such as a private hospital room. A standardized package would reduce the blur of confusing coverages and price structures, allowing consumers to more easily compare various coverage plans for cost and service.

Two, insurers could be required to provide the same coverage to everyone for the same price, regardless of whether they have a preexisting illness. Some states are experimenting with such proposals.

Three, spending targets could be established for public and private health care expenditures. The goal would be to limit cost increases, not actually cut payments. Clinton has indicated support for some form of spending target. Some experts, however, believe spending restrictions would be unnecessary or even counterproductive, adding bureaucracy while stifling innovation and limiting care.

Four, the government could alter tax laws so employer provided health benefits which go beyond a basic benefits package no longer would be tax exempt. This proposal, which is very controversial, would encourage employees to choose less expensive coverage.

Five, several incremental reforms could be adopted to improve managed competition, including increased health education, more primary and preventive care, malpractice reform, cost-sharing, more health care research, and reduced paperwork.

Finally, health care could be expanded. There is a real complication in trying to control health costs while expanding access to medical care: the first saves money but the second costs money. Most health experts believe the cost of expanding care to everyone will far outstrip any savings from comprehensive reform. Moreover, it probably would take at least five years for a managed competition plan to be put into place and produce savings. if the government must wait to see savings from a reform package, expansion of health care coverage might have to be postponed.

CONCLUSION:

I believe comprehensive health care reform is necessary to deal with the problems of increasing costs and limited access. The need for consensus on reform is urgent. For the present, managed competition is where the action is, and it probably represents the best chance through combined private and public coverage to deal with the health care challenge.

Managed competition is not the perfect solution to the nation's health care needs—costs will continue to rise (although probably at a slower rate), many adjustments will have to be made over time, and some Americans still may not have adequate and affordable health care coverage. But it could be an important start.

INTRODUCING A RESOLUTION TO OPPOSE OIL IMPORT FEES

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Ms. SNOWE. Mr. Speaker, today I am introducing a concurrent resolution which expresses the sense of the Congress that no new taxes or fees should be levied on imported oil.

Oil import fees have been mentioned in recent weeks as a possible component of a broad-based energy tax. In fact, legislation has been introduced in both Houses of Congress which sets a floor on the price of imported crude oil of $25. Given the current world price of about $20, this floor actually amounts to an import fee of $5 per barrel.

Mr. Speaker, I believe that the imposition of new oil import fees or taxes on the American people would have detrimental economic, social, and environmental effects. A $5 per barrel import fee could cost consumers a staggering $31 billion while the American economy is struggling to overcome the effects of a recession.

An oil import fee is regressive; it hits low- and middle-income people the hardest. Especially at risk are those who depend on the Low-Income Home Energy Assistance Program for heating and energy assistance. These people, composed of the poor and the elderly, and struggling with minimal Federal energy assistance, cannot withstand another large increase in their annual energy bill.

An import fee is a selective and inefficient tool for reducing the deficit. It places the brunt of the deficit reduction burden on the shoulders of people living in import-dependent regions like the Northeast and the Midwest. Nearly half of every every new dollar charged for oil in this country as a result of an import fee will go not to deficit reduction, but to domestic oil companies.

And by substantially increasing the price of oil, an oil import fee could also lead to environmental degradation by stimulating oil exploration and development in sensitive coastal and wilderness areas.

Mr. Speaker, the best information shows that oil import fees make bad policy for the American people. I hope my colleagues will join me in opposing any new oil import fees by cosponsoring my sense of the Congress resolution.

AMERICAN VIETNAMESE LEADERS HONORED

HON. WAYNE T. GILCHREST

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. GILCHREST. Mr. Speaker, on October 1, 1992, a group of American-Vietnamese leaders were honored by the Vietnamese Council for a Free Vietnam, the American Committee for a Free Vietnam, and the Congressional Task Force on Vietnam, of which I serve as the Republican co-chairman, in room 116, annex 1.

The meeting was organized by a committee of the Vietnamese Council for a Free Vietnam under the able leadership of Chairman Le Phuoc Sang, Ph.D. I had the honor of presenting the citations to the honorees together with the outgoing Democratic co-chair, Representative Ed Feighan. Ambassador William E. Colby, president of the American Committee for a Free Vietnam also spoke and several of his board members were present. A number of my colleagues, including several members of the task force, Representatives DAVID SKAGGS, DANA ROHRABACHER, and FRANK WOLF were also in attendance.

The honorees were selected by the Vietnamese Council for a Free Vietnam from the ranks of Vietnamese professionals and artists who by their work have contributed to keeping alive the traditions of Vietnamese culture abolished by the Communists and who contributed to the cause of a free Vietnam. This was the second of such events—the first one featured six human rights activists from California on August 5, 1992, and further events are planned by the two organizations and the Congressional Task Force.

I insert into the RECORD the names and occupations of the American-Vietnamese honorees who attended the October 1 event.

AMERICAN VIETNAMESE HONOREES

I. MEDICAL DOCTORS—FIGHTERS—BENEFACTERS

Dr. Nguyen Xuan Dung, Dr. Nguyen Thanh Khuong, Industrialist Le Van Ba, Industrialist Le Van Huong, and Professor Dang van Nham.

II. JOURNALISTS

Nguyen Huu Nghia, Son Tung, Ngoc Hoai Phuong, Huynh cong Anh, Truong Si Luong, Hoang Duoc Thao, Nguyen Ba Dinh, Dao Truong Phuo, Viet Dzung, Vi Khue, Nguyen Thuyen, Ho cong Lo, and Le Hong Long.

III. WRITERS

Nguyen Huong, Nguyen Manh Dan, Truong Son Le Xuan Nhi, Nguyen Nghia, An Khe, Ngo Du Trung, Nguyen Duc Lap, Thieu Mai, Nguyen Ngoc Ngan, and Xuan Vu.

IV. POETS

Van Nuong, Vi Khue, Nam Man, Nguyen Huu Nhat, Hoang Bao Viet, Ho Cong Tam, Viet Phuong, Kha Huyen, Cao Tieu, Kha Huyen, Cao Tieu, and Ha Huyen Chi.

V. ARTISTS

Ha Cam Duong, Nguyen Nhat Tan, Vivi Vo Hung Kiet, Babui Nguyen Tan Phu, Nguyen Tanh De.

VI. MUSICIANS-COMPOSERS-SINGERS

Kim Loan, Minh Ha, Nguyet Anh, Tran Quang Hai, Pham Duo Thanh, Viet Dzung, Pham Quang Ngoc, Nguyen Quyet Thang, Chau Dinh An, Hung Cuong, Tran Van Trach.

VII. RESEARCHERS

Tran Van Tich, and Le Huu Muc.

HEALTH CARE IN AMERICA

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. DICKS. Mr. Speaker, in the last Congress, I introduced legislation that attempted to address our collective concern here in the House of Representatives about the human impact of the sharp increases in the cost of health care in America.

Annual inflationary increases in health care—far more than the cost-of-living adjustment provided in a worker's wages—have forced millions of Americans to spend more and more of their annual incomes on health care, while others have been financially precluded from receiving adequate health care for themselves and for their families. Health care is, in fact, out of reach for many Americans, not only because of the recessionary period of the past several years, but because health care costs are far outpacing personal incomes.

I am once again calling the attention of my colleagues to sound an alarm on this issue. Testimony recently provided to the House Ways and Means Committee has signaled, unfortunately, that the health care crisis in America is indeed getting worse. At a hearing on January 26 CBO, several research organizations, and public and private health care institutes were unanimous in predicting that the trend would continue unless the Congress and the President seize the opportunity and adopt meaningful health care reform.

Although the 103d Congress is only a few days old several health care measures have already been introduced, and many, many more will be considered before this session is completed. These measures will attempt to reform or to reorganize or to expand our health care system, achieving the all-important goal of controlling costs. Most of the solutions are as massive and complex as the problems they attempt to solve.

The recent testimony has only served to underscore the reality that the population of uninsured is concentrated disproportionately among low-income families. An estimated 54 percent of those who have no health insurance are families with annual incomes under $20,000, while only 11 percent of the families with incomes larger than that were uninsured. There is a solution for many of these low-income families, and one that is cost effective and timely for these most vulnerable people in our society. At this time, community, migrant, and homeless health care centers provide inexpensive primary and preventative care for millions of low-income and disadvantaged people. The basic services offered by these clinics save money by reducing the number of emergency room visits, reducing the number of hospital admissions, shortening the length of hospital stays, reducing the number of premature births, lowering the number of communicable diseases, and protecting our Nation's children from disease through immunization. But it is important to note that, for every patient who receives care in one of these clinics, there are four others who go unserved because of the shortage of personnel, facilities and, of course, money.

In my district in Washington State, community and homeless health care clinics have clearly made the difference for many families who are forced to choose between paying the light bill or to take their child for a medical checkup. An estimated 15,000 low-income individuals receive primary and preventative care in the Tacoma-Pierce County area alone. Across the State of Washington, community health care clinics will provide more than 400,000 medical and dental treatments. Since the number of unemployed people in the U.S. continues to rise, and unfortunately in Washington State we are facing the potential of further unemployment because of the downturn in the aircraft and timber industries, these clinics represent an absolutely essential lifeline for an increasingly at-risk population.

The bill I am introducing today, similar to legislation I introduced in the 102d Congress, addresses this area of neglect by increasing our investment in migrant, community, and homeless health care programs. Through this legislation each of these health care programs would receive an annual increase in funding of 20 percent beginning in fiscal year 1994. Similar increases would continue through the succeeding 3 years until funding for these programs amounts to twice their current level.

Children from low-income families would obviously be the greatest beneficiaries of this legislation. About one-third of those served by these clinics are children under the age of 14, and more than one-fourth are women of childbearing age. Children present a special risk in uninsured and underinsured families, as they are most likely to suffer when deprived of continuous health care. As many of my colleagues know, children will be the largest beneficiaries of this effort, especially in areas such as childhood immunization. For every dollar spent on immunizations and on preventive care for young people, there is a tenfold savings in future medical costs. That's the kind of incremental improvements we can make, in the near term, while Congress and the administration are considering more comprehensive and far-reaching health car reforms.

I encourage my colleagues to support this legislation, and to join me in providing the medically underserved an effective and cost-efficient health care program.

BLACK HISTORY MONTH

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. TOWNS. Mr. Speaker, February is Black History Month. It is with immense pride that I stand to pay tribute to men and women who have contributed substantially to the history of this country.

Despite their astounding contributions, most of the profiles which I will run this month will be of people with whom you are unfamiliar. Their lack of fame is not attributable to the paucity of their efforts or the dearth of their ambition. Their contributions are often denied, their achievements are often attributed to others and their existence is overlooked in history books because of their race. It is my fervent hope that one day these African-Americans will be recognized by all Americans for the content of their character.

In the face of overwhelming obstacles black Americans have survived and often, prospered. These people of strength and courage excelled in fields as varied as law, medicine, science, journalism, business, the arts, and religion.

These black Americans did not allow prejudice to douse the fire of imagination nor bigotry to put out the flame of knowledge. Instead they used their intelligence, ingenuity, and determination to enlighten the world.

I hope that the knowledge of their struggle and ultimate triumph will inspire yet another generation to work to overcome any obstacle which may be encountered on the long and arduous road to freedom.

BLACKS IN MILITARY SERVICE

African-Americans have fought and died to protect the lives, liberty, and property of all Americans. In every armed conflict, African-Americans have gone into battle with a hope and a promise that their reward for loyal and distinctive service would be the realization of the ideals of freedom and justice embodied in the Constitution and touted as the birthright of every American. Yet this country has been slow and reluctant to grant them basic human rights.

Today, I rise to salute James Lafayette, Peter Salem, and Dorie Miller for their gallant service to this country. However, I must also recognize: Crispus Attucks, the first soldier to fall in the American Revolutionary War; the 22 African-American Medal of Honor recipients of the Civil War; the black calvary unit that rode up San Juan Hill in front of Teddy Roosevelt's Rough Riders; the several thousand women who served as WAC's in World War II; the Tuskeegee airmen who learned to fly despite being told that they were unable; and the hundreds of thousands of ordinary men and women who fought in Korea, Vietnam, and Operation Desert Storm.

JAMES ARMISTEAD LAFAYETTE

James Lalayette risked his life behind enemy lines to help American forces. During the American Revolutionary War, Lafayette served as a scout and espionage agent for American forces. The intelligence reports which he provided to French commanders enabled French troops and American forces commanded by Gen. George Washington to successfully counter British troop movements. Many historians believe that Lafayette's reports paved the way for Washington's 1781 victory at Yorktown.

In recognition of Lafayette's valued assistance, the Virginia Legislature granted him freedom in 1786.

In 1819, Lafayette was finally granted a pension of $40 per year normally awarded to white men who served on the military. Because of racial prejudice, Lafayette had been denied his pension for over 40 years.

PETER SALEM

In 1750, Peter Salem was born a slave in Framingham, MA. At the onset of the American Revolutionary War, the British offered slaves in the Southern colonies freedom if they fought with British forces. This provocative invitation coupled with the fear of slave insurrection, prodded the Colonial forces to accept the services of free blacks in the Army. Like many Northern colonists, the Belknap family, who owned Salem, was ill at ease with the apparent contradiction of freedom for the colonies but continued bondage for humans. This uneasiness led them to an act of conscience. They granted Salem his freedom. He enlisted in the American Revolutionary Forces.

Although it is widely believed that Peter Salem saw action on the opening day of the Revolutionary War, he is best known for his involvement in the Battle of Bunker Hill. Popular lore maintains that during the battle, Salem killed the first Englishman, Maj. John Pitcairn. Salem's exploits are memorialized in the 1782 painting "The Battle of Bunker Hill" by artist John Trumbull in which an African-American soldier stands at the ready. It is widely believed that Salem served with distinction in the Continental Army for the duration of the war.

Unfortunately, despite his heroic service in bringing about the birth of the republic, Salem died in the Framingham poorhouse in 1816.

Today, the "Salem" gun is preserved at Bunker Hill to commemorate his deed.

DORIE MILLER

On December 7, 1941, the massive and surprise bombardment of Pearl Harbor, HA, forced American troops into World War II. It also forced Dorie Miller to become a hero.

As a messman on the U.S.S. *Arizona*, Miller was attending his regular duties when the airborne attack began. Amid the noise and confusion, Miller rushed on deck, hauled his wounded captain to safety and pointed antiaircraft guns at the attacking planes. Although neither trained to operate weaponry nor to participate in battle, Miller steadily and tenaciously used the antiaircraft gun to bring down four enemy fighter planes.

The following year, he was cited for bravery and extraordinary courage by Fleet Adm. Chester Nimitz and was awarded a Silver Star. The War Department used Miller's popularity to sell U.S. war bonds. After a short promotion tour, Miller was assigned to the *Liscome Bay*. Unfortunately, Miller's bravery and fame were not sufficient to earn him a promotion, reassignment or a reevaluation of duties. He returned as a messman.

On November 25, 1944, the *Liscome Bay* was sunk, there were no survivors.

CRANDALL LIBRARY HAS RICH HISTORY; CELEBRATES 100TH YEAR

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. SOLOMON. Mr. Speaker, one of the best loved institutions in my hometown of Glens Falls, NY is celebrating its 100th anniversary.

Crandall Library is a dignified, red-brick building that anchors city park in downtown Glens Falls. Like many other institutions in the area, it has a long and rich history.

There had been several attempts in the 19th century to establish a collection of books for general circulation in the area; help came from an unexpected source.

Henry Crandall had been born in 1821 in nearby Lake George. He received little formal education, and was never an avid reader, he did learn to save and invest his money, and in 1850, with $1,000 in his pocket, he moved to Glens Falls. He built a residence on land he later donated as a city park. In 1892, Crandall called school superintendent Sherman Williams, and offered $2,500 for books, along with the second floor of a building he owned next to city park and the necessary furniture.

Crandall stipulated that the books must be freely circulated to anyone interested in reading them.

From that humble beginning, Crandall Library has grown to become the central reference library of the Southern Adirondack Library System. It now has more than 170,000 volumes of adult, nonfiction, fiction, and juvenile collections, records, audio cassettes, CD's, and video cassettes. The library subscribes to over 300 magazines and newspapers.

It's exactly because of institutions like Crandall Library that Glens Falls was called

Hometown U.S.A. in a Look magazine story in the 1940's. Many larger cities cannot boast of so fine a library serving so many people.

It's my pleasure to commend employees and trustees of Crandall Library and to congratulate her on 100 years of service.

RECOGNITION OF ROBERT M. BROCK ON HIS RETIREMENT FROM WAGE AND HOUR DIVISION, MISSISSIPPI DISTRICT OFFICE

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. PARKER. Mr. Speaker, today I stand in the Halls of Congress, in the "people's chamber," to speak in honor of a great citizen of my district, Mr. Robert M. Brock.

Mr. Brock, Director of Jackson, MS Wage and Hour Division District Office, retired on January 3, 1993 after a career of dedicated and exemplary service. He began his wage & hour career in 1960 as an investigator in Knoxville, TN, moved to Louisville, KY in 1966, and worked in various positions in the national office from 1970 to 1980. In June of 1980, he transferred to Jackson, MS as the district director, where he served the wage earners of Mississippi for more then 12 years. Robert is highly respected as an authority on wage-hour laws and his service will be missed.

I know that my friend, Robert Brock, will face the challenges of retirement with the same determination and courage he has shown throughout his career. I salute him for his accomplishments and wish him well.

MEDICARE EKG PAYMENT RESTORATION ACT OF 1993

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. CARDIN. Mr. Speaker, today I am introducing legislation to reinstate payment for electrocardiogram interpretations [EKG's] under the Medicare program. Separate payments for EKG's performed in conjunction with an office visit or consultation were eliminated as a cost savings measure in the Omnibus Budget Reconciliation Act of 1990. Payments for EKG's were bundled into visit and consultation codes.

The effect of the OBRA 90 provision has been to shift payments among physicians, overcompensating some doctors who never perform EKG's and underpaying those who interpret many EKG's. This provision also violates the spirit of physician payment reform enacted only 1 year earlier. Services that involve physician time and effort should be reimbursed according to the resource costs of providing the service. Perhaps worst of all, the law provides an economic disincentive for doctors to use this vital diagnostic tool when treating our Nation's elderly and disabled citizens.

In the 102d Congress, 240 Members of the House cosponsored legislation to correct this problem. Last year the House twice passed corrective measures as part of H.R. 3837, the Federal Program Improvement Act, and H.R. 11, the Revenue Act of 1992. My bill is identical to language in H.R. 11 which was vetoed by the President for reasons unrelated to EKG's. The conference report on H.R. 11 included statements from the American Society of Internal Medicine, the American Medical Association, the American Academy of Family Physicians, and the American College of Physicians endorsing this measure.

I urge my colleagues to cosponsor this legislation and to join me in making passage of this bill a priority for the 103d Congress. A technical explanation of this bill accompanies my statement.

TECHNICAL EXPLANATION FOR EKG BILL

CURRENT LAW

The Omnibus Budget Reconciliation Act of 1990 prohibited separate payment for the interpretation of EKG's that are performed or ordered to be performed as part or in conjunction with a medical visit or consultation. This provision was effective for services provided beginning January 1, 1992.

In the regulations implementing the Medicare fee schedule, the Department of Health and Human Services bundled payment for EKG interpretation into medical visit and consultation fees. HHS included relative value units valued at $0.73 in 1992 and $0.72 in 1993 for office visits, office consultations and emergency visits; $1.11 in 1992 and $1.10 in 1993 for hospital visits, hospital consultations and critical care services; and $0.10 in 1992 and 1993 for all other visits.

PROBLEM

Bundling of services provides incentives for appropriate utilization of services. In the case of EKG's, however, the provision redistributes monies to doctors who never interpret EKG's. Also, physicians who interpret EKG's without providing a visit or consultation receive no compensation for the service. There have been scattered reports about EKG's in hospitals not being interpreted as well as reports of doctors finding ways to circumvent the provision.

BACKGROUND

In the 102d Congress, I joined with 240 other Members of Congress in cosponsoring H.R. 3373, the Medicare EKG Restoration Act of 1991. Although no Medicare legislation was considered by the House of Representatives in 1991, the House did pass corrective legislation twice in 1992, first in August as part of H.R. 3837, the Federal Program Improvement Act, and later in October as part of H.R. 11. H.R. 11 was ultimately passed by Congress but President Bush vetoed it due to considerations totally unrelated to EKG's.

With the establishment of the Medicare Fee Schedule, separate payment for EKG interpretations is more complicated for two reasons:

(1) Due to a technical error, an insufficient number of relative value units for EKG interpretation was bundled into the medical visits and consultations. This means that more money will be paid for EKG's than will be subtracted from the visits and consultations unless there is an adjustment to the relative value units.

(2) Because more EKG interpretations go to the full fee schedule immediately than medical visits, during the transition, separate payment for EKG interpretations would not be budget-neutral if only relative value units were redistributed between EKG's and visits and consultations. The adjustment to the historical payment basis that HHS made to achieve budget neutrality would have been greater if the EKG separate payment legislation had been passed prior to the implementation of the Medicare Fee Schedule and made effective with that implementation.

PROPOSED LEGISLATION

This bill would establish separate fee schedule amounts for EKG interpretations performed as part of or in conjunction with a visit to or a consultation with a doctor. The separate payment would apply for interpretations provided in all settings.

HHS would use the same transition provisions and rules for EKG interpretations that were used for all services in 1992. That is, the historical payment basis would be calculated for EKG interpretations for each locality and the statutory transition rules would be applied to determine a 1992 payment. The statutorily specified transition rules for 1993, 1994 and 1995 would apply in those years.

The relative values established in the November 25, 1992 physician fee schedule final regulation were 0.34 relative value units for 93000 and 93010 and 0.29 for 93040 and 93042. Using the applicable 1993 conversion factor of $31.25, the fees under the fully implemented fee schedule for 1993 would be $10.62, and $9.06, respectively. It is important to stress that these will not necessarily be the full fee schedule amounts in 1994 for EKG interpretations. The relative values or conversion factor could change as a result of legislative amendments or changes that HHS makes in relative value units.

The bill would require HHS to subtract the relative value units for EKG interpretations that were actually bundled into the medical visit and consult relative value units. This will result in the following reductions for services paid at the full fee schedule.

Office visits, office consultations and emergency visits: $0.72; Hospital visits, hospital consultations and critical care services: $1.10; and

All other visits: $0.10.

An adjustment is also needed to account for the shortfall of relative value units that were actually bundled into the medical visits and consults. The bill would require HHS to make an across-the-board adjustment to the relative values for all services established to cover the insufficiency. The adjustment is currently estimated to be a 0.36 percent reduction. This reduction affects only the fully implemented fee schedule amount.

Had a sufficient number of relative value units been bundled in the HHS regulations at the time the fee schedule was implemented this adjustment would not have been necessary. Because of the insufficiency, however, the fee schedule conversion factor is too high by this amount. This adjustment is now necessary and appropriate to restore the physician fee schedule payment amounts to their intended level had the error not occurred.

An adjustment is also needed to make the legislation budget-neutral during the transition because more EKG interpretations go to the full fee schedule immediately than medical visits and consultations. My bill requires HHS to adjust the historical fees used during the transition.

Technically, the adjustment would work as follows: for services in transition, the 1992 fees that would be updated and used for blending with the fee schedule in 1993, 1994 and 1995 would be reduced across the board for all services, including EKG's, visits and consults, by a figure estimated to be 1.3 percent. This reduction would not apply to any payments for services in 1992 or 1993 nor would it apply to services paid at the full fee schedule (i.e., services not in transition). This adjustment accounts for the insufficiency of relative value units bundled into the visits and consultations during the transition and the costs of the differential transition between EKG interpretations and medical visits and consultations. There would be no permanent effect of this adjustment when all fees are paid at the fee schedule in 1996.

In summary, the costs of this legislation would be paid for by three related adjustments. The effect of the legislation varies depending on whether the service is in transition or paid at the full fee schedule, and depending on whether the service is a medical visit, consultation, EKG interpretation or another service.

First, for services in transition (other than visits and consultations), the total effect on payments in 1994 is a 0.83 percent reduction. The reduction would be 0.59 percent in 1995. Relative to the payment amounts under the fully implemented fee schedule as revised by the final rule published in the November 25, 1992 Federal Register, there will be a 0.36 percent reduction in the 1996 fee schedule amount.

Second, visit and consultation services in transition would be reduced by 0.83 percent in 1994 and 0.59 percent in 1995, as well as by a percentage of the total relative value units bundled into that the visit and consultation payments to account for EKG interpretation (33% in 1994 and 50% in 1995) depending on the type of medical visit or consultation. There will also be a 0.36 percent reduction in the 1996 fee schedule amounts relative to the values in the fee schedule final regulation.

And third, for services paid at the full fee schedule (other than visits and consultations), 1994 payments would be reduced 0.36 percent relative to the current payment amounts. For visits and consultation services paid at the full fee schedule, 1994 payments would be reduced by $0.72, $1.10, or $0.10 depending on the type of medical visit, as well as by 0.36 percent relative to the current payment amounts.

A JUDGE OF CHARACTER

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. FRANK of Massachusetts. Mr. Speaker, I believe that too many of us hold up the past as a golden age and consistently assume that things have gotten worse over time. In fact, in most areas of our life I think there has been very substantial improvement. And the career of Judge Lawrence Shubow shows that. Unfortunately, because of age Judge Shubow had to retire on November 30—so this is not an example of things necessarily getting better. But as the November 23 editorial in the Boston Globe, entitled "A Judge of Character" shows, the evolution in Judge Shubow's career is an example of the progress we have made. Forty years ago, because of his ardent defense of civil liberties against the McCarthyite abuses in the Nation, Larry Shubow was attacked by people who sought to marginalize him politically. At that point, few would have predicted his ultimate ascension to the bench. The fact that in 1978, Governor Michael Dukakis was able to appoint him to a judgeship, for which appointment he was confirmed despite an effort by some to smear him, demonstrates how far this country has evolved in its recognition of the importance of individual freedom and civil liberties.

The Boston Globe's editorial accurately characterizes the extremely valuable work Judge Shubow did for the citizens of Massachusetts, and the example of courage, compassion, and intellectual honesty that he presents to all of us. Because people should know that there are many areas where American life is improving, and because excellent examples of first-rate public service are always useful, I insert the Globe editorial about Larry Shubow here:

A JUDGE OF CHARACTER

It has been a long march for Judge Lawrence D. Shubow, who retires on Nov. 30 as chief judge of the Brookline Municipal Court.

Although he is considered one of the state's more thoughtful and compassionate judges, in earlier years few predicted he would ever be given a chance to don the judicial robes.

As a young, left-leaning lawyer in the 1950s, Shubow worked tirelessly to block local witch-hunts inspired by supporters of Sen. Joseph McCarthy of Wisconsin. Branded a Communist sympathizer, Shubow lived constantly with the fear that he, too, would be among the hunted.

By 1978, when he was appointed to the bench by Gov. Michael Dukakis, Shubow's earlier interest in international political systems was subsumed by issues such as fair housing, juvenile delinquency, rent control and family law. The Dorchester native had come home.

Shubow may well be a walking advertisement for the 1978 legislation that set up a recall system allowing judges to serve beyond the mandatory retirement age of 70. But he is first to acknowledge that such a practice inhibits the filing of vacant judgeships and merits no place in the system.

He was similarly honest last May when he expressed public regret for failing to examine the criminal record of Michael Cartier, the murderer of Kristin Lardner. Shubow's restraining order had failed to protect the woman. Characteristically, the judge did not seek security in obscurity.

In his final weeks on the bench, Shubow is implementing the state's first citizen advisory committee to make the courts more accessible and accountable.

His retirement plans include research on accreditation, which he believes is as important for halls of justice as it is for hospitals and police.

An iconoclast, Shubow has been known to refer to his judicial robe as his "little black dress." By all accounts, he has worn it well.

CONSTITUTIONAL AMENDMENT GUARANTEEING ACCESS TO HEALTH CARE TO ALL AMERICANS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. STARK. Mr. Speaker, today I am introducing legislation to propose an amendment to the Constitution of the United States to guarantee access to medical care to every citizen of the United States.

Our Declaration of Independence states: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."

Fulfillment of this pledge cannot be achieved without ensuring access to medical care for all Americans.

Be it justified on the basis of morality, fairness or even cost-effectiveness, it should be self-evident to us all that medical care is requisite to the achievement of life, liberty and happiness.

Like the protection of all rights, how to best ensure access to medical care is a matter for on-going debate. This legislation provides for a 1-year period, after ratification by the States, to put in place the implementing legislation. Passage of this amendment will provide a time-line for ensuring access to that which should be a basic right of all Americans, medical care.

DECENT WORK FOR LEGAL AMERICAN CITIZENS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. OWENS. Mr. Speaker, tonight the President will begin a process of redirecting our economy and our national priorities with a bold, comprehensive program. This national action package will emphasize investments in human beings as well as investments in physical infrastructure. Education and training for jobs will be a major component of ths comprehensive program. At some time within the next 100 days a more detailed welfare reform proposal will be initiated. And we also anxiously await the launching of a national health care program.

Today I would like to call attention to a model program already in existence which in one effort shows how to accomplish some of our important goals in welfare reform, job training, improved health care and the provision of child care for working mothers. As we well know, the Zoe Baird case highlighted the fact that there is a preceived shortage of qualified child care workers in this Nation. This model program at the Brooklyn Downstate Medical Center located in my 11th Congressional District trains child care workers for jobs in hospitals, day care centers and, yes, if there were more funds for training, many could provide quality child care services for working mothers. Without exploiting undocumented workers, the child care needs of working women can be met while at the the same time we provide decent jobs for women who want to get off welfare and go to work.

Dr. Joann Bradley, vice provost for Allied Medical Professions at Downstate Medical Center has developed a curriculum and regimen which in 1 year prepares enrollees for the very sensitive task of caring for children. Graduates who complete this program find a long list of jobs waiting. Dr. Bradley insists that adequate training requires no less than 1 year. The pilot program she presently operates may soon be closed for lack of funding. To allow such a program to close would indeed be tragic. Since this initiative is part of the continuing education program within the context of a great medical school, the participants are also exposed to information about career opportunities in the allied medical professions. Two-year training programs for x-ray technicians, medical records specialists, physical therapists and nursing are among the program offered.

Dr. Bradley estimates that with the proper funding she could expand her child care worker program to an enrollment of 100, with increases each year until a maximum of 300 per year is reached. Dr. Bradley notes that there are several obstacles to Federal support for this program which guarantees jobs to its graduates. The fact that most Federal training programs do not provide stipends beyond 6 months is one of the major obstacles. Mr. Speaker, to jump-start the human investment initiatives of President Clinton while at the same time we begin to fill the great need for child care workers in America, I propose that the Department of Health and Human Services and/or the Department of Labor immediately review this existing program at Downstate Medical Center. This existing pilot program should be kept alive and expanded. We have here a model which may be replicated any place in the Nation, but especially in the needy urban centers.

The multiple benefits are clear and simple: Welfare mothers may enroll in a 1-year program which guarantees a stable job. These same qualified child care workers can be employed by families with wage earners in higher-paying professions. The welfare rolls are lowered, children receive better care and the Zoe Baird syndrome is avoided. American citizens are put to work in decent-paying jobs. At the same time, they lessen the burden on professional women in more competitive areas of our economy. It is a win-win situation.

Certain practical innovations could move this set of opportunities further and faster. If welfare participants in the downstate program were allowed to keep their Medicaid benefits after they begin working, it would allow them to work at wages which middle-class families can afford to pay. This subsidy would benefit both the worker and the employer. In view of the fact that the Nation is moving in the direction of universal health coverage, a waiver for this pilot program should not be difficult to justify.

What is most important, Mr. Speaker, is that the human investment component of President Clinton's jump-start for the economy should begin immediately and that it should begin with those who need the investment most. Welfare mothers want to work. The need for child care workers and allied health care professionals is massive. Let us begin by combining these two needs.

EXTENSION OF DUTY SUSPENSION FOR 3-D CAMERAS

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. BILBRAY. Mr. Speaker, today I am reintroducing legislation to extend the temporary duty suspension for 3-D cameras. This suspension was enacted in 1990 through legislation I sponsored on behalf of a Henderson, NV company, the Nishika Corp. Since the initial duty suspension legislation, the company's workforce has more than quadrupled and the company has invested over $4 million into its facilities, becoming a significant employer in the Henderson community.

The Henderson company, Mr. Speaker, is the sole owner of the worldwide patent rights for 3-D cameras, whose design and photofinishing have been improved by the employees in my district. The camera is unique but uses standard 35mm film, from which it produces a three-dimensional photograph that can be viewed without special glasses. The permanent tariff schedules do not adequately reflect the unique nature of this camera because in general they cannot respond automatically to new developments and technology. New classifications need to be created for new products such as the 3-D camera.

Like almost all of the duty suspensions enacted in 1990, the suspension for 3-D cameras expired at the end of 1992. The International Trade Commission reviewed the reasons for this duty suspension last year in the context of my bill to extend it, and found that the reasons remain true. However, if the 3-D camera duty suspension is not renewed, many of the more than 135 people now employed in Henderson will be threatened with the disappearance of their jobs. I urge the enactment of my bill to extend the 3-D camera duty suspension from December 31, 1992 to December 31, 1996.

IN HONOR OF THE REVEREND MAC WILLIAMS

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. BILIRAKIS. Mr. Speaker, it is with sadness and a profound sense of loss that I rise today to pay tribute to a great American in every sense of the word, the Reverend Mac Williams of Clearwater. I say sadness and a profound sense of loss because the passing of Reverend Williams deprives so many people of a teacher, a leader, and a brilliant source of inspiration.

The dictionary defines courage as "the mental or moral strength to resist opposition, danger, or hardship; firmness in mind and will in the face of danger or extreme difficulty."

Mr. Speaker, to me, understanding courage was as simple as having the privilege of being in the presence of my dear friend Mac Williams. Courage lived in Mac Williams. It flowed through his indomitable spirit, and when he touched people, when he comforted people, when he preached to people, they received a part of his great courage and made it their own.

The Reverend Williams was a leader from the time he preached his first sermon in his native North Carolina at age 8. He grew up under the weight of racial oppression and led the fight locally for racial justice in the great struggles of the 1960's, yet he always spoke of tolerance and never showed even a trace of bitterness. And right up until his death, Mac Williams worked tirelessly to promote racial harmony and universal understanding.

Mac Williams graduated from Florida Memorial College in Miami and was ordained to preach in 1954. Before settling in at Mount Carmel, he also worked in a street ministry in Clearwater and a prison ministry in the Florida State prison system.

But it was at Mount Carmel where the Reverend Williams made his indelible imprint on the lives of so many people. For more than 20 years from his pulpit at Mount Carmel Baptist Church, the Reverend Williams was the moral beacon of his community, addressing problems both political and personal, while remaining a devoted husband to Naomi and a loving father to nine beautiful children.

Never one to rest on his accomplishments or avoid controversy, the Reverend Williams in 1990 personally traveled to South Africa to inspect that country's progress in overcoming the system of apartheid. Upon his return, he told his congregation that he believed South Africa could one day "become united politically, socially, and spiritually so that all of her people can be assured of life, liberty, and the pursuit of happiness."

It has been my distinct honor to call Mac Williams my friend. Since 1983, he has been gracious enough to serve on my Military Academy Screening Committee, helping to determine which young men and women are best suited for a military academy appointment. Over the years, I too have benefited from the Reverend Williams' experience, love, and courage. His friendship has made me a more sensitive and conscientious representative of the people, a better husband, and a better father.

That God would want such a special man by his side in heaven is no surprise to me, yet like so many he touched and uplifted during his 62 years, I know this pain I feel today will be with me forever.

In this brief speck of time on Earth we call a life, one can call himself lucky to have known at least one hero. The Reverend Mac Williams was mine. He not only dreamed, he did. He left this world a whole lot better than he found it. And I will miss him dearly.

HONORING HIGH PLAINS BAPTIST HOSPITAL 25TH ANNIVERSARY

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. SARPALIUS. Mr. Speaker, I would like to recognize the 25th anniversary of High Plains Baptist Hospital in Amarillo, TX. In the

1950's, the hospital development fund, led by Virgil Patterson, S.B. Whittenburg, C.I. "Stoney" Wall, Ted H. Lokey, Wales H. Madden, Jr., E.K. Jones, M.D., Joe A. Jenkins, J.W. Collins, Kenneth S. Grenewal, Earl O'Keefe, and dozens of other men and women of great vision, began to study the health care needs of Amarillo and the tri-State region.

The High Plains Baptist Hospital development fund raised over $6 million under the auspices of the Amarillo Area Foundation. More than 1,000 organizations and individuals donated the funds to build the new hospital. Community leaders wanted the new hospital to be a hospital of great stature that would attract the best medical and nursing personnel and provide superior quality care in a Christian environment.

Ground was broken for the new hospital on April 1, 1966. The Baptist General Convention of Texas officially received High Plains Baptist Hospital at its grand opening on February 20, 1968. On that day, the hospital opened with a capacity of 68 beds. Today, the hospital is licensed for 363 beds. They went from 244 employees in 1968 to more than 1,700 today. Since 1968, High Plains Baptist Hospital has treated more than 280,000 inpatients, delivered more than 24,000 babies, treated hundreds of thousands of outpatients, and more than 67,000 day surgery patients.

High Plains Baptist Hospital has been dedicated to providing superior quality health care in a Christian environment. They do more than care for the physical needs of the sick, they provide holistic patient care to meet the physical, spiritual, and emotional needs of those they serve. Their dedication to Christian values is felt in every area of the hospital.

High Plains Baptist Hospital has grown to eight floors, with a surgery/critical care unit, the Bivins center for physical medicine and rehabilitation, a new day surgery center and many other centers of excellence.

High Plains Baptist Hospital is a nonprofit organization and has always been committed to making a difference in the community. Baptist Hospital strives to fulfill their responsibility to the community by donating services, equivalent, financial assistance, and volunteer service to numerous organizations and programs.

During 1992, they assisted more than 100 organizations and programs. They also provided more than $1,700,000 in charity health care to hundreds of individuals who were unable to pay for their care. As the premier hospital in the region, High Plains Baptist Hospital's influence and superior quality care stretches across the five State region of the Texas Panhandle.

Mr. Speaker, I urge my colleagues to join me in saluting High Plans Baptist Hospital on its 25th anniversary, and the quality health care they provide to the citizens of the Texas Panhandle and South Plains.

COSPONSOR RESOLUTION TO HELP END THE BLOCKADE OF ARMENIA

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. BONIOR. Mr. Speaker, I'd like to take this opportunity to invite my colleagues to join me in sponsoring a resolution to help end the Azerbaijani blockade of Armenia. As a result of the blockade, Armenia is facing a winter of subzero temperatures without electricity, heating fuel, public transportation, telephone services, functioning factories, newspapers, and fresh water. The recent destruction of the last fuel pipeline into Armenia has left tens of thousands of its people in danger of death by exposure and starvation.

The resolution I am introducing today condemns the Azerbaijani blockade and calls for continued efforts to send humanitarian assistance to Armenia. The resolution also calls for aid to be withheld to Azerbaijan until the blockade is lifted, pursuant to the Freedom of Support Act passed last year.

For the past 5 years, the blockade has hindered Armenia's efforts to recover from the devastating 1988 earthquake. The blockade also threatens to derail Armenia's successful transition to a democratic and free market system. Now the blockade threatens to take tens of thousands of lives. The world community cannot tolerate the use of economic strangulation against civilian populations as a means of achieving political goals.

In closing, I once again urge my colleagues to join me in cosponsoring this resolution to help bring an end to the terrible suffering in Armenia and Karabagh.

COMMITTEE TO INVESTIGATE HUMAN RIGHTS VIOLATIONS AGAINST FAMILY FARMERS

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. JOHNSON of South Dakota. Mr. Speaker, a constituent, Mr. Ron Wieczorek, has requested that the CONGRESSIONAL RECORD reflect that an organization entitled "Committee to Investigate Human Rights Violations Against Family Farmers," which is associated with the Schiller Institute/Food for Peace and Mr. Lyndon LaRouche, has held a series of meetings around the Northern Plains, including one meeting in my State of South Dakota. The committee heard 20 hours of testimony from 41 witnesses over 4 days and was composed of Justice William C. Goodlowe (retired), Rev. Wade W. Watts, and Mr. Philip Valenti.

Based on the testimony this committee heard, it came to the opinion that the finance industry in North and South Dakota has been wrongfully liquidating the holdings of family farmers. The committee also condemns the judicial system in the Dakotas. A copy of the final report written by this organization can be secured by the public by writing the committee at P.O. Box 66082, Washington, DC 20035.

THE CITY OF CERES CELEBRATES ITS 75TH ANNIVERSARY

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. CONDIT. Mr. Speaker, I rise today to honor the city of Ceres on its 75th anniversary. I, as a resident of the city of Ceres, am proud to recognize its history.

Ceres was founded by Daniel Whitmore in 1867 and became a township in January 1910. It is a city which has truly been enriched by its history and diversity. The name Ceres refers to the Roman goddess who presided over festivals of fertility and harvest. Ceres stands for the health, beauty, fruitfulness, and wholesomeness of our community.

Ceres began as one of California's fine agricultural communities. It supplied both California's residents as well as the Nation's harvest needs in a number of areas. As a small community in the Central Valley, Ceres is recognized for its contributions toward agriculture.

The community of Ceres stands behind its people. The population has grown from a few hundred to 30,000, but it has always welcomed newcomers with open arms. During this time, Ceres has always sought to protect its heritage. Currently, the restoration of the 123-year-old Daniel Whitmore home is underway under the leadership of Leona Garrison, Caryl Fowler, and Ruth Jorgenson with the help of the Soroptimist International of Ceres.

The city of Ceres is a close-knit, family-oriented community. It has always encouraged its youth to set goals for themselves and strive to reach those goals. Many of its residents have served our country proudly in a number of different capacities.

"Together We Achieve" is the slogan that Ceres prides itself on. This statement could not be more representative of Ceres.

I am proud to speak before you on the 75th anniversary of the city of Ceres. I am equally proud to represent it and its citizens. As a former city councilman and mayor, I am confident Ceres will be as prosperous during the next 75 years and will continue to positively contribute to our State and Nation.

A TRIBUTE TO JAMES C. DELONG

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. BLACKWELL. Mr. Speaker, I rise today to pay tribute and bid farewell to a man who has served the great city of Philadelphia with both honor and distinction. As Mr. James C. DeLong, Philadelphia International Airport's Director of Aviation, leaves for the city of Denver, I would like to take a moment to reflect on the tremendous accomplishments of this remarkable man.

Jim arrived in Philadelphia from Houston following an extensive nationwide search for a director in 1987. Since the beginning of his tenure in Philadelphia, Jim has demonstrated his firm commitment to making Philadelphia

International Airport one of the Nation's finest. During my tenure on the Philadelphia City Council and in this great institution, Jim has helped us to understand that Philadelphia International Airport is a critical part of the city's and the region's transportation infrastructure, and how its growth and improvement will generate economic development, and create thousands of jobs. We have strongly supported his multiyear, billion-dollar capacity enhancement and safety improvement program for Philadelphia International Airport, which is well underway, and has already marked several essential milestones, including the opening of our beautiful new international terminal.

Mr. Speaker, while Jim DeLong has led our efforts to improve Philadelphia International Airport's facilities, he has gone far beyond the call of duty to make sure that all improvement projects benefit our entire community. Last year, for example, we worked together to clarify and ensure that Federal airport grant funds could be used for technical assistance to enable minority contractors to succeed on airport projects.

In addition to his tremendous responsibility as the Director of Aviation, Jim also serves as the treasurer of the Airport Council International [ACI], and is very highly regarded by his peers.

Mr. Speaker, every person that has had the pleasure of working with Jim DeLong knows that his appetite for hard work is insatiable, and that he works best in the face of great challenges. For this reason, we understand that the unique challenge of overseeing Denver's new airport presents Jim with an offer he could hardly refuse. We are fortunate, however, that we will still be able to benefit from his excellent counsel on aviation issues in his position with the Airports Council International.

As James C. DeLong prepares for his departure, I would like to ask my colleagues to rise and join me in paying our greatest tributes to Jim, his lovely wife, Nancy, and his two sons, Ted and Andy. You will be sorely missed in Philadelphia, Jim, but we are secure in knowing that the seeds you have planted for us in Philadelphia will continue to blossom, as Philadelphia International Airport has truly become a world-class airport that all of the people of Philadelphia can be proud of. May your success continue in the Mile High City.

FEDERAL STUDENT FINANCIAL ASSISTANCE

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. PENNY. Mr. Speaker, each year the Federal Government spends billion of dollars to enable students to attend college or other postsecondary training. And most of us would agree those dollars are well spent—but are they wisely spent—and can we do more for needy college students and their families?

The answer is probably yes. To provide more Federal student financial assistance, however, I have come to the conclusion that the current student aid programs need a major overhaul.

We need a simpler system of student aid. We don't need myriad loan programs when one would do. We don't need several grant and aid programs when one would do. And we don't need multiple forms and constant changes to existing programs.

I would urge the Congress to adopt many of the reforms in the final report of the National Commission on Responsibilities for Financing Postsecondary Education. The Commission asks us to think anew about student aid, to streamline the current morass of aid programs and paperwork requirements, and to institute a community service incentive program for students that allows loan forgiveness for service in the community. It's time, Mr. Speaker and colleagues, to build a better aid system that benefits students and their families. Our kids—who are our future—deserve it.

IN RECOGNITION OF THE SERVICE TO OTHERS OF THE TRINITY UNIVERSITY VOLUNTARY ACTION CENTER

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. SMITH of Texas. Mr. Speaker, at this time I would like to recognize the outstanding efforts of a group of my constituents in the service of others.

The Trinity University Voluntary Action Center teaches students to focus not only on their roles as future leaders in the fields they are pursuing, but also as community leaders while in school.

In the last 2 years the number of student volunteer service hours there has exceeded 20,000. This year nearly one-fifth of the student body of 2,500 students is participating in the 16 programs run by the center.

They are teaching the illiterate to read and building homes for AIDS victims. They are tutoring students in underprivileged inner-city families, and administering a SAMM shelter. In projects like these and many others, they are making a major difference in the lives of San Antonio residents.

With all of the bad news about social conditions in our Nation, Mr. Speaker, it does the heart good to be reminded that young people such as the students of Trinity University still recognize a responsibility to help others less fortunate than themselves.

SELECTING A JURY FOR HAROLD E. FORD

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. DELLUMS. Mr. Speaker, I take this moment to give expression to the pain I feel may result from a single injustice. While my voice is but one of a few today, it combines with the voices of my brothers and sisters over the centuries, and our collective cry will be heard.

I speak of the extraordinary and convoluted attempts that are being made to select a jury in the case of our colleague, Mr. Harold E. Ford. The cause of justice will not be served if these proceedings are to continue as they have so far.

The jury in the second trial of our colleague, 6 years after the indictment, will be bussed in from an area 90 miles away from the court in which the trial is to be conducted. The reason? Incredibly we are told that the people in Memphis have such high regard for our colleague, that the Government's chances to convict Mr. Ford would be lessened. A trial before a jury of his peers is seen to be too dangerous a risk for the Government lawyers to take.

If this is allowed to continue, the African-Americans of this country will be sent the message that: First, black men and women are incapable of performing as impartial jurors in this trial; that second, in trials where the defendant is an African-American, the Government lawyers will be able to bus in the jurors that they decide will be more disposed to find the defendant guilty, and third, that justice for black people is even further from reality than before Los Angeles, and everything we may have learned from Los Angeles.

My brothers and sisters continue to be disenfranchised. They continue to have their dreams of a future without ugly bias deferred yet again, and they continue to have their political leaders the subject of targeting by overzealous Government investigators.

Mr. Speaker, fair-minded people across our land will be justifiably outraged if this manipulation of court procedure is allowed to continue.

TRIBUTE TO REECIE MARSHALL-FOREMAN

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. DIXON. Mr. Speaker, I am privileged to have this opportunity to pay tribute to my friend, constituent, and dedicated public servant, Ms. Reecie Marshall-Foreman. On Friday, February 26, 1993, Reecie's many friends and colleagues will gather at the Westin Hotel in Los Angeles, CA to pay a well deserved tribute to her stellar 32-year career with the Los Angeles County Probation Department.

It is difficult to imagine the probation department without Reecie for when I reflect on the improvements and achievements of this agency, I know that many of them would not have occurred but for Reecie's relentless pursuit of excellence.

Reecie joined the Probation Department in 1961 as a deputy probation officer and in 1975 was promoted to the position of supervising deputy probation officer. From 1977 to 1980, Reecie held the dual titles of personnel officer and supervising deputy probation officer. Nineteen-eighty was also the year that Reecie shifted responsibilities to become a program analyst with the department, a post she held for 8 years. Since 1988, Reecie has served as probation director I-affirmative action grievance hearing officer and community support campaign coordinator.

In addition to her distinguished career with the County Probation Department, Reecie is the founding member of the California Black Correctional Coalition and president of the Los Angeles Black Probation Officers Association. She also is a member of the executive boards for the Crenshaw/Leimert Youth Consortium; the Roland Hayes Youth Foundation; the Oscar Joel Bryant Foundation Association; and Delta Sigma Theta Sorority. Reecie's other memberships include Women in Criminal Justice; Los Angeles chapter, California Probation Parole Corrections Association; and the Congressional Black Caucus Criminal Justice Brain Trust.

Reecie is an active and contributing member of the New Frontier Democratic Club; a panelist on "Black Women in the Community," a community affairs program aired on KNXT–TV in Los Angeles; and a guest lecturer at junior and senior high schools in the community.

For her outstanding service to the community, her sorority, and the county of Los Angeles, Reecie is the recipient of numerous awards and commendations including Who's Who Among Black Women in California; the University of Southern California Student Women's Caucus Rosa Parks Award; and the Los Angeles City Council Community Service Award.

Mr. Speaker, I am pleased to have this opportunity to share with my colleagues this brief retrospective on the outstanding career and community achievements of Reecie Marshall-Foreman. Those of us who have been fortunate to know Reecie take great pride in saluting her on a distinguished lifetime of service to the citizens of Los Angeles. I now ask my colleagues to join with me in saying "well done" Reecie, and in extending her our very best wishes for good fortune in the years to come.

IN TRIBUTE TO ARTHUR ASHE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. PORTER. Mr. Speaker, I rise today to pay tribute to Arthur Ashe, whose recent death was a profound loss for our Nation. He thrilled the world with his great athletic ability and inspired us all with his courage and his commitment to human rights and AIDS education.

Mr. Ashe broke through many barriers in his all too short life: he was the first black man on the U.S. Davis Cup team, the first to win Wimbledon, and the first black man to be inducted into the Tennis Hall of Fame. He was a dignified, educated role model for all young people. While earning enormous respect both inside and outside of the tennis community, he set enduring standards for all of us to admire. Arthur Ashe reminded us that hard work, dedication, and strong character are essential to overcoming obstacles and achieving success.

In his last year of life, he committed himself to educating others about AIDS—which he contracted in 1983 through a blood transfusion during open heart surgery. His inner strength and courage masked the extreme difficulties he faced in his final days, as he radiated a kind of inner peace that gave AIDS patients and others inspiration and encouragement to fight the disease. At all times, Arthur Ashe was a leader and role model in our community, standing up against the greatest of odds and fighting to the end against the disease that finally overcame him. For all of his remarkable qualities, Mr. Speaker, Arthur Ashe will be greatly missed—but he leaves behind a lasting legacy of achievement, courage, and service to others.

TO ENCOURAGE FREE-TRADE AGREEMENTS WITH THE PACIFIC RIM

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. CRANE. Mr. Speaker, recently I introduced legislation, H.R. 763, for the purpose of encouraging the establishment of free-trade areas between the United States and certain Pacific rim countries.

This legislation directs the President to initiate preliminary consultations with the government of each eligible Pacific rim country to determine the feasibility and desirability of negotiating the elimination of tariff and nontariff barriers in the context of a bilateral free-trade agreement. If a positive determination is made, the President shall request a meeting at the ministerial level with the government of that country to consider the conditions under which formal negotiations regarding a free-trade agreement could be commenced. The eligible countries include Indonesia, Malaysia, the Philippines, Singapore, Thailand, Brunei, Australia, New Zealand, Taiwan, South Korea, Japan, and Hong Kong.

This legislation offers a number of real advantages such as dispelling the fear of regionalism and improving our trade ties with the Pacific rim.

The recent signing of the North American Free Trade Agreement [NAFTA] represents America's commitment to trade liberalization with Mexico as well as with the world trading community as a whole. However, for some countries, especially our Asian trading partners, this action represents one more step toward a hemisphere wide free-trade area in which a fortress America will emerge. The concern with trading blocs, such as those created by NAFTA and the full integration of the European Community, is that countries outside of the trading bloc will be prevented from trading with countries in it.

While I believe that such trading blocs can provide a growth model to encourage other areas of the world to open their markets, at the same time it is important that we seek to dispel any fear of fortress America. This would certainly be accomplished by passing legislation to encourage free-trade agreements with the Pacific rim.

Finally, the real advantage of this legislation is that it will improve our trade ties with the Pacific rim. There is every indication that Asia will be the center of growth over the next decade. In fact, it has been estimated that their economy is expected to grow 8 percent a year this decade. Since 1980, U.S. trade with the Pacific rim has increased by 165 percent. In 1992, total trade between the United States and Asia topped $300 billion, compared with total trade with Europe which was $180 billion. Clearly it would be foolhardy not to preserve and enhance our trading relationship with that part of the world.

The creation of bilateral free-trade agreements is desirable by virtue of the fact that they increase competition, eliminate inefficiency, and ultimately result in lower costs to consumers. In addition to the economic gains, FTA's carry with them strategic and political advantages. As economies become increasingly interdependent, the stake in a lasting peace rise as well.

I urge my colleagues to join me and Congressman GIBBONS, chairman of the Ways and Means Trade Subcommittee, in cosponsoring H.R. 763.

BIRTHDAY TRIBUTE TO ROSE PACELLA

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. KLINK. Mr. Speaker, I rise today to extend my best wishes and warmest thoughts to Mrs. Rose Colao Pacella, who will be celebrating her 93d birthday on Wednesday, February 4, 1993.

Mrs. Pacella was born in 1900 to Vito and Carmella Colao in Ellwood City, PA. In 1915, she married her husband, the late John Pacella.

John and Rose had six children, four of whom are still alive and living in Ellwood City. In addition, Rose has 18 grandchildren, 29 great grandchildren and two great- great-grandchildren.

Mrs. Pacella is a member of the Purification of the Blessed Virgin Mary Roman Catholic Church in Ellwood City and a member of the Corona D'Italia of the Sons of Italy and the Ladies Auxiliary of the Sons of Columbus.

Rose Pacella also keeps busy by cheering for her beloved Pittsburgh Pirates on television, reading, crocheting, and playing bingo.

Happy 93d birthday to Rose Colao Pacella and many happy returns.

THE NORTH CAROLINA WILDERNESS PROTECTION ACT OF 1993

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. BALLENGER. Mr. Speaker, today I am reintroducing the Western North Carolina Wilderness Protection Act. This bill passed the House during both the 101st and 102d Congresses.

Lost Cove and Harper Creek, located in the Pisgah and Nantahala National Forests, were identified and mapped as potential wilderness areas by the U.S. Forest Service in 1977. Later, in 1984, both areas were designated as wilderness study areas. In 1987, the Forest Service designated them recommended for wilderness. It is time that Congress enacted that recommendation into law.

The previous designation of this land as a wilderness study area by the U.S. Forest Service reveals its intent to protect the area from timber harvesting. Furthermore, its low value for timbering makes designation of this extraordinarily beautiful area as wilderness, all the more reasonable.

Lost Cove and Harper Creek would be a welcome addition to the small wilderness in North Carolina, easing the burden of use on the Linville Gorge Wilderness Area, also located in the Pisgah National Forest. The proposed wilderness area, spanning barely 13,000 acres, comprises less than 10 percent of the million acres of the Pisgah and Nantahala National Forests. It boasts 1,000-foot cliffs and numerous waterfalls. It is unique in that it contains black bear sanctuaries and native trout populations. Additionally, this beautiful wilderness is surrounded by Forest Service roads, making it easily accessible to tourists and residents who want to hunt, fish, camp, and hike.

This land warrants our protection for generations to come. The growing demand for wilderness recreation, coupled with the need to preserve the rich biological diversity of the southern Appalachian Mountains, makes legislative action imperative. Please join me in designating this treasured land as wilderness by granting the support you gave during the 102d Congress.

THE PRESIDENT'S ADDRESS TO THE NATION

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. PASTOR. Mr. Speaker, if President Clinton's address of Monday night is any preview of the economic package he will unveil later today, then Americans can finally expect to get some truth in budgeting. In the last 12 years we've seen the budget deficit swell to unprecedented heights. Past budgets were so loaded with gimmicks and faulty assumptions that the budget process became nothing more than a shell game between the executive and legislative branches with the American people being the loser. The U.S. economy's ability to generate new wealth and new jobs is deteriorating at an accelerated rate. Either we change the course of our past economic directions or we continue to rob present and future generations of Americans a quality standard of living.

To lay the foundation for future economic growth, we must stimulate new sources of public and private investment. To reclaim our future and pay for these investments, we must reduce the budget deficit. We don't know the full details of President Clinton's economic plan, but a budget without gimmicks and an economic strategy that requires everyone to share the burden of deficit reduction equitably will be a welcome and refreshing start.

CONGRATULATIONS TO SAM AND SEMA HELLER

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to extend my heartiest congratulations and warmest best wishes to Sam and Sema Heller who were selected by the Congregation Beth Aaron as their 1993 United Jewish Community honorees.

The Hellers have resided in Teaneck for 14 years and have two children. Both Sam and Sema have been involved in the community through various groups and organizations. They are both committed to strengthening the United Jewish Community's Regular and Exodus Campaigns.

Sam serves as a board member of Congregation Beth Aaron, the United Jewish Community, and the Jewish Community Relations Council of the UJC. He has chaired Beth Aaron's Operation Exodus Campaign, which raised over $300,000. At the present time, he serves as chairman of the UJC's Teaneck-Bergenfield campaign. Professionally, Sam currently serves as the vice president for finance for the Visiting Nurse Service of New York, which is the largest nonprofit home health care agency in the country.

Sema has helped organize Beth Aaron's Operation Exodus event, as well as the Teaneck Thank You America program, for which Sam served as cochairman. The program featured Jewish emigres from Ethiopia and the former Soviet Union. Making use of her art degree, Sema has applied her artistic talents to designing and producing a mural in one of Beth Aaron's youth group rooms. Sema has also worked professionally with children; both as a nursery school teacher and as a synagogue youth group leader. She currently serves as the bookkeeper at both Temple Beth El in Closter and at the Jewish Center in Teaneck.

Mr. Speaker, I am proud to join in paying tribute to Sam and Sema Heller. I am sure they will continue to provide invaluable services to their community which truly make a difference in society. I extend my best wishes to them on this most special occasion.

CENTENNIAL CELEBRATION OF WOMEN'S BASKETBALL

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. NEAL of Massachusetts. Mr. Speaker, I would like to take a moment to recognize the fact that on February 27, the city of Northampton is proud to be the host of the centennial celebration of women's basketball. Smith College staged the first formal game in women's collegiate basketball history on March 22, 1893, and is going to celebrate its 100th anniversary on February 20.

Today, 100 years later, the game has grown in popularity, style, and fan appeal. An accomplishment which the Smith community, which has always been considered a leader in innovation, should take great pride in.

The first game was played between Smith's freshman class of 1896 and its sophomore class of 1895. The sophomores schooled the freshmen that year, beating them 5 to 4, with nine players to a side. The game was played in Alumnae Gymnasium, which is still used to house many of the archives documenting Smith's basketball history.

These documents should serve as a constant reminder of how far society has come, in terms of challenging old accepted norms of behavior. Among the items in the archives is a memo from Senda Bersenson who began teaching the game at Smith in 1892, and scripted the first set of women's rules. The memo states that men were not welcome in the gym during women's basketball events. A rule which existed because women wore bloomers in those days and men were not to see them.

If I may quote Aristotle, "Dignity consists not in possessing honors, but in the consciousness that we deserve them." Admittedly, womens basketball players over the years have not always been rewarded the honors they have deserved, but it has been through their efforts, as well as others, that society has drastically changed its perspective over the last 100 years. For as Margaret Thatcher, the former Prime Minister of England, once said "You may have to fight a battle more than once to win it."

On the evening of February 27, Smith College will hold a dinner to celebrate women's basketball. At this dinner Cheryl Miller, one of the finest collegiate basketball players ever, as well as Judy Sweet the athletic director of the University of San Diego and the first female president of the NCAA will be the featured quests. Mr. Speaker, I would like to take this moment to salute women's basketball and those who were and are willing to examine and explore changes in conventional social and cultural custom.

SALUTE TO CATHERINE BROCK

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. GINGRICH. Mr. Speaker, I rise today to recognize the years of dedication to me and the entire Sixth District of Georgia by Catherine Brock. Catherine has worked for the Sixth District since I was elected to Congress, and she will be sorely missed.

Catherine always approached her job with the highest level of professionalism and dedication. These qualities had a profound effect on helping the residents of the Sixth District live better lives—a debt that can never be repaid.

Catherine and her husband are personal friends, and they will forever be in our thoughts and prayers. It is fitting that the entire House of Representatives know about her valuable contribution to making this country better.

INTRODUCTION OF LEGISLATION TO BAN SEMIAUTOMATIC ASSAULT WEAPONS

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. GUTIERREZ. Mr. Speaker, today, I am introducing my first piece of legislation as a Member of Congress. I begin my congressional career with this bill because I know its introduction is critical to the welfare and safety of my constituents in the Fourth Congressional District of Illinois and the American people. I believe the timeliness and strength of the provisions in this bill are a reflection of the severity of the problem and my ardent commitment of combating violent crime in our country. The principal objective of this bill is to ban the domestic manufacture and sale of semiautomatic assault weapons, except those determined suitable for sporting purposes. Banning assault weapons is the first battle in the war to take back our streets and our neighborhoods, allowing our children the simple freedom to make it through each day unharmed and without fear.

Our country has the highest rate of violent crime in the world. We read facts like this every day and yet, are immune to their significance. Maybe we really do not realize the seriousness of the problem. Maybe we are afraid to face up to the enormity of the problem, but unfortunately, many American people, including our constituents, our neighbors, our families and even our children, whether directly or indirectly, come face to face with violence every day. I believe it is my responsibility as a Member of Congress and as a U.S. citizen to address this problem quickly and effectively.

I believe the threat and danger of semiautomatic assault weapons in this country are grossly understated. In 1988, crimes involving assault weapons rose more than 78 percent over 1987. In addition, Cox Newspapers found that although semiautomatic assault weapons only comprise 0.5 percent of all firearms in circulation, nearly 30 percent of all firearms traced to organized crime, drug trafficking, and crimes involving terrorists in the United States in 1988 and the first quarter of 1989 were semiautomatic assault weapons. Also, contrary to claims by the National Rifle Association, revolvers and other types of firearms are being outnumbered by semiautomatic pistols as the weapons criminals use most.

Shooting 106 rounds in less than 2 minutes, Patrick Purdy killed 5 children and injured 30 more in Stockton, CA. It is just as likely that Patrick Purdy could have killed five children in your city or at one of your schools. Twenty-three people killed, 19 injured in Killeen, TX. Just last month, two people killed, three more injured outside CIA headquarters in Langley, VA. Guns used in crimes such as these and others are manufactured right here in the United States of America. Intratec U.S.A. Inc., markets their semiautomatic pistol as a gun as tough as your toughest customer. Obviously, these companies are arming a specific segment of Americans for some pretty tough customers. Repeatedly, Congress has given in to special interests and allowed the sale of weapons like the AK–47, the UZI carbine, and the TEC–9 pistol to continue. We cannot stand by silently when legislatively we can put an end to the availability to these weapons.

Semiautomatic assault weapons have become the weapon of choice for this Nation's criminals. Although President Bush banned the importation of semiautomatic assault weapons, a study by the Cox Newspapers found that two-thirds of the assault weapons traced to crime are produced domestically and therefore, are not affected by the ban. As one researcher put it, the Bush administration has encouraged a bizarre "Buy American" policy. In most parts of the country, these guns are still readily and instantly available to anyone. According to the Bureau of Alcohol, Tobacco, and Firearms, there are 1 million semiautomatic assault weapons in circulation.

Even though 72 percent of Americans nationwide, as well as major national law enforcement organizations, AFL–CIO, AARP, AFSCME, NEA, National Urban Coalition, U.S. Conference of Mayors, American Academy of Pediatrics, ABA, and the American Public Health Association, support a ban on semiautomatic assault firearms, there has been little action taken by the Federal Government. One reason for such reluctance is the strength of organizations such as the NRA. However, I, like many of you, ran my campaign on the theme of change. We must remember that we are not beholden to groups like the NRA. We are accountable only to our constituents and the American people.

However, because of possible misrepresentations by groups like the NRA, it is important for you to understand the bill in its entirety. This bill bans the possession and transfer of semiautomatic assault weapons. It also bans the manufacture of any shotgun which uses a revolving cylinder, such as the Striker 12 and the Streetsweeper. As Bush's bill exempted guns designed for sporting purposes from the import ban, this bill exempts such models for domestic manufacture. Any weapon designated by the Secretary of the Treasury as meeting the sporting purposes criteria can be manufactured and sold and would still be available to responsible gun owners and sportsmen. I believe this exemption allows those who use semiautomatic guns for legitimate, legal purposes to continue to do so. However, those weapons that can only be characterized as destructive and that are primarily used by this Nation's most violent criminals, such as drug traffickers and street gangs, will be affected by the ban. The bill also provides that any crime committed with a semiautomatic assault weapon carries an enhanced penalty of 10 years in prison.

I have had enough of the crime on our streets. In my hometown of Chicago, there was an 80 percent increase in the number of guns processed by the Chicago Police Department and a 192-percent increase in the number of murders due to unidentifiable firearms. I made a commitment to the people in the Fourth Congressional District of Illinois that I would work hard to stop violent crime in their area. I have also made a commitment to the American people to protect their safety and right to a decent way of life. I am dedicated to this commitment and will aggressively pursue this legislation and others like it to ensure safer streets and neighborhoods across our country.

STUDENT LOAN AFFORDABILITY ACT

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. LANCASTER. Mr. Speaker, I am pleased to join with my colleague and fellow North Carolinian, Mr. PRICE, and others in introducing again our bill that would restore the tax deductibility of student loan interest and restore the full tax-exempt status for scholarships and fellowships. I think this legislation is important because it extends tax fairness to low- and middle-income students—those hardest hit by fiscal pressures that have cut or limited the growth of many important financial aid programs.

Tight Federal budgets and spiralling costs in recent years has caused a shift in the balance between Federal student loans and grant assistance. According to the College Board, in the mid-1970's about 76 percent of Federal student aid was awarded in grants, 20 percent in loans, and 3 percent in work-study aid; in the 1987–88 academic year, about 67 percent of Federal student aid was awarded in loans, 29 percent in grants and 3 percent in work-study. As a result, many students incur considerable debt to attend college, and many are opting not to pursue higher education and forego the accompanying indebtedness.

Our legislation would remove this barrier and provide added access for all interested and able individuals who want to attend college, but are forced to borrow in order to meet the cost of college attendance. The deduction for qualified educational loan interest would apply to any indebtedness incurred by the taxpayer, spouse, or dependent to pay tuition, fees, books, supplies, and reasonable living expenses while away from home.

The exclusion from income of scholarship proceeds used for room and board would apply to unrestricted scholarship funds, or the portion of a scholarship that is not designated for tuition, fees, and supplies. Since scholarship proceeds are not earned income, it is grossly unfair for students to have to pay income tax on scholarship funds and thus reduce their value.

Mr. Speaker, for decades, America has offered college and university programs that rank among the best in the world. But their escalating cost and the shift from grant assistance to Federal student loans now threatens to set up new, impenetrable barriers for many Americans. The Student Loan Affordability Act will effectively strip down these barriers and help make the cost of attending college affordable again.

MANDATORY MINIMUMS OPENING STATEMENT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. EDWARDS of California. Mr. Speaker, I am pleased today to introduce the Sentencing Uniformity Act of 1993. This legislation will abolish mandatory minimum sentences throughout the Federal criminal laws. The act's premise is that mandatory minimum sentences are inherently incompatible with the mandate of the U.S. Sentencing Commission. The Commission's purpose is to create sentencing guidelines directed toward the specifics of the offender and the offense, to reduce disparities and inequities in sentencing, and to create certainty of punishment.

Due to rising concerns about the country's serious crime problem over the last two decades, however, the Federal Government began imposing mandatory minimum sentences for specific crimes, even though a Senate Judiciary report on the issue stated that:

> The Committee generally looks with disfavor on statutory minimum sentences to imprisonment since their inflexibility occasionally results in too harsh an application of the law and often results in detrimental circumvention of the laws.

Despite this warning, our criminal justice system contains over 100 criminal statutes with mandatory minimum sentences.

The Sentencing Commission reports that the proliferation of mandatory minimums creates serious conflicts with its mandate. By transferring sentencing power from Federal judges to Federal prosecutors, who are parties to the litigation, these sentences have perpetuated the very disparities the Commission was created to eliminate.

The sentencing disparities stem not from neutral factors, but from consideration of inappropriate factors such as race, gender, crime rates and caseloads, and circuit and prosecutorial practices. White defendants continue to receive lesser sentences than African-American and Hispanic defendants convicted of similar crimes. Additionally, defendants whose conduct appears to warrant application of mandatory minimum statutes do not receive those sentences approximately 41 percent of the time. Thirty-five percent of defendants at the highest drug offender levels do not receive mandatory sentences.

Not only has mandatory minimum sentencing perpetuated many disparities, it has actually created many more. The prison terms required by these sentences have often dramatically outweighed the severity of the offenses and the culpability of the offenders. Nonviolent first offenders often receive longer sentences than prisoners with long criminal records.

One of the greatest drawbacks of mandatory minimum sentencing is its cost. A New York Times article recently reported that for 1993, States have allocated $2 billion to build prisons and $15 billion to operate them, yet they still cannot absorb the growing U.S. prison population, which doubled in the 1980's. Corrections costs are taking up two-thirds of States' budgets in a time when our financial priorities should lie in areas such as health care and education. In the words of Lynn Branham, law professor and former chair of the American Bar Association's Committee on Corrections Policy, "It's time to say that the emperor has no clothes, that with all these tough new laws we are not safer and we're going broke."

Mandatory minimum sentences have filled our prisons with first-time and nonviolent offenders. They leave little room in our overcrowded prisons for violent offenders. Further, they burden the judicial system by reducing the incentive of defendants to plead guilty to receive a lighter sentence. Now, defendants who would normally plead guilty will demand trials instead, clogging the courts and diverting judicial resources away from more serious cases.

Judges across the country believe the need for eliminating mandatory minimums grows greater every day, as disparity in criminal sentencing and overburdening of our prison system continue. A Federal judge in California actually resigned in protest of mandatory minimums. Indeed, not just individual judges but the entire U.S. Judicial Conference, all 12 judicial circuits, numerous bar associations, the Federal Courts Study Committee, and citizens groups across the country are calling for an end to mandatory minimums.

I urge my colleagues to support the Sentencing Uniformity Act of 1993.

THE PLIGHT OF THE ARMENIAN PEOPLE

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 17, 1993

Mr. CONDIT. Mr. Speaker, today I rise to speak to this Chamber about an issue of great importance to me and the people of my district, the 18th District of California. That issue is the plight of the Armenian people.

I'm sure many of you in this Chamber saw a recent article in the Washington Post detailing the horrible situation in Armenia. These people, after an age long struggle to win their independence, are now suffering due to lack of food, heat and hope. The Armenian people are starving due to a 4-year blockage by the Azerbaijani Government. Their last fuel line was recently destroyed. Armenia has been completely cut off from fuel supplies and as a result, transportation and telephone services have ceased. Tens of thousands of Armenian people will no doubt soon perish due to the lack of heat and food, as well as needed medical supplies.

Press reports out of Yerevan speak of domesticated animals roaming the streets, in wild packs looking for food, and beginning to attack humans. Curfews have been set up in many Armenian cities so that these animals can be destroyed so that they cannot harm humans. The core of a nuclear plant is deteriorating, due to a lack of power.

In December, the United Nations sent out an international plea for humanitarian aid to the former republic of the Soviet Union. We must continue to heed this call.

Early last week, I circulated a letter asking President Clinton to make sure that the food that is being gathered both in the United States and around the world to make sure the food gets through to them in a timely manner. I was proud to have more than 40 of my colleagues join me in concern for the welfare of the Armenian people as they struggle to preserve a way of life that most of us take for granted.

But our concern is not enough. We must take action to ensure that the food gets through, that heat is restored and that hope can flourish in an unstable region of the world. That is why I want to let my colleagues know about a nationwide effort that is currently underway to send humanitarian aid to the Armenian people. It is called Operation Winter. All across the country, people are being asked to donate winter clothes, non-perishable foods and medicines that will be shipped to Armenia in February, March, and April. This is one way that we can let the people of Armenia know that they are not forgotten.

The United States Government, along with the international community, must force the Azerbaijani Government to stop this inhumane treatment of Armenians by the lifting of the blockade, make sure food and medical supplies get through to needed areas and restabilize this volatile area within the former Soviet Union.

I urge my colleagues to join me in making certain that needed food and medical supplies arrive in Armenia in a timely manner and that we help to restore decent living conditions to the people of this country.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, February 18, 1993, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 19

9:00 a.m.

Budget

To continue hearings to review the Administration's economic proposal.

SD-608

9:30 a.m.
Governmental Affairs
Regulation and Government Information Subcommittee
To hold hearings to examine contracting problems of the Resolution Trust Corporation.
SD-342

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the Federal Reserve's monetary policy report for 1993.
SD-G50

FEBRUARY 22

10:00 a.m.
Joint Economic
To hold hearings on the Administration's economic proposal.
2172 Rayburn Building

FEBRUARY 23

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of the Disabled American Veterans.
345 Cannon Building

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on the Administration's transportation funding proposal for fiscal year 1993.
SD-192

Environment and Public Works
To hold hearings on environmental technology, focusing on the relationship between business and the environment.
SD-406

2:00 p.m.
Joint Organization of Congress
To hold hearings to examine congressional reform proposals, focusing on procedures for enforcing ethical standards.
H-5, Capitol

FEBRUARY 24

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 4, to promote the industrial competitiveness and economic growth of the U.S. by strengthening and expanding the civilian technology programs of the Department of Commerce.
SR-253

Energy and Natural Resources
To hold oversight hearings on energy tax options.
SH-216

Special on Aging
To hold hearings to examine the Federal Government's role in the research and development of new pharmaceutical products in the U.S., focusing on AIDS and cancer drug treatments.
SD-G50

FEBRUARY 25

9:30 a.m.
Energy and Natural Resources
To hold hearings on S. 338, to revise the Petroleum Marketing Practices Act to clarify the Federal standards governing the termination and nonrenewal of franchises and franchise relationships for the sale of motor fuel.
SD-366

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of the Paralyzed Veterans of America, the Blinded Veterans of America, the Military Order of the Purple Heart, the Jewish War Veterans, and the Retired Officers Association.
345 Cannon Building

10:00 a.m.
Finance
To hold hearings on U.S. trade policy issues.
Room to be announced

Small Business
To hold oversight hearings on the Small Business Administration's microloan demonstration program.
SR-428A

Joint Organization of Congress
To resume hearings to examine congressional reform proposals, focusing on procedures for enforcing ethical standards.
S-5, Capitol

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 206, to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, and S. 341, to provide for a land exchange between the Secretary of Agriculture and Eagle and Pitkin Counties in Colorado.
SD-366

MARCH 2

9:30 a.m.
Governmental Affairs
To hold hearings on S. 185, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the nation, to protect such employees from improper political solicitations.
SD-342

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of the Veterans of Foreign Wars.
345 Cannon Building

MARCH 3

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Rules and Administration
To hold hearings on S. 3, S. 7, S. 62, S. 87, and S. 94, Congressional election campaign finance reform proposals.
SR-301

MARCH 4

9:30 a.m.
Rules and Administration
To continue hearings on S. 3, S. 7, S. 62, S. 87, and S. 94, Congressional election campaign finance reform proposals.
SR-301

MARCH 18

9:30 a.m.
Rules and Administration
Business meeting, to mark up proposed legislation relating to Congressional election campaign finance reform.
SR-301

MARCH 31

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of AMVETS, the Veterans of World War I, the Vietnam Veterans of America, the American Ex-Prisoners of War, and the Non-Commissioned Officers Association.
345 Cannon Building